



AN ORDINANCE OF THE TOWN OF NAGS HEAD, NORTH CAROLINA

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina:

PART I. Findings. As stated in the town's vision statement, as a town "We strive to preserve and protect the Nags Head character, environment, tourism-based economy, and sense of place in order to ensure a high quality of life for residents and a memorable family vacation experience for present and future generations.

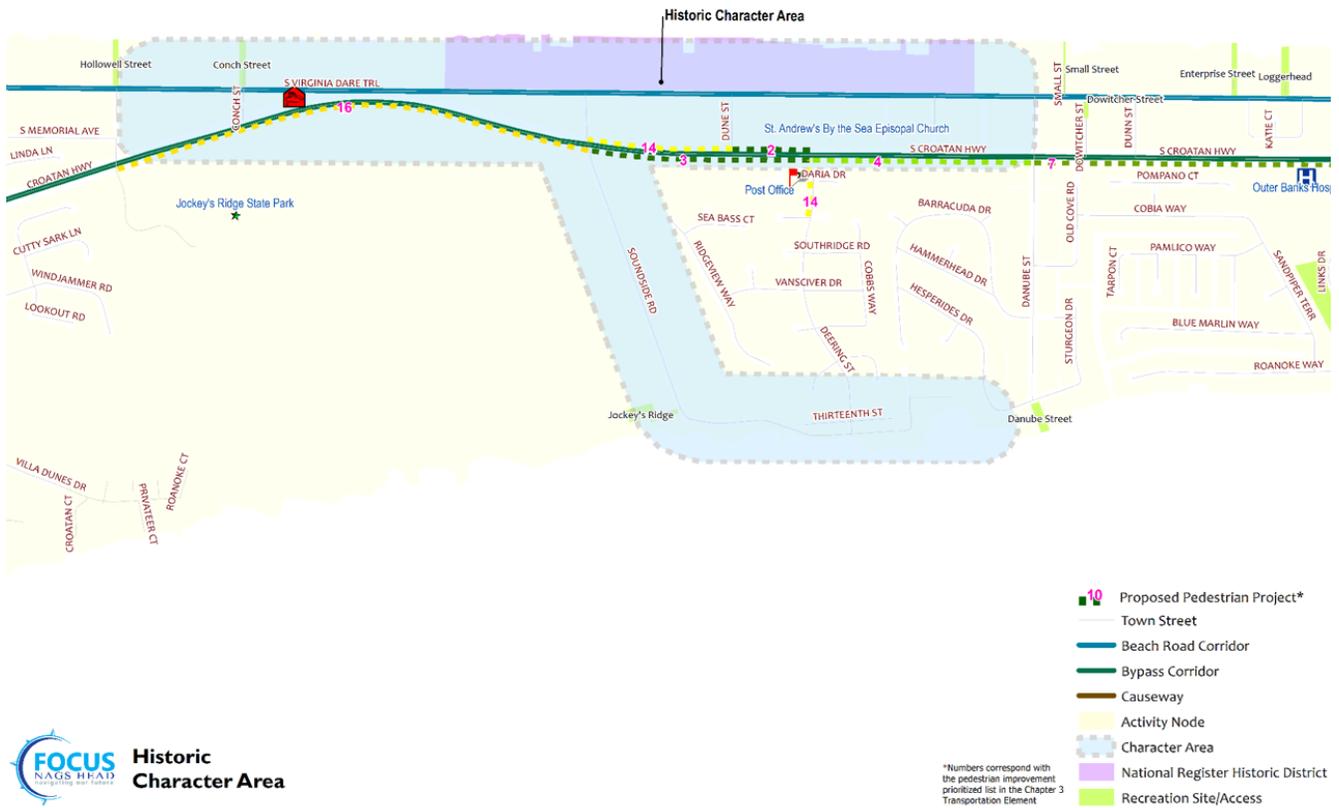
We uphold our legacy by protecting and promoting our small-town character that includes a sustainable local economy based on family vacation tourism, a high-quality beach experience, and small, locally owned businesses. Fundamental to our legacy and quality of life are preserving the historic architecture and culture that distinguishes our town; providing residents and visitors with excellent public services and well-maintained recreational amenities; and ensuring access to a well-protected natural coastal environment.

Our legacy will be strengthened and preserved by a focused, transparent decision-making process that is comprehensive and consistent with the community's vision."

The vision also includes specific goals related to preserving our character, natural and cultural resources, and the orderliness and compatibility of development. Some of these include:

- An environment that reflects the heritage of "Old Nags Head" with unique and eclectic architectural styles, scenic views, and coastal landscapes.
- A well-organized and compatible pattern of land development and redevelopment through proactive land use and transportation policies.

When the Town adopted its Comprehensive Plan in 2017, several character areas were established throughout the town with specific development goals. This included a Historic Character Area, with a goal to preserve the integrity of the Jockey's Ridge and the Historic Cottage Row, which is a National Register Historic District consisting of 41 contributing homes along the oceanfront, and two structures on the west side of NC 12. This was shown in the plan as the area east of US 158 from Hollowell Street to Danube Street, as well as portions of Soundside Road.



The area between the highways from Hollowell Street and Danube Street has been zoned C-2, General Commercial, for many years. The C-2, General Commercial Zoning District allows the broadest range and highest intensity of uses in the town. Several of the town's largest shopping centers are located in the C-2 District. The Comprehensive Plan suggests that C-2 zoning is not appropriate in the Historic Character Area and that further study is needed to establish appropriate standards to protect these areas.

The Comprehensive Plan outlines the appropriate land uses within the Nags Head Historic Cottage Row, and specifically the properties fronting on and between US 158 and NC 12. The plan states that the area should generally consist of neighborhood scale, commercial/residential development patterns with single-family dwellings and neighborhood serving businesses consistent with the size and scale of the cottages in Historic Cottage Row. Appropriate land uses in this area include single family residential (5,000 square feet of habitable area or less), commercial (10,000 square feet or less), mixed use, office, retail, walk-up and sit-down restaurants, personal service establishments, gallery and museums, cottage courts and churches.

With regard to density/intensity and design characteristics, the Comprehensive Plan notes that it is of utmost importance to preserve the scale and character of Nags Head Historic Cottage Row, the Soundside Road residential enclave, and the views of Jockey's Ridge. The previous Land Use Plan noted that much of the new development occurring in this area does not reflect or compliment the existing architectural styles and as such the town will need to review its land use standards to ensure that future development in this area is consistent with the scale and appearance of the historic buildings and scale of development in this area. Specific considerations include:

- The town should closely monitor redevelopment within and directly adjacent to the Nags Head Historic Cottage Row since there is currently no local historic district.

- While commercial and residential development is currently allowed in this area, development standards should reflect a residential scale and character as well as blending with the surrounding natural environment.
- For commercial development – multiple, smaller structures are encouraged over larger strip development. Individual buildings over 5,000 square feet should receive more careful review for site design and architectural compatibility, particularly between US 158 and NC 12. Generally, individual buildings should not exceed 10,000 square feet. All buildings in this area should receive design review or utilize and comply with the town’s current residential design guidelines.
- The overall massing and bulk of buildings should be designed so views are maintained, and individual buildings do not dominate adjacent development.
- There shall be no rezoning of residentially zoned properties to commercial use.

Essential actions and considerations set forth through various land use policies, include the review of current ordinances to ensure that future development and/or redevelopment is compatible with the development plan for this historic character area. Additionally, the town should continue to monitor development in the Historic Cottage Row. As property is developed and redeveloped, the town should coordinate with property owners or developers to provide support and discuss the preservation of this character of this area.

The Comprehensive Plan also designates a character area called the “Neighborhoods Character Area”, which includes many of the residential neighborhoods in town that consist of primarily low-density single-family development and that have limited to no commercial influence. It is the town’s desire to keep these areas intact and protect them from incompatible land uses. Many of these areas are zoned for commercial development, and the Plan states that the town should review its districts and standards to ensure compatibility of land uses.

It is important to note that west of this area lies Jockey’s Ridge State Park, a landmark natural area. Jockey’s Ridge has been designated by the state coastal resources commission as a unique coastal geological formation area of environmental concern (AEC) and as a National Natural Landmark by the United States Department of the Interior. Special zoning districts were created to permit development that is compatible with the environmentally sensitive nature of this significant natural area. The special planned development district, SPD-20, contains the largest portion of Jockey’s Ridge State Park. The intent of this district includes:

- Preservation the natural features and visual attractiveness of the area. Such features include both vegetated and unvegetated dunes and forested areas.
- To promote low-density residential development and residential uses in a manner that protects and preserves the natural topography and vegetation.
- To prohibit commercial and industrial uses of the land and any other use not compatible with the ecological carrying capacity of the area, and the residential and recreational uses of the area.

As with other character areas, essential actions and considerations of the Significant Natural Areas Character Area is through zoning and other mechanisms, to protect the bordering lands from intense development to maintain scenic and environmental qualities of the area. Within the Comprehensive Plan, the Town of Nags Head continues to restate and define its desired characteristics that will form the basis for future land use development decisions. These characteristics include:

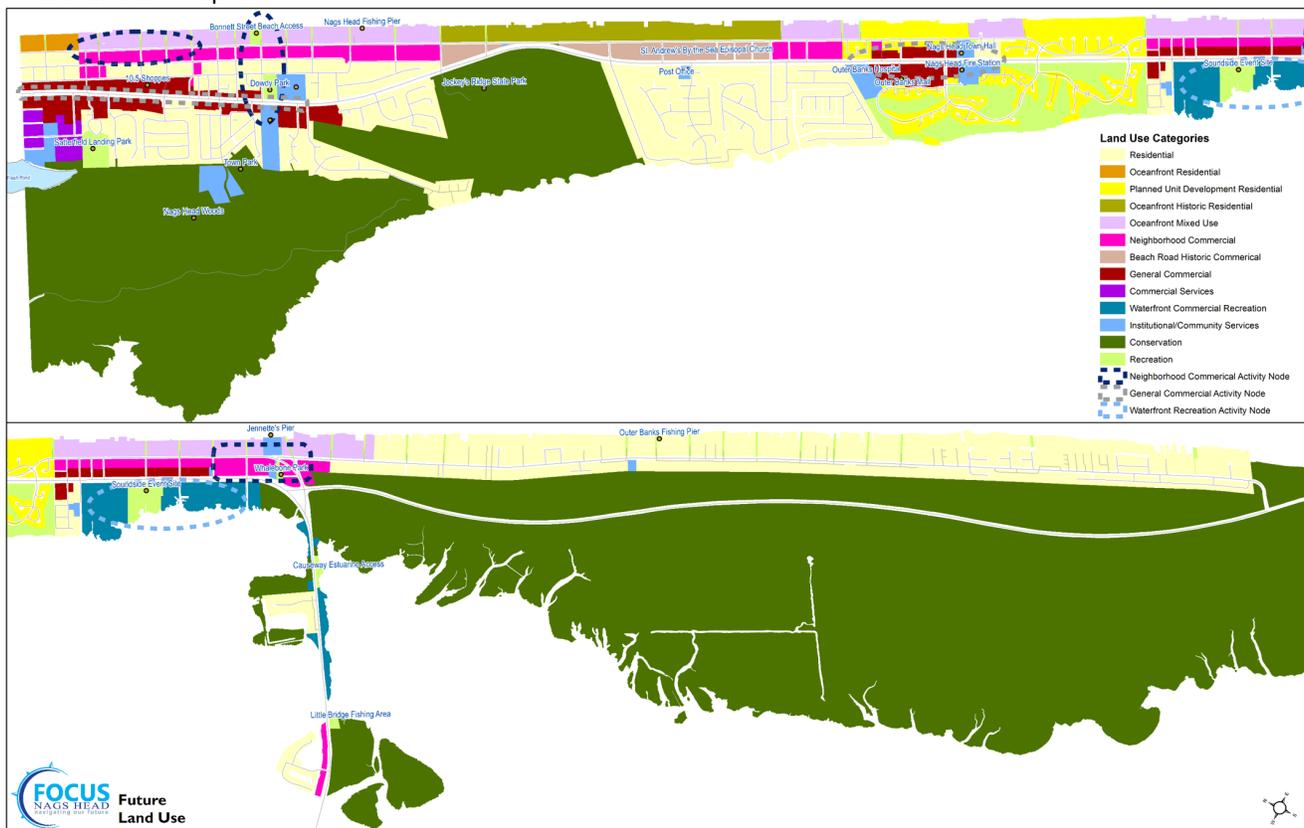
- Buildings with a residential scale and appearance with low heights and small footprints that are designed to reflect the heritage of Nags Head.

- Commercial development that serves the needs of residents and visitors but respects the goals of the community related to design and appearance.
- Land uses that are compatible with the community and with adjacent properties that don't create excessive noise, light, unsafe conditions, or other nuisances.
- A land use pattern that preserves residential neighborhoods and establishes walkable nodes of commercial development that attract patrons and strengthen business opportunity.

In conjunction with the Future Land Use Map below, there are several policies and actions identified within the Comprehensive Plan that speak to the need to evaluate this area for compatibility with surrounding areas and the Historic Character Area.

- LU-4d – Identify existing cohesive residential areas that are currently zoned commercial and consider rezoning to residential to preserve their integrity and limit future land use compatibility issues.
- LU-4e – Develop regulations that prevent incompatible commercial development adjacent to areas with historical designations or significance.
- LU-9b – Evaluate all current commercial zoning districts, based on this plan and the future land use map, to determine if they are functioning as envisioned and make necessary modifications. This should include the review of the existing C-2 district and determine if the C-1 or C-4 districts would be better suited than the current C-2 zoning along NC 12, between the highways, and along US 158 (excluding major shopping center developments).
- LU-10a – Evaluate land uses specified in each zoning district and further clarify which uses are appropriate based on the intent of each district, their overall compatibility with current land uses, and desired future development patterns.

Future land use map



At this time, the Board believes that, based on the broad number and type of uses allowed in the C-2 district, as well as the density/intensity criteria allowed in this district, that any new development, other than single or two-family dwellings, poses a serious and permanent threat to the integrity of this area. Furthermore, under the current standards, the town has insufficient control over the types of projects that might be developed it may receive, and the initiation of any studies, as well as any recommended actions, including but not limited to future text and/or zoning map amendments, would take significant time to complete, and would leave the town exposed during this period to development activities that could permanently threaten the Historic Character Area.

This Board finds that current ordinances of the town do not adequately regulate or address development to protect the values and goals of the town's vision statement, the Comprehensive Plan adopted in 2017, or other desirable and appropriate planning goals in the areas of town currently designated and zoned as C-2, General Commercial, as noted on the town's official zoning map, within the Historic Character Area, which includes the area between US 158 and NC 12, between Hollowell Street and Danube Street. The Board also finds that failure to temporarily limit or postpone future development applications and development activities in this area could result in development in this area inconsistent with the town's vision statement, the Comprehensive Plan adopted in 2017, or other desirable and appropriate planning goals in the areas of town affected by the moratorium adopted hereby.

The town has considered various courses of action alternative to the moratorium enacted hereby to address the conditions and concerns outlined above including proceeding with the usual process for amending the town's Unified Development Ordinance. The Board finds that the timelines for the process to properly evaluate and formulate regulations and other alternatives that could be formally adopted by the Board to effectively address the concerns and conditions listed above without unintended or undesired effects would most likely take more than three (3) months and likely as much as five (5) months. During that time, development could occur, be initiated, or become imminent that would be inconsistent with the town's vision statement, the Comprehensive Plan adopted in 2017, the current character of the area, or other desirable and appropriate planning goals in the areas of town affected by the moratorium adopted hereby.

Due to the above stated concerns, as well as the policies and goals within the current Comprehensive Plan, the Town of Nags Head deems it significantly important to research and review regulatory mechanisms to ensure that the Town's vision is preserved and any future development within the Historic Character area preserves and complements the integrity of this area. The Board also finds that a temporary moratorium on approval of any development application for any development other than those matters exempted from this moratorium will provide for the necessary study and review of the type, intensity, and character of the uses allowed in the Historic Character Area and could result in new districts and/or standards being proposed. The specific area to be reviewed shall be the areas currently designated and zoned as C-2, General Commercial, as noted on the town's official zoning map, within the Historic Character Area, which includes the area between US 158 and NC 12, between Hollowell Street and Danube Street.

The Board finds that it is reasonably necessary for the moratorium adopted herein to remain in effect until March 17, 2023 in order to allow town staff, the planning board, and the Board of Commissioners reasonable and sufficient time to study the conditions outlined above; to develop ordinances, policies, or other mechanisms to address these conditions and concerns; for any recommendations for addressing these conditions to be presented to, considered by, and acted upon by the Planning Board and this Board in compliance with town ordinances and applicable law.

PART II. Proposed Schedule of Actions to be Taken. The town will initiate the aforementioned planning studies with the Planning Board at its next scheduled meeting, which is November 15, 2022. It is anticipated that the Planning Board will need three meetings to request adequate

research, conduct analyses, complete community engagement activities, and recommend appropriate alternatives. Any recommended ordinances or zoning map amendments will be forwarded to the Board of Commissioners for scheduling a public hearing at their February 1, 2023 regular meeting. It is anticipated that a public hearing could be held at the Board of Commissioner's March 1, 2023 regular meeting.

PART III. Implementation of Moratorium. The town hereby enacts and implements a moratorium pursuant to North Carolina General Statute 160D-107, et seq. for a period of 150 days from the date of adoption. This moratorium will prohibit the processing or approval of any development or development applications pertaining to the areas currently designated and zoned as C-2, General Commercial, as noted on the town's official zoning map, within the Historic Character Area, which includes the area between US 158 and NC 12, between Hollowell Street and Danube Street. During this time the town will review the type, intensity, and character of the uses allowed in the Historic Character Area, which would allow for and could result in new districts and/or standards being proposed.

The following are exempted from the effect of this moratorium: (1) applications that meet the criteria provided under N.C.G.S 160D-107(c); and (2) the development of single and two-family dwellings.

PART IV. Authority. The town, pursuant to N. C. General Statute 160A-174 may by ordinance, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town. Additionally, the town, pursuant to N.C. General Statute 160D-107, may by ordinance, adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The town has given notice that this moratorium would be considered on today's date by notice published on Sunday, October 9, 2022 and Sunday, October 16, 2022.

PART V. Effective Dates. This ordinance shall be in full force and effect from and after the **19th day of October, 2022 until March 17, 2023.**

PART VI. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Michael Siers, Mayor Pro Tem
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: October 19, 2022

Motion to adopt by _____

Motion seconded by _____

Vote: - AYES _____ - NOES _____