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**Town of Nags Head  
Planning Board  
February 18, 2025**

The Planning Board of the Town of Nags Head met on Tuesday, February 18, 2025, in the Board Room at the Nags Head Municipal Complex.

Planning Chair Megan Vaughan called the meeting to order at 9:07 a.m. as a quorum was present.

***Members Present***

Megan Vaughan, Meade Gwinn, David Elder, Kristi Wright, David Thompson

***Members Absent***

Molly Harrison

***Others Present***

Kelly Wyatt, Joe Costello, Lily Nieberding

***Approval of Agenda***

With regard to Action Item #2 on the agenda, Planning Director Kelly Wyatt noted that the applicant had requested that it be tabled as they were interested in continuing to discuss and clarify the request with staff. Meade Gwinn moved to approve the agenda as amended, David Elder 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 January 21, 2025, meeting. David Elder moved to approve the minutes as presented; David Thompson seconded, and the motion passed unanimously.

***Action Items***

Consideration of a text amendment request submitted by Attorney Crouse Gray, Jr. on behalf of Nags Head 87, LLC to increase the number of fueling dispensers available at fueling stations and to increase the potential size of any convenience store associated with a fueling station within the C-2, General Commercial Zoning District.

Ms. Wyatt presented a request for text amendments to the Unified Development Ordinance (UDO) submitted by Attorney Crouse Gray, Jr. on behalf of Nags Head 87, LLC at it relates to "Fueling Stations" within the C-2, General Commercial Zoning District.

Ms. Wyatt explained that fueling stations are currently permitted in the C-2, General Commercial Zoning District and in the C-5, Historical Character Commercial Zoning District via the Special Use Permit process with supplemental regulations set forth in Section 7.20 of the Unified Development Ordinance. The applicant is requesting text amendments to modify fueling station regulations in the C-2, General Commercial District only.

Specifically, the amendments propose:

- Increasing the maximum number of fuel dispensers from four (4) to eight (8).
- Establishing a definition for "fueling dispenser".
- Increasing the maximum convenience store size associated with a fueling station from 3,500 square feet to 4,800 square feet.
- Establishing a minimum lot size of one (1) acre for development of a fueling station.

In 2023, as part of amendments related to the Historic Character Area, the Board of Commissioners adopted revisions to Section 7.20, Supplemental Regulations for Fueling Stations. These revisions applied to fueling stations located within the C-5, Historic Character Commercial Zoning District. However, during the adoption process, Board members expressed interest in extending these regulations throughout the Town to maintain consistency with Nags Head's character and planning objectives. As part of the 2023 amendments, staff conducted an analysis of existing fuel stations within the Town as part of the Historic Character Area amendments. Ms. Wyatt reviewed the findings with the Board noting that existing fueling stations in Nags Head currently have four or fewer dispensers, with convenience stores below the 3,500 square foot threshold, and all but one are located on lots less than one acre in size.

Ms. Wyatt noted that the 2023 amendments were intentionally adopted to ensure that fueling stations remain small scale, compatible with the town's character, and consistent with the community's vision as outlined in the Comprehensive Land Use Plan. Larger fueling stations with expanded convenience stores and additional dispensers do not align with the Town's established land use policies and development goals as noted below: LU-1 – Ensure that the character of Nags Head is preserved as a single-family residential beach community with ties to its natural environment.

This character is defined by:

- Buildings with a residential scale and appearance with low heights and small footprints that are designed to reflect the heritage of Nags Head.
- Commercial development that serves the needs of the residents and visitors but respects the goals of the community related to design and appearance.

The proposed one-acre minimum lot size presents a concern given that all but one of the towns' existing fueling stations are located on lots smaller than one acre. If the proposed one-acre minimum lot size is adopted, these existing fueling stations would become nonconforming. Additionally, the Board of Commissioners unanimously adopted the current fueling station regulations on June 7, 2023, reaffirming the Town's commitment to maintaining appropriately scaled commercial development. Based upon this analysis, planning staff recommends denial of the proposed text amendment as presented.

Attorney Crouse Gray, representing the applicant in this matter, addressed the Board. Mr. Gray explained that their request is to clearly define "fuel dispenser" in the UDO and increase the number of dispensers allowed in order to meet the practical needs of modern fueling stations. He believes that most of the town's fueling stations are over 20 years old and no longer adequate for today's traffic, especially during peak seasons. The goal is to update regulations while maintaining the Town's

character. Mr. Gray noted that he has worked with the Planning Board and the Commissioners before, and he knows everyone values the "Nags Head look", but stated that the request is about making a slight adjustment to the ordinance, not altering the town's aesthetic. He also reminded the Board that when the Town last updated the UDO in 2023 with regards to fueling stations Staff acknowledged that they would be creating two site non-conformities.

Mr. Gray stated that if this ordinance is approved, it would not affect the current operation of existing fueling stations. The request is to change the acreage requirements, ensuring that not every small parcel could request a fueling station, but would still provide enough space for modern fueling stations. Mr. Gray believes that the community's needs have changed over the years. The Town would still have control over the design and could maintain its character while updating the facilities to meet the current needs of both residents and visitors.

Mr. Gwinn noted that while he appreciated the definition of "fuel dispenser", he did not understand the need for more fueling dispensers and had not seen any indication that current stations are not meeting demand. Mr. Gray confirmed that he did not have research data, but anecdotally, he has been told that newer stations are attracting more customers because of their larger convenience stores and better pump capacity. It's possible that the existing stations aren't as busy because people are choosing the newer stations instead.

Mr. Gwinn stated that he generally chooses a fueling station based on the price per gallon. If he sees a lower price, he'll go there, regardless of the station's size. Mr. Gray noted that based on his own personal experience people won't stop at a station if it doesn't look appealing, even if the price is right. Mr. Gray also noted that newer stations are able to reduce prices due to higher fuel volume, which helps them maintain profitability.

Chair Vaughan asked for clarification on the additional products and services mentioned in the request, beyond regular convenience store items. Mr. Gray responded that while he couldn't specify exactly what would be offered, larger fueling stations typically go beyond standard convenience store items. They often include multiple coffee machines and on-site food preparation. While not guaranteed for this project, it's a common trend in newer stations. Mr. Gray confirmed for Chair Vaughan that the expanded size of the convenience store is necessary to accommodate these services.

Mr. Thompson acknowledged that most profits come from convenience store items; citing 7-Eleven as an example but stated that while he could see the need for the additional size of a convenience store, he was not sure that more fueling dispensers are needed.

Mr. Gwinn stated that he did not feel that there is a demonstrated need for larger fueling stations in town. Mr. Elder agreed and was concerned not only about the increase in size of the convenience store but also what other services, such as a car wash might be offered. Mr. Elder also noted that fuel efficiency as well as the introduction of electric cars has reduced the amount that people spend at fueling stations in the last several years.

Mr. Elder also noted that while the existing policy may have created a non-conformity for two existing properties, he was concerned about not only increasing that non-conformity, but making everything else non-conforming as well for a need that has not been demonstrated.

Ms. Wyatt confirmed for Chair Vaughan and the Board that any new convenience store would have to meet the Commercial Architecture Standards.

Chair Vaughan noted that a lot of these modern stations all look alike and are very bright. Chair Vaughan cited the Land Use Plan and how it talks about the character of the town and encouraging smaller, locally owned businesses. Chair Vaughan expressed concern about what impact a larger, modern station might have on the existing smaller operations.

Meade Gwinn agreed and moved to recommend denial of the proposed text amendment. David Elder seconded, and the motion passed unanimously.

### ***Report on Board of Commissioners Actions – February 5, 2025***

Ms. Wyatt gave an update on the Board of Commissioner Actions, of note: there were several recognitions and two retirements (Ms. Wyatt encouraged the Board to watch the YouTube video). As far as Planning items, Ms. Wyatt summarized her monthly report and received feedback from the Board regarding the ADU information included in the report. The Board of Commissioners agreed that a joint workshop with the Planning Board may be useful as final proposals are developed. Ms. Wyatt gave a presentation of Background Information Related to Residential Yard Signage and what is currently allowed for temporary and permanent signage; the Board requested that Attorney Leidy report back on whether signs ordinances may make distinctions between commercial and non-commercial signage.

### ***Town Updates***

None

### ***Discussion Items***

#### ***Continued discussion related to Accessory Dwelling Units (ADUs)***

Ms. Wyatt explained that at their January 21, 2025 meeting, the Planning Board reached consensus on several key aspects pertaining to Accessory Dwelling Units (ADU's). The following points were established:

New definitions:

- Attached Accessory Dwelling Unit (Accessory Apartment) and Detached Accessory Dwelling Unit (Backyard Cottage) - both types of ADU's would require that a long-term resident occupy the property.
- Short-Term Rental, Partial Home - the definition was amended to create some alignment between the proposed ADU use and the existing partial home short-term rental use.
- Sleeping Room - clarity on what constitutes a sleeping room.

Allowances and Restrictions:

- Attached ADUs (Accessory Apartments) would be permitted town wide.
- Detached ADUs (Backyard Cottages) would be allowed only on lots larger than 16,000 square feet (large residential).
- Both types, attached and detached, may be rented on a short-term or long-term basis.

Development Standards:

- ADU's must be subordinate to the principal structure, with a maximum size of 800 square feet or 50% of the principal structure's area, whichever is less.

- Parking requirements would be set at one parking space per ADU, plus one additional space for each bedroom beyond one.

Ms. Wyatt did provide an update on the ADU discussions to the Board of Commissioners at their February meeting. The Board briefly discussed the proposed size/area limitations ensuring ADUs remain subordinate to the principal structure. Concerns were raised about homes with enclosed spaces larger than the proposed area of 800 square feet or 50% of the area of the principal structure, whichever is less. Staff noted that in those scenarios, those structures resemble duplexes rather than true accessory dwellings.

Ms. Wyatt noted that the Commissioners really want to focus on not encouraging more short-term rentals and instead want to focus on long-term for the purpose of affordable workforce housing. Ms. Wyatt mentioned that they hadn't explored deed restrictions yet and she and the Commissioners discussed if there might be some enforcement mechanism through the zoning permit process to require that it be long term.

Chair Vaughan noted that she was personally comfortable with the definitions. With regards to the issue of short-term vs. long-term, it is an important issue to consider and discuss and will need some guidance on that. Chair Vaughan stated that she had heard concerns about setbacks which she shared.

Mr. Elder inquired about separation requirements between the principal and accessory structure and concerns about having appropriate access and egress. Ms. Wyatt noted that any habitable accessory structures would have to meet minimum separation requirements which would be determined by the building inspector. Ms. Wyatt confirmed that any type of front porch, decking, stairway, etc. would have to meet the principal structure setback as well.

Ms. Wyatt explained that accessory structures generally have reduced setbacks and noted that the Board might want to require principal structure setbacks for detached ADUs to reduce impact on neighboring properties.

Mr. Gwinn inquired about long-term vs short-term and what enforcement would look like. Ms. Wyatt explained that by requiring a permit, staff would have a list of ADUs that the Code Enforcement officer could check in on from time to time.

Chair Vaughan noted that like many other things it would most likely be complaint driven; people tend to keep an eye out on their neighbors.

Mr. Gwinn inquired if it was possible to have a long-term detached ADU and an attached short-term rental. Ms. Wyatt stated that this is an issue that should be discussed further but right now they don't specifically say that you have to have one or the other but not both.

Ms. Wyatt confirmed for Mr. Elder that a detached accessory dwelling unit would have to meet all the criteria of a dwelling and part of that would be having a permanent area for food preparation, a kitchen.

The Board was in general agreement/consensus that detached ADUs should meet principal structure setbacks.

Ms. Wyatt stated that Staff will put everything in ordinance form in preparation for a joint workshop with the Commissioners.

**Planning & Development Director's Report – February 5<sup>th</sup>, 2025**

Ms. Wyatt gave a brief update focusing on the Decentralized Wastewater Management Plan and the challenges faced with groundwater loggers. The loggers were found to be water-resistant rather than waterproof, leading to issues in high groundwater areas. Additionally, some loggers placed near access points suffered battery failures due to Bluetooth connectivity issues.

To resolve these problems, Ms. Wyatt explained that they have elevated the loggers about two feet above ground using PVC pipes, which will be marked with reflective paint, stickers, and QR codes. These QR codes will link to a website with groundwater data, and they hope to eventually include interactive mapping features.

Mr. Elder suggested using QR codes for water outflows as well, which could direct users to existing state and county resources with water quality reports and schedules.

Deputy Planning Director Joe Costello noted that once all data is collected, they aim to integrate it with WebGIS and Hydromet systems, allowing users to click on locations on a map to access real-time groundwater and water quality data. Staff also noted that Environmental Planner Conner Twiddy is working on mapping septic systems.

***Planning Board Members' Agenda***

None

***Planning Board Chairman's Agenda***

None

***Adjournment***

A motion to adjourn was made by David Elder. The time was 10:17 AM.

Respectfully submitted,  
Lily Campos Nieberding