



FOCUS Technical Committee Meeting Documents

January 14, 2019

Meeting Agenda

Presentation / Handout

Draft Meeting Notes



FOCUS Technical Committee Meeting January 14, ~ 2:00 pm

Meeting Agenda

- | | |
|--------------------------|--|
| 2:00 pm- 2:10 pm | Welcome <ul style="list-style-type: none"> • Current Project Status • Next Steps |
| 2:10 pm – 3:45 pm | Discussion of Technical Committee Comments on Final Draft of UDO |
| 3:45 pm – 4:00 pm | Recap & Next Steps |
| 4:00 pm | Meeting Adjourn |

Task	Date
Joint Meeting	February
BOC Retreat	1/25-1/25
BOC Retreat Packet to go out	1/18- Friday
Planning Board Meeting- Major issues of concern	1/15- Tuesday
Tech Committee Meeting	1/14 @ 2pm
Tech Committee UDO Review- provide list of suggested changes- major issues of concern	1/10- Thursday
Staff to deliver draft UDO to BOC	12/18- Tuesday

*More information on this project as well as meeting materials are available at
www.focusnagshead.com*



Technical Committee Comments for Review:

1. Town Attorney review- what is the timeframe?
 - o *Attorney will review portions that have significantly changed prior to adoption.*
2. Organization of UDO
 - o Does this flow work best?
 - o *Committee agreed to keep current organization.*
3. Penalties and Remedies 1.10.14 & 5-
 - o Article 1.10.4 is written as though Article 1.10.5 doesn't exist and vice versa, though they both deal with penalties. These two Articles require some revision to eliminate apparent contradictions.
 - o *Article 1.10.4 is geared toward general Penalties and Remedies. Article 1.10.5 will be specifically applied to the Sedimentation and Erosion Control Article of the UDO. Since this is a state model ordinance, staff has not yet vetted out any repetitive language. However, staff will review this prior to adoption of the UDO.*
4. Section 4.3 Sketch Plan Review Process-
 - o Planning Board involvement in Sketch Plan
 - o As I mentioned elsewhere, this process confuses me. I like the idea of sketch plan review. However, involving all of the Planning Board, I believe, will be problematic. Maybe we should consider having two members (hopefully volunteers) to be part of the "Sketch Plan Review Committee."
 - o Use of the term "pre-application meeting" here renders this section confusing. Would call the meeting with the staff a pre-application meeting and this event something else.
 - o Suggestion: Another way to handle the above comment is to name this event "combined preapplication meeting/sketch plan review." This would keep the terminology consistent from the title of Section 4.3 through the subparagraphs that follow.
5. 4.5.3- Sketch Plan for Board of Commissioners Review-
 - o As stated above its confusing to call a required and an optional event the same thing. Maybe could change this to a pre-application discussion or session to distinguish it.
6. 4.22 Initial Conference; Preliminary Sketch-
 - o Confusing on how this process differs from Section 4.3 above

For numbers 4, 5, 6-

- o *Improved wording to between 4.3, 4.4, and Article 10 Commercial Design Standards.*
 - o *New flow chart (i.e. decision model) for development process that ties Article 4.3, 4.4, and Art 10 Commercial Design*
7. 4.23 Review Procedure for Minor Subdivisions-
 - o Staff approval vs Planning Board approval for Minor and Preliminary Site plans
 - o *Section 4.23 Review Procedure for Minor Subdivisions.- add flow chart for subdivision review*
 8. 6.5.3 Prohibited Uses List
 - o Clarify "Other Residential Uses"
 - o *Clarify what "other uses" means under prohibited uses list as a whole*
 - o *Prohibited uses- follow up with BOC*
 - *Indoor ag*
 - *Solar energy farm*
 9. 7.52 Private Parks/Playgrounds
 - o Should these supplemental regulations be expanded to include hours of operation, signage, etc.?
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10. 7.64 Wireless Telecommunication Facilities
 - o There are no supplemental standards- are standards needed?
 - o *7.64 references to Article 10. No additional standards are needed.*
11. 10.3 Deferring Installation Due to Seasonal Planting Limitations
 - o Is the money in escrow? Does the contractor get it back if he plants in the spring? Seems like the Town could end up putting in vegetation when the contractor walks away. Just not clear on how this works
 - o *This process is already in place. Just carrying forward how it is handled at this time. The money is escrowed until plantings are installed.*
12. 10.5.2. Replacement of Vegetation
 - o Use of County agricultural agent for replacement of vegetation- will this person get involved?
 - o *Strike use of "county agricultural agent"*
13. 10.24 Signs Permitted in Commercial Districts and the Commercial/Residential District
 - o Should we add C-1 to allowable areas
 - o Add to C-1
 - o *Should also review the entire draft UDO to determine C-1 is allowed where appropriate.*
14. Section 10.84 Site Plan Submittal Requirements
 - o 10.84.1 Sketch Plan Review- Clarify how this tie to the language in Article 4.
 - o *Refer to response above the applies to number 4, 5, and 6.*

Other items noted for follow up from Technical Committee Meeting:

1. *Clarify where the height should be measured- further clarify if there is a desire to look at height in extreme cases.*
 - o *8.6.4.1.1. In any AE special flood hazard area, height will be measured from the 3 regulatory flood protection elevation or finished grade, whichever is higher. In cases 4 where there is a ground floor enclosure below the regulatory flood protection elevation, height **shall be measured from finished grade.***
2. *Follow up with attorney-*
Is this content neutral and meet recent legislative changes?---10.22.6.15. Three-dimensional sculptured objects and pictorial devices attached to and 28 extending more than twelve (12) inches beyond any wall or roof of a building in business use. 29 Attached sculptured objects and pictorial devices extending twelve (12) inches or less from a 30 building wall or building roof shall be classified as a business wall sign or roof sign and shall be 31 subject to all regulatory requirements of this UDO pertaining to such signs

Specific Committee Member Comments:

1. Barbara-

As I understand our remit, we were trying to both streamline/simplify the Code and advance some of the goals of the Comprehensive Plan. I think the streamlining has been accomplished for the most part. I think some clarification is still possible in terminology- as noted in my comment, a pre-meeting could be renamed a session or conference in some sections so that it is not described as discretionary and mandatory at different points. To me that is a minor point though. I think that if the Staff reads through the draft, they can easily address those bits.

I have more issues with the goal of advancing the concepts in the Comprehensive Plan and it is in this aspect of the effort that I think the draft is weak. I can't give you the unanimous support I know the Staff and Mayor wanted. I raised my issues/ideas throughout our discussions, but the rest of the Committee did not support changes except in isolated instances. For example- the Comprehensive Plan states that Nags Head should strive to be a Town of family homes and walkability. That concept is not advanced by continuing to define rental homes as single-family residences. They are not residences- they are for weekly vacation rentals and therefore essentially business units. Maintaining the fiction that actual homes are being built does the 'Comprehensive Plan a disservice. Likewise, the draft does not adequately address protecting the environment here. There are too many allowances for exceptions to every standard including vegetative, set back and coverage requirements. Financial considerations will always push developers to do the least amount required and the Code allows that to happen. Without seriously addressing these components, the Comprehensive Plan's nod at environmental protection is lost.

The Code as written remains more pro-development than I believe is appropriate for the Town at this point. I believe that without significant changes in how the Town proceeds, the flooding issues will increase and the damage to the dunes and beach will as well. Therefore, I cannot say that I support the draft produced by the Technical Committee. I also do not believe that further discussion of these points on the 14th will change anyone's mind. I understand that the others on the Committee do not agree with me and that's their prerogative. So, there you are- those are my thoughts.

Specific ideas:

- o New definition for rental residences should be included- that basically applies to any house or structure that is rented on a weekly or multi day basis for three or more months a year. That would cover the places that are clearly for the rental business. I think that they should have more stringent standards as to fire code- have sprinklers and fire exits- should have a lower coverage allowance - a lower height allowance. That way you might end up with more actual single-family residences rather than the rental homes that are basically most of what is being built here now.
- o No allowance for coverage when you use permeable paving- no impermeable paving should be allowed.
- o Cottage courts should have smaller units as you know, and no 5000 square foot building allowed. I don't view the place being built south between the beach road and bypass is a positive. I don't see it as a cottage court really.
- o Against the Code to take down living trees that are of a certain size with no exceptions or there should be a requirement that if you take down such a tree you must replace it with one of similar size and species.
- o Restriction on fill- none should be allowed. I think that the standard for stormwater would be that you have to retain at least a ten-year storm event on your property is you build.

It is past time to take steps to put measures in place considering the level of construction that has taken place here and that will undoubtedly take place in the coming years. Flooding is an issue now- beach crowding is a problem. If the Town wants this to be a year-round community then it needs to make the actual residents a priority beyond emphasizing the rental economy. I

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don't think it's a positive to allow the interests of the rental business to overwhelm the living conditions here- there needs to be a re-balancing. I get that people make their living from the vacationers- understood. That does not mean that that business hold be allowed to increase without consideration of both the day to day interests of the residents and the long-term needs of the environment.

2. Marvin-

The Technical Committee members were tasked to provide identification of the most important outstanding issues with the Draft UDO for possible discussion at the upcoming BOC Retreat. Simultaneously the Committee were asked to review and comment on the Draft UDO. I have reviewed over 200 UDO pages since the holidays, generating about 100 comments, but there is much left to do. Suspense date for the top issues was established as 10 Jan 2019. This document is my submission in response to that deadline.

Caveat: Focusing only on the remaining issues may cast a negative shadow on the UDO. My personal assessment of the Comprehensive Plan and UDO efforts is very positive. Similar to the Comprehensive Plan, development of the UDO has been a very protracted effort. Staff has had to carry most of the weight of this project despite contracted consultation. I commend staff on their ability to deal with the challenges faced and to bring the project to this point. Technical Committee members have supported staff throughout the effort, but admittedly (and appropriately) have been dependent on staff to lead the way. We have come a long way, and are close, but aren't there yet.

ISSUES:

1. Time is needed to allow a comprehensive review of the final draft. Understandably the BOC needs to see where we stand with the UDO and provide direction as they see fit. As staff has informed the BOC, the current Final Draft is the first full document that the Committee and Planning Board have seen. The Committee has reviewed important individual sections as they were being developed, and has provided comments to staff, but had not seen the revision of those sections until now. And significant portions of the document are being seen for the first time. This is just a fact, not a criticism. It is 512 single spaced pages plus the yet-to-be-provided final draft matrix of identified Permitted and Conditional Uses by District containing thousands of entries. All of this needs to be checked and cross-checked in order to produce a viable final product. We are in the midst of the "Final" technical review, but due to the sheer volume, it will take time.
2. In addition to the technical review, a professional/educated review and edit of the UDO language content is needed to produce a clear and understandable product for general use by the public, which is one of the objectives of establishing the UDO. Though each and every author or contributor has provided their thoughts and expertise in earnest, it is inevitable that jargon, ambiguities, redundancies, and conflicts creep into the document. Independent, knowledgeable review and edit are required.
3. A thorough legal review is required after the language review. This in itself will demand substantial calendar time.
4. Content and intent are good, though consistency throughout the UDO and within articles needs to be established. A couple of examples:
Para 11.41 prelude cites NCGS; other similar paragraphs often do not. Should it be standard to provide similar prelude to each para, provide a one-time prelude for the entire UDO or each Article, or ...?
Para 11.43.4 lists permit requirements for Floodplain Permits. (Note that these are requirements for the Permit itself, not for the permit application.) Other types of permits do not identify permit requirements. Seems they should.

3. Ben-

Section 1.8.2. Strike "the" between supersede and North Carolina.

Section 3.1 line 3 Replace "pertains to" with "sets forth".

Section 4.9 line 16 Should this read "...extensive large-residential and commercial landscaping"?
I'm not aware of a circumstance where someone's standard residential landscaping would be considered at all.

Section 4.22.1 Is "the secretary of the Planning Board" an actual position?

Section 4.22.3 Change "he advises" to "advising" to eliminate the gender problem.

Section 6.2.4.5 This description seems a little skimpy compared to the rest.

Section 6.5.2 lines 30 and 31 Substitute "applicant" for "citizen".

Section 6.5.3 line 7 The term "other residential uses" seems too vague.

Section 6.5.3 line 11 Why would we prohibit indoor crop production?
In many cities food is being grown in warehouses and basements.

Section 6.5.3 line 27 When we prohibit ice vending machines we encourage ice in plastic bags.

Section 6.5.3 lines 31 and 32 Why would we restrict small (1-2 acre) energy farms?

Section 6.5.3 page 6 line 6 Why would we restrict pedicab storage and dispatch?

Section 6.5.3 page 6 line 7 Why would we restrict transit stops, if and when a transit system is initiated?

Section 6.6 Table of Uses and Activities

Most of these comments and questions are based on what appear to be inconsistencies of treatment reading across the columns.

Accessory Dwellings: Why would we restrict them from R-1, R-2, and SPD-20 when they are permitted in R-3 and C-4? In my R-2 neighborhood there are at least two houses which could be divided into duplexes (due to their large lots) but they would be restricted from building ADUs.

Why is Home Occupation Class-1 not permitted in SPD-20?

Why is Home Occupation Class-2 not permitted in CR and SPD-20?

Why is Townhouse not permitted in C-2 when other multi-family residential is?

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I note that Adult Care Home (over six residents) is permitted in R-2 even though Accessory Dwelling is not.

I note that Boarding House is permitted in R-1 and R-2 even though Accessory Dwelling is not. Why is Boarding House not permitted in SPD-20?

Why is Owner Occupied Art Gallery not permitted in R-3?

Why is Auction House not permitted in C-1?

Why is Beach Recreation Equipment Rentals/Sales not permitted in CR?

Why is Food Truck not permitted in CR or C-4?

Why is Grocery/Food Store not permitted in CR? Isn't there one at Whalebone?

Why is Furniture Store not permitted in C-1 ?

Why are Locksmiths not permitted in C-2 or C-4?

Why are Parking Lots not permitted in CR? Isn't that where our beach accesses are?

Why is Real Estate Rental Management Facility prohibited from C-1 and C-2?

Why is Ice Cream Shop not permitted in C-4?

Why are Microbreweries not permitted in C-4?

Community Gardens are permitted everywhere but seem unlikely in CR.

Why are Environmental Awareness Areas not permitted in CR, of all places?

Why are we so restrictive on Concealed Building Mounted Antennas?

Why would we not want Artisans Workshop (exceeding 3,000 SF) in C-1?

Why would we not permit On-site Rental of beach chairs and umbrellas in CR?

Why would we not permit Wind Energy Facilities in C-1, C-3, and C-4?

Section 7.4.4.1 If two 16,000 SF lots were combined why couldn't the house be 10,000 SF?

I believe the requirement that hotels in C-2 be within 500 feet of an ocean access is overkill.

Section 7.23 and Definitions: I believe our SOB definition should be expanded to include movie studios for the purpose of making pornographic movies. That would not appear to be prohibited at this point because there are no patrons and it is not listed.

Section 7.3 1.1 Is multifamily not permitted within mixed use?

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Section 7.66.4 Restricting finished pieces of art from the required setbacks is more restrictive than the way we treat Ace Hardware. We should go all one way or the other.

Section 7.73.3 Why would we restrict a heliport from the roof of the hospital?

Section 7.74.1 The list of products for an outdoor stand could reasonably be expanded to include hot pretzels and nuts. But do we need to be this restrictive?

Section 8.5.2.4.3 If I read this, plus section 7.61.3, and the Use Table correctly, it would be possible to have a business renting up to eight boats in the outdoor recreational overlay...with an accessory restaurant. (But not a restaurant where customers could tie up their boats.)

Section 8.6.2.4 Why do we have a minimum width for buildings?

Section 8.6.5.1 and 8.6.5.2 I have never understood and still don't understand the purpose for this text.
Section 8.6.5.3 I would suggest that we change "habitable floors" to "stories as defined by the North Carolina Building Code."

Section 8.6. 6.2 I believe this needs to be edited to match the new residential stormwater provisions.

Section 10.16 We appear to have lost the beneficial commercial-residential mixed use parking ratio. The full requirement for every incorporated use feels excessive.

Section 10.22. 6.9 Do the words "outdoor advertising" actually mean "billboards"? This is not a defined term.

Section 10.22. 6.15 Does this apply to only sculptured objects with a commercial message, or all sculptured objects?

Section 10.2 3.1.4 The intent of the first two words "Signs banners..." is not clear.

Section 11.2 2.2.1 I recall that agriculture is already prohibited.

Section 11.2 2.2.2 If an owner designated their property as a forestland (even if small in size) could that negate our tree protections?

Appendix A: Definitions

I believe the "Sign" definition needs to be modified so that the art masts are clearly never considered signs.



FOCUS Technical Committee

DRAFT

Meeting Notes

January 14, 2019; 2:00 pm

Attendees: Mayor Ben Cahoon; Marvin Demers; Barbara Ayars; Mark Cornwell; David Elder; Holly White; Andy Garman; Kelly Wyatt; and Michelle Gray

All handouts are available on the Town’s website www.focusnagshead.com

Welcome – Holly White welcomed everyone and provided an update. The below is the schedule of the UDO’s draft presentation.

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Discussion - Final Draft of UDO

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The meeting was adjourned; Ms. White will notify the committee of the next meeting date and time.