
**Town of Nags Head
Planning Board
October 18, 2022**

The Planning Board of the Town of Nags Head met on Tuesday, October 18, 2022, in the Board Room at the Nags Head Municipal Complex.

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

Members Present

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

Members Absent

None

Others Present

Kelly Wyatt, Kate Jones, Andy Garman, Lily Nieberding

Approval of Agenda

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

Public Comment/Audience Response

None

Approval of Minutes

Chair Vaughan asked for a motion to approve the minutes of the September 20, 2022, meeting. David Elder moved to approve the minutes as presented; Molly Harrison seconded, and the motion passed unanimously.

Action Items

Consideration of Text Amendments to the Unified Development Ordinance as it pertains to clarifying and strengthening existing tree removal and preservation regulations

Deputy Planning Director Kate Jones explained that at the last Board of Commissioner's meeting Staff received direction from the Board to remove the tree bank as there were concerns that the Town did not have the ability to manage such a program at this time. The Commissioners did acknowledge that it was a good idea and something the Town may want to consider in the future. The other element that was removed was the limitations on pruning Live Oaks as it would be difficult to manage that.

Ms. Jones noted that the (Planning) Board has been talking about this topic for a while with the goal of strengthening the regulations that are already in place while making it manageable for Staff to enforce as well as clarifying the language.

Ms. Jones proceeded to review the proposed language changes:

Chapter 26 Offenses and Miscellaneous Provisions, Section 26-9, Official Town Tree

This section defines the Live Oak (*Quercus virginiana*) as the official town tree. Clarifies language regarding when a tree can be removed, how it relates to construction activities and how it works if you are not doing construction activity. The proposed language also adds four new sections regarding tree removal.

UDO Section 4.9 Development Permitting Requirements

Section 4.9, Development Permitting Requirements, Purpose, and Intent states that when developing one- and two- family dwellings removal of trees greater than 6-inches in caliper shall require a permit. This language was adopted as a means to address the clear cutting of lots that did not have yet have site plan approval. Staff revised this language to ensure there is no ambiguity with the original intent.

UDO Section 4.14 Administrative Adjustments

This section defines the process for minor adjustments to site plans through administrative (non-board approval). It is possible for staff to adjust setback areas up to 10% of total to avoid impacting trees, as well as adjust non-residential parking requirements up to two spaces. Staff is not suggesting any changes to this section, however, if the Planning Board feels changes are warranted to further support the preservation of trees, staff is open to discussion.

UDO Section 8.4 Development Standards for Special Districts

The SED-80, Special Environmental District. Section 8.4.3.4, Special Development Standards, regulates the removal of any tree greater than 4-inches in caliper measured at one foot above the ground. The removal of any tree with a caliper of 16-inches or greater is prohibited without special approval from the Board of Commissioners. The proposal clarifies some language.

SPD-20, Special Planning Development District. Section 8.4.2.2, Site Design Standards, regulates the removal of any tree greater than 4-inches in caliper measured at one foot above the ground. Trees greater than 4-inches in caliper shall only be removed if within the proposed building footprint, including decks and a 10-foot perimeter around the principal building and its accessory buildings, within vehicular accessways, within the septic drain field, and in areas where land disturbing has created slopes in excess of 3:1 in an effort to minimize erosion. The proposal clarifies some language.

Mr. Gwinn asked if it was possible to consolidate all the tree regulations into one section. Ms. Jones stated that once they get the language straight, they can consolidate everything into an Appendix to make it easier to find.

Chair Vaughan and Ms. Jones discussed pruning and what the term "topping" means; they may want to create a definition for the term and also noted they may discuss proper pruning techniques further in the Appendix.

Mr. Elder suggested that destruction should be further defined/clarified. Ms. Jones agreed, noting that one of the important changes with regards to destruction was to include all districts including the commercial ones under Section 26-9 Official Town Tree. Ms. Jones also noted that Staff does site visits prior to permitting any land disturbing activity.

Mr. Elder and the Board agreed that creating an Appendix would help make the UDO stronger. Chair Vaughan encouraged Staff to continue educating the public, including promoting the benefits of tree preservation.

Staff will bring back a Tree Preservation and Removal Guide for the Board to review.

Meade Gwinn moved to recommend approval of the proposed amendments as presented. Dave Elder seconded and the motion passed by unanimous vote.

Report on Board of Commissioners Actions – October 5, 2022

Planning Director Kelly Wyatt gave an update on recent Board of Commissioner Actions, of note: Two items under Consent Agenda – the Request for Public Hearing to consider Special Use/Site Plan Review submitted by Quible & Associates, P.C. for the construction of a Trade Center and the Request for Public Hearing to consider Special Use/Site Plan Review submitted by the Town of Nags Head for the redesign and construction of various Public Works facilities as a result of the Public Services Facilities Master Plan; Consideration of Site Plan submitted by House Engineering for construction of a four-story, 90-unit Hotel (Inn at Whalebone). The Board passed a motion to approve the Site Plan for the Inn at Whalebone Hotel with staff's condition that an approved subdivision plat be approved and filed at the Dare County Register of Deeds prior to the issuance of any development permits; finally the Board passed a motion to enact a moratorium on non-residential (commercial) building permits in the C-2 Commercial District for a period of time not to exceed 150 days for the area between Danube and Hollowell Streets, between US 158 and NC 12 so that staff can conduct a detailed review of the Town's Zoning Map and its consistency with the Town's Land Use Plan; this includes the scheduling of a Public Hearing on the moratorium for Wednesday, October 19, 2022 at 9 am.

Town Updates

None

Discussion Items

Request that the Planning Board Discuss and Consider initiation of a text amendment to the Flood Damage Prevention Ordinance as it relates to the existing requirements for V Zone Certification for all work conducted east of NC 12/1243, within Coastal High Hazard Areas (Zones VE).

Ms. Wyatt explained that this came about from discussions with a gentleman that is currently doing work in South Nags Head.

Article 11, Part III of the Unified Development Ordinance contains the Towns Flood Damage Prevention Ordinance. Following the adoption of the most recent FEMA Flood Insurance Rate Maps (FIRM), the Town adopted a Local Elevation Standard (LES), also referred to as the Regulatory Flood Protection Elevation (RFPE).

Within the Town of Nags Head, properties located to the east of NC 12 and SR 1243 are in an active oceanfront environment that is vulnerable to storm surge, erosion, sea level rise, and other hazards, therefore, the Regulatory Flood Protection Elevation is 12 feet NAVD 1988.

Section 11.43.5.6. states, "A V-Zone certification with accompanying design plans and specifications is required prior to issuance of a floodplain development permit within coastal high hazard areas.

As written, all development within the VE Zone Flood Zones (the areas east of NC 12 and SR 1243 due to the LES) require the submission of a V-Zone Certification and/or engineered drawings prior to issuance of floodplain permit and building permit. Ms. Wyatt noted that this requirement can be costly as a registered professional engineer or architect is needed for this certification and design plans/drawings.

Ms. Wyatt explained that in the case of the work that is being done in South Nags Head, the property owners are looking to do a small expansion to their deck and re-set their stairs; as part of this they will need to set new pilings. This work has kicked in the requirement for V-Zone certification and engineered drawings and therefore almost doubled the cost of the project.

Noting that no revisions or amendments would be considered that would negatively impact the Town's Community Rating System (CRS) participation, staff would like to research and explore any possibilities to ease the V-Zone Certification and/or engineered drawings requirements for small development jobs, such as the placement of pilings for stairs or landings, sistering pilings, etc.

After some discussion, the Board agreed that it would make sense for Staff to pursue this topic further. Mr. Gwinn noted that sometimes the high cost of doing something is what drives people to do work without permits. Ms. Lambert agreed, noting that it may also cause someone not to make a necessary repair and ultimately cause a safety hazard.

Planning & Development Directors Report, September 30, 2022.

Ms. Wyatt discussed her Director's Report to the Board which included: an update on the VSSS working group which met on September 28th and included a local contractor as guest speaker; an update on the Estuarine Shoreline Management Plan; NC Resilient Coastal Communities Program - Survey work and geotechnical work has been initiated in advance of the preliminary design work; EV Action Plan - staff is still compiling and reviewing all the information received including information on potential grant opportunities; ETIPP Program - The project team will be meeting on October 13th and will be providing final updates and next steps; Whalebone Park - Staff is working on the NCPARTF Accessibility for Parks (AFP) grant application which is due November 1st; the Dune Management Cost Share Program application period opens on Saturday, October 1st. Staff has updated the program website, online application form and program procedures to include the activities of planting, sand fencing and sand relocation; an update on Dowdy Park Holiday Markets and some other activities planned around the holidays.

Planning Board Members' Agenda

None

Planning Board Chairman's Agenda

None

Adjournment

A motion to adjourn was made by David Elder. The time was 9:43 AM.

Respectfully submitted,
Lily Campos Nieberding