



## **DRAFT AGENDA**

**Town of Nags Head Planning Board  
Nags Head Municipal Complex Board Room  
Tuesday, February 20, 2024; 9:00 a.m.**

- A. Call To Order
- B. Approval Of Agenda
- C. Public Comment/Audience Response
- D. Approval Of Minutes  
January 16th Planning Board Meeting.

Documents:

[JANUARY 16 2024 DRAFT MINUTES.PDF](#)

- E. Action Items
  - 1. Discussion And Consideration Of Text Amendments  
submitted by Albemarle & Associates, PE on behalf of Golasa Holdings, LLC to allow the long-term rental of units within existing hotels and motels.
  - 2. Consideration Of Text Amendments  
to prohibit driving over and/or parking on septic systems when adjacent to driveway, drive aisles, and parking areas.

Documents:

[PLANNING BOARD-2-20-24- STAFF REPORT AND ORDINANCE\\_FINAL.PDF](#)

- F. Report On Board Of Commissioners Actions  
February 7th, 2024

Documents:

[FEB 7 2024 BOC ACTIONS KW HIGHLIGHTS.PDF](#)

- G. Town Updates - As Requested
- H. Discussion Items

1. Update On Status Of Recent Multi-Family Amendments,  
nomination(s) to taskforce.
2. Presentation Of Map Delineating Areas Of Protected Vegetated Buffers

Documents:

[VEGETATION MAPPING FOR PLANNING BOARD.PDF](#)

3. Planning & Development Directors Report  
January 31st, 2024

Documents:

[PND DIRECTORS REPORT FOR BOC.PDF](#)

- I. Report On Board Of Commissioners Actions  
December 6th, 2023

Documents:

[DEC 6 2023 BOC ACTIONS, KW HIGHLIGHTS.PDF](#)

- J. Planning Board Members' Agenda
- K. Planning Board Chairman's Agenda
- L. Adjournment

**Town of Nags Head  
Planning Board  
January 16, 2024  
- DRAFT -**

The Planning Board of the Town of Nags Head met on Tuesday, January 16, 2024, in the Board Room at the Nags Head Municipal Complex.

Planning Director Kelly Wyatt called the meeting to order at 9:07 a.m. as a quorum was present.

***Members Present***

Megan Vaughan, Meade Gwinn, Molly Harrison, David Elder, Gary Ferguson, Kristi Wright, David Thompson

***Members Absent***

None

***Others Present***

Kelly Wyatt, Andy Garman, Joe Costello, Lily Nieberding

***Election of Chair and Vice Chair for Calendar Year 2024***

Planning Director Kelly Wyatt opened the meeting and requested nominations for the position of Planning Board Chair for the calendar year 2024. David Elder moved to nominate Megan Vaughan to serve as Chairperson. Kristi Wright seconded the motion. There being no other nominations, a vote was taken, and the motion passed unanimously.

Ms. Wyatt then turned the meeting over to newly re-elected Chair, Megan Vaughan.

Chair Vaughan then requested nominations for the position of Vice-Chair. David Elder moved to nominate Meade Gwinn for Vice Chair. David Thompson seconded, and the motion passed unanimously.

***Approval of Agenda***

David Elder moved to approve the agenda as presented. Meade Gwinn seconded, and the motion passed by unanimous vote.

***Public Comment/Audience Response***

None

***Approval of Minutes***

Chair Vaughan asked for a motion to approve the minutes of the December 19, 2023, meeting. David Elder moved to approve the minutes as presented; Kristi Wright seconded, and the motion passed unanimously.

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**Action Items**

*Consideration Of Text Amendments submitted by Albemarle & Associates, PE on behalf of Golasa Holdings, LLC to allow the long-term rental of units within existing hotels and motels.*

Planning Director Kelly Wyatt explained that at their December 19, 2023, meeting the Planning Board discussed the requested amendments with Planning staff and the applicants, Mr. Leor Golasa and Mr. John Delucia. Taking into consideration the discussion items, staff has provided the points below for consideration in an effort to advance this request.

- While the proposed text amendment would establish a use of hotel units not of a transient nature, staff does not recommend amending the existing hotel regulations but rather considering a new use category to accommodate the request. Options may include: long-term stay units, extended stay units, residential suites, etc.
  - The applicant's original request proposed the term "legacy hotel/motel" be established as a means to define and limit the number of existing hotel and motel structures that this new use category would be available to. The proposed definition stated a legacy hotel or motel would be one built before 1975 that is still functional to support both transient, and long-term occupancy by guests or tenants. In an effort to tie the date to a relevant time in Nags Head planning, staff would recommend that consideration be given to making the new use available to hotels and motels that were constructed prior to November 10, 1972. This date is the "pre-firm" date used in regulating structures built prior to the effective date of the initial Flood Insurance Rate Map (FEMA FIRM). Pre-firm structures are likely to be constructed on grade and non-conforming with regard to current FEMA requirements. Therefore, to enhance their preservation, it may be warranted to provide some additional flexibility with respect to the uses allowed given these additional nonconformities.
  - Noting that this proposed new use is likely not economically viable in an oceanfront setting, staff would further recommend narrowing this proposed use to existing hotels and motels located within the C-2, General Commercial Zoning District. Except for the majority of South Nags Head which is R-2, and excluding the Village at Nags Head, the remainder of Nags Head oceanfront areas are zoned CR – Commercial Residential. Staff would also recommend that this use be considered via the Special Use permit process.
- Ms. Wyatt noted that by applying these proposed regulations, the following hotels and motels would be eligible to utilize this proposed new use:
- o Roadway Inn/Seahorse Inn at 7218 SVDT (zoned C-2, constructed in 1970)
  - o Owens Motor Court at 7122 SVDT (zoned C-2, constructed in 1960)
  - o Tarheel at 7010 SVDT (zoned C-2, constructed in 1950)
  - o First Colony at 6715 SCH (zoned C-2, constructed in 1932)
  - o Nags Head Beach Inn at 303 Admiral (zoned C-2, constructed in 1960)
- Consider requiring any hotel operating under this new use category to lease/rent units on a long-term basis only and define long-term lease/rent as occupancy for a period of ninety (90) consecutive days or more. This would be consistent with the proposed definition of "Long Term Occupancy/Tenancy" in the draft multi-family development amendments.
  - Consider requiring this new use be parked using the same parking standard as single-family, two-family, and multi-family dwelling units at the number of bedrooms minus two, with a minimum of two (2) spaces per dwelling unit.

- Consider a requirement that would prohibit utility meters of any type for individual units and require that this proposed new use operates under a single, unified rental management operation. Similar language is found within the supplemental regulations for cottage courts and is intended to discourage circumventing the subdivision ordinance and creating condominium ownership of the individual dwelling units.
- The current hotel use requires 24-hour onsite management. Staff would suggest that the Planning Board consider the merits of this requirement if hotel units were now allowed to be rented on a long-term basis. Ms. Wyatt noted that this is something Staff and the Board will want to discuss further.
- Consider placing a requirement that any hotel operating under this new use category only offer lease/rent units that are a minimum of 350 square feet in area.

We want to ensure that any unit being rented on a long-term basis meets the basic requirements of NCGS, Chapter 160D Article 12, Minimum Housing Code. While this statute does not have a minimum area requirement for dwelling units, staff has researched minimum housing codes for numerous North Carolina municipalities and the most common regulation provides the following, "No dwelling or dwelling unit shall be occupied by more occupants than permitted by the minimum area requirements. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor area per additional occupant". Based on this, staff would recommend that the Planning Board consider setting a minimum area requirement for each dwelling unit. Noting that the Town of Nags Head does not have minimum housing codes, staff would submit that a 350 square foot minimum dwelling size would be consistent with the applicant's request as well as the current Unified Development Ordinance's requirements for hotel units, hotel suites, hotel efficiencies and minimum area requirements for dormitory uses.

- Require that every dwelling unit be provided with adequate means of egress as required by the NC State Building Code and that there shall be no obstruction in any manner of any means of ingress and egress from any portion of the dwelling. Likewise, require that every dwelling unit complies with all applicable provisions of the NC State Fire Prevention Code.

While this would obviously be a requirement at the review and permitting phase, given the potential retrofit of units, perhaps it is useful to have the language included specific to the requested use amendment.

- Other common requirements found within minimum housing codes throughout North Carolina, that the Planning Board may want to consider include the following:

- Each dwelling unit shall be supplied with a kitchen sink, lavatory, tub or shower, and a toilet, all in good working condition.
- Each dwelling unit shall have connected to the kitchen sink, lavatory, tub or shower an adequate supply of both cold and hot water.
- Every dwelling unit shall be supplied with facilities providing heat. Portable kerosene heaters are not acceptable as a permanent source of heat.
- Every dwelling unit shall have supplied and installed a minimum of one approved and listed smoke detector.
- Each dwelling unit shall have a kitchen supplied with a minimum of the following facilities:

- o Food preparation surfaces impervious to water and free of defects which could trap food or liquid.
- o Shelves, cabinets, or drawers maintained in good repair for the storage of food and cooking and eating utensils.
- o A freestanding permanently installed cook stove. Portable electric cooking equipment shall not fulfill this requirement. Portable cooking equipment employing flame shall be prohibited from the kitchen area.
- o Mechanical refrigeration equipment for the storage of perishable foodstuffs.

Note that planning staff has not made a recommendation on whether long- and short-term rentals can or should exist within the same structure or upon the same property at the same time. While the applicant stated that they did not envision mixing the two occupancies, it should be discussed. For sites that contain multiple structures, such as Tarheel and Rodeway Inn, could one structure be utilized for long-term occupancy while the others short-term? What are the benefits and drawbacks of each scenario?

Staff acknowledges that, if approved, an amendment of this nature would be in conflict with various aspects of the recently drafted amendments for multi-family development. The primary differences are briefly outlined below:

- Occupancy of one of these dwelling units would not be deed restricted to require that at least one "qualified person", meaning a person working in Dare County, reside in the unit and as such considered "workforce housing" as defined in the draft multi-family amendments.
- Minimum site requirements and dimensional standards such as lot width, lot area, setbacks, open space requirements, lot coverage and architectural design may not be met.
- Density allowances would be affected. For instance, Owens Motor Court at 7122 S. Virginia Dare Trail is 68,000 square feet in area. Under the Large Multi-Family standards, this site would accommodate approximately 12 units. The applicant noted that 29 units exist.
- The proposed minimum unit size in the draft multi-family amendments is 800 square feet, we are discussing a minimum 350 square feet for this proposed new use.
- While we are proposing the new requested use be managed by one rental management company, the new multi-family amendments require the establishment of a homeowner's association with recorded declarations.

At the Planning Board's December 19, 2023 meeting questions were brought up concerning lighting, dormitory use and single resident occupancies (SRO's).

Ms. Wyatt noted that she had included some information on lighting standards in her staff report noting that hotels are considered to have a medium level of activity, multifamily is considered to have a low level of activity. Keeping in mind that this new use category would be applicable to a handful of existing hotel properties, would the Planning Board like staff to propose that any hotel property taking advantage of this proposed new use provide compliant low-level activity parking lot lighting as part of the approval process? How would they handle if a property can operate both long-term and short-term rentals/occupancies at the same time?

With regard to the question that was asked about the ability of a hotel to host long-term stays for their staff. Ms. Wyatt noted that Section 7.12 of the UDO, Hotels, states that dormitory use for

employee housing is allowed in the C-1 and C-2 Zoning District as well as within the Hotel Overlay District. Section 7.12.2 of the UDO describes the supplemental regulations for employee housing and was included in the staff report.

Ms. Wyatt then proceeded to discuss Single Resident Occupancies (SROs) explaining that they are a type of housing arrangement where each individual or household occupies a single room within a larger building. These rooms typically serve as both living and sleeping spaces and may include a private or shared bathroom and kitchen facilities. In review of SRO's, they are often utilized in urban areas to provide affordable housing options, especially for individuals with limited incomes. SRO's are a subject of discussion in urban planning and housing policy debates as they play a role in addressing housing needs of vulnerable populations, but they also raise concerns about living conditions and tenant rights. Staff would submit there are aspects of this proposed new use that resemble the characteristics of SRO's such as individual compact rooms or small living spaces, providing basic amenities designed to meet essential housing needs in a more affordable and space-efficient manner. Ensuring that this proposed housing arrangement, or any housing arrangement for that matter, maintains quality living conditions is of utmost importance. Potential ways to address this is to provide clear zoning regulations to ensure that it meets the needs of families and individuals by providing adequate living spaces, bedrooms, common areas and amenities to promote family friendly environments and to closely monitor and enforce any established use regulations.

Staff has reached out to other local municipalities to see if they have an awareness of this or similar uses in their jurisdiction, and if so, what their experiences have been. Ms. Wyatt noted that so far, no information has been received. Ms. Wyatt noted that she, as well as Mr. John DeLucia with Albemarle & Associates, and Mr. Leor Golasa were available to answer any questions for the Board.

Ms. Harrison questioned how tenant rights are protected without a minimum housing ordinance. Ms. Wyatt noted that the applicant might be able to better answer that question.

Mr. DeLucia addressed the Board and spoke to some of the staff's concerns saying that they agree with some and disagree with others. Mr. DeLucia stated that they would be fine with the 1972 date for legacy hotels. They would also be fine with the 90-day minimum as their preference would be year-round rental. They are in agreement with having a single electrical meter as that is what they currently have and have no interest in turning them into condos.

Mr. DeLucia expressed concern that some of the units in the hotel are less than 350, so that requirement would only work on half of the units in the hotel. Mr. DeLucia thinks that they would limit the smaller units to a single occupancy, and this would be part of the lease agreement. Mr. DeLucia asked that the Board consider not placing a minimum square footage requirement or consider 150 for one occupant and 100 more for each additional occupant. Mr. DeLucia was also not in agreement with the two parking spaces per unit and requested that the Board consider 1.5 spaces per unit instead.

Mr. DeLucia noted that the rooms would meet the NC Building and Fire Code and that each unit would meet minimum housing requirements (sink, lavatory, tub or shower and toilet), noting that all units are heated. Mr. DeLucia would ask that Staff strike the word freestanding with regards to cook stove. They plan on having cooking facilities, but the stove would most likely be built-in and not freestanding.

Mr. DeLucia then discussed mixed occupancy noting that they agree that it would not be a good idea to mix short and long-term occupancy. However, they would like to have the ability to easily convert it back to a hotel if there comes a time that long-term housing is no longer needed. Mr. DeLucia noted that they do not consider themselves an SRO, dormitory or multi-family housing and instead

would be more like studio apartments. For the most part the units would be single occupancy, one person at most two, and the lease agreement would not allow for storage of items such as trailers, etc.

Mr. DeLucia confirmed for Mr. Gwinn that they do not anticipate any septic impacts.

Mr. DeLucia explained to Mr. Gwinn that they are concerned about having the ability to revert back to a hotel use because of their non-conforming status.

Mr. DeLucia and Mr. Golasa confirmed for Mr. Gwinn that there are potentially two rooms that meet the minimum ADA requirements.

Ms. Harrison asked how the applicants would enforce the single-occupancy requirement if the Town were to allow or remove the minimum square footage. Mr. DeLucia noted that this would be part of their lease agreement and if a second person were to move in they would be breaking their lease.

The applicants confirmed that the hotel was inspected by the Dare County Health Department when it transferred ownership and would typically be inspected once a year. If they were to be converted to long-term rentals it would eliminate the need for annual inspections.

Mr. DeLucia confirmed for Mr. Thompson that the units would be rented furnished but might allow a renter to bring in their own furniture.

Mr. DeLucia confirmed for Mr. Ferguson that they would only have one water and one electrical meter for the building. Mr. DeLucia also confirmed that they have no plans to knock down walls and combine units.

Mr. Golasa confirmed for Ms. Harrison that they have two sets of rooms that interconnect; 10-12 rooms are about 245 SF, another 10 or so are between 285-300, 5 rooms are about 350 SF and 1 room is about 700 SF.

Mr. DeLucia confirmed for Ms. Harrison that while they have enough space to park 2 spaces for one unit, he believes the two spaces to be overkill and would mean more lot coverage and more runoff for their particular site. Mr. DeLucia also noted that he doesn't know how much parking other legacy hotels have but they would probably have less people in the studio apartments than they would have as a hotel.

Mr. DeLucia confirmed for Chair Vaughan that they would not mix short and long-term occupancy at the same time.

Mr. Golasa confirmed for Mr. Gwinn that rent would be based on market trends, fair but not below the average.

Mr. Elder noted that he does not have an issue with the size of the units, but questioned what size is too small?

Mr. Golasa confirmed for Chair Vaughan that he has many rental properties, and his tenants are all employed in Dare County; 90% are young singles or couples. Mr. DeLucia noted that while their intent is for workforce housing, he would not want it in the ordinance as it would be hard to enforce.

Mr. Golasa confirmed for Mr. Thompson that the lease would prohibit subletting.

Mr. Gwinn noted that he supports where the text amendment is going because he believes it meets a need.

Mr. Elder agreed with Mr. Gwinn noting that he only had two concerns: 1) if it were to revert back to a hotel in the future would there be any conflicts and 2) The concern that these units might be rented out as a weekend home for someone instead of providing needed long-term housing.

Mr. Ferguson asked if the use could be approved as a temporary use. Ms. Wyatt and the Board discussed the idea of a sunset clause.

Mr. DeLucia confirmed for Mr. Thompson that there are three main points of contention: 1) Parking 2) Size of the units 3) Ability to convert easily back to a hotel at some point in the future.

Ms. Wyatt discussed correlating the size of the room to occupancy would need to be looked at further as enforcement could become an issue if it's not in the ordinance.

After some further discussion the Board agreed that they would like to see this move forward, but they will need to get further clarification from staff on the three points of contention discussed above.

*Consideration Of Text Amendment to remove the use of "Restaurant, Drive-Through" from all zoning districts within the town.*

Deputy Planning Director Joe Costello explained that at their January 3rd meeting, the Board of Commissioners voted unanimously to direct staff to initiate the text amendment process to eliminate the use of "Restaurant, Drive Through" as a permissible use within the Unified Development Ordinance (UDO) to create consistency between the UDO and the 2017 Comprehensive Land Use Plan's guidance.

Mr. Costello explained that currently the use is allowed in the following instances: 1) Within the C-2, General Commercial Zoning District via the conditional use process with supplemental regulations that are described in Section 7.29 of the Unified Development Ordinance. And 2) Within the Village at Nags Head Special Planned Development District, Commercial-1 and Commercial-2 Zoning District via the conditional use process with supplemental regulations that are described in Section 9.37.5 of the Unified Development Ordinance. Mr. Costello noted that staff has reached out to The Village for their thoughts and will forward any comments they receive to the Board.

Detailed policy considerations and analysis were provided to the Planning Board and Board of Commissioners during the ongoing review of a text amendment application submittal made by the Outlets Nags Head to expand the use of "Restaurant, Drive Through," to be included within Commercial Mixed-Use developments. The most recent staff report was provided to the Board of Commissioners at their January 3, 2024, meeting and was included as part of the Planning Board meeting packet. This report provides context as to why the Board of Commissioners initiated a text amendment process to remove the use of "Restaurant, Drive Through" from the UDO.

Staff has provided a draft text amendment for the Planning Board's consideration which they believe reflects the Board of Commissioner's guidance.

Mr. Costello confirmed for Ms. Harrison that this item would have to go through the Public Hearing process.

Ms. Wyatt confirmed that this would not apply to ice cream shops as they are typically considered retail not restaurants.

There being no further discussion, David Elder moved to recommend approval of the proposed text amendment. Meade Gwinn seconded, and the motion passed unanimously.

### ***Report on Board of Commissioners Actions – January 4, 2023***

Ms. Wyatt gave an update on the Board of Commissioner Actions, of note: Recognition of Former Commissioner Renee Cahoon. Consent Agenda - Public Hearings were scheduled for the construction of a Trade Center for lot behind TW's Bait and Tackle and to consider UDO text amendments re: multi-family development. A public hearing was held to consider text amendments to the Unified Development Ordinance as it pertains to the use of "Restaurant, Drive Through" as a permissible use within Commercial Mixed-Use Developments, as well as amending the supplemental regulations associated with this use – the Board passed a motion to deny the proposed text amendment. It was Board consensus to ask the Planning Board to begin the process to amend the Unified Development Ordinance to better reflect the Land Use Plan and to review other items of concern/conflict. The Commissioners appointed Gary Ferguson to the Septic Health Advisory Committee.

### ***Town Updates***

None

### ***Discussion Items***

#### ***Update On Status of Recent Multi-Family Development Draft Amendments.***

Ms. Wyatt noted that they had made edits pertaining to Stormwater and included language that both small and large developments would need to go through the sketch plan process. Staff forwarded these revisions to the Town Attorney and are waiting to hear comments back. Once they receive comments, Staff will forward them to the Planning Board for their review.

#### ***Planning & Development Department 2024 Work Plan***

Ms. Wyatt reviewed a draft of the Department's 2024 Work Plan. Staff will present the finalized plan at the Board's February meeting. Mr. Gwinn asked, and Ms. Wyatt agreed to add EVs to the plan. Mr. Costello took the opportunity to give an update on the EV Action Plan.

#### ***Discussion And Acceptance of The Planning Board's 2024 Submittal Calendar.***

Ms. Wyatt presented the Draft Submittal Calendar. The Board approved it as presented.

#### ***December 29th, 2023, Director's Report***

Ms. Wyatt briefly discussed her Director's Report with the Board which included an update on the Dowdy Park Winter Markets.

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

Mr. Elder expressed concern about the possible removal of Jockey's Ridge from the AEC. Ms. Wyatt noted that Town Manager Andy Garman is looking into this issue further.

Mr. Ferguson inquired about Facility Fees for hotels/multi-family dwellings. Mr. Ferguson also reminded staff about wanting a map of areas in Town where vegetation is protected. Ms. Wyatt noted that Mr. Costello is well versed in GIS and will be able to work on this.

Ms. Wyatt updated the Board on the status of the Coastal Villas subdivision and the land disturbance project at Nags Head Church.

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

None

***Adjournment***

A motion to adjourn was made by David Elder. The time was 11:33 AM.

Respectfully submitted,  
Lily Campos Nieberding



## **MEMORANDUM**

### **Town of Nags Head**

### **Planning & Development Department**

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To: Planning Board

From: Joe Costello, Deputy Planning Director  
Conner Twiddy, Environmental Planner  
Kelly Wyatt, Planning Director

Date: February 16, 2024

Subject: Consideration of text amendments to the Unified Development Ordinance (UDO) to prohibit driving over and/or parking on septic systems.

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At their October 24, 2023 meeting the Septic Health Advisory Committee (SHAC) discussed the importance of prohibiting, or at a minimum discouraging, driving over and/or parking on top of active septic and drain field areas on residential properties. While providing the Planning Board with an update on the Septic Health Committee at their November 2023 regularly scheduled meeting, it was the consensus of the Planning Board to initiate the text amendment process for this item.

Currently, vacationers and property owners alike may be unaware that their property has a septic system. Many others are unsure what is required to properly maintain their septic systems. Parking or driving on septic systems can compromise the proper function of a septic system by rupturing pipes, cracking the tank, or compacting or damaging soil, depending on the soil type. Damage to septic systems can lead to costly repairs and environmental hazards to include the potential pollution of water sources and the proliferation of bacteria which can be dangerous to human and wildlife health.

As part of a discussion on the impacts of over-occupancy, the Septic Health Advisory Committee recommended that the Town consider requiring a physical barrier to prevent driving over and/or parking on the septic system area.

Staff has defined this area as the area containing the septic tank, disposal field/drain field and other components of a working septic system as approved on a recorded plat or an approved, stamped site plan by the Dare County Environmental Health Department. Property owners will have different options on how to achieve this result to include placement of post and rope, landscaping, planters, raised landscape beds and fencing. Other landscaping, barrier and deterrence measures and solutions may be used if determined to be acceptable by the Unified Development Ordinance (UDO) Administrator.

Outreach and education will be necessary to provide property owners, design professionals, and contractors with information on what methods are acceptable to prevent driving over and/or parking on septic system areas.

Continued implementation of the Decentralized Wastewater Management Plan (DWMP) and development of creative strategies to increase awareness and participation in the Septic Health Initiative is an action item in the Towns 2024 Strategic Plan. A town-wide outreach and education campaign will be needed to accomplish this action item. As part of this campaign staff will create various educational initiatives to educate and notify property owners, visitors, homebuilders, and rental companies about all aspects of the Septic Health Initiative including consequences of a damaged septic tank or drain field as well as the acceptable forms of barriers.

If adopted, compliance with this ordinance would be required for any new residential construction and substantial improvement of any existing residential development as it relates to any increase in habitable area, increase in the number of allowable bedrooms, and driveway and parking improvements. In the event of new residential construction and substantial improvement of existing residential structures, a development permit will be required. Compliance with this ordinance will be a condition of final zoning approval in advance of receiving a certificate of occupancy/compliance. If a property owner wishes to provide this barrier outside of a larger scope of work, this will be handled similarly to a fence permit (non-pool barrier) as a no cost permit.

This ordinance applies specifically to residential properties. Commercial properties are required to go through a site plan approval process where there are mechanisms to ensure parking is not to occur on a septic system area.

To enforce this ordinance, staff will first provide an informal warning to those found to be in noncompliance. This will include contacting the property owner and occupant of the home if not the same, as well as the rental company if the home is within a rental program to explain the issue. If continued violations occur at a property, a formal Notice of Violation will then be issued consistent with Section 1.10, Violation of UDO Regulations, of the Unified Development Ordinance.

Note: Planning staff would like to encourage the Planning Board to consider and discuss whether this ordinance should apply to all residential properties within the Town or to a subset of properties. Examples may include the applying this ordinance to residential homes within a rental program only, or to homes adjacent to NC 12 and NC 1243 as these are the areas where overflow parking on septic and drain field areas is primarily observed.

Planning staff will be available at the Planning Board's February 20, 2024, meeting for further discussion.

(DRAFT)

**AN ORDINANCE AMENDING THE TOWN CODE AND UNIFIED DEVELOPMENT ORDINANCE  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO PROHIBITION OF  
DRIVING OVER AND/OR PARKING ON SEPTIC AREAS.**

**ARTICLE I. Purpose(s) and Authority.**

**WHEREAS**, pursuant to N.C.G.S. § 160D-701, the Town of Nags Head (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land; pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160D-702, the Town has adopted comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160D-103, which allows the Town to combine certain land development ordinances into a unified ordinance;

**WHEREAS**, Section 2.4.4.3 of the Unified Development Ordinance provides that the powers and duties of the Planning Board include developing and recommending policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

**WHEREAS**, Section 3.5.1. of the Town Code makes clear that a zoning ordinance text amendment may be initiated by motion of the Board of Commissioners, by motion of the Planning Board, or by application by any person within the zoning jurisdiction of the Town;

**WHEREAS**, the Septic Health Advisory Committee recommended the Planning Board consider a text amendment to inhibit parking and driving on septic systems as this can cause expensive repairs to the property owner and a health risk to people and wildlife;

**ARTICLE II. Construction.**

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein but are instead replaced by an ellipsis (“...”) shall remain as they currently exist within the Town Code.

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

PART I. That **Section 10.12.8, Setbacks for Parking and Drive Aisles**, be amended as follows:

**10.12.8.3.** No parking space, turn-around area or drive aisle shall be located on the on-site septic system area. If the septic system area is adjacent to any portion of a parking space, turnaround area, driveway, or drive aisle, there must be a physical barrier between them to prevent driving over or parking on the septic area and disposal field. Acceptable barriers include fencing, posts with rope, raised landscape beds, landscape timbers or other landscaping treatments as approved by the Unified Development Ordinance (UDO) Administrator.

PART II. Appendix A – Definitions

**Proposed Definitions**

**Septic System** means a subsurface wastewater system consisting of a settling tank and a subsurface disposal field.

**Septic Tank** means a watertight receptacle for sewage which, after bacterial action, discharges the effluent.

**Disposal Field aka 'drain field' or 'dispersal field'** means an area of ground under whose surface the overflow from a septic tank is distributed in drain tile to be absorbed in the soil.

**Septic System Area** means an area containing the septic tank, disposal field/drain field and other components of a working septic system as approved on a recorded plat or an approved, stamped site plan by the Dare County Environmental Health Department. When utilizing an above-ground measure such as raised landscape beds, a one (1) foot setback from the septic area is required. For subsurface measure that involve penetrating the surface with a post, piling, rebar or similar item, a five (5) foot setback shall be required.

PART III. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_ 2024.

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

ATTEST:

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

APPROVED AS TO FORM:

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

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

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

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

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



**BOC ACTIONS**  
**WEDNESDAY, FEBRUARY 7, 2024**

1. Call to order - Mayor Cahoon called the meeting to order at 9 a.m. He recognized former mayor Bob Muller in the audience.
2. Agenda – The Feb 7<sup>th</sup> agenda was approved as presented; Mayor Pro Tem Siers was not present and excused.
3. Recognition

Public Services Director Nancy Carawan introduced new employee Sanitation Equipment Operator Larry Bunting who was welcomed by the Board to Town employment.

Fire Chief Randy Wells introduced Fire Engineer/EMT Guy Crocker who was recognized by the Board for five years of service.

Fire Chief Randy Wells introduced Fire Lieutenant Diego Dayan who was recognized by the Board for twenty-five years of service.

PROCLAMATION – Annual Safety Week – Deputy Fire Chief Shane Hite reviewed next month's Annual Safety Week activities - The Board adopted the Proclamation declaring March 4 – 8, 2024 Safety Week as presented.

4. Public Comment – Bob Muller; Nags Head resident; he expressed his appreciation for the improvements the Town made to the dog park; he displayed slides showing the bus-stop type of structure installed by the Town; he thanked the Public Services Director and department for keeping up the park as well as they do.
5. Public Comment – John Kenny; Nags Head resident; he made some suggestions for the Board to consider: 1) an off season switch to once/week instead of twice/week for trash collection; this would allow staff to do other tasks; 2) the need for repaving Villa Dunes Drive; 3) beaches are eroding quickly; he has spoken with someone who built a reef in the ocean in New Zealand – the reef consisted of double sand bags anchored off shore to break down wave action; this would also extend the season for surfers. Staff is to provide the street repaving schedule to Mr. Kenny, per Mayor Cahoon.

6. Consent Agenda - The Consent Agenda was approved as presented and consisted of the following:

**Consideration of Budget Amendment #8 to FY 23/24 Budget**

Consideration of Tax Adjustment Report

Request to advertise delinquent taxes

Approval of minutes

Personnel Policy Change - Holiday Schedule amendment

Amendment to the Beach Nourishment Maintenance Capital Project Ordinance

Resolution to accept the American Rescue Plan Grant - SOOIR Stormwater Infrastructure Improvements

**Request for Public Hearing - to consider text amendments to the UDO re: prohibiting drive-thru restaurants.**

**7.** Public Hearing - to consider Special Use/Site Plan review submitted by Quible & Associates, P.C. and Beacon Architecture and Design PLLC, for the construction of a Trade Center. The property is zoned C-3, Commercial Services and is located on Lot 2a of the Charles L. Sineath Subdivision (PIN# 989317113533), vacant lot directly behind TW's Bait and Tackle – The Board approved the Special Use/Site Plan as presented with the findings and conditions as follows:

- The use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted.

- The use, as proposed, will not overburden the firefighting capabilities and the municipal water supply capacity of the Town as such facilities and capabilities will exist on the completion date of the conditional use for which application is made.

- The conditional use will be in harmony with the existing development and uses within the area in which it is to be located.

- Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.

- Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

**8.** Public Hearing - to consider various text amendments to the Unified Development Ordinance as it relates to multi-family development – The Board passed a motion to table this item and to receive recommendations from staff, with Board input, for a small task force working group for appointment - along with a recommended charge/schedule – at the Board of Commissioners next meeting.

**9.** Fire Planning Committee - Dep Fire Chief Shane Hite presented the final report from the Town's Fire Planning Committee which was well received.

**10.** Beach Nourishment Project Consultant Presentation – Town Engineer David Ryan explained that, annually, the Town subcontracts surveying and engineering services to perform an annual beach condition survey and engineering data analysis in accordance with the Town's Beach Monitoring & Maintenance Plan.

Beth Sciaudone, Ph.D., PE and Ayse Karanci, PhD, PE from the consulting firm of Moffat & Nichol presented the findings of the condition surveys. Copies of the 2023 Annual Beach Monitoring Survey Evaluation document were distributed to all Board members. Town Manager Garman stated that staff is basing upcoming budget discussions on the input provided during today's presentation.

**11.** Planning Director - Planning Director Kelly Wyatt presented her monthly Planning Director's report which was well received.

**12.** From Jan 3<sup>rd</sup> Board meeting – EOP Plan - Fire Chief Randy Wells summarized his request for final acceptance/approval of the Emergency Operations Plan (EOP) which was presented to the Board for review at the January 2024 meeting. The Board approved the Plan as presented.

**13.** Committee reports

Comr. Brinkley – Septic Health Committee – he was on a previously scheduled trip and unable to attend a recent meeting but an update was provided by Planning Director Wyatt; Jennette's Pier Advisory Committee – he was unable to attend the most recent meeting due to illness but will report on actions at the next meeting.

Comr. Sanders – Estuarine Shoreline Committee – an update was provided by Planning Director Wyatt; Jockey's Ridge State Park 50<sup>th</sup> Anniversary Committee - he and Town Manager Garman attended the first meeting – events for the anniversary are being scheduled for June 5 - 8, 2025.

Comr. Lambert – New Elected Officials Orientation - she attended the workshop last month; Gov-Ed Committee – she was unable to attend the recent meeting due to a previously scheduled trip but saw that the LPDI grant was approved and another meeting has been scheduled for end of February.

**14.** Board/Committee appointments – The Board reappointed Megan Vaughan to another term on the Planning Board.

**15.** Overview of Ocean Rescue - Ocean Rescue Captain Chad Motz provided an update on the 2023 Ocean Rescue Operations. In addition, he discussed changing the Beach Warning Flag System (to align with National/International standards) and Town Code, as appropriate. Lifeguard pay was also discussed and the need to stay competitive. Board members spoke in favor of the new flag system. The ordinance amending the Town Code to incorporate the new flag system will be returned after attorney review for Board consideration at the March Board meeting.

The Board passed a motion to increase lifeguard pay this upcoming (2024) summer season to \$19/hour.

**16.** Town Manager Garman – He summarized an updated Strategic Plan based on discussions during the November 2023 Board Retreat. Board members spoke in favor of the Board Retreat and staff's involvement as well as implementation of the community survey in the Strategic Plan. Mayor Cahoon suggested getting a message to the public as to how the Board listened to the community survey – by matching up plans being made and the survey results. Town Manager Garman agreed and stated that it may also encourage those who did not participate in the community survey to participate in the future.

**17.** Town Manager Garman - Town Engineer David Ryan presented an update of the Public Services Facility – a tour of the facility for Board members is scheduled for today following the meeting. He reported that progress is being made in all buildings throughout the complex. Solar panels have been installed on all buildings. He also noted that there is a slight schedule delay due to some of the electrical installation. Occupation of the Administration building is scheduled for April 2024.

**18.** Town Manager Garman – He provided an update on the first Dare County Housing Task Force meeting; draft minutes as well as a draft mission statement were provided. The next meeting is scheduled for Feb 20<sup>th</sup>.

**19.** Mayor Cahoon – He attended the recent Water Summit in Greenville which was a full day of information – the summit focuses on resilience against floods; future meetings would be beneficial for staff and a Board member to attend.

**20.** Mayor Cahoon – He attended the recent Governor's Offshore Wind Energy Resources Task Force meeting in Charlotte; the main purpose of the task force is to make sure North Carolina gets a cut of the action from offshore wind energy. The meeting was held in Charlotte as that was where the vendor supplying the cable is located and a presentation was provided - the next meeting will be held in Raleigh.

**21.** Closed/Open Session – The Board entered Closed Session at 12:25 p.m. to discuss the possible acquisition of real property in accordance with GS 143-318.11(a)(5) – and re-entered Open Session at 12:50 p.m.

**22.** Adjournment - Mayor Cahoon recessed the Board meeting to a tour of the Public Services Facility beginning at 1:20 p.m. at the Public Services site – and to adjourn after that time. The time was 12:52 p.m.



## **MEMORANDUM**

### **Town of Nags Head**

### **Planning & Development Department**

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To: Planning Board

From: Kelly Wyatt, Planning Director  
Joe Costello, Deputy Planning Director

Date: February 13, 2024

Subject: Vegetation Mapping

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At the request of the Planning Board, staff has created a map delineating the areas within the Town where there are protected landscape buffer areas.

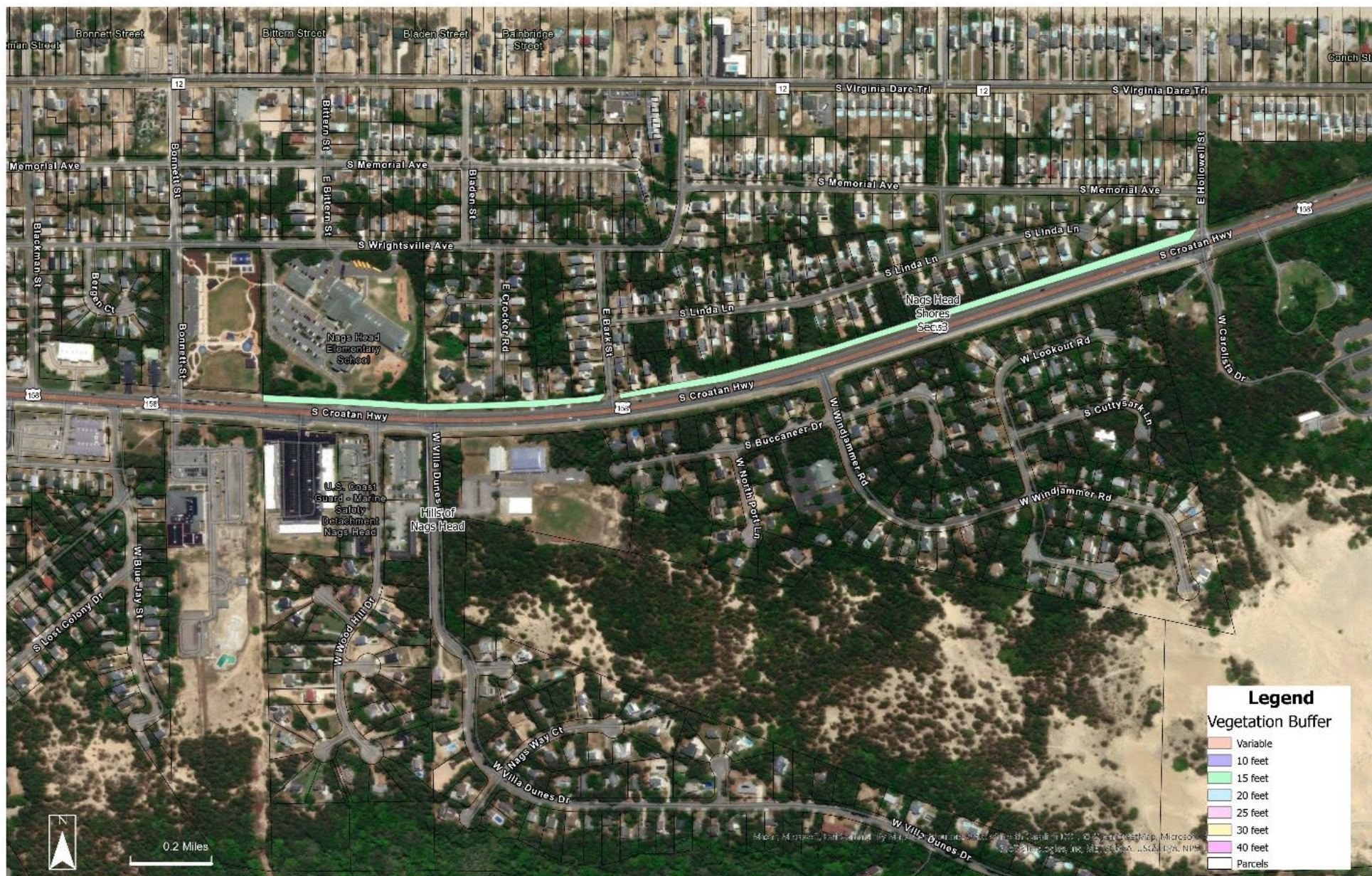
Areas shown in peach are part of the Town's 2003 North Carolina Department Of Transportation Enhancement Planting project. As part of this project, NCDOT developed plans and worked with the Town of Nags Head to install landscape plantings in the following locations: 1) on the east side of US 158 extending south from the northern town limits at Eighth Street to Driftwood Street; and, the west side of US 158 extending south from the northern town limits at Eighth Street to approximately Nags Head Realty, and, 2) the east side of US 158 directly across from the Outer Banks Hospital south to South Seachase Drive; and, the west side of US 158 from the Outer Banks Hospital south the South Seachase Drive, excluding the area in front of the Outer Banks Mall. NCDOT was responsible for designing the planting areas, preparing the sites, installing the plant material and maintaining these areas for a period of three (3) calendar years. At the end of the three-year established period, the town assumes the responsibility for maintenance and replacement of the landscape areas.

The other areas of protected vegetation are those that were required as part of subdivision plat approval and noted on the recorded plat. These areas have variable widths. Attached are maps illustrating the protected vegetation areas.

Planning staff will be available at the Planning Boards February 20<sup>th</sup> meeting for discussion













429

STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

LYNDO TIPPETT  
SECRETARY

June 9, 2003

Mayor Robert W. Muller  
Town of Nags Head  
P. O. Box 99  
Nags Head, NC 27959

SUBJECT: Landscape Agreement – Project No. E-2973A – Dare County

Dear. Mr. Muller:

Enclosed is the original of an agreement for certain landscape plantings along US 158 in Nags Head.

Should you have any questions, please let us know.

Sincerely,

D. R. Conner, P.E.  
Division Engineer – Division One

  
J. D. Jennings, P.E.  
Division Operations Engineer

DRC/JDJ/lh

Attachments

cc: Pat Mansfield, w/atta.

NORTH CAROLINA  
DARE COUNTY

3/24/03

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

AND

LANDSCAPE AGREEMENT  
PROJECT: E-2973 A

TOWN OF NAGS HEAD

THIS AGREEMENT, made and entered into the 21<sup>st</sup> day of MAY, 2003,  
between the DEPARTMENT OF TRANSPORTATION, an agency of the State of  
North Carolina, hereinafter referred to as the Department, and TOWN OF NAGS HEAD, a  
municipal corporation, hereinafter referred to as the Municipality;

WITNESSETH:

WHEREAS, Section 1025 of the Interstate Surface Transportation Efficiency Act  
(ISTEA) and the Transportation Equity Act of the 21<sup>st</sup> Century (TEA -21) requires that Surface  
Transportation Program funds be available for transportation enhancement activities; and,

WHEREAS, the Municipality has requested enhancement funding for certain landscape  
plantings along US 158 in Dare County; and,

WHEREAS, the Department and the Municipality have agreed to certain responsibilities  
as hereinafter set forth to accomplish said improvements; and,

WHEREAS, the Department and the Municipality have also agreed to the maintenance  
responsibilities of said parties as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and  
undertakings of the other as herein provided, do hereby covenant and agree, each with the  
other, as follows:

1. The Department shall, without expense to the Municipality, develop the landscape  
design and prepare the landscape plans and specifications in accordance with the  
Department's standard landscaping policies and procedures for highways.

2. The Department shall, without expense to the Municipality, prepare the site and furnish and install the plantings, in accordance with the approved project plans. All work shall be performed in within the existing right of way and in accordance with Departmental standards, policies and procedures.

3. Upon completion of the planting, the Department shall maintain said planting areas for a period of three (3) calendar years, at no expense to the Municipality.

4. At the end of the three (3) year establishment period, the Department shall notify the Municipality, in writing, to assume responsibility for all maintenance and replacement of the new landscape materials. Maintenance shall include, but not be limited to the following: watering, mulching, pruning, fertilizing, weeding, pest control, mowing, and replacing dead, diseased or damaged landscape plants. All costs of maintenance and replacement shall be borne by the Municipality.

5. Any changes, revisions, or alterations to the landscaping shall require prior review and approval by the Department's 1st Division Engineer prior to the work being initiated.

6. The Municipality agrees to continually maintain all plantings in accordance with the generally accepted horticulture practices. The Department shall have the right to periodically inspect the maintenance practices being utilized by the Municipality.

7. In the event the Department determines the Municipality is not properly maintaining said plantings, the Department will notify the Municipality. If the Municipality does not perform proper maintenance within a reasonable time after notification, the Municipality agrees that the Department shall perform the necessary maintenance, or at the Department's option, shall remove said plantings and return the site to natural ground cover (i.e. seeded and mulched, etc.). It is further agreed that the costs of the restoration shall be reimbursed to the Department by the Municipality. Reimbursement to the Department shall be made in one final payment within sixty (60) days of invoicing by the Department. The Department shall charge a

late penalty and interest on any unpaid balance due in accordance with G.S. 147.86.23 and G.S. 105-241.1

8. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment hereinabove provided, North Carolina General Statute 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by North Carolina General Statute, Section 136-41.1, until such time as the Department has received payment in full.

9. In the event these plantings require relocation or removal for highway construction, reconstruction, maintenance or safety, the Municipality shall be given the option to remove or relocate any plantings it considers salvageable immediately upon notification by the Department, at no expense to the Department.

10. The Department will also not be responsible for any damages to the plantings, which may be done by third parties.

11. Provisions for routine mowing shall be handled under separate agreement between the Department's 1st Division Engineer and the Municipality.

12. It is understood that the plantings shall be installed in the existing rights of way; however, in the event any additional right of way or construction easement is required for the plantings, the Municipality shall provide said additional right of way or easement at no expense or liability whatsoever to the Department.

13. All utilities in conflict with said landscape planting will be relocated by the Municipality at no expense to the Department.

14. The Municipality, at no expense to the Department, shall provide traffic control during landscape maintenance procedures as required by the latest revisions to the MUTCD for work outside the shoulder and for work on the shoulder.

IT IS UNDERSTOOD AND AGREED that the approval of the project by the Department is subject to the conditions of this Agreement and that no expenditure of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given as evidenced by the attached certified copy of Resolution, IN WITNESS Ordinance or Charter Provision, as the case may be.

LS

ATTEST:

Carolyn F. Morris  
CLERK Carolyn F. Morris



TOWN OF NAGS HEAD  
BY: Robert W. Muller  
MAYOR Robert W. Muller

Federal Tax Identification Number:

56-6034273

Town's Remittance Address:  
Town of Nags Head

P. O. Box 99

Nags Head, NC 27959

DEPARTMENT OF TRANSPORTATION

BY: H. S. S. S.  
STATE HIGHWAY ADMINISTRATOR

APPROVED AS TO FORM

BY: R. H. S. S.  
ASSISTANT ATTORNEY GENERAL

**"THIS INSTRUMENT HAS BEEN PREAUDITED  
IN THE MANNER REQUIRED BY THE LOCAL  
GOVERNMENT BUDGET & FISCAL CONTROL ACT."**

Rhonda G. Sommer  
Rhonda G. Sommer, Finance Director

**RESOLUTION TO THE BOARD OF COMMISSIONERS  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

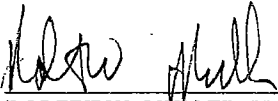
A motion was made by Comr. Remaley and seconded by Mayor Pro Tem George Farah for the adoption of the following Resolution, and upon being put to a vote was duly adopted with a 4 - 1 vote:

**WHEREAS**, the Department and the Town of Nags Head have agreed to install certain landscape plantings in the following locations; 1) on the east side of US 158 extending south from the northern town limits at Eighth Street to Driftwood Street; and, the west side of US 158 extending south from the northern town limits at Eighth Street to approximately Nags Head Realty; and, 2) the east side of US 158 directly across from the Outer Banks Hospital south to South Seachase Drive; and, the west side of US 158 from the Outer Banks Hospital south to South Seachase Drive, excluding the area in front of the Outer Banks Mall.

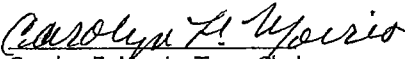
**WHEREAS**, the Department will be responsible for the design of the landscape plans, prepare the site, install the plant materials and maintain said planting areas for a period of three (3) calendar years, at no expense to the Municipality; and,

**WHEREAS**, at the end of the three (3) year establishment period, the Municipality will assume responsibility for maintenance and replacement of the new landscape plantings.

**NOW, THEREFORE, BE IT RESOLVED** that Project E-2973 A, Dare County, is hereby formally approved by the Board of Commissioners of the Town of Nags Head and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.

  
ROBERT W. MULLER, Mayor

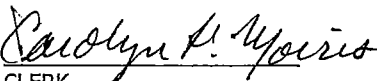
ATTEST:

  
Carolyn F. Morris, Town Clerk

I, Carolyn F. Morris, Clerk of the Town of Nags Head, do hereby certify that the foregoing is a true and correct copy of excerpts from the Minutes of the meeting of the Board of Commissioners duly held on the 4<sup>th</sup> day of September, 2002.

WITNESS, my hand and the official seal of said Municipality on this the 5<sup>th</sup> day of September, 2002.



  
CLERK  
TOWN OF NAGS HEAD  
NORTH CAROLINA



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## MEMORANDUM

### Town of Nags Head

### Planning & Development Department

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To: Board of Commissioners  
Planning Board

From: Kelly Wyatt, Planning Director  
Joe Costello, Deputy Planning Director

Date: January 31, 2024

Subject: Planning and Development Director's Report (G-1)

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This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on January 3<sup>rd</sup>, 2024.

#### Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for December 2023*. In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, Staff was involved in the following meetings or activities of note during the month:

- Tuesday, January 2<sup>nd</sup> - Technical Review Committee Meeting (no items)
- Wednesday, January 3<sup>rd</sup> - Board of Commissioners Meeting
- Thursday, January 4<sup>th</sup> - CRS Users Group Meeting
- Wednesday, January 10<sup>th</sup> – Committee for Arts and Culture Meeting
- Thursday, January 11<sup>th</sup> – Board of Adjustment Meeting (Surles Appeal)
- Saturday, January 13<sup>th</sup> – Winter Market from 9am – noon
- Tuesday, January 16<sup>th</sup> – Planning Board Meeting
- Wednesday, January 17<sup>th</sup> – Board of Commissioners mid-month meeting (if needed)

#### Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on Tuesday, January 16<sup>th</sup>, 2023, and included the following:

- Election of the Chair, Vice Chair, and acceptance of the 2024 Submittal Calendar.
- Consideration of text amendments that if adopted would allow the long-term rental of units within existing hotels and motels. The Planning Board and applicant continued to have a productive discussion and staff will be preparing an amendment for the Planning Board recommendation at their February 20<sup>th</sup> meeting.
- Consideration of text amendments to remove the use of "Restaurant-Drive-Through" from all zoning districts within the town. The Planning Board voted unanimously to recommend adoption of the proposed ordinance amendment at their January 16<sup>th</sup> meeting.
- Planning staff presented a draft 2024 Workplan for the Planning Department which included the following:
  - Identify and correct areas of incompatibility between the Comprehensive Land Use Plan guidance and the UDO.

- 
- Develop and present an Accessory Dwelling Unit (ADU) Ordinance with a menu of regulatory options to consider.
  - Develop and prioritize strategies for implementation of the Estuarine Shoreline Management Plan.
  - Continue implementation of the of the DWMP and devise creative strategies to increase participation in the Septic Health Initiative.
  - Develop non-regulatory approaches to minimize residential lighting impacts, focus on education and outreach.
  - Continue digitization and records management efforts within the department.

The Planning Board's next meeting is scheduled for Tuesday, February 20<sup>th</sup>, 2024. Currently, the agenda is expected to include consideration of a text amendment to allow the long-term rental of units within existing hotels and motels and consideration of a proposed text amendment requiring that septic systems and all other components have a barrier around them to prevent vehicles from parking on and possibly damaging them.

### **Board of Adjustment – Recent and Pending Applications**

At their January 11, 2024 meeting the Board of Adjustment heard an Appeal of an Administrative Decision submitted by Joseph Surles with regard to the issuance of a building permit for the property located at 4313 W. Soundside Road, Nags Head (Martin Residence). The Board of Adjustment voted unanimously to affirm the staff's issuance of the building permit.

The Board of Adjustment will meet on Thursday, February 8, 2024 to hear an Appeal of Administrative Decision submitted by Bryan Harvey with regard to the issuance of a Notice of Violation for utilizing a detached accessory structure as an unpermitted second dwelling unit. The subject property is located at 309 W. Soundside Road, Nags Head.

### **Additional Updates**

- **DWMP/Septic Health Advisory Committee** – The Septic Health Advisory Committee met on January 30, 2024 and newly appointed members Rob Crawford and Gary Ferguson introduced themselves to the group. The committee received updates on the installation of the ground water loggers and water quality loggers, expressing excitement over the intake of more real time data and its uses moving forward. Bob Muller noted that he would like to see more water quality loggers purchased in the future as was recommended in the DWMP. Staff updated the committee on upcoming educational opportunities within the community to get the word out on the Septic Health Initiative, including Realtorfest, Farmers Markets, and a meeting with members of OBAR as facilitated by Government Affairs Director, Donna Creef. Staff are actively preparing the draft ordinance amendments recommended by the Septic Health Advisory Committee requiring a barrier be placed around the perimeter of septic and drain field areas to prevent vehicles from driving over, parking on them and potentially damaging them. This amendment is anticipated to be presented to the Planning Board at their February 20, 2024 meeting.
- **Estuarine Shoreline Management Plan** – Following notification that the town was not awarded the National Fish and Wildlife Foundation grant, staff has initiated several meetings to discuss next steps in terms of funding opportunities, potential partnerships and site selection. Meetings with the town's grant writing consultants, Coastal Federation, and Dare County Soil and Water Conservation have led to promising conversations about potential partnerships for living shoreline opportunities along the Nags Head Causeway in the area of Catfish Farm and in collaboration with the Outer Banks Visitors Bureau as they design and construct their soundside boardwalk.

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- **Electric Vehicle Action Plan** – If approved by the Board of Commissioners at their February 7, 2024 meeting, the requested budget amendment (Item E-1) would enable the town to move forward with securing LoWire Technologies to obtain and install the Level 2 EvoCharge equipment. Also included is a five (5) year maintenance agreement with LoWire Technologies as required by the grant. Planning and Public Services are collaborating on creating and installing the required signage and bollard protections.
  - **Sand Relocation and Dune Management Cost Share Program** – As of February 1<sup>st</sup>, \$187,000 of the \$320,000 allocated to the Dune Management Cost Share Program has been encumbered by 64 applicants. Additionally, we have received 142 Sand Relocation Applications of which 131 have been approved and issued authorization letters.
  - **Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture** – The Town held its first Winter Market on Saturday, January 13<sup>th</sup> from 9am to noon. This market was well attended with over 100 visitors stopping by and many expressing their appreciation for the Town hosting the Winter Markets. These markets are held on the 2<sup>nd</sup> Saturday of the month through April, the next market will be held on Saturday, February 10<sup>th</sup> from 9am – noon with five vendors participating. In addition to attending the annual NC Event Planners Conference, Event Coordinator Paige Griffin has been busy getting organized for the upcoming summer markets, booking bands for the upcoming summer concert series, lining up groups and organizations for Family Fun Nights, and meeting with potential sponsors for 2024 happenings. The Committee for Art and Culture will be prepared to give the Board of Commissioners an update on the 2023 Season and their vision for the 2024 Season at their March 6, 2024 regularly scheduled meeting.

#### **Upcoming Meetings and Other Dates**

- Tuesday, February 6<sup>th</sup> - Technical Review Committee Meeting
- Wednesday, February 7<sup>th</sup> - Board of Commissioners Meeting
- Thursday, February 8<sup>th</sup> - CRS Users Group Meeting
- Thursday, February 8<sup>th</sup> – Board of Adjustment Meeting (Harvey Appeal)
- Saturday, February 10<sup>th</sup> – Winter Market from 9am - noon
- Wednesday, February 14<sup>th</sup> – Committee for Arts and Culture Meeting
- Thursday, February 15<sup>th</sup> – Townwide Staff Meeting
- Tuesday, February 20<sup>th</sup> – Planning Board Meeting
- Wednesday, February 21<sup>st</sup> – Board of Commissioners mid-month meeting (if needed)

**TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT  
MONTHLY REPORT  
DECEMBER 2023**

DATE SUBMITTED: January 7, 2024

|                                              | Dec-23             | Dec-22             | Nov-23             | 2023-2024<br>FISCAL YTD | 2022-2023<br>FISCAL YTD | FISCAL YEAR<br>INCREASE/<br>DECREASE |
|----------------------------------------------|--------------------|--------------------|--------------------|-------------------------|-------------------------|--------------------------------------|
| <b>BUILDING PERMITS ISSUED - RESIDENTIAL</b> |                    |                    |                    |                         |                         |                                      |
| New Single Family                            | 0                  | 1                  | 4                  | 8                       | 8                       | 0                                    |
| New Single Family, 3000 sf or >              | 0                  | 1                  | 0                  | 3                       | 6                       | (3)                                  |
| Duplex - New                                 | 0                  | 0                  | 0                  | 1                       | 0                       | 1                                    |
| Sub Total - New Residential                  | 0                  | 2                  | 4                  | 12                      | 14                      | (2)                                  |
| Miscellaneous (Total)                        | 37                 | 31                 | 54                 | 223                     | 206                     | 17                                   |
| <i>Accessory Structure</i>                   | 5                  | 1                  | 3                  | 20                      | 16                      | 4                                    |
| <i>Addition</i>                              | 2                  | 3                  | 3                  | 19                      | 11                      | 8                                    |
| <i>Demolition</i>                            | 0                  | 0                  | 3                  | 3                       | 0                       | 3                                    |
| <i>Move</i>                                  | 0                  | 0                  | 0                  | 0                       | 0                       | 0                                    |
| <i>Remodel</i>                               | 10                 | 14                 | 15                 | 50                      | 66                      | (16)                                 |
| <i>Repair</i>                                | 20                 | 13                 | 30                 | 131                     | 113                     | 18                                   |
| <b>Total Residential</b>                     | <b>37</b>          | <b>33</b>          | <b>58</b>          | <b>235</b>              | <b>220</b>              | <b>15</b>                            |
| <b>BUILDING PERMITS ISSUED - COMMERCIAL</b>  |                    |                    |                    |                         |                         |                                      |
| Multi-Family - New                           | 0                  | 0                  | 0                  | 0                       | 0                       | 0                                    |
| Motel/Hotel - New                            | 0                  | 0                  | 0                  | 0                       | 0                       | 0                                    |
| Business/Govt/Other - New                    | 0                  | 0                  | 0                  | 0                       | 1                       | (1)                                  |
| Subtotal - New Commercial                    | 0                  | 0                  | 0                  | 0                       | 1                       | (1)                                  |
| Miscellaneous (Total)                        | 7                  | 9                  | 9                  | 34                      | 34                      | 0                                    |
| <i>Accessory Structure</i>                   | 4                  | 1                  | 3                  | 15                      | 12                      | 3                                    |
| <i>Addition</i>                              | 0                  | 0                  | 0                  | 0                       | 0                       | 0                                    |
| <i>Demolition</i>                            | 0                  | 0                  | 0                  | 0                       | 0                       | 0                                    |
| <i>Move</i>                                  | 0                  | 0                  | 0                  | 0                       | 0                       | 0                                    |
| <i>Remodel</i>                               | 1                  | 5                  | 2                  | 10                      | 12                      | (2)                                  |
| <i>Repair</i>                                | 2                  | 3                  | 4                  | 9                       | 10                      | (1)                                  |
| <b>Total Commercial</b>                      | <b>7</b>           | <b>9</b>           | <b>9</b>           | <b>34</b>               | <b>35</b>               | <b>(1)</b>                           |
| <b>Grand Total</b>                           | <b>44</b>          | <b>42</b>          | <b>67</b>          | <b>269</b>              | <b>255</b>              | <b>14</b>                            |
| <b>SUB-CONTRACTOR PERMITS</b>                |                    |                    |                    |                         |                         |                                      |
| Electrical                                   | 42                 | 38                 | 39                 | 251                     | 249                     | 2                                    |
| Gas                                          | 1                  | 3                  | 6                  | 22                      | 16                      | 6                                    |
| Mechanical                                   | 23                 | 24                 | 20                 | 157                     | 189                     | (32)                                 |
| Plumbing                                     | 8                  | 5                  | 14                 | 62                      | 38                      | 24                                   |
| Fire Sprinkler                               | 0                  | 0                  | 0                  | 2                       | 2                       | 0                                    |
| <b>VALUE</b>                                 |                    |                    |                    |                         |                         |                                      |
| New Single Family                            | \$0                | \$900,000          | \$1,775,000        | \$3,859,282             | \$4,184,000             | (\$324,718)                          |
| New Single Family, 3000 sf or >              | \$0                | \$1,038,733        | \$0                | \$1,135,000             | \$5,998,733             | (\$4,863,733)                        |
| Duplex - New                                 | \$0                | \$0                | \$0                | \$711,000               | \$0                     | \$711,000                            |
| Misc (Total Residential)                     | \$1,400,398        | \$1,556,579        | \$2,561,700        | \$9,150,621             | \$8,218,963             | \$931,658                            |
| <b>Sub Total Residential</b>                 | <b>\$1,400,398</b> | <b>\$3,495,312</b> | <b>\$4,336,700</b> | <b>\$14,855,903</b>     | <b>\$18,401,696</b>     | <b>(\$3,545,793)</b>                 |
| Multi-Family - New                           | \$0                | \$0                | \$0                | \$0                     | \$0                     | \$0                                  |
| Motel/Hotel - New                            | \$0                | \$0                | \$0                | \$0                     | \$6,425,994             | (\$6,425,994)                        |
| Business/Govt/Other - New                    | \$0                | \$0                | \$0                | \$0                     | \$0                     | \$0                                  |
| Misc (Total Commercial)                      | \$401,993          | \$567,273          | \$962,286          | \$2,526,924             | \$1,570,024             | \$956,900                            |
| <b>Sub Total Commercial</b>                  | <b>\$401,993</b>   | <b>\$567,273</b>   | <b>\$962,286</b>   | <b>\$2,526,924</b>      | <b>\$7,996,018</b>      | <b>(\$5,469,094)</b>                 |
| <b>Grand Total</b>                           | <b>\$1,802,391</b> | <b>\$4,062,585</b> | <b>\$5,298,986</b> | <b>\$17,382,827</b>     | <b>\$26,397,714</b>     | <b>(\$9,014,887)</b>                 |

**TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT  
MONTHLY REPORT  
DECEMBER 2023**

DATE SUBMITTED: January 7, 2024

|                                       | Dec-23 | Dec-22 | Nov-23 | 2023-2024<br>FISCAL YTD | 2022-2023<br>FISCAL YTD | FISCAL YEAR<br>INCREASE/<br>DECREASE |
|---------------------------------------|--------|--------|--------|-------------------------|-------------------------|--------------------------------------|
| <b>ZONING</b>                         |        |        |        |                         |                         |                                      |
| Zoning Permits                        | 47     | 48     | 70     | 298                     | 234                     | 64                                   |
| Soil & Erosion                        | 4      | N/A    | 2      | 11                      | N/A                     | N/A                                  |
| Stormwater Plans                      | 2      | N/A    | 5      | 18                      | N/A                     | N/A                                  |
| <b>CAMA</b>                           |        |        |        |                         |                         |                                      |
| CAMA LPO Permits                      | 2      | 3      | 3      | 19                      | 15                      | 4                                    |
| CAMA LPO Exemptions                   | 1      | 7      | 3      | 18                      | 18                      | 0                                    |
| Sand Relocations                      | 41     | 18     | 47     | 88                      | 34                      | N/A                                  |
| <b>CODE COMPLIANCE</b>                |        |        |        |                         |                         |                                      |
| Cases Investigated                    | 23     | 7      | 24     | 169                     | 245                     | (76)                                 |
| Warnings                              | 2      | 0      | 4      | 19                      | 53                      | (34)                                 |
| NOVs Issued                           | 21     | 0      | 20     | 150                     | 64                      | 86                                   |
| Civil Citations (#)                   | 0      | 0      | 0      | 1                       | 10                      | (9)                                  |
| Civil Citations (\$)                  | \$0    | \$0    | \$0    | \$0                     | \$23,150                | (\$23,150)                           |
| <b>SEPTIC HEALTH</b>                  |        |        |        |                         |                         |                                      |
| Tanks inspected                       | 0      | 3      | 11     | 62                      | 54                      | 8                                    |
| Tanks pumped                          | 7      | 1      | 8      | 63                      | 46                      | 17                                   |
| Water quality sites tested            | 1      | 1      | 2      | 65                      | 118                     | (53)                                 |
| Personnel Hours in<br>Training/School | 4      | 20     | 109    | 254                     | 82                      | 172                                  |

  
Kelly Wyatt, Planning Director



**BOC ACTIONS  
WEDNESDAY, DECEMBER 6, 2023**

1. Call to order - Mayor Cahoon called the meeting to order at 9 a.m. Mayor Cahoon recognized former Mayor Bob Muller, former Commissioner Susie Walters, and Comr-Elect Megan Lambert in the audience.
2. Agenda – The Board approved the December 6<sup>th</sup> agenda as presented.
3. Recognition

NEW EMPLOYEE - Public Services Director Nancy Carawan introduced Facilities Maintenance Technician Taylor Midgett who was welcomed by the Board to Town employment.

FIVE YEARS - Public Services Director Nancy Carawan introduced Water Distribution Technician Alan Beatty who was recognized by the Board for five years of service.

FIVE YEARS - Fire Chief Randy Wells introduced Fire Lieutenant Trever Tilley who was recognized by the Board for five years of service.

RETIREMENT – Town Clerk Carolyn F Morris introduced Dep Town Clerk Michelle Gray who was recognized and congratulated by the Board on her upcoming retirement after over 27 years of service to the Town.

4. Reorganization of the Board – The Board reorganized after the November 7<sup>th</sup> election.

Megan Lambert was sworn in as Commissioner; Kevin Brinkley was sworn in as Commissioner. The Board elected Mike Siers as Mayor Pro Tem; he was then sworn in as Mayor Pro Tem.

5. Public Comment – No one spoke during Public Comment.
6. Consent Agenda – The Consent Agenda consisted of the following items:
  - Consideration of Tax Adjustment Report
  - Approval of minutes
  - Consideration of Adopt-A-Bench Policy / updated Fee Schedule
  - Consideration of Trafera Computer Lease agreement
  - Resolution authorizing contract with NCDEQ for Public Beach & Coastal Waterfront Access Grant
  - Resolution approving Municipal Accounting Services, Cybersecurity, Technical Assistance MOA
  - Resolution accepting an Offer of Funding from American Rescue Plan an AIA Study
  - Consideration of annual appointment of Director on Nags Head Leasing Board

The Board passed a motion to remove item #4 titled "Consideration of Trafera Computer Lease agreement" from the Consent agenda. Staff had decided to not lease, and instead to purchase, the computer equipment. The Board then approved the Consent Agenda as amended.

7. Public Hearing - to consider a Subdivision Waiver - The requested waiver is from Section 10.47 of the Unified Development Ordinance as it pertains to limiting access to US 158, US 64/264, NC 12, and SR 1243.

The Board approved the Subdivision Waiver from Section 10.47 of the Unified Development Ordinance as submitted by Quible and Associates on behalf of Ronald and Sabrina Mikita for one proposed two-lot Minor Subdivision of Parcel 007323000, PIN 071811556240 as presented - to include staff's two conditions as follows:

a - Should this application proceed forward toward individual lot development, additional existing grade and proposed grade elevation data will be required as part of the individual site development application approval process as outlined in the UDO.

b - For future residential stormwater permitting, direct discharge of runoff from the proposed impervious surfaces into the "404" jurisdictional wetlands is not permissible. Passive or active treatment of runoff should be provided in the form of a filter strip or other approved stormwater control measure.

**8.** Public Hearing – to consider text amendments to the Unified Development Ordinance as it pertains to including the use of "Restaurant, Drive Through" as a permissible use within Commercial Mixed-Use Developments, as well as amending the supplemental regulations associated with this use – The Board passed a motion to table this item and to return it to the Planning Board for additional review, due to today's discussion - and to schedule a Public Hearing for the January 3<sup>rd</sup> Board meeting. The motion passed 4 – 1 with Mayor Cahoon casting the NO vote.

**9.** Public Hearing – to consider text amendments to Sections 6.5, Classification and Review of Unlisted Uses, Section 6.6, Table of Uses and Activities, and Article 7, Supplemental Regulations as it pertains to the appraisal and purchase of precious metals and antiques and collectibles as an acceptable temporary and accessory use to retail jewelry shops – The Board adopted the ordinance as presented with the exception that the 90 days be reduced to 14 days.

**10.** Planning Report - Planning Director Kelly Wyatt summarized her monthly report for the Board which was well received.

**11. Committee Reports**

Comr. Sanders - Shoreline Management - The project was recently turned down on a grant application request.  
Comr. Brinkley - Jennette's Pier Advisory Committee – Date for next meeting has been set for December 11<sup>th</sup>.

**12.** Planning Board – The Board appointed David Thompson to the vacant position on the Planning Board.

**13.** Resolution – The Board adopted the resolution authorizing an application to file for a State Water Resources Development Grant as presented – for the S Nags Head Stormwater Drainage Projects.

**14.** Town Manager Garman - Town Engineer David Ryan provided an aerial view of the Public Services Facility improvements. He summarized building occupation dates and stated that the overall project completion date is scheduled for October 2024 (This includes occupation of all buildings.). Engineer Ryan is to schedule a field trip for Board members with the contractor for the end of the February 7<sup>th</sup> Board meeting.

**15.** Town Manager Garman – It was Board consensus to agree with the proposal presented by Town Manager Garman with the goal to identify desired future needs and determine how they could most efficiently be accommodated in the Town Hall / Fire Station Properties Master Plan.

**16.** Town Manager Garman – He reported that he and staff recently met with Dare County Environmental Health personnel to learn about new changes to regulations that govern the construction and repair of on-site wastewater (septic) systems. There are some fairly significant changes coming forward that staff feels may impact a lot of residents. He pointed out that Dare County has also expressed their opposition to the regulations; he will keep the Board informed.

- 17.** Mayor Pro Tem Siers – He congratulated Comr. Lambert on her recent election win and Dep Town Clerk Michelle Gray on her upcoming retirement.
- 18.** Comr. Brinkley – He thanked staff for their work and wished them a happy upcoming holiday season. He also said that he is honored to be elected to the Board for another four years. He congratulated Comr. Lambert on the recent election and Town Clerk Michelle Gray on her upcoming retirement.
- 19.** Comr. Sanders – He echoed what the other Board members said and thanked the Town for the Dowdy Park events and how nice the park looks.
- 20.** Manager Andy Garman – The Board approved modification to the Town’s Personnel Policy by amending the Health Insurance section from the Town funding 60% of dependent health insurance to 80%, for all full-time employees, no matter the hire date.
- 21.** Mayor Cahoon – The Board approved the 2024 BOC Meeting Calendar and the FY 24/25 Budget Calendar as presented.
- 22.** Mayor Cahoon – He asked Board members to stay for an official new photo after today’s meeting.
- 23.** Mayor Cahoon – He pointed out an article published last week incorrectly stated the Nags Head Board voted down affordable housing – which was not true as the Board had never received an official proposal for voting. Mayor Cahoon said that he reached out to the writer of that article to inform him of this.
- 24.** Mayor Cahoon – The Board approved a Christmas bonus of \$150 for full-time and \$75 for part-time employees.
- 25.** Closed Session – The Board entered Closed Session at 11:45 a.m. to consider Closed Session minutes and to consult with the Town Attorney regarding matters protected by the attorney/client privilege - to include the pending litigation re: Dare County municipalities vs the State of NC zoning authority. The Board re-entered Open Session at 12:12 p.m.
- 26.** Adjournment – The Board adjourned at 12:13 p.m.