



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

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

Date: July 11, 2024

Subject: Consideration of various amendments to the Unified Development Ordinance (UDO) as it pertains to the use of multi-family dwelling developments.

Last month staff gave a presentation on the draft multi-family housing ordinance developed by the Multi-Family Ordinance Working Group.

The Planning Board discussed various aspects of the ordinance and requested that staff provide a comparison of the draft ordinance to the Sugar Creek Condos, which is the most recent example of a larger multi-family development within the town. This was completed under a previous version of the ordinance. The Planning Board also questioned the adequacy of the existing parking standard for multi-family development and requested an analysis of parking standards. Staff has also reviewed language in the ordinance with the Town Attorney related to HOA requirements; revisions have been provided.

Staff has provided the following attachments to aid in the upcoming discussion:

1. To aid in the discussion regarding density, staff has provided notes from a conversation with a local commercial real estate professional, Bobby Harrell. This information was provided the MF Working Group to better understand the market forces that drive the development of multi-family housing. Mr. Harrell also provided suggestions on how the ordinance might be revised to create better conditions for MF development.
2. Staff has provided a summary of the information presented to the MF Working Group to evaluate standards for density and unit size, as those were two of the key factors identified by Mr. Harrell to improve conditions for MF development.
3. Staff has provided a comparison between the existing Sugar Creek MF development and what could be developed under the proposed ordinance on the same property.
4. A parking analysis has been provided with multi-family standards from other local and coastal communities.
5. The draft ordinance has been provided with revisions provided by Town Attorney Leidy to the provisions related to HOA requirements.

Call w/ Bobby Harrell 4/10/2024

Bobby reviewed proposed workforce/multifamily housing. For my 40 years in the business, it's always been about land cost and density, regardless of the lack of central sewer.

Requirement for US 158 location and in the C-2 zoning district:

The value of bypass commercial is now in the \$1,000,000 per acre range. This would indicate a land cost of \$167,000/unit, based on 6 units per acre.

(Note: the ordinance as written would allow 6 units per acre for the large category – this density would increase with the size of the property. The ordinance would allow 8 units per acre for the small category. There is a cap of six units to be in this category).

With a construction cost of even \$200 per sq ft (which is optimistic), a 900 sq ft, a two-bedroom unit would be \$347,000. Rent would need to be \$3000+ to justify the investment. I don't see how anything over \$50,000 land cost per unit could work (if that will even work).

Properties not fronting the bypass and residentially zoned properties would lower the land cost per unit depending on location and size (not on beach road or oceanfront).

Setbacks

With 35' setbacks on all sides – if a site is 200 x 220, 24,500 sq ft of land would be occupied by the building setbacks, which is over 50% of the site. This should be reviewed.

Density

Density has to be increased for a multi-family project to be financially feasible. For the "Small Multi-family C-2" you could get 6 units. on 26,500 sq ft, i.e., four 7,500 sq ft lots would be \$175-200,000 each, if available, puts your land cost/unit at \$116-133,000. The numbers will not work.

It may be useful to look at density based on # bedrooms per sq. ft. of land and/or floor area ratio rather than # of units per sq. ft. of land. For workforce units, it may be better to have more one- or two-bedroom units. For example, 50, three-bedroom units = 75 two-bedroom units. 50, three-bedroom units = 90 one-bedroom units and 30 two-bedroom units. Previous ordinance density was based on units per acre of land however there was no limit on unit size. 50, 2,500 sq. ft. units = 100, 1,250 sq. ft. units. Debate is about density in terms of building area vs. number of occupants.

Rents per sq. ft. might be higher with smaller units and construction costs will be less.

Unit Size

Consider reducing unit size in order to reduce construction cost. For example, 600 sq. feet may be sufficient for a one-bedroom unit and construction cost would be less. Also, the rent charged between a 600 and 800 square foot one bedroom unit may not be much different.

Bobby is building a barn with a 480 sq ft one-bedroom apartment on the second level of a garage and this is plenty of room for a one-bedroom.

Perhaps look at 800 sq ft for two-bedrooms and 1000 for three-bedrooms.

Building Separation

Buildings have to be 40' apart which further reduces the utility of the site, and achievable density, thus raising land cost/unit.

Deed Restrictions

The deed restriction was not considered a major factor in whether a project would be completed. This will be dictated by what the property can generate in revenue relative to land, construction, financing, and other development costs. May want to consider a time limit on deed restrictions.

Unit Type

Perhaps look at duplexes. Townhouses tend to be more geared towards homeownership. Apartments more geared towards rentals.

Existing Development

Land costs would be less of a factor if an existing commercially developed property could add units on the same site. This should be evaluated.

Discussion Points for 4/29 Multi-Family Working Group Meeting #3

Density

Rather than apply a density standard using units per acre, the group discussed a floor area ratio or # bedrooms per acre. When looking at what might be an acceptable density standard in Nags Head, the town's large residential dwelling ordinance could be used as a baseline. Right now, we allow a dwelling to be up to 5,000 square feet on a 16,000 square foot lot. This results in a floor area ratio of 0.32. This would be 32 square feet of gross building floor area for every 100 square feet of land area. This would result in the following building area for a five-acre parcel:

5 acres (217,800 sq. ft. x 0.32) = 69,696 sq. ft. building floor area.

This would allow for roughly 39, 1,750 sq. ft. units or 69, 1,000 sq. ft. units. This provides more flexibility for a developer to decide on an appropriate mix of unit sizes for workforce housing. This would likely result in more units per acre than the previous ordinance. However, it could result in less overall floor area. The group may still want to consider a maximum number of units for a project.

Conversely, the proposed Planning Board ordinance would yield the following maximum density on a five-acre parcel:

47 units @ 1,750 sq. ft. = 82,250 sq. ft. (worst case scenario)

Staff also analyzed a standard using bedrooms per acre. Currently, nine bedrooms are allowed on 16,000 square feet. For five acres this would allow for roughly 122 bedrooms.

Staff's preference would be to utilize floor area ratio since this provides more direct control of building size/volume.

For small multi-family, staff would recommend allowing a maximum of 5,000 square feet for a small multi-family development. This is the standard that is currently applied for sketch plan review. Since we would recommend small MF be administratively reviewed, this would be consistent with that standard. We would also recommend having a standard for units per acre. If the minimum unit size is 500 square feet, this could result in 10 units on a 16,000 square foot lot if no units per acre standard is applied. Staff would recommend 1 unit per 4,000 sq. ft. of land area.

Unit Size

When looking at common workforce housing developments in other parts of the state, the following minimum unit sizes were noted:

Studio – 500-600 sq. feet.

One Bedroom – 600-700 sq. feet.

Two Bedroom – 800-1,100 sq. feet.

We may want to consider reducing the minimum unit size requirement to 500 square feet. The group will also want to discuss whether we require a certain mixture of unit sizes for a project or let it be purely market driven.

For example:

Minimum 500 square feet

or

Minimum Unit Sizes per Bedroom

Studio unit minimum is 500 sq. ft.

1-bedroom unit minimum is 600 sq. ft.

2-bedroom units minimum is 800 sq. ft.

3-bedroom units minimum is 1,100 sq. ft.

Would recommend still applying a maximum size of 1,750 square feet per unit

Analysis of Sugar Creek Development vs. Proposed Standards

Sugar Creek was constructed under a previous version of the MF ordinance. Below are the primary standards controlling density when Sugar Creek was developed.

- Allowed 3 units for the first 26,000 sq. ft. of land and an additional unit for every 3,500 sq. ft. of land over 26,000 sq. ft. This was based on total lot area and wetlands could be included in lot area for the purpose of calculating density.
- Height was 40' to the top plate and 47' total. Building was three stories with parking underneath.
- 2.5 parking spaces per unit were required
- Minimum unit size was 1,000 sq. ft.
- Setbacks were 1.75 times the height of the building. Parking could be within the setback.

Here is a breakdown of the Sugar Creek Development as constructed:

Lot size is 4.8 acres or 209,088 sq. ft.

41 units were constructed. 45 units were approved. Based on the above density calculation allowed at the time, 55 units could be developed (since wetlands could be included in the calculation).

Unit composition is as follows:

# Units	# Bedrooms	Total Bedrooms
15	2	30
22	3	66
4	4	16
41		112

Units averaged 1,300 sq. ft.

Total gross floor area is 54,348. It appears controlling factors for density were wastewater requirements, parking, and presence of wetlands (see site aerial below).



How the proposed ordinance may have influenced this same project:

With a 0.32 FAR, only 41,100 sq. ft. gross floor area could be developed since wetlands would now be excluded from total lot area when calculating density.

If this site were entirely uplands, 66,908 sq. ft. could be developed.

Under the old ordinance if this site were entirely uplands, they would have likely reached the maximum density of 55 units, since an additional 80,253 sq. ft. of land would be available for development. Although there were no limits on bedrooms, at an average of 2.7 bedrooms per unit, this would be 150 bedrooms under the maximum density allowed at the time. With an average of 1,300 sq. ft., total building area would be 71,500 sq. ft.

Under the new proposed ordinance, there is no ratio of units per acre and unit sizes can be smaller. This allows for more units but still controls building volume and mass. Also, no more than 60% of the units can be from any size category. A potential scenario for unit composition may look like this:

Unit Size	# Bedrooms	# Units	Total Bedrooms	Total Square Feet
1100	3	25	75	27500
800	2	25	50	20000
600	1	25	25	15000
		75	150	62500

*Note that the unit sizes are larger than the minimum in the proposed scenario. Since the developer reaches the maximum cap for the site of 75 units, they may increase unit sizes over the minimum to receive more rent per unit. Without the total unit cap, the project may look like this:

Unit Size	# Bedrooms	# Units	Total Bedrooms	Total Square Feet
1000	3	30	90	30000
700	2	30	60	21000
500	1	30	30	15000
		90	180	66000

Points of note:

The previous version of the Planning Board’s recommended ordinance reduced density vs. what the old ordinance allowed. If the Sugar Creek site were developed using that standard (3 units for the first 26,000 sq. ft. of land area and one additional unit for every 4,500 sq. ft. of land) 40 units would have been allowed. This closely matches what was constructed. So approximately 53,000 sq. ft of building area would have been achieved.

The MF Housing Working Group also considered imposing a total bedroom limitation and/or a bedrooms limitation per acre. Based on the other standards included in the ordinance such as FAR, the unit composition requirements, and the maximum number of units allowed, the Working Group decided not to impose a bedroom limitation. Based on the scenarios above, a limitation of 30 bedrooms per acre would match the density achieved. If all units were two bedrooms, this would be 15 units per acre. If all units were three bedrooms, this would be ten units per acre.

The old density requirement for a five-acre site was approximately 11 units per acre, however there was no limit on unit size or # of bedrooms per unit.

Parking Analysis

At the Planning Board meeting, the Planning Board requested an evaluation of the Town’s parking requirements relative to other communities. Below is a summary of other parking standards:

<u>Location</u>	<u>Parking standard for multi-family</u>
Virginia Beach, VA	1.5 spaces per one-bedroom unit, 2 spaces per two-bedroom unit, and 2.5 spaces per three-bedroom unit. Guest Parking .25 spaces per unit.
Buncombe County, NC	1.75 per unit can reduce within multi-modal transportation areas.
City of Asheville, NC	Dropping all off-street parking regs citywide for residential uses.
Hickory, NC	1.5 spaces per unit.
Garner, NC	More than 4 units: 1.6 spaces per dwelling unit plus 1.0 spaces for every 8 units.
Butner, NC	1.5 per 1-2 bedroom, 2 per 3-bedroom.
Monroe, NC	Min 1.5/dwelling unit; Max 2.5/dwelling unit
City of Wilmington, NC	1.5 spaces for one bedroom, 2 spaces for two bedrooms, 2.25 spaces for three or more bedrooms. Reduction for elderly housing.
Town of Wrightsville Beach, NC	Based on toilet fixtures. 1-3 toilets requires 2 parking spaces per unit.
Topsail Island, NC	One space per bedroom.
New Bern, NC	1 space for each one-bedroom unit, 2 spaces for each two bedroom unit, 2.5 spaces for each unit with three or more bedrooms, plus 1 space for every 4 units in the development. Reduction for developments limited income and elderly.
Town of Emerald Isle, NC	2 spaces per unit plus 1 guest space for every four units.
Atlantic Beach, NC	Multi-family: 1.5 per dwelling unit. Townhouse: 2 per dwelling plus 1 guest space for every 4 units.
Oak Island, NC	1.75 per dwelling unit

The current standard is 2 parking spaces per unit. Staff would suggest including a provision for guest or overflow parking. Staff would suggest one additional space for every four units similar to Emerald Isle or Atlantic Beach.

Draft Multi-Family Ordinance

Where the Multi-Family Housing Working Group recommended different ordinance language than that recommended by the Planning Board, staff has color coded the language as follows:

Multi-Family Housing Working Group Recommended language is shown in RED.
Planning Board Recommended language is shown in BLUE.

Proposed language that is unchanged is shown in regular black type.

PART I. Appendix A – Definitions

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

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

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 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.

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

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

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

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

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

Workforce Housing or workforce housing unit means the following:

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

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

PART II. 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 16,000 square feet
Location of Multi-Family Site	Properties with frontage on US Hwy 158 only.	On any lot meeting the minimum site area requirements. Properties with frontage on US Hwy 158 only.
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.	
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. Minimum 26,000 square feet for first three units; 4,500 square feet of additional lot size for each additional unit.	One (1) unit per every 4,000 square feet of lot area. Maximum building gross floor area is 5,000 square feet. Minimum 16,000 square feet for the first three units; 3,500 square feet of additional lot size for each additional unit.
Maximum number of units	75 dwelling units 60 dwelling units	6 dwelling units.

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
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%
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	<p>Minimum Unit Sizes/Size Categories:</p> <ul style="list-style-type: none"> • Studio/One Bedroom 500 sq. ft. • Two Bedroom 700 sq. ft. • Three Bedroom 1,000 sq. ft. <p>Maximum unit size 1,750 sq. ft.</p> <p>Minimum 800 square feet; Maximum 1,750 square feet for both small and large multi-family designations.</p>	
Mixture of Units	<p>No more than 60% of the units shall be from any unit size category.</p> <p>All multi-family dwelling buildings shall incorporate building design variations such as varying stories and habitable area.</p>	<p>No requirement</p> <p>All multi-family dwelling buildings shall incorporate building design variations such as varying stories and habitable area.</p>
Buffer	In addition to the buffering requirements included in the Commercial Design Standards, a minimum 10-foot-wide	In addition to the buffering requirements included in the Commercial Design Standards, a 10-foot-wide commercial transitional protective yard shall be

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
	commercial transitional protective yard shall be provided consistent with Section 10.93.3.2 and 10.93.3.3 of the UDO.	provided consistent with Section 10.93.3.2 of the UDO.
Architectural Design Requirements	<p>All multi-family dwelling buildings, regardless of size, shall go through the Sketch Plan process as outlined in Section 10.84 of the UDO.</p> <p>Multi-family dwelling buildings shall meet the requirements of Article 10, Part VI, Commercial Design Standards.</p>	<p>Buildings shall meet the design requirements for a large residential dwelling.</p> <p>Small multi-family structures shall be approved administratively.</p> <p>All multi-family dwelling buildings, regardless of size, shall go through the Sketch Plan process as outlined in Section 10.84 of the UDO.</p> <p>Multi-family dwelling buildings shall meet the requirements of Article 10, Part VI, Commercial Design Standards.</p>
Building Separation	20 40 feet; a sidewalk or boardwalk constructed to provide a grade separation from vehicular traffic of at least six inches shall connect all principal buildings on the site. Separate buildings shall be connected with pedestrian passageways that are striped when crossing traffic lanes.	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.

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
Accessory Uses	<p>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.</p> <p>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.</p> <p>Shed.</p> <p>Pool (only one pool per development),</p> <p>Walls and Fences.</p> <p>Private Park/Playgrounds.</p>	<p>Shed.</p> <p>Pool (only one pool per development).</p> <p>Walls and Fences. Private Park/Playgrounds</p>
Outdoor Amenity Area/Common Area	<p>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.</p>	

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 development's compliance with the restrictive covenant and workforce housing occupancy requirements, using a required certificate of compliance form provided to the association by town staff upon request.

7.5.2 Any site improvements, including construction of additions of any size, accessory structures of any size, and landscaping and buffering projects, that occur following the original Board of Commissioners Special Use Approval of a 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:

	Use Category/Class	Use Type	Residential Districts			Commercial Districts						Special Districts				Overlay Districts		
			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>SR</u>										
<u>1</u>	<u>Residential</u>	<u>Dwelling, Multi-Family (Large) Townhouse Style Design Only</u>						SR										
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>						SR				SR						