



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.

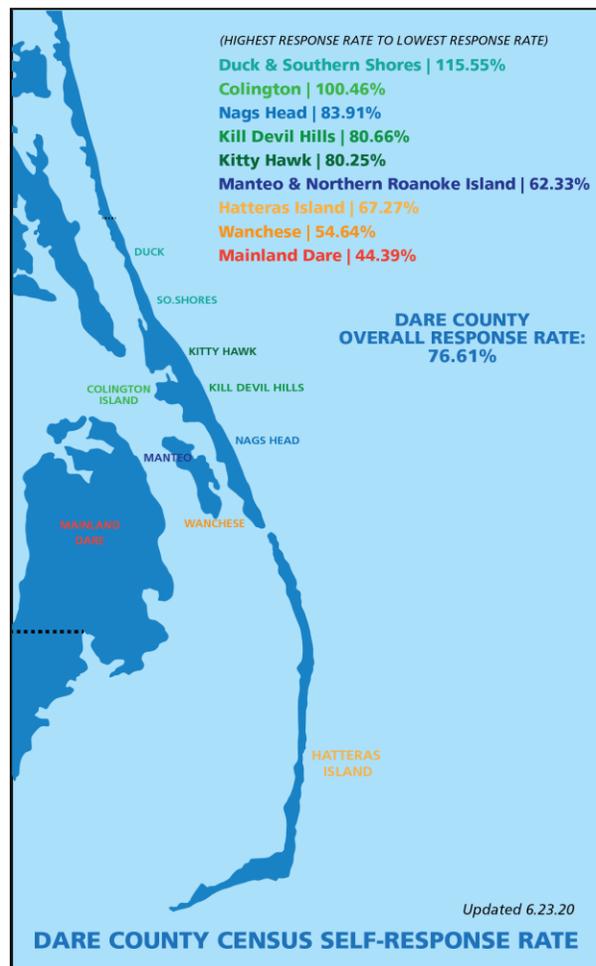
Planning Board - Pending Applications and Discussions

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 in 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
<i>Accessory Structure</i>	5	3	1	42	44	(2)
<i>Addition</i>	0	1	1	16	17	(1)
<i>Demolition</i>	0	1	0	2	6	(4)
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	11	7	11	92	79	13
<i>Repair</i>	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)
<i>Accessory Structure</i>	0	1	0	17	20	(3)
<i>Addition</i>	0	0	0	0	1	(1)
<i>Demolition</i>	0	0	0	4	4	0
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	2	2	4	27	27	0
<i>Repair</i>	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 consideration¹).

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 or 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

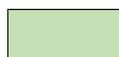
- Options to consider:
 - Repeal the residential stormwater requirements;
 - Improve education and availability of resources;
 - Enhance ordinance incentives for preferred outcomes;
 - Provide an administrative option for engineering analysis to exempt or reduce requirements;
 - Provide more alternatives;
 - 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)

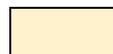
Project	Old Ordinance	New Ordinance	In Progress	Complete
511 Soundside Rd (Surles)	X E			X
112 Lone Cedar (Colson)	X E			X
4207 S. Roanoke Way (ACS Contracting)	X E			X
204 W Lost Colony (Aria)	X E			X
2517 S Bridge Ln (Aria)	X E			X
405 Bridge Ln (James)	X E	X		X
323 Ridgeview Way (Maione)	X E	X		X
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



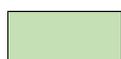
Submitted under old ordinance, reworked under new ordinance

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 (McVeary)		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	

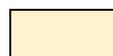
"E" = Submitted Engineered SW Plan



Old Ordinance



New Ordinance



Submitted under old ordinance, reworked under new ordinance