



AGENDA
Town of Nags Head Planning Board
Nags Head Municipal Complex Board Room
Tuesday, December 8th, 2015; 2:30 p.m.

- A. **Call To Order**
- B. **Approval of Agenda**
- C. **Public Comment/Audience Response**
- D. **Approval of Minutes** – November 17th, 2015
- E. **Report on Board of Commissioners Actions**
1. Conditional Use Application submitted by Susie Nixon of Beach Babies Preschool to operate a Child Day Care Center within Plaza del Sol Shopping Center located at 2236 S. Croatan Highway – Approved with the condition that State Licensure be acquired and maintained.
 2. Conditional Use Application submitted by John DeLucia of Albemarle & Associates, Ltd. to locate a Screen Printing business within the existing warehouse structure located at 2234 Satterfield Landing Road – Approved with the condition that the dumpster be provided as requested by Public Works.
- F. **Town Updates- as requested**
1. Update on Focus Nags Head
 2. Update on NC Sea Grant Sea Level Rise Study
- G. **Action Items**
1. Consideration of numerous zoning ordinance text amendments related to the Town’s landscaping and buffering ordinances.
 2. Consideration of an ordinance amendment to Chapter 22 of the Town Code, Flood Damage Prevention, to define “free and clear of obstruction” for the purpose of regulating foundations in VE zones in accordance with minimum requirements of the National Flood Insurance Program.
- H. **Discussion Items**
1. Draft revisions to the Town’s sign ordinance to ensure content neutral language.
- I. **Planning Board Members Agenda**
- J. **Planning Board Chairmans Agenda**
- K. **Adjournment**

**Town of Nags Head
Planning Board
November 17, 2015
-DRAFT -**

The Planning Board of the Town of Nags Head met in regular session on Tuesday, November 17, 2015 in the Board Room at the Nags Head Municipal Complex.

Chairman Mark Cornwell called the meeting to order at 2:30 p.m. as a quorum was present.

Members Present

Mark Cornwell, Ben Reilly, Clyde Futrell, Kate Murray, Mike Siers, Jim Troutman, Pogie Worsley

Members Absent

None

Others Present

Andy Garman, Kelly Wyatt, Holly White, Lily Nieberding

Approval of Agenda

Chairman Cornwell asked that the Agenda be revised to move Item 1 under Discussion items (Landscape and Buffering ordinance) and place it under Action Items. Chairman Cornwell also stated that the original item under Action Items (Consideration of a major subdivision request) had been withdrawn by the Applicant. Deputy Town Manager Andy Garman noted that the Agenda should be renumbered as there are two Item C's. The revised agenda was approved by unanimous vote.

Election of Vice Chair for Remainder of Calendar Year 2015

Chairman Cornwell opened up the floor for nominations.

Pogie Worsley nominated Ben Reilly for Vice Chair, Jim Troutman seconded the motion.

There being no other nominations, a vote was taken and the motion passed unanimously.

Audience Response

There being no comments, Chairman Cornwell closed the Public Comment/Audience Response.

Approval of Minutes

There being no changes, Clyde Futrell moved that the minutes be approved as presented; Jim Troutman seconded the motion and the motion passed by unanimous vote.

Report of Board of Commissioners Actions

Deputy Planning Director Kelly Wyatt stated that the Public Hearings for the conditional use requests for "Child Care Facility" and "Screen Printing" have been scheduled for the December 2, 2015 Board of Commissioners meeting.

Town Updates

Deputy Town Manager/Planning Director Andy Garman gave an update on Dowdy Park. The Town was awarded two of three grants that were applied for, for a total of a million dollars. Staff will be working on more detailed plans over the next few months and hope to begin construction by next summer. There is a press release that will be going out with regards to this. Mr. Garman, along with Principal Planner Holly White attended the Parks and Recreation Trust Fund Meeting in Raleigh; that process was very competitive with over 67 grant applications. The Town did not receive a grant this go around but were encouraged to re-apply for another PARTF grant in the spring.

Mr. Garman confirmed for Ms. Murray that the grant that the Town received from the Outer Banks Visitors Bureau was for \$250,000. The Town also received a \$750,000 grant from Trillium Health Resources.

Action Items

Continued discussion on landscape and buffering ordinance following Joint Workshop and Local Business Committee meeting.

Chairman Cornwell explained that they have been working on the ordinance for several months and he would like to see it move forward to the Commissioners while they continue to work on the manual.

Kelly Wyatt explained that this was a joint effort with Mr. Garman. The ordinance relies on a new, vegetation planting guidelines document which includes a recommended plant list broken down by appropriate planting zones. Ms. Wyatt has been working on the planting guidelines document with the help of Ms. Murray, while Mr. Garman has been working on the ordinance.

Ms. Wyatt stated that the revised draft ordinance is based on the following purposes:

- To buffer incompatible uses
- To soften the appearance of commercial parking lots and sites
- To provide natural/native and locally adaptive landscaping (non-invasive)
- To enhance community aesthetics
- To encourage/require landscaping that will grow well where it is proposed
- To provide flexibility for owners to design natural landscapes and less focus on specific spacing requirements. Planting plans will include a specific number of required plantings, a mixture of sizes, and must ensure that some of the vegetation is visible from the street and contributes to overall community appearance.

Ms. Wyatt then reviewed the ordinance for the Board:

Under Part I, section A has been replaced with new language establishing planting zones (beach, highway, sound side). Not all landscape plans would be the same. For example, a beach road plan would be different than a highway plan. Plant material required along the beach road may focus on shrubs and ornamental grasses and less on trees. Required species of plants and appropriate planting zones would be defined by the Town's Planting Guidelines.

Ms. Wyatt stated that these guidelines would be included in the manual which has not yet been completed. Ms. Wyatt noted that the Board could entertain adopting a portion of the ordinance knowing that the manual is a work in progress. The guidelines would include a plant list broken down by planting zones. The list would specify size categories for plant material and landscape plans must include a mixture of sizes. This list would also note evergreen species and a percentage of plants would need to be evergreen. The guidelines would also include plant cluster diagrams appropriate for each zone.

Also of note under Part I is the requirement that landscape plans must include specifications and a maintenance plan. Ms. Wyatt stated that incentives would be included for irrigated sites.

Part II, relates to the Commercial Design Standards and requirement of landscaping or preservation of vegetation for commercial sites. Ms. Wyatt noted that not too much had changed in this section. After some discussion, Mr. Garman did change the tree size requirement from eight inches to six.

Finally Part III discusses the emphasis on preserving existing vegetation and introduces the Town's Vegetative Planting Guidelines. Ms. Wyatt noted that Staff will still need to complete additional materials in the Guidelines including more detailed information on plant species as well as plant cluster diagrams that could be used by designers to develop landscape plans. Since the guidelines are not proposed to be part of the adopted town code, these items could continue to evolve beyond the adoption of the zoning amendment and plant list.

Ms. Wyatt confirmed for Mr. Troutman, that under Part I, sec. (a)(9) incentive for drip irrigation, the 10% reduction refers to the number of plants.

Mr. Troutman questioned if a 10% reduction in plantings was worth the cost of a drip irrigation system. Ms. Wyatt stated that for a smaller project it might be a wash but for some of the larger commercial projects it might be viable.

Ms. Wyatt confirmed for Mr. Worsley that the Town's Vegetative Planting Guidelines replaces the original table of suggested trees, plants and shrubs. The table was eliminated, not the plants themselves. The new chart shows preferred plants but they are suggestion, not a requirement.

Mr. Worsley also expressed concern about the availability of some of the suggested plants. Ms. Wyatt stated that Staff is still working on the manual and has not yet researched the local availability of all the plants. Ms. Wyatt hopes to have more information by the next meeting.

Ms. Murray noted that the guide is meant to educate people; some of the suggested vegetation may be harder to find but much easier to maintain; hopefully down the road people will see the value of using local, adaptive plants.

After some discussion related to the planting of ornamental grasses vs. shrubs on the beach side, the language was changed for Part I, sec. (a)(4) to remove the 25 percent shrub requirement in the Beach planting zone.

Ms. Wyatt confirmed for Chair Cornwell that there are several commercial applications that require a ten foot buffer width. Ms. Wyatt gave as an example the recent application for a child day care center at Plaza del Sol which backs to a residential use where a ten foot buffer would be required. Ms. Wyatt also stated that (in this ordinance) the five foot buffer primarily pertains to buffering parking from a right of way.

After some further discussion related to the planting guidelines, the Board agreed to hold off in sending the ordinance on to the Commissioners. Pogie Worsley moved to table approval of the ordinance until the next meeting. Jim Troutman seconded the motion and the motion passed by unanimous vote.

Discussion Items

Update on revisions to the Town's sign ordinance to ensure content neutral language.

Mr. Garman stated that there has not been significant progress on this since the last meeting. Staff is continuing to research other sign ordinances but is finding little in the way of complete content neutral ordinances for reference purposes. Staff is hoping to bring a draft ordinance for the Planning Board's review and comment at their December meeting and possibly have a workshop with the Property Managers the following month.

Request to initiate an amendment to Chapter 22 of the Town Code, Flood Damage Prevention, to define "free and clear of obstruction" for the purpose of regulating foundations in VE zones in accordance with the minimum requirements of the National Flood Insurance Program.

Mr. Garman introduced the Town's Chief Building Inspector, David Morton, and explained that at his request, Staff is asking the Planning Board to initiate an amendment to the Town's Flood Damage Prevention Ordinance related to "free and clear of obstruction" requirements. Mr. Garman stated that Staff has had a lot of building permit applications recently where they have had to deal with this issue.

Mr. Garman stated that because the Town participates in the National Flood Insurance Program, it must meet certain requirements. FEMA's rules for the NFIP state that structures in a high velocity (VE) flood zone must be "free and clear of obstruction" that is to say constructed using an open piling foundation elevated above grade to allow floodwaters and waves to pass beneath the structure. The intent is so that the structure does not become an obstruction that will cause it to collapse or breakaway under the force of wave action or floodwaters. Although FEMA has technical documentation related to requirements for free and clear of obstruction, the specific ways in which it is interpreted and administered is largely left up to local communities. For example, they don't tell you what the separation requirement is between the ground and the bottom of the girder; it's left up to local inspectors to determine what they are comfortable with.

The Town of Nags Head has always enforced the language a certain way, however, Staff would like to include specific language in the ordinance defining what this means, to remove any ambiguity that may occur when administering regulations. Many communities define free and clear of obstruction in their local the ordinance and specify the minimum vertical distance that is required between the ground and the lowest horizontal structural member of a building to meet the definition.

Chief Building Inspector/Floodplain Manager David Morton addressed the Board. Mr. Morton stated that he has had to deny a number of permits lately because of the free of obstruction rule. Previous

Chief Building Inspectors have generally used the one to two foot separation suggested by FEMA but what he is trying to get the Board to do is create an actual definition of "free and clear of obstruction and a definitive height so people coming to pull permits in a V zone will understand what that rule is.

Mr. Worsley asked if it was free and clear off the ground or above base flood. Mr. Morton explained that it was free and clear from wherever the ground is to the bottom of the lowest horizontal structural member which is typically the girder. Mr. Morton further explained that the freeboard ordinance requires the lowest horizontal member to be above base flood; the problem however is that the one foot above base flood may be on the ground and the structure must still meet the free and clear of obstruction rule.

Mr. Morton confirmed for Mr. Worsley that the "free and clear" height would need to be at least a foot and that FEMA recommends between one and two feet.

Mr. Worsley suggested that depending on the number they come up with that there be some adjustments for the height of a structure. Mr. Worsley also asked if this affected egress such as houses that have elevators.

Mr. Morton confirmed that elevators are an exception to the free and clear rule in that they can come right to the ground. Mr. Morton also stated that generally, height is not measured from the ground level it is measure from base flood plus one foot but agreed that there might be some cases where this could be an issue.

Mr. Worsley stated that he would not want to see someone "punished" as it relates to structure height, for meeting the free and clear of obstruction requirement.

Mr. Worsley also explained that the free and clear height needs to be at least a foot but then the construction question becomes how do you get underneath the floor to insulate it, you almost need two feet.

Mr. Morton confirmed that building code requires a minimum of one foot from the bottom of the girder and eighteen inches to bottom of the joist.

Mr. Worsley stated he likes the idea of the eighteen inches because it goes with the building code and makes it easier as far as construction and inspections. Mr. Futrell stated he was also in agreement with the eighteen inches.

After some further discussion, Chairman Cornwell asked for and received Board consensus to initiate an ordinance, defining the free and clear of obstruction requirement as eighteen inches and asking Staff to make some allowable adjustments for height.

Planning Board Members' Agenda

Mr. Garman confirmed for Mr. Troutman that the demo permit for the Shell station is ready to issue but has not been picked up. Mr. Garman explained that one of the issues is that the applicants are trying to figure out how to install the underground storage tanks and they need to conduct a dewatering activity in order to put the tanks in below grade and they have to figure out where they can discharge the water. The applicants are working with the State to figure out how they can do that.

Planning Board Chairman's Agenda

None

Adjournment

There being no further business to discuss, a motion to adjourn was made by Ben Reilly. Kate Murray seconded the motion and the motion passed unanimously. The time was 3:49 PM.

Respectfully submitted,

Lily Campos Nieberding

STAFF REPORT

TO: Planning Board
FROM: Holly B. White, Principal Planner
DATE: December 4, 2015
SUBJECT: FOCUS Nags Head Update

FOCUS Nags Head is underway and currently in Task 2- Exploration and Task 3 Drafting of the Comprehensive Plan. Attached are a series of 3 memos from Code Wright that summarize Task 2 Exploration to date.

1. Memo 1- RE: Task 2 Exploration, Memorandum 1 of 3 – Comprehensive Plan Outline & Schedule:
This memo summarizes the overall FOCUS Nags Head process to date and suggests next steps for staff to undertake in moving forward. In addition, Code Wright outlines a suggested Comprehensive Plan Structure.
2. Memo 2- RE: Task 2, Exploration, Memorandum 2 of 3 – Revised Community Vision Statement:
This memo summarizes CAMA legislative changes and proposes a revised Vision Statement based on community input to this point.
3. Memo 3- RE: Task 2, Exploration, Memorandum 3 of 3 – Stakeholder Issue Summary
This memo outlines the input, issues, and concerns brought forward by stakeholders during the Stakeholders Interviews in September.

Staff will be working in the coming months to carry out meetings with the Advisory Committee, Board of Commissioners, Planning Board and other Stakeholders to gain additional input on topic areas needed in order to draft the Comprehensive Plan.



Memorandum

To: Holly White, Town of Nags Head
From: Chad Meadows, CodeWright & Jason Epley, Benchmark
Date: 10.30.15
RE: Task 2, Exploration, Memorandum 1 of 3 – Comprehensive Plan Outline & Schedule

MESSAGE

PART 1: INTRODUCTION

This memorandum is the first of three related memoranda that summarize the results of Focus Nags Head Task 2, *Exploration*, and describe the anticipated efforts related to Task 3A, *Drafting the Comprehensive Plan*. This memorandum (Memorandum 1) provides a draft outline of the comprehensive plan and a schedule of suggested activities to be undertaken by the Consulting Team and Town Staff. Memorandum 2 (provided under separate cover) summarizes the revised draft Community Vision developed in accordance with citizen and stakeholder input collected at the public forums on September 10, 2015 and September 28, 2015. Memorandum 3 (also provided under separate cover) summarizes the stakeholder input collected during the Exploration trip on September 28 & 29, 2015. Together, these three memoranda comprise the deliverables due to the Town as part of Task 2, and will be used to inform the Consulting Team's efforts in drafting the comprehensive plan (Task 3A), and preparing the code diagnosis (Task 3B).

The primary purpose for Task 2, *Exploration*, is to identify the key long range planning objectives (guiding principles) from the body of policy guidance adopted by the Town, special studies and reports identified by Town staff (but not adopted), and the input collected during Task 1. As a first step, the Consulting Team prepared a policy matrix that summarizes the policy guidance (adopted and not adopted by the Town). The policy matrix was used to crystallize five guiding principles that provide an organizing framework for the policy guidance to be included in the comprehensive plan. The policy matrix and guiding principles were then reviewed by Town Staff and then the Consulting Team travelled to Nags Head to conduct a series of on-site meetings and presentations. The Team met with project stakeholders, the Advisory and Technical Committees, and participated in the 2nd Focus Nags Head public forum.

Task 3A, *Drafting the Comprehensive Plan*, includes preparation of the initial draft version of the comprehensive plan. It includes facilitated meetings with the Advisory Committee and special committees of the Board of Commissioners (conducted by Town staff) to further refine the Town's goals and policies for the future. The information collected by Town staff will be used by the Consulting Team in the preparation of the initial draft of the comprehensive plan, which will be forwarded to Town staff upon its completion. Following any revisions based on input from staff, the Consulting Team will overview the draft plan with the Advisory Committee, the public (during the third public forum), and the elected officials. This memorandum provides a draft outline of the comprehensive plan as well as a suggested schedule of activities to be undertaken by Town staff.

CodeWright

PART 2: COMPREHENSIVE PLAN STRUCTURE:

The initial RFQ and RFP for the comprehensive plan portion of the project both describe the need for a focused document that consolidates policy guidance from multiple sources and provides an action-oriented approach that can be strategically implemented in light of limited staff workload and budget.

The scope of work for the comprehensive plan portion of the Focus Nags Head project calls for an action-oriented, strategic document that is based on the guiding principles identified in Tasks 1 & 2. The scope anticipates a document with nine chapters, the eight chapters identified in the RFP and an implementation chapter. The scope also anticipates a plan structure that is concise and reads more like a workbook than a voluminous plan with supporting documentation and any analysis incorporated either into plan elements or the appendix. The scope also clarifies that the Consulting Team will prepare a comprehensive plan that is CAMA compliant and can eventually replace the 2010 CAMA Land Use Plan (but that Town staff is responsible for any edits to the comprehensive plan in response to review comments from DENR or the CRC). Further, the scope of work also anticipates heavy reliance on existing data and analysis as opposed to significant levels of new data collection related to infrastructure or the environment. Fortunately, changes to the CAMA plan requirements in 15A NCAC 07B.0702 will reduce requirements for data collection and provide greater authority to Nags Head to determine what is or is not covered by the CAMA plan. These changes support the focused and strategic nature of the comprehensive plan contemplated by the Focus Nags Head project.

The following table sets out the anticipated contents of the comprehensive plan based upon the RFQ, RFP, scope of work, state changes to CAMA plan requirements, public comments, and our meetings and interviews conducted during Tasks 1 and 2. As described in the table, we suggest a shift from the topic-based chapter structure identified in the RFP to a chapter structure based upon the five guiding principles for the project. This change helps ensure the plan's brevity and relevance to local issues.

FOCUS NAGS HEAD COMPREHENSIVE PLAN STRUCTURE			
Part 1: Context and Setting			
Sec. A	Planning Process	i.	Description of comprehensive plan process and objectives
		ii.	Plan structure
Sec. B	History	i.	Key historical events
		ii.	Milestones in evolution
		iii.	Recent history
Sec. C	Community Snapshot (this is a summary only)	i.	Population
		ii.	Housing
		iii.	Commercial development
		iv.	Infrastructure
		v.	Environmental attributes
		vi.	Economy
		vii.	Forecasts (existing)
Sec D	Development Template	i.	Existing land uses
		ii.	Community character areas
		iii.	Corridors
Sec E	Community Concerns	i.	Major challenges and opportunities
		ii.	Emerging trends
Sec F	Vision	i.	Future appearance and form
		ii.	The changes needed to achieve the vision

FOCUS NAGS HEAD COMPREHENSIVE PLAN STRUCTURE

Part 2: Goals and Policies

Goal 1	Preserve our community's distinctive heritage and unique lifestyle	<ul style="list-style-type: none"> i. Climate change adaptation ii. Hazard mitigation iii. Historic preservation iv. Housing accommodation (resident, visitor, workforce, aging) v. Connecting character areas vi. Community character / identity enhancement
Goal 2	Protect our critical natural resources and coastal ecosystem	<ul style="list-style-type: none"> i. Wastewater management / septic health ii. Stormwater management iii. Shoreline access and management iv. Light / noise pollution management
Goal 3	Build a sustainable economy that supports a population of both year-round residents and seasonal visitors	<ul style="list-style-type: none"> i. Economic development and diversification ii. Tourism & recreation (as economic drivers) iii. Recreation (as a resident support feature) iv. Local business support v. Use mixing vi. Resident-serving businesses
Goal 4	Plan for orderly and sustainable growth and redevelopment	<ul style="list-style-type: none"> i. Transportation (auto, bike, ped., other) ii. Infill & redevelopment (including loss of commercial establishments) iii. Commercial corridor character iv. Regional cooperation
Goal 5	Maintain a well-run and efficient Town Government that provides high quality and cost effective services	<ul style="list-style-type: none"> i. Community services (police, fire, public works) ii. Solid waste management (including litter) iii. Taxation and service delivery iv. Information sharing and education v. Customer service ethic vi. Public health systems and delivery vii. Efficient transportation

Part 3: Actions

Sec A	Action Items	<ul style="list-style-type: none"> i. Organized by goal ii. Timeframe (initiation/completion/phasing) iii. Cost (qualitative/quantitative, as available) iv. Resources available (based on Town information) v. Anticipated impact (minor, moderate, significant) vi. Responsible party
Sec. B	Advancement Strategies	<ul style="list-style-type: none"> i. Timing of plan review ii. Periodic plan update iii. Plan monitoring iv. Measurement of effectiveness v. Implementation tasks/issues

Part 4: Supporting Documentation

TBD

In addition to plan text, the comprehensive plan is expected to follow a highly visual format with a heavy reliance on graphics, illustrations, and text layout designed to quickly convey main ideas. The scope of work does not contemplate copying, replacing, or relocating significant portions of already adopted documents or other studies into the plan; rather, references to these other documents will be included. The plan will also include a new future land use map and will revise future land use designations as necessary to support the goals and actions of the plan.

PART 3: STAFF SCHEDULE/EFFORTS

Task 3A, Drafting the Comprehensive Plan, in the scope of work includes a schedule of approximately six months (November 2015 through April 30, 2016), and anticipates a collaborative effort between the Consulting Team and Town staff (based upon available budget and timing constraints) where Town staff will take primary responsibility for public outreach and interaction with the Advisory Committee, while the Consulting Team will take primary responsibility for preparing the draft plan (based in part on the input collected by Town staff).

More specifically, the Town staff will conduct a series of meetings with the Advisory Committee, special committees of the Board of Commissioners, and the public (as appropriate). Each meeting will be organized by the groups of topics to be discussed (suggested listed below). During these meetings, Town staff will overview existing and anticipated conditions, describe the range of existing policy guidance, and pose questions about how and in what ways the Town’s policy guidance needs to be updated. In addition to facilitating discussion about how existing Town policy could or should be revised in light of changing conditions, the Town staff will also explore new issues or new areas of policy guidance, as appropriate. Following the meeting, the Town staff will update the Consulting Team about the topics discussed, areas of consensus, and areas for further follow up by Town staff or Consulting Team, as appropriate. The study team will then take this information and fold it in to the appropriate portions of the comprehensive plan. This process will repeat until all the topics to be addressed have been covered.

A suggested schedule and series of associated tasks for the completion of Task 3A is listed in the table below. The schedule anticipates a series of two rounds of meetings per month (starting in November), and continuing through January 2016. March and April 2016 will be used to review and finalize the draft comprehensive plan. Note that the schedule listed below runs from November 2015 through April 2016, and is delayed by one month from the schedule listed in the scope of work. This delay is proposed to allow staff and the Consulting Team the time necessary to finalize and arrangements for the drafting schedule. The schedule for the Code Diagnosis in Task 3B is also delayed by a month to minimize confusion as the project progresses. This draft schedule anticipates review by the Board of Commissioners in April prior to transmittal of any portions of plan text to the CRC for review (as part of the CAMA plan process). Adoption of the plan is not addressed in this schedule since adoption is anticipated as part of Task 4.

FOCUS NAGS HEAD TASK 3A, COMPREHENSIVE PLAN DRAFT SCHEDULE		
Month	Staff Activity	Consulting Team Activity
November 2015	Meeting Round 1: Goal 1 & 2	<ol style="list-style-type: none"> Continued data review and analysis Drafting Comprehensive Plan Part 1 (partial)
December 2015	Meeting Round 2: Goal 3 & 4	<ol style="list-style-type: none"> Drafting Comprehensive Plan Part 1 (complete) Drafting Comprehensive Plan Part 2 (initial)

FOCUS NAGS HEAD TASK 3A, COMPREHENSIVE PLAN DRAFT SCHEDULE

January 2016	Meeting Round 3: Goal 5, Remaining issues	<ol style="list-style-type: none"> 1. Drafting Comprehensive Plan Part 2 (complete) 2. Future Land Use Map
February 2016	Review staff draft and provide written consensus comments to Consulting Team	<ol style="list-style-type: none"> 1. Drafting Comprehensive Plan Part 3 2. Finalize Appendix 3. Deliver staff draft for staff review
March 2016	<ol style="list-style-type: none"> 1. Advisory Committee review of staff draft 2. Organize meetings 	<ol style="list-style-type: none"> 1. Review staff comments 2. Overview hearing draft with Advisory Committee 3. Prepare revisions to create hearing draft
April 2016	<ol style="list-style-type: none"> 1. Organize meetings 2. Advertise public meetings/hearings 3. Participate, where appropriate 	<ol style="list-style-type: none"> 1. Public forum to review hearing draft of plan (perhaps May) 2. Present hearing draft to the Board of Commissioners



Memorandum

2

To: Holly White, Town of Nags Head
From: Chad Meadows, CodeWright & Jason Epley, Benchmark
Date: 11.3.15
RE: Task 2, Exploration, Memorandum 2 of 3 – Revised Community Vision Statement

MESSAGE

PART 1: INTRODUCTION

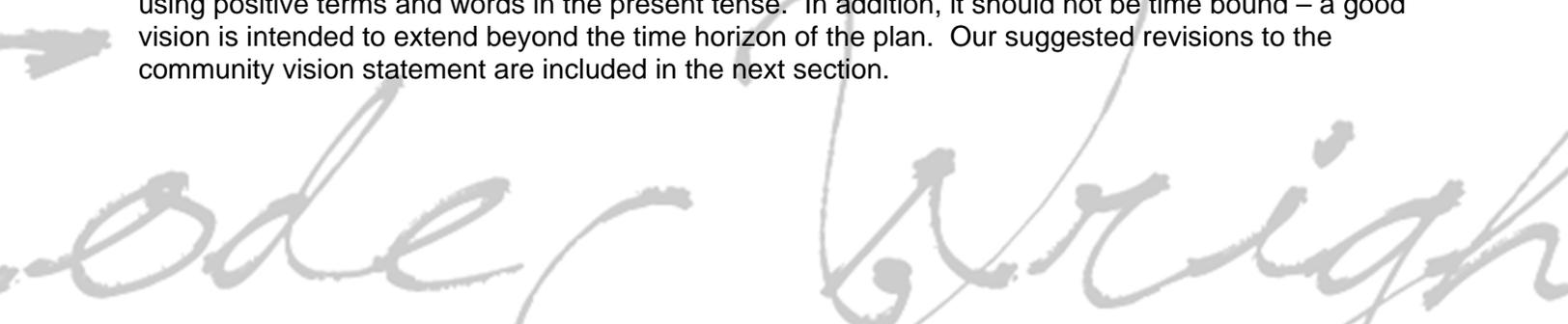
This memorandum is the second of three related memoranda that summarize the results of Focus Nags Head Task 2, *Exploration*, and describe the anticipated efforts related to Task 3A, *Drafting the Comprehensive Plan*. This memorandum (Memorandum 2) **summarizes the revised draft Community Vision** developed in accordance with the citizen and stakeholder input collected at the public forums on September 10, 2015 and September 28, 2015. Memorandum 1 (provided under separate cover) provides a draft outline of the comprehensive plan and a schedule of suggested activities to be undertaken by the Consulting Team and Town Staff. Memorandum 3 (also provided under separate cover) summarizes the stakeholder input collected during the Exploration trip on September 28 & 29, 2015. Together, these three memoranda comprise the deliverables due to the Town as part of Task 2, and will be used to inform the Consulting Team's efforts in drafting the comprehensive plan (Task 3A), and preparing the code diagnosis (Task 3B).

In 1972 the federal Coastal Zone Management Act was passed by Congress to help coastal areas better manage growth and development to protect public safety and environmental quality. The Act tied federal funding to the development and implementation of coastal zone management plans by coastal states. In 1975 the NC General Assembly passed the Coastal Area Management Act (CAMA) to comply with the new federal requirements. The CAMA sought to establish a program for the protection, preservation, orderly development, and management of coastal resources. It called for the creation of a land use plan (often called a CAMA Land Use Plan or "CAMA Plan") to be prepared for all the land in each of the state's 20 coastal counties. Each CAMA plan is required to consider the desires of the citizens regarding the future of their area as well as the carrying capacity of the land and water resources to sustain proposed growth. The key mechanism for clarifying citizen desires for the future is a vision statement.

Section 07B.0702(b)(3) of the North Carolina Administrative Code sets out the minimum required structure and contents for a community vision statement included as part of a CAMA Plan. It states:

"A community vision: [shall] Describe the general physical appearance and form that represents the local government's plan for the future. [It shall] Include objectives to be achieved by the plan and identify changes that may be needed to achieve the planning vision."

Vision statements are typically defined as a statement and image of the community's desired future in terms of its physical, social, and economic conditions. It describes what the plan seeks to achieve and is a framework for a plan's goals, objectives, and policies. The vision statement depicts in words what a community is trying to become. It should describe what the community should look like in the future, using positive terms and words in the present tense. In addition, it should not be time bound – a good vision is intended to extend beyond the time horizon of the plan. Our suggested revisions to the community vision statement are included in the next section.



PART 2: REVISED VISION STATEMENT:

Our Vision

Nags Head is a unique coastal community built upon a long legacy rooted in shared values, including our most recognized common bond – a love for the Outer Banks. We strive to preserve and protect the Nags Head character, environment, economy and sense of place in order to ensure a high quality of life for residents and a memorable family vacation experience for present and future generations.

We uphold our legacy by protecting and promoting a village character that includes a sustainable local economy rooted in small, locally owned businesses; preserving the historic architecture and culture that distinguishes our town; and striving to provide year-round residents and visitors with high-quality public services, well-maintained recreational amenities, and access to a well-protected natural coastal environment.

Our legacy will be strengthened and preserved by a focused decision making process that is comprehensive and consistent with the community's vision. In order to maintain that focus, decision making and implementation is directed by a series of five "guiding principles."

1. Preserving our community's distinctive heritage and unique lifestyle;
2. Protecting our critical natural resources and coastal ecosystem;
3. Building a sustainable economy that supports year-round residents and seasonal visitors;
4. Planning for orderly and sustainable growth and redevelopment; and
5. Maintaining a well-run and efficient government that provides high quality and cost effective services.

The Town's current vision statement is included for convenience on the following page.

PART 3: CURRENT VISION STATEMENT

The Town of Nags Head is working to build a community populated by diverse groups whose common bond is a love of the Outer Banks. We recognize that the Town must be a good place to live before it can be a good place to visit. We recognize that those who have lived on this land before us have forged our path and that we must learn from them and respect their memory. We recognize that our natural environment is an integral part of our community and must be considered in all decisions. We recognize that in order to secure this future we must work together, treating all with respect and fairness and focusing on our common goals.

The Town of Nags Head is working to build a community with an economy based on family vacation tourism. The base of that economy is a high quality beach experience. Important elements in developing and maintaining this economy are:

- A relaxed-paced beach community comprised primarily of low-density development and open spaces
- A diverse supply of accommodations, including single-family homes, hotels, and multifamily dwelling units, that attract and are accessible to visitors from a wide range of economic and social strata
- A natural environment typified by clean water and a landscape of sand dunes and noninvasive, salt tolerant vegetation
- A healthy, well-maintained oceanfront beach that is accessible and usable; not blocked by large structures
- A carefully managed sound front that preserves the natural and beneficial functions of the estuarine environment while balancing respect for private property rights and the need to provide public access.
- A built environment that reflects the heritage of “Old Nags Head”
- A well-organized pattern of land uses that, when combined with a transportation system that accommodates a variety of travel modes, promotes an active and accessible community
- Commercial services provided by locally owned and operated businesses that share in the building of our community
- Recreational amenities and attractions, both commercial and non-commercial that are wholesome and appeal to a broad spectrum of family members, age groups and interests.



Memorandum

3

To: Holly White, Town of Nags Head
From: Chad Meadows, CodeWright & Jason Epley, Benchmark
Date: 11.3.15
RE: Task 2, Exploration, Memorandum 3 of 3 – Stakeholder Issue Summary

MESSAGE

PART 1: INTRODUCTION

This memorandum is the third of three related memoranda that summarize the results of Focus Nags Head Task 2, *Exploration*, and describe the anticipated efforts related to Task 3A, *Drafting the Comprehensive Plan*. This memorandum (Memorandum 3) **summarizes the issues identified by the stakeholders** collected during the Exploration trip on September 28 & 29, 2015. Memorandum 1 (provided under separate cover) provides a draft outline of the comprehensive plan and a schedule of suggested activities to be undertaken by the Consulting Team and Town Staff. Memorandum 2 (also provided under separate cover) sets out a revised draft Community Vision developed in accordance with the citizen and stakeholder input collected at the public forums on September 10, 2015 and September 28, 2015. Together, these three memoranda comprise the deliverables due to the Town as part of Task 2, and will be used to inform the Consulting Team's efforts in drafting the comprehensive plan (Task 3A), and preparing the code diagnosis (Task 3B).

Stakeholders were identified by Town staff and the list below identifies the areas of interest of various stakeholders.

- Business Owners around the Event Site
- Environmental Community
- Local Business Owners
- Long-term Residents/Past Employees
- Board of Adjustment
- Planning Board
- Religious Community
- Realtors & Homebuilders
- Recreation Community
- Interfaith Community
- Health Care Community

The Consulting Team interviewed more than 40 people from the various areas of interest identified above. Stakeholders were informed during the interview that all responses were confidential but that responses would be summarized and provided to Town staff. Interviews are conducted in this manner to allow stakeholders to be candid in their responses. This information will be used by the Consulting Team to inform our work on the draft comprehensive plan and the code diagnosis (Tasks 3A and 3B in the scope of work).

Summary results of the interviews are listed on the following pages and are organized by topic area.



PART 2: SUMMARY RESULTS FROM STAKEHOLDER INTERVIEWS:

Zoning / Development Code Issues

- Reexamine the purpose and application of the recreation overlay district. Is it still necessary in its current form?
- Recreation overlay district: Effort to concentrate amusements into compact areas outside of residential areas
 - Is the nomenclature proper?
- Rules are changing – it will be more difficult for the town to regulate coastal development
- Master Plan – how will the village plan mesh with the UDO update – what is regulating the development over at the Village
- Need to encourage redevelopment, especially nonconformities
- Zoning map: a lot of little districts and overlaps – need to simplify
- Stormwater is too confusing
- Use distinctions are too precise
- Credits were given for including architectural features to blend in with Nags Head – not just row houses / boxes
- No more than 60' in height on ocean front – cannot build hotel on oceanfront – preserve view on oceanfront
- Parking spaces to limit bedrooms

Development Types (Desirable vs. Undesirable)

- The business communities want/would support more hotels
- Large homes not really desired
- Need more overnight/temporary accommodations
- Begin to proactively make it attractive for hotels – we don't need 20 but we need some
- Short term stays – need more
- Flexibility with hotel development – parking not on same lot
- Support for cottage courts – as long as it doesn't lead to treating them as single-family
- Don't want to see cottage courts in single family districts due to maintenance, different driveways, wastewater
- 16 room home in South Nags Head is a mini hotel – not a house
- Nags Head said 8 was enough for bedrooms
- Concern about more housing options – affordability
- Concern about incentives – find some ways to accommodate ADUs
- Small business should help mom and pop; adaptive reuse makes this easier
- Limit residential uses in commercial districts: need to protect our existing commercial development
- Need affordable housing
- Need workforce housing set asides
- Affordable housing issues – like for police officers
 - A lot of people living in apartments below houses in Nags Head
 - Help needed for international students
- Add affordable housing unit provisions in the UDO

Landscaping

- Landscaping – Emerald Isle and salter path—more flexibility in plantings
- Landscaping standards encourage planting of exotic invasive species
- Russian Holly – outlaw those trees – rules for landscaping need to be better than Russian Holly

Procedures

- The BOA shed hearing example – seemed like a meaningless meeting – are there things the staff can make decisions on vs. going to BOA (Cottage court and board of adjustment shed issue.)
- Should staff make recommendations on BOA or not --- BOA thinks maybe not
- Need information at least 5 days in advance of meeting.
- Length of time to get permits, especially for repairs: shouldn't have to lose time; people doing repairs on Saturday without permits
 - Repairs to shingles require permits
 - Deck permits required for pickets
 - Simple repairs or change-outs require permits
 - Pool fences – requires two permits
 - Cannot clear a vacant lot without a permit
- Would like to see more regulations that allow staff review
- Question about incentives in the UDO
- question about the complexity of the ordinances – standards and staff review vs. BOC review discussion

Non-Substantive Code Issues

- Search criteria is difficult on the website
- Hard to find sections and things in the code
- Have code handy – like on an ipad etc (when inspectors or other staff go out in field)
- Taking a look of the old codes, phrasing – make it clear what the intent is

Transportation

Auto-Oriented

- Merchants want to see centralized parking and foster walking from place to place – cites Duck's parking example
- Parking is an issue – what are ways to resolve for big events, parking lot, parking structure? Where can a centralized parking area go? Local businesses charge for parking (good for them). Parking would need to be connected to important destinations in the entire event site area (pier, etc)
- DOT transportation is killing the beach
 - No mass transit
 - Discouraging drivers park and ride
 - Better light synchronization
- Parking issue for west side neighborhoods – you can't pave the beach
- Ocean access parking – free – public parking between the highways

- Concerned about the median on 158 (they like the suicide lane)
- Huge transportation study with ITRE –politics shot it all down – look for the ITRE report
- NCDOT’s bias to treat 158 like a bypass vs. main street

Pedestrian and Bicycle

- Lack of pedestrian traffic throughout the area – need better pedestrian connections
- Support for bike share and bike lanes
- What happened to the sound side boardwalk committee?
- Group talked about boardwalk along sound but also sidewalks along 158
- Lots of talk of boardwalk – seems to be the preference over sidewalks
- Boardwalk was moving forward and stalled, what are the Town’s priorities?
- There would be more support if there was a clear direction on where, when and how investments were going to be made (ie: sidewalk, boardwalk, etc??) Business owners/property owners need to see a clear action plan/mechanism for them to get on board with.
- Bicycling would be a great alternative – create a bike share program
- South Nags Head path is over used – victim of its own success
- Existing boardwalk – “Sound Side Board walk committee” – where did it go?
- Getting across at the YMCA is a problem, even with signal light.
- Emerald isle has a tunnel - need for a permanent crossing
- Concerned about multi-use paths – finish those out – coordinated with other communities
- Signs at crosswalks – pedestrian and bicycle safety are really important
- Crosswalk at causeway
- Walkability/Interconnectivity – streets, sidewalks, trails, especially in smaller neighborhoods

Alternative Transportation

- Consider a means of getting people around the island, like a private ferry that connects Event Site to Manteo
- Town should consider more and better private transportation
- Would a rubber tire trolley or similar transportation work?
- Could a ferry service from Manteo/Roanoke Island work?
- Need to consider golf carts (not street-legal)
- Need transportation options

Tourism

- We need to showcase the environmental assets along the sound – would create another draw – complete the boardwalk idea.
- We need to examine the long range plans for the event site
- Town should look at the Event Site and surrounding area differently: more than just “recreation”
- Balancing conservation and recreation
- Recreation/conservation balance – what is the value of conservation? (Community rating system and savings on insurance as a reason to conserve; Is conservation an economic development tool?)
- Sustainable growth in tourism

- Rudeness of people using beach this year – really let the lifeguards have it (more than usual)
- Need to continue to support tourism and vacation rentals over local residents
- Should focus on tourism, not stormwater
- Tourism as a keystone

Beaches

- Should stop allowing umbrellas/commercial activity on the beach
- We should protect the public beach and make sure we have a beach
- Maintain and expand access to the beach
- Maintain the beach open and free of structures

Beach Erosion

- Sand resource availability for the state (beach management)
- Sand and permitting issues – USACE rule: areas dredged for sand once cannot be reused for sand
- Balancing conservation and recreation
- Sound side recreation area is over-used – the town may need to provide some sound side recreation alternatives
- Oyster reef as a possible option for retarding erosion
- Dare County Stand Up Paddleboard to nourish 3 miles of beach in Buxton; \$25 million; 2.6 million cubic yards of sand
- Against bulkheading – living shoreline is harder to permit than a bulkhead; costs are comparable, but living lasts longer
- Redirect nourishment funds to help cover buyout costs
- Need beach renourishment

Environment & Natural Resources

- Exterior lighting and turtle population
- 560 acres of Jockey's Ridge – a corner of the dune is growing and will need relocation
- Environmental groups must be sure not to work in isolation
- Plastic pollution in the ocean: there is a new program dealing with trash cans after storms
- Coastal resiliency mapping tool (GIS) and community rating system – estimated finish early 2016
- Not working on sea level rise mitigation
- Not working on risk assessment
- Main emphasis recently has been ensuring availability of recreation, not environmental protection
- Use/encouragement of renewable energy; current units are 10kW; to be break even, they would have to be 50kW and twice as tall
- More renewable energy
- Need to be using more green building techniques – Cistern systems, rain barrel collection systems – wind energy
- Involvement/watching oil and gas exploration

Retreat

- Need to accommodate the ability to move oceanfront homes back
- Need a procedure to start/facilitate retreat (how to overcome S. Nags Head)

Water Quality

- Would stricter lot density laws help resolve the wastewater?
- Groundwater system: freshwater increasing salinity; wastewater disposal
- Water quality advisory up since May 11, 2015
- Interested in water quality –revenue comes from recreational fishing
- Wastewater disposal and shallow flooding; maintaining minimum water table separation
- Retain and infiltrate stormwater is one key thing
- Stormwater management is important for success
- Estuarine quality
- Oyster aquaculture as a “green industry” – issue is lease of public trust land and conflict with public use
- LID work in Nags Head – working on a manual done in 2015; main focus is near shore water quality and impacts from stormwater runoff
- Wastewater: need to move septic health up the ladder
- Bacteria levels in the sound seems to be an issue
- Increase area where septic goes – make them have a repair area
- Sewer / Septic is an issue

Hazard Preparedness/Mitigation

- Hurricane Preparedness is an issue
- Police/Fire do a good job going through neighborhoods prior to storm events
- Fire safety issues – Nags Head issues – under brush clearing with the Nags Head Conservancy

Experience Working with the Town

- Great staff, but get overwhelmed when building is going on – overworked, understaffed
- Staff has time in the morning or afternoon to meet with inspectors (out in the field other times)
- Code enforcement – could use help – almost non-existent
- Junk car ordinance – can’t keep up
- Managing expectations
- Make sure services to the town are always available running smoothly, effective, efficient
- Need to look at pay scale/payroll how can we keep and retain talent
- Differential stance among inspectors
 - One inspector uses his flexibility to be permissive
 - One inspector uses his flexibility to be obstructive or to regulate
 - Looking for what’s wrong instead of trying to find a way to make it work
- Lots of comments on how BOC changes its stance on issues
- Dare County says “How can we help you?” – Nags Head says “NO”
- Town takes the stance that when one person complains, then it is time to write an ordinance
- Town’s redevelopment stance is obstructive

- Recalled issue for building permitting – The Town was using contract staff review for engineering at the time - conflict of interest with engineering firms - one doing permit for his project and one doing site plan from same company – slowed his entire process down.

Need to Provide High-Quality, Efficient Services to All Residents

- Still have residents with needs for services – not just parks, etc
- Not much for kids to do here
- Whalebone Park – Old Town Park – now Dowdy Park – need to plan for the maintenance – grass mowing, grass on beach path, 1 cent maintenance for path in Duck is a good idea
- Taxes are a huge concern for the future for maintenance of all of these new things
- Future maintenance of infrastructure – future cost of those services
- Better to do a penny now vs 5 pennies next time – incremental approach
- Small business development: town acquisition of parcels that could contribute to the economy
- Greater cooperation – sense that they could all get along better – one safety department – referring to all of the Outer Banks communities vs. individual towns.
- Nags Head seems to lead things
- What are some things we can do together – to save tax payers money?

Senior Citizens' Issues

- Population is aging – increased need on hospital and other services for older person
- Nursing home – Peak Resources has taken it over
- Senior care – a place like assisted living – residential care (spring arbor) – what about independent living – assisted living?
- Land between Nags Head Church and Post Office – could it be developed for a senior community / assisted living?
- Lack of accountability – seniors are languishing

Homelessness

- Homelessness issue is an ongoing and growing issue – how do you count it?
- Episcopal Church is open 24/7 - police do stop by to check on things
- Room in the Inn – they think 400 people are homeless in Dare County, including 200 children (Not that large in Nags Head / OBX)
- Inmates begin released from prison – no halfway houses
- Police handle things very well with homeless
- Some homeless camps down near airstrip and Nags Head Woods
- Homelessness particularly a problem mid-November to mid-April
- Need affordable and transitional housing
- Nowhere for homeless population to congregate
- Room in the Inn estimates that there are about 30 people living in the woods behind Staples
- Interfaith serves about 1,000 families a year; one-time help; about 40 residents from Nags Head have received services, mostly with grants to vendors or service providers
- Interfaith does Habitat houses

Miscellaneous (but worth keeping)

- Nags Head is home to many “first retirement” retirees: They are not planning on staying to death; thus, they do not want to spend money on infrastructure
- Town is not an accident – rather, a concerted effort to create a place

STAFF REPORT

TO: Planning Board

FROM: Holly B. White, Principal Planner

DATE: December 4, 2015

SUBJECT: Update on Coastal Resiliency and Sea Level Rise Project with Sea Grant

Sea Grant staff visited Nags Head in August and September to conduct stakeholders interviews about coastal resiliency and sea level rise.

On December 7 & 8, these stakeholders and the public are invited to attend a workshop where participants will learn more about how sea level rise impact Nags Head. Participants will then be broken out into groups where they will explore how the Town and its residents can reduce negative impacts. At the close of the two day workshop, Sea Grant staff will present a summary of findings from the workshop and potential next steps.

Attached is the invite that went out via email to participants about the December 7th & 8th workshop and an FAQ sheet staff developed with Sea Grant about the project.

What can the Town of Nags Head and its residents do to become more resilient to inclement weather and coastal hazards, including sea level rise, in the future? We need YOUR help to find local ideas for local solutions!

YOU are invited to participate in a two part workshop on Monday, December 7th from 5-8 pm and Tuesday, December 8th from 10am -1pm.

The Town of Nags Head is partnering with North Carolina Sea Grant, NC State University, and the UNC Coastal Studies Institute (CSI) to explore how sea level rise might impact the Town's infrastructure and resources in the future. Scientists from UNC CSI will give a brief presentation on sea level science and how it could potentially affect the Town on Monday, December 7th. Participants will then be broken out into smaller groups where trained NC Sea Grant facilitators will guide them through a process to document local knowledge about the future impacts of coastal hazards on the Town of Nags Head. Participants will also explore how the Town and its residents can reduce negative impacts and take advantage of any benefits to changes.

During the closing portion of the workshop from 11:45 am – 12:45 pm, the group will review the "meeting products" that include real-time diagrams of the scenarios each breakout group creates as well as an initial list of actions the Town of Nags Head can explore in greater detail in the future.

Please come prepared to participate! The workshop is open to the public but we do ask that you RSVP to Jessica Whitehead (j_whitehead@ncsu.edu or (919) 515-1686) prior to 5 pm December 3. Your RSVP will allow us to make sure we have appropriate staffing to cover the sessions and enough food and coffee to fuel this interactive process.

As with any other public meeting conducted as part of a local planning process, the information you offer as part of the scenario-building workshop will not be confidential. It will be public knowledge and recorded in meeting minutes. North Carolina Sea Grant will also have a voluntary pre and post workshop survey available, and will appreciate you providing your confidential feedback to help them improve future programs.



Pursuing Coastal Resiliency



The Town of Nags Head is partnering with NC Sea Grant to assist the Town in exploring how coastal hazards, including sea level rise, might impact the Town, its infrastructure, economy, and ability to provide services in the future.

Why should the Town consider becoming more resilient to coastal hazards?

Coastal hazards like hurricanes, nor'easters and erosion currently affect the Town of Nags Head, and the Town is taking actions to reduce the negative impacts of these hazards on the people who live, work, and play here. Over the past 10 years, the State of North Carolina also has begun to study how sea level rise and climate change may impact our coast in the future. Will the current actions from the Town of Nags Head and its residents to reduce damage from coastal hazards like storm surge be enough to cope with the range of future sea level scenarios? If not, what additional actions can the Town and residents take to be more prepared?

To begin identifying how proactive actions could increase resilience, the Town of Nags Head has invited North Carolina Sea Grant to conduct a project that explores how sea level rise might impact the Town, its infrastructure, economy, and ability to provide services.

In order to consider a broad range of possible options, this process will focus on local community knowledge and perspectives on **adaptations** to potential hazards- including sea level rise.

What are adaptations?

Adaptations are actions that help the community and ecosystems prepare for and adjust to new conditions brought on by future sea level rise and climate change. Adaptation can be *protective* (i.e., reduce harm from the negative impacts of hazards) or *opportunistic* (i.e., take advantage of any beneficial effects of climate change).

Sea Grant will lead stakeholders through a process to integrate their local knowledge with scientific expertise from UNC's Coastal Studies Institute to productively discuss protective and opportunistic adaptations that will make Nags Head more resilient to future sea level rise.

Why is it important to be resilient?

A *resilient* Nags Head means that the Town and its residents:

- Withstands, responds to, and recovers rapidly from disruptions without long-term damage to the economy or environment;
- Requires less government funding to recover, rebuild and redevelop its communities; and
- Sustains the way that natural systems provide *ecosystem services* that directly or indirectly support human survival and quality of life.



Pursuing Coastal Resiliency



The Project Process

The process is a hybrid of research and public outreach. The research components of the project — interviews, collection of workshop notes, and pre-workshop and post-workshop evaluation surveys — have been reviewed by North Carolina State University's Institutional Review Board.

Project steps include:

1. *Development of an initial assessment of the existing plans and processes relevant to sea-level rise and coastal hazards in Nags Head (May to September 2015).*
 - o Review of relevant plans for Town of Nags Head.
 - o Conduct initial interviews with community stakeholders, town staff, elected officials, and other Town advisory boards. These interviews help Sea Grant begin to understand what areas of the Town could be most affected by sea level rise and climate change as well as the priority of how associated issues should be addressed. Through local knowledge gained from the stakeholder interviews, Sea Grant gains valuable information to be shared at the participatory workshop described below.
2. *Work with community members to identify an initial broad list of adaptation options to be explored (December 2015 – March 2016).*
 - o Facilitate a two-part public participatory workshop on December 7 and 8 with a group of Nags Head town officials, staff, and community members. Attendees will work together to build scenarios of how adaptations may improve Nags Head's resilience to weather and climate hazards, despite sea level rise. This workshop will use the Vulnerability, Consequences, and Adaptation Planning Scenario (VCAPS) process to help attendees create adaptation scenario diagrams: www.vcapsforplanning.org.
3. *Prepare a report for the Town of Nags Head that will be used in planning for the future, identifying areas that may need additional research, and provide continuing support for exploring and implementing options (March 2016).*

Are other communities doing this?

This project and process are modeled after a similar process in Beaufort, SC. The South Carolina Sea Grant Consortium and North Carolina Sea Grant, with other partners, assisted Beaufort County, S.C., to follow up on needs identified in the 2010 Beaufort County Comprehensive Plan for more localized information on sea level rise and response options: www.sites.google.com/site/beaufortslr/home. That process used interviews, a series of VCAPS-based stakeholder group meetings and facilitated workshops, and public workshops to produce a report. The document synthesized the science most relevant to Beaufort County impacts, outlined 23 priority adaptation options proposed by Beaufort County stakeholders, and provided context on other communities' experience with similar adaptation options. Beaufort County, S.C. can now use this report as they update their Comprehensive Plan.



Pursuing Coastal Resiliency



What is North Carolina Sea Grant's role?

Sea Grant will help the Town understand different perspectives of staff and stakeholders on how sea level rise will affect public infrastructure, long-term planning, zoning and ordinances, local businesses, and more. Sea Grant also will suggest adaptive actions that the Town and its residents could consider to increase resilience.

Sea Grant does not have a stake in the decision-making process or the outcomes of these processes for Nags Head. Our role is to help Town officials and residents generate potential adaptation ideas and to facilitate discussion about the benefits and disadvantages of these options. Sea Grant will not make recommendations on which options, if any, the Town of Nags Head should pursue.

Those adaptation decisions are best left to Nags Head's residents and stakeholders, but Sea Grant will continue to serve as a resource to support the community as it considers, and potentially implements, options.

For more information on this project contact:

NC Sea Grant

Jessica Whitehead- j_whitehead@ncsu.edu ~ 919.515.1686

Lisa Schiavinato- lschiav@ncsu.edu ~ 919.515.1895

Town of Nags Head

Holly White ~ holly.white@nagsheadnc.gov ~ 252.449.6041

STAFF REPORT

TO: Planning Board
FROM: Andy Garman, Deputy Town Manager
Kelly Wyatt, Deputy Planning Director and Zoning Administrator
DATE: December 8, 2015
SUBJECT: Continued discussion on landscape and buffering ordinance following Joint Workshop and Local Business Committee meeting

The attached ordinance related to commercial landscaping and buffering requirements has been revised based on a joint workshop held with between the Planning Board and the Local Business Committee on September 24, 2015 as well as follow-up review by the Local Business Committee from its October 15, 2015 meeting. The ordinance relies on a new vegetation planting guidelines document which includes a recommended plant list broken down by appropriate planting zones. The revised draft ordinance is based on the following purposes and framework:

Draft Nags Head Landscaping and Buffering Ordinance

Purposes

- To buffer incompatible uses
- To soften the appearance of commercial parking lots and sites
- To provide natural/native and locally adaptive landscaping (non-invasive)
- To enhance community aesthetics
- To encourage/require landscaping that will grow well where it is proposed
- To provide flexibility for owners to design natural landscapes and less focus on specific spacing requirements. Planting plans will include a specific number of required plantings, a mixture of sizes, and must ensure that some of the vegetation is visible from the street and contributes to overall community appearance.

Framework

- Ordinance would require landscaping or preservation of vegetation for commercial sites.
- Emphasis on preserving existing vegetation (this is weighted in meeting the requirement). Only clear what is necessary during construction and this must be approved during site plan review.

- Menu of allowable plant types would be based on a set of guidelines that would exist outside the ordinance (which could be modified without the need for code amendments).
- Guidelines would include a plant list broken down by planting zones (beach, highway, soundside). Not all plans would be the same. A beach road plan would be different than a highway plan. Plant material required along the beach road may focus on shrubs and grasses and less on trees. The list would specify size categories for plant material and plans must include a mixture of sizes. This list would also note evergreen species and a percentage of plants would need to be evergreen. Guidelines would include plant cluster diagrams appropriate for each zone. Designers could incorporate these into landscape designs.
- Property owners would need a plan for maintenance. Incentives would be included for irrigated sites.

The draft ordinance and plant list portion of the Town of Nags Head Vegetative Planting Guidelines has been attached for your review. Staff will still need to complete additional materials in the Guidelines including more detailed information on plant species as well as plant cluster diagrams that could be used by designers to develop landscape plans. Since the guidelines are not proposed to be part of the adopted town code, these items could continue to evolve beyond the adoption of the zoning amendment and plant list.

December 8th, 2015 Meeting Updates: Since your last meeting we have revised the following portions of the proposed zoning ordinance amendment:

- Section 48-483(a)(4) was revised to remove the 25 percent shrub planting requirement in the Beach Planting Zone in lieu of planting ornamental grasses.
- Section 48-483(a)(9) was revised to clarify that the number of plantings shall be reduced by 10 percent when drip irrigation is utilized.
- Section 48-371(g) was revised to reduce the tree caliper from 8-inches to 6-inches to provide consistency with our tree removal ordinance.
- Section 48-485(b)(1) has been eliminated in its entirety and replaced with the new planting chart.

Attachments:

- Draft commercial landscaping and buffering ordinance
- Draft Town of Nags Head Vegetative Planting Guidelines

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Nags Head (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the "Town's Zoning Ordinance") and has codified the same as Chapter 48 of the Town's Code of Ordinances (the "Town Code"); and

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

WHEREAS, a zoning ordinance text amendment was drafted by Planning Staff and initiated by the Planning Board as relates to landscaping and buffering requirements for commercial uses within the Town; and

WHEREAS, the Town finds that these text amendments are consistent with the goals, objectives and policies of the Town's adopted Land Use Plan, and that this action is reasonable and in the public interest; and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town's Zoning Ordinance and Town Code of Ordinances as stated below.

ARTICLE II. Construction.

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

ARTICLE III. Amendment of Zoning Ordinance.

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

PART I. That Section **Sec. 48-483. - Buffer regulations (a)**, be replaced in its entirety with the following language:

~~(a) *General requirements.* Any new use of land shall provide a buffer yard if required by this chapter in accordance with the following provisions:~~

~~(1) When a buffer yard of a minimum width of five feet is required, one row of planting material shall be required.~~

~~(2) When a buffer yard of a minimum width of ten feet is required, two rows of planting material at least four feet apart shall be required.~~

- (3) ~~Within each row all shrubs, forbs, and grasses shall be placed on five-foot centers and all trees shall be placed on ten-foot centers.~~
- (4) ~~At a minimum, 80 percent of the number of plants shall be locally adapted, live evergreen tree species that are a minimum height of three feet and one inch in diameter measured at one-half foot above grade when planted and are expected to reach or exceed the specified height in the required time period. The remainder of the buffer may be live forbs and shrubs that are a minimum height of one and one-half feet when planted and expected to reach or exceed the specified height in the required time period. The number of forbs shall not exceed five percent of the total number of plants.~~

(a) General requirements. Any new use of land shall provide a buffer yard if required by this chapter in accordance with the following provisions:

- (1) Buffer yards are defined as at least five feet wide. The total number of plants required by the table below shall be doubled for every five feet of required buffer width.
- (2) The table below defines the required number of plants for each 100 feet of buffer yard length according to planting zone.

Number and Type of Required Plants for each 100 feet of Buffer Yard Length			
Planting Zone	Trees	Shrubs	Ornamental Grasses/ Herbaceous Plants
Beach		30	50
Highway or Soundside	5	20	50
*The total number of plants required by this table shall be doubled for every five feet of required buffer width.			

- (3) Required species of plant material and appropriate planting zones are defined by the Town of Nags Head Vegetative Planting Guidelines, which can be obtained from the Town of Nags Head Planning and Development Department.
- (4) **Ornamental grasses that will grow to a mature height of at least three feet may be substituted for up to 25 percent of the required shrubs in the Beach planting zone at the rate of three plants per shrub.**
- (5) Except as otherwise specified herein, at a minimum, 50 percent of the number of plants shall be locally adapted, evergreen species. Trees shall be a minimum height of five feet and one inch in diameter measured at one-half foot above grade when planted and are expected to reach or exceed the specified height in the required time period. Shrubs shall be a minimum height of one and one-half feet when planted and expected to reach or exceed the specified height in the required time period.
- (6) Except where necessary to provide a commercial transitional protective yard or opaque screen to separate different land uses, clustering and/or random spacing of plants and trees is encouraged to produce a natural appearance in the landscape.

- (7) Landscaping plans are encouraged to include a variety of species to promote overall diversity of plant materials within the Town. Applicants may propose other plant material not included in the Town of Nags Head Vegetative Planting Guidelines if it can be demonstrated that it is equal to or exceeds the plant material in the Guidelines in terms of size, hardiness, and overall quality.
- (8) Landscaping plans must include installation specifications and a maintenance plan to address long-term viability of proposed landscaping.
- (9) Properties that provide for drip irrigation of landscape materials may reduce the overall buffering requirement, **number of plantings** by 10 percent.

PART II. That Section **Sec. 48-371. - Commercial design standards (g)** be amended as follows:

- (g) Open space preservation/landscaping requirements. Except when necessary to provide access to a site or to ensure the safety and security of people and property, any existing healthy trees that are 6 inches or greater in caliper, located within a public right-of-way or undeveloped required yard shall be retained unless approved for removal during site plan review. In addition, every reasonable effort shall be made to protect and retain existing trees and shrubs not actually lying in planned roadways, drainageways, building foundation sites and construction activity areas.

~~In addition to the above requirement,~~ All permitted and conditional uses, except for those located in the C-3 commercial services district, for which site plan review is required by the Planning Board and site plan approval is required by the Board of Commissioners shall comply with one of the following requirements, or a combination of both using the ratios provided in the table below. The following requirements shall be applied separate of any required buffer yard, with the exception that preserved natural vegetation may be applied towards both.

PART III. That **Sec. 48-485. - Preservation of existing vegetation** be amended as follows:

- (a) The provisions of this subsection may be applicable only in instances where the site does not abut a residential use or district.
- (b) For uses which are required to install buffer yards in accordance with the provisions of this chapter, the number of trees, forbs, and shrubs required within the buffer yard may be satisfied through the preservation of significant specimens of existing native vegetation in accordance with the following provisions:
 - (1) Areas designated for the preservation of existing vegetation shall contain examples of significant native or locally adaptive vegetation, which may include, but shall not be limited to, combinations of trees, shrubs, forbs, and grasses that are listed in the ~~following table~~ Town of Nags Head Vegetative Planting Guidelines.

Trees	Shrubs & Forbs	Grasses and Dune Plants
Naturally Occurring	Naturally Occurring	Naturally Occurring

Eastern Red Cedar (<i>Juniperus virginiana</i>)	Northern Bayberry (<i>Myrica pensylvanica</i>)	American Beachgrass (<i>Ammophila breviligulata</i>)
Live Oak (<i>Quercus virginiana</i>)	Southern Wax Myrtle (<i>Myrica cerifera</i>)	Seashore Elder (<i>Iva imbricata</i>)
Loblolly Pine (<i>Pinus taeda</i>)	Yucca (<i>Yucca</i> sp.)	Sea Oats (<i>Uniola paniculata</i>)
Southern Red Oak (<i>Quercus falcata</i>)	Red Bay (<i>Persea</i> sp.)	Seaside Goldenrod (<i>Solidago sempervirens</i>)
Flowering Dogwood (<i>Cornus florida</i>)	Black Cherry (<i>Prunus serotina</i>)	Bitter Panicum (<i>Panicum amarum</i>)
American Holly (<i>Ilex opaca</i>)	Locally Adaptive	Locally Adaptive
Sweetgum (<i>Liquidambar styraciflua</i>)	Pittosporum, Green or Variegated (<i>Pittosporum tobira</i>)	Seaholly (<i>Eryngium maritimum</i>)
Yaupon Holly (<i>Ilex vomitoria</i>)	Oleander (<i>Nerium oleander</i>)	
Locally Adaptive	Pampassgrass (<i>Cortaderia selloana</i>)	
Japanese Black Pine (<i>Pinus thunbergii</i>)	Indian Hawthorne (<i>Rhaphiolepis</i> sp.)	
Saltcedar (<i>Tamarix ramosissima</i>)	Pyracantha (<i>Pyracantha</i> sp.)	
	Dwarf Yaupon Holly (<i>Ilex vomitoria</i> 'Nana')	
	Shore Juniper (<i>Juniperus conferta</i>)	
	Thorny Elaeagnus (Russian Olive <i>Elaeagnus pungens</i>)*	
	Evergreen Euonymus (<i>Euonymus japonicus</i>)	
	Wax Leaf Privet (<i>Ligustrum japonicum</i>)	
	Chinese Privet (<i>Ligustrum lucidum</i>)	

PART IV. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the ___ day of ____ 2015.

Robert C. Edwards, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted: _____

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS



TOWN OF NAGS HEAD VEGETATIVE PLANTING GUIDELINES

This vegetative planting guidelines document is designed to complement the requirements in Town Code Sections 48-370 and 48-371 related to residential and commercial design standards as well as Article XIII related to buffering requirements. Below is a description of the purpose and framework of the ordinance.

Purpose

- To buffer incompatible uses
- To soften the appearance of commercial parking lots, sites, and large structures
- To provide natural/native and locally adaptive landscaping (non-invasive)
- To enhance community aesthetics
- To encourage/require landscaping that will grow well where it is proposed
- To reduce air pollution by absorbing carbon dioxide and releasing oxygen
- To reduce erosion by dispersing and absorbing rainfall
- To reduce stream pollution by stabilizing soil and slowing, dispersing and absorbing storm water runoff.
- To reduce storm water runoff and the potential for flooding.
- Buffer and landscape trees and other plants also help reduce noise from auto traffic, glare from auto and other lights and help collect & reduce litter from reaching adjacent properties and roadways.
- To provide flexibility for owners to design natural landscapes and less focus on specific spacing requirements. Planting plans may include a specific number of required plantings, a mixture of sizes, and must ensure that some of the vegetation is visible from the street and contributes to overall community appearance.

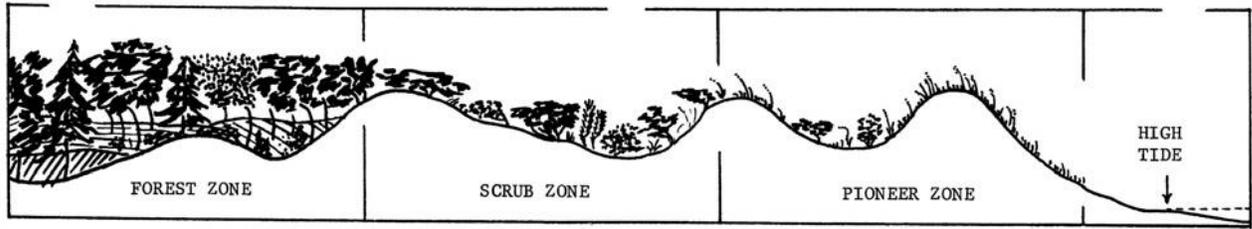
Framework

- The Town's ordinance requires landscaping or preservation of vegetation for commercial sites and for large residential dwellings.
- The emphasis is on preserving existing vegetation (this is weighted in meeting the requirement). For commercial sites, property owners should plan to clear only what is necessary for the construction of improvements and this must be approved by the Planning Board and Board of Commissioners during site plan review.
- The Town of Nags Head Vegetative Guidelines document includes a list of suggested plant types. Landscaping plans are required to include a mixture of trees, shrubs, herbaceous plants and groundcovers, and/or grasses based on a formula prescribed in the ordinance.
- The plant list is broken down by planting zones (beach and highway). Landscaping plans should include planting materials that are appropriate for the zone in which they are proposed (see cross section diagram below). For example, plant material required in the beach zone may focus on shrubs and grasses and less on trees.
- Additionally, the list identifies which plants are evergreen species. The ordinance requires a certain number of plants from each category and also requires a minimum percentage of evergreen species.
- This information is provided for reference purposes only. The Town of Nags Head makes no guarantee as to the heartiness or performance of listed plants in these areas; there are many other factors that will affect their survival.
- This guidelines document also includes cluster diagrams appropriate for each zone that designers may use to incorporate these into landscape designs. The cluster diagrams are designed to meet the town's requirements and include native plant materials.
- Property owners need to address maintenance as part of their landscaping plan. Since irrigation can be integral to the success and survival of plant material, the number of required plants may be reduced by 10 percent for sites with drip irrigation.

Sources of Information for the Attached Plant List.

The plant list provide herein has been compiled from the NC State Agricultural Extension Service, Dare County's Cooperative Extension for plant types specifically suited for Nags Head and Southeastern North Carolina. A substantial amount of information on plant type and suitability is available from the Extension Service Website.

Barrier Island Cross Section with Generalized Vegetative Zones



Excerpt from Seacoast Plants of the Carolinas – For Conservation and Beautification, UNC Sea Grant Program, February 1973

<p><u>Pine and hardwood or “forest” zone located on the leeward side of the island usually behind a dune ridge which provides protection from salt and wind;</u></p>	<p><u>Middle “scrub” zone usually starts behind the protection of the frontal dunes</u></p>	<p><u>“grass” or “pioneer” zone closest to the ocean with the most direct exposure to salt and wind</u></p>
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Barrier Island Cross Section with Generalized Vegetative Zones Excerpt from Seacoast Plants of the Carolinas – For Conservation and Beautification, UNC Sea Grant Program, February 1973.

The pine and hardwood or “forest” zone is typically located on the leeward side of the island usually behind a dune ridge which provides protection from salt and wind. This is most closely associated with the Nags Head Woods area of the Town. The middle “scrub” zone usually starts behind the protection of the frontal dunes between the “grass” or “pioneer” zone and the “forest” zone. The “grass” or “pioneer” zone is located closest to the ocean with the most direct exposure to salt and wind. Not listed in the above diagram is the salt marsh zone which is typically located along the sound shoreline between the high and low tide line.

The Town of Nags Head Vegetative Guidelines and associated ordinances describe two primary zones; the beach zone and the highway zone. This is based on the two primary areas where landscaping plans will be required within the Town. The beach zone is most closely associated with the grass or pioneer zone as depicted in the above barrier island transect. This will include areas along the oceanfront extending generally to the parcels fronting the western edge of NC 12 (South Virginia Dare Trail) and SR 1243 (South Oregon Inlet Road). Except for some exposed areas of the US 64/264 causeway, most other areas of the town will be included in the highway zone.

Purpose of this Plant List

The list attached is to be used as a guide for the reader only. The list of plants and shrubs included are not the only types of trees and shrubs that may be used to meet the requirements in the Town of Nags Head Zoning Ordinance for landscaping and buffering. The list only provides examples of plants that may be suitable for the locations on sites, where landscaping and plantings are required by the zoning ordinance. Many other types, species and varieties of plants can be used and are available. Plants for non-residential sites should be chosen that are low maintenance and adaptable to the conditions peculiar to the site. Landscape architects, local nurseries, plant suppliers, the NC Agricultural Extension Service or other available sources should be consulted when making a substantial investment in plant materials and installation. The wrong choice in plant type can result in considerable expense in replacement. Buffers and Landscaping required by the Zoning Ordinance must be maintained for the duration of the permit issued for the site and the use. Preservation of existing trees and vegetation around the perimeter of the site and other key locations on the site can save substantial financial resources. Advance planning prior to clearing of the site for development is suggested to save time and money. Early preparation of a site for any proposed development can preclude unnecessary expenditures for buffer and some landscape plantings by preserving existing vegetation on the site.

Town of Nags Head Vegetative Planting Guidelines

TOWN OF NAGS HEAD VEGETATIVE PLANTING GUIDELINES								
Plant Name	Height	Sun/Shade Tolerance	Moisture Requirements	Growth Rate	Scientific Name	Preferred Planting Zone	Ref. Page	
Trees, Evergreen								
Live Oak	6-40'	Sun	Medium	slow	Quercus virginiana	Highway & Soundside		
Eastern Red Cedar	10-25'	Sun	Medium	slow/mod	Juniperus virginiana	Highway & Soundside		
American Holly	10-20'	Sun	Medium	slow	Ilex opaca	Highway & Soundside		
Japanese Black Pine		Sun	Low	slow/mod	Pinus thunbergii	Highway & Soundside		
Redbay	10-40'	Sun/Shade	Low	slow/mod	Persea borbonia	Highway & Soundside		
Swamp Bay	10-30'	Sun	Medium	slow/mod	Persea palustris	Highway & Soundside		
Carolina Laurelcherry	10-20'	Sun/Shade	Medium	slow/mod	Prunus caroliniana	Highway & Soundside		
Cabbage Palmetto	15-30'	Sun/Shade	Medium	mod/rapid	Sabal palmetto	Highway & Soundside		
Trees, Deciduous								
Flowering Dogwood	20-30'	Sun/Shade	Medium	slow	Cornus florida	Highway & Soundside		
Devilwood/Wild Olive	15-25'	Sun	Low	mod	Osmanthus americanus	Highway & Soundside		
Black Cherry	10-60'	Sun/Shade	Low	mod	Prunus serotina	Highway & Soundside		

Town of Nags Head Vegetative Planting Guidelines

TOWN OF NAGS HEAD VEGETATIVE PLANTING GUIDELINES								
Plant Name	Height	Sun/Shade Tolerance	Moisture Requirements	Growth Rate	Scientific Name	Preferred Planting Zone	Ref. Page	
Crape Myrtle	10-40'	Sun/Shade	Medium	mod	Lagerstroemia indica	Highway & Soundside		
Shrubs, Evergreen								
Yaupon (regular and dwarf)	10-20'	Sun/Shade	Medium	slow	Ilex vomitoria	Highway & Soundside		
Japanese Pittosporum	6-10'	Sun	Medium	mod	Pittosporum tobira	Beach, Highway & Soundside		
Northern Bayberry	4-10'	Sun	Medium	mod	Myrica pensylvanica	Beach, Highway & Soundside		
Japanese Privet	4-16'	Sun	Medium	rapid	Ligustrum japonicum	Highway & Soundside		
European Privet	8-15'	Sun	Medium	rapid	Ligustrum vulgare	Highway & Soundside		
Inkberry	4-8'	Sun	Medium	slow	Ilex glabra	Highway & Soundside		
Southern Wax Myrtle	8-10'	Sun/Shade	Low	mod	Myrica cerifera	Highway & Soundside		
Yucca (Adamsneedle, Beargrass)	3-5'	Sun/Shade	Low	slow	Yucca filamentosa	Beach, Highway and Soundside		
Yucca (Moundlily)	6-15'	Sun/Shade	Low	slow	Yucca gloriosa	Beach, Highway and Soundside		
Evergreen Euonymus	10-15'	Sun/Shade	Low	mod	Euonymus japonicus	Beach, Highway & Sound		
Oleander	6-15'	Sun	Low	mod	Nerium oleander	Highway & Soundside		
Butcher's broom	2-4'	Shade	Low	slow/mod	Ruscus aculeatus	Beach, Highway and Sound		

TOWN OF NAGS HEAD VEGETATIVE PLANTING GUIDELINES								
Plant Name	Height	Sun/Shade Tolerance	Moisture Requirements	Growth Rate	Scientific Name	Preferred Planting Zone	Ref. Page	
Shrubby Yew Podocarpus	6-20'	Sun/Shade	Medium	slow	Podocarpus macrophyllus maki	Highway & Soundside		
Yeddo Hawthorn	4-8'	Sun/Shade	Low	slow	Rhaphiolepis umbellata	Beach, Highway and Soundside		
Shore Juniper	1-2'	Sun	Medium	rapid	Juniperus conferta	Highway & Soundside		
Banks Rose	1-4'	Sun	High	rapid, vining	Rosa banksiae	Highway & Soundside		
Rugosa Rose	4-6'	Sun	Medium	moderate	Rosa rugosa	Highway & Soundside		
Memorial Rose	1-2'	Sun	Medium	moderate	Rosa wichuraiana	Highway & Soundside		
Shrubs, Deciduous								
Chickasaw Plum	4-8'	Sun	Medium	slow/mod	Prunus angustifolia	Highway & Soundside		
Dwarf Witch Alder	2-4'	Sun/Shade	Low	slow	Fothergilla gardenii	Highway & Soundside		
American Beautyberry	4-6'	Sun/Shade	Medium	slow	Callicarpa americana	Highway & Soundside		
Spicebush	5-20'	Sun	Low	slow	Lindera benzoin	Highway & Soundside		
Pampassgrass	5-10'	Sun	Low	slow	Cortaderia selloana	Beach, Highway & Soundside		
Herbaceous Plants & Groundcovers								

Town of Nags Head Vegetative Planting Guidelines

TOWN OF NAGS HEAD VEGETATIVE PLANTING GUIDELINES								
Plant Name	Height	Sun/Shade Tolerance	Moisture Requirements	Growth Rate	Scientific Name	Preferred Planting Zone	Ref. Page	
Butterfly Weed	1-3'	Sun	Low	slow/mod	Asclepias tuberosa	Highway & Soundside		
Redring Milkweed	1-3'	Sun	Low	slow/mod	Asclepias variegata	Highway & Soundside		
Lanceleaf Coreopsis	1-2'	Sun	Low	mod	Coreopsis lanceolata	Highway & Soundside		
Purple Coneflower	2-4'	Sun	Low	mod	Echinacea purpurea	Highway, Soundside		
Joe Pye Weed	2-7'	Sun	Low	slow	Eupatorium fistulosum	Beach & Highway		
Woodland Sunflower	2-6'	Sun	Low	slow	Helianthus divaricatus	Highway & Soundside		
Sweet black eyed Susan	2-5'	Sun	Low	slow	Rudbeckia subtomentosa	Highway & Soundside		
Seaholly Eryngo	1-4'	Sun	Low	mod	Eryngium maritimum	Beach, Highway & Soundside		
Seaside Goldenrod	1-3'	Sun	Low	mod	Solidago sempervirens	Beach & Highway		
Blanket Flower	1-3'	Sun	Low	mod	Gaillardia pulchella	Beach & Highway		
Carolina Jessamine	vine	Sun	Medium	mod, vining	Gelsemium sempervirens	Highway & Soundside		
Trumpet Honeysuckle	vine	Sun	Medium	mod, vining	Lonicera sempervirens	Highway & Soundside		
Dustymiller	1'	Sun	Medium	mod	Artemisia stelleriana	Beach, Highway & Soundside		
Cypress Lavendercotton	1-3'	Sun	Low	slow	Santolina chamaecyparissus	Beach, Highway & Soundside		

TOWN OF NAGS HEAD VEGETATIVE PLANTING GUIDELINES								
Plant Name	Height	Sun/Shade Tolerance	Moisture Requirements	Growth Rate	Scientific Name	Preferred Planting Zone	Ref. Page	
Ornamental Grasses								
American Beachgrass	2-3'	Sun	Low	rapid	Ammophila breviligulata	Beach		
Sea Oats	2-6'	Sun	Low	mod	Uniola paniculata	Beach		
Switchgrass	3-5'	Sun	Medium	rapid	Panicum virgatum	Beach		
Bitter Panicum	3-5'	Sun	Low	mod	Panicum amaratum	Beach		
River Oats	2-3'	Shade	Medium	mod	Chasmanthium latifolium	Beach		
Purple Muhly Grass	2-4'	Sun	Medium	mod	Muhlenbergia capillaris	Beach		
Little Blue Stem	1-3'	Sun	Low	mod	Schizyachyruim scoparium	Beach		

FOR MORE INFORMATION

WEBSITE

For detailed information about each plant and to see imaged visit the Plant Fact Sheets on the NC Cooperative Extension Consumer Horticulture website: www.ncstate-plants.net

More fact sheets of recommended plants and other local garden and landscape information are available from the Dare County Cooperative Extension website at: <https://dare.ces.ncsu.edu/>

CONTACT COOPERATIVE EXTENSION

If you have questions about plant selection and maintenance, lawn care, vegetable gardening or plant pest problems call or visit your local North Carolina Cooperative Extension Office.

The Dare County Cooperative Extension Center is open 8:30am to 5pm, Monday – Friday and is located at: Dare County Center
517 Budleigh Street
Manteo, NC 27954
(252) 473-4290

For residents of other counties in North Carolina, find out how to contact your local Cooperative Extension Office at North Carolina Cooperative Extension.

STAFF REPORT

TO: Planning Board

FROM: David Morton, Chief Building Inspector/Floodplain Administrator
Holly B. White, Principal Planner

DATE: December 4, 2015

SUBJECT: Consideration of Ordinance Amendments to Chapter 22 Floods and Chapter 48 Zoning Concerning Free of Obstruction

Free of Obstruction is a terminology that is currently used in Chapter 22 Floods in Coastal High Hazard Areas and V zones to require elevated buildings to be “free and clear” below the lowest floor. However, free of obstruction is not defined to explicitly state what that means or how it should be applied.



Free of
Obstruction

After discussion with the Planning Board at their November 17th meeting, Staff proposes that Chapter 22 Floods be amended to reflect greater clarification as described below in the proposed text amendment. These proposed changes would formally adopt the internal policy currently utilized by staff. In order to make the necessary changes, the following sections of the code would need to be modified:

1. Chapter 20 Floods, Sec. 22-32. – Definitions: Add definitions for:
 - a. Free of Obstruction

- b. Lowest Horizontal Structural Member
- 2. Chapter 20 Floods, Sec. 22-35. - Provisions for flood hazard reduction.
 - (c) Coastal high hazard areas (zones VE).
 - a. Items 3 and 4- clarifications on the application of free of obstruction
- 3. Chapter 48- Zoning, Article 1- In General, Section 48-7. - Definitions of specific words and terms.
 - a. Amend definition of height to not penalize applicants for meeting free of obstruction

FEMA's rules require that structures in a VE flood zone (generally oceanfront) must be elevated on an open foundation (i.e., pilings). This allows floodwaters and waves to pass underneath the structure without resistance from the foundation or structural walls. The intent of the rule is to limit the occurrence of foundation failure due to wave action. Rather, the "free and clear" area under the structure would allow floodwaters to pass beneath the structure- not damaging the foundation. FEMA's Technical Bulletin, Free of Obstruction Requirements (2008), defines free of obstruction as two feet above finished grade. In addition, the building code requires one (1) foot of separation from the bottom of the girder to the finished grade. Based on all of this information, staff has been requiring that homes in the V zone be elevated a minimum of one (1) foot above finished grade and free and clear- even in cases where the existing grade is above regulatory base flood elevation. The proposed changes would essentially codify a standard that is currently being defined administratively.

Changes are being considered to the building height regulations in order to not penalize the height of structures for meeting the free and clear requirement. The height measurement would rely on the line established for free of obstruction for structures in a VE zone, rather than finished grade. Because height is measured from finished grade, the current application of free of obstruction requirement is potentially reducing the height of certain houses.

Also addressed in the proposed text amendment is a minor change to Chapter 22 Floods, Sec. 22-35. - Provisions for flood hazard reduction. (b) Specific standards, (5) Elevated Buildings and (7) Accessory Structure. Staff proposes to change the limit of enclosed space below an elevated building in an AE flood zones to 299 square feet from 300 square feet. Staff is requesting this change because it affords the Town the opportunity to gain additional CRS points that we are currently not receiving. There is approximately 100 points available if we limit the enclosed areas beneath a structure to no more than 299 square feet. Currently, our ordinance states that enclosed areas cannot exceed 300 square feet.

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Nags Head (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the "Town's Zoning Ordinance") and flood ordinance. The Town has codified the same as Chapter 48 of the Town's Code of Ordinances (the "Town Code"); and Chapter 22 of the Town's Code of Ordinances (Floods).

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

WHEREAS, ordinance text amendments have been drafted by Planning Staff and initiated by the Planning Board as relates to free of obstruction, enclosures, and height; and

WHEREAS, the Town finds that these text amendments are consistent with the goals, objectives and policies of the Town's adopted Land Use Plan, and that this action is reasonable and in the public interest; and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend Chapter 22- Floods and Chapter 48 Floods as stated below.

ARTICLE II. Construction.

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

ARTICLE III. Amendment of Zoning Ordinance.

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

PART I. That Chapter 22 Floods and Chapter 48- Zoning, be amended as follows:

Chapter 20 Floods Article II. – Flood Damage Prevention

Sec. 22-32. - Definitions.

Free of Obstruction- the required space below the lowest floor of an elevated structure, located in a coastal high hazard area or VE-zone, that must be open and designed to be free and clear to allow floodwaters to flow freely beneath the structure. The space below the lowest floor that is unobstructed shall be a minimum vertical distance of eighteen (18) inches measured from the bottom of the lowest horizontal structural member of the lowest floor to the highest finished

grade directly beneath the structure. Breakaway walls cannot be utilized to meet the free of obstruction requirement.

Lowest horizontal structural member means the lowest beam, joist, or other horizontal member that supports the building.

Sec. 22-35. - Provisions for flood hazard reduction.

“(b) Specific standards. In all special flood hazard areas where base flood elevation data has been provided as set forth in subsection 22-33(b), the following provisions, in addition to subsection 22-35(a) are required:

- (5) Elevated buildings. Fully enclosed areas of new construction and substantially improved structures, which are below the regulatory flood protection elevation:
 - a. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - b. Shall be constructed entirely of flood resistant materials, up to the regulatory flood protection elevation;
 - c. Shall, in zones AE, not exceed ~~300~~ 299 “square feet in area below the reference level with the exception of crawl space construction, and shall also include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;
- (7) Accessory structure. When accessory structures (sheds, detached garages, etc.) are to be placed in the floodplain, the following criteria shall be met:
 - a. Any portion of an accessory structure that has the floor located below the regulatory flood protection elevation shall not be used for human habitation, (including working, sleeping, living, cooking or restroom areas).
 - b. Any portion of an accessory structure that has the floor located below the regulatory flood protection elevation shall not be temperature-controlled.
 - c. Any portion of an accessory structure located below the regulatory flood protection elevation shall not exceed ~~300~~ 299 “square feet in area.”

(c) Coastal high hazard areas (zones VE). "Coastal high hazard areas are special flood hazard areas established in subsection 22-33(b), and designated as zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, in addition to meeting all requirements of this article the following provisions shall apply:

- (1) All new construction and substantial improvements shall:
 - a. Be located landward of the reach of mean high tide;
 - b. Be located landward of the first line of stable natural vegetation; and
 - c. Comply with all applicable CAMA setback requirements.
- (2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in coastal high hazard areas to satisfy the regulatory flood protection elevation requirements.
- (3) All new construction and substantial improvements", including properties with elevations above the regulatory flood protection elevation, "shall have the space below the lowest horizontal structural member~~floor~~ free of obstruction so as not to impede the flow of flood waters, with the following exceptions: Open wood latticework or insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with subsection 22-35(b)(5)d. Design plans shall be submitted in accordance with subsection 22-34(c)(6)c.
- (4) All new construction and substantial improvements shall be securely anchored" to an open "pile or column foundation"s to allow floodwaters and waves to pass beneath the structure. "All pilings and columns and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components."

Chapter 48- Zoning, Article 1- In General, Section 48-7. - Definitions of specific words and terms.

"*Height* means the vertical distance measured from the tallest part of a building to the lowest ground elevation at the base of the building (finished grade; typically, the top elevation of the driveway or ground floor concrete slab). Height may be measured using the average finished grade at the four corners of the building where fill has not been used to elevate the building.

In any AE or VE "special flood hazard area, height will be measured from the regulatory flood protection elevation or finished grade, whichever is higher."

In coastal high hazard areas or VE zones height shall be measured from regulatory flood protection elevation or in cases where the finished grade elevations are above regulatory flood protection elevation, height shall be measured 18 inches above the highest finished grade directly beneath the structure.

Sec. 48-447. - Soundside Residential Dwelling Overlay District

- “(f) *Building design.* In addition to the applicable standards of section 48-370, residential design standards, the following standards are encouraged for all single-family dwellings:
- (1) Residential structures that have a ground floor elevation that is less than four feet above the required base flood elevation (BFE) should be piling supported. Ground floor enclosures of a piling supported residential structure should not exceed” ~~300~~ 299 “square feet of enclosed storage.”

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the ___ day of ____ 2015.

Robert C. Edwards, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney
Date adopted: _____
Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: _____ AYES _____ NAYS

STAFF REPORT

TO: Planning Board
FROM: Andy Garman, Deputy Town Manager
Kelly Wyatt, Deputy Planning Director and Zoning Administrator
DATE: December 5, 2015
SUBJECT: Update on revisions to the Town's sign ordinance to ensure content neutral language.

Included in your packet is a draft of comprehensive revisions to the sign ordinance to incorporate content neutral standards. The revisions are extensive and will need to be thoroughly explained at the upcoming meeting. The primary changes involve revised standards for temporary signs in residential districts. This includes new language for the regulation of construction signs, for sale signs, as well as other signs associated with limited duration activities which may occur on residential properties.

The Planning Board will note that modifications to previous language pertaining to for rent signs has also been incorporated into the ordinance. Staff will need to discuss with the Planning Board how these new standards will affect existing signs that do not meet these provisions.

A substitution clause has been added which allows a non-commercial message to be substituted anywhere the town allows business or commercial signage. Since non-commercial speech is generally afforded a higher level of protection by the courts, this provides a level playing field between non-commercial and commercial speech within our ordinance. Finally, a severability has also been added to ensure that the ordinance remains enforceable should a court strike down an individual provision within the ordinance.

Attachment:

Draft sign ordinance revisions

Sec. 48-7. - Definitions of specific words and terms.

Sign. Any surface, fabric or device bearing lettered, pictorial or sculptured matter designed to convey information visually and exposed to public view, or any structures, including billboard or poster panel, designed to carry visual information.

- (1) Bulletin board. A sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center or similar noncommercial places of public assembly.
- (2) Business sign. A sign which directs attention to a business, profession or industry located upon the premises where the sign is displayed, to type of products sold, manufactured or assembled, and/or to service or entertainment offered on said premises; but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises. Prior to the issuance of a certificate of completion a business sign may be erected on a premises provided a site plan has been approved by the town and the required building permit(s) has been issued.
- ~~(3) Construction sign. A sign used to advertise the general contractor, contractor, subcontractor, architect, landscape architect, or other such professional persons or organizations engaged in or associated with the lawful construction, alteration, remodeling or demolition of any building or use. The name, logo, symbol, or other printed expression of a business under construction may be included on the sign provided the expression is printed in accordance with subsection 48-283(3).~~
- ~~(4) Directional sign. A sign which contains only the name of the establishment to which direction is given and directional information.~~
- ~~(5) Identification sign. A sign used to identify only: the name of the individual, family, organization or enterprise occupying the premises; the profession of the occupant; the name of the building on which the sign is displayed.~~
- ~~(6)~~(4) Noncommercial sign. A sign structure designed and intended to promote, support, call attention to or give notice to a cause, nonprofit and noncommercial service, or political message of an individual, charitable organization, political group or other entity.
- ~~(7) Outdoor advertising sign and structure. A sign and structure which directs attention to a business, commodity, service or entertainment conducted, sold or offered:
 - ~~a. Only elsewhere than upon the premises where the sign is displayed; or~~
 - ~~b. As a minor or incidental activity upon the premises where the sign is displayed~~~~
- ~~(8)~~(5) Flag (non-advertising, non-informational). A piece of fabric or other flexible material attached to a freestanding flag pole or other permanent pole structure solely containing distinctive colors, patterns, standards, words, or emblems used as either a symbol of an organization or entity or as an ornamental feature, including but not limited to flags of the United States, North Carolina, county or municipal jurisdictions,

foreign nations having diplomatic relations with the United States; flags of any religious, civic or fraternal organization, or any educational or cultural facility; and/or any other flags adopted or sanctioned by the board of commissioners. Flags shall be permitted in all districts on developed lots, provided that the following conditions are met:

- a. Such flags are displayed on permanent pole structures or other mounting surfaces.
- b. Flag poles shall not exceed 35 feet in height above the road grade, except in accordance with section 48-81 exclusion from height limitations.
- c. The size of the flag shall be no greater than six feet by ten feet however, this size restriction shall not apply to the flag of the United States of America.
- d. The number of flags shall be limited to one flag for every 20 linear feet of street frontage.

~~(9)~~(6) Flag sign. A sign made of fabric, plastic, or similar material and displayed as a flag on a flag pole. Flag signs shall not exceed 24 square feet in area and 35 feet in height above the road grade, and shall be allowed only on freestanding flag poles.

~~(10) Time and temperature display. An LED portion of a freestanding sign that is dedicated to displaying time and temperature only, without electronic advertising matter, and meets the following criteria:~~

- ~~a. The display area does not exceed 15 percent of the total sign area.~~
- ~~b. The display consists of numbers comprised from amber LEDs on a black background.~~
- ~~c. The display shall incorporate dimming technology based on ambient light levels.~~
- ~~d. Number height shall not exceed 14 inches in height.~~
- ~~e. Time and temperature information shall not change or alternate less than every three seconds.~~

Sign area means the area of signs composed, in whole or in part, of freestanding letters, devices or sculptured matter not mounted on a measurable surface shall be construed to be the area of the least square, rectangle or circle that will enclose the letters, devices and/or sculptured matter. The area of a double-faced sign shall be the area of one face of the sign, provided that the two faces are of the same size and are parallel to one another with no more than 24 inches between each sign face.

ARTICLE VIII. - SIGNS AND OUTDOOR ADVERTISING STRUCTURES

Sec. 48-281. - Intent of article.

~~It is the intent of this article to protect the visual attractiveness and community character of the town by controlling the number, area and location of signs in all zoning districts. The~~

~~regulations of this article are designed among other purposes to maintain a balance between the need to preserve and enhance the visual integrity of the town while recognizing the contribution appropriate signage offers towards promoting tourism, commerce and economic development.~~

It is the intent of this article to balance the need to protect the public safety and welfare; the need for a well-maintained and attractive community; and the need for adequate identification, communication, and advertising. The regulations for signs have the following specific objectives:

- (1) To ensure that signs and awnings are designed, constructed, installed, and maintained according to minimum standards to safeguard life, health, property, and public welfare.
-
- (2) To allow and promote positive conditions for sign communication while at the same time avoiding nuisances to nearby properties.
-
- (3) To reflect and support the desired character and development patterns of the various zones, overlay zones, and promote an attractive environment.
-
- (4) To allow for adequate and effective signs in zoning districts of the town while preventing signs from dominating the appearance of the area.
-
- (5) To ensure that the constitutionally guaranteed right of free speech is protected; and
-
- (6) To avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and the community's appearance.

The regulations allow for a variety of sign types and sizes for a site. The provisions do not ensure or provide for every property or business owner's desired level of visibility for the signs. The sign standards are intended to allow signs to have adequate visibility from streets and rights-of-way that abut a site, but not necessarily to streets and rights-of-way farther away.

Sec. 48-282. - General regulations.

All signs or outdoor advertising structures shall be erected, altered and maintained in accordance with the following provisions:

- (1) Permit required. No sign shall hereafter be erected or attached to, suspended from or supported on a building or structure, nor shall any existing sign be structurally altered, remodeled or relocated until a building permit for same has been issued by the planning and development department. A permit is not required for the following signs:
 - a. Signs not exceeding three square feet in area.

- b. Temporary ~~real estate signs, except real estate directory signs (section 48-283(1)(d)).~~ except as required for signs listed in section 48-283(1)(d).
 - c. Noncommercial signs.
 - ~~d. Temporary construction signs.~~
 - ~~e.~~ d. Directional signs.
 - ~~f.~~ e. An existing sign in which only the message is changed and involves no structural modification to the structure.
- (2) Material and design. All signs shall be constructed and designed according to generally accepted engineering practices to withstand wind pressures and load distribution as specified in section 1205 of the state building code, as amended.
- (3) Inspection.
- a. Each sign subject to the regulations of subsection (1) of this section may be subject to an annual inspection by the building inspector for the purpose of ensuring that the sign is maintained in a safe condition. Any fee for the annual inspection shall be in accordance with a regularly adopted fee schedule of the town.
 - b. When a sign or a structure supporting a sign becomes structurally unsafe, the building inspector shall give written notice to the owner of the premises on which the sign is located that the sign shall be made safe or removed within ten days of receipt of such notice.
- (4) Continuing violations. After a notice of violation, warning citation or civil citation has been issued, any re-erection or display, within a 12-month period, of the same sign or the erection or display of a substantially similar sign which is in violation of this chapter on the same premises shall be considered a continuance of the original violation.
- (5) Illuminated signs. All signs in which electrical wiring and connections are to be used shall require a permit and shall comply with the electrical code adopted by the town and be inspected and approved by the building inspector. All illuminated signs shall comply with the provisions of article IX of this chapter, outdoor lighting.
- (6) Prohibited signs.
- a. ~~No sign shall be located within a public right of way except for street identification signs, municipal district signs placed by town staff, and official traffic control signs.~~ It shall be unlawful for any person, except a public officer or employee in the performance of his public duty, to affix, post, paint, nail, fasten, place, or locate any sign, card, banner, handbill, poster, or advertising or notice of any kind, or cause the same to be done, upon public streets, highways, public right-of-way or any publicly owned or maintained property within the Town of Nags Head, or upon any curbstone, traffic control device, street sign, hydrant, fence, guardrail, or any other structure situated within any such areas or to affix the same to a wire or

appurtenance thereof, except as may be authorized by the ordinances, laws, or regulations of the Town of Nags Head, the State of North Carolina or the United States.

- b. No sign shall be erected or maintained which is a copy or imitation of an official highway sign and carrying the words "STOP" or "DANGER."
- c. No sign, business sign or outdoor advertising structure shall be erected which contains, employs or utilizes lights or lighting which rotates, flashes, moves or alternates; except that time and temperature displays, as defined, are permitted but must be included in computing allowable signage. Continuous printout, running or ticker-tape type message panels or signs are prohibited.
- d. No sign shall be erected which contains rotating sign panels.
- e. No sign shall obstruct visibility at an intersection or driveway as regulated in section 48-79.
- f. No sign shall be posted on any telegraph, telephone or electrical light pole or on any tree along any street.
- g. No sign shall be permitted that obstructs ingress and egress to any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any room or building.
- h. No sign shall be permitted that violates any provision of any law of the state relative to outdoor advertising.
- i. All outdoor advertising signs or structures are prohibited.
- j. Signs supported in whole or in part by water, air or gas are prohibited.
- k. No ~~real-estate~~ sign on property abutting a public trust area shall be directed toward any public trust area as defined by CAMA.
- l. All pennants are prohibited, effective December 6, 1995.
- m. Use of exposed neon, argon, krypton, or similar gas tube lighting shall be prohibited in all manners except as provided in section 48-284(2)e.
- n. Tourist-oriented directional sign (TODS).
- o. Three dimensional sculptured objects and pictorial devices attached to and extending more than 12 inches beyond any wall or roof of a building in business use. Attached sculptured objects and pictorial devices extending 12 inches or less from a building wall or building roof shall be classified as a business wall sign or roof sign and shall be subject to all regulatory requirements of this chapter pertaining to such signs.
- p. Roof signs within the SPD-C, Village at Nags Head C-1, C-2, hotel and institutional districts.
- q. LED and digital signs.

Sec. 48-283. - Signs permitted in residential districts.

Signs permitted in R-1, R-2, R-3, SPD-20, SED-80 and SPD-C districts are as follows:

- (1) Temporary ~~real estate~~ signs. Temporary ~~real estate~~ signs, ~~provided that such sign shall be located on the site it advertises, shall be~~ provided that they are neatly painted and maintained, and provided that they shall be removed when the property has been sold the activity or event associated with the property has ceased according to the criteria listed below. ~~These signs and shall not be illuminated.~~
 - a. ~~"FOR SALE" sign: One "FOR SALE" sign not to exceed six square feet in area shall be permitted to be placed on the site it advertises.~~
 - b. ~~"FOR LEASE" or "FOR RENT" sign: One "FOR LEASE" or "FOR RENT" sign not to exceed six square feet in area shall be permitted to be placed on the principal building it advertises. Such sign may be placed in the required front yard where the principal building it advertises is greater than 100 feet from the public right of way fronting the site.~~
 - c. ~~"OPEN HOUSE" sign: One "OPEN HOUSE" sign shall be permitted to be placed on the property or principal building it advertises. An agent for the sale of the property or building shall be present on the property when the "OPEN HOUSE" sign is being displayed. The one "OPEN HOUSE" sign as permitted under this section may take the form of either (i) a single freestanding sign not exceeding six square feet in area, (ii) a single banner placed on the building (excluding the roof) not exceeding 36 square feet in area, or (iii) a flag sign not exceeding 24 square feet in area.~~
 - d. ~~Where more than one dwelling unit exists on a site, the site may be advertised for sale or for rent utilizing one of the following methods:
 1. ~~One "FOR SALE" and one "FOR RENT" sign shall be permitted in accordance with the provisions of subsection (1)a and b of this section;~~
 2. ~~One "REAL ESTATE DIRECTORY" sign advertising the sale, rent or lease of such units shall be permitted in the required front yard. The maximum size of the directory sign shall be equal to one square foot of sign area per unit, plus 25 percent for decorative embellishments which shall include the street address of the property it advertises. However, in no case shall a directory sign exceed 36 square feet; or~~
 3. ~~One "FOR SALE" and one "FOR RENT" sign not exceeding ten inch by ten inch each shall be permitted to be affixed to the exterior of each detached dwelling unit, individual townhouse unit or individual duplex unit.~~~~
 - e. ~~For any vacant lot in a residential district which exceeds 100 feet in frontage, one additional square foot of sign area shall be allowed for every ten feet of frontage above 100 feet. No sign shall exceed 24 square feet in area or ten feet in height.~~

- a. One non-illuminated sign not to exceed six square feet in area shall be permitted on lots where an active, unexpired building permit has been issued by the Town of Nags Head. Such signs shall be removed within 30 days after the issuance of a certificate of compliance. In lieu of the provisions of this subsection, the property owner may elect to use one 32-square-foot, non-illuminated sign, which shall be removed within 30 days after the issuance of the certificate of compliance.
 - b. One freestanding, non-illuminated temporary sign shall be allowed up to six square feet in area on a site or property that is actively listed for sale. Where more than one dwelling units exist on a site or property that is actively listed for sale or for lease, the following signs may be erected:
 - 1. One freestanding sign shall be permitted in accordance with the provisions of subsection (1)a of this section; or
 - 2. One freestanding sign equal to one square foot of sign area per unit, plus 25 percent for decorative embellishments which shall include the street address of the property it advertises. However, in no case shall the sign exceed 36 square feet; or
 - 3. One sign not exceeding ten-inches by ten-inches each shall be permitted to be affixed to the exterior of each detached dwelling unit, individual townhouse unit or individual duplex unit.
 - c. At any time when a real estate agent is present on a property that is actively listed for sale, the following additional signs may be allowed:
 - 1. One additional freestanding sign up to six square feet in area
 - 2. A single banner placed on the building (excluding the roof) not exceeding 36 square feet in area, or
 - 3. A flag sign not exceeding 24 square feet in area
 - d. Signs or banners for individual vendors or sponsors associated with a special events permit or other use on a designated public events site, are permitted within the designated event site but must be directed internally to the event and not toward the exterior of property or along the beach, sound or roadway. Such signs shall not be located adjacent to the US 158 right-of-way or abutting property lines.
- ~~(2) Directional signs. Directional signs, provided that such signs shall be neatly painted and maintained, shall only convey directional information to a noncommercial establishment, site or facility and shall not be lighted except as provided as follows:~~
- ~~a. Temporary real estate directional signs, not exceeding two square feet in area, directing the way to premises which are for sale, rent or lease are permitted,~~

~~provided that such signs shall be neatly painted or printed and shall be removed promptly when the property has been sold, rented or leased.~~

- ~~b. Directional signs not over four square feet in area indicating the location of churches, schools, hospitals, parks, scenic or historic places, or other places of general interest. Such signs shall not exceed three feet in total height.~~
 - ~~c. Directional signs at municipal parks, playgrounds, designated public event sites and governmental (federal, state, local) facilities, not over 12 square feet in sign area indicating the location of offices, parking areas, recycling stations, and other facilities shall be permitted. The sign(s) may be illuminated in accordance with article IX of this chapter.~~
 - ~~d. Directional signs at hospital sites, not to exceed 48 square feet in sign area, indicating the location of onsite hospital and medical office facilities. The sign(s) may be illuminated in accordance with article IX of this chapter.~~
 - ~~e. Temporary yard sale directional signs, in accordance with chapter 12, article VI.~~
- ~~(3) Construction sign. Temporary, nonilluminated construction signs not to exceed six square feet in area shall be permitted, provided that such signs shall be limited to one to each organization involved and shall be removed within 30 days after the issuance of the certificate of compliance. In lieu of the provisions of this subsection, the general contractor may elect to use one 32 square foot, nonilluminated construction sign, which shall be removed within 30 days after the issuance of the certificate of compliance. Construction signs may include the name of the site or business under construction, provided that all text, including letters, logos, and symbols for the name of the site or business, are sized equal to or smaller than text, logos, or symbols provided elsewhere on the sign.~~
- ~~(4) Bulletin board sign. One name sign or bulletin board not to exceed 16 square feet shall be permitted for any church, school or other noncommercial institution, which sign or board may be indirectly lighted and shall be set back at least 15 feet from the front property line.~~
- ~~(5) Home occupation sign. A nonilluminated nameplate or professional sign not over one square foot in area and attached flat against the building shall be allowed in association with a home occupation.~~
- ~~(6) Identification sign. The following identification signs are permitted, provided that such sign shall be located on the site it identifies, shall be neatly painted and maintained and shall be limited only to announcing the name, owner and location of the site:~~
- ~~a. One identification sign per unit not to exceed two square feet in sign area shall be permitted for single family and two family sites.~~
 - ~~b. Two subdivision identification signs not to exceed 32 square feet each in sign area shall be permitted at the major entrance of the subdivision and may be illuminated.~~

- ~~c. One multifamily dwelling unit identification sign not to exceed 32 square feet in sign area shall be permitted, provided that such sign shall include the street address of the site it identifies and may be illuminated.~~
 - ~~d. Two public park identification signs not to exceed 48 square feet each in sign area shall be permitted at the major entrance to a public park, provided that such sign shall be located on the site it identifies, shall be neatly painted and maintained, and shall be limited to announcing the name, owner, location and hours of operation of the park. The sign may be illuminated in accordance with article IX of this chapter, outdoor lighting.~~
 - ~~e. One freestanding governmental (federal, state, local) and publicly owned identification sign not to exceed 64 square feet in sign area shall be permitted at the major entrance to a governmental or publicly owned site or designated public events site and may be illuminated in accordance with article IX of this chapter. Such sign shall not exceed ten feet in height and shall be limited to identifying only the name of the site and the advertisement of current and future meetings or events that are located entirely on the site. Where the property has frontage on both US 158 and NC 12 public right of ways, one freestanding sign not exceeding 64 square feet in area shall be permitted to be located adjacent to each public right of way. Where the property is on a corner lot with frontage on more than one public right of way, a maximum of two freestanding signs shall be permitted. One freestanding sign not exceeding 64 square feet in areas shall be permitted adjacent to the public right of way boundary of the designated front yard of the property. One freestanding sign not exceeding 24 square feet shall be permitted adjacent to a public right of way boundary of a designated side yard of the property. The freestanding sign permitted in the side yard shall be located no closer than 70 feet to the designated front yard public right of way boundary and installed so that the sign face is perpendicular to the side yard public right of way boundary.~~
 - ~~f. Identification signs or banners for individual vendors or sponsors associated with a special events permit or other use on a designated public events site, are permitted within the designated event site but must be directed internally to the event and not toward the exterior of property or along the beach, sound or roadway. Such signs shall not be located adjacent to the US 158 right of way or abutting property lines.~~
 - ~~g. One governmental (federal, state, local) building identification sign shall be permitted per building, not to exceed 12 square feet in sign area and shall be permanently attached to the building that it identifies. The sign may be illuminated in accordance with article IX of this chapter.~~
- ~~(7) Medical office sign. One freestanding sign per site, permanently located on the ground, which may be illuminated, and shall not exceed 24 square feet in sign area,~~

~~shall be permitted for a medical office. Any such sign and mounting shall not exceed ten feet in total height.~~

~~(8) Concession buildings. Concession buildings as an accessory conditional use to parks, shall be allowed one sign not exceeding 12 square feet in sign area and shall be permanently attached to the building where the concession activity occurs. The sign shall not be illuminated.~~

~~(9) Hospitals. Hospitals may have two square feet of sign area for each lineal foot of building frontage on U.S. 158 which may be used as wall signs, onsite directional signs, window signs, and one freestanding sign, provided that the freestanding sign shall not exceed 64 square feet in area nor more than 20 feet in height above street grade, and may be illuminated. Any authorized off-site directional signs shall not count against this allocation of signage.~~

(2) Permanent Signage

a. All properties shall be permitted to contain one sign not to exceed six square feet in area to be placed on the wall of the principal structure. Where the principal building is greater than 100 feet from the public right of way fronting the site, an additional sign may be placed in the front yard, meeting the following criteria:

1. The sign shall not exceed one and one-half (1.5) square feet in area.

2. The signs shall not exceed two (2) feet in height measured from the ground directly beneath the sign.

3. The sign shall be setback a minimum distance of five feet from the front or side lot lines and shall not create an obstruction to visibility for vehicles exiting the driveway.

b. One bulletin board not to exceed 16 square feet shall be permitted for any church, school or other noncommercial institution, which sign or board may be indirectly lighted and shall be set back at least 15 feet from the front property line.

c. One non-illuminated nameplate or professional sign not over one square foot in area and attached flat against the building shall be allowed at a residential property with an approved home occupation.

d. Identification signs. The following signs are permitted, provided that such sign is located on the site it identifies, is neatly painted and maintained:

1. One identification sign per unit not to exceed two square feet in sign area shall be permitted for single-family and two-family sites.

2. Two signs, which may be illuminated, may be placed at the primary entrance to a subdivision not to exceed 32 square feet each in sign area.

3. One sign, which may be illuminated, may be permitted at the site of a multi-family residential property not to exceed 32 square feet in sign area.

4. Two signs, which may be illuminated, may be permitted at the major entrance to a public park not to exceed 48 square feet each in sign area.
5. One freestanding sign, which may be illuminated, shall be permitted at the major entrance to a governmental or publicly owned site or designated public events site not to exceed 64 square feet in sign area. Such sign shall not exceed ten feet in height. Where the property has frontage on both US 158 and NC 12 public right-of-ways, one freestanding sign not exceeding 64 square feet in area shall be permitted to be located adjacent to each public right-of-way. Where the property is on a corner lot with frontage on more than one public right-of-way, a maximum of two freestanding signs shall be permitted. One freestanding sign not exceeding 64 square feet in areas shall be permitted adjacent to the public right-of-way boundary of the designated front yard of the property. One freestanding sign not exceeding 24 square feet shall be permitted adjacent to a public right-of-way boundary of a designated side yard of the property. The freestanding sign permitted in the side yard shall be located no closer than 70 feet to the designated front yard public right-of-way boundary and installed so that the sign face is perpendicular to the side yard public right-of-way boundary.
6. One sign, which may be illuminated, may be placed against the wall of a governmental building (local, state, or federal) not to exceed 12 square feet in sign area.
 - e. One freestanding sign, which may be illuminated, may be placed on the site of a medical office building not to exceed 24 square feet in sign area and ten feet in total height.
 - f. Hospitals may have two square feet of sign area for each lineal foot of building frontage on U.S. 158 which may be used as wall signs, signs adjacent to internal drive aisle not exceed 20 inches in height, window signs, and one freestanding sign, provided that the freestanding sign shall not exceed 64 square feet in area nor more than 20 feet in height above street grade, and may be illuminated.

Sec. 48-284. - Signs permitted in commercial districts and the commercial/residential district.

Signs permitted in the C-2, C-3, C-4 and CR districts are as follows:

- (1) All signs permitted in section 48-283, signs permitted in residential districts.
- (2) For each premises in business use, or for each commercial site for which the town has approved a site plan and has issued a building permit, three square feet of business sign area for each lineal foot of frontage on a public right-of-way shall be permitted not to exceed a total of 600 square feet. Such sign area may be in a single sign or in a combination of signs subject to the following limitations:

- a. Wall signs placed against the exterior front and side walls of a building shall be permitted, provided that they shall not extend more than 12 inches beyond the building wall surface and shall not exceed 20 percent of the exposed finished wall surface area including openings on the wall where it is placed. Wall signs shall not be permitted on the rear wall of a building except for (1) buildings located on property with frontage on both US 158 and either NC 12 or Wrightsville Avenue, and (2) for buildings containing multiple business uses where public entry to an individual business is limited solely to the rear of the building, (3) rear wall signs not visible from the street right-of-way and adjoining properties, and (4) rear wall signs, upon structures located adjacent to US 158, where not visible from any residential use or residentially zoned property.
- b. One banner not to exceed 36 square feet in sign area shall be permitted to be placed on the principal building (exclusive of the roof and rear wall) in business use. When a banner is used in combination with wall signs, the total banner and wall signage shall not exceed 20 percent of the exposed finished wall surface area including openings.
- c. Only one freestanding sign shall be permitted to be located permanently on the property and shall not exceed 64 square feet in area and shall not exceed 20 feet in height above street grade.

Where the property has frontage on both US 158 and NC 12 public right-of-ways, one freestanding sign not exceeding 64 square feet in area shall be permitted to be located adjacent to each public right-of-way.

Where the property is a corner lot with frontage on more than one public right-of-way, a maximum of two freestanding signs shall be permitted. One freestanding sign not exceeding 64 square feet in area shall be permitted adjacent to the public right-of-way boundary of the designated front yard of the property. One freestanding sign not exceeding 32 square feet in area shall be permitted adjacent to a public right-of-way boundary of a designated side yard of the property. The freestanding sign permitted in the side yard shall be located no closer than 70 feet to the designated front yard public right-of-way boundary and installed so that the sign face is perpendicular to the side yard public right-of-way boundary.

- d. Roof signs shall be permitted not to exceed ten feet in height above the roof or parapet wall and shall not exceed five percent of the total floor area of the building or 300 square feet in area, whichever is less. Roof sign displays shall only be directed to either the front or side of the property upon which it is located.
- e. Window signs shall be permitted to be placed only inside a commercial building and shall not exceed 25 percent of the glass area of the pane upon which the sign is displayed. Window signs of exposed neon, argon, krypton or similar gas tube lighting shall be permissible, provided that such signs shall not exceed 25 percent of glass pane area, and shall not exceed singly, or in combination 0.15-square-foot

per lineal foot of store frontage, not to exceed 20 square feet of sign area for any one store.

- f. One temporary sandwich sign shall be permitted to be located on the ground but shall not exceed ten square feet in area on each side and shall not exceed four feet in height. Such sign shall be placed on the premises of the business it advertises and shall be exhibited only during business hours of the establishment. The sign shall be anchored in such a way as to withstand wind action from all directions as required by the state building code, as amended.
 - g. One flag sign shall be permitted in accordance with the specifications listed in the definition for flag sign as described in section 48-7, definition of specific words and terms. The maximum freestanding signage shall not be increased in lieu of not flying a flag sign.
 - h. Outdoor stands shall be allowed one temporary sign attached to the stand. Such sign shall not exceed 15 square feet in area or extend above the roof of the stand. This sign area shall be exempt from the calculation of total commercial site sign area limitations imposed by this subsection.
- (3) In any vacant site in a commercial district, the following is allowed without a permit: One temporary ~~real estate~~ sign, not exceeding six square feet in area, shall be permitted ~~for the purpose of advertising the sale, rent or lease of the site~~, provided that such sign shall not be less than 15 feet from any street right-of-way or lot line, shall not be illuminated, ~~and~~ shall be neatly painted and maintained, and shall be related to the activity on the site which the sign is located. For lots which exceed 100 feet in frontage, one additional square foot of sign area shall be allowed for every ten feet of frontage above 100 feet. No sign shall exceed 32 square feet in area or 15 feet in height.

Sec. 48-285. - Noncommercial signs.

Noncommercial signs shall be permitted in all districts, except the Ocean and Sound Waters District, on vacant and developed lots, subject to the following limitations:

- (1) No sign shall exceed 16 square feet in area on each side.
- (2) No sign shall exceed ten feet in height above street grade.
- (3) The side yard and front yard setback from any property line shall be at least five feet. In the case of a corner lot, the sight distance requirement of section 48-79 shall be met.
- (4) Any symbols, letters or other identifying characteristics describing the sponsor of a noncommercial sign shall not exceed four inches in height and may not be repeated on the same face of the sign.
- (5) A noncommercial sign shall contain no commercial advertising or statements, logos, designs or trademarks designed or intended to promote or produce financial gain

other than donations for charitable organizations such as groups which are tax exempt pursuant to the Internal Revenue Code.

Sec. 48-286. - Exemptions.

Municipal portable message signs used for the display of public safety information and government regulatory information, and directional signage to public recreational destinations shall be exempt from the requirements of this article. The town manager shall review and approve all messages and all directional signage exempted by this section.

Sec. 48-287. – Severability Clause.

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this sign ordinance is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of the sign ordinance.

Sec. 48-288. – Substitution Clause.

Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.