
**Town of Nags Head
Planning Board
July 16, 2024**

The Planning Board of the Town of Nags Head met on Tuesday, July 16, 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, David Elder, Gary Ferguson, Kristi Wright,

Members Absent

Molly Harrison, David Thompson

Others Present

Kelly Wyatt, Joe Costello, Andy Garman, David Ryan, Lily Nieberding

Approval of Agenda

David Elder moved to approve the agenda as presented. Meade Gwinn 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 June 18th, 2024, meeting. David Elder moved to approve the minutes as corrected; Meade Gwinn seconded, and the motion passed unanimously.

Action Items

Consideration of a Text Amendment to the Unified Development Ordinance submitted by Anlauf Engineering, PLLC 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.

Planning Director Kelly Wyatt explained that Joseph Anlauf, P.E., of Anlauf Engineering, PLLC had submitted a text amendment request on behalf of the Ark Church. If adopted, the text amendment would modify the definition of "Religious Complex" to allow for the construction of a single-family dwelling, in addition to the already permitted parsonage, as a residence for church staff.

Ms. Wyatt reviewed the current definition of "Religious Complex" within the Unified Development Ordinance which states:

"Religious complex means a building primarily used for public divine worship or a church and any related structures including a parsonage, fellowship halls, educational buildings, youth centers, recreational facilities (which include playgrounds), day care centers, parochial schools or similar structures or areas located on a single site."

The applicant stated in the application that the amendment is designed to allow religious complexes the ability to include additional affordable housing options for church staff and their families. More affordable housing options will allow the church to attract and retain additional much needed church staff.

Staff believes that permitting religious complexes to build a single-family dwelling onsite for church staff can offer significant benefits to the church, its staff, and the community, provided all zoning and building regulations are met. Onsite residences could enhance community engagement, ensure staff availability for church-related events and activities, and provide a constant presence to quickly respond to any emergencies involving the church. As noted by the applicant, this capability could be particularly beneficial for attracting and retaining qualified and dedicated staff in an area with high living costs.

It is important to note that nothing in this proposal would eliminate the need for any single-family dwelling associated with a religious complex to comply with all relevant zoning and building standards, such as compliance with principal structure setbacks, building separation, access, parking, lot coverage, stormwater management, and architectural design, if applicable.

Staff reviewed the 2017 Comprehensive Land Use Plan and found the proposed text amendment to be consistent with the policies and would recommend adoption of the amendment as presented.

Ms. Wyatt noted that she as well as Mr. Anlauf were available to answer any questions for the Board.

Mr. Gwinn asked if the church anticipated that in the future there may be a need for additional dwellings and asked why limit it to one dwelling? Mr. Anlauf stated that he discussed this with the church and at this time and while there is more room, they've indicated the desire to have just one additional dwelling and are trying to create an environment where there is privacy for the family living in the dwelling.

Mr. Ferguson inquired if this would be something that would be applicable at other sites in town. Ms. Wyatt said she hadn't done an analysis but imagined that there are a couple of other religious complexes that could accommodate this as well, keeping lot coverage and setbacks in mind.

Mr. Gwinn asked why limit it to one dwelling, why not two or a duplex? Ms. Wyatt noted that the proposed ordinance reflected what the applicant requested but that she could revise the proposed amendment to include more than one if the Board was inclined.

After some further discussion, Mr. Elder moved to recommend approval of the text amendment as presented. Kristi Wright seconded, and the motion passed unanimously.

Consideration Of Various Amendments to the Unified Development Ordinance (UDO) as it pertains to the use of multifamily dwelling developments.

Town Manager Andy Garman explained that last month staff gave a presentation on the draft multi-family housing ordinance developed by the Multi-Family Ordinance Working Group.

The Planning Board discussed various aspects of the ordinance and requested that staff provide a comparison of the draft ordinance to the Sugar Creek Condos, which is the most recent example of a larger multi-family development within the town. This was completed under a previous version of the ordinance. The Planning Board also questioned the adequacy of the existing parking standard for multi-family development and requested an analysis of parking standards. Staff has also reviewed language in the ordinance with the Town Attorney related to HOA requirements: revisions have been provided.

Mr. Garman noted that one of the big questions about this ordinance is how they're going to manage density in terms of building mass and size as well as the number of people that might be on a property. As staff worked through this with the working group, they were trying to figure out ways to preserve the Town's vision for development but also make it a little bit more flexible and remove barriers for multi-family development as well as get unit costs down.

To aid in the discussion regarding density, staff has provided notes from a conversation with a local commercial real estate professional, Bobby Harrell. This information was provided to the Working Group to better understand the market forces that drive the development of multi-family housing. Mr. Harrell also provided suggestions on how the ordinance might be revised to create better conditions for multi-family development.

Staff has also provided a summary of the information presented to the Working Group to evaluate standards for density and unit size, as those were two of the key factors identified by Mr. Harrell to improve conditions for development.

Mr. Garman then proceeded to provide a more in-depth analysis of the Sugar Creek development showing how it compares to the currently proposed standards, noting that it appears controlling factors for density were wastewater requirements, parking, and the presence of wetlands.

Under the new proposed ordinance, there is no ratio of units per acre and unit sizes can be smaller. This allows for more units but still controls building volume and mass. Also, no more than 60% of the units can be from any size category.

The previous version of the Planning Board's recommended ordinance reduced density vs. what the old ordinance allowed. If the Sugar Creek site were developed using that standard (3 units for the first 26,000 sq. ft. of land area and one additional unit for every 4,500 sq. ft. of land) 40 units would have been allowed. This closely matches what was constructed, so approximately 53,000 sq. ft of building area would have been achieved.

The Working Group also considered imposing a total bedroom limitation and/or a bedrooms limitation per acre. Based on the other standards included in the ordinance such as FAR, the unit composition requirements, and the maximum number of units allowed, the Working Group decided not to impose a bedroom limitation. Based on the scenarios above, a limitation of 30 bedrooms per acre would match the density achieved. If all units were two bedrooms, this would be 15 units per acre. If all units were three bedrooms, this would be ten

units per acre. The old density requirement for a five-acre site was approximately 11 units per acre, however there was no limit on unit size or # of bedrooms per unit.

Mr. Ferguson inquired why Sugar Creek did not max out the number of allowed units. Mr. Garman confirmed that they were approved for 45 but only built 41 but was unsure as to why. He believes it was driven by what they could fit on the property to include wastewater and parking.

Chair Vaughan noted that now with the more advanced wastewater treatment options they may have been able to get some more units in.

The Board discussed density in greater detail with Chair Vaughan reminding the Board that these would be long-term housing. Mr. Elder stated that parking will definitely be an issue as there will probably be more people per bedroom noting that the number one problem that comes up with multi-family housing is always parking.

Ms. Wright inquired about the ratio of long-term housing vs. vacation rentals at Sugar Creek. Mr. Garman was unaware of the ratio but believes a lot of them to be short-term rentals.

Chair Vaughan noted that the draft ordinance had been provided to the Town Attorney and he had made some revisions and she inquired about said revisions. Mr. Garman explained that in speaking with Town Attorney John Leidy, Mr. Leidy had noted that they would have to create an HOA for the multi-family development, and whoever lived or owned there would have to be a member of said HOA. Mr. Garman noted that this requirement would apply to both large and small multi-family developments.

The Board agreed that while they supported the small multi-family development, they weren't ready to recommend approval on the large multi-family development at this meeting. Some Board members expressed concern that the large developments would very possibly be built adjacent to residential neighborhoods, and they want to limit the impacts. Chair Vaughan reminded the Board of the recent issue that came up with the hotel and the Lakeside neighborhood. Mr. Elder noted that in the case of Sugar Creek there is no other residential development around it.

The Board then discussed recent changing trends in workforce housing, the rental market and the number of visitors. Mr. Ferguson noted that the Board and the Town need "to take a bigger vision of what we want to be like in the long-term".

Mr. Garman and the Board discussed the proposed ordinance and the different recommendations they could make. Mr. Garman reminded the Board that there is a certain amount of time the Planning Board has to put forth the ordinance to the Board and if the Planning Board doesn't do that the BOC can go ahead and act on the ordinance. The Board could just say they want to stick with their original version of the ordinance, or they could look at the proposed ordinance and tweak some aspects of that to get it closer to what they're comfortable with.

Mr. Gwinn asked if it was possible to limit the number of multi-family developments in town. Mr. Garman noted that he would need to discuss that with the Town Attorney.

Chair Vaughan stated that she personally would like to see the Planning Board suggest revisions to the proposed ordinance that is in front of them.

The Board and Mr. Garman then discussed parking and reviewed the parking analysis that was provided with multi-family standards from other local and coastal communities. The Board liked the

idea of 2.5 parking spots per unit plus one additional, for every 4 units. Mr. Elder would like to see a visual presentation of what a development like that could look like. Chair Vaughan discussed the idea of a maximum number of bedrooms per acre, somewhere in the range between 25 and 30 per acre.

Mr. Garman will be bringing back the ordinance in August with the suggested revisions as well as some type of visual representation of what this could look like.

Consideration of various amendments related to the dormitory use within the SED-80, Special Environmental District zoning designation.

Planning Director Kelly Wyatt explained that at their last meeting, in response to a staff request, the Board initiated a text amendment that would allow a single-family or two-family dwelling to function as a dormitory style use in the SED-80. The Town is looking at developing the property located at 425 W Health Center Drive, formerly the Outer Banks Medical Center and now the Community Care Clinic. These structures would primarily serve as housing for the town's lifeguards.

Town staff have been working with Beacon Architecture and Design, PLLC, and Quible & Associates, PC to develop several potential layouts for these residential structures. Specifically, the town is considering construction in the area of the old, non-functional helipad, removing the existing concrete to offset lot coverage.

Included in the staff memorandum was a timeline on how things developed.

Section 7.41.6 of the supplemental regulation states: *"A dormitory for temporary use by staff of nursing homes may be allowed only in conjunction with nursing home facilities already permitted in the SED-80 District."*

In late 2017 the town processed text amendments requested by Jim Rose, resulting in the creation of a definition for "Dormitory" and permitting dormitory use via a Special Use Permit within the C-2, General Commercial Zoning District. This led to the establishment of supplemental regulations for dormitories now found in Section 7.10 of the Unified Development Ordinance. This context is relevant to highlight that the allowances for a dormitory for temporary use by staff of nursing home facilities within the SED-80 District in Section 7.41 pre-dated the 2017 standards established for dormitory use.

At this time, staff seeks discussion and consideration of allowing the dormitory use, consistent with the 2017 adopted supplemental standards of Section 7.10 of the UDO, while recognizing that the dormitory use afforded to the nursing home staff was not intended to be held to the same standards as it pre-dated them. To accommodate this, staff has proposed modifications to Section 7.41.6 in the draft ordinance.

Ms. Wyatt reminded the Board that the definition and standards adopted in 2017 were included with the staff memorandum. Ms. Wyatt also stated that staff reviewed the Land Use Plan and noted that there were policies in there that support the proposed amendment.

Ms. Wyatt then reviewed the proposed amendment walking the Board through what is being removed and what is being added. Ms. Wyatt pointed out that the Dormitory use for Town Staff would have to meet the supplemental regulations.

David Elder moved to recommend approval as submitted. Meade Gwinn seconded, and the motion passed unanimously.

Report on Board of Commissioners Actions – July 3, 2024

Ms. Wyatt gave an update on the Board of Commissioner Actions, of note:

A Public Hearing was held to consider NC Public Beach and Coastal Waterfront Access grant application - The Board approved the NC Public Beach and Coastal Waterfront Access grant application request as presented. With regards to the Site Plan Modification for the Inn at Whalebone, Board members expressed concern about the neighborhood safety and verified with Town Engineer Ryan that the design presented is the best solution for a number of reasons to include being bound by Town and State laws. Board members would like to see another traffic analysis conducted by NCDOT in the month of July to determine if a traffic signal at Lakeside Street is authorized; staff is to present a Traffic Control Map amendment for a No Parking/Tow Away Zone designation for Lakeside Street at the August Board meeting. The Board approved the modification to the site plan, to include the street improvements, as presented. The vote was 4 – 1 with Comr. Lambert casting the NO vote. Ms. Wyatt noted that Town Manager Garman reached out to the consultant and an updated traffic analysis may be completed within the next two weeks. Ms. Wyatt gave a presentation on Accessory Dwelling Units/Short-Term Rentals. Ms. Wyatt noted she will be giving this same presentation to the Planning Board later on today. Finally, Mayor Cahoon asked if the Building Inspector could look into a certain type of paint that expands in certain situations – he questioned if this would be an option for an applicant to improve the safety of their unit rather than having to rip drywall out.

Town Updates

None

Discussion Items

Discussion of potential Accessory Dwelling Unit (ADU) ordinance and existing conditions within the Town.

Ms. Wyatt explained that in an effort to advance the discussion of a potential Accessory Dwelling Unit (ADU) ordinance, at their July meeting, staff provided the Board of Commissioners with a PowerPoint presentation highlighting the similarities and interconnectedness between Accessory Dwelling Units, Partial-Home Short Term Rentals and Duplexes.

Ms. Wyatt proceeded to present this same PowerPoint to the Planning Board. This presentation included current relevant definitions, existing conditions within the Town, the differentiation between a kitchenette and a full kitchen, findings and considerations, potential next steps, considerations when thinking about Accessory Dwelling Units and their impact on the community, considerations when thinking about Short-term rentals. Finally, Ms. Wyatt presented the Board with two possible options to consider:

Option 1: Take no action on Accessory Dwelling Units (ADUs) at this time and focus on establishing regulations for Short Term Rentals, specifically Partial Home Short Term Rentals.

Option 2: Allow Accessory Dwelling Units (ADUs) and establish regulations, these may include:

- Determine where they can be located (ex: certain geographical areas, zoning districts, etc.)
- No more than one rental unit a property, either attached or detached.
- At least one dwelling unit must be owner or resident occupied.

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- ADU shall not contain more than two bedrooms (ensure subordinate and incidental to the principal use).
 - Set a maximum allow area for each dwelling unit, perhaps 1,200 square feet.
 - Propose revisions to STR's accordingly.

Staff would submit that many existing partial home short-term rentals within the town share similar characteristics and functions with accessory dwelling units. Both accessory dwelling units and short-term rentals provide additional living spaces that can be rented out as separate, independent housekeeping units with similar operational characteristics. Additionally, many of the existing partial-home short-term rentals, and should the Town permit them, attached accessory dwelling units, would be comparable to duplexes in terms of structure and use.

In order to have a better understanding of how a potential ADU ordinance may affect the Town, staff believes it is important to openly discuss and gain understanding of the current situation within the Town, the overlap between these uses, the need for regulatory consistency, and to gain input on steps for moving forward to enhance the safety and functionality of existing and future structures within the Town.

Ms. Wyatt noted that when she gave the presentation to the Commissioners it was well received and the Board members acknowledged that there was a lot of overlap and spoke in favor of Option 2, to keep ADU's and STR's together; no more than two bedrooms, possibly using deed restriction to keep them to long-term rentals.

Mr. Elder noted that this was a good way to take something that is already happening and make it more compliant and safe for the public.

Ms. Wyatt stated that she will bring back some draft language for the next meeting.

June 28th, 2024, Director's Report

Ms. Wyatt briefly discussed her Director's Report with the Board which included various activities involving staff.

Planning Board Members' Agenda

None

Planning Board Chairman's Agenda

None

Adjournment

A motion to adjourn was made by David Elder. The time was 11:32 AM.

Respectfully submitted,
Lily Campos Nieberding