



# MEMORANDUM

## Town of Nags Head

### Planning & Development Department

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To: Planning Board

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

Date: November 19, 2024

Subject: Hotel Overlay District Discussion

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#### **Summary**

In November 2023, during their retreat, the Board of Commissioners directed planning staff to identify and correct areas of land use incompatibility within the town and correct inconsistencies between the Comprehensive Plan and the Unified Development Ordinance. One item noted for consideration at that time was revisiting the appropriateness of the Hotel Overlay District. This is Action Item 2.2 under the Development Goals of the adopted 2024 Town of Nags Head Strategic Plan. Hotels are only allowed in the C2 district as a special use with supplemental regulations, in the Hotel Overlay District and in the Village SPC-C District. In the CR zoning district, the hotel use shall only be allowed as a permitted use subject to a Conditional Use Permit upon a property when such use was lawfully conducted prior to and actively in operation as of January 1, 2021. At this time, staff would like to initiate a discussion with the Planning Board on whether the Hotel Overlay District remains in line with the Town's vision and development goals.

In a staff memo to the Planning Board dated October 10, 2001 (attached), staff stated that the Board of Commissioners have been discussing the issues surrounding the demolition of hotels and the replacement of these hotels with large single-family houses. The Board was concerned with the loss of diversity of seasonal housing accommodations of visitors. Staff were asked to present ideas concerning incentives for the development of new hotels/motels. Over the next few years staff considered a variety of factors that would help incentive new hotels, including reductions in lot coverage and setback requirements and an increase in height allowance as well as potentially creating a hotel overlay district. The Hotel Overlay District was established at the Board of Commissioners' Meeting on March 3, 2004, to encourage new and larger hotel developments.

According to the minutes of that meeting, Town Planner Andy Garman summarized the issue as follows: "On December 8, 2003, the Board of Commissioners and the Planning Board participated in a combined workshop to discuss hotel zoning amendments. The basis for this discussion included the proposed hotel zoning amendments that were considered at the December 3, 2003, Board of Commissioners meeting. Based on the input provided at this meeting and at the direction of the Board of Commissioners, staff has included the attached hotel proposal for review. This proposal includes changes to existing hotel standards in the C-2 zoning district and the creation of a new hotel overlay zoning district. The hotel overlay district includes the C-2 zoning district from just south of the Village at Nags Head to Whalebone junction. This area was selected due to its commercial nature and also due to its proximity away from Jockey's Ridge

and the lower density residential neighborhoods north of the Village. To allow for larger hotels, the height and lot coverage standards have been increased within this district."

The stated intent of the hotel overlay district found within the final adopted ordinance was to allow for the location of larger-scale hotels in commercial areas where the increase in height does not significantly affect the viewshed from Jockey's Ridge and does not diminish the low-density character of the historic district and the neighborhoods within the R-2 Medium Density Residential zoning district.

The final adopted hotel overlay district continued to allow a maximum height of structures to be 60 feet, which was previously allowed in all C2, but was reduced to 35 feet in the C2 at the same time the overlay district was adopted. A maximum lot Coverage of up to 65 percent is allowed for hotels in the Hotel Overlay District as opposed to 55% in the C2. The side yard setback is ten (10) feet, (15) feet for a corner lot; portions of buildings greater than two stories are required to be set back an additional 10 feet for every story over two. In any instance the setback does not need to exceed (30) feet.

**Map Hotel Overlay District**



Twenty years have passed since the Hotel Overlay District was established and the ordinance was adopted. Recently, The Inn at Whalebone received Site Plan Approval and subsequently development permits have been issued. This would be the only hotel to (potentially) be developed within the hotel overlay district since the creation of the overlay zoning district.

Below is a comparison of hotel requirements in the current ordinance. The development differences between C2 and the Hotel Overlay are highlighted yellow.

**Comparison Hotel Overlay vs. C2 District**

<b>TABLE 7-2: DIMENSIONAL REQUIREMENTS FOR HOTELS</b>				
	<b>CR</b>	<b>C-1</b>	<b>C-2</b>	<b>HO</b>
Lot Width	150 feet	100 feet	150 feet	
Front Setback	The minimum front yard along property lines abutting the right-of-way line of S. Virginia Dare Trail/NC 12 or S. Old Oregon Inlet Road/NC 1243 shall be forty-five (45) feet.	15 feet; portions of buildings greater than two stories shall be set back an additional 10 feet.	30 feet; portions of buildings greater than two stories shall be set back an additional 10 feet.	15 feet; portions of buildings greater than two stories shall be set back an additional 10 feet for every story over two. In any instance the setback need not exceed 30 feet.
Rear Setback	25 feet			

**TABLE 7-2: DIMENSIONAL REQUIREMENTS FOR HOTELS**

	<b>CR</b>	<b>C-1</b>	<b>C-2</b>	<b>HO</b>
Side Setback	A minimum side yard of ten (10) feet is required from any side property line, other than a side property line along a street right-of-way; for buildings with a height greater than thirty-five (35) feet, such minimum required side yard shall increase by one (1) foot for each foot in height greater than thirty-five (35) feet. For any side property lines along a street right of way, the minimum required yard shall be no less than the minimum required front yard or side yard, whichever is greater.	10 feet; 15 feet for corner lot; portions of buildings greater than two stories shall be set back an additional 10 feet.		corner lot; portions of buildings greater than two stories shall be set back an additional 10 feet for every story over two. In any instance the setback need not exceed 30 feet.
Height			35 feet	60 feet
Open Space	A minimum of fifty percent (50%) of the area established by each minimum setback shall be undeveloped and landscaped as open space. Underground components of wastewater systems are allowed to be located within minimum required setbacks.	50% of side yard to remain as open space.		50% of side yard to remain as open space. Minimum 5 feet, Maximum 10 feet.
Lot Coverage	40%		55%	65%

**TABLE 7-2: DIMENSIONAL REQUIREMENTS FOR HOTELS**

	<b>CR</b>	<b>C-1</b>	<b>C-2</b>	<b>HO</b>
Density	None	Maximum 20 units per site.	None	None
Unit Size (Room)	Minimum 300 sq. ft.	Minimum 300 sq. ft. Maximum 700 sq. ft.		
Unit Size (Eiciency)	Minimum 400 sq. ft.	Minimum 400 sq. ft. Maximum 700 sq. ft.		
Unit Size (Suite)	Minimum 400 sq. ft.	Minimum 400 sq. ft. Maximum 900 sq. ft. Up to 33% of units can be suites.	Minimum 400 sq. ft. Maximum 1,200 sq. ft. Up to 33% of units can be suites.	

**TABLE 7-2: DIMENSIONAL REQUIREMENTS FOR HOTELS**

	<b>CR</b>	<b>C-1</b>	<b>C-2</b>	<b>HO</b>
Minimum Units Per Building	2	2		
Building Separation	20 ft; A sidewalk or boardwalk constructed to provide a grade separation from vehicular traffic of at least six inches shall connect all principal buildings on the site. Separate buildings shall be connected with pedestrian passageways that are striped when crossing traffic lanes.			
Ocean/Sound Access	NA	<p>Hotel parcels east of US 158 must be within 1,000 feet in a straight-line distance to a public ocean access. The access must consist of a minimum five-foot wide improved pedestrian path.</p> <p>Hotels west of US 158 must provide direct, private soundfront access</p>		None.

**TABLE 7-2: DIMENSIONAL REQUIREMENTS FOR HOTELS**

	<b>CR</b>	<b>C-1</b>	<b>C-2</b>	<b>HO</b>
Accessory Uses	Fishing pier (with CAMA authorization), restaurant, indoor entertainment facility, indoor public assembly, retail, office and on- site rental of beach chairs and umbrellas.	Retail shops, offices, restaurants, indoor entertainment facilities, indoor public assembly for the benefit of occupants, guests and the general public, cottage court.		Uses permitted as accessory to hotels in the C-2 district and outdoor recreation activities as allowed in the HO district.
		Hotel allowed as accessory to other commercial.		Hotel allowed as accessory to other commercial.
		Dormitory for employee housing.		Dormitory for employee housing.
		Single-family dwelling for employee/owner housing.		Single-family dwelling for employee/owner housing.

The largest differences for hotel development between the C-2 General Commercial District and the Hotel Overlay District are around the requirement of proximity to ocean and sound access, the overall allowable height, maximum lot coverage and reduced side yard setbacks. Almost all the area within the Hotel Overlay District is zoned C2, General Commercial except at the very northern portion of the overlay district there is some R3, High Density Residential and one parcel that is zoned SPD-C, Village Hotel District, which is the site of the proposed Inn at Whalebone.

## **Approval Process**

Currently, hotel development in the C-2 General Commercial Zoning District is permitted through the Special Use Permit (SUP) process. This process enables the Board of Commissioners to evaluate whether a proposed hotel is appropriate for a specific location and assess its compatibility with the surrounding area. The SUP process provides flexibility, allowing the Board to address potential impacts, such as traffic or noise, by imposing tailored conditions that mitigate those impacts.

In contrast, hotel development in the Hotel Overlay District is permitted by right, subject to supplemental regulations. If a site plan complies with the standards outlined in the Town's Unified Development Ordinance (e.g., setbacks, parking, lot coverage), the approval must be granted without additional conditions. This by-right process does not allow for flexibility or the ability to impose conditions beyond what is already specified in the regulations.

If the Planning Board is inclined to recommend keeping the Hotel Overlay District, staff suggest amending the approval process to require hotels within this district to obtain a Special Use Permit. This change would allow for case-by-case evaluation and the opportunity to impose conditions to better address potential impacts and ensure compatibility with the surrounding area.

## **Density**

The allowable building height differs significantly between the C-2, General Commercial District and the Hotel Overlay District, directly influencing density potential. In the C-2 District, structures are limited to a height of 35 feet, or 42 feet with use an 8/12 roof pitch or greater, whereas the Hotel Overlay District permits hotel structures up to 60 feet in height. While the C-2 District's height limitations inherently restrict the number of units that can be accommodated, the greater height allowance in the Hotel Overlay District allows for significantly more units within a single structure. It should be noted that the town has recently implemented a density cap for multi-family developments; however, no similar density controls currently exist for development within the Hotel Overlay District.

## **Lot Coverage**

Allowable lot coverage in the Hotel Overlay District is set at 65%, compared to a 55% limit in the C-2 General Commercial District. This increased lot coverage has the potential to impact both development density and stormwater runoff, potentially leading to greater impervious surface area and associated challenges.

## **Hotel Trends**

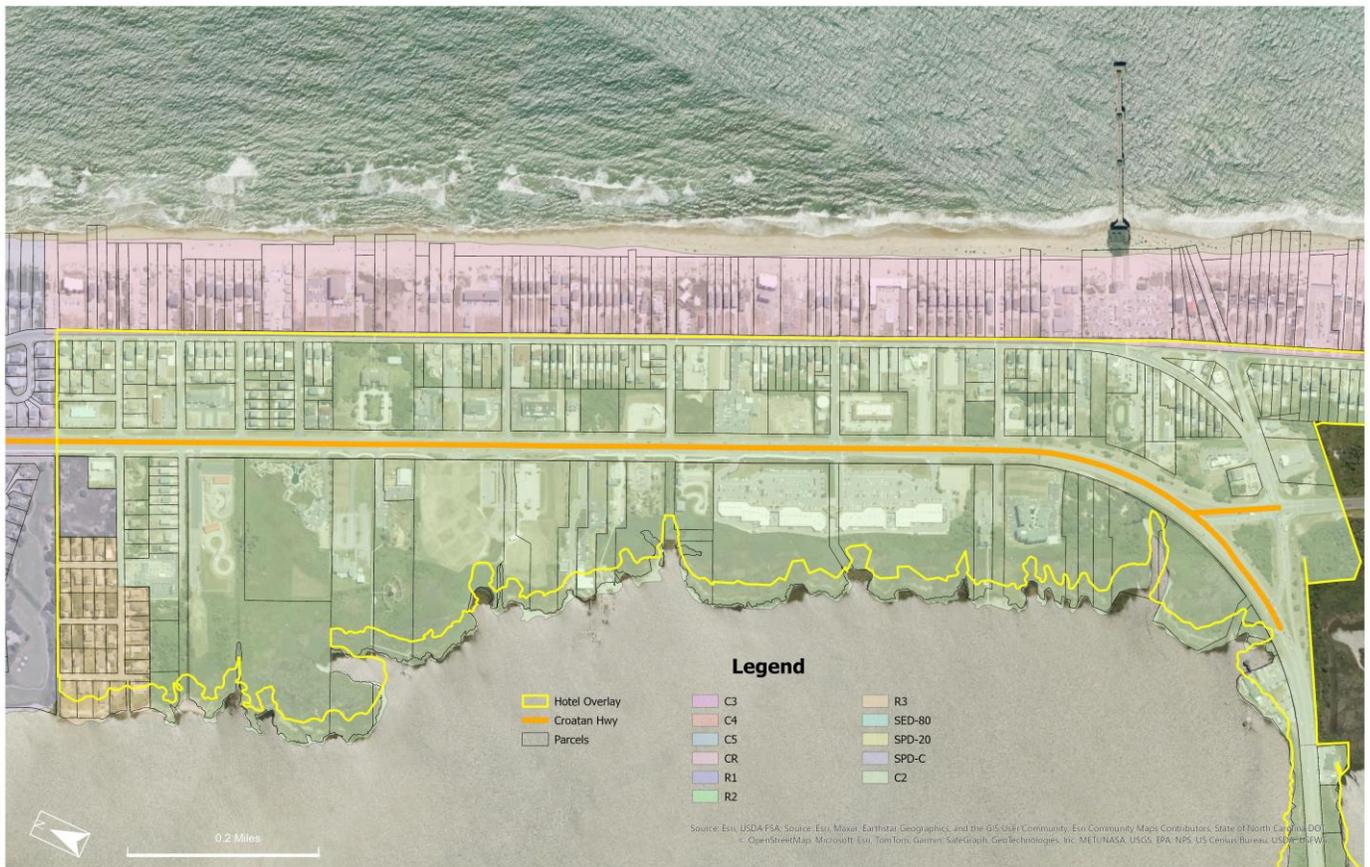
In follow up to the planning board's question regarding the current number of hotel rooms in town and trends, the following table shows the town's housing stock by type and is current as of 2017.

<b>Table I.2.I.D: Housing Stock by Type and Potential Peak Population, 2017</b>					
<b>Property Type</b>	<b>Total # Properties</b>	<b>Total # Rooms / Bedrooms</b>	<b>% of Total Bedrooms</b>	<b>Persons Per Unit/ Bedroom</b>	<b>Potential Persons at Peak Population</b>
<b>Single Family</b>					
1-2 bedrooms	220	424	2.2%	2	848
3-5 bedrooms	3,497	12,985	66.1%	2	25,970
6-7 bedrooms	300	1,901	9.7%	2	3,802
8+ bedrooms	234	1,961	10.0%	2	3,922
Single Family Subtotal	4,251	17,271	87.9%	2	34,542
<b>Multi-Family</b>					
Multi-Family Subtotal	558	1,547	7.9%	2	3,094
<b>Transient</b>					
Hotel	15	627	3.2%	3.5	2,195
Cottage Court	13	201	1.0%	3.5	704
Transient Subtotal	28	828	4.2%	3.5	2,898
<b>TOTAL</b>					<b>40,534</b>

The fifteen hotels in Nags Head are as follows:

1. Holiday Inn Express Nags Head
2. Surf Side Hotel
3. Mia's Boutique Hotel
4. Fin N/ Feather Waterside Inn
5. Comfort Inn South Oceanfront
6. First Colony Inn
7. Blue Heron Motel
8. Islander Motel
9. Tar Heel Motel
10. Sea Foam Motel
11. Seahorse Inn and Cottages
12. Dolphin Oceanfront Motel
13. Laughing Gull Cottages
14. Ocean Villas
15. The Windjammer

Since the table above was created in 2017 as part of the Comprehensive Land Use Plan Update, the town has introduced provisions allowing legacy hotels not located on the oceanfront to rent units on a long-term basis. For example, Owens Motel recently underwent renovations and rebranded as Mia’s Boutique Hotel, although its units continue to be rented on a short-term basis. Additionally, the 87-room Whalebone Inn has received site plan approval and is progressing toward construction.



## **POLICY CONSIDERATIONS**

LU-2, Develop separate zoning districts and regulations that recognize the appropriate scale and pattern of development for the US 158 and NC 12 corridors.

LU-5, Promote contiguous and cohesive nodes of commercial development of appropriate size and massing for the surrounding area

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.

NR-4, Preserve important estuarine waterfront viewsheds along the Causeway and in the Whalebone area that contribute to the overall quality of life and sense of place.

Planning staff will be available for further discussion at the Planning Boards November 19<sup>th</sup>, 2024 meeting. A draft ordinance has been included for review purposes.

*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 mater being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.*

**(DRAFT)**  
**AN ORDINANCE AMENDING THE TOWN CODE AND UNIFIED DEVELOPMENT ORDINANCE OF  
THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO THE HOTEL OVERLAY  
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 s 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**, the Board of Commissioners directed planning staff to identify and correct areas of land use incompatibility within the town and correct inconsistencies between the Comprehensive Plan and the Unified Development Ordinance. One item noted for consideration at that time was revisiting the appropriateness of the Hotel Overlay District. This is Action Item 2.2 under the Development Goals of the adopted 2024 Town of Nags Head Strategic 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 6.3 – Overlay Districts be amended as follows:**

~~Three (3)~~ two (2) overlay districts are hereby established as outlined in the table below. These overlay districts are intended to be superimposed over the underlying base zoning district. Land within any base district may be classified into one or more overlay zoning districts. Each overlay district includes standards which apply in addition to those specified in the underlying base zoning district. The specific objectives of each of these overlay districts are explained in the remainder of this section.

TABLE 6-2: OVERLAY DISTRICTS ESTABLISHED	
District Name	Abbreviation
Commercial-Outdoor Recreational Uses	CO
<b>Hotel</b>	<b>HO</b>
Soundside Residential Dwelling	SRO

**6.3.2. HO Hotel Overlay District:**

The purpose of the Hotel Overlay District is to allow for the development of larger scale hotels that exceed the 35-foot height restriction allowed in other zoning designations. This area generally includes the C-2 general commercial district south of the Village SPD-C district (Forrest Street) to Whalebone Junction. This area of the Town is deemed appropriate for taller, more intensive hotel uses that will not diminish important viewsheds in the area surrounding Jockey's Ridge or detract from the low density character of the historic district and the neighborhoods within the R-2 medium density residential zoning district.

**PART II. That Section 8.5.3– HO Hotel Overlay District be amended as follows:**

**8.5.3. HO Hotel Overlay District:**

Refer to Article 6, Zoning Districts for description of the Hotel Overlay District. Uses are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to Article 7, Supplemental Regulations and the other requirements of this UDO

**PART III. That Section 10.86 - Building Size/Dimension District be amended as follows:**

**10.86.2.2.** Individual buildings along five-lane roadway corridors shall not have a habitable area that exceeds twenty thousand (20,000) square feet, except in the case of multi-story hotel buildings within the Town's Hotel Overlay District or institutional uses including schools and hospitals.

**PART IV. That Table 7-2: Dimension Requirements for Hotels be amended as follows:**

TABLE 7-2: DIMENSIONAL REQUIREMENTS FOR HOTELS				
	CR	C-1	C-2	HO
Lot Width	150 feet	100 feet		150 feet
Front Setback	The minimum front yard along property lines abutting the right-of-way line of S. Virginia	15 feet; portions of buildings	30 feet; portions of buildings	15 feet; portions of buildings greater than two stories

	Dare Trail/NC 12 or S. Old Oregon Inlet Road/NC 1243 shall be forty-five (45) feet.	greater than two stories shall be set back an additional 10 feet.	greater than two stories shall be set back an additional 10 feet.	shall be set back an additional 10 feet for every story over two. In any instance the setback need not exceed 30 feet.
Rear Setback	25 feet			
Side Setback	A minimum side yard of ten (10) feet is required from any side property line, other than a side property line along a street right-of-way; for buildings with a height greater than thirty-five (35) feet, such minimum required side yard shall increase by one (1) foot for each foot in height greater than thirty-five (35) feet. For any side property lines along a street right-of-way, the minimum required yard shall be no less than the minimum required front yard or side yard, whichever is greater.	10 feet; 15 feet for corner lot; portions of buildings greater than two stories shall be set back an additional 10 feet.		10 feet; 15 feet for corner lot; portions of buildings greater than two stories shall be set back an additional 10 feet for every story over two. In any instance the setback need not exceed 30 feet.
Height	60 feet	35 feet		60 feet
Open Space	A minimum of fifty percent (50%) of the area established by each minimum setback shall be undeveloped and landscaped as open space. Underground components of wastewater systems are allowed to be located within minimum required setbacks.	50% of side yard to remain as open space.		50% of side yard to remain as open space. Minimum 5 feet, Maximum 10 feet.
Lot Coverage	40%	55%		65%
Density	None	Maximum 20 units per site.	None	None
Unit Size (Room)	Minimum 300 sq. ft.	Minimum 300 sq. ft. Maximum 700 sq. ft.		
Unit Size	Minimum 400 sq. ft.	Minimum 400 sq. ft. Maximum 700 sq. ft.		

(Efficiency)			
Unit Size (Suite)	Minimum 400 sq. ft.	Minimum 400 sq. ft. Maximum 900 sq. ft. Up to 33% of units can be suites.	Minimum 400 sq. ft. Maximum 1,200 sq. ft. Up to 33% of units can be suites.
Minimum Units Per Building	2	2	
Building Separation	20 ft; A sidewalk or boardwalk constructed to provide a grade separation from vehicular traffic of at least six inches shall connect all principal buildings on the site. Separate buildings shall be connected with pedestrian passageways that are striped when crossing traffic lanes.		
Ocean/Sound Access	NA	<b>Hotel</b> parcels east of US 158 must be within 1,000 feet in a straight-line distance to a public ocean access. The access must consist of a minimum five-foot wide improved pedestrian path. <b>Hotels</b> west of US 158 must provide direct, private soundfront access	None.
Accessory Uses	Fishing pier (with CAMA authorization), restaurant, indoor entertainment facility, indoor public assembly, retail, office and on-site rental of beach chairs and umbrellas.	Retail shops, offices, restaurants, indoor entertainment facilities, indoor public assembly for the benefit of occupants, guests and the general public, cottage court.	Uses permitted as accessory to <b>hotels</b> in the C-2 district and outdoor recreation activities as allowed in the HO district.
		<b>Hotel</b> allowed as accessory to other commercial.	<b>Hotel</b> allowed as accessory to other commercial.
		Dormitory for employee housing.	Dormitory for employee housing.
		Single-family dwelling for employee/owner housing.	Single-family dwelling for employee/owner housing.



**MEMORANDUM**  
**Town of Nags Head**  
**Planning & Development Department**

PART V. That **Section 6.6 - Table of Uses and Activities**, be amended as follows:

Use Category/Class	Use Type	Residential Districts			Commercial Districts					Special Districts				Overlay Districts			Supplemental 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	<del>HO</del>		SRO