



Town of Oak Island Brunswick County, NC

The Town of Oak Island will preserve, protect, and enhance the quality of the natural and cultural environment of the community. In order to achieve this goal, the Town will improve the quality of its waterways, natural environment, beaches, dunes, water access and residential areas. The Town will maintain a unique scale and character that fosters a sense of community to make the Town a desirable place to live, work and call home, and a family vacation destination. The Town will also develop efficient sidewalks, bikeways, and roadway systems to protect its attractiveness in the future. The Town will also expand its recreational opportunities for residents of all ages and abilities. The Town will balance social and commercial needs and objectives for economic vitality.

Planning Board Meeting Agenda February 21, 2019 • 10:30 AM Town Hall • Council Chambers

I. START-UP

- 1. Call to Order:**
- 2. Additions or corrections to the agenda**
- 3. Approval of the Minutes: (1-17-2019)**
- 4. Public Comment:** Please state your name and address for the record.

II. OLD BUSINESS

- 1. Temporary Housing - Text Amendment**

III. NEW BUSINESS

- 1. Airport Signage - Text Amendment**
- 2. Rezoning**
- 3. BUA - Text Amendment**
- 4. Stormwater- Text Amendment**

2. REPORTS/UPDATES

- 1. Board Member Reports**
- 2. Staff Reports - (Towers)**

3. OTHER

**Future Meetings: 3-21-19
Adjournment**



MINUTES
OAK ISLAND PLANNING BOARD
JANUARY 17, 2019 –10:30 A.M.
TOWN HALL COUNCIL CHAMBERS

Present: Chairman Denise Pacula, Vice-chairman Bob Carpenter, members Cathy Bowes, Mike Defeo, Clay Jenkins, Lynn McDowell and Willie Williams, Planning and Zoning Administrator Jake Vares and Assistant Manager/Town Clerk Lisa P. Stites.

Chairman Pacula called the meeting to order at 10:30 a.m.

Chairman Pacula removed New Business, Built-upon Area text amendment from the agenda so that Development Services Director Steve Edwards could be present for the discussion. Mr. Vares said it would be on the agenda next month.

Mr. Williams made a motion to approve the agenda as amended. Mr. Defeo seconded and the motion passed unanimously.

Mr. Carpenter made a motion to approve the November 15, 2018 Minutes as presented. Mr. Williams seconded and the motion passed unanimously. (Note: There was not a meeting in December 2018).

There were no public comments.

New Business:

1. Temporary Housing text amendment: Mr. Vares said this text amendment was staff-initiated following Hurricane Florence; planners across the State have been discussing this as there is a need for temporary housing. The idea is to allow for it while still maintaining public safety and ensuring the entire town is not covered with manufactured homes. There is a sunset date for permits and the permits are to be specifically tied to repair permits. Mr. Vares also reviewed the conditions and standards included. Mr. Defeo asked if this had been incorporated into the Town's emergency response plan. Mr. Vares said that this wouldn't really fit into the Town's Emergency Operations Plan or the Hazard Mitigation Plan. Mr. Defeo said that he was concerned about the execution of the permit, the inspections and management of it. Mr. Vares said that it would be possible to include some of that information up front. Chairman Pacula explained how regular building permits work. Mr. Defeo said he would like to see something in the ordinance stating that the information for how to comply with the permit requirements would be provided to applicants. Mr. Vares explained that the ordinances aren't supposed to dictate how staff carries out operations, though he said staff would work with applicants. Ms. Bowes asked if this would apply if a house burned. Mr. Vares said that it would not apply, as it would be for use following a natural disaster such as a wildfire. He said that under the current ordinances, a property owner could apply for a permit for 90 days to live in an RV on the property while a house is being built or repaired/renovated. The Board discussed whether the process should be triggered by a federally-declared disaster or if it could be allowed for a more localized event such as a hail storm. Consensus was to allow the Town manager to authorize staff to issue temporary housing permits. The Board also discussed time periods to allow the temporary housing, and whether there should be a time requirement in which a building permit must be applied for. Board members expressed concerns with including a small window of time as it takes so long to deal with state and federal agencies, find contractors, etc. The Board also discussed potential abuses of the permit; Mr. Jenkins said that he wouldn't want to deconstruct the proposed ordinance just because some people may abuse the ordinance. Ms. McDowell said in "a" it could say "not planned" instead of "not taking place; she said otherwise it contradicted "b." Chairman Pacula said she thought "c" addressed that. Mr. Jenkins noted that the way the proposed ordinance is written could preclude federal employees from staying in temporary housing on Town property. Chairman Pacula said that was one reason she thought it should be permitted with standards in all the zones. Chairman Pacula reviewed the suggested

changes as follows: remove “a,” include language that states the Town Manager can authorize staff to issue temporary housing permits, include “significant progress,” remove the rest of that sentence and leave the maximum extension at six months. Ms. Stites suggested adding language to allow the Manager to authorize use of Town property as needed. **Mr. Williams made a motion to table until next month until the revisions that were discussed today are made. Mr. Carpenter and Mr. Jenkins seconded the motion and it passed unanimously.**

2. Removed from agenda

3. Accessory Dwelling: Mr. Vares said this came from receiving numerous inquiries about this area. He said it would be a significant change from what is allowed now. Mr. Vares explained the conditions he proposed be included. He also said that this would be available for use by anyone; you couldn't limit it to use by an aging parent, for example. He said that this would probably apply more on the island side than the mainland. Ms. McDowell asked why it would not apply to the island side only. Mr. Vares said that the zoning districts on the mainland side are either C-LD or PUD, and it is not proposed in those zones at this time. Mr. Vares said on the mainland side, development is being done through Planned Unit Development approval, and this use would have to be included in the PUD when it was approved. Chairman Pacula asked why it wasn't included in R-20. Mr. Vares said it could be included there as well. Ms. Bowes said that this was something that was already allowed; she said that people already have accessory structures and we don't know what is going on in those structures. Mr. Vares said that we would not issue a permit for that. Chairman Pacula asked if this would allow closing in the bottom of a house and calling it a duplex. Mr. Vares said that duplexes are not allowed in all zoning districts though. Mr. Carpenter asked about ones that were done illegally. Mr. Vares said it would be a non-conforming use and that had implications with insurance, ability to sell the property, etc. Mr. Carpenter said that he didn't know why we would want to allow a 1200-square foot 3-story separate structure behind a house. Mr. Jenkins asked about someone building a 3,999 square foot house and then building a 1200-square foot house on the lot to get around the maximum house size rules. Mr. Vares said if building more than 3,999 square feet, the property has to meet a certain minimum lot size, and building larger than that would require a Special Use Permit. Mr. Carpenter said that the concept of putting rental units in residential areas goes against what people may want for their neighborhood; he said there may be a cottage with a huge house and an accessory residential unit behind it. He said the only people who would want this are those in the real estate community who want to have rental income. Chairman Pacula said that there are lots of cases of cottages next to large houses on pilings. Mr. Carpenter said that the reality is that these will not be used for grandparents and special needs people – they will be Airbnbs. He also expressed concerns with parking. Ms. Bowes asked if it was for a family member, why would it be considered a duplex. Mr. Vares said that it was an independent dwelling unit with all the things to live independently (separate entrance, bedroom, bathroom, and kitchenette). Ms. Bowes said that she has a rec room above her detached garage with all the things he mentioned and that her property was considered a 4-bedroom house with a garage. Ms. Bowes said that her house was only a few years old and that it was approved like that. Mr. Vares said it sounded like she had a non-conforming structure. Ms. Bowes said that no, it was approved by the Town. Mr. Vares said that sometimes, contractors will build something after the permit is issued. Ms. Bowes said that her contractor had showed her that it was approved. Chairman Pacula said that it was an oversight or something that happened, but that it was not allowed under the current ordinances. Answering a question from Mr. Jenkins, Mr. Vares said that the stormwater requirements would still have to be met for the property. Mr. Vares said that maybe the better question was does the Town want to allow duplexes in additional residential areas. Chairman Pacula said that she agreed with Mr. Jenkins that it shouldn't go against the maximum house size. The structure would still have to meet stormwater regulations etc., so she didn't see the need for the 35 percent requirement. Mr. Carpenter said that he didn't want to see rental communities in residential areas.

Mr. Carpenter made a motion to deny the proposed text amendments. Mr. Defeo seconded the motion. The motion to deny passed 5-2 with members Bowes, Carpenter, Defeo, McDowell and Williams in favor and Chairman Pacula and member Jenkins opposed. Chairman Pacula noted that the motion also included a statement that the proposed text amendments were not consistent with the Land Use Plan. Mr. Williams said that originally, the Table of Uses was meant to alleviate burying uses within the Code of Ordinances and that going forward, ordinance amendments should refer back to the Table.

4. Tower text amendments: Mr. Vares spoke about the proposed ordinance amendments. The Board had discussion about 16 feet and whether that was reasonable. Ms. Bowes asked why they couldn't build these within the current rules. Mr. Vares said the idea was they would be decorative and that it was common in coastal communities. Chairman Pacula questioned something that large sticking out there at that height all by itself. Mr. Carpenter said that to allow them higher is a way of getting around the height restrictions. Chairman Pacula said that she would suggest 6 feet. Chairman Pacula said that currently, there was no height limit on towers. Mr. Carpenter said that builders should be able to build these within the allowable height levels. Ms. McDowell said there was no way anyone could convince her that it would not be used as habitable space. She also said that it was scary that there were no restrictions on them now. Mr. Vares said that setting standards would alleviate that issue. Mr. Defeo said that he thought 16 feet took it out of the decorative category and made it habitable space. Chairman Pacula said that having a staircase might make that extra space necessary. Mr. Jenkins said he was torn on this. Ms. McDowell said that tower should stay within the height limits. Chairman Pacula disagreed. She suggested five feet and 12x12. Mr. Carpenter said he would agree if that stayed under the height limits. Mr. Williams said that the height referendums were about the total height, period. He said allowances were then made for the mechanical apparatus for an elevator. Mr. Williams made a recommendation to add "architectural or decorative, non-habitable..." and "may not be greater than 6 feet in height from the peak of the roof and may not exceed 12x12 in dimension." Mr. Carpenter said he would eliminate a widow's walk. Ms. Bowes suggested eliminating crow's nests too. Mr. Carpenter said that he would eliminate anything that could become habitable. Mr. Vares said that he thought it would look odd to have a widow's walk below the 35 or 41 feet height limit. The Board had additional discussion of various names for towers, whether the structures would be habitable, what constituted habitable versus able to be occupied, and other specifics. Mr. Edwards showed a picture of a tower on the island; there were mixed opinions expressed about the look of it and whether it violated the spirit of the height restrictions. Mr. Edwards said that he recently went in one that offered a very nice view, and that there was not enough room in that particular one for someone to reside. Mr. Carpenter suggested removing the exceptions. Chairman Pacula said that would create flatter roofs and that she thought cupolas, etc. were a nice decorative touch.

Ms. Bowes was excused and left the meeting at 12:43 p.m.

Mr. Defeo said that allowing a viewing area was different from allowing a room for people to stay in it. Mr. Vares asked what the objection was to habitable space being allowed. Chairman Pacula said that they thought that habitable space was supposed to stop at the height limits. Mr. Edwards said that the State has been very clear that the Town cannot regulate use or design. He also said if it was the Planning Board's objective to not allow habitable area above the roof line they should take it out of the exceptions. Mr. Jenkins said that he thought 12x12 and 6 feet would be a good compromise. Mr. Williams asked if 10x10 and 4 feet would be better. Chairman Pacula said that wasn't large enough. Ms. McDowell said that if it were truly a decorative element, 6x6 would be enough. Mr. Edwards said that just because one person has demonstrated what is allowed, he hated to see the Town take that ability from everyone else. The Board had additional discussion about the various uses that would be allowed.

Mr. Jenkins made a motion to move forward with the ordinance amendments, amending the proposal to state that the uses listed may not be greater than 6 feet in height and that it not exceed

12x12 in dimensions, to remove “towers, cupolas and similar structures” from the sentence above, to make the change Mr. Vares suggested (remove “or” and replace it with “and” in 2.15) and to adopt the associated Plan Consistency statement. Mr. Carpenter seconded the motion. The motion passed 4-2 with Chairman Pacula and members Carpenter, Jenkins and Williams in favor and members Defeo and McDowell opposed.

Staff Reports:

Mr. Vares said the next Planning Board meeting was February 21st. He also reported that the Town’s request for a modification of the Development Line was denied by the Coastal Resources Commission.

Mr. Carpenter made a motion to adjourn at 1:10 p.m. Mr. Williams seconded the motion and it passed unanimously.

Denise Pacula, Chairman

Attested: _____
Lisa P. Stites, MMC
Assistant Manager/Town Clerk

**TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO**

Agenda Item: Old Business No. 1

Date: 2/14/2019



Issue: Temporary Housing – Text Amendment

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 35 Minutes

Subject Summary:

Given the catastrophic damage that has occurred throughout our region as a result of Hurricane Florence, many communities are considering adopting provisions to allow for Temporary Housing accommodations. One challenge, though, is the zoning ordinance. Most zoning ordinances strictly limit manufactured homes and recreational vehicles (RVs). As the Federal Emergency Management Agency (FEMA) looks to deploy temporary housing and as residents look for housing alternatives, local governments may need to amend zoning ordinances temporarily. Staff at the Cape Fear Council of Governments has drafted example language that may be considered for adoption in Oak Island. The UNC School of Government has posted an article regarding this topic. <https://canons.sog.unc.edu/temporary-housing-and-zoning-amendments/>

FEMA and the North Carolina Housing Task Force have developed a strategy to deploy both RVs (travel trailers) and manufactured homes as part of the overall recovery effort. According to FEMA, they anticipate that the initial period of assistance for direct housing (RVs and manufactured homes) will be 18 months. RVs will be used where repairs are expected to take 6-12 months, and manufactured homes will be used where repairs are expected to take more than 12 months. For general information, here is the [FEMA Fact Sheet on Temporary Housing Units](#).

Recognizing the need for temporary housing, Oak Island should consider how to adjust the Unified Development Ordinances to quickly permit temporary housing while still ensuring public health and safety. Oak Island should consider the types and locations of temporary housing, the time frame for temporary housing, dimensional and design standards (including administrative modification), utility connections, public safety concerns such as flood hazards, and the permitting process for temporary housing.

Recreational vehicles are commonly used for temporary housing. Manufactured homes are too. FEMA has plans to deploy both types as temporary housing when needed. Temporary housing could be allowed broadly to allow for maximum flexibility. Alternatively temporary housing could be limited to lots where the owner is actively repairing the structure. Temporary housing may be permitted in certain existing zoning districts based on the lot sizes, types of land uses, and/or location of those districts.

FEMA and other housing providers may seek to establish community sites or temporary housing parks. These will raise separate questions about location, design, infrastructure, and public health. Many ordinances already address the basic standards for manufactured home parks and/or RV parks. Regarding location, a FEMA temporary community site could potentially be located on an under-utilized parking lot, at a public park, on an unbuilt commercial site, or otherwise.

This ordinance would not apply to someone just doing renovations to their house or in a situation where it is a single house fire or other element that has caused an individual structure to become dilapidated, deteriorated, unlivable and in need of repair/permits. A wildfire that caused extensive damage throughout Oak Island's jurisdiction could qualify as a natural disaster that would make this ordinance applicable, but not an individual house fire. In the scenario where one wanted to reside in a travel trailer while construction or a renovation was being done on their house in a regular non-disaster related circumstance, then a one-time 90 day storage permit is allowed assuming the permit from the town is obtained. That situation already has an established and existing separate ordinance that applies.

The ordinance standards will be provided on the back side of these permit applications so one will know up-front what is required. These proposed ordinance standards will also be made as a condition of the permit that the customer signs. Section 7.30.2 is proposed to be removed because the proposed standards already cover the content within that UDO section. The proposed text amendment contains automatic sunset expiration date for individual permits. If temporary housing is specifically tied to repair work occurring on site, the ordinance requires removal of the temporary housing after the repair work is complete. The proposed ordinance also has some flexibility built in by allowing limited permit extensions granted by the Development Services Department. The ordinance specifies criteria for when an extension may be granted, the duration of an extension, and a maximum time of extension.

One would not be able to install a travel trailer to reside in until this temporary housing permit would be submitted to the town. Once a Certificate of Occupancy is issued one has 30 days to detach and relocate the travel trailer to an allowable location. This use is listed as a "PS" because specific standards apply to it and it is in all zoning districts because residential dwelling are in existence in many of those other zoning districts and a need for this type may arise in those areas in the future.

The UDO already has a definition for this type of housing but staff has added in some additional language for clarification purposes. The Table of Uses in Article VI identifies this land use as permissible within most of the residential zoning districts but only with a Special Use Permit and only if the related standards are also met. Issuing these permits as a Special Use Permit does not make sense. The amount of work, labor and documentation required is not pragmatic and the process can easily take a minimum of 45 days for each permit, Council would have to individually approve each permit, and public notification requirements such as signs and letters would be required for every-single permit. Staff has changed the Table of Uses to have it Permitted with Standards (PS) in the same zoning districts plus some additional zoning districts. The attached standards detail that the applicant must show: how the unit will be hooked up to utilities, the number of units allowed, setbacks, the permitted time period, electrical hook-up, time period to remove when permit expires, RV parks, and dimensional standards.

It is important that the Oak Island and the ordinance makes it clear with the applicants and residents that this is temporary in nature. Owners will be obligated to remove the temporary housing in the future, and that will be clearly stated as a condition of approval.

Attachments: Proposed Ordinance Amendment

Recommendation/Action Needed: Approval

Suggested Motion: I make a motion to approve or deny the proposed text amendment and to adopt the associated plan consistency statement.

Planning Board Recommendation: TBD

Funds Needed: \$0.00

Follow Up Action Needed: Forward recommendation to Town Council

Attachment

Appendix A - Definitions

Temporary emergency, construction or repair residence

Temporary accommodations such as manufactured housing, recreational vehicle, or a travel trailer providing temporary housing accommodations for individuals or families whose homes have been destroyed or significantly damaged, through no fault of the owner, **by an emergency or natural disaster as determined by the town manager.** A subordinate residence (which may be a Class B manufactured home, travel trailer) that is: located on the same lot as a single-family dwelling made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (ii) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed.

SECTION 7.30 TEMPORARY EMERGENCY, CONSTRUCTION, AND REPAIR RESIDENCE.

7.30.1. Dimensional Requirements- Temporary Housing

~~A Temporary Emergency, Construction, and Repair Residence shall comply with the dimensional requirements for an accessory building as set forth in Article 8.~~

Temporary housing units shall be permitted in all residential zoning districts subject to the following standards:

A. The town manager may authorize use of town property for these temporary housing needs as he/she sees fit in the wake of a natural disaster.

B. A Temporary Housing Occupancy Permit shall be issued by the Planning & Zoning Administrator or his/her designee for all temporary housing units at the time of before placement of the travel trailer onto the lot is allowable. , or when a Building Permit is applied for, in the case of repair and reconstruction of the primary structure. A permit has to be applied for within 18 months for the repair

and reconstruction of the primary structure or the Temporary Housing Occupancy Permit shall be null and void.

C. The Temporary Occupancy Permit shall be issued for a period of time not to exceed twelve (12) months while repair and reconstruction of the primary structure is ~~planned~~ taking place and may be renewed for an additional six (6) month period, provided significant progress has been made in the repair and reconstruction of the primary structure. Maximum extension shall not exceed six (6) months.

D. The Temporary Occupancy Permit Application shall indicate the location of the temporary housing unit and include a description of the proposed utility connections. For recreational vehicles/travel trailers, the Temporary Occupancy Permit Application shall also include proof of license, registration, and capacity for highway use.

E. A maximum of one (1) temporary housing unit (or two (2) in the case of a two-family dwelling) shall be permitted provided:

1. The primary structure located on the lot upon which the temporary housing unit will be placed has been destroyed or significantly damaged, through no fault of the owner, by an emergency or natural disaster.

2. The temporary housing unit is properly connected to an approved water source, authorized wastewater system, and a permitted electrical service hook-up.

F. Temporary housing units must be removed from the lot within thirty (30) days following completion of repair and reconstruction on the primary structure, or within thirty (30) days following expiration of the Temporary Occupancy Permit.

G. For the purposes of this section A manufactured home being used as a temporary housing unit shall meet all FEMA standards for such uses and applicable requirements of the Flood Damage Prevention Ordinance and/or consist of housing units provided or approved by FEMA.

H. Setback requirements may be waived during the duration that the temporary housing unit is permitted, such that the placement of the temporary housing unit will allow for unobstructed repair and reconstruction on the site, provided the temporary housing unit does not extend into any public right-of-way, easement, or adjacent property.

I. A maximum of two (2) temporary storage containers up to sixteen (16) feet long, eight (8) feet wide, and nine (9) feet tall, shall be permitted on a lot subject to the requirements of this section. Setback requirements for temporary storage containers may be waived during the duration that the temporary housing unit is permitted, such that the placement of the temporary storage containers will allow for unobstructed repair and reconstruction of the primary structure and the temporary storage containers do not extend into any public right-of-way, easement, or adjacent property.

J. Temporary housing units may be established as part of a temporary RV/manufactured home park subject to the requirements of this section and provided no more than twenty units shall be permitted per acre and that each unit shall be setback a minimum of thirty (30) feet from all property lines. Temporary RV/manufactured home parks shall only be permitted in districts where such permanent

uses are currently permitted. A detailed site plan and narrative shall be submitted identifying utility connections, water supply, waste disposal, traffic circulation, and temporary housing unit spacing.

7.30.2. Permit Expiration.

~~A permit for Temporary Emergency, Construction, and Repair Residence to be occupied pending the construction, repair, or renovation of a permanent single-family dwelling on a site or a non-residential/commercial development shall expire within 6 months after the date of the issuance, except that the UDO Administrator may renew such permit if it is determined that: (1) substantial construction, repair work, renovation or restoration work has been done; and (2) such renewal is reasonably necessary to complete the necessary work to make such residence habitable. A Class A manufactured home may be used as a temporary residence.~~

ARTICLE 6. ZONING DISTRICTS

Section 6.5 Table of Uses and Activities.

P - Permitted Use

PS - Permitted Use with Supplemental Regulations

Blank - Not Permitted

S - Special Use

SS - Special Use with Supplemental Regulations

Uses	Primary Zoning Districts																Overlay District	Supplemental Regulations
	R-20	R-9	R-7	R-6	R-6MF	R-6MH	O&I	R-MU	C-MU	CB	CR	C-LD	OS	AD	ID	PUD	PCO	
Residential Cont.																		
Small child-care center	S			S	S													
Temporary emergency, construction, and repair residences	SS PS	SS PS	SS PS	SS PS	SS PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		Section 7.30
Tiny houses						PS												Section 7.31

**TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO**

Agenda Item: New Business No. 1

Date: 1/25/2019



Issue: Airport Signage – Text Amendment

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 20 Minutes

Subject Summary:

The Cape Fear Jetport Executive Director, Howie Franklin, is requesting a revision to the Oak Island UDO (Unified Development Ordinance) signage ordinance. The airport desires to install new signage for the new terminal under construction. A sign permit application that has 3 wall signs and 2 column/pole signs was submitted to the town. The current signage ordinance does not specify standards for signage within the airport zoning district, so staff had to identify the most applicable place within the ordinance to apply signage standards. The signage ordinance standards applied to the airport sign permit application were more restrictive than what the airport proposed to install. For this reason the proposed text amendment application is before you now. The applicable sign definitions are included for reference and edification. Please remember to adopt the plan consistency statement with your motion.

The proposed text amendment details the permissible amount of square footage, height, and number of signs permitted in the newly created table 10.26.4.1. The wall signage ordinance standards match what the industrial district signage regulations require for wall signage which is 1.5 sq. ft. for each linear foot of wall frontage or 5% of wall whichever is greater.

A freestanding sign is an all-encompassing definition for both monument and column/pole signs which are sub-classifications of the overall encompassing freestanding sign type style. A 10ft height limit of 10 feet is set for monument signs and a 25 foot maximum height is established pole/column signs. The 25foot height matches the same height maximum required for signs of this type in the business district. The total combined square footage pole signs that the airport proposes to construct is 172.8 sf. One pole sign is by the parking lot entrance and the other is by the rear of the parking lot closer to the front door of the terminal. The proposed freestanding sign is about 17ft in height and the bottom of the sign is 9ft from the ground. The total proposed square footage of the proposed pole signs are about 86 square feet each, making them compliant with the 100 max square footage for each pole sign in the attached text amendment.

Attachments: Proposed Ordinance Amendment, Text Amendment Application,

Recommendation/Action Needed:

Suggested Motion: I make a motion to approve or deny the proposed text amendment and to adopt the associated plan consistency statement.

Planning Board Recommendation: TBD

Funds Needed: \$0.00

Follow Up Action Needed: Forward recommendation to Town Council

Attachments

10.26.4.1 Airport District Signs (AD).

Permitted Sign Type(s)	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
BUILDING MOUNTED				
Wall ¹	Front facades	1.5 sq. ft. for each linear foot of wall frontage <u>or</u> 5% of wall whichever is greater	N/A	N/A
Wall ¹	Secondary to primary signage	1 sq. ft. for each linear foot of building facing side street	N/A	N/A
Projecting ²	Airport Facility	12 sq. ft. (total of 24 sq. ft. - 2 sides)	8 ft.	1
Canopy or Awning ²	Airport Facility	Copy area of the sign is limited to the drip flap. Logos may be placed on the awning itself.	---	1
FREESTANDING				
Monument or Ground Mounted ³	Nonresidential	100 sq. ft.	10 ft.	1
Column/Pole ³	Nonresidential	100 sq. ft. each	25 ft.	2
Temporary ⁴		8 sq. ft.	4 ft.	

¹Wall signs may project a maximum of 12" from the wall to which it is mounted. The bottom of the sign must be a minimum of 8 feet above the ground level.

²Sign may not protrude above soffit, parapet, or eave line of the building to which it is attached.

³In the AD district, one may provide the following freestanding signs: (a) one freestanding sign along each public right-of-way frontage that displays the name of the entity. Such signs shall not exceed 25 feet in total height. All total combined freestanding signage cannot exceed 250 square feet per sign

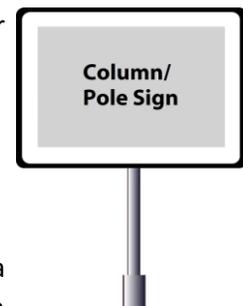
³Sign must be placed no closer than 10' from property line along public and state roads. One ground mounted or monument sign is permitted. In the event of a double-sided sign, only one side shall be used to figure the square footage.

⁴The temporary sign may be displayed up to fifteen (15) days prior to and fifteen (15) days following the specific event with which the sign is associated. Miscellaneous temporary use signs not tied or connected to a specific event may be displayed for up to sixty (60) calendar days without a zoning permit. Display for longer than 60 days will require issuance of a zoning permit.

Appendix A - Definitions

Sign Regulations Definitions

- (9) **Sign, awning** means any non-illuminated sign painted on or applied to a structure made of cloth, canvas, metal, or similar material that is affixed to a building and projects therefrom. Such signs may or may not be fixed or equipped with a mechanism for raising and holding an awning in a retracted position against the building.
- (10) **Sign, business identification** means any sign which advertises an establishment, a service, commodity, or activity conducted upon the premises where such sign is located.
- (11) **Sign, column/pole** means a freestanding sign supported by one or more columns or poles or other similar support.
- (12) **Sign, commercial accessory** means a freestanding sign on a commercial parcel relating to the products sold thereon in addition to the principal use sign.
- (16) **Sign, freestanding** means sign that (i) is not directly attached to, erected on, or supported by a building or other structure having a principal function other than the support of such sign, but (ii) is instead attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of a building or other structure having a principal function other than the support of a sign.



- (17) **Sign, ground-mounted** means freestanding sign, supported by a contiguous structural base or planter box that is permanently affixed to the ground.
- (21) **Sign, monument** means any sign permanently attached to the ground and not attached to any building advertising multiple tenants, multiple uses, multiple buildings or multiple parcels. The design of the monument sign is to advertise multiple offerings in the building, group of buildings, or development area. Individual business within multi-tenant facilities are not permitted freestanding signs and shall have their signage located on a monument sign.
- (29) **Sign, temporary** means any sign that advertises or directs attention to a product, event, election, activity, meeting, exhibition, or performance of any kind where such a sign is not permanently affixed, placed, or erected and is allowed for a limited timeframe.

- (30) **Sign, wall** means any sign attached to, painted on, or erected against any wall of a building or structure so that the exposed face of the sign is on a plane parallel to the plane of said wall and which does not extend more than



eighteen (18) inches

- (32) **Sign, window** means any sign appearing in, on or through a window of a structure and visible from outside. The term window sign shall not be used to define a window display.



TEXT AMENDMENT APPLICATION

TOWN OF OAK ISLAND
Planning Department
4601 E. Oak Island Drive
Oak Island, NC 28465



Date: 12-14-18

Fee: \$ 80.00 - \$ 300.00

Project Name (if applicable): AIRPORT-SIGN-

Any application for an amendment shall be filed with the department of development services at least 45 days prior to the date on which it is to be introduced to the planning board. Each application shall be signed by the property owner or the property owner's agent and be in triplicate. (Sec. 18-335).



This is a legislative decision, anyone can appeal since a text amendment applies to the whole town. A council member cannot vote on a text amendment if there is a conflict of interest. A public hearing is required, notice of hearing and Planning Board review is mandatory, governing board cannot act on an amendment without written recommendation from Planning Board or on a text amendment. Can appeal for up to 6 months to a year afterward. The application first goes to the Planning Board for recommendation and then to Council for final approval. A written statement by Council or the Board of Commissioners is required for adoption or rejection of all zoning text amendments.

The Planning Board and Town Council may consider consistency with the Land Use Plan as well as any unintended consequences while deciding.



Petitioner Name: HOWIE FRANK - CAPE FEAR REGIONAL JETPORT

Mailing Address:
4019 LONG BEACH ROAD
OAK ISLAND, N.C. 28405

Phone: 910-457-0483

Email: Howie@CAPEFEARJETPORT.COM

[Redacted]

Owner Name(s): SAME - AS ABOVE

Mailing Address:

Phone: _____ Email: _____

[Redacted]

Is the proposed zoning consistent with the Land Use Plan? (Please Check One): Yes No

Please describe why the Board should vote in your favor. As well as why this change would be advantageous for the Town of Oak Island.

(Attach separate sheet if necessary). *Note: The Oak Island Land Use Plan and all maps can be found online at <http://www.oakislandnc.com/General-Info.aspx>

[Redacted]

In filing this text amendment application, I hereby certify that I am authorized to submit this application and that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.

Signature: *David L. ...*

Date: 12-14-18

**TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO**

Agenda Item: New Business No.2

Date: February 14, 2019



Issue: Rezoning Request

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Estimated Time for Discussion: 30 Minutes

Subject Summary:

This agenda item memo serves as an application to rezone a property located between SE 72nd and SE 73rd Street. This is a citizen initiated rezoning application and the parcel number is 250BL022. The property is split-zoned and is currently zoned both CB (Community Business) and R7 (Residential). As one can see on the map the northern portion on the property is zoned CB while the southern part is zoned R7. The property owner is requesting that the entire parcel be zoned R7, hence the rezoning application. The property is currently undeveloped. Examples of important considerations to take into account are: impact on neighbors & neighborhood, traffic, environmental quality, utilities, schools, economic impact, tax base, spot zoning, road capacity, infrastructure, community opinion, property values, consistency with the LUP, future land use map, jobs, public services, buffering requirements if applicable, and site limitations. The classification of this land in the Oak Island Comprehensive Land Use Plans Future Land Use map is *medium-density residential*. The flood zone is a mix of AE and the 0.2% Annual Chance Flood Hazard flood zone.

If adopted all the allowable uses codified for the R-7 zoning district will be permissible for the property. The decision must be based on suitability of land for all potential uses in the district; not on any proposed or promised development. If an owner promises the governing board that the new zoning would be used only for a particular project that promise is not binding. Once the property is rezoned, the owner (and anyone the person may sell the property to) can undertake any use permitted in the new zoning district. It is staff opinion that spot zoning would not be an issue in this case because as you can see from the map, all of the adjacent land is zoned R7.

While it is not unusual for a planning board or governing board to be curious about the identity of an applicant or land owner, that is rarely relevant to a zoning decision. Zoning decisions need to focus on what the potential land use impacts will be, not who is generating them. More broadly, the courts have emphasized that land use regulations must be based on the land use impacts of property use, not the identity of the users of the property.

It is important include in the motion “and the associated plan consistency statement”, otherwise if appealed, the courts could reverse the decision (Wally v. Town of Kannapolis). Plan consistency is a factor that must be explicitly considered, but it does not control the outcome of the decision. A Town can adopt a rezoning that is inconsistent with their plan so long as they acknowledge in writing that they know they are doing so and take the time to set out the rationale for their decision. The statutes do not require detailed findings on this point. The Planning Board vote is for an advisory recommendation. One cannot and should not consider ethnicity or income; the decision is about the property, not the owner.

Once the Planning Board makes a recommendation, the rezoning will go before Town Council for official adoption or denial. The adjacent property owners will receive the proper notifications to come into conformance with the General Statutes. Since this is a legislative decision, if there is a

conflict of interest (being a financial interest) the Board member may not vote but is allowed to participate in the discussion, but should not as it is not a best practice. The conflict of interest is not whether the board member has the ability to be unbiased but rather if there is a reasonable perception of partiality by the applicant or otherwise. The applicant has submitted the application paperwork with a short narrative, surveys and a legal description of the land. The rezoning map is provided by staff. A simple majority vote is all that is required for a legislative rezoning decision such as this.

Attachments: Rezoning map, Application, Applicant Narrative, Surveys, Legal Description

Recommendation/Action Needed: Approval

Suggested Motion: Motion to recommend approval or denial of the rezoning application and to adopt the associated consistency statement

Funds Needed: \$0.00

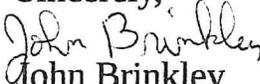
Follow-up Action Needed: Forward recommendation to Town Council

Attachments



Subject: Rezoning request .78 Acre between 72nd St SE and 73rd St SE Oak Island, NC

I am requesting the rezoning of approximately .78 of an acre from the existing CB (Community Business) to R7 residential. Originally there was a 2 acre section zoned CB and 1.25 acres fronting on Oak Island Dr was sold off to St James for a combination park and parking lot. This reduced the overcrowding during high volume holidays at their Beach Club parking lot and reduced the urge for parking along the right of way of 72nd St. The remaining portion has no Oak Island Dr frontage and would better serve the community in the R7 residential classification which is consistent with the adjoining properties on the west side of 72nd St SE and the East side of 73rd St SE. The R7 zoning would reduce traffic in the area and would esthetically be more appealing than a commercial structure with impervious asphalt paving. Thank you for entertaining my request.

Sincerely,

John Brinkley

REZONING APPLICATION

TOWN OF OAK ISLAND
Planning Department
4601 E. Oak Island Drive
Oak Island, NC 28465



Date: _____

Fee: _____

Project Name (if applicable): _____

Any application for an amendment to the zoning map shall be filed with the department of development services at least 45 days prior to the date on which it is to be introduced to the planning board. Each application shall be signed by the property owner or the property owner's agent and be in triplicate. (Sec. 18-335).

Process

This is a legislative decision, if there is a conflict of interest (being a financial interest) a board member may not vote but is allowed to participate in the discussion. Conditions cannot be placed on a rezoning decision. Spot zoning is determined and avoided if identified. A Plan Consistency Statement will be provided by staff and signed by the Town for every rezoning hearing at each board meeting. The application first goes to the Planning Board for recommendation and then to Council for final approval. Notification letters are required to be sent to all the adjacent property owners. A sign has to be placed no less than ten (10) or more than twenty-five (25) days before the hearing date. After the final vote, a zoning decision will be delivered (via email, personal delivery or first class mail) to the applicant.

The Planning Board and Town Council may consider the following when deciding: Impact on neighbors and neighborhood, traffic, environment, utilities, suitability of land, harmony with area, schools, economic impact, tax base increase, spot zoning created, road capacity, adequate infrastructure, community opinion, property values, consistency with the Land Use Plan, future land use map, jobs, public services, buffering requirements (if applicable), environmental impact, site limitations, and consistency with plans and prior decisions. The Board cannot consider ethnicity, income, affordable housing, owner versus renter housing, or who the owner is when deciding.

Section 1: Applicant Information

Petitioner Name: _____

John Brinkley

Mailing Address: _____

1702 Eddinger, Thomasville, NC 27360

Phone: _____

336 472 1967

Email: _____

Oakisland6B@hotmail.com

21

Section 2: Property Owner Information (if different than above)

Owner Name(s): Same as Section 1

Mailing Address:

Phone: _____ Email: _____

Section 3: Property Information

Street Address and/or Description of Location:
72nd & 73rd St SE Oak Island, NC

Parcel ID #(s): 250B6022

Total Site Acres or Square Feet: .78 Acres 33,874.92 SF

Current Zoning District(s): CB

Proposed Zoning District(s): R7

Section 4: Diagram

If the proposed change would require a change in the zoning map, an accurate diagram of the property proposed for rezoning showing:

1. All property lines with dimensions and north arrow.
2. Adjoining streets with rights-of-way and paving widths.
3. The location of all existing structures on the property.
4. The existing land uses associated with the property.
5. The zoning classification of all abutting zoning districts.
6. A list of all abutting property owners.

B0183 P0012 08-22-2017
Brunswick County, NC Register of Deeds
Branda M. Clemmons, PLR
page 1 of 1

RECOMBINATION SURVEY FOR: JOHN H. BRINKLEY III

LOT 3 & 4, BLOCK 6B, SECTION "ELB"
SMITHVILLE TOWNSHIP, BRUNSWICK COUNTY
OAK ISLAND, NORTH CAROLINA



M. Pace
REVIEW OFFICER OF
BRUNSWICK COUNTY CERTIFY THAT THE MAP OR PLAN TO
WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY
REQUIREMENTS FOR RECORDING.
9/22/17
REVIEW OFFICER

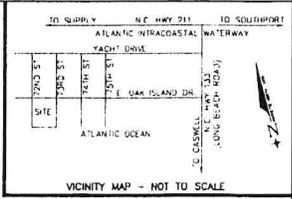
55211.80 Sq. Ft.
1.279 Acres

THIS PLAN HAS BEEN REVIEWED FOR
EASEMENTS ONLY AND HAS BEEN
APPROVED FOR EASEMENTS ONLY BY
THE COUNTY ENGINEER.

COUNTY ENGINEER

DATE

LINE	BEARING	DISTANCE
1	N 80°11'54" E	28.75'
2	S 80°11'54" W	28.75'
3	S 86°07'32" E	19.21'
4	S 73°22'29" E	21.77'
5	S 14°56'22" E	25.11'
6	S 55°35'08" E	25.40'
7	S 74°01'20" E	32.50'
8	N 84°43'51" E	26.73'
9	N 87°19'03" E	20.50'
10	N 47°27'32" E	21.51'
11	N 15°48'00" E	28.00'
12	N 21°28'13" E	22.50'
13	N 84°53'39" E	18.60'
14	N 84°53'39" E	9.17'
15	S 15°28'00" W	384.00'
16	S 58°43'42" W	8.84'
17	N 58°43'42" W	19.19'
18	N 34°04'37" W	27.39'
19	N 22°00'43" W	20.46'
20	N 29°04'30" W	27.41'
21	N 83°30'50" W	24.84'
22	N 83°52'23" W	15.94'
23	S 48°18'21" W	26.39'
24	S 41°14'02" W	30.16'
25	N 83°16'02" W	22.79'
26	S 83°50'20" W	20.53'
27	S 07°52'06" W	30.68'
28	S 33°32'38" W	21.01'
29	N 88°45'52" W	23.61'
30	N 16°10'12" E	24.64'
31	N 64°14'56" W	15.91'
32	N 12°28'00" E	29.15'



NOTES:

THE PROPERTY SHOWN HEREON IS LOCATED IN A FLOOD HAZARD ZONE "AE" AND ZONE "VE". BASE ELEVATIONS VARY. REF. F.I.R.M. COMMUNITY NUMBER 37C/023, PANEL 2075, SUFFIX "J" DATED 6/2/06.

THIS PROPERTY IS LOCATED IN OAK ISLAND ZONE "CB" AND ZONE "R-7".

SETBACKS FOR ZONE "CB":
FRONT 20', REAR 10', SIDE 0', CORNER SIDE 8'

SETBACK FOR ZONE "R-7":
FRONT 25', REAR 20', SIDE 8', CORNER SIDE 10'

LOT 3 TOTAL AREA = 55711.80 SQ.FT./1.279 ACRES

LOT 4 TOTAL AREA = 13065/80 SQ.FT./3.00 ACRES
UPLANDS = 95199.65 SQ.FT./2.19 ACRES
WETLANDS = 35437.95 SQ.FT./0.81 ACRES

LOT AREA TOTALS CALCULATED TO STATIC VEGETATION LINE.

PROPERTY OWNER: JOHN H. BRINKLEY III
157 CIRCUIT DRIVE, THOMASVILLE, N.C. 27360

CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY DESCRIBED HEREON, WHICH PROPERTY IS WITHIN THE SUBDIVISION REGULATION JURISDICTION OF THE TOWN OF OAK ISLAND, AND THAT I FREELY ADOPT THIS PLAN OF SUBDIVISION.

DATE _____ OWNER _____
NOTARY

I HEREBY CERTIFY THAT THE SUBDIVISION SHOWN ON THIS PLAN DOES NOT INVOLVE THE CREATION OF NEW PUBLIC STREETS OR IMPROVEMENTS TO EXISTING PUBLIC STREET, OR THE EXTENSION OF PUBLIC WATER OR SEWER FACILITIES, AND THAT THE SUBDIVISION SHOWN IS IN ALL RESPECTS IN COMPLIANCE WITH THE SUBDIVISION REGULATIONS OF THE TOWN OF OAK ISLAND.

9-22-2017 *Robert B. McHenry, Jr.*
DATE SUBDIVISION ADMINISTRATOR

I, ROBERT B. MCHENRY, JR. PLS CERTIFY THAT THE PROPERTY SHOWN HEREON IS ONE OF THE FOLLOWING:

- A. THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND;
- B. THAT THE SURVEY IS LOCATED IN A PORTION OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN ORDINANCE THAT REGULATES PARCELS OF LAND;
- C. ANY OF THE FOLLOWING
 - 1. THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET;
 - 2. THAT THE SURVEY IS OF AN EXISTING BUILDING OR OTHER STRUCTURE, OR OTHER NATURAL FEATURE SUCH AS WATERCOURSE;
 - 3. THAT THE SURVEY IS A CONTROL SURVEY
- D. THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY OR OTHER EXCEPTION TO THE DEFINITION OF A SUBDIVISION;
- E. THAT THE INFORMATION AVAILABLE TO THE SURVEYOR IS SUCH THAT THE SURVEYOR IS UNABLE TO MAKE A DETERMINATION TO THE BEST OF THE SURVEYOR'S PROFESSIONAL ABILITY AS TO PROVISIONS CONTAINED IN (A) THROUGH (D) ABOVE.

Robert B. McHenry, Jr.
ROBERT B. MCHENRY, JR., PLS

Map Cabinet 103 pg 12 9/22/17 LG

STATE OF NORTH CAROLINA
BRUNSWICK COUNTY

I, ROBERT B. MCHENRY, JR. CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION. THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDE AND DEPARTURES IS 10,000'. THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS DOTTED LINES PLOTTED FROM INFORMATION FOUND IN BOOKS REFERENCED. WITNESS MY HAND AND SEAL THIS 20th DAY OF MONTH FEBRUARY A.D. 2017

Robert B. McHenry, Jr.
LAND SURVEYOR REGS. NO. 15221



EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAN, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS THAT WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY; BUILDING SETBACK LINES; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS; ZONING OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

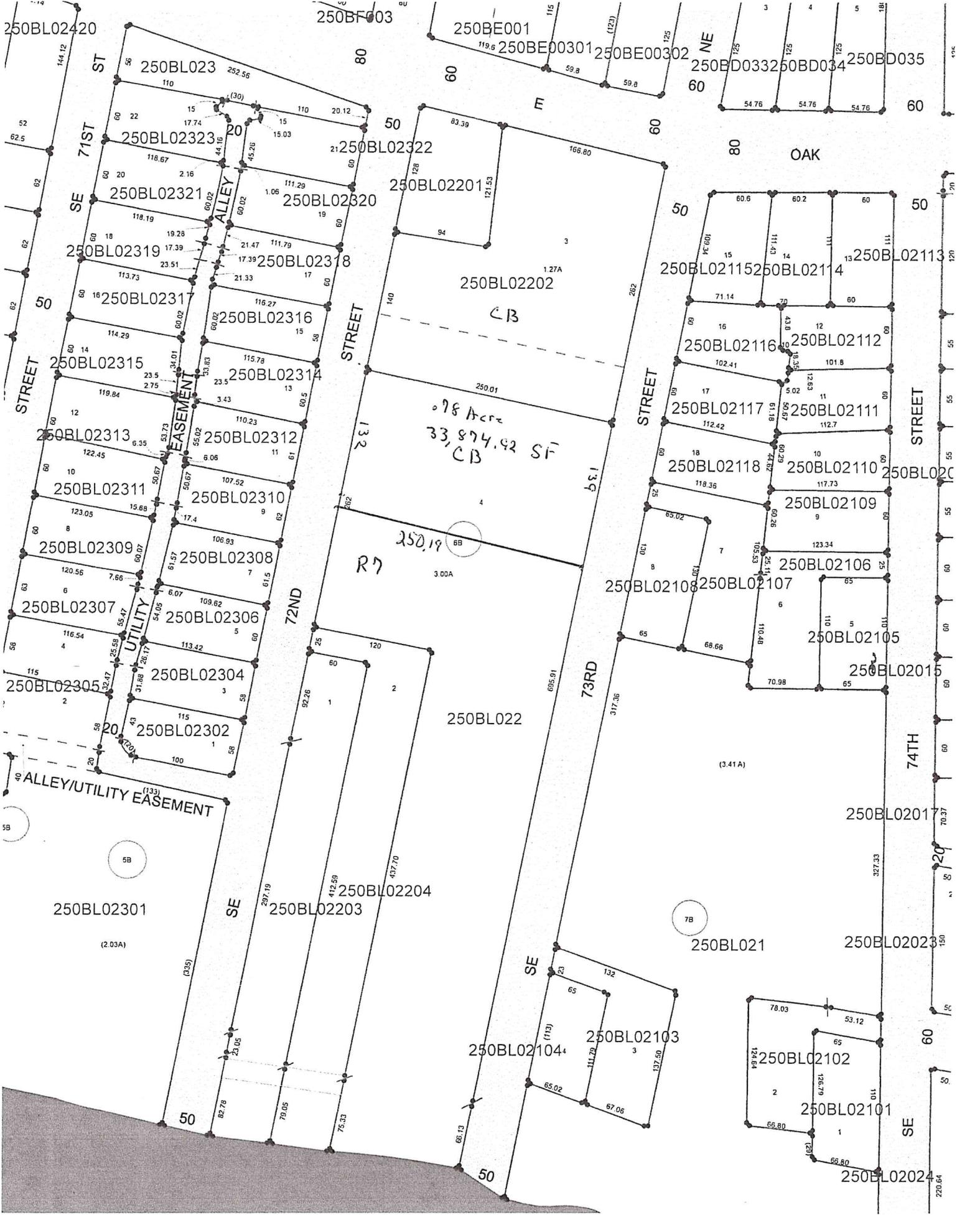
THE LOCATIONS OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE-GROUND STRUCTURES AND RECORDED DRAWINGS PROVIDED THE SURVEYOR. LOCATIONS OF UNDERGROUND UTILITIES/STRUCTURES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES/STRUCTURES MAY BE ENCOUNTERED NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES/STRUCTURES.

DATE SURVEYED: AUGUST 8, 2016
SURVEY BY: RF/CH
DRAWN BY: C.KENNEDY

LEGEND:
ERB = EXISTING REBAR FOUND
NRB = NEW REBAR SET
EMAG = NEW MAG NAIL SET
EM = ELECTRIC METER
LP = LAMP POST
SC0 = SEWER CLEANOUT
WM = WATER METER
WV = WATER VALVE

JOB NUMBER: 16-0033/17-0291
FIELD BOOK: RBM-2016-6
SCALE: 1 INCH = 60 FEET

MCHENRY SURVEYING
PROFESSIONAL LAND SURVEYOR
P.O. BOX 433 - 8509 E. OAK ISLAND DR.
OAK ISLAND, N.C. 28465
TEL: 910-278-9874
FAX: 910-278-3799
F: 0471



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Legal Description of Lot 4 Block 6 B Section ELB within Oak Island

"CB" Zone

Beginning at a point on the southern right of way of East Oak Island Drive and the western right of way of SE 73rd St, said point being an existing rebar on the northeast corner of Lot 3, Block 6 B Section ELB, thence with the western right of way of SE 73rd Street South 15 degrees 28 minutes 00 seconds West 262.00 feet to an existing rebar, said rebar being the southeast corner of Lot 3 Block 6 B Section ELB, and the northeast corner of Lot 4 Block 6 B Section ELB, being the point and place of beginning, thence continuing along the western right of way of SE 73rd Street South 15 degrees 28 minutes 00 seconds West 139.00 feet to a point on Lot 4, said point being where the Oak Island Zoning Line intersects with lot 4, thence leaving the right of way of SE 73rd Street continuing with said Zoning Line North 72 degrees 17 minutes 40 seconds West 250.19 feet, to a point on Lot 4, said point being on the eastern right of way of SE 72nd St, said point also being where the Oak Island Zoning Line intersects with lot 4, thence with the eastern right of way of SE 72nd Street North 15 degrees 28 minutes 00 seconds East 132.00 feet to an existing rebar, said rebar being the northwest corner of Lot 4, said rebar also being the southwest corner of Lot 3, thence leaving the right of way of SE 72nd Street South 73 degrees 53 minutes 51 seconds East 250.01 feet to the place and point of beginning. Being the portion of Lot 4 Block 6 B ELB within the Oak Island Zone "CB", containing 33874.92 square feet or 0.78 acres, more or less, as shown on Map Book 103 Page 12 Brunswick County NC Register of Deeds.

**TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO**

Agenda Item: New Business No. 3

Date: February 4, 2019



Issue: Impervious Surface/BUA – Text Amendment

Department: Development Services

Presented by: Steve Edwards

Presentation: None

Estimated Time for Discussion: 40 Minutes

Subject Summary:

The proposed text amendment is about setting a maximum allowable impervious surface percentage for single and two-family residential developments only. Built-upon area, also called impervious area, is a source of pollution that is controlled by these regulations. Pollutants, such as oil and chemicals, deposited on these surfaces wash straight to creeks and lakes in runoff during rain events causing negative water quality impacts. The goal with this text amendment is to mitigate runoff issues by restricting the amount of impervious surface that can be installed on a lot and to preserve open space. The built-up-area portion of this text amendment, if adopted, would only apply to single and two-family residential development, not commercial or other land use types. More restrictive stormwater regulation already set in place for commercial development. At the moment, there are no regulations in regards to allowable impervious surface area. Some were proposed in the past but were never approved. Currently, an application submitted by a developer cannot be denied due to excessive impervious surface. This text amendment would change the stormwater section of the Zoning Ordinance if adopted. Staff would have to show this alteration to the state Department of Environmental Quality for input first before approval.

Often an impervious surface area is calculated by totaling the square footage of the building envelope. Overhangs, 3 feet or less, are not considered part of the impervious surface area. Structures that are on stilts are not excluded from the allowable impervious surface area requirement, the square footage of the building is used to determine the percentage of impervious surface. Built-upon area is defined as both impervious and partially impervious cover including buildings, pavement, gravel, but does not include wooden slatted decks and the water area of a swimming pool. The states (NC), and therefore the towns, definition of "Built-upon area" does not include a slatted deck; the water portion of a pool, a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; or a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour)."



Tire runners driveway example

Gravel is considered an impervious surface. Even a dirt driveways by state stormwater standards is considered impervious surface if it is used to be driven upon. There are a few exemptions of certain material that would be considered pervious surface by the state. Tire runners, for example, filled with grass in the center would apply and it helps reduce the impervious surface total percentage.

The impact of this BUA ordinance on stormwater is nothing as far as water quality is concerned, as builders will still be required to meet the existing requirement of retaining the first inch and a half of rainfall on site. The impact will be entirely on water quantity, the volume of water leaving the site and going into the Town systems. The adjacent tables shows tow sets of the most recent past residential site plans that were tabulated to

Table 2

# of Homes	% Impervious
5	10 – 14.9%
9	15 – 19.9 %
19	20 - 24.9%
28	25 - 29.9%
34	30 - 34.9%
48	35 - 39.9%
44	40 - 44.9 %
13	45 - 49.9%

give an idea of where things currently stood regarding this topic. Here is what was found.

Table 1

# of Homes	% Impervious
4	10 – 14.9%
3	15 – 19.9 %
7	20 - 24.9%
14	25 - 29.9%
20	30 - 34.9%
23	35 - 39.9%
23	40 - 44.9 %
6	45 - 49.9%

In table 1 the lowest % impervious surface amount is 13.9%, the highest % impervious surface amount is 48.8%, and the average impervious surface amount is 34.4%. For table 2 the lowest impervious surface coverage is still 13.9%, the highest percentage is 49.6% and the average is 33.7%. In addition staff keeps records of the impervious surface figures with it's

development and building permit application paperwork. Staff ran an analysis on those records and found that in 2016 that 16 out of the total number of developments had greater than 45% impervious surface in 2016 resulting in 8.1% of the total over that benchmark. 26 out of total number of developments were greater than 45%. That is a total of 7.9% of developments in 2017. 27 out of total number of developments in 2018 were greater than 45%. That is 9.6% for that year. In 2019, 2 out of 21 development permits are greater than 45%, which is 9.5% of total cases for 2019.

The impervious surface text amendment would apply to residential development only. Property owners are responsible for maintaining compliance with built-upon area restrictions on their lot whether the building activity requires a building permit or not. Sometimes, property owners add built-upon area that does not require a building permit (such as a fire pit, walkway, etc.) and unknowingly violate their built-upon area restriction. Following the addition of any new impervious area that requires a building permit, a new survey is required to demonstrate compliance with built-upon area restrictions prior to releasing a Certificate of Compliance. If this survey reveals the built-upon area limit has been exceeded, the property owner is responsible for removing the area or obtaining a variance from the jurisdiction to allow it to remain.

The engineers have design standards that have to be met, which follows the best manual practice, that would be included in their design criteria that covers things such as water table, soils, run-off, absorption rates and lot area. Adopting this text amendment will help issues with stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment.

Innovative design work options exist that can be utilized in order to reduce the impervious surface amount. Please remember to adopt the associated plan consistency statement with your motion.

Attachments: Proposed text amendment

Recommendation/Action Needed:

Suggested Motion: I make a motion to approve or deny the proposed text amendment and to adopt the associated plan consistency statement.

Funds Needed: \$0.00

Follow-Up Action Needed: Forward recommendation to Town Council

Attachment

UDO Appendix A - Definitions

SECTION A.3 DEFINITIONS.

Built upon area (BUA)

Impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. Built upon area does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; or a trail as defined in GS 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).

PART IX. STORMWATER MANAGEMENT

SECTION 10.104 GENERAL PROVISIONS.

The owner and/or applicant developer shall comply with all applicable requirements and thresholds established by the NC Department of Environmental Quality (Division of Water Resources and Division of Energy, Mineral, and Land Resources), and the US Army Corps of Engineers, and as adopted by the Town in Code of Ordinances, Chapter 18, Article V - The Phase II Stormwater Ordinance, and Article VI - Illicit Stormwater Discharge Ordinance for the Town of Oak Island, North Carolina. All applications for approved stormwater control plans must be submitted to the UDO Administrator who will forward them to the Stormwater Administrator.

Sec. 18-655. - Applicability and jurisdiction.

- (a) *General.* Beginning with and subsequent to its effective date, this article shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to subsection (b), exemptions.
- (b) *Exemptions.* Development and redevelopment of single-family or duplex residences that will add 10,000 square feet or less of built upon area are exempt from the provisions of this article except all such development must provide appropriate control systems that are any combination of infiltration

systems, bioretention systems, constructed stormwater wetlands, sand filters, cisterns, rain gardens, or alternative low impact development stormwater management systems designed in accordance with 15A NCAC 02H.1008 and any locally required design criteria to control and treat the runoff from all surfaces generated by one and one-half inches of rainfall or less from all impervious surfaces on site. An application must be submitted to ~~community~~ development services for such development or redevelopment which describes in detail how stormwater runoff will be controlled and managed, the design of the stormwater facilities and practices, and how the proposed project will meet the requirements of this article. A qualified state-registered professional engineer or surveyor must design projects with impervious surfaces exceeding 30 percent of the lot area. The stormwater administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. If the stormwater administrator finds that the application complies with the standards of this article, the stormwater administrator shall approve the application. The stormwater administrator may impose conditions of approval as needed to ensure compliance with this article. The conditions shall be included as part of the approval. For developments requesting fill over one foot, engineered stormwater retention measures, such as retention ponds or an underground infiltration system, and a soil stabilization plan is required.

Development and redevelopment of single-family or duplex residences that will add less than 10,000 square feet of built upon area are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.

Activities that are exempt from permit requirements of section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this article.

(c) *No development or redevelopment until compliance and permit.* No development or redevelopment shall occur except in compliance with the provisions of this article or unless exempted. No development shall occur except in compliance with the provisions, conditions, and limitations of this article.

(d) *Map.* The provisions of this article shall apply within the areas designated on the map titled "Phase II Stormwater Map of the Town of Oak Island, North Carolina" ("the stormwater map"), which is adopted simultaneously herewith. The stormwater map and all explanatory matter contained thereon accompanies and is hereby made a part of this article.

The stormwater map shall be kept on file by the stormwater administrator and shall be updated to take into account changes in the land area covered by this article and the geographic location of all structural BMPs permitted under this article. In the event of a dispute, the applicability of this article to a particular area of land or BMP shall be determined by reference to the state statutes, the state administrative code, and local zoning and jurisdictional boundary ordinances.

Sec. 18-669. - Standards for ~~limited~~ single and two-family residential development.

Residential development activities that meet any one of the following criteria.

- (1) Disturb less than one acre of land;
- (2) Area located within one-half mile of and draining to shellfishing waters;
- (3) Have a built upon area greater than 12 percent; and
- (4) Will add more than 10,000 square feet of built upon area must obtain a one-time nonrenewable stormwater management permit. Stormwater runoff generated by 1.5 inches of rainfall shall be managed using any one of the following:
 - a. Install cisterns to collect rooftop runoff and permeable pavement;
 - b. Install rain garden for rooftop runoff and permeable pavement, or
 - c. Install any other type of stormwater BMP (e.g., infiltration in sandy soils) to control and treat runoff.

Sec. 18-663. - Applications for approval.

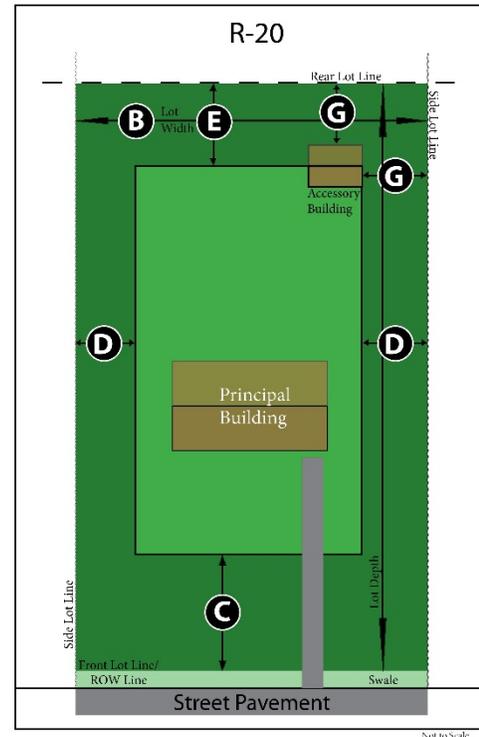
To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

- (1) *Existing conditions/proposed site plans.* Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.
 - (2) *Natural resources inventory.* A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as natural heritage areas, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.
 - (3) *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings. **The applicant must show on the site-plan the total impervious surface area the proposed development would create.**
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SECTION 8.1 R-20 LOW DENSITY RESIDENTIAL DISTRICT.

8.1.1. Dimensional Requirements.

(A) Lot Area Per Dwelling Unit	20,000 sq ft
(B) Lot Width	100 ft
(C) Front Yard Setback	30 ft
(D) Side Yard Setback	
■ Interior Lot	10 ft
■ Corner Lot	20 ft
(E) Rear Yard Setback	15 ft
(F) Building Height Limits	
■ Outside VE Zone	35 ft
■ Inside VE Zone	41 ft
(G) Accessory buildings	10 ft



8.1.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.1.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

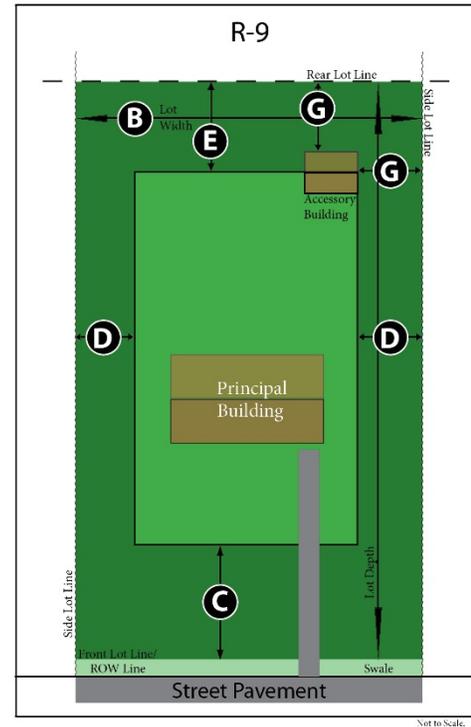
8.1.4. Parking. Off-street parking shall be provided as required in Article 10, Part III.

8.1.5. Built Upon Area. Single and two-family residential developments may not exceed 45% impervious surface of total lot area. Impervious surface are to include items such as principal structures, accessory structures, driveways, and other site improvements that create additional impervious surface.

SECTION 8.2 R-9 MEDIUM DENSITY RESIDENTIAL DISTRICT.

8.2.1. Dimensional Requirements

(A) Lot Area Per Dwelling Unit	9,000 sq ft
(B) Lot Width	75 ft
(C) Front Yard Setback	25 ft
(D) Side Yard Setback	
■ Interior Lot	8 ft
■ Corner Lot	10 ft
(E) Rear Yard Setback	20 ft
(F) Building Height Limits	
■ Outside VE Zone	35 ft
■ Inside VE Zone	41 ft
(G) Accessory buildings	8 ft



8.2.2. Front Yard Setback. The front yard setback for oceanfront properties in zoning districts R-9, R-7, R-6, and R-6MF shall be fifteen (15) feet from the road, but shall exclude oceanfront properties between SE 58th Street through SE 74th Street as well as flag lots and their adjoining corner lots. On lots adjacent to the ocean shoreline, the front yard setback may be reduced up to ten (10) feet to accommodate required dune line. The 2000 USACE-MHW line or the traditional rear yard setback; whichever is more restrictive, is considered the rear yard setback.

8.2.3. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.2.4. Signs. Signs shall be permitted as provided in Article 10, Part IV.

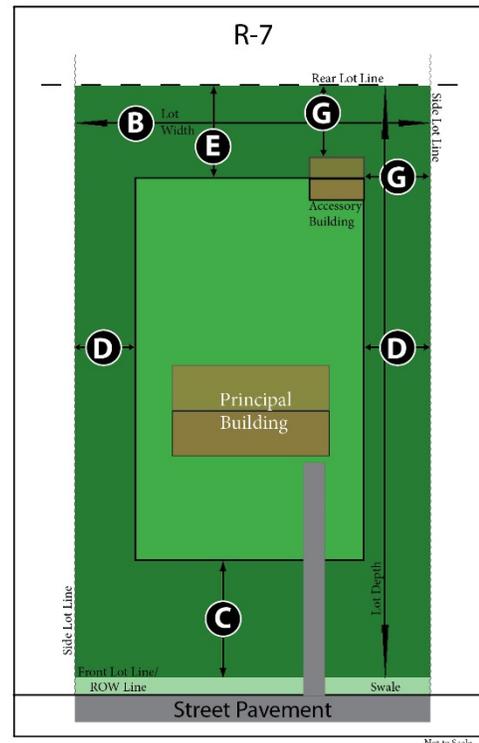
8.2.5. Parking. Off-street parking shall be provided as required in Article 10, Part III.

8.2.6 Built Upon Area. Single and two-family residential developments may not exceed 45% impervious surface of total lot area. Impervious surface are to include items such as principal structures, accessory structures, driveways, and other site improvements that create additional impervious surface.

SECTION 8.3 R-7 MEDIUM DENSITY RESIDENTIAL DISTRICT.

8.3.1. Dimensional Requirements

(A) Lot Area Per Dwelling Unit <ul style="list-style-type: none"> ■ One-Family ■ Two-Family 	7,500 sq ft 10,000 sq ft
(B) Lot Width	
(C) Front Yard Setback	25 ft
(D) Side Yard Setback <ul style="list-style-type: none"> ■ Interior Lot ■ Corner Lot 	8 ft 10 ft
(E) Rear Yard Setback	20 ft
(F) Building Height Limits <ul style="list-style-type: none"> ■ Outside VE Zone ■ Inside VE Zone 	35 ft 41 ft
(G) Accessory buildings	8 ft



8.3.2. Front Yard Setback. The front yard setback for oceanfront properties in zoning districts R-9, R-7, R-6, and R-6MF shall be fifteen (15) feet from the road, but shall exclude oceanfront properties between SE 58th Street through SE 74th Street as well as flag lots and their adjoining corner lots. On lots adjacent to the ocean shoreline, the front yard setback may be reduced up to ten (10) feet to accommodate required dune line. The 2000 USACE-MHW line or the traditional rear yard setback; whichever is more restrictive, is considered the rear yard setback.

8.3.3. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.3.4. Signs. Signs shall be permitted as provided in Article 10, Part IV.

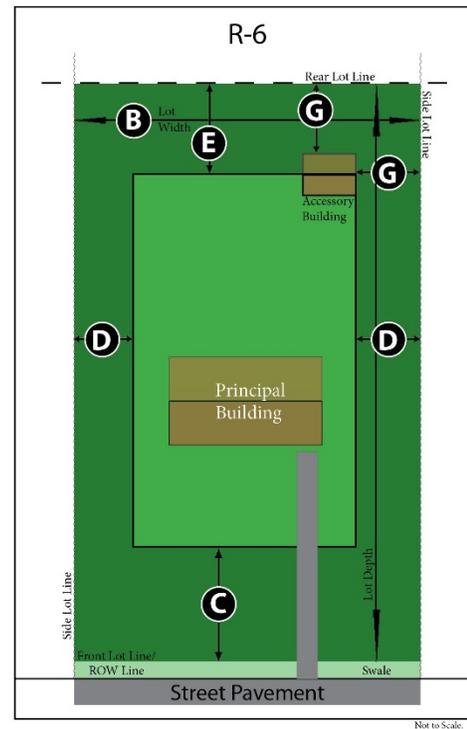
8.3.5. Parking. Off-street parking shall be provided as required in Article 10, Part III.

8.3.6 Built Upon Area. Single and two-family residential developments may not exceed 45% impervious surface of total lot area. Impervious surface are to include items such as principal structures, accessory structures, driveways, and other site improvements that create additional impervious surface.

SECTION 8.4 R-6 RESIDENTIAL DISTRICT.

8.4.1. Dimensional Requirements

(A) Lot Area Per Dwelling Unit	6,600 sq ft
(B) Lot Width	60 ft
(C) Front Yard Setback	25 ft
(D) Side Yard Setback	
■ Interior Lot	8 ft
■ Corner Lot	10 ft
(E) Rear Yard Setback	20 ft
(F) Building Height Limits	
■ Outside VE Zone	35 ft
■ Inside VE Zone	41 ft
(G) Accessory buildings	8 ft



8.4.2. Front Yard Setback. The front yard setback for oceanfront properties in zoning districts R-9, R-7, R-6, and R-6MF shall be fifteen (15) feet from the road, but shall exclude oceanfront properties between SE 58th Street through SE 74th Street as well as flag lots and their adjoining corner lots. On lots adjacent to the ocean shoreline, the front yard setback may be reduced up to ten (10) feet to accommodate required dune line. The 2000 USACE-MHW line or the traditional rear yard setback; whichever is more restrictive, is considered the rear yard setback.

8.4.3. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.4.4. Signs. Signs shall be permitted as provided in Article 10, Part IV.

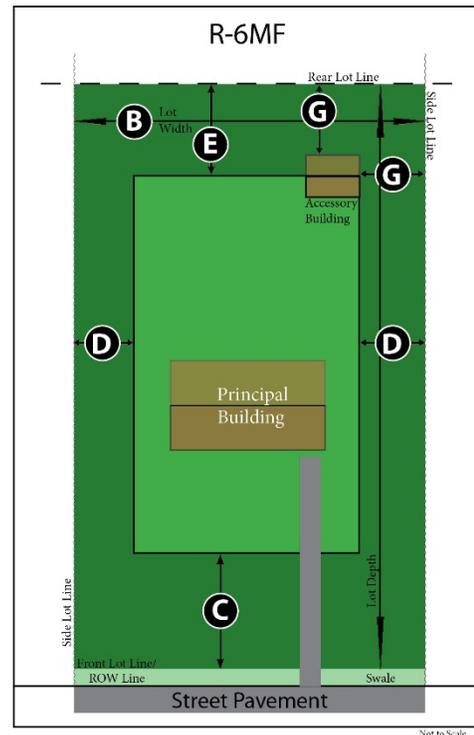
8.4.5. Parking. Off-street parking shall be provided as required in Article 10, Part III.

8.4.6. Built Upon Area. Single and two-family residential developments may not exceed 45% impervious surface of total lot area. Impervious surface are to include items such as principal structures, accessory structures, driveways, and other site improvements that create additional impervious surface.

SECTION 8.5 R-6MF HIGHER DENSITY RESIDENTIAL DISTRICT.

8.5.1. Dimensional Requirements

(A) Lot Area Per Dwelling Unit <ul style="list-style-type: none"> ■ One-Family ■ Two-Family ■ Three-Family ■ Triplex 	6,600 sq ft 11,000 sq ft 15,000 sq ft 15,000 sq ft
(B) Lot Width	
(C) Front Yard Setback	25 ft
(D) Side Yard Setback <ul style="list-style-type: none"> ■ Interior Lot ■ Corner Lot 	8 ft 10 ft
(E) Rear Yard Setback	20 ft
(F) Building Height Limits <ul style="list-style-type: none"> ■ Outside VE Zone ■ Inside VE Zone 	35 ft 41 ft
(G) Accessory buildings	8 ft



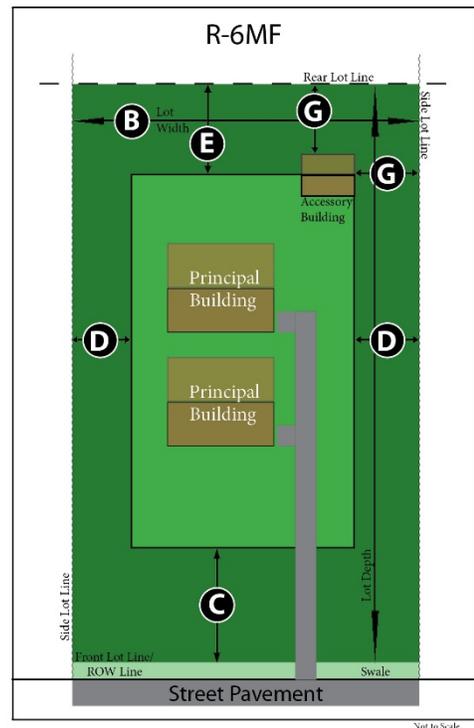
8.5.2. Front Yard Setback. The front yard setback for oceanfront properties in zoning districts R-9, R-7, R-6, and R-6MF shall be fifteen (15) feet from the road, but shall exclude oceanfront properties between SE 58th Street through SE 74th Street as well as flag lots and their adjoining corner lots. On lots adjacent to the ocean shoreline, the front yard setback may be reduced up to ten (10) feet to accommodate required dune line. The 2000 USACE-MHW line or the traditional rear yard setback; whichever is more restrictive, is considered the rear yard setback.

8.5.3. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.5.4. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.5.5. Parking. Off-street parking shall be provided as required in Article 10, Part III.

8.5.6. Built Upon Area. Single and two-family residential developments may not exceed 45% impervious surface of total lot area. Impervious surface are to include items such as principal structures, accessory structures, driveways, and other site improvements that create additional impervious surface.

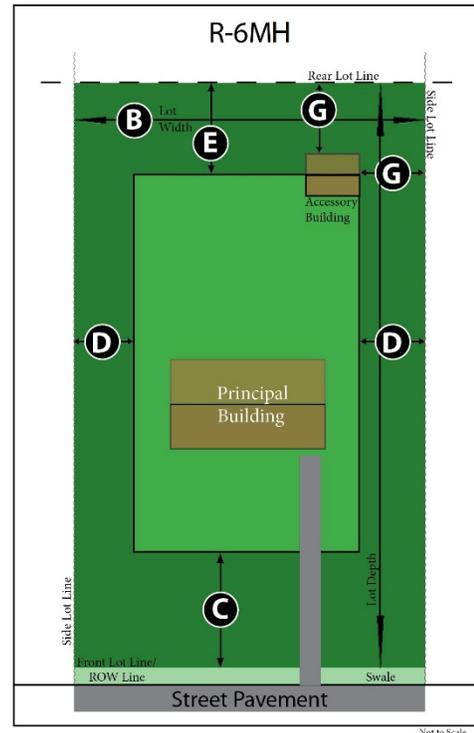


SECTION 8.6 R-6MH HIGHER DENSITY RESIDENTIAL DISTRICT.

8.6.1. Dimensional Requirements

(A) Lot Area Per Dwelling Unit	6,600 sq ft
(B) Lot Width	60 ft*
(C) Front Yard Setback	25 ft
(D) Side Yard Setback	
■ Interior Lot	8 ft
■ Corner Lot	10 ft
(E) Rear Yard Setback	
■ Single-family dwelling	20 ft
■ Manufactured home	10 ft
(F) Building Height Limits	
■ Outside VE Zone	35 ft
■ Inside VE Zone	41 ft
(G) Accessory buildings	8 ft

*Sixty (60) feet or as originally platted (see Section 2.10).



8.6.2. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.6.3. Signs. Signs shall be permitted as provided in Article 10, Part IV.

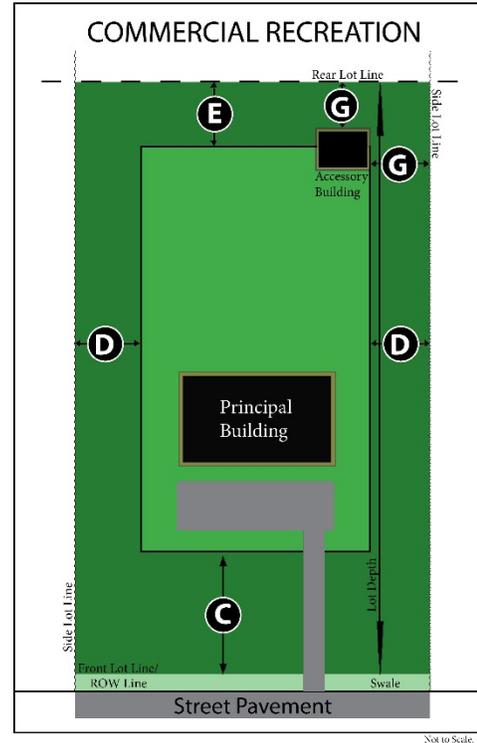
8.6.4. Parking. Off-street parking shall be provided as required in Article 10, Part III.

8.6.5. Built Upon Area. Single and two-family residential developments may not exceed 45% impervious surface of total lot area. Impervious surface are to include items such as principal structures, accessory structures, driveways, and other site improvements that create additional impervious surface.

SECTION 8.9 CR COMMERCIAL RECREATION DISTRICT.

8.9.1. Dimensional Requirements

(A) Lot Area	None
(B) Lot Width	None
(C) Front Yard Setback	20 ft
(D) Side Yard Setback	
■ Interior Lot	8 ft
■ Corner Lot	10 ft
(E) Rear Yard Setback	10 ft
(F) Building Height Limits	
■ Outside VE Zone	35 ft
■ Inside VE Zone	41 ft
(G) Accessory Buildings	8 ft



8.9.2. Front Yard Setback. The front yard setback for oceanfront properties in the CR zoning district when used for a single-family residences shall be fifteen (15) feet from the road, but shall exclude oceanfront properties between SE 58th Street through SE 74th Street as well as flag lots and their adjoining corner lots. On lots adjacent to the ocean shoreline, the front yard setback may be reduced up to ten (10) feet to accommodate required dune line. The 2000 USACE-MHW line or the traditional rear yard setback; whichever is more restrictive, is considered the rear yard setback.

8.9.3. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.9.4. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.9.5. Parking and Loading. Off-street parking and loading shall be provided, as required by Article 10, Part III.

8.9.6. Buffers. Refer to Article 10, Part I.

8.9.7. Landscaping. For landscaping requirements, refer to Article 10, Part I.

8.9.8 Built Upon Area. Single-family residential developments may not exceed 45% impervious surface of total lot area. Impervious surface are to include items such as principal structures, accessory structures, driveways, and other site improvements that create additional impervious surface.

**TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO**

Agenda Item: New Business No. 4

Date: February 14, 2019



Issue: Mandated by state statute to adopt stormwater rules for private property owners.

Department: Development Services

Presented by: Steve Edwards

Estimated Time for Discussion: 5 Minutes

Subject Summary: Session Law 2018-114, requires all local governments to include subsection 26.(b) in their stormwater ordinances. This sub section exempts preexisting development from stormwater runoff rules and programs and requires only new development to capture stormwater runoff. This has been, and currently is, Oak Island's protocol for preexisting development and redevelopment. The only change to this section is the mandatory inclusion into the applicable local governments' unit stormwater ordinances.

Attachments: Session Law 2018-145 Sections 26.(b). / Proposed text amendment Sect. 18-655(b)

Recommendation/Action Needed: Approval

Suggested Motion: I make a motion, to recommend approval, to Oak Island's stormwater ordinance Section 18-655(b) as proposed and to adopt the associated plan consistency statement. .

Funds Needed: \$0.00

Follow-up Action Needed: Forward to Town Council

Sec. 18-655. - Applicability and jurisdiction.

- (a) *General.* Beginning with and subsequent to its effective date, this article shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to subsection (b), exemptions.
- (b) *Exemptions.* Development and redevelopment of single-family or duplex residences that will add 10,000 square feet or less of built upon area are exempt from the provisions of this article except all such development must provide appropriate control systems that are any combination of infiltration systems, bioretention systems, constructed stormwater wetlands, sand filters, cisterns, rain gardens, or alternative low impact development stormwater management systems designed in accordance with 15A NCAC 02H.1008 and any locally required design criteria to control and treat the runoff from all surfaces generated by one and one-half inches of rainfall or less from all impervious surfaces on site. An application must be submitted to community development services for such development or redevelopment which describes in detail how stormwater runoff will be controlled and managed, the design of the stormwater facilities and practices, and how the proposed project will meet the requirements of this article. A qualified state-registered professional engineer or surveyor must design projects with impervious surfaces exceeding 30 percent of the lot area. The stormwater administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. If the stormwater administrator finds that the application complies with the standards of this article, the stormwater administrator shall approve the application. The stormwater administrator may impose conditions of approval as needed to ensure compliance with this article. The conditions shall be included as part of the approval. For developments requesting fill over one foot, engineered stormwater retention measures, such as retention ponds or an underground infiltration system, and a soil stabilization plan is required.

Development and redevelopment of single-family or duplex residences that will add less than 10,000 square feet of built upon area are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.

Stormwater runoff rules and programs shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment. This subsection applies to all local governments regardless of the source of their regulatory authority.

Activities that are exempt from permit requirements of section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this article.

- (c) *No development or redevelopment until compliance and permit.* No development or redevelopment shall occur except in compliance with the provisions of this article or unless exempted. No development shall occur except in compliance with the provisions, conditions, and limitations of this article.
- (d) *Map.* The provisions of this article shall apply within the areas designated on the map titled "Phase II Stormwater Map of the Town of Oak Island, North Carolina" ("the stormwater map"), which is adopted simultaneously herewith. The stormwater map and all explanatory matter contained thereon accompanies and is hereby made a part of this article.

The stormwater map shall be kept on file by the stormwater administrator and shall be updated to take into account changes in the land area covered by this article and the geographic location of all structural BMPs permitted under this article. In the event of a dispute, the applicability of this article to a particular area of land or BMP shall be determined by reference to the state statutes, the state administrative code, and local zoning and jurisdictional boundary ordinances.

SECTION 26.(b) G.S. 143-214.7(b3) reads as rewritten:

"(b3) Stormwater runoff rules and programs shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment. This subsection applies to all local governments regardless of the source of their regulatory authority. Local governments shall include the requirements of this subsection in their stormwater ordinances."