



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.

Documents:

[HOTEL UNIT AS LONG TERM RENTAL TEXT FOR PB.PDF](#)

- 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. Planning Board Members' Agenda

J. Planning Board Chairman's Agenda

K. 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.

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

To: Planning Board

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

Date: February 16, 2024

Subject: Consideration of text amendments to the UDO as it pertains to the long-term rental of existing hotel units.

Updated Staff Report for the Planning Board February 20th, 2024 Meeting

At their December 19th, 2023, and January 16th, 2024 meeting the Planning Board heard and discussed a text amendment request submitted by Albemarle & Associates, Ltd. on behalf of Golasa Holdings, LLC to allow the conversion of existing hotel and motel units to long-term rental units.

Following these discussions, planning staff drafted ordinance language to regulate the conversion of existing hotel units into long-term rental units.

Staff has proposed that the conversion of existing hotel units, intended for transient occupancy, to long-term rental occupancy be subject to review through the Change of Use/Special Use Permit process. This type of conversion essentially transforms hotel use into multi-family use. Therefore, staff believes that this type of conversion warrants additional review and scrutiny, justifying the special use review.

As has been previously noted, when applying the proposed regulations for this use, only five locations would be eligible to take advantage of this ordinance if adopted. The hotels/motels below are located within the C-2, General Commercial zoning district and were constructed prior to November 10, 1972.

- Roadway Inn/Seahorse Inn at 7218 SVDT (zoned C-2, constructed in 1970)
- Owens Motor Court at 7122 SVDT (zoned C-2, constructed in 1960)
- Tarheel at 7010 SVDT (zoned C-2, constructed in 1950)
- First Colony at 6715 SCH (zoned C-2, constructed in 1932)
- Nags Head Beach Inn at 303 Admiral (zoned C-2, constructed in 1960)

Staff did send an email to these businesses to inquire about their average room size and, should this ordinance be adopted, if they would be interested in taking advantage of this option. Tarheel Motel responded and stated their rooms are approximately 264 square feet in area, including the bathroom and that they would be interested in long-term rentals, specifically for traveling nurses and other professionals for shoulder and winter months. First Colony Inn stated that they would not have any interest in offering their units for long-term rentals. We have not yet heard back from Seahorse Inn and Nags Head Beach Inn.

The draft ordinance contains a condition that “all” units within the development must be converted to long-term rental occupancy, that the development could not have both short- and long-term occupancies within the same development. While the applicant has stated this is their preference, this language would preclude Tarheel Motel from utilizing the ordinance as written, as their response indicates that they would prefer combined short- and long-term occupancy options, and only for the off-season.

Definitions of “*Long Term Tenancy/Occupancy*” and “*Workforce Housing*” have been proposed as staff is recommending a condition that all long-term rental units under this use category be subject to a lease restriction requiring that the unit be used exclusively for workforce housing. As part of the Planning Board’s recent effort to craft draft ordinance language for multi-family dwelling developments within the town, and consistent with the Board of Commissioners comments during their August 2, 2023 Joint Workshop, it was the consensus of both boards that any new multi-family dwelling developments within the town should be for the purpose of providing workforce housing, and not for the purpose of adding additional vacation rentals/short term rentals. Based upon this, staff believes the restriction that these units be for workforce housing only is warranted.

Staff met with the applicant on February 2nd to discuss the proposed text amendments. Regarding staff’s recommendation that each unit meet a minimum area, the applicant indicated that adhering to the minimum requirements of the North Carolina Building Code with regard to interior space dimensions for efficiency dwelling units would be achievable by his client. As such, staff has provided this language as a condition of the Change of Use/Special Use Permit approval.

Staff would like to bring attention to the proposed condition in Section 7.12.3.7 of the draft ordinance. At a minimum, every unit shall be supplied with a minimum of one approved and listed smoke alarm. It is important to note that while a new hotel or multi-family development would be required to install a sprinkler system, the conversion of an existing non-sprinklered hotel/motel to a multi-family development would not necessitate the installation of a sprinkler system. Therefore, staff recommends that the Planning Board discuss whether it would be beneficial to require the installation of a commercial fire alarm system as part of the Change of Use/Special Use Permit approval, in the interest of public health, safety, and welfare.

Required parking for this new use category is proposed at two parking spaces per long-term rental unit. Additionally, as previously discussed, language has been included to require that units shall not have individual utility meters and the use shall be operated under a single-unified management operation. These provisions have been included with the intent of discouraging the circumvention of the subdivision ordinance and creating condominium ownership of the individual dwelling units.

In previous meetings, both the Planning Board and staff have expressed concern about the amount of space available for the storage of long-term tenants’ belongings. To address this concern, a condition has been proposed that would require all storage to be located indoors or in an approved location that is not visible from public rights-of-way or neighboring properties.

Lastly, regarding the draft ordinance, staff has proposed language that would allow a hotel operator to transition back to the prior transient hotel use via the same Change of Use/Special Use Permit process, provided that no alternations had been made to the site or to the structure and units themselves that would result in an increase in the degree of nonconformity.

Staff reports from the December 2023 and January 2024 meeting where this item was discussed have been provided in a separate attachment.

STAFF RECOMMENDATION

Based upon concerns noted in previous iterations of this staff report and the analysis above, the staff does have some concerns with the proposed new use category. Most notably, the Town currently does not allow Multi-Family Dwelling as a use within any zoning designation and the proposed conversion of hotel units from transient occupancy to long-term occupancy, is essentially changing the hotel use to a multi-family use. Other concerns relate to those noted in previous discussions of single-room occupancies (SRO’s), the ability gain access into these units for periodic fire inspections based on the schedule in the NC Fire Prevention Code, given their age, these structures pre-date most of the modern fire and building code requirements, the ability

to realistically enforce the 90-day long term occupancy requirements and workforce housing requirements, and the potential for parking, noise and behavior concerns.

Planning staff will be available at the Planning Board's February 20th meeting for further discussion as needed.

(DRAFT)
**AN ORDINANCE AMENDING THE TOWN CODE AND UNIFIED DEVELOPMENT
ORDINANCE OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO THE
CONVERSION OF EXISTING HOTEL UNITS TO LONG TERM RENTAL UNITS.**

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, a text amendment application has been submitted requesting consideration be given to allowing the conversion of existing hotel units to long-term rental units.

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 **Appendix A – Definitions**, be amended to add the following terms:

Long-term Occupancy/Tenancy means the occupancy of a single-family dwelling/dwelling unit by an owner, tenant, or other lawful occupant for a period of ninety (90) consecutive calendar days or more.

Principal Place of Residence means the home or place in which one’s habitation is fixed, and to which one has present intention of returning after a departure or absence therefrom.

Qualified Person means a person working/employed in Dare County, NC. A qualified person includes but is not limited to any person who has an internship with an employer if the employer’s place of business is physically located in Dare County, NC, or a person who works remotely for an employer if the person’s

principal place of residence and the employer's place of business are both physically located in Dare County, NC.

Workforce Housing or workforce housing unit means the following:

- a. A dwelling unit which is occupied by at least one qualified person under a long- term occupancy/tenancy, and
- b. A dwelling unit which is the principal place of residence for at least one qualified person.

PART II. That **Section 7.12, Supplemental Regulations, Hotels** be amended as follows:

7.12.3. Long-Term Rental of Hotel Units

A hotel operator may choose to seek a Change of Use/Special Use Permit for the conversion of existing hotel units into long term rental units when the following criteria have been met:

7.12.3.1 The hotel or motel was constructed prior to November 10, 1972, and is located within the C-2, General Commercial Zoning District.

7.12.3.2 All the units within the hotel development must be converted to long-term rental occupancy. Occupancy within the structure shall not be split been short- and long-term occupancies.

7.12.3.3 For the purpose of this Section, long term lease/rental shall mean occupancy for a period of 90 consecutive days or more.

7.12.3.4 All long-term rental units within the development shall be subject to a lease restriction requiring that the unit be used exclusively for workforce housing. This restriction shall be included in all rental agreements.

7.12.3.5 Consistent with the NC Building Code, Interior Space Dimensions, each unit shall conform to the following requirements:

7.12.3.5.1 The unit shall have a living room of not less than 220 square feet of floor area. An additional 100 square feet of floor area shall be provided for each occupant of such unit, in excess of two.

7.12.3.5.2 The unit shall be provided with a separate closet.

7.12.3.5.3 The unit shall be provided with a kitchen sink, cooking appliances and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Portable electric cooking equipment shall not fulfill the requirement for cooking

appliances. In addition, portable cooking equipment employing flame shall be prohibited from the kitchen area.

7.12.3.5.4 The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

7.12.3.6 Every unit shall be supplied with facilities providing heat. Portable kerosene heaters are not acceptable as a permanent source of heat.

7.12.3.7 Every unit shall be supplied and installed with a minimum of one approved and listed smoke alarm. (For Planning Board Discussion: Consideration of a condition that this use shall comply with requirements for a commercial fire alarm system.)

7.12.3.8 The minimum parking requirements as noted in Section 10, Part II, Off-Street Parking and Loading Requirements shall be met.

7.12.3.9 Utility meters of any type for individual units are prohibited.

7.12.3.10 The long-term rental of hotel units must operate under a single, unified rental management operation.

7.12.3.11 All goods, materials, and equipment must be stored indoors, or in an approved location, in a manner that is not visible from public rights-of-way or neighboring properties.

7.12.3.12 If after having received approval for the conversion of transient hotel units to long-term rental units, the operator wants to transition the long-term rental units back to transient hotel units, this may be done through the Change of Use/Special Use Permit process. Such conversion shall be allowed only if no changes or alterations have been made to the structure and/or the site that would increase the degree of nonconformity with zoning regulations.

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

That **Section 6.6, Table of Permitted Uses and Activities** be amended as follows:

			Residential Districts			Commercial Districts						Special Districts				Overlay Districts			Supp Regulation
	Use Category/Class	Use Type	R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4	C-5	SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
1.1	Residential-Group	Family Foster Home	P	P	P	P	P	P		P	P	P	P						
<u>1.1</u>	<u>Residential-Group</u>	<u>Long-Term Rental Hotel Units</u>						<u>SR</u>											<u>Section 7.12.3</u>
1.1	Residential - Group	Hotel						SR											Section 7.12

That **Section 10.16, Table 10-2, Required Parking by Use** be amended as follows:

Use Category/Class	Use Type	Required Parking
<u>Residential – Group</u>	<u>Long-Term Rental Hotel Units</u>	<u>Two parking spaces per unit</u>
Residential – Group	Hotels	One parking space for each hotel unit without kitchen facilities; 1.2 parking spaces for each unit with kitchen facilities; plus, one parking space for every 100 square feet of conference or assembly area. For other accessory uses such as restaurants or retail, parking requirements shall be calculated at 75% of the standard for each permitted accessory use.

dle (11 lux). *Stairways* in other occupancies shall be governed by Chapter 10.

1205.4.1 Controls. The control for activation of the required *stairway* lighting shall be in accordance with NFPA 70.

1205.5 Emergency egress lighting. The *means of egress* shall be illuminated in accordance with Section 1008.1.

SECTION 1206 YARDS OR COURTS

1206.1 General. This section shall apply to *yards* and *courts* adjacent to exterior openings that provide natural light or ventilation. Such *yards* and *courts* shall be on the same *lot* as the building.

1206.2 Yards. *Yards* shall be not less than 3 feet (914 mm) in width for buildings two *stories* or less above *grade plane*. For buildings more than two *stories* above *grade plane*, the minimum width of the *yard* shall be increased at the rate of 1 foot (305 mm) for each additional *story*. For buildings exceeding 14 *stories* above *grade plane*, the required width of the *yard* shall be computed on the basis of 14 *stories* above *grade plane*.

1206.3 Courts. *Courts* shall be not less than 3 feet (914 mm) in width. *Courts* having windows opening on opposite sides shall be not less than 6 feet (1829 mm) in width. *Courts* shall be not less than 10 feet (3048 mm) in length unless bounded on one end by a *public way* or *yard*. For buildings more than two *stories* above *grade plane*, the *court* shall be increased 1 foot (305 mm) in width and 2 feet (610 mm) in length for each additional *story*. For buildings exceeding 14 *stories* above *grade plane*, the required dimensions shall be computed on the basis of 14 *stories* above *grade plane*.

1206.3.1 Court access. Access shall be provided to the bottom of *courts* for cleaning purposes.

1206.3.2 Air intake. *Courts* more than two *stories* in height shall be provided with a horizontal air intake at the bottom not less than 10 square feet (0.93 m²) in area and leading to the exterior of the building unless abutting a *yard* or *public way*.

1206.3.3 Court drainage. The bottom of every *court* shall be properly graded and drained to a public sewer or other approved disposal system complying with the *International Plumbing Code*.

SECTION 1207 SOUND TRANSMISSION

1207.1 Scope. This section shall apply to common interior walls, partitions and floor/ceiling assemblies between adjacent *dwelling units* and *sleeping units* or between *dwelling units* and *sleeping units* and adjacent public areas such as halls, *corridors*, *stairways* or *service areas*.

1207.2 Air-borne sound. Walls, partitions and floor/ceiling assemblies separating *dwelling units* and *sleeping units* from

each other or from public or service areas shall have a sound transmission class of not less than 50, or not less than 45 if field tested, for air-borne noise when tested in accordance with ASTM E90. Penetrations or openings in construction assemblies for piping; electrical devices; recessed cabinets; bathtubs; soffits; or heating, ventilating or exhaust ducts shall be sealed, lined, insulated or otherwise treated to maintain the required ratings. This requirement shall not apply to entrance doors; however, such doors shall be tight fitting to the frame and sill.

1207.2.1 Masonry. The sound transmission class of concrete masonry and clay masonry assemblies shall be calculated in accordance with TMS 0302 or determined through testing in accordance with ASTM E90.

1207.3 Structure-borne sound. Floor/ceiling assemblies between *dwelling units* and *sleeping units* or between a *dwelling unit* or *sleeping unit* and a public or service area within the structure shall have an impact insulation class rating of not less than 50, or not less than 45 if field tested, when tested in accordance with ASTM E492.

SECTION 1208 INTERIOR SPACE DIMENSIONS

1208.1 Minimum room widths. *Habitable spaces*, other than a kitchen, shall be not less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

1208.2 Minimum ceiling heights. Occupiable spaces, *habitable spaces* and *corridors* shall have a ceiling height of not less than 7 feet 6 inches (2286 mm). Bathrooms, toilet rooms, kitchens, storage rooms and laundry rooms shall have a ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. In one- and two-family *dwelling*s, beams or girders spaced not less than 4 feet (1219 mm) on center shall be permitted to project not more than 6 inches (152 mm) below the required ceiling height.
2. If any room in a building has a sloped ceiling, the prescribed ceiling height for the room is required in one-half the area thereof. Any portion of the room measuring less than 5 feet (1524 mm) from the finished floor to the ceiling shall not be included in any computation of the minimum area thereof.
3. The height of *mezzanines* and spaces below *mezzanines* shall be in accordance with Section 505.1.
4. *Corridors* contained within a *dwelling unit* or *sleeping unit* in a Group R occupancy shall have a ceiling height of not less than 7 feet (2134 mm).
5. Ceiling mounted electrical fixtures shall be a minimum of 80 inches (2032 mm) above the finished floor unless mounted over a barrier that prevents occupants from traveling under the fixture.

1208.2.1 Furred ceiling. Any room with a furred ceiling shall be required to have the minimum ceiling height in two-thirds of the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet (2134 mm).

1208.3 Room area. Every dwelling unit shall have no fewer than one room that shall have not less than 120 square feet (11.2 m²) of *net floor area*. Other habitable rooms shall have a *net floor area* of not less than 70 square feet (6.5 m²).

Exception: Kitchens are not required to be of a minimum floor area.

1208.4 Efficiency dwelling units. An efficiency living unit shall conform to the requirements of the code except as modified herein:

1. The unit shall have a living room of not less than 220 square feet (20.4 m²) of floor area. An additional 100 square feet (9.3 m²) of floor area shall be provided for each occupant of such unit in excess of two.
2. The unit shall be provided with a separate closet.
3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and *ventilation* conforming to this code shall be provided.
4. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

SECTION 1209 ACCESS TO UNOCCUPIED SPACES

1209.1 Crawl spaces. Crawl spaces shall be provided with not fewer than one access opening that shall be not less than 18 inches by 24 inches (457 mm by 610 mm).

1209.2 Attic spaces. An opening not less than 20 inches by 30 inches (559 mm by 762 mm) shall be provided to any *attic* area having a clear height of over 30 inches (762 mm). Clear headroom of not less than 30 inches (762 mm) shall be provided in the *attic* space at or above the access opening.

1209.3 Mechanical appliances. Access to mechanical appliances installed in under-floor areas, in *attic* spaces and on roofs or elevated structures shall be in accordance with the *International Mechanical Code*.

SECTION 1210 TOILET AND BATHROOM REQUIREMENTS

[P] 1210.1 Required fixtures. The number and type of plumbing fixtures provided in any occupancy shall comply with Chapter 29.

1210.2 Finish materials. Walls, floors and partitions in toilet and bathrooms shall comply with Sections 1210.2.1 through 1210.2.4.

1210.2.1 Floors and wall bases. In other than *dwelling units*, toilet, bathing and shower room floor finish materials shall have a smooth, hard, nonabsorbent surface. The

intersections of such floors with walls shall have a smooth, hard, nonabsorbent vertical base that extends upward onto the walls not less than 3 inches (76 mm).

1210.2.2 Walls and partitions. Walls and partitions within 2 feet (610 mm) of service sinks, urinals and water closets shall have a smooth, hard, nonabsorbent surface, to a height of not less than 4 feet (1219 mm) above the floor, and except for structural elements, the materials used in such walls shall be of a type that is not adversely affected by moisture.

Exception: This section does not apply to the following buildings and spaces:

1. Dwelling units and sleeping units.
2. Toilet rooms that are not accessible to the public and that have not more than one water closet.

Accessories such as grab bars, towel bars, paper dispensers and soap dishes, provided on or within walls, shall be installed and sealed to protect structural elements from moisture.

1210.2.3 Showers. Shower compartments and walls above bathtubs with installed shower heads shall be finished with a smooth, nonabsorbent surface to a height not less than 72 inches (1829 mm) above the drain inlet.

1210.2.4 Waterproof joints. Built-in tubs with showers shall have waterproof joints between the tub and adjacent wall.

[P] 1210.3 Privacy. Privacy at water closets and urinals shall be provided in accordance with Sections 1210.3.1 and 1210.3.2.

[P] 1210.3.1 Water closet compartment. Each water closet utilized by the public or employees shall occupy a separate compartment with walls or partitions and a door enclosing the fixtures to ensure privacy.

Exceptions:

1. Water closet compartments shall not be required in a single-occupant toilet room with a lockable door.
2. In toilet rooms in child care facilities in areas used exclusively by children five years of age and under, the following are permitted:
 - 2.1. Toilet stall enclosures, toilet stall doors and partitions between toilets may be omitted.
 - 2.2. Doors into toilet rooms may be omitted.
 - 2.3. Walls enclosing toilet rooms may be full height with vision panels, or may be partial height at least 42 inches (1067 mm) high in areas for children four and five years of age and 36 inches (914 mm) high in areas for children under four years of age.
3. This provision is not applicable to toilet areas located within Group I-3 occupancy housing areas.

202301587 750⁰⁰

Unified Development Ordinance (UDO) Text Amendment ☐ \$750
Zoning Map Amendment ☐ \$750 +
\$500/acre or fraction thereof

UNIFIED DEVELOPMENT ORDINANCE TEXT/
ZONING MAP AMENDMENT APPLICATION
TOWN OF NAGS HEAD, NORTH CAROLINA

Applicant Golasa Holdings, Llc

Mailing address P O Box 120, Kitty Hawk, NC 27949

Explanation of request

- ☒ Unified Development Ordinance (UDO) - Section(s) 6.2 and Appendix A Definitions
Attach amendment in ordinance form.
- ☐ Zoning Map
Attach copy of current Zoning Map with affected property outlined in red.
Attach names and mailing addresses of the property owners of all parcels of land
abutting the parcel in question.

Nature of request

This request is to define Legacy Motels, hotels and cottage courts to allow long term rental of existing hotel
units . This request also proposes definition of Long Term Rentals and Hotel / Studio rooms for rent.
It will provide flexibility in the rental of both transient and long term existing hotel / motel and cottage
court rooms while still retaining the character of the legacy motel. It will allow existing motel / hotel rooms to be converted
to Studio type rental units for longer term occupancy than is currently allowed in these types of establishments.
This amendment would not allow this use in newer hotel / motels or any proposed future hotel / motels but
would allow existing, older hotel / motels greater flexibility for longer term rentals of their existing units.

Reason for request

The Applicant would like to have the ability to provide long term Hotel / Studio unit rentals while still being
considered a hotel. This amendment would then allow the units in the Owens Motorcourt motel to be rented as
both transient and / or long term rental units. This amendment would allow the owners to provide much needed
seasonal and year round dwelling units for workforce housing while still retaining the ability to provide both transient
or longer term rentals of rooms for yearly and seasonal workers. This will provide much needed housing for
both year round and seasonal employees.

Golasa Holdings
Applicant

11/12/2023
Date

Golasa Holdings LLC Request for Ordinance Amendment

Ordinance Amendment

Add the Following Definitions to Appendix A Definitions

Long Term Occupancy means occupancy by the same individual or tenant for a combined period of greater than 30 days in any single calendar year.

Hotel / Studio unit means a lodging unit which contains independent cooking facilities and is existing and intended for Long Term or Transient Occupancy by guests or tenants on a rental basis. This definition shall include rental units customarily found in motels, hotels, inns and motor lodges.

Legacy Hotel / Motel means a hotel, motel, motor lodge, or Inn built before 1975 that is non-conforming but still functional to support both transient, and long term occupancy by guests or tenants. Each unit shall qualify as a Hotel/ Studio unit.

Add to Table 6.6 :

Legacy Hotel / Motel as a Permitted or PR Use in C-R, C-1 and C-2 Zoning Districts



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

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

Date: January 12, 2024

Subject: Consideration of text amendments to the UDO as it pertains to the long-term rental of existing hotel units.

Updated Information for the Planning Board's January 16, 2024 Meeting

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.

By applying these proposed regulations, the following hotels and motels would be eligible to utilize this proposed new use:

- Roadway Inn/Seahorse Inn at 7218 SVDT (zoned C-2, constructed in 1970)
- Owens Motor Court at 7122 SVDT (zoned C-2, constructed in 1960)
- Tarheel at 7010 SVDT (zoned C-2, constructed in 1950)
- First Colony at 6715 SCH (zoned C-2, constructed in 1932)

- 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 defining 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 discuss the merits of this requirement if hotel units were now allowed to be rented on a long-term basis.
- 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 and 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:
 - Food preparation surfaces impervious to water and free of defects which could trap food or liquid.
 - Shelves, cabinets, or drawers maintained in good repair for the storage of food and cooking and eating utensils.
 - 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.
 - 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). Staff has provided follow up responses below.

A question was brought up about lighting standards and how this proposed new use, if adopted, may be regulated. Hotels are considered to have a medium level of activity. This means that parking lot lighting associated with a hotel cannot exceed 7.0 footcandles and shall be a minimum of 0.5 footcandles. Acknowledging that in many ways, this proposed new use is most similar to a multi-family use, it is considered to have a low level of activity. This means that parking lot lighting associated with multi-family use cannot exceed 3.0 footcandles and shall be a minimum 0.2 footcandles. All parking lot lighting fixtures must be cutoff fixtures and the maximum maintained horizontal footcandle level at any point on a common property line of improved residential property shall not exceed 1.5 footcandles. 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? Please keep in mind that at this time, we have not made a

recommendation or determined 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. 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 is included below for the Planning Board's review.

7.12.2. Dormitory for Employee Housing.

Hotels may have accessory, employee dormitories intended to furnish group housing for employees provided the following conditions are met:

7.12.2.1. All accessory employee dormitories must be located on the same site as the hotel use.

7.12.2.2. An employee dormitory shall not contain more than one (1) kitchen.

7.12.2.3. The square footage of an employee dormitory building shall be limited to no more than twenty-five (25) percent of the square footage of the principal hotel building(s) on the site.

Single Resident Occupancies (SROs) 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 upmost 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. At the time of this memo no information has been received.

Staff will be available at the Planning Board's January 16, 2024 meeting for further discussion.

Previous information from Planning Board's December 19, 2023 Meeting

BACKGROUND

Albemarle & Associates, on behalf of Golasa Holdings, LLC has submitted the attached text amendment request to the Unified Development Ordinance (UDO), which, if adopted would permit the long-term rental of existing hotel units within older hotels and motels. As part of this request the applicant has proposed definitions of the terms "Long Term Occupancy", "Hotel/Studio Unit", and "Legacy Hotel/Motel."

While this type of conversion may not be new in more urban areas, this is not something that has been contemplated in our existing Unified Development Ordinance. There appears to be a good

amount of information and articles available on this type of use, below are links to a few articles that staff found interesting informative.

- <https://urbanland.uli.org/public/hotel-to-housing-conversions-proliferate/>
- https://www.housingfinance.com/developments/motels-rehabbed-for-affordable-housing_o
- https://www.steinberghart.com/wp-content/uploads/2021/02/Steinberg-Hart_A-Guide-to-Converting-Hotels-to-Housing_sm.pdf

The current definition of hotel is below and states that units are intended to be for used for transient guests on a rental basis. The Unified Development Ordinance then goes on to define transient occupancy as occupancy no longer than 30 combined days.

Hotel means a structure containing hotel units, hotel suites, and or efficiency units with 24-hour, on-site management and intended for transient guests on a rental basis.

Transient occupancy means occupancy by the same individual or owner for a combined period of no greater than 30 days in any single calendar year.

Staff would submit that this proposal, if adopted, could have significant impacts, and should be discussed at length in an effort to understand the benefits and impacts thoroughly.

Some items for consideration and discussion:

- Accommodations/improvements for a long-term rental may require renovations to ensure the comfort of occupant such as providing permanent cooking equipment. These improvements may be required to secure permits and meet current zoning, building, flood, and CAMA regulations.
- Do long-term renters have different expectations and needs compared to hotel guests? Could lack of amenities and services impact tenant satisfaction?
- Would a mixture of short and long-term stays alter the atmosphere/ambiance of the hotel, impacting the experience of the transient hotel guest?
- Should there be a minimum habitable area for a long-term rental unit?
 - Current UDO has minimum hotel unit size of 300 sf. and 400 sf minimum for hotel efficiency and hotel suite.
 - Current UDO requirements for a dormitory style development require approximately 300 square feet for the first occupant.
 - The draft multi-family dwelling ordinance recommends a minimum unit size of 800 square feet.
 - On average hotel rooms in the U.S. are approximately 330 sf, while the average apartment size is 880 square feet.
- Does converting hotel units to long-term rental reduce the overall supply of needed hotel rooms to the extent that it affects visitation/tourism?
- Does the management of long-term leases require different skills and resources compared to managing short-term hotel bookings. Long-term tenants may pose challenges in terms of eviction, non-payment, or property damage, requiring legal involvement that may be more complex than dealing with transient guests.

- Does this conversion lead to parking concerns? If this conversion is allowed should consideration be given to a new parking standard? The current parking standard for multi-family is a minimum of two spaces for each dwelling unit. The current parking standard for hotel is one space per unit if it does not have kitchen facilities and 1.2 spaces if it does have kitchen facilities. When considering the older hotels/motels it may be that existing parking is nonconforming.
- If the older (as proposed “legacy”) hotels/motels are experiencing hardships, long-term rentals may provide a steady and predictable income stream for property owners, reducing the impact of seasonal fluctuations. In addition, long term rentals may have lower operational costs compared to a hotel, such as reduced cleaning, laundry, and maintenance expenses.

STAFF ANALYSIS AND RECOMMENDATION:

Planning staff believes that the requested amendment poses a variety of questions that should be explored in more depth and would request that the Planning Board allow ample time to hear from the applicant and engage in meaningful discussion in anticipation of being able to draft a more detailed and comprehensive amendment for your consideration.

Planning Staff and the applicant will be available at the Planning Board’s December 19th meeting to discuss this proposed text amendment further.



MEMORANDUM

Town of Nags Head

Planning & Development Department

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.

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 7th 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 3rd 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 50th 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 20th.

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

To: Planning Board

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

Date: February 13, 2024

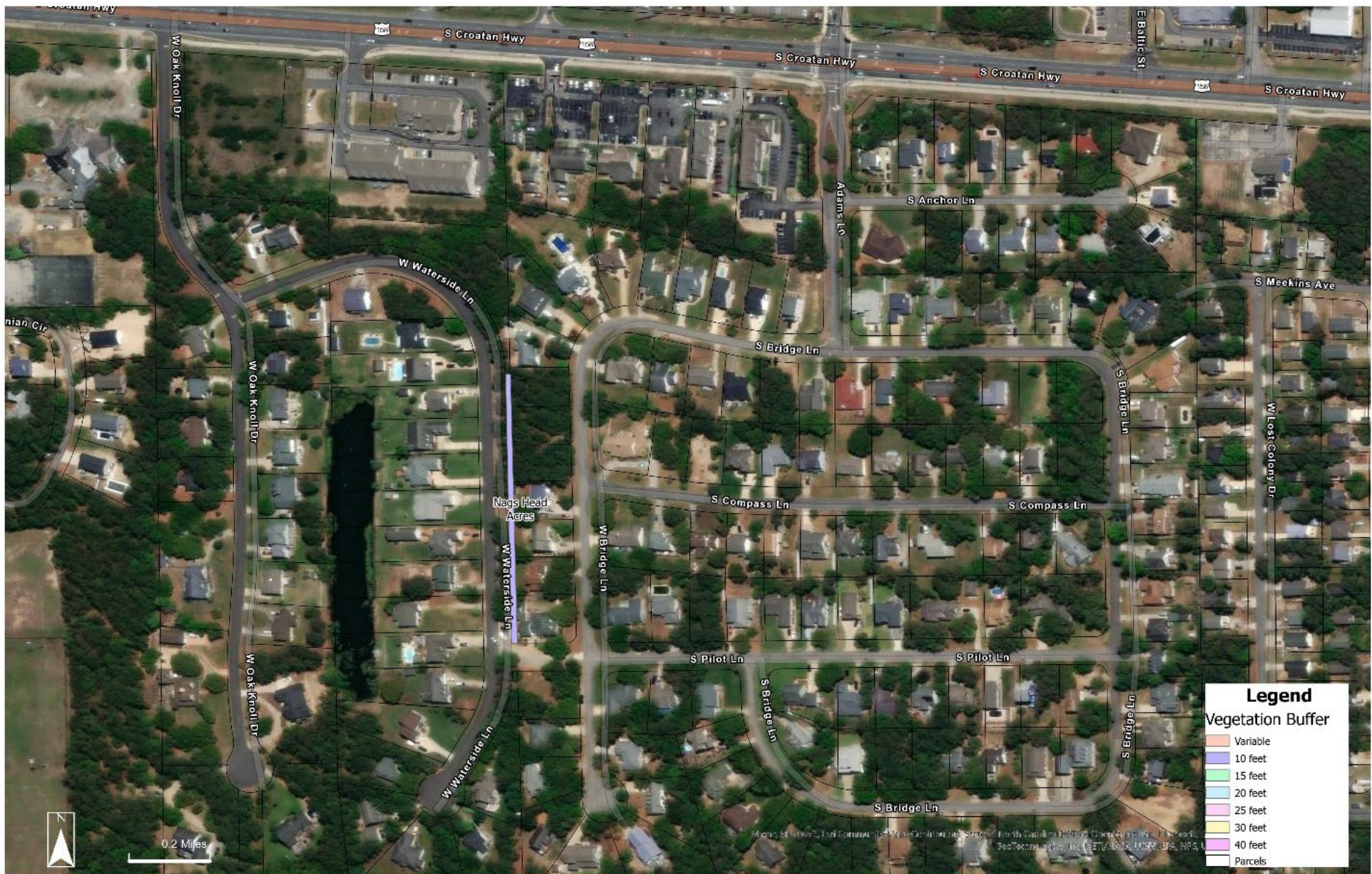
Subject: Vegetation Mapping

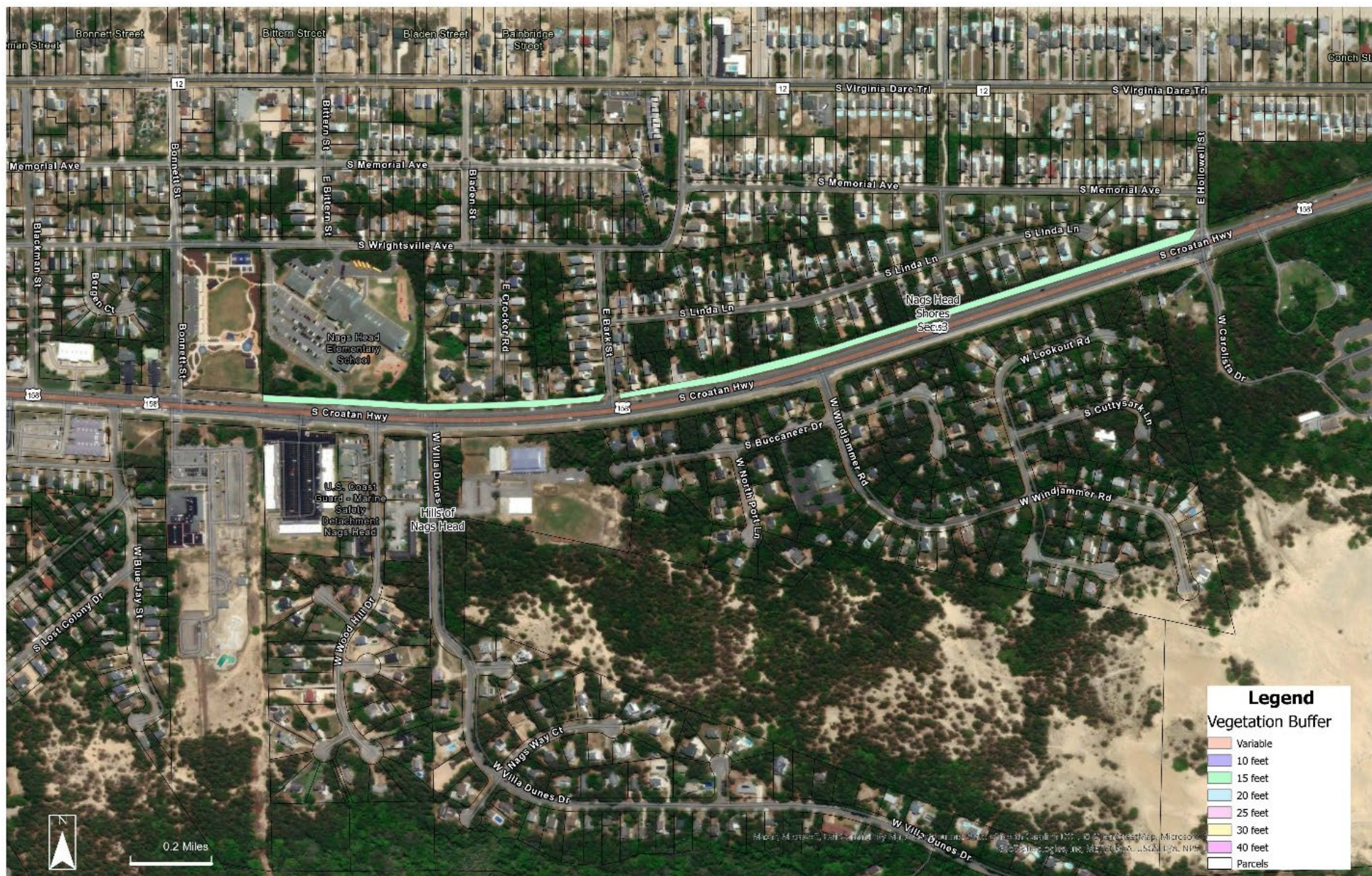
At the request of the Planning Board, staff has created a map delineating the areas within the Town where there are protected landscape buffer areas.

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 20th 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 21st 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 21st 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**

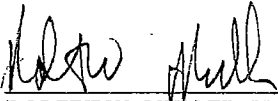
A motion was made by Comr. Remaley and seconded by Mayor Pro Tem George Farah for the adoption of the following Resolution, and upon being put to a vote was duly adopted with a 4 - 1 vote:

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.

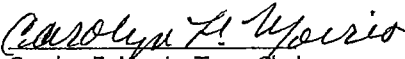
WHEREAS, the Department will be responsible for the design of the landscape plans, prepare the site, install the plant materials and maintain said planting areas for a period of three (3) calendar years, at no expense to the Municipality; and,

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

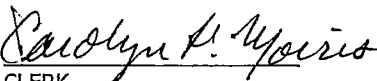
ATTEST:


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 4th day of September, 2002.

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




CLERK
TOWN OF NAGS HEAD
NORTH CAROLINA



MEMORANDUM

Town of Nags Head

Planning & Development Department

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)

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 3rd, 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 2nd - Technical Review Committee Meeting (no items)
- Wednesday, January 3rd - Board of Commissioners Meeting
- Thursday, January 4th - CRS Users Group Meeting
- Wednesday, January 10th – Committee for Arts and Culture Meeting
- Thursday, January 11th – Board of Adjustment Meeting (Surles Appeal)
- Saturday, January 13th – Winter Market from 9am – noon
- Tuesday, January 16th – Planning Board Meeting
- Wednesday, January 17th – 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 16th, 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 20th 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 16th 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 20th, 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 1st, \$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 13th 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 2nd Saturday of the month through April, the next market will be held on Saturday, February 10th 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 6th - Technical Review Committee Meeting
- Wednesday, February 7th - Board of Commissioners Meeting
- Thursday, February 8th - CRS Users Group Meeting
- Thursday, February 8th – Board of Adjustment Meeting (Harvey Appeal)
- Saturday, February 10th – Winter Market from 9am - noon
- Wednesday, February 14th – Committee for Arts and Culture Meeting
- Thursday, February 15th – Townwide Staff Meeting
- Tuesday, February 20th – Planning Board Meeting
- Wednesday, February 21st – 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 FISCAL YTD	2022-2023 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
BUILDING PERMITS ISSUED - RESIDENTIAL						
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
Total Residential	37	33	58	235	220	15
BUILDING PERMITS ISSUED - COMMERCIAL						
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)
Total Commercial	7	9	9	34	35	(1)
Grand Total	44	42	67	269	255	14
SUB-CONTRACTOR PERMITS						
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
VALUE						
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
Sub Total Residential	\$1,400,398	\$3,495,312	\$4,336,700	\$14,855,903	\$18,401,696	(\$3,545,793)
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
Sub Total Commercial	\$401,993	\$567,273	\$962,286	\$2,526,924	\$7,996,018	(\$5,469,094)
Grand Total	\$1,802,391	\$4,062,585	\$5,298,986	\$17,382,827	\$26,397,714	(\$9,014,887)

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

DATE SUBMITTED: January 7, 2024

	Dec-23	Dec-22	Nov-23	2023-2024 FISCAL YTD	2022-2023 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
ZONING						
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
CAMA						
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
CODE COMPLIANCE						
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)
SEPTIC HEALTH						
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 Training/School	4	20	109	254	82	172


Kelly Wyatt, Planning Director