

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
January 13, 2016**

The Planning Board for the Town of Duck convened at the Duck Meeting Hall on Wednesday, January 13, 2016.

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, Council Liaison Chuck Burdick and Permit Coordinator Sandy Cross.

Others Present: Willo Kelly.

Others Absent: None.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for January 13, 2016 at 6:34 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

Text Amendment: Development of Potential 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 at the last meeting, he talked briefly about this subject to the Board. He stated that the Board had asked Town Attorney Robert Hobbs to move forward with preparing a draft list of uses that the Town could specifically identify as being prohibited either in all or certain zoning districts. He added that this type of solution would help address the issues raised by the Supreme Court decision.

Director Heard stated that after speaking with Town Attorney Hobbs, he did some research and in talking with some other people from around the area, found that Currituck County has a very thorough list of uses in its Unified Development Ordinance. Currituck County has put its list in a table, which seems to be a clear way of doing it.

Chair Blakaitis asked if the table in the Board's packet was the most recent version. Director Heard stated that it was taken directly from Currituck County's website a few weeks back. He stated that he included the table from Currituck County in the Board's agenda packets to help

them categorize the different type of uses with a general use category as well as specific uses. He stated that the Board could also look at the potential use of a table in that they could figure out the best way to organize the information for the public. He thought a chart or table may be the best way to go.

Director Heard stated that the Board also had hand-outs in front of them. He added that there were a total of four items but only two applied to the discussion. He explained that one was an email from Town Attorney Hobbs, providing additional information to the Board concerning the list he had previously submitted. He noted that Town Attorney Hobbs made a recommendation that the Board remove one of the uses regarding liquor sales and also raised some questions about check cashing stores. He stated that Town Attorney Hobbs is looking into it a little more.

Director Heard stated that the second sheet was an outline of items that the Board may want to consider at this meeting. He stated that one lists criteria to guide staff when making interpretations on unlisted or newly created uses and how they fit into a category when it isn't specifically listed or a new type of use. He stated that staff put a few ideas in the hand-out to give the Board an idea of how the Town may go about doing that. He added that he would like the Board to think about the other types of things that should be considered.

Director Heard stated that there was a recommendation from the School of Government in the Board's packet to the counties and municipalities that have to deal with this issue. He stated that, rather than leaving it blank and open for interpretation by staff, that there be some guidance provided by the Planning Board and Town Council as to how to go about it. He noted that the School of Government felt this would be something more likely be upheld in a court of law. He pointed out that this could be put at the very beginning of Section 156.003 in the Town's zoning ordinance. He added that it would be applied to all nine different zoning districts in Duck.

Chair Blakaitis understood that the Planning Board was being asked to review the list of potential prohibited uses and consider the most appropriate format and criteria to guide staff. He wasn't sure how it was interpreted as to what the Board should do to guide staff in making interpretations on unlisted and newly created uses for the future. He clarified that it would guide Director Heard and become part of the Town's ordinance. Director Heard stated he was correct.

Member Cofield asked about the intent of the "Interpretation of Chapter" section. Director Heard explained that, even though the Board will develop a thorough list of prohibited uses, there will be uses that don't presently exist or others that are not commonplace. The intent of the interpretation section is to help determine how to classify those uses. He stated that as other uses come forward in the future and need to be classified, the interpretation section will provide him guidance that is approved by the Town on what to consider when he is classifying a use. Member Cofield noted that the language read: "...the Zoning Administrator shall..." He asked if the language would be more appropriate to read: "...the Planning Board shall..." Director Heard responded that it was not a role of the Planning Board to interpret a zoning ordinance.

Chair Blakaitis noted that it would become the Planning Board's responsibility if it was a Conditional Use Permit to apply the same principles to make sure the Board agreed with staff. Director Heard stated that it was the responsibility of the Zoning Administrator to make the initial decision. He added that if someone disagreed with the decision, they have the ability to

appeal it to the Board of Adjustment. The Planning Board would not have a role in interpreting uses. However, he stated that the Board has a direct role in the process they are currently going through in identifying all of the potential uses and where they should be permitted and prohibited, then making a recommendation to Town Council.

Vice Chair Murray asked if all of the uses that the Board is discussing will be handled through a Conditional Use Permit process. He thought the answer was no and that there would be some that would come before Director Heard that he would be able to permit administratively. Director Heard stated he was correct. Vice Chair Murray thought the Board would not need to discuss the V-C, C-1 and C-2 Districts. Director Heard stated that, according to the Supreme Court decision, one of the things that the Board needed to do was to identify to the greatest degree possible, all of the uses they saw as wanting to prohibit. He noted that it was likely going to be a larger list in the residential districts than in the commercial districts.

Vice Chair Murray stated that, in looking at the list, all of the things on the Town Attorney's list – at face value – one would think they should be prohibited, but if they were thought about in a more precise way, it is a question of scale that makes the uses a nuisance. He asked how the Board could break things off during their discussions that were by-right that the Town had to deal with. He thought that instead of making an exhaustive list, it would be better to take the uses that may make the Board uncomfortable and put them in a category where they have to be reviewed via the Conditional Use Permit process. Director Heard stated that the intent was to not change anything that currently exists as far as what is allowed, what is prohibited, and what's conditionally permitted.

Member Forlano clarified that there would not be any discussion on what was currently permitted and prohibited or if the Board would be able to have an open discussion or dialogue regarding what was currently on the books. Director Heard stated that the intent was not to change the current standards, but to bring the ordinance into compliance with the Supreme Court decision; not to go in and revisit every use. He stated that there was an understanding that there would be certain types of uses that would need to be addressed that were not in the Town's ordinances that weren't expressly prohibited, but could be added as prohibited uses. He reiterated that the intent was not to change anything as far as looking at each district or the whole array of uses.

Member Forlano thought the Town's ordinances were originally drafted 13-15 years ago and were reviewed in subsequent years. During that time, socio-economic changes have occurred. He thought there were certain prohibited uses that should be put on the table for discussion. He pointed out that in most residential zoning districts, multi-family units and duplexes are prohibited. He stated that there were a lot of families living under one roof due to economics. He thought it should be considered and discussed. He wasn't sure how to classify it – either as a conditional use or permitted use in a residential area. He thought the ordinances needed to be looked at accordingly.

Council Liaison Burdick stated that it would seem that in compiling the list, the Board needed to start with a list of what was already in existence. He thought Council needed to know what was on the prohibited list that were codified and what new ones should be added. He didn't think the Board could just review the new uses but needed a list that told them what has been done over

the years and what needed to be added. He thought it would help the Board and Council to understand it better in order to determine what should be revisited. Member Forlano felt it was a great idea.

Chair Blakaitis thought it was a good idea but thought it would overcomplicate things if the Board kept stopping to discuss the merits of every use. He stated that if the Board moved along and did what Director Heard and Council Liaison Burdick had suggested, they could do something if they saw an issue along the way.

Vice Chair Murray suggested looking at the old ordinances and coming up with new ones. He noted that just about every subdivision had its own covenants which were more restrictive than the Town's. He asked if there was any way to keep things simple and list the things that were permitted and anything else that the applicant could show as consistent with the Town's Land Use Plan would be considered through a Conditional Use Permit. He added that the Board would not have to figure out what the new possibilities may be because they would all come before the Board and Town Council. Council Liaison Burdick thought that, due to the legal advice received, the Board could not do that. Vice Chair Murray didn't think the Board presented it to Town Attorney Hobbs as an option. Council Liaison Burdick pointed out that every town and county in North Carolina has had a problem dealing with the issue and it was decided that it should be as specific as possible. He added that the Board would need to come up with a set of guidelines so that if something new came up, the Town had a way to deal with it.

Vice Chair Murray thought the Conditional Use Permit process was a way of dealing with the issue. Chair Blakaitis stated that it was, but thought there might be issues with that approach. Director Heard stated that if something is a Conditional Use, it has to meet the criteria that the Town has established for a conditional and cannot simply be a matter of whether it is consistent with the Land Use Plan.

Member Cofield thought the Board would want to follow Director Heard's suggestion and come up with a list of everything possible as he felt it was the spirit of the legislation as well as it being a catch-all after the Board completed the listing. Vice Chair Murray felt there needed to be some kind of relief valve. He thought that the Board coming up with a large prohibitive list seemed economically ridiculous. He felt that no one was going to spend money on vacant lots in Duck or buy a home and tear it down to build a junkyard. He stated that it seemed silly to put it in an ordinance. Director Heard stated that it wouldn't necessarily be a traditional junkyard, but someone that was collecting old appliances and it ends up becoming an eyesore. He noted that a lot of communities have those types of situations. Vice Chair Murray understood but felt that Duck was unique in relation to other communities.

Member Cofield noted that each subdivision is different. He added that subdivisions do not typically enforce their covenants unless it involves something outrageous. He didn't think the Board could look to the subdivision covenants for help in solving the problem. Director Heard agreed and added that the Town cannot enforce covenants and the subdivisions cannot enforce the Town's rules. He stated that if it was truly a use that the Town does not want to see, the burden should not be shifted to the subdivision for enforcement. He explained that the subdivisions would have to hire an attorney and sue to enforce their covenants, whereas the Town could issue a notice of violation.

Vice Chair Murray understood what the Board was trying to do but thought the Board should create a way for people to have an opportunity to suggest something that the Board has not thought of. He stated that, from the list he looked at, he could think of items characterized on it that would not be offensive to the community. He noted that it was a concern of his. He felt that if the Board used large categories to prohibit things in an effort to make the job easier, then there should be something in the ordinance that allows a person to appeal it in a simple way.

Chair Blakaitis asked if there would be anything wrong with putting a cap on the list. Director Heard stated that he would have to check and see. Chair Blakaitis stated that the Board had to be more specific. Director Heard stated that there have been communities that have tried to put every use as a conditional use in their ordinances. However, that approach has been tossed out by the courts. He added that if Duck was only dealing with certain types of uses as conditional uses, it might be viewed differently. He stated that he would be happy to discuss it with Town Attorney Hobbs to see if he could provide the Board with more information.

Member Cofield thought Director Heard could look at some of the subdivision covenants for their prohibited uses as it could be something for the Board to review. Chair Blakaitis pointed out that his subdivision was extremely detailed in what it allows and doesn't allow. He stated that a lot of the restricted activities would potentially be allowed by the Town. Member Cofield stated that there may be some specific uses that the Town could look at. Chair Blakaitis noted that most subdivisions did not have a lot of prohibited uses. Vice Chair Murray pointed out that many covenants concentrate on architectural uses. Director Heard agreed that covenants could be a good resource to check.

Member Cofield stated that it struck him that the Board was not repeating some of the issues as prohibited from one category to another. He thought that the Industrial Uses should be repeated in the Commercial Uses list. Director Heard didn't think the Board had to but added that it depended on how the table was laid out. He stated that it was recommended that the Town specify to the greatest degree possible, but it could also prohibit an entire category of uses in certain zoning districts.

Chair Blakaitis suggested listing uses as he didn't see the need for the heading for the various uses. Director Heard stated that the Town could not use a catch-all statement saying that anything not listed was prohibited. He noted that in the staff report there was a General Residential Use Category along with some specific uses that the Town's ordinance already outlined as being permitted in certain districts. He pointed out that there was a catch-all category called Other Residential and that would be one way to capture the other types of uses. Chair Blakaitis understood that the general inclination was that it could not be a sweeping category. He added that nothing was more general than Other Residential Uses. Director Heard stated that the Town could be general in each use category, but it was recommended by the School of Government and Town Attorney Hobbs that it be as specific as possible when dealing with prohibited uses.

Chair Blakaitis suggested that the Board go down the list and see what should be stricken or added and then move onto the format that Director Heard would have to finish and bring back to the Board for approval.

Chair Blakaitis directed the Board to review Town Attorney Hobbs' list. He didn't think that the headings needed to be separated by Commercial, Industrial or Agricultural. He asked if there was a reason for the headings. Director Heard stated that if the Town was going to use a format similar to Currituck County's, it allowed the elimination of anything in a specific category. He added that whole use categories could be prohibited. Vice Chair Murray stated that he was uncomfortable with prohibiting entire use categories. He stated that if no one noticed something going on, it should not be prohibited. Chair Blakaitis stated that the Board was instructed to do just that if they were to go by the new legislation.

Vice Chair Murray noted that the Board was advised to be specific, which it should be. He added that prohibiting entire use categories was not being specific. Director Heard stated that he could provide a definition for each use category if the Board wants.

Chair Blakaitis asked the Board if anyone had a problem with anything on the list that they wanted to either add or strike. Member Cofield noted that Shooting Ranges were listed in the Commercial Uses and Gunsmiths were under Industrial Uses. He asked if Gunsmiths should be listed under Commercial Uses as well adding Firearm Sales. Director Heard stated that Firearm Sales would be considered a new use and could be added. He stated that it didn't matter what category it is under if they are listed specifically. Member Cofield thought the whole exercise is going through what they did not want permitted under Commercial Uses. Vice Chair Murray advised other members not to confuse the headings with the Town's zoning districts.

Council Liaison Burdick clarified that the list included everything in the Town's ordinances currently. Chair Blakaitis stated that it did not. Director Heard noted that it was a list that Town Attorney Hobbs prepared based on exhaustive research of legal cases where communities have sought to prohibit these types of uses. He added that the list has no bearing on what is currently in the Town's ordinances.

Chair Blakaitis directed the Board to look at the list and decide if they are satisfied with the items on it or not. He stated that Shooting Ranges violated an existing ordinance in Duck as the discharge of weapons outside was prohibited. Member McKeithan noted that a shooting range could be indoors. Chair Blakaitis stated that most laws in most communities could not prevent an individual from shooting inside their home. He stated that if it was a commercial shooting range, it would be covered. Vice Chair Murray asked if a commercial indoor shooting range should be prohibited. Chair Blakaitis stated that he had no objection to it. Member Cofield asked if it could be prohibited. Vice Chair Murray stated that it could if it was put on the list. Chair Blakaitis stated that if "Shooting Ranges" were listed, it would be prohibited, but it may need to be specified as outdoor or indoor. He noted that outdoor shooting ranges were already prohibited as per the Town's ordinance.

Member McKeithan clarified that if the Town restricted an outdoor shooting range, it would mean that an indoor shooting range in the community would be allowed. Chair Blakaitis stated that he wasn't saying that. Member McKeithan noted that if it was restricted to outdoors, it would potentially allow an indoor shooting range. He stated that if the Board did not want an indoor shooting range, it should be listed. Vice Chair Murray asked why the Board cared about the indoor versus outdoor issue. Chair Blakaitis stated that he did not. Vice Chair Murray asked

if it is the Board's job to determine what they cared about. Chair Blakaitis stated that it is. Member McKeithan stated that he preferred not to allow an indoor shooting range. Director Heard asked if it should be clarified by adding the following language: "...(indoor and outdoor)..." Vice Chair Murray thought it should be outdoor only. Member McKeithan thought it should be indoor and outdoor. Member Forlano thought it should be outdoor only. Chair Blakaitis stated that it should be left on the prohibited list, specified as outdoor only.

Member McKeithan stated that prohibiting firearm sales was important to him. He didn't think it was on the list. Chair Blakaitis stated that it was listed under Industrial Uses. Member Cofield stated that he didn't see why listing it as a prohibition for Industrial Uses made it a prohibition for Commercial Uses. Chair Blakaitis agreed. Director Heard explained that the use classification doesn't matter if the use is specifically prohibited. He added that it is not being tied to a zoning district. He stated that if the Board didn't want to use the General Use categories, they didn't have to be used.

Director Heard suggested that the Board not pay attention to the use categories, but look at the uses alone. Chair Blakaitis suggested that the Board have a discussion about the categories afterward. Director Heard agreed. Member Cofield suggested adding Nightclubs to the list. Chair Blakaitis thought it was already on the list. Member McKeithan thought the Board would be adding a lot of uses to the list. Chair Blakaitis agreed.

Chair Blakaitis asked what Town Attorney Hobbs meant with regard to Motor Vehicle Storage. Director Heard stated that he wasn't sure but could get clarification. Council Liaison Burdick suggested prohibiting any outdoor rental/storage facility. Chair Blakaitis thought it was already on the list. Director Heard noted that Open Lot Storage of Construction Equipment was listed, but thought Council Liaison Burdick's suggestion was broader than just construction equipment.

Chair Blakaitis noted that he didn't see any glaring items that he wanted eliminated from the list. Council Liaison Burdick stated that Sports Facilities is a broad category. He added that the Town had issues with mini golf courses in the past and thought they were prohibited. Chair Blakaitis asked if it was a prohibited use in the Town's ordinances. Council Liaison Burdick thought it was. Director Heard stated that he would be reviewing the Town's ordinances for existing prohibitions.

Chair Blakaitis asked if Permanent Bleachers or Grandstands should be listed instead of Bleachers or Grandstands. Vice Chair Murray thought it should. Chair Blakaitis noted that bleachers were used for the 4th of July parade as well as the Jazz Festival. Director Heard reminded the Board that the uses being prohibited are commercial ones. He added that it wouldn't necessarily prevent the Town from having a facility that was a community one but would prevent someone from coming in and opening a for profit business. Vice Chair Murray asked if anything that the Town was involved in was considered not for profit. Council Liaison Burdick stated that it was. Director Heard stated that it would be, unless the Town was actively making a profit. Council Liaison Burdick suggested looking at sports complexes. Chair Blakaitis clarified that Council Liaison Burdick wished to change Arenas to Sports Complexes. Council Liaison Burdick stated that he thought it should be added and not changed.

Member Cofield asked where an entertainment venue such as the one in the Town of Nags Head would be prohibited on the list. Director Heard stated that, as far as the list that Town Attorney Hobbs prepared, it was not specific on it. He added that Arenas are listed but to him, that implied a building. Vice Chair Murray asked what the motivation was to prohibit it. Member Cofield stated that it seemed to closely abide with other things that the Town was prohibiting so he didn't understand why it would be permitted. Director Heard noted that it would be along the lines of an entertainment venue, but the Board needed to be careful with it if they wished to prohibit it. He suggested that if they did, to look at the seating capacity. Member Forlano asked if it is similar to the pavilion in the Sanderling subdivision. Council Liaison Burdick stated that it is.

Vice Chair Murray stated that it was discomfoting to him in that the Board is basing the recommendations on their personal opinions. Director Heard noted that the Board would discuss drawing more input in at the end of the discussion. Member Forlano asked if the Board is going to list specific items. Chair Blakaitis stated that the Board is reviewing specific uses to see what should be prohibited or not. He added that Director Heard will then determine what staff's recommendation was and the form to put it in as well as obtaining more legal opinions. He stated that something had to be done because of the court's decision.

Vice Chair Murray asked why Horse Farms should be prohibited. Council Liaison Burdick thought they were already prohibited and that there was an ordinance in place for it. Chair Blakaitis asked why Check Cashing Stores would not be permitted. The Board reached *consensus* to remove Check Cashing Stores from the list.

Member Forlano questioned the prohibition of Bail Bond Services. He pointed out that Bail Bond Services is just an office with someone in it. He thought years ago, he was talking to a police officer and was told that they have to go to Manteo. Council Liaison Burdick stated that the Town did not have a jail. Member Forlano stated that he wasn't talking about a jail but a bail bond service. Chair Blakaitis explained that it involves a judge and there isn't one in Town.

Member McKeithan felt that Convalescent Facilities should be removed from the list. Council Liaison Burdick suggested that the Board decide which uses they agreed should remain on the list and which should come off and then Director Heard could come back with a revised list. Chair Blakaitis stated that the Board was doing that. Vice Chair Murray asked if Council Liaison Burdick was suggesting that all of the uses be left on the list so Council could discuss it and have the Board note which use was a good or bad idea. Council Liaison Burdick suggested that the Board come up with a list of uses that they recommended to prohibit as well as additional uses that they would not recommend prohibiting.

Member McKeithan suggested that in addition to Nightclubs, that it include Adult Entertainment to the prohibited uses. Vice Chair Murray pointed out that it was already a prohibited use. Council Liaison Burdick concurred that the Town adopted an ordinance prohibiting it in the past. Chair Blakaitis clarified that a store selling cigarettes and cigars would not be considered a smoke shop. Vice Chair Murray asked if a gas station would be prohibited from selling smoke and vapor products. Member Cofield though it would not apply to cigarette and cigar sales.

Member Forlano asked Director Heard to review the items that the Board had questions about. Director Heard stated that, according to his notes, the Board had questions about the following uses: Carriage Horse Stables, Check Cashing Stores, Convalescent Facilities and Liquor Sales. Chair Blakaitis thought the Board had changes on Shooting Ranges. Director Heard stated that the Board had changed Arenas to Arenas/Sports Complexes, Shooting Ranges to Outdoor Shooting Ranges and Motor Vehicle Storage to Outdoor Motor Vehicle Storage. He added that he made a note to clarify with Town Attorney Hobbs the intent of the Motor Vehicle Storage. Council Liaison Burdick noted that another use was the storage facilities. Vice Chair Murray noted that the Board had struck Convalescent Facilities. Chair Blakaitis stated that the Board disagreed on whether or not it should be a prohibited use.

Director Heard stated that uses that were added to the prohibited list were as follows: Nightclubs, Miniature Golf, Adult Entertainment and Outdoor Storage of Vehicles/Equipment. He noted that these were all Commercial Uses. Council Liaison Burdick stated that the storage was for household vehicles and shouldn't be limited to just Commercial Uses. He added that it wasn't just for equipment. Member Cofield asked what the Board decided with regard to firearm sales. Chair Blakaitis stated that it wasn't covered yet.

Chair Blakaitis directed the Board to review Agricultural Uses. Vice Chair Murray thought it was all a question of scale. Chair Blakaitis agreed. Council Liaison Burdick asked what an Urban Farm was. Chair Blakaitis stated that it was a combination of people getting together and farming an area. Member Cofield thought it was a community garden. Chair Blakaitis didn't think anyone would mind an Urban Farm and thought the Board disagreed that it should be a prohibited use. Council Liaison Burdick stated that he could not understand the difference between an Urban Farm and Horticulture. Vice Chair Murray explained that Horticulture was the production of plants. He didn't think it should be stricken as there wasn't a scale to determine if and when it would become a nuisance.

Chair Blakaitis directed the Board to review Industrial Uses. He asked what the problem would be if someone opened a gun shop in Duck and sold and repaired guns. He asked if it was something that would be objectionable. Council Liaison Burdick stated that he would have a problem with it. Vice Chair Murray noted that the Town was named Duck due to its rich waterfowl hunting heritage. He thought it was consistent with the Land Use Plan. Director Heard asked if Gunsmiths should be stricken from the prohibited use list. Council Liaison Burdick stated that he wasn't saying it should be stricken. Member Cofield stated that he didn't think it should be stricken. Member McKeithan stated that he didn't understand Gunsmiths to mean firearm sales or ammunition sales. He thought Gunsmiths meant someone that made guns. Chair Blakaitis explained that Gunsmiths were people who make and repair guns. He added that a Gunsmith could also include Gun Sales. Vice Chair Murray stated that Gunsmithing could be a mail order business. He stated that the retail aspect could be limited while allowing the repair aspect. Chair Blakaitis stated that he was just pointing out that Gunsmiths and Gun Repairs could be two different things. Member Cofield didn't think it fit with the Town's image or view as a tourist area.

Member Forlano asked where the Industrial area was in Town. Director Heard advised that the Board was discussing specific uses and not to focus on the broader categories. He added that Gunsmiths was a use and the Board was discussing prohibiting it as a use in any area of Town.

Member Forlano thought the Board should think about solar energy farm uses and wind turbine farm uses. He noted that the area of the Research Pier could be sold and the Town could install a solar farm there. Council Liaison Burdick pointed out that Council always has the option to change the ordinance. He added that it happened through a zoning change and Council left in the prohibition for cell towers. Chair Blakaitis added that the Town has a solar ordinance and wind farm ordinance in place. Council Liaison Burdick stated that the Town is limited with regard to putting in solar farms. Member McKeithan stated that if it is already covered, it should not be on the list. Chair Blakaitis wasn't sure how well it was covered. Council Liaison Burdick thought it was only covered in residential areas. Chair Blakaitis thought it also included commercial areas.

Member McKeithan stated that he was fine with striking Gunsmiths. He thought firearms and gun sales were more of an issue for him. He stated that it seemed that the Town was potentially restricting Gunsmiths, but firearm and ammunition sales would be legal. Chair Blakaitis noted that it was not presently listed as not being permitted. Member Forlano pointed out that it was permitted so it should be added. Member McKeithan stated that Gunsmithing did not solve the issue if the Board was concerned about firearm and weapon sales. He stated that he would like it added to the list of prohibited of uses. Member Cofield agreed.

Vice Chair Murray asked what Metal Products Facilities were. He asked if it meant someone making silver jewelry and selling it. Chair Blakaitis thought that Metal Products Facilities should not include hobbyists. Vice Chair Murray asked about metal yard art. Director Heard noted that it wouldn't prohibit someone from having it in their yard, but might prohibit them from welding and manufacturing hundreds of them for sale. Vice Chair Murray asked how it would harm the Town. Chair Blakaitis suggested adding "large scale" to the prohibited use. Council Liaison Burdick suggesting adding Electronic Equipment Assembly. Chair Blakaitis thought it was not something that would be large scale. Council Liaison Burdick explained that it was on a small scale if it was done in a home, but if it was a business, it could be a problem. Vice Chair Murray felt that Electronic Equipment Assembly should be left off the list. Vice Chair Murray suggested adding "large scale" to Stone Cutting, Shaping and Finishing Facilities.

Chair Blakaitis directed the Board to review Accessory Uses. It was *consensus* of the Board to have "accessory to a residence" clarified.

Chair Blakaitis directed the Board to review Miscellaneous Uses. Vice Chair Murray felt that Convents and Monasteries should be permitted uses. Council Liaison Burdick pointed out that Dormitories were aimed at restricting multi-family housing. Member McKeithan suggested striking Convents and Monasteries from the list.

Chair Blakaitis thought if the Board came up with a chart, it would simplify things. He asked what the most appropriate format for the prohibited uses would be. He added that the Board favored coming up with a chart. Director Heard agreed and felt it would be clearer. Vice Chair Murray asked if the list the Board worked on would be separate from the chart as the chart broke it into use classifications. He asked if classifications needed to be used with the chart. Director Heard thought it could be done either way. Chair Blakaitis suggested that staff come up with a chart. Director Heard thought there would be at least four different classes of uses: Prohibited Use, Permitted Use, Conditionally Permitted Use, and Use Permitted Subject to Certain Criteria

Outlined Elsewhere in the Ordinance. He asked if that worked for the Board. Chair Blakaitis thought it was a good idea.

Member Forlano asked if the uses would be categorized like the use headings that Currituck County used. Director Heard stated that the Board could, but based on the Board's discussion, wasn't sure if it would make things clearer. He stated that it may be simpler to not use them at all and just have a catch-all category such as Other Industrial Uses Prohibited in Residential. Chair Blakaitis stated that if the legislative guidelines could be fulfilled that way, he suggested bringing something back to the Board. Council Liaison Burdick noted that Currituck County was more inclusive with regard to their categories. He felt that Town Attorney Hobbs should be asked if his approach was to be similar to Currituck County's or to make a list to see how the Board felt. He pointed out that Town Attorney Hobbs started out with categories. Chair Blakaitis stated that Town Attorney Hobbs gave the Board ideas, but thought it would be interesting to get his opinion on what he thought of Currituck County's. Council Liaison Burdick thought Town Attorney Hobbs could give the Board some guidance.

Chair Blakaitis asked if Director Heard could use the draft list of criteria and integrate those criteria into an ordinance. Director Heard asked if the criteria are what the Board wanted to propose. He added that the list is not necessarily the best way, but just suggestions. He stated that if there were other criteria that the Board felt was important, they should be added.

Member Cofield asked if Public Safety could be added to the list. Director Heard asked for clarification. Member Cofield stated consideration of how the use would impact Public Safety. Vice Chair Murray thought it was the same as what he suggested and if it helped Director Heard categorize a use. He explained that Director Heard was trying to determine if an activity or use was like another one. He thought it would be better to see if it impacted similarly. It was *consensus* of the Board to add Impacts to Public Safety and Consistency with the Town's Adopted Vision and Land Use Plan.

Chair Blakaitis asked what type of information would be provided to the public. Vice Chair Murray stated that a lot of the public did not seem to participate often in Planning Board meetings, so it may be hard to inform the public. Director Heard stated that he wanted the Board to think about what kind of input would be of value to them as they moved forward. He added that it would lead them to what kind of information that would be provided to the public. He understood the Board's feeling about being uncomfortable with making these broad-reaching community decisions by themselves. He stated that if a draft could be sent out to help the public understand what the Board was looking at and what the Town was trying to accomplish, then the Board would be more likely to receive some productive comments from the public. He thought some type of directed message could be put out that would benefit the Board.

Chair Blakaitis thought Director Heard had good suggestions. He thought no one would argue with what the Board has to do and the process was as it was something that had to be done. He stated that the public could look at the list and decide if they agreed or disagreed with the uses. Council Liaison Burdick pointed out that there was a degree of urgency to get the issue completed and was not a process that could be drawn out over several months. Chair Blakaitis noted that the information that goes out and the feedback that comes in may have to be the standard procedure for the Board. Vice Chair Murray asked if something could be put out on the

Town's website that the Board's next meeting would be one that the public should attend. Director Heard asked if that was the main way that the Board wanted to receive input or did they want it to be open that the public could also send emails or letters. He thought it would be good to encourage the public to submit their comments any way they could. Vice Chair Murray agreed.

Director Heard asked the Board if they were comfortable with him putting together a draft package that would begin with a concise, understandable explanation of what the Board is trying to do and why it was being done this way. A draft list of prohibited uses based on the Board's discussions at this meeting could also be provided before he sent it out to the public. Vice Chair Murray clarified that the information would be sent out via email between now and the Board's next meeting. Director Heard stated it would have to be if the Board wanted to receive input from the public by the meeting.

Member Forlano clarified that the citizens would be asked what uses they felt should be prohibited. Director Heard stated that it would and was part of the message sent to the citizens. Chair Blakaitis stated that it should be made clear to the public that this was something that the Town had to do and something that the Planning Board came up with. Director Heard stated that he would send the Board a draft for their review and if it's acceptable, it will be sent out to the public.

NEW BUSINESS

None.

APPROVAL OF MINUTES

Minutes from the December 9, 2015, Regular Meeting

Member Cofield had a correction to Page 8.

Vice Chair Murray had corrections to Pages 1, 6, 7 and 10.

Member McKeithan had a correction to Page 3.

Member Forlano had corrections to Pages 5 and 8.

Member McKeithan moved to approve the December 9, 2015 minutes as amended. Member Cofield seconded.

Motion carried 5-0.

OTHER BUSINESS

None.

STAFF COMMENTS

Summary of January 6, 2016 Town Council Meeting

Director Heard gave a summary of the January 6, 2016 Council meeting to the Board and audience.

Project Updates

Director Heard reviewed the legislative changes that have occurred recently with the Board and audience.

BOARD COMMENTS

None.

ADJOURNMENT

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

The time was 8:47 p.m.

Approved: _____
Joe Blakaitis, Chairman