

**TOWN OF DUCK  
PLANNING BOARD  
REGULAR MEETING  
March 14, 2018**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, March 14, 2018.

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

Absent: Sandy Whitman.

Also present were: Director of Community Development Joe Heard, Permit Coordinator Sandy Cross and Council Liaison Jon Britt.

Others Present: David Klebitz of Bissell Professional Group, Matt Price and Jim Braithwaite of Allis Holdings, Town Engineer Michael Robinson, Michael Strader of Quible & Associates, Dick McAuliffe of Sanderling Properties, Christopher Nason of Beacon Architecture, Philip Ruckle of The Coastland Times, Willo Kelly of the Outer Banks Homebuilders Association, Chuck Straub, and Ron Forlano.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for March 14, 2018 at 6:32 p.m.

**PUBLIC COMMENTS**

None.

**NEW BUSINESS**

**Conditional Use Permit 18-001: Application for a Conditional Use Permit to Add 11 New Hotel Rooms, a New Fitness Center, and Associated Patio/Decking, Walkways, and Parking Improvements at the Sanderling Resort & Spa at 1461 and 1574 Duck Road**

Director Heard stated that the applicant was requesting an amendment to the existing conditional use permits to add 11 new hotel rooms, a new fitness center and associated patio/decking, walkways and parking improvements at the Sanderling Resort & Spa. He noted that the following improvements are proposed on the hotel property:

- Convert existing storage areas on the first floor of the North Inn into two new guest rooms.
- Convert an existing second floor guest room in the Event House into additional conference space. Add a third floor to the Event House containing six new guest rooms for a net addition of five guest rooms.
- Expand and convert existing third floor areas of the Beach House in the Main Inn into four new guest rooms.
- Enclose a covered walkway on the first floor of the South Inn.
- Add seven new parking spaces.

Director Heard stated that the following improvements are proposed on the spa property:

- Construct a new, single-story fitness center, 1,966 square feet in size, on the northern side of the property.
- Add decking to the rear of the existing pool and spa buildings.
- Add paved walkways connecting many of the buildings on the west side of Duck Road.

Director Heard stated that the Sanderling Resort & Spa consists of three separate parcels located on both sides of Duck Road. He stated that the property at 1461 Duck Road is 12.09 acres in size and zoned General Commercial. He added that the property located on the east side of Duck Road has extensive frontage on the Atlantic Ocean and contains 120 hotel rooms housed in four separate buildings, as well as a conference center, the Life Saving Station Restaurant, and support facilities for the hotel. He stated that the other two properties are located on the west side of Duck Road and have frontage on the Currituck Sound. The property at 1570 Duck Road is nearly 1.52 acres and contains an event pavilion, indoor swimming pool and spa facilities. He noted that the Sanderling Resort also leases a portion of the property south of Kimball's Kitchen as parking for the restaurant.

Director Heard stated that north of the hotel property is a 1.3-acre parcel that contained the Salt Houses at Sanderling, a four-unit townhouse complex zoned Single-Family Residential. He stated that to the south of the hotel is the Sanderling residential neighborhood. Directly adjoining the hotel property are two single-family residences zoned Single-Family Residential with frontage on Station Bay Drive. He added that to the north of the spa property is a 3.4-acre sound front property that contains tennis courts, a swimming pool and clubhouse for the Sanderling neighborhood, which is zoned Single-Family Residential. He noted that directly south of the spa property is a 1.4-acre parcel zoned General Commercial that contains the Station Bay Marina seafood stand.

Director Heard outlined several existing conditional use permits previously approved by the Town for the Sanderling Resort & Spa. He noted that this application proposes a modification to those existing permits.

Director Heard explained that the addition of parking spaces and decking results in a net increase of 422 square feet of lot coverage on the hotel property at 1461 Duck Road. He added that with this increase, the total amount of lot coverage will be 176,578 square feet or 45.1% of the property. He noted that the proposed expansion and improvements comply with the maximum lot coverage requirements of 60% in the C-2 zoning district on both lots.

Director Heard stated that the proposed development is also subject to a 30% maximum lot coverage standard within the CAMA Area of Environmental Concern. He pointed out that there is a small area of proposed wooden and paved decking located in the 75-foot CAMA Area of Environmental Concern being added to the rear of the existing spa/swimming pool building on the west side of Duck Road. He stated that staff asked the applicant's engineer to document the amount of proposed lot coverage in the AEC prior to the Town Council meeting but it appears to be well under the 30% threshold.

Director Heard stated that the existing parking area contains 240 parking spaces and to accommodate the proposed expansion, the applicant has proposed the addition of nine parking

spaces on the property for a total of 249 parking spaces. He noted that one of the proposed parking spaces does not comply with Town setback standards, leaving only 248 parking spaces provided, which is consistent with the minimum parking requirements for the site.

Director Heard explained that compliance with the parking standards is contingent on an interpretation by the Planning Board and Town Council. He stated that the applicant has not included the proposed fitness center in the parking calculations. He added that staff's interpretation was that the fitness center was an ancillary facility to the resort and therefore, parking should be required to support the facility at the ratio of 1:200 square feet resulting in the need for 7.37 additional parking spaces for a total of 256 parking spaces on the site. He noted that this interpretation puts the proposal out of compliance with the parking standards.

Director Heard stated that the applicant is asking the Planning Board to consider an alternative interpretation that the fitness center should not be treated in the same manner as the other ancillary buildings. He explained that the applicant has pointed out that the existing restaurants, event pavilion, conference space, and spa/fitness center are open to use by guests and the public. He stated that additional parking is necessary to serve those facilities as non-guests arrive at the site. He stated that the applicant claims that the new fitness center will only be available for use by guests of the Sanderling Resort and additional parking is not needed to serve the facility.

Director Heard stated that Town standards require a minimum setback of five feet from the property lines. He stated that nearly all of the existing and proposed parking spaces comply with the minimum setback standard. He noted that there are three parking spaces – two existing and one proposed - that appear to abut the southern property line. While the two existing spaces are grandfathered, the creation of the third space would be inconsistent with the Town's current parking standards. He recommended that this space be removed from the proposal or relocated to a location in compliance with Town standards.

Director Heard stated that staff was recommending approval with the following conditions:

1. The first line of stable natural vegetation must be re-established and site plan information updated accordingly.
2. Parking space #244 must be relocated or removed as its proposed location does not comply with Town setback standards.
3. The site plan must be updated to include calculations for lot coverage within the CAMA Area of Environmental Concern.
4. The site plan must be amended to show removal of the short section of asphalt walkway and addition of the emergency vehicle access/parking area in front of the proposed fitness center in the northeast corner of the spa property.
5. The applicant must obtain a CAMA Minor permit for proposed improvements within the CAMA Area of Environmental Concern on the oceanfront and sound front areas of the property.
6. Details and specifications on exterior lighting must be submitted and approved by the Community Development Department prior to installation. All exterior lighting must comply with Town standards.

7. The applicant needs to obtain a letter authorizing the capacity at the private wastewater treatment facility for Pine Island and a wastewater permit from the North Carolina Division of Water Resources.
8. The applicant must submit the final 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.
9. The buildings must be constructed and renovated in substantial conformance with the elevation drawings and floor plans submitted with the CUP application, as prepared by Beacon Architecture and dated February 12, 2018.
10. This conditional use permit will expire in 18 months from the date of approval if the proposed improvements have not commenced.

Member McKeithan asked if the Planning Board approves the request to exempt the fitness center from the parking requirement, a statement can be put in the conditional use permit that the Sanderling will only allow use the fitness facility by its private guests and not the general public. Director Heard thought it would be appropriate to do if the Board decides to interpret it that way. He thought it makes it clear why the parking requirements were not applied in that situation, as well as making it clear that should the Sanderling change the way they operate that facility, the need to provide additional parking can be enforced.

Member Cofield stated that it sounds reasonable to him that the fitness facility should be restricted to registered guests of the hotel. He agreed with Member McKeithan that it needs to be clearly stated as a condition that it is only for the guests of the resort and cannot be used by the general public.

Chair Blakaitis asked for clarification that this is currently the intention of the applicant. Dick McAuliffe of Sanderling Resort & Spa was recognized to speak. Mr. McAuliffe stated that the fitness center is intended for use by resort guests only. He added that he does not have an objection to the condition.

Mr. McAuliffe stated that Director Heard gave a very thorough presentation on the project. He stated that they are looking to add a total of four guest rooms in the Beach House – two on the ocean side and two on the sound side – into space that is currently used as attic and storage space. He thought that at the end of the project, they will be the four nicest rooms in the entire resort. He stated that their architect is working on whether they can renovate and expand the existing Event House or if it will be necessary to tear down and rebuild. He stated that if they have to do that it will be done in compliance with the current conditions that the Town has. He stated that across the street, they will be adding a free-standing health club facility, and then converting the existing exercise facility in the North Inn into two guest rooms.

Michael Strader of Quible & Associates was recognized to speak. Mr. Strader explained that the parking for the new fitness center is not a new precedent as the issue had been dealt with similarly with the Sanderling's last conditional use permit. Vice Chair Murray asked if anyone is aware if the condition on that conditional use permit stipulated that it only be used by patrons. Director Heard stated that he isn't sure. Dick McAuliffe didn't believe that it was. However, Sanderling Resort & Spa only allows registered guests to utilize that facility. Vice Chair Murray

asked if it is a procedural issue to duplicate conditions on subsequent conditional use permits. Director Heard replied that it is not. Michael Strader stated that he has no issue with adding the condition.

Member Cofield asked if the applicant was bumping up against lot coverage issues. Mr. Strader stated that they are not. Member Cofield asked if it was the applicant's choice to not put in seven additional parking spaces. Mr. Strader stated that the ultimate desire is to keep much of the green space and landscaping on the property. He stated that he has developed conceptual plans to add more parking spaces on the parcels, but it is not the desire of the applicant since there isn't a need for the parking spaces at this time. He stated that he feels very comfortable and confident about the parking.

Mr. Strader stated that, regarding the first line of stable natural vegetation, that they wait as long as possible so it is an accurate and current first line. He added since the various storm events have happened, they have staked the first line and updated the AEC with the setbacks. With regard to Parking Space #244, he explained that two of the three parking spaces are existing and since it is an existing asphalt area, he is proposing to designate the third space if it is the pleasure of the Board. He added that if the Board wants there to be another parking space, he would be glad to propose other locations. He reiterated that they will remove the parking space if the Board wishes, but requested that the applicant be allowed to keep the parking space.

Director Heard explained that there are occasionally issues in the Village Commercial District that the Town Council can resolve by granting some flexibility. He noted that this property is in a General Commercial zone, so the Board does not have the same ability to allow flexible development standards for the location of the parking space within the setback.

Mr. Strader stated that they have computed the coverages within the AEC, which will be reflected on the new site plan. He noted that there is a short piece of pedestrian walkway on the west side, which looks like it connects to Duck Road. He added that it will be removed up to the point of the 90-degree connection with the proposed walkway and will be replaced with an emergency fire access, which meets the Fire Department's request for a 20' x 50' grass emergency vehicle access and parking area.

Mr. Strader understood that they will have to acquire CAMA Minor permits for both the oceanside and soundside areas. He stated that the exterior lighting will comply with all Town standards. He stated that the applicant has entered into an agreement with the sewer authority so they have permission to dispose of the initial capacity. He stated that they will be submitting an updated building and site plan as required.

Vice Chair Murray asked if the pad for the emergency vehicles will be incorporated in the walkway where it breaks at a 90-degree angle. Michael Strader stated that it will as the walkway would overlap and is already six feet in width. He added that the additional width will be the grass pathway.

Chris Nason of Beacon Architecture was recognized to speak. Mr. Nason stated that the design for the fitness center provides more direct access to handicap ramps for wheelchair access in

compliance with Town, State and Federal requirements. He stated that they are not asking for any special privileges with regard to maximum height regulations.

Chair Blakaitis asked if the height is measured to the cupola. Mr. Nason stated that the intent of the Event House and Conference Center is that they will match the look of the North Inn and in order to do so, there will be a fairly flat roof in order to achieve three stories. He stated that the commercial elevators will need extra head room and they are planning to use the same elevator in a prior project. Chair Blakaitis asked if the cupola height complies with the Town's requirements. Mr. Nason stated that it will.

Chair Blakaitis clarified that the Board is not worried about whether or not the Event House building will be torn down, but is looking at what was submitted for approval, which is the building as it exists and the addition of a third floor. Mr. Nason stated that they are asking the Board to consider the merits of the proposal, which includes two levels of assembly space and six guest rooms. He added that they were looking for permission to do that concept.

Member McKeithan felt that the Board will be approving the addition a third floor to the existing building. If the applicant decides not to do that, they should come back to the Board for reconsideration, not change their mind and tear down the existing building to build a new building. He inquired if Mr. Nason is asking for permission to build a third floor and if they changed their mind, that they be allowed to tear it down and build another building. He added that he is not in favor of approving both at the same time. Mr. Nason stated that it is at the pleasure of the Board. He explained that they want to be given the right to do it and whatever conditions the Board have on it, they will work with it.

Vice Chair Murray stated that he would have disagreed with Member McKeithan if the applicant is going to stay within the same footprint and have the same building elements, but Mr. Nason indicated that the footprint will not be dramatically different, which implied that it will potentially be different in some way. He asked if Mr. Nason is asking the Board to approve the existing footprint. Mr. Nason stated that they have proposed minor additions to the existing footprint under either scenario. Vice Chair Murray clarified that there would be no difference in a tear down and rebuild scenario to the proposed footprint from the proposed footprint on the site plan that was in front of the Board. Mr. Nason stated that it was not a substantial difference. Vice Chair Murray asked if there will be a change in occupancy, usage or zoning designations of anything beside the building. Mr. Nason stated that there will be no change to zoning. Mr. Strader stated that it will be the same footprint, adding that they will not be expanding the use.

Chair Blakaitis asked what the requirement would be if the applicant decides to tear the building down and how it will affect the approval process. Director Heard stated that that is the reason for proposed Condition 9 as the building must be constructed or renovated in substantial conformance with the elevation drawings. He noted that it is rare for a project to have no changes as they are getting to the final design. However, if there is a significant change to the appearance or exterior layout, then staff will look at bringing it back to the Planning Board and Town Council. Chair Blakaitis asked if it will be necessary to bring back to the Board. Director Heard stated that unless the Planning Board and Council feel otherwise, that is how it would be handled.

Chair Blakaitis asked what the reason would be to tear the building down. Mr. Nason stated that they have existing pilings that are in the ground only so deep. He explained that when they add the third floor, it will add an additional load to the support structure. He added that the lower floor layout will open things up, which means more beams and putting more weight on the existing pilings that are in place. He noted that the structure between the first and second floor currently is very thick and limits the ceiling height. He stated that the flood zone of the first floor is currently below the base flood elevation and they want to comply with the Town's requirements. Chair Blakaitis clarified that it is really a construction issue. Mr. Nason stated he is correct.

Member Cofield stated that he has a level of comfort with approving the specific plan. He thought the Board should either approve A or B, but not both. Vice Chair Murray thought the point is that the Board can approve Option A. The applicant can decide to renovate the building as proposed or construct a new building while still keeping the design and appearance substantially the same. Member Cofield agreed. Mr. Nason noted that the Planning Board is in a tough position, but from the applicant's standpoint, they are willing to work with staff on this and want to move forward with the use.

Chair Blakaitis thought having the applicant come back if needed will be easy to do. He stated that he is comfortable with approving the application as proposed, but thought if there are changes in the future, another look would be in order.

Vice Chair Murray asked if the Board is in agreement that Condition 9 covers their concerns. Chair Blakaitis thought it covers his concerns, but it doesn't say that it has to come back to the Board. He added that it could be left in staff's hands or be specifically noted in the conditions. Vice Chair Murray asked if it is implied that it part of the condition. Director Heard stated that if there is noncompliance with a condition, the applicant must to come back to the Planning Board.

Member McKeithan stated that, so there is no misunderstanding, he wants the Board or the Town to look at the project and agree with it before construction of a new building is started. Vice Chair Murray stated that Director Heard will do that. Member Cofield thought Director Heard clearly understands how the Board feels. Chair Blakaitis agreed.

Chair Blakaitis moved to approve the project as written, with particular emphasis on Condition 9 if it needed any rewording and adding a Condition 11 that the applicant only uses the fitness center for the exclusive use of its hotel guests and not be available for use by the general public. Member McKeithan seconded.

Motion carried 4-0.

**Conditional Use Permit 18-003: Application for a Conditional Use Permit to Establish a Kayak/Stand up Paddleboard Rental and Launching Facility in the Waterfront Shops Shopping Center at 1240 Duck Road**

Director Heard stated that the applicant is requesting an amendment to the existing conditional use permits to establish a kayak/stand up paddleboard rental and launching facility in the Waterfront Shops shopping center at 1240 Duck Road. He explained that the rental business will

operate out of the existing canoe/kayak tour business in Building I and the applicant is proposing to reserve two 100 square foot areas underneath the existing boardwalk/decking to accommodate the storage of the kayaks and paddleboards that will be rented. He noted that the kayaks and boards will be placed in the water at an existing water access landing on the Currituck Sound in close proximity to the rental building.

Director Heard stated that several conditional use permits have previously been approved for the Waterfront Shops and this application would modify to those existing permits. He pointed out that the proposed addition of a paved parking space will increase the amount of lot coverage by 131 square feet, bringing the total amount of lot coverage to 104,201 square feet or 39.9% of the property. He noted that the maximum lot coverage requirement in the V-C District is 60% and this proposed expansion complies with that standard.

Director Heard stated that the proposed amendment will not result in any changes to the existing access for the Waterfront Shops as the shopping center is presently served by an access from four driveways that provide ingress and egress to Duck Road. He stated that the addition of the proposed parking space will slightly narrow a shared access drive between the Waterfront Shops and Stan White Realty, adding that the drive aisle will be reduced to 20 feet in width, which will easily accommodate two vehicles passing and comply with Town standards for a two-way drive.

Director Heard stated that staff is recommending approval of the conditional use permit to establish a kayak/stand up paddleboard rental and launching facility with the following conditions:

1. Any new signs must be reviewed and approved under a separate permit by the Community Development Department.
2. This conditional use permit will expire in 18 months from the date of approval if the proposed use has not commenced.

Member McKeithan moved to recommend approval of Conditional Use Permit 18-003 with the two staff recommendations included. Chair Blakaitis seconded.

Motion carried 4-0.

## **OLD BUSINESS**

### **Text Amendment: Setting Framework for Discussion of Maximum Residential Building Size/Occupancy**

Director Heard stated that at the recent Council Retreat, the Council sent the issue back to the Planning Board for further consideration and development of a proposal for them to consider in the future. He stated that he wants to have a brief discussion on the issue and ask the Board members to give him any additional information that the members thought would be helpful in making a decision so he can put together the information for the Board's consideration.

Member Cofield thought the discussion at the Council Retreat combined with the information that was in the Retreat packets was very comprehensive. He didn't see a need for additional information, but noted that between the discussion and information, the Board has some hard



options to look at. Chair Blakaitis agreed, adding that if Director Heard thinks of anything, to put it in with the other information.

Director Heard stated that one item had come up at a previous Planning Board meeting regarding how to deal with the size of the bigger houses going up in Kill Devil Hills and Nags Head, particularly on the oceanfront. He stated that staff is looking into that. Chair Blakaitis wasn't sure how it will impact anything that the Board is looking at. Director Heard stated that it depended on the issues that the Board wants to get into. Chair Blakaitis suggested not adding too much stuff. Director Heard thought it has to do with how much house can fit on a lot. Chair Blakaitis pointed out that the Board has received some direction from Council and received good input as well. Council Liaison Jon Britt thought it was a spirited discussion and hoped that Council gave the Board at least a little to work with.

Member Cofield stated that he has already completed his own analysis and labeled options as good, bad, better and best. Chair Blakaitis thought it is something that the Board needs to discuss. He felt that there is enough information for Director Heard to put something together for the Board. He added that Member McKeithan pointed out that the draft minutes from the Council Retreat should be read. He suggested that the Board members read those minutes before the next meeting.

Vice Chair Murray asked if the Board is expecting Director Heard to bring an outline with the options discussed to the next meeting or a draft ordinance. Chair Blakaitis thought it may be both. Vice Chair Murray asked if the Board will be discussing it now or answering questions. Chair Blakaitis thought the Board is asking Director Heard to bring back what was discussed at the Council Retreat. Director Heard stated that there are about nine options and at the next meeting, he can review them. He asked if there are some options that the Board prefers that he focus on. Council Liaison Britt thought there are a handful that the Board does not need to discuss. Chair Blakaitis agreed. He suggested that Director Heard go through the minutes and eliminate some of the previous options that were discussed. He clarified that, barring a large meeting in April, the Board should expect to get into the discussion at their April 11, 2018 meeting. Director Heard agreed and felt there is a possibility for a recommendation to be developed at the April meeting.

Member McKeithan clarified that the Board needs to look at the various options and choose the best one to bring forward to Council. Director Heard suggested that he take two or three of the options that were the most palatable and draft an ordinance for the Board's consideration. Member Cofield stated that he does not recommend doing that before the Board has a discussion on it. He felt that after the discussion is completed, the Board can be better advised as to how to craft an ordinance. Chair Blakaitis thought it can be done either way. Member Cofield stated that he had material in front of him from the Council Retreat that had options A through G. He stated that he would like Director Heard to drop Option F from the list.

## **APPROVAL OF MINUTES**

### **Minutes from the January 10, 2018, Regular Meeting**

Member Cofield had a correction to Page 3 of the minutes.

Member Cofield moved to approve the January 10, 2018 minutes as amended. There was no second.

Motion carried 4-0.

**Minutes from the February 21, 2018, Joint Meeting with Town Council**

Member Cofield moved to approve the February 21, 2018 minutes as presented. Member McKeithan seconded.

Motion carried 4-0.

**OTHER BUSINESS**

None.

**STAFF COMMENTS**

**Summary of March 7, 2018 Town Council Meeting**

Director Heard gave an update on the March 7, 2018 Council meeting to the Board and audience.

**Project Updates**

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

**BOARD COMMENTS**

None.

**ADJOURNMENT**

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

There was no vote.

The time was 8:13 p.m.

Approved: \_\_\_\_\_  
/s/ Joe Blakaitis, Chairman