



APPROVED

**TOWN OF DUCK  
PLANNING BOARD  
REGULAR MEETING  
April 12, 2023**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, April 12, 2023.

Present: Chair James Cofield, Vice-Chair Joe Blakaitis and Marc Murray.

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

Others Present: David Stormont

Chair Cofield called to order the Regular Meeting of the Planning Board for April 12, 2023 at 6:30 p.m.

**PUBLIC COMMENTS**

No public comments.

**NEW BUSINESS**

*SUP 23-004: Application by David Stormont for a special use permit for the following allowances for the driveways and parking areas at 110-B Sound Sea Avenue: (1) to allow parking spaces to be located within 2.8 feet of the front property line where a 5' setback is required in Section 156.092(D); (2) to allow a reduction in the minimum separation between multiple drive aisles to 10' rather than the 25' required in Section 156.092(E); and (3) to allow a combined aggregate drive aisle width of 28' where a maximum of 24' is permitted in Section 156.092(E), PIN 995006486364*

Director of Community Development Joe Heard provided background information on the subject property. He described the subject property as recently developed with a single-family residence with accompanying driveways and parking improvements. He stated when the property owner provided an as-built survey at the completion of the project, it showed several inconsistencies with Town standards relating to parking and driveways. Heard added that per staff discussion, a variety of alternatives for compliance were available to the property owner. He stated the owner decided to submit this SUP application with the intent of bringing the existing, nonconforming driveway/parking layout into compliance. Heard stated a Temporary Certificate of Occupancy (TCO) was issued for the residence on December 13, 2022 with the conditions that parking be brought into compliance and a revised as-built survey provided to verify compliance.

Heard outline the Special Use Permit Criteria and staff's opinion on same.

1. The use meets all required conditions and specifications of the ordinance.
  - The subject property complies with all development standards other than the standards involved with this special use permit application.
2. The use does not materially endanger the public health or safety.
  - The proposed allowances for reduced standards do not involve any site improvements that would change the function or intensity of use of the site, impact adjoining properties, or endanger the public health or safety.
3. The use will not substantially injure the value of adjoining property, unless the use is a public necessity.
  - As the subject property is developed with a single-family residence, similar to the surrounding properties, it is unlikely that it would have any significant impact on the value of adjoining properties. The allowances being requested would not appear to impact the value of properties in the surrounding neighborhood.
4. The use will be in harmony with the area in which it is located and be in general conformity with the Comprehensive & CAMA Land Use Plan.
  - The Town's adopted Comprehensive & CAMA Land Use Plan designates the subject property in the Cottage Residential Character Area. The single-family residential use and development of the site are consistent with the type of uses allowed and encouraged in the Cottage Residential Character Area.
  - The proposed relief from the minimum setback and distance between driveways is intended to preserve several existing, mature live oak trees. Tree preservation is consistent with the policy recommendations of the CLUP.
  - However, the requested relief from the aggregate driveway width standard does not promote the preservation of trees and appears to be inconsistent with the policy recommendations of the CLUP. In addition to these criteria, Section 156.096 of the Town Code contains the following additional criteria for special use permits requesting modification of parking or loading requirements:
5. Will not result in increased traffic congestion or otherwise negatively impact existing traffic flow or pedestrian and vehicular safety.
  - As the requested driveway dimensions and location do not result in additional traffic or alter off-site traffic flow, granting the special use permit would not negatively impact existing traffic in the neighborhood.
6. Will not be contrary to the objectives specified in the CAMA Comprehensive & Land Use Plan.
  - See #4 above.

7. Is necessary to permit the reasonable use of the subject property.
  - While it is difficult to say that the requested setback and distance allowances are “necessary” to permit reasonable use of the subject property, these allowances are necessary to allow reasonable use of the property while maintaining an important goal of the Town to preserve mature trees on the property. However, this same rationale does not hold true for the request relating to the overall width of the driveways.
8. Will not adversely impact adjacent property or the surrounding area.
  - As the requested driveway dimensions and location do not result in additional traffic or interfere with activities on surrounding properties, granting the special use permit would not adversely impact the surrounding area.

Heard outlined in the proposal description three different allowances being requested as part of this special use permit application:

- (1) parking space setback
- (2) minimum separation between drive aisles
- (3) aggregate drive aisle width.

Heard stated staff finds that granting the first two allowances is consistent with elements of the Town’s adopted CLUP as they help to preserve existing, mature trees and do not appear to negatively impact the surrounding neighborhood. He added that staff does not find the same justification for the requested allowance for wider driveways, which are not consistent with the CLUP. He stated staff recommends APPROVAL of SUP 23-004 for the requested allowances to the minimum parking setback from the front property line and minimum distance between driveways but recommends DENIAL of the requested allowance for wider driveways in aggregate.

Chair Cofield questioned if the Planning Board had acted on any SUP for single family dwellings previously.

Senior Planner Cross and Heard mentioned other properties, residential and commercial, which had applied for SUP in the past.

Cross stated the applicant, David Stormont, is the subject property association’s president and his application included two non-objectional letters from adjacent property owners. She added only one inquiry phone call regarding the subject matter had been received pertaining to SUP 23-004.

Subject property owner David Stormont, of 6036 Currituck Road, Kitty Hawk NC, commended staff for their attentiveness and help preparing the SUP packet. Stormont gave a brief history and description of Sound Sea Village neighborhood. He stated the Sound Sea Village roads in the subdivision are private, unpaved and are constructed of gravel. He added an HOA was formed so that the deeded roads could be received from the original developer, Walter Perry. Stormont stated the bylaws in the HOA only give authority to maintain the streets and no architectural review boards exist. He explained the community has other homes, built prior to

the Town of Duck's incorporation, that do not meet current ordinances as it relates to parking and driveways. He described the time and work it took to create a site plan for the small cottage to be built for his son and family that would preserve the existing oaks and comply with health department and town standards. Stormont stated the reason for requesting an exception was to preserve the many mature oaks on the property. He indicated that he did not think it was practical to follow recommendations by Town staff to reduce the driveway by two feet on each side of the driveway as the width is needed for access to the parking spaces.

Cofield questioned Stormont regarding setbacks and removing concrete at the expansion joint.

Member Murray discussed the specifics of the site plan with Cofield.

Cofield retracted his objection based on the clarification by Murray. Cofield noted the objection raised by the staff for item three seemed reasonable and questioned Stormont as to why it was not reasonable.

Stormont stated he found the staff's suggestion would create functional difficulties with keeping vehicles on the driveway when backing out.

Cofield questioned if flooding is a problem near subject property.

Stormont commented that major rain events do not effect the subject property and it has never flooded.

Murray stated he can see staff's and applicant's points and questioned how far the driveway notch would have to go.

Heard suggested that a taper could reduce the width of the requested allowance and would show a good faith attempt by the applicant to comply.

Blakaitas motioned to approve SUP 23-004 consistent with Town staff's recommendation, approving allowances one and two and denying allowance three.

Cofield seconded the motion.

Murray asked the other members to consider approval of a reduced aggregate driveway width.

Cofield responded that he was uncomfortable redesigning the site during the meeting and didn't see that as being an appropriate task for the Planning Board.

Motion carried 2-1 (Cofield and Blakaitis in favor, Murray opposed).

## **APPROVAL OF MINUTES**

### **Minutes from the March 8, 2023 Meeting**

Murray motioned to approve the minutes from the March 8, 2023 meeting as presented.

Cofield seconded.

Motion carried 3-0.

**STAFF COMMENTS**

Heard summarized recent town council meeting items. He stated Town Council approved SUP 23-003 at Scarborough Lane Shoppes and the applicant accepted all conditions proposed by the Planning Board. He noted the Town Council approved ordinances 23-01 and 23-02 per the recommendation of the Board.

Cross explained the Town Council's desire to enforce conditional use permits and ordinances. She stated COVID allowances have been removed as of December 31, 2022. She explained staff's effort to work with businesses in the post COVID environment based on Council's recommendation. Cross mentioned the lack of clarity with regard to restaurants and waiting areas versus seating areas. She forecasted staff will be bringing back zoning text language for the Board to address.

Cross provided a project update for the Duck Trail improvements between Blue Heron Lane and Waxwing Lane are underway with an anticipated completion date of late April. She mentioned beach nourishment is underway as the dredge Magdalene arrived Monday and started pumping sand with an approximated completion time line of 39 days. Cross noted the two phases of Resilient Coastal Communities Program is finishing up with a second look at phase two. She stated the phase two portion has now increased from 5 priority projects to 15.

**BOARD COMMENTS**

Cofield stated at the next Planning Board meeting two new board members will be welcomed. He mentioned the required annual report from the Planning Board to the Town Council will be provided in June.

**ADJOURNMENT**

Blaikatis motioned to adjourn.

Murray seconded the motion to adjourn.

Chair Cofield adjourned the meeting.

The time was 7:36 p.m.

Approved:  \_\_\_\_\_  
Chairman