



AGENDA

TOWN OF NAGS HEAD

NAGS HEAD MUNICIPAL COMPLEX – CONFERENCE ROOM – 2nd Floor

MONDAY, March 25th 2024, 10 AM

Multi-Family Working Group – Meeting #1

A. CALL TO ORDER

B. WELCOME AND INTRODUCTIONS

Members:

Kevin Brinkley, Nags Head Board of Commissioners
Megan Lambert, Nags Head Board of Commissioners
Meade Gwinn, Nags Head Planning Board
Molly Harrison, Nags Head Planning Board
Chris Greening, Nags Head Business Owner - TW's Bait and Tackle
Basil Belsches, Nags Head Resident
Donna Creef, Outer Banks Association of Realtors
Duke Geraghty, Outer Banks Homebuilders Association

Staff:

Andy Garman, Town Manager
Kelly Wyatt, Director of Planning and Development

C. BACKGROUND/REVIEW OF WORKING GROUP CHARGE

Attachments:

1. Joint Board of Commissioners/Planning Board Workshop Minutes – August 2, 2023
2. Working Group Background and Charge (Summary Sheet from March 6, 2024 BOC Meeting)

D. REVIEW OF DRAFT ORDINANCE AND PLANNING BOARD'S MAJOR CONSIDERATIONS

Attachments:

3. Previous Nags Head Ordinance for Multi-Family Development
4. Staff Report and Draft Nags Head Ordinance for Multi-Family Development (2/27/2024)

E. DISCUSSION

F. NEXT STEPS/NEXT MEETING

G. ADJOURNMENT



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS / PLANNING BOARD
JOINT WORKSHOP
WEDNESDAY, AUGUST 2, 2023**

The Nags Head Board of Commissioners and the Planning Board met in person in the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, August 2, 2023. The time was 11:24 a.m.

Board members Present: Mayor Ben Cahoon; Mayor Pro Tem Michael Siers; Comr. Renée Cahoon; and Comr. Bob Sanders

Board members Absent: Comr. Kevin Brinkley

Others present: Town Manager Andy Garman; Attorney John Leidy; Kelly Wyatt; Amy Miller; David Ryan; Perry Hale; Randy Wells; Nancy Carawan; Michelle Gray; Roberta Thuman; and Town Clerk Carolyn F. Morris; Planning Board members: Kristi Wright; David Elder; Megan Lambert; Meade Gwinn; Gary Ferguson; and Molly Harrison

BOC/Planning Board Workshop

Mayor Cahoon announced the start of the Board of Commissioners / Planning Board Workshop. The time was 11:24 a.m.

Multi-Family regulations in the Town's Unified Development Ordinance (UDO)

Planning Director Kelly Wyatt introduced the workshop to discuss multi-family development, to include discussion of the inconsistencies and unclear language within the UDO.

Ms. Wyatt reviewed several inconsistencies within the UDO pertaining to multi-family development. A comparison chart was displayed showing the current multi-family regulations in the C-2 District vs the older regulations. Setbacks were also discussed.

The Town's different character areas and appropriate land uses was displayed.

Deed restrictions on occupancy was explained. Town Manager Garman pointed out Attorney Robert Hobbs' report provided in the packet and stated that deed restrictions could be used for controlling the occupancy of multi-family housing to either long-term use or for use by members of the local workforce. The important question for the group would be to decide how any restriction should be structured and to what percentage of the units it would apply. An ordinance would need to be written to include definitions and a deed restriction document would need to be developed that would be recorded once the units are sold. The Town would need to be listed in the deed as having the authority to enforce the deed restriction.

Ms. Wyatt displayed on screen the purpose of today's workshop:

- What are the goals for allowing higher density housing such as multi-family
- What are the considerations for allowing this use
- Where is multi-family development appropriate in the Town

She questioned how the Town should address the following:

- Existing commercial development already intensely developed
- Should both townhouse and apartment development be included under multi-family development
- What standards for dimensions and density should be used
- Should accessory dwelling units (ADU), duplex, and triplex be part of multi-family development

Why multi-family development - Mayor Cahoon stated that when the Board removed multi-family development, it said it would be put back at some point – there is a workforce housing issue; multi-family housing development could serve as a piece of the workforce housing puzzle.

Where should it be located – Within the C-2 district was discussed and a central question would be at what density.

The definition of multi-family was discussed.

Comr. Renée Cahoon noted that the owners of the Kelly's restaurant site asked her about developing the area into townhomes and she stated that she had no response for them as the Town has a process to follow for development; Mayor Cahoon said that he received a similar request.

Comr. Renée Cahoon indicated that density and lot coverage are important considerations; Mayor Pro Tem Siers pointed out an example that turning the Kelly's site into a 60-unit maxed out townhome development isn't really Nags Head; developing at an appropriate density to include adequate greenspace is what separates Nags Head from other communities.

Megan Lambert suggested utilizing the opportunity now to use deed restrictions for long-term development.

David Elder suggested using commercial standards.

Gary Ferguson questioned if there is a market for multi-family in Nags Head. He also questioned lumping multi-family and essential housing together. Megan Lambert questioned the benefit of reintroducing multi-family without any additional restrictions in light of the Town's capacity/parking issues.

Comr. Renée Cahoon stated that while she is not interested in short-term housing, she is interested in workforce/career housing. Mayor Pro Tem Siers emphasized the importance of having housing for people who work here.

Summary

Planning Director Wyatt displayed on screen the following summary from today's discussions:

- Where to allow multi-family development: the C-2 District which must front on US 158
- Minimum lot size in the C-2 District is 26,000 square feet
- Allow townhome development but not apartments
- To be used for workforce/career housing only and not affiliated with salary or income
- Deed restrictions for workforce/career housing: all units or a percentage of units?

The group agreed that reintroducing a higher density form of housing in Nags Head needs to further a specific goal. The goal should be to create housing opportunities for the workforce and/or residents and not to increase

the supply of vacation rentals. Several members of the group asserted that any multi-family housing units should be restricted for these purposes.

It was Board of Commissioners and Planning Board consensus that the Planning Board further review/discuss the question of multi-family housing for the purpose of providing housing for workers/long-term residents and examining appropriate standards including density and setbacks. It was also discussed that illustrations could be used to show what different alternatives would yield on a standard site.

The workshop ended at 1:00 p.m.

Carolyn F. Morris, Town Clerk

Date Approved: **September 6, 2023**

Mayor: _____
Benjamin Cahoon



Agenda Item Summary Sheet

Item No: **H-1**Meeting Date: **March 6, 2024**

Item Title: From Feb 7th Board Meeting – Appointment to Multi-Family Ordinance Working Group

Item Summary: After several months of diligent work, the Planning Board has put forth an ordinance to re-establish multi-family as an allowable use within the Town and to create appropriate multi-family development standards which further town goals. As a result of the workshop held between the Board of Commissioners and the Planning Board last summer, the draft ordinance restricts multi-family development to a combination of long-term and workforce housing with the goal of preventing additional short-term rentals in the form of higher density development. The draft ordinance also creatively sets forth new standards for small multi-family projects.

At its February regular meeting, the Board held a public hearing on the draft ordinance and received comments that the draft ordinance may be too cumbersome as currently written to facilitate and encourage the development of workforce/long-term housing. It was also noted that the draft standards could be difficult for property owners to navigate. In light of these concerns, the Board requested that the Town establish a working group to review and make recommendations on the draft ordinance. The Board requested that staff provide a recommendation for the March meeting regarding the composition and charge for the group. Staff would suggest an ad hoc working group consisting of two members of the Board of Commissioners, two Planning Board members (the Planning Board nominated Vice-Chair Meade Gwinn and Member Molly Harrison), one town resident, one business owner, and two individuals representing the Dare County Homebuilders Association and/or Outer Banks Association of Realtors.

Staff would suggest the following committee charge:

- To consider the draft multi-family ordinance written by the Planning Board.
- To preserve the intent of the ordinance, to protect the character of Nags Head, and to provide new alternatives for workforce/long-term housing without increasing the stock of short-term rentals.
- To evaluate conditions/standards which would render such projects unfeasible due to financing, construction, configuration, or management.
- To suggest additional measures that would achieve the aforementioned goals.

The working group should invite and consider information provided by subject matter experts in multi-family financing and management, and on other relevant topics. Staff would suggest approximately three months for the group to report their findings (June 2024 BOC meeting).

Number of Attachments: 0

Specific Action Requested: Appoint the working group.

Submitted By: Administrative Services

Date: February 28, 2024

Finance Officer Comment: No unbudgeted fiscal impact.

Signature: Amy Miller

Date: February 28, 2024

Town Attorney Comment: N/A

Signature: John Leidy

Date: February 28, 2024

Town Manager Comment and/or Recommendation: Will await the Board's direction.

Signature: Andy Garman

Date: February 28, 2024

Appendix A - Definitions

Dwelling, multi-family means a dwelling containing three or more dwelling units, designed for or occupied by three or more families living independently of each other. Multifamily dwelling shall include a townhouse and any similar building, irrespective of the form of legal title.

Townhouse means a single-family dwelling on its own individual lot but connected on two sides, by means of a common wall for at least ten feet of its length, to two other single-family dwellings or an end dwelling of a row of such dwellings.

Section 7.5 Dwellings, Multi-Family/Townhouse.

Multi-family dwellings are permitted in accordance with Section 6.6, Table of Uses and Activities, provided that the following additional requirements and conditions are met:

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS			
	C-2	Townhouse in SPD-20	C-1
Lot Width	150 feet	150 feet for whole site; minimum 18 feet lot width for individual units.	
Setbacks	Minimum 35 feet to all property lines.	1.75 times the height at the top plate or roof panel in the tallest building. Minimum 35 feet to all property lines.	
Height	40 feet to top plate or roof panel to original grade or finished grade, whichever is the greatest distance. Total height shall not exceed 47 feet. Area above top plate shall not be habitable (unoccupied except for structure or mechanical appurtenance).	28 feet to top plate or roof panel. Maximum 35 feet. Area above top plate shall not be habitable (unoccupied except for structural or mechanical appurtenance).	
Open Space	50% of side yards to remain as open space.	50% of side yards to remain as open space.	
Lot Coverage	55%	30% plus 300 square feet or 33%, whichever is greater.	
Density	Minimum 26,000 square feet for first three units; 3,500 square feet of additional lot size for each additional unit (optional - only 3,000 square feet of additional lot size is required if 20% of units are considered affordable - see definition in Appendix A).	Minimum 20,000 square feet for first unit and 10,000 square feet for the second through sixth units.	
Buffer	In addition to the buffering requirements included in the Commercial Design Standards, a 10-foot wide commercial transitional protective yard shall be provided adjacent to any street right-of-way.	A 10-foot wide commercial transitional protective yard shall be provided to any adjacent properties or street rights-of-way.	
Unit Size	Minimum 800 square feet.	Minimum 1,000 square feet.	

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS			
	C-2	Townhouse in SPD-20	C-1
Building Separation	40 feet; 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.		
Accessory Uses	Management/sales office, not including a trailer, provided that the management office shall be included as a permanent structure in the project's design or may occupy one of the dwelling units.	Management/sales office, not including a trailer, provided that the management office shall be included as a permanent structure in the project's design or may occupy one of the dwelling units.	Multi-family allowed as accessory mixed use only.
	A management/sales office may include, within the particular project, spaces for maintaining supplies, service products and amenities to be used in connection with the units within the project. There shall be sanitary facilities available for customers and employees.	A management/sales office may include, within the particular project, spaces for maintaining supplies, service products and amenities to be used in connection with the units within the project. There shall be sanitary facilities available for customers and employees.	



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Board of Commissioners

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

Date: February 2, 2024

Subject: Consideration of various text amendments to the Unified Development Ordinance as it relates to Multi-Family Development.

In January 2023 the Nags Head Board of Commissioners adopted an ordinance removing “Multi-Family Dwelling” as a permitted use within the C-2, General Commercial zoning district. This amendment was a result of staff, the Planning Board, and the Board of Commissioners going through the process of evaluating appropriate standards for the C-5, Historic Character Commercial zoning district and determining that multi-family was not an appropriate use in that district, and in addition became aware of several other issues and inconsistencies within the ordinance. The Board of Commissioners then requested that staff and the Planning Board work to propose adequate corrections/clarifications for these issues as well as undertake a comprehensive review of the town’s multi-family standards. Planning staff began working with the Planning Board at their May 2023 meeting to complete a thorough review of the multi-family standards and identify issues and/or inconsistencies with the existing multi-family language. Over the course of eight (8) consecutive months/meetings the Planning Board has developed a comprehensive set of draft text amendments for the Board of Commissioners review and consideration. Staff has provided a timeline of notable events during this eight-month process below:

May 16th, June 20th and July 18th, 2023, Planning Board Meeting Highlights

Staff prepared a list of issues and inconsistencies found within the current multi-family development standards for the Planning Boards consideration. In subsequent meetings, staff provided analysis of each issue, offered comments and ideas, and posed questions to help guide the discussion. As a result, the following elements had Planning Board consensus:

- The creation of new definitions for the terms, “Multi-Family Dwelling” and “Townhouse.”
- Removal of the “Townhouse” use from Section 6.6, Table of Uses and Activities, as all agreed that townhouse is a form of multi-family development. The townhouse use remains in Article 9 of the UDO, The Village at Nags Head SPD-C Ordinance.

- To allow multi-family development use in the C-2, General Commercial zoning district via Special Use Permit process with supplemental regulations to be crafted and located in Section 7.5 of the UDO.
- Removal of the "Townhouse" use from SPD-20, Special Planned Development zoning district. This action would result in The Villa's, located at 500 W. Villa Dunes Drive, becoming a nonconforming use. Please note that recent amendments to the regulation of nonconforming uses would allow structures within the Villa's development to be repaired, maintained, or replaced with an identical or similar structure and identical use, regardless of the value provided no new nonconformities are created. In addition, site improvements could be made so long as the improvements met the design and dimensional requirements in the current Unified Development Ordinance.
- Consensus that Section 7.5, Table 7-1, Requirements for Multi-Family Dwellings, Density Standards, be revised to eliminate the language pertaining to the application of a density bonus for "affordable" multi-family dwelling projects. The UDO does not currently define "affordable."
- Consensus that the Town should explore incentivizing multi-family developments in cases where it will accommodate the local workforce.

August 2nd, 2023, Planning Board & Board of Commissioners Joint Workshop

At this meeting staff provided a brief update on the progress made by the Planning Board to date and reviewed a report provided by Attorney Robert Hobbs on how deed restrictions could potentially be used to control the occupancy of multi-family housing to either long term use and/or for use by members of the local workforce. It was noted at the joint workshop that there is workforce housing issue and multi-family housing development could serve as a piece of the workforce housing puzzle.

Attendees of joint workshop generally agreed on the following:

- Multi-family development should be allowed within the C-2, General Commercial zoning district upon lots which front on US Highway 158.
- Density and lot coverage are important considerations in the conversation and maxing out a development is not in keeping with the Nags Head vision. Developing projects at an appropriate density to include adequate greenspace is what separates Nags Head from other areas.
- The minimum lot size for multi-family in the C-2 District should be 26,000 square feet.
- Allow townhome style development but not apartment style developments.
- Multi-family dwelling units should be used as workforce housing only and not affiliated with salary or income, and
- Deed restrictions should be utilized to control occupancy for workforce housing. No direction was provided on whether all units should be deed restricted, or just a percentage.

The group was in agreement that reintroducing a higher density form of housing in Nags Head needs to further a specific goal. The goal should be to create housing opportunities for the workforce and/or residents and not to increase the supply of vacation rentals. Several members of the group asserted that any multi-family housing units should be deed restricted for these purposes.

August 15th, 2023 Planning Board Meeting Highlights

At this meeting staff and the Planning Board continued the conversation from the Joint Workshop. Staff provided a presentation to the Planning Board on both vacant and developed properties within the Town that would meet the minimum criteria for multi-family development as had been discussed thus far, being properties zoned C-2, a minimum lot size of 26,000 square feet, and frontage on US Highway 158. Using lot area provided in the Dare County parcel cards, staff projected the number of units that could be developed using the standard of 26,000 sf of lot area for the first three (3) units and 3,500 square feet of lot area for each additional unit. It was after this presentation that Planning Board members expressed surprise at the number of properties that would be available for the multi-family use, while also expressing concern with the number of units that many of these lots could yield. Recognizing concerns with the current density standard, the Planning Board requested that staff prepare additional information to help visualize what density may look like with varying square footages required for additional units, i.e.: 4,500 or 5,500 square feet as opposed to 3,500 square feet.

It was at this meeting that staff and the Planning Board began discussing the use of deed restrictions, using information from the Vail InDEED and Breckenridge Housing Helps Program to better understand the concept. Referencing the consensus by all members of the both the Board of Commissioners and the Planning Board at the August 2nd Joint Workshop that the Town does not want multi-family development for the purpose of providing any short-term rental opportunities, the Planning Board decided that ALL units in a new multi-family development should be deed restricted to long term occupancy/tenancy and to additionally deed restrict as necessary to ensure that no less than 60% of the total number of units are allocated for workforce housing.

Additionally, at this meeting the Planning Board came to consensus that long-term occupancy/tenancy should mean that occupant resides in the dwelling unit a minimum of 90 days (NC Vacation Rental Act). They felt as though the 90-day minimum may still be beneficial for summer workers and lifeguards as a minimum of 6-month occupancy would preclude these employees.

September 19th, 2023 Planning Board Meeting Highlights

A significant takeaway from this meeting was that density remains a notable concern and the Planning Board requested that staff explore the potential to create different density standards for large multi-family developments versus smaller pockets or clusters of multi-family development.

In the same vein as encouraging small pockets or clusters of multi-family developments, the Planning Board noted that Accessory Dwelling Units (ADU's) and duplexes represent other opportunities for solutions to the larger housing problem and still need to be discussed.

The Planning Board also discussed potential incentives that could be offered for the development of multi-family units for the purpose of providing housing for the local workforce. Those incentives included:

- Slight increase in the maximum building height for multi-family. The current requirement is 40 feet to the top plate or roof panel to original grade or finished grade, whichever is the greatest distance and total height shall not exceed 47 feet.
- Reduction in the minimum 35-foot setback for side yards.
- Reduction in parking minimums for multi-family development.
- Offer fee waivers for the site plan submittal fee, permit fees or other fee reduction opportunities. The required fee for a Site Plan Review is .50cents/square foot.

It was the consensus of the Planning Board that a waiver of review fees would be the most acceptable form of incentive.

At this meeting the Planning Board discussed architectural design requirements at length noting that any multi-family development should be architecturally consistent with the Nags Head Style.

October 17th, 2023 Planning Board Meeting Highlights

At this meeting planning staff introduced the concept of having two separate standards for multi-family development, a standard for large multi-family development projects and a standard for small multi-family development projects. The proposed standards for small multi-family developments are notably less stringent than those for large multi-family developments in an effort to incentivize the small pockets of multi-family development.

November 21st, 2023 Planning Board Meeting

At this meeting staff and the Planning Board were focused on finalizing the final elements of the proposed draft ordinances including the following:

- Language was added to the definition of workforce housing clarify that employers can purchase multi-family dwelling units to provide accommodations for their employees so long as the employee meets the employment criteria.
- In an effort to encourage and incentivize small multi-family developments there is not a maximum lot area but rather a maximum number of six (6) dwelling units allowed.
- Language has been included to require building design variations.
- The Planning Board unanimously felt as though apartment style development should be allowed as part of the small multi-family development category as both a principal use and accessory use.

December 19th, 2023 Planning Board Meeting Highlights

Attorney Robert Hobbs had an opportunity to review the proposed amendments and suggested several revisions for clarity and consistency purposes. In addition to the attorney recommendations the Planning Board made the following recommendations:

- Large Multi-Family Dwelling developments shall be considered a High Impact Use, requiring the 25-foot commercial transitional protective yard when adjacent to a residential district.
- Additional accessory uses were added to both the large and small multi-family development categories to include a shed, one pool per development, walls and fences, private parks, and playgrounds.

- Require that both small and large multi-family developments, regardless of size, adhere to the Sketch Plan Review process as outlined in Section 10.84 of the UDO.
- Require that any site improvements occurring on an approved multi-family development site following the original Board of Commissioners Special Use approval be submitted to the UDO Administrator to determine whether additional stormwater management measures may be necessary or recommended.

In summary, the proposed amendments before the Board of Commissioners at their February 7th Public Meeting would accomplish the following:

- Allow multi-family development in the C-2, General Commercial zoning district on properties with frontage on US Hwy 158 only.
- Require that all new multi-family development shall be deed restricted to long-term tenancy/occupancy and a portion will additionally be deed restricted for workforce housing.
- Create standards and regulations for "small" multi-family developments and "large" multi-family developments. This includes minimum lot sizes, setbacks, density, maximum number of units, lot coverage, height, buffering, architectural design, etc.
- Require both "small" multi-family and "large" multi-family developments to be reviewed via the Special Use Permit process.
- Design considerations such that large multi-family developments shall consist of townhouse style development only and small multi-family developments may consist of both townhouse and apartment style design.
- Create definitions for the following terms, "Dwelling, Multiple Family (Multi-family)," "Townhouse", "Large Multi-family", "Small Multi-family", "Long-term occupancy/tenancy", "Principal Place of Residence", "Qualified Person", and "Workforce Housing".

Planning Staff will be available for discussion at the Board of Commissioners February 7th, 2023 meeting.

(DRAFT)
**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF THE
TOWN OF NAGS HEAD, NORTH CAROLINA AS IT RELATES TO MULTI-FAMILY
DWELLING DEVELOPMENTS WITHIN THE TOWN.**

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160D-701, the Town of Nags Head (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land; pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160D-702, the Town has adopted comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160D-103, which allows the Town to combine certain land development ordinances into a unified ordinance;

WHEREAS, Section 2.4.4.3 of the Unified Development Ordinance provides that the powers and duties of the Planning Board include developing and recommending policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

WHEREAS, Section 3.5.1. of the Town Code makes clear that a zoning ordinance text amendment may be initiated by motion of the Board of Commissioners, by motion of the Planning Board, or by application by any person within the zoning jurisdiction of the Town;

WHEREAS, the Board of Commissioners requested that staff and the Planning Board undertake a comprehensive review of the town’s multi-family standards and recommend how to re-introduce this use into the Unified Development Ordinance, and

WHEREAS, Planning staff began working with the Planning Board at their May 2023 meeting to complete a thorough review of the multi-family standards and identify issues and/or inconsistencies with the existing multi-family language. Over the course of eight (8) consecutive months/meetings the Planning Board has developed a comprehensive set of draft text amendments for the Board of Commissioners review and consideration.

WHEREAS, the 2017 Comprehensive Land Use Plan provides the following policies and actions which should guide the Town’s zoning and development actions:

Table 2.2.2.A, pg. 2-12 lists “Multi-Family” as an appropriate land use in the Gallery Row – Community Center Character Area, Northern Commercial Node.

Table 2.4.2.A, pg. 2-25 lists “Multi-Family” as an appropriate land use in the Village Municipal Service Character Area.

Table 2.6.2.A, pg. 2-36 lists “Multi-Family” as an appropriate land use in the Whalebone Junction Character Area, Soundside Activity Node.

Table 2.8.2.A, pg. 2-48 lists “Multi-Family Residential” as an appropriate land use in the Corridors Character Area, US 158/US 64 only.

LU-1 – Ensure that the character of Nags Head is preserved as a single-family residential beach community with ties to its natural environment. This character is defined by:

- Development that blends with the landscape, preserving natural vegetation, dunes, open spaces, and environmental quality.
- Buildings with a residential scale and appearance with lot heights and small footprints that are designed to reflect the heritage of Nags Head.
- Land uses that are compatible with the community and with adjacent properties that don't create excessive noise, light, unsafe conditions, or other nuisances.
- Development of low density and intensity served primarily with on-site wastewater systems.

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.

LU-10 – Discourage high intensity land uses that produce significant noise, light, heavy vehicle traffic, noxious fumes, or poor air quality, are unsightly, encourage unsafe behavior, or require large amounts of lands for heavy industrial uses, processing, or storage of materials or equipment.

LU-15 – Promote architectural standards for commercial development in keeping with the Nags Head style architecture.

LU-27 – Promote and expand the types of housing and accommodations for varying income levels, aging populations, and the seasonal workforce within the town.^{4e} – Develop regulations that prevent incompatible commercial development adjacent to areas with historical designations or significance.

WHEREAS, consistent with Section 3.5.4 of the UDO (and subparts to that section) the Board finds that the proposed text amendment recommended by the Planning Board advances the public health, safety, or welfare; will help preserve the residential and historic character of areas of Town where commercial and non-residential uses or increases in or expansions of such uses are not compatible or desirable; is reasonable and in the public interest; and is consistent with the Town of Nags Head Comprehensive Land Use Plan.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (strikethrough) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein but are instead replaced by an ellipsis ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Unified Development Ordinance.

PART I. Appendix A – Definitions

Dwelling, Multi-Family or Dwelling Unit, Multi-Family means a single-family dwelling unit located within a multi-family development.

Apartment or Apartment Style Design means a residential architectural and planning design characterized by single-family attached dwelling units constructed on multiple floors and separated by shared vertical walls and shared horizontal ceilings, floors, planes, or surfaces. For the purposes of this chapter, a series or group of **Apartment** units shall be considered a multi-family development.

Townhouse means a single-family dwelling on its own individual lot but connected on two sides, by means of a common wall for at least ten feet of its length, to two other single-family dwellings or an end dwelling of a row of such dwellings.

Townhouse or Townhouse Style Design means a residential architectural and planning design characterized by single-family attached dwelling units constructed in a series or group of units and separated by shared vertical walls. For the purposes of this chapter, a series or group of **Townhouse** units shall be considered a multi-family development.

Dwelling, multi-family means a dwelling containing three or more dwelling units, designed for or occupied by three or more families living independently of each other. Multifamily dwelling shall include a townhouse and any similar building, irrespective of the form of legal title.

Multi-Family Development means a development containing no less than three multi-family dwelling units and shall be characterized as either a large multi-family development or a small multi-family development.

Large Multi-Family Development means a development containing more than six multi-family dwelling units and less than sixty-one multi-family dwelling units.

Small Multi-Family Development means a development containing no less than three multi-family dwelling units and no more than six multi-family dwelling units.

Long-term occupancy/tenancy means the occupancy of a single-family dwelling by an owner, tenant, or other lawful occupant for a period of ninety (90) consecutive calendar days or more.

Principal Place of Residence means the home or place in which one's habitation is fixed and to which one has present intention of returning after a departure or absence therefrom.

Qualified Person means a person working/employed in Dare County, NC. A qualified person includes but is not limited to any person who has an internship with an employer if the employer's place of business is physically located in Dare County, NC, or a person who works remotely for an employer if the person's principal place of residence and the

employer's place of business are both physically located in Dare County, NC.

Workforce Housing or **workforce housing unit** means the following:

- a. A dwelling unit which is occupied by at least one qualified person under a long- term occupancy/tenancy, and
- b. A dwelling unit which is the principal place of residence for at least one qualified person, and
- c. A dwelling unit which has been encumbered by the owner of the dwelling unit with recorded restriction covenants to ensure compliance with this definition and Section 7.5 of the Town Code. The recorded restrictive covenant shall expressly identify the Town as the sole beneficiary of the recorded restrictive covenant, which shall include the express power and authority of the Town to enforce the recorded restrictive both in law and in equity, including the use of judicial injunctive relief. The Town staff shall provide the owner with the exact wording of the restrictive covenant to be recorded by the owner with the Dare County Register of Deeds in order to satisfy this requirement, and Town staff shall verify such recordation. The recorded restrictive covenant shall appear in the recorded chain of title of the dwelling unit and in the case of a multi-family development, the recorded restrictive covenant shall also be contained in the multi-family development's recorded declaration of covenants establishing the multi-family development.

Nothing in this definition shall preclude employers from purchasing workforce housing units to provide accommodation for their employees, provided the employees are qualified persons who occupy such workforce housing units within Dare County and the workforce housing unit is the employee's principal place of residence, even if owned by the employer.

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

			Residential Districts			Commercial Districts						Special Districts				Overlay Districts		
	Use Category/Class	Use Type	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	HO	SRO
1	Residential	Dwelling, Large Residential	PR	PR	PR	PR		PR			PR	PR	PR		PR			PR
<u>1</u>	<u>Residential</u>	<u>Dwelling, Multi-Family (Small) Townhouse & Apartment Style Design</u>						<u>SR</u>										
<u>1</u>	<u>Residential</u>	<u>Dwelling, Multi-Family (Large) Townhouse Style Design Only</u>						<u>SR</u>										
1	Residential	Dwelling, Single-Family (detached)	P	P	P	P	P	P		P	P	P	P		P			P
1	Residential	Dwelling, Two-Family		P	P	P	P	P		P	P							
1	Residential	Townhouse						SR				SR						

PART III. Section 7.5 Dwellings, Multi-Family shall be replaced in its entirety by the following:

Multi-family dwelling units are permitted in accordance with Section 6.6, Table of Uses and Activities, provided that the following additional requirements and conditions are met:

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS			
	Large Multi-Family C-2	Small Multi-Family C-2	C-1
<u>Min. Lot Width for Multi-Family Site</u>	<u>150 feet</u>	<u>No minimum</u>	
<u>Min. Site Area in Uplands</u>	<u>26,000 square feet</u>	<u>16,000 square feet</u>	
<u>Location of Multi-Family Site</u>	<u>Properties with frontage on US Hwy 158 only.</u>	<u>Properties with frontage on US Hwy 158 only.</u>	
<u>Setbacks</u>	<u>All buildings shall be setback a minimum 35 feet to all property lines.</u>	<u>All buildings shall meet the minimum setbacks: Front: 30 feet Side: 12 feet or 15 feet for corner lots Rear: 20% lot depth not to exceed 30 feet.</u>	
<u>Location of dwelling structure</u>	<u>No dwelling structure established as part of a multi-family development shall be situated on a site so as to face/front the rear of another dwelling structure within the development or on an adjoining property.</u>	<u>No dwelling structure established as part of a multi-family development shall be situated on a site so as to face/front the rear of another dwelling structure within the development or on an adjoining property.</u>	
<u>Density</u>	<u>Minimum 26,000 square feet for first three units; 4,500 square feet of additional lot size for each additional unit</u>	<u>Minimum 16,000 square feet for the first three units; 3,500 square feet of additional lot size for each additional unit.</u>	
<u>Maximum number of units</u>	<u>60 dwelling units</u>	<u>6 dwelling units.</u>	
<u>Number of dwelling units per townhome structure</u>	<u>6 dwelling units.</u>	<u>No maximum.</u>	

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS			
	Large Multi-Family C-2	Small Multi-Family C-2	C-1
<u>Height</u>	Maximum of 35 feet, may be increased to 42 feet with the use of an 8:12 roof pitch or greater. Additionally, no building shall exceed three (3) habitable floors.	Maximum of 35 feet, may be increased to 42 feet with the use of an 8:12 roof pitch or greater. Additionally, no building shall exceed three (3) habitable floors.	
<u>Open Space</u>	50% of side yards to remain as open space.	50% of side yards to remain as open space.	
<u>Lot Coverage</u>	55%	55%	
<u>Deed Restrictions</u>	All multi-family dwelling units within a multi-family development shall be deed restricted for long-term occupancy/tenancy. No less than 60% of all units shall be deed restricted for workforce housing.	All multi-family dwelling units in a multi-family development shall be deed restricted for long term occupancy/tenancy and workforce housing.	
<u>Unit Size</u>	Minimum 800 square feet. Maximum 1,750 square feet.	Minimum 800 square feet. Maximum 1,750 square feet.	
<u>Buffer</u>	In addition to the buffering requirements included in the Commercial Design Standards, a minimum 10-foot-wide commercial transitional protective yard shall be provided consistent with Section 10.93.3.2 and 10.93.3.3 of the UDO.	In addition to the buffering requirements included in the Commercial Design Standards, a 10-foot-wide commercial transitional protective yard shall be provided consistent with Section 10.93.3.2 of the UDO.	
<u>Architectural Design Requirements</u>	All multi-family dwelling buildings, regardless of size, shall go through the Sketch Plan process as outlined in Section 10.84 of the UDO. Multi-family dwelling buildings shall meet the requirements of Article 10, Part VI, Commercial Design Standards.	All multi-family dwelling buildings, regardless of size, shall go through the Sketch Plan process as outlined in Section 10.84 of the UDO. Multi-family dwelling buildings shall meet the requirements of Article 10, Part VI, Commercial Design Standards.	

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS			
	Large Multi-Family C-2	Small Multi-Family C-2	C-1
	<u>In addition, all multi-family dwelling buildings shall incorporate building design variations such as varying stories and habitable area.</u>	<u>In addition, all multi-family dwelling buildings shall incorporate building design variations such as varying stories and habitable area.</u>	
<u>Building Separation</u>	<u>40 feet; 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.</u>	<u>Buildings shall be separated from one another by a minimum of ten feet, including projections. Separate buildings shall be connected with pedestrian passageways that are striped when crossing traffic lanes.</u>	
<u>Accessory Uses</u>	<u>Management/sales office, not including a trailer, provided that the management office shall be included as a permanent structure in the project's design or may occupy one of the dwelling units.</u> <u>A management/sales office may include, within the particular project, spaces for maintaining supplies, service products and amenities to be used in connection with the units within the project. There shall be sanitary facilities available for customers and employees.</u> <u>Shed.</u> <u>Pool (only one pool per development),</u> <u>Walls and Fences.</u> <u>Private Park/Playgrounds.</u>	<u>Shed.</u> <u>Pool (only one pool per development).</u> <u>Walls and Fences. Private Park/Playgrounds</u>	<u>Multi-family allowed as accessory mixed use only.</u>

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS			
	Large Multi-Family C-2	Small Multi-Family C-2	C-1
<u>Outdoor Amenity Area/Common Area</u>	An area designated on the site plan for multi-family development as "common area" or as an area to be held in separate ownership for the use and benefit of residents occupying the dwelling units shown on such plan provided that it is conveniently accessible to all residents of the development.		

7.5.1 The multi-family development shall have a mandatory homeowners' association, with one of its duties expressed in a recorded declaration of covenants being to ensure compliance with Section [7.5]. This includes a required annual certification to the town of the multi-family development's compliance with the restrictive covenant and workforce housing occupancy requirements, using a required certificate of compliance form provided to the association by town staff upon request.

7.5.2 Any site improvements, including construction of additions of any size, accessory structures of any size, and landscaping and buffering projects, that occur following the original Board of Commissioners Special Use Approval of a Multi-family dwelling development shall be submitted for consideration by the UDO Administrator to determine whether additional stormwater management measures are necessary.

PART IV. That Section 10.93.3.3, High Impact Uses, be amended as follows:

10.93.3.3. High Impact Uses. High impact uses are particular uses of land, which considered as a whole because of their peculiar or operational and physical characteristics are expected to have an adverse effect on adjoining or adjacent properties. High impact uses include, but are not limited to:

10.93.3.3.27. Large Multi-Family Dwelling Development.

ARTICLE V. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the ____ day of _____, 2024.

Benjamin Cahoon, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted: _____

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS