



# MEMORANDUM

## Town of Nags Head

### Planning & Development Department

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To: Planning Board

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

Date: February 16, 2024

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **STAFF RECOMMENDATION**

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

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

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

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

**ARTICLE I. Purpose(s) and Authority.**

**WHEREAS**, pursuant to N.C.G.S. § 160D-701, the Town of Nags Head (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land; pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160D-702, the Town has adopted comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160D-103, which allows the Town to combine certain land development ordinances into a unified ordinance;

**WHEREAS**, Section 2.4.4.3 of the Unified Development Ordinance provides that the powers and duties of the Planning Board include developing and recommending policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

**WHEREAS**, Section 3.5.1. of the Town Code makes clear that a zoning ordinance text amendment may be initiated by motion of the Board of Commissioners, by motion of the Planning Board, or by application by any person within the zoning jurisdiction of the Town;

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

**ARTICLE II. Construction.**

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

**ARTICLE III. Amendment of the Unified Development Ordinance.**

PART I. That **Appendix A – Definitions**, be amended to add the following terms:

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

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

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

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

**Workforce Housing or workforce housing unit** means the following:

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

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

**7.12.3. Long-Term Rental of Hotel Units**

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

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

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

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

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

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

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

7.12.3.5.2 The unit shall be provided with a separate closet.

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

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

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

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

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

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

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

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

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

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

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

\_\_\_\_\_  
Benjamin Cahoon, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted: \_\_\_\_\_

Motion to adopt by Commissioner \_\_\_\_\_

Motion seconded by Commissioner \_\_\_\_\_

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYS

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

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

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

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

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

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

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

### SECTION 1206 YARDS OR COURTS

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

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

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

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

**1206.3.2 Air intake.** *Courts* more than two *stories* in height shall be provided with a horizontal air intake at the bottom not less than 10 square feet (0.93 m<sup>2</sup>) in area and leading to the exterior of the building unless abutting a *yard* or *public way*.

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

### SECTION 1207 SOUND TRANSMISSION

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

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

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

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

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

### SECTION 1208 INTERIOR SPACE DIMENSIONS

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

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

#### Exceptions:

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

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

**1208.3 Room area.** Every dwelling unit shall have no fewer than one room that shall have not less than 120 square feet (11.2 m<sup>2</sup>) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet (6.5 m<sup>2</sup>).

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

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

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

## SECTION 1209 ACCESS TO UNOCCUPIED SPACES

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

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

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

## SECTION 1210 TOILET AND BATHROOM REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

**Exceptions:**

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

202301587 750<sup>00</sup>

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

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

Applicant Golasa Holdings, Llc

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

Explanation of request

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

Nature of request

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

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Reason for request

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

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*Golasa Holdings*  
Applicant

11/17/2023  
Date

Golasa Holdings LLC Request for Ordinance Amendment

Ordinance Amendment

Add the Following Definitions to Appendix A Definitions

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

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

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

Add to Table 6.6 :

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



# MEMORANDUM

## Town of Nags Head

### Planning & Development Department

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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.

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#### **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.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](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 19<sup>th</sup> meeting to discuss this proposed text amendment further.