



AGENDA

**TOWN OF NAGS HEAD BOARD OF COMMISSIONERS
NAGS HEAD MUNICIPAL COMPLEX - BOARD ROOM
WEDNESDAY, SEPTEMBER 18, 2024, 9:00 A.M.**

A. CALL TO ORDER

1. Multi-Family/ Workforce Housing Workshop

Documents:

[9WS MULTI-FAMILY MEMO.PDF](#)
[9 F1 PH UDO MULTI-FAMILY ORD1MFWG.PDF](#)
[9 F1 PH UDO MULTI-FAMILY ORD2PB.PDF](#)
[9WS MULTI-FAMILY STAFF PRESENTATION.PDF](#)
[9 F1 PH UDO MULTI-FAMILY ORD 09062024.PDF](#)
[PLANNING BOARD AUGUST 20TH 2024 DRAFT MINUTES.PDF](#)

B. ADJOURNMENT

**5401 S. Croatan Hwy, Nags Head, NC 27959
252-441-5508**



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Board of Commissioners

From: Kelly Wyatt, Planning Director
Joe Costello, Deputy Planning Director
Andy Garman, Town Manager

Date: September 6, 2024

Subject: Workshop to receive public input on various amendments to the Unified Development Ordinance (UDO) pertaining to multi-family dwellings.

For two years, the Town has been working to review and consider new standards regulating multi-family development. A presentation was given at the Board's September 4th regular meeting outlining this process (see Attachment 3). To summarize, the Planning Board initially drafted an ordinance which was presented to the Board of Commissioners at a public hearing in February. Information on this can be found here: <https://www.nagsheadnc.gov/AgendaCenter/ViewFile/Item/5367?fileID=10753>. After the public hearing, the Board requested that the Town establish a Working Group to review and make recommendations on the ordinance drafted by the Planning Board. The charge for the Working Group was as follows:

- 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.

Over the course of four meetings, the Working Group developed a recommendation for review by the Board of Commissioners. This included changes to the original ordinance drafted by the Planning Board as well as several other suggestions. Information about the Working Group including agendas and minutes from its meetings can be found here: <https://www.nagsheadnc.gov/1108/Multi-Family-Working-Group>. The Working Group's Final Recommended Ordinance is included as Attachment 1.

The Planning Board reviewed the Working Group's Ordinance over the course of three meetings this past Summer. The primary focus of the Planning Board's discussion centered around the density and design of multi-family development, mostly pertaining to larger projects. The Planning Board also discussed parking standards. The Planning Board's discussions resulted in three recommended changes to the Working Group's ordinance:

- 1) The Planning Board is recommending that large multi-family developments (greater than six units on one site) consist of townhouses only. The Working Group's version of the ordinance allowed townhouses and apartments in both the small and large categories.

- 2) The Planning Board is recommending increasing the parking requirement to 2.5 spaces per unit plus one additional space for every four units.
- 3) The Planning Board is recommending an additional density limitation of 25 bedrooms per acre applicable to both large and small multi-family sites. The Working Group's version of the ordinance controlled density through the use of a floor area ratio only. The recommended floor area ratio is 0.32 square feet of building area to one square foot of lot area.

The Planning Board's recommended ordinance is included as Attachment 2. Below are the Planning Board staff reports and minutes from its June, July, and August meetings (see below).

June 18th Planning Board -

https://www.nagsheadnc.gov/AgendaCenter/ViewFile/Agenda/_06182024-461?html=true

Minutes:

https://www.nagsheadnc.gov/AgendaCenter/ViewFile/Minutes/_06182024-461

July 16th Planning Board -

https://www.nagsheadnc.gov/AgendaCenter/ViewFile/Agenda/_07162024-464?html=true

Minutes:

https://www.nagsheadnc.gov/AgendaCenter/ViewFile/Minutes/_07162024-464

August 20th Planning Board -

https://www.nagsheadnc.gov/AgendaCenter/ViewFile/Agenda/_08202024-468?html=true

Note: Minutes from the August 20th Planning Board Meeting are included in the agenda packet as Attachment 5.

The Planning Board stated that they were more comfortable with the small multi-family approach. They viewed this as better maintaining the town's desired vision for development. The Planning Board also expressed an interest in capping the overall number of large multi-family developments that can be approved townwide.

Board of Commissioners Consideration

The Board of Commissioners held a public hearing on the proposed ordinances (the drafts from the Working Group and the Planning Board) on September 4, 2024. The presentation from this meeting is included as Attachment 3. In light of significant public comment on the ordinance, the Board voted to delay consideration of the ordinance until its October meeting. The Board requested that a public workshop be held at 9 am on September 18th in the Board of Commissioners meeting room to receive feedback on the multi-family ordinance. The Board provided suggested changes to the ordinance for future consideration. These include:

- Allowing both apartment and townhouse style units in the large and small categories.
- Including a limit of 25 bedrooms per acre for all projects.
- Including a cap of no more than 3 project approvals in the large category.
- Parking would be required at 2 spaces per unit plus 1 space for every 4 units.

These changes have been incorporated into a revised ordinance which is included as Attachment 4. We welcome public feedback on the multi-family ordinance at the September 18th workshop. It is anticipated that the Board will consider the ordinance at its October 2nd, 2024 regular meeting.



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 a comprehensive review of the town’s multi-family standards and recommendations on 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. Subsequently, the Board of Commissioners established a Multi-Family Working Group to review the Planning Board’s ordinance. The Planning Board and Multi-Family Working Group have developed a comprehensive set of draft text amendments for the Board of Commissioner’s review and consideration.

WHEREAS, the 2022 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 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. That **Appendix A, Definitions**, be amended as follows:

~~*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.~~

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.

Floor Area Ratio (FAR) means the quotient resulting from division of the gross floor area of all buildings on a lot by the area of the lot.

~~**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.

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.

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 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
Min. Lot Width for Multi-Family Site	150 feet	No minimum
Min. Site Area in Uplands	26,000 square feet	15,000 square feet
Location of Multi-Family Site	Properties with frontage on US Hwy 158 only.	On any lot meeting the minimum site area requirements.
Setbacks	All buildings shall be setback a minimum 35 feet to all property lines.	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.
Townhome orientation	No townhome structure established as part of a multi-family development shall be situated on a site so as to face/front the rear of another townhome structure within the development or on an adjoining property.	

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
Density/ Building Size	Floor Area Ratio: 0.32 square feet of gross floor area for each 1 square foot of lot area. Maximum gross floor area for a single building is 10,000 square feet. More than one building may be permitted on a site.	One (1) unit per every 4,000 square feet of lot area. Maximum building gross floor area is 5,000 square feet.
Maximum number of units	75 dwelling units	6 dwelling units.
Number of dwelling units per townhome structure	Maximum 6 dwelling units per structure.	No maximum.
Height	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.
Open Space	50% of side yards to remain as open space.	50% of side yards to remain as open space.
Lot Coverage	55%	55%
Parking	A minimum of 2 parking spaces for each dwelling unit plus 0.5 spaces for each additional bedroom over 2.	
Deed Restrictions	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.
Unit Sizes/ Categories	Minimum Unit Sizes/Size Categories: • Studio/One Bedroom 500 sq. ft. • Two Bedroom 700 sq. ft. • Three Bedroom 1,000 sq. ft. Maximum unit size 1,750 sq. ft.	
Mixture of Units	No more than 60% of the units shall be from any unit size category.	No requirement
Buffer	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.
Architectural Design Requirements	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.	Buildings shall meet the design requirements for a large residential dwelling. Small multi-family structures shall be approved administratively.

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
Building Separation	20 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.	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.
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. 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. Shed. Pool (only one pool per development), Walls and Fences. Private Park/Playgrounds.	Shed. Pool (only one pool per development). Walls and Fences. Private Park/Playgrounds
Outdoor Amenity Area/Common Area	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' or residents' association. At a minimum, the duties of such association are to ensure compliance with Section [7.5]. The obligation of an owner or lessee to join the association and to provide the information the owner or manager of a multi-family development must be expressed in a declaration of covenants that is recorded in the Dare County Registry and provided to the town prior to any residential occupancy. The developer of a multi-family development shall provide annually a certification to the town of the multi-family developments' 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 Large Multi-family dwelling development or Administrative Approval of a Small Multi-family dwelling development shall be submitted for consideration by the UDO Administrator to determine whether additional stormwater management measures are necessary.

PART III. 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 are 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.

PART IV. 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)</u>						<u>PR</u>										
<u>1</u>	<u>Residential</u>	<u>Dwelling, Multi-Family (Large)</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							
<u>1</u>	<u>Residential</u>	<u>Townhouse</u>						<u>SR</u>				<u>SR</u>						

ARTICLE IV. 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 4th day of September 2024.

Benjamin Cahoon, Mayor

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: _____
Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: AYES _____ NAYS _____



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;

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WHEREAS, consistent with Section 3.5.4 of the UDO (and subparts to that section) the Board finds that the proposed text amendment 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.

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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.

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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.

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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.

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

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	Large Multi-Family C-2	Small Multi-Family C-2
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Setbacks	All buildings shall be setback a minimum 35 feet to all property lines.	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.
Townhome orientation	No townhome structure established as part of a multi-family development shall be situated on a site so as to face/front the rear of another townhome structure within the development or on an adjoining property.	

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
Density/ Building Size	Floor Area Ratio: 0.32 square feet of gross floor area for each 1 square foot of lot area. Maximum gross floor area for a single building is 10,000 square feet. More than one building may be permitted on a site.	One (1) unit per every 4,000 square feet of lot area. Maximum building gross floor area is 5,000 square feet.
Maximum Bedroom per Acre Standard	Total number of bedrooms within the development shall not exceed 25 per acre.	Total number of bedrooms within the development shall not exceed 25 per acre.
Maximum number of units	75 dwelling units	6 dwelling units.
Number of dwelling units per townhome structure	Maximum 6 dwelling units per structure.	No maximum.
Height	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.
Open Space	50% of side yards to remain as open space.	50% of side yards to remain as open space.
Lot Coverage	55%	55%
Parking	A minimum of 2.5 parking spaces for each dwelling unit plus 1 space for every four units.	
Deed Restrictions	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.
Unit Sizes/ Categories	Minimum Unit Sizes/Size Categories: • Studio/One Bedroom 500 sq. ft. • Two Bedroom 700 sq. ft. • Three Bedroom 1,000 sq. ft. Maximum unit size 1,750 sq. ft.	
Mixture of Units	No more than 60% of the units shall be from any unit size category.	No requirement
Buffer	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.
Architectural Design Requirements	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.	Buildings shall meet the design requirements for a large residential dwelling. Small multi-family structures shall be approved administratively.

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
Building Separation	20 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.	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.
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. 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. Shed. Pool (only one pool per development), Walls and Fences. Private Park/Playgrounds.	Shed. Pool (only one pool per development). Walls and Fences. Private Park/Playgrounds
Outdoor Amenity Area/Common Area	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' or residents' association. At a minimum, the duties of such association are to ensure compliance with Section [7.5]. The obligation of an owner or lessee to join the association and to provide the information the owner or manager of a multi-family development must be expressed in a declaration of covenants that is recorded in the Dare County Registry and provided to the town prior to any residential occupancy. The developer of a multi-family development shall provide annually a certification to the town of the multi-family developments' 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 Large Multi-family dwelling development or Administrative Approval of a Small Multi-family dwelling development shall be submitted for consideration by the UDO Administrator to determine whether additional stormwater management measures are necessary.

PART III. 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 are 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.

PART IV. 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>PR</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							
<u>1</u>	<u>Residential</u>	<u>Townhouse</u>						<u>SR</u>				<u>SR</u>						

ARTICLE IV. 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 4th day of September 2024.

Benjamin Cahoon, Mayor

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: _____
Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: AYES _____ NAYS _____



Town of Nags Head

Multi-Family Ordinance

Nags Head Board of Commissioners

Wednesday, September 4th, 2024

Background

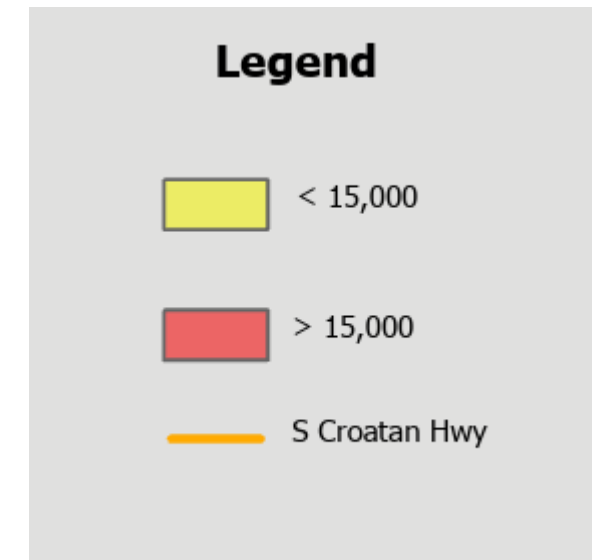
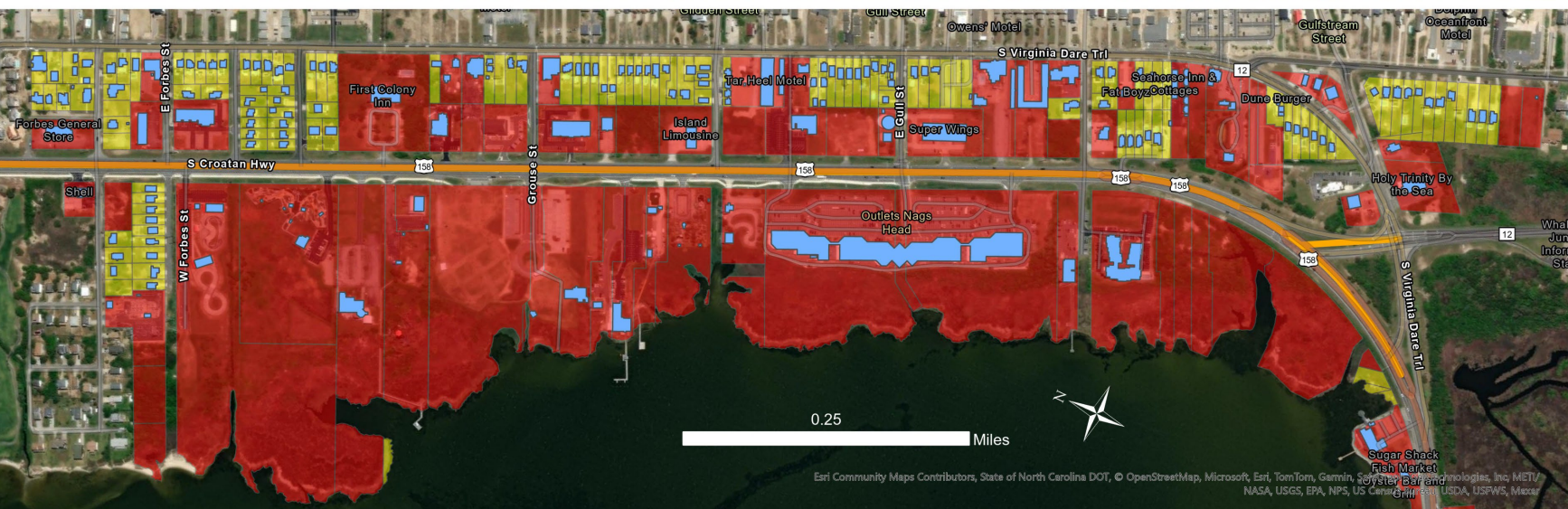
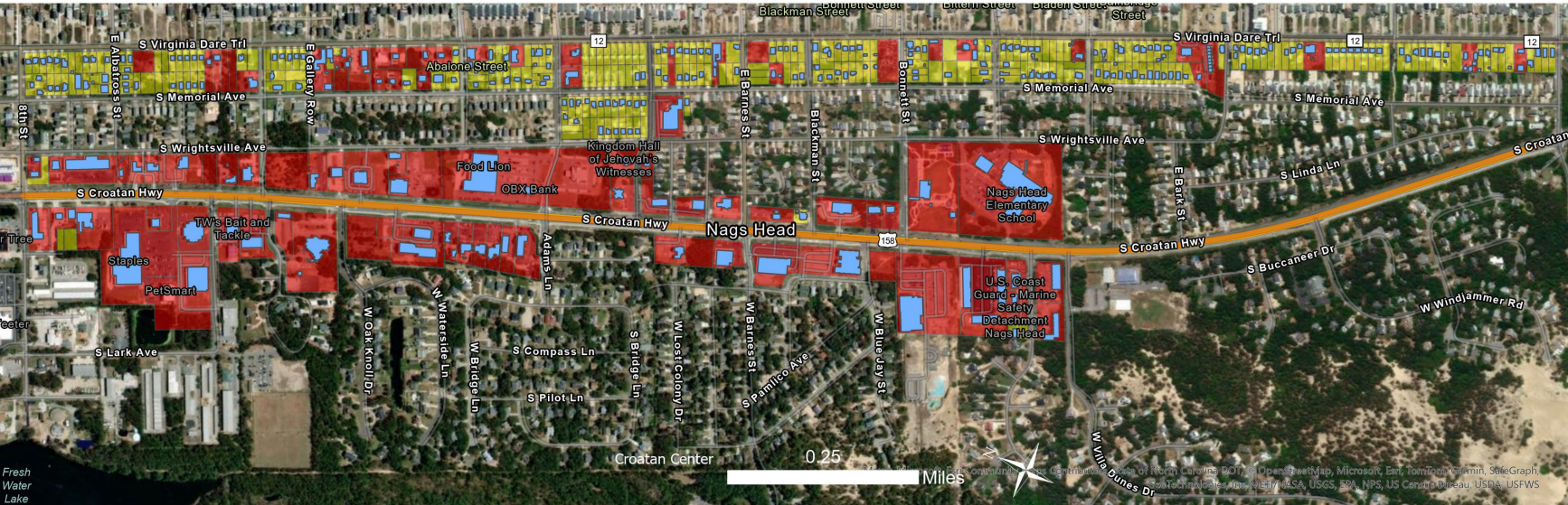
- Late 2022 – the Town adopted a moratorium and subsequently eliminated Multi-Family (MF)
- Goal was to review if and where MF should be allowed and under what standards
- MF no longer allowed in the new C-5 district near Jockey's Ridge and Cottage Row
- BOC and PB held a joint workshop to provide guidance on a new ordinance
- Consensus was to consider MF in C-2 (possibly limited to high activity areas) and not for more short-term rentals. Focus on workforce housing. Possible use of deed restrictions.

Background

- The Planning Board worked on the ordinance in 2023; a public hearing was held in February 2024
- BOC wanted further review and established a working group
- Working group's ordinance was presented to the BOC in June of 2024
- Planning Board reviewed the Working Group ordinance and has now submitted a recommendation

Prior Multi-Family Ordinance

- Parcels Zoned C2
- 840 Unique Parcels
- 207 Parcels greater than 15,000 sq. ft.



Prior Multi-Family Ordinance

- MF is three or more units on lot
- Allowed Multi-Family in the C-2 District Townwide
- No limitations related to long-term or workforce housing (i.e. could be used for short-term rentals)
- No maximum size for units; minimum unit size of 800 sq. ft.
- 20,000 sq. ft. building size limitation; could have multiple buildings
- Density controlled through units per acre (roughly 10-11 units per acre)
- Other standards apply (height, setbacks, lot coverage, lot width)
- No limit on bedrooms per acre (i.e. all units could have four bedrooms)
- Minimum lot size 26,000 sq. ft.
- Last MF project was the Sugar Creek Condos

New Multi-Family Ordinance Goals

- Multi-Family would be used to enhance opportunities for workforce/long-term housing but not for short-term or vacation rentals
- More units per acre to reduce land cost per unit
- Smaller units to reduce construction cost per unit
- Maintain controls over density to preserve town values
- Carefully consider where large and small projects can occur to increase compatibility with other uses
- Consider other standards to enhance design and appearance and reduce scale while increasing flexibility

Working Group Ordinance Summary

Two Categories – Large and Small

Large MF

- Deed restrictions – 60% workforce, all have to be long-term rentals (no short-term rentals)
- Use Floor Area Ratio for large projects instead of units per acre
- *Floor Area Ratio (FAR) means the quotient resulting from division of the gross floor area of all buildings on a lot by the area of the lot*
- FAR of 0.32 is proposed. This is the effective FAR we currently use for large residential dwellings.
- Reduce Unit Size:
 - ✓ Minimum Unit Sizes/Size Categories: Studio/One Bedroom 500 sq. ft.; Two Bedroom 700 sq. ft.; Three Bedroom 1,000 sq. ft.
 - ✓ Maximum unit size 1,750 sq. ft.
 - ✓ No more than 60% of the units shall be from any unit size category.
- Individual building size would be limited to 10,000 sq. ft.
- Apartments and Townhouses
- Only fronting US 158; Special Use Permit required
- Must have 26,000 sq. ft. lot

Working Group Summary

Small MF

- All units deed restricted to workforce only
- Continue to use units per acre (1 per 4,000 sq. ft. of land area)
- Max six units in small category
- Max building size is 5,000 sq. ft. (similar to large residential dwelling)
- Allowed everywhere in C-2 (not just on US 158)
- Must have 15,000 sq. ft. lot
- Approved administratively by staff
- Same architectural requirements as large residential
- Reduced setbacks; design requirements similar to large residential dwellings

Planning Board Recommendation

- Preference for the Small MF Category – best reflects desired development patterns for Nags Head
- Increase parking to 2.5 spaces per unit + one space for every four units
- For Large MF – only allow townhouse style units
- Add in bedroom per acre limitation of 25 bedrooms per acre (this is consistent with the town's large residential dwelling ordinance)
- Recommendation included no changes to other provisions of the Working Group Ordinance
- Would like to see a townwide cap on the number of large multi-family projects that can be approved

Discussion

Draft Planning Board Ordinance – Design

- From Joint Workshop consensus that townhouse style development was preferred.
 - Townhouses generally have fewer shared walls and offer more privacy than apartments, more home-like environment.
 - Townhouse developments can offer more diverse architectural designs, maintaining the character of the surrounding areas.
 - Townhouse development is generally not as dense as apartment style development.
 - Townhouse development fosters a sense of community, residents have their own entrances, outdoor spaces, etc.
- Ordinance precludes apartment style development for the Large Multi-Family.
- Either is acceptable for Small Multi-Family category as both a principal and accessory use.



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 a comprehensive review of the town’s multi-family standards and recommendations on 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. Subsequently, the Board of Commissioners established a Multi-Family Working Group to review the Planning Board’s ordinance. The Planning Board and Multi-Family Working Group have developed a comprehensive set of draft text amendments for the Board of Commissioner’s review and consideration.

WHEREAS, the 2022 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 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. That **Appendix A, Definitions**, be amended as follows:

~~*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.~~

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.

Floor Area Ratio (FAR) means the quotient resulting from division of the gross floor area of all buildings on a lot by the area of the lot.

~~**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.

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.

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 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
Unit Design	Townhouse and Apartment Style Design shall be allowed for both large and small categories.	
Min. Lot Width for Multi-Family Site	150 feet	No minimum
Min. Site Area in Uplands	26,000 square feet	15,000 square feet
Location of Multi-Family Site	Properties with frontage on US Hwy 158 only.	On any lot meeting the minimum site area requirements.
Setbacks	All buildings shall be setback a minimum 35 feet to all property lines.	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.
Townhome orientation	No townhome structure established as part of a multi-family development shall be situated on a site so as to face/front the rear of another townhome structure within the development or on an adjoining property.	

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
Density/ Building Size	Floor Area Ratio: 0.32 square feet of gross floor area for each 1 square foot of lot area. Maximum gross floor area for a single building is 10,000 square feet. More than one building may be permitted on a site.	One (1) unit per every 4,000 square feet of lot area. Maximum building gross floor area is 5,000 square feet.
Maximum Bedroom per Acre Standard	Total number of bedrooms within the development shall not exceed 25 per acre.	
Maximum number of units	75 dwelling units	6 dwelling units.
Number of dwelling units per townhome structure	Maximum 6 dwelling units per structure.	No maximum.
Height	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.	
Open Space	50% of side yards to remain as open space.	
Lot Coverage	55%	
Parking	A minimum of 2 parking spaces shall be included for each dwelling unit plus 1 parking space for every 4 units.	
Deed Restrictions	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.
Unit Sizes/ Categories	Minimum Unit Sizes/Size Categories: • Studio/One Bedroom 500 sq. ft. • Two Bedroom 700 sq. ft. • Three Bedroom 1,000 sq. ft. Maximum unit size 1,750 sq. ft.	
Mixture of Units	No more than 60% of the units shall be from any unit size category.	No requirement
Buffer	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.
Architectural Design Requirements	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.	Buildings shall meet the design requirements for a large residential dwelling. Small multi-family structures shall be approved administratively.

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
Building Separation	20 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.	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.
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. 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. Shed. Pool (only one pool per development), Walls and Fences. Private Park/Playgrounds.	Shed. Pool (only one pool per development). Walls and Fences. Private Park/Playgrounds
Outdoor Amenity Area/Common Area	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.	No requirement.
Limit on Development Approvals	There shall be a limit of no more than 3 new large multi-family projects approved after the effective date of this ordinance. Existing multi-family development as of the effective date of this ordinance shall be governed by Article V – Nonconformities.	There is no limit on the number of small multi-family projects that can be approved under this ordinance.

7.5.1 The multi-family development shall have a mandatory homeowners' or residents' association. At a minimum, the duties of such association are to ensure compliance with Section [7.5]. The obligation of an owner or lessee to join the association and to provide the information the owner or manager of a multi-family development must be expressed in a declaration of covenants that is recorded in the Dare County Registry and provided to the town prior to any residential occupancy. The homeowners' or residents' association shall provide annually a certification to the town of the multi-family developments' 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 Large Multi-family dwelling development or Administrative Approval of a Small Multi-family dwelling development shall be submitted for consideration by the UDO Administrator to determine whether additional stormwater management measures are necessary.

PART III. 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 are 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.

PART IV. 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)</u>						<u>PR</u>										
<u>1</u>	<u>Residential</u>	<u>Dwelling, Multi-Family (Large)</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							
<u>1</u>	<u>Residential</u>	<u>Townhouse</u>						<u>SR</u>				<u>SR</u>						

ARTICLE IV. 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:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: _____
Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: AYES _____ NAYS _____

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

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

- $217,800 \text{ square feet} \times 0.32 = 69,696$.
- 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

- $174,240 \text{ square feet} \times 0.32 = 55,756$.
- 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