
**Town of Nags Head
Planning Board
June 18, 2019**

The Planning Board of the Town of Nags Head met in regular session on Tuesday, June 18, 2019 in the Board Room at the Nags Head Municipal Complex.

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

Members Present

Megan Vaughan, Kristi Wright, Mark Ballog, Mike Reilly, Meade Gwinn, Megan Lambert, David Elder

Members Absent

None

Others Present

Michael Zehner, Kelly Wyatt, Holly White, Andy Garman, Lily Nieberding, Margaux Kerr, Webb Fuller

Approval of Agenda

David Elder moved to approve the agenda be as presented. Meade Gwinn seconded the motion and it passed by unanimous vote.

Public Comment/Audience Response

There being none, Chair Vaughan closed the Public Comment period reminding the audience that the Planning Board is an advisory board, they do not make any decisions, but they are willing to listen and make a recommendation.

Approval of Minutes

There being no changes, David Elder moved that the minutes from the May 21st meeting be approved as presented. Kristi Wright seconded the motion and it passed by unanimous vote.

Action Items

Consideration of a Conditional Use/Site Plan Amendment submitted by Christina Jamieson to convert a vacant commercial structure into an Indoor Entertainment Facility, OBX-Scape Rooms. The applicant is also seeking a reduction in required parking. The property is zoned C-2, General Commercial and is located at 4125 S. Croatan Highway, Nags Head (former Outer Banks Radiology Center).

Deputy Planning Director Kelly Wyatt presented a Conditional Use/Site Plan Amendment submitted by Ray and Christina Jamieson for the purpose of converting a former medical office to Indoor Recreation Facility (Escape Room) and add site improvements to accommodate the new use to include additional parking spaces and stormwater management measures. The property is located at 4125 S. Croatan Highway and is zoned C-2, General Commercial District.

Ms. Wyatt explained that this property has split flood zoning designations, Shaded X and AE 10. When this building was constructed the property was situated entirely within the Shaded X flood zone. Current code requires that the first-floor elevation of a structure meet the Base Flood Elevation (BFE, 10 ft.) plus an additional one-foot freeboard. This elevation is the Regulatory Flood Protection Elevation, and in this instance would be 11 ft. MSL. The first-floor elevation of this structure is 10 ft. MSL, therefore it is FEMA nonconforming and as such only 50% of the tax assessed value or appraised value of the structure may be devoted to additions, repairs, etc. in any one-year period from the date of issuance of a Certificate of Occupancy. In this case, that value is approximately \$306,500.

Staff finds this proposal to be consistent with land use classification and stated Land Use Policies.

Ms. Wyatt reviewed the applicable Zoning Regulations explaining that although Town Code lists "Indoor Recreational Activities" as a Permitted Use within the C-2, General Commercial Zoning District, the applicant is seeking a reduction in required parking as regulated under Town Code Section 48-165(e) and (f) necessitating the review of this application via the Conditional Use Process.

Total allowable lot coverage for this site is 55%. Proposed lot coverage is 52.1% and therefore is compliant. Height of the existing structure will be unchanged.

Pursuant to Town Code Section 48-167(3), Indoor Recreational Uses require one (1) parking space for each 300 square feet of gross floor area and one additional parking space for each two employees. The existing structure totals 4,000 square feet in gross floor area necessitating 13 parking spaces. The applicant has noted that two employees will be required necessitating one (1) employee parking space for a total of 14 required parking spaces. There are nine (9) parking spaces existing onsite. The applicant has proposed the addition of three (3) parking spaces while providing the 10' x 10' turnaround area as required by Town Code Section 48-163(20). All additional coverages are being proposed in pervious paving materials.

The applicant is requesting consideration of a reduction in the required parking through the provisions of Town Code Section 48-165, Alternative and reduced commercial parking requirements:

(e) Reduction of required parking for commercial uses with the use of bicycle racks.

The applicant noted in their narrative that if granted they would purchase one recycled plastic bicycle rack to support 5 bicycles, to be placed in a highly-visible and convenient location near the entrance of the building.

(f) Modification of parking requirements by conditional use permit.

(1) Upon application, the board of commissioners may treat any permitted or conditional use allowed in a zoning district as a conditional use and modify the parking and loading requirements of this section in accordance with the procedures and limitations established for conditional use permits set forth in town Code section 48-525.

The applicant is requesting the waiver of one parking space under this code section based upon the inaccessibility of 553 square feet of floor area due to the concrete walls constructed for the previous use of a radiation treatment facility. In excluding the 553 square feet from the total gross floor area, the remaining area available for commercial use is 3,447 square feet which necessitates 12 parking spaces.

Furthermore, to address the findings set forth in subsection (f)(3) the applicant provided the following:

- a. The requested waiver of one parking spaces is justified by the inaccessibility of interior area due to the thickened walls; this reduction would not result in increased traffic or congestion as the area available for commercial use has been parked compliantly by the code.
- b. The applicant will provide signage requesting no parking in the Town's right of way or on adjoining properties. Furthermore, based upon items noted by the Town Engineer during the Technical Review process the "Right Turn Only" sign will be replaced in the egress lane, debris and vegetation will be removed from the drainage flume and all ground painted traffic flow markings will be restored.
- c. The requested waiver of one parking space would not be contrary the CAMA Land Use Plan/Comprehensive Plan objectives.
- d. There are no alternative locations for additional parking based upon the existing site improvements including the location of septic area and drain field.
- e. It is not believed that the reduction of the requested one parking space would negatively impact adjacent properties or the surrounding area.

The interior renovations and site work proposed with this application do not trigger architectural compliance however the existing structure does have numerous desirable architectural elements such as simulated wood siding, dormers, double hung windows, a porch and column trim.

In review of the original site plan approval, a Buffer Yard C was required along the US-158 boundary. The 10 x 70 sight triangle encompasses the entire length of frontage; however, staff will review the safety of requiring low level plantings in this area.

No additional lighting is proposed at this time. Should additional parking lot lighting be necessary, the required photometrics and fixture information will be required for review and approval prior to permit issuance.

No additional signage is being proposed at this time. The applicant intends to reface the existing freestanding sign.

The Dare County Health Department has reviewed and approved the proposed changed of use.

The Town Engineer has provided the following comments as it relates to stormwater management and traffic circulation:

- The runoff generated from the net gain of additional built upon area proposed with the application is compliant with Sec 34-5(b).
- Existing and proposed stormwater management facilities shall comply with applicable provisions of Sec 34-5 and Sec 34-9.
- Egress from parking spaces 11,12 are unconventional in parking lot design and does not conform to the dead-end drive aisle diagram in Sec 48-163. The applicant shall provide a vehicular pathing exhibit which demonstrates egress movements from parking stalls 11 and 12 are free of interferences from cars parked in Parking space #9 or the curb and gutter section along the south side of the parking lot.
- Ground painted markings and above ground signage shall be restored in compliance with the original approved site development plan.
- Internal traffic circulation shall follow generally accepted engineering practices and standards Compliance with the items note above must be demonstrated prior to consideration of this item

by the Board of Commissioners at their August 7, 2019 meeting.

The project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance.

Approval of the proposed plan by the Public Works Department will be required prior to consideration of this item by the Board of Commissioners at their August 7, 2019 meeting.

Staff finds that the proposal is consistent with the applicable use and development standards, as well as relevant land use policies and as such would recommend approval of the Conditional Use/Site Plan Amendment application as presented contingent upon the review and approval of stormwater management and traffic circulation measures as noted by the Town Engineer. Ms. Wyatt stated that she along with the applicant, Ray Jamieson, was available to answer any questions for the Board.

Mr. Jamieson confirmed for Mr. Reilly that they do not plan to sell concessions. Mr. Jamieson noted that the business does not generate much garbage so Roll off carts should be sufficient.

Mr. Jamieson confirmed for Ms. Vaughan that their location in Southern Shores has five rooms and they share parking with some restaurants so it's difficult to gauge the parking situation. However, he did note that that they do stagger their bookings and have a buffer period between groups to allow staff to reset the room, so he does not believe that parking will be an issue.

Mr. Jamieson confirmed that they are primarily by reservation only; they sometimes get walk-ins, but not always can they get in.

Mr. Jamieson explained for Chair Vaughan and the Board that an Escape Room is a game; a series of puzzles and riddles. Each room has a different theme and the groups solve the puzzles within a certain period of time. Mr. Jamieson noted that it's a fun time and a good team building event, stating that they get both families as well as corporations who book reservations.

Mr. Gwinn stated that it was a great idea and a good use of the space. Ms. Vaughan agreed stating she was glad to see the vacant building used for something and was ok with the parking reduction based on the unusable space.

Mr. Jamieson confirmed for Mr. Reilly that their engineer (Coastal Engineering) was currently revising their site plan based on Mr. Ryan's comments.

Mr. Jamieson confirmed that their proposed hours of operation are 11 AM to 10 PM Tuesday, Wednesday and Thursdays and Monday, Friday and Saturday from 2 to 8 PM.

David Elder moved to recommend approval of the submittal with Staff's conditions, Kristi Wright seconded, and the motion passed by unanimous vote.

Consideration of various amendments to the Town Code as it pertains the adoption of the Unified Development Ordinance ("UDO").

Principal Planner Holly White began by thanking the Technical Committee members and the Planning Board for all the work they did getting the UDO to this stage.

Ms. White stated that it has been a 24-month project and a huge undertaking by the Town and noted that this is a type of project that municipalities only undertake every twenty years or more. Ms. White stated that the Technical Committee has met about fifteen times and each member has put in over 58 hours of review time.

Mr. Elder discussed his participation in the Committee stating that it was a very illustrative process of learning about codes. He had learned how the codes had been developed and the historical basis for them. Additionally, Mr. Elder stated that this process allowed him to learn how inter-related the ordinances were and how they work together. Mr. Elder also noted that the best part for him was committee discussions that allowed everyone to share their ideas. He indicated that while there were differences in opinion, the group ultimately was able to find consensus.

Staff produced a draft version of the Unified Development Ordinance (UDO) and delivered it to the Technical Committee, Planning Board, and Board of Commissioners on December 18th, 2018. The December 18th version of the UDO was reviewed by the Technical Committee, Planning Board, Board of Commissioners, and Town Attorney. Comments from each entity were provided to staff for inclusion in the draft document. These comments were incorporated into a revised final draft that was provided to the Board of Commissioners, Planning Board, and Technical Committee on Friday, May 3rd. The updated final draft UDO was provided again to the Planning Board for discussion at the meeting on Tuesday, May 21st. There was minimal discussion among the Board members at the meeting, and there were no comments, questions, or suggested edits.

Staff has continued to review the May 3rd version of the draft to find any outstanding grammatical errors, typos, or other corrections. This updated version primarily includes suggested minor clarifications by the Town attorney to Articles 3 and 4.

Staff has prepared a handout describing the overall FOCUS effort, the background and purpose of the UDO, as well as associated goals, and outlining what has changed from the current ordinances.

At their last meeting, Staff asked that the Planning Board email any grammar, punctuation, or editorial type corrections directly to staff. Similarly, if any larger policy level issues or questions specific to a provision in the UDO arise, Staff asked that those be emailed as a separate list. To date, no comments have been received.

Ms. White indicated that a Board of Commissioners workshop will be held on Wednesday June 19th and a tentative date for a public hearing of August 7th.

Ms. White confirmed for Chair Vaughan that there would be a grace period, or effective period, after the UDO is adopted to give Staff a chance to familiarize the public with the changes, hold stakeholder meetings for the public as well as the building community, and develop a manual to assist user in understanding the permitting process and use of the new UDO. This effective period would be approximately 60 Days.

Chair Vaughan asked Ms. White how current issues such as ADUs and large residential structures be handled in relationship to adoption of the new UDO. Both Ms. White and Planning Director Michael

Zehner confirmed that these issues would be dependent on the timing moving forward. If these issues move forward and are up for adoption during the effective period of the UDO, then they would be amendments to the UDO.

Ms. White confirmed for Ms. Wright that there had been no substantive changes as a result of Town Attorney review. Mr. Reilly asked staff if a cost to develop in Nags Head, excluding the land value, had been established for Nags Head. Ms. White responded that there is currently not an estimate available from the town as to how much it costs to develop under the current codes or the new UDO.

With no further discussion, David Elder moved to recommend approval of the various amendments to the Town Code as it pertains to the adoption of the UDO. Megan Lambert seconded the motion. The motion passed by unanimous vote.

Consideration of a proposed zoning ordinance text amendment pertaining to Accessory Dwelling Units (ADU's) within the Town.

Before beginning his presentation, Planning Director Michael Zehner read an email from Susan Lee, property owner in the Northridge subdivision, who wanted to go on record in opposition of ADUs. Their neighborhood has flooding issues and she fears this would only get worse with fill and more buildings being added. Ms. Lee is also concerned that there is nothing to keep them from being turned into Airbnb's.

Planning Staff presented a draft Ordinance to the Planning Board for review at their April meeting. The Planning Board unanimously voted to defer issuance of a recommendation pending further consideration noting that there were too many associated questions to proceed to a recommendation.

Staff provided the Board of Commissioners with an update at their May meeting. Following discussion, the Board of Commissioners unanimously voted to send the ordinance back to the Planning Board for consideration, requesting that the Board report back or provide a recommendation within 60 days.

During the meeting, the Commissioners posed questions and discussed the following:

- Should any Ordinance allowing ADU's require allowance by an HOA or covenants as a prerequisite?
- Would property owners have the ability to create a condominium out of the ADU or principal dwelling?
- ADU's provide for a multitude of housing needs, and there are needs for affordable housing in the Town.
- Small businesses need a place for employees to live.
- The allowance of ADU's seems to be proposed as a solution to a problem that had not yet been thoroughly considered and reviewed.
- Should the allowable maximum size of an ADU be decreased from 800 sq. ft. to 600 sq. ft.?
- Is there more of a need for workforce housing along the beach road, closer to or accessory to businesses?
- Should the Town start to address the seasonal workforce housing issue first?
- Would it be more beneficial to allow more multi-family and townhome options versus ADU's?
- Do nonconforming lots inherently prohibit ADU's?

Mr. Zehner stated that at their May meeting, the Planning Board had a lengthy discussion regarding ADU's and the draft Ordinance, generally considering and discussing those points and questions raised by the Board of Commissioners.

It was the consensus of the Board that there was merit to investigating and considering the allowance of ADUs separate from any larger study of workforce and affordable housing issues and needs.

The Board also discussed minimum lot size requirements and the general consensus at that time was that ADUs should not necessarily be limited by lot size, but they wanted to know where the 16,000 minimum lot size had come from. Mr. Zehner explained that this was the minimum lot size requirement for a large residential dwelling and stated that if they wanted to remove this requirement they would need to modify Section 48-122 of the Zoning Ordinance that speaks to non-conforming lots.

The Board also discussed maximum unit size and the general consensus was that they were open to allowing ADUs in an existing dwelling, without an increase in floor area, to be larger than those created as a separate accessory dwelling. Mr. Zehner stated that the proposed ordinance has been modified to reflect this option.

With regards to allowable locations the Board seemed to agree to allow them in all locations through a conditional use permit process rather than restricting them to only certain zoning districts. The Board did discuss whether ADUs could be allowed by-right if they involved no addition of floor area to an existing dwelling.

As far as length of stay, Mr. Zehner explained that based on a recommendation from the Town Attorney, the revised draft defines the accessory dwelling use as one intended for, or actual occupancy of, 30 days or greater. At their previous meeting the Planning Board discussed whether it might be possible to incentivize ADUs to be used for longer-term housing rather than as short-term vacation rentals.

Mr. Zehner stated that based on their review it was Staff's opinion that the proposed amendments are consistent with the Town's 2017 Comprehensive Plan, namely that they expand housing opportunities while proactively addressing potential negative impacts to established single-family neighborhoods. Therefore, Staff would recommend adoption of the amendments.

Ms. Wright expressed a concern, which was brought up in the email that Mr. Zehner read, about flooding and asked if this had been taken into consideration. Mr. Zehner confirmed that the proposed ordinance does not allow for an increase in lot coverage or for more building area than what is already allowed unlike the Large Residential Dwelling Ordinance which will be discussed later in the meeting.

Mr. Zehner confirmed for Mr. Gwinn that the Town Attorney advised against regulating ownership through zoning. Zoning does not dictate ownership or type of ownership. There is nothing currently in the zoning ordinance that prevents someone from selling a portion of their house from a condo perspective but it's not something that people commonly do because of the issues that would come up in doing that. The way this is resolved is that the definition of accessory dwelling makes it clearly subordinate to the principal dwelling whether it's attached or detached to that dwelling. By having separate unrelated owners it's more likely to turn into an illegal duplex which would not be a permitted use in most districts. Effectively the possible violation would preclude any concerns about change of ownership.

Mr. Gwinn asked how realistically the Town can enforce length of stay. Mr. Zehner stated that if they were only allowed by Conditional Use, the Town would have a record of the permitted ADUs and would make it easier to stay aware of any issues.

Mr. Zehner noted that currently these (ADUs) exist in the community in violation of the current ordinance and there is no official way to know how many there are and where they are located. The conditional use process would allow staff to be more pro-active.

Chair Vaughan asked about the Town's strategy for managing short-term rentals and ensuring that ADUs aren't used for that purpose. Mr. Zehner reminded the Board that short-term rentals are allowed by-right across Town and that Staff is always willing to investigate and resolve any issues that they are made aware of before they become a problem. Mr. Zehner further discussed the length of stay requirement and how allowing ADUs might allow for the creation of more affordable long-term housing.

After a brief discussion, Chair Vaughan agreed to hear from members of the public who had not indicated their interest in speaking during the Public Comment portion of the agenda.

First to speak was Doug Langford, property owner in the Northridge Subdivision. Mr. Langford spoke against the proposed ordinance stating that he and his neighbors are concerned about the commercialization of the west side neighborhoods as he believes renting is a commercial activity. Mr. Langford expressed concern that the idea is being fast-tracked and it is not consistent with the feeling and overriding opinion of those living in the west side community. Mr. Langford believes that people will come and rent, and it will put a strain on septic, adding more cars, more parking and will change the feel and look of the neighborhood. Mr. Langford is also concerned that the ADUs will end up as short-term rentals.

BJ Gourley, also a Northridge property owner, was next to speak. Mrs. Gourley stated that already there are some rentals in the neighborhood managed by commercial real estate companies. The majority of property owners are year-round, long-term residents who chose that neighborhood for the peace and character. Mrs. Gourley believes that ADUs go against the character of the Town and intent of west side development. Mrs. Gourley also noted that ADUs are not in keeping with their HOA rules which regulate one single-family dwelling per property.

Last to speak was Mr. Ken Slayton, Northridge property owner and year-round resident. Mr. Slayton's concern is with changes in ownership and the possibility that an ADU could become a timeshare. Mr. Slayton is also concerned about ADUs being used for short-term rentals stating that there was already an Airbnb in his neighborhood.

Ms. Lambert reminded the public and the Board that Airbnb is a short-term rental issue and that they are already allowed by right. Any concerns related to short-term rentals should be reported to Staff, but they should be considered as two separate things as ADUs are for long-term housing.

Chair Vaughan agreed reiterating that the language in the Ordinance would require them to be occupied for 30 days or more.

Mr. Reilly inquired about HOAs and what role they play in the proposed ordinance. Mr. Gwinn noted that it would be up to the HOA to enforce their covenants, enforcing HOAs is not the Town's responsibility.

Mr. Zehner agreed stating that per the Town Attorney the Town cannot enforce HOA regulations and that except for the Village at Nags Head, the Town would not verify if HOA approval had been received.

Mr. Ballog inquired about minimum lot requirements. Mr. Zehner explained that while the BOC was inclined to limit ADUs to a minimum lot size, at their last meeting the Planning Board seemed inclined to not restrict it but rather have septic, lot coverage, parking, etc. self-regulate.

Mr. Zehner also noted that in most cases it would be costlier to create an ADU. If the Town is overly restrictive they may make it harder or impossible to create an ADU and may inadvertently encourage short-term rentals which are less expensive and already allowed.

The Board further discussed the allowable size of ADUs and Mr. Zehner confirmed that under the proposed ordinance, the enclosed habitable area of the accessory dwelling could not exceed 50% of the size of the principal structure or 800 SF (whichever is less) when located within an existing dwelling and could be no more than 600 SF if detached from the dwelling.

Mr. Gwinn acknowledged the need to respect residential communities and preventing issues that come from overcrowding such as loss of privacy and parking concerns. Mr. Gwinn noted that it can be disruptive when living next door to a rental unit.

Mr. Zehner spoke to the concerns about parking and stated that they had further modified the language of the ordinance to clarify the requirement of one additional parking space. Mr. Zehner acknowledged the concern of the west side neighborhoods which is why the proposed ordinance would only allow ADUs by right in certain districts but only by conditional use in other districts.

Chair Vaughan reminded everyone that they are an advisory board and that ultimately the Board of Commissioners will make the final decision. Chair Vaughan also noted that there will be a Public Hearing, so the public will have an opportunity to voice their concerns.

After some further discussion, Mike Reilly moved to recommend approval of the proposed amendments as presented. David Elder seconded, and the motion passed by unanimous vote.

Report of Board of Commissioners Actions

Planning Director Michael Zehner reviewed recent Board Actions:

Consideration of a Conditional Use/Site Plan Amendment submitted by Tale of the Whale Restaurant for construction of docking facilities to accommodate four (4) transient boat slips – Approved as presented.

Consideration of a site plan amendment submitted by Gemcap Development for consideration of a major change to the approved site plan for Sherwin Williams to include the addition of a concrete bulkhead along the northern side of the parking area, erosion and sedimentation control measures and revised landscaping along the northern property boundary – Approved with 3-1 vote, Commissioner Cahoon casting the NO vote.

Request for Public Hearing to consider a Conditional Use/Site Plan Amendment submitted by Millers Waterfront Restaurant for the construction of four (4) transient boat slips – Public Hearing scheduled for July 3, 2019.

Board of Commissioner direction for Planning Staff to seek Planning Board initiation of a zoning ordinance text amendment as it pertains to the minimum lot size requirements for "large residential dwellings".

Town Updates

None

Discussion Items

Discussion and request for initiation of a zoning ordinance text amendment eliminating the minimum lot size required for the development of "large residential dwelling".

Mr. Zehner explained that at their June 5, 2019 meeting, it was the consensus of the Board of Commissioners that Planning Staff work with the Planning Board to develop an amendment to the Zoning Ordinance to eliminate the minimum lot size requirement for Large Residential Dwellings.

Mr. Zehner noted that Large Residential Dwellings (defined as a "single-family dwelling or two-family dwelling (duplex) that has 3,500 or more square feet of enclosed habitable living space.") are permitted in all districts, with the exception of the C-3, *Commercial Services District*. The minimum lot area to construct a Large Residential dwelling is 16,000 square feet and such dwellings may only exceed 5,000 square feet in size when located within the SED-80 district.

The request of the Board of Commissioners was to remove the minimum lot size requirement so that a home containing 3,500 square feet or more of habitable living area (but not exceeding 5,000 square feet, except as allowed in the SED-80 district) could be constructed on lots of any size, as long as the dwelling complied with all other dimensional requirements and Dare County Health Department requirements for on-site wastewater. In general, members of the Board of Commissioners indicated that the provision was obsolete and no longer served any purpose.

The regulation of Large Residential Dwellings began with the original adoption of Zoning Ordinance provisions in 2003; specific standards are contained in Section 48-370, *Standards for large residential dwellings*, of the Zoning Ordinance. Based upon a review of records, efforts to develop such regulations commenced approximately 17 months prior, on April 3, 2002, when the Board of Commissioners re-designated a previously established Parking Committee as the Large Structure Committee. It was Board consensus that the Committee's charge be expanded to bring back for Board review a consensus, if possible, on the limits on the size of houses, how size is defined, and aesthetics to encourage (or require) Nags Head style architectural design.

Following the establishment of the Large Structure Committee, on June 5, 2002 the Board of Commissioners enacted a moratorium on accepting development plans for houses over eight bedrooms and for duplexes with a combined total of 12 bedrooms. Based upon records, Staff understands that the moratorium was extended several times, finally expiring in September 2003 following the adoption of the Large Residential Dwelling provisions.

With regard to the minimum 16,000 square foot lot size requirement, the record does not appear to contain much information as to the rationale for this requirement, except that it seems that the Large Structure Committee, Planning Board, and Board of Commissioners were considering regulatory options that imposed no minimum lot size, a minimum lot size requirement of 15,000 square feet, or a minimum lot size that was conforming to the underlying zoning district. Staff believes that the established minimum lot size of 16,000 square feet was a compromise between no minimum lot size (or 15,000 square feet) and 20,000 square feet, the minimum conforming lot size within the R-1 and R-2 zoning districts.

Mr. Zehner noted that Staff is continuing to collect information and data related to this provision and the amendment, such as the total number of Large Residential Dwellings constructed to date. Staff defers presenting a recommendation at this time and would request that the Board submit any additional questions or requests for information that would be helpful to the discussion and consideration of the amendment.

Ms. Lambert inquired where this proposal had come from especially with all the flooding concerns. The idea is terrifying to her. When considering re-development, by removing the minimum lot size requirement it adds the possibility of thousands of more lots with large homes; thousands of more lots that are covered with more concrete, this would only add to the existing stormwater issues.

Mr. Gwinn asked why would we (the Town) want to encourage larger dwellings on smaller lots, why would the Town want to go in that direction?

Mr. Elder stated that the idea goes against everything they discussed and agreed upon in the Comprehensive Plan.

Mr. Zehner stated that it seemed to be inconsistent with policies and actions included in the Land Use Plan as referenced in the memorandum provided to the Board.

Chair Vaughan expressed concern about how this would affect redevelopment, stating that it did not make a lot of sense.

Mr. Reilly agreed asking why are we (the Town) thinking of doing this?

Mr. Zehner discussed the idea of Floor Area Ratio ("FAR"), whereby house size is regulated by a set ratio in relation to the size of a lot.

Mr. Elder stated that the idea of FAR was interesting and would be willing to explore it further. Chair Vaughan agreed stating that they could look at eliminating the minimum lot size requirement and use FAR instead.

Deputy Town Manager Andy Garman explained that the 16,000 SF minimum lot size was septic related, FAR adds more proportionality.

Mr. Zehner offered to come back at the July meeting and present the Board with a few alternative ordinances.

Discussion and request for initiation of a zoning ordinance text amendment pertaining to detached, multi-story deck towers.

Deputy Planning Director Kelly Wyatt stated that at their May 1, 2019 meeting the Nags Head Board of Commissioners directed staff to discuss with the Planning Board the permitting of elevated detached deck platforms within the Town.

Ms. Wyatt presented photos and explained that a structure of this nature was recently constructed on the oceanfront, at 3807 S. Virginia Dare Trail. While this structure was properly permitted via CAMA and town zoning regulations it precipitated a larger discussion of whether this type of development is consistent with the Town's vision.

Ms. Wyatt noted that this type of structure would be considered a permissible accessory structure within the Town and could be permitted if it met the lot coverage, setbacks and maximum height requirements for the district in which it is located. Specifically, this type of structure could be located as close as five (5) feet from any side or rear property line (except for the oceanfront where it must meet the CAMA setback based upon the Erosion Rate within that area) and could be as tall as 35 ft. in height.

Staff is requesting that the Planning Board discuss the permitting of these structures throughout the Town; items to consider include, but may not be limited to:

- Should these structures be permitted?
- If so, where? In all districts or select districts?
- Should there be more stringent regulations or dimensional requirements?
- Should height be limited, in feet or by floors/levels?

Ms. Wyatt confirmed that it could have been built as close as five (5) yard setback as it is an accessory use. Ms. Wyatt confirmed that it must meet the 35-foot height limit. Ms. Wyatt stated that in this case it is connected to the house but considered structurally detached but she did note that it could be completely detached.

Ms. Wyatt confirmed that it was not structurally built for a hot tub but could potentially have one.

Ms. Wyatt confirmed for Mr. Gwinn that the house is in the rental program.

Ms. Wyatt confirmed for Ms. Lambert that a commercial business could do this as well.

Ms. Wyatt confirmed for Mr. Elder that an accessory structure must be subordinate to the principal structure. Mr. Elder noted that by scale it does not look subordinate.

The Board discussed what measures they could put in place to help it be subordinate from a scale perspective including putting height limits; this particular one is higher than the house and blocks views.

Mr. Elder questioned if there was a limit on the number of people that can be on the structure at one time. Board members were concerned about safety and accessibility by first responders in case of a fire or other emergency. Ms. Wyatt confirmed that Fire Code does not regulate residential structures; commercially it would.

Chair Vaughan noted that this is definitely something the Board should address; they would not want these all over town. Ms. Wyatt confirmed that there is a similar one in Duck, but the Town of Duck has not done anything to restrict them; Ms. Wyatt noted that Nags Head is trying to be pro-active.

Mr. Gwinn suggested requiring them to be structurally attached to every floor of house and not allowing them to exceed the height of the house. Ms. Wyatt noted that if they were required to be structurally attached, at least on the oceanfront they could not meet CAMA regulations and therefore would not be allowed.

Planning Board Members' Agenda

Mr. Gwinn asked if the Town would consider putting in charging stations for electric cars in certain locations. He noted that there are some around Town already such as at the Outlet Mall and Jenette's Pier.

Mr. Zehner stated that he could bring back some Staff thoughts at their next meeting.

Ms. Lambert suggested maybe partnering with local businesses or offering incentives like with bike parking.

Planning Board Chair's Agenda

Mr. Zehner confirmed for Chair Vaughan that a more long-term workforce and affordable housing discussion will be back on the agenda for the July meeting.

Adjournment

There being no further business to discuss, a motion to adjourn was made by Meade Gwinn. The time was 11:30 AM.

Respectfully submitted,

Lily Campos Nieberding