

MINUTES  
OAK ISLAND TOWN COUNCIL – SPECIAL MEETING  
DISCUSSION OF DRAFT UNIFIED DEVELOPMENT ORDINANCE  
JUNE 15, 2018 – 9 A.M.  
OAK ISLAND TOWN HALL – COUNCIL CHAMBERS

Present: Mayor Cin Brochure, Mayor Pro Tempore Loman Scott, Council members John W. Bach, Sheila M. Bell, Charlie K. Blalock and Jeff Winecoff, Town Manager David Kelly, Assistant Manager/Town Clerk Lisa P. Stites, MMC, Development Services Director Steve Edwards and Planning and Zoning Coordinator Jake Vares.

Mayor Brochure called the meeting to order at 9 a.m.

Mr. Vares began the discussion with an explanation of the format of the meeting, and of how the Unified Development Ordinance (UDO) is organized. Mr. Vares also noted that, with Council's permission, staff would make grammar corrections as needed. He reminded Council that the UDO will be a living document and evolve as necessary.

Article 1 – no questions

Article 2 – no questions

Article 3 – Council discussed the proposed recommendation to have the Planning Board preside over special use permits. Mr. Vares said that the UNC School of Government (SOG) recommends just one board review special use permits and he shared information from a SOG blog on the subject. Councilor Bell said she would prefer to have the Town Attorney weigh in on the subject. She said that she would like to have a Planning Board recommendation for special use permits, etc. Mr. Edwards said that the Town of Long Beach used to have the Planning Board approve Conditional Use Permits. Councilor Bell said that her problem with it is that a citizen would call her and she would have no idea what was going on. Mr. Holland explained the quasi-judicial process and said that the more fingers you have in the pie, the greater the chance that something will go wrong in the quasi-judicial process. Councilor Bell said that she would recommend that board be Council then, as the Town Attorney always attends the Council meetings. Councilor Blalock said that he has a problem with the Planning Board approving something Council has never seen. Councilor Bach said that if it should be one body making a decision, it should be the board that is elected by the people. Councilor Blalock said that he didn't want to diminish the assistance of the Planning Board, but that ultimately it needed to be a decision of the Council, since the Council members are the ones who are held accountable. Councilor Winecoff said he also believed it should be Council making those decisions with the Town Attorney present.

Council also discussed 3.3.3.3.1, whether the Planning Board Chairman and the Board of Adjustment Chairman should have the authority to appoint subcommittees. Following a discussion of how subcommittees work, consensus was to add language making subcommittees allowed with approval of Council.

Article 4 – Councilor Bach asked about the extension of permits, specifically about the beach club structure that has been nominally adjusted often enough to keep it active. Mr. Edwards said it was in the NC General Statutes that as long as some work was being done, the building permit was considered active. Council had additional discussion about whether the Town could have stricter rules than the statutes; Mr. Edwards said that this was one of those cases when the Town's ordinance cannot exceed State statutes. Councilor Bach asked what would happen if the Town revoked the zoning permit and how the courts might react to such an action. Mr. Holland said if a decision is appealed to the Board of Adjustment and then that decision is appealed to the courts, the courts will make a decision based on

whether the process was followed correctly, not whether the Board of Adjustment made a good or bad decision. If the matter is related to public health, safety and welfare, the Town can take action.

Ms. Stites noted that this Article called for Council to direct staff to schedule Public Hearings. She said that several years ago, Council had adopted a policy for staff to automatically schedule Public Hearings when they are required. Consensus was to change it to agree with the policy.

Page 4-11, Part III – change that to reference Council. In 4.9.3.1 will also be under Council authority, as will all the references to Planning Board regarding Special Use Permits.

Article 5 – Mr. Vares reviewed the section on performance guarantees; Mr. Holland said there had also been a change in the general statutes regarding performance guarantees.

Councilor Bach asked about 5.4.3, if that was the consensus view of Planning Board for the length of time. Mr. Vares said that what was in the current ordinance.

Ms. Stites mentioned that the violation for illegal subdivision was punishable as a misdemeanor but that at the very beginning of the UDO, it stated that all violations would be handled with civil citations; she suggested adding “unless otherwise specified” to the language at the beginning of the UDO.

Council took a brief recess from 9:56 a.m. to 10:05 a.m.

Article 6 – Mr. Vares explained how the section is organized.

Councilor Bell asked what would happen to things that are made non-conforming with adoption of the UDO. Mr. Vares said that was covered in Article 9. Nonconforming uses are allowed to continue in existence, but if it were not used for more than 365 days or if the use is changed.

Mr. Vares also said R-MU and R-CU are new zones, for mixed-use development. Mr. Holland said that for special use districts, it must be something that is agreed upon by the property owner/applicant and cannot be imposed upon anyone. There are no presupposed uses for special zoning districts, as they would be created as their own districts; those are designed primarily for Planned Unit Developments.

Councilor Bach asked about the Industrial District. Mr. Vares said that district is not on the map, but that everything can't be prohibited. He said it would require a zoning map amendment to implement. Mr. Holland gave further explanation on including certain uses on the Table of Uses.

Councilor Bell asked about page 6-15, Bed & Breakfast; she said Council had recently denied that use in residential. Council discussed removing it, except allowing in CR and R-7, outside of commercial areas. Council discussed whether B&Bs were an appropriate use for residential areas, the beach side versus wooded section, available parking, etc. Mr. Edwards suggested each Council member review the Table of Uses and highlight any they wanted to discuss at a future meeting. Mr. Holland said any use that is legal in North Carolina must be on the Table, or there must be a defensible statement as to why that activity is injurious to the health, safety and welfare of Oak Island. Mr. Holland also spoke about the requirements for “granny pods.”

Mr. Vares mentioned the footnote on page 6-22, which would make large houses built after enactment of the ordinance and rented to more than 14 people be considered a hotel/motel and not permitted. Councilor Winecoff asked how this would be enforced. Mr. Vares said that would be up to code enforcement staff. Following a discussion about how the number 14 was selected, Councilor Bach said he would prefer 10. Councilor Blalock said she thought there would be more changes by the legislature to help regulate these houses. Councilor Blalock asked how it would be enforced, would staff knock on doors. Mr. Edwards said that it would be through how a house is advertised and by responding to complaints. Councilor Winecoff said he liked 10. Mr. Holland said that too low a number might not be defensible. The majority opinion of Council was to use 14.

Article 7 – Mr. Vares gave a brief overview of the Article. Councilor Bach asked about 7.27. Mr. Vares said that this was a result of a directive from Council to regulate houses 4,000 square feet and larger on the island. He also explained how approval of a larger house could be contested. Councilor Bach asked about the harmony of a neighborhood, saying that a 4,800-square foot house wouldn't fit in with a neighborhood of 2,500-square foot houses. Mr. Holland said that the wording presented in this ordinance is pretty standard, and he explained some of the factors to consider in deciding if something would be in harmony with the surrounding neighborhood. He acknowledged that it was fairly subjective, and said that was why approving a house that size would require a quasi-judicial hearing. Mr. Holland cautioned Council, saying if the Town was too aggressive in trying to control this issue, it would likely face court challenges. Councilor Winecoff asked about locating larger houses near the pump stations. Mr. Kelly said that the developer would have to pay for any additional apparatus needed, and that staff does have AirVac review house plans when needed.

Mayor Brochure asked about the food truck ordinances. Mr. Vares explained what we have now (itinerant merchants ordinances) and said the language in the UDO would replace what we have now. Mayor Brochure expressed concern about food trucks competing with existing restaurants. Councilor Bell said she wouldn't want 25 foot trucks on the island. Mr. Holland reviewed the proposed language for regulating food trucks. Councilor Bell said they could still have 15 food trucks on 15 lots; Mr. Edwards said that's where Council could set fees, etc. Mr. Holland reviewed the specific regulations for food trucks in the draft UDO.

Article 8 – Mr. Vares gave an overview of the Article. Councilor Bach asked if the landscaping requirements for commercial developments. Mr. Vares said he thought what was included in the UDO was much better than what we currently have.

Mr. Edwards suggested changing to “public trust waters” in 8-16. Council consensus was the same.

Article 9 – Mr. Vares noted that when lots have been combined and will then be re-subdivided, the lots can go back to the original lot widths. He also spoke about non-conforming uses in general. He also noted that the language regarding de minimis encroachments will be changed to reflect the amendment Council approved last July.

Council will discuss Article 10 at the June 29 meeting.

Following discussion of 8.14.7, consensus was to remove the rear setback allowance.

Councilor Bach thanked the Planning Board for their work, and Mr. Vares and Mr. Edwards for their presentations. **Councilor Bell made a motion to adjourn at 11:38 a.m. Councilor Bach seconded the motion and it passed unanimously.**

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Cin Brochure, Mayor

Attested: \_\_\_\_\_

Lisa P. Stites, MMC  
Assistant Manager/Town Clerk

*Clerk's Statement: Minutes are in compliance with the open meetings laws. The purpose of minutes per the open meetings laws is to provide a record of the actions taken by a Council or a Board and evidence that the actions were taken according to proper procedures. All actions of the Council are recorded in the official minutes. Not all portions of Town of Oak Island meetings are recorded verbatim in the official minutes, with general discussion items, reports, presentations, and public comments being paraphrased or summarized in many instances. Public comments in writing should be submitted to the clerk via hard copy, electronic mail, or other means so as to ensure an exact verbatim account. The Town of Oak Island provides full coverage of meetings on Government Channel 8 so that the Citizens and the Public may view and listen to the meetings in their entirety.*