

Town of North Topsail Beach

Mayor Daniel Tuman
Mayor Pro Tem Mike Yawn
Aldermen:
Richard Farley
Deborah Lanci
Dick Macartney
Robert Swantek



Steven H. Foster
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Planning Board
Agenda
May 13, 2010, 6:30 P.M.

- I. Call to Order, Announcements and Petitions
- II. Adoption of Agenda
- III. Approval of Minutes, April 08, 2010..... 2
- IV. Public Comment
- V. Old Business
 - A. *Public Hearing (cont.) - Sec. 7-132. Accessory Uses* 14
- VI. New Business
 - A. *Minor Subdivision: Review of Bradford-Huff Sketch Plan*..... 20
- VII. Public Comment
- VIII. Planning Board Discussion:
 - A. *Schedule of Review: Unified Development Ordinance*.....23
 - B. *Review of UDO Articles I, II*
- IX. Adjournment

Notice to citizens who wish to speak: As a courtesy to others, a citizen speaking on an agenda item or making a petition is normally limited to three minutes. Persons who are organizing a group presentation and who wish to speak beyond the three minute limit are requested to make prior arrangements through the Zoning Administrator's Office by calling 328-1349. If you wish to address the Board this evening, please go to the front right corner of the conference room and sign up with the Recording Secretary. The Board may also change the order in which agenda items are presented.

Attorneys: If you are representing a person with an interest in a quasi-judicial proceeding on this agenda and believe you may wish to cross examine a witness, please identify yourself as such to the Recording Secretary. For the sake of maintaining an accurate public record all speakers must be prepared to speak into an amplified microphone and must provide their name to the Town Clerk.

Town of North Topsail Beach
Planning Board Minutes
April 8, 2010 6:30 P.M.

PRESENT: Gary Rowland - Chairman, Paul Dorazio – Vice Chairman, Sue Tuman, Gunnar Matthews, Suzanne Gray. Staff: Steve Foster – Town Manager, Deb Hill – Planning Director, Ryan McAlister – Planner, Terrie Woodle – Permit Tech/Recording Secretary.

NOT PRESENT: Gerald Riggleman, Hannah McCloud

I. CALL TO ORDER

Mr. Rowland called the meeting to order at 6:35 p.m. in the North Topsail Beach meeting room.

II. ADOPTION OF AGENDA

Mrs. Tuman made a motion to approve the Agenda as presented. Mrs. Gray seconded the motion, motion passed unanimously.

III. APPROVAL OF MINUTES

Mrs. Tuman made a motion to approve the minutes as presented. Mrs. Gray seconded the motion, motion passed unanimously.

IV. PUBLIC COMMENT

Mrs. Tuman made a motion to open the Public Comment. Mr. Dorazio seconded the motion, motion passed unanimously.

No one from the Public came forward to speak.

Mr. Dorazio made a motion to close the Public Comment. Mr. Matthews seconded the motion, motion passed unanimously.

V. OLD BUSINESS

A. ZONING MAP: (results of BOA Public Hearing April 1, 2010)

BACKGROUND: On December 10, 2009, the consensus of the Planning Board was to have Onslow County GIS make the necessary changes to their data base to reflect 1) the Official Zoning Map adopted in 2007; 2) any subsequent amendments approved by the Board of Aldermen; and 3) correct any discrepancies that may have resulted from using maps with hand drawn boundaries, compared to the digitized GIS maps. It was later determined that

any “administrative” corrections, as indicated in item 3, would be more properly treated as rezoning.

The Planning Board held a public hearing on February 11, 2010, to consider public input on the proposed reprint of the Official Zoning Map and recommended that the Board of Alderman hold a public hearing on April 1, 2010 to adopt the Official Zoning Map. In the interim, four (4) additional discrepancies were cited.

The Board of Aldermen will consider adoption of the reprint of the Zoning Map on May 6, 2010.

Mr. Rowland stated that no action is required since the Planning Board made a recommendation to the Board of Aldermen at their last meeting. It was the consensus of the Planning Board to present the Zoning Map as is to the Board of Aldermen with a recommendation of action on the four discrepancies.

VI. NEW BUSINESS:

A. PUBLIC HEARING: Case R-10-02

Mrs. Gray made a motion to open the Public Hearing Case R-10-02. Mr. Dorazio seconded the motion, motion passed unanimously.

Mr. Billy Smith came forward and stated that he is here to represent the property owners and to answer any questions the Board may have.

BACKGROUND

Thomas Bradford and D. R. Huff III request the rezoning of 2.14 acres located at 1156 New River Inlet Road (Tax Id # 774-29.2) from R-20 to R-10. No rezoning is requested of the 1.13-acre portion currently zoned Conservation District (Con-D). Total acreage of the parcel is 3.27 acres.

A Notice of a Public Hearing was: 1) posted on the property; 2) mailed to adjacent property owners; and 3) published in the *Jacksonville Daily News* on March 21, 2010, and again on Sunday, March 28, 2010, as required by state statutes and NTB Town Code.

As indicated by West Onslow Beach Official Zoning Map-1982 the property was zoned R-20 adjacent to the right of way, with Con-D and some RA on the sound side. The Official Zoning Map-1992 and the current Official Zoning Map indicate the property adjacent to the right of way as R-20, with the sound side of the parcel zoned Con-D.

ANALYSIS OF THE APPLICATION

Analysis of this application is organized around the policy guidelines outlined in Section 7-93:

- A. *The proposal will place all property similarly situated in the area in the same category, or in **appropriate complementary categories**.*

Staff Comment: The adjacent properties are zoned R-20, Con-D, R-10 and R-5.

Statement by Applicant: The requested rezoning will place the subject property in an appropriate complementary category as the adjacent properties. The adjoining tract on the west side is presently zoned R-10.

- B. *There is convincing demonstration that all **uses** permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.*

Staff Comment: The surrounding area is generally developed with single family dwellings and duplex dwellings. With current zoning as R-20, two single-family homes may be built, by right. Rezoning to R-10 would result in an intensity of use and density, as the maximum allowable units would be 8 duplex or townhouse units. As indicated in Sec. 7-128 TABLE 1. PERMITTED AND CONDITIONAL USES, the major distinction in uses permitted is that R-20 does not allow for multifamily, as does R-10.

	R-10	R-20
Accessory uses	P	P
Agricultural or rural farm use	C	P
Ambulance service	C	C
Churches and related uses	C	C
Club or lodge	C	C
Convalescent homes	C	C
Country clubs and related uses	P	P
Day care center	C	C
Duplex townhouse	P	
Dwelling,	P	P
Duplex townhouse	P	
Dwelling,	P	P
single-family (excluding manufactured homes)	P	P
Dwelling, <u>duplex</u>	P	
Dwelling, three/four family	P	
Dwelling, multifamily and condominiums	P	
Dwelling, manufactured home	P	
Dwelling, townhouse	C	

Fire stations	P	P
Golf course	P	P
Governmental facilities in all zoning districts	P	P
Home occupations	C	C
Library, public	C	C
Mobile offices on construction sites (temporary)	P	P
Parking lots	C	C
Parks, public	P	C
Planned unit Development or planned residential development	C	C
Private recreation club	C	C
Public utility stations and substations	C	C
Radio and television transmitting	C	
School, elementary or secondary and related uses	C	C
Swimming pools, (private/commercial)	P	P
Swimming pools, (public/commercial)	C	C
Water towers	P	P
Windmills	C	C
Yacht clubs	C	C

Statement by Applicant: The rezoning of the subject property will be in the general public’s best interest as the zone and intended use of the subject property is compatible with the area and adjacent properties.

- C. *There is convincing demonstration that **all uses permitted** under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and merely use,s that which applicant’s state they intend to make of the property involved.)*

Staff Comment: As indicated in Sec. 7-128 TABLE 1. PERMITTED AND CONDITIONAL USES, the major distinction in uses permitted is that R-20 allows for single family, but not multifamily as R-10 does. All uses permitted under R-10 would be appropriate in the area included in the proposed change, as the surrounding area is generally developed with single family and duplex dwellings.

Statement by Applicant: The uses allowed in the R-10 zone are compatible with the adjacent property development and permits the intended residential development of the subject property.

- D.** *There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.*

Staff Comment: The medium density of R-10 would provide a transition between the R-20 zoned property to the east and the R-5 zoned property to the west.

Statement by Applicant: R-10 Zoning is compatible and complimentary to the adjacent tracts and the area, in general, and the present land usage in the area is residential in nature.

- E.** *The proposed change is in accord with any land use plan and sound planning principles.*

Staff Comment: The Town will adopt and apply local development policies that balance protection of natural resources and fragile areas with continued growth and development. The rezoning request is consistent with the NTB CAMA Land Use Plan:

P. 9 The town supports quality future development reflecting the spectrum of housing needs ranging from single-family home to multi-family development in the form of duplex and triplex housing. Although this policy reflects support for medium density development, the town will not rezone any property to a density less than R-10 (10,000 square feet).

P. 19 The town will not support any commercial or residential development in a conservation classified area nor does it permit the rezoning of any lands designated as conservation district (CON-D)

Statement by Applicant: The proposed request for R-10 zoning is in accord with all land use plans and sound planning principles as reviewed and discussed with the Town of North Topsail Beach planning staff.

Staff has received no public comment, arguments in support of or in opposition to this application.

RECOMMENDATIONS: that the Planning Board:

- 1)** Discuss each of the policy guidelines outlined in Section 7-93, as indicated in the draft Resolution R-10-02 and by consensus note to the Recording Secretary agreement or disagreement with each;

- 2) Recommends adoption of Resolution R-10-02, approving the request by Thomas Bradford and D. R. Huff III.

Mr. Dorazio made a motion to close the Public Hearing. Mrs. Tuman seconded the motion, motion passed unanimously.

Following a discussion of each of the policy guidelines as outlined in Section 7-93 and indicated in the draft Resolution R-10-02, **Mr. Dorazio made a motion to recommend adoption of the draft Resolution R-10-02** (note: as indicated below, approving the request by Thomas Bradford and D. R. Huff III) **to the Board of Aldermen. Mr. Matthews seconded the motion, motion passed unanimously.**

RESOLUTION R-10-02 (DRAFT)

A resolution approving the request by owners, Thomas Bradford and D. R. Huff III to rezone approximately 2.14 acres of Tax Parcel # 774-29.2 from R-20 to R-10, with Conservation District (Con-D) zoning boundaries remaining unaffected. The property is located at 1156 New River Inlet Road, North Topsail Beach, Stump Sound Township, Onslow County, NC.

WHEREAS, the Board of Aldermen of the Town of North Topsail Beach has considered the recommendation of the Planning Board to approve the Zoning Map amendment to rezone property described above from Residential District (R-20) to Residential District (R-10) and finds that:

- A. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- B. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
- C. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change.
- D. There is convincing demonstration that the character of the neighborhood would not be materially and adversely affected by any use permitted in the proposed change.
- E. The proposed change is in accord with any land use plan and sound planning principles.

For the reasons that:

The request is consistent with the policy guidelines outlined in Section 7-93 and the CAMA Land Use Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of North Topsail Beach that the Board **approves** the request by owners, Thomas Bradford and D. R. Huff III to rezone approximately 2.14 acres of Tax Parcel # 774-29.2 from R-20 to R-10, with all Conservation District (Con-D) zoning boundaries remaining unaffected.

This the _____ day of _____, 2010.

B. PUBLIC HEARING: Case CU-10-01

Mr. Dorazio made a motion to open the Public Hearing Case CU-10-01. Mr. Matthews seconded the motion, motion passed unanimously.

BACKGROUND

Sean Cook is requesting consideration of a conditional use application to operate a convenience store ("Palm Tree Market"), located at 2181 New River Inlet Road (Tax ID #778C-169 and 779C-169.24) to include an outside bar and beach equipment rentals. A Notice of a Public Hearing has been made as required by State statutes and NTB Town Code. The zoning of the property is currently Business District (B-1) as indicated by the current Official Zoning Map.

ANALYSIS OF THE APPLICATION

Analysis of this application is organized around the policy guidelines outlined in Section 7-163: Procedures for reviewing applications

1. *That the use requested is (or is not) listed among the conditional uses in the district for which application is made; or is similar in character to those listed in that district.*

Staff Comment: The use is listed among conditional uses for B-1 in Sec. 7-128 TABLE 1. PERMITTED AND CONDITIONAL USES, as:

Retailing or servicing with operations conducted and merchandise stored inside or outside building and otherwise unlisted herein. The applicant proposes to store equipment for beach equipment rentals while operating the existing Palm Tree Market.

Statement by Applicant: Yes, it falls under the category of "retailing or servicing with operations conducted and merchandise stored inside or outside building and otherwise unlisted herein"

2. *That the requested use (will or) will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, or welfare of the community or of the immediate neighbors of the property.*

Staff Comment: The structure has been used as a convenience store. The structure was built in 1982. The structure is presumed to be in operation since 1982. The privilege application by a new operator and his plans constitute an expansion of the use, which requires a conditional use permit approved by the Board of Aldermen.

There have been some nuisance complaints received by the NTB Police Departments including noise, amplified sound, lighting, hours of operation, and patronage.

Statement by Applicant: As far as I am aware, Palm Tree Market has been operating for quite sometime. To add on the rental business and professionalize the beer garden, I believe, would be a great asset for the locals and tourists.

3. *That the requested use is (or is not) essential or desirable to the public convenience or welfare.*

Staff Comment: The proposed use is desirable to the public convenience and welfare as the area does lack the neighborhood service associated with a beach community. However, staff recommends that the applicant provide specific plans to prohibit nuisances as a result of noise, amplified sound, lighting, hours of operation, and patronage.

Statement by Applicant: I believe the market is essential for the northern part of the island. The beer garden fills the demand which most locals and tourists like, as the place to get away from it all and have an ice cold beverage. Beach equipment, come vacation time, is always a necessity to most families.

4. *That the requested use will or will not be in conformity with the land use plan.*

Staff Comment: The 2009 CAMA LUP identifies this property as Mixed Use Business.

Statement by Applicant: To my understanding, it will be in conformity.

5. *Utilities, access roads, drainage, sanitation or other necessary facilities are or will be adequate (or will be inadequate).*

Staff Comment: Pending approval by the Board of Alderman the Building Inspector, Zoning Administrator and Fire Marshal will inspect the property and insure compliance with local, state, and federal codes.

Statement by Applicant: Nothing new will be added as far as utilities. Therefore, I see no underlying issues. It will be operated as it has been in the past.

6. *That adequate measures have (or have not) been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public streets.*

Staff Comment: A site plan shall be submitted and verified to meet the requirements of Sec. 7-176. Minimum Parking Requirements: Retail Uses:

1 space is required for each 200 square feet of gross floor area. The Onslow County Tax records indicate that there are 978 square feet of gross floor area currently. (5) Five Parking spaces are required as well as 1 handicapped parking space.

Statement by Applicant: Once again, I do not foresee any major changes in traffic flow. The parking lot seems to be more than adequate for handicap parking, patron parking, and delivery trucks.

7. *That the conditional use in all other respects conforms (or does not conform) to the applicable regulations of the district which it is located in.*

Staff Comment: The application is a retail business that meets the intent of the B-1 Zoning District.

Statement by Applicant: All three types of businesses conform to the B-2 districts intended use and CU-B-1 intended use.

Staff has received no public comment, arguments in support of or in opposition to this application.

RECOMMENDATIONS: That Planning Board recommends that the Board of Aldermen call for a public hearing to be held on June 3, 2010 and approve the Conditional Use Permit.

Issues with Building Inspections will be addressed by David Stoudt the Town's Building Inspector prior to issuance of a Certificate of Occupancy.

Fire Chief Moore told Mr. Cook "the fire pit needs to be removed".

Mr. Campbell 2181 New River Inlet Road came forward to speak. He stated that he has had the store since 2003. Mr. Cook approached him about running the store and having a rental business there. He stated the use is going to be the same and adding the rental business will be an added plus for the visitors.

Mr. Cook-138 Northern Blvd. Wilmington, NC came forward to speak. He stated that he is proposing a 10'X30' shed for storage of bicycles, kayaks, chairs & umbrellas. Mr. Rowland asked how he plans on getting the equipment to the beach. He stated with a delivery truck to an access on the beach, they would not be driving on the beach itself. Fortunately in Carolina Beach he is allowed to drive a John Deere Gator up & down the beach and rent out chairs and umbrellas, which has become a huge amenity to the Town, he is not asking for that by any means. These are industrial chairs and umbrellas and have to be carried out to the beach; they use an auger and a drill to set up the umbrellas.

Mrs. Gray asked if the umbrellas would be put in the sand so that at the end of the day citizens would not be able to take them out or would they stay on the beach over night. Mr. Cook stated they would be picked up every evening and then placed out again in the morning.

Mr. Rowland asked how he is going to control the trash and is he going to have bathroom facilities outside of the store. Mr. Cook stated that there is a handicap accessible bathroom inside the store that will be open to the Public. The hours of operation he has listed close the convenience store at 10:00 p.m. and potentially the bar being open until later there will be a need for a bathroom. He has spoke to David Stoudt the Building Inspector about two ADA port-a-johns beside the store and they would be in compliance with the Town and with NC ABC Commission.

Mr. Dorazio made a motion to close the Public Hearing. Mrs. Gray seconded the motion, motion passed unanimously.

Mrs. Gray made a motion to recommend that the Board of Aldermen call for a Public Hearing to be held on June 3, 2010 and approve the Conditional Use Permit. Mr. Matthews seconded the motion, motion passed unanimously.

C. C. PUBLIC HEARING: Sec. 7-128 Permitted and Conditional Uses

Mr. Matthews made a motion to open the Public Hearing. Mrs. Gray seconded the motion, motion passed unanimously.

BACKGROUND: Upon review of a recent privilege license, staff presumed that the absence of "convenience store" in the Table of Permitted and Conditional Uses was unintentional.

RECOMMENDATION: That the Planning Board conducts a Public Hearing to solicit public comment on permitted and conditional uses, discuss possible modifications to be included in Chapter 7 UDO (draft)

Mr. Rowland stated that the Planning Board would discuss this further when they get to it in the UDO.

No one from the Public came forward to speak.

Mr. Matthews made a motion to close the Public Hearing. Mrs. Tuman seconded the motion, motion passed unanimously.

D. PUBLIC HEARING: Sec. 7-132 Accessory uses (outdoor swimming pools, spas, hot tubs)

Mr. Dorazio made a motion to open the Public Hearing. Mrs. Tuman seconded the motion, motion passed unanimously.

Mrs. Tuman made a motion to recess the Public Hearing to May 13, 2010. Mr. Dorazio seconded the motion, motion passed unanimously.

E. PUBLIC HEARING: Ch. 4. LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS*

Mrs. Gray made a motion to open the Public Hearing. Mr. Dorazio seconded the motion, motion passed unanimously.

BACKGROUND: On March 4, 2010, the Board of Aldermen adopted Chapter 4 with minor modifications to allow for a limited number of vendors to operate on the beach. The issue is a limited number of operations not in compliance with current ordinances.

Staff is researching possible resolutions with other agencies regarding relocation. Additionally, this week staff will meet with other departments to coordinate an update of the privilege license application to capture required information.

RECOMMENDATION: that the Planning Board conduct a public hearing to solicit public comment, discuss possible resolutions and make recommendations to the Board of Aldermen, as appropriate.

Staff had a meeting on April 7, 2010 to review the Privilege License application and make updates to include whether the Zoning district is Permitted or Conditional Use.

No one from the Public came forward to speak.

Mr. Dorazio made a motion to close the Public Hearing. Mrs. Gray seconded the motion, motion passed unanimously.

VII. PUBLIC COMMENT: No one from the Public came forward to speak.

VIII. PLANNING BOARD AND STAFF DISCUSSION

A. NTB TOWN CODE CHAPTER 7: Unified Development Ordinance (Draft)

Staff continues to work on the draft UDO.

IX. ADJOURNMENT: Mr. Matthews made a motion to adjourn. Mr. Dorazio seconded the motion, motion passed unanimously.

The Planning Board meeting adjourned at 8:36 p.m. in the North Topsail Beach meeting room.

**Approved
this 13th day of May, 2010:**

**Certified:
this 13th day of May, 2010:**

**Gary Rowland, Chairman
Planning Board**

**Terrie Woodle, Secretary
Planning Board**

ITEM NUMBER:	V. A.
ISSUE:	Public Hearing (cont.) - Sec. 7-132. Accessory Uses (Outdoor swimming pools, spas, hot tubs)
BACKGROUND:	Fences and gates around permanent outdoor structures intended for swimming and bathing are currently required only upon new construction under the North Carolina Building Code. This ordinance is consistent with the NC Building Code and requires all permanent outdoor structures intended for swimming and bathing, including hot tubs and spas, to be surrounded by a fence 4 feet in height for the protection of the health, safety, and welfare of the citizens of North Topsail Beach. The ordinance is not applicable to temporary or inflatable pools 24 inches or less in depth. The effective date of the proposed ordinance is one-year from the date of adoption in order to allow property owners sufficient time to bring permanent outdoor pools into compliance.
RECOMMENDATION	that the Planning Board conduct a public hearing to solicit public comment on a proposed amendment to Sec. 7-132. Accessory Uses.
ATTACHMENTS	<ol style="list-style-type: none">1) Resolution Adopting an Ordinance for the Regulation of Permanent Swimming Pools, Spas and Hot Tubs with a Depth in Excess of 24 inches.2) DRAFT Amendment to Sec. 7-132.

ATTACHMENT 1**Resolution Adopting an Ordinance for the Regulation of Permanent Swimming Pools, Spas and Hot Tubs with a Depth in Excess of 24 inches.**

WHEREAS, it is in the best interest of the health, safety and welfare of the citizens of North Topsail Beach that permanent outdoor structures intended for swimming or recreational bathing with a depth in excess of 24 inches be subject to uniform fence and gate design regulations; and

WHEREAS, the North Carolina Building Code currently regulates the construction of new outdoor swimming pools, spas and hot tubs; and

WHEREAS, the proposed ordinance is consistent with the North Carolina Building Code regarding the fencing of outdoor pools, spas and hot tubs; and

WHEREAS, it is reasonable to provide owners of outdoor swimming pools, spays and hot tubs twelve months to come into compliance with the provisions of the ordinance.

NOW, THEREFORE, the North Topsail Beach Board of Aldermen hereby resolves:

1. That Chapter 7 of the North Topsail Beach Town Code is hereby amended to include new Sec. 7-132 Accessory Uses (attached).
2. That the effective date of the ordinance shall be one year from the date of adoption of this Resolution.

Adopted
this 1st day of July, 2010:

Attest:

Daniel Tuman, Mayor

Carin Z. Faulkner, Clerk to the Board

ATTACHMENT 2

Chapter 7 Planning & Zoning

Sec 7-132 (b). OUTDOOR SWIMMING POOLS, SPAS, AND HOT TUBS

1. Definitions.

For the purposes of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Swimming Pool: Any permanent outdoor structure intended for swimming or recreational bathing that contains water over 24 inches deep including in-ground, above-ground, and on-ground swimming pools, hot tubs, and spas, but not including temporary or inflatable pools having a depth of 24 inches or less. A structure is considered "outdoor" if it is not totally contained within a roofed structure and surrounded on all four sides by the walls of the enclosing structure.

2. Setbacks.

All swimming pools shall meet the following requirements in addition to setbacks and other requirements specified elsewhere:

- a) That the setback for an aboveground swimming pool from any lot line equals the required setback for accessory structures in the district in which it is located plus one (1) foot for each foot over five (5) of pool height.

b) That all mechanical equipment be located a minimum of five (5) feet from any property line.

c) Swimming pools are not allowed within the CAMA setback of the Ocean Area of Environmental Concern. (Ord. of 9-24-08)

3. Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow a swimming pool to be a nuisance as defined herein.

4. Fence required; Gates

All swimming pools shall be completely surrounded by a fence not less than four (4) feet in height. If a fence is erected, the width between any opening or pickets shall not exceed four (4) inches. Openings in any such fence, gate, or wall may not exceed four (4) inches. The wall(s) of a principal or accessory building may be used to meet this enclosure requirement. All gates or doors opening through such fence, wall, house, or building shall have self-closing and self-

latching devices for keeping the gate or door closed at all times when not in actual use. Fence gates shall open outward away from the swimming pool.

5. Modifications and exceptions.

The Administrator may make modifications in writing with respect to the height, nature or location of the fence, wall, gates or latches, in individual cases, upon a showing of good cause provided the protection as sought hereunder is not reduced thereby. The Administrator may permit in writing other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described herein.

6. Pools -- Drained or covered.

Any swimming pool that is not in use for more than thirty (30) days shall either be drained or covered.

7. Spas and Hot Tubs; Covers

Spas or hot tubs with a locked safety cover shall be exempt from paragraph 3. Covers must be closed and locked when the spa or hot tub is not in use.

8. Enforcement

(a) Notice to abate.

Whenever a violation of this Chapter exists, the violation shall be considered a public nuisance and the Administrator shall give written notice to the owner, occupant, tenant, manager, or property management company of the property upon which such nuisance exists and/or upon the owner, occupant, tenant, manager, or property management company causing, maintaining, or allowing the nuisance to exist. If, upon reasonable diligence, the owner, occupant, tenant, manager, or property management company responsible for the nuisance cannot be determined or located, then the Administrator shall post the notice on the property.

(b) Contents of notice. The notice to abate shall contain:

(1) An order to abate the nuisance within a stated time, not to exceed ten (10) days from the date of mailing or the date of posting.

(2) An order allowing the violator to request a hearing within a stated time, not to exceed ten (10) days from the date of receipt of the mailing or, if the owner, occupant, tenant, manager, or property management company responsible for the nuisance cannot be determined or located, then no later than ten (10) days from the date of posting.

(3) The location of the nuisance, if the same is stationary.

(4) A description of what constitutes the nuisance.

(5) A statement of acts necessary to abate the nuisance.

(6) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the Town will abate such nuisance, assess the cost thereof against such person, and pursue appropriate criminal or civil penalties.

(c) Service of notice.

The notice to abate a nuisance shall be served by certified mail or personally delivered to the violator. If, upon reasonable diligence, the owner, occupant, tenant, manager, or property management company responsible for the nuisance cannot be determined or located, then the Administrator shall post the notice on the property in a location visible from the nearest street.

(d) Persons liable.

The owner, tenant, occupant, manager, or land management company of any building or land or part thereof who participates or acts in concert, assists, directs, creates, or maintains a nuisance (the "violator") may be held responsible for the violation and subject to the fines, penalties, or remedies herein provided.

(e) Hearing and Appeal

At any time before the expiration of the abatement period specified, the respondent may request a hearing before the Administrator or his/her designee to appeal the finding that a public nuisance exists. The request for a hearing must be in writing and must be filed in the office of the Administrator. The Administrator shall fix a time for the hearing which shall be no greater than seven (7) days beyond the expiration of the abatement period, and the initial abatement order shall be temporarily suspended pending such hearing. Failure to request a hearing shall waive the right to do so after the abatement period has elapsed. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. No later than five (5) days following completion of the hearing, the Administrator or his/her designee shall render a decision either revoking the initial order, issuing a final order which differs from the initial order, or affirming the initial order.

(f) Abatement by the Town

Upon the failure of the violator to abate the nuisance following a hearing, or upon the failure of the violator to request a hearing, the Administrator may enter the property, take action to abate the nuisance, and prepare a statement of costs incurred in the abatement thereof.

(g) Payment of costs.

Upon completion of the abatement of any nuisance under the provisions of this chapter, the Administrator shall deliver to the finance officer a statement including the costs of labor, hauling and other necessary items of expense for such abatement. The finance officer shall thereupon mail a bill to the violator for the costs. When the violator is the property owner, the amount of the bill may be collected in a civil action or may become a lien upon said property and if not paid within thirty (30) days shall be collected in the same manner as provided for the collection of delinquent taxes. If the violator is not the property owner, the amount shall be recovered by the city in a civil action in the nature of debt.

(h) Civil remedies.

A violator who fails to abate a nuisance in the time specified shall be subject to a fine of two hundred dollars (\$200.00). No fine shall be assessed until the person alleged to be in violation has been notified of the violation by certified mail, return receipt requested, or by personal service. For each day the violation is not corrected, the violator shall be liable for a new and separate offense and subject to additional civil fines. If the violator fails to pay a fine within ten (10) days after being cited for violation, the fine may be recovered by the Town in a civil action.

In addition to or in lieu of any fine, the Town may seek a mandatory injunction or order of abatement to enforce the provisions of this chapter.

(i) Criminal Remedies.

Any person violating the provisions of this Chapter shall be guilty of a misdemeanor and shall be subject to a fine of \$200.00, or imprisonment of not more than 30 days as specified by NCGS 14.4. Each day of violation of this Article shall be a separate and cumulative violation.

9. Effective Date.

The effective date of this ordinance shall be one year from the date of adoption.

ITEM NUMBER:	VI. A.
ISSUE:	Minor Subdivision: Review of Bradford-Huff Sketch Plan
BACKGROUND:	<p>Staff requests that the Planning Board review the Bradford-Huff sketch plan for general compliance with the zoning ordinance. The subdivision of the 3.27-acre parcel (Tax Parcel Id 774-29.2) will result in 4 parcels as indicated on the sketch plan. The proposed lots front on existing NCSR 1568-New River Inlet Road with existing Onwasa water and Pluris sewer service lines; therefore, no new public or private streets or roads, or right-of-way dedication, easements or utility extensions are required.</p> <p>Last month, the Planning Board reviewed the Bradford-Huff rezoning application and recommended that the Board of Aldermen approves the request by owners to rezone approximately 2.14 acres of Tax Parcel # 774-29.2 from R-20 to R-10, with all Conservation District (Con-D) zoning boundaries remaining unaffected. The proposed four (4) lots meet the minimum lot width and size requirements for R-10 zoning. Staff anticipates that the Board of Aldermen will hold a public hearing on the rezoning on June 3, 2010. Final plat approval is contingent upon the Board of Aldermen's approval of rezoning to R-10 to meet minimum zoning requirements.</p> <p>This sketch plan meets Pluris, Onwasa, NCDOT and NTB Emergency Services requirements and is recommended for approval.</p>
RECOMMENDATION	That the Planning Board approve the sketch plan for the minor subdivision by Thomas L. Bradford and D. R. Huff III. Upon approval of the sketch plan by the Planning Board, the subdivider may proceed with the preparation of the final plat in accordance with the requirements of Sec. 7-254.
ATTACHMENTS	<ol style="list-style-type: none">1) Minor Subdivision Application (p. 21)2) Thomas L. Bradford and D. R. Huff III Sketch Plan (p. 22)

NORTH TOPSAIL BEACH
SUBDIVISION APPLICATION

Date Submitted: MARCH 15, 2010
 Name of Subdivision: H&H Homes
 Location: 1156 New River Inlet Rd

RECEIVED MAR 15 2010

indicate type	SUBDIVISION REVIEW	fee
	Major Subdivision/Planned Unit Developments	
	Sketch, Preliminary and Final	\$200 Plus \$20 per lot
	Minor Subdivision	
	Sketch, Preliminary and Final	\$100 Plus 20 per lot
	Exemptions (Review Required)	
	Family Member Transfer Subdivision	\$50.00
	Divided Parcel	\$50.00
	Reconvention	\$50.00
	Mobile Home Park Plan	
	Sketch, Preliminary and Final	\$100.00
	Travel Trailer Park	
	Sketch, Preliminary and Final	\$100.00
Site Data		
Tax Parcel ID (s)	<u>774-29,2</u>	
Total acreage	<u>3.27 Ac Total</u>	<u>1.33 Ac DEVELOPED</u>
Number of lots	<u>4</u>	
Smallest lot	<u>0.25 Ac</u>	
Average lot size	<u>0.33 Ac</u>	
Zoning District	<u>R-10</u>	
Water Supply	<u>NORTH TOPSAIL UTILITIES - PUBLIC</u>	
Sewer type	<u>NORTH TOPSAIL UTILITIES - PUBLIC</u>	
Streets, public or private	<u>PUBLIC - EXISTING (NEW RIVER INLET RD)</u>	
Surveyor/Engineer	<u>SOUTHWIND SURVEYING & ENGINEERING, INC.</u>	
Address	<u>329 HAMPSHIRE VILLAGE, HAMPSHIRE, NC 28443</u>	
Telephone	<u>910-270-8617</u>	Fax <u>910-270-8619</u>
Email Address	<u>LUMPHREY@SOUTHWIND.COM</u>	
Property Owner	<u>THOMAS L. BRADFORD & D.R. HUFF, III</u>	
Address	<u>1540 BUEDE DE SUITE 300, FAYETTEVILLE, NC 28303</u>	
Telephone	<u>910-486-4864</u>	Fax <u>910-485-0463</u>
Email Address		
Developer	<u>H&H Homes</u>	
Address	<u>2910 BREEZEWOOD AVE, FAYETTEVILLE, NC 28303</u>	
Telephone	<u>910-486-4864</u>	Fax <u>910-485-0463</u>
Email Address		

ITEM NUMBER:	VIII. A.
ISSUE:	Schedule of Review: Unified Development Ordinance
BACKGROUND:	<p>Staff has organized the sections of Chapter 7 Planning and Zoning; Chapter 8 Flood Damage Prevention; Chapter 9 ARTICLE II Coastal Management; and Ginger Booker's Articles I through XXV into a Unified Development Ordinance consisting of thirteen (13) articles:</p> <ul style="list-style-type: none">ARTICLE 1. General ProvisionsARTICLE 2. AdministrationARTICLE 3. ZoningARTICLE 4. Use RegulationsARTICLE 5. Density, Intensity and Dimensional StandardsARTICLE 6. Development StandardsARTICLE 7. Subdivision StandardsARTICLE 8. CAMA Minor Permit ProgramARTICLE 9. Flood Damage PreventionARTICLE 10. SignsARTICLE 11. NonconformitiesARTICLE 12. EnforcementARTICLE 13. Definitions <p>Staff will continue to distribute draft UDO articles to the Planning Board for review and comment.</p>
RECOMMENDATION	<p>That the Planning Board completes the review of UDO Articles as indicated in the attached schedule and submit draft UDO to the Board of Alderman on or before July 1, 2010.</p>
ATTACHMENTS	<p>1) Schedule for Review (p. 24)</p>

Mon	Tue	Wed	Thu	Fri	Sat	Sun
	1	2	3 ART 7 ART 8	4	5	6
7	8	9	10 ART 9 ART 10	11	12	13
14	15	16	17 ART 11 ART 12	18	19	20
21	22	23	24 ART 13	25	26	27
28	29	30				

June

2010

Mon	Tue	Wed	Thu	Fri	Sat	Sun
					1	2
3	4	5	6	7	8	9
10	11	12	13 ART 1 ART 2	14	15	16
17	18	19	20 ART 3 ART 4	21	22	23
24	25	26	27 ART 5 ART 6	28	29	30
	31					

May

2010

Mon	Tue	Wed	Thu	Fri	Sat	Sun
			1 UDO TO BOA	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

July

2010

PLANNING BOARD
UDO: SCHEDULE FOR REVIEW