



# 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 December 13, 2018 • 2:00 PM Town Hall • Council Chambers

### I. START-UP

1. **Call to Order:**
2. **Additions or corrections to the agenda**
3. **Approval of the Minutes:** (11-15-2018)
4. **Public Comment:** Please state your name and address for the record.

### II. OLD BUSINESS

### III. NEW BUSINESS

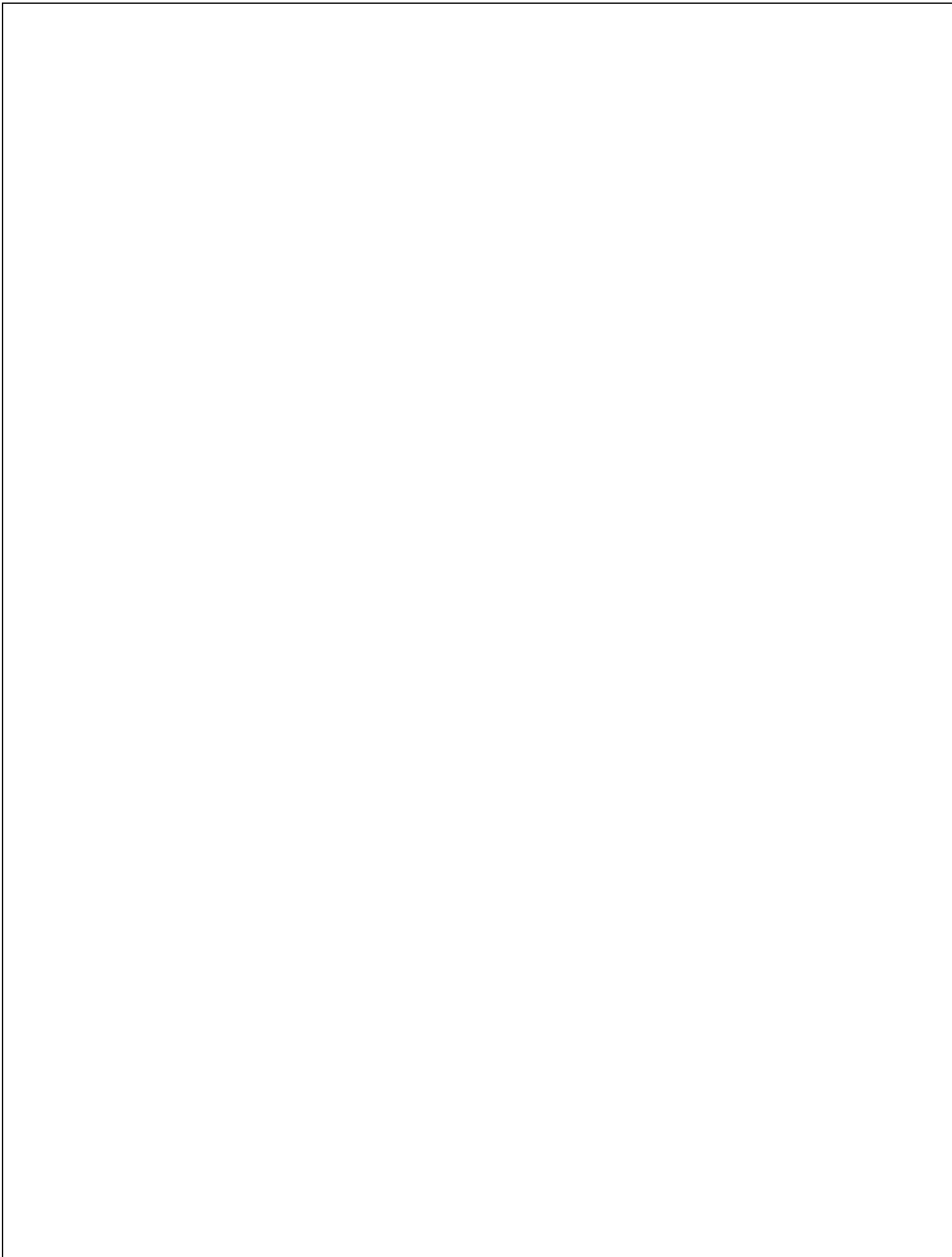
1. **Temporary Housing - Text Amendment**
2. **BUA - Text Amendment**
3. **Accessory Dwelling - Text Amendment**

### 4. REPORTS/UPDATES

1. **Board Member Reports**
2. **Staff Reports - (Council meeting)**

### 5. OTHER

**Future Meetings: 1-17-19**  
**Adjournment**



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

Agenda Item: New Business No. 1

Date: 11/8/2018



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**Issue:** Temporary Housing – Text Amendment

**Department:** Planning & Zoning Administrator

**Presented by:** Jake Vares

**Presentation:** None

**Estimated Time for Discussion:** 35 Minutes

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**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.

As far as timing is concerned, 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.

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.

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**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

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## 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.

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. Temporary housing units shall not be placed on any lot where active repair and reconstruction of the primary structure is not taking place.

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

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 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. Permit extensions may be granted by Planning & Zoning Administrator or his/her designee upon submittal of a Temporary Occupancy Permit Extension Application, provided all application requirements have been met, and at least seventy-five (75) percent of the repair and reconstruction work has been completed on 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

	Primary Zoning Districts																Overlay District	Supplemental Regulations
Uses	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	
<b>Residential Cont.</b>																		
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		Section 7.30
Tiny houses						PS												Section 7.31



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

Agenda Item: New Business No. 2

Date: December 5, 2018



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**Issue:** Impervious Surface – Text Amendment

**Department:** Development Services

**Presented by:** Steve Edwards

**Presentation:** None

**Estimated Time for Discussion:** 40 Minutes

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**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 town stormwater engineer was made aware of this text amendment and was asked to provide input and was asked to attend the meeting. The impact 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

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%

the Town systems. The adjacent tables show the most recent past residential site plans that

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

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%

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.

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**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

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## **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.**

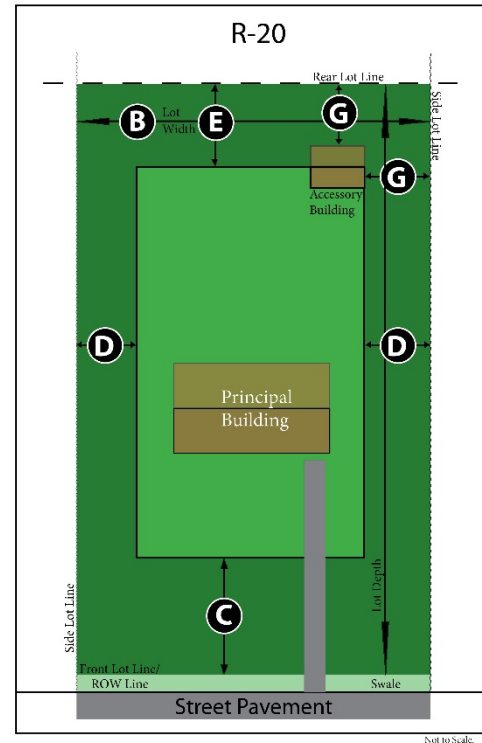
To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

- (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 ■ Corner Lot	10 ft 20 ft
(E) Rear Yard Setback	15 ft
(F) Building Height Limits ■ Outside VE Zone ■ Inside VE Zone	35 ft 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.

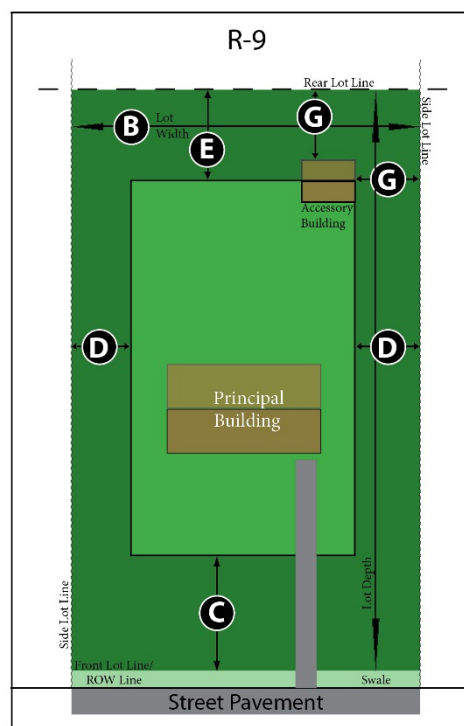
**8.1.4. Parking.** Off-street parking shall be provided as required in Article 10, Part III.

**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 <ul style="list-style-type: none"> <li>■ Interior Lot</li> <li>■ Corner Lot</li> </ul>	8 ft 10 ft
(E) Rear Yard Setback	20 ft
(F) Building Height Limits <ul style="list-style-type: none"> <li>■ Outside VE Zone</li> <li>■ Inside VE Zone</li> </ul>	35 ft 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 58<sup>th</sup> Street through SE 74<sup>th</sup> 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.

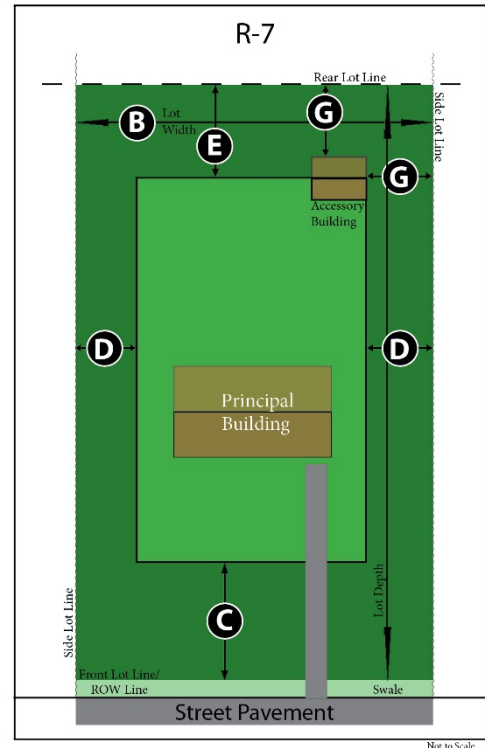
**8.2.5. Parking.** Off-street parking shall be provided as required in Article 10, Part III.

**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 ■ 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 ■ Interior Lot ■ Corner Lot	8 ft 10 ft
(E) Rear Yard Setback	20 ft
(F) Building Height Limits ■ 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 58<sup>th</sup> Street through SE 74<sup>th</sup> 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.

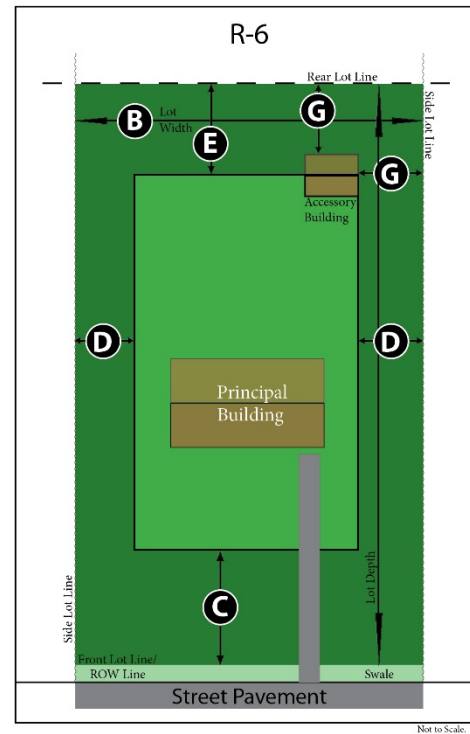
**8.3.5. Parking.** Off-street parking shall be provided as required in Article 10, Part III.

**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 58<sup>th</sup> Street through SE 74<sup>th</sup> 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.

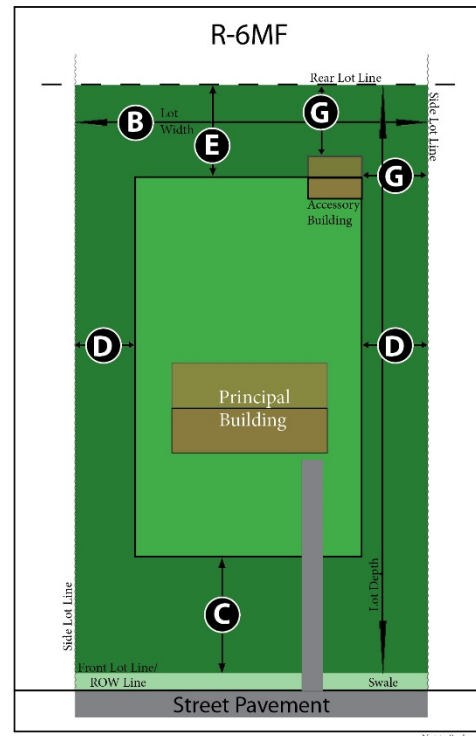
**8.4.5. Parking.** Off-street parking shall be provided as required in Article 10, Part III.

**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	
■ One-Family	6,600 sq ft
■ Two-Family	11,000 sq ft
■ Three-Family	15,000 sq ft
■ Triplex	15,000 sq ft
(B) Lot Width	
(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



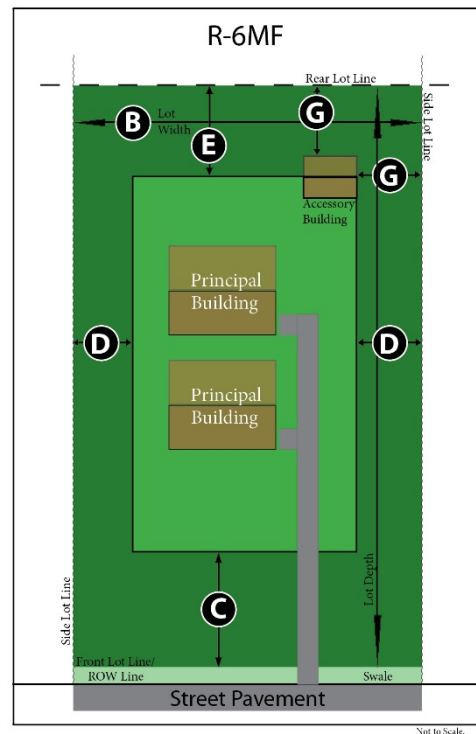
**8.5.2. Front Yard Setback.** The front yard setback for oceanfront properties in zoning districts R-9, R-7, R-6, and R-6MF shall be fifteen (15) feet from the road, but shall exclude oceanfront properties between SE 58<sup>th</sup> Street through SE 74<sup>th</sup> Street as well as flag lots and their 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 Up 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.

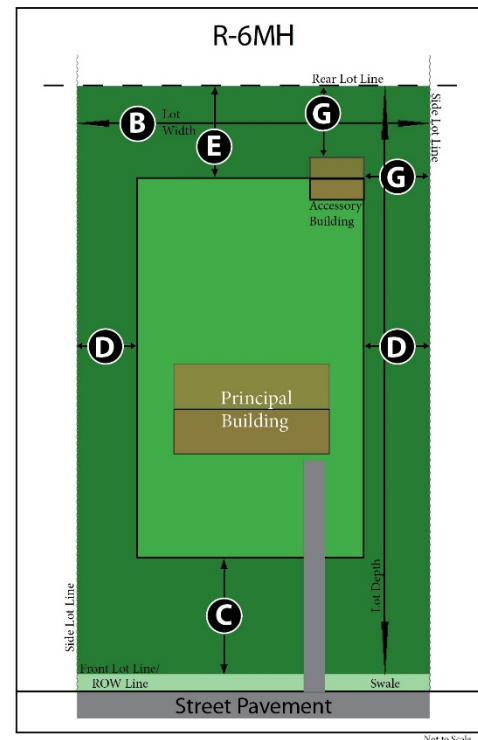


## SECTION 8.6 R-6MH HIGHER DENSITY RESIDENTIAL DISTRICT.

### 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 <ul style="list-style-type: none"><li>■ Interior Lot</li><li>■ Corner Lot</li></ul>	8 ft 10 ft
(E) Rear Yard Setback <ul style="list-style-type: none"><li>■ Single-family dwelling</li><li>■ Manufactured home</li></ul>	20 ft 10 ft
(F) Building Height Limits <ul style="list-style-type: none"><li>■ Outside VE Zone</li><li>■ Inside VE Zone</li></ul>	35 ft 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.

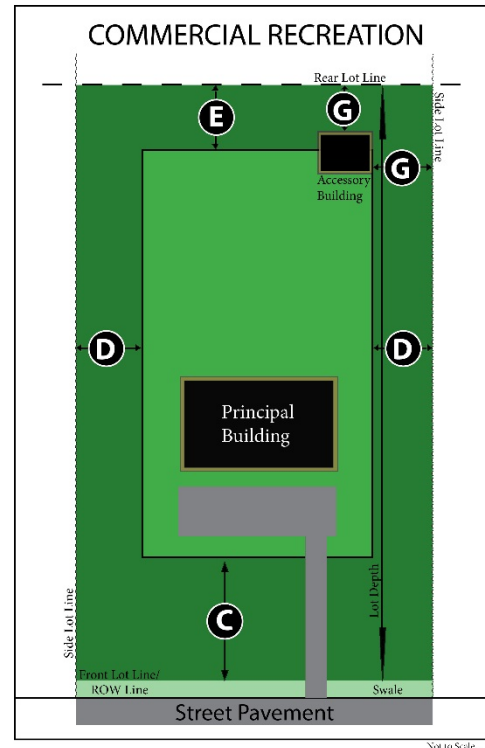
**8.6.4. Parking.** Off-street parking shall be provided as required in Article 10, Part III.

**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 <ul style="list-style-type: none"> <li>■ Interior Lot</li> <li>■ Corner Lot</li> </ul>	8 ft 10 ft
(E) Rear Yard Setback	10 ft
(F) Building Height Limits <ul style="list-style-type: none"> <li>■ Outside VE Zone</li> <li>■ Inside VE Zone</li> </ul>	35 ft 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 58<sup>th</sup> Street through SE 74<sup>th</sup> 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. 3

Date: 12/3/2018



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**Issue:** Accessory Dwelling – Text Amendment

**Department:** Planning & Zoning Administrator

**Presented by:** Jake Vares

**Presentation:** None

**Estimated Time for Discussion:** 45 Minutes

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**Subject Summary:**

Due to the numerous amount of phone calls received regarding this issue staff is initiating this text amendment about accessory detached independent dwellings. If adopted the ordinance would allow those wanting additional dwelling area for an elderly parent, special needs family, or for rentals to be permissible. A local municipality cannot mandate that only a certain person or type of person can reside in a residential unit as an ordinance standard or condition of a permit.

The proposed standards that one must meet to build this type of structure are highlighted below. Additional parking would be required, setbacks would have to be met, the placement, height, and size of the structure is regulated, only one is permitted, and it is not permitted with multi-family developments. The proposed text amendment would primarily apply to island side residential zoning districts.

This ordinance would not apply to one that was wanting to renovate renovating the bottom of their house on stilts or having something attached if it can be used as an independent dwelling unit because that would not be a detached structure, it would still be considered part of the original primary structure. Only the R7 & R6MF (multi-family) zoning district permit duplexes.

The dwelling, garage apartments (as accessory) row in the table of uses already existed so staff found it best to tweak the existing row rather than creating a separate classification which would confuse things more. The existing row listed “dwelling, garage apartments (as accessory)” are permissible in some zoning districts with Special Use Permit only. That has remained the same.

The City of Wilmington allows this type of land use in many of their zoning districts. Staff has reviewed the Wilmington ordinance on this topic and the proposed ordinance wording closely mirrors their language. Please remember to adopt the associated plan consistency statement.

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**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

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## Attachment

### **SECTION 7.55 DWELLING, ACCESSORY DETACHED**

**7.55.1.** Detached accessory apartments shall be allowed in the R-9, R-7, R-6, and R-6MH Districts if the following standards are all met:

**7.55.1.2** The entire structure shall not exceed thirty-five (35) percent of the gross total enclosed heated square footage of the existing single-family dwelling or one thousand two hundred (1,200) square feet, whichever is less.

**7.55.1.3** Two (2) additional off-street parking spaces shall be required.

**7.55.1.4** The detached accessory apartment must meet the respective minimum side and rear setback of a principal structure in the zoning district in which the property is located.

**7.55.1.5** The detached accessory apartment shall be located completely behind the plane of the rear facade of the principal structure unless it is an accessory apartments constructed over an existing detached garage.

**7.55.1.6** Only one (1) accessory apartment, whether attached or detached, shall be permitted.

**7.55.1.7** Accessory apartments may be constructed over existing detached garages provided the garage meets the accessory building regulations and the living space of the apartment does not exceed eight hundred (800) square feet.

**7.55.1.8** Accessory apartments shall not be allowed when constructed in connection with multi-family developments.

**7.55.1.9** The height of any accessory dwelling shall not exceed the height of the primary structure or thirty-five (35) feet, whichever is less.

# **SECTION 6.5 TABLE OF USES AND ACTIVITIES.**

P - Permitted Use

PS - Permitted Use with Supplemental Regulations  
Permitted

Blank - Not

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	
<b>RESIDENTIAL</b>																		
<u>Assisted living residences:</u>																		
Adult care home (over 6 residents)	P	P	P	P	P	P		S	S									
Multi-unit assisted living with services	P	P	P	P	P	P	P	S	S									
Dwelling, condominium					S			S	S			S						
Dwelling, accessory detached and garage apartment (as accessory)		PS	PS	PS	S	PS		S	S									Section 7.55
Dwelling, manufactured home Class A (on a single lot)						P												