



Planning Board
December 17, 2015
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) Environmental Advisory Board Presentation
- 2) Impervious Surface Text Amendment
- 3) Bedrooms Text Amendment

New Business:

- 1) Outdoor Sales and Displays - Text Amendment
- 2) Zoning Map Corrections

Other Business:

- 1) Board Member Reports
- 2) Staff Reports -
- 3) Updates from Council Meeting - (grocery store text amendment)

Adjournment

Storm Water – This Presentation

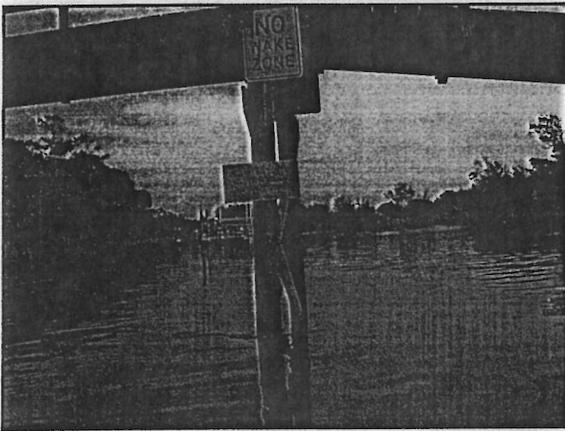
- Defining/discussing the problem
- Current Town policies
- Proposed text changes
- Consequences of the proposals

Storm Water (Non-Point Source Pollution)

- *The most recent National Water Quality Inventory reports that runoff from urbanized areas is the leading source of water quality impairments to surveyed estuaries and the third-largest source of impairments to surveyed lakes.* Source: EPA 841-F-03-003

Local Supporting Evidence

- Most marsh along the ICW is closed.
- Lockwood Folly open portions get smaller each year.
- After a rain, Davis Canal has extremely high counts of fecal coliform.
- Montgomery Slough is totally closed to shell fishing.
- There is serious pooling on many roads.



Water Testing

The Environmental Advisory Committee (EAC) Water Testing Working Group has been testing Davis Canal for three years.

- Concentrations of Fecal Coliform(FC) increase from minimal at the west end to un-swimmable by 40th East and awful pollution by 67th East.
- FC much elevated after a rain storm.
- Apparently not from a human source

Current Town Policies

- Covered In Chap 18, Article V.
- Stress best management practices (BMP's).
- Stresses engineered solutions.
- Each developed lot must capture first 1.5" of rain.
- Design of the engineered solution may be from engineer or surveyor.

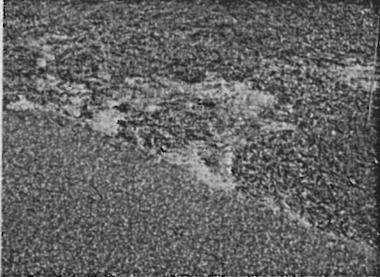
Problems With Engineered Approach

- Engineered solutions fail Over time
- The designer may not be competent in storm water management.
- Presently a storm water plan is not even required if impervious surface < 30%.
- If engineered solution is presented, 100% of the improved lot could be impervious.

New Home – note drain spout going Into French Drain



Same House As Previous Slide Showing Wash at Street (System Failed)



Another Failed Solution
Driveway catch basins not maintained



Erosion At 21st St. End
And Into Davis Canal



Text Changes Proposed

- All lots to be improved must have a storm water plan which is signed & stamped by a NC Registered Professional Engineer.
- A hard cap on maximum allowed Impervious surfaces (see next slide).

A "Hard Cap" on Impervious Surface

- This is the technique used by most cities in the Piedmont. This was in response to fish kills in the major rivers.
- The EAC surveyed six coastal municipalities: three of six have a hard cap. Holden Beach & Kitty Hawk are at 30%; Atlantic Beach is at 40%. The other three allow engineered solutions in lieu of a cap.

Recommended by EAC for Oak Island

- For all single family and duplex properties:
 - For lots < 7,500 sq. ft. maximum 35% Impervious.
 - For Lots > 7,500 sq. ft. maximum 30% Impervious.
 - Additionally, all storm water plans must be signed & stamped by a NC register professional Engineer
 - The lot must fully capture the first 1.5" of rain (the current standard).

The Consequences of the Proposals

In April of 2014 The EAC studied the 39 most recent building permits.

- Under the proposed rules 26 of the 39 projects would need modification.
- However, 25 of the 26 houses would only need one simple modification. A permeable Driveway. Just one house would need additional re-design.

In Summary; the 30-35% cap is doable without increased costs.

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

Agenda Item: Old Business Item No. 2

Date: December 4, 2015

Issue: Impervious Surface Text amendment

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 15 Minutes

Subject Summary:

Staff 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 would belong in the stormwater section of the Zoning Ordinance. Currently, there is not a set percentage for impervious surface set by the stormwater ordinance and this text amendment, if adopted, would establish the maximum percentage. 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

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). 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. Proper management of construction-related and post-development stormwater runoff, by setting this impervious surface percentage, will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

Attachments: Proposed text amendment

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

Suggested Motion: Recommend approval of text amendment

Funds Needed: \$0.00

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

Attachment

Proposed text amendment

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

Residential development activities that:

- (1) Disturb less than one acre of land;
- (2) Are 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.

(5) Maximum coverage by total impervious surfaces shall be 35 percent of the total lot area, including both principal structures and accessory structures, for residential developments. An additional 10 percent impervious surfaces area is allowable for driveway and parking areas.

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.

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

Agenda Item: Old Business Item No. 3

Date: December 3, 2015

Issue: Bedrooms

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 20 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. The new law 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 development codes still give the Town authority to those features of development that 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 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 Lot Area per Dwelling Unit (Square Feet)	20,000	R-9(e) Lot Area per Dwelling Unit (Square Feet)	9,000	R-7.5(a) Lot Area per Dwelling Unit (Square Feet)	7,500	R-7(e) One-family Lot Area per Dwelling Unit (Square Feet)	7,500	R-7(e) Two-family Lot Area per Dwelling Unit (Square Feet)	10,000	R-6A One-family Lot Area per Dwelling Unit (Square Feet)	6,600	R-6B Lot Area per Dwelling Unit (Square Feet)	6,600
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- 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 fit. 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.

Attachments: Proposed text amendment

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

Suggested Motion: Recommend approval of text amendment

Funds Needed: \$0.00

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

Attachment

Proposed text amendment

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 ~~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.~~ a room designated as sleeping or bedroom on the plans.

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

NEW BUSINESS

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

Agenda Item: New Business Item No. 1
Date: November 20, 2015

Issue: Outdoor sales and displays
Department: Planning & Zoning Administrator
Presented by: Jake Vares
Presentation: None
Estimated Time for Discussion: 20 Minutes

Subject Summary:

Local businesses setting up tents in the parking lots for the purposes of selling goods has become an issue of note. A complaint arose that a tent had been setup in a shared parking lot that was taking up parking spaces. Upon review of the ordinance, *Outdoor sales and displays* cannot be done without a Conditional Use Permit (CUP).

An outdoor sales and display is allowed with a CUP in the Community Business (CB), Commercial Recreation (CR), Commercial Low Density (CLD), and Conditional Use Community Business (CUCB) zoning districts and is not allowed in the rest of the Town of Oak Island that does not have that zoning district designation. The CB and CR zoning districts is where this has particularly become an issue. Once a tent is set up the area becomes more permanent than someone with just a moveable rack going to various places.

Sec. 18-116. - Table of uses.

Uses	R-20	R-9	R-7.5	R-7	R-6A	R-6B	R-6MF	R-6MH	O & I	CB	CR	C-LD	OS	AD	Club Overlay Dist.	CUCB
Outdoor sales and displays										C	C	C				C

The zoning ordinance specifies that for an outdoor sales and display use it is limited to a maximum zoning lot area of one acre. Sec. 18-226. – (28)

Outdoor sales and display.

- a. *Outdoor storage and display areas, not incidental to a principal use, are limited to a maximum zoning lot area of one acre.*
- b. *Lighting installed on the property must comply with the provisions for town lighting in division 11 of this article and shall be installed in a manner that prevents trespass onto adjoining properties and controls glare on the public right-of-way and on public trust waters.*

Without defining exactly Outdoor sales and displays, enforcing the CUP requirement is difficult. The attachment shows the proposed definitions of Outdoor sales and displays and a locational requirement. Once it is more clearly defined then enforcement of the CUP requirement becomes easier and the Town has firm legal standing.

Attachments: Proposed Text Amendment

Recommendation/Action Needed: Recommendation to Town Council to approve or deny

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

Nursing home means an agency, organization or individual providing care for three or more convalescing or aged persons not related by blood or marriage to the operator (and where registered nurses are required).

Outdoor Sales and Displays => means an exhibition meant to enhance an existing business where merchandise, wares or other tangible items are displayed for show and/or sale out-of-doors.

Parking facility (lot) means any area, either open or enclosed, structural or on grade located outside of the public right-of-way and having an approved means of ingress and egress.

Sec. 18-226. – (28) *Outdoor sales and display.*

- a. *Outdoor storage and display areas, not incidental to a principal use, are limited to a maximum zoning lot area of one acre.*
- b. *Lighting installed on the property must comply with the provisions for town lighting in division 11 of this article and shall be installed in a manner that prevents trespass onto adjoining properties and controls glare on the public right-of-way and on public trust waters.*
- c. *Outdoor sales and displays entails walking or standing at one time near vehicular traffic or in existing vehicular parking spaces and is intended to enhance an existing business and cannot be located in existing vehicular spaces.*

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

Agenda Item: New Business Item No. 2

Date: December 4, 2015

Issue: Zoning Map Corrections

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 25 Minutes

Subject Summary:

Shortly after beginning work for Oak Island I noticed grievous issues with the zoning map. ETJ (Extra-Territorial Jurisdiction) is listed as a zoning district, and of course it is not. TBD (To Be Determined) is listed as a zoning district and of course it is not. The highway overlay zoning district covers land that is in the County, the Town can't create a zoning district, overlay district or not, that is not within its corporate limits. On the attached map the green layer off HWY 133 is the old highway overlay and the crosshair one is the revised highway overlay I am recommending we change the overlay zone to. The Town cannot enforce zoning land development regulations within the County jurisdiction.

Staff has searched through past rezoning cases and all the listed corrections appear to be map errors so we are allowed to make the corrections without going through the rezoning process. However, with this many changes and how substantial they are; I think it best we review here and then recommend to the Council that the changes be implemented. Having Council formally adopt the zoning map corrections will give the changes more legitimacy. It also may also be prudent to mail the property owners of the recommended action that will be taken so nobody is blindsided. Difficulty will lie in forming a letter informing property owners in a TBD and ETJ zoning area but in the interest of transparency I recommend it be done.

Property number two has a few issues. I suggest it be made R-7.5 because if it were made commercial the current resident there or owner would not be able to do anything with his/her land because it would be made into a non-conforming use. The property is surrounded by a C-LD zoning district so it would border on spot zoning. At the moment there is a residential structure on the property. Please review the call-out labels on the attached map so see the details and considerations of all the highlighted zoning areas.

Once the zoning map corrections are official I intend to have the zoning map on the Towns website revised and corrected. I will implement a system to better track future rezoning so the map is always updated. The County will receive the revised rezoning GIS files so they can be rectified in their database. Eventually, I plan on putting on Oak Island's website a dynamic map, like our vegetation line map, of the zoning map so the citizenry can view it and zoom & pan to their property of interest the same way they can on the Brunswick County GIS site. Finally, I also will be taking down the zoning maps hanging around Town Hall that are not decoration and replacing it with the finalized copy.

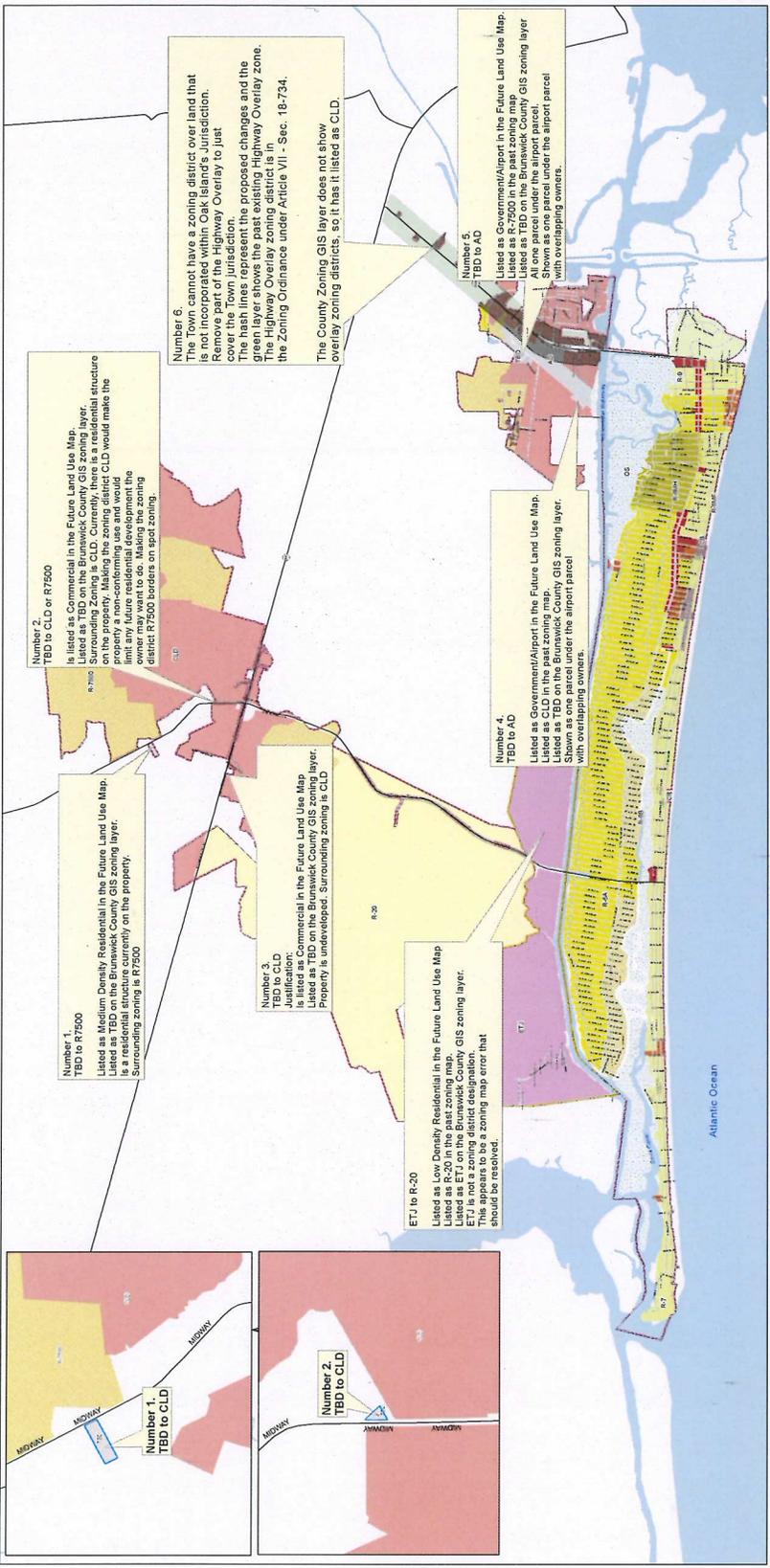
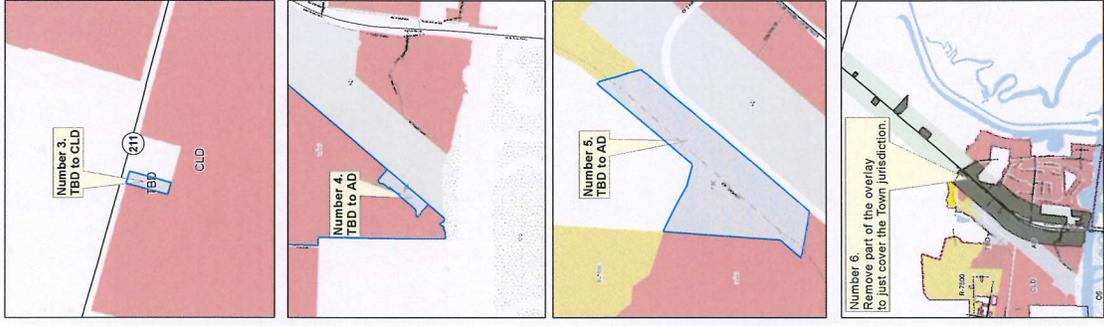
Attachments: Zoning Correction Map

Recommendation/Action Needed: Recommendation to Town Council to approval

Suggested Motion:

Funds Needed: \$0.00

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



Number 1
TBD to R7500
Listed as Medium Density Residential in the Future Land Use Map. Listed as TBD on the Brunswick County GIS zoning layer. Surrounding zoning is R7500.

Number 2
TBD to CLD or R7500
Listed as Commercial in the Future Land Use Map. Listed as TBD on the Brunswick County GIS zoning layer. Surrounding zoning is R7500.

Number 3
TBD CLD
Justification:
Listed as Commercial in the Future Land Use Map. Listed as TBD on the Brunswick County GIS zoning layer. Property is undeveloped. Surrounding zoning is CLD.

Number 4
TBD to AD
Listed as Government/Airport in the Future Land Use Map. Listed as CLD in the past zoning map. Listed as TBD on the Brunswick County GIS zoning layer. Shown as one parcel under the airport parcel with overlapping owners.

Number 5
TBD to AD
Listed as Government/Airport in the Future Land Use Map. Listed as R-7500 in the past zoning map. Listed as TBD on the Brunswick County GIS zoning layer. All one parcel under the airport parcel. Shown as one parcel under the airport parcel with overlapping owners.

Number 6
The Town cannot have a zoning district over land that is not incorporated within Oak Island's Jurisdiction. The County Zoning GIS layer does not show overlay zoning districts, so it has it listed as CLD.

Town of Oak Island Zoning Correction Map

Brunswick County, NC

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

Map created by:
Jake Vares
Town of Oak Island
Development Services Department
12/3/2015

Map is to be used to only show general information for address numbers. It is not intended for use in legal proceedings. Data used gathered from disparate sources.

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