



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

From: Kelly Wyatt, Deputy Planning Director
Michael Zehner, Director of Planning and Development

Date: September 16, 2021

Subject: Consideration of a text amendment submitted by Steve Pauls of Farmdog Surf School to add "Beach Recreation Equipment Rentals/Sales" as a Permitted Use within the C-4, Arts and Culture Zoning District

OVERVIEW AND BACKGROUND

Steve Pauls of Farmdog Surf School has submitted the attached text amendment request to the Unified Development Ordinance (UDO), which, if adopted would permit "Beach Recreation Equipment Rentals/Sales" as a permitted use within the C-4, Arts and Culture Zoning District.

The applicant has noted in the attached application that the reason for this request is because he is under contract to purchase the property at 2403 Wrightsville Avenue and would like to operate Farmdog Surf School, a Beach Equipment Rentals and Sales use, out of this existing building. The applicant notes that within the current UDO, bicycle rental and general retail are both permitted separately in the C-4, Arts and Culture Zoning District.

Staff would ask that the Planning Board keep in mind that text amendments are not site specific but rather apply to the entire district in which it is being requested. A map of the C-4, Art and Culture District has been included in your packet and consists of several residential dwellings, four vacant properties, and commercial uses such as Jewelry by Gail, Gallery Row Animal Hospital and Glenn Eure's Ghost Fleet Gallery.

CODE CONSIDERATIONS

Currently, the Beach Recreation Equipment Rentals/Sales use is only permitted as a by-right use within the CR, C-1, and C-2 zoning districts. There are no supplemental regulations for the use, but the required parking standard is one parking space per 300 square feet of gross floor area, plus 2 employee parking spaces for each retail unit or establishment.

The following are the commercial uses currently allowed within the C-4 district, permitted by-right and only with the issuance of a special use permit:

Bed and Breakfast	Multi-Unit Assisted Housing with Services
Child Care Facility, Family Child Care	Art Gallery
Home	Art Gallery - Owner Occupied
Dormitory	Artisan's Workshop (3,000 sq. ft. or less)
Hotels	

Artisan's Workshop (exceeding 3,000 square feet)
Auction House
Beach Recreation Equipment
Rentals/Sales
Bicycle Shop (repair, retail, rental)
Convenience Store
Firearms Sales and Service
Food/Grocery Store
Furniture Store
General Retail, including clothing, gifts, candy, toys, shoes, jewelry, notions, beach equipment, bakery, antiques, hobby goods, magazines/comics, crafts, dry goods, gifts, musical instruments, bookstores, sporting goods (and the incidental manufacturing, repair, or service of goods on the premises)
Greenhouse/Plant Nursery
Hardware Store
Pet Shop/Dog Grooming
Group Fitness-
Aerobics/Dance/Karate/Yoga
Hair Salon
Indoor Fitness/Gymnasium
Indoor Public Assembly Facility
Massage and Bodywork Therapy
Shoe Repair
Spa
Tailor

Veterinary Clinic with no Animal Boarding
Coffee Shop/Juice Bar
Food Truck
Ice Cream Shop
Microbreweries
Restaurant - Neighborhood
Restaurant - Sit Down
Restaurant - Take Out
Professional Office, including General Business, Financial, Real Estate Sales, Insurance, Attorney, Accountant, Mortgage
Commercial with Accessory Residential
Mixed Use Development
Multiple Principal Uses
Museum
Medical Offices
Community Garden
Small Wireless Facilities
Commercial Crop Production, Indoor
Fine Craft and Folk Art Production
Bulkhead/Estuarine Bulkhead
Garage
Greenhouses
Portable Storage Units/Temporary
Construction Trailers
Shed
Solar Energy Facility, Accessory
Swimming Pool
Walls and Fences

POLICY CONSIDERATIONS

The 2017 Comprehensive Land Use Plan designates this area as Neighborhood Commercial and is within the Gallery Row, Community Center Character Area. Table 2.2.2.A notes Appropriate Land Uses in the Gallery Row Character Area as Commercial uses 10,000 square feet or less, Retail and Equipment Rentals. Based upon this analysis, Planning Staff finds the proposed use is consistent with the 2017 Comprehensive Land Use Plan and the desire of this area to be a central node for community activity to include amenities and services that can meet a variety of daily needs including active and passive recreation, social interaction, education and fitness, and commercial services for residents and visitors.

STAFF RECOMMENDATION:

Staff is of the opinion that the requested amendment is consistent with the Town's adopted Comprehensive Plan and is reasonable and in the public interest and recommends adoption of the amendment as requested.

With regard to the Planning Board's review and action, Staff recommends consideration of the following UDO provisions:

3.5.3. Action by the Planning Board.

3.5.3.1. Every proposed amendment, UDO text amendment or zoning map amendment, shall be referred to the Planning Board for its recommendation and report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.

3.5.3.2. Prior to the consideration by the Board of Commissioners of a proposed UDO text amendment or zoning map amendment, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation, certified by the UDO Administrator, to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.

3.5.3.3. Members of the Planning Board shall not vote on recommendations regarding any UDO text amendment or zoning map amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

Pursuant to Section 3.5.4.2. of the UDO, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure. Prior to voting to adopt or reject the proposed text amendment, the Board should adopt a statement approving the amendment and describing the amendment's consistency with the Town's adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest, a statement rejecting the amendment and describing its inconsistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest, or a statement approving the amendment and containing at least all of the following:

- A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Board of Commissioners shall not require any additional request or application for amendment to the Comprehensive Plan.
- An explanation of the change in conditions the Board of Commissioners took into account in amending the UDO to meet the development needs of the community.
- Why the action was reasonable and in the public interest.

(DRAFT)
AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO PERMITTING “BEACH RECREATION EQUIPMENT RENTAL AND SALES” WITHIN THE C-4 ZONING DISTRICT.

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160D-701, the Town of Nags Head (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land; pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160D-702, the Town has adopted comprehensive zoning regulations and 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; and

WHEREAS, a text amendment application has been submitted requesting consideration be given to permitting “Beach Recreation Equipment Rental and Sales” within the C-4, Art and Culture Zoning District; and

WHEREAS, the Town of Nags Head 2017 Comprehensive Plan includes policies supporting land uses that serve the needs of both year-round and seasonal residents in support of the town’s overall vision for the community and to support and foster small, local businesses that preserve and uphold the vision and legacy of the town.

ARTICLE II. Construction.

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

ARTICLE III. Amendment of the Unified Development Ordinance.

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

Use Category/Class	Use Type	Residential Districts			Commercial Districts				
		R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4
Retail	Beach Recreation Equipment Rentals/Sales				P	P	P		<u>P</u>

PART II. 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 ____ 2021.

 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

ZONING AMENDMENT APPLICATION
TOWN OF NAGS HEAD, NORTH CAROLINA

Applicant Steve Pauls

Mailing address 2500 S. Virginia Dare Trail, Nags Head, 27959

Explanation of request


- Zoning Ordinance - Section(s) 6.6 TABLE OF USES AND ACTIVITIES
Attach amendment in ordinance form.
- Zoning Map
Attach copy of current Zoning Map with affected property outlined in red.
Attach names and mailing addresses of the property owners of all parcels of land abutting the parcel in question.

Nature of request

_____ The applicant is requesting the addition of "Beach Recreation
Equipment Rentals/Sales" as a permitted use to the C-4
district. _____

Reason for request

_____ The applicant is under contract to buy the property at 2403
Wrightsville Ave in Nags Head and desires to run a Beach
Equipment Rental/Sales business out of the existing building.
Currently bicycle rental and general retail are both permitted in
the C-4 therefore Beach Equipment Rental/Sales seems an
acceptable use in the area. _____


Applicant
9/6/2021
Date

