



**PROPOSED AGENDA
OAK ISLAND PLANNING BOARD
TUESDAY, OCTOBER 27, 2026 – 6:00 PM
COUNCIL CHAMBERS -- OAK ISLAND TOWN HALL**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ADJUSTMENT/APPROVAL OF THE AGENDA

APPROVAL OF MINUTES

Approval of September 29, 2026 Planning Board meeting minutes
[09292026PlanningBdMinutes](#)

PUBLIC COMMENT

I. OLD BUSINESS

II. NEW BUSINESS

- II.1 Discussion Item:Â The purpose of the item is to begin discussions on a new waterfront zoning district as directed by the Town Council.
[C-WF Commercial Waterfront Zoning Dist. - DRAFT](#)

III. BOARD MEMBER REPORTS

IV. STAFF REPORTS

V. ADJOURN

**PLANNING BOARD
AGENDA ITEM MEMO**

SUBJECT:	Approval of September 29, 2026 Planning Board meeting minutes
DATE:	October 19, 2026
DEPARTMENT:	Administration

Subject Summary: Approval of September 29, 2026 Planning Board meeting minutes is recommended.

Attachments:

[09292026PlanningBdMinutes](#)

Financial Impact Statement: n/a

Legal Review: n/a

MINUTES
PLANNING BOARD
TUESDAY, SEPTEMBER 29, 2026 - 6:00 PM
COUNCIL CHAMBERS -- OAK ISLAND TOWN HALL

Present: Chairman David Bradley, Vice Chairman Durrall Gilbert, Board members Kerri McCullough, David Purser, Barbara Textoris, Scott Stephenson, Alternates Gene Brooks and William Stewart, Deputy Town Clerk Erin Baker, Assistant Town Manager Kent Jackson, Development Services Director Craig Harmon, and Michael Bowen, Acting Town Attorney on behalf of Brough Law Firm.

Chairman Bradley called the meeting to order at 6:03 PM and led the Pledge of Allegiance.

ADJUSTMENT/APPROVAL OF THE AGENDA

Vice Chairman Gilbert motioned to move the Planning Board Training to New Business. Ms. McCullough seconded and the motion passed unanimously.

APPROVAL OF MINUTES

Vice Chairman Gilbert noted that on the last page of the June 30, 2026 Planning Board meeting minutes said he made both the motion to adjourn and seconded. It was actually Mr. Brooks that seconded and that should be corrected. **Ms. McCullough motioned to approve the minutes with that correction and Vice Chairman Gilbert seconded. The motion passed unanimously.**

There was no Planning Board meeting in July or August 2026. ([063026PlanningBdMinutes](#))

PUBLIC COMMENT

There were no comments from the public.

I. OLD BUSINESS

- I.1 Update on Previously heard General Use Rezoning Case(s) - 26-01451 & 26-01452 ([TC Update PP - REZONE 26-01451 & 26-01452.pdf](#))

Assistant Town Manager Kent Jackson introduced the agenda item, providing context from the Board's June 2026 hearing on the future use of the 801 Event Center (801 Ocean Drive) and the pier complex (705 Ocean Drive). He noted that a public hearing before Town Council was scheduled for October 2026, and introduced Craig Harmon, the newly appointed Development Services Director, to lead the technical discussion.

Overview of Zoning Options

Mr. Harmon outlined three principal zoning approaches available for the two parcels: (1) a straight general use rezoning to the CB (Commercial Business) district, which the Board had previously recommended denial of; (2) conditional zoning, which in Oak Island requires a professionally sealed master plan and imposes conditions specific to the property; and (3) the creation of an entirely new zoning district tailored to the parcels' unique characteristics.

Discussion of Conditional Zoning

Vice Chair Gilbert recapped the Board's prior concerns, explaining that while the intent behind the CB rezoning request was to provide flexibility for future development, the breadth of by-right uses permitted in CB, many of which would be inappropriate for these oceanfront parcels, was the central problem. He further noted that if the land were ever conveyed to a private party, a buyer could utilize any CB by-right use without further public process.

Ms. McCullough sought clarification on the distinction between conditional use (a quasi-judicial special use permit structure, no longer permitted under North Carolina law) and conditional zoning (a legislative action that allows the Town and property owner to mutually agree on conditions beyond standard district requirements). Mr. Harmon confirmed that Conditional Use permits are no longer authorized in North Carolina and clarified that Conditional Zoning is the applicable legislative mechanism.

The Board discussed the master plan requirement under Oak Island's Conditional zoning process. Mr. Harmon noted that because structures already exist on the properties, the master plan could be based on what is physically present, making the process somewhat more straightforward. Assistant Town Manager Jackson confirmed that a prior cost estimate of approximately \$15,000 for a master plan, covering both parcels individually and their combined consideration, had been reaffirmed by the relevant firm. It was noted, however, that any future changes to the site layout or uses under a Conditional zone that are deemed "substantial" would require returning through the public process.

Discussion of a New Zoning District

The Board discussed the alternative of creating a new, purpose-built zoning district for the two parcels. Mr. Harmon explained that a new district would not require a master plan and would afford greater flexibility, as by-right uses, setbacks, and other standards would be defined within the district itself. Any additions to, or subtractions from, those permitted uses would require a text amendment, which would return to the Planning Board and Town Council with full public notice and comment. The Board noted this transparency as a significant advantage.

Mr. Brooks raised the concern that a new district, once created, could theoretically be applied to other properties in Town upon request. Ms. McCullough acknowledged this, but the discussion reflected a general view that the unique characteristics of these parcels, particularly the commercial pier, would support any such district's justifiable purpose, even under a Spot-Zoning analysis.

Spot-Zoning Analysis

Town Attorney Michael Bowen (appearing on behalf of Lydia Lavelle, who was unable to be present) addressed the Spot-Zoning question directly. He clarified that Spot-Zoning is not per se unlawful in North Carolina; rather, Spot-Zoning without a justifiable purpose is what courts have found unlawful. Mr. Bowen stated that he had previously analyzed both properties and concluded that their unique physical characteristics, most notably the commercial pier, which is an immovable fixture connected to the land, would provide sufficient rational basis to withstand a judicial challenge. He further noted that the standard of proof resting on the Town would be relatively low.

Pier Protection Considerations

Vice Chair Gilbert raised the question of how the commercial pier would be protected under either zoning scenario, particularly given conditions attached to the Golden Leaf Foundation grant funds used to rebuild the pier. Mr. Bowen indicated he had not yet reviewed the relevant grant documents and that this question would require further research. Mr. Harmon acknowledged that pure pier-protection overlay mechanisms within a zoning framework are uncommon and that this matter would likely need to be addressed through additional legal analysis. The Board agreed this was a nuance for Town Council's consideration.

Ground Lease Discussion

Vice Chair Gilbert raised the scenario of a ground lease arrangement, whereby the Town retains land ownership while a developer constructs and operates improvements, and asked whether the Town would retain the ability to expand or restrict by-right uses in such a scenario. Mr. Bowen cautioned that this inquiry moves from land use law into contract law, noting that land use restrictions run with the property in perpetuity until changed by a governing authority, while contractual conditions bind only the parties to the agreement unless separately recorded. He indicated that a thorough legal analysis would be required before a definitive answer could be given.

Procedural Path Forward

The Board discussed the procedural limitations of its position, given that the October Town Council public hearing notice was already issued for the CB rezoning as originally filed. Mr. Bowen clarified that Town Council's available actions at the October hearing would be limited to approving, denying, or tabling the CB application as submitted. A new district or conditional zoning proposal would require a separate application, which the Planning Board may initiate by directing staff to prepare one.

Assistant Town Manager Jackson noted that staff could incorporate the substance of the Board's deliberations, including the discussion of a new district, consistent with statements recorded within the June Planning Board meeting minutes and subsequent Town Council discussions, into the staff report for the October public hearing, providing Town Council with broader context without triggering a new public notice requirement.

Mr. Brooks recommended that the Board place this topic on its October agenda so that, regardless of Town Council's action on the CB application, the Planning Board could proactively move forward with recommending a new district approach and directing staff accordingly. Vice Chair Gilbert expressed strong support, emphasizing the goal of providing Town Council with the most flexibility possible to define appropriate by-right uses, expand or restrict them as development interest materializes, and protect the public interest in these unique oceanfront parcels.

The Board reached a general consensus that a new zoning district represented the most advantageous path forward. No formal motion was made at this meeting, as the Board determined that no vote was required at this stage and that the discussion would continue in conjunction with Town Council's October hearing.

II. NEW BUSINESS

II.1 Selection of Chair and Vice Chair of the Planning Board

With new board members having been sworn in prior to the meeting, the Chair opened the floor for nominations for Planning Board Chair and Vice Chair.

Motion to elect David Bradley as Chair of the Planning Board was made by Vice Chair Gilbert and seconded by new Board member Robert Carpenter. The motion carried, with the incumbent Chair abstaining, which counts as a vote in favor.

Chairman Bradley motioned to elect Durrall Gilbert as Vice Chair of the Planning Board. Mr. Purser seconded and the motion carried, with Mr. Gilbert abstaining, which counts as a vote in favor.

The Chair thanked staff for the preparation of a new binder of reference documents for board members. He directed all members to bring the binder to each future meeting.

PLANNING BOARD TRAINING

Acting Town Attorney Michael Bowen presented a general overview of Planning Board law and responsibilities. Mr. Bowen noted that Town Attorney Lydia Lavelle was recovering from a cycling accident and that he was appearing in her stead. He structured his presentation around four topics: enabling authority, types of land use decisions, planning board responsibilities, and miscellaneous procedural matters.

Enabling Authority. Mr. Bowen explained that the Planning Board's authority flows from the North Carolina General Assembly through Chapter 160D of the General Statutes, delegated first to municipalities and then further to advisory bodies such as the Planning Board. He identified the UNC School of Government's Coates' Cannon blog as a reliable secondary resource for interpreting 160D, while noting that the General Assembly's own website remains the authoritative and most current source. Mr. Bowen offered that his firm distributes legislative update memoranda to its municipal clients and suggested that a conversation with the new Town Manager regarding the scope of proactive legislative monitoring might be appropriate.

Types of Land Use Decisions. Mr. Bowen outlined four categories: (1) legislative decisions, such as rezonings and UDO amendments, made by Town Council; (2) quasi-judicial decisions, such as variances, handled by the Board of Adjustment under court-like procedural standards; (3) administrative decisions, made by staff with little or no discretion; and (4) advisory recommendations, which are the primary output of the Planning Board. He emphasized that Planning Board recommendations, while not binding on Town Council, are an invaluable service to the governing body and should be grounded in specific citations to the comprehensive Land Use Plan and UDO.

Planning Board Responsibilities. Mr. Bowen identified six responsibilities delegated to the Planning Board by both Town Council ordinance and state statute: reviewing proposed UDO text amendments and making

recommendations; reviewing requested zoning map amendments and making recommendations; reviewing preliminary plats for major subdivisions and making recommendations; reviewing major site plans and making recommendations; providing written statements of consistency with the comprehensive Land Use Plan alongside those recommendations; and performing any other duties set forth in the applicable article of the Town ordinance. He additionally highlighted a permissive authority: the Planning Board may, from time to time, initiate its own proposals for amendments to the UDO and zoning map, which would then be packaged by staff into a formal application and proceed through the standard public process. Mr. Bowen shared that these are also listed in the Town's Boards and Committees Handbook but combined into five responsibilities.

Vice Chair Gilbert asked for clarification on whether a recommendation to Town Council could include rationale beyond a simple approve-or-deny conclusion. Mr. Bowen confirmed that detailed rationale, including specific citations to provisions of the comprehensive Plan where an application is or is not consistent, is not only appropriate but strongly encouraged and represents best practice. He noted that he is working with staff to develop a template form for the Board's written consistency statements and recommendations.

Ms. McCullough raised a prior instance in which the Board had been advised it could not provide more expansive rationale in its recommendation documents. Mr. Bowen clarified that well-cited, plan-based rationale is precisely the type of information Town Council relies upon, and that the Board should not hesitate to include it.

Procedural and Ethical Matters. Mr. Bowen addressed several general procedural requirements, including the obligation to hold regular noticed meetings, to discuss only agendized items prior to voting, and to follow proper sequencing of deliberations before rendering a vote. He strongly advised against conducting site visits in groups outside of properly noticed meetings, as doing so could inadvertently constitute an unlawful public meeting.

On conflict of interest, Mr. Bowen presented the two statutory questions that determine whether recusal is required: (1) whether the outcome of the matter is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the voting member; and (2) whether the member has a close familial, business, or other associational relationship with the applicant or property. He recommended that when the answer to either question is unclear, members should err on the side of recusal and noted that best practice is to physically leave the room during the matter in question. He offered to work with staff to ensure these two questions are presented at the opening of each meeting.

On public records, Mr. Bowen emphasized that any communication regarding public business, including emails sent from personal accounts and text messages on personal devices, may constitute a public record subject to disclosure and that such records cannot be destroyed.

Vice Chair Gilbert requested that the Town Attorney or firm provide routine legislative updates and be available for conflict-of-interest consultations, noting this had previously been a function performed by the prior Planning Director. Mr. Bowen indicated the appropriate channel for such inquiries would be through the Development Services Director, Mr. Harmon, and that the scope of legal services available would be a matter for the new Town Manager to review against the firm's existing service agreement with Oak Island.

Assistant Town Manager Jackson introduced new Town Manager Katherine Cathey, who was present in the audience. Mr. Bowen noted that Ms. Cathey is a familiar colleague from her prior work in Person County, also a client of the Brough Law Firm, and expressed confidence in her leadership.

III. BOARD MEMBER REPORTS

Vice Chairman Gilbert expressed appreciation for former Planner Director, Taylor Davis', contributions, noting her effectiveness in continuing the institutional knowledge built under her predecessor. Mr. Purser encouraged members to enjoy the US Open. Ms. McCullough echoed appreciation for Ms. Davis, commended staff for the new reference document packet, and noted that she had registered for the upcoming urban planning session sponsored by the Cape Fear Council of Governments on October 29.

IV. STAFF REPORTS

IV.1 Introduction to New Development Services Director Craig Harmon

Assistant Town Manager Kent Jackson formally welcomed Craig Harmon, the Town's new Development Services Director. Mr. Harmon had already participated substantially in the evening's discussion. Vice Chair Gilbert noted that Mr. Harmon has owned a home in Oak Island since approximately 2000, giving him relevant familiarity with the community and its ongoing issues.

V. ADJOURN

Ms. McCullough motioned to adjourn, and Vice Chairman Gilbert seconded. The motion carried unanimously and the meeting adjourned at 7:52 PM.

David Bradley, Chairman

Attested: _____
Erin Baker
Deputy Town Clerk

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Deputy Town Clerk

**PLANNING BOARD
AGENDA ITEM MEMO**

SUBJECT:	Discussion Item: The purpose of the item is to begin discussions on a new waterfront zoning district as directed by the Town Council.
DATE:	October 22, 2026
DEPARTMENT:	Development Services

Subject Summary:

The proposed C-WF Commercial Waterfront District should establish a distinctive commercial environment that supports waterfront recreation, tourism, dining, specialty retail, and public access to coastal amenities. The district should accommodate businesses that benefit from a waterfront location while maintaining compatibility with surrounding development and protecting the character of Oak Island's coastal environment.

Unlike the broader Community Business (CB) District, the C-WF District should be more selective in the types and intensity of commercial activity permitted. The emphasis should be on businesses that complement the waterfront experience rather than conventional highway-oriented commercial development.

The existing Oak Island Pier complex provides a useful example. It combines a fishing pier, bait and tackle store, restaurant, coffee shop, and the 801 Ocean Event Center, demonstrating how different commercial and recreational activities can complement one another within a waterfront setting.

Staff recommends organizing uses into three categories: permitted by right, permitted subject to supplemental standards, and permitted through a special use permit. This approach would encourage appropriate commercial activity while providing additional review for uses that may generate greater traffic, noise, parking demands, or environmental impacts. Attached is a list of possible uses that could be compatible with a waterfront district.

Attachments:

[C-WF Commercial Waterfront Zoning Dist. - DRAFT](#)

Recommendation/Action Needed: Discuss and recommend uses that would be compatible with a new zoning district that is focused on waterfront activities.

Suggested Motion: Motion to recommend the attached or amended uses for a new Commercial Waterfront Zoning District (C-WF).

Financial Impact Statement: No current impacts.

Legal Review: Additional legal review to be provide once a complete ordinance is drafted.

6.3.9. C-WF Commercial Waterfront District. The C-WF Commercial Waterfront District is established to accommodate commercial, recreational, and other uses that benefit from a waterfront location while promoting public access to and enjoyment of coastal waterways. Development within the district shall protect coastal resources and ensure compatibility with surrounding uses.

For the proposed 6.3.9. C-WF Commercial Waterfront District in the Town of Oak Island, staff recommends allowing a mixture of waterfront-oriented businesses, restaurants, specialty retail, recreational activities, and limited hospitality uses. The district should encourage commercial activity that complements the waterfront while remaining compatible with nearby residential neighborhoods.

Possible C-WF Commercial Waterfront District Uses

P = Permitted by Right | PS = Permitted with Supplemental Regulations | S = Special Use Permit

Possible Commercial Use	Classification
Restaurants and Food Services	
Restaurants without drive-through services	P
Coffee shops, cafés, and bakeries	P
Ice cream and dessert shops	P
Waterfront restaurants with outdoor dining	PS
Retail and Specialty Businesses	P
Bait and tackle shops	P
Marine supply and boating accessory stores	P
Gift shops, boutiques, and souvenir stores	P
Art galleries and artisan shops	P
Seafood markets (retail sales only)	P
General retail establishments	P
Waterfront and Recreational Uses	PS
Kayak, canoe, and paddleboard rentals	P
Bicycle and recreational equipment rentals	P
Fishing charter and sightseeing tour operations	P
Boat and watercraft rentals	PS
Commercial & Private fishing/recreational piers	PS
Commercial marinas and boat docking facilities	PS

Boat launching facilities	PS
Outdoor commercial recreation facilities	S
Hospitality and Professional Services	
Marine-related professional offices	P
Travel and tourism services	P
Museums and maritime educational facilities	P
<i>Bed-and-breakfast establishments</i>	<i>S</i>
<i>Hotels and boutique lodging</i>	<i>S</i>
<i>Mixed-use commercial and residential developments</i>	<i>S</i>

Possible Development Standards

1. Outdoor commercial activities shall be designed to minimize noise, lighting, and other impacts on adjacent residential properties.
2. Commercial development shall provide appropriate landscaping and screening where adjacent to residential zoning districts.
3. Waterfront access and views should be preserved or enhanced where practicable.
4. Drive-through establishments, heavy industrial operations, outdoor storage yards, and automobile repair facilities should be prohibited.
5. All development shall comply with applicable CAMA regulations, stormwater requirements, and Town development standards.

Notes:

Keep the C-WF district more focused than the existing Community Business (CB) district, emphasizing waterfront dining, tourism, recreation, boutique retail, and marine-related businesses rather than general highway commercial development. This would help establish a distinct waterfront commercial character while protecting adjoining residential neighborhoods.

Items in red may not aligned with Council or Planning Boards vision.