



APPROVED

**PLANNING BOARD
REGULAR MEETING
December 11, 2024**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, December 11, 2024.

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

Absent: None

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

CALL TO ORDER

Chair Murray called to order the Regular Meeting of the Planning Board for December 11, 2024 at 4:00 p.m.

PUBLIC COMMENTS

None.

TEXT AMENDMENT

a. Text Amendment: Amusement Arcades (review amendments to proposal)

Director of Community Development Joe Heard informed the Board that the Town Council sent back the proposal based on the applicant making changes to the proposed amendment that were based on comments from the previous meeting and some changes that were felt would make the application more appealing. Heard explained that staff provided a copy of the changes from last month and that the most significant change is that instead of being a permitted use it would require a special use permit. This would make arcade amusement applications go to the Town Council for review on a case-by-case basis. There are also changes to the parking calculation based on some of the conversations. The Town Council would like the Planning Board to make a new recommendation based on the changes to the amendment.

Marc Murray opened the Planning Board conversation. Bob Wetzel wanted to confirm that the Board was discussing a text amendment that would only allow amusement arcades as special uses in the Village Commercial zone. The Board is not discussing what the applicant is proposing for his location and operation and that would come later. Heard confirmed that there would be a separate special use application if this amendment is approved.

Keith Bliss, owner 1211 Duck Road formerly known as Duck Commons, presented his text amendment changes based on the conversation from last month. This is a first-time experience for

Bliss as a property owner, investor, developer, and real estate broker and appreciates being allowed through the process. When Bliss purchased the property three years ago it was turning into a dead zone in the village district and was looking at a variety of uses moving forward the original questions to the Town during the purchase process. The questions of what other uses that the Town may want or be part of but was not part of the usage table. Now Bliss is here to seek the opportunity to be able to submit a special use permit if they choose if it can turn into a viable business opportunity. Bliss would like to see the opportunity to be able to apply for a special use permit and for others to have that opportunity as well. As each space is different and believes that during the proposal for a special use permit the things included in there such as parking, hours of operation, employees, and space being used as it is currently not the concern as of right now. By allowing amusement arcades as special uses in the amendment it opens the conversation for other businesses to see what it would look like.

Marc Murray opened the floor up to public comments.

Jim Braithwaite, owner of the Waterfront Shops and Scarborough Lane Shops, fully supports Keith Bliss's proposal. Braithwaite believes that there is a need for a good mix of tenants and restaurants. He continued with how hard it is for retailers in this market right now. He explained how when retailers see empty space, they work on processing what else the Town could use to keep people here longer. He sees recreation as a large component that's a needed use, family use, and wholesome use. He understands that folks want to keep the Town of Duck quaint, but he believes that it's the architecture and sidewalks and boardwalks. Braithwaite continued how previous business owners have continued to build their business to keep the quality of the Town. He explained that back in the early days when there were crab pots, fishing nets, and trailers everywhere and how things have changed for the better. By supporting the amusement arcades addition, it helps the businesses. Braithwaite sees how the residents fighting against this proposal see it as something that they personally don't need. Therefore, they do not want it. Braithwaite sees an arcade as good for tourism, good for shops, good for business owners and supports this text amendment proposal.

Mike Rollin, owner of 149 Plover Drive, spoke to the Board about his concerns and opposition to the change in the Town ordinance. Rollin reminded them that his concerns were raised at the previous Planning Board and Town Council meetings. Rollin believes that the applicant's argument is more for the use of his one property and not for the Town's overall use. Rollin says that in his view it is inappropriate to make a change to the Town's ordinance based on one person's request for a business use change. If the change is made it will have far reaching impacts on the Town that need to be considered and allowing arcades in the Town will change its unique character. Rollin said that he sees arcades being allowed is a foot hole to allow multiple new requests to come into the Town. Rollin said the Town is unique and that if people would like to visit that type of entertainment, they are able to go elsewhere and not change the Town. Rollin does not believe arcades are beneficial to Duck and that if the Board would like to go down the road to allow arcades, then it should not be allowed to change the ordinance and just be a one-off circumstance. Rollin said that if it is allowed, he would like to see a licensure requirement so that if there is a problem it can be revoked. Rollin also stated that he supports the idea from the previous meeting to conduct another survey of the Town due to the belief that there was overwhelming opposition against this proposal. Rollin thanked the Board for their consideration.

Rob Mooney, owner of 102 Pelican Way, addressed the Planning Board explaining that he feels that amusement arcades are not a benign thing. He believes that the nature of gaming creates competition. Mooney continued expressing that by adding alcohol into it will create competitiveness and create problems. Mooney asked Heard if he was able to find the survey that was brought up at the previous meeting. Heard informed him that it was more of a comment period, not a formal survey. Heard said the comments were overwhelming in opposition of indoor entertainment. Mooney expressed to the Planning Board that while the Council are elected people, the Board members are appointed by them and if the constituents don't want this then those are the people they should listen to. Mooney believes that while the previous survey was not that long ago, they should consider doing it again if that is what is needed. Mooney does not support the amendment change.

Miriam Rollin, owner of 149 Plover Drive, agreed with the remarks made from Mike Rollin and Mooney, in opposition to the amendment proposal. Rollin expressed that while the character of Duck has changed through the years it is currently a gem, and it should be kept shining. Rollin said that it is family friendly, quiet, peaceful, beautiful, village-like and that's why it shines. Rollin agrees with the previous commentators that indoor gaming facilities are of a different nature and if people want those things they can go to Nags Head or other towns. She said that Duck is special and that is what drives the tourist economy and changing that is risky.

Joe Cortelli, 201 Schooner Ridge Drive, spoke as a homeowner in Duck and business owner, not in town, and sees the great Town that Duck is and understands that the character of Duck needs to be maintained, however does not see an arcade as going down the path of places like Atlantic City or Myrtle Beach. Cortelli expressed that an arcade is purely family fun and that he understands that some rules would need to be adhered to such as no alcohol or drinking to avoid fights. Cortelli said that he notices that no one is representing kids in this and that the strip is lacking activities for younger folks from 13-25 that come on vacation with their parents and there is not a lot for that age group to do in Duck. Cortelli pointed out that while these folks can ride bikes around there are not many places for them to go. While there is shopping, drinking establishments, and expensive restaurants these kids are not going to those locations typically. However, a family-friendly arcade would be a wholesome addition to Duck to allow kids to have something to do while parents could go to a nice dinner. Cortelli added that while other Towns have these things the teenagers that are coming here don't necessarily have access to cars to go to those locations but would be able to ride bikes in town and go to the arcade. Cortelli understands that while kids should be outside riding boogie boards and such at night they are unable to do those things, an indoor arcade would allow that entertainment.

Rob Mooney, 102 Pelican Way, addressed Bliss asking if he described this as retro games. Bliss confirmed that yes that would be the idea. Mooney raised concern that he does not believe that kids have interest in retro games and does not see kids wanting to play these types of games. Mooney indicated that by adding booze into it the potential problem is huge, as you could have four adult men playing a game and they get loaded you don't know what could happen. Mooney continued that while people mention this for kids, he does not believe that they will want to play these types of games.

Jim Braithwaite commented that while arguing about people drinking and getting drunk is a flawed argument as public intoxication is against the law. People can be drinking in a restaurant or retail establishment and that is more of a behavioral issue more than a business issue.

Clark Olsen, owner of 101 Schooner Ridge Drive, wanted to express that he did not plan to speak on this topic, however he has known Bliss since he purchased the property and spoken about these plans previously. Olsen expressed that every business owner here understands there is a risk, and Bliss has taken this failing retail center and is working to make it successful. Olsen doesn't worry about young kids trespassing on his property or throwing beer bottles as many older folks visiting Sweet T's do. Olsen doesn't see people coming out of there and creating chaos in Duck. Olsen clarified that while he understands there needs to be regulations set by the Board, he supports Bliss's proposal and thinks that a arcade in town would be a nice addition

The Board went into their discussion on the changes to the text amendment proposal once public comments were finished. Member Bob Webb clarified that the discussion is solely on the text amendment. Murray summarized that they were discussing and voting on the idea of are the changes that have been made to the text amendment application turning. Webb expressed that he feels this is done better through a special use permit, sees that the public comments are heavily against the proposal, and he is still against it for that reason.

Member James Cofield raised concerns about how as a municipality should gauge what the community wants. Cofield noted that around 3 years ago a similar proposal came in front of them and the resounding survey was "no". Cofield continued with how he believes that this survey years ago was a sense of the larger Duck community. He highlighted when the community did not want a large grocery store like Food Lion and how the Town agreed with it and said no. Cofield added that while he sees that this business may be profitable, if the sense of the community is to not have this addition, then how do you ignore that? Cofield expressed that the goal is not to have Duck look like other towns with water parks, miniature golf courses, or bumper cars just because it gives children something to do. Cofield gave an overview that 90% of the community does not want the arcades and would like to keep the Town the way it is. Cofield compared that Duck is a lot like Southern Shores and mostly residential and peaceful and there is no rush to make Southern Shores like Kill Devil Hills. Cofield stated the Southern Shores does not allow amusement arcades. Murray corrected him in that Southern Shores does allow this as they currently have an escape room and arcades. Cofield and Murray continued into a discussion on the current proposal at hand is to allow business owners have the opportunity to propose plans along the lines that would then go on a case-by-case basis. Murray also pointed out that 90% of comments on the survey mentioned was not the whole Town it was only those who chose to express their opinion. Cofield and Murray continued to discuss the previous survey and its relevance to this proposal, Murray expressing an opinion that it not an accurate survey. Cofield highlighted that the business plan mentioned had to basic issues brought up and one of them was staffing and the other was licensing. He referenced to Heard's comments about business licenses are equivalent to local business taxes are no longer a common practice in the state of North Carolina. Cofield continued to state the Town Council also saw these as issues considering why they sent it back. Cofield continued that staffing could be an issue and that if that is a concern then it is probably not a use that is appropriate in Duck. Cofield has not changed his views since the last meeting based on the use of the comprehensive land plan and a sense of the Duck community.

Member Joe Blakaitis agreed with the previous two Board members and would not like to see this use in the Town.

Member Bob Wetzel stated that his views have not changed from the previous meeting. Wetzel summarized that the Town staff have found this proposal to be consistent with the comprehensive land use plan, but it is unclear why Cofield states that it is not. Wetzel asked for more confirmation on whether this is or is not consistent with the plan. Wetzel also stated that there is no survey for them to reference and to continue to acknowledge something that was done years ago as the Town has grown in population and changed. Wetzel believes that if they are going to focus on a survey there needs to be a new one done that allows more information as well and better questions to really signify the population and dynamics of the Town. Wetzel also noted that residents and visitors won't see businesses having a video arcade as they are going to be in shops and buildings no different than an olive oil shop or dress shop next door. These are activities that are going to be occurring inside, and Wetzel believes that few people will even know they are there due to the activity. Wetzel continues to be supportive of this proposal to give businesses and owners the opportunity to present their business case to the Planning Board and Council.

Murray remained on his stance for approval of the proposal and believes that the additional changes to the proposal make more sense.

Cofield moved that the proposal text amendment regarding amusement arcades (review amendments to proposal) be denied. Wetzel seconded the motion. Motion carried 3-2 in favor of denial.

Heard addressed the Board to let them know how the staff applies the comprehensive land use plan concerning text amendments. Heard mentions that the plan does not contain recommendations specifically to the proposal and the plan itself is of a general nature. It is a matter of staff including information about the plan and it is up to the Board or Council to interpret if the proposal is consistent with the plan.

b. Text Amendment: Lot Coverage/Pervious Surfaces (review implementation)

Heard let the Planning Board know that this proposal was sent back by the Council to clarify how this is going to be implemented for future property owners. Currently the process of getting pervious surfaces recorded at the register of deeds for future owners has been started. Community Planner Jim Gould presented to the Board informing them that over the past year staff has received 12 applications for properties taking advantage of the allowance for the reduction in lot coverage and recording maintenance agreements. Gould continued explaining the levels of oversight regarding artificial ground cover installations. Gould continued to detail the permitting process including standards for recordation and went on to outline the typical maintenance procedures. Murray clarified with Gould that this is not a requirement of the Town. Heard advised that the staff was asking the Board if they agree with the information presented to concur so that it could be passed along to the Council. Senior Planner Sandy Cross reminded the Board that the reason

they are looking at this is how does this gets enforced and recording allows it to be part of the title search when properties are being transferred.

Murray opened the floor to public comments.

Clark Olsen, 101 Schooner Drive, stated that he has been a licensed general contractor for 23 years. Olsen believes that by requiring this is a long-term expensive expense for regulatory cost and maintenance plans. Olsen believes that the current standards of the Duck permitting process is suffice and by adding a deed restriction is unnecessary.

Webb discussed that he would like to continue with the previous proposal and believes that monitoring and enforcement are necessary for these standards. Cofield agreed that these systems need maintenance and once the homeowner receives the allowance on lot coverage, the recording of agreement is the least they can do. Blakaitis agrees with Cofield and is in favor. Wetzel is in support of this amendment; however, he wanted to clarify that the Town's attorney has approved the standards. Heard clarified that yes, this is allowed and by recording it is an option to gain the allowance. Wetzel also asked if homeowners are aware of the upkeep standards of artificial turf and the requirements to upkeep it. Cross, who has artificial turf, explained that it is difficult to maintain and referenced that Murray may have more experience with it. Murray explained that there are many factors that come in play, however he hasn't seen many issues yet. Wetzel asked if the Outer Banks has vendors who are specific to maintaining these materials. Murray outlined that the ordinance specifies a maintenance plan not a specific laid out plan. Murray believes that if the way for homeowners to get the allowance and to record at the register of deeds then they should allow it. Gould gave the Board an overview of different maintenance options that homeowners would have. Cofield verified that the Board didn't need to vote just agree to pass it to Council. Murray asked for additional comments. The Planning Board concurred with staff plans for enforcement and recording and decided to forward the amendment to the Town Council without any additional changes.

c. Text Amendment Discussion: Outdoor Lighting

Heard outlined that the staff wanted to point out a few key questions to think about as well as answer any questions the Board may have. The Board was given examples of other small Town's with similar ordinances and their current policies. Gould gave a highlight to the review of other Town's ordinances in comparison with the Town of Duck's. Cross expressed an interest in clarifying the standards to not have them be as subjective. Being complaint driven with interior and exterior lighting this will help assist with clarity of keeping people in compliance. Cofield asked about lighting that highlight trees, if it's acceptable or not. Cross stated that currently according to the ordinance it is not permitted. This is something that staff is questioning on these things should be readdressed or should there be further enforcement on it. Murray believes that this is a good thing, taking into consideration enforcement and property owners' responsiveness to this. Murray also ask staff to look further into the animals that are effected by outdoor lighting and also enforcement procedures with violations. Cross added that many unoccupied homes have lights on consistently and the goal is to work towards improving the quality of health in the community. Murray asked if the staff has a foot-candle tester, meant to test light outreach, and if

they have used it. Gould added that while we may its not calibrated and that this is something the staff will further look in to providing for demonstration. Wetzel noted that there may need to be separate categories for residential and commercial for better clarification. Staff summarized a list of items to work on before the next meeting are objective measurements, impact on wildlife, specifically certain species, health of artificial light, and clean up ambiguity between residential and commercial. Gould also mentioned to the Board that on the Dark Sky website there are currently lighting fixtures that are approved for this reason and available to purchase at the local hardware stores.

Mirian Rollins, 149 Plover Drive, is an active volunteer and media chair of NEST, the Network of Endangered Sea Turtles. Rollins strongly supports the minimal outdoor lighting policies to help with turtle and wildlife habitat. Rollins outlined why artificial lighting is harmful to turtles at night on the beaches more specifically. Rollins read a passage from the NC Fish and Wildlife Commission about sea turtle lighting guidelines and following the three golden rules of low lighting, shielded and long light waves. Rollins again encouraged the Board to continue to support this change.

The staff presented a video highlighting the Town’s current outdoor lighting standards.

Cross reminded the Board that currently the Town of Duck does not have a dark sky ordinance, however that is what they would like to work towards applying. Murray confirmed with staff that they had the information they needed to continue moving forward and Cross acknowledged yes.

2025 PLANNING BOARD MEETING CALENDAR

Cofield motioned to approve the draft calendar as presented. Webb seconded the motion. No discussion on the floor. Motion approved 5-0

APPROVAL OF MINUTES

Minutes from the November 13, 2024, Meeting

Wetzel motioned to approve the minutes from the November 13, 2024 meeting as presented. Cofield seconded the motion. Motion carried 5-0.

STAFF COMMENTS

a. Summary of December 4, 2024 Town Council Meeting

Heard let the Board know that at the previous Town Council meeting they sent back the amendment on amusement arcades which was discussed earlier in the evening.

b. Project Updates


Cross updated the completion of the retaining wall north of Tuckahoe neighborhood. She noted that Millstone Marine completed the post and rope barrier along the living shoreline as well. Cross added that staff is still working on the Teresa Court improvements as the survey is complete, preliminary meeting with NCDOT was held, and we await the final plans from VHB with anticipation to have work started in February.

No Board comments.

ADJOURNMENT

Blakaitis moved to adjourn the meeting. Murray second the motion.

The meeting was adjourned by consensus of five Board members at 5:45 p.m.

Approved:  _____
Marc Murray, Chairman