

Town of North Topsail Beach

Joann M. McDermon, Mayor
Mike Benson, Mayor Pro Tem

Aldermen:
Richard Grant
Tom Leonard
Susan Meyer
Richard Peters



David J. Gilbride
Town Manager

Laura Oxley, JD, MPA
Town Clerk

Nature's Tranquil Beauty

Board of Aldermen Regular Meeting Minutes Thursday, August 6, 2020 6:30 P.M.

Attendees: Mayor McDermon; Mayor Pro Tem Benson; Aldermen Grant, Leonard, Meyer and Peters; Town Manager Gilbride; Planning Director Hill; Town Clerk Oxley; Town Attorney Edes

I. Call to Order

Mayor McDermon called the meeting to order.

II. Invocation

Alderman Grant led the attendees in an invocation.

III. Pledge of Allegiance

Mayor McDermon led the attendees in the Pledge.

IV. Approval of Agenda

Alderman Peters made a motion to approve the Agenda. Alderman Grant seconded.

Mayor Pro Tem Benson asked to add a new item, Congressional Delegation Discussion, under New Business.

Alderman Grant made a motion to approve as modified. Alderman Leonard seconded. The Motion passed unanimously, 5-0.

V. Manager's Report

Town Manager Gilbride presented his report. It is attached.

*All open forums are subject to a 3-minute limit

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Alderman Grant thanked the Town Manager for his decision to close the County's access across from town park by creating a small berm ahead of Hurricane Isaias. Alderman Grant believes this act may have prevented damage to the recent repairs at the park. Alderman Grant then asked if there is any harm in leaving the berm in place?

Town Manager Gilbride explained, unfortunately, the berm may impede current efforts of Onslow County to restore the access.

Mayor McDermon recommended that recreating the berm for future storms may be an option even if the berm cannot permanently stay.

Alderman Leonard asked about the Revetment Committee.

The Town Manager reported that Mr. Forman, who is the project's engineer, has not directly communicated an update to the Town. Mr. Forman has told others that he is updating his plan.

VI. Open Forum*

Staff will collect questions ahead of the Meeting and present to the Board of Aldermen.

Town Clerk read the pre-submitted comments from Mr. Kevin Finer, Mr. Lenny Denitis and Ms. Becky Bowman.

VII. Public Presentations and Hearings

A. US Army Corps of Engineers – Updates/Discussion

Mr. Mickey Sugg of the United States Army Corps of Engineers was present to answer questions related to the Environmental Impact Study. Mr. Sugg opened by explaining his role at the Corps is on the regulatory side. Projects trigger a review from the regulatory division if the activity is in certain waterways. An EIS can be triggered for different reasons, but common examples are controversial subject matter, unknown impacts, threats to endangered species or impacts to the wetlands.

Also, state legislation requires an EIS when a groin is proposed. The current EIS study is being streamlined in that the reviews are running simultaneously.

When conducting an EIS, the applicants typically hire a third party contractor to write the proposal to help move the project forward. The Corps does not have the staff manpower to draft the EIS as quickly as a third party. Even though the applicant is paying for the contractor, this

process is meant to be unbiased. To that end, a contract is executed to set boundaries among the parties.

The EIS process itself begins with scoping. This process attempts to gather all interested parties, such as nonprofit groups, realtor groups and military representatives, and give them the opportunity to voice concerns or support for the project.

Within the next few months, Mr. Sugg hopes to hold the first public scoping meeting. At this stage, the EIS is a disclosure document. It is meant to address all elements, good and bad, and explain alternative options.

Alderman Grant asked if there is a no action alternative.

Mr. Sugg responded that by law, there is a no action alternative. The Town currently holds a 50-year permit. The no action alternative in this scenario may be continue current management practices.

Once the notice of intent is created, it will go into the Federal Register. This is a notice to the public that the Army Corps of Engineers is reviewing and advertising for the first scoping meeting.

The finalized draft also goes into the Federal Register. Dial Cordy will be tasked with compiling all comments and providing a response to each. After this process, the final EIS will be complete. Then, the Town may use this document to apply for a permit.

One thing to note, President Trump signed an executive order- One Federal Decision. If more than one agency is required to participate in a decision, a stricter timeframe is enforced for making the decision; a two-year window starts when the notice of intent is released. This Order could help expedite the process, but there is some question as to whether this project falls within the scope of the directive.

Mayor McDermon stated that the question she receives the most is when will the process be completed.

Mr. Sugg stated that he cannot give an exact time frame, but he doubts that the permitting process can be completed within the next two years.

Alderman Leonard asked about similar EIS projects.

Ms. Sugg answered that the ideal fast track model was Bald Head Island. He believes this permit was completed in less than three years. Conversely, Ocean Isle is still in litigation.

Mayor Pro Tem Benson acknowledged that it is difficult to have scoping meetings during a pandemic. He asked about other options than the traditional method in order to be accommodating to those who want to participate but not create more delays in the process. Perhaps a two-part approach would help. Stakeholders could write comments ahead of time. The meeting's facilitators could collate and redistribute for everyone at a virtual meeting.

Mr. Sugg responded that at the scoping meetings, attendees are placed in small breakout groups. In these sub-sessions, people tend to be more comfortable participating and expanding on others' comments. It is an important piece of the process. He believes there could be a solution given the circumstances of the pandemic, but he wants to think through the proposals.

Mayor Pro Tem Benson asked if Mr. Fran Way could provide an explanation of the project in a virtual meeting, ask stakeholders to provide written responses to the summary, compile the comments, disseminate and hold a meeting to discuss.

Mr. Sugg said that he appreciated the suggestions. The Town is part of the process and wants input from the Board on how to proceed. Whatever is ultimately decided, the main objective is to provide an opportunity for everyone involved to participate.

Town Attorney Edes added to the discussion that the more the Town deviates from the standard operating procedure, the more the Town opens itself to problems. The ultimate solution cannot cut off anyone's opportunity to review and comment. He added that the State Government has been responsive and made adjustments for conducting business in a pandemic. He will research whether federal agencies have made similar considerations for how they conduct business.

Mayor McDermon stated the next step is a follow-up on how to hold a scoping meeting.

Mr. Sugg stated his intent to reach out to other districts who have held virtual meetings.

Alderman Grant offered a different perspective. There are those who have concerns and limitations due to COVID and need an altered process.

B. Discuss Financial Services Contract

Mr. Douglas Carter, President and Managing Director of DEC Associates and Mr. Andrew Carter attended the meeting virtually. Mr. Douglas Carter began by providing a background of their firm's prior work

with the Town. He would like to begin this partnership by looking at the former financial models, determine the Town's current financial situation and researching how the LGC agreement influences other projects. Also, the firm would look at other capital projects outside of beach projects, such as a fire station. Lastly, the firm would prepare new financial models.

Alderman Grant asked if the new models will demonstrate borrowing capabilities. He said he is looking for honest feedback on projects the Town cannot afford.

Mr. Doug Carter responded that his firm provided that advice in the past and would do the same with this contract.

Alderman Meyer asked if the firm also researches other revenue streams, such as grants.

Mr. Doug Carter explained that while he will be a financial partner, his firm will not actively search for grants. However, once grants are discovered, he can explain how they would affect the models.

Mr. Doug Carter ended by stating his firm has particular experience in this area, because they work with other coastal towns and consult on beach projects.

C. Coastal Engineer Update

Mr. Fran Way of ATM Consulting attended remotely to provide his update. It is attached.

Mr. Way indicated that he was able to hear Mr. Sugg's presentation and will follow-up with him.

Mayor Pro Tem Benson asked about the truck haul project. Will the Town be able to modify the permit to use state money to extend scope of truck haul?

Mr. Way said that is his intent.

Mayor Pro Tem then asked about the potential dredge for the upcoming season.

Mr. Way stated that he had a meeting with DCM, Army Corps and Wildlife Resource. His originally proposed borrow site was rejected for fear of rocks. He is now looking at Borrow Area A, which is farther south, and requires a separate permit. It will take at least a year.

Mayor McDermon asked if the truck haul project for the Hurricane Florence project will start where the last project ended.

Mr. Way answered in the affirmative.

Alderman Meyer asked if the dredge in the fall is still on track.

Mr. Bob Keistler, of the Army Corps of Engineers, answered that the contractor under-performed. The work was not completed within the environmental window. He will follow-up with more information, especially timeframes.

Alderman Leonard made a motion to suspend the rules to add the Federal Project to the Agenda. Mayor Pro Tem Benson seconded. The Motion passed unanimously, 5-0.

D. Federal Project

Mayor McDermon began by stating North Topsail Beach representatives met with Surf City representatives, drafted concerns with the original PPA and sent those comments to the Corps. Perhaps the biggest concern from North Topsail Beach is the growth of cost and missing final numbers.

Ms. Pam Castens acknowledged the joint comments and reported that the Corps has drafted responses; their legal counsel is in the process of reviewing. They hope to soon deliver the overall final project cost and environmental documents. The cost has been updated from \$893 to \$692 million.

Alderman Grant believes the project design is great. His concern is the numbers. North Topsail Beach is a small town with a small budget. A 50-year commitment is difficult to make, especially given the Town does not know the final cost. Many people support the project, but how does this project impact other projects, such as a fire station? There are a lot of unknowns. He noted that the reason the Board hired financial consultants is to help explore these questions.

Ms. Castens responded that the project is an opportunity. There has been and continues to be a lot of support and work for the project. She understands that the numbers are uncertain. The Corps is trying to present the best forecast that it can. The Corps is also exploring ways to streamline the process to reduce the cost. A commitment from the Town would encourage them to continue in their search for these solutions.

Alderman Grant asked if the re-nourishment commitment is a mandatory piece of the agreement.

Ms. Castens answered in the affirmative.

Alderman Grant stated that the joint and several liability clause is a concern. He added that he is not trying to be difficult. He wants to be upfront with the Corps.

Colonel Bennett asked if the Town considers the cost of no action when financial decisions are reviewed. If the Town is hit by a storm, more protection reduces costs.

Alderman Grant added that the public perception is that the project is free to the Town, which is not the case.

Mr. Keistler reminded the participants that the Town will not pay the projected costs; it will pay actual costs, which may be less.

Mayor McDermon asked about the timeline for when a decision is needed.

Mr. Keistler said the goal is an executed PPA in September.

Ms. Castens explained that in order to meet that deadline, certain information and time is needed to prepare the documents. The Corps would need the decision sooner than the September PPA goal.

Alderman Leonard noted that Surf City has not conducted many nourishment projects. It seems they have been waiting for this project. Conversely, North Topsail Beach decided to pursue other projects, because the federal project was not guaranteed. To Alderman Grant's point, the Town already has debt on the same section of beach.

Ms. Castens expressed her surprise that the project was wholly funded. She thought that if anything happened, it would be an increment of the project.

Mayor McDermon asked about next steps.

Ms. Castens answered that the Corps will return their responses to North Topsail Beach and Surf City.

E. Proposed Amendment- to allow for garage apartment/guest house

Alderman Leonard made a motion to open the public hearing. Alderman Grant seconded. The Motion passed unanimously, 5-0.

Planning Director Hill presented her staff report; it is attached.

Mayor Pro Tem Benson asked a clarifying question about the accessory being above ground level.

Planning Director Hill affirmed that it must be above ground level.

Mayor McDermon asked what the Planning Director is asking of the Board.

Planning Director Hill explained that this issue came to light with a new FEMA interpretation. She took the issue to the Planning Board, which has now made a recommendation to the Board of Aldermen to permit accessory dwelling units.

Alderman Peters asked if the relevant HOA had an opinion.

Planning Director Hill replied that she has not talked to the HOA. She believes it is important to first bring the matter to the Board of Aldermen.

Alderman Meyer asked about sewer availability.

Ms. Hill explained that the application would be treated as a separate residential structure, and as such, another sewer permit would be required. The Board could also decide to limit the accessory to single family homes.

Town Attorney Edes added that this idea is something that is relatively new. He recommended that if the Board proceeds, it can allow these accessories through special use permitting. In this way, the Board can be more mindful of the process and invite neighbors' feedback. Mr. Edes recommended the Board of Aldermen send the issue back to the Planning Board to review the conditions for a special use permit.

Planning Director Hill offered to reach out to other coastal towns to discern best practices.

Chief Soward added that as the Town's Fire Marshal, he would like to have some input.

Alderman Leonard made a motion to close the public hearing. Mayor Pro Tem Benson seconded. The Motion was unanimous, 5-0.

Town Attorney Edes offered a recommendation that the Board direct Ms. Hill to work with the Planning Board to develop special use standards and ask for feedback from the Building Inspector, Police Chief and Fire Chief. He then asked if that was the Board's consensus.

The Board agreed.

VIII. Consent Agenda

- A. Approval of Minutes ([June 24, 2020](#); [July 2, 2020](#); [July 21, 2020](#); [July 30, 2020](#))
- B. Department Head Reports
 - 1. [Finance Department](#)
 - 2. [Fire Department](#)
 - 3. [Inspections Department](#)
 - 4. [Planning Department](#)
 - 5. Police Department
- C. Committee Reports
 - 1. Planning Board & PPI Committee
 - 2. Board of Adjustment
 - 3. TISPC ([link to minutes](#))
 - 4. ONWASA ([link to minutes](#))

Alderman Peters made a motion to approve the Consent Agenda. Alderman Leonard seconded. The Motion passed unanimously, 5-0.

IX. Continuing Business

A. Emergency Operations Plan

Town Manager Gilbride presented the final version of the Emergency Operations Plan.

The Board approved the Plan.

B. Capital Improvements Update

Mayor Pro Tem Benson and Alderman Grant provided a background to the Board on the efforts they had made thus far. They asked the Town Manager to meet with department heads to gain a better understanding of capital improvement needs.

X. New Business

A. TISPC: Appoint Citizen Representative

Mayor Pro Tem Benson introduced the topic. He thanked all candidates who volunteered. He nominated Connie Pletl. Alderman Leonard seconded. The Motion passed unanimously, 5-0.

1. Congressional Delegation Discussion

Mayor Pro Tem Benson introduced the topic. He explained that representatives will be visiting in August. Topsail Island Shoreline Protection Commission's Chairman Smith asked that each town appoint its delegates.

Mayor McDermon suggested that the people who represented the Town on the DC virtual meeting should also serve as representatives for the August visit.

Alderman Leonard stated that he was happy to help. During the July conference call, Congressman Murphy stated his opinion that the Town needs a jetty- an opinion he developed during a flyover of the Island.

Alderman Leonard formally recommended Mayor McDermon, Mayor Pro Tem Benson and himself to represent the Town at the August Congressional Delegation visit. The Board agreed by consensus.

B. Planning Board and Board of Adjustment Appointments

Planning Director Hill recommendations:

- Lisa Brown (Planning Board)
- Alfred Fontana (Planning Board)
- Lisa Lee Kozlowski (Board of Adjustment)
- Joseph Peterson (Board of Adjustment)

Alderman Leonard made a motion to nominate Ms. Brown and Mr. Fontana to the Planning Board. Mayor Pro Tem Benson seconded. The Motion passed unanimously, 5-0.

Alderman Leonard made a motion to nominate Ms. Kozlowski and Mr. Peterson to the Board of Adjustment. Mayor Pro Tem Benson seconded. The Motion passed 4-1 with Alderman Peters objecting.

XI. Attorney's Report

Town Attorney Edes did not have a report.

XII. Mayor's Report

Mayor McDermon recently attended an ONWASA meeting. ONWASA is considering one capital project that is of particular interest- a booster pump for North Topsail Beach.

XIII. Aldermen's Report

Alderman Peters commended his fellow board members, Mayor McDermon and staff for their work.

Alderman Meyer wanted to thank everyone for watching online. She knows it is tough to stay engaged. She wanted the public to know that there is some work going into a town festival, but with concerns surrounding COVID, the event will probably be pushed to the spring. In the meantime, those who are working on the event will look for a venue. The current plan is to use town park, which can have booths, vendors and music.

Alderman Grant wants citizens to understand that the proposed Federal Project is not a free project. It is the largest financial commitment the Town will have. Most people support the design and the idea of the project. However, it may not be financially feasible. It is two separate considerations.

Mayor Pro Tem Benson thanked town staff for their work during the recent hurricane. He was thankful to see that the Town did not lose a lot of sand.

Alderman Leonard echoed the sentiments about the staff's efforts during the storm and was thankful that the storm impacts were minimal. He spoke about the virtual Capitol Hill meeting, in which Town representatives were able to discuss efforts to remove property from CBRS maps. Alderman Leonard felt that the representatives were receptive, and he believes the Town is closer than ever to removing property from the CBRA designation. He is looking forward to the Congressional visit in August.

Alderman Leonard made a motion to go into closed session for the reasons stated. Alderman Meyer seconded. The Motion passed unanimously, 5-0.

XIV. Closed Session to preserve attorney-client privilege and to discuss a personnel matter

Alderman Leonard made a motion to return to open session. Mayor Pro Tem Benson seconded. The Motion passed unanimously, 5-0.

Mayor McDermon announced that no action was taken in closed session.

XV. Adjournment

Alderman Meyer made a motion to adjourn. Alderman Leonard seconded. The Motion passed unanimously, 5-0.

Joann McDermion
Mayor

ATTEST:

Laura Oxley
Town Clerk

Approved: 09/ /2020



Manager's Report – August 6, 2020 Board Meeting

Capital Improvement/Fire Station

In order to evaluate various capital projects, including the Fire Station, we have approached DEC Associates, a municipal finance consulting firm, to evaluate the town's financial position and ability to finance projects. DEC has worked with the town before, specifically on inlet dredge projects and the Phase 5 renourishment USDA loan. The principal, Doug Carter, has asked to address the Board of Aldermen at the 8/6/20 meeting to define the scope of work and address board expectations.

Revetment

Arendell Engineers completed survey work on the revetment and a meeting of the committee was convened to review his design. Immediately prior to the meeting the engineer, Mr. Forman, provided the outline of a new approach to the revetment, rendering his earlier operation plan obsolete. No committee decisions could be made, and Mr. Forman is preparing a new operational plan which will be presented to the committee when received.

Town Park Repairs

Park repairs have been completed, and the park was opened to the public on Friday, July 24th. No ceremony was held for the opening since social distancing would have been difficult to maintain at a traditional ribbon cutting.

USACOE Federal Project

The long awaited Project Partnership Agreement (PPA) was received by both North Topsail Beach and Surf City, and a number of questions arose which were compiled at a joint meeting of the towns, and will be forwarded to the USACOE following attorney review.

While the Corps has a "deadline" of August 4th for signature of the agreement by both parties, the number of unresolved issues make complying with that deadline unlikely. It remains difficult to get a handle on just what this project will cost, and what is required of the towns.

Town Hall

Preparation of complete plans continues, and drawings were reviewed by staff and engineers at the site on the 24th. The architect/engineers are finishing up the design, and we will be providing them locations for electric outlets and data ports. The project is estimated to be ready to go out for bid in Mid-August. The Town Clerk and Finance Officer continue to work with FEMA, the Golden Leaf foundation, and the Insurance carrier to determine what, if any, additional reimbursement can be obtained.

Florence Project

The Florence project is out for bid, but due to hurricane Isiah the bid opening deadline was extended an additional week. Bid opening is scheduled for August 6th.

Parking

Surveys of the two Jeffries parking lots were provided to CAMA for review, along with a description of our intentions to expand these lots. Town streets have been viewed via Google Earth (GIS Maps did not have sufficient clarity) and a surprisingly small number of suitable parking spots on side streets appears available. It is likely that the recommendation will be to prohibit any side street parking in town, and move to paid parking only in the lots and a few select locations. We believe expansion of the lots can be done in-house at minimal cost.

Annexation

I have made no progress with this but will continue to effort it.

TISPC

The annual visit to Capitol Hill was held virtually this year, with Alderman Leonard taking the lead in explaining the history of our CBRA problem and proposing solutions for our legislators in Washington. We were encouraged by the position taken by Congressman Murphy on the need for jettys and groins, and hope to work with him to change North Carolina's reluctance to use these structures.

Solid Waste

While our solid waste fees to residents have gone up, the quality of service from our contractor has been decreasing. We've had a dramatic uptick in complaints, especially regarding recycling, with entire streets being overlooked, debris falling from the cans and trucks, late pickups, etc ... We are communicating with their management in an effort to improve their level of service.

Condemnations

We continue to pursue the two initial properties. One, which involves a bank foreclosure, is in negotiation for sale and improvement. The second – we have been unsuccessful in serving notice on the property owner. We will continue to work on that.

Federal Flood Maps

Disputes continue over the flood map panel for the extreme south end of town, a panel which includes both NTB and Surf City. The “appeal” period, a time when the public could appeal their flood designation, is long past. That has not been an issue. The decision to include this particular panel with Pender County/Surf City was unknown to us at the time of the appeal process, and was a decision made at the state level. We were unaware of this decision until June, when the approved map panels were accepted. Nevertheless, homeowners are threatening litigation, and the matter has been turned over to Mr. Edes.

Legal

I have requested the Town Attorney provide a monthly invoice for the services he provides on our behalf.

Hurricane Isaiih

As I write this the hurricane is about three days away. Preparations are underway by all town departments, and I will no doubt be providing a separate report prior to or at the Board of Aldermen meeting. All have been provided with copies of our Emergency Operations Plan, and we are keeping our fingers crossed that this turns out to be largely a non-event.

Laura Oxley

From: Way, Francis <FWay@appliedtm.com>
Sent: Monday, August 3, 2020 12:07 PM
To: Laura Oxley
Subject: RE: North Topsail Beach - Board Monthly Meeting

Laura,
I am available by phone for Thursday's meeting.

Some summary notes from ongoing NTB projects

1. The DCM permit modification has been submitted for next winter's truck haul continues to be processed by the Department of Coastal Management (DCM). There has been some back and forth between DCM and ATM about the project.
2. Florence Truck Haul bid package is out and the bid deadline has been extended from August 4 to August 11 because of Isaías. Town and ATM staff held the pre-bid meeting on July 22 and there was a good turnout. Several bids are anticipated based on contractor questions.
3. ATM is continuing to coordinate with USACE staff regarding use of offshore borrow area "A" which was permitted for the Topsail Beach Corps project (Topsail Beach did not choose to go forward with this option and went for their own using navigable channel beach compatible sand). This borrow area "A" sand would be used for the Florence Category G project.

Hopefully Mickey will still be able to make this Thursday's meeting so he can provide more of an update on the NRI shoreline stabilization project (AKA terminal groin – but this is only an alternative at this time). Good luck to you to on Isaías as well.

Thanks
Fran

From: Laura Oxley <LOxley@ntbnc.org>
Sent: Sunday, August 2, 2020 2:38 PM
To: Way, Francis <FWay@appliedtm.com>
Subject: North Topsail Beach - Board Monthly Meeting

Caution: This email originated from outside the organization. Always use caution when opening attachments or clicking links when receiving unexpected emails.

Hello Fran,

I hope you are well. The Board's monthly meeting is later this week. They had suggested a written report going forward along with your participation at the meeting. Whenever you can provide a report, I'm happy to distribute.

Are you available this Thursday evening?

Thanks and good luck with Isaías!

Laura Oxley, JD, MPA
Town Clerk & HR Manager

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Town of North Topsail Beach
Board of Aldermen

Agenda
Item: **Public Hearing**
Date: **August 6 2020**

Issue: Proposed Amendments to the Unified Development Ordinance: § 4.02 Permitted And Special Uses Use Table (Table 4-1), § 4.03 Use Standards: Accessory Dwelling Unit (Garage apartment/guest house).

Department: Planning

Prepared by: Deborah J. Hill MPA AICP CFM CZO

Presentation: Yes

BACKGROUND

- On May 23, 2011, the application for “residential construction” on Lot 6 Ashe Island (Bostic) was denied (attached). The owner submitted a Change of Use May 27, 2011. To the best of my recollection, the owner, Bostic, met with the Town Manager and myself, resulting in the Zoning permit dated 6/9/11 (attached).
- The Unified Development Ordinance was adopted and became effective November 2, 2011.
- A zoning permit for 9 Hunter Heath was approved for a garage (use requested was for a garage addition, but in fact the garage is detached). Mr. Michael Affify was notified via email 2/5/2016 (attached) that the garage could not be used for human habitation.
- In June, Michael Afify of A'N'A Builders submitted a building application for a 2,968 gross sq ft “garage and office **attached** to existing home” and a zoning and flood application for an “addition of garage and office w/kitchenette”.

Attached vs. Addition

- The UDO defines **ADDITION (TO AN EXISTING BUILDING)**. An extension or increase in the floor area or height of a building or structure.
- The Residential Building Code defines addition as: “[RB] ADDITION. An extension or increase in floor area or height of a building or structure. For energy purposes, an extension or increase in the conditioned space floor area or height of a building or structure.”

The proposed garage apartment or *accessory dwelling unit* is prohibited by § 4.02 (Table 4-1). Permitted and special uses for each of the zoning districts and cross-references to use-specific standards applicable to some uses are identified in Table 4-1. Uses which are prohibited within a district are indicated by a blank space or are not listed. Italicized terms are defined in Article 11.

<i>Table 4-1 Use Table</i>											
<i>Use</i>	<i>MHR</i>	<i>R5</i>	<i>R8</i>	<i>R10</i>	<i>R15</i>	<i>R20</i>	<i>RA</i>	<i>COND</i>	<i>B1</i>	<i>B2</i>	<i>Use Specific Standard</i>
Garage, attached or detached	P	P	P	P	P	P	P				
Garage apartment/guest house											

It is my determination that two buildings attached by a roof and without a common wall are not an addition. UDO §11.02 defines GARAGE APARTMENT as: A structure above a private garage in which provision is made for one dwelling unit. See also ACCESSORY DWELLING UNIT.

The UDO defines ACCESSORY DWELLING UNIT as: A residential dwelling unit, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Secondary dwelling units shall be developed in accordance with the standards set forth in this ordinance and only in those zoning districts where the use is listed as a special use.

UDO § 7.05 (B) (8) *Accessory structures* states,

- (a) **Accessory structures shall not be used for human habitation** (including working, sleeping, living, cooking or restroom areas);
- (b) Accessory structures shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;
- (e) Accessory structures shall be firmly anchored in accordance with the provisions of § 7.05(A)(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of § 7.05(A)(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of § 7.05(B)(4)(d).
- (h) An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of § 7.05(B)(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 7.04(B)(3).

I reached out NC Department of Public Safety, the State Coordinator for NFIP with regards to the Flood Regulations § 7.05 (B) (8), and they contacted FEMA Region IV. Per our FEMA Region IV contact the building as designed and attached should not be considered as an accessory structure for NFIP purposes. An excerpt from the email is as follows:

“Based on the building designs, this shouldn’t be reviewed as an accessory structure as defined in the attached policy. Attached is a copy of FEMA Ag and Accessory structures policy. On page 3 I’ve highlighted sections of reference.

2.c. The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally **not considered to be accessory structures by the NFIP**:

i. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence;

Please also take a look at the attached policy for accessory structures and agricultural buildings (page 3). However, we do think that in this case your zoning ordinance is the driving force for denial.

Based upon the interpretation of the Coastal Flood Model Ordinance by FEMA Region IV, the Planning Director requested the Planning Board to consider a recommendation to amend the UDO to allow for ACCESSORY DWELLING UNIT (garage apartment/guesthouse).

PLAN CONSISTENCY STATEMENT REQUIREMENT North Carolina planning statutes require that planning boards and the governing board review and consider any adopted plan when a zoning amendment is proposed. the statement still must describe plan consistency and explain why the proposed action is reasonable and in the public interest. the statement must take one of three forms:

1. A statement approving the proposed zoning amendment and describing its consistency with the plan;
2. A statement rejecting the proposed zoning amendment and describing its inconsistency with the plan; or
3. A statement approving the proposed amendment and declaring that this also amends the plan, along with an explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment.

The statement is also to include an explanation of why the governing board deems the action reasonable and in the public interest. The statement does not need to be a long, complicated, legalistic document. The statement does not have to be supported by evidence in the record, as would be the case for a quasi-judicial decision. But it must be real, it must be approved by the board, and it must have a brief description of why the action is or is not consistent with the plan.

RECOMMENDATION At their regular meeting on July 9, 2020, the Planning Board unanimously recommends that § 4.02 Permitted And Special Uses Use Table (Table 4-1) be amended to permit Garage apartment/guest house In MHR, R5, R8, R10, R15, R20, RA Zoning districts and that § 4.03 USE SPECIFIC STANDARDS i. ACCESSORY DWELLING UNIT (garage apartment/guesthouse) shall meet all requirements of principal residential single family structure.

ATTACHMENT

1. Draft Ordinance

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
OF THE TOWN OF NORTH TOPSAIL BEACH, NORTH CAROLINA BY
UPDATING TABLE 4.1 AND 4.03 TO ALLOW FOR ACCESSORY DWELLING UNITS TO
INCLUDE GARAGE APARTMENTS AND GUESTHOUSES**

Ordinance 20-__

WHEREAS, N.C. General Statutes Chapter 160-D created new standards for Local Planning and Development Regulation that apply throughout North Carolina; and

WHEREAS, the Planning Board has reviewed the proposed standards and recommended approval of this ordinance; and

WHEREAS, the Board of Aldermen has found this ordinance to be consistent with the Town's adopted CAMA Land Use Plan; and

WHEREAS, the Board of Aldermen has determined that is in public interest to update standards for accessory dwelling units to include garage apartments and guesthouses in the Unified Development Ordinance consistent with Title 44 Code of Federal Regulations § 60.3 and in compliance with the N.C. General Statutes.

NOW THEREFORE BE IT ORDAINED by the Board of Aldermen for the Town of North Topsail Beach, North Carolina that the Unified Development Ordinance shall be amended as follows:

PART I. That Subsection of the Unified Development Ordinance be amended with the addition of the following:

<i>Table 4-1 Use Table</i>											
<i>Use</i>	<i>MHR</i>	<i>R5</i>	<i>R8</i>	<i>R10</i>	<i>R15</i>	<i>R20</i>	<i>RA</i>	<i>COND</i>	<i>B1</i>	<i>B2</i>	<i>Use Specific Standard</i>
Garage, attached or detached	P	P	P	P	P	P	P				
Garage apartment/guest house											

And

4.03 USE SPECIFIC STANDARDS i. ACCESSORY DWELLING UNIT (garage apartment/guesthouse) shall meet all requirements of principal residential single family structure.

PART II. This ordinance shall be effective upon its adoption.