



APPROVED

**PLANNING BOARD
REGULAR MEETING
July 9, 2025**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, July 9, 2025.

Present: Chair Marc Murray, James Cofield, Bob Wetzel, Bob Webb, Dan Snyder, and Council Liaison Sandy Whitman.

Also present: Planning and Permits Manager, Sandy Cross, Community 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 July 9, 2025 at 4:00 p.m.

PUBLIC COMMENTS

None.

TEXT AMENDMENTS

a. Text Amendment Discussion: Fill & Retaining Walls

Cross presented revisions to Town Code Section 156.128 Land Disturbing Activities as suggested by the Planning Board during the June 2025 meeting. Cross led the discussion by providing an overview of revisions, during which she noted that consensus was reached during the June meeting to language that was unclear and needed to be broken into separate standards. She also noted that it was clarified that no land disturbing activities shall be permitted within 5 feet of any property line except in accordance with the following provisions: Necessary clearing and grubbing may occur within 5 feet from the property line provided no grade change occurs. Also added were drainage and stormwater improvements, landscaping and fencing, and land disturbances to get to the roadway. Wetzel questioned if landscaping included trees in section C and with trees impacting the adjacent properties and their rights in these situations. Cross stated that it was good practice to speak with their neighbor, however the homeowner in which the tree could be impacting may trim and cut at their expense. This becomes a civil matter between neighbors if they can't agree on an outcome.

Next section 156.128(4) was revised to read except as provided in § 156.128(A)(3) above, no fill of any kind shall be allowed within 5 feet of any property line except as associated with a driveway, bulkhead or other permitted setback encroachments. Driveways shall be designed to the extent

reasonable to prevent the direct flow of stormwater runoff to streets or adjacent properties. Murray believes that changing the wording from prevent to mitigate addresses his concern and he agrees that removing “to the extent reasonable” anywhere in the ordinance is a good idea. Staff believe that the word mitigate would provide more push for measures to be put in place. Pictures were presented with multiple driveways to show different scenarios and landscaping and explaining the multiple options that could assist with these drainage issues.

Discussion of retaining walls and back fill continued as trying to find balance between these with understanding that slopes and existing grade play into effect. Different photos illustrations were provided to show the difference in slopes and grades and how the amount of fill and bulkhead height can vary. New language “Bulkheads may be established for shoreline protection as a means to stabilize or contain fill provided they do not exceed 5 feet in height and do not extend any further seaward than 2 feet from an existing shoreline protection bulkhead. Where no shoreline protection exists, bulkheads may be established for shoreline protection as a means to stabilize or contain fill provided they do not exceed 3 feet in height and do not extend any further seaward than 3 feet from any adjacent grade of similar height.” Murray questioned what staff wanted to encourage in these situations, i.e. do we want the wall to be built further inwards? Cross stated that they are trying to promote property protection and that bulkheads are not the answer. The Town has been promoting resiliency and living shorelines and marsh grasses are a better solution for stabilization and protection. Board discussed and the consensus was that existing bulkheads that are going to be replaced or repaired, be allowed no more than 2 feet out consistent with CAMA regulations regardless of the height but they may not exceed the height of the existing bulkhead. Where no shoreline protection exists, bulkheads may be established for shoreline protection as a means to stabilize or contain fill provided they do not exceed 3 feet in height and do not extend any further seaward than 3 feet from grade at the bulkhead. Cross also clarified that staff would separate between new and existing shoreline protection to have clear understanding.

In section 156.128 15B there were questions about fill and height when you are above regulatory flood plain elevation, reference was added to the definition of building height pursuant 156.002 Building Height, measuring from the slab. Discussion between staff and board on sections B and C continued to ensure consistency in wording of the ordinance. Murray questioned the fill of 3ft and stating that it is confusing to understand if fill is allowed or not and at what point. Wetzel pointed out that previously it was allowed to fill at the owner’s expense. The consensus was to rewrite: (C) Where fill/grading is not necessary to raise a house to the regulatory flood protection elevation, there shall be a maximum allowance of 3 feet from the lowest pre-disturbance footprint of the house and (B) Lot depressions that constitute less than 3% of the lot size and are located a minimum of 5 feet from all lot lines may be filled no higher than to the level of the directly adjacent grade completely surrounding the depression. The post-fill condition shall be considered as the pre-disturbance ground elevations of such depressions in permitting leveling and calculating building height.”

156.128 (B) Cross pointed out that there was removal of Planning Director and changed to zoning administrator as well as added “as deemed necessary by the Zoning Administrator” due to the number of items that aren’t always’ needed for every situation. Cross also removed Approximate depth of seasonal high-water table as per Mike Robinson recommendation. Subjective words such

as unreasonably, substantial, such higher were removed from a certification that while rarely used the removal will help with less interpretation. Murray mentioned that there may be a state law to have some of that verbiage and to run it by the Town attorney. Removal of the required number of copies required for permitting has been removed and now shall be determined by the Zoning Administrator. Added more verbiage to definition of bulkhead, based on research from other communities as well as added graphics to assist. The section of code that addresses retaining wall and bulkhead setbacks, and fence height limits of 6 feet and 10 feet is separate from 156.128. It was suggested that we add a clause to 156.050 to provide clarity that this section applies unless otherwise regulated by section 156.128.

Wetzel questioned should there be a change of 24 inches to 36 inches for the septic system to make that amount consistent. Cross pointed out that it's for septic fill only and didn't see much of an opinion as 24 inches is already the standard and a request for 12 inches more is allowed, and anything over would require a special use permit.

Chair Murray asked Cross to check with Town Attorney Hobbs regarding the revisions to the certification clause.

Cross will have a draft ordinance preparation confirmed for presentation to council next meeting.

b. Text Amendment Discussion: Outdoor Lighting Survey

Goeld addressed the board with the updates to the draft survey focusing on a 13-question draft. Goeld started discussions with the need for a clear purpose statement and an introductory paragraph to outline the survey's intent. He noted feedback from board members emphasized the importance of neutral and unbiased questions to ensure accurate public responses. Purpose statement feedback received from board members via email, with four supportive responses and one requesting additional discussion. Cofield requested additional discussion to clarify specific aspects of the purpose statement before finalizing it. Webb also asked if there would be an insert link to additional information on artificial light at night. The feedback highlighted the importance of ensuring the purpose statement aligns with the overall objectives of the outdoor lighting survey.

Murray brought up the terminology used in the context of outdoor lighting surveys, particularly focusing on the terms "energy consumption" and "energy savings." The debate centered around the potential confusion caused by the wording, with Murray expressing concerns about how respondents might interpret the terms. While Cofield felt the question of energy use may be unnecessary to the questionnaire. Ultimately, the board reached a consensus to use "energy consumption" for clarity, aiming to ensure that survey participants could accurately understand and respond to the questions related to energy use.

The survey question structure utilizes a balanced scale format to capture a range of opinions from respondents. This format allows participants to express varying degrees of agreement or disagreement, enhancing the granularity of the data collected. Retaining the 'unsure/don't know'

option acknowledges the complexity of the topic and provides insight into areas where respondents may lack information or confidence.

Introduction paragraph modifications approved adding language about potential text amendments: 'which may include modifications to existing town ordinances while preserving the natural beauty of our town character.' This modification aims to enhance community awareness and involvement in the decision-making process regarding outdoor lighting regulations.

NEW BUSINESS

Potential Ordinance Amendment Subsection 156.130(F)(5) – Nonconforming Signs

Cross opened discussion on sign compliance clarification needed after a recent business case involving off-premise signage that disappeared and returned with modifications. Clarification is needed on what constitutes a loss of non-conforming status for signs, particularly regarding alterations such as changes in copy or structural modifications. The recent case involved a business owner who argued for grandfathering their off-premise sign after it was removed and then reinstalled with a different phone number, raising questions about the interpretation of existing regulations. Proposed changes to the ordinance aim to specify that alterations include structural repairs and changes in size or shape, while allowing for normal maintenance and changes of copy without losing non-conforming status. Cross points out that the current ordinance language deemed unclear regarding when signs lose non-conforming status, specifically around 'relocated or replaced' and 'altered in any way' provisions. The phrase 'altered in any way' is vague, as it does not clearly differentiate between minor changes (like repainting or changing a phone number) and significant modifications that would warrant a loss of non-conforming status. There is a need for explicit definitions of what constitutes 'normal maintenance' versus alterations that would affect a sign's compliance with the ordinance, to prevent disputes and ensure consistent enforcement.

Cross and Board discussed a proposed amendment language stating: 'structural repairs, changes in size, shape or removal for more than 30 days' to replace existing unclear terminology. The proposed amendment aims to clarify the conditions under which a non-conforming sign loses its status. It specifies that non-conforming signs may lose their designation if they undergo structural repairs, changes in size, shape, or are removed for more than 30 days. This amendment seeks to eliminate ambiguity in the existing ordinance language, ensuring clearer enforcement and compliance regarding non-conforming signs. Flag regulations confirmed as permissible (one per 25ft of property frontage) with active enforcement of derelict flags and excess quantities. Active enforcement is in place to address flags and ensure compliance with quantity limits. Businesses are generally cooperative when notified about excess flags or maintenance issues.

PRESENTATION OF STUDIES/REPORTS

2025 Trend Report for Planners: Heat, Wildfire & Air Pollution (pages 20-21)

Gould presented a report on heat, wildfire, and air pollution effects noting that record-breaking temperatures were noted for 2023-2024 in North Carolina, with 2025 projected to continue this trend. The increasing heat trend is expected to lead to more heat-related emergencies, potentially straining local healthcare resources and emergency services particularly for vulnerable populations. State initiatives, such as the Heat Awareness Week, are aimed to educate the public about the risks associated with extreme heat and promote community preparedness. Gould let the Board know that cooling center options provided in Duck include the town administrative building, offering a respite from extreme heat for residents and visitors, water fountains and mature trees in the park for shade. Gould also highlighted the amount of rainfall recently and snowfall from this past winter, paying attention to the heat advisories issued through summer as the Town considers their obligation to promote a healthy community.

Air quality impacts from distant wildfires (Canada) and regional fires like the 2011 Haines Bay fire that affected Alligator River National Wildlife Refuge. Air quality can be significantly affected by distant wildfires and can lead to increased levels of particulate matter and other pollutants in the atmosphere, impacting respiratory health. Regional fires can create localized air quality issues, causing hazardous conditions that may affect not only wildlife but also human populations in nearby areas. Wildfire smoke can travel long distances, leading to air quality alerts and health advisories even in regions far removed from the fire's origin, necessitating public awareness and preparedness for potential health impacts.

Recently the Governor of NC mandated Heat Awareness Week proclamation noted for the last week in May. Governor's Heat Awareness Week is designated to raise public awareness about the dangers of extreme heat and promote safety measures. The town will engage its community to discuss heat exposure risks and develop strategies for public education and safety. This initiative aims to ensure that vulnerable populations, such as the elderly and outdoor workers, are informed and protected during high-heat events and how the Town can help to keep everyone hydrated and cooled.

Cross also add that the Town recently adopted their 2025 hazard mitigation plan, and one of the action items include engaging with the community on an annual basis with focus related to heat exposure, fire and storm event risks. The Town also provides effective public information and education material to disseminate data on hazards and educate beach safety including sand heat and heat exposure. This isn't just a trend it is something to be aware of and the Town is taking note of.

APPROVAL OF MINUTES

Minutes from the June 11, 2025 Meeting

Wetzel motioned to approve the minutes from the June 11, 2025 meeting as written. Cofield seconded the motion. Motion carried 5-0.

STAFF COMMENTS

a. Summary of July 2, 2025 Town Council Meeting

Cross updated the Board that Council last week signed contracts with CPE for beach nourishment, Freese & Nichols Inc for design services on the Herron Land property, Hornthal Riley Ellis & Maland LLP with the Town, and Joe Heard to be a grants specialist for the Town.

b. Project Updates

Cross updated the Board letting them know that the shoreline stabilization projects out to bid and expects a pre bid meeting later in the month and bid opening in late August. Hopes are to have three bids to allow time to get everything contracted to begin work after Jazz Festival in October. The Teresa Court project is currently in the hands of NCDOT with anticipation of a response in mid-July and bid let to occur sometime in August so that work may begin after Jazz Festival as well. Cross announced Connor Winstead will be joining the team Monday as the Town's Development & Infrastructure Director/Assistant Town Manager.

BOARD COMMENTS

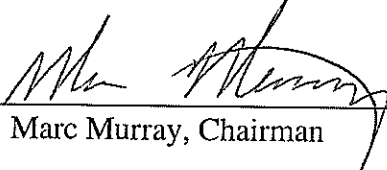
None

ADJOURNMENT

Murray moved to adjourn the meeting.

The meeting was adjourned by consensus of Board members at 5:36 p.m.

Approved: _____


Marc Murray, Chairman