



- DRAFT AGENDA -

**Town of Nags Head Planning Board  
Nags Head Municipal Complex Board Room  
Tuesday, September 15th, 2020; 9:00 a.m.**

This meeting will be open to the public; however, the Zoom meeting platform will be used to broadcast the meeting live and members of the public will be able to view the meeting remotely using the Zoom platform or app on a computer or smartphone, or by calling in using a phone. Remote participation in the meeting, including Public Comment/Audience Response will not be permitted; those wishing to make comments at the meeting will need to attend the meeting in person to do so, or email comments to [planning@nagsheadnc.gov](mailto:planning@nagsheadnc.gov)

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A. Call To Order

B. Approval Of Agenda

C. Public Comment/Audience Response

D. Approval Of Minutes

August 18, 2020 Planning Board Meeting

Documents:

[AUGUST 18 2020 DRAFT MINUTES.PDF](#)

E. Action Items

1. Consideration Of Site Plan Review For

Islington Street Beach Access Improvements

F. Report On Board Of Commissioners Actions

September 2, 2020 BOC Meeting

Documents:

[SEP 2 2020 BOC ACTIONS.PDF](#)

G. Town Updates - As Requested

H. Discussion Items

1. August 26, 2020 Director's Report

Documents:

[MEMO PND DIRECTOR REPORT\\_8-26-2020.PDF](#)

I. Planning Board Members' Agenda

J. Planning Board Chairman's Agenda

K. Adjournment

**Town of Nags Head  
Planning Board  
August 18, 2020**

The Planning Board of the Town of Nags Head met in regular session on Tuesday August 18, 2020 in the Board Room at the Nags Head Municipal Complex.

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

***Members Present***

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

***Members Absent***

None

***Others Present***

Michael Zehner, Kelly Wyatt, Holly White, Lily Nieberding

***Approval of Agenda***

Chair Vaughan asked for a motion to approve the agenda. David Elder moved to approve as presented, Meade Gwinn seconded, and the motion passed unanimously.

***Public Comment/Audience Response***

None

***Approval of Minutes***

Chair Vaughan asked for a motion to approve the minutes of the July 21, 2020 meeting. David Elder moved to approve as presented, Kristi Wright seconded, and the motion passed unanimously.

***Action Items***

*Consideration of text amendments to the UDO as it pertains to non-conforming hotels, and accessory uses in association with pre-existing fishing piers.*

Planning Director Michael Zehner explained that this item was initially discussed at the Planning Board's meeting on February 18, 2020, with the Planning Board wishing to consider and discuss options further. The Planning Board discussed this item further at their meeting on May 19, where the Board requested that Staff explore options that did not require the creation of an overlay zoning district, and to present those options to the Board for consideration. Staff presented additional information to the Planning Board on June 16; at that time, the Board was supportive of the option presented by Staff that would make amendments to Article 5, Nonconformities, of the UDO, by providing nonconforming restaurants, hotels, or retail uses that commenced on or before December

31, 1980 with the option of seeking a conditional use permit to modify the use, including enlarging or altering the use, in a manner that would otherwise be precluded by the provisions of Sections 5.5. and/or 5.6. of the Article. At the meeting, the Board requested that Staff review and determine the specific instances where such a provision would be applicable.

Following the meeting, Staff conducted the review requested by the Board and came up with a list of hotels that were all nonconforming uses, all located with the CR, Commercial Residential Zoning District, and which may benefit from the provision under consideration.

Additionally, Staff determined that there were no restaurants or retail establishments that are considered to be a nonconforming use. However, related, Staff did determine that the presence of residential units in conjunction with the Nags Head Fishing Pier constituted a nonconforming use of the site, which may be something that the Board wished to address.

Staff presented the above information to the Board at their meeting on July 21. The Board agreed, given that the necessary scope of any treatment would only apply to nonconforming hotels, that it may be more appropriate to focus any amendments within Section 7.12, Hotels, of Article 7, Supplemental Regulations, similar to the treatment of nonconforming cottage courts.

Additionally, the Board requested that Staff also address the residential dwelling units accessory to the Nags Head Fishing Pier. Mr. Zehner also noted that upon further review they did remove from the list the second building of the Surfside Hotel which was found to be permitted as a multi-family dwelling.

It is helpful to consider that the general principle with respect to non-conformities is that, overtime, the non-conforming uses or conditions cease, evolving to conforming uses or conditions. Specifically, Sections 5.5, Nonconforming Use of Land, and 5.6, Nonconforming Use of a Structure, are limiting and jeopardize the preservation of these nonconforming uses. Mr. Zehner noted that his Staff memo details these limitations/impacts.

This effect, at least with respect to the identified nonconforming hotels and the Nags Head Fishing Pier, would therefore seem to be inconsistent with the intent of the goals, objectives, policies, and actions contained in the Comprehensive Plan which support the retention of legacy establishments and structures, especially in certain Character Areas along the beach road.

The impacts referenced above, specifically those contained in Sections 5.5 and 5.6, were the basis for the adoption of provisions in 2015 contained in Section 7.2.14 pertaining to nonconforming cottage courts. Similarly, the proposed text amendments, would add a Section 7.12.3. pertaining to existing nonconforming hotels, allowing a conditional use permit to be sought to modify the use and/or structure, including enlarging or altering the use and/or structure, in a manner that would otherwise be precluded by the provisions of Sections 5.5, Nonconforming Use of Land, or 5.6, Nonconforming Use of a Structure.

Additionally, and related, Section 7.50.1. pertaining to fishing piers is proposed to be amended to reference that dwelling units existing as of July 1, 2020 are an allowable use in conjunction with fishing piers, which would serve to remove the nonconforming use designation for the Nags Head Fishing Pier for this condition.

Staff would recommend that the amendments be adopted as proposed and Mr. Zehner noted he would be happy to answer any questions for the Board.

Mr. Zehner confirmed that as it relates to the Nags Head Fishing Pier the amendment only applies to the building with the two residential dwellings that are on the same parcel as the pier; it does not include the building to the north which is on a separate parcel. After some discussion, Mr. Zehner noted buildings tend to cross over property lines so it would make sense that they would view the two parcels as one site for zoning purposes.

Mr. Zehner responded to Mr. Ferguson that he was uncertain whether the Outer Banks Pier had a dwelling unit, but that if it does, the amendment would apply to that pier as well. Mr. Zehner noted that Staff would research further.

Mr. Ferguson stated that the Town has oceanfront hotels but no longer wants oceanfront hotels, yet they want to grandfather the existing oceanfront hotels. Mr. Ferguson noted that there is nothing in the ordinance that talks about historic preservation. Mr. Ferguson asked what is the Town doing to preserve these buildings that are important to the Town?

Mr. Zehner noted that they (the Town) do not have provisions like that town wide and thinks that it is a valid conversation to have but up to this point there hasn't been an interest in discussing a Landmark or Preservation ordinance that would dictate the design of any projects beyond current architecture controls that are in place.

Mr. Zehner explained that there have been businesses/structures demolished and single-family dwellings put in their place perhaps because of limitations imposed by the ordinance. The proposed ordinance would give the property owners flexibility and options to keep the business viable

Mr. Zehner reminded the Board that they previously discussed the difference between legacy businesses vs. legacy structures, how they are two separate things and how they could have one and not the other.

The Board discussed what preservation might look like but agreed that not all property owners might be interested in regulations that would require structures to be preserved, it would most likely be a voluntary process. Ms. Lambert also noted that in some cases the structures are so dilapidated they are impossible to preserve. This was the case of Restaurant by George, which was eventually demolished, and the property later redeveloped as single-family dwellings.

Mr. Ferguson also brought up the issue of fairness, not allowing any new oceanfront hotels yet allowing existing oceanfront hotels to stay and possibly evolve. Mr. Ferguson noted that zoning wise "there was something that was just not right about that". Mr. Ferguson suggested that the Town should simply develop rigorous standards to allow hotels in these areas.

Ms. Lambert disagreed noting that there are businesses and buildings all around town, not just on the ocean front that wouldn't be allowed now but that add to the charm of the town; the proposed ordinance helps protect what is currently there. Ms. Lambert noted that property owners doing appropriate due diligence should be aware of what zoning would and would not allow them to do with their property.

The Board discussed what would happen if the property was sold and if they would be allowed to rebuild in case of a hurricane. Mr. Zehner confirmed that the ordinance goes with the property. Mr. Zehner also noted, reiterated by Holly White, Principal Planner, that as far as rebuilding, CAMA and the Flood Ordinance would also come into play.

After some further discussion, Meade Gwinn moved to recommend approval of the text amendments as submitted. Molly Harrison seconded the motion and it passed with a vote of 6 to 1 with Gary Ferguson casting the nay vote.

Consideration of text amendments to the UDO as it pertains to fill regulations for properties west of NC 12 and/or 1243 subject to a Base Flood Elevation.

Deputy Planning Director Kelly Wyatt explained that following the adoption of the Flood Damage Prevention Ordinance by the Board of Commissioners on June 3, 2020, Staff identified two necessary amendments to the text related to fill regulations applicable to properties west of NC12 and SR 1243 and subject to a Base Flood Elevation.

Ms. Wyatt explained that the first is a simple re-numbering to correct a typographical error. The second however, is a more substantive change to the regulations to address an unintended consequence associated with significant reduction of the Base Flood Elevation, whereby fill is currently limited to not exceed the Base Flood Elevation but it may be necessary for the Dare County Health Department to require fill in excess of the Base Flood Elevation.

Section 11.5.3 of the Unified Development Ordinance addresses limitations on the utilization of fill based upon a property's location being either east or west of NC 12 and SR 1243. For properties west of NC 12 and SR 1243 for which the Flood Insurance Rate Map (FIRM) provides a Base Flood Elevation, fill shall not be permitted to exceed the Base Flood Elevation.

It was recently brought to Staff's attention for one property currently under development (and which will likely affect other west-side properties) that the Dare County Health Department requirements for fill placement for the wastewater facilities requires fill to exceed the newly established Base Flood Elevation.

The situation that Staff is aware of is as follows:

- The parcel was in an AE-11 (Base Flood Elevation of 11') flood zone and is now in an AE-4.
- The average ground elevation on this lot is approximately 2.5'.
- The ordinance allows fill to be placed to the Base Flood Elevation, therefore, pursuant to current regulations, fill could not exceed 4'.
- The Dare County Health Department evaluation for wastewater improvement requires the septic field to be elevated 30 inches, bringing the lot elevation up to 5 feet, 1 foot greater than what the UDO would permit.

As written, this section of the Unified Development Ordinance does not adequately address the scenario where fill required for the wastewater permit would exceed the established Base Flood Elevation. Generally, this is the result of the significant change in the Base Flood Elevation and did not present issues previously. The proposed amendment would remedy this situation by specifically allowing lots to fill to the Base Flood Elevation or the minimum amount of fill required by the Dare County Health Department, whichever is greater. Additionally, this will be consistent with fill requirements in areas where the FIRM provides no Base Flood Elevation.

Staff recommends that the amendments be adopted as proposed.

After a brief discussion, David Elder moved to recommend approval of the text amendments as presented. Meade Gwinn seconded the motion and it passed by unanimous vote.

### ***Report on Board of Commissioners Actions***

Planning Director Michael Zehner gave a report on the Actions from the Board of Commissioner's August 5th Meeting. Of note, the Board approved the waivers for the proposed Coastal Villas Subdivision and also approved the Coastal Villas Subdivision Plat as presented; it was Board consensus to pursue the National Endowment for the Arts – Our Town grant for the Town's skate park located at the YMCA; Mr. Zehner discussed with the BOC the possibility of a joint workshop between the Commissioners and the Planning Board regarding stormwater, but it was the consensus of the Commissioners discuss further at their upcoming retreat; Mr. Zehner updated the Board with the latest census numbers; the Board extended the Dowdy Park part-time manager position through the last scheduled Farmers Market plus two weeks.

### ***Town Updates***

None

### ***Discussion Items***

#### *July 24, 2020 Director's Report*

Mr. Zehner presented his Director's Report to the Board. This report was shared with the Commissioners at the August 5<sup>th</sup> Meeting. The report provides an overview of selected Planning and Development Department activities, projects, and initiatives. In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, the report also covers meetings and other activities of note that Planning Staff were involved with during the previous month. Along with permitting numbers and permit turnaround times, Mr. Zehner also discussed the impact of the Coronavirus on Permitting numbers.

#### *Planning Board Members' Agenda*

None

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

None

### ***Adjournment***

A motion to adjourn was made by David Elder. The time was 9:58 AM.

Respectfully submitted,

Lily Campos Nieberding



**TOWN OF NAGS HEAD  
BOC ACTIONS  
SEPTEMBER 2, 2020**

1. Call to order - Mayor Cahoon called the meeting to order at 9:00 a.m.
2. Agenda - The Board passed a motion that agenda item E-6 entitled: *Request for Public Hearing to consider text amendments to the UDO pertaining to nonconforming hotels and accessory uses in association with preexisting fishing piers* be removed from the agenda and the September 2<sup>nd</sup> agenda was approved as amended.
3. Recognition - Facilities Maintenance Supervisor Mike Norris introduced Stormwater & Streets Technician Bobby Hooper who was congratulated for five years of service.
4. Public Comment - The following spoke in favor of extending the Dowdy Park Farmers Markets and in continuing to fund the Dowdy Park Event Coordinator part-time position: Kerry Oaksmith-Sanders, Peggy Saporito, Chris Carrol, Samantha Lock, Ginny Flowers, Chris Sawin, Valerie Netsch, David Elder, Karen Brown (spoke on behalf of Denise Turner).
5. Consent Agenda - The Consent Agenda was approved as amended (with removal of the agenda item re: Request for Public Hearing to consider nonconforming hotels and accessory uses in association with preexisting fishing piers) and consisted of the following items:  
  
Consideration of Budget Adjustment #3 to FY 20/21 Budget  
Consideration of Tax Adjustment Reports (New Year and Monthly)  
Approval of minutes  
Consideration of request from Fraternal Order of Eagles to conduct 2020 bonafide fishing tournament  
Consideration of Health Reimbursement Arrangement Plan Maintenance Agreement for Town Mgr  
Consideration of Business Associate Agreement for Town Mgr  
Request to modify Consolidated Fee Schedule for Post-Season Per Farmers Market Vendor fee
6. Dominion Energy presentation - Rob Richardson of Dominion Energy presented a powerpoint report which included information on the installation of electric transmission lines on US 158 and included an update on pole replacement on the Nags Head/Manteo Causeway. Some highlights include:  
  
a) Dominion Energy staff are in the early stages of researching a Feasibility Study of installation of electric transmission lines on US 158; the purpose is to establish alternative electric transmission lines to be used in case of outages due to storms, etc.; b) Causeway pole replacement project is missing easements from Oceans East and Kitty Hawk Kites; c) Comr. Renée Cahoon would like to see the US 158 poles installed underground. She also asked for a map clarifying exactly where the lines from the Colington tap will be located; d) Feasibility Study is to include studying underground poles on US 158 as well as underwater installation.
7. Public Hearing - The Board passed a motion to adopt the ordinance amending the UDO that would allow for lots west of NC12 and SR1243 which have a Base Flood Elevation (located in an AE

zone) to have fill added up to a height required by the Dare County Health Department for onsite wastewater, as presented.

Planning staff is to review the email forwarded last night to Board members from Jay Overton of Albemarle & Associates concerning this item - and to forward their analysis to Board members.

**8.** Public Hearing - The Board passed a motion to adopt the ordinance providing clarification changes and correcting errors in the Unified Development Ordinance, as presented.

**9.** Public Hearing - The Board recused Mayor Cahoon from the discussion re: a Unified Development Ordinance text amendment to allow furniture stores as an allowable use as part of Commercial Mixed Use uses as he represented the applicant in his position with Cahoon & Kasten, Architects. The Board passed a motion to adopt the ordinance amendment as presented.

**10.** Planning Director - the Planning Director's update was presented to the Board; some highlights: a) It was Board consensus to agree with Planning Director Zehner that he ask for volunteers for an advisory group/steering committee to assist in guiding the Town's Decentralized Wastewater Management Plan update to be brought to the Board for consideration of appointment at an upcoming meeting; b) In response to Mayor Cahoon, Director Zehner said that he would check with Code Compliance Officer Ed Snyder and work with Public Information Officer Roberta Thuman to issue a press release re: campaign/voting signage.

**11.** Committee Reports

Comr. Brinkley – Jennette's Pier Advisory Group – Director of the Pier, Mike Remige, reported to Comr. Brinkley that 18,000 visitors visited the Pier during the month of June 2020. Direct access to the Pier is being allowed with social distancing for fishing.

Comr. Fuller – Dare County Tourism Board (DCTB) – the Grants Committee meets on September 9<sup>th</sup>; Visitation to the Wright Brothers Memorial visitation is very low but the Hatteras campgrounds are full.

**12.** Police Dept - Presentation of Police Dept Progress Report - Police Chief Phil Webster presented a powerpoint presentation which was well received.

**13.** Town Manager - The Board approved the Town Organizational Chart as presented.

**14.** Town Manager - The Board approved the proposed modification to the Personnel Policy re: approval of job descriptions/pay class plan as presented.

**15.** Town Manager - The Board passed a motion to authorize staff to apply for Dare County Tourism Board - Tourism Impact Grants (Sidewalk from US 158 to Wrightsville Avenue at Admiral Street and Skate Park renovations) as requested.

**16.** Comr. Renée Cahoon - The Board adopted the resolution in support of the J-1 Visa Exchange Visitor program with the following modification: Revise paragraph "1." to read as follows:

"Petitions the White House and Trump Administration to issue a National Interest Exemption for Economic Recovery during the next 60-Day Review, concluding on September 22, 2020, as provided by Section 3(b)(iv) and 4(a)(i) of the Presidential Proclamation of June 22, 2020;"

Board members directed staff to forward the executed resolution to the Resort Towns and Cities organization and Dare County/municipalities recommending it be adopted – in addition to forwarding it to the legislature listed in the resolution.

**17.** Comr. Brinkley - Comr. Brinkley thanked Dep Town Clerk Michelle Gray for forwarding the change in voting location for Nags Head residents to Board members and employees noting that he had also recently received a notice in the mail. He asked Public Information Officer Roberta Thuman to issue a press release to this effect.

**18.** Comr. Brinkley - Comr. Brinkley thanked all those that spoke today during Public Comment in favor of the Dowdy Park Farmers Market.

**19.** Comr. Fuller - Comr. Fuller clarified with staff that Dewberry Surveying is surveying on US 158 on behalf of Dominion Energy.

**20.** Comr. Fuller - He emphasized that while several departments may maintain the Town's parks/facilities/skateboard park, responsibility for everything related to each individual site should be with just one person.

**21.** Mayor Pro Tem Siers - he spoke in support of the comments made by other Board members.

**22.** Comr. Renée Cahoon - she asked the Board to consider how to address trash pick-up services on the west side of US 158 so that they have a consistent level of service.

**23.** Comr. Renée Cahoon - she noted that there may be some mis-information concerning the Dowdy Park Farmers Market as no one wants to stop the Farmers Market and the entire budget to include the part-time position will be re-addressed. Staff was directed to prepare a two-paragraph email from Board members responding to those that spoke today with information concerning the Farmers Market to include that it will be continuing through this month.

**24.** Mayor Cahoon - Mayor Cahoon asked the Town Clerk to locate an email he prepared after the January 2020 Board Retreat where he shared some thoughts concerning community values/vision to be forwarded to Board members and Interim Town Manager Sparks.

**25.** Closed Session - The Board entered Closed Session to discuss various legal matters within attorney/client privilege to include Beach Nourishment Project Condemnations and to discuss confidential personnel matters. The time was 11:58 a.m.

**26.** Open Session - The Board re-entered Open Session at 12:38 p.m.

**27.** Adjournment - The Board recessed to the Board Retreat at the Villas Clubhouse on Wednesday, September 23<sup>rd</sup> at 9:00 a.m. The time was 12:41 p.m.



# MEMORANDUM

## Town of Nags Head

### Planning & Development Department

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To: Board of Commissioners  
Planning Board

From: Michael Zehner, Director of Planning & Development

Date: August 26, 2020

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

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This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on September 2, 2020.

#### **Monthly Activity Report**

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

- Wednesday, July 1 - Board of Commissioners Meeting
- Thursday, July 2 - Farmers Market
- Wednesday, July 8 - Arts & Culture Committee Meeting
- Thursday, July 16 - Farmers Market
- Tuesday, July 21 - Planning Board Meeting
- Thursday, July 23 - Farmers Market
- Thursday, July 30 - Farmers Market

#### **Impact of Coronavirus on Permitting**

The following information was contained in the Report dated July 24, 2020; at this time, unless the boards wish to be provided with continued updates, Staff will discontinue this specific reporting, focusing instead on providing the standard quarterly reports on permitting:

As previously reported, a total of 67 building permits (non-trade) were applied for in both March 2020 and March 2019. In April, 48 building permits were applied for in both 2020 and 2019. In May, 57 building permits were applied for in 2020, while 48 were applied for in 2019. Finally, in June, 48 permits were applied for in 2020, while 39 were applied for in 2019. Since March 16 through July 23, 215 permits were applied for in 2020 compared to 194 in 2019.

With regard to trade permits, a total of 469 were issued in March through June of 2019, and a total of 300 were issued during the same period in 2020.

## **Short-Term Rental Registration Update**

A total of 69 properties were registered as short-term rentals in 2019; as of August 25, 2020, 32 of these properties were registered in 2020. As of the same date, 98 additional properties were newly registered in 2020. A total of 167 properties are currently registered as short-term rentals.

Properties registered in 2019 have until September 1, 2020 to register to continue to maintain compliance. Unregistered short-term rentals being rented or offered for rent would be in violation of the Town's regulations. Emails were sent on July 21, 2020 to owners of properties registered in 2019, reminding them of the need to renew registrations by September 1, 2020. Additionally, on July 27, 2020, postcards were mailed to owners of approximately 300 properties determined from Dare County records as likely qualifying as short-term rentals. Staff will continue efforts to identify and register active short-term rentals within Town. So far, 40 properties have been registered as short-term rentals that were not previously identified as rentals on Dare County's records.

Through the administration of the registration program, Staff has determined that it may be necessary to seek an amendment of the provisions to specifically exempt cottage court units managed by a single entity from being required to register as short-term rentals. Staff understands that it was the intent that these units, which operate more closely to hotels/motels, would not require registration, and has therefore not been requiring these units to be registered. However, Staff would recommend that this be clarified within the Town Code.

## **Camping Provisions**

As the Board of Commissioners may recall, amendments to the Town's camping provisions were approved on July 1, 2020 to clarify the prohibition on the use of vehicles for camping within Town. At that time, members of the Board suggested that it may be worthwhile to revisit the provisions at a later date to ensure that they were consistent with expectations. Staff will work with the Town Manager's Office to schedule a future discussion on the provisions.

## **Update of Decentralized Wastewater Management Plan**

As part of the project to update the Town's Decentralized Wastewater Management Plan, it is contemplated that an Advisory Team or steering committee would be formed to assist in guiding the project and the work of the consultant. If the Board of Commissioners agree, Staff would like to begin seeking volunteers for consideration by the Board at a future meeting. The RFQ seeking qualified consultants was released on August 14, 2020, with responses due September 30, 2020.

## **NFIP Community Rating System Audit**

For the last several months, Staff has been preparing information in advance of the 5-Year Cycle audit for the Town's participation in the Community Rating System. The Community Rating System (or CRS) is part of the National Flood Insurance Program (NFIP), and is a voluntary incentive program that recognizes and encourages

community floodplain management activities that exceed the minimum program requirements. As a result, flood insurance premium rates are discounted to reflect the reduced flood risk resulting from the community actions meeting the three goals of the CRS:

1. Reduce flood damage to insurable property;
2. Strengthen and support the insurance aspects of the National Flood Insurance Program; and
3. Encourage a comprehensive approach to floodplain management

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

The August 18, 2020 meeting of the Planning Board was held in person without use of the Zoom platform as the meeting was not considered an electronic meeting pursuant to the Town's policy and applicable State statutes. The agenda included consideration of a text amendment to address nonconforming hotels and preexisting uses in conjunction with fishing piers, and a text amendment to address fill regulations for properties west of NC 12 and/or 1243 and subject to a Base Flood Elevation.

The Planning Board's next meeting is scheduled for September 15, 2020. At this time, the agenda is expected to include consideration of a conditional use permit application for the Dream Center property contingent upon the text amendment regarding Furniture Stores as an allowable use as part of Commercial Mixed-Use uses.

As the Board is aware, a request has been submitted from the Outer Banks Realtors asking that consideration be given to allowing live broadcast and/or remote participation in Planning Board meetings. Staff will be working with the Town Manager's Office, the Planning Board Chair, and the Town Attorney to determine how best to accommodate this request.

### **Additional Updates**

- **2020 Census** - 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 August 17, 2020 has been determined to be 87.39%, up from 85.46% on July 20, 2020, and up from 83.91% on June 23.

A previously reported, Census enumerators will be working within the community to seek completion of the Census from nonresponse addresses. Collection of Census responses will cease on September 30, 2020.

- **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 were liquidated due to budgetary constraints associated with the Covid-19 Pandemic.

- **Skate Park Renovation - Phase 1** - Staff is working to finalize a 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. As previously reported, Staff finalized submission of an application for the National Endowment for the Arts Our Town Grant on August 18, 2020, seeking funds to design and develop plans for a future renovation of the Skate Park.
- **CAMA Land Use Plan Update** - As previously noted, on July 15, 2020, Staff received further comments on the revised submission pertaining to the completeness of the Plan based upon CAMA requirements. Staff submitted a further revised Plan in response to the comments on August 20, 2020. A determination of Plan completeness is required before further review is initiated.
- **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** - As previously noted, the Art Mast project, coordinated with the Arts & Culture Committee, has resulted in four completed art panels. The Arts & Culture Committee continues to discuss the locations for the new Art Masts, and is considering installations beginning at Bonnet Street and ending in the Gallery Row District. Staff is awaiting a proposal from a sign company to identify the best way to install the masts.
- **Decentralized Wastewater Master Plan** - As noted above, an RFQ seeking proposals from consultants was released on August 14, 2020, with responses due September 30, 2020.
- **Islington Street Beach Access** - Subject to DCM/CAMA and CIP funds to improve the access, Staff will be working to prepare plans for permitting. Staff anticipates the site plan to be reviewed initially at the September or October Planning Board meeting.
- **Jacob Street Beach Access** - Construction of this project is complete and Staff is working with DCM staff to close out the grant.
- **Legacy Establishments/Structures** - As previously noted, Staff had been working with the Planning Board on this initiative, with the focus narrowed to pertain to nonconforming hotels, as well as fishing pier properties that include residential units, also a nonconforming condition. The Planning Board considered and recommended adoption of a text amendment at their August meeting, and consideration of the scheduling of a public hearing is on the Board of Commissioners consent agenda for the meeting on September 2, 2020.

- **Dowdy Park Farmer's Market** - The last scheduled date for the Market is Thursday, August 27. However, given expressed interest from vendors, the extended season, and staffing availability, Staff is working to determine whether a Market will be held on Thursday, September 3. Staff has been enforcing masking and other protocols to ensure the public's health and safety.
- **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 is considering developing a series of videos in the interim.

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. As noted in the FY19-20 3<sup>rd</sup> and 4<sup>th</sup> Quarter Permitting Report, Staff will continue to work to make improvements to the platform, publicize the availability of the resource, refine documents providing guidance to the Town's customers, and develop protocols for records management in support of the platform.

- **Grants and Assistance**
  - Staff had submitted a request under the Hazard Mitigation Grant Program (Tropical Storm Michael) to update the Town's Emergency Operations Plan. Staff learned that funding under that event was no longer being considered, but that the request 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.
  - A final application for a National Fish and Wildlife Foundation - National Coastal Resilience Fund grant to develop an Estuarine Shoreline Management Plan was submitted in July 2020. Additionally, an application was submitted for the 2020 North Carolina Attorney General Environmental Enhancement Grant for the same project. Staff anticipates learning the status of these applications by the end of September 2020.

- As noted, Staff submitted a final application for the National Endowment for the Arts Our Town Grant on August 18, 2020 seeking funds to prepare designs for the renovation of the Town's Skate Park.

- **Academic/NGO Projects**

As the boards are likely aware, the Outer Banks and Town are the subject of numerous academic and general research projects. We felt it important to provide an overview of the active projects involving the Town in some degree, as follows:

- 2020 OBX Field School and UNC-CSI Capstone Project

The OBX Field School, along with the UNC-CSI Capstone Project, are coordinated through the Coastal Studies Institute. Kicking off the Fall 2020 Semester, Department Staff along with Town Engineer David Ryan were invited to join the UNC Field School on their Water Tour on August 12, 2020. Mr. Ryan and Holly White provided students with an overview of the Town's Comprehensive Plan and challenges related to groundwater, septic health management, stormwater, and water quality. The students concluded their time with Town Staff with a trip to the groundwater lowering wells near the Barnes Street Park.

In conjunction with the Field School, the Planning Department will virtually host an intern this semester. Brianna "Bri" Thompson is a junior at UNC double majoring in Environmental Studies and Public Policy. She also has an interest in art and design that will assist her in her project with the Town. Bri will work on developing social media messaging and general outreach materials for the stormwater, septic health, and floodplain management programs.

As part of the UNC-CSI Capstone Project, students will perform water sampling at several locations in Nags Head throughout the semester to monitor bacteria and optical brighteners. Their work last year suggested that the groundwater lowering systems, managed by the Town, are having an added benefit to improved water quality; additional research will be conducted to investigate this further. Lastly, students will develop and conduct a survey to resident and non-residential property owners to assess their knowledge and awareness, attitudes/risk perceptions, and behaviors/practices regarding septic systems. Previous work, and this semester's work, will benefit the forthcoming update of the Town's Decentralized Wastewater Management Plan.

- C-CoAST - The Collaboratory for Coastal Adaptation over Space and Time (C-CoAST)

A Research Coordination Network (RCN) funded by the National Science Foundation (NSF) to address grand challenges in coastal resilience. Developed coastal environments are shaped by interactions between human activities and natural processes. Mitigation and recovery strategies

that promote adaptation at the time scale of storm events can be counterproductive over longer timescales. A series of collaborative activities will integrate coastal researcher, stakeholder, and practitioner expertise, building capacity for a comprehensive understanding of the human-natural coastal system. This will enable the potential for steering away from future outcomes that communities may want to avoid, and toward outcomes they deem more desirable.

This network is working to develop a hub which will ultimately provide funding for project implementation for both researchers and practitioners. Dare County was identified as a pilot community in which virtual listening session and a community meeting will be held. Staff's role is limited to providing feedback as a sounding board for ideas and connection to local stakeholder groups.

- ECU Groundwater Study

This project was initiated in 2019, intended to measure and identify changes in groundwater levels within the Town and the causes. There is to be a related focus on impacts to onsite wastewater. The lead researcher is currently out of the country working on a separate research assignment.

- Wastewater Infrastructure Tipping Points: Prioritizing Implementation of Climate Adaptation Plans in Decentralized Systems

This project is being led by North Carolina Sea Grant and faculty from ECU. The project is researching the relationship between climate change/adaptation, groundwater, and onsite decentralized wastewater systems.

- Climate Change Adaptation in a Coupled Geomorphic-Economic Coastal System

This project is being led by UNC-Wilmington, UNC, Duke, and Ohio State. There have been no recent updates.

## Upcoming Meetings and Other Dates

- Thursday, August 27 - Farmers' Market
- Monday, August 31 - P&D Staff Meeting
- Tuesday, September 1 - Technical Review Committee Meeting
- Wednesday, September 2 - Board of Commissioners Meeting
- Thursday, September 3 - Extended Farmers' Market Day - tentative
- Wednesday, September 9 - Arts & Culture Committee Meeting
- Thursday, September 10 - Board of Adjustment Meeting
- Tuesday, September 15 - Planning Board Meeting
- Tuesday, September 15 - CRS Audit

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

DATE SUBMITTED: August 7, 2020

	Jul-20	Jul-19	Jun-20	2020-2021 FISCAL YTD	2019-2020 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
<b>BUILDING PERMITS ISSUED - RESIDENTIAL</b>						
New Single Family	2	1	0	2	1	1
New Single Family, 3000 sf or >	0	1	0	0	1	(1)
Duplex - New	0	0	0	0	0	0
Sub Total - New Residential	2	2	0	2	2	0
Miscellaneous (Total)	21	16	38	21	16	5
<i>Accessory Structure</i>	3	3	4	3	3	0
<i>Addition</i>	3	0	1	3	0	3
<i>Demolition</i>	0	0	0	0	0	0
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	5	3	6	5	3	2
<i>Repair</i>	10	10	27	10	10	0
<b>Total Residential</b>	<b>23</b>	<b>18</b>	<b>38</b>	<b>23</b>	<b>18</b>	<b>5</b>
<b>BUILDING PERMITS ISSUED - COMMERCIAL</b>						
Multi-Family - New	0	0	0	0	0	0
Motel/Hotel - New	0	0	0	0	0	0
Business/Govt/Other - New	0	0	0	0	0	0
Subtotal - New Commercial	0	0	0	0	0	0
Miscellaneous (Total)	9	5	2	9	5	4
<i>Accessory Structure</i>	6	3	2	6	3	3
<i>Addition</i>	0	0	0	0	0	0
<i>Demolition</i>	1	1	0	1	1	0
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	0	1	0	0	1	(1)
<i>Repair</i>	2	0	0	2	0	2
<b>Total Commercial</b>	<b>9</b>	<b>5</b>	<b>2</b>	<b>9</b>	<b>5</b>	<b>4</b>
<b>Grand Total</b>	<b>32</b>	<b>23</b>	<b>40</b>	<b>32</b>	<b>23</b>	<b>9</b>
<b>SUB-CONTRACTOR PERMITS</b>						
Electrical	28	49	39	28	49	(21)
Gas	3	2	2	3	2	1
Mechanical	43	43	59	43	43	0
Plumbing	6	9	8	6	9	(3)
Sprinkler	0	0	2	0	0	0
<b>VALUE</b>						
New Single Family	\$686,336	\$175,000	\$0	\$686,336	\$175,000	\$511,336
New Single Family, 3000 sf or >	\$0	\$700,000	\$0	\$0	\$700,000	(\$700,000)
Duplex - New	\$0	\$0	\$0	\$0	\$0	\$0
Misc (Total Residential)	\$617,281	\$355,569	\$547,315	\$617,281	\$355,569	\$261,712
<b>Sub Total Residential</b>	<b>\$1,303,617</b>	<b>\$1,230,569</b>	<b>\$547,315</b>	<b>\$1,303,617</b>	<b>\$1,230,569</b>	<b>\$73,048</b>
Multi-Family - New	\$0	\$0	\$0	\$0	\$0	\$0
Motel/Hotel - New	\$0	\$0	\$0	\$0	\$0	\$0
Business/Govt/Other - New	\$0	\$0	\$0	\$0	\$0	\$0
Misc (Total Commercial)	\$111,700	\$62,875	\$5,340	\$111,700	\$62,875	\$48,825
<b>Sub Total Commercial</b>	<b>\$111,700</b>	<b>\$62,875</b>	<b>\$5,340</b>	<b>\$111,700</b>	<b>\$62,875</b>	<b>\$48,825</b>
<b>Grand Total</b>	<b>\$1,415,317</b>	<b>\$1,293,444</b>	<b>\$552,655</b>	<b>\$1,415,317</b>	<b>\$1,293,444</b>	<b>\$121,873</b>

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

DATE SUBMITTED: August 7, 2020

	Jul-20	Jul-19	Jun-20	2020-2021 FISCAL YTD	2019-2020 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
<b>ZONING</b>						
Zoning Permits	26	21	17	26	21	5
<b>CAMA</b>						
CAMA LPO Permits	2	3	0	2	3	(1)
CAMA LPO Exemptions	5	5	8	5	5	0
Sand Relocations	0	N/A	0	0	N/A	N/A
<b>CODE COMPLIANCE</b>						
CCO Inspections	82	157	75	82	157	(75)
Cases Investigated	51	78	53	51	78	(27)
Warnings	11	10	7	11	10	1
NOVs Issued	40	68	41	40	68	(28)
Civil Citations (#)	0	0	0	0	0	0
Civil Citations (\$)	\$0	\$0	\$0	\$0	\$0	\$0
<b>SEPTIC HEALTH</b>						
Tanks inspected	0	64	8	0	64	(64)
Tanks pumped	4	5	4	4	5	(1)
Water quality sites tested	0	46	92	0	46	(46)
Personnel Hours in Training/School	15	0	6	15	0	15




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Michael D. Zehner, Director of Planning & Development

**COMMENTS:**