



Town of Oak Island Brunswick County, NC

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 September 19, 2019 • 10:30 AM Town Hall • Council Chambers

I. START-UP

1. **Call to Order:**
2. **Additions or corrections to the agenda**
3. **Approval of the Minutes:** (8-22-2019)
4. **Public Comment:** Please state your name and address for the record.

II. OLD BUSINESS

1. **Text Amendment -- Animated Signs**

III. NEW BUSINESS

1. **Text Amendment - Community Gardens**

1. REPORTS/UPDATES

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

2. OTHER

Future Meetings: 10/17/19
Adjournment



MINUTES
PLANNING BOARD
August 22, 2019 – 10:30 a.m.
COUNCIL CHAMBERS – TOWN HALL

Present: Chairman Denise Pacula, Vice-chairman Bob Carpenter, members Cathy Bowes, Mike Defeo, Clay Jenkins, Lynn McDowell and Willie Williams, Planning and Zoning Administrator Jake Vares and Town Clerk Lisa P. Stites, MMC. Newly-appointed members Michael Brown and Hope Vickers were also present.

Chairman Pacula called the meeting to order at 10:30 a.m. and led the Pledge of Allegiance.

Agenda corrections: Mr. Vares said that New Business 1 and 2 should be reversed. Ms. Bowes noted that the next meeting is 9/19/19, not 9/10/19.

Mr. Williams made a motion to approve the agenda as amended. Ms. Bowes seconded the motion and it passed unanimously.

Mr. Williams made a motion to approve the Minutes for the July 18, 2019 meeting. Mr. Defeo seconded the motion and it passed unanimously.

There were no public comments.

Outgoing member Clay Jenkins said that he learned a lot while being on the Board and that if there was anything else he could do to help out, just let him know. Outgoing member Denise Pacula echoed those sentiments and thanked staff for their expertise. She said they had accomplished a lot as a Board.

Ms. Stites noted for the record that new members Michael Brown and Hope Vickers had been sworn in.

Selection of chairman: Ms. Bowes nominated Mr. Carpenter for Chairman. Mr. Williams seconded the nomination. Mr. Williams moved to close the nominations, Mr. Defeo and Ms. Bowes seconded and the motion passed unanimously.

Ms. Bowes nominated Mr. Williams for Vice-chairman, M. Brown seconded the motion and it passed unanimously.

Text amendment for fill: Mr. Vares said this amendment was proposed by staff. He explained that the definition was changed in 2015, and then again at the end of 2018. The current definition allows fill to be one foot above the crown of the road or the adjacent lot, whichever is less. He said the current ordinance does not include a cap for fill when a Letter of Map Amendment (LOMA) is being sought. He said he thought it would be good to set a reasonable limit for fill so that surrounding properties would not be negatively affected. He said that staff is being proactive, not that they have seen this allowance being exploited. The purpose of LOMA is to take a property out of a flood zone, not to take advantage of the amount of fill that can be installed.

Ms. McDowell asked for additional explanation. Mr. Vares said that a LOMA is a change to the map, and a LOMR (Letter of Map Revision) is outside the flood zone, but is done through fill. Ms. Bowes asked about the potential impacts of the proposed ordinance revision. Development Services Director Steve Edwards first welcomed the new members. He said that a LOMA is sought when property owners feel that their property was misidentified; they apply for a map amendment. He said that the entire island is in

a flood zone, not just properties in the AE or VE zones. Mr. Edwards said that he believed allowing two feet of fill for a LOMR was reasonable; what we wanted to avoid was allowing five feet of fill.

Answering a question from Ms. Bowes, Mr. Edwards said that a stabilization plan is required in the ordinance already; that can be done with vegetation, retaining wall, etc. Ms. Vickers asked what recourse people have if they are affected by fill on another lot. Mr. Edwards said that unfortunately, as soon as someone sees a new project going in, they now have stormwater problems they blame on the new project. Mr. Edwards said that under our stormwater and fill standards, there is not really any recourse. He said if someone at the top of the hill does something to adversely affect someone on the bottom of the hill, they have to prove through a civil action that they have been harmed. Mr. Vares said that with our ordinance, the goal is to have water not flow where it did not flow before. Mr. Edwards said that with the ordinance, they do have to demonstrate how they're going to store the first 1.5 inches of runoff but also demonstrate how they are going to convey the excessive runoff toward the street and not toward the neighbors. He said that was taken into consideration.

Mr. Defeo asked if this had any impact or offered any relief for those businesses and residents who had flooding issues from Florence. Mr. Edwards said that they specifically left business out, because of the different site preparations for commercial properties. Mr. Defeo said there were a number of residents who had flooding issues, particularly on 13th SW, and he asked if this would offer them some relief. Mr. Edwards said that area was not in a special flood hazard zone, they would not be able to get a LOMR, so it does not give them relief as far as being able to elevate their properties. He said that there are multiple problems in that area, and when you are sitting in the bottom of the bowl, you get two types of stormwater movement – the sheet flow on top of the ground and the lateral movement underneath the ground; eventually, that water will go to the bottom of the bowl and when people pumped the water out and they stopped, it just filled up overnight and they just had to wait for the ground water to subside. Ms. Bowes asked for clarification on who could apply for LOMR; Mr. Edwards said it was for properties in AE or VE zones, though not likely VE. He said that these properties would generally be along the waterways. Ms. Bowes asked if adding fill would take it from AE to nothing. Mr. Edwards said it could be reclassified as what was called a “shaded X,” and he further explained the differences.

Ms. McDowell asked if this ordinance amendment would allow property owners in the AE zone to put two feet of fill all over their lot. Mr. Edwards said they could request a LOMR for the portion of the property around the house, which would help lower their flood insurance, or they could fill the whole lot to move it out of the AE zone. Ms. McDowell asked if this was being considered only to benefit future homebuilding, because it seems like it does nothing or harms existing homes. Mr. Edwards said currently, they have that right already, and that what this ordinance would do is set a maximum amount of fill that is allowed. For a property in AE-10, at seven feet elevation, that would need three feet of fill to get out of that zone, which would not be allowed under the new ordinance. That same property at nine feet elevation could have two feet of fill added and have the classification changed. He said there is currently not a limit on the amount of fill that can be used to take a property out of a certain flood zone.

Chairman Carpenter asked if this amendment would allow people to go beyond what the current fill definition allowed. Mr. Edwards said that was correct for someone seeking a LOMR because of the exemption in the ordinance, but that there was currently no limit as to how much fill can be placed on a property when applying for a LOMR. Chairman Carpenter suggested making the properties applying for a LOMR still meet the current fill definition. Mr. Edwards said in that case, the exception might as well be removed entirely. Chairman Carpenter said he would be okay with that. He said that when the fill definition was amended, that was done at the request of Council, and now they are looking at a text

amendment that is over the bounds of what Council asked them to look at last fall. Mr. Edwards disagreed. He said that property owners could go above that language now and what staff was proposing would restrict it more to prevent people from bringing in excessive amounts of fill. Ms. Bowes asked if the Town was required to have the exception; Mr. Edwards said it could be removed entirely. He also said that a consideration for including the exception was not wanting to take away owners' property rights to mitigate their property out of flood. Mr. Edwards also said that part of our Hazard Mitigation Plan is to encourage property owners to take their property out of flood. Chairman Carpenter said it seems like we are inviting the very thing that we don't want – complaints that someone else's water is running down. He also said there are already roads that flood out because there are a lot of properties that are higher than the road. Mr. Edwards said when a lot is leveled off, it slows down the sheet flow. He said that the misconception is that fill is going to create stormwater runoff. He also said that new construction still has to meet stormwater standards. Mr. Edwards said that impervious surface is going to be created when new construction happens. Chairman Carpenter said he'd rather eliminate the exception and study this further because this packet doesn't really explain a lot of the flood aspects and what could actually happen. Mr. Edwards disagreed with that, and said that he believed in property rights and that people should have the right to develop within reason. Chairman Carpenter asked about the property rights of adjacent property owners and asked why they shouldn't take more time and not just take a quick check-box solution. Mr. Edwards said that staff had been looking at this for some time. Ms. Bowes said that if someone buys a property in a flood zone, they know that. Mr. Edwards also said that another misconception is that not allowing fill will eliminate runoff.

Chairman Carpenter said that they would not be taking away property rights because property owners could still apply to the Board of Adjustment for a variance. He said he would want the adjacent property owners to have notice when there might be fill added to a lot. Mr. Edwards and Mr. Vares explained the process of applying for a variance, and Mr. Vares said that this issue would not meet the criteria for being a unique situation.

Answering a question from Mr. Defeo, Mr. Vares said he researched how many times a LOMR had been applied for, and it was only four or five times since the last flood maps were issued. Mr. Edwards said the Town should provide a way for citizens to mitigate their property out of a flood zone, and that he thought taking it away all together conflicts with what the ordinance says. He said staff was trying to be proactive. Mr. Defeo asked if they had entertained any scenarios to try and extrapolate any negative potential affect, saying he was trying to consider the unintentional consequences. Mr. Edwards said that when the LOMR exception was first included in the ordinance, staff studied it then, and that they have looked at it since then as LOMRs were sought. Mr. Edwards said that LOMRs were available to allow mitigation and that it wasn't staff's intention to have that ability removed, but rather, limit the total amount of fill that can be placed on a site. Mr. Edwards also answered questions about how fill is measured.

Mr. Williams asked if the proposed ordinance amendment had been reviewed by the Town's stormwater administrator; Mr. Vares said it had been. Mr. Williams said the ordinance amendment was more restrictive than the current ordinance and that he generally didn't like additional restrictions, though he would make a motion.

Mr. Williams made a motion to recommend approval of the text amendment as presented and to adopt the associated plan consistency statement. Ms. Vickers seconded, and the motion carried 4-3, with members Bowes, Brown, Vickers and Williams in favor and members Carpenter, Defeo, and

McDowell opposed. Chairman Carpenter said the ayes had it, but Mr. Defeo said he didn't think he wasn't counted.

Ms. McDowell asked about a statement on page 5 of the memo, whether fill was limited to be even with the road. Mr. Vares said that was a typo. Ms. McDowell said the ordinance said one foot above the crown of the road and asked if that was incorrect. Mr. Edwards said that the ordinance was listed correctly. Chairman Carpenter said when they had the discussion on fill, the decision was that it would be even to the crown of the road or the adjacent property owner, the lesser of the two, not one foot higher than the crown of the road. Mr. Edwards said no, that the only amendment made was changing the word "greater" to "lesser." Chairman Carpenter said that unless someone had the Minutes from November of 2018, he would ask to table this until Ms. Stites could provide the Minutes to verify what they decided. Ms. Stites said that the ordinance was what Council had decided. Chairman Carpenter said he was not sure of the correct reading of the ordinance and that they needed to know since Mr. Vares had it both ways in the agenda packet. Mr. Vares said that it was incorrect in his memo, but that he had verified in the UDO what the correct ordinance was. Chairman Carpenter said they didn't know what was correct and they would need to wait and see what Council voted on to know what was correct. Mr. Edwards said that what was in the ordinance was correct. Chairman Carpenter said there may be an error in the ordinance. Mr. Vares said that he did not believe the ordinance was incorrect. Ms. Vickers noted that there had already been a vote. Chairman Carpenter asked Mr. Defeo what his vote was; Mr. Defeo confirmed that he opposed the motion. Ms. Stites said that she had recorded the vote on the motion as passing 4-3, with members Carpenter, Defeo and McDowell opposed. Chairman Carpenter said they would move on to the next agenda item.

Proposed text amendment for Section 2.12: Mr. Vares explained that staff was asking for the last sentence to be removed. He said that other ordinance amendments covered not allowing accessory structures to be farther forward than the house, etc. Mr. Defeo asked if under definitions, carports and garages were defined as accessory structures. Mr. Vares read the definition from the UDO.

Mr. Williams asked why this sentence was in the ordinance in the first place. Mr. Vares said he considered that. Mr. Williams said it could be something to do with how to attach or detach structures. Mr. Vares said it could have been to create distance from adjoining development, uniformity of design, or to create more open space. Mr. Williams asked why staff was asking to remove it at this point. Mr. Vares said he has a large list of UDO revisions he believes are necessary and that this was one of them. Chairman Carpenter asked if removing this sentence would allow accessory structures to be placed closer to property lines; Mr. Vares said it could. Chairman Carpenter said that this sentence could have been included as a safeguard. Ms. Bowes said one concern could have been that accessory structures would be built right up to the property line. Mr. Vares said this section really applied more to large-scale development with many buildings, not single-family residences. Mr. Edwards said he wondered if the intent of the language was to allow garages or carports forward of the house. Mr. Brown said that was the way he read it.

Mr. Williams made a motion to deny the proposed amendment and to adopt the associated plan consistency statement. Ms. Bowes seconded and the motion passed unanimously.

Animated signs: Mr. Vares said that staff had seen an increase in applications for these types of signs lately, and he thought the ordinance needed some revisions. Mr. Vares read from the current ordinance and spoke about the 60-second rule. He also said he didn't recommend any changes for the exemptions currently included in the ordinance. He said what he is proposing would not allow new animated signs, or

he would recommend at least removing the 60-second rule. Mr. Defeo said that we should be looking at ways to help businesses advertise. Ms. Bowes said that she finds the changing signs to be very distracting to drivers. Mr. Defeo said that he thinks removing the 60-second rule would making it even more distracting for drivers. He said that he thought business should be able to use this kind of advertising if it doesn't distract drivers. Chairman Carpenter asked what the problems are. Mr. Vares said they are distracting to drivers, light pollution, the negative aesthetic appeal. Mr. Vares also said the 60-second rule is often violated. He said that the business owners that have those signs are told the rules. He further explained the enforcement process and said there is a chronic violator provision. Mr. Defeo said that changing the code because of a code enforcement volume problem is setting a precedent that we don't want. He said that they should look at other options for enforcement, as it is part of doing the day-to-day job. Ms. Bowes again stated that the signs are distracting and that it is a safety issue. Ms. Vickers asked if there had been an accident or some other safety issue; Mr. Vares said that he was not aware of any. He said that enforcement was only one reason staff recommended the change.

Mr. Edwards said that it might take another look at enforcement, and tightening the rules so that fines can be issued sooner for chronic violations. Chairman Carpenter said that an ordinance amendment would allow the violators to keep their signs at the expense of affecting new businesses. Mr. Vares said that those signs would be considered non-conforming and would be phased out eventually. Mr. Defeo asked if this change was requested because it is an enforcement issue. Mr. Edwards said that, and because of the safety concerns. Mr. Defeo said that one could argue that any signs could be distracting, and then that would be taking away from the business owners' rights to advertise. Regarding enforcement, he said if this was even partly based on staff's ability to enforce it and workload, they need to look if they are based on resource restraints.

Mr. Williams made a motion to table this item until staff comes back with a new draft ordinance and some new enforcement ideas. Mr. Carpenter seconded the motion and it passed unanimously.

Board member reports:

Ms. Bowes said that the Recreation Department is applying for a grant to rebuild the cabana structure, add a boardwalk and enhance handicapped parking.

Staff Reports:

Mr. Vares welcomed the new members. He said the rezoning and Special Use Permit were approved by Council, as well as the major subdivision. He said that HB 675 has been ratified; it removes the Town's ability to regulate the minimum square footage of a structure.

Mr. Williams made a motion to adjourn at 11:48 a.m. Ms. Bowes seconded, and the motion passed unanimously.

Bob Carpenter, Chairman

Attested: _____
Lisa P. Stites, MMC
Town Clerk

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

Agenda Item: Old Business No. 1

Date: 9/12/19



Issue: Electronic/Animated Signs – Text Amendment

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 30 Minutes

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. After discussing this topic with Planning Board at the previous meeting staff was directed to revise the ordinance to include an amortization period and to allow animated electronic signage with a standard detailing how the message cannot change.

The current ordinance says electronic message displays signs are prohibited except if the message copy changes no more than 60 seconds. Often this ordinance regulation is violated. 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.

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. The ordinance does also provide exemptions for temporary decorations in connection with observance of holidays. These exemptions are left in place and are not proposed to be changed as they make sense and are helpful ordinance standard exemptions.

Amortization is the practice of requiring a land use or structure to come into compliance with newly enacted regulation at the end of a specified grace period. For example, a newly enacted sign regulation such as this can provide that a pre-existing sign is no longer allowed by a new ordinance, it may remain in place for X amount of time period, but then must be brought into compliance. The practice of requiring inconsistent uses to be phased out or brought into compliance after a defined grace period is called amortization and is necessary to bring a nonconformity into compliance. Amortization is most commonly used in North Carolina for signs and junk yards.

Amortization is not considered a taking as long a reasonable time period is allowed before requiring compliance. Amortization allows a nonconformity to remain in use for a specified grace period after a regulation has been adopted or amended so that the owner can try to recoup

much of his or her investment. After the grace period ends, the nonconformity is to be brought into compliance or removed, even if it is still in sound operating condition. The adoption of this proposed signage ordinance would make the existing electronic animated signs with messages changing at regular interval nonconforming.

Due process is required with amortization. Some considerations regarding due process is the comprehensive nature of the ordinance regarding this topic and the balance between the burden on a nonconforming sign owner versus the resulting public good. Staff believes the proposed ordinance is designed to not violate due process because the regulation is not unreasonable and is substantially related to valid government objectives. If the grace period to comply is reasonable then the proposed amortization of nonconforming electronic signs is not a taking. The reasonableness of the length of the grace period is a key factor in determining the validity of individual amortization requirements. The criteria for an amortization time period is: are the ends sought to be achieved by the regulation legitimate and are the means used reasonable and is the owner left with a practical use of the property that has reasonable value. While these factors are independently important, there should be an appropriate balance between them. As the negative effect of an amortization increases on the owner, so should the public need for amortization. In this situation for the Oak Island signage ordinance the fix/resolve is very simple and easy. Those with non-conforming animated signage merely need to adjust the setting on their signage to have a compliant static image.

If adopted, there are animated signs that have already been permitted that will be installed after the adoption of this proposed ordinance. Letters from the town would be sent to all property owners with nonconforming animated signs with regular changing messages that would inform them of the amortization period to bring the nonconforming sign into compliance. The proposed ordinance does not regulate signage by content. The Plan Consistency Statement should be adopted with the motion.

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

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.

ARTICLE 9. NONCONFORMING SITUATIONS

SECTION 9.9 NONCONFORMING SIGNS.

9.9.1. Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this article may be continued.

9.9.2. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition; nor may illumination be added to any nonconforming sign.

9.9.3. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.

9.9.4. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this ordinance, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is destroyed if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign damaged.

9.9.5. The message of a nonconforming sign may be changed so long as this does not create any new nonconformity (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).

9.9.6. Subject to other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any 12-month period 75% of the value (tax value if listed for tax purposes) of such sign or appraised tax value of a replacement.

9.9.7. Any animation sign with a message that changes every sixty seconds shall be either eliminated or made to conform to current regulations of this ordinance section in accord with the following schedule.

9.9.7.8. Any nonconforming sign that does not conform to the regulations in Section 10.25.2, shall be made to conform to the current regulations within 6 months after the date of the notice of nonconformity.

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

Agenda Item: New Business No. 1

Date: 9/12/19



Issue: Community Gardens – Text Amendment

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 30 Minutes

Subject Summary:

The purpose of the staff initiated text amendment is to codify allowances for community gardens. The Unified Development Ordinance (UDO) permits community gardens in the residentially zoned areas but does not have standards. The proposed ordinance adds additional standards and changes the permitted by right classification to permitted with standards.

Section 7.56 details the proposed ordinance standards for community gardens. The proposed standards do not permit on-site sales, gives allowances for parking, permits but restricts the site to one accessory building, and mandates 5% of the garden area contain raised beds. The ordinance makes a storage shed a mandatory requirement to have a community garden and mandates that a water source be available. The Plan Consistency Statement should be adopted with the motion.

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

Attachment

SECTION 6.5 TABLE OF USES AND ACTIVITIES.

P - Permitted Use

PS - Permitted Use with Supplemental Regulations

Blank - Not Permitted

S - Special Use

SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts																Overlay District	Supplemental Regulations
	R-20	R-9	R-7	R-6	R-6MF	R-6MH	O&I	R-MU	C-MU	CB	CR	C-LD	OS	AD	ID	PUD	PCO	
OTHER USES																		
Community gardens	PS	PS	PS	PS	PS	PS												

SECTION 7.56 COMMUNITY GARDENS

7.56.1. On-site sales are not permitted.

7.56.2. Incidental parking is permitted.

7.56.3. One (1) accessory building not exceeding twelve (12) feet in any dimension shall be permitted on lots designated as community gardens.

7.56.4. The accessory building shall not be connected to electricity or plumbing.

7.56.5. The accessory building shall comply with town permitting requirements for accessory structures.

7.56.6. Placement of the structure shall be to the interior of the lot and subject to the approval of the planning division.

7.56.7. At least five (5) percent of the garden area shall consist of raised beds for handicap users, a source of water throughout the garden area, storage area for tools, and access for maintenance.

APPENDIX A. DEFINITIONS

SECTION A.3 DEFINITIONS.

Community center, public

A land use or building owned and operated by the town or a nonprofit organization such as a church, YWCA or civic organization devoted to providing recreational and educational facilities to the general public without profit.

Community center, private

To include but not limited to, beach clubs, cabana clubs, property owners association facilities and similar type uses, a building or facility owned or operated by an incorporated, unincorporated, chartered association or an individual or individuals nominated by such entities for the purpose of engaging in social, civic, educational, recreational, cultural or similar activities; but not primarily for profit or to render a service that is customarily carried on as a business; that the use of the building or facility shall be used solely for the benefit of its members.

Community Garden

Areas of land managed and maintained by a group of individuals to grow and harvest food crops and non-food ornamental crops, for personal or group use, consumption or donation. May be divided into separate plots for cultivation by one (1) or more individuals or may be farmed collectively by members of the group, and may include common areas maintained and used by the group.

Competent evidence

NC General Statutes require that the rules of evidence as applied in the trial division of the General Court of Justice ordinarily be followed but adds the important exception that when evidence is not reasonably available under such rules to show relevant facts, they may be shown by the most reliable and substantial evidence available. The Board just limit itself to the type of evidence that ought to be admissible before local administrative agencies generally. The term competent is essentially a synonym for admissible before a local board.