



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Board of Commissioners

From: Michael Zehner, Director of Planning & Development
Kate Jones, Engineering Technician

Date: June 28, 2021

Subject: Consideration of adoption of Town of Nags Head Low Impact Development and Stormwater Reference Manual and Amendment of the Recommended Standard Details Manual (F-1a); Public Hearing to consider text amendments to the Unified Development Ordinance to update references in the Stormwater, Fill and Runoff Management Ordinance for regulatory reference manuals (F-1b)

OVERVIEW AND BACKGROUND

This agenda item includes two parts; the first is seeking the Board's adoption of the updated *Low Impact Development Manual and Stormwater Reference Manual* ("LID Manual"), along with adoption of the amended *Recommended Standard Details Manual* to remove the residential stormwater management references (which are now included within the LID Manual; the second is proposing text amendments updating various sections of the Stormwater, Fill and Runoff Management Ordinance of the UDO to reference the LID Manual as well as the updated *North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual*.

As noted in the forward to the LID Manual,

"In 2013, the Town of Nags Head began work with the N.C. Coastal Federation to develop a Low Impact Development manual as a reference document for local citizens and developers as part of Town efforts to improve stormwater management and as a technical resource for application of Town Stormwater regulations. This project is based on the LID manual for the coastal towns of Columbia, Cedar Point and Cape Carteret. The Town of Columbia worked in direct partnership with the N.C. Coastal Federation to complete an LID manual. The Town of Cedar Point worked in partnership with the Town of Cape Carteret, the N.C. Coastal Federation, engineering consultants WithersRavenel, N.C. Division of Water Quality and the LID Technical Review Team to complete the Cedar Point/Cape Carteret manual. We would like to thank these three communities and their partners for sharing their work and providing a model for us to follow.

In 2019, the Town of Nags Head initiated an update of the Low Impact Development Manual with assistance from the N.C. Coastal Federation to reflect modifications to the Town's residential stormwater management ordinance."

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As noted, the LID Manual was updated for consistency with amendments to the Town's residential stormwater regulations in 2018, and it is recommended that along with adoption of the LID Manual, and adoption of an amended *Recommended Standard Details Manual*, that amendments to the ordinance be adopted to reflect the LID Manual; additionally, references to the *North Carolina Stormwater Best Management Practices Manual (NCDEQ BMP Manual)* are outdated, and should instead refer to the *North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual*.

The Planning Board reviewed these recommended actions at their March 16, 2021 meeting. The Board discussed public awareness of the LID Manual, especially for those wanting to improve stormwater conditions that may not be subject to a permit, incentives associated with making stormwater improvements, and concerns associated with the long-term maintenance of stormwater control measures. Following discussion, the Planning Board voted 6-0 (with one member abstaining) to recommend approval of the proposed text amendments, which contemplated adoption of the LID Manual and amendment of the Recommended Standard Details Manual.

The Board of Commissioners originally considered these items at their meeting on May 5, 2021. The Board passed motions to continue consideration of both items and the public hearing to the meeting scheduled for July 7, 2021, pending discussions with homebuilders concerning the LID Manual and amendment of the Recommended Standard Details Manual. It should be noted that Staff updated the LID Manual to add former Commissioner John Ratzenberger and current Commissioner Kevin Brinkley to the acknowledgements.

On June 16, 2021, Mayor Cahoon, Planning Board Chair Megan Vaughan, Interim Town Manager Andy Garman, Director of Planning & Development Michael Zehner, Town Engineer David Ryan, Deputy Planning Director Kelly Wyatt, and Engineering Technician Kate Jones, met with homebuilders Tom Haddon and Jason James (a third homebuilder was invited but did not attend the meeting; additionally, Staff contacted Duke Geraghty with the Outer Banks Home Builders Association to make him aware of the meeting and to encourage him to communicate any input from the Association through Mr. Haddon and Mr. James). The intent of the meeting was two-fold: to discuss the update of the Town's LID Manual (and the associated changes to the UDO to change references), and to review and discuss the Town's residential stormwater regulations more broadly.

With respect to the LID Manual actions, following the meeting, Mr. Haddon acknowledged that it was mainly a "housekeeping" effort. With regard to the larger discussion on the residential stormwater regulations and processes, the group discussed the following points for future consideration by the Town:

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1. Work to make the application/worksheet process easier; consider providing the form online, making it interactive, with links to SCM cutsheets and additional information.
2. Work to provide education to the building community on the intent and goals of the regulations, as well as guidance on developing stormwater plans and making application.
3. Consider opportunities to offset costs to property owners for the implementation of stormwater plans/SCMs.
4. Consider opportunities for parity with neighboring lots that may not be required to provide stormwater plans/SCMs.
5. Consider opportunities to recognize existing neighborhood stormwater management.
6. Consider ways to reduce impacts to usable lot area; preferred options are usually more expensive.
7. Consider whether development with pilings accommodates more stormwater infiltration, and therefore requires fewer requirements.
8. Consider whether the grade of adjacent property can dictate fill limits and/or stormwater plan requirements.
9. Consider whether pools and small projects can be exempted from stormwater plan requirements based on existing conditions.
10. Consider whether the preservation of wetlands can be used to offset stormwater requirements.
11. Consider variable options for lots that are either significantly small or large.
12. Consider the added costs associated with the construction process, and that these costs are in excess of those seen in other towns.
13. Work to improve owner/client understanding of the requirements.

Staff would recommend continuing this larger discussion, including consideration of the 13 points, with the Planning Board, involving Mr. Haddon, Mr. James, and others, and return potential amendments to the Board if so directed.

CODE CONSIDERATIONS

Currently, multiple references exist (primarily in Sections 10 and 11 of the UDO) to the Town's *Stormwater Best Management Practices Manual, Recommended Standard Details Manual*, and the *North Carolina Stormwater Best Management Practices Manual*.

Code Sections that are to be updated are as follows: **10.12.3.2, 10.92.14.3., 10.95.2, 11.3.2.5, 11.5.2.3., 11.5.4.3.1.3., 11.9.1, 11.9.2, and 11.9.3.** (See section under Staff Recommendations for suggested changes)

Additionally, there are several applicable definitions within the UDO associated with these updates and the Town's regulations thereof, as follows:

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- **Low impact development solutions to reduce stormwater runoff, or the Town BMP manual**
- **North Carolina DEQ Stormwater Design Manual**
- **Permeable pavement**

(See section under Staff Recommendations for suggested changes.)

POLICY CONSIDERATIONS

The Town's 2017 Comprehensive Plan references the LID Manual, and the relationship to the Town's stormwater regulations. Additionally, the Plan includes a policy to "Educate and involve the public in stormwater management." Staff is of the opinion that adoption of the update LID Manual and amendment of the UDO to reference the same is consistent with the intent and policy goals of the Comprehensive Plan.

The LID Manual contains information that ensures a level of construction and performance consistency in stormwater control measures that are based on relevant practice and research. Additionally, it is important that the UDO accurately reflects current and relevant regulatory documents.

PLANNING BOARD RECOMMENDATION

At their March 16, 2021, meeting the Planning Board voted 6-0 (with one member abstaining) to recommend approval of the proposed text amendments, which contemplated adoption of the LID Manual and amendment of the Recommended Standard Details Manual.

STAFF RECOMMENDATION

Staff would recommend the Board's adoption of the *Low Impact Development Manual and Stormwater Manual, Second Edition - May 2021*. Additionally, Staff would recommend the Board's adoption of the amended *Recommended Standard Details Manual, Effective Date: August 5, 2015, Revised Date: May 5, 2021*.

With respect to the amendments to the UDO, Staff would recommend adoption of the following amendments:

- That Section 10.12.3.2. be amended to update the reference to the "NCDEQ BMP manual" to the "North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual".

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- That Section 10.92.14.3. be amended to update the reference to the “Recommended Standard Details Manual” to the “Low Impact Development Manual and Stormwater Reference Manual.”
- That Section 10.95.2. be amended to update references to the Town’s “Stormwater Best Management Practices Manual” and “North Carolina Stormwater Best Management Practices Manual (NCDEQ BMP Manual)”, to the “Low Impact Development Manual and Stormwater Reference Manual” and “North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual,” respectively.
- That Section 11.3.2.5. be amended to update references to the “North Carolina Best Management Practices Manual”, the “Town of Nags Head Best Management Manual”, and the “Town of Nags Head Recommended Standard Details Manual”, to the “North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual” and “Low Impact Development Manual and Stormwater Reference Manual,” respectively.
- That Section 11.5.4.3.1.3. be amended to update the reference to the “Recommended Standard Details Manual” to the “Low Impact Development Manual and Stormwater Reference Manual.”
- That Sections 11.9.1., 11.9.2., and 11.9.3. be amended to update references to the “Town of Nags Head Recommended Standard Details Manual” and “NCDEQ BMP manual”, to the “Low Impact Development Manual and Stormwater Reference Manual” and “North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual,” respectively.
- That the terms and definitions for “Low impact development solutions to reduce stormwater runoff, or the Town BMP Manual,” “North Carolina DEQ Stormwater Design Manual”, and “Permeable Pavement, as contained in Appendix A, Definitions, be amended to reference the “Low Impact Development Manual and Stormwater Reference Manual” and “North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual,” respectively.

Pursuant to Section 3.5.4.2. of the UDO, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure. Prior to voting to adopt or reject the proposed text amendment, the Board should adopt a statement approving the amendment and describing the amendment’s consistency with the Town’s adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest, a statement rejecting the amendment and describing its inconsistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest, or a statement approving the amendment and containing at least all of the following:

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- A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Board of Commissioners shall not require any additional request or application for amendment to the Comprehensive Plan.
- An explanation of the change in conditions the Board of Commissioners took into account in amending the UDO to meet the development needs of the community.
- Why the action was reasonable and in the public interest.

Attachments:

1. *Low Impact Development Manual and Stormwater Manual, Second Edition - May 2021.*
2. *Recommended Standard Details Manual, Effective Date: August 5, 2015, Revised Date: May 5, 2021.*
3. Adoption Ordinance, April 29, 2021 DRAFT