

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
February 10, 2016**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, February 10, 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, Town Attorney Robert Hobbs and Permit Coordinator Sandy Cross.

Others Present: Sandy Whitman, Dave Klebitz of Bissell Professional Group and Scott Foster of Coastal Cravings Restaurant.

Others Absent: Council Liaison Chuck Burdick.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for February 10, 2016 at 6:30 p.m.

PUBLIC COMMENTS

None.

It was *consensus* of the Board to move New Business up on the agenda.

NEW BUSINESS

Conditional Use Permit 16-001: Application by Scott Foster, Representing the Property Owner, Cape Oil Corporation, for a Conditional Use Permit to Expand the Coastal Cravings Restaurant at 1209 Duck Road by Establishing an Outdoor Dining/Entertainment Area

Director Heard stated that the property was located at 1209 Duck Road and was zoned Village Commercial. He stated that the existing improvements on the property were constructed in 1996, following an approval by Dare County. He stated that the building is approximately 3,600 square feet with nearly 1,500 square feet used by a convenience store associated with the gas station. The remaining 2,000 square feet is used by Coastal Cravings Restaurant. He stated that there was a small outdoor dining area near the front entrance of the property that was 384 square feet in size.

Director Heard stated that Coastal Cravings took over the restaurant portion of the property in 2009 and received permission through a Conditional Use Permit to establish the present outdoor seating area in 2012.

Director Heard stated that the applicant was proposing to expand the Coastal Cravings Restaurant with an outdoor seating/entertainment area. He noted that a restaurant was a conditional use in the Village Commercial District and outdoor seating and entertainment areas were permitted as part of a restaurant, subject to certain conditions. He added that the property was 48,434 square feet in size and exceeded the minimum lot size of 20,000 square feet for the District. He explained that once completed, the proposed project would result in a slight reduction in the amount of lot coverage on the property. He stated that the addition of the restroom building and associated walkways would add 297 square feet of lot coverage; however, the removal of an existing storage shed and a considerable portion of a gravel parking area behind the main building will reduce the lot coverage by 465 square feet.

Director Heard stated that the maximum lot coverage requirement in the Village Commercial District is 60%. He added that the applicant had an estimated lot coverage of 54.4% and the proposed improvements would comply with this standard. He stated that the existing building complies with all of the Town's minimum setback standards and the setbacks would not change as a result of the proposed improvements.

Director Heard stated the site plan establishes a landscaped buffer area 10 feet in width along the entire rear property line, separating the commercial use of the property from the adjoining residential properties, which is consistent with the Town's standards. He noted that the buffer consists of a mature wooded area with understory vegetation and was greater than 10 feet in width along most of the property line. He added that the applicant was not planning to reduce the size of the wooded area or clear any vegetation as part of the proposal.

Director Heard stated that existing vehicular access to the property consisted of two paved access drives; one that enters near the southern property line and one near the northern property line. He added that, within the site, vehicles have an option of pulling through the gas station canopy in front of the convenience store or using a one-way drive around at the rear of the building. He noted that no changes are proposed to the vehicular access entering or exiting the property as well as internally within the property. He stated that the applicant is proposing to add a striped pedestrian walkway from the entrance to the restaurant to the proposed outdoor dining/entertainment area. He explained that the walkway was five feet in width and complies with all standards of the Americans with Disabilities Act. He stated that sidewalks are proposed to provide access to the bar/beverage stand and restroom buildings. He stated that the applicant is proposing to add a bicycle rack in the grassed area between parking spaces 29 and 30 to accommodate customers on bicycles.

Director Heard stated that the site currently contains 28 parking spaces and the amount of parking presently complied with the minimum parking requirements. He stated that the addition of the proposed 1,290 square foot outdoor dining/entertainment area would increase the minimum parking requirements for the site and that the minimum parking required to accommodate the proposed development is 34 parking spaces. He stated that as part of the improvements associated with the project, the applicant plans to restripe the existing parking area

consistent with the site plan. He explained that restriping the existing spaces to create spaces at the Town's minimum width of nine feet would create one additional parking space. He added that the applicant is proposing to add a small, paved parking area on the eastern side of the drive at the rear of the existing building. He pointed out that the area has been used informally as a gravel parking lot in the past and the construction of this paved parking area would result in five additional parking spaces on the site.

Director Heard stated that the amount of parking on the site would be increased to 34 parking spaces, which is enough to accommodate the additional parking required by the proposed development of the outdoor seating/entertainment area. He stated that the proposed project would be in compliance with the Town's minimum parking standards.

Director Heard stated that Handee Hugo's and Coastal Cravings were presently served by an on-site septic system. He added that the applicant obtained approval from the Dare County Health Department for the installation of a second, small septic system serving the proposed restroom associated with the outdoor dining/entertainment area. He stated that the Health Department also granted approval for all of the proposed improvements on and around the existing septic system.

Director Heard stated that the applicant is proposing to provide a small directional sign at the end of the striped walkway, directing customers to the outdoor dining/entertainment area. He noted that the applicant may also seek to add a small sign relating to the bicycle parking area. He stated that the final design of such signs would require review and approval by the Community Development Department. He stated that the applicant has proposed to provide building mounted security lights to both of the new structures and strands of lights strung from poles throughout the outdoor dining/entertainment area. He stated that all site lighting has to comply with the Town's standards, which would include orienting and/or shielding light fixtures to prevent light spill and glare onto the adjoining properties.

Director Heard reviewed the outdoor dining standards with the Board and audience. He noted the following:

1. The proposed outdoor dining area was an open-air space with no roof or walls.
2. The proposed improvements to the parking provide enough spaces to accommodate the existing and proposed development on the property.
3. The standard for outdoor dining areas located in a common space of a group development was not applicable as the property is not defined as a group development.
4. The proposed outdoor dining and entertainment areas are located within an existing grassed area away from the parking area and walkways. Customers would likely cross over the drive aisle to access the outdoor dining/entertainment area. A striped walkway is proposed to safely facilitate the crossing.
5. The proposed outdoor dining area is located within an existing grassed area to the rear of the property. The proposed bar/beverage stand, restroom building and

entertainment stage will comply with minimum building setbacks and are not within the required landscaped buffer area at the rear of the property.

6. The applicant plans to provide solid waste and recycling containers and will comply with the standards to service and maintain them in a neat and clean manner.
7. The applicant intends to comply with the noise ordinance and his proposal outlines that the business typically ceases entertainment activities by 9:00 p.m.

Director Heard stated that staff is recommending approval of the conditional use permit with the following conditions:

1. The applicant must acquire necessary permits for all new buildings and renovations included in the proposal to ensure compliance with applicable standards.
2. The applicant must submit an as-built survey documenting all of the site improvements prior to the issuance of a Certificate of Occupancy for the buildings and use of the outdoor seating/entertainment area.
3. The applicant must obtain approval from the Community Development Department prior to the installation of any exterior lighting, which must comply with the Town's lighting standards and may require a building permit.
4. Any signage to be added must comply with the Town's Zoning Ordinance and be permitted by the Community Development Department prior to installation.
5. Entertainment activities must comply with all applicable Town standards, including the noise ordinance.

Member Cofield stated that he had asked Director Heard about the notices to the adjoining properties. He stated that he wanted to request that the notices that are posted also be put in the Planning Board's packets. Director Heard commented that the dates of the notices and advertising are on the first page of the staff report in the Board's packets. Member Cofield asked if there were any responses to the notices that were sent out. Director Heard stated that he did not receive any comments. Permit Coordinator Cross stated that she received a telephone call from Duck United Methodist Church, inquiring about the application. She stated that she directed them to the staff report on the Town's website.

Chair Blakaitis stated that there was a cover letter from the applicant referenced in the staff report. He noted that it was not in his packet. Director Heard stated that this document is the project description, also known as Attachment C, in the Board's packets.

Member McKeithan stated that it was mentioned that by removing the gravel when making the parking additions in the rear of the property would give a reduction of the lot coverage. He stated that it seemed to him that the gravel would be replaced by asphalt parking spots. He added that he wasn't sure how it would be a net reduction in the lot coverage. Director Heard

stated that for a commercial property, gravel was not exempt. He added that gravel is exempt from lot coverage for residential use. He stated that the area that is presently covered in gravel is a larger area. He stated that the applicant is significantly reducing its size and making it more of a typical parking area so people would no longer pull 30-35 feet off of the drive aisle.

Scott Foster of Coastal Cravings was recognized to speak. Mr. Foster thanked Director Heard for summing up what his project will entail. He stated that delivery trucks have a hard time making the turn in the parking lot so the gravel was placed there to keep the mud away during rain events. He added that it then become used informally as employee parking. He stated that by cleaning the area up, it will be a more attractive parking area and accommodate tractor trailers making the turn.

Member McKeithan stated that the applicant is making modifications to the entrance of the restaurant, which are associated with improving the restroom inside the convenience store. He asked for an explanation of this project. Scott Foster stated that his goal is to submit a permit that will allow them to renovate the current ladies room and change the orientation of the door. He added that they are proposing a small bump out onto the space, remaining under the roofline, which will allow them to construct a men's room that has a door oriented to face the restaurant. He noted that these changes will result in having his and hers restrooms that will be accessible from the restaurant.

Member Cofield asked the applicant if changes are proposed to the existing dining area in front of the restaurant. Scott Foster stated that there would not be any changes to the restaurant as far as the inside, patio, or to-go service that currently exists. He stated that the outside service at the beverage bar would be used as an extension of the restaurant as a waiting area. Member Cofield asked what would happen with the tables. Scott Foster stated that the tables would be there for patrons to drink beverages and watch the entertainment. Member Cofield asked if the area would accommodate dining. Scott Foster stated that it would not. He added that the Health Department permit stipulates that this must be a non-food service area.

Member Cofield wondered how things complied with the Town ordinance that states that there could not be any dining in front of the restaurant. Director Heard thought Member Cofield's original question was regarding the dining area in front of the entrance. Member Cofield stated he was correct. Director Heard stated that the permit that Scott Foster was talking about was regarding the new area. He added that the existing area would continue to be used in the same manner. Member Cofield asked if it complied with the ordinance. He pointed out that Director Heard made reference to a buffer requirement that there would be no dining in front of the restaurant. Director Heard stated that one of the criteria for outdoor dining areas states that if it was located in a common space of a group development, then it has to be contiguous to the frontage of the unit containing the eating establishment. Chair Blakaitis pointed out that Coastal Cravings was not part of a group development.

Director Heard asked Member Cofield if his question was regarding the group development rule. Member Cofield stated that it wasn't. Director Heard stated that the criteria regarding required front yards referred to the setbacks. He explained that it could not encroach into the minimum front yard setback. He added that the existing front yard was well away from the road and the proposed area inferred that. He stated that both areas complied with the criteria.

Member Cofield asked Scott Foster if he had any conversation with the abutting property owners. Scott Foster stated that he had contacted two of the owners and spoken with one, who was understanding of the project. He also stated that the restaurant would not be changing their live music schedule. He noted that the live music ends at 9:00 p.m. in order to give an hour buffer and will continue to do so in case the entertainment runs long. He pointed out that he only spoke to one property owner but also spoke to several of the surrounding commercial properties. Member Cofield asked Scott Foster if he was willing to have a condition in the CUP that the live entertainment would cease at 9:00 p.m. Mr. Foster noted that there was no need to since the entertainment stops at 9:00 p.m. even though the Town's ordinance allows live entertainment to go until 10:00 p.m. He added that he has never had any noise violations with regard to the live music he has.

Vice Chair Murray noted that removal of a shed is part of the proposal. He asked if it needed to be a condition since it was not the applicant's shed. Chair Blakaitis clarified that it was the applicant's shed. Scott Foster stated that the small shed next to the dumpster would be removed. He added that the shed that belongs to Handee Hugos would remain and become compliant under the proposal. Director Heard stated that the Board could make it a condition.

Chair Blakaitis asked if it was a requirement of Dare County Health Department to provide septic for the unisex bathroom. Scott Foster stated that it wasn't a requirement of Dare County as he could have tied it into his existing septic system. However, tying it into the existing septic system would have been costly and created an interruption of his business as well as the gas station. He stated that he did some research and met with the Health Department with regard to viable options and they suggested the option in the proposal. Chair Blakaitis inquired if a septic field would not be installed, but just a two tank system. Mr. Foster stated that a tank would be installed along with a sealed line running behind that would operate separately from the existing system.

Member Forlano asked if there was any limit of how many seats would be on the property. He further asked if there was a reason to limit the number of seats on the property. Director Heard stated that the Town's standard applied to parking in that it was tied to square footage and not to the number of seats. He stated that because the applicant will exceed the 18, it would not be tied to seats. He stated that whether the applicant had 20 or 60 seats in this area was irrelevant as the parking was not based on the number of seats, but on the size of the area.

Member Forlano understood that the Board was dealing with square footage, which would control the parking. He pointed out that if there were 36 seats on the property, there would be enough parking. He wondered how the parking would be impacted if there were 60 seats on the property. He asked where the cars would be parked. Scott Foster stated that most of his customers walk to his restaurant. Member Forlano stated that there would never be enough parking. He stated that there wasn't enough parking with the 34 seats that currently existed. He noted that the staff report stated that vehicles have the option of pulling through the gas station's canopy in front of the convenience store and restaurant. He stated that that option isn't possible if a car is parked there. He stated that there are eight parking spaces under the canopy, which was for circulation of vehicles and not for parking. He wanted it noted that the parking spaces under the canopy aren't real parking spaces.

Chair Blakaitis asked if they are really parking spaces under the canopy. Member Forlano stated that they are listed on the plan as parking spaces. Director Heard noted that the circular drive goes around the building for access if the area under the canopy is full. He added that the Board is not discussing a circumstance where vehicles would be parking in the drive aisle. He added that people could drive completely around the building. Member Forlano agreed. He asked if he went to Coastal Cravings, he could park his vehicle next to one of the gas pumps while he ate at the restaurant. Scott Foster stated that technically he could if he wanted to.

Vice Chair Murray asked how many parking spaces were required for the gas station's use. Member McKeithan pointed out that it is included in the staff report. Director Heard stated that the gas station requires 7.5 parking spaces. Member McKeithan added that they are designated for the service station and convenience store, based on square footage. Member Forlano stated that he wants it noted that the spaces under the canopy are not parking spaces.

Member Cofield stated that he found the discussion interesting regarding the parking spaces being based on square footage. He noted that when Duck Deli was in front of the Board, there was a lot of conversation regarding the seating. Scott Foster explained that he is not applying for food service like Duck Deli did. He stated that his proposal put him in a much better position for his customers so they won't have to stand in the parking lot.

Chair Blakaitis asked if the customers waiting outside will be allowed to drink. Scott Foster stated that they will be allowed to drink at the new bar. He added that, technically, customers are not allowed to drink on the asphalt. Chair Blakaitis clarified that the waiting area would be the bar. Mr. Foster agreed, adding that customers could drink there.

Member Cofield asked if the expansion is for drinks only and not dining. Scott Foster stated he was correct. He added that it is stipulated by the Health Department permit that it is specifically for beverage use and not food service use.

Member McKeithan clarified that that if Scott Foster is asking for food service, the Health Department would only have allowed so many seats. Scott Foster stated that it was based on the calculation of the septic tank. He added that the new septic system will serve the new restroom that was proposed and hand-washing at the beverage station. Member McKeithan clarified that the Health Department did not dictate how many seats could be in a square footage area. Scott Foster stated he was correct.

Director Heard explained that the reason the Board got into the discussion as it related to Duck Deli was because they were proposing to limit the number of seats in order to comply with an exemption that the Board discussed thoroughly. He added that if Duck Deli decided that they wanted to have 20 seats, they would have to comply with the same parking requirements as Coastal Cravings.

Member Cofield asked how the Board would answer the question Member Forlano posed regarding the parking under the canopy. David Klebitz of Bissell Professional Group was recognized to speak. Mr. Klebitz explained that those parking spaces have been part of the plan since its' original approval back in the mid 1990's when it was first developed. He noted that the

original site plan approved by Dare County had established those parking spaces and they were now simply honoring the parking spaces that have been permitted at the site, not making any changes. Member Cofield thought there may be a problem with it now. David Klebitz stated that he would have to look at the number of parking spaces required for the convenience store and compare it to what was provided for the convenience store and gas station. He reiterated that the parking spaces are not something the applicant is proposing now, but are something that has existed for approximately 20 years.

Member Forlano asked if the convenience store presented those parking spaces when they went before Dare County. Dave Klebitz stated he was correct and added that it was approved that way. He added that Scott Foster came to the Town several years ago to obtain approval for a smaller outdoor seating area and there was a parking calculation done as part of it, with those parking spaces considered and counted. He noted that with this application, those spaces will remain the same.

Member Cofield asked Scott Foster how many more parking spaces he thought he could add. Mr. Foster stated that based on the calculations, possibly one or two more. Scott Foster stated that he was close to the lot coverage. Dave Klebitz thought one more parking space could be added but he would have to reorient Handee Hugo's shed.

Vice Chair Murray asked what the relative conditions were of the two sheds. Scott Foster stated that both sheds were in great condition. Vice Chair Murray clarified that there was some shed trading and parking space trading. Mr. Foster agreed. Vice Chair Murray asked if the Board would be willing to consider leaving the existing shed that was encroaching to accommodate parking spaces on the gravel. He added that since it was an existing condition, it wouldn't be a burden on the applicant.

Chair Blakaitis asked what the shed was used for. Scott Foster stated that Handee Hugo's used it for storage of paper supplies. Chair Blakaitis asked what the non-conforming shed was used for. Mr. Foster stated that it was used for the same purpose, but for Cravings Restaurant. Vice Chair Murray clarified that the sheds were not structures with foundations. Mr. Foster stated that they were prefabricated sheds that could be moved. Chair Blakaitis didn't think a non-conforming situation could be left alone. He thought it needed to come into compliance. Director Heard stated that there wasn't a permitted location for the shed when it was installed, so it would be something that would need to be corrected.

Vice Chair Murray stated that if the Board was not allowed under the Conditional Use Permit process to allow a non-conformity to continue in order to ask the applicant for parking that wasn't required by the ordinance, then the matter should be dropped. He added that the Board was asking for additional parking that was not required by the ordinance. Director Heard stated that it was not something that was being requested as part of the application, but the applicant could have a special exception request associated with the application to accommodate the encroachment if the Board and Town Council felt that was a trade-off.

Chair Blakaitis thought Vice Chair Murray made a good point. He thought if the applicant wanted to put one more parking space in by moving the shed, it would be fine. He added that the applicant was not required by the Town's standards to do anything. Scott Foster stated that he

would be happy to add another parking space, reorient the Handee Hugo's shed, and still remove the other shed. He added that he would have to refer to David Klebitz to see if he would be able to maintain the setbacks by moving the shed. He stated that another parking space would certainly help him. Chair Blakaitis stated that proposal was fine and would be appreciated. He directed Mr. Foster to work with Director Heard on it.

Member McKeithan asked Scott Foster if his intention was to put six picnic-type tables in the space. Although the Town's regulations do not prevent Mr. Foster from adding 20 more tables, it would impact the parking. Scott Foster stated that he could only fit so many tables in the proposed space. He stated that there needed to be appropriate space for people to navigate, walk around and feel comfortable. He stated that if he put in a big row of tables, it wouldn't be comfortable for his customers. He stated that since he wanted to just serve beverages while customers waited for a table, the tables could be removed in order to fit more people.

Member Forlano asked Scott Foster if he was going to have bar stools. Scott Foster stated that he would have them around the beverage bar. Director Heard noted that the bar/beverage stand was included in the calculation of the area, adding that the seats are within the proposed area. Scott Foster stated that they could have put in port-o-johns but out of respect to the clientele at the restaurant, he wants to put in something with real fixtures because he wants people to be comfortable.

Member Forlano reiterated that his intention is not to shoot down the project. He thought the proposal is well done, but wants to note that there is not enough parking for the number of customers that will frequent the property. He added that having 34 parking spaces, with eight counted under the canopy is not enough. He stated that he is in favor of the project.

Member Cofield asked if the parking spaces under the canopy would be marked as such. Scott Foster stated that there were cars parked around the gas station that were not in parking spaces, so technically there are more spaces that are not on the site plan. He stated that employees of the gas station park around the base of the island. Chair Blakaitis asked if the spaces are marked on the drawing specifically by each gas pump. Scott Foster stated that they are not. Chair Blakaitis understood and pointed out that the drawing showed a car for each gas pump. He added that people also park in front of the entrance to Handee Hugo's as well as along the wall. He noted that there are four more spaces that cars generally use. Scott Foster stated that Wednesday and Thursday evenings are the busiest nights during the summer. He added that people will park all along the side of the entrance, which he asks them not to do as it creates a tight situation.

Member Forlano pointed out that if all of the parking spots are full, people would not park in the middle of the aisle, but would try to find a parking place or they won't go to the restaurant. Scott Foster stated that he was fortunate to have a business in Duck since a lot of his customers bicycle or walk to his restaurant. Member Cofield asked if customers park across the street. Scott Foster stated that he does see people parking at the Duck United Methodist Church parking lot as well as the Nags Head Hammocks lot. He noted that it wasn't a regular occurrence.

Member Forlano stated that the Board spends a lot of time at its meetings discussing parking. He added that there isn't a commercial property in Duck that has enough parking. He noted that Town Hall did not have enough parking for all of the activities that occur during the summer.

He stated that he wanted to make it clear that there isn't enough parking at the applicant's property.

Vice Chair Murray pointed out that it could be argued over whether there is or is not enough parking at the site for the customers. However, all of the parking is off the street, clearly marked and safe. He added that it was different than some of the other situations that the Board has seen where there is a safety issue due to the parking. He stated that he was more comfortable with the proposed parking arrangement than he has been with other applications. Chair Blakaitis noted that there is nothing else the Board could do. Vice Chair Murray stated that it met the ordinance. Chair Blakaitis agreed.

Vice Chair Murray moved that the Planning Board approve the application for Conditional Use Permit 16-001 with the conditions as noted by staff. Member Forlano seconded.

Motion carried 5-0.

OLD BUSINESS

Text Amendment: Development of Potential Text Amendments to Comply with a Recent N.C. Supreme Court Decision Concerning Permitted and Prohibited Uses in Each Zoning District

Director Heard stated that the Planning Board has been discussing this issue for a couple of months and has gradually been putting together a several different concepts. He stated that one of the things before the Board created was a list of prohibited uses that was originally prepared by Town Attorney Robert Hobbs at the Board's request. He added that the Board had an opportunity to complete an initial review of it and make some changes to the list. He stated that the organization of the uses is based on concepts in the Currituck County Unified Development Ordinance. He noted that the table in the Board's packets includes all of the listed prohibited uses, but also incorporates everything from the ordinance that the Town has in place with regard to uses that are permitted, conditionally permitted, special exceptions, etc. He added that staff has proposed using broader use categories with the intent that, with very few exceptions, it would cover the Town's bases in accommodating other uses of similar type and category.

Director Heard pointed out that there was an S-1 column, and noted that there was a P for Permitted under all of those other uses. He explained that it was a special district that could be anything and weren't uses that were expressly prohibited in that district. He added that staff chose initially to put a P for Permitted with the understanding that anything proposed in that district would be reviewed on an individual basis. Chair Blakaitis clarified that it would not come before any boards. Director Heard stated that applying an S-1 district to a certain property would come before the Planning Board and Town Council. Town Attorney Hobbs likened it to a floating zone. Director Heard agreed.

Director Heard stated that, based on the Board's conversation at this meeting, they could direct staff to go back and do other things. He stated that he gave a lot of thought to looking at what Currituck has and has not permitted. However, working under the assumption of minimizing

changes to the Town's existing ordinance to the greatest degree possible, he did not attempt to add other types of uses that could be permitted or conditionally permitted.

Chair Blakaitis clarified that the Board is expected to review the draft proposal of all of the uses, which it initiated at its last meeting, make changes and review the chart. He suggested that the two remain separate during the discussion. He thought it would be best to go in the order that Director Heard gave the Board by reviewing the draft list quickly to see what could be removed and what should stay.

Vice Chair Murray stated that it looked like everything on the list was also in the table. Director Heard stated that the intent was that the table incorporated what was on the list. Vice Chair Murray thought the Board could work from the table in order to address everything on the list. Chair Blakaitis stated it was satisfactory but felt it was easier to see a list. Vice Chair Murray noted that everything on the left side of the table was in the list. Chair Blakaitis stated that it would make the review of the table easier if the Board reviewed the list first. Vice Chair Murray agreed.

Director Heard stated that staff received three emails from interested owners. Chair Blakaitis suggested that the Board begin by reviewing the Commercial Uses. Town Attorney Hobbs stated that with regard to one of the comments received from the public, there was one asking about kennels and car washes. He understood the comment but thought if the Board did not address it, it would be unregulated. He suggested removing those two uses if the Board was ready to go ahead and impose regulations addressing them at the same time. He added that it could be done at any time and the Board could decide whether to leave them unregulated and address them at a later time or prohibit them now and address another amendment at a later time. Chair Blakaitis clarified that the uses would be left on the prohibited list. Town Attorney Hobbs stated that it depended on what the Board's thoughts were with regard to those two types of uses.

Member Cofield thought the purpose of the exercise the Board was doing was to be specific about prohibiting uses. He suggested that each of the comments that have been received by the public be discussed. He further suggested flagging the uses for the Council so they know that the Board had made the specific prohibitions.

Vice Chair Murray asked if the Board did not prohibit a use and it was left to the Conditional Use process, would it still be subject to the Town's ordinances. Town Attorney Hobbs thought it could be addressed through the alternative procedure the Town has that came under a broad category that staff could make a determination. He added that if a use is not on the list, then theoretically it would not be addressed in the ordinance except through the alternative procedure, which was not a foolproof method, but more of a "Plan B". He explained that if the Board receives an application for a use that isn't in the Town's ordinance, the Town must do the best it can to address it. If it is a type of use that is a potential cause for concern, it should be addressed in the table whether it is prohibited, permitted or conditionally or specially permitted. He added that it would not be automatically one of them unless it's listed in the chart. Vice Chair Murray agreed and suggested that instead of putting in a "P" in the chart on uses that people expressed a concern about, it could be done through a conditional use. Town Attorney Hobbs agreed, but the problem would be that the Town would need to go further into the ordinance and set forth what the conditions and requirements would be in order to apply for a Conditional Use Permit. He

stated that that was not before the Board at this meeting. He believed that the uses in the table that were marked as conditional or special uses are already addressed in the Town's ordinances and have specific requirements set forth already. Director Heard confirmed that they are listed in the ordinance. He added that many of the uses in the existing ordinance are conditional uses with certain conditions that have to be met. However, there are a number of uses listed as conditional uses that do not have specific criteria related to them. Town Attorney Hobbs thought the Board could add conditions for those uses as necessary through the conditional use process.

Chair Blakaitis pointed out that some of the uses that the Town has conditions on may not be as detailed or important, such as a kennel or car wash. He noted that they may have state regulations imposed of the Town's regulations, such as environmental regulations. Member Cofield stated that with regard to kennels, it is listed as a prohibited use. Vice Chair Murray stated that the citizen input is suggesting that it shouldn't be prohibited. He clarified that Town Attorney Hobbs was suggesting that the Board leave it on the prohibited list in spite of the comment. Member Cofield disagreed. He added that the Board's intent is not to make changes but to be specific about it. Chair Blakaitis cautioned the Board to not overthink things. Town Attorney Hobbs suggested that the uses that came in from the public could be placed on the list of proposed future text amendments to address specific uses.

Town Attorney Hobbs stated that the Board may wish to consider looking into expanding the definitions to include one or more of the new, prohibited type uses. He added that there are pros and cons in that if it's defined too narrowly, there is the potential to allow certain things that are not intended, but if it was left to speculation, then the recourse is to look in the dictionary to try to figure out the intent. He thought it isn't an impediment to getting the process going and approved, but thought it is something that the Board may want to consider in the future.

Member Cofield asked Town Attorney Hobbs if he had any suggestions. Town Attorney Hobbs didn't think that the Board needed to do it as part of the process now, as the goal is to try to get the ordinance revisions on the books as soon as possible. He thought the Board, as a long-term goal, could work on some broad definitions of the uses, especially if it goes beyond what the Board is confident feeling about. He noted that a use such as jails or prisons had a common understanding, but some of the other uses may not be quite as clear.

Member McKeithan clarified that Town Attorney Hobbs is asking the Board to further define some of the uses. Town Attorney Hobbs stated he is correct. He added that if there are some uses that seem broad in scope, the Board may wish to add definitions that clarify it.

Vice Chair Murray stated that he understood the motivation to make the list and create the chart, but was concerned that the Board was creating a prohibited list. He asked if there is anything more stringent than a Conditional Use Permit, where the ordinances of the Town not only have to be met, but the applicant would have to propose something that is consistent with the Town's Vision Statement. He worried about publishing a list of prohibited uses. He added that the applicant could apply for a text amendment. He wondered if there is anything that the Board could do. Town Attorney Hobbs stated that the Board is not required to have any of the uses as prohibited, but he's not aware of an in between option. Director Heard stated that the way he set up the chart is that the uses that the Board had identified as wanting to prohibit anywhere are also listed as prohibited in all districts.

Town Attorney Hobbs stated that the issue he has with a floating district is that if it isn't applied properly, it could be struck down as spot zoning. He recommended either prohibiting a use or setting it up as a conditional use. He added that the Board can reassign some of the uses with the proper specifications.

Vice Chair Murray asked if the Board can come up with a sunset deadline to prohibit some of the uses. Chair Blakaitis stated that the Board can take any use and decide to keep it, strike it or make it a conditional use. Town Attorney Hobbs stated that the Board can proceed with the list and address the uses that it felt needed special attention for future text amendments and consider whether some of the conditional uses might need special requirements or provisions in the code in addition to any conditions the Board may want placed on them at the Board level.

Chair Blakaitis stated that the Board has to do something to conform with the recent Court decision, but it seemed the members were getting sidetracked. He stated that if a Board member feels strongly about allowing a particular use, he can make it a conditional use instead of prohibiting it. He thought the Board should review the list again like they did at their last meeting to decide which uses they should keep, strike or make a conditional use permit.

Member Cofield asked Town Attorney Hobbs if he was comfortable with the Board not having gambling parlors on the list. Town Attorney Hobbs stated he was as they were prohibited by the state. Chair Blakaitis noted that the Town had an ordinance against gambling parlors.

Chair Blakaitis stated that he didn't see any reason at the last meeting to keep Kennels and Motor Vehicle Washing Establishments on the prohibited list, but now he felt they should either be on it or allowed as a conditional use. He thought the rest of the list was fine.

Town Attorney Hobbs recommended removing Gun, Firearm and Ammunition Sales from the prohibited list. He stated that after he worked on the list, he found a statute, G.S. 14-409-40, which looked like it was written by the NRA and prohibits local regulation of gun manufacturing, ammunition sales, gun sales, etc. Member Cofield asked if Town Attorney Hobbs thought it was not necessary to have Gun, Fire and Ammunition Sales on the prohibited list. Chair Blakaitis stated that it was prohibited by state statute. Vice Chair Murray asked if it also applied to Shooting Ranges. Town Attorney Hobbs stated that he could not find a comparable statute dealing with shooting ranges. Director Heard noted that the other related use that came up was Gunsmiths. Town Attorney Hobbs stated that it needed to be removed from the prohibited use list.

Member McKeithan asked who was regulating the uses. Town Attorney Hobbs stated that the state was and that there were federal laws dealing with Gunsmiths. Chair Blakaitis stated that the Board would strike those uses as per Town Attorney Hobbs' recommendation.

Chair Blakaitis noted that everything on the Commercial Uses list would remain except for Gun, Firearm and Ammunition Sales. Member Cofield stated that he is of the opinion that, while it wasn't specifically mentioned, an outdoor shooting range is not consistent with the Town's Vision. Chair Blakaitis agreed but asked if it would come under the state statute. Town Attorney Hobbs was sure it isn't regulated. Member Cofield suggested striking "outdoor" and

have all Shooting Ranges as a prohibited use. Member McKeithan noted that he had recommended that same idea at the Board's last meeting. It was *consensus* of the Board to strike "outdoor" from Shooting Ranges, thus prohibiting all Shooting Ranges.

Chair Blakaitis directed the Board to review Agricultural Uses. Director Heard noted that Horticulture was on the list at the Board's last meeting and suggested changing it to Commercial Nursery. Vice Chair Murray was fine with the change. Vice Chair Murray suggested that Animal Production and Crop Production, Indoor or Outdoor be changed to Large Scale Animal Production and Large Scale Corp Production, Indoor or Outdoor, and subject them to a Conditional Use Permit since the Board struck Urban Farm from the list at its last meeting. Director Heard stated that if the Board wanted to change it to Large Scale, then it would have to be defined. Vice Chair Murray agreed, adding that if there was an error in the ordinance, he would rather have an error that creates a loophole rather than one that closes the door for something the Board discussed last month and wanted to permit. He added that since Urban Farm was struck at the last meeting, it could be worded as such, "except Urban Farm". Director Heard stated that it could be added to the chart. He added that the term Urban Farm would need to be defined, noting that there are generally accepted definitions for the term. Vice Chair Murray stated that he is concerned with creating a non-conformity since there were people that were already raising chickens, bees and vegetables. He expressed concern that when such use is prohibited, it would be prohibited completely.

Member Forlano asked about dog breeding under Animal Production. He asked if someone in a residential community decided they want to start breeding their dogs, would it be allowed. Director Heard stated that it would fall under the broad term of Animal Production. Member Forlano pointed out that Animal Production is an Agricultural Use. Director Heard stated that it is if it is for the purpose of sale, not personal use. Chair Blakaitis stated that if Member Forlano wants to prohibit something like that for commercial use, he suggests putting Animal Production and Dog Breeding under Commercial Uses and removing it from Agricultural Uses. He clarified that Member Forlano is not talking about an owner breeding a dog but someone breeding dogs to sell. Member Forlano stated he is correct. Vice Chair Murray pointed out that if an owner breeds dogs to sell, it would be the same.

Chair Blakaitis stated that Animal Production and Crop Production, Indoor or Outdoor sounded vague. Vice Chair Murray felt that they could go on any zone in the community and if there is a complaint, a Notice of Violation could be issued and they can come in for a Conditional Use Permit and conditions can be put on the activity to make it more compatible with the Town's Vision Statement. Chair Blakaitis wondered how big a garden can be before it's considered commercial. Member Forlano stated that if the Board did not prohibit a use and a complaint comes in, it could end up in court. Chair Blakaitis suggested moving Animal Production to the Commercial Uses list. Member Cofield asked if Vice Chair Murray was arguing that the use should be permitted. Vice Chair Murray stated that he was arguing that the Board was being sloppy about wholesale prohibiting things without defining what they are. Member McKeithan noted that if it isn't restricted, then someone can bring in a lot of animals and breed them, which would cause a problem. Vice Chair Murray agreed, adding that it can be a conditional use and then the Board can work on the regulations to suit it. He noted that the Town has general requirements under the Conditional Use Permit process for items such as parking and meeting the Dare County Health Department regulations. Member Cofield asked Vice Chair Murray if

he was arguing that Animal Production not be prohibited. Vice Chair Murray stated that, even if the definition is refined now, he felt it should be left as a conditional use.

Chair Blakaitis asked about Commercial Dog Production with more than one pair. Director Heard stated that kennels are prohibited in Commercial Uses. He added that if breeders are keeping dogs in that manner, kennels would be covered. He stated that the intent is more traditional agriculture, but broad enough to encompass other uses. Chair Blakaitis clarified that Animal Production should be stricken. Director Heard stated that it would permit other types of animals. Chair Blakaitis noted that kennels are prohibited. He suggested Commercial Animal Production with more than one pair of animals.

Member Cofield asked if it was currently prohibited. Director Heard stated that prior to this discussion, if someone came in wanting to have a kennel to raise and sell dogs, his response would have been that it isn't permitted, but if they wanted to do it, they would have to go before the Planning Board and Town Council with a text amendment to propose it. If the Board and Council agreed that it was a good thing for Duck, the amendment would be adopted. Member Cofield stated that he goes back to the Vision Statement. He added that while these uses are not specifically mentioned, the Vision for Duck does not envision a lot of these commercial uses that were coming up, including kennels and shooting ranges. He stated that it was not the vision that people see for Duck for the next 20 years. Chair Blakaitis agreed.

Vice Chair Murray pointed out that the Town currently has people that raise chickens and keep bees. Member Cofield stated that in order to do the job that the Board was asked to do, it will have to look at it and view the Town's Vision for the next number of years. He stated that it is a commercial use that is not consistent with the Town's Vision. Member McKeithan thought that the Town would not enforce it if a person was keeping a couple of bees. Director Heard stated that during the most recent legislative session, the state adopted a rule where a town could not prohibit a small scale beekeeping operation.

Vice Chair Murray suggested a Hobby Scale use for hobby uses since it is happening and no one has a problem with it. Member McKeithan thought there will have to be a lot of detail and footnotes, which will make things difficult. Vice Chair Murray pointed out that the activities that people are doing haven't been a problem up to this point. Member McKeithan doubted it would be enforced but it is the idea that if it's not on the list and someone wanted to set up multiple beehives, they could do it. Vice Chair Murray didn't think the Town's policy should be to turn a blind eye. Member McKeithan thought the Board was tasked with preventing large scale bee keeping. Chair Blakaitis stated that the Board needed to define without over-enlarging it and use Vice Chair Murray's suggestion of using the term "Large Scale". Vice Chair Murray added that it would be a motivation to come back to it. Chair Blakaitis agreed.

Director Heard inquired if the Board wished to add the terms "large scale" or "commercial". He asked if there was a preference. Chair Blakaitis suggested the term be "large scale commercial". Vice Chair Murray stated that he preferred "large scale". Chair Blakaitis suggested adding "large scale" to Animal Production and Crop Production, Indoor or Outdoor under Agricultural Uses.

Member Forlano stated that he liked “commercial” over “large scale”, especially if someone is selling something for profit or financial gain. He thought it should be commercial. He added that it should matter if it was in a Commercial District as well. He didn’t have a problem with an owner raising chickens for personal consumption. Member Cofield stated that he liked “commercial” over “large scale”. Chair Blakaitis agreed. Town Attorney Hobbs stated that they could be marked as conditional uses, which would allow the Town to put conditions on a use versus outright prohibiting. Chair Blakaitis suggested making them Commercial and marking them with a “C” in the chart. Director Heard stated that Animal Production and Crop Production, Indoor or Outdoor would be removed from the prohibited uses list and marked as “C” on the chart.

Chair Blakaitis asked the Board for their thoughts on Commercial Nurseries. He wondered why a Commercial Nursery would be prohibited. He didn’t think it was a problem and pointed out that the Town has fruit stands. Vice Chair Murray asked if it should be stricken from the list. Director Heard asked if it should be stricken or given the same classification as Animal Production and Crop Production, Indoor or Outdoor. Vice Chair Murray thought it could be a Commercial Use and would be fine. Chair Blakaitis agreed. Director Heard clarified that it would be listed with a “P” for permitted use on the chart.

Chair Blakaitis asked about the definition of Support Housing for Agricultural Production. Director Heard stated that it would typically be dorms for housing migrant workers. Chair Blakaitis pointed out that the Town doesn’t have any because there aren’t any farms in Town.

Member Cofield asked if Support Housing for Agricultural Production would be stricken from the list. Chair Blakaitis stated that it would be left on the Prohibited Uses list. Director Heard noted that it could be put under the Residential Prohibited Uses. Member Cofield asked if there is an inconsistency as Animal Production and Crop Production are listed as conditional uses but the housing for agricultural workers is prohibited. He asked if the Board found it more objectionable to have housing for people than animal production and crop production. Vice Chair Murray stated that the Town did not allow production to the size that would require that labor. He added that the Town was not allowing commercial production. Member Cofield thought the Board wanted to make it a conditional use and not a prohibited use. Director Heard confirmed that that was what the Board had decided. Vice Chair Murray explained that if it is prohibited on the Commercial list, it would still be allowed as a hobby use by default.

Member Cofield asked what the problem was with adding Support Housing as a conditional use. He asked why it was so egregious. Chair Blakaitis stated that it wasn’t. Member Cofield couldn’t understand why it was prohibited when animal and crop production was allowed. Chair Blakaitis stated it would be allowed if it was approved. Member Cofield suggested putting a “C” on the chart for Support Housing for Agricultural Production. Town Attorney Hobbs stated that the use could be potentially covered by another use. He suggested removing Support Housing from the list. Chair Blakaitis and Vice Chair Murray agreed. Chair Blakaitis suggested that it be removed as it was covered under Employee Housing. It was *consensus* of the Board to remove Support Housing for Agricultural Production from the prohibited list.

Chair Blakaitis directed the Board to review Industrial Uses. Town Attorney Hobbs suggested adding “and Storage” under Warehousing Facilities. He explained that storage would mean that

a use would store items on a commercial level. Director Heard added that it would be a primary use.

Town Attorney Hobbs stated that the Power & Energy Facilities (including nuclear) could be an issue with the North Carolina Utilities Commission. He explained that the Utilities Commission regulated the rates but had a lawsuit with the Town of Kill Devil Hills a few years back dealing with the Town trying to enforce an ordinance regarding heavy utility lines. He stated that the court held that the Utilities Commission had jurisdiction and overruled any action that the Town tried to take. He added that when looking at the statute, where it talks about the Utilities Commission Authority, it isn't just limited to utility lines, but included facilities. He stated that it isn't clear enough to say that a town could not prohibit big, power generation plants. He added that the Board could leave it in but if it was challenged, he thought it will stand a good chance of being overturned by state preemption through the Utilities Commission. He stated that if it isn't a major concern, he suggested that it be removed from the list.

Member Cofield thought it should be left as is. Chair Blakaitis noted that leaving it alone is not striking it from the list. Member Cofield understood and thought Town Attorney Hobbs was suggesting that it be left on the list. Town Attorney Hobbs disagreed and added that if it is removed from the list, the use would be allowed. Member McKeithan asked why it is on the list in the first place. Town Attorney Hobbs stated that he put it on the list along with a variety of different uses and did not have time to do some thorough research since the list first came out. It was *consensus* of the Board to remove Power & Energy Facilities (including nuclear) from the list.

Member Forlano asked if Beverage Manufacturing, Bottling & Processing Facilities is the same as the Outer Banks Brewing Station. Chair Blakaitis thought it is. Vice Chair Murray thought the term "Craft" should be added to that use. Chair Blakaitis and Member McKeithan thought it was a good idea. Director Heard suggested that the term "micro-brewery" could be used. Vice Chair Murray suggested "Micro-Craft Brewery and Micro-Craft Distillery". Chair Blakaitis suggested the following language: "Beverage Manufacturing, Bottling & Processing Facilities (excluding micro-breweries and micro-distilleries)". Director Heard noted that the others could be added to the chart as a conditional uses.

Vice Chair Murray stated that it was discussed at the last meeting the use of Manufacturing, Processing, Assembly & Other Industrial Facilities, Metal Products Facilities (Fabrication & Assembly) and Stone Cutting, Shaping and Finishing Facilities. He added that small scale fine art and jewelry uses were discussed as well. He asked if they could be left on the Prohibited Uses list under the Industrial Uses heading and put Fine, Craft and Folk Art Production under Commercial Uses as a conditional use. Town Attorney Hobbs stated that any time the Board feels there is a use that they wish to add or change or have a subset of another use they wish to prohibit, the Board can clarify the larger use by adding "except for..." Vice Chair Murray offered that it should be done the same way the Board treats micro-breweries. Town Attorney Hobbs stated he is correct. He added that if they are listed in both places, there may be some level of conflict within the code.

Vice Chair Murray suggested the following language: "Manufacturing, Processing, Assembly and Other Industrial Facilities (excluding fine, craft and folk art production)", "Metal Products

Facilities (Fabrication & Assembly – excluding fine, craft and folk art production)” and “Stone Cutting, Shaping and Finishing Facilities (excluding fine, craft and folk art production)”. It was *consensus* of the Board to add the language.

Chair Blakaitis directed the Board to review Accessory Uses. He asked if Agricultural Buildings conflicted with the other Agricultural Uses. He further asked if they should be combined. Director Heard stated that you would be hard pressed to have one without the other. He stated that it seemed to make sense to treat these uses consistently. Town Attorney Hobbs clarified that it would be treated as a conditional use. Director Heard confirmed that that was how the Board chose to treat the other – as a conditional use.

Chair Blakaitis directed the Board to review the chart. Town Attorney Hobbs noted that Hotel Resort was listed under Industrial Use. Director Heard stated that it was under Services. Vice Chair Murray clarified that Gun, Firearm and Ammunition Sales were stricken from the list. He asked if the list would be cross-referenced. Director Heard stated that anything the Board discussed at this meeting, he would make the changes accordingly. Member McKeithan asked if Gunsmithing will not be prohibited. Chair Blakaitis stated he was correct. Vice Chair Murray asked if it could be prohibited in a residential area. Director Heard stated that that it could, adding that it is a use regulated by the state. Member Cofield suggested the Board review the table page by page.

Vice Chair Murray noted that Accessory Apartments under Household Living is a use that Member Forlano brought up at the last meeting. He asked if the Board wanted to do something in the zones that prohibited it in order to force the Board to revisit it. Director Heard stated that there are existing ordinance requirements. He added that someone had obviously put thought into the standards and noted that Accessory Apartments are allowed related to commercial uses. He stated that they are not presently permitted in general residential areas. Vice Chair Murray asked what the mechanism is for the Board to hear it. He further asked if the Board would have to ask Council. Director Heard stated he was correct, adding that it would be a text amendment. He stated that Accessory Apartments is a use that some people will have an interest in and not want to see while others will want to see it. He added that it is a use that needed a larger debate.

Member Forlano stated that he is an artist and into metal sculpturing and stone cutting as a hobby as well as for sale. He asked if he was permitted to do either in his back yard. Director Heard stated that the sales aspect makes it tricky because it is no longer a hobby. Member Forlano stated that it is a home occupation. Director Heard stated that there are ways that it could be permitted currently. Vice Chair Murray asked if the Board should make a consideration for it. Town Attorney Hobbs stated that he was correct. Vice Chair Murray noted that the Board excluded fine, craft and folk art production, which seemed to be what Member Forlano’s hobby is. He added that the Board did not discuss whether it is for commercial use.

Vice Chair Murray stated that there was a public comment regarding the use of Head Shops. He asked if it was prohibited or covered elsewhere. He thought it should be under Retail Sales. He asked if it should be added to Smoke & Vapor Shops. Director Heard stated that Smoke & Vapor Shops were listed as prohibited uses. Vice Chair Murray noted that the Board was fine with the gas station continuing to sell their vaping equipment and cigarettes as well as Tommy’s Market selling cigars since they were accessory uses. Director Heard stated that they were small

portions of what they had in stock, not the primary use of the property. Chair Blakaitis asked if Head Shops are considered drug accessories. Vice Chair Murray thought they are considered drug paraphernalia. Director Heard stated that if the Board wished to expand the term to clarify it, they could do so. Chair Blakaitis suggested that it read: “Smoke, Vapor Shops, and Other Drug Paraphernalia”. Town Attorney Hobbs suggested that they be separated out. He thought that some of the uses under smoke and vapor may be somewhat legitimate and had a better reputation than the paraphernalia even if they are sold in similar types of shops.

Town Attorney Hobbs suggested changing “Wind Energy Facilities” to “Wind Energy Facilities, Supplemental” and add “Wind Energy Facilities, Commercial” in order to match with the definitions in the Code. Vice Chair Murray clarified that “Wind Energy Farms” would be listed under Commercial Uses. Town Attorney Hobbs stated that it would be “Wind Energy Facility, Commercial” instead of “Wind Energy Farms”. He added that “Wind Energy Facilities” would be “Wind Energy Facilities, Supplementary”.

Chair Blakaitis noted that Gunsmiths need to be stricken from the list. Member McKeithan asked if Beverage Manufacturing and Bottling would be changed after the Board included an exception. Chair Blakaitis stated he was correct. Director Heard stated that he will add in the exception as a conditional use.

Chair Blakaitis wondered how Aircraft Hangars would apply to the one house in Duck that has a hangar for the owner’s seaplane. Director Heard noted that it was never a permitted use but if it was determined that it was legal, it could be a legal non-conforming use and be grandfathered so it could be continued to be used. He stated that if the intent is not to have similar types of uses in the future, then creating one non-conformity isn’t a significant issue. Member Cofield asked if the airplane hangar is a structure. Chair Blakaitis stated it is part of the owner’s house. He thought there is nothing wrong with the homeowner landing a seaplane, as the Town could not prevent it, as well as taxiing to the house or tying it to a dock. He wondered what is wrong if the homeowner wants to put the seaplane in his house. Member Cofield agreed, wondering why it is offensive. Chair Blakaitis pointed out that it is more dangerous in a storm sitting outside than inside. Member Cofield thought it should be changed to commercial. Chair Blakaitis thought it would be fine to add Commercial to it.

Member Cofield asked why Aircraft Hangars were considered offensive. Chair Blakaitis stated that no one understood it in the beginning and everyone was up in arms about it. Vice Chair Murray stated that the Town does not prohibit large garages. It was *consensus* of the Board to have the prohibited use read as follows: “Airplane Hangars (commercial)”.

Member Forlano stated that there was a new type of taxi service called Uber. He asked if Uber drivers would be allowed in Duck. Chair Blakaitis stated that they would; all they had to do was to apply for it since the person uses their own vehicle. Vice Chair Murray asked if Pedicab could be stricken. Member Cofield pointed out that golf carts are allowed on the streets. Director Heard responded that they aren’t allowed, unless classified as street legal golf carts. Vice Chair Murray thought Pedicabs could be pulled out and permitted in the VC District. Member McKeithan thought it could be left out unless a person felt strongly about it; then they could come and apply for a text amendment. Vice Chair Murray asked for clarification that Member McKeithan wants to keep it on the list. Member McKeithan stated he is correct.

Member McKeithan asked if the definitions for RS-1 and RS-2 are exactly alike. He thought they are. Director Heard stated that they are. Member McKeithan asked if they are supposed to be. Director Heard stated that it was written that way in the ordinance. Member McKeithan wondered if they are the same, why they are listed as two different districts. He noted that Medium Density Residential (RS-2) should be changed to R-2 to match the chart. Director Heard stated that he will make this correction.

Director Heard pointed out that in Subsection C – Organization of Uses – the intent is for a use that is specifically defined to take precedence over a more general use category.

Vice Chair Murray moved to adopt the text amendments that were discussed to comply with the recent North Carolina Supreme Court decision concerning permitted and prohibited uses in each zoning district with the changes noted during the Planning Board's discussion. Member McKeithan seconded.

Motion carried 5-0.

APPROVAL OF MINUTES

Minutes from the January 13, 2016, Regular Meeting

Vice Chair Murray had a correction to Page 3 and a clarification to Page 8.

Chair Blakaitis to approve the January 13, 2016 minutes as amended. Member McKeithan seconded.

Motion carried 5-0.

OTHER BUSINESS

None.

STAFF COMMENTS

Summary of February 3, 2016 Town Council Meeting

Director Heard stated that there were no applications that the Board had moved forward for consideration of Council at their February 3, 2016 meeting.

Project Updates

Director Heard reviewed the project updates with the Board and audience.

UNC School of Government Training

Director Heard stated that he had forwarded to the Board some training that the School of Government had available. He stated that he had put at the Board's place 10 different training modules with five that would be what the Board directly deals with or could deal with. He added that if the Board was going to attend five of the training modules, all 10 would be available at the same price as five. He stated that he would order all of the training modules that would pertain to the Board as well as the Board of Adjustment.

It was *consensus* of the Board to watch the training modules during the day over multiple days chosen by Director Heard in consultation with the Board members.

BOARD COMMENTS

Chair Blakaitis thanked Town Attorney Hobbs for attending the meeting.

ADJOURNMENT

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

The time was 9:35 p.m.

Approved: _____
Joe Blakaitis, Chairman