

# Public Hearing III Proposed Text Amendment

## Section 6.5, 7.27, and A.3 of the UDO



Matt Kirkland, AICP, CZO, CFM  
Planning Director  
August 16, 2022

# Background

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- At the June 16, 2022 Planning Board meeting, the Board initiated a text amendment to attempt to address the affect of “Dwelling, single-family (large)” on the island portion of the Town’s jurisdiction
- Staff reviewed other ordinances, best practices, and the authority granted to local governments in the General Statute and drafted language to address the Planning Board’s concerns
- The Planning Board reviewed the draft language at their July 21, 2022 meeting and voted unanimously to recommend Town Council adopt an amended version of the proposed ordinance

# Current Ordinance Summary

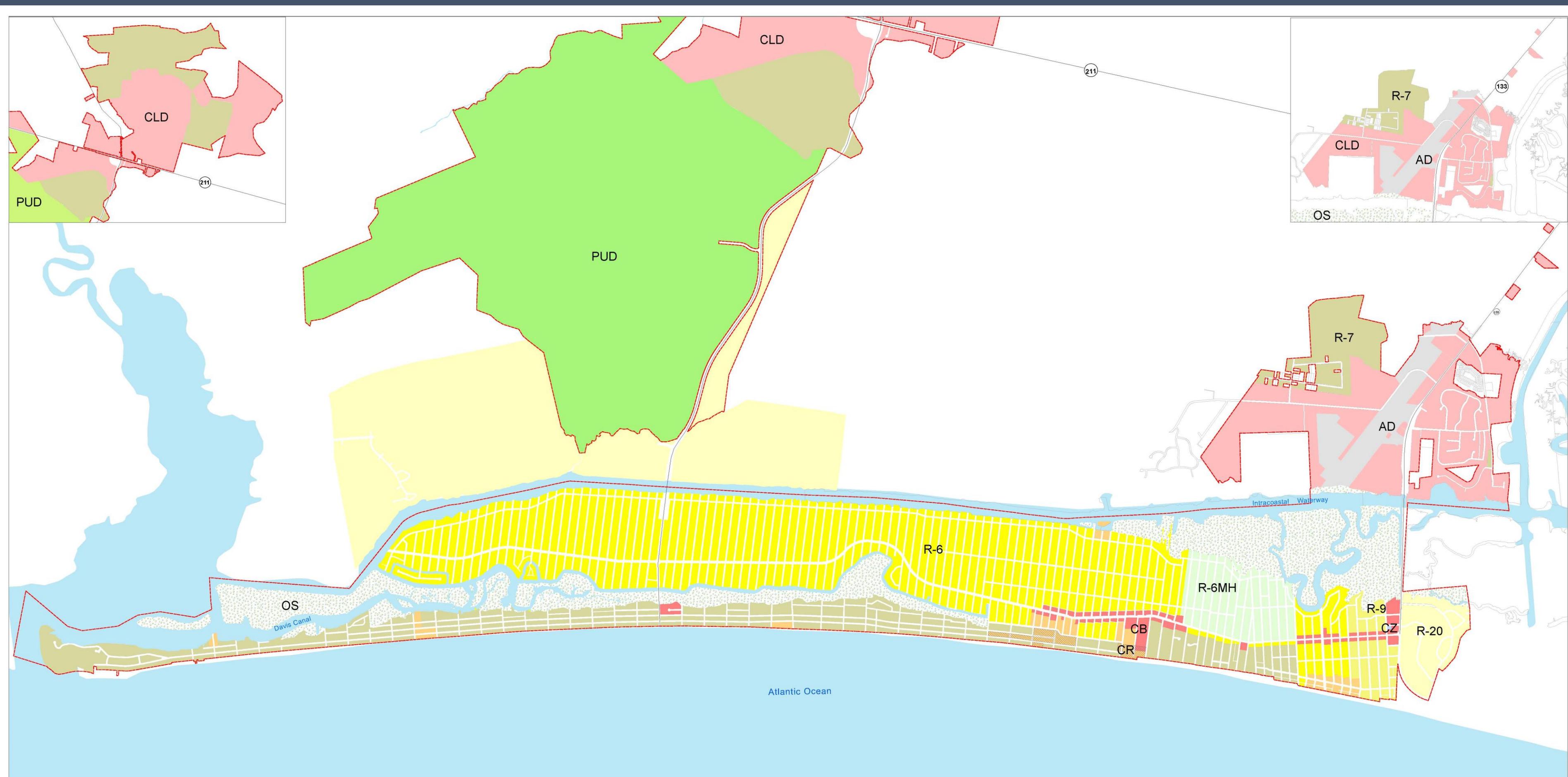
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- Dwelling, Single-Family (Large) – A detached building with maximum square footage of 4,000 square feet or greater but shall not exceed 5,000 square feet (for single-family dwellings located on the island side)
- Permitted as a Special Use with Supplemental Regulations in the following districts
  - R-20 Low Density Residential
  - R-9 Medium Density Residential
  - R-7 Medium Density Residential
  - R-6 Density Residential

# Current Ordinance Summary

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- Permitted as a Special Use with Supplemental Regulations in the following districts
  - R-6MF Higher Density Residential
  - R-6MH Higher Density Residential
  - CR Commercial Recreation
  - C-LD Commercial Low Density
- In order to be developed, the Town Council will need to hold a quasi-judicial hearing to determine if the use meets the criteria found in the ordinance and issue a Special Use Permit based on the information presented in the hearing



Zoning Districts					
Planned Unit Development	Commercial Recreation	R-6MH - Residential District	Beach Club		
Airport District	Open Spance	R-7 - Medium Residential District			
Commercial Business	R-20 - Low Density Residential	R-9 - Medium Residential District			
Commercial Low Density	R-6A - Residential District	Conditional Zoning			

Map created by:  
Jake Vares  
Town of Oak Island  
Development Services Department  
6/2/21  
Revised by Raymond Patterson  
6/16/2022

## Zoning District Map

Town of Oak Island North Carolina

This is to certify  
is the Official Zo  
of the Unified De  
Ordinance, Oak  
North Carolina,  
March 8th



# Current Ordinance Summary

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- 7.27 Dwelling, Single-Family (Large)

A large home with a maximum square footage of 4,000 square feet or greater may be established upon a finding that such use will not constitute a nuisance because of traffic, stormwater retention, overflow parking, sewer & water system impact/capacity, and will not adversely affect the present character or future development of the surrounding residential community. The project shall be subject to the following standards:

7.27.1. Does not materially endanger the public health or safety.

7.27.2. Must comply with all the required conditions and specifications.

# Current Ordinance Summary

- 7.27.3. Will not substantially injure the value of adjoining property.
- 7.27.4. Will be in harmony with the area in which it is located and be in general conformity with the Comprehensive Plan.
- 7.27.5. When six or more parking spaces are required, then an adequate ingress and egress of 12 feet in width shall be required.
- 7.27.6. If utility infrastructure is not adequate, the owner shall install such utilities as needed.
- 7.27.7. The applicant may provide documentation detailing the effects of the project on the surrounding adjacent property values, if desired or if decision-making board determines it necessary.
- 7.27.8. Adequate lighting must be provided that is in compliance with Article 10, Part V, Lighting of this Ordinance

# Current Ordinance Summary

- 7.27.9. Provide screening for garbage and recycling containers under the house screen from the street and outside.
- 7.27.10. Water/sewer approvals must be furnished to the UDO Administrator prior to the issuance of a development and/or building permit.
- 7.27.11. Side yard setbacks shall be ten feet. 31
- 7.27.12. Houses 4,000 of heated or cooled square feet or greater can only be built on lots greater than 13,000 square feet of buildable area.

# Pertinent Questions

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- What is a “Dwelling, single-family (large)?”
- Where are they appropriate?
- How should they be permitted?
- What types of zoning regulations should be in place to mitigate the affect?

# Best Practices

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- NC 160D-702 permits local jurisdictions to regulate the size of buildings and other structures through their zoning ordinance
  - NC 160D-702(c) prohibits “setting a minimum square footage of any structures subject to the regulation under the North Carolina Residential Code for One- or Two-Family Dwellings”
  - NC 160D-706 prohibits local jurisdictions that adopt zoning regulations from using a definition of a dwelling unit more expansive than that of the North Carolina Residential Code
    - “Any building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes”

# Best Practices

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- Nags Head, NC
  - Single-Family dwellings over 3,500 sq ft permitted with supplemental standards. Capped at 5,000 sq ft
- Southern Shores, NC
  - Limits single-family dwellings and enclosed living spaces in accessory structures to 6,000 square feet
- Chapel Hill, NC
  - Limits single-family residential in its Historic Rogers Road Neighborhood District to 2,000 square feet
  - Other jurisdictions use combinations of Floor Area Ratio, building setbacks, and height requirements

# Best Practices

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- American Planning Association Zoning Practice Issue 12 “Practice Community Character” identifies ways to measure community character
- Green Space – Common spaces, conservation areas, open space, parks
- Gray Space – Parking, loading, impervious surfaces

# Best Practices

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- Buildings – Amount of site area they consume, relationship to other buildings/open spaces/streets, height, mass
- “Ordinances that fail to achieve their intended outcomes are due to an overemphasis on land use and lot size, a lack of emphasis on site and building design, use of uniform setbacks and lot dimensions across districts, and unrelated standards for resource protection, among many others”

# Adopted Plan Consideration

- I.103 The Town will support responsible managed residential growth, including both the mainland and island areas.

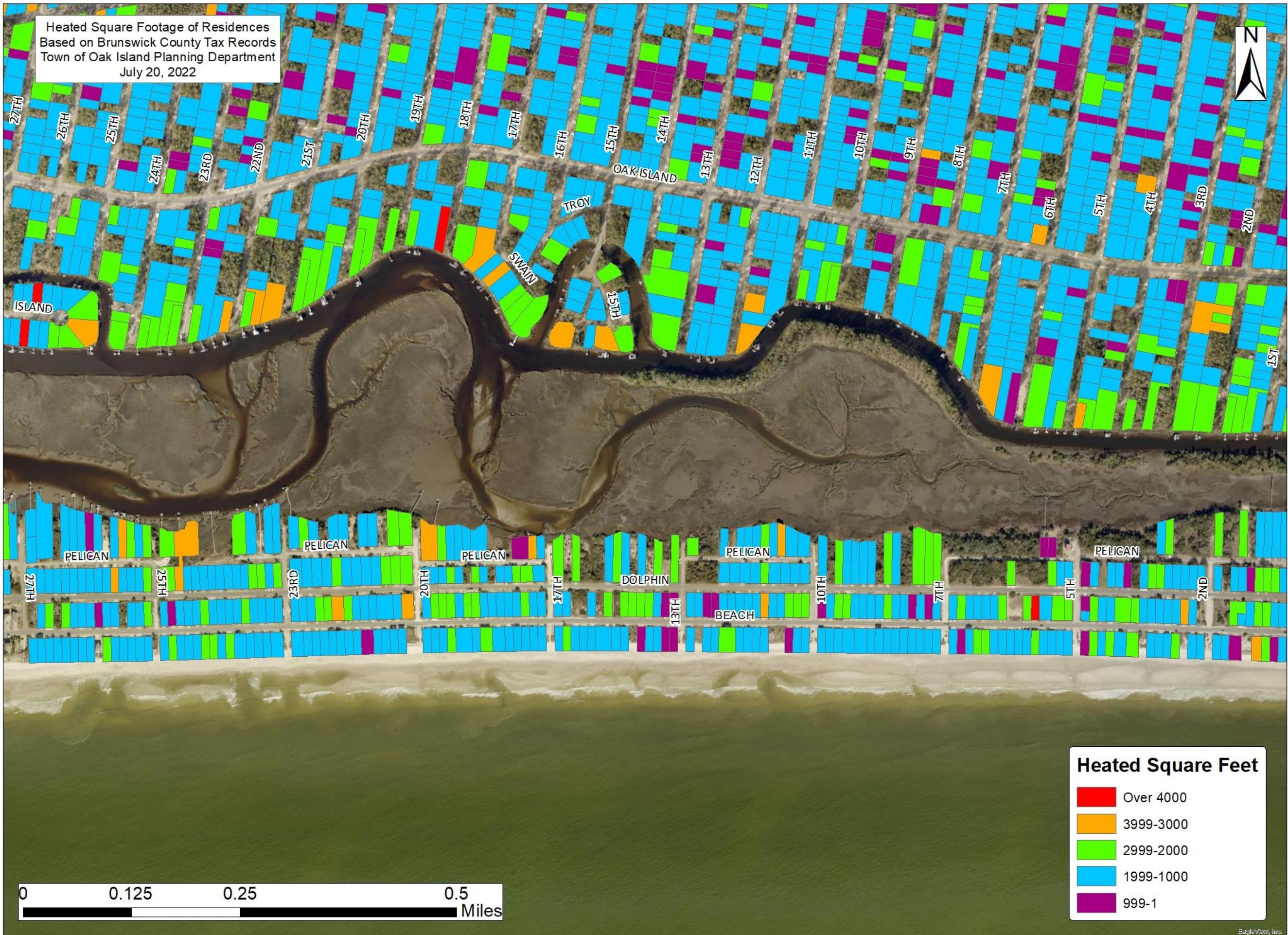
Schedule: Continuing.

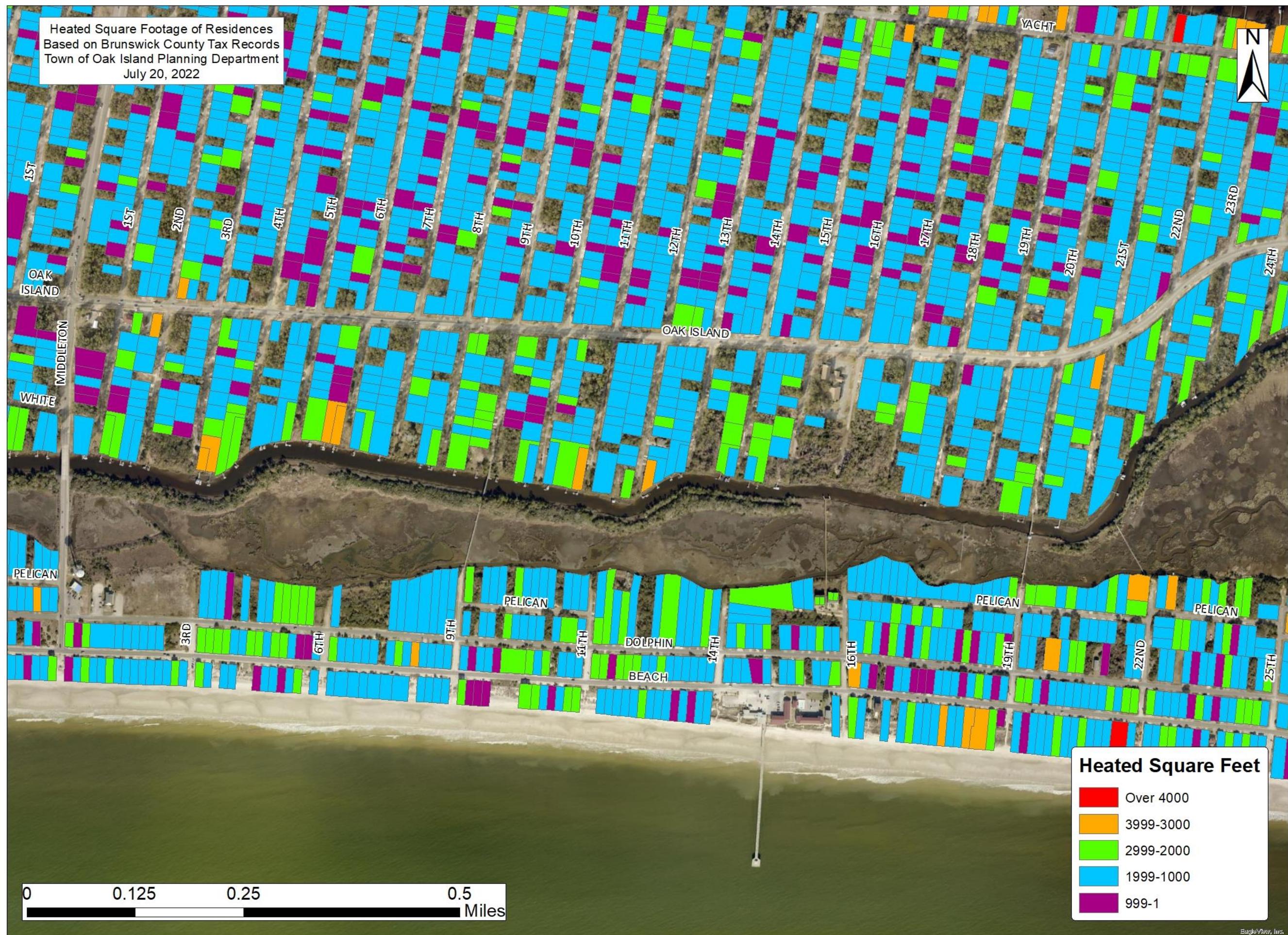
- I.116 The Town strongly encourages overall land use and development patterns that support retention of the Oak Island small town character, its existing quality of development, and its family atmosphere, including limited mixed use.

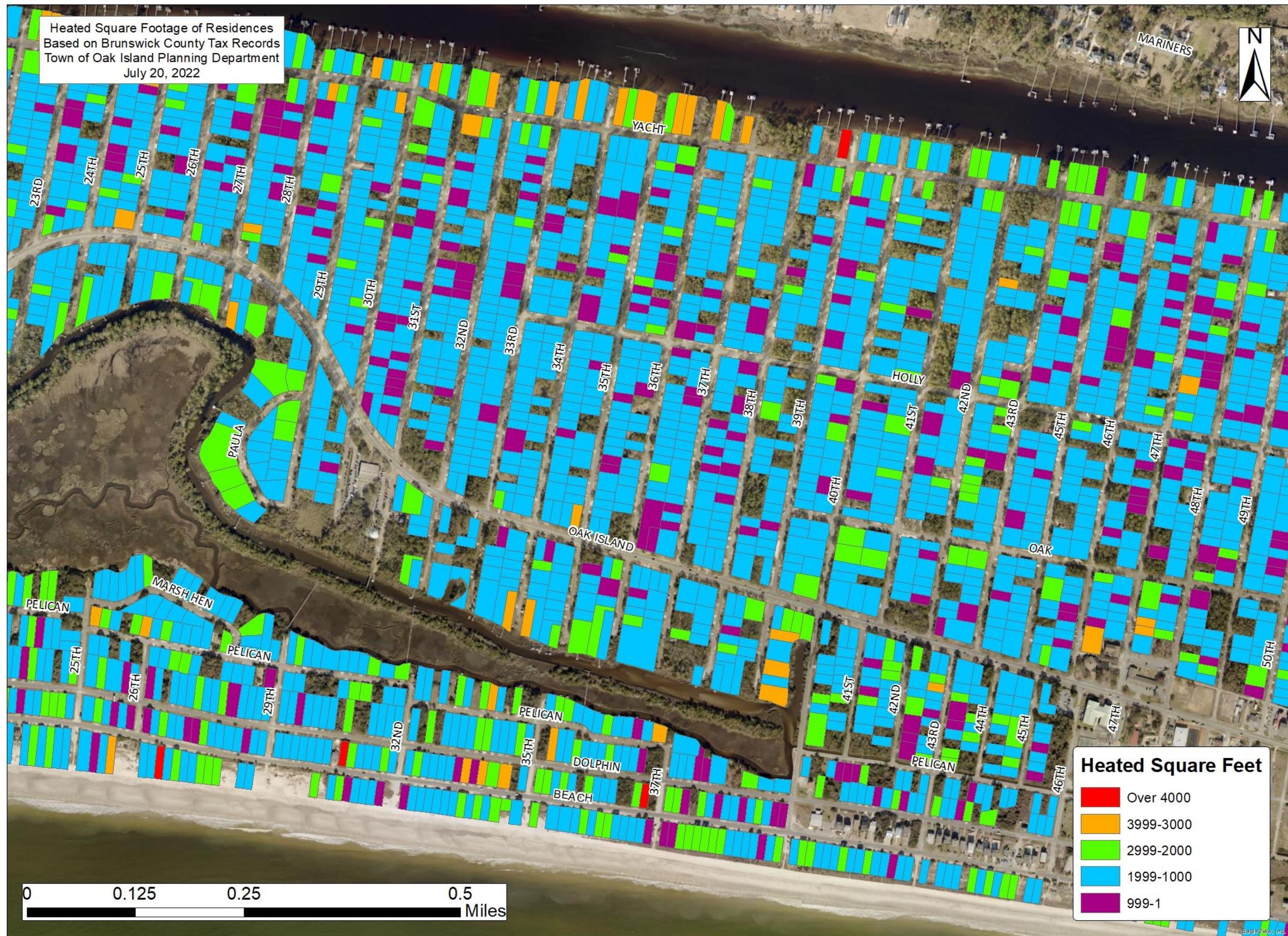
Schedule: Continuing, High.

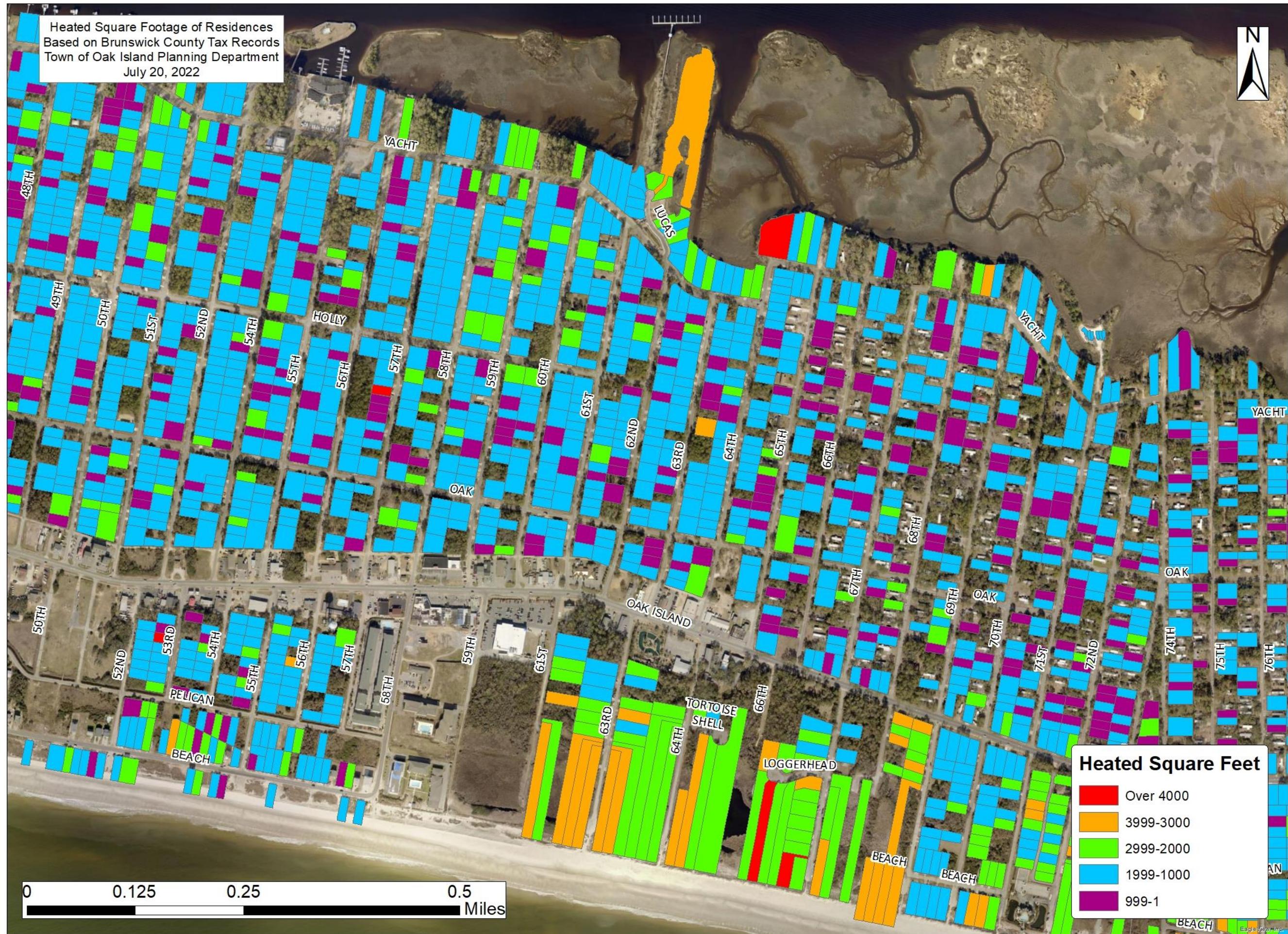


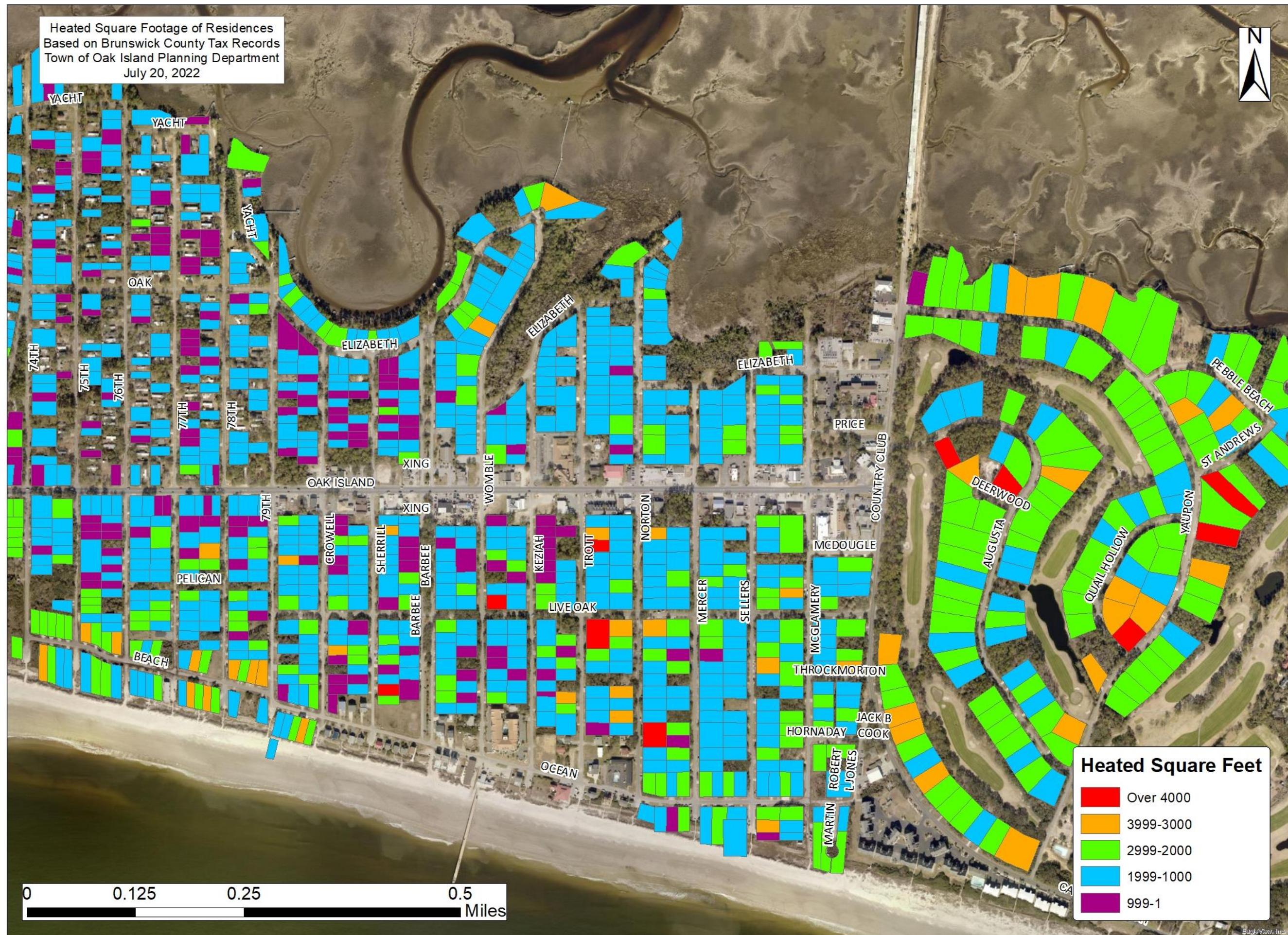


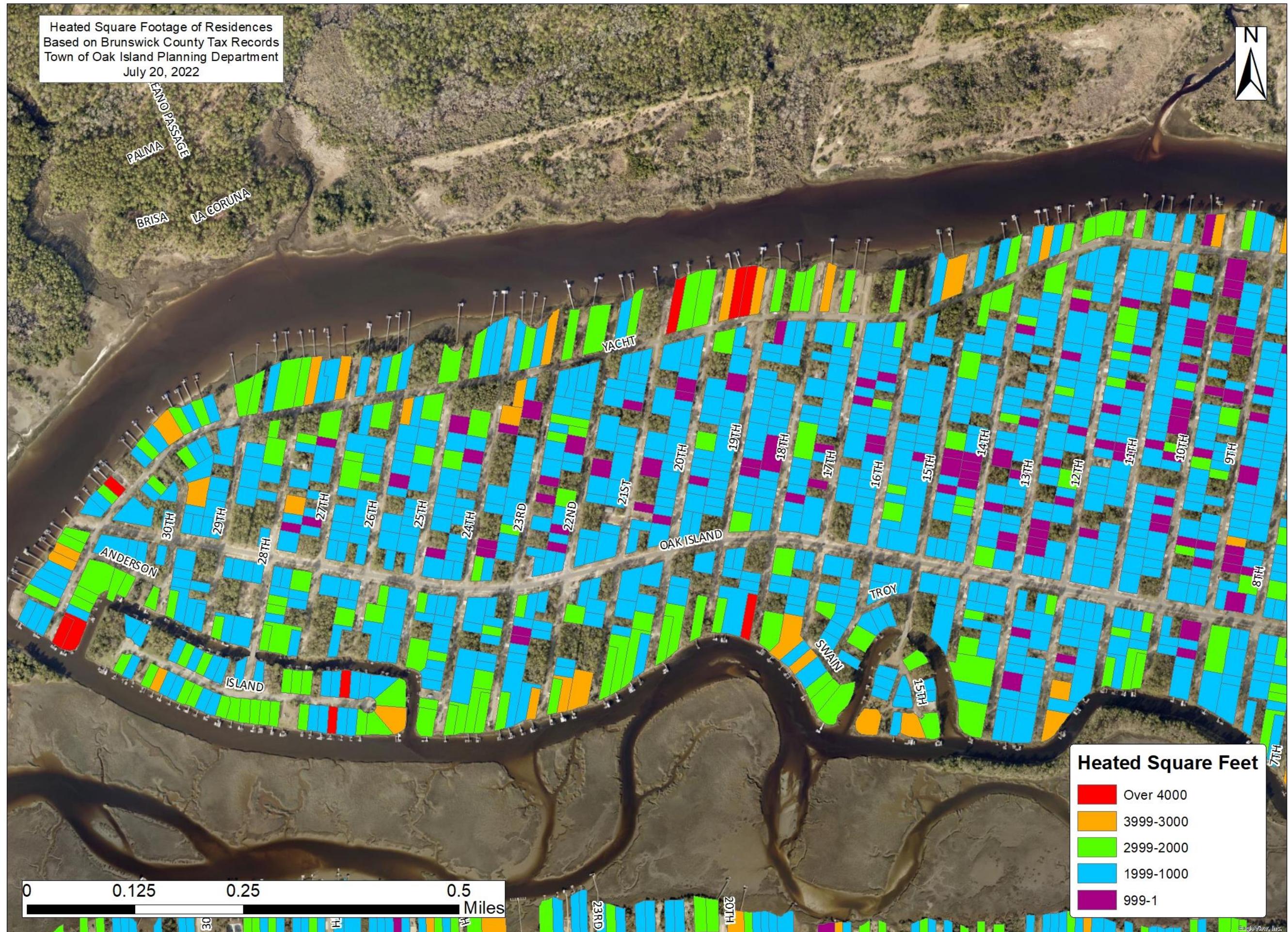


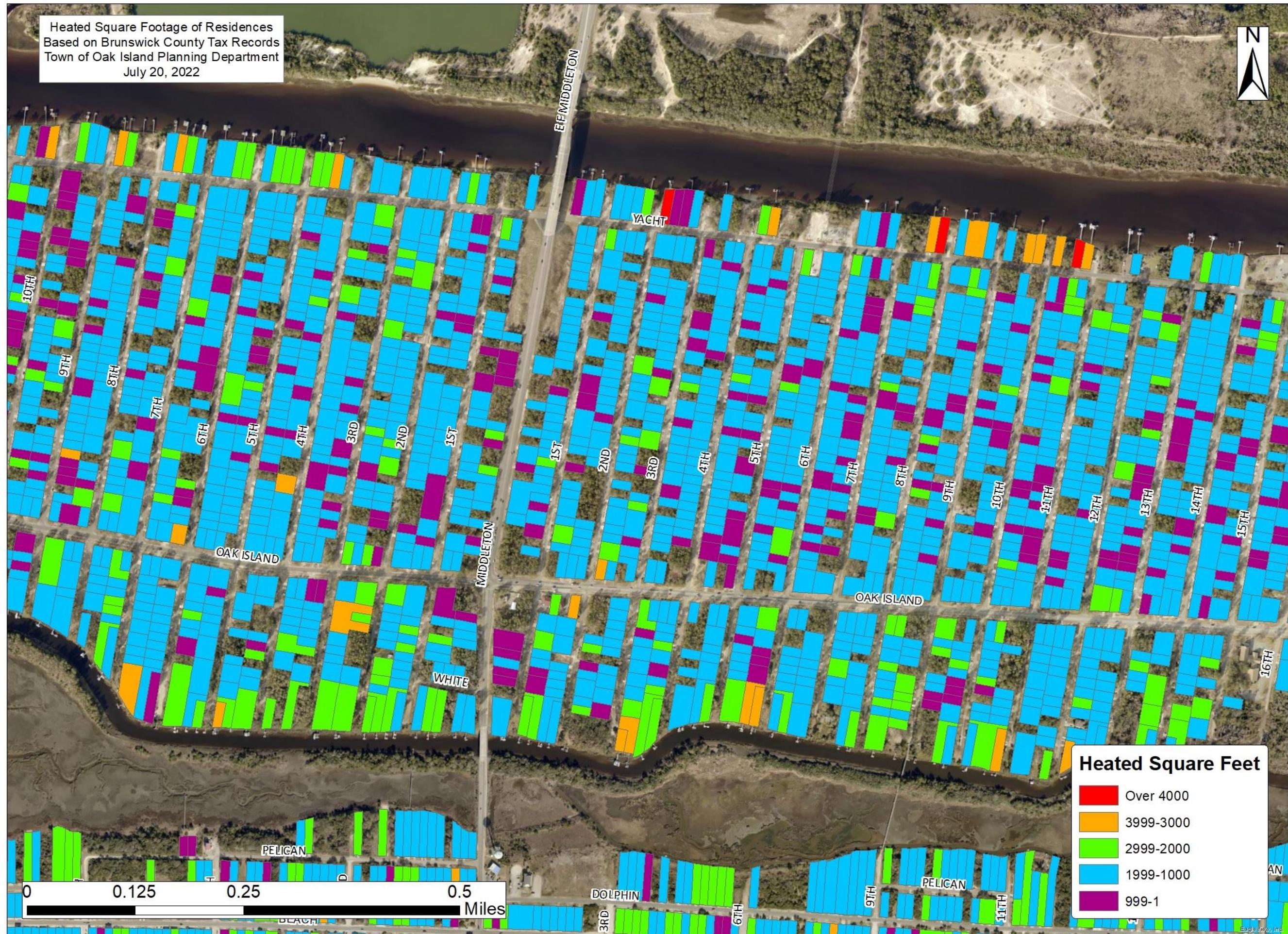












# Heated Square Footages

- Over 4000 – 50 parcels – 0.5%
- 3999-3500 – 67 parcels – 0.7%
- 3499-3000 – 190 parcels – 2%
- 2999-2500 – 435 parcels – 4.7%
- 2499-2000 – 956 parcels – 10.5%
- 1999-1500 – 2181 parcels – 23.9%
- 1499-1000 – 4127 parcels – 45.3%
- 999-500 – 1118 parcels – 12.3%
- 499-1 – 4 parcels – 0.04%

# Proposed Ordinance Summary

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- Amend definition of Dwelling, Single-Family (Large) to ensure that it encompasses all homes on the island over a specific square footage
  - Staff recommendation is 4,000 square feet
  - The Planning Board recommended 3,000 square feet
- The total maximum size is relocated to Section 7.27
  - Staff recommendation is 5,000 square feet
  - The Planning Board recommended 4,000 square feet

# Proposed Ordinance Summary

- Amend Section 6.5 – Table of Uses and Activities to make Dwelling, Single-Family (Large) a Permitted Use with Supplemental Standards in the R-20 Low Density Residential District
- Remove it as a use from the R-9, R-7, R-6, R-6MF, R-6MH, CR, and C-LD zoning districts

# Proposed Ordinance Summary

- Amend 7.27 to establish new supplemental standards
  - Establish intent
  - Ensure existing structures are regulated as legal non-conformities
  - Establish minimum lot sizes, maximum habitable living spaces, and minimum side yard setbacks
  - Preserve 10% open space with existing natural vegetation
  - Cap wastewater capacity
  - Ensure the parking is compliant with existing off-street parking ordinances
  - Preserve existing lighting and screening requirements

# Pertinent Questions

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- What is a “Dwelling, single-family (large)?”
- Where are they appropriate?
- How should they be permitted?
- What types of zoning regulations should be in place to mitigate the affect?

# Planning Board Action

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At their July 21, 2022 meeting the Planning Board voted unanimously to recommend Town Council Approve a modified version of the text amendment finding that the amendment is:

- (1) Consistent with the Comprehensive Plan action item I.103 which encourages supporting responsible manage residential growth and I.116 which encourages overall development patterns that support the retention of the Oak Island small town character,
- (2) Reasonable and in the public interest because the proposed text would provide clear standards for the placement and development of large dwelling units on the island

# Comparison

	Current	Staff Recommendation	Planning Board Recommendation
Definition	4,000-5,000 Square Feet	4,000-5,000 Square Feet	3,000-4,000 Square Feet
Approval Type	Special Use with Supplemental Standards	Permitted Use with Supplemental Standards	Permitted Use with Supplemental Standards
Zoning Districts	R-20, R-9, R-7, R-6, R-6MF, R-6MH, CR, C-LD	R-20	R-20

# Planning Board Recommendation

Motion to approve the amendment and affirm the Planning Board's statement that the proposed amendment is consistent with the adopted plans of the Town as well as reasonable and in the public interest.

# Staff Recommendation

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Motion to approve the amendment, as modified, and affirm the Planning Board's statement that the proposed amendment is consistent with the adopted plans of the Town as well as reasonable and in the public interest.