



**APPROVED**

**Brunswick County Board of Commissioners**  
**ACTION AGENDA ITEM**  
**November 18, 2019**

**Action Item # VII. - 2.**

**From:**  
Kirstie Dixon, Planning Director

Planning - Brunswick County Unified Development Ordinance  
Proposed Flood Damage Prevention Text Amendments (John Shirk, Floodplain Administrator)

**Issue/Action Requested:**

Request that, after the Public Hearing, the Board of Commissioners consider amending the Brunswick County Unified Development Ordinance with the proposed text amendments related to flood damage prevention.

**Background/Purpose of Request:**

The proposed text amendments to the Flood Damage Prevention portion of the Unified Development Ordinance are housekeeping items that are required by the National Flood Insurance Program (NFIP) requirements so the Brunswick County can continue to be in compliance.

At the Planning Board Meeting, Mr. John Shirk, Floodplain Administrator, addressed the Board and provided a brief presentation. He stated that the County's participation in the NFIP allows for a 10% reduction in flood insurance for those property owners located in a flood hazard area. He briefly discussed the sections of the Flood Damage Prevention Ordinance that will be updated to reflect the proposed amendments. He further stated that 30 of the 226 flood map panels were not updated last year when the Flood Damage Prevention Ordinance was revised in August 2018 and those map panels have to be revised prior to December 2019.

During the public hearing, no one addressed the Board.

**Fiscal Impact:**

Reviewed By Director of Fiscal Operations

**Approved By County Attorney:**

Yes

**Advisory Board Recommendation:**

At their meeting on 14-Oct-19, the Planning Board voted unanimously to recommend approval of the proposed text amendments to the Brunswick County Unified Development Ordinance.

Members Present: Joy Easley, William Bittenbender, Richard Leary, Ron Medlin, and Brett Riggs.

Members Absent: Eric Dunham, Alvin Nobles, and Tom Simmons.

**County Manager's Recommendation:**

Recommend the Board of Commissioners consider amending the Brunswick County Unified Development Ordinance with the proposed text amendments related to flood damage prevention.

**ATTACHMENTS:**

Description

- Text Amendment (Second Sheet)

▣ Board of Commissioners Consistency Statement

▣ Minutes

## ORDINANCE NUMBER UDO-19-03

### AN ORDINANCE AMENDING THE BRUNSWICK COUNTY UNIFIED DEVELOPMENT ORDINANCE

The Brunswick County Board of Commissioners in regular session duly assembled does hereby ordain:

The Brunswick County Unified Development Ordinance is hereby amended as follows:

1). Amend Article 7, Flood Damage Prevention, Section 7.1, Flood Damage Prevention Ordinance, as follows:

#### **7.1 – FLOOD DAMAGE PREVENTION ORDINANCE (~~AUGUST 28, 2018~~) (DECEMBER 6, 2019)**

2). Amend Article 7, Flood Damage Prevention, Section 7.1.2. Definitions, as follows:

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus ~~two~~ (2) feet freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least ~~than~~ two (2) feet above the highest adjacent grade.

3). Amend Article 7, Flood Damage Prevention, Section 7.1.3. General Provisions, as follows:

#### **B. Basis for Establishing the Special Flood Hazard Area**

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated ~~August 28, 2018~~ December 6, 2019 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of the Flood Damage Prevention Ordinance, ~~and all revisions thereto after January 1, 2021...~~

4). Amend Article 7, Flood Damage Prevention, Section 7.1.4. Administration, and add the following:

#### **A. Designation of Floodplain Administrator**

The Director of Code Administration, hereinafter referred to as the "Floodplain Administrator", or their designee, is hereby appointed to administer and implement the provisions of this ordinance...

5). Amend Article 7, Flood Damage Prevention, Section 7.1.5.B.10, Other Development, and add the following:

- iv. Commercial storage facilities are not considered "limited storage" as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

6). Amend Article 7, Flood Damage Prevention, Section 7.1.5.G.3.(i) and (ii), Coastal High Area (Zone VE), as follows:

- i. Open wood or plastic latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact action and in accordance with the provisions of Section 7.1.5(B)(4)(iii)(a)...
- ii. Breakaway walls may be permitted provided they meet the criteria set forth in Section 7.1.5(B)(4)(i)(ii)(iii).

7). Amend Article 7, Flood Damage Prevention, Section 7.1.5(G)(14), Coastal High Hazard Area (Zone VE), and add the following:

- iii. Docks, piers and similar structures.

8). Amend Article 7, Flood Damage Prevention, Section 7.1.5(H)(2)(i) and (ii), Standards for Coastal A Zones (Zone CAZ) LiMWA (LIMIT OF MODERATE WAVE ACTION), as follows:

- i. Open wood latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact action and in accordance with the provisions of Section 7.1.5(B)(4)(iii)(e)...
- ii. Breakaway walls may be permitted provided they meet the criteria set forth in Section 7.1.5(B)(iii)(b)...

9). Amend Article 7, Flood Damage Prevention, Section 7.1.6, Legal Status Provisions, as follows:

CID	Community Name	PRE/POST FIRM Date	First Ordinance Date
370442	BALD HEAD ISLAND, VILLAGE OF	<del>4/15/1977</del> 5/15/1986	2/26/86
370545	BELVILLE, TOWN OF	<del>6/2/2006</del> 5/15/1986	3/18/03
370453	BOILING SPRING LAKES, CITY OF	3/2/1989	2/6/89
370394	BOLIVIA, TOWN OF	6/2/2006	10/11/04
370295	BRUNSWICK COUNTY*	5/15/1986	04/01/85
370395	CALABASH, TOWN OF	2/4/1988	11/30/87
370517	CAROLINA SHORES, TOWN OF	<del>1/26/1999</del> 2/4/1988	11/30/87
370391	CASWELL BEACH, TOWN OF	1/17/1986	05/06/76
375352	HOLDEN BEACH, TOWN OF	5/26/1972	11/14/76
370471	LELAND, TOWN OF	<del>10/19/1992</del> 5/15/1986	9/17/1992
375354	LONG BEACH, TOWN OF	3/26/1971	3/26/71
370593	NAVASSA, TOWN OF	<del>6/2/2006</del> 5/15/1986	5/30/06
370513	NORTHWEST, CITY OF	<del>11/12/1998</del> 5/15/1986	11/12/98
370523	OAK ISLAND, TOWN OF	<del>7/1/1999</del> 2/16/1977	07/01/99
375357	OCEAN ISLE BEACH, TOWN OF	<del>11/17/72</del> 11/18/1972	11/17/72
370388	SHALLOTTE, TOWN OF	1/3/1986	1/20/88
370028	SOUTHPORT, CITY OF	4/15/1977	5/24/74
370530	ST JAMES, TOWN OF	<del>6/27/2000</del> 5/15/1986	12/7/99
375359	SUNSET BEACH, TOWN OF	<del>11/17/1972</del> 11/18/1972	11/18/72
370648	VARNAMTOWN, TOWN OF	<del>5/30/2001</del> 5/15/1986	1/13/97
370030	YAUPON BEACH, TOWN OF	2/16/1977	2/16/1977

# CONSISTENCY STATEMENT

## FOR BRUNSWICK COUNTY BOARD OF COMMISSIONERS



**ZONING AMENDMENT DESCRIPTION:** Flood Damage Prevention Ordinance

***THE BRUNSWICK COUNTY BOARD OF COMMISSIONERS HEREBY ORDER, on the basis of all the foregoing, that the UNIFIED DEVELOPMENT ORDINANCE ZONING AMENDMENT be***

☐ **APPROVED – CONSISTENT WITH COMPREHENSIVE PLAN**

- The Board of Commissioners finds that the proposed zoning amendment *is consistent with the CAMA Land Use Plan (Comprehensive Plan)* for the following reasons: \_\_\_\_\_

**PLANNING BOARD RECOMMENDATION:** The proposed text amendments is consistent with the Comprehensive Plan (CAMA Land Use Plan) as it will not affect the Plan and theses are minor modifications required for the County to maintain the Community Rating System (CRS) status.

- The Board of Commissioners further finds that the proposed zoning amendment *is reasonable and in the public's interest* for the following reasons: \_\_\_\_\_

**PLANNING BOARD RECOMMENDATION:** The proposed text amendment will allow for the County to continue participating in the National Flood Insurance Program (NFIP) and maintain the CRS standing.

☐ **APPROVED – NOT CONSISTENT WITH COMPREHENSIVE PLAN**

- The Board of Commissioners finds that the proposed zoning amendment *is NOT consistent* with the CAMA Land Use Plan (Comprehensive Plan) for the following reasons: \_\_\_\_\_
- The Board of Commissioners further finds that the approval of the proposed zoning amendment will amend the CAMA Land Use Plan (Comprehensive Plan) and the following changes have been considered to meet the needs of the community: \_\_\_\_\_

**PLANNING BOARD RECOMMENDATION:** \_\_\_\_\_.

- The Board of Commissioners further finds that the proposed zoning amendment *is reasonable and in the public interests* for the following reasons: \_\_\_\_\_

**PLANNING BOARD RECOMMENDATION:** \_\_\_\_\_.

☐ **DENIED – INCONSISTENT WITH COMPREHENSIVE PLAN**

- The Board of Commissioners finds that the proposed zoning amendment ☐ **is** ☐ **is not** consistent with the CAMA Land Use Plan (Comprehensive Plan) and ☐ **is** ☐ **is not** in the public interests for the following reasons: \_\_\_\_\_

☐ **TABLED**

- The Board of Commissioners TABLES the proposed zoning amendment to ☐ **Next Board of Commissioners Meeting** ☐ **A Future Board of Commissioners' Meeting in** \_\_\_\_\_ **months.**

**MINUTES**  
**PLANNING BOARD**  
**BRUNSWICK COUNTY, NC**

**6:00 P.M. Monday**  
**October 14, 2019**

**Commissioners Chambers**  
**David R. Sandifer Administration Bldg.**  
**County Government Center**  
**Old U.S 17 East**

MEMBERS PRESENT

Joy Easley, Vice Chair  
William Bittenbender  
Richard Leary  
Ron Medlin  
Brett Riggs

MEMBERS ABSENT

Eric Dunham, Chair  
Alvin Nobles  
Tom Simmons

STAFF PRESENT

Kirstie Dixon, Director  
Marc Pages, Senior Planner  
Connie Marlowe, Admin. Asst. II  
Bryan Batton, Asst. County Attorney

OTHERS PRESENT

Jeff Malpass  
John Hankins  
John Shirk, Floodplain Admin.  
Ira Potter  
Wendy Rackley

Justine Bishop, PE  
Martha Robinson  
Colleen Potter  
James Dobiac  
Jasper Taylor

I. CALL TO ORDER.

Ms. Easley called the meeting to order at 6:02 p.m.

II. INVOCATION/PLEDGE OF ALLEGIANCE.

Ms. Easley said a prayer. She asked everyone to stand and face the U.S. Flag to say the Pledge of Allegiance.

III. OATH OF OFFICE – Brett Riggs.

Ms. Marlowe administered the Oath of Office to Mr. Brett Riggs. Ms. Easley and the other members welcomed Mr. Riggs to the Board.

IV. ROLL CALL.

Mr. Eric Dunham, Mr. Alvin Nobles and Mr. Tom Simmons were absent.

V. CONSIDERATION OF MINUTES OF THE 09-SEP-19 MEETING.

Mr. Leary made a motion to approve the 09-Sep-19 minutes as presented and the motion was unanimously carried.

VI. AGENDA AMENDMENTS.

There were none.

VII. PUBLIC COMMENT.

There were none.

VIII. PUBLIC HEARINGS.

A. Rezoning Z-785 – David Koon

Request rezoning of approximately 0.157 acres located at 3676 Sunset Harbor Road SE (SR 1112) from C-LD (Commercial Low Density) to R-6000 (High Density Residential) for Tax Parcel 234AB020.

Mr. Pages addressed the Board. He read the Staff Report (attached). Mr. Pages identified the subject property and surrounding properties on a visual map.

Mr. Pages said staff recommends approval from C-LD (Commercial Low Density) to R-6000 (High Density Residential) for Tax Parcel 234AB020.

Mr. Bittenbender made a motion to open the Public Hearing and the motion was unanimously carried.

With no further comments, Mr. Leary made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Leary made a motion to recommend to the Board of Commissioners to approve Tax Parcel 234AB020 to R-6000 (High Density Residential) and the motion was unanimously carried.



THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for REZONING be recommended to the Board of Commissioners for

☒ **APPROVAL – The proposed zoning amendment is APPROVED**

- The Planning Board finds that the proposed zoning amendment is consistent with the CAMA Land Use Plan (Comprehensive Plan) for the following reasons:

The property is currently classified as Mixed Use.

- The Planning Board further finds that proposed zoning amendment is reasonable and in the public interest for the following reasons:

There is infrastructure (public water) in the area and there was no opposition to the zoning change.

B. Planned Development – PD-25

Name: Sunset Estates  
Applicant: Jeff Malpass  
Tax Parcel: A portion of 09700029  
Location: Bell Swamp Road NE (SR 1406 and Bell Swamp Connection (SR 1407)  
Description: Sunset Estates is a proposed Planned Development consisting of 231 single family lots on a gross site of 79.69 acres creating an overall density of 2.90 dwelling units per acre.

Mr. Pages addressed the Board. He read the Staff Report (attached). Mr. Pages noted that Haw Hill Raceway (Tax Parcel 0970000701) is located to the east of the subject property and periodically has auto race events on their property. He identified the subject property and surrounding properties on a visual map.

Mr. Pages said staff recommends approval based on the following conditions:

- That the development shall proceed in conformity with all plans and design features submitted as part of the planned development application and kept on file by the Brunswick County Planning Department;
- That the development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance; and
- Indicate a 5 foot front setback for the typical townhouse lot details; and
- Add a note on the master plan that indicates the project site lies within a half mile of the Voluntary Agricultural District (VAD).

Mr. Bittenbender made a motion to open the Public Hearing and the motion was unanimously carried.

Mr. Justin Bishop, Professional Engineer, addressed the Board on behalf of the applicant. Mr. Bishop stated that the 5 foot front setback for the townhouse lot details was an oversight and it will be corrected. He reiterated that they are proposing 176 single family detached lots and 55 townhomes with private roads. He further stated that public water and sewer will be provided to

the site by extending the force main down Bell Swamp Connection NE (SR 1407 to the existing force main from US 17.

Ms. Martha Robinson, 270 Bell Swamp Road NE, addressed the Board. Ms. Robinson stated that the proposed development is in a Voluntary Agricultural District. She further stated that the plat should disclose that the development is within a VAD and she proceeded to read a list of the agricultural activities associated with a VAD. Ms. Robinson concluded that there is a swine operation in the VAD.

Mr. James Dobiac, 175 Kings Hollow NE, addressed the Board. Mr. Dobiac expressed concern with potential stormwater issues that maybe generated by the proposed development. He stated that his property currently floods approximately 4 times a year during a basic rainfall. Mr. Dobiac suggested that the property be graded and contoured to drain toward Bell Swamp. Mr. Pages interjected that the applicant has to receive stormwater approval from the County and the State. Mr. Bishop stated that they are proposing 3 stormwater ponds on the site toward the north side of the site close to Bell Swamp and the roads will drain in that direction.

Mr. Ira Potter addressed the Board. Mr. Potter said he owns Haw Hill Raceway across the road from the subject property and he farms on his property. Mr. Pages stated that it has been noted on the preliminary plan that Mr. Potter's racetrack is nearby.

Ms. Wendy Rackley, 317 Bell Swamp Road NE, addressed the Board. Ms. Rackley expressed concern with wildlife being displaced as a result of the proposed development. She stated that this is a quiet community with a mixture of residential homes (manufactured homes and stick built homes). Ms. Rackley was also concerned with a potential increase in taxes and additional traffic that will be generated from the proposed development.

Ms. Coleen Potter addressed the Board. Ms. Potter said she and husband have horses and they raise farm animals and crops on their property. She was concerned with stormwater runoff ending in Bell Swamp and their fields. Ms. Dixon interjected that the VAD program protects the homeowners that have agricultural activities on their property.

Mr. Jasper Taylor, 186 Bell Swamp Connection NE, addressed the Board. Mr. Taylor said his property currently floods when there is a heavy rain. He felt that any activity on the subject property will negatively impact his property.

Mr. Bishop readdressed the Board. He stated that this will be a high density development with curb and gutters, catch basins in the roads and stormwater runoff will be contoured to the proposed stormwater ponds. Mr. Bishop said the State requires them to treat a certain amount of runoff and the County stormwater permit requires post-development flow rate for the 1 year event and the 10 year event, 24 hour storms may not exceed the pre-development flow rate. He reiterated that there will be curb and gutter on the roads with catch basins and piping to the wet ponds to the north of the property.

With no further comments, Mr. Leary made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Bittenbender asked if the proposed plan meets the County Stormwater requirements? Mr. Pages reiterated that the applicant will have to meet the minimum stormwater requirements for both the County and State.

Mr. Leary made a motion to approve Sachi Major Subdivision Expansion with the noted conditions and the motion was unanimously carried.

C. Proposed Text Amendments to the Brunswick County Unified Development Ordinance.

Ms. Dixon addressed the Board. She provided a brief overview regarding the proposed text amendments (attached) to the Brunswick County Unified Development Ordinance (UDO) that address the recently approved Session Law 2019-99 (HB 237) to allow the Planning Board to grant final approval on rezonings. She further stated that once the Planning Board makes a decision, any person with standing may appeal the Planning Board's decision by written notice to the County Manager within 15 days of the decision; otherwise, the Planning Board's decision will be final. Ms. Dixon stated that the Board of Commissioners requested the NC General Assembly extend this authorization and their request was approved through Session Law 2019-99 (House Bill 237). Ms. Dixon discussed each section of the UDO that will be updated to reflect the proposed amendments.

Ms. Dixon said staff recommends approval of the proposed text amendments to the UDO to allow the Planning Board to grant final approval on rezonings with a provision that any person with standing may appeal the Planning Board's decision by written notice to the County Manager within 15 days of the decision and the decision is final if no appeal is presented in the 15 day timeframe.

Mr. Leary made a motion to open the Public Hearing and the motion was unanimously carried.

With no further comments, Mr. Bittenbender made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Bittenbender made a motion to recommend to the Board of Commissioners to approve the proposed text amendments to the Brunswick County Unified Development Ordinance and the motion was unanimously carried.

☒ **APPROVAL – The proposed zoning amendment is APPROVED**

- The Planning Board finds that the proposed zoning amendment is consistent with the CAMA Land Use Plan (Comprehensive Plan) for the following reasons:

The proposed text amendment is consistent with the CAMA Land Use Plan (Comprehensive Plan) as it will not affect the plan and it is a procedural change that will comply with Session Law 2019-99 (House Bill 237).

- The Planning Board further finds that proposed zoning amendment is reasonable and in the public interest for the following reasons:

Based on Session Law 2019-99 (House Bill 237), this procedure will streamline the process and reduce approval time for rezonings.

D. Proposed Text Amendments to the Brunswick County Unified Development Ordinance (Flood Damage Prevention).

Mr. John Shirk, Floodplain Administrator, addressed the Board regarding amendments (attached) to the Flood Damage Prevention Ordinance. He stated that the County participates in the National Flood Insurance Program (NFIP) and the County is a Community Rating System (CRS) community. As a result, those property owners located in a flood hazard area can receive a 10% reduction in flood insurance. Mr. Shirk said 30 of the 226 flood map panels were not updated last year when the Flood Damage Prevention Ordinance was revised in August 2018 so those map panels have to be revised prior to December 2019. Mr. Shirk stated that the proposed changes are housekeeping items that have to be updated so the County can continue to be in compliance with NFIP requirements. He further stated that 1 of the new changes is an automatic adoption clause which is located in Section 7.1.3.(B), General Provisions, Basis for Establishing the Special Flood Hazard Area, that does not require further Board approval after January 1, 2021 for map adoption and flood insurance study adoption. He concluded that there are date changes regarding the Pre/Post FIRM on the table in Section 7.1.6., Legal Status Provisions.

Mr. Bittenbender made a motion to open the Public Hearing and the motion was unanimously carried.

With no further comments, Mr. Bittenbender made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Bittenbender made a motion to recommend to the Board of Commissioners to approve the proposed text amendments to the Brunswick County Unified Development Ordinance and the motion was unanimously carried.

☒ **APPROVAL – The proposed zoning amendment is APPROVED**

- The Planning Board finds that the proposed zoning amendment is consistent with the CAMA Land Use Plan (Comprehensive Plan) for the following reasons:

The proposed text amendment is consistent with the CAMA Land Use Plan (Comprehensive Plan) as it will not affect the Plan and these are minor modifications required for the County to maintain the Community Rating System (CRS) status.

- The Planning Board further finds that proposed zoning amendment is reasonable and in the public interest for the following reasons:

The proposed text amendment will allow for the County to continue participating in the National Flood Insurance Program (NFIP) and maintain the CRS standing.

IX. OTHER BUSINESS.

- Planning Board Cases Update

Ms. Dixon addressed the Board. She stated that there are several rezonings (Z-781, Z-782, Z-783, and Z-784) that will be considered at the Board of Commissioners' Monday 21-Oct-19 meeting for approval. She stated that Z-781 and Z-782 rezonings were delayed for consideration by the Board of Commissioners at their Monday 16-Sep-19 meeting due to Hurricane Dorian.

- Planning Projects Update

Ms. Dixon addressed the Board. She provided the Board with an update of the Planning Department's projects that include:

- NCDOT Transportation Forum, tentatively scheduled for Wednesday 20-Nov-19
- Holden Beach Causeway project
- Comprehensive Land Use Plan
- Hazard Mitigation Plan
- NC 211 Corridor Feasibility Plan

- Our County Data Book

Ms. Dixon addressed the Board. She provided the Board with a copy of the 2019 Fall Our County Data Book, which is also available online on the Planning Department's website.

X. ADJOURNMENT.

With no further business, Mr. Medlin made a motion to adjourn and the motion was unanimously carried.