
**Town of Nags Head
Planning Board
January 17, 2023**

The Planning Board of the Town of Nags Head met on Tuesday, January 17, 2023, in the Board Room at the Nags Head Municipal Complex.

Planning Director Kelly Wyatt called the meeting to order at 9:07 a.m. as a quorum was present.

Members Present

Megan Vaughan, Molly Harrison, Meade Gwinn, David Elder, Gary Ferguson, Megan Lambert

Members Absent

Kristi Wright

Others Present

Kelly Wyatt, Kate Jones, Lily Nieberding, Andy Garman

Election of Chair and Vice Chair for Calendar Year 2023

Planning Director Kelly Wyatt opened the meeting and requested nominations for the position of Planning Board Chair for the calendar year 2023. David Elder moved to nominate Megan Vaughan to serve as Chairperson. Molly Harrison seconded the motion. There being no other nominations, a vote was taken, and the motion passed unanimously.

Ms. Wyatt then turned the meeting over to newly re-elected Chair, Megan Vaughan.

Chair Vaughan then requested nominations for the position of Vice-Chair. David Elder moved to nominate Meade Gwinn and Megan Lambert for Vice Chair.

Mr. Gwinn stated that he would support the nomination of Megan Lambert as Vice Chair. There being no other nominations, a vote was taken, and the motion passed unanimously.

Approval of Agenda

Molly Harrison moved to approve the agenda as presented. Meade Gwinn seconded, and the motion passed by unanimous vote.

Public Comment/Audience Response

Mr. Basil Belsches, Nags Head resident addressed the Board. Mr. Belsches lives on Memorial Avenue in one of the neighborhood character areas mentioned in the Comprehensive Plan. Mr. Belsches spoke in favor of the moratorium which was meant to protect the Neighborhood and Historic Character Areas. He is in favor of the re-zoning and supports Option 2. Mr. Belsches recognizes and appreciates the work that the Board does and asked that they carefully consider Option 2.

Mr. Michael Mischou, Nags Head resident, also addressed the Board. Mr. Mischou also lives on Memorial Ave and spoke in favor of the re-zoning, also supporting Option 2.

Approval of Minutes

Chair Vaughan asked for a motion to approve the minutes of the December 13, 2022, meeting. David Elder moved to approve the minutes as presented; Meade Gwinn seconded, and the motion passed unanimously.

Action Items

None

Report on Board of Commissioners Actions – January 4, 2023

Ms. Wyatt gave an update on the Board of Commissioner Actions, of note: The Board announced and recognized the winners of the Christmas Decorating Contest – Wave Riders and Nags Head Church. A Public Hearing was held to consider an text amendment to remove Multi-Family from C2 – the Board voted 4 to 1 in favor of the text amendment with Mayor Cahoon casting the Nay vote; the Board heard a Presentation on the Draft Estuarine Shoreline Management Plan – Staff hope to have the Board adopt the plan at their February meeting; a Public Hearing was held to consider various amendments pertaining to tree removal/tree preservation – the Board voted to approve as presented; a Public Hearing was also held to consider a Special Use/Site Plan on behalf of TW's Bait & Tackle for a reduction of parking spaces – the Board voted to approve the site pan as presented. Ms. Wyatt also updated the Board on some staffing changes in the Planning Department.

Town Updates

None

Discussion Items

Continued Discussion of the Historic Character Area.

Ms. Wyatt explained that at their December 13, 2022, meeting, the Planning Board received the second of three updates related to the Town's Zoning Map and its consistency with Town's Comprehensive Land Use Plan, particularly within the Historic Character Area.

Staff presented to the Planning Board a series of three (3) maps for their consideration. The first was the area of the moratorium mapped with the current zoning designations, the second map depicted the moratorium area with a C-1, Neighborhood Commercial zoning designation (Option1) and the third map depicted the moratorium area with a combination of R-3, High Density Residential zoning and C-1, Neighborhood Commercial zoning designation (Option 2).

After discussion on the proposed mapping, the consensus of the Planning Board was they preferred the option depicting the area of the moratorium with a combination of the C-1, Neighborhood Commercial zoning designation and R-3, High Density Residential zoning designation.

Planning staff and the Planning Board then discussed possible text amendments that would be necessary to ensure that Section 6.6, Table of Uses and Activities, would reflect the intent of the Historic Character Area as stated within the Town's Comprehensive Land Use Plan. Noting the extent

of text amendments that would be necessary, staff introduced the idea that the Planning Board might also give consideration to establishing a new zoning district, leaving the C-1, Neighborhood Commercial zoning district intact which might fit better in other areas of the Town. The Planning Board expressed interest in this option. Planning staff has now prepared a draft text amendment establishing a new zoning district, the C-5 Historic Character Commercial Zoning District, for the Planning Board's consideration. In addition, several attachments were included in the agenda packet for the Planning Board's consideration.

Ms. Wyatt proceeded to review these for the Board:

- A Draft Ordinance creating the new C-5 Zoning District – Amends Section 6.2.4. Commercial Districts.
- An amendment to Section 6.6, Table of Uses and Activities. Ms. Wyatt noted that when looking at the list, uses within the C-5 district were proposed to be allowed via the Special Use Permit process. This would require any new construction or expansion or even change of use to go through the Special Use process allowing for more scrutiny and review since it is in a historic area.
- An amendment to Section 8.2, Development Standards – Primary Zoning Districts. Ms. Wyatt noted that this is where it spells out dimensional requirements such as lot area, lot width, setbacks, etc. Staff proposed the C4 to be a bit of a hybrid between CR and R3.
- An amendment to Section 8.3, Special Development Standards – Primary Zoning Districts.

The Board reviewed and discussed Section 6.6 Table of Uses and Activities.

Ms. Wyatt clarified for Mr. Gwinn the differences between Home Occupation 1, 2 and 3.

Ms. Wyatt clarified for Ms. Harrison the Table Key: P = Permitted Use (Staff can approve), S = Special Use (Board approval), R = Supplemental Regulations (can be added to both Permitted and Special Uses).

Mr. Ferguson discussed Section 8.2 Development Standards; Mr. Ferguson noted that this area is prone to flooding and suggested that they consider reducing lot coverage in that area from the proposed 55% to 40%.

Mr. Elder discussed permeable vs. impermeable coverage and using incentives for using permeable material. Ms. Wyatt confirmed for Mr. Ferguson that there are no maintenance requirements for residential uses of permeable paving products, but commercial properties are required to have an Operation and Maintenance Agreement on file.

Town Manager Andy Garman discussed proposed lot coverage for commercial properties and suggested maybe allowing 40% maximum for impervious coverage up to 50% if 10% is pervious coverage. The Board agreed that this would be a reasonable requirement in this District.

Ms. Wyatt confirmed that while there will be nonconformities created, there are provisions within the UDO that allow these nonconformities to exist, however the degree of nonconformity could not be increased. Ms. Wyatt noted that they will be discussing the proposed changes with existing commercial property owners to give them a chance to express any concerns in advance of the public hearing.

Ms. Wyatt and the Board then reviewed and discussed the proposed changes to Section 8.3, Special Development Standards in more detail. This section looks at Commercial Building Design and sets total building area maximums based on lot frontage (US 158, NC 12 and between the highways).

Ms. Harrison expressed concern that they are protecting residential but not commercial, it seems like they are putting a lot of restrictions on commercial but not residential. Ms. Harrison questioned what they are protecting.

Chair Vaughan reminded the Board that it is harder for a Town to regulate residential development. Ms. Wyatt agreed, noting that the Town already regulates commercial. Ms. Wyatt confirmed that they can't regulate residential the way they regulate commercial and confirmed that home size is largely regulated by septic size.

Ms. Wyatt reviewed the commercial design standards and approval process for the Board.

Ms. Wyatt confirmed for Mr. Ferguson that currently any new commercial development needs to go through the Site Plan Review process, necessitating Planning Board and Board of Commissioner review.

Ms. Wyatt confirmed that as proposed a change of use within the C5 would require a special use permit.

Ms. Harrison stated that she did not agree that a change of use should have Board review and instead they should come up with a list of permitted uses that are allowed in the district that would not need review. Ms. Harrison felt that it's a cumbersome process for businesses; going from a 2 to 3-week process to a 2 to 3-month process "all to protect an area that is not actually a protected area".

Mr. Elder stated that while he understood Ms. Harrison's point of view, he disagreed, noting that this change would create a level of transparency by allowing the public to voice their opinion ahead of approval.

Mr. Ferguson agreed with Mr. Elder stating that while it may be a cumbersome process to go through, this additional review would take the burden off staff and instead puts it on the elected board.

After some further discussion the Board took a short recess, the time was 11:25 AM

The Board reconvened at 11:31 AM

Ms. Wyatt led the Board through a review of the proposed changes to Section 6.6, Table of Uses and Activities. The Board discussed each use and reached consensus on what uses should be allowed in the new C-5 Zoning District.

Finally, the Board discussed the two options with regards to the Map Amendment. Mr. Gwinn noted that he was in favor of whichever option was the least restrictive for commercial uses so he would vote for Option 2. The Board agreed that Option 2 (combination of R-3 and C-5) made the most sense.

David Elder then moved to recommend approval of the various text amendments creating the C-5 zoning district to include the previously agreed upon lot coverage requirements and the revised table of uses. Mr. Elder then moved to recommend approval of the map amendment, rezoning the area of

the moratorium with a combination of C5 and R3. Meade Gwinn seconded the motion, and it passed by unanimous vote.

December 29th, 2022, Director's Report

Ms. Wyatt briefly discussed her Director's Report to the Board which included updates on the Septic Health Advisory Committee, Estuarine Shoreline Management Plan, Electric Vehicle Action Plan, ETIPP Project and Whalebone Park: Phase I Planning.

Planning Board Members' Agenda

Mr. Elder would like to revisit the light ordinance discussion when it comes to residential.

Ms. Wyatt gave Mr. Gwinn and the Board an update on the Coastal Villas subdivision, which has received final plat approval and they are in the process of having their covenants recorded.

Ms. Wyatt confirmed for Ms. Harrison that, as of yet, Staff has not received a submittal for the recently approved hotel.

Ms. Wyatt confirmed for Mr. Ferguson that Staff will be working on an overview of areas of vegetation along US 158.

Planning Board Chairman's Agenda

None

Adjournment

A motion to adjourn was made by David Elder. The time was 11:56 AM.

Respectfully submitted,
Lily Campos Nieberding