



- DRAFT AGENDA -

**Town of Nags Head Planning Board  
Tuesday, January 19th, 2020; 9:00 a.m.**

This Meeting will be held electronically/remotely utilizing the ZOOM meeting platform. Members of the public will be able to attend the meeting using the ZOOM platform or app on their computer or smartphone, or by calling in using a phone.

Join from a PC, Mac, iPad, iPhone or Android device: Please click the link below to join the webinar: <https://nagsheadnc.zoom.us/j/97286704151>

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- A. Call To Order
- B. Election Of Chair And Vice Chair For Calendar Year 2021
- C. Approval Of Agenda
- D. Public Comment/Audience Response
- E. Approval Of Minutes  
December 15, 2020 Planning Board Meeting

Documents:

[DECEMBER 15 2020 DRAFT MINUTES.PDF](#)

- F. Action Items
- G. Report On Board Of Commissioners Actions - January 6, 2021

Documents:

[JAN 6 2021 BOC ACTIONS.PDF](#)

H. Town Updates - As Requested

I. Discussion Items

1. Continued Discussion And Update On N.C.G.S. 160D And Update Of UDO
2. December 30, 2020 Director's Report

Documents:

[MEMO PND DIRECTOR REPORT\\_12-30-2020.PDF](#)

J. Planning Board Members' Agenda

K. Planning Board Chairman's Agenda

L. Adjournment

**Town of Nags Head  
Planning Board  
December 15, 2020**

The Planning Board of the Town of Nags Head met on Tuesday December 15, 2020. Due to Covid-19 restrictions, this meeting was held electronically/remotely utilizing the online ZOOM meeting platform. Members of the public were invited to attend the meeting using the ZOOM platform or app, or by calling in using a phone.

Planning Board Chair Megan Vaughan called the meeting to order at 9:00 a.m. as a quorum was present.

***Members Present***

Megan Vaughan, Kristi Wright, Meade Gwinn, Gary Ferguson, David Elder, Molly Harrison, Megan Lambert

***Members Absent***

None

***Others Present***

Michael Zehner, Kelly Wyatt, Holly White, Lily Nieberding

***Approval of Agenda***

Chair Vaughan asked for a motion to approve the agenda. David Elder moved to approve, Kristi Wright second, and the motion passed unanimously via roll call vote.

***Public Comment/Audience Response***

None

***Approval of Minutes***

Chair Vaughan asked for a motion to approve the minutes of the November 17, 2020 meeting. David Elder moved to approve the minutes as presented, Meade Gwinn seconded, and the motion passed unanimously via roll call vote.

***Action Items***

*Consideration of a Text Amendment to the Unified Development Ordinance pertaining to the reduction of the side yard setbacks for corner lots abutting unimproved rights-of-way. **Continued from November 17, 2020 Meeting***

Deputy Planning Director Kelly Wyatt explained that at their November 4, 2020 meeting, the Board of Commissioners heard a request from Derek and Kristi Stallings to consider the abandonment of an existing paper street, Warren Street, or a portion thereof. The Stallings own the lot located at 6316 S. Virginia Dare Trail, abutting the south side of the unimproved 20 ft. right-of-way, and plan to construct a dwelling on this lot.

Regardless of whether the street is improved or not, as a corner lot, the minimum corner lot setback of 15 feet from the property line/right-of-way would be applied to any construction of a principal structure on this lot. By abandoning the unimproved right-of-way, their property would have been extended to the center line of the former right-of-way, thereby increasing the lot area of the property (as well as the adjoining lot to the north) and resulting in the lot no longer be considered a corner lot, and therefore not being subject to a greater side yard setback.

It was the consensus of the Board of Commissioners that they were not inclined to abandon the right-of-way as requested, and further that they were generally not in favor of abandoning any unimproved rights-of-way within the Town as there were numerous potential public uses, however they did direct Staff to look into potential options for reducing the minimum 15-foot corner lot setback back requirement for cases such as that of the Stallings and similar.

At their November meeting, Staff presented the Planning Board with two possible options. Planning Staff also noted that the Board may wish to consider, in either Option, that the reduction apply only to rights-of-way of a specified width. During the discussion Staff noted that pursuant to Town Code Section 36-4, Streets, Sidewalks and other Public Places, Design Standards, notes that the least amount of pavement width allowed to meet Town standards is 40 feet wide for an Environmental Street.

The Planning Board expressed concern that if the necessary waivers were granted, a right-of-way width less than 40 ft. could be developed for one-way traffic flow and/or parking.

Staff discussed this possibility with the Town Engineer, David Ryan and he noted that the narrowest paved width possible would be 16 feet; Mr. Ryan indicated that this is the minimum width eligible for state street aid for a public road. This minimum standard was utilized for the 2013 Carolinian Circle street improvement project as part of an alternate environmental street standard to minimize tree removal in the right-of-way. Based on this, Staff would not recommend that any reduction in corner lot side yard setback be tied to the width of the right-of-way. As noted in Ms. Wyatt's staff memorandum, there are no unimproved rights-of-way within the Town less than 16 feet in width.

In researching old minutes, Staff learned of a text amendment adopted in 1982 related to the regulation of side yard setbacks for corner lots. This language allowed side yard setbacks for corner lots to be the same as for the district, with exception of that space that lies forty (40) feet from the point of intersection of the intersecting right-of-way, which would meet the intent of providing adequate sight clearance. Specifically, the language read, "For corner lots, to ensure adequate sight clearance, for a distance of not less than 40 feet from the point of intersection of the intersecting right-of-way the side yard shall be no less than fifteen (15) feet".

Ms. Wyatt noted that language has since changed but Staff has unsuccessfully tried to locate the subsequent amendment which revised this language to that of the current language. Generally, staff finds this to be an acceptable means to ensure adequate sight clearance for corner lot developments.

Ms. Wyatt confirmed for Ms. Wright that this would be for corner lots only. Ms. Wyatt explained that currently the side yard setback varies depending on the zoning district, but it is 15' for corner lots regardless of district.

Ms. Wyatt confirmed for Chair Vaughan that this option could help the Stallings.

Ms. Wyatt confirmed for Mr. Gwinn that the Stallings' lot fronts South Virginia Dare Trail.

Chair Vaughan noted that the 1982 amendment made a lot of sense and wondered if it “just fell off the radar” rather than being officially changed. If they are just looking to preserve the sight triangle, she could not think of any reason why it would not make sense.

Planning Director Michael Zehner noted that the Town has a provision that is not just applicable to corner lots, that allows for a reduction of front yards but no less than 15 feet. That 15 feet appears to be seen as a necessary minimum with respect to sight lines.

Mr. Zehner confirmed for Ms. Wright that the 15 ft sight line would apply both to improved and unimproved rights-of-way.

Ms. Wyatt reviewed for Mr. Elder and the Board the Staff recommended options along with some criteria that would need to be met.

The Board discussed the pros and cons of the options.

Mr. Ferguson noted that while the change might help the Stallings a little bit, by changing the setbacks it is adding to the intensity of development of corner lots; allowing for a larger house to be built. Mr. Ferguson is concerned that they (the Town) are giving up something that they don't need to give up.

Ms. Wyatt confirmed for Ms. Harrison that Staff has had pushback previously against corner lot setbacks, especially those that are adjacent to unimproved rights-of-way; and there have even been variances with applicants requesting a reduction of a setback due to a perceived hardship; it has always been an issue.

Mr. Gwinn stated that he was in agreement with Mr. Ferguson and questioned if the Stallings knew about the setback when they purchased the lot.

Mr. Ferguson reminded the Board that previously there was a store and gas station on that lot; there was full commercial use of that lot so to have someone come in and ask for a reduction in the setback for a residential use does not seem right. When the property was purchased, they (new owners) should have seen the setbacks which are normally shown on the survey.

Ms. Lambert agreed with Mr. Ferguson noting that she had recently bought a property and was fully aware of what they purchased and what the setbacks are.

After some further discussion, Molly Harrison moved to recommend denial of the proposed text amendment. Mr. Ferguson seconded, and the motion passed unanimously via roll call vote.

### ***Report on Board of Commissioners Actions – December 2nd, 2020***

Mr. Zehner gave a report on the Actions from the Board of Commissioner's December 2, 2020 Meeting. Of note, there was a Consent Agenda to schedule a public hearing for amendments pertaining to Furniture Store, storage uses and building contractor offices; the Board adopted the resolution opposing the installation of additional power poles on US 158 by Dominion Energy as presented and Staff is to follow up on power poles that are in CAMA-designated areas. The Board appointed several members of the public, including Chair Vaughan to the Jockey's Ridge State Park Soundside Access ad-hoc Committee. Finally, Mayor Pro Tem Siers noted that the area's demographics are changing, and he would like to see the Town be proactive; as the community

becomes more of a year-round rather than weekly rental community, he feels the Town will see less occupancy tax along other impacts such as increased traffic, water usage, etc.

### ***Town Updates***

None

### ***Discussion Items***

#### ***November 25, 2020 Director's Report***

Mr. Zehner presented his Director's Report to the Board. This report was shared with the Commissioners at their December 2nd Meeting. The report included an updated permitting report which included the 1st Quarter of FY20-21 (July 2020 - September 2020); update of Stormwater Ordinance Resource Materials and Standards - the BOC may still be considering whether to further discuss changes to the Town's residential stormwater regulations, to which Staff and the Planning Board have provided feedback and recommendations; update on Provisions for the Registration of Events Held at Residential Properties; update on recent grant awards including one from the National Fish and Wildlife Foundation's National Coastal Resilience Fund to Develop an Estuarine Shoreline Management Plan for the Town. The report also included updates on CAMA Land Use Plan, Town Workforce Housing Study & Plan, Nonconforming Hotels and Fishing Piers - Legacy Establishments/ Structures which will come back to the Board in January for further discussion, Skate Park Renovation Project, Art Masts Project, Decentralized Wastewater Management Plan and the Dowdy Park Farmer's Market which this year has included three well attended holiday markets.

#### ***Review and Discussion of Town Outdoor Lighting Regulations. Continued from November 17, 2020 Meeting***

Principal Planner Holly White explained that at their October 7, 2020 meeting, the Board of Commissioners requested that Staff conduct a study of the Town's outdoor lighting regulations, including as they pertain to signage, with consideration of best practices related to both technical aspects and aesthetics. Specifically, the Board of Commissioners are concerned that evolving and new lighting technologies have rendered our current regulations (now over 30 years old) obsolete, and result in increased potential for glare, light trespass onto adjacent properties, and more intense lighting visible at greater distances. The Board reiterated the Town's long-standing values for a dark night sky. Staff confirmed that the Board wished Staff to conduct this review with the input of the Planning Board and return conclusions and recommendations to the Board at a future meeting.

The Planning Board discussed this item at their meeting on November 17th, 2020 meeting; the Board requested that Staff further review the current ordinance and highlight areas that need updating. The Board requested that Staff provide this information at the December Planning Board meeting.

In order to provide this information, Ms. White presented a Power Point presentation:

Ms. White gave an overview of the existing Ordinance which she noted is not specific enough and generally regulates commercial properties only, not residential.

Mr. Zehner explained to the Board that Staff had recently learned that multi-family dwellings and cottage courts rely on Dominion Power as a vendor for their outdoor lighting needs. Dominion Power may not be aware of the Town's lighting regulations and permitting procedures. Mr. Zehner stated

that there is a need for an educational component and Staff have reached out to Dominion Power to discuss this issue further.

Ms. White noted that as part of this review Staff will be looking at signage as well as lighting, and more specifically the lighting of signs.

Ms. Wright pointed out the new retail store Sugar Kingdom as a good example of what we (the Town) don't want as far as lighting.

Mr. Zehner explained for Ms. Harrison and the Board that in the case of Sugar Kingdom they have multiple, internally illuminated signs. In this example it's not as much the type of light as the number of lights and signs that are being used.

Mr. Zehner reminded the Board that any changes that they make to the regulations would not affect existing properties.

Mr. Zehner asked the Board that now that it gets dark earlier it is a good opportunity to drive around and take a look at how different properties are lit up and to note what the Town may or may not want as far as lighting. Some things to consider would be the use of timers and timing in general. Some municipalities require less lights or don't allow lights after a certain time period.

Ms. White continued with her presentation noting that recently a lighting expert had done a courtesy review of the Town's current ordinance. Among his recommendations was to utilize IES standards and BUG ratings.

Mr. Zehner discussed IES standards and BUG rating in further detail, noting that instead of adopting those standards, the Town could develop their own standards incorporating IES standards into the ordinance.

Mr. Zehner suggested no longer regulating foot-candles as this is outdated and no longer an effective way of regulating light intensity. Mr. Zehner also noted that the current ordinance does not reference lumens which is what LED lights put out instead of wattage.

Ms. White reviewed some general best practices showing samples from other municipalities; these included: Reducing wattage (lumens), requiring lower mounted luminaries, using full-cutoff fixtures, minimizing blue light emissions and looking at color/color temperature.

Ms. White then reviewed some recommendations, including: Performing a lighting assessment; Learning where are glare and light trespass are a problem in town and correcting violations; using this information to inform regulations; Considering the possible creation of lighting zones; Creating minimum regulations for residential properties such as the use of motion sensors, full cut off fixtures, mounting heights, color temps, lumen levels, etc.; Creating separate standards for existing vs. new development; Considering the lighting expert's comments; Reviewing and assessing the number and size of allowed signage and how it's lit and finally, Educating the public about the Town's lighting requirements.

Mr. Elder stated he liked Mr. Zehner's idea of commercial businesses turning off or reducing lights during off hours. Mr. Elder also suggested looking at recommendations for security lighting noting that too much or the wrong type of lighting can defeat the purpose. Mr. Elder stated that maybe Businesses could look into having two types of lighting; one during normal hours of operation and one for after hours.

Ms. Harrison noted that she was glad that the Town was looking at the lighting ordinance and agreed that the education component was an important and necessary piece.

Chair Vaughan suggested looking into the possibility of incentivizing existing development to do things differently. Ms. White agreed noting that there might be some possibilities through the State. Mr. Zehner also suggested looking into Dominion Power as they might also offer some incentives.

Ms. White confirmed for Mr. Elder that currently there are not lighting standards in AEC that apply to residential properties.

Chair Vaughan stated that she was in favor of creating some minor regulations/recommendations for residential properties and noted that educating residential property owners and creating awareness were key.

Chair Vaughan and Mr. Ferguson were both in favor of creating "Light Zones".

Ms. White confirmed for Mr. Ferguson that all the definitions are in Appendix A of the UDO. Mr. Zehner noted there is no current definition for nuisance lighting.

Ms. Wyatt confirmed for Mr. Ferguson that under prohibitive lighting, façade lighting and up lighting are not technically allowed but there are some businesses that have it, may have been allowed prior to current regulations.

Mr. Zehner confirmed for Mr. Ferguson that Sugar Kingdom had been in violation, but it has since been resolved and they are now compliant with current regulations.

Mr. Zehner confirmed for Mr. Gwinn that the Town gets several complaints a year related to lighting.

Mr. Elder agreed that the current language is vague and there is not a lot of definition related to security lighting.

Mr. Ferguson inquired about public streetlights, especially those for new subdivisions and asked whether the Town should think about regulating the style of lights. Mr. Zehner noted that they could certainly look into this further.

Mr. Elder suggested that at some point they may want to consider getting public input and Mr. Zehner agreed noting that this could be done via a quick public survey. Mr. Elder stated that public input would help bring momentum and acceptance of upcoming changes.

#### Discuss N.C.G.S. 160D And Update Of UDO

Ms. Wyatt stated that this change in legislature represents a rather significant update which will mean making some changes to the new UDO.

Ms. Wyatt explained that the new Chapter 160D of the North Carolina General Statutes consolidates current city- and county- enabling statues (now found in Chapters 153A and 160A, respectively) into a single, unified chapter, and pulls in related statutes previously scattered throughout the General Statutes. Chapter 160D also places these statutes into a more logical, coherent organization. Without



making major policy changes or shifts in the scope of authority granted to local governments, the legislation also includes many clarifying amendments and consensus reforms.

Chapter 160D was originally effective as of January 1, 2021; however, due to the Coronavirus pandemic, an extension was been granted to July 1, 2021. All city and county zoning, subdivision, and other development regulations, including unified development ordinances, will need to be updated by July 1, 2021 to conform to the new law. The North Carolina School of Government has issued numerous publications as well as webinars to help municipalities understand the various updates and revisions now required.

Planning Staff has begun preparing draft revisions to the Unified Development Ordinance to address the updates necessary as part of the NCGS Chapter 160D Legislation. With the need to adopt the revised UDO to reflect Chapter 160D revisions no later than the Board of Commissioners meeting in June 2021, Staff intends to have the first draft of the revised UDO to the Planning Board at their February 2021 meeting with an opportunity to provide a recommendation to the Board of Commissioners no later than April 2021, with an expectation the Board of Commissioners would have meetings in May and June to consider final adoption.

Ms. Wyatt gave as an example of the change that the term Conditional Use Permit is no longer allowed and will be replaced with Special Use Permit instead so that everyone is using the same language. The Board then briefly discussed this change.

#### ***Planning Board Members' Agenda***

None

#### ***Planning Board Chairman's Agenda***

Chair Vaughan reminded the Board that January's meeting will begin with Staff officiating and election of the Chair and Vice Chair.

#### ***Adjournment***

A motion to adjourn was made by David Elder. The time was 11:25 PM.

Respectfully submitted,  
Lily Campos Nieberding



## **BOC ACTIONS JANUARY 6, 2021**

**1.** Call to order - Mayor Cahoon read a brief statement re: COVID-19 and pointed out that healthcare workers are still working, still caring for the sick, and still holding the hands of those dying; everyone has healthcare workers as family, neighbors, etc. and Mayor Cahoon thanked them. A moment of silence was followed by the Pledge of Allegiance.

**2.** Agenda adoption - The Board approved the January 6<sup>th</sup> agenda with the addition of a Closed Session to preserve attorney/client privilege and to discuss a personnel issue.

**3.** Recognition - Interim Public Works Director Terry Haugen, via Zoom, introduced Sanitation Equipment Operator Tony Windham who was recognized and thanked by the Board for 15 years of service; he introduced Sanitation Equipment Operator Deronte White who was recognized and thanked by the Board for five years of service.

Fire Chief Randy Wells, via Zoom, introduced Firefighter/EMT Richard Gibbons who was recognized and thanked by the Board for 15 years of service.

Finance Director Amy Miller, via Zoom, introduced Water Billing/Customer Service representative Brittany Phillips who was recognized and thanked by the Board for five years of service.

**4.** Presentations - National Park Service Superintendent David Hallac – Sediment Management Plan - Superintendent Hallac, via Zoom, discussed the Sediment Management Framework and Environmental Impact Statement with Board members; Superintendent Hallac reported that he has been preparing a very detailed erosion analysis on the miles between Ramp 1 (boundary of National Park Service and the Town) down to Oregon Inlet. Board members spoke positively of - and thanked him for - his presentation.

Presentation by Dare County Manager/Attorney Bobby Outten - He discussed the Beach Nourishment Program for the County; the Beach Nourishment Fund is financed with 2% of the occupancy tax; the goal of the County Commissioners is to use that fund to get as much sand on the beaches as possible. They are pushing for State funding - it may be 2028 before significant funds will be built up again. Mayor Cahoon will bring up with Mayors during an upcoming Mayors' lunch a discussion re: asking the legislature for another way for beach nourishment funding.

Presentation by Town Auditor Lisa Murphy - Auditor Lisa Murphy of Grizzelle, Straub, Johnson, and Murphy, via Zoom, presented the Town's Annual Audit Report. The Town is in excellent financial condition and the Town's Finance Dept is working at a high level of expertise.

Presentation by Town Finance Director Amy Miller - Finance Director Amy Miller, via Zoom, presented her Popular Annual Financial Report (PAFR); she thanked everyone who assisted her with the Report and stated that she was available for questions.

**5.** Public Comment - There were no comments received for today's meeting.

**6.** Consent agenda - The Consent agenda was approved as presented and consisted of the following:

Budget Adjustment #8 to FY 20/21 Budget

Tax Adjustment Report  
Approval of minutes  
Consideration of Direct Electronic Payment Delivery Agreement  
Consideration of Emergency Paid Sick Leave (EPSL) Policy  
Ratification of Designation of Applicant's Agent

**7.** Public Hearing - to consider a text amendment to the Unified Development Ordinance pertaining to the reduction of the side yard setbacks for corner lots abutting unimproved rights-of-way. The motion to adopt the text amendment (Option "D") with the following addition: "being developed for a residential use and" passed 4 – 1 with Comr. Fuller (agreeing with the Planning Board determination) casting the NO vote.

**8.** Review of Public Works Facilities Master Plan scope of work - It was Board consensus to move forward with the Public Works Facilities Master Plan scope of work as presented.

**9.** Public Hearing - to consider text amendments to the Unified Development Ordinance pertaining to uses allowed within the C-3, Commercial Services and C-2, General Commercial Zoning Districts, the "Furniture Store" and "Furniture Showroom" uses, the "Warehousing & Storage Facilities" use and storage as an accessory to these uses

Board members spoke concerning language in the ordinance that is geared toward maintaining the Town's values and standards yet somehow separates furniture store from showroom in all its various forms and also addresses other parts of the ordinance such as dual/mixed uses/shopping centers. Staff will revise the ordinance based on the Board's comments and return for further discussion - the Board tabled consideration of the ordinance.

**10.** Recess for lunch - The Board recessed for lunch at 12:35 am and reconvened at 1:45 p.m.

**11.** Update from Planning Director:

*Consider VW Settlement Phase 1-Level 2 Charge Program*

Staff is to research the questions brought up by Board members to include location and fees for further discussion at the January 20<sup>th</sup> Board meeting.

*Review and Discuss Options to Allow Flexible/Temporary Outdoor Dining*

Re: a wind-down period, Director Zehner stated that after the Statement of Emergency is lifted, there is some flexibility; a Special Use Permit would allow businesses to continue at least through rest of the season. It was Board consensus to wait until nearing the end of the Statement of Emergency before looking further into the issue of flexible/temporary outdoor dining options - in the short term, no action is needed.

**12.** From Dec 2<sup>nd</sup> Board meeting - Discuss and consider Request for Public Hearing to consider text amendments to the Unified Development Ordinance pertaining to nonconforming hotels and accessory uses in association with preexisting fishing piers - The Board scheduled the Public Hearing as requested.

**13.** From Dec 2<sup>nd</sup> Board meeting - Update on street maintenance plan/repair work - Dep Manager Andy Garman presented and the plan was well received - To be considered during the upcoming budget process.

**14. Committee Reports:**

*Mayor Pro Tem Siers - Street/Stormwater* - Mayor Pro Tem Siers reported that he recently rode around Town with staff to view street and stormwater areas of concern.

*Mayor Pro Tem Siers - Jockey's Ridge/Soundside Road Committee* - The Jockey's Ridge Soundside Road Committee recently met and is working toward a resolution.

*Mayor Cahoon - COVID update* - Mayor Cahoon forwarded to Board members this week an email summarizing the recent meeting of local officials discussing the latest updates on the COVID pandemic where the numbers continue to increase.

**15. Board of Adjustment (BOA)** - The Board appointed Margaret Suppler to serve as BOA Chair and Angelina Lowe to the vacant regular position. Appointment of Vice-Chair is to be included on the January 20<sup>th</sup> mid-month Board meeting agenda. Staff is to also find out if BOA member Bobby Gentry is interested in reappointment, his term expires February 2021, and if so, if he is interested in serving as Vice-Chair.

**16. Salary Study Scope** - The Board was positive about the salary study scope presented; they would like to see progression goals not be glossed over and not become boiler plate and that opportunities be provided for all departments so they are eligible for pay increases once they meet their agreed-upon goals.

**17. Town Attorney** - Attorney Leidy had no new reports.

**18. Interim Town Manager Sparks** - The following schedule was approved for upcoming workshops:

<u>Recessed Meeting</u> - Includes Beach Nourishment Funding	Wed. Jan 20, 2021; 9 am
<u>Interview with Board members</u> Steve Straus - Developmental Associates (TM Recruit)	Wed. Jan 20, 2021; 11:30 am
<u>Budget Planning Workshop</u>	Wed. Feb 3, 2021; following 9 am Board of Commissioners meeting
<u>Capital Improvement Program Workshop</u> - If continuation is needed	Wed. Mar 24, 2021; 9 am Wed. Mar 31, 2021; 9 am
<u>Presentation of Managers Recommended Budget</u>	Wed. May 5, 2021; 9 am
<u>Budget Workshop</u> - If continuation is needed	Wed. May 12, 2021; 9 am Wed. May 19, 2021; 9 am
<u>Public Hearing</u>	Wed. Jun 2, 2021; 9 am
<u>Budget Workshop</u>	Wed. Jun 16, 2021; 9 am; Followed by mid-month meeting/Budget Adoption

**19.** Interim Town Manager Sparks - The Board approved the Sanitation Division position request as requested.

**20.** Mayor Pro Tem Siers - Dominion Energy storage on lot next to Dunes - Interim Manager Sparks is to continue to look into this issue and verify completion of project/lot cleared by end of February.

**21.** Interim Town Manager Sparks - The Board passed a motion authorizing the purchase of flood warning signage, in the amount of \$8,500; Continued requests are to be made to NCDOT to take some action on their roadway; Police patrol to be increased in causeway area.

**22.** Comr. Brinkley - The Town's weather monitor is not working he noted from the Town's web site - He would like to see this fixed so those interested can view the local weather information.

**23.** Comr. Fuller - thanked staff for fixing the hole in the ceiling [from removal of the projector unit].

**24.** Comr. Fuller - he spoke of the letter received from Mr. David Benner and confirmed with Interim Town Manager Sparks that staff has made no arrangement re: Old Nags Head Place.

**25.** Comr. Renée Cahoon - She thanked Sanitation, Police, and Fire for their work during the holidays.

**26.** Mayor Cahoon - Since the Board just held a fall 2020 retreat and laid out a comprehensive plan that staff is engaged in, Board members agreed there was no need for a retreat in January.

The Board is to receive quarterly strategic planning progress updates from staff; Mayor Cahoon stated that two of these updates could be in a retreat form (abbreviated) and two in the form of workshops. After discussion with Interim Town Manager Sparks, he will return with a schedule.

**27.** Comr. Renée Cahoon - (Clarify #21 above) The Board passed a motion to utilize funds in the amount of \$8,500 for traffic signage from Undesignated Fund Balance and not from Powell Bill funds.

**28.** Mayor Cahoon - The Board passed a motion authorizing the Mayor to sign the letters in support of NC DEQ Secretary Regan as EPA Director to Senators Burr and Tillis as presented.

**29.** Closed Session - The Board entered Closed Session to discuss a personnel issue and to confer with the Town Attorney re: attorney/client privilege at 3:49 a.m. and re-entered Open Session at 4:10 p.m.

**30.** Adjournment - The Board recessed to a mid-month meeting on January 20<sup>th</sup> at 9 am - The time was 4:15 p.m.



# MEMORANDUM

## Town of Nags Head

### Planning & Development Department

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To: Board of Commissioners  
Planning Board

From: Michael Zehner, Director of Planning & Development

Date: December 30, 2020

Subject: Planning and Development Director's Report (H-1)

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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 January 6, 2021.

#### Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for November 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:

- Monday, November 2 - Inspection of 205 E. Baltic Street
- Monday, November 2 - Outdoor Lighting Study Working Group Meeting
- Tuesday, November 3 - J-1 Housing Discussion with Dan Bullock, Holtz Builders
- Wednesday, November 4 - Board of Commissioners Meeting
- Thursday, November 12 - DWMP Interviews
- Friday, November 13 - GIS Needs Assessment Meeting
- Tuesday, November 17 - Planning Board Meeting
- Wednesday, November 18 - Arts & Culture Committee Meeting
- Saturday, November 21 - Holiday Farmer's Market
- Monday, November 23 - Outdoor Lighting Study Working Group Meeting
- Monday, November 23 - CSI Capstone Presentation
- Monday, November 30 - Plat Review Officer Training

#### VW Settlement Phase 1 - Level 2 Charging Program

Staff has been made aware that approximately \$1.15 million in funds associated with the Volkswagen Settlement are being made available as part of a "Phase 1 for the Light Duty Zero Emission Vehicle Level 2 Charging Infrastructure Rebate Program. This program is designed to expand the state's light duty ZEV charging infrastructure network." (<https://deq.nc.gov/volkswagen-settlement/level-2>) Staff participated in a webinar to learn more about the program and the application process, which opens on January 25, 2021. Under the program, for Level 2 chargers installed on government-owned property and accessible to the public, the Town could be reimbursed up to \$5,000 for the installation.

Based upon preliminary estimates received, upfront vendor costs would total between \$7,000 to \$11,000, depending on the vendor and equipment, with complete installation (including Town labor and materials to extend electrical service and install a concrete base for the charger) totaling \$11,000 to \$15,000. With the potential reimbursement, actual cost to the Town would be \$6,000 to \$10,000. Please visit <https://www.chargepoint.com/products/commercial/ct4000/> for one example of equipment that could be available. It is also important to note that many of the systems require annual maintenance and software service fees; however, it is also possible to assess fees to users for charging, which may offset these annual costs.

Attached for the Board's consideration is a budget amendment to allocate \$15,000 for this project, should the Board wish for Staff to pursue this opportunity further. Tentatively, Staff is considering siting this charger at Town Hall or adjacent to the Board Room, on the beach access parking lot side.

### **Outdoor Dining**

At the Board of Commissioners November 2020 meeting, the Board discussed the possibility of amending the UDO to allow outdoor dining on a temporary basis in a more flexible and simplified manner, and asked Staff to return with some thoughts on addressing this before proceeding with a text amendment. Generally, the Board was open to allowing this where parking was not reduced below that which is required and/or seating not increased in excess of available and required parking, or in excess of wastewater capacity.

Based upon a cursory review of the UDO, Staff believes that the best opportunity to address this allowance would be through the modification of the Temporary Use Permit provisions that were recently adopted. At present, the issuance of a Temporary Use Permit for a temporary use or the temporary modification of a use is only eligible during a declared State of Emergency (or due to the impacts associated with a declared State of Emergency). Staff is of the opinion that the provisions could be easily modified to allow for Temporary Use Permits to be issued at all times, for limited durations, for limited use types (at least initially, outdoor dining), and subject to certain limitations (i.e. no reduction of parking, no occupancy in excess of wastewater capacity, etc.). If this is generally acceptable to the Board, Staff will begin working with the Planning Board on draft text amendments.

### **Planning Board - Pending Applications and Discussions**

The December 15, 2020 meeting of the Planning Board (held remotely) included further consideration of the text amendment pertaining to the reduction of the minimum required side yard for corner lots abutting unimproved rights-of-way and continued review of the Town's outdoor lighting regulations. Additionally, Staff provided an introduction to updates to the UDO required by N.C.G.S. 160D.

The Planning Board's next meeting is scheduled for January 19, 2021. At this time, the agenda is expected to include consideration of a Major Site Plan for alterations to Kitty Hawk Watersports, initial review of text amendments associated with 160D, and, potentially, text amendments associated with flexible outdoor dining.

Additionally, there are active pending conditional use permit applications for the property at 205 E. Baltic Street (a.k.a. the Dream Center) and The Soundside Event Site and associated properties. The applications were originally scheduled for consideration at the September Planning Board meeting, but continuances have been requested by the applicants.

### **Additional Updates**

- **CAMA Land Use Plan Update** - On December 9, 2020, Staff received comments from DCM on the Town's draft CAMA Land Use Plan. Despite the Plan being accepted as complete by DCM in September, resulting in the State review being initiated, in addition to receiving advisory comments and suggestions, Staff also received comments categorized as "Missing/Needed/Clarification," which DCM staff has indicated are required to be addressed prior to proceeding with local adoption of the Plan, and then certification by the CRC. Staff has requested a meeting to discuss this further, including the regulatory requirements making further revisions mandatory; Staff expects this meeting to take place in early-January.
- **Review of Town Outdoor Lighting Regulations** - As directed by the Board, Town Staff have been working internally and with the Planning Board to complete a review of the Town's existing regulations pertaining to Outdoor Lighting, identify issues and areas of opportunity for improvement, as well as best practices. The Planning Board was supportive of the findings and conclusions made by Staff, but also recommended that a community survey be performed to better understand public perspectives on lighting conditions and regulations. Staff expects to release a brief survey or questionnaire to solicit feedback, and return to the Board for a complete report in February.
- **Town Workforce Housing Study & Plan** - As the Board is aware, Staff returned to the Board of Commissioners on December 16, 2020 to reinstate discussion on the project to addressing housing needs of the Town's seasonal workforce. The Board provided feedback and direction to Staff, who will be discussing further with assigned Town Staff on January 7, 2021.
- **Nonconforming Hotels and Fishing Piers - Legacy Establishments/Structures** - This matter is on the Board's January 6, 2021 agenda to discuss further and consider the scheduling of a public hearing.
- **Review of Residential Stormwater Regulations** - As the Board is aware, recommendations from Staff and the Planning Board related to the Town's residential stormwater regulations were provided to the Board a few months ago. Staff is awaiting further direction from the Board of Commissioners as to whether the Board wishes to discuss at a workshop, potentially with the Planning Board, or take some alternative action.

Absent further direction, Staff intends to proceed with an amendment to update the ordinance to reference the recently updated *Low Impact Development and*



*Stormwater Reference Manual*, to replace the *Low Impact Development Solutions to Reduce Stormwater Runoff Manual*.

- **Provisions for the Registration of Events Held at Residential Properties** - As noted in the previous Director's Report, both the Planning Board and the Board of Commissioners had indicated an interest some months ago in considering a policy or regulations requiring the registration of events held at residential properties. The Planning Board had discussed this matter earlier in the year, with delays related to the pandemic, ultimately tabling consideration until the fall. The Planning Board revisited the matter at their October and November meetings (materials provided to the Planning Board of their November meeting may be accessed here: [LINK](#)), and ultimately supported the general provisions that Staff had developed; it is important to note, the draft provisions require that events be registered as a way of notification, that no approval of the registration or event is contemplated.

When it is appropriate, Staff would request feedback from the Board of Commissioners as to whether they would like to consider the provisions for adoption. As noted in the memorandum to the Planning board, a more comprehensive review and amendment of Chapter 4, *Amusements, Entertainments, Mass Gatherings and Commercial-Outdoor Recreational Uses*, may be necessary given issues that have arisen; provisions addressing events at residential properties could be addressed separately now, or be incorporated into this more comprehensive review and amendment.

- **Skate Park Renovation - Phase 1** - As previously reported, Staff finalized submission of an application for the National Endowment for the Arts Our Town Grant on August 18, 2020, seeking funds to design and develop plans for a future renovation of the Skate Park. With support from the Board, Staff also submitted for a grant from the Tourism Board. Release of a community preference survey is still pending.
- **Art Masts** - As previously noted, the Art Mast project, coordinated with the Arts & Culture Committee, has resulted in four completed art panels. The Arts & Culture Committee continues to discuss the locations for the new Art Masts, and is considering installations beginning at Bonnet Street and ending in the Gallery Row District. While Staff had been awaiting a proposal from a sign company to identify the best way to install the masts, another recent consideration is whether the completed panels should be reproduced on material that is more resilient, to avoid the damage or destruction to the original pieces. A sample reproduction on weather-resistant material has been created, which Staff and the Arts & Culture Committee believe to be an appropriate solution. Based on this, it should be possible to install completed panels this spring.
- **Decentralized Wastewater Management Plan** - As previously noted, three responses to the RFQ to update the Plan were received. Staff completed a preliminary evaluation of the responses, interviewing two of the respondents. Staff sent follow up questions and requests for references to these two respondents. Based on a review of the responses, interviews, and the follow up

information, Staff is proceeding to finalize a contract with the preferred consultant.

- **Dowdy Park Farmer's Market** - The last Holiday Farmer's Market was held on Saturday, December 19. All three Holiday Farmer's Markets were well attended, with minimal necessary enforcement of safety protocols. Staff will begin preparing for the 2021 Season, and will plan to present a recap of the 2020 Season and plans for 2021 at an upcoming Board meeting.
  
- **Grants and Assistance**
  - Staff had submitted a request under the Hazard Mitigation Grant Program (Tropical Storm Michael) to update the Town's Emergency Operations Plan. Staff learned that funding under that event was no longer being considered, but that the request may be considered under funding decisions related to Hurricane Dorian.
  
  - 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; we have been notified that the generator request has been selected for further consideration. Additionally, Staff has had recent discussions with relevant State staff who are reviewing the request for funds for property acquisition and expects to receive updates on this request in the near future.
  
  - As previously noted, the Town was successfully awarded \$75,000 in funds from the National Fish and Wildlife Foundation - National Coastal Resilience Fund grant to develop an Estuarine Shoreline Management Plan. Staff is working with NFWF contacts to finalize the award.
  
  - As noted, Staff submitted a final application for the National Endowment for the Arts Our Town Grant on August 18, 2020 seeking funds to prepare designs for the renovation of the Town's Skate Park. Additionally, the Town received \$30,000 in grant funds from the Tourism Board for this project.
  
  - The Town has submitted a letter of support to participate in a joint grant to fund additional tide gauges to be located in Town, as well as other locations in Dare County.
  
  - As previously noted, the Town was notified that it was successfully awarded \$2,500 in cost share assistance from the Dare Soil and Water Conservation District through the Community Conservation Assistance Program for the development of a rain garden at Town Hall to improve local water quality and serve as a Low Impact Development demonstration and education project.

### **Upcoming Meetings and Other Dates**

- Monday, January 4 - Planning & Development Department Staff Meeting
- Tuesday, January 5 - Technical Review Committee Meeting
- Wednesday, January 6 - Board of Commissioners Meeting
- Thursday, January 7 - Town Seasonal Employee Housing Meeting
- Friday, January 8 - APA-NC Legislative Committee Annual Meeting (M. Zehner)
- Wednesday, January 13 - Arts & Culture Committee Meeting
- Tuesday, January 19 - Planning Board Meeting

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

DATE SUBMITTED: December 7, 2020

	Nov-20	Nov-19	Oct-20	2020-2021 FISCAL YTD	2019-2020 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
<b>BUILDING PERMITS ISSUED - RESIDENTIAL</b>						
New Single Family	0	1	3	10	3	7
New Single Family, 3000 sf or >	0	0	0	1	4	(3)
Duplex - New	0	0	0	0	0	0
Sub Total - New Residential	0	1	3	11	7	4
Miscellaneous (Total)	32	36	41	147	141	6
<i>Accessory Structure</i>	3	4	5	16	19	(3)
<i>Addition</i>	4	2	4	14	5	9
<i>Demolition</i>	2	2	0	2	2	0
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	9	9	13	43	33	10
<i>Repair</i>	14	19	19	72	82	(10)
<b>Total Residential</b>	<b>32</b>	<b>37</b>	<b>44</b>	<b>158</b>	<b>148</b>	<b>10</b>
<b>BUILDING PERMITS ISSUED - COMMERCIAL</b>						
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	0	0
Subtotal - New Commercial	0	0	0	0	0	0
Miscellaneous (Total)	4	5	3	28	32	(4)
<i>Accessory Structure</i>	1	1	3	14	6	8
<i>Addition</i>	0	0	0	0	0	0
<i>Demolition</i>	0	0	0	1	2	(1)
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	2	4	0	4	12	(8)
<i>Repair</i>	1	0	0	9	12	(3)
<b>Total Commercial</b>	<b>4</b>	<b>5</b>	<b>3</b>	<b>28</b>	<b>32</b>	<b>(4)</b>
<b>Grand Total</b>	<b>36</b>	<b>42</b>	<b>47</b>	<b>186</b>	<b>180</b>	<b>6</b>
<b>SUB-CONTRACTOR PERMITS</b>						
Electrical	19	28	43	170	189	(19)
Gas	0	0	3	7	9	(2)
Mechanical	19	24	23	141	144	(3)
Plumbing	4	5	13	34	28	6
Sprinkler	0	0	0	0	0	0
<b>VALUE</b>						
New Single Family	\$0	\$200,000	\$1,025,000	\$3,297,336	\$525,000	\$2,772,336
New Single Family, 3000 sf or >	\$0	\$0	\$0	\$430,000	\$3,082,561	(\$2,652,561)
Duplex - New	\$0	\$0	\$0	\$0	\$0	\$0
Misc (Total Residential)	\$1,443,239	\$1,122,444	\$1,104,097	\$4,353,835	\$3,743,672	\$610,163
<b>Sub Total Residential</b>	<b>\$1,443,239</b>	<b>\$1,322,444</b>	<b>\$2,129,097</b>	<b>\$8,081,171</b>	<b>\$7,351,233</b>	<b>\$729,938</b>
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	\$0	\$0
Misc (Total Commercial)	\$138,935	\$388,860	\$8,200	\$507,192	\$1,346,904	(\$839,712)
<b>Sub Total Commercial</b>	<b>\$138,935</b>	<b>\$388,860</b>	<b>\$8,200</b>	<b>\$507,192</b>	<b>\$1,346,904</b>	<b>(\$839,712)</b>
<b>Grand Total</b>	<b>\$1,582,174</b>	<b>\$1,711,304</b>	<b>\$2,137,297</b>	<b>\$8,588,363</b>	<b>\$8,698,137</b>	<b>(\$109,774)</b>

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

DATE SUBMITTED: December 7, 2020

	Nov-20	Nov-19	Oct-20	2020-2021 FISCAL YTD	2019-2020 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
<b>ZONING</b>						
Zoning Permits	17	30	30	117	120	(3)
<b>CAMA</b>						
CAMA LPO Permits	5	3	1	10	12	(2)
CAMA LPO Exemptions	3	8	4	18	30	0
Sand Relocations	4	Not Tracked	0	4	Not Tracked	Not Tracked
<b>CODE COMPLIANCE</b>						
CCO Inspections	41	45	72	356	453	(97)
Cases Investigated	22	19	44	215	223	(8)
Warnings	6	4	20	62	33	29
NOVs Issued	16	14	24	154	188	(34)
Civil Citations (#)	7	1	5	13	1	12
Civil Citations (\$)	\$42,000	\$0	\$31,000	\$73,000	\$0	\$73,000
<b>SEPTIC HEALTH</b>						
Tanks inspected	10	7	16	73	96	(23)
Tanks pumped	4	3	9	42	8	34
Water quality sites tested	0	0	0	92	112	(20)
Personnel Hours in Training/School	25	30	16	65	77	(12)




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Michael D. Zehner, Director of Planning & Development

**BUDGET AMENDMENT REQUEST  
FY 2020-2021**

**BUDGET AMENDMENT NO. 8  
AMENDMENT 8.2  
USE OF FUNDS**

SOURCE OF FUNDS

CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
900-599900	<b>General Fund Expenditure Contingency</b> Contingency	10,000.00		490-577400	<b>General Fund Planning</b> Capital Outlay Equipment	15,000.00
10-430202	<b>Revenue-Grant</b> NC Dept. of Environmental Quality	5,000.00				
<b>TOTAL CHARGES</b>		\$ 15,000.00		<b>TOTAL CREDITS</b>		\$ 15,000.00

**JUSTIFICATION**

NC Volkswagen Settlement for zero emission vehicle charging infrastructure rebate program.  
This amendment is contingent upon grant being awarded.

ADMINISTRATIVE SERVICES 12/29/2020  
RECOMMENDED BY \_\_\_\_\_ DATE

APPROVED BY BOC: \_\_\_\_\_ DATE

POSTED TO GENERAL LEDGER:

INITIALS \_\_\_\_\_