

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
December 9, 2015**

The Planning Board for the Town of Duck convened at the Duck Meeting Hall on Wednesday, December 9, 2015.

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

Absent: None.

Also present were: Director of Community Development Joe Heard and Permit Coordinator Sandy Cross.

Others Present: Ron Forlano, Jr. and Douglas Brook.

Others Absent: Council Liaison Chuck Burdick.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for December 9, 2015 at 6:32 p.m.

PUBLIC COMMENTS

Douglas Brook of 142 Marlin Drive was recognized to speak. Mr. Brook stated that he and his wife own two properties in the Saltaire subdivision. He stated that his memory regarding the previous Duck Deli proposal was that the Saltaire Property Owners Association agreed with Duck Deli to allow them to put their septic field where it currently exists behind the residence at 1221 Duck Road. In exchange, no new structures were to be constructed on the property. He stated that he tried to contact the property owners association officers, but wasn't able to do so in time for the meeting. He requested that a decision on the application be deferred by a couple of days in order to give him an opportunity to check the archives and locate the agreement.

Chair Blakaitis stated that there is no construction proposed on the property in question. Director Heard clarified that two parking spaces were proposed in front of the residence. He added that though this agreement was something that would have been addressed in 2012 when the prior conditional use was proposed. Mr. Brook didn't think that it was discussed during the previous conditional use permit process. Director Heard went on to review the site plan with Mr. Brook, showing him where the septic field and recently installed septic tanks are located.

Chair Blakaitis restated that there are no improvements proposed in the septic field. He didn't think there was any reason to delay the proposal. He added that the issue Mr. Brook was discussing would be between the applicant and the Saltaire Association. Mr. Brook argued that the agreement would be material to the Board's decision. Chair Blakaitis stated that it wouldn't unless the Board knew for sure and the document Mr. Brook was referencing was produced. He added that the owners of the property were asked and they didn't remember anything about it.

Mr. Brook stated that he was asking for a deferral so he could locate the document. Chair Blakaitis stated that it could not be deferred for a few days because the Board would not be meeting for another 30 days, adding that the proposal has already been deferred twice for other reasons.

Director Heard stated that the Board is making a recommendation to Council, so should evidence, such as the agreement that Douglas Brook is referencing, become available, it could be presented at the Town Council meeting. Chair Blakaitis let Mr. Brook know that he had between now and the Town Council's January 6, 2016 meeting to bring the document forward. He suggested that Mr. Brook bring it up at the Council meeting.

Douglas Brook asked what the Board would be doing at this meeting with regard to the application. Member McKeithan noted that the process has been going on since July, 2015 and the Board has a responsibility to Duck Deli to act on their request. He added that it has been deferred for various reasons since July. Mr. Brook thanked the Board for the discussion.

OLD BUSINESS

Conditional Use Permit 15-004: Application by Forlano Properties, LLC for a Conditional Use Permit to Expand the Duck Deli at 1221 and 1223 Duck Road by Establishing an Outdoor Seating and Entertainment Area with up to 18 Seats

Member Forlano asked for the Board's permission to recuse him from the discussion and vote on the text amendment since it was directly related to Conditional Use Permit 15-004, based upon his familial relationship with the applicants. He added that he wished to have the Board's permission to sit in the audience to answer any questions that may arise.

It was *consensus* of the Board to recuse Member Forlano.

Director Heard stated that, as there were no members of the public in attendance, he would simply focus on the change from what was presented to the Board members at their November 11, 2015 meeting. He stated that the applicants agreed to go back and look at what they could do to address concerns regarding the gravel in the apron being dragged into the road. He stated that there was discussion regarding a concrete apron and the applicant has proposed a five foot concrete apron. He explained that it was, in reality, the sidewalk that would have been constructed in the future as part of the Town's pedestrian plan improvements. He added that Town staff was able to put the applicants in touch with VHB Engineering to discuss the specifications and location of where the sidewalk would be constructed in front of the property. He pointed out that the proposed sidewalk is entirely within the public right-of-way, meaning that it is not physically on the Duck Deli property. He stated that there would be a four foot wide, asphalt shoulder for bicycle use immediately followed by the five foot wide concrete sidewalk.

Director Heard stated that staff received comments from neighboring property owners – Deborah Grenga of 122 Gifford Circle and Franklin and Josephine Crawford of 102 Marlin Drive. He noted that both property owners expressed concern about potential noise levels from the

proposed entertainment activities. He noted additional concerns about a curfew for entertainment activities and increased traffic.

Director Heard stated that there was an additional condition recommended as a result of the sidewalk proposal. He added that staff added a recommended condition that the sidewalk be constructed in the specified location according to the design specifications prepared by VHB prior to the use of the outdoor seating and entertainment area.

Member Cofield stated that the northernmost parking space was a tricky one. He thought that the parking space was in conflict with the spirit of the pedestrian plan, which was to create a safe walking area for people walking along the Duck Trail. Director Heard thought the intent was that once the concrete apron was added, it would address that parking space as it would straighten out the space.

Chair Blakaitis asked Member Cofield how the parking space would be an issue. He clarified that it would be an issue if the car was pulling in or backing out of the space. Member Cofield thought if the Board was designing parking spaces, none would look like the northernmost parking space. He thought it was worse than the spaces that were perpendicular to Duck Road. He stated that in terms of pedestrian safety, it was more difficult for the driver to see a pedestrian.

Member Cofield asked Director Heard if he considered adding to Condition #6 that the music would remain acoustic and not be amplified. Director Heard stated that the Town does not have the authority to tell a business what kind of music they can play. Chair Blakaitis clarified that the applicant indicated that the music would be acoustic and not amplified. He further clarified that the Board cannot add to Condition #6 because the Town cannot control the type of music played, but added that the Town can control the enforcement of the noise ordinance. Director Heard stated that he was correct.

Director Heard stated that he cannot think of a situation with better buffering than at the applicant's property. The stage was located against the rear retaining wall that would be directing noise away from adjoining residential properties. There is also a very steep, heavily wooded rise 30 feet in height behind the stage that will provide significant buffering. He thought the location was very good for the entertainment area as far as the potential impact for noise to adjoining residential properties.

Member McKeithan pointed out that at the last meeting, the Board discussed parking and the issue of the two newly to be created spots below the residence and it was decided that the only way they would be utilized would be if they were for the restaurant staff. He suggested that the condition be worded as such: "...the employees must first utilize the two parking spaces in front of the residence before the employees can use any of the other parking spots..." He added that if something was not put in the conditions, those parking spaces would potentially be unused and parking was critical. He stated that he wanted the employees to use those parking spaces before using any of the other parking spaces. Director Heard stated that it was brought up at the last meeting the possibility of putting up signage as people may not recognize those spaces would be for the restaurant. Chair Blakaitis believed that the applicants had stated that they would put up

signage for the parking spaces. Director Heard stated that it could be added as a condition on the conditional use permit.

Vice Chair Murray stated that at the end of Page 3 and beginning of Page 4 of the staff report, it stated that lot coverage needed to be amended, but noted that it precluded the gravel parking since they were so far below the coverage calculations. Director Heard stated he was correct. He added that it was a moot point, as the proposed lot coverage is well below the maximum requirement. He noted that the staff report had the correct figures in it.

Ron Forlano of 1221 Duck Road was recognized to speak. Mr. Forlano stated that he was representing the applicants and wished to give an update regarding the history of the Duck Deli project to the Board and audience. He stated that the process for Duck Deli started in July, 2015 and so far there have been four Planning Board meetings and one Council meeting to allow outdoor dining and entertaining with three picnic tables at the restaurant. He stated that the process has taken five months at a considerable cost to the applicants. He added that, during the process, several conditions and requirements have been added and addressed. He noted that the following conditions have been satisfied to date:

1. In the beginning it was stated that dining could not be permitted on any part of the septic area due to the wording of the ordinance in the Town of Duck. A Planning Board and Town Council meeting were held, at a fee, to amend the ordinance to allow dining in this area, which was approved.
2. The next condition was that an approval must be given by the Dare County Septic Authority. An engineer was hired, at a fee, by the applicants and approval was acquired, at a fee, to show that the system would not only handle additional seating for the outdoor dining but also the septic from the residential house. This tie-in of the septic system was done by a contractor, at a fee, inspected and certified by Dare County Health Department.
3. At one of the meetings there was mention that some of the pea gravel in the picnic area encroached on the side yard of the house on the south side of the restaurant. The applicants were asked to join the two properties in question. They hired an attorney, at a fee; who combined the two properties into one and recorded such at the Dare County Register of Deeds office, at a fee. This combination eliminated any discussion of material boundary lines that were present before.
4. Additional parking of two spaces had to be added to the property. Once again, working with a site engineer, the applicants were able to get two parking spaces in front of the house with the widening of the driveway and apron, at a fee. They are working on bids at this point and will have these in place before the season starts.
5. The last condition required was engineered certified drawings showing the picnic area and parking. This was done, at a fee. The Planning Board has the drawings in front of them. The applicants were recently informed that an as-built survey would be required before a permit of use was granted. They contacted a surveyor; the surveyor quoted \$1,500.00 for the survey. They don't expect this survey to be any different

than what the Planning Board has in front of them. These drawings and surveys as well as the work that has been completed so far are costing as much as the actual work of providing the two parking spaces, which totaled \$7,000.00.

6. Having satisfied all of the requirements to add the outdoor dining to the restaurant, it was mentioned at the third and last Planning Board meeting that the pea gravel of the parking in front of the restaurant was creating a safety hazard to pedestrians and bicyclists on the Duck Trail and a conversation took place about correcting this condition. The applicants pointed out that this condition has been in existence for the 30 years that they have owned the property. They have been trying for 30 years to get rid of the gravel, even before the Town incorporated. They approached the County and were not allowed to remove it. Ten years ago they purchased and had delivered 10,000 pavers to repave the parking lot but were told by the then Planning Director that they would not be allowed to do it because it was non-conforming. They had to send the pavers back to the supplier, at a loss.
7. There is now another condition put upon the applicants to create a five foot concrete buffer between the gravel and the current walking path to prevent gravel from encroaching on the path. To this end, they are getting bids to accomplish this and as of this afternoon, the final bid was received. It was suggested that they work with the engineers, VHB, who are working on the pedestrian plan improvements. After speaking with the engineers at VHB, they were given the specifications. The current path that current goes through Town varies in width. In front of the Deli, it was between six and six and one-half feet wide. The engineers from VHB stated that they would like to see the applicants cut two and one-half feet off of that to make the path four feet wide. The plan was to use concrete ribbon as a walking sidewalk and the four foot that is left would be used as a bike path. If the five foot ribbon was put in place with this cut of two and one-half feet, there will be a net gain of two and one-half feet of impermeable surface, but the pea gravel would remain. They are dealing with nine feet of space and the pea gravel will be on what will become the sidewalk. The specifications for a concrete sidewalk with the cutting will be more costly than just putting a five foot layer of concrete between the pea gravel and the existing path as it stood. VHB feels it would be better way to do it the right way now, rather than have it cut up and redone when the Town receives the funds to construct the proposed sidewalk plan.

Ron Forlano stated that they want to defer these improvements until they can pave the entire parking lot with permeable pavers and put the strip of sidewalk in place at their cost. He noted that it would be very expensive and they do not have the funds to do the work at this time. He asked that the permit be granted without the condition of installing a five foot concrete apron in front of the restaurant, with the understanding that the concrete apron and paved lot would be constructed in the winter of 2017 or before as funds become available.

Chair Blakaitis asked if the 2017 work would run with the Town's pedestrian plan. Ron Forlano stated that it did not; adding that the pedestrian plan would be about 10-12 years in the future. Chair Blakaitis clarified that Ron Forlano was asking to have the construction of the concrete apron deferred so he could do it in 2017 instead of now. Mr. Forlano agreed, reiterating that he

didn't have the funds to do it now. Chair Blakaitis asked if it would be done in 2017. Mr. Forlano stated that it would. He added that it would be five feet by 160 feet long. He stated that if Duck Deli absorbs that cost, it would be that much less that the Town would have to pay when they get their funds. Chair Blakaitis asked Ron Forlano if he would be willing to include that as a condition of approval. Ron Forlano stated that he would.

Vice Chair Murray stated that the argument Ron Forlano made regarding the sidewalk was worth discussing. He understood that Mr. Forlano was making a case that he felt like he was treated unfairly with regard to the length of time for the application process, as well as the changes that were requested. He stated that he wanted to go on record and say that there was another side of that story. He stated that Mr. Forlano described three picnic tables for entertainment, which did not seem like a big deal, but once the Board starting looking into it, the questions that came up were legitimate. He thought the amount of forethought that went into the application process could have mitigated some of the questions. He stated that cost was a compelling argument but he wanted to separate that from the implication that the applicant felt that the Planning Board gave him the runaround. He felt that the Board was sincere in trying to review the applications fairly and consistently as they came in.

Vice Chair Murray felt that there was an agreement between the applicant and the Board that it would be better for the applicant to design it than for the Board to design it as a condition. Ron Forlano stated that he didn't mean to accuse the Board of dragging the process out. He added that he's been on both sides of the table and, to put it in proper perspective, he did not remember the Board doing the same thing to other restaurants that had approached the Board with a lot less documentation than has been provided for this application. He stated that he did not wish to go into details but asked how many engineered plans the Board had seen to put outdoor dining areas in. He stated that he didn't remember any. He pointed out that the northernmost parking space was angled, because the back end of a vehicle was over the sidewalk. He added that if two and one-half feet was cut from the bike path and the five foot path was put in, the parking space would no longer be over the sidewalk.

Vice Chair Murray stated that it was obvious that the engineering firm wanted the sidewalk to be built the way they have designed it. He added that cutting back the asphalt was costing the applicant money. He understood the applicant's position. He stated it was in the Town's interest to keep gravel off the street. He pointed out that it could be cut at a later date, leaving six to seven feet of concrete. He stated that if the applicant was proposing five feet of concrete, then the Town could deal with the remaining concrete and asphalt cuts when the time comes. He asked if that would be a better condition for the applicant. Ron Forlano stated that it would not make a difference to him.

Member Cofield thought Duck Deli was an asset to the Town. He stated that some of what the Board was discussing was predicated on the Town's pedestrian plan, which has been in some form, adopted by the Town. He thought there were at least a couple of businesses that will be impacted by the pedestrian plan. He thought it was in the Town's interest to come up with a plan to help businesses to comply with the pedestrian plan impacting the businesses. He thought it was incumbent upon the Community Development function of every town, particularly in a situation where a town has adopted a plan that impacted an existing business. He thought it was in the Town's interest to try to leverage the pedestrian study to help businesses that were

impacted by the plan. He suggested that the Town, through the Community Development Department, try to help businesses that are impacted by the pedestrian plan. He added that since the Town wanted the pedestrian plan to happen, that it was in the Town's interest to look for avenues to help the businesses that were impacted.

Chair Blakaitis stated that the Town already had in place a program to assist businesses in complying with improvements. Permit Coordinator Cross noted that this program isn't active. Chair Blakaitis asked why it was no longer active. Permit Coordinator Cross stated it was due to funding. Member Cofield reiterated that it was in the Town's interest to pursue avenues for funding for businesses impacted by the plan.

Chair Blakaitis asked the Board for their thoughts on allowing the applicant to postpone the improvements to the parking lot until 2017.

Vice Chair Murray asked how it would work in this instance since it was a use change exclusively, as the improvements were already on the site. He clarified that the Town was permitting a use and there wouldn't be a building permit issued. Director Heard agreed that a building permit would not be necessary and added that the Board was trying to bring the existing situation into compliance. He noted that if someone wanted to put gravel and a picnic table in their yard, they could do so. He stated that to use it for the purpose related to the restaurant was what the Board was looking at approving. He stated that in some ways, it makes the task easier because the Town can see how it looks. He explained that with a condition on the timing of the improvements, the Town would have to flag the condition. If it was not complied with, then the use would no longer be approved and the area would no longer be able to be used as an outdoor dining and entertaining area.

Vice Chair Murray clarified that the barrier to putting in the pavers previously was due to the lot size. Ron Forlano stated that the barrier was that the County and the Town found the property and backing onto the sidewalk as non-conforming issues. He stated that former Planning Director Sue Cotellessa told them that they could not install the pavers and, before incorporation, the County told them the same thing. Vice Chair Murray asked if that was how the Board was going to be forced to interpret it for this use. Director Heard thought what may have been the case was that there was one significant factor. He stated that he would have given the same answer as Sue Cotellessa and Dare County until the two properties were combined. He stated that now that the properties were combined, the non-conformity was no longer an issue with respect to lot coverage. He added that as long as they were maintaining the same footprint, the proposal would be in compliance with the Town's non-conformity clauses.

Director Heard asked the Board to consider amending Condition #2 as they feel suitable and revising the description to include additional pavers for the whole parking lot. He noted that Condition #3 – the requirement for an as-built survey – was a typical requirement for commercial use. He added that the point Ron Forlano made regarding the survey was accurate as the finished product would likely not look any different than the site plan before the Board. He stated that if it did not serve any purpose, it could be eliminated as part of their recommendation.

Chair Blakaitis asked Director Heard if he was okay with it. Director Heard stated that he agreed with the point that was made. Vice Chair Murray stated that a final survey would not give the Board a completely accurate picture if the Board agreed on allowing to be paved at a later time. Director Heard suggested that that a survey be done at the completion of the paving. He explained that there would be revised lot coverage calculations documented.

Vice Chair Murray asked if the signage for employee parking needed to be added as a condition. Member McKeithan thought that signage was going to be difficult and thought that staff would simply park there without any signage installed. He stated that he wanted a condition that employees must park at 1223 Duck Road before utilizing any parking spaces at 1221 Duck Road. Vice Chair Murray noted that parking spaces 14 and 15 were designated for staff parking. Director Heard pointed out that Condition #5 was broader than that issue; it was intended to cover any signage. Vice Chair Murray suggested a condition stating that parking spaces 14 and 15 are designated for staff parking.

Vice Chair Murray thought the Board could strike “use of the outdoor seating and entertainment area” and have it read: “...prior to (a date)...” He clarified that the Board was mandating the condition that the parking area, in addition to the apron, be paved at this time. Director Heard stated that it was the applicant’s proposal, so it could be added. Vice Chair Murray suggested the following language: “...five foot wide sidewalk specified by VHB and permeable pavement material by the end of January, 2017...”

Vice Chair Murray moved that the Planning Board recommend to Town Council approval of the application based on the following conditions: (1): lot coverage calculations on the site plan must be corrected to include the existing gravel parking prior to consideration by Duck Town Council; (2) the applicants must construct a five foot wide sidewalk in the specified location according to the design specifications prepared by VHB by the end of January, 2017 and request that the pea gravel parking area be permeable pavement; (3) the applicants must submit an as-built survey documenting all of the site improvements at the completion of Condition #2; (4) the applicants must obtain approval from the Community Development Department prior to installation of any exterior lighting, which must comply with the Town’s lighting standards and may require a building permit; (5) any signage to be added must comply with the Town’s Zoning Ordinance and be permitted by the Community Development Department prior to installation; (6) entertainment activities must comply with all applicable Town standards, including the noise ordinance; (7) parking spaces 14 and 15 are to be designated as staff parking. Member McKeithan seconded.

Motion carried 3-0 with Member Cofield abstaining.

NEW BUSINESS

Text Amendment: Initial Discussion about Development of Text Amendments to Comply with a Recent North Carolina Supreme Court Decision Concerning Permitted and Prohibited Uses in Each Zoning District

Director Heard stated that the Town Council authorized the Planning Board to move forward on the project at their December 2, 2015 meeting. He stated that there wasn’t enough time to piece

together a proposal in a few days and the goal tonight was to be sure that everyone on the Board has a had a good understanding of what the Board is trying to achieve, the necessity for the changes, and information that the Board may want or need as it moves forward.

Director Heard stated that the School of Government has given some general guidance as to the kind of things the Board may want to consider. He stated that the staff report had a section of topics to consider and it summarized the three things that the School of Government felt were important for communities to consider. He stated that they specified that the most important thing that a community could accomplish was to identify with as much specificity as needed all of the uses that they want prohibited. He noted that this is where the trouble will occur if the Town doesn't accomplish that. He stated that this may end up being the most time consuming aspect for the Board.

Director Heard stated that the second topic was that the Town's ordinance should be updated to address newer and emerging types of land uses. As the Town has kept its ordinance relatively up to date, he didn't anticipate the Board having to do a lot with that topic.

Director Heard stated that the third topic was that the ordinance should provide guidance and provisions about how staff should classify unlisted land uses. He noted that this could be Town specific and not one set answer for all communities. He stated that if there will likely be circumstances that arise where staff is called upon to make interpretations about whether a particular use conforms to a certain category or has similarities to other kinds of use. The suggestion is that the community define the criteria staff will use to make these interpretations.

Director Heard stated that in the staff report, he listed a few things to get the Board thinking. He stated that there may be other questions that the Board had or other information that the Board feels that they need as the process moves forward.

Director Heard stated that he listed in the staff report some general information about different concepts the Board can use. He stated that in talking to Town Attorney Hobbs, they were both in agreement that there was nothing in the decision that the Town literally has to list every iteration of every use. He stated that, in some of the feedback that has been received, the Board could look at broader use categories if they wished. He explained that a broader use category would be offices and under that would be subcategories such as medical offices, real estate offices and financial services offices. Under each of those, there could be other subcategories. He stated that rather than needing to list all of them, the Board could lump them into a general land use category for offices if they wanted to permit or prohibit all of them.

Director Heard stated that if the Supreme Court's decision was taken to the extreme, an individual could go in tomorrow and build an industrial plant in a residential district. An industrial plant in a residential district is clearly out of place, but because it is not specifically prohibited, it would have to be permitted. He noted that the Court of Appeals used the adjective "absurd" in describing this scenario created by the Supreme Court's decision. He stated that in a residential district, the Board could take all of the broad categories of commercial, industrial, office, retail use, etc. and say what would be prohibited; then have a section that allows something such as a home occupation, which could be specifically permitted under a set of conditions.

Chair Blakaitis asked if the Board be reviewing all of the Town's ordinances. Director Heard thought that there were two areas of the zoning ordinance that need to be focused on, which are the zoning districts and the clauses on how to interpret the ordinance. He added that the guidance and provisions on how staff should classify certain unlisted uses would be put in the interpretation section. He stated that the other items could be done within the context of the existing zoning districts.

Director Heard noted that the Town does not have to change a single thing with respect to what uses are presently allowed and not allowed. He added that the Town just has to go about it in a different way. He stated that it was no longer as simple as saying that everything that is not listed is not permitted. He stated that the Supreme Court flipped the burden so it was now on the counties and municipalities to inform the potential developer or property owner ahead of time to let them know if a use is prohibited, permitted or permitted with conditions. He stated that it wasn't his intent to change the way business is conducted, but figuring out how to accomplish the same goals a different way.

Vice Chair Murray agreed with Director Heard that the general use categories were a good place to start. He explained that if there were uses that came up that need to be interpreted as to what category they would fall into, it would provide some guidance. He added that the feeling was that if the guidance was in the ordinance, then it was not seen as something that he was coming up with off the top of his head when he's making an interpretation. He stated that there will be standards that show the factors that the Town wanted him to use when making an interpretation.

Member McKeithan stated that Director Heard had noted different classification systems that could be used. He asked if Director Heard was asking the Board to recommend one of the three classifications. He stated that it seemed that it would be good if the Board could choose one and not deal with all three to start with. Director Heard agreed. Member McKeithan stated that Town Attorney Hobbs talked about recognizing secondary sources on municipal and zoning laws, mentioning two other resources. He asked if Town Attorney Hobbs was recommending those as possible ways of going in addition to the three that Director Heard presented to the Board. Director Heard stated that he was. He stated that Town Attorney Hobbs' firm subscribes to both of the resources. He added that it would take Town Attorney Hobbs time to put something together but noted that if it was something that the Board wanted him to pursue, he would go ahead and use the two resources to put together some things for the Board's consideration at their January 13, 2016 meeting. Member McKeithan thought if Director Heard and Town Attorney Hobbs could pick one of the sources and move forward with it, it would be a good starting point. Director Heard thought Town Attorney Hobbs was specifically looking for uses where there have been lawsuits. He added that Town Attorney Hobbs would come up with a list of uses that have been involved in lawsuits with the assumption that those types of uses were ones that the Board may want to think about prohibiting.

Chair Blakaitis stated that if the Board had to give Director Heard some guidance, that they make a list of what has been discussed. He thought that Director Heard should provide the Board with any information from any other towns that have already thought about it or have ordinances in place whose wording was good. He suggested looking at the NAICS list online and look at the categories to see where the Town stood. He stated that Director Heard could then take the legal

suggestion and let Town Attorney Hobbs do his own internet search to come up with items to provide the Board. He asked if the Board would begin working on this at the next meeting. Director Heard stated that they would.

Member Cofield asked Chair Blakaitis if his suggestion included the matrix that the Board discussed. Chair Blakaitis stated that it did.

Director Heard stated that the Court's decision did not tell the Town that it needed to permit or prohibit anything specific.

Member McKeithan clarified that Town Attorney Hobbs was recommending an interim text amendment to be started soon that would list all prohibitive uses that the Planning Board was able to develop in a short amount of time. Director Heard didn't think it would take very long for the Board to do.

Chair Blakaitis suggested that Director Heard make a list of which particular zones or ordinances that the Board would have to look at. Director Heard stated he would do so.

Member Cofield suggested that the information be summarized and publicized for the residents and the public to see. Director Heard stated that information and requests for public input could be put in the weekly electronic newsletter.

APPROVAL OF MINUTES

Minutes from the November 12, 2015, Regular Meeting

Member Cofield had corrections to Page 3.

Member McKeithan moved to approve the November 12, 2015 minutes as amended. Member Forlano seconded.

Motion carried 5-0.

OTHER BUSINESS

None.

STAFF COMMENTS

Summary of December 2, 2015 Town Council Meeting

Director Heard gave a summary of the November 18, 2015 and December 2, 2015 Council meetings to the Board and audience.

Project Updates

Director Heard gave a short update on the various projects going on in Town to the Board and audience.

BOARD COMMENTS

Chair Blakaitis stated that the Board had changed the parking ordinance for homes. He wondered what would happen if the Town went back to the old way as far as how to restrict bedrooms. He added that if there wasn't enough parking, then a 16 or 20 bedroom home could not be built. Member Cofield thought that the number of bedrooms could be regulated by the Town's tax structure.

Member Forlano stated that it looked like there would be approximately 30 businesses that would be affected by the sidewalk issue. He stated that it didn't look like the Town would be receiving any funds for a number of years for the sidewalk plan. He asked if it would be reasonable to ask the businesses that were directly affected, the ones that would receive the most profit from having a sidewalk put in front of their business, to ask them to pay for the sidewalk in front of their business, just like the Duck Deli has offered to do. Director Heard stated that it was an option and the Town had the authority to work with property or business owners to develop a tax assessment district. He added that it could be set up in a similar fashion to what was done to create the Municipal Service Districts to fund the beach nourishment project. He noted that it would require an agreement as well as participation from the property owners. He stated that it was an avenue that the Town could look into. Member Forlano thought it was something that was really needed in Town.

Member Forlano apologized to the Board for the way he had to present the Duck Deli item. He added that it was a situation where he didn't want to get involved but always handled his sons' problems. He hoped he did not offend anyone on the Board as it was not his intention. He added that his intention was to get the project done in the most reasonable way possible.

ADJOURNMENT

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

The time was 8:40 p.m.

Approved: _____
/s/ Joe Blakaitis, Chairman