

**TOWN OF DUCK  
PLANNING BOARD  
REGULAR MEETING  
September 19, 2018**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, September 19, 2018.

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

Absent: None.

Also present were: Director of Community Development Joe Heard and Council Liaison Jon Britt.

Absent: Permit Coordinator Sandy Cross.

Others Present: Mark Martin of Sandmark Construction.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for September 19, 2018 at 6:34 p.m.

**PUBLIC COMMENTS**

None.

**OLD BUSINESS**

**Text Amendment Ordinance 18-06: Proposal to Amend Section 156.126 of the Zoning Ordinance by Establishing Standards for the Scale of Single-Family Residential Development**

Director Heard stated that the Board had discussed a variety of options and alternatives regarding the issue and made a recommendation to Town Council to move the ordinance forward. He stated that Council discussed the proposed ordinance during its public hearing on September 5, 2018, voted to table any action on the ordinance, and sent it back to the Planning Board. He noted that there are three points identified by Council as items they want the Board to consider:

- Consider greater size allowances for residences on very large lots.
- Consider a greater size allowance for lots in the 20,000 – 24,999 square foot range.
- Evaluate the necessity of the maximum septic tank capacity standard.

Director Heard pointed out that the maximum capacity for the septic systems is consistent with the Town's current standards. He explained that the Town's current tiered standards limit septic capacity, even on the largest lots, to no more than 18 occupants. He stated that 18 occupants

equals 1,080 gallons of septic capacity. He noted that the Board's initial proposal would maintain that same standard moving forward.

Director Heard stated that Town Attorney Robert Hobbs has stated that he doesn't feel that septic capacity standards are as enforceable as maximum residence size standards, which are more clearly enforceable under State law. He stated that Town Attorney Hobbs doesn't feel as comfortable should that particular aspect of the ordinance be challenged. He noted that the proposed change will make it a Town standard instead of having it tied to the Health Department if the Board and Council opt to leave that standard in the ordinance.

Director Heard stated that in looking at the maximum size for the second largest tier of properties (20,000 – 24,999 square feet) under the proposal that the Board presented, the maximum house size in that category is 5,500 square feet. He noted that with the large residence incentive, a house up to 7,000 square feet will be allowed in that tier. He offered his opinion that those standards provide a very generous allowance to property owners. He pointed out that there would be fewer non-conformities under that proposed tier than any of the other tiers. Based on these facts, he did not see a strong justification or need to increase the maximum house size above the figure previously proposed in that tier. He reiterated that it seems to be the most appropriate of the tiers in terms of creating the fewest non-conformities.

Director Heard stated that for lots over 25,000 square feet, staff has outlined several different options that the Board can consider if they decide to recommend a change in that category. He stated that the previous proposal had a maximum square footage of 7,000 square feet. One of the quirks of the Board's initial proposal was establishing a maximum 7,000 square feet for this tier as well as an overall maximum cap of 7,000 square feet. So, in the highest tier, there was no benefit for a property owner to use the large residence proposal because they could not exceed 7,000 square feet anyway. He stated that there were several comments made from Council as well as members of the public regarding whether or not 7,000 square feet is large enough for residences on very large lots.

Director Heard stated that staff outlined a few options for the Board to consider. He explained that one is to establish additional tiers beyond the 25,000+ square foot category. He added that it could be arranged as follows:

- 25,000-29,999 square feet would have a maximum size residence of 6,000 square feet.
- 30,000-34,999 square feet would have a maximum size residence of 7,000 square feet.
- 35,000-39,999 square feet would have a maximum size residence of 8,000 square feet.
- 40,000 square feet or greater would have a maximum size residence of 9,000 square feet.

Director Heard stated that another option is to simply increase the maximum size allowance in the 25,000+ square foot tier. For example, he explained that the Board could increase the size in the largest tier from 7,000 square feet to 8,500 square feet.

Director Heard stated that another option is to increase the overall cap on maximum size of residences. He explained that rather than having an overall 7,000 square foot maximum, it could be broken up and reduced to 6,000 square feet in the 15,000-19,999 square foot tier; 7,000 square

feet in the 20,000-24,999 square foot tier, and 8,500 square feet in the 25,000 square foot or greater tier.

Director Heard stated that a final option would be to establish a maximum size for residences in tiers based on floor area ratio. He explained that the concept of floor area ratio involves a direct correlation between the size of the lot and the maximum size of the residence that can be built on a lot. He added that tiers would not be needed for this option. He stated that this concept involves somewhat complicated calculations and may not be easily understood by a layperson. He noted that another concern is the potentially substantial difference in house sizes permitted using this approach.

Director Heard noted that the concerns expressed at the public hearing with Town Council were mainly related to the Palmer's Island subdivision. He stated that another option for the Board to consider is that Palmer's Island is the only subdivision zoned RS-2, so it is a distinct, separate zoning district with different standards. He stated that if the Board is looking to address Palmer's Island, which contains a many of the properties that would be made non-conforming by the proposal, an option is to simply do something within the RS-2 district that allows larger houses. He cautioned the Board that that approach would only address the Palmer's Island subdivision and not the other large lots in town.

Director Heard stated that prior to the Council's public hearing, there were conversations about information that some of the Council members would like to have. Since the issue has been sent back to the Planning Board, staff has had an opportunity to put together a lot of information about the existing lots and house sizes. He added that staff wants the Board to have that background information, which is summarized in the staff report. He thought the intent is to get a better understanding of how many lots in Duck will be affected by the proposed ordinance. He added that, with the maximum size of residences, the Board needs to look at how many houses will become non-conforming if the Town adopted this type of standard. He stated that staff evaluated nearly 2,400 single-family residential lots in Town and noted that there are approximately 2,200 existing residences.

Director Heard stated that under the Board's prior proposal to Council, there would only be 12 residences made non-conforming by a 7,000 square foot cap. He noted that a majority of these homes existed before Duck incorporated. He stated that seven of the 12 homes are located in Palmer's Island, a couple of large residences are located on the sound in the Osprey Landing subdivision, the event house at 1340 Duck Road, the large residence at 101 Settlers Lane, and an oceanfront residence with 10 bedrooms on a 16,000 square foot lot at 166 Four Seasons Lane. He reiterated that these 12 homes are non-conforming as it relates to the 7,000 square foot maximum.

Member Cofield asked about the size of the house at 101 Settlers Lane. Director Heard stated that it is 10,967 square feet, which makes it the second largest house in Duck.

Vice Chair Murray clarified that the square footage of the lot for the house at 166 Four Seasons Lane is measured from the first line of stable natural vegetation. Director Heard stated that, to be consistent, staff is using lot sizes in the Dare County tax records.

Director Heard pointed out that when staff ran the numbers, almost 84% of the existing housing stock in Town is smaller than the Board's proposed allowance in the lowest tier with non-conforming lots of 9,999 square feet or less. He stated that these homes are under 3,500 square feet in size, which is the maximum size for the smallest category for the non-conforming lots. He stated that these figures document the Board's proposal on the lower end is very generous with what it allows.

Director Heard stated that there are only 88 lots that are 25,000 square feet in size or greater, a relatively small portion of the lots in Town. He noted that 81 of these large lots are already developed, leaving very few undeveloped large lots. He stated that between distributing the original staff report and now, staff had an opportunity to work with these numbers even further to create the table distributed to the Board just prior to the meeting. He explained that the table shows the number of existing residences that would be rendered non-conforming under the Board's initial proposal. He noted that there are five tiers under the proposal and in the lot size of 9,999 square foot or less, there were 82 lots that were that size. He added that the 3,500 square foot maximum result in only two existing houses that would become non-conforming. He stated that there are 625 lots in the 10,000-14,999 square foot size, 31 of which would become non-conforming.

Director Heard stated that well over half the lots in Town are right at or around 15,000 square feet, which became the standard for development through most of the Town. He added that 50 lots in this tier would become non-conforming. He stated that in the 20,000-24,999 square foot tier, 147 lots currently exist and only two non-conformities would be created. He noted that the only tier that concerns him from a planner's standpoint is the highest tier of 25,000 or greater square feet. He explained that there are a total of 88 lots, with most of them developed, but there would be ten houses, including seven in Palmer's Island, that would become non-conforming. He pointed out that it is something that deserves a look as a higher percentage of the properties would become non-conforming. He stated that when developing an ordinance, it typically isn't designed for the 1-2% outliers, but to make allowances that address the other 98%, the vast majority of properties. Based on the percentage of potential non-conformities, he thought there may be some value in the Board taking a look at another way to address allowances for the largest lots.

Member McKeithan stated that in the current zoning regulation, Section 156.126 lists the number of bedrooms based on lot size. He added that the code states it is a maximum of four bedrooms for lots up to 9,999 square feet. He added that it goes on to say that lots greater than 25,000 square feet have a maximum of eight bedrooms. Director Heard stated that the current ordinance is based on occupancy, not bedrooms. He added that it is arranged by tiers but based on occupancy per Health Department permits. Member McKeithan clarified that it is not bedrooms, but number of residents. Director Heard stated that at one time, the 25,000 square foot and up category allowed eight bedrooms, but when it was no longer allowed according to State law, it shifted to 18 occupants. Member McKeithan asked if the occupancy requirements will still be in effect if Council approves the proposed ordinance. He thought the Board is eliminating them the way it structured the ordinance. Director Heard stated that under the Board's initial proposal to Town Council, the tiered occupancy standards were eliminated. He added that there was an overall cap on the capacity of septic systems that equates to an 18-occupant residence. Member McKeithan agreed but added that the issue is that the Town is trying to not have nine bedrooms

or 18 residents in the smaller sized homes. He noted that the Board's proposal would allow a homeowner to cram as many bedrooms in a residence as they see fit. Whereas in the existing regulations, there are restrictions based on tiers. He didn't think the Board meant to take out the septic size restrictions but is effectively doing so if it is not put back in. He suggested that the Board's recommendation to Council include maximum septic capacity for each tier of lot size.

Chair Blakaitis pointed out that the Board is not eliminating tiers. He asked if Member McKeithan wishes to add another column for septic capacity. Member McKeithan stated he is correct. Vice Chair Murray thought Council and Town Attorney Robert Hobbs might have an issue with it. Director Heard stated that Town Attorney Hobbs had shared with Council that he does not feel that maximum septic capacity standards are as legally defensible as the square footage approach, which is clearly allowed by statute. He noted that the ordinance would be taking the maximum capacity and shifting it from the standards that the Health Department was using and making those Town standards. He stated that from that standpoint, it would address one of the Town's main concerns as far as becoming more self-sufficient and keeping the authority with the Town as opposed to it being with another agency.

Council Liaison Britt noted that Town Attorney Hobbs' position on the septic capacity for nine bedrooms is an overall cap on the entire thing and not tied to each tier. He isn't sure Town Attorney Hobbs would feel the same way if it was tied to each tier because the general theme is that anything trying to control the number of bedrooms could be perceived that way. Member McKeithan felt strongly that regulating septic capacity is critical to what the Board is doing because the Town could be faced with the problem of smaller houses and lots having tremendous density. He noted that there are regulations in effect currently and proposed that the Board leave it in the ordinance. Chair Blakaitis suggested as the Board moves along, they can see how it will fit.

Member Whitman asked if a minimum square footage is required for bedrooms. Council Liaison Britt stated that there are no interior requirements. Vice Chair Murray recalled a lot of discussion regarding the unenforceability of it and that being the whole reason why the issue was in front of the Board. He added that all of the "teeth" was taken out of the ordinance because a room doesn't have to be labeled as a bedroom. Member McKeithan stated that the issue became the problem with Dare County changing the way they interpret bedrooms. He added that now the Town is proposing to take the authority instead of Dare County. Vice Chair Murray stated that he does not recall the Board being able to write an ordinance that everyone is satisfied with. Chair Blakaitis noted that it wasn't strictly due to that.

Vice Chair Murray inquired if most of the public hearing comments and concerns were over the Palmer's Island subdivision. Director Heard stated that with the exception of one, every public comment was directly related to the Palmer's Island subdivision. Vice Chair Murray asked if the Board can write an ordinance that deals with Palmer's Island, leaving the standards for RS-1 as written, and see if problems arose in the future. Chair Blakaitis agreed. Council Liaison Britt stated that there is concern from some Council members about providing flexibility for recombining lots and only addressing RS-2 district would not resolve that issue. He thought it would be an interesting discussion if the Board left the ordinance the way it is and changed it to RS-2. He added that Council wants to see more proportional tiers.

Vice Chair Murray noted that Director Heard had made a comment about 84% compliance with the proposed ordinance. He asked if it was for lots specifically under 14,999 square feet. Director Heard stated that under the Board's initial proposal, there was a category with a tier for lots that are 9,999 square feet or smaller in size. Vice Chair Murray clarified that it was for the first tier only. Director Heard stated that the first tier is proposed to allow up to a 3,500 square foot house. His comment was that after looking at all of the data, almost 84% of the existing homes in Town, no matter the size of the lot, are less than 3,500 square feet. This is a very generous allotment for the small lots. Vice Chair Murray pointed out that the problem may be limited to the Palmer's Island subdivision, since that is where most of the big lots are located. Chair Blakaitis agreed. Council Liaison Britt reiterated some Council member's sentiment about potential lot recombination. Chair Blakaitis stated that there was conversation about it at the Council meeting but didn't think it was a high priority. He added that he remembered going back to the Council Retreat where the comments were made to keep it simple. He stated that if the Board does something to the RS-2 district and not to the RS-1 district, it will cause an issue. He added that if it comes up in the future, the Board can do something about it then. Council Liaison Britt thought it will come back to the Planning Board. Chair Blakaitis didn't think it was an issue at the Council meeting. Council Liaison Britt disagreed, adding that it is ultimately the Planning Board's recommendation. He explained that there is some sentiment to giving flexibility for recombining lots and being able to build houses. He added that a lot of it is over personal property rights and having homes be proportionately fair to the size of the lot.

Member Cofield stated that he is hearing a different message at this meeting as opposed to previous meetings, which is the statute states that the Town cannot regulate house size by the number of bedrooms. He pointed out that it was how the whole conversation began six months ago. He added that it wasn't anything else. He stated that it seemed that Member McKeithan's question gets back to that issue. He asked if the Town does not regulate bedrooms based on house size, can it be done based on lot size. Director Heard stated that the Town cannot regulate the number of bedrooms in a house. Member Cofield asked if the Town can regulate occupancy based on the lot size. He thought it will get at Member McKeithan's concerns. He added that if the Board is concerned about putting a lot of people in a small house, it should not be done based on the square footage of a house but based on the lot size. He asked Member McKeithan if this would address his concern. Member McKeithan stated that it would not. He stated that the existing Section 156.126 has bedroom limitations based on lot size. Chair Blakaitis stated that Member McKeithan is looking at the prior ordinance that is no longer valid. Member McKeithan corrected himself and stated that the current limitation are based on occupancy and is arranged in tiers based on lot size. He stated that he wanted it to stay in there on the tiered basis. Member Cofield clarified that it will be occupancy based on lot size and not house size. Member McKeithan stated he is correct. Member Cofield stated that he is fine with that.

Member McKeithan pointed out that what the Board set out to do has not been done. Member Cofield agreed. Member McKeithan thought that under the previously recommended ordinance, the tiers would go away. Member Cofield stated that he was fine with putting them back in. Member McKeithan didn't think it had been discussed and if the Board is not careful, it will be completely out of the ordinance. Then the Town will be faced with a smaller house containing unlimited occupants in the future.

Member Cofield commented that the Board is looking at how many lots are in Town and how many houses, basically looking at what is existing in the Town right now. He added that this does not necessarily mean a year from now or any time in the future. He thought that the Board is not addressing that there is nothing in the code that will prohibit someone from buying two or three lots and combining them into one lot. He stated that is the concern he has with the direction the Board is going. He stated that he is also concerned that there is nothing in the discussion that accommodates people that want to build a large house.

Director Heard stated that a lot of the conversation has centered around septic capacity and the individual that wants to build a large home. He stated that there is a house in Town that has 10 bedrooms and is less than 4,500 square feet in size. He noted that a house of that size would be allowed on a 15,000 square foot lot. He offered that as long as it can be enforced, having the septic limitations helps to prevent that type of situation. He stated that the septic capacity standards reinforce that perspective of someone being able to build a larger house without as many bedrooms in it.

Council Liaison Britt stated that one of the issues that came up with the house that started the discussion is that offices became bedrooms. He asked what keeps the Health Department from doing this. He further asked what made the Health Department do it. He wondered if the Town goes with the tiered system and sets the septic capacity, what would force an owner to comply. Director Heard pointed out that it would no longer be a Health Department standard and the Town would enforce the rules. Member McKeithan noted that it is a big change.

Vice Chair Murray wondered what he is missing in the discussion. He stated that he discussed the tiered occupancy idea relentlessly for three Planning Board meetings and everyone told him it was impossible, and that the Town cannot enforce it. He added that the Board members are now discussing it like it is a great idea. He thought it was as he had brought it up at previous meetings. Director Heard stated that Town Attorney Hobbs had offered that he was not as comfortable with the concept. The Board is not saying to replace maximum size with the septic capacity, but if it is something that the Board wishes to pursue, there will be value to it.

Council Liaison Britt stated that if the Board decides to do the tiered approach, Town Attorney Hobbs may not like it, but the Town does not have to do what he says. Chair Blakaitis agreed with Council Liaison Britt's comments. Member Cofield noted that the Board has been discussing the issue for several meetings.

Vice Chair Murray pointed out that the ordinance that is currently in place is perfectly adequate and has been for a long time. He added that it may need some tweaking to deal with the Palmer's Island subdivision. He stated that he does not understand the discussion on square footage. He pointed out that if the occupancy and density was what the Board wants to deal with, the Board should tweak the ordinance to put it in the Town's control instead of the Health Department. He stated that he understands Director Heard's comment that Town Attorney Hobbs finds the ordinance less favorable without the square footage. He stated that the square footage component is a blunt instrument while the occupancy component is a fine-tuned instrument. He asked how both can be put in an ordinance and not compete with each other.

Chair Blakaitis noted that Town Attorney Hobbs found it questionable because the septic capacity is in the ordinance, not the square footage. Member McKeithan stated that Town Attorney Hobbs did not rule against the septic capacity, but noted it is not as easy to defend. Chair Blakaitis stated that the Board does not have to follow Town Attorney Hobbs advice, as the Town can do what it wants.

Vice Chair Murray stated that the Board tried every way around it when discussing the ordinance. He noted that the Town controls the amount of parking one can have. Council Liaison Britt stated that the theory is that there are other controls on the lot that will control it. Vice Chair Murray stated that they may be indirectly getting back to bedrooms and that is Town Attorney Hobbs' problem. He added that parking has historically been by the number of bedrooms and he doesn't understand why the Board can't change parking per occupant, as he thought he was told that it can't be done that way.

Mark Martin of Sandmark Construction was recognized to speak. Mr. Martin stated that most of the homes he builds are for year-round residents. He stated that a lot of the issues impact the people that live here and want to renovate their homes. He stated that he appreciated Town staff and the detail they've gone through with the draft ordinance. He stated that the information was very well received. He stated that he understands that the General Assembly passed that a municipality cannot regulate the number of bedrooms directly or indirectly. He stated that it is a question as to whether there can be a maximum cap and he isn't sure about it. He stated that a municipality can regulate by bulk or square footage. He added that when Director Heard started putting the numbers together, he saw a correlation with certain sized houses and the number of bedrooms. He stated that what the Health Department requires is going to restrict things as much as they do now. He added that the problem is that most people think that there is a bigger problem in that they feel that someone can come in and build a 10-bedroom home on a 10,000 square foot lot. He stated that when Dare County had control over things, it didn't matter how big the house was. He didn't think if the Board goes down the road to try to regulate occupants, there will be pushback on it.

Mark Martin stated that he is working with a gentleman that owns a home in Palmer's Island who wants to renovate his house and they are trying to figure things out. He noted that this house is one of the smaller ones in the subdivision. Member Cofield asked if it is a rental home. Mark Martin stated that it is not. Mr. Martin stated that he and the homeowner are trying to figure different scenarios for the renovation – one is about 7,500 square feet, one is 8,200 square feet, and the third is 8,500 square feet. He stated that the homeowner had attended the public hearing at the Council's September 5, 2018 and was against restrictive limitations on the upper tier in the ordinance.

Mark Martin stated that, in looking at the options, he thought if the Board is just looking at the Palmer's Island subdivision, if the tier was capped at 8,500 square feet, it will solve the homeowner's problem. He pointed out that there are currently many non-conforming structures in the Palmer's Island subdivision. Director Heard stated that he had many different conversations with the owners in Palmer's Island and all should be well aware of the draft ordinance.

Mark Martin thought that with the resources that the Town has available to it, the draft ordinance will not change a lot. He added that if he combines two lots, all of his septic would change to the base standards. He didn't know if some of the recombination issues that were brought up at the Council meeting are valid at this point. In his experience, people are trying to subdivide larger lots into smaller ones, so they can have two four-bedroom houses instead of one eight-bedroom house.

Member Cofield stated that the Outer Banks Homebuilders Association has had an opportunity to look at the new ordinances, but he isn't sure how many municipalities had new ordinances. He asked if the Homebuilders Association has local ordinances that they prefer. Mark Martin stated that the issue is house size. He pointed out that the Town of Nags Head decided they did not want any homes over 3,500 square feet. To accommodate certain situations, Nags Head bumped it up to 5,000 square feet. He added that the Town of Southern Shores chose 6,000 square feet. Member Cofield didn't think there is any question for a larger sized house and lot with the number of owners that want to build a house to the maximum square footage. He added that from his standpoint, he doesn't want to limit a homeowner from building a large home on a lot that can accommodate it. He stated that he is in favor of large lots in order to build a large house. He stated that is happening in Duck now and the proposed ordinance would deny the opportunity for an individual to combine two or three lots. He stated that he does not have a problem with limiting the number of bedrooms as his interest is in an owner that wants to build a larger house and isn't going to rent it out. Mark Martin stated the Outer Banks Homebuilders Association took a stand back in the early 2000's and said that eight bedrooms was enough. He stated that they were trying to restrict that limit.

Chair Blakaitis did not think that recombination should be at the top of the Board's list as he doesn't think that recombination is a big issue facing the Town. He pointed out that there aren't very many vacant lots in Duck and he thought it rare that someone would buy three houses and combine the lots in order to build one big house. Member Cofield disagreed. He stated that he can name six people in other communities that have bought multiple properties with houses on them, demolished the existing houses, and constructed one big house. He agreed that these instances are few and far between. He didn't want to deny a property owner the opportunity to recombine lots. Chair Blakaitis noted that the Town isn't denying the opportunity to recombine. Member Cofield stated that the Town is as it is regulating the square footage of a house. Chair Blakaitis asked which direction the Board wants to take on the issue.

Member Whitman asked what the average size septic is for a house. Vice Chair Murray stated that it depends on the number of bedrooms in the house. Director Heard stated that the health Department's ratio is 120 gallons per day for each bedroom. Vice Chair Murray pointed out that there are many different ways to get at the septic capacity. Member Whitman agreed. Chair Blakaitis noted that another issue is the water table in that one of the houses being renovated in Duck could not install the septic because of the water table. Vice Chair Murray stated that is the result of the new septic rules for the State.

Chair Blakaitis asked the Board if they want to consider splitting the ordinance up between the Palmer's Island subdivision and what was currently in place or come up with a new ordinance. Member Whitman thought Palmer's Island should be separated from the rest of the Town.

Vice Chair Murray agreed with Member Whitman but was confused on what the feedback from Palmer's Island. He pointed out that Mark Martin's client wants to renovate up to 8,500 square feet. He asked if the other comments at the Council public hearing were for homes that are smaller or larger. Director Heard stated that the majority of the Palmer's Island owners that he spoke with are not opposed to the concept of what is being proposed to Council. He stated that there are a couple opposed to the draft ordinance but the others are of the same opinion in that they may have an 8,500 square foot house, but they aren't planning to expand it in the foreseeable future. He noted that the ordinance will limit their ability to do something modest to their home since it would increase an existing non-conformity. He stated that there are multiple comments from homeowners that do not want to see what happened at 118 North Baum Trail again. That was why they support the general concept of the ordinance because they do not want to see something of that scale and character. He noted that there were aspects of it that the Town cannot control. One of the main themes he heard from some of the homeowners was that the property is rented weekly and the Town cannot control that.

Member Cofield stated that in a previous meeting, it was hard to discuss larger sized homes and owner-occupied homes. He stated that Mark Martin's customers are the kind he is concerned about. He stated that Vice Chair Murray had introduced a few months ago the notion of having a conditional use permit for homes over a certain size. He asked if the Town can regulate the number of bedrooms under a conditional use permit. Director Heard stated that the Town cannot. Member Cofield asked if it can be regulated through occupancy. Director Heard thought it can to some degree the same way the Board is proposing now, with the recognition that it may not work if it is ever legally challenged. Council Liaison Britt didn't think a conditional use permit can limit bedrooms. He added that it can change setbacks, landscaping, and parking requirements, but not occupancy or bedrooms. Director Heard stated that it doesn't matter whether it is a conditional use permit or not in the ordinance, it wouldn't change the Town's authority to enforce bedrooms or occupancy. Member McKeithan stated that part of the issue is allowing people to build a large house to live in, which won't work because the homeowner can sell it and the new owner can turn it into a 15-bedroom rental home.

Member Whitman asked what the covenants allow in the Palmer's Island subdivision. Mark Martin stated that he isn't sure. Director Heard added that he has a copy of the covenants in his office but doesn't know the answer offhand. Member Whitman asked if a homeowner in the Palmer's Island subdivision can build an 8,500 square foot house. Director Heard stated that they approved a home recently that was nearly 10,000 square feet, so clearly that is allowed. Member Whitman reiterated that he wants Palmer's Island to be separate in the ordinance. Director Heard stated that lots within Palmer's Island range from 27,000 square feet to over 67,000 square feet on Dare County's tax records, which is almost an acre difference between lots within the subdivision. He stated that there is a pretty wide range of lot sizes within Palmer's Island. Chair Blakaitis pointed out that the subdivision is not very large. He asked how many lots were in it. Director Heard stated that there are 14 lots.

Director Heard stated that in the Board's staff report, it showed that Palmer's Island had 14 lots that are 25,000 square feet or greater, adding that there are 74 lots of the same square footage that are elsewhere in town. He stated that while dealing with the RS-2 district is a way to make accommodations for Palmer's Island, there are five times as many large lots that will not be addressed if the Board and Council only addresses Palmer's Island.

Vice Chair Murray noted that there are two residences over 10,000 square feet in size. He asked if they are both in Palmer's Island. Director Heard stated that one is and one isn't. Vice Chair Murray stated that the Board is looking at limiting the square footage because of an issue in Palmer's Island. He added that what he is hearing from the residents of Palmer's Island is that they are fine with their big houses but do not like one particular house. He stated that they would likely not be as bothered by the big house if it wasn't a rental home. Vice Chair Murray pointed out that the Board is not discussing an ordinance about large rental homes, but an ordinance about the square footage of homes. He stated that sometimes the Town just can't solve the problem with an ordinance. He noted that the Town is not allowed to regulate bedrooms because the State said the Town can't. He stated that if someone is not conforming with the zoning ordinance, no heated square footage can be added if it is more than 50% of the value of the structure. He stated that if the house was built in 1985 and is over 8,500 square feet, the homeowner could go over the 50% value in cosmetic changes alone and the Town would be telling them that they either can't change a cabinet unless they tear a portion of the house down. He thought the Board is going really far and the ordinance has to be worded in such a way that there will be no non-conforming properties because the Town is limiting the conforming properties.

Director Heard clarified that there is no 50% rule that applies to zoning non-conformity for a residence. He noted that one of the main things that the property owners were happy to hear about was what would happen to their home if a disaster struck. He added that it can be rebuilt. He noted that if the homeowner purposefully demolished a home, what they rebuild will have to be in conformance with the current standards at that time. He stated that if there is a casualty loss, it can be built back like it was. Vice Chair Murray asked if that includes homes in the current V zone with the current FEMA regulations. Director Heard stated that he is not talking about flood standards, but the zoning standards. Vice Chair Murray clarified that a house would have to be brought up to V zone compliance. Director Heard stated he is correct, adding that the Town standards and zoning standards will allow a house to be reconstructed even if it was in a non-conforming location, size or height.

Vice Chair Murray stated that the Board is trying to solve a problem by dealing with something else. He stated that the issue came up because of a large rental property circumventing the existing rules. He thought its characterization as a rental property rather than its bulk is causing the issue. He added that the Board is discussing the regulation of bulk. Member Cofield stated that the reason the Town got involved is due to the one house in Palmer's Island and letting that drive the discussion regarding how to deal with it. Member McKeithan questioned if Member Cofield is talking about the size of a house that can be allowed on a lot. Member Cofield stated that he is not bothered by a homeowner that has a large lot and wants to build a large house. He stated that he prefers it to be owner-occupied, but if it is 10 bedrooms on a large lot, he doesn't have a problem with it. Member McKeithan stated that if the Town is not careful, the large house can go from 10 bedrooms to 18 bedrooms. Vice Chair Murray noted that the Town is not regulating bedrooms. Member McKeithan disagreed, adding that the Town may regulate bedrooms and occupants indirectly by limiting the capacity of septic systems. Member Cofield stated that he isn't saying that it won't change, but his point is that the trend is going down with fewer rentals rather than going up.

Chair Blakaitis asked if Member Cofield is in favor of the tiered system. Member Cofield stated that the tiered system is fine. He stated that he would like to see either no cap or a bigger cap for the maximum size of a house. He stated that if someone built an 8,500 square foot home and put in an indoor swimming pool, it will be an issue as it would be about 2,000 square feet.

Chair Blakaitis stated that the Board is going in circles with the discussion and will either wind up in the same place or not agreeing on anything. He explained that the Board got to this point because Palmer's Island had a problem due to the Health Department not seeing things the way the Town does. He stated that the rules the Town put into effect when the State changed its rules involves using the Health Department to regulate occupancy. He added that it did not solve the problem in Palmer's Island because the homeowner had a few offices that were converted to bedrooms and the Health Department did not support the Town. He stated that the Board is asked to amend the ordinance so the Town has more control over the situation. He wondered how the Town can get more control. He asked if during the period of the current ordinance, there were any houses that were satisfactorily constructed or renovated. Director Heard stated that approximately 35 houses were built that met the standards and one that met the standard as written but not the intent. Vice Chair Murray noted that other things keep homes compliant such as lot coverage and parking. Chair Blakaitis agreed.

Member Whitman asked about the nine-bedroom rule. Council Liaison Britt explained that with the septic tank capacity cap, the ordinance will say a home can have nine bedrooms if the language stayed in the ordinance. Member McKeithan added it would be 18 occupants. Council Liaison Britt agreed. Vice Chair Murray asked why the Town cannot limit the tiered system with septic tank size. He thought he was told that it cannot be done. Director Heard stated that Town Attorney Hobbs had advised that he doesn't feel septic limitations are as defensible, but also purposefully did not say the Town cannot do that. Vice Chair Murray felt that the Board can go back to the ordinance and put the septic tank size and occupancy limits in it. Council Liaison Britt stated he felt that Town Attorney Hobbs was okay with an overall cap but may have concerns about a tiered or indirect approach at restricting bedrooms. Vice Chair Murray agreed. Member McKeithan noted that it is currently in the ordinance. Council Liaison Britt stated that it can be added to the ordinance and see what Town Attorney Hobbs says about it.

Director Heard stated that the Board had the same conversation four years ago in that staff had proposed a combination ordinance that included both limitations on square footage and septic permit occupancy. He stated that the Board felt that they wanted to use an approach that was most similar to what they had before, something more direct and simple. He added that the Board chose to recommend an ordinance based on occupancy and dropped the maximum square footage standards. He noted that Council agreed and adopted the ordinance. He stated that Town Attorney Hobbs advised the Town that it was not the best approach from a legal standpoint, but it was what Council was most comfortable with moving forward.

Member Cofield suggested a 35,000 square feet tier allowing a 10,000 square foot house. He also suggested that for anything above 10,000 square feet, the lot size should be 50,000 square feet or greater. He stated that those standards would get at most of the concerns he had. He added that he doesn't have a problem with adding what Member McKeithan suggested in a new ordinance and trying to address his concern. He stated that he is concerned with limiting the size house of an owner who wants a large house. He added that if Council had approved what the Board

previously recommended, there will be a homeowner that will not be able to build his home, which concerns him.

Member McKeithan stated that he went back to the Town's 2027 Vision and the CAMA Land Use Plan. He stated that the Board represents all the residents of Duck and he doesn't think the Board knows what the majority of residents in Duck want. He noted that 7,000 square feet is a very large amount when compared to the Town of Nags Head, which has tightened its regulations to 5,000 square feet, and the Town of Southern Shores which is at 6,000 square feet. He pointed out that the article regarding the house at Palmer's Island read that in the Town of Kill Devil Hills, they performed a survey on whether the Town should develop additional regulations to limit the size of a structure and 81% of the responses stated that they want more restrictions. He added that the Town of Duck seems to be going in the opposite direction of the other towns. Member Cofield pointed out that there will be very few people who will be building a small home. Member McKeithan thought it was the case in the Town of Kill Devil Hills at one time and now they have 20-bedroom homes. He stated that Duck could be going in the same direction.

Vice Chair Murray pointed out that the large oceanfront homes being referenced are driven by economics that Duck does not experience. He added that Duck may experience those forces if it is not careful. He stated that he has a third option that may make the Board members happy. He stated that he has lived with the Town of Nags Head's ordinance through two permits and had to go through their score card, adding that their ordinance is cumbersome, but thought it may be the way to deal with his and Member Cofield's concerns. He added that the Town of Nags Head's ordinance is different in that they want everyone to build an L-shaped home. He stated that he hated to task Director Heard with figuring out what type of house the Board wanted to see. He thought if the Board goes to a scoring system for the larger houses, he will be in favor of the 7,000 square foot limit and anything over that, the person will have to follow the scoring system.

Chair Blakaitis asked how the Board can make the scoring system. Director Heard stated that the provisions can be incorporated into the standards for large residences. He clarified that the Town is not regulating architectural styles, so he doesn't think it appropriate as a Town to dictate what style of house should be built. He stated that even though he stayed away from architectural guidelines in the draft, there are other standards in the ordinance that were presented to Council regarding landscaping, minor increases in building setbacks, building facades, and breaking up a massive façade. He stated that a few of those items either came from or are similar to what the Town of Nags Head has in its ordinance.

Vice Chair Murray wondered if the Board can develop something that instead of focusing on architectural features, it can have a scoring system whereby if the applicant is willing to use a much greater setback, they would score higher and obtain more square footage. He thought it would address Member Cofield's concern. He wondered if the Board could go with a 5,500 or 7,000 square foot cap with the caveat that an owner wanting to build a structure larger than that will have to follow the scoring category of the ordinance. He noted that the Town of Nags Head's started at 3,200 or 3,600 square feet, which he thinks is draconian, but the lots are smaller. Member McKeithan pointed out that one can never go over 5,000 square feet in Nags Head. Vice Chair Murray agreed, adding that he thought that figure is arbitrary. Member McKeithan stated that by conforming with all the guidelines, the setback could be reduced,

which was one of the things Nags Head allowed. He added that if an owner does everything right, they still cannot exceed the 5,000 square feet. Vice Chair Murray agreed.

Vice Chair Murray stated that Duck could have the scoring system where the higher the score is, the more square footage is allowed. Chair Blakaitis asked how the scoring will be applied. Vice Chair Murray stated that it would depend on Director Heard to come up with a way to apply the scoring. Chair Blakaitis asked what the scores would be based on. Vice Chair Murray thought Nags Head's is a good example, but he thought setbacks are the biggest issue. He thought the bigger the setback, the bigger the house. Chair Blakaitis clarified that the Town can stay with the 7,000 square feet but wondered how the ordinance would be crafted. Vice Chair Murray disagreed, explained that the scoring system would not be needed unless an owner wanted to build a big house.

Director Heard stated that on Page 6 of the staff report, there is a starting point for what Vice Chair Murray is discussing. He asked if there are other things that the Board wants to add to what is already proposed. He stated that maximum size is already there, with an allowance if someone wants to build something larger. However, it will not allow larger houses on non-conforming lots. He explained that if a homeowner has a lot that is 15,000 square feet or greater, they will be eligible to build the larger house. Member Cofield stated he is fine with that option.

Vice Chair Murray thought the Board can simplify the ordinance. He explained that for lots 25,000 square foot or greater, the cap could be at 7,000 or 8,500 square feet. He added that an option at that point could just be greater setbacks. He offered that a homeowner could go to 10,000 square feet if they double their setbacks. He noted that at that point, the Town would be dealing with his and Member Cofield's concerns. He asked if Council would be happy with this option. Council Liaison Britt stated that he isn't sure, but that he would personally be fine with it. Vice Chair Murray doesn't think it is complicated if limited solely to setbacks. He added that if someone wants to build anything over 7,000 square feet, the setbacks will double. Chair Blakaitis pointed out that setbacks could impact the accessory structures on a lot. He stated that he doesn't think Vice Chair Murray is wrong, but it may be an issue if the homeowner wants to put in a pool or tennis court. Vice Chair Murray pointed out that the owner could buy a second lot.

Member McKeithan clarified that if 7,000 square feet is the maximum, but if there is a big enough lot to increase the setbacks, Vice Chair Murray is proposing a maximum square footage limit on the house. Vice Chair Murray stated that he does not have any maximum in mind and thought the square footages can be tiered with the setbacks. Member Whitman thought there should be a limit. Council Liaison Britt agreed, adding that there should be a cap. Member McKeithan stated that he is in favor of a septic maximum of 1,080 gallons a day. Member Cofield stated that he doesn't have a problem with the septic capacity, but thought if a person wants to build a large house, they should have the ability to do so. Member McKeithan pointed out that it is accomplishing what Member Cofield wants with regard to building a large house. If the septic capacity is not in place, the next homeowner can change it to an even larger house that would not fit in. Chair Blakaitis thought it should be put in the ordinance. Council Liaison Britt agreed.

Vice Chair Murray stated that the Board needs to determine what the cap should be. He explained that the Town of Nags Head's ordinance stated that a large house is anything over 3,200 to 3,600 square feet and an owner can build up to 5,000 square feet if they use the scoring system. He stated that the ordinance can state that an owner can build up to 5,500 square feet or 7,000 square feet on lots at 25,000 square feet or greater. He stated that he is comfortable with going with the setbacks for anything over 7,000 square feet unless Director Heard sees an issue with it.

Member Cofield agreed with Vice Chair Murray that the increase in the setbacks will take care of his concern and could diminish the negative aspects of a large house. Vice Chair Murray noted that it will address the negative impacts on the neighboring properties and also deal with Fire Chief Donna Black's concern from a fire perspective.

Mark Martin pointed out that if side setbacks are increased, the first thing to go will be the decks. He stated that decks will be removed from the façade in order to maximize the house. Mark Martin stated that with a recombination, it would be fine, but he thought part of the issue with the 7,000 square foot limitation is it needs to be at least 8,000 or 8,500 square feet. He added that the General Assembly does not look favorably on regulating design features. Director Heard noted that the Town cannot dictate the design guidelines, but as an incentive, the Town can give the homeowner something in exchange for compliance with architectural standards.

Vice Chair Murray understood the decking comment but doesn't see how much decking there would be on a 100-foot-wide lot. Mark Martin stated that the house in Palmer's Island has 10-foot decks on almost all sides. Vice Chair Murray asked how wide the lot is. Mr. Martin stated that he isn't sure. Vice Chair Murray clarified that it is an existing home. Mr. Martin stated he is correct.

Council Liaison Britt reminded Vice Chair Murray that several meetings prior, he had said the same thing about making smaller setbacks on the side yards to prevent a long, skinny look. He added that it is possibly why 81% of the people in the Town of Kill Devil Hills want to limit similar large houses. Vice Chair Murray stated that it wasn't his idea to limit the size of houses in Duck, but tasked with the job, something has to give, or the Board will continue to discuss the issue ad nauseum. He stated that if the Fire Department is concerned about the bulky house that closer to an adjacent property, at some point someone that wants to build a bigger house will have to be able to. He added that if the 7,000 square feet is not the right size and 8,500 square feet makes more sense, he is fine with it. He stated that he isn't advocating limiting the size of the square footage of a house, but at the same time, he is an advocate of moving forward.

Member McKeithan stated that he is not in favor of going over 7,000 square feet. Member Cofield asked Member McKeithan if he would be comfortable with 7,000 square feet as the base. Member McKeithan stated he is and pointed out that is the figure the Board is discussing. Chair Blakaitis noted that it isn't the maximum. Member McKeithan stated that 7,000 square feet was the maximum unless the Board could come up with some design features. He stated that he is not in favor of going up to 8,500 square feet. Chair Blakaitis clarified that Member McKeithan is not comfortable with anything over 7,000 square feet as the base. Member McKeithan stated he is correct.

Vice Chair Murray clarified that Mark Martin's client is working on deciding whether to tear down or remodel their home. Mark Martin stated that it was a potential client and they have been in discussions for about a year and a half. He stated that his client came to him with a design and gave him a price. They were working backward from there to figure out if redesigning it gets his client where he wants to be while keeping the character of the house and neighborhood. Vice Chair Murray asked that if setbacks are not fully addressed, the architectural requirements that Nags Head had would make more sense. Mark Martin stated that from his client's perspective, he wants to design his own house.

Chair Blakaitis asked if the Board can do the math fairly if they decide that is the direction everyone wants to go. He thought doubling the setbacks may not be what the Board wants to do, and it may need more studying. He asked if the Board is to hinge on that approach and needs more calculations, would they want to postpone the discussion to another meeting. Vice Chair Murray thought the Board will have to. Chair Blakaitis stated that he is concerned about the math. Director Heard stated that if the Board will agree not to rehash everything at their next meeting, he can put together some concepts to address the issues that were brought up. He stated that if the Board can agree on an approach, staff will plug in the numbers and come up with something.

Chair Blakaitis stated that he is willing to accept what was discussed based on the tiered approach with the 7,000 square foot maximum. He stated that he will not support anything that removed the 1,080-gallon septic capacity and felt it needs to stay regardless of what Town Attorney Hobbs stated unless the Council votes it out. Director Heard stated that the draft ordinance has an overall cap. He asked if another column should be added with tiers for the septic capacity. Chair Blakaitis stated that as long as it applies to everything, he doesn't care where it is in the ordinance.

Member Cofield noted comments about Town Attorney Hobbs opinion that the tiered approach is a problem. Chair Blakaitis stated that it isn't. Council Liaison Britt stated that it could be. Member Cofield stated that if it pops back up again, then the maximum can be bumped up. Director Heard asked if he should add another column with the tiers or have it separately as a cap if the overall maximum was preferred. Member McKeithan stated that he wants to leave the tiers in the ordinance. Chair Blakaitis stated that the Board can look at it when Director Heard brings it back. He added that Director Heard can put it in there for the Board's consideration.

Vice Chair Murray asked if information can be gathered from Fire Chief Black regarding her concern over the setbacks. He suggested the double setbacks for those that will be buying multiple lots. He added that he wants to know how much separation Fire Chief Black wants between an 8,000 square foot house and the adjoining 5,000 square foot house. He stated that if she wants the rental homes to be required to have sprinklers, the Planning Board is not the body to address that. Council Liaison Britt agreed.

Vice Chair Murray noted that 20 feet is the commercial building setback, so he understands Fire Chief Black wanting more space, but needs to know how much more. Member Cofield thought all the Board members are comfortable with greater setbacks. Chair Blakaitis stated that Director Heard should come up with a proposal for the Board to discuss at its next meeting.

It was *consensus* of the Board to have Director Heard prepare something similar to Option C in the staff report with the items that were discussed.

### **Review/Discussion of CUP Application Checklist**

Director Heard stated that staff incorporated all the comments and changes suggested at the Board's last meeting are incorporated into the draft checklist. He added that he obtained the wording from Town Attorney Hobbs regarding contact between the applicant and other parties or members of Council and Planning Board, which is at the bottom of the draft checklist.

Member Cofield stated that the note at the bottom of the checklist puts the Planning Board and Town Council on the same plane. He added that the conditional use permit before the Council is a quasi-judicial hearing, which was discussed previously. He noted that it is not a quasi-judicial hearing at the Planning Board level and doesn't see an issue with going out to the property in question before the meeting. He stated that he does not want to be on the subject property and not talking to the property owner. He stated that he does not like the wording that notes the Town is discouraging contact between the applicant and members of the Planning Board. He stated that he is fine with that wording for Town Council, but he doesn't see any reason that it needs to be in there for the Planning Board members. He stated that he also has a problem with the wording regarding the Planning Board participating in communications before the meeting. He stated that he sees no reason for the first sentence in the note where the Town discourages contact. He reiterated that the Planning Board does not hold quasi-judicial hearings.

Director Heard stated that the Planning Board is part of the quasi-judicial process. He stated that the Board discussed before that the attorneys and the School of Government who do this for a living advised staff that the Board should not be part of the process at all. Director Heard stated that as a conditional use permit, it is iffy to have the Board involved at all. He added that it was a decision that was made by the Council to involve the Board in the review process. He noted that there are many municipalities throughout the state that use a Planning Board to conduct some level of review prior to this type of application going to Council, so it is not uncommon. He stated that the Planning Board does not have any more rights than the Town Council in terms of what it can and cannot do as they shepherd the application through the process. He stated that the Board is not holding a formal public hearing but is still part of the quasi-judicial process.

Vice Chair Murray asked if the wording can be changed. He added that it is strange to go to the site and try not to speak to people. He asked if the wording can be clarified so that the idea would be that the Board members will not pre-deliberate the case. He added that if a Board member goes out to the property and asks to see a particular item, that would be an issue, but it isn't a discussion of what may be approved. Director Heard understands how the first sentence is worded in such a way that it could be an issue, but it doesn't say that the Board members can't discuss anything, but they aren't supposed to be discussing the merits of the application.

Member Cofield suggested changing the wording from: "...to discuss the particulars..." to "...to discuss the merits..." Director Heard stated that he can ask Town Attorney Hobbs if he would be willing to change the wording. Chair Blakaitis thought the wording should be kept as it is written. Director Heard stated that if the Board wants him to run anything by Town Attorney

Hobbs, he will be happy to do so. Chair Blakaitis stated he could but doesn't think it is necessary.

Council Liaison Britt thought there is nothing wrong with going on the subject property and interacting with the applicants but added that the members should state at the meeting that they did so and that it will not affect their decision. He stated that he has done that a couple times. Member Cofield didn't like that the Town is discouraging him from contacting the applicant.

Vice Chair Murray stated he is fine with the document. He stated that it will be odd as the Board members will have to state before the public hearing whether or not they went on the subject property.

Vice Chair Murray moved to approve the conditional use permit checklist as presented. Member McKeithan seconded.

Member Whitman asked when Council approves the checklist and when it will go into effect. Director Heard stated that it is a guideline for staff and applicants and will not go to Council. Council Liaison Britt concurred. Member Whitman asked when a conditional use permit goes to Council and they vote on it, would the guideline take effect then or if attorneys need to get involved. He thought there should be a timeframe. Director Heard stated that conditions of approval are accepted when the actual findings and conditions document is produced so it would involve the attorneys but should not take that long. Member Whitman suggested that it be put in this document. Chair Blakaitis asked how it would be added. Member Whitman wasn't sure. Vice Chair Murray stated that the applicant is applying to do something they want to do, so it would be immediate. Member Whitman stated that they cannot if Council signed off on it and something needed to be written about it. He added that he wants the applicants to know that they cannot start the work until the attorneys are finished with their work. Director Heard pointed out that the conditional use permit spells out the conditions that were adopted.

Chair Blakaitis asked if it should be on the list or not. Director Heard stated that it could be put under Application Process. He suggested the following wording: "The findings and conditions document will be produced following the decision of Town Council." Chair Blakaitis asked for an amended motion.

Vice Chair Murray amended his motion to include the new language. Member McKeithan seconded.

Motion carried 5-0.

### **NEW BUSINESS**

None.

### **APPROVAL OF MINUTES**

#### **Minutes from the July 11, 2018, Regular Meeting**

Member Whitman moved to approve the July 11, 2018 minutes as presented. Member Cofield seconded.

Motion carried 5-0.

### **OTHER BUSINESS**

None.

### **STAFF COMMENTS**

#### **Summary of September 5, 2018, Town Council Meeting**

Director Heard updated the Board on the September 5, 2018 Council meeting.

#### **Project Updates**

Director Heard updated the Board and audience about several Town projects.

### **BOARD COMMENTS**

Member Cofield asked for an update regarding the tables outside of Tullio's Bakery that were not approved to be out there. Director Heard stated staff had an opportunity to review the permits related to Tullio's Bakery. He stated that it stated in the permit that no seating was permitted, but he was not sure it had to do with the parking. He stated that Tullio's is in violation of their permit and he will be meeting with the owner of the shopping center to discuss that specific issue as well as parking related to the shopping center. He wasn't sure where that would lead, but there is a possibility that the Board may have a proposal before them in the Fall to bring that into compliance. Member Cofield asked if Town staff told Tullio's Bakery that they were in violation of their permit. Director Heard stated that the property owner was informed. Member Cofield stated that Ron Forlano had written a letter a few months ago and questioned whether the Town follows up and checks on applicants that have been approved for conditional use permits to make sure they are in compliance. He asked if that is something that staff did. Director Heard stated that staff did. Member Cofield asked if when a conditional use permit is approved with conditions, there is a process in Town that has been implemented to make sure the conditions are met. Director Heard stated that most of the conditions adopted are related to the construction and most are not ongoing items.

Council Liaison Britt doesn't think Duck wants to be a town that goes around looking for problems. Vice Chair Murray stated that once the final inspection is completed, it is complaint driven after that. Council Liaison Britt asked Member Cofield if he wants to hire two more people for the Planning Department to have them go through every conditional use permit and business with a fine-tooth comb. He added that it is a more of a policy decision. He noted that a lot had been done on a complaint basis and he doesn't want Duck to be a town that goes through people's properties looking for problems. He thought if there is a problem, it will surface. He doesn't think it is the Board's role to bring up the extra tables at Tullio's Bakery at a prior meeting as it wasn't what was being considered for approval.

**ADJOURNMENT**

Member McKeithan moved to adjourn the meeting. There was no second or vote.

The time was 9:03 p.m.

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