



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Board of Commissioners
Planning Board

From: Michael Zehner, Director of Planning & Development

Date: February 26, 2020

Subject: Planning and Development Director's Report

This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on March 4, 2020.

Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for January 2020*. In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, Staff was involved in the following meetings or activities of note during the month:

- January 8 - Board of Commissioners Meeting
- January 8 - Final Outer Banks Hazard Mitigation Plan Committee Meeting
- January 9 - Final Outer Banks Hazard Mitigation Plan Public Forum
- January 10 - Nags Head Woods Living Shoreline Discussion
- January 16 - Munis Online Permitting Meeting with Currituck County
- January 21 - Planning Board Meeting
- January 22 - N.C.G.S. 160D Workshop
- January 23 - BOC Retreat
- January 24 - N.C. State Sustainability Studio Coordination Meeting

Updated Flood Map; Update of Flood Damage Prevention Ordinance

Following up on the board's joint discussion on February 18, 2020, please find attached notes from the meeting; also included are a summary of comments made by Porter Graham, Government Affairs Director for the Outer Banks Home Builders Association during the public comment period of the Planning Board meeting, which followed the joint discussion. As noted at the joint discussion, Staff would request any comments from members of the boards, at any time, that may require consideration in the draft to be presented to the Planning Board.

Following the joint discussion on February 18, Staff participated in a meeting with Mr. Graham and Colleen Shriver, representing the Outer Banks Association of Realtors, where the updated maps and ordinance were also a topic of discussion. Staff has requested a follow up meeting with Mr. Graham and representatives of the Home Builders Association.

Moving forward, a community informational meeting to present and discuss the proposed ordinance amendments has been scheduled for March 9 at 5:30, and the Planning Board will review the proposed amendments for recommendation at their meeting on March 17. A request to schedule a public hearing is anticipated to be on the Board of Commissioners' April meeting agenda, with the public hearing and potential action scheduled for the May meeting.

Pending Applications and Discussions

Two previously submitted text amendments reported to the boards as pending, have been withdrawn by the applicant; these were amendments to allow temporary outdoor stand/farmers market in conjunction with/accessory to general retail uses (or a clarification of outdoor sales in conjunction with general retail uses) and amendments to allow beer and wine sales by the glass as a use in conjunction with/accessory to general retail uses.

The agenda for the March 17, 2020 meeting of the Planning Board is expected to include further consideration of options and recommendations (if not draft text amendments) pertaining to legacy establishments/structures, event homes, residential stormwater regulations, and the *Planning & Development Department and Septic Health FY2020-2021 Strategic Work Plan*, as well as consideration of a Major Site Plan to construct a dock at Oceans East Bait & Tackle (7405 S. Virginia Dare Trail),

Additional Updates

- Town Workforce Housing Study & Plan - Phase 1 Report presented to the Board of Commissioners for the February 5, 2020 meeting.
- Septic Health - Staff intends to prepare and present a draft project scope for the update of the Decentralized Wastewater Plan to the Commissioners in April. An offer was extended and accepted for the Environmental Planner position, with the new employee expected to begin with the Town in early March.
- Hazard Mitigation Plan - The final Plan is pending review by the State, and subsequently FEMA, with final consideration and adoption by the County and towns anticipated in June/July 2020.
- Grants - A request is pending under the Hazard Mitigation Grant Program (Tropical Storm Michael) to update the Town's Emergency Operations Plan. Staff submitted a Letter of Interest ("LOI") under the Hazard Mitigation Grant Program related to Hurricane Dorian for the acquisition of property, and assisted Fire Chief Wells in the submission of an LOI for replacement of a generator. Additionally, Staff is reviewing grant opportunities for a CAMA Access Grant and Clean Water Act-Section 319 (h) Nonpoint Source Grant.
- UDO - Staff continues to develop Reference Manual materials. Publishing on the Municode platform is pending; Staff has received a response to previously issued comments, and needs to return additional comments require action. Staff assessing budget for printing hardcopies of UDO.

- Permitting - Staff has contacted representatives of the Outer Banks Home Builders Association to coordinate a schedule for a workshop/forum for the building community. Staff will likely move forward with scheduling a forum in April.

Online permitting for trade permits is expected to be active on Monday, March 2, 2020.

Upcoming Meetings and Other Dates

- Thursday, February 27, 2020 - Munis Online Permit Coordination and Training
- Wednesday, March 4, 2020 - Board of Commissioners Meeting
- Friday, March 6, 2020 - N.C. State Sustainability Studio Mid-Semester Project Review
- Monday, March 9, 2020 - Flood Maps/Ordinance Community Informational Meeting
- Wednesday, March 11, 2020 - OBX ISOP/J-1 Outer Banks 2020 Community & Employer Forum
- Wednesday, March 11, 2020 - 2020 Census Dare County Complete Count Committee Meeting
- Thursday, March 12, 2020 - Board of Adjustment Meeting
- Tuesday, March 17, 2020 - Planning Board Meeting

**TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
JANUARY 2020**

DATE SUBMITTED: February 7, 2020

| | Jan-20 | Jan-19 | Dec-19 | 2019-2020 FISCAL YTD | 2018-2019 FISCAL YTD | FISCAL YEAR INCREASE/ DECREASE |
|----------------------------------------------|--------------------|--------------------|------------------|-------------------------|-------------------------|--------------------------------------|
| BUILDING PERMITS ISSUED - RESIDENTIAL | | | | | | |
| New Single Family | 1 | 0 | 0 | 4 | 12 | (8) |
| New Single Family, 3000 sf or > | 0 | 1 | 0 | 4 | 7 | (3) |
| Duplex - New | 0 | 0 | 0 | 0 | 0 | 0 |
| Sub Total - New Residential | 1 | 1 | 0 | 8 | 19 | (11) |
| Miscellaneous (Total) | 41 | 32 | 31 | 213 | 212 | 1 |
| <i>Accessory Structure</i> | 2 | 5 | 2 | 23 | 24 | (1) |
| <i>Addition</i> | 0 | 0 | 5 | 10 | 8 | 2 |
| <i>Demolition</i> | 0 | 0 | 0 | 2 | 2 | 0 |
| <i>Move</i> | 0 | 0 | 0 | 0 | 0 | 0 |
| <i>Remodel</i> | 7 | 3 | 8 | 48 | 47 | 1 |
| <i>Repair</i> | 32 | 24 | 16 | 130 | 131 | (1) |
| Total Residential | 42 | 33 | 31 | 221 | 231 | (10) |
| BUILDING PERMITS ISSUED - COMMERCIAL | | | | | | |
| Multi-Family - New | 0 | 0 | 0 | 0 | 0 | 0 |
| Motel/Hotel - New | 0 | 0 | 0 | 0 | 0 | 0 |
| Business/Govt/Other - New | 0 | 0 | 0 | 0 | 2 | (2) |
| Subtotal - New Commercial | 0 | 0 | 0 | 0 | 2 | (2) |
| Miscellaneous (Total) | 8 | 6 | 7 | 47 | 54 | (7) |
| <i>Accessory Structure</i> | 4 | 1 | 1 | 11 | 14 | (3) |
| <i>Addition</i> | 0 | 0 | 0 | 0 | 0 | 0 |
| <i>Demolition</i> | 0 | 0 | 1 | 3 | 1 | 2 |
| <i>Move</i> | 0 | 0 | 0 | 0 | 0 | 0 |
| <i>Remodel</i> | 2 | 2 | 1 | 15 | 18 | (3) |
| <i>Repair</i> | 2 | 3 | 4 | 18 | 21 | (3) |
| Total Commercial | 8 | 6 | 7 | 47 | 56 | (9) |
| Grand Total | 50 | 39 | 38 | 268 | 287 | (19) |
| SUB-CONTRACTOR PERMITS | | | | | | |
| Electrical | 35 | 28 | 33 | 257 | 264 | (7) |
| Gas | 1 | 1 | 2 | 12 | 15 | (3) |
| Mechanical | 25 | 29 | 18 | 187 | 200 | (13) |
| Plumbing | 6 | 5 | 13 | 47 | 53 | (6) |
| Sprinkler | 0 | 0 | 1 | 1 | 2 | (1) |
| VALUE | | | | | | |
| New Single Family | \$367,797 | \$0 | \$0 | \$892,797 | \$2,593,000 | (\$1,700,203) |
| New Single Family, 3000 sf or > | \$0 | \$500,000 | \$0 | \$3,082,561 | \$4,450,460 | (\$1,367,899) |
| Duplex - New | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Misc (Total Residential) | \$836,068 | \$610,813 | \$875,075 | \$5,454,815 | \$4,705,046 | \$749,769 |
| Sub Total Residential | \$1,203,865 | \$1,110,813 | \$875,075 | \$9,430,173 | \$11,748,506 | (\$2,318,333) |
| Multi-Family - New | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Motel/Hotel - New | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Business/Govt/Other - New | \$0 | \$0 | \$0 | \$0 | \$1,846,975 | (\$1,846,975) |
| Misc (Total Commercial) | \$76,800 | \$43,604 | \$82,500 | \$1,506,204 | \$2,548,593 | (\$1,042,389) |
| Sub Total Commercial | \$76,800 | \$43,604 | \$82,500 | \$1,506,204 | \$4,395,568 | (\$2,889,364) |
| Grand Total | \$1,280,665 | \$1,154,417 | \$957,575 | \$10,936,377 | \$16,144,074 | (\$5,207,697) |

**TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
JANUARY 2020**

DATE SUBMITTED: February 7, 2020

| | Jan-20 | Jan-19 | Dec-19 | 2019-2020 FISCAL YTD | 2018-2019 FISCAL YTD | FISCAL YEAR INCREASE/ DECREASE |
|---------------------------------------|--------|--------|--------|-------------------------|-------------------------|--------------------------------------|
| ZONING | | | | | | |
| Zoning Permits | 16 | 9 | 23 | 159 | 161 | (2) |
| CAMA | | | | | | |
| CAMA LPO Permits | 4 | 9 | 5 | 21 | 24 | (3) |
| CAMA LPO Exemptions | 15 | 4 | 5 | 50 | 40 | 10 |
| CODE COMPLIANCE | | | | | | |
| CCO Inspections | 45 | 65 | 36 | 534 | 576 | (42) |
| Cases Investigated | 17 | 51 | 15 | 255 | 326 | (71) |
| Warnings | 3 | 0 | 9 | 45 | 58 | (13) |
| NOVs Issued | 11 | 51 | 10 | 209 | 248 | (39) |
| Civil Citations (#) | 0 | 0 | 0 | 1 | 0 | 1 |
| Civil Citations (\$) | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| SEPTIC HEALTH | | | | | | |
| Tanks inspected | 0 | 15 | 0 | 96 | 147 | (51) |
| Tanks pumped | 4 | 9 | 3 | 14 | 51 | (37) |
| Water quality sites tested | 0 | 0 | 0 | 112 | 115 | (3) |
| Personnel Hours in Training/School | 14 | 48 | 7 | 98 | 256 | (158) |



Michael D. Zehner, Director of Planning & Development

COMMENTS:

**Summary of February 18, 2020 Planning Board and Board of Commissioners
Joint Discussion to Review Draft Flood Damage Prevention Ordinance
Amendments**

Chair Vaughan called for a motion to enter into a joint meeting with the Board of Commissioners to review and discuss the draft flood damage prevention ordinance amendments. Molly Harrison so moved, Gary Ferguson seconded, and the motion passed by unanimous vote.

Planning Director Michael Zehner introduced staff in attendance and provided a brief introduction of the preliminary flood maps and draft flood damage prevention ordinance.

Mr. Zehner indicated that the Town received maps in June 2016. There has been on-going discussion about the maps since that time with staff and the boards. The preliminary maps update the current 2006 maps. The Town received a letter of final determination in December 2019 that gives the Town until June 19, 2020 to adopt the preliminary maps, ordinance, and study. Mr. Zehner indicated that there are concerns with the preliminary maps and what is reflected in the draft ordinance addresses that. There is a tight timeline to adopt. Mr. Zehner said that much of the draft ordinance is based off of the model. However, there are other options where additional feedback is needed. Mr. Zehner stated that the goal of this meeting is to gain feedback from the Board of Commissioners and the Planning Board on the draft ordinance so that staff can bring back a refined final draft to Planning Board in March. Mr. Zehner indicated that staff is trying to avoid having more than a one meeting delay due to the adoption date on or before June 19th. Planning Director Zehner concluded and turned the presentation over to Planner Holly White.

Planner Holly White shared how the municipalities in Dare County and the County have been jointly working together to review the maps, develop the “Low Risk is Not No Risk” Outreach Strategy, and develop a local elevation standard (LES) in light of the underrepresented risk on the maps. The planners group worked with the local building and development community as well as other municipalities to ensure as much consistency in the development of the local elevation standard language as possible.

Ms. White indicated that the local elevation standard is a locally adopted elevation level that is used as the Regulatory Flood Protection Elevation (RFPE). The Town’s RFPE now is the Base Flood Elevation (BFE) plus freeboard. White said that the LES would mean regulating in Shaded X or X, AE, or AO, V flood zones. We currently do not regulate in the Shaded X or X now. The benefit of doing this is that it realizes insurance benefits to property owners, but the Town is able to regulate for known risks. White further said that adopting a higher standard would protect homeowners from building in a way that would later cause higher insurance rates (if the map changed in the future) for non-conforming structures.

Ms. White rereviewed that the Town currently has AE and VE flood zones and that is a 1% chance or 100-year flood. This means there is a 1% chance in a year for a 100-year flood. The AO flood zone is new for Nags Head on this preliminary map. This is also a 1% chance or 100-year flood but is limited to cases where there is overtopping of the dune and ponding behind the primary frontal dune. There is typically a minimum elevation above adjacent grade for AO. The Town also has Shaded X and X zones and that is a .2 chance of flood but there are currently no regulations for these areas.

Ms. White summarized the major changes in the flood maps for the board. She indicated that these included increases in the number of properties in X flood zone (even X on the oceanfront); fewer VE and AE zone properties; and reduced base flood elevations. Ms. White said that on the current maps AE flood zones have a BFE of 8-10' and the new maps have BFE's of 4-5'. Additionally, in VE the Town has a consistent VE 11' on the current maps, but the preliminary maps show BFE's ranging from 9-12 along oceanfront.

Ms. White explained to the boards that if the Town elected to adopt an LES, the Town would adopt the maps for flood insurance purposes. However, the LES would still be needed to mitigate and protect future losses. She indicated that the easiest way to explain the LES was from a geographical perspective. East of NC 12 and SR 1243 would be treated the same as the current V zone is treated. This area includes the Shaded X, X, AO, and V zone properties and would have an elevation requirement of 12'. West of NC 12 and SR 1243 would be required to meet a 10' elevation requirement. This area includes Shaded X, X, and AE flood zones. Ms. White said that in all cases the LES would be higher than the preliminary mapped flood zone. She concluded explanation of the LES by saying that the LES is consistent with the regulatory flood protection elevation (RFPE) of the currently effective flood maps.

A board member referenced the graphic in the presentation and asked where the freeboard was in the LES. White responded that the LES had been developed, to this point, without a freeboard but this may need to be amended to achieve more CRS (Community Rating System) points. Staff is still exploring how we will best be rated for purposes of CRS and whether the term freeboard is needed for CRS rating. Due the conditions present in Nags Head and past flooding, the easiest way to convey the local elevation standard to the public as been the geographic reference to east and west of 12 and 1243. She pointed out that in the referenced graphic, the freeboard is between the base flood elevation and the regulator flood protection elevation.

Ms. White referenced the map in the presentation and noted that the map depicts current X zone structures in relationship to existing elevation contours in the Town. She said that most existing X zone properties are located above 10' elevation contour. Ms. White added that there has been an increase in the number of repetitive loss properties in between the highways and in west side neighborhoods. She explained that this is notable because historically repetitive loss properties have primarily been on the oceanfront or sound front. To be considered repetitive loss, the structure must have obtained 2 or more losses in a 10-year period.

Ms. White outlined the major components of the local elevation standard, as proposed in the draft ordinance. She noted that this included:

- LES: 12' East of 12/1243 and 10' west of 12/1243
- East of 12/1243: Treat as V Zone with V zone requirements; no enclosures
- West of 12/1243: Limit enclosures 300 sq. ft. or less
- Existing structures: Areas cannot be converted for temperature-controlled space unless meets RFPE
- Section 11.44.2.7.9., Standards in Shaded X and X:
 - Substantial improvement/damage definitions do not apply
 - Lateral additions- allowed up to 10%; if greater than 10% total floor area on the level of addition- must meet RFPE
 - Remodeling/renovations existing habitable area- allowed as long as footprint does not increase.

Ms. White then outlined the major options as noted in the draft ordinance. These included:

- 11.43.5.1. Elevation Certificates
 - Can require 3 certificates- recommend 2 (after first floor and prior to CO)
- 11.43.5.6. Finished construction V zone certification
 - Require V zone certification at permitting
- 11.44.2.4. Elevated Buildings
 - Non-conversion agreement recorded with Register of Deeds for enclosed areas
- 11.44.2.7.5. Substantial Improvement/Damage
 - Utilize 365 day period
 - Repetitive Loss language optional

Board of Commissioner Webb Fuller asked what a non-conversion agreement is? Ms. White and Mr. Cory Tate, Building Inspector, responded that this is simply an agreement, signed and recorded by homeowner, that prevents areas below regulatory flood protection elevation from being covered to habitable area.

Mayor Ben Cahoon asked if the Town was creating our own certification forms or using FEMA's form. Ms. White responded that we would rely on FEMA's elevation certificate form. Mr. Tate noted that staff had discussed the possibility of creating a town specific V Zone Certification form that would include certification language unique to coastal areas for pools and fill.

Ms. White proceeded with the presentation and explained that needed modifications to the UDO and references to height. She explained that the way height is measured is not changing. Allowances are being made to not penalize the height of structures that are required to meet the LES in Shaded X and X.

Ms. White then reviewed the provisions for fill in the draft ordinance. She noted that the regulations for fill in the flood ordinance are limited to V Zones and areas east of 12 and 1243. The stormwater ordinance would need to be updated for consistency as it also addresses fill separately. Ms. White pointed out that the ordinance states:

- No alteration of sand dunes that increase potential flood damage
- Fill is limited to 2' or less
- If 2' or greater, an analysis prepared by a design professional demonstrating no diversion of floodwaters
- Minor grading and minor quantities of nonstructural fill allowed (landscaping, drainage, parking slabs, pool decks, patios, etc.)

Board members had questions about how fill was regulated. There was general discussion about the where, how much fill, and in what cases if less than 2' of fill was proposed. Ms. White and Mr. Zehner explained that fill less than 2' would only be allowed for landscaping, drainage, parking, pool decks, and patios. No structural fill is allowed in V flood zones. If fill was greater than 2', an analysis would be needed by an engineer. The boards further discussed how fill is relative to height and where height is measured from when fill is included. Staff explained that height is measured from a post fill elevation.

Ms. White concluded the presentation by reviewing the matrix that outlines what all communities are doing for the LES. How Nags Head is implementing the LES, is consistent with other communities. The main difference is that Nags Head is utilizing the 12' LES east of NC 12 and SR 1243 and 10' west of NC 12 and SR 1243. White reintegrated that is the goal of staff to bring forward a clean draft to the Planning Board at the March Planning Board meeting.

Mayor Cahoon kicked off a discussion by the boards by circling back to discuss fill and height.

Planning Director Michael Zehner referenced back to the March 4th Staff Memo titled, "Updated Flood Maps, Flood Prevention Ordinance, and Related Regulations". On page 5 and 6 of the memo, Mr. Zehner referenced,

“ 8.6.4.1.1. In any Shaded X, X, or AE special flood hazard area flood zone, height will be measured from the regulatory flood protection elevation or finished grade, whichever is higher. In cases where there is a ground floor enclosure below the regulatory flood protection elevation, height shall be measured from finished grade.”

Mr. Zehner indicated that how height is measured is not changing. The proposed language does not penalize property owners for meeting flood regulations. The modifications simply apply this allowance to be applied to Shaded X and X flood zone properties. The Town has previously not regulated Shaded X and X flood zones. Board members discussed concerns over how height is measured and the potential for incredibly tall buildings if height is measured from RFPE. There was also a great deal

of discussion about whether height was measured from the finished fill height or pre-fill and whether this was good or not. Mayor Cahoon indicated that there had been a separate discussion on fill that would be concluded soon. Mayor Cahoon further noted that the maps and ordinance would be adopted ahead of the fill ordinance. Staff and the board would need to remember when the fill ordinance is adopted that the flood ordinance and height measurements would need to be consistent between the ordinances.

Mr. Zehner reviewed the regulations for the height of structures in coastal high hazard areas:

“8.6.4.1.2. In coastal high hazard areas ~~or~~, VE zones, AO, and Shaded X or X special flood hazard areas east of Hwy 12 and 1243, height shall be measured from regulatory flood protection elevation. In cases where the finished grade elevation is above the regulatory flood protection elevation, height shall be measured at approximately eighteen (18) inches above the highest, undisturbed, finished grade directly beneath the structure.”

He explained that you could not use fill to elevate the building pad because fill couldn't be used for structure support in V zones. Additionally, height would be measured from the 18" above highest, undisturbed finished grade or "free of obstruction". Board members discussed how height should be measured in VE zones: was this from natural grade, fill grade, or free of obstruction (i.e. 18 inches above the highest, undisturbed, finished grade). Staff clarified that this is 18 inches above highest, adjacent grade or free of obstruction. Mayor Cahoon gave an example of how height would be measured in a V zone.

Commissioner Fuller asked when the board would be able to discuss hard edged structures, rock, and stormwater. Planning Director Zehner indicated that BOC asked them to come back to PB and the discussion would start later in the meeting.

Mayor Cahoon recapped and asked that in regard to this ordinance the major changes were:

- 2 elevations standards- 12' east of NC 12/SR 1243 and 10' west of NC 12/SR 1243
- Resolving question about freeboard and whether that was needed as part of the definition for our LES
- Lateral additions- Allowance up to 10% at same level of non-conforming structures
- Height relative to flood standards

Assistant Town Manager, Andy Garman noted that the modification of the substantial damage and improvement language was also a significant change. Currently, a property is either in or out flood zone. If a property is in a flood zone, they have to comply with the 50% language or the substantial improvement/damage definitions. Mr. Garman explained that with the adoption of the LES, if a property were in an x flood zone then

the substantial improvement rule does not apply. He noted that was a big difference than in the past. Mayor Ben Cahoon said this would help some of those structures that have not been able to make those improvements in the past and staff concurred.

Staff brought up the online preliminary maps and staff and the board examined the differences between the currently adopted and the preliminary maps. The boards looked at specific examples of commercial structures that may be positively impacted by changes to the substantial improvement language.

The boards broadly discussed how the preliminary maps were developed and why the changes were so significant in the preliminary maps. The question was raised whether the Town has to adopt the maps. Mr. Zehner responded that we are required to adopt the maps, ordinance, and study if the Town wishes to remain a participant in the National Flood Insurance Program (NFIP). At a minimum, the Town must adopt the model ordinance. Mr. Zehner suggested that the Town continue forward on the current path of adoption and if after adoption, modifications were needed, to act at that time. He noted that the regulations proposed keep development consistent with the standards for development today.

The boards were concerned about the message that adopting maps would send to homeowners- that flood insurance is not needed because the FEMA maps remove you from the flood zone. The board was concerned that property owners understand they still needed to keep their flood insurance and that there could be long term implications and increases to their flood insurance if there was a lapse in coverage. A suggestion was made that the Town adopt the maps and model ordinance and take their time in reviewing the ordinance. Staff responded that this would create a "gap" in development where people could construct in a way that would put them at risk for flooding.

There was a question on the mapping of the flood zones and whether the Town would have two maps. This potentially could be confusing to property owners and developers. Mr. Zehner responded that we would only utilize the FEMA maps. He further explained that property owners would not be able to just look at the FEMA map and use it regulatory purposes for any community in Dare County. That is why the LES has been developed and the Town has recommended an LES east and west of 12

Mayor Cahoon suggested that we develop an elevation requirement map reflecting the LES. Ms. Molly Harrison, Planning Board member, asked why areas of the soundside and causeway that are at high risk for flooding seem to be regulated at a lesser standard than the oceanfront. There was general discussion again about the accuracy of the maps, the process for developing the maps, and resulting need for the local elevation standard.

The boards generally discussed the language specific to substantial improvement/damage with Fin and Feather as an example and it was noted that how the substantial improvement and damage language is applied may be misunderstood.

There was a general concern that legacy structures not be penalized for non-conformities.

Staff requested that any points that the boards wanted to be carried forward to the Planning Board's next meeting in March be submitted to staff so that there is no delay.

Commissioner Renee Cahoon asked specifically about Section 11.43.7.7 and noted concern about the message this conveys and if this encourages people to enclose. Staff felt that with the other ordinance provisions, there would be regulation of enclosures.

Commissioner Fuller asked about Section 11.43.7.9.3. and whether this would mean you could not apply for a variance after the fact. Mr. Zehner noted that the intent of the language appears that it might preclude someone from doing that. However, staff will follow up with the state coordinator about this provision.

Staff requested that any specific comments or concerns be submitted to staff ahead of the Planning Board meeting. Mayor Cahoon requested that a memo summarizing the joint discussion be developed and provided to the Board of Commissioners at their next meeting.

The Board of Commissioners voted to recess to their afternoon meeting and the Planning Board took a brief recess at 10:15 and reconvened at 10:25 a.m.

Public Comment/Audience Response Following Joint Discussion

Porter Graham, Government Affairs Director for the Outer Banks Home Builders Association thanked the Boards for participating in the discussion of the proposed Flood Ordinance. The OBHBA is concerned about risk to homes that will be newly in the X zone. They want to ensure that property owners keep their flood insurance. Their principal concern is on the building standard element (LES) – 10 ft standard on X and shaded X offset primary vs. proposed 8 ft (Dare County - Donna Creef). Did planning staff look a future sea level rise in addition to historical data? Lateral additions requirements – Duck is the only other municipality to not allow lateral additions at the same level. Mr. Porter thanked Mr. Zehner for communicating with the Association.