



FOCUS Technical Committee Meeting Documents

February 21, 2019

Meeting Agenda

Presentation/Handout

Draft Meeting Notes



FOCUS Technical Committee Meeting February 21, 2019 ~ 2:00 pm

Meeting Agenda

2:00 pm- 2:10 pm	Welcome <ul style="list-style-type: none">• Current Project Status• Next Steps
2:10 pm – 3:45 pm	Discussion of Comments on Final Draft of UDO
3:45 pm – 4:00 pm	Recap & Next Steps
4:00 pm	Meeting Adjourn

*More information on this project as well as meeting materials are available at
www.focusnagshead.com*



STAFF REPORT

TO: Technical Committee
FROM: Holly White, Principal Planner
Andy Garman, Deputy Town Manager/Planning Director
DATE: February 16, 2019
SUBJECT: Draft Unified Development Ordinance (UDO) and Comments

A draft of the UDO was made available to the Technical Committee, Planning Board, and Board of Commissioners on December 18, 2018. The Technical Committee met on Monday, January 14th to discuss comments associated with the review of the draft UDO. On Tuesday, January 15th, a detailed presentation was made to the Planning Board. Additionally, the UDO was discussed at the board retreat in late January. The Technical Committee will meet again on Thursday, January 21st to discuss final suggested changes needed to draft UDO. A detailed list of comments along with staff responses are attached to this memo. This list represents comments made by the Technical Committee, Planning Board, and Board of Commissioners.

Initially, a Joint Workshop between the Planning Board and Board of Commissioners was suggested to review the document. However, since the UDO was discussed in detail at the board retreat, the Board has agreed to omit the joint meeting. Staff feels that based on the feedback received at the retreat, we have the necessary feedback from the Board of Commissioners to move forward in creation of a final draft. Staff can address most concerns and will consult with the Technical Committee to provide recommendations on alternatives for issues needing additional discussion for board consideration. The Planning Board and Board of Commissioners will continue to be updated throughout this process and will have the opportunity for input and further suggestions as revisions are made. By moving forward in this way, the UDO can be considered for adoption in May - a month earlier than anticipated if a joint workshop was needed. A revised schedule is included on the following page.

While the draft UDO has been distributed for an initial review, there is still work to be completed in order to develop a final version of the draft. Staff will continue to revise the document and/or respond to comments as feedback is received from the Technical Committee, Planning Board, and Board of Commissioners. Items that will be ongoing include:

- Diagrams/graphics/flow charts- additional diagrams, graphics, and flow charts are still needed in order to help visually explain the regulations.
- A complete editorial review process will need to be completed for cross referencing, grammar, and punctuation prior to the final draft.
- Development of the Town's Reference Manual for Development Permit Applications. This document is envisioned as a "How to Guide" for all types of permitting for applicants. Utilizing this type of reference document will centralize the process and submittal requirements for applicants and make it easier for staff to update and maintain these requirements.

Schedule for Completion

****Please note that the schedule starts with the end, adoption date first.*

Task	Date	Duration
Adoption	5/1	
Board of Commissioners	5/1	
Planning Board	4/16	
Community Meeting	4/9 or 4/11	
Final Draft Available	3/25	
Staff- make necessary changes to the UDO noted from comments. Staff will test ordinance with previously approved cases.	2/18-3/22	25 days
Send responses to comments on the UDO back to Technical Committee, Planning Board, and Board of Commissioners.	2/27	
Technical Committee meeting to review any final concerns that need feedback	2/21	
Distribute Technical Committee agenda and meeting prep materials. Prepare initial responses for all items staff was able to update. Agenda will outline items needing further discussion by the Technical Committee.	2/15	
Conduct editing review.	Ongoing	
Review by the attorney (necessary portions).	Ongoing	
Staff- work with staff to make necessary diagrams for UDO.	Ongoing	
Staff respond to all Technical Committee, Planning Board, and Board of Commissioner comments. Determine which concerns can be addressed and which need additional discussion.	1/28-2/12	8 days
BOC Retreat	1/24-1/25	

Attachment(s): Comments on the UDO with staff responses

Additional Issues for Discussion

Below is a list of items from Technical Committee Members, Planning Board, or the Board of Commissioners that still need additional discussion:

- Article 1
 - Penalties and Remedies 1.10.14 & 5-
 - Article 1.10.4 is written as though Article 1.10.5 doesn't exist and vice versa, though they both deal with penalties. These two Articles require some revision to eliminate apparent contradictions.
 - *Article 1.10.4 is geared toward general Penalties and Remedies. Article 1.10.5 will be specifically applied to the Sedimentation and Erosion Control Article of the UDO. Since this is a state model ordinance, staff has not yet vetted out any repetitive language. However, staff will review this prior to adoption of the UDO.*

- Article 3
 - 3.5.3. Action by the Planning Board. (Sec. 48-663)

Every proposed amendment, supplement, change, modification, or repeal to this UDO shall be referred to the Planning Board for its recommendation and report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board. The Planning Board shall advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation, certified by the Planning Director, to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.

 - Do we also need to state that they must state the findings of fact?
 - *Staff will verify with the attorney to ensure we are meeting state statues.*

- Article 4
 - Section 4.3 Sketch Plan Review Process-
 - Planning Board involvement in Sketch Plan
 - As I mentioned elsewhere, this process confuses me. I like the idea of sketch plan review. However, involving all of the Planning Board, I believe, will be problematic. Maybe we should consider having two members (hopefully volunteers) to be part of the "Sketch Plan Review Committee."
 - Use of the term "pre-application meeting" here renders this section confusing. Would call the meeting with the staff a pre-application meeting and this event something else.
 - Suggestion: Another way to handle the above comment is to name this event "combined preapplication meeting/sketch plan review." This would keep the terminology consistent from the title of Section 4.3 through the subparagraphs that follow.

- 4.5.3- Sketch Plan for Board of Commissioners Review-
 - As stated above its confusing to call a required and an optional event the same thing. Maybe could change this to a pre-application discussion or session to distinguish it.
- 4.22 Initial Conference; Preliminary Sketch-
 - Confusing on how this process differs from Section 4.3 above

For the items above:

- *Improved wording to between 4.3, 4.4, and Article 10 Commercial Design Standards.*
 - *New flow chart (i.e. decision model) for development process that ties Article 4.3, 4.4, and Art 10 Commercial Design*
-
- 4.23 Review Procedure for Minor Subdivisions-
 - Staff approval vs Planning Board approval for Minor and Preliminary Site plans
 - *Section 4.23 Review Procedure for Minor Subdivisions- add flow chart for subdivision review*
-
- Section 4.9 Purpose and Intent
 - Building and/or zoning permits are required for most site improvements including, but not limited to, the following:
 - Single-family/duplex construction – includes additions/expansions, enclosures, stairs, ramps.
 - Commercial development – includes additions/expansions, storage, renovations or changes of use.
 - Accessory structures – includes pool, storage buildings, gazebo, dune deck, tennis courts.
 - Driveways, parking and parking additions or reconfigurations.
 - Fences and pool barriers.
 - Signs.
 - Satellite dishes/minor communication towers.
 - Bulkheads, retaining walls, fountains, extensive landscaping.
 - Outdoor showers, HVAC, and pool equipment platforms.
 - Land disturbing activity.
 - Define or quantify extensive landscaping. Is this limited to residential or commercial as well?
 - Foundations- is this only large fountains?
 - *Staff will develop additional language to better specify the types of development needing building and/or zoning permits. Additional language to clarify may include:*
 - *Bulkheads and retaining walls*
 - *Improvements to buffer yards*
 - *Removal of trees greater than 6" in caliper*

- Land disturbing activities including but not limited to clearing, grading, grubbing of tree/shrub roots, etc.
- Article 6 Zoning Districts
 - Please note that the table for SPD-C is contained in Article 9 with the regulations for the SPD-C District.*

The following uses need additional discussion:

- Prohibited Uses List-
 - Clarify what "other uses" means under prohibited uses list as a whole*
- Residential-
 - What is meant by Other Residential Uses?
 - *This was intended to be a catch all for any additional types of development that that were not listed in the table of permitted uses. Recent state legislation requires that municipalities create a prohibited uses list. It is difficult to think of every possible use the town would not want and "Other" was used as an attempt to protect the town. This would include residential uses not listed in the permitted uses table.*
- Agricultural-
 - Commercial Crop Production (Indoor and Outdoor)
 - *Commercial Crop Production is a large-scale production of crops for sale, intended for widespread distribution to wholesalers or retail outlets.*
 - *Staff needs to do additional research to understand any concerns associated with indoor Commercial Crop Production.*
 - *Technical Committee to discuss at upcoming meeting.*
- Institutional-
 - Accessory Church School- what does this mean?
 - *Staff would suggest removing this from the prohibited uses list.*
 - Automated Ice Vending Machines
 - *Staff would suggest adding a definition to clarify what this is. This would be similar to the one in Manteo which is a freestanding building on one lot dedicated solely to this use.*
- Industrial-
 - Solar Energy Farms
 - *A solar farm is a term commonly used to describe a collection of photovoltaic solar panels. There is no official number of panels installed or acres of land used that*

qualify a project as a solar farm, though a peak output of one megawatt of power has been cited as a common standard. Due to the lack of a standardized definition for solar farms, most industry representatives and government agencies refer to solar farms as utility-scale solar applications. When this publication refers to solar farms, it means only those projects that can be categorized as utility-scale solar applications. The definition of a solar farm is not based on the number of panels or energy generated, but on the purpose of the energy. If the primary purpose of power from a solar application's is the sale for commercial gain, then it is considered a utility scale solar application.

- Solar Energy is allowed as an accessory use in all zoning districts. This would be a residential type application.
- Staff would suggest changing the title of "Solar Energy" in the Table of Permitted Uses to "Solar Energy Facility" to be consistent with Appendix A. Definitions.
 - Solar energy facility means a solar collector or other device or structural design feature of a structure that relies upon sunshine as an energy source and is capable of collecting, distributing, and storing (if appropriate to the technology) the sun's radiant energy for a beneficial use. (NEW)
- Technical Committee to discuss at upcoming meeting.
- Other warehouses/storage facilities- what does this mean?
 - This was intended to be a catch all for any additional types of development that that were not listed in the table of permitted uses. Recent state legislation requires that municipalities create a prohibited uses list. It is difficult to think of every possible use the town would not want and "Other" was used as an attempt to protect the town.
- Transportation-
 - Pedicab Storage and Dispatch
 - The use of a site for the staging, storage, and dispatch of non-motorized vehicles, including incidental parking and servicing of these vehicles.
 - Some localities reference these as a rickshaw.
 - Transit Stops
 - Staff would suggest clarifying the wording for this to "Private Transit Stops". Past planning efforts have included efforts to create a regional, public transit system.
- The following uses need additional discussion to determine which zoning districts are most appropriate for these uses:
 - Technical Committee to discuss at upcoming meeting
- Accessory Dwellings

- *The draft UDO proposes to allow accessory dwellings in R-3, CR, C-1, C-2, and C-4 and in accordance with the provisions of Section 7.3 Dwelling, Accessory. This item was discussed at the Board Retreat in January and was one of the principal concerns coming out of the meeting.*
- **Home Occupation- Class 1/2 not permitted in SPD-20**
 - *Staff would recommend consider permitting Class 1 in SPD-20. Currently Class 1 Home Occupation is allowed town wide.*
 - *Staff would recommend further discussion with the Technical Committee on Class 2.*
- **Townhouse- C-2**
 - *Staff would recommend allowing Townhouses in C-2 following standards for multi-family.*
- **Adult Care Home- permitted in R-2 and R-3**
 - Adult care home means an assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. Adult care homes include halfway houses and drug rehab facilities. (NEW)
 - Is this use appropriate for the R-2 and R-3?
 - *Staff would recommend maintaining as is.*
- **Boarding House- not permitted in SPD-20**
 - Boarding house means a single-family dwelling containing at least two rooms, which are intended to be rented or otherwise occupied by individuals outside of the permitted family members occupying the dwelling unit, where communal facilities (such as a kitchen) are available in such dwelling unit for use by the tenants. (Sec. 48-7)
 - *Staff would recommend maintaining as is.*
- **Family Care Homes/Halfway Homes- allowed in all but C-3 and SPD-C**
 - Family care home means a home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities. "Person with disabilities" means a person with a temporary or permanent physical, emotional, or mental disability, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments,

emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in NCGS Section 122C-3(11)b. (NEW)

- Consider allowing in C-3 and SPD-C
 - *Staff would recommend not placing in the C-3 or SPD-C. This use would be inconsistent with the C-3 district as the purpose of the C-3 district is to provide for higher intensity land uses that are not compatible with other areas of the town. This would include utilities, light industrial, and commercial service buildings. SPD-C uses would require buy-in from the Village. Would not recommend altering without discussion from the Village.*
- Hotel
 - *The Board would like to leave the height limit for hotels in the Hotel Overlay District at 60 feet. Staff is also reviewing the setbacks for hotels in the overlay to ensure that they are not more restrictive than what is currently allowed while still providing a step-back provision for hotels over 35 feet tall. Staff will have a presentation on this at the upcoming meeting. Staff is also reviewing language that would remove the ocean access requirement while still protecting the historic district from hotel development.*
 - Art Gallery- Owner Occupied- consider in R-3 and C-3
 - Art gallery, owner occupied means a structure for the collection, display and/or distribution of objects of art and generally open to the public and operated by the art gallery owner residing at the structure and does not employ any person outside the immediate family. (Sec. 48-7)
 - *Staff would recommend not placing in the C-3. This use would be inconsistent with the C-3 district as the purpose of the C-3 district is to provide for higher intensity land uses that are not compatible with other areas of the town. This would include utilities, light industrial, and commercial service buildings.*
 - *Technical Committee can discuss the potential to include in the R-3.*
 - Auction House- consider in C-1, allowed in C-2
 - Auction house means a building and/or land used for the temporary storage and sale on premise of new and/or used goods by means of request or invitation for bids. (Sec. 48-7)
 - *Staff would suggest not expanding this use to the C-1 district as the use is more in keeping with the vision of the C-2 district. The C-1 district is envisioned to encompass Beach Road and accommodate neighborhood scale development that is pedestrian-oriented and meets the needs of near by communities.*
 - Beach Recreation Equipment Rental/Sales- consider in CR, permitted in the C-1 and C-2 districts.

- Beach recreation equipment rentals and sales means a business involved in the rental and sale of non-motorized beach equipment such as kayaks, bicycles, surfboards, boogie boards, canopies, chairs and umbrellas for off premise use. (Sec. 48-7)
 - *Staff would suggest adding this to the CR district.*
- Food Truck- consider in CR and/or C-4
 - Food truck means a licensed vehicle equipped with facilities for cooking and selling food which satisfies local and state regulations for health and sanitation standards. (NEW)
 - *Staff feels including in CR and C-4 is consistent with the Comprehensive Plan and would recommend adding to the CR and C-4 districts. Staff would also suggest modifying the definition of food truck to allow a tow behind vehicle.*
- Food/Grocery Store- consider in CR. Shown as permitted in C-1 & C-2.
 - *There is currently one food/grocery store in the CR.*
 - *The Comprehensive Plan states, "The oceanfront is an active environment subject to wind, waves, and the forces of erosion. Vulnerability to storm surge, erosion, sea level rise, and other hazards have influenced land use planning decisions and development patterns town wide and particularly along the oceanfront. This is discussed in greater detail in Section 3.3. Due to these factors, previous land use plans have designated the oceanfront for low-density development. This plan continues to recommend a low-density development pattern for the oceanfront for the aforementioned reasons. While land uses should be varied to accommodate tourist related needs (i.e. accommodations, restaurant, retail, fishing piers), future building sizes should be small scale and adaptable to future conditions and hazards. Large scale hotels and multi-family buildings with higher heights are incompatible with the desired scale and character of the oceanfront and are difficult to manage with respect to beach erosion. In the future, new oceanfront structures should generally be limited to 5,000 square feet of heated area and 35 feet in height (this could be higher to accommodate architectural requirements)."*
 - *Comprehensive Plan Policy LU-3 Recognize a low-density pattern of development for the oceanfront that is characterized by small scale, adaptable structures.*

While not probable that another food/grocery store would locate in the CR due to lot sizes, it would not be problematic if individual buildings are small scale with (size limited under 5,000 square feet) height limited to 35 feet, and residential appearance.

- Furniture Store- consider in C-1. Shown as permitted in C-2.
 - *Staff will need to provide a clear definition for furniture store. Perhaps we should define as furniture showroom. The parking standard is much less for furniture stores (1 per 500 sq. ft.) to accommodate the space for a showroom. Furniture showrooms are unlikely on beach road but small retail shops that sell furniture and home goods could be classified under retail.*

- Bank- consider in C-1
 - Already one existing
 - *Shown as permitted in the C-1.*

- Locksmith- consider in C-2 and C-4, permitted in C-3
 - *Today, many locksmiths are mobile. Staff would not envision heavy customer traffic for this type of use, but rather more of an office type space. The Technical Committee can decide if this type of use is in keeping with the vision for the C-2 and C-4 district.*

- Parking lot- consider in CR. Beach accesses are here. Why only in C-1 and C-2?
 - *Beach accesses are considered as another type of use. Would not suggest adding parking lots to CR.*

- Real Estate Rental Management Facility- consider in C-1 and C-4
 - Real estate rental management facility means a building containing those uses, including but not limited to, administrative offices and warehouse/storage areas for the convenience, maintenance, housekeeping and service of rental homes and properties. (Sec. 48-7)
 - *Staff would recommend not including in the C-1 or C-4 since this use is geared more toward a warehouse/storage area for maintenance or housekeeping of rental homes. Real estate management offices would be permitted as a professional office in the C-1, C-2, and C-4.*

- Ice Cream Shop- consider in C-4
 - *Ice cream shop would be consistent with vision of the C-4 district. The Technical Committee could include this use if desired.*

- Microbreweries- consider in C-4
 - *Microbreweries are consistent with the vision of the C-4 district. The Technical Committee could include this use if desired.*

- Microbreweries- amend definition to be consistent with General Statutes.
 - *These references are included in the supplemental standards for Microbreweries.*

- Mixed Use- consider allowing in C-4 and Hotel Overlay.
 - Comp plan encourages boutique shopping with residences above along the Soundside)
 - *Staff would agree that the Comprehensive Plan encourages mixed use in the C-4 and the Hotel Overlay. The Technical Committee could modify to include in the C-4 and Hotel Overlay if desired.*

- Community Gardens- permitted everywhere but seem unlikely in C-4.
 - Community garden means a use in which land is managed by a group of individuals to grow food or ornamental crops such as flowers, for donation or for use by those cultivating the land. Community Gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members. (Amendment to Sec. 48-7)
 - C-4 Village Commercial District. The C-4 village commercial district is a district focused on arts and culture. This district is intended to provide a healthy mixture of residential and commercial uses where shopping, strolling, and dining are leisure activities as much as other needed services. Appropriate uses for this area include restaurant (walk-up/sit down), accessory dwellings, commercial (10,000 square feet or less) office, retail, personal service establishments, gallery/museums, equipment rentals, cottage courts, small scale (boutique) hotels, and residential. Commercial development should be designed to activate the street fronts, encourage walkability, and be situated closer to street grade while still elevated to minimize flood risk. It is also the intent of this C-4 district to encourage the development of unique, locally owned businesses that are designed to be reflective of the community's heritage and lifestyle both in scale and massing as well site layout. This could include the use of accessory residential dwelling units to commercial businesses or other arrangements of mixed use that are designed to be pedestrian oriented and near one another. The C-4 district is further intended to provide an area in which small but similar businesses will be allowed to take advantage of the steady flow of low-volume vehicular and pedestrian traffic by locating within close proximity of each other.
 - *While unlikely, there is no harm in allowing it to remain in the C-4. The Technical Committee can discuss and determine their desire for this use.*

- Environmental Awareness Areas- consider in C-4, permitted in SPD-20 and SED-80.
 - Environmental awareness area is an area designated and maintained for the purpose of conservation and environmental education. This may include nonprofit wildlife, ecological

preserves, watershed construction areas, interpretive signage, trails, research stations and appurtenant office, restroom and mechanical facilities (and is distinct from the definition of "area of environmental concern" or "AEC," which is a CAMA designation). (Sec. 48-442)

- *This definition was previously created to be applied in the SPD-20 and SED-80 district which encompass sensitive natural areas that need additional protection or could serve as good educational opportunity locations such as Nags Head Woods, Jockey's Ridge, and Fresh Pond. The Technical Committee can discuss and determine if appropriate and in keeping with any other areas within the town.*
- Concealed Building Mounted Antennas- why are we so restrictive?
 - *This item was carried over from the current ordinance as is.*
- Artisans Workshop- consider >3,000 sq. ft. in C-1, allowed in CR, C-2, and C-4.
 - Artisan's workshop means an establishment for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items. (NEW)
 - *Allowing Artisans Workshop >3,000 sq. ft in the C-1 would be consistent with the vision for the C-1 district. This use could be allowed if the Technical Committee desired to modify.*
- On-site Rental of Beach Chairs and Umbrellas- consider in CR, permitted in C-1 and C-2.
 - *This use should only be allowed in the Village for the Beach Club. Staff would recommend deleting this use. This is already allowed under beach equipment rental and sales.*
- Wind Energy Facilities – consider in C-1, C-3, and C-4
 - *As an accessory use, this would have no more impacts than other districts.*
- The following uses need additional discussion to determine questions or clarification related to Article 7 Supplemental Standards:
 - 7.1 Cluster Housing vs. Cottage Court- how are these different?
 - Cluster housing means a development in which more than one dwelling unit is placed on a lot. For the purposes of this UDO, cluster housing shall only pertain to dwelling units that are threatened by shoreline erosion and are being relocated onto a lot containing another dwelling unit. (NEW)
 - Cottage court means a residential type development with three or more detached single-family dwellings, on-site management office, and/or another complementary business use on one lot. (Sec. 48-7)
 - *Previously there were several types of cluster housing. However, as part of the UDO rewrite, cluster housing was redefined to apply only to dwelling units that are*

threatened by shoreline erosion and being relocated on to a lot with another dwelling unit. Section 7.1 Cluster Housing outlines the supplemental standards that must be met to comply with this use.

- *Cottage courts, as applied in the UDO and our existing ordinance, is a type of residential development utilized as a type of accommodation. The supplemental standards that apply to Cottage Courts can be found in Section 7.2 Cottage Courts.*
- **7.3 Dwelling, Accessory**
 - *The draft UDO proposes to allow accessory dwellings in R-3, CR, C-1, C-2, and C-4 and in accordance with the provision of Section 7.3 Dwelling, Accessory. This item was discussed at the Board Retreat in January and was one of the principal concerns coming out of the meeting.*
- **7.4 Dwelling, Large Residential**
 - If two 16,000 SF lots were combined why couldn't the house be 10,000 SF?
 - 7.4.4. Dimensional Requirements.
 - 7.4.4.1. The minimum lot area for large residential dwellings shall be 16,000 square feet. The total enclosed habitable living space for large residential dwellings is 5,000 square feet, except where the large residential dwelling is located in the SED-80 zoning district on a lot which meets the minimum lot area requirements for that district
 - *Policy LU-13 encourages maintaining the overall regulatory scheme for residential and commercial zoning district as a means to avoid overall increases in development intensity or density. In addition, policies LU-1 and LU-3 are supportive of low-density patterns of development. Staff would recommend, at this point in the UDO process, remaining with the policy direction established by the Comprehensive Plan.*
- **Section 7.18 Car Washes (Automated and Self-Service Only).**
 - Car washes (automated and self-service only) are permitted in accordance with Section 6.6 Table of Uses and Activities, provided that the following additional requirements and conditions are met:
 - 7.18.1. An attendant shall visit and assess the site a minimum of two times daily during all hours of operation to ensure a clean, orderly operation.
 - This seems excessive. Most car washes are fully automated now.
 - 7.18.8. Car washes may have specified hours of operation as necessary to minimize the impacts on any adjacent residential uses.

- How would this apply to car washes that are automated 24/7?
- *As recent as 2016, there was a proposal for a car wash and previously there was a long history of attempts to allow car washes in the town. There has historically been a great deal of concern about car washes and their impacts on adjacent to residential areas. Staff would suggest leaving the language as is.*

A brief history of car washes in Nags Head is below. The draft UDO reflects all the recent changes noted by the planning board and board of commissioners related to the 2016 proposal. There is significant history of this use within the Town dating back to 1988 when the discussions first arose with the Planning Board.

-September 20, 1988 – Request presented to the Planning Board to include “Car Wash” as a Permitted or Conditional Use within the C-2 Zoning District. At this meeting the Planning Board felt there was a need to regulate the operation via Conditional Use approval with such conditions as limiting the hours of operation and requiring an attendant on-site.

-October 18, 1988 – Presentation to the Planning Board on the use of a car wash as a Conditional Use with specified conditions including that the car wash be enclosed and fully automated under the direct operation of an attendant and that the hours of operation be limited to 9:00am to 9:00pm. The applicant at this time expressed concern that the requirement the car wash be enclosed would eliminate the open bay/wand operation. The Planning Board felt this type of operation would promote noise, trash and congestion and continued with the recommendation of an enclosed building. The Planning Board recommended adoption of the ordinance with development standards as presented.

-December 20, 1988 – Planning Board tabled discussion as the applicant was present to discuss the proposal.

-January 17, 1989 – Planning staff presented the request once more to the Planning Board following the applicant's assertion that the original request, to allow a self-service type car wash operation as well as automated, was not decided upon by the Board of Commissioners. The Planning Director presented the proposed conditions including the request for self-service car washes. Planning staff recommended against this because of the increased potential that an unattended, self-regulating business may create problems related to noise and litter control. While the Planning Board felt that a car wash might likely be needed within the Town they did not feel that this was the type that was desired. The Planning Board forwarded the request to the Board of Commissioners for the final decision with their recommendation of denial.

-March 6, 1989 – The Board of Commissioners held the Public Hearing pertaining to “Car Wash” as a Conditional Use within the C-2, General Commercial Zoning District. Commissioners felt that the Planning Board’s concern of noise could be addressed by an on-site attendant however the concerns of litter and possible after-hours activities could not be addressed. The Board of Commissioners voted to deny the request as presented and directed staff to return with a version of the amendment incorporating the requirement for an on-site attendant as well as additional storm water measures.

-July 3, 1989 - The Board of Commissioners began the Public Hearing, following staff’s presentation on the revised ordinance, public comment was taken. Significant revisions were proposed requiring re-advertisement of the proposed amendment. The Public Hearing was set for the Boards August meeting.

-August 7, 1989 – The Board of Commissioners adopted the text amendment which incorporated the requirement that the car wash have an on-site attendant.

-September 6, 1989 – Parking standards for car washes was discussed and later adopted.

- June 21, 2016 Following requests made by the Planning Board at its May 17, 2016 meeting, numerous revisions have been made to the proposed ordinance to include:

- *A site attendant must visit the site a minimum of two times daily to ensure proper operation.*
- *Security cameras must be installed to record activity in vulnerable locations.*
- *Hours of operation have been established, this is what the Board of Commissioners recommended in the initial amendment from October 1988.*
- *A minimum setback of 50 ft. has been applied to any freestanding vacuums and other service areas adjacent to a residential use or district.*
- *Clarification on what the word “enclosed” represents and the need to comply with Town Architectural Design criteria.*
- *Clarification that the required buffer must be continual and opaque. The buffer requirement on this site would not be subject to the clustering and grouping of plantings afforded in other scenarios.*

- **Part VI. Commercial Mixed Use - Section 7.31 General Provisions**
 - **Is multi-family not allowed as part of mixed-use development?**
 - *Section 7.31 does not list multi-family as an acceptable use for mixed use development. Staff would recommend amending this part of the draft to add multi-family as an allowable use.*

- Section 7.37 Elementary School- permitted in the C-2 district
 - 7.37.7. No modular units shall be allowed on school sites.
 - While not currently needed, they have been used on most DCS sites during the past when growth is problematic and there are no funds available for new construction.
 - *Technical committee to discuss. Staff would suggest deleting this limitation.*

- Section 7.39 Nonprofit/Community Outreach Center with Aquatic Fitness Facility.
 - 7.39.4. Hours of operation shall be 8:00 am until 9:00 pm or sunset, whichever occurs first.
 - Why limit hours?
 - *Staff would suggest deleting this requirement as the YMCA already opens before 8 am.*

- Section 7.41 Police Shooting Range.
 - Consider adding hours of operation
 - *As there has been a great deal of community concern about the hours of operation in the past, staff would suggest amending to add hours of operation. However, it should be noted that there is a mandatory state requirement for law enforcement officials to certify, at least once a year, after dark if this range will see continued use for the law enforcement community.*

- Section 7.42 Private Clubs (Nonprofit).
 - This is listed as a separate use for 501(c)(3) organizations.

- Section 7.44 Religious Complexes.
 - 7.44.2. Accessory Uses in the SPD-20 District.
A child care center is allowed as an accessory use to a religious complex in the SPD-20 district, subject to the following conditions:
 - What about allowing education or early childhood education?
 - *Staff feels that this type of amendment to the language would not be problematic. The Technical Committee should discuss and determine if the language should be amended.*

- 7.52 Private Parks/Playgrounds
 - Should these supplemental regulations be expanded to include hours of operation, signage, etc.?
 - *No change needed. Covered by other portions of the ordinance.*

- Section 7.61 Watercraft Rental, Non-Powered/Powered.

- Non-powered and wind-driven boat rentals including: canoes, kayaks, sailboats, windsurfer boards, and other nonpowered and/or wind-driven watercraft, are permitted
 - Consider spelling out kite boards, paddle boards
 - *Staff recommends amending the language.*
- 7.61.3. Boat Rental Establishments.
 - Boat rental or PWC Rental?
 - *Boat rental establishment means a business involved in the rental of boats, jet skis, windsurfers, and other personal watercraft for use in the sound waters only. The term includes both powered and non-powered watercraft. The term shall not include amusement rides for use in manmade ponds or pools. (Sec. 48-7)*
 - *The existing language in the current ordinance has not been change and has been carried forward into the draft UDO. The regulations limit the number of personal watercraft rental units per site with a maximum of 7 authorized personal watercraft rental sites within the town.*
 - *Section 7.61.3 regulates Boat Rental Establishments-*
 - *7.61.3. Boat Rental Establishments. Each site shall be limited to a maximum of eight (8) authorized personal watercraft rental units per site with a maximum of seven (7) authorized personal watercraft rental sites within Town. No personal watercraft shall be located waterward of the nearest principal or accessory building other than authorized personal watercraft identified for rental use and two personal watercraft that may be available for control, supervision, or rescue purposes per site.*
- 7.64 Wireless Telecommunication Facilities
 - There are no supplemental standards- are standards needed?
 - *7.64 references to Article 10. No additional standards are needed.*
- Section 7.66 Artisan’s Workshop
 - 7.66.4. Finished pieces of art work may be displayed on the exterior but shall not be located in any required setback or parking area.
 - Restricting finished pieces of art from the required setbacks is more restrictive than the way we treat Ace Hardware. We should go all one way or the other.
 - *Staff suggests removing this wording and treating the same as other businesses.*

- *Parking requirements for each principal use shall be calculated separately based upon the standards applicable to each use.*
 - *Staff would suggest amending the language to:*
 - *For restaurant use one parking space per 55 square feet of customer service area and for all office and retail occupancies one space for each 300 square feet of gross floor area.*
- 10.22.6.15. Three-dimensional sculptured objects and pictorial devices attached to and extending more than twelve (12) inches beyond any wall or roof of a building in business use. Attached sculptured objects and pictorial devices extending twelve (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 UDO pertaining to such signs.
 - Section 10.22. 6.15 Does this apply to only sculptured objects with a commercial message, or all sculptured objects?
 - *Staff will amend the sign regulations generally to clarify what constitutes a sign.*
- 10.22.6.9 All outdoor advertising signs or structures are prohibited.
 - Do the words "outdoor advertising" actually mean "billboards"? This is not a defined term.
 - *Staff will amend the sign regulations generally to clarify what constitutes a sign.*
- 10.23.1.4. Signs banners 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.
 - The intent of the first two words "Signs banners..." is not clear.
 - *Staff suggests modifying the wording to, "Signs and banners..."*.
- 10.24 Signs Permitted in Commercial Districts and the Commercial/Residential District
 - Should we add C-1 to allowable areas
 - Add to C-1
 - *Should also review the entire draft UDO to determine C-1 is allowed where appropriate.*
- 10.24.2.5. Window signs shall be permitted to be placed only inside a commercial building and shall not exceed twenty (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 twenty-five (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 twenty (20) square feet of sign area for any one store.

- Concerned about enforcement of this language.
 - *Staff suggests keeping language as is.*
- Section 10.84 Site Plan Submittal Requirements
 - 10.84.1 Sketch Plan Review- Clarify how this tie to the language in Article 4.
 - *Refer to response above the applies to number 4, 5, and 6.*
- Article 11 Environmental Regulations
 - 11.22.2. Exclusions from Regulated Land-Disturbing Activity. Notwithstanding the general applicability of this Part to all land-disturbing activities, this Part shall not apply to the following types of land-disturbing activity:
 - 11.22.2.1. Activities, including the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man including, but not limited to:
 - Agriculture is already prohibited.
 - 11.22.2.2. Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in "Forest Practice Guidelines Related to Water Quality", as adopted by the department. If land-disturbing activity undertaken on forest land for the production and harvesting of timber and timber products is not conducted in accordance with "Forest Practice Guidelines Related to Water Quality", the provisions of this Part shall apply to such activity and any related land-disturbing activity on the tract.
 - Section 11.2 2.2.2 If an owner designated their property as a forestland (even if small in size) could that negate our tree protections?
 - *These regulations are part of a state model ordinance for sedimentation and erosion control. This portion of the UDO was carried forward as is. These suggestions are noted and staff will update at a later date.*
- Appendix A- Definitions
 - *Technical committee to discuss. Staff suggests amending the following definitions:*
 - Expand SOB definition- include movie studios for the purpose of making pornographic movies.
 - Modify "Sign" definition so that the art masts are clearly never considered signs.
 - Modify definition of food truck to include use of concession trailer.



FOCUS Technical Committee

Meeting Notes

February 21, 2019; 2:00 pm

Attendees: Mayor Ben Cahoon; Marvin Demers; Mark Cornwell; Tom Haddon; David Elder; Holly White; Andy Garman; Kelly Wyatt; Michael Zehner; and Michelle Gray

All handouts are available on the Town's website

www.focusnagshead.com/340/FOCUS-Technical-Committee

Welcome – Holly White welcomed everyone and introduced new Planning Director Michael Zehner. Staff gave an overview of the current project status and timeline for completion. The goal is to have a final draft by the end of March with Board adoption on May 1st. Staff summarized the discussion of the UDO by the Board of Commissioners at the recent Board Retreat.

The committee then began discussion of comments by the Technical Committee, Planning Board, and Board of Commissioners that required further discussion. Committee members provided Planning Staff with direction on specific comments where additional feedback was needed. The comments are shown in black text, Planning Staff responses or suggestions are shown in green text, and Committee recommendations, feedback, or actions are shown in red text.

Discussion of Comments on Final Draft of UDO

- **Agricultural-**
 - **Commercial Crop Production (Indoor and Outdoor)**
 - *Commercial Crop Production is a large-scale production of crops for sale, intended for widespread distribution to wholesalers or retail outlets.*
 - *Staff needs to do additional research to understand any concerns associated with indoor Commercial Crop Production.*
 - *Technical Committee to discuss at upcoming meeting.*
 - *Add to Table of Permitted Uses- for indoor commercial crop production. Develop supplemental standards if needed.*
 - **Automated Ice Vending Machines**
 - *Staff would suggest adding a definition to clarify what this is. This would be similar to the one in Manteo which is a freestanding building on one lot dedicated solely to this use.*
 - *Need definition but keep prohibited uses list. Consider deleting word "machine"*

- **Industrial-**

- **Solar Energy Farms**

- A solar farm is a term commonly used to describe a collection of photovoltaic solar panels. There is no official number of panels installed or acres of land used that qualify a project as a solar farm, though a peak output of one megawatt of power has been cited as a common standard. Due to the lack of a standardized definition for solar farms, most industry representatives and government agencies refer to solar farms as utility-scale solar applications. When this publication refers to solar farms, it means only those projects that can be categorized as utility-scale solar applications. The definition of a solar farm is not based on the number of panels or energy generated, but on the purpose of the energy. If the primary purpose of power from a solar application's is the sale for commercial gain, then it is considered a utility scale solar application.
 - Solar Energy is allowed as an accessory use in all zoning districts. This would be a residential type application.
 - Staff would suggest changing the title of "Solar Energy" in the Table of Permitted Uses to "Solar Energy Facility" to be consistent with Appendix A. Definitions.
 - Solar energy facility means a solar collector or other device or structural design feature of a structure that relies upon sunshine as an energy source and is capable of collecting, distributing, and storing (if appropriate to the technology) the sun's radiant energy for a beneficial use. (NEW)
 - Technical Committee to discuss at upcoming meeting.
 - Keep on solar farm on list. Make change in table to solar energy facility. Follow up- How will lot coverage be treated for stand a-lone panels.

- **Transportation-**

- **Pedicab Storage and Dispatch**

- The use of a site for the staging, storage, and dispatch of non-motorized vehicles, including incidental parking and servicing of these vehicles.
 - Some localities reference these as a rickshaw.
 - Create definition. Keep on prohibited uses list.

- **Accessory Dwellings**

- The draft UDO proposes to allow accessory dwellings in R-3, CR, C-1, C-2, and C-4 and in accordance with the provisions of Section 7.3 Dwelling, Accessory. This item was discussed at the Board Retreat in January and was one of the principal concerns coming out of the meeting.
 - Committee discussed ADU's and asked staff to research technical standards in the industry and what is happening in nearby municipalities.

▪ **Home Occupation- Class 1/2 not permitted in SPD-20**

- Staff would recommend consider permitting Class 1 in SPD-20. Currently Class 1 Home Occupation is allowed town wide.
- Staff would recommend further discussion with the Technical Committee on Class 2.
- Allow Class 1 & 2 in SPD-20.

▪ **Hotel**

- The Board would like to leave the height limit for hotels in the Hotel Overlay District at 60 feet. Staff is also reviewing the setbacks for hotels in the overlay to ensure that they are not more restrictive than what is currently allowed while still providing a step-back provision for hotels over 35 feet tall. Staff will have a presentation on this at the upcoming meeting. Staff is also reviewing language that would remove the ocean access requirement while still protecting the historic district from hotel development.
- Amend with staff suggestions and delete "private access" from language. See additional handout.

▪ **Art Gallery- Owner Occupied- consider in R-3 and C-3**

- Art gallery, owner occupied means a structure for the collection, display and/or distribution of objects of art and generally open to the public and operated by the art gallery owner residing at the structure and does not employ any person outside the immediate family. (Sec. 48-7)
 - Staff would recommend not placing in the C-3. This use would be inconsistent with the C-3 district as the purpose of the C-3 district is to provide for higher intensity land uses that are not compatible with other areas of the town. This would include utilities, light industrial, and commercial service buildings.
 - Technical Committee can discuss the potential to include in the R-3.
 - Ok to not all in C-3 and R-3.

▪ **Food/Grocery Store- consider in CR. Shown as permitted in C-1 & C-2.**

- There is currently one food/grocery store in the CR.
- The Comprehensive Plan states, "The oceanfront is an active environment subject to wind, waves, and the forces of erosion. Vulnerability to storm surge, erosion, sea level rise, and other hazards have influenced land use planning decisions and development patterns town wide and particularly along the oceanfront. This is discussed in greater detail in Section 3.3. Due to these factors, previous land use plans have designated the oceanfront for low-density development. This plan continues to recommend a low-density development pattern for the oceanfront for the aforementioned reasons. While land uses should be varied

to accommodate tourist related needs (i.e. accommodations, restaurant, retail, fishing piers), future building sizes should be small scale and adaptable to future conditions and hazards. Large scale hotels and multi-family buildings with higher heights are incompatible with the desired scale and character of the oceanfront and are difficult to manage with respect to beach erosion. In the future, new oceanfront structures should generally be limited to 5,000 square feet of heated area and 35 feet in height (this could be higher to accommodate architectural requirements).”

- Comprehensive Plan Policy
LU-3 Recognize a low-density pattern of development for the oceanfront that is characterized by small scale, adaptable structures.

While not probable that another food/grocery store would locate in the CR due to lot sizes, it would not be problematic if individual buildings are small scale with (size limited under 5,000 square feet) height limited to 35 feet, and residential appearance.

- *Ok to allow in CR.*

▪ **Locksmith- consider in C-2 and C-4, permitted in C-3**

- Today, many locksmiths are mobile. Staff would not envision heavy customer traffic for this type of use, but rather more of an office type space. The Technical Committee can decide if this type of use is in keeping with the vision for the C-2 and C-4 district.
- *Allow in C-2 but not in C-4.*

▪ **Ice Cream Shop- consider in C-4**

- Ice cream shop would be consistent with vision of the C-4 district. The Technical Committee could include this use if desired.
- *Ok to allow*

▪ **Microbreweries- consider in C-4**

- Microbreweries are consistent with the vision of the C-4 district. The Technical Committee could include this use if desired.
- *Ok to allow*

▪ **Mixed Use- consider allowing in C-4 and Hotel Overlay.**

- **Comp plan encourages boutique shopping with residences above along the Soundside)**
 - Staff would agree that the Comprehensive Plan encourages mixed use in the C-4 and the Hotel Overlay. The Technical Committee could modify to include in the C-4 and Hotel Overlay if desired.
 - *Hotel overlay does not restrict, so it is allowed. Allow in C-4.*

- **Community Gardens-** permitted everywhere but seem unlikely in C-4.
 - Community garden means a use in which land is managed by a group of individuals to grow food or ornamental crops such as flowers, for donation or for use by those cultivating the land. Community Gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members. (Amendment to Sec. 48-7)
 - C-4 Village Commercial District. The C-4 village commercial district is a district focused on arts and culture. This district is intended to provide a healthy mixture of residential and commercial uses where shopping, strolling, and dining are leisure activities as much as other needed services. Appropriate uses for this area include restaurant (walk-up/sit down), accessory dwellings, commercial (10,000 square feet or less) office, retail, personal service establishments, gallery/museums, equipment rentals, cottage courts, small scale (boutique) hotels, and residential. Commercial development should be designed to activate the street fronts, encourage walkability, and be situated closer to street grade while still elevated to minimize flood risk. It is also the intent of this C-4 district to encourage the development of unique, locally owned businesses that are designed to be reflective of the community's heritage and lifestyle both in scale and massing as well site layout. This could include the use of accessory residential dwelling units to commercial businesses or other arrangements of mixed use that are designed to be pedestrian oriented and near one another. The C-4 district is further intended to provide an area in which small but similar businesses will be allowed to take advantage of the steady flow of low-volume vehicular and pedestrian traffic by locating within close proximity of each other.
 - *While unlikely, there is no harm in allowing it to remain in the C-4. The Technical Committee can discuss and determine their desire for this use.*
 - *Keep community gardens in C-4*

- **Environmental Awareness Areas-** consider in C-4, permitted in SPD-20 and SED-80
 - Environmental awareness area is an area designated and maintained for the purpose of conservation and environmental education. This may include nonprofit wildlife, ecological preserves, watershed construction areas, interpretive signage, trails, research stations and appurtenant office, restroom and mechanical facilities (and is distinct from the definition of "area of environmental concern" or "AEC," which is a CAMA designation). (Sec. 48-442)

- *This definition was previously created to be applied in the SPD-20 and SED-80 district which encompass sensitive natural areas that need additional protection or could serve as good educational opportunity locations such as Nags Head Woods, Jockey's Ridge, and Fresh Pond. The Technical Committee can discuss and determine if appropriate and in keeping with any other areas within the town.*
- *Keep as is.*
- **Concealed Building Mounted Antennas- Why are we so restrictive?**
 - *This item was carried over from the current ordinance as is.*
 - *Keep as is.*
- **Artisans Workshop- consider >3,000 sq. ft. in C-1, allowed in CR, C-2, and C-4.**
 - **Artisan's workshop means an establishment for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items. (NEW)**
 - *Allowing Artisans Workshop >3,000 sq. ft in the C-1 would be consistent with the vision for the C-1 district. This use could be allowed if the Technical Committee desired to modify.*
 - *Allow in C-1.*
- **Wind Energy Facilities – consider in C-1, C-3, and C-4**
 - *As an accessory use, this would have no more impacts than other districts.*
 - *Staff review language and make apply to small and vertical axis. Also amend language as it pertains to the Village and the Village table of permitted uses.*
 - *Allow in C-1, C-3, and C-4 and remove from the Village.*

Time did not allow to complete discussing all items for further review and discussion. The meeting was adjourned; Ms. White will notify the committee of the next meeting date and time.