



# Town of Oak Island Brunswick County, NC

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*The Town of Oak Island will preserve, protect, and enhance the quality of the natural and cultural environment of the community. In order to achieve this goal, the Town will improve the quality of its waterways, natural environment, beaches, dunes, water access and residential areas. The Town will maintain a unique scale and character that fosters a sense of community to make the Town a desirable place to live, work and call home, and a family vacation destination. The Town will also develop efficient sidewalks, bikeways, and roadway systems to protect its attractiveness in the future. The Town will also expand its recreational opportunities for residents of all ages and abilities. The Town will balance social and commercial needs and objectives for economic vitality.*

## **Planning Board Meeting Agenda August 22, 2019 • 10:30 AM Town Hall • Council Chambers**

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### **I. START-UP**

- 1. Call to Order:**
- 2. Additions or corrections to the agenda**
- 3. Approval of the Minutes: (7-18-2019)**
- 4. Public Comment:** Please state your name and address for the record.

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### **II. OLD BUSINESS**

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### **III. NEW BUSINESS**

- 1. Selection of a chairman and a vice-chairman/women**
- 2. New Members**
- 3. Text Amendment - Fill**
- 4. Text Amendment - Section 2.12**
- 5. Text Amendment -- Animated Signs**

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### **1. REPORTS/UPDATES**

- 1. Board Member Reports**
- 2. Staff Report -**

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### **2. OTHER**

**Future Meetings: 9/10/19  
Adjournment**



MINUTES  
PLANNING BOARD  
July 18, 2019 – 10:30 a.m.  
COUNCIL CHAMBERS – TOWN HALL

Present: Chairman Denise Pacula, Vice-chairman Bob Carpenter, members Cathy Bowes, Mike Defeo, Clay Jenkins and Lynn McDowell, Planning & Zoning Administrator Jake Vares and Town Clerk Lisa P. Stites, MMC. Board member Willie Williams was not present.

Chairman Pacula called the meeting to order at 10:34 a.m. She led the Pledge of Allegiance to the flag.

Amend Minutes for the May 16, 2019 Planning Board meeting: Ms. Stites noted that she had reviewed the audio from the meeting and said that the Minutes were correct as presented, that Ms. McDowell had made the statement about the front being considered the ocean side. However, Ms. Stites noted that it was clear from the context that Ms. McDowell was referring to the statement Development Services Director Steve Edwards had made earlier in the meeting. Ms. Stites suggested the following amendment to the May 16, 2019 Planning Board Minutes: “Chairman Pacula asked again about the lots on Tortoiseshell Court; Ms. McDowell said according to Mr. Edwards’ definition earlier, the front of the house was the ocean side.” Ms. McDowell said that wording was acceptable to her. **Mr. Defeo made a motion to amend the Minutes accordingly. Mr. Carpenter seconded and the motion passed unanimously.**

Approval of the June 20, 2019 Minutes: **Mr. Defeo made a motion to approve the Minutes. Ms. McDowell seconded the motion and it passed unanimously.**

There were no other amendments to the agenda.

Old Business:

Rezoning request to change the zoning of Parcel 250DA038 (Price and McGlamery Streets) from CB to R-MU: Mr. Vares said the rezoning process was a legislative process and that Council would hear a request for a Special Use Permit along with the rezoning request. Mr. Vares said the mixed-use zoning district was a bit more complicated. He said that the way the UDO was written, a condominium mixed-use development has retail at the street level and condominiums above. Mr. Vares said the applicant has to apply for the rezoning and the Special Use Permit at the same time, which has been done. He said the rezoning was a legislative process for Council, and that the Special Use Permit was a quasi-judicial process. He advised that anyone who felt he/she had a conflict of interest should ask to be recused.

Chairman Pacula said that her concern would be the limited number of uses, such as a florist. Mr. Vares said it would depend on the Table of Uses. He said most of the cells were listed with an “s.”

Mr. Jenkins asked what assurances there were that there would be adequate parking. Mr. Vares said that he had reviewed the proposed site plan as part of the Special Use Permit review process and that it met the parking requirements. Mr. Vares said that the Board had to consider the rezoning as a whole, not a particular use that may be planned for the property. Council is the board that would review the proposed use through the Special Use Permit application. Ms. Bowes asked if there had been any traffic studies conducted; Mr. Vares said there had not.

Debbie Dolonprince was present on behalf of the applicant. She said that she had spoken to the adjacent property owners, business and residential, and said that none of them had any concerns about mixed-use

because it seems to fit with their neighborhood. She said that none of the other property owners wanted to have their property rezoned because there was existing development on their properties.

Mr. Jenkins said he didn't see any issue with rezoning it. He didn't think that traffic would be a problem, considering the size of the parcel. Chairman Pacula said that it did seem to fit in with the surrounding properties. Ms. Bowes said that she did see some type of traffic issues, though she did not think they were insurmountable. Chairman Pacula said that some of the permitted uses in the current zoning could actually cause more traffic. Mr. Jenkins said that he thought mixed-use would mean less traffic.

**Ms. Bowes made a motion to recommend approval of the rezoning and to adopt the associated plan consistency statement. Ms. McDowell seconded the motion and it passed unanimously.**

New Business:

Mr. Vares spoke about the application for a major subdivision on SE 72<sup>nd</sup> and SE 73<sup>rd</sup> Street. The land is currently vacant and is in the R-7 zoning district. The property is in the AE and the X flood zones. The subdivider would be responsible for installing utilities. Mr. Vares said that he thought the impact on the land would be minimal.

Ms. McDowell said she did not see a 404 wetlands line. Mr. Vares said that there is not one within the subdivision area. He said a minor subdivision plat had been done a few years ago, and the wetlands were delineated at that time. He said any construction would have to comply with wetlands regulations.

John Brinkley, Thomasville, NC was asked to address the Board.

Mr. Jenkins asked Mr. Brinkley asked if the map showed a road or if it was a stormwater easement: Mr. Brinkley said it was a 20-foot easement, which was the minimum required by the Town, and that there would be an 8-inch line. Phil Norris, consulting engineer for the applicant, said that what Mr. Jenkins was referring to was a sewer line extension, not a stormwater drain.

Chairman Pacula asked why the oceanfront lot was not included; Mr. Brinkley said that he planned to keep that lot for his own use.

Ms. McDowell asked about the tree ordinances that would apply: Mr. Vares explained how the number of trees to be kept would be determined. Each lot would have to follow the same guidelines as all the other lots in town. Mr. Norris said that the only clearing Mr. Brinkley would be doing would be along the sewer lines; individual lot clearing would be done by the property owners or builders.

**Mr. Carpenter made a motion to approve the subdivision and to adopt the associated plan consistency statement. Ms. Bowes seconded the motion and it passed unanimously.**

Staff Reports:

Mr. Vares said that the Built Upon Area ordinance amendment had been adopted. He said that that the airport sign ordinance was under review by the Town Attorney. He further explained that the issue was making sure the Town would not be regulating signs by content. Mr. Vares also spoke about some new billboard legislation being considered at the State level.

The next meeting will be moved to Aug. 22, still at 10:30 a.m.

Ms. McDowell asked about potential legislation regarding short-term vacation rentals, and Mr. Vares spoke about what various towns had been doing to address the issue. He said he plans to wait and see if there is a final decision by the Courts.

**Mr. Carpenter made a motion to adjourn at 11:04 a.m. Ms. Bowes seconded the motion and it passed unanimously.**

\_\_\_\_\_  
Chairman

Attested: \_\_\_\_\_  
Lisa P. Stites, MMC  
Town Clerk



**TOWN OF OAK ISLAND  
PLANNING BOARD  
AGENDA ITEM MEMO**

Agenda Item: New Business No. 1

Date: 8/8/2019



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**Issue:** Fill – Text Amendment

**Department:** Planning & Zoning Administrator

**Presented by:** Jake Vares

**Presentation:** None

**Estimated Time for Discussion:** 45 Minutes

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**Subject Summary:**

Staff is proposing a change to the Unified Development Ordinance definition of *Fill*. The Planning Board reviewed the original fill ordinance many times back in 2015 and eventually gave a recommended to Town Council, which was adopted. No fill ordinance existed beforehand. The fill ordinance was once again revised in November of 2018.

The purpose of the text amendment is to set a cap on the amount of fill one can bring in to acquire a LOMA. The current ordinance permits fill to be even with the crown of the road or even the adjacent lot, whichever is less, but then gives a fill exemption for LOMAs. The proposed ordinance still makes it permissible for one to add fill in order to obtain a LOMA

A Letter of Map Amendment (LOMA) is an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map. A LOMA establishes a property's location in relation to the Special Flood Hazard Area (SFHA). In Oak Island a SFHA is the AE and VE flood zone, which are areas close to major water features with a higher risk of flooding. LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA officially amends the effective NFIP map, it is a public record that the town maintains. A Letter of Map Revision (LOMR) is FEMA's official modification to an effective Flood Insurance Rate Map (FIRM). LOMRs can result in a physical change to the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). Because a LOMR officially revises the effective FIRM, the flood hazard updates shown are used to rate flood insurance policies and enforce flood insurance and development requirements.

The fill ordinance still allows LOMAs to act as an exemption for the amount of fill one can install on a lot but sets a reasonable limit on fill and prevents an excessive amount of fill that may negatively impact a neighboring property. The point of the LOMA is to be outside the flood zone and not to take advantage the amount of fill one can install. Staff is being pro-active regarding this topic and has not seen this as something that has been exploited. Historically the amount of fill for a LOMA ranged from 2 to 4 feet. Staff feels setting a max of two feet for LOMA fill is reasonable.

In 2006 when the previous FEMA flood map was in effect the elevation data was not as precise and reliable so the vast majority of LOMA's between 2006 and August 2018 when the new FEMA flood map was adopted did not require fill to obtain a LOMA. This is why normally with

past LOMAs applications the ground elevation is already over the base flood elevation so fill is not needed for those areas. Only approximately five properties needed filled to obtain a LOMA under the previous FEMA flood map that was in effect from 2006 to 2018. The new 2018 FEMA flood maps have more accurate modeling techniques and greater accuracy with elevations. With the most recent FEMA flood map adoption in August 2018, the ground elevations were much more accurate making many of the previous LOMAs a moot point because they were taken out of the Special Flood Hazard Area.

As expected with the new FEMA flood map there are some new properties that could qualify for a LOMA. Permits proposing fill over one foot has to have engineered fill plans have to be designed to show how water will be directed toward the ROW (right-of-way) and be retained on site and not have runoff to the adjacent neighbors. The plan consistency statement should be adopted with the Planning Boards motion.

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**Attachments:** Proposed Ordinance Amendment

**Recommendation/Action Needed:** Approval

**Suggested Motion:** I make a motion to approve or deny the proposed text amendment and to adopt the associated plan consistency statement.

**Planning Board Recommendation:** TBD

**Funds Needed:** \$0.00

**Follow Up Action Needed:** Forward recommendation to Town Council

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## Attachment

### SECTION A.3 DEFINITIONS.

#### *Fill, lot*

The amount of fill added to a lot will be no greater than one foot above the crown of the road or even with the highest adjacent lot, whichever is less, and will not be greater than is necessary to meet the health department requirements for an improvement permit. Fill greater than one foot will have an engineered fill plan for stabilization and stormwater retention. Lots requiring fill greater than one foot for the purposes of elevating above flood ~~for letters of map amendments through filling~~ Letter of Map Revision Based on Fill (LOMR-F), leveling a lot with drastic elevations or for the purpose of commercial stormwater designs may do so in accordance with Section 10.104.1 .

#### ***Flood Damage Prevention Definitions***

- (46) ***Letter of map change (LOMC)*** means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

## **PART IX. STORMWATER MANAGEMENT**

### **SECTION 10.104 GENERAL PROVISIONS.**

The owner and/or applicant developer shall comply with all applicable requirements and thresholds established by the NC Department of Environmental Quality (Division of Water Resources and Division of Energy, Mineral, and Land Resources), and the US Army Corps of Engineers, and as adopted by the Town in Code of Ordinances, Chapter 18, Article V - The Phase II Stormwater Ordinance, and Article VI - Illicit Stormwater Discharge Ordinance for the Town of Oak Island, North Carolina. All applications for approved stormwater control plans must be submitted to the UDO Administrator who will forward them to the Stormwater Administrator.

#### **SECTION 10.104.1 FILL**

~~For projects for which fill over one foot is requested, engineered stormwater retention measures, such as retention ponds, or an underground infiltration system, and a Soil Stabilization Plan, are required.~~ **For projects for which fill over one foot is requested, engineered stormwater retention measures, such as retention ponds, or an underground infiltration system, and a Soil Stabilization Plan are required. Engineered fill plans must demonstrate how stormwater runoff, in excess of 1.5 inches, will be directed toward the street right-of-way and not towards adjacent properties. Residential lots seeking a Letter of Map Revision Based on Fill may have up to a maximum of 2 feet of fill.**



**TOWN OF OAK ISLAND  
PLANNING BOARD  
AGENDA ITEM MEMO**

Agenda Item: New Business No. 2

Date: 8/14/2019



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**Issue:** Article 2 – Text Amendment

**Department:** Planning & Zoning Administrator

**Presented by:** Jake Vares

**Presentation:** None

**Estimated Time for Discussion:** 35 Minutes

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**Subject Summary:**

The proposed text amendment is staff initiated and simple. Section 2.12 of the ordinance details that no more one principal structure is to be located on a lot. Exceptions are then detailed in the scenario where that rule may not be applicable if it was an apartment complex, school campus, etc... Staff has no issues and supports that section of the ordinance.

The proposed change is to remove the last sentence. Detached garages and carports are accessory structures and setbacks already exist for accessory structures. An accessory structure cannot be beyond the front edge of the principal structure, over an easement or within 8 feet from a side property line. The rear accessory structure setback is dependent upon which zoning district it is located in.

Section 5.6 of the UDO referenced in this ordinance section is not applicable to the text amendment. The ordinance only covers the type of items required to be on a site-plan survey and the other permit submittal requirements. The plan consistency statement should be adopted with the Planning Boards motion of recommendation.

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**Attachments:** Proposed Ordinance Amendment

**Recommendation/Action Needed:** Approval

**Suggested Motion:** I make a motion to approve or deny the proposed text amendment and to adopt the associated plan consistency statement.

**Planning Board Recommendation:** TBD

**Funds Needed:** \$0.00

**Follow Up Action Needed:** Forward recommendation to Town Council

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## Attachment

### ARTICLE 2

#### SECTION 2.12 RELATIONSHIP OF BUILDING TO LOT.

Every building hereafter erected, moved, or structurally altered, shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot except in the case of a designed complex of professional, residential, or commercial buildings with an approved site plan (see Section 5.6) in an appropriate zoning district, i.e., school campus, apartments, condominiums, shopping center, and industrial park. ~~Detached garages and carports must meet the same setback requirements as the principal building, just as if they were attached.~~

**TOWN OF OAK ISLAND  
PLANNING BOARD  
AGENDA ITEM MEMO**

Agenda Item: New Business No. 3

Date: 8/15/2019



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**Issue:** Electronic Signs – Text Amendment

**Department:** Planning & Zoning Administrator

**Presented by:** Jake Vares

**Presentation:** None

**Estimated Time for Discussion:** 45 Minutes

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**Subject Summary:**

The purpose of the staff initiated text amendment is to codify allowances for animated signs. Staff has seen an increase in these sign applications and has identified a section in the signage ordinance regarding electronic signs that is in need of improvement. Animated signs can be distracting to drivers, cause light pollution, and have a negative aesthetic appeal.

The current ordinance says electronic message displays signs are prohibited except if the message copy changes no more than 60 seconds. It is difficult for staff to enforce the 60 second rule, especially when it is violated so often. This leads to staff too often having to do new code enforcement cases to back the animated sign back into compliance.

Exemptions are codified in the proposed ordinance wording. Revolving barber shop signage is exempt, time and temperature displays that are electronic but mostly static, animated signage at service station that list the fuel price, and open/closed business window signs. Additionally, the ordinance does also provide exemptions for temporary decorations in connection with observance of holidays.

The animated sign definition is intentionally broad to include tri-board signs and mechanic revolving signs. The ordinance says in Section 10.25.9 that electronic message boards in all residential districts are prohibited. Therefore the proposed ordinance wording would apply specifically to the non-residential commercial areas. If adopted, there are electronic signs that have already been permitted that will be installed after the adoption of this proposed ordinance. The Plan Consistency Statement should be adopted with the motion.

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**Attachments:** Proposed Ordinance Amendment

**Recommendation/Action Needed:** Approval

**Suggested Motion:** I make a motion to approve or deny the proposed text amendment and to adopt the associated plan consistency statement.

**Planning Board Recommendation:** TBD

**Funds Needed:** \$0.00

**Follow Up Action Needed:** Forward recommendation to Town Council

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## Attachment

### SECTION 10.25 PROHIBITED SIGNS

**10.25.2.** Signs that revolve, have internally moving parts, or are animated or that utilize movement or apparent movement to attract the attention of the public. Revolving barbershop light, ~~electronic message displays where copy changes no more often than 60 seconds,~~ service station fuel price listing, open and closed business window signs, and time and temperature displays are exempt.

### APPENDIX A. DEFINITIONS

#### *Sign Regulations Definitions*

- (1) **Animation** means the movement, or optical illusion of movement of any part of the sign. Also included in this definition are signs having chasing action which is the action of a row of lights commonly used to create the appearance of motion. Automatic changeable copy boards are permitted provided that there is no running action to copy and provided that the copy does not change more than once every one minute. No flashing, revolving, or intermittent illuminating shall be employed.