

**TOWN OF DUCK  
PLANNING BOARD  
REGULAR MEETING  
December 13, 2023**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, December 13, 2023.

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

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

Chair Murray called to order the Regular Meeting of the Planning Board for December 13, 2023 at 6:30 p.m.

**PUBLIC COMMENTS**

Miriam Rollin, owner of 149 Plover Drive in Duck, was recognized to speak. She expressed the urgency and importance of the upcoming placement of small cell towers, called small cell facilities, across Duck. She pointed out the readily available media coverage regarding the quick expansion of 5G (fifth generation) cellular phone coverage across the United States, due to concerted efforts by Verizon and other cell service providers in recent years. Rollin commented that although 5G has its benefits, the higher frequency signal doesn't travel as far as the 4G signal, therefore requiring more towers per square mile. She explained that in most locations, 5G facilities can utilize existing utility poles, which can be as high as 40-50 feet, to support the required equipment. Rollin noted that most of Duck's existing utilities are either underground, which could mean a bunch of new towers 40-50 feet in height popping up all over Duck. She stated that she found out about the pending utility pole in her neighborhood when folks on Plover Drive noticed painted lettering with a big arrow pointing to a beach walkover cul-de-sac. She expressed the horror the Plover Drive residents and other owners felt when learning there could be a big ugly pole sticking up right at the beach access and that nobody had contacted any of the property owners to discuss the visual impacts to their ocean access. Rollin stated that she contacted Duck staff and was told that there is not a process that involves the property owners for such facilities within state rights-of-way. Her findings revealed that the steps necessary to install a small wireless facility require obtaining an encroachment permit from NCDOT for using the state right of way, of which had already been issued for Plover Drive, and an obtaining an electrical permit from the Town of Duck which must be issued if electrical code is compliant. Rollin noted her research also revealed that due to the proximity to the oceanfront dune, a CAMA minor permit might be required as well. She added that she had completed additional research into federal, state and local codes, which she is willing to share. Rollin urged the Planning Board and Town Council to establish a meaningful process for locating such facilities in a way that could achieve desired cell coverage without destroying the beauty of Duck. Chairman Murray thanked Rollin for her presentation to the Board.

## **DISCUSSION**

### *Sand Relocation Policy/Standards*

Senior Planner Sandy Cross acknowledged Board Member Cofield's request for the Planning Board to discuss the sand relocation policy that Nags Head recently implemented. She stated that staff had reached out to Nags Head planners to obtain information regarding the Town's policy. She referenced the documents received from Nags Head, which were included in the Planning Board packet. She explained that the first document contains information regarding the Nags Head Sand Relocation Program, which originated in 2014 from the Nags Head CAMA Major Permit Modification 45-10. Cross noted that this information was included because the sand relocation primarily applies to property in the beach nourishment area. She also included email correspondence with Nags Head Director of Community Planning and Development, Kelly Wyatt and an article related to Nags Head Sand Relocation Program. Cross presented a video developed by the Town of Nags Head which provides explanations and photos of sand relocation in their community.

After presenting the video, Cross expressed her concerns with applying Nags Head's sand relocation practices in Duck and outlined Duck's method of handling sand after the 2017 beach nourishment project. She explained that the Town immediately installed sand fencing and planted beach grass all winter using volunteers and paid contractors. She noted that additional rows of sand fencing were also added. Cross commented that the Town of Duck did not have issues with sand overtaking pools nor foundations of structures. She referenced an area in Sanderling that has experienced some sand accretion, has a huge wide dune and is outside the nourishment area. Cross reiterated that the Nags Head method would not apply to the Town. She noted that the Town's policy since 2006 states that property owners can maintain the dune walkway by removing sand up to 18 inches or to the middle rail, whichever is higher. She stated that walkways cannot cut into the dune, and one must build over the dune should sand accretion take over. Cross added that if the Board does not agree, then the Board will need to look at more than just policy and must examine dune and CAMA regulations. She noted Nags Head's policy is in place because of beach nourishment. Cross stated that from 2011 to present, 91 permits were issued for dune walks south of the nourishment area, 64 were issued north of the area (of which 20 were issued before the 2017 nourishment) and 150 permits issued in the nourishment area. She added that the 150 permits in the nourishment area were mostly likely from storm damage because walkways are not allowed there anymore.

Member Cofield described a friend's oceanfront home in Nags Head that has been approved for a permit to remove sand and the friend thinks it's a godsend for his location. Cross questioned what was being saved at his location. Cofield responded that the walkway needed sand removal. Cross inquired about the method used to accomplish this task. Cofield was unsure of the details. He added that he knew of property owners in Sanderling and on Buffell Head Road that had a similar, never-ending sand accumulation problem. He added that he was surprised that Nags Head pays property owners to remove the sand and thought that since some property owners in Duck experience the same problem, it was an opportunity to review the Town's policy to determine if Duck needs to do something differently.

Member Wetzel questioned the reason for walkover permits issued in Sanderling. Cross stated that most permits north of the nourishment area were the result of sand accretion. She described two permits with work description to raise dune walkovers covered by sand. Wetzel questioned if homeowners outside the nourishment area have experienced similar issues to Nags Head. Cross stated that Duck does not have the same extent of problems as Nags Head. Cross asserted that sand accretion will occur everywhere and that there will be pockets and locations that can't always be explained. Wetzel commented that it seems ironic that Nags Head has spent millions of dollars to build up the dunes through nourishment and now is potentially spending \$335,000 to move sand back to the beach. Cross stated that in Nags Head's defense, they were the first community to complete nourishment on the Outer Banks and were not prepared for all the ramifications. She noted that Nags Head provided an example and that's why the Town of Duck has implemented a fencing and planting program and has stuck with it. She added that the most important part of nourishment is to keep sand on the beach.

Cofield questioned where money comes from to relocate the sand in Nags Head. Chair Murray stated the video presentation indicated it was the Town of Nags Head's money that funds the projects.

Cofield questioned if areas that need some relief in Duck would be helped or if it would defeat what otherwise is being done in Duck. Cross asked for an example. Cofield was unsure and stated that his impression was that Duck had taken a different approach than Nags Head. Cross reiterated that the Town plants the entire beach every fall, plants sea oats and bitter panicum grass in the spring, implements a sand fencing program in the nourishment area, and is working to get a second and third row of fencing. Cofield questioned again if the Town did what Nags Head is doing in the areas that need some relief, if that would enhance or defeat the program presently operated. Cross questioned if the areas Cofield is referencing are in or outside the nourishment area. Cofield responded that it is inside the nourishment area. Cross added that the Town grades accesses every year in the nourishment area and stated that beach access structures are not allowed in the nourishment area.

Cofield questioned if the walkover rule is the Town's standard. Cross replied that it is the Town's rule and that there is a 14-million-dollar beach that the Town wants to preserve. She noted that Nags Head and Duck's situations are different and cannot be compared. She pointed out that there are no public beach accesses, therefore preventing machinery to access properties. Murray added that in his experience, sand must be dug out manually.

Member Blakaitis mentioned that Duck doesn't fit the rule of doing the same thing as Nags Head and he was unsure where Duck has the worst problems. Murray added that he has not experienced a project that could not be dealt with based on the existing regulations. He questioned if the consensus of the Board was to revisit the topic.

Wetzel asked if there had been public push back regarding the Town's policy in the nourishment area. Cross replied that one community has been forthcoming with issues.

Director of Community Development Joe Heard outlined the Board's options for how to handle this topic.

Murray suggested the Board revisit the sand relocation issue should a compelling public interest arise between the Planning Board meeting and the subsequent Town Council meeting. All Board members concurred.

## **VIDEO**

### *Takeaways from the 2022 Sea Level Rise Technical Report*

Heard explained the intent of the video “Takeaways from the 2022 Sea Level Rise Technical Report” was to provide educational material as it relates to sea level rise which is an area of concern for our community. He stated the video is a summary of a seminal study that was completed by all major environmental organizations whose findings are now widely accepted. The Board member watched the video.

## **APPROVAL OF MINUTES**

### **Minutes from the October 18, 2023, Meeting**

Cofield motioned to approve the minutes from October 18, 2023 as presented. Wetzel seconded. Motion carried 4-0.

## **STAFF COMMENTS**

Heard gave a summary of the November 1 and December 6, 2023 Town Council meetings.

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

## **BOARD COMMENTS**

Wetzel questioned if the regular Planning Board meeting will still be held the Wednesday following the Town Council meeting at 6:30 p.m. in 2024. Heard stated yes. Murray questioned if it was the staff’s preference to meet during the day. Cross noted that the scheduled time for Planning Board meetings will remain at 6:30 p.m.

## **ADJOURNMENT**

Wetzel moved to adjourn the meeting.

The meeting was adjourned by consensus of the Board Members at 7:53 p.m.

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

/s/ Marc Murray, Chairman