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**Town of Nags Head  
Planning Board  
February 16, 2021**

The Planning Board of the Town of Nags Head met on Tuesday February 16, 2021. Due to Covid-19 restrictions, this meeting was held electronically/remotely utilizing the online ZOOM meeting platform. Members of the public were invited to attend the meeting using the ZOOM platform or app, or by calling in using a phone.

Planning Board Chair Megan Vaughan called the meeting to order at 9:00 a.m. as a quorum was present.

***Members Present***

Megan Vaughan, Kristi Wright, Molly Harrison, Gary Ferguson, Meade Gwinn, Megan Lambert

***Members Absent***

David Elder

***Others Present***

Michael Zehner, Kelly Wyatt, Holly White

***Approval of Agenda***

Chair Vaughan asked for a motion to approve the agenda. Meade Gwinn moved to approve, Megan Lambert seconded, and the motion passed unanimously via roll call vote.

***Public Comment/Audience Response***

None

***Approval of Minutes***

Chair Vaughan asked for a motion to approve the minutes of the January 19, 2021 meeting. Kristi Wright moved to approve the minutes as presented, Meade Gwinn seconded, and the motion passed unanimously via roll call vote.

***Action Items***

*Consideration of Various Text Amendments to Update the Unified Development Ordinance as Required by N.C.G.S. 160D*

Deputy Planning Director Kelly Wyatt provided the Planning Board with a brief presentation of the current status of the 160D update. Ms. Wyatt noted that while Staff is making progress, it is not quite ready for the Board to take action on it just yet. Instead, Ms. Wyatt reviewed a PDF document which took the checklist that Staff had previously discussed and included notes showing what has been completed and what still needs work. Ms. Wyatt noted the expectation is to consider a recommendation at the March meeting. Planning Director Michael Zehner noted that that there are things that they have to do and things that they can/may do. Staff does not know if they have to

address a lot of those in terms of references but have found that they where they have that option, they are consistent with the requirements of 160D. Ms. Wyatt confirmed for Chair Vaughan that this process will tighten up some of the language, leaving it less open to interpretation.

Consideration of Text Amendments to the Unified Development Ordinance Pertaining to Outdoor Lighting and Lighting for Signage

Mr. Zehner explained that Staff presented the final report on the review of the Town's lighting regulations to the Board of Commissioners on February 3, 2021.

While the Board was appreciative of the thoroughness and effort provided by both Staff and the Planning Board, it was the consensus of the Board that the focus of any next steps should be on addressing deficiencies in current regulations that do not adequately limit commercial site and signage lighting. The Board was not necessarily supportive of addressing regulations on residential lighting. Mr. Zehner was unsure if Staff might do that in the future, but they still intend to update the sign ordinance and noted there is an opportunity to make some improvements there.

Staff has been working on identifying and drafting necessary amendments and Mr. Zehner shared these with the Board.

Mr. Zehner discussed wall signs and limiting the size which can be internally illuminated vs. externally illuminated or back lit/reverse lit. Mr. Zehner also discussed differentiating between a commercial building that has multiple tenants vs. a single tenant.

Mr. Zehner presented some photos of Sugar Kingdom which was the focus of a lot the concerns brought up by the Board.

Mr. Zehner also discussed putting some limitations on the lighting of roof signs. Ms. Wyatt gave Souvenir City at Whalebone junction and the Sea Foam Hotel as examples of commercial properties with roof signs. Mr. Ferguson inquired about the Mulligan's Restaurant rooftop sign which he stated extends beyond the peak of the roof. Mr. Zehner noted that the code doesn't speak to that stating only that roof signs shall be no taller than ten feet from the lowest point of attachment to the roof and can't exceed the maximum height limit for the zoning district in which it's in.

Mr. Zehner reminded the Board that the focus should stay on lighting and that they could come back to address roof signs at a later time. Mr. Zehner noted that there is more to discuss about signage and Staff is interested in pursuing it but there are some prioritized edits or amendments that they want to put forward. The Board may want to consider whether they wish to recommended advancing some of the potential amendments sooner rather than later to mitigate for the most pressing issues.

Mr. Zehner continued his presentation on proposed revisions to the lighting ordinance, including illumination of signs, regulations on LED lighting and color temperature, and parking lot lights. Mr. Zehner noted that he tried to focus on the things that he felt would make the most impact.

Mr. Gwinn questioned what the Town is trying to accomplish with these changes. Mr. Zehner explained that what was conveyed to Staff from the Commissioners was that there were concerns associated with excessively bright parking lighting and wall signage. Mr. Gwinn discussed balancing the need for adequate lighting for security and advertising with the goal of having a dark sky. Mr. Gwinn also discussed the possibility of putting timers on lit signs.

Mr. Zehner confirmed for Ms. Harrison that at this point in time Staff was not proposing any changes to interior lighting as the current provisions are very robust.

Mr. Zehner confirmed for Chair Vaughn that when calculating the percentage of signs related to wall size Staff would calculate the entire length of the wall including any window space.

Mr. Zehner confirmed for Mr. Ferguson that the UDO does not allow someone to completely cover a window with a sign; there are provisions for window signs.

Mr. Zehner confirmed that these changes to the ordinance would not require anyone to change out existing light fixtures.

Mr. Zehner reviewed the list of sign violations that were shared in his staff report.

Chair Vaughan noted that it sounded like they would like to do more but that they can still take action on the more pressing issues and still continue their discussion.

Mr. Zehner stated that if the Board was interesting in Mr. Gwinn's suggestion of limiting times for lit signs Staff could come up with some language that they can include in this and also making sure that the wall sign limit changes depending on if it's a single tenant vs. multi-tenant property.

After some further discussion, the Board agreed that they would like to discuss further the idea of time limits on lit signs and maybe get input from businesses. The Board also agreed that driving the Town in the evening closer to the season would be helpful for finding examples of what they like and don't like.

Gary Ferguson moved to recommend approval of the text amendments; Molly Harrison seconded the motion and the motion passed unanimously via roll call vote.

*Reconsideration of Text Amendments to the Unified Development Ordinance Pertaining to Nonconforming Hotels and Accessory Uses in Association with Pre-existing Fishing Piers*

Mr. Zehner explained that a public hearing on the proposed text amendments was held as part of the Board of Commissioners' meeting on February 3, 2021. Following presentation of information, public comments, and discussion, the Board agreed by motion to continue the public hearing to their meeting schedule for March 3, 2021, and to refer the proposed amendments back to the Planning Board. requesting that the Planning Board consider establishing dimensional requirements more consistent with those formerly applicable in the CR district, as opposed to those applicable in the C-2 district, as well as specific additional findings applicable to these types of conditional use permits.

Mr. Zehner reviewed the current UDO supplemental regulations concerning hotels, with the current draft text amendment language pertaining to nonconforming hotels included. Mr. Zehner noted that hotels are only allowed in the C1 and C2 and the hotel overlay districts. Based on the questions/comments from the Commissioners, Staff felt that those allowances in the C2 district may be too inconsistent with expectations for development along the oceanfront. Staff went back and looked at the former provisions that were applicable to hotels in the CR district and highlighted those they thought should be carried into the new text amendment.

Staff would suggest that the highlighted provisions be considered for inclusion in the draft text amendments. Additionally, and related, the Board may want to provide further feedback as to what is the appropriate demolition percentage of the existing gross floor area of a building occupied by a

nonconforming hotel and whether it is necessary to stipulate that such a limit shall preclude further demolition in excess within a certain time period.

Mr. Zehner then reviewed the Conditional Use Permit findings and what additional findings might look like.

Mr. Zehner confirmed for Mr. Gwinn that there are nine hotel properties that Staff believe this would affect that are currently pre-existing, nonconforming hotels on the oceanfront.

Mr. Zehner presented a zoning map showing which areas in the town are zoned CR.

Mr. Ferguson stated that he did not think that they are going to see a lot of motels being built. In his opinion the market is going to drive a lot of this and if the Town keeps rigorous standards up for hotel development then he believes the use should be allowed with a conditional use permit.

Mr. Zehner clarified that the proposed text amendment is focused not on allowing new hotels but giving flexibility to pre-existing, nonconforming hotels to seek a conditional use permit to allow for modifications. Mr. Zehner noted that they may want to discuss whether or not they want hotels in the CR district.

Mr. Ferguson expressed surprised that hotels are no longer allowed on the oceanfront and the Board discussed how this came about. The ideas of protecting view sheds and the overall resiliency of buildings on the oceanfront were discussed.

The Board then discussed the demolition allowance, with Chair Vaughan noting that 75 percent seemed high and basically allows property owners to start all over. Chair Vaughan questioned if the Town is not allowing other people to build hotels on the oceanfront why would they allow a handful of people to do that much demolition and rebuilding?

Mr. Zehner noted that he had reduced the allowance from 75 percent to 50 percent and it could be further reduced to 25 to 30 percent.

Mr. Zehner confirmed for Chair Vaughan that the goal is to allow hotels to make improvements and keep them viable as well as preservation of character.

Chair Vaughan agreed with having a set of findings but felt that they need to be as objective as possible.

Mr. Ferguson questioned the ability of a hotel which has been 50% demolished to be able to rebuild and meet the proposed standards.

Mr. Zehner explained that hopefully they would get a conditional use permit with a proposed site plan prior to demoing so that they don't lose any vesting related to the nonconformity.

Mr. Zehner reviewed the standards for the CR district including what had been removed and noted that nothing new has been added; additionally, he did not include the minimum width requirement because they are not talking about vacant land.

Meade Gwinn moved to recommend approval of the proposed text amendments. Chair Vaughan seconded the motion and it passed unanimously via roll call vote. The Board also agreed that the Town should consider allowing hotels in the CR District.

### ***Report on Board of Commissioners Actions – February 3, 2021***

Mr. Zehner gave a report on the Actions from the Board of Commissioner's February 3, 2021 Meeting. Of note, the consent agenda was approved and included updates to the town's Vegetative Planting Guidelines – removal of Pampas grass from the planting requirements; a Public Hearing was held to consider text amendments to the UDO pertaining to nonconforming hotels and accessory uses in association with preexisting fishing piers which the Planning Board just discussed; the Commissioners reviewed the Town Outdoor Lighting Regulations, and it was Board consensus that staff review the commercial lighting issue that brought this lighting matter forward, research new lighting technology, and prepare proposed ordinance amendments for Board consideration which the Board also reviewed and discussed during today's meeting.

Mr. Zehner confirmed for Chair Vaughan that the Town has a recruitment firm working on finding a permanent replacement for the Town Manager.

### ***Town Updates***

None

### ***Discussion Items***

#### ***Discussion and Acceptance of 2021 Submittal Calendar***

Chair Vaughan reviewed the proposed meeting/submittal dates with the Board. Chair Vaughan stated she was fine with moving up the December meeting from the 21<sup>st</sup> to the 14<sup>th</sup> so it does not conflict with holiday travel plans. The Board was in agreement with the date change and approved the 2021 Calendar.

#### ***January 27, 2021 Director's Report***

Mr. Zehner presented his Director's Report to the Board. This report was shared with the Commissioners at their February 3rd Meeting. The report included meetings or activities of note that Staff was involved in during the month; a North Carolina School of Government Report on Development Regulations; an update on sourcing a Level 2 Charger - as directed at the Commissioners January meeting, Staff is working to pursue a potential arrangement to allow for the location of a charger for electric vehicles on Town property.

Mr. Zehner confirmed for Mr. Gwinn that Level 2 Chargers are fairly standard in terms of the types of EVs that it can charge, and there are adapters for vehicles with proprietary plugs.

Other updates included the CAMA Land Use Plan; Town Workforce Housing Study & Plan; Decentralized Wastewater Management Plan; and a list of the grants that have been applied for including one for the installation of a Tide gauge.

#### ***Review Planning & Development Department's Work Plan***

Mr. Zehner explained that last year, Staff presented and received input from the Board on a Department Work Plan that identified then current fiscal year projects, projects planned for FY20-21 (the now current fiscal year), and future projects.

As part of the meeting packet, a copy of Staff's last memorandum to the Board, dated April 17, 2020 and updated May 15, 2020, was shared with the Board for their review and for a reminder regarding the context that led to the development of the Work Plan. Additionally, a copy of the Work Plan was also included, color-coded to reflect project status as of February 12, 2021.

Mr. Zehner reviewed the updated plan noting that this is a status update of the Work Plan developed last year; therefore, *Current FY Projects* pertained to projects that were active in the last fiscal year, while *FY20-21 Projects* refers to projects intended to be active in the current fiscal year.

In addition, this past fall, the Board of Commissioners approved a 5-year Strategic Plan for the Town. This Plan included five actions for which Department Staff is directly responsible, as follows:

- Identify Housing Needs (RFI)
- Reinitiate Seasonal Employees Housing Conversation
- Land Use Policy and Regulation Review
- Seek/Secure Estuarine Project Funding
- Complete Wastewater Management Plan

While these actions have not been specifically incorporated into the Work Plan, they all relate to one or more projects included in the Work Plan.

***Planning Board Members' Agenda***

None

***Planning Board Chairman's Agenda***

None

***Adjournment***

A motion to adjourn was made by Kristi Wright. The time was 11:09 AM.

Respectfully submitted,  
Lily Campos Nieberding