
**Town of Nags Head
Planning Board
September 17th, 2024
- DRAFT -**

The Planning Board of the Town of Nags Head met on Tuesday, September 17th, 2024, in the Board Room at the Nags Head Municipal Complex.

Chair Vaughan called the meeting to order at 9:00 a.m. as a quorum was present.

Members Present

Megan Vaughan, Meade Gwinn, Molly Harrison, David Thompson

Members Absent

Gary Ferguson, Kristi Wright

Others Present

Kelly Wyatt, Joe Costello, Andy Garman, Lily Nieberding

Approval of Agenda

David Elder moved to approve the agenda as presented. David Thompson seconded, and the motion passed by unanimous vote.

Public Comment/Audience Response

None

Approval of Minutes

Chair Vaughan asked for a motion to approve the minutes of the August 20th, 2024, meeting. Meade Gwinn moved to approve the minutes as corrected; David E seconded, and the motion passed unanimously.

Discussion and Community Engagement Session on potential allowance of Accessory Dwelling Units (ADUs) within the town.

Planning Director Kelly Wyatt explained that 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, it's been a topic of discussion since that time.

To advance discussions on a potential ADU ordinance, staff presented this item to the Board of Commissioners at their July meeting, highlighting the similarities and interconnections between ADUs, partial home short-term rentals, and duplexes. This same presentation was also shared with the Planning Board at their July meeting.

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 meeting, the Planning Board emphasized the importance of community awareness and engagement on this issue. As a result, two public input sessions were scheduled... today's morning session and a second session tomorrow evening 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.

Ms. Wyatt proceeded to present slides highlighting what the Town currently allows and doesn't allow, definitions of different terms including "Boarding House" and other pertinent information including Pros and Cons. Ms. Wyatt emphasized 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. Ms. Wyatt also noted that 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.

Ms. Wyatt stated that Deputy Planning Director Joe Costello had put together a survey to help get the discussion going. Ms. Wyatt encouraged anyone who was interested to take the survey.

Dave Carroll, Nags Head resident, spoke in favor of allowing ADUs stating that it is a good but not the only solution for the long-term housing crisis. Mr. Carroll is on the Northeast Workforce Development Committee and believes that lack of housing is a national issue. Mr. Carroll understands wanting to protect the character of Nags Head but encourages the Town on anything "we can do in our community" to help address the issue.

Action Items

Consideration of a Special Use/Site Plan Review submitted by Quible & Associates, P.C. and Beacon Architecture, PLLC, on behalf of the Town of Nags Head, for the construction of a 2-story, 8-bedroom dormitory. The property is zoned SED-80, Special Environmental District and is located at 425 W. Health Center Drive.

Ms. Wyatt presented a revised site plan to the Board and explained that Michael Strader of Quible & Associates, PC & Chis Nason of Beacon Architecture, working on behalf of the Town of Nags Head, had submitted a Special Use Permit/Site Plan Review for the purpose to construct an approximately 3,460 square feet, two story, eight-bedroom dormitory (duplex) and all associated site improvements. This dormitory is for use by Town of Nags Head workforce or as approved by the Town Manager. The property is located at 425 W. Health Center Drive. The existing land use is Medical Offices - Community Care Clinic, and Ms. Wyatt noted that Lynn Jenkins, the Executive Director of the Community Clinic was in attendance at today's meeting.

Ms. Wyatt noted that the property is zoned SED-80, Special Environmental District and there will be some additional discussion related to the environmental impacts to the property. All the surrounding properties are also in the SED-80 District. The property is located in an X Flood Zone, per the Town of Nags Head local ordinance, the property is subject to an RFPE/LES of 9 ft. The proposed first floor of habitable space will be elevated well above the 9-foot RFPE as existing topographic information shows an elevation greater than 20 ft. msl in the area of the proposed structure.

The 2022 Comprehensive Plan, Future Land Use Map classifies this property as Institutional/Community Services. This proposal is consistent with this land use classification and stated Land Use Policies.

Ms. Wyatt proceeded to review the applicable Zoning Regulations:

- Use Regulations: Pursuant to the text amendment adopted by the Board of Commissioners at their September 4, 2024, meeting, "Dormitory" is a Special Use within the SED-80, Special Environmental District, with supplemental regulations set forth Section 7.10 of the UDO. These supplemental regulations are as follows:

Dormitory is permitted in accordance with Section 6.6, Table of Uses and Activities, provided that the following additional requirements and conditions are met:

7.10.1. *A minimum lot area of 25,000 square feet and a minimum lot width of 100 feet shall be required.* Ms. Wyatt noted that this property is 123,600 in area with a lot width greater than 250 feet.

7.10.2. *Sleeping rooms shall have a minimum floor area of seventy (70) square feet for the first occupant and a minimum floor area of fifty (50) square feet for each additional occupant.* Ms. Wyatt noted that each floor contains 4 bedrooms with an expected occupancy of 8, a total of 8 bedrooms with an expected occupancy of 16. The proposed sleeping rooms will accommodate two occupants. Each sleeping room is approximately 170 square feet in area. As proposed, this regulation has been met.

7.10.3. *At least one restroom in the facility shall have a minimum of two (2) water closets, two (2) sinks, and two (2) showers. In all cases, reference the North Carolina Plumbing Code for required number of dormitory bathroom fixtures.* Ms. Wyatt noted that each dwelling unit contains two full bathrooms for a total of 2 toilets, 2 sinks, and 2 showers. As proposed, this regulation has been met.

7.10.4. *A minimum floor area of twenty (20) square feet per occupant is required for adequate common living areas (including kitchen and dining) but not less than 220 square feet per unit or floor.* Ms. Wyatt noted that an area greater than 500 square feet has been provided in each dwelling unit. As proposed, this regulation has been met.

7.10.5. *No dormitory facility shall house more than twenty-five (25) occupants.* Ms. Wyatt noted that as proposed, this two-story dormitory/duplex would house no more than 16 occupants at any time.

- Lot Coverage within the SED-80 lot coverage is less than it is in other districts. The allowable lot coverage for this property is 20% of the total lot area. While the exact lot area remains uncertain, using the most conservative estimate, the current site conditions result in approximately 28.6% lot coverage.

Ms. Wyatt explained that upon researching the history of how this property was developed to such an extent, it was discovered that this area was previously zoned as SPD-40 (Special Planned Development), where the maximum allowable lot coverage was 30%.

The increase in lot coverage beyond the current allowable limit constitutes a site nonconformity. According to the UDO, nonconforming site conditions may continue but cannot be increased. Therefore, the site is considered legally nonconforming at 28.6% lot coverage. While lot coverage can be removed, replaced, or relocated, it cannot exceed the 28.6% threshold.

Staff are awaiting an opinion from our town attorney regarding the correct boundary of the property. It is likely that once the property boundaries are confirmed, the total lot area will increase, which would reduce the lot coverage percentage.

- The maximum allowable building height within the Town is 35 feet; however, pursuant to Section 8.2.1, Dimensional requirements, total height may be increased to 42 feet with the use of an 8:12 roof pitch or greater. The applicant has proposed a structure with an overall height of approximately 32 feet measured from grade, while also proposing an 8:12 roof pitch therefore height is compliant.
- Section 10.82 of the UDO, Applicability, states that Commercial Design Standards shall apply to all building construction or remodeling projects requiring a special use permit or site plan review. This project must adhere to the Commercial Design Standards set forth within Part VI of the UDO. As proposed this project will comply with standards set forth in Division II – Building Design including a human scale design with a second-floor covered porch, residential style single or double hung windows, board and batten siding, gable brackets, etc. Staff have requested that the architect incorporate a few other elements such as workable shutters and column trim.
- Pursuant to Article 10, Table 10-2, *Required Parking by Use*, dormitory uses are required to provide one parking space for every four occupants. For this structure, which will have a maximum occupancy of 16, a total of four (4) parking spaces are required. However, considering that this structure is intended to house the Town of Nags Head workforce, including seasonal lifeguards, it is understood that actual parking needs will likely exceed the minimum requirement.

Currently, there are 37 existing parking spaces onsite. Based on a liberal application of the medical office parking standard to the Community Care Clinic, which is also located onsite, we estimate that approximately 25 parking spaces are necessary for the clinic. Ms. Wyatt did reach out to Ms. Jenkins to get some feedback on approximate number of employees at the highest shift.

This leaves 12 parking spaces available for dormitory use, providing parking for three-quarters of the dormitory occupants. Ideally, 16 spaces—one per occupant—would be available for this use.

Ms. Wyatt noted that the UDO provides a mechanism, through the Special Use Permit process, to consider shared parking arrangements when multiple uses on the site have staggered hours or differing peak parking demands. Under this provision, no more than 50% of the required parking spaces for the proposed use can be shared with existing and conforming parking spaces for other uses.

Staff is requesting that the Planning Board consider applying this shared parking provision to address the four (4) additional parking spaces needed to meet the desired total of 16 spaces for the dormitory. The Community Care Clinic operates between 9:00 AM and 4:00 PM, Monday through Friday, and is closed on weekends. In contrast, the Town's ocean rescue staff typically works from 9:00 AM to 6:00 PM, with some early morning training sessions. Given these staggered hours, there should be minimal overlap in parking demand between the clinic and the ocean rescue staff.

- Several sections of the Unified Development Ordinance speak to Buffering and Landscaping, however, due to the design and location of this proposed structure and the use of the existing parking lot, they would not be applicable. Ms. Wyatt noted that there will be some land disturbance due to the fact that they will be removing the existing helio pad.
- Within the SED-80 (Special Environmental District), the removal of any tree with a diameter at breast height (DBH) greater than four (4) inches is prohibited, except in specific areas. These exceptions include trees within the principal building site and a 20-foot perimeter around it, within required accessways, parking lots, driveways, utility installations and a 5-foot perimeter around those areas, and within septic tank drain fields and the surrounding area as determined by the Dare County Health Department to ensure proper septic function.

At this time, no trees are proposed for removal that fall outside of the exempted areas. However, if a tree is later identified for removal that does not meet the exemption criteria, Staff would bring the request to the Planning Board and Board of Commissioners for approval.

- At this time, no additional parking lot lighting is needed or proposed. The dormitory will feature standard residential lighting.
- No additional signage is proposed. Water and Sewage Disposal: The Dare County Health Department is currently reviewing the proposed sewage design. This authorization will be required prior to review by the Board of Commissioners.

No changes are proposed to the existing parking lot design or traffic circulation patterns.

Stormwater management is not required for this project, provided that lot coverage remains at 28.6%, with no net increase in built-upon area and no importation of fill material. However, if there is any increase in lot coverage or the addition of fill material, the Town Engineer will require stormwater management to accommodate a 4.3-inch rainfall event for the net increase in built-upon area.

The project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance. Ms. Wyatt noted that because this will be a Duplex, the plan is to sprinkler protect the structure.

The Public Works Director has reviewed and approved the proposed site plan as presented.

Planning staff finds that the proposal is consistent with the applicable use and development standards, as well as relevant land use policies. Additionally, staff finds that the requirements necessary to offer a reduction in parking pursuant to Section 10.15.2.2. of the UDO, Shared Parking Associated with a Special use Plan, has been met given that it will not result in increased traffic congestion or negatively impact existing traffic flow or pedestrian and vehicular safety, will not create parking impacts for adjacent properties or within Town rights-of-way, will not be contrary to the objectives specified in the Comprehensive Plan, is necessary to permit the reasonable use of the subject property, and will not adversely impact adjacent property or the surrounding area.

Based upon their review, Staff recommends approval of the Special Use Permit/Site Plan Review as submitted conditioned upon the proposed lot coverage not exceeding 28.6% and Dare County Health approval.

Lyn Jenkins, Executive Director of the Community Clinic of Dare spoke briefly and expressed some concern about parking. She stated that the clinic offers full medical, full dental, a pharmacy and hosts two night clinics a month. There are times when they have over 15 people there, plus Staff and Volunteers and have sometimes had to have overflow parking on helipad.

Ms. Wyatt confirmed for Ms. Jenkins that the property might be vacant during wintertime, however there is a provision that states that if there was a community need it might be available for someone (a teacher, someone from CSI, etc.) but would need approval from the Town Manager. Ms. Wyatt confirmed that at no point would the occupancy exceed 16.

Ms. Wyatt also confirmed that Code Enforcement Officer Ed Snyder went by the property several times at different times of the morning and evening and on any given day there were 13 to 15 parking spots vacant, more so in the afternoon and evening than in the daytime.

Mr. Elder noted that some Ocean Rescue staff might decide to bike or carpool if they are going to the same place. Ms. Wyatt acknowledged but believes that they should still have enough parking but would encourage Ms. Jenkins to reach out to the Town if there were any issues.

David Elder moved to recommend approval of the proposed Special Use Permit/Site Plan Review. David Thompson seconded, and the motion passed unanimously.

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.

Ms. Wyatt explained that 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.

Ms. Wyatt explained that 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." Ms. Wyatt reviewed these for the Board.

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

Ms. Wyatt reviewed the policy considerations noting that the Land Use Plan encourages land uses that serve the needs of both year-round and seasonal residents in support of the town's overall vision for the community. Planning Staff finds the proposal to be consistent with the 2022 Comprehensive Land Use Plan and recommend adoption of the amendment as presented.

Ms. Wyatt confirmed for Mr. Gwinn that the Town of Nags Head owns the former BB&T Building, it is currently used as the fitness center; the quilt shop is owned by a private owner.

The Board briefly discussed vehicular access for the ambulances and how it will work with the existing traffic light at Seachase and the Fire Department.

David Elder moved to recommend approval of the proposed amendments. David Thompson seconded, and the motion passed unanimously

Report on Board of Commissioners Actions – September 4th, 2024

Ms. Wyatt gave an update on the Board of Commissioner Actions, of note: On the consent agenda was a request for Public Hearing to consider the rezoning of the parcel behind TW's from C-3 to C-2. A Public Hearing was held 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. Several members of the public 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. A Public Hearing was held to consider a text amendment submitted 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; the Board adopted the ordinance as presented. A Public Hearing was held to consider amendments to the UDO as it pertains to dormitory use in the SED-80; the Board adopted the ordinance as presented. The Board discussed the results of the Board-requested 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. The Board discussed the Septic Loan Program and is looking into approving a repayment extension from three to five years. The Mayor recognized Town Manager Andy Garman for 10 years of service.

Town Updates

None

Discussion Items

Discussion and Possible Amendment of minimum required parking standards for hotel use and restaurant use.

Ms. Wyatt noted that 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 Staff is still awaiting a response from Kill Devil Hills, Ms. Wyatt did hear back from the Town of Kitty Hawk. Their Planning Director 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.

Ms. Wyatt noted that the previous Hotel parking standard that the Town had prior to the UDO was 1.2 spaces for each hotel unit plus 1 parking space for every four employees. Ms. Wyatt gave as an example, the Inn at Whalebone stating that if that standard had been applied it would have gone from 87 spaces to 105. The standard in Kill Devil Hills is 1.2 spaces for each hotel unit plus one for

each employee. Kitty Hawk requires 1.5 spaces per rented room plus one additional per three employees.

Chair Vaughan and Mr. Thompson noted that the Kitty Hawk Hilton has a lot of conference space noting that is the only time you see the parking lot fill up is if they have all three rooms being used.

Ms. Wyatt confirmed for Mr. Gwinn that the parking standard was reduced from 1.2 to one space per unit around the time of the UDO but she was unsure why that reduction had occurred.

Ms. Wyatt confirmed for Mr. Thompson that in all towns the parking is based on units and not bedrooms. However, she noted that the old Town standard did address bedrooms and allocated more for employee parking.

Mr. Elder noted that some people use hotel parking to access the beach accesses near the hotels, Mr. Elder also expressed concern about hotels that have restaurants or other amenities. Ms. Wyatt confirmed that for any accessory uses to a hotel would have additional parking requirements.

After some further discussion the Board agreed that they were in favor of the older standard of 1.2 parking spaces for each unit to be rented, or one space per bedroom whichever is greater plus one parking space for each two employees on the largest shift.

Ms. Wyatt will put what the Board discussed with regards to hotel parking into ordinance form for their next meeting to facilitate further discussion noting that restaurant parking will be a longer discussion.

August 28th, 2024, Director's Report

Ms. Wyatt discussed her Director's Report with the Board which included an update on the Electric Vehicle Chargers at Town Hall, Sand Relocation/Sand Grant - \$400K was allocated by the BOC for the FY 24-25 program; the Town was awarded a grant to renovate June Street Beach access; and an update on Dowdy Park which continues to grow – concerts and summer markets are done for the season but fitness classes are still going strong and the holiday markets are ramping up.

Planning Board Members' Agenda

None

Planning Board Chairman's Agenda

Chair Vaughan reminded everyone about tomorrow night's ADU workshop and encouraged everyone to attend.

Adjournment

A motion to adjourn was made by David Elder. The time was 11:20 AM.

Respectfully submitted,
Lily Campos Nieberding