

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
March 9, 2016**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, March 9, 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 and Permit Coordinator Sandy Cross.

Others Present: James Braithwaite of Allis Holdings, LLC, John Powers of The Blue Point Restaurant, David Klebitz of Bissell Professional Group, Ken Forlano and Ron Forlano, Jr. of Duck Deli, Sandy Whitman and Mark Leahy.

Others Absent: Council Liaison Chuck Burdick.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for March 9, 2016 at 6:32 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

None.

NEW BUSINESS

Conditional Use Permit 16-002: Application by Forlano Properties, LLC, for a Conditional Use Permit to Expand the Recently Approved Outdoor Dining/Entertainment Area for Duck Deli Restaurant at 1221/1223 Duck Road by Converting an Existing Storage Building to a Bar/Beverage Stand

Member Forlano asked for the Board's permission to recuse him from the discussion and vote on Conditional Use Permit 16-002 due to his relationship with the applicants. It was *consensus* of the Board to recuse Member Forlano.

Director Heard stated that there wasn't a lot to add to the staff report. He added that the proposal was for a property that the Board is familiar with in that it was recently approved for an outdoor dining/entertainment area. He stated that the applicants decided to come back with a request for

a slight expansion of the space to convert an existing shed building into a bar/beverage stand that would serve patrons using the outdoor dining/entertainment area. He stated that this proposal is similar to Coastal Cravings' request last month and there is a similar proposal for The Blue Point restaurant later this meeting.

Director Heard stated that the applicant is seeking a very minor change to the previous approved plan and there are no physical changes to the property and no changes that require any conditions with regard to parking as no seating is being added. He stated that the shed is approximately 130 square feet in size and currently exists behind the Duck Deli restaurant.

Member Cofield noted that the proposal involves a slight expansion of the building. He added that he did not see that in the staff report. Director Heard stated that it isn't an expansion of the building, but of the outdoor dining area. He added that it would extend the outdoor dining area to include the adjoining shed. Member Cofield asked what the Board needed to approve. Director Heard stated that the use itself is a conditional use. So, the conversion of something from storage to something considered to be an addition to the restaurant needs to be reviewed. He stated that staff had a discussion and felt it was something that rose to require an amendment to the existing Conditional Use Permit. Member Cofield asked if the applicant had applied for a building permit. Permit Coordinator Cross stated that they sort of did. Chair Blakaitis asked for clarification. Permit Coordinator Cross stated that the applicant has submitted an application that is incomplete. Director Heard noted that a permit will not be issued until the Conditional Use is approved. Chair Blakaitis clarified that Director Heard did not see any problems in correcting the deficiencies. Director Heard stated that Building Inspector Cory Tate reviewed the proposal and did not see any red flags as far as the conversion of the shed. Permit Coordinator Cross noted that the applicant still needs to obtain Health Department approval.

Member McKeithan pointed out that there is a discrepancy. He stated that what was submitted in the Board's packet was project #101915, dated October 23, 2015 and the drawing talked of outdoor seating for 20 people. He remembered that the maximum seating for outdoor was 18 and the previous drawing dated November 30, 2015 did specify 18 seats. He wanted to make it clear that nothing changed with the maximum number of seats in the entertainment area and that it was 18 and not 20. He added that if the Board accepted the plan the way it was submitted, it reflected 20 seats. Director Heard confirmed that the proposal would only allow 18 seats, as previously approved, and stated that he would ask the applicant to submit the most recently approved site plan reflecting the correct number of seats.

Chair Blakaitis pointed out that there was mention that it was a bar/beverage stand. He clarified that a bar would require additional parking depending on the seats at a bar. Director Heard stated that there aren't any bar seats proposed. Chair Blakaitis asked if it was just a bar, would additional parking be required. Director Heard stated that it could if there was seating associated with it. Chair Blakaitis stated that in the applicant's letter to the Town, it was clearly stated that there would not be a bar. He asked why it was referred to as a bar/beverage stand. Director Heard stated that the term was used to encompass what is being served there. He stated that the applicant had chosen to use the term "beverage stand" and staff wanted to be clear that this does not mean that they will only be serving soda. Chair Blakaitis suggested that the word "bar" be stricken so there would be no confusion.

Member McKeithan agreed with Chair Blakaitis in that certain areas of the Conditional Use Permit referred to it as a beverage center, which has a different connotation than sitting at a bar. Director Heard stated that this proposal was going out to adjoining property owners and he wanted the public that they understand fully what the intent is. Chair Blakaitis didn't think they would understand the intent and stated that he would like the word changed.

Chair Blakaitis noted that when there is a non-conformity in the setback, it remains as one. He asked when a non-conformity was required to be made conforming. Director Heard stated that the building cannot be moved or expanded in any way that will increase its non-conformity. He explained that if the applicant was proposing to put an addition on the building, it would have to go on the side of the building that conforms and not increase or expand within the required setback. Chair Blakaitis asked about the 50% rule. Director Heard stated that if the building was removed or destroyed by actions of the applicant, then anything that was put back in would have to comply with the current standards of the ordinance. He added that if it was damaged due to a catastrophe such as a hurricane, they would have the right to replace it in the present location.

Vice Chair Murray asked if the estimated cost for the project was submitted with the building permit. Permit Coordinator stated that she did not have the cost, but thought that Ron Forlano might have it. Ron Forlano stated that the projected cost would be under \$5,000. Vice Chair Murray noted that the Board had added the second condition concerning the timing of sidewalk and parking improvements, because of cost concerns with the previous permit. He wasn't sure if the Board was comfortable with that. Chair Blakaitis clarified that Vice Chair Murray was asking if the Board was comfortable with keeping the condition. Vice Chair Murray stated that if the Board needed to revisit the timing of the improvements, because of the cost. Chair Blakaitis thought it was a minor cost compared to what the applicant was originally facing and why he wanted the extension. Vice Chair Murray stated that it was less than the parking and sidewalk.

Member Cofield asked Ken Forlano what the projected costs are for the renovations. Ken Forlano stated that he had not put together a full cost estimate, but just came up with a plan. He stated that the building was already in place so the renovations will entail putting up fiberglass wall board and some electrical and plumbing work. He added that the cost isn't much since there isn't a lot of work that has to be completed. Member Cofield stated that he is concerned and struck by the approval of the Conditional Use Permit application where a strong pitch was made to defer the improvements because of the cost and the fact that the applicant did not have the funds. He stated that he is concerned in that two months after the Conditional Use Permit was approved, the Board is looking at an application that involved increased costs. He went on to read a portion of the minutes from the December 9, 2015 Planning Board meeting where Ron Forlano had indicated that he wished to defer the improvements until they could pave the entire parking lot with permeable pavers and put the sidewalk in the place at their cost. He further read that Ron Forlano had noted that it would be expensive and that they did not have the funds to do the work at this time, then asked that the permit be issued with the condition of installing a five foot concrete apron in front of the restaurant with the understanding that the apron and paved lot would be constructed in the winter of 2017 or before as funds become available.

Member Cofield stated that he was concerned that after two months, the Board was looking at an amendment to the application that involves cost without addressing the unusual approval that

was granted a few months ago. Ken Forlano stated that plans change and things have to be reorganized. He added that before anything happens, he understands that the parking issue needs to be addressed first. He noted that, going into the summer season, he doesn't feel that funding will be an issue, which means he will not have to borrow \$5,000. He stated that he has had extreme difficulty in the past borrowing money and it was better for him to make the improvements as he goes through the summer season and the funds become available, not trying to borrow additional funds.

Member Cofield stated that he was not questioning the business. Ken Forlano stated that the conversion of the shed into the beverage stand is not a lot of money compared to the overall project. He added that it is a just an ongoing process. He stated that he doesn't understand Member Cofield's issue with how much money he is spending to make his business better. Member Cofield stated that his concern is that the Planning Board consented to the request two months ago to defer the improvements which would benefit the Town, because Mr. Forlano did not have the funds. He added that the new application was to do additional work which involves funds that he assumed were not available two months ago. Ron Forlano stated that the funds that Member Cofield was referencing are the parking lot out front and the pavement that will be constructed at their cost. He added that it is a \$65,000 cost that they asked to defer. He stated that the parking for the two vehicles in front of the house that were required, plus three spaces behind the house cost \$6,900, which they will complete before they operate the new area. He noted that the only deferment of cost is the \$65,000 to create a sidewalk and pavers. He stated that they are talking about \$6,900 to create two parking spaces that are required in order to have three picnic tables and are estimating installing wallboard and running electrical outlets in the shed at a cost of approximately \$5,000. He pointed out that Town Council will not be holding a public hearing on this CUP until April so they aren't planning to apply for a building permit until Council approves or disapproves this CUP.

Member Cofield stated that he did not remember the \$65,000 price tag, but wanted to focus on the statement where Ron Forlano had said that he wanted to defer the project because he does not have the funds to do the work. Ron Forlano stated that the work he was referring to is the sidewalk. Member Cofield thought it was an unusual move for the Board to consent to a year's deferral to grant the request. He reiterated that he was concerned about approving something that involved additional funds given what was said two months ago. Ron Forlano stated that it still stands that they do not have \$65,000, but do have \$11,000.

Vice Chair Murray inquired if Ken Forlano has some money that can be spent or will have the cash flow in May or June after the CUP is approved to perform some improvements to the shed, whereas the improvements to the parking area would be more expensive. He stated that, from a logistics standpoint, the parking area improvement would be something that Mr. Forlano will have to prepare for in the winter and pay in a lump sum up front. Ron Forlano stated that they cannot consider the sidewalk and parking lot because it will take time to line up the contractors to do it. He agreed with Vice Chair Murray that it will need to be done in the winter. Vice Chair Murray questioned if this approval will be attached to the pavement or as a separate item.

Chair Blakaitis understood the applicant's situation where they can spend \$5,000 now without having to spend \$65,000. He saw the applicant's point and didn't think it is an issue since the other Conditional Use Permit was approved. He didn't think the Board should tie the shed into

the other Conditional Use Permit. He thought it was explained well. Member McKeithan agreed. Vice Chair Murray stated that he can see both sides of the situation. Chair Blakaitis thought the Board had a consensus that this is not a problem. Vice Chair Murray stated that, moving forward, he will think differently about deferring things.

Member McKeithan moved to recommend to Town Council approval of Conditional Use Permit 16-002 with the conditions as outlined in the staff report. Vice Chair Murray seconded.

Motion carried 3-1 with Member Cofield dissenting.

Conditional Use Permit 16-003: Application by John Power, Representing the Property Owner, Allis Holdings, LLC, for a Conditional Use Permit to Expand The Blue Point Restaurant at 1240 Duck Road by Establishing an Outdoor Seating/Entertainment Area, including a Wooden Deck and Bar/Beverage Stand

Vice Chair Murray stated that he worked for a general contracting company that has completed some of the carpentry and building work for Allis Holdings, LLC at the Waterfront Shops. However, this Board is reviewing the use portion of the permit and the company he works for is not involved with the proposed site improvements, parking or wastewater. They are just building the building, which was subject to Building Inspector Cory Tate's review and not part of what the Board will be reviewing.

Chair Blakaitis asked if any Board members felt there was a conflict with Vice Chair Murray reviewing and voting on Conditional Use Permit 16-003. Member McKeithan thought it would be appropriate for Vice Chair Murray to recuse himself. Member Cofield agreed with Member McKeithan, but felt it was Vice Chair Murray's decision and not for him to make the decision. Chair Blakaitis explained that Vice Chair Murray was asking the Board for their opinion. Member Cofield thought it should be left to Vice Chair Murray but agreed with Member McKeithan that Vice Chair Murray should recuse himself.

Chair Blakaitis asked Vice Chair Murray if he personally had a conflict. Vice Chair Murray stated that he did not have one, but would not have brought it up if he wasn't interested in the opinions of the other Board members. Chair Blakaitis didn't think it was a conflict. Member Forlano agreed with Chair Blakaitis that it wasn't a conflict. With the decision of two Board members feeling it was a conflict and two feeling it wasn't, Chair Blakaitis asked Vice Chair Murray to decide. Vice Chair Murray stated that he will not recuse himself. He added that he will not be personally enriched by the decision of the Board.

Director Heard stated that the property was surrounded by other commercial properties and Currituck Sound to the rear. He added that the only residences in the surrounding area are on a bluff across Duck Road and front on Gifford Circle. He stated that there does not appear to be any potential or significant impact on the residences from this proposal.

Director Heard stated that the proposal is to establish a seasonal outdoor seating and entertainment area for the Blue Point Restaurant. He explained that it will include construction of a wooden deck with a wooden pergola over the open portion of the deck; construction of a bar/beverage stand on the deck; grading a flat grassed courtyard between the existing restaurant

and the proposed outdoor seating/entertainment area; an addition/enclosure under the roof of the existing northern side porch to accommodate a small janitorial equipment room; the addition of a walk-in cooler behind the dumpster enclosure near the northern boundary of the property; the relocation of an underground propane tank from the proposed outdoor seating/entertainment area to a location 30 feet to the east; the removal of the existing dumpster pad and relocation of these dumpsters, including the addition of a third dumpster, in an angled location slightly to the north; a reduction in the size of the existing loading zone to a 12 foot by 22 foot loading area for smaller deliveries; and establishing a new 12 foot by 35 foot loading area within the existing paved area directly adjoining the restaurant. Director Heard noted that if approved, the Conditional Use Permit would amend the previously approved CUP 14-004, which was granted on December 3, 2014.

Director Heard stated that once the project is completed, it will result in a slight reduction in the lot coverage on the property. He added that the roof over the bar/beverage stand and adjoining seating will add 372 square feet of lot coverage. He noted that the removal of the concrete dumpster pad and portion of an asphalt area north of the restaurant will reduce the lot coverage by 436 square feet, resulting in a net reduction of 64 square feet. He reminded the Board that the maximum lot coverage requirement in the Village Commercial District is 60% and with the resulting lot coverage at 39.7%, the proposed improvements will comply with the Town's standard.

Director Heard stated that the addition of the proposed 1,440 square foot outdoor seating/entertainment area will increase the minimum parking requirements for the site. He stated that the minimum parking required to accommodate the existing and proposed development rounds down to 181 parking spaces. He noted that the amount of parking available presently complies with the minimum parking requirements for the site.

Director Heard stated that the current application does not propose any changes to the existing parking layout on the Waterfront Shops property. He noted that there are several aspects of the parking layout that do not comply with the Town's current parking standards. He explained that the Waterfront Shops and Stan White Realty have shared certain aspects of their access and parking. He added that the Town standards require a minimum setback of five feet for parking spaces from the side property lines. He noted that in evaluating several existing, overlapping situations, the Town used an interpretation that a parking space will count toward the parking requirements of the site which contain a majority of the space. He stated that even though portions of Parking Spaces 153, 154, 155, 156 and 181 are located on the Stan White Realty property, they are counted toward the parking requirements for the Waterfront Shops. He noted that as part of the approval for CUP 14-004, the applicant obtained approval for a special exception to allow the parking setback encroachments on both the subject property and the Stan White Realty property.

Director Heard stated that the applicant is required to provide a loading zone at least 12 feet by 25 feet in size. He noted that the site currently contains a 12 foot by 55 foot loading zone along the northern side of the northern access drive. He added that the applicant is proposing to reduce the size of the loading zone to be 12 feet by 22 feet for smaller deliveries in order to accommodate the new location of a dumpster enclosure and walk-in cooler to the west. He stated that the applicant is also proposing to establish a new 12 foot by 35 foot loading area

within the existing paved area directly adjoining the restaurant, which will comply with the Town's minimum standard.

Director Heard stated that the proposed improvements will remove 436 square feet of existing concrete and asphalt, 378 square feet of which was located in the CAMA area of environmental concern. He explained that the site plan proposed to add 372 square feet of covered structure within the area of environmental concern. He noted that the applicant must obtain a CAMA minor permit from the NC Division of Coastal Management prior to the issuance of a building permit for the bar/beverage stand and decking. He stated that the applicants have worked with Permit Coordinator Cross on the initial review for CAMA approval. He stated that it is staff's understanding that the applicant will have to obtain a CAMA permit, but there aren't any concerns that the permit will not be issued.

Director Heard reviewed the Outdoor Dining Standards with the Board and the audience:

1. *Covered outdoor dining areas shall not be enclosed with permanent sidewalls and shall not be air conditioned. Any permanently enclosed space shall be considered part of the interior portion of the eating establishment.* Director Heard noted that even though there will be a small portion of the area under the roof, the proposed outdoor seating area does not have any walls and is not air conditioned.
2. *Parking shall be provided for outdoor dining areas in accordance with the standards in Section 156.094. The applicant shall delineate the outdoor dining area on a floor plan, drawn to scale, and shall provide a calculation of the square footage of this area.* Director Heard noted that the Waterfront Shops property contains enough parking spaces to accommodate the proposed outdoor seating/entertainment area.
3. *Outdoor dining areas located in the common space of group developments shall be directly contiguous to the frontage of the unit containing the eating establishment.* Director Heard noted that the proposed area is not contiguous to the front door or frontage of the restaurant. He added that the proposed location to the northwest of the restaurant provided convenient access for customers, isolated from the activities of other businesses on the Waterfront Shops property, and does not appear that it will interfere with other businesses on site.
4. *The location and use of the outdoor dining area shall not obstruct the movement of pedestrians, goods or vehicles, and shall not be located in driveways or parking areas.* Director Heard noted that the proposed area is located within an existing grassed area away from driveways and parking areas. He stated that the majority of customers will access the outdoor seating/entertainment area through the restaurant.
5. *Outdoor dining areas shall not be located in required front yards and landscape or buffer areas.* Director Heard noted that the proposed area is located within an existing grassed area to the north of the restaurant. He added that the proposed bar/beverage stand and deck will comply with the minimum building setbacks.

6. *Adequate solid waste and recycling containers shall be provided and shall be serviced and maintained in a neat and clean manner. Outdoor dining areas shall be kept free of litter, debris and food refuse at all times.* Director Heard noted that the applicant planned to provide the containers and will comply with the standards.
7. *Live music and other forms of entertainment conducted in outdoor dining areas shall not occur after 10:00 p.m.* Director Heard noted that the applicant intends to comply with the standard.

Director Heard stated that staff was recommending approval of the Conditional Use Permit, subject to the following conditions:

1. The applicant must acquire the necessary permits for all new buildings and renovations included in the proposal to ensure compliance with applicable standards.
2. The applicant must obtain approval for the Dare County Environmental Health Department to connect the bar/beverage stand to the existing septic system prior to the issuance of a building permit and use of the outdoor seating/entertainment area.
3. The applicant must obtain a CAMA minor permit from the NC Division of Coastal Management prior to the issuance of a building permit for the bar/beverage stand and decking.
4. The applicant must obtain approval from the Community Development Department prior to installation of any exterior lighting, which must comply with the Town's lighting standards and may require a building permit.
5. 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.
6. Entertainment activities must comply with all applicable Town standards, including the noise ordinance.

Vice Chair Murray pointed out that there was a note about the parking location in the staff report. He asked if the special exception was for Parking Spaces 153-156 and 181. Director Heard stated he is correct. He added that it was granted with the approval of the CUP in 2014.

Member McKeithan asked if Parking Spaces 153-156 can be used by guests of the Waterfront Shops. Director Heard stated that they can. Member McKeithan asked if there is any kind of designation to allow guests to use those parking spaces. Director Heard stated that there isn't a designation on the site, but the spaces are counted for the Waterfront Shops and noted as such. Member McKeithan didn't think a shopper at the Waterfront Shops will realize that they can park there since the spaces are located in the parking lot of Stan White Realty. Chair Blakaitis stated that it had been pointed out to him that the employees usually park in those spaces.

Member McKeithan stated that under the proposed improvements related to the outdoor dining area, it spoke of retractable awnings. He asked for an explanation. Director Heard stated that the applicant can provide a better description.

Vice Chair Murray stated that Director Heard had pointed out that Item #3 was an issue that he thought deserved attention. He asked if, procedurally speaking, the Board can, as they make a motion, follow along with Director Heard's reasoning or if it needs to be added to the conditions. Director Heard stated that the Board can specifically state that it meets the intent of the regulation.

David Klebitz of Bissell Professional Group was recognized to speak. Mr. Klebitz stated that he was representing John Power and Jim Braithwaite. He stated that he wishes to add a few things to what Director Heard had reviewed with the Board. He stated that the mop closet is being relocated to accommodate a restroom. He stated that no additional coverage is proposed at the site. He added that the connectivity between the restaurant and the beverage area is via a level deck with a ramp connecting the restaurant and the restroom, making it contiguous with the existing development. He stated that they have not officially filed for an application with the Health Department but have met with them and received a verbal approval. He stated that he expects it to be approved.

Chair Blakaitis asked about the original wooden deck. John Power of The Blue Point Restaurant was recognized to speak. Mr. Power stated that the retractable awning is a term that he had David Klebitz put into the site plan, because he had some violations in the past that he had caused. He added that he wants to be clear in that the use of the retractable awnings will be very helpful in shading and rain-proofing a larger area than the roof. It is his understanding that retractable awnings are not counted as lot coverage. Member McKeithan asked if the awnings will be attached to the roof. John Power stated that they come in all different shapes and sizes and will be attached just under the soffit. He added that the pergola will also be attached under the soffit.

John Power stated that when he obtained approval for the original wooden deck in 2013, he thought he had approval to operate a bar on it. He stated that when CAMA told him that he could not operate the bar, it was removed. He stated that his intention with the original deck was a waiting area for short and long term customers.

Chair Blakaitis moved to recommend approval of CUP 16-003 as presented with the conditions recommended by staff. Member Cofield thought the comments made about the interpretation of Item 7 regarding live music should be included.

Chair Blakaitis amended his motion and moved to recommend approval of CUP 16-003 as presented in concurrence with staff's recommendations, including #3. Member McKeithan seconded.

Motion carried 5-0.

APPROVAL OF MINUTES

Minutes from the February 10, 2016, Regular Meeting

Vice Chair Murray had corrections to Pages 5, 8 and 11.

Chair Blakaitis to approve the February 10, 2016 minutes as amended. Member McKeithan seconded.

Motion carried 5-0.

OTHER BUSINESS

Discussion of “Lunch & Learn” Workshop Schedule

Director Heard stated that he received responses from four Planning Board members regarding possible dates for a Lunch and Learn Workshop. He stated that based on the responses he received; he would be holding one a month. He added that the dates that worked for everyone was March 23, 2016, April 21, 2016 and May 19, 2016 and would start at 1:00 p.m.

Director Heard stated that the reason he wanted to bring the workshops up was to see how much the Board wished to accomplish at each one. He stated that the different training modules ranged from 22-38 minutes each. He stated that if two were held, it would be approximately one hour long. He stated that a third could be added so it would be an hour and a half for each workshop.

Chair Blakaitis asked how many modules should be done. Director Heard stated that there were six that were directly applicable to the Planning Board and four that were more applicable to the Board of Adjustment. He added that the Board of Adjustment and Town Council would also be invited to the workshops. Chair Blakaitis stated that he had no interest in the workshops that were applicable to the Board of Adjustment.

Member Forlano asked what time the workshops would be held. Chair Blakaitis stated that they would be held at 1:00 p.m. Member Forlano asked how it would fit in with Vice Chair Murray and Member McKeithan’s work schedules. Member McKeithan stated that he was technically retired. Vice Chair Murray stated that he may be able to attend depending on his schedule.

Member Cofield recommended that two modules be held at each workshop. He asked that they be advertised. Director Heard stated that he would have to advertise them to the public as there could be quorums.

STAFF COMMENTS

Summary of March 2, 2016 Town Council Meeting

Director Heard stated that the Town Council approved the Cravings Restaurant Conditional Use Permit with the conditions recommended by the Planning Board. He stated that Council chose to set a public hearing for the prohibited uses ordinance at their April 6, 2016 meeting. He noted that Council had also discussed the issue earlier in the day at their Retreat. He added that they voted to keep the public hearing; however, there were some specific concerns that he would need

to address related to the existing uses. He stated that the Board may be asked to do some more work regarding the uses and definitions.

Chair Blakaitis stated that the Town Council had circled around as to whether they should hold the public hearing because there may be too many changes that they would need to make and if there were too many, they should send it to the Planning Board. He added that if it was sent back to the Planning Board, there would not be enough time to put it on the April 6, 2016 agenda to get it passed. He stated that the Council decided to keep the public hearing to get public input and at their April 6, 2016 meeting, they would either decide to approve and send items back to the Planning Board or disapprove it and have the table removed and send the whole thing back to the Board.

Vice Chair Murray asked if the Council had concerns similar to the Board's. Chair Blakaitis stated that there was. He added that Town Attorney Robert Hobbs had told the Council that if they had major changes, they should not hold the public hearing and to send it back to the Planning Board.

Member McKeithan stated that the Council had specific items that they didn't believe should be on the list. Chair Blakaitis agreed and added that the Board was not concerned about it because they could easily be addressed. He stated that Council got a little off track with discussing generalities of the chart and finally Council Liaison Burdick convinced them to hold the public hearing. He stated that there was a still a chance it could come back to the Planning Board after the public hearing.

Member McKeithan noted that Town Attorney Hobbs had suggested that Council approve it now and go back for further review as the easiest way to address the issue and protect the Town. Chair Blakaitis thought it was a good possibility that it will happen. Member Cofield thought that Council could have addressed it in such a way that it would have pushed the public hearing back by one month. Chair Blakaitis agreed.

Project Updates

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

BOARD COMMENTS

Member Cofield asked about the tree that was recently cut down at the corner of Marlin Drive and Duck Road. Director Heard stated that the trees were dead. Member Cofield asked if, due to the recent Board of Adjustment hearing, a permit was applied for to take the trees down. Director Heard stated that a permit is not required if it is determined that a tree is dead. Chair Blakaitis stated that the trees weren't of the size that would need a permit. Director Heard replied that one was and the other wasn't. He added that he spoke to the owner about the trees. Member Forlano stated that the dead trees were a hazard and were very close to the sidewalk and the road. He added that over the years, branches have fallen on the sidewalk.

ADJOURNMENT

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

The time was 7:57 p.m.

Approved: _____
/s/ Joe Blakaitis, Chairman