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**Town of Nags Head  
Planning Board  
May 17, 2016**

The Planning Board of the Town of Nags Head met in regular session on Tuesday, May 17, 2016 in the Board Room at the Nags Head Municipal Complex.

Chairman Mark Cornwell called the meeting to order at 2:30 p.m. as a quorum was present.

***Members Present***

Mark Cornwell, Ben Reilly, Clyde Futrell, Kate Murray, Mike Siers, Jim Troutman, Pogie Worsley

***Members Absent***

None

***Others Present***

Andy Garman, Kelly Wyatt, David Ryan, Lily Nieberding

***Approval of Agenda***

There being no changes to the agenda, Ben Reilly moved that it be approved as submitted. Jim Troutman seconded the motion and it passed by unanimous vote.

***Public Comment/Audience Response***

None

***Approval of Minutes***

There being no changes, Ben Reilly moved that the minutes be approved as presented. Jim Troutman seconded the motion and it passed by unanimous vote.

***Action Items***

***Consideration of the Dowdy Park Phase I Site Development Plan (Town of Nags Head), located at 3005 S. Croatan Highway.***

Deputy Planning Director Kelly Wyatt presented a site plan on behalf of the Town of Nags Head for the development of Phase I improvements for Dowdy Park, the property located at 3005 S. Croatan Highway. The property is zoned C-2, General Commercial District. Phase I includes initial site preparation, children's play areas, construction of event plaza and pavilion, community art and expression spaces, multi-purpose event green, walking trails, fitness stations, vehicular access and associated drainage and utility infrastructure.

Ms. Wyatt reviewed the Zoning Classification of the surrounding properties: the properties to the north of this site, directly across Bonnett Street, are zoned C-2, General Commercial (The French Door) and R-3, High Density Residential. The properties to the east of the site, directly across Wrightsville Avenue are also zoned R-3, High Density Residential. The property west of this site, directly across U.S. 158, is zoned C-2, General Commercial (YMCA) and directly to the south is Nags Head Elementary School.

The Flood Hazard Zone of the property is AE 10. The elevation of all new construction must meet the Regulatory Flood Protection Elevation of 11 ft. mean sea level. This phase of development only includes the Pavilion structure and it is compliant.

The Land Use Plan classification for this property is Park Open Space – private. This proposal is consistent with this land use classification; however it will be changed to “Public” during the next Land Use Revision.

Ms. Wyatt noted “Municipally-owned recreation facilities” is a Permitted Use within the C-2, General Commercial Zoning District. Allowable lot coverage for this site is 55%. Lot development coverage for Phase I construction will total 23.50% lot coverage.

The maximum allowable height within the Town is 35 ft. The proposed height of the pavilion is approximately 17.5 ft. therefore height is compliant. Compliance with the architectural design standards is unnecessary as the pavilion is considered an accessory structure.

Required parking for this project is being provided in compliance with two related standards. Based upon these combined standards a total of thirty-seven (37) parking spaces are required; forty (40) parking spaces have been provided therefore parking is compliant.

Ms. Wyatt reviewed the site’s compliance with the Town’s Buffering and Landscaping requirements as well as Lighting requirements. Ms. Wyatt noted that the submitted lighting plan is compliant with the ordinance however as costs begin to accumulate for Phase I of the park the lighting fixtures may be revised.

Proposed signage has not been submitted at this time however any freestanding and wall signage would be reviewed and approved prior to issuance of zoning and building permits.

No sanitary sewage facilities are planned with the Phase I development plan; temporary sewage needs will be addressed by the use of porta-johns.

Comments related to Stormwater Management and Public Works are addressed within the Project Narrative. The proposed parking lot design has been laid out in accordance with all Town Code requirements.

Ms. Wyatt also noted that the project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance.

Staff would submit that the proposed scope of work for the Phase I development of Dowdy Park is consistent with all required use and development standards and based upon their review would recommend approval of the Site Plan request as presented.

Ms. Murray asked if the Board would be approving just the site layout and buffering or if it also included the landscape plan and other items. Ms. Wyatt confirmed that they were being asked to approve the site plan, the landscape plan and all Phase I improvements.

Ms. Wyatt confirmed for Ms. Murray that irrigation was being proposed for the site. John DeLucia with Albemarle & Associates stated that a plan was in the works.

Town Engineer David Ryan gave a brief summary of the proposed irrigation system which include sprinkler heads, infiltration areas and drip irrigation. Ms. Murray expressed concern about the viability of some of the plants on the list.

Mr. Ryan confirmed for Ms. Murray that there is a landscaping berm proposed along a length of the parking lot for stormwater containment.

Mr. Reilly asked about the plans for the path that currently connects the site to Nags Head Elementary School. Mr. Ryan confirmed that the plan is to keep the path but move it slightly so that it aligns better with the School property sidewalk. Chairman Cornwell asked Ms. Wyatt to add a crosswalk as a recommendation from the Planning Board.

Mr. Ryan confirmed for Mr. Cornwell that they had not seen any flooding issues at the site since the demo and preliminary site work was completed.

Ben Reilly moved to recommend approval of the proposed site plan. Jim Troutman seconded the motion and it passed by unanimous vote.

*Consideration of a text amendment request submitted by Derek Hatchell on behalf of IG Holdings, LLC to amend Town Code Section 48-407 (c)(9) to remove the requirement for an attendant at car wash facilities.*

Ms. Wyatt stated that Mr. Derek Hatchell on behalf of I.G. Holdings, LLC, had submitted a zoning ordinance text amendment application, which, if adopted, would eliminate the need for an attendant to be present on-site during all hours of operation of a car wash.

In the zoning text amendment application, the applicant has cited the desire to no longer require an attendant be present onsite as it is not necessary given that the car wash would be fully automated.

Ms. Wyatt noted that there is significant history with the allowance of an attended car wash as a use within the Town dating back to September 20, 1988 when the discussions first arose with the Planning Board through September 6, 1989 when parking standards for car washes was discussed and later adopted. Ms. Wyatt proceeded to review for the Board the current conditions that must be met for the operation of a car wash.

Based upon the history of discussion surrounding the previous Board's desires for any car wash to have an attendant on-site during all hours of operation, Planning Staff recommends denial of the proposed text amendment as presented.

John DeLucia, Albemarle & Associates, spoke on behalf of the applicant. Mr. DeLucia stated he was around for some of the initial discussions regarding car washes. In those days there were no Car Washes on the beach, just along the highway in Currituck and those were not appealing. Since that time car washes have come a long way. Mr. Hatchell owns and operates several car washes in the area and is experienced in running them. There is an attendant that goes to the car wash every day,

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at least once a day to ensure that the site is clean and maintained in proper working condition. Mr. DeLucia noted that the car washes of today are pretty benign, quiet and clean so it is not necessary to have an attendant at the car wash all the time.

Mr. DeLucia noted that there is not another car wash facility in Nags Head. Someone coming from Oregon Inlet would need to either go to Manteo or to Kill Devil Hills to get the salt and sand off their vehicle. Mr. DeLucia also stated that the Division of Water Quality will not permit a discharging car wash anymore so the water must be recycled; Mr. DeLucia noted that the equipment has gotten much more efficient since 1988. Finally Mr. DeLucia stated that the building can be made to look attractive by requiring certain architectural elements.

Ms. Murray inquired if the existing car washes have video cameras and if there have been any problems. Mr. DeLucia was unsure but did not think they had cameras and stated he thought there may have been a break-in at the location in Columbia.

Mr. Worsley inquired if they operate 24 hours or if they have certain hours of operation. Mr. DeLucia was unsure but noted that they have the ability to close them with the use of garage doors. Mr. Worsley noted that the car wash in Kitty Hawk has undergone a total renovation – went fully automated.

Mr. DeLucia confirmed for Mr. Troutman that they have found that the new recycling systems work really well. They use very little water; the chemicals that are used are “green” and they are strictly reviewed by DWQ.

Mr. Futrell expressed concern about possible problems with security, vandalism, littering, etc. at an unattended facility. He noted the self-service ice machine in Manteo as an example of an unattended service that can be a benefit to have if it works, but (can stand out like) a sore thumb if it doesn't.

Mr. Reilly stated he had read about issues with homeless behind the unattended car was in Kill Devil Hills and that security was one of his concerns.

Chairman Cornwell stated that the technology has come a long way. New car washes will conserve water because of recycling activity at site. Mr. Cornwell acknowledged that it is a business that would generate revenue for the Town; revenue that is currently going elsewhere. Mr. Cornwell also did not think it needs a full-time attendant, unless the Town wants a full service facility. He noted that hours of operation can be controlled by timed shut offs and that they could require security cameras. Chairman Cornwell also noted that they could require design points to get the Nags Head look and they could restrict it to the C2 district on 158.

Ms. Wyatt noted that if the Board was inclined to recommend approval of the revised ordinance they should make note of the difference between an “open” and an “enclosed” facility and whether the 50 foot setback from residential is sufficient for an open type facility especially if there are vacuum stations.

Ms. Wyatt explained for Mr. Worsley that in her view an open facility was more like the one in Kill Devil Hills with several open bays, while a closed one is more like the one that is located in Kitty Hawk; a single bay where cars line up and proceed through in an orderly fashion.

Mr. DeLucia stated that the car wash in Kitty Hawk is open on two sides when it's operating and is near residential. If a 50 foot setback is adequate for gas and service stations then car washes should be similar.

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Mr. DeLucia agreed that the vacuums should be setback further away from residences due to noise concerns.

Mr. Reilly noted that having an attendant ensures set hours of operation thereby reducing noise pollution and also limits water usage. A facility can be self-contained but with all the salt and sand, that water can only be recycled so much, eventually they have to add fresh water. With the water and the chemicals and the noise pollution without having an attendant there it doesn't make sense. Mr. Reilly noted that even on the bypass there are still residential areas all around.

Mr. Futrell disagreed noting that more noise pollution comes from people with turned up radios; noise from car washes and vacuums can be controlled.

Mr. Troutman agreed stating that buffering and a 50 foot setback would be more than adequate where noise is concerned.

Ms. Wyatt confirmed for Chairman Cornwell that if the Board was so inclined, they could recommend approval as presented or they could add conditions to the approval.

Mr. DeLucia reminded the Board that it would be a conditional use so at site plan submittal the Board could also add conditions.

Mr. Futrell suggested adding a condition that would require an attendant to come by at least twice a day and also put some hours of operation.

Mr. Worsley moved to recommend approval of the text amendment with some conditions: security cameras in spots of vulnerability, wordsmith the word enclosed to mean that the ends can be open but the building must have a roof and meet architectural standards; have an attendant come a minimum of twice a day maybe even more during peak times; consider adding controlled hours of operation; can only be located in the C2 zoning district, fronting US 158 and no freestanding vacuums within 50 feet of residences.

After some further discussion, Mr. Worsley withdrew his motion and instead moved to table the item until next meeting to give Staff a chance to research and incorporate the suggested conditions into a revised amendment. Mr. Futrell seconded the motion and the motion passed unanimously.

Mr. DeLucia thanked the Board and invited all to visit the Outer Banks National scenic byway which recently received new signs and which he stated is probably the last scenic byway to be designated in the country due to lack of funding for that program.

*Consideration of an amendment to Town Code Section 48-90 – Exclusion from lot coverage calculation, that would exempt municipal pedestrian ways (sidewalks, boardwalks) located on private property from lot coverage.*

Deputy Town Manager Andy Garman explained that the Town has been looking at the feasibility of constructing a public boardwalk along the sound-front in the Commercial Outdoor Recreation Overlay district. Since the boardwalk would be constructed within easements on private property, the Town's Soundside Boardwalk Committee as well as the Town Board of Commissioners has requested that the Planning Board consider ordinance amendments that would exempt the boardwalk from ordinance requirements that would impact private development rights. Since the boardwalk would count against individual minimum lot coverage limits and could not cross property lines due to prescribed setback

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requirements, a proposed ordinance has been drafted to exclude the boardwalk from these requirements.

Additionally, Mr. Garman noted that this ordinance has been applied to any other municipal sidewalks, walkways, or multi-use pathways. This would be particularly useful if the Town were to ever construct a sidewalk or multi-use path on private property for public use. Mr. Garman gave as an example the Shoppes @ 10.5 where there's been recent discussion about the Town trying to get an easement from the property owner in order to extend the sidewalk from the light at 158 down along the north side of that property towards Wrightsville Avenue. This proposed ordinance would exempt the sidewalk from lot coverage calculations and make it easier for the Town to work with property owners on Town projects.

Mr. Futrell stated he had no issue with the sound side boardwalk but was concerned about possible Stormwater issues at the Shoppes @ 10.5 if the sidewalk is exempt. For Mr. Futrell there is a difference between a boardwalk and a sidewalk when it comes to lot coverage.

Mr. Worsley stated he had been part of the Stormwater committee and did not see any issues with installing a sidewalk there; a sidewalk is a public safety thing and he did not see there being a Stormwater issue.

Mr. Garman concurred stating that there are several Stormwater basins along that north side of the Shoppes @ 10.5 so if the Town was granted an easement they would work with the property owner in revising their Stormwater plan prior to installing the sidewalk.

Mr. Reilly inquired about the status on getting easements for the sound side boardwalk. Mr. Garman stated that it is an ongoing thing; the Town's focus has been from Tanger Outlets to the north (Phase I) which will be easier to get than going south (Phase II). Most property owners seem willing but the Town does not have official easements as of yet. The wetland and the survey work were the first step. Mr. Garman noted that this project is on a minimum three to five year plan but the Board would like to preserve the work that has already been done.

Mr. Siers inquired about the plans to connect South Ridge to the Beach Road. Mr. Garman noted that there have been a lot of comments received from property owners in that neighborhood and that is one of the higher priority links for the Town. There are several of these high priority projects that are all competing for the same money.

Ben Reilly moved to recommend approval of the proposed amendment; Mike Siers seconded and the motion passed unanimously.

### ***Report on Board of Commissioners Actions***

Ms. Wyatt reported on recent Board Actions:

The Public Hearing for the proposed zoning ordinance text amendment to list "municipally-owned recreation facilities" as a permitted use within the C-2, General Commercial Zoning District, was approved.

Two Public Hearings were scheduled for the June 6, 2016 Board of Commissioners meeting: the ordinance amendments to modify the Town's signage regulations to ensure content neutral language and the Dowdy Park Phase I Site Development Plan.

## ***Town Updates***

### Focus Nags Head

Mr. Garman stated that this project is still in process. They have finished with a lot of the initial advisory committee work. Staff has been working with the consultants doing additional key stakeholder interviews. They will soon be bringing the vision statement that is currently in draft form, to the BOC for their review and this will lay the groundwork for the rest of the plan. Once that is approved they will begin to bring sections of the plan back to the advisory committee and the Board for their comments.

### Sea Level Rise

Mr. Garman stated that Staff received a Draft report back from Jess Whitehead of NC Sea Grant. Staff gave additional comments for Ms. Whitehead to revise the report, and is currently waiting on those revisions. Staff is looking to schedule a meeting on June 13<sup>th</sup> with the working group (formed by the BOC and which includes Planning Board member Mark Cornwell and Kate Murray) to give them a chance to go through the plan and make sure that it captures everything that was discussed. From there Staff will bring the report back to the Commissioners for approval and begin to see how they will build Sea Level Rise into Planning activities such as Shoreline Management, Stormwater Management and Focus Nags Head.

## ***Discussion Items***

### *Discussion of Cottage Courts as permissible uses within the Town.*

Mr. Garman continued the discussion on the possibility of adding Cottage Courts back as a permissible use within the Town.

For the past 30 years, cottage courts have been considered a nonconforming use by the Town's ordinance, therefore, no expansions to these properties have been allowed except for general maintenance and repairs.

Last year the Planning Board and Board of Commissioners reviewed regulations pertaining to cottage courts which resulted in modifications to the ordinance and which now allow Staff and the Board of Commissioners to approve repairs, additions and expansions to existing cottage court properties. However, cottage courts were not removed as a nonconforming use. Consequently, it is still not possible to develop a new cottage court within the town except as allowed in the residential group development ordinance which was approved in late 2014. In these cases, only existing nonconforming lots of record may be recombined to create a cluster housing development and this is allowed under very specific circumstances.

During the course of working on revisions to the Town's land use plan and zoning ordinance (Focus Nags Head), there has been much discussion about diversity of accommodations. One main goal expressed is to improve the variety of accommodations within the Town, including transient uses such as hotels and cottage courts, to provide more opportunities for short-stay visitors. While the Town has made a number of changes to the ordinance over the years to promote hotel development, it has been noted by the Focus Advisory Committee that cottage courts may represent a more viable alternative to hotels from a development and from a land use compatibility standpoint. As the Town

continues to experience the loss of older hotels and motels, there is a renewed sense of urgency to consider the expansion of the cottage court as a viable use of property.

Mr. Garman explained that last month the Planning Board agreed to initiate a text amendment to add cottage courts as a use within the Town's zoning ordinance and to develop appropriate standards for regulating these uses. Staff has now begun collecting information to assist the Planning Board through the ordinance drafting process.

Staff previously developed a list of cottage courts within the Town along with information on the number of units and photographs of buildings in each cottage court. Staff has now developed a map depicting the location of these cottage courts for the Planning Board's reference. The map also shows the number of units and the acreage of each property. Mr. Garman noted that a primary consideration for these regulations will be to determine where the cottage court uses are most appropriately located.

Based on this map information, most existing cottage courts are located on parcels fronting NC 12 or SR 1243 (South Old Oregon Inlet Road) or on parcels east of these roadways where there is easy access to the ocean. These properties are in the R-2, C-2, and CR zoning districts. Generally no cottage courts are located in the R-1 (historic district) or SPD-C (Village at Nags Head) zoning districts. Areas of town further west along Memorial or Wrightsville Avenues, in private or public streets west of SR 1243, and areas west of US 158 consist of primarily single family homes with fewer transient uses such as cottage courts or hotels.

Some of the standards the Planning Board will want to consider will include the number of units on each site, the density of units per acre, the square footage of each unit, building height, separation between buildings, property line setbacks, lot coverage by zoning district, whether cottage courts will be restricted to transient users similar to hotels, and building design requirements.

The Planning Board may want to visit existing cottage courts and determine which properties provide a model for the Board to examine moving forward. These would be properties that provide the look and feel that the Town may want to emulate with these new regulations.

Enclosed in the agenda packet were some reference materials that may be helpful in exploring the types of requirements that will need to be considered moving forward. Mr. Garman referenced a cottage housing ordinance developed by a community in Washington State. While not all the information in this document will translate well to the Town, it does provide relevant background information that may help the Planning Board frame its discussion on cottage courts.

Mr. Garman also referenced the Town's existing ordinance on residential group developments which was adopted in 2014. Although this was written to specifically apply to properties where multiple non-conforming lots of record are being combined, it could be redrafted and expanded to a larger area of town with the addition of other appropriate standards.

One option to consider would be to allow cottage courts in the R-2, C-2, and CR zoning districts as a conditional use with criteria that requires frontage on NC 12 or 1243 or east of these roadways. Mr. Garman stated that a good starting point would be for the Planning Board to review the map and discuss where these uses would be most appropriate.

Mr. Garman confirmed for Mr. Reilly that the ordinance adopted in 2014 was proposed by developer Eddie Goodrich and allows one unit with up to five bedrooms per 7500 SF of land area. Mr. Garman

stated they may want to look at size – large units appeal to longer rental periods while smaller units appeal to more transient, shorter stays.

Chairman Cornwell agreed stating that a big issue will be whether they will be allowed to be turned into condos or should they be kept under one owner.

Ms. Murray stated she liked the idea of keeping cottage courts on the beach road; she would also like to encourage the idea of them having a common area and pedestrian connectivity throughout the buildings.

Mr. Garman will bring a draft framework of a possible ordinance to the next meeting and give more detail on five sample existing cottage courts and at that point the Board can review the map and discuss where the cottage court use may be most appropriate. One other thing to consider might be to allow parking underneath the units as some may now need to be elevated due to FEMA regulations.

The possibility of forming a cottage court sub-committee was discussed and Mr. Garman suggested bringing in the owners of some of the existing cottage courts to assist in the development of the standards. This will be discussed further at the next meeting.

### ***Planning Board Members' Agenda***

Mr. Worsley commended Ms. Murray on a recent Outer Banks Voice article in which she was featured. Ms. Murray gave a brief summary on the article which is about an app that the Nature Conservancy is working on which would map open space within the Towns and County. This app would inventory open space in floodplain areas and might help with getting points in the CRS rating system and ultimately help reduce flood-insurance rates.

### ***Planning Board Chairman's Agenda***

Chairman Cornwell suggested limiting the information included in historical minutes in the interest of reducing the size of the agenda packets.

### ***Adjournment***

There being no further business to discuss, the meeting was adjourned at 4:40 PM.

Respectfully submitted,

Lily Campos Nieberding