Meeting Minutes
Town of Dewey Beach Planning Commission
Meeting Date: August 24, 2013

The meeting was called to Order by Chair Harry Wilson (11:33 am), followed by the Pledge of Allegiance and Roll Call. All Commission members were present: Jim Dedes, Don Gritti, David King, Chuck McKinney, Mike Paraskewich, and Marty Seitz. Town Building Official Bill Mears was present in his official capacity; also in attendance were Mayor Diane Hanson, Kara Nuzbach, Leigh Giangreco, Georgia Leonhart, Dave Thomas, Jim and Eleanor Tyler, Garland Williams, Mary Dunmyer, Mike Carlson, John Davidson and Mark Richardson.

The following materials were provided to the public at the meeting: meeting agenda, draft minutes to the Planning Commission's July 11 meeting and approved minutes to the May 17 meeting (first meeting focused on sea- and bay-level rise), sea-level rise scenario map prepared by the Delaware Coastal Programs, a synopsis of "A Sea-Level Rise Adaptation Toolkit", updated preliminary flood insurance risk map for Dewey Beach, draft proposed code amendments and actions to mitigate flood loss, and a list of definitions.

Chair's Comments. Chairman Wilson said the purpose of this meeting and public hearing was to discuss adaptation strategies and potential amendments to Town code in the face of sea- and bay-level rise to mitigate future flood loss. This is the second in a series of Planning Commission meetings on these topics. No formal recommendations are anticipated coming out of this meeting; rather fuller discussions that might lead to draft language to be considered in future meetings for recommendation to the Town Commissioners.

Minutes. Draft minutes for the Planning Commission's July 11, 2013 meeting were approved by unanimous voice vote 6-0-1 (McKinney abstained having not been present at these meetings).

Public Hearing and Planning Commission discussion. During almost 2 hours of discussion were held, mainly on those topics on the distributed list of draft amendments and actions.

Sea-Level Rise (SLR) Scenario Map. This map is based on a "bath-tub model". Notable is that it shows how a 1.0 meter rise in sea level – without any additional storm-driven flooding – will result in substantial, permanent inundation of the entire bay-side basin area of town. We don't know when SLR will reach 1 meter – it might be within 20 years or not for 100 years. But there is general agreement that sea levels are rising at unprecedented rates, and we are here to talk about making zoning decisions that will be indexed to cumulative future sea level rises, i.e., actions and zoning changes to be taken when the average SLR has increased by 0.5 meters, by 1.0 meters, etc.

Jim reported that Mike Carlson told him that DNREC is going to be working on proposed zoning changes related to flooding and will be coming up with specific recommendations this fall. We might want to wait to see what is coming out at the state level before forwarding specific recommendations to the Town Commissioners.

Items 1 and 2 Lake-side and Bay-side building restriction zones.[1] This is a continuation of earlier discussions, building on zoning changes taken by Rehoboth Beach related to Silver Lake. The intent was to mirror the Rehoboth code changes. The current version incorporates issues raised in the prior meeting, to define the 10 foot setback from the "undisturbed, natural shoreline of Silver Lake or Lake Comegys".

Further discussion raised the question: who currently regulates the construction of docks on these lakes (State controls everything from the tide line out on Bay; DNREC and Army Corps control wetlands); and provided consensus on providing for the construction of docks.

Items 3 and 4 (minute 55)Increased Freeboard.[2] This change is supported by FEMA and DEMA in the face of SLR; which results in increased uncertainties in predicted flood and wave heights.

The question was raised: will there be a parallel provision for increasing the existing 35' height limit? Historically, the old zoning code had provision for houses in a flood zone in the NR district were permitted to build to a height of 35 + 1 feet – presumably as a result of the Town's adoption of the FEMA + 1 base building elevation. Chuck noted that in building a three-story mixed use structure at 35' in the AE-6 zone resulted in limitations of roof design that would be exacerbated if the freeboard were to be increased.

Eleanor Tyler asked: who is responsible for determining sea level? The US Geological Survey maintains the North American Vertical Datum (currently NAVD88) to provide for sea level comparisons coast to coast. FEMA, under Department of Homeland Security, is responsible for the Flood Insurance Risk Maps (FIRM). If a town wants to participate in the Federally-subsidized flood insurance program (NFIP), it must accept the FEMA risk maps and building code and flood plain management requirements. The closest USGS tide gauge to Dewey Beach is Hydrologic Unit 02060010, on the north shore of Rehoboth Bay at Head of Bay Cove, at the south end of Venetian Drive on the bulkhead of a boat slip (Lat 38°41'39.2", long 75°05'03.2"). The datum of this gauge is referenced to the National Geodetic Vertical Datum of 1929, and is -0.78' above NAVD88.[3]

Dave Thomas noted that it would be a worthy goal for the Town to take action to remove all bay-side properties from VE flood zone designations due to the higher flood risk and flood-insurance costs associated with a VE zone.

Mike Paraskewich noted that one cannot use the proposed FIRM to unequivocally state that the ocean-side VE zone ends at the dune; closer inspection of transects and on-site survey measurements are needed.

John Davidson asked: can one build to a higher freeboard? The simple answer is yes. It is more complicated when the property in question is non-conforming with respect to required setbacks; the current zoning code does not permit any modification that would increase the degree of non-conformity in the setback areas, including additional height.

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[1] There was a comment from Commissioner Paraskewich that this might have more properly been noticed as a "buffer zone" related zoning change. After some discussion a consensus was reached that it was appropriate to discuss this topic under the rubric of SLR, since no final recommendation was to come out of this meeting and the topic is related to the preservation of natural resources and mitigation of increased surface runoff; but future notices should be clearer and more specific.

[2] Actually an issue addressed in Chapter 101 Floodplain Management of the Town Code, as a result of proposed changes in FEMA's Flood Insurance Risk Map for the town. Future meeting notices should include mention of floodplain management for clarity.

[3] See http://waterdata.usgs.gov/usa/nwis/uv?01484670. The maximum elevation recorded during Super Storm Sandy was 5.34'. Flood marks from the Storm of 1962 correspond to a maximum elevation of 7.0'.

Item 5 Elevation of Service Equipment (minute 56). As per comments from Mike, need to review and align with the State. Mike and David will work on this.

Also, need to define "substantially improved", if to be anything other than 50% of existing value.

Mark Richardson asked: have we looked at what other towns, that look like Dewey Beach and are ahead of the curve, are doing for guidance? While there are few towns like Dewey, many of these ideas were taken from best practices presented in "A Sea-Level Rise Adaptation Toolkit".

Item 6 and 7 Drainage issues (minute 67). Table for future discussion; need specific design standards for storm water management.

Item 8 Definitions of special hazard areas (minute 69). A clarification to align languages in town code and FEMA maps and requirements.

Item 9 Existing structures – skipped.

Item 10 Substantial Improvement (minute 72). Change minimum from 50% to 30% or 1/3 of existing market value, for example; or some cumulative minimum. Follows lead of other towns to reduce future flood damage and accelerate adaption of structures to more rigorous FEMA standards. Support for such an amendment. Tie to trigger of 0.5 meter cumulative sea level rise.

Item 11 deck construction bay-side (minute 74). Mirrors language related to deck construction on the ocean side.

Need to look at DNREC controls and provide review of potential impact of any such amendment(s) to the construction of decks and piers. Not ready to move forward.

Item 12 Notification requirement (minute 75). Storm damage reported to town when applying for building permit (to repair) or to insurance company (and through the insurance company, FEMA and the town) when making claims.

Issue of definition of "significant damage"; not just a window blown out.

Item 21 Elevation of Non-conforming structures (minute 79). Exempt at risk structures and repetitive loss structures that are non-conforming with regard to set backs to allow rebuilding compliant with FEMA standards. Need to build to same envelope, square footage, etc. Would we want to permit one to tear down an older building, and rebuild to the same envelope up to modern building code? What about moving from bay-side setback into rear-yard setback?

There was consensus to view this change in the zoning code as a conditional use with review by the Planning Commission.

What about a residence built on grade that is currently built to a 35' height? Do we want to provide 3' to 5' of relief to the maximum height, or require the building to be reduced in height to still conform with the 35' height limit after being elevated to FEMA + 2.

John Davidson (minute 108) noted that language needs to provide some measure of tolerance, e.g., allow to raise the base building elevation within some range, like between FEMA plus 2.00 to FEMA plus 2.10 feet.

Item 23 Armoring (minute 91, 94). Is hard armoring required to protect the bay side versus wetlands and dunes? Cost is one consideration, quality of life and natural environment is another. Concerns include legal ramifications of one person's bulk heading resulting in flood-related damage to adjacent properties. Hard armoring also believed to be environmentally harmful – but not necessarily so in urban areas. Trade off in preserving the natural environment versus protecting developed property.

What is DNREC's role in defining hard armoring along the bay? Would a 3' bulkhead or sea wall be appropriate to protect one's yard and property? Would a 6' bulkhead or sea wall be acceptable (if permitted by DNREC)? Where is the appropriate line? Perhaps hard armoring should be a conditional use; conditions could include requirements for removal at some future SLR, e.g., when sea levels rise to exceed the height of the bulkhead.

Provide a definition of hard armoring.

Item 22 Reconstruction (minute 93). Restrict to storm driven flood damage in coastal hazard areas. Define minimum level of damage. Set trigger at +0.5 meter SLR.

Garland Williams noted that it is important to provide homeowners the ability to rebuild in some manner – hopefully in a manner more resilient to flood loss.

Dave Thomas asked (minute 115): is the town going to permit people building-up private lots, as done in other jurisdictions? Mike Paraskewich noted that many municipalities prohibit filling-in a flood plain; Bill Mears noted that this is permitted in the county, but would create additional drainage problems in Dewey. This might be an issue to address in the future.

Adjournment. There was a motion to adjourn; seconded and passed by unanimous voice vote (1:35 pm). The next Planning Commission meeting, to continue the discussion of SLR was scheduled for 1:00 pm September 28, 2013, at the Life Saving Station.