



## DRAFT AGENDA

**Town of Nags Head Planning Board  
Nags Head Municipal Complex Board Room  
Tuesday, March 19, 2024; 9:00 a.m.**

- A. Call To Order
- B. Approval Of Agenda
- C. Public Comment/Audience Response
- D. Approval Of Minutes  
February 20th Planning Board Meeting.

Documents:

[FEBRUARY 20 2024 DRAFT MINUTES.PDF](#)

- E. Action Items

- 1. 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 FOR PB PACKET.PDF](#)

- 2. Consideration Of Text Amendment  
submitted by Jordan Harrell of Jernigan Oil Company, Inc. to allow the use of digital LED price signage at gas stations.
- 3. Discuss And Request Initiation Of Text Amendments  
related to the installation of netting as a barrier to prevent golf balls from leaving the boundaries of the golf course and causing damage to private property.

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

Documents:

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

G. Town Updates - As Requested

H. Discussion Items

1. Discussion Of Text Amendment  
to prohibit driving over and/or parking on septic systems when adjacent to driveways, drive aisles, and parking areas.
2. Planning & Development Directors Report  
February 29th, 2024

Documents:

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

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

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**Town of Nags Head  
Planning Board  
February 20, 2024  
- DRAFT -**

The Planning Board of the Town of Nags Head met on Tuesday, February 20, 2024, in the Board Room at the Nags Head Municipal Complex.

Chair Megan Vaughan called the meeting to order at 9:00 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, Conner Twiddy, Randy Wells, Shane Hite

***Approval of Agenda***

David Elder moved to approve the agenda as presented. Molly Harrison 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 January 16, 2024, meeting. Meade Gwinn moved to approve the minutes as presented; David Elder seconded, and the motion passed unanimously.

***Action Items***

*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.*

Planning Director Kelly Wyatt explained that at their December 19th, 2023, and January 16th, 2024 meetings 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.

Ms. Wyatt noted that 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.

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.

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. 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. 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. Staff have not yet heard back from Seahorse Inn and Nags Head Beach Inn.

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.

Ms. Wyatt reviewed some of the other conditions, bringing special 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.

Ms. Wyatt noted that both Fire Chief Wells and Deputy Fire Chief Hite were in attendance at the meeting in case the Board had any questions for them.

Ms. Wyatt then reviewed the parking requirements noting that 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.

Based upon concerns noted in previous iterations of this staff report and the analysis above, 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 to 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.

Ms. Wyatt noted that she as well as the applicants, Mr. Leor Golasa and Mr. Joh DeLucia were available to answer any questions for the Board.

Ms. Wyatt confirmed for Mr. Ferguson that currently the "multi-family use" is not allowed anywhere in Town. The Planning Board had recommended approval of an ordinance and then it was presented to the Board of Commissioners. The Commissioners had concerns with the ordinance and tabled it.

John DeLucia with Albemarle & Associates addressed the Board. Mr. DeLucia confirmed that they had several meetings and discussions with Staff over the last month. He feels that they are close to agreement but that there are things in the proposed ordinance that they do not agree with. They would not want to be limited to workforce housing and would not want a lease restriction; however he feels that the majority of the people they'd be renting to are people that work locally. Mr. DeLucia also takes issue with the Special Use process to convert back to a "hotel use" in the future. Mr. DeLucia also noted that he still believes that 2 parking spaces per unit is too much but would be able to accommodate it. Mr. DeLucia noted that they will open as a hotel this season so if this ordinance goes through it won't happen until next year.

Ms. Harrison inquired why the workforce housing was a sticking point. Mr. DeLucia noted that they want it to be a place for older folks who need to downsize, someone who currently works but decides to stop working for whatever reason and not just those that are working full time; their intention is to give an option for those that are here now that need a place to live and certainly some of those are in the workforce.

Mr. DeLucia confirmed for Mr. Gwinn that the units are not set up for people to bring furniture and other items so those would have to be stored off-site.

Mr. DeLucia confirmed for Mr. Elder that the applicant does not want to be limited to who they can rent these units to.

Mr. DeLucia confirmed for Chair Vaughan that they have spent a considerable amount to update the building and the rooms for use as a hotel. In March it will re-open as a hotel and will be operating as a hotel like it has been for the last 40 years.

Mr. Ferguson noted that one the goals/reasons for the Board to consider this proposal was to address the need for workforce housing. Chair Vaughan agreed noting that she got that impression as well. Mr. DeLucia noted that this is the applicant's desire to rent the units to people that live and work here but they don't want to be pigeon-holed into workforce housing. Mr. DeLucia noted that there was consideration to tear the building down and redevelop it into something else, but it's a nice building that has been there a long time; it's heritage and it would be a cool place to live in.

Deputy Chief Shane Hite addressed the Board and gave an overview of Fire system requirements based on today's codes. Mr. Hite noted that at a minimum when looking at a conversion from hotel to multi-family a structure's fire system should be based off of the current Fire Code as the requirements change based on structure type.

Mr. Hite confirmed for Mr. Elder that the Fire Code requires a 20 ft fire lane that needs to be maintained. Mr. Hite believes that the (Owens) property is currently in compliance and would need to stay in compliance if they reconfigured the lot to add new parking spaces.

Mr. Hite discussed sprinkler system protection requirements with the Board.

The Board discussed their thoughts about the ordinance with Mr. Ferguson expressing concern about making sure that it is used for workforce housing. Mr. Ferguson stated that he be fine with reducing the time for a hotel operator to transition back to the prior transient hotel use, rather than going through the lengthier Special Use process. Mr. Gwinn noted that he was generally in favor of the proposed ordinance and agreed with Mr. Ferguson's concern about workforce housing noting that the conversion could end up housing 50 to 60% of people that are working in Dare County, so it would end up opening up opportunities for workers in the area.

After some further discussion there was consensus from the Board that there is a desire for the proposed ordinance to move forward, to include the fire code language proposed by staff, include a condition that at least a certain percentage must be used for workforce housing and allow for an administrative process to revert back to short-term occupancy use.

Ms. Wyatt noted that this item will be on the Commissioner's consent agenda at their March meeting and Public Hearing in April. Staff can bring back the revised ordinance for Planning Board review at their March meeting.

*Consideration Of Text Amendments to prohibit driving over and/or parking on septic systems, when adjacent to driveway, drive aisles, and parking areas.*

Deputy Planning Director Joe Costello explained that 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/drainfield 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.

Mr. Costello noted that 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. In addition, this would only apply to systems that are adjacent to driveways and not those systems that are in the back of the property.

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.

Mr. Costello explained that 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. In addition, in order 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 would then be issued.

Mr. Costello noted that he as well as Environmental Planner Conner Twiddy were available to answer any questions for the Board.

Ms. Wyatt confirmed for Mr. Ferguson that there is a 5' setback from the property line to septic components.

Mr. Elder noted that he appreciated the different options given for use as a physical barrier and noted that a significant portion of this will be the necessary educational component.

Mr. Costello confirmed for Mr. Ferguson that the Septic Health Committee did not feel a need to have added regulations for the septic repair area.

Ms. Harrison suggested the use of small signs and Mr. Costello noted that Staff had discussed having small signs to hand to people building new homes.

Mr. Costello also confirmed for Ms. Harrison that this proposal was original to Nags Head; staff couldn't find other Towns that have something similar.

Chair Vaughan asked about Staff's suggestion that the Planning Board consider and discuss whether this ordinance should apply to all residential properties within the Town or to a subset of properties. Ms. Wyatt explained that most of offenders are those along NC 12 and those homes that are in a rental program.

After some discussion the Board was in consensus that they would want the ordinance to apply to all properties in Town.

David Elder moved to recommend approval of the proposed ordinance as submitted. Molly Harrison seconded the motion and it passed unanimously.

### ***Report on Board of Commissioners Actions – February 7, 2024***

Ms. Wyatt gave an update on the Board of Commissioner Actions, of note: the Board approved the consent agenda which included a Request for Public Hearing to consider text amendments to the UDO re: prohibiting drive-thru restaurants as well as a Budget Amendment #8 to FY 23/24 Budget; Ms. Wyatt noted that with this Budget Amendment Staff now has the funds to contract with Low Wire Technologies for the purchase and installation of EV chargers at Town Hall. A Public Hearing was held to consider Special Use/Site Plan review for the construction of a Trade Center on the vacant lot directly behind TW's Bait and Tackle; the Board approved the Special Use/Site Plan as presented. A Public Hearing was held 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.

The Board discussed the tabling of the multi-family ordinance and expressed concern about the need for the formation of a taskforce which had not taken place in many years. The Board had concerns about their communication both with the Commissioners and the public noting that they have had several meetings over several months discussing this issue and there has been an opportunity for public comment at each one.

Continuing with Board Actions, Ms. Wyatt noted that the Board reappointed Megan Vaughan to another term on the Planning Board. Finally, Town Manager Garman summarized an updated Strategic Plan and discussed how it echoed the results of the recent Community Survey.

### ***Town Updates***

None

### ***Discussion Items***

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

The Board discussed appointments to the Work Group – Molly Harrison and Meade Gwinn were appointed to the work group. David Elder volunteered to be an alternate if needed.

Presentation Of Map Delineating Areas of Protected Vegetated Buffers

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.

Mr. Costello presented the web-based map showing where these vegetated buffers are located within the Town.

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.

Mr. Costello noted that he had provided hard copies of the map as part of the agenda packet.

December 29th, 2023, Director's Report

Ms. Wyatt briefly discussed her Director's Report with the Board which included updates on two Board of Adjustment meetings.

***Planning Board Members' Agenda***

None

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

None

***Adjournment***

A motion to adjourn was made by David Elder. The time was 11:04 AM.

Respectfully submitted,  
Lily Campos Nieberding



# MEMORANDUM

## Town of Nags Head

### Planning & Development Department

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To: Planning Board

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

Date: March 15, 2024

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

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#### **Updated Staff Report for the Planning Board March 19<sup>th</sup>, 2024 Meeting**

At their February 20<sup>th</sup> meeting the Planning Board expressed support for the proposed ordinance that would allow the conversion of hotel units into long-term rental units. After discussing the proposal with the planning staff and considering concerns raised by the applicant, the following key points were agreed upon and have been incorporated into the draft ordinance amendments:

- The Planning Board unanimously agreed, following a presentation by the Deputy Fire Chief, that the converted units must adhere to the current NC Fire Prevention Code requirements, including those related to smoke alarms.
- In light of the focus on workforce housing and recent proposed amendments for multi-family developments, the Planning Board and the applicant concurred that at least 50% of the units designated for long-term rental should be lease-restricted for workforce housing.
- It was determined that, barring any changes, the reversion of units back to transient occupancy could be approved administratively.

With the revisions made, staff would submit that this proposal is likely consistent with the Town's adopted Comprehensive Plan and would recommend adoption of the ordinance as presented.

Staff will be available for further discussion at the Planning Boards March 19<sup>th</sup>, 2024, meeting.

#### **Previous Staff Report for the Planning Board February 20<sup>th</sup>, 2024 Meeting**

At their December 19<sup>th</sup>, 2023, and January 16<sup>th</sup>, 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 2<sup>nd</sup> 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 20<sup>th</sup> 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 among 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 A minimum of 50% of all of the 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 lease/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 As part of the Special Use Permit approval process for the conversion of transient hotel units into long-term rental units, all current North Carolina Fire Prevention Codes must be met.

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 process. 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, this Change of Use shall be reviewed and approved administratively.

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:

	Use Category/Class	Use Type	Residential Districts			Commercial Districts						Special Districts				Overlay Districts			Supp Regulation
			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					
<a href="#">1.1</a>	<a href="#">Residential-Group</a>	<a href="#">Long-Term Rental Hotel Units</a>																	<a href="#">Section 7.12.3</a>
1.1	Residential - Group	Hotel																	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
<a href="#">Residential – Group</a>	<a href="#">Long-Term Rental Hotel Units</a>	<a href="#">Two parking spaces per unit</a>
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 m<sup>2</sup>) 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 m<sup>2</sup>) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet (6.5 m<sup>2</sup>).

**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 m<sup>2</sup>) of floor area. An additional 100 square feet (9.3 m<sup>2</sup>) 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.

**1107.5.3.1 Accessible units.** At least 10 percent, but not less than one, of the *dwelling units* and *sleeping units* shall be *Accessible units*.

**Exception:** Entry doors to *Accessible dwelling units* or *sleeping units* shall not be required to provide the maneuvering clearance beyond the latch side of the door.

**1107.5.3.2 Type B units.** In structures with four or more *dwelling units* or *sleeping units intended to be occupied as a residence*, every *dwelling unit* and *sleeping unit intended to be occupied as a residence* shall be a *Type B unit*.

**Exception:** The number of *Type B units* is permitted to be reduced in accordance with Section 1107.7.

**1107.5.4 Group I-2 rehabilitation facilities.** In hospitals and rehabilitation facilities of Group I-2 occupancies that specialize in treating conditions that affect mobility, or units within either that specialize in treating conditions that affect mobility, 100 percent of the *dwelling units* and *sleeping units* shall be *Accessible units*.

**1107.5.5 Group I-3.** *Accessible units* shall be provided in Group I-3 occupancies in accordance with Sections 1107.5.5.1 through 1107.5.5.3.

**1107.5.5.1 Group I-3 sleeping units.** In Group I-3 occupancies, at least 3 percent of the total number of *sleeping units* in the facility, but not less than one unit in each classification level, shall be *Accessible units*.

**1107.5.5.2 Special holding cells and special housing cells or rooms.** In addition to the *Accessible units* required by Section 1107.5.5.1, where special holding cells or special housing cells or rooms are provided, at least one serving each purpose shall be an *Accessible unit*. Cells or rooms subject to this requirement include, but are not limited to, those used for purposes of orientation, protective custody, administrative or disci-

plinary detention or segregation, detoxification and medical isolation.

**Exception:** Cells or rooms specially designed without protrusions and that are used solely for purposes of suicide prevention shall not be required to include grab bars.

**1107.5.5.3 Medical care facilities.** Patient *sleeping units* or cells required to be *Accessible units* in medical care facilities shall be provided in addition to any medical isolation cells required to comply with Section 1107.5.5.2.

**1107.6 Group R.** *Accessible units*, *Type A units* and *Type B units* shall be provided in Group R occupancies in accordance with Sections 1107.6.1 through 1107.6.4.

**1107.6.1 Group R-1.** *Accessible units* and *Type B units* shall be provided in Group R-1 occupancies in accordance with Sections 1107.6.1.1 and 1107.6.1.2.

**1107.6.1.1 Accessible units.** *Accessible dwelling units* and *sleeping units* shall be provided in accordance with Table 1107.6.1.1. Where buildings contain more than 50 *dwelling units* or *sleeping units*, the number of *Accessible units* shall be determined per building. Where buildings contain 50 or fewer *dwelling units* or *sleeping units*, all *dwelling units* and *sleeping units* on a *site* shall be considered to determine the total number of *Accessible units*. *Accessible units* shall be dispersed among the various classes of units.

**1107.6.1.2 Type B units.** In structures with four or more *dwelling units* or *sleeping units intended to be occupied as a residence*, every *dwelling unit* and *sleeping unit intended to be occupied as a residence* shall be a *Type B unit*.

**Exception:** The number of *Type B units* is permitted to be reduced in accordance with Section 1107.7.

TABLE 1107.6.1.1  
ACCESSIBLE DWELLING UNITS AND SLEEPING UNITS

TOTAL NUMBER OF UNITS PROVIDED	MINIMUM REQUIRED NUMBER OF ACCESSIBLE UNITS WITHOUT ROLL-IN SHOWERS	MINIMUM REQUIRED NUMBER OF ACCESSIBLE UNITS WITH ROLL-IN SHOWERS	TOTAL NUMBER OF REQUIRED ACCESSIBLE UNITS
1 to 25	1	0	1
26 to 50	2	0	2
51 to 75	3	1	4
76 to 100	4	1	5
101 to 150	5	2	7
151 to 200	6	2	8
201 to 300	7	3	10
301 to 400	8	4	12
401 to 500	9	4	13
501 to 1,000	2% of total	1% of total	3% of total
Over 1,000	20, plus 1 for each 100, or fraction thereof, over 1,000	10 plus 1 for each 100, or fraction thereof, over 1,000	30 plus 2 for each 100, or fraction thereof, over 1,000

**1107.6.2 Group R-2.** *Accessible units, Type A units and Type B units* shall be provided in Group R-2 occupancies in accordance with Sections 1107.6.2.1 through 1107.6.2.3.

**1107.6.2.1 Live/work units.** In *live/work units* constructed in accordance with Section 419, the nonresidential portion is required to be *accessible*. In a structure where there are four or more *live/work units intended to be occupied as a residence*, the residential portion of the *live/work unit* shall be a *Type B unit*.

**Exception:** The number of *Type B units* is permitted to be reduced in accordance with Section 1107.7.

**1107.6.2.2 Apartment houses, monasteries and convents.** *Type A units and Type B units* shall be provided in apartment houses, monasteries and convents in accordance with Sections 1107.6.2.2.1 and 1107.6.2.2.2.

**1107.6.2.2.1 Type A units.** In Group R-2 occupancies containing more than 15 *dwelling units* or *sleeping units*, at least 5 percent but not less than one of the units shall be a *Type A unit*. All Group R-2 units on a *site* shall be considered to determine the total number of units and the required number of *Type A units*. *Type A units* shall be dispersed among the various classes of units. Bedrooms in monasteries and convents shall be counted as *sleeping units* for the purpose of determining the number of units. Where the *sleeping units* are grouped into suites, only one *sleeping unit* in each suite shall count towards the number of required *Type A units*.

**Exceptions:**

1. The number of *Type A units* is permitted to be reduced in accordance with Section 1107.7.
2. *Existing structures* on a *site* shall not contribute to the total number of units on a *site*.

**1107.6.2.2.2 Type B units.** Where there are four or more *dwelling units* or *sleeping units intended to be occupied as a residence* in a single structure, every *dwelling unit* and *sleeping unit intended to be occupied as a residence* shall be a *Type B unit*.

**Exception:** The number of *Type B units* is permitted to be reduced in accordance with Section 1107.7.

**1107.6.2.3 Group R-2 other than live/work units, apartment houses, monasteries and convents.** In Group R-2 occupancies, other than *live/work units*, apartment houses, monasteries and convents falling within the scope of Sections 1107.6.2.1 and 1107.6.2.2, *Accessible units* and *Type B units* shall be provided in accordance with Sections 1107.6.2.3.1 and 1107.6.2.3.2. Bedrooms within congregate living facilities shall be counted as *sleeping units* for the purpose of

determining the number of units. Where the *sleeping units* are grouped into suites, only one *sleeping unit* in each suite shall be permitted to count towards the number of required *Accessible units*.

**1107.6.2.3.1 Accessible units.** *Accessible dwelling units* and *sleeping units* shall be provided in accordance with Table 1107.6.1.1.

**Exception: Condominiums.**

**1107.6.2.3.2 Type B units.** Where there are four or more *dwelling units* or *sleeping units intended to be occupied as a residence* in a single structure, every *dwelling unit* and every *sleeping unit intended to be occupied as a residence* shall be a *Type B unit*.

**Exception:** The number of *Type B units* is permitted to be reduced in accordance with Section 1107.7.

**1107.6.3 Group R-3.** In Group R-3 occupancies where there are four or more *dwelling units* or *sleeping units intended to be occupied as a residence* in a single structure, every *dwelling unit* and *sleeping unit intended to be occupied as a residence* shall be a *Type B unit*. Bedrooms within congregate living facilities shall be counted as *sleeping units* for the purpose of determining the number of units.

**Exception:** The number of *Type B units* is permitted to be reduced in accordance with Section 1107.7.

**1107.6.4 Group R-4.** *Accessible units* and *Type B units* shall be provided in Group R-4 occupancies in accordance with Sections 1107.6.4.1 and 1107.6.4.2. Bedrooms in Group R-4 facilities shall be counted as *sleeping units* for the purpose of determining the number of units.

**1107.6.4.1 Accessible units.** In Group R-4 Condition 1, at least one of the *sleeping units* shall be an *Accessible unit*. In Group R-4 Condition 2, at least two of the *sleeping units* shall be an *Accessible unit*.

**1107.6.4.2 Type B units.** In structures with four or more *sleeping units intended to be occupied as a residence*, every *sleeping unit intended to be occupied as a residence* shall be a *Type B unit*.

**Exception:** The number of *Type B units* is permitted to be reduced in accordance with Section 1107.7.

**1107.7 General exceptions.** Where specifically permitted by Section 1107.5 or 1107.6, the required number of *Type A units* and *Type B units* is permitted to be reduced in accordance with Sections 1107.7.1 through 1107.7.5.

**1107.7.1 Structures without elevator service.** Where no elevator service is provided in a structure, only the *dwelling units* and *sleeping units* that are located on stories indicated in Sections 1107.7.1.1 and 1107.7.1.2 are required to be *Type A units* and *Type B units*, respectively. The number of *Type A units* shall be determined in accordance with Section 1107.6.2.2.1.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**11.** Committee Reports

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

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

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

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

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

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

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



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# MEMORANDUM

## Town of Nags Head

### Planning & Development Department

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To: Board of Commissioners  
Planning Board

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

Date: February 29, 2024

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

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This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on March 6<sup>th</sup>, 2024.

#### Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for January 2024*. 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, February 6<sup>th</sup> - Technical Review Committee Meeting
- Wednesday, February 7<sup>th</sup> - Board of Commissioners Meeting
- Thursday, February 8<sup>th</sup> - CRS Users Group Meeting
- Thursday, February 8<sup>th</sup> – Board of Adjustment Meeting (Harvey Appeal)
- Saturday, February 10<sup>th</sup> – Winter Market from 9am - noon
- Wednesday, February 14<sup>th</sup> – Committee for Arts and Culture Meeting
- Thursday, February 15<sup>th</sup> – Townwide Staff Meeting
- Tuesday, February 20<sup>th</sup> – Planning Board Meeting
- Wednesday, February 21<sup>st</sup> – Board of Commissioners mid-month meeting (if needed)

#### Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on Tuesday, February 20<sup>th</sup>, 202, and included the following:

- Consideration of text amendments that if adopted would allow the long-term rental of units within existing hotels and motels. The Planning Board was unanimously supportive of this text amendment, however requested a few revisions be presented at their March 19<sup>th</sup> meeting. It was the consensus to send this item forward for the Board of Commissioners consent agenda in March and Public Hearing in April 2024.
- Consideration of text amendments to prohibit driving over and/or parking on septic systems when adjacent to driveways, drive aisles, and parking areas. The Planning Board voted unanimously to recommend adoption of the proposed text amendment as presented. Planning Board members also noted that additional consideration should still be given to limiting the impact of this ordinance to those properties that do not have a history of parking on their septic system.

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- Nomination of Planning Board members Meade Gwinn and Molly Harrison to serve on the Multi-Family Dwelling Taskforce.
  - Presentation of a map delineating areas of protected vegetated buffers. This is a map for internal use to bring awareness to areas within the Town with protected buffers such as those installed as part of the 2003 NCDOT Enhancement Planting project and those that required as part of a subdivision plat approval and noted on the recorded plat.

The Planning Board's next meeting is scheduled for Tuesday, March 19<sup>th</sup>, 2024. Currently, the agenda is expected to include consideration of a text amendment submitted by Jernigan Oil Company to allow the use of LED digital signage, and final consideration of the draft ordinance to allow the long-term rental of existing hotel units.

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

At their February 8, 2024, meeting the Board of Adjustment heard 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. The Board of Adjustment voted unanimously to affirm planning staff's issuance of the Notice of Violation; however they did ask that staff, the Planning Board and Board of Commissioners consider revisions to the UDO as necessary to provide more clarity on uses such as accessory structures, accessory uses, and accessory dwelling units. Staff anticipates this to be addressed during the process of drafting potential ordinance language as it relates to Accessory Dwelling Units (ADU's) as was requested as part of the 2024 Strategic Plan.

### **Additional Updates**

- **DWMP/Septic Health Advisory Committee** – Staff has drafted and presented to the Planning Board ordinance language that would require the placement of a physical barrier to be put in place when a dwellings septic system area is adjacent to any portion of a parking space, turnaround area, driveway, drive-aisle. This was proposed following discussions by the Septic Health Advisory Committee in an effort to prohibit people from driving over and/or parking on septic systems and potentially damaging them. At their February 20<sup>th</sup> meeting the Planning Board voted unanimously to recommend adoption of the proposed text amendment believing this was a step in a positive direction but noted that additional consideration should be given to limiting the impact of this ordinance, if possible, to those properties to seem to have the most issues with parking on septic areas.

Recognizing the potential impact of this amendment on property owners who would not/do not currently have issues with parking on their septic areas and noting that such parking often occurs due to excess or overflow parking associated with the over-occupancy of rental homes, staff is actively exploring alternative options to ensure septic area safety. One approach under consideration is the inclusion of language expressly prohibiting parking on septic areas. In cases where a violation is noted, a Notice of Violation would be issued, at which time the placement of a physical barrier to preclude any future violations could be required. This approach would address parking on septic on systems via a formal violation of the Unified Development Ordinance with a specified remedy, as opposed to the language currently drafted which is a more proactive approach but may unnecessarily impact property owners in some instances.

- **Estuarine Shoreline Management Plan** – Town staff continues to focus on applying for the necessary grants to continue the implementation of the Estuarine Shoreline Management Plan. An update on this has been provided as part of the Board of Commissioners FY 24/25 Budget Workshop being held on March 6, 2024.
- **Electric Vehicle Action Plan** – Lowire Technologies has been contracted to order and install the Level 2 EV Chargers (EvoCharge). Lowire is scheduled to begin the underground pipe work

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the week of March 4<sup>th</sup> and then commence the installation of the chargers right afterwards. The EV charging units and materials have been ordered and should be arriving soon. Public Services will install safety bollards and complete the parking lot striping as appropriate. Planning has designed the necessary signage to meet the grant requirements and is prepared to have signage fabricated in the upcoming weeks.

- **Sand Relocation and Dune Management Cost Share Program** – As of March 1, 2024 262,500 of the \$320,000 allocated to the Dune Management Cost Share Program has been encumbered by 87 applicants. Additionally, we have received 187 Sand Relocation Applications of which 180 have been approved and issued authorization letters. Under this program, sand can be relocated through April 30<sup>th</sup>. Staff intend to stop accepting new applications for sand relocation on or around April 15<sup>th</sup> in order to begin inspecting the sand projects and closing them out.
- **Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture** – The Committee for Art & Culture will be providing the Board of Commissioners with a presentation at their March 6, 2024 meeting. This presentation will include an update on the previous season and their vision for the upcoming season including markets, summer concerts and family fun nights. In addition, the next Winter Market will be held on Saturday, March 9<sup>th</sup> from 9am – noon at Dowdy Park.

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

- Tuesday, March 5<sup>th</sup> - Technical Review Committee Meeting
- Wednesday, March 6<sup>th</sup> - Board of Commissioners Meeting
- Saturday, March 9<sup>th</sup> – Winter Market at Dowdy Park from 9am – noon
- March 11<sup>th</sup> – 15<sup>th</sup> – Joe Costello at NFIP Training
- Wednesday, March 13<sup>th</sup> – Committee for Art and Culture Meeting
- Thursday, March 14<sup>th</sup> – Board of Adjustment Meeting (no hearings)
- Thursday, March 14<sup>th</sup> – CAMA Land Use Planning Webinar
- Tuesday, March 19<sup>th</sup> – Planning Board Meeting
- Wednesday, March 20<sup>th</sup> – Board of Commissioners mid-month meeting (if needed)

**TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT  
MONTHLY REPORT  
JANUARY 2024**

DATE SUBMITTED: February 7, 2024

	Jan-24	Jan-23	Dec-23	2023-2024 FISCAL YTD	2022-2023 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
<b>BUILDING PERMITS ISSUED - RESIDENTIAL</b>						
New Single Family	1	3	0	9	11	(2)
New Single Family, 3000 sf or >	0	0	0	3	6	(3)
Duplex - New	0	0	0	1	0	1
Sub Total - New Residential	1	3	0	13	17	(4)
Miscellaneous (Total)	53	61	37	276	267	9
<i>Accessory Structure</i>	4	4	5	24	20	4
<i>Addition</i>	2	4	2	21	15	6
<i>Demolition</i>	1	0	0	4	0	4
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	14	15	10	64	81	(17)
<i>Repair</i>	32	38	20	163	151	12
<b>Total Residential</b>	<b>54</b>	<b>64</b>	<b>37</b>	<b>289</b>	<b>284</b>	<b>5</b>
<b>BUILDING PERMITS ISSUED - COMMERCIAL</b>						
Multi-Family - New	0	0	0	0	0	0
Motel/Hotel - New	0	0	0	0	0	0
Business/Govt/Other - New	0	0	0	0	1	(1)
Subtotal - New Commercial	0	0	0	0	1	(1)
Miscellaneous (Total)	13	10	7	47	44	3
<i>Accessory Structure</i>	3	2	4	18	14	4
<i>Addition</i>	0	0	0	0	0	0
<i>Demolition</i>	1	0	0	1	0	1
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	1	5	1	11	17	(6)
<i>Repair</i>	8	3	2	17	13	4
<b>Total Commercial</b>	<b>13</b>	<b>10</b>	<b>7</b>	<b>47</b>	<b>45</b>	<b>2</b>
<b>Grand Total</b>	<b>67</b>	<b>74</b>	<b>44</b>	<b>336</b>	<b>329</b>	<b>7</b>
<b>SUB-CONTRACTOR PERMITS</b>						
Electrical	61	56	42	312	305	7
Gas	3	3	1	25	19	6
Mechanical	40	29	23	197	218	(21)
Plumbing	16	11	8	78	49	29
Fire Sprinkler	1	1	0	3	3	0
<b>VALUE</b>						
New Single Family	\$469,000	\$1,408,026	\$0	\$4,328,282	\$5,592,026	(\$1,263,744)
New Single Family, 3000 sf or >	\$0	\$0	\$0	\$1,135,000	\$5,998,733	(\$4,863,733)
Duplex - New	\$0	\$0	\$0	\$711,000	\$0	\$711,000
Misc (Total Residential)	\$1,996,094	\$1,985,535	\$1,400,398	\$11,146,715	\$10,204,498	\$942,217
<b>Sub Total Residential</b>	<b>\$2,465,094</b>	<b>\$3,393,561</b>	<b>\$1,400,398</b>	<b>\$17,320,997</b>	<b>\$21,795,257</b>	<b>(\$4,474,260)</b>
Multi-Family - New	\$0	\$0	\$0	\$0	\$0	\$0
Motel/Hotel - New	\$0	\$0	\$0	\$0	\$0	\$0
Business/Govt/Other - New	\$0	\$0	\$0	\$0	\$6,425,994	(\$6,425,994)
Misc (Total Commercial)	\$561,068	\$177,350	\$401,993	\$3,087,992	\$1,747,374	\$1,340,618
<b>Sub Total Commercial</b>	<b>\$561,068</b>	<b>\$177,350</b>	<b>\$401,993</b>	<b>\$3,087,992</b>	<b>\$8,173,368</b>	<b>(\$5,085,376)</b>
<b>Grand Total</b>	<b>\$3,026,162</b>	<b>\$3,570,911</b>	<b>\$1,802,391</b>	<b>\$20,408,989</b>	<b>\$29,968,625</b>	<b>(\$9,559,636)</b>

**TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT  
MONTHLY REPORT  
JANUARY 2024**

DATE SUBMITTED: February 7, 2024

	Jan-24	Jan-23	Dec-23	2023-2024 FISCAL YTD	2022-2023 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
<b>ZONING</b>						
Zoning Permits	70	80	47	368	314	54
Soil & Erosion	2	N/A	4	13	N/A	N/A
Stormwater Plans	0	N/A	2	18	N/A	N/A
<b>CAMA</b>						
CAMA LPO Permits	5	0	2	24	15	9
CAMA LPO Exemptions	11	15	1	29	33	0
Sand Relocations	53	21	41	141	55	N/A
<b>CODE COMPLIANCE</b>						
Cases Investigated	26	35	23	195	280	(85)
Warnings	2	6	2	21	59	(38)
NOVs Issued	22	10	21	172	74	98
Civil Citations (#)	0	0	0	1	10	(9)
Civil Citations (\$)	\$0	\$0	\$0	\$0	\$23,150	(\$23,150)
<b>SEPTIC HEALTH</b>						
Tanks inspected	8	21	0	70	75	(5)
Tanks pumped	9	5	7	72	51	21
Water quality sites tested	1	1	1	66	119	(53)
Personnel Hours in Training/School	5	10	4	259	92	167

  
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Kelly Wyatt, Planning Director