Planning Board
March 17, 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) Bedrooms Text Amendment
2) Impervious Surface Text Amendment

New Business:

1) Swimming Pool Text Amendment
2) Preliminary Plat Process Text Amendment
3) Signage Discussion

Other Business:

1) Board Member Reports
2) Staff Reports –
3) Updates from Council Meeting -- Zoning Map Corrections, Impervious Surface Text Amendment, Signage Text Amendment

Adjournment

MINUTES
OAK ISLAND PLANNING BOARD
February 18, 2016—10:30 A.M.
OAK ISLAND TOWN HALL

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

Chairman Manos called the meeting to order at 10:31 a.m., led the Pledge of Allegiance and gave the invocation.

Chairman Manos noted that there were two sets of Minutes to approve, and that he was not present at either of those meetings. Approval of minutes of January 21, 2016: Vice-chairman Pacula had some clarifications to make regarding gravel being impervious. Chairman Manos verified that any area that is driven on is considered impervious. Also, on page 4 mid-page, Mr. Carpenter was speaking of variances and a total loss and Mr. Vares said it would not be allowed; however on page 5, Mr. Vares said they could get a variance. Mr. Vares said that he remembered that discussion, and said if they met the criteria in the general statutes, then no; he further explained that, if one's lot is no different than any other lots, based on that a variance would not be allowed. Basically, they would all be decided on a case-by-case basis. Mr. Carpenter then said he understood that, if the total impervious surface was over the percentage and then completely destroyed, it would then need a variance. Chairman Manos said if it was a total loss, then they could apply for a variance. Vice-chairman Pacula said that Mr. Vares had stated that no variances would apply over the percentage. Ms. Bowes suggested combining those statements for clarification. Mr. Vares said that anyone could apply for a variance at any time; whether or not they get it would be another story. No matter what, a variance could always be applied for. Mr. Carpenter said, again, that if someone covered 45% and it was totally destroyed he understood they could not get a variance with the new percentages. Mr. Edwards said that there was an area in the zoning district that would address non-conforming structures and that he would support what Mr. Vares had said about applying for a variance; it would strictly be based off of the finding of facts. Mr. Germaine asked that, if it had to do with a driveway, could the homeowners not do a pervious driveway for credit and Mr. Edwards answered that yes, they could. Mr. Edwards then gave an example of a recent driveway, and Chairman Manos then clarified that this situation ended up with the homeowners being "credited" with building on 75% of the space and ended up with a 25% credit. Vice-chairman Pacula asked about it actually being a "credit," and Mr. Edwards said it was referred to as a credit. Mr. Edwards then clarified that the Town requires that they capture the first 1.5 inches of rainwater per the BMP, the Best Manual Practice for stormwater. This is the State law that they are following. Ms. Cashwell asked if this whole purpose was stormwater retention, and Mr. Edwards said it was, and that it was in the land use plan that was set in place years ago.

Chairman Manos asked if the clarifications required any additions or corrections to the minutes, and Mr. Vares stated he did not think so.

Mr. Jenkins made a motion to approve the minutes of January 21, 2016. This was seconded by Mr. Carpenter, and the motion passed unanimously.

Ms. Cashwell made a motion to approve the minutes of January 21, 2016. Ms. Bowes seconded, and the motion passed unanimously.

Chairman Manos reviewed the proposed agenda. Ms. Cashwell said she would like to add the status of abandoned pools and Lucas Cove to the Old Business on the agenda. There were no other additions or

corrections. **Ms. Bowes made a motion to approve the agenda. Mr. Germaine seconded, and the motion passed unanimously.**

Old Business

1. Zoning Map Corrections: Chairman Manos said he couldn't understand or read the detailed zoning map provided. Mr. Vares said this was the same map previously shown to the Board, but he updated it to show an additional area that needed letters sent out; he sent the letters out, and as of yet has not received any negative responses. He felt it would be good if the Planning Board voted to recommend approval of the zoning map to fix the errors. Mr. Vares has sent the necessary items to the County to correct this and the Town Manager recommended that it go to Council after the Planning Board votes on it. Chairman Manos said this would then be the official map that would go to Town Council for approval. **Mr. Germaine made a motion to approve the zoning map as corrected. Mr. Carpenter seconded, and the motion passed unanimously.**

2. Bedroom Text Amendment: Chairman Manos put this item on the agenda due to concern over changing the ordinance regarding the allowed number of bedrooms. He welcomed prior Planning Board chairman Randy Moffitt to meeting, and said after talking with him the other day, he does not think there is a need to change the bedrooms text amendment. Chairman Manos had wanted to consider removing the one parking space per bedroom issue from the current ordinance, and after discussion with Mr. Moffatt regarding the parking spaces at two homes he recently built, he was amazed at what could be done regarding parking spaces. He said he was afraid that, if forced to remove the number of bedrooms in the current ordinance, that at least requiring one parking space per bedroom is appropriate. Vice-chairman Pacula asked for clarification regarding the Bedroom Text Amendment or Parking Space to Bedroom Ratio under Old and New Business. Under Bedroom Text Amendment under New Business, Chairman Manos said there was a change to include the proposed new language and that they have been advised by Town Council that they should change it to in order to remove part of 18-32 with the limit of 7 bedrooms. Chairman Manos was concerned about parking space if that language is removed; he would suggest leaving in the one space per bedroom and also to include a provision somewhere that provides that an inspection by the Development Services department to ultimately determine how many bedrooms there actually are. Mr. Edwards asked if this was post-construction; Chairman Manos clarified what his point was, in that the State defines bedrooms as those listed on the plan, but that this can easily be changed. Chairman Manos asked if they would not be able to be a little innovative and expand the definition by adding that Development Services be able to determine the number of bedrooms in a house. Mr. Edwards did not feel that Development Services would be able to determine this with the State's definition. Chairman Manos expressed concern over this statement. Mr. Germaine said there is already a case in Kings Lynn, where the house was built as 6 or 8 bedrooms and is now advertised as a 12-bedroom house. Mr. Edwards said this has historically be done in connection with the septic permit. Mr. Carpenter said that they are still stuck with the bedrooms once they are built, and he suggested using a total room ratio in the total house and get off the bedroom name. Ms. Bowes suggested exploring the total square feet in this context. Mr. Vares agreed; he spoke with staff at Horry County, and it turned out to not be so helpful. He was told that required parking was involved again with the square footage. He is still waiting on this information from them, and would like to look into that for resolution. Chairman Manos said there is a 5,000 square-foot limitation, and Mr. Vares said that this limitation would tie into the parking ordinance. Mr. Vares said he needs to explore how much square footage is required per car. There was further discussion among Board members and the audience regarding inspections, bedrooms and square footage. Mr. Edwards explained that the inspections department did not have the authority to determine what was going to be used as a bedroom and they have to go by the plans. This was also regulated by zoning and parking place requirements. Chairman Manos asked if Mr. Vares would get this information to the Board before next meeting. **Vice-chairman Pacula made a motion to further explore this topic at the next Board meeting. Mr. Germaine seconded, and the motion passed unanimously.**

3. Pools: Chairman Manos asked about the status of the pool across from the Long Beach Pier area. Mr. Edwards said this was looked at a couple years ago and that once it was bought into compliance with the zoning ordinance, with maintenance and mosquito control there is nothing else that can be done. Ms. Cashwell asked if an ordinance change could not be recommended to the council, and Mr. Edwards suggested adding some type of maintenance filtration system requirement. Ms. Cashwell said that with the number of pools on this island, this needs to be looked into. Chairman Manos suggested putting it down for the UDO. Ms. Cashwell said this was ridiculous, as summer is coming and that pool is sitting there rotting. Chairman Manos also asked them to consider whether this wouldn't be grandfathered in with any changes, and Mr. Vares said that the owner would not have to remove the pool but he would be required to adhere to the upkeep instructions of the text amendment. Chairman Manos directed Mr. Vares to bring a text amendment to the next meeting requiring some type of filtration maintenance in order to avoid potential problems. Mr. Jenkins suggested checking into whether all pools would be included, such as above ground or salt water pools; Vice-chairman Pacula also wondered if it would include ponds. Mr. Edwards said 18.32 and 18.82 contained definitions and regulations regarding pools, and koi ponds are not included. Mr. Jenkins said that his only concern was regarding inflatable or plastic pools that would not have an infiltration system; Mr. Edwards said they usually do have some type of circulation system that may involve a sand filter. Chairman Manos suggested requiring a circulation system instead of filtration system. Mr. Jenkins just wanted to make sure they were limiting the effects on other pools with this problem. Vice-chairman Pacula said she could not find definitions in 18.32; Mr. Vares said there are about four sections of definitions in the zoning ordinance and that this is one of the problems that Dale Holland is addressing with the draft UDO. Chairman Manos directed staff to come back with a text amendment and Mr. Vares said that he would have it for the next meeting.

4. Lucas Cove: Chairman Manos said that Mr. Purser was present to join the discussion. Ms. Cashwell said that a gated community did not leave this Planning Board as an item, and that the specific lot plan in the latest Council packet included a totally different layout of the lots and the property. She said this Planning Board had not had a chance to see this new layout. Mr. Vares said the layout had changed and was shifted to conform to the zoning ordinance. Mr. Purser said that it was the same area and same square footage and just a few lot lines had changed. He thought that if Lot #14 gained square footage, that it would be more accepted. Ms. Cashwell also questioned access by the public to open space; if this were a gated community, it would put a stop to public access and he cannot have it both ways. Mr. Vares said that the sidewalk would continue to provide public access in spite of a gate. Chairman Manos questioned whether the access was off the circular drive. Mr. Vares said that the zoning ordinance does not specify that the access has to provide vehicular access; Ms. Cashwell said that this is what the Council voted on and that public access was key. Vice-chairman Pacula explained to Ms. Cashwell that the access does not have to be vehicular. Ms. Cashwell said that the sidewalk was discussed and asked that, if in the future the HOA decided to make it gated, then how would the public have access? Mr. Vares explained that the sidewalk goes from the road to the timber bridges and provides access to the Waterway. Mr. Carpenter said the gate was to prevent auto traffic and that the Board had done an amendment that there would be no gate, and Mr. Purser said there would be no need to have a gate. His greater issue on this project is that even after he voted for it, the Planning Board had made a decision on zoning and then, when it was passed and then presented to Council, it was not what had been presented to them and what they had voted on. He said this was not directed at Mr. Purser personally, but Mr. Carpenter questioned conceptually why, after they had made decisions, why are changes being made that don't come back to the Board. He said that if changes were made, it should be brought back to the Board. Mr. Vares explained that, after the Council denial in January, he looked at the major subdivision section of the ordinance and determined that it didn't need to go back to the Board before going back to Council at the following meeting. He determined that it did not need to go back to the Planning Board after already being sent to Council, and that he could prepare a text amendment to change that if the Planning Board

directed him to do so. Mr. Carpenter and Ms. Cashwell both felt very strongly that a text amendment needs to be done to ensure items with changes return to the Board. Mr. Carpenter added that this was not biased against this project but conceptually that if changes are going to be made after the Planning Board decisions, then they should at least be able to see them. Chairman Manos said he agreed wholeheartedly. Mr. Jenkins expressed concern about this slowing down the process; Mr. Carpenter did not feel this would happen and felt they would get better plans for people to follow through on. Regarding the public access issue, Ms. Bowes said that, if she walked by a gated community and there was a sidewalk, she would not feel like it was open to the public and that it was private property. There is an assumption that a gated community is closed to the public and she wondered if there was any way to indicate that this was open to the public. Mr. Carpenter said the only reason they had passed this because it was not going to be a gated community. Mr. Germaine said that the only reason he voted for it was that there would be no gate. Mr. Carpenter agreed and said the exact words were that if they don't need to have a gate, then they don't need to have a gate. Mr. Purser said that when they reviewed their video of the meeting, it was a recommendation and that legally it did not say he could not have a gate. Several Board members objected to this statement. Mr. Carpenter asked Mr. Purser if this was really where he wanted to go, to parse the words of the Board when they had come to an oral agreement and, because it was an oral agreement, to now say that they have no standing. Mr. Purser said this has happened to him constantly in this town, that he bought a 15-acre parcel that was zoned R6A and it didn't work and that what is good for the goose is good for the gander. Now, that is not the method he is taking it; this was given as a recommendation of no gate, but it is private property and the term Public has not yet been defined. Ms. Cashwell said that Council had a lengthy discussion regarding public access, and that after a discussion with his attorney Mr. Purser agreed that they would leave it open until the HOA was put together; he cannot do this and have it both ways. Mr. Purser said that he does not plan on putting up a gate himself, and that it would be up to the HOA to do so. Ms. Cashwell said he could not do that to the Council after they said that the only way they would approve this project was with open access. Mr. Purser said that Mr. Vares had described that that right was not there. Mr. Carpenter then said that Mr. Vares didn't vote on the Board and that maybe he didn't explain it as clearly as it should have been. Mr. Carpenter then asked Mr. Edwards that if a gate was put up and was not approved by the Board, what steps the Board could take at that point. Mr. Edwards said this was not in the zoning ordinance, and then added that he did not think that this was the best forum to have this conversation with Mr. Purser and he is not sure where they are trying to go with this. Chairman Manos said that Mr. Purser comes to these meetings and he needs to be aware that he has somewhat alienated most of the people on the Board to this extent because of the fact that it was changed and the way it was. Chairman Manos said he had no problem with how this was done because legally he could do so, but he also feels there needs to be a text amendment for the process. He also said he feels that the Planning Board should be consulted if there are any changes made when before the Council. He expected that the Town Council would have tweaked at the meeting itself the issue of the gate, but they did not. He would like to direct staff to prepare a text amendment that they do have that authority to review this step. This has created a lot of consternation with the Board members not seeing the changes. The changes look reasonable to him but he understands what Ms. Bowes is saying. He confirmed that, even with a gate, the public would have an open access to walk through and then the public could gain access to the area that is open space. Ms. Bowes said that people would not go in if it was gated as they will think it is closed. Chairman Manos agreed, but that is their position with the current ordinances. Vice-chairman Pacula said that in regards to the text amendment, could Council not have sent it back for review without requiring a text amendment like they did with outdoor sales and displays? Mr. Vares said this could have happened. Chairman Manos thought it had been "blown" by Council when the motion was not made to send it back to the Planning Board. Mr. Vares said it could have been sent back, but that it would not have been his recommendation as it met development codes. Vice-chairman Pacula clarified that she was talking about the first time, and Mr. Vares said he would not have had an issue with it coming back to the Planning Board at that time; however, it would have added another two months and a lot more costs to the process. Ms. Cashwell said that the first time around was in January when they voted

on open zoning, and the map plan in their book showed how that parcel would be laid out, and she questioned how many people would not have looked at the second map with the change on that lot and think the Planning Board would have approved it. Mr. Vares said he had highlighted all the changes that were made and included a whole paragraph about the gate, and Council should look at their packets to see what is in there. Mr. Purser said he thought Mr. Winecoff had not even looked at his packet, as he didn't realize the utilities page was in the package; Chairman Manos corrected Mr. Purser and said Mr. Winecoff was looking for a stamp on that utilities page. Mr. Purser said Mr. Winecoff was looking for the Corps page. Ms. Cashwell said that the Council depends on the Planning Board to clear the way in regards to compliance with ordinances and they were not given that opportunity and the situation should be changed. Mr. Vares said he would bring this before the Council. He said he would bring a text amendment to require that any changes to the preliminary plat be brought back to the Planning Board. Mr. Carpenter then asked Mr. Purser for an agreement that, with all the discussion involved, it was clearly stated that if it was a deal breaker, then there wouldn't be a gate and he got a 4 to 3 vote for his project. Now he is stating that a gate will be left up to the HOA; Mr. Purser said he would have to consult with his attorney. Mr. Carpenter suggested that Mr. Purser speak to his attorney and then come back with an answer next month. Mr. Purser then said he was not a good public speaker, and that if he comes off disrespectful then he apologized. Mr. Carpenter said that Mr. Purser was an excellent marketer for his products. Mr. Purser said the definition of "public" needs to be defined. He understands that if he walks on someone else's property, it is trespassing. It is private property, and this doesn't guarantee public access to the waterway on private property. He thought that it was defined in September that the public didn't get access to the waterway if it is on private property. Ms. Cashwell said they are here, that it is their job to protect and provide access to the inland waterways everywhere on this island. Mr. Purser said it was to protect only and not to provide access. Chairman Manos said that providing access was true and that is how the CAMA land use plan stated it. When they were discussing the entirety of the project, their concern has to be that the public is entitled to access to the open space. It is a private road that Mr. Purser must maintain, but this same private road ensures public access to the open space. Mr. Purser said he is not sure if the open space is designed for the public or for the people in the neighborhood. Chairman Manos said that open space is open space, and that in this particular case it is for everybody. Ms. Cashwell asked him if Council voted to keep open space; he agreed, but said it is still private property. Mr. Purser said that there is zoning for open space, but that it is still private property. Vice-chairman Pacula said that the Planning Board has issues with how the ordinance is done, but it is not Mr. Purser's fault, and that their concern is that he told seven people here that there would not be a gate; they took a vote. She said Mr. Purser can set up his HOA so that there is not a gate. She said the Board didn't have anything to do with the zoning problem that he had with the Town, and that the gate is the concern. Mr. Carpenter said again that the vote was based on Mr. Purser saying that there wouldn't be a gate; now he is saying that he will need work with Council in regards to putting that in the HOA. He said that Mr. Purser would have to be there again like he is sure he has been there before, and that Mr. Carpenter knows that when he makes decisions it is based off somebody's good word. This is a pretty minor issue, and he would hate that there would be larger issues that they have to be here again. Mr. Vares said he had listened to the audio from the meeting when the project was discussed, noted sentence by sentence what happened when the gate discussion came up, and relayed his findings to the Board as follows: Vice-chairman Pacula asked if there was a gate, and Ms. Nelson, the engineer for Mr. Purser, noted it was on #6 on the plan. Ms. Cashwell took exception to Mr. Purser's reasoning for wanting a gate. There were then discussion about emergency access with the gate and how it could be resolved. Mr. Carpenter said the gate was for marketing. Vice-chairman Pacula then made the recommendation that there would be no gate, but neither Mr. Purser nor his engineer ever made any comments. Mr. Vares said he has the time-stamped audio and that he would be happy to send it to the Board members. When the recommendations came through, nothing was said by them. Both Mr. Purser and his representation remained silent until the vote was concluded. Mr. Carpenter said he would need to go back and listen to the audio. Mr. Germaine said that the statement was made, and that was the reason he went along with this vote, whether it's on the

audio or not. Vice-chairman Pacula said there is nothing that they can do about it now. Chairman Manos said that this discussion was a chance to vent, and that it was up to Mr. Purser as he was not legally required to do anything but that it was up to him. He said he appreciated Mr. Purser coming forward to discuss the matter. Mr. Purser apologized for all the problems with the project and said that he has literally been run over on the site now. Chairman Manos said he understands that he has had problems with the site and that there are people in the area that are upset about it. Mr. Purser said that the problem is that there is a group of full-blown bullies. Ms. Cashwell asked what he had said, and Mr. Purser repeated his previous statement and said the problem is bullying and harassment. There was further discussion. Ms. Bowes said that clarification in the UDO is needed for open space. Mr. Vares will prepare a text amendment with the definition of public.

New Business

1. Mainland Signage Text Amendment regarding the proposed 211 Lowes Shopping Center: Rick Bowes, the developer, is present. The proposed text amendment contains changes to 18.255 thru 259, and 256.7 and 8 are not included as no changes are proposed for those. The changes to 255 are as noted in (c) wall signs and that this changed the current ordinance. In paragraph 2, it also has free standing signs, which again change the current ordinance. Chairman Manos asked about the definition of a projection sign; he is trying to envision where one is on the island. Mr. Vares and Mr. Edwards did not have the definition. Mr. Bowes said that it can be a blade sign, hanging under a canopy, coming out perpendicular from a wall. Chairman Manos doesn't like the idea of it if that is what it means; it looks strange and doesn't seem to be applicable to how they want the island to look in the future. He believed the CPAC has already indicated going to signage and development that is more staid, more conforming and has a more pleasant look. Mr. Bowes said that in today's world, there are often blade signs that stick out, and he considers that a projection sign but he is not sure what their ordinance specifies. Chairman Manos said he was inclined to suggest deleting projection signs from the ordinance and did not think it would affect anyone with those type of signs currently. Vice-chairman Pacula and Mr. Jenkins both said that, with a sloped roof, if a sign is put there, it would face outward; Chairman Manos said he didn't think they would want signs on roofs as that it would look like junk and they are trying to improve the look of development on both the island and the mainland. Ms. Bowes suggested waiting until the Board has clarification of the definition of this signage and Mr. Vares agreed. Chairman Manos wanted to take it out now, as they could come back and add it. Mr. Bowes said this would have no impact on his development and again explained what his definition was. Vice-chairman Pacula said they may need projection signs in the future. Chairman Manos suggested changing the length to three feet. Sec. 18.259 has special provisions for commercial signage; answering questions from Ms. Cashwell, Mr. Bowes explained that an accessory sign was needed, as it could be where Lowes offers a pick-up area and the signage is used to direct customers where to go. Chairman Manos asked, in 4, about the difference between a shopping center and a business condominium in the current ordinance and about the definition of business condo; Mr. Vares said he could not find the definition of business condo. There was some discussion regarding where this type of business was on the island. Chairman Manos had questions about Sec. 18.259, the paragraph in section 4 and that signs should not exceed 64 square feet plus 12 square feet. He questioned how the 64 square feet would be used. Vice-chairman Pacula read it that the surface area, total, of all signs could not exceed 64, and that 12 square feet would be included in that. Mr. Bowes has not interpreted the code; he had submitted the sign package to Mr. Vares and helped the staff to go through the resulting text amendments. Mr. Vares said that perhaps they should reword the word "plus" to a synonym that makes it clearer. Mr. Vares agreed that this paragraph needs to be re-written as it is not very clear, and could consult with Mr. Holland regarding the language. Chairman Manos if with the free-standing sign, would they be limiting it to a total of 64 square feet? Vice-chairman Pacula said this was in (5)c in an individual parcel; Chairman Manos said they are not only relating this to Lowes, but also to any build on the Island such as Publix, and that this may all change within the next six months with the CPAC and the UDO. Ms. Bowes suggested asking Mr. Vares to reword it and come back in order to move on. She thinks they

need to spend time on this, with Publix coming up, and that they should also be talking about Lowes. There was discussion about separating the two issues (island and mainland). Chairman Manos suggested that the changes in 18.255 need to be included as stated. They can leave off/not discuss any changes in 18.259 1-4, but they need to include, in a motion, 18.259 the new 5 that is listed. Chairman Manos suggested paragraph 5, the initial paragraph, be included as is. Under 5a, Chairman Manos thinks the language should say one free-standing sign along frontage that has the name of the development/center and one or more tenants etc. and to take out the "Main largest parcel in the center of the development" and "not exceed 125 square feet of space and not exceed 25 feet in height." He said 5b should be deleted entirely, as the Board does not know if another shopping center on the mainland may have more than 3-4 tenants. Section c should be included in entirety, and would become b.; Section (5) would then have "a" and "b." Vice-chairman Pacula asked about the width of the sign, and Mr. Bowes said they had not discussed the width and had concentrated on incorporating unifying materials. Mr. Bowes had mentioned a common material with stone on the base and brick as a cap, and had included the material in the packet for the Board to look at. They had asked for an extra one foot of height and that is why they are asking for the extra height; he is amenable to language that would address the width. Chairman Manos had suggestions as to what that language should be; the sign would be 64 square feet per face and 6 feet off the ground, and that he does not want the stand to extend beyond the total signage. Vice-chairman Pacula said they have shown a picture and that is how they are going to build it. Mr. Bowes suggested some wording options. Mr. Bowes said they are adding a base of stone and brick to match the building and that they did this after some discussion with the board. Chairman Manos then explained his feelings about this discussion and the desire to keep these low signs. He looks as this discussion as a way that Development Services can see what they meant. Mr. Vares said that text could be added to address the width. Mr. Bowes said that using a formula could cover different scenarios, and that 6 feet high by 12 feet wide is proportional. Vice-chairman Pacula noted that they are looking at Mr. Bowes as an expert; as an example he said fuel price signage must be wider as they are required to be published. He would be comfortable with an ordinance of the width being no greater than 6 feet and no greater than twice the height; the sign cannot be any longer than twice the height. Mr. Bowes said he knows that when Midway is graded, they will raise the grade about 5 feet and the sign will need to be high enough to be seen. Mr. Edwards pointed out that part "b" that they want to remove is for tenants and that he understands Chairman Manos' argument, but taking "b" out would allow for more area on the signage. He said again combining this allows 250 square feet of which the anchor store gets 125 square feet. Removing "b" would remove the tenant part. Mr. Bowes said that the current code states that tenants cannot have a sign of over 12 square feet. The 250 square feet includes both sides, 125 total on each side, and includes the name of the center and the tenants. Mr. Edwards clarified that they will have control over how they advertise in this square footage. Mr. Bowes said that this is also not uncommon to give junior tenants more signage to entice them, and that he has lost tenants due to lack of signage and that is why they wanted a declining order. Chairman Manos said his concern was that this would be applied across the board and could cause problems in the future. Following more discussion and a clarification of 6 feet total height and width no greater than twice the height, Vice-chairman Pacula asked about the potential for a 3-sided sign at 125 per side, and Mr. Bowes said no, the cap was 250 square feet but that this was taken out in "b." Chairman Manos suggested putting the max back into a so that the cap was included.

Section (6): Chairman Manos said all the language looked good, but that "b" was problematic; does the Board want to limit how close to the top of the building are the signs allowed? He suggested 10 inches below the top of the parapet walls or rooflines to provide some definition. Chairman Manos added that he does not want the kind of signage here that he saw when he lived in Las Vegas. Mr. Bowes said this language was taken straight out of the Town's codes, and they would not have a problem with some sort of guidelines. The Board agreed with this addition of the limitation of 10 inches below the top of the parapet walls or rooflines for a mansard roof. Mr. Bowes asked if he would have to do the drafting, and Mr. Vares told him he would do it and send it to him. Vice-chairman Pacula moved on to "c" and "d" and

asked if it was similar to "(5)b." Mr. Bowes explained that this section was taken from the Town's current code again and provided a formula to work with different size tenants. There was no further discussion.

Chairman Manos called for a motion as the proposal is restated: Division 9 signs leaving 18.255 as it stands, changing 18.255, 18.259-changing 18.259 as it is presented to the Board, with the changes included in 1, 2, 3 and 4 and with the understanding that in 4, there is a deletion in the first paragraph that is not being deleted; the 64 square feet on the first line of the first paragraph above 5 in 259 relating to the center of development is staying in. Paragraph 5 is as stated in the first paragraph; a. they are deleting "for the main largest parcel in the development".... All total, freestanding signage cannot exceed sign surface area of 250 square feet per sign and cannot exceed 25 feet in total height. Also, add in maximum of total of 250 square feet per sign. In "B," it will now be one free-standing sign for each individual parcel with one or more tenants in the center or development, and signs shall not exceed 64 square feet per face and may not exceed 6 feet in total height and width being no greater than twice the height. Subsection (6) is as stated, a. as stated, b. should read "wall signs cannot extend above 10 inches below the top of parapet walls or rooflines, and if a mansard type roof, the sign may be attached to the roof and set forth as above." "C" and "D" are as stated specifically. Subsection 7 becomes what used to 5, 8 becomes what used to be 6, 9 becomes what used to be 7 and the table is appropriate as it is presented. Ms. Bowes asked about adding a definition; Chairman Manos said it wasn't necessary for the purposes of this motion.

Mr. Carpenter made a motion to accept the proposal as it was restated. Ms. Cashwell seconded, and the motion passed unanimously.

Chairman Manos said definitions could be added later, and Mr. Vares will speak with Mr. Holland about that. Chairman Manos thanked Mr. Bowes.

Parking Space to Bedroom Ratio can be deleted as it has been discussed already; Mr. Germaine said he thought there was a problem with the way it is right now. Chairman Manos said that Mr. Vares will provide something next meeting and that his problem is that they cannot have more than one parking space per bedroom, but Mr. Germaine said that they can define parking space, as vehicles are bigger now. Current parking spaces are 9 x 18. Mr. Vares said the size can also vary dependent on the angle, as the spaces are 8.6 x 18 for a 45-degree angle parking space but the rest are all 9 x 18. Mr. Germaine said they need to be larger; people are parking in bike lanes and rights-of-way. Mr. Carpenter said that averages are used in defining parking spaces, and that they cannot go by the largest vehicles. There was some discussion about this; Ms. Cashwell said that using this average parking space with a house's square footage can assist in defining it. Chairman Manos also said this could be a huge problem for existing parking lots, and would require a change in the ordinance. Ms. Cashwell asked how parking spaces are allowed by Development Services, and Mr. Edwards said they use the standard table and use 9 x 18 parking spaces and that the rental houses are in fact a business. Chairman Manos said that Mr. Vares' input from other towns will be valuable, but he does not see changing the sizes of parking spaces at this time.

Board Member Reports: Vice-chairman Pacula reported that the CPAC is moving along. Mr. Vares noted that Mr. Holland was very happy about their progress. The completion date has not been decided; Chairman Manos said he hoped that would be in June. The CPAC also asks for the Board to take the Committee's hard work and time into consideration. CPAC Chairman Kelly Germaine said that the entire packet with all revisions would be given to the Committee in March, and said they may require doubling up on some meetings to digest the entire project.

Staff Reports: Mr. Vares reported there would be a variance hearing March 1st with the Board of Adjustment, which involves ocean front property asking for relief from a setback. Ms. Cashwell asked

about the Coastal Resources Commission meeting; Mr. Vares said the meeting would be March 3rd at noon in Council Chambers.

Ms. Cashwell would like to bring back to the Planning Board the relationship between the tree ordinance and flooding on the island. She said recent flooding was tied directly to the removal of trees. Vice-chairman Pacula said they are done with the impervious surface ordinance as it is has been sent to Council now, but Ms. Cashwell said it had been delayed. Chairman Manos said the Council tabled it until the next meeting in order to hear from other members. Mr. Vares said the Town manager had drafted an email to the Board to help explain this, and Mr. Vares is preparing a map that will tell him how many houses are above or below the impervious surface percentages and identify how many are non-conforming. Ms. Cashwell asked about the water table of the island, and Mr. Vares said he didn't have that figure and that it was not possible to get one. Chairman Manos asked what difference it would make to include the 10% addition in the 35%; Mr. Vares said it could provide some flexibility to the developer. Mr. Edwards suggested maxing out at 45%; Chairman Manos agreed and said that there would be a lot fewer non-conforming houses and would make a difference for everyone. Mr. Carpenter added that a variable measure is always better than a fixed measure. Ms. Bowes brought back up the tree issue, with all the clear cutting. Mr. Vares said something is being done with his recent grant from the NC Forestry Service, and that there would be a professional arborist to coordinate a tree protection ordinance that would be incorporated into the UDO. Vice-chairman Pacula commented on the trees; capturing the stormwater actually requires some of the trees to be removed in order to put in the required devices. Mr. Edwards said the tree ordinance is being enforced; the development programs states they have to lay out existing trees and identify 5" and height and must adhere to the ordinance. Ms. Cashwell argued that, in reality, they yank all the trees out and fill for the foundation and the 5 trees remaining are in the right-of-way. Mr. Edwards explained that our postage stamp sized lots do not allow for more after parking and driveways are considered. Ms. Cashwell disagreed with that; Mr. Edwards noted that her yard is beautiful. Mr. Cashwell said that her yard is an after-the-fact, and that her yard on 38th was covered with trees and that this matter should not be taken lightly. She has watched the pooling and the stormwater issues happening more and more. Mr. Edwards said they are enforcing the ordinance as it is written, and Mr. Vares is working on this grant and is hopeful it will be a model ordinance for North Carolina and promote positive change as they move forward. Vice-chairman Pacula is correct in those requirements for stormwater. Mr. Edwards said he loves trees; they are trying to set regulations in place to balance building on property and preserving trees on the island. There was further discussion among Board members regarding this situation. Chairman Manos asked about how long the developers have to plant the trees, and Mr. Edwards said at the final, when they write the Certificate of Occupancy. When Ms. Bowes asked about what happens when the trees die, and Mr. Edwards said retention requirements would be considered for the new ordinance. Ms. Cashwell commented that they plant little sticks for the trees. There was additional discussion regarding this situation.

Chairman Manos made a motion to adjourn. Mr. Carpenter seconded, and the meeting was adjourned at 12:48 p.m.

_____
Chairman Ted Manos

Attested: _____
Lisa P. Stites, CMC, Town Clerk

TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO

Agenda Item: Old Business Item No. 1

Date: February 23, 2016

Issue: Bedrooms Text Amendment

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 30 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 soon to be implemented session law 2015-246 and house bill 44 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." That new language will be inserted into General Statute 160A-390 (b). House Bill 44 was ratified on September 23, 2015.

The state defines built-upon-area as "*impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil.*" Staff recommends the Planning Board recommend the adoption of this definition since GS160A-390 (b) mandates the usage of the state definitions. The current definition of built-upon-area in the Oak Island zoning ordinance is "That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts." The attachment below shows the proposed language change.

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

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

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%

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 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.

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.

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 issue. Furthermore, the existing impervious surface ordinance already achieves the same thing the Horry County floor to lot area ratio ordinance is designed to control. Unfortunately the FAR approach was an explored option that did not yield any substantive solutions.

Another promising 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.

Oak Island could require 1 parking space for every 200 sq. ft. This strategy should incorporate a way to not make an applicant require parking for kitchens, bathrooms and other non-bedroom related space. It would also need to be specified that the storage area underneath houses on stilts would not count toward the square footage calculation. Only the habitable (heated) sq. space should count towards the total square footage calculation. Heated square feet is the area of the house that has some kind of heating in it. For example, if you have a finished basement, attic, or converted garage that isn't hooked up to a furnace vent or have its own heating in it that is not included in the heated square feet of your house. For the purpose of this text amendment the term "habitable room" can be used. According to Sec.18-141- Definitions in the towns Ordinance *"Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces."*

Based on the data compiled from January 2002 to January 2016 that covers 1,920 houses; a total heated square feet of 3,716,981 equaling an average 1,935 sq. feet. From the past three years the mode and median numbers of bedrooms in Oak Island is 3. The proposed method to regulate parking and assure that adequate parking is actually being provided, regardless of how many bedrooms are actually shown on the site plan is to multiply the heated/habitable square feet by 0.002 to determine the required number of spaces. For structures with a heated sq. ft. with decimal places only the whole number will be considered; the number of spaces will not be rounded up or down. This allows us to keep the one bedroom to one parking space ratio. The larger the heated/habitable square foot the more parking spaces required.

If a twelve 12 bedrooms house were proposed the town would want 12 spaces to be provided (and 7 spaces for 7 bedrooms and so-forth and so-forth) to be consistent with our current one bedroom to one parking space regulation. The table below illustrates how it would work.

Heated/habitable square		**Required Number of Spaces**
5000	.002	10 spaces (0.002 x 5000 = 10 spaces)
4500	.002	9 spaces
4000	.002	8 spaces
3500	.002	7 spaces
3000	.002	6 spaces
2500	.002	5 spaces
2000	.002	4 spaces
1500	.002	3 spaces
1000	.002	2 spaces

For example is a residential structure that is 2,543 sq. ft. was proposed then due to the formula (2,543sq.ft.x0.002=5.086) five spaces would be required. The town wants to avoid situations where Oak Island is being overly restrictive for a legitimate single-family home. This approach 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.

Attachments: Proposed text amendments

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.

Sec. 18-683. - Terms defined

When used in this article, the following words and terms shall have the meaning set forth in this section, unless other provisions of this article specifically indicate otherwise.

Built upon area (BUA). Impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. ~~That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts.~~ "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

Department. The state department of environment and natural resources.

Sec. 18-148. - Minimum parking requirements.

Land Use	Required Parking
Shopping center	One parking space for each 200 square feet of gross floor area, excluding storage/inventory area; bathroom/hall area, not to exceed 30 percent of gross floor space.
~~Single Family Dwelling~~ Residential dwelling	The heated/habitable square feet multiplied by 0.002 (the result of the calculation will not take into consideration the decimal figures, only the resulting whole number will be used)
Theater	One parking space for each four seats in the auditorium.

TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO

Agenda Item: Old Business 2

Date: March 9, 2016

Issue: Impervious Surface Text amendment

Department: Development Services

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 25 Minutes

Subject Summary:

Planning Board, via a simple majority vote, is recommending a text amendment to have 35% allowable impervious surface area in a BUA (built up area) for principal structures and accessory structures combined, plus an additional 10% allowable impervious surface for driveways & parking. This text amendment, if adopted would only apply to residential development, not commercial or other types. Currently, a built upon area (BUA) is defined as *"That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material." Sec. 18-683.* At the moment, there are no regulations in regards to allowable impervious surface area. At the moment an application submitted by a developer cannot be denied due to excessive impervious surface. An engineered stormwater design survey is required for impervious surface areas exceeding 30%. Currently for proposed developments that have less than 30% impervious surface a typical drawing would be allowed showing the impervious surface areas, once the 30% limit is reached a required professional stormwater design plan is mandated showing the impervious surface percentage. This text amendment would belong in the stormwater section of the Zoning Ordinance and if adopted, would establish the maximum percentage. Criteria one through four in Sec.18-669 attachment remains because that is a common state standard that is used.

Other municipalities have similar ordinances such as this. Holden Beach has a 30% lot coverage of a main structure for several of its residential zoning districts. Kitty Hawk, also controls footprint through zoning regulations, the zoning district with density comparable to Oak Island has a 30% maximum allowable lot coverage. Atlantic Beach has a 40% impervious surface coverage for their residential areas. Ocean Isle Beach's ordinances states that impervious surfaces shall not exceed 50 percent of the total deeded lot area. Mint Hill has a 30% maximum impervious coverage for institutional uses.

The complexity of the engineered stormwater design survey depends on the project, a site-visit would be needed. E&G permits are required before a development permit is issued. Just in the

last few week the town has reviewed 29 of these permits that this text amendment would apply to if it was in existence already. Oak Island is classified as a phase II NPDS stormwater community, meaning the town reviews permits that would normally go to the state. Therefore developers disturbing more than an acre have to go to the state for stormwater permits. A 3rd party engineer does those reviews. Due to state and local land use regulations; every major subdivision including Planned Unit Developments will require a stormwater plan. Currently, runoff goes into the estuaries and, ditches. Capturing stormwater on site will help in cutting down on stormwater getting into the drainage system. Because we are not supposed to increase any additional flow into our existing ditches. Right now, Oak Island is grandfathered in with its stormwater because we have discharge into the waterways on the island. The engineers have design standards that have to be met, which follows the best manual practice, that would be included in their design criteria that covers things such as water table, soils, run-off, absorption rates and lot area.

The attached text amendment also requires the applicant to identify impervious surface areas to be shown in site-plans when applying for stormwater approval (Sec.18-663). An impervious surface area is calculated by totaling the square footage of the building envelope. Overhangs are not considered part of the impervious surface area. For accessory ancillary structures the footprint would be incorporated in the calculation, the water surface for a swimming pool would not be considered within the calculation but the pavement surrounding the pool would be. Structures that are on stilts are not excluded from the allowable impervious surface area requirement, the square footage of the building is used to determine the percentage of impervious surface.

Walkways and paths would count toward the allowable impervious surface calculation and is location specific. If the impervious walkway is in the back yard then it counts toward the 35% principal structure calculation and if the walkway is in the front yard adjacent to the driveway then it will count toward the allowable 10% surface area for driveways. A patio would count toward the 35% allowable impervious surface total from principal/accessory structures.

Gravel is considered an impervious surface. Even a dirt driveways by state stormwater standards is considered impervious surface if it is used to be driven upon. There are a few exemptions of certain material that would be considered pervious surface by the state. Tire runners, for example, filled with grass in the center would apply and it helps reduce the impervious surface total percentage. Driveways in the right of way (ROW) are not included in the 10% impervious surface calculation. Only what is on the physical site is calculated. A separate permit with separate standards apply to those ROW situations. Some towns require only pervious surface for driveways in the town ROW. A recommendation regarding that is not included in this text amendment.

As it is written, one <u>cannot</u> reduce a portion of their allowable driveway/parking impervious surface percentage in order to substitute that percent reduction savings into the allowable principal structure impervious surface percentage, and vice-versa. The impervious surface text amendment would apply to <u>all</u> residential development.

Due to the Planning Board recommendation, the wording is designed for the impervious surface benchmarks to be widely enforceable, not just specific to the criteria 1-4 in Sec. 18-669. Parcels in existence within the Town of Oak Island that have more than 30% for principal and accessory structures and more than 10% percent impervious surface for driveways would become non-conforming once/if this ordinance is adopted. There is a provision in the zoning ordinance that addresses non-conforming uses that sets a limit to the amount of construction being done that would trigger abatement or allow the use/new construction to continue. The specific 35% or 10% percentage applies depending on if it a driveway versus the principal and accessory structures that would be rebuilt. If an existing structure is built which is already over the allowable impervious surface area and the structure is completely removed, then any new proposed existing structure could be rebuilt under the parameters provided in Sec. 18-193. Section 18-193 of the zoning ordinance is provided in the attachment below. It details how nonconforming structures are handled. Essentially it states that "*Nothing in this article shall be taken to prevent the restoration of a building and related improvements destroyed to the extent of not more than 75 percent of its assessed value or 50 percent of the actual replacement value, whichever is smaller, by fire, explosion or other casualty, act of God, or the public enemy, nor the continued occupancy or use of such building or part thereof which is existing at the time of such partial destruction.*" A variance could hypothetically be applied for to provide relief from the impervious surface cap; but the variance would have to meet the four required general statute criteria in § 160A-388.

With this text amendment as is, regardless of the amount of disturbance that is generated by a residential development for a principal structure; a stormwater drawing/plan is required because the text refers to any and all impervious surface created. Based on state guidelines, 1.5% inches contained rainfall is a best management practice. This proposed ordinance is designed to set a cap on the allowable impervious surface to prevent run-off, not to set a standard to determine which allowable impervious surface percentage is best to meet the 1.5% state guideline. Stormwater designs that are submitted that have to meet state approval still have to capture the 1.5% rainfall; regardless of the amount of impervious surface the site contains.

Every built lot has a stormwater plan even if it is under the 45% impervious surface benchmark. The difference is that some of the stormwater designs are simple drawing for impervious surface areas under 30% and others are more detailed drawings and designs for impervious surface areas over 30%. The reason for requiring all impervious surface areas to have professional stormwater design plans is to take it away from staff discretion and to place it in the hands of engineers. Residential developments and lots that have active state stormwater permits are exempt because they were acquired before adoption of this impervious surface text amendment. Current lots that are subject to a stormwater plan and exceeds what is permitted by the state, will not be approved. The impervious surface benchmark that is recommended in this text amendment is fairly standard and comparable to what other communities implement.

Innovative design work options exist that can be utilized in order to reduce the impervious surface amount. Due to a new state interpretation if one does a layer of geotextile fabric, 4 inches of 57 stone; that is considered to be pervious. The town has not seen anybody do that as of yet. A map showing the building footprints on the island only and in residential areas only has been

created that shows all the impervious surface structures over and under 35%. There is a margin of error to keep in mind because the building footprint data is not regularly update nor does it account for accessory structures. At the previous February town council meeting the board expressed interest in wanting to know what the Planning Board discussed about this matter at their last meeting. Those minutes for the impervious surface agenda item are now ratified and attached for your review. Some have commented that this text amendment would be an undue hardship, create excessive land use regulations, and would pass an unfair burden onto developers. This is an issue for the board to determine what balance would be prudent for the Town to adopt.

It should also be noted that impervious surface areas do not have to be shown in vegetation plans if it is for an agricultural activity where no additional impervious surface area is created (Sec. 32-74). Adopting this text amendment will help issues with stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment. The environmental advisory board has been made aware of this proposal. This text amendment sets an impervious surface cap, where currently none exist. Proper management of construction-related and post-development stormwater runoff will be accomplished by setting this impervious surface percentage. This will also minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources. Indirect effects of this text amendment include home size and tree protection.

Attachments: Proposed text amendment, Planning Board minute excerpt, consistency statement

Recommendation/Action Needed: Motion of Approval

Suggested Motion: Recommend approval of text amendment

Funds Needed: $0.00

Follow-Up Action Needed: Updated Town Ordinance

Attachment
Proposed text amendment

Sec. 18-669. - Standards for ~~limited~~ residential development.

Residential development activities that meet just one of the criteria.

(1) Disturb less than one acre of land;
(2) Area located within one-half mile of and draining to shellfishing waters;
(3) Have a built upon area greater than 12 percent; and
(4) Will add more than 10,000 square feet of built upon area must obtain a one-time nonrenewable stormwater management permit. Stormwater runoff generated by 1.5 inches of rainfall shall be managed using any one of the following:
   a. Install cisterns to collect rooftop runoff and permeable pavement;
   b. Install rain garden for rooftop runoff and permeable pavement, or
   c. Install any other type of stormwater BMP (e.g., infiltration in sandy soils) to control and treat runoff.

Sec. 18-670. - Standards for stormwater control measures.

(a) Maximum coverage by total impervious surfaces shall be 35 percent of the total lot area, including both principal structures and accessory structures, such as but not limited to back yard patios, sheds, back yard impervious walkways, swimming pool apron/decking, gazebos, and pergolas for residential developments. An additional 10 percent impervious surfaces area is allowable for driveway, impervious walkways, and parking areas. Only what is on the physical site, within the parcel, is calculated to determine if the impervious surface benchmark is met.

(b) Residential principal structures that create any impervious surface will require a professional stormwater design plan.

(c) *Evaluation according to contents of design manual.* All stormwater control measures and stormwater treatment practices required under this article shall be evaluated by the stormwater administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the design manual. The stormwater administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this article.

(d) *Determination of adequacy; presumptions and alternatives.* Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the design manual will be presumed to meet the minimum water quality and quantity performance standards of this article. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the design manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this article. The stormwater administrator may require the applicant to provide the documentation, calculations, and examples necessary for the stormwater administrator to determine whether such an affirmative showing is made.

(e) *Separation from seasonal high water table.* For BMPs that require a separation from the seasonal high-water table, a minimum separation of two feet is required. No minimum separation from the seasonal high-water table is required for a secondary BMP that is used in a series with another BMP.

Sec. 18-193. - Nonconforming structures.

Where a lawful structure exists at the date of the adoption of the ordinance from which this article is derived that could not be built under the terms of this article by reason of some characteristic of the structure or

its placement on the lot, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged or altered in a way which increases its nonconformity except upon the authority granted by the board of adjustment.

(2) Nothing in this article shall be taken to prevent the restoration of a building and related improvements destroyed to the extent of not more than 75 percent of its assessed value or 50 percent of the actual replacement value, whichever is smaller, by fire, explosion or other casualty, act of God, or the public enemy, nor the continued occupancy or use of such building or part thereof which is existing at the time of such partial destruction.

(3) Multi-family structures damaged as described in subsection (2) above may be restored to their original footprint and density, but may not be enlarged or expanded.

(4) Multi-family structures completely destroyed may be rebuilt to their original footprint and density, but may not be expanded or enlarged.

Sec. 18-663. - Applications for approval.

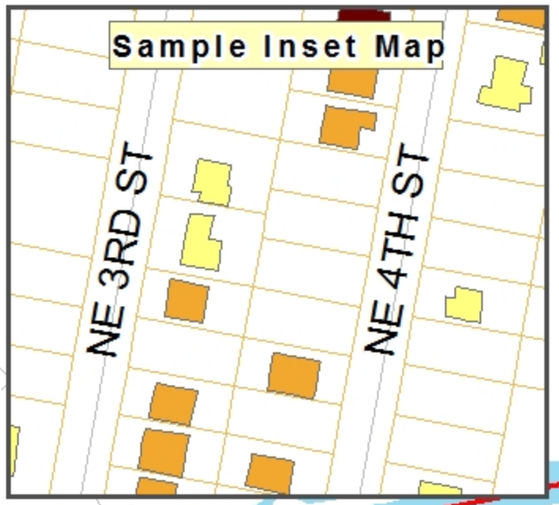
To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

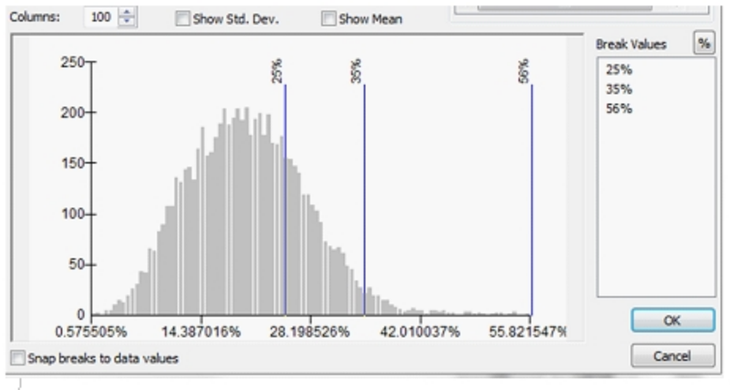
(1) *Existing conditions/proposed site plans.* Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

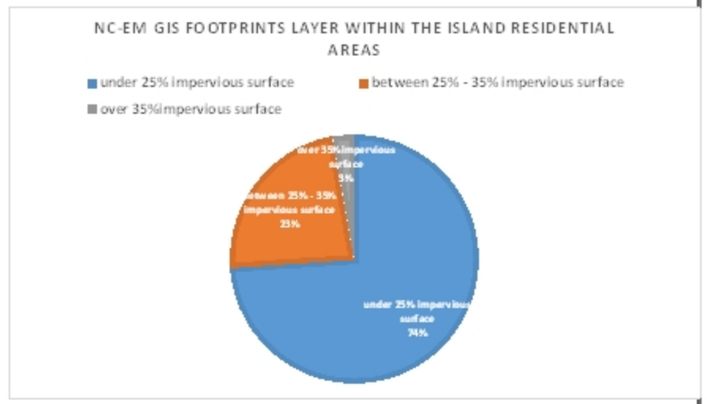
(2) *Natural resources inventory.* A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as natural heritage areas, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.

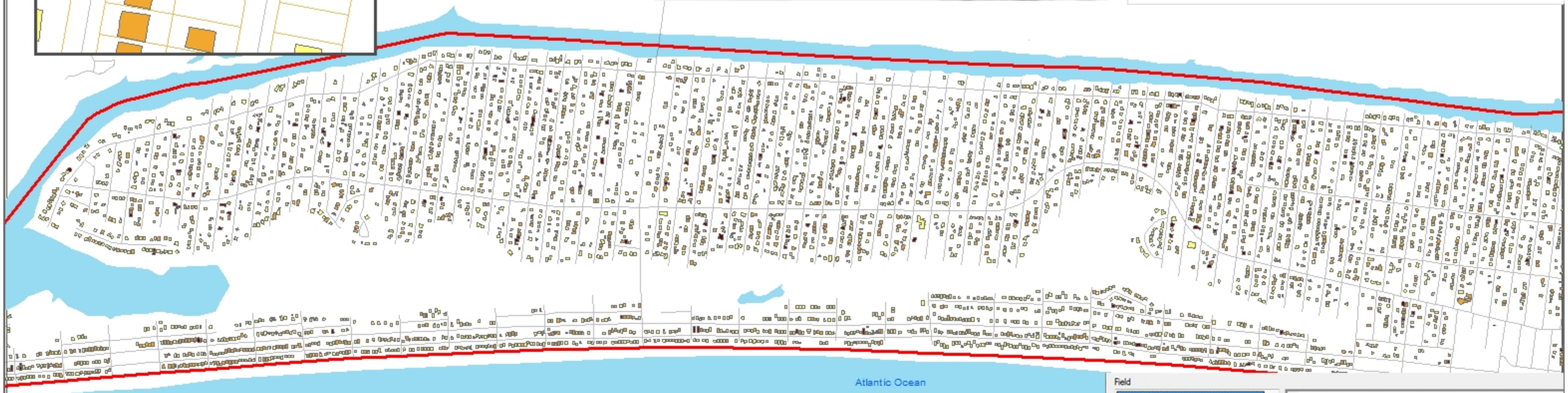
(3) *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings. The applicant must show on the site-plan the labeled total impervious surface area the proposed development would create so that the stormwater administrator can verify that it will not exceed the allowable maximum coverage.

Impervious Surface Calculation Map

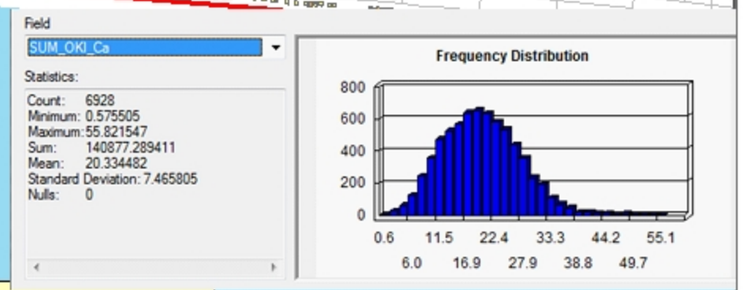








Out of the total 6,928 NC-EM GIS footprints layer within the island residential areas; 5123 are under 25% impervious surface, and 1,608 are between 25% - 35% impervious surface and 197 footprints are over 35%impervious surface of the total parcel area.



N

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.

Impervious Surface

Town of Oak Island, NC

0 1,250 2,500 5,000 7,500 Feet

Map Prepared By:
Jacob Vares
Cape Fear Council of Governments
1480 Harbour Drive
Wilmington, NC 28401
2/17/2016

TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO

Agenda Item: Old Business Item No. 1

Date: February 23, 2016

Issue: Preliminary Plat Text Amendment

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 30 Minutes

Subject Summary:

The Planning Board requested a revision to the major subdivision preliminary plat process within the zoning ordinance. This language is in Sec. 18-413. - *Procedure for approval of major subdivision*s. The text in the ordinance does not directly require the preliminary plat return the Planning Board. The new ordinance language requires that if a change to the preliminary plat occurs then the preliminary plat is required to go back before the Planning Board again for review and a another recommendation. The next section of the zoning ordinance after the preliminary plat covers the construction plat process and the required improvement guarantees. The proposed text amendment can be seen on the following attachment.

Attachments: Proposed text amendment

Recommendation/Action Needed: Discussion and motion

Suggested Motion:

Funds Needed: $0.00

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

Attachment

Proposed text amendment

Sec. 18-413. - Procedure for approval of major subdivisions.

(b) Step two—preliminary plat submission and review. For every subdivision within the territorial jurisdiction established by section 18-373, which does not qualify for the minor subdivision review procedure, the subdivider shall submit a preliminary plat that shall be approved by the town council before any construction or installation of improvements may begin. ~~Fifteen~~ Copies of the preliminary plat shall be submitted to the subdivision administrator at least 45 days prior to the planning board meeting at which the subdivider desires the planning board to review the preliminary plat. Preliminary plats shall meet the specifications in section 18-473.

(3) *Planning board review procedure.* The planning board shall review the preliminary plat at or before its next regularly scheduled meeting which follows at least 45 days after the subdivision administrator receives the preliminary plat and the comments from the appropriate agencies. The planning board shall approve, conditionally approve with recommended changes to bring the plat into compliance, or disapprove the preliminary plat within 75 days of its first consideration of the plat. This time period may be extended with the written consent of the subdivider and/or the town council upon written request from the chair of the planning board. Approval of the preliminary plat shall be valid for a period of 24 months and will not be invalidated by subsequent amendments of the development ordinances of the town. If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the town council. If the planning board does not make a written recommendation within 75 days after its first consideration of the plat and a written request for an extension of time for review has not been forwarded by the chair of the planning board, the subdivider may apply to the town council for approval or disapproval. If changes are made to the preliminary plat after the Planning Board meeting, other than the changes noted by the Planning Board as a condition of approval, then the preliminary plat has to go back before the Planning Board for review and a recommendation. If the Town Council requires a change to the preliminary plat then the preliminary plat goes before the Planning Board again for review and a recommendation. The town council's consideration of the preliminary plat shall be consistent with the requirements of this section.

TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO

Agenda Item: New Business No. 1

Date: February 23, 2016

Issue: Swimming pools

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 15 Minutes

Subject Summary:

During the September 2015 Town Council meeting a text amendment, with two minor modification, was adopted to abate abandoned & dilapidated swimming pools that have become a health risk. An excerpt from the minutes of that meeting reads as follows:

> "2. Consideration of Amendment to Sec. 14-31. - Certain conditions declared public nuisances: Councilor Painter made a motion to amend Sec. 14-31, Certain Conditions Declared Public Nuisances, by adding subsection 11 as presented. Councilors Scott and Kiser seconded the motion. In Sec 14-31 (page 97), Mr. Edes said in the sentence that begins "The existence of any of the following...," he recommended the following change: "Upon finding by the Town Manager of his or her designee of the existence of any of the following...." He also said on page 98, subsection B, swimming pools must be properly maintained, he recommended deleting the reference to "chlorinated" as some pools may be salt water or use other technology for cleaning and maintenance. Councilor Painter made a motion to amend her motion to include these amendments. Councilor Scott seconded the amendment. The motion to amend the motion passed unanimously. The amendment motion also passed unanimously."

Implementing this text amendment is well within the authority of the Town of Oak Island. General Statute §160A-193. Abatement of public health nuisances. -- states *"the governing board of a city may order the removal of a swimming pool and its appurtenances upon a finding that the swimming pool or its appurtenances is dangerous or prejudicial to public health or safety."*

If language to adopt a definition of swimming pools were placed in the zoning ordinance then those pools that did not meet the definition would then become nonconforming structures, since they were installed before the zoning ordinance change. What is submitted here is text to be able to enforce existing swimming pool nuisance situations. It is recommended that the nuisance ordinance text amend be incorporated in the Sec. 14-31. (11) - Certain conditions declared public nuisances; see attached excerpts. Currently as long as a security fence is maintained and actions are taken to mitigate the mosquitos then enforcement action cannot be taken based upon the current wording in the ordinance. By changing this section of the ordinance, all pools determined as a nuisance and as a detriment to the public health would have to comply with the maintenance requirements and address the existing issues. Recommending and adopting this text amendment now will prevent existing situations from being exacerbated and getting worse.

The County Health Department has some regulatory authority and a program for public swimming pools. The code of ordinances states in Section 14-31(4) titled *Certain conditions declared public nuisances - "Conditions violating health department rules. Any condition detrimental to the public health which violates the rules and regulations of the county health department."* The county health department has looked into problem pools in Oak Island in the past and has brought those situations into conformance with the health code.

The town does not currently have a clear definition of swimming pools. The definition staff proposes the Town adopt is "*a body of water of artificial construction, used for swimming or recreational bathing, together with the sides or bottom of the pool, buildings and equipment appurtenant thereto, having a depth of thirty (30) inches at any point.*." This definition does not include koi ponds, so those would not be applicable in this text amendment. If swimming pools are defined as having a filtration system, any existing pools that do not have a filtration system will be then made nonconforming.

Attachments: General Statutes and Proposed Text Amendments

Recommendation/Action Needed: Approval of the text amendment

Suggested Motion: none

Funds Needed: $0.00

Follow Up Action Needed: If approved incorporate text changes in the Town of Oak Island Code of Ordinances.

Attachment A

General Statute § 160A-193. Abatement of public health nuisances.

(a) A city shall have authority to summarily remove, abate, or remedy everything in the city limits, or within one mile thereof, that is dangerous or prejudicial to the public health or public safety. Pursuant to this section, the governing board of a city may order the removal of a swimming pool and its appurtenances upon a finding that the swimming pool or its appurtenances is dangerous or prejudicial to public health or safety. The expense of the action shall be paid by the person in default. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred. A lien established pursuant to this subsection shall have the same priority and be collected as unpaid ad valorem taxes.

(b) The expense of the action is also a lien on any other real property owned by the person in default within the city limits or within one mile of the city limits, except for the person's primary residence. A lien established pursuant to this subsection is inferior to all prior liens and shall be collected as a money judgment. This subsection shall not apply if the person in default can show that the nuisance was created solely by the actions of another.

(c) The authority granted by this section does not authorize the application of a city ordinance banning or otherwise limiting outdoor burning to persons living within one mile of the city, unless the city provides those persons with either (i) trash and yard waste collection services or (ii) access to solid waste dropoff sites on the same basis as city residents. (1917, c. 136, subch. 7, s. 4; C.S., s. 2800; 1971, c. 698, s. 1; 1979, 2nd Sess., c. 1247, s. 20; 2001-448, s. 1; 2002-116, s. 3; 2014-120, s. 24(h).)

Attachment B

Chapter 14 Article II

Sec. 14-31. - Certain conditions declared public nuisances.

The existence of any of the following conditions on any lot, whether improved or not, or other parcel of land within the corporate limits of town, is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

(1) *Growth of weeds and grass.* The uncontrolled growth of noxious weeds or grass over the height of one foot causing or threatening to cause a hazard detrimental to the public health or safety.

(2) *Accumulations of animal or vegetable matter.* Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(3) *Accumulation of rubbish, etc.* Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, causing or threatening to cause the accumulation of stagnant water or causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(4) *Conditions violating health department rules.* Any condition detrimental to the public health which violates the rules and regulations of the county health department.

(5) *Burned or partially burned buildings and structures.* Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the town building official can reasonably determine that there is a likelihood of personal or property injury to any property or person entering the premises.

(6) *Storm- or erosion-damaged structures and resulting debris.* The existence of any of the following conditions associated with storm-damaged or erosion-damaged structures or their resultant debris shall constitute a public nuisance:

a. Damaged structure in danger of collapsing;

b. Damaged structure or debris from damaged structures where it can reasonably be determined that there is a likelihood of personal or property injury;

c. Any structure, determined by the town to be beyond repair, or any debris from damaged structures which is located in whole or in part in a public trust area or public land.

(7) *Defective septic systems.* Malfunctioning, leaking or otherwise defective septic systems which pose a public health threat.

(8) *Detention or retention ponds.* Any stormwater detention or retention pond or other impoundment device which is operating improperly.

(9) *Miscellaneous.* Any other condition that is specified as a nuisance in this Code.

(10) *Beach Vitex.*

a. *Declaration of public nuisance.*

The plant known as Beach Vitex (Vitex rotundifolia) is hereby found and declared to be a public nuisance because of the significant negative impacts this plant has upon the public beaches, sand dunes, endangered, threatened and other native species, both plants and animals, noted above.

b. *Planting of Beach Vitex prohibited.*

It shall be unlawful for any person to plant, cause to be planted, or maintain Beach Vitex (Vitex rotundifolia) on any property located within the municipal town limits of the Town of Oak Island.

c. *Eradication.*

In addition to those remedies found in chapter 14 of the town code, it is the town's policy to eradicate Beach Vitex. In cooperation with the following organizations, said list not being exhaustive, the U.S. Fish and Wildlife Service, N.C. Cooperative Extension, The Carolina Beach Vitex Task Force (North and South Carolina branches), N.C. State University, a program has been developed to eradicate Beach Vitex from municipal limits. Upon identification of any Beach Vitex plant, the property owner shall contact the Oak Island Beach Vitex Committee, in care of the director of public works. The property owner shall agree to eradication of the plant from said property pursuant to an acceptable means of removal and disposal as determined by the N.C. Beach Vitex Task Force. If the property owner does not agree to eradication, then the town may, in its discretion, eradicate the plant from the property and tax the costs of said eradication to the property owner.

d. *Public education.*

In cooperation with the following organizations, said list not being exhaustive, the Oak Island Beach Vitex Committee, the Oak Island Beach Preservation Society, Brunswick County Schools, informal education agencies and institutions of the coastal region, and N.C. Sea Grant, materials providing documentation of impact, pictorial guides to identification, and means of eradication of Beach Vitex will be made available to plant nurseries, property owners, students and visitors to encourage their understanding of the invasive species issue and encourage cooperation in eradication.

11) Swimming pool. A body of water of artificial construction, used for swimming or recreational bathing, together with the sides or bottom of the pool, buildings and equipment appurtenant thereto, having a depth of thirty (30) inches at any point. It is the intent and purpose of this section to provide protection to children against injury or mishap resulting from construction and maintenance of swimming pools. It shall be unlawful for any person to create a nuisance on his lot or a lot occupied by him, or to allow a nuisance to remain on his lot or a lot occupied by him. Upon finding by the Town Manager of his or her designee of the existence of any of the following conditions on any lot or parcel of land within the corporate limits of the Town of Oak Island is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance.

(a) A swimming pool where there is an open place of collection of water where insects tend to breed or that is likely to become a nuisance or a menace to public health.

(b)Swimming pools must be properly maintained for prevention of mosquitoes and disease control and regular review/maintenance to abate dilapidated or abandoned swimming pools. Stagnant water or anything that causes injury or damage to the health or life of any other person, or the community at large, are declared nuisances.

(c) This article shall not apply to indoor swimming pools, to portable wading pools less than thirty (30) inches in depth within the town limits

(d) These regulations and other provisions of this article may be enforced by the so designated town representative.

(e) Swimming pools that are determined to be dangerous and prejudicial to the public health or safety and constitute a public nuisance are required to have or install, and maintain and utilize a filtration system.

Attachment C

Sec. 18-32. - Definitions

Substantial improvement means any repair, reconstruction or improvement of a building, the cost of which equals or exceeds 50 percent of the market value of the building, either before improvement or repair is started, or if the structure has been damaged. For the purposes of this definition, the term "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term "swimming pool," as herein used, means a body of water of artificial construction, used for swimming or recreational bathing, together with the sides or bottom of the pool, buildings and equipment appurtenant thereto, having a depth of thirty (30) inches at any point.

Travel trailer means any vehicle or structure originally designed to be transported and intended for human occupancy for a short period of time, such vehicle usually containing limited or no kitchen and bathroom facilities. Travel trailers shall include the following:

TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO

Agenda Item: Old Business Item No. 2

Date: February 23, 2016

Issue: Preliminary Plat Text Amendment

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 30 Minutes

Subject Summary:

The Planning Board requested a revision to the major subdivision preliminary plat process within the zoning ordinance. This language is in Sec. 18-413. - *Procedure for approval of major subdivision*s. The text in the ordinance does not directly require the preliminary plat return the Planning Board. The new ordinance language requires that if a change to the preliminary plat occurs then the preliminary plat is required to go back before the Planning Board again for review and a another recommendation. The next section of the zoning ordinance after the preliminary plat covers the construction plat process and the required improvement guarantees. The proposed text amendment can be seen on the following attachment.

Attachments: Proposed text amendment

Recommendation/Action Needed: Discussion and motion

Suggested Motion:

Funds Needed: $0.00

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

Attachment

Proposed text amendment

Sec. 18-413. - Procedure for approval of major subdivisions.

(b) Step two—preliminary plat submission and review. For every subdivision within the territorial jurisdiction established by section 18-373, which does not qualify for the minor subdivision review procedure, the subdivider shall submit a preliminary plat that shall be approved by the town council before any construction or installation of improvements may begin. ~~Fifteen~~ Copies of the preliminary plat shall be submitted to the subdivision administrator at least 45 days prior to the planning board meeting at which the subdivider desires the planning board to review the preliminary plat. Preliminary plats shall meet the specifications in section 18-473.

(3) *Planning board review procedure.* The planning board shall review the preliminary plat at or before its next regularly scheduled meeting which follows at least 45 days after the subdivision administrator receives the preliminary plat and the comments from the appropriate agencies. The planning board shall approve, conditionally approve with recommended changes to bring the plat into compliance, or disapprove the preliminary plat within 75 days of its first consideration of the plat. This time period may be extended with the written consent of the subdivider and/or the town council upon written request from the chair of the planning board. Approval of the preliminary plat shall be valid for a period of 24 months and will not be invalidated by subsequent amendments of the development ordinances of the town. If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the town council. If the planning board does not make a written recommendation within 75 days after its first consideration of the plat and a written request for an extension of time for review has not been forwarded by the chair of the planning board, the subdivider may apply to the town council for approval or disapproval. If changes are made to the preliminary plat after the Planning Board meeting, other than the changes noted by the Planning Board as a condition of approval, then the preliminary plat has to go back before the Planning Board for review and a recommendation. If the Town Council requires a change to the preliminary plat then the preliminary plat goes before the Planning Board again for review and a recommendation. The town council's consideration of the preliminary plat shall be consistent with the requirements of this section.