



Planning Board
February 18, 2016
Town Hall 10:30 am

Regular Monthly Meeting Agenda

Call to Order:

Approval of the Minutes:

Public Comment: Please state your name and address for the record.

Approval of the Agenda:

Old Business:

- 1) Zoning Map Corrections
- 2) Bedrooms Text Amendment

New Business:

- 1) Mainland Signage Text Amendment
- 2) Parking space to bedroom ratio (Ted)

Other Business:

- 1) Board Member Reports
- 2) Staff Reports -
- 3) Updates from Council Meeting

Adjournment

MINUTES
OAK ISLAND PLANNING BOARD
January 21, 2016 – 10:30 A.M.
OAK ISLAND TOWN HALL

Present: Vice-chairman Denise Pacula, members Bob Germaine, Cathy Bowes, Robert Carpenter, Clay Jenkins, Dale Holland with Holland Consulting, Town Planner Jake Vares, Development Services Director Steve Edwards and Administrative Support Debbie Lasek. Chairman Ted Manos and Helen Cashwell were not present.

Vice-chairman Pacula called the meeting to order at 10:34 a.m. She gave the invocation and led the Pledge of Allegiance to the flag.

Ms. Bowes made a motion to approve the minutes of the December 17, 2015 meeting. Mr. Germaine seconded, and the motion was passed unanimously.

Public comments:

Lynn McDowell, 6407 Tortoiseshell Ct., an adjacent property owner for the Conditional Use Permit application. She said that she is against the application. She said that SE 64th is a residential neighborhood; they have no issues with Captain Cove as a neighbor, but they take up almost half of the depth of the block. Adding another block that is currently zoned residential just expands the commercial feel even more so, and would impact the undeveloped lots across the street. She also questioned whether a parking lot is a good use for the financial aspect of the Town as opposed to a single family home. She said she believes they also own property to the east of the existing motel on Oak Island Drive and wondered why they are not using it as a viable alternative, and that going further south destroys the residential feel of that neighborhood.

Vice-chairman Pacula called for approval of the agenda; under number 2, Mr. Manos had wanted to discuss the parking space to bedroom ratio and she suggested removing this discussion until he was present. Ms. Bowes wondered what the impact would be on the bedroom text amendment; Mr. Vares said he had researched the parking requirements and will report on it later. Vice-chairman Pacula asked Mr. Vares to discuss it; Mr. Vares indicated that Mr. Manos had a different aspect that he wanted to have discussed and that it would be a whole other issue relating to parking requirements for single-family homes. Mr. Vares had input regarding parking and bedroom situations and there is some overlap with impervious surface and bedrooms. This is a new business item per Vice-chairman Pacula; the agenda will stay the same.

Mr. Carpenter made a motion to approve the agenda. Mr. Germaine seconded, and the motion passed unanimously.

Old Business: Unified Development Ordinance with Holland Consulting. Vice-chairman Pacula said that holding separate meetings had been mentioned before, and that possibly having special meetings and doing the UDO as they get into it could result in two meetings per month; one for the UDO and one for the regular Planning Board business. Ms. Bowes concurred, stating a working meeting may be needed. Mr. Holland agreed. The Board has lengthy agendas, and it could be difficult to go through the UDO in a meeting. This will take a while, and it may be much better to have special work sessions to deal with just the UDO. Mr. Holland said, in his experience with planning boards, if you have a lengthy agenda, the board members are pretty drained at the end, and the public must sit through a lengthy meeting if the UDO is on the agenda first. Vice-chairman Pacula agreed, stating that CPAC is going to two meetings per

month and they have already hit the mark of 10 meetings with Holland and are planning on doing 15. Mr. Holland also added that when a planning board goes through a UDO and goes through it line by line, page by page, they could be here until spring of 2017. He advised the Board to be careful with this kind of thing, and his recommendation was to have special meetings. Mr. Jenkins concurred, as did Mr. Carpenter. Mr. Holland suggested that they defer the discussion of articles 1, 2 and 3 on the agenda to a scheduled special meeting, and to have the meeting when Mr. Manos would be there as well. The date of next Wednesday, January 27th at 10:00 a.m. was agreed upon.

Mr. Holland handed out sections 4 and 5 as homework for the Board. He said he appreciated the Board's changing to special work meetings, as it should enhance the process.

Public comment: Ms. McDowell asked if these draft sections were available to the public. Mr. Holland said it would be on the website, with both a link on the Town Website and an individual address also.

Environmental Advisory Board Presentation by Steve Edwards, Development Services on Stormwater. The Board does annual investigations of water quality and test results, which showed that urbanized areas contribute the most pollution. Most of the marsh along the Intracoastal Waterway (ICW) is closed to shellfishing, as is most of Lockwood Folly and Montgomery Slough. There is serious pooling on many roads, and Davis Canal has high fecal chloroform numbers after heavy rainfall. The Environmental Advisory Board has been testing Davis Canal for three years and has noted increasing pollution from animal waste which washes down the streets due to the increased impervious surfaces. Mr. Germaine asked about the Eastern Channel and wondered why it was not included in Montgomery Slough. Mr. Edwards said he would have to ask the Board where all the test areas are. Board member Malcolm Morrison reported that they started testing in November 2012 at Blue Water Point in the estuary area, then moved on to several other sites. They have trouble getting data from the state with testing at Middleton under the bridge. Mr. Morrison spoke about the testing sites and the effects of the tides and testing. Mr. Morrison said 57th St. has the highest fecal chloroform values that they have seen since 2012 and 67th St. has the lowest except for Blue Water Point. Mr. Edwards said the areas near 67th get better flush, and that they do only one test instead of the three standard ones due to financial constraints. Current Town policies are covered under Chapter 18, Article V. They stress the best management practices from the State and engineered solutions for stormwater and allow surveyors to design these systems, but the problem with the engineered approach is that the systems can fail over time and the designer may not be competent in stormwater management. The Town has minimum standards that were designed years ago and are allowed to be used on plans. Vice-chairman Pacula questioned the statement that a presented, engineered solution could result in 100% of the lot being impervious; Mr. Edwards pointed out the example of the BB&T lot, which has a honeycombed system under the parking lot that was engineered for stormwater with an asphalted property. Mr. Germaine asked about life expectancy, and Mr. Edwards said he would need to consult with an engineer about that. He also explained what the Town requires for most homes and provided examples and explained where systems can fail. The proposed text changes of requiring an engineered stormwater plant were then explained by Mr. Edwards as well as the "hard cap" on the maximum allowable impervious/built-upon area (BUA). The recommendations by the Board for Oak Island were between 30-35% for homeowners. In summary, the 30-35% cap is doable without increased costs. Mr. Carpenter questioned the figures and thought they should be reversed; lots <7500 max 35% impervious, for lots >7500 max 30% impervious. There was some discussion with the Environmental Advisory Board regarding these figures. Vice-chairman Pacula also asked if this included the entire impervious surface, and Mr. Edwards said this was the maximum. Smaller lots can have a higher percentage of impervious area, so it is in effect correct. There was then discussion as to the explanation of the lot size and the percentage of impervious area allowed; Mr. Edwards explained this was an attempt to allow them to get the most out of their lot. State stormwater permits would override these maximum BUAs. It is the permittee's responsibility to ensure that the state stormwater is maintained, not the Town's. Under a CAMA minor or major permit, it is asked if there is a State stormwater permit for that project,

and it is noted if one exists. He has a database of all State stormwater permits now; pretty much the whole King's Lynn section has one, and he could show to anyone if interested. In summary, the cap of 30-35% is doable without increased costs. Moving on, Mr. Edwards then presented a photo of a driveway that would need redesign due to the size and explained what would be involved. He also showed two stormwater plans that were recently reviewed for new construction, one on 47th with 56% total impervious surface amount where a land surveyor designed for stormwater, and said due to the good soil on this lot that it would probably work. Vice-chairman Pacula noted the house is 2260; Mr. Jenkins questioned if there would be issues at that house and Mr. Edwards noted that due to good soil it should be okay and that it met the Town's criteria. Vice-chairman Pacula then noted that, with current proposals, they would not be able to build that house at 56%. Mr. Edwards agreed that the house would fit, but the driveway would not be approved with its 913 square feet of lot area. Mr. Carpenter added that he measured his house, and his driveway would probably not be allowed at his home because it takes up 18%. Mr. Edwards said it could fit with creative design, and that a gravel driveway is not looked at by the State as impervious. Mr. Carpenter said his house is less than 1400 square feet, a standard island house, but Mr. Edwards said credits could allow it. Mr. Carpenter said that if a homeowner were to tear up the driveway, then he would need to use one of these innovative techniques to replace it, and Mr. Edwards agreed. Stormwater retention is the main goal of these guidelines.

Ms. Bowes then made a motion to have a second, special meeting of the Planning Board on Wednesday, January 27th at 10 a.m. to discuss the UDO and that it be advertised on the website and in the Star-News. Mr. Carpenter seconded, and the motion passed unanimously.

Impervious Text Amendment: Mr. Vares said this text amendment states that a professional stormwater design be required for impervious surface area for residential development. Secondly, it requires that the impervious surface area to be shown or labeled on sight plan, and thirdly, it mandates the 30-45% ratio for allowable impervious surface area. This specifically applies to residential development, and would go into the stormwater section of the Town's zoning ordinance. He noted that the 35% is for principal structure and 10% for parking or driveway; if the driveway is only 5%, they cannot use the "extra" 5% elsewhere. Mr. Vares then provided a handout of site plans with typical, standard lot sizes and the total impervious surfaces involved and said that the purpose is to mitigate stormwater runoff and protect the water on Oak Island. Mr. Germaine was confused about lots less than 7,500 square feet; Mr. Vares said Mr. Edwards's presentation was recommended by the Advisory Board, and Mr. Vares was showing staff's recommendation. The stormwater engineered plan would be required for any impervious design plan. Mr. Carpenter said that this would not allow for any exceptions, and Mr. Vares said that variances would not apply in that situation. Mr. Carpenter is a proponent of this plan, but is trying to understand; if one pays for insurance and the residence covers 40% and it is destroyed, would they not be allowed to rebuild? Mr. Vares said, if the amendment is adopted by Council and implemented into the zoning ordinance, there would be non-conforming properties on the island and, if destroyed, they would have to rebuild to new guidelines. Ms. Bowes asked about rules for business properties; Mr. Vares said there are rules but he does not have them at hand as he has been working on residential only. Mr. Jenkins asked about engineering showing capture of rain; Mr. Vares said they were given to him from comparable communities and it is a pretty standard procedure. Mr. Jenkins asked if there was research from engineers that to capture 1.5 inches of rain requires 30-35% impervious surfaces. Vice-chairman Pacula said there were calculations on the plans that they viewed with Mr. Edwards, but Mr. Jenkins wanted to know how the calculations were arrived at as to what percentage of the impervious surface is acceptable. Mr. Edwards said there are engineered designs that show the percentage of capture. Mr. Jenkins is looking at ways to reduce run off, not make smaller houses. Mr. Edwards said that retaining stormwater runoff in the remaining open areas is the ideal, and that there was not a study that says 50% or 40% would be the ideal maximum to retain stormwater runoff. He then explained impervious surface amounts in different areas. Vice-chairman Pacula asked about gravel and thought it was impervious; Mr. Edwards said it could be considered pervious in certain design situations, but if there is a dirt driveway or just gravel driveway, it is

considered impervious. He then explained other potential designs that could use gravel and their impacts. Every plan, per Vice-chairman Pacula, must have a stormwater engineer, no matter the impervious percentage, stamped with this amendment. Mr. Jenkins asked how difficult that would be; Mr. Edwards said it could take one week to one month depending on the type of project and the engineer's schedule. Most civil engineers could design one with a site visit with site condition knowledge; most problems come from sights with high water tables. Vice-chairman Pacula said there was a house in Holden that required the stormwater engineer, and it took about a month due to the fact that there are very few that are practicing this now as most have retired. Mr. Edwards said they have issued 6 EMG development permits, and there are another 29 in review/approved for pick up/on hold. He said that if contractors are aware of this requirement, then they will find engineers for stormwater design. Mr. Germaine asked about how many contractors are trying to get things done with tear-downs before these new standards come into play, and Mr. Edwards said he had no idea and he was not seeing that many tear-downs at this time. Vice-chairman Pacula then questioned the plans with good soil that he presented, and wondered if with a soil test a surveyor could try to obtain an exception. Mr. Edwards said there were some possible exceptions that could be applied for; Mr. Carpenter said if one exception is granted, then everyone would have them. Vice-chairman Pacula asked about the rights-of-way and driveways, and Mr. Edwards said that in the right-of-way, they would have an allowance for the apron of the driveway and the Board could make a recommendation for the material to be used. There was some discussion regarding the plans that Mr. Edwards had used as examples. Mr. Carpenter asked about standard homes and the ability to install pools, and Mr. Edwards said the decking areas would be included in the calculations, but not the pool surface itself. Mr. Edwards again stated that the objective is to reduce stormwater runoff by reducing the BUA. Mr. Carpenter then questioned if there was a subdivision—hypothetical—with 14 lots and a cul-de-sac; they would have to prepare a stormwater plan with 12.5% maximum BUA for the entire development, the total development lot area, including Lot 14. The development would have its own standards to be met, and of course the Town would follow the state standards but a third party engineer would be hired to do those reviews. Mr. Carpenter then asked if homeowners would be notified what their footprint was, and Mr. Edwards said not until the permit was pulled. He added that there are ordinances that address nonconforming allowances and their ability to rebuild. If it was a total loss, they could then approach to obtain a variance from the Board of Adjustment; Mr. Vares added that this would be done on an individual basis on the facts of the case. Vice-chairman Pacula asked where the stormwater runoff is going; Mr. Edwards said that most complaints deal with the lack of retention, and that it goes into the estuaries. Right now, Oak Island is grandfathered in with stormwater and with discharge into the waterways and even into the beach. They are not supposed to increase additional flow into the existing ditches, so they must capture the flow on site. Mr. Edwards said that the County does inspections on commercial properties, and suggested making some recommendations to address failed stormwater retention systems in the Town.

Vice-chairman Pacula asked Mr. Vares about the five amendments in section 18-669; the word “too” needs to be removed and replaced, as it is awkward wording. The first sentence needs to be reworded so that it better explains meeting the criteria. Vice-chairman Pacula said she only counts four and not five. There was some discussion with the Board regarding correcting this text. Mr. Vares also said that, in 18-670 (b), it covers “any impervious surface,” and Vice-chairman Pacula suggested changing to residential principal structures instead of development. Ms. Bowes asked about sheds and accessory structures, and Vice-chairman Pacula said that would be over 35% so that would eliminate many sheds. Mr. Carpenter asked about policing, and Mr. Edwards said that many neighbors are self-policing, and that there are many non-conforming accessory structures out there. Vice-chairman Pacula asked if there was any way they could go back and look at the Town and the rights-of-way and the problems of stormwater runoff. Mr. Edwards agreed and said the trick is keeping the stormwater from getting to the apron; if they can stop that, it would reduce a lot of the stormwater issues.

Mr. Carpenter made a motion to vote on the text amendment as amended. Ms. Bowes seconded.

Mr. Jenkins said he had a problem with the 35% and the number that are above that. This concerns him, that an average house pushed the envelope, and that having an engineer coming in would have to consider the soil and the slope and the terrain, and that at times the 35% could be well below. He said he is not comfortable with the 35% cap across the board. Vice-chairman Pacula said she likes the requirement of an engineer and not a surveyor but not the idea of being unable to put in a storage shed in their backyard if they are at 35%. Ms. Bowes said that engineers would still require guidelines; otherwise an engineering report is just a piece of paper. Limits or parameters are needed for people to work with. Vice-chairman Pacula asked about the house at 56%; Mr. Edwards said that it used a surveyor and was based on volume. He also said that engineers have design standards to be met and are the best manual practice. The impervious surface amount doesn't matter, and they look at soil absorption rates and the water table with their design criteria. Ms. Bowes confirmed that the engineer design would determine what type of house could be built; it would be his decision based off of sound engineering. Mr. Carpenter added that there are more and more 55' by 120' lots with the footprint covered by a house and driveway. There are no guidelines set, and people complain that new lots are flooding them. Mr. Germaine then said that lots in Kings Lynn or similar areas have different sized lots. Vice-chairman Pacula added that Kings Lynn has its own standards to comply to. Mr. Carpenter said most complaints are about the 55'x120' lots. Mr. Germaine mentioned the 15-bedroom house; Mr. Edwards said he was well under his BUA in that situation and was well under 50% on his lot. Vice-chairman Pacula asked about swimming pools and slatted decking; Mr. Edwards said that type of decking has been used but it doesn't wear well and has seen other types of materials used such as composite decking or pavers.

The motion on the floor was to adopt the language with the changes of the 35% and the driveway. **The motion was opposed by Mr. Jenkins and Ms. Pacula, all others in favor. The motion was carried.**

Recess from 12:15 p.m. to 12:29 p.m.

Public Comment: Brad Miller, 6202 Tortoiseshell Ct.: Mr. Miller shared the concern that his neighbor Lynn does, including increased run off with a parking lot, and he hated to see all those trees go. It's a nice, quiet residential neighborhood. The motel is a good neighbor, and he would have bought the lot if he could but he is not able to do so.

Bedroom Text Amendment: Mr. Vares said the General Assembly changed the general statutes and ruled that, according to the North Carolina Planner, his exact wording is that "probably could not be regulated." Mr. Vares reviewed the highlights of this amendment for the Board and explained what the Town could still regulate as far as heights, etc. He explained the tie-in with parking and the number of bedrooms. The Town attorney said he believed that this is the appropriate course of action. The text amendment removes the reference to bedrooms and keeps the 5,000 square-foot reference and changes the definition of bedroom to something more concise, in order to address the new general statute. As far as capacity and flow rate issues brought up by Ms. Cashwell, it is a valid and important point but he is unsure how to address it and is hesitant to pursue due the enforcement issues with such a grey area. He said he does not want to question the adequacy of the Town's utility infrastructure. Also, the list in the memo of regulatory tools to control bedrooms is something he struggled with; the impervious surface cap would definitely help with this. Mr. Vares then explained the Horry County implementation of a floor area to lot ratio is something he could explore and possibly mirror. Mr. Carpenter said this could be important, and Vice-chairman Pacula agreed that Mr. Vares should explore this idea. On page 18, Mr. Vares explained that the third paragraph was in response to the Chairman's concern regarding sewer demand. This was in regards to Mr. Manos' idea of additional hook-up fees. Vice-chairman Pacula added that the impact fee schedule may be addressed with flow, and that rental properties could well afford this. Vice-chairman Pacula added that if the County takes over the Town's system, then they have their own fee schedule so that would be completely different. Mr. Vares said that Oak Island fee schedule is based on bedrooms, and if they are

not shown then it cannot be implemented. They cannot charge more just because “it’s a big house” and that could easily be challenged. Vice-chairman Pacula mentioned using flow rates. Mr. Germaine noted that there is an 8-bedroom house that is advertised as a 12-bedroom house, and this needs to be addressed. Vice-chairman Pacula agreed, and Mr. Germaine said that, especially on the beach, it is a matter of the thousands of dollars that can be obtained from rental income with increased bedrooms and the closer one gets to the beach, the worse it is. If one parking space per bedroom is the ordinance, how will it be handled when there are more cars on these lots than there are bedrooms? Or, like in 2006/2007, where there are now 3-story houses with 4 bedrooms on the third floor? Mr. Germaine said this needs to be addressed, as they are utilizing what they can to increase the number of people they can put in these homes. Vice-chairman Pacula then asked Mr. Vares what could be regulated, such as bathrooms in the home. Building height on the island is 35 feet per Mr. Edwards, except for the VE zone where it is 41 feet. Mr. Germaine suggested allowing only two floors. Vice-chairman Pacula said they cannot change the building height. Ms. Bowes suggested tabling this until Mr. Vares can look at Horry County, and Mr. Carpenter agreed that this would allow for additional information. Mr. Vares added that this could be the perfect solution and he will look into it and put into next month’s agenda item memo.

Ms. Bowes made a motion to table the discussion regarding the bedroom text amendment until next month’s meeting. Mr. Germaine seconded and the motion passed unanimously.

Public Comment—Brad Miller forgot to mention that he never received a certified letter and didn’t know until the sign was put up on the other lot behind him.

Outdoor sales and display text amendment change: Mr. Vares made many revisions. He removed the one-acre requirement, made it Permitted with Standards rather than a Conditional Use Permit per the Council, he also added in what the standards would be and the definition of outdoor sales and display was changed. Mr. Carpenter said that at the Council meeting, Mr. Medlin had concerns about whether the person was the sole owner of the property, and gave an example of 40th street. Mr. Carpenter was not sure if this situation should be addressed. Mr. Edwards said that parking has always been an issue and each business is required to have a certain number of spaces; regardless of whether it’s a joint property or not, a business owner cannot take away his parking by expanding his shop into the parking lot as he is taking away parking instead of adding it. This needs to be addressed as they cannot take up required parking to increase their retail area, and he feels it should not be separated if it is a joint business or shared parking. Ms. Bowes asked how this was enforced, and Mr. Edwards said that after a complaint came in, they investigated and discovered that outside sales and displays should have a conditional use permit but there were no restrictions as it was not addressed. It would need to be permitted with standards for enforcement. Mr. Vares read from existing zoning, and Mr. Edwards referred to number 4. Vice-chairman Pacula said she personally cannot think of one place that has a tent that has not used their parking, so basically they would be doing away with them. Mr. Edwards said basically they are in violation of existing ordinances, and they are trying to allow this through permitting. Mr. Germaine asked about merchants in the Yaupon area near Haag and the pharmacy with tents; Mr. Edwards said those are itinerant merchants and have different regulations and the parking must be available, one for the merchant and 3 additional for the customers.

Ms. Bowes made a motion to adopt the text amendment as amended. There was no vote taken on this motion.

Vice-chairman Pacula worried about the tent at Strands and was concerned that they would no longer be allowed to do that. Mr. Edwards said special event sales were discussed, but technically they would not be able to do the tent. There was further discussion regarding tents in parking lots; Vice-chairman Pacula mentioned Beach Life and Kings and the meat market having tents. Ms. Bowes added the tent at 40th, at Kings, has been there forever. Mr. Edwards said if they could design a plan that showed adequate space

for existing business and they meet their minimum parking requirement, then they could get a permit. There is a table to determine the number of parking spaces required. If they could meet the minimum parking required, Ms. Bowes asked if they could not then have a tent; Mr. Vares said this is a caveat they could roll into the text. Vice-chairman Pacula said she was reluctant stopping the businesses from having Labor Day or special sales. Mr. Edwards said they are in violation of the code, and they would have to stop anyway. Mr. Edwards said they are trying to get them to get a CUP. Mr. Carpenter said if they stay silent, it goes away anyway. Mr. Carpenter asked if they could put in something so that they could have a special occasion sale. There was discussion regarding the 180 days and the parking spaces and temporary structures at Kings.

Mr. Carpenter made a motion to adopt the amended text amendment. Mr. Germaine seconded, and the motion passed unanimously.

Zoning Map Corrections: Mr. Vares has received several calls, most of them supportive. He also provided a handout regarding this issue. Mr. Holloman wanted this to go to the Council before adoption and for the Mayor's signature. This will further solidify the decision. There will be a zoning map with no further issues, and all inconsistent copies will be resolved. One additional section is included with a zoning error as well, and Mr. Vares was recommending sending the same letters to those property owners informing them of the error in the interest of transparency so that it can all be voted on at one time. Vice-chairman Pacula noted they are all single family residential, and some are already developed. Mr. Vares said that for some reason when the rezoning happened the map was not changed. All of his phone calls he received from the many letters he sent out were positive. He would recommend a motion to accept the changes in the large copies of the map as all property owners have been informed, and he would then add to the next agenda under Old Business for the additional property owners that he just notified. The Board can then make a final motion before sending it to Council for adoption.

Ms. Bowes made a motion to adopt the corrected zoning map. Mr. Carpenter seconded, and the motion passed unanimously.

New Business: Mr. Vares gave some background and said he would do a conflict of interest statement for the quasi-judicial hearing; he outlined the procedure of the hearing. He then gave instructions to the Board as to whether there were any conflicts, either direct or financial with any members. Several board members indicated that they had visited the site but that it would not affect their opinion. Sherry Ratliffe, Notary, swore in all parties.

Mr. Vares said that the applicant is applying for a Conditional Use Permit to add parking to the Captain's Cove Motel on Oak Island Drive. All of the required notifications have been done. The Finding of Facts document must be adopted at the end of the meeting. The applicant is not the owner but has the owner's signature on the appropriate paperwork. Mr. Vares entered Exhibit 1 into the record, and provided a handout for the Board and the applicant. The property is in an R7, which allows for public parking facilities. The applicant would need to add a handicapped space and would need to make it available to the public, but could charge and set a price. The staff recommendation is to approve it with two conditions: that there be one handicapped parking space and that it be made available to the public, per Mr. Vares.

Vice-chairman Pacula questioned the "open to the public" condition. Mr. Vares explained this is the approach that is current and expeditious. There is a potential Conditional Use Community Business (CUCB) overlay district approach, but it is much lengthier and he does not understand why it is in the ordinance. This is essentially an overlay zone that requires CUP, and this is a strange way to go about it. He has talked to Dale Holland about the CUBC and he suggested addressing this in the UDO. This approach is friendlier to the applicant.

Applicant Linda Carruthers, 6401 E. Oak Island Drive, owns Captain's Cove Motel and is applying for a CUP. She asked if she could keep the parking lot closed if she chooses; she doesn't want the teenagers to park there. She is applying for this permit due to the piece of property behind her coming open, and in the summer she could really use the extra parking. She wants to make it overflow parking for the back building, which would unclog her whole driveway area. She does own the lot next door, but in the summer it is used for boats and boat trailers because they cannot fit in her parking lot. She has an offer to purchase the property based on the ability to obtain the CUP for parking. She would have 8-10 parking places directly behind her building, and has no intentions of doing anything to the rest of the property. She is not happy that Mr. Edwards said she would need to remove a tree. She does not want it to be public access, just strictly for her motel access on the weekends. Mr. Germaine asked if the applicant sold that property, could it then be built on if the designation is changed. Mr. Vares said the CUP would stay with the property, so if she sold the property, then the existing permit would stay there. If they wanted to remove the parking lot, could the motel be expanded? Mr. Vares said it is zoned residential, R7 and the parking is allowed, like much of the surrounding area, so unless it was rezoned they couldn't change. Ms. Carruthers explained where the property is. Vice-chairman Pacula noted the infiltration basin and asked for an explanation. Ms. Carruthers said it would be a pit with gravel in it for retention of stormwater, and said this was brought in by the Town and is not there now. The property does slope down toward the ocean. Mr. Edwards added that it is part of the stormwater design if parking is installed, and he has met with the surveyor and the applicant. The property slopes, and they are trying to create a swale area with a berm to capture the runoff and maintain the water on the southeastern corner of the property. It does not exist at this time. Mr. Germaine asked if this would create an area for breeding mosquitos, and Mr. Edwards said no, it is good soil. Vice-chairman Pacula noted that it would be recorded as an agreement and maintained after it was created. Mr. Germaine asked about the fence, and asked if it goes around the tree and is on her property. She has no problem with the fence and noted that it went around a tree, and would like the trees to stay the same with only one tree coming down for the driveway. Ms. Carruthers said she likes the area and wants to leave it exactly the same. Vice-chairman Pacula asked if there could be a recommendation that it only be used by the hotel, and Mr. Vares said no; once she receives the CUP, she can decide the hours or cost and that would help her. Mr. Vares suggested that she could put up a sign; Ms. Carruthers suggested she put up a rope across the front. Vice-chairman Pacula said that the neighbors are concerned about the public coming in and out. Ms. Carruthers asked about parking by permit, and Mr. Vares agreed that that this would be a good solution. Mr. Jenkins voiced his concern about parking on the southern edge of the property close to the other houses; Ms. Carruthers said they cannot get to those parking areas due to the number of trees on that property. Ms. Bowes confirmed that the applicant is going to use gravel and not pave. Mr. Germaine suggested a rope and post fence area. Vice-chairman Pacula wondered if they could make a condition of only having 8-9 parking permits; Mr. Jenkins said that the permit would only be for the map as provided. Mr. Vares thought this would be wise to make that a condition, to tie the permit to the site plan and if additional parking was needed it would require another permit. Ms. Carruthers said that nine parking places for the nine rooms would be a big relief for her inside parking lot. Vice-chairman Pacula explained that she would be limited to nine spots only. Mr. Jenkins added that there may be nine spots, but there would probably going to be more than nine cars there, and Ms. Carruthers agreed and said that people will be people. Ms. Carruthers said that most of the lot would still be wild and would just provide her with enough overflow parking. Mr. Vares said regulation of only nine parking there would be difficult to enforce, and if more people parked back there the Code Enforcement Officer could come with the CUP in hand. Mr. Carpenter asked if there were tag numbers taken at registration and Ms. Carruthers said there yes; therefore she could police the property. Vice-chairman Pacula again said she is trying to protect the homeowners and the applicant, and that people would try to park trailers there. Ms. Carruthers said it would not happen, as trailers would not fit. Mr. Carpenter noted that the two citizens said she was a good neighbor, and that this would keep more trees than if a house was put in there. Ms. Bowes added that the applicant can police the situation and the area and make it unattractive to parking. Mr. Germaine said she could make it available to cars only with

no trailers. Vice-chairman Pacula said she was most worried on keeping the parking to nine places only. Mr. Edwards suggested roping off areas that are not being used for parking. Mr. Jenkins added the infiltration area would be roped off, and it may be good practice to rope off other areas. There was more discussion on how she could police the area. Ms. Carruthers noted that she has been in business for 40 years and knows how smart people can be. Mr. Vares asked Ms. Carruthers about cross examination, and she said she didn't want to cross examine anyone.

Mr. Jenkins made a motion to approve the overflow parking lot with the requirement of having one handicapped parking space and the assurance that the stormwater runoff area not be driven on or used for parking.

Ms. Carruthers suggested adding that 50% of the southern side of the property be left undeveloped instead of limiting the number of parking places. Mr. Vares said, with conditions, it is supposed to be proportional to the application or a direct connection to what is proposed, so her suggestion could potentially be a valid condition but not necessary. This 50% of the property would be by the two homes, per Ms. Carruthers. Mr. Jenkins said he would rather leave it like they have it, as there will not be development by the houses. He added that it protects both the motel and the homeowners. Vice-chairman Pacula asked if they could stipulate parking only be allowed on the northern border; Mr. Jenkins said he would not be opposed to that. Ms. Bowes suggested the wording for parking only be permitted on the boundary of the adjoining property. Ms. Carruthers said there were no more trees are on either side, as there are clothes lines for hanging beach towels. Mr. Edwards said he has not received any permit application addressing stormwater, but if additional spaces were wanted she would have to come back and provide for stormwater. Vice-chairman Pacula asked for suggestions for a revised motion.

Mr. Jenkins then made a motion to revise his motion currently on the table that would allow parking in the area shown on the map as long as stormwater was either revised or sufficient and parking would be on the adjoining property line of the hotel and the new piece of property.

Mr. Vares said he would put this in the finding of facts document. Mr. Jenkins then added a there would be a minimum of one handicapped-accessible space. He added that if this was handed down or sold, he was trying to show specifically that he was trying to protect everyone involved. He is still fine with the way it was worded, as long as parking spots are kept there and the stormwater runoff is adequate. Vice-chairman Pacula added that it would also be in the required setbacks. Mr. Vares said being open to the public could include a caveat, and she can open it as the applicant sees fit.

Mr. Jenkins then added to the motion that the parking area is open to the public but would be permitted at the discretion of the applicant and would include one handicapped space. Ms. Bowes seconded, and the motion passed unanimously.

Mr. Vares recapped the finding of facts, and said they would need to do a second motion to close the hearing

Mr. Jenkins made a motion to close the hearing. Mr. Carpenter seconded, and the motion passed unanimously.

Mr. Vares summarized the finding of facts and conclusions of law.

Mr. Jenkins made a motion to adopt the finding of facts. Mr. Carpenter seconded, and the motion was passed unanimously.

Vice-chairman Pacula then moved on to the Parking Space to Bedroom Ratio; this was already agreed to be tabled until the Chairman would be present.

Board member reports: Vice-chairman Pacula said CPAC is going strong at 11 meetings with at least 5 more to go, and June is the potential completion date.

Staff Reports: Mr. Vares reported that as a procedural issue, with text amendments and rezoning, it would be helpful that whenever a motion is made to recommend or approve a text amendment, the motion is to adopt with the following consistency statements for best practice. He explained that this would be the best way to go about it in the future. He also mentioned the Tree Protection Grant that the Town had received. As far as update from the Council meeting, Mr. Vares mentioned the three text amendments that were finalized at the Council meeting and the Council accepted their recommendations.

Mr. Carpenter made a motion to adjourn. Mr. Jenkins seconded, and the motion passed unanimously. The meeting was adjourned at 1:45 p.m.

Chairman Ted Manos

Attested: _____

Lisa P. Stites, CMC
Town Clerk

MINUTES
SPECIAL MEETING
PLANNING BOARD
January 27, 2016 10:00 A.M.
OAK ISLAND TOWN HALL

Present at meeting: Vice-chairman Denise Pacula, members Bob Germaine, Cathy Bowes, Helen Cashwell, Robert Carpenter, Clay Jenkins, Dale Holland with Holland Consulting, Town Planner Jake Vares and Administrative Support Specialist Debbie Lasek. Chairman Ted Manos was not present.

Vice-chairman Pacula called the meeting to order at 10:03 a.m. for discussion of the draft Unified Development Ordinance (UDO).

Mr. Holland said he noticed an error on the chart on pages 5-5 and 5-9 and he would be giving out replacement pages.

Ms. Cashwell asked how obligated the Town was to go by what the citizens wanted. Mr. Holland answered majority vote; he did not mean to sound flippant, but they have been through an extensive process, and it will not reflect everybody's opinion. He does think, as the document stands, that it reflects the majority of the opinions that they have received and will hopefully be reflected in the goals and strategies. It is the ultimate responsibility of the Town Council to implement or amend the contents of the plan. This implementation will require a great deal of political will; as elected officials change there may be parts of this plan that never get implemented. He would suggest all that disagree to voice their dissent or dissatisfaction at the public meetings. In his experience, the plans with greatest public participation and input are the plans that come closest to getting adopted, and the plan must be used every time with every decision made by the Planning Board. Ms. Cashwell said that with the lawsuits and innuendos, and if the Council chooses to ignore it, she feels the will of the people should overrule it. Mr. Holland then gave some history about the city of Greenville, and the public's input regarding the implementation of the plan. The plan must be a living document that must be reviewed periodically to see if anything needs to be amended as circumstances change. Mr. Carpenter added that he has come to the conclusion that they must evaluate every place that the word "should" is used and consider replacing it with the word "must." Mr. Holland said that with the community at large, if someone wants to find their way around a rule or regulation plan they will; he has not yet seen an iron-clad UDO.

Kelley Germaine, 6610 Kings Lynn Dr., said there are ten goals with the Comprehensive Plan Committee, and those ten goals state "Oak Island will," and they are of the same mindset that this will protect and support Oak Island. Mr. Holland said time will tell, and the most important thing is public scrutiny.

Article 1-Purpose and Applicability. This outlines the basic purpose, authority and jurisdiction going into any document. Mr. Germaine asked who the UDO Administrator was, and Mr. Holland answered whoever was appointed by the Town Manager. Civil Penalties would involve cash fines, and these penalties will be revised to "fee schedules." Mr. Germaine asked about conjunctive actions, and Mr. Holland said this would be through court action or decision. Regarding 1.8.5.3, Mr. Germaine asked if there is an infraction, the fines can continue every day and Mr. Holland confirmed this. He then explained how the process of the violation would proceed, and said that routinely the fines are set to prevent recurrence. Mr. Holland used the example of video gaming as a perfect example of how these fines didn't always work, as the people involved would happily pay fines while they continued to operate.

Article 2- General Regulations. This refers to those things that are standard in all zoning districts. He called the Board's attention to 2-7, 2.2.1 Sidewalks, and said he should have changed it to "all non-residential and major subdivision developments should be required to construct sidewalks." He added this was due to the large amount of input from the citizens of Oak Island during this process. If this standard not required at some point, Oak Island will never get there. Ms. Bowes asked if this would include existing residential areas that do upgrades, and if it would be included on both sides of the road. Mr. Holland said if improvements were at 50% of value or they rebuild, then the Town could require a sidewalk, and that it would apply to both sides of the road. This would include all new non-residential. Mr. Vares asked about specifications, and Mr. Holland said it would be specified in the subdivision section. Vice-chairman Pacula asked about existing commercial buildings, as many businesses have parking where sidewalks would go. Mr. Holland said that this ordinance and the landscaping ordinance would come into play in those situations. This could potentially cause as much grief as anything else in this ordinance, as it may involve sidewalks that "go nowhere." Ms. Bowes asked about some of the definitions. There will also be an appendix at the back with definitions, but definitions may change or more may be added as they go through the UDO and typically Mr. Holland would recommend waiting until farther in the process to avoid confusion. Ms. Bowes asked about specifics in 2.1.5, such as the observations tower, dome, etc.; Mr. Holland said that specific definitions will be in the definition section. Also, if specific definitions are in the UDO, then that is the definition for the UDO; without a definition, the standard dictionary definition would apply. Vice-chairman Pacula asked about 2.4.4 on split zone parcels, on page 2-4; she said she believes it has to do with the height right now, and if part or even a little bit of it is one of the other zones, it goes to the more restrictive zone and this is not what she is reading. Mr. Holland suggested that this approach is flawed in his opinion and he would not leave it that way, but the Town can sustain its existing split lot provision if they choose to. If they are talking of flood zones, there is a specific section that addresses flood plain provisions, and this is referring to the zoning district. There will not be as much wiggle room with flood zones. Also, Vice-chairman Pacula said section 2.10, page 2-5, reduction of lot/yard areas prohibited, there are many lots that are combined parcels of lots of 55' by 120'. Mr. Holland said they could not re-subdivide unless the resulting lots met the specifics of the ordinance. Ms. Pacula said this could create a huge problem; Mr. Holland said as long as they had not restated the legal description of the lots in the GIS, then that wouldn't present a problem. Ms. Cashwell added that most of them were conforming lots that were combined. Mr. Vares said there is a footnote in the current zoning ordinance, table 7, that says if a lot was legal before the adoption of this ordinance, then it is okay to keep it as it is. Mr. Holland said that the as long as the county has them as two lots, it is okay. Mr. Jenkins pointed out that one could not sell or transfer a non-conforming lot, and gave the example of two neighbors buying a lot in between their properties, and then one neighbor selling it to the other. Mr. Holland said that this would be acceptable if the sale or transfer was to make it a conforming lot. Mr. Holland said the gist is to not be creating non-conforming lots. Vice-chairman Pacula mentioned the provision of lot width being 60 feet. There was further discussion about lot sizes and what constitutes "non-conforming." Vice-chairman Pacula asked about the provision of "60 feet," as the Town is full of 55-foot wide lots. Mr. Holland said that without this provision, persons could subdivide and could potentially have 20 foot lots. Mr. Edwards said the 60 feet was just a zoning change done in the mid-late 90s and addressed new subdivisions being created. They wanted to get away from the narrow lots. There are two combinations they review; for special purposes, such as tax assessment purposes and when property owners want to cross a boundary line. The Town council members tried to fix this and the language didn't really reflect the intention, but it was to allow for combined lots to have an allowance to divide back to the 55' lot again. Mr. Holland said that later in the ordinance they would deal with lot height and yard area; if the 60 feet is a concern at that time, they can always discuss changing back to smaller lots. This particular provision is important, and he asked the Board to put this on hold and to think about it, as many difficult decisions could arise. Vice-chairman Pacula again said she has no problems with 60 feet for a new development, but the entire island is almost 55-foot lots. Mr. Holland said that if there is a 55-foot lot, what is the problem with telling someone they cannot subdivide? Mr. Jenkins

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PLANNING BOARD SPECIAL MEETING

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answered that this is not the problem; if someone owes several lots and has sold a portion, then the problem is how it could affect them. Mr. Holland again said the zoning is to prevent the creation of non-conforming lots. Mr. Vares said the wording in the zoning ordinance that addresses this has a footnote B, which he read into the record; he realizes Mr. Holland has issues with this. Mr. Holland said he would take a look at this, and it is something that the Board needs to be very careful with and they will need to be as specific as they can. Mr. Holland added that he would talk with Development Services and look at a revision of this. Ms. Bowes asked about observation towers and read a definition that listed 66 feet; Mr. Holland said a dictionary definition would not put a specific number on it. After further discussion, Mr. Holland said that definitions would be added, and that the Board is doing this a piece of the puzzle at a time. Mr. Germaine said, going back to section 2.1.5; he thought anything that dealt with a house in the zoning must be under the height of that zoning. Mr. Edwards said there are exceptions in that table; Mr. Vares said fireplaces are in that exceptions. Mr. Holland said they could write the ordinance as they want it, and there are standard provisions in most every ordinance that are allowed to exceed the standard height limit. They will have to decide, at some point, if that is what Oak Island will do. Vice-chairman Pacula said they should wait until they have definitions. Mr. Holland said that he would send a sample set of definitions to them. He will bring the definitions to the next meeting, and added that he preferred not to put them on the website. Mr. Germaine brought up street intersections, and Mr. Holland said this would include all property. This is another provision that can turn into a troublesome situation, as people think their yards go all the way to the pavement when in fact it is public right-of-way, and this causes confusion. Mr. Vares said he could provide a Town property map to Mr. Germaine after he asked if that area was Town property. Mr. Holland added this provision would apply to both public and private property.

Article 3—This addresses the basic formulation, operation and administration of the UDO. The Board of Adjustment provision is different for both clarity and changes in the legislation that are not reflected in the Town's existing ordinance. Also, the Planning Board is addressed in this article as it is not included in the existing zoning ordinance. Mr. Holland feels it is better to include the Planning Board in the UDO rather than remove it. This article is fairly routine material with respect to the items included. Pages 2-3 show the UDO administrator will be designated by the Town Manager. Mr. Germaine asked about page 3-9 regarding conflicts on quasi-judicial matters; he explained a situation that occurred regarding a conflict of interest. Mr. Edwards said that he believed the outcome was that the individual involved was not gaining any personal financial benefit. Ms. Bowes added that in working for the government, if there was even the appearance of a conflict of interest, the Board must consider the trust involved. Ms. Cashwell added the Town refused to adopt a conflict of interest rule. Mr. Holland said the appearance of a conflict of interest is even more damaging than an actual conflict, but that they must be judged on a case-by-case basis and could be handled by the Board of Adjustment and anyone with a conflict should ask to be excused. Ms. Cashwell said that if a monetary recipient is involved, there should be guidelines. Mr. Carpenter added that there are ways to address this, such as with monetary conflict of interest rules. Mr. Holland agreed that money is often the conflict, but said there are times when there are conflicts without monetary influences. He then added that the Board is going through this article by article, they could come back to this if needed. Mr. Germaine asked about the section 3.3.3.4.7 regarding monetary compensation for Boards, and Mr. Holland said he had already addressed this and there is no compensation.

Mr. Holland thanked the Board, and said that although he usually waits until the end to make all changes, he will discuss the subject of non-conforming lots with Mr. Vares and Mr. Edwards and try to come up with revised wording to make it acceptable. The next meeting will focus on articles 4 and 5. Vice-chairman Pacula asked if the Board would like to set the same day for the UDO meeting and suggested staying with the last Wednesday of the month. After discussion, the fourth Wednesday of the month was

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agreed upon, which would be February 24th and March 23rd. Mr. Holland agreed that these dates would be good for him.

Ms. Cashwell made a motion to have additional Planning Board meetings on the fourth Wednesday of the month until no longer needed. Ms. Bowes seconded, and the motion was passed unanimously.

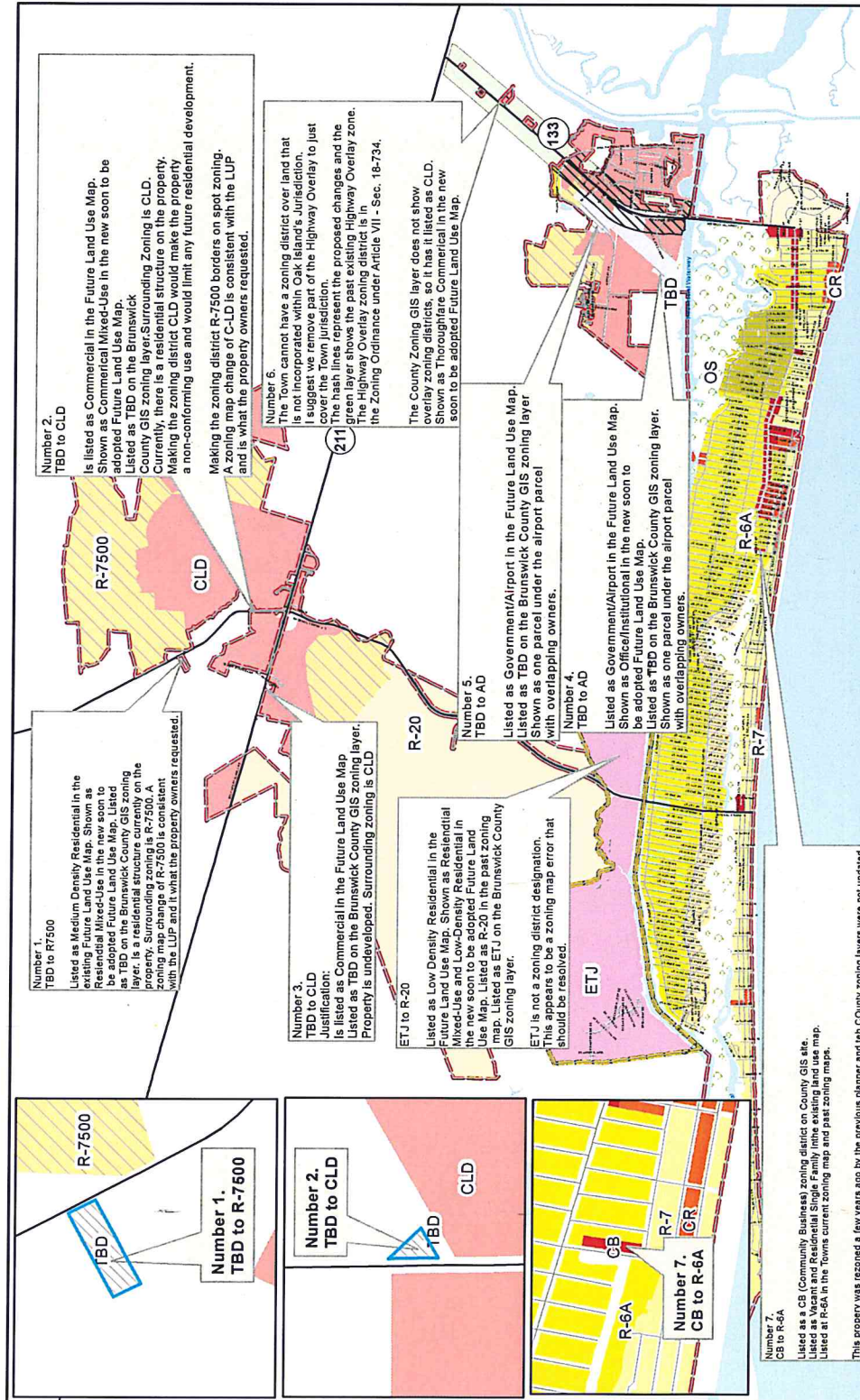
Dale Holland will provide definitions by the next meeting, and Jake Vares will provide the map of town-owned properties.

Ms. Cashwell made a motion to adjourn the meeting. Mr. Germaine seconded, and the motion passed unanimously. The meeting was adjourned at 11:05 a.m.

Chairman Ted Manos

Attested:

Lisa P. Stites, CMC
Town Clerk



Town of Oak Island Zoning Correction Map

Brunswick County, NC

This is to certify that this is the official zoning map referred to in Chapter 18 in the Code of Ordinances under Division 2, Section 18-52. The map is entitled "Zoning District Map" by the Code of Ordinances.

Map created by:
Jake Vans
Town of Oak Island
Development Services Department
11/22/2016

Map is to be used to only address the zoning district. Accuracy may be affected by general horizontal or vertical errors. To prepare the map was performed on separate sheets.

0 0.25 0.5 1 1.5 2 Miles

Legend

- Streets
- Town Boundary
- Extra-territorial Jurisdiction (ETJ)
- Water Features
- Zoning
- (AD) Airport District
- (CLD) Commercial Low Density
- R-7500 Medium Density Residential
- R-6A Residential District
- R-6B Residential District
- R-6C Higher Density Residential
- R-6D Higher Density Residential
- R-6E Higher Density Residential
- R-6F Higher Density Residential
- R-6G Higher Density Residential
- R-6H Higher Density Residential
- R-6I Higher Density Residential
- R-6J Higher Density Residential
- R-6K Higher Density Residential
- R-6L Higher Density Residential
- R-6M Higher Density Residential
- R-6N Higher Density Residential
- R-6O Higher Density Residential
- R-6P Higher Density Residential
- R-6Q Higher Density Residential
- R-6R Higher Density Residential
- R-6S Higher Density Residential
- R-6T Higher Density Residential
- R-6U Higher Density Residential
- R-6V Higher Density Residential
- R-6W Higher Density Residential
- R-6X Higher Density Residential
- R-6Y Higher Density Residential
- R-6Z Higher Density Residential
- Beach Club Overlay District

PAST REZONING CASES HAVE BEEN REVIEWED AND IT APPEARS THESE ARE SIMPLE ZONING MAP ERRORS THAT NEED TO BE CORRECTED.

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

Agenda Item: Old Business Item No. 2

Date: January 25, 2016

Issue: Bedrooms Text Amendment

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 35 Minutes

Subject Summary:

Newly enacted legislation specifies that North Carolina and local governments do not have the authority to limit the amount of bedrooms. Historically, zoning ordinances have addressed this sort of thing but due to considered increased government overreach the general assembly has implemented new laws to restrict a local government's ability to regulate housing features. The new law adds new subsections to G.S.160A-381 and applies to one- and two-Family Dwellings, all single family homes, duplexes, and townhouses. The restrictions do not apply to multifamily and non-residential buildings. Private restrictive covenants can still dictate architectural review for single family homes.

The specific regulation prohibitions listed in the new law cover:

- 1) Exterior building color;
- 2) Type or style of exterior cladding material;
- 3) Style or materials of roofs or porches
- 4) Exterior nonstructural architectural ornamentation;
- 5) Location or architectural styling of windows and doors, including garage doors;
- 6) Location of rooms; and
- 7) Interior layout of rooms.

Local governments no longer have the authority to tell homeowners what color their house can be painted, what materials can be used for their windows and siding, or what architectural style must be used for a new house. Construction must still meet all building code requirements and if the structure is indeed put to a use that is not allowed, zoning enforcement is appropriate at that time. Our Zoning ordinances can still, and does, set height and size limits for structures and specify where on a lot structures may be located and setbacks. Zoning statutes expressly authorize cities and counties to regulate "the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings, structures and land." G.S. 160A-381. These existing development codes still give the town authority to regulate those features of development that indirectly effect the amount of bedrooms a house could have.

Our Zoning Ordinance currently defines bedrooms as “any fully enclosed interior room as shown on the building plan for the structure that as a minimum has a doorway, window, or is adorned with a bathroom and a room that may be advertised as a bedroom.” Sec. 18-32. And single-family as “a detached building designed for or occupied exclusively by one family having no more than seven bedrooms and a maximum square footage that shall not exceed 5,000 square feet.” Sec. 18-32 • the definition for a bedroom in the NC Residential Building code is: “a room designated as sleeping or bedroom on the plans” Sec R202 – Definitions. Staff proposes the text amendment also include a change in the definition of bedrooms to match the building code definition. The reason for this staff recommendation is due to the newly adopted General Statute 160A-390 (b) which states “when adopting regulation under this Part, a city may not use a definition of dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same in another statute or in a rule adopted by a State agency.”

The Town of Oak Island zoning ordinance limits single family to seven bedrooms and staff is proposing that language be removed, but the maximum square footage of 5,000 remain. The list below shows the existing regulatory tools the Town has to indirectly control the number of bedrooms.

- Minimum housing size requirement → (*non-existent* and rare among UDO’s)
- Height limits, 35 to 41 feet depending on flood zone → *existent*
- Setbacks (25front, 8 side, 20 rear) → *existent*
- Structure size limits → *existent* Example: maximum square footage of 5,000 square feet
- Number of stories → *non-existent* restricted by height, not explicit. Did at one time but changed in 06-07 because height resolved this.
- Size of yards, courts, and other open spaces → *existent* we have a minimum lot area per dwelling unit.

R-20	20,000	R-9(e)	9,000	R-7.5(a)	7,500	R-7(e) One-family	R-7(e) Two-family	R-6A One-family	R-6B 6,600
Lot Area	per	Lot Area	per	Lot Area	per	7,500 Lot Area	10,000 Lot Area	6,600 Lot Area	Lot Area
Dwelling	Unit	Dwelling	Unit	Dwelling	Unit	per Dwelling Unit	per Dwelling Unit	per Dwelling Unit	per Dwelling Unit
(Square Feet)		(Square Feet)		(Square Feet)		(Square Feet)	(Square Feet)	(Square Feet)	(Square Feet)

- Density requirements are in effect for large PUD developments → *existent*
- Use of buildings via zoning districts → *existent* – The table of Uses determines which type of development one is allowed to have in differing areas of Town.
- Stormwater/Utilities → *existent* -- Valve pits are designed for a 3 bedroom house. The initial flow calculation was for a 3.2 bedroom home for each valve pit. Each bedroom over 3 rooms has an \$880 impact fee. The increased cost of impact fees can serve as an incentive to not have a high number of rooms.
- Restrictive covenants → *existent* -- but Town doesn’t do, is between property owners.
- Parking → *existent* -- One parking space per bedroom is required, so if a plan is submitted with many bedrooms, ten for example, then the developer would have to also have enough room for ten spaces as well.
- Square footage requirement by zoning residential zoning district → *existent* -- that helps reduce house size and therefore bedrooms (see above table).
- Impervious surface limit → *tentative* – 45% total allowable impervious surface area can limit structure size.

Defining bedrooms to match the state definition creates a utility capacity issue problem because if a developer submits plans that only show a small number of bedrooms but it clearly is intended to have a large number of bedrooms then it creates a utility capacity issue. This problem is made particularly apparent when one has a house permitted for a low number of bedrooms but is then advertised as a high number bedroom beach vacation rental house. The NC-AC wastewater design flow rates law specifically addresses bedrooms as flow rates. The wording in this law can be used to rectify the amount of flow associated with structures. If the number of bedrooms is not indirectly regulated then the capacity issues can occur. 15A NCAC 02T .0114 *Wastewater Design Flow Rates* states “the flow rates shall be 120 gallons per day per bedroom. (b) Each bedroom or any other room or addition that can reasonably be expected to function as a bedroom shall be considered a bedroom for design purposes. When the occupancy of a dwelling unit exceeds two persons per bedroom, the volume of sewage shall be determined by the maximum occupancy at a rate of 60 gallons per person per day.” (Additional occupancy would be based off a 60 gallon per person per day per usage)

As of right now one parking space is required for each bedroom, so if a large number of bedrooms are being built then the developer will also have to design the site to have enough spaces for each bedroom, which limits the amount of space and impervious surface one has to work with. However, since a developer will no longer be required to show how many actual bedrooms are on the design plans this approach would not serve the town well.

A potential option that was brought before the board the first time this issue was raised is to add a provision that states that if anyone should decide to build a home greater than 7 bedrooms as determined by the development services department then a high cost for utility hook-up be borne by the owner or developer. Essentially, if a proposed home is substantially large, for example a plan for a residential structure showing only 4 bedrooms but there are 20 rooms total, the Town can consider the house a large enough structure to require additional costs due to anticipated increased water and sewer demand. I foresee potential legal issues with this approach because it would be difficult for staff to draw the line fairly and consistently. An applicant who was charged extra could easily assert they are being discriminated against even though their plans only show a small number of bedrooms.

The island is mostly built out and this effects the capacity of our utility infrastructure. From 2000 to 2015, approximately 2,467 residential building permits were issued in the Town, the majority of which were issued for the island. If development occurs at a similar pace over the next fifteen years, it is possible that the majority of vacant lots will be built upon. The majority of the land that exist on the island has been developed, leaving approximately 2,789 lot (25% of total) as infill sites open for development.

These lots are considered developable as they are not protected for conservation purposes and do not contain coastal wetlands. The housing trend on the island seems to be for

Table 4-5. Developed and Undeveloped Land: Island Portion of Corporate Limits

Status	Parcel	% of Total	Acres	% of Total
Developed	8,109	70.66%	1,881.47	51.81%
Undeveloped/Vacant	3,367	29.34%	1,749.96	48.19%
Total	11,476	100.00%	3,631.43	100.00%
Undeveloped/Vacant Not Impacted by Wetlands*	2,789	24.30%	935.57	25.76%

larger houses and there needs to be enough flow available for future island residential development. The draft Land Use Plan addresses this and at the moment enough capacity is projected in the long term.

The Town attorney has weighed in and has said we cannot limit the number of bedrooms. This is largely due to the opinion of David Owens, a School of Government, land use law professor that believes the case-law and new general statutes make it so that local governments “probably” can no longer enforce a min/max bedroom requirement.

At the January 2016 Planning Board meeting the board directed staff to explore the floor to lot area ratio (FAR) Floor Area Ratios used by Horry County. Horry County implements a total floor area to total lot area ratio as a means to regulate the size of residential houses. Staff has spoken to the planning & zoning administrators in Horry County about this technique and has determined that unfortunately that part of their ordinance will not serve the Town of Oak Island to indirectly regulate the number of bedrooms allowed. What Horry County implements is somewhat similar to the impervious surface regulation that the Town of Oak Island utilizes in that it accomplishes the same goal, which is to limit the maximum size of a structure. Horry County uses a floor coverage ratio in only two of their zoning districts (Residential –General and Residential – Single Family). Their floor coverage to total lot area ratio regulates the amount of total square footage of building coverage allowed on a lot. It states that no home can exceed 35% of the total lot area for Single-Family residential zoning district and no home can exceed 50% building coverage of the total lot for a multi-family residential zoning district. The Floor Area Ratios takes the gross square footage (for all the floors, 1st, 2nd, 3rd, floors for example) of every floor on the lot and totals that floor area together and divides that figure by the total lot area. The result gives you the floor area ratio – which is a percentage which limits the overall size of dwelling in relationship to the lot. Though this may help Oak Island regulate house sizes, it does not address regulating the number of bedrooms. Furthermore, the existing impervious surface ordinance already achieves the same thing the Horry County floor to lot area ratio ordinance is designed to control.

One promising result that came from research the FAR land use regulation is another zoning tool that other NC municipalities in similar situations utilize. Oak Island could require parking based on the overall square footage of a residential structure. If a large residential development plan was submitted that had many rooms but only a small number listed as bedrooms the Town could still require a larger, more adequate, number of parking spaces for that residential development. This coupled with the impervious surface benchmark would in-effect cap the size of a structure attempting to have excessive bedrooms by limiting the space on the site. I suggest the Planning Board direct staff to research this option and report back at the next meeting.

Attachments: Proposed text amendment

Recommendation/Action Needed: Discussion and motion of recommendation to Town Council

Suggested Motion:

Funds Needed: \$0.00

Follow Up Action Needed: Forward recommendation to Town Council for approval or denial.

Attachment

Proposed text amendment

Sec. 18-32. Definitions

Dwelling, single-family means a detached building designed for or occupied exclusively by one family ~~having no more than seven bedrooms~~ and a maximum square footage that shall not exceed 5,000 square feet.

Sec. 18-32. - Definitions

Bed and breakfast inn means a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

Bedroom means a room designated as sleeping or bedroom on the plans. ~~any fully enclosed interior room as shown on the building plan for the structure that as a minimum has a doorway, window, or is adorned with a bathroom and a room that may be advertised as a bedroom.~~

Board of adjustment means a local body, created by ordinance, whose responsibility is to hear appeals from decisions of the zoning administrator and other code officials and to consider requests for variances from the terms of the zoning ordinance.

NEW BUSINESS

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

Agenda Item: New Business Item No. 1

Date: February 11, 2016

Issue: Signage Text Amendment

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 40 Minutes

Subject Summary:

A text amendment to the Town of Oak Island signage ordinance has been applied for by Wakefield Associates. The intent of the text amendment is to loosen sign size restrictions in order to accommodate larger signage in Commercial Low Density (C-LD) zoning districts. The specific project that sparked the text amendment application is the Lowes Foods development at the HWY-211 and Midway Road intersection. The applicant has submitted the proposed text amendment in order to allow more flexibility for wall signage and free-standing signs. The portion of the Oak Island zoning ordinance that covers all the signage requirements is in Sec. 18-251 and can be found at https://www.municode.com/library/nc/oak_island/codes/code_of_ordinances?nodeId=PTIICOR_CH18LAUSDE_ARTIIZO_DIV9SI.

Currently, there is no CLD zoning district on the island, so at this point in time the proposed sign ordinance text amendments would not affect the existing island signage. Furthermore, the proposed text amendment differentiates shopping center signage between mainland side shopping center requirements vs island side shopping center signage requirements. The applicant will be present at the meeting to answer any questions the board may have.

Attachments: Proposed text amendment

Recommendation/Action Needed: Discussion and motion of recommendation to Town Council

Suggested Motion: Recommend approval of text amendment

Funds Needed: \$0.00

Follow Up Action Needed: Forward recommendation to Town Council for approval or denial.

Attachment

Proposed text amendment

DIVISION 9. - SIGNS

Sec. 18-255. - Signs requiring permit.

No sign, unless specifically exempted herein, may be erected, moved, enlarged or substantially altered except in accordance with the following requirements and standards:

- (1) Wall signs. Wall signs shall be permitted as long as they meet the following requirements:
 - a. Wall signs shall not project more than ten inches from any building wall or canopy, and must maintain a minimum of eight feet from the bottom of the sign to the sidewalk grade.
 - b. Wall signs shall not extend above parapet walls or above rooflines of buildings without parapet walls. If the roof is a mansard type roof the sign may be attached flat against but may not extend above said roof.
 - c. ~~Wall~~Except as provided in Section 18-259 below, wall signs shall have a maximum sign surface area of 64 square feet or a square footage no greater than two times the linear frontage in feet of the wall of the building to which said sign is attached, whichever is less. In the case of a shared frontage, only the linear footage equal to the width of the unit may be used to calculate sign area.
- (2) Freestanding signs. ~~Freestanding~~Except as provided in Section 18-259 below, freestanding signs shall be limited to 64 square feet in area and shall not exceed a height of 24 feet.
 - a. Any freestanding sign that is elevated on posts, pilings, or by single pole must maintain a minimum height of eight feet from the bottom of said sign to the ground or pedestrian walkway grade.
- (3) Projection signs. Projection signs will be allowed as long as they project no more than three feet from a flat surface of the building, canopy, or marquee and have a maximum square footage of 12 feet and there is eight feet from the bottom of the sign to pedestrian walkway grade.

Sec. 18-259. - Special provisions for commercial signage.

The following types of business uses shall adhere to these special provisions in addition to the general provisions set forth in this division:

- (1) Each business, unless it is located within a shopping center or business condominium development or specifically addressed elsewhere in this Code, shall be allowed on the premises of said business, one principal use sign not to exceed 64 square feet and two commercial accessory signs. The total square footage of the accessory signs shall not exceed 36 square feet.
- (2) Where a business has frontage on two public streets, one additional principal use sign shall be permitted on each street frontage.
- (3) Termination of business. Within 30 days after the termination of business at a particular location, the owner of the sign shall remove or eliminate all signs related to the terminated or relocated business. If the owner of the sign fails to remove the sign within 30 days, the code enforcement official shall cause said sign to be removed at the expense of the owner.
- (4) Shopping centers and/or business condominium development on Oak Island (i.e., located to the south or east of the Intracoastal Waterway) may provide one freestanding sign that displays the name of the center or development and the tenant businesses. Such signs shall not exceed a

total sign surface area of 64 square feet relating to the center or development plus 12 square feet relating to each per individual tenant business within the shopping center. Each tenant within the center or development may have one wall sign not to exceed 18 square feet.

- (5) Freestanding signs at mainland shopping centers. Notwithstanding the limitations of Sections 18-255(2) and 18-259(4) above, shopping centers and/or business condominium development on the mainland (i.e., located to the north or west of the Intracoastal Waterway) may provide the following freestanding signs:

- a. For the main (largest) parcel within the center or development, one freestanding sign along each public right-of-way frontage that displays the name of the center or development and one or more tenant businesses. Such signs shall not exceed a sign surface area of 125 square feet per face, and may not exceed 25 feet in total height.
- b. Signage for each tenant occupying 35,000 square feet gross floor area or more may occupy no more than 45% of the total area of each sign. Signage for each tenant occupying more than 8,000 but less than 35,000 square feet gross floor area may occupy no more than 18% of the total area of each sign. Signage for tenants occupying 8,000 square feet gross floor area may occupy no more than 12 sq. ft. of each sign. All total combined freestanding signage cannot exceed 250 sq. feet per sign.
- c. One freestanding sign for each individual parcel with one or more tenants within the center or development. Such signs shall not exceed a sign surface area of 64 square feet per face, and may not exceed 6 feet in total height.

- (6) Wall signs at mainland shopping centers. Notwithstanding the limitations of Sections 18-255(1) and 18-259(4) above, wall signs at shopping centers and/or business condominium developments on the mainland (i.e., located to the north or west of the Intracoastal Waterway) shall be permitted as long as they meet the following requirements:

- a. Wall signs shall not project more than ten inches from any building wall or canopy, and must maintain a minimum of eight feet from the bottom of the sign to the sidewalk grade.
- b. Wall signs shall not extend above parapet walls or above rooflines of buildings without parapet walls. If the roof is a mansard type roof the sign may be attached flat against but may not extend above said roof.
- c. Each wall sign for a tenant occupying equal to or more than 35,000 square feet gross floor area shall have a maximum surface area (in square feet) of (i) 150 square feet or (ii) two times the linear frontage (in feet) of the wall of the building to which such sign is attached, whichever is less and two commercial accessory signs. Such a tenant may have no more than 350 square feet of total signage.
- d. Each wall sign for a tenant occupying less than 35,000 sf gross floor area shall be considered accessory use signage and shall have a maximum surface area (in square feet) of (i) two times the linear frontage (in feet) of the wall of the building to which such sign is attached, (ii) 100 square feet, or (iii) 80% of the sign band area, whichever is less, and two commercial accessory signs. Such a tenant may have no more than 200 square feet of total signage. In the case of a shared frontage, only the linear footage equal to the width of the unit may be used to calculate sign area.

- (57) Franchised and combination businesses located on one premises or within the same building; including but not limited to service stations, convenience stores/food shops and like enterprises, shall adhere to the following:

- a. Signs required by federal or state regulations, such as gasoline price signs, are allowed in those districts where required. Such signs shall be the minimum size required by law and shall be calculated as a portion of the allowed signage.
- b. The principal business use shall be determined by which business utilizes the largest area of the property. The principal business shall be provided one principal use sign not to exceed 64 square feet and one accessory sign not to exceed 24 square feet. The

secondary business shall be allowed one wall sign not to exceed 32 square feet. In cases where the property is shared equally, one principal use sign not to exceed 64 square feet shall be shared by the business and each individual business shall be permitted one accessory wall sign not to exceed 24 square feet.

- c. Product associated signage, logos and insignia normally associated with products placed on the exterior of the business structure and which the signage is not controlled by the operator shall not be calculated in the allowed signage. This associated signage includes but is not limited to signage on gasoline and other fuel pumps, ice storage bins/freezers, propane cylinder storage racks and other like items which bear the name of the manufacturer or supplier not otherwise associated with the business.

(68) Temporary signs for the advertisements of special pricing events, sales, offers, and products shall be limited to two per premises at any given time and shall be displayed only during hours of operation. Temporary signage must meet the setback requirements and other general provisions of this Code. The maximum sign area shall be limited to 12 square feet.

(79) Temporary banners and flags for special events, liquidation, national holidays and in conjunction with multi-unit residential and commercial building projects or enterprise are allowed for a period not to exceed 90 calendar days within the same year and that based on the size listed below. An application for a sign permit must be filled out for every banner and subject to the approved fee schedule.

Size and quantity: The size of each banner is to be limited to 30 percent of the total square footage of the facade of which it is to be affixed. The number of banners allowed per applicant is to be no more than two if the primary structure has frontage on two streets.

- a. No banner shall exceed 1600 square feet or 800 square feet for structures on two street frontages.
- b. All banners shall be attached to the street frontage wall of the principle structure. If the primary wall fronts a parking lot, then banner may be attached to such wall.
- c. No such banner shall be attached to any roof structure. If possible, banners should not be hung in window spaces and shall not be hung as to impede the emergency egress of the structure.
- d. Vinyl banners are permitted, provided that the banner is secured tightly to the building. No loose, non-secure attachments are allowed.
- e. All banners must be maintained and in good condition. If any banner is found to be in poor condition, the code official shall require its removal within 24 hours.

Sec. 18-264. - Table of permitted and prohibited signs.

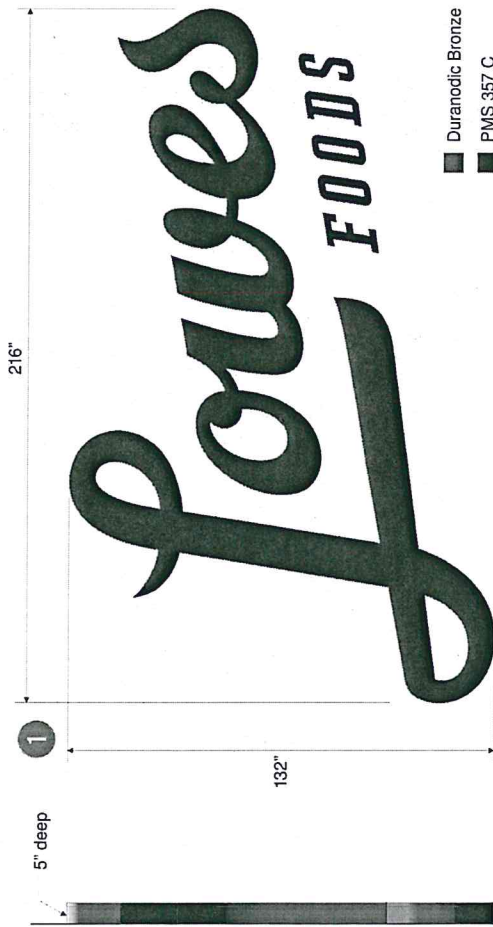
SIGNS	ZONING:								Max. Size	Max. Height	Min. Setback
	Al I Rs	OI	C B	C R	C- L D	OS	A D	Notes:			
Subject to the general and special provisions of Article 18, Division 9											
Commercial [Sec. 18-259]		Y	Y	Y	Y		Y	All Min. 8' above			

								sidewalk			
Commercial Accessory		Y	Y	Y	Y		Y	Max 2	36 sf	24'	10'
Franchise or business condominium		Y	Y	Y	Y			See [18-259(5)]	64 sf*	24'	10'
Freestanding (<u>other than in shopping center</u>)		Y	Y	Y	Y		Y		64 sf	24'	10'
Principal Use		Y	Y	Y	Y		Y	1 per street frontage	64 sf*	24'	10'
Projection		Y	Y	Y	Y		Y	Max. 3 ft. projection	12 sf		
Shopping Center (<u>island</u>)			Y		Y			See [18-259(4)]	64 sf*	24'	10'
<u>Shopping Center (mainland)</u>			<u>Y</u>		<u>Y</u>			<u>See [18-259(5) and (6)]</u>	<u>150 sf</u>	<u>25'</u>	
Temporary Special offer		Y	Y	Y	Y		Y	working hours only - 2 per	12 sf		10'
Wall		Y	Y	Y	Y		Y	Formula <u>and/or</u> <u>exception</u> may apply	64 sf*		
Political [Sec. 18-257]	Y	Y	Y	Y	Y	Y	Y	Times & locations apply; no lighting allowed	6 sf	42"	10 ft
Prohibited signs:											
Blinking, flashing, oscillating or animated [18-253(g)]								Changing copy NLT 60 sec. is allowed			

Obstructs sight distance; confused with traffic signals or emergency vehicle; uses admonitions "stop, go, slow, danger, etc." [18-253(c)]												
Off Premises [18-254(e)]												
Outdoor Advertising [18-254(f)]												
Portable [18-254(d)]									Special Events by permit			
Signs not maintained in good repair [18-253(e)]												
Signs obstructing ingress/egress [18-254(b)]												
Signs on poles, fences, trees, rocks or other manmade objects [18-253(f)]												
Signs over public streets [18-254(a)]									Exceptions apply			
Special event [Sec. 18-258]		Y	Y	Y	Y	Y	Y		Max 4X per yr; 6 signs; time & distance applies	64 sf		11' from pavement
Temporary:												
Real Estate [18-256(1)]	Y	Y	Y	Y	Y		Y		Special exceptions apply	6 sf (res) 16 sf (comm)		
Construction [18-256(2)]	Y	Y	Y	Y	Y		Y		w/in 10 sf	16 sf (res)/ 36 sf		10'
Yard/Garage Sale [18-256(6)]	Y								Max 2; hours apply	6 sf		10'

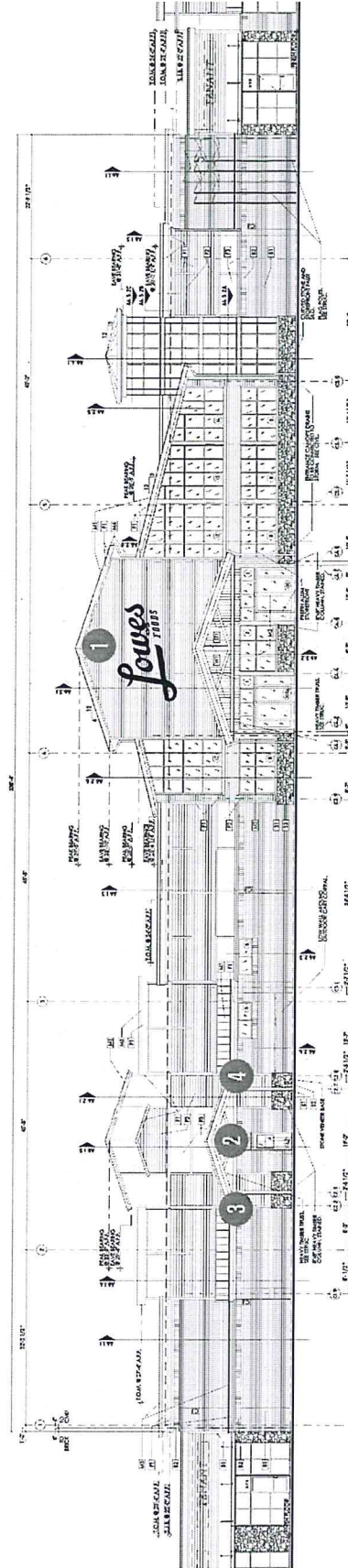
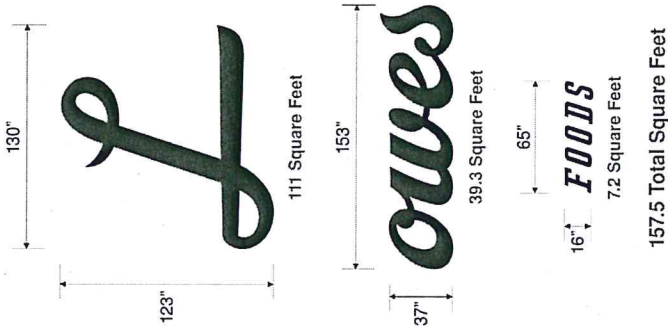
Bulletin Boards [18-256(3)]	Y	Y	Y	Y	Y		Y		16 sf		10'
Home Occupation [18-256(4)]	Y							Max 1	1 sf		10'
Direction/Information/Instruction [18-256(5)]	Y							Public/quasi- public only	12 sf		10'

Front Elevation Wall Sign



Front View

Description Face Lit LED illuminated aluminum channel letters
Quantity (1)



Elevation depiction intended for general concept illustration and is not to exact scale. Actual sizing & perspective will vary slightly from image.



CLIENT CONTACT

SITE Midway Commons
211 Midway Rd
Oak Island, NC

FILE Sales Rep
Jeff Hines

lowes 235 OAK ISLAND

Design
TOD
Draft: 05.04.15
Rev 1: 06.11.15
Rev 2: 08.20.15
Rev 3: 01.18.16
Rev 4:
Rev 5:
Rev 6:

CLIENT REVIEW
Approved
Approved as Noted
Review & Re-submit

Name
Title
Date

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Sign Systems Inc.
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Lowes Foods To Go Signage



CONTACT A

SITE
Midway Commons
211 Midway Rd
Oak Island, NC

FILE
Sales Rep
Jeff Hines

FILE NAME
lowes 235 OAK ISLAND

Design
TDH
Draft: 05.04.15
Rev 1: 01.18.16

Rev 2:
Rev 3:
Rev 4:
Rev 5:
Rev 6:

CLIENT REVIEW
Approved
Approved as Noted
Revise & Re-submit

Name

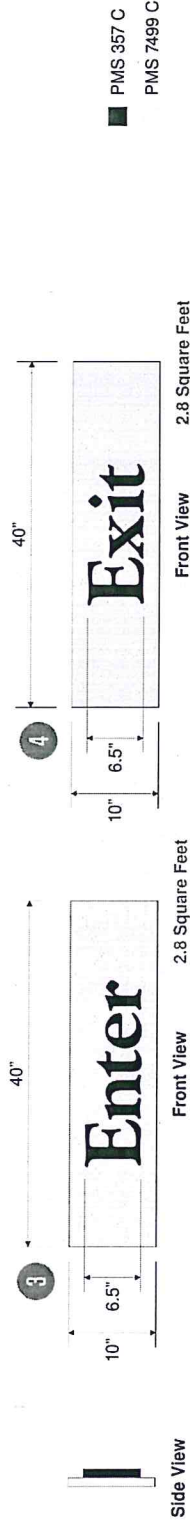
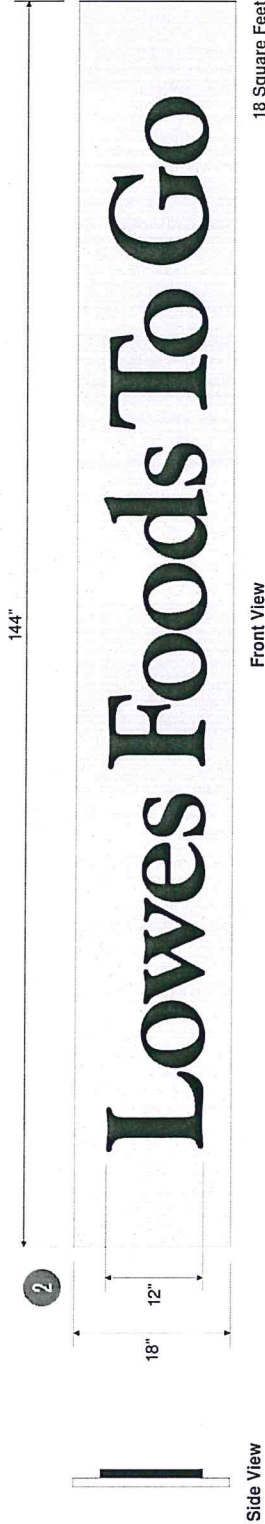
Title

Date

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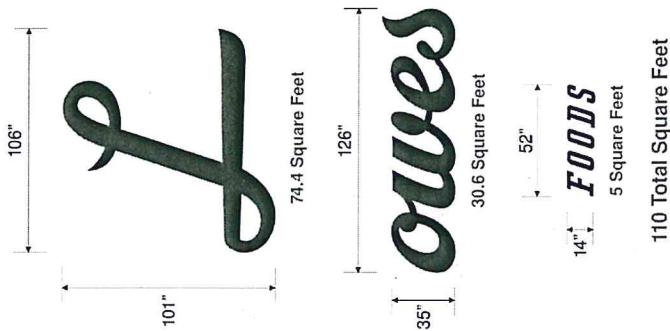


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Side Elevation Wall Sign



CLIENT

CONTACT

SITE

FILE

Midway Commons
211 Midway Rd
Oak Island, NC

Sales Rep
Jeff Hines

File Name
lowes 235 OAK ISLAND

Design
TDH
Draft: 05.04.15
Rev 1: 06.11.15
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Rev 5:
Rev 6:

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Approved
Approved as Noted
Revise & Re-submit

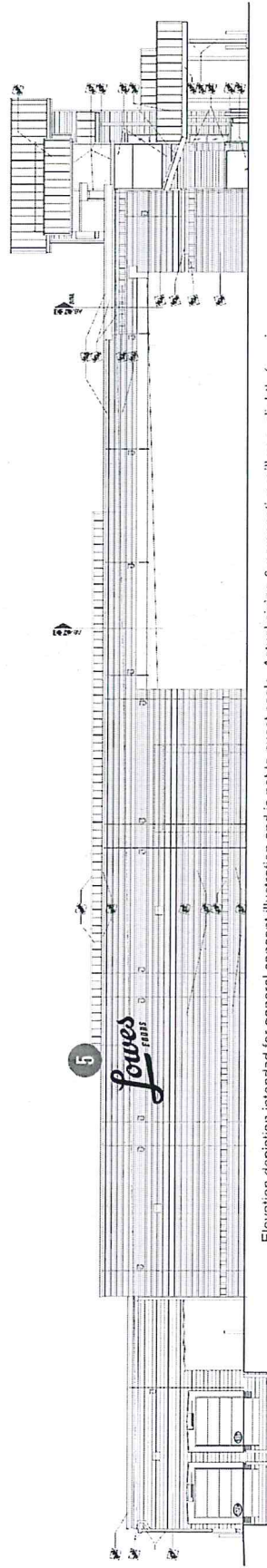
Name
Title

Date

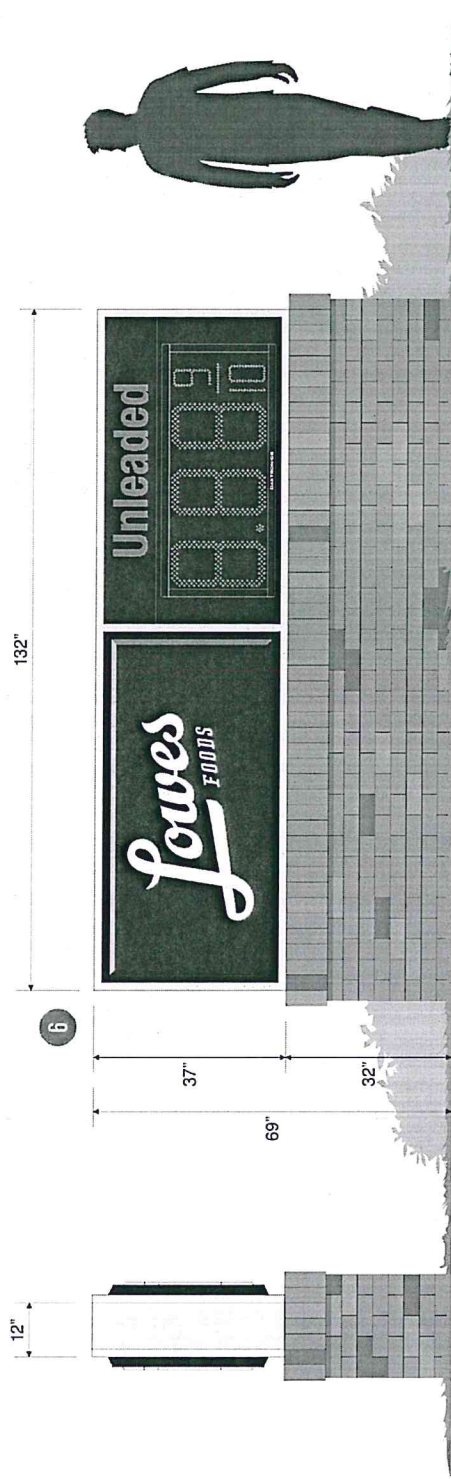
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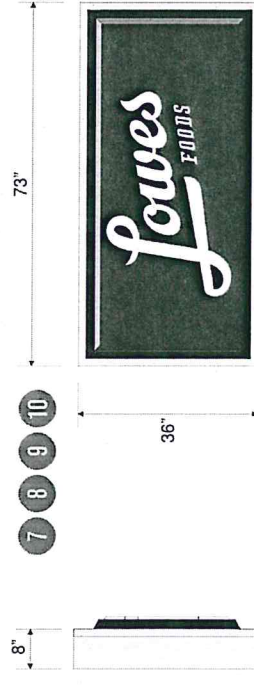


Gas Monument & Gas Canopy Signage



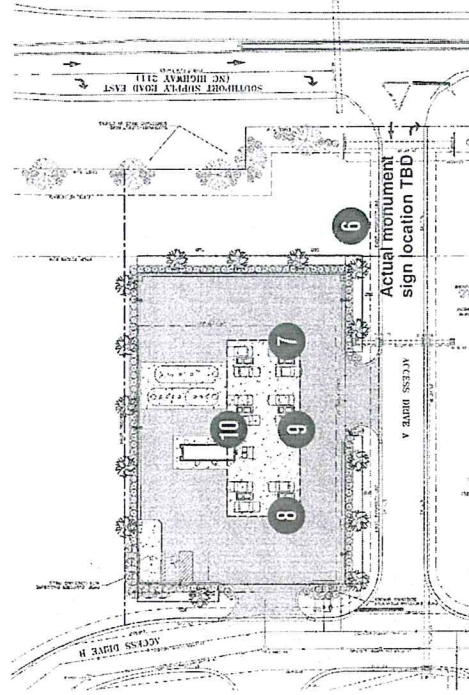
Side View

Front View



Side View

Front View
Quantity (4)



CLIENT
CONTACT
A

SITE
Midway Commons
211 Midway Rd
Oak Island, NC

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Sales Rep
Jeff Hines
File Name
lowes 235 OAK ISLAND
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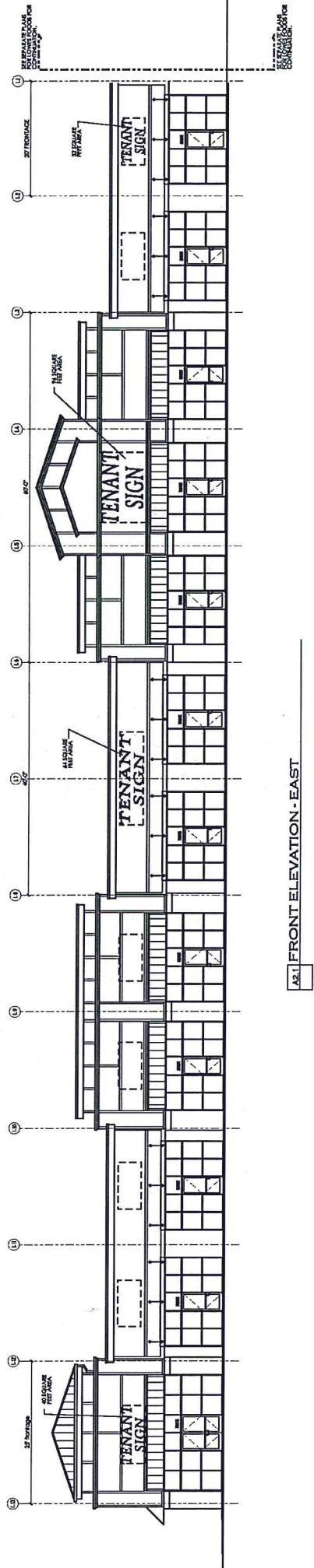
CLIENT REVIEW
Approved
Approved as Noted
Revise & Re-submit

Name
Title
Date

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A2.1 FRONT ELEVATION - EAST

100

