

**PLANNING BOARD
REGULAR MEETING
February 14, 2024**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, February 14, 2024.

Present: Chair Marc Murray, Vice-Chair Bob Wetzel, James Cofield and Council Liaison Sandy Whitman.

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 February 14, 2024 at 5:30 p.m.

PUBLIC COMMENTS

None.

DISCUSSION

Use of Restaurant Waiting Areas/Parking Requirements

Director of Community Development Joe Heard noted that the Town Council authorized the board several months ago to discuss outdoor waiting areas and related restaurant parking standards. He referenced three key questions to consider:

1. Should waiting areas be defined or limited to certain activities?
2. How should waiting areas factor into parking calculations?
3. Do the Town's current parking standards for restaurants need to be amended?

Heard advised that there was not a proposal on the agenda, but the purpose was to discuss and obtain guidance from the Board should an ordinance need to be drafted in the future. He referenced the staff report in the agenda packet which outlines Town of Duck's current standards as well as other Outer Banks communities' standards. Heard noted that each community has different viewpoints and methods for how parking and waiting areas are treated. He stated the example of parking calculations in the staff report provide an idea as to how Town of Duck standards compare to other communities. Heard pointed out that Duck appears to be generally on the low end of the spectrum in terms of the number of parking spaces required for restaurants. Heard agreed with written comments submitted by absent member, Bob Webb, that Duck is one of the only places on the Outer Banks with a lot of pedestrian traffic and therefore parking requirements may not need to be as robust as other communities that are more automobile centric. Heard noted the Town's present parking requirements as they relate to indoor versus outdoor dining. He stated that the

parking requirements for indoor dining are based on the number of seats, whereas outdoor dining areas are defined by square footage. Heard pointed out that while this approach to indoor dining makes sense as the number of seats being used is evident, the downside/challenge to this approach is restaurants adding more seating or other areas of seating after the area has been permitted, thus not accounted for in the calculation. He explained that some other communities utilize square footage to determine parking requirements, as square footage is not prone to change. Heard advised that these were all items to consider should amendments be desired.

Heard noted the only studied community that differentiates between outdoor waiting areas and other outdoor seating/dining areas is the Town of Nags Head. He added that Nags Head specifically defines waiting areas and exempts those areas entirely from their parking calculations. Heard pointed out that other communities treat waiting areas as part of the restaurant and is considered in the parking calculation. He highlighted how the use of waiting areas with or without drink/food service may play an important role in how these areas should be treated. Heard recommended the Planning Board consider consolidation of the Town's standards for outdoor seating and dining or at least clarify when each requirement should be used in parking calculations.

Chair Murray asked for Board comments.

Member Cofield questioned if there was a reason the Town was differentiating between outdoor and indoor seating with respect to parking calculations and using square footage. Heard responded that the ordinance was set up as such and that he did not have background as to its origination. Senior Planner Cross commented that the ordinance was developed during former Director of Community Development Andy Garmin's tenure and surmised that the exemptions were implemented to allow outdoor areas up to a certain limit, without requiring parking increases. She added that prior Planning Board minutes could be researched to determine the origin and development of the ordinance. Cofield opined that if the Town were to make changes, the standards would need to be congruent, and he did not see justification for using square footage as a basis for calculation for one and the number of seats for the other. Cross suggested that when a restaurant uses the calculation of square footage verses the number of seats, the restaurant gets more bang for their buck. Heard agreed that using square footage is more lenient. Cross surmised that the distinction was made because an indoor venue is limited in its capacity versus an outdoor area which has more flexibility and room for seats without having to increase the parking seat per seat. She reiterated that staff could review prior minutes for more detailed information.

Murray agreed that minutes should be reviewed. He opined that a possible reason for the origin of the ordinance was that restaurants were seeking options for outdoor entertainment without seats and full-time food service, therefore square footage being a way to get some parking. He reiterated it would be best to confirm in the minutes. Cofield stated that he does not see a reason for having the differentiation. Member Wetzel questioned if the use of term serving food in a waiting area refers to a server coming out and taking an order, as opposed to an individual being in a designated waiting area going into the bar to order a drink and an appetizer and in turn take it back outside. He stated that he sees difference between those two things and questioned how the Town might presently deal with that distinction. Heard acknowledged the distinction between those types of service and pointed out that the Board would need to review and make those decisions. Cross

pointed out that when a server comes out to take an order in the waiting area versus a customer going in to receive service, that former type of service requires an additional employee, which in turn impacts parking requirements. Wetzel agreed with Cofield's comments and stated the ordinance could be revised for more clarity. Wetzel stated that caution should be exercised in revisions such that things are not more constrained than what they are currently. He questioned if businesses would be grandfathered. Wetzel used NC Coast as an example and asked how their parking situation would be treated. Heard responded that existing restaurants would be grandfathered but could not expand operations without complying. Wetzel questioned if there were issues or problems staff was trying to solve or address as part of this process. Cross noted that at the end of 2022, Council tasked staff with enforcing the provisions of approved special use permits. She explained that COVID related allowances expired and expansions were reined back in. During these attempts, feedback from restaurants was received. Cross pointed out that restaurant owners described post COVID difficulties which included customers still wanting separation, difficulty in staffing, more expensive food and the increased effort and resources needed to make the same amount of money pre-COVID. She noted if staff would have wiggle room to work with restaurants that had gone a little astray and needed to be reined back in. Cross explained that part of the discussion entailed the walkability of Duck, the unique nature of the Village and how that plays into everything. She stated that complaints regarding parking issues have come from businesses that are not restaurants and Council asked for staff to review parking issues. Cross added that staff is still working with restaurants to ensure compliance, and for those restaurants not in compliance, efforts are being made to have them make an amendment. She noted the distinction between serving in an area versus waiting in an area determines the difference in what happens with potential amendments and how parking is treated.

Wetzel questioned if a chart of restaurants was available listing allowances, parking requirements, number of employees and how those numbers were determined. Cross and Heard replied yes. Wetzel questioned restrictions related to Dare County and wastewater management, as well as Fire Code. Heard highlighted the various levels of limitations that may apply to restaurants such as environmental health septic limitations, fire code, as well as situations that may impact businesses that operate under a special use permit and that those are typically tied to parking.

Due to Member Bob Webb's absence, Murray read his comments submitted prior to the meeting.

"If a waiting area is simply an area to wait for a table to be ready, and no food/beverages are served, I feel it is acceptable to not require parking for it. But, if the waiting area directly generates food/drink revenue, it should require parking spaces.

Should waiting areas be defined or limited to certain activities?

I feel they should be limited to waiting only, no need to calculate parking. Easy to say, difficult to monitor.

How should waiting areas be factored into parking calculations?

If only waiting, no additional parking required. If Food/Drink is served or consumed there, the same parking calculation should be used, as is used for indoor dining.

Do the Town's current parking standards for restaurants need to be amended?

The point made in the Staff comments about seating (number of seats vs sq. ft) is very valid, and has made me think that the Town should consider converting to sq. feet as the method for calculating parking requirements. Given the current parking challenges at many Duck restaurants, this would be a rough transition.

But, the biggest difference between Duck and all the other Outer Banks communities is the general "walkability" of Duck. I think most people would agree that more patrons walk to restaurants in Duck (especially in the Village Commercial District) vs. any other town. Some people do this because it is easy, some simply want to not be concerned about parking. Considering this, maybe the current parking requirements outlined in the Example Restaurant, resulting in Duck being on the low end of required parking is acceptable."

Cross commented that Council can adjust scenarios to some level under the Village Commercial Development Option by having parking special exceptions that were designed to address smaller lots and the unique nature of village. She noted the limitations as to how far parking requirements can be adjusted currently that were not in place before.

Cofield referenced Webb's submitted comment regarding the walkability of Duck. He stated that in comparison to other towns, more people may walk in Duck because it is more confined, which places more restrictions on parking spaces, whereas in other towns businesses are more spread out geographically and there is more area to park.

Cofield questioned if the equivalence of one seat as it relates square footage had been calculated. Heard replied that this has not been studied exactly but is a good point. Cofield suggested that prior to changes being made, knowing the potential impact of the changes would be beneficial. Heard agreed and stated that data would allow for adjustments in the appropriate manner.

Murray requested some statistically relevant survey analyses of local business owners. He noted that restaurant owners may not feel parking is important because people walk, but other business owners may be dissatisfied with non-customers parking at their businesses. Murray noted that parking violations may be nebulous for staff to enforce with respect to square footage and number of seats, but that someone being towed was an enforcement mechanism in and of itself. Cross clarified the action of towing on private property. Murray asserted that the survey data from business owners is needed. Cross suggested staff setting up an online survey, with the assistance of Kay Nickens, that would be directed toward businesses.

Murray stated that he does not want to solve a problem that does not exist or not understand the problem trying to be solved. He opined that parking accommodates cars, which in turn creates more traffic downtown and wants to understand what it means when parking is not happening fairly. He questioned whose job it is to enforce. Cross added that more adjacent property businesses are displaying no parking signs. Murray commented that data was needed to make an educated decision.

Heard referenced urban communities that have zero parking requirements but subsidize those businesses through public parking on the street and in garages. He added that Duck has limited

public parking, and it is not convenient to all business locations, which therefore burdens the adjoining private properties. Heard noted despite an adjacent office being closed and not being in direct competition, the burden still exists with wear and tear on the parking area and reduction of lot life span. He added that it is a dilemma that needs to be reviewed and if the Board wishes to limit areas used for waiting or outdoor dining, then that may limit the amount of pressure put on adjoining properties. Cross remarked that increasing enforcement could help. Heard noted that enforcement will be part of the situation regardless.

Murray opined that he was not ready to generate questions for a survey yet and that questions needed to be location specific because different locations will have different viewpoints.

Cross stated that staff would review relevant minutes from prior meetings, parking and seating charts which include the different occupancies and determine how square footage translates into number of seats. Murray added that due to various restaurant layouts, a good starting point would be to review the permits and get an average number of seats per square foot for restaurants in Town. Wetzel questioned if gross square footage of the building is used or if only service area is used. Heard responded that the Board would have to define the square footage calculation and that some communities use gross and some use customer service area.

Murray commented that the restaurant example in the agenda packet was helpful and that any changes proposed should be used like the restaurant example.

Heard asked for clarification regarding the draft survey questions. Murray said he would be willing to review survey questions and thought same would be a good jumping off point.

Cofield opined that if it isn't broken, don't fix it.

TRAINING/EDUCATION

Trend Report for Planners (2024)

Heard gave an overview of the report and noted that relevant sections would be reviewed in more detail during future meetings.

APPROVAL OF MINUTES

Minutes from the January 10, 2024, Meeting

Wetzel motioned to approve the minutes from January 10, 2024 with the spelling correction of Member Cofield's name on page 3. Cofield seconded. Motion carried 3-0.

STAFF COMMENTS

Heard gave a summary of the February 7, 2024 Town Council meeting.

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

BOARD COMMENTS

None.

ADJOURNMENT

Wetzel moved to adjourn the meeting. Cofield seconded.

The meeting was adjourned by consensus of the Board Members at 6:28 p.m.

Approved: _____
/s/ Marc Murray, Chairman