
**Town of Nags Head
Planning Board
April 20, 2021**

The Planning Board of the Town of Nags Head met on Tuesday April 20, 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, David Elder, Molly Harrison, Gary Ferguson, Meade Gwinn

Members Absent

Megan Lambert

Others Present

Michael Zehner, Kelly Wyatt, Holly White

Approval of Agenda

Chair Vaughan asked for a motion to approve the agenda. David Elder moved to approve, Meade Gwinn 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 March 16, 2021 meeting. Kristi Wright moved to approve the minutes as presented, David Elder seconded, and the motion passed unanimously.

Action Items

Consideration of a text amendment pertaining to lot coverage associated with dumpster conversions from side load to front load pick up.

Planning Director Michael Zehner explained that the Town is currently undergoing a process of converting existing side-load dumpsters to front-load dumpsters given the expectation that the availability of trucks that can service side-load dumpsters will be reduced in the future. To aid in this effort and to reduce complications involving alterations and/or expansions to dumpster locations or pad dimensions, Staff requested and the Board authorized development of a text amendment to the UDO to address potential increases in lot coverage that may be associated with these changes.

Allowable lot coverage, related to zoning district and use types is established within Section 8.2.1., Dimensional Requirements, of the UDO. Section 8.6.6., Lot Coverage, of the UDO establishes specific requirements for the administration of lot coverage, and Section 8.6.6.7., Exclusion of Lot Coverage Calculation, outlines those instances where lot coverage may otherwise be exempted or excluded. Mr. Zehner noted that there is currently no exemption for dumpster pads.

To make the conversion process more flexible and proceed more efficiently, it is Staff's recommendation that a Section 8.6.6.7.6. be added as follows:

Where a preexisting use is required by the Town to convert the service orientation of a dumpster, or where a preexisting use is required by the Town to obtain a dumpster, any additional lot coverage required by the Town to be created for the location and servicing of such dumpster, not to exceed the amount required by the Town, shall be exempt from the lot coverage requirements of this UDO.

Mr. Zehner noted that this would only apply to pre-existing uses of sites; it would not apply to a new site that is going through site plan review and they can fully accommodate locating a dumpster. This would apply to pre-existing uses that are being retrofitted as required by the Town.

Mr. Zehner stated that he raised this issue with the Board of Commissioners and they were supporting of Staff moving forward with it.

Chair Vaughan asked if Staff could give an example of properties where this has been an issue. Deputy Planning Director Kelly Wyatt cited Austin Seafood and Dune Burger as two recent examples of properties where the need for a replacement dumpster resulted in a lot coverage issue.

Mr. Zehner noted that there are other exemptions that apply to lot coverage so this would not necessarily be unique in that way.

After some further discussion Molly Harrison moved to recommend approval of the text amendment as presented. David Elder seconded, and the motion passed unanimously via roll call vote.

Consideration of various text amendments to the Unified Development Ordinance pertaining to the NCGS Chapter 160D Updates.

Deputy Planning Director Kelly Wyatt explained that Staff has now completed the revisions to the Unified Development Ordinance to reflect the changes necessitated by the NCGS Chapter 160D Update. As staff have noted in previous updates to the Planning Board, the proposed amendments are not intended to change the standards of the Town and the majority of the amendments involve the addition of specific definitions and various wording modifications.

At the previous meeting, the Board asked that if there were any parts of this that were kind of relevant or needed to be set aside and discussed separately to do so and Ms. Wyatt noted that there are two amendments that Staff would like to bring to the Board's attention:

- NCGS 160D-102 states that ordinances must align terminology for conditional zoning and special use permits and thus must delete the terms conditional use permit, special exception, conditional use district zoning and special use district zoning if utilized. The Town of Nags Head only uses terminology for Conditional Use Permits (CUP), those will now be referred to as Special Use Permits (SUP).

Ms. Wyatt stated that procedurally there is no difference in the two; this will just provide consistency in terminology throughout the State. And,

- NCGS 160D-910 states that a local government may not adopt or enforce zoning regulations or other provisions which have the effect of excluding manufactured homes from the entire zoning jurisdiction or that exclude manufactured homes based upon the age of the home. Ms. Wyatt noted that while this may change later, just to make sure that the Town is compliant, the use "Mobile/Manufactured Homes" has been removed from the list of prohibited uses and added as a permitted use in the C-3, Commercial Services District only.

Ms. Wyatt confirmed for Mr. Ferguson that the Town does allow single-family dwellings in the C3, but because of Fresh Pond there's a 500-foot buffer and a 1200-foot buffer and within the 500-foot buffer there is no opportunity for a septic system.

Mr. Zehner noted that the Town had taken the perspective that the manner of construction of a manufactured home was not a desirable use broadly within the community and were previously specifically excluded but they are now required to allow for them.

Mr. Ferguson noted that one of the ways the ordinance regulated mobile homes was to say that the width of the home couldn't exceed the length by a certain ratio. Ms. Wyatt confirmed that is still in the UDO and believes it to be a three to one ration but did not realize that it was there for the purpose of prohibiting a mobile home.

Staff provided a bulleted list of the primary changes found within each Article of the UDO as part of their Staff memorandum. Ms. Wyatt noted that there are three revisions consistently carried out throughout the entirety of the document:

- References to provisions in NCGS Chapter 160A or 153A have been updated to relevant provisions in Chapter 160D.
- Replaced references to Conditional Use Permits to Special Use Permits.
- Replaced "duplex" with "two-family" dwelling consistent with the revised definition.
- Under Appendix A. Definitions, definitions have been added and/or existing definitions have been amended for several items.

Ms. Wyatt stated that there was an extensive list of definitions that were required and those were also listed in the staff memorandum along with a note as to whether it was an entirely new definition or whether it needed to be revised to be consistent with the general statute. In the staff memo she also noted each article and any significant changes in each.

Mr. Zehner commended Ms. Wyatt for all the work she did getting all of these sections updated. Chair Vaughan agreed that it was a lot of (very tedious) work.

Ms. Wyatt confirmed for Chair Vaughan that the Town can't have minimum square footage requirements noting that several HOAs have always had some minimum area requirements, but the Town can't have any as the regulatory agency.

Ms. Wyatt confirmed for Mr. Ferguson that Special Use Permits, are still a quasi-judicial process. Mr. Zehner noted that it is now more structured and rigid in terms of presentation and consideration of evidence.

Gary Ferguson moved to recommend approval of the text amendments as presented. David Elder seconded, and the vote passed by unanimous roll call vote.

Report on Board of Commissioners Actions – April 7, 2021

Mr. Zehner gave a report on the Actions from the Board of Commissioner's April 7, 2021 Meeting. Of note, there was a Public Comment from a resident in Old Nags Head Place Subdivision concerning the flooding in his neighborhood; town staff is working with that neighborhood. There was an update and a recap of the 2020 Season for the Dowdy Park Farmer's Market and the plans for the 2021 season. There were a few consent agenda items which included two text amendments previously discussed by the Planning Board. There was a Public Hearing to consider text amendments pertaining to the various Commercial Mixed-Use use types; the Board adopted the ordinance regarding religious complexes. There were also continued public hearings on the two text amendments regarding hotels; they denied the text amendment that would have addressed non-conforming hotels but adopted the alternative text amendment. The Board continued the public hearing on the outdoor lighting amendments and asked that staff provide additional language re: up-lighting in neighborhoods. With regards to the Consideration of a Preliminary Plat for a Major Subdivision, titled Louisa Farr, Lot 4, Ralph Buxton Division, the Board passed a motion to deny the request to divide the existing lot into 2 lots based on decision made by the Board in the 1980's that no further subdivision will be allowed.

Mr. Ferguson expressed surprise that the Subdivision request was denied, and he and Mr. Zehner discussed the Board's decision in further detail. Mr. Ferguson noted that the decision seemed rather arbitrary and seemed like it went contrary to the rules. The Board agreed that they would like further clarification to gain better understanding.

Town Updates

Chair Vaughan inquired about municipal service districts. Mr. Zehner noted that letters regarding municipal service districts and beach nourishment have been mailed out and if anyone has any questions, they should contact Andy Garman, Deputy Town Manager.

Discussion Items

April 1, 2021 Director's Report

Mr. Zehner presented his Director's Report to the Board. This report was shared with the Commissioners at their April 7th Meeting. The report included: the department's permitting report for the second and third quarters, Dumpster Conversion Lot Coverage Exemption, Update on the Draft Scope for Estuarine Shoreline Management Plan, CAMA Land Use Plan Update, Outdoor Lighting, Town Workforce Housing Study & Plan/RFI, Skate Park Renovation - Phase 1, an update on 2021 Dowdy Park Farmer's Market as well as several grants and a list of scheduled meetings of note including some upcoming meetings.

Review Planning & Development Department's Work Plan

Mr. Zehner continued his discussion/review from last month on the Planning & Development and Septic Health, FY2021-2022 Strategic Work Plan. Mr. Zehner reminded the Board that that this is a status update of the Work Plan developed last year (2020); therefore, Current FY Projects pertain to projects that were active in the last fiscal year while FY21-22 Projects refers to projects intended to be active in the current fiscal year. Mr. Zehner noted that under Current FY Projects those activities that have an asterisk are expected to be completed this fiscal year and stated that they are making really good progress and will be able to check off several now as the hotels in the CR and the Art

Mast Project is completed. There was also some re-shuffling of the FY21-22 Projects due to feedback received from the Board.

Planning Board Members' Agenda

Mr. Elder discussed beach driving; of specific concern is the speed limit on the beach and the number of beach driving permits vs. lack of regulation and enforcement.

Mr. Elder also brought up the issue of ADUs which was recently discussed at a Dare County Board meeting and how they relate to the overall lack of workforce/affordable housing which continues to be a huge problem. Mr. Zehner agreed noting that the (Planning) Board has raised the issue on several occasions and sent feedback to the Commissioners via a letter sent a year and a half ago suggesting a broader study related to affordable housing. Mr. Zehner and the Board also discussed a bill that is pending in the House and Senate related to this issue.

Mr. Ferguson expressed concern over the increase of small cell wireless antennas and the visual impact of 5G on the Town. Mr. Zehner noted that the Town is limited on what it can do related to cellular technology.

Planning Board Chairman's Agenda

Chair Vaughan discussed the upcoming May meeting and would like to plan for an in-person rather than a Zoom meeting.

Adjournment

A motion to adjourn was made by David Elder. The time was 10:28 AM.

Respectfully submitted,
Lily Campos Nieberding