

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
July 12, 2017**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, July 12, 2017.

Present were: Chair Joe Blakaitis, Vice Chair Marc Murray, Tim McKeithan, James Cofield, and Sandy Whitman.

Absent: None.

Also present were: Director of Community Development Joe Heard, Permit Coordinator Sandy Cross, Jon Britt, Chief Building Inspector Cory Tate, Dave Klebitz of Bissell Professional Group and Ali Breaux of Sun Realty.

Others Present: None.

Others Absent: Council Liaison Chuck Burdick.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for July 12, 2017 at 6:33 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

None.

NEW BUSINESS

Conditional Use Permit 17-02: Application by Jonathan E. Britt for Four Conditional Use Permits to Construct a Commercial Structure Greater than 5,000 Square Feet but Less than 10,000 Square Feet; to Add a Restaurant; to Alter the Layout of the Existing Sailing and Watersports Business; and to Approve the Village Commercial Development Option to Allow Gravel Parking and Bring Existing Parking Encroachments into Compliance at 1314 Duck Road

Vice Chair Marc Murray was recognized to speak. Vice Chair Murray stated that he will be the contractor for the project and needs to recuse himself from this portion of the meeting. It was the *consensus* of the Board to recuse Vice Chair Murray.

Director Heard stated that the applicant was requesting four conditional use permits to construct a commercial structure greater than 5,000 square feet, but less than 10,000 square feet; to add a

restaurant; to alter the layout of the existing sailing and watersports business; and to approve the Village Commercial Development Option to allow gravel parking and bring the existing parking encroachments into compliance at 1314 Duck Road. He explained that the proposed redevelopment project would include the following:

- Combination of two adjoining parcels and a portion of a third parcel to create a 1.62-acre property for the development.
- Demolition of the existing watersports building and removal of a large wooden deck surrounding the building.
- Removal of a section of gravel parking area and raised landscaped bed to the east of the existing building.
- Construction of a new, two-story building housing a restaurant and watersports business.
- Establishment of a restaurant with 4,420 square feet of indoor dining on the upper floor, 600 square feet of outdoor dining on the upper floor porch and 970 square feet of outdoor seating/entertainment on the ground floor.
- Provision of a 2,678-square foot service area and separate bathrooms for the watersports business on the ground floor of the building.
- Expansion of the existing gravel parking area by approximately 13 additional parking spaces.
- Landscaping, including the removal of some existing trees, use of some existing trees, and additional vegetation to be planted around the new parking areas.
- Utility improvements supporting the proposed development.

Director Heard stated that the area proposed for redevelopment presently consists of two entire parcels, plus a portion of a third parcel, all of which are zoned Village Commercial. He noted that although technically separate parcels, the properties at 1312 and 1314 Duck Road presently function as a single parcel containing the Nor'Banks Sailing and Watersports business. The property at 1314 Duck Road is 33,698 square feet in size and contains the driveway entrance, some parking, and a customer service building for the watersports business. The adjoining property at 1312 Duck Road is presently 34,827 square feet in size and contains some parking, a boat ramp and a garage/service building for the business. He stated that the entire property at 1310 Duck Road is approximately 55,619 square feet and contains the applicant's residence. He pointed out that a strip of this property 20 feet in width would be combined with the other two parcels to create the development parcel.

Director Heard stated that the subject property adjoins the Currituck Sound to the west. He stated that the adjoining property to the south will be the remaining portion of the parcel at 1310 Duck Road. He explained that the property contains a residence, but is zoned Village Commercial. The abutting property to the north at 1316 Duck Road is zoned Neighborhood Commercial and contains a 3,300-square foot office building for the Sun Realty. He added that to the east of the project area across Duck Road are two properties zoned Single-Family Residential and each contains a single-family residence.

Director Heard stated that the Nor'Banks Watersports business was established in 1979. On May 2, 1994, the applicant received approval for a conditional use permit from Dare County to

expand the existing sailing and watersports business. He added that while under the jurisdiction of Dare County, the property and two parcels to the south were rezoned from Single-Family Residential to Village Commercial on February 4, 2002. He noted that the Sun Realty building and Portside Condominium properties were already zoned Neighborhood Commercial at the time. He stated that on November 10, 2005, a plan of development was approved by the Director of Community Development to pave an asphalt driveway approximately 75 feet into the subject property.

Director Heard stated that a technical review committee consisting of the Community Development Director, Permit Coordinator, Building Inspector, Fire Chief, Police Chief, Town Engineer and Dare County Water Department all met with the applicant, applicant's engineer, and applicant's contractor to conduct an initial review of the development on June 22, 2017. He explained that the Dare County Environmental Health Department and N.C. Department of Transportation were also sent copies of the development proposal and asked to review and comment on the project. He stated that the applicant's engineer submitted revised site plans addressing many of the comments received at the meeting. He outlined the comments concerning development standards in the staff report with the Planning Board and audience.

Director Heard stated that staff was recommending approval of the conditional use permit to redevelop the property at 1314 Duck Road with a new watersports/restaurant building and associated site improvements, subject to the following conditions:

1. A plat and deed combining parcels of 1314 Duck Road, 1312 Duck Road and a portion of 1310 Duck Road per the proposed plans must be approved and recorded at the Dare County Register of Deeds office.
2. All parking spaces must be delineated through the use of curb stops or other acceptable markings.
3. An operational and maintenance plan must be provided to the Community Development Department prior to placing the system for reuse of the cistern-stored water into service.
4. A site lighting plan must be submitted and approved by the Community Development Department to ensure compliance with the Town's lighting standards.
5. Approval must be obtained from the Dare County Water and Health Departments to authorize the use of the existing waterline or upgrade the water service to accommodate the proposed uses.
6. An encroachment permit must be obtained from the NC Department of Transportation for the installation of the water lines within the State right-of-way.
7. A permit must be obtained from the Dare County Environmental Health Department for the design and installation of the proposed wastewater treatment system prior to the issuance of a land disturbance or building permit.

8. A CAMA minor permit must be obtained from the NC Division of Coastal Management prior to the issuance of a land disturbance or building permit.
9. The applicant must obtain a land disturbance permit from the Community Development Department prior to engaging in any tree removal, fill, or grading activity on site.
10. The buildings must be constructed in substantial conformance with the elevation drawings and floor plans submitted with the CUP application, as prepared by Finch & Company and dated June 12, 2017.
11. Any new signs, sign faces, or sign lighting must be reviewed and approved under a separate permit by the Community Development Department.
12. The applicant must submit the final site plan and site plan review fees as provided for in the Town's adopted fee schedule concurrent with final engineer-stamped site plan drawings, as may be revised through the approval and condition process, with all required information referenced in the CUP conditions, prior to issuance of a building permit for the project.
13. These conditional use permits will expire in 18 months from the date of approval, unless construction has commenced with the required site plan and building permit approvals.

Director Heard stated that staff sent out notifications to the adjoining neighbors and the neighboring associations that are affected by the project, as well as running an advertisement in the local newspaper outlining the proposal and giving people the opportunity to comment. He noted that two comments have been received from citizens. He stated that Jane Cashin, a homeowner in the Osprey subdivision had emailed a concern about parking at the proposed development. Director Heard also stated that John Wander had telephoned him that morning to express concern regarding visibility for drivers coming over the hill, traveling north on Duck Road. It was Mr. Wander's opinion that a left turn lane is needed into the development to improve traffic safety in this area.

Member McKeithan noted that Condition #7 states that the Environmental Health Department permit for design and installation of a proposed water treatment system needed to be obtained prior to the issuance of a land disturbance or building permit. He inquired about the proper sequence for these permits. Director Heard explained that the applicant will be obtaining a permit for the design and to install the septic system, then submit it to staff. He noted that it is very typical, even for conventional permits. He added that a Health Department permit is already required before a building permit is issued.

Member Cofield asked for additional information on the 20 feet on the south of the existing property that would be granted from the residential property and the nonconformities that it improves. Director Heard stated that in addition to combining the main two properties, there would be a 20-foot strip along the southern property line that will be added to the other parcels. He noted that many of the existing parking spaces currently encroach onto the residential property. He noted that with the common ownership, the encroachment has not been an issue. He stated that the additional 20 feet is the recognition that the property use is changing and

intensifying. Therefore, this agreement needs to be formalized. He stated that the additional 20 feet will bring the existing nonconforming garage/service building into conformity and the existing parking spaces are now shown on the developed parcel.

Member Cofield asked if the extension was between the building and the parking spaces. Director Heard stated that the building, under the proposal, will be brought completely into compliance as there will be a 20-foot setback when only a 10-foot setback is required. He added that with regard to the parking, the spaces will now be on the subject property, but will not comply with the five-foot setback requirement, thus the applicant's request for a special exception. Member Cofield asked if there were 67 parking spaces. Director Heard stated that they are proposing 63 parking spaces and are required to have a minimum of 60 spaces.

Member Cofield asked if the Town has a standard for establishing a turning lane when there is a 60-parking space requirement. Director Heard stated that the Town does not have a standard for providing turning lanes. He added that staff provided the plans to the N.C. Department of Transportation, which is the agency that will dictate whether a turning lane is required. He stated that staff sent the information to the NCDOT and asked for their comments; however, none have been received. Member Cofield thought it is appropriate for the Town to have a standard for turning lane requirements. He asked if Director Heard is suggesting that the Town cannot require a turning lane. Director Heard stated that the Town doesn't have standards that staff can enforce. He thought if there is a safety concern, it can be addressed with a conditional use permit. He explained that, under that, if the Town identifies a significant safety concern, the Town has the right to look at conditions to help mitigate the concern.

Member Cofield asked what the State standard is. Director Heard stated that he does not know what triggers the need for a turn lane. He added that it depends on the road, existing conditions, and scale of the proposed development as far as parking spaces and traffic generation. Member Cofield asked if the number of parking spaces is an indication. Director Heard stated that it is not something that the State specifically uses, but it would probably be an indicator.

Member Cofield asked if the State is aware of the concerns. Director Heard stated that they are. He added that he had not shared John Wander's concerns, but the same concern was expressed with the technical review committee by the Fire Chief, Police Chief and Community Development Director as far as the limited sight distance over the hill. He noted that there is currently a flashing light on the south side of the hill warning drivers of the limited visibility.

Member Whitman asked if the restaurant will be seasonal or year-round. Director Heard stated that the applicant could answer that question as he does not know.

Member Cofield stated that he saw a vehicle almost hit two people that were crossing the road. He stated that he was bringing it up because he thinks a turning lane is an appropriate concern.

Chair Blakaitis suggested that the Board reach consensus on all four items individually. He asked if the applicant wishes to make a presentation.

Jon Britt of 1310 Duck Road was recognized to speak. Mr. Britt stated that he has owned Nor'Banks Sailing since 1991 and this redevelopment is a vision he has had for a long time. He

stated that he tried to come up with something that will work with where it is located and be successful. He stated that he wants the project to blend in to where it is, which was why he has proposed a traditional septic system. He added that the project is designed to maintain the viewshed of the water, viability of the watersports business, and character of Duck.

Jon Britt stated that he wants to address the turning lane. He explained that when the project was done years ago, access into the site wasn't an issue. He stated that he hasn't seen any issues since Sun Realty moved in last year. He stated that he does not anticipate any issues with this project and is only adding a little more to his development. He noted that even though he has seen an increase in the parking over the last two years, there hasn't been an increase in vehicle accidents. He wasn't sure if any more can be done with the development.

Member Cofield asked Mr. Britt if he had considered any cost sharing with regard to the turning lane. Jon Britt stated that he has not give any consideration to it and added that there is no real way to do any kind of shared parking arrangement with Sun Realty. He stated that the history of the road in front of his development is that the traffic has been there for 30 years and the 35 mph speed limit did make it a lot better for people trying to cross Duck Road.

Chair Blakaitis stated he would like to reach a consensus with the Board for Condition #1 for a building greater than 5,000 square feet. He asked the Board if they had any questions or objections. There were none.

Chair Blakaitis asked the Board if they had any questions regarding the layout of the restaurant, plans, staff comments and conditions set forth. Member Whitman stated he has no issue with any of it. Member Cofield stated that he does not have a concern specifically about the restaurant, but has a concern about the need for a turning lane. Chair Blakaitis asked if it is something that will need to be addressed with the NCDOT. He asked if the Town can tell the NCDOT to put in a turning lane. Director Heard stated that the NCDOT would evaluate it and determine if it is a good idea. Chair Blakaitis didn't think there is any harm in asking the NCDOT to evaluate this situation.

Member McKeithan stated that it looks like the applicant will need all of the parking spaces identified with a few extra left over. He asked if there will be a requirement for trailer and boat storage in the parking spaces. Jon Britt stated that there will not be any trailers on the site except in emergency situations in the southeast corner of the property. Chair Blakaitis asked if the trailers can be kept on the septic repair area. Mr. Britt stated that they can, but he will not do that since they are unsightly. Member McKeithan asked where the rental boats will be staged. Mr. Britt stated that all of his operating boats are staged in the water.

Chair Blakaitis asked if there is any concern about cuts to the dune with regard to the adjacent property to the north, shedding stormwater to the adjoining property and vice versa. Jon Britt didn't think it would be substantial. Chair Blakaitis asked if the Town engineer looked at it. Dave Klebitz of Bissell Professional Group was recognized to speak. Mr. Klebitz stated that it had not been looked at in great detail in terms of downspout locations. He stated that if there appears to be a problem with the off-site water coming onto the property, it can be addressed during construction. Chair Blakaitis clarified that it isn't a concern. Dave Klebitz agreed, adding that the slopes at the top of the hill are not very significant.

Member Whitman noted the development summary states that collected stormwater will be used from the cisterns to clean the boats. He asked if there is an area designated to clean the boats or to catch the runoff. Jon Britt stated that the cisterns will likely be used primarily for irrigation and not to clean the boats.

Chair Blakaitis thought the plan is put together very nicely. He stated that Item 3 is the layout of the existing sailing watersports business. He asked if there are any questions about it. There were none.

Chair Blakaitis stated that Item 4 is to approve the Village Commercial Development option to allow the gravel parking and bring the existing parking into compliance with setbacks. Member Whitman asked how much additional square footage of parking is being added in the gravel parking area. Dave Klebitz stated that that it is 3,009 square feet. Member Whitman asked how much square footage is presently at the site. Director Heard stated that the existing lot coverage is 21,670 square feet and the proposal will add 3,247 square feet for an increase of approximately 13%.

Chair Blakaitis asked what the reason is for the Town to eliminate gravel when the standards are made for parking lots. Director Heard stated that he doesn't know why that requirement was adopted. Member Cofield thought it is an improvement. Permit Coordinator Sandy Cross was recognized to speak. Permit Coordinator Cross thought the use of gravel parking was removed for safety reasons along the Duck Trail in the Village Commercial District. Jon Britt agreed.

Chair Blakaitis moved to approve Conditional Use Permit 17-002 with the conditions recommended by staff including the minor corrections noted by staff. Member McKeithan seconded.

Member Cofield reiterated that he would like to see the Town raise the questions specifically to the State about a turning lane. He wasn't sure if a condition of approval can be added to the application or what stipulation can be made. He thought it is an issue and he wants it specifically proposed to the NCDOT. Chair Blakaitis didn't think it can be a stipulation for this project, but the Board can direct staff to request it. Director Heard stated that staff submitted copies of the plans to two different levels at the NCDOT and they have not provided comments. Chair Blakaitis asked if the turning lane was specifically noted. Director Heard stated that staff mentioned the concern about sight visibility coming over the hill, but wasn't sure if the turning lane was specifically referenced in the emails. Member Cofield stated that he wants staff to specifically raise the issue of the turning lane to the NCDOT.

Member Whitman didn't think the turning lane should be a stipulation as to whether the Board approves the application or not. Chair Blakaitis stated that it isn't and will be a separate item. Member Cofield suggested that in this approval, that the Board state that they are raising the issue with the NCDOT. Chair Blakaitis noted that there needs to be the consequence for approval or disapproval. Member Cofield stated that if NCDOT denies, the project will move forward and if they approve it, it will still move forward. He thought a development of this size is common and the issue should be raised.

Chair Blakaitis thought the only way it can be put in the CUP is with a comment that a motion was made and seconded and it was suggested that staff specifically – not a condition of approval of this project – mention to the NCDOT that they look into a turning lane. Member Cofield disagreed and stated that he wants the issue of a turning lane specifically raised to the NCDOT and ask them to comment regarding it.

Member Whitman asked what the Board will do if NCDOT comes back and says that a turning lane needs to be installed. Chair Blakaitis stated that a turning lane would have to be installed, which will not affect the project. Member Whitman asked who will pay for the turning lane. Member Cofield stated that he has the same question. Chair Blakaitis thought the NCDOT will pay for it. Director Heard stated that it will depend on the circumstances - it could be the developer paying for it or the NCDOT paying for it.

Jon Britt stated that he would be concerned about taking on the burden of additional cost for a turning lane. He added that the proposed development is not the only party concerned with the limited visibility, there are several neighborhood streets and a real estate office next door. He expressed a concern about potential delays, noting that he would not like to see that happen because he is hoping to start construction in the fall. He noted that the NCDOT has been contacted and suspects that staff will receive comments from them prior to the August 2, 2017 Town Council meeting.

Chair Blakaitis stated that he does not want to see that affect or impact the decision that the Board makes at this meeting. He agreed with strengthening the Board's request for the NCDOT to look at the issue. He added that he does not want it to be a condition of the project. He stated that if Director Heard wants to add it as a condition without affecting the project, that is fine. Director Heard stated that it is up to the Board if they want to make it a condition. Chair Blakaitis stated that he does not. Director Heard clarified that the instruction he received is that the Board is asking him to raise the question about a turn lane to the NCDOT and that it is not a condition of the project.

Member Cofield suggested that it be added as a condition that the Board instructs staff to communicate further with NCDOT regarding a turning lane. Director Heard explained that conditions are placed on the permit for the applicant. The Board doesn't need to make it a condition if they wish to ask staff to do something. Chair Blakaitis agreed. Member Cofield stated that he wants to see a specific review regarding a turning lane because he thought it is important. He added that he isn't trying to hold up the project, but thought it is an important issue. He stated that it is a commercial development of some size. Chair Blakaitis pointed out that it should not hold up the progress of the project. Member Cofield agreed. Chair Blakaitis stated that it should not be a condition, but a request of the Board to ask staff to do it. He added that it can be separate from the project.

Motion carried 4-0.

Vice Chair Murray returned to the meeting.

Discussion of Dune Walkover Designs to Address Beach Access for People with Mobility Challenges

Director Heard stated that during the Town Council's consideration of the standards for dune walkovers, there was a good deal of discussion about the challenges of accessing the beach for people with physical handicaps or limited mobility. He stated that Council discussed several different alternatives, such as allowing post and rope barriers, railings, or wooden walkways down the eastern side of the dune, but decided to adopt the gentler approach recommended by the Planning Board, which was beach access matting, as an initial step. He noted that Council requested that the Community Development Department work with the Board to evaluate options for providing better access for people with limited mobility.

Director Heard stated that the beach nourishment project has resulted in a relatively gentle 5:1 slope on the eastern side of the constructed dune. He pointed out that the typical profile for the east side of the newly constructed dune runs approximately 70 feet from the east side of the dune crest to the ocean beach. He added that the longer length of the eastern side of the dune and wider beach has created greater challenges for people with mobility limitations to access the beach and ocean.

Director Heard reminded the Board that at their June 14, 2017 meeting, the Board had considerable discussion about accessibility concerns and, similar to the decision made by Council, the Board recognized that there may be individual issues, but using a less obtrusive approach with beach access matting instead of hardened ramps or stairways is a better initial approach until the Town can observe how the dune and beach are shaped over time.

Director Heard noted that with the quick turnaround from the Council meeting, staff has not had an opportunity to explore the variety of beach access alternatives that may be used by other coastal communities. However, staff has identified a list of issues that the Planning Board may wish to discuss and that the Board may have additional ideas for discussion as well.

Chair Blakaitis asked if Director Heard had come up with any other alternative solutions to climbing the slope of the dune from other communities. Director Heard stated that he did not have any time to do so before this meeting. He added that it is something he plans to look into.

Chair Blakaitis noted that the Town Council passed the ordinance at their July 5, 2017 meeting, but were moved and concerned about the comments that several residents had raised at the meeting regarding the ability to climb the slope of the dune. He added that Council did not modify the Board's ordinance at their meeting, because they thought some alternate solutions can be investigated by the Planning Board. He stated that the purpose of this discussion is to look at alternatives or keep the ordinance as it stands.

Chair Blakaitis asked if anyone in the audience wishes to speak on the issue. There were none.

Building Inspector Cory Tate was recognized to speak. Building Inspector Tate stated that he is present to answer any questions that the Board may have regarding ADA compliance.

Chair Blakaitis asked if the Board was really discussing ADA compliance or just climbing the slope of the dune. He noted that they can be considered the same thing, but most homeowner associations do not have the right of way to provide complete ADA accessibility. Director Heard stated that staff researched it and could not come up with an instance where there could be total ADA compliance at any of the community beach accesses.

Building Inspector Tate explained why most situations will not meet the requirements for ADA accessibility. He explained that the first requirement is a hardened surface or something that is an all-weather type surface. He stated that the North Carolina Building Code requires community accesses to meet the accessibility code. However, most of the community owned access points do not have enough property associated with them to be able to meet or build a walkover that will strictly meet the requirements of the ADA. He stated that the Town cannot allow structures to be built all the way to the mean high water mark, because it will not allow lifeguards to pass. He added that walkways will not be allowed to encroach on other people's properties. He stated that in 99.9% of cases, it is impossible to meet the requirements of the building code with an accessible beach walkover as the easements exist.

Vice Chair Murray understood that for public accesses, because they are dealing with very narrow easements, that they cannot do that. He asked if it is conceivable that an access can be four feet wide at its foundation, meeting the CAMA requirement for the lower piling embedded on a private property that had the width rather than switch back north to south; switch back east to west to provide a hardened surface that neither was wider than four feet. He further asked if it will go east, go to the north or south to provide the turnaround and will have to be five feet. Building Inspector Tate stated he is correct. He noted that such a design would have issues with the V-zone requirements. Vice Chair Murray asked if it is safe to say that any ADA compliant structure on a private property that had the width to do it, will fall into the wider than four-foot range if they are required to put in 16-foot pilings to meet the V-zone requirements. Building Inspector Tate stated he is correct.

Vice Chair Murray stated that at the end of the Board's previous meeting, when he raised some of the concerns, it was brought to his attention that no citizens had raised the concerns. However, Council has now raised concerns that are similar. He clarified that citizens had raised concerns after the meeting to Town staff. Director Heard stated he is correct. Permit Coordinator Cross stated that most of the property owners have been very patient and understanding that the dune will change. She stated she has not received any calls or emails regarding mobility other than the public comments at the July 5, 2017 Council meeting. She added that the Sanderling subdivision had concerns regarding consideration for posts and rails and know that there is some access matting going in. Staff will know better after it is installed how people are getting up and down the dune at that location.

Vice Chair Murray asked what can be eliminated. Permit Coordinator Cross stated that before the Planning Board meeting regarding dune walkovers, staff had sent out a message offering suggestions for funneling people to the beach, including a post and rail system. She stated that she does not have formal approval to allow it. Chair Blakaitis clarified that if the Board should ever decide that they will allow post and rail or post and rope systems in the slope in the nourishment area, it isn't certain that CAMA will approve it. Permit Coordinator Cross expected to have a clear answer from the N.C. Division of Coastal Management soon.

Chair Blakaitis asked what the private properties by Buffell Head Road are doing. He asked if they are accessing the beach from the private properties. Permit Coordinator Cross stated that they are. Chair Blakaitis asked how they are doing it. Permit Coordinator Cross stated that one tied a rope to their walkway the full length of the dune and slope to get up and down the dune. Vice Chair Murray asked if it was a plain rope. Director Heard stated he is correct.

Vice Chair Murray asked if there is anything similar to a Conditional Use Permit that wouldn't take two meetings or two months to solve the issue. Chair Blakaitis thought it is a great idea. Director Heard stated that the quickest way to do it would be through a Special Exception permit. Vice Chair Murray noted that no one is in a hurry to have the problem solved in individual locations. He added that it seems like that the solution will be dictated by the need and that the Town has no appetite for permitting hardened structures that will be ADA compliant on private property. Director Heard thought the conversation seems to be in the other direction, where Council will consider more flexible options for common or neighborhood access points and more limited options for individual private access points.

Vice Chair Murray stated that for the community accesses, in the event there is more than 50% destruction, the Board needs to think about some way of dealing with it as it will be a serious problem.

Member Whitman asked if CAMA will limit property owners from being able to use their access points that are currently in existence. Permit Coordinator Cross stated that it will not do that. Member Whitman asked how CAMA will control the dune. Permit Coordinator Cross stated that they are not controlling it. Member Whitman asked who will. Permit Coordinator Cross stated that the Town will. She added that she consults with the NCDCM regularly on this and other regulations.

Vice Chair Murray thought the beach planting will funnel people to the beach. He suggested that the Board reiterate that fact to Council. Permit Coordinator Cross stated that plantings are planned in the fall across the top of the dune and staff is working on additional funding for planting the dune slope.

Director Heard stated that the Board needs to figure out if they have other ideas they would like staff to explore. He added that staff will complete research on other communities and what they are doing. He added that a Special Exception permit would be an interesting interim step to create an allowance for someone with special needs or a unique situation that could be addressed individually. He stated that staff can put together different concepts for the Board to consider.

Vice Chair Murray asked what the fee is for a Special Exception permit application. Director Heard thought it was \$400-\$500. Chair Blakaitis stated that it is \$400. Vice Chair Murray thought it may be prudent to reduce the cost if possible.

Chair Blakaitis didn't think there is a whole lot that the Board can do to the slope of the dune that will avoid putting in a hardened structure except for post and rail or post and rope systems. He doesn't know if that will work and isn't sure it should be done. He reminded the Board that it was discussed at their last meeting and they agreed to do nothing. He added that Council's

concern brought it forward. He noted that it has to be one of the considerations. He asked what other considerations the Board wants to look at.

Member Cofield stated that he is concerned about going down of those routes knowing that the dune and the berm will change and may change in fairly short order. Vice Chair Murray stated that that is the reason why he is leaning toward a Conditional Use permit instead of a Special Exception permit. He asked if Special Exception permits have conditions. He thought a dismantlement condition will be critical. Director Heard stated that it can be one of the criteria for the Special Exception. Vice Chair Murray noted that there can be an exposure threshold if a certain amount of a beach access structure is exposed. He felt it put the community member that has an issue in a position where they can help to solve the problem. Chair Blakaitis stated that whatever the need is, a person has to be to get up the slope of the dune. Vice Chair Murray agreed. He added that if a post and rail system will achieve the desired effect, he doesn't see a need for the Board to do anything with post and rails at this time if individuals that require a post and rail guide at private properties had a mechanism. He added that if the Town otherwise makes it possible to do it, then he doesn't feel it is as necessary that the Board guess at it now. He felt that doing less is possible as long as a mechanism is created for owners to do something that meets their needs individually.

Chair Blakaitis agreed. He added that the expected equilibration of the dune is why he goes back to the post and rail system, because if anything does happen to the dune in the way of a storm, it is a few posts and rails and nothing else. He asked what else can be put in besides that. He wondered if there are any other solutions that the Board should consider. He thought it is one that should be considered by the Board at some point. He didn't see any other option that should be considered except for the beach matting which is already approved. He didn't think a post and rope system will work because the rope will not provide enough stability. He added that whatever is done should be less of a hazard. He stated that if Council is really pushing for a solution, that is the best thing to recommend at this time.

Member Whitman asked if the railing will have to be built a special way such as the one at the Station Bay subdivision access. Director Heard stated that that railing has an eight-foot span. Building Inspector Tate stated that, in order to meet the requirements of the Building Code, it will need to be more substantial than what was constructed. He explained that the general idea of a post and rail system for heavily traveled areas is consistent with the Town's flood damage prevention ordinance. He noted that it does not need to meet the requirements for a guard rail because the slope is so slight that there isn't a significant drop off area where someone will fall. He agreed with Member Cofield that the slope will change over time and whatever solutions that may be developed at this point may not work in the future. Chair Blakaitis stated that it would have to be changed. Building Inspector Tate stated that it is hard to say at this point. Chair Blakaitis noted that the slope will change and even after it changes, it will have some kind of slope. Building Inspector Tate agreed.

Chair Blakaitis asked if something like this is done, a cross rail support system between posts will be better. Building Inspector Tate stated that it would not. He added that the design is fine the way it is. He stated that if someone put a header across, it will be considered perpendicular to wave action and will be in violation of the Building Code. Chair Blakaitis thought there won't be a need to put two rails up as one rail will probably work.

Member Cofield thought the beach matting will provide a tremendous improvement. He added that if the Board is looking to funnel people onto the beach, the beach matting will solve the problem. He didn't think a post and rope system is needed as the matting will clearly show where the trail down to the toe of the dune. He stated that if people need support, then a single rail system is fine. He reiterated that the beach matting will work. Chair Blakaitis thought that some kind of rail system will work.

Vice Chair Murray stated that it sounded like the Board is satisfied with what has already been completed. Chair Blakaitis agreed. Vice Chair Murray asked if someone wants a post and rail system installed or anything else they could think of that the Board hasn't thought of yet, the best way to deal with it would be through a Special Exception. Then, the Board can re-evaluate it after some erosion is noticed. Director Heard stated that if the Board is in consensus that a post and rail system is acceptable, then he doesn't see a reason to make someone go through the Special Exception process to get it approved. He added that one of the options is if the Board had a concept they are comfortable with, it can be adopted as a standard and still have the Special Exception option for other, more creative options. Vice Chair Murray agreed. Director Heard stated that if there isn't consensus on a particular concept, then the Special Exception can be an option.

Member Cofield suggested that it be worked on in stages. He didn't have a problem with it but doesn't want the Board to confine it to the beach nourishment area. He added that if the Board recommends a standard, it should apply to all of the beach. He added that the beach matting solves the problem of coming up with a surface. He thought that the post and rail system will solve the support problem and does not see a need for Special Exception permits. He stated that if the Board looked at communities in other areas that allow it, it can be considered. He noted that if the Board agrees that having beach matting to provide a firm footing and a post and rail system, it will solve the issues. Member Cofield thought the beach matting solves 90% of the issue. He added that if the Board wants to take it a step further, a post and rail system will completely solve the issue. He reiterated that it should apply to all of Duck and not just the nourishment area.

Chair Blakaitis stated that it will be allowed outside the nourishment area. Director Heard pointed out that the other areas outside of the nourishment area do not have the limitations and can already consider any of these options. Vice Chair Murray clarified that the Station Bay subdivision already has it and it was allowed. He added that the Bias Shores subdivision has it, because it was already allowed outside the nourishment area. Director Heard reiterated that they do not have the same limitations that the nourishment area has. He added that the Town is trying to potentially make it more flexible in the nourishment area. Member Cofield reiterated his previous comments about using beach matting as well as the post and rail system to solve the issue. Chair Blakaitis wasn't sure the Board can come up with any other alternatives other than post and rail that will work. He suggested that Director Heard draft a text amendment for the Board's August 9, 2017 meeting and then wait and see what other issues arise.

Member Whitman asked if it will address both community and private accesses. Director Heard asked the Board members if they wished there to be a difference in those two options as it is legal to do so. Member Cofield didn't see a need to separate the two. Vice Chair Murray agreed.

Chair Blakaitis stated that if a lot of citizens are concerned, and this is the best option which CAMA will approve, it may make the rest of the summer visitors happy to see something in place. Member Cofield thought the beach matting will solve 90% of the problem, but the only problem it doesn't solve is for someone that needs some sort of support. He added that the post and rail system will solve that problem.

Chair Blakaitis stated that if the Board has a consensus that it should not allow post and railings or even consider it, then a text amendment will not be needed since the Board is saying they don't want anything changed. He added that if Council doesn't like that, they can suggest that the Board reconsider it. Member Cofield stated that he liked Director Heard's suggestion of one railing. Chair Blakaitis agreed, adding that it could be one railing over two.

It was *consensus* of the Board to have Director Heard draft a text amendment to permit post and rail type construction, having it applied to individual properties as well as neighborhood accesses, limited to one rail. Director Heard asked if the Board wished to include a provision for special exceptions for communities or others to explore alternatives at this time or to let it lie for the time being. Member Cofield stated that he does not see a need to jump ahead. Chair Blakaitis agreed, adding that if Director Heard can word something that the Board understands, they can look at it again. He doesn't think it needs to be in the text amendment right now.

APPROVAL OF MINUTES

Minutes from the June 14, 2017, Regular Meeting

Member McKeithan moved to approve the June 14, 2017 minutes as presented. Member Cofield seconded.

Motion carried 5-0.

OTHER BUSINESS

None.

STAFF COMMENTS

Summary of July 5, 2017 Town Council Meeting

Director Heard gave an update on the July 5, 2017 Council meeting to the Board and audience.

Project Updates

Director Heard updated the Board and audience about several Town projects.

Building Inspector Tate stated that he would be leaving employment with the Town of Duck as he has accepted a position with Dare County as Chief Building Inspector. He appreciated the courtesy that has been extended to him during his time with the Town of Duck. Chair Blakaitis stated that the Board will miss him. Member McKeithan agreed. Building Inspector Tate stated

that he has given it a lot of thought and professionally, he feels that it is a good move for him as it is a little different than what he is doing in Duck. Chair Blakaitis clarified that it is for the entire county of Dare. Building Inspector Tate stated that it will be for the unincorporated areas of Dare County. Chair Blakaitis wished Building Inspector Tate luck on his new endeavor, adding that he has done a lot for Duck. Member McKeithan agreed. Member Cofield congratulated Building Inspector Tate. Director Heard noted that August 11, 2017 will be Building Inspector Tate's last day.

BOARD COMMENTS

Vice Chair Murray asked if someone has a concern about a beach access, they can ask for a special exception and the Board will not have to state it. Director Heard stated that special exceptions are only for very specific things that are spelled out in the ordinance. He added that there are only about a half dozen circumstances under which someone can ask for a special exception. He added that they can ask for a variance through the Board of Adjustment, but it is a more stringent process to go through for approval. Vice Chair Murray clarified that if someone comes in asking for help with their beach access, Director Heard is not required by the ordinance to say no. He further asked that the variance can be offered as an option. Director Heard stated he is correct.

ADJOURNMENT

Member Cofield moved to adjourn the meeting. Member McKeithan seconded.

There was no vote.

The time was 9:06 p.m.

Approved: _____
/s/ Joe Blakaitis, Chairman