

# TEXT AMENDMENT STAFF REPORT



Hearing Date: 4-2-15

Case File #: TA-15-07

General Description: Article 6; Section 6.04; Swimming Pools in CR-1

Town Initiated

Citizen Initiated

Applicant(s): Palm Cove Owners Assoc. by Robert Exum, Registered Agent

**APPLICATION OVERVIEW:**

The Sunset Beach Planning & Inspections Department received an application to add new text to Article 6, Section 6.04, 6(L) of the Unified Development Ordinance (“UDO”). The current UDO provisions do not allow swimming pools as a permissible use as allowed for in other residential zoning districts in Town. The applicant seeks a UDO text amendment to allow swimming pools in the Conservation Reserve (CR-1) zoning district subject to supplemental regulations.

**STAFF COMMENTARY**

Staff has reviewed the applicant’s text amendment application, the UDO including Section 6.04, and other materials including the Town’s Land Use Plan. The current ordinance language in UDO Section 6.04 regarding swimming pool uses allows them as permitted uses in the majority of the zoning districts throughout the Town. See below.

P - Permitted Use  
S - Special Use

PS - Permitted Use with Supplemental **Regulations**  
SS - Special Use with Supplemental **Regulations**

Uses	MR1	MR2	MB3	MB1	MB2	BR1	BR2	BB1	MH1	MH2	RI1	CR1	AF1	MUD	Supplemental Regulations
<b>Swimming pools</b>	PS	PS	PS	PS			PS	SS	PS	PS	PS			PS	Section 7.14

DEPARTMENT OF PLANNING AND INSPECTIONS

**Agenda Item 10c**

However, pools are not permitted outright. Throughout the Town, wherever swimming pools may be allowed, they must satisfy supplemental development standards found in UDO Section 7.14 before they may be constructed (what is meant by “PS”). In the UDO’s BB1 district, not only must these uses meet specific development standards, they also require a Special Use Permit (SUP) to be issued from the Town’s Board of Adjustment (what is meant by “SS”).

The applicant seeks to amend the ordinance to permit pools with development standards – PS - being required and satisfied. The applicant’s proposed ordinance language for consideration is as follows:

P - Permitted Use  
S - Special Use

PS - Permitted Use with Supplemental **Regulations**  
SS - Special Use with Supplemental **Regulations**

Uses	MR1	MR2	MB3	MB1	MB2	BR1	BR2	BB1	MH1	MH2	RI1	CR1	AF1	MUD	Supplemental Regulations
<b>Swimming pools</b>	PS	PS	PS	PS			PS	SS	PS	PS	PS	<b>PS</b>		PS	Section 7.14

Staff bases its recommendation on a number of factors that have historically shaped the Town’s planning and public policies, as well as the Town’s zoning ordinance provisions and corresponding Land Use Plan. A few primary considerations the staff relies upon, without limitation, include the CR-1 zoning district’s intent statement and the Town’s adopted Land Use Plan. The Town adopts zoning districts based upon desirable land uses and densities to ensure the goals and objectives of the district intent statement and the goals and objectives in the Land Use Plan are observed and obtained.

The district intent statement for the CR-1 zoning district recites, in part, the following:

*“Primarily for the preservation of significant limited or irreplaceable areas which includes major **wetlands**; **open spaces**; undeveloped shorelines that are unique, fragile, or hazardous for **development**. Single-family, low-density residential uses may be permitted in upland areas”.*

The only place in the Town where the CR-1 zoning district is located encompasses both the far eastern and western portions of the Town’s barrier island. These areas are both limited and focused in their geographic coverage and purpose. These areas are also subject to numerous environmental pressures associated with inlet and land migration. These areas sit immediately adjacent to two such inlets. As such, staff recognizes these areas warrant additional restrictions associated with permitted development. Otherwise, there would be no need for a CR-1 zoning district.

**Agenda Item 10c**

In addition, the district intent statement provides that single-family residential “may” be permitted in upland area. The term “may” is permissive in nature, but not mandatory or exclusive. The Town’s other beach residential districts (BR1 and BR2) specifically calls out single family residential and associated accessory uses as an exclusive focus and use in their intent statements, whereas the CR-1 zoning district does not. Staff’s position is that the language for the CR-1 district contemplates and focuses more on a conservation platform with single family homes being a limited, secondary permissive use. As such, it is staff’s position there is no “right” to swimming pools as an accessory use when compared to the BR1 and BR2 districts.

Turning next to the Town’s adopted 2010 CAMA Land Use Plan, staff finds that the following specific adopted land use policies apply:

1. Policy 30:

**a. Land Use and Development Decisions Consistent with Land Use Plan;** mandates any decision for land use and development–related activities must be consistent with the adopted land use plan.

2. Land Use Policies:

**a. Policy 14, Types of Development to Be Encouraged;** specifies factors to consider when staff is reviewing applications.

**b. Policy 26, Swimming Pools on the Island;** explicitly states pools shall not be allowed south of Main St.

Based upon the CR-1 zoning district intent statement and the Town’s Land Use Plan policies, staff finds that the applicant’s text amendment request is inconsistent with both and does not recommend its approval.

**STAFF RECOMMENDATION**

Staff **recommends denial** of the requested application seeking a text amendment to UDO Section 6.04.

**PLANNING BOARD SUMMARY**

**Action:**

The Planning Board finds that the proposed amendments to Unified Development Ordinance \_\_\_\_\_ is   X   is not consistent with the Sunset Beach Comprehensive Land Use Plan.

Passed \_\_\_\_\_ Denied   X   (For \_\_\_\_\_ Against   5   Abstained \_\_\_\_\_)

**Commentary:**

Planning Board supported staff's recommendation that the request was not consistent with the Town CAMA Land Use Plan or the CR1 district intent statement.

\_\_\_\_\_BELOW TO BE COMPLETED BY TOWN CLERK\_\_\_\_\_

**TOWN COUNCIL ACTION**

**TOWN COUNCIL SUMMARY**

**Planning Board Recommendation Accepted:**  Yes  No  Returned

**Public Hearing Scheduled/Held:**

**Council Action:**

The Town Council finds that the proposed amendments to Unified Development Ordinance \_\_\_\_\_ is \_\_\_\_\_ is not consistent with the Sunset Beach Comprehensive Land Use Plan.

**Text Amendment Ordinance:**

Adopted \_\_\_\_\_ Denied \_\_\_\_\_ (For \_\_\_\_\_ Against \_\_\_\_\_ Abstained \_\_\_\_\_)

**Commentary:**