

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
July 14, 2021**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, July 14, 2021.

Present were: Chair Joe Blakaitis, Vice Chair James Cofield, Marc Murray, Tim McKeithan, and Randy Morton.

Absent: None.

Also present were: Council Liaison Sandy Whitman, Director of Community Development Joe Heard, Senior Planner Sandy Cross, and Deputy Town Clerk Kay Nickens.

Absent: None.

Others Present: Tom Dorsey of 1354 Duck Road.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for July 14, 2021 at 6:31 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

None.

NEW BUSINESS

Discussion: Requirement for Elevation Certificates in Flood Damage Prevention Ordinance Section 150.26(C)(1)

Director Heard explained that the Flood Damage Prevention Ordinance that was adopted last year includes a section that deals with Town requirements from contractors and homeowners to document the current elevation and post-development elevation to show that the elevation follows Town and FEMA standards to qualify for certain types of insurance discounts.

Director Heard stated that there are situations in Duck in which a property is over 50 feet in elevation above sea level, but the ordinance requires the property owner to provide an elevation certificate. His concern lies with the requirement for an elevation certificate for such properties as there is extra time and financial costs involved in having elevation certificates prepared.

Director Heard pointed out that there are three similar communities that currently require elevation certificates. There are four communities that do not require elevation certificates but allow alternative solutions to documenting elevations.

Chair Blakaitis asked Member Murray to clarify what his experience with elevation certificates to better understand his concern with the requirement. Member Murray explained the associated cost and the lack of applicability in some cases. It makes sense to ask for an elevation certificate when the elevation is close to the ten-foot threshold, but if the elevation is over 50 feet above sea level, it is not needed.

Member McKeithan asked what the municipalities who do not require elevation certificates do when the threshold is close to the requirement. Director Heard explained that the exact wording is provided in the staff report and most are identical. Should it be something that the town wants to consider in terms of height or elevation regulations, a property would need to show that it is compliant with those regulations.

Director Heard explained that the only other factor that plays into statutory requirements refers to Risk Rating 2.0 that is a new system implemented by FEMA as part of the National Flood Insurance Program. Risk Rating 2.0 changes the way that flood maps and information on elevation certificates are used. Properties are going to be evaluated on an individual basis to determine the flood rating.

Senior Planner Cross added that Risk Rating 2.0 is going to be based on an algorithm that tells insurance companies what the risk is for an individual property. She explained that the Town does not get any CRS credit for insurance discounts for requiring elevation certificates in non-flood zones. Once Risk Rating 2.0 goes into effect, all policies will receive a discount based on the CRS rating.

Vice Chair Cofield asked about the effective date of Risk Rating 2.0. Senior Planner Cross stated it is unclear what that actual date will be. Changes to policies could come into play relatively soon but owners should consider consulting their insurance companies.

Director Heard pointed out that this raises the question of how a new system is being implemented and after consulting with other towns, it is unclear how FEMA and insurance companies will be using elevation certificates moving forward. He reiterated that Mr. Murray's concern is worth considering but it might be premature to make any decision without knowing how elevation certificates are going to be used as other communities may be changing their requirements as well. The recommendation from staff is to defer consideration.

Vice Chair Cofield asked how the Town's interest in requiring elevation certificates would be best summarized. Director Heard explained that an elevation certificate is the most comprehensive and accurate way of documenting compliance with town flood prevention standards as well as providing information for property owners and insurance companies. Elevation certificates can document a timeline of changes that could have potential impacts on future flood maps. He added that there are other ways of documenting elevations without providing an elevation certificate.

Vice Chair Cofield asked if the concern is primarily the cost of producing elevation certificates and Member Murray explained that the cost is a concern primarily in addition to having an additional step that takes time. He added that the requirement would be in the property owner's interest, but not the Town's interest. The relationship between homeowners and FEMA only affects the Town to the extent of the CRS rating that the Town receives. He further explained that the Town has created a flood ordinance and the RFPE higher than all towns to protect people above and beyond what other localities are doing. Currently, homeowners in X flood zones do not benefit from the stringent rules. FEMA could change the form when Risk Rating 2.0 goes into effect and then homeowners would be required to obtain a new, updated form. Member Murray stated that there is language that the Town can adopt while re-examining the ordinance until Risk Rating 2.0 goes into effect, after which case further changes could follow.

Chair Blakaitis questioned the applicability of any changes to the flood ordinance. Senior Planner Cross and Member Murray clarified that the flood zones are unlikely to change for ten years. Member Murray further explained that CRS ratings are great because of the discount it provides on flood insurance, but it makes no sense to require homeowners to spend more money and time on something with no value to homeowners or the Town's CRS rating.

Director Heard asked if staff should prepare a formal amendment. Chair Blakaitis questioned if it would affect anything if that was done now or if there is any associated time frame with preparing an amendment. Director Heard explained that the timing would affect both current and upcoming projects.

Member Morton asked if the consideration for the changes were only for X flood zones. Director Heard confirmed that those would be the only zones impacted. Senior Planner Cross added that only areas above the RFPE of ten feet would be impacted.

Director Heard and Senior Planner Cross discussed the time frame of October 1, 2021 being the date in which any new insurance policies put into effect after that date would be subject to Risk Rating 2.0 requirements. Other policies would be subject to a gradual transition which takes effect April 1, 2022.

Member Murray clarified that people can obtain an elevation certificate regardless for flood insurance purposes regardless of flood zone and questioned the benefit of requiring an elevation certificate in an X flood zone. Senior Planner Cross and Director Heard explained that there may be minimal benefits to an individual property owner, but we are unsure how Risk Rating 2.0 will translate to CRS at this time. Senior Planner Cross stated that flood insurance policies outside of the SFHA are not receiving a discount but that will change with Risk Rating 2.0.

Member Murray pointed out that homeowners outside of a flood zone do not need to have flood insurance. The Town is requiring an elevation certificate from properties in an X flood zone that do not meet the ten feet RFPE which serve no purpose if the homeowner chooses not to obtain flood insurance.

Vice Chair Cofield stated that Duck isn't different in terms of everyone else in Dare County in terms of recommending flood insurance. It is something for the homeowner to decide and is purely situational.

Chair Blakaitis stated that if Risk Rating 2.0 goes into effect in October then no action should be taken at this time.

Member Morton addressed the timeframe and pointed out that if the staff made a recommendation, it would be presented in August, then go to Council in September.

Member Murray pointed out when Risk Rating 2.0 takes effect, the relationship between the Town and construction within the Town will not change. He explained that homeowners may get a discount being in an X flood zone, but the Town should not change the ordinance to require homeowners to incur additional expenditures simply because it may be in the public's interest to obtain an elevation certificate.

Member McKeithan stated his position in that he would prefer to wait and implement the change at a later date.

Vice Chair Cofield commented that it is premature to take any action at this time.

Member Morton stated that he would defer.

Chair Blakaitis stated that he would defer. He explained that when this goes to Council, Member Murray would be present to the board for discussion.

Presentation & Discussion: Leverage NC Webinar: How the Pandemic is Affecting Real Estate & Land Use, Ed McMahon, Urban Land Institute

Director Heard introduced the video that he would be showing the Board that explained how the pandemic is affecting real estate and land use within communities.

Director Heard commented on the video and the relevance of the material presented.

APPROVAL OF MINUTES

Minutes from the April 14, 2021, Regular Meeting

Vice Chair Cofield moved to approve the minutes. Member McKeithan seconded.

Motion carried 5-0 via roll call.

Minutes from the March 10, 2021, Regular Meeting

Member McKeithan moved to approve the minutes as presented. Member Morton seconded.

Motion carried 5-0 via roll call.

STAFF COMMENTS

