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**Town of Nags Head  
Planning Board  
July 16, 2019**

The Planning Board of the Town of Nags Head met in regular session on Tuesday, July 16, 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, and David Elder

***Members Absent***

None

***Others Present***

Michael Zehner, Kelly Wyatt, Holly White, and Lily Nieberding

***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 no public comments, Chair Vaughan closed the Public Comment period.

***Approval of Minutes***

There being no changes to the minutes, Meade Gwinn moved that the minutes from the June 18th meeting be approved as presented. Mike Reilly seconded the motion and it passed by unanimous vote.

***Action Items***

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

Planning Director Michael Zehner presented a draft copy of the adoption ordinance for the UDO, as per his memorandum dated July 12, 2019.

Mr. Zehner explained that while the draft UDO had not been revised from the version that was discussed at the Board's meeting in June, Staff believed it was important to provide the Board with a draft of the adoption ordinance so that the Board could review and acknowledge that other chapters of the Town Code would be amended as part of the process to adopt the UDO. Mr. Zehner reviewed

a few key points of note and explained that Staff had corrected references to sections of the current Town Code that would now be incorporated into the UDO.

After a brief discussion, the Board reached consensus to acknowledge the scope of the changes associated with the adoption of the UDO and reiterated its previous recommendation supporting adoption of the UDO.

*Consideration of a proposed zoning ordinance text amendment to eliminate the minimum lot size required for the development of "large residential dwelling" and/or address other aspects of this regulation.*

Mr. Zehner explained this was a continuation of the discussion the Planning Board held at their June meeting.

Mr. Zehner reminded the Board that it was the consensus of the Board of Commissioners at their meeting in June 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.

The request of the Board of Commissioners was in support of removing 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.

Referencing discussion held at the Board's previous meeting in June, Mr. Zehner noted that after further consideration, an FAR requirement may not be viable as it would likely reduce the floor area of homes from what can currently be constructed. Mr. Zehner then reviewed two other potential options - the use of an administrative adjustment provision and the possibility of lowering the current 16,000 square foot lot area threshold and/or to institute a reduced maximum livable area size for lots less than 16,000 square feet.

Staff would recommend that the Board continue to review and discuss this matter, providing direction to Staff as to their support for the action requested by the Board of Commissioners, or some alternative.

Mr. Gwinn stated that he still didn't understand the push by the Commissioners to reduce lot size, why would the Town want to do that? Mr. Gwinn also expressed concern that a smaller lot with a bigger house will exacerbate the existing stormwater runoff problem; "the proposal does not make sense".

Mr. Zehner stated that he had not received any additional guidance from the BOC since their original direction to staff but reiterated that several of the Commissioners had stated that it seemed like an outdated policy.

Ms. Lambert noted that a property owner could not build an ADU on a 15,000 SF lot but could potentially demo an entire house and build a house double the size. Ms. Lambert expressed concern that the Town will end up with large rental homes and no affordable homes stating that "it seems the Town is gearing up for re-development and not keeping up with the charm of Nags Head".

Mr. Elder expressed concern about how this potential redevelopment might affect the viewshed, asking "How is this keeping the charm?" Mr. Elder stated noted that "In every document we have we talk about what we want but the proposed change goes against all of that."

Mr. Gwinn noted that larger houses also would mean more cars and more parking issues, "it's already an eye sore."

Ms. Lambert asked if the Town has the resources to support the additional density if it's maxed out by re-development; not just stormwater, but trash service, parking, emergency services, etc., "This proposal could easily triple occupancy."

Mr. Elder agreed stating that larger houses would also put a strain on septic systems and groundwater.

Mr. Reilly noted that it seems that no one (on the Planning Board) wants this and asked if there was a way to stop it. Mr. Ballog agreed stating that no one wants to see more large houses.

Ms. Wright stated that to change an ordinance there needs to be a reason; usually there is a problem that needs to be solved and Ms. Wright is unclear as to what that may be. Chair Vaughan agreed stating that "this is a massive change" and would undo all the progress the Town has made with stormwater.

Mr. Elder asked what would the Town look like, if everything was redeveloped and maximized?

Mr. Gwinn noted that these mega houses would all be rentals, Nags Head would be a ghost town in the winter because no one would want to or be able to afford to live here year-round, people already can't afford to live here.

Mr. Reilly agreed stating that this area is already losing trades people, there are not enough workers to service these large houses.

Ms. Wright also agreed stating that this is not what people who live here want; it would only benefit the rental companies.

Mr. Elder noted that everyone on this (Planning) Board had spoken against this proposal.

The Board agreed to have Mr. Zehner write a letter to the Commissioners outlining the Planning Board's objections and unfavorable recommendation for the Planning Board to consider at their next meeting.

Consideration of a proposed zoning ordinance text amendment to regulate multi-level deck platforms.

Deputy Planning Director Kelly Wyatt explained that this draft text amendment comes following the construction of this type of structure on the Town's oceanfront. While this structure was properly permitted via CAMA and town zoning regulations it had precipitated a larger discussion of whether this type of development is consistent with the Town's vision.

At their June meeting, the Planning Board expressed concern about the existing structure and the potential proliferation of these types of structures throughout the Town, and more specifically on the

oceanfront. Concerns of the overall height, obstruction of viewsheds and the ability for emergency personnel to access these structures were noted as the primary areas of concern.

Based on their discussion, Staff has proposed two draft zoning ordinance text amendments pertaining to the construction of multi-level deck platforms within the Town for board consideration.

Ms. Wyatt proceeded to review the two options as outlined in her Staff Report dated July 16, 2019 noting that CAMA requires all decking within the Ocean Hazard setback to be structurally detached, thus Option A would preclude these types of structures within that area.

Ms. Wyatt explained for Chair Vaughan and the Board how that area is determined, noting that the Ocean Hazard setback is the erosion rate times 30. Ms. Wyatt further explained that the erosion rate increases from North to South stating that it's around 2 to 3 around Whalebone and as you get to south Nags Head it increases to around 4 to 6. The setback is taken from the static line in beach nourished areas, and from the first line of stable vegetation otherwise.

Ms. Wyatt confirmed for Ms. Wright that the structure in question does meet the Town's 35-foot height requirement.

Ms. Wyatt noted that if the Board was inclined to allow these structures under the Option A ordinance, the structure would be required to be subordinate to the primary structure.

Ms. Wyatt confirmed for Mr. Reilly that in order for it to be considered subordinate, the structure could not be taller than the house.

Ms. Wyatt confirmed for Chair Vaughan that the accessory structure could not have a cumulative area that is greater than the primary structure.

Ms. Wyatt confirmed for Mr. Reilly and the Board that the structure could not be conditioned (heating & air) because of CAMA rules but it could be screened and could be wired for electricity. Potentially the structure could have fans and a hot tub.

The Board proceeded to further discuss the associated safety issues including accessibility for emergency responder. Ms. Wyatt stated that she had confirmed that the North Carolina Fire Prevention code does not apply to residential structures.

Mr. Elder noted that this is a continuing (safety) issue whether it be these types of structure or large rental homes. Ms. Wyatt agreed that this has been an ongoing concern.

Ms. Wyatt confirmed for Chair Vaughan that Staff shares the same concerns as the Planning Board and as such would recommend that these structures at a minimum be regulated with imposition of conditions as proposed in Option A.

Mr. Gwinn noted that these types of structures go against the Town's vision as stated in the Comprehensive Plan; they take away from the character of the town and obstruct the views.

After some further discussion David Elder moved to recommend approval of Option B and prohibit these types of structures throughout the Town. Megan Lambert seconded, and the motion passed by unanimous vote

### ***Report of Board of Commissioners Actions***

Planning Director Michael Zehner provided a brief overview of actions pertaining to the Planning Board that were taken by the Board of Commissioners at their meeting on July 3, 2019:

- The Board unanimously approved (5-0) the conditional use/site plan amendment for Millers Waterfront Restaurant to accommodate a docking facility with four transient boat slips. The Board placed a condition on the approval that prior to commencement of the use there must be approval by the Division of Marine Fisheries for the no wake zones along with the appropriate signage.
- The public hearing to consider a Conditional use/Site Plan Amendment to convert a vacant commercial structure into an Indoor Entertainment Facility, OB-Xscape Rooms was scheduled for the August 7, 2019 meeting as part of the Board's consent agenda, without discussion.
- The Public Hearing to consider the adoption of the proposed Unified Development Ordinance (UDO) was scheduled for the August 7, 2019 meeting as part of the Board's consent agenda, without discussion.
- Mr. Zehner provided an update on the Coastal Resilience Summit recently held in Havelock, NC and noted that the Best Management Practices Manual should be available in draft in early 2020.
- Mr. Zehner and Planning Board Chair, Megan Vaughan provided a report on the Planning Board deliberations on Accessory Dwelling Units. The Board passed a motion to include Accessory Dwelling Units on the September 4th BOC agenda for Public Hearing to discuss further and to provide the public with an opportunity to comment.
- Police Chief Phil Webster presented information on the upcoming National Night Out Event scheduled for Tuesday, August 6, 2019 at the Ark Church. He invited and encouraged everyone to attend.

### ***Town Updates***

None

### ***Discussion Items***

#### ***Discuss Affordable/Workforce Housing Study.***

Mr. Zehner explained that at the Planning Board's meeting on April 16, 2019, the Board discussed an interest in studying affordable and workforce housing within the Town and developing solutions to identified needs. At the May 21, 2019 meeting, within the context of the Board's consideration of an ordinance to allow Accessory Dwelling Units, as well as a separate focused discussion, the Board agreed that there was merit to further studying affordable and workforce housing conditions within the Town. While Staff had noted at the April 16 meeting that funds might be available for such efforts in the FY19-20 budget, Staff later clarified for the Board that these funds are intended to be used in a more focused manner, to study the feasibility of developing housing solutions for the Town's seasonal workforce, generally lifeguard staff.

The Board agreed to revisit the broader discussion at their July 16 meeting.

Mr. Zehner found some good resources for the Board to review which he discussed in further detail in his Staff Report dated July 15, 2019.

Staff would recommend that the Board further discuss its interest in studying and planning for housing. While recent efforts have been valuable, the Board may wish to consider whether these efforts have involved all stakeholders and the public, whether they have considered housing opportunities and issues broadly, and whether they identified problems, reached conclusions, and developed agreed upon solutions that are supported by the community? Additionally, given the nature of the Outer Banks, is there value in considering a multijurisdictional approach? In answering these questions, the Board may conclude that they wish to initiate a new process to study and plan for housing, which Staff would recommend involve a discussion with the Mayor and Board of Commissioners. The Board may want to consider dedicating some funding for it next year to do a broader study.

Mr. Ballog asked if spending money on a larger study is the best use of funds? He also noted that this is an issue that can't wait until next year, there is a need now.

Mr. Zehner noted that everyone has value perspectives when it comes to this process. This is a community problem that everyone should be involved in solving. It is important that they engage the public and get buy-in or it won't be successful.

Mr. Zehner and Chair Vaughan both agreed that there is a sense of urgency.

Mr. Elder noted that they have to look at the other problems that go along with this issue such as low wages. Mr. Elder also pointed out that this is an issue that affects the entire area.

Mr. Gwinn agreed stating that it was important to acknowledge that this is not just a Nags Head issue, or a Kill Devil Hills issue, it is a Dare County issue. If the study is just done in Nags Head, without any consideration of the needs beyond that in our adjoining communities, then the effort will be doomed to failure. If we want to move this into an actionable item, we need to get commitment that we are going to take action and not just talk about it.

Chair Vaughan noted that as a Planning Board they are in a position to make their wishes known as far as prioritizing the issue.

Mr. Zehner discussed his past experience working for a different community and noted that for many years, that area didn't want to admit that there was a problem to solve. Mr. Zehner agreed with Mr. Elder noting that it's not just housing issue but an economic issue as well. Mr. Zehner discussed the impact that market conditions have on the issue.

Chair Vaughan asked if the Board was in agreement that there are two issues and that solving the general housing problem is not contingent upon the town finding a place for the lifeguards to live.

The Board was in consensus that while it is good that the Commissioners have committed to resolving the Town's employee housing need, the Planning Board shouldn't wait to explore the larger issue. Workforce housing conditions are getting worse and worse.

Mr. Ballog agreed noting that he is hearing from other restaurant owners that there is nowhere for their employees to live.

Mr. Elder expressed concern that they are not far from people living in vehicles.

Ms. Lambert noted that she has lost employees due to employee's parents selling their vacation house or putting their house on Airbnb; suddenly those employees have no place to live.

Chair Vaughan noted that while it won't solve the problem, the ADU ordinance is a step in the right direction.

Mr. Zehner suggested writing a letter to the Commissioners outlining support for something broader.

Ms. Lambert said ideally, they could have some kind of solution in place by next summer.

Mr. Zehner reminded the Board that there is no silver bullet.

The Board further discussed the loss of housing options due to the influx of Airbnb's and all agreed that housing is a problem not just in Nags Head but other towns as well. The Board also agreed that they should be studying affordable housing not just in terms of seasonal workforce housing but year-round employees as well.

Mr. Zehner suggested that the Board think about including affordable housing for the aging population, as senior housing and transitional housing will soon become an issue as well.

#### *Discuss Electric Vehicle Charging Stations and Related Parking Requirements*

Principal Planner Holly White explained that at their June meeting the Planning Board discussed an interest in trying to encourage the placement of additional charging stations for electric cars in the Town. Ms. White referred to her Staff report dated July 11, 2019 and stated that it was necessary to understand why this issue is important especially living in a coastal area.

Exploring opportunities that support the use of electric vehicles is important in reducing air pollution and vehicle emissions. Vehicle emissions not only harm human health but contribute to climate change. The impacts of climate change include a warmer climate and sea level rise.

Electric drive vehicles use electricity as either its primary fuel or in conjunction with an engine and can generally be classified into two categories, hybrid electric vehicles and plug-in electric vehicles.

Charging stations (also known as EVSE) are the point of power for electric vehicles, ranging in style and charging levels and subject to standards and codes.

Ms. White noted that while over 600 charging stations have been installed in North Carolina, only one charging station is located in Nags Head at the Tanger Outlets. There are a total of 25 charging stations from Corolla to Hatteras ranging in characteristics from Level 1 to the Tesla Supercharger. At the "Plug-In NC" website you can view an interactive map of all charging locations in the nation and in North Carolina.

Ms. Wright pointed out that there is one at Jennette's Pier, but it doesn't work. Chair Vaughan stated that there are several at the Harris Teeter just past the town line in Kill Devil Hills.

The Board discussed if this was a free service or if there was a charge for using the station; Ms. White confirmed that the one at Tanger is free.

Ms. White noted that the draft UDO allows Battery Charging/Exchange Stations in the C-1, C-2, and C-3 districts as a permitted use with supplemental regulations.

As noted in her staff report Ms. White stated that there are a range of options to encourage, incentive, or require EVSE infrastructure in the community beyond the allowance through regulatory requirements and further discussed some of these options. Ms. White noted that they could start with some "low hanging fruit" such as providing EVSE information on the Town's website and social media.

Ms. Lambert suggested offering some type of incentive for businesses like the Town currently does to incentivize bike racks. Ms. Lambert noted that as a business owner she would be more inclined to do it if offered an incentive.

Ms. Vaughan stated that it was an important issue and the wave of the future; it would be a good idea for the Town to be proactive about it.

Mr. Gwinn stated that he would like to hear from Dominion Power to learn about any issues and concerns.

The Board discussed next steps and Mr. Zehner noted that this could be part of larger sustainability effort that the Town is working on.

Ms. Wright suggested reaching out to Jennette's Pier to find out why their charging station is not working. The Board discussed if maintenance (and the costs involved) might be an issue; the Board also discussed the need for permits and inspections.

Ms. Lambert suggested that waiving permit fees and expediting permits might also be used as an incentive.

The Board discussed usage fees for charging stations and whether there are tax credits available.

Ms. White stated that based on the Board's discussion staff will follow up with the suggestions and develop a plan of action to bring back to the Board at a later time.

### ***Planning Board Members' Agenda***

Mark Ballog expressed concern about the influx of golf carts on the beach road, specifically noting that they have bad lighting and are often being driven at night. They are open vehicles and often have kids in either driving them or as passengers. With the amount of people coming out of restaurants and bars it could be a dangerous situation because of the visibility issues at night.

Mr. Elder noted that they can only be driven in streets with speed limits up to 35 mph.

The Board agreed that they can be both a nuisance and a safety concern.

Mr. Zehner stated that he will bring back more information at the next meeting.

***Planning Board Chair's Agenda***

None

***Adjournment***

There being no further business to discuss, a motion to adjourn was made by Megan Lambert. The time was 10:50 AM.

Respectfully submitted,

Lily Campos Nieberding