



**AGENDA**  
**Town of Nags Head Planning Board**  
**Tuesday, April 21, 2020; 9:00 a.m.**  
**- D R A F T -**

**This Meeting will be held electronically/remotely utilizing the online ZOOM meeting platform. Members of the public will be able to attend the meeting using the ZOOM platform or app on their computer or smartphone, or by calling in using a phone.**

Join from a PC, Mac, iPad, iPhone or Android device:

Please click the link below to join the webinar:

<https://zoom.us/j/97773468740>

Or iPhone one-tap:

US: +13126266799,, 97773468740# or +19292056099,, 9773468740#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: + 1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833

Webinar ID: 977 7346 8740

International numbers available: <https://zoom.us/u/aehVJN6IUe>

Should you have questions about using this platform, or have technical difficulties during the course of the meeting, please email [planning@nagsheadnc.gov](mailto:planning@nagsheadnc.gov) or call 252-441-7016

A. Call To Order

B. Approval Of Agenda

C. Public Comment/Audience Response

D. Approval Of Minutes

April 1, 2020 Planning Board Meeting (Rescheduled from March 17, 2020)

E. Action Items

1. Consideration Of A Text Amendment

to the Unified Development Ordinance submitted by Megan Dixon and Kim Cowen to add the use "Learning Center" as a permitted use within the C-2, General Commercial Zoning District.

Documents:

[LEARNING CENTER TEXT AMEND PB PACKAGE.PDF](#)

2. Reconsideration Of A Revised Preliminary Plat

for a Major Subdivision, known as Coastal Villas, for an approximately 9.86 acre property, zoned R-2, Medium Density Residential, owned by Nags Head Construction

(Applicant), located on the west side of US 158, approximately 300 feet south of the intersection of W. Soundside Road and US 158 (Parcel # 006749004; PIN # 989108886987); the revised Preliminary Plat proposes to create 17 lots, along with an associated street and other required improvements.

F. Report On Board Of Commissioners Actions  
March 15, 2020 BOC Meeting

Documents:

[MAR 4 2020 BOC ACTIONS.PDF](#)

G. Town Updates - As Requested

H. Discussion Items

1. Continued Discussion Of Legacy Establishments/Structures
2. Continued Discussion Of Residential Stormwater Regulations
3. Continued Discussion Of FY20-21 Planning & Development Department and Septic Health FY2020-2021 Strategic Work Plan

I. Planning Board Members' Agenda

J. Planning Board Chairman's Agenda

K. Adjournment



# MEMORANDUM

## Town of Nags Head

### Planning & Development Department

---

To: Planning Board

From: Kelly Wyatt, Deputy Planning Director  
Michael Zehner, Director of Planning and Development

Date: April 15, 2020

Subject: Consideration of a zoning ordinance text amendment pertaining to "Tutoring Facility/Learning Center".

---

#### BACKGROUND

Megan Dixon and Kim Cowen have submitted the attached text amendment request to the Unified Development Ordinance, which, if adopted would permit "Tutoring Facility/Learning Center" as a permitted use within the C-2, General Commercial Zoning District.

The applicants have provided a detailed explanation of the nature and reason for their request. They would like to offer tutoring, both part- and full-time, to registered homeschooled children, ages 6 and up. Ms. Cowen has spoken with both me and the Senior Building Inspector, Steve Szymanski, about the proposed business use. In looking at the current UDO, similar uses include Child Care Facility and School, however, by definition, the proposed use would not meet either of these use classifications. Therefore, it was recommended to Ms. Cowen that a text amendment request to consider establishing this new use would be necessary.

#### STAFF ANALYSIS AND RECOMMENDATION:

Planning staff finds the proposed use is consistent with the 2017 Comprehensive Land Use Plan and the desire to encourage land uses that serve the needs of both year-round and seasonal residents in support of the town's overall vision for the community. Staff would recommend the use be listed under the *Service* category in the Table of Uses and Activities and be defined as follows:

***Tutoring Facility/Learning Center*** means a private, for profit or non-profit, use for the instruction of students in subjects and materials commonly taught in primary and secondary schools, for test-preparation, or the teaching of music and visual arts.

Staff recommends approval of the proposed use as presented, with the changes noted.

(DRAFT)  
**AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
 OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO PROPOSED NEW USE  
 “TUTORING FACILITY/LEARNING CENTER”**

**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 comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160A-363, which allows the Town to combine certain land development ordinances into a unified ordinance; and

**WHEREAS**, a text amendment application has been requesting consideration be given to permitting “tutoring facility/learning center” within the C-2, General Commercial Zoning District’ and

**WHEREAS**, the Town of Nags Head 2017 Comprehensive Plan includes policies supporting land uses that serve the needs of both year-round and seasonal residents in support of the town’s overall vision for the community and to support and foster small, local businesses that preserve and uphold the vision and legacy of the town.

**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 ellipsis (“...”) shall remain as they currently exist within the Town Code.

**ARTICLE III. Amendment of the Unified Development Ordinance.**

PART I. That **Section 6.6 Table of Uses and Activities** be amended as follows:

Use Category/Class	Use Type	Residential Districts			Commercial Districts				
		R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4
Service	<u>Tutoring Facility/Learning Center</u>						<u>P</u>		

PART II. That **Section 10.16 Required Parking by Use** be amended as follows:

Use Category/Class	Use Type	Required Parking
<u>Institutional</u>	<u>Tutoring Facilities/Learning Center</u>	<u>One parking space for each 300 square feet of gross floor area.</u>

PART III. That Appendix A Definitions, be amended as follows:

Section A.4 – Definitions

**Tutoring Facility/Learning Center** means a private, for profit or non-profit, use for the instruction of students in subjects and materials commonly taught in primary and secondary schools, for test-preparation, or the teaching of music and visual arts.

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 \_\_\_\_ 2020.

\_\_\_\_\_  
Benjamin Cahoon, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted: \_\_\_\_\_

Motion to adopt by Commissioner \_\_\_\_\_

Motion seconded by Commissioner \_\_\_\_\_

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYS

ZONING AMENDMENT APPLICATION  
TOWN OF NAGS HEAD, NORTH CAROLINA

Applicant Outer Banks Montessori Collective

Mailing address 202 Skuloh Street KDH 27948

Explanation of request

- Zoning Ordinance - Section(s) \_\_\_\_\_  
Attach amendment in ordinance form.
- Zoning Map  
Attach copy of current Zoning Map with affected property outlined in red.  
Attach names and mailing addresses of the property owners of all parcels of land abutting the parcel in question.

Nature of request

A Rez amendment to create a new use category for a learning center in C-2 Zone in Nags Head

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Reason for request

We are an academic service business - we provide tutoring, part & full time, to homeschool families. Each child we serve (ages 6+) is a registered homeschool child. Families can choose from a range of services - from 1 hour sessions up to 6 hours/day, 5 days a week & everything in between (3x/week, week w/ 1 day off, 9-1, etc). We use the Montessori methodology as the bases of our services. Montessori includes the use of didactic, hands on learning materials that homeschool families might not have at home. We will have anywhere from 1-25 students in our space at one time.

we are not a school, we don't

fit into any of the existing use categories (school, childcare, etc),

Megan Dixon (Megan Dixon) & Keri  
Applicant (Keri Cowen)  
2/18/20  
Date 757613-1873

And so we propose a new use that would accomodate us as a learning center/academic services, specifically to serve local homeschool families.



**BOC ACTIONS  
WEDNESDAY, MARCH 4, 2020**

1. Call to order – Mayor Cahoon called the meeting to order at 9:00 a.m.
2. Agenda – The Board approved the March 4<sup>th</sup> agenda as presented.
3. Recognition:

New employee – Dep Town Manager Andy Garman introduced new employee Information Technology Assistant Karen Snyder who was welcomed by the Board to town employment.

Ten years – Police Chief Phil Webster introduced Dep Police Chief Perry Hale who was recognized by the Board for ten years of service.

Proclamation in support of Safety Week - Dep Fire Chief Shane Hite announced Safety Week which is scheduled for March 9 – 13, 2020; he introduced the Safety Committee members: Brie Floyd, Nancy Carawan, Jackie Hart, Ed Snyder, Perry Hale, Ron Watson, and Ray Schoonmaker. Members Trey Allen, Greg South, Keefe White and Eddie Hawley were not able to attend. Dep Chief Hite detailed the work of the Safety Committee and the upcoming activities planned for Safety Week.

The Board adopted the Safety Week Proclamation as presented and suggested that the committee consider offering a CPR class to the public.

**4.** Presentation - Dowdy Park Review of 2019 Season and Plans for 2020 Season - Dep Planning Director Kelly Wyatt summarized the 2019 accomplishments of the Town's Art and Culture Committee and detailed the plans for the 2020 year. Ms. Wyatt noted that Dowdy Park Events Coordinator Paige Griffin was unable to attend today's meeting.

**5.** Presentation - 2<sup>nd</sup> Annual Community Clean Up – Public Works Office Manager Karen Heagy and Public Works Office Assistant Sue Cummings detailed the upcoming 2<sup>nd</sup> Annual Community Clean Up which is scheduled for Saturday, March 28<sup>th</sup> beginning at 8 am at Dowdy Park. Ms. Heagy stated that she hopes next year to schedule a more widely-participated clean up with representatives from each of the town's neighborhoods.

**6.** Public Comment:

David Bragg, Village at Nags Head resident; since recycling is being incinerated not recycled and it appears the contractor was not forthcoming with this information, he questioned why the town continued the contract; he would like a public forum scheduled with town officials re: trash cart rollback issue – we now pay two people to roll carts back only on the Beach Road; Facebook page – he would like the town to limit postings to only facts – not opinions.

Donny King, Better Beaches OBX; lives in Nags Head and is owner of Ocean Boulevard Restaurant; he is requesting that more sand fencing be installed for additional beach stabilization; the last fencing installed has done its part and is mostly covered; there is a lot of representation of Better Beaches OBX with many volunteers in the audience; he would like the Town to allocate more funds for sand fencing to catch more sand in the right places; he thanked the Board for the town's recent Beach Nourishment Project.

Ellen Heatwole, Seagull Drive; she applauded the town for Beach Nourishment Projects which have been fantastic and sand fencing has done its job; a lot of the grass planted however has not survived; she supports Donny King of Better Beaches OBX and spoke in favor of his initiative to install more sand fencing and grass on the beach.

Lee Nettles, OBVB Executive Director; spoke of proposed ideas for the Soundside Event Site - the proposed facilities are expected to draw new visitors to the area to support year-round visitation to Dare County; septic could be addressed on site but at the expense of green space; no commitments have been made yet; they welcome the opportunity for the town to assist in the project.

**7.** Consent Agenda – The Consent Agenda was approved as presented and consisted of the following:

- Budget Adjustment #9 to FY 19/20 Budget
- Tax Adjustment Report
- Report of Tax Delinquent List to be advertised
- Approval of minutes
- Resolution clarifying Dare County Control Group / Town MOA of Oct 2015
- Resolution authorizing installment contract to finance the vehicles/equipment in FY 19/20 Budget
  
- Request for Public Hearing - to consider resolution authorizing entering into an Installment Purchase contract in an amount not to exceed \$1,449,793 to finance improvements in FY 19/20 Budget

- Request for Public Hearing - to consider text amendment to the UDO submitted by a property owner to expand the principal sale items from outdoor stands to include reservations/tickets for events

- Request for Public Hearing to consider a text amendment to the UDO to correct identified errors

**8.** Update from Planning Director - Flood Map ordinance overview - Board members expressed their concern for the revised flood maps which they feel have no sustainability. It was noted that most of the modeling for the maps was done on the oceanfront yet most of the flooding does not occur there.

Mayor Cahoon stated that it would be beneficial for the Board to see the information that is to be presented at next week's informational session as soon as possible; to make sure elevation standards being proposed are adequate.

It was noted that in the Planning update report, Year-To-Date is off on residential construction by over 50%, commercial is down and revenues from construction are more than one third off; Director Zehner was questioned if there is any concept as to what is going on in the home building industry and if this trend in Nags Head is being seen in other towns? Director Zehner stated that he would speak to other municipalities to see if they are seeing a similar trend and to the homebuilders for a possible explanation.

**9.** Mayor Cahoon - Mayor Cahoon noted that both of the tabled items have been continued by the applicants: Southridge Subdivision Coastal Villas Subdivision Preliminary Plat (to the May 6<sup>th</sup> Board meeting) and Gone Coastal Shopping Center Major Site Plan (to the April 15<sup>th</sup> Board meeting).

**10.** Committee reports:

Comr. Fuller – Dare County Tourism Board (DCTB) – he clarified what Executive Director Lee Nettles was speaking about during Public Comment earlier today: Director Nettles was asking if the Board would consider the following concerning proposals for the Soundside event site:

- Will the Board consider a reduction in parking standards? and

- Will the Board consider allowing central sewage already located in Nags Head (Village at Nags Head) to be extended to the Soundside event site?

It was Board consensus to take no action re: looking into reducing parking standards nor extending central sewage from Village at Nags Head to the Soundside event site.

**11.** Recommendations for beach nourishment services - The Board passed a motion to invite Moffit & Nichol to make a presentation to the Board, and to authorize the Town Manager to enter into contractual negotiations with them for Beach Nourishment Project surveying services with all relevant material to come back to the Board. The Board also passed a motion to authorize the Town Manager to enter into contractual negotiations with McKim & Creed for Beach Nourishment Project coastal engineering and design services.

**12.** Proposed Municipal Services Districts (MSD's) - Three new proposed districts were presented:

District 3 – Eighth Street (northern town line) south to Bonnett Street (includes all properties east of Wrightsville Avenue)

District 4 – Bonnett Street south to Gulfstream Street (from Bonnett Street to Bainbridge Street - includes all properties east of Wrightsville Avenue; from Bainbridge Street to Hollowell Street – includes all properties with frontage on and east of Memorial Avenue; from Hollowell Street to Gulfstream Street – includes all properties east of US 158)

District 5 – Gulfstream Street south to southern town line (includes all properties south of Gulfstream Street)

The Board passed a motion to schedule a Public Hearing to consider the proposed MSD's, as presented, to include the addition of Old Nags Head Place in the proposed District 4 - for the May 6<sup>th</sup> Board meeting.

**13.** Board/Committee appointments – The Board reappointed Angelina Lowe and John Mascaro to additional three-year terms on the Board of Adjustment. In addition, the Board reappointed Perry White and Sandra Futrell to additional three-year terms on the Personnel Grievance Panel.

**14.** Town Manager Ogburn - Sanitation and Recycling – Board members agreed with Town Manager Ogburn to take no action at this time on the trash cart rollback ordinance allowing him to continue working with neighborhood associations on this issue.

**15.** Town Manager Ogburn – Sand fencing/sprigging - Town Manager Ogburn was authorized to do a test pilot project on the beach with hay bales in addition to the sand fencing/sprigging. The Board adopted Budget Amendment #8 to the Beach Nourishment Capital Project Ordinance as presented.

**16.** Town Manager Ogburn – Speed limit on NC 1243 in S Nags Head (Old Oregon Inlet Road) - the Board passed a motion to authorize staff to request that NCDOT reduce the speed limit on NC 1243 from Juncos Street south to the town line from 45 MPH to 35 MPH.

**17.** Town Manager Ogburn – Town Manager Ogburn announced that on Monday, March 30<sup>th</sup> at 2:30 pm at the Dare County offices, a meeting will be held with the County, municipalities, restaurant associations and DENR to see what future recycling options may be available.

**18.** Mayor Cahoon pointed out the following upcoming Town information sessions/events:  
- Multi-use path construction meeting – Thursday, March 5<sup>th</sup> from 5:30 to 7 pm – Board Room

- Flood Map & Flood Map Prevention Ordinance – Monday, March 9<sup>th</sup> - 5:30 to 6:30 pm – Board Room
- Town Safety Week – March 9<sup>th</sup> to 13<sup>th</sup>
- Green Drinks and Stormwater Updates – Wednesday, March 11<sup>th</sup> at 7:30 pm at Waveriders Restaurant
- Sunshine Week – March 15<sup>th</sup> to 21<sup>st</sup>
- St. Patrick's Parade – Sunday, March 15<sup>th</sup>
- CIP Workshop – Wednesday, March 25<sup>th</sup> at 9 am – Board Room
- Community Clean Up starting at Dowdy Park – Saturday, March 28<sup>th</sup> at 8 am

**19.** Comr. Brinkley – Comr. Brinkley thanked Donny King of Better Beaches OBX and Ellen Heatwole for speaking today concerning the organization and in support of additional beach sand fencing.

**20.** Comr. Brinkley – Comr. Brinkley confirmed with Attorney Leidy that the Town does not have the option to sue Bay Disposal re: incinerating recycling materials rather than true recycling per the contract. Attorney Leidy said that suing does not apply to that particular provision of the contract – and would also be counter-productive since the Town is still utilizing the company.

**21.** Mayor Cahoon – Workforce Housing - A meeting is being scheduled with local mayors for Thursday, March 12<sup>th</sup> to discuss J1 International workers and housing issues. Details are being finalized. A speaker is coming from Wisconsin where a program was developed to solve their seasonal housing problem. Possibly a model can be utilized for this area. Town Clerk Carolyn Morris is to send details of the meeting to Board members when received.

**22.** Mayor Cahoon - Future Town Vision (from Jan 2020 Board Retreat) – He presented his ideas for a future vision of the Town; He encouraged Board members to bring forward their ideas to add to the list.

**23.** Closed Session – The Board entered Closed Session to discuss the Town Manager's review and to discuss and preserve attorney/client privilege at 11:40 a.m.

**24.** Open Session - The Board re-entered Open Session at 1:08 p.m.

**25.** Adjournment - Mayor Cahoon recessed the Board meeting to Wednesday, March 11<sup>th</sup> at 9 am in the Board Room. The time was 1:10 p.m.