
**Town of Nags Head
Planning Board
August 20th, 2024**

The Planning Board of the Town of Nags Head met on Tuesday, August 20th, 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, Gary Ferguson, Kristi Wright,

Members Absent

David Elder

Others Present

Kelly Wyatt, Joe Costello, Andy Garman, Lily Nieberding

Approval of Agenda

Meade Gwinn moved to approve the agenda as presented. Kristi Wright 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 July 16th, 2024, meeting. David Thompson moved to approve the minutes as corrected; Meade Gwinn seconded, and the motion passed unanimously.

Action Items

Consideration of a Map Amendment request submitted by Chris Greening of Coastal Bluewater Capital, LLC, as authorized by property owner Mazzi, LLC to rezone the property located at 0 W. Satterfield Landing Road from C-3, Commercial Services to C-2, General Commercial. This is the vacant property west of TW's Bait and Tackle.

Planning Director Kelly Wyatt explained that Chris Greening of Coastal Bluewater Capital, LLC, owner of TW's, had submitted a zoning map amendment request with authorization from current property owner, Mazzi, LLC. If adopted, this map amendment would rezone the property located at 0 W. Satterfield Landing Road (Lot 2a-1r of the Charles Sineath Subdivision, Parcel # 005618002) from C-3, Commercial Services District to C-2, General Commercial District.

Ms. Wyatt noted that in late 2017, the property owner at the time, TLG Greenwater Investments, submitted a request to rezone the easternmost 50 feet of this lot from C-3, Commercial Services, to C-2, General Commercial Services. This rezoning was part of a planned transfer and recombination of the affected portion with Lot 1a-1 (TW's Bait and Tackle). After the map amendment was adopted, TW's Bait and Tackle constructed the accessory storage structure currently on the property.

In November 2022, the Board of Commissioners approved a Special Use Permit/Site Plan Review, submitted by Mazzi LLC, for the construction of a "Trade Center", with parking and all associated improvements. When the November 2022 approval expired, the Board of Commissioners re-approved the same requested scope of work at their February 7, 2024, meeting. This new approval is valid until February 7, 2025. Ms. Wyatt noted that if the requested rezoning is approved, the Trade Center use would no longer be permitted, as that use is not allowed in the C2 zoning district.

When considering a possible re-zoning it is helpful to review the intent of both the giving and receiving zoning classification in conjunction with potential outcomes. The intent of the C-3, Commercial Services District, is to provide for higher intensity land uses that are not compatible with other areas of the Town. The C-3 District accommodates utilities, light industrial uses, warehousing, bulk storage, dog agility, etc. It is in close proximity to the Fresh Pond, actually within that buffer area for the Fresh Pond.

The intent of the C-2, General Commercial District, is to provide for the proper grouping and development of commercial facilities to serve the entire community. The C-2 District allows the broadest range of commercial uses. All C-2 districts shall be at least 5 acres in area and proposed zoning map amendment would result in an increase in the total acre of C-2 designation.

The 2017 Comprehensive Land Use Plan states that the C-3 standards are to regulate and buffer uses so that their location or activities will not be detrimental to adjacent uses, the environment, and the sources of potable water. The Commercial Services District must be at least 10 acres in size and must have direct access to a US highway or collector street improved to town standards. If adopted, the requested rezoning would reduce the overall acreage of C-3 by 0.8 acres, leaving approximately 36 acres of C-3 Commercial Services Remaining.

Ms. Wyatt noted that she had included a link to the table of uses and activities allowed within the existing C-3 and C-2 Zoning Districts, as well as some Land Use Plan considerations in her Staff Report.

Ms. Wyatt stated that based upon the evaluation of the intent of each district and the goals listed in the 2017 Comprehensive Land Use Plan, staff would recommend adoption of the proposed zoning map amendment as presented noting that any future development of this property would require Site Plan Review and approval from both the Planning Board and Board of Commissioners.

Ms. Wyatt stated that she, as well as the applicant Chris Greening, was available to answer any questions for the Board.

Ms. Wyatt confirmed for Mr. Ferguson that the Fresh Pond was still in the AEC noting that there are certain requirements that must be met within 500 ft and 1200 ft. A portion of the property in question is within the 1200 ft., which might affect septic capacity and would be looked at during site plan review.

Ms. Wyatt pulled up an aerial view to the C-3 zoning for the Board's consideration, noting that the parcel where the Town's water plant is located was recently rezoned into the C-3 district.

Mr. Gwinn inquired as to what the parcel would be used for. Applicant Chris Greening stepped to the podium and explained that part of would be used for workforce housing and some for retail. Mr. Greening noted that the proximity of the parcel to his business as well as being slightly off the main road make it an ideal location for workforce housing. Mr. Greening confirmed that the residential would be accessory to the retail use which is currently allowed in the C2.

Meade Gwinn moved to approve the rezoning request as presented. David Thompson seconded and the motion was approved unanimously

Consideration Of Various Amendments to the Unified Development Ordinance as it pertains to the use of multi-family dwelling developments.

Town Manager Andy Garman explained that at last month's meeting, Staff discussed the draft multi-family housing ordinance with the Planning Board.

The Planning Board mainly discussed two provisions of the draft ordinance. This included the parking standard and a provision that would limit the density of projects based on bedrooms per acre. The Planning Board requested that the parking standard be modified to 2.5 spaces per unit. The draft ordinance has been revised to include this proposed parking standard. It also includes a range of standards regulating bedrooms per acre.

Mr. Garman noted that the Planning Board also requested that staff propose a bedrooms per acre standard of between 25 to 30 bedrooms per acre. For discussion purposes, Staff has provided an analysis which compares the results of including an additional standard regulating bedrooms per acre at two different ranges vs. only regulating density using a floor area ratio. Mr. Garman noted that, a bedrooms per acre, standard would provide an additional regulation of density above and beyond just the floor area ratio. If the Planning Board is concerned about being able to control not just the mass of the building but the number of persons that may potentially be on the property, then the bedrooms per acre would be a thing to consider adding into the ordinance. Mr. Garman also reminded the Board that there is a proposed cap of 75 units in the Working Group's Ordinance so in most of the sample cases that provides a sort of artificial limit on the number of units you can have.

5 Acres

- 217,800 square feet x 0.32 = 69,696.
- Let's say 60% of the units are going to be 2 bedrooms with min. unit size of 700 sf = area of 41,817 = 59 units (118 bedrooms).
- Remaining 27,878 sf to be 1 bedroom at 500 sf = 55 units (55 bedrooms).
- This equates to 114 units and 173 bedrooms, however the Working Group proposed cap at 75 units would apply.
- A maximum of 25 bedrooms per acre would allow 125 bedrooms.
- A maximum of 30 bedrooms per acre would allow 150 bedrooms.

4 Acres

- 174,240 square feet x 0.32 = 55,756.
- Let's say 60% of the units are going to be 2 bedrooms with min. unit size of 700 sf = area of 33,454 = 47 units (94 bedrooms).
- Remaining 22,302 sf to be 1 bedroom at 500 sf = 44 units (44 bedrooms).
- This equates to 91 units and 138 bedrooms, however the Working Group cap of 75 units would apply.
- A maximum of 25 bedrooms per acre would allow 100 bedrooms.
- A maximum of 30 bedrooms per acre would allow 120 bedrooms.

3 Acres

- 130,680 square feet x 0.32 = 41,817.
- Let's say 60% of the units are going to be 2 bedrooms with min unit size of 700 sf = area of 25,090 = 35 units (70 bedrooms)..
- Remaining 16,727 sf to be 1 bedroom at 500 sf = 33 units (33 bedrooms)
- This equates to 68 units and 103 bedrooms. Would comply with the Working Group recommended cap of 75. Would not comply with the Planning Board recommended cap of 60 units.
- A maximum of 25 bedrooms per acre would allow 75 bedrooms.
- A maximum of 30 bedrooms per acre would allow 90 bedrooms.

2 Acres

- 87,120 square feet x 0.32 = 27,878.
- Let's say 60% of the units are going to be 2 bedrooms with minimum unit size of 700 sf = area of 16,727 = 23 units (46 bedrooms).
- Remaining 11,151 sf to be 1 bedroom at 500 sf = 22 units (22 bedrooms).
- This equates to 45 units and 68 bedrooms. Would comply with the Working Group and Planning Board cap on units.
- A maximum of 25 bedrooms per acre would allow 50 bedrooms.
- A maximum of 30 bedrooms per acre would allow 60 bedrooms.

Mr. Garman confirmed for Mr. Gwinn and the Board that the floor area ratio controls the size of the building whereas a maximum number of bedrooms per acre controls density. Mr. Garman then presented a plan view sketch developed by Staff, which showed a conceptual site plan on a 5.5-acre parcel based on the draft ordinance. The sketch included five separate buildings totaling 9,900 sq. ft. each, and 188 parking spaces. Mr. Garman noted that this sketch includes the 2.5 parking spaces per unit and was intended to assist the Planning Board with understanding how the ordinance would regulate density of a hypothetical multi-family project.

Mr. Garman explained that you want to have enough parking for all occupants but when you add additional parking you also add additional lot coverage, in this case it amounts to 6000 ft of lot coverage by having the 2.5 spaces per units vs. the other standard so it's something that should be considered. In this scenario, the less restrictive parking standard would likely result in more open space as they would have already maxed out the number of units.

The Board was concerned about building mass, but also the number of people on the property (density) and were in favor of the bedrooms per acre requirement. Mr. Thompson reminded the Board that if some of it is going to be workforce housing there was a big chance that even the one-bedroom apartments would be shared by multiple people.

Mr. Gwinn asked if it was possible to limit the number of multi-family dwellings in town. Mr. Garman stated that he had asked the Town Attorney but did not have an answer yet but reminded the Board that there are already several multi-family dwelling developments in town.

Deputy Planning Director Joe Costello gave a quick presentation showing parcels in the C2 zone. There are 840 unique parcels and there are 207 parcels that are greater than 15,000 SF that could fit a small multi-family dwelling development. 93% of the 840 are developed so any multi-family would more than likely be redevelopment.

Mr. Costello also noted that there are 145 parcels adjacent to US 158, 91 of which are greater than 26,000 SF which could be large multi-family but again most are developed so most would be redevelopment.

The Board discussed and agreed that they wanted to limit the maximum number of bedrooms per acre to 25. The Board were also in agreement that they were in support of the small multi-family development but wanted to include 25 bedroom per acre limitation as well as the parking standard of 2.5 parking spaces per unit plus 1 space per 4 units.

Mr. Garman confirmed for Mr. Ferguson that the restrictions placed by the Flood Ordinance would not be much of a limiting factor when it comes to construction of multi-family development.

As far as large multi-family development, the Board was in consensus that they were ok if it didn't front the bypass. Chair Vaughan stated and the Board agreed that they didn't like the apartment style building for the large family dwelling development, they prefer townhouse style development. The Board was in agreement that they do not want to see a large number of apartments all over town and would like to see the number of developments limited. The Board also would like to see the 25 bedroom per acre limitation as well as the parking standard of 2.5 parking spaces per unit plus 1 space per 4 units.

Meade Gwinn moved to recommend the Small Style Multi-Family Development Amendment as proposed by the Working Group with the following changes:

- Include the maximum 25 bedrooms per acre standard as well as the Parking Standard of 2.5 spaces per unit plus one space for every 4 units.

Mr. Gwinn also moved to recommend the Large Style Multi-Family Development amendment as proposed by the Working group with the following changes:

- Allow townhouse style only, include the 25 bedrooms per acre limitation and the Parking Standard of 2.5 spaces per unit plus one space for every 4 units.

Kristi Wright seconded the motion, and the motion passed with a vote of 5 to 1 with Molly Harrison casting the Nay vote.

Ms. Harrison would like to explore further the idea of putting a limitation on how many could be developed and the Board agreed to recommend that the Board of Commissioners look at a limitation on the number of developments that can be built in Town.

Report on Board of Commissioners Actions –

Ms. Wyatt gave an update on the Board of Commissioner Actions, of note: Several items on Consent Agenda including Requests for Public Hearings for text amendments to the UDO on the use of multi-family dwelling developments, text amendments to the UDO for "Religious Complex" definition modification and text amendments to the UDO re: SED-80 dormitory use. The Board approved \$400K Sand Relocation and Dune Management Cost Share Program which is a continuation of year three of a three-year program. Environmental Planner Conner Twiddy and Dep Planning Director Joe Costello reviewed with Board members a power point presentation summarizing the Septic Health Initiative Program and the long-range data collection and mapping efforts which was very well received. Comr. Lambert expressed her concern re: parking requirements vs parking needs at hotels. It was Board consensus to direct staff to look at hotel parking standards with consideration of existing properties and consultation with the industry and include restaurants in the review.

Town Updates

None

Discussion Items

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

Ms. Wyatt introduced a discussion on the parking standards for hotels and restaurants, emphasizing that no immediate recommendations were expected. The purpose of the discussion was to begin a conversation about potential changes to parking requirements, particularly in light of recent concerns following the approval of the hotel on Lakeside.

Ms. Wyatt gave a brief background:

- The Board of Commissioners requested a review of current parking standards for hotels.
- The current standard is one parking space per hotel unit, with additional spaces required for units with kitchens, conference rooms, restaurants, etc.
- Historically, parking standards were slightly stricter:
 - Just before the adoption of the UDO, the standard was 1.2 spaces per unit plus one space for every four employees.
 - In August 1989, the standard was 1.2 spaces per unit or one space per bedroom, whichever was greater, plus one space per employee on the largest shift.

Ms. Wyatt then discussed the relevance, comparing the historical standards to the current requirements and noted that the approved Inn at Whalebone would have required 105 parking spaces under the older standards for its 87 units.

Ms. Wyatt then reviewed an attachment (included in the Meeting Packet) which provided a comparison of hotel parking standards in other coastal communities:

- **Kill Devil Hills:** 1.2 spaces per unit plus one per employee.
- **Kitty Hawk:** 1.5 spaces per rented room plus one per employee.
- **Southern Shores:** 1.5 spaces per rented room plus one per employee.
- **Duck:** 1.5 spaces per rented room plus one for every three employees.
- **Sunset Beach, Wrightsville Beach, Carolina Beach, Emerald Isle, Oak Island, Atlantic Beach:** These were mentioned as additional points of interest for comparison.

Ms. Wyatt found the historical and comparative data on hotel parking standards interesting and suggested that addressing potential changes to hotel parking might be a more straightforward discussion compared to restaurant parking, which could require more in-depth conversations.

Mr. Gwinn asked whether there had been any discussions with counterparts in other towns (KDH, Kitty Hawk, Duck) to understand if their parking standards are working effectively or if they face any challenges. He inquired if feedback on the adequacy of these ordinances had been gathered.

Ms. Wyatt confirmed that she had not yet had those conversations but would do so for the next meeting.

Mr. Thompson shared his personal experience as a sales professional frequently pulling over into hotel parking lots, noting that even in summer, there are often empty spaces during the day. He observed that hotel parking lots are generally full only from 9:00 PM to 7:00 AM during peak season (June-August), and occupancy is lower during the other nine months of the year.

Chair Vaughan agreed, adding that it is probably uncommon for there to be more than one vehicle per hotel room, especially compared to year-round living or workforce housing. However, she emphasized the importance of considering employee parking, which might be underestimated.

Chair Vaughan also noted that most people are at work during the day, leaving parking spaces available, but it seemed that other towns generally have more parking for hotels than Nags Head.

Ms. Wyatt mentioned that the town used to have a standard of 1.2 parking spaces per hotel unit before reducing it to one, while other towns still have standards of 1.2 or 1.5, often with additional requirements for employee parking.

Chair Vaughan pointed out that it's challenging to meet parking demand when additional facilities like kitchens or meeting spaces are present, as these can create unusual levels of demand, especially during events or conferences.

Mr. Thompson asked about the definition of a hotel efficiency unit or kitchen facility, leading to a discussion on the specific criteria for hotel units, efficiency units, and suites.

Ms. Wyatt confirmed for Mr. Thompson that the parking standard does take into account if there is a restaurant associated with the hotel.

Ms. Wyatt concluded by stating that she would gather feedback from other local municipalities on their standards and return in September with more information, potentially leading to a proposed ordinance.

Moving on to restaurant parking, Ms. Wyatt noted that there are several aspects of restaurant parking that will require more detailed review and discussion, these include but are not limited to:

- The current parking standard has been applied to sit down restaurants for well over 10 years, any changes to the standard could result in site nonconformities for existing restaurants.
- Regulating restaurant parking by customer service area can become problematic if that area changes unbeknownst to staff. If a restaurant changes hands, the new tenant may wish to increase the amount of customer service area, thus making the existing parking count inadequate. In this scenario, a parking standard based upon gross floor area may be more appropriate. What are the pros and cons of regulating based upon gross floor area? Kill Devil Hills, Sunset Beach, Carolina Beach, Oak Island, and Atlantic Beach regulate restaurant parking based upon gross floor area. Southern Shores and Duck regulates restaurant parking based upon customer seats. Wrightsville Beach regulates restaurant parking based upon the maximum occupancy allowed.
- The existing definition of "customer service area" states that it is the area designated for the purchase and/or consumption of food, drink, or other similar items. The definition further goes on to exclude outdoor seating areas not designated for the purchase of food, drink, or similar items and instead are used primarily as waiting areas for customers who are waiting to be seated in indoor customer service areas. Staff submits that these outdoor areas, while initially were primarily used for waiting, gradually transition into areas which may very well need to be included

in a parking standard (drinks served while waiting, in some instances appetizers being provided while "waiting", etc.).

- Should the town address outdoor entertainment areas associated with restaurants in the parking requirements? Should the town address outdoor entertainment areas generally?
- Should we include a parking requirement for employees/staff? Note that the Town of Duck, Southern Shores, and Wrightsville Beach regulate employee parking.

Chair Vaughan said that they need to look at parking differently, trying to encompass these other areas where people gather as they still have to park somewhere.

Mr. Gwinn believes that outdoor seating should be parked like indoor seating if customers are being served outdoors.

Mr. Thompson noted that something else to consider is that often times people drive separately and meet at a restaurant to eat so there are multiple vehicles per table.

Chair Vaughan stated that they have to strike a balance, because the town wants and needs restaurants, but they need to require enough parking to meet that peak demand so that it's safe and not overflowing into neighboring properties; so many restaurants are maxed out on parking during the season.

Ms. Wright noted that this is changing and more restaurants are busy year round. The Board agreed that coming up with an improved parking standard will be a challenge.

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

Ms. Wyatt stated that there has been a lot of discussion about ADUs and reminded the Board that Staff delivered a presentation to both the Board of Commissioners and the Planning Board at their meetings on July 3rd and July 16th, respectively. The presentation emphasized the similarities and interconnectedness among Accessory Dwelling Units (ADUs), Partial-Home Short-Term Rentals (STRs), and Duplexes.

Staff believe that recognizing these overlaps with existing uses in the town is a critical first step as they begin to explore options for allowing ADUs within the Town noting that many of the existing partial-home STRs share similar characteristics and functions with ADUs. Both types of housing provide additional living spaces that can be rented as separate, independent units with similar operational dynamics. Additionally, both partial-home STRs and, if permitted, attached ADUs, would resemble duplexes in terms of structure and use.

Currently, Short-Term Rentals are permitted in all zoning districts within the Town, except for the C-3, Commercial Services District. However, Accessory Dwelling Units are not allowed in any district. Duplexes, or two-family dwellings, are permitted in the R-2, R-3, CR, C-1, C-2, C-4, and C-5 Districts, with a minimum lot size of 22,500 square feet (30,000 square feet in the R-2 district).

Recognizing that many residents may not be familiar with the current codes and ordinances governing these uses, Staff would recommend that the Planning Board consider dedicating time at their upcoming September 17th meeting for an overview of these uses and their associated regulations. This session would allow for a discussion on areas of overlap and any aspects requiring

further clarification, while also providing an opportunity for citizens to offer their input on potential changes to existing language or proposed future language. Given the range of opinions within the community, particularly regarding ADUs and concerns about density, staff want to seek input from both supporters and those with reservations. Ms. Wyatt also asked that if there are specific groups, organizations, or individuals that the Planning Board believes should be personally invited to participate to please share that information with staff.

The Board was in consensus that they would like to have public input and were not opposed to having an evening workshop. Ms. Wyatt will send out a poll with some times and dates for the Board to choose.

July 30th, 2024, Director's Report

Ms. Wyatt briefly discussed her Director's Report with the Board which included various activities involving staff. Ms. Wyatt reminded the Board that one of the Farmer's Markets that was cancelled due to weather has been rescheduled to another date in the afternoon/evening.

Planning Board Members' Agenda

None

Planning Board Chairman's Agenda

None

Adjournment

A motion to adjourn was made by Molly Harrison. The time was 11:03 AM.

Respectfully submitted,
Lily Campos Nieberding