



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

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

Date: January 12, 2024

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

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

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

- While the proposed text amendment would establish a use of hotel units not of a transient nature, staff does not recommend amending the existing hotel regulations but rather considering a new use category to accommodate the request. Options may include: long-term stay units, extended stay units, residential suites, etc.
- The applicant's original request proposed the term "legacy hotel/motel" be established as a means to define and limit the number of existing hotel and motel structures that this new use category would be available to. The proposed definition stated a legacy hotel or motel would be one built before 1975 that is still functional to support both transient, and long-term occupancy by guests or tenants. In an effort to tie the date to a relevant time in Nags Head planning, staff would recommend that consideration be given to making the new use available to hotels and motels that were constructed prior to November 10, 1972. This date is the "pre-firm" date used in regulating structures built prior to the effective date of the initial Flood Insurance Rate Map (FEMA FIRM). Pre-firm structures are likely to be constructed on grade and non-conforming with regard to current FEMA requirements. Therefore, to enhance their preservation, it may be warranted to provide some additional flexibility with respect to the uses allowed given these additional nonconformities.
- Noting that this proposed new use is likely not economically viable in an oceanfront setting, staff would further recommend narrowing this proposed use to existing hotels and motels located within the C-2, General Commercial Zoning District. Except for the majority of South Nags Head which is R-2, and excluding the Village at Nags Head, the remainder of Nags Head oceanfront areas are zoned CR – Commercial Residential. Staff would also recommend that this use be considered via the Special Use permit process.

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

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

- Nags Head Beach Inn at 303 Admiral (zoned C-2, constructed in 1960)
- Consider requiring any hotel operating under this new use category to lease/rent units on a long-term basis only and defining long-term lease/rent as occupancy for a period of ninety (90) consecutive days or more. This would be consistent with the proposed definition of “Long Term Occupancy/Tenancy” in the draft multi-family development amendments.
- Consider requiring this new use be parked using the same parking standard as single-family, two-family, and multi-family dwelling units at the number of bedrooms minus two, with a minimum of two (2) spaces per dwelling unit.
- Consider a requirement that would prohibit utility meters of any type for individual units and require that this proposed new use operates under a single, unified rental management operation. Similar language is found within the supplemental regulations for cottage courts and is intended to discourage circumventing the subdivision ordinance and creating condominium ownership of the individual dwelling units.
- The current hotel use requires 24-hour onsite management. Staff would suggest that the Planning Board discuss the merits of this requirement if hotel units were now allowed to be rented on a long-term basis.
- Consider placing a requirement that any hotel operating under this new use category only offer lease/rent units that are a minimum of 350 square feet in area.

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

- Require that every dwelling unit be provided with adequate means of egress as required by the NC State Building Code and that there shall be no obstruction in any manner of any means of ingress and egress from any portion of the dwelling. Likewise, require that every dwelling unit complies with all applicable provisions of the NC State Fire Prevention Code. While this would obviously be a requirement at the review and permitting phase, given the potential retrofit of units, perhaps it is useful to have the language included specific to the requested use amendment.
- Other common requirements found within minimum housing codes throughout North Carolina, that the Planning Board may want to consider include the following:
 - Each dwelling unit shall be supplied with a kitchen sink, lavatory, tub or shower, and a toilet, all in good working condition.
 - Each dwelling unit shall have connected to the kitchen sink, lavatory, tub or shower and adequate supply of both cold and hot water.
 - Every dwelling unit shall be supplied with facilities providing heat. Portable kerosene heaters are not acceptable as a permanent source of heat.

- Every dwelling unit shall have supplied and installed a minimum of one approved and listed smoke detector.
- Each dwelling unit shall have a kitchen supplied with a minimum of the following facilities:
 - Food preparation surfaces impervious to water and free of defects which could trap food or liquid.
 - Shelves, cabinets, or drawers maintained in good repair for the storage of food and cooking and eating utensils.
 - A freestanding permanently installed cook stove. Portable electric cooking equipment shall not fulfill this requirement. Portable cooking equipment employing flame shall be prohibited from the kitchen area.
 - Mechanical refrigeration equipment for the storage of perishable foodstuffs.

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

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

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

At the Planning Board’s December 19, 2023 meeting questions were brought up concerning lighting, dormitory use and single resident occupancies (SRO’s). Staff has provided follow up responses below.

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

recommendation or determined if a property can operate both long-term and short-term rentals/occupancies at the same time.

With regard to the question that was asked about the ability of a hotel to host long-term stays for their staff. Section 7.12 of the UDO, Hotels, states that dormitory use for employee housing is allowed in the C-1 and C-2 Zoning District as well as within the Hotel Overlay District. Section 7.12.2 of the UDO describes the supplemental regulations for employee housing and is included below for the Planning Board's review.

7.12.2. Dormitory for Employee Housing.

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

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

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

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

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

Staff has reached out to other local municipalities to see if they have an awareness of this or similar uses in their jurisdiction, and if so, what their experiences have been. At the time of this memo no information has been received.

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

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

BACKGROUND

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

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

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

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

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

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

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

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

Some items for consideration and discussion:

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

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

STAFF ANALYSIS AND RECOMMENDATION:

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

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