



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.

Documents:

[DIGITAL LED GAS PRICE DISPLAY TEXT AMENDMENT FOR PB.PDF](#)

- 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.

Documents:

[NETTING BARRIER DISCUSSION FOR PB.PDF](#)

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

**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

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

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.

Updated Staff Report for the Planning Board March 19th, 2024 Meeting

At their February 20th 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 19th, 2024, meeting.

Previous 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 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					
1.1	Residential-Group	Long-Term Rental Hotel Units																	Section 7.12.3
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
Residential – Group	Long-Term Rental Hotel Units	Two parking spaces per unit
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.

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.



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

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

Date: March 15, 2024

Subject: Consideration of text amendments to the Unified Development Ordinance as it pertains to digital fuel price sign displays.

Overview and Background

Jordan Harrell of Jernigan Oil Company, Inc. has submitted a request to amend the Unified Development Ordinance to allow digital, LED signage for displaying fuel prices at gas stations within the Town. Mr. Harrell has noted that the primary reason for this request is to enhance the safety of staff and customers. With advancements in technology and LED price signs, you can remotely change price signs, eliminating the need for employees to manually change fuel prices using a pole suction cup in the parking lot, which can be hazardous during busy times. In addition, the high winds in this area frequently damage signs and dislodge the plastic digit replacements.

Currently Section 10.22.6.17 of the Unified Development Ordinance states, "*LED and digital signs are prohibited*".

Pursuant to Appendix A, of the Unified Development Ordinance, the definition of "digital sign" is as follows:

Sign, digital means any sign featuring electronic display or moving images created by incandescent, LCD, plasma, LED or projected images for any purposes other than traffic control devices. This definition is intended to include any sign containing incandescent lights or exposed light bulbs used as a message or reader board, or to project images. This definition does not include LED technology used only for the purpose of illuminating a structural sign face.

The language of Section 10.22.6.17 and the definition of digital sign were adopted on January 4, 2012. At their November 15, 2011 meeting, the Planning Board reviewed various documents and put forward a recommended ordinance for a complete prohibition of all digital and LED signage. The staff report and minutes associated with this meeting are included for the Planning Board's consideration. It is noted that fuel price displays were specifically mentioned, and not all members were opposed to digital signage for this purpose, provided it was regulated appropriately. The Board of Commissioners first discussed this proposed amendment at their December 7, 2011, meeting before voting to adopt the proposed prohibition on digital and LED signage at their January 4, 2012, meeting. Minutes from both the December 2011 and January 2012 Board of Commissioners meetings are attached. The primary concern appears to be potential proliferation of signage, especially those that flash, rotate, move, or are animated. There were aesthetic concerns regarding whether this type of signage maintains the town's visual appeal and character, contributes to light pollution, affects night sky visibility, and potentially distracts drivers.

Staff Analysis and Recommendation:

While the town has legitimate concerns regarding signage that employs rotating, flashing, moving, or alternating lighting, it may be beneficial to reconsider the allowance of digital signs for fuel price displays only. With appropriate regulations regarding the size, placement, and brightness, the proposed amendment is likely consistent with the Town's adopted Comprehensive Plan.

Staff recommends the following amendments for consideration:

Amend **Section 10.22.6, Prohibited Signs**, to add the following:

10.22.6.17. LED and digital signs are prohibited, except for digital fuel price displays as outlined in Section 10.24.2.3.1 of the UDO.

Amend **Section 10.24, Signs Permitted in Commercial Districts and the Commercial/Residential District** to add the following:

10.24.2.3. For lots along five-lane roadway corridors, only one (1) freestanding sign shall be permitted to be located permanently on the property and shall not exceed sixty-four (64) square feet in area and shall not exceed twenty (20) feet in height above street grade.

For lots along two-lane roadway corridors, only one (1) freestanding sign shall be permitted to be located permanently on the property and shall not exceed thirty-two (32) square feet in area and shall not exceed twelve (12) feet in height above street grade.

Where the property has frontage on both US 158 and NC 12 public rights-of-way, one (1) freestanding sign shall be allowed to be located adjacent to each public right-of-way, in accordance with the standards listed above.

Where the property is a corner lot with frontage on more than one public right-of-way, a maximum of two (2) freestanding signs shall be permitted in accordance with the standards listed above. The freestanding sign permitted in the side yard shall be located no closer than seventy (70) feet to the designated front yard public right-of-way boundary and installed so that the sign face is perpendicular to the side yard public right-of-way boundary.

10.24.2.3.1. Fuel Price Signage/Displays. Businesses engaged in the retail sale of gasoline may use manual changeable copy fuel price displays or digital, electronic fuel price displays on their freestanding sign. If utilizing digital, electronic fuel price displays the following conditions shall apply:

10.24.2.3.1.1 The digital fuel price display shall not exceed 50% of the permitted sign area.

10.24.2.3.1.2 The digital fuel price display shall be two-color LED technology only (e.g., red display for regular fuel; green display for diesel fuel).

10.24.2.3.1.3 The digital fuel price display shall have automatic dimming capabilities and shall automatically dim in response to ambient light. In no instance shall the digital fuel display cause light trespass onto adjacent residential districts or uses.

10.24.2.3.1.4 The digital fuel price display shall display numbers only; there shall be no display of text, words, images, or animations.

10.24.2.3.1.5 The numbers displayed for fuel pricing shall not exceed 16-inches in block digits.

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

With regard to the Planning Board's review and action, Staff recommends consideration of the following UDO provisions:

3.5.3. Action by the Planning Board.

3.5.3.1. Every proposed amendment, UDO text amendment or zoning map amendment, shall be referred to the Planning Board for its recommendation and report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.

3.5.3.2. Prior to the consideration by the Board of Commissioners of a proposed UDO text amendment or zoning map amendment, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation, certified by the UDO Administrator, to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.

3.5.3.3. Members of the Planning Board shall not vote on recommendations regarding any UDO text amendment or zoning map amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

202400146

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 Jernigan Oil Company Inc / Duck Thru Food Stores

Mailing address PO Box 688, Ahoskie NC 27910

Explanation of request

- Unified Development Ordinance (UDO) - Section(s) 10.22.6.17
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

See Attached.

Reason for request

See Attached.

Jordan M. Harrell
Applicant

01/23/2024
Date

Nature of Request:

Jernigan Oil Company Inc., parent company of Duck Thru Food Stores, owns and operates 56 convenience store locations throughout Northeast North Carolina and Southside Virginia. Duck Thru operates five locations on the Outer Banks: two locations in Manteo, one location in Wanchese and two locations in Nags Head. Of our 56 Duck Thru locations, the two locations in Nags Head are the only remaining locations that do not have an LED price sign. Jernigan Oil Company is requesting a text amendment to The Town of Nags Head to consider amending Section 10.22.6.17 (LED and digital signs are prohibited). For illustrative purposes, I have attached an image of an existing LED price sign at another Duck Thru location as well as the current price sign at one of the Nags Head locations. Please note the request is for LED price signs only, which would include NUMBERS only and not any text, words, or images. The LED price sign would only display the gasoline and diesel prices and would not scroll, roll, or flash in any way. The LED numbers would display our gasoline price in a 16-inch red font block digit and would display our diesel price in an 8-inch green font block digit. Lastly, it's important to note all LED price signs will automatically dim at night, and day/night brightness levels can be adjusted to meet the Town of Nags Head lighting requirements. I have attached the spec sheet from our LED supplier, ABLE.

Reason for request

Jernigan Oil Company Inc. requests this text amendment for many reasons but the safety of our staff and customers is one concern and always our top priority. In June 2023, Jernigan Oil Company made a large investment to automate our gas price change processes across our locations for the safety of our staff and customers. With advancements in technology and LED price signs, we are able remotely change price signs without having an employee out in the parking lot, physically changing signs. As you can see in the attached photo of the current Nags Head price sign, the only way to change our price sign is to have an employee visit the parking lot and manually change the price on the sign with a pole suction cup. Unfortunately, when our employees visit the parking lot during busy times of day, our employees take the risk of being struck by a vehicle. Secondly, with the high winds in the Outer Banks area, digits frequently blow from signs, potentially striking customers, or their vehicle. With this change, we would eliminate both safety risks by keeping employees out of the parking lots and driveways and removing the risk of plastic digits being blown from signs.

ARTICLE 10. PERFORMANCE STANDARDS

10.22.6.2. No sign shall be erected or maintained which is a copy or imitation of an official highway sign and carrying the words "STOP" or "DANGER."

10.22.6.3. No sign or commercial sign shall be erected which contains, employs or utilizes lights or lighting which rotates, flashes, moves or alternates; except that time and temperature displays, as defined, are permitted but must be included in computing allowable signage. Continuous printout, running or ticker-tape type message panels or signs are prohibited.

10.22.6.4. No sign shall be erected which contains rotating sign panels.

10.22.6.5. No sign shall obstruct visibility at an intersection or driveway as regulated in Section 10.92.2.2.8, Vision Clearance (C).

10.22.6.6. No sign shall be posted on any telegraph, telephone, or electrical light pole or on any tree along any street.

10.22.6.7. No sign shall be permitted that obstructs ingress and egress to any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any room or building. Signs shall not be placed in a manner that obstructs architectural building features such as dormers, cupolas, windows, rooflines or other building elements.

10.22.6.8. No sign shall be permitted that violates any provision of any law of the state relative to outdoor advertising.

10.22.6.9 All outdoor advertising signs or structures are prohibited.

10.22.6.10. Signs supported in whole or in part by water, air or gas are prohibited.

10.22.6.11. No sign on property abutting a public trust area shall be directed toward any public trust area as defined by CAMA.

10.22.6.12. All pennants are prohibited.

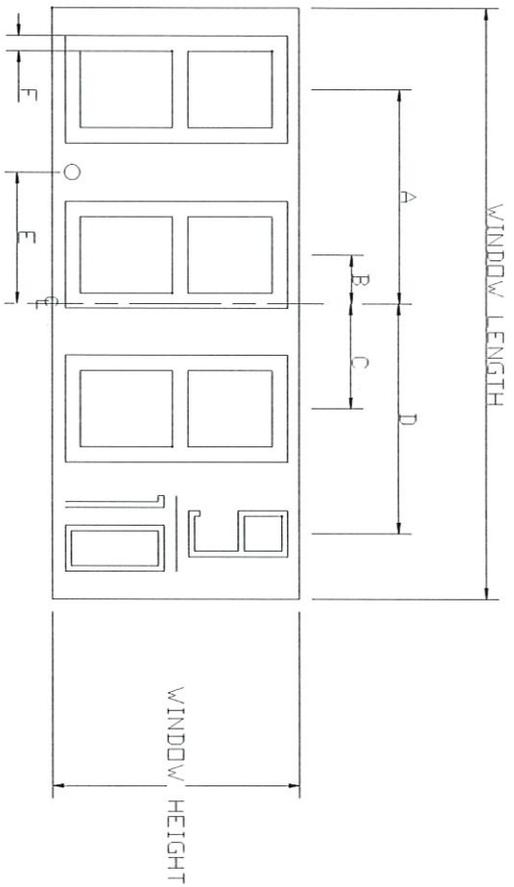
10.22.6.13. Use of exposed neon, argon, krypton, or similar gas tube lighting shall be prohibited in all manners except as provided in subsection 10.24.2.5.

10.22.6.14. Tourist-oriented directional sign (TODS).

10.22.6.15. Three-dimensional sculptured objects and pictorial devices attached to and extending more than twelve (12) inches beyond any wall or roof of a building in business use are prohibited. Attached sculptured objects and pictorial devices extending twelve (12) inches or less from a building wall or building roof shall be classified as a business wall sign or roof sign and shall be subject to all regulatory requirements of this UDO pertaining to such signs.

10.22.6.16. Roof signs within the SPD-C, Village at Nags Head C-1, C-2, hotel and institutional districts are prohibited.

10.22.6.17. LED and digital signs are prohibited.

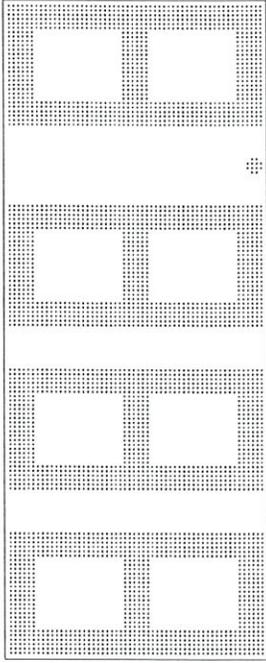


Section	Nominal Rows	LED qty	Pitch	Min Window Width	Min Window Height	Dim A	Dim B	Dim C	Dim D	Dim E	Dim F
6" DIGIT	2	74	0.46"	7.2"	16"	6.0"	1.32"	2.79"	6.41"	3.72"	0.46"
8" DIGIT	1	54	0.39"	8.8"	23.5"	9.06"	1.72"	4.42"	9.72"	5.36"	0.48"
8" %	2	71	0.39"	13.7"	33.1"	12.87"	2.93"	5.97"	13.05"	7.89"	1.15"
12" DIGIT	3	177	0.58"	13.7"	33.1"	12.87"	2.93"	5.97"	13.05"	7.89"	1.15"
12" %	2	137	0.48"	18.5"	41.7"	15.74"	3.57"	7.74"	16.96"	9.65"	1.28"
16" DIGIT	3	219	0.64"	20.4"	45.3"	17.59"	4.15"	8.34"	18.79"	10.91"	1.28"
18" %	2	222	0.48"	25.8"	62.7"	23.33"	6.33"	9.77"	24.07"	14.84"	2.22"
24" DIGIT	4	360	0.75"	31.9"	77.2"	30.12"	7.97"	13.22"	31.66"	19.03"	2.92"
24" %	3	555	0.72"	31.9"	77.2"	30.12"	7.97"	13.22"	31.66"	19.03"	2.92"
30" %	3	3	0.98"	4.4"	10.4"	4.104"	7.51"	19.89"	44.16"	24.27"	3.67"
42" DIGIT	6	6	0.78"	4.4"	10.4"	4.104"	7.51"	19.89"	44.16"	24.27"	3.67"
42" %	3	3	0.62"	4.4"	10.4"	4.104"	7.51"	19.89"	44.16"	24.27"	3.67"
SH DECIMAL	-	4	0.46"								
MD DECIMAL	-	7	0.57"								
LG DECIMAL	-	12	0.75"								

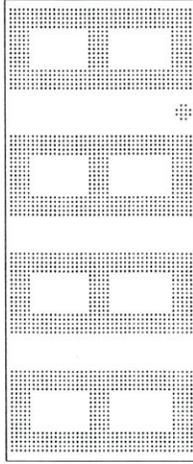
Diesel →

Gas →

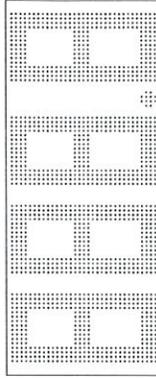
DATE	REV	DESCRIPTION	INITIAL	FOR RANGE UNLESS SPECIFIED	DESCRIPTION	DRAWING NO	DATE	DRAWN BY	REV
				1 FOOTING UNLESS SPECIFIED	HD LED LAYOUTS	ABL8002-L1	1/14/24	EDG	A
				2 DECIMAL PLACES XXXX -0.00					
				3 DECIMAL PLACES XXXX -0.005					
				4 DECIMAL PLACES XXXXX -0.0005					
				ANGLES ±1/2 DEGREE					



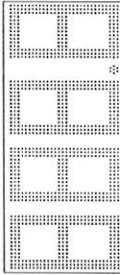
42"
 HD-120 DIGIT
 HD-129 SMALL 9
 HD-129 10
 HD-DP03 DECIMAL



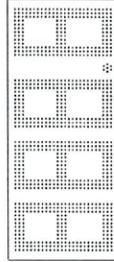
30"
 HD-300 DIGIT
 HD-303 3/16
 HD-DP2 DECIMAL



24"
 HD-240 DIGIT
 HD-245 3/16
 HD-DP2 DECIMAL



18"
 HD-180 DIGIT
 HD-189 3/16
 HD-DP1 DECIMAL



15"
 HD-150 DIGIT
 HD-159 3/16
 HD-DP1 DECIMAL



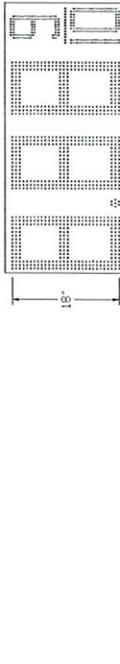
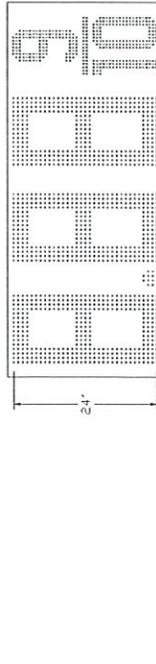
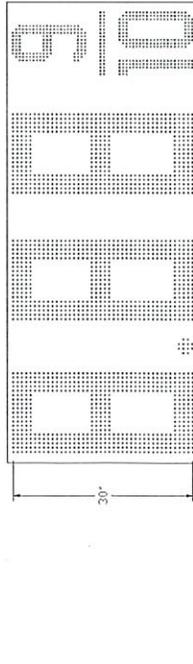
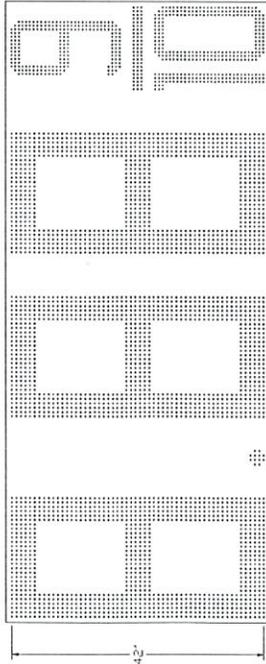
12"
 HD-120 DIGIT
 HD-129 3/16
 HD-DP1 DECIMAL



8"
 HD-0820 DIGIT, 3/16
 & DECIMAL
 HD-0840 DIGIT &
 DECIMAL



6"
 HD-0630 DIGIT, 3/16
 & DECIMAL



Gas →

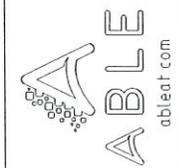


Diesel →

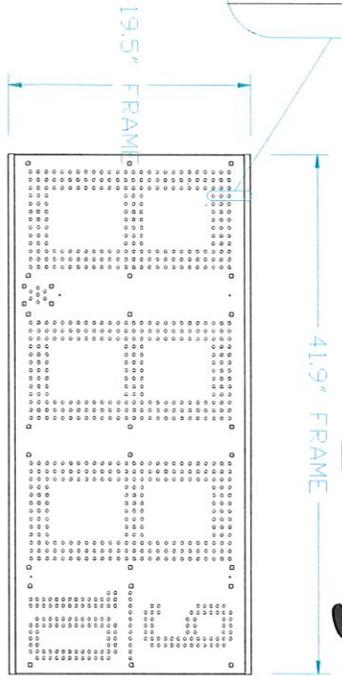
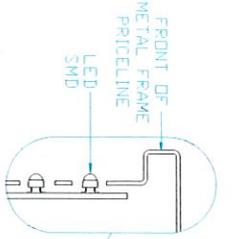
DATE	REV	DESCRIPTION	INITIAL	DESCRIPTION	DRAWING NO.	DATE	DRAWN BY	REV
				HD LED LAYOUTS	ABL8002-L2	1/14/24	EDG	A

TOLERANCE UNLESS SPECIFIED
 1 FRACTIONAL 1/164
 2 DECIMAL PLACES X.XX ±0.00
 3 DECIMAL PLACES X.XXX ±0.005
 4 DECIMAL PLACES X.XXXX ±0.0005
 ANGLES 5/16 DEGREE

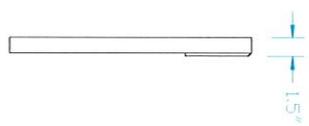
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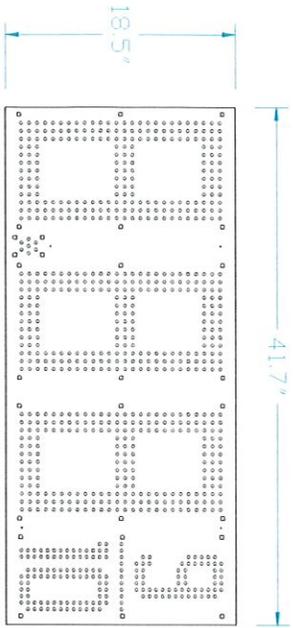
Gas Digits



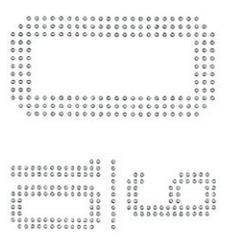
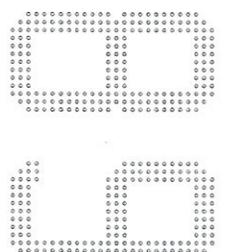
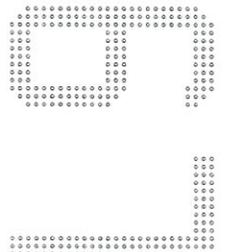
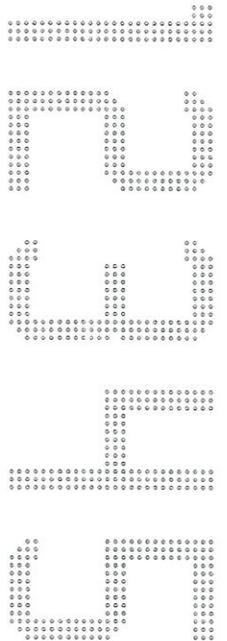
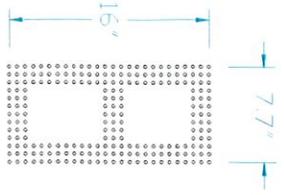
FRONT VIEW



END VIEW



FRONT VIEW



NOTES

GENERAL

DIGITS ARE 16" NOMINAL HEIGHT

MECHANICAL

AAT USA LLC IS NOT RESPONSIBLE FOR THE MOUNTING STRUCTURE OR FOR THE ADEQUACY OF ATTACHMENT TO THE STRUCTURE STRUCTURE AND ATTACHMENT MUST CONFORM TO ALL APPLICABLE BUILDING CODES

WEIGHT 10LBS

ELECTRICAL

PROVIDE A 90-265V AC, 15 AMP CIRCUIT FOR POWER
EACH PRICELINE CONFORMS TO CLASS 2 AND LIMITED TO LESS THAN 100W AND 15VDC TO 24 VDC

LISTED IN UL SAMS MANUAL

SERVICE AND ELECTRICAL HOORUP ACCESS IS THROUGH THE BACK OF THE DISPLAY ONLY

IF THE POWER TO THE DISPLAY IS TEMPORARILY DISRUPTED, DISPLAY FUNCTIONS WILL BE RETAINED IN MEMORY TO CONTINUE OPERATION WHEN POWER IS RESTORED

PCU DIGITS AND WIRING ARE CONFORMAL COATED FOR USE IN DAMP CONDITIONS

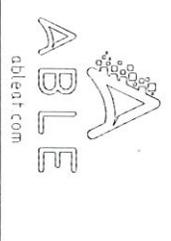
ON BOARD MEMORY FOR PRICE AND SETTINGS

DIMMING, BLINK AND DIAGNOSTIC FUNCTIONS BUILT-IN AND ADJUSTABLE FROM REMOTE CONTROL

THERMAL

PCU TEMPERATURE -40 TO +85°C POWER SUPPLY -20° TO +85°C

DATE	REV	DESCRIPTION	INITIAL	DESCRIPTION	DRAWING NO	DATE	DRAWN BY	REV
				TOLENTANCE UNLESS SPECIFIED 1 DECIMAL PLACES X.XX -1.00 2 DECIMAL PLACES X.XX -1.00 3 DECIMAL PLACES X.XXX -0.005 4 DECIMAL PLACES X.XXXX -0.0005 ANGLES 1/2 DEGREE	ABL8002-16A	1/14/24	EDG	A
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Existing Price Sign



LED Price Sign



STAFF REPORT

TO: Planning Board
FROM: Kim Allen, Code Compliance Officer
Elizabeth Teague, Planning Director
DATE: November 9, 2011
SUBJECT: Zoning Text Amendment to Prohibit Digital Signs

SUBJECT OR MOTION(S):

1. Motion to recommend adoption of Zoning Ordinance Text Amendment request
2. Motion to recommend adoption of a Statement of Consistency.

BACKGROUND: The first digital sign was allowed in 2003. They were all allowed as an alternative to the traditional changeable copy reader boards where letters or numbers are changed by hand. Messages remain for days or weeks at a time. Given the general parameter that digital reader boards mimic changeable copy reader boards, there are currently four digital signs in Town. However, there is nothing in the zoning ordinance that specifically allows them and no regulations to limit the size, color or brightness. Recognizing the increasing interest in digital signs, staff believes they should be prohibited or reasonable conditions be placed on them with a future text amendment. At the September Planning Board meeting, the Board suggested to prohibit them.

STAFF RECOMMENDATION:

Planning staff recommends adoption of the proposed zoning ordinance text amendment as presented in conjunction with the attached Statement of Consistency on the grounds that digital signs detract from the visual integrity of the Town.

ATTACHMENTS:

- A. Draft Text Amendment
- B. Draft Statement of Consistency

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that Chapter 48, Zoning, of the Code of Ordinances shall be amended as follows:

PART I. That **Section 48-282(6) Signs and Outdoor Advertising Structures, Prohibited Signs** be amended as follows:

- (6) Prohibited signs.
 - a. No sign shall be located within a public right-of-way except for street identification signs and official traffic control signs.
 - b. No sign shall be erected or maintained which is a copy or imitation of an official highway sign and carrying the words "STOP" or "DANGER."
 - c. No sign, business sign or outdoor advertising structure shall be erected which contains, employs or utilizes lights or lighting which rotates, flashes, moves or alternates; except that time and temperature displays without electronic advertising matter are permitted but must be included in computing allowable signage. Continuous printout, running or ticker-tape type message panels or signs are prohibited.
 - d. No sign shall be erected which contains rotating sign panels.
 - e. No sign shall obstruct visibility at an intersection or driveway as regulated in section 48-79.
 - f. No sign shall be posted on any telegraph, telephone or electrical light pole or on any tree along any street.
 - g. No sign shall be permitted that obstructs ingress and egress to any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any room or building.
 - h. No sign shall be permitted that violates any provision of any law of the state relative to outdoor advertising.
 - i. All outdoor advertising signs or structures are prohibited.
 - j. Signs supported in whole or in part by water, air or gas are prohibited.
 - k. No real estate sign on property abutting a public trust area shall be directed toward any public trust area as defined by CAMA.
 - l. All pennants are prohibited, effective December 6, 1995.
 - m. Use of exposed neon, argon, krypton, or similar gas tube lighting shall be prohibited in all manner except as provided in section 48-284(2) e.
 - n. Tourist-oriented directional sign (TODS).

- o. Three dimensional sculptured objects and pictorial devices attached to and extending more than 12 inches beyond any wall or roof of a building in business use. Attached sculptured objects and pictorial devices extending 12 inches or less from a building wall or building roof shall be classified as a business wall sign or roof sign and shall be subject to all regulatory requirements of this chapter pertaining to such signs.
- p. Roof signs within the SPD-C, Village at Nags Head C-1, C-2, hotel and institutional districts.

g. LED and Digital signs. except for monochromatic time temperature displays, maximum ten sq. ft. in area.

PART II. 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 _____ 2011.

Robert O. Oakes, Jr., Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted: _____

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS

**TOWN OF NAGS HEAD
STATEMENT OF CONSISTENCY
WITH THE LAND USE PLAN FOR A ZONING TEXT AMENDMENT**

BE IT HEREBY RESOLVED by the Board of Commissioners for the Town of Nags Head, that in accordance with provisions of North Carolina General Statute 160A-383, the Board of Commissioners hereby finds and determines that the adoption of the requested zoning text amendment to prohibit digital signs.

Is consistent with the goals, objectives and policies of the Town's adopted Land Use Plan, and that this action is reasonable and in the public interest because it addresses an emerging concern related to community appearance (p. 104)

READ, APPROVED AND ADOPTED by a vote of _____ to _____, this, the December_____, 2011.

Robert O. Oakes Jr., Mayor

ATTEST:

Carolyn Morris, Town Clerk

Cliff Ogburn, Town Manager

Mr. Demers pointed out that the Federal Wireless law requires a streamlined process for handling applications for construction of antenna and questioned if the Town was in compliance with this requirement. After some discussion it was agreed that the Town's processes related to conditional use applications meet the intent of the law because it's not different from any other conditional use process used in other situations.

Chairman Edwards moved to recommend adoption of the zoning ordinance text amendment as amended by the Town Attorney. Tom Haddon seconded the motion. The motion carried by unanimous vote.

Marvin Demers amended the motion to revise the wording under part V section 7 to add 360 degree concealment of the antenna instead of 180 degrees. Angelina Lowe seconded the motion. The motion carried by unanimous vote.

Motion to Adopt Statement of Consistency

Planning Director Elizabeth Teague presented the Statement of Consistency which reads in part:

"The adoption of the requested zoning text amendments to Town Code... is consistent with the goals, objectives and policies of the Town's adopted Land Use Plan, and that this action is reasonable and in the public interest."

Ms. Teague explained that the proposed amendments reflect the heritage of Old Nags Head architecture by requiring that antennas and/or antenna arrays be concealed so that they are not visible by ordinary observation from the ground.

Clyde Futrell moved to recommend adoption of the Statement of Consistency as presented. Susie Walters seconded the motion. The motion carried by unanimous vote

Motion to recommend adoption of a zoning ordinance text amendment to Town Code Section 48-324, Prohibiting LED Signage.

Code Compliance Officer Kim Allen presented a zoning text amendment Prohibiting LED Signage. Mr. Allen explained that the first digital sign was allowed in 2003 for Resort Realty and there are three other businesses that currently have these types of signs: the Outer Banks Hospital, East Carolina Bank and most recently the Sunoco gas station. These signs were all allowed as an alternative to the traditional changeable copy reader boards where letters or numbers are changed by hand and messages remain for days or weeks at a time.

Mr. Allen further explained that there is nothing in the zoning ordinance that specifically allows these signs and no regulations to limit the size, color or brightness. Recognizing the increasing interest in digital signs, Staff believes they should be prohibited or reasonable conditions be placed on them with a future text amendment. For the purpose of comparison, Mr. Allen stated that the Town of Kitty Hawk prohibits them in all shapes and sizes while the Town of Kill Devil Hills allows them with conditions.

Planning Staff recommends adoption of the proposed zoning ordinance text amendment as presented in conjunction with the attached Statement of Consistency on the grounds that digital signs detract from the visual integrity of the Town.

Mr. Demers inquired if there was a way to include language that could control the appearance of LED signs such as the brightness and frequency of change, instead of prohibiting them.

Mr. Allen stated that the City of Virginia Beach struggled with finding language that would restrict but still allow the signs and ended up prohibiting them as well. Mr. Allen stated that it would be difficult to measure compliance.

Mr. Futrell expressed concern over possible traffic safety issues that might develop with large, bright and frequently changing digital signs, such as the one in Currituck, which might be distracting to drivers. Mr. Futrell stated he did not have an objection to small digital signs that note temperature, time and changing gas prices.

Mr. Allen confirmed for Ms. Walters that if the text amendment is adopted, any existing signs would become non-conforming.

Ms. Walters stated that she finds these types of signs distracting and not aesthetically pleasing. Mr. Edwards agreed stating that they were not in keeping with the Nags Head style.

Mr. Demers stated that he did not have an objection to LED signs, if they could be controlled in some way. By putting limits in terms of the brightness or intensity of the light, the size of the font, the frequency of change, these signs can provide an advantage to a business not only by drawing attention to the business but also reducing the need to have someone out there manually changing a sign. These types of signs also allow the use of emerging technology while controlling it to an acceptable degree. Mr. Demers felt that by prohibiting these types of signs they would be creating a division between those that already have digital signs and those who don't. He would prefer to see Staff come back with an alternate which would maybe limit but not prohibit LED signs.

Ms. Lowe agreed with Mr. Demers and stated that by allowing this technology they would be aiding small business owners by offering them another option.

Mr. Haddon expressed concern about the light pollution. He believes that crafting an ordinance that addresses limitations to the technology might get too technical and hard to enforce. He also was concerned that by allowing these types of signs, even with limitations, they will proliferate.

Tom Haddon moved to recommend adoption of the zoning ordinance text amendment as presented with the exception that item "q" under Section 6, Prohibited signs, be amended to read: "LED and Digital Signs." Susie Walters seconded the motion. The motion passed with a vote of four to two with Marvin Demers and Angelina Lowe casting the Nay votes.

Motion to Adopt Statement of Consistency

Planning Director Elizabeth Teague presented the Statement of Consistency which reads in part:

"Adoption of the requested zoning text amendment to prohibit digital signs is consistent with the goals, objectives and policies of the Town's adopted Land Use Plan, and that this action is reasonable and in the public interest.."

Ms. Teague stated that in this particular instance there is a specific goal in the Town's Land Use Plan that talks about keeping up with technology but being mindful of community appearance.

Tom Haddon moved to recommend adoption of the Statement of Consistency as presented. Clyde Futrell seconded the motion. The motion passed by a vote of four to two with Marvin Demers and Angelina Lowe casting the Nay votes.

Discussion

Encouraging use of Solar Power

Planning Intern Amanda Tucker gave a power point presentation regarding the use of Solar Power Systems and the benefits of encouraging their use within the town.

Ms. Tucker talked about the many advantages of Solar Power both environmental and economic. Ms. Tucker gave as an example a typical beach box, which could see a \$391 saving per year with a solar power system and a lifetime savings of approximately \$10,000.

Ms. Tucker stated that the Town of Nags Head is a great candidate for this type of energy and should invest in "green" energy to preserve its lifeline, the beach. Ms. Tucker suggested that the Town look into the installation of a solar power system on a Municipal building, which could serve as an educational tool for the Town's citizens as well as an economically beneficial investment.

Ms. Lowe noted that the focus on the Outer Banks seemed to be more on wind energy and wondered if vendors were marketing these types of systems more aggressively than solar powered systems. Ms. Tucker explained that a big obstacle for solar energy is the lack of education and stated that while the focus has been on wind power, solar power can work in conjunction and act as a supplement to wind energy. Ms. Tucker agreed with Ms. Lowe that solar arrays might also be more aesthetically pleasing than turbines.

Ms. Walters inquired if Staff had looked at alternative energy systems for Town Hall as part of the repairs to the roof that was recently damaged due to Hurricane Irene. Ms. Teague stated a vendor is currently putting together some cost estimates for both Town Hall and the Harvey site.

Mr. Demers inquired about insurance cost implications related to placing solar panels on roofs. Ms. Teague confirmed that they would not create any additional liability and stated that they would have to meet all building codes including coastal wind loads.

Mr. Futrell stated that this is an area where there is a lot of renewable energy that is currently available but not being used and he could see how the two types of energy, wind and solar, could work well together.

stated that in any case the antennas don't stick out any more than six – eight inches from the building. She thanked staff for their help.

There being no one present who wished to comment, Attorney Leidy closed the Public Hearing at 9:53 a.m.

MOTION: Comr. Cahoon made a motion to adopt the ordinance amendment to permit the installation of concealed building mounted antenna as a conditional use in the CR and C-2 Districts, as presented. The motion was seconded by Mayor Pro Tem Remaley.

Comr. Walters asked if Comr. Cahoon's motion included Sprint Com comments and the Planning Board's provision. Comr. Cahoon said that her motion did include comments made by Ms. Teague/Ms. Murphy.

CONTINUATION OF MOTION: The motion passed 4 – 0 (Comr. Sadler was not present.).

MOTION: Comr. Cahoon made a motion to adopt the Statement of Consistency between the ordinance and the Land Use Plan as presented. The motion was seconded by Comr. Walters which passed 4 – 0 (Comr. Sadler was not present.).

A copy of the ordinance to permit installation of concealed building mounted antenna, as adopted, is attached to and made a part of these minutes as shown in Addendum "D".

Public Hearing to consider adoption of Zoning Ordinance Text Amendments to Town Code Section 48-8, Definitions and Town Code Section 48-324, Prohibiting LED and Digital Signage

Attorney John Leidy introduced the Public Hearing concerning LED and digital signage at 9:56 a.m.

Code Compliance Officer Kim Allen summarized his memo which read in part as follows:

"BACKGROUND: The first digital sign was allowed in Nags Head in 2003 by way of a zoning interpretation: they were allowed only as an alternative to the traditional changeable copy reader boards where letters or numbers are changed by hand. The parameter placed on this allowance was that the digital boards had to effectively mimic non-digital reader boards, and messages were to remain static. There are currently four working digital signs in Town (at the Hospital, Sunoco, Resort Realty, and East Carolina Bank) and one that is not in operation (Taco Bell).

There is nothing in the zoning ordinance that specifically allows or provides specific guidelines on digital signage (color, brightness, moving vs. static images, etc.). Recognizing the increasing interest in digital signs and the emerging technologies of LED, LCD and plasma screens, staff believes that all digital signage should be prohibited or reasonable parameters for their use be placed on them with a text amendment. At the September Planning Board meeting, the Board initiated a text amendment at staff's request.

PLANNING BOARD RECOMMENDATION:

At their November Meeting the Planning Board took up discussion of the staff recommendation to add the following to the "prohibited signs" list:

'LED and Digital signs. except for monochromatic time temperature displays, maximum ten sq. ft. in area.

'Discussion resulted in amendments to the staff text to prohibit *all* forms of digital signage, and to include a definition that covers all types of digital signs being used as reader or message boards or incorporated into commercial signage. The Planning Board also recommended adoption of the Statement of Consistency.

'The Planning Board membership raised concerns that once one business installs one, others will follow resulting in a proliferation of digital imagery that is not in step with the character of Nags Head, as well as that the signs could distract drivers and become a safety issue (minutes attached).

STAFF RECOMMENDATION:

Planning staff recommends adoption of the proposed zoning ordinance text amendment which amends the original staff recommendation with Planning Board input. Staff also recommends adoption of the attached Statement of Consistency on the grounds that digital signs detract from the visual integrity of the Town."

Notice of the Public Hearing was published in the *Coastland Times* on Tuesday, November 22, 2011 and on Tuesday, November 29, 2011 as required by law.

Lois Williams, Outer Banks Mall, said that the signage would only be changed once per day; she would like the opportunity to try the digital signage.

Steve Howington, Carolina Signs; he said that digital signs are an effective way for businesses to advertise during this economy; it would be an attractive way for the Outer Banks Mall shopping center to add to the upgrades already done; the signs are programmable. He displayed photographs of digital signs.

Rick Lawrenson; he asked if the Town, if the ordinance is adopted, would do away with its own digital sign; Code Compliance Officer Kim Allen pointed out that the Town's sign is exempt from the ordinance.

John Ratzenberger, resident; he stated that he has never seen an attractive type of digital signage; on a personal note, in his previous position on the Town's Citizens Advisory Committee, they looked at ways to help businesses in the Town and signage was discussed; the Outer Banks Mall has a strip side that cannot be seen until driven by; he feels that the Planning Board and staff need to meet to discuss all signage in the Town to see what can be done to benefit businesses – especially look at those without a lot of visibility.

Mayor Pro Tem Remaley asked Code Compliance Officer Kim Allen how many applications for these types of signage have been received; Mr. Allen stated that applications are received very

infrequently for these types of signs - recently three (3) requests have been received. This type of signage becomes multi-faceted because of its ability to change.

Mayor Oakes confirmed that currently there are four (4) types of digital signs in the Town.

Planning Director Teague stated that the Planning Board wanted to make sure parameters were identified so a traffic issue would not be created.

There being no one else present who wished to speak, Attorney Leidy closed the Public Hearing at 10:21 a.m.

Comr. Walters, who was on the Planning Board in review of this ordinance, feels that the larger businesses/chains are more likely to have these signs than the smaller businesses; the majority of the Planning Board was not in favor of the proposal.

Comr. Cahoon said that she would not be objectionable to allowing LED's with conditions/parameters; she felt it was not right that the Town exempted itself from the ordinance.

Mayor Pro Tem Remaley feels that the signage ordinance in the Town needs to be completely revisited and looked at more in-depth for ways to help people especially because of the current economy.

Mayor Oakes said that he feels static lights would be okay but he is concerned about the plasma signs; a message that changes more frequently than daily should be prohibited.

Comr. Cahoon confirmed with Code Compliance Officer Allen that currently no one can erect a plasma sign. She feels more work should be done on this proposal – some language could be added concerning brightness, frequency of movement, etc.

MOTION: Comr. Cahoon made a motion to table the digital sign proposal for 90 days for additional staff review and for citizen input – for consideration at the March 2012 Board meeting. The motion was seconded by Mayor Oakes.

Comr. Walters asked what takes place if the Town receives applications for digital signage. Ms. Teague stated that the current ordinance will apply. Ms. Teague also stated that she would like to put together a group to include the Planning Board and local businesses that can address new sign technology and prepare a proposal that the Planning Board can support and that will benefit local businesses.

Attorney Leidy explained that the process to adopt a moratorium includes a Public Hearing; he pointed out that the Board would not be able, at today's meeting, to adopt a moratorium.

WITHDRAW MOTION: Comr. Cahoon withdrew her motion and Mayor Oakes withdrew his second to that motion.

Board members discussed various types of changes to the ordinance such as striking the "LCD" and "LED" and leaving other definitions of signage intact in order to keep what currently exists but not allow expansion.

Mayor Oakes requested that the ordinance be modified for Board review and consideration later in today's meeting.

REPORTS AND RECOMMENDATIONS FROM THE PLANNING BOARD AND THE PLANNING AND DEVELOPMENT DIRECTOR

Review of effects of zoning ordinance text amendment adopted in second reading at May 4, 2011 Board of Commissioners meeting which permitted onsite rental of beach chairs and umbrellas from within the private beach bathhouse located at 4929 S. Virginia Dare Trail

MOTION: Comr. Cahoon made a motion to recuse Mayor Oakes from the discussion concerning the Village Beach Club rentals due to conflict of interest (Mayor Oakes is President of Village Realty, Inc.). The motion was seconded by Mayor Pro Tem Remaley which passed 4 – 0 (Comr. Sadler was not present.).

Mayor Oakes left the meeting; Mayor Pro Tem Remaley conducted the discussion.

Planning Director Teague summarized her memo which read in part as follows:

"This zoning ordinance text amendment adopted on May 4, 2011 (attached) added Town Code Sec 48-869, Recreation District to permit the onsite rental of beach chairs and umbrellas at the Village at Nags Head Private Beach Access and Bathhouse. At the time of its adoption, the Board of Commissioners placed a sunset provision on this ordinance requiring that it be revisited and either re-adopted or allowed to lose effect at the December 2011 meeting.

'Though few problems were experienced with the operation at the Village at Nags Head Private Beach Access, numerous concerns arose at the Comfort Inn and Surfside Hotel locations throughout the summer. This ordinance is difficult to enforce with regard to the location and storage of rental equipment and acceptance of money on the public beach.

'Staff Recommendation: Staff recommends allowing the sunset provision on this ordinance to lapse and also recommends that the previously adopted ordinance, adopted on March 2, 2011, (attached) which permitted beach chair and umbrella rentals as an accessory use to Hotels within the CR, Commercial Residential Zoning District – be reconsidered."

MOTION: Comr. Cahoon made a motion to allow the sunset provision to lapse (with the Village at Nags Head Beach Club rentals) and to have staff bring back a proposal combining all goals. The motion was seconded by Comr. Walters.

Planning Director Teague said she would like the next 60 – 90 days to prepare a proposal and to return with a revised ordinance; an ordinance that provides clear guidance to potential vendors and to the public. A proposal that would provide an opportunity for a family in Nags



**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION
January 4, 2012**

The Town of Nags Head Board of Commissioners met in the Board Room of the Nags Head Municipal Complex located at 5401 South Croatan Highway at 9:00 a.m. on Wednesday, January 4, 2012.

COMRS PRESENT: Mayor Bob Oakes; Comr. Anna Sadler; Comr. Renée Cahoon
and Comr. Susie Walters

COMRS ABSENT: Mayor Pro Tem Doug Remaley

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; Kevin Brinkley; Steve Kovacs; Dave Clark; Ralph Barile; Kelly Wyatt; Dabni Shelton; Angela Welsh; Roberta Thuman; Justin Kupfer; Ryan Dodson; Chase Tadlock; Bobby Gentry; Meade Gwinn; Michael Reed; Dave Wigginton; Marvin Demers; Elizabeth Demers; Barbara Gernat; Sheila Davies; Brendan Strum; Richard Murphy; Cameron Saville; Mike Kelly; John DeLucia; Ralph Buxton; Bob Muller; Dennis Mabe; Doug Langford; Jim Boyd; and Town Clerk Carolyn Morris

CALL TO ORDER/PRAAYER/PLEDGE OF ALLEGIANCE

Mayor Oakes called the meeting to order at 9:00 a.m. Public Works Director Dave Clark provided the prayer which was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

Comr. Sadler asked the Board to amend the agenda and to move the resolution concerning Property Owners Association and taxing benefits to the beginning of the agenda to accommodate those in the audience. It was Board consensus to agree with Comr. Sadler and to move the resolution to just prior to the public hearings.

MOTION: Comr. Sadler made a motion to adopt the January 4th agenda as amended - to move agenda item # 21 re: property owners association and taxing benefits to just prior to the start of the

public hearings. The motion was seconded by Comr. Walters which passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

AUDIENCE RESPONSE – MEADE GWINN

Meade Gwinn, President of the Village Property Owners Association; he addressed the resolution re: non-profit property owners associations; he understands the Town's concern and feels that the resolution may be trying to correct a problem before a problem exists; there is no alien property owners association owning property in the Town as of today; the language may mislead homeowners living in Nags Head but not living in the Village to think Village residents may be receiving a tax benefit others are not allotted; he asked the Board to explore other options instead of making legislative changes; he feels that there are better ways to address this issue and he asked the Board to table action on this resolution.

RECOGNITION OF EMPLOYEES

Police Chief Kevin Brinkley introduced Police Officer First Class Justin Kupfer who was recognized by the Board for obtaining his certification as a National Drug Recognition Expert.

Fire Chief Kevin Zorc introduced Firefighter/EMT Ryan Dodson who was recognized by the Board for five years of service.

Police Chief Kevin Brinkley introduced Police Officer Chase Tadlock who was recognized by the Board for five years of service.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

- Consideration of Budget Adjustment #7 to FY 11/12 Budget Ordinance
- Consideration of Tax Adjustment Report
- Approval of Minutes
- Annual Certification of Firefighters
- Consideration of amendment to Verizon Wireless contract for antenna modification

MOTION: Comr. Cahoon made a motion to approve the Consent Agenda as presented. The motion was seconded by Comr. Sadler which passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

Budget Adjustment #7, as adopted, is attached to and made a part of these minutes as shown in Addendum "A".

A copy of the Tax Adjustment Report, as approved, is attached to and made a part of these minutes as shown in Addendum "B".

The agenda summary sheet for the Annual Certification of Firefighters, as approved, read in part as follows:

"North Carolina General Statute 58-86-25 requires that all certified fire departments submit a complete roster of all eligible firefighters on an annual basis – the certified list determines eligibility for the \$50,000 line-of-duty death benefit as well as eligibility for Pension Fund Credit.

'Attached please find a roster of Town firefighters eligible for certification for Board reconsideration at the January 4th Board of Commissioners meeting."

The roster of Town firefighters eligible for certification, as approved, is attached to and made a part of these minutes as shown in Addendum "C".

The amendment to the Verizon Wireless contract as described in the agenda summary sheet, as approved, read in part as follows:

"Verizon Wireless is requesting to amend their lease in order to supplement their antenna array on the Town Monopole. This request will add three (3) Antel BXA-70063/8CF antennas and six (6) one and five-eighths (1-5/8") inch coaxial cable lines to its existing equipment and increase their rent to \$2,900.00 per month. A structural study confirming that the tower can sustain additional load has been submitted and approved by the chief building inspector. No other mechanical equipment will be installed on the ground and no additional zoning requirements will apply in this case. Attorney Brock Mitchell has reviewed the lease and the "PAL" letter and concurs that the Town manager may sign both upon approval by the Board.

'From the Finance Officer: The current lease calls for monthly rental income of \$2,600. With the proposed contract change, annual rental income from this lease will increase by \$3,600."

Mayor Pro Tem Remaley – Out of Town

Mayor Oakes noted that Mayor Pro Tem Remaley was currently on a two-week vacation celebrating his recent retirement from Dare County as Fire Marshal.

Comr. Sadler - Consideration of resolution requesting legislative changes re: property tax exemptions for certain homeowner association property – moved from end of agenda

The agenda summary sheet concerning property tax exemptions for certain property owner associations read in part as follows:

"At the January 4, 2012 Board of Commissioners meeting, Comr. Sadler will present for Board discussion and consideration the attached proposed resolution concerning taxation of property of non-profit homeowners associations.

'The proposed resolution was patterned after a similar one adopted by the Town of Holden Beach which is also attached.'

Comr. Sadler stated that she learned of the issue while at the most recent NCBIWA conference - coastal towns share some of the same problems. She stated that she would rather the Town be proactive rather than re-active.

Town Attorney Leidy added the following at the end of the last WHEREAS statement: "So long as legislative change does not result in the double taxation of any property owned by a non-profit homeowners association".

In response to Mayor Oakes, Town Manager Ogburn stated that he will make sure the NCLM is aware of the issue and aware of the proposed resolution – since it affects all municipalities.

Mr. Meade Gwinn who spoke during Audience Response expressed his concern that the intent of the resolution is not the problem – if changed, it could conceivably migrate to other types of non-profits and not just property owned by Property Owners Associations.

MOTION: Comr. Sadler made a motion to adopt the resolution concerning the taxation of property of non-profit homeowners associations as amended by Attorney Leidy. The motion was seconded by Comr. Walters.

It was noted that Town Manager Ogburn is to forward the resolution to the League of Municipalities and to NCBIWA officials as well.

CONTINUATION OF MOTION: The motion passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

The resolution concerning taxation of property of non-profit homeowners associations, as adopted, read in part as follows:

'WHEREAS, it has come to the attention of the Town of Nags Head that North Carolina General Statute 105-277.8 concerning property taxation of property of non-profit homeowners associations creates inequities and unfairness in the assessment and administration of the local property tax system; AND

'WHEREAS, certain property could be located in the Town of Nags Head, but owned by nonprofit homeowners' associations outside the jurisdiction of the Town of Nags Head and escapes taxation by the entity due to the strict application of NCGS 105-277.8; AND

'WHEREAS, the Town of Nags Head seeks remedies to the unfairness brought about by NCGS 105-277.8 when applied to nonprofit homeowners associations located outside the taxing jurisdiction.

'NOW, THEREFORE, BE IT RESOLVED by the Town of Nags Head Board of Commissioners that they seek changes to NCGS 105-277.8 for property owned by nonprofit homeowners' associations where the association membership's property is outside the Town of Nags Head's taxing jurisdiction so as to apply the local property tax system equally and fairly so long as legislative change does not result in

the double taxation of any property owned by a non-profit homeowners association; and that the Town of Nags Head requests its member representatives to the North Carolina General Assembly introduce legislation correcting this inequity and unfairness in the property tax system; and that other local governments and agencies take similar action in support of the Town of Nags Head concerning this issue of fairness.”

PUBLIC HEARINGS

Public Hearing to consider comments related to the Town of Nags Head Parks and Recreation Plan

Attorney John Leidy introduced the Public Hearing concerning the Town of Nags Head Parks and Recreation Plan at 9:35 a.m.

Planning Director Elizabeth Teague recognized those present that served on the Committee; she summarized her report which read in part as follows:

“BACKGROUND:

In March of 2011 the Board of Commissioners appointed 11 citizens of Nags Head to serve on the Town’s Parks and Recreation Committee to create a Parks and Recreation Plan for the purpose of providing guidance in developing the Town’s recreational opportunities. The Plan was presented to the Board at the October 2011 Meeting and has been available on the Town Website and through the Planning and Development Department since then. Planning Board members were also given copies of the Plan and asked for their input.

‘Adoption by the Board of Commissioners will assure that goals and recommendations in the Plan will be considered in future decision-making, including those related to capital improvements and grant applications. Adoption of the Plan at this meeting will also help the Town in qualifying for additional points in the scoring criteria for the Parks and Recreation Trust Fund in the current call for grant proposals.

‘STAFF RECOMMENDATION:

Staff recommends adoption of the Draft Parks and Recreation Plan.”

Notice of the Public Hearing was published in the *Coastland Times* on Thursday, December 22, 2011 and on Thursday, December 29, 2011, as required by law.

Ralph Buxton, Nags Head resident and Chair of the Committee; he said that the Plan is the culmination of efforts by the Committee that was appointed by the Board of Commissioners in February 2010; it represents a variety of interests as represented by nine meetings in eight months; there has been considerable resident and visitor input; several subcommittees focused on specific areas and their comments are included in the final Plan.

Mr. Buxton identified the items that it is requested that the Board take action on as soon as possible:

- Develop communication system with Dare County to inform Nags Head citizens of programs and resources

- Coordinate a community calendar
- Provide maps to indicate where beach/sound accesses are located
- Partner with the YMCA on a skate park task force
- Provide illuminated tennis courts and update Kelly's tennis courts agreement
- Apply to NCDOT for comprehensive pedestrian plan grants
- Apply to Safe Routes to School grant for multi-use trails
- Adopt the Recreation Plan

Mr. Buxton said that he assumes that the repair of existing facilities is already being addressed by the Town.

Comr. Cahoon asked Mr. Buxton if he felt that the Recreation Committee would approve private carnival endeavors – Mr. Buxton agreed as he felt the committee would be in favor of “amusements”.

John Ratzenberger, Nags Head resident; he felt that an excellent job was done on the Plan and he hopes the Land Use Plan will be formatted similarly to reflect where to go and how to get there; he commended the skate park appendix; he recommended the Plan be adopted as soon as possible to assist with grant applications; he would like the following to be reviewed: “moral class”; there was difficulty in finding South Nags Head and he never knew that NC12 and the Beach Road went all the way to the last milepost; he suggested that the Town get with Dare County and the other Towns and do an assessment of all things available such as ball fields, etc.; he suggested adding this endeavor to the “immediate” list of things to be done; he urged to NOT include the amendment on page 17 re: Dare County Tourism Board rejection of a carnival.

There being no one else present who wished to speak, Attorney Leidy closed the Public Hearing at 9:52 a.m.

Comr. Walters thanked the Committee for their work on the document which she feels is a very comprehensive document and she appreciates staff’s work and the comments received.

MOTION: Comr. Walters made a motion to adopt the Recreation Plan with the recommended changes as it is a living document that will change. The motion failed for lack of a second.

Comr. Sadler thanked everyone who participated in the making of the document; she feels that a Workshop should be scheduled to discuss the Plan as she has a number of concerns – she noted that she did not see many activities for older children/adults.

Comr. Cahoon thanked everyone who participated in the making of the document; she said that she wants to make sure others can come in and do things - it should be nebulous as to private vs government; she feels that the document is too specific; she stated that she would support a workshop concept to include the Recreation Committee.

It was Board consensus that a Recreation Plan Workshop be scheduled for Wednesday, January 18, 2012 at 5:00 p.m. with Board of Commissioners and Recreation Plan Committee members; in addition, that the Board’s mid-month meeting be held on January 25, 2012.

Comr. Walters asked if Board members would be interested in approving just the “immediate” portion of the Recreation Plan at this time.

It was Board consensus to approve the "immediate" section of the Plan as presented in order for staff to move forward. The "immediate" section of the Recreation Plan read in part as follows:

- To develop communication system with Dare Co to inform NH citizens of programs / resources;
- Coordinate a community calendar with local partners such as DCTB, YMCA, Dare County
- Provide maps using Google that identify where parks and water accesses are located
- Partner with YMCA on a skate park task force
- Research feasibility, cost, site for illuminated tennis courts or work with Kelly's to update agreement
- Apply to NCDOT for comprehensive pedestrian plan grant
- Apply to Safe Routes to School Program for multi-use trail grant
- To adopt the Parks and Recreation Plan

Public Hearing to consider application to Parks and Recreation Trust Fund for grant for playground at Whalebone Park site

Planner Angela Welsh summarized her memo concerning a Parks and Recreation Trust Fund grant which read in part as follows:

"PARTF has opened the 2011-2012 grant cycle and applications are due by January 31, 2012. The North Carolina General Assembly established the Parks and Recreation Trust Fund (PARTF) in 1994 to fund improvements in the state's park system, to fund grants for local governments and to increase the public's access to the state's beaches. Grants are provided on a dollar for dollar local match. Staff recommends application for a PARTF grant to add recreational elements into Whalebone Park by using funding allocated to Whalebone Park by the Board of Commissioners and the Tourism Board as match (\$325,000).

'As a result of input from the Parks and Recreation Committee and discussions that went into the Parks and Recreation Plan, staff is requesting the Board's authorization to pursue additional funding through PARTF to provide a children's playground and additional benches and picnic tables. The Playground will replace/be located within the area designated as volley ball courts. The children's playground area will target needs and goals identified in the Parks and Recreation Plan by providing an area for shade and play for children and families off of the beach. The capacity of the playground area will be approximately 42 children and will serve ages of 2 to 12. It will incorporate features which meet ADA guidelines and allow inclusive play children regardless of physical, mental or sensory abilities. Features of the playground will include slides, ramps, steps and small "rock" climbing walls. Various panels for imaginative play will help children develop fine motor and social skills as well as provide visual and sensory stimulation. A multi-sensory area with sound and physical stimulation equipment will also be located in the play area. The surface area will be installed to maximize accessibility.

'Once installed, this facility will be used by school groups and families parking and/or staging visits to the beach and Jeanette's Pier; use by families with special needs children such as those served by the annual "Surfing for Autism" event, and by the general public using the parking, picnic and trail facilities already planned for the park.

'The play area facilities include (subject to pricing at time of purchase):

- Play structures, border, mulch, surface and weed liner, at estimated cost of \$42,000.00.
- Shade structures designed to withstand 150 mph winds, provide UV protection, resist fading, mildew and rot and to be taken down easily, estimated cost of \$8,000.
- Park and Picnic benches, estimated cost of \$4,000
- Installation of the playground facilities including play equipment, benches, picnic tables and surfacing is approximately \$17,500.00.

'Staff also recommends budgeting a \$3,500 contingency (or 5% in accordance with PARTF guidelines), which would total \$75,000.

'Application to the PARTF requires a public hearing on the grant request. This grant request is in support of recommendations within the Parks and Recreation Plan, and the 2010 Land Use Plan speaks in support of this application. It states, "The Town shall actively plan and seek funds for the development of traditional recreation uses, to meet the needs of Town residents of all ages, as the needs are identified and shall consider acquiring and developing small neighborhood recreation areas as funds become available."

Notice of the Public Hearing was published in the *Coastland Times* on Thursday, December 22, 2011 and on Thursday, December 29, 2011 as required by law.

Attorney Leidy asked if any present were interested in commenting. The time was 10:18 a.m.

Comr. Sadler asked about restrooms and expressed her concern about the lack of restrooms; she also suggested moving some equipment around so that toddler activities will not be so close to adult activities.

Comr. Cahoon clarified with Ms. Welsh but felt more information was needed concerning the grant – which is for children's equipment but still includes elements for horse-shores, etc.

Comr. Sadler said that when the Plan became finalized, it should be submitted to the Tourism Board because at the time the Tourism Board approved the Plan, they wanted to clarify the site plan; Planning Director Teague stated that the new grant application will allow for more playground items - a lot depends on the amount of funding received – the hibachi courts can be moved around for a buffer between different age groups; she spoke of the lack of a restroom facility and stated that initially porta-johns will probably be utilized. Ms. Teague said further that the PARTF Grant staff recommended that the Town stay with a small grant in order to have a better chance of procuring the grant.

Richard Murphy, Nags Head resident; he spoke of the 13 – 18 year age group; he has learned of the peer pressure to do things not normally do because they are idle – he was concerning that there was not as many things for this age group; he would be willing to work on a committee to make this work for the older age groups of children; he feels that this should be reviewed for the benefit of the Outer Banks.

Ralph Buxton, Nags Head resident; he supported the playground grant application to PARTF; playgrounds came up very high on the list for the Recreation Plan Committee; he encouraged the Board to move forward on the grant application as presented.

There being no one else present who wished to speak, Attorney Leidy closed the Public Hearing at 10:41 a.m.

MOTION: Comr. Cahoon made a motion to adopt the resolution to apply for the PARTF grant for Whalebone Park as requested. The motion was seconded by Mayor Oakes which passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

The PARTF grant application resolution, as adopted, read in part as follows:

“WHEREAS, the 2010 Land Use Plan states that the “Town shall actively plan and seek funds for the development of recreational uses to meet the needs of Town residents of all ages,” and shall form a recreation committee to assist in identifying recreational needs and opportunities; and

‘WHEREAS, in March of 2011the Town’s Board of Commissioners appointed Parks and Recreation Committee to give the Town guidance in developing the Town’s recreational opportunities for its citizens; and

‘WHEREAS, from the early spring until the fall of 2011, the appointed Parks and Recreation Committee drafted a Parks and Recreation Plan with information obtained from public meetings and surveys developed to gather input from Town residents; and

‘WHEREAS, at a duly advertised Regular Meeting on January 4, 2012 the Board of Commissioners held a public hearing on the draft Parks and Recreation Plan; and

‘WHEREAS, the Board of Commissioners of Nags Head, North Carolina find the goals and objectives of the draft Parks and Recreation Plan Plan to be consistent with the Town’s 2010 Land Use Plan and desired vision for the future,

‘NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners of the Town of Nags Head, North Carolina, adopt the draft Parks and Recreation Plan document as the Town’s Parks and Recreation Plan to provide the vision, goals, and objectives for future decision-making regarding parks and recreation planning within the Town.”

Public Hearing to consider adoption of a Zoning Ordinance Text Amendment submitted by Mr. Robert Hornik of the Brough Law Firm on behalf of Overrun I, LLC (Nicholas Nuzzi) to amend Town Code Section 48-328(d), Architectural and Interior Lighting

Mayor Oakes noted that the Public Hearing will take place at today’s meeting but the applicant has requested that action taken be delayed until the January 2012 mid-month meeting when all Board members are expected to be present.

Attorney John Leidy introduced the Public Hearing concerning a text amendment for lighting at 11:02 a.m.

Code Compliance Officer Kim Allen summarized his memo which read in part as follows:

“SUBJECT OR MOTION(S):

1. Motion to Open/Close the Public Hearing
2. Motion to recommend adoption of Zoning Ordinance Text Amendment request by Nick Nuzzi, to amend Town Code Section 48-328(d), Outdoor Lighting, to increase architectural light levels and allow up-lighting walls by fixtures on roofs.
3. Motion to recommend adoption of a Statement of Consistency.

‘BACKGROUND:

Last winter, Nick Nuzzi of Overrun I, LLC renovated the interior and exterior of Dairy Queen. Exterior improvements included removing the neon lighting along the edge of the roof, covering the metal sided building with EIFS (synthetic stucco), and replacing the canvas awning with Nags Head style porches. His improvements made the building more conforming to Town Ordinances.

‘He is now requesting a zoning ordinance text amendment for two aspects of Town Code Section 48-328(d) Outdoor Lighting, specific lighting application standards. The first is to increase architectural light levels from 1 averaged footcandle level to 10. The second is to allow up-lighting walls by fixtures along the roofline which would point back at the parapet walls. The purpose behind Mr. Nuzzi’s request is to address his concern that the visibility of his business has decreased, and he would like to better illuminate his business from the US 158 roadway.

‘Currently, walls may be illuminated by fixtures mounted on the building and directed to the wall surface. Up-lighting wall surfaces may only be achieved by ground mounted fixtures to eliminate the potential of entire roofs, becoming the structure highlighting feature. Roof sign lighting is not permitted for this reason. Maximum allowable light level for walls at building entrances is currently 5 averaged footcandles. Light level for other walls is 1 averaged footcandle. Light level for porch areas is 12 averaged footcandles.

‘At the Planning Board Meeting, the Planning Board membership discussed with Mr. Nuzzi and his attorney, Mr. Hornick, their willingness to support his request for improved visibility through more lighting. However, they also wanted to support the Town’s goals of maintaining a “dark sky” to the greatest extent possible and suggested a compromise (see below).

‘STAFF RECOMMENDATION:

Staff recommends denial of the requested text amendment as presented originally by Mr. Nuzzi because the intent of the outdoor lighting ordinance is to eliminate sources of glare, minimize light levels and limit sources of light that contribute to sky glow. Some allowances for up-lighting, such as architectural lighting, are already included in the ordinance but only at minimum light levels. Increasing light levels and adding more sources of up-lighting detracts from the nighttime environment and conflicts with the definition of structural highlighting.

However, staff would be amenable to maintaining the footcandle level allowed for an entrance (5 footcandle) to also apply for parapet walls that may exist on all sides of a building to improve visibility for this type of structure. This is a compromise to Mr. Nuzzi’s original request for an increase from 1 averaged footcandle, to 10 averaged footcandle for each of the parapet walls. Staff feels that this is too high of a footcandle level and would create glare and skyglow. However, a 5 footcandle level

would mitigate that concern, but still allow Mr. Nuzzi additional illumination. Adoption of this ordinance is estimated to impact 16 other structures in Town which also have parapet walls.

'PLANNING BOARD RECOMMENDATION:

At their December 13, 2011 meeting the Planning Board voted unanimously to recommend adoption of a text amendment with revisions from the Planning Board. Mr. Nuzzi's original request and the version recommended by the Planning Board are provided separately for your review."

Notice of the Public Hearing was published in the *Coastland Times* on Thursday, December 22, 2011 and on Thursday, December 29, 2011, as required by law.

Planning Board member Marvin Demers spoke; he stated that the Planning Board felt that the ordinance as written was restricting the owner from illuminating that part of the wall above the porch roof and it SHOULD be illuminated.

Mayor Oakes confirmed with Mr. Allen that driveway lighting is allowable.

There being no one else present who wished to speak, Attorney Leidy closed the Public Hearing at 11:19 a.m.

MOTION: Comr. Cahoon made a motion to table discussion/action on the architectural and interior lighting text amendment submitted by Nick Nuzzi until the January 25, 2012 mid-month meeting when all Board members are expected to be present. The motion was seconded by Comr. Sadler which passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

Public Hearing to consider approval of a Site Plan/Conditional Use Application submitted by James and Wendy Lewis of the Ark International Church to operate a Child Day Care Facility within the existing religious complex. The property is zoned SPD-20 and is located at 113 W. Villa Dunes Drive, Nags Head

Attorney John Leidy introduced the Public Hearing – a quasi judicial public hearing – concerning a site plan/conditional use application for a child day care facility in the Ark International Church at 11:21 a.m.

Town Clerk Carolyn Morris swore in Planning Director Elizabeth Teague, Zoning Administrator Kelly Wyatt, applicant Wendy Lewis, and Ms. Cameron, operator of the facility.

Zoning Administrator Kelly Wyatt summarized her report which read in part as follows:

'GENERAL INFORMATION

Applicant: James & Wendy Lewis of the Ark International Church

Application Request: Site Plan/Conditional Use.

Purpose: Location of a child care facility within an existing religious complex.

Property Location: 113 W. Villa Dunes Drive, Nags Head.

Existing Land Use: Religious Complex

Zoning Classification of Property: SPD-20, Special Environmental District

'Zoning Classification of Surrounding Properties: Property immediately north of the site is zoned SPD-20, Special Planned Development, additional property north directly across W. Villa Dunes Drive is zoned C-2, General Commercial (Nags Head Professional Center). Property west and south of the site is zoned SPD-20 and is vacant and developed residentially. Property to the east and directly across South Croatan Highway is zoned R-3 High Density Residential and developed as such.

'Land Use Plan Map/Policies: Land Use Plan classification for this property is Institutional/Religious. This proposal is consistent with this land use classification and additionally consistent with stated land use policies.

'SPECIFIC INFORMATION

Applicable Zoning Regulations:

- Use Regulations: Child Day Care Center as an Accessory use to Religious Complex is a conditional use within the SPD-20, Special Planned Development District (Section 48-441(c)(1)(f) attached).
- Lot Coverage- The existing facility and existing site improvements are adequate for this use, no additional lot coverage is necessary.
- Building Height- The maximum allowable height is 35 ft. from grade. The height of the existing building is compliant with this building height.
- Architecture Design Standards: Religious Complex is exempt from architectural design and there will be no changes to the exterior of the structure.
- Parking: The parking standard for child day care center is one parking space per employee, plus one parking space for each six children of licensed capacity. The hours of operation for the day care use (Monday – Friday; 7:30am – 5:30pm) will not conflict with regular church operational hours therefore, existing onsite parking will accommodate the proposed use. A condition noted in 48-441(c)(1)(f) states that pick-up and drop-off areas shall be provided separate from the drive aisles and designed so that no child is required to cross the parking lot or any other traffic areas. As shown on the attached site plan the applicant has designated the area directly in front of the building as the pick-up and drop-off area which satisfies this condition. Parking is compliant.
- Buffering/Landscaping: A condition of approval is that all outdoor recreation areas shall be buffered from adjacent residential uses and districts with a Buffer Yard C. Furthermore, the buffer shall be placed on the exterior side of any required fencing. Adequate landscaping currently exists on-site and the above condition has been met.

- Lighting: The lighting standard for religious complex is low level lighting standards. Child care facility requires medium level lighting. Planning staff will conduct a light audit at this location to determine if existing lighting is compliant.

Water and Sewage Disposal: The Dare County Health Department has reviewed and issued tentative approval this request (memo attached).

Stormwater Management: The Stormwater Management plans for this building have been previously approved and will not be affected by this request.

Traffic Circulation: Traffic circulation has been previously approved and this request should have no adverse impact on the traffic circulation.

Fire: Project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance, this includes exit doors and age appropriate restroom facilities.

Public Works: The Public Works Department has reviewed and approved the proposed plan.

ANALYSIS

The proposed use is compliant with lot coverage, building height, parking, landscaping and lighting. The Town Engineer, Fire Department and Public Works Department have reviewed and approved the proposed plan.

STAFF RECOMMENDATION

Staff recommends approval of the site plan/conditional use application as presented."

PLANNING BOARD RECOMMENDATION

At their December 13, 2011 meeting the Planning Board voted unanimously to recommend approval of the site plan/conditional use application as presented.

The Board of Commissioners is required to make the following affirmative findings of fact for this and all conditional use applications. Staff feels the following findings can be determined:

1. The applicant has met the requirements of the Town of Nags Head Zoning Ordinance, Subdivision Ordinance and other applicable ordinances.
2. The use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted.
3. The use as proposed will not overburden the fire fighting capabilities and the municipal water supply capacity of the Town."

Notice of the Public Hearing was published in the *Coastland Times* on Thursday, December 22, 2011 and on Thursday, December 29, 2011, as required by law.

Ms. Wyatt noted that Wendy Lewis and Ms. Cameron were present. Ms. Wyatt also noted that Sheila Davies was present earlier today but had to leave and passed on that she was in support of the request.

Wendy Lewis, pastor's wife at the Ark International Church; she indicated that the recreational area for the children was fenced in and the pick up and drop off areas are under a canopy.

There being no one else present who wished to speak, Attorney Leidy closed the Public Hearing at 11:27 a.m. Attorney Leidy noted that specific findings of fact are required to be made for this application.

MOTION: Comr. Cahoon made a motion to approve the site plan/conditional use application for a child day care facility in the Ark International Church and to make the following required findings of fact:

- That the applicant has met the requirements of the Town of Nags Head Zoning Ordinance, Subdivision Ordinance and other applicable ordinances,
- That the use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted,
- That the use as proposed will not overburden the fire fighting capabilities and the municipal water supply capacity of the Town.

The motion was seconded by Comr. Walters which passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

REPORTS AND RECOMMENDATIONS FROM THE PLANNING BOARD AND THE PLANNING AND DEVELOPMENT DIRECTOR

Consideration of preliminary minor subdivision application submitted by John DeLucia of Albemarle & Associates on behalf of Michael Kelly for a two-lot subdivision within Nags Head Woods

Zoning Administrator Kelly Wyatt summarized her report which read in part as follows:

“Mr. John Delucia of Albemarle & Associates, Ltd. has submitted this Minor Subdivision Plat Approval on behalf of Michael Kelly. The lot is located at 436 W. Villa Dunes Drive within Nags Head Woods and is located within the SED-80 and SPD-20 Zoning Districts. The applicant has proposed to divide this existing 3.98 acre lot into two (2) lots, both meeting the minimum lot area of 80,000 square feet and 20,000 square feet for single family dwelling development respectively.

‘The Public Works Department has reviewed and approved the proposed subdivision.

‘The Fire Department has reviewed and approved the proposed subdivision; please see attached e-mail correspondence from Chief Steve Kovacs with clarifying information from the Department Of Insurance.

‘Staff Recommendation

Staff has conferred with the Town Attorney and has concluded that being there are no required site improvements (i.e.: roads, water connection, lights, etc.) and no improvements required for dedication to the Town for the creation of these two lots, that there is no need to require that the applicant re-appear before the Planning and Board of Commissioners to receive Final Subdivision Plat

Approval. Staff would therefore recommend approval of both the Preliminary and Final Subdivision Plat as presented.”

Ms. Wyatt noted that Michael Kelly and John DeLucia were present.

In response to Comr. Sadler, Ms. Wyatt said that road was separate and not a requirement of the subdivision request; Mr. DeLucia stated that the driveway was being relocated, a recombination plat is being prepared.

Attorney Leidy stated that since there are no changes between the pre and the final plat, that the recombination plat should be conditioned upon approval by the Planning Director – instead of having to come back to the Board of Commissioners.

MOTION: Comr. Sadler made a motion to approve both the preliminary and final plats for the two-lot subdivision in Nags Head Woods requested by Michael Kelly with the condition that the recombination plat be approved by the Planning Director. The motion was seconded by Comr. Walters which passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

Update on December 7, 2011 Public Hearing actions – Beach chair/umbrella rentals

The agenda summary sheet concerning the Public Hearing actions from the December 7, 2011 Board of Commissioners meeting read in part as follows:

“At the January 4, 2012 Board of Commissioners meeting, Planning Director Elizabeth Teague will provide a verbal update on staff actions following the December 7th Public Hearings.

‘Ms. Teague has indicated that the Planning Board has assigned volunteers to work on two adhoc committees regarding digital signage and Beach and Umbrella Chair rentals. It is expected that the Planning Board and Planning and Development Department staff will be having round table discussions on these items at the January 2012 Planning Board meeting and staff expects to bring back recommendations to the Board of Commissioners in March 2012 at the latest.”

Update on December 7, 2011 Public Hearing actions – Beach chair/umbrella rentals

Planning Director Teague updated the Board that stakeholders Village at Nags Head, the Planning Board (Marvin Demers and the new Planning Board member to be appointed); and Thomas Musica and Courtney Fowler are to serve on this sub-committee; Ocean Atlantic has been contacted – for a meeting within the next two weeks. A meeting has been set for this week with Village staff to address their specific concerns related to this issue. Formal appointments and public notice of all meetings will be required; Thomas Musica, Courtney Fowler and Marvin Demers are to be formally appointed by the Board with any additional names to be added at the January mid-month meeting.

MOTION: Comr. Cahoon made a motion, seconded by Comr. Sadler, to appoint Marvin Demers, Courtney Fowler, and Thomas Musica to the Beach Chair/Umbrella rentals sub-committee.

Ms. Teague stated that it is hoped that the new member of the Planning Board (when appointed) and a representative from Ocean Atlantic Rentals will also be interested in participating. She asked if anyone was interested in serving in this capacity to please contact the Planning Department.

CONTINUATION OF MOTION: The motion passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

Update on December 7, 2011 Public Hearing actions – Digital signage

Planning Director Elizabeth Teague updated the Board that new technology has emerged in the digital signage arena; the Planning Board appointed Pogie Worsley and Tom Haddon and she would like to include a representative from the Outer Banks Mall (Betty Blanchard or Lois Williams) but she has not yet heard back from them. Ms. Teague asked if anyone was interested in serving in this capacity to please contact the Planning Department.

Mayor Oakes suggested waiting until after the next agenda item re: second reading of the proposed digital signage ordinance before appointing a Digital Signage sub-committee.

Second Reading - to consider adoption of Zoning Ordinance Text Amendments to Town Code Section 48-8, Definitions and Town Code Section 48-324, Prohibiting LED and Digital Signage – from December 7, 2011 Board meeting

Attorney Leidy explained that this second reading came forward because the original vote on the text amendment concerning digital signage did not include the four (4) positive votes required for first-time ordinance adoption – at this time, just a simple majority is needed to adopt the ordinance.

The agenda summary sheet read in part as follows:

“At the December 7, 2011 Board of Commissioners meeting, a Public Hearing was held to consider adoption of amendments to the Town Code concerning LCD, LED and other digital signage – After discussion, the Board requested that staff prepare an ordinance combining their ideas.

‘Later in the Board meeting, Planning Director Elizabeth Teague presented a revised ordinance for Board review. The Board passed a motion 3 – 0 (Mayor Pro Tem Remaley cast the NO vote and Comr. Sadler was not present) to adopt the ordinance which prohibits LED, LCD or plasma signs that project imagery or moving imagery.

‘A positive four (4) votes are required for first-time adoption of an ordinance, therefore, the attached ordinance is being brought back for a Second Reading at the January 4, 2012 Board meeting.’”

Ms. Teague explained that the Planning Board had brought forward an ordinance with a complete prohibition of all digital signage; after Board discussion the ordinance was modified at the end of the December 2011 Board meeting and adopted – clarification was added so that banks with their alternative date/temperature signage would be allowed.

MOTION: Comr. Cahoon made a motion to deny the second reading of the ordinance. The motion was seconded by Comr. Sadler.

Comr. Cahoon explained that she wants the second reading of the digital sign ordinance denied because no specific size limits were included in the ordinance.

CONTINUATION OF MOTION: The motion to deny the second reading of the digital signage ordinance passed 3 – 1 (with Mayor Oakes casting the NO vote; Mayor Pro Tem Remaley was not present.).

MOTION: Comr. Cahoon made a motion to adopt the Planning Board recommended ordinance as presented at the December 7, 2011 Board of Commissioners meeting and to adopt the Statement of Consistency. The motion was seconded by Comr. Sadler.

Ms. Teague summarized that the Planning Board's ordinance with a complete prohibition of digital signage was just adopted; the sub-committee is to research and bring back a revised proposal for Board review/consideration at a later date.

CONTINUATION OF MOTION: The motion passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

NEW BUSINESS

Committee Reports

Comr. Sadler – Dare County Tourism Board: Comr. Sadler stated that she missed the December 2011 meeting of the DCTB but she understood that the news media reported adequately.

Comr. Walters – Seafood Festival Committee: Comr. Walters said that she has been on the Seafood Festival Committee for some time and they are preparing for a festival this fall to take place on the former Windmill Point restaurant site.

Mayor Oakes – Colony Ridge/Britthaven Committee: Mayor Oakes stated that an informal meeting of the Town's half of the Colony Ridge Committee has met; a formal meeting of all members has been scheduled for January 30th; the lease agreement and the first year's rent has been received by the Town.

Consideration of Board/Committee appointments

The agenda summary sheet read in part as follows:

"Appointments to Planning Board

The Board will consider an appointment to the Planning Board at the January 4, 2012 Board of Commissioners meeting to replace former member Susie Walters who was elected to serve as Nags Head Commissioner in the November 8, 2011 election. In addition, Tom Haddon's term expired in

November 2011 – he would like to be considered for reappointment if the Board is willing. Current alternate, Barbara Gernat would like to be considered for regular appointment. Attached please find a current Planning Board roster, and a listing / application from those interested in serving.

Local Firemen's Relief Fund Board of Trustees

Jo Fessler's term as a member of the Local Firemen's Relief Fund Board of Trustees expires January 2012; Ms. Fessler has indicated that she is willing to be reappointed - if no one else is found to be interested.

Annual appointment of Board of Adjustment Chair/Vice-Chair

Reappointment of Jack Cooper and Margaret Suppler as Chair/Vice-Chair, respectively, of the Board of Adjustment. Both are willing to continue in these capacities."

Appointments to Planning Board

Comr. Sadler – she would like to postpone the appointments to the Planning Board to a future Board meeting – when all Board members are present.

Comr. Walters said that she would like to see the action for appointment to the Planning Board move forward.

MOTION: Comr. Walters made a motion to appoint alternate Barbara Gernat to the regular position on the Planning Board. The motion was seconded by Mayor Oakes.

Comr. Sadler nominated Toni Parker to the regular position on the Planning Board. Comr. Cahoon seconded Comr. Sadler's nomination.

There being no further nominations, Mayor Oakes called for the vote which was:
Barbara Gernat – 2 votes; Toni Parker – 2 votes

Comr. Sadler requested an updated list of those interested in serving for the next Board of Commissioners meeting – she noted that resident Richard Murphy would like to submit an application. She stated that she would prefer to address the appointments when all Board members are present.

Comr. Walters pointed out that the current Planning Board alternate, Barbara Gernat, has served the Planning Board well over the years.

Local Firemen's Relief Fund Board of Trustees

MOTION: Comr. Cahoon made a motion to appoint Jo Fessler to another term on the Local Firemen's Relief Fund Board of Trustees. The motion was seconded by Comr. Sadler which passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

Annual appointment of Board of Adjustment Chair/Vice-Chair

MOTION: Comr. Cahoon made a motion, seconded by Comr. Walters, to appoint Jack Cooper and Margaret Suppler as Board of Adjustment Chair and Vice-Chair respectively. The motion passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Town Attorney – Cherry Inc. litigation

The Cherry Inc. litigation is a nuisance structure enforcement case. Town Attorney Leidy stated that next week, January 12, 2012, the case is to be considered by the Court of Appeals; an oral argument will be heard at that time in Raleigh.

Town Attorney – Fisher et al litigation

The case against the Town by the Fishers et al was originally dismissed by the court and subsequently appealed by the Fishers; Attorney Leidy stated that Town response is due next Friday, January 13, 2012.

Town Attorney Leidy - Request for Closed Session

Town Attorney Leidy requested a Closed Session to preserve the attorney/client privilege with a discussion of the Sansotta litigation and condemnation actions to include the Fisher et al and Margaret Burch litigation cases.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager – Request for Closed Session

Town Manager Ogburn requested a Closed Session to discuss the possible acquisition of real property (Dowdy Go-Cart track) located at 3006 S Virginia Dare Trail – Lots 8, 9, 16, and 17 – next to Tortuga's Lie Restaurant.

Town Manager - Consideration of replacement trash cart policy

Town Manager Ogburn reviewed with Board members the proposed ordinance re: replacement/repair of automated trash carts. The agenda summary sheet read in part as follows:

"Pursuant to several questions and concerns raised regarding rollout carts, Town staff has prepared updates to the Town Ordinance and the Sanitation Policy. Staff recommends that the Town replace carts within 10 years of purchase if the cart should fail through wear and tear and not as a result of damage. Carts older than 10 years however, must be replaced at the owner's expense.

'Changes to the Town Code will require Board action. Updates to the Sanitation Policy are administrative changes to ensure that policies and procedures are up to date.'

Comr. Sadler confirmed with staff that the price of a rollout cart is currently \$66; Town Manager Ogburn said that the cost may go up for a higher quality cart. Comr. Sadler confirmed with Dep Public Works Director Ralph Barile that the automated carts under warranty are under ten (10) years old.

Dennis Mabe, Northridge Subdivision resident; he said that when hydraulic lift of the refuse truck picks up the cart, there is too much pressure put on the carts which is why they crack.

Doug Langford, Northridge Subdivision resident; his cart has been damaged and he feels that the carts in the Town are of sub-standard quality.

Jim Boyd, Northridge Subdivision resident; he questioned the Town's policy because he purchased a cart for \$65 recently and he has been at his address for less than 10 years.

Mayor Oakes pointed out that everyone had the same goals.

Richard Murphy, South Nags Head resident; he agrees with Mr. Barile that the amount of weight in the carts is related to the refuse truck crushing the carts; he waits until his carts are full before placing them out for pick-up.

Jim Boyd, Northridge Subdivision resident; he wanted to point out that the Public Works sanitation staff does a great job.

MOTION: Comr. Walters made a motion to adopt the ordinance concerning the replacement automated cart policy as presented. The motion was seconded by Comr. Sadler which passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

The ordinance concerning the replacement of automated refuse carts, as adopted, is attached to and made a part of these minutes as shown in Addendum "D".

Town Manager Ogburn - Approval of contract

Public Works Director Dave Clark summarized the process for the bids received to repair the Hurricane Irene-damaged Sound access sites; the contract presented detailed the request.

MOTION: Comr. Cahoon made a motion to award the contract to Earth Savers in an amount not to exceed \$56,500 as requested/presented in the contract. The motion was seconded by Comr. Sadler which passed 4 – 0 (Mayor Pro Tem Remaley was not present.).

CLOSED SESSION

MOTION: Mayor Oakes made a motion to enter Closed Session to confer with the Board's attorney to preserve the attorney/client privilege, and to discuss the acquisition of real property – the Dowdy Go-Cart track property - located at 3006 S Virginia Dare Trail (lots 8, 9, 16, and 17) in accordance with GS 143-318.11(a)(3) and (5) respectively. The motion was seconded by Comr. Sadler which passed 4 – 0 (Mayor Pro Tem Remaley was not present.). The time was 12:36 p.m.

OPEN SESSION

The Board re-entered Open Session at 2:32 p.m. Town Attorney Leidy reported that during Closed Session the Board discussed with the Town Attorney the Cherry, Inc., Sansotta, Margaret Burch, and Fisher et al litigation and did give some direction to the Town Attorney; the Board also discussed with the Town Attorney potential but not pending litigation as well as the potential acquisition of the Dowdy Go-Cart track property located at 3006 S Virginia Dare Trail (lots 8, 9, 16, and 17) but no further action was taken.

ADJOURNMENT

Mayor Oakes stated that the Board of Commissioners was in recess until the Board Retreat on Thursday, January 12, 2012 at 9:00 a.m. in the rental house located at 4801 Engagement Hill Loop on S Virginia Dare Trail. The time was 2:35 p.m.

Carolyn F. Morris, Town Clerk

Approved: February 1, 2012

Mayor: _____
Robert O. Oakes, Jr.



**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that Chapter 48, Zoning, of the Code of Ordinances shall be amended as follows:

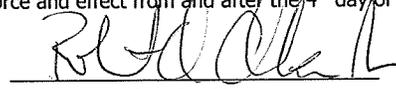
PART I. That **Section 48-282(6) Signs and Outdoor Advertising Structures, Prohibited Signs** be amended as follows:

- (6) Prohibited signs.
- a. No sign shall be located within a public right-of-way except for street identification signs and official traffic control signs.
 - b. No sign shall be erected or maintained which is a copy or imitation of an official highway sign and carrying the words "STOP" or "DANGER."
 - c. No sign, business sign or outdoor advertising structure shall be erected which contains, employs or utilizes lights or lighting which rotates, flashes, moves or alternates; except that time and temperature displays without electronic advertising matter are permitted but must be included in computing allowable signage. Continuous printout, running or ticker-tape type message panels or signs are prohibited.
 - d. No sign shall be erected which contains rotating sign panels.
 - e. No sign shall obstruct visibility at an intersection or driveway as regulated in section 48-79.
 - f. No sign shall be posted on any telegraph, telephone or electrical light pole or on any tree along any street.
 - g. No sign shall be permitted that obstructs ingress and egress to any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any room or building.
 - h. No sign shall be permitted that violates any provision of any law of the state relative to outdoor advertising.
 - i. All outdoor advertising signs or structures are prohibited.
 - j. Signs supported in whole or in part by water, air or gas are prohibited.
 - k. No real estate sign on property abutting a public trust area shall be directed toward any public trust area as defined by CAMA.
 - l. All pennants are prohibited, effective December 6, 1995.
 - m. Use of exposed neon, argon, krypton, or similar gas tube lighting shall be prohibited in all manner except as provided in section 48-284(2) e.
 - n. Tourist-oriented directional sign (TODS).
 - o. Three dimensional sculptured objects and pictorial devices attached to and extending more than 12 inches beyond any wall or roof of a building in business use. Attached sculptured objects and pictorial devices extending 12 inches or less from a building wall or building roof shall be classified as a business wall sign or roof sign and shall be subject to all regulatory requirements of this chapter pertaining to such signs.
 - p. Roof signs within the SPD-C, Village at Nags Head C-1, C-2, hotel and institutional districts.
 - q. **LED and Digital signs.**

PART II. That **Section 48-7 Definitions** be amended as follows:

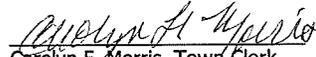
Digital sign means any sign featuring electronic display or moving images created by incandescent, LCD, Plasma, LED or projected images for any purposes other than traffic control devices. This definition is intended to include any sign containing incandescent lights or exposed light bulbs used as a message or reader board, or to project images. This definition does not include LED technology used only for the purpose of illuminating a structural sign face.

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 4th day of January 2012.



Robert O. Oakes, Jr., Mayor
Town of Nags Head

ATTEST:


Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney



Date adopted: January 4, 2012

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS

**TOWN OF NAGS HEAD
STATEMENT OF CONSISTENCY
WITH THE LAND USE PLAN FOR A ZONING TEXT AMENDMENT**

BE IT HEREBY RESOLVED by the Board of Commissioners for the Town of Nags Head, that in accordance with provisions of North Carolina General Statute 160A-383, the Board of Commissioners hereby finds and determines that the adoption of the requested zoning text amendment to prohibit digital signs.

Is consistent with the goals, objectives and policies of the Town's adopted Land Use Plan, and that this action is reasonable and in the public interest because it addresses an emerging concern related to community appearance (p. 104)

READ, APPROVED AND ADOPTED by a vote of 4 – 0 (Mayor Pro Tem Remaley was not present.), this the 4th day of January 2012.



Robert O. Oakes Jr., Mayor

ATTEST:


Carolyn Morris, Town Clerk

Cliff Ogburn, Town Manager

DIGITAL BILLBOARD OR SIGN: A computerized display that may be changed or updated remotely and utilize video or other changing images. Also known as "electronic variable message signs" or video advertising.



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

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

Date: March 15, 2024

Subject: Discussion and initiation of text amendments related to installation of netting as a barrier to deter stray golf balls from impacting private property.

Overview

The town has occasionally received communications from property owners within the Village at Nags Head SPD-C District or those adjacent to Nags Head Golf Links regarding stray golf balls impacting their private property. Recently, we have had extensive communication with Michael Muller, the property owner of 6316 Bob White Avenue, Nags Head. Mr. Muller reached out to the town seeking advice on how to address the repeated damage to his property caused by stray golf balls.

Upon contacting the General Manager of Nags Head Golf Links to relay the homeowner's concerns, we were informed that it is typically the golfer's responsibility to address any damage to private property.

To mitigate the issue of stray golf balls, Mr. Muller has inquired about the necessary steps to install netting as a barrier adjacent to his home. Based on the examples he provided, this netting would be 20 feet high and 30 feet wide, supported by telescoping flag poles.

Examples of the proposed netting and telescoping flagpole can be found [\[HERE\]](#) and [\[HERE\]](#), respectively.

The current Unified Development Ordinance (UDO) does not address this type of structure. While the intended purpose of the structure is similar to that of a fence, the maximum fence height allowed is 6 feet, which Mr. Muller has noted would not provide the level of protection he seeks.

Given Mr. Muller's proposed solution, staff recognizes that such a measure could benefit more properties than just Mr. Muller's. Therefore, we are requesting that the Planning Board initiate the text amendment process. This would allow the Planning Staff to begin researching and seeking additional guidance on future amendments to accommodate Mr. Muller's request and similar situations.

Planning staff will be available at the Planning Board's March 19th meeting for further discussion.

Kelly Wyatt

From: Kelly Wyatt
Sent: Thursday, August 17, 2023 9:06 AM
To: Andy Garman; Mike Muller
Subject: RE: Nags Head Golf Links

Good Morning Mr. Muller –

I hope you are doing well today. I just wanted to update you, I have contacted Mr. John Mebane, Superintendent at the Golf Links to explain the concern and to inquire about what mitigation efforts they could consider. When I hear back, I will relay that information to you immediately.

Thank you so much,
Kelly

Kelly Wyatt
Director of Planning & Development
Office: 252-449-6042
Email: Kelly.wyatt@nagsheadnc.gov



From: Andy Garman <Andy.Garman@nagsheadnc.gov>
Sent: Friday, August 11, 2023 5:04 PM
To: Mike Muller <mmuller@dpsincva.com>
Subject: RE: Nags Head Golf Links

Mr. Muller,

I have forwarded your concern to a staff member who is looking into this. She will be in touch early next week.

Thank you.

Andy Garman
Town Manager
252.449.2006
252.619.0437 (m)



From: Mike Muller <mmuller@dpsincva.com>
Sent: Friday, August 11, 2023 8:15 AM

To: Andy Garman <Andy.Garman@nagsheadnc.gov>

Subject: Nags Head Golf Links

Dear Mr. Garman,

I own a home at 6316 S. Bobwhite Avenue in Nags Head. My house is next door to The Villages at Nags Head Village and the Nags Head Golf Links course. My house is not in the golf club community but is located on the left side of hole number 4. Since I purchased the house in March, 2017 my house and my personal property has suffered multiple damages from the golf course resulting in thousands of dollars in damages.

My house has over 30 broken pieces of siding, two broken windows, broken chairs and multiple dents from errant gold balls. July of this year 2023 and last year 2022, my new 2021 Dodge Ram truck was struck by golf balls that broke the rear window and dented the body (2023) and last year broke out the sun roof. Other vehicles; family, friends and contractors have also received damages from the golf balls (broken tail light, a dent in the side of a vehicle and a broken windshield.) I have golfers playing their ball from my front yard, golf carts running through my yard and down the street searching for their ball.

Over the 5 years span I have accumulated several hundred golf balls. Each visit to my vacation home I find additional damage and golf balls in my yard and in my pool. On several occasions, golf balls have barely missed hitting someone in our yard and pool.

Calls to Nags Head Golf Links course and visits to speak to the manager have gone unanswered. I think it's about time that Nags Head Links or the Town of Nags Head to take action and do something before someone is seriously injured or dies from an errant ball. It should be the responsibility of the golf course to keep gold balls within their property limits by providing adequate tree coverage and or netting. Any suggestion or advise would be greatly appreciated.

Respectfully,

Michael & Virginia Muller

6316 S. Bobwhite Ave,

Nags Head, NC 27959

Kelly Wyatt

From: Jt Symons <Jt.Symons@invitedclubs.com>
Sent: Wednesday, September 6, 2023 11:18 AM
To: Kelly Wyatt; John Mebane
Subject: Re: Stray golf ball concerns.

Good Morning Kelly!

My apologies for the late response. It's nice to finally be past Labor Day! With regards to the homeowner's concerns, it is the golfer's responsibility for any damage to private property. We share this message with golfers when they arrive. Sometimes when damage occurs, they will report it to us, and we will notify the owner. It unfortunately, doesn't always happen. These are the unfortunate risks associated with owning a home next to a golf course. Their best solution would be to add trees, vegetation, or even a net for protection on their property, however, I do not know what restrictions there might be within that neighborhood. Thank you for following back with me and I apologize again for the late response!!

Have a great day!



J.T. Symons, PGA
General Manager

The Currituck Club | Nags Head Golf Links | Village Beach Club
e: Jt.Symons@invitedclubs.com o: 2524539400 ext. 1

From: Kelly Wyatt <Kelly.Wyatt@nagsheadnc.gov>
Sent: Wednesday, September 6, 2023 11:01 AM
To: John Mebane <John.Mebane@invitedclubs.com>; Jt Symons <Jt.Symons@invitedclubs.com>
Subject: RE: Stray golf ball concerns.

Good Morning Mr. Mebane and Mr. Symons – I am following up on this email request from mid-August, any updates?
Thank you,
Kelly

Kelly Wyatt
Director of Planning & Development
Office: 252-449-6042
Email: Kelly.wyatt@nagsheadnc.gov



From: John Mebane <John.Mebane@invitedclubs.com>
Sent: Thursday, August 17, 2023 12:47 PM

To: Kelly Wyatt <Kelly.Wyatt@nagsheadnc.gov>; Jt Symons <Jt.Symons@invitedclubs.com>
Subject: Re: Stray golf ball concerns.

Hi Kelly, I have included our general manager Jt Symons in this response. He will be reaching out to you.

Have a Great Day



NAGS HEAD
~GOLF LINKS~

John Mebane
Superintendent

e: John.Mebane@invitedclubs.com **w:** nagsheadgolf.com

From: Kelly Wyatt <Kelly.Wyatt@nagsheadnc.gov>
Sent: Thursday, August 17, 2023 9:02 AM
To: John Mebane <John.Mebane@invitedclubs.com>
Subject: Stray golf ball concerns.

Good Morning Mr. Mebane,

I hope you are doing well today. I am not entirely sure you are the correct person to direct this to, if not, would you mind putting me in touch with the person who would be?

The Town has received a concern from a property owner on Bobwhite Avenue, just south of the Village Golf Course and Village Community District. The property owner is claiming that his home and his personal property (vehicles, etc.) has suffered multiple damages from stray golf balls from the course – broken pieces of siding, broken windows, broken windows of vehicle, dented body of vehicle, etc. While I don't believe the Town really has any say over this situation, I was hoping that the Village Golf Links personnel could look into this and see if there is anything that can or should be done to mitigate these types of damages. Landscaping, netting, I'm honestly not sure – but I was hoping you could give this some thought.

I told the property owner that I would contact the golf course and share the concerns. If you, or someone else can let me know stance the golf course is taking and if there is any consideration to mitigating these instances, please just let me know.

I appreciate your time and consideration.

Thank you,
Kelly Wyatt

Kelly Wyatt
Director of Planning & Development
Office: 252-449-6042
Email: Kelly.wyatt@nagsheadnc.gov



Kelly Wyatt

From: Chris Trembly
Sent: Wednesday, February 28, 2024 4:31 PM
To: the4mullers@aol.com
Cc: Kelly Wyatt
Subject: RE: 6316 Bobwhite.pdf

Thank you for the updated details. They will be very helpful in reviewing consistency with the Town Code. I will need to do some research and have some discussions within the planning department with this type of proposed development. I will get back to you the first of next week with the results of our discussions.

Christopher Trembly, CZO
Town of Nags Head
Planner and CAMA LPO
Direct: 252-449-6045
www.nagsheadnc.gov
chris.trembly@nagsheadnc.gov



From: the4mullers@aol.com <the4mullers@aol.com>
Sent: Wednesday, February 28, 2024 2:35 PM
To: Chris Trembly <Chris.Trembly@nagsheadnc.gov>
Subject: Re: 6316 Bobwhite.pdf

Hi Mr. Trembly;

The trees that I plan to have installed will hopefully eventually grow 15-20 feet tall by 4 feet wide. The plan is to install 8-10 arborvitae trees or similar along the property line and Forest Street.

The net would be installed directly behind the trees (on the house side of the tree line). The net is a golf ball net in black that would be 30 feet long and 20 feet tall. The net would hopefully be temporary until the trees mature enough to help stop the golf balls. The net would also be able to come down and put back up as needed when someone is at the property to help protect them and their vehicles from golf ball damage. The net will be similar to the link below;

https://www.amazon.com/Practice-Carabiners-Durable-Weatherproof-Baseball/dp/B0CN9SLKJK/ref=sr_1_21?crid=1QERT0U6BRXN3&dib=eyJ2ljojMSJ9.I zoQmku1BWd ynFrTX-PkXrAFbxWYOpJPn eRPXOa2ed7EuKoT1W2Aip5hb R4zcAcjQf9jW6qHaMy1cO4qQevxln3HMF0k FJRSC1TY-GLSY3D08vOPqR-NvVKOKIizAoKLL09FrwPEQbRMp4axy7LHWP3z4YO9hSXQ6h1zjuFBbX4VO7P58Zysvn1mQKc5r0 OcTUnyTx6tlEsA3dlYXIV3kWNxZemMyvOJrVC7GEjtzHvPZb 3ivroaMqgBvvQ7matm-6ZzhpCWoOxb6 eYpNSmxhIKwas1B2-J0dt2nv8.dRQL7zy7WUx2XE fcY8GQFqCHosme2msMfalbd4a jY&dib tag=se&keywords=golf%2Bball%2Bnetting%2Bfor%2Bhome%2Bprotection&qid=1709146120&sprefix=golf%2Bball%2Bnet%2Cps%2C92&sr=8-21-spons&sp_csd=d2lkZ2V0TmFtZT1zcF9tdGY&th=1&psc=1

The net would be supported by 3 flag poles that are 20 feet tall. The flag poles would also be removable as needed when using the net. The poles can be adjusted from 6 feet tall to 20 feet in height. The poles are black and withstand high winds. Similar to the link below:

https://www.amazon.com/DEPARTMENT-Telescoping-Telescopic-Flagpole-Residential/dp/B0C2DH74PJ/ref=sr_1_3?crd=OCO7XYOGC1T5&dib=eyJ2ljojMSJ9.OiBzA9yQSMSCa1oUBGjTjW5jeWn8gUopbqJ Bogy7F0-PriVUo1FPoAeOfEWZg9OIBUbAShI8nkCN-L0on6pjaVWzbf8EW3hILUpLg04equZ5PVSZCmQBbcuwsKQiBnDhEzsiG-Q5zWY51pXkpzleSB8ngJYKbE0ndoS84utoQR8k6Qzq3hvS0Qr8ga9xtDNHXcBP-WgQrE4De1kGCGEHMuGPXNTL02o0pKhCpzesZYqleVnIAuHux1mMZA KrpNn0S4nFpbiNFBDvCmudHyxg51X6obTeDY036KI7ggEU8.xBbKY-guhgrBxysMCC9EM52g18Ec0WhQitgdSW0Hbuc&dib_tag=se&keywords=flag+poles+in+ground+for+home&qid=1709146458&sprefix=flag+poles%2Caps%2C96&sr=8-3-spons&sp_csd=d2lkZ2V0TmFtZT1zcf9hdGY&psc=1

A net as high as a "fence" would not suffice in this case. I need something that will protect my vehicles, some of the house and anybody in the yard. I have already experienced damage to several vehicles:

2021 Ram moonroof, the rear sliding window and a dent in the upper cab, 2019 Hyundai Kona broken tail light, F150 contractors truck broken windshield, and a dent in the door panel of a friends Dodge Ram.

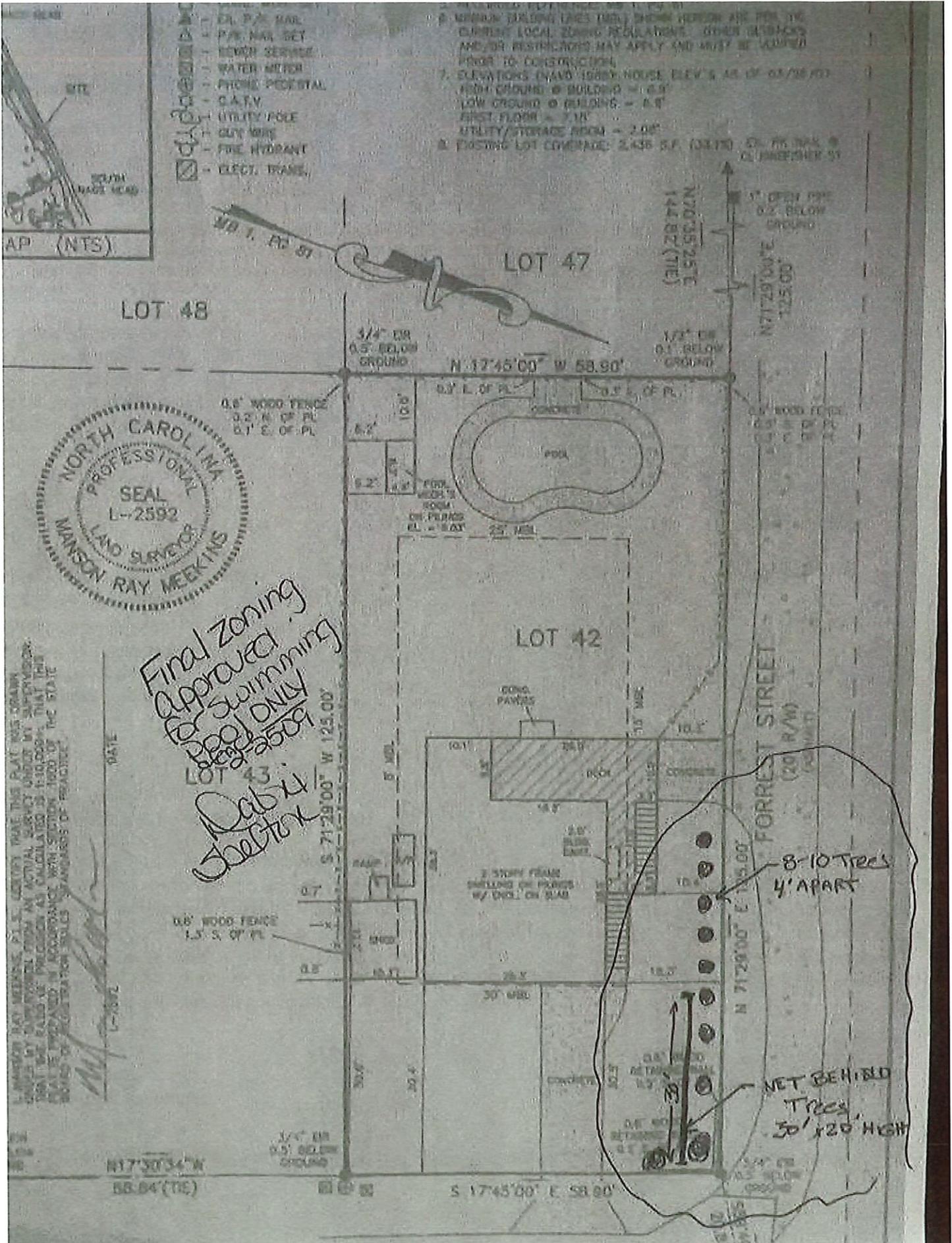
The house has several holes and damaged pieces of siding. The estimated cost to replace the siding on the house is over \$10,000. I had two broken windows in the past two years. I have collected several hundred golf balls in just the 6 years of owning the property. I find balls in the pool and on several occasions, golf balls have flown into the backyard while we were back there enjoying the pool. Someone is going to get seriously injured one of these days.

I have tried addressing the players, the golf course and the town of Nags Head. The golfers are just rude and will not admit to hitting the ball. The Town and Nags Head Links suggested the net idea. Personally I think it should be the responsibility of the golf course to help prevent these errant balls from leaving their property limits and damaging my home. If it was an "occasional" ball in the yard, I would be fine with that but this is well above normal or what one would expect.

Thanks for your consideration. Please let me know if you need anything else from me. I attached the plat with the trees and fence drawn in.

Respectfully,

Michael Muller
6316 S. Bobwhite Ave., Nags Head
703-932-6492



On Monday, February 26, 2024 at 12:26:16 PM EST, Chris Trembly <chris.trembly@nagsheadnc.gov> wrote:

Good evening Mr. Muller,

I have looked into your questions regarding trees and netting. The planting of trees within your property line is allowed and would not require a permit. The netting is not directly addressed in the Unified Development Ordinance (UDO), and most likely be held to the same height limits as a fence. Do you have more specifics on the netting you propose? What would be the location? What would be the height? How would the supporting structure be built? Do you have any pictures to convey your proposal? The netting proposed development may require a text amendment if the proposed height is higher than what would be required of a fence in the same location.

Thank you for your patience,

Christopher Trembly, CZO
Town of Nags Head
Planner and CAMA LPO
Direct: 252-449-6045
www.nagsheadnc.gov
chris.trembly@nagsheadnc.gov



From: Michael Muller <the4mullers@aol.com>
Sent: Monday, February 26, 2024 9:49 AM
To: Lily Nieberding <Lily.Nieberding@nagsheadnc.gov>
Cc: Chris Trembly <Chris.Trembly@nagsheadnc.gov>
Subject: Re: 6316 Bobwhite.pdf

Hi Chris,
I'm following up on our phone conversation from February 16th regarding any restrictions to planting trees along my property line and the gravel road section of Bobwhite Ave and a golf ball netting to prevent golf balls from hitting the house, my vehicles and hopes to protect my family and friends from errant golf balls.

Thanks for your time and looking into this.

Respectfully,
Mike Muller

Sent from my iPad

On Feb 16, 2024, at 5:00 PM, the4mullers@aol.com wrote:



**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 6th 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 7th 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 3rd 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 11th.

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 7th 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.



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: February 29, 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 March 6th, 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 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)

Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on Tuesday, February 20th, 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 19th 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 19th, 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 20th 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

the week of March 4th 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 30th. Staff intend to stop accepting new applications for sand relocation on or around April 15th 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 9th from 9am – noon at Dowdy Park.

Upcoming Meetings and Other Dates

- Tuesday, March 5th - Technical Review Committee Meeting
- Wednesday, March 6th - Board of Commissioners Meeting
- Saturday, March 9th – Winter Market at Dowdy Park from 9am – noon
- March 11th – 15th – Joe Costello at NFIP Training
- Wednesday, March 13th – Committee for Art and Culture Meeting
- Thursday, March 14th – Board of Adjustment Meeting (no hearings)
- Thursday, March 14th – CAMA Land Use Planning Webinar
- Tuesday, March 19th – Planning Board Meeting
- Wednesday, March 20th – 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
BUILDING PERMITS ISSUED - RESIDENTIAL						
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
Total Residential	54	64	37	289	284	5
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)	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
Total Commercial	13	10	7	47	45	2
Grand Total	67	74	44	336	329	7
SUB-CONTRACTOR PERMITS						
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
VALUE						
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
Sub Total Residential	\$2,465,094	\$3,393,561	\$1,400,398	\$17,320,997	\$21,795,257	(\$4,474,260)
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
Sub Total Commercial	\$561,068	\$177,350	\$401,993	\$3,087,992	\$8,173,368	(\$5,085,376)
Grand Total	\$3,026,162	\$3,570,911	\$1,802,391	\$20,408,989	\$29,968,625	(\$9,559,636)

**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
ZONING						
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
CAMA						
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
CODE COMPLIANCE						
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)
SEPTIC HEALTH						
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



Kelly Wyatt, Planning Director