AGENDA
Town of Nags Head Planning Board
Tuesday, April 21, 2020; 9:00 a.m.
- D R A F T -

This Meeting will be held electronically/remotely utilizing the online ZOOM meeting platform. Members of the public will be able to attend the meeting using the ZOOM platform or app on their computer or smartphone, or by calling in using a phone.

Join from a PC, Mac, iPad, iPhone or Android device:
Please click the link below to join the webinar:
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Webinar ID: 977 7346 8740
International numbers available: https://zoom.us/u/aehVJN6IUE

Should you have questions about using this platform, or have technical difficulties during the course of the meeting, please email planning@nagsheadnc.gov or call 252-441-7016

A. Call To Order

B. Approval Of Agenda

C. Public Comment/Audience Response

D. Approval Of Minutes
April 1, 2020 Planning Board Meeting (Rescheduled from March 17, 2020)

E. Action Items

1. Consideration Of A Text Amendment
to the Unified Development Ordinance submitted by Megan Dixon and Kim Cowen to add the use "Learning Center" as a permitted use within the C-2, General Commercial Zoning District.

Documents:

LEARNING CENTER TEXT AMEND PB PACKAGE.PDF

2. Reconsideration Of A Revised Preliminary Plat
for a Major Subdivision, known as Coastal Villas, for an approximately 9.86 acre property, zoned R-2, Medium Density Residential, owned by Nags Head Construction

(Applicant), located on the west side of US 158, approximately 300 feet south of the intersection of W. Soundside Road and US 158 (Parcel # 006749004; PIN # 989108886987); the revised Preliminary Plat proposes to create 17 lots, along with an associated street and other required improvements.

Documents:

STAFF REPORT TO PB AND ATTACHMENTS_COASTAL VILLAS PRELIM PLAT_4-17-2020.PDF

F. Report On Board Of Commissioners Actions
March 15, 2020 BOC Meeting

Documents:

MAR 4 2020 BOC ACTIONS.PDF

G. Town Updates - As Requested

H. Discussion Items

1. Continued Discussion Of Legacy Establishments/Structures

Documents:

MEMO WITH ATTACH TO PB RE LEGACY ESTABLISHMENTS AND STRUCTURES_3.13.2020.PDF

2. Continued Discussion Of Residential Stormwater Regulations

Documents:

MEMO WITH ATTACH TO PB RE STORMWATER_3.13.2020.PDF

3. Continued Discussion Of FY20-21 Planning & Development Department and Septic Health FY2020-2021 Strategic Work Plan

I. Planning Board Members' Agenda

J. Planning Board Chairman's Agenda

K. Adjournment

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Planning Board

From: Kelly Wyatt, Deputy Planning Director
Michael Zehner, Director of Planning and Development

Date: April 15, 2020

Subject: Consideration of a zoning ordinance text amendment pertaining to "Tutoring Facility/Learning Center".

BACKGROUND

Megan Dixon and Kim Cowen have submitted the attached text amendment request to the Unified Development Ordinance, which, if adopted would permit "Tutoring Facility/Learning Center" as a permitted use within the C-2, General Commercial Zoning District.

The applicants have provided a detailed explanation of the nature and reason for their request. They would like to offer tutoring, both part- and full-time, to registered homeschooled children, ages 6 and up. Ms. Cowen has spoken with both me and the Senior Building Inspector, Steve Szymanski, about the proposed business use. In looking at the current UDO, similar uses include Child Care Facility and School, however, by definition, the proposed use would not meet either of these use classifications. Therefore, it was recommended to Ms. Cowen that a text amendment request to consider establishing this new use would be necessary.

STAFF ANALYSIS AND RECOMMENDATION:

Planning staff finds the proposed use is consistent with the 2017 Comprehensive Land Use Plan and the desire to encourage land uses that serve the needs of both year-round and seasonal residents in support of the town's overall vision for the community. Staff would recommend the use be listed under the *Service* category in the Table of Uses and Activities and be defined as follows:

> ***Tutoring Facility/Learning Center*** means a private, for profit or non-profit, use for the instruction of students in subjects and materials commonly taught in primary and secondary schools, for test-preparation, or the teaching of music and visual arts.

Staff recommends approval of the proposed use as presented, with the changes noted.

(DRAFT)
AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO PROPOSED NEW USE "TUTORING FACILITY/LEARNING CENTER"

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Nags Head (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land; pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160A-363, which allows the Town to combine certain land development ordinances into a unified ordinance; and

WHEREAS, a text amendment application has been requesting consideration be given to permitting "tutoring facility/learning center" within the C-2, General Commercial Zoning District' and

WHEREAS, the Town of Nags Head 2017 Comprehensive Plan includes policies supporting land uses that serve the needs of both year-round and seasonal residents in support of the town's overall vision for the community and to support and foster small, local businesses that preserve and uphold the vision and legacy of the town.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein but are instead replaced by an ellipsis ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Unified Development Ordinance.

PART I. That **Section 6.6 Table of Uses and Activities** be amended as follows:

		Residential Districts			**Commercial Districts**				
Use Category/Class	**Use Type**	**R-1**	**R-2**	**R-3**	**CR**	**C-1***	**C-2**	**C-3**	**C-4**
Service	Tutoring Facility/Learning Center						P		

PART II. That **Section 10.16 Required Parking by Use** be amended as follows:

Use Category/Class	Use Type	Required Parking
Institutional	Tutoring Facilities/Learning Center	One parking space for each 300 square feet of gross floor area.

PART III. That Appendix A Definitions, be amended as follows:

Section A.4 – Definitions

Tutoring Facility/Learning Center means a private, for profit or non-profit, use for the instruction of students in subjects and materials commonly taught in primary and secondary schools, for test-preparation, or the teaching of music and visual arts.

PART IV. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the ___ day of ____ 2020.

_____
Benjamin Cahoon, Mayor

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted: _____

Motion to adopt by Commissioner _____

Motion seconded by Commissioner_____

Vote: _____ AYES _____ NAYS

App # 202010230

ZONING AMENDMENT APPLICATION
TOWN OF NAGS HEAD, NORTH CAROLINA

Applicant Outer Banks Montessori Collective

Mailing address 202 Shallow Street KDH 27948

Explanation of request

☐ Zoning Ordinance - Section(s) _____
Attach amendment in ordinance form.

☐ Zoning Map
Attach copy of current Zoning Map with affected property outlined in red.
Attach names and mailing addresses of the property owners of all parcels of land abutting the parcel in question.

Nature of request

A text amendment to create a new use category for a learning center in C-2 Zone in Nags Head

Reason for request

We are an academic service business - we provide tutoring, part & full time, to homeschool families. Each child we serve (ages 6+) is a registered homeschool child. Families can choose from a range of services - from 1 hour sessions up to 6 hours/day, 5 days a week & everything in between (3x/week, 1 week in 3/week off, 9-1, etc) We use the Montessori methodology as the bases of our services. Montessori includes the use of didactic, hands on learning materials that homeschool families might not have at home. We will have anywhere from 1-25 students in our space at one time.

We are not a school, we don't fit into any of the existing use categories (school, childcare, etc), And so we propose a new use that would accomodate us as a learning center / academic services, specifically to serve local homeschool families.

Applicant (Megan Dixon) & (Kim Cowen)

2/18/20
Date

757-613-1873

STAFF REPORT
Town of Nags Head
Planning & Development Department

To: ~~Board of Commissioners~~ **Planning Board**

From: Michael Zehner, Director of Planning & Development

Kelly Wyatt, Deputy Director of Planning & Development

Date: December 23, 2019**; updated April 17, 2020**

Subject: **Reconsideration of a revised** Preliminary Plat for a Major Subdivision, known as Coastal Villas, for an approximately 9.86 acre property, zoned R-2 - Medium Density Residential, owned by Nags Head Construction (applicant), located on the west side of US 158, approximately 300 feet south of the intersection of W. Soundside Road and US 158 (Parcel # 006749004; PIN# 989108886987); the **revised** Preliminary Plat proposes to create 17 lots, along with an associated street and other required improvements.

Updated content in **bold underline, deleted material in strikethrough**

BACKGROUND

For consistency in the review and consideration of this Preliminary Plat, Staff has provided an updated version the Staff Report that was last presented to the Board of Commissioners for their meeting on January 8, 2020. In written comments received prior to the January 8 meeting, and in public comments at the meeting, the Commissioners heard from abutting residents in the South Ridge subdivision concerned about the access to the proposed subdivision, which was to be through existing neighborhood streets, and involved the improvement of an existing paper street (Mariners Way) to connect the proposed subdivision street to Sea Bass Court.

Following a presentation by Staff and discussion amongst the Board of Commissioners, the Board passed a motion to table consideration of the Preliminary Plat until the Board of Commissioners March 2020 meeting and to ask that Staff facilitate a discussion between the developer and the Fourth Street property owners to have one curb cut, one right-of-way off of US 158 as a better solution for access. Prior to the March 4, 2020 Board of Commissioners meeting, the applicant requested a continuance to the Board's May 6, 2020 meeting, which was granted.

Since the Board of Commissioners January meeting, as directed, Staff has worked to facilitate discussions between the developer of the subject subdivision and the owner of 6 lots abutting the paper street known as Fourth Street. Staff held multiple separate conversations with the parties pursuant to the Board's direction, and held a meeting with the parties and their respective engineers to discuss the proposed development and future plans for Fourth Street. While Staff is unaware of any agreement between the parties, the proposed revised plan relocates access to the subdivision to US 158/S. Croatan Highway (eliminating

the street/vehicular connection to Sea Bass Court) and extends the proposed street to allow for connectivity to the existing Fourth Street right-of-way; the revision of the plan was determined to require reconsideration by the Planning Board.

Staff is aware that representatives of the Fourth Street properties has contacted NCDOT to discuss improvement of the street, and specifically any restrictions that may be imposed on any intersection with US 158/S. Croatan Highway; Staff has also made the owner of these properties aware of the likely process for making improvements to this right-of-way.

It is important to note, that the development of the Fourth Street lots or improvements to the Fourth Street right-of-way beyond the subject property are not subject to review under this Preliminary Plat. No commitments have been made with respect to the improvements of this portion of the right-of-way that would affect the consideration of the subject Preliminary Plat.

OVERVIEW

The subject application is a Preliminary Plat for a Major Subdivision[1] of an approximately 9.86-acre property located on the west side of US 158, approximately 300 feet south of the intersection of W. Soundside Road and US 158 ("the Proposed Subdivision"). The Proposed Subdivision would create seventeen (17) lots, located along a new street **connecting directly to US 158/ S. Croatan Highway** ~~(Coastal Breeze Way), to connect through to an existing street, Sea Bass Court, with the improvement of~~

[1] A Subdivision is defined in the UDO as "all divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets," with certain exemptions; a Major Subdivision is defined as "any subdivision not classified as a minor subdivision [(i.e. not more than four lots fronting on an existing street)] including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring any new street or extension of municipal facilities."

~~an existing public paper/unimproved right-of-way, Mariners Way~~**; the new street, identified as Fourth Street, would terminate at the southern property line, allowing future connectively to an existing paper right-of-way identified as Fourth Street. The proposed Preliminary Plat provides for a cul-de-sac to be developed where the proposed new street terminates, with allowances for the cul-de-sac to be removed if the existing Fourth Street right-of-way to the south is improved**. No waivers from the subdivision requirements are being sought. As noted, the property is zoned R-2, Medium Density Residential; all proposed lots are conforming, meeting the minimum required lot size of 20,000 square feet and demonstrating compliance with required minimum yard depths (i.e. setbacks; Front: 30 feet, Side: 10 feet, Rear: 20% of lot depth, not to exceed 30).

The Planning Board reviewed the **original** Preliminary Plat at their meeting on December 17, 2019. The Board voted 5-0 to recommend approval of the Plat to the Board of Commissioners, with conditions. The Board's **original** recommendation is detailed below under *Planning Board Recommendation*. **As noted above, the revision of the plan was determined to require reconsideration by the Planning Board.**

PROCEDURAL REQUIREMENTS/CONSIDERATIONS

The procedural requirements applicable to subdivisions are provided in Article 4, *Development Review Process*, Part IV, *Subdivision Procedures*, of the UDO; requirements or considerations of note are as follows:

- Pursuant to Section 4.22, *Initial Conference; Preliminary Sketch*, the applicant was first required to submit a preliminary sketch of the proposed subdivision and confer with the UDO Administrator. These requirements were completed, with authorization granted to the subdivider on October 3, 2019 to prepare a preliminary plat to be submitted to the Planning Board (a copy of an email from Michael Zehner to Cathleen Saunders, project engineer, is attached). Please note, the preliminary sketch plan for the subdivision provided for a street connection to US 158, with no connection through to Sea Bass Court; ~~the applicant elected to redesign this aspect of the subdivision as part of the preliminary plat submission~~ **the now redesigned plan is more consistent with the preliminary sketch plan in this respect**.

- The following subsections, or parts thereof, to Section 4.24, *Review Procedure for Major Subdivisions*, 4.24.1, *Preliminary Plat*, are applicable to the Proposed Subdivision:

    - 4.24.1.2., in part, "…the UDO Administrator who shall evaluate the plan to determine whether or not it meets the requirements of this Ordinance. The UDO Administrator will solicit and receive comments from other persons or agencies before making final recommendations. If the application is complete, the UDO Administrator will submit it to the Planning Board…"

      In general, it was determined by the UDO Administrator that the plan for the Proposed Development meets the requirements of the UDO, to be discussed further below under **REGULATORY & DESIGN**

REQUIREMENTS/CONSIDERATIONS. Additionally, comments were solicited and received from Town Staff **on both the original and now redesigned plans**; the attached letter from Cathleen Saunders, P.E., Quible & Associates, P.C., dated ~~December 10, 2019~~ **April 14, 2020**, is an accurate representation of ~~these~~ **Staff** comments **pertaining to the revised Plan, with responses from Ms. Saunders; staff has been provided with this response and final submitted plans to determine whether comments have been addressed, and a memo from David Ryan, dated April 17, 2020 is attached**.

- 4.24.1.3., in part, "The Planning Board shall forward its recommendation to the Board of Commissioners within thirty (30) days after first consideration by the Planning Board. If the Planning Board fails to act within the 30-day period, the subdivision will be placed on the next available Board of Commissioners agenda. The Board of Commissioners shall consider the preliminary plat and approve, approve with conditions acceptable to the applicant, or disapprove the plan."

- 4.24.1.4., in part, "The Planning Board shall determine whether the preliminary plat meets the policy, purposes, and standards established by this Part and shall study its practicability, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands, construction plans, erosion control plans, and the requirements of the master plan and the official map, if such exist, the zoning requirements and this UDO. The Planning Board shall submit its findings and recommendations to the Board of Commissioners at their next regularly scheduled meeting. The Board of Commissioners may approve, reject or grant conditional approval of the preliminary plat. The Planning Board or the Board of Commissioners, in its discretion, if it deems that health and sanitary conditions in the area, the subdivision plans and planned population density warrant, may require percolation tests of the soil by the subdivider and the installation of appropriate sanitary and waste disposal facilities as a condition of approval."

- 4.24.1.5., Conditional Approval, "When recommending conditional approval of a preliminary plat, the Planning Board shall state in writing the conditions of such approval, if any, with respect to:

  4.24.1.5.1. The specific changes which it will require in the preliminary plat;

  4.24.1.5.2. The character and extent of these required changes; and

  4.24.1.5.3. The amount of all bonds which will be required as a prerequisite to the approval of the preliminary plat.

Conditional approval of a preliminary plat shall not constitute approval of the final subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the final plat, which will be submitted for approval by the UDO Administrator, and for recording upon fulfillment of the requirements of this Part and the conditions of the conditional approval, if any. The Planning Board or the Board of Commissioners may require additional changes as a result of further study of the subdivision plans or as a result of new information obtained subsequent to the time of conditional approval. The fulfillment of these conditions and the incorporation of these conditions into the preliminary plat shall be determined by the UDO Administrator in accordance with the instructions of the Board of Commissioners. At such time, the Board of Commissioners' approval shall become final, as to the preliminary plat, and the UDO Administrator shall so signify on the plat."

REGULATORY & DESIGN REQUIREMENTS/CONSIDERATIONS

The regulatory and design requirements applicable to subdivisions are provided in Article 10, *Performance Standards*, Part V., *Subdivision Regulations*, Division II., *Approval and Platting Requirements*, and Division III., *Improvements*, of the UDO; requirements or considerations of note are as follows:

- Section 10.51.4., *Covenants and Deed Restrictions*, requires the submission of "proposed covenants, deed restrictions and a hold harmless agreement, in duplicate, which are intended to cover all or part of the tract…For any proposed subdivision amenities including, but not limited to, tennis courts, swimming pools, streets, and vehicular and pedestrian accessways for the benefit of the property owners, the developer shall establish a property owners association having the responsibility and authority for the upkeep, maintenance, repair, and reconstruction of such amenities and the authority to assess and collect dues and fees from the property owners within the subdivision for this purpose." The applicant has submitted a draft Declaration of Restrictive Covenants for review, with a final version required to be approved in conjunction with approval of the Final Plat.

- Section 10.62, *Required Improvements Enumerated*, indicates the improvements required to be provided by the subdivider, as follows:

    - Street rights-of-way and paved streets;
    - Water lines, mains, fire hydrants and services;
    - Electric and telephone lines and conduit;
    - Streetlights and supports and related electric wires and conduit;
    - Easements of right-of-way for utilities, where such are not within the street right-of-way;

- Section 10.63, *Dedications*, indicates the improvements and easements required to be offered to the Town or utility authorities for dedication:

- Streets and street rights-of-way;
- Water lines, mains, fire hydrants and services;
- Easements of right-of-way for construction, operation and maintenance of utilities and cable television lines;
- Streetlights and supports and related electric wiring and conduit;

- Section 10.66, *Streets*, establishes the standards for required streets, and specifically *local access streets*, as the proposed street is classified. Design standards for streets are contained in Chapter 36, *Streets, Sidewalks and Other Public Places*, of the Town Code.

- Section 10.68, *Lots*, reiterates zoning requirements for frontage and lot area, but also provides that for "lots fronting on a cul-de-sac or street curve, the frontage may be reduced to not less than thirty (30) feet upon approval of the Planning Board." ~~This reduced frontage applied to lots 1, 2, 10, and 11 in the Proposed Subdivision. The Planning Board's recommended approval of the Proposed Subdivision as presented~~ **The redesigned Preliminary Plat does not necessitate the reduction of required lot frontage**.

- Section 10.72, *Stormwater Runoff, Storm Drains, and Sewer Lines and Mains*, indicates that "stormwater runoff from lots shall be managed in accordance with Article 11 of this UDO pertaining to Stormwater Management (Part I) and Soil Erosion and Sedimentation Control (Part II)." However, development of the Proposed Subdivision will trigger and require North Carolina Department of Environmental Quality stormwater permitting.

POLICY CONSIDERATIONS

Policy specific to subdivisions is established in Article 10, *Performance Standards*, Part V., *Subdivision Regulations*, Division I., In General, Section 10.41, Jurisdiction; Policy, Section 10.41.2., of the UDO, as follows:

> ***10.41.2.*** It is declared to be the policy of the Board of Commissioners and the Planning Board of the Town to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood erosion or other menace; that proper provisions shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the official map, if such exists and shall be properly related to the proposals shown on the master plan, if such exists and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of firefighting equipment to buildings, and to conform with existing or planned streets and with other public facilities; that a dedication of streets and rights-of-way or easements for pedestrian and utility purposes shall be made; that proper provisions shall be made for the distribution of population and traffic which shall avoid congestion and overcrowding and which

shall create conditions essential to public health, safety and general welfare; and that proper provisions shall be made for open spaces for parks, playgrounds and public beaches.

With regard to the area of the Proposed Subdivision and applicable policies of the *Comprehensive Plan*, this is considered to be within the *Neighborhoods Character Area*, described as "areas of primarily low-density single-family development that have limited to no commercial influence," and further, "The majority of the development in these areas is single-family residential. Lot sizes range from 6,000 square feet to greater than 25,000 square feet. Most newer subdivisions (post 1982) include lots that are 15,000 square feet or greater. It is the town's desire to keep these areas intact and protect them from incompatible land uses."

Additionally, given the location of the Proposed Subdivision and the extension of the multi-use path along US 158, policies and recommendations contained in the Town's *Pedestrian Plan* are applicable; consistent with those policies and recommendations, the applicant has proposed to provide an extension of the multi-use path through the Proposed Subdivision, to connect to the to-be-constructed path along US 158.

PLANNING BOARD RECOMMENDATION

At their meeting on December 17, 2019, the Planning Board voted 5-0 to recommend approval of the **original** Preliminary Plat to the Board of Commissions, with conditions, as follows; in their recommendation, the Planning Board acknowledged that the Preliminary Plat satisfied the determinations contained in Section 4.24.1.4. of the UDO concerning applicable policies, purposes, and standards:

1. Prior to the commencement of land disturbance activities and/or construction of improvements, the applicant/developer shall submit construction drawings/plans for all improvements within the subdivision for approval by the UDO Administrator, who may seek input and comments from Town Staff in the review and approval of the construction drawings. In addition to providing details for all improvements, these drawings/plans shall also provide, and not be limited to, information on erosion and sedimentation control, culvert designs, and take into account any intended or required phasing/sequence of construction for the subdivision.

2. The clearing and grading of any lot or portions thereof shall be prohibited prior to the issuance of a building permit for any such lot, except as determined by the UDO Administrator to be necessary for the installation of stormwater measures. The developer/applicant is encouraged to address any necessary phasing and limits of disturbance on submitted construction drawings/plans.

3. Prior to or in conjunction with approval of the Final Plat for the subdivision, drainage easements, to be the responsibility of the applicant/developer and/or their successors (i.e. Property Owners Association), shall be properly conveyed by recordation with the Dare County Register of Deeds; such easements shall be reviewed and approved by the UDO Administrator prior to recordation, and the UDO Administrator may refer the easements to the Town Attorney for review and comment.

STAFF RECOMMENDATION

Staff is of the opinion that the submitted **and now revised** Preliminary Plat complies with all applicable requirements and that the applicant has addressed all issued comments. Additionally, Staff is of the opinion that the Proposed Subdivision is consistent with applicable policy considerations. Therefore, Staff recommends approval of the Preliminary Plat, with conditions. Staff supports those conditions **previously** recommended by the Planning Board **as the continue to be applicable to the revised Preliminary Plat**; however, it is important to note that following the Planning Board**'s December 2019** meeting the applicant requested consideration of a change to condition #2, as follows:

2. The clearing and grading of any lot or portions thereof shall be prohibited prior to the issuance of a building permit for any such lot, except as determined by the UDO Administrator **(a)** to be necessary for the installation of stormwater measures **or (b) to accommodate the stockpiling of soil from lots within the subdivision which are subject to an issued building permit**. The developer/applicant is encouraged to address any necessary phasing and limits of disturbance on submitted construction drawings/plans.

Staff does not object to the requested change and believes it provides a reasonable accommodation while limiting the amount of clearing on lots not subject to immediate development. It is also important to note that pursuant to Section 4.24.1.3. of the UDO, action to approve with conditions is qualified that "conditions [be] acceptable to the applicant."

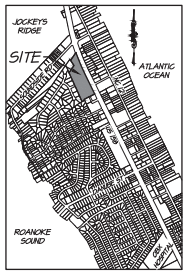
For additional consideration, Staff was contacted by a property owner along Sea Bass Court requesting that consideration be given to landscape screening of the proposed multi-use path extension through the Mariners Way paper right-of-way, if not also locating the path more central within the right-of-way. Staff believes this is reasonable, and would request consideration to this change, with details for this section of path and any landscaping to be provided in the required construction drawings.

Attachments:

1. Draft Preliminary Plat, Sheets 1 thru 3, with an Issue Date of March 27, 2020, prepared by Quible & Associates, P.C.;

2. Memo from David Ryan, P.E., Town Engineer, dated April 17, 2020, provided plan review comments; and

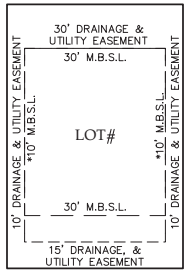
3. Preliminary Plat Application Package under cover letter from Cathleen Saunders, P.E., dated April 14, 2020



VICINITY MAP
(NTS)

NOTES:
1. CURRENT OWNER: NAGS HEAD CONSTRUCTION AND DEVELOPMENT, INC. PO BOX 2130 VIRGINIA BEACH, VA 23450
2. PIN: 9841-0888-6487
3. PID: 006744004
4. PROPERTY ADDRESS: 5 CROATAN HWY
5. ZONING: R2
6. LOT AREA = 424,600.04 sqft / 9.86 acres (AREAS BY COORDINATE METHOD)
7. SUBJECT REFERENCES: DB 1266, PG 271; PC E, SL 360.
8. ADDITIONAL REFERENCES: DB 1534, PG 103; DB, PG 1834, PG 446; PC E, SL 707; PC E, SL 781; PC F, SL 67; PC G, SL 368; PC I, SL 343.
9. FIELD SURVEY DATE: OCTOBER 2018
10. PROPERTY IS LOCATED IN NFIP FLOOD ZONES AS SHOWN AND SUBJECT TO CHANGES, BASED ON COMMUNITY CID NO. 375386; PANEL 9841; SUFFIX J (MAP NUMBER 37206841001J) EFFECTIVE DATE: 04/20/2006
11. THIS SURVEY SUBJECT TO ANY FACTS, INCLUDING BUILDING SETBACK RESTRICTIONS, EASEMENTS, COVENANTS, ETC., THAT MAY BE REVEALED BY A FULL AND ACCURATE TITLE SEARCH.
12. ALL DISTANCES ARE US SURVEY FEET AND HORIZONTAL GROUND.
13. APPROVAL OF THIS SUBDIVISION DOES NOT GUARANTEE SEPTIC APPROVAL ON ANY INDIVIDUAL LOT.
14. MINIMUM BUILDING SETBACKS MAY BE SUBJECT TO CHANGE AND SHOULD BE VERIFIED WITH A ZONING OFFICIAL.
15. SETBACKS:
    FRONT = 30'
    SIDE = 10'
    REAR = 30'
16. A STATE HIGH DENSITY STORMWATER PERMIT AND EROSION & SEDIMENT CONTROL PERMIT MUST BE OBTAINED PRIOR TO DISTURBANCE ON SITE. ALL IMPERVIOUS COVERAGE MUST BE DIRECTED TO INFILTRATION BASINS VIA SHEET FLOW OR ROOF DRAINS.
17. A RIGHT-OF-WAY ENCROACHMENT AGREEMENT IS REQUIRED FROM NCDOT PRIOR TO ANY DISTURBANCE WITHIN THE STATE RIGHT-OF-WAY.
18. BUILDING CONSTRUCTION SHALL COMPLY WITH ALL ASPECTS OF THE NORTH CAROLINA BUILDING AND FIRE CODE.
19. DEVELOPER RESERVES A TEMPORARY ACCESS EASEMENT AS SHOWN ON LOTS 7 & 8 UNTIL SUCH TIME AS A TOWN APPROVED PERMANENT IMPROVED CONNECTION TO 4TH STREET IS DEVELOPED AND DEDICATED TO THE TOWN. MAINTENANCE OF THE TEMPORARY ACCESS EASEMENT IS THE RESPONSIBILITY OF THE DEVELOPER AND ASSOCIATION. REMOVAL OF ANY IMPROVEMENTS WITHIN THE TEMPORARY ACCESS EASEMENT SHALL BE THE RESPONSIBILITY OF THE DEVELOPER OR ASSOCIATION.

LEGEND:
- EXISTING CONCRETE MONUMENT, ECM
- EXISTING IRON PIPE, EIP
- EXISTING IRON ROD, EIR
- SET IRON ROD, SIR
- CALCULATED POINT
- WATER METER
- TELEPHONE PED
- MONITORING WELL
- SIGN
- WATER VALVE
- FIRE HYDRANT
- UTILITY POLE
- (T) - TOTAL DISTANCE
- AG - ABOVE GRADE
- BG - BELOW GRADE



TYPICAL LOT SETBACKS & EASEMENTS

FLOOD HAZARD AREA CERTIFICATE

THIS PROPERTY, OR PORTIONS OF THIS PROPERTY, ARE LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA AS DESIGNATED ON FLOOD INSURANCE RATE MAPS FOR DARE COUNTY. LOCATION IN A SPECIAL FLOOD HAZARD AREA REPRESENTS A ONE PERCENT (1%) OR GREATER CHANCE OF BEING FLOODED IN ANY GIVEN YEAR. FLOOD INSURANCE MAY BE REQUIRED BY LENDING INSTITUTIONS FOR STRUCTURES CONSTRUCTED ON PROPERTY LOCATED IN SPECIAL FLOOD HAZARD AREAS

CERTIFICATE OF TOWN CLERK, TOWN OF NAGS HEAD

I, _____, THE TOWN CLERK OF NAGS HEAD, NORTH CAROLINA DO CERTIFY THAT ON THE _____ DAY OF _____, 20_____ THE TOWN OF NAGS HEAD APPROVED THIS PLAT FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS AND ACCEPTED THE DEDICATION OF IMPROVEMENTS LISTED BY RESOLUTION OF THE BOARD OF COMMISSIONERS BUT ASSUME NO RESPONSIBILITY TO OPEN OR MAINTAIN THE SAME UNTIL, IN THE OPINION OF THE BOARD OF COMMISSIONERS OF NAGS HEAD, IT IS IN THE PUBLIC INTEREST TO DO SO.

_____
TOWN CLERK, TOWN OF NAGS HEAD DATE

CERTIFICATE OF APPROVAL

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION ORDINANCE OF THE TOWN OF NAGS HEAD AND THAT THIS PLAT HAS BEEN APPROVED BY THE TOWN OF NAGS HEAD PLANNING BOARD FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS OF DARE COUNTY.

_____
TOWN OF NAGS HEAD UDO ADMINISTRATOR DATE

OWNER'S CERTIFICATE

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, WHICH IS LOCATED IN THE SUBDIVISION JURISDICTION OF THE TOWN OF NAGS HEAD AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT, ESTABLISH MINIMUM BUILDING SETBACK LINES AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER SITES AND EASEMENTS TO PUBLIC OR PRIVATE USE AS NOTED. FURTHERMORE, I HEREBY DEDICATE ALL ROADWAY STORM SEWER AND WATER LINES TO THE TOWN OF NAGS HEAD.

_____
NAME (PRINTED/SIGNED) DATE

*NOTARY CERTIFICATE

STATE OF NORTH CAROLINA,
COUNTY OF _____

I, _____, A NOTARY PUBLIC OF THE ABOVE REFERENCED COUNTY AND STATE, DO HEREBY CERTIFY THAT _____ PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL, THIS THE _____ DAY OF _____, 20_____.

_____
NOTARY PUBLIC

MY COMMISSION EXPIRES : _____

SURVEYOR'S CERTIFICATE

I, JOHN M. HURDLE, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (SEE NOTES); THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS DASHED LINES AND ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN (SEE ADDITIONAL REFERENCES IN NOTES); THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS

_____ DAY OF _____, _____, A.D.

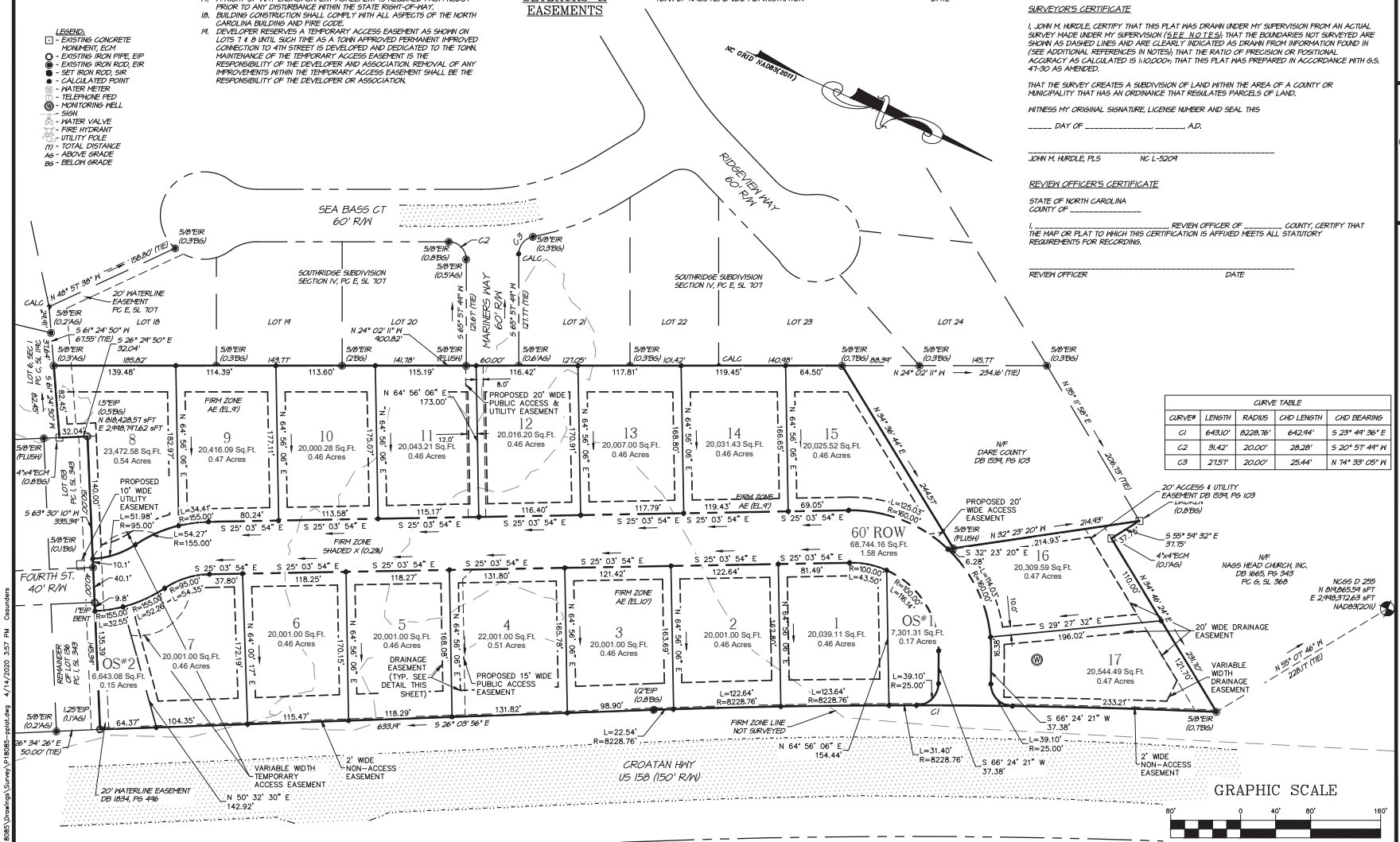
_____
JOHN M. HURDLE, PLS NC L-5204

REVIEW OFFICER'S CERTIFICATE

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____ REVIEW OFFICER OF _____ COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

_____
REVIEW OFFICER DATE



CURVE TABLE				
CURVE#	LENGTH	RADIUS	CHD LENGTH	CHD BEARING
C1	643.10'	8228.76'	642.94'	S 23° 44' 36" E
C2	31.42'	20.00'	28.28'	S 20° 57' 44" W
C3	27.57'	20.00'	25.44'	N 74° 33' 05" W

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NAGS CARATOKE HWY
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Phone: (252) 441-8147
Fax: (252) 491-8146
admin@quible-quible.com
BLACK MTN. OFFICE
80 CHURCH STREET - SUITE B
BLACK MTN., NC 28711
Phone: (828) 793-0398
Fax: (252) 491-8146
admin@quible-quible.com

PRELIMINARY PLAT - NOT FOR RECORDATION, CONVEYANCE, OR SALES

CERTIFICATION

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DRAFT PRELIMINARY PLAT 1 OF 3

PARCEL A COASTAL VILLAS

TOWN OF NAGS HEAD — DARE COUNTY — NORTH CAROLINA

COMMISSION NO.	P18085
DESIGNED BY	JMH
DRAWN BY	JMH/CMS
CHECKED BY	MWS/JMH
ISSUE DATE	03/27/20

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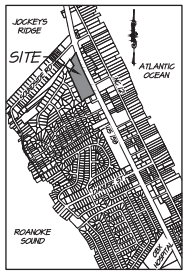
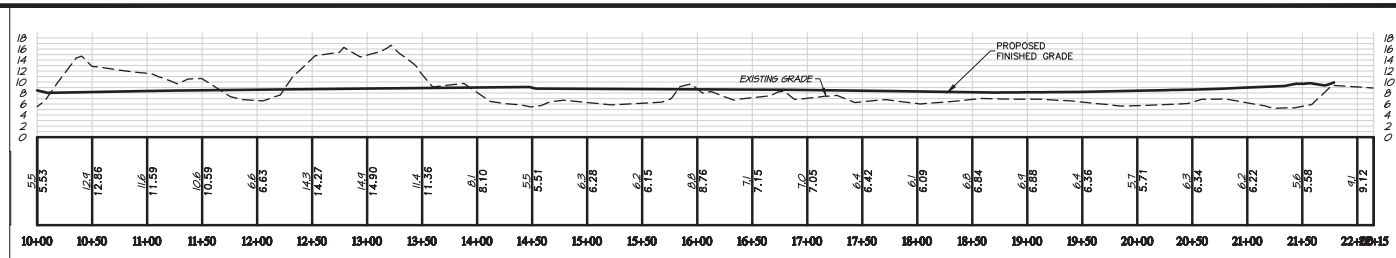


VICINITY MAP
(NTS)



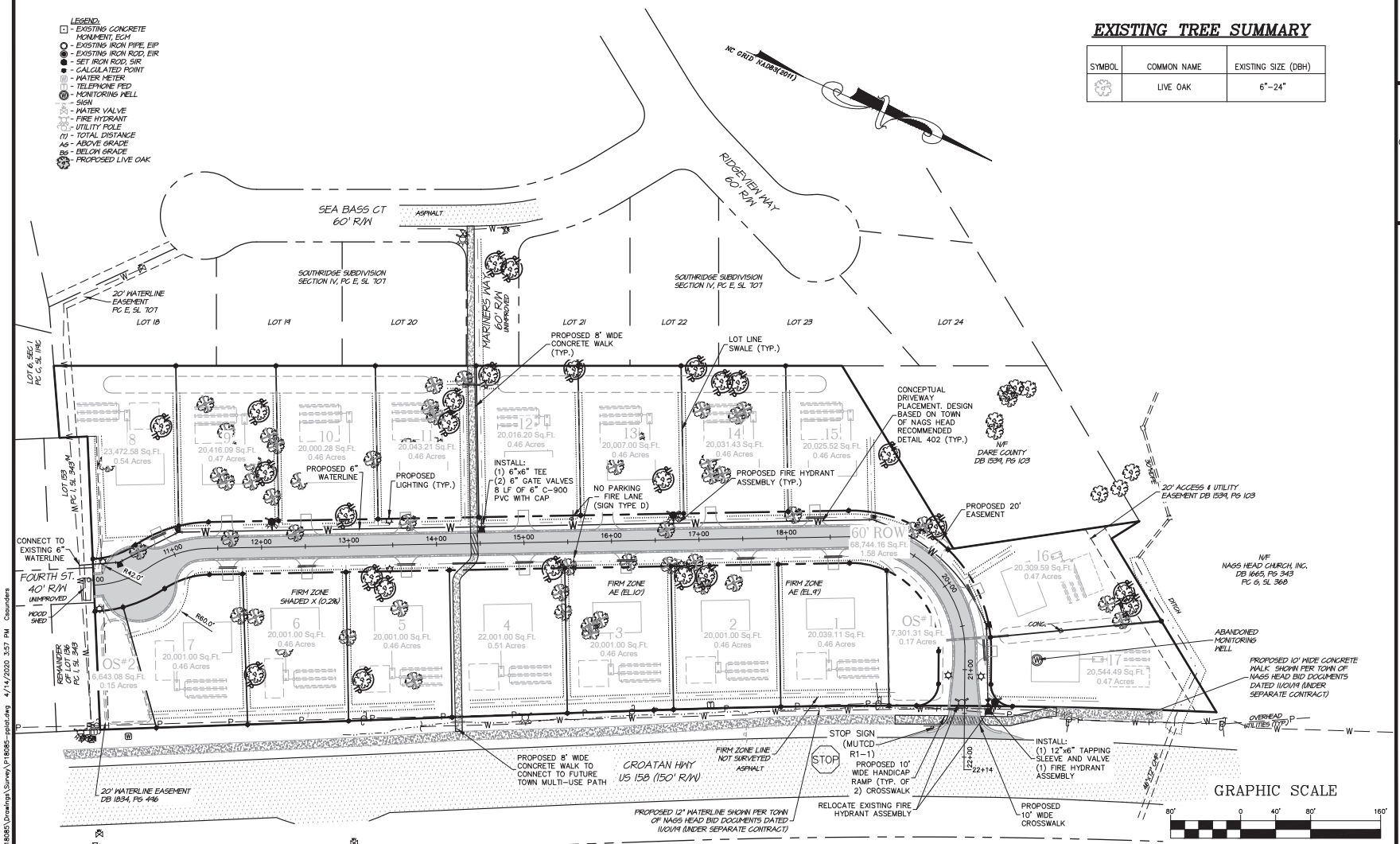
4TH STREET

HORIZONTAL: 1"=80'
VERTICAL: 1"=16'
(EXAGGERATED 5 TIMES)

LEGEND:
- EXISTING CONCRETE MONUMENT, ECM
- EXISTING IRON PIPE, EIP
- EXISTING IRON ROD, EIR
- SET IRON ROD, SIR
- CALCULATED POINT
- WATER METER
- TELEPHONE PED
- MONITORING WELL
- SIGN
- WATER VALVE
- FIRE HYDRANT
- UTILITY POLE
- (T) - TOTAL DISTANCE
- AG - ABOVE GRADE
- BG - BELOW GRADE
- PROPOSED LIVE OAK

EXISTING TREE SUMMARY

SYMBOL	COMMON NAME	EXISTING SIZE (DBH)
	LIVE OAK	6"-24"



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Fax: (252) 491-8146
commissions@quible.com
80 CHURCH STREET, SUITE B
BLACK MOUNTAIN, NC 28711
Phone: (828) 793-0398
Fax: (252) 491-8146
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PRELIMINARY PLAT NOT FOR RECORDATION, CONVEYANCE, OR SALES

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DRAFT PRELIMINARY PLAT 2 OF 3

PARCEL A COASTAL VILLAS

TOWN OF NAGS HEAD — DARE COUNTY — NORTH CAROLINA

COMMISSION NO.	P18085
DESIGNED BY	JMH
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CHECKED BY	MWS/JMH
ISSUE DATE	03/27/20

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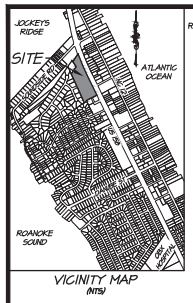
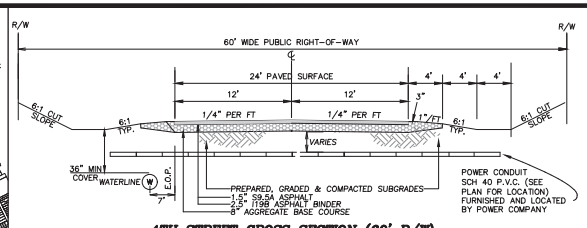


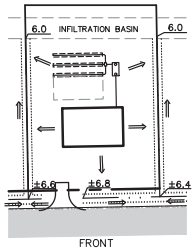
VICINITY MAP
(NTS)



4TH STREET CROSS SECTION (60' R/W)

N.T.S.

1. CONTRACTOR TO INSURE THAT WATERMAIN IS INSTALLED SO AS TO MAINTAIN LEAST 36" COVER FROM FINISH GRADE OF SIDE SLOPES & SWALES.
2. PAVEMENT DESIGN, INCLUDING THICKNESS, TO BE DETERMINED BY GEOTECHNICAL ENGINEERING.



FRONT

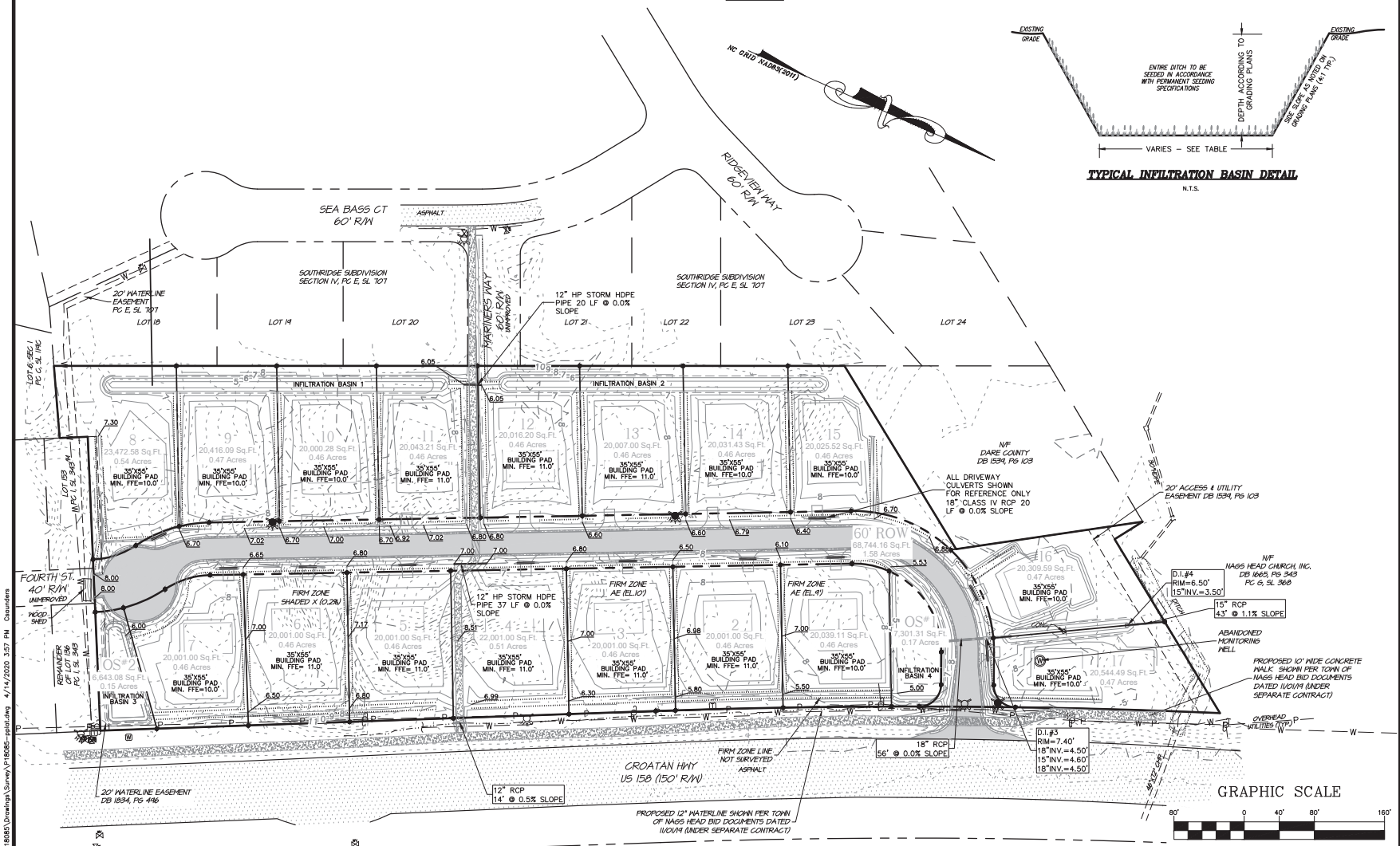
EXAMPLE LOT GRADING

LEGEND:

- EXISTING ASPHALT PAVEMENT
- PROPOSED CONCRETE
- PROPOSED ASPHALT
- PROPOSED LIGHT POLE
- PROPOSED FIRE HYDRANT
- PROPOSED WATER VALVE
- EXISTING CONTOUR
- EXISTING SPOT GRADE
- PROPOSED CONTOUR
- PROPOSED SPOT GRADE (TOP OF ASPHALT/FLOW LINE UNLESS OTHERWISE NOTED)

TYPICAL INFILTRATION BASIN DETAIL

N.T.S.



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BLACK MTN. OFFICE: 80 CHURCH STREET, SUITE B, BLACK MTN., NC 28711, Phone: (828) 793-0398, Fax: (252) 491-8146, commissioners@q-a.com

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NOT FOR RECORDATION OR SALE PARCELS
PROFESSIONAL ENGINEER SEAL
PROFESSIONAL LAND SURVEYOR SEAL
CERTIFICATION

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DRAFT PRELIMINARY PLAT 3 OF 3

PARCEL A COASTAL VILLAS

TOWN OF NAGS HEAD — DARE COUNTY — NORTH CAROLINA

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CHECKED BY	MWS/JMH
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Benjamin Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Cliff Ogburn
Town Manager

Town of Nags Head
Post Office Box 99
Nags Head, NC 27959
Telephone 252-441-5508
Fax 252-441-0776
www.nagsheadnc.gov

M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

Date: April 17, 2020

To: Kelly Wyatt, Deputy Planning Director

From: David Ryan, P.E.

RE: Southridge Subdivision- Section VI – Coastal Villas-Town Engineer Plan Review Comments

---

Internal Traffic Circulation Review

1. Vehicle pathing exhibits have been provided which depict the routing of emergency and sanitation vehicles. The internal traffic circulation approval is contingent on the Public Works/Fire Department approval for sanitation and emergency vehicle access.

2. The side street intersection for connectivity to S. Croatan Hwy. is designed in accordance with Sec. 36-4, Design Standards-Side Street Intersection.

3. An NCDOT right-of-way encroachment shall be obtained for the proposed improvements in the S. Croatan Hwy. right-of-way and review of access to/from S. Croatan Hwy.. This shall be required prior to any land-disturbing activities taking place.

Stormwater Management Review

1. Engineered calculations for a pre/post-development stormwater runoff analysis for a 10-yr design storm event have been submitted by the applicant's engineer. This comparative analysis computes pre-development and post-development off-site discharges to evaluate sufficiency of downstream carrying capacity. The submitted information has demonstrated a reduction in off-site runoff volume being discharged into the downstream drainage system. The reduction is a result of on-site volume provided by stormwater management improvements.

2. An NCDEQ high-density stormwater management permit shall be acquired for this application and submitted to the Town upon issuance.

3. An NCDEQ Certificate of Coverage for Stormwater Discharges shall be obtained prior to any land-disturbing activities being conducted.

4. The submitted subdivision plat has been determined to be designed in accordance with Article 11. Environmental Regulations of the Unified Development Ordinance**.**

Quible

Quible & Associates, P.C.

ENGINEERING • ENVIRONMENTAL SCIENCES • PLANNING • SURVEYING

SINCE 1959

P.O. Drawer 870
Kitty Hawk, NC 27949
Phone: 252-491-8147
Fax: 252-491-8146
web: quible.com

April 14, 2020

Mr. Michael Zehner
Town of Nags Head
P.O. Box 99
Nags Head, NC 27959

Re: Preliminary Plat Application package
Coastal Villas (formerly Southridge, Phase VI Subdivision)
Town of Nags Head, Dare County, NC

Mr. Zehner,

On behalf of Nags Head Construction and Development, Inc., Quible & Associates, P.C. hereby submits a revised Preliminary Plat Application for the subject referenced project located on Croatan Highway in Nags Head, Dare County. Per our TRC Meeting with the Town of Nags Head on 04/7/2020, Quible and Associates, P.C. has revised the preliminary plat to address comments raised.

Please find enclosed the following items for the above referenced project:

- Two (2) copies of the Revised Narrative;
- Two (2) copy of the Fire Routing Exhibit;
- Two (2) copies of the Refuse Routing Exhibit;
- Two (2) copies of the Revised Preliminary Plat;
- Two (2) copies of the DRAFT Covenants
- One (1) digital copy of the complete package.

Please acknowledge the following comment summary and response provided in reference to the comments received. We have provided our response in red for ease of review:

Planning & Zoning comments (Kelly/Michael):

- The lot number, street names, and surveyor's cert. appear on the three sheets as dots – this could be a rendering issue. *Acknowledged. The pdf has been "flattened" to help with the rendering issue.*
- Recommends seed money be included to the HOA for maintenance to alleviate board concerns about O&M of basins; *Per the draft covenants, annual assessments from HOA members are required by Section 5.01.1. Section 5.02 and article VI cover maintenance for the stormwater management facilities as required by NCDEQ. Section 3.02.1 specifies that the developer will have responsibility until 95% of the subdivision is under separate ownership, therefor, the developer will hold operation and maintenance responsibilities until the last lot is sold. This will allow for the HOA to build up funds prior to taking over responsibility. Per the covenants, The developer must fund any difference in the budget and any assessments levied (See 5.04). Section 5.02 allows assessments for maintenance of the Stormwater facilities on the Association.*

- Spell out that open space will convey to the HOA within the covenants; *The DRAFT covenants have been revised. See section 4.01 for conveyance*
- Include dimensions for temp cul-de-sac on applicable plan sheet. *Acknowledged. These are shown on Sheet 2.*
- Please consider if a street name other than Fourth Street is preferred; the name of the paper street may not preclude the use of a different street name. *Acknowledged. The Street is indicated as 4th Street.*
- For streetlights, consider suggestions of Section 10.71.1. of the UDO for separation. *Lights have been shifted to meet the minimum of 300' as shown on Sheet 2.*
- Zoning noted that it is the responsibility of the developer to coordinate electric, cable, and other utilities; *Acknowledged.*
- The conditions of approval will be expanded to include the temporary easement/turn around requirement; *Acknowledged*
- Staff may consider bonding the extended roadway and turn around on the 4th street right-of-way in lieu of the cul-de-sac based on the 4th Street development timing. *The developer has decided to pave the cul-de-sac as we are not aware of the 4th Street property development timeline.*
- Provide temporary access easement language (who is responsible for maintenance, time of transfer, when it is removed, who removes, etc.) *Acknowledged. See Note 19 on Sheet 1 of 3.*

Town Engineer (David Ryan):

- Narrative- an existing network of pipes and ditches connects S. Virginia Dare Trail with the Soundside Rd. sound outfall. A portion of this system borders the northern portion of the subject property, for conveyance to a closed pipe system on the western extents of the Nags Head Church property prior to connection into the Soundside Rd. drainage system. The outfall from the subject property will discharge into the existing open drainage ditch portion which is encompassed within an existing Town drainage easement. Town has provided additional information on the outfall to assist with describing this outfall; *Acknowledged and received.*
- As currently designed, there is limited interconnectivity between drainage areas. It is recommended that connections between drainage areas be considered for equalization and to manage rainfall runoff in exceedance of the design storm event. *12" HDPE HP STORM pipe is now proposed to interconnect the basins on either side of the roadway and is shown on Sheet 3 of 3.*
- Sheet 3 of 3- the point of discharge from the subject property drainage improvements into this existing system should be field verified for correctness of existing ground contours; *Acknowledged. The break line within the ditch has been updated.*
- Sheet 3 of 3- building pad elevations have been confirmed as being elevation 9.0'. Finished street grades should be equal to or lower than building pad elevations. *Acknowledged. The ground elevation at buildings is anticipated to be a minimum of 9.0' elevation. The elevation may go up to 9.5' (or higher) elevation in order to balance material at the site.*
- Request a typical detail of an overlot grading plan which depicts finished contours, property line swales and general stormwater flow direction; *An example grading detail it provided on Sheet 3 of 3. It should be noted grades provided would change for each individual lot.*
- Sheet 3 of 3- grading and refinement of the multi-use path comply with ADA guidelines. *Acknowledged. The new concrete shown on Sheet 2 of 3 is the extent necessary to maintain ADA compliant grades.*

- Protect live oaks within the proposed infiltration basin 2 if feasible; *Acknowledged. These live oaks are shown to be protected; however, it will depend on how deep the root system is if the trees can remain in this location due to required infiltration basin excavation.*
- Provide a revised sequence of construction; *The developer proposes the following with respect to the sequence of construction:*
    a. *Clear and grade roadway, associated roadway swales and infiltration basins;*
    b. *Clear and grade all associated lot line swales;*
    c. *Clear and grade 3-4 lots at a time allowing for soil stockpiling and/or balancing of lots throughout as clearing takes place.*

  A more detailed sequence of construction will be prepared and placed on the construction plans. It is understood that Town review and approval of the Subdivision construction plans will be a condition of approval.
- Recommend adding a brief description in the narrative about a vehicular traffic generation from the proposed subdivision and conformance with TNH and/or NCDOT guidelines. *Traffic generation is discussed on Page 2 of the Revised Site Narrative.*
- Recommends using geoweb or some other option to contain gravel; *Based on discussions, the temporary turnaround has been shown as paved asphalt.*
- NCDOT may require a cross street culvert as part of the right-of-way encroachment review. A culvert would maintain a flow path to the existing open drainage ditch during high flow periods. *Acknowledged.*
- Consideration of maintenance and responsibilities of the proposed temporary gravel cul-de-sac. Draft easement language may be necessary, and the easement should address any necessary conveyance to the HOA, and under what conditions the easement is dissolved. *Acknowledged. Language is shown on Sheet 1 of 3 (Note 19).*
- Sheet 1 of 3- suggest graphically depicting infiltration drainage easements on plat plan view. *At this time easements have been added back to the plan, but minimum building setback lines are still shown within the typical only as to alleviate clutter on the plan.*

Public Works (Ralph Barile):

- Provide a 6"x6" tee and stub out at the intersection with Mariner's Way. The Town will install this extension (Previous comment). *Acknowledged. A 6"x6" tee, valves, and an associated stub is proposed.*
- 15' (or wider) access and utility easement for waterline connection back to Seabass Court; *Acknowledged. A 20' access and utility easement have been provided.*
- Would prefer the turnaround be paved; *Acknowledged. The temporary turnaround has been shown paved.*

Please review the enclosed revised documentation and place us on the April 21st, Planning Board agenda, if appropriate. Please do not hesitate to contact me at 252.491.8147 if you have any questions, comments or requests for additional information.

Sincerely;
Quible & Associates, P.C.

Cathleen M. Saunders, P.E.
Project Manager
encl: As stated
cc: Alfred Norman, Nags Head Construction, LLC

SITE NARRATIVE

Coastal Villas
(formerly Southridge Subdivision – Phase VI)
Town of Nags Head, Dare County, North Carolina

Prepared for:
Nags Head Construction
and Development, Inc.
P.O. Box 16472
Chesapeake, VA 23328

Prepared by:
Quible & Associates, P.C.
PO Drawer 870
Kitty Hawk, NC 27949

Revised: April 14, 2020
P18085

Table of Contents

Overview 2
Existing Site 2
Proposed Development 2
Access 2
Stormwater Management Plan 3
Soils 3
Downstream Analysis 4
Utilities 4
Proposed Zoning Conditions/Dimensional Standards 5

Appendices

Appendix A – On-site Soils Evaluation and NRCS Web Soil Survey Data

Appendix B – On-site Wastewater Evaluation and Well Documentation

Appendix C – Stormwater Calculations

Overview

Nags Head Construction and Development, Inc. (Owner) is proposing to subdivide an existing parcel located on S. Croatan Highway (PIN 9891-0888-6987). The proposed subdivision parent parcel is approximately 9.86 acres. The location is approximately 300 feet south of the intersection of W. Soundside Road and US 158. The existing land is vacant and consists of vegetation throughout. There is an existing drainage ditch that currently runs along the northern boundary and runoff from this site is believed to make its way offsite through this existing drainage ditch or through infiltration in low lying areas.

The developer is proposing a 17-lot subdivision with associated improvements such as streets, sidewalks, stormwater management control measures, domestic water supply, and other associated utilities. The runoff from impervious surfaces in this subdivision will be conveyed via overland flow and lot line swales to proposed infiltration basins.

The following narrative sections will detail the parameters of the proposed Subdivision and its compliance with Town requirements.

Existing Site

As stated above, the subject parcel is vacant and consists of vegetated open space. There is an existing drainage ditch that runs along the northern property line. Runoff from the existing site currently infiltrates within existing low spots or discharges offsite onto adjacent properties. The site appears to fall within the SoundsideW Drainage Basin as defined within the Town of Nags Head Comprehensive Plan. The parcel currently has no existing impervious surfaces or improvements.

Within the Town of Nags Head Comprehensive Plan, the parcel is zoned as R2 and does not appear to fall within a Historic Character Area or scenic area. Within the Future Land Use Map the subject parcel is within a residential designation, which is consistent with the proposed subdivision.

Proposed Development

Access

The proposed subdivision will access Croatan Highway approximately 600’ from the existing Soundside Road intersection. This connection will meet Town requirements of a 90-degree connection at 34’ wide, with a transition down to 24’ wide roadway capable of withstanding 75,000 lbs, which allows for fire access to the site. A temporary heavy-duty gravel cul-de-sac with associated temporary access easements will be recorded with a 40’ radius for fire department and emergency vehicle turn around.

The roadway is designed as a local access street and does not collect traffic from more than 100 dwelling units as required by The Town of Nags Head Municipal Code. The proposed development is anticipated to have an average access of 10 trips per day per unit at a total of 170 average daily trips (ITE Trip Generation Manual, 10th Edition). NCDOT does not require a traffic impact analysis to be performed when a development has a trip generation of less than 3,000 ADT. This development is well below this requirement.

A Town sidewalk plan is proposed along Croatan Highway between Deering and Soundside Road based on the Town of Nags Head Comprehensive Plan. This sidewalk and associated waterline have recently been installed and is shown on the provided preliminary plat based on construction drawing information provided by the Town. Pedestrian access is proposed through the subdivision to connect residents with this multiuse path.

Stormwater Management Plan

Stormwater to serve the proposed subdivision will include infiltration basins. The proposed stormwater management facilities have been designed to provide the following storage:

Infiltration Basin	***TONH Required Storage***	***Provided Storage***
Basin 1	5,304 cf	7,538 cf
Basin 2	5,408 cf	7,176 cf
Basin 3	4,515 cf	5,092 cf
Basin 4	8,275 cf	16,007 cf

Required storage has been calculated based on 33% coverage throughout all proposed lots at a rate of 15 cf per 100 sf of built upon area.

Infiltration Basin	***Bottom Elevation***	***Top Elevation***	***Side Slopes***
Basin 1	5.0'	6.5'	4:1
Basin 2	5.0'	6.5'	4:1
Basin 3	5.0'	6.5'	4:1
Basin 4	4.5'	6.5'	4:1

Soils

The USDA NRCS Soil Survey lists the soil in the vicinity of the stormwater infiltration basin as described below.

- DtA – Duckston fine sand
  This soil typically has 0 to 2 percent slopes. Duckston fine sand typically has a very high runoff rate and is typically well drained. This soil is categorized in Hydrologic Soil Group: A/D

- DuE – Dune Land
  This soil typically has 2 to 40 percent slopes. Dune Land is typically made up of fine sand and sand.

- DwE – Dune Land Newhan Complex
  This soil typically has 2 to 40 percent slopes. Dune Land-Newhan complex typically has a very low runoff rate and is typically excessively drained. This soil is categorized in Hydrologic Soil Group: A

- NhC – Newhan-Corolla complex
  This soil typically has 0 to 10 percent slopes. Newhan-Corolla complex typically has a very low runoff rate and is typically excessively drained. This soil is categorized in Hydrologic Soil Group: A

- NuC—Newhan-Urban land complex
  This soil typically has 0 to 10 percent slope. Newhan-Urban land complex typically has a very low runoff class and is excessively drained. This soil is categorized in Hydrologic Soil Group: A.

Soils infiltration testing has been performed at the site which confirms the anticipated soils based on the NRCS Websoil survey data. An infiltration rate of 6.58 in/hr was calculated and a seasonal high-water table of 3.28'-3.81' was observed depending on the boring location within the site. See attached soil memorandum in **Appendix A** for additional information. These stormwater management facilities will provide an adequate system to meet State and local requirements for stormwater storage. A high-density stormwater permit is required by NC DEQ along with deed restrictions for each individual lot. Stormwater calculations have been included within **Appendix C**.

Downstream Analysis

The pre to post development 10-yr storm has been analyzed to determine adequacy of the downstream channel that will be used as an overflow for the site. The pre-development runoff rate during the 10-yr storm within drainage area #4 is approximately 2.42 cfs. The post-development runoff rate within drainage area #4 (prior to routing or infiltration) is approximately 10.81 cfs. Routing the post-development runoff through the proposed infiltration basin will provide for a discharge of 0.06 cfs of stormwater offsite. This runoff of stormwater is less than the pre-development amount. See stormwater calculations for Hydroflow Hydrographs SCS calculations.

Utilities

The Town has an existing 6" water line that runs along the southern property line and connects into Sea Bass Court via easements. In addition, the Town has recently installed a 12" waterline along Croatan Highway. The proposed waterline extension will tap into the existing 6" waterline, run down the center of the proposed right-of-way, and loop to connect into the 12" waterline at Croatan Highway with a tapping sleeve and valve. A permit to construct from NC DEQ Public Water Supply is required prior to construction. A willingness to serve from the Town of Nags Head Public Works Department has been requested.

The proposed wastewater effluent from the proposed single-family homes will be treated onsite. Preliminary onsite evaluations have been conducted to determine suitability and the health department's LTAR rating. An LTAR rating for a conventional system is anticipated at 1.2 gpd/sf, however, the health department will re-evaluate this rating per site once the subdivision project area has been regraded due to the varying topography throughout. See supporting documentation within **Appendix B.** Onsite wastewater setbacks will be required on each individual single-family home and will need to be handled with individual site plans. The monitoring well on Lot 17 has been abandoned and documentation provided within **Appendix B**. Lots 15 and 16 will be able to maintain a 100' minimum setback from the anticipated well placement. A preliminary sketch plan of well placement has been obtained and available within **Appendix B** for reference.

Proposed Zoning Conditions/Dimensional Standards

Proposed lot dimensions are designed to meet Development Standards within Section 8.2 of the Town of Nags Head UDO effective October 7th, 2019 (DRAFT 12/18/17). Lots are designed to R-2 Medium Density residential standards:

	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Depth	Minimum Side Yard Depth	Minimum Rear Yard Depth	Lot Coverage
Single Family	20,000 sf	70’	30’	10’	30’	33%

Landscape buffers are not anticipated as the proposed development design is for Single Family and not large residential. The provided HOA covenants will require the square footage to remain below 5,000 square feet per the Town’s large residential definition (UDO Section 7.4.4.1).

Appendix A – On-site Soils Evaluation and NRCS Web Soil Survey Data

MEMORANDUM

Quible & Associates, P.C. SINCE 1959
ENGINEERING * CONSULTING * PLANNING
ENVIRONMENTAL SCIENCES * SURVEYING
Phone: (252) 261-3300
Fax: (252) 261-1260
Web: www.quible.com

To: **Cathleen Saunders, P.E.**

From: Brian D. Rubino, P.G.

Date: July 24, 2019

Re: **P18085 Soils Evaluation and Testing**
Dare County PIN: 9891-0888-6987

Cathleen,

On July 22, 2019, we visited the approximately 9.86 acre Site of the proposed residential subdivision in Nags Head, NC (Dare County PIN: 9891-0888-6987). We performed soil borings in several locations around the Site for the purpose of a soils and hydrologic analysis for a future stormwater collection system design (SB-1 through SB-4). The property is undeveloped and consists of undulating topographic conditions, dominantly covered with native vegetation and bare sand areas. Refer to the attached boring logs. Each of the boring locations includes sand substrata that is devoid of any restrictive horizons to the bottom of the borings. The depth to the season high water table (SHWT) and associated actual water table (on 7/22/2019) was observed to be closely related to elevation in this area.

A summary of boring data collected or observed is as follows:

Soil Boring	Ground Elevation (ft)	Groundwater Elevation (ft)	Approx. Elevation of SHWT (ft)	Mapped USDA Soil Type
SB-1	5.61	3.11	3.28	Newhan-Corolla complex (NhC)
SB-2	4.65	3.40	3.65	Newhan-Corolla complex (NhC)
SB-3	7.98	3.43	3.81	Newhan-Corolla complex (NhC)
SB-4	6.16	3.16	3.49	Newhan-Corolla complex (NhC)

At the location of SB-1 and SB-3, we installed piezometers and conducted falling head slug tests to determine the approximate saturated hydraulic conductivity of the proposed infiltration areas. An Onset HOBO transducer was inserted down into the bottom of the piezometer and a volume of water (approximately 1.5 gallons) was added through the top of the piezometer. Return rates of the water were measured in preset intervals (1 second). A second transducer was used to measure atmospheric pressure which allows the raw data to be converted to feet of water above the transducer during the test. The Onset pressure transducer data was used in the AQTESOLV Software Program to solve for Hydraulic Conductivity (K) using the Bouwer-Rice Solution for unconfined aquifers. Based on the input data and using the Bouwer-Rice Method for unconfined

aquifers, the saturated K value of the infiltration zone for SB-1 was 0.009148 ft/min (6.58 in/hr) and SB-3 was 0.009155 ft/min (6.59 in/hr). Slug test tare sheets are attached.

Based on our findings, the areas evaluated would provide adequate infiltration above the SHWT to support a stormwater collection and treatment system for the proposed development.

Quible & Associates, P.C.
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ENGINEERING * CONSULTING * PLANNING
ENVIRONMENTAL SCIENCES * SURVEYING
Phone: (252) 491-8147
Fax: (252) 491-8146
Web: www.quible.com

SOIL BORING LOG

1. PURPOSE OF BORING STORMWATER BORINGS P18085
2. BORING NUMBER/LOCATION SB-1
3. OWNER/ADDRESS Nags Head Construction and Development, Inc
4. DATE BORED 7/22/2019
5. TOTAL DEPTH 72"
6. STATIC WATER LEVEL 2.53' bgs (3.11' NAVD 88)
7. TOPOGRAPHIC LAND SETTING undulating vegetated dune area
8. LATITUDE/LONGITUDE
9. COMMENTS
   close to DC production well site;
   boring location in lower are between small dunes;
   no confining unit, clays or loamy soils

LOCATION SKETCH

STRATIGRAPHY

DEPTH	FORMATION DESCRIPTION
0-28"	tan fine gr. snd; 10YR 5/4 dry
28-40"	fine-med gr. snd; 10YR 5/3
	SHWT 28" bgs (3.28' NAVD88)
	WT 4.04' bgs (3.11' NAVD 88)
40-72"	same as above, 10YR 5/1

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Web: www.quible.com

SOIL BORING LOG

1. PURPOSE OF BORING STORMWATER BORINGS P18085
2. BORING NUMBER/LOCATION SB-2
3. OWNER/ADDRESS Nags Head Construction and Development, Inc.
4. DATE BORED 7/22/2019
5. TOTAL DEPTH 40"
6. STATIC WATER LEVEL 1.25' bgs (3.40' NAVD 88)
7. TOPOGRAPHIC LAND SETTING undulating vegetated dune area
8. LATITUDE/LONGITUDE
9. COMMENTS
Close to US 158 R-O-W - receives some runoff

LOCATION SKETCH

STRATIGRAPHY

DEPTH	FORMATION DESCRIPTION
0-12"	fine gr. snd; 10YR 5/3
12-24"	fine gr snd; 10YR 5/2 SHWT 12" bgs (3.65' NAVD 88) WT 15" bgs (3.40' NAVD 88)
24-40"	fine gr snd; matrix = 10YR 4/1 w/ streaks of 10YR 3/1

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SOIL BORING LOG

1. PURPOSE OF BORING STORMWATER BORINGS P18085
2. BORING NUMBER/LOCATION SB-3
3. OWNER/ADDRESS Nags Head Construction and Development, Inc.
4. DATE BORED 7/22/2019
5. TOTAL DEPTH 80"
6. STATIC WATER LEVEL 4.55' bgs (3.43' NAVD 88)
7. TOPOGRAPHIC LAND SETTING undulating vegetated dune area
8. LATITUDE/LONGITUDE
9. COMMENTS W-side of parcel near property pin

LOCATION SKETCH

STRATIGRAPHY

DEPTH	FORMATION DESCRIPTION
0-36"	10YR 6/4 fine-gr. snd.
36-48"	10YR 6/3 fine-gr. snd SHWT 48" bgs (3.81' NAVD 88)
48-60"	fine-gr snd; 10YR 6/2 WT 4.55' bgs (3.43' NAVD 88
60-80"	fine-gr snd; 10YR 4/2

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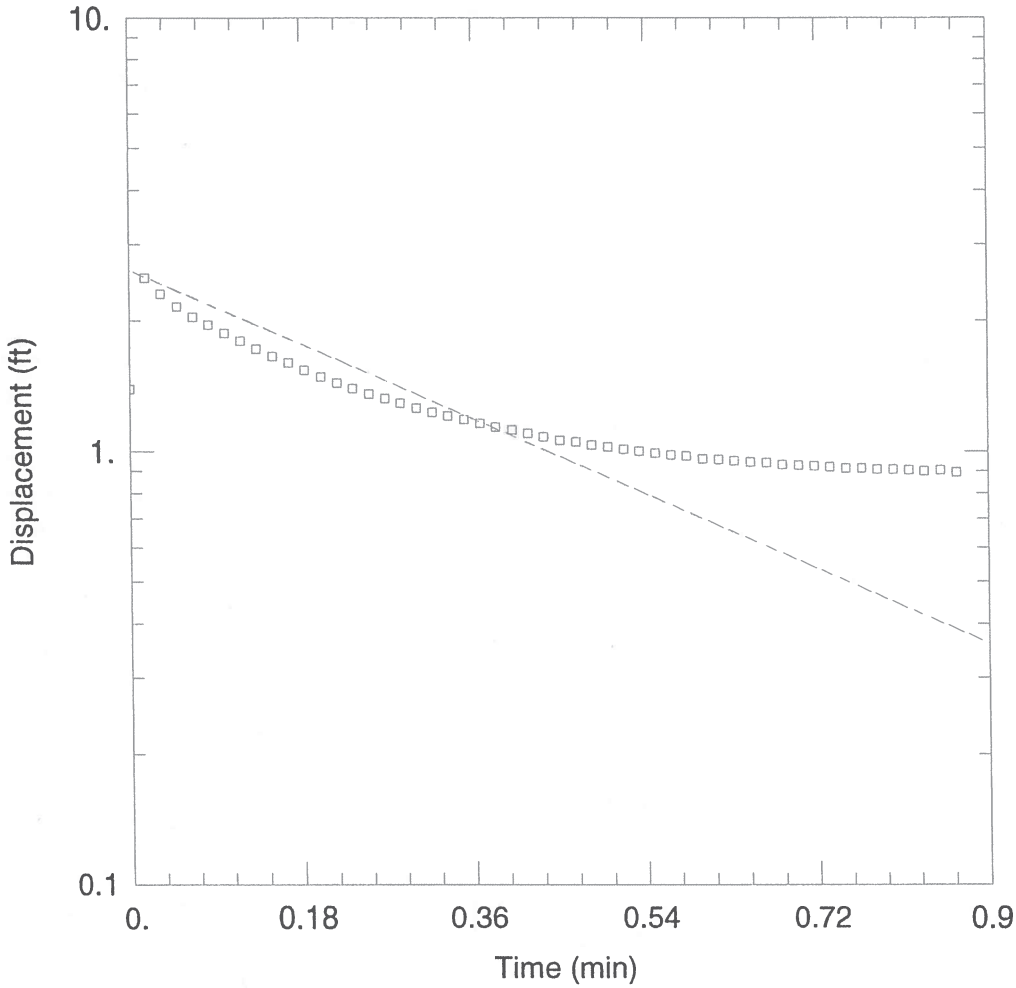
SOIL BORING LOG

1. PURPOSE OF BORING STORMWATER BORINGS P18085
2. BORING NUMBER/LOCATION SB-4
3. OWNER/ADDRESS Nags Head Construction and Development, Inc
4. DATE BORED 7/22/2019
5. TOTAL DEPTH 72" bgs
6. STATIC WATER LEVEL 2.67' bgs (3.16' NAVD 88)
7. TOPOGRAPHIC LAND SETTING undulating vegetated dune area
8. LATITUDE/LONGITUDE
9. COMMENTS
Central portion of parcel

LOCATION SKETCH

STRATIGRAPHY

DEPTH	FORMATION DESCRIPTION
0-34	tan fine-med gr snd.; 10YR5/4
	SHWT 32-34" bgs
34-72	fine-med gr snd; 10YR 5/2
	WT 3.0' bgs (3.16' NAVD88)



WELL TEST ANALYSIS

Data Set: Q:\2018\P18085\Documents\Stormwater\SB-1.aqt
Date: 07/24/19 Time: 13:36:45

PROJECT INFORMATION

Company: Quible & Associates, P.C.
Client: Parcel A Sec VI Southridge
Project: P18085
Location: Nags Head
Test Well: SB-1
Test Date: 7/22/19

AQUIFER DATA

Saturated Thickness: 60. ft
Anisotropy Ratio (Kz/Kr): 1.

WELL DATA (New Well)

Initial Displacement: 1.39 ft
Total Well Penetration Depth: 4. ft
Casing Radius: 0.167 ft
Static Water Column Height: 0.895 ft
Screen Length: 4. ft
Well Radius: 0.333 ft
Gravel Pack Porosity: 0.

SOLUTION

Aquifer Model: Unconfined
Solution Method: Bouwer-Rice
K = 0.009148 ft/min 6.58 in/hr.
y0 = 2.624 ft

AQTESOLV for Windows

Data Set: Q:\2018\P18085\Documents\Stormwater\SB-1.aqt
Date: 07/24/19
Time: 13:37:01

PROJECT INFORMATION

Company: Quible & Associates, P.C.
Client: Parcel A Sec VI Southridge
Project: P18085
Location: Nags Head
Test Date: 7/22/19
Test Well: SB-1

AQUIFER DATA

Saturated Thickness: 60. ft
Anisotropy Ratio (Kz/Kr): 1.

SLUG TEST WELL DATA

Test Well: New Well

X Location: 0. ft
Y Location: 0. ft

Initial Displacement: 1.39 ft
Static Water Column Height: 0.895 ft
Casing Radius: 0.167 ft
Well Radius: 0.333 ft
Well Skin Radius: 0.333 ft
Screen Length: 4. ft
Total Well Penetration Depth: 4. ft
Corrected Casing Radius (Bouwer-Rice Method): 0.1549 ft
Gravel Pack Porosity: 0.

No. of Observations: 52

Observation Data

Time (min)	Displacement (ft)	Time (min)	Displacement (ft)
0.01667	2.512	0.45	1.061
0.03333	2.309	0.4667	1.051
0.05	2.155	0.4833	1.034
0.06667	2.039	0.5	1.024
0.08333	1.956	0.5167	1.011
0.1	1.872	0.5333	1.001
0.1167	1.796	0.55	0.991
0.1333	1.722	0.5667	0.981
0.15	1.656	0.5833	0.975
0.1667	1.599	0.6	0.961
0.1833	1.539	0.6167	0.958
0.2	1.483	0.6333	0.951
0.2167	1.436	0.65	0.945
0.2333	1.396	0.6667	0.941
0.25	1.356	0.6833	0.931
0.2667	1.323	0.7	0.928
0.2833	1.29	0.7167	0.925
0.3	1.257	0.7333	0.921
0.3167	1.23	0.75	0.915
0.3333	1.207	0.7667	0.915
0.35	1.184	0.7833	0.908
0.3667	1.161	0.8	0.908
0.3833	1.137	0.8167	0.905
0.4	1.121	0.8333	0.901
0.4167	1.101	0.85	0.905
0.4333	1.081	0.8667	0.895

SOLUTION

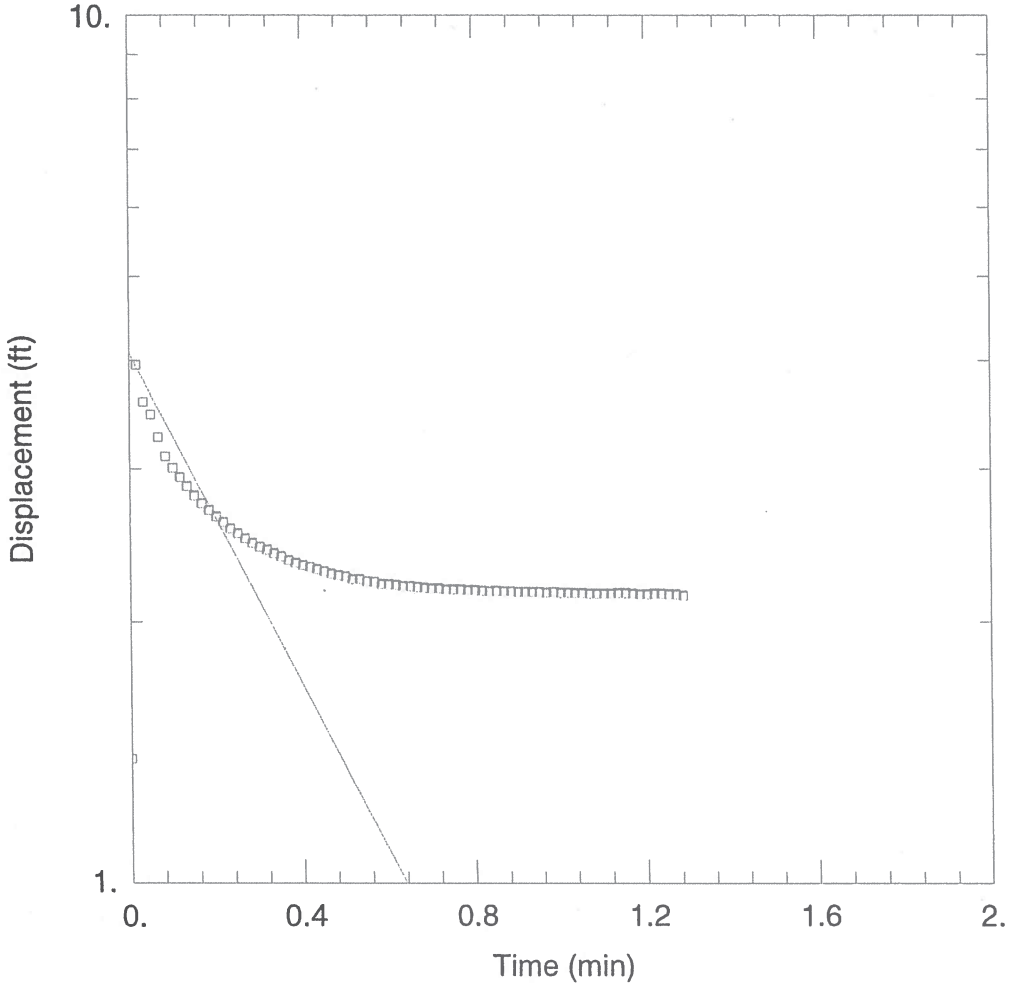
Slug Test
Aquifer Model: Unconfined
Solution Method: Bouwer-Rice
ln(Re/rw): 1.383

VISUAL ESTIMATION RESULTS

Estimated Parameters

Parameter	Estimate	
K	0.009148	ft/min
y0	2.624	ft

K = 0.004647 cm/sec
T = K*b = 0.5489 ft^2/min (8.499 sq. cm/sec)



WELL TEST ANALYSIS

Data Set: Q:\2018\P18085\Documents\Stormwater\SB-3.Test 1.aqt
Date: 07/24/19 Time: 13:52:38

PROJECT INFORMATION

Company: Quible & Associates, P.C.
Client: Parcel A Sec VI Southridge
Project: P18085
Location: Nags Head
Test Well: SB-3
Test Date: 7/22/19

AQUIFER DATA

Saturated Thickness: 60. ft
Anisotropy Ratio (Kz/Kr): 1.

WELL DATA (New Well)

Initial Displacement: 1.39 ft
Total Well Penetration Depth: 4. ft
Casing Radius: 0.167 ft
Static Water Column Height: 0.895 ft
Screen Length: 4. ft
Well Radius: 0.333 ft
Gravel Pack Porosity: 0.

SOLUTION

Aquifer Model: Unconfined
Solution Method: Bouwer-Rice
K = 0.009155 ft/min 6.59 in/hr.
y0 = 4.078 ft

AQTESOLV for Windows

Data Set: Q:\2018\P18085\Documents\Stormwater\SB-3.Test 1.aqt
Date: 07/24/19
Time: 13:52:59

PROJECT INFORMATION

Company: Quible & Associates, P.C.
Client: Parcel A Sec VI Southridge
Project: P18085
Location: Nags Head
Test Date: 7/22/19
Test Well: SB-3

AQUIFER DATA

Saturated Thickness: 60. ft
Anisotropy Ratio (Kz/Kr): 1.

SLUG TEST WELL DATA

Test Well: New Well

X Location: 0. ft
Y Location: 0. ft

Initial Displacement: 1.39 ft
Static Water Column Height: 0.895 ft
Casing Radius: 0.167 ft
Well Radius: 0.333 ft
Well Skin Radius: 0.333 ft
Screen Length: 4. ft
Total Well Penetration Depth: 4. ft
Corrected Casing Radius (Bouwer-Rice Method): 0.1549 ft
Gravel Pack Porosity: 0.

No. of Observations: 77

Observation Data

Time (min)	Displacement (ft)	Time (min)	Displacement (ft)
0.01667	3.954	0.6667	2.189
0.03333	3.584	0.6833	2.185
0.05	3.467	0.7	2.182
0.06667	3.264	0.7167	2.182
0.08333	3.101	0.7333	2.175
0.1	3.004	0.75	2.175
0.1167	2.931	0.7667	2.175
0.1333	2.861	0.7833	2.172
0.15	2.791	0.8	2.172
0.1667	2.735	0.8167	2.168
0.1833	2.685	0.8333	2.165
0.2	2.641	0.85	2.168
0.2167	2.602	0.8667	2.165
0.2333	2.558	0.8833	2.165
0.25	2.525	0.9	2.161
0.2667	2.492	0.9167	2.161
0.2833	2.462	0.9333	2.161
0.3	2.438	0.95	2.161
0.3167	2.418	0.9667	2.158
0.3333	2.395	0.9833	2.161
0.35	2.375	1.	2.158
0.3667	2.352	1.017	2.158
0.3833	2.335	1.033	2.155
0.4	2.322	1.05	2.155
0.4167	2.309	1.067	2.151
0.4333	2.295	1.083	2.151
0.45	2.282	1.1	2.151
0.4667	2.269	1.117	2.151
0.4833	2.259	1.133	2.155

Time (min)	Displacement (ft)	Time (min)	Displacement (ft)
0.5	2.252	1.15	2.155
0.5167	2.235	1.167	2.151
0.5333	2.235	1.183	2.148
0.55	2.222	1.2	2.148
0.5667	2.218	1.217	2.151
0.5833	2.208	1.233	2.151
0.6	2.205	1.25	2.148
0.6167	2.202	1.267	2.148
0.6333	2.195	1.283	2.141
0.65	2.195		

SOLUTION

Slug Test
Aquifer Model: Unconfined
Solution Method: Bouwer-Rice
ln(Re/rw): 1.383

VISUAL ESTIMATION RESULTS

Estimated Parameters

Parameter	Estimate	
K	0.009155	ft/min
y0	4.078	ft

K = 0.004651 cm/sec
T = K*b = 0.5493 ft^2/min (8.505 sq. cm/sec)

United States Department of Agriculture

NRCS

Natural Resources Conservation Service

A product of the National Cooperative Soil Survey, a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local participants

Custom Soil Resource Report for

Dare County, North Carolina

Coastal Villas formerly

Southridge Subdivision, Section VI

July 11, 2019

Preface

Soil surveys contain information that affects land use planning in survey areas. They highlight soil limitations that affect various land uses and provide information about the properties of the soils in the survey areas. Soil surveys are designed for many different users, including farmers, ranchers, foresters, agronomists, urban planners, community officials, engineers, developers, builders, and home buyers. Also, conservationists, teachers, students, and specialists in recreation, waste disposal, and pollution control can use the surveys to help them understand, protect, or enhance the environment.

Various land use regulations of Federal, State, and local governments may impose special restrictions on land use or land treatment. Soil surveys identify soil properties that are used in making various land use or land treatment decisions. The information is intended to help the land users identify and reduce the effects of soil limitations on various land uses. The landowner or user is responsible for identifying and complying with existing laws and regulations.

Although soil survey information can be used for general farm, local, and wider area planning, onsite investigation is needed to supplement this information in some cases. Examples include soil quality assessments (http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/health/) and certain conservation and engineering applications. For more detailed information, contact your local USDA Service Center (https://offices.sc.egov.usda.gov/locator/app?agency=nrcs) or your NRCS State Soil Scientist (http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/contactus/?cid=nrcs142p2_053951).

Great differences in soil properties can occur within short distances. Some soils are seasonally wet or subject to flooding. Some are too unstable to be used as a foundation for buildings or roads. Clayey or wet soils are poorly suited to use as septic tank absorption fields. A high water table makes a soil poorly suited to basements or underground installations.

The National Cooperative Soil Survey is a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local agencies. The Natural Resources Conservation Service (NRCS) has leadership for the Federal part of the National Cooperative Soil Survey.

Information about soils is updated periodically. Updated information is available through the NRCS Web Soil Survey, the site for official soil survey information.

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Dare County, North Carolina.....10
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DuE—Dune land, 2 to 40 percent slopes..... 11
DwE—Dune land-Newhan complex, 2 to 40 percent slopes.....11
NhC—Newhan-Corolla complex, 0 to 10 percent slopes.....13
NuC—Newhan-Urban land complex, 0 to 10 percent slopes.....15
References.....17

Soil Map

The soil map section includes the soil map for the defined area of interest, a list of soil map units on the map and extent of each map unit, and cartographic symbols displayed on the map. Also presented are various metadata about data used to produce the map, and a description of each soil map unit.

Custom Soil Resource Report
Soil Map

Map Scale: 1:2,910 if printed on A portrait (8.5" x 11") sheet.

Meters: 0 40 80 160 240

Feet: 0 100 200 400 600

N

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 18N WGS84

MAP LEGEND

Area of Interest (AOI)

- Area of Interest (AOI)

Soils

- Soil Map Unit Polygons
- Soil Map Unit Lines
- Soil Map Unit Points

Special Point Features

- Blowout
- Borrow Pit
- Clay Spot
- Closed Depression
- Gravel Pit
- Gravelly Spot
- Landfill
- Lava Flow
- Marsh or swamp
- Mine or Quarry
- Miscellaneous Water
- Perennial Water
- Rock Outcrop
- Saline Spot
- Sandy Spot
- Severely Eroded Spot
- Sinkhole
- Slide or Slip
- Sodic Spot
- Spoil Area
- Stony Spot
- Very Stony Spot
- Wet Spot
- Other
- Special Line Features

Water Features

- Streams and Canals

Transportation

- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background

- Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Dare County, North Carolina
Survey Area Data: Version 18, Sep 10, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Dec 31, 2009—Oct 19, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
DtA	Duckston fine sand, 0 to 2 percent slopes, occasionally flooded	1.6	9.4%
DuE	Dune land, 2 to 40 percent slopes	1.4	8.0%
DwE	Dune land-Newhan complex, 2 to 40 percent slopes	2.2	12.9%
NhC	Newhan-Corolla complex, 0 to 10 percent slopes	12.1	69.6%
NuC	Newhan-Urban land complex, 0 to 10 percent slopes	0.0	0.0%
Totals for Area of Interest		**17.4**	**100.0%**

Map Unit Descriptions

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it

was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.

The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The objective of mapping is not to delineate pure taxonomic classes but rather to separate the landscape into landforms or landform segments that have similar use and management requirements. The delineation of such segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, however, onsite investigation is needed to define and locate the soils and miscellaneous areas.

An identifying symbol precedes the map unit name in the map unit descriptions. Each description includes general facts about the unit and gives important soil properties and qualities.

Soils that have profiles that are almost alike make up a *soil series*. Except for differences in texture of the surface layer, all the soils of a series have major horizons that are similar in composition, thickness, and arrangement.

Soils of one series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of such differences, a soil series is divided into *soil phases*. Most of the areas shown on the detailed soil maps are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management. For example, Alpha silt loam, 0 to 2 percent slopes, is a phase of the Alpha series.

Some map units are made up of two or more major soils or miscellaneous areas. These map units are complexes, associations, or undifferentiated groups.

A *complex* consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

An *association* is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the maps. Because of present or anticipated uses of the map units in the survey area, it was not considered practical or necessary to map the soils or miscellaneous areas separately. The pattern and relative proportion of the soils or miscellaneous areas are somewhat similar. Alpha-Beta association, 0 to 2 percent slopes, is an example.

An *undifferentiated group* is made up of two or more soils or miscellaneous areas that could be mapped individually but are mapped as one unit because similar interpretations can be made for use and management. The pattern and proportion of the soils or miscellaneous areas in a mapped area are not uniform. An area can be made up of only one of the major soils or miscellaneous areas, or it can be made up of all of them. Alpha and Beta soils, 0 to 2 percent slopes, is an example.

Some surveys include *miscellaneous areas*. Such areas have little or no soil material and support little or no vegetation. Rock outcrop is an example.

Dare County, North Carolina

DtA—Duckston fine sand, 0 to 2 percent slopes, occasionally flooded

Map Unit Setting

National map unit symbol: 3qgw
Elevation: 0 to 10 feet
Mean annual precipitation: 42 to 58 inches
Mean annual air temperature: 61 to 64 degrees F
Frost-free period: 190 to 270 days
Farmland classification: Not prime farmland

Map Unit Composition

Duckston and similar soils: 90 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Duckston

Setting

Landform: Depressions
Down-slope shape: Concave
Across-slope shape: Concave
Parent material: Eolian sands and/or beach sand

Typical profile

A - 0 to 8 inches: fine sand
Cg - 8 to 13 inches: sand
Ab - 13 to 17 inches: sand
C'g - 17 to 80 inches: sand

Properties and qualities

Slope: 0 to 2 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Poorly drained
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Very high (19.98 to 39.96 in/hr)
Depth to water table: About 0 to 6 inches
Frequency of flooding: Occasional
Frequency of ponding: None
Salinity, maximum in profile: Moderately saline to strongly saline (8.0 to 16.0 mmhos/cm)
Sodium adsorption ratio, maximum in profile: 20.0
Available water storage in profile: Very low (about 3.0 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 7w
Hydrologic Soil Group: A/D
Hydric soil rating: Yes

DuE—Dune land, 2 to 40 percent slopes

Map Unit Composition

Dune land: 95 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Dune Land

Setting

Landform: Dunes
Landform position (two-dimensional): Backslope, shoulder
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Convex
Parent material: Eolian sands

Typical profile

A - 0 to 6 inches: fine sand
C - 6 to 80 inches: sand

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 8s
Hydric soil rating: No

DwE—Dune land-Newhan complex, 2 to 40 percent slopes

Map Unit Setting

National map unit symbol: 3qgy
Elevation: 0 to 20 feet
Mean annual precipitation: 42 to 58 inches
Mean annual air temperature: 61 to 64 degrees F
Frost-free period: 190 to 270 days
Farmland classification: Not prime farmland

Map Unit Composition

Dune land: 45 percent
Newhan and similar soils: 45 percent
Minor components: 5 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Dune Land

Setting

Landform: Dunes
Landform position (two-dimensional): Backslope, shoulder
Landform position (three-dimensional): Side slope
Down-slope shape: Convex

Across-slope shape: Convex
Parent material: Eolian sands

Typical profile

A - 0 to 6 inches: fine sand
C - 6 to 80 inches: sand

Properties and qualities

Slope: 2 to 40 percent
Natural drainage class: Excessively drained
Runoff class: Medium
Capacity of the most limiting layer to transmit water (Ksat): Very high (19.98 to 39.96 in/hr)
Frequency of flooding: Very rare
Salinity, maximum in profile: Slightly saline to strongly saline (4.0 to 16.0 mmhos/cm)
Sodium adsorption ratio, maximum in profile: 20.0
Available water storage in profile: Very low (about 2.5 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 8s
Hydric soil rating: No

Description of Newhan

Setting

Landform: Dunes
Landform position (two-dimensional): Backslope, shoulder
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Convex
Parent material: Eolian sands and/or beach sand

Typical profile

A - 0 to 2 inches: fine sand
C1 - 2 to 50 inches: fine sand
C2 - 50 to 80 inches: sand

Properties and qualities

Slope: 0 to 30 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Excessively drained
Runoff class: Very low
Capacity of the most limiting layer to transmit water (Ksat): Very high (19.98 to 39.96 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: Very rare
Frequency of ponding: None
Salinity, maximum in profile: Slightly saline to strongly saline (4.0 to 16.0 mmhos/cm)
Sodium adsorption ratio, maximum in profile: 20.0
Available water storage in profile: Very low (about 1.8 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 8s
Hydrologic Soil Group: A

Hydric soil rating: No

Minor Components

Duckston

Percent of map unit: 5 percent
Landform: Depressions
Down-slope shape: Concave
Across-slope shape: Concave
Hydric soil rating: Yes

NhC—Newhan-Corolla complex, 0 to 10 percent slopes

Map Unit Setting

National map unit symbol: 3qh6
Elevation: 0 to 20 feet
Mean annual precipitation: 42 to 58 inches
Mean annual air temperature: 61 to 64 degrees F
Frost-free period: 190 to 270 days
Farmland classification: Not prime farmland

Map Unit Composition

Newhan and similar soils: 50 percent
Corolla and similar soils: 40 percent
Minor components: 5 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Newhan

Setting

Landform: Dunes
Landform position (two-dimensional): Backslope, shoulder
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Convex
Parent material: Eolian sands and/or beach sand

Typical profile

A - 0 to 2 inches: fine sand
C1 - 2 to 50 inches: fine sand
C2 - 50 to 80 inches: sand

Properties and qualities

Slope: 0 to 10 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Excessively drained
Runoff class: Very low
Capacity of the most limiting layer to transmit water (Ksat): Very high (19.98 to 39.96 in/hr)
Depth to water table: More than 80 inches

Frequency of flooding: Rare
Frequency of ponding: None
Salinity, maximum in profile: Slightly saline to strongly saline (4.0 to 16.0 mmhos/cm)
Sodium adsorption ratio, maximum in profile: 20.0
Available water storage in profile: Very low (about 1.8 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 8s
Hydrologic Soil Group: A
Hydric soil rating: No

Description of Corolla

Setting

Landform: Troughs on barrier islands
Landform position (two-dimensional): Backslope, toeslope
Landform position (three-dimensional): Base slope
Down-slope shape: Concave
Across-slope shape: Concave
Parent material: Eolian sands and/or beach sand

Typical profile

A - 0 to 3 inches: fine sand
C - 3 to 26 inches: fine sand
Ab - 26 to 32 inches: sand
Cg - 32 to 60 inches: sand

Properties and qualities

Slope: 0 to 6 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Moderately well drained
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Very high (19.98 in/hr)
Depth to water table: About 18 to 36 inches
Frequency of flooding: Rare
Frequency of ponding: None
Salinity, maximum in profile: Slightly saline to strongly saline (4.0 to 16.0 mmhos/cm)
Sodium adsorption ratio, maximum in profile: 20.0
Available water storage in profile: Very low (about 1.2 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 7s
Hydrologic Soil Group: A
Hydric soil rating: No

Minor Components

Duckston

Percent of map unit: 5 percent
Landform: Depressions
Down-slope shape: Concave
Across-slope shape: Concave
Hydric soil rating: Yes

NuC—Newhan-Urban land complex, 0 to 10 percent slopes

Map Unit Setting

National map unit symbol: 3qh7
Elevation: 0 to 20 feet
Mean annual precipitation: 42 to 58 inches
Mean annual air temperature: 61 to 64 degrees F
Frost-free period: 190 to 270 days
Farmland classification: Not prime farmland

Map Unit Composition

Newhan and similar soils: 50 percent
Urban land: 40 percent
Minor components: 5 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Newhan

Setting

Landform: Dunes
Landform position (two-dimensional): Backslope, shoulder
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Convex
Parent material: Eolian sands and/or beach sand

Typical profile

A - 0 to 2 inches: fine sand
C1 - 2 to 50 inches: fine sand
C2 - 50 to 72 inches: sand

Properties and qualities

Slope: 0 to 10 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Excessively drained
Runoff class: Very low
Capacity of the most limiting layer to transmit water (Ksat): Very high (19.98 to 39.96 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: Very rare
Frequency of ponding: None
Salinity, maximum in profile: Slightly saline to strongly saline (4.0 to 16.0 mmhos/cm)
Sodium adsorption ratio, maximum in profile: 20.0
Available water storage in profile: Very low (about 1.8 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 8s

Hydrologic Soil Group: A
Hydric soil rating: No

Description of Urban Land

Properties and qualities

Slope: 0 to 2 percent
Frequency of flooding: Very rare

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 8
Hydric soil rating: No

Minor Components

Duckston

Percent of map unit: 5 percent
Landform: Depressions
Down-slope shape: Concave
Across-slope shape: Concave
Hydric soil rating: Yes

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Appendix B – On-site Wastewater Evaluation and Well Documentation

County of Dare
Department of Health & Human Services
P.O. Box 669 | Manteo, North Carolina 27954
Health 252.475.5003 | Social Services 252.475.5500

MEMO
AUGUST 13, 2019

TO; QUIBLE & ASSOCIATES
% CATHLEEN SAUNDERS
PO BOX 870
KITTY HAWK NC

FROM: M.F.PARKER RHS MFParker
DARE COUNTY HEALTH

REF; 18 LOT SUBDIVISIONS
NAGS HEAD NC

THERE IS A 20' EASEMENT ON THE SOUTH WEST CORNER OF LOT (I) THAT THE SEPTIC SYSTEM WILL NEED TO STAY OUT OF.
LOT (P) AND (Q) WE FEEL CANNOT BE USED DUE TO THE PROPERTY OWN BY DARE COUNTY TO BE USED AS A WELL SITE, REQUIRES 100' SEPERATION.
LOT (R) HAS AN EXISTING WELL ON IT ALSO THERE IS A DRAINAGE DITCH TIED INTO A CULVET ON THE NORTH EAST PART OF THE PROPERTY THAT REQUIBES SET BACKS.
ALL THE OTHER LOTS WILL NEED TO BE LOOK AT ONCE THE ROAD IS IN AND THE PROPERTY CORNERS ARE LOCATED. THERE IS SEVERAL HIGH RIDGES AND THERE ARE SOME LOW SPOTS, DON'T KNOW WHERE THE DIVIDING LINE BETWEENS LOTS WOULD BE, OR IF THE PROPERTY IS TO BE LEVEL FOR PUTTING IN THE ROAD?
THE DARE COUNTY ENVIRONMENTAL HEALTH DEPARTMENT RECOMMENDS THAT THE SEPTIC SYSTEM FOR LOTS A THROUGH H BE INSTALL ON THE EAST SIDE OF THE PROPERTY, LOTS I THROUGH O BE INSTALL ON THE WEST PART OF THE PROPERTY. BOTH ACTIVE AND A 100% REPAIR AREA WOULD BE REQUIRED. THE LONG TERM ACCEPTANCE RATE WOULD BE 1.2, COULD CHANGE AFTER REVISTING PROPERTY WHEN PROPERTY LINES ARE ESTABLISHED.

- Per phone call w/ DCHD 8/27/19 the 100' well setback proposed by DCW is acceptable and lots P & Q can provide onsite septic.
- The well on lot R has been abandoned. The appropriate paperwork has been filed by DCW.

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ENVIRONMENTAL SCIENCES • SURVEYING
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cemainstreet@quible.com

PRELIMINARY PLAT NOT FOR RECORDATION CONVEYANCE OR SALE
CERTIFICATION

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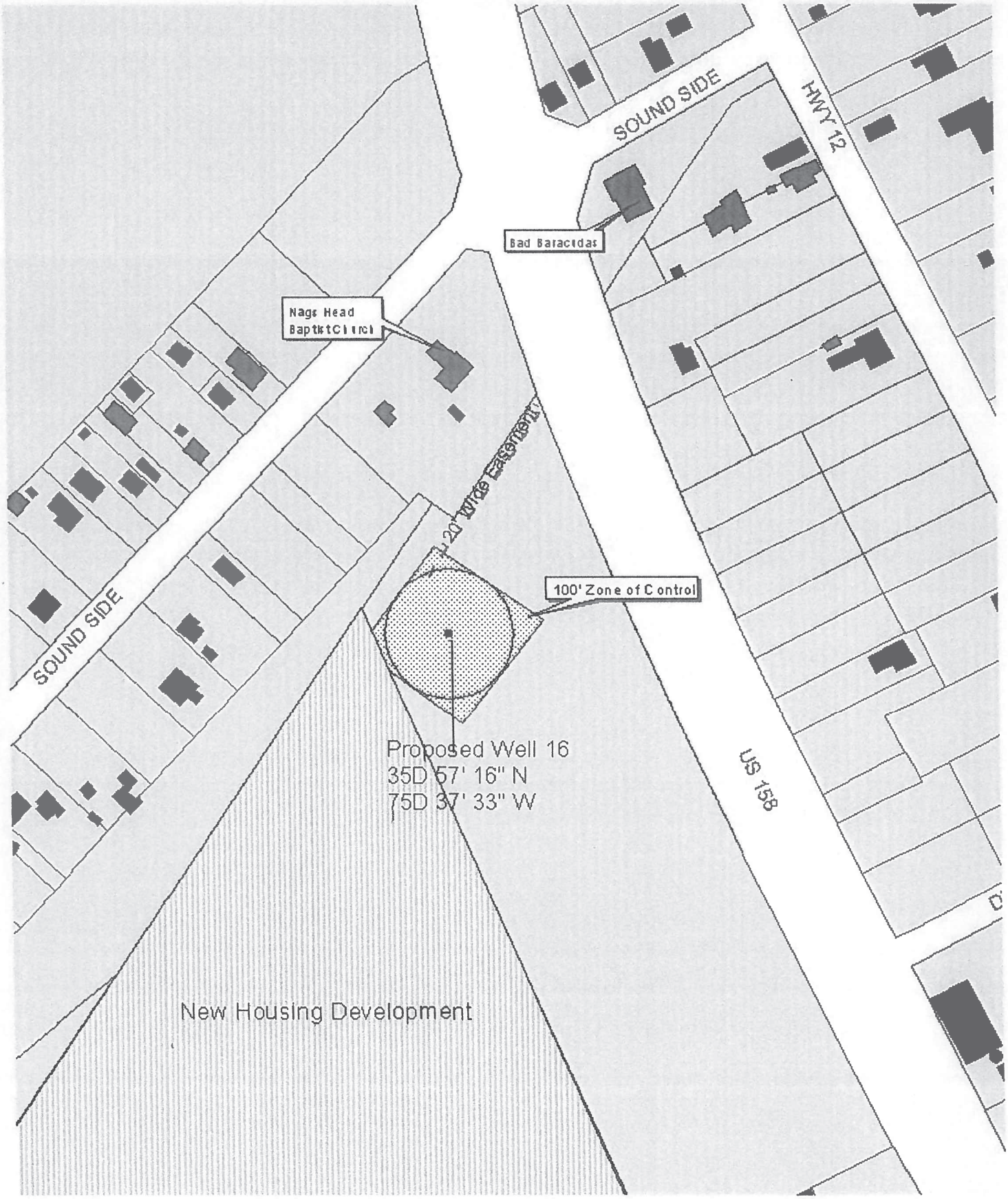
SUBDIVISION SKETCH

PARCEL A
SOUTHRIDGE SUBDIVISION, SECTION VI

TOWN OF NAGS HEAD — DARE COUNTY — NORTH CAROLINA

COMMISSION NO	P18085
DESIGNED BY	JMH
DRAWN BY	JMH
CHECKED BY	MWS/JMH
ISSUE DATE	04/08/19



DARE COUNTY WATER
GIS
MATTHEW HIBLER
APRIL 16, 2003

Proposed Well 16
Nags Head, NC

60 0 60 120 180 Feet

N W E S

LEGEND

- Proposed Well 16

WELL ABANDONMENT RECORD

1. Well Contractor Information:

Jimmy Morris

Well Contractor Name (or well owner personally abandoning well on his/her property)

4193-A

NC Well Contractor Certification Number

Magette Well & Pump Co., Inc

Company Name

2. Well Construction Permit #: _____

List all applicable well construction permits (i.e. UIC, County, State, Variance, etc.) if known

3. Well use (check well use):

Water Supply Well:	
☐Agricultural	☐Municipal/Public
☐Geothermal (Heating/Cooling Supply)	☐Residential Water Supply (single)
☐Industrial/Commercial	☐Residential Water Supply (shared)
☐Irrigation	
Non-Water Supply Well:	
■Monitoring	☐Recovery
Injection Well:	
☐Aquifer Recharge	☐Groundwater Remediation
☐Aquifer Storage and Recovery	☐Salinity Barrier
☐Aquifer Test	☐Stormwater Drainage
☐Experimental Technology	☐Subsidence Control
☐Geothermal (Closed Loop)	☐Tracer
☐Geothermal (Heating/Cooling Return)	☐Other (explain under 7g)

4. Date well(s) abandoned: 08/21/2019

5a. Well location:

Dare County

Facility/Owner Name

Facility ID# (if applicable)

600 Mustian St, Kill Devil Hills, NC 27948

Physical Address, City, and Zip

Dare

County

Parcel Identification No. (PIN)

5b. Latitude and longitude in degrees/minutes/seconds or decimal degrees:
(if well field, one lat/long is sufficient)

35.955079 N -75.625303 W

CONSTRUCTION DETAILS OF WELL(S) BEING ABANDONED

Attach well construction record(s) if available. For multiple injection or non-water supply wells ONLY with the same construction/abandonment, you can submit one form.

6a. Well ID#: _____

6b. Total well depth: 390 (ft.)

6c. Borehole diameter: _____ (in.)

6d. Water level below ground surface: 35 (ft.)

6e. Outer casing length (if known): _____ (ft.)

6f. Inner casing/tubing length (if known): 290 (ft.)

6g. Screen length (if known): 100 (ft.)

For Internal Use ONLY:

WELL ABANDONMENT DETAILS

7a. For Geoprobe/DPT or Closed-Loop Geothermal Wells having the same well construction/depth, only 1 GW-30 is needed. Indicate TOTAL NUMBER of wells abandoned: _____

7b. Approximate volume of water remaining in well(s): 230 (gal.)

FOR WATER SUPPLY WELLS ONLY:

7c. Type of disinfectant used: Sodium Hypochlorite 10%

7d. Amount of disinfectant used: 2 Gallons

7e. Sealing materials used (check all that apply):

■ Neat Cement Grout	☐ Bentonite Chips or Pellets
■ Sand Cement Grout	☐ Dry Clay
☐ Concrete Grout	☐ Drill Cuttings
☐ Specialty Grout	☐ Gravel
☐ Bentonite Slurry	☐ Other (explain under 7g)

7f. For each material selected above, provide amount of materials used:

180 Gallons Sand Cement Grout

140 Gallons Neat Cement Grout

7g. Provide a brief description of the abandonment procedure:

Disenfected Well with sodium hypochlorite solution, pumped sand cement grout to fill screen interval through tremie pipe. pumped neat cement through tremie pipe to fill remaning casing.

8. Certification:

Jimmy Morris — Signature of Certified Well Contractor or Well Owner

8/23/19 — Date

By signing this form, I hereby certify that the well(s) was (were) abandoned in accordance with 15A NCAC 02C .0100 or 2C .0200 Well Construction Standards and that a copy of this record has been provided to the well owner.

9. Site diagram or additional well details:
You may use the back of this page to provide additional well site details or well abandonment details. You may also attach additional pages if necessary.

SUBMITTAL INSTRUCTIONS

10a. For All Wells: Submit this form within 30 days of completion of well abandonment to the following:

Division of Water Resources, Information Processing Unit,
1617 Mail Service Center, Raleigh, NC 27699-1617

10b. For Injection Wells: In addition to sending the form to the address in 10a above, also submit one copy of this form within 30 days of completion of well abandonment to the following:

Division of Water Resources, Underground Injection Control Program,
1636 Mail Service Center, Raleigh, NC 27699-1636

10c. For Water Supply & Injection Wells: In addition to sending the form to the address(es) above, also submit one copy of this form within 30 days of completion of well abandonment to the county health department of the county where abandoned.

Appendix C – Stormwater Calculations

NOAA Atlas 14, Volume 2, Version 3
Location name: Nags Head, North Carolina, USA*
Latitude: 35.9533°, Longitude: -75.625°
Elevation: 6.05 ft**
* source: ESRI Maps
** source: USGS

POINT PRECIPITATION FREQUENCY ESTIMATES

G.M. Bonnin, D. Martin, B. Lin, T. Parzybok, M.Yekta, and D. Riley

NOAA, National Weather Service, Silver Spring, Maryland

PF_tabular | PF_graphical | Maps_&_aerials

PF tabular

AMS-based point precipitation frequency estimates with 90% confidence intervals (in inches)[1]

Duration	Annual exceedance probability (1/years)								
	1/2	1/5	1/10	1/25	1/50	1/100	1/200	1/500	1/1000
5-min	0.491 (0.449-0.538)	0.600 (0.549-0.656)	0.689 (0.627-0.752)	0.781 (0.709-0.851)	0.856 (0.771-0.932)	0.927 (0.833-1.01)	0.996 (0.890-1.08)	1.08 (0.960-1.18)	1.16 (1.02-1.27)
10-min	0.786 (0.718-0.860)	0.960 (0.879-1.05)	1.10 (1.00-1.20)	1.25 (1.13-1.36)	1.36 (1.23-1.49)	1.47 (1.33-1.60)	1.58 (1.41-1.72)	1.71 (1.52-1.87)	1.83 (1.61-2.00)
15-min	0.988 (0.903-1.08)	1.22 (1.11-1.33)	1.39 (1.27-1.52)	1.58 (1.43-1.72)	1.73 (1.56-1.88)	1.86 (1.68-2.03)	1.99 (1.78-2.17)	2.16 (1.91-2.35)	2.30 (2.02-2.51)
30-min	1.37 (1.25-1.49)	1.73 (1.58-1.89)	2.02 (1.84-2.20)	2.34 (2.12-2.55)	2.60 (2.35-2.83)	2.85 (2.57-3.11)	3.10 (2.77-3.37)	3.43 (3.04-3.74)	3.72 (3.27-4.06)
60-min	1.71 (1.57-1.88)	2.22 (2.03-2.42)	2.63 (2.39-2.87)	3.11 (2.82-3.39)	3.52 (3.18-3.84)	3.93 (3.53-4.28)	4.35 (3.89-4.73)	4.93 (4.37-5.37)	5.43 (4.78-5.93)
2-hr	1.96 (1.78-2.15)	2.58 (2.35-2.84)	3.13 (2.83-3.42)	3.79 (3.41-4.14)	4.36 (3.92-4.76)	4.95 (4.42-5.39)	5.57 (4.95-6.07)	6.43 (5.66-7.02)	7.19 (6.28-7.85)
3-hr	2.15 (1.96-2.37)	2.86 (2.59-3.14)	3.48 (3.15-3.82)	4.27 (3.83-4.67)	4.97 (4.44-5.42)	5.69 (5.07-6.21)	6.49 (5.72-7.07)	7.61 (6.64-8.29)	8.63 (7.46-9.39)
6-hr	2.63 (2.39-2.91)	3.51 (3.18-3.87)	4.27 (3.86-4.70)	5.25 (4.72-5.77)	6.14 (5.48-6.71)	7.06 (6.26-7.71)	8.07 (7.10-8.81)	9.52 (8.27-10.4)	10.8 (9.32-11.8)
12-hr	3.14 (2.83-3.50)	4.18 (3.77-4.66)	5.12 (4.60-5.69)	6.35 (5.67-7.03)	7.46 (6.62-8.23)	8.64 (7.59-9.53)	9.95 (8.66-11.0)	11.8 (10.1-13.0)	13.6 (11.5-15.0)
24-hr	3.78 (3.50-4.10)	5.19 (4.79-5.61)	6.25 (5.76-6.75)	7.78 (7.10-8.37)	9.05 (8.19-9.76)	10.5 (9.38-11.3)	12.0 (10.7-13.0)	14.3 (12.5-15.5)	16.3 (14.0-17.8)
2-day	4.39 (4.03-4.80)	5.98 (5.49-6.53)	7.21 (6.60-7.86)	8.99 (8.17-9.78)	10.5 (9.45-11.4)	12.2 (10.9-13.3)	14.1 (12.4-15.4)	16.9 (14.6-18.6)	19.4 (16.4-21.4)
3-day	4.65 (4.28-5.09)	6.31 (5.80-6.90)	7.57 (6.93-8.25)	9.36 (8.50-10.2)	10.8 (9.77-11.8)	12.5 (11.1-13.6)	14.3 (12.6-15.6)	17.1 (14.8-18.7)	19.5 (16.7-21.5)
4-day	4.92 (4.53-5.39)	6.65 (6.11-7.26)	7.93 (7.26-8.64)	9.72 (8.82-10.6)	11.2 (10.1-12.2)	12.8 (11.4-13.9)	14.5 (12.8-15.8)	17.3 (15.0-18.9)	19.7 (16.9-21.7)
7-day	5.64 (5.18-6.17)	7.51 (6.89-8.22)	8.88 (8.12-9.70)	10.8 (9.80-11.8)	12.3 (11.1-13.4)	14.0 (12.5-15.2)	15.8 (13.9-17.2)	18.3 (16.0-20.1)	20.5 (17.6-22.5)
10-day	6.34 (5.87-6.87)	8.33 (7.71-9.02)	9.78 (9.02-10.6)	11.8 (10.8-12.7)	13.4 (12.2-14.4)	15.1 (13.6-16.3)	16.9 (15.1-18.3)	19.5 (17.3-21.3)	21.7 (18.9-23.8)
20-day	8.38 (7.84-9.00)	10.8 (10.1-11.6)	12.6 (11.7-13.5)	14.9 (13.8-16.0)	16.8 (15.5-18.0)	18.7 (17.2-20.1)	20.8 (18.9-22.3)	23.7 (21.2-25.6)	26.0 (23.0-28.2)
30-day	10.3 (9.67-11.0)	13.2 (12.3-14.0)	15.1 (14.2-16.1)	17.7 (16.5-18.9)	19.7 (18.3-21.0)	21.7 (20.0-23.2)	23.8 (21.8-25.5)	26.7 (24.2-28.8)	28.9 (26.0-31.3)
45-day	12.6 (11.9-13.4)	16.0 (15.0-17.1)	18.4 (17.2-19.6)	21.6 (20.1-23.0)	24.1 (22.3-25.7)	26.7 (24.6-28.5)	29.4 (26.9-31.5)	33.2 (30.1-35.7)	36.3 (32.5-39.1)
60-day	15.1 (14.2-16.0)	18.9 (17.8-20.0)	21.5 (20.3-22.7)	24.9 (23.3-26.3)	27.4 (25.6-29.0)	30.0 (27.9-31.8)	32.6 (30.1-34.7)	36.2 (33.1-38.7)	39.0 (35.3-41.8)

[1] Precipitation frequency (PF) estimates in this table are based on frequency analysis of annual maxima series (AMS).

Numbers in parenthesis are PF estimates at lower and upper bounds of the 90% confidence interval. The probability that precipitation frequency estimates (for a given duration and annual exceedance probability) will be greater than the upper bound (or less than the lower bound) is 5%. Estimates at upper bounds are not checked against probable maximum precipitation (PMP) estimates and may be higher than currently valid PMP values.

Please refer to NOAA Atlas 14 document for more information.

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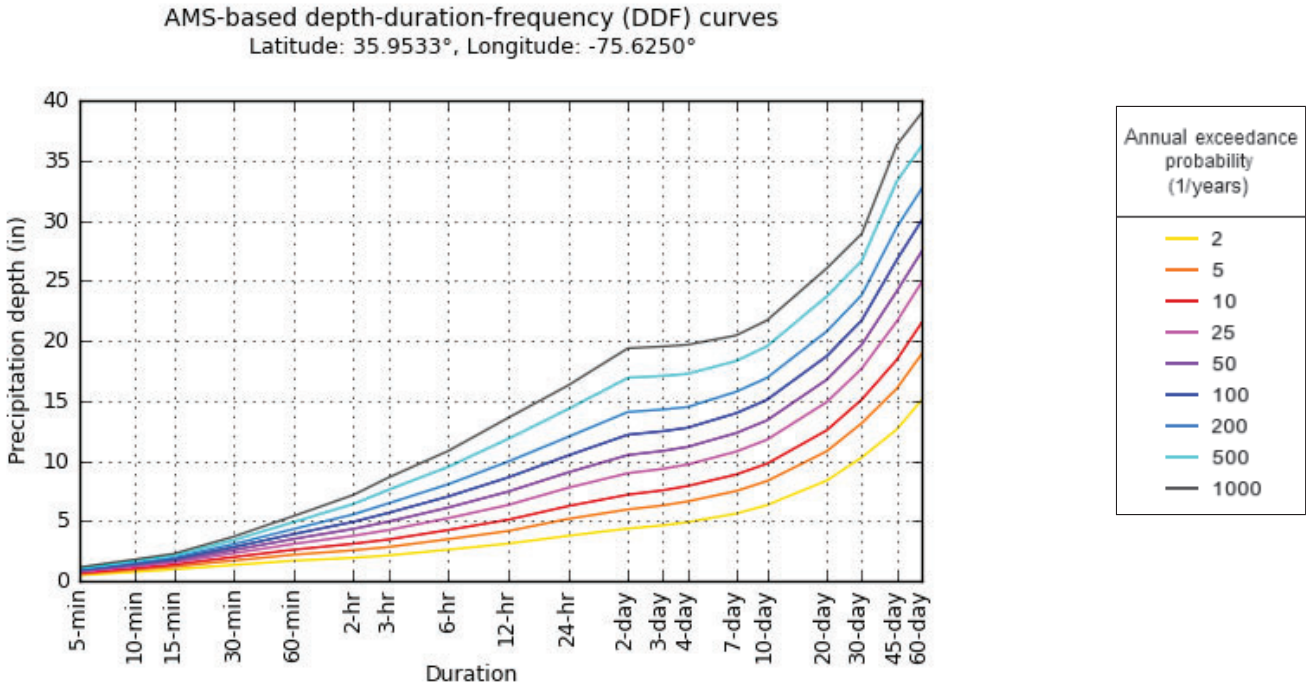
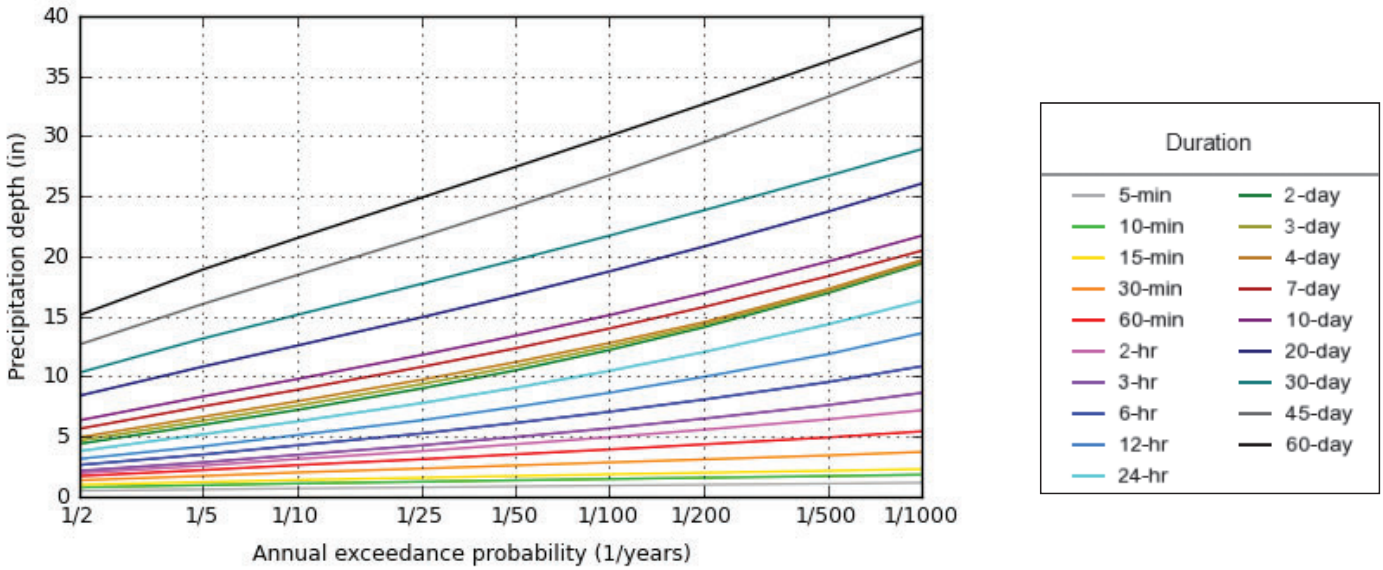
PF graphical





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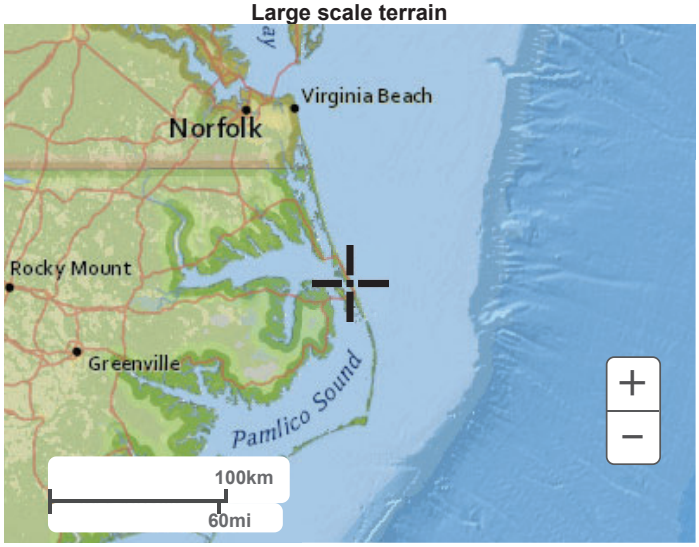
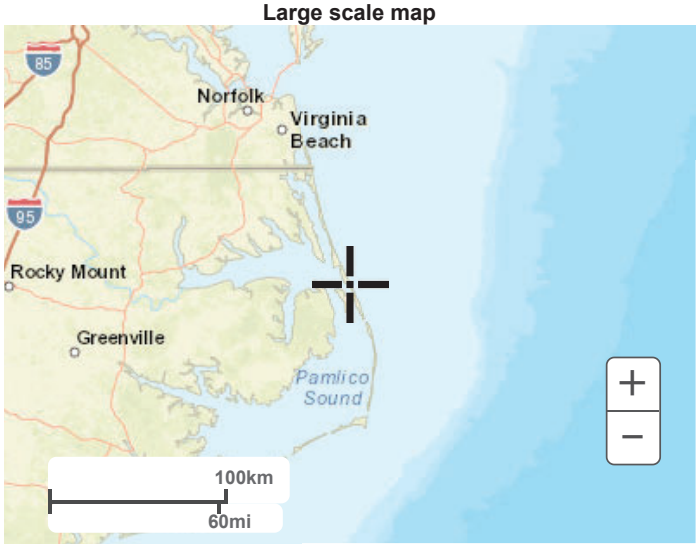
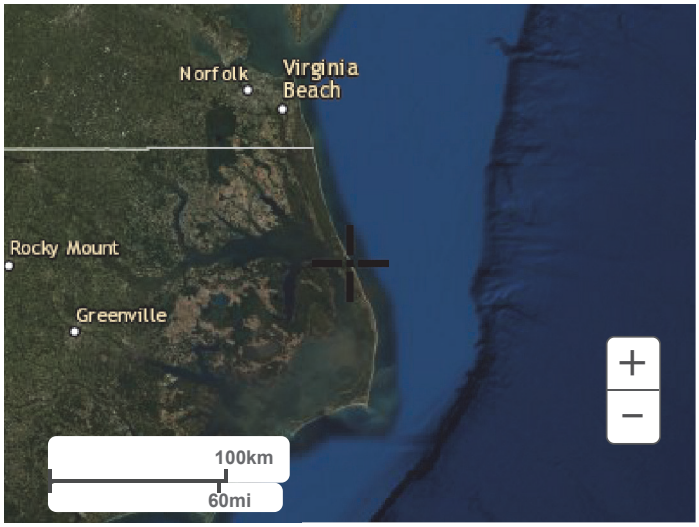
Large scale terrain



Large scale map



Large scale aerial



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Silver Spring, MD 20910
Questions?: HDSC.Questions@noaa.gov

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NOAA Atlas 14, Volume 2, Version 3
Location name: Nags Head, North Carolina, USA*
Latitude: 35.9533°, Longitude: -75.625°
Elevation: 6.05 ft**
* source: ESRI Maps
** source: USGS

POINT PRECIPITATION FREQUENCY ESTIMATES

G.M. Bonnin, D. Martin, B. Lin, T. Parzybok, M.Yekta, and D. Riley

NOAA, National Weather Service, Silver Spring, Maryland

PF_tabular | PF_graphical | Maps_&_aerials

PF tabular

AMS-based point precipitation frequency estimates with 90% confidence intervals (in inches/hour)[1]

Duration	Annual exceedance probability (1/years)								
	1/2	1/5	1/10	1/25	1/50	1/100	1/200	1/500	1/1000
5-min	**5.89** (5.39-6.46)	**7.20** (6.59-7.87)	**8.27** (7.52-9.02)	**9.37** (8.51-10.2)	**10.3** (9.25-11.2)	**11.1** (10.00-12.1)	**12.0** (10.7-13.0)	**13.0** (11.5-14.2)	**13.9** (12.3-15.2)
10-min	**4.72** (4.31-5.16)	**5.76** (5.27-6.31)	**6.60** (6.01-7.21)	**7.47** (6.77-8.14)	**8.18** (7.38-8.91)	**8.84** (7.95-9.62)	**9.47** (8.47-10.3)	**10.3** (9.11-11.2)	**11.0** (9.66-12.0)
15-min	**3.95** (3.61-4.32)	**4.86** (4.45-5.32)	**5.57** (5.08-6.08)	**6.31** (5.72-6.88)	**6.91** (6.23-7.52)	**7.44** (6.70-8.11)	**7.97** (7.12-8.67)	**8.63** (7.65-9.41)	**9.18** (8.08-10.0)
30-min	**2.73** (2.49-2.99)	**3.45** (3.16-3.78)	**4.04** (3.68-4.41)	**4.68** (4.24-5.09)	**5.20** (4.69-5.66)	**5.70** (5.13-6.21)	**6.20** (5.54-6.75)	**6.87** (6.09-7.48)	**7.44** (6.55-8.12)
60-min	**1.71** (1.57-1.88)	**2.22** (2.03-2.42)	**2.63** (2.39-2.87)	**3.11** (2.82-3.39)	**3.52** (3.18-3.84)	**3.93** (3.53-4.28)	**4.35** (3.89-4.73)	**4.93** (4.37-5.37)	**5.43** (4.78-5.93)
2-hr	**0.978** (0.888-1.08)	**1.29** (1.17-1.42)	**1.56** (1.42-1.71)	**1.89** (1.71-2.07)	**2.18** (1.96-2.38)	**2.47** (2.21-2.70)	**2.78** (2.48-3.04)	**3.22** (2.83-3.51)	**3.59** (3.14-3.92)
3-hr	**0.717** (0.652-0.790)	**0.951** (0.863-1.05)	**1.16** (1.05-1.27)	**1.42** (1.28-1.56)	**1.65** (1.48-1.80)	**1.90** (1.69-2.07)	**2.16** (1.91-2.35)	**2.53** (2.21-2.76)	**2.87** (2.48-3.13)
6-hr	**0.440** (0.400-0.485)	**0.585** (0.531-0.646)	**0.713** (0.644-0.786)	**0.877** (0.788-0.963)	**1.02** (0.916-1.12)	**1.18** (1.05-1.29)	**1.35** (1.19-1.47)	**1.59** (1.38-1.73)	**1.81** (1.56-1.98)
12-hr	**0.260** (0.235-0.291)	**0.347** (0.313-0.387)	**0.425** (0.382-0.473)	**0.527** (0.471-0.583)	**0.619** (0.550-0.683)	**0.717** (0.630-0.791)	**0.826** (0.718-0.910)	**0.983** (0.842-1.08)	**1.13** (0.954-1.24)
24-hr	**0.158** (0.146-0.171)	**0.216** (0.200-0.234)	**0.261** (0.240-0.281)	**0.324** (0.296-0.349)	**0.377** (0.341-0.406)	**0.436** (0.391-0.469)	**0.500** (0.444-0.540)	**0.597** (0.520-0.647)	**0.679** (0.582-0.740)
2-day	**0.091** (0.084-0.100)	**0.125** (0.114-0.136)	**0.150** (0.138-0.164)	**0.187** (0.170-0.204)	**0.219** (0.197-0.238)	**0.254** (0.226-0.277)	**0.293** (0.258-0.320)	**0.352** (0.304-0.387)	**0.404** (0.342-0.445)
3-day	**0.065** (0.059-0.071)	**0.088** (0.081-0.096)	**0.105** (0.096-0.115)	**0.130** (0.118-0.141)	**0.151** (0.136-0.164)	**0.173** (0.155-0.189)	**0.198** (0.175-0.217)	**0.237** (0.206-0.260)	**0.271** (0.231-0.299)
4-day	**0.051** (0.047-0.056)	**0.069** (0.064-0.076)	**0.083** (0.076-0.090)	**0.101** (0.092-0.110)	**0.117** (0.105-0.127)	**0.133** (0.119-0.145)	**0.151** (0.133-0.165)	**0.180** (0.156-0.197)	**0.205** (0.176-0.226)
7-day	**0.034** (0.031-0.037)	**0.045** (0.041-0.049)	**0.053** (0.048-0.058)	**0.064** (0.058-0.070)	**0.073** (0.066-0.080)	**0.083** (0.074-0.091)	**0.094** (0.083-0.102)	**0.109** (0.095-0.120)	**0.122** (0.105-0.134)
10-day	**0.026** (0.024-0.029)	**0.035** (0.032-0.038)	**0.041** (0.038-0.044)	**0.049** (0.045-0.053)	**0.056** (0.051-0.060)	**0.063** (0.057-0.068)	**0.070** (0.063-0.076)	**0.081** (0.072-0.089)	**0.090** (0.079-0.099)
20-day	**0.017** (0.016-0.019)	**0.023** (0.021-0.024)	**0.026** (0.024-0.028)	**0.031** (0.029-0.033)	**0.035** (0.032-0.037)	**0.039** (0.036-0.042)	**0.043** (0.039-0.047)	**0.049** (0.044-0.053)	**0.054** (0.048-0.059)
30-day	**0.014** (0.013-0.015)	**0.018** (0.017-0.019)	**0.021** (0.020-0.022)	**0.025** (0.023-0.026)	**0.027** (0.025-0.029)	**0.030** (0.028-0.032)	**0.033** (0.030-0.035)	**0.037** (0.034-0.040)	**0.040** (0.036-0.043)
45-day	**0.012** (0.011-0.012)	**0.015** (0.014-0.016)	**0.017** (0.016-0.018)	**0.020** (0.019-0.021)	**0.022** (0.021-0.024)	**0.025** (0.023-0.026)	**0.027** (0.025-0.029)	**0.031** (0.028-0.033)	**0.034** (0.030-0.036)
60-day	**0.010** (0.010-0.011)	**0.013** (0.012-0.014)	**0.015** (0.014-0.016)	**0.017** (0.016-0.018)	**0.019** (0.018-0.020)	**0.021** (0.019-0.022)	**0.023** (0.021-0.024)	**0.025** (0.023-0.027)	**0.027** (0.025-0.029)

[1] Precipitation frequency (PF) estimates in this table are based on frequency analysis of annual maxima series (AMS).

Numbers in parenthesis are PF estimates at lower and upper bounds of the 90% confidence interval. The probability that precipitation frequency estimates (for a given duration and annual exceedance probability) will be greater than the upper bound (or less than the lower bound) is 5%. Estimates at upper bounds are not checked against probable maximum precipitation (PMP) estimates and may be higher than currently valid PMP values.

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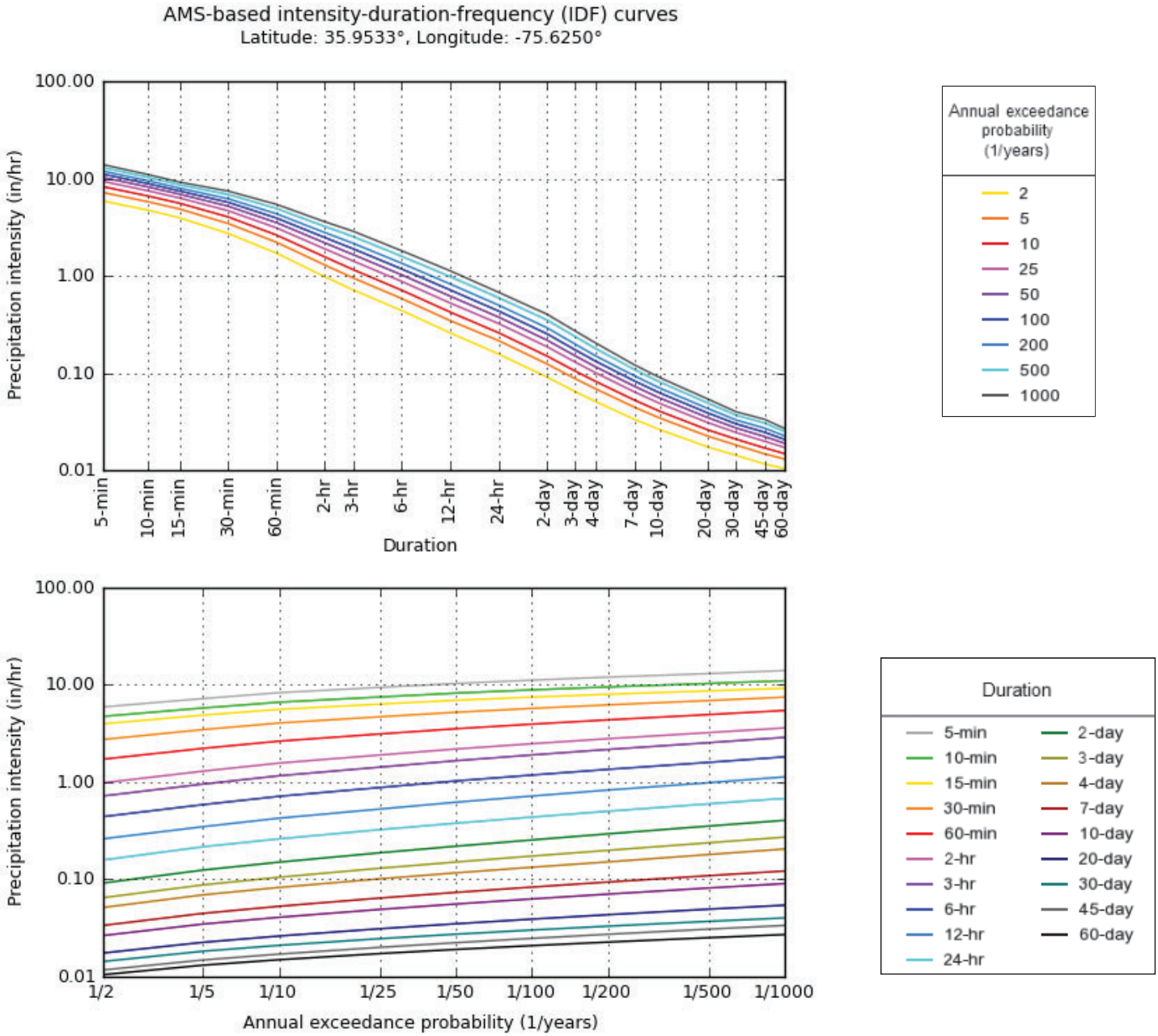
PF graphical



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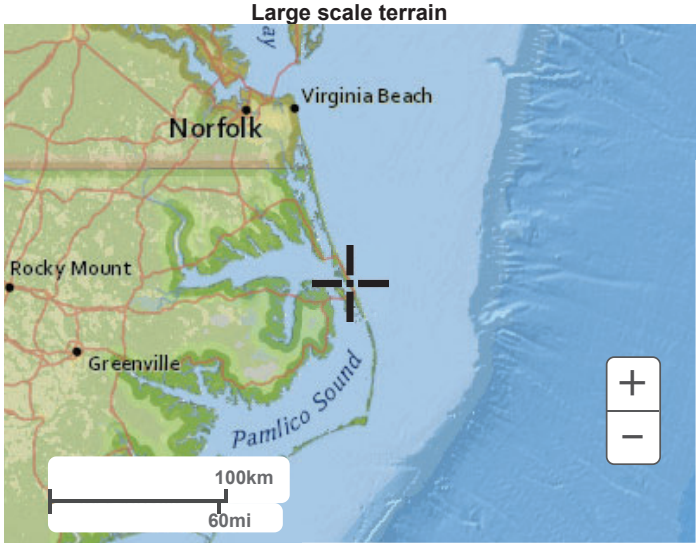
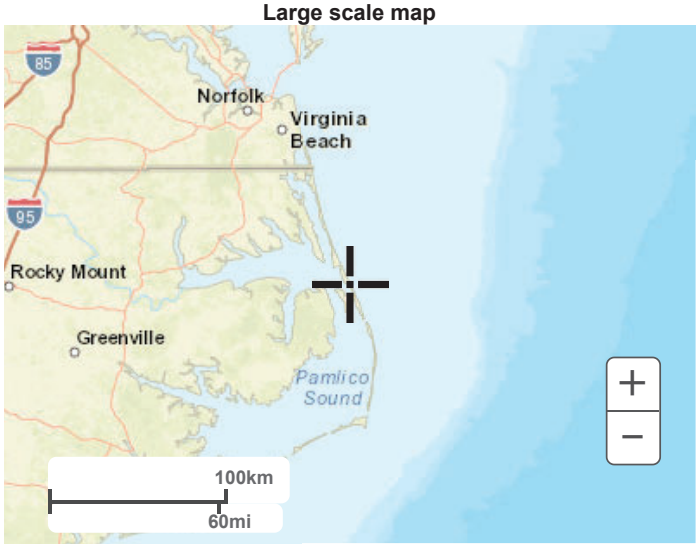
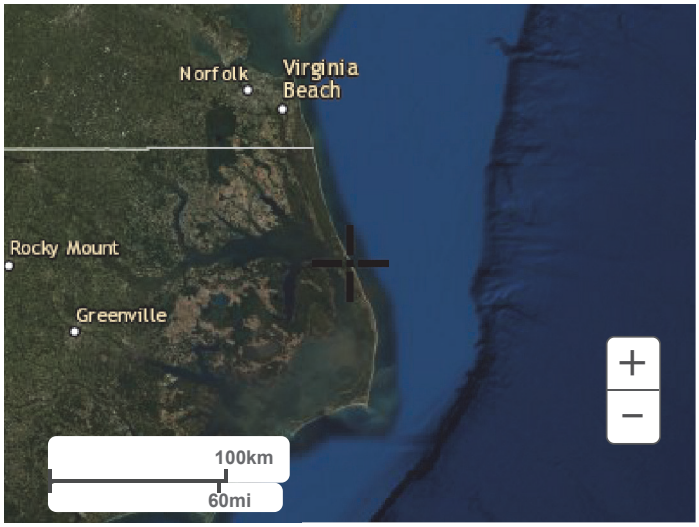


Large scale map



Large scale aerial



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National Oceanic and Atmospheric Administration
National Weather Service
National Water Center
1325 East West Highway
Silver Spring, MD 20910
Questions?: HDSC.Questions@noaa.gov

Disclaimer

	Total Sq. Ft	33%	*30% plus 300 sf*	**Onsite Storm Coverage**	
Roadway				36,270 SF	0.83 ACRE
Concrete Sidewalks				2,945 SF	0.07 ACRE
Lot 1	20,039.00	6,613 SF	*6,312 SF*	6,613 SF	0.15 ACRE
Lot 2	20,001.00	6,600 SF	*6,300 SF*	6,600 SF	0.15 ACRE
Lot 3	20,001.00	6,600 SF	*6,300 SF*	6,600 SF	0.15 ACRE
Lot 4	22,001.00	7,260 SF	*6,900 SF*	7,260 SF	0.17 ACRE
Lot 5	20,001.00	6,600 SF	*6,300 SF*	6,600 SF	0.15 ACRE
Lot 6	20,001.00	6,600 SF	*6,300 SF*	6,600 SF	0.15 ACRE
Lot 7	20,001.00	6,600 SF	*6,300 SF*	6,600 SF	0.15 ACRE
Lot 8	23,472.00	7,746 SF	*7,342 SF*	7,746 SF	0.18 ACRE
Lot 9	20,416.00	6,737 SF	*6,425 SF*	6,737 SF	0.15 ACRE
Lot 10	20,000.28	6,600 SF	*6,300 SF*	6,600 SF	0.15 ACRE
Lot 11	20,043.21	6,614 SF	*6,313 SF*	6,614 SF	0.15 ACRE
Lot 12	20,016.20	6,605 SF	*6,305 SF*	6,605 SF	0.15 ACRE
Lot 13	20,007.00	6,602 SF	*6,302 SF*	6,602 SF	0.15 ACRE
Lot 14	20,031.43	6,610 SF	*6,309 SF*	6,610 SF	0.15 ACRE
Lot 15	20,025.52	6,608 SF	*6,308 SF*	6,608 SF	0.15 ACRE
Lot 16	20,309.59	6,702 SF	*6,393 SF*	6,702 SF	0.15 ACRE
Lot 17	20,544.49	6,780 SF	*6,463 SF*	6,780 SF	0.16 ACRE
Total	346,910.72			153,695 SF	3.53 ACRE

Basin #1 Storage Calculations

	A (FRONT) (sq.ft.)	(acre)
Drainage Area =	95,924	2.20
Open Space	60,567	1.39
Pond =	0	0.00
Onsite Impervious =	35,357	0.81
Total Impervious =	35,357	0.81

Runoff generated by Rainfall Event (NCDEQ Simplified Method)

Ia = Impervious Percentage = Impervious Area/Drainage Area
Rv= Runoff Coefficient, 0.05+0.9Ia
Rd= Rain fall depth
V= Runoff Volume, 3630*Rd*Rv*A

	A (1.5")
Ia =	36.9%
Rv=	0.38
Rd (in.)=	1.5
A (ac.) =	2.20
V (cf.)=	**4580**

Total Storage Required by NCDEQ = 4,580.37 cf
Total Storage Required by TONH = 5,303.61 cf (15 cf per 100 sf of BUA)

**SHWT +/- 3.8 (SB-3 per soils memo dated July 24, 2019)*

Elev	Area (sf)	Avg area (sf)	Volume (cf)	Cum Vol. (cf)
5	2664			0
		4234	4234	
6	5804			4234
		6608	3304	
6.5	7412			7538

Basin #2 Storage Calculations

	A (FRONT) (sq.ft.)	(acre)
Drainage Area =	103,387	2.37
Open Space	67,336	1.55
Pond =	0	0.00
Onsite Impervious =	36,051	0.83
Total Impervious =	36,051	0.83

Runoff generated by Rainfall Event (NCDEQ Simplified Method)

Ia = Impervious Percentage = Impervious Area/Drainage Area
Rv= Runoff Coefficient, 0.05+0.9Ia
Rd= Rain fall depth
V= Runoff Volume, 3630*Rd*Rv*A

	A (1.5")
Ia =	34.9%
Rv=	0.36
Rd (in.)=	1.5
A (ac.) =	2.37
V (cf.)=	**4704**

Total Storage Required by NCDEQ = 4,704.11 cf
Total Storage Required by TONH = 5,407.72 cf (15 cf per 100 sf of BUA)

**SHWT +/- 3.5 (SB-4 per soils memo dated July 24, 2019)*

Elev	Area (sf)	Avg area (sf)	Volume (cf)	Cum Vol. (cf)
5	2534			0
		4029.5	4030	
6	5525			4030
		6291.5	3146	
6.5	7058			7176

Basin #3 Storage Calculations

	A (FRONT)	
	(sq.ft.)	(acre)
Drainage Area =	81,168	1.86
Open Space	51,067	1.17
Pond =	0	0.00
Onsite Impervious =	30,101	0.69
Total Impervious =	30,101	0.69

Runoff generated by Rainfall Event (NCDEQ Simplified Method)

Ia = Impervious Percentage = Impervious Area/Drainage Area
Rv= Runoff Coefficient, 0.05+0.9Ia
Rd= Rain fall depth
V= Runoff Volume, 3630*Rd*Rv*A

	A (1.5")
Ia =	37.1%
Rv=	0.38
Rd (in.)=	1.5
A (ac.) =	1.86
V (cf.)=	**3896**

Total Storage Required by NCDEQ = 3,896.06 cf
Total Storage Required by TONH = 4,515.15 cf (15 cf per 100 sf of BUA)

**SHWT +/- 3.5 (SB-4 per soils memo dated July 24, 2019)*

Elev	Area (sf)	Avg area (sf)	Volume (cf)	Cum Vol. (cf)
5	2577.5			0
		3118	3118	
6	3658.5			3118
		3947.25	1974	
6.5	4236			5092

Basin #4 Storage Calculations

	A (FRONT) (sq.ft.)	(acre)
Drainage Area =	151,262	3.47
Open Space	96,096	2.21
Pond =	0	0.00
Onsite Impervious =	55,166	1.27
Total Impervious =	55,166	1.27

Runoff generated by Rainfall Event (NCDEQ Simplified Method)

Ia = Impervious Percentage = Impervious Area/Drainage Area
Rv= Runoff Coefficient, 0.05+0.9Ia
Rd= Rain fall depth
V= Runoff Volume, 3630*Rd*Rv*A

	A (1.5")
Ia =	36.5%
Rv=	0.38
Rd (in.)=	1.5
A (ac.) =	3.47
V (cf.)=	**7147**

Total Storage Required by NCDEQ = 7,147.11 cf
Total Storage Required by TONH = 8,274.86 cf (15 cf per 100 sf of BUA)

**SHWT +/- 3.3 (SB-4 per soils memo dated July 24, 2019)*

Elev	Area (sf)	Avg area (sf)	Volume (cf)	Cum Vol. (cf)
4.5	5433.7			0
		6052.65	3026	
5	6671.6			3026
		7984.65	7985	
6	9297.7			11011
		9991.85	4996	
6.5	10686			16007

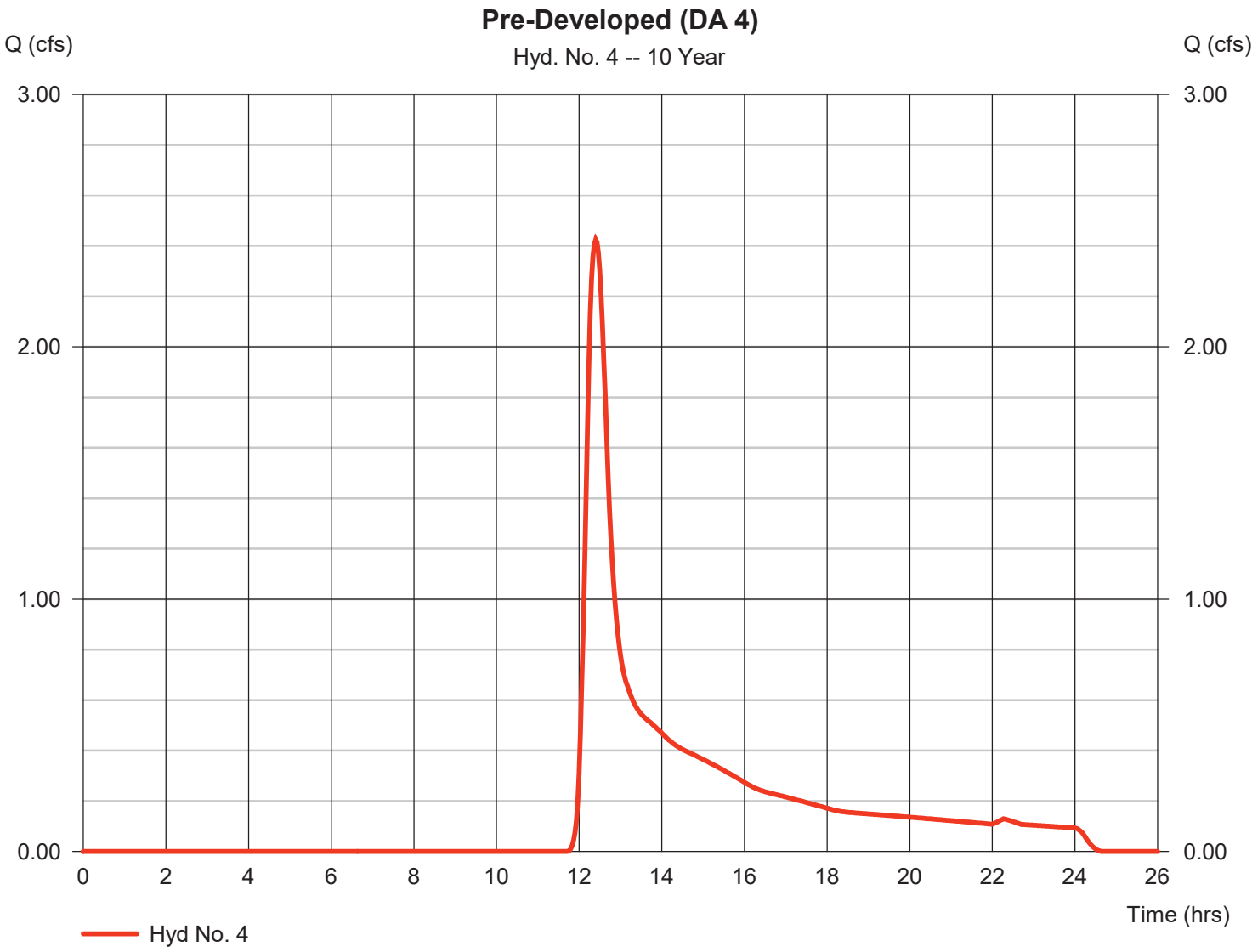
Hydrograph Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2020 Thursday, 03 / 26 / 2020

Hyd. No. 4

Pre-Developed (DA 4)

Hydrograph type	= SCS Runoff	Peak discharge	= 2.425 cfs
Storm frequency	= 10 yrs	Time to peak	= 12.40 hrs
Time interval	= 2 min	Hyd. volume	= 14,780 cuft
Drainage area	= 3.470 ac	Curve number	= 49
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 26.00 min
Total precip.	= 6.25 in	Distribution	= Type III
Storm duration	= 24 hrs	Shape factor	= 484



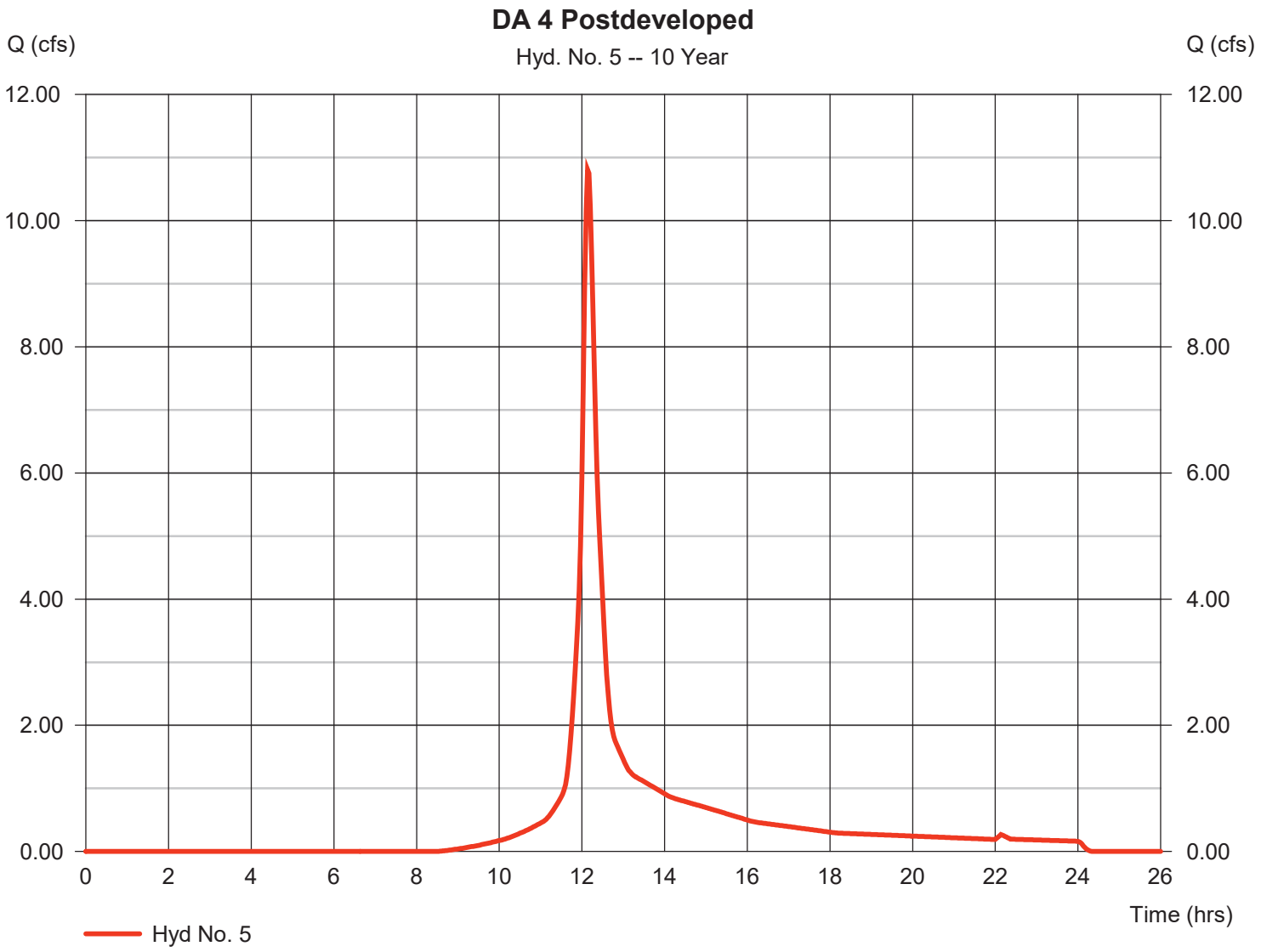
Hydrograph Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2020 Thursday, 03 / 26 / 2020

Hyd. No. 5

DA 4 Postdeveloped

Hydrograph type	= SCS Runoff	Peak discharge	= 10.81 cfs
Storm frequency	= 10 yrs	Time to peak	= 12.13 hrs
Time interval	= 2 min	Hyd. volume	= 41,553 cuft
Drainage area	= 3.470 ac	Curve number	= 72
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 12.50 min
Total precip.	= 6.25 in	Distribution	= Type III
Storm duration	= 24 hrs	Shape factor	= 484



Hydrograph Report

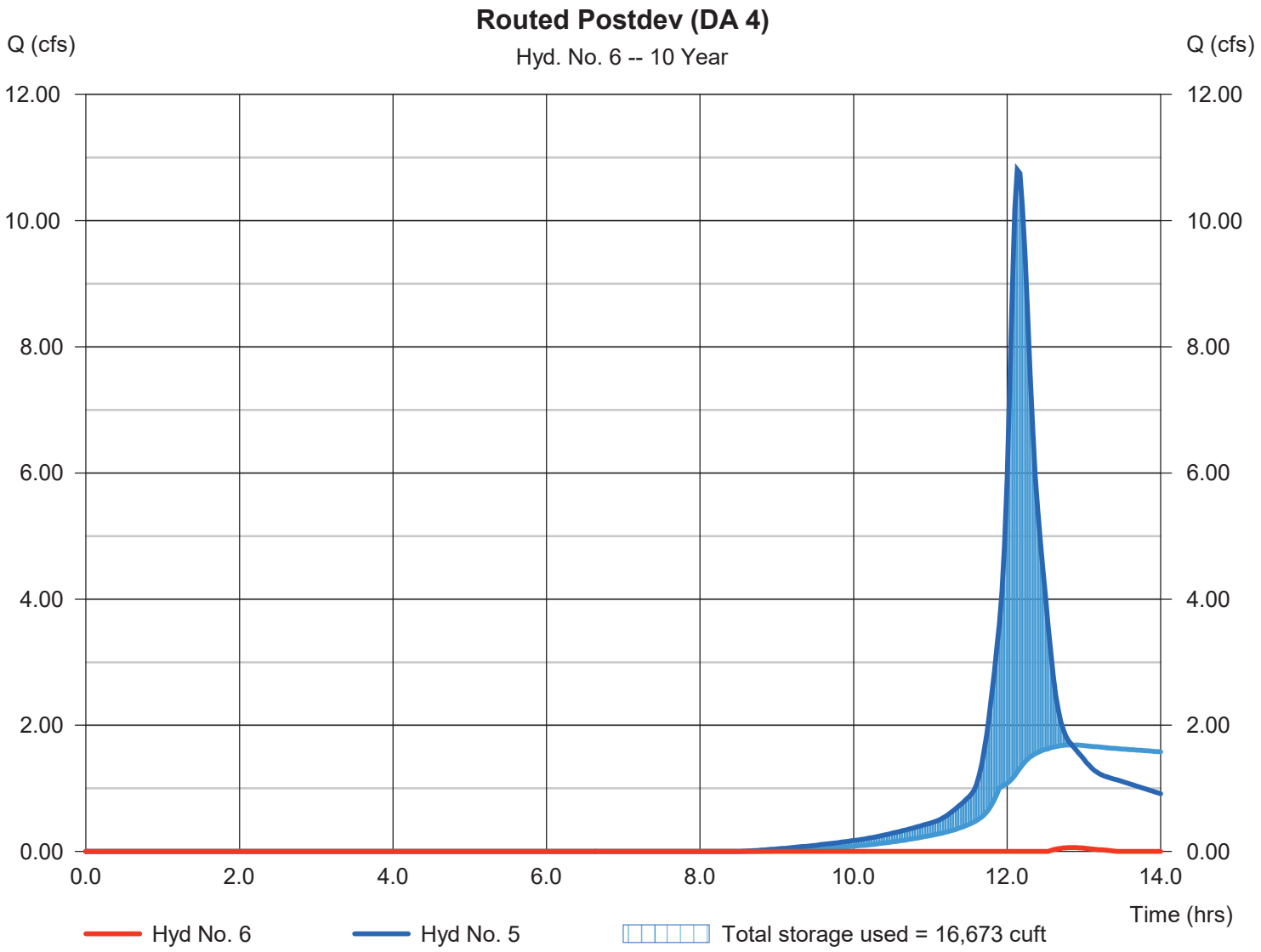
Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2020 Thursday, 03 / 26 / 2020

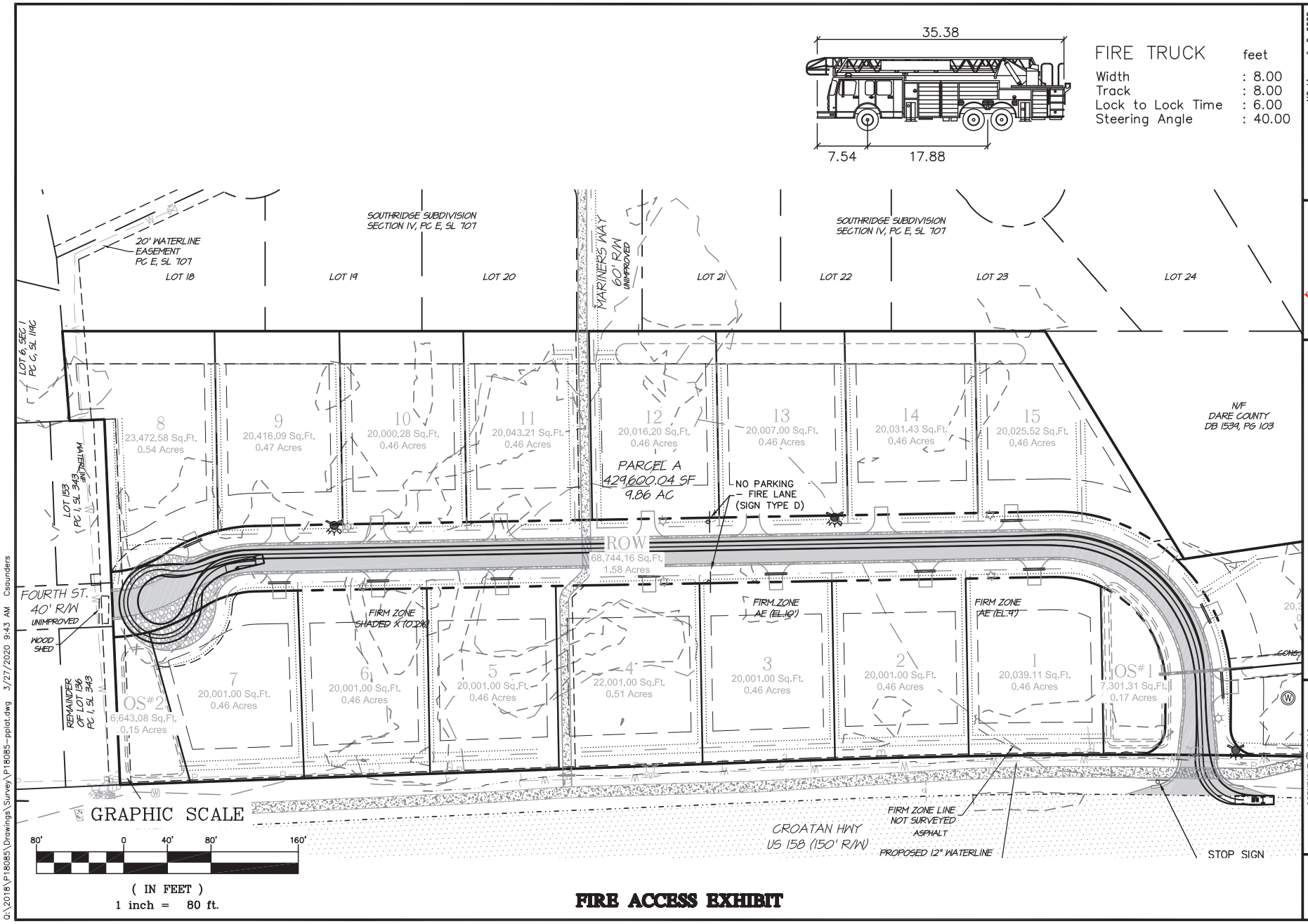
Hyd. No. 6

Routed Postdev (DA 4)

Hydrograph type	= Reservoir	Peak discharge	= 0.060 cfs
Storm frequency	= 10 yrs	Time to peak	= 12.83 hrs
Time interval	= 2 min	Hyd. volume	= 121 cuft
Inflow hyd. No.	= 5 - DA 4 Postdeveloped	Max. Elevation	= 6.57 ft
Reservoir name	= DA 4 - actual	Max. Storage	= 16,673 cuft

Storage Indication method used. Exfiltration extracted from Outflow.





FIRE ACCESS EXHIBIT

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NC License#: C-0208
Quible & Associates, P.C.
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90 Church St., Ste. B, Black Mountain, NC 28711
Phone: (828) 232-0389 Fax: (252) 491-8146
admintracor@quible.com

PRELIMINARY NOT FOR CONSTRUCTION

FIRE ROUTING EXHIBIT

PARCEL A
SOUTHRIDGE SUBDIVISION VI

TOWN OF NAGS HEAD — NORTH CAROLINA — DARE COUNTY

GRAPHIC SCALE IN FEET 1"=SCALE 1X

0 SCALE 1X SCALE 2X

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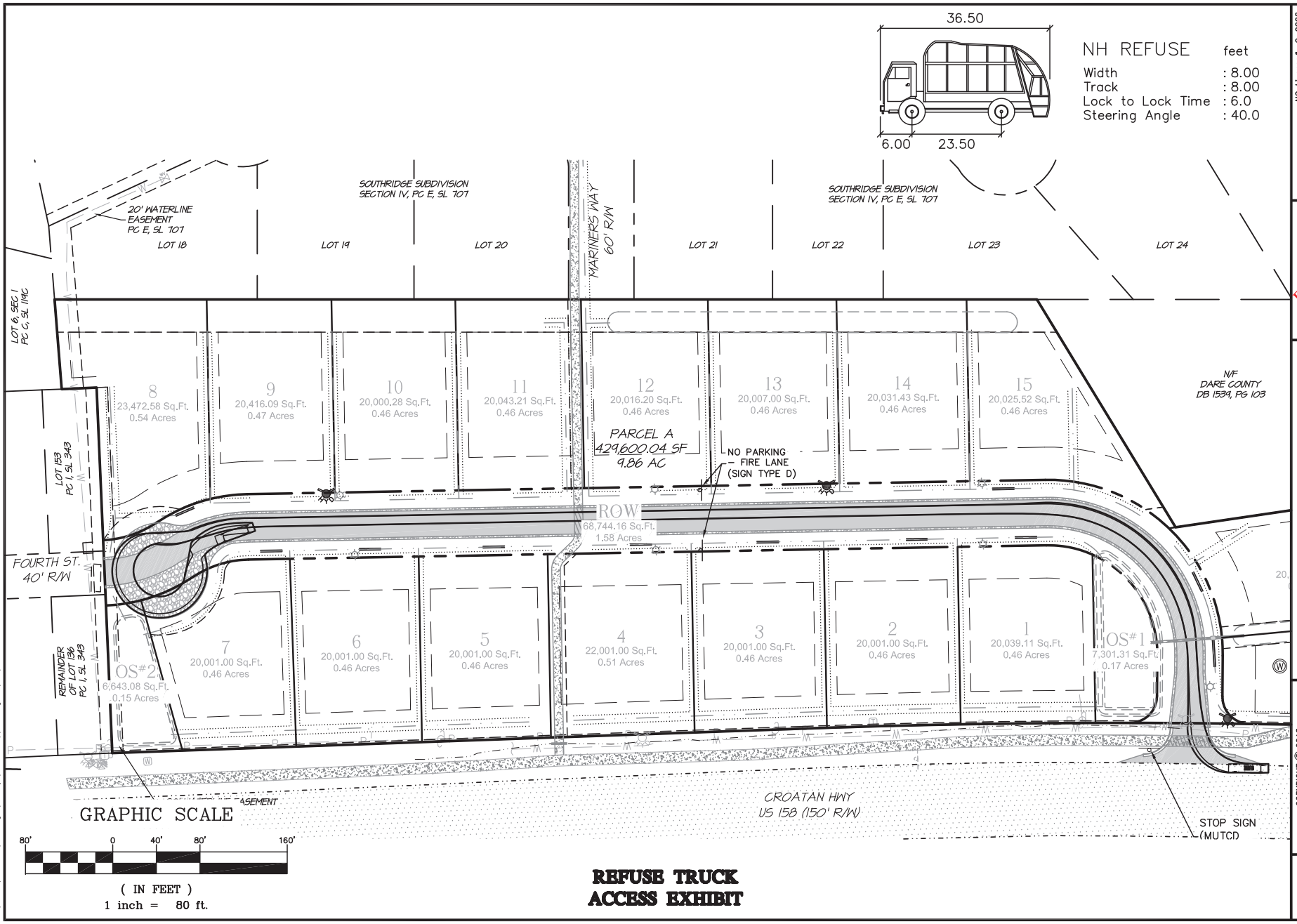
PROJECT	DRAWN BY	CHECKED BY	DATE
P18085	CMS	CMS	03/27/20



REFUSE TRUCK ACCESS EXHIBIT

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administrator@quible.com

PRELIMINARY NOT FOR CONSTRUCTION

REFUSE ROUTING EXHIBIT

PARCEL A
SOUTHRIDGE SUBDIVISION VI

TOWN OF NAGS HEAD — NORTH CAROLINA — DARE COUNTY

0 SCALE 1X SCALE 2X
GRAPHIC SCALE IN FEET 1"=SCALE 1X

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PROJECT	P18085
DRAWN BY	CMS
CHECKED BY	CMS
DATE	03/27/20

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DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

COASTAL VILLAS

THIS DECLARATION is made this ___ day of _____, 2020, by Nags Head Realty and Construction and Development, Inc, a North Carolina Corporation (the "Developer"), having an office at _____.

WITNESSETH:

WHEREAS, the Developer is the owner of the real property described in Article II of this Declaration which the Developer desires to develop into a ("the "Community") known or to be known as "COASTAL VILLAS " with open spaces and other common facilities for the benefit of the Community; and

WHEREAS, the Developer desires to provide for the preservation of the values and amenities in the community and for the maintenance of said open spaces and other common facilities; and, to this end, desires to subject the real property described in Article II (the "Property") to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each Owner thereof; and

WHEREAS, the Developer desires that the Property be subdivided into lots upon which are or will be constructed residential Structures, which lots and structures will be individually owned, and the Developer desires that such open spaces and other common facilities shall remain available for the benefit of all Members of the Community; and

WHEREAS, the Developer has deemed it desirable, for the efficient preservation of the values and amenities in the Community to create an agency or association to which should be delegated and assigned the powers of maintaining and administering the Community property and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developer has incorporated the Association for the purpose of exercising the aforesaid functions.

NOW THEREFORE, the Developer, for itself, its successors and assigns, declares that the real property described in Section 2.01 and such additional property described in Section 2.02 as may be brought under the scope of this Declaration from time to time, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth (the "Restrictions").

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. The following words, phrases or terms when used in this Declaration or in any instrument supplemental to this Declaration shall, unless the context otherwise prohibits, have the following meanings:

1.01.1. "Act" shall mean the North Carolina Planned Community Act as codified at N.C.G.S. 47-F-1-101 *et. seq*.

1.01.2. “Assessment” shall have the same meaning as “Common Expense Liability as defined in the Act Section 47-1-103

1.01.3. "Association" shall mean and refer to the COASTAL VILLAS ASSOCIATION, a North Carolina, non-profit corporation.

1.01.4. "Association Property" shall mean all land, improvements and other properties heretofore or hereafter owned by or in possession of the Association.

1.01.5. "Board of Directors" shall mean the Board of Directors of the Association.

1.01.6. "Builder" shall mean a builder, contractor, investor, or other Person who purchases a Lot for the purpose of constructing a Structure thereon for sale to a third Person.

1.01.7. "By-laws" shall mean the By-laws of the Association in effect from time to time.

1.01.8. "Common Areas" shall mean those portions of the Association Property designated or established for the common use and benefit of all Owners.

1.01.9. "County" shall mean Dare County, North Carolina.

1.01.10. "Declaration" shall mean this Declaration of Protective Covenants, Conditions, Restrictions and Easements as it may from time to time be supplemented, extended, or amended in the manner provided for herein.

1.01.11. "Developer" shall mean Nags Head Realty and Construction, Inc., its successors and assigns, and in the event of a foreclosure or deed-in-lieu of foreclosure related to any deed of trust securing Developer's acquisition, construction and/or development financing for the Property, shall include the purchaser at such foreclosure or the grantee of such deed-in- lieu of foreclosure.

1.01.12. "Dwelling" shall mean and refer to any improved Property intended for use and occupancy as one (1) single family Dwelling, irrespective of the number of owners thereof (or the form of ownership) located within the Property or any Additional Property and, unless otherwise specified, shall include within its meaning (by way of illustration, and not limitation) single family detached homes, single family attached homes such as townhouses and condominium units, and patio or zero lot line homes.

1.01.13. "Lot" shall mean any portion of the Property (with the exception of Association Property) under the scope of this Declaration and (i) identified as a separate parcel on the tax records of the County, or (ii) shown as a separate Lot upon any recorded or filed subdivision map of the Property.

1.01.14. "Member" shall mean each holder of a membership interest in the Association, as such interests are set forth in Article III of this Declaration.

1.01.15. "Owner" shall mean the record Owner, whether one or more persons or entities, of equitable or beneficial title (or legal title if same has merged) of any Lot or Dwelling, including the Developer and all Builders. The foregoing does not include persons or entities that hold an interest in any Lot merely as security for the performance of an obligation. Except as stated otherwise herein, "Owner" shall not include one who has merely contracted to purchase any Lot or a lessee or tenant of any apartment, association, single family residence or other improvement located upon any Lot. For the purpose of the enforcement of the provisions of this Declaration and the By-laws, including but not limited to, the rules and regulations of the Association, "Owner" shall also include the family members, invitees,

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licensees, and lessees of any Owner, together with any other Person or parties holding any possessory interest granted by such Owner in any Lot or the improvements thereon.

1.01.16. "Period of Developer Control" shall mean the period of time prior to conversion of the Class B membership to Class A membership as set forth in Section 3.02.

1.01.17. "Person" shall mean individual, trust, estate, partnership, corporation, limited liability company, business trust or other entity.

1.01.18. "Property" shall mean all Lots and other properties subject to this Declaration.

1.01.19. "Rules" shall mean any and all regualations of the Association promulgated by any Executive Board pursuant to its power under the Declaration or any other Land Use Document

1.01.20. "Structure" shall mean each completed Dwelling (as evidenced by issuance of a Certificate of Occupancy issued by the Town) including garage, situated upon the Property or any Dwelling structure on the Property that has been occupied as a residence.

1.01.21. "Town" shall mean the Town of Nags Head.

1.01.22. "UDO" shall mean the Town of Nags Head Unified Development Ordinance and its provisions that were in effect as of the date of this Declaration.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

Section 2.01. Property. Initially, the real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is described in **Schedule A** attached hereto.

Section 2.02. Additional Property. Other lands ("Additional Property") in addition to the lands described in Exhibit A, if any, may become subject to this Declaration in the following manner:

2.02.1. During the Period of Developer Control, the Developer may add Additional Property to this Declaration without the consent of any other Owner by an amendment to this Declaration. After the Period of Developer Control, the owner of any lands who desires to add such lands to the scope of this Declaration and to subject them to the jurisdiction of the Association may do so upon (i) approval in writing of the Association pursuant to a vote of its Members as provided in the By-laws and (ii) an amendment to this Declaration in accordance with Section 2.02.2.

2.02.2. The Additional Property shall be added to this Declaration by the recording of an amendment to this Declaration which shall extend the scope of the covenants and restrictions of this Declaration to the Additional Property and thereby subject the Additional Property and the owners of the Additional Property to assessments for their fair share of the expenses of the Association. The amendment to this Declaration may also contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as maybe necessary to reflect the different character, if any, of the Additional Property.

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2.02.3. Any buildings or other improvements on the Additional Property or to be constructed on the Additional Property must be harmonious in style to those improvements on the Property initially covered by this Declaration.

Section 2.03. Mergers. Upon a merger or consolidation of the Association with another association as provided in the Articles of Incorporation of the Association or the By-laws, its properties, rights and obligations may be transferred to another surviving or consolidated association by operation of law or, alternatively, the properties, rights and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation by operation of law pursuant to a merger. The surviving or consolidated association may administer the Restrictions established by this Declaration within the Property together with the covenants, conditions and restrictions established upon any other properties. No such merger or consolidation, however, shall affect any revocation, change or addition to the Restrictions established by this Declaration within the Property except as hereinafter provided.

ARTICLE III

THE ASSOCIATION STRUCTURE, MEMBERSHIP, VOTING RIGHTS AND DIRECTORS

Section 3.01. Formation of the Association. Pursuant to the laws of the State of North Carolina, the Developer has formed the Association to own, operate, and maintain the Association Property, enforce the Restrictions set forth in this Declaration and to have such other specific rights, obligations, duties and functions as are set forth in this Declaration and in the Articles of Incorporation of the Association and the By-laws, as the same may be amended from time to time. Subject to the additional limitations provided in this Declaration and the Articles of Incorporation of the Association, the Association shall have all the powers and be subject to the limitations of a nonprofit corporation as contained in the applicable laws of the State of North Carolina, as the same may be amended from time to time.

Section 3.02. Membership. The Association shall have as Members only Owners and the Developer. Upon becoming such, all Owners shall be deemed to have become Members automatically, and there shall be no other qualification for membership. Membership shall be appurtenant to, and shall not be separated from, the ownership of a Lot.

3.02.1. The Association shall have two (2) classes of voting membership:

Class A. The Class A Members shall be all Owners (other than the Class B Member) who shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an interest in any Lot, all such persons shall be Members, but the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Developer, its successors and assigns. The Class B Member shall be entitled to fifteen (15) votes for each Lot owned by the Class B Member. The Class B membership shall cease and be converted to Class A membership on the happening of the first of the following events: (a) when the Developer no longer owns five percent (5%) of the total Lots in the Property including the Lots upon any Additional Property which is added and subject to this Declaration; or (b) at the expiration of twenty (20) years after the date of filing of this Declaration at the Register of Deeds of Dare County, North Carolina, provided, that if an amendment to this Declaration is filed adding Additional Property pursuant to this Declaration at any time or times prior to the expiration of said twenty (20) years

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(as the same may have been extended by the filing of any such amendment), such period shall be extended each time until the expiration of twenty (20) years from the date of filing of the last such amendment; or (c) upon written certification by the Developer to the Association that the Developer is converting their Class B membership to Class A membership. Notwithstanding the foregoing, the Class B membership shall permanently terminate after thirty (30) years from the date of the recording of this Declaration. Notwithstanding the conversion of the Class B membership to Class A membership, no action may be taken by the Association which would serve to impede the installation of Common Area facilities substantially represented in plans of public record particularly as they may have been required and/or approved by public agencies except with the assent of such principal parties including the Developer, and if applicable, the Town of Nags Head, the Federal Housing Administration, or the Veterans Administration.

Section 3.03. Voting and Mortgagee's Control of Votes. Each Owner, including the Developer, shall be entitled to vote(s) for each Lot owned in any portion of the Property covered by this Declaration in accordance with Section 3.02. Initially, there are 17 Lots on the Property covered by this Declaration. Accordingly, there shall initially be 255 votes in the Association. Owners of each Lot on any Additional Property added by amendment to this Declaration pursuant to Section 2.02 shall be entitled to one (1) vote for each Lot owned. Notwithstanding anything to the contrary which may be contained in this Declaration, if a mortgage lender whose name appears on the records of the Association (i) holds a mortgage on a Lot which prohibits the mortgagor from voting contrary to the interest of the mortgagee, and (ii) notifies the Association in writing at least ten (10) days prior to the date of the vote to be taken of its position on the matter being voted upon, a vote of the subject Lot Owner contrary to the position of such mortgage lender shall not be counted in such vote tabulation.

Section 3.04. Interest in More than One Lot. If any Person owns or holds more than one Lot, such Owner shall be entitled to the appropriate number of votes for each Lot owned.

Section 3.05. Lots Owned or Held by More than One Person or by an Entity. If only one of the multiple Owners of a Lot is present at a meeting of the Association, the Owner who is present is entitled to cast all the votes allocated to that Lot. If more than one of the multiple Owners are present, the votes allocated to that Lot may be cast only in accordance with the agreement of a majority of interests of the multiple Owners. Majority agreement shall be conclusively presumed if any one of the multiple Owners casts the votes allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot.

In the case of an Owner that is a trust, estate, partnership, corporation, limited liability company, business trust or other entity, any duly authorized representative of such trust, estate, partnership, corporation, limited liability company, business trust or other entity may cast the vote for such Owner.

Section 3.06. Holder of Security Interest not a Member. Any Person holding an interest in a Lot merely as security for the performance of an obligation shall not be a Member.

Section 3.07. Assigning Right to Vote. Subject to the filing of an amendment to any offering plan pursuant to which the Developer has offered interests in the Association, the Developer may assign its membership in the Association to any Person, and the assignee of such membership may make successive like assignments. Any other Owner shall be entitled to assign his right to vote, by power of Attorney, by proxy or otherwise, provided that such assignment is made pursuant to the By-laws. The By-laws may require that the assignment specify the meeting or issue to which the assignment applies.

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Section 3.08. Meeting and Voting Regulations. The Board of Directors of the Association may make such regulations, consistent with the terms of this Declaration and the Articles of Incorporation of the Association and the By-laws and the applicable laws of the State of North Carolina, as it may deem advisable for any meeting of its Members, in regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Members for voting purposes, the establishment of representative voting procedures, the establishment of extended canvass periods for voting and such other matters concerning the conduct of meetings and voting as it shall deem appropriate.

Section 3.09. Selection of Directors. The By-laws shall govern the nomination and election of Directors and the filling of vacancies on the Board of Directors. Notwithstanding the preceding sentence, during the Period of Developer Control, the Developer may appoint and remove the officers and members of the Board of Directors.

Section 3.10. Powers and Duties of Directors. The powers and duties of the Board of Directors shall be as set forth in the By-laws and the laws of the State of North Carolina including those contained in the Act.

Section 3.11. Indemnification of Officers and Directors. Every director and officer of the Association shall be, and is hereby, indemnified by the Association against all expenses and liabilities, including fees of counsel, reasonably incurred by or imposed upon such director of officer in connection with any proceeding to which such officer or director may be a party, or in which such officer or director may become involved, by reason of being or having been a director or officer of the Association, or, any settlement thereof, whether or not such Person is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of duties; provided, that in the event of a settlement, the indemnification herein shall apply only when the board approves such settlement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to, and shall not be exclusive of, all rights to which each such director or each such officer may otherwise be entitled.

Section 3.12. Developer's Written Consent Necessary for Certain Actions Taken by Board of Directors. Notwithstanding anything to the contrary contained in this Declaration, even if the Developer has terminated the Period of Developer Control, so long as the Developer owns Lots equal to five percent (5%)or more of the number of Lots that are subject to this Declaration, including Lots contained upon any Additional Property that has been added to and subjected to this Declaration and any amendments thereto, but in no event more than thirty (30) years from the date of recording of this Declaration, without the Developer's prior written consent, the Board of Directors may not (i) except for necessary repairs or any repairs required by law, make any addition, alteration, or improvement to any Association Property, (ii) assess any amount for the creation of, addition to or replacement of all or part of a reserve, contingency or surplus fund in excess of an amount equal to the proportion of the then existing budget which the amount of reserves in the initial budget of estimated expenses for the relevant phase or phases of the development; (iii) hire any employee in addition to the employees, if any, provided for in the initial budget of the Association, except as may be necessary to maintain the quantity or quality of services or maintenance, (iv) enter into any service or maintenance contract for work not provided for in the initial budget of the Association, except for service or maintenance to facilities not in existence or not owned by the Association at the time of the first conveyance of a Lot; (v) borrow money on behalf of the Association; or (vi) reduce the quantity or quality of services or maintenance of the Property. Until thirty (30) years from the date of recording of this Declaration, if the Developer owns Lots equal in number to five percent (5%) or more of the number of Lots this Section shall not be amended without the prior written consent of the Developer.

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ARTICLE IV

PROPERTY RIGHTS AND EASEMENTS

Section 4.01. Dedication of Association Property. The Developer intends to convey to the Association, subsequent to the recordation of this Declaration, and subject to the provisions of this Declaration, certain tracts of land and Common Area within the Property for the continued use and enjoyment of the Members. The Association must accept any such conveyance made by the Developer provided such conveyance is made without consideration. Developer shall convey said title free and clear of any liens and encumbrances except all easements of record and any Declarations and amendments.

Section 4.02. Right and Easement of Enjoyment in Association Property. Every Member (and such Member's guests, licensees, tenants and invitees) shall have a right and non-exclusive easement of enjoyment, in common with all other Members, in and to all Association Property, subject to the rights of the Association as set forth in Section 4.03 and the rights of the Developer as set forth in Sections 4.04 and 4.05. Such easements shall be appurtenant to and shall pass with the interests of each Owner.

Every Member shall also have a non-exclusive easement for ingress and egress, in common with all other Members, as described in Section 4.06 hereof and the common utility and conduit easements described in Section 4.05. These easements will be subject to the rights of the Association as set forth in Section 4.03; provided, however, that any conveyance or encumbrance referred to in Section 4.03(c) shall be subject to said easements of each Member for ingress and egress and for utility lines, if applicable.

Section 4.03. Rights of Association. With respect to the Association Property, the Association shall have the right to:

4.03.1. Promulgate rules and regulations relating to (i) the use, operation and maintenance of the Association Property, (ii) the safety and convenience of the users thereof, (iii) the enhancement or preservation of the Association Property and (iv) the promotion of the best interests of the Members in the discretion of the Association.

4.03.2. Grant easements, licenses and rights of way to any public or private utility corporation, governmental agency or political subdivision with or without consideration.

4.03.3. Dedicate, sell, transfer, abandon, partition, or encumber (except for any transfer or encumbrance to a public utility or for other public purposes consistent with the intended use of such land by or for the benefit of all of the Members) all or any part of the land which it owns for such purposes and subject to such conditions as may be agreed to by the Association and the transferee. Such a conveyance shall require the affirmative vote or written consent of at least eighty percent (80%) of the total votes of all Members voting after notice which shall be sent to all Members whose names appear on the records of the Association not less than ten (10) days nor more than sixty (60) days in advance of the date set for voting thereon.

4.03.4. Enter into agreements, reciprocal or otherwise, with other homeowners' and residents' associations, associations and cooperatives for the use of or sharing of facilities. Such agreements shall require the affirmative vote or

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written consent of at least two-thirds (2/3) of the total votes of all Members voting after notice which shall be sent to every Member not less than ten (10) days nor more than sixty (60) days in advance of the date or initial date set for voting thereon.

4.03.5. Plant and maintain such vegetation and landscaping as the Association shall deem appropriate within any landscaping easement as shown on any plat of the subdivision.

4.03.6. Exercise all other rights of the Association set forth in this Declaration or permitted under the laws of the State of North Carolina including those powers set forth in Section 47F-3-102 of the Act.

Section 4.04. Rights of Developer. With respect to the Property, including the Association Property, and in addition to the rights reserved in Section 4.05 below, the Developer shall have the right until the completion of the construction, marketing and initial sale of all Structures to be constructed on the Lots to:

4.04.1. Grant and reserve easements and rights of way for the installation, maintenance, repair, replacement and inspection of utility lines, wires, pipes, storm water maintenance systems and conduits, including, but not necessarily limited to, water, gas, electric, telephone, cable TV and sewer to service any Additional Property as referred to in Section 2.02 of this Declaration.

4.04.2. Connect with and make use of utility lines, wires, pipes, conduits and related facilities located on the Association Property for the benefit of any Additional Property.

4.04.3. Use the Association Property for ingress and egress to the Property and any Additional Property.

4.04.4. Operate a sales center and have prospective purchasers and others visit such sales center and use certain portions of Association Property, including, but not necessarily limited to, parking spaces.

4.04.5. Grant to itself or to others such easements and rights of way as may be reasonably needed for the orderly development of the Property or any portions thereof and/or any Additional Property.

4.04.6 Plant and maintain such vegetation and landscaping as the Developer shall deem appropriate within any landscaping easement as shown on any plat of the subdivision.

4.04.7. Remove or reconfigure Lots or portions of the Property owned by the Developer by filing a Supplemental or Amended Declaration pursuant to Section 10.07 below.

With respect to its exercise of the above rights, the Developer agrees (i) to repair any damages resulting within a reasonable time after the completion of development or when such rights are no longer needed, whichever first occurs, and (ii) until development has been completed, to hold the Association harmless from all liabilities which are a direct result of the Developer's exercise of its rights hereunder. This Section shall not be amended without the written consent of the Developer.

Section 4.05. Common Utility and Conduit Easement. Every Owner shall have a non-exclusive easement, in common with all other Owners, to maintain and use all pipes, wires, conduits, drainage areas and public utility lines servicing such Owner's Lot and

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located on other Lots or on Association Property. Each Lot shall be subject to an easement in favor of the Owners of other Lots to maintain and use the pipes, wires, conduits, drainage areas and public utility lines servicing, but not located on, such other Lots. The Association shall have the right of access to each Lot for maintenance, repair or replacement of any pipes, wires, conduits, storm water maintenance systems, drainage areas or public utility lines located on any Lot and servicing the Association Property, Additional Property or any other Lot. The cost of such repair, maintenance or replacement shall be a common expense funded from the Maintenance Assessment, except that, if occasioned by a negligent or willful act or omission of a specific Owner or Owners, such cost shall be considered a special expense allocable to the specific Owner or Owners responsible and such cost shall be added to the Maintenance Assessment of such Owner or Owners and, as part of that Maintenance Assessment, shall constitute a lien on the Lot or Lots of such Owner or Owners to secure the payment thereof as set forth in Article V.

Section 4.06. Common Access Easement. The Developer and all Owners and their guests, mortgagees, licensees and invitees shall have a non-exclusive easement for vehicular and pedestrian (as appropriate) ingress and egress, in common with one another, over all walkways, driveways, and roadways located on the Association Property, and the Association shall have an easement of access over each Lot for the maintenance, repair and replacement of walkways, driveways and roadways or any property or facilities located on such Lot which are owned by the Association or which exist for the common benefit of all Owners.

Section 4.07. Maintenance of Association Facilities. In order to preserve and enhance the property values and amenities of the Property, the Association shall at all times maintain the facilities of the Association in good repair and condition and shall operate such facilities in accordance with high standards.

Section 4.08. Right of Association to Contract Duties and Functions. The Association may contract with any Person for the performance of its various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management agreements with other associations and cooperatives.

Any decision to discontinue independent professional management of certain Association duties and functions and establish self-management therefor shall require the affirmative vote or written consent of at least two-thirds (2/3) of the total votes of all Members voting after notice which shall be sent to all Members whose names appear on the records of the Association not less than ten (10) days nor more than sixty (60) days in advance of the date set for voting thereon.

Section 4.09. Environmental Considerations. In carrying out its responsibilities **in** enforcing the provisions of this Declaration, and in particular the provisions of Articles VII and X, the Association and the Architectural Standards Committee shall consider the environmental impact of any existing or proposed activities on the Property or any portion thereof and may, in its discretion, establish standards or guidelines aimed at reducing or eliminating any adverse environmental impact of its activities or take affirmative action to improve the quality of the environment. Developer reserves for its benefit and the Association and any respective agents and employees an easement on over and across any and all unimproved areas in the Community for the purpose of taking any action necessary to effectuate compliance with environmental rules, regulations, procedures or permits promulgated or instituted by the Association or any governmental entity.

Section 4.10. Rights and Easements Reserved to Developer for Benefit of Additional Property. The following rights and non-exclusive easements are reserved herein by the Developer over applicable portions of the Property for the benefit of Additional Property for the following purposes:

4.10.1. Ingress and egress over roadways.

4.10.2. Use and connection with utility lines and related facilities including, but not necessarily limited to: telephone, water, gas, electric, telephone, cable TV, sewer and storm water maintenance systems. This easement shall not include the right to consume any water, gas, or electricity for which any Owner is billed directly without the consent of the Owner affected.

4.10.3. Ingress, egress and access to Additional Property across any Lots or portions of the Property owned by the Developer.

Upon the connection of lines and/or facilities servicing such lands comprising the Additional Property, should such lands not be added to the scope of this Declaration, such lands shall be responsible for the payment to the Association of a fair share of the cost of operation, maintenance, repair and replacement of those lines and facilities servicing such lands.

Section 4.11. Distribution of Condemnation Awards. In the event all or part of the Association Property is taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the Association. The Board of Directors shall arrange for the repair and restoration of such Association Property and shall disburse the proceeds of such award in the same manner as insurance proceeds, in accordance with Article VIII.

Section 4.12. Easements and Rights Binding. The easements, rights-of-way and other rights reserved in this Article IV shall be permanent, shall run with the land and shall be binding upon and for the benefit of the Association, the Developer, the Owners and their respective successors and assigns.

ARTICLE V

ASSESSMENTS AND RIGHT OF ASSOCIATION TO BORROW

Section 5.01. Imposition, Personal Obligation, Lien. Each Owner, by becoming an Owner by the acceptance of a deed or otherwise, whether or not such deed or any other instrument pursuant to which title was obtained so provides, shall be deemed to covenant and agree to pay to the Association:

5.01.1. Annual assessments or charges for the maintenance and operation of Association Property ("Maintenance Assessments").

5.01.2. Special assessments for capital improvements to Association Property ("Special Assessments"). Maintenance Assessments and Special Assessments together are hereinafter referred to as "Assessments".

The Assessments shall be fixed, established and collected from time to time as hereinafter provided. Each Assessment (or installment payment thereof) together with such late charges, interest thereon and costs of collection as hereinafter provided, shall be a charge and continuing lien upon the Lot against which the Assessment is made and shall also be the personal obligation of the Owner of such Lot at the time the Assessment falls due.

Section 5.02. Purpose of Maintenance Assessment. The purpose of the Maintenance Assessment shall be to fund the maintenance, preservation, operation and improvement of the Association Property and the promotion of the recreation, safety and welfare of the Members, including but not limited to, the payment of taxes on Association Property, any utility services to the Property which are commonly metered or billed, all casualty, liability and other insurance covering the Association Property, any Property or Lots which the Association has the responsibility to maintain and the Association's officers,

directors, Members and employees obtained pursuant to Article VIII of this Declaration, for the maintenance, repair and replacement of all facilities commonly servicing the Members, such as roadways and landscaped areas, stormwater facilities as required by the DEQ or the Town, the cost of labor, equipment, materials, management and supervision thereof, and for all other similar needs as may arise. The amount of any reserves shall be not less than the reasonable requirements of existing or proposed lenders, holders and insurers of first mortgages of the Lots or, if less, the requirements under the laws of the State of North Carolina.

Section 5.03. Date of Commencement and Notice of Assessments and Changes in Annual Assessments. The Assessments provided for herein shall commence on the day as may be determined by the Developer. The first Assessments shall be adjusted according to the number of months remaining in the fiscal year as established by the Board of Directors and such Assessments shall thereafter be on a full fiscal year basis. The amount of the Assessment against each Lot shall be fixed at least thirty (30) days in advance of the beginning of each fiscal year. The Assessments shall be due and payable monthly unless the Board of Directors establishes other periods for payment. Separate due dates may be established by the Board for partial annual Assessments as long as said Assessments are established at least thirty (30) days before the due dates thereof. The procedure for adoption of each annual budget, including the Assessments, shall comply with the requirements of the Act.

It is anticipated, but not guaranteed, that the first annual assessment shall be the equivalent of $____00.00 per year to be paid upon such dates as determined by the Association.

Notwithstanding anything else contained herein, the first Owner who acquires any Lot from the Developer shall be obligated at the time of closing to pay a Special Assessment to the Association, in the amount of $500.00 as an initial funding fee for the Association. This Special Assessment shall be in addition to and not in lieu of any other Assessments provided for herein.

Section 5.04. Assessments for Specific Lots. Once Assessments have commenced pursuant to Section 5.03 above, the Owner of each Lot subject to this Declaration shall be liable for the payment of full Maintenance Assessments, and Special Assessments, if any. Notwithstanding anything else as contained within this Article V, prior to the commencement of Assessments on the day as may be determined by the Developer, pursuant to Section 5.03, the Developer shall be responsible to pay all fees, costs and expenses as may be needed by or for the Association. Once Assessments are commenced, the Developer shall have no obligation to pay either Maintenance Assessments or Special Assessments on any Lots owned by the Developer, but the Developer shall pay the difference between the amount collected from Lot Owners other than the Developer for Assessments and, the actual funds needed by the Association to pay its then current debts and obligations. Developer shall have no obligation in paying any balance difference of the Association's then current debts and obligations to pay any sums toward any reserve funds established pursuant to Section 5.02.

Section 5.05. Basis for Maintenance Assessment. Subject to Section 5.04 above, the annual Maintenance Assessment shall be the same for all Lots subject to this Declaration so that the number of assessed Lots divided into the total amount which the Board of Directors shall deem to be necessary to fully fund the current budget of estimated expenses and reserves (and any operating deficits previously sustained) shall determine the annual Maintenance Assessment for each Lot.

Section 5.06. Change in Basis of Assessments. The Association may change the basis of determining the Maintenance Assessment by obtaining the affirmative vote or written consent of at least two-thirds (2/3) of the total votes of all Members voting after notice which shall be sent to all Members whose names appear on the records of the Association

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not less than ten (10) days nor more than sixty (60) days in advance of the date set for voting thereon, except that: (i) during the Period of Developer Control, any change in the basis of assessment which adversely affects a substantial interest or right of the Developer with respect to unsold Lots shall require the specific consent of the Developer in writing, which consent shall not be unreasonably withheld. A written certification of any such change shall be by an amendment to this Declaration executed by the appropriate officers of the Association and recorded in the Register of Deeds for the County.

Section 5.07. Special Assessments for Capital Improvements. In addition to the annual Maintenance Assessment, the Association may levy in any assessment year a Special Assessment, payable in that year and/or the following year only, for the purpose of defraying in whole or in part, the cost of any capital improvements, including without limitation, the construction, reconstruction or replacement of, or repair of a capital nature to, the Association Property or to any Property or Lots which the Association has the responsibility to maintain, including the necessary fixtures and personal property related thereto, provided that for any Special Assessment for the construction (rather than the reconstruction or replacement of any capital improvement, and for any Special Assessment amounting to more than 20% of the then current amount of annual Maintenance Assessments, the affirmative vote or written consent is obtained of at least two-thirds (2/3) of the total votes of all Members voting after notice which shall be sent to all Members whose names appear on the records of the Association not less than ten (10) days nor more than sixty (60) days in advance of the date set for voting thereon. The Association shall establish one or more due dates for each payment or partial payment of each Special Assessment and shall notify each Owner in writing at least thirty (30) days prior to the first such due date.

Section 5.08. Non-Payment of Assessment. If an annual Assessment, or installment thereof, is not paid by any Owner on the due date established pursuant to Section 5.03 hereof, then the balance of the annual Assessment shall be deemed delinquent. Any delinquent Assessment payment, together with such interest thereon, accelerated future installments, if any, and cost of collection thereof as herein provided, shall thereupon become a continuing lien on such Owner's Lot which shall bind such Lot and the then Owner of such Lot and such Owner's heirs, devisees, personal representatives, successors and assigns. In addition to the lien rights provided herein, the personal obligation of the then Owner to pay such assessment shall remain such Owner's personal obligation and shall not become the personal obligation of such Owner's successors in title unless expressly assumed by them.

If the Assessment or any installment thereof is not paid within ten (10) days after the due date, the Association may impose a late charge or charges in such amount or amounts as the Board of Directors deems reasonable, not to exceed the limit imposed by the laws of the State of North Carolina, provided such late charges are equitably and uniformly applied.

If the Assessment or any installment thereof is not paid within thirty (30) days after the due date:

(i) the Assessment shall bear interest from the due date at such rate as may be fixed by the Board of Directors from time to time, such rate not to exceed the maximum rate of interest then permitted by law; (ii) the Association may accelerate the remaining installments, if any, of such annual Assessment upon notice thereof to the Owner, (iii) the Association may suspend privileges of, or services provided by the Association to, any delinquent Member during any period that such Member's account remains delinquent and (iv) the Association may bring legal action against the Owner personally obligated to pay the same or foreclose the lien against the Lot, or do both , and the cost of such proceedings, including reasonable attorneys' fees,

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shall be added to the amount of such Assessments, accelerated installments, if any, late charges and interest.

Once an Assessment is deemed delinquent as described above, any payments received from the Owner shall be applied in the following order: attorney's fees, other costs of collection, late charges, interest, and then the delinquent Assessment or installments thereof beginning with the amounts past due for the longest period.

Under no circumstances shall dissatisfaction with the quantity or quality of maintenance services furnished by the Association entitle any Owner to withhold or fail to pay the Assessments due to the Association for the Lot or Lots owned by such Owner.

There is hereby created a lien, with power of sale, on each and every Lot to secure payment to the Association of any and all Assessments levied against any and all Lots under this Declaration, together with attorney's fees, other costs of collection, late charges and interest. If any Assessment remains delinquent for thirty (30) days, the Association may elect to file a claim of lien in the Office of the Clerk of Superior Court of the County on behalf of the Association against the Lot of the delinquent Owner in accordance with Section 47-F-116 of the Act.

Upon recordation of a duly executed original or copy of such a claim of lien, and mailing a copy thereof to said Owner at the address of the Lot or such other address as may appear on the records of the Association, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such Assessment was levied. Such a lien shall have priority over all liens, encumbrances and claims except (i) liens and encumbrances recorded prior to the recordation of the claim of lien thereof, and (ii) tax liens for real property taxes on any Lot, assessments on any Lot in favor of any municipal, county or other governmental body assessing the Lot, and the liens, which are specifically described hereinafter. Any such lien may be foreclosed by appropriate court action or in a like manner as a mortgage on real estate under power of sale as permitted under 47F-3-116 and Article 2(A) of Chapter 45 of the North Carolina General Statutes, as amended, or in any manner provided by the laws of the State of North Carolina, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Owners. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, and convey such Lot. In the event of foreclosure or in any other action to enforce provisions of the articles of incorporation, this declaration, bylaws or duly adopted rules or regulations, reasonable attorney's fees, court costs, title search fees, interest, and all other costs and expenses shall be subject to recovery by the Association to the extent permitted by law. Each Owner, by becoming an Owner, hereby expressly waives any objection to the enforcement and foreclosure of this lien in the manner provided herein.

Section 5.09. Notice of Default. The Board of Directors, when giving notice to an Owner of a default in paying Assessments, may, at its option, or shall, at the written request of a mortgagee, send a copy of such notice to each holder of a mortgage covering such Lot whose name and address appears on the Board's records. The mortgagee shall have the right to cure the Owner's default with respect to the payment of said Assessments.

Section 5.10. Right to Maintain Surplus. The Association shall not be obligated in any calendar year to spend all the sums collected in such year by way of Maintenance Assessments or otherwise, and may carry forward as surplus any balances remaining, nor shall the Association be obligated to apply any such surpluses to the reduction of the

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amount of the Maintenance assessments in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors in its absolute discretion may determine to be desirable for the greater financial security and the effectuation of the purposes of the Association.

Section 5.11. Assessment Certificates. Upon written demand of an Owner or lessee with respect to a Lot which he or she owns or leases, or any prospective purchaser, lessee, occupant, mortgagee or title insurer of such Lot, the Association shall, within the time required by law, or if no such requirement, within a reasonable period of time, issue and furnish a certificate in writing signed by an officer or designee of the Association setting forth with respect to each Lot as of the date of such certificate, (i) whether the Assessments, if any, have been paid; (ii) the amount of such Assessments, including interest and costs, if any, due and payable as of such date; and (iii) whether any other amounts or charges are owing to the Association, e.g. for the cost of extinguishing a violation of this Declaration. A reasonable charge, as determined by the Board of Directors, may be made for the issuance of such certificates. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser, lessee or title insurer of, or lender on the Lot or Lot on which such certificate has been furnished.

Section 5.12. Subordination of Assessment Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage of record now or hereafter placed upon any Lot (unless a claim of lien has been filed pursuant to Section 5.08 prior to the filing of such first mortgage), provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale or transfer of such Lot or Lot pursuant to a decree or deed of foreclosure. Such sale or transfer shall not relieve such property from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment.

Section 5.13. Right to Borrow and Mortgage. In order to fulfill the purposes set forth herein, the Association may borrow funds from any recognized lending institution, and in conjunction therewith, and subject to the provisions of Section 4.03.3 of this Declaration, mortgage any Association Property. Subject to the provisions of Section 4.03.3 of this Declaration, the amount, terms, rate or rates of all borrowing and the provisions of all agreements with noteholders shall be subject solely to the discretion of the Board of Directors, except that after the Period of Developer Control, any consent of the Developer as required by Section 3.12 of this Declaration must be obtained.

Section 5.14. Repayment of Monies Borrowed. In order to secure the repayment of any and all sums borrowed from time to time, the Association is hereby granted the right and power to:

5.14.1. Assign and pledge all revenues received and to be received by it under any provision of this Declaration including, but not limited to, the proceeds of the maintenance assessments hereunder;

5.14.2. Enter into agreements with noteholders with respect to the collection and disbursements of funds, including, but not limited to, agreements wherein the Association covenants to:

(a) Assess the maintenance assessments on a given day in each year and, subject to the limitation on amount specified in Section 5.04, to assess the same at a particular rate or rates;

(b) Establish sinking funds and/or other security deposits;

(c) Apply all funds received by it first to the payment of all principal and interest on such when due, or to apply the same to such purpose

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after providing for costs of collection;

(d) Establish such collection, payment and lien enforcement procedures as may be required by the noteholders; and/or

(e) Provide for the custody and safeguarding of all funds received by it.

ARTICLE VI

MAINTENANCE BY THE ASSOCIATION

Section 6.01. Maintenance and Repair by the Association. Except as specifically otherwise provided in this Section 6.01, (i) all maintenance, repair and replacement of the improvements on Association Property, (ii) the maintenance, repair and replacement of all parking areas, driveways and walkways on the Association Property, ~~(iii) the maintenance of all landscaped areas on Association Property, including any landscaped areas located within the bounds of any public roadway~~, (iv) the maintenance, repair and replacement of any identification or directional signs installed by or at the direction of the Developer or the Association, and (v) all portions of the storm water maintenance system as called for pursuant to Article X (unless some other party has expressly agreed in writing to maintain a portion of the storm water system) shall be the responsibility of, and at the cost and expense of the Association.

The Association shall be responsible for the maintenance of all shrubbery and other plantings installed by or at the direction of the Developer or the Association on Association Property or within any landscaping easement area but not for shrubbery or other plantings installed by or at the direction of any Owner or Lot occupant.

With respect to the Lots, the Association shall not be responsible for any repairs or replacements to any portion of a Lot. However, this shall not restrict the right of the Association to repair or replace any portion of a Lot or Lots as provided for in Section 6.02.

Upon the affirmative vote of at least three-fourths (3/4) of the entire Board of Directors and the affirmative vote of at least two-thirds (2/3) of the Owners, the Board of Directors may provide for additional maintenance with respect to the Lots or other improvements to the Lots to be undertaken by the Association or discontinuing the performance of some or all of the maintenance responsibilities of the Association with respect to the Lots or other improvements to the Lots.

Subject to the provisions of Section 6.02, the cost of all maintenance performed by the Association shall be funded from Maintenance Assessments.

Section 6.02. Repairs and Maintenance not the Responsibility of the Association. Except as provided in Section 6.01, the Association shall not be responsible for (i) the maintenance, repair or replacement of any buildings or structures not owned by the Association; or (ii) the maintenance, repair or replacement of any sewer lines, water lines or other utility lines which are maintained, repaired and replaced by a municipality, public authority, special district or utility company.

Any maintenance, repair or replacement necessary to preserve the appearance and value of the Property made pursuant to Section 6.01 but which is occasioned by a negligent or willful act or omission of an Owner (including (i) any family member, tenant, guest or invitee of such Owner; (ii) any family member, guest or invitee of the tenant of such

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Owner; and (iii) any guest or invitee of (a) any member of such Owner's family, or (b) any family member of the tenant of such Owner) may be made at the cost and expense of such Owner. If such maintenance, repair or replacement is performed by the Association at the cost and expense of such Owner, it shall not be regarded as a common expense, but shall rather be considered a special expense allocable to the specific Lot or Lots and such cost shall be added to that Owner's Maintenance Assessment and, as part of that Assessment, shall constitute a lien on the Lot or Lots, as the case may be, to secure the payment thereof.

Section 6.03. Quality and Frequency of Maintenance and Repairs. All maintenance, repair and replacement, whether or not performed by the Association, shall be of a quality and appearance consistent with the enhancement and preservation of the appearance and value of the Property.

Section 6.04. Access for Repairs. Upon reasonable notice to the Owner(s), the Association (and its employees, contractors and agents) shall have the right to enter upon any portion of the Property and into and upon any Lot at any reasonable hour to carry out its functions as provided for in this Article, except that in an emergency, the Association shall have the right, without notice, to enter upon any portion of the Property and into and upon any Lot to make necessary repairs or to prevent damage to any Lot or any portion of the Property. The repair of any damage caused in gaining access in an emergency shall be an expense of the Association.

ARTICLE VII

ARCHITECTURAL CONTROLS

Section 7.01. Control by Association. After transfer of title by the Developer of any Lot or other completed portion of the Property, enforcement of those provisions of the Declaration pertaining to exterior appearance of the Property and control over any change in use or any additions, modifications or alterations to any exterior improvement on said Lot or other portion of the Property shall be the responsibility of the Association, acting through the Architectural Standards Committee as provided in Section 7.02.

Section 7.02. Composition and Function of Architectural Standards Committee.

7.02.1. Committee Composition. The Architectural Standards Committee shall consist of three (3) regular members. None of such committee members shall be required to be an architect or to meet any other particular qualifications for membership. A committee member may be, but need not be, a member of the Board of Directors or an officer of the Association.

7.02.2. Alternative Members. In the event of the absence or disability of one or two regular committee members, the remaining regular member or members, even though less than a quorum, may designate alternate members to act as substitutes for the absent or disabled regular member or members for the duration of such absence or disability.

7.02.3. Initial Members. The Developer shall name three persons who will be designated as the initial members of the Architectural Standards Committee.

7.02.4. Terms of Office. Unless the initial members of the Architectural Standards Committee have resigned or been removed, their initial terms of office shall be for three (3) years and until the appointment of their respective successors. Thereafter, the term of each Architectural Standards Committee member appointed shall be for the period of three (3) years and until the appointment of such member's successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned, been

removed or whose terms have expired may be reappointed.

7.02.5. Appointment and Removal. Subject to Section 7.02.1 and Section 7.02.2, during the Period of Developer Control, the right to appoint and remove all members of the Architectural Standards Committee at any time, shall be and is hereby vested solely in the Developer. Subject to Section 7.02.1, after the Period of Developer Control, the right to appoint and remove all members of the Architectural Standards Committee at any time, shall be and is hereby vested solely in the Board of Directors, provided, however that no member may be removed from the Architectural Standards Committee by the Board of Directors except by the vote or written consent of two-thirds (2/3) of all the members of the Board of Directors. Exercise of the right of appointment and removal, as set forth herein, shall be evidenced by minutes of a meeting of the Board of Directors identifying each new member appointed to the Architectural Standards Committee and each member replaced or removed therefrom.

7.02.6. Resignations. Any regular or alternate member of the Architectural Standards Committee may at any time resign from the Committee by giving written notice thereof to Developer or to the Board of Directors, whichever then has the right to appoint Committee Members.

7.02.7. Vacancies. The Developer or the Board of Directors shall fill vacancies on the Architectural Standards Committee, however caused, whichever then has the power to appoint Committee Members. A vacancy or vacancies on the Architectural Standards Committee shall be deemed to exist in case of the death, resignation or removal of any regular or alternate member.

7.02.8. Duties. It shall be the duty of the Architectural Standards Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to adopt Architectural Standards Committee Rules, to perform other duties imposed upon it by the Restrictions. Developer shall not be subject to the Committee's decisions

7.02.9. Meetings and Compensation. The Architectural Standards Committee shall meet from time to time as necessary to perform its duties hereunder. The Architectural Standards Committee shall propose proposed Architectural Standards including any modifications or changes to any prior adopted Architectural Standards, to the Board of Directors. The Board of Directors shall be solely responsible to adopt Architectural Standards, which all Lot Owners shall be subject to. Subject to the provisions of the Section above, the vote or written consent of any two regular Members, at a meeting or otherwise, shall constitute the act of the Committee unless the unanimous decision of the Committee is required by any other provision of the Restrictions. The Architectural Standards Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the Architectural Standards Committee shall not be entitled to compensation for their services.

7.02.10. Waiver. The approval of the Architectural Standards Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring Architectural Standards Committee under the Restrictions, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

Section 7.03. Submission of Plans to Architectural Standards Committee. After transfer of title to any Lot or other portion of the Property by the Developer, no dwelling,

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fence, wall, driveway or other structure, no any exterior addition, modification or alteration, nor any clearing or site work including landscaping shall be made on or to such Lot or other portion of the Property or to the improvements located thereon, unless and until a plan or plans therefore, in such form and detail as the Architectural Standards Committee requires, has/have been submitted to, and reviewed and approved by, the Architectural Standards Committee. The Architectural Standards Committee may charge and collect a reasonable fee for the examination of plans submitted for approval.

Section 7.04. Basis for Disapproval of Plans by Architectural Standards Committee. The Architectural Standards Committee may disapprove any plans submitted pursuant to Section 7.03 above for any of the following reasons

7.04.1. Failure of such plans to comply with any of the Restrictions;

7.04.2. Failure to include information in such plans as requested;

7.04.3. Objection to the site plan, exterior design, appearance or materials of any proposed improvements, including without limitation, colors or color scheme, finish, proportion, style of architecture and proposed parking;

7.04.4. Incompatibility of proposed improvements or use of proposed improvements with existing improvements or uses in the vicinity;

7.04.5. Failure of proposed improvements to comply with any zoning, building, health or other governmental laws, codes, ordinances, rules and regulations;

7.04.6. Failure of such plans to comply with any design guidelines or construction requirements adopted from time to time by the Architectural Standards Committee, provided same are uniformly applied to all Lots subsequent to the date of adoption; or

7.04.7. Any other matter which in the judgment and sole discretion of the Architectural Standards Committee would render the proposed improvements, use or uses, inharmonious or incompatible with the general plan of improvement of the Property or portion thereof or with improvements or uses in the vicinity.

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Section 7.05. Approval of Architectural Standards Committee. Upon approval or qualified approval by the Architectural Standards Committee of any plans submitted pursuant to Section 7.03 above, the Architectural Standards Committee shall notify the applicant in writing of such approval or qualified approval, which notification shall set forth any qualifications or conditions of such approval, shall file a copy of such plans as approved for permanent record (together with such qualifications or conditions, if any), and, if requested by the applicant, shall provide the applicant with a copy of such plans bearing a notation of such approval or qualified approval. Approval of any such plans relating to any Lot or portion of the Property shall be final as to such Lot or portion of the Property, and such approval may not be revoked or rescinded thereafter, provided (i) the improvements or uses approved are not substantially changed or altered; (ii) that the improvements or uses shown or described on or in such plans do not violate any of the Restrictions; and (iii) that such plans and any qualifications or conditions attached to such approval of the plans do not violate any applicable zoning, building, health or other governmental laws, codes, ordinances, rules and regulations. Approval of any plans for use in connection with any Lot or portion of the Property shall not be deemed a waiver of the right of the Architectural Standards Committee to disapprove similar plans or any of the features or elements included therein if such plans, features or elements are subsequently submitted for use in connection with any other Lot or portion of the Property.

Section 7.06. Written Notification of Disapproval. In any case where the Architectural Standards Committee disapproves any plans submitted hereunder, the Architectural Standards Committee shall so notify the applicant in writing together with a statement of the grounds upon which such action was based as set forth in Section 7.04. In any such case, the Architectural Standards Committee shall, if requested and if possible, make reasonable efforts to assist and advise the applicant so that acceptable plans can be prepared and resubmitted for approval.

Section 7.07. Failure of Committee to Act. If any applicant has not received notice of the Architectural Standards Committee approving or disapproving any plans within 45 days after submission thereof, said applicant may notify the Architectural Standards Committee in writing of that fact. Such notice shall be sent by certified mail, return receipt requested. Unless the Architectural Standards Committee disapproves the plans, the plans shall be deemed approved by the Architectural Standards Committee on the date which is the later of:

7.07.1. 15 days after the date of receipt by the Architectural Standards Committee of such notice, if such notice is given; or

7.07.2. 70 days after the date the plans were originally submitted.

Section 7.08. Committee's Right to Promulgate Rules and Regulations. Subject to the provisions of Section 7.12, the Architectural Standards Committee may from time to time promulgate rules and regulations governing the form and content of plans to be submitted for approval or with respect to the approval or disapproval of certain types of alterations, additions or modifications to improvements, or uses; provided, however, that no such rule or regulation shall be deemed to bind the Architectural Standards Committee to approve or disapprove any plans submitted for approval, or to waive the exercise of the Architectural Standards Committee's discretion as to such plans, and provided further that no such rule or regulation shall be inconsistent with the provisions of this Declaration or any applicable governmental law, code, ordinance, rule or regulation.

Section 7.09. Delegation of Functions. The Architectural Standards Committee may authorize its staff, subcommittees, or individual members of the Architectural Standards Committee to perform any or all of the functions of the Architectural Standards

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Committee as long as the number and identity of such staff or members, the functions and scope of authority have been established by a resolution of the entire Architectural Standards Committee. The approval or disapproval of plans by the staff member, individual member or subcommittee will be subject, however, to the reasonable review of the Architectural Standards Committee, in accordance with procedures to be established by the Architectural Standards Committee.

Section 7.10. Liability of Architectural Standards Committee. No action taken by the Architectural Standards Committee or any member, subcommittee, employee or agent hereof, shall entitle any Person to rely thereon, with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of any Lot or other portion of the Property. Neither the Association nor the Architectural Standards Committee, nor any member, subcommittee, employee or agent shall be liable to anyone submitting plans to them for approval or to any Owner, Member or any other Person, in connection with any submission of plans, or the approval or disapproval thereof, including without limitation, mistakes in judgment, negligence or nonfeasance. By submission of such plans, every Owner and other Person submitting plans on behalf of an Owner to the Architectural Standards Committee agrees that no action or suit will be brought against the Association, the Architectural Standards Committee or any member, subcommittee, employee or agent of the Architectural Standards Committee in connection with such submission.

Section 7.11. Architectural Standards Committee Certificate. Upon written request of any Owner, lessee or occupant (or any prospective Owner, lessee, mortgagee, or title insurer) of a Lot or other portion of the Property, title to which has been previously transferred from the Developer, within a reasonable period of time, the Architectural Standards Committee shall issue and furnish to the Owner or other Person making the request a certificate in writing ("Architectural Standards Committee Certificate") signed by a member of the Architectural Standards Committee confirming whether or not the improvements constructed on such Lot or other portion of the Property received the approval of the Architectural Standards Committee at the time such improvements were made. A reasonable charge, as determined by the Architectural Standards Committee, may be imposed for issuance of such Architectural Standards Committee Certificate. Any such Architectural Standards Committee Certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and the party to whom such Certificate was issued.

Section 7.12. Restrictions on Change of Architectural Controls. The provisions set forth in this Article VII (excluding the actual Architectural Standards which are set by the Board of Directors pursuant to Section 7.02.9) shall not be changed, waived or abandoned, by act or omission, without the affirmative vote or **written consent of at least two-thirds (2/3) of the total votes of all Members voting after notice which shall be sent to all Members whose names appear on the records of the Association not less than forty (40) days nor more than sixty (60) days in advance of the date set for voting thereon.**

ARTICLE VIII INSURANCE AND RECONSTRUCTION

Section 8.01. Insurance to be Carried. To the extent obtainable at a reasonable cost (as determined by the Board of Directors in its reasonable commercial judgment), and in such amounts as the Board of Directors shall determine to be appropriate, unless otherwise required herein, the Board of Directors shall obtain and maintain (1) fire and casualty insurance, if required, (2) liability insurance, (3) directors' and officer's liability insurance, (4) fidelity bond, and (5) worker's compensation insurance, if required, with coverage's to be as follows:

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8.01.1. Fire and Casualty. The policy, if required, shall cover the interests of the Association, the Board of Directors and all Owners and mortgagees, as their interests may appear. Coverage shall be for the full replacement cost without deduction for depreciation of all improvements on the Property under the "single entity concept, i.e. covering any common facilities constituting Association Property.

The policy shall have the following provisions, endorsements and coverage's, if obtainable at a reasonable cost (as determined by the Board of Directors in its reasonable commercial judgment): (i) extended coverage, including sprinkler leakage (if applicable), debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage,(ii) inflation guard; (iii) waiver of any right to claim by way of subrogation against individual Owners and the members of their households and families, the Association, the officers and directors of the Association and the managing agent, if any, for the Association; (iv) an exclusion from the "no other insurance" clause of individual Owners' policies; (v) a provision that the policy cannot be canceled, invalidated or suspended because of the act or neglect of someone over whom the insured has no control; (vi) a provision that the policy may not be canceled (including cancellation for non- payment of premium), substantially modified, invalidated or suspended, without at least thirty (30) days prior written notice to all of the insureds, including all mortgagees of Lots to whom certificates or memoranda of insurance have been issued by the insurance carrier or its agent at their respective last known addresses reported to the insurance carrier or its agent; (vii) a provision requiring periodic review at least every two years to assure the sufficiency of coverage; and (viii) a provision that adjustment of loss shall be made by the Board of Directors.

Prior to obtaining any new fire and casualty insurance policy, the Board of Directors shall obtain an appraisal from an insurance company or from such other source as the Board of Directors shall determine to be acceptable as to the full replacement cost (without deduction for depreciation) of the improvements on the Association Property (exclusive of land and foundations) for the purpose of determining the amount of fire and casualty insurance to be effected pursuant to this Section.

The proceeds of all policies of physical damage 'insurance, if $50,000.00 or less, shall be payable to the Association, and if $50,000.00 or more, to an insurance trustee (bank, trust company or law firm) selected by the Board of Directors to be applied for the purpose of repairing, restoring, or rebuilding. This $50,000.00 limitation shall increase automatically by 5% each calendar year after the year in which this Declaration is recorded and may be further raised or lowered from time to time upon approval of not less than two-thirds (2/3) of the entire Board of Directors. All fees and disbursements of the insurance trustee shall be paid by the Association and shall be a common expense of all Owners.

The policy shall contain the standard mortgagee clause in favor of mortgagees which shall provide that any loss shall be payable to a mortgagee as its interest shall appear, subject, however, to the loss payment provisions in favor of the Association. . The obligation to restore or reconstruct after damage due to fire or other casualty supersedes the customary right of a mortgagee to have the proceeds of insurance coverage applied to the mortgage indebtedness.

The Association and each Owner shall be a named insured on the policy, as their interests may appear. At the time of purchase, and thereafter if requested, at the time a new policy is obtained or an existing policy renewed, the Association shall provide a copy of a certificate evidencing proof of insurance coverage.

8.01.2. Flood Insurance. If any improvements on any portion of the Association

Property is located in an area identified by the federal Secretary of Housing and Urban Development as having special flood hazards, the Board of Directors shall obtain, if obtainable at a reasonable cost (as determined by the Board of Directors in its reasonable commercial judgment), a policy of flood insurance covering the insurable improvements on the Property or portion thereof located entirely or partially in the flood hazard area. Such coverage shall be the maximum coverage available under the National Flood Insurance Program or 100% of the current replacement cost of all such improvements and other insurable property, whichever is less.

8.01.3. Liability. The liability insurance shall cover the directors and officers of the Association, the managing agent, if any, and all Owners, but not the liability of Owners arising from occurrences within or on such Owner's Lot. The policy shall include the following endorsements, if obtainable at a reasonable cost (as determined by the Board of Directors in its reasonable commercial judgment): (i) comprehensive general liability (including libel, slander, false arrest and invasion of privacy), (ii) personal injury; (iii) medical payments, (iv) cross liability under which the rights of a named insurer under the policy shall not be prejudiced with respect to such insured's action against another named insured; (v) "severability of interest" precluding the insurer from denying coverage to an Owner because of negligent acts of the Association or any other Owner, (vi) contractual liability; (vii) water damage liability; (viii) hired and non-owned vehicle coverage; (ix) liability for the property of others; (x) host liquor liability coverage with respect to events sponsored by the Association; **(xi)** deletion of the normal products exclusion with respect to events sponsored by the Association; and **(xii)** if applicable, garage keeper's liability and watercraft liability.

Coverage may not be canceled or suspended (including cancellation for nonpayment of premium) or substantially modified without at least thirty (30) days written notice to the Association. Any deductible provision shall apply only to each occurrence rather than to each item of damage. The Board of Directors shall review such coverage at least once each year.

Until the first meeting of the Board of Directors elected by the Owner, this liability insurance shall be in a combined single limit of $1,000,000.00 covering all claims for bodily injury and property damage arising out of a single occurrence.

8.01.4. Directors' and Officers' Liability. The directors' and officers' liability insurance shall cover the "wrongful acts of a director or officer of the Association. The policy shall be on a "claims made" basis so as to cover all prior officers and members of the Board of Directors, and any deductible provision shall apply only to each occurrence and not to each item of damage. If obtainable at reasonable cost (as determined by the Board of Directors in its reasonable commercial judgment), the policy shall not provide for "participation" by the Association or by the officers or directors of the Association.

Until the first meeting of the Board of Directors elected by the Owners, the directors' and officers' liability coverage shall be in the amount of at least $250,000.00.

8.01.5. Fidelity Bond. The fidelity bond or its equivalent shall cover all directors, officers and employees of the Association and the Association's managing agent, if any, who handle Association funds. The bond shall name the Association as Obligee and be in an amount not less than the estimated maximum of funds, including

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reserves, in the custody of the Association or managing agent at any given time, but in no event less than a sum equal to three months' aggregate assessments on all Lots, plus the amount of reserves and other funds on hand. It shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression, and shall provide that the bond may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the Association.

Until the first meeting of the Board of Directors elected by the Owners, the coverage shall be at least $10,000.00 for dishonest acts and $5,000.00 for forgery. Notwithstanding the above, the Board of Directors may, at the request of any Owner, Lot mortgagee, or prospective Owner or Lot mortgagee, increase the amount of such bond to meet the reasonable requirements of any existing or proposed holder or insured of any mortgage made or to be made on any Lot.

8.01.6. Worker's Compensation. To the extent deemed reasonable and necessary by the Board of Directors (as determined by the Board of Directors in its reasonable commercial judgment), worker's compensation insurance may be obtained. Such insurance shall cover any employees of the Association, as well as any other Person performing work on behalf of the Association, if required by law, and shall be in the amount required by law.

8.01.7. Other Insurance. The Board of Directors may also obtain such other insurance, as it shall deem necessary or desirable from time to time including "umbrella" catastrophe coverage.

8.01.8. No Liability for Failure to Obtain Above Coverages. The Board of Directors shall not be liable for failure to obtain any of the coverage's required by this Section or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are so available only at unreasonable cost (as determined by the Board of Directors in its reasonable commercial judgment).

8.01.9. Deductible. The deductible, if any, on insurance policy purchased by the Board of Directors shall be a common expense, provided, however that the Board of Directors of the Association may assess any deductible amount necessitated by the gross negligence or wantonly malicious act of an Owner against such Owner. The Association may pay the deductible portion for which such Owner is responsible, and the amount so paid, together with interest and costs of collection (including attorney's fees), shall be a charge and continuing lien upon such Owner's Lot, shall constitute a personal obligation of such Owner, and shall be collectible in the same manner as assessments under Article V of this Declaration.

Section 8.02. Restoration or Reconstruction after Fire or other Casualty. In the event of damage to or destruction of any improvements on any Association Property or facility of the Association insured through insurance obtained by the Board of Directors, as a result of fire or other casualty, the Board of Directors shall promptly send written notice to the insurance trustee, if required by Section 8.01.1, and the Board of Directors or the insurance trustee, as the case may be, shall (i) arrange for the prompt repair and restoration of the damaged property and (ii) disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

Any repair or restoration as hereinabove described shall be in substantial accordance with the plans and specifications of the damaged improvements as originally built unless otherwise required by applicable laws, codes or regulations. Any proposed

substantial deviation therefrom not otherwise required by applicable laws, codes or regulations shall require the affirmative vote or written consent of at least 51% of the total votes of all Members voting after notice which shall be sent to all Members whose names appear on the records of the Association not less than ten (10) days nor more than sixty (60) days in advance of the date set for voting thereon.

Section 8.03. Insurance Carried by Owners. Each Owner has the right, at such Owner's expense, to obtain insurance for such Owner's benefit.

Section 8.04. Right of Mortgagees to Pay and be Reimbursed for Insurance and Property Taxes on Association Property. In the event the Association falls to obtain or maintain fire, casualty and liability insurance for Association Property as required under this Article VIII, such insurance may be obtained by one or more mortgagees of Lots, singly or jointly. The Association shall reimburse such mortgagee or mortgagees for any amount expended for such insurance, real property taxes or any other charges with respect to Association Property which are in default and which may become or have become a charge against the Association Property.

ARTICLE IX

GENERAL COVENANTS AND RESTRICTIONS

Section 9.01. Advertising and Signs. Except for signs erected by or with the permission of the Developer in connection with the initial development, lease or sale of Lots, no additional sign or other advertising device of any nature shall be placed for display to the public view on any Lot or other portions of the Property (including temporary signs advertising property for sale or rent) except with the consent of the Architectural Standards Committee. In connection with the initial construction of Structures and sale of improved Lots, the Developer shall provide standardized signage for each Builder at such Builder's expense.

Section 9.02. Protective Screening and Fences. Any screen planting, fence enclosures or walls initially developed on a Lot or other portion of the Property shall not be removed or replaced with other than a similar type of planting, fence or wall except with the permission of the Architectural Standards Committee. Except for the foregoing, no fence, wall, or screen planting of any kind shall be planted, installed or erected upon said parcel or other portion of the Property unless approved by the Architectural Standards Committee. Notwithstanding the foregoing, no fence, wall or screen planting shall be maintained so as to obstruct sight lines for vehicular traffic.

Section 9.03. Garbage and Refuse Disposal. Except for building materials during the course of construction or repair of any approved improvements, no lumber, metals, bulk materials, rubbish, refuse, garbage, trash or other waste material (all of which are referred to hereinafter as "Trash") shall be kept, stored, or allowed to accumulate outdoors on any portion of the Property, except in sanitary containers and screened from adjacent and surrounding property. Such containers may be placed in the open within 24 hours of a scheduled pick-up, at such place on the Lot or other portion of the Property designated by the Architectural Standards Committee so as to provide access to persons making such pick-up. The Architectural Standards Committee may, in its discretion, adopt and promulgate reasonable rules and regulations relating to size, shape, color and type of containers permitted and the manner of storage of the same on any portion of the Property.

Section 9.04. No Above Surface Utilities without Approval. No facilities,

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including without limitation, poles and wires for the transmission of electricity, telephone, cable television, water, gas, sanitary and storm sewer drainage pipes and conduits shall be placed or maintained above the surface of the ground on any portion of the Property without the prior written approval of the Architectural Standards Committee.

Section 9.05. Noxious or Offensive Activities. No noxious or offensive activity shall be carried out upon any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or annoyance in the area to the residents or Owners thereof. The emission of smoke, soot, fly ash, dust, fumes, herbicides, insecticides, and other types of air pollution or radioactive emissions or electro-magnetic radiation disturbances, shall be controlled so as not to

(i) be detrimental to or endanger the public health, safety, comfort or welfare; (ii) be injurious to property, vegetation or animals; (iii) adversely affect property values or otherwise produce a public nuisance or hazard; or (iv) violate any applicable zoning regulation or other governmental law, ordinance or code.

Section 9.06. Oil and Mining Operations. No portion of the Property shall be used for the purpose of boring, drilling, refining, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth (except soil borings, **in** connection with the improvement of said portion of the Property) and no derrick or other structure designed for use **in** boring for oil or natural gas or any other mineral shall be erected, maintained or permitted on any portion of the Property, except with the consent of the Architectural Standards Committee

Section 9.07. Dwelling in other than Residential Lots. No temporary building, trailer, basement, tent, shack, barn outbuilding, shed, garage, or building in the course of construction or other temporary structure shall be used, temporarily or permanently, as a Dwelling, on any Lot or other portion of the Property except with the consent of the Architectural Standards Committee.

Section 9.08. Television and Radio Antennas. No outside television antenna shall be erected on any Lot or other portion of the Property except with the consent of the Architectural Standards Committee, except for antennas as permitted by FCC regulations and rules.

Section 9.09. Trees and other Natural Features. After the transfer of title by the Developer to a Lot or other portion of the Property, no trees shall be removed from any such transferred Lot or other portion of the Property except with the permission of the Architectural Standards Committee. The Architectural Standards Committee may require mitigation for the unauthorized removal of trees at a 2:1 ratio. The Architectural Standards Committee may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife upon the Property. The Architectural Standards Committee may designate certain trees, regardless of size, as not removable without written authorization.

Section 9.10. Use and Maintenance of Slope Control Areas. Within any slope control or wetlands area shown on any filed map or plat, no improvements, planting or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or sliding problems, or change the direction of flow of drainage channels. The slope control areas of any Lot or other portion of the Property and all improvements thereon shall be maintained continuously by the Owner of said Lot or other portion of the Property, and all improvements thereon shall be maintained continuously by the Owner of said Lot or other portion of the Property, except in those cases where the Association or a governmental agency or other public entity or utility company is

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responsible for such maintenance.

Section 9.11. Motorcycles. No motorcycle, ATV or similar motor vehicle shall be operated on any portion of the Property except with the consent of the Board of Directors. This does not preclude the lawful use of said vehicles on driveways and public and private streets.

Section 9.12. Residential Use Only. Except as otherwise provided in this Article IX, and subject to Article IV of this Declaration, the Lots shall be used only for residential purposes and purposes incidental and accessory thereto except that, prior to transfer of title by the Developer to all of the Property, the Developer may use one or more Lots or other portions of the Property for model homes and/or a real estate office. Unless prior written approval is obtained from the Developer, no Lot shall be used for a model home and/or a real estate office.

Section 9.13. Commercial and Professional Activity on Property. No wholesale or retail business, including any salon, studio, laboratory, home industry or medical or dental office, shall be conducted in or on any Lot or other portion of the Property without the consent of the Architectural Standards Committee, except (i) by the Developer in conjunction with the initial construction, development, lease and sale of Lots; and (ii) the conducting of business by telephone or internet (except no portion of any lot shall be used as a storage, warehouse or other aggregation space for any wholesale or retail business). This restriction is not intended to preclude the operation of an in-home office for purposes other than those set forth above.

Section 9.14. Outside Storage. Outside storage or parking of commercial or recreational vehicles, camper bodies, boats and trailers shall be prohibited except as may be permitted by the Architectural Standards Committee (unless prohibited altogether by the applicable zoning requirements).

Section 9.15. Outdoor Repair Work. With respect to a Lot or other portion of the Property to which title has been transferred by the Developer, no extensive work on any motor vehicles, boats or machines of any kind shall be permitted outdoors on such Lot or portion thereof, except with the consent of the Architectural Standards Committee.

Section 9.16. Oversized, Commercial and Unlicensed Vehicles. Unless used in connection with the construction or sale of Lots by the Developer or maintenance of the Property, the following shall not be permitted to remain overnight on the Property.

9.16. 1. Any vehicle that cannot fit into a garage of the size constructed on the Lot.

9.16.2. Commercial vehicles of a weight of two (2) tons or more, unless garaged.

9.16.3. Unlicensed motor vehicles of any type, unless garaged.

9.16.4. Boats, jet ski(s) and trailers.

Section 9.17. Clotheslines. Outdoor clotheslines or other outdoor facilities for the drying or airing of any clothing or bedding are prohibited

Section 9.18. Construction Requirements.

9.18.1. Area Requirements: Minimum size of each Structure exclusive of garage, porches, decks and outbuildings shall be _____ square feet of heated area for a two-story or greater Structure and _____ square feet of heated area for a single-story Structure.

9.18.2. Duplication of Styles: To maintain diversity of architecture within the

development, essentially complete duplication of exterior design will not normally be permitted.

9.18.3. Public View: Exterior elevations should be designed to respect views from neighboring home sites.

9.18.4. Other Appurtenances: Exterior solar panels, radio antennas (short wave, citizen band, etc.) and satellite dishes, either roof mounted or otherwise, are prohibited with the exception of those permitted under FCC guidelines. Exceptions MUST be reviewed and approved by the Architectural Standards Committee. Television antennas including dishes not to exceed one meter in diameter shall be placed to minimize their view from the street.

9.18.5. Fences: Fences shall be of brick, stone or wood. All fences shall be restricted to no more than 6 feet (6') in height, shall be made of an open type construction, shall comply with all applicable laws, ordinances and regulations of the Town and shall be subject to approval by the Architectural Standards Committee as to style, materials and color. Any in-ground swimming pool shall be fenced with approved fencing, hedging or other landscaping material. Fences made of white materials or painted white are prohibited. Fences made from plywood sheets and chain link fences are prohibited. The finished side of the fence must be facing outside.

9.18.6. Outbuildings: No detached buildings will be approved. These include all structures designed to house or store vehicles and/or tools, or provide occupancy for persons, animals; e.g., garages arid carports. Structures designed to provide temporary shelter from the elements (e.g., gazebos) may be exempt from this requirement at the discretion of the ARC. All temporary shelter shall be compatible with the main Structure in materials, style and finish and shall be subject to review by the Architectural Standards Committee.

9.18.7. Landscaping Plan: A landscaping plan must be submitted to the Architectural Standards Committee with submission of the plans pursuant to Section 7.03 for approval.

9.18.8. Site Work: No earth moving, clearing, site work or construction may be commenced on any Lot without the prior approval of the Architectural Standards Committee. The outside perimeter of the Structure must be staked prior to the Owner's submission of the plans pursuant to Section 7.03 so that the Architectural Standards Committee can make a visit to the Lot to evaluate the placement of the Structure on the Lot and assess conservation impacts.

9.18.9. Bulkheads: The construction of any such facilities on any of the Lots fronting on any body of water shall be coordinated with and approved by the Architectural Standards Committee.

9.18.10. **Pilings**. All exterior pilings shall be covered with wing walls and siding to match the house unless otherwise approved by the ARC. The use of lattice or other materials used to cover pilings under decks and porches must be approved.

9.18.11. **Driveways**. Driveways shall not exceed twenty-two (22) feet in width at the connection to the street, and shall be paved with concrete. Colored driveways will not be approved (red, green, etc.) One full-size automobile parking space of not less than 8' x 16' must be provided as off-street parking for each bedroom and bedroom/den. Parking spaces under houses, in garages or carports or in driveways are acceptable.

Section 9.19. Swimming Pools. No above ground or temporary swimming pool is permitted. Above ground hot tubs or lap pool are permitted provided they do not exceed a footprint of

_____.

Section 9.20. Setbacks. All setbacks for lots shall be as indicated on the recorded plat.

Section 9.21. Manufactured Housing. Notwithstanding anything else contained herein, no mobile home, modular home, or any "Manufactured Home", whether single wide, double wide, triple wide, or of any other width, may be placed upon any of the Lots. "Manufactured Home" shall have the same definition as set forth in NCGS Section 143-145(7).

ARTICLEX

STORM WATER CONSIDERATIONS

Section 10.01 Obligations. Each person acquiring an interest in a Lot or other portion of the Property or otherwise occupy any portion of the Property (whether or not the deed, lease or other instrument incorporates or refers to this Declaration) covenants and agrees for himself, herself, or itself and for his, her or its heirs, successors and assigns, to observe, perform and be bound by the provisions of this Declaration including, but not limited to, these obligations set forth within this Article X.

Section 10.02 Compliance. The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permits Numbers _____North Carolina Department of Environmental Quality, as issued by the Division of Energy, Mineral and Land Resources ("DEQ") under the Stormwater Management Regulations.

Section 10.03 Storm Water Covenants for Lots 1 through 17.

10.03.1 Beneficiary. The State of North Carolina are made beneficiaries of these covenants to the extent necessary to maintain compliance with the stormwater management permit number _____.

10.03.2 Runs with Land. These covenants are to run with the land and be binding on all persons and parties claiming under them.

10.03.3 No Altering. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the DEQ or the Town.

10.03.4 No Change of Drainage. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the DEQ or the Town.

10.03.5 Maximum Built Upon Area. The maximum built-upon area per lot, in square feet, is as listed below: (See Attached Table, being Exhibit "B")

This allotted amount includes any built-upon area constructed within the lot property boundaries. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

10.03.6 Vegetative Buffer. Each lot will maintain a ____-foot-wide vegetated buffer between all impervious areas and surface waters.

10.03.7 Runoff. All runoff from the built-upon areas on the lot must drain into the roadway drainage system. This may be accomplished through a variety of means

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including grading the lot to drain toward the street, or grading perimeter swales to collect the lot runoff and directing them into a component of the stormwater collection system. Lots that will naturally drain into the system are not required to provide these additional measures.

10.03.8 No Filling. Filling in or piping of any vegetative conveyances (ditches, swales, etc.) associated with the development except for driveway crossings in accordance with the final plat is strictly prohibited by any persons.

Section 10.04 Infiltration System. The Association shall be obligated to maintain the infiltration system pursuant to all DEQ permit requirements.

Section 10.05. Maintenance of Stormwater Measures, Swales and Culverts. The Association shall assume responsibility to maintain all requirements of the DEQ Stormwater Permit _____, the provisions of which are incorporated herein by reference. Until the termination of any period of Developer control the Developer shall be responsible for maintenance of all roadway swales and culverts. After termination the Association shall assume this responsibility unless assumed by the Town.

ARTICLE XI

ENFORCEMENT, AMENDMENT AND DURATION OF DECLARATION

Section 11.01. Declaration Runs with the Land. Each Person acquiring an interest in a Lot or other portion of the Property or otherwise occupying any portion of the Property (whether or not the deed, lease or any other instrument incorporates or refers to this Declaration) covenants and agrees for himself, herself, or itself, and for his, her or its heirs, successors and assigns, to observe, perform and be bound by the provisions of this Declaration including personal responsibility for the payment of all charges that may become liens against his, her or its property and which become due while he, she or it is the Owner thereof.

Section 11.02. Enforceability.

11.02.1. Actions at Law or Suits in Equity. The provisions of this Declaration shall bind the Property, shall run with the land and shall inure to the benefit of and be enforceable by the Developer and the Association (being hereby deemed the agent for all Members), and by any Member or Owner, their respective legal representatives, heirs, successors and assigns, by actions at law or by suits in equity. As it may be impossible to measure monetarily the damages that may accrue to the beneficiaries hereof by reason of a violation of the Declaration, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

11.02.2. Penalties and Fines. The procedures for the imposition of fines or suspension of privileges or services shall be in accordance with and shall be subject to the provisions of Section 47F-3-107.1 of the Act. The Association may levy fines up to $100.00/day for any violation. Monetary fines or penalties imposed against an Owner or occupant shall be deemed a Special Assessment against the Lot of such Owner or against the Lot occupied by such occupant and, as such, shall be a charge and continuing lien upon such Lot, shall constitute a personal obligation of the Owner of such Lot, and shall be collectible in the same manner as Assessments

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under Article V.

Section 11.03. No Waiver by Failure to Enforce. The failure of any beneficiary hereof to enforce any provision of this Declaration shall in no event be construed as a waiver of the right by that beneficiary or any other to do so thereafter, as to the same or a similar violation, occurring prior or subsequent thereto. No liability shall attach to the Developer, the Association (or any officer, director, employee, Member, agent, committee or committee member) or to any other Person or organization for failure to enforce the provisions of this Declaration.

Section 11.04. Obligation and Lien for Cost of Enforcement by Association. If the Association or any other party successfully brings an action to extinguish a violation or otherwise enforce the provisions of this Declaration, or the rules and regulations promulgated pursuant hereto, the costs of such action, including legal fees, shall become a binding, personal obligation of the violator. If such violator is (1) an Owner, or (2) any family member, tenant, guest or invitee of an Owner, or (3) a family member or quest or invitee of the tenant of an Owner, or (4) a guest or invitee of (i) any member of such Owner's family; or (ii) any family member of the tenant of such Owner, such costs shall also be a lien upon the Lot, the Structure and other portion of the Property owned by such Owner, if any.

Section 11.05. Inspection and Entry Rights. Any agent of the Association (or the Architectural Standards Committee) may at any reasonable time or times, upon not less than 24 hours' notice to the Owner thereof, enter upon a Lot or other portion of the Property to inspect the improvements thereon for the purpose of ascertaining whether the maintenance, construction or alteration of structures or other improvements thereon comply with this Declaration, or with rules and regulations issued pursuant hereto. Neither the Association nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

In addition to the above, if the Architectural Standards Committee determines that it is necessary to trim, cut or prune any tree, hedge or other planting because its location or the height to which or the manner in which it has been permitted to grow is unsightly, detrimental or potentially detrimental to persons or property or obscures the view of street traffic or is otherwise in violation of this Declaration, the Association shall notify the Owner of the Lot or other portion of the Property who shall be obliged to remedy the violation. If the Owner fails to remedy the violation within thirty (30) days after such notice is given, then the Association may take such remedial action at the expense of the Owner.

Section 11.06. Amendment or Termination. During the time the Developer owns any Lots, the Developer may make amendments to this Declaration. Except as provided herein, all amendments of this Declaration, unless otherwise specifically provided for herein, may be made only by the affirmative vote or written agreement signed by the Owners of not less than sixty- seven percent (67%) of all Lots which are subject to this Declaration, including those Lots Owned by the Developer. In addition, and notwithstanding the above, during the Period of Developer Control, the written consent of the Developer will be required for any amendment which adversely affects a substantial interest or right of the Developer, which consent must not be withheld unreasonably.

Except in the case of a taking of all of the Lots by eminent domain, this Declaration may be terminated only by agreement of the Owners of at least eighty percent (80%) of all Lots which are subject to this Declaration including those Lots owned by the Developer. Termination shall take place in accordance with the laws of the State of North Carolina.

Notwithstanding anything else contained herein, Developer shall have the right, without the joinder of the Association or any Lot Owner (other than the Developer), at any time during the Period of Developer Control, to file an Amended or

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Supplemental Declaration, adding Additional Property, or exercising Developer's rights under Section 4.04.6. Any Supplemental Declaration or Amended Declaration may specify such specific use restrictions and other covenants, conditions and restrictions to be applicable to the property subject to the Supplemental or Amended Declaration and may contain complimentary additions and modifications of this Declaration as may be necessary or convenient, in the sole judgment of the Developer, to reflect and adopt any difference in character of any Additional Property. In no event, however, shall any such Supplemental or Amended Declaration modify or add to the covenants and restrictions established by this Declaration so as to negatively affect the Property; however, this proviso shall not be interpreted to prohibit or prevent any properly instituted change in the amount of the Assessments payable by a Member by means of any such additions.

Section 11.07. Owner Responsible for Tenants. Any lease of a Lot shall provide that the tenant shall comply in all respects with the terms of this Declaration, the By-laws and rules and regulations, if any, of the Association. If a tenant is in violation of this Declaration, the By-laws or rules and regulations, the Board of Directors shall so notify the Owner of the Lot which such tenant occupies in writing by certified mail, return receipt requested. If the violation is not cured within fourteen (14) days after the Owner has received notice of such violation, the Association may pursue any or all remedies which it may have under this Declaration.

Section 11.08. When Amendment or Termination Becomes Effective. Any amendment or termination of this Declaration shall not become effective until the instrument evidencing such change has been duly recorded in the office of the Register of Deeds for the County. Such instrument need not contain the written consent of the required number of Owners but shall contain a certification by the appropriate officers of the Association that the affirmative vote or written consents required for such amendment have been received and filed with the Board of Directors.

Section 11.9 Duration. The provisions of this Declaration, as amended or unless terminated as provided in Section 11.08, shall continue with full force and effect against both the Property and the Owners thereof for a period of twenty (20) years, and without further notice, as then in force or subsequently amended, shall be automatically extended for successive periods of 10 years each until terminated as provided above.

Section 11.10. Construction and Interpretation. The Association shall have the right to construe and interpret the provisions of this Declaration and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited by the provisions hereof

Any conflict in construction or interpretation between the Association and any other Person entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Association. The Association may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations, and in making any finding, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interests of the Owners and residents of the Property to the end that the Property shall be preserved and maintained as a high-quality community.

In granting any permit, authorization, or approval, as herein provided, the Association may impose any conditions or limitations thereon as it shall deem advisable under the circumstances in each case in light of the considerations set forth in the immediately preceding paragraph hereof.

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Section 11.11. Conflict with Laws. This Declaration shall not be taken as permitting any action or thing prohibited by applicable zoning laws, or the laws, ordinances, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease. In the event of any conflict between this Declaration and the By-laws, this Declaration shall prevail.

Section 11.12. Change of Conditions. No change of conditions or circumstances shall operate to amend any of the provisions of this Declaration, and the same may be amended only in the manner provided herein.

Section 11.13. Invalidity of Agreement or Declaration. The determination by any court that any provision hereof is unenforceable, invalid or void shall not affect the enforceability or validity of any other provision hereof.

Section 11.14. Governing Law. This Declaration shall be subject to, governed by and construed in accordance with the North Carolina Planned Community Act, Sections 47F-l-101, et seq, of the North Carolina General Statutes, as amended (the "Act"). To the extent any provision of this Declaration is determined to violate the Act, such provision shall be deemed to be modified to the extent necessary to comply with the Act. To the extent not expressly set forth herein, the Developer reserves all special declarant rights (as defined in the Act) and all other rights of a declarant provided in the Act. To the extent not expressly set forth herein, the Association shall have all other rights of an association under the Act and such duties as are required by the Act.

ARTICLE XII

GENERAL

Section 12.01. Headings and Captions. The headings and captions contained in this Declaration are for convenience only and shall not affect the meaning or interpretations of the content thereof.

Section 12.02. Right Reserved to Impose Additional or Amend Restrictions. The Developer reserves the right to record additional protective covenants and restrictions or to amend this Declaration prior to the conveyance of the first Lot.

Section 12.03. Notice. Any notice required to be sent to the Developer or to any Owner or mortgagee under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the Person who appears as the Developer, Owner or mortgagee on the records of the Association at the time of such mailing.

Section 12.04. Right of Association to Transfer Interest. Notwithstanding any other provision herein to the contrary, the Association and its successors, shall at all times have the absolute right to fully transfer, convey and assign its right, title and interest under this Declaration to any successor not-for-profit corporation or trust and, upon such assignment, the successor corporation or trust shall have all the rights and be subject to all the duties of said Association as set forth in this Declaration and shall be deemed to have agreed to be bound by all provisions hereof, to the extent as if the successor corporation or trust had been an original party and all references herein to the Board of Directors shall refer to the Board of Directors (or Trustees) of such successor corporation or trust. Any such assignment shall be accepted by the successor corporation or trust under a written agreement pursuant to which the successor corporation or trust expressly assumes all the duties and obligations of the Association. If for any reason, the Association shall cease to exist without having first assigned its rights hereunder to a successor corporation or trust,

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the covenants, easements, charges and liens imposed hereunder shall nevertheless continue and any Owner may petition a court of competent jurisdiction to appoint a trustee for the purpose of organizing a not-for-profit corporation or trust to take over the duties and responsibilities of the entity to exist, subject to the conditions provided for herein with respect to an assignment and delegation to a successor corporation or trust.

Section 12.05. Right of Association to Transfer Functions. Unless otherwise specifically prohibited herein or within the Certificate of Incorporation or the By-laws, any and all functions of the Association shall be fully transferable in whole or in part to any other homeowners' or residents' association or similar entity.

Section 12.06. Rights of Mortgagees, etc. The holder, insurer, or guarantor of the mortgage of any Lot whose last known address appears on the records of the Association at the time of such mailing shall be entitled to timely written notice of:

12.06.1. Any condemnation or casualty loss that effects either a material portion of the Association Property; and

12.06.2. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

The Association shall have no duty to provide the foregoing unless such parties keep the Association advised in writing as to their mailing address(es) and the address(es) of the Lot(s) in which they have an interest.

Section 12.07. Management of the Association. The Association has the responsibility of establishing budgets, administering the collection of Assessments, enforcing rights and responsibilities, and maintaining the Association Property. The Developer may deem it prudent to employ one professional management organization administer the affairs of the Association.

[Signatures begin on the following page]

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IN WITNESS WHEREOF, Nags Head Construction & Development, Inc., a North Carolina corporation, Declarant, has executed this Declaration the day and year first above written.

Nags Head Construction & Development, Inc.

By: _____
William H. Norman, President

I, _____, a Notary Public of the County and State aforesaid, do hereby certify that **William H. Norman** personally came before me this day and acknowledged that he is President of **Nags Head Construction and Development, Inc.**, a North Carolina corporation, and acknowledged on behalf of Nags Head Construction and Development, Inc., the due execution of the foregoing instrument.

Witnessed by my hand and seal, this _____ day of _____, 2020.

_____
Notary Public

My Commission Expires: {Stamp/Seal}
_____

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BOC ACTIONS
WEDNESDAY, MARCH 4, 2020

1. Call to order – Mayor Cahoon called the meeting to order at 9:00 a.m.

2. Agenda – The Board approved the March 4th agenda as presented.

3. Recognition:

New employee – Dep Town Manager Andy Garman introduced new employee Information Technology Assistant Karen Snyder who was welcomed by the Board to town employment.

Ten years – Police Chief Phil Webster introduced Dep Police Chief Perry Hale who was recognized by the Board for ten years of service.

Proclamation in support of Safety Week - Dep Fire Chief Shane Hite announced Safety Week which is scheduled for March 9 – 13, 2020; he introduced the Safety Committee members: Brie Floyd, Nancy Carawan, Jackie Hart, Ed Snyder, Perry Hale, Ron Watson, and Ray Schoonmaker. Members Trey Allen, Greg South, Keefe White and Eddie Hawley were not able to attend. Dep Chief Hite detailed the work of the Safety Committee and the upcoming activities planned for Safety Week.

The Board adopted the Safety Week Proclamation as presented and suggested that the committee consider offering a CPR class to the public.

4. Presentation - Dowdy Park Review of 2019 Season and Plans for 2020 Season - Dep Planning Director Kelly Wyatt summarized the 2019 accomplishments of the Town's Art and Culture Committee and detailed the plans for the 2020 year. Ms. Wyatt noted that Dowdy Park Events Coordinator Paige Griffin was unable to attend today's meeting.

5. Presentation - 2nd Annual Community Clean Up – Public Works Office Manager Karen Heagy and Public Works Office Assistant Sue Cummings detailed the upcoming 2nd Annual Community Clean Up which is scheduled for Saturday, March 28th beginning at 8 am at Dowdy Park. Ms. Heagy stated that she hopes next year to schedule a more widely-participated clean up with representatives from each of the town's neighborhoods.

6. Public Comment:

David Bragg, Village at Nags Head resident; since recycling is being incinerated not recycled and it appears the contractor was not forthcoming with this information, he questioned why the town continued the contract; he would like a public forum scheduled with town officials re: trash cart rollback issue – we now pay two people to roll carts back only on the Beach Road; Facebook page – he would like the town to limit postings to only facts – not opinions.

Donny King, Better Beaches OBX; lives in Nags Head and is owner of Ocean Boulevard Restaurant; he is requesting that more sand fencing be installed for additional beach stabilization; the last fencing installed has done its part and is mostly covered; there is a lot of representation of Better Beaches OBX with many volunteers in the audience; he would like the Town to allocate more funds for sand fencing to catch more sand in the right places; he thanked the Board for the town's recent Beach Nourishment Project.

Ellen Heatwole, Seagull Drive; she applauded the town for Beach Nourishment Projects which have been fantastic and sand fencing has done its job; a lot of the grass planted however has not survived; she supports Donny King of Better Beaches OBX and spoke in favor of his initiative to install more sand fencing and grass on the beach.

Lee Nettles, OBVB Executive Director; spoke of proposed ideas for the Soundside Event Site - the proposed facilities are expected to draw new visitors to the area to support year-round visitation to Dare County; septic could be addressed on site but at the expense of green space; no commitments have been made yet; they welcome the opportunity for the town to assist in the project.

7. Consent Agenda – The Consent Agenda was approved as presented and consisted of the following:

- Budget Adjustment #9 to FY 19/20 Budget
- Tax Adjustment Report
- Report of Tax Delinquent List to be advertised
- Approval of minutes
- Resolution clarifying Dare County Control Group / Town MOA of Oct 2015
- Resolution authorizing installment contract to finance the vehicles/equipment in FY 19/20 Budget

- Request for Public Hearing - to consider resolution authorizing entering into an Installment Purchase contract in an amount not to exceed $1,449,793 to finance improvements in FY 19/20 Budget

- Request for Public Hearing - to consider text amendment to the UDO submitted by a property owner to expand the principal sale items from outdoor stands to include reservations/tickets for events

- Request for Public Hearing to consider a text amendment to the UDO to correct identified errors

8. Update from Planning Director - Flood Map ordinance overview - Board members expressed their concern for the revised flood maps which they feel have no sustainability. It was noted that most of the modeling for the maps was done on the oceanfront yet most of the flooding does not occur there.

Mayor Cahoon stated that it would be beneficial for the Board to see the information that is to be presented at next week's informational session as soon as possible; to make sure elevation standards being proposed are adequate.

It was noted that in the Planning update report, Year-To-Date is off on residential construction by over 50%, commercial is down and revenues from construction are more than one third off; Director Zehner was questioned if there is any concept as to what is going on in the home building industry and if this trend in Nags Head is being seen in other towns? Director Zehner stated that he would speak to other municipalities to see if they are seeing a similar trend and to the homebuilders for a possible explanation.

9. Mayor Cahoon - Mayor Cahoon noted that both of the tabled items have been continued by the applicants: Southridge Subdivision Coastal Villas Subdivision Preliminary Plat (to the May 6th Board meeting) and Gone Coastal Shopping Center Major Site Plan (to the April 15th Board meeting).

10. Committee reports:

Comr. Fuller – Dare County Tourism Board (DCTB) – he clarified what Executive Director Lee Nettles was speaking about during Public Comment earlier today: Director Nettles was asking if the Board would consider the following concerning proposals for the Soundside event site:
- Will the Board consider a reduction in parking standards? and

- Will the Board consider allowing central sewage already located in Nags Head (Village at Nags Head) to be extended to the Soundside event site?

It was Board consensus to take no action re: looking into reducing parking standards nor extending central sewage from Village at Nags Head to the Soundside event site.

11. Recommendations for beach nourishment services - The Board passed a motion to invite Moffit & Nichol to make a presentation to the Board, and to authorize the Town Manager to enter into contractual negotiations with them for Beach Nourishment Project surveying services with all relevant material to come back to the Board. The Board also passed a motion to authorize the Town Manager to enter into contractual negotiations with McKim & Creed for Beach Nourishment Project coastal engineering and design services.

12. Proposed Municipal Services Districts (MSD's) - Three new proposed districts were presented:

District 3 – Eighth Street (northern town line) south to Bonnett Street (includes all properties east of Wrightsville Avenue)

District 4 – Bonnett Street south to Gulfstream Street (from Bonnett Street to Bainbridge Street - includes all properties east of Wrightsville Avenue; from Bainbridge Street to Hollowell Street – includes all properties with frontage on and east of Memorial Avenue; from Hollowell Street to Gulfstream Street – includes all properties east of US 158)

District 5 – Gulfstream Street south to southern town line (includes all properties south of Gulfstream Street)

The Board passed a motion to schedule a Public Hearing to consider the proposed MSD's, as presented, to include the addition of Old Nags Head Place in the proposed District 4 - for the May 6th Board meeting.

13. Board/Committee appointments – The Board reappointed Angelina Lowe and John Mascaro to additional three-year terms on the Board of Adjustment. In addition, the Board reappointed Perry White and Saundra Futrell to additional three-year terms on the Personnel Grievance Panel.

14. Town Manager Ogburn - Sanitation and Recycling – Board members agreed with Town Manager Ogburn to take no action at this time on the trash cart rollback ordinance allowing him to continue working with neighborhood associations on this issue.

15. Town Manager Ogburn – Sand fencing/sprigging - Town Manager Ogburn was authorized to do a test pilot project on the beach with hay bales in addition to the sand fencing/sprigging. The Board adopted Budget Amendment #8 to the Beach Nourishment Capital Project Ordinance as presented.

16. Town Manager Ogburn – Speed limit on NC 1243 in S Nags Head (Old Oregon Inlet Road) - the Board passed a motion to authorize staff to request that NCDOT reduce the speed limit on NC 1243 from Juncos Street south to the town line from 45 MPH to 35 MPH.

17. Town Manager Ogburn – Town Manager Ogburn announced that on Monday, March 30th at 2:30 pm at the Dare County offices, a meeting will be held with the County, municipalities, restaurant associations and DENR to see what future recycling options may be available.

18. Mayor Cahoon pointed out the following upcoming Town information sessions/events:
- Multi-use path construction meeting – Thursday, March 5th from 5:30 to 7 pm – Board Room

- Flood Map & Flood Map Prevention Ordinance – Monday, March 9th - 5:30 to 6:30 pm – Board Room
- Town Safety Week – March 9th to 13th
- Green Drinks and Stormwater Updates – Wednesday, March 11th at 7:30 pm at Waveriders Restaurant
- Sunshine Week – March 15th to 21st
- St. Patrick's Parade – Sunday, March 15th
- CIP Workshop – Wednesday, March 25th at 9 am – Board Room
- Community Clean Up starting at Dowdy Park – Saturday, March 28th at 8 am

19. Comr. Brinkley – Comr. Brinkley thanked Donny King of Better Beaches OBX and Ellen Heatwole for speaking today concerning the organization and in support of additional beach sand fencing.

20. Comr. Brinkley – Comr. Brinkley confirmed with Attorney Leidy that the Town does not have the option to sue Bay Disposal re: incinerating recycling materials rather than true recycling per the contract. Attorney Leidy said that suing does not apply to that particular provision of the contract – and would also be counter-productive since the Town is still utilizing the company.

21. Mayor Cahoon – Workforce Housing - A meeting is being scheduled with local mayors for Thursday, March 12th to discuss J1 International workers and housing issues. Details are being finalized. A speaker is coming from Wisconsin where a program was developed to solve their seasonal housing problem. Possibly a model can be utilized for this area. Town Clerk Carolyn Morris is to send details of the meeting to Board members when received.

22. Mayor Cahoon - Future Town Vision (from Jan 2020 Board Retreat) – He presented his ideas for a future vision of the Town; He encouraged Board members to bring forward their ideas to add to the list.

23. Closed Session – The Board entered Closed Session to discuss the Town Manager's review and to discuss and preserve attorney/client privilege at 11:40 a.m.

24. Open Session - The Board re-entered Open Session at 1:08 p.m.

25. Adjournment - Mayor Cahoon recessed the Board meeting to Wednesday, March 11th at 9 am in the Board Room. The time was 1:10 p.m.

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Planning Board

From: Michael Zehner, Director of Planning & Development

Kelly Wyatt, Deputy Director of Planning & Development

Date: February 14, 2020**; updated March 13, 2020**

Subject: Discussion of Legacy Establishments/Structures

Updated content in **bold underline, deleted material in ~~strikethrough~~**

OVERVIEW

As noted in my Director's Report memo to the Board of Commissioners and Planning Board, dated January 30, 2019, given recent expressed interest in the future of the Blue Heron Motel at 6811 S. Virginia Dare Trail and the limitations imposed by Town Code requirements on the evolution of the current hotel use of the property, Staff intends to begin considering Code amendments that advance Comprehensive Plan policies valuing the preservation of legacy business, establishments, and structures. ~~Staff anticipates that discussion at the Planning Board's February 18, 2020 meeting will be an initial discussion of options.~~

This item was initially discussed at the Planning Board's meeting on February 18, 2020, with the Planning Board wishing to consider and discuss options further. Staff has expanded on options for consideration by the Board under the Issues and Options section of this memo.

POLICY CONSIDERATIONS

- One of the Town's principal goals, as established in the Comprehensive Plan, is to "Plan for orderly and sustainable growth and redevelopment," and an identified objective to attain this goal is the "Preservation and maintenance of legacy commercial businesses.

- As used in the Comprehensive Plan, at least within the context of *Character Areas*, legacy establishments, structures, or locations are those which "contribute to the overall sense of place or tell the story of Nags Head's past. These establishments, structures, or locations often remind you of the past and are nostalgic."

- Legacy establishments are particularly noted as adding to the character of the Whalebone Junction Character Area, and specifically the Whalebone Junction Core, where it is noted that "flexibility should be given to legacy type establishments for renovations as a way to retain the character of area while allowing the establishment to remain viable in the market."

- Legacy businesses are also referenced with respect to the Corridors Character Area, and specifically for the NC 12 and SR 1243 corridors, where it is noted that one of the future desires is to "provide flexibility for existing legacy businesses to renovate to help keep the character of Beach Road."

- The Land Use Element of the Comprehensive Plan, and the discussion of Incentives/Design Flexibility with respect to Site Development Characteristics, provides an overview of the issue and general solution, as follows:

  > *The town has taken recent steps to preserve older legacy businesses and encourage the retention of these structures. There has been a regulatory shift with regards to nonconforming properties (properties which met zoning regulations at the time they were developed but are not consistent with regularity changes that have occurred). Essentially, non-conformity regulations have been modified to allow continued improvements to these older properties. The regulations are primarily designed to restrict additional development of unwanted land uses. The town's position is to allow continued use and improvement to nonconforming properties.*

- The section on Legacy Businesses under Local Business Development, as contained within the Economic Development and Tourism Element of the Comprehensive Plan, is attached. Specific policies and actions are as follows:

  > *EC-7 Recognize the role and importance of the look and feel of legacy development in creating the distinctive heritage, unique lifestyle, and family beach character that is central to the town's vision.*
  >
  > > *EC-7a: Develop more specific criteria for legacy businesses, based on research and data of existing legacy type buildings.*
  > >
  > > *EC-7b: Inventory, research, and map businesses that fit within the legacy business criteria.*
  > >
  > > *EC-7c: Develop incentives to encourage the preservation of commercial floor space.*
  > >
  > > *EC-7d: Explore ways to aid in the development of cottage courts.*

ISSUES AND OPTIONS

Generally, as referenced above, many legacy establishments and structures have been rendered nonconforming, either with respect to the use no longer being allowed in the zoning district in which the property is located or because of standards or requirements changing, or due to both circumstances. Nonconforming status is, by its nature, limiting; Staff would recommend that the Board review Article 5, *Nonconformities*, of the UDO https://www.nagsheadnc.gov/DocumentCenter/View/2771/Article-5_Nonconformities, and specifically Sections 5.3, *Nonconforming Structure with Conforming Use*, 5.4, *Nonconforming Site and Parking Areas*, 5.5, *Nonconforming Use of Land*, and 5.6,

Nonconforming Use of Structure. It is helpful to consider that the general principle with respect to nonconformities is that, over time, the nonconforming uses or conditions cease, evolving to conforming uses or conditions. This effect would therefore seem to be inconsistent with the intent of the goals, objectives, policies, and actions contained in the Comprehensive Plan which support the retention of legacy establishments and structures and warrants consideration.

The conditions discussed above were the basis for the adoption of provisions in 2015 contained in Section 7.2.14 (attached) pertaining to nonconforming cottage courts. A similar approach could be taken with respect to legacy businesses and structures. Alternatively, an overlay zoning district approach could be taken, perhaps applied in a limited geographic manner and/or to properties meeting defined characteristics. ~~Staff can expand on the pros and cons associated with these approaches at the Board's meeting.~~

~~Regardless of the approach, Staff does agree with the recommended actions of the Comprehensive Plan that~~ **As previously noted, regardless of the approach** it will be necessary to define and develop specific criteria as to what constitutes a legacy business or structure, and to then inventory and map properties that meet those definitions and criteria; however, Staff also believes that it is important to be proactive and take an iterative approach, developing a framework wherein applicable properties and uses can be added over time, as warranted.

At least as part of the development of the Comprehensive Plan, the Plan's Advisory Committee identified the following characteristics of legacy establishments and structures, acknowledging that further defining of characteristics would be warranted:

- **Small businesses which contribute to the sense of place, quality of life, and high-quality visitor experience within the town.**
- **Businesses which are nostalgic or a reminder of the past, conveying the sense that that life here was different, and helped to tell the story of Nags Head's past.**
- **The architecture is varied but the overall size and scale of the building is small and blends within the surrounding neighborhood.**
- **The building is low scale often with only one or 1 ½ stories.**
- **Multiple small buildings may be located on the same property with a mix of residential and business uses. However, the Structures appear residential.**
- **The buildings are set in close proximity to the road.**
- **Parking is directly adjacent to the building or wraps the building.**
- **Restaurants often have walk up windows with outdoor seating.**
- **The area is highly walkable, and businesses often have amenities such as outdoor seating and bike racks that cater to pedestrians and cyclists.**
- **Structures with legacy characteristics were typically constructed prior to 1980.**
- **Dining and retail establishments with legacy characteristics in Nags Head range on average between 3,000-5,000 square feet in size.**

Under either approach, the first qualifying condition should be that the use or structure would be considered nonconforming.

With regard to the use-based approach (i.e. similar to the treatment of nonconforming cottage courts), regulations could be developed for the treatment of specific nonconforming uses (i.e. retail, restaurants, hotels) and structures, or a use category for Legacy Establishments could be created, where the definition could limit application to only certain nonconforming uses and structures. However, it would likely be necessary to further define the standards by which a preexisting nonconforming use would qualify as a Legacy Establishment; for example, assumedly it would not be preferred for all nonconforming restaurants to be able to be considered as Legacy Establishments, but perhaps only those that did not exceed 5,000 square feet in size and exist in buildings that were constructed prior to 1980. Under this option, the Legacy Establishment use could require a Conditional Use Permit, where a use meeting the definition and standards could then seek a Conditional Use Permit and be afforded certain development and redevelopment flexibility not associated with the nonconforming status.

With regard to the overlay zoning district approach, there would not be a need to define a Legacy Establishment use, rather, in concept, a rezoning of property on which there is a legacy business or structure could be sought whereby applicable uses or dimensional conditions would be more flexible than the underlying zoning. Under this approach the qualifying standards could be less rigid, but included in the purpose and intent of the overlay district so that legislative discretion could be applied when a rezoning request were sought. Using the same restaurant example from above, perhaps the purpose of the district is to preserve businesses that are nostalgic or a reminder of the past, generally typified as having no more than 5,000 square feet in area and being located in buildings constructed before 1980; since these are not absolute standards, but guidance for legislative action, a restaurant that had 6,000 square feet in area and in a building constructed in 1985, but still determined to be nostalgic or a reminder of the past, could hypothetically be successfully rezoned. Of course, absolute standards could also be imposed defining the circumstances in which the zoning district could not be applied to a property. Under this option it may be necessary to consider whether Conditional Zoning were necessary, to allow greater flexibility for uses and dimensional circumstances, but to limit the use of the property as specifically proposed.

STAFF RECOMMENDATION

~~At least for this initial discussion,~~ Staff would **continue to** suggest that it would be helpful for the Board to discuss perspectives with regard to what does and does not constitute a legacy business or structure, what are the defining characteristics, and what businesses or structures typify the term. **However, Staff would also suggest that the Board discuss the merits of the two options. Generally, Staff is of the opinion that an overlay district approach provides the necessary flexibility, affords discretion, and limits unintended consequences.**

Attachments:

1. B. Legacy Businesses, of 3.4, *Economic Development and Tourism*, and 3.4.3, *Local Business Development*, of the Comprehensive Plan; and
2. Section 7.2.14, *Nonconforming Cottage Courts*

B. Legacy Businesses

Nags Head's vision statement places a great emphasis on the town's legacy. The vision emphasizes preserving and protecting the Nags Head character, tourism based economy, and sense of place; "We uphold our legacy by protecting and promoting our small town character that includes a sustainable local economy based on family vacation tourism, a high quality beach experience, and small, locally owned businesses."

During the community engagement portion of the plan, the Advisory Committee recognized that many of the small businesses contribute to the sense of place, quality of life, and high quality visitor experience within the town. The committee referenced these establishments as legacy businesses and described them as nostalgic or a reminder of the past. They conveyed the idea that life here was different, and helped to tell the story of Nags Head's past.

The Advisory Committee further identified that legacy businesses typically have the following characteristics:

- The architecture is varied but the overall size and scale of the building is small and blends within the surrounding neighborhood.
- The building is low scale often with only one or 1 ½ stories.
- Multiple small buildings may be located on the same property with a mix of residential and business uses. However, the Structures appear residential.
- The buildings are set in close proximity to the road.
- Parking is directly adjacent to the building or wraps the building.
- Restaurants often have walk up windows with outdoor seating.
- The area is highly walkable and businesses often have amenities such as outdoor seating and bike racks that cater to pedestrians and cyclists.
- Structures with legacy characteristics were typically constructed prior to 1980.
- Dining and retail establishments with legacy characteristics in Nags Head range on average between 3,000-5,000 square feet in size.

Further analysis and study should be completed to further define and preserve legacy businesses in the town. Additionally, this information can be used to encourage future development to construct similar to legacy type structures.

Since 2002, the town has seen a number of small, local businesses close, many along NC 12. These are being converted into residential development. The 2010 Land Use Plan recognizes this same concern but also points to businesses relocating to US 158 or going out of business due to large chain or "big box" stores. This is concerning since the Visitor's

Survey 2014-2015 indicates that 52.3% of respondents rank dining at restaurants unique to the area at 4th (out of 32) in the activities they participated in during their stay.

The town has made great strides and forward progress in the last two years working with local business owners to identify opportunities and constraints to their success and how the town can be a part of that. However, there are still policy questions related to retaining and maintaining legacy businesses in the long term that should be vetted. Preservation and upkeep of these legacy establishments is crucial in preserving the small town character that is central to the town's vision.

POLICIES & ACTIONS

EC-5 Direct new commercial growth into neighborhood commercial nodes, activity centers, or areas currently zoned for commercial development with emphasis on reuse of existing structures.

EC-6 Support and foster small, local businesses that preserve and uphold the vision and legacy of the town.

- EC-6a: Continue to work with the Local Business Committee to further identify and remedy regulatory barriers for opening and operating businesses.
- EC-6b: Develop and map an inventory of local businesses representing each sector of the town's economy.
- EC-6c: Develop regulatory flexibility that allows existing small, local businesses to upgrade and maintain their facilities in order to remain relevant and competitive in the market.
- EC-6d: Evaluate the impact of town processes, related to zoning and permitting, on businesses and streamline to meet the town's needs while supporting business investment.
- EC-6e: Expand the availability of town services available on-line to better meet the needs of the businesses community.
- EC-6f: Provide technical assistance through workshops, educational materials, or web based media to educate business owners on town processes and regulations related to owning and maintaining a business.
- EC-6g: Develop a branded wayfinding, safety, and information signage plan to identify types and locations of signage for pedestrians, cyclists, and vehicles. Install appropriate signage. Signage should enable visitors to locate existing town parks, sound and beach access points and trailheads.

POLICIES & ACTIONS

EC-7 Recognize the role and importance of the look and feel of legacy development in creating the distinctive heritage, unique lifestyle, and family beach character that is central to the town's vision.

- EC-7a: Develop more specific criteria for legacy businesses, based on research and data of existing legacy type buildings.
- EC-7b: Inventory, research, and map businesses that fit within the legacy business criteria.
- EC-7c: Develop incentives to encourage the preservation of commercial floor space.
- EC-7d: Explore ways to aid in the development of cottage courts.

EC-8 Enhance economic health and increase employment opportunities through business retention and expansion.

- EC-8a: Partner with the Outer Banks Chamber of Commerce to research and conduct discussions with local, small business owners in order to better understand factors contributing to the sale or loss of businesses.
- EC-8b: Coordinate with the Outer Banks Chamber of Commerce to offer education and training for local, small business owners on succession planning.

7.2.9. Off-Street Parking and Loading Facilities.

Individual units shall have a minimum of two (2) parking spaces. Parking spaces for each dwelling unit shall be provided so as not to interfere with the shared accessway or with the access of emergency or service vehicles to the entire property. Shared parking areas may be utilized to accommodate the total parking requirements for the development. Parking spaces and drive aisles shall not be located closer than five (5) feet to side or rear property lines. Parking spaces shall not be located with direct access from the right-of-way.

7.2.10. Refuse and Recycling.

Cottage courts shall provide a suitable location for a dumpster as determined by the UDO Administrator. Dumpster areas shall be appropriately screened and shall not be located in the required front yard of the property.

7.2.11. Pools.

Cottage courts may have one community pool serving all of the units on the property. Individual units may not have pools.

7.2.12. Utility Meters.

Utility meters of any type for individual units are prohibited.

7.2.13. Management.

Cottage courts shall operate under a single, unified management operation which arranges for reservations and attends to guest needs. There shall be a uniform key entry system operated by management staff.

7.2.14. Nonconforming Cottage Courts.

Cottage courts which do not conform to the definition of "cottage court", contained in Appendix A Definitions, and also to the provisions of this section may continue, subject to the following provisions:

> ***7.2.14.1.*** Existing individual dwelling units in a nonconforming cottage court may be replaced provided that replacement structures conform to the provisions of this section or do not increase the degree of structure or site nonconformity.
>
> ***7.2.14.2.*** All replacement, substantially improved, and substantially damaged cottage court units shall conform with the provisions of Article 11, Part III, Flood Damage Prevention.
>
> ***7.2.14.3.*** For the purpose of this section, structures will be considered individually when determining thresholds for repair, maintenance and destruction.
>
> ***7.2.14.4.*** No existing individual dwelling unit in a nonconforming cottage court shall be enlarged, extended, moved or structurally altered, except as provided below:
>
> > ***7.2.14.4.1.*** For lots abutting the Atlantic Ocean or Roanoke Sound, individual dwelling units in a cottage court may be moved in cases where such structures are determined to be in imminent danger of collapse, as defined by CAMA, as a result of erosion by wind or water, provided that such movement does not increase the degree of nonconformity of

the structures in any way. When utilizing this provision, a minimum ten-foot separation shall be maintained between individual structures. All structures when moved shall adhere to the minimum setback requirements prescribed in this section.

7.2.14.4.2. Minor modifications to a nonconforming cottage court dwelling unit or cottage court site may be approved administratively by the UDO Administrator or his/her designee. Minor modifications may include the addition of detached storage sheds, not to exceed 150 square feet in area, on-grade patios, decks, porches, driveway or parking modifications, or other additions not involving an increase or expansion of the habitable area of existing cottage court dwelling units.

7.2.14.4.3. Major modifications to a nonconforming cottage court dwelling unit or cottage court site, may be approved by the Nags Head Board of Commissioners through the conditional use process as set forth in Section 3.8, Conditional Use Permits. Major modifications include any proposal which will result in a net increase in habitable area of nonconforming cottage court units.

7.2.14.4.4. All improvements must meet the dimensional requirements of the district in which they are located. When a lot coverage nonconformity exists on a cottage court site, improvements may be allowed as long as there is no net increase in overall lot coverage. All other nonconformities shall be regulated in accordance with Article 5, Nonconformities.

7.2.14.5. On any individual dwelling unit in a nonconforming cottage court, work may be done on ordinary repairs, or on repair or replacement of nonloadbearing walls, fixtures, wiring or plumbing.

7.2.14.6. If an individual dwelling unit in a nonconforming cottage court becomes dangerous to life, destroyed or unlawful due to lack of repairs or maintenance, the building inspector shall condemn the structure in accordance with G.S. 160A-426, and the structure may thereafter be restored, repaired, rebuilt or replaced in conformity with the regulations of this UDO and any other applicable federal or state regulations.

7.2.14.7. Nothing in this UDO shall prevent the strengthening or restoring to a safe condition of any individual dwelling unit in a nonconforming cottage court or part thereof declared to be dangerous to life by any official charged with protecting the public safety, or upon order of such official when he has determined that there is a clear and immediate danger to the public safety.

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Planning Board

From: Michael Zehner, Director of Planning & Development
Kelly Wyatt, Deputy Director of Planning & Development
Kate Jones, Engineering Technician

Date: February 14, 2020**; updated March 13, 2020**

Subject: Discussion of Residential Stormwater Regulations

Updated content in **bold underline, deleted material in ~~strikethrough~~**

OVERVIEW

Given the continued importance and focus on stormwater, the Board of Commissioners asked the Director of Planning & Development to attend their retreat on January 23, 2020 to discuss the Town's residential stormwater regulations; these regulations can be found in Article 11, *Environmental Regulations* (https://www.nagsheadnc.gov/DocumentCenter/View/2777/Article-11_Environmental-Regulations) of the UDO, within Part I, *Stormwater, Fill, and Runoff Management*, Section 11.5, *General Standards for Residential or Duplex Development on Individual Lots*. A copy of the PowerPoint presentation (without referenced attachments) is attached. Following the Board of Commissioners' discussion, the Board directed Staff to present the Board's perspectives and the options identified by Staff (provided under CONSIDERATIONS) to the Planning Board for review and consideration of any recommended actions,

Essentially, the regulations and ordinance requirements are triggered by the following development activities:

- The construction of new detached single-family and duplex residential properties;
- The construction of more than 500 sq. ft. of new built-upon area on properties with existing single-family and duplex residential dwellings; and
- The removal and replacement of driveways; in instances where an existing driveway and parking area not meeting the standards of this section is being removed and replaced, the new driveway and/or parking area shall be designed so as to limit the discharge of stormwater into the right-of-way or onto adjacent properties.

When triggered, a stormwater management plan meeting the standards required by the ordinance must be submitted. In general, the standards of the ordinance require stormwater control measures (SCMs) to be provided, with storage volume equal to 15 cubic feet for every 100 square feet of built-upon area. For example, 1,000 square feet of built-upon area would require SCMs with 150 cubic feet of storage volume. The

regulations do provide options to reduce the calculated built-upon area, incentivizing preferred outcomes, and thereby reducing the necessary sizing (storage volume) of SCMs.

The Board discussed this item at their meeting on February 18, 2020, however, only brief questions and perspectives were considered, with the Board committing to discussing further at their March meeting.

CONSIDERATIONS

During their discussion at the retreat, the Board of Commissions noted the following guiding principles for further review and consideration of the residential stormwater regulations:

- Can our rules acknowledge that there are different conditions – a system with flexibility?
- Retain form of landscape/minimize impact to landscape.
- Look for common sense solutions.
- Don't place unjust burden on property owner.
- Can we offer a "carrot" to go with a stick?
- Do we as a Board need to define flooding – separate between "Nuisance" and "Problem Stormwater" issues.
- Should not create additional problems.
- Should define problem we are trying to solve.

In their consideration and any recommendation to the Board of Commissioners, Staff would suggest that the Planning Board focus on whether the regulations and any potential changes address these perspectives and principles.

In their review, the Board of Commissioners also asked that the Planning Board consider the following options identified by Staff, to determine whether related actions may be necessary so that the regulations are more consistent with the aforementioned principles. The options presented by Staff to the Commissioners are in bold, Staff has expanded on each of these items for consideration and discussion by the Planning Board.

- **Improve education and availability of resources**
    - Education:
        - In the near term, publish social media and website news flashes related to the benefits of stormwater management at the lot level.
        - Publish a brochure, similar to materials for the Septic Health Initiative, can be mailed out to homeowners focusing on the benefits of stormwater management.
        - Engage with stakeholders and focused groups (Green Drinks, contractors, homeowners) on Town stormwater efforts, stormwater management, and Low-Impact Development (LID) techniques.

        - Coordinate with CSI, North Carolina Coastal Federation, and others to share resources and increase capacity.

    - LID Pilot Project: Look for opportunities on Town property to install pilot projects highlighting LID stormwater control measures; incorporate signage and coordinate public education opportunities.

    - Availability of Resources:

        - Is there a way to cost share or subsidize costs of required improvements? This would require a budget allocation or grants.
        - There are existing grants that could be used, such as the Dare Soil and Water grant, which can provide $5,000 per homeowner, but there is a cap on total funding.
        - Could the stormwater ad valorem tax be expanded to include residential stormwater management funding?
        - Consider a water bill credit for installing LID stormwater measures such as cisterns and rain barrels.

- **Enhance ordinance incentives for preferred outcomes**

    - Expand available credits to reduce built upon area.
    - Do not cap tree and open space preservation credits to a maximum of 30% reduction of built upon area; provide the option to eliminate the need for stormwater management if you have enough open space and sizable trees to retain.
    - Provide a credit for reducing site disturbance, lot clearing, or filling.
    - Offer additional credit for not filling Army Corp of Engineers wetland areas.
    - Offer an incentive for the use of native plants in the SCMs.
    - Reduce the number of required SCMs (from 3 to 2) for a built upon area credit.

- **Provide an administrative option for engineering analysis to exempt or reduce requirements**

    - This may be an option, but conditions or standards allowing for exemption would need to be identified.

    - Consideration for water quality impacts, need to be considered, not just water quantity.

- **Provide more alternatives**

    - The regulations provide a variety of options and currently allow for the approval of alternative SCMs; we should continue to defer to the State for accepted SCMs, but continue to explore new technologies.

- **Provide for administrative waiver/variance**

  - Will require conditions and circumstances that warrant waiver to be identified. Would these be soil conditions, topography, lot size, amount of disturbance?
  - Who would make this decision and what information is required to be submitted?

- **Standardize dimensions and volume of BMP's**

  - Perhaps a standard set would relate to lot size, and the lot coverage allowed by zoning.

  - May result in more predictability, but less relation to actual impacts and existing conditions.

- **Create a points-type program for BMP's and/or preferred outcomes, similar to design guidelines**

  - Needs further thought, but could be designed such that points are received for various LID components. This would open up predevelopment LID concepts for points such as siting development in lower impact portions of the site, choosing greater setbacks and smaller building footprint, retaining natural hydrological features (i.e. wetlands).

  - SCMs with greater impacts would receive more points. The BUA would determine the amount of points needed; for example, SCMs with native plants would receive more points than infiltration trenches and French drains, large cisterns would receive more points than standard rain barrels, etc.

  - Signing a maintenance agreement could also generate points.

  - May be an *overcorrection*, significantly revising a regulatory program that has been in place for only 14 months.

STAFF RECOMMENDATION

Staff recommends that the Planning Board discuss the residential stormwater regulations, identifying their own perspectives regarding the intent of the regulations and whether the regulations achieve their intended purpose, align with the Commissioners' principles, and/or require adjustment. **Generally, Staff believes that positive results would be generated by pursuing options identified above to *improve education and availability of resources* and to *enhance ordinance incentives for preferred outcomes*.**

Attachments:

1. PowerPoint - Town of Nags Head Residential Stormwater Ordinance Discussion, Board of Commissioners Retreat, January 23, 2020

Town of Nags Head Residential Stormwater Ordinance Discussion

Board of Commissioners Retreat

January 23, 2020

Residential Stormwater Ordinance - Background

- The regulation of stormwater on residential lots became a consideration in the Fall of 2012, the result of excessive rainfall and flooding that occurred over the preceding late-Spring and Summer months.
- On January 8, 2014, the BoC adopted an update to Chapter 34, *Stormwater, Fill and Runoff Management*, of the Town Code (*Attachment A*) which codified a stormwater plan requirement for single-family and duplex development triggered by fill and/or grading activities; adoption of this ordinance was preceded by the work of a stormwater subcommittee and coordination with the Planning Board and BoC (*Attachment B and Attachment C*)
- Between 2014 and the end of 2018, there was continued discussion and consideration of stormwater and the Residential Stormwater Ordinance; on December 5, 2018, the BoC adopted amendments to Chapter 34 (*Attachment D*) intended to simplify the requirements and plan approval process (*Attachment E*).
- Within 2019, Staff continued to work with representative of the Outer Banks Home Builders on fill requirements (*Attachment F*); Staff committed to proposing amendments to fill requirements in conjunction with adoption of an updated Flood Prevention Ordinance. Chapter 34 was codified as Part I of Article 11, Environmental Regulations, of the UDO (*Attachment G*); the complimentary Recommended Standard Details Manual may be accessed here: https://www.nagsheadnc.gov/938/Recommended-Standard-Details-Manual--Sto

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- As provided in the UDO, the purpose and intent of the overall *Stormwater, Fill and Runoff Management* Ordinance is to proactively protect, maintain and enhance the public health, safety, environment and general welfare by establishing requirements and procedures to control the adverse effects of fill, land disturbance and increased post-development stormwater runoff for the purposes of both water quantity management for flood prevention and water quality protection with the goals to:
  - Control and minimize impacts associated with stormwater runoff from all development and redevelopment.
  - Mitigate current stormwater problems and prevent future problems associated with stormwater runoff.
  - Preserve water quality through proactive management practices.
  - Facilitate public understanding of stormwater management.
  - Encourage the use of pilings and open foundations and minimize the use of fill, consistent with FEMA's coastal construction recommendations.
  - Improve stormwater management through use of low impact development techniques.
  - Establish requirements for on-going management and maintenance of stormwater management practices.
  - Establish application and enforcement procedures that address land disturbance, sedimentation and erosion control, the use of fill, and stormwater management practices consistent with associated Town ordinances and state and federal laws and regulations, to include:
    - Soil erosion and sedimentation control provisions (Article 11, Part II);
    - Excavations (Chapter 18 of the Town Code of Ordinances);
    - Flood damage prevention provisions (Article 11, Part III);
    - NCDEQ stormwater management (NCAC T15: 02H .1000);
    - NCDEQ soil erosion and sedimentation control (G.S. 113A-50 - 113A-71);
    - NCDEQ and Dare County Health Department subsurface, ground-absorption wastewater effluent disposal (NCAC T15A: 18A. 1900).
  - Establish public awareness of potential surface and subsurface water drainage problems recognizing that development potential of some land may be limited.
  - Regulate development and redevelopment which may create additional stormwater related burdens to the Town or adjacent properties.
  - Cause every development and redevelopment employing stormwater management practices to develop a maintenance plan, and place responsibility for maintenance with the property owners.

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- As established in the adoption ordinance for the 2018 Ordinance amendments, the basis for the adoption of the amendments were that:
  - the Town acknowledges that stormwater poses a threat to the public health, safety, and welfare;
  - the Town has experienced significant localized flooding during heavy and/or frequent rain events that in many cases can be attributed to stormwater and;
  - it is the Town's intent to preserve residential neighborhoods and to support local businesses;
  - the Town finds that the improper use of fill and lack of maintenance of stormwater management practices contributes to stormwater run-off;
  - the 2017 Comprehensive Plan states that the Town will "Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas (p. 205)";
  - the Town finds that to protect coastal waters we should limit non-point source pollution attributed to run-off from impervious surfaces such as parking lots and roof tops;
  - the Town finds that as more lots are developed and the built upon area is increased throughout Nags Head, stormwater collection and conveyance systems within the public rights-of-way are being overburdened and must be supplemented with additional management practices on private property;
  - the Town manages resources to protect the public infrastructure, quality of life, environment, and property of the citizens of Nags Head through fair and equitable, cost effective means, and the Stormwater Ordinance seeks to improve, enhance, and protect the quality of life for the citizens of Nags Head;

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- The Town's Comprehensive Plan includes the following policies and actions related to stormwater:
  - LU-14b: [Review] Existing lot coverage incentives for providing engineered stormwater management.
  - MS-15: Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas.
  - MS-17b: Seek additional funding opportunities from local, state and federal agencies to assist with future stormwater planning and construction efforts.
  - MS-18: Educate and involve the public in stormwater management.

Residential Stormwater Ordinance - Continued and Additional Considerations

- As noted on Slide 2, since adoption of the amendments in Dec. 2018, Staff continued to work with representative of the Outer Banks Home Builders on fill requirements; Staff committed to proposing amendments to fill requirements in conjunction with adoption of an updated Flood Prevention Ordinance. As noted in *Attachment G*, there was not consensus on all issues between Staff and the Home Builders; Staff did receive feedback from the BoC at their September 2019 Retreat that will inform the forthcoming draft amendments associated with fill and the Flood Prevention Ordinance.
- Since January 2019, there have been 25 stormwater plans submitted for residential projects (6 for pool projects); of those, 3 were prepared by a licensed engineer, compared with 8 of 8 projects active at that time under the previous iteration of the ordinance having been prepared by a licensed engineer (3 of those 8 were subsequently redesigned under the new ordinance).

Residential Stormwater Ordinance - Continued and Additional Considerations

- Options to consider:
  - Repeal the residential stormwater requirements;
  - Improve education and availability of resources;
  - Enhance ordinance incentives for preferred outcomes;
  - Provide an administrative option for engineering analysis to exempt or reduce requirements;
  - Provide more alternatives;
  - Provide for administrative waiver/variance;
  - Standardize dimensions and volume of BMP's;
  - Create a points-type program for BMP's and/or preferred outcomes, similar to design guidelines;
  - Other options?