
**Town of Nags Head
Planning Board
November 21, 2023**

The Planning Board of the Town of Nags Head met on Tuesday, November 21, 2023, in the Board Room at the Nags Head Municipal Complex.

Planning Board Chair Megan Vaughan called the meeting to order at 9:06 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, Joe Costello, 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

Dave Shufflebarger, property owner, Nags Head Cove, thanked the Board for their work on workforce housing.

Approval of Minutes

Chair Vaughan asked for a motion to approve the minutes of the October 17, 2023, meeting. Meade Gwinn moved to approve the minutes as presented; David Elder seconded, and the motion passed unanimously.

Action Items

Consideration of various text amendments to the Unified Development Ordinance as it relates to multi-family development.

Planning Director Kelly Wyatt reviewed the high points from her Staff Memorandum:

- The proposed definition of multi-family development has been revised, it no longer speaks specifically to townhome and apartment style developments, this delineation is set forth in Section 6.6, Table of Uses and Activities.
- The definition of Long-Term Occupancy/Tenancy has been revised to reflect a stay that is ninety (90) days or greater.

- The following language has been removed from the definition of workforce housing, "Workforce Housing shall not be subject to income or salary limitations, or the number of hours worked". While this was the consensus of the Planning Board and Board of Commissioners, staff do not believe it needs to be included within the definition.
- Subsection (c) has been added to the definition of workforce housing as it relates to deed restrictions. Staff acknowledges the need for continued discussion on enforcement of the deed restrictions.

Ms. Wyatt noted that a copy of the proposed amendments was forwarded to Robert Hobbs, Town Attorney. He reviewed it and came back with some comments and recommendations so Staff will need to incorporate the changes and bring them back to the Board.

- Language has been added to the definition of workforce housing to clarify that employers can purchase multifamily dwelling units to provide accommodation for their employees so long as the employee meets the employment criteria.

Mr. Gwinn and the Board discussed interns vs. paid workers and how they fall in the definition of workforce housing. The Board also discussed remote workers and agreed that in the case of one person living in a unit they would need to be employed within Dare County; if there is more than one person living in the unit for instance a couple or a family, at least one person should be employed within Dare County. Ms. Wyatt agreed to add language into the ordinance that there should be a minimum of one qualified inhabitant per unit.

- The proposed multifamily development options have been titled "Large Multifamily" and "Small Multifamily".
- Headings proposed in Table 7.1 of the UDO have been amended to reflect minimum multifamily development "site" as we will need to continue to explore minimum townhome "lot" size requirements. Townhome lots will be located within the multifamily development site.
- The previous iteration of proposed density standards for the small multifamily category had a minimum lot area of 16,000 square feet and a maximum lot area of 25,999 square feet. In this scenario a 25,999 square foot lot could have 5.8 dwelling units, rounding down to 5 dwelling units. If we set a maximum lot size, then any lot greater than 26,000 square foot lot would be required to fall under the large multi-family category. For instance, a 27,000 – 30,000 square foot lot could only have three (3) units. In order to encourage and incentivize small multifamily developments staff proposes that we no longer apply a maximum lot area for small multi-family development but rather set a maximum number of dwelling units allowed. Staff are proposing consideration be given to six (6) dwelling unit maximum for small multi-family developments.

Ms. Wyatt noted that additional language has been added to ensure that the front of a dwelling structure established as part of a multifamily development is situated on a site so as to not face the rear of another dwelling structure within the development or on an adjoining property.

Ms. Wyatt confirmed for Ms. Harrison that if this were to be adopted a developer could only get 45 townhomes on the former Kelly's Restaurant site.

Mr. Elder noted that what it really comes down to is, what is it going to look like? They can talk about (limiting) the number of dwelling units but what is it going to look like when something is designed for an existing lot.

- Height requirements for both the large and small multifamily developments are proposed at the residential standard of 35 feet with an ability to increase height to 42 feet with the use of a minimum 8:12 roof pitch. Ms. Wyatt noted that this is standard with what the Town currently has and seems to be consistent with what Staff heard from the community survey.

Ms. Wyatt noted that they didn't change anything with open space or lot coverage just added the deed restriction language for the large multi-family – "all the units in a large multi-family development shall be deed restricted for long-term occupancy or tenancy, no less than 60% of those units shall be deed restricted for Workforce housing and a smaller percentage available for long-term occupancy/tenancy. In the case of the small multi-family development all would have be deed restricted for both long-term tenancy and workforce housing. Should someone in one of those units retire the expectation is that they would be able to stay in that unit and once it changed hands it would revert back to workforce housing.

Ms. Wyatt also discussed unit size which she noted they had discussed at the last meeting; a minimum of 800 square feet and a maximum of 1750 square feet.

- Required buffering language for the "large" multifamily development category has been amended to reflect that the minimum required commercial transitional protective yard width is 10-feet. The Planning Board agreed that they should place large multifamily developments in the high impact use category.

Mr. Elder expressed concern about light pollution. Ms. Wyatt noted that there is some language in place protecting residential development from commercial development and she could send the lighting ordinance to the Board for their review to see if it addresses concerns or if they need to review it further. Ms. Wyatt confirmed for Mr. Elder that within the buffer areas there would only be vegetation and no other uses allowed.

Ms. Wyatt reminded the Board that Large Multi Family Development would be a Special Use permit so both the Planning Board and the Board of Commissioners would have a chance to review items such as buffering and lighting and add additional requirements.

- Language has been added to encourage building design variations. They kept it at a minimum of 150 architectural design points. The Board previously discussed incentivizing variations: should variations equate to points towards architectural design requirements? Ms. Wyatt confirmed for Mr. Ferguson and the Board that sometimes a development meets the minimum design points but still does not achieve the look of the Nags Head style. The Board agreed that they would like to require variations rather than just incentivizing them; the Board also agreed to increase the number of required points. Staff will go back and look further at the residential design guidelines including roof pitch.

- Continued discussion on outdoor amenity areas or common space requirements.

Mr. Ferguson expressed concern about the lack of maintenance of common areas including amenity areas as well as the need to ensure that it will be maintained properly down the road.

Mr. Gwinn noted that there is a need for a place for people to congregate, most likely there will be children, so he supports amenities for the large multi-family developments.

Ms. Wyatt confirmed that a lot of this will flesh out as they go through the process with the attorney's comments on the establishment of the HOA and their role, all of which will need to be spelled out.

Section 7.5.1 - All multi-family development is required to follow the provisions set forth in the North Carolina Planned Community Act. Ms. Wyatt noted that this is where the attorney had the majority of comments so Staff will definitely be bringing this section back.

- Section 6.6, Table of Uses and Activities has been amended to list both the small and large categories of multi-family development as allowable uses within the C-2, General Commercial Zoning District. Large multi-family is listed as a special use and subject to supplemental regulations. The Planning Board discussed and agreed that regardless of whether it is a small or large development they would still want it to go through the Special Use process.

The Planning Board also discussed and agreed that apartment style development should be allowed as part of the small multi-family development category.

Ms. Wyatt noted that at some point they may want to discuss considering small multi-family development as an accessory use to a mixed-use development.

Mr. Ferguson inquired if large multi-family have an advantage as far as density goes over small multi-family development. Ms. Wyatt stated they do not and that they are actually slightly incentivizing the small development over the large.

Community Survey

Town Manager Andy Garman gave a PowerPoint presentation updating to the Board on the results of the Community Survey. The survey touched on several items including the direction the Town is headed on items such as: Stormwater, Water Quality, Recreation, Housing, Traffic and Transportation as well as performance by individual town departments/services. The number one item suggested as the most important change or improvement for the Town to address was affordable housing.

Report on Board of Commissioners Actions – November 1st, 2023

Ms. Wyatt gave an update on the Board of Commissioner Actions, of note: Environmental Planner Conner Twiddy was recognized by the Board for five years of service; the Board of Commissioners selected their pick for this year's Earl Murray Jr Employee of the Year – Nominees included Admin Services/Town Manager's Office Nominee Roberta Thuman, Planning Dept Nominee Paige Griffin, Public Services Dept Nominee Seth Gray, Police Dept Nominee Steven Anderson and Fire Dept Nominee James Moseman; on behalf of the Board, Mayor Cahoon congratulated Police Lieutenant Steven Anderson as the 2023 Earl Murray Jr Employee of the Year. The Consent Agenda was approved and included three Planning items: Request for Public Hearing for consideration of a Subdivision Waiver on behalf of Ronald and Sabrina Mikita, a Request for Public Hearing for consideration of text amendments to the UDO as it pertains to the use of "Restaurant, Drive Through" as a permissible use within Commercial Mixed-Use and a Request for Public Hearing for consideration of text amendments to the UDO as it pertains to the appraisal and purchase of precious metals, antiques, collectibles as acceptable accessory use to retail jewelry shops.

Town Updates

None

Discussion Items

October 26th, 2023, Director's Report

Ms. Wyatt briefly discussed her Director's Report with the Board which included an update on the Septic Health Advisory Committee Meeting, Sand Relocation and Dune Management Cost Share Program and upcoming Holiday events at Dowdy Park.

Deputy Planning Director Joe Costello updated the Board on the EV Action Plan and the proposed installation at Town Hall.

Planning Board Members' Agenda

Mr. Elder expressed his satisfaction with the results of the Community Survey, specifically related to beach driving.

Planning Board Chairman's Agenda

Chair Vaughan congratulated Board member Megan Lambert on her election to the Board of Commissioners and thanked her for her years of dedicated service to the Planning Board. Ms. Lambert thanked the Board noting she was proud of the work they had done during her term there.

Adjournment

A motion to adjourn was made by David Elder. The time was 11:22 AM.

Respectfully submitted,
Lily Campos Nieberding