



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 November 17, 2016 • 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: (to be submitted)
4. Public Comment: Please state your name and address for the record.

II. OLD BUSINESS

1. Gamerooms, Billiards, Bars, Etc.... (map)

III. NEW BUSINESS

1. Ocean-Front Lots Text Amendment
2. UDO - large homes provision

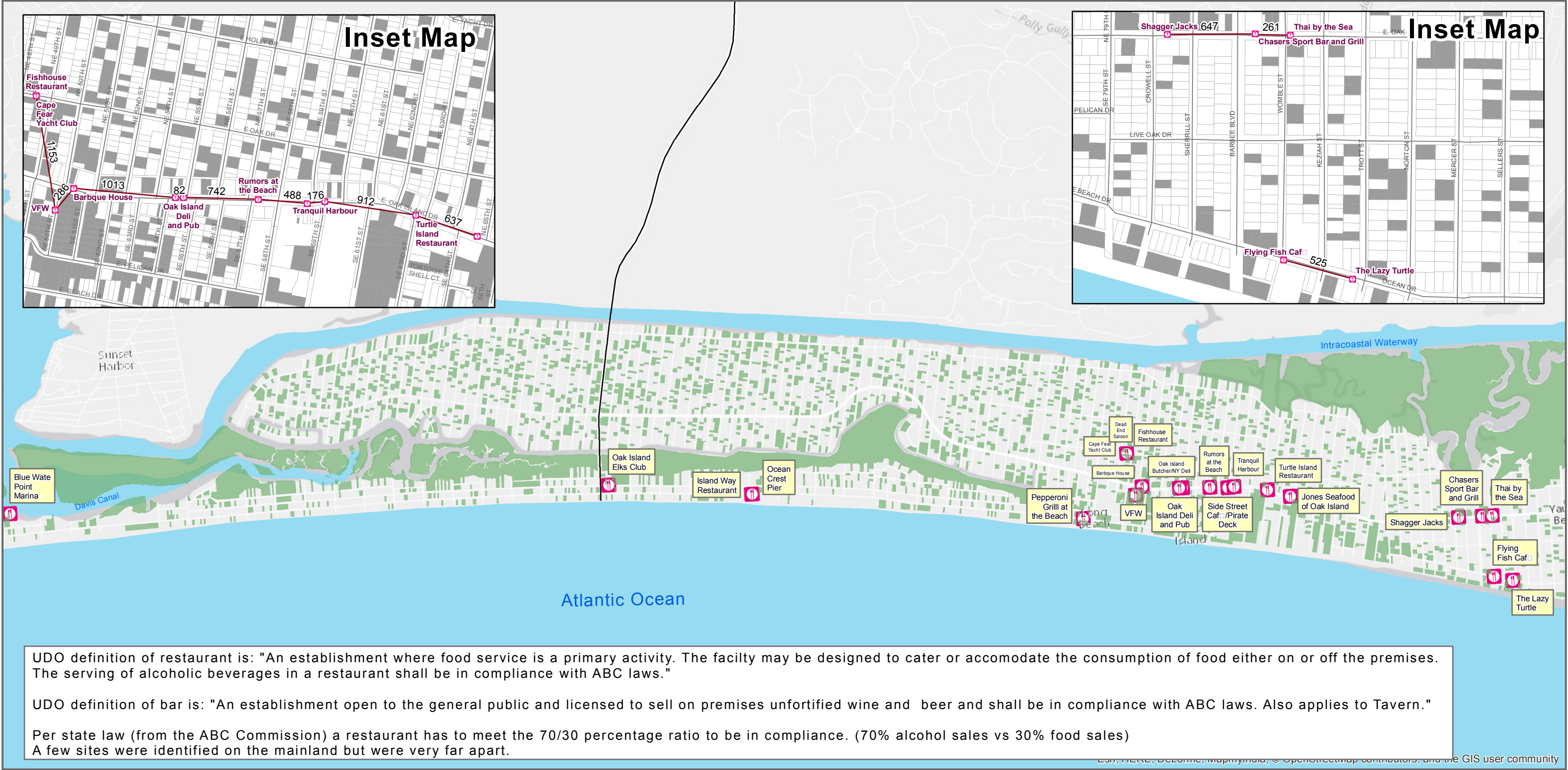
IV. REPORTS/UPDATES

3. Board Member Reports
4. Staff Reports – (LUP, upcoming text amendment)
5. Updates from Council Meeting – (Plans & Specs Text Amendment)


V. OTHER


Future Meetings: January 26, 2017 (UDO), December 22, 2016 (Planning Board)


Adjournment



Legend

 Restaurants with Alcohol & Bars


 Undeveloped Parcels

 Water Features

Data Source: Brunswick County, local ABC Board, and the NC ABC Commission

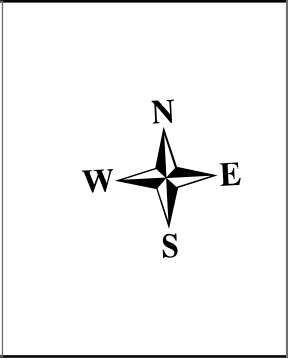
Restaurants/Bars Analysis

Town of Oak Island, North Carolina



0 1,150 2,300 4,600 Feet

0 0.15 0.3 0.6 0.9 1.2 Miles



Map is to be used to only show the general vicinity. Address numbers cannot be 100% guaranteed for accuracy. Map is to be used for general informational purposes only. Data used to generate this map was gathered from disparate sources.

Map created by:
Jake Vares
Town of Oak Island
Development Services Department
11/4/2016

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

Agenda Item: New Business No. 1

Date: November 10, 2016



Issue: Ocean-Front Lot Setback issue

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Estimated Time for Discussion: 45 Minutes

Subject Summary:

The purpose of this memorandum is to inform you of some zoning & development issues regarding confusing setback line and lot definition language. The proposed text amendment is staff initiated in order to provide clarity and give lots that have been made nearly unbuildable a buildable area that is comparable to the surrounding parcels. An example map is attached for illustrative purposes. The current zoning ordinance that addresses ocean front lots seems to be written with the purpose of considering & impacting ocean front lots that have Beach Drive and Ocean Drive as the front property line. However, between SE 58th Street and SE 74th Street (see final map) there are ocean front lots that do not front neither Beach nor Ocean Drive and the setbacks are inverted. The first attached illustration gives an example of what the setbacks and the subsequent buildable area for those types of lots would look like.

Most of the ocean front properties within Oak Island are within the R-7 (Residential) zoning district, which has a front yard setback of 15 ft. (for ocean front lots), side yard setback of 8 ft., and a rear-yard setback of 20 feet. The ordinance states in Section 18-32 that *"the length of the front lot line as measured at a street right of way line."* Traditionally on most of the ocean-front lots off of Beach Rd. & Ocean Dr. the front yard is considered the road side and the rear yard setback is considered the ocean-side. For the unusual parcels between SE 58th Street and SE 74th Street the setbacks for the ocean front lots are inverted making the ocean side the side-yard setback and the street right-of-way side the front-yard. The *Lot, frontage* definition (attached below) makes it impossible and prohibits the town from interpreting the ocean front lots in these areas as having the ocean side being considered the rear-yard. When the setbacks are properly implemented many of the parcels become unbuildable or have a substantially diminished buildable area. The Town of Oak Island Planning & Zoning Administrator does not believe it was the intent of the ordinance to do this and the negative economic impact on those properties can be immense, which is why this text amendment is before you today.

Past recorded plats showing differing setback lines are not upheld to verify vested rights because setback dimensions can change regularly when text amendments or new development codes are written and adopted that alter the ordinance setback language/dimensions. A plat is the mechanism to subdivide, not to establish setback lines. Vested rights are not in effect if past

approval was granted via staff error. If a survey/subdivision plat was recorded with incorrect setbacks then those fallaciously recorded setbacks are not applied and used.

For the purposes of this discussion I think it best to avoid covering what has been known as the “bridge to no-where”, it would only serve to confuse and deviate from the topic. If one were to attempt to develop the properties of this sort the buildable area will be substantially small and narrow. The situations are not an isolated incident and many properties face this scenario/issue.

The new proposed ordinance specifies “such as” which one can interpret to mean the ICW and the Atlantic Ocean and it now clarifies it so it is no longer up for interpretation. The flag lot definition, below, gives an allowance for the setback to be properly and in continuity with the adjacent properties.

Lot, flag, means a flag-shaped lot with its widest point set back from the street or natural amenity, such as Davis Creek, at the rear of another lot and having a thin strip of land connecting to the road or natural amenity to provide legal access and frontage.

The definition in the attachment below is slightly amended to deal with the ambiguous “such as” language. The “such as” part of the ordinance language for flag lots in sec.18-32 alludes to the ICW and the Atlantic Ocean but it would be better to have it clearly spelled out. A footnote has been added to the dimensional standards table as well (attached), in Sec. 18-117 & 18-118, establishing the setbacks for flag lots contiguous to navigable waters.

Language such as this will need to be integrated into the new upcoming UDO and will be sent to the consultant for incorporation if adopted. The second attached image is an example of the scenario showing how the setbacks would change if this text amendment would be implemented post-adoption. Front yard setback for ocean-front lots are 15 ft., which currently and would still apply after the adoption of this ordinance. Many existing already built structures exist in these areas that are non-conforming and would be brought back into conformity if adopted.

Attachments: Text Amendment, Example Maps

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.

Attachments

Sec. 18-32. - Definitions.

Lot, frontage. The length of the front lot line as measured at a street right of way line, with the exception of flag lots and interiors lots adjacent to Davis Canal, Intracoastal Waterway, or the Atlantic Ocean or other navigable waters.

Lot, front line. The portion of a lot abutting a street right of way from which the front yard setback shall be measured. For the purpose of establishing the setbacks required within this chapter and assigning addresses to developing properties, the following standards shall apply in determining the boundary of a lot that is to be considered the front lot line: (1) In the case of a corner lot, the boundary with the shortest dimension in linear feet abutting a street right of way line shall be considered the front lot line; (2) Where a corner lot exists with equal frontage along two street rights of way, the lot shall be considered to front on the street where the lots within that block have the greater lot frontage as measured in linear feet; and (3) In the case of a through lot, both lot lines abutting a street right of way shall be deemed front lot lines. Addresses shall be assigned to correspond with the front lot line as established in accordance with these standards regardless of the orientation of the structure to be placed upon the lot.

Lot, flag, means a flag-shaped lot with its widest point set back from the street or natural amenity, such as being Davis Creek, the Intracoastal Waterway, or the Atlantic Ocean or other navigable waters, at the rear of another lot and having a thin strip of land connecting to the road or natural amenity to provide legal access and frontage.

Setbacks means the required distance between every structure and the lot lines of the lot on which it is located.

Setbacks, Davis Canal, Intracoastal Waterway, Atlantic Ocean or other navigable waters means front and rear setbacks for lots adjacent to Davis Canal which are determined according to the illustrations in figures 1A and 1B.

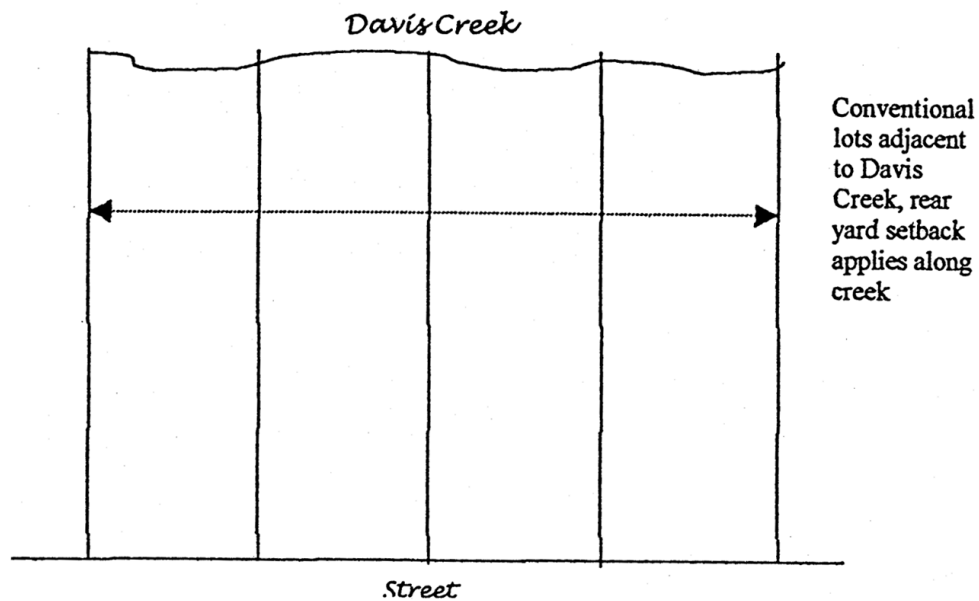


Figure 1A
Application of Rear Setback
Conventional Lots on
Davis Canal

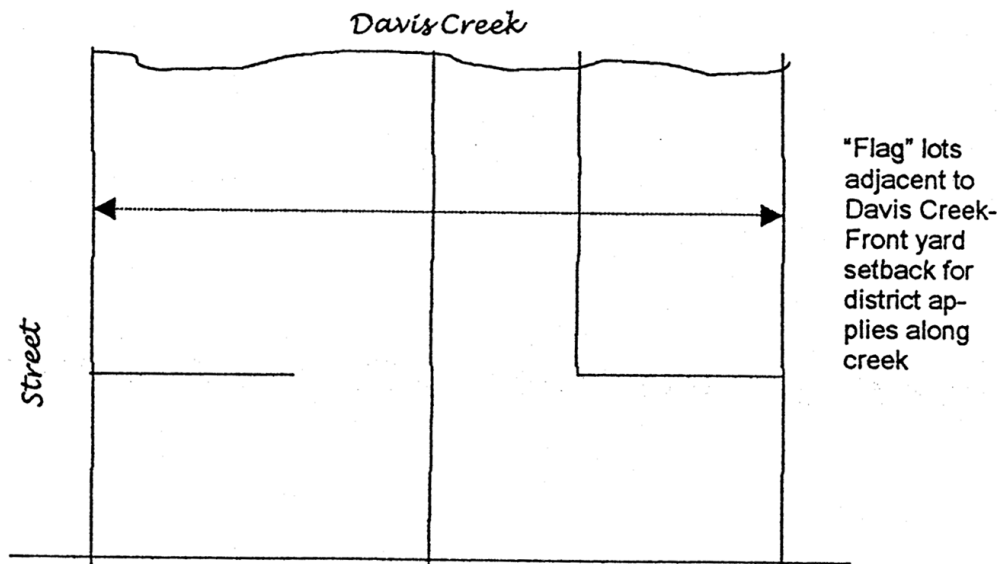
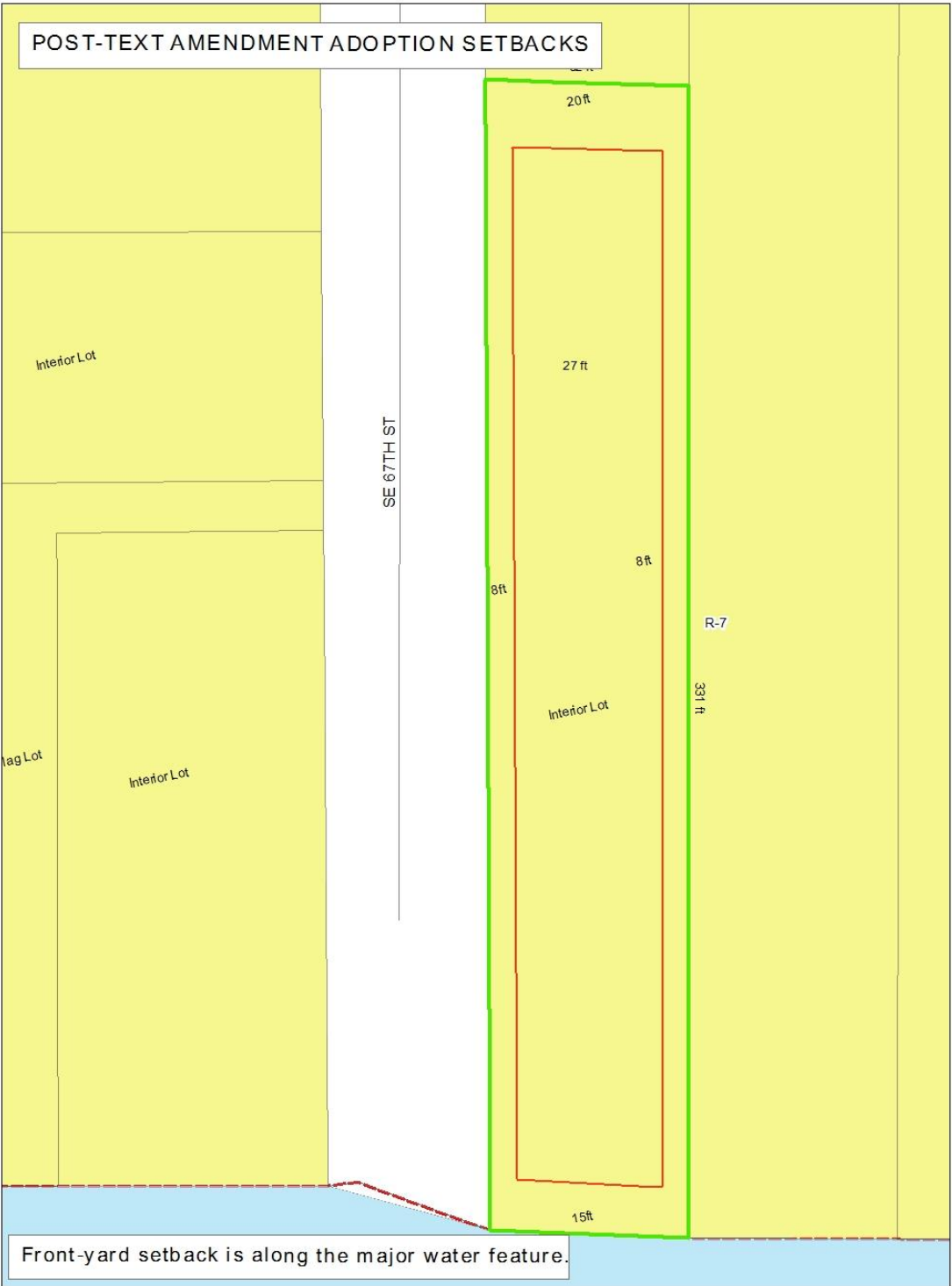


Figure 1B
Application of Rear Setback
"Flag" Lots on
Davis Canal

Existing Setbacks



Proposed (Post-Adoption) Setbacks



<p>Map created by: Jill Viles Town of Oak Island Development Services Department 11/15/2016</p> <p>0 5 10 20 30 40 Feet</p>	<p>Legend</p> <ul style="list-style-type: none">Post Adoption SetbacksExample Parcel 1ParcelsWater FeaturesStreets	<p>Setback Establishment Town of Oak Island Brunswick County, NC</p> 	<p>Map is to be used to only show the general intent of setback numbers. Setback is 100% guaranteed for accuracy. Map is to be used for general information purposes only. Data used to generate this map was gathered from disparate sources.</p>
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Sec. 18-117. - Area and height table; residential districts.

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

(a) 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 televisions aerials 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 in to 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.

(h) Flag lots and interior lots contiguous to major water features, navigable waters such as the Davis Canal, the Intracoastal Waterway, and the Atlantic Ocean, shall have a front-yard setback along the water feature according to the illustrations in figures 1A and 1B in Sec.18-32.

(Ord. of 6-12-2001, ch. 1, § 5.16; Ord. of 8-14-2001, § 2; Ord. of 1-8-2002, § 5.16; Ord. of 10-10-2006(2) ; Ord. of 7-8-2008(2) § 6; Ord. of 8-12-2008(3); Amend. of 3-9-2010; Amend. of 7-13-2010; Amend. of 4-9-2013; Amend. of 2-11-2014)

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

[illegible]

(a) 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.

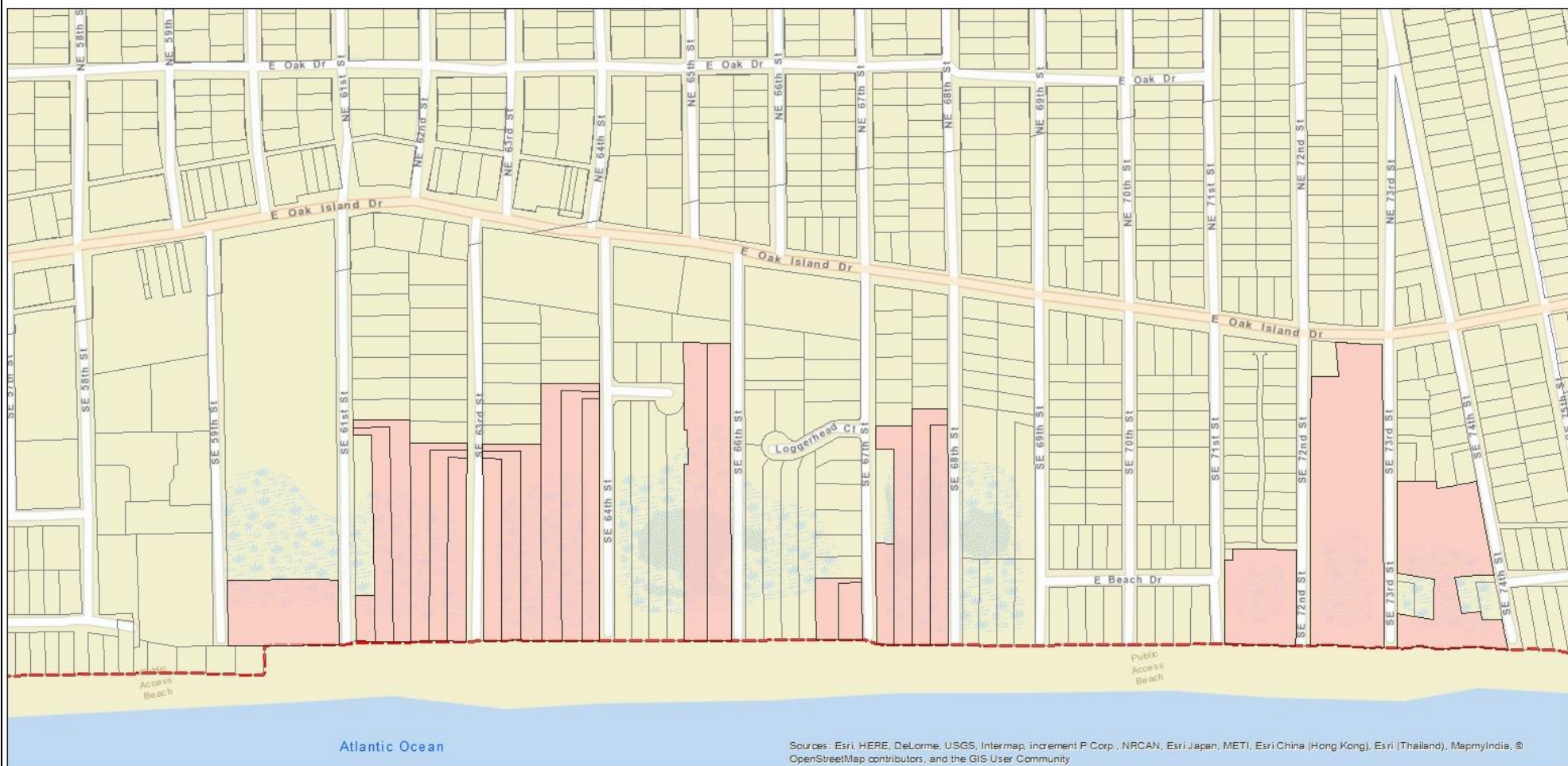
(g) 1. Fireplaces may extend up to 24 inches into required yard setbacks.

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 in to 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) Flag lots and interior lots contiguous to major water features, navigable waters such as the Davis Canal, the Intracoastal Waterway, and the Atlantic Ocean, shall have a front-yard setback along the water feature according to the illustrations in figures 1A and 1B in Sec.18-32.

(Ord. of 6-12-2001, ch. 1, § 5.17; Ord. of 1-8-2002, § 6; Ord. of 5-14-2002, § 5.17; Ord. of 7-9-2002, § 4; Ord. of 11-12-2002 § 1; Ord. of 4-8-2008; Amend. of 3-9-2010; Amend. of 7-13-2010; Amend. of 6-12-2012; Amend. of 2-11-2014)



Legend

Effected Parcels
 Streets
 Parcels
 Town Boundary

Properties Effected Town of Oak Island

Brunswick County, NC



Map is to be used to only show the general vicinity. Address numbers cannot be 100% guaranteed for accuracy. Map is to be used for general informational purposes only. Data used to generate this map was gathered from disparate sources.

Map created by:
Jake Vares
Town of Oak Island
Development Services Department
10/31/2016



0 120 240 480 720 960 Feet

Large Homes Consideration

The following may be added as a note to the Table of Uses and Activities:

*Any structure permitted after (date of adoption of revised UDO) constructed and located in a residential zoning district for temporary or permanent occupancy for more than fourteen (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~~ **non-permitted** use in the residential district. Enforcement action for compliance will be taken as prescribed by this Ordinance.*

In addition, the current vacation rental definition should be changed to temporary rental and the current Hotel (motel) definition should be changed as follows (addition is highlighted in yellow):

Hotel (motel) means a building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, where rooms are furnished for the accommodation of such guests; and having or not having one or more dining rooms, restaurants, or cafes where meals or lunches are served to such transient or permanent guests, such sleeping accommodations and dining rooms, restaurants, or cafes, if existing, being conducted in the same buildings in connection therewith. In a residential zoning district, this definition includes any structure constructed after (date of adoption of revised UDO) containing over 3,000 square feet of gross enclosed floor area for temporary or permanent occupancy by more than fourteen (14) individuals if the property is available for temporary rental to the general public.

See the change highlighted in yellow above. A vote on this small alteration is requested of the Planning Board. If such a use is considered a non-conformity then it can be continued and will not be considered a violation that can be acted upon. By rewording “nonconforming” to “non-permitted” it allows code enforcement to view it as a violation and permits them to take action. Without this change the impact of the ordinance is nominal and it does not accomplish its goals. After the meeting staff will inform Holland Consulting Planners of the change so it can be incorporated into the UDO.

Jake Vares

Town of Oak Island
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