- AGENDA -
Town of Nags Head Planning Board
Tuesday, June 16th, 2020; 9:00 a.m.

This Meeting will be held electronically/remotely utilizing the 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.

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A. Call To Order

B. Approval Of Agenda

C. Public Comment/Audience Response

D. Approval Of Minutes
May 19, 2020 Planning Board Meeting

Documents:

MAY 19 2020 DRAFT MINUTES.PDF

E. Action Items

1. Reconsideration Of A Revised Preliminary Plat
for a Major Subdivision, known as Coastal Villas, for an approximately 11.17 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 building lots, along with an associated street and other required improvements.

Documents:

STAFF REPORT TO PB_COASTAL VILLAS PRELIM PLAT_6-12-2020.PDF

2. Consideration Of A Text Amendment
   to the Unified Development Ordinance to permit "Real Estate Rental Management Facility" within the C-2, General Commercial Zoning District.

   Documents:

   REAL ESTATE RENTAL MGMT TEXT AMEND PB PACKET.PDF

F. Report On Board Of Commissioners Actions
   June 3, 2020

   Documents:

   JUN 3 2020 BOC ACTIONS.PDF

G. Town Updates - As Requested

H. Discussion Items

1. Discuss And Consider Recommendation On Hazard Mitigation Plan.

   Documents:

   HAZARD MITIGATION PB PACKET.PDF

2. Continued Discussion Of Legacy Establishments/Structures.

3. Continued Discussion Of Residential Stormwater Regulations.

   Documents:

   MEMO TO PB RE STORMWATER_6-11-2020.PDF

4. Continued Discussion Of Regulation Of Events Within Residential Dwelling Units.

   Documents:

   EVENT REGISTRATION PB PACKET.PDF

5. Continued Discussion Of Large Occupancy Homes.

   Documents:

   LARGE RESIDENTIAL PB PACKET.PDF

I. Planning Board Members' Agenda

J. Planning Board Chairman's Agenda

K. Adjournment

Town of Nags Head
Planning Board
May 19, 2020

The Planning Board of the Town of Nags Head met on Tuesday May 19, 2020. Due to Covid-19 restrictions, this meeting was held electronically/remotely utilizing the online ZOOM meeting platform. Members of the public were invited to attend the meeting using the ZOOM platform or app, or by calling in using a phone, and the meeting were conducted with the members participating by simultaneous communication.

Planning Director Michael Zehner began by explaining that the Town now has some statutory guidance on how to conduct these meetings which is covered under Section 166-19.24 of the North Carolina General Statutes. Mr. Zehner then proceeded to review these for the Board. Included under these guidelines are requirements on meeting notifications and instructing the public on how to access the meeting; making all documents to be considered during the meeting available to each member of the public body and requiring that all votes be done by roll call.

Mr. Zehner also discussed simultaneous communications and instructed members of the public and other audience members how they could participate via the zoom platform, email or by phone.

Mr. Zehner then turned the meeting over to Planning Board Chair Megan Vaughan who called the meeting to order at 9:10 a.m. as a quorum was present.

Members Present

Megan Vaughan, Kristi Wright (Arrived at 10 AM), Molly Harrison, Meade Gwinn, Megan Lambert, Gary Ferguson, David Elder (Left about 10:45 AM)

Members Absent

None

Others Present

Via Zoom: Michael Zehner, Kelly Wyatt, Andy Garman, Holly White, and Lily Nieberding

Approval of Agenda

Chair Vaughan asked for a motion to approve the agenda. Meade Gwinn moved to approve as presented, David Elder seconded, and the motion passed unanimously via a roll call vote.

Public Comment/Audience Response

None

Following Public Comment, the Board took a brief recess to resolve some technical issues before proceeding.

Approval of Minutes

Chair Vaughan asked for a motion to approve the minutes of the April 21, 2020 meeting. Meade Gwinn moved to approve as presented, David Elder seconded, and the motion passed unanimously via roll call vote.

Action Items

Mr. Zehner noted that the applicant for Item 1 was delayed so the Board began by hearing Item 2.

Reconsideration of a Text Amendment to The Unified Development Ordinance pertaining to temporary uses or temporary alteration of uses related to declared emergencies.

Mr. Zehner explained that the proposed text amendment was intended to enact provisions within the Unified Development Ordinance allowing for temporary uses or the temporary modification of uses to address conditions during declared states of emergency or resulting from such emergencies.

Mr. Zehner noted that the Town had received communication from the Outer Banks Restaurant Association requesting the towns' consideration of regulatory changes that would allow for flexibility in restaurant operations in response to the COVID-19 Pandemic.

The proposed text amendment was developed in response to that request but was also informed by further discussions between Staff and OBRA as well as Mark Ballog (owner of Lucky 12), and John Harris (owner of Kitty Hawk Kites).

Mr. Zehner further noted that while this proposal was in response to this immediate emergency, Staff believes that this provision will have application during other emergencies.

The proposed text amendment would allow for the issuance of a Temporary Use Permit only during an emergency declared by the Mayor (pursuant to Town and State laws) or due to impacts associated with a declared emergency. In these instances, Temporary Use Permits would be authorized to be issued jointly by the Town Manager and UDO Administrator for temporary uses or the temporary modification of uses; the drafted provisions allow for broad latitude in their application, however, there are limitations on eligible uses and modifications, and ultimately, a Permit could be rejected for any activity or accommodation, in the opinion of the Town Manager and UDO Administrator, that would be contrary to the purposes of the emergency declaration and/or the interests of the public health, safety, and welfare. Mr. Zehner noted that staff did receive input with respect to food services, outdoor dining and food trucks from the Dare County Health Department

Mr. Zehner proceeded to review the proposed changes in more detail for the Board and stated that these permits can be issued for a period not to exceed 90 days and upon expiration all temporary accommodations shall cease or otherwise be considered in violation of the UDO as applicable. Permits may be extended by a request submitted no later than 10 business days prior to the expiration date. Mr. Zehner also explained how these temporary use permits affect non-conforming, permitted and conditional uses.

Mr. Zehner stated that staff wanted to make sure that they are allowing for things they had heard about and received inquiries about from business owners, such as allowing more flexibility for outdoor seating, car service and food trucks. Some of these things are allowed via the conditional use process but during a state of emergency such as this pandemic Staff didn't want to make someone go through a long process to effect a change. From an economic standpoint, the Town wants people to

be safe and practice social distancing and that means allowing businesses more flexibility in servicing their customers.

Planning Staff recommends adoption of the amendments as proposed but welcomes and will take into consideration the Planning Board's questions and feedback.

Mr. Zehner confirmed for Ms. Lambert that while the proposal offered more flexibility for food trucks they would still now be allowed at beach accesses; however they might be issued a temporary use permit to park a Food Truck at a Shopping Center or Hotel, something that is currently not allowed.

Mr. Zehner also confirmed for Ms. Lambert that under a temporary use permit a business could be allowed additional signage. The Town wants to make sure that customers are aware of a business' limitations on operations, such as limited menus, delivery options and availability of outdoor seating. Staff would take it on a case by case basis and see what's currently allowed by the Ordinance and what may need a Temporary Use permit.

Mr. Zehner noted that Staff would like the flexibility to be able to issue a temporary use permit in cases where there is a condition that is outside the norm, rather than have to hand out a violation; as long as it is not contrary to public health, safety, and welfare.

Mr. Ferguson inquired if this proposal covered non-commercial uses such as churches or other types of organizations. Mr. Zehner confirmed that the proposed amendment does allow for a temporary use permit to be issued in residential districts for uses that are currently allowed in those districts. It would not allow uses that are currently not allowed in those districts. For example, a church located in a residential district could get a 90-day permit to have a food truck after church services.

Mr. Zehner explained for Mr. Gwinn that in the case of a church, they are having to modify their operations due to the restrictions placed by the State of Emergency such as limiting exposure. In other words, Staff are not issuing temporary use permits for an emergency rather than due to the impacts or effects of a State of Emergency.

Ms. Harrison noted that it looked like the Town had really thought it through and what they are presenting looked fair and good.

Mr. Zehner discussed with Chair Vaughan and the Board how capacity might be affected by outdoor seating. Mr. Zehner confirmed that the Temporary Use Permit would not allow a business to increase the allowed occupancy subject to their Dare County wastewater permit. Mr. Zehner also noted that the proposal does not allow an establishment to increase floor area.

Mr. Zehner also confirmed that the proposal adds flexibility to use existing parking area for outdoor seating.

Chair Vaughan stated she agreed with Ms. Harrison in that the proposal is well thought out and it is really important for the Town to do what they can do to respond to the current situation. Her only concern was with the possible safety issues with using parking areas for outside dining.

Mr. Zehner confirmed that each application would be taken on a case by case basis and could be reviewed by the Town Engineer, the Fire Chief and the Police Chief to ensure that all safety issues are being addressed.

Mr. Zehner explained that the proposed ordinance was drafted so that it doesn't allow someone to do something just because they think it's a great idea, there has to be a tie in to the impacts of the state of emergency that would result in them needing or wanting to modify their operations to meet certain requirements.

Mr. Zehner confirmed for Chair Vaughan and the Board that they will work with applicants to ensure a quick turnaround on these permit requests. Depending on the request some may be issued on the spot after meeting with the applicant on-site.

Mr. Zehner confirmed that Staff is scheduled to present the proposed amendments to the Board of Commissioners on May 20, 2020, and if the Planning Board has issued a recommendation, request that the Board of Commissioners consider the scheduling of a public hearing for June 3, 2020. Mr. Zehner noted that in the meantime, some requests might be handled via a crowd gathering permit.

Mr. Ferguson inquired if the Town would require site plan modification to go with the Temporary Use permit. Mr. Zehner explained that staff has administrative discretion in terms of what type of plans would be required and there are certain circumstances or situations that would require more information and vice versa. Mr. Zehner confirmed there would need to be some type of documentation whether it be a site plan, aerial or photos.

Mr. Zehner confirmed for Chair Vaughan that the permit would be good for 90 days with the provision for an extension if needed. Mr. Zehner reminded the Board that staff wanted this proposal to be applicable for other (state of) emergencies not just the current; for instance, the need for temporary storage on-site following a hurricane.

Ms. Lambert suggested excluding menu boards from signage requirements. Mr. Zehner stated that if the Board was supportive, they could look at adding wording to the sign ordinance (outside of the temporary use permit) to exempt certain signage during a state of emergency.

David Elder moved to recommend approval of the proposed text amendment as presented. Meade Gwinn seconded, and the motion passed unanimously via roll call vote with Kristi Wright choosing to abstain as she had just arrived to the meeting.

Mr. Zehner confirmed that the applicant for the first action item (Kate Creef with Outlets Nags Head) was now present electronically, so the Board proceeded to hear Item 1.

Reconsideration of a Text Amendment to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities.

Mr. Zehner explained that the Planning Board had previously reviewed and made a recommendation before this item when to the Board of Commissioners for a public hearing. At the BOC meeting there were comments from the Board that resulted in the Board voting to have the item come back to the Planning Board for reconsideration; primarily with respect to limitations on signage and where the stands might be located on a site. Of concern were the appearance of the stands and the possibility of multiple stands.

Mr. Zehner stated that he had confirmed for the Commissioners that there were eleven (11) possible sites where these stands could be located and reminded the Board that this proposed amendment is not site-specific.

Mr. Zehner came up with some recommendations to address some of the concerns including: limiting the option for two stands to sites greater than a certain size; limiting signage to a total of fifteen (15) square feet for all outdoor stands; and clarifying where stands may be located on a site.

Mr. Zehner noted that in conversations with the applicant, Ms. Creef seemed amenable to these recommendations. Ms. Creef agreed saying they were willing to work within the requirements of the Town.

Mr. Zehner and Mr. Ferguson discussed the appearance and look of a stand with Mr. Zehner explaining that they could have a situation today with a stand that was fully allowed, and it was not to everyone's liking in terms of its appearance. Mr. Zehner noted that addressing the appearance of a stand was a broader issue than what is currently before the Board.

Mr. Zehner also discussed what is currently allowed vs. what is being proposed and addressed the concern why an outdoor stand is necessary when there are already retail shops and restaurants that offer this type of service.

Ms. Creef confirmed for Chair Vaughan that the intent of the stand was to enhance the property and the shopping experience for their customers, not to meet an unfulfilled need.

Chair Vaughan noted that she personally did not have a problem with the stands and didn't feel like they would ruin the appearance of the Town. Chair Vaughan noted that booking a charter fishing trip is no less inherent to Nags Head than buying fudge. Chair Vaughan stated her only concern would be the placement of the stand and making sure that there are no safety issues, such as being too close to the road.

After some discussion the Board agreed that the appearance of the stand is something that would be hard to legislate. The Board then discussed the number of stands and the location of the stands noting that the number of stands could depend on the size of property; maybe allowing two stands only on properties larger than a certain size. As far as location, having the stands no further than a certain distance from the building with the goal being to keep them away from the road.

Ms. Creef confirmed that their goal is not to draw people to the shopping center rather than offer an amenity to existing shoppers. In their case, their idea was to locate it in the breezeway rather than the parking lot.

Ms. Harrison noted that it seemed that they were all in agreement that they approved the proposal and that they don't want to see them too close to the road. Ms. Harrison noted that the item needed to move forward before the summer was over.

Ms. Creef noted that signage seemed to be an issue for the Commissioners, and she discussed reducing the total proposed square footage for signs which in turn might alleviate the "carnival" look concern.

Ms. Wyatt suggested adding language that would keep reservation stands integrated within the retail shopping center or group development within common areas such as walkways and not allowing them to be located within any part of the parking area.

Chair Vaughan stated she liked Ms. Wyatt's suggestion and stated that she did not have a problem with the Outlets having two stands because of the size of the location but that might not apply to other locations.

Mr. Zehner suggested adding language to base the number of stands on the size of the location; ie. two stands for locations larger than 10 acres.

Ms. Harrison stated that basing it on size seemed reasonable; larger sites can have two stands; smaller sites would have one.

Chair Vaughan moved to recommend approval of the proposed text amendment to expand principal sale items from outdoor stands to include reservations and tickets for events and activities, as previously recommended and with the following additional modifications: two stands shall only be allowed on sites with an area of 10 acres or greater; that stands used for reservations or ticket sales shall be located within shopping centers or group developments, such as within common area or walkways, and shall not be located within any parking area; and, that signage be limited to 15 square feet total regardless of the number of stands. Meade Gwinn seconded the motion. The motion passed 6-0, with Mr. Elder having left the meeting prior to the vote.

Report on Board of Commissioners Actions

Planning Director Michael Zehner gave a report on the Actions from the May 6, 2020 Board of Commissioner Meetings. Of note was a request for Public Hearing on the Consent Agenda for the Tutoring/Learning Facility which will be heard on June 3rd; the Public Hearing on the outdoor stands was held and that was remanded back to the Planning Board; the Public Hearing on corrections to the UDO was held and adopted without any changes; the Major Site Plan for Gone Coastal Villas was continued again to June 3rd; David Elder was reappointed for another three year term to the Planning Board; and the Preliminary Plat for Coastal Villas was also continued to June 3rd. ; Mr. Zehner anticipates that it will come back to the Planning Board at their June meeting.

Town Updates

None

Discussion Items

Continued Discussion of Legacy Establishments/Structures

Mr. Zehner stated that the Planning Board first discussed this item at their February meeting. He has since given the Board some more information and thoughts. The intent of this item is to address non-conforming uses or non-conforming structures that are seen as legacy or that define the character of the Town because of the use or because of the characteristics of the structure. The Town would like to see those continued and preserved and create some ability for that to happen. A lot of these places are non-conforming in terms of their use or in terms of setbacks or other zoning issues.

Does the Town want to create a mechanism that removes that non-conforming status or that allows the use to continue and allows someone to re-invest in the operation or expand that use or expand a building or continue reasonable repairs to a building? Mr. Zehner noted that one way to do this would be to categorize or look at the uses like they had previously done with non-conforming cottage courts. In that case, they would need to define the uses that they want to afford this protection to, and define the criteria that need to be met, in order to be eligible for those protections.

Mr. Zehner noted that another, maybe easier way would be through the creation of an overlay zoning district established for the purpose of protecting and preserving and allowing for expansion and evolution of legacy businesses and structures. They would need to define what those are, and then through some legislative action could rezone those properties that meet that definition, into that overlay district. Each rezoning request could come before the Planning Board and Board of Commissioners who would decide if that specific property or building met the requisite policy requirements.

Mr. Zehner stated they could start to maybe narrow down what are the types of uses that are more commonly going to be considered legacy businesses. Mr. Zehner gave the example of a restaurant that is non-conforming, and it's considered to be a legacy restaurant, defining to the character of the Town, and they want to make some modifications to it but are limited by their non-conforming status. They could request to be rezoned into this overlay district, where the non-confirming status would go away either because the use is permitted or there is more flexibility in the zoning requirements.

Mr. Zehner noted that doing it that way, through an overlay district allows for more discretion on the front end because you don't have to be as specific in terms of what criteria triggers that tool. Staff would like to start developing some type of overlay district and advance Comprehensive Plan policies valuing the preservation of legacy business, establishments, and structures.

Mr. Gwinn noted that there may be a scenario where multiple legacy businesses are concentrated such as at Whalebone Junction as well as some that are spread out throughout the town.

Mr. Zehner confirmed for Mr. Gwinn that an overlay district could hypothetically cover the entire town and stated that they could make it so that properties are rezoned via request or the Town could proactively identify those properties and rezone them.

Mr. Ferguson agreed with Mr. Gwinn and raised the concern of spot zoning in cases where there might only be one or two legacy properties within a particular district; could this become a legal issue?

Mr. Zehner stated that for him spot zoning is more of a zoning action that results in the application of a zoning district in a singular way, devoid of any policy considerations. What staff is proposing is to develop a district and write a policy with the intent to protect and preserve legacy businesses and structures. Mr. Zehner noted that as long as they are meeting that intent and purpose spot zoning is not a question or concern.

Mr. Ferguson suggested looking at the non-conforming section of the zoning ordinance, not unlike what Staff did with non-conforming cottage courts and modifying that section and identifying what they consider legacy buildings and then developing some rules and regulations, that allow them to expand and improve.

Mr. Zehner stated that it was certainly an option but asked if they could come up with objective criteria to decide which businesses were considered legacy and which weren't. Mr. Zehner also noted that with this option those properties would retain their non-conforming status while if they were to create an overlay district, they would no longer be considered non-conforming. Mr. Zehner reminded the Board that a non-conforming status comes with limitations and restrictions and businesses could be negatively impacted by the status.

Mr. Zehner confirmed for Chair Vaughan that it's possible that somebody could be conforming and still want to be delineated in that way (legacy business/overlay district) because it allows them to do something that they can't currently.

Mr. Ferguson suggested that if they identify a building that is considered to be of historical significance, then what they need to do is make efforts to try and preserve that building not necessarily making it conforming. They could have a section in the non-conforming ordinance that identifies each building in town that has a legacy status because it meets certain criteria. Mr. Ferguson believes that it would be simpler to do than create another overlay district.

The Board discussed whether it was the building or the use which made them a legacy property. Mr. Ferguson and Ms. Lambert both agreed that it is the structures more so than the use.

Principal Planner Holly White confirmed for Ms. Harrison that during Focus Nags Head the committee did develop a list of potential legacy properties based on criteria that they felt were important.

Mr. Zehner reiterated that it could be complicated to define what those characteristics are and what those standards are. In addition, there are implications if they continue to call those buildings non-conforming. If they have all of these properties that they are concerned about losing because of their non-conforming status, then why not just make them conforming especially if the non-conforming status is affecting the longevity and continued operation of those uses.

Ms. Harrison believes that the Town should make it easier for businesses to operate in Nags Head. If a business can't get loans because they are non-conforming, and they can't make improvements; Ms. Harrison would prefer to see a solution to that.

Mr. Zehner agreed stating they could deal with it in one or two ways, if they were no longer non-conforming it wouldn't apply or if they were still non-conforming but considered a legacy business, they could be exempt from certain limitations, which is what the Town currently does for non-conforming cottage courts.

Mr. Zehner confirmed for Ms. Lambert that this would not remove FEMA non-conformities however some of those may no longer be an issue with the new flood maps.

Mr. Zehner confirmed for Ms. Harrison that the list that was developed as of part of the Focus Nags Head project listed between 30 and 40 businesses that could be considered legacy businesses or structures. Mr. Zehner would need to review the list to determine which are conforming and which are not.

Mr. Zehner reminded the Board that the impetus for this discussion was the Blue Heron. It is both a non-conforming structure and a non-conforming use. And the original question was should the Town come up a provision in the ordinance that somehow allows for that property to be re–invested in, to evolve or to be expanded when currently all of those things are limited by zoning regulations? Could they create some zoning flexibility for that type of condition? Based on past experience if they can't, that structure may be lost.

The Board agreed that it is a complicated issue and if possible, they should keep it simple.

Mr. Zehner stated based on what he's heard from the Board today he could come back to them and present both options and go from there.

Continued Discussion of Residential Stormwater Regulations

Mr. Zehner explained that this was a continued discussion also from the February meeting which came out of the Board of Commissioners retreat. The Commissioners directed Staff to present their perspectives and the options identified by Staff to the Planning Board for review and consideration of any recommended actions.

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 site conditions – a system with flexibility?
- Retain form of landscape/minimize impacts 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? Create incentives.
- Do we need to define flooding – differentiate between "Nuisance" and "Problem Stormwater" issues.
- (Regulations) 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.

Mr. Zehner reviewed for the Planning Board the options that Staff presented to the Commissioners:

- 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

Staff would recommend 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.

Mr. Zehner stated that part of the concern is that there are outcomes or unintended consequences of these regulations and part of the issue is that over the last six months they may have been seeing some projects completed that were under the old ordinance vs. the new ordinance that didn't come into effect until November of 2019. It's important to be clear about what outcomes they can see from the new ordinance.

Generally, Mr. Zehner believes that positive results would be generated by pursuing those identified options to improve education and availability of resources and to enhance ordinance incentives for preferred outcomes.

Mr. Zehner noted that this may generate more discussion than they have time for today but was willing to answer any questions the Board may have. Mr. Zehner suggested that the Board may want to recommend that Staff continue to see how the new ordinance plays out and noted that one of the items that is on Staff's work plan is a low impact development demonstration project that they want to try to accomplish some place in town; for example showing what a rain garden looks like.

Mr. Zehner stated that Staff could focus on the education piece and come up with the steps they need to take to incentivize the preferred outcomes. Staff could then come back to the Planning Board and they can decide if it's something they want to recommend to the Commissioners. Mr. Zehner then discussed what incentives might look like.

The Board then discussed how Stormwater can affect not only the property owner but also their neighbors and even the Town. Even if the property owner does not have issues themselves, if the conditions continue, they could eventually be impacted so it's important to educate them and make them aware of correct Stormwater management practices. The Board agreed that education and awareness were critical.

Ms. Harrison suggested that they may want to get the schools involved in the educational piece.

Chair Vaughan also agreed that incentives were important and might help in maintaining landscapes, noting that there is too much lot clearing.

Mr. Gwinn noted that educating the homebuilders is important as well.

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

As noted in his Staff memo dated May 15, 2020, Mr. Zehner explained that in discussions with members of the Planning Board at their retreat in January 2020, the Board of Commissioners encouraged the Planning Board and Staff to work jointly on the development of a Work Plan for the next fiscal year in conjunction with the development of the budget, to establish priorities relating to planning and land use; in short, this Work Plan would be a collection of prioritized actions and activities serving as a strategic plan to implement various initiatives and plans.

Staff presented the concept of this Work Plan at the Planning Board's February meeting; the Board indicated their support for the effort.

Following that meeting, Staff developed an initial *Planning & Development Department and Septic Health FY2020-2021 Strategic Work Plan*, and then subsequent revisions, the most recent of which was included in Staff's memo for the Board's review and input. This initial draft *Strategic Work Plan* was developed based upon certain considerations and identified activity categories intended to highlight as well as focus the implementation of specific plans, the Vision, Goals, Key Concerns, and Guiding Themes.

In addition to the *Strategic Work Plan*, a *Budget Overview* was also developed for the Department as part of the development of the FY20-21 Budget; this *Budget Overview* was also included in the staff report and was been prepared to align with the *Strategic Work Plan*.

Staff would suggest that activities included in the Work Plan focus on implementing the following four (4) plans:
o *Town of Nags Head Comprehensive Plan,*

o *Vulnerability, Consequences, Adaptation, Planning Scenarios (VCAPS) Report*,
o *Town of Nags Head Parks and Recreation Plan*, and
o *Nags Head Pedestrian Plan*

Additional consideration should be given to activities contained in the Town's *Decentralized Wastewater Management Plan* and *Hazard Mitigation Plan*.

Mr. Zehner noted that the Work Plan should serve as a strategic plan to implement various initiatives and plans, but activities in the Work Plan should also work towards achieving the accepted vision and goals for the Town.

Mr. Zehner noted that in the process to develop the Comprehensive Plan, both *Key Concerns* and *Guiding Themes* were identified. For the purpose of the Work Plan these activities were categorized in at least one of five categories:
o Community Character
o Sustainability & Resiliency
o Economic & Cultural Development
o Hazard & Emergency Planning
o Responsive & Transparent Government

These categories have been incorporated into the *Budget Overview* for the Department and serve as the basis for the Department's objectives for the next Fiscal Year.

Despite the above and previous work to establish this Work Plan, Staff is cognizant that this Plan will be affected by the Corona virus Pandemic and impacts to the Town's budget. Operating or CIP funds were anticipated to be used or sought for several projects, but the Town will not be considering CIPs at this time. Staff is actively exploring and applying for grants to offset budget shortfalls.

Staff would recommend that the Planning Board review the information outlined above, and specifically the implementation matrixes from the four (4) plans, as well as the initial *Planning & Development Department and Septic Health FY2020-2021 Strategic Work Plan*, and provide feedback as to whether the Plan sufficiently implements and advances specific plans, the Vision, Goals, Key Concerns, and Guiding Themes in a strategic manner.

Chair Vaughn noted that it was nice to have the plans laid out like this because it gives it a structure and will help keep them focused.

The Board then discussed Electric Vehicle (EV) Charging Stations and the Town's recycling program and how they might tie into the theme of Sustainability and Resiliency.

Mr. Zehner noted that the intent of the work plan was to recognize Staff's bandwidth and limited resources and to focus priorities. If the Board feels like projects on this strategic work plan are not priorities vs. something else, it's good to know that. Are there things that we want to discuss but we know that we have limited ability to do that or do they rise to the level of superseding other items on the plan? Is Recycling a Planning Board issue or is it a Board of Commissioners or Administration issue?

After some further discussion Mr. Zehner suggested putting Recycling as an agenda item for their next meeting and Staff may be able to research some practices that other communities have in place.

Mr. Gwinn noted that the Board of Commissioners is working on this issue and maybe they need to wait and see what the Commissioners are doing about it. It is a big issue on a much larger scale than just the Town. Before they try to tackle this issue, they should see what the Commissioners think.

Mr. Zehner agreed saying that he can present it back to the Board of Commissioners and let them know that the Planning Board is interested in how the Town moves forward with respect to recycling and that they are available to assist and investigate solutions.

Planning Board Member's Agenda

Mr. Ferguson suggested that the Board members take a ride through Nags Head Acres to look at a house that was recently built on Bridge Lane as a sample of what they don't want to see as far as Stormwater Management. This was an option that a builder/developer decided to take advantage of. Mr. Zehner clarified that the house was built under the old ordinance and the rock that is associated with that project is in the right of way and is not a result of the Stormwater regulations but rather the Streets regulations. Mr. Zehner will email the Board Members some other addresses that are more representative of what's being done under the new ordinance.

Mr. Ferguson and the Board also discussed Board member compensation.

Planning Board Chairman's Agenda

None

Adjournment

A motion to adjourn was made by Megan Lambert. The time was 12:24 AM.

Respectfully submitted,

Lily Campos Nieberding

DRAFT

STAFF REPORT
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:	December 23, 2019; updated April 17, 2020**; updated June 12, 2020**
Subject:	Reconsideration of a revised Preliminary Plat for a Major Subdivision, known as Coastal Villas, for an approximately ~~9.86~~ **11.17** 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 **and Parcel #: 006749039; PIN #: 989108893398**); the revised Preliminary Plat proposes to create 17 **building** 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.

The revised preliminary plat was reviewed by the Planning Board at a meeting on April 21, 2020. Ultimately, the Board unanimously recommended approval of the Preliminary Plat as recommended by Staff, but noted the Board's concerns related to safety due to the possibility of two additional curb cuts on 158, and a preference for the preliminary plat that had been presented to and recommended

During the Planning Board's review, member Gary Ferguson had inquired as to the circumstances leading to the creation of the property subject to the preliminary plat. Following the meeting, in coordination with the applicant and their representatives, as well as the Town Attorney, it was determined that a division in 2004 that was intended to establish a separate 1.03 acre parcel to be transferred to Dare County for use as a future well site, had not been properly subdivided. While a preliminary plat and associated waivers for this division had been approved by the Board of Commissioners, there is no record that a final plat for this subdivision was ever produced, approved, or recorded. Therefore, the applicant has revised the preliminary plat further to include this additional 1.03 acres, and is proposing to re-establish the lot as part of the proposed subdivision; similar to the proposal in 2004, the preliminary plat requires waivers from the subdivision regulations, discussed further below.

Staff is aware that representatives of the Fourth Street properties have 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~~**11.17**-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) **building** lots, located along a new street connecting directly to US 158/ S. Croatan Highway;

[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."

additionally, the preliminary plat includes two open space areas, as well as the creation of Lot A-2, a 1.03 acre lot owned by Dare County with notes indicating the "lot shall be limited to a well production site for the Dare County reverse osmosis plant." ~~The~~ **The** new street, identified as ~~Fourth Street~~ **Coastal Breeze Way**, 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 **building** lots **(number 1 thru 17)** 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 proposed preliminary plat, and specifically the configuration of lot A-2 due to its lack of frontage, lack of direct access to a right-of-way, and proposed direct access through easement to US 158, requires waivers from the following provisions of the Subdivision Regulations:

- **Section 10.46 Access to Public Street or Highway Required. There shall be no subdivision of any tract of land which does not have access to a public street or highway which is improved to the standards of the Town or the NCDOT, whichever is applicable, which access is of a right-of-way width and is improved in accordance with Section 10.66, Streets.**

- **Section 10.47 Limiting Access to US 158, US 64/264, NC 12, and SR 1243. Access to US 158, US 64/264, NC 12 or SR 1243 from any lot in a new residential subdivision of land or any recombination of existing residential lots is prohibited unless and except a variance or waiver is granted pursuant to this UDO. Access to any of the above major streets shall be provided by another existing, improved public street accepted for maintenance by the Town or a local access street, collector street or environmental street in the subdivision or an access easement shown on a subdivision plat approved by the Board of Commissioners; provided, however, that maintenance and replacement of accessways is approved by the Town Attorney and is in accordance with Section 10.51.4.**

- **Section 10.68.1. Frontage; Area. All lots in a subdivision must front a street, and no lot shall be laid out which shall have an area less than that required by Article 8, District Development Standards of this UDO**

- **Section 10.68.3. Minimum Amount of Frontage. All lots shall be designed so that they shall front on a public street for a distance of not less than fifty (50) feet which shall be measured along the right-of-way of such street; provided, further, that in the case of 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.**

~~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.~~

It is also important to note that the current revised version of the preliminary plat provides for the multi-use path extension through the Mariners Way paper right-of-way to meander away from the southern property line. Staff believes this is responsive to considerations previously requested by a property owner along Sea Bass Court, while also considering potential impacts to Live Oak trees proposed to be retained within this area.

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; **while the original plan proposed a connection to Sea Bass Court and no access from US 158,** 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,~~ **With the exception of the waivers noted above,** 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 **each of the** redesigned plans; the attached letter from Cathleen Saunders, P.E., Quible & Associates, P.C., dated April 14, 2020, is an accurate representation of

Staff comments pertaining to the revised Plan **reviewed at the Planning Board's April 21 meeting**, 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~~.

The version of the proposed preliminary plat that is now before the Board was distributed for review by Town Staff. Returned comments noted that eventual construction drawings should include the planned location of water taps, further reference to the applicant's commitment to relocate the water line at the south of the subdivision to within the easement, the need to coordinate with Town Public Works on the installation of a waterline extension toward Sea Bass Court, and further requested that the applicant continue attempts to coordinate with NCDOT. On this last point, the applicant's engineer did communicate that they received "preliminary verbal confirmation from NCDOT…that they will allow access off of S. Croatan Hwy," and were expecting to receive written confirmation with any applicable restriction or requirements.

- 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."

- **With the necessary waivers, the provisions of Section 4.28, Subdivision Waivers, as follows, are applicable to consideration of the preliminary plat by the Planning Board and Board of Commissioners:**
    - **Section 4.28 Subdivision Waivers.**

      4.28.1. Waivers Generally. Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may recommend and the Board of Commissioners may waive such requirements subject to appropriate conditions. Any decision of the Board of Commissioners must be rendered by a simple majority of those members present and constituting three-fourths of the total membership of the Board. Waiver requests shall be handled in accordance with the procedures established in Section 3.13, Procedures for Quasi-Judicial Hearings.

      4.28.2. Conditions. In granting such waivers, the Planning Board may recommend and the Board of Commissioners may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

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:

- **As noted above, the proposed preliminary plat requires waivers from Section 10.46, Access to Public Street or Highway Required, and Section 10.47, Limiting Access to US 158, US 64/264, NC 12, and SR 1243.**

- 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.

  A resident did inquire with Staff as to whether the proposed street name of Coastal Breeze Way was too close to the name of an existing street, W.

Breeze Way. Pursuant to Section 10.66.10., Street Names and Signs, "All streets must be named so as not to duplicate the names of any existing streets in the Town. Such names shall be approved by the UDO Administrator and incorporated on the preliminary and final plats." Staff contacted the Postmaster for the Nags Head Post Office, who responded that they did not anticipate a problem; however, Staff has requested that the applicant provide some alternatives to alleviate any perceived concerns that the proposed name may lead to confusion.

- 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." The ~~redesigned~~ Preliminary Plat does not necessitate the reduction of required lot frontage **for lots fronting on a cul-de-sac (the original plan did); however, as noted above, waivers from Section 10.68.1., Frontage, and Section 10.68.3., Minimum Amount of Frontage, are necessary to account for lot A-2's lack of 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.

As previously noted, a revised preliminary plat was reviewed by the Planning Board at a meeting on April 21, 2020. The Board unanimously recommended approval of the Preliminary Plat as recommended by Staff, which included a changed 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.**

As part of their motion to recommend approval, the Board did note concerns with respect to safety due to the possibility of two additional curb cuts on 158, and a preference for the preliminary plat that had been presented to and recommended

In their consideration of the most recently revised version of the preliminary plat, with respect to the necessary waivers, the Board should consider a specific recommendation on the waivers, based upon whether the Board finds that the waivers are appropriate, with or without conditions, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision,

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 they 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.~~

Staff recommends approval of the Preliminary Plat as revised and proposed, with the conditions noted below. With the exception of the requested waivers, Staff is of the opinion that the 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. With respect to the requested waivers, Staff is of the opinion that the intended use of lot A-2 is a special circumstance, that, when taken into consideration with the existing easement, does not necessitate frontage in the interest of public health, safety and general welfare or preclude direct access to US 158 as inappropriate; given notes on the preliminary plat restricting the use of the lot and the existing easement, Staff does not recommend conditions specific to the requested waivers.

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 (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.**

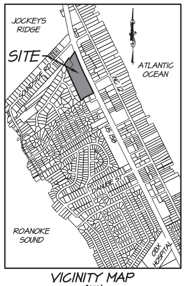
3. **Prior to or in conjunction with approval of the Final Plat for the subdivision, drainage easements, to be the responsibility of the applicant/developer and/or their successors (i.e. Property Owners Association), as well as easements to be conveyed to the Town and Dare County, shall be properly conveyed 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.**

Attachments:

1. Draft Preliminary Plat, Sheets 1 thru 3, with an Issue Date of June 4, 2020, prepared by Quible & Associates, P.C.;

2. Preliminary Plat Application Package under cover/transmittal letter from Cathleen Saunders, P.E., dated June 4, 2020

3. Cover/transmittal letter from Cathleen Saunders, P.E., dated April 14, 2020



VICINITY MAP
(NTS)

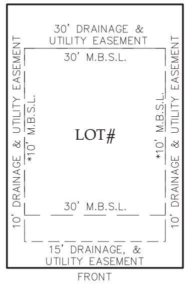
NOTES:

1. CURRENT OWNER: NAGS HEAD CONSTRUCTION AND DEVELOPMENT, INC
PO BOX 2130
VIRGINIA BEACH, VA 23450

DARE COUNTY
PO BOX 1000
MANTEO, NC 27954

2. PIN / PID: 9891-0888-6987 / 006749004 (COASTAL VILLAS)
9891-0889-3398 / 006749039 (DARE COUNTY WELL LOT)
3. PROPERTY ADDRESS: S CROATAN HWY
4. ZONING: R2
5. TOTAL SUBDIVISION AREA = 486,394 sqft / 11.17 acres
6. SUBJECT REFERENCES: DB 1266, PG 271; PC E, SL 360;.
7. ADDITIONAL REFERENCES: DB 1539, PG 103; DB, PG 1834, PG 496; PC E, SL 707; PC E, SL 787; PC F, SL 67; PC G, SL 368; PC I, SL 343.
8. FIELD SURVEY DATE: OCTOBER 2018
9. PROPERTY IS LOCATED IN NFIP FLOOD ZONES AS SHOWN AND SUBJECT TO CHANGES. BASED ON COMMUNITY CID NO. 375356; PANEL 9891; SUFFIX J. (MAP NUMBER 3720989100J) EFFECTIVE DATE: 09/20/2006
10. THIS SURVEY SUBJECT TO ANY FACTS, INCLUDING BUILDING SETBACK RESTRICTIONS, EASEMENTS, COVENANTS, ETC., THAT MAY BE REVEALED BY A FULL AND ACCURATE TITLE SEARCH.
11. ALL DISTANCES ARE US SURVEY FEET AND HORIZONTAL GROUND.
12. APPROVAL OF THIS SUBDIVISION DOES NOT GUARANTEE SEPTIC APPROVAL ON ANY INDIVIDUAL LOT.
13. MINIMUM BUILDING SETBACKS MAY BE SUBJECT TO CHANGE AND SHOULD BE VERIFIED WITH A ZONING OFFICIAL.
14. SETBACKS:
FRONT = 30'
SIDE = 10'
REAR = 30'
15. 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.
16. A RIGHT-OF-WAY ENCROACHMENT AGREEMENT IS REQUIRED FROM NCDOT PRIOR TO ANY DISTURBANCE WITHIN THE STATE RIGHT-OF-WAY.
17. BUILDING CONSTRUCTION SHALL COMPLY WITH ALL ASPECTS OF THE NORTH CAROLINA BUILDING AND FIRE CODE.
18. 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.
19. LOT A-2 REQUIRES WAIVER REQUESTS FROM SECTIONS 10.68 OF THE TOWN UNIFORM DEVELOPMENT ORDINANCE PERTAINING TO LOT FRONTAGE REQUIREMENTS. THE LOT SHALL BE LIMITED TO A WELL PRODUCTION SITE FOR THE DARE COUNTY REVERSE OSMOSIS PLANT.

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

REVIEW OFFICER'S CERTIFICATE

STATE OF NORTH CAROLINA
COUNTY OF DARE

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

____
REVIEW OFFICER 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.

____
DARE COUNTY (ROBERT L. OUTTEN) 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 : ______________________________

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.

____
NAGS HEAD CONSTRUCTION, LLC (ALFRED L. NORMAN) 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

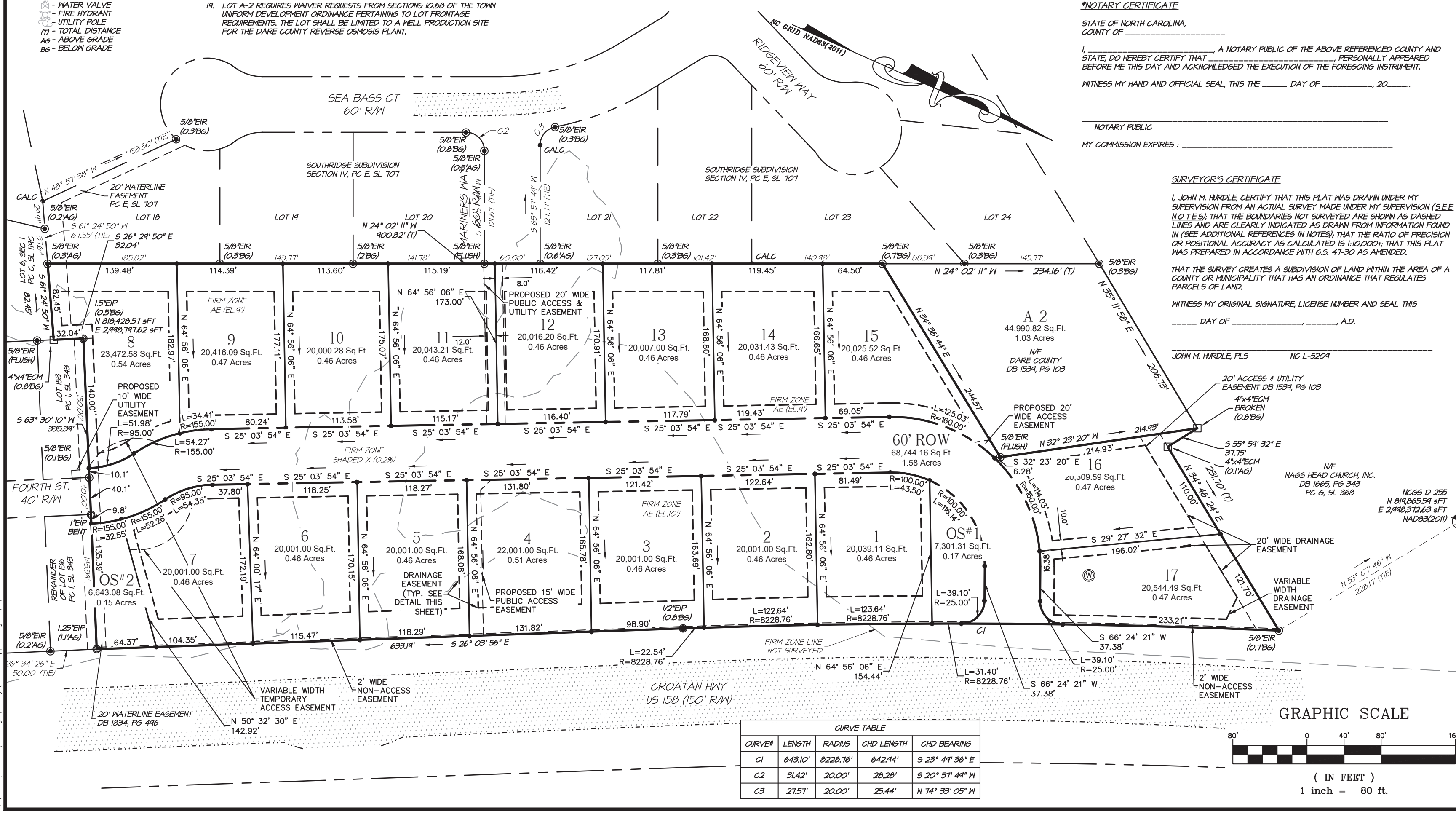
I, JOHN M. HURDLE, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (SEE NOTES); THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS DASHED LINES AND ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN (SEE ADDITIONAL REFERENCES IN NOTES); THAT THE 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-5209



CURVE TABLE				
CURVE#	LENGTH	RADIUS	CHD LENGTH	CHD BEARING
C1	643.10'	8228.76'	642.94'	S 23° 49' 36" E
C2	31.42'	20.00'	28.28'	S 20° 57' 49" W
C3	27.57'	20.00'	25.44'	N 74° 33' 05" W

NC License#: C-0208
Quible & Associates, P.C.
SINCE 1959
ENGINEERING** * CONSULTING * PLANNING
ENVIRONMENTAL SCIENCES * SURVEYING**
ENGINEERING/SURVEYING NOT OFFERED AT BLACK MTN. OFFICE
8466 CARATOKE HWY
POWELLS POINT, NC 27966
Phone: (252) 491-8147
Fax: (252) 491-8146
administrator@quible.com
90 CHURCH STREET, SUITE B
BLACK MOUNTAIN, NC 28711
Phone: (828) 793-0398
Fax: (252) 491-8146
administrator@quible.com

PRELIMINARY PLAT-NOT FOR RECORDATION, CONVEYANCES 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/CMS
DRAWN BY	JMH/CMS
CHECKED BY	MWS/JMH
ISSUE DATE	06/04/20

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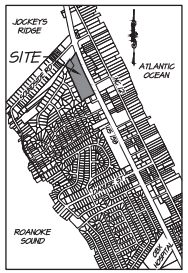
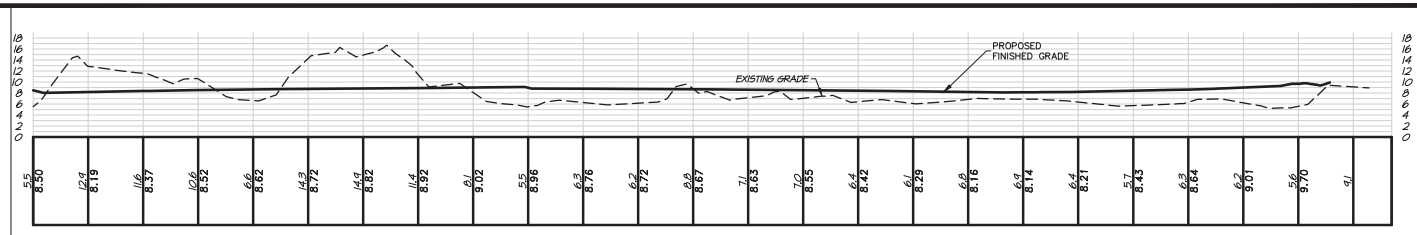


VICINITY MAP
(NTS)



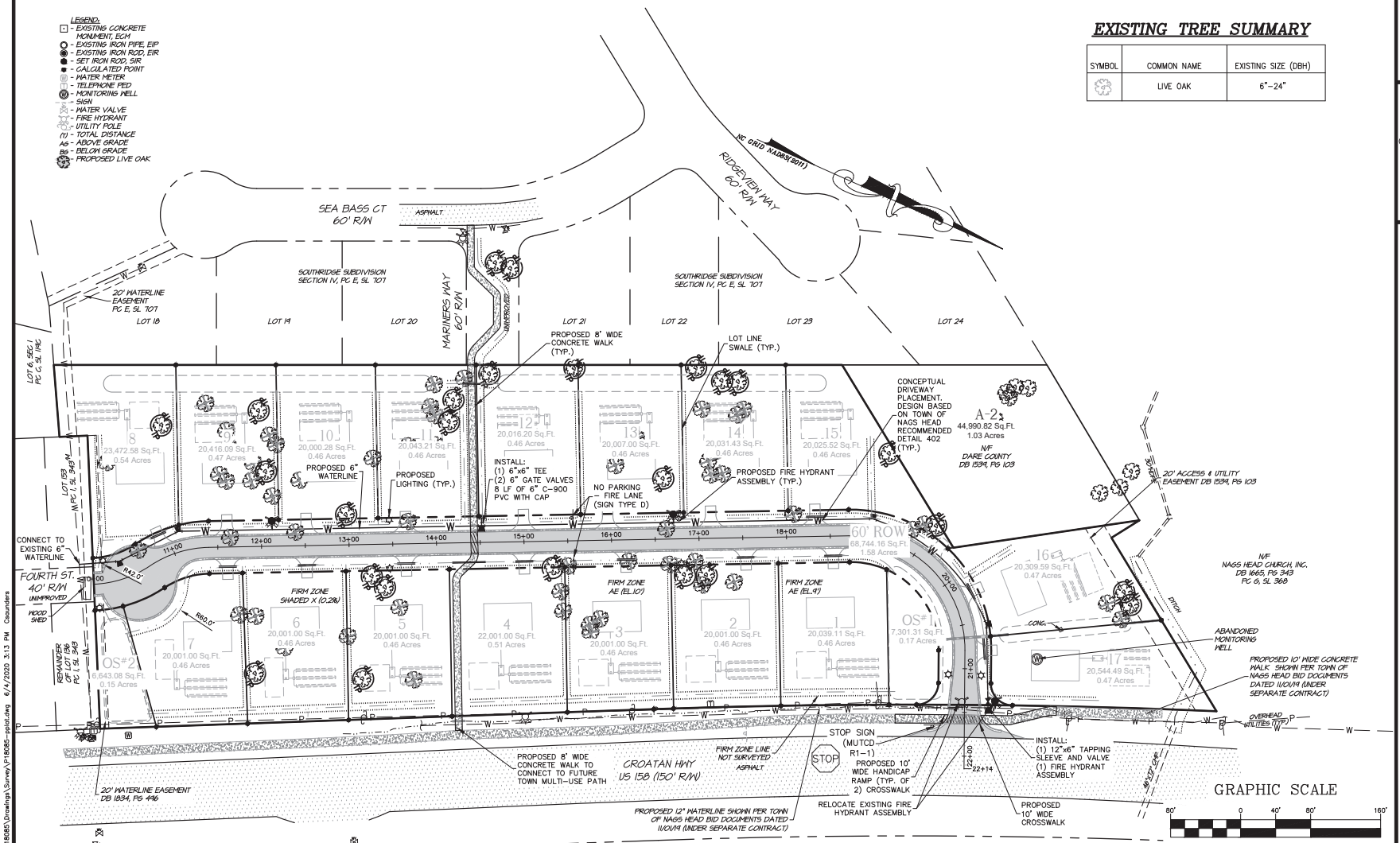
COASTAL BREEZE WAY

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"



NC License#: C-0208
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Quible & Associates, P.C.
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ENVIRONMENTAL SCIENCES * SURVEYING**
ENGINEERING/SURVEYING NOT OFFERED AT BLACK MTN. OFFICE
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Phone: (252) 491-8147
Fax: (252) 491-8146
quible@outerbanks.com
80 CHURCH STREET - SUITE B
P.O. Box 1777, Black Mtn., NC 28711
Phone: (828) 793-0398
Fax: (252) 491-8146
quibleblackmtn@quible.com

PRELIMINARY PLAT - NOT FOR RECORDATION, CONVEYANCE, OR SALES

CERTIFICATION

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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/CMS
DRAWN BY	JMH/CMS
CHECKED BY	MWS/JMH
ISSUE DATE	06/04/20

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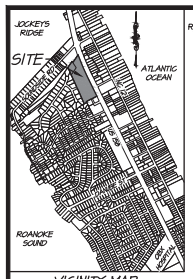
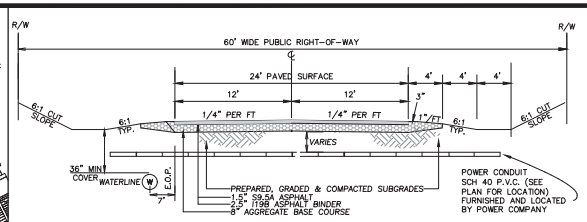


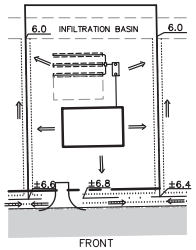
VICINITY MAP
(NTS)



COASTAL BREEZE WAY 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

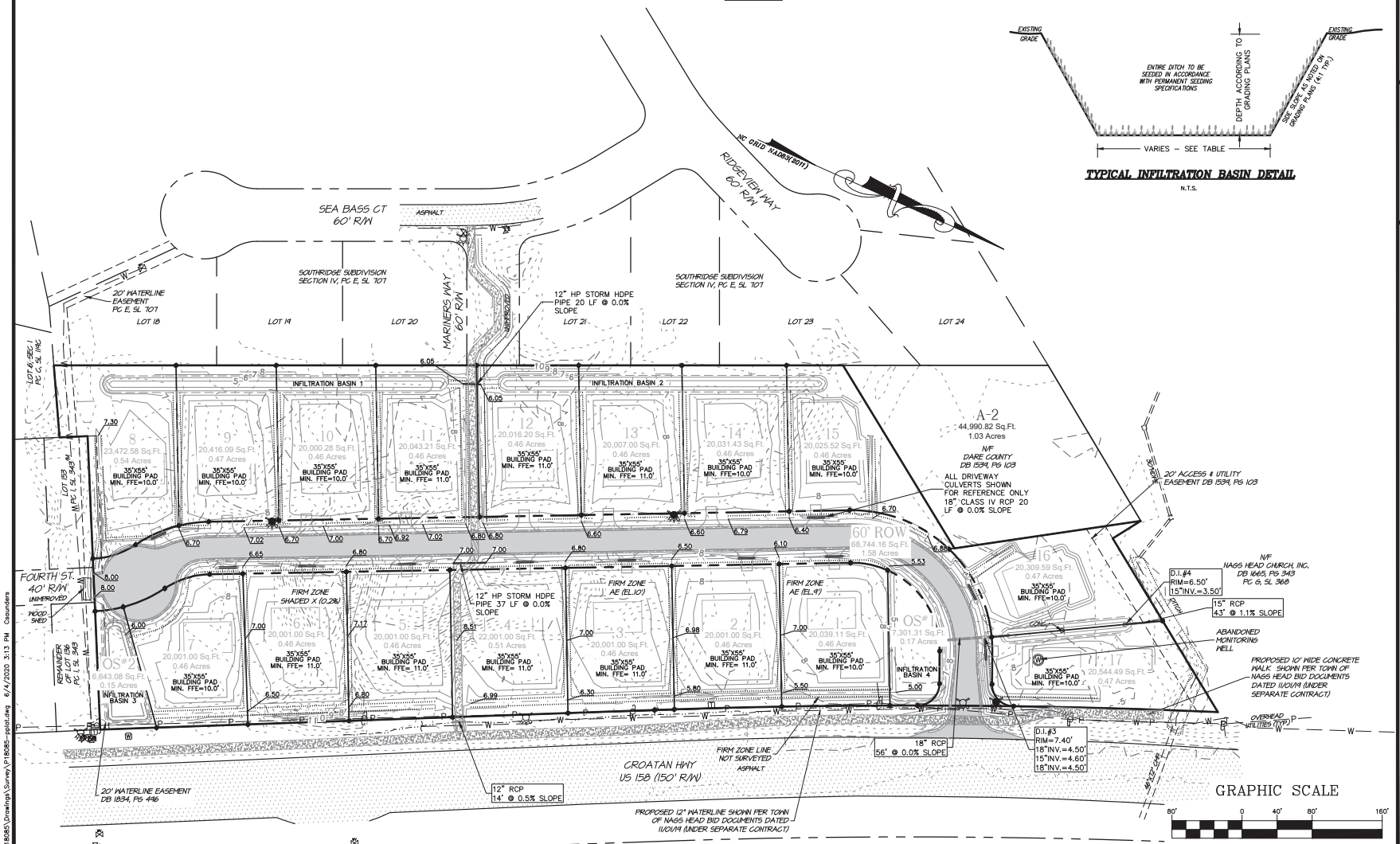
EXAMPLE LOT GRADING

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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BASS CABATONE MHP
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80 CHURCH STREET, SUITE B
BLACK MOUNTAIN, NC 28711
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Fax: (252) 491-8146
quibleandassociates@yahoo.com

PRELIMINARY
NOT FOR RECORDATION OR CONVEYANCE
PROFESSIONAL SURVEYOR
SEAL
L-4150
CARTER
CERTIFICATION

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DRAFT PRELIMINARY PLAT 3 OF 3

PARCEL A
COASTAL VILLAS

TOWN OF NAGS HEAD — DARE COUNTY — NORTH CAROLINA

COMMISSION NO.	P18085
DESIGNED BY	JMH/CMS
DRAWN BY	JMH/CMS
CHECKED BY	MWS/JMH
ISSUE DATE	06/04/20

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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

June 4, 2020

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

Re: Preliminary Plat Subdivision
Coastal Villas
S. Croatan Highway
Nags Head, Dare County, NC

Dear Mr. Zehner;
On behalf of Nags Head Construction, LLC., Quible & Associates, P.C. hereby submit the following documentation for the proposed Single-Family Subdivision located on S. Croatan Highway in Nags Head, Dare County, NC (300' south of Soundside Road and Croatan Highway). Please note the Dare County well parcel has been included with this preliminary plat. Requested waivers for the Dare County well parcel are consistent with those approved during the original preliminary plat review in February of 2004. The meeting minutes from this Board Meeting have been included for reference.

Please find enclosed the following items for the referenced project:

- Two (2) copies of the revised preliminary plat;
- Two (2) copies of the Dare County letter of support; and
- Two (2) copies of the February 2004 Board of Commissioners Meeting Minutes;

The following items were previously provided and remain unchanged. We have included one (1) copy of each for reference with this resubmittal:

- 11"x17" AutoTURN exhibits (Fire and Refuse);
- cut sheet of the proposed full cut-off fixture;
- Site Narrative;
- DRAFT Covenants.

It is understood that the applicant shall obtain State NCDEQ permits (including Stormwater, SESC, and Water) prior to disturbance onsite. These permits will be provided to the Town of Nags Head planning department once obtained as a condition of approval. In addition, NCDOT access and right-of-way encroachment agreements must be obtained and provided to Town staff. Quible reached out to NCDOT on 6/2/2020 again in an attempt to obtain NCDOT input on the proposed connection.

Please review the enclosed documentation and place us on the next available 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

COUNTY OF DARE
P.O. Box 1000, Manteo, North Carolina 27954

Robert L. Outten
County Manager
County Attorney

(252) 475-5803
fax (252) 473-1817
outten@darenc.com

June 4, 2020

Michael Zehner
Planning and Development Director
Town of Nags Head
P.O. Box 99
Nags Head, NC 27959

RE: Coastal Villas Subdivision Application

Dear Michael:

Dare County is in receipt of the proposed Draft Preliminary Plat of Parcel A Coastal Villas dated March 27, 2020 for the proposed Coastal Villas Subdivision, a copy of which is attached as Exhibit A. As you are aware, Dare County received preliminary plat approval from the Nags Head Board of Commissioners for subdivision of the parcel currently labeled as Parcel A-2 on or about February 4, 2004; however, I understand Town records indicate no final plat was submitted to nor approved by the Town. I believe the current proposed Coastal Villas plat not only comports with the conditions set by the Town's prior Board of Commissioners but also adds an additional access point to the County's well parcel by way of the proposed street and proposed access easement while preserving the access easement delineated in the County's vesting deed. We have been assured by the applicant that it will exempt Parcel A-2 from any covenants meant to apply to the proposed 17 lot subdivision and common area and do not consent to any covenants or restrictions being imposed upon the County parcel. Thus, we consent to the application as proposed and request you approve the same as the current proposed preliminary plat accomplishes the conditions approved by the Town in 2004. Dare County's consent is conditioned upon there being no change in the County's use or access to its parcel, consistent with the February 4, 2004 approval by the Town.

Sincerely

Robert L. Outten
Dare County Manager/Attorney

RLO/cca

TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION
February 4, 2004

The Town of Nags Head Board of Commissioners met in the Board Room at the Nags Head Municipal Complex at 9:00 a.m. on Wednesday, February 4, 2004.

COMRS PRESENT: Mayor Robert Muller; Mayor Pro Tem Brant Murray; Comr. Wayne Gray; and Comr. Bob Oakes

COMRS ABSENT: Comr. Anna Sadler

OTHERS PRESENT: Town Manager Webb Fuller; Town Attorney Ike McRee; Deputy Town Manager Rhonda Sommer; Charlie Cameron; Jim Northrup; Tim Wilson; Bruce Bortz; Courtney Gallop; Andy Garman; Butch Osborne; Dave Clark; Roberta Thuman; Kris Merithew; Chris Montgomery; Brad Eilert; John Ryan; Al Ward; Reggie White; Harris Burton; Brian Kennedy; Kevin Schwartz; Jeanne Acree; Chuck Blazek; Rev. Charles Gill; Dorie Fuller; Bob Walker; Kadra Bradford; Paul Royston; Harry Thompson; Neal Connolly; Ray White; Norma Mills; Jay Overton; Camille Lawrence; Pat Preston; Fran Crutchfield; Bobbie Murray; Al Hibbs; Matt Artz; Julia LeDeux; and Town Clerk Carolyn Morris

Mayor Muller called the meeting to order followed by a moment of silent medication and the pledge of allegiance.

Mayor Muller noted that Comr. Sadler was not in attendance as she was out of town on vacation; she is expected back for the March 3, 2004, Board meeting.

AUDIENCE RESPONSE – KADRA BRADFORD

Kadra Bradford, Co-president of the Dare County League of Women Voters; thanked the Board for the financial support provided for the annual Citizens Guide; the Guide is funded via generous donations from local municipalities as well as from local businesses; the Guide is free and can be picked up at various locations including post offices and libraries. Mayor Muller thanked Ms. Bradford for all the good work the League does for the community.

AUDIENCE RESPONSE – HARRY THOMPSON

Harry Thompson, Nags Head resident; commended the Planning Department for fast-tracking the modeling project on the hotels; he understands the designs will be available for viewing prior to the March 3, 2004, Board meeting; he feels staff has done an excellent job on the project.

REPORTS AND RECOMMENDATIONS FROM THE PLANNING BOARD AND THE PLANNING AND DEVELOPMENT DIRECTOR

Review of preliminary subdivision plat of parcels A-1 and A-2 (South Ridge vicinity) in conjunction with Dare County waiver requests from Sections 18-9, 18-12, and 18-113 of the Town Code of Ordinances pertaining to lot access and frontage requirements

Planning Director Tim Wilson summarized the Planning Board and Planning and Development staff memo dated January 26, 2004, which read in part as follows:

"Dare County, represented by Albemarle engineering, is seeking preliminary plat approval to create a 1.035 acre parcel of land referred to as proposed Parcel A-2 on the attached preliminary plat of subdivision. The County intends to construct a public utility facility on this property, namely an underground well production site. This well site location will be one of a series of strategically located well sites representing a comprehensive system to increase the water supply capacity being delivered to the North Reverse Osmosis Treatment Plan to meet increasing public water supply demands. The well site facility would be very similar to the well site conditional use permits the Planning Board and Board of Commissioners have recently reviewed. The proposed lots shown on the attached plat are located in the R-2 Medium Density Residential zoning district where public utility facilities are a conditional use.

'The preliminary plat as presented does not satisfy all of the subdivision requirements of Chapter 18 (Subdivision Ordinance). For those sections the plat is not in conformance with, the applicant has submitted a waiver request for consideration. In memorandum dated January 12, 2004 County Attorney Norma Mills sets forth the waivers and variances requested by the County, the reasons behind the requests, and why approval of such request would be proper under the Town Code.

'The sections of Chapter 18 from which the applicant is seeking waivers are identified and highlighted below:

'Section 18-9 prohibits the subdivision of lots without access to a public street or highway improved to Town standards. Proposed parcel A-2 would be approximately 259 feet west of the US 158 right-of-way and would not have direct contact with the highway except for a 20- foot wide access easement and utility dedicated to the county. Should the requested waiver of this section be granted, staff recommends that prior to recordation of the lots; the Town attorney shall review a written easement agreement between Dare County and Nags Head Construction and Development establishing each party's maintenance and usage rights and obligations.

'Section 18-12 prohibits new residential lots from having direct access (such as individual driveways) to any of the State highways unless a waiver is obtained. The applicant intends to construct a single driveway from US 158 to the future well site on proposed parcel A-2.

'Section 18-113 of the Town Code requires all lots within a subdivision to have a minimum of 50 feet of frontage on a public street. The proposed lot lacks any frontage on a public street and will be in essence "landlocked" and accessible from an easement only, if the waiver is granted.

'The applicant, under the provisions of Section 18-10 (attached), is hereby requesting that the Board of Commissioners grant the appropriate waivers and variances related to lot access and frontage requirements.

'Staff Analysis and Recommendation:
Planning staff, the Fire Department, Public Works Department, the Public Safety Department, and the Town Engineer have no objections to the granting of the requested waivers. Planning staff has considered this request and determined that granting it would not nullify the spirit or intent of the subdivision ordinance. In staff's opinion this proposal would have no adverse effect on the intent of the subdivision ordinance which is to provide for the "orderly, efficient and economical development of the Town", primarily because Lot A-2 would not be used for typical residential or commercial building or development purposes should the waivers be granted with the recommended conditions concerning lot access and use of property. Similarly, staff has determined that the spirit and intent of the zoning ordinance, and master land use plan would be preserved if the requested waivers were granted, as long as the lot is used in the manner intended by the applicant.

'In staff's opinion, the requested waivers should be approved in that the provision of improvements and requirements for which the waivers are being sought are not requisite to serve the public interest due to the proposed specific use of the property in question, and that the establishment of such proposed use would in fact further and serve the interests of public health and welfare by promoting improved water supply and distribution county wide. Staff has determined that due to the critical nature of the public need for more water, and the fact that suitable well sites are scarce due to the strategic nature of their locating, and evaluating such sites can be a lengthy process as well as extremely expensive for county residents and taxpayers, unnecessary hardship would result from strict compliance with Chapter 18.

'Staff therefore recommends that the waivers be granted as requested subject to the following conditions:
1. Prior to recordation of the final plat, staff shall review the language of the access easement agreement to confirm that obligations for maintenance and usage of the access road are specified for each party to the easement.
2. Prior to Board of Commissioners review, the plat shall bear a note stating that development of Lot A-2 shall be limited to a well production site for the Dare County reverse osmosis plant.
Condition #2 above has already been discussed and agreed to by the applicant and appears as Note 13 on the submitted plat. Staff's recommendation to approve the requested waivers is strongly based and dependant upon this condition.

'Accordingly, conditioned upon the approval of the waiver request is stipulated above, staff furthermore recommends approval of the preliminary plat.

'Please be advised that an action denying the waiver request would result in a denial of the preliminary plat in the plat as presented does not meet all applicable requirements of the Code. Board action on the waiver request is therefore required first in that the decision on the preliminary plat is subject to and contingent upon the decision made on the waiver.

'Planning Board Recommendation:
At their regular meeting of January 20, 2004 the Planning Board members voted unanimously to recommend approval of the requested waivers based on their concurrence with all findings and conditions as presented in staff's analysis and recommendation. The Planning Board determined that an unnecessary hardship would result from strict adherence to all requirements of Chapter 18 and it would be in the general public interest to grant the waivers as requested. The Planning Board members also voted to recommend approval of the preliminary subdivision plat with staff's

recommended conditions. As the Planning Board's discussion of this item concluded, Albemarle Engineering, on behalf of the applicant, expressed agreement with and acceptance of the recommended conditions."

MOTION: Mayor Pro Tem Murray made a motion that the Board finds that extraordinary conditions exist to justify the granting of the existing waivers on the following condition – to be applied to the subdivision plat:

- Prior to recordation of the final plat, staff shall review the language of the access easement agreement to confirm that obligations for maintenance and usage of the access road are specified for each party to the easement.

The motion was seconded by Comr. Oakes which passed 4 – 0 (Comr. Sadler was absent.).

Mayor Muller reported that this Board action completes the process. He recognized and introduced Doug Langford in the audience who he stated has been the lead agent in obtaining well sites for Dare County and has worked long and hard on this and other well site procurements. In addition, Mayor Muller thanked Dare County attorney Norma Mills for her assistance.

NEW BUSINESS

Consideration of grant request from Jennette's Pier for environmental educational programs

Mayor Muller welcomed Neal Conolly, Executive Director of the NC Aquarium Society and Ray White, NC Aquarium Society Board member to the meeting.

Ray White, NC Aquarium Society Board member; he thanked the Board for last year's grant which enabled the Aquarium to procure educational programs, hold special events, upgrade classrooms, install exhibits, hire part-time exhibitors and publicize those events; he requested this year's grant and explained that the arcades have been removed in order to install more on-hand types of educational operations in that room.

Neal Conolly, Executive Director of the NC Aquarium Society; the Aquarium Society Board voted to proceed in concept with the rebuilding of the pier and they are looking at constructing it to its original length of 740 feet; the pier house will open the first of May with educational exhibits and programs in conjunction with the Aquarium; they are in the process of developing partnerships with other agencies across North Carolina such as the Girl and Boy Scouts; they are also continuing to work on preparation of a Memorandum of Understanding (MOU) with all agencies involved.

Town Manager Fuller reported that some repair structural work will be done in the next two (2) weeks on the pier house; in addition, the contract has recently been renegotiated for the use of the buildings for the seasonal lifeguards.

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

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

Appendix B – On-site Wastewater Evaluation and Well Documentation

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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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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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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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Web: www.quible.com

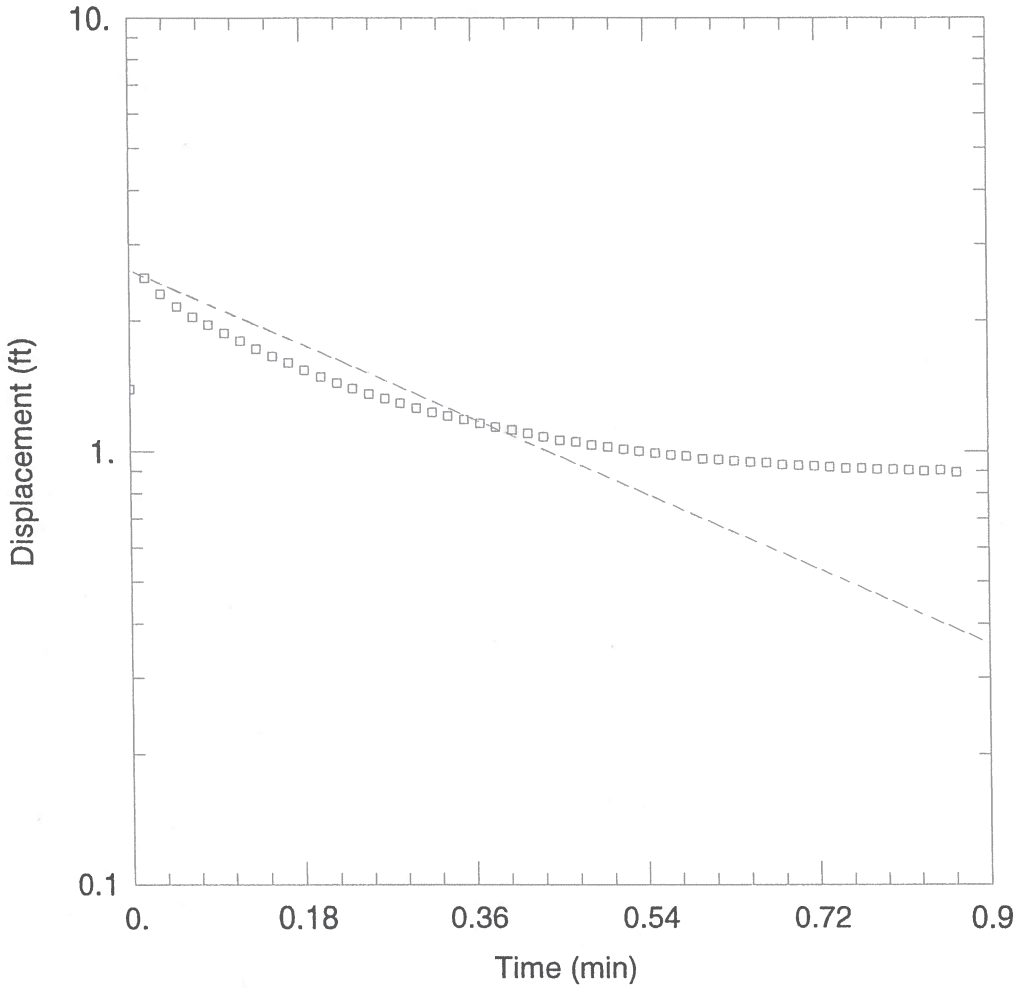
SOIL BORING LOG

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

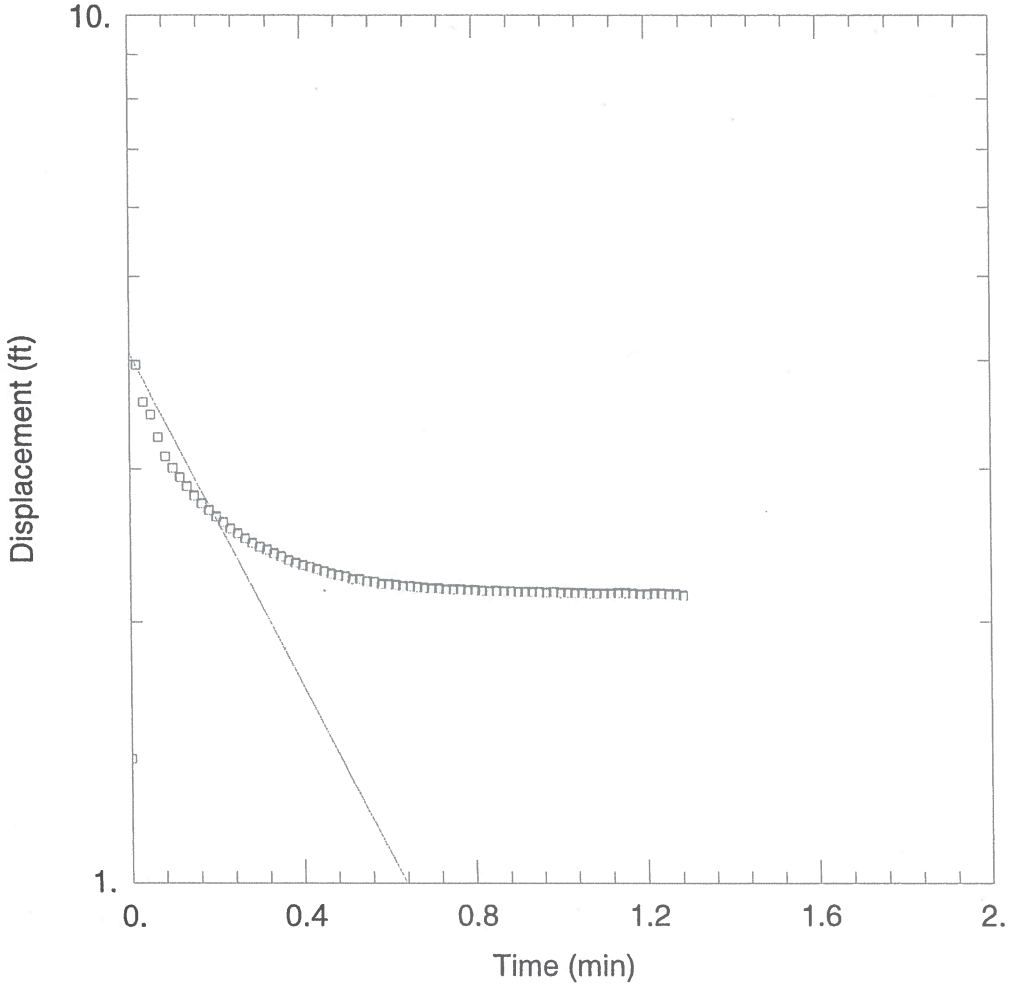
Slug Test
Aquifer Model: Unconfined
Solution Method: Bouwer-Rice
ln(Re/rw): 1.383

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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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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PRELIMINARY PLAT NOT FOR RECORDATION CONVEYANCE OR SALE
CERTIFICATION

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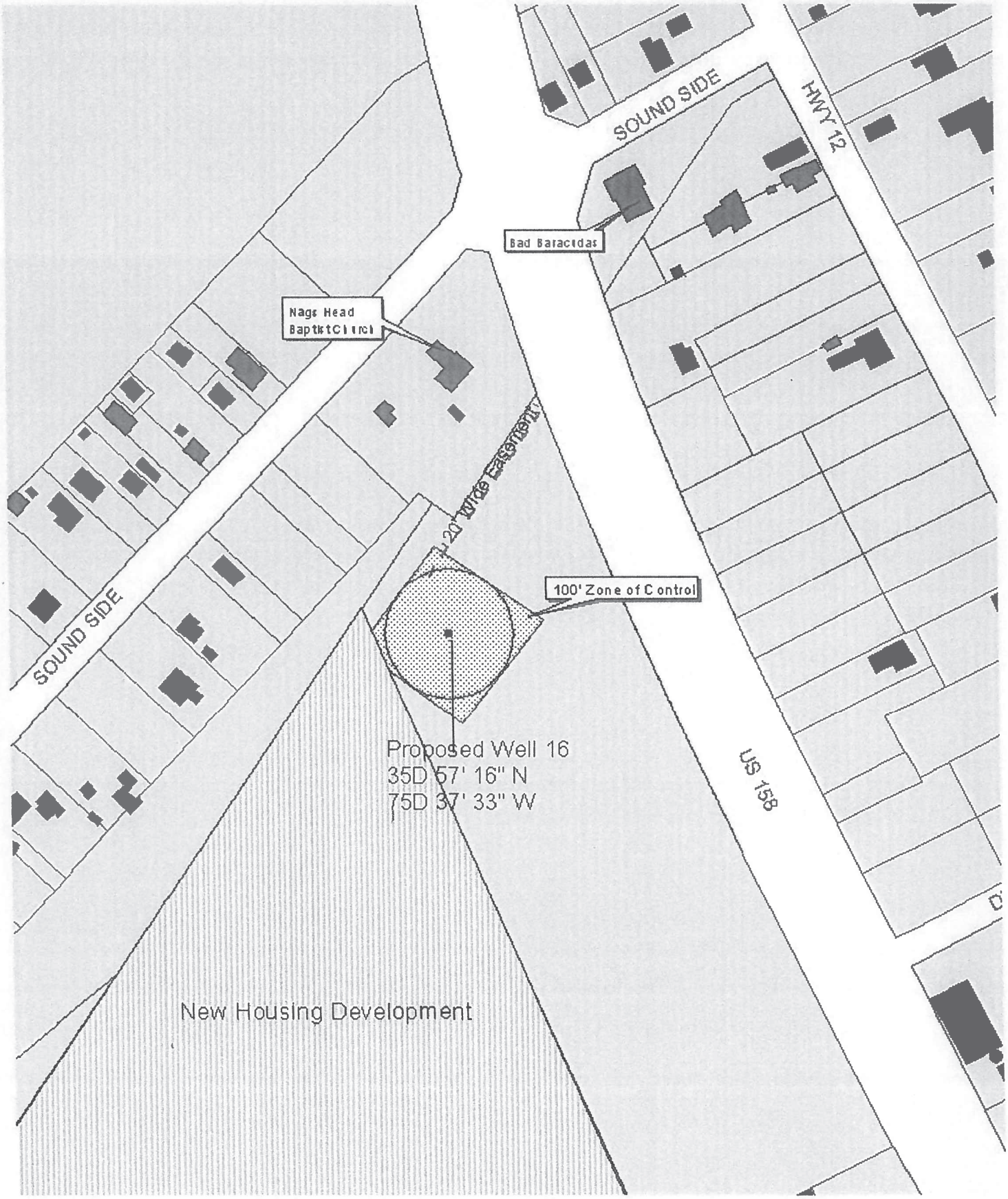
SUBDIVISION SKETCH

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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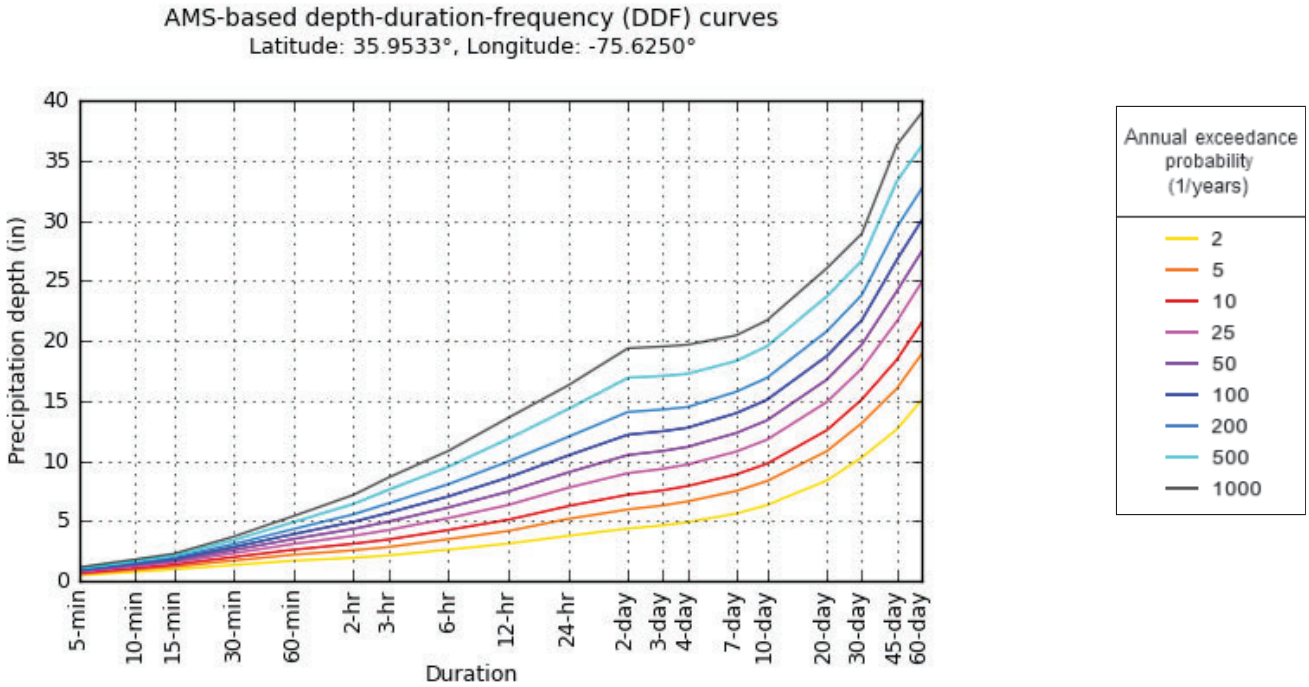
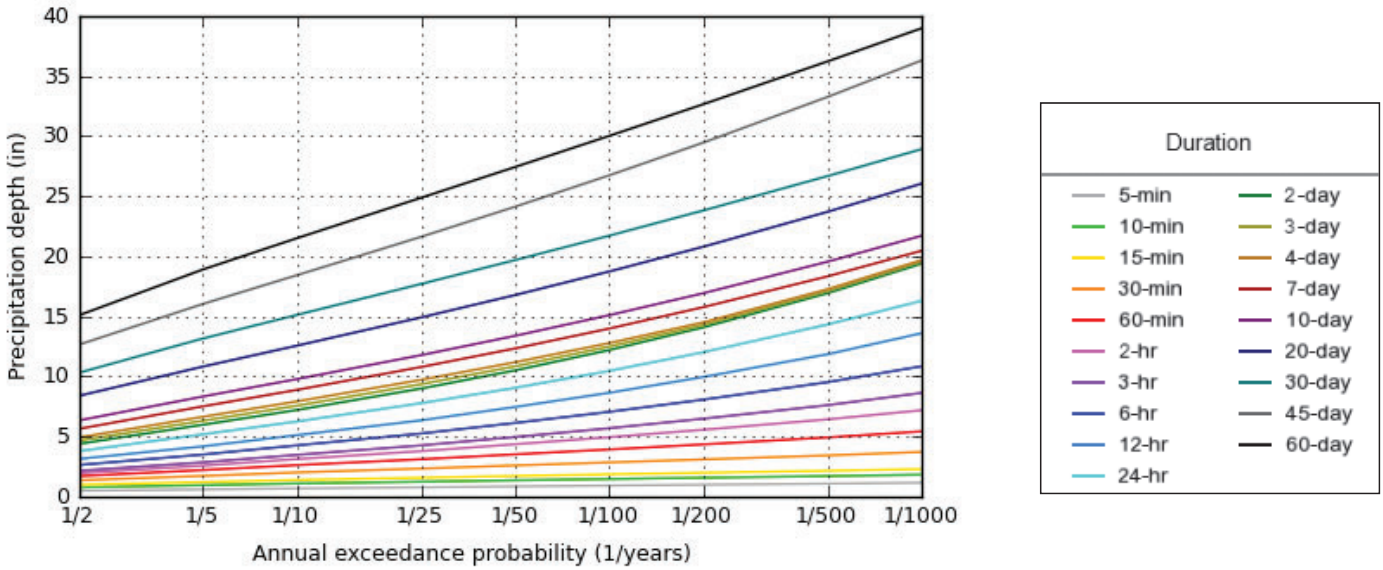
PF graphical





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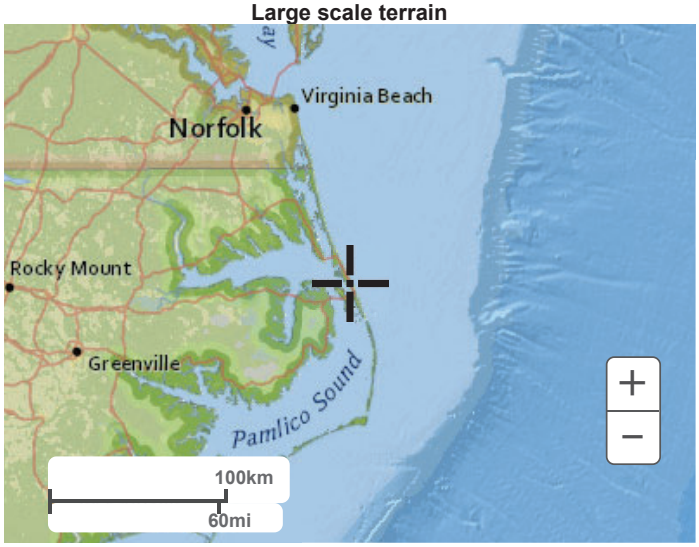
Maps & aerials

Small scale terrain

Large scale terrain



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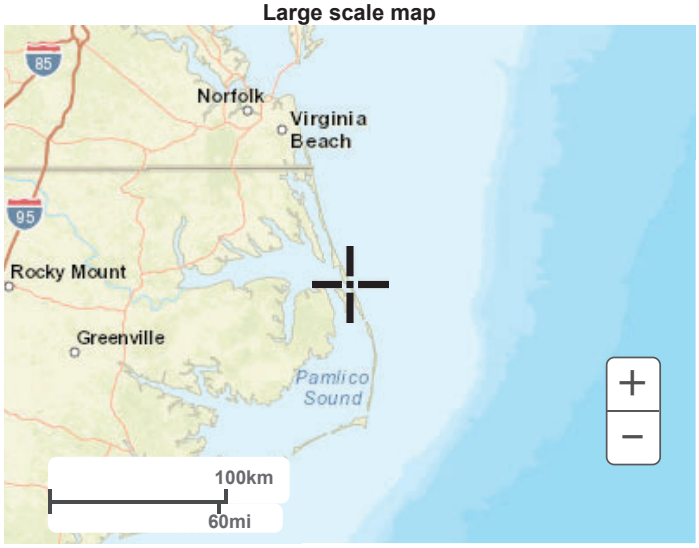
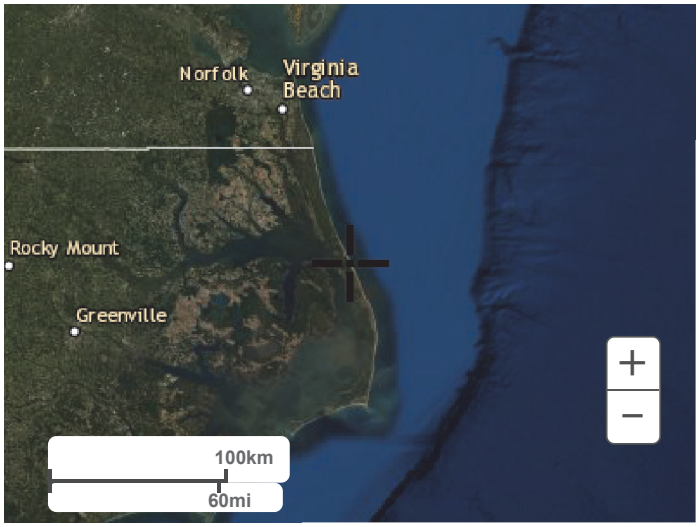


Large scale aerial



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US Department of Commerce
National Oceanic and Atmospheric Administration
National Weather Service
National Water Center
1325 East West Highway
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

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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.

Please refer to NOAA Atlas 14 document for more information.

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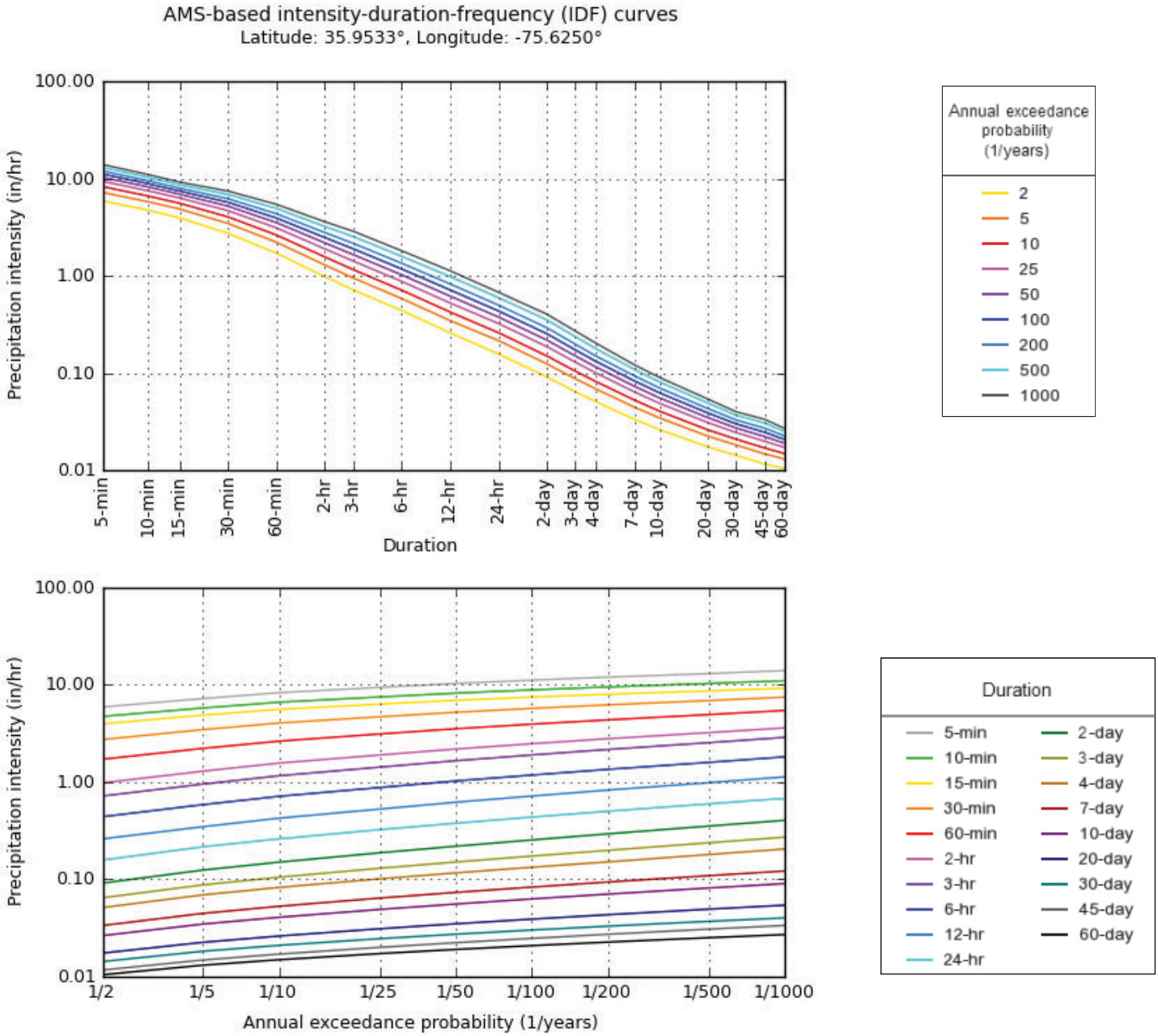
PF graphical



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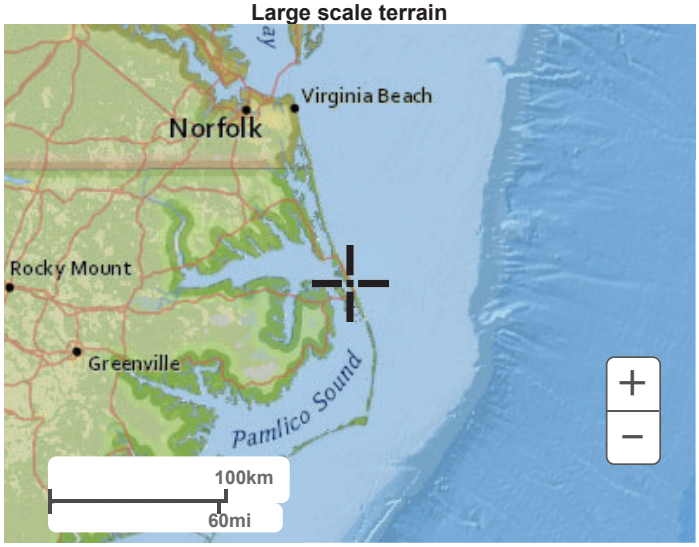
Maps & aerials

Small scale terrain

Large scale terrain



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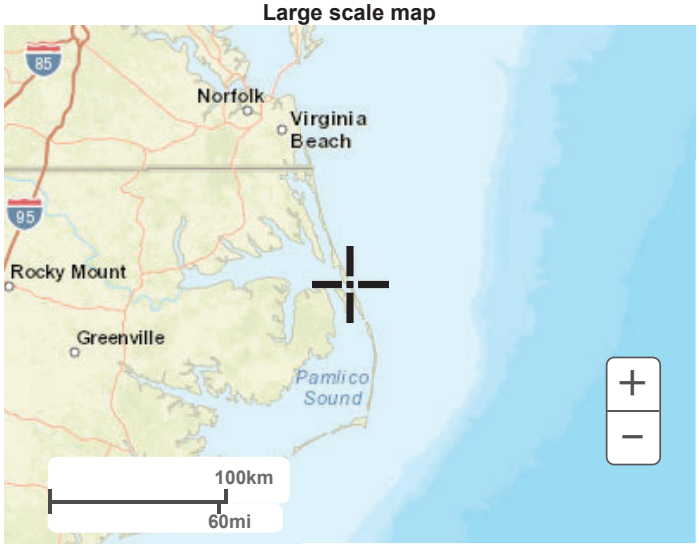
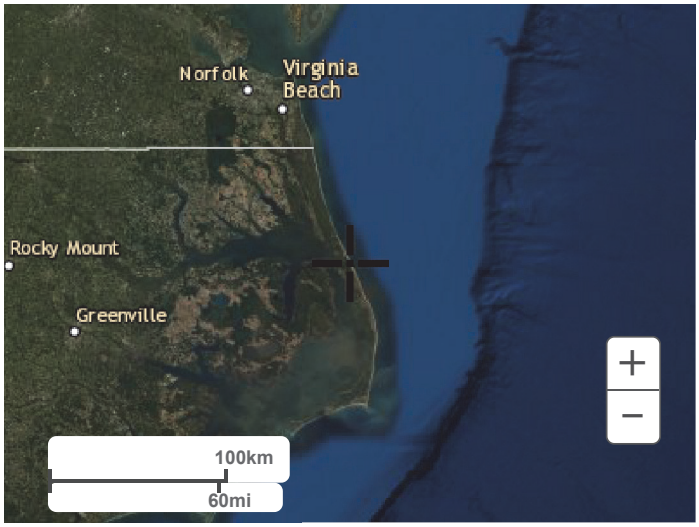


Large scale aerial



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US Department of Commerce
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

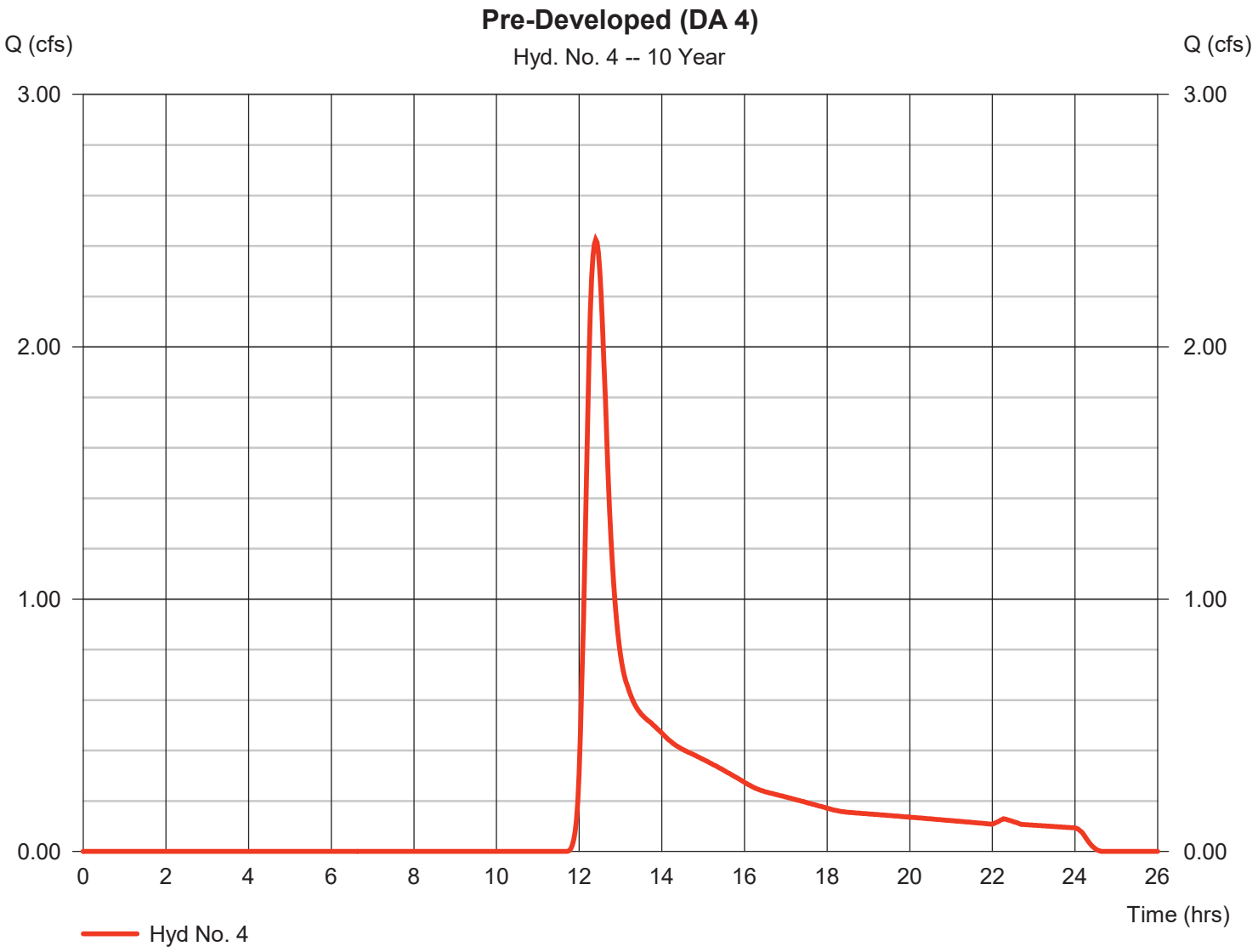
Hydrograph Report

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



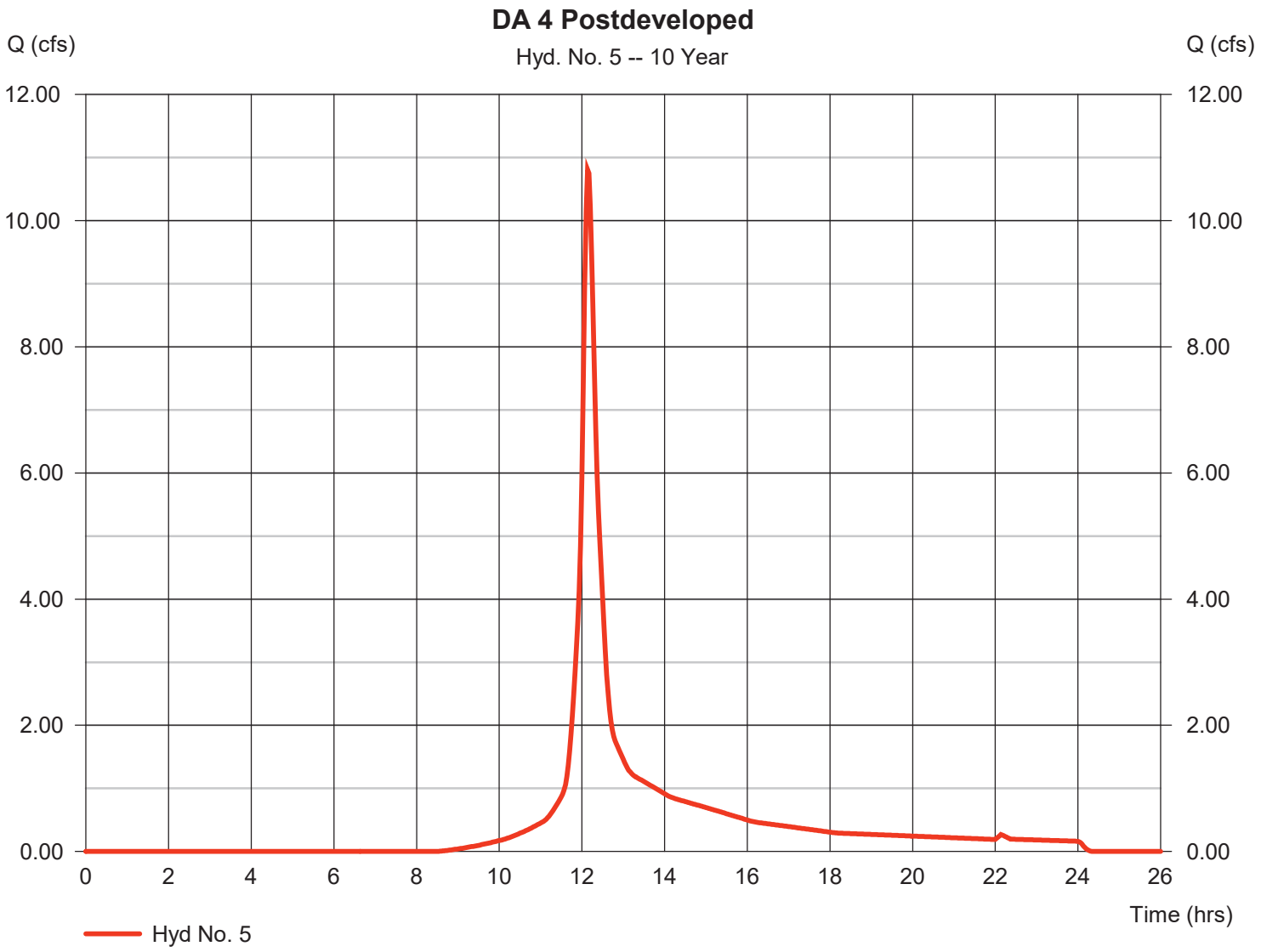
Hydrograph Report

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

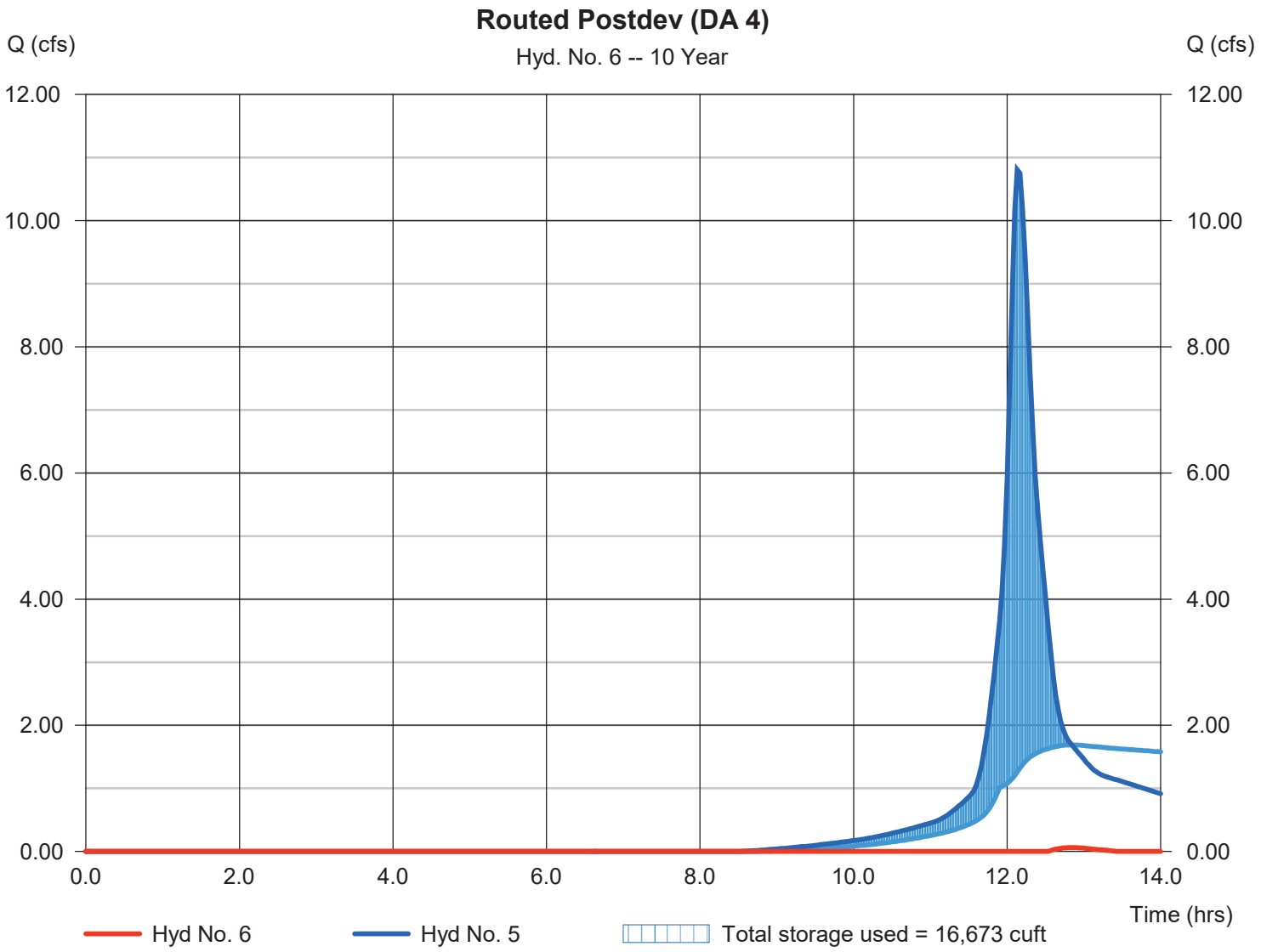
Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2020 Thursday, 03 / 26 / 2020

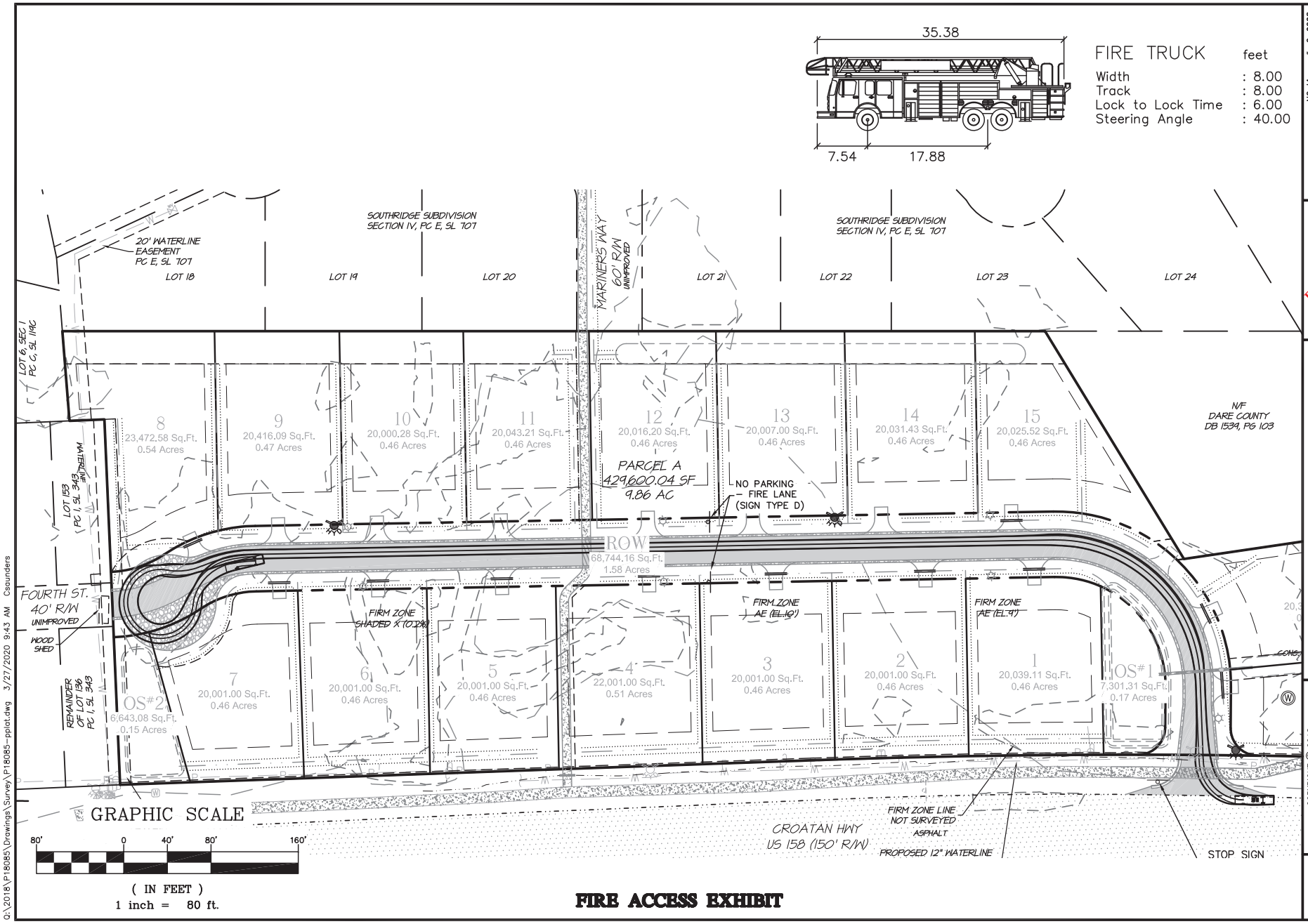
Hyd. No. 6

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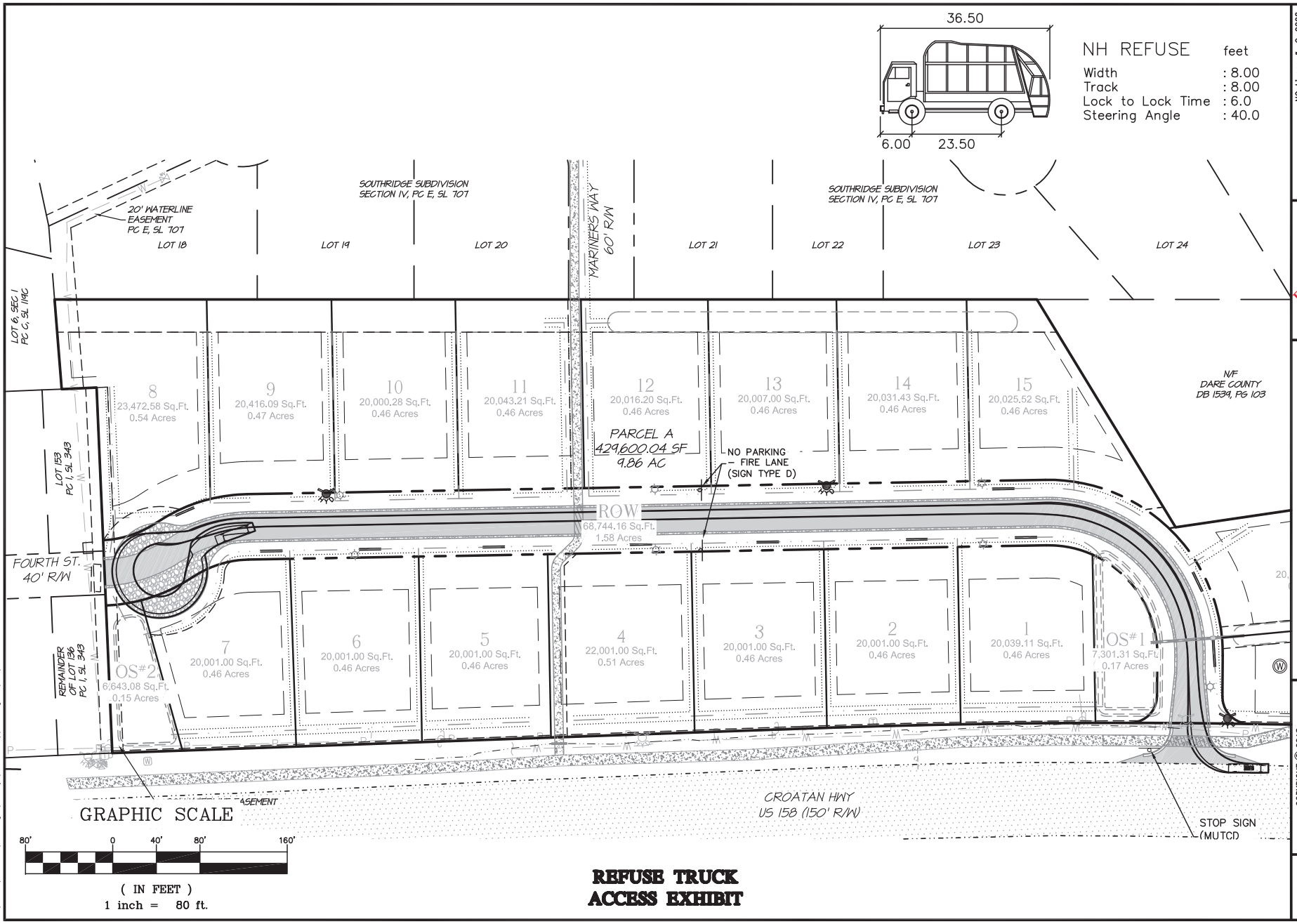
PROJECT	DRAWN BY	CHECKED BY	DATE
P18085	CMS	CMS	03/27/20



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0 SCALE 1X SCALE 2X
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PROJECT	P18085
DRAWN BY	CMS
CHECKED BY	CMS
DATE	03/27/20

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Cobra

The Cobra style fixture is an Enclosed Flat Lens luminaire that provides a full cut-off distribution for lighting residential roadways and smaller parking areas.

Comparable HID Wattage	Finish Color	Initial Lamp Lumens	Lighting Pattern	Correlated Color Temperature (CCT)	Input Wattage	Billing Tier	Basic / Premium	Recommended Mounting Height (ft.)	BUG Rating	Luminaire Stock #	WMIS CU Code
70	Black	3300	Type II	3000K	28	1	Basic	25	1-0-1	42323677	LEDCOXX0323BXXX
70	Black	3300	Type III	3000K	28	1	Basic	25	1-0-1	42323678	LEDCOXX0333BXXX
70	Gray	3300	Type II	3000K	28	1	Basic	25	1-0-1	42323675	LEDCOXX0323GXXX
70	Gray	3300	Type III	3000K	28	1	Basic	25	1-0-1	42323676	LEDCOXX0333GXXX
70	Black	3300	Type II	4000K	26	1	Basic	25	1-0-1	42315803	LEDCOXX0324BXXX
70	Black	3300	Type III	4000K	26	1	Basic	25	1-0-1	42315806	LEDCOXX0334BXXX
70	Gray	3300	Type II	4000K	26	1	Basic	25	1-0-1	42315902	LEDCOXX0324GXXX
70	Gray	3300	Type III	4000K	26	1	Basic	25	1-0-1	42315903	LEDCOXX0334GXXX
100	Black	5000	Type II	3000K	45	2	Basic	25 - 30	1-0-2	42323681	LEDCOXX0523BXXX
100	Black	5000	Type III	3000K	45	2	Basic	25 - 30	1-0-2	42323682	LEDCOXX0533BXXX
100	Gray	5000	Type II	3000K	45	2	Basic	25 - 30	1-0-2	42323679	LEDCOXX0523GXXX
100	Gray	5000	Type III	3000K	45	2	Basic	25 - 30	1-0-2	42323680	LEDCOXX0533GXXX
100	Black	5000	Type II	4000K	41	2	Basic	25 - 30	1-0-2	42315804	LEDCOXX0524BXXX
100	Black	5000	Type III	4000K	41	2	Basic	25 - 30	1-0-2	42315807	LEDCOXX0534BXXX
100	Gray	5000	Type II	4000K	41	2	Basic	25 - 30	1-0-2	42315896	LEDCOXX0524GXXX
100	Gray	5000	Type III	4000K	41	2	Basic	25 - 30	1-0-2	42315897	LEDCOXX0534GXXX
150	Black	9125	Type II	3000K	83	3	Basic	25 - 30	2-0-2	42323685	LEDCOXX0823BXXX
150	Black	9125	Type III	3000K	83	3	Basic	25 - 30	2-0-2	42323686	LEDCOXX0833BXXX
150	Gray	9125	Type II	3000K	83	3	Basic	25 - 30	2-0-2	42323683	LEDCOXX0823GXXX
150	Gray	9125	Type III	3000K	83	3	Basic	25 - 30	2-0-2	42323684	LEDCOXX0833GXXX
150	Black	9125	Type II	4000K	76	3	Basic	25 - 30	2-0-2	42315805	LEDCOXX0824BXXX
150	Black	9125	Type III	4000K	76	3	Basic	25 - 30	2-0-2	42315808	LEDCOXX0834BXXX
150	Gray	9125	Type II	4000K	76	3	Basic	25 - 30	2-0-2	42315898	LEDCOXX0824GXXX
150	Gray	9125	Type III	4000K	76	3	Basic	25 - 30	2-0-2	42315899	LEDCOXX0834GXXX
250	Gray	14575	Type III	3000K	136	5	Basic	30 - 35	3-0-3	42329814	LEDCOXX1533GXXX
250	Gray	14575	Type III	4000K	125	5	Basic	30 - 35	3-0-3	42315900	LEDCOXX1534GXXX
400	Gray	23800	Type III	3000K	223	8	Basic	30 - 40	3-0-5	42329816	LEDCOXX2233GXXX
400	Gray	23800	Type III	4000K	201	7	Basic	30 - 40	3-0-5	42315901	LEDCOXX2234GXXX
1000	Gray	28800	Type III	3000K	244	9	Basic	35 - 40	3-0-5	42330027	LEDCOXX3033GXXX
1000	Gray	31100	Type III	4000K	244	9	Basic	35 - 40	3-0-5	42315895	LEDCOXX3034GXXX
250 (480V)	Gray	14575	Type III	4000K	136	5	Basic	30 - 35	3-0-3	42330028	LEDCOXX1534G4XX
400 (480V)	Gray	23800	Type III	4000K	223	8	Basic	30 - 40	3-0-5	42330029	LEDCOXX2234G4XX

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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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

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: June 12, 2020

Subject: Consideration of a text amendment to allow "Real Estate Rental Management Facility" as a Conditional Use within the C-2, General Commercial Zoning District.

OVERVIEW

Cahoon and Kasten Architects, PC has submitted the attached text amendment application on behalf of Sumit Gupta of Legacy Home Services Inc. If adopted, this text amendment would amend the Unified Development Ordinance ("UDO") to permit the use "Real Estate Rental Management Facility" as a conditional use within the C-2, General Commercial Zoning District. While it is important to remember that text amendments are not site specific, this text amendment has been proposed with the intent to seek a conditional use permit for this use to be conducted in an existing structure located at 205 East Baltic Street (His Dream Center) and situated within the C-2, Commercial Services Zoning District; this application has been filed and is expected to come before the Planning Board for review and recommendation in July.

BACKGROUND

The "Real Estate Rental Management Facility" use was first established as a use permitted by-right within the C-3, Commercial Services Zoning District, in December 2006. At that time, a definition was established, along with a parking standard and buffering requirements. The definition of "Real Estate Rental Management Facility" is as follows:

> *<u>Real estate rental management facility</u> means a building containing those uses, including but not limited to, administrative offices and warehouse/storage areas for the convenience, maintenance, housekeeping and service of rental homes and properties.*

The existing parking standard for this use is as follows:

Service	Real Estate Rental Management Facility	One parking space for each 200 square feet of office space plus 1 space for each employee affiliated with any real estate rental management facility with a minimum of 2 spaces.

Additionally, when originally adopted into the code, the use of Real Estate Rental Management Facility was determined to be a “High Impact Use”. High impact uses are particular uses of land, which considered as a whole because of their peculiar or operational and physical characteristics are expected to have an adverse effect on adjoining or adjacent properties.

The intent of the C-3, Commercial Services Zoning District, is to provide standards for higher intensity land uses that are not compatible in other areas of the Town. The commercial services district accommodates utilities, light industrial uses, warehousing, bulk storage, municipal facilities, studios (dance, martial arts, etc.), and commercial service buildings (20,000 square feet or less). It is also the intent of the C-3 District to regulate and buffer such uses so that their location will not be detrimental to adjacent uses, the environment, and sources of potable water. For this reason, in 2006, this use was approved as a permitted use within the C-3 Commercial Services District.

The intent of the C-2, General Commercial Zoning District, where this use is being proposed as a conditional use, is to foster a thriving commercial business community with a variety of uses, activities and scales. This district represents areas that are anticipated to have future concentrations of uses that serve as destinations or hubs of activity for the Town and are appropriate for shopping centers or larger footprint retail stores. The applicant, recognizing the different intents of the two districts, as well as their locations within the Town, has suggested that this amendment be taken under consideration as a conditional use versus a permitted use, so as to provide the Planning Board and Board of Commissioners an opportunity to consider the placement of appropriate standards upon the use.

The applicant has provided a detailed outline of the requested text amendment within the attached application including what is considered to be similar land uses currently permitted within the C-2, Zoning District as well as possible site and design standards to ensure compatibility with the C-2 District and adjoining land uses.

POLICY CONSIDERATIONS

The Town’s Comprehensive Plan includes the following policies and actions related to the requested text amendment:

LU-9; pg. 3-20 – 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.

LU-10; pg. 3-20 – Discourage high intensity land uses that produce significant noise, light, heavy vehicle traffic, noxious fumes or poor air quality, are unsightly, encourage unsafe behavior, or require large amounts of land for heavy industrial uses, processing, or storage of materials or equipment.

> LU-10a: Evaluate land uses specified in each zoning district and further clarify which uses are appropriate based on the intent of each district, their overall compatibility with current land uses, and desired future development patterns.
>
> LU-10b: Maintain the current boundaries of the C-3 District and do not expand these uses to other parts of the town.

EC-1; pg. 3-117 – Develop and promote a sustainable economy that supports a high quality of life for residents and visitors without compromising the integrity of natural and cultural resources and a sense of place.

EC-3; pg. 3-117 – Meet the infrastructure and service needs of the community at appropriate levels as the community continues to grow.

EC-5; pg. 3-122 – 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-8; pg. 3-123 – Enhance economic health and increase employment opportunities through business retention and expansion.

STAFF RECOMMENDATION

In review of this text amendment application Staff would submit that while this use is compatible with the intent outlined for the C-3 Commercial Services, it is likely not compatible with the intent of the C-2, Commercial Services District. Additionally, Staff is of the opinion that the allowance of this use within the C-2 zoning district would be inconsistent with applicable policies contained in the Comprehensive Plan. Therefore, Staff recommends denial of the text amendment as proposed. If the Planning Board is inclined to recommend adoption of the text amendment, Staff would recommend consideration be given to incorporating the following standards and criteria for this use within the C-2 zoning district:

- Real Estate Rental Management Facility shall not be located upon a lot having frontage on NC 12, Virginia Dare Trail. (The applicant noted this potential restriction in the application)

- Real Estate Rental Management Facility shall not be located upon a lot with a lot area less than 20,000 square feet.

- Whether as a new use or a change of use, Real Estate Rental Management Facility must adhere to the buffering requirements of 10.93, Landscaping, Buffering, and Vegetation Preservation and specifically Section 10.93.3.2, Commercial Transitional Protective Yards and 10.93.3.3, High Impact Uses.

- This use shall adhere to hours of operation consistent with Article III of the Town Code, Noise Ordinance such that no activity shall occur between the hours of 11:00pm and 7:00am.

- Outdoor storage of materials or equipment shall be prohibited.

- Given the warehouse type nature of a facility such as a Rental Management Facility, freestanding signage and wall signage shall be kept to a minimum, not to exceed 32 square feet for freestanding signage and no more than 10 percent of the wall area.

- The use shall adhere to low-level of activity lighting standards as referenced in Section 10.37, Specific Lighting Application Standards.

Attachments: Application from Cahoon and Kasten Architects, PC.

(DRAFT)
AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO "REAL ESTATE RENTAL MANAGEMENT FACILITY" WITHIN THE C-2 ZONING DISTRICT.

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 submitted requesting consideration be given to permitting the use "Real Estate Rental Management Facility" as a conditional use 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 direct new commercial growth into neighborhood commercial nodes, activity centers, or areas currently zoned for commercial development with emphasis on reuse of existing structures.

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	Real Estate Rental Management Facility						CS	P	

PART II. That **Section 7.22A, Real Estate Rental Management Facility,** be added as follows:

Section 7.22A – Real Estate Rental Management Facility.

Real Estate Rental Management Facilities are permitted in accordance with Section 6.6, Table of Uses and Activities, provided that the following additional requirements and conditions are met:

7.22A.1 Shall not be located upon any lot having frontage on NC 12, S. Virginia Dare Trail.

7.22A.2 Shall not be located upon a lot with a total lot area less than 20,000 square feet.

7.22A.3 Whether as a new use or a change of use, shall adhere to the buffering requirements of 10.93, Landscaping, Buffering and Vegetation Preservation and specifically Section 10.93.3.2, Commercial Transitional Protective Yards and 10.93.3.3, High Impact Uses.

7.22A.4 Shall adhere to hours of operation consistent with Article III of the Town Code, Noise Ordinance such that no activity shall occur between the hours of 11:00pm and 7:00am.

7.22.5 Outdoor storage of materials or equipment shall be prohibited.

7.22.6 Given the warehouse type nature of this facility, freestanding and wall signage shall be minimized. Freestanding signage shall not exceed thirty-two (32) square feet in area and shall not exceed twelve (12) feet in height above street grade. Wall signage shall not exceed ten (10) percent of the exposed finished wall surface are including openings on the wall where it is placed.

7.22.7 Shall adhere to the low-level of activity lighting standards set forth in Section 10.37, Specific Lighting Application Standards.

PART III. 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

ZONING AMENDMENT APPLICATION
TOWN OF NAGS HEAD, NORTH CAROLINA

Applicant Ben Cahoon as Agent for Sumit Gupta.

Mailing address 118 W. Wood Hill Drive, Nags Head, NC 27959

Explanation of request

[X] Zoning Ordinance - Section(s) Section 6.6
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
To add "Real Estate Rental Management Facility" as a conditional use in the C-2 Zoning District.
See attached memo.

Reason for request
The owner's property is ideally configured for this use, but lies within the C-2 district. The use is not incompatible with the District.
See attached memo.

Ben Cahoon.
Applicant

6/10/2020
Date

cahoon+kasten
ARCHITECTS

MEMORANDUM

To: Michael Zehner
Planning Director
Town of Nags Head
From: Ben Cahoon, AIA
Cahoon and Kasten Architects, PC
Date: June 10, 2020
Re: Legacy Home Services
Proposed Real estate rental management facility in the C-2 Zoning District
205 East Baltic Street

Michael:

As you are aware the owner of the property at 205 East Baltic Street wishes to establish and operate there a "Real estate rental management facility" as defined by the Unified Development Ordinance. That definition is:

Real estate rental management facility means a building containing those uses, including but not limited to, administrative offices and warehouse/storage areas for the convenience, maintenance, housekeeping and service of rental homes and properties.

This is a Change of Use as defined in Section 1.4.3. As further outlined in this memo the owner wishes to obtain a Conditional Use Permit for this use.

1.4.3. Except as hereinafter provided, no building or structure shall be erected, moved, altered, or extended, and no land, building, or structure or part thereof shall be occupied or used unless in conformity with the regulations specified for the district in which it is located. Additionally, no use of land shall be initiated or changed and no building or other structure shall be erected, moved, added to or structurally altered without having either a conditional use permit approved by the Board of Commissioners as provided for under Section 3.8, Conditional Use Permits, or a zoning permit approved and issued by the UDO Administrator.

This property is located in the C-2 Zoning District as indicated by the black square on the map below.

118 WEST WOODHILL DRIVE • NAGS HEAD, NORTH CAROLINA 27959 252.441.0271 P 252.441.8724 F obxarchitects.com

However, in the Table of Uses and Activities in Section 6.6 a "Real Estate Rental Management Facility" is not permitted in the C-2 District.

			Residential Districts			Commercial Districts				
	Use Category/Class	Use Type	R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4
3	Service	Car Washes (Automated and Self-Service)						CS		
3	Service	Carpet Sales and Installation							P	
3	Service	Child Care Facility, Child Care Center					CS	CS		
3	Service	Dry Cleaners and Laundromats (Pickup only)					P	P		
3	Service	Fire Safety Equipment Sales and Service							P	
3	Service	Food Bank						CS		
3	Service	Fueling Station						CS		
3	Service	Funeral Home						P		
3	Service	Group Fitness- Aerobics/Dance/Karate/Yoga					P	P	P	P
3	Service	Hair Salon					P	P		P
3	Service	Indoor Fitness/Gymnasium					P	P	P	P
3	Service	Indoor Public Assembly Facility				C	P	P		P
3	Service	Locksmiths						P	P	
3	Service	Massage and Bodywork Therapy					PS	PS		PS
3	Service	Metaphysical Wellness Services						CS		
3	Service	Parking Lots					P	P		
3	Service	Real Estate Rental Management Facility							P	

Therefore as an agent of the owner and at their direction, Cahoon and Kasten Architects hereby makes application, in accordance with Section 3.5.1, to add (by zoning text amendment) "Real Estate Rental Management Facility" to Conditional Uses in the C-2 Zoning District.

3.5.1. Procedure. The Board of Commissioners may by ordinance amend, supplement, change, modify or repeal the regulations and maps of this UDO after public notice and hearing and compliance with any other applicable rules prescribed in this UDO. Such amendment may be initiated by motion of the Board of Commissioners, by motion of the Planning Board, or by application by any person within the zoning jurisdiction of the Town. A person submitting application for a zoning map amendment must be the owner, or an agent of the owner with the owner's written consent, of the property which is the subject of the proposed zoning map amendment. A notice of the hearing shall be given in accordance with Section 3.4, Notice of Hearing. As used in this section, "comprehensive plan" includes a unified development ordinance and any other officially adopted plan that is applicable. 3.5.2. Action by Applicant. The following action shall be taken by the applicant:3.5.2.1.For any proposed text amendment, the application shall provide the name(s) and address(es) of the applicant(s)and the actual text of the proposed amendment in a form such that one can determine what provisions of this UDO will be changed and how they will be changed by the amendment.

The name and address of the Applicant are:

Sumit Gupta
Legacy Home Services, Inc.
205 East Baltic Street
Nags Head, NC 27959

The actual text of the proposed amendment is to insert the letter "C" into the Use table as shown below:

SECTION 6.6 TABLE OF USES AND ACTIVITIES.

P - Permitted Use C - Conditional Use S - Supplemental Regulations

			Residential Districts			Commercial Districts				
	Use Category/Class	Use Type	R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4
3	Service	Car Washes (Automated and Self-Service)						CS		
3	Service	Carpet Sales and Installation							P	
3	Service	Child Care Facility, Child Care Center					CS	CS		
3	Service	Dry Cleaners and Laundromats (Pickup only)					P	P		
3	Service	Fire Safety Equipment Sales and Service							P	
3	Service	Food Bank						CS		
3	Service	Fueling Station						CS		
3	Service	Funeral Home						P		
3	Service	Group Fitness- Aerobics/Dance/Karate/Yoga					P	P	P	P
3	Service	Hair Salon					P	P		P
3	Service	Indoor Fitness/Gymnasium					P	P	P	P
3	Service	Indoor Public Assembly Facility				C	P	P		P
3	Service	Locksmiths						P	P	
3	Service	Massage and Bodywork Therapy					PS	PS		PS
3	Service	Metaphysical Wellness Services						CS		
3	Service	Parking Lots					P	P		
3	Service	Real Estate Rental Management Facility						C	P	

We believe this change is consistent with the purposes of the C-2 District as described in Section 6.2.4.2.

6.2.4.2. C-2 General Commercial District. The C-2 general commercial district is intended to foster a thriving commercial business community with a variety of uses, activities, and scales. The general commercial designation allows the broadest range of uses

We believe that in accordance with Section 6.5.1 you will find that this previously unlisted use in the C-2 District is compatible with uses already permitted in the District.

6.5.1. The UDO Administrator shall determine whether or not an unlisted use is substantially similar to an already defined use category or use type. A proposed use will not be denied solely because it is not included in this UDO as a listed use, unless listed in subsection 6.5.3. An unlisted use will be denied if the UDO Administrator determines that the unlisted use is substantially similar to a use which is expressly prohibited in that district. The UDO Administrator shall use the following factors as a guideline when classifying a new or unlisted use to determine if such use is classified in a manner consistent with other similar uses in the applicable zoning district.

•Consistency with the stated intent of the zoning district.
•Consistency with the adopted vision statement and policies of the Comprehensive Plan.
•Density of development (number of units, square footage, etc.).
•Intensity of use consistent with the zoning district in which the use is to be located.
•Type of activity associated with the use.
•Number of customers and length of stay.
•Generation of pedestrian and vehicular traffic.
•Potential impacts such as noise, light, odor, etc.
•Public safety.
•Environmental effects.
•Negative impacts on adjacent land uses.

We believe that "Real Estate Rental Management Facility" is substantially similar to the uses below, currently found in the Use table as permitted in the C-2 Zoning District.

5	Office	Building Contractor's Office						P	P	
5	Office	Office w/ Outdoor Storage of Materials/Equip./Vehicles							P	
5	Office	Professional Office, including General Business, Financial, Real Estate Sales, Insurance, Attorney, Accountant, Mortgage					P	P		P
2	Retail	Beach Recreation Equipment Rentals/Sales				P	P	P		
2	Retail	Furniture Store						P		
2	Retail	General Retail, including clothing, gifts, candy, toys, shoes, jewelry, notions, beach equipment, bakery, antiques, hobby goods, magazines/comics, crafts, dry goods, gifts, musical instruments, bookstores, sporting goods (and the incidental manufacturing, repair, or service of goods on the premises)				P	P	P		P

However, in particular because the C-2 zone abuts NC 12, this use should be Conditional (C) rather than Permitted (P). Conditional Use will allow the Town to visually maintain the Beach Road corridor if and when this use is proposed there. The Town might require installation of additional plantings or fencing, that loading dock doors be placed on the side or rear of the building, additional architectural features, modified lighting, or other enhancements to the development.

Finally, as a practical matter, if the use is permitted and when a Zoning Permit is applied for, the facility can comply with the applicable standards.

There are currently sixty-six (66) parking spaces on the site. Only ten spaces would be required by the use.

10.14.1. The number of off-street parking spaces required by this section shall be provided on the same lot with the principal use, except as provided with parking reductions approved as part of shared parking agreements, inter-parcel connections, conditional use permits or variances granted by the Town, or in accordance with the parking reduction schedule in Section 10.15, Alternative and Reduced Commercial Parking Requirements. The required number of off-street parking spaces specified for each use shall be considered as the absolute minimum.
10.14.5. All space requirements which are based in part or in whole upon employment shall be computed on the basis of the greatest number of persons that are on duty at any one period during the day or night during the peak season.

SECTION 10.16
REQUIRED PARKING BY USE.
Minimum required parking by use shall be as follows. For sites with multiple principal uses, the parking requirements for each use must be met on-site or through shared parking in accordance with Section10.15, Alternative and Reduced Commercial Parking Requirements.

Service	Real Estate Rental Management Facility	One parking space for each 200 square feet of office space plus 1 space for each employee affiliated with any real estate rental management facility with a minimum of 2 spaces.

According to Section 10.17 only a Loading Space is required. However the owner needs a full berth. There is adequate space on the site to provide a full berth in compliance with the ordinance. Only re-striping would be required.

SECTION 10.17
OFF-STREET LOADING.10.17.1.
One or more loading spaces shall be provided for standing, loading and unloading operations either inside or outside a building and on the same premises with every building or structure erected after the enactment of this UDO and shall be in accordance with the requirements of the following table. A loading berth shall have minimum plan dimensions of twelve (12) feet by sixty (60) feet and a 14-foot overhead clearance. A loading space need not be necessarily a full berth but shall be sufficient to allow normal loading and unloading operations of a kind and magnitude appropriate to the use.

10.17.2.Loading spaces shall be located at least fifty (50) feet from any street right-of-way and shall be paved with asphalt, concrete, porous paving as approved by the Town Engineer or an open-face paving block over sand and filter-cloth base, provided that the open-face paving block is equivalent to Turfstone™ with regards to compressive strength, density, absorption and durability.

TABLE 10-3: OFF-STREET LOADING REQUIREMENTS	
Use Classification	**Space Requirements**
Retail operations, and all first floor nonresidential uses, with a gross floor area of less than 20,000 square feet, and all wholesale and light industrial operations with a gross floor area of less than 10,000 square feet.	A loading space (not necessarily a full berth) as defined in this section.

Because there would be no physical changes in the site no stormwater provisions or buffer installation would be required.

I hope that this memo adequately addresses the issues required by an application. If not, or if you have any concerns at all, please contact me.

Ben

TOWN OF NAGS HEAD
BOC ACTIONS
WEDNESDAY, JUNE 3, 2020

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

2. Agenda - The Board approved the June 3rd agenda as presented.

3. Public Comment - Mayor Cahoon confirmed with the Town Clerk that there were no items submitted for public comment.

4. Consent Agenda - The Consent agenda consisted of the following items:

- Consideration of Tax Adjustment Report
- Approval of minutes
- Consideration of resolution authorizing water payment plans
- Request for Public Hearing to consider UDO amendments re: outdoor stands

The Consent Agenda was approved as presented with the amendment to the resolution re: water payment plans per the Governor's Executive Order #142.

5. Public Hearing - to consider citizen comment on the Town Manager's proposed operating budget for July 1, 2020 – June 30, 2021 and the updated Consolidated Fee Schedule - Town Manager Ogburn provided an update to the proposed budget per last week's budget workshop; highlights of the proposed budget include the following: No tax rate increase, No water rate increase, No use of Fund Balance, Add back to the proposed budget Part-time bath house cleaner, Part-time Office Assistant, Employee COLA, among other items.

6. Public Hearing - to consider a text amendment to the UDO submitted by Kim Cowen and Megan Dixon to allow "Tutoring Facility/Learning Center" as a permitted use within the C-2, General Commercial Zoning District - the Board adopted the ordinance amendment as presented.

7. Public Hearing - to consider a text amendment to the UDO pertaining to temporary uses or temporary alteration of uses related to declared emergencies - the Board adopted the ordinance amendment as presented. In addition, the Board waived associated fees for the next 45 days.

8. Update from Planning Director - Director Zehner's report was well received by the Board.

9. Flood Damage Prevention Ordinance - The Board modified the Flood Damage Prevention Ordinance by removing "by 25%" from Section 11.44.2.7.9.2. The Board then adopted the Flood Damage Prevention Ordinance with the Local Elevation Standard (LES) modified from 10' to 9' for areas west of NC 12 and SR 1243.

10. Beach Nourishment - The Board authorized the Town Manager to enter into professional service contracts with Moffat & Nichol for Tasks 1 (Beach Monitoring/Analysis), 2 (Master Plan), and 3 (Coastal Storm Damage Mitigation Grant application support) at a cost not to exceed $279,499; and with McKim & Creed for the Annual Beach Condition Survey in accordance with the Town's Beach Monitoring and Maintenance Plan at a cost not to exceed $63,100 - upon review by the Town Attorney.

11. Continuances - The following continuances were noted by Mayor Cahoon:

- Consideration of a Major Site Plan for Gone Coastal Shopping Center, 7531 S Virginia Dare Trail, submitted by Jim and Stephanie Selckmann

- Consideration of a 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

12. Committee reports - Comr. Brinkley - Jennette's Pier - He reported that Jennette's Pier is ready to open; Director Mike Remige has no specific date yet.

Mayor Cahoon - Dare County Control Group - He reported that the Control Group now meets as necessary.

13. Attorney Leidy - He requested a Closed Session, at the appropriate time, to discuss with the Board the Blackburn lawsuit against the County/Towns re: no entry for non-resident property owners.

14. Town Manager Ogburn - It was Board consensus to authorize the Town Manager to take the appropriate action as necessary to accommodate the Board's request that a point of contact for curbside recycling be identified and that a request for volunteers to serve on a Recycle Committee to collect further input on the future of the Town's recycling program be advertised (for Board appointment at an upcoming meeting). Staff is also to make sure the public is informed re: actual costs of recycling and the reasoning behind the Board's decisions. The public is to be notified of the placement of the additional recycle co-mingle trailer at Public Works.

15. Town Manager Ogburn - It was Board consensus that a proposed ordinance be prepared for Board consideration at the June 17th mid-month meeting to allow an additional hour for tent vendors to remove their equipment from the beach.

16. Comr. Renée Cahoon - Town Manager Ogburn responded to Comr. Renée Cahoon's request for an update on the US 158 multi-use path construction. He stated that he and staff met yesterday with the contractor, RPC Contracting - With the contractor providing additional resources to the project, the substantial completion date of June 19th still stands.

17. Mayor Cahoon - Mayor Cahoon held a moment of silence for former Town firefighter Ryan Dodson who died tragically in an accident and for Kill Devil Hills resident Ravann and her son, Sebi, who died tragically in a house fire.

18. Closed Session - The Board entered Closed Session to discuss a personnel matter and to consult with the Town Attorney to protect attorney/client privilege (re: Blackburn litigation). The time was 11:48 a.m.

19. Open Session/Adjournment - The Board re-entered Open Session and recessed to a Budget Workshop on Tuesday, June 9th at 10 am in the Board Room.

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Planning Board

From: Holly B. White, Principal Planner

Date: June 12, 2020

Subject: Outer Banks Regional Hazard Mitigation Plan

BACKGROUND

Dare County and Currituck County, and the towns of Manteo, Nags Head, Kitty Hawk, Kill Devil Hills, Southern Shores, and Duck, joined efforts on updating their Hazard Mitigation Plans. This effort has been referred to as the *Outer Banks Regional Hazard Mitigation Plan*. The Town's previous Hazard Mitigation Plan was part of the *Albemarle Regional Hazard Mitigation Plan* ("Albemarle RHMP") that expires in June 2020 and can be viewed at www.nagsheadnc.gov/DocumentCenter/View/2097/Albemarle-Regional-Hazard-Mitigation-Plan. While good practice, especially given the Town's susceptibility to hazards, local governments are required to prepare and update hazard mitigation plans in order to be eligible for FEMA Disaster Assistance and Mitigation Grants.

In addition to FEMA Disaster Assistance, the Hazard Mitigation Plan is an important component of the Town's participation in the Community Rating System ("CRS") program. The CRS program recognizes and encourages community floodplain management activities that exceed the minimum NFIP standards to enhance public safety, reduce damages to property and public infrastructure, avoid economic disruption and losses, reduce human suffering, and protect the environment. Through participation in the CRS program, all Town property owners receive a 20% discount on flood insurance.

While Dare County has acted as lead on this Hazard Mitigation Plan Update process, Planning Staff has been responsible for reviewing and providing feedback on the draft Plan, as well as vetting any information that was needed specifically for the Town. Public involvement has been an important part of this planning process. A Planning Team was developed to assist in gaining community feedback and participation as well as meet the criteria of the CRS program for Hazard Mitigation Plans. The Dare County Team included representatives from the County, each of the towns, and representatives of the public from each community; Nags Head's team members included staff members Shane Hite, Deputy Fire Chief; Michael Zehner, Director of Planning & Development, and Holly White, Principal Planner, as well as two citizen representatives, Meade Gwinn and Megan Lambert.

PLAN

The draft Hazard Mitigation Plan was made available to the public in January 2020 for feedback. Following this, a final draft plan was produced and sent to the State for review. After review by the State, the draft plan was submitted to FEMA for review.

FEMA approved the *Outer Banks Regional Hazard Mitigation Plan* as of June 10, 2020. Formal notification from FEMA will be sent upon approval of the plan by all the jurisdictions involved. A draft resolution of adoption is attached.

The Outer Banks Hazard Mitigation Plan can be viewed at www.obx-hmp.com under the "Review Draft Documents" tab.

POLICY CONSIDERATIONS

The following 2017 Comprehensive Plan policies support the development and adoption of a hazard mitigation plan:

- NR-10 Protect the public health and safety of the town from natural and manmade hazards through proactive planning and mitigation efforts.

- NR-11 Ensure that the town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster event.

- NR-12 Support mitigation projects that reduce the potential damaging effects of hazards on the town.

STAFF RECOMMENDATION

Staff recommends that Planning Board recommend adoption of the *Outer Banks Regional Hazard Mitigation Plan* to the Board of Commissioners.

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF NAGS HEAD, NORTH CAROLINA ADOPTING THE OUTER BANKS REGIONAL HAZARD MITGATION PLAN

WHEREAS, the Town of Nags Head is vulnerable to an array of natural hazards that can cause loss of life and damages to public and private property; and

WHEREAS, the Town is committed to protecting the public health and safety of the Town from natural and manmade hazards through proactive planning and mitigation efforts; and

WHEREAS, The Town of Nags Head 2017 Comprehensive Plan includes goals and policies that ensure the Town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster;

WHEREAS, the development and implementation of a hazard mitigation plan can result in actions that reduce the long-term risk to life and property from natural hazards; and

WHEREAS, it is the intent of the Town of Nags Head Board of Commissioners to protect its citizens and property from the effects of natural hazards by preparing and maintaining a local hazard mitigation plan and supporting mitigation projects that reduce the potential damaging effects of hazards on the Town; and

WHEREAS, it is also the intent of the Town of Nags Head Board of Commissioners to fulfill its obligation under North Carolina General Statutes, Chapter 166A: North Carolina Emergency Management Act and Section 322: Mitigation Planning, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to remain eligible to receive state and federal assistance in the event of a declared disaster affecting the Town of Nags Head; and

WHEREAS, the Town of Nags Head, in coordination with Currituck County, Dare County, and the Towns of Duck, Kill Devil Hills, Kitty Hawk, Manteo, and Southern Shores has prepared a regional hazard mitigation plan with input from the appropriate local and state officials and the community;

WHEREAS, the North Carolina Division of Emergency Management and the Federal Emergency Management Agency have reviewed the Outer Banks Regional Hazard Mitigation Plan for legislative compliance and has approved the plan pending the completion of local adoption procedures;

NOW, THEREFORE, BE IT RESOLVED that the Town of Nags Head hereby adopts the Outer Banks Regional Hazard Mitigation Plan; and agrees to take such other official action as may be reasonably necessary to carry out the proposed actions of the Plan.

Adopted this _____ day of _____ 2020.

_____

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST: _____
Carolyn F. Morris, Town Clerk

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**; updated June 11, 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~~ **was previously distributed to the Planning Board**. 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.

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. **Due to the Pandemic, the Planning Board was not able to revisit consideration of the regulations until their meeting on May 19, 2020. The Board provided feedback to Staff, supporting further consideration of steps intended to improve education and the availability of resources and the enhancement of ordinance incentives for preferred outcomes, and asked Staff to return with some more concrete actions related to these focus areas. Staff also indicated that they would provide a list of projects permitted under the Ordinance so that the Board could see examples of the results of the regulations; the attached list of *Residential Stormwater Projects* was previously emailed to the Board on June 9.**

HOW DOES THE ORDINANCE WORK?

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.

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.

POLICY CONSIDERATIONS

As noted in the previously attached PowerPoint, 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.**

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.*~~

Based upon the Board's input at the May 19 meeting, Staff would suggest that the Board consider support for the following actions and activities in any recommendation to the Board of Commissioners:

- **Improve education and availability of resources**
    - **Develop focused educational opportunities**
        - **In conjunction with Septic Health, develop educational videos on stormwater and water quality, to include interviews with staff, information on resources, and demonstrations.**
        - **Publish a brochure to be mailed to property owners discussing the importance of installing and maintaining stormwater measures, such as rain gardens, vegetative swales, and cisterns. Also focus on practices to implement at home, with or without a stormwater plan in place, such as ways to reduce irrigation with rain sensors, reduction of water consumption, rerouting downspouts to vegetated areas, vegetation of bare areas, and the use of permeable pavements.**
        - **Engage with stakeholders and focused groups (Green Drinks, contractors, homeowners) on Town stormwater efforts, stormwater management, and Low-Impact Development (LID) techniques.**
        - **Hold workshops for contractors, landscapers, and homeowners on Low Impact Development ("LID") practices**

and the installation and maintenance of Stormwater Control Measures.

- **Create visible projects in the community**
  - **Incorporate LID improvements within beach accesses, such as the Huron Street Beach Access**
  - **Incorporate plantings in the current retention area at the June Street Beach Access, along with educational signage.**
  - **Develop a plan for LID improvements at Town Hall, to possibly include permeable paving in the circle with signage, gutters and cistern, and rain garden.**
- **Establish financial resources to support the installation of stormwater measures:**
  - **Develop a program to off-set the cost of SCM installation, supported by expansion of the existing stormwater ad valorem tax.**
  - **Establish a water bill credit for installing SCMs that allow for water reuse, such as cisterns and rain barrels.**
  - **Pursue grant funding (such as the Dare Soil and Water Grant) to provide funds to homeowners for the installation of SCMs.**

- **Enhance ordinance incentives for preferred outcomes**
  - **Expand available credits to reduce built upon area by:**
    - **Eliminating the cap for tree and open space preservation credits at 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;**
    - **Offer additional credit for not filling Army Corp of Engineers wetland areas; and**
    - **Reduce the number of required SCMs (from 3 to 2) for the multiple stormwater measure built upon area credit.**
  - **Establish storage volume methodology to count preserved trees as an SCM.**
  - **Consider amending the engineering calculation/storage volume basis for the regulations and develop a performance/points-based system. Potential options could include:**
    - **Establishing a system of pre-development site planning points that could exempt a project from the requirement of a stormwater plan; perhaps a minimum of 12 points could be**

required for the exemption, with the following qualifying for points:

- **Lot coverage is less than the maximum (how much less?) - 3 points**
- **Minimal elevation changes to development area (less than 1' elevation change, exempt footprint of septic area?) - 3 points**
- **Retain mature vegetation (trees over 6" caliper, open space equal to 30% of lot size, combination of both) - 3 points**
- **Retain 100% ACOE wetlands on site - 3 points**
- **75%-100% use of permeable/pervious hardscaping - 3 points**

▪ **Establishing a system of post-development site planning points; perhaps a minimum of 12 points could be required, with the following qualifying for points:**

- **Permeable Paving**
  - **4 points for 100% composition of hardscape**
  - **3 points for 75%**
  - **2 points for 50%**
  - **1 point 1-50%**
- **Vegetated Swale**
  - **3 points per 40' swale, 1' depth**
  - **2 points per 40' swale, 6" depth**
- **Rain Garden**
  - **2 points per garden (at least 25 SF, 6" depth)**
- **Gutters with cistern of rain barrel - 2 points**
- **Infiltration Trench**
  - **2 points per 40' trench, 1' depth**
  - **1 point per 40' trench, 6" depth**

- **Use native plants in stormwater measures - 1 additional point per measure**
- **Signed Maintenance Agreement - 2 points**

Previously Distributed Attachments:

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

Attachments:

1. Residential Stormwater Projects, updated June 9, 2020

Residential Stormwater Projects (Updated 6.9.20)

Project	Old Ordinance	New Ordinance	In Progress	Complete
511 Soundside Rd (Surles)	X E			X
112 Lone Cedar (Colson)	X E			X
4207 S. Roanoke Way (ACS Contracting)	X E			X
204 W Lost Colony (Aria)	X E			X
2517 S Bridge Ln (Aria)	X E			X
405 Bridge Ln (James)	X E	X		X
323 Ridgeview Way (Maione)	X E	X		X
4207 SVDT (Jackson)		X		X
6205 SVDT (Fulcher)		X		X
103 Sound Breeze Ln (Michiels)		X	X	
8530/8528 (CAM Realty)		X		X
9918 Sandy Ct (Soundside Pools)		X		X
203 W Outlook Ct (Caribbean Pools)		X		X
9906 SOOIR (Caribbean Pools)		X		X
3208 Salada Ln (C'ville Ventures)	X E	X		X
Marina Dr (Overton)		X E		X
209 Carolinian Circle (All County Bldrs.)		X		X
305 Soundside Rd (Amini)		X	X	
417 Ridgeview Way (Hunter Homes)		X		X
4107 S Thirteenth St (NH Construction)		X	X	
Lot 11 Ridgeview Way (NH Construction)		X		X
425 Ridgeview Way (Sandy Bottom/Soles)		X		X

Old Ordinance

New Ordinance

Submitted under old ordinance, reworked under new ordinance

Project	Old Ordinance	New Ordinance	In Progress	Complete
2607 SVDT (SAGA)		X	X	X
W Seawatch Ct (Overton/Haddon)		X E	X	
0 S Linda Lane (Croatan Custom Homes)		X	X	
2702 S Lost Colony Dr (Reliant Construction)		X		X
4129 Duppies Ct (Southernscape Pools)		X	X	X
6201 Baymeadow (MK Construction)		X		X
8400 SOOIR (Bluewater Construction)		X E	X	
2517 SVDT (SAGA Pool Addition)		X	X	
217 Woodhill Dr (Esnbach driveway)		X	X	
2508 S Memorial (Victor Pugh)		X	X	
8120 SOOIR (Carolina Pools)		X	X	
107 E Morningview Pl (Godfrey)		X	X	
2115 S Memorial (Downs)		X	X	
6812 SVDT (McVearry)		X	X	
0 13th St (Seal)		X	X	
Lot 13 Ridgeview Way (NH Construction)		X	X	
Danube St (Kane)		X	X	
2912 S Memorial Ave (J Duboy Cons)			X	
Lot 17 Ridgeview Way (NH Construction)		X	X	
Lot 12 Ridgeview Way (NH Construction)		X	X	

"E" = Submitted Engineered SW Plan

Old Ordinance

New Ordinance

Submitted under old ordinance, reworked under new ordinance

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: ~~March 13, 2020~~ June 11, 2020

Subject: Discussion of Event Registration

Pursuant to the discussion at the Planning Board's February 2020 meeting, planning staff has drafted an Event Registration Application for the board's consideration and feedback.

Planning staff will be available at the ~~March 17, 2020~~ June 16, 2020 meeting to discuss the event registration application and process as well as whether this should first be applied as a Policy or enforced by Ordinance.

Town of Nags Head Event Registration Application

If you are planning an event within the Town of Nags Head which involves more than 50 participants at or on any residential property, please complete the attached form and return it to the Town of Nags Head Planning and Development Department at least 30 days in advance of the event. This form will be circulated to any necessary neighborhood associations, the property manager or owner of the proposed venue and the Town of Nags Head Planning Department, Police Department and Fire Department in order to ensure that they are aware of your event plans and also so that they may contact you prior to or during the event should this be necessary.

The Town of Nags Head's regulations for signage, noise, and trash removal can be found on the Town's website at: http://www.nagsheadnc.gov/ and are referenced on the registration form. Please note that these regulations remain in effect at all times, and failure to comply with Town regulations could result in penalties or fines as well as possibility of event disruption or termination. Also, please note that the Nags Head Police Department will be routinely monitoring conditions during the course of the event, specifically to preempt issues related to noise and parking.

For more information or questions regarding the Event Registration Policy/Ordinance, please call the Nags Head Planning and Development Department at 252-441-7016 or visit the Town's website at: http://www.nagsheadnc.gov/210/Planning-Development

EVENT REGISTRATION

Registration submission is required 30 days in advance of an event.

Submission Date: _____

A. Contact and Event Information:

Dates(s) of Event #1:_____ Time(s) of Event:_____

Event #2:_____ _____

Event #3:_____ _____

(Events may include wedding ceremony, receptions, birthdays, graduations, etc.)

Event(s) will be held on private property at the following location/address:

_____

Registrant Name(s): _____

Email (please print clearly): _____

Home Phone: _____ Cell Phone: _____

Address: _____

Name, cell phone & email of responsible party or event planner on-site & available on the day of the event: _____

_____

(Note that the responsible party should be someone who is readily accessible with this cell phone on his or her person during the event in case the Town should need to make contact regarding noise, trash, parking or similar issues)

Number of participants expected: _____

Homeowners Association Name/Contact/Phone: _____

_____

Property Management/Realty Firm Name/Contact/Phone: _____

_____

Rental Property Name and Rental House Number: _____; OR

Property Owner Name/Address/Phone if property is not in a rental program:

_____

B. Parking/Traffic Flow:

Cars shall not park on the side of the road in Nags Head in locations delineated with "No Parking" signage. If you plan to use an off-site location for private parking, please demonstrate that you have sufficient permission to use this facility. Please describe your parking plan (ie: use of shuttle buses, person to direct traffic, use of other parking facilities, etc.):_____

_____

_____
_____

C. Sound/Noise:

Please note that Nags Head has a noise ordinance that is in effect at all times.
What kind of sound system/amplification/music will be used?
DJ____ Band____ House Sound System ____ Other (please describe): _____
What will be the hours of operation for the sound system? _____
Will the sound system be located outside of the building? Yes ____ No ____

D. Trash Collection/Removal:

Trash Collection is curbside, information on the Trash and Recycling Schedule can be found here: http://www.nagsheadnc.gov/415/Residential-Trash-and-Recycling-Collecti Please describe your plan to remove overflow trash from your event (ie: obtain extra trash receptacles, to be handled by rental company, etc.): _____
_____
_____

E. Signage and Decorations:

Signs, balloons, streamers and similar items are not permitted within the rights of way and side streets. Please limit decorations to the property where the event is being held and only during the event. Please describe what signage/decorations you are proposing to use for your event:
_____

With the signature below, the registrant indicates that (s)he has read and understands the Town of Nags Heads Registration Policy/Ordinance for Events and will comply with this Policy/Ordinance.

You are strongly urged to obtain approval from the appropriate homeowner's association before your event(s). Failure to do so could result in legal action by the applicable homeowner association to enforce their covenants. Your signature on this application indicates that you understand that the Town of Nags Head does not enforce or consider the effect of neighborhood covenants when revising event registration applications.

_____ _____
Registrant Signature Date

The Town of Nags Head will distribute this information to:

Town Manager
Chief of Police
Fire Chief
Planning & Development Department
Property Owner or Manager
Homeowner's Association (if applicable)
Property Owner or Manager of Off-Site Parking Facility (if applicable)

If you have any questions regarding event registration or this form, please contact the Planning Department via email at Kelly.wyatt@nagsheadnc.gov or by phone at 252-449-6042.

Please submit this form at least thirty days in advance of the event via email to the address above or via mail to:

Town of Nags Head Planning Department
Attn: Kelly Wyatt
P.O. Box 99
Nags Head, NC 27959

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: ~~March 13, 2020~~ June 12, 2020

Subject: Discussion of Large Occupancy Homes

Following discussion with the Planning Board at their January 2020 meeting, and guidance from the Board of Commissioners at their February 2020 meeting, Planning Staff has initiated review of the concerns expressed with large occupancy homes. Both the Planning Board and the Board of Commissioners recommended staff review the Town's standards in relation to the following amendments which have since been adopted by the Town of Kill Devil Hills Board of Commissioners.

Town of Kill Devil Hills Planning staff was given direction to draft amendments to address safety issues and options to incentivize fire suppression systems for large single-family dwelling units. At their May 27th meeting, Kill Devil Hills staff presented and the Board of Commissioners unanimously adopted an amendment which would increase side yard setbacks for single-family/duplex dwellings greater than 6,000 square feet in area, by two feet in order to provide adjacent properties and the overall community a greater safeguard from the spread of fires. Such dwellings could be exempt from this requirement, providing a fire suppression system is reviewed, approved, installed and inspected annually by the Fire Marshal. It is noted that this installation of a fire suppression system provides safeguards for the persons occupying the dwelling in addition to the adjacent properties, and overall community.

Side yard setbacks in the low- and high-density residential zoning districts within the Town of Kill Devil Hills are determined by the overall lot area. These requirements are outlined below:
Lots 5,000 sf or less = 6 ft. side yard setback
Lots greater than 5,000 sf but less than 7,500 sf = 8 ft. side yard setback
Lots greater than 7,500 square feet = 10 ft. side yard setback

Side yard setbacks in the Ocean Impact Residential zoning district within the Town of Kill Devil Hills is determined by lot width. These requirements are outlined below:
Lots less than 75 ft. in width = 10 ft. side yard setback
Lots greater than 75 ft in width = 12 ft side yard setback

It is important to note that the increased 2-foot setback applies to homes that are greater than 6,000 square feet in area. Within the Town of Nags Head no home can exceed 3,500 square feet of habitable space if on a lot less than 16,000 square feet in area. On lots greater than 16,000 square feet in area, a dwelling cannot exceed 5,000 square feet. Note, Nags Head has more stringent regulations on total allowable house

size than the Town of Kill Devil Hills. At this time, under no circumstance would a 6,000 square foot home be constructed within the Town of Nags Head. Regardless, the minimum allowable side yard setback in the Town of Nags Head would either be 8', 10', 12' or 15' depending on the zoning district.

Additionally, the Town of Kill Devil Hills Commissioners adopted an ordinance that amends off-street parking and loading requirements as it pertains to emergency vehicle access. This amendment applies only to dwellings with eleven (11) or more required parking spaces, and incentivizes these dwellings to provide a 10-foot wide marked and unobstructed drive aisle up to within 20 feet of the front entrance of the dwelling by reducing the side yard setback for the driveway from 7 feet to 5 feet.

There are several items to note with regard to the off-street parking and loading requirements within the Town of Nags Head (Article 10, Part II attached).

- With the habitable area of a dwelling capped at 5,000 square feet, while the Town cannot regulate the number of bedrooms, it does occur that between 8 and 9 bedrooms are approved by the Dare County Health Department in the large residential dwellings. With a parking standard for single-family and duplex dwellings equal to the number of bedrooms minus 2, it is very unlikely there will be a parking scenario within the Town necessitating eleven (11) required parking spaces.
- Residential driveways are required to be minimum of 12-feet in width within the Town of Nags Head. The minimum 12-foot width must extend to the front plane of the house and no stacking of vehicles is permitted in this 12-foot drive aisle. Thus, only one 10 x 18 parking space can be provided in the main drive aisle.

In review of the Town of Nags Head's current requirements in contrast to the recently adopted amendments by the Town of Kill Devil Hills to address Large Occupancy Homes, it appears that Nags Head's requirements are already significantly more restrictive with respect to the size of homes and setbacks, and address emergency vehicle access to the front plane of the dwelling as presently written. At this time, Staff would not recommend any further action, and if the Board agrees, would report the same to the Board of Commissioners. If the Board believes that further consideration is warranted, Staff would recommend that consideration be given to programming and prioritizing this initiative within the Department's Work Plan.

Staff will be available to continue discussion and answer any questions.

PART II. OFF-STREET PARKING AND LOADING REQUIREMENTS

SECTION 10.11 PURPOSE AND INTENT.

The purpose of this section is to proactively protect, maintain and enhance the public health, safety, environment, and general welfare by establishing requirements to provide the appropriate amount and location of off-street parking and off-street loading which will:

10.11.1. Maintain and increase the level of service of the Town's streets and ability of the Town's street system to safely move traffic;

10.11.2. Facilitate safe access to and from streets;

10.11.3. Avoid conflicts between motorized and non-motorized vehicles and pedestrians;

10.11.4. Maintain and protect the visual attractiveness and community character of the Town;

10.11.5. Promote low-impact development which emphasizes stormwater management, the use of vegetative buffering and landscapes, and the preservation of open space;

10.11.6. Maximize the re-use of existing parking areas; and

10.11.7. Promote re-use of existing commercial sites by allowing for redevelopment to use existing parking configurations in appropriate circumstances.

SECTION 10.12 PARKING LOT REQUIREMENTS FOR SINGLE-FAMILY AND TWO-FAMILY (DUPLEX) DWELLING UNITS.

Permanent off-street parking spaces shall be provided in accordance with the following requirements prior to the completion of construction of any building or structure, or at the time any principal building or structure is enlarged or increased in capacity by adding dwelling units or before conversion from one zoning use or occupancy to another:

10.12.1. Reserved for the Use Intended.
Required off-street parking spaces and loading spaces are permanent areas and shall not be used for any other above ground purpose.

10.12.2. Safety on Busy Streets.
A turnaround area having sufficient maneuvering space, not less than ten (10) feet × ten (10) feet, shall be provided between the designated parking spaces and a minimum of five (5) feet from the right-of-way, so that no vehicle will be required to back into the public right-of-way. Homes which do not front on NC 12, US 158, SR 1243, and oceanfront homes that have lost access due to erosion, shall be exempt from this requirement (see also Section 8.7, Reduction in Development Standards for Erosion Threatened Structures).

10.12.3. Surface Materials Appropriate for Use.

10.12.3.1. Required parking spaces shall be graded and paved with asphalt, concrete, gravel, or other surface material designed to support the intended vehicular loading and in accordance with manufacturer's recommended specifications or other acceptable methods for design of pavement structures. This provision shall not apply in situations where a CAMA permit cannot be obtained for these surface materials.

10.12.3.2. As an alternative to the approved parking space surfaces stated above, an applicant may improve up to twenty (20) percent of the required spaces with reinforced turf pavement. The use of reinforced turf pavements shall be designed to support the intended vehicular loading and in accordance with manufacturer's recommended specifications or other acceptable methods for design of pavement structures. Turf reinforced pavements shall be considered an innovative permeable pavement surface and may be reviewed by the Town Engineer and the fire official having jurisdiction for suitability and shall count as lot coverage in the same manner as other similar permeable pavement surfaces. Turf reinforced pavements shall be installed and maintained in accordance with manufacturers recommended specifications and NCDEQ BMP manual, latest edition. If the turf reinforced pavement is not being maintained in accordance with the provision above, the owner may be required to re-surface the parking in accordance with subsection 10.12.3.1.

10.12.4. Number of Parking Spaces Required.

Parking spaces shall be based on the following formula: N-2, with N representing the number of bedrooms authorized by the septic improvement permit issued by the Dare County Health Department or the appropriate permitting agency. The minimum number of parking spaces shall be two (2).

10.12.5. Additional Bedrooms.

Prior to issuance of a certificate of completion for the construction of any additional bedroom or bedrooms to an existing single-family or two-family dwelling, all required parking spaces shall be installed.

10.12.6. Dimensional Requirements.

All residential parking area dimensions shall, at a minimum, conform to the dimensional requirements shown in the table below:

TABLE 10-1: RESIDENTIAL PARKING AREA DIMENSIONS

Residential Dimension	Single Side Parking	Double Side Parking
Aisle width (W)	12.0	12.0
Curb-to-curb width (X)	30.0	48.0
Curb-to-aisle width (Y)	18.0	18.0
Minimum stall width (Z)	10.0	10.0
Parallel parking	10' width by 20' length	
*Figures A and B illustrate parking and drive aisle dimensional requirements, setbacks, and acceptable stacking configurations.		

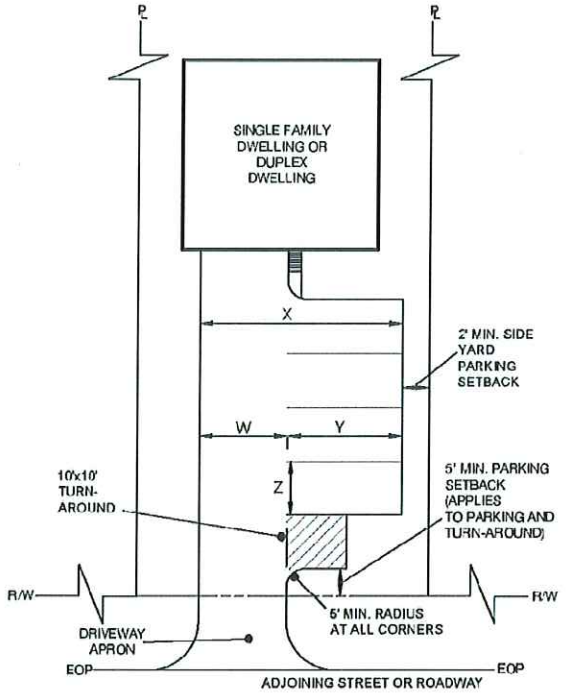

Figure A

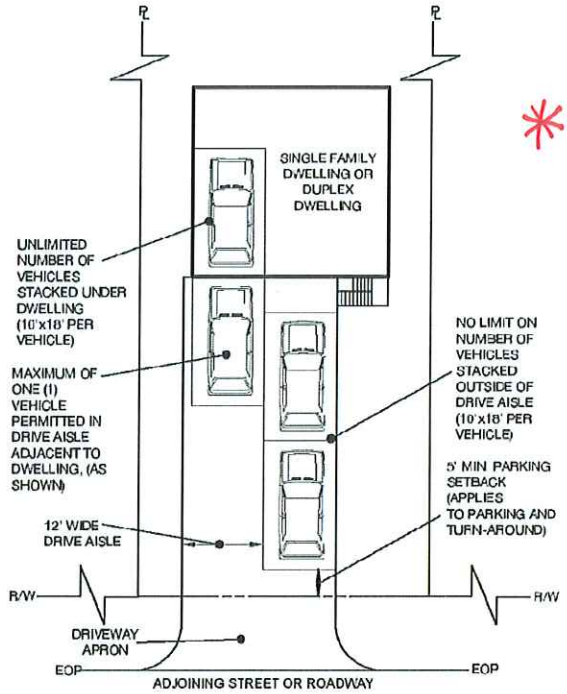

Figure B

10.12.7. Drive Aisle Width and Stacking Requirements.

Drive aisles shall be a minimum twelve (12) feet in width and shall be improved up to the front plane of the dwelling. One (1) parking space may be located at the end of the drive aisle closest to the dwelling. Other stacking of vehicles in the drive aisle is prohibited. Stacking of vehicles under the dwelling or outside of the required 12-foot driveway is unlimited. All parking areas shall be located to allow clear use of a designated turn-around area.

10.12.8. Setbacks for Parking and Drive Aisles.

10.12.8.1. All parking spaces, turn-around areas, and drive aisles shall be located no closer than two feet from any adjacent property line except where drive aisles and driveways are shared between adjacent properties.

10.12.8.2. Parking spaces, turn-around areas, and drive aisles shall be set back from the adjacent right-of-way a minimum of five (5) feet, not including the driveway and driveway apron which connects the parking areas and drive aisle to the roadway pavement.

SECTION 10.13 PARKING REQUIREMENTS FOR ALL USES OTHER THAN SINGLE-FAMILY AND TWO-FAMILY (DUPLEX) DWELLING UNITS.

10.13.1. Permanent off-street parking spaces shall be provided in accordance with the minimum parking requirements contained in this section prior to the completion of construction of any building or structure, or at the time any principal building or structure is enlarged or increased in capacity by adding dwelling units, hotel units, seats or gross floor area, or before conversion from one zoning use or occupancy to another.