

---

**Town of Nags Head  
Planning Board  
May 19, 2022**

The Planning Board of the Town of Nags Head met on Thursday, May 19, 2022, in the Board Room at the Nags Head Municipal Complex.

Chair Vaughan called the meeting to order at 9:10 a.m. as a quorum was present

***Members Present***

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

***Members Absent***

Megan Lambert

***Others Present***

Kelly Wyatt, Kate Jones, Lily Nieberding

***Approval of Agenda***

Chair Vaughan asked to amend the agenda by moving up two of the discussion items as the presenter had a scheduling conflict. David Elder moved to approve the agenda as amended. Meade Gwinn seconded, and the motion passed by unanimous vote.

***Public Comment/Audience Response***

None

***Approval of Minutes***

Chair Vaughan asked for a motion to approve the minutes of the April 19, 2022, meeting. David Elder moved to approve the minutes as presented; Meade Gwinn seconded, and the motion passed unanimously.

***Discussion Items***

***Update on Resilient Coastal Communities Program***

Deputy Planning Director Kate Jones gave an update on the Resilient Coastal Communities Program. This is a program from the Department of Coastal Management. This is the first year they've had funding for communities to go through a risk assessment/community engagement process (Phase I and II). As part of the program, the consultants developed an online map with a lot of information including risk layers, i.e., Sea level rise, hurricane information, etc. The Town is waiting on the consultant to deliver the final report which should be coming shortly. What came out of Phase I and II is a list of five prioritized projects which will be included in the final report. Ms. Jones noted that Infrastructure and Flooding were at the top of the list.

By participating in Phases I & II of the RCCP program, the Town is eligible to apply for Phase III funding of \$45,000 for engineering and design services of a prioritized project. Staff has received approval from the Board of Commissioners to move the #1 prioritized project (an existing Stormwater Project) forward into the Phase III grant application. Ms. Jones noted that staff will be pursuing a different grant for Item #5.

Ms. Jones confirmed for Mr. Gwinn that the RCCP Program does not require the Town to get Grant Funding they just require that the Project that ultimately get's funded by their Grant come from a prioritized list. It will be up to the Town to determine how & when to fund the remaining items.

Ms. Jones confirmed for Mr. Gwinn that Staff needs to complete the grant application and submission by the June 3, 2022, deadline.

Mr. Elder discussed the flooding issues near Fresh Pond – Satterfield Landing. Ms. Jones confirmed that this is in the Stormwater Master Plan and that there is a longer list beyond the top five. Ms. Jones and Mr. Elder also discussed the idea of putting sensors on irrigation systems.

Discussion of current UDO regulations pertaining to tree removal and preservation.

Ms. Jones explained that at the March Meeting Planning Director Kelly Wyatt gave a presentation and went over the existing regulations regarding trees which are spread out throughout the UDO. There are certain zoning regulations related to the SED-80 and SPD-20 and beyond that there is a section related to the Town tree which is the Live Oak. They have discussed consolidating the information to make it easier to find, maybe in an Appendix. Staff and the Board have also discussed maybe looking at new ideas with regards to tree preservation and retention. Ms. Jones discussed this idea further and referenced a document produce by the North Carolina Forest Service which offers several ideas related to the topic. Ms. Jones noted that some of the trees that are lost are huge and over 50 years old and they would be unrealistic and difficult to replace. Ms. Jones noted that on option might be to get more specific in the ordinance about replacing a tree that has been removed with maybe a certain number of smaller native trees. Another idea Ms. Jones discussed was the idea of a Tree Bank. In this option, instead of replacing a tree within the existing property they would pay a one-time fee and Staff would determine an alternate location such as Town Property or a right-of-way to plant a new tree.

Ms. Jones confirmed for Ms. Wright that this could be an option both for newly developed lots as well as those that have already been developed where there is an existing home/business. Ms. Jones noted that the ordinance does allow for trees to be removed in certain circumstances but if it didn't meet the spirit of the ordinance this option might be an alternative.

Mr. Elder noted that both options would work very well depending on the situation and circumstances.

Chair Vaughan noted that anything they can do to give people more options would be good and to deter people from cutting trees down at night or on the weekends because they believe the Town will not allow them to do what they want to do. Chair Vaughan also noted that some people will "butcher" a Live Oak because they can't remove it but instead end up damaging the tree.

Planning Director Kelly Wyatt confirmed for Mr. Ferguson that the Town has never received a variance request related to tree removal. Ms. Wyatt explained that if the Live Oak is within the

proposed footprint of the house, septic, driveway and/or accessory structure and there is no way for Staff to administratively recommend relocating one of those structures then they are allowed to remove the tree without any type of remediation later.

Ms. Jones noted there have been situations where there is a beautiful Live Oak right in the middle of a proposed patio for instance and there could be some incentive to keep it and relocate the patio.

Mr. Ferguson suggested that maybe they could offer a variance that would encourage them to preserve the tree.

Ms. Jones noted that Staff will put together some options for the Board to review at a future meeting including what a Tree Bank could look like as well as some incentive options.

Mr. Elder and Ms. Harrison discussed the idea of inspiring people to want to make these changes when it comes to things like tree preservation, stormwater, septic; in doing so it will ultimately reduce the need for enforcement.

Ms. Jones and the Board briefly discussed the New Homeowner Guide which was one of the outcomes of the Decentralized Wastewater Management Plan as a way of increasing Public Outreach. Staff is hoping to begin working on this Guide in the near future.

Mr. Elder suggested timing public education with bulk pickup periods to remind property owners of what they can and can't do when it comes to trees.

### ***Action Items***

#### *Sketch Plan Review submitted by Albemarle & Associates, Ltd. on behalf of BK Associates, for the construction of a two-story mixed-use development (office and residential).*

Planning Director Kelly Wyatt presented a Sketch Plan Review package submitted by Albemarle & Associates, Ltd. on behalf of BK Associates.

Ms. Wyatt explained that the Unified Development Ordinance states that a sketch plan review is mandatory for all new development other than one- and two-family dwellings, in cases where new construction and/or additions have a total habitable building area that is 5,000 square feet or greater:

“The purpose of the sketch plan is to review projects at a conceptual level for consistency with the requirements of the commercial design standards and the UDO in general. This review should be done at the early stages of project development in order to allow for meaningful input and substantive changes to the design, if necessary. Documentation is not required to be as complete as the formal review. However, it should include rough site plan sketches with the building and parking layout, building renderings, and a narrative describing the proposed project and how it is consistent with the Town development requirements. The site plan sketch shall depict adequate space allocations for the requisite wastewater and stormwater improvements as well as vegetation/buffering requirements and site access. Applicants are encouraged to provide more than one project alternative or variations of the proposed project for review.”

The applicant is encouraged to incorporate the recommendations of the UDO Administrator and/or the Planning Board (if applicable) into the development plan before submittal of the formal site plan.

Ms. Wyatt noted that the property in question is located at the corner of East Danube and US 158, 4413 S. Croatan Highway, just South of The Barn event site.

The project consists of the construction of a three-story, mixed-use structure with parking beneath. The first floor will contain office or commercial use, the second and third floor will accommodate a total of four residential apartments. This property is zoned C-2, General Commercial and a Commercial Mixed-Use Development is permitted via the Special Use process and subject to the supplemental regulations provided in Section 7.34 of the Unified Development Ordinance.

Ms. Wyatt noted that although it was not a formal technical review, she did forward the plan to staff for their initial thoughts. Planning, Town Engineer, Public Works and Fire Department have all provided comments and these were provided in the Staff memorandum for the Board's review. Ms. Wyatt noted that these comments were also forwarded to Engineer Mike Morway and Architect Mark Kasten.

Ms. Wyatt stated that as far as Zoning goes there was nothing that stood out as problematic and that couldn't be resolved fairly easily. Ms. Wyatt touched on Parking and Buffers/Landscaping as examples of items that may need to be revisited.

Ms. Wyatt also stated that it was a great looking building and they have incorporated a lot of the desired architectural elements. Ms. Wyatt did note that the maximum number of points that can be achieved through the use of dormers is 25. This will need to be reviewed and revised prior to Planning Board review.

Ms. Wyatt noted that Building Inspections Review is limited until receipt of full of set of plans, including 2018 Appendix B with Plumbing, Mechanical and Electrical but that the Building Inspectors did note that the building will need to be sprinkler protected.

Ms. Wyatt also noted that the Fire comment regarding the RPZ had already been addressed.

Ms. Wyatt stated that the applicants will be bring the plan for a formal Technical Review on June 7<sup>th</sup> and back to the Planning Board later in June.

Ms. Wyatt noted that she as well as Mr. Morway and Mr. Kasten were available to answer any questions for the Board.

Mr. Ferguson inquired as to what types of commercial uses were being proposed and/or would be allowed at this property. Ms. Wyatt noted that during the initial discussion it was stated that the commercial units would be office space and were being parked using the office standard. Ms. Wyatt confirmed that office and retail have different parking standards.

Mike Morway, engineer for the project, briefly addressed the Board and noted that the building would be limited to uses that don't need anymore than 8 parking spaces (which is what they have reserved for the commercial use component); Mr. Morway stated that he didn't see retail as a viable option for this site.

Mr. Morway discussed the proposed Stormwater measures for Mr. Gwinn.

The Board had no further comments and agreed that it was nice looking building.

Consideration of a text amendment to the Unified Development Ordinance submitted by John Lombardi which, if adopted, would add a new use category for Remote Control Vehicle Rentals and Sales with associated outdoor tracks and facilities, within the Commercial Outdoor Recreational Uses Overlay District.

Ms. Wyatt noted that the applicant was not able to attend the meeting due to illness. The Board agreed to table the item until the June meeting.

Mr. Gwinn requested that the applicant provide images of what he is proposing.

### ***Report on Board of Commissioners Actions – May 4, 2022***

Ms. Wyatt gave an update on recent Board of Commissioner Actions, of note: the Board approved the consent agenda which included the Request for Public Hearing to consider UDO text amendment submitted by Eddie Goodrich to vary/increase max allowable gross floor area permitted in individual dwelling units in conforming Cottage Court; Ms. Wyatt presented her Planning Director Report and noted that Senior Environmental Planner Kate Jones has been promoted to Deputy Planning Director; the Commissioners discussed the Resilient Coastal Communities Program and authorized staff to move forward and apply for the Phase III grant in the amount of \$45,000 to be used for the Stormwater Area #12 Project; The Board unanimously adopted the Decentralized Wastewater Management Plan as presented - staff is to return to the Board with suggestions for members of a community group that would develop a voluntary septic operations maintenance subscription service; The Board approved the Budget Amendment as presented for the purchase of items to assist with Soundside Road traffic issues.

### ***Town Updates***

Chair Vaughan inquired about the Trash cart roll out service. Ms. Wyatt stated that she is aware that the Town does have a cart rollback service along the beach road and there is an opportunity for people to opt out of the program if they wish. Ms. Wyatt stated she will have Town Manager Andy Garman send the Board some information directly or provide more input shortly.

### ***Discussion Items Contd.***

#### *April 29, 2022, Director's Report*

Ms. Wyatt briefly discussed her Director's Report to the Board including updates on Board of Adjustment; Estuarine Shoreline Management Plan; Resilient Coastal Communities; Electric Vehicle Action Plan; LID Stormwater Demonstration Project; Dominion LED Amber Streetlight Pilot Project and Dowdy Park upcoming events.

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

The Board members discussed several items. Of note: Mr. Elder asked about sand removal following the most recent Nor'easter. Ms. Wyatt stated that this time of year you cannot have equipment on the beach, but some sand removal is allowed west of the static line; Staff will be writing CAMA Repair and Maintenance letters for people needing to do this work. Mr. Elder discussed handicap accessibility for rental cottages and asked if the town can do anything to require a house to be truly handicap accessible – Ms. Wyatt was unsure but will research and follow-up with the Board. The Board also discussed the Soundside Event Site and the issues related to events that take place there;

---

Ms. Wyatt stated that she will review the Crowd Gathering Permit process at a future meeting. Finally, Mr. Ferguson requested an update on the Epstein Street beach access redevelopment.

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

None

***Adjournment***

A motion to adjourn was made by David Elder. The time was 10:48 AM.

Respectfully submitted,  
Lily Campos Nieberding