



# 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: September 13, 2024

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

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#### **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, <del>and</del> 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