



**DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS**

HOTEL/RECREATIONAL OVERLAY DISTRICT WORKSHOP

NAGS HEAD FIRE STATION #16 – SOUTH WING

WEDNESDAY, APRIL 16, 2014 – 5:00 P.M.

The Nags Head Board of Commissioners met in the south wing of Fire Station #16 in the Town of Nags Head located at 5314 S Croatan Highway in Nags Head, North Carolina on Wednesday, April 16, 2014 at 5:00 p.m.

Board members present: Mayor Bob Edwards; Mayor Pro Tem Susie Walters; Comr. Renée Cahoon; Comr. John Ratzenberger; and Comr. Marvin Demers

Board members absent: None

Others present: Town Manager Cliff Ogburn; Police Chief Kevin Brinkley; Elizabeth Teague; Kelly Wyatt; Planning Board members Richard Murphy, Clyde Futrell, Pogie Worsley, Barbara Gernat, and Mark Cornwell; Rufus Pritchard; Patrick Pritchard; Bobby Owens; Stan White; Lionel Shannon; Ervin Bateman; Mike Kelly; Wilo Kelly; Harry Baum, Jr.; Perry White; Ralph Buxton; Anita Edwards; Elizabeth Demers; Nick Nuzzi; Doug Tutwiler; and Town Clerk Carolyn Morris

INTRODUCTION

Mayor Edwards explained that the purpose of the workshop is to discuss a district – and how the stakeholders want it to look – and also what the Town needs. The underlying zoning is still in place – which is commercial which means that both commercial and residential enterprises can occur. The Recreational Overlay District is the only location in Town for outdoor recreation. Board members often hear that as a resort town, recreational uses are needed. Another problem heard is that hotels are needed – the Hotel Overlay District is being filled with other uses – outdoor uses are wanted - other than the aerial park just approved – the last thing that went in the area were condominiums. No decisions have been made. There was a recommendation received from the Planning Board and when it came to the Board of Commissioners, the Board felt the first thing to do was to have a meeting and receive input.

The memo dated April 1, 2014 from Planning Director Elizabeth Teague is attached to and made a part of these minutes as shown in Addendum "A".

OVERVIEW

Planning Director Elizabeth Teague stated that the Board of Commissioners and Planning Board members were present. She stated that before ideas get too far along, the Board wants everyone to be heard.

Planning Director Teague provided a brief presentation and overview with a power point slide presentation. Two overlay districts are on the underlying zoning districts: 1) Outdoor Recreation District runs from Forbes Street to the sound side of Whalebone Junction. The Hotel District runs from Forrest Street to Governor Street.

INPUT FROM AUDIENCE

Mayor Edwards thanked Ms. Teague for the overview. He invited those interested to speak.

Patrick Pritchard – Dunes Restaurant – they may want to acquire Tar Heel Motel and/or other sites – a hotel could be next to their restaurant but by limiting the size of the building they may not be able nor have the drive to participate.

Doug Tutwiler - manager of Pamlico Jack and the former Penguin Isle Restaurants – he feels it is dangerous to set restrictions and change things now – property owners should be able to do what they want with their property – it's not good to tell someone 25 years later that things have changed and now they can't do what they want – he does not want big government involved.

Mike Kelly - Nags Head resident and property owner; he thanked Board members for the workshop opportunity; he is a little confused and he questioned why this was even being discussed; he provided an overview of the overlay district – because no one wanted to have a recreation district – jet skis were shuffled to this area – he read from the land use plan – previous Boards created this problem – why is hotel district here - because no one else wanted it. He feels the best thing to do on the Outer Banks is to go to Jockey's Ridge and watch the sunset; he spoke of "Nags Head" as being the term used for the destination that tourists see on their way to the Outer Banks. "View shed" is a new buzz word that is being used now – recreational opportunities are limited; the Board can change whatever they want in the town – the rules are the five elected officials can do what they want - in the Town's best interest. He said that the Town has Nags Head Woods, Jockey's Ridge State Park, and a lot of oceanfront activities – so we have a few zones to allow these things; he said that the Town has no hotel sites because previous boards did not have the wherewithal to make sure when we moved the road in the Village that a hotel was built as originally promised; he feels the public is fortunate that the Board does what the people want and the wisdom to look beyond; we question what we did in 1988 and what we did in 2004; he feels that we should stop restricting things any more – we have to seek out what we can do and not restrict things.

Harry Baum, Jr. – He was born and raised in Wanchese; recreational commercial his grandfather built Pond Island – he used to have charter boats – he requested an update to the Town's zoning plan - he requested that the Recreational Overlay District be extended to the Washington Baum Bridge.

Wilo Kelly – Nags Head resident and part of the family that owns Pamlico Jack Restaurant, she appreciates the opportunity to speak; notes from Ms. Kelly's presentation read in part as follows:

"Last week, owners of properties in the Outdoor Recreation Overlay District met to review discussions by the Planning Board and the Board of Commissioners over the last six months on possible zoning changes to the Outdoor Recreation Overlay District.

'As one of these property owners, I would like to provide the following input regarding the potential zoning changes to the Outdoor Recreation Overlay District as recommended by the Planning Board.

'The Planning Board has recommended two zoning changes for the district:

- Removing residential uses except as accessory uses to a commercial use or as part of a mixed-use building from the Recreational Overlay District.
- Reducing the C-2 Commercial 40,000 square foot building limit to 25,000 square feet.

'There are very strong concerns as to the future implications and impact of these changes. We disagree with the Planning Board's recommended changes and request the Board of Commissioners take no action based to the following:

1. WHY? Why are the changes being considered at this time? There is no impact on public health, safety and welfare to justify the reduction in size of commercial structures and the elimination of residential uses in only the Outdoor Recreation Overlay District. There are not any infrastructure strains to warrant the changes.
2. Limiting the size of structures on private waterfront property in an effort to protect "public welfare" - the view shed for the public - is both arbitrary and capricious. Are there are other underlying circumstances and reasons to warrant the proposed changes that have not been made public? Is there a project being considered on the opposite side of the bypass of which the sound front view-shed is being taken into consideration?
3. The process of developing the proposed changes began after ONE citizen spoke during public comment at a Board of Commissioners meeting last year about a rumored Harris Teeter being considered in the District. The subsequent process and proposed recommendations appear to border on Exclusive Zoning. There have been concerns that the Town is trying to downgrade the zoning and eliminate the consideration of many possible projects in the district based on the Board's position of "no development on the event site property" and their vision for a future park-like atmosphere on the property.
4. Planning Board members, of which many are new members, were misdirected in their discussion on the district based on statements made at past Planning Board meetings: "Commissioners requested a review of the Commercial Outdoor Recreation Overlay District and modifications necessary to ensure that the current character of the district is maintained and to limit any potential development that would block or obstruct sound front views. The purpose of this overlay district is to create opportunities for recreation that supports Nags Head as a family tourism destination."

According to the Town's 2010 Land Use Plan, "the district was established to accommodate the ever-growing commercial recreational development requests made to the Town". The term "accommodate" is included in the Land Use Plan and not "create opportunities for recreation." The district was created many years ago because the Town did not want outdoor recreation – specifically PWC's, go-cart tracks, amusement park type businesses, putt-putt courses, etc. - on the Beach Road, in between the highways or near residential and other commercial zoned property.

5. With regards to # 1 above, the statement "to limit any potential development that would block or obstruct sound front views" is not found anywhere in the Town's Land Use Plan in reference to the Outdoor Recreation Overlay District. It is also not referenced in the Town's Parks and Recreation Plan. However, discussion regarding sound front views did arise after the Town and County purchased property within the District to be used as an event site. There was discussion among Town Commission members regarding limiting development on the site and protecting the view shed. Within the overlay district and contiguous to the district are some of the longest linear water view sheds in all of Dare County – along the causeway/Little Bridge area, over the Washington Baum Bridge, over the Virginia Dare Bridge and over the Bonner Bridge. Why are a small number of private property owners being burdened with providing their sound front view to the public?

6. With the exception of the event site property and two other conservation parcels owned by the Town, property located in the District is privately owned. The property owners have paid a premium for waterfront property and the associated "sound front views/view shed". They have also paid annual County and Town property taxes associated with the value of the waterfront property and waterfront view shed. What "public" entity would the Town be trying to protect the public welfare of by limiting development that would block the "sound front views"? The only "public" entity that would benefit from the preservation of the Overlay District's water shed views would be the passengers of vehicles traveling at 50 mph along Croatan Highway and perhaps the property owners on the opposite side of Croatan Hwy? Since when does the public have the right to a private property owner's view shed?

7. There are strong concerns that if these changes were to be approved, it would only be a matter of time before other C-2 zoned properties adjacent to the District and Event Site would also be downgraded.

8. A commercial building size limit reduction from 40,000 sq. ft. to 25,000 sq. ft. represents a 37.5% reduction. However, the reduction actually represents a 50% reduction in structure size limit in the last 6 years. The structure size limit was lowered from 50,000 sq. ft. to 40,000 sq. ft. in 2008 to prohibit the development of "big box" type structures. The reduction in size limit greatly reduces the ability of a property owner to redevelop or market his property thus lowering the value of the property and the potential to find a buyer.

9. Jobs/Tax Revenues: Typically, the larger the facility the higher the tax base (sales and property) and the more jobs created.

10. Since the changes are only being considered on the west side of the bypass in the Outdoor Recreation Overlay District, commercial properties across the street on the east side of the bypass will still be able to develop a commercial structure up to 40,000 sq. ft. or residential use structures. The reduction to building size and elimination of residential use structures on only the west side of the bypass seems unfair and discriminatory. The proposed changes add an unfair benefit and additional value to C-2 commercial properties located outside of the Outdoor Recreation Overlay District.

11. According to the Town's Land Use Plan and the Parks and Recreation Plan, the Board of Commissioners wants to promote the Town as a family tourist destination and to promote recreational opportunities within the Town. Compared to other Dare County

towns, Nags Head has an abundance of recreational opportunities available to both residents and visitors.

'An inventory of Nags Head recreation sites and activities include: Jockey's Ridge, Nags Head Woods, Jennette's Pier, Outer Banks YMCA, The BEACH – beach access areas/parking, boat ramps; Multi-Use Path; Parks - Sound Park, Jennette's Pier, Dowdy's Site, Satterfield Landing ball parks, Harvey access site; Races - 5K, 8K, 10K, Outer Banks Marathon, Nags Head Woods Run.

'Entrepreneur John Harris's world renowned business, Kitty Hawk Kites, is based in Nags Head. Kitty Hawk Kites offers kite boarding, hang-gliding, wind surfing, kayaking, paddle boarding, parasailing, Dolphin Tours, Aero Tours, wakeboarding, water-skiing, tubing and paragliding.

'Jet Skis, Boat Tours, Aerial Park; Boating, Fishing, Hiking, Biking, Walking, Running, Swimming, Surfing, Golfing, Deer Hunting, duck hunting/duck blinds, birding, photography, putt-putt golf, go-cart tracks, amusement rides - And- when things don't go so well with the recreational activities we have the Outer Banks Hospital!

'We are definitely not lacking in recreational opportunities and according to the Town's Parks and Recreation Plan, we have premier recreation sites. The Plan also references the fact that recreational opportunities kept pace with the increased development over the past decade.

'In closing, the Town has abundant unobstructed sound front view shed areas and recreational - both indoor and outdoor – opportunities. The citizens and visitors of Nags Head are fortunate to have so many public beach access areas, parks, preservation/conservation areas and private sector recreational businesses available to enhance active lifestyles and the overall visitor experience.

'Private property rights need to be protected and maintained. There is no reason at this time to change the zoning within the Commercial Outdoor Overlay District - Thank you."

Perry White - Nags Head resident and property owner; he is one of the 40% that came here and was not born here; spent eight years behind the camera at Town Hall; several came in to build hotels, but none of it worked out – the Hilton is now at the north end of the Outer Banks in Kitty Hawk; if we are going to have hotels, and some of our stuff is aged out on the beach, we have to make it possible for it to work; Mr. White said that he feels that we should encourage people to keep the area going – he spoke in favor of hotels in Nags Head.

Stan White - Nags Head resident and property owner; hotel zone has always concerned him; he tried a few years ago to build one but there were too many hoops to go through; finally, something was worked out and an engineer came and the most allowed was a 90 room facility; Hampton Inn and Marriott were interested but they had to have at least 100 and 120 rooms to make it profitable; he has a piece of land that it will work but the restrictions/limitations need to be looked at and examined more closely if the Board is to encourage hotels in the Town; one impediment on the northern part of the Town would be resolved by hooking into the Kill Devil Hills sewage plant.

*DRAFT Nags Head Board of Commissioners
Recreation/Hotel Overlay District Workshop minutes
April 16, 2014*

Mayor Edwards agreed that there is a segment of the market that is not being served right now that he would like to serve; he said that when he was on the Planning Board some changes were made to make it easier for hotels to be developed.

Ralph Buxton - Nags Head resident and property owner; Kitty Hawk Kites this year celebrates its 40 year anniversary; he owns Kitty Hawk Water Sports – little building in the middle of the event site was the original Kitty Hawk Kites location; Mr. Buxton said that he can't find any exception to what was said by previous speakers re: recreation; he feels there is a real need for hotels; in the long term there will need to be more hotels to support the Events Site; he was on the Tourism Board when the study was done; he is not sure of the building size reduction issue – but if changing restrictions it should be looked at Town-wide and not just in one district; he feels the Soundside Boardwalk would be beneficial; he spoke of allowing people to walk instead of having to drive next door to visit another site; basically he would like to see things more convenient in general for getting people around.

In response to a question from the audience, Planning Director Teague said that the discussion involves looking at building hotels in the Overlay District – not on the oceanfront.

Ervin Bateman - Sugar Creek Restaurant owner; he asked the Board to not make any changes at this time – the economy drives Nags Head; it is a destination resort; he spoke in support of hotels, restaurants, etc. so that people can come here and stay and drop all their money in Nags Head; he asked the Board to not change anything except that he would like to see hotels encouraged to be developed in Nags Head.

Nick Nuzzi – Dairy Queen Restaurants owner; he said that he pretty much agreed with all statements made today; he commended the Board and past Boards for the way Nags Head has been created architecturally; he feels that restricting building size has a lot to do with how the building is built so "big box" for grocery store couldn't turn into something else in the future; it would not be good now to change the size of buildings as it would not be fair to those current/existing business owners; he appreciates the dialogue now but it would be wrong to restrict any existing properties.

Bob Oakes – Former Nags Head Mayor, Nags Head resident and property owner; there has been a general loss of commercial in Nags Head; he sees it with the hotels that are missing; there are big pieces of commercial properties that are never going to be commercial again; when overlay districts were conceived, it was to add uses that could not be done in other places; they are not taking away from other uses in the Town; government can set the stage and some things have been done to make hotels possible but it has not happened yet; hotel activity will occur more according to the market; he encouraged the Board to keep things as they are now.

ADJOURNMENT

There being no one else present who wished to speak, Mayor Edwards thanked all those that attended. He said that the Board hopes to have more forums and more citizen input as that is how the best can be done for Nags Head. He noted that everyone is interested in what is best for the Town. He asked if anyone thinks of comments later, to please get them to Planning Director Elizabeth Teague.

The Board adjourned at 6:15 p.m.

Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____

Robert C. Edwards