
**Town of Nags Head
Planning Board
June 20, 2023**

The Planning Board of the Town of Nags Head met on Tuesday, June 20, 2023, in the Board Room at the Nags Head Municipal Complex.

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

Members Present

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

Members Absent

None

Others Present

Kelly Wyatt, Kate Jones, Andy Garman, Lily Nieberding

Approval of Agenda

David Elder moved to approve the agenda. Meade Gwinn seconded, and the motion passed by unanimous vote.

Public Comment/Audience Response

None

Approval of Minutes

Chair Vaughan asked for a motion to approve the minutes of the May 16, 2023, meeting. Meade Gwinn moved to approve the minutes as presented; David Elder seconded, and the motion passed unanimously.

Action Items

None

Report on Board of Commissioners Actions – June 7th, 2023

Ms. Wyatt gave an update on the Board of Commissioner Actions, of note: On consent agenda, two requests for Public Hearings - Request for Public Hearing – one related to dewatering activities such as installation of inground pools which will be heard by the BOC I July and one related to "Restaurant, Drive Through" use as a permissible use. Ms. Wyatt noted that the applicant Starbucks have made changes to the request so they will be coming back to the Planning Board in July. A Public Hearing was

held to consider text amendments to Unified Development Ordinance as it pertains to the supplemental regulations associated with "Fueling Stations" within the Town – the Board adopted the ordinance as presented. Planning Director Kelly Wyatt presented her monthly report. Comr. Renée Cahoon questioned if the Town requires a de-watering plan from pool owners. Ms. Wyatt explained that the code is to be modified requiring a plan to be presented and approved prior to a pool permit being issued in the future. The Board reappointed David Elder to another three-year term on the Planning Board.

Town Updates

None

Discussion Items

Discussion of Townwide Community Survey

Town Manager Andy Garman explained that the Town's FY 2023 budget included \$30,000 for the town to conduct a community survey. The goal would be to have the results by the Fall so they can be shared as part of a fall strategic planning retreat with the Board of Commissioners.

Staff has hired a consultant/platform that will assist with the survey; The National Research Center at Polco. They offer a variety of benchmarking and custom surveys for large and small communities throughout the United States and have established platforms to host surveys and analyze results. The town is in the process of developing a custom survey. The last time the town completed a comprehensive survey of community issues was in 2006. This was conducted as part of a land use plan update.

While Staff does not expect that this new survey would look exactly like the survey from 2006. It will include many of the same categories of questions related to services, community preferences, customer service, and land use. The survey will be designed to gauge opinions on the general direction of the Town and to determine how they need to apply resources. There are some questions related to recent topics discussed by the Planning Board.

Mr. Garman would like to review an early draft of the survey with the Planning Board to get their feedback to see if they feel there is a better way to ask any of the proposed questions or if there are questions/topics that they would like to see addressed that have not been included. Staff will be reviewing the proposed survey with the Commissioners at their July meeting and hopefully finalizing soon after.

Chair Vaughan inquired how Staff planned to roll out the survey. Mr. Garman stated that they will be sending it out to a sample of the public (mailing it out to about 3000 property owners). They will also be sending out postcards letting people know about the survey as well as promoting it on the Town newsletter. So even if someone does not get an actual copy of the survey they will still be able to participate.

Mr. Garman noted that the survey will be open to residents as well as out-of-town property owners and will include a small demographic section.

Mr. Garman confirmed that the consultant will compile a report (with Staff review) with the results which will be presented to the Commissioners.

Mr. Garman proceeded to review the draft survey for the Board. Sections include: General Direction of the Town, Customer Service, External Communication, Events and Activities, Police, Fire/Ocean Rescue, Sanitation/Waste Services, Transportation/Streets, Septic Health/Water Quality, Planning & Development, Housing and Shoreline Management. Mr. Garman noted that they are not afraid to get poor results and are hoping to find areas that they need to work on. Mr. Garman stated there will be things that they take out that they are not as concerned about. The Draft survey is currently 7 pages and it needs to be 5 pages long.

Vice-Chair Lambert noted she likes the Planning questions a lot. Mr. Garman noted that a lot of questions are geared towards housing. Mr. Gwinn agreed with Ms. Lambert but wondered if some questions, especially at the beginning (such as rating the direction the town is heading) might be too broad and too subjective.

Mr. Garman confirmed for Mr. Elder that there will be a section for a comment at the end of the survey.

Ms. Lambert suggested that they revisit the question of drainage and maybe ask about specific areas.

Mr. Elder suggested asking about accessibility issues/concerns.

Ms. Harrison noted that the question about community image might also be too broad and subjective.

Chair Vaughan agreed stating that if Staff is looking for where to pare down the survey, the more philosophical questions at the beginning of the survey would be a good place to start. Chair Vaughan also noted that she was surprised to see the emphasis on Events and Activities.

Mr. Elder suggested adding a section encouraging more community involvement (available Boards, committees, links to important documents, etc.)

Ms. Lambert suggested adding a question about septic maintenance and maybe moving the question related to septic failure under the other Septic Health questions.

Ms. Harrison talked about the UDO's goal to preserve the character of the town and wondered if there should be a question about how people feel about preserving the Character of Nags Head.

Mr. Elder suggested highlighting Ocean Rescue a little more, Mr. Garman will revisit the Ocean Rescue question.

Mr. Garman encouraged the Board to email him if they think of anything else to add or have further comments.

Discussion Of Multi-Family Development within the Unified Development Ordinance

Planning Director Kelly Wyatt explained that at the Planning Board's May 16th meeting, in anticipation of drafting the necessary text amendments to re-introduce the "multifamily dwelling" use back in the Unified Development Ordinance "UDO", Planning Staff outlined several inconsistencies with the existing multi-family dwelling and townhouse ordinances.

As a starting point, and to help facilitate discussion, Staff has reviewed and offered guidance and amendments to the ordinance as it pertains to the issues and inconsistencies previously identified.

Ms. Wyatt and the Board proceeded to review and discuss the various issues.

Issue #1

The definition of "multi-family dwelling" includes townhouse development, however, there is also a separate definition for "Townhouse". This definition states that a townhouse is a single-family dwelling. This language is contradictory.

Analysis

In order to address this issue Staff provided the current definitions for "multi-family dwelling" and "townhouse" as well as proposed revisions.

Existing Definitions

Dwelling, multi-family means a dwelling containing three or more dwelling units, designed for or occupied by three or more families living independently of each other. Multi-family dwelling shall include a townhouse and any similar building, irrespective of the form of legal title.

Townhouse means a single-family dwelling on its own individual lot but connected on two sides, by means of a common wall for at least ten feet of its length, to two other single-family dwellings or an end dwelling of a row of such dwellings.

Staff would submit that the definitions for these two terms noted below are more representative of our understanding of townhouse development and its relationship to multi-family dwelling developments. A townhouse is a form of multi-family development whereby units share a vertical common wall but not a horizontal common wall (i.e.: floor or ceiling). Ms. Wyatt noted that staff is proposing to eliminate the language requiring that a townhouse structure be located "on its own individual lot".

Proposed Definitions

Dwelling, Multiple Family (Multi-family) means a structure under one roof or portion thereof used or designed as a residence for three or more families living independently of each other in individual dwelling units including apartments and townhouses.

Townhouse means a single structure consisting of three or more dwelling units, each with no other dwelling or portion of a dwelling directly above or below, each dwelling unit of which having direct ground level access to the outdoors and connecting to the other units by at least one common wall with no openings. For the purposes of this chapter, ***Townhouse*** will be referred to as a multi-family dwelling.

Chair Vaughan and Mr. Ferguson both agreed with the proposed definitions with Mr. Ferguson reiterating that a Townhouse is a multi-family building.

Issue #2

Section 6.6 of the UDO, Table of Uses and Activities, lists "multi-family" and "townhouse" separately and allows each use within different zoning districts. Staff believes that townhouses are a form of multi-family development and that this should be clarified.

Analysis

In addition to listing the multi-family and townhouse separately in Section 6.6, Table of Uses and Activities, these uses are listed as permitted uses within Village at Nags Head, Section 9.36, Table of Uses and Activities for the SPD-C District. The Village at Nags Head SPD-C designation contains both a Multi-family District and a Townhouse I District. Staff would propose leaving both of these districts,

along with their associated use regulations, in place with no revisions at this time. An excerpt of this portion of the UDO will be included in the packet for easy reference.

Within Section 6.6, Table of Uses and Activities, Staff is proposing to insert the “multi-family dwelling” use back into the C-2, General Commercial Zoning District and have it permitted via the Special Use Permit process as noted in with supplemental regulations of Section 7.5.

Given that Staff deems the townhouse use as a form of multi-family, Staff is proposing to eliminate the townhouse use from Section 6.6 in its entirety. The townhouse use is currently listed as a use permitted via the Special Use Permit process within both the C-2, General Commercial Zoning District and the SPD-20, Special Planning Development District.

The proposed amendments would result in the following:

- The multi-family dwelling use would be listed as a permissible use in the C-2, General Commercial District, via the Special Use Permit process.
- The townhouse use would be eliminated from Section 6.6, Table of Uses and Activities as this use is deemed multi-family and leaving it in the table would be redundant.
- The removal of the townhouse use from Section 6.6 would result in the loss of this use within the SPD-20, Special Planned Development District.

Mr. Ferguson asked about The Villas development on Villa Dunes Drive. Ms. Wyatt noted that Staff addresses this as part of the analysis of Issue #3.

Ms. Wyatt confirmed for Mr. Ferguson that currently multi-family is not allowed anywhere in town. Ms. Wyatt also confirmed that for as long as she has been with the Town, multi-family has not been allowed in the R3 zoning district.

Mr. Ferguson felt that multi-family made sense in the R3, but the majority of the Board was not in consensus and instead most felt that the C2 was a better fit.

The Board expressed concern about the increased density and agreed that at a future meeting they would like to see what a multi-dwelling structure would look like in an acre lot. Mr. Ferguson suggested seeing some examples of some current structures for comparison purposes.

Issue #3

There are separate supplemental regulations for townhouses in the SPD-20 District. Some of the standards are contradictory to the existing definition of townhouse.

Analysis

The supplemental regulations associated with the townhouse use in the SPD-20, Special Planning Development district are listed in Section 7.5 and specifically Table 7-1: Requirements for Multi-family dwellings. Staff would submit that the multi-family dwelling use is likely no longer appropriate within the SPD-20, Special Planned Development district. The intent of the SPD-20 District is to permit development that is compatible with the environmentally sensitive nature of the unique coastal landforms contained in the district. The largest portion of this district contains Jockey’s Ridge State Park. The SPD-20 zoning designation is located north of W. Soundside Road and east of US 158, encompassing Jockey’s Ridge State Park and the bordering neighborhoods of Northridge Subdivision and Villa Dunes Drive. While this proposed change would make The Villas, located at the end of Villa Dunes Drive and zoned SPD-20, nonconforming, it would preclude any future multi-family development within these neighborhoods noting that there are several large parcels of land that are

currently developed, however, if redevelopment were to occur, it is questionable if the multi-family use would be appropriate.

Ms. Wyatt noted that as part of the recent Historic Character Area amendments, the language for nonconforming uses was amended in such a way that, if the multi-family use is removed from the SPD-20, the Villas could be repaired, maintained, or replaced with an identical or similar structure and identical use, regardless of value provided no new nonconformities are created. In addition, site improvements could be made so long as they met the design and dimensional requirements applicable in the Unified Development Ordinance.

Mr. Gwinn stated that with the non-confirming language in place he was comfortable eliminating the use from the SPD-20. The Board was in consensus with this proposal.

Issue #4

If someone were to propose townhouses in the C-2, General Commercial District, the ordinance is unclear on which standards would apply.

Analysis

Ms. Wyatt explained that in Section 7.5, Table 7-1, Requirements for Multi-family Dwellings, the uncertainty arises in that standards for townhouse development have only been proposed in the SPD-20 District, and not within the C-2, General Commercial Zoning District. If the Planning Board is inclined to recommend the removal of the townhouse use from the SPD-20 District, this uncertainty is resolved as the standards for multifamily dwelling uses within the C-2 District are clearly delineated.

Issue #5

Ms. Wyatt noted that there is a density bonus applicable to "affordable" multi-family projects. However, the ordinance does not define what "affordable" means.

Analysis

At this time, Staff would recommend removing that language in its entirety. If it is the desire of the Planning Board and Board of Commissioners that the town continue to allow for a density bonus for "affordable" multi-family projects, staff can continue to research this and propose a definition of "affordable" for a future amendment. However, in the essence of time, staff recommends removing it for the time being. Staff has provided a draft of these proposed text amendments in the agenda packet for the Board's review and consideration.

The Board was in consensus that this language should be removed for the time being. Mr. Elder noted that the term "affordable" is very dynamic term and a definition will require a lot more conversation.

In addition, staff or Planning Board members to contemplate the following questions:

- *What areas of the town are appropriate for multi-family dwelling development? Which zoning districts do they feel could/should accommodate multi-family development? Are there portions of town where this use should not be allowed, however the boundaries of the existing zoning districts don't allow for appropriate distinctions?*

As proposed, multi-family dwelling developments are allowed via the Special Use Permit process in the C-1, Neighborhood Commercial Zoning District and the C-2, General Commercial Zoning District. Ms. Wyatt noted that in Table 7-1, Requirements for Multifamily Dwellings, multi-family is only

allowed as an accessory use to mixed use development in the C-1, Neighborhood Commercial District. Also, currently there are no areas of town that are mapped as C-1.

Ms. Wyatt reviewed for Mr. Gwinn the larger undeveloped areas in the C-2. Chair Vaughan reminded the Board about redevelopment noting that the C-2 is a large zoning district encompassing a big part of the town. Ms. Vaughan expressed concern over the redevelopment of existing retail structures and the possibility of many new multi-family dwellings taking their place.

- *Should Staff consider different density/intensity criteria for multi-family in different geographic areas? For instance, does a multi-family project on NC 12 look differently than it would on US 158?*

Ms. Wyatt noted that this will be a much bigger conversation.

- *What multi-family development currently exists in the town and how would it be affected by any proposed changes? What existing multi-family developments are nonconforming?*

Ms. Wyatt listed the existing multi-family dwelling developments within the Town in her staff memorandum and noted that many of those structures are already nonconforming.

- *How would multi-family be allowed as part of Mixed-Use Development?*

Mixed-Use Developments are currently permitted in the C-1, C-2, and C-4 Zoning Districts pursuant to Section 6.6, Table of Uses and Activities. Section 7.32, General Provisions for Commercial Mixed-Use Developments lists multi-family dwelling as a permissible use.

- *Are the current commercial design standards in Article 10 adequate for multi-family development?*

Mr. Elder would like more consideration be given to parking as well as enforcement of that parking. Mr. Ferguson reminded the Board that when it comes to parking, it's not one size fits all.

The Board agreed that they would want to look at setbacks depending on where it would be located, interior street vs frontage on NC 12.

- *Do we want to incentivize multi-family in cases where it will accommodate our local workforce?*

The Board agreed that workforce housing is a concern but there are other issues tied to this (including ADU's) and will require further conversation.

Ms. Wyatt noted that at the Planning Board's May 16th meeting it was noted that members were interested in requesting a joint workshop with the Board of Commissioners. Staff intends to present the framework of this proposal to the Board of Commissioners and seek guidance on next steps at their July 5, 2023 meeting.

May 21st, 2023, Director's Report

Ms. Wyatt briefly discussed her report including updates on an upcoming BOA meeting, Septic Health Committee and an upcoming event at Dowdy Park. Deputy Planning Director Kate Jones updated the Board on the Estuarine Shoreline Management Plan, EV Action Plan and the Nags Head Dog Park.

Planning Board Members' Agenda

None

Planning Board Chairman's Agenda

Chair Vaughan and the Board briefly discussed the Soundside Event Site

Adjournment

A motion to adjourn was made by David Elder. The time was 11:13 AM.

Respectfully submitted,
Lily Campos Nieberding