



**MEMORANDUM**  
**Town of Nags Head**  
**Planning & Development Department**

---

To: Michael Zehner, Planning and Development Director  
From: Holly White, Principal Planner  
Date: April 12, 2019  
Subject: FOCUS Unified Development Ordinance (UDO) Update

---

The Technical Committee met on Thursday, March 7, 2019 to discuss comments made 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. A comprehensive list of comments is attached. The Technical Committee has reviewed all of the comments and provided additional recommendations or actions where necessary. 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.

Staff is working to make all suggested changes, including the development of diagrams, for the final draft. Additionally, the Town Attorney is reviewing specific sections of the draft and providing staff with any suggested modifications.

## Additional Issues for 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.*
      - *No further action needed.*
  
- 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:*
- *Improve wording 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.*
  - *No further action needed.*

#### Prohibited Uses List

6.5.3. The following uses are expressly prohibited in the Town of Nags Head planning jurisdiction:

- COMMERCIAL:
  - Horseback Tours.
  - Nightclubs.
  - Commercial Marina.
  - Jet-Pack Rentals.
  - Campgrounds.
  - Drug Paraphernalia Sales.
  - Automobile Dealership.
  - Automated Ice Vending Machines (*excluding such use accessory to and incorporated within a principal building*).
  - Smoke and Vapor Shops.
- Industrial:
  - Satellite Dish Farms.
  - Solar Energy Facilities ~~Farms~~ (*as a principal use*).
  - Wind Energy Facilities (Commercial).

- 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.*
    - *Add to Table of Permitted Uses- for indoor commercial crop production. Add definition.*
      - *Commercial Crop Production is the production of crops or produce for sale, to wholesale or retail establishments.*
        - *Ok to permit indoor commercial crop production. Add to table: C-1, C-2, C-3, C-4*
  
- Institutional-
  - Accessory Church School- what does this mean?
    - *Staff would suggest removing this from the prohibited uses list.*
    - *Committee agreed with staff suggestion.*
  
  - 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. Delete word “machine” in title.*
      - *An ice production machine or facility that may operate without full-time service personnel, designed to store and/or manufacture ice for the purpose of ice dispensing. These units are activated by the insertion of money, credit cards, check cards, token, or similar means.*

*Ice is bagged automatically or dispensed in bulk to the consumer.*

- *Committee ok with definition.*

- 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 alone panels for accessory use.*
    - *Staff suggests counting the area of collection on the solar panel toward lot coverage.*
    - *Committee ok with total panel area.*
- 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.*

- *No additional action needed.*

- 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.*
      - *The term "Pedicab" means a non-motorized for-hire vehicle, propelled by human power, for which public patronage is solicited and for which the charges are based upon the number of miles operated or zone covered.*
      - *Committee is ok with definition.*
  - 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.*
    - *Committee agreed with staff recommendation.*
- 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
  - *See separate memo from staff related to this item under agenda item H-2 Discussion of Proposed Accessory Dwelling Unit ordinance.*
- 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.*
  - *Committee suggested to allow Class 1 & 2 in SPD-20.*
- Townhouse- C-2
  - *Staff would recommend allowing Townhouses in C-2 following standards for multi-family.*
  - *Committee concurred with staff recommendation.*



- 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.*
  - *Committee concurred with staff recommendation.*
  
- 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.*
  - *Committee concurred with staff recommendation.*
  
- 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.*

- *Committee concurred with staff recommendation.*

- 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 language below.*

**SECTION 7.12 HOTELS.**

Hotels are permitted in accordance with Section 6.6 Table of Uses and Activities, provided the following additional requirements and conditions are met:

**7.12.1. Dimensional Requirements.**

TABLE 7-2: DIMENSIONAL REQUIREMENTS FOR HOTELS			
	C-1	C-2	HO/WC
<b>Lot Width</b>	100 feet	150 feet	150 feet
<b>Front Setback</b>	15 feet; portions of buildings greater than two stories shall be set back an additional 10 feet.	30 feet	15 feet; portions of buildings greater than two stories shall be set back an additional 10 feet for every story over two. <b>In no instance shall the setback need to exceed 30 feet.</b>
<b>Rear Setback</b>	25 feet	25 feet	25 feet
<b>Side Setback</b>	10 feet; 15 feet for corner lot	10 feet; 15 feet for corner lot	10 feet; 15 feet for corner lot; portions of buildings greater than two stories shall be set back an additional

			10 feet for every story over two. In no instance shall the setback need to exceed 30 feet.
<b>Height</b>	35 feet; 42 feet with 8:12 roof pitch	35 feet; 42 feet with 8:12 roof pitch	60 feet
<b>Open Space</b>	50% of side yard to remain as open space.	50% of side yard to remain as open space.	50% of side yard to remain as open space. Minimum 5 feet, Maximum 10 feet.
<b>Lot Coverage</b>	55%	55%	65%
<b>Density</b>	Maximum 20 units per site.	None	None
<b>Unit Size (Room)</b>	Minimum 300 sq ft, Maximum 700 sq ft.	Minimum 300 sq ft, Maximum 700 sq ft.	Minimum 300 sq ft, Maximum 700 sq ft.
<b>Unit Size (Efficiency)</b>	Minimum 400 sq ft, Maximum 700 sq ft.	Minimum 400 sq ft, Maximum 700 sq ft.	Minimum 400 sq ft, Maximum 700 sq ft.
<b>Unit Size (Suite)</b>	Minimum 400 sq ft, Maximum 900 sq ft. Up to 33% of units can be suites.	Minimum 400 sq ft, Maximum 900 sq ft. Up to 33% of units can be suites.	Minimum 400 sq ft, Maximum 1,200 sq ft. Up to 33% of units can be suites.
<b>Minimum Units Per Building</b>	2	2	2
<b>Building Separation</b>	20 ft; A sidewalk or boardwalk constructed to provide a grade separation from vehicular traffic of at least six inches shall connect all principal buildings on the site. Separate buildings shall be connected with pedestrian passageways that are striped when crossing traffic lanes.		
<b>Ocean/Sound Access</b>	Hotel parcels east of US 158 must be within 1,000 feet in a straight line distance to either a <del>private, deeded ocean access</del> or a public ocean access. The access must consist of a minimum five-foot wide improved pedestrian path. Hotels west of US 158 must provide direct, private soundfront access	Hotel parcels east of US 158 must be within 1,000 feet in a straight line distance to either a <del>private, deeded ocean access</del> or a public ocean access. The access must consist of a minimum five-foot wide improved pedestrian path. Hotels west of US 158 must provide direct, private soundfront access	None.

<b>Accessory Uses</b>	Retail shops, offices, restaurants, indoor entertainment facilities, indoor public assembly for the benefit of occupants, guests and the general public, cottage court.	Retail shops, offices, restaurants, indoor entertainment facilities, indoor public assembly for the benefit of occupants, guests, and the general public, cottage court.	Uses permitted as accessory to hotels in the C-2 district and outdoor recreation activities as allowed in the WC district.
	Hotel allowed as accessory to other commercial.	Hotel allowed as accessory to other commercial.	Hotel allowed as accessory to other commercial.
	Dormitory for employee housing.	Dormitory for employee housing.	Dormitory for employee housing.
	Single-family dwelling for employee/owner housing.	Single-family dwelling for employee/owner housing.	Single-family dwelling for employee/owner housing.

- 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.*
    - *Committee ok to not include in the C-3 and 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.*

- *Committee concurred with staff recommendation.*
- 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.*
    - *Committee concurred with staff recommendation.*
- 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.*
    - *Committee concurred with staff recommendation.*
- 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.*

- *Committee indicated that is ok to allow in CR.*
- 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.*
  - *Committee concurred with staff recommendation.*
- Bank- consider in C-1
  - Already one existing
    - *Shown as permitted in the C-1.*
    - *No action needed.*
- 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.*
  - *Committee indicated to allow in C-2 but not in C-4.*
- 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.*
    - *No action needed.*

- 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.*
    - *Committee concurred with staff recommendation.*
  
- 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.*
  - *Committee indicated that is ok to allow in the C-4.*
  
- 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.*
  - *Committee indicated that is ok to allow in the C-4.*
  
- Microbreweries-
  - Amend definition to be consistent with General Statutes.
    - *These references to the general statutes are included in the supplemental standards for Microbreweries.*
    - *No action needed.*
  
- 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.*
    - *Committee indicated that is ok to allow in the C-4. Hotel overlay does not restrict, so it is allowed.*
  
- 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.*
  - *Committee indicated that is ok to allow in the 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.*
- *Committee indicated to keep as is.*
  - Concealed Building Mounted Antennas- Why are we so restrictive?
    - *This item was carried over from the current ordinance as is.*
    - *Committee indicated to keep as is but modify definition.*
      - *Concealed building mounted antenna (flush) means a building mounted antenna or antenna array which is concealed by, but not limited to, being located beneath the roof line, being screened behind an opaque facade, or blended into the building structure with faux windows, dormers or other architectural features that appear as part of the existing or proposed structure so that the antenna or antenna array is not visible by ordinary observation from the ground at the perimeter of the property boundary in any direction (360 degrees). (Sec. 48-7)*
  - 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.*
      - *Committee indicated that it is ok to allow in C-1.*
  - 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.*
    - *Committee concurred with staff.*
  - 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.*
  - *Staff will rework language.*
- 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.*
      - *No action needed.*
  - 7.3 Dwelling, Accessory
    - *See separate memo from staff related to this item under agenda item H-2 Discussion of Proposed Accessory Dwelling Unit ordinance.*
  - 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, polices 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.*
- *Committee indicated that this item is ok as is.*
- 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 on 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.*
  - *Committee concurred that no action was needed on this item.*
- 
- 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.*
    - *Committee concurred with staff recommendation.*
  - 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.*
- *Committee ok to keep the language as is.*
- 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 leaving this as is.*
    - *Committee concurred with staff recommendation.*
- 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.*
    - *Committee is concerned over nighttime activity. Follow up with Police Chief to gain feedback.*
- 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.*
    - *Committed agreed to allow suggested change.*
- 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.*
        - *No action needed.*
  - 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.*
      - *No action needed.*
- 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.*
    - *Committee concurred with staff recommendation.*
  
- Section 7.72 Heliport, Accessory to Hospital and Medical Offices.
  - 7.72.3. The heliport shall be ground-based only. No rooftop facility shall be permitted.
  - Why would we restrict a heliport from the roof of the hospital?
  - *The FFA and the hospital regulate the location of the heliport facility at the hospital. Staff suggests not modifying the language.*
  - *No action needed.*
  
- Section 7.73 On-Site Rental Of Beach Chairs And Umbrellas.
  - 7.73.5. Rentals shall be limited to hotel patrons.
    - Why limit to hotel patrons?
      - *Technical committee to discuss. This was a specific amendment request that was made through the BOC several years ago and was carried forward as is.*
      - *Committee requested to change table of permitted uses to allow in CR*
  
- Section 7.74 Outdoor Stands, Accessory to Shopping Centers & Group Development.
  - 7.74.1. The principal sale of items at an outdoor stand shall be limited to either fresh produce, hot dogs, coffee, ice cream or Italian ice and fudge. The sale of any other items shall be incidental and limited to no more than ten percent of the display area or ten percent of sales.
    - The list of products for an outdoor stand could reasonably be expanded to include hot pretzels, fudge, nuts, etc. But do we need to be this restrictive?
    - Could we generally say food?
      - *There is a long history of debate with this use over what products can be sold from an outdoor stand. There has been a concern, like that of food trucks, that these temporary locations not take business away from established businesses. Due to the history and*

*debate over this topic, the ordinance has been carried forward as is.*

- *Committee concurred with staff recommendation.*

○ Section 8-

- Section 8.4 Development Standards for Special Districts.
  - 8.4.1. Dimensional Requirements.
    - SPD-20 lots are not typically 20,000 square feet. Why create non-conformity within our UDO making lots unbuildable, not able to add additions or make necessary repairs? These neighborhoods were platted more than 35 years ago. Why create the non-conformity and create hardship?
    - *Staff will clarify with a foot note that minimum lot sizes are only applicable to newly created lots. The lot size and width minimums do not affect the ability to develop on existing lots. This is in the nonconforming lots section in Article 5 however staff will include this explanation in Article 8 as well.*
    - *No action needed.*
  - 8.4.3.3. Additional Requirements. In addition to the dimensional requirements listed in 8.4.1., within the SED-80 district, the following additional requirements shall be in effect.
    - 8.4.3.3.1. No structure or parking lot shall be located closer than fifty (50) feet to any pond, stream, marsh, or other wetlands or wetland swales.
      - This is already happening. Should we keep knowing how many violations already exist.
      - *Staff has not field verified or done any research to determine if this in fact occurring in the field and how widespread. While violations may have occurred, the language is appropriate for this district due to the sensitive natural areas contained within the SED-80. Staff would suggest that this be explored separately outside of the UDO if any action is needed.*
      - *No action needed.*
- 8.6.2. Minimum Dimensional Requirements for Principal Buildings (Residential and Commercial).
  - 8.6.2.4. A building shall be at least eighteen (18) feet wide along at least forty (40) percent of its length.
  - Why do we have a minimum width for buildings?
    - *This is to regulate shotgun houses and strip shopping centers. Staff feels the language and the diagram needs clarification.*
    - *Committee requested suggested clarification.*

- 8.6.5. Habitable Floors.
  - Purpose of language in 8.6.5.1 and 8.6.5.2
    - 8.6.5.1. For the purpose of this section, area or space above the top plate of a habitable floor which is open, unrestricted, and unobstructed such as used in an a-frame, cathedral ceiling, or opposed shed roof type construction shall not be considered as a part of such habitable floor.
    - 8.6.5.2. The enclosed area above the top plate of a structure shall not be inhabited by any person or used for any purpose other than the storage of personal effects or property.
      - *Staff suggests keeping this language. The purpose of the language was to allow coastal watch towers, as architectural features, but limit the number of habitable floors.*
      - *Committee concurred with staff recommendation.*
  - 8.6.5.3. Single-family dwellings and two-family dwellings (duplexes) shall not exceed three habitable floors.
    - Suggest changing “habitable floors” to “stories as defined by the North Carolina Building Code.”
      - *Staff needs to conduct additional research to determine if there are any differences between habitable floors and stories before any action is taken.*
      - *No action needed.*
  - 8.6.6.2. Special Requirements for Residential Uses. For residential uses in the R-1, R-2, R-3, CR, and C-2 districts, the total lot coverage may be increased by three (3) percent when all runoff from the project’s built-upon area is directed into an approved stormwater management system designed to accommodate the volume of runoff generated by a 3.5-inch design storm. The approved stormwater management system shall be designed in accordance with the standards included in Article 11, Part I Stormwater, Fill, and Runoff Management.
    - Edit to match the new residential stormwater provisions
      - *Staff will review and modify to ensure that the language matches.*
      - *No action needed.*
- Article 10 Performance Standards
  - 10.3 Deferring Installation Due to Seasonal Planting Limitations
  - Is the money in escrow? Does the contractor get it back if he plants in the spring? Seems like the Town could end up putting in

vegetation when the contractor walks away. Just not clear on how this works

- *This process is already in place. Just carrying forward how it is handled at this time. The money is escrowed until plantings are installed.*
  - *No action needed.*
- 10.5.2. Replacement of Vegetation
    - Use of County agricultural agent for replacement of vegetation- will this person get involved?
      - *Strike use of "county agricultural agent"*
      - *No committee action needed.*
- Section 10.16 Required Parking by Use.  
Minimum required parking by use shall be as follows. For sites with multiple principal uses, the parking requirements for each use must be met on-site or through shared parking in accordance with Section 10.15. Also see Section 10.17.
    - We appear to have lost the beneficial commercial-residential mixed-use parking ratio. The full requirement for every incorporated use feels excessive.
    - *Existing Language in Current Ordinance-*
      - *Commercial/residential mixed development- For restaurant use one parking space per 55 square feet of customer service area. For all other permitted commercial uses one space for each 200 square feet of gross floor area. Plus one space for each bedroom in all permitted residential units.*
      - *Office/retail group development and commercial mixed-use development without residential- 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.*
    - *Language proposed in the UDO-*
      - *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.*
      - *Committee concurred with staff's recommendation.*

- 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.*
    - *No committee action needed.*
- 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.*
    - *No committee action needed.*
- 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...”.*
  - *No committee action needed.*
- 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.*
    - *No committee action needed.*
- 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.*
  - *Committee concurred with staff recommendation.*
- 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.*
    - *No action needed.*
- 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.
  - *Committee indicated that it is ok to make suggested modifications. Additionally, ensure that parking requirement is in the parking table.*

**7.14.3. Restaurants.**

Food trucks shall be allowed to operate on the same lot as a restaurant, either (1) when the principal restaurant is closed or (2) when the principal restaurant is open, provided the site contains a minimum of three (3) parking spaces in excess of the minimum parking required by this UDO. The following additional regulations shall apply:

**OTHER ITEMS TO ADDRESS-**

- Committee indicated to revisit 5,000 square foot limit for structures in the CR as suggested in the comprehensive plan.  
Suggestions are shown below:
  - Add to table - 8.2.1. Dimensional Requirements.
    - Add footnote to CR Commercial Residential
      - *CR- refer to Section XX on building size limit.*
  - Add to flood damage prevention ordinance.
    - *Add to Section 11.44.2.9. Coastal High Hazard Areas (Zones VE).*

**SECTION 8.2 DEVELOPMENT STANDARDS – PRIMARY ZONING DISTRICTS.**

**8.2.1. Dimensional Requirements.**

District	Minimum Lot Area <sup>1</sup>	Minimum Lot Width ①	Minimum Front Yard Depth ②	Minimum Side Yard Depth ③
CR Commercial Residential <sup>10</sup>	15,000 sq. ft.	50 feet	15 feet	8 feet
Commercial <sup>6</sup>	15,000 sq. ft.		30 feet	
Single-Family Duplex	22,500 sq. ft.		30 feet	
Large Residential <sup>4</sup>	20,000 sq. ft.			
Lots using individual well/septic tanks	per dwelling unit			

<sup>1</sup>Minimum Lot Area – for nonconforming lots, refer to Section 5.2 Nonconforming Lots of Record

<sup>2</sup>Maximum Building Height – refer also to Section 8.6.4 Building Height

<sup>3</sup>Lot Coverage – refer also to Section 8.6.6 Lot Coverage.

<sup>4</sup>Large Residential Dwelling – refer to Section 7.4 for dimensional requirements.



<sup>5</sup>Minimum Rear Yard Depth – for oceanfront properties, refer to Section 8.6.3.3 Oceanfront Property.

<sup>6</sup>Commercial – refer to Article 10, Part \_\_, Commercial Design Standards to determine front yard setback and building size.

<sup>7</sup>Minimum Side Yard Depth – the total combined side yard shall be a minimum of 15 feet. In no instance shall either side yard be less than five feet.

<sup>8</sup>C-3 Commercial Services District – refer also to Section 8.3 Special Development Standards – Primary Zoning Districts.

<sup>9</sup>Lot Coverage, C-3 District – refer to Section 8.6.6.4 Special Requirements for the C-3 District.

<sup>10</sup> *Building Size Limitation in CR- refer to Section 11.44.2.9 Coastal High Hazard Areas (Zones VE) and Properties East of Highway 12 and SR 1243*

### **11.44.32.9. Coastal High Hazard Areas (Zones VE) and Properties East of NC 12 and SR 1243**

Coastal high hazard areas are special flood hazard areas established in subsection 11.42.2, and designated as zones VE. *Properties located to the east of NC 12 and SR 1243 are located in an active oceanfront environment that is vulnerable to storm surge, erosion, sea level rise, and other hazards.* These areas have special flood hazards associated with high velocity waters from storm surges, erosion, and sea level rise and, therefore, in addition to meeting all requirements of this article the following provisions shall apply:

**11.44.3.1.** All new construction and substantial improvements shall:

**11.44.3.1.1.** Be located landward of the reach of mean high tide;

**11.44.3.1.2.** Be located landward of the first line of stable natural vegetation; and

**11.44.3.1.3.** Comply with all applicable CAMA setback requirements.

**11.44.3.2.** All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in coastal high hazard areas to satisfy the regulatory flood protection elevation requirements.

**11.44.3.3.** All new construction and substantial improvements, including properties with elevations above the regulatory flood protection elevation, shall have the space below the lowest horizontal structural member free of obstruction so as not to impede the flow of floodwaters, with the following exceptions: Open wood latticework or insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with subsection 11.44.2.5.4. Design plans shall be submitted in accordance with subsection 11.43.3.6.3.

**11.44.3.4.** All new construction and substantial improvements shall be securely anchored to an open "pile or column foundation" to allow floodwaters and waves to pass beneath the structure. "All pilings and columns and the structures attached thereto shall be anchored to resist flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all building components."

**11.44.3.4.1.** Water loading values used shall be those associated with the base flood.

**11.44.3.4.2.** Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.

**11.44.3.5.** *All new construction, initiated after the adoption of this UDO on May 1, 2019, located east of NC 12 and SR 1243 shall limit the total enclosed habitable living space of individual structures to 5,000 square feet. Enclosed habitable living space for large residential dwellings shall also include any enclosed habitable space that may be present in any accessory structure or accessory dwelling that is located on the same lot as the principal structure.*

**11.44.3.5.** A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in subsection 11.43.2, subsections 11.44.3.3.1 and 11.44.3.3.2, subsection 11.44.3.4 and subsection 11.44.3.6 of this Part on the current version of the North Carolina "National Flood Insurance Program V-Zone Certification" form.

**11.44.3.6.** Fill shall not be used for structural support. Limited non-compacted and non-stabilized fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided it is demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the base flood elevation and not cause any adverse impacts by wave ramping and deflection to the subject structure or adjacent properties.

**11.44.3.7.** There shall be no alteration of sand dunes which would increase potential flood damage.

- Committee suggested earlier that we relook at name of C-4 (Village Commercial) zoning district due to conflict with the Village at Nags Head—
  - Consider the following names for the C-4
    - *Gallery Commercial*
    - *Gallery Row Commercial*
    - *Gallery Row*
    - *Arts and Culture*
    - *Arts and Culture Commercial*
    - *Arts District Commercial*

*Committee to vote on two names to make final decision- Gallery Row Commercial and Arts and Culture Commercial.*

- *Suggested Revisions by the Village of Nags Head.*

*Staff worked with the Home Owners Association (HOA) at the Village of Nags Head to review the table of permitted uses for Article 9. The HOA suggested that we remove the following uses from the table of permitted uses in Article 9:*

  - Hotel
  - Hotel condominium
  - Motel
  - Motor Lodge/motor inn

- Wind energy facility as accessory to single-family residential
- Automobile sales and rental
- Attended car wash (automated & enclosed only)
- Automobile repair garage
- Automobile service station
- Funeral home
- Taxi and limousine service
- Veterinary establishment and commercial kennel
- Outdoor stands (accessory to shopping mall/neighborhood shopping cluster)
- Regional shopping mall

*Staff would agree to all changes except for:*

- *Hotel*
- *Hotel condominium*
- *Motel*
- *Motor Lodge/motor inn*
- *Regional shopping mall*

*Staff has communicated again with the Village and awaiting their response to staff concerns.*