

**TOWN OF DUCK  
PLANNING BOARD  
REGULAR MEETING  
February 10, 2021**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, February 10, 2021.

Present were: Chair Joe Blakaitis, Vice Chair James Cofield, Tim McKeithan, and Randy Morton.

Absent: Marc Murray.

Also present were: Council Liaison Sandy Whitman, Director of Community Development Joe Heard, and Senior Planner Sandy Cross.

Absent: None.

Others Present: Philip Ruckle, Belinda Pleva via Zoom, Molly Adamovic, and Director of Public Information, Marketing and Events Christian Legner.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for February 10, 2021 at 6:30 p.m. He noted that this was a virtual meeting and those watching remotely are muted. He stated that if anyone watching remotely wants to make a comment, they can indicate by raising their hand and/or submitting comments through the chat feature in Zoom.

**PUBLIC COMMENTS**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**Special Exception 21-001: Special Exception Seeking a Reduction of One Parking Space from the Minimum Parking Standards under the Village Commercial Development Option to Accommodate Conversion of the Second Floor to a One-Bedroom Apartment above the Existing Retail Shop in Unit 7 of the Soundside Shoppes at 1180 Duck Road**

Director Heard stated that the applicant is seeking approval to establish a one-bedroom apartment, approximately 900 square feet in size, on the second story of the retail shop in Unit 7 of the Soundside Shoppes at 1180 Duck Road in order to provide housing for an employee of the business. He explained that the addition of the apartment will increase the minimum parking requirements for the site by one additional parking space. He added that the applicant is requesting a special exception through the Village Commercial Development Option to reduce

the minimum parking requirement and find that 33 parking spaces are adequate to serve the existing and proposed development. He pointed out that there are minimal site improvements associated with this change.

Director Heard stated that the property at 1180 Duck Road is presently zoned Village Commercial and contains the Soundside Shoppes shopping center. He explained that the shopping center was originally approved in 1987 by Dare County and over subsequent years, the Soundside Shoppes have seen administratively approved changes in tenancy and minor changes to the site layout. He added that the center is set up as a commercial condominium with each unit under separate, private ownership and the parking and septic areas in common ownership. He noted that the property contains seven commercial units totaling 7,689 square feet of retail space.

Director Heard stated that the subject unit is located at the rear of the shopping center adjoining the Town's boardwalk and the Currituck Sound. He stated that the unit was previously occupied by Plum Crazy, a retail business, and that Unit 7 presently contains 936 square feet of retail space on the first floor as well as a half-story storage space on the second floor.

Director Heard stated that in the past, the Town considered and approved reduced parking standards as part of seven development proposals in Duck Village through the Village Commercial Development Option:

- Loblolly Pines Shopping Center – 52 required spaces, 46 approved spaces
- NC Coast Restaurant – 16 required spaces, 13 approved spaces
- Scarborough Faire Shops – 115 required spaces, 107 approved spaces
- Roadside Bar & Grill – 48 required spaces, 20 approved spaces
- Wee Winks – 61 required spaces, 57 approved spaces
- Aqua Restaurant – 57 required spaces, 48 approved spaces
- Twiddy Realty – 42 required spaces, 40 approved spaces

Director Heard stated that although there is precedent for approval of reduced parking standards, it is important to recognize that each of the individual applications were reviewed and considered on their own merits. He stated that the Town's zoning ordinance establishes specific criteria that must be met for approval of a special exception through the Village Commercial Development Option. He added that the minimum number of required parking spaces for the existing and proposed uses on the site is 39. However, the property currently contains 33 parking spaces, six spaces short of complying with the minimum parking standards. He noted that the proposed addition of the one-bedroom apartment changes the parking calculations by requiring one additional parking space. He reiterated that the applicant is seeking relief through the Village Commercial Development Option special exception to modify the minimum parking requirement and find that 33 parking spaces are adequate to serve the existing and proposed development.

Director Heard stated that the applicant anticipates that much of the customer traffic to the business will arrive on foot and by bicycle. Therefore, the amount of vehicular parking needed will be less than typical shopping centers. He noted that the existing parking layout is in compliance with the approved site plan and the development otherwise complies with current

standards of the Town. He added that ADA standards require two handicap accessible parking spaces and that the current parking layout complies with this standard.

Director Heard stated that any new signs for the business must be reviewed and approved under a separate permit by the Community Development Department. He stated that the applicant has obtained a permit from the Dare County Environmental Health Department granting approval for minor expansion of the ice cream/food portion of the business and addition of the upstairs apartment. He noted that under the permit, the applicant is required to add a grease trap to the existing septic system.

Director Heard stated that as the proposed uses and improvements appear to comply with all of the required findings, Town staff is recommending approval of the special exception under the Village Commercial Development Option, seeking a reduction of one additional parking space to the minimum parking standards, subject to the following conditions:

1. The Building Inspector and Fire Department must review and approve the building plans for compliance with applicable codes prior to issuance of a building permit for the apartment renovations.
2. Any new signage must be reviewed and approved under a separate permit by the Community Development Department.
3. This conditional use permit will expire in 12 months from the date of approval if the associated building improvements have not been permitted.

Molly Adamovic, a representative of the property owner, was recognized to speak. Ms. Adamovic stated that the apartment will be used exclusively by staff of the business. She added that for the business to thrive, she needs to have employees who can help with that. She stated that offering employee housing opens the opportunity to bring more people in from outside.

Chair Blakaitis asked what needs to be done to the apartment. Molly Adamovic stated that they have only taken a separation wall out to make it one space. Director Heard asked if the question is what the applicant needs to do to create the apartment. He explained that they are putting in walls with a change to the roofline to create more functional space for the apartment. They are also adding windows on the front and rear elevations and a staircase coming down on the southern side of the unit. Chair Blakaitis pointed out that none of that information is listed in the plans but is something that the Town will need to review. He asked if the apartment proposal will meet all requirements. Director Heard stated that that issue is covered with the first condition stating that they must be compliant with the fire and building codes.

Vice Chair Cofield commented that since the applicant stated that the intent of the apartment is to have it used by an employee, he thought it should be another condition of the Planning Board's approval. He explained that the condition could be, subject to approval, that the apartment must be used by an employee and that the applicant would need to file documentation with the Town annually in support of that condition. Director Heard pointed out that the Town cannot do that as the Town is not allowed to dictate who can lease or rent the apartment. He added that the Town can approve an apartment, but ultimately what an applicant chooses to do with the apartment is their choice.

Vice Chair Cofield pointed out that one of the existing means of egress is through the store, which concerns him. Director Heard stated that that stairway is being removed during renovations to the retail space, adding that work on the apartment has not yet started.

Member McKeithan stated that he was at the site earlier in the day and the internal staircase has already been removed. He added that the new staircase is located outside of the building. Vice Chair Cofield stated that when he visited the site, the store was closed, but he saw the new staircase on the south side of the building. He asked if only one means of egress will be sufficient. Director Heard stated he is correct.

Chair Blakaitis asked what the main complaint was with regard to the email comment that the Planning Board received from Cindy Brightbill. Senior Planner Sandy Cross didn't think it was a complaint, but Ms. Brightbill offering her opinion on things. She pointed out that Ms. Brightbill had asked if there will be multiple employees living in the apartment and thought it was possible. Chair Blakaitis asked if Cindy Brightbill is living on the property. Senior Planner Cross responded that Cindy Brightbill owns two units in the shopping center as well as a store in the Osprey Landing Shops. She thought the request to have parking near the dumpsters was noted as that has been done in the past.

Chair Blakaitis clarified that there isn't anything major to be concerned about with regard to Cindy Brightbill's comments other than to assure her that the rules will be followed. Senior Planner Cross stated that Cindy Brightbill's question regarding supervising the number of people living in the apartment outlines an expectation that only so many people can live in an apartment, something that the Dare County Health Department would handle.

Chair Blakaitis asked what the apartment had to do with the grease trap requirement. He thought it was not something that the Planning Board needs to be concerned about. Director Heard stated he is correct, adding that it was simply added as a fact in the staff report and is not relevant to what the Board is considering.

Vice Chair Cofield asked with regard to Recommendation #2, what signage had to do with the apartment. Director Heard stated that it would not necessarily be associated with the proposal. Vice Chair Cofield suggested that the recommended condition be stricken. Chair Blakaitis thought if there is signage, it will have to be handled as per the recommendation. Director Heard stated that a sign permit is required for the business but is not likely applicable to the apartment. Vice Chair Cofield stated that the Board is not approving the retail business but approving the apartment.

Vice Chair Cofield suggested requiring parking next to the dumpster for the apartment resident as a condition. Molly Adamovic stated that they will require their employees not to park in front of any of the businesses and away from the storefronts regardless of whether they live on the property or not. She added that employees will be required to park in the gravel area. Director Heard inquired if Ms. Adamovic would be agreeable to the proposed condition. Ms. Adamovic stated that she would. Chair Blakaitis asked if the gravel area is used for anything else besides parking. Director Heard stated that the front part of it is designated as the septic repair area. Member Morton clarified that the septic repair area is in front of parking spaces 17-24 on the site plan. Director Heard stated he is correct.

Council Liaison Sandy Whitman was recognized to speak. Council Liaison Whitman pointed out that in the application it references as a one-bedroom apartment but in the staff report, it is referenced as employee living space. He asked if it will accommodate one or two employees. Molly Adamovic stated that it would be one employee, adding that if the employee is married, she won't tell the employee that their spouse is not allowed to live in the apartment. She added that when she hires employees, they are usually single people. Chair Blakaitis noted that two employees could live in the apartment. Ms. Adamovic agreed. Council Liaison Whitman commented that it is not what the applicant is asking for in the narrative as they are asking for one. Chair Blakaitis asked if they are asking for one or just describing it that way, which is not necessary. Council Liaison Whitman stated that it is listed as employee living space. He added that he is asking the question since others may bring it up. Director Heard explained that the Planning Board is approving a one-bedroom apartment, but they cannot dictate who will live in it. Senior Planner Cross noted that a one-bedroom apartment equates to two occupants as per the Dare County Health Department. Director Heard confirmed she is correct.

Member Morton clarified that the dormer area will be extended as part of the living area. Molly Adamovic stated he was correct. Member Morton clarified that the exit will be on the south side down the stairwell. Ms. Adamovic stated he is correct. Member Morton asked if the serving window would be located underneath the stairwell. Ms. Adamovic stated he is correct. Member Morton asked if that is allowed by the Dare County Health Department. Director Heard stated he doesn't know the answer to that question. Member McKeithan pointed out that when he talked to a gentleman working at the site, he had said that the walk-up serving area will be covered.

Chair Blakaitis asked if Council Liaison Whitman's comments need to be clarified. Director Heard stated that he understands the comment and further explanation isn't necessary. Council Liaison Whitman stated he is satisfied with the explanation.

Vice Chair Cofield moved to approve the project, removing Staff Recommendation #2 and adding a condition that the designated parking space for the residential unit be next to the dumpster. Member McKeithan seconded.

Motion carried 4-0 via roll call.

### **APPROVAL OF MINUTES**

#### **Minutes from the November 18, 2020, Regular Meeting**

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

Motion carried 4-0 via roll call.

#### **Minutes from the January 13, 2021, Regular Meeting**

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

Motion carried 4-0.

## **OTHER BUSINESS**

None.

## **STAFF COMMENTS**

### **Overview of NCGS Chapter 160-D Amendments**

Director Heard stated that the University of North Carolina School of Government had provided a checklist regarding local governments' required adoption of the standards in NCGS Chapter 160D. He stated that the Planning Board will be discussing the issue at their March 10, 2021 meeting because it needs to be adopted by the July 1, 2021 deadline. He stated that the checklist is intended to give the Board members an idea of what they will be looking at as part of developing and proposing amendments, with the knowledge that there may need to be a work session at some point.

Chair Blakaitis asked if the amendments will have a lot of impact on the Town's ordinances. Director Heard stated that the intent is that it will not make any substantive changes to the ordinance. He added that what the Town has stated is important, as well as how issues should be dealt with, would not need a change. He noted that most of the changes will involve terminology consistent with state law approval processes. For example, each Planning Board member will need to be sworn in instead of simply being appointed to their positions. He stated that all of this came about from the North Carolina Bar Association reviewing enabling legislation for planning and zoning in the State and coming up with the recommendation to consolidate the standards and make them consistent.

Director Heard stated that there are some recommendations that the School of Government was making that Council may consider to be substantive. He stated that the intent does not change what the standards are but how the Town processes and enforces them.

Member Morton asked if this is something that will have to be adopted. Director Heard stated that it is a text amendment and would need adoption. Member Morton asked if everything has to be in place by July 1, 2021 or if it can be a work in progress moving forward. Director Heard thought there may be a few issues that the Planning Board would need to discuss further. He added that consideration will need to be given to things that are being recommended or required by the UNC School of Government.

Vice Chair Cofield thought at an earlier meeting that Director Heard had mentioned July and then subsequent to that he had said probably not until August. Director Heard clarified the adoption date as July 1<sup>st</sup> for the Town.

Council Liaison Whitman asked if it will go to the Town Council once the Planning Board recommends the changes. Director Heard stated that they will since they are ordinance amendments, which go to the Council for final approval. He noted that the July 1, 2021 deadline is not for the Planning Board but for Town Council to have adopted the amendments.

Member McKeithan asked if the Planning Board needs to review the checklist and discuss it at their next meeting. Director Heard stated that he will review the proposed amendments with the Board in much greater detail beginning with their March 10, 2021 meeting.

Vice Chair Cofield asked if the document in front of the Board is the only thing on which they need to focus or if there are other documents to be considered. Director Heard stated that the checklist is a guideline and there is much more to it than that. He thought the guideline is the best document to give the Board to have an understanding of the kind of things that will be considered.

### **APA Membership/APA Virtual Conference**

Director Heard stated that he received responses from two Planning Board members who expressed an interest in being registered for the APA virtual conference on May 5-7, 2021. He stated that if other members of the Board are interested in attending, please let him know so he can get them registered.

Chair Blakaitis asked if the Board members who were registered have to meet at the Meeting Hall to watch the conference. Director Heard stated that members can view conference sessions from their homes if they wish, adding that it can be viewed in the Meeting Hall if the members prefer. He thought it will be easier for the members to do it from their homes.

### **Project Updates**

Director Heard gave a short overview on various projects going on in Town.

### **BOARD COMMENTS**

None.

### **ADJOURNMENT**

Vice Chair Cofield moved to adjourn the meeting. Member Morton seconded.

Motion carried 4-0.

The time was 7:34 p.m.

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