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

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

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

***Members Present***

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

***Members Absent***

None

***Others Present***

Kelly Wyatt, Kate Jones, Lily Nieberding

***Approval of Agenda***

Chair Vaughan asked that the agenda be amended to move up the Town Updates on the Epstein Bath House and others. David Elder moved to approve the agenda as amended. Kristi Wright 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 June 21, 2022, meeting. Meade Gwinn moved to approve the minutes as presented; David Elder seconded, and the motion passed unanimously.

***Town Updates***

***Epstein Street Bathhouse Update***

Town Engineer David Ryan updated the Board on several Town projects that are either ongoing or scheduled this fiscal year:

The Epstein Street bathhouse site plan was reviewed and approved by the Planning Board and the BOC several months ago. They are working on finalizing construction plans and will be putting it out to bid in the next week with plans for an October 1<sup>st</sup> construction date.

The beach restoration project is scheduled to begin later in the week and will take place in area between The Comfort Inn South and the Southern town limits.

The Public Works Facilities master plan should be coming to the Planning Board for sketch plan review in August. They are submitting for state permits in the next couple of weeks and this process will run parallel with Town review and approvals.

Mr. Ryan noted that this upcoming year will be a busy year with regards to project work; this work includes about 5.7 miles of street work which is a combination of work leftover from this past year along with Year Three of the Paving Plan and will include Nags Head Acres, Old Nags Head Cove, areas between the highways and Soundside Road. In addition, there are a few Dune walkover replacements scheduled, a drainage improvement plan in Old Nags Head Place in partnership with the HOA and a lot of grant work.

Finally, Mr. Ryan answered questions related to work recently done at the Village at Nags Head; discussed designing ADA accessible ramps so as to reduce sand build up, as well as answered questions about the Village stormwater & wastewater plans as they relate to the proposed hotel.

*Introduction of new Planning and Development Department Employees.*

Planning Director Kelly Wyatt introduced two new Planning employees: Kelly Brady, Planner and Chris Trembly, Code Enforcement Officer to the Planning Board.

***Report on Board of Commissioners Actions – July 6, 2022***

Ms. Wyatt gave an update on recent Board of Commissioner Actions, of note: Ms. Wyatt introduced Planner Kelly Brady to the Board and recognized Permit Specialist Kim Thompson who was congratulated by the Board for 20 years of service; two requests for public hearings on the approved consent agenda: Site Plan Review for Special Use Permit submitted by Albemarle & Associates, Ltd. on behalf of BK Associates, for the construction of a three-story mixed use structure (office and residential) and the text amendment to the UDO submitted by Eddie Goodrich to modify the maximum allowable gross floor area within each unit of a conforming Cottage Court and increase the allowable stories; Outer Banks Visitors Bureau Board Chair, Tim Cafferty, and Executive Director, Lee Nettles, presented a slide presentation outlining the conceptual plan for the Soundside Event site and encouraged that any questions or comments be directed to the Visitor's Bureau; Deputy Planning Director Kate Jones provided an update on the Shoreline Management Plan which was well received by the Board (Ms. Jones will be giving an update to the Planning Board later on today).

***Discussion Items***

*Continued discussion of tree removal/preservation within the Town.*

Deputy Planning Director Kate Jones led this discussion. Members of the Planning Board had expressed an interest in better understanding and considering potential text amendments to the Unified Development Ordinance (UDO) that clarify and enhance the Town's UDO language as it relates to current tree protection and preservation standards as well as remedies for unauthorized tree removal. At the May 2022 Planning Board meeting, staff initiated an informal discussion on tree protection and mitigation ideas as well as potential options for updating the current regulations to include more specific replacement options, incentives for preserving trees as well as an outreach

campaign. At that time Staff also reviewed the existing tree regulations. Ms. Jones noted that these were included in her Staff report.

Ms. Jones discussed Tree Protection in more detail. Essentially, all tree protection and mitigation are based on the following two measures: protecting existing trees or planting new trees, either on site or off site. Considering these options, tree protection should always be the preferable option due to the adaptation to existing conditions, habitat value and ecosystem services that tree currently provides.

Tree important aspects of tree protection are:

1. Identification of trees to retain on site
2. Proper protection during the construction process
3. Continued tree survival and care

The current UDO addresses item #1 regarding the town tree, the Live Oak, throughout the Town and in more detail within the two special environmental zoning districts, the SPD-20 (Special Planned Development District) and the SED-80 (Special Environmental District). Ms. Jones noted that Items #2 and #3 are currently not addressed within the Unified Development Ordinance and it may be beneficial to consider adding language or information to address this deficiency.

Ms. Jones noted that incentives for keeping trees should also be explored in more detail. The residential stormwater incentive and the preservation of existing vegetation for landscaping reduction in large residential structures are currently the only incentives provided within the UDO. Incentives that may be worth discussing are a reduction in a required setback and/or a reduction of parking area when the reduction will preserve the root zones of existing healthy specimen trees or tree stands. Ms. Jones asked the Board to consider what other types of incentives may be useful.

In the case that trees cannot be kept on site, or are protected and removed without permission, there could be different options depending on the size of the tree removed such as replanting multiple smaller sized trees or choosing another native tree to replant. The timing of the replanting would also need to be considered depending on the season and availability.

Ms. Lambert asked about existing recourse that can be taken such as the recent case where the property owners cleared a good portion of the back of their lot including vegetation in the ROW. Ms. Wyatt explained that in that case they will need to replant to NCDOT standards and at the property owner's expense.

Ms. Lambert suggested having a landscaper and a policy in place so rather than relying on the property owner to do it the Town could just get it done but it would be the financial responsibility of that owner.

Mr. Gwinn inquired how the Town tracks and enforces these types of issues. Ms. Jones noted that the Town's computer system does track violations and could be expanded.

Ms. Jones and the Board discussed the importance of educating the public about the importance of tree preservation. Ms. Jones then further discussed the idea of incentives and what those might look like.

Mr. Ferguson asked if Staff had thought about consolidating the tree regulations into one section rather than have it spread out like it is now; maybe something that includes graphics. Ms. Jones discussed having some type of summary or workbook that a developer can look at and better

understand the rules. Another option would be something more regulatory, an actual tree protection ordinance.

Ms. Jones confirmed for Ms. Harrison that she did not believe any of the local municipalities currently have an actual tree ordinance.

Mr. Elder further discussed pruning and removal of trees in the ROW.

Ms. Lambert suggested giving incentives to commercial lots as well as residential.

Finally, Ms. Jones discussed the idea of a "tree bank". When off-site planting is more practical, many jurisdictions allow the applicant to pay fees to the local government in lieu of completing the actual off-site planting. In most towns and counties in-lieu fees are deposited into a dedicated account which is used for tree planting and maintenance and/or the acquisition of undeveloped land through direct purchase or the purchase of conservation easements. Such accounts are sometimes referred to as "tree banks". If the Board was agreeable to it Staff could look into it further but would need to review this concept with the Town Attorney to see if this concept is a viable option before proceeding.

Ms. Jones confirmed for Chair Vaughan that the City of Raleigh is one municipality that currently has a tree bank in place.

Ms. Jones and Mr. Elder discussed the idea of incentivizing the retention of trees for Stormwater uptake.

Ms. Jones stated that Staff will continue to look at incentives and increased outreach and will come back to the Board.

*Update on AIA Activate Grant, Draft Water and Energy Conservation Guide.*

Ms. Jones explained that in 2021, the Town was awarded the AIA (American Institute of Architects) ACTIVATE grant to create a water and energy conservation guide geared toward residential property owners.

The Town partnered with the Coastal Dynamics Design Lab at the NC State University College of Design as well as the UNC Coastal Studies Institute. The Town engaged key stakeholders, including homeowners (both year-round and out of town), property management companies, and builders, to gain a better understanding of stakeholder needs and best practice methods for encouraging energy and water resiliency at a private home level. Through this engagement and educational outreach, the Town identified actionable ways for homeowners to incorporate more energy and water efficiency measures into home designs. The end result was the creation of a best practices guide for homeowners.

Best practices for achieving a more resilient home design are presented in an interactive, digital guide that will be available through the Town's website and that can also be shared through social media. Ms. Jones then reviewed the draft guide for the Board noting that it's meant to be useful and graphically pleasing with a clear and concise list of what property owners can do to their home to help save money through energy and water conservation.

The guide gives a background on the initiative, discusses the importance of conservation and includes ideas for existing homes as well as new development. The guide also gives examples of different options both for the house as well as the yard including the use of energy friendly appliances and

technology as well as actions and strategies that can be taken. In addition, the guide offers low-cost solutions for budgets less than \$1000, strategic updates for budgets around \$25,000 as well as full-home renovation ideas for budgets over \$100,000. The guide also offers tips for getting started with landscaping (water and tree conservation) as well as a comprehensive list of resources such as rebates and cost-share programs as well as costs and cost savings references.

Mr. Elder inquired if there were permitting issues that might detract someone for implementing the suggested strategies. Ms. Jones noted that solar permitting is discussed in the guide.

Overall, the guide was well received by the Board. The Board agreed that seeing the cost savings on an annual basis would be useful to keep in the guide.

### *June 30, 2022, Director's Report*

Ms. Wyatt briefly discussed her Director's Report to the Board which included an update on upcoming Planning Board items (the hotel was originally scheduled for today's meeting but has now been pushed back to the August meeting), a more detailed update on a recent Board of Adjustment case, updates on current Planning initiatives including the Decentralized Wastewater Management Plan & Voluntary Septic Subscription Service Committee; Electric Vehicle Action Plan, Whalebone Park – Phase I and the Dominion LED Amber Streetlight Pilot Project and a list of important meetings of note.

Mr. Gwinn requested an update on the Fourth Street and Coastal Villas projects. Ms. Wyatt noted that both of those are at a place where they will be requesting final approvals; Coastal Villas will require final plat approval and will come to the Planning Board in August or September once staff has received all the necessary required documentation.

Ms. Jones gave an update on the Estuarine Shoreline Management Plan which she had shared with the Board of Commissioners at their July meeting as well as an update on NC Resilient Coastal Communities.

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

Mr. Elder noted that the Mayor is looking into an Ordinance with regards to digging holes in the beach. Mr. Elder would like the Town to expand on this idea and look into rules about creating unsafe conditions on the beach, including holes, leftover trash (beach tents), unsafe pit fires, etc.

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

Chair Vaughan inquired if a takeout restaurant is allowed to have outdoor picnic tables? Ms. Wyatt discussed the difference between what the UDO considers waiting area vs. customer service area. Ms. Wyatt noted that they may soon be revisiting the definitions associated with restaurants as there are several definitions in the UDO.

### ***Adjournment***

A motion to adjourn was made by David Elder. The time was 11:01 AM.

Respectfully submitted,  
Lily Campos Nieberding