



AGENDA

**Town of Nags Head Planning Board
Nags Head Municipal Complex Board Room
Tuesday, September 17th, 2024; 9:00 a.m.**

- A. Call To Order
- B. Approval Of Agenda
- C. Public Comment/Audience Response
- D. Discussion And Community Engagement Session
on potential allowance of Accessory Dwelling Unit (ADUs) within the town.

Documents:

[ADU DISCUSSION MEMO FOR PB.PDF](#)

- E. Action Items

- 1. Consideration Of Text Amendments
within the SPD-C, Village at Nags Head Commercial-1 Zoning Designation to
accommodate future construction of Dare County EMS Station.

Documents:

[VILLAGE C-1 EMS AMENDMENTS .PDF](#)

- F. Report On Board Of Commissioners Actions
September 4th, 2024

Documents:

[SEP 4 2024 BOC ACTIONS KW HIGHLIGHTS.PDF](#)

- G. Town Updates - As Requested

- H. Discussion Items

- 1. Continued Discussion
of minimum required parking standards for hotel uses and restaurant use.

Documents:

HOTEL PARKING STANDARD DISCUSSION FOR PB.PDF

2. Planning & Development Directors Report
August 28th, 2024

Documents:

DIRECTORS REPORT FOR SEPTEMBER BOC.PDF

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



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

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

Date: September 13, 2024

Subject: Public Input Session re: Potential Accessory Dwelling Unit (ADU) ordinance

In November 2023, during their Strategic Planning retreat, the Board of Commissioners directed the Planning staff to explore the development of an Accessory Dwelling Unit (ADU) ordinance that incorporates a range of optional provisions and regulatory standards. Accessory Dwelling Units (ADUs) are smaller, secondary housing units located on the same property as a primary residence. ADUs can include detached units, garage conversions, or in-home apartments. ADUs were discussed as one potential solution to provide workforce housing within the Town. This initiative is identified as Action Item #2.2 under the Development Goals within the Strategic Plan. The range of options for consideration includes an analysis of where ADUs might be appropriate (i.e. permitted zoning districts, geographic areas, neighborhoods, etc.), minimum lot size requirements, maximum unit size limitations, height restrictions, deed restrictions, and parking considerations.

The Planning Department had previously researched and presented a draft ADU ordinance to the Board of Commissioners in September 2019, though it was not adopted at that time.

To advance discussions on a potential ADU ordinance, staff presented this item to the Board of Commissioners on July 3, 2024, highlighting the similarities and interconnections between ADUs, partial-home short-term rentals, and duplexes. This same presentation was also shared with the Planning Board on July 16, 2024, and can be viewed [HERE](#) (at approximately the 1 hr. 19 min mark).

Staff would like to emphasize that many of the existing partial-home short-term rentals within the town share similar characteristics and functions with accessory dwelling units. Both provide additional living spaces that can be rented as separate, independent units, with comparable operational features. Additionally, many of these existing partial-home short-term rentals, along with attached ADUs, if permitted, would resemble duplexes in terms of structure and use.

In order to better understand the potential impact of an ADU ordinance, staff believes it is critical to openly discuss and clarify what is currently allowed within the town, the definitions and regulations governing these uses, and the overlap between these uses. Ensuring regulatory consistency is key.

At their August 20, 2024 meeting, the Planning Board emphasized the importance of community awareness and engagement on this issue. As a result, two public input sessions were scheduled: Tuesday, September 17th, at 9:00 AM, in the Board Room at 5401 S. Croatan Highway, and a second session on Wednesday, September 18th, from 6:00 PM to 7:30 PM, to accommodate those unable to attend the morning meeting.

Staff will begin each session with a brief informational presentation, followed by an open forum to hear feedback from attendees.

Public Input Session – Discussion Points

- What are Accessory Dwelling Units (ADU's)

Accessory Dwelling Units are smaller, secondary housing units located on the same property as a primary residence. ADU's can include detached units, garage conversions, or in-home apartments.

- Why ADU's?

Accessory Dwelling Units may be able to help address local housing needs, providing more affordable rental options or housing for family members.

Accessory Dwelling Units can offer a way for older family members to live independently and age in place.

Accessory Dwelling Units can allow homeowners to generate rental income, which can help with mortgage payments or property upkeep.

Accessory Dwelling Units typically use less land and resources as compared to a new development.

- What are some PRO's of ADU's?

ADU's can create more affordable housing options.

ADU's offer flexibility for multi-generational living or accommodating family members, caregivers, or tenants.

ADU's can help house local workers who may otherwise struggle to afford housing in the area.

ADU's can encourage long-term rentals over short-term options, supporting housing stability.

- What are some CON's or CONCERNS of ADU's?

Some residents might be concerned about increased traffic, inadequate parking, or noise – especially in quiet areas.

There may be worries about enforcing regulations, such as ensuring ADU's are not turned into unregulated short-term rentals.

There may be concerns about local infrastructure, such as water, septic capacity, and handling increased housing density.

Some homeowners may be concerned about the proximity of ADU's to their own property and potential impacts on privacy.

- Goals for Allowing Accessory Dwelling Units

The primary goal is to increase the housing supply of workforce housing.

- Location of ADU's?

If the Town were to allow Accessory Dwelling Units, are there locations within the Town that you believe are more suitable than others? Specific zoning districts, geographical areas of the Town?



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

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

Date: September 13, 2024

Subject: Consideration of various amendments to the SPD-C Village at Nags Head Commercial-1 Zoning District.

BACKGROUND

In late 2023, staff presented a brief update to the Planning Board regarding the potential future construction of a Dare County EMS Station at 105 W. Seachase Drive. During that update, staff indicated that amendments to the Unified Development Ordinance (UDO) may be required to facilitate this project. The Planning Board reached a consensus at that time, agreeing that staff should move forward with preparing the necessary amendments if deemed appropriate.

Dare County has been working with Oakley Collier Architects on the proposed design for the county's emergency services project. After reviewing the preliminary site development renderings and analyzing the existing SPD-C Village Commercial-1 District standards, the following amendments to the Unified Development Ordinance (UDO) would be necessary:

- **Amend Section 9.36, Table of Uses and Activities** within the SPD-C, Village at Nags Head Commercial-1 District to include "County EMS Station" as a permitted use in the district.
- **Amend Section 9.21.8.2** to reduce the front yard setback requirement from 75 feet to 45 feet. Upon review of this section, it appears that the current regulations were designed to apply primarily to the large community shopping center within the Village Commercial-1 district (OBX Mall), rather than stand-alone commercial structures that are unaffiliated with or separate from the shopping center. Additionally, Section 9.17, Transportation Standards within the SPD-Village District, specifies a 45-foot setback from US 158, further suggesting that the 75-foot setback applies solely to the shopping center. This amendment would provide clarity and, importantly, would only impact the subject property, as the only other Village Commercial-1 designated property adjacent to US 158 in the Village at Nags Head is the shopping center. The property located at 111 W. Seachase Drive (Rusty Crow Quilt Shop) is zoned Village Commercial-1, however it is not adjacent to US 158.
- **Amend Section 10.16, Required Parking by Use**, to establish a parking standard for the new use category of "County EMS Station."

Staff has provided these draft amendments to the Unified Development Ordinance below for the Planning Boards review and consideration.

POLICY CONSIDERATIONS

LU-9, Encourage land uses that serve the needs of both year-round and seasonal residents in support of the town's overall vision for the community.

STAFF ANALYSIS AND RECOMMENDATION

Planning staff finds the proposed text amendment to be consistent with the 2022 Comprehensive Land Use Plan and recommend adoption of the amendment as presented.

Note that the Planning Board will be required to review the Site Plan application for any future development of this property.

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.

(DRAFT)

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO A NEW USE OF COUNTY EMS STATION WITHIN THE SPD-C, VILLAGE AT NAGS HEAD, COMMERCIAL – 1 DISTRICT.

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, Planning staff requested the Planning Board initiate the amendments necessary to construct a County EMS Station at 105 W. Seachase Drive at their September 2023 meeting;

WHEREAS, the requested amendment is consistent with the 2022 Comprehensive Land Use Plan;

ARTICLE II. Construction.

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

ARTICLE III. Amendment of the Unified Development Ordinance.

PART I. That **Section 9.36 – Table of Uses and Activities for the SPD-C District**, be amended as follows:

Use Category/Class	Use Type	C1	C2	I	Hotel	SF-DET	SF-ATT	MF	TH	REC	Supp Reg
Institutional	Municipal building, including fire station, police station, and administrative office, <u>and County EMS Station</u>	<u>P</u>		P							

PART II. That **Section 9.28.8.2 Table of Development Standards, Minimum Front Yard**, be amended as follows:

9.21.8.2. Minimum Front Yard. 75 feet from the main complex or the easternmost portion thereof from US 158. Properties that are not affiliated with the community shopping center shall follow the 45-foot front yard setback provided in Section 9.17, Transportation Standards.

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

Use Category/Class	Use Type	Required Parking
<u>Institutional</u>	<u>Emergency Services Facility (Police, Fire, EMS)</u>	<u>1 parking space per employee on duty and 1 parking space per 200 square feet of training facility and customer service areas.</u>

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

Benjamin Cahoon, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

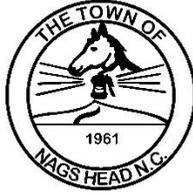
Town Attorney

Date adopted: _____

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS



BOC ACTIONS SEPTEMBER 4, 2024

- 1.** Call to order - Mayor Cahoon called the meeting to order at 9 a.m. and recognized former Mayor Bob Muller in the audience.
- 2.** Agenda – The Board approved the Sep 4th agenda as presented.
- 3.** Recognition - Fire Engineer Brandon Stallings and Sanitation Equipment Operator II John McDowell were recognized by the Board for five years of service. Tax Collector Linda Bittner was recognized by the Board for ten years of service.
- 4.** Presentation - Outer Banks Visitors Bureau Executive Director, Lee Nettles, introduced the *Outer Banks Promise* initiative and Community Engagement Manager, Jeff Schwartzberg. Mr. Schwartzberg presented a short video on the *Outer Banks Promise* initiative which encourages people to preserve the natural environment and cultural heritage of the Outer Banks by signing an online pledge.
- 5.** Proclamation - Public Information Officer, Roberta Thuman, presented a *CCEDS Challenge at the Coast* powerpoint, prepared by Coastal Community Environmental Data Scholars (CCEDS) made up of ECU PHD candidates in partnership with the Town, CSI, and NSF. The emphasis is on encouraging water quality protection. The Board approved the proclamation proclaiming Sep 16-20, 2024, as Septic Smart Week.
- 6.** Proclamation - Police Chief Perry Hale summarized upcoming National Night Out activities scheduled for Oct 1st at Dowdy Park. He is looking forward to this year's event and appreciates the Board's support and participation. The Board approved the proclamation in support of Oct 1st as National Night Out as presented.
- 7.** Proclamation – The Board approved the proclamation proclaiming Diaper Need Awareness Week as Sep 23–29, 2024 as presented.
- 8.** Public Comment
Steve House, Dare County Comr. and president of the Outer Banks Jeep Invasion organization; he thanked the Town and the Town's Police Dept as well as the Dare County Tourism Board for supporting Jeep Invasion events and he is looking forward to this year's event at the Soundside Event Site - Sep 20 – 22, 2024.

Aida Havel, Salvo; she is running for Dare Co Comr; she spoke of the Buxton beach environmental disaster which is now over one year old; she suggested those interested to view two online videos from the Buxton Civic Association; she asked for the Board's continued support for resolution of this issue; she noted the workforce housing issue later on today's agenda and she is looking for creative solutions.
- 9.** Consent agenda – The Consent Agenda was approved as presented and consisted of the following:
 - Budget Amendment #3 to FY 24/25 Budget
 - Tax Adjustment Reports - FY 24/25 Report (New Year and Year-to-date)
 - Approval of minutes
 - Policy for neighborhoods to request traffic calming devices, presented at the Aug 7th Board meeting
 - Request for Public Hearing - to consider map amendment to rezone vacant property from C-3 to C-2
- 10.** Public Hearing - to consider text amendments to the UDO as it pertains to the use of multi-family dwelling development - Town Manager Garman provided a series of slides detailing the background of the

multi-family dwelling process. Robin Morgan, David Shufflebarger, Peter Pinto, Valerie Netsch, David Thompson, David Elder, Bob Muller, Duke Geraghty, Haley Morgan; Katie Wilkins, Megan Vaughan, and Molly Harrison spoke concerning the multi-family issue. The Board tabled consideration of the ordinance and scheduled a workshop for Sep 18th at 9 am with action tabled until the Oct 2nd Board meeting. The motion to table passed 4 – 1 with Mayor Cahoon casting the NO vote.

11. Public Hearing - to consider a text amendment to the UDO submitted by Anlauf Engineering, PLLC on behalf of Ark Church, to modify the definition of "Religious Complex" to include an additional single-family residence for church staff, in addition to the existing allowance for an onsite parsonage. Bob Muller spoke in support of the amendment. The Board adopted the ordinance as presented.

12. Public Hearing - to consider amendments to the UDO as it pertains to dormitory use in the SED-80, Special Environmental District – The Board adopted the ordinance as presented.

13. Update from Planning Director - Planning Director Kelly Wyatt summarized her monthly report.

14. Traffic Study - Results of the Board-requested Vanasse Hangen Brustlin, Inc. (VHB) traffic study at the intersection of Lakeside St and Hwy 158 were discussed. Mayor Cahoon suggested putting all options forward to locate the necessary funds for the signal which would not take place until 2026 at the earliest.

15. Committee Reports

Comr. Brinkley – Jennette's Pier update - the June and July visitation numbers exceeded last year's numbers and the expectations of pier management; it has been a busy summer with week-long camps and fishing programs; Wind turbines are to be inspected by an engineer but there is no timeline yet for that to occur.

Comr. Brinkley - Septic Loan – Staff is to prepare septic loan repayment extension for Board consideration.

16. Resolution – The Board passed a motion to adopt the resolution in support of Area of Environmental Control (AEC) protections for Jockey's Ridge State Park as presented.

17. Town Manager Garman - Town Engineer David Ryan provided an update on the construction of the Public Services Facility.

18. Comr. Brinkley - Comr. Brinkley noted that there are two weeks to the Multi-Family Workshop (on Sep 18th) and he encouraged staff to actively promote the workshop.

19. Comr. Brinkley - Comr. Brinkley spoke of the Nags Head Lifesaving Station Marker that Ralph Buxton brought forward in his presentation at last month's Board meeting. It was Board consensus to concur with the marker and Comr. Brinkley said that he would work with Mr. Buxton on finding the location.

20. Comr. Sanders - Comr. Sanders spoke of a recent water leak at his restaurant that staff found via the new AMI Smart Meter software - he was able to fix and repair the leak before major damage was done.

21. Mayor Cahoon - Mayor Cahoon recognized Town Manager Andy Garman for ten years of service, noting that he also worked for the Town from 2000 to 2005.

22. Closed Session – The Board entered Closed Session to confer with the attorney re: attorney/client privilege and to discuss possible acquisition of property at 4222 S Croatan Hwy. The time was 12:14 pm.

23. Open Session - The Board re-entered Open Session at 12:30 p.m.

24. Adjournment – The Board recessed to a mid-month Multi-Family Ordinance Workshop on Wednesday, Sep 18th at 9 am in the Board Room. The time was 12:31 p.m.



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

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

Date: September 13, 2024

Subject: Discussion of parking standards for hotel use and restaurant uses within the Town.

UPDATED STAFF REPORT FOR PLANNING BOARDS SEPTEMBER 17, 2024 MEETING

At the August meeting, Planning staff presented the Planning Board with a brief analysis of current and previous parking standards for both hotels and restaurants. Staff noted that while potential amendments to hotel parking standards may be relatively straightforward, addressing restaurant parking is more complex due to additional factors such as outdoor dining and entertainment areas, which are not currently contemplated in our standard, and likely should be. Several Board members expressed interest in understanding whether neighboring localities had encountered any issues with their parking standards or if they found them adequate.

While we are still awaiting a response from Kill Devil Hills, I did hear back from Rob Testerman, the Planning Director of Kitty Hawk. He indicated that there have been no concerns or complaints suggesting their hotel parking standards are inadequate. He also noted that only two hotels have been constructed under their current standards—the Hilton and the Holiday Inn Express.

Planning staff will be available for further discussion. If the Planning Board comes to a consensus on any amendments to the hotel parking standard, staff will bring those back to the Planning Board in October as an action item.

The staff report and Attachment A from the August 20th meeting are included below as information.

STAFF REPORT FROM PLANNING BOARDS AUGUST 20, 2024 MEETING

BACKGROUND

At their August 7, 2024 meeting, the Board of Commissioners requested that staff review the Town's existing parking standards for hotel use and restaurant use to determine if they are adequate and reflective of the town's current needs. A brief analysis is provided below for your consideration and to help facilitate discussion.

Hotel Parking Review

The current standard for hotel parking is provided below and was applied to the recently approved 87-room hotel, Inn at Whalebone.

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.
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The hotel parking standard found in Town Code Supplement 47, dated January 16, 2019, and prior to the adoption of the Unified Development Ordinance (UDO) is provided below.

Hotel	1.2 parking spaces for each hotel unit or hotel efficiency unit to be rented, plus one parking space for each four employees.
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This parking standard would have resulted in a minimum of 105 parking spaces to accommodate the 87 hotel units proposed with Inn at Whalebone. This does not account for required employee parking.

The hotel parking standard found in Town Code Supplement 5, dated August 1989 is provided below.

Hotel, tourist home, motel, rooming or boarding house	1.2 parking spaces for each unit to be rented or one (1) parking space per bedroom, whichever is greater, plus one (1) parking space for each employee on the largest shift.
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In addition, Attachment A included in the packet is a breakdown of how other coastal communities in North Carolina regulate hotel parking.

Restaurant Parking Review

The current standards for restaurant parking are provided below. Definitions and the Supplemental Regulations associated with these uses are provided for your consideration as well.

Food Service	Restaurant - Drive In	One parking space per 55 square feet of customer service area or a minimum of 20 parking spaces, whichever is greater, plus required parking spaces for any other use including, but not limited to drive-through restaurant.
Food Service	Restaurant - Neighborhood	One parking space for every 55 square feet of indoor customer service area. In addition, a neighborhood restaurant may have on-site outdoor customer service area in an amount up to 50% of the indoor customer service area which will be exempt from restaurant parking requirement.
Food Service	Restaurant - Sit Down	One parking space for every 55 square feet of indoor customer service area.
Food Service	Restaurant - Take Out	One parking space for every 200 square feet of customer waiting and retail area plus 1 parking space for each employee, but no less

		than 2 employee parking spaces.
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Current Definitions

Restaurant means an establishment engaged in the service of food and/or beverages to patrons seated inside a building. A restaurant site may contain more than one principal restaurant building, or one principal restaurant building in combination with another principal drive-in restaurant, drive-through restaurant, or takeout restaurant building.

Restaurant, drive-in means an establishment whose principal business is the serving of prepared food, desserts and/or beverages to a customer, either within a motor vehicle parked upon the premises or at other facilities on the premises outside the restaurant building.

Restaurant, drive-through means an establishment where drive lane facilities are provided for the serving of prepared food, frozen desserts or beverages directly to a customer in a motor vehicle by a means which eliminates the need for the customer to exit the motor vehicle.

Restaurant, neighborhood means a restaurant situated and designed to serve a small client base fronting on NC 12 comprised of less than 1,000 square feet of indoor customer service area.

Restaurant, sit-down means an establishment that sells food and beverages in a ready-to-consume state primarily to persons who are seated within the building or outside on the premises.

Restaurant, takeout means an establishment engaged in the preparation of food and/or beverages which are delivered or picked up and consumed by patrons off-premises.

Customer service area means the area within a restaurant or restaurant drive-in, open to the general public and designated for the purchase and/or consumption of food, drink, or other similar items. Customer service area shall include indoor and/or outdoor seating areas, indoor and/or outdoor lounge and bar areas, decks, porches, and patios but shall not include stairs, stair landings, handicapped ramps, restrooms, kitchen and food preparation areas, private offices, loading areas, hallways, exit access and exit discharge areas, and any other areas not open to the general public. Customer service area shall not include outdoor seating areas, or outdoor decks, porches or patios where such areas are not designated for the purchase of food, drink, or similar items and instead are used primarily as waiting areas for customers who are waiting to be seated in indoor customer service areas. Additionally, customer service area shall not include any outdoor areas used by the customers of restaurants located in shopping centers.

Supplemental Standards for Restaurant Uses

Section 7.28 - Restaurant, Drive-In.

Restaurant, drive-in, is permitted in accordance with [Section 6.6](#), Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

- 7.28.1. In addition to the buffering requirements of [Section 10.93](#), Landscaping, Buffering, and Vegetation Preservation, the site shall be buffered from all adjacent properties utilizing a 10-foot wide Commercial Transitional Protective Yard as prescribed in [Section 10.93](#).

Section 7.29 - Reserved.

Editor's note— Ord. No. [24-03-004](#), Art. III, Pt. II, adopted March 6, 2024, deleted §§ 7.29—7.29.2, which pertained to drive-through restaurants.

Section 7.30 - Restaurant, Neighborhood.

Restaurant, neighborhood, is permitted in accordance with [Section 6.6](#), Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

- 7.30.1. To be classified as a neighborhood restaurant, the indoor customer service area shall be less than 1,000 square feet.
- 7.30.2. An on-site outdoor customer service area in an amount up to 50% of the indoor customer service area is also permitted.
- 7.30.3. A restaurant site may contain more than one principal restaurant building, or one principal restaurant building in combination with another principal drive-in restaurant, or takeout restaurant building.
- 7.30.4. Uses qualifying as a restaurant shall meet the following criteria:
 - 7.30.4.1. A food preparation area that is at least twenty (20) percent of the gross building square footage of the principal building. The square footage of food preparation area located in an on-site accessory restaurant use building or a second on-site drive-in, drive-through, or takeout restaurant may be applied when calculating this minimum 20% requirement. But when calculated together (principal and accessory or second principal buildings), in no event shall the food preparation area of the principal building be permitted to be less than ten (10) percent of the principal building gross square footage; and
 - 7.30.4.2. At least seventy-five (75) percent of all customer seats shall be designated for full-service, full-menu dining; and
 - 7.30.4.3. No more than fifteen (15) percent of the total building square footage shall be devoted to accessory entertainment uses including but not limited to, dance floor, lounges, bars, stages, live performance, and disc jockey areas. Accessory entertainment uses referenced in this section shall be permitted in a restaurant establishment provided these uses are clearly subordinated in area, extent, hours of operation, and purpose to areas designated for food and/or beverage preparation, service, and consumption.
(Ord. No. [20-05-005](#), Art. III, Pt. X, 5-6-2020; Ord. No. [24-03-004](#), Art. III, Pt. III, 3-6-2024)

Section 7.31 - Restaurant, Sit Down.

Restaurant, sit down, is permitted in accordance with [Section 6.6](#), Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

- 7.31.1. A restaurant site may contain more than one principal restaurant building, or one principal restaurant building in combination with another principal drive-in restaurant, or takeout restaurant building.
- 7.31.2. Uses qualifying as a restaurant shall meet the following criteria:
 - 7.31.2.1. A food preparation area that is at least twenty (20) percent of the gross building square footage of the principal building. The square footage of food preparation area located in an on-site accessory restaurant use building or a second on-site drive-in, drive-through, or takeout restaurant may be applied when calculating this minimum 20% requirement. But when calculated together (principal and accessory or second principal buildings), in no event shall the food preparation area of the principal building be permitted to be less than ten (10) percent of the principal building gross square footage; and,
 - 7.31.2.2. At least seventy-five (75) percent of all customer seats designated for full-service, full-menu dining; and,
 - 7.31.2.3. No more than fifteen (15) percent of the total building square footage devoted to accessory entertainment uses including but not limited to dance floor, lounges, bars, stages, live performance, and disc jockey areas. Accessory entertainment uses referenced in this section shall be permitted in a restaurant

establishment provided these uses are clearly subordinated in area, extent, hours of operation, and purpose to areas designated for food and/or beverage preparation, service, and consumption.

The restaurant parking standard found in Town Code Supplement 47, dated January 16, 2019, and prior to the adoption of the Unified Development Ordinance (UDO) is provided below. Definitions of these terms are provided below as well, note that in 2019 the regulations governing these uses were incorporated into the definitions and not as separate supplemental regulations.

Restaurant	One parking space per 55 square feet of indoor customer service area.
Restaurant (sites with multiple principal buildings)	Parking spaces for each principal restaurant use building shall be as provided for in this section. Shared parking among proposed principal use buildings may be permitted if: (1) there is fully integrated on-site parking and traffic flow; and (2) the principal use buildings have staggered or different business hours. Any overlapping of business hours shall preclude the shared use of parking spaces.
Restaurant, drive-in	One parking space per 55 square feet of customer service area or a minimum of 20 parking spaces, whichever is greater, plus required parking spaces for any other use including, but not limited to drive-through restaurant.
Restaurant, drive-through	A minimum of ten additional parking spaces, plus required parking spaces for any other use including, but not limited to, restaurant customer area or drive-in restaurant.
Restaurant, neighborhood	Parking: One parking space for every 55 square feet of indoor customer service area. In addition, a neighborhood restaurant may have on-site outdoor customer service area in an amount up to 50 percent of the indoor customer service area which will be exempt from restaurant parking requirement.
Restaurant, takeout	One parking space for every 200 square feet of customer waiting and retail area plus one parking space for each employee, but no less than two employee parking spaces.

The relevant definitions for restaurant uses, including “customer service area”, are the same in the 2019 Zoning Ordinance as in the current Unified Development Ordinance with the exception that the percentages of food preparation area, full-service seating, and entertainment associated with restaurants are included in the definition and not within separate supplemental regulations.

The restaurant parking standard found in Town Code Supplement 5, dated August 1989 is provided below.

Restaurant, Café, or Public Eating Place	One (1) parking space per 55 square feet of customer area to include seating area, lounge and bar areas, decks, porches, and patios, but excluding stairs, stair landings, handicapped ramps, restrooms, kitchen and food preparation areas, and other areas not open to the general public.
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Drive-in Restaurant, refreshment stand, carry-out food establishment	Thirty (30) parking spaces in addition to the requirements for a restaurant, café or public eating place.
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In 1989 there was no definition for "customer area".

The restaurant parking standard found in Town Code Supplement 2, dated September 1980 is provided below.

Restaurant, Café, or Public Eating Place	One (1) parking space for every three (3) customer seats, plus one additional parking space for each three (3) employees.
Drive-in Restaurant, refreshment stand, carry-out food establishment	Thirty (30) parking spaces in addition to the requirements for a restaurant, café or public eating place.

In addition, Attachment B included in the packet is a breakdown of how other coastal communities in North Carolina regulate restaurant parking.

STAFF REVIEW

While both hotel and restaurant parking are discussion items at this time, staff would submit that we can likely come to consensus on what, if any, amendments are needed to the UDO to address hotel use parking much more quickly than we can that off restaurant use parking.

There are several aspects of restaurant parking that require more detailed review and discussion, these include but are not limited to:

- The current parking standard has been applied to sit down restaurants for well over 10 years, any changes to the standard could result in site nonconformities for existing restaurants.
- Regulating restaurant parking by customer service area can become problematic if that area changes unbeknownst to staff. If a restaurant changes hands, the new tenant may wish to increase the amount of customer service area, thus making the existing parking count inadequate. In this scenario, a parking standard based upon gross floor may be more appropriate. What are the pros and cons of regulating based upon gross floor area? Kill Devil Hills, Sunset Beach, Carolina Beach, Oak Island, and Atlantic Beach regulate restaurant parking based upon gross floor area. Southern Shores and Duck regulates restaurant parking based upon customer seats. Wrightsville Beach regulates restaurant parking based upon the maximum occupancy allowed (Attachment B).
- The existing definition of "customer service area" states that it is the area designated for the purchase and/or consumption of food, drink, or other similar items. The definition further goes on to exclude outdoor seating areas not designated for the purchase of food, drink, or similar items and instead are used primarily as waiting areas for customers who are waiting to be seated in indoor customer service areas. Staff submits that these outdoor areas, while initially were primarily used for waiting, gradually transition into areas which may very well need to be included in a parking standard (drinks served while waiting, in some instances appetizers being provided while "waiting", etc.).

- Should we address outdoor entertainment areas associated with restaurants in the parking requirements? Should we address outdoor entertainment areas generally?
- Should we include a parking requirement for employees/staff? Note that the Town of Duck, Southern Shores, and Wrightsville Beach regulate employee parking (Attachment B).

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

Hotel Parking Standards from Coastal NC Towns

Town	Type of Establishment	Parking Requirement
Kill Devil Hills	Hotel and motel	1.2 parking spaces per unit, plus 1 space per employee
	Hotel/motel with restaurant	1.2 spaces per unit, plus 1 space per employee, plus 1 space per 200 sq. ft. of gross floor area
	Hotel/motel with retail, office, meetings	1.2 spaces per unit, plus 1 space per employee, plus 1 space per 200 sq. ft. for secondary uses
	Hotel/motel event gardens	1 space per 3 persons the garden is designed to accommodate
Kitty Hawk	(Residential Uses) Hotels, tourist homes, motels, motor courts, rooming/boarding houses	1.5 spaces per rented room, plus 1 additional space per 3 employees
	Hotel and motel	1.15 spaces per rental room
	Hotel with restaurant in hotel structure	1 space per 3 restaurant seats for 50% of seating capacity
	Hotel with restaurant in separate building	1 space per 3 restaurant seats
	Hotel with retail space in hotel structure	1 space per 350 sq. ft. of leasable retail space (less 500 sq. ft.) with a minimum of 1 space
	Hotel with retail space in separate building	1 space per 350 sq. ft. of enclosed leasable retail space
	Hotel with a lounge in hotel structure	1 space per 3 lounge seats for 50% of seating capacity
	Hotel with lounge providing live entertainment	1 space per 3 lounge seats
	Hotel with lounge in separate building	1 space per 3 lounge seats
	Hotel with meeting rooms in hotel structure	1 space per 3 meeting room seats for 50% of seating capacity
Southern Shores	Hotel, motel	1.5 spaces per rented room, plus 1 space per employee
Duck	Hotel, tourist home, motel, motor court, rooming/boarding house	1.5 spaces per rented room, plus 1 space per 3 employees
	Hotel resort with ancillary uses	1 space per rented room, plus 1 space per 3 employees

	Retail, conference center, spa, office, events pavilion (ancillary uses)	1 space per 200 sq. ft. of gross floor area x 0.75
	Eating establishment (ancillary use)	1 space per 3 indoor customer seats, plus 1 space per 150 sq. ft. of outdoor dining area, plus 1 space per 3 employees x 0.75
Sunset Beach	Hotel or motel	1 space per sleeping room, plus 1 space per 4 seats in meeting or assembly rooms
Wrightsville Beach	Motels, hotels	1 space per rented room, 1.5 spaces per 2-room suite, 2 spaces per suite above 2 rooms, plus 1 space per 2 employees
Carolina Beach	Hotel/motel (not condominiums)	1 space per sleeping room, plus 1 space per 4 seats in meeting/assembly rooms; 25% parking reduction if 50+ spaces required
Emerald Isle	Hotels and inns	1 space per rental room, plus 1 space per 3 employees on largest shift
Oak Island	Lodging	1 space per room, plus 1 space per employee
Atlantic Beach	Visitor accommodations, major	1 space per room, plus 1 space per employee, plus spaces for associated uses
	Visitor accommodations, minor	1 space per room, plus 1 space per employee



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: August 28, 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 September 4th, 2024.

Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for July 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 of July:

- Tuesday, August 6th – Technical Review Committee Meeting
- Wednesday, August 7th - Board of Commissioners Meeting
- Thursday, August 8th – Board of Adjustment (no hearings scheduled)
- August 10th – August 14th – Planner Chris Trembly attend Certified Zoning Official Conference
- Wednesday, August 14th – Committee for Art and Culture Meeting
- Tuesday, August 20th – Planning Board Meeting
- Wednesday, August 21st – Board of Commissioners mid-month meeting
- Wednesday, August 28th – CRS Cycle Verification Visit
- Wednesday, August 28th – Outer Banks Hazard Mitigation Joint Committee Meeting (1pm)
- Dowdy Park Farmers Market – Thursday, August 1st, 8th, and final market on 15th
- Dowdy Park Summer Concert Series – Wednesday, August 7th, 14th, and 21st

Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on Tuesday, August 20, 2024. The following items were heard:

- Consideration of a map amendment request submitted by Chris Greening of Coastal Bluewater Capital, LLC as authorized by property owner Mazzi, LLC to rezone the property located at 0 W. Satterfield Landing Road, Lot 2a-1r of the Charles Sineath Subdivision, (Parcel # 005618002) from C-3, Commercial Services to C-2, General Commercial. This is the vacant property west of TW's Bait and Tackel. The Planning Board voted unanimously to recommend approval of the map amendment request as presented. This item is on the Board of Commissioners September 4th Consent Agenda requesting Public Hearing to be held on October 2nd, 2024.

-
- Consideration of various amendments to the Unified Development Ordinance as it pertains to the use of multi-family dwelling developments. The Planning Board discussed this item at length and voted 5 to 1 to recommend adoption of the Multi-Family Working Group’s draft ordinance with several revisions. The Public Hearing for this item is scheduled for the Board of Commissioners September 4th, 2024 meeting.
 - Discussion of minimum required parking standards for hotel use and restaurant use within the Town. Staff will provide the Planning Board with additional requested information at their September 17th meeting.
 - Discussion and update on potential Accessory Dwelling Unit (ADU) ordinance and existing conditions within the town. Planning Board members emphasized the importance of hearing from Nags Head citizens, including both supporters of ADUs and those with concerns, before drafting new language. Staff requested that Planning Board members share any groups, organizations, or individuals who should be personally invited to an upcoming meeting. In addition to receiving public comments at their September 17th meeting, an evening session has been scheduled for Wednesday, September 18th, from 6:00 – 7:00 p.m. in the Board Room for residents unable to attend during work hours. This opportunity for public input has been and will continue to be widely advertised through various channels to encourage community participation.

The Planning Board’s next meeting is scheduled for Tuesday, September 17th, 2024. Currently, the agenda is expected to include consideration of a Special Use/Site Plan review for construction of a duplex for the purpose of Town of Nags Head lifeguard housing at 425 W. Health Center Drive, continued discussion on parking standards for hotel and restaurant uses, and continued discussion with community engagement regarding Accessory Dwelling Units (ADU’s).

Board of Adjustment – Recent and Pending Applications

There were no items for the Board of Adjustments consideration in August 2024.

Additional Updates

- **Estuarine Shoreline Management Plan** – The Town was awarded a grant of \$500,000 under the N.C. Resilient Coastal Communities Program to assist in completing the engineering and design work for the Villa Dunes and Soundside Road estuarine marsh restoration and marsh stabilization projects. It will be November before we know about the NC Land and Water Fund Grant that was applied for to assist with the Harvey Site/OBVB site. Additionally, staff are researching using a combination of Community Conservation Assistance Program (CCAP) funds and Coastal Federation cost share funds for a shoreline stabilization along the causeway.
- **Electric Vehicle Action Plan** – LoWire Technologies has completed the installation of two-Level II EV chargers at Town Hall. Shoshin is scheduled to install an outside access point for the charging stations. Once we finalize payment and the station management interface, these units will be available for public use. A DEQ representative will conduct an onsite inspection to ensure all grant requirements for reimbursement have been met
- **Sand Relocation and Dune Management Cost Share Program** – Following the Board of Commissioners' allocation of \$400,000 for the FY 24-25 Sand Relocation and Dune Management Cost Share Program, staff is currently reviewing and updating educational materials and the sand relocation application. The application period is expected to open on November 1, 2024, for review purposes only. In preparation, staff will host an educational presentation and Q&A session in mid-October for equipment operators, property owners, and other interested parties interested in participating in this season's program.

- **Public Beach and Coastal Waterfront Access Grant Program** – Staff has submitted the final application for the improvements at the June Street Beach Access and anticipates receiving notification regarding the grant award by late September or early October.
- **Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture** – As summer winds down, so have some of our events. The Dowdy Park Farmers Markets have concluded for the season. The rescheduled evening market was a great success, with strong attendance and positive feedback from vendors on their sales. Family Fun Nights have also wrapped up, and Kids Night was a huge hit. Special thanks to the Nags Head Police and Fire Departments for their participation.

The Summer Concert Series has ended as well, with Event Coordinator Paige Griffin noting that concert attendance significantly increased this season. There was a growing sense of excitement and community, with many familiar faces returning for each event.

While Fitness Fridays have concluded, Tuesday morning Yoga sessions will continue through October 22nd.

Movies in the Park will run over the next several months. The next movie night is scheduled for September 6th, featuring *Twister* starting around 8 p.m. Additional movie nights are planned for October 4th and November 1st.

Event Coordinator Paige Griffin is currently finalizing the Holiday Market application process. Keep an eye on our website and social media for details!



Upcoming Meetings and Other Dates

- Tuesday, September 3rd - Technical Review Committee Meeting
- Wednesday, September 4th - Board of Commissioners Meeting
- Thursday, September 11th – Committee for Art and Culture Meeting
- Thursday, September 12th – Board of Adjustment Meeting (no hearings scheduled)
- Thursday, September 12th – CRS Users Group Meeting
- Tuesday, September 17th – Planning Board Meeting
- Wednesday, September 18th – Board of Commissioners mid-month meeting
- Dowdy Park Movie Night, Friday, September 6th at 8pm – TWISTER

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

DATE SUBMITTED: August 7, 2024

	Jul-24	Jul-23	Jun-24	2024-2025 FISCAL YTD	2023-2024 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
BUILDING PERMITS ISSUED - RESIDENTIAL						
New Single Family	3	0	0	3	0	3
New Single Family, 3000 sf or >	1	0	1	1	0	1
Duplex - New	0	0	0	0	0	0
Sub Total - New Residential	4	0	1	4	0	4
Miscellaneous (Total)	21	31	31	21	31	(10)
<i>Accessory Structure</i>	3	2	3	3	2	1
<i>Addition</i>	0	1	3	0	1	(1)
<i>Demolition</i>	0	0	1	0	0	0
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	5	7	7	5	7	(2)
<i>Repair</i>	13	21	17	13	21	(8)
Total Residential	25	31	32	25	31	(6)
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	0	0
Subtotal - New Commercial	0	0	0	0	0	0
Miscellaneous (Total)	7	4	2	7	4	3
<i>Accessory Structure</i>	1	2	1	1	2	(1)
<i>Addition</i>	0	0	0	0	0	0
<i>Demolition</i>	0	0	0	0	0	0
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	1	2	0	1	2	(1)
<i>Repair</i>	5	0	1	5	0	5
Total Commercial	7	4	2	7	4	3
Grand Total	32	35	34	32	35	(3)
SUB-CONTRACTOR PERMITS						
Electrical	61	61	67	61	61	0
Gas	2	4	2	2	4	(2)
Mechanical	45	44	55	45	44	1
Plumbing	2	10	7	2	10	(8)
Fire Sprinkler	0	0	1	0	0	0
VALUE						
New Single Family	\$1,634,157	\$0	\$0	\$1,634,157	\$0	\$1,634,157
New Single Family, 3000 sf or >	\$1,000,000	\$0	\$975,000	\$1,000,000	\$0	\$1,000,000
Duplex - New	\$0	\$0	\$0	\$0	\$0	\$0
Misc (Total Residential)	\$791,232	\$1,010,866	\$2,253,969	\$791,232	\$1,010,866	(\$219,634)
Sub Total Residential	\$3,425,389	\$1,010,866	\$3,228,969	\$3,425,389	\$1,010,866	\$2,414,523
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	\$0	\$0
Misc (Total Commercial)	\$196,537	\$180,200	\$139,303	\$196,537	\$180,200	\$16,337
Sub Total Commercial	\$196,537	\$180,200	\$139,303	\$196,537	\$180,200	\$16,337
Grand Total	\$3,621,926	\$1,191,066	\$3,368,272	\$3,621,926	\$1,191,066	\$2,430,860

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

DATE SUBMITTED: August 7, 2024

	Jul-24	Jul-23	Jun-24	2024-2025 FISCAL YTD	2023-2024 FISCAL YTD	FISCAL YEAR INCREASE/DECREASE
ZONING						
Zoning Permits	35	44	38	35	44	(9)
Soil & Erosion	5	N/A	4	5	N/A	N/A
Stormwater Plans	1	N/A	4	1	N/A	N/A
CAMA						
CAMA LPO Permits	1	1	3	1	1	0
CAMA LPO Exemptions	1	3	4	1	3	0
Sand Relocations						N/A
CODE COMPLIANCE						
Cases Investigated	42	28	44	42	28	14
Warnings	2	2	3	2	2	0
NOVs Issued	40	26	41	40	26	14
Civil Citations (#)	0	0	0	0	0	0
Civil Citations (\$)	\$0	\$0	\$0	\$0	\$0	\$0
SEPTIC HEALTH						
Tanks inspected	8	17	10	8	17	(9)
Tanks pumped	6	9	9	6	9	(3)
Water quality sites tested	46	20	36	46	20	26
Personnel Hours in Training/School	39	25	34	3	25	(22)


Kelly Wyatt, Planning Director