AGENDA

TOWN OF NAGS HEAD BOARD OF COMMISSIONERS
NAGS HEAD MUNICIPAL COMPLEX - BOARD ROOM
WEDNESDAY, JULY 1, 2020, 9:00 A.M.

*(**PLEASE NOTE**: In accordance with State and County Regulations - Face Coverings must be worn in indoor and outdoor public spaces where social distancing cannot be maintained)*

A. CALL TO ORDER / MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE

B. INTRODUCTION OF 2020 SEASON LIFEGUARDS

C. ADOPTION OF AGENDA

D. RECOGNITION

NEW EMPLOYEE – Planning & Development - Environmental Planner Kylie Shephard – Mar 9, 2020
NEW EMPLOYEE – Planning & Development - Payroll and Benefits Specialist Sandra Garland – Mar 23, 2020
5 YEARS – Public Works - Fleet Mechanic Jason Brickhouse – May 18, 2015
5 YEARS – Public Works - Facilities Maintenance Technician Russell Canter – Jun 15, 2015
10 YEARS – Fire Dept - Engineer Anthony Dillon – Jun 21, 2010
15 YEARS – Fire Dept - Lieutenant Mark Edwards – Jun 1, 2005

25 YEARS – Public Works - Water Operations Supervisor David Perry – May 1, 1995

Documents:

7 D RECOGNITION SUMMARY.PDF

E. PUBLIC COMMENT

F. CONSENT AGENDA

1. Write-Off Of Old Business Licenses/Registration Fees

   Documents:

   7 F2 WRITE-OFF FOR BUS LICENSES SUMMARY.PDF
   7 F2 WRITE-OFF FOR BUS LICENSES MEMO.PDF
   7 F2 WRITE OFF FOR BUS LICENSES TOWN CODE.PDF

2. Consideration Of Agreement With Dare County For Coronavirus Relief Fund Allocation

   Documents:

   7 F4 COVID RELIEF FUNDING AGREE SUMMARY.PDF
   7 F4 COVID RELIEF FUNDING AGREEMENT.PDF

3. Consideration Of FY 20/21 Reimbursement Resolution
   Declaring the intention to reimburse the cost of certain expenditures

   Documents:

   7 F5 REIMBURSEMENT RES SUMMARY.PDF
   7 F5 REIMBURSEMENT RES.PDF

4. Consideration Of Resolution To Update Town Banking Signatures

   Documents:

   7 F6 BANK OFFICIALS RES SUMMARY.PDF
   7 F6 BANK OFFICIALS RES.PDF

5. Consideration Of Updated Cashier Policy

   Documents:

   7 F7 CASHIER REV POLICY SUMMARY.PDF
   7 F7 CASHIER REV POLICY.PDF

6. Request For Public Hearing To Consider A Revised Preliminary Plat For A Major Subdivision Known As Coastal Villas,
   For an approximately 11.17 acre property, zoned R-2, Medium Density Residential, owned by Nags Head Construction (Applicant), located on the west side of US 158, approximately 300 feet south of the
   intersection of W. Soundside Road and US 158 (Parcel # 006749004; PIN # 989108886987 and Parcel #: 006749039; PIN #: 989108893398); the revised Preliminary Plat proposes to create 17 building lots, along with an
   associated street and other required improvements, and requires a public hearing due to requested waivers

   Documents:

   7 F8 RPH COASTAL VILLAS SUBDIV SUMMARY.PDF

G. PUBLIC HEARINGS

1. Public Hearing To Consider Text Amendments
   to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities

   Documents:

   7 G1 PH OUTDOOR STANDS SUMMARY.PDF
   7 G1 OUTDOOR STANDS PN.PDF
   7 G1 PH OUTDOOR STANDS MEMO.PDF
   7 G1 PH OUTDOOR STANDS ORD.PDF

H. REPORTS AND RECOMMENDATIONS FROM THE PLANNING BOARD AND THE PLANNING AND DEVELOPMENT DIRECTOR

1. UPDATE FROM PLANNING DIRECTOR
   - Includes Planning Board report on Large Occupancy Homes
   - Includes Planning Board recommendation re: residential stormwater regulations

Documents:

7 H1 PLNG DIRECTOR UPDATE SUMMARY.PDF
7 H1 PLNG DIRECTOR UPDATE MEMO.PDF

2. Consideration Of Resolution To Adopt Hazard Mitigation Plan

Documents:

7 H2 HAZ MIT PLAN SUMMARY.PDF
7 H2 HAZ MIT PLAN MEMO.PDF
7 H2 HAZ MIT PLAN RES.PDF

3. Consideration Of Town Code Sec 26-7 Amendment Re: Camping

Documents:

7 H3 CAMPING AMENDMENT SUMMARY.PDF
7 H3 CAMPING AMENDMENT MEMO.PDF
7 H3 CAMPING AMENDMENT ORD.PDF

4. Consideration Of Scope For Update Of The Decentralized Wastewater Management Plan

Documents:

7 H4 DECEN WASTE PLAN SCOPE SUMMARY.PDF
7 H4 DECEN WASTE PLAN SCOPE MEMO.PDF
7 H4 DECEN WASTE PLAN SCOPE.PDF

I. NEW BUSINESS

1. Committee Reports

Documents:

7 I1 COMMITTEE REPORTS SUMMARY.PDF

J. ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

K. ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

L. BOARD OF COMMISSIONERS AGENDA

1. Comr. Kevin Brinkley - Update On Recycling

Documents:

7 L1 BRINKLEY UPDATE ON RECYCLING SUMMARY.PDF

M. MAYOR'S AGENDA

1. Future Town Envision

Documents:

7 M1 MAYOR ENVISION THE TOWN SUMMARY.PDF

N. OTHER BUSINESS

O. ADJOURNMENT

P. FULL AGENDA In .PDF Format With Bookmarks

5401 S. Croatan Hwy, Nags Head, NC 27959
252-441-5508

Agenda Item Summary Sheet

Item No: **D**
Meeting Date: **July 1, 2020**

Item Title: Recognition

Item Summary:

Recognition at the July 1st Board meeting includes the following:

NEW EMPLOYEE – Planning & Development - Environmental Planner Kylie Shephard – Mar 9, 2020
NEW EMPLOYEE – Planning & Development - Payroll and Benefits Specialist Sandra Garland – Mar 23, 2020

5 YEARS – Public Works - Fleet Mechanic Jason Brickhouse – May 18, 2015
5 YEARS – Public Works - Facilities Maintenance Technician Russell Canter – Jun 15, 2015

10 YEARS – Fire Dept - Engineer Anthony Dillon – Jun 21, 2010

15 YEARS – Fire Dept - Lieutenant Mark Edwards – Jun 1, 2005

25 YEARS – Public Works - Water Operations Supervisor David Perry – May 1, 1995

Number of Attachments: 0

Specific Action Requested:

Provided for Board recognition.

Submitted By: Administration Date: June 24, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Greg Sparks Date: June 24, 2020

Agenda Item Summary Sheet

Item No: **F-2**
Meeting Date: **July 1, 2020**

Item Title: Write-off of old business licenses/registration fees

Item Summary:

In June 2013 the Board adopted a Town Code text amendment allowing the write-off of business license debt more than three (3) years old.

Attached please find a memo from Tax Collector Linda Bittner requesting business licenses and registrations to be written off for the year 2017 in accordance with Town Code Sec. 12-33 (also attached).

Number of Attachments: 2

Specific Action Requested:

Request formal Board approval to write-off of business licenses/registrations for the year 2017.

Submitted By: Linda Bittner, Tax Collector Date: June 24, 2020

Finance Officer Comment:

Every effort has been made to collect this debt; I concur with the Tax Collector's request to write off $1,000 of business licenses/registrations.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

I concur with staff.

Signature: Greg Sparks Date: June 24, 2020

Administrative Services
Finance

Town of Nags Head

Post Office Box 99
Nags Head, North Carolina 27959
Telephone 252-441-5508
Fax 252-441-4680
www.nagsheadnc.gov

Amy Miller
Finance Officer

To: Mayor and Commissioners

From: Linda Bittner, Tax Collector

Date: July 1, 2020

Subject: Business License and Registration Fee Debt Owed More Than Three Years

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As per section 12-33 of the Town of Nags Head Code of Ordinances (copy attached), the current outstanding balance for the following year has been written off:

2017 Business Licenses/Registration Fees	$ 1,000.00

Sec. 12-32. - Collection of deficiency or delinquent taxes.

(a) The tax collector may use any of the following methods to collect a deficiency or delinquent taxes:

(1) A civil penalty with subsection 1-6(c);

(2) Equitable relief in accordance with subsection 1-6(d);

(3) The remedies of levy and sale and attachment and garnishment, in accordance with G.S. 160A-207;

(4) The remedies of levy and sale of real and personal property of the taxpayer within the town in accordance with the provisions of G.S. 105-109.

(b) Any person who commences or continues to conduct a business taxed under this chapter without payment of the tax is liable for the additional tax of five percent each 30 days, imposed by G.S. 105-109.

(c) Any business/privilege license or registration invoice older than three years, regarding a business that the town no longer regards as active, may be removed from the list of receivable accounts in the town's financial statement. At least annually, the tax collector will present the board of commissioners with a list of uncollectible accounts, requesting the board's approval for a formal write-off of such accounts. The town will use all available means to collect these accounts to include but not be limited to: bank attachment and payroll garnishment where applicable, debt set-off, etc.

(Ord. No. 15-07-025 , Pt. I, 7-1-2015; Ord. No. 16-07-018 , Pt. I, 7-6-2016; Ord. No. 18-11-016 , Pt. I, 11-7-2018)

Sec. 12-33. - Releases.

If it is determined that upon the issuance date of a renewal license or registration the business has been discontinued, the finance director may release a tax of less than $100.00. The tax collector shall annually report to the board of commissioners releases made pursuant to this section and the tax collector's annual report shall be recorded in the minutes of the board of commissioners. This report will be included with the annual request to the board to write off uncollectible accounts pursuant to section 12-32.

(Ord. No. 15-07-025 , Pt. I, 7-1-2015; Ord. No. 16-07-018 , Pt. I, 7-6-2016; Ord. No. 18-11-016 , Pt. II, 11-7-2018)

Agenda Item Summary Sheet

Item No: **F-4**
Meeting Date: **July 1, 2020**

Item Title: Consideration of agreement with Dare County for Coronavirus Relief Fund Allocation

Item Summary:

North Carolina counties are receiving funding for local governments as part of the Coronavirus Relief Fund (CRF) established under the federal CARES Act. The attached agreement with Dare County allocates $31,636 to the Town based on the Town's submitted proposal.

Number of Attachments: 1

Specific Action Requested:

Request authorization for the Town Manager to execute attached agreement with Dare County in order to receive its allocation as a result of the Federal CARES Act.

Submitted By: Administrative Services Date: June 24, 2020

Finance Officer Comment:

Request authorization to execute attached agreement so the Town can receive its allocation from the Coronavirus Relief Fund - received in response to the COVID-19 emergency.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

I concur with the request.

Signature: Greg Sparks Date: June 24, 2020

REIMBURSEMENT CONTRACT

NORTH CAROLINA
DARE COUNTY

THIS REIMBURSEMENT CONTRACT, made and entered into this ___ day of _____ 2020, by and between the County of Dare, a body politic and corporate organized and existing under the laws of the state of North Carolina (hereinafter referred to as "County") and Nags Head, a North Carolina municipality organized and existing under the laws of the state of North Carolina (hereinafter referred to as "Sub-Grantee");

WITNESSTH

WHEREAS, North Carolina counties are receiving funding for local governments as part of the Coronavirus Relief Fund (CRF) established under the federal CARES Act. The CRF allocation for Dare County totals $852,149;

WHEREAS, local municipalities have been critical partners in our emergency response to the COVID-19 pandemic, accordingly, Dare County will distribute funds as sub-grants to these entities; and

WHEREAS, the County and Grantee mutually desire to establish the means and method for the allocation of Grantee's portion of these funds through a reimbursement agreement contract.

NOW THEREFORE, in consideration of the promises and further consideration of the mutual agreements contained herein, as well as the financial consideration, the parties hereto agree as follows:

1. The Recitals set forth above, along with the definitions of certain terms are incorporated herein by reference as if fully restated.

2. Amount of Sub-Grant. The County shall provide Sub-Grantee a sub-grant in the maximum amount of $31,636 based on the proposed budget submitted by Sub-Grantee as its share of the CRF funding.

3. Certification. Any sub-grant to be disbursed to Sub-Grantee will only be made as a reimbursement. Prior to any such disbursement, the Sub-Grantee shall make a report and certify to the County that the funds being reimbursed:

- Were necessary expenditures incurred due to the public health emergency with respect to Coronavirus Virus 2019 (COVID-19) and were not accounted for in the budget most recently approved by Sub-Grantee as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government;
- Were incurred during the period that began on March 1, 2020 and ends on December 30, 2020 in accordance with the budget proposal submitted to County by Sub-Grantee;
- Were spent in a manner consistent with terms for the CRF set forth by the North Carolina Pandemic Recovery Office and in accordance with all applicable State and federal laws; and;
- County reserves the right to reasonably request additional documentation to demonstrate compliance with the CARES Act and North Carolina Session Law 2020-4, the "2020 COVID-19 Recovery Act.

4. Reimbursement Process. Following receipt of the report and certification requesting reimbursement of the Sub-Grantee the County shall review for compliance. County will notify Sub-Grantee of its approval or denial within thirty (30) days of receipt of Certification and request for reimbursement. A denial will include a reasonable description of the reason for denial and offer an opportunity to cure any deficiencies.

Approved reimbursements will processed and disbursed by County to Sub-Grantee within thirty (30) days of approval.

5. Repayment of Appropriated Funds. Any funds appropriated by the County and distributed to the Sub-Grantee that are found to have been utilized by Grantee for uses in violation of CRF regulations shall be repaid by Sub-Grantee to the County upon demand and Sub-Grantees shall indemnify and hold harmless County from, any liability, including reasonable attorney's fees, arising from Sub-Agent's violation of CRF requirements.

6. Maintain Records. The Sub-Grantee shall maintain records documenting each expenditure that is subject for reimbursement under CRF and will provide that documentation to the County upon request or make such documentation available should there be an audit of expenditures of these CARES Act sub-grant funds.

7. Failure to make Timely Reimbursement Requests. Funds must be used for eligible expenditures between March 1, 2020 and December 30, 2020 for purposes that were not accounted for in the Grantee's most recently approved budget as of March 27, 2020. Qualifying requests for reimbursements of sub-grant funds must be delivered to Dare County Finance, attention Finance Director, by not later than December 28, 2020. Any portion of the maximum amount of sub-grant funds listed as available for reimbursement uses by Sub-Grantee that are not properly and timely requested for disbursement by Sub-Grantee shall be retained by Dare County and may be expended by Dare County for any CARES Act eligible expenses as determined in its sole discretion.

MISCELLANEOUS

Governing Law. The parties intend that this Agreement shall be governed by the law of the State of North Carolina as follows:

Mediation

- Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to voluntary non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. If the parties are unable to agree upon a certified mediator to hear their dispute, the Dare County Resident Superior Court Judge shall name a mediator to hear the matter.
- The parties shall equally share the mediator's fee. The mediation shall be held in Dare County at a location designated by the mediator selected to hear the matter.

Legal Proceedings

- Claims, disputes and/or other matters in question between the parties that are not resolved by mediation shall be heard in the North Carolina General Courts of Justice in Manteo, Dare County, North Carolina, which said Court shall have jurisdiction to hear any dispute between the parties arising out of this agreement. The Parties hereby agree that this paragraph establishes exclusive and sole jurisdiction for any legal proceeding in Dare County, North Carolina.

Notices. Any notice permitted or required under this Agreement from one party to the other must be in writing and will be effective (a) on the date it was actually delivered to the addressee if delivered personally, or sent by a nationally recognized courier (such as FedEx or United Parcel Service) or sent by facsimile, or (b) three days after having been deposited in the United States mail, if sent by certified mail, return receipt request, in each case to the respective addresses of Sub-Grantee and the County listed below, or those other addresses of which either party gives the other party written notice:

If to Sub-Grantee, to:

Amy Miller, Finance Director
Town of Nags Head
P. O. Box 99
5401 South Croatan Highway
Nags Head, NC 27959

If to the County, to:

David Clawson, Finance Director
Dare County Finance
P.O. Box 1000
Manteo, NC 27954-1000

Any addressee may designate additional or different addresses for communications by notice given under this Section to each of the others.

Non-Business Days. If the date for making any payment or the last day for performance of any act or the exercising of any right shall not be a Business Day, such payment shall be made or act performed or right exercised on or before the next preceding Business Day.

Severability. Each provision in this Agreement is severable. If any provision of this Agreement will be determined to be invalid or unenforceable by a court of competent jurisdiction, then: (a) such determination will not invalidate or render unenforceable any other provision of this Agreement; (b) such provision will be construed as closely as possible to the parties' original intent in order to render such provision valid or enforceable, as applicable; and (c) the remaining terms of this Agreement, together with such reconstructed provision, will constitute the parties' entire agreement.

Entire Agreement; Amendments. This Agreement constitutes the entire contract between the parties, and this Agreement shall not be changed except in writing signed by both parties.

Binding Effect. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

Time. Time is of the essence in this Agreement and each and all of its provisions.

Liability of Directors, Officers and Agents. No director, officer, agent or employee of the County or Sub-Grantee shall be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such officer, agent or employee from the performance

of any official duty provided by law.

Confidentiality. The County will keep confidential and will not disclose or publish any of Sub-Grantee's trade secrets as defined in Section 132-1.2(1) of the North Carolina General Statutes, will keep all records evidencing such trade secrets marked as "confidential trade secrets", and will keep all such records segregated in the County's files. If the County receives a request, subpoena or court order to disclose any information or records Sub-Grantee or its representatives have provided or provide in the future relating to this Agreement or the project described in this Agreement, the County will give Sub-Grantee prompt written notice of the request, subpoena or court order and will discuss any proposed disclosure of such information or records with Sub-Grantee (and, to the extent possible, give Sub-Grantee the opportunity to contest any disclosure of information or records Sub-Grantee believes should not be disclosed) before making any such disclosure.

E-Verify. Grantee shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Contractor shall also require any and all of its subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

Counterparts. The individual signatories below have the expressed and implied authority on behalf of their respective Boards to execute this Agreement. The Parties may execute this Agreement in separate counterparts and the execution of a copy shall have the same effect as the execution of an original. Such execution may be by facsimile or PDF attachment to an email.

IN WITNESS WHEREOF, the parties hereto have caused this Reimbursement Agreement to be duly executed pursuant to authorization obtained in a duly adopted resolution or has otherwise been duly authorized to sign on behalf of their respective organization.

Town of Nags Head	County of Dare
By _____	By _____
(authorized signer)	County Manager

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act

_____

144600-560095-28077

Agenda Item Summary Sheet

Item No: **F-5**
Meeting Date: **July 1, 2020**

Item Title: Consideration of FY 20/21 Reimbursement Resolution declaring the intention to reimburse the cost of certain expenditures

Item Summary:

Staff is requesting Board consideration of the attached resolution indicating that vehicles and equipment (as listed in the FY 21 Budget) will be financed via an installment purchase contract.

Number of Attachments: 1

Specific Action Requested:

Attached resolution is provided for Board adoption at the July 1st Board of Commissioners meeting.

Submitted By: Administration Date: June 24, 2020

Finance Officer Comment:

Expect to reimburse itself for expenditures from the General Fund and the Water Fund within 60 days of adoption of this resolution.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

I concur with staff.

Signature: Greg Sparks Date: June 24, 2020

Resolution No. 20-07-XXX
Tax exempt financing
Vehicles and equipment
BOC Meeting July 1, 2020

REIMBURSEMENT RESOLUTION – FISCAL YEAR 2020-2021
OF THE TOWN OF NAGS HEAD
DECLARING THE INTENTION TO REIMBURSE
THE COST OF CERTAIN EXPENDITURES

WHEREAS, The Town Manager and the Finance Director have described to the Board of Commissioners the desirability of adopting a resolution, as provided under federal tax law, to facilitate the Town's use of financing proceeds to restore Town funds when the Town makes capital expenditures prior to closing on tax exempt financing.

BE IT HEREBY RESOLVED by the Board of Commissioners of the Town of Nags Head, North Carolina as follows:

Section 1. The project is the financing of the acquisition of vehicles and equipment as identified in the fiscal year 2020-2021 budget.

Section 2. The project is to be financed. The currently expected type of financing (which is subject to change) is an installment purchase contract. The currently expected maximum amount to be contracted for the project is $900,000.

Section 3. The Town presently intends, and reasonably expects, to reimburse itself for the original expenditures incurred and paid by the Town from the General Fund and Water Fund within 60 days of adoption of this Resolution from a portion of the financing proceeds.

Section 4. This Resolution shall become effective immediately upon the date of its adoption.

THIS THE 1st DAY OF JULY 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

Agenda Item Summary Sheet

Item No: **F-6**
Meeting Date: **July 1, 2020**

Item Title: Consideration of resolution to update Town banking signatures

Item Summary:

Attached please find a resolution authorizing an updated list of names/signatures for banking services with Southern Bank. All deposits, checks, drafts, notes or orders from the Town must be signed by one of those listed in the resolution.

Number of Attachments: 1

Specific Action Requested:

Request Board adoption of attached resolution with updated signatures for Town banking.

Submitted By: Amy Miller, Finance Officer Date: June 24, 2020

Finance Officer Comment:

Request adoption of attached resolution updated authorizing signatures for Town banking.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

I concur with staff's request.

Signature: Greg Sparks Date: June 24, 2020

RESOLUTION AND AGREEMENT
FOR DEPOSIT ACCOUNT AND BANK SERVICE
WITH SOUTHERN BANK

BE IT RESOLVED by the Town of Nags Head Board of Commissioners that Southern Bank be, and hereby is, designated as a depository institution for the Town of Nags Head and that funds so deposited may be withdrawn upon a check, draft, note or order of the Town of Nags Head, AND

BE IT FURTHER RESOLVED that all checks, drafts, notes or orders drawn against said account be signed by any one of the following:

- AMY MILLER, FINANCE DIRECTOR; and countersigned by any one of the following:

- BROOKE NORRIS, DEPUTY FINANCE OFFICER;
- BENJAMIN CAHOON, MAYOR;
- GREG SPARKS, INTERIM TOWN MANAGER;
- ANDREW GARMAN, DEPUTY TOWN MANAGER;
- CAROLYN F MORRIS, TOWN CLERK;

whose signatures shall be duly certified to said Bank, and that no checks, drafts, notes or orders drawn against said Bank shall be valid unless so signed, AND

BE IT FURTHER RESOLVED that said Bank is hereby authorized and directed to honor and pay any checks, drafts, notes or orders so drawn whether such checks, drafts, notes or orders be payable to the order of any such person signing and/or countersigning said checks, drafts, notes or orders, or any of such persons in their individual capacities or not, and whether such checks, drafts, notes or orders, or to the individual credit of any of the other officers or not. This resolution shall continue in force and said Bank may consider the facts concerning the holders of said offices, respectively, and their signatures to be and continue as set forth in the certificate of the Finance Director or Town Clerk, accompanying a copy of this resolution when delivered to said Bank or in any similar subsequent certificate, until written notice to the contrary is duly served on said Bank.

Adopted this the 1st day of July 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

Agenda Item Summary Sheet

Item No: **F-7**
Meeting Date: **July 1, 2020**

Item Title: Consideration of updated Cashier Policy

Item Summary:

Attached please find an updated Cashier Policy provided for your review and approval at the July 1st Board of Commissioners meeting. The following modifications are being requested:

1) The name was changed to Cashier, not Central Cashier, to reflect the job description.

2) Removed requirement that only cashier could accept payments in order to provide coverage when cashier is away from desk.

3) Included different forms of payment accepted by the cashier including debit and credit cards and e-checks. The Town is PCI compliant in accepting these types of payments.

Number of Attachments: 1

Specific Action Requested:

Updated Policy provided for Board review and approval.

Submitted By: Administration Date: June 24, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020

Benjamin Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Greg L. Sparks
Interim Town Manager

Town of Nags Head
Post Office Box 99
Nags Head, NC 27959
Telephone 252-441-5508
Fax 252-441-0776
www.nagsheadnc.gov

M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

Board of Commissioners Policy

~~Central~~ Cashier Policy

(Adoption Date: January 5, 2005)
Amended July 1, 2020

The ~~central~~ cashier will accept all payments for the Town of Nags Head including ~~in the form of~~ cash, credit or debit card, check, e-check, or money order. These payments will be deposited daily in accordance with NCGS 159-32. All payments must be accompanied with documentation needed to determine the application of the payment to the correct Town account including but not limited to water or tax bill stub, planning permitting receipt, attorney letter, or other appropriate documentation. Payment will not be accepted without documentation. ~~**Payment in any form will not be accepted by any Town employee other than the central cashier**~~**.** No permits are to be issued without receiving the required payment and appropriate documentation to the ~~central~~ cashier. ~~The only exception to this policy is the acceptance of payments by~~ Water Plant Operators may accept payments during the hours the Town is not open for business from water customers whose water service has been discontinued due to non-payment of amounts due.

Violation of this policy may result in disciplinary action up to and including dismissal.

Agenda Item Summary Sheet

Item No: **F-8**
Meeting Date: **July 1, 2020**

Item Title: Request for Public Hearing to consider a revised Preliminary Plat for a Major Subdivision known as Coastal Villas, for an approximately 11.17 acre property, zoned R-2, Medium Density Residential, owned by Nags Head Construction (Applicant), located on the west side of US 158, approximately 300 feet south of the intersection of W. Soundside Road and US 158 (Parcel# 006749004; PIN# 989108886987 and Parcel# 006749039; PIN# 989108893398); the revised Preliminary Plat proposes to create 17 building lots, along with an associated street and other required improvements, and requires a public hearing due to requested waivers

Item Summary:
The subject application is a Preliminary Plat for a Major Subdivision known as Coastal Villas, revised from the previous version considered by the Board in January 2020. The revised Plat now proposes the new street from US 158 (as opposed to Sea Bass Court) and incorporates a parcel owned by Dare County, planned for a future well site, determined to have not been properly subdivided in 2004. The proposed layout of the Dare County parcel necessitates waivers from provisions of the Subdivision Regulations concerning street access, access to US 158, and frontage; similar waivers were considered and approved in 2004.

Planning Board/Staff Recommendation
Staff recommends approval of the Preliminary Plat, with conditions, and recommends approval of the requested waivers.

The Planning Board, at their June 16, 2020 meeting, voted 7-0 to recommend approval of the Preliminary Plat to the Board of Commissioners, with the conditions recommended by Staff, and recommended approval of the requested waivers based upon the required findings.

Number of Attachments: 0

Specific Action Requested:

Consider scheduling public hearing.

Submitted By: Planning and Development Date: June 24, 2020

Finance Officer Comment:

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks

Date: June 24, 2020

Agenda Item Summary Sheet

Item No: **G-1**
Meeting Date: **July 1, 2020**

Item Title: Public Hearing to consider text amendments to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities

Item Summary:
The proposed text amendment (the applicant for the amendment is Kate Creef, Assistant General Manager, on behalf of Outlets Nags Head) is seeking to amend Section 7.76.1 to expand the principal sale items allowed to be sold from outdoor stands to include "reservations or ticket sales," and to amend Section 7.76.2. to increase the number of outdoor stands allowed per site from one (1) to two (2). A public hearing on the request was held at the Board of Commissioners meeting on May 6, 2020. The Board of Commissioners voted to table consideration of the proposed amendments and refer the matter back to the Planning Board for further review, with consideration of issues pertaining to location, visual impact, signage, and parking. The Planning Board has recommended further changes to the proposed amendment.

Planning Board/Staff Recommendation
Initially, Staff recommended to the Planning Board that the amendment be adopted with modifications to the standards to require that the sale and advertisement of items be confined to stands and to allow a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge. Additionally, maximum stand area and time limits were also suggested, as well as amendment of the definition of Outdoor Stand for consistency. Based upon discussion by the Board of Commissioners, Staff further recommended to the Planning Board that consideration be given to limiting the option for two stands to sites greater than a certain size, limiting signage to a total of fifteen (15) square feet for all outdoor stands, and clarifying where stands may be located on a site, in terms of being located within parking areas or needing to be located no closer to a property line than the distance from a principal building on a site or within a certain maximum distance from a principal building.

Upon reconsideration at their meeting on May 19, the Planning Board voted 6-0 to recommend that two stands only be allowed on sites with an area of ten (10) acres or greater, that signage for all stands be limited to a total of fifteen (15) square feet, and that stands used for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.

Number of Attachments: 3

Specific Action Requested:
Conduct the public hearing.

Submitted By: Planning and Development Date: June 24, 2020

Finance Officer Comment:

Insufficient information to determine precise fiscal impact.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020

Department of Planning and Development

Michael Zehner
Director of Planning and Development

Town of Nags Head
Post Office Box 99
Nags Head, North Carolina 27959
Telephone 252-441-7016
Fax 252-441-4290
www.nagsheadnc.gov

NOTICE OF PUBLIC HEARING
TOWN OF NAGS HEAD BOARD OF COMMISSIONERS

NOTICE IS HEREBY GIVEN that the Nags Head Board of Commissioners will conduct a public hearing on **Wednesday, July 1, 2020** beginning at 9:00 am in the Board Room of the Municipal Complex, 5401 S. Croatan Highway, Nags Head, NC to consider and take action upon the following request:

> Public Hearing to consider text amendments to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities

A copy of the application request is available for public inspection at the Nags Head Planning and Development Department and the office of the Town Clerk, Town Municipal Complex, 5401 S. Croatan Hwy, Nags Head, NC 27959, telephone (252) 441-5508 during normal business hours.

As a result of this hearing substantial changes may be made in the proposal as advertised to reflect objections, debate and discussion at the hearing. Any person desiring to be heard on the proposal as stated above should appear at the time and place specified above.

This the 21st day of June 2020.

Kelly Wyatt
Deputy Planning Director

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Planning Board

From: Michael Zehner, Director of Planning & Development

Kelly Wyatt, Deputy Director of Planning & Development

Date: June 24, 2020

Subject: Text amendments to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities

OVERVIEW

The proposed text amendment (the applicant for the amendment is Kate Creef, Assistant General Manager, on behalf of Outlets Nags Head) is seeking to amend Section 7.76.1 to expand the principal sale items allowed to be sold from outdoor stands to include "reservations or ticket sales," and to amend Section 7.76.2. to increase the number of outdoor stands allowed per site from one (1) to two (2). Initially, as discussed with the Planning Board on January 21, 2020, the proposal sought to amend the UDO to allow "outdoor kiosks" for the sale of tickets and reservations for on-site and off-site recreational facilities. Mrs. Creef had explained to the Board that a vendor had approached the Outlets about the idea of having a kiosk located on the property to allow patrons to book charter fishing excursions, a concept which was believed would enhance the customers' shopping experience. Mrs. Creef indicated that there would be a preference to allow two outdoor stands (where the regulations only allow for one) and confirmed for the Board that the plan was to locate the kiosk in the terrace area.

Based upon the discussion and feedback provided by the Planning Board, the applicant modified the original proposal (consistent with the version before the Board) and returned to the Planning Board meeting on February 18, 2020. The Planning Board recommended approval, with changes recommend by Staff, detailed as part of Staff's recommendation.

The Board of Commissioners held a public hearing and considered the proposed amendment at their meeting on May 6, 2020. Ultimately, the Board voted unanimously to table consideration and refer the amendment back to the Planning Board for review and recommendation, requesting that the Planning Board consider the issues raised by the Board. The following excerpts are from the minutes of the Board of Commissioners' meeting:

> *Applicant Kate Creef spoke electronically on behalf of the Outlet Center Nags Head; they had been asked about interest in providing a space for displaying fishing photographs and taking reservations for inshore and offshore fishing trips; they felt this would be a great opportunity to enhance the offerings at the Outlet*

Center and could also apply to other recreational activities that would appeal to their shoppers such as dolphin tours.

Comr. Fuller confirmed with Planning Director Zehner that 11 shopping centers would be affected/eligible for the outdoor stands under this ordinance modification. It was noted that in 2013 the Planning Board turned down a similar request it was believed because it was related to multiple food stands. Comr. Fuller also confirmed with staff that currently some items can be sold in the requested manner in accordance with current ordinance.

Attorney Leidy confirmed that there were no other public comments on this text amendment, and he concluded the Public Hearing at 9:23 a.m.

Comr. Fuller spoke in opposition to the request as he feels the service being requested already exists and has for years; he expressed concern that it in effect only adds more signage – signage for these types of businesses tend to look carnival-like and additional signage is not what the town is after right now. He also feels that the building itself would be used as signage.

Comr. Brinkley spoke indicating that he does not share the same concerns as Comr. Fuller and in addition he does not feel that it would create an increase in traffic or trash.

Comr. Siers said that he looks on it as an opportunity for others to experience more about the Outer Banks that they may not be aware of – he has no issues with the request.

Comr. Renée Cahoon discussed parking and Director Zehner stated that no additional parking spaces will be needed if 50 spaces are already provided.

Mayor Cahoon said that he had one reservation and that is adding another freestanding sign unit to the parking lot.

In response to a question from Comr. Renée Cahoon re: removal of the outdoor stands, Director Zehner said that the structure would essentially be permanent but would not be able to operate year-round.

Mayor Cahoon summarized some modifications as discussed such as location on site, visual impact, signage, and parking.

<u>MOTION:</u> Comr. Fuller made a motion to deny the request for outdoor stands as presented. Comr. Renée Cahoon seconded the motion with the friendly amendment (accepted by Comr. Fuller) that the proposal be sent back to the Planning Board for review and recommendation re: today's comments made by Board members.

<u>WITHDRAWAL OF MOTION:</u> Comr. Fuller withdraw his motion; Comr. Renée Cahoon withdrew her second.

<u>MOTION:</u> Comr. Brinkley made a motion to table the discussion and refer the outdoor stands proposal, along with the issues expressed today by Board members [re: location on site, visual impact, signage, and parking] back to the Planning Board for review and recommendation. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

The proposed ordinance returned to the Planning Board on May 19, 2020. Based upon discussion by the Board of Commissioners, and the Board's motion, Staff further recommended to the Planning Board that consideration be given to limiting the option for two stands to sites greater than a certain size, limiting signage to a total of fifteen (15) square feet for all outdoor stands, and clarifying where stands may be located on a site, in terms of being located within parking areas or needing to be located no closer to a property line than the distance from a principal building on a site or within a certain maximum distance from a principal building.

Upon reconsideration at their meeting on May 19, the Planning Board voted 6-0 to recommend that two stands only be allowed on sites with an area of ten (10) acres or greater, that signage for all stands be limited to a total of fifteen (15) square feet, and that stands used for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.

BACKGROUND

The current version of the allowances and standards for *Outdoor Stands, Accessory to Shopping Center & Group Development* are the result of numerous changes over the course of the last ten (10) years; actions of note are as follows:

- The allowance of outdoor fresh produce stands as an accessory use to shopping centers was first established in mid-2009;
- In late-2009, an amendment was adopted to allow hotdog vending stands as an accessory use to shopping centers;
- In early-2010, an amendment was adopted to allow coffee vending stands as an accessory use to shopping centers;
- In mid-2010, recognizing that one of each of the aforementioned stands could be permitted at any given shopping center, an amendment was adopted to limit the number of accessory outdoor stands at any shopping center site to one (1); additionally, the various stand uses were consolidated under a single use (Outdoor Stands);
- In late-2010, the Ordinance was amended to allow Italian ice and fudge sales;
- In early-2013 ice cream was added as an allowed sale item; additionally, in 2013, a request to expand the allowable number of stands from one (1) to (2) was denied; and
- The provisions were last amended in 2014 when the allowed locations for outdoor stands were expanded to allow as accessory to Group Development (aka Office/Retail Group Development).

Beyond comments made by the Commissioners concerning the necessity of the service proposed and the proposal to allow up to two outdoor stands on a property, concerns raised with respect to location, parking, and signage are relevant under current regulations. Currently, outdoor stands are 1) allowed to be located on a site in compliance with minimum district yard regulations for principal use structures, 2) are allowed to be located on a site with fifty (50) or more existing parking spaces without providing additional parking spaces, or provide a minimum of three (3) additional parking spaces for sites with less than fifty (50) parking spaces, and 3) install a temporary sign with an area up to fifteen (15) square feet.

POLICY CONSIDERATIONS

There are no direct policies concerning outdoor stands. However, certainly economic development objectives and policies encouraging and supporting small businesses and the viability of existing commercial properties are applicable, and need to be balanced with objectives and policies focused on maintaining the Town's character.

Generally, Staff believes that the request to allow the sale of tickets and reservations is consistent with applicable policies; however, Staff would suggest that the standards be clarified to require that the sale and advertisement of items be confined to stands. With respect to the number of allowed stands on any particular site, Staff would support a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge.

PLANNING BOARD RECOMMENDATION

Previously, the Planning Board, at their February 18, 2019 meeting, voted 6-0 to recommend amendments to the UDO as recommended by Staff. In making their recommendation, the Planning Board acknowledged their opinion that the proposed amendments were consistent with the relevant policies contained in the Comprehensive Plan.

Upon reconsideration at their meeting on May 19, the Planning Board voted 6-0 to recommend, in addition to those modifications previously recommended, that two stands only be allowed on sites with an area of ten (10) acres or greater, that signage for all stands be limited to a total of fifteen (15) square feet, and that stands used for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.

STAFF RECOMMENDATION

Staff previously recommended that the amendments be adopted with modifications to the standards to require that the sale and advertisement of items be confined to stands and to allow a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge. Additionally, it was suggested that Sections 7.76.3 and 7.76.4. also be amended to provide for a

maximum stand area and any time limitations, respectively, for the sale of tickets and reservations; a limitation of 150 square feet and a time limitation consistent with produce stands are likely sufficient. Finally, Staff recommended that the current definition of Outdoor Stand, as follows, be amended consistent with the amendment of Section 7.76.1.:

> *Outdoor stand means an approved area where the sale of produce, hot dogs, coffee, ice cream or Italian ice, and fudge occurs from a cart or structure.*

Staff supports and recommends those additional modifications recommended by the Planning Board. Both the original modifications recommended by Staff and the Planning Board, as well as the additional modifications recommended upon reconsideration, have been incorporated into the attached adoption ordinance and markup of Section 7.76, highlighted to differentiate from the applicant's proposal. It is important to note that the limitation on sites ten (10) acres or greater in area would, currently, only apply to one (1) of the eleven (11) properties previously identified by Staff; if the limit were five (5) acres, the allowance would apply to three (3) of the eleven (11) sites.

With regard to the Board of Commissioners' review and action, Staff recommends consideration of the following UDO provisions:

> *3.5.3. Action by the Planning Board.*
>
> > *3.5.3.1. Every proposed amendment, UDO text amendment or zoning map amendment, shall be referred to the Planning Board for its recommendation and report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.*
> >
> > *3.5.3.2. Prior to the consideration by the Board of Commissioners of a proposed UDO text amendment or zoning map amendment, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation, certified by the UDO Administrator, to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.*
> >
> > *3.5.3.3. Members of the Planning Board shall not vote on recommendations regarding any UDO text amendment or zoning map amendment where the outcome of the mater being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.*
>
> *3.5.4. Action by the Board of Commissioners.*

Action upon an UDO text amendment or zoning map amendment, including the scheduling of a public hearing, will be at the discretion of the Board of Commissioners.

3.5.4.1. Before an item is placed on the consent agenda to schedule a public hearing, the Planning Board's recommendation on each proposed amendment must be received by the Board of Commissioners. If no recommendation is received from the Planning Board within 30 days from the date when submitted to the Planning Board, the petitioner may take the proposal to the Board of Commissioners without a recommendation from the Planning Board. However, the Planning Board may request the Board of Commissioners to delay final action on the amendment until such time as the Planning Board can present its recommendations. No such limitations shall apply to applications or requests submitted by Town staff or any Town Board.

3.5.4.2. After receiving a recommendation from the Planning Board on a proposed amendment, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

3.5.4.3. The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time. Final action on an UDO text amendment or zoning map amendment submitted by third parties will be taken within a reasonable time. Final action taken within 90 days of the public hearing before the Board of Commissioners shall be presumptively reasonable.

3.5.4.4. No member of the Board of Commissioners shall vote on any zoning map amendment or UDO text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact.

3.5.4.5. Prior to adopting or rejecting any UDO text and/or map amendment, the Board of Commissioners shall adopt one of the following statements which shall not be subject to judicial review.

3.5.4.5.1. A statement approving the amendment and describing its consistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.

3.5.4.5.2. A statement rejecting the amendment and describing its inconsistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.

3.5.4.5.3. A statement approving the amendment and containing at least all of the following:

3.5.4.5.3.1. A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Board of Commissioners shall not require any additional request or application for amendment to the Comprehensive Plan.

3.5.4.5.3.2. An explanation of the change in conditions the Board of Commissioners took into account in amending the UDO to meet the development needs of the community.

3.5.4.5.3.3. Why the action was reasonable and in the public interest.

3.5.4.6. In deciding whether to adopt a proposed amendment to this UDO, the central issue before the Board of Commissioners is whether the proposed amendment advances the public health, safety, or welfare. When considering proposed map amendments:

3.5.4.6.1. The Board of Commissioners shall consider the entire range of permitted uses in the requested classification.

Attachments:

1. Zoning Amendment Application; and
2. Proposed Ordinance

Highlighted portions are intended to identify provisions recommended by Staff and/or the Planning Board, to differentiate from the applicant's proposal

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO THE REGULATION OF OUTDOOR STANDS, ACCESSORY TO SHOPPING CENTERS & GROUP DEVELOPMENT

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Nags Head (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land; pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160A-363, which allows the Town to combine certain land development ordinances into a unified ordinance; and

WHEREAS, an owner of the property within the Town of Nags Head proposed the amendment of the Unified Development Ordinance to alter regulations for outdoor stands, accessory to shopping centers and group development; and

WHEREAS, the Board of Commissioners finds that these text amendments are consistent with the goals, objectives and policies of the Town's adopted Comprehensive Plan, and that this action is reasonable and in the public interest, and is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town's Unified Development Ordinance as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipsis ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Unified Development Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Unified Development Ordinance of the Town Code shall be amended as follows:

PART I. That **Sections 7.76.1 ~~and~~, 7.76.2, 7.76.3, and 7.76.4** of the UDO, be amended as follows:

7.76.1 The principle sale of items at an outdoor stand shall be limited to either fresh produce, hot dogs, coffee, ice cream or Italian ice, ~~and~~ fudge, and reservations or ticket sales.

7.76.2 ~~Only one~~ Sites less than ten (10) acres in area shall be allowed only one stand. Sites ten (10) acres in area and greater shall be allowed up to two outdoor stands ~~shall be allowed per site~~, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge. The stands shall not be required to be a permanent structure and may, with the exception of stands for reservations or ticket sales, be located upon a trailer. When located upon a trailer, skirting shall be installed around the perimeter to screen the wheels, axles and towing hitch from view.

7.76.3. The stand area, inclusive of display counters and awnings, shall not exceed four hundred (400) square feet for produce stands and shall not exceed one hundred fifty (150) square feet for hot dog, coffee, ice cream and Italian ice, ~~and~~ fudge, and reservations or ticket sales stands. Refrigeration units may be utilized within the stand area. The location of the stand on the site shall comply with minimum district yard regulations for principal use structures, except that stands for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.

7.76.4. Produce and reservations or ticket sales stands shall be temporary and may be operated for a period of time not to exceed 180 days annually~~.~~; the ~~The~~ dates of operation shall be limited to between May 1 and November 1 each year. Hot dog, coffee, ice cream and Italian ice and fudge stands may be operated year round but shall not be left on the property overnight and must be removed daily.

PART II. That the definition of **Outdoor Stand, as contained in Section A.4, Definitions, of Appendix A, Definitions, of the UDO,** be amended as follows:

Outdoor stand means an approved area where the sale of produce, hot dogs, coffee, ice cream or Italian ice, ~~and~~ fudge, or reservations or ticket sales occurs from a cart or structure.

PART III. That **Section 10.24.2.8., as contained in Article 10, Performance Standards, Part III, Sign Regulations**, of the UDO, be amended as follows:

10.24.2.8. Each outdoor stand ~~Outdoor stands~~ shall be allowed one (1) temporary sign attached to the stand. The total combined square foot area of all such signs ~~Such sign~~ shall not exceed fifteen (15) square feet in area ~~or~~ and such signs shall not extend above the roof of the stand. This sign area shall be exempt from the calculation of total commercial site sign area limitations imposed by this subsection.

ARTICLE IV. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance

amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Unified Development Ordinance or Town Code of the Town of Nags Head, North Carolina which shall remain in full force and effect.

ARTICLE V. Effective Date.

This ordinance amendment shall be in full force and effect on the adopted effective date of the Unified Development Ordinance.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted:_____
Motion to adopt by Commissioner_____
Motion seconded by Commissioner_____
Vote:____ AYES ____ NAYS

Agenda Item Summary Sheet

Item No: **H-1**
Meeting Date: **July 1, 2020**

Item Title: Update from Planning Director

Item Summary:

Attached please find a monthly update from Planning Director Michael Zehner.

Number of Attachments: 3

Specific Action Requested:

Provided for Board information and update.

Submitted By: Planning and Development Date: June 25, 2020

Finance Officer Comment:

Signature: Amy Miller Date: June 25, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 25, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 25, 2020

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Board of Commissioners
Planning Board
From: Michael Zehner, Director of Planning & Development
Date: June 24, 2020
Subject: Planning and Development Director's Report

This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on July 1, 2020.

Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for May 2020*; one important note, as of April 2020 there was a $5,505,999 deficit in the valuation of projects; as of May 2020, the deficit reduced to $4,458,310.

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:

- Wednesday, April 29 to Friday, May 1 - American Planning Association Virtual National Conference
- Monday, May 4 - NC State University Sustainability Studio Final Project Presentations
- Wednesday, May 6 - Board of Commissioners Meeting
- Wednesday, May 13 - Arts & Culture Committee Meeting
- Tuesday, May 19 - Planning Board Meeting
- Wednesday, May 27 - Board of Commissioners Budget Workshop

Regulations on Large Occupancy Homes

Following discussion with the Planning Board at their January 2020 meeting, and guidance from the Board of Commissioners at their February 2020 meeting, Planning Staff initiated a review of concerns expressed with regard to large occupancy homes. Both the Planning Board and the Board of Commissioners recommended staff review the Town's standards in relation to the amendments which have since been adopted by the Town of Kill Devil Hills Board of Commissioners. A copy of the most recent memo provided to the Planning Board is attached for the Board's consideration. Ultimately, it was the consensus of the Planning Board that no further action was necessary or recommended at this time.

Residential Stormwater Regulations

As requested at the Board of Commissioners January 23, 2020 retreat, the Planning Board working with Planning Staff have completed their review of the Town's residential stormwater regulations based upon the perspectives shared by the Mayor and Commissions. A separate memo is attached for consideration by the Board of Commissioners.

Planning Board - Pending Applications and Discussions

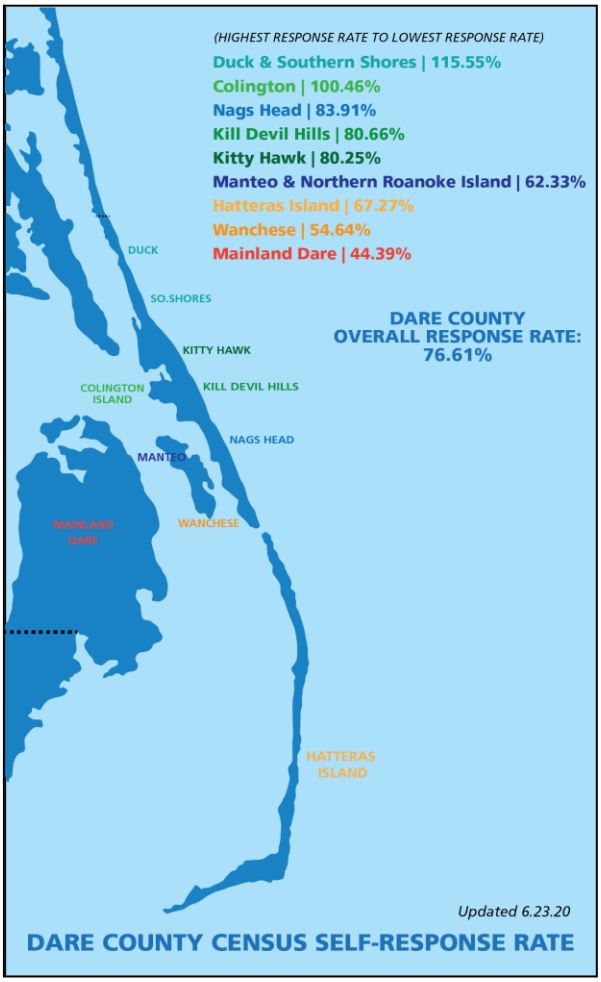
The June 16, 2020 meeting of the Planning Board was held virtually on the Zoom platform (as were the April 1, April 21, and May 19 meetings of the Board). The agenda included consideration of the revised preliminary plat for the Coastal Villas subdivision, a text amendment to permit the Real Estate Rental Management Facility use in the C-2 zoning district (subsequently withdrawn), and the draft Hazard Mitigation Plan, as well as continued consideration of options and recommendations pertaining to legacy establishments/structures, residential stormwater regulations, the regulation of events within residential dwellings, and the regulation of large occupancy homes.

The Planning Board's next meeting is scheduled for July 21, 2020. At this time, the agenda is expected to include consideration of a further housekeeping text amendment to the UDO and continued consideration of legacy establishments/structures.

Additional Updates

- **2020 Census** - The 2020 Census is open and collecting responses. As previously indicated, the number/percentage of vacant vacation/rental homes in Town would skew the response rate recognized by the Census, as the rate is not adjusted at this time to account for those homes. Dare County has begun releasing the information on the rate depicting more accurate response rates based upon the number of occupied homes in the various communities.
  Based upon this methodology, the Town's response rate as of June 23 has been determined to be 83.91%

- **Town Workforce Housing Study & Plan** - Phase 1 Report presented to the Board of Commissioners at the February 5, 2020 meeting. Further action on this project is on hold pending direction from the Board of Commissioners; however, it is



important to note that funds associated with this project have been liquidated due to budgetary constraints associated with the Covid-19 Pandemic.

- **Hazard Mitigation Plan Update** - As included on the Board of Commissioners agenda for July 1, 2020, the draft Plan has received final approval from the State and FEMA, and is now ready for the Board to consider adoption; the Planning Board recommended adoption at their meeting on June 16.

- **Skate Park Renovation - Phase 1** - Staff reviewing a draft survey to determine community preferences for any future renovation of the Skate Park. Staff has also discussed the project with the Arts & Culture Committee, who are supportive of incorporating public art within the Park. Staff is also working to identify funding opportunities to support the project.

- **CAMA Land Use Plan Update** - Staff has prepared and submitted responses and proposed draft revisions responding to comments issued by DCM staff. A determination of Plan completeness is pending, which is required before further review is initiated. Staff contacted DCM staff on June 5 to ask for the expected timeline for the completion of the current review; DCM staff responded on June 8 to indicate that the review would be completed soon.

- **UDO Reference Manual & Permitting Workflow** - Staff continues to develop Reference Manual materials, including identifying and refining workflows, to be brought to the Board of Commissioners for approval at a later date.

- **Art Masts** - The Art Mast project, coordinated with the Arts & Culture Committee, has resulted in four completed art panels: Kerry Sanders completed her mast last summer, depicting lifeguards and thus it was displayed at Bonnet Street Beach House, Rob Snyder completed an Art Mast is May depicting a Bodie Island Lighthouse Rescue scene, James Melvin also completed his Art Mast in May, it is in honor of the work of Glenn Eure including references to his "Stations of the Cross", "Clowning Around", "Monument to a Century of Flight," and his boat paintings, and artist Taylor Williams completed her Art Mast depicting beach scenes this month. 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.

- **Decentralized Wastewater Master Plan** - As included on the Board of Commissioners agenda for July 1, 2020, a draft scope has been prepared for review by the Board.

- **Islington Street Beach Access** - Subject to DCM/CAMA and CIP funds to improve the access, Staff will be working to prepare plans for permitting, with the review process expected to be initiated in July 2020.

- **Legacy Establishments/Structures** - Staff continues to discuss options with the Planning Board; the primary option being considered would involve a provision allowing for nonconforming restaurant, retail, and hotel uses that commenced prior to December 31, 1980 to seek a conditional use permit to modify the use

and any structure beyond what is currently allowed by the provisions of Article 5, Nonconformities, of the UDO.

- **Dowdy Park Farmer's Market** - The Arts & Culture Committee has completed their selection of vendors for the 2020 Dowdy Park Farmers Market. The Market is scheduled to run every Thursday in the months of July and August with a wide range of vendors including fresh produce, local honey, seafood, wood carving, ceramics, pottery and other handmade crafts. Staff is working to determine and establish appropriate protocols related to social distancing and general measures to ensure the public's health and safety. The first Market day is scheduled for Thursday, July 2.

- **Permitting/Online Permitting** - Staff had previously contacted representatives of the Outer Banks Home Builders Association to coordinate a schedule for a workshop/forum for the building community. However, given current circumstances, this effort has been placed on hold.

  Staff has begun an email distribution to contractors registered with the Town to provide updates on changes to permitting and inspection procedures associated with the Coronavirus Pandemic and response. Similar updates in the future are expected to be made on a more regular schedule and Staff will likely transition to using the News Flash feature on the Town's website.

  As previously reported, as of May 8, 2020, online permitting has been activated for all residential and commercial building and trade permit types, with the exception of permits for moving of residential or commercial structures; moving permits are expected to be added now that updated fees have been approved. Staff will continue to work to make improvements to the platform, publicize the availability of the resource, and refine documents providing guidance to the Town's customers.

- **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 recently learned that funding under that event was no longer being considered, but that the request was being 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, and have also learned that the request for funds for property acquisition also continues to be considered.

  - An LOI has been submitted for a National Fish and Wildlife Foundation - National Coastal Resilience Fund grant to develop an Estuarine Shoreline Management Plan; the final application will be submitted shortly.

Additionally, a preapplication was submitted for the 2020 North Carolina Attorney General Environmental Enhancement Grant for the same project, for which the Town was approved to submit a full application, which was submitted on May 28, 2020.

- Staff submitted a CAMA Access Grant preapplication for improvements to the Huron Street Beach Access on May 15, 2020. On June 15 the Town was notified by DCM that the application was not selected for further consideration.

- Staff is reviewing additional grant and assistance opportunities for prioritized projects, including NCDOT's CASSI Autonomous Shuttle Pilot and the National Endowment for the Arts Our Town Grant.

Upcoming Meetings and Other Dates

- Wednesday, July 1 - Board of Commissioners Meeting
- Wednesday, July 8 - Arts & Culture Committee Meeting
- Monday, July 6 - P&D Staff Meeting
- Tuesday, July 21 - Planning Board Meeting

TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
MAY 2020

DATE SUBMITTED: June 7, 2020

	May-20	Apr-19	Apr-20	2019-2020 FISCAL YTD	2018-2019 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
BUILDING PERMITS ISSUED - RESIDENTIAL						
New Single Family	0	2	0	7	16	(9)
New Single Family, 3000 sf or >	0	1	1	6	8	(2)
Duplex - New	0	0	0	0	0	0
Sub Total - New Residential	0	3	1	13	24	(11)
Miscellaneous (Total)	40	32	26	399	370	29
Accessory Structure	*5*	*3*	*1*	42	*44*	(2)
Addition	*0*	*1*	*1*	16	*17*	(1)
Demolition	*0*	*1*	*0*	2	*6*	(4)
Move	*0*	*0*	*0*	0	*0*	0
Remodel	*11*	*7*	*11*	92	*79*	13
Repair	*24*	*20*	*13*	247	*224*	23
Total Residential	**40**	**35**	**27**	**412**	**394**	18
BUILDING PERMITS ISSUED - COMMERCIAL						
Multi-Family - New	0	0	0	0	0	0
Motel/Hotel - New	0	0	0	0	0	0
Business/Govt/Other - New	0	0	0	2	4	(2)
Subtotal - New Commercial	0	0	0	2	4	(2)
Miscellaneous (Total)	3	9	7	78	94	(16)
Accessory Structure	*0*	*1*	*0*	17	*20*	(3)
Addition	*0*	*0*	*0*	0	*1*	(1)
Demolition	*0*	*0*	*0*	4	*4*	0
Move	*0*	*0*	*0*	0	*0*	0
Remodel	*2*	*2*	*4*	27	*27*	0
Repair	*1*	*6*	*3*	30	*42*	(12)
Total Commercial	**3**	**9**	**7**	**80**	**98**	(18)
Grand Total	**43**	**44**	**34**	**492**	**492**	0
SUB-CONTRACTOR PERMITS						
Electrical	25	65	20	385	364	21
Gas	1	6	1	19	22	(3)
Mechanical	40	65	23	314	315	(1)
Plumbing	3	17	15	84	81	3
Sprinkler	0	1	0	1	4	(3)
VALUE						
New Single Family	$0	$338,000	$0	$1,864,797	$3,346,000	($1,481,203)
New Single Family, 3000 sf or >	$0	$930,000	$150,000	$3,982,561	$5,380,460	($1,397,899)
Duplex - New	$0	$0	$0	$0	$0	$0
Misc (Total Residential)	$573,689	$456,559	$482,560	$8,798,838	$8,126,767	$672,071
Sub Total Residential	**$573,689**	**$1,724,559**	**$632,560**	**$14,646,196**	**$16,853,227**	($2,207,031)
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	$1,030,000	$3,646,975	($2,616,975)
Misc (Total Commercial)	$474,000	$205,500	$678,489	$4,164,386	$3,798,690	$365,696
Sub Total Commercial	**$474,000**	**$205,500**	**$678,489**	**$5,194,386**	**$7,445,665**	($2,251,279)
Grand Total	**$1,047,689**	**$1,930,059**	**$1,311,049**	**$19,840,582**	**$24,298,892**	**($4,458,310)**

TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
MAY 2020

DATE SUBMITTED: June 7, 2020

	May-20	Apr-19	Apr-20	2019-2020 FISCAL YTD	2018-2019 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
ZONING						
Zoning Permits	23	26	31	292	265	27
CAMA						
CAMA LPO Permits	1	13	2	30	56	(26)
CAMA LPO Exemptions	13	5	5	108	78	0
Sand Relocations	0	N/A	46	143	N/A	N/A
CODE COMPLIANCE						
CCO Inspections	68	100	193	699	825	(126)
Cases Investigated	25	74	19	120	506	(386)
Warnings	10	13	5	229	77	152
NOVs Issued	15	60	14	54	407	(353)
Civil Citations (#)	0	0	0	0	0	0
Civil Citations ($)	$0	$0	$0	$0	$0	$0
SEPTIC HEALTH						
Tanks inspected	0	20	0	32	197	(165)
Tanks pumped	3	5	5	128	65	63
Water quality sites tested	46	23	23	167	161	6
Personnel Hours in Training/School	38	0	21	109	281	(172)

Michael D. Zehner, Director of Planning & Development

COMMENTS:

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Planning Board

From: Kelly Wyatt, Deputy Planning Director

Michael Zehner, Director of Planning and Development

Date: ~~March 13, 2020~~ June 12, 2020

Subject: Discussion of Large Occupancy Homes

Following discussion with the Planning Board at their January 2020 meeting, and guidance from the Board of Commissioners at their February 2020 meeting, Planning Staff has initiated review of the concerns expressed with large occupancy homes. Both the Planning Board and the Board of Commissioners recommended staff review the Town's standards in relation to the following amendments which have since been adopted by the Town of Kill Devil Hills Board of Commissioners.

Town of Kill Devil Hills Planning staff was given direction to draft amendments to address safety issues and options to incentivize fire suppression systems for large single-family dwelling units. At their May 27th meeting, Kill Devil Hills staff presented and the Board of Commissioners unanimously adopted an amendment which would increase side yard setbacks for single-family/duplex dwellings greater than 6,000 square feet in area, by two feet in order to provide adjacent properties and the overall community a greater safeguard from the spread of fires. Such dwellings could be exempt from this requirement, providing a fire suppression system is reviewed, approved, installed and inspected annually by the Fire Marshal. It is noted that this installation of a fire suppression system provides safeguards for the persons occupying the dwelling in addition to the adjacent properties, and overall community.

Side yard setbacks in the low- and high-density residential zoning districts within the Town of Kill Devil Hills are determined by the overall lot area. These requirements are outlined below:
Lots 5,000 sf or less = 6 ft. side yard setback
Lots greater than 5,000 sf but less than 7,500 sf = 8 ft. side yard setback
Lots greater than 7,500 square feet = 10 ft. side yard setback

Side yard setbacks in the Ocean Impact Residential zoning district within the Town of Kill Devil Hills is determined by lot width. These requirements are outlined below:
Lots less than 75 ft. in width = 10 ft. side yard setback
Lots greater than 75 ft in width = 12 ft side yard setback

It is important to note that the increased 2-foot setback applies to homes that are greater than 6,000 square feet in area. Within the Town of Nags Head no home can exceed 3,500 square feet of habitable space if on a lot less than 16,000 square feet in area. On lots greater than 16,000 square feet in area, a dwelling cannot exceed 5,000 square feet. Note, Nags Head has more stringent regulations on total allowable house

size than the Town of Kill Devil Hills. At this time, under no circumstance would a 6,000 square foot home be constructed within the Town of Nags Head. Regardless, the minimum allowable side yard setback in the Town of Nags Head would either be 8', 10', 12' or 15' depending on the zoning district.

Additionally, the Town of Kill Devil Hills Commissioners adopted an ordinance that amends off-street parking and loading requirements as it pertains to emergency vehicle access. This amendment applies only to dwellings with eleven (11) or more required parking spaces, and incentivizes these dwellings to provide a 10-foot wide marked and unobstructed drive aisle up to within 20 feet of the front entrance of the dwelling by reducing the side yard setback for the driveway from 7 feet to 5 feet.

There are several items to note with regard to the off-street parking and loading requirements within the Town of Nags Head (Article 10, Part II attached).

- With the habitable area of a dwelling capped at 5,000 square feet, while the Town cannot regulate the number of bedrooms, it does occur that between 8 and 9 bedrooms are approved by the Dare County Health Department in the large residential dwellings. With a parking standard for single-family and duplex dwellings equal to the number of bedrooms minus 2, it is very unlikely there will be a parking scenario within the Town necessitating eleven (11) required parking spaces.
- Residential driveways are required to be minimum of 12-feet in width within the Town of Nags Head. The minimum 12-foot width must extend to the front plane of the house and no stacking of vehicles is permitted in this 12-foot drive aisle. Thus, only one 10 x 18 parking space can be provided in the main drive aisle.

In review of the Town of Nags Head's current requirements in contrast to the recently adopted amendments by the Town of Kill Devil Hills to address Large Occupancy Homes, it appears that Nags Head's requirements are already significantly more restrictive with respect to the size of homes and setbacks, and address emergency vehicle access to the front plane of the dwelling as presently written. At this time, Staff would not recommend any further action, and if the Board agrees, would report the same to the Board of Commissioners. If the Board believes that further consideration is warranted, Staff would recommend that consideration be given to programming and prioritizing this initiative within the Department's Work Plan.

Staff will be available to continue discussion and answer any questions.

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Board of Commissioners

From: Michael Zehner, Director of Planning & Development
Kelly Wyatt, Deputy Director of Planning & Development
Kate Jones, Engineering Technician

Date: June 17, 2020

Subject: Discussion of Residential Stormwater Regulations

OVERVIEW

Given the continued importance and focus on stormwater, the Board of Commissioners asked the Director of Planning & Development to attend their retreat on January 23, 2020 to discuss the Town's residential stormwater regulations; these regulations can be found in Article 11, *Environmental Regulations* (https://www.nagsheadnc.gov/DocumentCenter/View/2777/Article-11_Environmental-Regulations) of the UDO, within Part I, *Stormwater, Fill, and Runoff Management*, Section 11.5, *General Standards for Residential or Duplex Development on Individual Lots*. A copy of the PowerPoint presentation (without referenced attachments) provided to the Board at the Retreat is attached. Following the Board of Commissioners' discussion, the Board directed Staff to present the Board's perspectives and the options identified by Staff (provided under CONSIDERATIONS) to the Planning Board for review and consideration of any recommended actions.

The Planning Board discussed this item at meetings on February 18, May 19, and June 16, 2020. During initial discussions, the Board provided feedback to Staff, supporting further consideration of steps intended to improve education and the availability of resources and the enhancement of ordinance incentives for preferred outcomes, and asked Staff to return with some more concrete actions related to these focus areas. For the Board's June 16 meeting, Staff provided a list of actions for the Board's consideration; additionally, as requested by the Board, prior to the June 16 meeting Staff provided a list of projects permitted under the Ordinance so that the Board could see examples of the results of the regulations (this list is also attached for the Board of Commissioners consideration[1]).

[1] The attached list includes projects that were subject to the residential stormwater regulations going back to early 2019. Some projects were minor (such as pools), so required stormwater control measures may not be visible from the street. The key at the bottom of the list explains the color-coding, with some projects subject to the former ordinance, some subject to the former ordinance but revised plans under the new ordinance, and the majority subject to the new ordinance. Please note, some sites may include culverts and rock (rip rap) near the street; these improvements would not be a result of the residential stormwater regulation, which would be located entirely on a lot.

HOW DOES THE ORDINANCE WORK?

Essentially, the regulations and ordinance requirements are triggered by the following development activities:

- The construction of new detached single-family and duplex residential properties;
- The construction of more than 500 sq. ft. of new built-upon area on properties with existing single-family and duplex residential dwellings; and
- The removal and replacement of driveways; in instances where an existing driveway and parking area not meeting the standards of this section is being removed and replaced, the new driveway and/or parking area shall be designed so as to limit the discharge of stormwater into the right-of-way or onto adjacent properties.

When triggered, a stormwater management plan meeting the standards required by the ordinance must be submitted. In general, the standards of the ordinance require stormwater control measures (SCMs) to be provided, with storage volume equal to 15 cubic feet for every 100 square feet of built-upon area. For example, 1,000 square feet of built-upon area would require SCMs with 150 cubic feet of storage volume. The regulations do provide options to reduce the calculated built-upon area, incentivizing preferred outcomes, and thereby reducing the necessary sizing (storage volume) of SCMs.

CONSIDERATIONS

During discussion at the Retreat, the Board of Commissions noted the following guiding principles for further review and consideration of the residential stormwater regulations:

- Can our rules acknowledge that there are different conditions – a system with flexibility?
- Retain form of landscape/minimize impact to landscape.
- Look for common sense solutions.
- Don’t place unjust burden on property owner.
- Can we offer a “carrot” to go with a stick?
- Do we as a Board need to define flooding – separate between “Nuisance” and “Problem Stormwater” issues.
- Should not create additional problems.
- Should define problem we are trying to solve.

In their consideration and any recommendation to the Board of Commissioners, Staff suggested that the Planning Board focus on whether the regulations and any potential changes address these perspectives and principles.

In their review, the Board of Commissioners also asked that the Planning Board consider the following options identified by Staff, to determine whether related actions may be necessary so that the regulations are more consistent with the aforementioned principles. The options presented by Staff to the Commissioners are in bold; Staff expanded on each of these items for consideration and discussion by the Planning Board.

- **Improve education and availability of resources**
    - Education:
        - In the near term, publish social media and website news flashes related to the benefits of stormwater management at the lot level.
        - Publish a brochure, similar to materials for the Septic Health Initiative, can be mailed out to homeowners focusing on the benefits of stormwater management.
        - Engage with stakeholders and focused groups (Green Drinks, contractors, homeowners) on Town stormwater efforts, stormwater management, and Low-Impact Development (LID) techniques.
        - Coordinate with CSI, North Carolina Coastal Federation, and others to share resources and increase capacity.
    - LID Pilot Project: Look for opportunities on Town property to install pilot projects highlighting LID stormwater control measures; incorporate signage and coordinate public education opportunities.
    - Availability of Resources:
        - Is there a way to cost share or subsidize costs of required improvements? This would require a budget allocation or grants.
        - Could the stormwater ad valorem tax be expanded to include residential stormwater management funding?
        - Consider a water bill credit for installing LID stormwater measures such as cisterns and rain barrels.
- **Enhance ordinance incentives for preferred outcomes**
    - Expand available credits to reduce built upon area.
    - Do not cap tree and open space preservation credits to a maximum of 30% reduction of built upon area; provide the option to eliminate the need for stormwater management if you have enough open space and sizable trees to retain.
    - Provide a credit for reducing site disturbance, lot clearing, or filling.
    - Offer additional credit for not filling Army Corp of Engineers wetland areas.
    - Offer an incentive for the use of native plants in the SCMs.
    - Reduce the number of required SCMs (from 3 to 2) for a built upon area credit.
- **Provide an administrative option for engineering analysis to exempt or reduce requirements**
    - This may be an option, but conditions or standards allowing for exemption would need to be identified.
    - Consideration for water quality impacts, need to be considered, not just water quantity.

- **Provide more alternatives**
    - The regulations provide a variety of options and currently allow for the approval of alternative SCMs; we should continue to defer to the State for accepted SCMs, but continue to explore new technologies.
- **Provide for administrative waiver/variance**
    - Will require conditions and circumstances that warrant waiver to be identified. Would these be soil conditions, topography, lot size, amount of disturbance?
    - Who would make this decision and what information is required to be submitted?
- **Standardize dimensions and volume of BMP's**
    - Perhaps a standard set would relate to lot size, and the lot coverage allowed by zoning.
    - May result in more predictability, but less relation to actual impacts and existing conditions.
- **Create a points-type program for BMP's and/or preferred outcomes, similar to design guidelines**
    - Needs further thought, but could be designed such that points are received for various LID components. This would open up predevelopment LID concepts for points such as siting development in lower impact portions of the site, choosing greater setbacks and smaller building footprint, retaining natural hydrological features (i.e. wetlands).
    - SCMs with greater impacts would receive more points. The BUA would determine the amount of points needed; for example, SCMs with native plants would receive more points than infiltration trenches and French drains, large cisterns would receive more points than standard rain barrels, etc.
    - Signing a maintenance agreement could also generate points.
    - May be an *overcorrection*, significantly revising a regulatory program that has been in place for only 14 months.

POLICY CONSIDERATIONS

As noted in the PowerPoint presented at the Board's Retreat, the Town's Comprehensive Plan includes the following policies and actions related to stormwater:

- LU-14b: [Review] Existing lot coverage incentives for providing engineered stormwater management.
- MS-15: Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas.
- MS-17b: Seek additional funding opportunities from local, state and federal agencies to assist with future stormwater planning and construction efforts.
- MS-18: Educate and involve the public in stormwater management.

PLANNING BOARD RECOMMENDATION

At their meeting on June 16, 2020, the Planning Board voted to recommend to the Board of Commissioners that the actions and activities suggested by Staff be initiated. The Planning Board also recommended that further steps be taken to incentivize the use of less fill, if not to also limit the amount of fill so that a lot's elevation may not be increased to a height greater than that of abutting properties.

STAFF RECOMMENDATION

Based upon the Planning Board's input, Staff suggested that the Board consider support for the following actions and activities; Staff would similarly recommend the same to the Board of Commissioners. It would be helpful to receive the Board's feedback, especially on shifting to a points-based system, as that will dictate how other incentive options are approached.

- Improve education and availability of resources
    - Develop focused educational opportunities
        - In conjunction with Septic Health, develop educational videos on stormwater and water quality, to include interviews with staff, information on resources, and demonstrations.
        - Publish a brochure to be mailed to property owners discussing the importance of installing and maintaining stormwater measures, such as rain gardens, vegetative swales, and cisterns. Also focus on practices to implement at home, with or without a stormwater plan in place, such as ways to reduce irrigation with rain sensors, reduction of water consumption, rerouting downspouts to vegetated areas, vegetation of bare areas, and the use of permeable pavements.
        - Engage with stakeholders and focused groups (Green Drinks, contractors, homeowners) on Town stormwater efforts, stormwater management, and Low-Impact Development (LID) techniques.
        - Hold workshops for contractors, landscapers, and homeowners on Low Impact Development ("LID") practices and the installation and maintenance of Stormwater Control Measures.
    - Create visible projects in the community
        - Consider incorporating LID improvements within beach access areas.

        - Incorporate plantings in the current retention area at the June Street Beach Access, along with educational signage.
        - Develop a plan for LID improvements at Town Hall, to possibly include permeable paving, gutters and cistern, or rain garden with educational signage.

    - Establish financial resources to support the installation of stormwater measures:

        - Develop a program to off-set the cost of SCM installation, supported by expansion of the existing stormwater ad valorem tax.
        - Establish a water bill credit for installing SCMs that allow for water reuse, such as cisterns and rain barrels.
        - Pursue grant funding to provide funds to homeowners for the installation of SCMs.

- Enhance existing ordinance incentives for preferred outcomes

    - Expand available credits to reduce built upon area by:

        - Eliminating the cap for tree and open space preservation credits at a maximum of 30% reduction of built upon area; provide the option to eliminate the need for stormwater management if you have enough open space and sizable trees to retain;
        - Offer additional credit for not filling Army Corp of Engineers wetland areas; and
        - Reduce the number of required SCMs (from 3 to 2) for the multiple stormwater measure built upon area credit.

    - Establish storage volume methodology to count preserved trees as an SCM.

    - Consider amending the engineering calculation/storage volume basis for the regulations and develop a performance/points-based system. Potential options could include:

        - Establishing a system of pre-development site planning points that could exempt a project from the requirement of a stormwater plan; perhaps a minimum of 12 points could be required for the exemption, with the following qualifying for points:

            - Lot coverage is less than the maximum (how much less?) - 3 points
            - Minimal elevation changes to development area (less than 1' elevation change, exempt footprint of septic area?) - 3 points
            - Retain mature vegetation (trees over 6" caliper, open space equal to 30% of lot size, combination of both) - 3 points
            - Retain 100% ACOE wetlands on site - 3 points

- Establishing a system of post-development site planning points; perhaps a minimum of 12 points could be required, with the following qualifying for points:

    - Permeable Paving
        - 4 points for 100% composition of hardscape
        - 3 points for 75%
        - 2 points for 50%
        - 1 point 1-50%
    - Vegetated Swale
        - 3 points per 40’ swale, 1’ depth
        - 2 points per 40’ swale, 6” depth
    - Rain Garden
        - 2 points per garden (at least 25 SF, 6” depth)
    - Gutters with cistern of rain barrel - 2 points
    - Infiltration Trench
        - 2 points per 40’ trench, 1’ depth
        - 1 point per 40’ trench, 6” depth
    - Use native plants in stormwater measures - 1 additional point per measure
    - Signed Maintenance Agreement - 2 points

Attachments:

1. PowerPoint - Town of Nags Head Residential Stormwater Ordinance Discussion, Board of Commissioners Retreat, January 23, 2020
2. Residential Stormwater Projects, updated June 9, 2020

Town of Nags Head Residential Stormwater Ordinance Discussion

Board of Commissioners Retreat

January 23, 2020

Residential Stormwater Ordinance - Background

- The regulation of stormwater on residential lots became a consideration in the Fall of 2012, the result of excessive rainfall and flooding that occurred over the preceding late-Spring and Summer months.
- On January 8, 2014, the BoC adopted an update to Chapter 34, *Stormwater, Fill and Runoff Management*, of the Town Code (*Attachment A*) which codified a stormwater plan requirement for single-family and duplex development triggered by fill and/or grading activities; adoption of this ordinance was preceded by the work of a stormwater subcommittee and coordination with the Planning Board and BoC (*Attachment B and Attachment C*)
- Between 2014 and the end of 2018, there was continued discussion and consideration of stormwater and the Residential Stormwater Ordinance; on December 5, 2018, the BoC adopted amendments to Chapter 34 (*Attachment D*) intended to simplify the requirements and plan approval process (*Attachment E*).
- Within 2019, Staff continued to work with representative of the Outer Banks Home Builders on fill requirements (*Attachment F*); Staff committed to proposing amendments to fill requirements in conjunction with adoption of an updated Flood Prevention Ordinance. Chapter 34 was codified as Part I of Article 11, Environmental Regulations, of the UDO (*Attachment G*); the complimentary Recommended Standard Details Manual may be accessed here: https://www.nagsheadnc.gov/938/Recommended-Standard-Details-Manual--Sto

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- As provided in the UDO, the purpose and intent of the overall *Stormwater, Fill and Runoff Management* Ordinance is to proactively protect, maintain and enhance the public health, safety, environment and general welfare by establishing requirements and procedures to control the adverse effects of fill, land disturbance and increased post-development stormwater runoff for the purposes of both water quantity management for flood prevention and water quality protection with the goals to:
  - Control and minimize impacts associated with stormwater runoff from all development and redevelopment.
  - Mitigate current stormwater problems and prevent future problems associated with stormwater runoff.
  - Preserve water quality through proactive management practices.
  - Facilitate public understanding of stormwater management.
  - Encourage the use of pilings and open foundations and minimize the use of fill, consistent with FEMA's coastal construction recommendations.
  - Improve stormwater management through use of low impact development techniques.
  - Establish requirements for on-going management and maintenance of stormwater management practices.
  - Establish application and enforcement procedures that address land disturbance, sedimentation and erosion control, the use of fill, and stormwater management practices consistent with associated Town ordinances and state and federal laws and regulations, to include:
    - Soil erosion and sedimentation control provisions (Article 11, Part II);
    - Excavations (Chapter 18 of the Town Code of Ordinances);
    - Flood damage prevention provisions (Article 11, Part III);
    - NCDEQ stormwater management (NCAC T15: 02H .1000);
    - NCDEQ soil erosion and sedimentation control (G.S. 113A-50 - 113A-71);
    - NCDEQ and Dare County Health Department subsurface, ground-absorption wastewater effluent disposal (NCAC T15A: 18A. 1900).
  - Establish public awareness of potential surface and subsurface water drainage problems recognizing that development potential of some land may be limited.
  - Regulate development and redevelopment which may create additional stormwater related burdens to the Town or adjacent properties.
  - Cause every development and redevelopment employing stormwater management practices to develop a maintenance plan, and place responsibility for maintenance with the property owners.

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- As established in the adoption ordinance for the 2018 Ordinance amendments, the basis for the adoption of the amendments were that:
  - the Town acknowledges that stormwater poses a threat to the public health, safety, and welfare;
  - the Town has experienced significant localized flooding during heavy and/or frequent rain events that in many cases can be attributed to stormwater and;
  - it is the Town's intent to preserve residential neighborhoods and to support local businesses;
  - the Town finds that the improper use of fill and lack of maintenance of stormwater management practices contributes to stormwater run-off;
  - the 2017 Comprehensive Plan states that the Town will "Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas (p. 205)";
  - the Town finds that to protect coastal waters we should limit non-point source pollution attributed to run-off from impervious surfaces such as parking lots and roof tops;
  - the Town finds that as more lots are developed and the built upon area is increased throughout Nags Head, stormwater collection and conveyance systems within the public rights-of-way are being overburdened and must be supplemented with additional management practices on private property;
  - the Town manages resources to protect the public infrastructure, quality of life, environment, and property of the citizens of Nags Head through fair and equitable, cost effective means, and the Stormwater Ordinance seeks to improve, enhance, and protect the quality of life for the citizens of Nags Head;

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- The Town's Comprehensive Plan includes the following policies and actions related to stormwater:
  - LU-14b: [Review] Existing lot coverage incentives for providing engineered stormwater management.
  - MS-15: Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas.
  - MS-17b: Seek additional funding opportunities from local, state and federal agencies to assist with future stormwater planning and construction efforts.
  - MS-18: Educate and involve the public in stormwater management.

Residential Stormwater Ordinance - Continued and Additional Considerations

- As noted on Slide 2, since adoption of the amendments in Dec. 2018, Staff continued to work with representative of the Outer Banks Home Builders on fill requirements; Staff committed to proposing amendments to fill requirements in conjunction with adoption of an updated Flood Prevention Ordinance. As noted in *Attachment G*, there was not consensus on all issues between Staff and the Home Builders; Staff did receive feedback from the BoC at their September 2019 Retreat that will inform the forthcoming draft amendments associated with fill and the Flood Prevention Ordinance.
- Since January 2019, there have been 25 stormwater plans submitted for residential projects (6 for pool projects); of those, 3 were prepared by a licensed engineer, compared with 8 of 8 projects active at that time under the previous iteration of the ordinance having been prepared by a licensed engineer (3 of those 8 were subsequently redesigned under the new ordinance).

Residential Stormwater Ordinance - Continued and Additional Considerations

- Options to consider:
  - Repeal the residential stormwater requirements;
  - Improve education and availability of resources;
  - Enhance ordinance incentives for preferred outcomes;
  - Provide an administrative option for engineering analysis to exempt or reduce requirements;
  - Provide more alternatives;
  - Provide for administrative waiver/variance;
  - Standardize dimensions and volume of BMP's;
  - Create a points-type program for BMP's and/or preferred outcomes, similar to design guidelines;
  - Other options?

Residential Stormwater Projects (Updated 6.9.20)

Project	Old Ordinance	New Ordinance	In Progress	Complete
511 Soundside Rd (Surles)	X E			X
112 Lone Cedar (Colson)	X E			X
4207 S. Roanoke Way (ACS Contracting)	X E			X
204 W Lost Colony (Aria)	X E			X
2517 S Bridge Ln (Aria)	X E			X
405 Bridge Ln (James)	X E	X		X
323 Ridgeview Way (Maione)	X E	X		X
4207 SVDT (Jackson)		X		X
6205 SVDT (Fulcher)		X		X
103 Sound Breeze Ln (Michiels)		X	X	
8530/8528 (CAM Realty)		X		X
9918 Sandy Ct (Soundside Pools)		X		X
203 W Outlook Ct (Caribbean Pools)		X		X
9906 SOOIR (Caribbean Pools)		X		X
3208 Salada Ln (C'ville Ventures)	X E	X		X
Marina Dr (Overton)		X E		X
209 Carolinian Circle (All County Bldrs.)		X		X
305 Soundside Rd (Amini)		X	X	
417 Ridgeview Way (Hunter Homes)		X		X
4107 S Thirteenth St (NH Construction)		X	X	
Lot 11 Ridgeview Way (NH Construction)		X		X
425 Ridgeview Way (Sandy Bottom/Soles)		X		X

Old Ordinance

New Ordinance

Submitted under old ordinance, reworked under new ordinance

Project	Old Ordinance	New Ordinance	In Progress	Complete
2607 SVDT (SAGA)		X	X	X
W Seawatch Ct (Overton/Haddon)		X E	X	
0 S Linda Lane (Croatan Custom Homes)		X	X	
2702 S Lost Colony Dr (Reliant Construction)		X		X
4129 Duppies Ct (Southernscape Pools)		X	X	X
6201 Baymeadow (MK Construction)		X		X
8400 SOOIR (Bluewater Construction)		X E	X	
2517 SVDT (SAGA Pool Addition)		X	X	
217 Woodhill Dr (Esnbach driveway)		X	X	
2508 S Memorial (Victor Pugh)		X	X	
8120 SOOIR (Carolina Pools)		X	X	
107 E Morningview Pl (Godfrey)		X	X	
2115 S Memorial (Downs)		X	X	
6812 SVDT (McVearry)		X	X	
0 13th St (Seal)		X	X	
Lot 13 Ridgeview Way (NH Construction)		X	X	
Danube St (Kane)		X	X	
2912 S Memorial Ave (J Duboy Cons)			X	
Lot 17 Ridgeview Way (NH Construction)		X	X	
Lot 12 Ridgeview Way (NH Construction)		X	X	

"E" = Submitted Engineered SW Plan

Old Ordinance

New Ordinance

Submitted under old ordinance, reworked under new ordinance

Agenda Item Summary Sheet

Item No: **H-2**
Meeting Date: **July 1, 2020**

Item Title: Consideration of resolution to adopt Hazard Mitigation Plan

Item Summary:
Dare County and Currituck County, and the towns of Manteo, Nags Head, Kitty Hawk, Kill Devil Hills, Southern Shores, and Duck, joined efforts on updating their Hazard Mitigation Plans. This effort has been referred to as the *Outer Banks Regional Hazard Mitigation Plan*. While good practice, especially given the Town's susceptibility to hazards, local governments are required to prepare and update hazard mitigation plans in order to be eligible for FEMA Disaster Assistance and Mitigation Grants. The Outer Banks Hazard Mitigation Plan can be viewed at www.obx-hmp.com under the "Review Draft Documents" tab.

Staff Recommendation/Planning Board Recommendation
Staff recommends that the Board of Commissioners consider adoption of the *Outer Banks Regional Hazard Mitigation Plan*. At the June 16, 2020 Planning Board Meeting, the Planning Board recommended approval of the *Outer Banks Regional Hazard Mitigation Plan*.

Number of Attachments: 2

Specific Action Requested:

Request adoption of attached resolution approving the Outer Banks Regional Hazard Mitigation Plan as presented.

Submitted By: Planning and Development Date: June 23, 2020

Finance Officer Comment:

Signature: Amy Miller Date: June 23, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 23, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 23, 2020

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Board of Commissioners
From: Holly B. White, Principal Planner
Date: June 23, 2020
Subject: Outer Banks Regional Hazard Mitigation Plan

BACKGROUND

Dare County and Currituck County, and the towns of Manteo, Nags Head, Kitty Hawk, Kill Devil Hills, Southern Shores, and Duck, joined efforts on updating their Hazard Mitigation Plans. This effort has been referred to as the *Outer Banks Regional Hazard Mitigation Plan*. The Town's previous Hazard Mitigation Plan was part of the *Albemarle Regional Hazard Mitigation Plan* ("Albemarle RHMP") that expires in June 2020 and can be viewed at www.nagsheadnc.gov/DocumentCenter/View/2097/Albemarle-Regional-Hazard-Mitigation-Plan. While good practice, especially given the Town's susceptibility to hazards, local governments are required to prepare and update hazard mitigation plans in order to be eligible for FEMA Disaster Assistance and Mitigation Grants.

In addition to FEMA Disaster Assistance, the Hazard Mitigation Plan is an important component of the Town's participation in the Community Rating System ("CRS") program. The CRS program recognizes and encourages community floodplain management activities that exceed the minimum NFIP standards to enhance public safety, reduce damages to property and public infrastructure, avoid economic disruption and losses, reduce human suffering, and protect the environment. Through participation in the CRS program, all Town property owners receive a 20% discount on flood insurance.

While Dare County has acted as lead on this Hazard Mitigation Plan update process, Planning Staff has been responsible for reviewing and providing feedback on the draft Plan, as well as vetting any information that was needed specifically for the Town. Public involvement has been an important part of this planning process. A Planning Team was developed to assist in gaining community feedback and participation as well as meet the criteria of the CRS program for Hazard Mitigation Plans. The Dare County Team included representatives from the County, each of the towns, and representatives of the public from each community; Nags Head's team members included staff members Shane Hite, Deputy Fire Chief; Michael Zehner, Director of Planning & Development, and Holly White, Principal Planner, as well as two citizen representatives, Meade Gwinn and Megan Lambert.

PLAN

The draft Hazard Mitigation Plan was made available to the public in January 2020 for feedback. Following this, a final draft Plan was produced and sent to the State for review. After review by the State, the draft Plan was submitted to FEMA for review.

FEMA approved the Plan as of June 10, 2020. Formal notification from FEMA will be sent upon approval of the Plan by all of the jurisdictions involved. The approval process requires that the State review and FEMA approval occur prior to the individual jurisdictional adoption. A draft resolution of adoption is attached.

The Outer Banks Hazard Mitigation Plan can be viewed at www.obx-hmp.com under the "Review Draft Documents" tab.

POLICY CONSIDERATIONS

The following 2017 Comprehensive Plan policies support the development and adoption of a hazard mitigation plan:

- NR-10 Protect the public health and safety of the town from natural and manmade hazards through proactive planning and mitigation efforts.

- NR-11 Ensure that the town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster event.

- NR-12 Support mitigation projects that reduce the potential damaging effects of hazards on the town.

STAFF & PLANNING BOARD RECOMMENDATION

Staff recommends that the Board of Commissioners consider adoption of the *Outer Banks Regional Hazard Mitigation Plan*. At the June 16, 2020 Planning Board Meeting, the Planning Board recommended approval of the *Outer Banks Regional Hazard Mitigation Plan*.

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF NAGS HEAD, NORTH CAROLINA ADOPTING THE OUTER BANKS REGIONAL HAZARD MITGATION PLAN

WHEREAS, the Town of Nags Head is vulnerable to an array of natural hazards that can cause loss of life and damages to public and private property; and

WHEREAS, the Town is committed to protecting the public health and safety of the Town from natural and manmade hazards through proactive planning and mitigation efforts; and

WHEREAS, The Town of Nags Head 2017 Comprehensive Plan includes goals and policies that ensure the Town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster;

WHEREAS, the development and implementation of a hazard mitigation plan can result in actions that reduce the long-term risk to life and property from natural hazards; and

WHEREAS, it is the intent of the Town of Nags Head Board of Commissioners to protect its citizens and property from the effects of natural hazards by preparing and maintaining a local hazard mitigation plan and supporting mitigation projects that reduce the potential damaging effects of hazards on the Town; and

WHEREAS, it is also the intent of the Town of Nags Head Board of Commissioners to fulfill its obligation under North Carolina General Statutes, Chapter 166A: North Carolina Emergency Management Act and Section 322: Mitigation Planning, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to remain eligible to receive state and federal assistance in the event of a declared disaster affecting the Town of Nags Head; and

WHEREAS, the Town of Nags Head, in coordination with Currituck County, Dare County, and the Towns of Duck, Kill Devil Hills, Kitty Hawk, Manteo, and Southern Shores has prepared a regional hazard mitigation plan with input from the appropriate local and state officials and the community; and

WHEREAS, the North Carolina Division of Emergency Management and the Federal Emergency Management Agency have reviewed the Outer Banks Regional Hazard Mitigation Plan for legislative compliance and has approved the plan pending the completion of local adoption procedures;

NOW, THEREFORE, BE IT RESOLVED that the Town of Nags Head hereby adopts the Outer Banks Regional Hazard Mitigation Plan, and agrees to take such other official action as may be reasonably necessary to carry out the proposed actions of the Plan.

Adopted this _____ day of _____ 2020.

_____

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:
_____
Carolyn F. Morris, Town Clerk

Agenda Item Summary Sheet

Item No: **H-3**
Meeting Date: **July 1, 2020**

Item Title: Consideration of Town Code Sec. 26-7 amendment regarding camping

Item Summary:

This item and the draft amendment are intended to address an inconsistency in the Town Code with respect to the use of vehicles, specifically trailers and recreational vehicles, for camping.

Staff Recommendation
Staff recognizes that this amendment may require further consideration and input from the Board; while Staff believes that it addresses the identified inconsistency and the Board could adopt the amendment, further feedback and direction would be welcome.

Number of Attachments: 2

Specific Action Requested:

Consider action on draft amendment.

Submitted By: Planning and Development Date: June 24, 2020

Finance Officer Comment:

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Board of Commissioners

From: Michael Zehner, Director of Planning & Development

Date: June 24, 2020

Subject: Consideration of Town Code Sec. 26-7 amendment regarding camping (H-3)

OVERVIEW AND BACKGROUND

In the consideration of expected seasonal enforcement activities, Staff identified an inconsistency in the Town Code with respect to the use of vehicles, specifically trailers and recreational vehicles, for camping. Formerly the Town Code, and now the UDO, prohibit the use of trailers within the Town for sleeping or habitation; however, Section 26-7, *Camping*, of the Town Code, which has been in place since at least 1990, defines *open air camping* as "*any act of living, residing or sleeping at night, in the open air* ***or in an automobile or vehicle which does not meet the requirements of a mobile home****, as defined. The term "camping in the open air" includes, but is not limited to, sleeping out of doors in a tent, sleeping bag, blanket or hammock, or without any paraphernalia other than the clothes worn on the body*," and provides that "*No person shall engage in the act of open air camping within the town; except, that an owner or lessee of improved real property and his immediate family and any person in the company of a member of the immediate family may camp upon the property; provided, however, that sanitary facilities including a bathroom with running potable water is available on such property for the use of all persons engaged in open air camping as permitted by this exception. The total number of persons authorized shall not exceed five*."

Based upon the inconsistency, Staff has prepared a draft amendment to Section 26-7 of the Town Code which is understood to address the issue based upon past practice. The draft proposes to remove the reference to the use of automobiles or vehicles from the definition of *open air camping*, and also specifically preclude the use of vehicles for camping under the circumstances where camping is allowed.

STAFF RECOMMENDATION

Staff recognizes that this amendment may require further consideration and input from the Board; while Staff believes that it addresses the identified inconsistency and the Board could adopt the amendment, further feedback and direction would be welcome.

Attachments:

1. Draft Text Amendment, dated June 24, 2020

(DRAFT)
AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO CAMPING

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-174, the Town of Nags Head may enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; and

WHEREAS, the Board of Commissioners have determined that there is an inconsistency within the Town's Code with respect to the use of vehicles for camping; and

WHEREAS, the Board of Commissioners have found that it has been the practice of the Town to prohibit the use of vehicles for camping, and that these amendments are therefore reasonable and in the public interest, and in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipsis ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Unified Development Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Town Code shall be amended as follows:

PART I. That section 26-7, *Camping*, of the Code of Ordinances, Town of Nags Head, North Carolina, is hereby amended as follows:

Sec. 26-7. - Camping.

(a) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Immediate family means father, mother, brother, sister, son, daughter or grandparent.

Mobile home means a modular unit built on a chassis, with body width exceeding eight feet or body length exceeding 32 feet, designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities. A travel trailer is not to be considered as a mobile home.

Open air camping means any act of living, residing or sleeping at night, in the open air ~~or in an automobile or vehicle which does not meet the requirements of a mobile home, as defined~~. The term "camping in the open air" includes, but is not limited to, sleeping out of doors in a tent, sleeping bag, blanket or hammock, or without any paraphernalia other than the clothes worn on the body.

Travel trailer means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, and, when factory equipped for the roads, it shall have a body width not exceeding eight feet and a body length not exceeding 32 feet.

(b) Requirements. No person shall engage in the act of open air camping within the town; except, that an owner or lessee of improved real property and his immediate family and any person in the company of a member of the immediate family may camp upon the property; provided, however, that sanitary facilities including a bathroom with running potable water is available on such property for the use of all persons engaged in open air camping as permitted by this exception. The total number of persons authorized shall not exceed five. No vehicle, including, but not limited to, a personal vehicle, mobile home, travel trailer, or recreational vehicle, shall be used for open air camping.

ARTICLE IV. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Unified Development Ordinance or Town Code of the Town of Nags Head, North Carolina which shall remain in full force and effect.

ARTICLE V. Effective Date.

This amendment shall be in full force and effect upon the date of adoption by the Board of Commissioners.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted: _____

Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: _____ AYES _____ NAYS

Agenda Item Summary Sheet

Item No: **H-4**
Meeting Date: **July 1, 2020**

Item Title: Consideration of scope for update of the Decentralized Wastewater Management Plan

Item Summary:
Staff has developed a draft scope for the project to update the Town's *Decentralized Wastewater Management Plan*. This project and the update of the Plan works to implement a recommended action of the Town's Comprehensive Plan to "Update the Decentralized Wastewater Management Plan to evaluate the overall effectiveness of the program and recommend additional measures as necessary," (NR-26g) and advances actions recommended in the Town's *Vulnerability, Consequences, Adaptation, Planning Scenarios (VCAPS) Report*. This project is included on the Department's FY2020-2021 Strategic Work Plan.

Staff Recommendation
Staff recommends that the Board review and discuss the draft scope, suggesting any revisions deemed necessary.

Number of Attachments: 2

Specific Action Requested:

Provide direction and support for project scope.

Submitted By: Planning and Development Date: June 24, 2020

Finance Officer Comment:

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Board of Commissioners

From: Kylie Shephard, Environmental Planner
Michael Zehner, Director of Planning & Development
Kelly Wyatt, Deputy Director of Planning & Development
Holly White, Principal Planner

Date: July 1st, 2020

Subject: Scope for Decentralized Wastewater Management Plan

Staff has developed the attached draft Scope for the project to update the Town's *Decentralized Wastewater Management Plan*, presented to the Board for review and pre-approval. This draft scope anticipates tasks to be performed by Town Staff and the yet-to-be-engaged consultant. The project will be managed by Town Staff. This project and the update of the Plan works to implement a recommended action of the Town's *Comprehensive Plan* to "Update the Decentralized Wastewater Management Plan to evaluate the overall effectiveness of the program and recommend additional measures as necessary," (NR-26g) and advances actions recommended in the Town's *Vulnerability, Consequences, Adaptation, Planning Scenarios (VCAPS) Report*. This project is included on the Department's FY2020-2021 Strategic Work Plan.

Staff would request any comments, questions, or suggested revisions to the scope.

Town of Nags Head
Project Scope

Decentralized Wastewater Management Plan

The Town of Nags Head is committed to protecting the environment and public health. Effective care of onsite systems is essential to keeping this commitment. The Town will enhance its oversight of these systems in a fair, reasonable and cost-effective manner to ensure they are well managed and that system owners have the information and tools necessary to protect their private investment and the public good. The Decentralized Wastewater Management Plan will be dynamic and evolving over time so that decentralized systems remain a sustainable component of Nags Head's infrastructure. - Mission Statement

Introduction & Goals

The Town of Nags Head boasts the longest oceanfront shoreline of any municipality in Dare County at 11.29 miles. The Town's 6.6 square miles Town jurisdiction is comprised mostly of single-family residential development, with an equal amount of conservation/open space (Jockey's Ridge State Park and Nags Head Woods). While the Town's year-round population is estimated to be 2,975 (as of July 2019), the seasonal population is estimated to swell to 40,000 during the peak summer visitation periods. Through time, Nags Head's desire to be a family beach community has not deviated. At the core of these desires is a healthy, well-maintained oceanfront beach that is both visually and physically accessible. The Town recognizes the value of our coastal ecosystem and the role it plays in making Nags Head a great place to live, work, and visit.

The Todd Krafft Septic Health Initiative program ("the Initiative"), developed in 2000, is a long-term strategy for protecting water quality while allowing the continued use of on-site wastewater systems in the Town. The Initiative is a voluntary program that is available to property owners consisting of 4 major focus areas. The program offers free services along with financial assistance for septic pumping, repairs, or replacements. Free services from the Town include locating your system, discussing concerns about installation and maintenance, inspections to detect problems early, and a follow-up report that outlines your system location and whether it is in need of pumping or repair. In some cases, the Town will assist as a mediator between the property owner and the contractor, or with necessary permitting. The Initiative is a one of a kind program in the Outer Banks and the State, and is one of a few in the Nation.

As a part of the Initiative, the Decentralized Wastewater Management Plan was created in 2005 ("the 2005 Plan"). The 2005 Plan states that over 85% of all developed properties (4,339 total) were using onsite systems, and of those, 95% of the properties were in residential use. These numbers continue to grow as both commercial and residential properties expand. Most homeowners in the Town of Nags Head rely on septic systems for the safe and effective treatment of their wastewater. Recycled water

from a septic system can help replenish the groundwater supply; however, if a system is not working correctly, it can in turn contaminate nearby waterbodies.

The goals of the 2005 Plan were to assess and monitor potential water quality impacts due to onsite systems and encourage and support operation and maintenance initiatives by property owners. Further, Section 2.7 of the 2005 Plan states

> "The scientific analysis completed in this Technical Report indicated a need for additional review and consideration of the impacts of stormwater on water quality, particularly in the surface water ditches. Developing an integrated approach to looking at the impacts of both stormwater and decentralized wastewater is important in assuring that the Town has developed a defensible management strategy. Much of the data collected and analyzed in this report can also be useful in stormwater management decisions."

A heavy rain event can disproportionately increase the height of the water table, even as much at five inches. Improving water quality in turn provides multiple benefits that enhances community vitality. As the Town faces growth, aging infrastructure, changing weather patterns, and increasingly complex water quality issues, new approaches are needed. Focusing on each issue individually can prove to be constraining; therefore, an integrated planning framework allows for more sustainable and comprehensive solutions.

The intent of this scope is to outline an update of the 2005 Plan, expanding it to become an integrated plan, taking into account the relationship between onsite wastewater and stormwater. This update implements a recommended action of the Town's Comprehensive Plan to "Update the Decentralized Wastewater Management Plan to evaluate the overall effectiveness of the program and recommend additional measures as necessary," (NR-26g) and advances actions recommended in the Town's Vulnerability, Consequences, Adaptation, Planning Scenarios (VCAPS) Report

Funding

$150,000 in capital funds for the update of this project.

Resources

Kylie Shephard, Environmental Planner, will serve as the primary Town Staff assigned to this project, and coordinate management of the project. Michael Zehner, Director of Planning & Development, Andy Garman, Deputy Town Manager, David Ryan, Town Engineer, Kelly Wyatt, Deputy Director of Planning & Development, Holly White, Principal Planner, and Kate Jones, Engineering Technician, will be primary staff resources, providing varying levels of assistance with the project as necessary.

A consultant will be engaged through an RFQ to execute the development of the Plan.

The Board of Commissioners may wish to consider assigning one or more members to serve as a liaison for the project. Additionally, the Board may wish to appoint a steering committee to inform and assist in directing the project.

Scope

The Scope for the project, including the principal phases and tasks, is as follows.

Phase 1 – Retain Consultant for the Integrated Plan

- Develop and release an RFQ;
- Interview respondents;
- Evaluate submissions; and
- Retain a consultant

Phase 2 – Inventory and Assessment; Establish Goals

- Develop the vision, values, and goals for the Plan;
- Develop engagement strategy for stakeholders;
- Compile existing wastewater and stormwater performance;
- Assess surface and ground water quality and quantity conditions;
- Assess potable water usage data and its impact on groundwater conditions;
- Characterize wastewater and stormwater utility performance, conditions, and programs;
- Review and assess historical changes in the climate and impact on groundwater conditions as well as wastewater and stormwater system performance;
- Develop a range of scenarios for sea level rise and assess the impact of sea level rise on wastewater management technologies; and
- Review academic studies and reports associated with wastewater management, stormwater, and groundwater; assess relevant information and incorporate appropriate findings into the draft integrated plan.

Phase 3 – Drafting of Integrated Plan and Outreach

- Consultant to draft and submit sections of Plan for review by Stakeholders, Staff, Steering Committee and Boards; and
- Consultant to make necessary changes based upon comments

Phase 4 – Adoption of Integrated Plan

Objectives & Consultant Requirements

The objectives of this project and requirements of the Consultant are as follows:

- Identify and create a method in order to ensure input from stakeholders.

- Provide a descriptive narrative of the water quality, human health, and regulatory issues addressed with the Plan, as well as an evaluation of whether The Town is presently meeting human health and water quality goals.
- Summarize and evaluation of the systems' current performances including identifying any hotspots, or problem areas, that may exist throughout the Town. Further document factors influencing problem areas and steps the Town can take to mitigate these problems.
- Review and assess current and historical water quality and quantity data throughout the Town to identify trends and problems and make recommendations for programmatic changes.
- Identify and map groundwater levels. Assess the impact of groundwater on the functionality of septic systems.
- Employ new technologies to improve tracking and management of at-risk areas related to groundwater, stormwater, and wastewater to assist with citizen reporting and for potential future Capital Improvement Project development.
- Identify new technologies, systems and alternative management approaches that could be utilized to improve the overall manage onsite wastewater in the Town.
- Identify any programmatic changes to the Todd Krafft Septic Health Initiative to improve participation in the program including but not limited to modifications to incentives, inspections, the loan program, outreach/education program, permit tracking and reporting, and data collection/analysis.
- Create a holistic and integrated public outreach program, as part of the Plan, for educating stakeholders public and allowing public involvement on water quality, water quantity, groundwater, and relationship between public health, ecosystem health, and public health advisories related to water quality.
- Summarize a process that allows for evaluation of Plan implementation; this includes measures of success for actions identified in the Plan post adoption.
- The Plan will include sufficient data to demonstrate that implementation of the Plan would be expected to achieve water quality goals.

Relevant Documents

The following documents should be studied and utilized in the creation of the updated Plan, providing background information for the consultant in the development of the Plan.

- *Town of Nags Head Comprehensive Plan*
- *Nags Head VCAPS Report*
- *NC DOT Study - Rachel Nobel Report*
- *ECU Department of Anthropology - "Evaluations and suggestions about storm water and septic tank management among residents of Nags Head Acres, Nags Head, NC"*
- *2012 Park Service Report – "Pollutant Impacts to Cape Hatteras National Seashore from urban runoff and septic leachate"*
- *UNC Outer Banks Field Site 2018 Capstone Report - Environmental Change and Septic Systems in Nags Head: Local Perspectives and Impacts on Water Quality and Quantity"*
- *UNC Outer Banks Field Site 2019 Capstone Report – "People, Water, and Septic: A Coastal Case Study"*

- *2018 Outer Banks Field Site Capstone Research Presentation*
- *2019 Outer Banks Field Site Capstone Research Presentation*
- *UNC Outer Banks Field Site – "Flushed"*

These documents can be found on the Town of Nags Head website at: *http://www.nagsheadnc.gov/935/Long-Range-Planning*

Timeline

- July 2020 - Present Scope to Board of Commissioners
- August 1, 2020 - Advertise RFQ
- October 2020 to November 2020 - Consultant interviews and selection
- December 2020 - Present consultant decision to Board of Commissioners
- December to mid-January 2021- Project kickoff
- January 2021 to Summer 2021 - Phase 2
- Summer 2021 to December 2021 - Phase 3
- January 2022 - Phase 4, consider Plan adoption
- February 2022 - Implementation; consider budget needs

Agenda Item Summary Sheet

Item No: **I-1**
Meeting Date: **July 1, 2020**

Item Title: Committee Reports

Item Summary:

At the July 1st Board of Commissioners meeting, Board members will provide reports from meetings they have attended on behalf of the Town.

Number of Attachments: 0

Specific Action Requested:

Provided for Board update.

Submitted By: Administration Date: June 24, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Greg Sparks Date: June 24, 2020

Agenda Item Summary Sheet

Item No: **L-1**
Meeting Date: **July 1, 2020**

Item Title: Comr. Kevin Brinkley - Update on recycling

Item Summary:

Comr. Brinkley has requested, and staff will provide verbally, an update on recycling to include the following:

- Property owners signing up for a subscription service
- Volunteers for a Recycling Committee
- Recycling in the off season

Number of Attachments: 0

Specific Action Requested:

Update on recycling - Staff will provide a verbal update in response to Comr. Brinkley's inquiry.

Submitted By: Administration Date: June 24, 2020

Finance Officer Comment:

Insufficient information to determine precise fiscal impact.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020

Agenda Item Summary Sheet

Item No: **M-1**
Meeting Date: **July 1, 2020**

Item Title: Mayor Ben Cahoon – Future of Nags Head - from the Jan 23-24, 2020 Board Retreat

Item Summary:

One of the topics of discussion at the January 2020 Board of Commissioners Retreat concerned envisioning the future of Nags Head.

While this item will remain as a standing agenda item, discussion will continue once the Board can resume normal meetings.

Number of Attachments: 0

Specific Action Requested:

Provided for Board discussion.

Submitted By: Administration Date: June 24, 2020

Finance Officer Comment:

Insufficient information to determine fiscal impact.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020