

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
April 9, 2014**

The Planning Board for the Town of Duck convened at the Duck Meeting Hall on Wednesday, April 9, 2014.

Present were: Chair Joe Blakaitis, Vice Chair John Fricker, Ron Forlano, Tim McKeithan and Marc Murray.

Absent: None.

Also present were: Director of Community Development Andy Garman, Council Liaison Chuck Burdick and Permit Coordinator Sandy Cross.

Others Present: None.

Absent: None.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for April 9, 2014 at 6:36 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

Discussion/Consideration of Stormwater/Low-Impact Development Ordinance

Director Garman stated that Town staff did an overview of the stormwater ordinance for Council and they seemed amenable to the Planning Board moving forward once the Board felt it was an appropriate time to do so. He stated that he contacted the State to find out where they were with releasing the new Storm EZ tool and chapters of the BMP manual. He found out that they put the public notice out to release a Storm E-Z tool as well as the new chapters from their *Best Management Practices* manual, that would allow a local engineer to apply for a State permit using a low impact development approach. He stated that the Town's local ordinance was designed for engineers to use the same process. He stated that now that they were available to the public, it seemed appropriate that the Board could move forward with the public hearing on the ordinance.

Director Garman stated that the Planning Board could recommend that Council hold a public hearing on this ordinance or request that there be a additional time for public comment prior to a public hearing.

Chair Blakaitis asked if the ordinance was appropriate for public comment and if there would be a lot of interest in it. Director Garman did not think so, but thought any comments would come from the local engineering community. Chair Blakaitis noted that the comments could be given at the public hearing. Director Garman agreed. He added that he sent the draft ordinance to the engineers that asked for a copy. He stated that the Town's engineer endorsed the ordinance and thought it was a great ordinance that provided enough standards and flexibility to meet the Town's objectives.

Council Liaison Burdick noted that the State had three more steps in the process. He asked if the Town moved forward with the ordinance, any changes that occur as a result of the public notices that were going out in reviewing the BMP manual, would have any effect on the ordinance. Director Garman stated that it would not. Council Liaison Burdick asked if the Town adopted the ordinance before obtaining the final approval would be fine. Director Garman thought it would be fine. He added that the tool was there right now for people to use and the State was accepting permits with it now too, but wanted the applicants to contact them to review their plan before submitting the permit using the tool. He stated that they may make refinements to the tool, which the Town will receive with the final version, but whoever applies for a permit with the Town would have to use whatever version of the tool that the State gives the applicant.

Chair Blakaitis thought it was great and gave the Town a tool to refer contractors to and gave the Town some teeth in certain areas. Council Liaison Burdick agreed. He wanted to be sure that the Town would not have any issues. Director Garman guessed that the refinements would be fairly nuanced.

Chair Blakaitis suggested that the Board review the revised ordinance. Director Garman stated that there were no revisions from the last time the Board discussed it. He added that the ordinance went to Council for their review and they did not make any changes. Vice Chair Fricker clarified that there wasn't anything that needed the Board's attention. Director Garman stated he was correct. Vice Chair Fricker clarified that if there were no changes, the Board could recommend either a public hearing or have it go straight to Council. Director Garman stated that Council would hold a public hearing. He added that the only thing the Board could do differently was to suggest the date of the public hearing. Vice Chair Fricker asked if Council asked Director Garman what his recommendation was as to how to proceed, what his feeling would be. Director Garman thought the Board should go ahead and recommend it to Council. He explained that since it was a Council initiated item, the public hearing would not be held in May, but a request for public hearing would be done. He added that staff only suggests public hearings after the Board sees the items. He stated that the public hearing on this would be held in June.

Council Liaison Burdick stated that Page 1 of the draft ordinance has the following language: "...concrete, asphalt or similar paved private sidewalks..." and further into the sentence: "...concrete, asphalt or similar private driveways..." He noted that it was inconsistent because the word "paved" was removed from the second part of the sentence. Director Garman stated that it was a change that the Board came up with. Chair Blakaitis agreed. Director Garman suggested the following language: "...but not limited to buildings, covered decks, concrete patios, gazebos, pools, concrete, asphalt or similar paved parking areas, sidewalks, driveways and roadways..." Chair Blakaitis thought it was a good suggestion. Director Garman wondered

why the word “private” was in the paragraph. He suggested the following language: “...including but not limited to buildings, covered decks, concrete patios, gazebos, pools, concrete, asphalt or similar paved parking areas, sidewalks, driveways and roadways and any accessory use or structure requiring a location above ground...” It was *consensus* of the Board to make the change.

Council Liaison Burdick asked how the Board arrived at 80% on Page 3 regarding impervious surface material. Director Garman stated that it was a standard he pulled from the State requirement for other parts of the state. He added that there was a state law in non-coastal areas that required at least 20% permeable pavement. He felt it was a good place to start with the pervious standard. He stated that the Town had always talked about trying to force developments to have some component of permeable pavement, which required at least some of the pavement to be permeable.

Member Forlano asked if the Board was saying that they were comfortable with the ordinance and it would approve it and send it to Council for their approval without any input from the engineering community. Chair Blakaitis disagreed. Vice Chair Fricker stated that the Town engineer has recommended the ordinance and there will be an opportunity for a public hearing. Chair Blakaitis stated that Council would determine if they want further public input.

Vice Chair Fricker moved that the Planning Board recommend to the Town Council that they approve the LID ordinance as amended. Member McKeithan seconded.

Motion carried 5-0.

NEW BUSINESS

Discussion of Improving the Town of Duck’s Community Rating System Classification

Director Garman stated that back in December and January, the Board reviewed the Town’s Hazard Mitigation Plan implementation status report. He stated that the issue of flood insurance increases was brought up with regard to the Biggert-Waters Act and how that would impact insurance premiums. He stated that it highlighted the importance of the Town trying to do whatever possible to improve insurance discounts for people in the community. He stated that staff discussed this with the Town Council at its February Retreat and the Town Council instructed staff to send it back to the Planning Board to try to figure out if there was any way to improve the rating. He noted that the Town of Duck was currently rated a seven.

Council Liaison Burdick suggested that Director Garman discuss the impact of the new flood maps. He understood that there was a significant decrease in the number of properties that will be affected by what the Town does. Director Garman stated that he had not seen the flood maps so it was heresay as to what the new flood maps will look like. He understood that with the new flood maps, a lot of properties would be coming out of the V-zone. He added that it did not mean a lot of properties would be coming out of the flood zone, but properties would be going from the V-zone to the A-zone, which is better for them as A-zones were much less restrictive as to how an owner has to build a structure along with a much lower flood insurance premium.

Council Liaison Burdick stated that he had asked the question about the maps because of the different things that Building Inspector Cory Tate was proposing. He asked how it would impact whether someone was in a V-zone or A-zone. Director Garman stated that the V-zone base flood elevation was 12 feet plus one foot for freeboard, so the structure would need to be a minimum of 13 feet in order to meet the minimum requirements. He added that the A-zones varied in Town; noting that they were anywhere from seven to 10 feet depending on where the structure was located. He stated that there were AE-10's on the back side of the dunes in the north part of Town and AE-9's in other parts of Town. He stated that along the sound front it was AE-7 or AE-8 flood zones.

Director Garman stated that it would help a lot of property owners who were on the oceanfront as a lot of the properties may be out of the V-zone, but it was hard to determine where the line would be drawn. He stated that there were not a lot of V-zone properties on the west side of the roads, so some of the oceanfront structures may stay in the V-zone, depending on how close they were to the dune line. He stated that staff had been told that, state-wide and county-wide, a lot of properties would come out of the V-zone.

Director Garman stated that one of the Town's original goals was to become a member of the CRS program. He stated that the Town was a part of the National Flood Insurance Program well before the Town incorporated. He noted that the Town was never a part of the CRS program even though Dare County was. He stated that the Town became part of the CRS program in 2011 and had to come up with its own strategies to achieve points for its rating. Director Garman stated that staff came up with 1,500 points to achieve a Class seven rating, which was a 15% reduction in the flood insurance premium. Chair Blakaitis asked when the Town received the Class seven rating. Director Garman stated that the Town did not get the rating until 2011.

Vice Chair Fricker asked how many homeowners who had flood insurance knew they were receiving a discount. Council Liaison Burdick stated that there was no way to tell. Chair Blakaitis agreed. Vice Chair Fricker clarified that it wasn't known without asking. Chair Blakaitis agreed. Council Liaison Burdick explained that the homeowner receives a bill and it gives you an amount. Member Murray noted that it should be in the initial insurance quote. Director Garman stated that the homeowner would have to ask their insurance agent to make sure the correct discount is being applied. He added that he wasn't sure how the insurance companies keep track of this. He stated that some of the older policies may be referencing Dare County as the NFIP community instead of Duck. He pointed out that Dare County has a Class eight rating and the homeowner would be losing 5% if they didn't talk to their insurance agent to make sure they were referencing the Town of Duck instead of Dare County.

Director Garman stated that Building Inspector Tate clarified that the preferred rate insurance policies were ones that were not required to obtain flood insurance. He noted that homeowners that were not required to buy flood insurance but purchased it anyway would receive the preferred rate, but they would not receive the discount.

Director Garman stated that there would be changes coming to the CRS program that may affect how many points the Town would get. He added that it was beyond the Town's control.

Council Liaison Burdick asked if the Town would lose 500 points. Member McKeithan stated that it was only 250 points. Director Garman stated that the point reduction was Building Inspector Tate's best estimate, but it was not confirmed. He stated that North Carolina has a dam safety program. He added that it is a state-wide program that all communities in the state receive credit for. He stated that it was something that was going to be removed in the future so there won't be credit for it anymore. He stated that the Town receives credit for open space that cannot be developed. He thought the amount of credit would be reduced for that as it would have to be under the direct control of the Town.

Director Garman stated that the wind borne debris provisions of the building code were another item that Building Inspector Tate discussed. He explained that if someone was on the main portion of the barrier island, east of the sound, every house in the community would have to meet the wind borne debris provisions of the building code. He added that homes would have to have impact-resistant glass on the windows or plywood cut to fit the windows and have it kept on the site. He stated that there could be a change where an older standard would be used that would require it if a home was within 1,500 feet of the ocean.

Director Garman stated that the Town would not only be faced with trying to keep its seven rating, but Council had asked staff to improve the rating. He stated that staff was looking at trying to come up with potentially 750 points to improve its rating due to potential point losses with the next update to the CRS manual.

Vice Chair Fricker wondered if it was physically possible to improve the rating and stated that beyond that it became a political question as to what would need to be done to get a higher rating. Director Garman stated that Building Inspector Tate made some recommendations that the Town could physically do, but from a political standpoint, the question would be if the requirements would be worth the 5% discount.

Director Garman stated that there was a requirement of one foot freeboard, but the building code repealed it. He added that the Town still required it since it's in its ordinance. He stated that the Town could not get credit for it before since it was required by the building code, but now the Town can since it's in the ordinance but not required by the building code. He stated that if the Town decided to keep it in its ordinance and not repeal it, the Town would receive 100 points. He stated that there was the possibility of getting additional points if the Town increased the freeboard above the one foot – 200 points for two feet and 300 points for three feet.

Council Liaison Burdick asked what the cost would be to increase the freeboard. Member Murray stated there was no cost for new construction except the building height standards would need to be adjusted to address the freeboard. He stated that he was curious to hear from an insurance company with regard to freeboard requirements for remodels. He did not think a three foot freeboard would work in a remodel situation. He did not think a three foot freeboard would be bad. Director Garman thought it would require a lot of discussion.

Vice Chair Fricker asked if the Board was to be asked to make a recommendation to Council, it would be incumbent upon the Board to obtain knowledge on what the cost would be to the homeowner if there was an increase in the freeboard as well as what it would cost the Town as a whole over a ten year period to get the best rating. Member Murray agreed and didn't think it

was the increased cost. He thought the new homes would not see a great difference in cost; however, the people that wish to remodel their homes greater than 50% will be the ones impacted by a higher freeboard. He added that it would be hard to put a cost on projects that never start.

Chair Blakaitis noted that there was a part of the CRS that talked of adopting more stringent construction standards which was worth 650 points. He asked what was involved with it and if it would be a State standard or something the Town would come up with. Member Murray stated that it moved the V-zone requirements to the A-zone. Director Garman stated that it did not pertain to the elevation requirements but the construction standards. He added that the new maps would show it and would be called the Limits of Moderate Wave Action, which was a Coastal A-zone. He stated that they were not on the current maps but would be on the new maps. Vice Chair Fricker asked when they would be available to the public. Director Garman stated that the drafts would come out this fall and would take a year to go into effect. He explained that the maps would not come with any higher regulatory standards, but it would depict where the areas were located.

Director Garman explained that the V-zone was rated based on the likelihood of wave action. He stated that the Coastal A-zones would not have any construction standards when the maps go into effect, but they could be used to implement more stringent standards at a local level. He added that it would be fairly easy to implement from an administrative standpoint as it would require the same documentation that would be required for a V-zone.

Chair Blakaitis clarified that the Board was discussing the issue at a preliminary point. Director Garman stated that staff was just introducing the item to the Board for discussion purposes. He thought staff would come back with a more detailed analysis on some of the individual items at a later meeting.

Vice Chair Fricker asked if part of the Board's job was to assess the economic impacts, they should be looking at it or have someone else address the issue for the Board. Director Garman stated that an economic analysis could be done on the impacts, but thought it would be fairly difficult for staff to do. He added that it could be put out for public comment.

Member Murray stated that there were some open questions with the engineering community as to how the regulations would be enforced in a responsible way. Vice Chair Fricker stated that one position the Board could take was that they did not care about preserving the rating system. Council Liaison Burdick thought Council was asking how the Town could keep the rating it received as well as how to get to the next level. Vice Chair Fricker clarified that Council already reached a conclusion that this was important. Council Liaison Burdick thought Council reached the conclusion that it wanted to keep it. He stated that the question was how to accomplish the two and what would be the least cost way to do it. He added that some of the impacts may not necessarily be just cost. He thought it behooved the Board to identify with the two levels, the easiest thing that could be done and what the upside and downside would be.

Chair Blakaitis thought the Board needed information. Council Liaison Burdick agreed. Chair Blakaitis asked when the discussion would start. Director Garman stated that he could start bringing things back at the Board's May meeting. He stated that he could give a more detailed

presentation on what the impacts were, what the requirements would be and who it would affect. Council Liaison Burdick suggested that the Board rank them in the order of easiest, least impact items that could be done up to the more difficult. Chair Blakaitis thought Director Garman could rank the items for the Board, starting with the most difficult ones. He asked when the Board would be expected to present something to Council and how it would progress. Director Garman stated that Council did not give a specific timeline for when they wanted it back. He added that the Town would not be recertified until 2015 and it wouldn't go into effect until 2016. Chair Blakaitis clarified that the Board could work on it as time permits. Director Garman stated he was correct. He added that it would be done through a series of ordinances that would impact different sections of the ordinance. He noted that most of the items would impact the Town's flood damage prevention ordinance.

Vice Chair Fricker noted that the Town would be re-evaluated by the new CRS standards in 2015. He asked when in 2015 it would be done. He thought the Town would need to have everything in order by January 2015. Director Garman stated that the Town would have to have everything in place by October 1, 2015.

Director Garman stated that he would come back at a future meeting with a detailed overview of what the technical requirements would be from Building Inspector Tate. He stated that once the Board understood the costs, it would help them formulate what costs would need to be added. He stated that he could narrow it down to the cost differences between the V-zone and the AE coastal zones. Member Forlano clarified that the benefit would be for the entire Town. Director Garman stated that it could have additional benefits to individual owners in some cases. Member Murray suggested getting input from the health department. He felt the Board needed to think in the long term. Director Garman stated that it was an intangible thing that could be put last on the list for potential benefits. Member Murray agreed.

Chair Blakaitis suggested that the Board discuss one or two items at each meeting. Director Garman stated that he would rank the items and start with the most difficult first to flush out the requirements. He added that Building Inspector Tate would be attending the meeting to help the Board through the process.

Council Liaison Burdick thought from a Council standpoint, it would be good for the Board to look at the low hanging fruit first. He added that it may be the way to protect the Town from losing its current status. He stated that after the Board deals with the low hanging fruit, they could move on to the more difficult items in order to get to the next level. Vice Chair Fricker thought the Board could look at the low hanging fruit to get them where they want to go and then stop there. Director Garman stated that he only saw one item as low hanging fruit – 90 points for flood proof enclosures. Member Murray agreed. Director Garman stated that everything else had real impacts that the Board should thoroughly consider. Council Liaison Burdick thought that the low impacts would grow and that would be how the Board could decide which ones should be dealt with first. He added that if the Board started with the most difficult items, they would be spending a lot of time on them and not working on protecting what the Town currently has.

Chair Blakaitis suggested that the low hanging fruit consist of at least two single topics for the Board to work on at the next meeting.

APPROVAL OF MINUTES

Minutes from the March 12, 2014 Regular Meeting

Vice Chair Fricker moved to approve the March 12, 2014 minutes as presented. Chair Blakaitis seconded.

Motion carried 5-0.

OTHER BUSINESS

None.

STAFF COMMENTS

None.

BOARD COMMENTS

None.

ADJOURNMENT

There being no further business to discuss, Chair Blakaitis adjourned the meeting. There was no vote.

The time was 7:49 p.m.

Approved: _____
/s/ Joe Blakaitis, Chairman