



OCTOBER 2020 ADVOCACY UPDATE

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2020 ELECTIONS: EARLY VOTING STARTS OCTOBER 15

We are in the home stretch for 2020 elections, with early voting starting on October 15. NOW, the important part is up to you and your employees: GO VOTE!

In an effort to ensure the business community knows about the candidates and their priorities, BASE, WCFHBA and the Wilmington Chamber of Commerce partnered with Cape Fear REALTORS® and the Greater Wilmington Business Journal to host a series of events including the New Hanover County School Board virtual forum in September, an October virtual forum for two NC House of Representatives races and the October Power Breakfast with NC Senate and New Hanover County Commission Candidates.

If you need information on a specific race or candidate, please let us know. Some organizations have put out election guides, like the information below from NAHB:

NAHB endorses candidates who have shown a commitment to policies that promote homeownership and rental housing opportunities for all Americans. Find out who the association is endorsing in your state or congressional district on [NAHB's Election 2020 page](#).

NEW HANOVER COUNTY TO FINALIZE NHRMC/NOVANT DEAL ON OCTOBER 5

After a public hearing on September 28, the New Hanover County Board of Commissioners will consider and vote on the following on October 5:

- [Asset Purchase Agreement](#) between New Hanover County, New Hanover Regional Medical Center (NHRMC) and Novant Health
- [Use of net proceeds](#) (which is included in the Asset Purchase Agreement as “Exhibit C” and referred to previously as “Exhibit D” in the approved Letter of Intent)
- [Bylaws for a community endowment](#) (the bylaws are still under review and being updated, based on Commissioner input from their September 21 board meeting)



The exploration process to determine the best future of NHRMC began in July 2019, and the Partnership Advisory Group was formed and began its analysis in October 2019. Through 17 public meetings and hundreds of hours of research and study, the Advisory Group determined NHRMC could best serve the needs of the growing region through a sale of NHRMC from New Hanover County to Novant Health. The partnership also brings an expanded relationship with UNC Health for pediatric specialty services and UNC School of Medicine for graduate medical education, clinical training and research.

The NHRMC Board of Trustees and New Hanover County Board of Commissioners approved moving forward with a [Letter of Intent in July](#), which led to the finalizing of an Asset Purchase Agreement between the county, NHRMC and Novant Health. The agreement can be viewed at NHRMCfuture.org, along with its [four-page summary here](#).

General Election – Tuesday, November 3, 2020

Friday, September 4 th	Absentee ballots available
Sunday, October 4 th	Residency deadline
Friday, October 9 th (forms must be postmarked by this date)	Voter registration deadline
Thursday, October 15 th – Saturday, October 31 st	One-stop absentee voting
Tuesday, October 27 th	Last day to request absentee ballot
Tuesday, November 3 rd , at 5:00 pm	Hand delivered absentee ballots due at the Board of Elections office
Tuesday, November 3rd - polls open 6:30 am – 7:30 pm	General Election
Friday, November 6 th (must be postmarked on or before November 3 rd)	Mailed absentee ballots due at the Board of Elections office
Friday, November 13 th , 11:00 am	Canvass

HOUSE PASSES BILL TO AVERT GOVERNMENT SHUTDOWN, EXTEND FLOOD INSURANCE

By an overwhelming bipartisan vote of 359-57, the House voted on the evening of Sept. 22 to pass a stopgap spending bill that will avert an impending government shutdown by funding every federal government agency at current levels through Dec. 11. Absent congressional action, the government would have faced a shutdown on Oct. 1.

Of note to the housing community, the legislation will keep the [National Flood Insurance Program](#) (NFIP) funded through Sept. 30, 2021. NAHB continues to work with Congress to achieve a long-term reauthorization of the NFIP that will keep the program fiscally sound and let builders provide safe and affordable housing.

LUMBER DISCUSSIONS ONGOING WITH ADMINISTRATION, NAHB

NAHB Senior Officers and senior staff held a 30-minute virtual meeting with Commerce Secretary Wilbur Ross on Sept. 25 to discuss the growing problem that escalating lumber prices and supply shortages are having on the housing industry and economic recovery.

During the discussion with NAHB leaders, Ross repeatedly acknowledged how “critical” housing is to the U.S. economy. NAHB Chairman Chuck Fowke and Second Vice Chairman Jerry Konter told the secretary how higher costs are affecting their businesses, with Konter adding that his business is planning for reduced sales due to higher lumber costs.

According to Random Lengths, lumber prices have skyrocketed more than 170% since mid-April, and the residential construction industry has absorbed the largest four-month increase in lumber prices since such data was first recorded in 1949.

NAHB Chief Economist Robert Dietz told Ross that this unprecedented lumber price spike has added more than \$16,000 to the price of a typical new single-family home and \$6,000 to the price of an average new multifamily unit. Rising lumber prices are clearly making it much harder to build homes that are affordable to low- and moderate-income families.

Secretary Ross told NAHB leaders that lumber mills are concerned that the ongoing housing upturn is temporary, and Dietz assured Ross that the solid housing market is sustainable. NAHB stressed that between harvesting and mill capacities, the fact that most mills are running at two shifts rather than three is the greater problem. View more NAHB actions on the lumber issue [here](#).

NAR MEETS WITH WHITE HOUSE TO DISCUSS EVICTION MORATORIUM

NAR President Vince Malta and other NAR leaders met with officials from the White House offices of the Domestic Policy Council and the National Economic Council to discuss the CDC eviction moratorium. President Malta outlined NAR's significant concerns with the order and the burden it places on housing providers. He explained that "kicking the can down the road" and creating mountains of debt for renters would simply lead to a flood of evictions come January. REALTOR® leaders presented anecdotes about the more than 40% of mom and pop owners around the country and how they are struggling to meet their obligations without rental income. They also explained about the confusion surrounding the order and how it is being interpreted very differently by different courts.

During the Q&A, REALTORS® asked what relief would be provided to property owners - who were ineligible to receive unemployment or PPP or EIDL loans to make up for their lost revenue. White House staff said the Administration is committed to an additional stimulus bill and are working with Congress. They are open to including rental assistance. In the absence of Congressional action, the Administration is also working to prioritize funds for more relief, and will consider a rental assistance program as part of that. President Malta thanked the White House for their time and attention, and offered NAR's expertise as they move forward with further relief measures. The White House thanked NAR and REALTORS® for the dialogue.

DESTINATION 2030 COALITION KICKS OFF: FUNDING TRANSPORTATION IN NC

Several weeks ago, the NC Chamber Foundation unveiled a new report, [Modernizing North Carolina's Infrastructure Through Sustainable and Diversified Revenue Streams](#), which outlines potential pathways for securing a more sustainable stream of transportation revenue for North Carolina. Building on that effort, a DESTINATION 2030 COALITION has been formed to begin the process of leading the discussion on ways to move forward as a state with regarding to funding transportation.



Both BASE and the Wilmington Chamber of Commerce have signed on as members and participated in the first Destination 2030 Coalition meeting in September. As noted by Coalition Chair Jake Cashion, “It was great to see so many businesses and organizations from across North Carolina coming together to discuss potential solutions to our state’s transportation funding challenges.”

Representatives from a number of businesses and economic development organizations voiced their agreement that we must build consensus around solutions that will enable us to proactively invest in the future of our transportation network – and that the revenue shortfalls caused by the COVID-19 pandemic and other contributing factors have only made this conversation all the more vital. We even ventured into some specifics on what funding modernization might look like here in North Carolina, a topic we will explore deeper on upcoming calls. Here is a [List of Coalition Members](#) and the [“Join the Cause” Link](#)

DEPARTMENT OF LABOR PROPOSES NEW INDEPENDENT CONTRACTOR RULE

The U.S. Department of Labor (DOL) has announced a proposed rule clarifying the definition of employee under the Fair Labor Standards Act (FLSA) as it relates to independent contractors.

In a [press release](#), the DOL said its proposed rule:

- Adopts an “economic reality” test to determine a worker’s status as an FLSA employee or an independent contractor. The test considers whether a worker is in business for himself or herself (independent contractor) or is economically dependent on a putative employer for work (employee);
- Identifies and explains two “core factors,” specifically the nature and degree of the worker’s control over the work, and the worker’s opportunity for profit or loss based on initiative and/or investment. These factors help determine if a worker is economically dependent on someone else’s business or is in business for himself or herself;
- Identifies three other factors that may serve as additional guideposts in the analysis: the amount of skill required for the work; the degree of permanence of the working relationship between the worker and the potential employer; and whether the work is part of an integrated unit of production; and
- Advises that the actual practice is more relevant than what may be contractually or theoretically possible in determining whether a worker is an employee or an independent contractor.

NAHB has called on DOL to take steps to provide greater clarity to employers and workers in light of the often conflicting federal tests that exist to determine who is an employee and who is an independent contractor. The proposed rule would also provide more clarity to shield more employers from misclassification claims, which occur when an employer incorrectly defines a worker as an independent contractor rather than an employee.

NAHB will review the rule in more detail once it is published in the Federal Register, and interested parties will have 30 days to submit comments.

BASE REQUESTS CITY COUNCIL HOLD CDMU WORK SESSION

At the September Planning Commission meeting, a text amendment was advanced that will significantly change the City’s CDMU provisions. These proposed revisions will have a major impact on hundreds of millions of dollars of current and planned investments in the City. On behalf of the development community, BASE has filed a public records request to gather more information on the genesis of the proposed changes. We have also requested a work session with Council to collaboratively discuss this item. We believe a direct conversation between Council and the development community will enable a discussion about the reality of investment in the City and opportunities to make CDMU projects viable.

In the big picture, what’s perplexing is the sudden admonishment of CDMU in the City. In staff’s presentation, several specific projects are called out by name. Curious to see how these made it successfully through the planning approval process, we pulled one case summary, which you can [see here](#). In summary, in May 2018, Arboretum West was approved UNANIMOUSLY by City Council. This project also had a 6-1 vote in support from the Planning Commission and the support of staff. Now, just two years later, staff is fast-tracking changes to make this project and countless others like it nonconforming.

Obviously, savvy development professionals pay attention to the projects that successfully make it through the challenging approval process in Wilmington. When a project gets staff support, Planning Commission support and a unanimous City Council vote, you can expect more like it in the future if site conditions and market demand make the project viable.

And that’s what makes this CDMU text amendment so problematic. Hundreds of millions of dollars in similar projects are in process. Here are 3 that we know of—please note their economic impact:

- Project A is a 150 +/- unit development off of Shipyard estimated at \$15m (located within walking distance of commercial services and will offer a work force housing component)
- Project B is a 250 +/- unit development off of 17th Street Extension estimated at \$25 - \$30m (located within walking distance of commercial services)
- Project C is a 300 +/- unit development off of College Road estimated at \$50m (Located near UNCW campus)

Prior to the Planning Commission meeting, we convened a work group to further discuss CDMU and address some of staff’s concerns. This work group consisted of development professionals that have invested hundreds upon hundreds of millions of dollars in projects in the City of Wilmington. These professionals understand that due to site constraints, location and land prices, sometimes you need a mix of uses to make the project work.

Unfortunately, staff elected not to incorporate any of these options and provided a revised CDMU item that actually makes the situation worse. As you can see in the chart below, instead of addressing the concerns of the Planning Commission and the development community, staff has made the CDMU less viable.

	By-Right Zoning (Commercial)	By-Right CDMU	August Staff Recommended Text Amendment	Planning Board Recommendations	Stakeholders Proposal	September Staff Recommended Text Amendment
Open Space %	0	0	17.50%		20%	0-35% depending on amount of commercial
Density	N/A	No Cap	24 units/acre		No Cap	17 units/acre, with unlimited with workforce housing
Commercial %	N/A	Not defined	25%	Less than 25% and suggested 5%	5% (NTE 10K sq ft.)	25%
Parking	N/A	1 per unit to 2.5 per unit				1 per bedroom to 2 spaces per 3 bedrooms

Clearly, the what’s challenging is that words like “clearcutting” get thrown around in this discussion, but the by right commercial development on a parcel could lead to the same removal of trees (and subsequent mitigation/compliance with the tree ordinance). Or a site that would work for CDMU, like the driving range on Oleander, doesn’t have many trees on it in the first place. Provision of open space, mandatory commercial and density all have similar challenges—but we believe our proposal offers options to address these issues and move the discussion forward and not backwards.

FINAL BRUNSWICK MODEL HOMES TEXT AMENDMENT UP FOR VOTE IN OCTOBER

At the October Brunswick County Planning Board meeting, the board is set to hold a public hearing on the “model homes” text amendment. This includes proposed text amendments related to standards for model homes, neighborhood sales homes, and real estate sales centers. Over the past few months, BASE and WCFHBA staff have worked with Brunswick County Planning staff to address some of the potential issues with prior versions of this language.

Most recently, we have worked collaboratively to fine-tune the specifics regarding the definitions for model homes, neighborhood sales homes, & real estate sales centers—using feedback from BCAR members as well as Brunswick County builders and developers. For example, the proposed “new” definition for Model Home:

A newly constructed residential home or unit that is completed, furnished, landscaped or decorated for the purpose of marketing to prospective buyers. Prospective buyers can often attend a showing, a viewing, a tour, or an open house. The model home may display information, options, or showcase features about the home, subdivision or development inside the home. A model home may be commonly referred to as an idea home, residential show home, inventory home, or display home.

We believe this should address/accommodate the majority of new and existing model home operations in Brunswick County.

LELAND CONSIDERING STORMWATER ORDINANCE CHANGES

The Town of Leland is hosting an in-person work session to discuss potential changes to their stormwater ordinance and design manual. This meeting will be held Monday, October 12 from 2-3PM at the Town. Due to social distancing requirements, it is critical that you RSVP if you and your engineer can join us for this meeting.

One of the principal reasons that the Town has set up this meeting is to gather your feedback. There are several enhancements included in the new draft that merit feedback from existing and future investors in the Town.

Ordinance :

- 1 . The ordinance (Sec.26-74 Purpose (2a)) sets up new rules to prevent new development from exceeding the pre-development runoff rates . This is a major change from past requirements.
2. The ordinance (Sec 26-74 Purpose (6)) sets up maintenance requirements as is further defined in the design manual as being connected to an annual inspection by a design professional.
3. Sec.26-75 (i) appears to require treatment of runoff from existing impervious surfaces which is not consistent with State law .
4. Sec. 26-162. - These performance guarantee and transfer provisions are punitive to new development without addressing any of the existing systems or permits. Is it good public policy to enhance these provisions while a larger conversation about permit transfer is happening at the state level? In the end the homebuyer will have to pay a five year advance on the stormwater maintenance fees at closing. Stormwater permits and the responsibility to maintain the stormwater system should follow the real estate so that whoever owns the real estate is responsible for the stormwater management, fees, and/or maintenance. When a property sells to a new owner the new owner should inherit those rights and responsibilities.

Design Manual :

Section 2.2.1 requires downstream evaluation of existing downstream conditions on properties not controlled by the developer . Very vague in scope and impact on design plus how can this be done without permission from property owners .

While considering changes to the stormwater plan, there is also an opportunity for the Town to participate. One idea suggested to us was that Leland create a regional stormwater pond next to the Leland Industrial Park which was just brought into the town limits. Perhaps language could be added that encourages projects to utilize offsite systems if they are available, especially if they are Town facilities.

OCTOBER STATUS TRACKER: DEVELOPMENT ORDINANCE RE-WRITES

New Hanover County

- The Planning Board will take up several “revised” UDO sections (tree protection, parking, landscaping buffers, open space) at their October meeting. Special thank you to WCFHBA Executive Officer Cameron Moore for putting his planning certification to work in analyzing these provisions.

City of Wilmington

- BASE submitted comments in September prior to the Planning Commission work session on the new proposed environmental regulations chapter. This section includes changes to stormwater requirements and conservation resource regulations. This section merits your attention immediately. To see the full draft of that section click [here](#)
- The next Planning Commission work session is on October 14 at 3:30PM to discuss the CBD regulations

WILMINGTON SHORT TERM RENTAL ORDINANCE “VOID”

A Superior Court judge has ruled that the City of Wilmington’s short-term rental laws that were put in place two years ago to restrict the number of rentals in the city is illegal. Superior Court Judge Kent Harrell announced his decision declaring Wilmington City Code 18-331 (d)(8) 'void and unenforceable' due to the fact state law expressly prohibits municipalities from requiring the registration of rental properties.

You’ll recall that as this item was being initially drafted, [BASE suggested in a Wilmington Business Journal OpEd](#) that staff time and resources would be better allocated on other City Planning projects and initiatives.

SOUTHPORT UDO TO DISCONINUE USE OF PERFORMANCE GUARANTEES

Southport continues to have discussions on its revised UDO—and the current version continues to remove the ability to use financial performance guarantees on new infrastructure investment in the Town.

Page 199 of the revised draft contains the new language which removes the ability for developers to utilize performance guarantees. Performance guarantees are financial instruments put in place to ensure that mandatory improvements are made. It is important to note that the use of performance guarantees is allowed by state law, with specific criteria clarifying the process. More information from the UNC School of Government can be [found here](#).

In short, wholesale removal of the ability to utilize performance guarantees will cause challenges for future investment in Southport. We continue to encourage the Town to amend the UDO to enable use of performance guarantees.

LOCKWOOD FOLLY INLET BUOYS IN PERIL

At the October meeting of the Brunswick Shoreline Protection group, the principal issue of interest was the potential removal of the Lockwood Folly Inlet buoys by the Coast Guard. Comments will be accepted until November 2.

While the state has shallow draft inlet money and the Corps has the equipment to dredge, the Coast Guard feels that the shoaling is dangerous and the buoys need to be removed. Members of the Lockwood Folly Inlet Association, Brunswick County, Rep. Frank Iler and the Town of Holden Beach are working with Rep. David Rouzer on a more viable solution.



THANKS TO OUR MEMBERS FOR THE CONTINUED SUPPORT

