



APPROVED

**PLANNING BOARD
REGULAR MEETING
March 13, 2024**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, March 13, 2024.

Present: Chair Marc Murray, Joe Blakaitis, James Cofield, Bob Webb, and Council Liaison Sandy Whitman.

Absent: Bob Wetzel

Also present: Director of Community Development Joe Heard, Senior Planner Sandy Cross, Planner Jim Gould and Deputy Town Clerk Melissa Felthousen.

CALL TO ORDER

Chair Murray called to order the Regular Meeting of the Planning Board for March 13, 2024 at 5:30 p.m.

PUBLIC COMMENTS

None.

DISCUSSION

Use of Restaurant Waiting Areas/Parking Requirements

Director of Community Development Joe Heard reminded the Board of the beginning discussions surrounding outdoor waiting areas at restaurants and related parking standards from the previous meeting on February 14, 2024. He pointed out that the Board had requested additional information to provide a more complete understanding of the current situation and help the Board make a more educated decision that meets the interests of the community.

1. Heard referenced relevant minutes from 2011, researched by Senior Planner Sandy Cross, detailing why indoor seating parking requirements are based on seats and outdoor seating is based on square footage. He noted that the original (still existing) standard relating to parking requirements for indoor restaurant seating was carried over from Dare County's standards. Heard added that many of the Town's original zoning ordinances came directly from the standards that were in place for Dare County when Duck incorporated in 2002. He stated that former Director of Community of Development Andy Garman suggested that parking requirements for outdoor seating be based on square footage, but the record provides no rationale as to why this alternative was chosen and adopted.

2. Heard recognized the Board's previous request for information related to restaurant parking, seating and occupancy for restaurants in Duck. He noted that same has been an issue and has been examined twice in the last four years. Heard referenced the study completed by intern Savannah Newbern included in the agenda packet that provided additional parking documentation related to each property and the amount of parking on it. Heard also noted that the Town's COVID-related allowances expired in 2022 and that staff completed a compilation to examine parking associated with each restaurant. He added that the compilation was used as a guide to determine if restaurants were compliant and which ones needed attention.
3. Heard noted the topic for estimating the square footage space needed per seat. He added that there are many different factors for individual businesses. Heard referenced the standard found in The National Restaurant Association which recommends 12-15 square feet of customer service space per each indoor seat, which is a standard for general restaurants, including franchise restaurants, and 18-20 square feet for fine dining restaurants.
4. Heard added that the agenda packet included draft survey questions for Duck business owners prepared by Planner Jim Gould for the Board's review prior to disseminating the survey.

Murray asked the Board for comments related to Heard's list of four topics and there were none.

Murray questioned the accuracy of minutes from the December 7, 2011 Council Meeting presented in the staff report. He pointed out a discrepancy in the titles of Council members present and those speaking throughout the minutes. Cross surmised that it was an election month. Heard advised that the minutes had been approved by Council.

Murray questioned the dates of the attachments in the agenda packet related to parking. Cross clarified that the attachments provided were from 2022 and the parking study completed by Savannah Newbern in 2020 when there were a lot of traffic issues peak COVID. Murray pointed out that the only shortcoming was the time of day of the sample. Murray stated his conclusion from reading the minutes, that the Planning Board had the same feeling as the Council members from 2011 and that the ordinance does not need to be modified.

Murray asked the Board for comments.

Blakaitis recalled his time being on the Board during 2011 during these discussions related to restaurants and parking, and still thinks the ordinance should be left as is. Murray questioned if there were any issues Staff would like the Board to review in an incremental change in the existing ordinance that Staff is having difficulty enforcing. Heard reminded that the one thing Staff had pointed out previously in regard to the standards of the existing ordinance, is the different standards for outdoor seating and dining and question whether it would be a good idea to combine those to have one standard. Heard added that there was also a discussion whether there was a need to define the term waiting area. Cross asked the Board to consider whether those areas needed to be defined and limited to certain activities. She noted the distinction is that service in a waiting area requires additional staff, which triggers additional parking. Murray stated that enforcement would be difficult. Murray asked Heard if Staff was suggesting to strike outdoor seating definition and use only the 150 square foot definition. Heard replied that Murray's suggestion was an option, but Staff was not suggesting anything. He noted that the two different terms could be interpreted differently depending on the situation. He asked the Board if they wanted to consider combining them in some way. Blakaitis questioned if the Board must do anything. Murray commented that the Board's job was to review it. Murray questioned if it would be correct to say if striking the section about outdoor seating and leaving the section about outdoor dining as it is, that you would not be materially changing the parking requirements or does the language about the 25% and the 18 persons, whichever was is less, was important in some way. Heard commented that it was discussed in the minutes in 2011 but doesn't see that as something that is important personally or professionally. He added that if the Board is seeking to combine something that we refer to as outdoor seating as opposed to dining, even if the standard used is under dining, it is broader. Murray concurred.

Murray asked the Board for Comments.

Webb commented that if a seat produces revenue, then there should probably be parking for it. He stated that there are two issues, no one can increase their parking and enforcement is close to impossible. Webb stated that he would agree with the consensus of the Board and feel the easiest solution is to not change anything. Cofield agreed with Webb's points and doesn't think anything should be changed. Blakaitis opined that enforcement would be impossible.

Murray stated the consensus of the Board is to leave the ordinance as is.

Webb commented that additional information provided by Staff was very helpful.

Heard recognized Cross's effort to gather the information requested by the board. Cross stated that it helps that the Board identified certain things of question which made it easy to go back and find the relevant information to provide.

TRAINING/EDUCATION

Trend Report for Planners: Looming Climate Impacts and Adaptation Challenges

Heard noted the purpose of this section of the Trend Report for Planners was to educate the Board and generate discussion as to how climate impacts may affect Duck and give mention to topics that may need to be reviewed as a community for future consideration. Heard provided an overview of climate impacts and highlighted key points regarding sea level rise and its effects on the water table and increased severity and frequency of major storms which both potentially impact Duck. He described the issue of climate displacement which is when properties become unbuildable due to flooding. Heard added that this issue is relevant due to the impacts on septic systems impacted by sea level rise. He posed the question of how Duck as a community can address these issues. Heard pointed out that some communities don't address the issue and allow things to be built back as they were. He stated that Duck has begun the process of managed development and has adopted standards over time that will make Duck more resilient to climate challenges. He recognized Cross's work on flood damage prevention ordinance. Heard asserted that Duck has the highest elevation standard of any community on the outer banks at 10' above mean sea level, which in turn makes buildings much less likely to flood. He mentioned that some ways to address the issues are infeasible for Duck, such as lot buyout. He described this tactic as when communities secure grants from the state to purchase properties with repetitive flooding. Heard pointed out that this is not a feasible solution for Duck as property values are too high and this area could never compete successfully for those grants. He added that other options, such as deed restrictions for subdivisions, which create higher development standards, is another option. He explained that Duck is already subdivided, therefore it isn't really an option and would only apply when properties are developed and redeveloped. He suggested that Duck could increase setbacks for waterfront properties. He also added that a much more expensive option that may eventually need to be considered, is to increase the stormwater management infrastructure, which would involve spending millions of dollars. Heard stated that decades down road the Town may need to do that to extend life of some of the developed properties. He suggested some possible simple and more immediate solutions would be to create swales or catch basins which are environmentally friendly and serve a purpose of stormwater management to decrease flooding. He additionally noted that another important issue to consider is insurance companies recognizing the increased risks and in turn sharply increasing premiums and denying coverage completely.

Webb questioned if historical water table data for was available for Duck. Cross responded that such data was not available but that when staff studied and did a presentation of the flood plain ordinance, rainfall totals had been documented over the course of 20 years to show an upward trend, which also included outliers such as unnamed storms. She added that Staff is exploring the purchase of rain gauges. Cross noted that groundwater and water quality monitoring are on her radar. Heard pointed out that in any particular year, the water table can be high due to high rainfall. Murray recalled the reports displayed in the Meeting Hall during the Comprehensive Land Use Plan and noted the impact the rising water table could have on septic systems which could be compromised in low lying areas.

Murray recalled that when the Board updated the Flood Damage Prevention Ordinance, the fill limitation of 3 feet was not modified. He noted that a lot of other municipalities will allow fill to the regulatory flood protection elevation which allows people to use a concrete slab house instead of a floor system house, which is more flood resistant. He opined that allowing more fill, as long as other requirements are met, was something that should be considered.

Heard commented as to the irony of the timing of Murray's comment. He stated that because of the recent discussions about Special Use Permit at 121 East Sea Hawk, Council questioned whether stormwater management on residential property should be required. Heard stated that as a result of this, Staff was seeking insight from Council to determine if this topic should be explored further. Murray stated that any opportunity we can have to allow citizens to bring more sand to our low island should be encouraged. Cross agreed, as long as the sand was not running off on adjacent properties.

APPROVAL OF MINUTES

Minutes from the February 14, 2024, Meeting

Blakaitis motioned to approve the minutes from February 14, 2024 as presented. Cofield seconded. Motion carried 4-0.

STAFF COMMENTS

Heard gave a summary of the March 6, 2024 Town Council meeting.

Cross provided a short overview of various projects going on in the Town.

BOARD COMMENTS

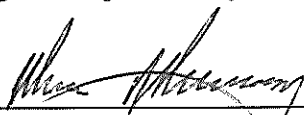
Cofield questioned if there had been further discussion regarding stormwater issues at the intersection of Charles Jenkins Drive and Duck Road. Cross replied that she had engaged with Southern Shores regarding the Westside Feasibility Study and that at some level Southern Shores is considering a Westside trail that would connect to Sea Oats, and stormwater improvements are being examined with a potentially collaborative effort. She stated that she had suggested an additional swale to DOT and was denied due to the area being higher and contains pedestrian traffic. She added that roadway flooding will be addressed with the Westside Trail, if not sooner. Cofield noted the previous week's issue with flooding. Cross commented that the previous week's rainfall was abnormal, and she had documented the issues by capturing photos. She added that the Ocean Crest basin needs to be cleaned out, tilled and maintained on a regular basis. Cross explained that water is coming from various locations, and it is difficult to determine who is responsible for maintaining. She noted that Ocean Crest had been maintaining the area, they just need a reminder to do so at this time. Cofield questioned if Ocean Crest was the only subdivision in Town that is responsible for maintaining the basin. Cross replied that Tuckahoe installed some stormwater systems and were put in place prior to the road being raised and that Sanderling has stormwater ponds. She advised that for more examples she would have to research her subdivision

records. Cofield recalled the small basin at West Bias Lane and that the community does not maintain it. Cross asserted that in the completed Stormwater Study it was evident that Town efforts alone are not enough due to some roads being private, lack of funding and a Public Works Department and that communities need to collaborate with the Town for more favorable solutions. She mentioned the recent heavy rainfall had created some washout at the Resiliency Project and wanted to be forward thinking to make sure sidewalks would not be undermined in the future during heavy rainfall. Heard added that the Westside Feasibility Study is just a feasibility study and is not in detail. He advised that Staff has requested funds in the budget this year to allow a more detailed study which would address stormwater management and design. Cross stated that there may be an option to connect with what is already in place at Tuckahoe, which was a huge success. Heard stated there will be further discussion and design if Council approves funding for the project for next year.

ADJOURNMENT

Cofield moved to adjourn the meeting.

The meeting was adjourned by consensus of the Board Members at 6:23 p.m.

Approved:  _____
/s/ Marc Murray, Chairman