

TEXT AMENDMENT STAFF REPORT



Hearing Date: 11-19-15

Case File #: TA-15-12

General Description: Amend the Permitted Use Table; Article 7, Supplemental Uses; and Article A.3, Definitions in the UDO to provide development standards for the use of hot tubs.

Town Initiated

Citizen Initiated

Applicant(s): Town of Sunset Beach

APPLICATION OVERVIEW:

The Sunset Beach Planning & Inspections Department has initiated an application to amend Article 6, Section 6.04; Article 7, Section 7.14 Swimming Pools; and Appendix A, Definitions in the UDO to provide development standards for hot tubs within the Town's planning and zoning jurisdiction. This application is being initiated by Town staff at the direction of the Planning Board. The concern from the Planning Board was centered on the need to have some standards for this use relative to the specific districts these uses would be placed and used. The Board was accepting of more flexible placement standards of this use relative to swimming pools. This application seeks an amendment to allow flexibility of hot tub placement in certain zoning districts.

STAFF COMMENTARY

Staff has reviewed the UDO for the appropriate method to incorporate standards for hot tub uses.

Hot tubs, when scaled appropriately, have less of an overall neighborhood and environmental impact than swimming pools. Whereas swimming pools have historically not been allowed on ocean front lots in Town, this application proposes to allow hot tubs on ocean front lots pending specific conditions being met. As such, the permitted use table is proposed to be amended as follows. The table was configured to show hot tub uses relative to swimming pool uses.

Department of Planning and Inspections

P - Permitted Use
S - Special Use

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

Uses	MR1	MR2	MR2-A	MR3	MB1	MB2	BR1	BR2	BB1	MH1	MH2	RI1	CR1	AF1	MUD	Supplemental Regulations
Swimming pools	PS	PS	PS	PS	PS			PS	SS	PS	PS	PS			PS	Section 7.14
Hot tubs	PS	PS	PS	PS	PS		PS			Section 7.14						

In addition to clarifying the district in which this use could be allowed, staff reviewed Article (Supplemental Regulations) to incorporate use standards for this use. Staff used Planning Board feedback from the October 15th, 2015 meeting to create the standards. The proposed amendment is as follows:

SECTION 7.14 SWIMMING POOLS/HOT TUBS

(1) Swimming pools shall be subject to the following requirements:

- (A) A **swimming pool** may be constructed as an **accessory use-structure** provided it is located in the buildable portion of the **lot**.
- (B) The **swimming pool** site shall be provided with adequate water and wastewater facilities, shall be designed so that drainage from surrounding areas will not normally enter the pool enclosure, and shall be equipped with adequate power facilities which do not present a hazard to the bathers. The pool shall be located so that no broken overhead electrical wiring may fall within twenty-five (25) feet of the pool surface. ~~Temporary fencing of all excavation sites during construction of a **swimming pool** facility may be required by the Building Inspector.~~
- (C) All outdoor residential **swimming pools** shall be enclosed by a **fence** or other equivalent type barrier **as required by, and in accordance with, the North Carolina State Building Code, as amended.** ~~designed so as to minimize the possibility of unauthorized or unwary persons from entering the pool area. Entrances through the barrier shall be provided with self-closing gates having simple positive self-latching closure mechanisms with hardware provided for padlocking. The barrier shall not be less than forty eight (48) inches in height above the adjacent ground surface. All residential pool enclosures shall be completely installed within thirty (30) days of the pool completion.~~
- ~~(D) Contractors must show proof of liability insurance prior to the issuance of a building permit.~~

Department of Planning and Inspections

~~(E) All outdoor residential **swimming pools** shall meet the requirements of the International Building Code, Appendix G, as amended from time to time.~~

(2) Hot Tubs shall be subject to the following requirements:

- (A) A **hot tub** may be constructed as an **accessory use** provided it is located in the buildable portion of the **lot**.
- (B) **Hot tubs** must be placed or constructed to comply with the Town's Flood Damage Prevention Ordinance (Article 12) and any other local, State or Federal requirements, as applicable.
- (C) Placement of outdoor **hot tubs** on island lots shall not be such that the **structure** is resting on the ground and shall:
 - i. only be placed on an approved, above-ground deck attached to the principle **structure** in compliance with Article 12 of this ordinance; or
 - ii. be mounted into the ground whereby the top of the **hot tub** and any surrounding decking is at grade.
- (D) An individual, outdoor **hot tub** shall not have a water capacity larger than 500 gallons for individual residential **lots** on the island that contain up to four (4) residential units. This requirement applies to the island only. Documentation certifying the gallon capacity of the **hot tub** shall be provided to the Town prior to placement or construction.
- (E) Exemptions: Any **hot tub** that is placed inside the enclosed, heated square footage of a principle **structure** is exempt from the standards of Section (C) and (D).
- (F) All outdoor residential **hot tubs** shall be enclosed by a **fence** or other equivalent type barrier as required by, and in accordance with, the North Carolina State Building Code, as amended. All **hot tub** enclosures shall be completely installed within thirty (30) days of the **hot tub** installation.

The UDO defines "swimming pools" to incorporate hot tubs by association. Staff believes it is important to clearly differentiate between the two if it is desired to have separate standards. Staff proposes the following amendment to Appendix A:

HOT TUB- A structure intended for recreational bathing with the capacity for using aerated water, in which all controls, water-heating and water circulating equipment are in integral part of the structure or product (also called "Jacuzzi").

Staff crafted the incorporated standards with the following considerations and goals:

1. Provide hot tubs are constructed according to applicable State and Federal requirements; in addition to local codes. Particularly, staff wished to make sure hot tubs

Department of Planning and Inspections

constructed in VE flood zones are done so as to not be considered flood obstructions; especially on the island.

2. Recognizing that a substantial majority of the island properties are composed of second home or rental properties, staff worked to ensure hot tubs placed on the island are of a compatible size and scale to promote neighborhood harmony and avoid potential nuisance situations while recognizing Town-wide property rights and enjoyment.

3. Recognizing that the use of hot tubs as an “accessory use” is dependent upon the principle use of the property and should be regulated relative to such principle use and scale of development.

PROPOSAL

Staff **recommends approval** of the amendment, or other derivation.

PLANNING BOARD SUMMARY

Action:

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

Passed _____ Denied _____ (For _____ Against _____ Abstained _____)

Commentary: