



# 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 January 19, 2017 • 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:** (10-3-16 (UDO), 10-20-16(PB), 10-27-16 (UDO) 11-10-16 (UDO), 11-17-16 (PB))
4. **Public Comment:** Please state your name and address for the record.

### II. OLD BUSINESS

1. **Tree Protection Ordinance** – general comments

### III. NEW BUSINESS

1. **De-minimis Text Amendment**

### IV. REPORTS/UPDATES

1. **Board Member Reports**
2. **Staff Reports** – (Pine Forest)
3. **Updates from Council Meeting** – (B&B Text Amendment, LUP,)

### V. OTHER

**Future Meetings:** January 26, 2017 (UDO), February 16, 2017 (Planning Board)

**Adjournment**

MINUTES  
PLANNING BOARD – UDO REVIEW  
OCTOBER 3, 2016 – 10 A.M.  
OAK ISLAND TOWN HALL -- COUNCIL CHAMBERS

Present: Chairman Ted Manos, Vice-chairman Denise Pacula, members Cathy Bowes, Bob Carpenter, Helen Cashwell and Bob Germaine, Planning and Zoning Coordinator Jake Vares, and Interim co-Manager/Town Clerk Lisa P. Stites, CMC. Member Clay Jenkins was not present. Dale Holland and Cindy Anderson with Holland Consulting were also present.

Discussion of Revised Table of Uses: Ms. Bowes asked about the existing gun range; Director of Development Services Steve Edwards said that it would be a non-conforming use. Mr. Vares asked the Board whether it wanted to allow single-family homes in the CR district. Ms. Pacula noted that commercial recreation establishments would be difficult to build with the size lot needed. The Board discussed whether existing houses would be made non-conforming. Mr. Holland said that if a house were destroyed by an act of God that destroyed less than 50%, it could be rebuilt to the existing footprint. The Board also discussed whether leaving it in the CR zone would actually be encouraging single-family homes being built. Mr. Holland said that having commercial and residential development mixed like that leads to inconsistent development. Chairman Manos said that he thinks there should be as much commercial development along the beach as possible. The Board also discussed the possibility of allowing single-family homes in CR as a special use.

**Ms. Cashwell made a motion to allow single-family residences in CR as a permitted use. Mr. Germaine suggested rezoning an area for commercial to encourage commercial development. Mr. Carpenter seconded Ms. Cashwell's motion and it passed 5-1 with Chairman Manos and members Pacula, Carpenter, Cashwell and Germaine in favor and Ms. Bowes opposed.**

Section 7

7-2: Mr. Holland said this was a new requirement.

7-3.1.3: Ms. Bowes said that were not enough parking spaces required and in 7-3.1.4: Ms. Bowes said there would be multiple cars there at the same time, and that would not be enough spaces. Mr. Holland said he would look at that again. Mr. Holland confirmed that the signage rule applies to outside signage.

Mr. Holland said he would include parenthesis after each use with what zone that use was allowed.

7-4: Mr. Holland said he would suggest making docks and piers comply with CAMA regulations, period. That is not what the draft says. The Town's current ordinance for docks and marinas is less restrictive than CAMA regulations. Mr. Edwards said that if the Board wanted to regulate community docks, he would recommend limiting them to five slips, or just using the CAMA regulation of 10. The only place the Town's ordinance deviates from CAMA regulations is when there are multiple slips. Mr. Edwards also discussed the definitions of docks and piers. Consensus of the Board is to use the CAMA standards.

7.5: Ms. Bowes asked about impervious surface allowances. Mr. Holland said this was in alignment with a new state requirement.

7.6: Ms. Pacula suggested making it match the requirements for sheds.

7.7: The Board discussed home occupations, how many vehicles could be parked at a house, etc. Mr. Edwards explained how Development Services staff enforces the existing rules.

7.8.6: Chairman Manos asked about the difference between a 6-foot solid wood fence and a 10-foot chain link fence. He said you can't see through a wood fence, but that you can make a chain link fence not see-through; should there be a restriction that says it should be a stipulation that it remain see-through. If the purpose is to allow air and light to come through, then include a requirement to leave the chain link fences open; the word wood will be removed as well. After further discussion, the Board settled on taking out the word "wood" and inserting "solid."

7.11.2: Ms. Bowes said a locking mechanism should be required for the gate. She also noted that it should say "at a minimum of five feet from the property line."

Mr. Edwards noted that the "through lots" needed to be addressed to clarify where pools can be located.

7.17: Mr. Holland said the buffering was required because that is usually required of the use that is causing the noise, etc. Examples will be added to 7.17.2.

7.18: Mr. Holland reminded the Board that these requirements would be for new facilities, not existing ones. The Board discussed safety issues for the pumping facilities, etc. The chain link fence requirement will be removed.

7.22: The 300-foot requirement will be removed. Ms. Pacula asked why this section had been included. Mr. Holland said that sometimes these businesses can cause problem. The Board is considering removing this entire section; Mr. Edwards will check with the Police Department to see if any of the information gathered in this section is necessary.

7.23: This section will be removed.

7.24.2: The limitation of only one vehicle per site will be removed/amended as people sometimes pull a car behind the RV. The phrase "one town block" will be removed.

7.25: Mr. Carpenter asked Mr. Holland if because the Town's ordinances were less restrictive than CAMA's, wouldn't that make the Town's ordinances invalid. Mr. Holland said that it did not, because applicants still need to meet CAMA regulations regardless of what the Town ordinances say. Ms. Pacula asked about boataminiums; Mr. Holland said he didn't think those had been addressed yet. Mr. Carpenter asked about car stackers if parking was going to be an issue; Mr. Holland said he didn't think that would be an issue for some time. The Board also discussed where dry stack storage should be allowed.

7.28: Mr. Holland said they'd written a lot of new regulations added to this section as it seemed they were needed. The anchoring system requirements will be changed to state that they must comply with state building codes.

7.30 Tiny Houses: The Board and Mr. Edwards discussed the minimum size requirements. Sec 7.30.5 will be removed. Tiny Homes are allowed only in the R6-MH zone.

7.35: Ms. Bowes asked that the language be consistent ("establishments" versus "attractions"). Mr. Edwards explained that a commercial recreation establishment would be a miniature golf course, etc. Mr. Holland suggested using a minimum lot size rather than a minimum of five lots. Sec. 7.35.1 will be removed.

Sec. 7.39.2 will be removed.

7.40: The Board discussed the restroom facilities requirement. Mr. Holland suggested keeping this requirement. The requirement will be changed to reflect that one stall is required per 25 vendors.

7.41: A definition for flea market will be added.

7.42.1: Mr. Vares clarified that the section refers to outdoor sales; he will send a copy of the previous Council action to Mr. Holland so it can be incorporated.

7.43: The Board discussed whether this would apply to existing seafood stores or only to side-of-the-road vendors. Mr. Holland suggested adding “vendor sales.” Ms. Pacula said she would have a problem with a seafood store being allowed in CR but a HVAC business not being allowed in that zone. The Board will have to revisit the Table of Uses to address this as well.

7.44.2: Chairman Manos said the last line should add “child” before the word “pornography.” Ms. Bowes also asked that the title of the section be changed to be consistent the definition earlier in the UDO; there is no definition of sexually-oriented businesses. Ms. Pacula said that the section states that the definition is consistent with the definition for adult entertainment. Mr. Holland will look at that section again. Conditional use will be changed to Special Use as well.

**Mr. Carpenter made a motion to adjourn at 12:23 p.m. Mr. Germaine seconded and the motion passed unanimously.**

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Ted Manos, Chairman

Attested: \_\_\_\_\_  
Lisa P. Stites, CMC  
Town Clerk

MINUTES  
PLANNING BOARD  
October 20, 2016 -- 10:30 A.M.  
OAK ISLAND TOWN HALL -- COUNCIL CHAMBERS

Present: Vice-chairman Denise Pacula, members Cathy Bowes, Bob Carpenter, Helen Cashwell, Clay Jenkins, and Bob Germaine, Planning and Zoning Coordinator Jake Vares and Administrative Support Specialist Debbie Lasek. Chairman Ted Manos was not present.

Vice-chairman Pacula called the meeting to order at 10:30 a.m. and led the Pledge of Allegiance.

Agenda: Approval of Minutes was removed. Ms. Cashwell added a discussion of tiny houses to Old Business. **Ms. Cashwell made a motion to approve the agenda as amended, Mr. Carpenter seconded and the motion passed unanimously.**

Ms. Cashwell said that there is already a tiny house on 55<sup>th</sup>; they are not restricted to trailer area. Vice-chairman said this was going to be covered in the Unified Development Ordinance (UDO). Mr. Carpenter said this looks like a shed with windows; Mr. Vares explained that 12x12 is an accessory structure. Mr. Carpenter said this is a shed, not a tiny house; he wonders if it is a house without a mailbox or address. There was discussion as to whether this was an accessory structure or a house. Mr. Carpenter said it appears there is a house and they are using two lots for their own purpose and they don't need to get into personal business. Vice-chairman Pacula added that if it was a tiny house, it would have had to have been built to codes. Ms. Bowes said the new UDO would restrict tiny houses to the MH area.

Mr. Vares began the discussion on game rooms. He obtained input from the Police Chief and wanted the Board to discuss what they would want in the new UDO. There was agreement on leaving the 300-foot requirement. Vice-chairman Pacula asked about the definitions of a "bar," as it would not serve food. Mr. Vares explained that ABC laws require a certain percentage of food to alcohol sales, and, given the definition he just read, it would also apply to certain existing restaurants. Following additional discussion, Mr. Carpenter said the 300 feet restriction is already in the ordinance, and local businesses would have passed it already. Mr. Vares clarified that the packet contains information for the new UDO. Ms. Cashwell said they would have to be careful as they do not want non-conforming businesses. Mr. Carpenter said it was Chairman Manos who asked to remove the 300-foot provision. Ms. Bowes asked Mr. Vares to clarify the definition of a "restaurant." Vice-chairman Pacula said the definitions were important. Mr. Vares said he could create a map of all restaurants and bars and include the distance between them. Ms. Cashwell asked Mr. Vares if they would not have had to be licensed as one or another when they were licensed.

Public Comment: Kelley Germaine said the Yaupon Pier has a restaurant and the event center within 300 feet. Vice-chairman Pacula clarified that they all fall under ABC laws. Ms. Cashwell again said that it would depend on the license; she said that when they get a permit, they must determine what their business is. Mr. Vares clarified that the staff would verify that when a permit was applied for. Ms. Germaine added that the Pier also sells beer; Ms. Pacula said that is more like a convenience store. Vice-chairman Pacula asked if the Oak Island Senior Center would qualify as a social club. Mr. Vares said there is no definition of "social club." There was further discussion regarding local restaurants, ABC permits and bars. Mr. Carpenter clarified that this ordinance would impact future, not existing, business. Ms. Bowes said that there was no definition of "caterer" or "event planner"; Mr. Vares said that he would speak to Mr. Holland regarding these definitions. There was further discussion regarding social clubs. Mr. Vares said that Mr. Carpenter had made a good point about the grandfathering in; he asked what the Board wanted to do about the 300 feet. Mr. Germaine said it was fine to leave it in. Mr. Jenkins said he would not want to see the island dotted with bars or nightclubs, but if they are going to try to keep zones as they are they would need to push these things into one area and the 300-foot provision would restrict opportunities for other businesses. Ms. Cashwell added that, if you look at the downtown area, there is not much room for other business, and asked that Mr. Vares provide the map he suggested. Mr. Jenkins added that he would like to see vacant lots around these areas to show potential locations. The Board said that

they would like to see both bars and restaurants. Mr. Jenkins gave an example; if the business next to Tranquil Harbor went out of business, then this 300-foot restriction would effectively prevent another bar/restaurant from going in. He would like to remove that language. Mr. Germaine asked about the zoning of the former Long Beach Pier properties; Mr. Vares said that there were no zoning changes with the draft UDO, but the property owners could always request it. Mr. Vares will create the map and bring it back before the Board for discussion.

Board Member Reports: Mr. Carpenter said that he had suggested bringing the UDO to the meeting and go over Chapter 7 if they have time. Ms. Cashwell said that would cause confusion.

Staff Reports: Regarding the Tree Protection Ordinance, Mr. Vares said Connie has received comments and is working on the revised draft, which will look completely different from the initial draft. They hope to have it late November/early December. There will then be a joint meeting with the Environmental Advisory Board, final revisions and then official submission. There had been a meeting set up for October 5 between Council and developers, but it was tabled due to Hurricane Matthew. He explained that the arborist we were working with was a contract arborist paid for with grant funding.

Large Home Zoning Enforcement in Residential Areas: this is separate from the recent passing of regulations. Mr. Vares shared information from Currituck County that is relevant to Oak Island. He explained that they had an application was submitted there for a 15,000 square foot homes that was actually 3 structures connected by breezeways. It was determined by two Boards that it was a single-family home; the Board of Adjustment upheld the decision, as did Superior Court. Another appeal to the Court of Appeals reversed the decision on the grounds that the definition of single-family home is a single building. Right now, it is in limbo; Currituck County wants to regulate use versus size. The developer is now applying for a text amendment to change the definition of single-family homes, and engineers are looking at how to change the structure to meet definitions and still have CAMA compliance. The City of Asheville regulates Airbnbs, VRBOs, etc. as short-term vacation rentals; they were sued and challenged in the courts as to whether they had the authority to do that. Raleigh has not adopted or implemented anything as of yet. Mr. Vares said he does not feel that Oak Island should be the flagship municipality for this, and until it is legally settled it would be best, in his opinion, to wait and see how it plays out in the courts. He has also discussed this with Mr. Holland. He said he could revise the definition of “motels”; if there is a large home vacation rental with more than a certain number of people staying in it at one time, then it doesn’t meet the definition of motel. If a large vacation home rental meets the definition of motel, then that home is in violation by being a commercial use in a residential neighborhood. Ms. Cashwell said that Council, twice, has said 3,999 feet; Mr. Vares said there are two issues, new homes and the proper way to permit them and existing homes and the impact they have on the neighborhood. Mr. Carpenter said he feels that calling a large rental house a motel would not work. He reported that the Development Line and the Large Home Amendment were approved by Council with little discussion.

The next UDO review meeting was scheduled for Thursday at 10 a.m. Ms. Bowes asked what the process would be regarding the Oak Island Pier. The last information from Town Council was that this was a lengthy process, with quotes and such, and that the Pier is open. There was discussion of the state of the Pier and the insurance process. It was noted that the next regular Planning Board meeting would be November 17 at 10:30 a.m.

**Mr. Carpenter made a motion to adjourn at 11:11 a.m. Mr. Germaine seconded and the motion passed unanimously.**

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Chairman Ted Manos

Attested: \_\_\_\_\_  
Lisa P. Stites, CMC  
Assistant Manager/Town Clerk

PLANNING BOARD  
Draft UDO Review  
THURSDAY, October 27, 2016 -- 10 A.M.  
OAK ISLAND TOWN HALL – COUNCIL CHAMBERS

Present: Chairman Ted Manos, Vice-chairman Denise Pacula, members Cathy Bowes, Bob Carpenter, Helen Cashwell, Bob Germaine and Clay Jenkins, Planning and Zoning Coordinator Jake Vares and Administrative Support Specialist Debbie Lasek. Dale Holland and Cindy Anderson with Holland Consulting were also present.

Chairman Manos called the meeting to order at 10 a.m. He led the Pledge of Allegiance and gave the invocation.

Mr. Holland said a copy of a memo from Mike Christenbury, DCM regarding the review of the Comprehensive Land Use Plan; there were no comments from any state agencies or DCM. It will be presented at the next Town Council meeting. Mr. Vares added that the map of the bars and restaurants requested at a previous meeting is not ready at this time.

OLD BUSINESS: Mr. Holland presented a draft wording on the proposed large home provisions. This has been sent to the Town attorney and the School of Government (SOG) to determine if it is legal and defensible. Mr. Holland crafted the wording of the draft himself; this is an issue at many other resort communities. This wording proposes that any houses larger than 3,000 feet that, after construction, is advertised as a rental by any means of advertising for over 14 individuals, then it would be classified as a hotel/motel and therefore be a non-conforming. This would require significant monitoring by staff. Additionally, it would create a non-conforming situation that may have financial consequences for the property owners involved. Many times, appraisers and realtors inquire as to whether a structure is non-conforming and it could potentially create a financial problem for the owner. Secondly, if a lending institution were advised that a home was being used as a rental property, it could have financial repercussions for the homeowner, depending on the terms of that lender and the financing of the home. Mr. Holland, Mr. Edwards and Mr. Vares have struggled with the wording of this document, as have many others involved in coastal communities. State legislation has effectively handcuffed local communities, and it is still possible that the Town attorney or the SOG could respond that this will not work. Ms. Bowes asked where B&B's would fit in. Mr. Holland repeated that there is no perfect solution to this problem, and that dealing with the problem will require the use of all the tools that they have. They must enforce the nuisance ordinance, and there are some problems with the current ordinance. Mr. Holland explained to Mr. Carpenter that existing homes will be grandfathered in; Mr. Carpenter asked about recent lawsuits regarding short term rentals. Mr. Holland said the State acknowledges rental sizes and that this has become extremely complicated. They have tried to follow a very narrow path with the wording of this provision, and are waiting to see if it is a viable path to follow. Chairman Manos questioned the size of 3,000 square feet; Mr. Holland said he felt it was a reasonable observation regarding the number of people and a single-family residence. Ms. Cashwell brought up the sewer system and said it was designed for smaller homes with fewer people; Mr. Holland said that if they were deliberating a Conditional Use Permit (CUP), this would be a viable question. That is one reason that they have recommended the CUP as a way of handling the large houses. Ms. Cashwell again stressed that unless Town Hall takes action, this sewer system will just blow up. After further discussion, Mr. Holland suggesting suspending further discussion until they hear back regarding the legalities of the proposed provision.

Article 7: Supplemental Regulations -- Tattoo and Body Piercing: Mr. Germaine noted that 200 feet is nothing, and Ms. Pacula asked why they were wondering about this at all. Mr. Holland said there are a lot of communities that believe that, economically these businesses detract from a commercial area, and that they are areas of congregation at night; he said it was a decision for the Town to make. If the Town has no

problem where these facilities are located, the number of establishments or their proximity to other business, they can proceed according. Chairman Manos asked where these business would be located; Ms. Anderson said they are proposing that they be in the C-LD district. Mr. Holland noted that whether they like 7-45 or not, they must address this. Chairman Manos agreed that they should be kept in the C-LD and that 200 feet is not an unreasonable concern. Mr. Holland said that if there is a proliferation of these businesses, there are people that would argue they are detrimental to other businesses around them. There was further discussion about keeping these businesses away from more family-oriented land uses. The consensus was to keep the proposed language.

7.47-Auto and Watercraft Repairs: Ms. Pacula noted there were many inconsistencies regarding boats, such as the marina district and boat sales. Mr. Holland said the table of permitted uses outlined what was allowed according to what the Board suggested; Chairman Manos noted this was a valid comment and perhaps it should be addressed now as there may be repairs taken care of in a marina and that they will need some consistency. Mr. Holland said a correction could be made. There was discussion regarding existing auto repair businesses on the Island. Chairman Manos suggested putting in a provision regarding; Mr. Holland suggested that they not compare these provisions to a marina. Mr. Holland asked Mr. Vares if there had been any problems with the existing ordinance; he answered that he was not aware of any. Chairman Manos then questioned if the language regarding accessories negated the need to worry about this, and Mr. Holland stated that was correct.

7.48 This is in response to regulatory changes since the existing ordinances were created.

7.49 Solar Farms: Generally, these regulations are less specific and do not go into as much detail as wind farms as they are less obtrusive than wind farms. Chairman Manos confirmed that solar panels are usually 10-15 feet, hence the height restriction. Mr. Holland noted that there is not a proliferation of solar farms here in Brunswick County, and it is unlikely that one will show up. However, if there are no provisions for where they can go in the ordinances, it could be a problem. Mr. Germaine noted that wind farms could only be located in the industrial zone.

7.51 Wind Farms-Mr. Holland said there are two things to consider with a wind farm; shadow flicker and noise. There can be a considerable amount of hum; Mr. Germaine added that it travels quite a distance. There are also concerns regarding the height. Mr. Jenkins questioned the minimum setback requirements on page 7-30; Mr. Holland explained the setback was 1.5 feet per foot of height. Mr. Vares suggested adding wording into the footnote for further explanation, and Mr. Holland agreed.

7.52 Wireless Communication Facilities: There have been multiple state and federal changes regarding lease agreements, application processing time and interference with FCC regulations and interstate commerce. This section is fairly consistent with state regulations; however, one item may require a change before the final draft. Panels now exist that can accomplish what the towers do now; they can go on rooftops of buildings as opposed to using 200-foot towers. They need to respond to this new technology and will add this into the provisions. There was also discussion regarding explaining the acronym of COWS (communication on wheels) on page 7-34; Ms. Bowes asked that the acronym be explained, as well as titles. Mr. Holland and Ms. Anderson agreed that further definitions were needed for terminology in this section regarding communication facilities. Mr. Vares added that there is a Federal rule that municipalities cannot deny these facilities on a health related basis; Mr. Holland said this would be done.

Mr. Holland commended the Board on getting through Article 7. He said that there is nothing in Article 8 that is a departure from existing zoning district standards; there are graphic changes and reorganizing. There was some discussion regarding accessory buildings; Mr. Vares said there was a setback change for corner lots and a major water body. Chairman Manos said they had previously decided to use the linear footage; Mr. Vares said it was going before Council this month. Mr. Holland said that every diagram has been labeled, with dimensional standards tied to the letters on each diagram, so that if anybody comes in



and wants to know what they can do in a specific district, a copy of this page will answer their questions. Ms. Bowes asked about differing lot setbacks; Mr. Vares said it may have been a way to make them build farther away from the road. Mr. Holland said they were not aware of any particular problems with any of the dimensional requirements, so they just carried the existing requirements forward. Chairman Manos said that the rear and front yard setbacks should be changed; Ms. Pacula said that would make all those houses in R-20 non-conforming. There was further discussion about this setback. Mr. Germaine asked about 8.11 and as to how this could even be constructed as such; Mr. Carpenter suggested going in order through the sections.

8-2 Mr. Vares said that perhaps they should add in “through lots” into this section; Mr. Holland said there was language that addressed that situation. Mr. Edwards added that this was a double front setback. Mr. Vares wanted the ability to show someone the setbacks if they asked. Mr. Holland said there are notes to this table, and thought they had addressed this but that they would check. Ms. Pacula asked about 8.3 and the setbacks; Mr. Jenkins thought those setbacks had been made the same. Mr. Holland said he would look at it again. There was further discussion regarding setbacks and the rationale for it. Chairman Manos suggested changing 8.3.1 and taking the corner lot setback down to 10 feet. Mr. Edwards mentioned the 8.2.2 note regarding front yard setbacks, that 15 feet was supposed to be from the road on the beachfront lots in order to keep the homes closer to the road rather than the beach. They do not want flag or corner lots of oceanfront properties to use the ocean as their setback. Mr. Holland confirmed that this did not conflict with previous sections.

8.5 Ms. Pacula questioned the 60-foot lot width; she understands this means that newly created lots and wondered if this made existing lots non-conforming. Mr. Holland explained that this has already been addressed and taken care of; lots can be subdivided to their original size of 55-foot width. Mr. Vares noted there were exceptions for various items in setbacks previously. Mr. Holland referred him to page 8-15 where this was covered. Mr. Edwards noted that they are missing the R6-MH section; Ms. Anderson agreed. Mr. Edwards asked to address 8.11 regarding Commercial Low Density (C-LD), satisfying the fire code and removing the 30 feet separation; Mr. Holland said he has not added the specifications they have previously discussed to this section. Mr. Germaine also questioned the setbacks and building footprints. Mr. Holland said he will go back and look at the geometry. Ms. Bowes asked about business districts that back up to a residential area with a 10 foot setback; Mr. Holland asked if they were ready to make businesses non-conforming, which leads to more problems. Mr. Edwards noted on 8.8 a correction about side yard setbacks that should be zero. There was further discussion about districts and setbacks.

Article 9: Non-conforming Situations: Mr. Holland said they have reorganized this section to comply with significant statutory changes that have occurred since the current ordinance was written. Chairman Manos asked why, in an airport district, they are not allowing 41 feet; Mr. Holland said this was for airspace protection. Mr. Holland said he would rather discuss this when they feel more time, and would rather move onto Article 10, Landscape Requirements. Ms. Bowes questioned whether they were done with Article 8, and she is missing 8.14 to 8.16. Ms. Anderson said copies would be provided to her. There will be further discussion regarding the R6-MH zone.

Mr. Holland moved on and said that he had provided the draft Landscape and Building Façade provisions to the Board. This is a draft; he has no idea how aggressive or how far they want to go with these requirements. Right now, the ordinances currently are aimed at protecting existing trees with minimal direction for landscaping for new development. This is directed at new development, not existing properties. Mr. Holland, Mr. Edwards and Mr. Vares will have to ensure that this is in compliance with the draft Tree Protection Ordinance. Secondly, they want to get the legislation of landscaping into the duties of the UDO administrator. The existing landscaping requires 6 plants per 2,000 square foot of development; that is minimal. Mr. Holland clarified this is for multifamily and commercial development only, not single-family homes. The draft Building Façade provisions have also been provided; they cannot address residential building design as the State legislature removed that authority two years ago.

The draft given today is the minimum; they can go further with façade requirements if they choose. He cautioned that design requirements cannot be subjective and must be specific and not subject to legal scrutiny; they are not required to have building façade regulations. Ms. Cashwell suggested not doing it at all; Mr. Holland said he would at least like them to look at it. Ms. Bowes confirmed this would only affect new construction. Ms. Pacula said that one of the big concern with the CPAC was cleaning up the commercial district. Chairman Manos said they could make suggestions; Mr. Holland said it is pretty simple, and can be as simple as no metal buildings with a metal façade.

Mr. Holland added that the Board will be emailed additional sections before the next meeting. Also, the fourth Thursday next month will be on Thanksgiving; Thursday, November 10<sup>th</sup> will be the next meeting.

**Ms. Cashwell made a motion to adjourn at 11:31 a.m. Mr. Carpenter seconded and the motion passed unanimously.**

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Ted Manos, Chairman

Attested: \_\_\_\_\_  
Lisa P. Stites, CMC  
Town Clerk

MINUTES  
PLANNING BOARD – DRAFT UDO REVIEW  
November 10, 2016 – 10 a.m.  
Council Chambers – Oak Island Town Hall

Present: Chairman Ted Manos, Vice-chairman Denise Pacula, members Bob Carpenter, Bob Germaine, and Clay Jenkins, Interim co-Town Manager/Town Clerk Lisa P. Stites, CMC, Development Services Director Steve Edwards, Planning and Zoning Coordinator Jake Vares and Dale Holland and Cindy Anderson with Holland Consulting. Member Cathy Bowes was not present.

Chairman Manos opened the meeting by leading the Pledge of Allegiance to the flag and giving the invocation.

Mr. Vares noted that there were just two more meetings left on the contract with Holland Consulting and that the hope was the Board's review could be completed in that time frame, with final approval by Council in May or June.

Regarding provisions for large homes, Mr. Holland said that what was presented would be in addition to the current regulations for a CUP for homes 4,000 square feet and larger. Mr. Holland said it was clear that it would take more than one solution to attack this problem. There are restrictions as to what government can do regarding rental property and vacation rentals. Mr. Holland read from the proposed note to be added to the Table of Uses and proposed change to the definitions of Hotel and Temporary rental (the document is attached and is hereby made a part of these Minutes). Mr. Holland said that the proposed regulations would be legal, according to the UNC-School of Government. There is another layer of enforcement added to staff by these requirements. He said this is a difficult situation but that he feels good about the proposed way to handle it, though he cautioned it is not a single, iron-clad solution to address it but rather, part of a series of ways to handle it.

Chairman Manos suggested adding "as advertised," but Mr. Vares said that was removed based on advice from the UNC School of Government. He also suggested changing "after construction" to "after permitted," and Mr. Holland made that notation. Chairman Manos said that he had a problem with the 3,000-sq. ft. limit. Mr. Holland said that a 3,500-sq. ft. home could be built and that the only time the regulations would kick in is if the property were rented to 14 or more people. Ms. Pacula asked what the purpose of this language was; it is to prohibit renting to more than 14 people. Ms. Pacula noted that the regulations would only make the home non-conforming. Mr. Germaine said that the goal was to eliminate the monstrous houses that will eventually be rented to large numbers of people. The Board discussed whether the gross square footage should be considered heated or not. Mr. Holland said that garages could be heated and bunk beds lined up in them. (Planning Board member Helen Cashwell arrived at 10:27 a.m.) Mr. Holland said that it became a matter of trying to regulate the size of the structure, parking and those kinds of things. Ms. Pacula asked if it couldn't be consistent and use the 4,000 sq. ft. limit. Mr. Holland said that the reason 3,000 sq. feet was suggested was that with a 3,000 sq. ft., 4-bedroom house, you're looking at 12-14 people sleeping there. Chairman Manos asked how it would be ascertained that a home was being rented to more than 14 people; Mr. Holland said it would be through advertising. Mr. Edwards suggested leaving out the square footage entirely. Chairman Manos said that what will happen is that the advertisements will leave out the number of people a home will accommodate and merely list the rooms available. The Board also discussed whether Council would be likely to approve the recommendation with the 3,000 sq. ft. limitation. Chairman Manos said he didn't think they should be trying to limit house size for homes that are built for personal use. Ms. Pacula said that she thought there were already things in place to handle the large homes, such as parking. Chairman Manos said he was

concerned about limiting the right to develop property. Mr. Germaine said they were trying to deal with rentals, not residential uses. Chairman Manos asked Mr. Holland if the square footage limit could be removed; Mr. Holland said from a planning perspective, he thought that would be fine. Ms. Pacula noted that this action could actually encourage building large rental homes in the CR zone. **Chairman Manos made a motion to recommend to Town Council that large homes consideration be that any structure permitted after the date of the adoption of the UDO, constructed and located in a residential zoning district, and available to the public for temporary or permanent occupancy for more than 14 individuals will be classified as a hotel/motel use of property, if the property is available for temporary rental to the general public and will be considered a non-conforming use in the residential district. This excludes CR districts; Enforcement actions for compliance will be taken as prescribed by this ordinance. Mr. Jenkins seconded the motion. The motion passed 4-2 with Chairman Manos and members Carpenter, Germaine and Jenkins in favor and Ms. Pacula and Ms. Cashwell opposed.**

Consensus was to remove the 3,000 square foot out of the Hotel/Motel definition and to change it to “permitted” instead of “constructed.”

In Section 8.14.1, Mr. Vares suggested removing that section entirely; Mr. Holland said he had already done so on his draft.

#### Article 9 – Nonconforming Situations

9.2.2: Mr. Jenkins asked what the 20 percent was referring to; Mr. Holland confirmed that referred to the setbacks and he will clarify that.

9.3.7: Mr. Jenkins noted that “Person County” should be changed. Mr. Edwards noted that the current ordinance gives multi-family properties an exemption.

9.3.2: Mr. Vares asked why it specifies the Board of Adjustment. Mr. Holland said because it would be a quasi-judicial decision; he will add clarification.

Under 6.11, campsites will be removed from the CB zone.

9.5.3: Mr. Vares asked that the language be clarified regarding meeting the proper criteria.

9.6.1: Mr. Vares said “this permit” should be “this zoning permit.”

9.9.6: Mr. Vares asked about the tax value; Mr. Holland said that he already added a note.

#### Article 10 – Performance Standards

10.1.4: Chairman Manos suggested changing it to “a substantial” instead of “the maximum.” Mr. Holland said that they tried to make the draft UDO and the draft tree ordinance consistent but there is still some work to be done in that regard; he also thinks the landscaping requirements are a lot clearer than what the Town has now. Mr. Jenkins asked if the arborist writing the tree ordinance had been given the draft UDO to make sure they work together. Mr. Vares said the draft tree ordinance was being revised and that it would be substantially different from what was first presented.

10.5.3.2: Mr. Vares suggested adding “...or the Town’s stormwater administrator.”

Ms. Pacula asked about the buffering requirement; Mr. Holland said that if a person chooses to put a residence next to an existing commercial use, the business would not be required to put in buffering.

On page 10-7, Chairman Manos questioned the numbering of A1, etc. Mr. Holland explained the system; they will clarify the numbering.

On page 10-7, Chairman Manos questioned the word ‘installed.’ Mr. Jenkins suggested not including a maximum but did suggest it be based on “maturity” rather than at installation. Following discussion of berm and plant size, the consensus was to use 2-gallon minimums.

On page 10-8, Mr. Jenkins said he would like to encourage use of existing trees and shrubs but he didn’t understand the tree credits. Mr. Holland explained the credits system.

10.11.7: Mr. Jenkins said that there were a lot of bird feeders, swings, etc. that were placed on trees. Ms. Cashwell said that also, guide wires were used for trees. Ms. Anderson said this section dealt with protection during construction only.

10.14.3: Chairman Manos asked about the 5,000 square-foot limit. He suggested reducing that and changing it to less than 50%. Consensus was to use the lesser of 25% or 2,500 square feet.

10.16.6.2: Chairman Manos asked what a non-character defining façade was; Mr. Holland said that equipment, utilities, etc. should not be the predominant features of the façade. Mr. Holland will clarify the wording; a provision stating that solar panels are allowed will be added.

The next UDO review meeting will be January 26, 2017 at 10 a.m. (There will not be a UDO meeting in December). The regular Planning Board meeting is December 15. The Comprehensive Land Use Plan will be presented to Council at its December Council meeting.

**Ms. Cashwell made a motion to adjourn at 12:17 p.m. and the motion passed unanimously.**

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Chairman Ted Manos

Attested: \_\_\_\_\_  
Lisa P. Stites, CMC  
Town Clerk

MINUTES  
OAK ISLAND PLANNING BOARD  
November 17, 2016 -- 10:30 A.M.  
TOWN HALL -- COUNCIL CHAMBERS

Present: Chairman Ted Manos, Vice-chairman Denise Pacula, members Helen Cashwell, Cathy Bowes, Bob Germaine, Bob Carpenter, and Clay Jenkins, Planner Jake Vares, and Administrative Support Specialist Debbie Lasek.

Chairman Manos led the Pledge of Allegiance and gave the invocation. There were no additions or corrections made to the agenda.

OLD BUSINESS: Game rooms, billiards and Bars. Mr. Vares said that an official decision on the wording is needed, per Dale Holland with Holland Consulting. The Board has received the Police Chief's opinion, and Mr. Vares directed the Board to the map that was enclosed with the packet. Mr. Vares noted what businesses would be affected after the adoption of the UDO. Ms. Cashwell said that they are getting the UDO ahead of the Planning Board and asked why this was brought to the Board. Mr. Vares explained that this will help them not go over budget for Mr. Holland. Ms. Cashwell said that this is not the Planning Board's responsibility. She said the Town paid over \$140,000 for this contract and that the Planning Board has bent over backwards to keep him on track for this project. She said it was becoming too confusing as the UDO has not been approved. Mr. Vares asked if it was the will of the Board to not have UDO business on the agenda; Chairman Manos said this was not the point. He asked for clarification on what Mr. Vares wanted a decision on with the game rooms. Mr. Vares said that at the last regular Planning Board meeting, what was discussed was whether we wanted to keep the 300-foot separation rule between new establishments that sell alcohol. The Board asked for more information in order to make that decision. The map Mr. Vares created was to provide that clarification. Chairman Manos said he thought the 300-foot separation between establishments that sell alcohol was ridiculous. He said he thought the map was incorrect regarding the 70/30 foot/alcohol. Mr. Vares said this was verified by an ALE officer; it is 30% food and 70% alcohol. Ms. Pacula clarified that there is no separation requirement in the current ordinances, and that Mr. Holland had recommended this distance of 300 feet in the draft UDO. After discussion, the unanimous consensus of the Board was that this 300-foot separation was not needed.

NEW BUSINESS: Ocean Front Lots Text Amendment. Mr. Vares said this staff-initiated text amendment started with a minor subdivision plat; he realized that the current ordinance makes the setbacks improper between SE 58<sup>th</sup> to SE 74<sup>th</sup> Street on the oceanfront. The ordinance assumes that all of the parcels are parallel to Beach Drive without taking into account this "awkward area." If applied properly as is currently, it shrinks the buildable area and makes them unbuildable. Chairman Manos asked if this made side street lots unbuildable; Mr. Vares explained that the side that fronts the waterway is considered the side yard while the street is considered the front yard setback. Ms. Bowes asked if it was technically just not buildable for a large home; Mr. Vares agreed, saying that a very small structure could be built upon the lot as is. Ms. Pacula questioned whether Kings Lynn was not also involved in a similar matter. Ms. Cashwell would like to know the history of the current ordinance; Mr. Vares said it was adopted in 2001. He said that he felt that past planners interpreted the setback provisions in the ordinance incorrectly, and that homes were non-conforming now. The setbacks go 25 feet from the side of the road, improperly. There was discussion regarding where the setbacks would be in relation to the road for an 8-foot setback. The Board discussed specific examples of existing houses and the setbacks used. Mr. Jenkins explained his interpretation of the setbacks; his explanation is that Mr. Vares is essentially asking to rotate the setbacks for this particular area so they match the majority of the lots in town. Ms. Pacula questioned the front setbacks; Mr. Vares said that on ocean front lots, the setback on the front yard is 15 feet. The R7 zoning district has a 25-foot setback unless the lot is an oceanfront lot. Mr. Jenkins noted that, as currently set, someone could build within 8 feet of the ocean due to it being a side yard setback.

Mr. Vares said that all homes must be built 60 feet back from the first line of natural vegetation per state rules; Chairman Manos noted that the side yard setbacks are not really in play since they have to follow the 60-foot from the vegetation rules. The Board also discussed the setback for a house on 67<sup>th</sup> Street; Mr. Edwards noted that there was a house there. Ms. Pacula said that Mr. Vares is showing them something where a house has already been built; she questioned which lots were actually involved. Mr. Vares realized this was a problem when Mr. Brinkley presented plans for a minor subdivision and he noted that the setbacks were incorrect. Chairman Manos said that if they changed the setbacks, they could then build out farther. Mr. Vares said there are existing houses that he considers non-conforming because they are built in the setbacks, and that correcting this anomaly would not restrict anyone with a house in place. Ms. Bowes asked about the proposed subdivision; Mr. Brinkley said he has the property between 72<sup>nd</sup> and 73<sup>rd</sup> street, and that it would be a minor subdivision. He wants to subdivide a large lot into three. Mr. Vares referred to Sec. 18-32 and said the front yard setback should be measured from the street and not the oceanfront; this is the problem. Ms. Cashwell asked how this affected the flag lots on Davis Canal; Mr. Edwards explained that this would bring the language to meet the interpretation and eliminate ambiguity for future development. He noted that the Sec. 18-32 section standard has been implemented on Davis Canal, the waterway and the slough. He is trying to match what has been done in the past. Mr. Edwards said this would affect this area as it is the only area currently being looked at for subdivision. Ms. Bowes asked if this was only a problem for a subdividing situation; Mr. Jenkins didn't agree. He said he believes that what Mr. Vares is proposing makes perfect sense to him, but he wondered how it would affect Davis Canal flag lots and wanted to know if there would be any non-compliance issues. Mr. Edwards said that all lots developed on the canal were based on the front yard being on the Canal. Mr. Carpenter said that he would like to see much more analysis and wondered how many would be non-conforming as a result of this change. He said staff was saying that the flag lots wouldn't be affected but that the Board doesn't know that. After further discussion, Ms. Pacula asked whether lots on 66<sup>th</sup> street could be subdivided; Mr. Edwards said that they could not be divided. Ms. Cashwell said the Board needs more information, and that she would not feel comfortable making a decision today. Ms. Pacula said they were reading too much into this, and Chairman Manos agreed. Mr. Carpenter argued that the least they should learn is how many properties would be non-conforming; Chairman Manos noted the time and the expense it would take to examine every property. Ms. Cashwell asked if these lots could be divided, and Mr. Jenkins said that if they did, then it would no longer be oceanfront and it would not apply. Mr. Germaine said he would worry that someone could build a home and then try to divide the lot. Chairman Manos said this would create a non-conforming issue and would not be allowed; Mr. Edwards said there is a State statute would not allow them to issue building permits for that lot. Chairman Manos said he felt they were beating a dead horse.

**Ms. Pacula made a motion to go to an 8-foot side setbacks and reads as R7, except with a 20-foot rear yard setback (ocean side) instead of a 15 rear setback.** Mr. Vares said the 20-foot rear yard setback, and that the reason the front yard is 15 and referred to footnote(e) for that setback. Mr. Edwards said they could include language to exclude flag lots or interior lots created by the flag lots. He said that was something they discussed at the UDO meeting also and that the exception of the 15-foot front yard setback for ocean front was to allow for houses to be closer to the road. He said that the 15-foot setback should be from the road and not the ocean. Mr. Jenkins cautioned using the wording "from the road." After further discussion, Chairman Manos suggested that any setback from the ocean side must be a minimum of least 25 feet; Mr. Vares said this could be added. Chairman Manos said that just adding the wording regarding the setback from the ocean side would be along with the other R7 setbacks. Mr. Jenkins explained to the Board that he understands Mr. Vares is trying to do, and that he thinks they are all trying to do the same thing. **There was no second to Ms. Pacula's motion. Mr. Jenkins made a motion to accept the text amendment with the wording "the ocean side having a minimum of 25-foot setback," side setbacks of 8 feet, and the northern portion, non-oceanfront side being a 20-foot setback of oceanfront, flag lots and interior lots.** Mr. Germaine seconded, and the motion passed 6-

**1 with Chairman Manos, Ms. Pacula and members Carpenter, Cashwell, Germaine and Jenkins in favor and Ms. Bowes opposed.**

Chairman Manos moved on to the UDO Large Homes Provision and noted that he had made an adjustment to the large homes amendment. He read his addition into the record (a copy of which is attached and is hereby made a part of these Minutes). He said his intention was to provide for the absence of any ability of someone to say that he didn't plan for the permit. Ms. Bowes asked what the ramifications would be for non-permitted use; Chairman Manos said they would not be able to rent their property. Ms. Pacula has explained that it has gone from non-conforming to non-permitted to allow for enforcement and that this would stop them from the ability to rent it out. Chairman Manos asked for a motion to amend the prior text amendment passed at the last meeting. Mr. Jenkins asked if Development Services agreed with this, and both Mr. Vares and Mr. Edwards said that they did. Ms. Bowes asked if there was anywhere to define a "Bed and Breakfast" and Mr. Vares said there are specifics to define it as a Bed & Breakfast. Ms. Pacula disagreed that they were being advertised as a B&B. Chairman Manos directed the Board to the second portion of this amendment, where they removed any language referring to square footage; however, it remains under the hotel/motel section. He said that Mr. Holland had noted that square footage requirements should be eliminated to avoid getting into issues; however, Chairman Manos said that if square footage is added at all, then it should be noted as heated or cooled square footage. Mr. Germaine agreed; he noted that a house is being built that is 2,200 with 6 bedrooms and wondered how many rooms could be put into a 3,000 square-foot house. Chairman Manos said that the square footage should be eliminated and that they should rest on the number of people (14) sleeping there. Ms. Bowes asked Mr. Edwards about the LLCs building residential homes; he explained that on the permit, they must indicate whether personal or rental use. If they utilize for occupancy greater than 14, then there could be violation notices issues, and with more than 2 such violations, they could be prevented from renting it. The Board also discussed the number of bedrooms being included in houses and the number of people sleeping in the homes. Mr. Edwards said that staff is looking at Airbnb and other such entities for primarily accommodations taxes and Ms. Bowes just wanted to clarify that no additional personnel would be added. Chairman Manos noted that they would be removing any mention of square footage from the amendment. **Chairman Manos made the motion to approve the text amendment as presented, Ms. Cashwell seconded and the motion passed unanimously.**

Board Member Reports: Ms. Bowens said the Parks and Recreation Department is applying for a grant for NC state funds for a beach access for disabled people at W. 24<sup>th</sup> Place. She said there is a survey online regarding beach access for disabled individuals, and encouraged community support for this venture. There will be a public input meeting on November 22<sup>nd</sup> at 5 p.m.

Staff Report: Mr. Vares mentioned that Comprehensive Land Use Plan would be before the Council. The Development Line will be approved once approved minutes are submitted. The upcoming text amendment regarding B&B in the R6-7 district will come to the Planning Board at a future meeting. The accessory structure text amendment was approved at the last Council meeting. Mr. Vares said he also hopes to have a revised draft of the Tree ordinance by early December. It was decided that Thursday, December 15<sup>th</sup> at 10:30 a.m. would be the next meeting of the Planning Board. Ms. Bowes said she has heard complaints about contracts, and wants them to consider using performance-based contracts in the future.

**Mr. Germaine made a motion to adjourn at 11:40 a.m. Ms. Cashwell seconded and the motion passed unanimously.**

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Chairman Ted Manos

Attested: \_\_\_\_\_  
Lisa P. Stites, CMC  
Assistant Manager/Town Clerk



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

Agenda Item: New Business No. 1

Date: January 4, 2017



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**Issue:** De-minimis Text Amendment

**Department:** Planning & Zoning Administrator

**Presented by:** Jake Vares

**Estimated Time for Discussion:** 25 Minutes

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**Subject Summary:**

The proposed text amendment is staff initiated. There have been situations in past and recent projects where **minor** encroachments on ongoing developments have been discovered. Some developments on rare occasion will have conflicting surveys where the foundation of the as-built survey will show the structure with a slight encroachment into a setback and the previous survey will not match the latter survey and will show the foundation outside the town setbacks. In past cases this has been anywhere between an inch to 5 inches of an encroachment, hence the term “de-minimis”. The proposed text amendment will give staff an avenue during the administrative development review process to give some allowances in situations such as this. De-minimums violation occurrences such as this are supposed to be trivial but the consequences for the home owners are substantial. The cost of moving or removing the entirety of an already established structure, especially for just half an inch is considerable and this text amendment will provide relief for property owners that find themselves in that situation.

Staff does not have the power to waive minor encroachments, only the Board of Adjustment via an Appeal or Variance can do so and both would be unlikely in most circumstances. Conflicting surveys is an issue that does happen and sometimes the dimensions are slightly off than what was originally proposed. The language must be clear that the encroachment was done in error and not used as a tool to allow encroachment by design, which is why the “if the de-minimis encroachment was done in error demonstrated by conflicting surveys” ordinance text was added in.

After hearing the issue from staff we asked our consultant to write up some language and most of the proposed new language is what was presented. If adopted staff will be sure to request to have this text inserted into the upcoming UDO.

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**Attachments:** Ordinance Amendments

**Recommendation/Action Needed:**

**Suggested Motion:** Motion to approve the text amendment and the associated consistency statement

**Funds Needed:** \$0.00

**Follow-up Action Needed:** Staff will update staff report for the Council Agenda and publish state required public notifications.

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## Attachments

### Sec. 18-117. - Area and height table; residential districts.

				Side Yard Setback			Building Height Limits <sup>(d)</sup>	
Zoning District	Lot Area Per Dwelling Unit (Square Feet)	Lot Width (Feet)	Front Yard Setback (Feet) <sup>(c)</sup>	Interior Lot (feet)	Corner Lot (Feet) <sup>(f)</sup>	Rear Yard Setback (Feet) <sup>(c)</sup>	Outside VE Zone (Feet)	Inside VE Zone (Feet)
R-20	20,000	100	30	10	20	15	35	41
R-9 <sup>(e)</sup>	9,000	75	25	8	10	20	35	41
R-7.5 <sup>(a)</sup>	7,500	75	25	8	15	20	35	41
R-7 <sup>(e)</sup>			25	8	10	20	35	41
One-family	7,500	60 <sup>(b)</sup>						
Two-family	10,000	75						
R-6A <sup>(e)</sup>			25	8	10	20	35	41
One-family	6,600	60 <sup>(b)</sup>						
Two-family								
R-6B	6,600	60 <sup>(b)</sup>	25	8	10	20	35	41
R-6MF <sup>(e)</sup>			25	8	10	20	35	41
One-family	6,600	60 <sup>(b)</sup>						
Two-family	11,000	100						
Three-family	15,000	140						
MH						10		
Triplex	15,000							

<sup>(a)</sup> Special dimension requirements:

Places of worship: lot area equals three acres.

Public education facilities: lot width equals 300 feet and lot area equals five acres.

Private education facilities: lot width equals 200 feet and lot area equals two acres.

Community and municipal buildings: lot width equals 200 feet and lot area equals one acre.

Private clubs: lot area equals ten acres.

Residential lots of record 60 feet or less in width:

Interior lot: side yard equals eight feet.

Corner lot: side yard equals ten feet.

(b) Lots created before effective date of the ordinance from which this article is derived: lot width equals 50 feet.

(c) Steps and uncovered landings may encroach up to a maximum of three feet into the required front yard setback, or up to a maximum of five feet into the required rear yard. These encroachments are allowed in the front yard or rear yard, but not both.

(d) The following are exceptions to the height limits: Spires or belfries on places of worship, cupola, dome or ornamental tower not intended for human occupancy, monuments, water towers, observation towers, chimneys and smokestacks, conveyors, flagpoles, radio or television aials for residential use, masts, parapet walls not to exceed more than three feet above the roofline of the building, and necessary mechanical appurtenances. Building height in the island part of the town is established by an act of the state legislature, and may only be changed by a local referendum.

(e) The front yard setback for oceanfront properties in zoning districts R-9, R-7, R-6A, and R-6MF shall be 15 feet.

(f) Corner lots shall have an eight-foot corner side yard setback and no additional flexibility per section 32-78.

(g)

1. Fireplaces may extend up to 24 inches into required yard setbacks.

2. New elevators, mobility and cargo lifts on existing residential structures may encroach up to five feet into the required rear setback, up to five feet into the required front setback, and may also encroach up to five feet into the required side yard setback only if approved by the board of adjustment. The board of adjustment shall not be required to use the five findings of facts with the variance/appeal process, and, where peculiar characteristics in the front or rear setback requirements are clearly unrealistic, the board of adjustment is authorized to approve the use in the side setback after application and review.

Sec. 18-117 (h). The footprint of structures which are within 5% of the required side yard setback distance (feet) and 2% of the required front or rear yard setback distance (feet) shall be considered compliant with the requirements of this ordinance if the de-minimis encroachment was done in error demonstrated by conflicting surveys. Regardless of any allowances any expansion of an existing principal structure cannot be outside the allowable setback.

**Sec. 18-118. - Area and height table; nonresidential districts.**

				Side Yard Setback		Building Height Limits <sup>(b)</sup>		
Zoning District	Lot Area (Square Feet)	Lot Width (Feet)	Front Yard Setback (Feet)	Interior Lot (Feet)	Corner Lot (Feet) <sup>(f)</sup>	Rear Yard Setback (Feet)	Outside VE Zone (Feet)	Inside VE Zone (Feet)
O&I	6,600	60	20	10	15	15	35	41
CUCB	None	60 <sup>(d)</sup>	20	None <sup>(e)</sup>	8	10	35	41
CB	None	None	20	None	8	10	35	41
CR <sup>(h)</sup>	None	None	20	8	10	10	35	41
C-LD <sup>(a), (c)</sup>	7,500	150	40	8	25	15	35	41
AD	40,000	125	50	15	35	40	35	
OS	None	None	None	None	None	None	35	41

<sup>(a)</sup> Special dimension requirements:

Places of worship: Lot area equals same as requirements for district, plus a requirement for two square feet of open space for each one square foot of building coverage. Area designated for parking may be included as open space.

Nursing homes (domiciliary homes): Lot area equals two acres.

Hospitals, private clubs, mortuaries: Lot width equals 150 feet.

Offices and studios, personal service establishments, vocational schools: No lot area or width established.

Retails stores, sales and display rooms and shops, banks and financial institutions, eating and drinking establishments, hotels and motels, commercial recreational structural uses, clinics and laboratories: No lot area established; lot width equals 75 feet.

(b) The following are exceptions to the height limits: Spires or belfries on places of worship, cupola, dome or ornamental tower not intended for human occupancy, monuments, water towers, observation towers, chimneys and smokestacks, conveyors, flagpoles, radio or television aerials for residential use, masts, parapet walls not to exceed more than three feet above the roofline of the building, and necessary mechanical appurtenances.

(c) Mainland height requirements: Offices, motels, hotels, medical facilities, boat storage and multifamily residential buildings and structures up to a maximum of 55 feet in height may be permissible as a conditional use if the following conditions are met:

- (1) For every foot in height in excess of 35 feet, an additional two feet of setback must be provided above those required by this article for front, side, corner side and rear yards in the C-LD district.
- (2) Each building must be separated from other buildings on the same parcel by a distance of 30 feet.
- (3) The planning board and town council may impose such additional conditions as they see fit, such as, but not limited to, fences and walls, street dedications, additional parking, vehicular access points, buffering, and landscaping improvements.

Exceptions to this height limit are listed in (b).

Nothing in this section shall exempt the building or structure from the provisions of the airport height ordinance for the county airport.

(d) Measured along East Oak Island Drive.

(e) Minimum eight feet wherever a CUCB district lot abuts a residential district.

(f) Corner lots shall have an eight-foot corner side yard setback and no additional flexibility per section 32-78.

(g) 1. Fireplaces may extend up to 24 inches into required yard setbacks.

2. New elevators, mobility and cargo lifts on existing residential structures may encroach up to five feet into the required rear setback, up to five feet into the required front setback, and may also encroach up to five feet into the required side yard setback only if approved by the board of adjustment. The board of adjustment shall not be required to use the five findings of fact as with the variance/appeal process and may where peculiar characteristics in the front or rear set back requirements are clearly unrealistic, the board of adjustments is authorized to approve the use in the side set back after application and review.

(h) The front yard setback for oceanfront properties in zoning district CR when used for a single-family residence shall be 15 feet.

(i). The footprint of structures which are within 5% of the required side yard setback distance (feet) and 2% of the required front or rear yard setback distance (feet) shall be considered compliant with the requirements of this ordinance. Regardless of any allowances any expansion of an existing principal structure cannot be outside the allowable setback.