

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

MAY 4, 2021

A meeting of the Planning and Economic Development Committee was held Tuesday, May 4, 2021, at 7:01 p.m. via teleconference.

Chairman Tencza

As Chairman of the Planning and Economic Development Committee, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:

To access Zoom, please refer to the agenda or the City's website for the meeting link.

To join by phone: 1-929-205-6099 - Meeting ID: 844 7285 6913 Passcode: 999999

We previously gave notice to the public of the necessary information for accessing the meeting, through public postings. Instructions have also been provided on the City of Nashua's website at www.nashuanh.gov and publicly noticed at City Hall and the Nashua Public Library.

If anyone has a problem accessing the meeting via phone or Channel 16, please call 603-821-2049 and they will help you connect.

In the event the public is unable to access the meeting via the methods mentioned above, the meeting will be adjourned and rescheduled. Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-To-Know Law.

Alderman Laws called the roll and asked them to state the reason he or she could not attend, confirmed that they could hear the proceedings, and stated who was present with him or her.

The roll call was taken with 4 members of the Planning and Economic Development Committee present:

Alderman-at-Large David C. Tencza
Alderman Jan Schmidt
Alderman Thomas Lopez (arrived after roll call)
Alderman-at-Large Ben Clemons

Members not in Attendance: Alderman-at-Large Brandon Laws

Also in Attendance: Deb Chisholm, Waterways Manager
Sarah Marchant, Director of Community Development
Alderman Patricia Klee

ROLL CALLChairman Tencza

Alderman Laws will not be able to join us tonight so I will take the roll. Please state why you cannot attend and confirm that you can hear the proceedings and state who is present with you in the room. Alderman-at-Large David Tencza, I am here, I can hear everyone and no one is the room with me. Alderman Jan Schmidt?

Alderman Schmidt

I am present, alone in the room and I can hear everyone.

Chairman Tencza

Alderman Tom Lopez? I don't see Alderman Lopez present. Alderman-at-Large Ben Clemons?

Alderman Clemons

I am here, I can hear everyone and I am by myself.

Chairman Tencza

Thank you. As I mentioned Alderman-at-Large Brandon Laws is not able to join us this evening. Also in attendance is Alderman Patricia Klee, Deb Chisholm the Waterways Manager and Director Sarah Marchant. We will start the meeting by holding a public hearing on O-21-058 amending the flood plain management use, land use ordinances. Rather than taking testimony, I don't see anyone here, I am going to start the public hearing by allowing Ms. Chisholm to speak. I will also note that Alderman Lopez has joined us at 7:04. Mis Chisholm if you'd like address O-21-058. I am not sure if it will be Ms. Chisholm or Director Marchant, but either please feel free to let us know what this Ordinance is about and why it is important that we adopt it.

Deb Chisholm, Waterways Manager

Sure, thank you Alderman Tencza, I appreciate that. If you want, I have a couple of slides that I can share, if I am allowed to share my screen, if I can find where I put them on my screen, here we go. So the reason that I am here this evening, I am the Waterways Manager for the City of Nashua. A few years ago, my predecessor was successful in getting us a position in the community rating system which is a voluntary program that is run essentially by FEMA. So as part of that program, what we have been required to do this year is a 5-year review on all of our floodplain management. And one of the things that is required this year for us is to make some modifications to our flood plain management Ordinance, which is the one that is before you this evening.

This flood plain Ordinance applies to land that is in the special flood hazard area. The special flood hazard area is actually land that is in the flood plain within the City that is subject to a 1% or greater possibility of flooding in any given year, so the 100 year flood event. And I have a couple of examples here to sort of give you some understanding of what the special flood hazard area is. On the left you can see, it is just a screen shot here of Salmon Brook and Fields Grove.

Alderman Clemons

We can't see your screen, sorry to interrupt.

Ms. Chisholm

Well then, let's see. How about that?

Alderman Lopez

There it is.

Alderman Clemons

There we go, perfect.

Ms. Chisholm

OK so back to where we were, here we go. Next slide that was the boring one. OK so what I am showing you here is sort of a couple of examples that explain really what the special flood hazard area is. And in Nashua you can see this is a screen shot here, if you can see some of the names of the street. But what we are looking at here, the majority of this is Salmon Brook and this is the part that is just a little bit north of Bishop Guertin High School. This area right here off of Field Street is Fields Grove Park. So this pink area is the special flood hazard area. And here on the right, what I've got is sort of a cross section that explains what the flood plain and what the special flood hazard area are. So you can see, if you are picturing this as Salmon Brook, the stream channel, you can see there's a stream channel, there's a floodway, there's a flood fringe and that entirety is the 100 year flood plain.

So these folks that live over here, near Salmon Brook on some of these side streets, may in effect during one of those types of floods, may see some water backing up in their backyards. Fortunately most of these buildings aren't actually located in the special flood hazard area. But for this evening, what we are talking about for changes to this flood plain management Ordinance are to really keep us in line in the community rating system. As you can see in the Memo that I had provided in the packet that we are currently at a classification, on a scale of 1 to 10 we are currently an 8; with 1 being the best and I am not sure there are many properties in the entire country that are classified as a 1 but we are currently classified as an 8. In order for us to maintain that classification we do have to make some slight changes to our flood plain ordinance. The reason that this grading system, if you will, is important is because ultimately what it does is, number one – it gives people who are required to have flood insurance, those folks who have a mortgage on their home that is federally backed, they are required to have flood insurance over and above what they pay for their standard home owner's insurance.

Our rating of an 8 out of 10 essentially gives these folks somewhere around a 10% discount on their flood insurance. Really the other thing that this does, I mean I am happy to say that the City provides this service to give folks a discount, because that's always a nice thing. But the real goals of the program, as you can see here, are to reduce and avoid damage to insurable properties, to strengthen and support the insurance aspects of the National Flood Insurance Program and to foster comprehensive flood plain management. And really all of this comes down to is from our standpoint is municipal resilience. And I know you have all heard Justin Kates talk about resiliency for the City and this is one of those things that really – flooding is one of the most frequent natural disaster type things that happens in the City. To have flood insurance on your home, to have that be a requirement can be quite costly, which I have never had to have it on my property but have found, since being in this position, that in some circumstances it can be quite expensive.

So to be able to give these folks a little bit of a break is a good thing as far as I can tell. What are the changes that are needed? In your packet that you should have received are the, well I am not sure you see the actual red of the red line strike out but there are some changes that are made, strike outs and underlines and additions that are made to the flood plain ordinance. Essentially what it comes down to is for residential properties primarily, the lowest floor of any residential property in the special flood hazard area must be at least one foot above that 100 year flood elevation. So the overall concept is building higher is better. And you see it a lot at the coast. You see properties all along the eastern seaboard that are close to the coast that are higher than you would normally expect. Some residential buildings down in the Carolina area, those buildings are high on stilts and there's a reason for that. We don't see that, obviously, here in Nashua but we do have base flood elevations, 100 year flood elevations for the Nashua River, for the Merrimack River, for Salmon Brook and some of the other smaller streams that can adversely impact homes.

So the concept of making sure that new homes or homes that are being substantially modified are actually being built one foot higher than that 100 year flood elevation. Currently, the way that that Ordinance is written, it is written such that the building can be at the base flood elevation. So adding an extra foot, what is considered to be free board if you will, is what the focus of this Ordinance modification is. So making sure that folks that are going to be either building within that special flood hazard area or making major modifications to their properties, will be making those modifications one foot above that 100 year flood elevation. Any electrical, plumbing, HVAC equipment must also be at least one foot above the 100 year flood elevation. The way we've got the modifications here, that would also modify the utility placement for non-residential properties as well.

So this right here sort of gives you a little bit of an example of what a home that is located within the flood plain, what it looks like relative to what the normal channel looks like. So picture this, if you will, to be Salmon Brook. The base flood elevation, which is considered in here considerably higher than the normal channel and then the home over here and making sure that the lowest floor of that building is at least 1 foot above that base flood elevation. That way, when that flood comes through, those folks won't have any damage to their home. So that is sort of the modifications to the flood plain in a bit of a nutshell. Well I guess I am going to keep sharing my screen for a little bit until I can figure out how to not share my screen – OH – the button that says "Stop share". Sorry about that. So that is all I've got for you tonight, those minor changes will allow us to stay within the community rating system program, as I said, that provides that additional discount for folks that need to have flood insurance and also provides, as a municipality, with some more resilience when it comes to flooding scenarios.

Chairman Tencza

Thank you very much. Are there any questions from Committee members or anyone who is here? Alderman Clemons?

Alderman Clemons

Thank you Mr. Chairman. I actually have a few questions, hopefully won't take too long. Ms. Chisholm, do you know how many houses or buildings in Nashua that this would affect, approximately?

Ms. Chisholm

Well the key here is that just because your home may be in the special flood hazard area, doesn't mean you need to make any changes to it. If new homes are being built in a special flood hazard area or substantial modifications are being made to that home, then this would go into effect. So currently I think there are about 340 residential buildings in the special flood hazard area currently throughout the City.

Alderman Clemons

The reason I ask is because what I am thinking is if you've got a house that's been there for however many years and there is a flood, a major flood and it comes and it wrecks a substantial portion of these homes. In the past we may be able to save the structure in the sense that you'd be able to rebuild it because really you are mitigating mold and things like that. If we go ahead with this Ordinance, isn't it possible that house would have to be completely torn down and rebuilt?

Ms. Chisholm

I am going to give you the easy answer which is we would have to deal with that on a case by case basis. I am not sure about that. I don't know. I don't think that we would have to tear the whole thing and rebuild it. I think you could make the modifications and it up to the municipality to make the decisions on what substantial modifications would need to be made in order to get that home back. Presumably, although not a requirement if you don't have a federally backed mortgage and you don't have flood insurance as a requirement, you may or may not have flood insurance that would help cover the costs of the damage to your home. So I am always trying to put in a commercial that says, just because it is not required doesn't mean you shouldn't have it. But that is how insurance works. At any rate, that is a really good question and I don't know if Director Marchant has anything else to add as far as what we would do in that situation especially the Building Department specifically.

Sarah Marchant, Director of Community Development

It is a great question. I think it depends exactly as you said on the circumstances. I think there's a lot of tools in our tool box to be able to help somebody find a solution to that. And if it was a really extreme situation, an applicant could go to the Zoning Board if they had some special hardship or special circumstances that would justify it so that they could rebuild if there was something special there. But there's a lot of modifications in our tool box that would allow us to be able to get that finished floor grade of the basement up. That's something that I think could probably be worked through. It would be 1 foot higher than it is now, but that doesn't mean it would have to be completely rebuilt, no.

Alderman Clemons

I mean I don't know how many, obviously, there is approximately 340 properties, well residential maybe there's more actual properties commercial as well in a flood zone. I guess what I wonder about is what the, if there's been other communities or you've looked at that where they have adopted something similar to this. What I am thinking right, they are all at different levels so it depends on if there was a house that was built right next to the river for example, you are going to have, it could be that the first and second floor are before you get to that 1 foot above, right, that the 1 foot above could be technically a story or two up, right. I guess that's what I am asking hypothetically is that possible. When you look at the definition of this Ordinance, that that is what it is basically saying is that anything that is built would have to be above that threshold. Am I getting the wording correct?

Director Marchant

So it doesn't mean you can't rebuild, it means that the major equipment has to be 1 foot above base flood elevation. So I don't think it means you can't rebuild. The goal here is that we are not building new in the flood way right. That we are discouraging building brand new. The rebuilding has a lot of different options associated with it and as I said, there's a lot of tools in the tool box there to work with people who are making a substantial, say an addition, on an existing structure. So it may be the addition has to comply so any new mechanicals, new major plumbing in the addition would have to comply but it isn't necessarily that the whole structure has to be rebuilt or demolished and rebuilt.

Alderman Clemons

That would be my concern on this is that again I don't care about new property, as far as I am concerned they should be building up to code and things like that. But I guess where my concern comes in is if you have a minor flood that doesn't damage the structure but you have to go on the inside and do all sorts of, what would be considered by the City, substantial rework of a house, you know, the whole first floor, the whole basement, everything right? That's where my concern is because in a case like that it is going to make it that much more expensive for the homeowner to rebuild as opposed to being able to salvage that structure and kind of rebuild from that same frame. That's my concern.

Ms. Chisholm

I would guess that ultimately it would end up being less expensive and I say this from a standpoint of the amount of flood insurance that people would be required to purchase. Again, if they already purchase flood insurance, their costs and again I am certainly not an insurance agent, I don't know what the details are on how much of their cost recovery there is, but if they are already insured then I would think that the money would be there in order to help make those changes that need to be made so that they are in compliance with these regulations. I have actually had people call me asking me because they currently are in a flood plain, they would be willing to spend say \$20,000.00 to have their house lifted up so that it was no longer in the flood zone and therefore their return on investment is maybe 5 years based on what their savings would be in not having to pay flood insurance.

Chairman Tencza

Further questions Alderman Clemons?

Alderman Clemons

I am. I got as much as I could get out of it, so thank you. I appreciate the responses, thank you.

Chairman Tencza

Alderman Lopez?

Alderman Lopez

So I guess, I think Director Marchant might specifically know but does this affect – well specifically the riverfront landing project where we have potentially contaminated soil under what may be a parking lot I guess or the Mohawk Tannery Site.

Director Marchant

So those are great questions. It does not affect Riverfront Landing because they are outside of the flood zone. And we don't know what the proposed development is for the Mohawk Tannery. However, you wouldn't be allowed, even under today's Ordinance to build new structures within the flood zone, flood way. And so I think in the details we have seen for some Mohawk Development of some of the different concepts, all of those new structures have been outside of that flood plain area because the cost of the insurance again would be prohibitive and they need mortgages. They would need to be able to finance that. So none of the new development there that I've seen concepts for has been proposed within the flood plain.

Alderman Lopez

I mean I would be concerned about the housing but mostly concerned about the contaminant and if we do a structure to contain junk from the ponds and then maybe asbestos, is this going to impact that? Would it be moved to outside of the zone?

Ms. Chisholm

My understanding Alderman Lopez of the area that would be remediated, that capped area that has been discussed, is actually right now, is outside of the flood plain. So from that standpoint it wouldn't be an issue and I think it is an issue that we would probably need to talk about outside of this specific flood plain conversation about it being, where it is near the river. And I think there are other issues building within a wetland buffer, would also be an issue. But from the standpoint of the modifications to this flood plain ordinance, neither of those projects I think would be impacted at this point.

Alderman Lopez

OK, good to know. Thanks.

Ms. Chisholm

You're welcome.

Chairman Tencza

Further questions? So if I could just ask a question because you talked about the utilities being one foot above the flood plain and even in the graphic that you put up on your last slide, most of us have our utilities in our basements. So does that mean new construction and substantial modifications would have to place the utilities, your water heater and boiler, whatever you are using to heat the house outside of the basement if it's not outside of the 1 foot of the flood plain?

Ms. Chisholm

I think that the modifications you could make would be to have them be elevated. As long as they are a foot above the base flood elevation that would be correct. There are requirements and changes to the flood plain ordinance relative to non-residential as well where we are asking non-residential development to make sure that their equipment is also elevated and if not, that it is completely flood-proofed. So that's a series of certifications that need to happen in order for the Building Safety Department to know that all of that equipment is flood-proofed, which prevents water from getting in and staying in that equipment and thereby causing more damage that way. Did that answer your question, Alderman Tencza?

Chairman Tencza

It did, I am just trying to imagine if the entirety of the basement is within the flood plain but the first floor is a foot above it or at the flood plain level how that would work. But I suppose that is for a developer to figure out if they want to rehab or build within the flood plain. Director Marchant?

Director Marchant

I would say that constructing within the flood plain is going to be heavily discouraged in the first place. We do build on slab, we don't do it a ton in New England, but there certainly are buildings on slab where mechanicals and such are at grade level as well. And there absolutely ways we can accommodate that. But it would be very unusual for new development to be built within the flood plain because of the cost of getting financing and for flood insurance. It just would not most likely be cost effective to do so.

Chairman Tencza

Thank you. Alderman Schmidt?

Alderman Schmidt

Thank you. I brought up GIS to take a look at the location we are talking about and put in the layer to show me the wetland and flood area, all of that information. I have never realized we had so much within the City. Prime wetlands in the center of Nashua, that's pretty cool. But a lot of the new building that's going on is well above that and obviously that's the best idea. Do we have any land that is open for building anywhere near our current flood plain?

Ms. Chisholm

I think that, Alderwoman Schmidt, I think that – my opinion of that is that there's not a lot of left over space for building. We are really looking at redevelopment at this point. If you've looked along the Nashua River, there's not a lot of open lots that are left, at this point.

Alderman Schmidt

Oh, so we would really be talking about redevelopment at this point. If a neighborhood needed to be replaced for some reason, the houses were no longer viable, damaged whatever; new construction going in this would be valuable information for us to have on the books, what we allow within the flood plain. And when you are looking at like New Orleans or New Jersey that suffered floods, the houses that did stay that were damaged, a lot of them were lifted, raised up an entire floor's worth and put on the stilts which seems like a really great idea if you are in any danger there anyway. So at this point we just need to know that this is on the books and that we are ready in case there's going to be redevelopment, right?

Ms. Chisholm

Correct.

Alderman Schmidt

Thank you. That's all I had.

Chairman Tencza

Thank you. Alderman Clemons?

Alderman Clemons

Yeah just as a follow through from what Alderman Schmidt was saying, do our current Ordinances, I imagine they allow design such as like first floor garages and things like that where you could technically have a house where your first floor was mostly a garage and then you build above that. Our Ordinances allow that type of structure correct?

Ms. Chisholm

Correct.

Alderman Clemons

OK.

Chairman Tencza

Further questions? OK seeing none, we will move into the public hearing of O-28-058 amending the flood plain management land use ordinances. I'll start by taking testimony in favor.

PUBLIC HEARING

O-21-058

AMENDING THE FLOODPLAIN MANAGEMENT LAND USE ORDINANCES

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION - None

TESTIMONY IN FAVOR – None

TESTIMONY IN OPPOSITION - None

Chairman Tencza closed the public hearing on Ordinance O-21-058 at 7:33 p.m.

REGULAR MEETING

PUBLIC COMMENT - None

DISCUSSION - None

COMMUNICATIONS

From: Deb Chisholm, Waterways Manager

Re: Proposed modification to Land Use Code 190 Article VII Floodplain Management

From: Matt Sullivan, Planning Department Manager

Re: Referral from the Board of Aldermen on O-21-058, amending the Floodplain Management Land Use Ordinance

There being no objection, Chairman Tencza accepted the communications and placed them on file.

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS – None

NEW BUSINESS – ORDINANCES

O-21-058

Endorsers: Mayor Jim Donchess
Alderman-at-Large Michael B. O'Brien, Sr.
Alderman Jan Schmidt
Alderman Linda Harriott-Gathright
Alderman Patricia Klee

AMENDING THE FLOODPLAIN MANAGEMENT LAND USE ORDINANCES

MOTION BY ALDERMAN SCHMIDT TO RECOMMEND FINAL PASSAGE, BY ROLL CALL

ON THE QUESTION

Chairman Tencza

OK the motion is for final passage of O-21-058. Is there any discussion this Ordinance? Seeing none, I will call the roll.

A viva voce roll call was taken which resulted as follows:

Yea: Alderman Schmidt, Alderman Lopez, Alderman Clemons,
Alderman Tencza 4

Nay: 0

MOTION CARRIED

TABLED IN COMMITTEE - None

PUBLIC COMMENT - None

GENERAL DISCUSSION

Alderman Lopez

I had a conversation with Director Cummings about, I had a number of constituent, not complaints exactly but there's been a lot of confusion about different development opportunities and things that were being downtown where there hasn't been a lot of explicit, straight forward communication from various City Departments and participating private partners. But I think a lot of it has been both parties trying to navigate incentives and developmental language for programs that provide things like tax incentives, tax breaks, and that kind of stuff. I know that Economic Development is working to try to encourage business owners downtown to do things like adding on additional housing units, expanding and development their property to improve its utility. And to that end, I asked Director Cummings if it would be possible to put together like a general list of things to look for or ways to use incentives for programs that businesses and individuals owning property downtown could use to kind of conceptualize what their planning process is going to be. Like, how tall do you want to build something? What kind of amenities have advantages over others?

An example would be, increasing square footage can increase the size of your development which increases your tax bonus but at the same time it may create expansions to your taxable square footage as well. So a recommendation that Director Cummings gave in one place was build an elevator shaft, it makes it handicap accessible, it adds space, but at the same time it doesn't necessarily raise your tax burden.

Now that was a very specific example for a specific type of business. But in having him present some of the projects that are going on and some of the tools that he is using to encourage these landlords, it may help create a better understanding for everybody as to how to develop a project downtown that has benefit to the City, has benefit to the landowner and balances the increase in revenue and value that they add against the cost of developing and the taxes included.

Chairman Tencza

Thank you. We can follow up with Director Cummings too; that sounds like it may be a good topic for a future meeting as kind of a public way to promote what he is able to put together.

Alderman Lopez

I think it'll also help in preventing any misunderstandings. I know that in at least one situation, the person involved was asking when we would be able to pass Legislation for a TIF on the second story of his building. And I was like, I don't think that's what it is for. There are project based ones but it is not that straight forward. So if the public sees us doing one thing in one place and kind of thinks, OH I can do that in mine, then having a discussion and an example of different types of projects might be helpful in making sure that they understand where they can't do things that they see happening in other places.

Chairman Tencza

Sure, thank you for that. And we will follow up with Director Cummings on that. Any other items of discussion? Seeing none, Remarks by the Aldermen.

REMARKS BY THE ALDERMEN - None

POSSIBLE NON-PUBLIC SESSION - None

ADJOURNMENT

MOTION BY ALDERMAN CLEMONS TO ADJOURN, BY ROLL CALL

A viva voce roll call was taken which resulted as follows:

Yea:	Alderman Schmidt, Alderman Lopez, Alderman Clemons, Alderman Tencza	4
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Nay:		0
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MOTION CARRIED

The meeting was declared closed at 7:40 p.m.

Pro Tem
Committee Clerk

Nashua Floodplain Management Ordinance

Land Use Code 190 Article VII

2021 revisions

What is the Floodplain Ordinance for?

- Applies to land designated as special flood hazard areas (SFHA)
- SFHA - The land in the floodplain within the City of Nashua subject to a one-percent-or-greater possibility of flooding in any given year.

Federal Emergency Management Agency (FEMA) Community Rating System (CRS) Program

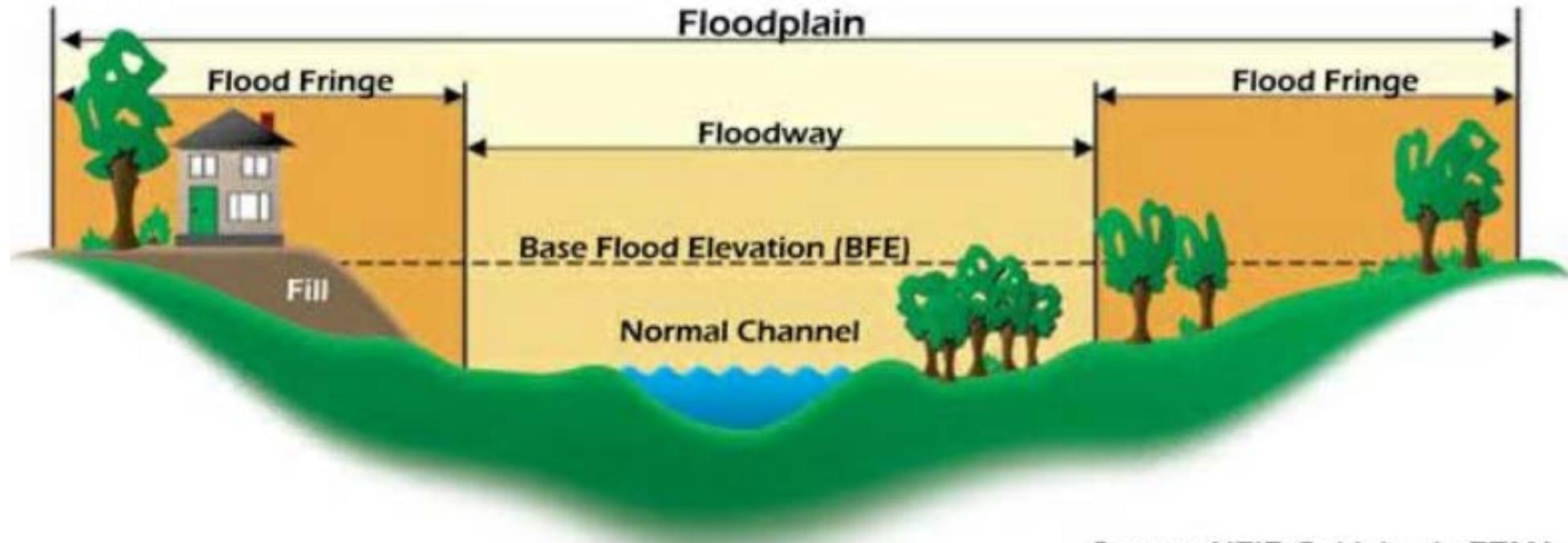
Goals of the program

- Reduce and avoid flood damage to insurable properties
- Strengthen and support the insurance aspects of the National Flood Insurance Program
- Foster comprehensive floodplain management

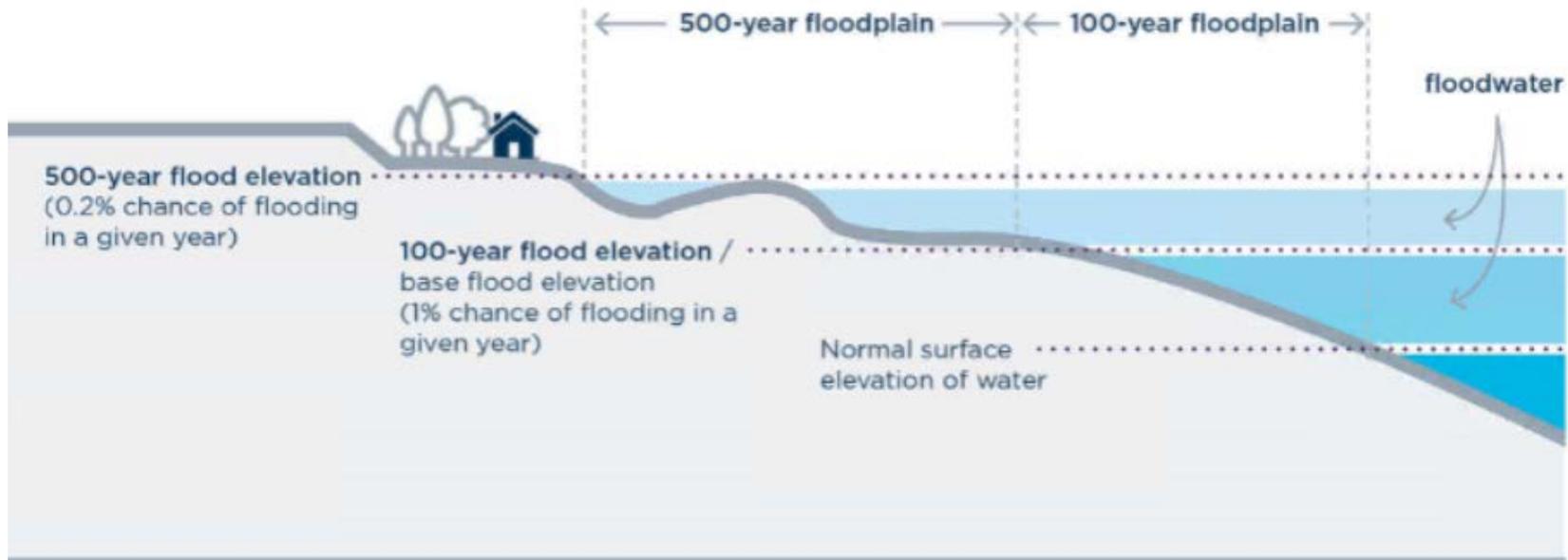
What changes are needed to remain in the program?

- Lowest floor (including basement) of residential properties in the SFHA must be at least 1 foot above the 100-year flood elevation. Building higher is building better.
- All electrical, plumbing, HVAC equipment must be at least 1 foot above the 100-year flood elevation.

Characteristics of a Floodplain



Source: NFIP Guidebook, FEMA



Important flood concepts (graphic adapted from the [Greater Houston Flood Mitigation Consortium](#))