



TOWN OF NAGS HEAD

AGENDA

TOWN OF NAGS HEAD BOARD OF COMMISSIONERS
NAGS HEAD MUNICIPAL COMPLEX - BOARD ROOM

WEDNESDAY, AUGUST 5, 2020; 9:00 A.M.

REGULAR SESSION

(PLEASE NOTE: In accordance with State and County Regulations - Face Coverings must be worn in indoor and outdoor public spaces where social distancing cannot be maintained)

A. CALL TO ORDER / MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE

B. ADOPTION OF AGENDA

C. RECOGNITION

1. RECOGNITION

INTRODUCTION of 2020 Season Lifeguards (Video) - Fire Chief Randy Wells/Ocean Rescue Dir Chad Motz

5 YEARS – Public Works - Fleet Mechanic Jason Brickhouse – May 18, 2015

5 YEARS – Public Works - Facilities Maint Technician Russell Canter – Jun 15, 2015

5 YEARS - Public Safety - Police Officer Michael Alvarez - July 21, 2015

10 YEARS - Public Works - Sanitation Equipment Operator Anthony Beasley - July 19, 2010

Documents:

[8 C RECOGNITION SUMMARY.PDF](#)

D. PUBLIC COMMENT

E. CONSENT AGENDA

1. Consideration Of Budget Adjustment #2 To FY 20/21 Budget

Documents:

[8 E1 BUDGET ADJ TO FY 20-21 SUMMARY.PDF](#)

[8 E1 BUDGET ADJ TO FY 20-21 WORKSHEETS.PDF](#)

2. Consideration Of Tax Documents

- FY 19/20 Year End Tax Adjustment Report

- FY 19/20 Year End Tax Settlement Report

- FY 20/21 Charge to Tax Collector to prepare new year taxes

Documents:

[8 E2 TAX ADJUST REPORT SUMMARY.PDF](#)
[8 E2 TAX ADJ MSD REPORT YEAR-END.PDF](#)
[8 E2 TAX ADJ TOWN-WIDE REPORT YEAR-END.PDF](#)
[8 E2 TAX SETTLEMENT REPORT.PDF](#)
[8 E2 ORDER TO TAX COLLECTOR.PDF](#)

3. Approval Of Minutes

Documents:

[8 E3 MINUTES SUMMARY.PDF](#)
[8 E3 JUN 11 2020 BOC MTG MINS.PDF](#)
[8 E3 JUL 1 2020 BOC MTG MINS.PDF](#)

4. Approval Of Revision

2020 of NC Statewide Emergency Management Mutual Aid and Assistance Agreement (Revision 2017 was approved at the July Board meeting)

Documents:

[8 E4 STATE EMER MGMT MUTUAL AID ASSIS SUMMARY.PDF](#)
[8 E4 STATE EMER MGMT MUTUAL AID ASSIS VER 2020.PDF](#)

5. Approval Of Revised Contract

with Dare County under the Federal CARES Act (this revised contract supersedes initial version approved at the July Board meeting)

Documents:

[8 E5 REIMB DC CARES AGREEMENT SUMMARY.PDF](#)
[8 E5 REIMB DC CARES AGREEMENT.PDF](#)
[8 E5 REIMB DC CARES - FAQ.PDF](#)
[8 E5 REIMB DC CARES - HB 1023.PDF](#)

6. Consideration Of Amendment

to Traffic Control Map to lower speed limit on Nags Head/Manteo Causeway in response to NCDOT removal of pedestrian facilities at Little Bridge

Documents:

[8 E6 TCM FOR 45 MPH ON CAUSEWAY SUMMARY.PDF](#)
[8 E6 TCM LITTLE BRIDGE NCDOT CORRESPONDENCE.PDF](#)
[8 E6 TCM FOR 45 MPH ON CAUSEWAY MAP.PDF](#)
[8 E6 TCM FOR 45 MPH ON CAUSEWAY ORD.PDF](#)

7. Consideration Of Extension

of existing MOA with Town of Cary for emergency relocation of government during a State of Emergency

Documents:

[8 E7 MOA CARY AND TNH EMER OPS SUMMARY.PDF](#)
[8 E7 MOA CARY AND TNH EMER OPS AGREEMENT.PDF](#)

8. Consideration Of Drainage Easement Agreement With Gandt Development, LLC At 101

E. Dove St.

Documents:

[8 E8 GANDT DRAIN EASEMENT DOVE ST SUMMARY.PDF](#)
[8 E8 GANDT DRAIN EASEMENT DOVE ST AGREEMENT.PDF](#)

9. Consideration Of Agreement With Outer Banks Professional Services

Documents:

[8 E9 OB PROFESSIONAL SVCS CONTRACT SUMMARY.PDF](#)
[8 E9 OB PROFESSIONAL SVCS CONTRACT.PDF](#)

10. Request For Public Hearing

to consider numerous minor text amendments to the Unified Development Ordinance for clarification and to correct errors

Documents:

[8 E10 RPH UDO AMEND HOUSEKEEPING SUMMARY.PDF](#)

11. Request For Public Hearing

to consider a text amendment to the Unified Development Ordinance to allow Furniture Stores as an allowable use as part of commercial mixed-use uses

Documents:

[8 E11 RPH UDO AMEND FURNITURE STORE SUMMARY.PDF](#)

F. PUBLIC HEARINGS

1. PUBLIC HEARING

to consider 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 and Parcel # 006749039; PIN # 989108893398); the revised Preliminary Plat proposes to create 17 building lots, along with an associated street and other required improvements, and requires a public hearing due to requested waivers

Documents:

[8 F1 PH COASTAL VILLAS SUMMARY.PDF](#)
[8 F1 PH COASTAL VILLAS PN.PDF](#)
[8 F1 PH COASTAL VILLAS STAFF REPORT.PDF](#)

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

1. Update From Planning Director

Documents:

[8 G1 PLNG DIRECTOR UPDATE SUMMARY.PDF](#)
[8 G1 PLANNING DIR REPORT.PDF](#)

H. OLD BUSINESS TABLED FROM PREVIOUS MEETINGS

1. From July 1st Board Meeting - Discussion Of Dowdy Park Part-Time Position

Documents:

[8 H1 DOWDY PARK PT-TIME POS SUMMARY.PDF](#)

2. From July 1st Board Meeting
Consideration of Charge for and Appointments to the Reuse and Recycle Task Force

Documents:

[8 H2 REUSE RECYCLE TASK FORCE SUMMARY.PDF](#)
[8 H2 REUSE RECYCLE TASK FORCE MEMO.PDF](#)
[8 H2 REUSE RECYCLE TASK FORCE CANDIDATE CHART.PDF](#)

I. NEW BUSINESS

1. Committee Reports

Documents:

[8 I1 COMMITTEE REPORTS SUMMARY.PDF](#)

2. Consideration Of Human Resources Manager Job Description

Documents:

[8 I2 HR MGR JOB DESCRIPTION SUMMARY.PDF](#)
[8 I2 HR MGR JOB DESCRIPTION.PDF](#)

J. ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

1. Request For Closed Session
to discuss pending case of Blackburn v Dare County, Town of Nags Head, et al to
preserve attorney/client privilege in accordance with GS 143-318.11(a)(3)

Documents:

[8 J1 TN ATT RCS SUMMARY.PDF](#)

K. ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

1. Presentation By Dominion Energy
re: installation of electric transmission line on US 158
Time Specific - 10:00 a.m.

Documents:

[8 K1 TM DOMINION ENERGY PRES SUMMARY.PDF](#)

2. Project Update - West Side US 158 Multi-Use Path Construction

Documents:

[8 K2 TM W SIDE 158 MUP UPDATE SUMMARY.PDF](#)

3. Discussion Of Town Organizational Assessment/Recommendations

Documents:

[8 K3 TM ORG ASSESSMENT SUMMARY.PDF](#)
[8 K3 TM ORG ASSESSMENT MEMO.PDF](#)
[8 K3 TM APPENDICES - TOWN ORG CHARTS.PDF](#)

L. BOARD OF COMMISSIONERS AGENDA

M. MAYOR'S AGENDA

1. Future Town Envision

Documents:

[8 M1 MAYOR ENVISION THE TOWN SUMMARY.PDF](#)

2. Discussion Of September 2020 Board Retreat

Documents:

[8 M2 MAYOR BOC RETREAT SUMMARY.PDF](#)
[8 M2 MAYOR BOC RETREAT FACILITATOR PROPOSAL.PDF](#)

3. Discussion Of Town Manager Search Firm Selection

Documents:

[8 M3 MAYOR TOWN MGR SEARCH SUMMARY.PDF](#)

N. OTHER BUSINESS

O. ADJOURNMENT

P. FULL AGENDA In .PDF Format With Bookmarks

5401 S. Croatan Hwy, Nags Head, NC 27959
252-441-5508



Agenda Item Summary Sheet

Item No: C
Meeting Date: **August 5, 2020**

Item Title: Recognition

Item Summary:

Recognition at the August 5th Board meeting includes the following:

INTRODUCTION of 2020 Season Lifeguards - Fire Chief Randy Wells and Ocean Rescue Director Chad Motz

5 YEARS – Public Works - Fleet Mechanic Jason Brickhouse – May 18, 2015

5 YEARS – Public Works - Facilities Maint Technician Russell Canter – Jun 15, 2015

5 YEARS - Public Safety - Police Officer Michael Alvarez - July 21, 2015

10 YEARS - Public Works - Sanitation Equipment Operator Anthony Beasley - July 19, 2010

Number of Attachments: 0

Specific Action Requested:

Provided for Board recognition.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Greg Sparks

Date: July 29, 2020



Agenda Item Summary Sheet

Item No: **E-1**
Meeting Date: **August 5, 2020**

Item Title: Consideration of Budget Adjustment #2 to FY 20/21 Budget

Item Summary:

Attached please find Budget Adjustment #2 to the FY 20/21 Budget which is provided for Board review and approval at the August 5th Board of Commissioners meeting – and is in accordance with the FY 20/21 Budget Ordinance, adopted at the June 17, 2020 meeting. The worksheets associated with Budget Adjustment #2 are attached.

Number of Attachments: 1

Specific Action Requested:

Request Board approval of attached Budget Amendment #2.

Submitted By: Administrative Services

Date: July 29, 2020

Finance Officer Comment:

Request Board approval of attached Budget Amendment #2.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

I concur with staff's request.

Signature: Greg Sparks

Date: July 29, 2020

**BUDGET AMENDMENT REQUEST
FY 2020-2021**

**BUDGET AMENDMENT NO. 2
AMENDMENT 2.1
USE OF FUNDS**

SOURCE OF FUNDS

SOURCE OF FUNDS			USE OF FUNDS		
CODE	ACCOUNT	AMOUNT	CODE	ACCOUNT	AMOUNT
10-430600	General Fund Revenue Wellness Grant - NC League	4,963.00	440-521300	General Fund Expenditure Admin Services Employee Wellness	4,963.00
TOTAL CHARGES		\$ 4,963.00	TOTAL CREDITS		\$ 4,963.00

JUSTIFICATION

Grant funds received 7/15/2020 from the NC League of Municipalities towards employee wellness.

ADMINISTRATIVE SERVICES 7/28/2020
RECOMMENDED BY _____ DATE

APPROVED BY BOC: _____ DATE

POSTED TO GENERAL LEDGER:

INITIALS _____

**BUDGET AMENDMENT REQUEST
FY 2020-2021**

**BUDGET AMENDMENT NO. 2
AMENDMENT 2.2
USE OF FUNDS**

SOURCE OF FUNDS

CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
530-510300	General Fund Expenditure Public Works Facilities Salaries-Part Time	12,800.00		530-544500	General Fund Expenditure Public Works Facilities Contracted Services	12,800.00
TOTAL CHARGES		\$ 12,800.00		TOTAL CREDITS		\$ 12,800.00

JUSTIFICATION

Hire contracted cleaning service to clean 4 bath houses, 5 times a week for \$320 per day, for 8 weeks.
No applications were submitted for advertised seasonal position. Cleaning is currently done in-house.

ADMINISTRATIVE SERVICES 7/28/2020
RECOMMENDED BY _____ DATE

APPROVED BY BOC: _____ DATE

POSTED TO GENERAL LEDGER:

INITIALS _____



Agenda Item Summary Sheet

Item No: **E-2**
Meeting Date: **August 5, 2020**

Item Title: Consideration of Tax Documents:
- FY 19/20 Year-End Tax Adjustment Reports
- FY 19/20 Year-End Tax Settlement Report
- FY 20/21 Charge to Tax Collector to prepare new year taxes

Item Summary:

Attached please find the FY 19/20 Year-End Tax Adjustment Reports for Property and for MSD valuations. Also attached are the Year-End Tax Settlement Report and the Charge to the Tax Collector to prepare the FY 20/21 taxes.

These reports are submitted for your approval at the August 5th Board of Commissioners meeting.

Number of Attachments: 3

Specific Action Requested:

Tax reports provided for Board review and approval.

Submitted By: Linda Bittner, Tax Collector

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

I concur with staff.

Signature: Greg Sparks

Date: July 29, 2020

Town of Nags Head, North Carolina
ANALYSIS OF CURRENT 2019 MSD TAX LEVY
2019 Year End As of June 30, 2020 for the August 5, 2020 BOC Mtg

	BEACH NOURISHMENT DISTRICT			MSD Excluding Registered Motor Vehicles	Registered Motor Vehicles
	MSD Valuation	Rate	Total Levy		
Original MSD Levy:					
MSD Beach Nourishment at current year's rate	809,869,299	0.00175	1,417,272.90	1,417,272.90	
Registered Motor Vehicles at current year's rate	2,093,371	0.00175	3,649.66		3,649.66
Registered Motor Vehicles at 2018 year's rate	767,675	0.00175	1,343.43		1,343.43
Registered Motor Vehicles at 2017 year's rate	66,748	0.00175	116.81		116.81
Penalties			0.00	0.00	
Total	812,797,093		1,422,382.80	1,417,272.90	5,109.90
Discoveries & Adjustments:					
Current year discoveries & adjustments	0.00		0.00	0.00	
Town wide beach nourishment			0.00	0.00	
Penalty Discoveries			0.00	0.00	
Total			0.00	0.00	
Releases & Adjustments:					
Current year releases & adjustments	0.00		0.00	0.00	
Town wide beach nourishment			0.00	0.00	
Penalty Releases			0.00	0.00	
Total			0.00	0.00	
Write-offs or Adjustments:					
			0.00	0.00	
Total MSD Valuation	812,797,093				
Net levy		1,422,382.80		1,417,272.90	5,109.90
TOTAL UNCOLLECTED MSD AS OF 06/30/20:		(613.72)		(613.72)	0.00
CURRENT YEAR MSD COLLECTED:		1,421,769.08		1,416,659.18	5,109.90
CURRENT MSD COLLECTION PERCENTAGE:		99.957%		99.957%	100.000%

Town of Nags Head, North Carolina
ANALYSIS OF CURRENT 2019 TAX LEVY
2019 Year End As of June 30, 2020 for the August 5, 2020 BOC Mtg

	Town-Wide Tax			Total Levy	
	Property Valuation	Rate	Total Levy	Property Excluding Registered Motor Vehicles	Registered Motor Vehicles
Original levy:					
Property taxed at current year's rate	2,383,436,490	0.00317	7,555,496.64	7,555,496.64	
Registered Motor Vehicles at current year's rate	35,228,556	0.00317	110,612.47		110,612.47
Registered Motor Vehicles at 2018 year's rate	9,531,489	0.00307	29,261.67		29,261.67
Registered Motor Vehicles at 2017 year's rate	69,970	0.00297	207.81		207.81
Registered Motor Vehicles at 2015 year's rate	(2,011)	0.00267	(5.37)		(5.37)
Penalties			5,460.81	5,460.81	
Total	2,428,264,494		7,701,034.03	7,560,957.45	140,076.58
Discoveries & Adjustments:					
Current year discoveries & adjustments tax	1,686,283.00		4,309.89	4,309.89	
Town wide beach nourishment tax			455.29	455.29	
Corporate Utilities discoveries & tax	22,078,064.00		64,026.38	64,026.38	
Corporate Utilities beach nourishment tax			5,961.09	5,961.09	
Penalty Discoveries			2,075.47	2,075.47	
Total	23,764,347		76,828.12	76,828.12	
Releases & Adjustments:					
Current year releases & adjustments	(309,694.00)		(898.12)	(898.12)	
Town wide beach nourishment			(83.60)	(83.60)	
Penalty Releases			(574.94)	(574.94)	
Total	(309,694)		(1,556.66)	(1,556.66)	
Write-offs or Adjustments:			0.00	0.00	
Total Property Valuation	2,451,719,147				
Net levy		7,776,305.49		7,636,228.91	140,076.58
Uncollected Taxes		(8,958.38)		(8,958.38)	0.00
Uncollected Town Wide Beach Nourishment		(822.01)		(822.01)	0.00
TOTAL UNCOLLECTED TAXES AS OF 06/30/20:		(9,780.39)		(9,780.39)	0.00
CURRENT YEAR TAXES COLLECTED:		7,766,525.10		7,626,448.52	140,076.58
CURRENT LEVY COLLECTION PERCENTAGE:		99.874%		99.872%	100.000%



Administrative Services
Finance

Town of Nags Head

Post Office Box 99
Nags Head, North Carolina 27959
Telephone 252-441-5508
Fax 252-441-4680
www.nagsheadnc.gov

M E M O R A N D U M

To: Mayor and Board of Commissioners

From: Linda Bittner, Tax Collector

Date: August 05, 2020

Subject: Tax Settlement per NCGS 105-373

I hereby certify that records located in the tax office of the Town of Nags Head show an outstanding balance due on June 30, 2020 of \$9,780.39 (including DMV) for 2019 Town-Wide taxes. The adjusted Town-Wide levy (including DMV) as of June 30, 2020 is \$7,776,305.49 with an unaudited collection rate of 99.874%.

I hereby certify that records located in the tax office of the Town of Nags Head show an outstanding balance due on June 30, 2020 of \$613.72 (including DMV) for 2019 Municipal Service District taxes. The adjusted Municipal Service District levy (including DMV) as of June 30, 2020 is \$1,422,382.80 with an unaudited collection rate of 99.957%

The total amount of taxes outstanding for all years is \$16,835.70.

In addition, a summary of all outstanding taxes by year is as follows:

Town-Wide Taxes:

<u>Tax Year</u>	<u>Uncollected Ad Valorem</u>	<u>Uncollected DMV</u>	<u>Total Uncollected Balance as of 6/30/2020</u>	<u>Total Uncollected Balance as of 6/30/2019</u>	<u>Difference Collected</u>
2019	9,780.39	0.00	9,780.39		
2018	569.71	0.00	569.71	1,749.39	-1,179.68
2017	190.15	0.00	190.15	233.42	-43.27
2016	159.16	0.00	159.16	174.61	-15.45
2015	57.99	0.00	57.99	71.88	-13.89
2014	51.06	39.21	90.27	104.16	-13.89
2013	61.89	1,120.76	1,182.65	1,182.65	0.00
2012	528.32	1,353.84	1,882.16	1,882.16	0.00
2011	475.16	616.61	1,091.77	1,091.77	0.00
2010	610.84	543.85	1,154.69	1,154.69	0.00
Town-Wide Total	12,484.67	3,674.27	16,158.94	7,644.73	-1,266.18

Municipal Service District Taxes:

<u>Tax Year</u>	<u>Uncollected Ad Valorem</u>	<u>Uncollected DMV</u>	<u>Total Uncollected Balance as of 6/30/2020</u>	<u>Total Uncollected Balance as of 6/30/2019</u>	<u>Difference Collected</u>
2019	613.72	0.00	613.72		
2018	1.58	0.00	1.58	1.58	0.00
2017	1.58	0.00	1.58	1.58	0.00
2016	0.00	0.00	0.00	0.00	0.00
2015	2.07	0.00	2.07	2.07	0.00
2014	0.00	0.00	0.00	0.00	0.00
2013	0.00	36.98	36.98	36.98	0.00
2012	0.00	1.60	1.60	1.60	0.00
2011	0.00	19.23	19.23	19.23	0.00
MSD Total	618.95	57.81	676.76	63.04	0.00

Combined Total	13,103.62	3,732.08	16,835.70	7,707.77	-1,266.18
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Ben Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Greg L. Sparks
Interim Town Manager

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

M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

ORDER TO TAX COLLECTOR

State of North Carolina / Town of Nags Head

To the Tax Collector of the Town of Nags Head:

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of the Tax Collector and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth for the tax year 2020 plus all delinquent taxes from tax years 2011 to 2019. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the Town of Nags Head, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this 5th day of August 2020.

Attest

Town Clerk, Town of Nags Head

Mayor, Town of Nags Head



Agenda Item Summary Sheet

Item No: **E-3**
Meeting Date: **August 5, 2020**

Item Title: Approval of minutes from Board of Commissioners meetings/workshops

Item Summary:

Attached for Board review and approval are the following Board of Commissioners meeting minutes:

June 11, 2020 Recessed Session

July 1, 2020 Regular Session

Number of Attachments: 2

Specific Action Requested:

Provided for Board review and approval.

Submitted By: Carolyn F. Morris, Town Clerk

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted costs associated with this agenda item.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Greg Sparks

Date: July 29, 2020



DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
RECESSED MEETING
WEDNESDAY, JUNE 11, 2020; 4:00 P.M.

The Nags Head Board of Commissioners met in the Board Room of the Nags Head Municipal Complex located at 5401 S Croatan Highway in Nags Head, North Carolina on Wednesday, June 11, 2020 at 4:00 p.m.

Board members Present: Mayor Ben Cahoon; Mayor Pro Tem Michael Siers; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Kevin Brinkley

Board members Absent: None

Others Present: Town Attorney John Leidy; Town Attorney Assistant Alex Pharr

CALL TO ORDER

The Board of Commissioners met in Open Session, from the previously recessed meeting on June 9, 2020, beginning at 4:00 p.m. on June 11, 2020. All members of the Board of Commissioners were present.

CLOSED SESSION

MOTION: Comr. Brinkley made a motion that the Board enter Closed Session pursuant to N.C.G.S. §143-318.11(a)(6) in order to discuss one or more confidential personnel matters. The motion was seconded by Comr. Renée Cahoon. There was no discussion and the motion carried unanimously. The Closed Session began at 4:00 p.m.

OPEN SESSION

The Board returned to Open Session at 6:34 p.m.

ADJOURNMENT

MOTION: Comr. Brinkley made a motion to adjourn the meeting. The motion was seconded by Mayor Pro Tem Siers. There was no discussion and the motion carried unanimously. The time was 6:34 p.m.

Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon



DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING (COVID-19)
WEDNESDAY, JULY 1, 2020

(PLEASE NOTE: In accordance with State and County Regulations due to COVID-19, Face Coverings must be worn in indoor and outdoor public spaces where social distancing cannot be maintained)

The Nags Head Board of Commissioners met in the Board Room of the Nags Head Municipal Complex located at 5401 S Croatan Highway in Nags Head, North Carolina on Wednesday, July 1, 2020 at 9:00 a.m.

Board members Present: Mayor Ben Cahoon; Mayor Pro Tem Michael Siers; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Kevin Brinkley

Board members Absent: None

Others present: Interim Town Manager Greg L. Sparks; Attorney John Leidy; Andy Garman; Amy Miller; Randy Wells; Shane Hite; Anthony Dillion; Michael Zehner; Kelly Wyatt; Holly White; Mark Edwards; Nancy Carawan; Kylie Shephard; Sandra Garland; Anthony Dillon; Kate Jones; David Perry; Eddie Valdivieso; and Town Clerk Carolyn Morris

CALL TO ORDER

Mayor Cahoon called the meeting to order at 9:00 a.m. A moment of silence was followed by the Pledge of Allegiance.

NEW INTERIM TOWN MANAGER

Mayor Cahoon acknowledged that this meeting is new Interim Town Manager Greg Sparks' first meeting. On behalf of the Board, Mayor Cahoon welcomed Interim Mgr Sparks to the Board meeting.

INTRODUCTION OF 2020 SEASON LIFEGUARDS

Fire Chief Randy Wells reported that in keeping with the Governor's Executive Order which extends Phase 2 of the COVID-19 pandemic that the Town's 2020 summer season lifeguards will be introduced via video at the August 5th Board meeting.

ADOPTION OF AGENDA

MOTION: Comr. Renée Cahoon made a motion to adopt the July 1st agenda as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

RECOGNITION

New Employee, Environmental Planner Kylie Shephard, was introduced by Planning Director Michael Zehner and welcomed by the Board to Town employment.

New Employee, Payroll and Benefits Specialist Sandra Garland, was introduced by Finance Director Amy Miller and welcomed by the Board to Town employment.

Fire Chief Randy Wells introduced Fire Engineer Anthony Dillon who was recognized by the Board for ten years of service.

Fire Chief Randy Wells introduced Fire Lieutenant Mark Edwards who was recognized by the Board for 15 years of service.

Water Plant Superintendent Nancy Carawan introduced Water Operations Supervisor David Perry who was recognized and congratulated for 25 years of service.

PUBLIC COMMENT

Attorney Leidy announced Public Comment open. There being no one present who wished to speak, he closed Public Comment at 9:16 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

Consideration of Budget Adjustment #1 to FY 20/21 Budget

Write-off of old business licenses/registration fees

Approval of minutes

Consideration of agreement with Dare County for Coronavirus Relief Fund allocation

Consideration of FY 20/21 Reimbursement Resolution to reimburse the cost of certain expenditures

Consideration of resolution to update Town banking signatures

Consideration of updated Cashier Policy

Request for Public Hearing to consider 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 and Parcel #: 006749039; PIN #: 989108893398); the revised Preliminary Plat proposes to create 17 building lots, along with an associated street and other required improvements, and requires a public hearing due to requested waivers

MOTION: Comr. Brinkley made a motion to approve the Consent Agenda as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

Budget Adjustment #1, as adopted, is attached to and made a part of these minutes as shown in Addendum "A".

Business licenses/registration fees write-off memo, as approved, read in part as follows:

"As per section 12-33 of the Town of Nags Head Code of Ordinances (copy attached), the current outstanding balance for the following year has been written off:

'2017 Business Licenses/Registration Fees - \$ 1,000.00"

The summary sheet for the agreement with Dare County for Coronavirus Relief Fund allocation, as approved, read in part as follows:

"North Carolina counties are receiving funding for local governments as part of the Coronavirus Relief Fund (CRF) established under the federal CARES Act. The attached agreement with Dare County allocates \$31,636 to the Town based on the Town's submitted proposal."

The agreement, as approved, is on file in the Town Clerk's office.

The FY 20/21 Reimbursement Resolution, as adopted, read in part as follows:

"WHEREAS, The Town Manager and the Finance Director have described to the Board of Commissioners the desirability of adopting a resolution, as provided under federal tax law, to facilitate the Town's use of financing proceeds to restore Town funds when the Town makes capital expenditures prior to closing on tax exempt financing.

'BE IT HEREBY RESOLVED by the Board of Commissioners of the Town of Nags Head, North Carolina as follows:

'Section 1. The project is the financing of the acquisition of vehicles and equipment as identified in the fiscal year 2020-2021 budget.

'Section 2. The project is to be financed. The currently expected type of financing (which is subject to change) is an installment purchase contract. The currently expected maximum amount to be contracted for the project is \$900,000.

'Section 3. The Town presently intends, and reasonably expects, to reimburse itself for the original expenditures incurred and paid by the Town from the General Fund and Water Fund within 60 days of adoption of this Resolution from a portion of the financing proceeds.

'Section 4. This Resolution shall become effective immediately upon the date of its adoption."

The Resolution to update Town banking signatures, as adopted, read in part as follows:

"BE IT RESOLVED by the Town of Nags Head Board of Commissioners that Southern Bank be, and hereby is, designated as a depository institution for the Town of Nags Head and that funds so deposited may be withdrawn upon a check, draft, note or order of the Town of Nags Head, AND

'BE IT FURTHER RESOLVED that all checks, drafts, notes or orders drawn against said account be signed by any one of the following:

- AMY MILLER, FINANCE DIRECTOR; and countersigned by any one of the following:
- BROOKE NORRIS, DEPUTY FINANCE OFFICER;
- BENJAMIN CAHOON, MAYOR;
- GREG SPARKS, INTERIM TOWN MANAGER;
- ANDREW GARMAN, DEPUTY TOWN MANAGER;
- CAROLYN F MORRIS, TOWN CLERK;

'whose signatures shall be duly certified to said Bank, and that no checks, drafts, notes or orders drawn against said Bank shall be valid unless so signed, AND

'BE IT FURTHER RESOLVED that said Bank is hereby authorized and directed to honor and pay any checks, drafts, notes or orders so drawn whether such checks, drafts, notes or orders be payable to the order of any such person signing and/or countersigning said checks, drafts, notes or orders, or any of such persons in their individual capacities or not, and whether such checks, drafts, notes or orders, or to the individual credit of any of the other officers or not. This resolution shall continue in force and said Bank may consider the facts concerning the holders of said offices, respectively, and their signatures to be and continue as set forth in the certificate of the Finance Director or Town Clerk, accompanying a copy of this resolution when delivered to said Bank or in any similar subsequent certificate, until written notice to the contrary is duly served on said Bank."

The updated Cashier Policy, as approved, read in part as follows:

"The cashier will accept all payments for the Town of Nags Head including cash, credit or debit card, check, e-check, or money order. These payments will be deposited daily in accordance with NCGS 159-32. All payments must be accompanied with documentation needed to determine the application of the payment to the correct Town account including but not limited to water or tax bill stub, planning permitting receipt, attorney letter, or other appropriate documentation. Payment will not be accepted without documentation. No permits are to be issued without receiving the required payment and appropriate documentation to the cashier. Water Plant Operators may accept payments during the hours the Town is not open for business from water customers whose water service has been discontinued due to non-payment of amounts due.

'Violation of this policy may result in disciplinary action up to and including dismissal."

The Agenda Summary Sheet for the Request for Public Hearing re: revised preliminary plat for a major subdivision known as Coastal Villas, as approved, read in part as follows:

"The subject application is a Preliminary Plat for a Major Subdivision known as Coastal Villas, revised from the previous version considered by the Board in January 2020. The revised Plat now proposes the new street from US 158 (as opposed to Sea Bass Court) and incorporates a parcel owned by Dare County, planned for a future well site, determined to have not been properly subdivided in 2004. The proposed layout of the Dare County parcel necessitates waivers from provisions of the Subdivision Regulations concerning street access, access to US 158, and frontage; similar waivers were considered and approved in 2004.

‘Planning Board/Staff Recommendation

Staff recommends approval of the Preliminary Plat, with conditions, and recommends approval of the requested waivers.

‘The Planning Board, at their June 16, 2020 meeting, voted 7-0 to recommend approval of the Preliminary Plat to the Board of Commissioners, with the conditions recommended by Staff, and recommended approval of the requested waivers based upon the required findings.”

PUBLIC HEARINGS

Public Hearing to consider text amendments 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

Attorney John Leidy opened the Public Hearing to consider text amendments 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. The time was 9:18 a.m.

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, June 24, 2020 and on Sunday, June 28, 2020 as required by law.

The summary sheet read in part as follows:

“The proposed text amendment (the applicant for the amendment is Kate Creef, Assistant General Manager, on behalf of Outlets Nags Head) is seeking to amend Section 7.76.1 to expand the principal sale items allowed to be sold from outdoor stands to include “reservations or ticket sales,” and to amend Section 7.76.2. to increase the number of outdoor stands allowed per site from one (1) to two (2). A public hearing on the request was held at the Board of Commissioners meeting on May 6, 2020. The Board of Commissioners voted to table consideration of the proposed amendments and refer the matter back to the Planning Board for further review, with consideration of issues pertaining to location, visual impact, signage, and parking. The Planning Board has recommended further changes to the proposed amendment.

‘Planning Board/Staff Recommendation

Initially, Staff recommended to the Planning Board that the amendment be adopted with modifications to the standards to require that the sale and advertisement of items be confined to stands and to allow a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge. Additionally, maximum stand area and time limits were also suggested, as well as amendment of the definition of Outdoor Stand for consistency. Based upon discussion by the Board of Commissioners, Staff further recommended to the Planning Board that consideration be given to 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, in terms of being located within parking areas or needing to be located no closer to a property line than the distance from a principal building on a site or within a certain maximum distance from a principal building.

‘Upon reconsideration at their meeting on May 19, the Planning Board voted 6-0 to recommend that two stands only be allowed on sites with an area of ten (10) acres or greater, that signage for all stands be limited to a total of fifteen (15) square feet, and that stands used for reservations or ticket

sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.”

Director Zehner summarized his memo which read in part as follows:

“The proposed text amendment (the applicant for the amendment is Kate Creef, Assistant General Manager, on behalf of Outlets Nags Head) is seeking to amend Section 7.76.1 to expand the principal sale items allowed to be sold from outdoor stands to include “reservations or ticket sales,” and to amend Section 7.76.2. to increase the number of outdoor stands allowed per site from one (1) to two (2). Initially, as discussed with the Planning Board on January 21, 2020, the proposal sought to amend the UDO to allow “outdoor kiosks” for the sale of tickets and reservations for on-site and off-site recreational facilities. Mrs. Creef had explained to the Board that a vendor had approached the Outlets about the idea of having a kiosk located on the property to allow patrons to book charter fishing excursions, a concept which was believed would enhance the customers’ shopping experience. Mrs. Creef indicated that there would be a preference to allow two outdoor stands (where the regulations only allow for one) and confirmed for the Board that the plan was to locate the kiosk in the terrace area.

‘Based upon the discussion and feedback provided by the Planning Board, the applicant modified the original proposal (consistent with the version before the Board) and returned to the Planning Board meeting on February 18, 2020. The Planning Board recommended approval, with changes recommend by Staff, detailed as part of Staff’s recommendation.

‘The Board of Commissioners held a public hearing and considered the proposed amendment at their meeting on May 6, 2020. Ultimately, the Board voted unanimously to table consideration and refer the amendment back to the Planning Board for review and recommendation, requesting that the Planning Board consider the issues raised by the Board. The following excerpts are from the minutes of the Board of Commissioners’ meeting:

‘Applicant Kate Creef spoke electronically on behalf of the Outlet Center Nags Head; they had been asked about interest in providing a space for displaying fishing photographs and taking reservations for inshore and offshore fishing trips; they felt this would be a great opportunity to enhance the offerings at the Outlet Center and could also apply to other recreational activities that would appeal to their shoppers such as dolphin tours.

‘Comr. Fuller confirmed with Planning Director Zehner that 11 shopping centers would be affected/eligible for the outdoor stands under this ordinance modification. It was noted that in 2013 the Planning Board turned down a similar request it was believed because it was related to multiple food stands. Comr. Fuller also confirmed with staff that currently some items can be sold in the requested manner in accordance with current ordinance.

Attorney Leidy confirmed that there were no other public comments on this text amendment, and he concluded the Public Hearing at 9:23 a.m.

‘Comr. Fuller spoke in opposition to the request as he feels the service being requested already exists and has for years; he expressed concern that it in effect only adds more signage – signage for these types of businesses tend to look carnival-like and additional signage is not what the town is after right now. He also feels that the building itself would be used as signage.

‘Comr. Brinkley spoke indicating that he does not share the same concerns as Comr. Fuller and in addition he does not feel that it would create an increase in traffic or trash.

Comr. Siers said that he looks on it as an opportunity for others to experience more about the Outer Banks that they may not be aware of – he has no issues with the request.

Comr. Renée Cahoon discussed parking and Director Zehner stated that no additional parking spaces will be needed if 50 spaces are already provided.

Mayor Cahoon said that he had one reservation and that is adding another freestanding sign unit to the parking lot.

In response to a question from Comr. Renée Cahoon re: removal of the outdoor stands, Director Zehner said that the structure would essentially be permanent but would not be able to operate year-round.

Mayor Cahoon summarized some modifications as discussed such as location on site, visual impact, signage, and parking.

MOTION: Comr. Fuller made a motion to deny the request for outdoor stands as presented. Comr. Renée Cahoon seconded the motion with the friendly amendment (accepted by Comr. Fuller) that the proposal be sent back to the Planning Board for review and recommendation re: today's comments made by Board members.

WITHDRAWAL OF MOTION: Comr. Fuller withdraw his motion; Comr. Renée Cahoon withdrew her second.

MOTION: Comr. Brinkley made a motion to table the discussion and refer the outdoor stands proposal, along with the issues expressed today by Board members [re: location on site, visual impact, signage, and parking] back to the Planning Board for review and recommendation. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

The proposed ordinance returned to the Planning Board on May 19, 2020. Based upon discussion by the Board of Commissioners, and the Board's motion, Staff further recommended to the Planning Board that consideration be given to 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, in terms of being located within parking areas or needing to be located no closer to a property line than the distance from a principal building on a site or within a certain maximum distance from a principal building.

Upon reconsideration at their meeting on May 19, the Planning Board voted 6-0 to recommend that two stands only be allowed on sites with an area of ten (10) acres or greater, that signage for all stands be limited to a total of fifteen (15) square feet, and that stands used for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.

BACKGROUND

*The current version of the allowances and standards for *Outdoor Stands, Accessory to Shopping Center & Group Development* are the result of numerous changes over the course of the last ten (10) years; actions of note are as follows:*

- The allowance of outdoor fresh produce stands as an accessory use to shopping centers was first established in mid-2009;
- In late-2009, an amendment was adopted to allow hotdog vending stands as an accessory use to shopping centers;
- In early-2010, an amendment was adopted to allow coffee vending stands as an accessory use to shopping centers;
- In mid-2010, recognizing that one of each of the aforementioned stands could be permitted at any given shopping center, an amendment was adopted to limit the number of accessory outdoor stands at any shopping center site to one (1); additionally, the various stand uses were consolidated under a single use (Outdoor Stands);
- In late-2010, the Ordinance was amended to allow Italian ice and fudge sales;
- In early-2013 ice cream was added as an allowed sale item; additionally, in 2013, a request to expand the allowable number of stands from one (1) to (2) was denied; and
- The provisions were last amended in 2014 when the allowed locations for outdoor stands were expanded to allow as accessory to Group Development (aka Office/Retail Group Development).

'Beyond comments made by the Commissioners concerning the necessity of the service proposed and the proposal to allow up to two outdoor stands on a property, concerns raised with respect to location, parking, and signage are relevant under current regulations. Currently, outdoor stands are 1) allowed to be located on a site in compliance with minimum district yard regulations for principal use structures, 2) are allowed to be located on a site with fifty (50) or more existing parking spaces without providing additional parking spaces, or provide a minimum of three (3) additional parking spaces for sites with less than fifty (50) parking spaces, and 3) install a temporary sign with an area up to fifteen (15) square feet.

'POLICY CONSIDERATIONS

There are no direct policies concerning outdoor stands. However, certainly economic development objectives and policies encouraging and supporting small businesses and the viability of existing commercial properties are applicable, and need to be balanced with objectives and policies focused on maintaining the Town's character.

'Generally, Staff believes that the request to allow the sale of tickets and reservations is consistent with applicable policies; however, Staff would suggest that the standards be clarified to require that the sale and advertisement of items be confined to stands. With respect to the number of allowed stands on any particular site, Staff would support a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge.

'PLANNING BOARD RECOMMENDATION

Previously, the Planning Board, at their February 18, 2019 meeting, voted 6-0 to recommend amendments to the UDO as recommended by Staff. In making their recommendation, the Planning Board acknowledged their opinion that the proposed amendments were consistent with the relevant policies contained in the Comprehensive Plan.

'Upon reconsideration at their meeting on May 19, the Planning Board voted 6-0 to recommend, in addition to those modifications previously recommended, that two stands only be allowed on sites with an area of ten (10) acres or greater, that signage for all stands be limited to a total of fifteen (15) square feet, and that stands used for reservations or ticket sales shall be located within shopping

centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.

STAFF RECOMMENDATION

Staff previously recommended that the amendments be adopted with modifications to the standards to require that the sale and advertisement of items be confined to stands and to allow a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge. Additionally, it was suggested that Sections 7.76.3 and 7.76.4. also be amended to provide for a maximum stand area and any time limitations, respectively, for the sale of tickets and reservations; a limitation of 150 square feet and a time limitation consistent with produce stands are likely sufficient. Finally, Staff recommended that the current definition of Outdoor Stand, as follows, be amended consistent with the amendment of Section 7.76.1.:

Outdoor stand means an approved area where the sale of produce, hot dogs, coffee, ice cream or Italian ice, and fudge occurs from a cart or structure.

Staff supports and recommends those additional modifications recommended by the Planning Board. Both the original modifications recommended by Staff and the Planning Board, as well as the additional modifications recommended upon reconsideration, have been incorporated into the attached adoption ordinance and markup of Section 7.76, highlighted to differentiate from the applicant's proposal. It is important to note that the limitation on sites ten (10) acres or greater in area would, currently, only apply to one (1) of the eleven (11) properties previously identified by Staff; if the limit were five (5) acres, the allowance would apply to three (3) of the eleven (11) sites.

With regard to the Board of Commissioners' review and action, Staff recommends consideration of the following UDO provisions:

3.5.3. Action by the Planning Board.

3.5.3.1. Every proposed amendment, UDO text amendment or zoning map amendment, shall be referred to the Planning Board for its recommendation and report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.

3.5.3.2. Prior to the consideration by the Board of Commissioners of a proposed UDO text amendment or zoning map amendment, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation, certified by the UDO Administrator, to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.

3.5.3.3. Members of the Planning Board shall not vote on recommendations regarding any UDO text amendment or zoning map amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

3.5.4. Action by the Board of Commissioners.

Action upon an UDO text amendment or zoning map amendment, including the scheduling of a public hearing, will be at the discretion of the Board of Commissioners.

3.5.4.1. Before an item is placed on the consent agenda to schedule a public hearing, the Planning Board's recommendation on each proposed amendment must be received by the Board of Commissioners. If no recommendation is received from the Planning Board within 30 days from the date when submitted to the Planning Board, the petitioner may take the proposal to the Board of Commissioners without a recommendation from the Planning Board. However, the Planning Board may request the Board of Commissioners to delay final action on the amendment until such time as the Planning Board can present its recommendations. No such limitations shall apply to applications or requests submitted by Town staff or any Town Board.

3.5.4.2. After receiving a recommendation from the Planning Board on a proposed amendment, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

3.5.4.3. The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time. Final action on an UDO text amendment or zoning map amendment submitted by third parties will be taken within a reasonable time. Final action taken within 90 days of the public hearing before the Board of Commissioners shall be presumptively reasonable.

3.5.4.4. No member of the Board of Commissioners shall vote on any zoning map amendment or UDO text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact.

3.5.4.5. Prior to adopting or rejecting any UDO text and/or map amendment, the Board of Commissioners shall adopt one of the following statements which shall not be subject to judicial review.

3.5.4.5.1. A statement approving the amendment and describing its consistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.

3.5.4.5.2. A statement rejecting the amendment and describing its inconsistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.

3.5.4.5.3. A statement approving the amendment and containing at least all of the following:

3.5.4.5.3.1. A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Board of

Commissioners shall not require any additional request or application for amendment to the Comprehensive Plan.

3.5.4.5.3.2. An explanation of the change in conditions the Board of Commissioners took into account in amending the UDO to meet the development needs of the community.

3.5.4.5.3.3. Why the action was reasonable and in the public interest.

3.5.4.6. In deciding whether to adopt a proposed amendment to this UDO, the central issue before the Board of Commissioners is whether the proposed amendment advances the public health, safety, or welfare. When considering proposed map amendments:

3.5.4.6.1. The Board of Commissioners shall consider the entire range of permitted uses in the requested classification."

In response to Mayor Pro Tem Siers, Director Zehner said that only one site can have two outdoor stands – which is partly why staff used the size of 10-acre sites.

Comr. Fuller said that the maximum signage allotment has already been met and if the amendment is adopted, the sites would be allowed over the maximum signage. Director Zehner did not agree stating that only one stand per site is being allowed.

Applicant Creef said that the Outlet Center would like to get a business in operation before the end of this season in order to help local businesses; she is available to answer any questions the Board may have.

Comr. Renée Cahoon questioned if this is in addition to tickets already being sold. Ms. Creef said that she does not sell tickets in her office as was done previously such as for the Lost Colony plays.

There being no one else present who wished to speak, Attorney Leidy closed the Public Hearing at 9:26 a.m.

Comr. Brinkley thanked Director Zehner and staff as well as the Planning Board for their review and discussions - he spoke in favor of the application.

Comr. Fuller said that he is not in favor of the application as the use is already an allowed use; any of the now 22 - 24 stores can already do this; the opportunity already exists in the mall; he feels that the only reason to approve this is to allow additional square footage of building space that he feels is not needed.

Mayor Pro Tem Siers said that these companies are not local, they are corporate and may not be put back after this year – but that he sees no issue to this request and would not hold them back.

Comr. Renée Cahoon said that as long as the stands do not impede the parking lot, she is okay with the request.

MOTION: Comr. Brinkley made a motion to adopt the text amendments 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, as requested. The motion was seconded by Mayor Pro Tem Siers which passed 4 – 1 with Comr. Fuller casting the NO vote.

The ordinance, as adopted, is attached to and made a part of these minutes as shown in Addendum "B".

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

Update from Planning Director

Planning Director Michael Zehner presented his monthly update which included a Planning Board report on Large Occupancy Homes as well as the Planning Board's recommendation re: residential stormwater regulations. His memo with Planning Dept updates is attached to and made a part of these minutes as found in Addendum "C".

Director Zehner provided an update on the following items:

Regulations on large occupancy homes

Residential stormwater regulations – from January 2020 Board Retreat

2020 Census – now have higher response rate - their campaigns are encouraging

Farmers Market – have been proactive for sanitizing and hopes the Board would reconsider unfreezing funds for the part-time position.

Comr. Fuller questioned if the Market vendors are following safe practices as many of them go from place to place each week. Director Zehner said that the vendors are taking the appropriate actions for safety. In addition, sanitizing actions for the Market include protocols followed if an issue is encountered, sanitation stations, hand-washing stations, sanitized restrooms, and additional spacing.

Mayor Cahoon asked about the mask-wearing requirement – Director Zehner said that signs requiring masks and social distancing have been provided for each vendor. Comr. Fuller said that consistently the playground at Dowdy Park is always full and no masks are being worn.

Board members would like to see, as a value of the Board, police presence at the Farmers Market all day tomorrow during the event.

Comr. Renée Cahoon said that she would be in favor of unfreezing the part-time Dowdy Park position only after tomorrow's Market and seeing how everything works.

Mayor Cahoon requested an immediate post-action report from staff after tomorrow's Dowdy Park Farmer's event.

MOTION: Mayor Cahoon made a motion to unfreeze the \$16,000 Dowdy Park part-time position funds for a 30-day period - until the August 5th Board meeting - and to have staff spend the funds at their discretion. The motion was seconded by Comr. Brinkley which passed unanimously.

Director Zehner continued summarizing his report:

The CAMA access grant application for Huron Street was not approved.
The Jacob and Islington beach access projects are moving forward.

Mayor Cahoon spoke in favor of Director Zehner's presentation on stormwater control measures/possibilities and he noted that a tiered approach may work. He felt that the stormwater discussion would be well served in a Board workshop setting in late fall/winter and Board members agreed. Director Zehner said that he would continue to refine the stormwater system ideas and projects and then return to the Board.

Consideration of Town Code Sec 26-7 amendment re: Camping

Planning and Development Director Michael Zehner summarized his memo which read in part as follows:

"In the consideration of expected seasonal enforcement activities, Staff identified an inconsistency in the Town Code with respect to the use of vehicles, specifically trailers and recreational vehicles, for camping. Formerly the Town Code, and now the UDO, prohibit the use of trailers within the Town for sleeping or habitation; however, Section 26-7, Camping, of the Town Code, which has been in place since at least 1990, defines open air camping as "any act of living, residing or sleeping at night, in the open air or in an automobile or vehicle which does not meet the requirements of a mobile home, as defined. The term "camping in the open air" includes, but is not limited to, sleeping out of doors in a tent, sleeping bag, blanket or hammock, or without any paraphernalia other than the clothes worn on the body," and provides that "No person shall engage in the act of open air camping within the town; except, that an owner or lessee of improved real property and his immediate family and any person in the company of a member of the immediate family may camp upon the property; provided, however, that sanitary facilities including a bathroom with running potable water is available on such property for the use of all persons engaged in open air camping as permitted by this exception. The total number of persons authorized shall not exceed five."

'Based upon the inconsistency, Staff has prepared a draft amendment to Section 26-7 of the Town Code which is understood to address the issue based upon past practice. The draft proposes to remove the reference to the use of automobiles or vehicles from the definition of open air camping, and also specifically preclude the use of vehicles for camping under the circumstances where camping is allowed.

'STAFF RECOMMENDATION

Staff recognizes that this amendment may require further consideration and input from the Board; while Staff believes that it addresses the identified inconsistency and the Board could adopt the amendment, further feedback and direction would be welcome."

Mayor Cahoon confirmed with Director Zehner that the purpose is to remove all ambiguity re: open-air camping; Director Zehner said that the Town Code may be modified to allow camping on a residential site for a specific amount of time. Comr. Brinkley assured Board members that Police always use discretion when dealing with kids in the backyard camping, etc.

MOTION: Comr. Fuller made a motion to adopt the Town Code ordinance amendment re: camping as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

The ordinance, as adopted, is attached to and made a part of these minutes as shown in Addendum "D".

Comr. Renée Cahoon confirmed that staff will return at some point with another proposal with further clarifications for Board consideration.

Consideration of resolution to adopt Hazard Mitigation Plan

Planner Holly White summarized her memo which read in part as follows:

"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 Plan as of June 10, 2020. Formal notification from FEMA will be sent upon approval of the Plan by all of the jurisdictions involved. The approval process requires that the State review and FEMA approval occur prior to the individual jurisdictional adoption. 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 & PLANNING BOARD RECOMMENDATION

Staff recommends that the Board of Commissioners consider adoption of the *Outer Banks Regional Hazard Mitigation Plan*. At the June 16, 2020 Planning Board Meeting, the Planning Board recommended approval of the *Outer Banks Regional Hazard Mitigation Plan*."

MOTION: Comr. Brinkley made a motion to adopt the resolution adopting the Hazard Mitigation Plan as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

The resolution, as adopted, read in part as follows:

"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; AND

"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; AND

'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."

Consideration of scope for update of the Decentralized Wastewater Management Plan

Environmental Planner Kylie Shephard summarized the agenda summary sheet which read in part as follows:

"Staff has developed a draft scope for the project to update the Town's *Decentralized Wastewater Management Plan*. This project and the update of the Plan works to implement a recommended action of the Town's Comprehensive Plan to "Update the Decentralized Wastewater Management Plan to evaluate the overall effectiveness of the program and recommend additional measures as necessary," (NR-26g) and advances actions recommended in the Town's *Vulnerability, Consequences, Adaptation, Planning Scenarios (VCAPS) Report*. This project is included on the Department's FY2020-2021 Strategic Work Plan.

'Staff Recommendation

Staff recommends that the Board review and discuss the draft scope, suggesting any revisions deemed necessary."

The memo presented by Ms. Shephard read in part as follows:

"Staff has developed the attached draft Scope for the project to update the Town's Decentralized Wastewater Management Plan, presented to the Board for review and pre-approval. This draft scope anticipates tasks to be performed by Town Staff and the yet-to-be-engaged consultant. The project will be managed by Town Staff. This project and the update of the Plan works to implement a recommended action of the Town's Comprehensive Plan to "Update the Decentralized Wastewater Management Plan to evaluate the overall effectiveness of the program and recommend additional measures as necessary," (NR-26g) and advances actions recommended in the Town's *Vulnerability, Consequences, Adaptation, Planning Scenarios (VCAPS) Report*. This project is included on the Department's FY2020-2021 Strategic Work Plan. Staff would request any comments, questions, or suggested revisions to the scope."

In response to an inquiry by Mayor Pro Tem Siers, Ms. Shephard said that the consultant would help to improve practices, develop ways to include stakeholders in the process and create a public outreach program. The public outreach program would be a great way to protect the community and to involve the homeowners.

Comr. Renée Cahoon asked about the steering committee purpose and Director Zehner said that it would help with the focus of the plan - what the plan is intending to address.

Comr. Fuller spoke against a Board member serving as a liaison on the steering committee as that Board member usually ends of chairing that committee and telling staff what to do - he said that to him it would not serve a useful purpose.

Mayor Cahoon asked about the test sites and confirmed with Ms. Shephard that there were an adequate number of wells.

It was Board consensus to approve the Decentralized Wastewater Management Plan scope as presented and that staff take into account the Board's comments/questions from today's discussion.

The scope, as approved, is attached to and made a part of these minutes as shown in Addendum "E".

WEST SIDE OF US 158 MULTI-USE PATH CONSTRUCTION PROJECT

Dep Town Manager Andy Garman summarized issues with - as well as the progress of - the multi-use path projects. He stated that in recent weeks delays on the 8C project have resulted in additional changes – staff met with the contractor yesterday and is meeting with them on a regular basis. Staff needs to pin down how the project is to proceed and get the information out to the public. Dep Manager Garman stated that project 8B is the south portion of the project; project 8C is the north portion.

Eddie Valdivieso of RPC Contracting was present and provided some explanation. He said that he is in daily communication with Town Engineer David Ryan and the 8C project completion date is July 16th for substantial completion and July 20th for final completion.

In response to Mayor Cahoon, Mr. Valdivieso said that in his opinion a lot of dynamics are involved especially on the design side with many pieces to the puzzle. It is a hard project under the current traffic conditions and some issues that were not thought to be in conflict with traffic ended up being in conflict with traffic. Issues that are common on these types of projects such as utilities and change in elevation have occurred and take time to resolve.

In response to Mayor Pro Tem Siers, Mr. Valdivieso stated that the construction issues, and not design issues, were found to have caused the most problems. Project 8C had the most conflicts with subtle design changes made out in the field. Project 8B completion date is mid-August and in response to a question from Comr. Renée Cahoon, Mr. Valdivieso said that traffic couldn't be any worse than it is at this time; he is also confident that in the Project 8B phase the traffic will be more manageable/tolerable. NCDOT is also expected to improve traffic with construction moving south at the traffic loop signals.

Comr. Brinkley confirmed that as construction workers finish one of the projects, they will move to assist with the other.

Comr. Fuller asked about complaints received from business owners in the area of the projects; Mr. Valdivieso said that he has met with them and has responded by moving some of the construction barrels and by taking several other actions to alleviate their concerns.

Dep Town Manager Andy Garman said that the Outer Banks Hospital and Outer Banks Mall are located in the Project 8C area; The Outlets Mall is located in the Project 8B area.

On behalf of the Board, Mayor Cahoon thanked RPC Contracting, Eddie Valdivieso, for speaking with the Board concerning updates on issues found with construction of the west side multi-use path project (Projects 8B and 8C). Mr. Valdivieso reported that substantial completion for the 8C path project is July 16th; for the 8B path project it is mid-August. Traffic conflicts, unexpected utility line locations to

include changes in elevation, and subtle design changes made out in the field have all contributed to the delays. Town staff is to continue to update the public on the status.

NEW BUSINESS

Committee Reports

Mayor Cahoon questioned Jennette's Pier status as it was noted that people are allowed out on the pier. Comr. Brinkley reported that there has not been a recent meeting of the Jennette's Pier Advisory Committee.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Attorney Leidy stated that he had nothing new to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Interim Town Manager Greg Sparks - thank you to Board

Interim Town Manager Sparks thanked the Board for his appointment and stated that he has been made to feel very welcome by everyone. He emphasized that he is in the process of getting up to speed on the Town's issues to include: Hiring of the Public Works Director and the Town Manager recruitment process - he noted that headhunter proposals are due to him by July 10th.

BOARD OF COMMISSIONERS AGENDA

Comr. Kevin Brinkley - Update on recycling

Dep Planning Director Andy Garman provided an update on recycling:

Subscription service for Town residents – Thus far there are 129 residents that have expressed interest; Bay Disposal has noted in conversation to former Town Manager Cliff Ogburn that a specific number of interested residents are required before they will initiate service

Reduce and Recycle Committee - Thus far there are 25 people who have expressed interest in serving on the committee to look into ways to reduce the number of items from the waste stream and to come up with other progressive ideas to meet the Town's goals. Appointments and consideration of a charge is scheduled to take place at the August 5th Board of Commissioners meeting.

Mayor Cahoon said that it is important to call the committee a task force which is more accurate; an accurate charge for the task force will be critical.

Comr. Brinkley thanked Dep Mgr Garman for his report and said that August will be a good time to begin a discussion/appointments.

Comr. Brinkley noted that many feel that the Town will be recycling in the off season - Dep Mgr Garman said that the Town's recycling centers will continue to be able to be utilized and those

comingled items are being incinerated at this time. Comr. Brinkley thanked staff and the Public Works Department for maintaining the recycling centers.

Mayor Cahoon – September 2020 Board Retreat

Mayor Cahoon suggested a discussion at the August Board meeting of possible dates for a September 2020 Board Retreat. He feels that it would be appropriate to first get past this summer season and for the Board to then sit down and set some objectives going into the winter.

Comr. Renée Cahoon - Enforcing mask-wearing on the Outer Banks

Comr. Renée Cahoon noted that the Governor’s Executive Order mandated the wearing of masks and she has also seen more people here on the Outer Banks than ever before. She feels it is the responsibility of the Outer Banks Visitors Bureau to communicate to the public that the Outer Banks requires mask-wearing - she is concerned that not enough communication is being given to the public.

She feels it is their job to do this - to outline parameters to the public and to be the area’s advocate for public health - also where does the public call to report an issue?

Comr. Fuller agreed with Comr. Renée Cahoon and pointed out that the Outer Banks Visitors Bureau currently has a campaign to run throughout the summer on all radio stations and media stations speaking to the mask-wearing issue and to emphasize the three W’s (Wear, Wait, and Wash). In addition, the Visitors Bureau has purchased printed ads in local magazines bringing people in and speaking of safe procedures. The Visitors Bureau has also created a web page that highlights business safety protocols and they have produced masks that are branded and handed out free from welcome centers. He feels they can do more but some is being done.

Comr. Renée Cahoon spoke in favor of this campaign and suggested a stronger message that is more visible to the public so that people are prepared before they visit. She feels that the message should also be extended that businesses need to enforce mask use and other safety methods.

ADJOURNMENT

MOTION: Comr. Brinkley made a motion to adjourn. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 11:20 a.m.

Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon



Agenda Item Summary Sheet

Item No: **E-4**
Meeting Date: **August 5, 2020**

Item Title: Consideration of Statewide Emergency Management Mutual Aid Agreement (Revision 2020)

Item Summary:

The NC Statewide Emergency Agreement, Revision 2017, was reviewed and approved at the July 1st Board of Commissioners meeting. The State subsequently asked that the agreement, Revision 2020, be reviewed and approved. The only change between the 2017 agreement and the 2020 agreement is below (definition of "Emergency" was expanded):

2017 - "Emergency" means an occurrence or imminent threat of widespread or severe damage, injury or loss of life or property, resulting from any natural or man-made accidental, military, or paramilitary cause.

2020 – "Emergency" means an occurrence or imminent threat of widespread or severe damage, injury or loss of life or property, resulting from any natural or man-made accidental, military, or paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident.

Fire Chief Randy Wells has approved the request. Attached please find the NC Statewide Emergency Agreement, Revision 2020, for Board approval at the August 5th Board of Commissioners meeting.

Number of Attachments: 1

Specific Action Requested:

Revision 2020 of the NC Statewide Emergency Management Mutual Aid Agreement is provided for Board approval.

Submitted By: Administration Date: July 29, 2020

Finance Officer Comment:

No unbudgeted costs associated with this agenda item.

Signature: Amy Miller Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: July 29, 2020

Town Manager Comment and/or Recommendation:

I concur with the request.

Signature: Greg Sparks Date: July 29, 2020



NORTH CAROLINA STATEWIDE EMERGENCY MANAGEMENT MUTUAL AID AND ASSISTANCE AGREEMENT REVISION -2020

FOR THE

THIS AGREEMENT IS ENTERED INTO BETWEEN THE NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, AND ITS DIVISION OF EMERGENCY MANAGEMENT OF THE STATE OF NORTH CAROLINA AND BY EACH OF THE ENTITIES THAT EXECUTES AND ADOPTS THE UNDERSTANDINGS, COMMITMENTS, TERMS, AND CONDITIONS CONTAINED HEREIN:

WHEREAS, the State of North Carolina is geographically vulnerable to a variety of natural disasters;

WHEREAS, Chapter 166A of the North Carolina General Statutes, entitled the North Carolina Emergency Management Act, recognizes this vulnerability and provides that its intended purposes are to:

1. Reduce vulnerability of people and property of this State to damage, injury, and loss of life and property;
2. Prepare for prompt and efficient rescue, care, and treatment of threatened or affected persons;
3. Provide for the rapid and orderly rehabilitation of persons and restoration of property;
4. Provide for cooperation and coordination of activities relating to emergency and disaster mitigation, preparedness, response, and recovery;

WHEREAS, in addition to the State, the Federal Emergency Management Agency (FEMA) has recognized the importance of the concept of coordination between the State and local governments;

WHEREAS, under Chapter 166A and other chapters of the North Carolina General Statutes, entities entering into mutual aid and assistance agreements may include provisions for the furnishing and exchanging of supplies, equipment, facilities, personnel and services; and

WHEREAS, the entities which have chosen to become signatories to this Agreement wish to provide mutual aid and assistance amongst one another at the appropriate times;

THEREFORE, pursuant to G.S. 166A-19.72, these entities agree to enter into this Agreement for reciprocal emergency management aid and assistance, with this Agreement embodying the understandings, commitments, terms, and conditions for said aid and assistance, as follows:

SECTION I. DEFINITIONS

"Agreement" means this document, the North Carolina Statewide Emergency Management Mutual Aid and Assistance Agreement.

"Aid and assistance" includes personnel, equipment, facilities, services, and supplies.

"Authorized Representative" means a party's employee who has been authorized, in writing by that party, to request, to offer, or to otherwise provide assistance under the terms of this Agreement. The list of Authorized Representatives for each party executing this Agreement shall be attached to the executed copy of this Agreement. (In the event of a change in personnel, unless otherwise notified, the presumption will be that the successor to that position will be the authorized representative.)

"Disaster declaration" means a gubernatorial declaration that the impact or anticipated impact of an emergency constitutes a Type I, II, III disaster as defined in G.S. 166A-19.21(b)

"Emergency" means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident.

"Local Agency" means a county agency charged with coordination of all emergency management activities for its geographical limits pursuant to G.S. 166A-19.15.

"Party" means a governmental entity which has adopted and executed this Agreement.

"Provider" means the party which has received a request to furnish aid and assistance from another party in need (the "Recipient").

"Recipient" means the party setting forth a request for aid and assistance to another party (the "Provider").

SECTION II. INITIAL RECOGNITION OF PRINCIPLE BY ALL PARTIES; AGREEMENT PROVIDES NO RIGHT OF ACTION FOR THIRD PARTIES

As this is a reciprocal contract, it is recognized that any party to this Agreement may be requested by another party to be a Provider. It is mutually understood that each party's foremost responsibility is to its own citizens. The provisions of this Agreement shall not be construed to impose an unconditional obligation on any party to this Agreement to provide aid and assistance pursuant to a request from another party. Accordingly, when aid and assistance have been requested, a party may in good faith withhold the resources necessary to provide reasonable and adequate protection for its own community, by deeming itself unavailable to respond and so informing the party setting forth the request.

Given the finite resources of any jurisdiction and the potential for each party to be unavailable for aid and assistance at a given point in time, the parties mutually encourage

each other to enlist other entities in mutual aid and assistance efforts and to enter into such agreements accordingly. Concomitantly, the parties fully recognize that there is a highly meritorious reason for entering into this Agreement, and accordingly shall attempt to render assistance in accordance with the terms of this Agreement to the fullest extent possible.

Pursuant to G.S. 166A-19.60 and as elaborated upon in Section X of this Agreement, all functions and activities performed under this Agreement are hereby declared to be governmental functions. Functions and activities performed under this Agreement are carried out for the benefit of the general public and not for the benefit of any specific individual or individuals. Accordingly, this Agreement shall not be construed as or deemed to be an Agreement for the benefit of any third parties or persons and no third parties or persons shall have any right of action under this Agreement for any cause whatsoever. All immunities provided by law shall be fully applicable as elaborated upon in Section X of this Agreement.

SECTION III. PROCEDURES FOR REQUESTING ASSISTANCE

Mutual aid and assistance shall not be requested unless the resources available within the stricken area are deemed inadequate by Recipient. When Recipient becomes affected by a emergency and deems its resources inadequate, it may request mutual aid and assistance by communicating the request to Provider, indicating the request is made pursuant to this Agreement. The request shall be followed as soon as practicable by a written confirmation of that request, including the transmission of a proclamation of local state of emergency under G.S. 166A-19.22, and a completed form describing recipient's projected needs in light of the emergency. All requests for mutual aid and assistance shall be transmitted by the party's *Authorized Representative* or to the *Coordinator of the Local Agency* as set forth below.

A. METHOD OF REQUEST FOR MUTUAL AID AND ASSISTANCE: Recipient shall set forth requests as follows:

(i) REQUESTS ROUTED THROUGH THE RECIPIENT'S LOCAL AGENCY: Recipient may directly contact the Local Agency, in which case it shall provide the Local Agency with the information in paragraph B of this Section (Section III). The Local Agency shall then contact other parties on behalf of Recipient to coordinate the provision of mutual aid and assistance. Recipient shall be responsible for the costs and expenses incurred by any Provider in providing aid and assistance pursuant to Section VII of this Agreement.

(ii) REQUESTS MADE DIRECTLY TO PROVIDER: Recipient may directly contact Provider's authorized representative, setting forth the information in paragraph B of this Section (Section III). All communications shall be conducted directly between Recipient and Provider. Recipient shall be responsible for the costs and expenses incurred by any Provider in providing aid and assistance pursuant to the provisions of this Agreement as noted in Section VII of this Agreement. Provider and Recipient shall be responsible for keeping Local Agencies advised of the status of response activities, in a timely manner.

(iii) RECORD OF REQUESTS TO BE PROVIDED: A record of the request for assistance shall be provided by the Recipient to the Director of the Division of Emergency Management in the NC Department of Public Safety, in a timely manner.

B. REQUIRED INFORMATION: Each request for assistance shall include the following information, in writing or by any other available means, to the extent known:

1. Stricken Area and Status: A general description summarizing the condition of the community or emergency area (i.e., whether the emergency and/or disaster declaration is imminent, in progress, or has already occurred) and of the damage sustained to date;
2. Services: Identification of the service function(s) for which assistance is needed and the particular type of assistance needed;
3. Infrastructure Systems: Identification of the type(s) of public infrastructure system for which assistance is needed (water and sewer, storm water systems, streets) and the type of work assistance needed;
4. Aid and Assistance: The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed;
5. Provider's Traveling Employee Needs--Unless otherwise specified by Recipient, it is mutually understood that Recipient will provide for the basic needs of Provider's traveling employees. Recipient shall pay for all reasonable out-of-pocket costs and expenses of Provider's traveling employees, including, without limitation, transportation expenses for travel to and from the stricken area. Further, Recipient shall house and feed Provider's traveling employees at its (Recipient's) sole cost and expense. If Recipient cannot provide such food and/or housing at the emergency area, Recipient shall specify in its request for assistance that the Provider's traveling employees be self-sufficient.
6. Facilities: The need for sites, structures, or buildings outside Recipient's geographical limits to serve as relief centers or staging areas for incoming emergency goods and services; and
7. Meeting Time and Place: An estimated time and a specific place for a representative of Recipient to meet the personnel and resources of any Provider.

C. STATE AND FEDERAL ASSISTANCE: Recipient shall be responsible for coordinating requests for state or federal assistance with its (Recipient's) Local Agency.

SECTION IV. PROVIDER'S ASSESSMENT OF AVAILABILITY OF RESOURCES AND ABILITY TO RENDER ASSISTANCE

When contacted by the Recipient/Local Agency, Provider's authorized representative shall assess Provider's own local situation in order to determine available personnel, equipment, and other resources. If Provider's authorized representative determines that Provider has available resources, Provider's authorized representative shall so notify the

Recipient/Local Agency (whichever communicated the request). Provider shall complete a written acknowledgment, whether on the request form received from Recipient or on another form, regarding the assistance to be rendered (or a rejection of the request) and shall transmit it by the most efficient practical means to the Recipient/Local Agency for a final response. Provider's acknowledgment shall contain the following information:

1. In response to the items contained in the request, a description of the personnel, equipment, and other resources available;
2. The projected length of time such personnel, equipment, and other resources will be available to serve Recipient, particularly if the period is projected to be shorter than one week (as provided in the "Length of Time for Aid and Assistance" section [Section VI] of this Agreement.)
3. The estimated time when the assistance provided will arrive at the location designated by the Authorized Representative of the Requesting Party; and
4. The name of the person(s) to be designated as Provider's supervisor (pursuant to the "Supervision and Control" section [Section V] of this Agreement.)

Where a request has been submitted to the Local Agency, the Local Agency shall notify Recipient's authorized representative and forward the information from Provider. The Recipient/Local Agency shall respond to Provider's written acknowledgment by signing and returning a copy of the form to Provider by the most efficient practical means, maintaining a copy for its file.

SECTION V. SUPERVISION AND CONTROL

Provider shall designate one of its employees sent to render aid and assistance to Recipient as a supervisor. As soon as practicable, Recipient shall assign work tasks to Provider's supervisor, and unless specifically instructed otherwise, Recipient shall have the responsibility for coordinating communications between Provider's supervisor and Recipient. Recipient shall provide necessary credentials to Provider's personnel authorizing them to operate on behalf of Recipient.

Based upon such assignments from the Recipient, Provider's supervisor shall:

1. Have the authority to assign work and establish work schedules for Provider's personnel. Further, supervisor shall retain direct supervision and control of Provider's personnel, equipment, and other resources. Provider should be prepared to furnish communications equipment sufficient to maintain communications among its respective operating units, and if this is not possible, Provider shall notify Recipient accordingly;
2. Maintain daily personnel time records, material records, and a log of equipment hours;
3. Report work progress to Recipient at mutually agreed upon intervals.

SECTION VI. LENGTH OF TIME FOR AID AND ASSISTANCE; RENEWABILITY; RECALL

Unless otherwise provided, the duration of Provider's assistance shall be for an initial period of seven days, starting from the time of arrival. Thereafter, assistance may be extended in daily or weekly increments as the situation warrants, for a period agreed upon by the authorized representatives of Provider and Recipient.

As noted in Section II of this Agreement, Provider's personnel, equipment, and other resources shall remain subject to recall by Provider to provide for its own citizens if circumstances so warrant. Provider shall make a good faith effort to provide at least twenty-four (24) hours advance notification to Recipient of Provider's intent to terminate mission, unless such notice is not practicable, in which case as much notice as is reasonable under the circumstances shall be provided.

SECTION VII. REIMBURSEMENTS

Except as otherwise provided below, it is understood that Recipient shall pay to Provider all documented costs and expenses incurred by Provider as a result of extending aid and assistance to Recipient. The terms and conditions governing reimbursement for any assistance provided under this Agreement shall be in accordance with the following provisions, unless otherwise agreed in writing by Recipient and Provider. Recipient shall be ultimately responsible for reimbursement of all eligible expenses.

A. Personnel-- During the period of assistance, Provider shall continue to pay its employees according to its then prevailing ordinances, rules, and regulations. Recipient shall reimburse Provider for all direct and indirect payroll costs and expenses including travel expenses incurred during the period of assistance, including, but not limited to, employee retirement benefits as provided by Generally Accepted Accounting Principles (GAAP). However, as stated in Section IX of this Agreement, Recipient shall not be responsible for reimbursing any amounts paid or due as benefits to Provider's personnel under the terms of the North Carolina Workers' Compensation Act (Chapter 97 of the North Carolina General Statutes).

B. Equipment-- Recipient shall reimburse the Providers for the use of equipment during the period of assistance according to either a pre-established local or state hourly rate or according to the actual replacement, operation, and maintenance expenses incurred. For those instances in which costs are reimbursed by the Federal Emergency Management Agency (FEMA), the FEMA-eligible direct costs shall be determined in accordance with 44 C.F.R. 206.228. Provider shall pay for all repairs to its equipment as determined necessary by its on-site supervisor(s) to maintain such equipment in safe and operational condition. At the request of Provider, fuels, miscellaneous supplies, and minor repairs may be provided by Recipient, if practical. The total equipment charges to Recipient shall be reduced by the total value of the fuels, supplies, and repairs furnished by Recipient and by the amount of any insurance proceeds received by Provider.

C. Materials And Supplies—Recipient shall reimburse Provider for all materials and supplies furnished and that are used or damaged by Recipient during the period of assistance, except for the costs of equipment, fuel and maintenance materials, labor, and supplies, which shall be included in the equipment rate established in subsection B of this

section (Section VII), Recipient will not be responsible for costs where such damage is caused by gross negligence, willful and wanton misconduct, intentional misuse, or recklessness of Provider's personnel. Provider's personnel shall use reasonable care under the circumstances in the operation and control of all materials and supplies used during the period of assistance. The measure of reimbursement shall be determined in accordance with 44 C.F.R. 206.228. In the alternative, the parties may agree that Recipient will replace, with like kind and quality as determined by Provider, Provider's materials and supplies used or damaged in a reasonable time. If such an agreement is made, it shall be reduced to writing and transmitted to the North Carolina Division of Emergency Management.

D. Record Keeping-- Recipient and North Carolina Division of Emergency Management personnel shall provide information, directions, and assistance for record-keeping to Provider's personnel. Provider shall maintain records and submit invoices for reimbursement by Recipient or the North Carolina Division of Emergency Management using the format used or required by FEMA publications, 2 C.F.R. Part 200 and applicable Office of Management and Budget (OMB) Circulars.

E. Payment; Other Miscellaneous Matters as to Reimbursements-- The reimbursable costs and expenses with an itemized notice shall be forwarded as soon as practicable after the costs and expenses are incurred, but not later than sixty (60) days following the period of assistance, unless the deadline for identifying damage is extended in accordance with 44 C.F.R. part 206. Recipient shall pay the bill or advise of any disputed items, not later than sixty (60) days following the billing date. These time frames may be modified in writing signed by both parties by mutual agreement. This shall not preclude Provider or Recipient from assuming or donating, in whole or in part, the costs and expenses associated with any loss, damage, or use of personnel, equipment, and resources provided to Recipient.

F. Contracting – If recipient or provider contracts with a third party to perform any aid or assistance under the provisions of this agreement, then the entity shall follow any applicable local, state, or federal contracting requirements.

SECTION VIII. RIGHTS AND PRIVILEGED OF PROVIDER'S EMPLOYEES

Pursuant to G.S. 166A-19.60 whenever Provider's employees are rendering aid and assistance pursuant to this Agreement, such employees shall retain the same powers, duties, immunities, and privileges they would ordinarily possess if performing their duties within the geographical limits of Provider.

SECTION IX. PROVIDER'S EMPLOYEES COVERED AT ALL TIMES BY PROVIDER'S WORKER'S COMPENSATION POLICY

Recipient shall not be responsible for reimbursing any amounts paid or due as benefits to Provider's employees under the terms of the North Carolina Workers' Compensation Act, Chapter 97 of the General Statutes, due to personal injury or death occurring during the period of time such employees are engaged in the rendering of aid and assistance under this Agreement. It is mutually understood that Recipient and Provider shall be responsible for payment of such workers' compensation benefits only to their own respective employees. Further, it is mutually understood that Provider will be entirely responsible for

the payment of workers' compensation benefits to its own respective employees pursuant to G.S. 97-51.

SECTION X. IMMUNITY

Pursuant to G.S. 166A-19.60 all activities performed under this Agreement are hereby declared to be governmental functions. Neither the parties to this Agreement, nor, except in cases of willful misconduct, gross negligence, or bad faith, their personnel complying with or reasonably attempting to comply with this Agreement or any ordinance, order, rule, or regulation enacted or promulgated pursuant to the provisions of this Agreement shall be liable for the death of or injury to persons or for damage to property as a result of any such activity.

SECTION XI. PARTIES MUTUALLY AGREE TO HOLD EACH OTHER HARMLESS FROM LIABILITY

To the extent allowed by applicable law, each party (as indemnitor) agrees to protect, defend, indemnify, and hold the other party (as indemnitee), and its officers, employees and agents, free and harmless from and against any and all losses, penalties, damages, assessments, costs, charges, professional fees, and other expenses or liabilities of every kind and arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of indemnitor's negligent acts, errors and/or omissions. Indemnitor further agrees to investigate, handle, respond to, provide defense for, and defend any such claims, etc. at indemnitor's sole expense and agrees to bear all other costs and expenses related thereto. To the extent that immunity does not apply, each party shall bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself what kinds of insurance, and in what amounts, it should carry. Each party understands and agrees that any insurance protection obtained shall in no way limit the responsibility to indemnify, keep, and save harmless the other parties to this Agreement. Notwithstanding the foregoing, to the extent that each party does not purchase insurance, it shall not be deemed to have waived its governmental immunity by law.

SECTION XII. ROLE OF THE DIVISION OF EMERGENCY MANAGEMENT

Pursuant to GS 166A-19.12(19) and under this agreement, the responsibilities of the North Carolina Division of Emergency Management are: (1) to serve as the central depository for executed Agreements, to maintain a current listing of entities with their authorized representatives and contact information, and to provide this listing to each of the entities on an annual basis; (2) to coordinate the provision of mutual aid and assistance to a requesting party, pursuant to the provisions of this Agreement; (3) to keep a record of all requests for assistance and acknowledgments; (4) to report on the status of ongoing emergency or disaster-related mutual aid and assistance as appropriate; and (5) if the parties so designate, to serve as the eligible entity for requesting reimbursement of eligible costs from FEMA and provide information, directions, and assistance for record keeping pursuant thereto.

SECTION XIII. AMENDMENTS

Manner-- This Agreement may be modified at any time upon the mutual written consent of

the Recipient and Provider.

Addition of Other Entities--Additional entities may become parties to this Agreement upon: (1) acceptance and execution of this Agreement; and (2) sending an executed copy of the Agreement to the North Carolina Division of Emergency Management.

SECTION XIV. INITIAL DURATION OF AGREEMENT; RENEWAL; TERMINATION

This Agreement shall be binding for not less than one (1) year from its effective date, unless terminated upon at least sixty (60) days advance written notice by a party as set forth below. Thereafter, this Agreement shall continue to be binding upon the parties in subsequent years, unless canceled by written notification served personally or by registered mail upon the Director of North Carolina Division of Emergency Management, which shall provide copies to all other parties. The withdrawal shall not be effective until sixty (60) days after notice thereof has been sent by the Director of the North Carolina Division of Emergency Management to all other parties. A party's withdrawal from this Agreement shall not affect a party's reimbursement obligations or any other liability or obligation under the terms of this Agreement incurred prior to withdrawal hereunder. Once the withdrawal is effective, the withdrawing entity shall no longer be a party to this Agreement, but this Agreement shall continue to exist among the remaining parties.

SECTION XV. HEADINGS

The headings of various sections and subsections of this Agreement have been inserted for convenient reference only and shall not be construed as modifying, amending, or affecting in any way the express terms and provisions of this Agreement.

SECTION XVI. SEVERABILITY: EFFECT ON OTHER AGREEMENTS

Should any clause, sentence, provision, paragraph, or other part of this Agreement be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement. Each of the parties declares that it would have entered into this Agreement irrespective of the fact that any one or more of this Agreement's clauses, sentences, provisions, paragraphs, or other parts have been so declared invalid. Accordingly, it is the intention of the parties that the remaining portions of this Agreement shall remain in full force and effect without regard to the clause(s), sentence(s), provision(s), paragraph(s), or other part(s) invalidated.

In the event that parties to this Agreement have entered into other mutual aid and assistance contracts, for example pursuant to Chapter 160A of the North Carolina General Statutes, those parties agree that to the extent a request for mutual assistance is made pursuant to this Agreement, those other mutual aid and assistance contracts are superseded by this Agreement.

SECTION XVII. EFFECTIVE DATE

This Agreement shall take effect upon its approval by the entity seeking to become a signatory to this Agreement and upon proper execution hereof.

IN WITNESS WHEREOF, each of the parties have caused this North Carolina Statewide Emergency Management Mutual Aid and Assistance Agreement to be duly executed in its name and behalf by its Chief Executive Officer, who has signed accordingly with seals affixed and attested with concurrence of a majority of its governing board, as of the date set forth in this Agreement.

DIVISION OF EMERGENCY MANAGEMENT
DEPARTMENT OF PUBLIC SAFETY

BY:

Erik A. Hooks, Secretary
Department of Public Safety

Date:

BY:

Michael A. Sprayberry, Director
Division of Emergency Management

Date:

BY: _____

WITNESS: _____

Chief Executive Officer/Local Government

Name: Ben Cahoon

Title: Mayor

Name of Unit: Town of Nags Head

Date: July 6, 2020

APPROVED AS TO PROCEDURES:

BY:

Office of General Counsel
Department of Public Safety

Date:



LIST OF AUTHORIZED REPRESENTATIVES TO CONTACT FOR EMERGENCY ASSISTANCE

FOR THE Agency of Nags Head

MAILING ADDRESS:

PO Box 99
Nags Head, NC 27959

DATE: July 6, 2020

PRIMARY REPRESENTATIVE

NAME: Greg Sparks

TITLE: Interim Town Manager

DAY PHONE: 252.441.5508

NIGHT PHONE: 252.489.1627

CELL PHONE: 252.489.1627

FAX:

FIRST ALTERNATE REPRESENTATIVE

NAME: Randy C. Wells

TITLE: Fire Chief

DAY PHONE: 252.441.5909

NIGHT PHONE: 843.321.2480

CELL PHONE: 843.321.2480

FAX:

SECOND ALTERNATE REPRESENTATIVE

NAME: J. Phillip Webster

TITLE: Chief of Police

DAY PHONE: 252.449.2012

NIGHT PHONE: 843.241.5438

CELL PHONE: 843.241.5438

FAX:



Agenda Item Summary Sheet

Item No: **E-5**
Meeting Date: **August 5, 2020**

Item Title: Approval of revised contract with Dare County under the Federal CARES Act (this revised contract supersedes initial version approved at the July 1, 2020 Board meeting)

Item Summary:

The initial contract with Dare County under the Federal CARES Act was approved at the July 1st Board of Commissioners meeting. The contract allocates funds for local governments as part of the Coronavirus Relief Fund established under the Federal CARES Act.

Last week the Governor signed HB 1023 which is the second part of the State COVID-19 Relief Fund and voids the initial contract approved on July 1st. It requires each County to give 25% of the grand total of part 1 and part 2 to towns.

Dare's part 1 = \$852,149

Dare's part 2 = \$718,269

Dare's total = \$1,570,418 so \$392,605 of that amount goes to the municipalities.

In addition to the proposed contract with Dare County, also attached is House Bill 1023 and FAQ of the Coronavirus Relief Fund.

Number of Attachments: 3

Specific Action Requested:

Request Board approval of attached contract with Dare County in order to receive reimbursement for costs related to COVID-19 pandemic.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

Request authorization to execute attached contract for reimbursement of COVID-19 costs.

Signature: Greg Sparks

Date: July 29, 2020

Interlocal Agreement Between the County of Dare
And the Town of Nags Head
For Management of Funds from the Coronavirus Relief Fund (CRF)
Established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act

THIS INTERLOCAL AGREEMENT, made and entered into pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes this ___ day of ____ 2020, by and between the County of Dare, a body politic and corporate organized and existing under the laws of the state of North Carolina (hereinafter referred to as “County”) and the Town of Nags Head, a North Carolina Municipal Corporation organized and existing under the laws of the state of North Carolina (hereinafter referred to as “Municipality”);

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) established the Coronavirus Relief Fund (CRF); and

WHEREAS, the State of North Carolina received approximately \$4.067 billion in CRF funds, including approximately \$481,000,000, which the U.S. Treasury sent directly to four local governments in the State; and

WHEREAS, S.L. 2020-80 allocates \$300 million of the State of North Carolina’s CRF allocation to counties ineligible to receive direct funding from the federal CRF; and

WHEREAS, S.L. 2020-80 directs the recipient County to allocate at least 25 percent of the funds for use by municipalities within the County for necessary expenditures incurred due to the public health emergency as required by section 601(d) of the Social Security Act, as amended by the CARES Act; and

WHEREAS, S.L. 2020-80 requires the recipient County to determine the total amount allocated to each municipality within the County, and requires each municipality that receives funds to develop a plan to spend the funds by September 1, 2020, or the County can use those funds or redistribute to other municipalities; and

WHEREAS, S.L. 2020-80 makes the CRF allocations subject to recoupment by the U.S. Treasury if they are not used in an eligible manner according to the most recently published U.S. Treasury Department guidance for CRF; and

WHEREAS, S.L. 2020-80 states counties and municipalities are liable to the State for any misuse or mishandling of the funds, and subject to clawback and other appropriate measures, including the reduction or elimination of other State Funds; and

WHEREAS, S.L. 2020-80 states any local government officer, official, or employee will be subject to a civil action by the State and held personally liable for reimbursement for violating the requirements of the CRF allocation; and

WHEREAS, S.L. 2020-80 and the North Carolina Pandemic Recovery Office have structured the administration of the CRF allocation to require the County to administer the allocation to municipalities and submit expenditure plans to the State; and

WHEREAS, the North Carolina Pandemic Recovery Office has advised that municipalities shall be directly liable to the State for violating the requirements of the CRF allocation; and

WHEREAS, the County's CRF allocation is \$1,570,418; and

WHEREAS, the Municipality's CRF allocation is \$108,594. [*This includes the amount of \$31,636, which was previously shared with the Municipality.*]

NOW, THEREFORE, it is agreed as follows:

1. Dare County shall allocate to the Municipality \$108,594 for expenditures as specified in the Municipality's plan, due Sept. 1, 2020. As stated in S.L. 2020-80, U.S. Treasury Guidance, and N.C. Pandemic Recovery Office guidance, the county is administering the local government CRF allocation. Counties and municipalities are liable to the State for any misuse or mishandling of the funds allocated to each entity, and subject to clawback and other appropriate measures, including the reduction or elimination of State Funds.
2. Municipality agrees to expend funds allocated pursuant to this Agreement in compliance with the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), S.L. 2020-80, U.S. Treasury Department Guidance, and NC Pandemic Recovery Office guidance. Any funds allocated by the County to the Municipality that are found to be expended in violation of all applicable laws and guidance shall be repaid by the Municipality to the State of North Carolina. The County assumes no liability for any violations of CRF expenditure requirements by the Municipality, its officers, agents, or employees, for funds allocated by the County to the Municipality and holds the County harmless from same. The Municipality shall maintain documentation of their expenditures to ensure compliance with reporting and auditing requirements.
3. In accordance with guidance from the U.S. Treasury Department, CRF payments are federal financial assistance subject to Single Audit requirements found in Uniform Guidance 2 CFR §200 Subpart F. CRF is a federal program with a CFDA No. 21.019. The U.S.

Treasury Department is the federal granting agency and, except for the four local governments that received CRF directly, the Office of State Management and Budget (OSBM) is the State pass-through entity. The Uniform Guidance CFR §200 Subparts B, C, D, and E do not apply, except for §200.303 and §§ 200.330 through 200.332.

4. In order to comply with State reporting requirements required pursuant to S.L. 2020-80, the Municipality shall submit its CRF Plan to the County by 8/24/2020. Municipality acknowledges that failure to submit its CRF Plan to the County by this date shall result in the loss of funding provided for in this Agreement. If the County has already transmitted funds to the Municipality and the Municipality fails to submit its CRF Plan to the County by the date provided for in this paragraph, the Municipality shall return the funds to the County.
5. In order to comply with monthly State reporting requirements on use of the funds, Municipality shall submit the required forms to the County by the 15th of each month for the County to upload to the State portal (Attachments C-1 and C-2). Following receipt of the monthly reports and substantiation for the amount requested for reimbursement, as required by OSBM, the County shall reimburse the Municipality for the funds expended. Municipality shall complete the July 20 report, for expenditures through June 30, as soon as possible.
6. A Final Report (Attachment F) will be required when the Municipality's allocation is fully spent or by November 20th, whichever is earlier. It is the County's intent to reallocate any unspent funds by December 1st to other eligible CRF expenses to fully utilize all CRF funds for the community.
7. Modifications to this Agreement shall be in writing, signed, duly executed by the parties hereto, and kept on file along with the original Agreement.
8. Any notice permitted or required under this Agreement from one party to the other must be in writing and will be effective (a) on the date it was actually delivered to the addressee if delivered personally, or sent by a nationally recognized courier (such as FedEx or United Parcel Service) or sent by facsimile, or (b) three days after having been deposited in the United States mail, if sent by certified mail, return receipt request, in each case to the respective addresses of Municipality and the County listed below, or those other addresses of which either party gives the other party written notice:

If to the Municipality, to: 5401 South Croatan Highway
Nags Head, NC 27949

If to the County, to: P.O. Box 1000, Manteo, NC 27954

9. The parties agree that the terms and provisions of this Agreement shall be construed in accordance with the laws of the State of North Carolina. This Agreement contains the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this **INTERLOCAL AGREEMENT** to be duly executed pursuant to authorization obtained in a duly adopted resolution or has otherwise been duly authorized to sign on behalf of their respective corporation.

Town of Nags Head

County of Dare

By _____
Title: _____

By _____
Title: _____

Municipality: This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

County: This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

**Coronavirus Relief Fund
Frequently Asked Questions
Updated as of June 24, 2020**

The following answers to frequently asked questions supplement Treasury’s Coronavirus Relief Fund (“Fund”) Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, (“Guidance”).¹ Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

Eligible Expenditures

Are governments required to submit proposed expenditures to Treasury for approval?

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the “substantially dedicated” condition?

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a “substantially different use” for purposes of the Fund eligibility?

Costs incurred for a “substantially different use” include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty’s ordinary responsibilities.

Note that a public function does not become a “substantially different use” merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

¹ The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

May a State receiving a payment transfer funds to a local government?

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

May a unit of local government receiving a Fund payment transfer funds to another unit of government?

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?

No. For example, a county recipient is not required to transfer funds to smaller cities within the county's borders.

Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

Are States permitted to use Fund payments to support state unemployment insurance funds generally?

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.

Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

The Guidance states that the Fund may support a “broad range of uses” including payroll expenses for several classes of employees whose services are “substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” What are some examples of types of covered employees?

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers’ compensation coverage. Is the cost of this expanded workers compensation coverage eligible?

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

May Fund payments be used for COVID-19 public health emergency recovery planning?

Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

Are expenses associated with contact tracing eligible?

Yes, expenses associated with contract tracing are eligible.

To what extent may a government use Fund payments to support the operations of private hospitals?

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

May recipients create a “payroll support program” for public employees?

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a “small business,” and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

May Fund payments be used to assist impacted property owners with the payment of their property taxes?

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of “hazard pay”?

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

The Guidance provides that ineligible expenditures include “[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” Is this intended to relate only to public employees?

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers’ employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.

Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government's per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum \$1.25 billion allocation and had one county with a population over 500,000 that received \$250 million directly. The State should distribute 45 percent of the \$1 billion it received, or \$450 million, to local governments within the State with a population of 500,000 or less.

May a State impose restrictions on transfers of funds to local governments?

Yes, to the extent that the restrictions facilitate the State's compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions are not permissible.

If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the interest expense payable on TANs by the borrower and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?

No. The Guidance says that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Hazard pay is a form of payroll expense and is subject to this limitation, so Fund payments may only be used to cover hazard pay for such individuals.

May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

May recipients use Fund payments to provide loans?

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?

Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

May funds be used to satisfy non-federal matching requirements under the Stafford Act?

Yes, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act.

Must a State, local, or tribal government require applications to be submitted by businesses or individuals before providing assistance using payments from the Fund?

Governments have discretion to determine how to tailor assistance programs they establish in response to the COVID-19 public health emergency. However, such a program should be structured in such a manner as will ensure that such assistance is determined to be necessary in response to the COVID-19 public health emergency and otherwise satisfies the requirements of the CARES Act and other applicable law. For example, a per capita payment to residents of a particular jurisdiction without an assessment of individual need would not be an appropriate use of payments from the Fund.

May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the financial assistance provided would have to be related to COVID-19.

May recipients use Fund payments to remarket the recipient's convention facilities and tourism industry?

Yes, if the costs of such remarketing satisfy the requirements of the CARES Act. Expenses incurred to publicize the resumption of activities and steps taken to ensure a safe experience may be needed due to

the public health emergency. Expenses related to developing a long-term plan to reposition a recipient's convention and tourism industry and infrastructure would not be incurred due to the public health emergency and therefore may not be covered using payments from the Fund.

May a State provide assistance to farmers and meat processors to expand capacity, such to cover overtime for USDA meat inspectors?

If a State determines that expanding meat processing capacity, including by paying overtime to USDA meat inspectors, is a necessary expense incurred due to the public health emergency, such as if increased capacity is necessary to allow farmers and processors to donate meat to food banks, then such expenses are eligible expenses, provided that the expenses satisfy the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance.

The guidance provides that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. May Fund payments be used to cover such an employee's entire payroll cost or just the portion of time spent on mitigating or responding to the COVID-19 public health emergency?

As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020. An employer may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department.

Questions Related to Administration of Fund Payments

Do governments have to return unspent funds to Treasury?

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

What records must be kept by governments receiving payment?

A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

May recipients deposit Fund payments into interest bearing accounts?

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

May governments retain assets purchased with payments from the Fund?

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

Are Fund payments to State, territorial, local, and tribal governments considered grants?

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are “other financial assistance” under 2 C.F.R. § 200.40.

Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?

Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Are Fund payments subject to other requirements of the Uniform Guidance?

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?

Yes. The CFDA number assigned to the Fund is 21.019.

If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients’ total funding received from the federal government for purposes of the Single Audit Act?

Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend \$750,000 or more in federal awards during their fiscal year.

Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?

Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?

The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program

or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SESSION LAW 2020-80
HOUSE BILL 1023

AN ACT TO PROVIDE ADDITIONAL AND REVISED USES FOR FEDERAL CORONAVIRUS RELIEF FUNDS; TO PROVIDE ADDITIONAL FUNDING FOR SCHOOL NUTRITIONAL NEEDS; TO EXTEND THE ABILITY OF CERTAIN GOVERNMENTAL RETIREES TO ENGAGE IN PART-TIME EMPLOYMENT WITHOUT AFFECTING RETIREMENT; TO PROVIDE FUNDING FOR THE IMPLEMENTATION OF THE SCHOOL BUSINESS SYSTEM MODERNIZATION PLAN; TO WAIVE MATCH REQUIREMENTS FOR A CERTAIN COMPETITIVE GRANT PROCESS FOR NONPROFITS; AND TO MAKE OTHER CHANGES.

The General Assembly of North Carolina enacts:

PART I. REVISIONS TO S.L. 2020-4

SECTION 1.1.(a) Section 2.3 of S.L. 2020-4 reads as rewritten:

"**SECTION 2.3.** The State Controller shall establish a Local Government Coronavirus Relief Reserve (Local Reserve) in the General Fund to maintain certain federal funds transferred from the Reserve established in Section 2.1 of this act that are eligible to mitigate the impact of the COVID-19 outbreak in North Carolina on the revenue of local governments. The State Controller shall transfer the sum of three hundred million dollars (\$300,000,000) from the Reserve to the Local Reserve. ~~It is the intent of the General Assembly to appropriate a sum of up to one hundred fifty million dollars (\$150,000,000) if local governments experience a revenue shortfall and the CARES Act, P.L. 116-136, is amended to allow the use of federal funds for that purpose.~~ Funds that are reserved in the Local Reserve do not constitute an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution."

SECTION 1.1.(b) Section 3.1 of S.L. 2020-4, as amended by Section 1 of S.L. 2020-32, reads as rewritten:

"**SECTION 3.1.** Transfer of Funds from Reserves to Relief Fund. – The State Controller shall transfer the sum of ~~one billion five hundred seventy-five million nine hundred eighty-eight thousand twenty-nine dollars (\$1,575,988,029)~~ one billion seven hundred ninety-five million nine hundred eighty-eight thousand twenty-nine dollars (\$1,795,988,029) for the 2019-2020 fiscal year from the Reserve established in Section 2.1 of this act, and the sum of ~~one three hundred fifty-million dollars (\$150,000,000)~~ (\$300,000,000) for the 2019-2020 fiscal year from the Local Government Coronavirus Relief Reserve established in Section 2.3 of this act, to the Fund established in Section 2.2 of this act."

SECTION 1.1.(c) Section 3.2 of S.L. 2020-4, as amended by Section 2 of S.L. 2020-32, reads as rewritten:

"**SECTION 3.2.** Appropriation of Funds from Relief Fund to OSBM. – There is appropriated from the Fund to OSBM the sum of ~~one billion seven hundred twenty-five million nine hundred eighty-eight thousand twenty-nine dollars (\$1,725,988,029)~~ two billion ninety-five million nine hundred eighty-eight thousand twenty-nine dollars (\$2,095,988,029) in nonrecurring funds for the 2019-2020 fiscal year to be allocated and used as provided in Section 3.3 of this act. The funds appropriated in this section shall not revert at the end of the 2019-2020 fiscal year but shall remain available to expend until December 30, 2020."



SECTION 1.1.(d) Section 3.3 of S.L. 2020-4 reads as rewritten:

"SECTION 3.3. Allocations of Funds. – OSBM shall allocate the funds appropriated in Section 3.2 of this act as follows:

...

- (2) ~~\$150,000,000~~ ~~\$300,000,000~~ to OSBM for allocation to counties ineligible to receive direct funding from the federal Coronavirus Relief Fund established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136. OSBM shall allocate these funds by providing each county eligible to receive funding under this section a base allocation of two hundred fifty thousand dollars (\$250,000), with the remaining funds distributed to eligible counties on a per capita basis using the United States Census Bureau's Vintage 2019 county population totals. A county ~~may~~ shall allocate ~~a portion~~ at least twenty-five percent (25%) of these funds for use by municipalities within the county, but only if the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. ~~Such~~ The county shall determine the total amount allocated to a municipality within the county. If a municipality that receives funds under this subdivision does not have a plan to spend the funds developed by September 1, 2020, the municipality shall return the funds to the county for use by the county or redistribution to other municipalities within the county. Additionally, the funds allocated in this subdivision are subject to recoupment by the United States Treasury Inspector General if they have not been used in a manner consistent with section 601(d) of the Social Security Act. Further, the funds may only be used to support expenditures by counties and municipalities that are consistent with the most recently published United States Treasury Department guidance for the federal Coronavirus Relief Fund. Counties and municipalities are liable to the State for any misuse or mishandling of these funds, and subject to clawback and other appropriate measures, including the reduction or elimination of other State funds. Any local government officer, official, or employee who violates this section shall be subject to a civil action by the State and held personally liable to reimburse the State. Beginning October 1, 2020, and then quarterly thereafter, each county and municipality receiving funds under this subdivision shall report to OSBM on the use of allocated funds until all funds are expended and accounted for.

...

- (4) \$300,000,000 to OSBM to allocate to the General Maintenance Reserve in the Highway Fund for the Department of Transportation; provided that OSBM shall not transfer these allocated funds to the Department for use until the guidelines in "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments," dated April 22, 2020, are revised by the United States Department of the Treasury to authorize the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency, or a subsequent act of Congress authorizes the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency. 30 days prior to the transfer of funds pursuant to this subsection, OSBM shall submit a report to the Joint Legislative Commission on Governmental Operations. On or before April 1, 2021, the Department shall submit a report on the status of utilizing these funds and a revenue update to the Joint Legislative Transportation Oversight Committee (JLTOC) and the Fiscal Research Division. The Governor may not

use the funds described in this subdivision to make budget adjustments under G.S. 143C-6-4 or to make reallocations under G.S. 166A-19.40(c). Notwithstanding Section 3.2 of this act, if, ~~by June 15, 2020,~~ by September 1, 2020, the guidelines in "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments," dated April 22, 2020, are not revised by the United States Department of the Treasury to authorize the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency, or a subsequent act of Congress does not authorize the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency, the State Controller shall transfer the funds described in this subdivision to the Reserve and the funds shall remain unspent until appropriated by an act of the General Assembly.

...

- (6) \$75,000,000 to the Department of Public Instruction for emergency school nutrition services ~~services, including innovative school meals, provided to students~~ in response to COVID-19 by public school units participating in the National School Lunch Program or Program, School Breakfast Program Program, or Summer Food Service Program from March 16, 2020, through ~~the end of the 2019-2020 school year.~~ December 30, 2020. Funds for these services shall be allocated in the same manner as if the participating public school units were reimbursed by school meal receipts or federal funds.

...

- (32) ~~\$5,000,000~~ \$7,425,000 to OSBM to allocate to the North Carolina Association of Free and Charitable Clinics (NCAFCC), a nonprofit organization, to be used for distribution to its member clinics to cover the cost of eligible health services provided during the COVID-19 ~~emergency.~~ emergency and other costs allowed pursuant to federal guidance. By August 1, 2020, NCAFCC shall report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on a plan for allocating the funds received under this section, and by February 1, 2021, on the use of these funds by recipients.

...

- (34) ~~\$5,000,000~~ \$7,425,000 to OSBM to allocate to the North Carolina Community Health ~~Centers~~ Center Association (~~NCHCA~~), (~~NCCHCA~~), a nonprofit organization, to be used for distribution to its member health centers to cover the cost of eligible health services provided during the COVID-19 ~~emergency.~~ emergency and other costs allowed pursuant to federal guidance. By August 1, 2020, ~~NCHCA~~ NCCHCA shall report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on a plan for allocating the funds received under this section, and by February 1, 2021, on the use of these funds by recipients.

...

- (42) ~~\$2,250,000~~ \$3,550,000 to the Department of Health and Human Services, Division of Social Services, to assist in serving children in foster care during the COVID-19 emergency. These funds shall be used for monthly supplemental payments in the amount of one hundred dollars (\$100.00) for each child receiving foster care assistance payments ~~for the months of beginning with the month of April 2020, through June 2020.~~ 2020 and continuing until funds are exhausted.

...

- (44) ~~\$5,000,000~~ \$15,000,000 to the Department of Commerce for a North Carolina nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431.01(b) as a stimulus investment in Visit North Carolina's marketing budget to be used for the following purposes and in the following amounts:
- a. ~~\$4,500,000~~ \$14,500,000 for developing COVID-19-specific concepts, strategies, and materials tailored to educate people on ways to (i) travel in a safe and socially distant way and (ii) prevent community reintroduction of the pandemic.
 - b. \$500,000 for research tools and analysis necessary to implement the provisions of this subdivision.
- ...
- (47) \$10,000,000 to the Department of Agriculture and Consumer Services to be used in accordance with Section 4.2A of this act.
- (48) \$2,000,000 to the General Assembly to be used to cover allowable costs incurred as a result of the COVID-19 pandemic.
- (49) \$750,000 to the Department of Information Technology, Government Data Analytics Center (GDAC), to develop a COVID-19 economic analytics and reporting tool to provide insight into how State and federal assistance is impacting North Carolina businesses. The GDAC shall consult with the Office of State Budget and Management and the Golden LEAF Foundation on development of the tool and leverage its existing public-private partnerships to develop the platform.
- (50) \$4,800,000 to the University of North Carolina at Chapel Hill to be used for the UNC School of Medicine's Asheville Campus, a joint program between the UNC School of Medicine, other UNC System universities, and the Mountain Area Health Education Center for COVID-19 related response activities, including outreach and education.
- (51) \$15,000,000 to the Department of Commerce for grants awarded by the Economic Investment Committee pursuant to Section 4.2B of this act.
- (52) \$120,000,000 to the Department of Public Safety, Division of Emergency Management to be used as the State match for any Federal Emergency Management Agency public assistance funds provided in response to the COVID-19 pandemic.
- (53) \$2,600,000 to OSBM to provide additional funding for the statewide health information exchange network known as NC HealthConnex, in order to implement the following COVID-19 related operations and improvements for NC HealthConnex:
- a. Building bidirectional data exchanges and patient matching services between NC HealthConnex and the State's electronic disease surveillance systems, NC Electronic Disease Surveillance System and NC Disease Event Tracking and Epidemiologic Collection Tool (NC DETECT), to better monitor the ongoing impact of COVID-19 in North Carolina.
 - b. Developing public health dashboards to enable health care providers to identify emerging trends and at-risk populations to support operations and point of care decisions.
 - c. Providing COVID-19 test results delivery services to NC HealthConnex participants to support care coordination and help ensure the safety of frontline providers.

- d. Providing care management teams with detailed clinical histories and identification of emerging at-risk patients for improved patient care.
- e. Developing a pilot analytics project to (i) identify skilled nursing facilities, group homes, and other long-term care facilities at greatest risk for COVID-19 outbreaks and associated complications, (ii) assist state surveyors with quality assurance, and (iii) target specific public health interventions, funding opportunities, policies, and patient safety regulations that are most effective in preventing the spread of infectious disease in these facilities.

The purpose of this subdivision is to enable the use of near real-time data in monitoring and analyzing the number of patients who have been confirmed positive with, tested for, suspected of having, or received medical care for symptoms associated with COVID-19, for a more complete understanding of the true impact of the virus and to quickly identify emerging hotspots for public health intervention. The OSBM shall work with the North Carolina Health Information Exchange Authority (NC HIEA), consistent with NC HIEA's duties under G.S. 90-515.7(12), to leverage existing public-private partnerships for the development and implementation of the COVID-19 related operations and improvements described in this subdivision. The NC HIEA shall execute any required contractual and interagency agreements within 30 days after the effective date of this subdivision.

- (54) \$3,500,000 to the Administrative Office of the Courts to be used as a grant for Caitlyn's Courage, Inc., in accordance with Section 4.2C of this act.
- (55) \$2,000,000 to the Wildlife Resources Commission, to be allocated to the Outdoor Heritage Special Fund (Budget Code: 24351; Fund Code: 2291) for the Outdoor Heritage Advisory Council's NC Schools Go Outside grant program to provide local opportunities for young people to reengage with learning experiences in safe outdoor settings.
- (56) \$400,000 to the Department of Natural and Cultural Resources for the State Library's NC Kids Digital Library for enhancement of digital offerings to students lacking physical access to local libraries due to the COVID-19 emergency.
- (57) \$400,000 to the Department of Natural and Cultural Resources to allocate to the North Carolina Museum of History for (i) the development and implementation of and access to virtual history programs for statewide student educational purposes and (ii) online public access to the historical content of the North Carolina Museum of History during the closure of facilities due to the impact of "stay-at-home" orders.
- (58) \$1,000,000 to the Department of Natural and Cultural Resources to allocate to the North Carolina Zoological Park ("Zoo") to facilitate and assist with the costs of health and safety enhancements to protect the public and Zoo staff, ensuring the limited reopening of the Zoo does not result in community spread of COVID-19.
- (59) \$725,000 to the Department of Commerce to allocate to the High Point International Home Furnishings Market Authority Corporation, a nonprofit corporation, to expand and enhance public health and safety measures to enable the Market to open during its international shows which are critical to North Carolina's economy and jobs.
- (60) \$1,500,000 to the Department of Commerce for a North Carolina nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431.01(b), for grants targeted for those areas of the State that are

most dependent on the travel and tourism economy to promote North Carolina tourism as the State begins to reopen. The nonprofit corporation shall consult with the North Carolina Travel Industry Association, Inc., a nonprofit corporation, to disburse the grants described in this subdivision.

- (61) \$500,000 to the Department of Commerce to allocate to the North Carolina Biotechnology Center to provide grants and educational job placement services to connect workers displaced or unemployed due to COVID-19 with essential job openings at life science companies that are currently working on treatment, therapy, vaccines, and equipment in response to COVID-19.
- (62) \$2,500,000 to the Department of Commerce to be used in accordance with Section 4.2D of this act.
- (63) \$7,000,000 to the Department of Public Instruction to provide personal protective equipment for public schools, in response to the COVID-19 pandemic, to facilitate in-person instruction for the 2020-2021 school year. Personal protective equipment provided pursuant to this subdivision shall meet applicable federal standards and guidelines from the Centers for Disease Control and Prevention.
- (64) \$5,000,000 to the Department of Public Instruction to hold in reserve and to award as grants, in the discretion of the Department, to public school units that apply for funds to provide access to services for exceptional children who have lost critical services as a result of school closures related to COVID-19.
- (65) \$3,000,000 to the University of North Carolina at Pembroke for an advanced analytics project focusing on providing a better understanding of the nature and impact of the COVID-19 pandemic, particularly in rural and at-risk communities.
- (66) \$2,000,000 to the University of North Carolina at Pembroke for the Department of Nursing in the College of Health Sciences for assistance with specialized medical and patient safety training to address the unique settings and procedures necessary when caring for COVID-19 patients in a variety of facility settings.
- (67) \$5,000,000 to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, to be allocated to group homes for individuals with intellectual or developmental disabilities, or both, to support the implementation of recommended Centers for Disease Control and Prevention guidance for preventive measures to address the introduction and spread of COVID-19 among residents and staff of these facilities. As used in this subdivision, "group home" means any facility that (i) is licensed under Chapter 122C of the General Statutes, (ii) meets one of the definitions of a supervised living facility under 10A NCAC 27G .5601(c)(1) through 10A NCAC 27G .5601(c)(3), and 10A NCAC 27G .5601(c)(6), and (iii) serves minors or adults whose primary diagnosis is mental illness or a developmental disability but may also have other diagnoses.
- (68) \$7,000,000 to OSBM to be allocated as grants in equal amounts to the following hospitals: (i) Good Hope Hospital, Inc., (ii) Lake Norman Regional Medical Center, (iii) Cape Fear Valley Health Hoke Hospital, (iv) Catawba Valley Medical Center, (v) Davis Regional Medical Center, (vi) Carolinas Healthcare System Blue Ridge, and (vii) AdventHealth Hendersonville. These funds shall be used to offset expenses incurred for providing patient care in North Carolina to respond to the COVID-19 pandemic. Grant recipients shall not use these funds for any purpose other than to offset the following costs

related to patient care provided in North Carolina as a result of the COVID-19 pandemic:

- a. Up to sixty percent (60%) of lost revenues from foregone elective procedures during the emergency period, net of federal funds received from the CARES Act.
- b. Supplies and equipment purchased in accordance with Centers for Disease Control and Prevention guidelines.
- c. Rapid ramp up of infection control and triage training for health care professionals.
- d. A retrofit of separate areas to screen and treat patients with suspected COVID-19 infections, including isolation areas in or around hospital emergency departments.
- e. An increase in the number of patient care beds to provide surge capacity.
- f. Transportation of patients with confirmed or suspected COVID-19 safely to or from rural facilities.
- g. Development of plans, provision of training, and the implementation of expanded telehealth capabilities.
- h. The procurement of staff or consultants to help mitigate the burden of extensive review of new and incoming federal and State regulatory guidelines.
- i. Salary support for furloughed employees.

As a condition of receiving the funds allocated in this subdivision, each grant recipient shall submit a detailed written report to the House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Joint Legislative Oversight Committee on Health and Human Services by December 1, 2020, that contains a breakdown of all expenditures from the funds received under this subdivision and the total amount of funds received from the Provider Relief Fund provided for in P.L. 116-136 and any other COVID-19 recovery legislation or other legislation enacted by Congress during calendar year 2020 to support the national response to COVID-19.

- (69) \$2,500,000 to OSBM to allocate to any county designated as a development tier two area, as defined in G.S. 143B-437.08, with a population of less than 150,000, that has a hospital located within its borders meeting all of the following criteria: (i) provided care to patients in North Carolina related to the COVID-19 pandemic, (ii) is not affiliated with a university health system, and (iii) filed a petition in U.S. Bankruptcy Court seeking relief under Chapter 11 of the U.S. Bankruptcy Code within the five-month period preceding the effective date of this section. The county shall distribute these allocated funds to each eligible hospital for the purpose of offsetting expenses incurred for providing care to patients in North Carolina as a result of the COVID-19 pandemic. Any county, county officer, county official, or county employee who uses these allocated funds for any purpose other than the purpose specified in this subdivision shall be subject to a civil action by the State and held personally liable to reimburse the State. These funds shall be used to offset expenses incurred for providing patient care in North Carolina to respond to the COVID-19 pandemic. Grant recipients shall not use these funds for any purpose other than to offset the following costs related to patient care provided in North Carolina as a result of the COVID-19 pandemic:

- a. Up to sixty percent (60%) of lost revenues from foregone elective procedures during the emergency period, net of federal funds received from the CARES Act.
- b. Supplies and equipment purchased in accordance with Centers for Disease Control and Prevention guidelines.
- c. Rapid ramp up of infection control and triage training for health care professionals.
- d. A retrofit of separate areas to screen and treat patients with suspected COVID-19 infections, including isolation areas in or around hospital emergency departments.
- e. An increase in the number of patient care beds to provide surge capacity.
- f. Transportation of patients with confirmed or suspected COVID-19 safely to or from rural facilities.
- g. Development of plans, provision of training, and the implementation of expanded telehealth capabilities.
- h. The procurement of staff or consultants to help mitigate the burden of extensive review of new and incoming federal and State regulatory guidelines.
- i. Salary support for furloughed employees.

As a condition of receiving the funds allocated in this subdivision, each grant recipient shall submit a detailed written report to the House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Joint Legislative Oversight Committee on Health and Human Services by December 1, 2020, that contains a breakdown of all expenditures from the funds received under this subdivision and the total amount of funds received from the Provider Relief Fund provided for in P.L. 116-136 and any other COVID-19 recovery legislation or other legislation enacted by Congress during calendar year 2020 to support the national response to COVID-19.

(70) \$4,300,000 to OSBM to be allocated to the Children's Advocacy Centers (CACNC) of North Carolina, Inc., a nonprofit corporation, to be distributed to child advocacy centers in this State that are in good standing with CACNC to cover the cost of increased child caseloads and the statewide provision of more effective and available virtual counseling due to the COVID-19 pandemic.

(71) \$375,000 to OSBM to be allocated to the Crossnore School and Children's Home, a nonprofit child welfare organization, supporting children and families in crisis in this State, for COVID-19 related preventative measures to protect staff and children in a close congregate living facility."

SECTION 1.1.(e) S.L. 2020-4 is amended by adding the following new sections to

read:

"APPROPRIATION FOR SMALL MEAT PROCESSORS ASSISTANCE

"SECTION 4.2A.(a) Findings. – The General Assembly finds that the COVID-19 emergency has resulted in serious and substantial impacts on the food supply chain. In particular, small livestock producers in the State have found that bottlenecks and lack of capacity among the small and independent meat processors who serve small livestock producers due to COVID-19 related slowdowns and capacity reductions have had a substantial negative impact on their ability to have their animals slaughtered and processed. The General Assembly further finds that financial assistance to these processors for physical expansion and facility improvements, for workforce development, and for the creation of additional processing capacity is necessary

to reduce disruptions in the supply chain for fresh meat and to help small producers get their product to market.

"SECTION 4.2A.(b) Use. – The Department of Agriculture and Consumer Services shall determine whether the funds allocated in subdivision (47) of Section 3.3 of this act are sufficient to improve COVID-19 related slowdowns and mitigate capacity reductions. If the Department determines funding is not sufficient, the Department shall notify the State Controller, and the State Controller shall deposit the funds into the Coronavirus Relief Reserve. Amounts deposited into the Reserve under this subsection are receipts that do not constitute an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution. If the Department determines funding is sufficient, the Department shall use the funds to provide grants as specified in subsection (c) of this section to reduce or prevent impacts on the supply chain for fresh meat in the State caused by COVID-19, or to improve the resiliency of the fresh meat supply chain to future pandemics.

"SECTION 4.2A.(c) Grant Types and Criteria. – The Department shall develop policies and procedures for the disbursement of the grants authorized by this section that include, at a minimum, the following:

- (1) The Department may provide three categories of grants:
 - a. Capacity enhancement grant. – This grant is available to an eligible meat processing facility that is experiencing slowdowns in production or has limited capacity to accommodate increased demand for meat processing due to the COVID-19 pandemic. A capacity enhancement grant may be used for expansion of an existing eligible facility and for fixtures or equipment at an existing eligible facility that will expand animal throughput, processing capacity, the amount or type of products produced, or processing speed.
 - b. Workforce development grant. – This grant is available to an eligible meat processing facility that is experiencing slowdowns in production or has limited capacity to accommodate increased demand for meat processing due to workforce limitations or reductions due to the COVID-19 pandemic. A workforce development grant may be used for educational and workforce training provided either by the facility or by an institution of higher education.
 - c. Planning grant. – This grant is available to a nonprofit entity or institution of higher education to complete feasibility or siting studies for a new eligible meat processing facility.
- (2) Eligible facility. – For purposes of this section, an eligible meat processing facility is a meat processing facility that either:
 - a. Meets both of the following requirements:
 1. The plant contracts with independent livestock producers to process animals owned by the producers.
 2. The United States Department of Agriculture (USDA) contracts with Department inspectors to conduct federal inspection activities authorized by the Talmadge-Aiken Act of 1962 (7 U.S.C. § 1633) at the plant, the plant is otherwise regulated by the USDA, or the plant is a State-inspected facility; or
 - b. Is a catfish aquaculture operation that raises and processes catfish.
- (3) The Department may prioritize projects that will create additional jobs.
- (4) Recipients shall provide matching funds for the grant in the amount of one dollar (\$1.00) from nongrant sources for every two dollars (\$2.00) provided by the grant.

"SECTION 4.2A.(d) Grant-Supported Property Transferred or Removed from Service. – As used in this section, the term "disposed of" means disposed of, taken out of service, or moved out of State. If fixtures or equipment purchased with grant funds provided by this act are disposed of during a period of time as the Department may specify following the date the fixtures or equipment funded by this act is placed in service, the grant recipient shall repay to the Department a proportionate share of the grant funding received as the Department may specify.

Funds received by the Department under this section shall be transferred to the Office of State Budget and Management (OSBM) and OSBM shall transfer the amount of the disallowed allocation to the Reserve established in Section 2.1 of this act. Amounts transferred into the Coronavirus Relief Reserve pursuant to this section are receipts that do not constitute an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

"JOB RETENTION GRANTS

"SECTION 4.2B.(a) Purpose, Use. – The purpose of this section is to use funds from the Coronavirus Relief Fund to help businesses in North Carolina during the COVID-19 pandemic by providing economic support to businesses and nonprofits who experienced business interruption in connection with the COVID-19 pandemic and who did not participate in the federal Paycheck Protection Program, the federal Main Street Lending Program, or the North Carolina Rapid Recovery Loan Program. The Department of Commerce may use a percentage of the funds allocated in subdivision (51) of Section 3.3 of this act, not to exceed five percent (5%), as necessary for the administration of this program and shall use the remainder of the funds to provide grants awarded by the Economic Investment Committee for the program and purpose provided in this section.

"SECTION 4.2B.(b) Job Retention Program. – There is created the COVID-19 Job Retention Program to be administered by the Economic Investment Committee. The Committee may provide a one-time grant to a business or nonprofit that retained jobs during and after the COVID-19 pandemic and meets the conditions of this section.

"SECTION 4.2B.(c) Eligibility. – A business or nonprofit is eligible for a grant under this Program if it meets all of the following conditions:

- (1) It employs at least ninety percent (90%) of the number of full-time employees, or full-time equivalent employees, during the COVID-19 period in North Carolina as it employed in North Carolina for the pay period ending on or about February 28, 2020.
- (2) It demonstrates that it experienced an economic loss in connection with the COVID-19 pandemic as follows:
 - a. For a business, its sales for the COVID-19 period are at least ten percent (10%) below its sales for the same period in the preceding calendar year.
 - b. For a nonprofit, its gross receipts for the COVID-19 period are at least ten percent (10%) below its gross receipts for the same period in the preceding calendar year.
- (3) It did not participate in the Paycheck Protection Program, the Main Street Lending Program, or the Rapid Recovery Loan Program.

"SECTION 4.2B.(d) Maximum Grant Amount. – The grant amount may be up to two months of the eligible entity's average monthly payroll costs from the last year plus an additional twenty-five percent (25%) of that amount. The grant amount may not exceed two hundred fifty thousand dollars (\$250,000).

"SECTION 4.2B.(e) Grant Program Limit. – The total of all funds granted under this Program may not exceed fifteen million dollars (\$15,000,000). The Economic Investment Committee must calculate the total amount of grants requested from the applications timely filed

under subsection (f) of this section. If the total amount of grants requested exceeds the maximum amount of funds available under this subsection, the Committee must reduce each grant award on a proportionate basis. The Committee's grant determinations based on applications timely filed are final.

"SECTION 4.2B.(f) Application. – A business must apply to the Economic Investment Committee for a grant on a form prescribed by the Committee and must include any supporting documentation required by the Committee. The application must be filed with the Committee on or before September 1, 2020. The Committee may not accept late applications.

"SECTION 4.2B.(g) Definitions. – The following definitions apply in this section:

- (1) Business. – An entity subject to income tax under Article 4 of Chapter 105 of the General Statutes.
- (2) CARES Act. – The federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136.
- (3) COVID-19 period. – The period beginning on March 1, 2020, and ending on May 31, 2020.
- (4) Economic Investment Committee. – Defined in G.S. 143B-437.51.
- (5) Full-time employee. – Defined in G.S. 143B-437.51.
- (6) Main Street Lending Program. – Defined in section 4027 of the CARES Act.
- (7) Nonprofit. – An entity exempt from income tax under G.S. 105-130.11(a)(3) or G.S. 105-130.11(a)(6).
- (8) Paycheck Protection Program. – Defined in sections 1102 and 1106 of the CARES Act.
- (9) Payroll costs. – Same meaning as defined for purposes of the Paycheck Protection Program, including the one hundred thousand dollar (\$100,000) annualized cap amount for each employee.
- (10) Rapid Recovery Loan Program. – Loans provided under Section 4.2 of this act.
- (11) Sales. – Defined in G.S. 105-130.4.

"DOMESTIC VIOLENCE PREVENTION PILOT PROGRAM

"SECTION 4.2C.(a) The General Assembly finds that the COVID-19 pandemic has exacerbated isolation, uncertainty, and economic instability, which has led to an increase in domestic violence, and due to the stay-at-home orders in effect, victims are more at-risk and vulnerable than ever before. It further finds that in order to combat the rising rate of domestic violence due to the COVID-19 pandemic, victims need access to technology that provides instantaneous notification if the offender is within close proximity.

"SECTION 4.2C.(b) The funds allocated in subdivision (54) of Section 3.3 of this act to the Administrative Office of the Courts shall be used to provide a grant to Caitlyn's Courage, Inc., to conduct domestic violence prevention pilot programs (pilot programs) in at least nine judicial districts, three of which shall have small district court caseloads, three of which shall have medium district court caseloads, and three of which shall have large district court caseloads. Caitlyn's Courage, Inc., shall consult and collaborate with the Administrative Office of the Courts and with the Chief District Court Judges of each of the selected judicial districts when developing pilot program implementation plans for each judicial district.

"SECTION 4.2C.(c) The pilot programs created by this section shall do each of the following:

- (1) Provide judges in the participating judicial districts the option to use global positioning system (GPS) electronic monitoring devices as a condition of pretrial release for defendants of crimes related to stalking, sexual assault, domestic abuse, and violations of a domestic violence protective order.

- (2) Establish local implementation teams that shall, at a minimum, consider for inclusion (i) district court judges, (ii) superior court judges, (iii) assistant and elected district attorneys, (iv) assistant and appointed public defenders, (v) deputy, assistant, and elected clerks of superior court, (vi) law enforcement officers, (vii) domestic violence victims advocates, (viii) court support staff, and (ix) representatives of the Department of Adult Correction and Juvenile Justice.
- (3) Operate a 24-hour monitoring center that contacts victims if an offender violates a relevant condition of pretrial release or a domestic violence protective order.
- (4) Train all pilot program participants, including, but not limited to, victims and offenders, regarding the GPS tracking devices utilized by the pilot programs.

"SECTION 4.2C.(d) The electronic monitoring devices used by the pilot programs shall have each of the following specifications:

- (1) The ability to automatically switch cellular networks, ensuring that the device is not dependent upon one particular cellular network provider.
- (2) The ability to detect, record, and report the deliberate shielding from receipt of GPS signals.
- (3) A disposable strap.
- (4) A minimum single charge, 48-hour battery life via an inaccessible battery with the option of a fixed charger, mobile charger, or both.
- (5) The ability to detect and store the time and date of any physical impact to the device at a level high enough to cause malfunction.
- (6) The ability to record the offender's immediate location at all times.
- (7) The ability to automatically notify the victim if an offender is within a restricted proximity to the victim pursuant to a court order.

"SECTION 4.2C.(e) The funds described in this section shall only be used by Caitlyn's Courage, Inc., for project expenses and shall not be used to pay for lobbying the North Carolina General Assembly, salaries, travel, or other administrative costs.

"SECTION 4.2C.(f) In consultation with participating judicial districts and the East Carolina University Department of Criminal Justice, Caitlyn's Courage, Inc., shall report on the effectiveness of the pilot programs created by this section to the Joint Legislative Oversight Committee on Justice and Public Safety, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division of the North Carolina General Assembly by April 1, 2021.

"SECTION 4.2C.(g) The report required by this section shall include, at a minimum, each of the following:

- (1) Any recommendations regarding the continuation, expansion, or elimination of the pilot programs.
- (2) Current and future estimated costs associated with implementing the pilot programs.
- (3) Any recommended legislation related to the pilot programs.

"PLASMA GAMES PILOT PROGRAM

"SECTION 4.2D.(a) Program Established. – The Department of Commerce, Office of Science, Technology, and Innovation (Office), shall administer a statewide pilot program (pilot) to promote access to innovative digital and personalized learning solutions for high school students that bridge the gap between chemistry and physical science classes and career and technical education (CTE) career pathways. The local school administrative units shall incorporate the science, technology, engineering, and mathematics (STEM) focused educational software program developed by Plasma Games, Inc., in select STEM classes and their CTE

programs to encourage student interest and workforce development for chemistry-dependent industries located in North Carolina, including careers in the pharmaceutical, agricultural technology, biotechnology, textile, material science, energy, minerals and mining, and chemical manufacturing fields. The pilot shall be conducted for the 2020-2021 school year.

"SECTION 4.2D.(b) Plans for Pilot Implementation. – A local school administrative unit participating in the pilot shall provide the Office with a plan for the placement of the STEM-focused educational technology developed by Plasma Games, Inc., in its schools. The plan shall include implementation of the educational game as a teaching tool for classroom teachers and a new learning platform for students to increase student engagement and discussion, enrich lessons with real-world applications and purpose in STEM fields, and create moments of connection for students with lasting impact on their career pathways. The plan shall also include provisions for professional development and training for teachers, administrators, and other school personnel to facilitate the implementation and success of the pilot.

"SECTION 4.2D.(c) Funds for the Pilot. – The Office shall use the funds allocated in subdivision (62) of Section 3.3 of this act to provide funds to local school administrative units participating in the pilot. These funds shall be used for licensing fees for the educational software, Plasma Games' operating costs, and for implementation of the pilot by the local school administrative units.

"SECTION 4.2D.(d) Reporting Requirements. – The local school administrative units participating in the pilot shall provide a report by May 1, 2021, to the Office on implementation of the pilot for that school year, including (i) the use of the funds described in subsection (c) of this section, (ii) the number of students impacted by the pilot and the number of students pursuing STEM-related CTE career pathways as a result of the pilot, measured by the number of students declaring interest in a career with a chemistry-dependent industry located in North Carolina and the number of students pursuing higher education in a chemistry-related major or technical certification at a school in North Carolina, (iii) demand and feedback by teachers on the use of the STEM-focused educational technology, and (iv) any other information requested by the Office.

The Office shall provide a report by June 1, 2021, to the Joint Legislative Education Oversight Committee, Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division on the implementation of the pilot and the information reported by participating local school administrative units pursuant to this section. The report shall include any data on student outcomes related to implementation of the pilot, the expenditure of funds described in subsection (c) of this section, and recommendations by the Office on modification of the pilot and the need for continued support."

SECTION 1.1.(f) Section 4.23(e) of S.L. 2020-3 reads as rewritten:

"SECTION 4.23.(e) This section is effective when it becomes law and expires August 31, 2020."

SECTION 1.2. The portion of Section 1.1(d) of this act amending Section 3.3(4) of S.L. 2020-4 becomes effective June 15, 2020.

PART II. TECHNICAL AND OTHER CHANGES

TECHNICAL CHANGES

SECTION 2.1.(a) Section 1.7 of S.L. 2020-4 reads as rewritten:

"SECTION 1.7. In addition to any report required under this act or any other law, OSBM shall provide a report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by ~~March~~ April 1, 2021, detailing the use of funds allocated under Section 3.3 of this act. Additionally, each State agency or department that receives federal grant funds under Section 4.1 of this act shall provide a report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division no later than 90 days from the day

the grant period ends detailing the use of funds. The report required from OSBM under this section shall include the amount of funds allocated to each State agency, State department, and nonprofit organization; how the funds were used by each State agency, State department, and nonprofit organization; and the amount of funds allocated to each State agency, State department, and nonprofit organization that remained unspent as of December 30, 2020. The report required from each State agency or department that receives federal grant funds under Section 4.1 of this act shall include the amount of funds granted, the source of the funds, how the funds were used, and the amount of funds that remained unspent at the end of the grant period."

SECTION 2.1.(b) Section 1.8 of S.L. 2020-4 reads as rewritten:

"**SECTION 1.8.** The State Auditor shall conduct a preliminary financial audit and a final performance audit of the Coronavirus Relief Fund created by this act no later than ~~March~~ April 1, 2021."

TRANSPORTATION ALLOTMENT FUNDS

SECTION 2.2.(a) For the 2020-2021 fiscal year, the Department of Public Instruction may withhold up to twelve million dollars (\$12,000,000) from the transportation allotment and instead allocate those funds, as necessary, for transportation expenses related to emergency school nutrition services provided between July 1, 2020, and the beginning of the 2020-2021 school year by public school units participating in the National School Lunch Program, School Breakfast Program, or Summer Food Service Program.

SECTION 2.2.(b) This section becomes effective July 1, 2020.

STUDENT MEAL DEBT REPORT AND REDUCED-PRICE LUNCH CO-PAYS

SECTION 2.3.(a) No later than October 15, 2021, the State Board of Education shall report to the Joint Legislative Education Oversight Committee on unpaid meal charges in local school administrative units. At a minimum, the report shall include the following information:

- (1) The percentage of students of all grade levels in each local school administrative unit who (i) qualify for and participate in reduced-price meals and (ii) do not carry an unpaid meal charge.
- (2) The total amount of debt carried by each local school administrative unit related to unpaid meal charges.
- (3) Summaries of approaches adopted by each local school administrative unit regarding unpaid meal charges.
- (4) Options for a statewide policy on the uniform administration of unpaid meal charges in local school administrative units. Every option shall ensure that students are not prevented from receiving nutritious meals because of an unpaid meal charge.

SECTION 2.3.(b) For the 2020-2021 fiscal year, the Department of Public Instruction shall transfer the sum of three million nine hundred thousand dollars (\$3,900,000) in nonrecurring funds from the cash balance in the School Bus Replacement Fund (Budget Code: 73510; Fund Code: 7200) to the State Public School Fund (Budget Code: 13510; Fund Code: 1830). Funds transferred pursuant to this section are hereby appropriated to provide school lunches at no cost to students of all grade levels qualifying for reduced-price meals in all schools participating in the National School Lunch Program in the 2020-2021 school year. If these funds are insufficient to provide school lunches at no cost to students qualifying for reduced-price meals, the Department of Public Instruction shall also use any excess funds appropriated for the National School Breakfast Program for the purposes of this subsection.

SECTION 2.3.(c) This section becomes effective July 1, 2020.

FUNDS FOR BUSINESS SYSTEM MODERNIZATION PLAN

SECTION 2.4.(a) The Office of State Budget and Management shall reduce the appropriations from the Civil Penalty and Forfeiture Fund to the School Technology Fund by the sum of eighteen million dollars (\$18,000,000) in nonrecurring funds for the 2020-2021 fiscal year. There is appropriated from the Civil Penalty and Forfeiture Fund to the State Public School Fund the sum of eighteen million dollars (\$18,000,000) in nonrecurring funds for the 2020-2021 fiscal year. The Office of State Budget and Management shall reduce the appropriations to the State Public School Fund from the General Fund by the sum of eighteen million dollars (\$18,000,000) in nonrecurring funds for the 2020-2021 fiscal year.

SECTION 2.4.(b) From the funds made available pursuant to subsection (a) of this section for the 2020-2021 fiscal year, there is appropriated from the General Fund to the Department of Public Instruction the sum of eighteen million dollars (\$18,000,000) in nonrecurring funds for the 2020-2021 fiscal year to provide for the implementation of the School Business System Modernization Plan as set out in S.L. 2017-57, to include an Enterprise Resource Planning (ERP) system for integrated payroll and human resources information, an integrated State-level licensure system, and reporting of financial information for increased transparency and analytics.

SECTION 2.4.(c) Of the funds appropriated to the Department of Public Instruction by this section for the School Business System Modernization Plan for the 2020-2021 fiscal year, the Department shall transfer six hundred fifty thousand dollars (\$650,000) in nonrecurring funds for the 2020-2021 fiscal year to the Government Data Analytics Center (GDAC) to leverage existing public-private partnerships for ongoing support of the annual school report card data system and the School Finance reporting system. Of the six hundred fifty thousand dollars (\$650,000) in nonrecurring funds transferred to GDAC for the 2020-2021 fiscal year, four hundred thousand dollars (\$400,000) in nonrecurring funds shall be used for the annual school report card data system and two hundred fifty thousand dollars (\$250,000) in nonrecurring funds shall be for the School Finance reporting system.

SECTION 2.4.(d) No later than October 1, 2020, GDAC shall execute any contractual agreements and interagency data sharing agreements necessary to accomplish the reporting system established pursuant to Section 7.16 of S.L. 2017-57, as amended by Section 7.6 of S.L. 2018-5. The Department of Public Instruction and GDAC shall continue partnering to accomplish the continued development, deployment, and ongoing provision of a data integration service that consolidates data from financial, human resources, licensure, student information, and EVAAS.

SECTION 2.4.(e) This section becomes effective July 1, 2020.

WAIVE MATCH REQUIREMENT/COMPETITIVE GRANTS PROCESS FOR NONPROFITS

SECTION 2.5. Notwithstanding Section 11A.14(b)(2) of S.L. 2017-57, in effect pursuant to Section 3.6(b)(1) of S.L. 2019-242, for the 2020-2021 fiscal year, the Department of Health and Human Services, Division of Central Management and Support, shall waive the fifteen percent (15%) match requirement for the competitive grants process for nonprofit organizations.

STREAMLINING CLAIMS FOR PROPERTY DURING THE COVID-19 ECONOMIC DOWNTURN

SECTION 2.6.(a) G.S. 116B-67 reads as rewritten:

"§ 116B-67. Claim for property paid or delivered to the Treasurer.

(a) A person, excluding another state, claiming property paid or delivered to the Treasurer may file a claim on a form prescribed by the Treasurer and verified by the ~~claimant~~ claimant if the amount claimed exceeds two hundred fifty dollars (\$250.00). For all

other claims, the Unclaimed Property Division may pay the rightful owner upon verification of ownership by the Treasurer.

...
(e) The claimant or claimants and the holder, if the holder either certifies that the claimant is the owner under subsection (b) of this section or recovers money and property from the Treasurer under G.S. 116B-63, shall agree to indemnify, save harmless, and defend the State, the Treasurer, and the Escheat Fund from any claim arising out of or in connection with refund of the property claimed. In like manner, the claimant shall also agree to indemnify, save harmless, and defend the holder, if the holder certifies the claim under subsection (b) of this section or pays or delivers property to the claimant under G.S. 116B-63. In the event that a person is not required to submit a claim on a form prescribed by the Treasurer and the claim is paid from the Escheat Fund, then it shall be presumed that the claimant has agreed to indemnify, save harmless, and defend the State, the Treasurer, and the Escheat Fund from any claim arising out of or in connection with refund of the property claimed."

SECTION 2.6.(b) Effective March 15, 2021, G.S. 116B-67, as rewritten by subsection (a) of this section, reads as rewritten:

"§ 116B-67. Claim for property paid or delivered to the Treasurer.

(a) A person, excluding another state, claiming property paid or delivered to the Treasurer may file a claim on a form prescribed by the Treasurer and verified by the claimant ~~if the amount claimed exceeds two hundred fifty dollars (\$250.00). For all other claims, the Unclaimed Property Division may pay the rightful owner upon verification of ownership by the Treasurer.~~ claimant.

...
(e) The claimant or claimants and the holder, if the holder either certifies that the claimant is the owner under subsection (b) of this section or recovers money and property from the Treasurer under G.S. 116B-63, shall agree to indemnify, save harmless, and defend the State, the Treasurer, and the Escheat Fund from any claim arising out of or in connection with refund of the property claimed. In like manner, the claimant shall also agree to indemnify, save harmless, and defend the holder, if the holder certifies the claim under subsection (b) of this section or pays or delivers property to the claimant under G.S. 116B-63. ~~In the event that a person is not required to submit a claim on a form prescribed by the Treasurer and the claim is paid from the Escheat Fund, then it shall be presumed that the claimant has agreed to indemnify, save harmless, and defend the State, the Treasurer, and the Escheat Fund from any claim arising out of or in connection with refund of the property claimed.~~"

SWEETPOTATO ADVISORY COUNCIL CHANGES

SECTION 2.7.(a). G.S. 106-1066(4), as enacted by Section 6 of S.L. 2020-18, reads as rewritten:

"(4) "North Carolina Sweetpotato Quality and Branding Advisory Council" means the advisory council established pursuant to G.S. 106-1070."

SECTION 2.7.(b) G.S. 106-1069, as enacted by Section 6 of S.L. 2020-18, reads as rewritten:

"§ 106-1069. Standards for grades.

The most recent standards for grades adopted by the United States Department of Agriculture, Agricultural Marketing Service, United States Standards for Grades of Sweet Potatoes are adopted by reference and shall be the standards for grades in this State, except that the Commissioner may establish tolerances or allowable percentages of United States standards each season upon the recommendation of the North Carolina Sweetpotato Quality and Branding Advisory Council."

SECTION 2.7.(c) G.S. 106-1070, as enacted by Section 6 of S.L. 2020-18, reads as rewritten:

"§ 106-1070. North Carolina Sweetpotato Quality and Branding Advisory Council.

~~The Commissioner shall appoint a North Carolina Sweetpotato Advisory Council. There is established within the Department of Agriculture and Consumer Services the North Carolina Sweetpotato Quality and Branding Advisory Council. The Commissioner of Agriculture shall serve as chair, and the members of the Advisory Council shall be appointed by the North Carolina SweetPotato Commission, to consist of individuals involved in growing, packing, or growing and packing North Carolina sweetpotatoes; at least one sweetpotato processor; at least one sweetpotato retailer; at least one county cooperative extension agent familiar with the production of North Carolina sweetpotatoes; the Executive Director of the North Carolina SweetPotato Commission, and any other person or persons selected by the ~~Commissioner~~,North Carolina SweetPotato Commission, for the purpose of rendering advice upon ~~his or her~~the Commissioner's request regarding the exercise of the Commissioner's authority pursuant to G.S. 106-1068. Members shall also provide advice and recommendations to the Commissioner on plant pest regulatory issues affecting sweetpotatoes, over which the Commissioner has regulatory jurisdiction. The North Carolina Sweetpotato Quality and Branding Advisory Council shall meet at least quarterly or as needed upon the request of the Commissioner. Members of the North Carolina Sweetpotato Quality and Branding Advisory Council shall receive no compensation for their service."~~

MODIFY EXPIRATION DATE OF DISBURSEMENT OF FUNDS PRIOR TO RECORDATION OF DEED IN CERTAIN CIRCUMSTANCES PROVISION

SECTION 2.8. Section 4.12(b) of S.L. 2020-3 reads as rewritten:

"SECTION 4.12.(b) This section is effective when it becomes law and expires ~~August 1, 2020~~March 1, 2021."

EXTEND SUNSET ON REMOTE NOTARY AND VIDEO WITNESSING AUTHORIZATION

SECTION 2.9.(a) G.S. 10B-10(b1), as enacted by S.L. 2020-3, reads as rewritten:

"(b1) Notwithstanding subsection (b) of this section, if the Secretary grants a commission after March 9, 2020, and before March 1, 2021, the appointee shall have 90 days to appear before the register of deeds to take the general oath of office. A register of deeds may administer the required oath to such appointee using video conference technology provided the appointee is personally known to the register of deeds or the appointee provides satisfactory evidence of the appointee's identity to the register of deeds. As used in this subsection, video conference technology and satisfactory evidence are as defined in G.S. 10B-25."

SECTION 2.9.(b) G.S. 10B-25(n), as enacted by S.L. 2020-3, reads as rewritten:

"(n) This section shall expire at 12:01 A.M. on March 1, 2021; provided, however, all notarial acts made in accordance with this section and while this section is in effect shall remain effective and shall not need to be reaffirmed."

SECTION 2.9.(c) G.S. 10B-200(b), as enacted by S.L. 2020-3, reads as rewritten:

"(b) This Article expires March 1, 2021."

PART III. MISCELLANEOUS

EFFECT OF PRIOR LEGISLATION

SECTION 3.1. The provisions of any legislation enacted during any session of the 2019 General Assembly expressly appropriating funds from the Coronavirus Relief Fund established in S.L. 2020-4 to an agency, a department, or an institution covered under this act shall remain in effect, except where expressly repealed or amended by this act or any of the following acts of the 2019 General Assembly:

- (1) S.L. 2020-4.

- (2) S.L. 2020-14.
- (3) Senate Bill 805 of the 2019 Regular Session.
- (4) Senate Bill 808 of the 2019 Regular Session.
- (5) Senate Bill 816 of the 2019 Regular Session.
- (6) Senate Bill 836 of the 2019 Regular Session.
- (7) House Bill 1071 of the 2019 Regular Session.
- (8) House Bill 1087 of the 2019 Regular Session.
- (9) House Bill 1229 of the 2019 Regular Session.

UNEXPENDED CORONAVIRUS RELIEF FUNDS

SECTION 3.2. If federal law or guidance is amended to allow the use of funds from the Coronavirus Relief Fund for revenue replacement, the Office of State Budget and Management shall deposit any remaining funds in the Coronavirus Relief Reserve in the General Fund as nontax revenue in fiscal year 2020-2021. The funds shall remain unappropriated unless the General Assembly appropriates the funds in a subsequent act of the General Assembly.

USE OF CORONAVIRUS RELIEF FUNDS TO CREATE OFFSETS

SECTION 3.3. If Senate Bill 805, 2019 Regular Session, or substantially similar legislation becomes law, and federal law or guidance is amended to allow the use of funds from the Coronavirus Relief Fund for revenue replacement, then the Office of State Budget and Management may use the six hundred forty-five million dollars (\$645,000,000) appropriated from the Coronavirus Relief Fund in that act for revenue replacement and the requirement in that act to establish the Statewide Reserve for Appropriations and reduce its negative appropriation balance is repealed.

EFFECT OF HEADINGS

SECTION 3.4. The headings to the parts, subparts, and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part or subpart.

SEVERABILITY

SECTION 3.5. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

EFFECTIVE DATE

SECTION 3.6. Except as otherwise provided, this act is effective when it becomes law.
In the General Assembly read three times and ratified this the 25th day of June, 2020.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ David R. Lewis
Presiding Officer of the House of Representatives

s/ Roy Cooper
Governor

Approved 5:35 p.m. this 1st day of July, 2020



Agenda Item Summary Sheet

Item No: **E-6**
Meeting Date: **August 5, 2020**

Item Title: Consideration of amendment to Traffic Control Map to lower the speed limit on the Nags Head/Manteo Causeway in response to NCDOT removal of pedestrian facilities at the Little Bridge (Melvin Daniels Bridge)

Item Summary:

Attached please find correspondence from NCDOT dated July 13, 2020 re: Little Bridge on the Nags Head/Manteo Causeway. In it, NCDOT details what it has done and what it will be doing to increase pedestrian safety at the Little Bridge to include the following:

1. *Remove the high visibility pedestrian crosswalk pavement markings*
2. *Removal of the pedestrian refuge islands in the center turn lane of US 64 (work pending)*
3. *Remove all signage related to the crossing*
4. *Replace the guardrail end treatments by closing the gaps in the existing guardrail*
5. *Install fencing to prohibit access to the catwalk on the north side of the bridge*
6. *Install "no parking" signs along the north side of US 64 from a point 200 feet west of the Melvin R. Daniels Bridge to a point approximately 1000 feet east of the bridge*
7. *Reduce the existing speed limit on US 64 from 50mph to 45mph beginning at the western Town Limits of Nags Head to US 158 at Whalebone Junction*
8. *Enact "No Fishing" ordinance on the north side of the bridge*

Also attached please find an amendment modifying the Traffic Control Map in response to NCDOT's actions to lower the speed limit.

Number of Attachments: 2

Specific Action Requested:

Ordinance amending the Town's Traffic Control Map is attached for Board consideration.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

I concur with staff's request for adoption of ordinance amending the Traffic Control Map.

Signature: Greg Sparks

Date: July 29, 2020

Carolyn Morris

From: Greg Sparks
Sent: Wednesday, July 15, 2020 10:10 AM
To: All Mayor and Commissioners
Subject: FW: "Little Bridge"/Muddy Channel Bridge Issues - July 10, 2020
Attachments: Muddy Channel No Park No Fish Ordinances June 2020.pdf

Mayor/Commission:
FYI
Greg

From: Bridgers, Clemmon W <cwbridgers@ncdot.gov>
Sent: Monday, July 13, 2020 11:17 AM
To: Greg Sparks <greg.sparks@nagsheadnc.gov>; Phil Webster <phil.webster@nagsheadnc.gov>; doug.doughtie@darenc.com; Forbes, Edwin J (SHP) <Edwin.Forbes@ncdps.gov>; Beardsley, Johnathan C <john.beardsley@ncwildlife.org>; donovan.twyne@nedenr.com
Cc: Sawyer, Ronald K <rksawyer@ncdot.gov>; Baker, Sterling D <sbaker@ncdot.gov>; Davidson, Jason G <jdavidson@ncdot.gov>; Moran, Allen <allenmoran@ncdot.gov>
Subject: "Little Bridge"/Muddy Channel Bridge Issues - July 10, 2020

As you are all likely aware, in the interest of safety, NCDOT recently removed the pedestrian facilities, and took other steps to address safety issues at the above location on the Nags Head/Manteo Causeway. The work included:

- *Remove the hi-viz pedestrian crosswalk pavement markings.*
- *Removal of the pedestrian refuge islands in the center turn lane of US 64 (work pending)*
- *Remove all signage related to the crossing.*
- *Replace the guardrail end treatments by closing the gaps in the existing guardrail.*
- *Install fencing to prohibit access to the catwalk on the north side of the bridge.*
- *Install "no parking" signs along the north side of US 64 from a point 200 feet west of the Melvin R. Daniels Bridge to a point approximately 1000 feet east of the bridge.*
- *Reduce the existing speed limit on US 64 from 50mph to 45mph beginning at the western Town Limits of Nags Head to US 158 at Whalebone Junction.*
- *Enact "No Fishing" ordinance on the north side of the bridge.*

With the exception of the island removal, all the work listed has been completed. For your information, I am attaching documentation related to two (2) ordinances associated with this work, specifically, "No Parking" and "No Fishing" .

Thank you in advance for your assistance with these matters.

Sincerely,

Clemmon W. "Win" Bridgers, Jr., PE
Division Maintenance Engineer, Division One
NC Department of Transportation

252 482-1854 office
252 209 6235 mobile



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

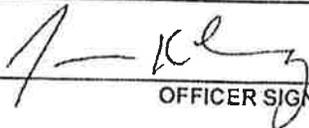
P.O. BOX 25201, RALEIGH, NC 27611-5201

CERTIFICATION OF RULEMAKING

Certifying Agency: Department of Transportation					
Action:	<input checked="" type="checkbox"/>	Adoption	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Repeal
Statutory Authority: 136-18, 20-158, 20-141.					
Public Hearing Not Required For This Action Under: GS 150B.					
Rule Summary: No Parking, Municipal Speed Zones, Rural Speed Zones, No Right Turn on Red, Statutory Speed Limits - (Verification).					
Division: 1, 2, 3, 5, 7, 10, 11, 12, 14					
Circumstances Requiring Rule Adoption, Repeal: Necessary for public safety and welfare.					
Effective Date: June 12, 2020					

June 09, 2020

DATE


OFFICER SIGNATURE

James. K. Lacy, P.E.

TYPED NAME

State Traffic Engineer

TITLE

No Parking

The Board of Transportation has delegated to the Secretary of Transportation the authority to adopt and promulgate all rules and regulations and ordinances regulating traffic on the highways pursuant to authority of N.C.G.S 143B-350 (g) (see 19ANCAC 4A.0104).

The State Traffic Engineer is subdelegated the authority by the Secretary of Transportation to adopt all necessary rules for the use of and to police traffic on state highways, and to set, change, or extend route numbers on the Primary Highway System of North Carolina pursuant to authority of N.C.G.S 143B-350(g) (see 19ANCAC 4A.0104).

Pursuant to that delegation, the State Traffic Engineer hereby adopts and promulgates the following ordinances in accordance with General Statute 136-18. Signing only required by statute or code if a prohibition exists.

COUNTY DARE DIVISION 1

DECLARE THE FOLLOWING

County	Ordinance Number	Route	Description
DARE	1078052	US 64	Along the north side between 1.2 miles west of US 158 and 0.7 mile west of US 158.
DARE	1078068	SR 1293	Between NC 12 and a point 0.32 mile east of NC 12.

RESCIND THE FOLLOWING

County	Ordinance Number	Route	Description
DARE	1054294	US 64	Along the north side of US 64, from a point 1.2 miles west of US 158, eastward to a point 0.9 mile west of US 158, in Nags Head.



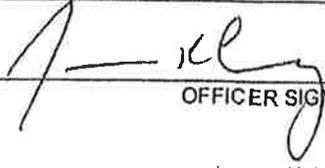
STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

P.O. BOX 25201, RALEIGH, NC 27611-5201

CERTIFICATION OF RULEMAKING

Certifying Agency: Department of Transportation				
Action:	<input checked="" type="checkbox"/>	Adoption	<input checked="" type="checkbox"/>	Repeal
Statutory Authority: 136-18, 20-141.1, 20-141.				
Public Hearing Not Required For This Action Under: GS 150B.				
Rule Summary: No Parking, Municipal Speed Zones, Rural Speed Zones, No Fishing from Bridge, Speed Limit in School Zones, No U-Turn, School Speed Zone - Rural, Statutory Speed Limits - (Verification).				
Division: 1, 2, 3, 4, 6, 10, 13				
Circumstances Requiring Rule Adoption, Repeal: Necessary for public safety and welfare.				
Effective Date: June 26, 2020				

June 25, 2020
DATE


OFFICER SIGNATURE

James. K. Lacy, P.E.

TYPED NAME

State Traffic Engineer

TITLE



Western Town limits of Nags Head to US 158 at Whalebone Junction



**ORDINANCE AMENDING THE NAGS HEAD TRAFFIC CONTROL MAP
REDUCE SPEED LIMIT TO 45 MPH AT LITTLE BRIDGE ON NAGS HEAD/MANTEO CAUSEWAY**

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Nags Head Traffic Control Map is hereby amended as follows:

- PART I.** That a speed limit reduction from 50 MPH to 45 MPH be established beginning at the western Town limits of Nags Head to US 158 at Whalebone Junction
- PART II.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.
- PART III.** This ordinance shall become effective upon notation being made on the Nags Head Traffic Control Map and the erection of appropriate signage.

This the 5th day of August 2020.

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

ADOPTED **August 5, 2020**

MOTION TO ADOPT BY: _____

SECONDED BY: _____

VOTE: _____ AYES _____ NOES



Agenda Item Summary Sheet

Item No: **E-7**
Meeting Date: **August 5, 2020**

Item Title: Consideration of extension of existing Memorandum of Agreement (MOA) with the Town of Cary for emergency relocation of government during a State of Emergency

Item Summary:

The existing Memorandum of Agreement (MOA) with the Town of Cary authorizes the Town of Nags Head to utilize their spaces if needed in a State of Emergency. The attached MOA has only been modified from the November 2015 version to be extended for an additional five (5) years and to include updated official names.

Interim Town Manager Sparks has received concurrence from the Town of Cary for this extension.

Number of Attachments: 1

Specific Action Requested:

Request Board approval of attached MOA with the Town of Cary.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

I concur with the MOA extension in order to maintain continuity of government in case of emergency.

Signature: Greg Sparks

Date: July 29, 2020

MEMORANDUM OF AGREEMENT
Between the Town of Cary
and the Town of Nags Head

This Memorandum of Agreement (hereinafter "Agreement") is made on the last date entered below between the Town of Cary and the Town of Nags Head (collectively referred to hereinafter as "the Parties") for the emergency relocation of government during a State of Disaster or Imminent Threat of Disaster and/or a State of Emergency declared pursuant to Nags Head Town Code Chapter 14 and Chapter 166A of the North Carolina General Statutes.

WHEREAS, during a declared State of Disaster or Imminent Threat of Disaster which implements the North Carolina Emergency Operations Plan (hereinafter "NCEOP"), the Town of Nags Head may request the use of designated facilities from the Town of Cary for the purpose of the continuation of government. These facilities would include space to operate a telephone bank and Internet access to communicate with citizens, operations staff, property owners and other parties who need access to Town government; AND

WHEREAS, the Town of Nags Head has requested that it be allowed the opportunity to relocate certain government functions to the Town of Cary and the Town of Cary is willing to provide the necessary facilities; AND

WHEREAS, the Parties have conferred as to the best methods and practices to allow the Town of Nags Head to operate remote government functions; AND

WHEREAS, this Agreement is authorized by N.C.G.S. 166A-19.72.

NOW, THEREFORE, the Parties agree as follows:

1. The Town of Cary will provide space to operate a five (5) person phone bank.
2. The Town of Cary will provide internet access in order that the Town of Nags Head may update its Website.
3. The Town of Cary will provide access to additional facilities such as bathrooms, break rooms, and recreational areas as available during times when Nags Head staff are engaged in work activity.
4. The Town of Cary will provide said facilities for a period not to exceed two weeks unless by further written agreement.
5. The Town of Nags Head will provide and pay for phone service for five phone lines for use by the Town of Nags Head in the facilities designated by the Town of Cary.
6. The Town of Nags Head will pay necessary Internet access charges for the period of use by the Town of Nags Head.
7. The Town of Cary will provide an itemized notice of costs and expenses to be paid to the Town of Cary, and forward this notice as soon as practicable after the costs and expenses are incurred, but

not later than sixty (60) days following the period of assistance. The Town of Nags Head shall pay the bill or advise of any disputed items, not later than 30 (thirty) days following the billing date.

8. The Town of Cary has no legal obligation to provide or maintain communication services for the Town of Nags Head and does not guarantee the quality of communication services that may be provided to the Town of Nags Head as a result of this Agreement.
9. A reasonable effort will be made by the Parties to identify and maintain availability of adequate communication services that the Town of Nags Head has been authorized to install and/or utilize on the Town of Cary's premises for the purpose of this Agreement.
10. The Town of Cary shall not be responsible for reimbursing any amounts paid or due as benefits to the Town of Nags Head personnel under the terms of the North Carolina Workers' Compensation Act (Chapter 97 of the North Carolina General Statutes). It is mutually understood that the Town of Nags Head and the Town of Cary shall be responsible for payment of such workers' compensation benefits only to their own respective employees.
11. It is mutually understood that each Party's foremost responsibility is to its own citizens. The provisions of this Agreement shall not be construed to impose upon the Town of Cary an unconditional obligation to provide aid and assistance pursuant to a request from the Town of Nags Head. Accordingly, when aid and assistance have been requested, the Town of Cary may in good faith withhold the resources necessary to provide reasonable and adequate protection for its own community, by deeming itself unavailable to respond and so informing the Town of Nags Head. Concomitantly, the Town of Cary fully recognizes that there is a highly meritorious reason for entering into this Agreement, and accordingly shall attempt to render assistance in accordance with the terms of this Agreement to the fullest extent possible.
12. The Parties intend that this Agreement be governed by the law of the State of North Carolina.
13. In the event of conflict or default that might arise for matters associated with this Agreement, the Parties agree to informally communicate to resolve the conflict. If any such dispute cannot be informally resolved, then such dispute, or any other matter arising under this Agreement, shall be subject to resolution in a court of competent jurisdiction. Such disputes, or any other claims, disputes or other controversies arising out of, and
between the Parties shall be subject to and decided by the appropriate general court of justice of Wake County, North Carolina.
14. In the event any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. If one or more paragraphs, sections sentences, clauses, or phrases shall be declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this Agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by the Parties without the incorporation of such void, invalid or otherwise unenforceable paragraph, section, sentence, clause or phrase.
15. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Either Party may convert a signed original of the Agreement to an electronic record pursuant to a North Carolina

Department of Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Agreement shall be deemed for all purposes to be an original signed Agreement.

- 16. This Agreement may be modified only upon the written consent and approval of both parties.
- 17. This Agreement shall be in effect from the last date written below until **October 31, 2025**. This Agreement may be terminated by either party upon submission of a thirty-day advance written notice of termination to the non-terminating party.
- 18. To provide consistent and effective communication between the Parties, each party shall appoint a Principal Representative to serve as its central point of contact responsible for coordinating and implementing their Agreement. The Principal Representative of the Town of Cary shall be the Director of Technology Services Department or designee. The Principal Representative of the Town of Nags Head shall be the Fire Chief or designee.
- 19. The governing boards of both parties have concurred in the adoption of this Agreement.

This Agreement shall be effective on the date of the last signature below.

IN WITNESS WHEREOF, the Parties have each executed this Agreement as follows:

TOWN OF CARY

BY: _____

ITS: _____

ATTEST: _____

DATE: _____

Date of Governing Board Concurrence: _____

TOWN OF NAGS HEAD

BY: _____

ITS: _____

ATTEST: _____

DATE: _____

Date of Governing Board Concurrence: _____



Agenda Item Summary Sheet

Item No: **E-8**
Meeting Date: **August 5, 2020**

Item Title: Consideration of drainage easement agreement with Gandt Development, LLC
at 101 E Dove Street

Item Summary:

Enclosed for Board consideration is a non-exclusive drainage easement agreement with Gandt Development, LLC for the subject property located at 101 E. Dove St. The agreement is being proposed to encompass a minor drainage swale encroachment across the northeast corner of 101 E. Dove St. A formal agreement will provide the Town a mechanism for continued operation and maintenance of the portion of drainage improvements which cross the corner of the subject property.

A copy of the non-exclusive easement agreement and proposed stormwater easement exhibit is attached. Once fully executed, the agreement will be recorded with the Dare County Register of Deeds.

Number of Attachments: 1

Specific Action Requested:

Provided for Board review/approval of attached stormwater easement agreement.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

I concur with staff's request.

Signature: Greg Sparks

Date: July 29, 2020

AGREEMENT

Prepared by and
return after recording to:

Robert B. Hobbs, Jr.
Hornthal, Riley, Ellis & Maland, LLP
2502 S. Croatan Hwy
Nags Head, NC 27959

NORTH CAROLINA DARE COUNTY

THIS ENCROACHMENT AGREEMENT (the "Agreement") is effective as of _____, 2020 (the "Effective Date"), by and between GANDT DEVELOPMENT, L.L.C., a North Carolina limited liability company (the "Owner") and the TOWN OF NAGS HEAD, a North Carolina municipal corporation (the "Town"). The Owner and the Town may be individually referred to as a "Party" and collectively as the "Parties."

RECITALS:

Owner is the owner of the property located at 101 E. Dove Street, Nags Head, NC, and more particularly described in that certain Deed recorded in Book 2228, Page 560, Dare County Registry (the "Property").

The Parties have learned that certain drainage improvements owned and maintained by the Town in connection with its maintenance of Dove Street encroach upon the Property as shown on Exhibit A attached hereto and incorporated herein by this reference (the "Encroachments"). The Parties hereto desire to acknowledge the presence of the Encroachments and provide for the permissive use and continued existence of the Encroachments on the Property.

In consideration of these Recitals, and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Existing Encroachments. The Owner hereby acknowledges the Encroachments, waives any objection to the Encroachments, and grants Town a nonexclusive permanent and perpetual right and easement for the continued presence of the Encroachments on the Property. This grant of easement and waiver shall not apply to any new encroachments arising after the

date of this Agreement. Owner agrees and acknowledges that the Encroachments have been installed for the benefit of Town in connection with Town's public maintenance of Dove Street.

2. Maintenance. Following execution of this Agreement, Town shall have the obligation to ensure that the Encroachments are maintained, functioning properly and in a good state of repair, at Town's sole cost and expense. In the event that Owner shall discover that Town has failed to repair, replace or maintain the Encroachments and such failure is a material threat to cause damage to the Property, Owner shall have the right to give Town written notice of such condition and Town shall have a period of ninety (90) days after receipt of such written notice to repair, replace or perform the maintenance necessary to correct such condition. If Town fails to promptly undertake said repairs, maintenance or replacement within the ninety (90) day period, Owner or its successors in title shall be entitled to do so after prior written notice to Town and failure of Town to undertake to remedy such condition within thirty (30) days after receipt of such written notice.

3. Miscellaneous. This Agreement constitutes the entire agreement between the parties on this subject matter. No modification of this Agreement shall be binding unless in writing and signed by the party against which it is sought to be enforced. No waiver of any right or remedy shall be effective unless in writing and nevertheless shall not operate as a waiver of any other right or remedy or of the same right or remedy on a future occasion. This Agreement shall be binding upon and shall inure to the benefit of the parties and their successors and assigns. This Agreement shall be construed in accordance with the laws of the State of North Carolina without giving effect to its conflict of laws principles. All words and phrases used in this Agreement in any one number or gender shall be construed to include any other number or gender as the context requires. In the event that any legal action or demand for arbitration (if applicable) is filed in relation to this Agreement, the unsuccessful party in that proceeding shall pay to the successful party the latter's reasonable attorneys' fees in addition to any other relief recovered.

[The remainder of this page is intentionally blank. Signature pages follow]

IN WITNESS WHEREOF, this Agreement was executed and delivered this the date first written above.

OWNER:

GANDT DEVELOPMENT, L.L.C., a North Carolina limited liability company

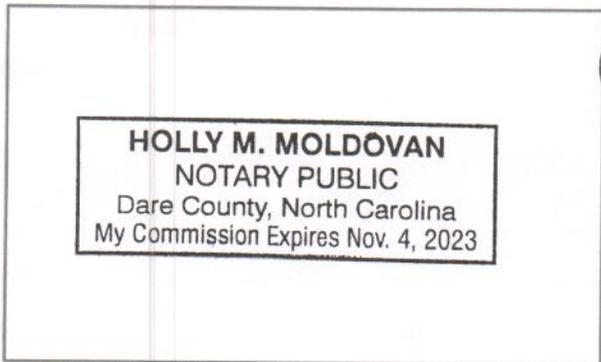
By: [Signature]
Name: GERRY WILKINS
Title: President

STATE OF North Carolina

COUNTY/CITY OF DARE

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Gerry Wilkins

Witness my hand and seal this A day of July, 2020.



[Signature]
Signature of Notary Public

Holly M Moldovan
Typed or printed name of Notary Public

My commission expires: Nov 4, 2023

Affix Notary Seal Inside This Box

[Signatures continue of the following page.]

IN TESTIMONY WHEREOF, The Town of Nags Head has caused this instrument to be executed in its name and behalf by its Mayor, attested by the Town Clerk and its seal affixed hereto, all as the act and deed of its Board of Commissioners, pursuant to a resolution adopted on the ____ day of _____, 20__, all the day and year first above written.

TOWN OF NAGS HEAD

By: _____
Benjamin Cahoon, Mayor

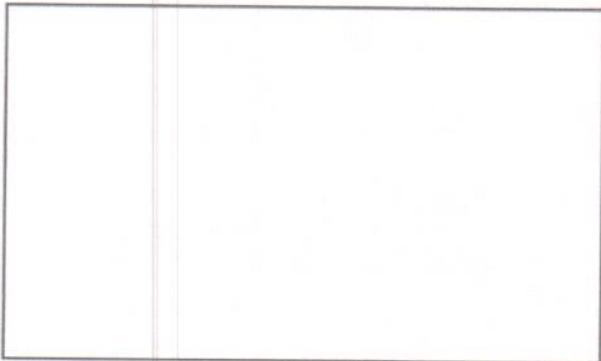
Attest:

Carolyn F. Morris, Town Clerk

STATE OF NORTH CAROLINA
COUNTY OF DARE

I, _____, a Notary Public of the County and State aforesaid, certify that Benjamin Cahoon personally came before me this day and acknowledged that he is Mayor of The Town of Nags Head, a North Carolina municipal corporation, and that by authority duly given and as the act of the town, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by Carolyn F. Morris, its Town Clerk.

Witness my hand and seal this ____ day of _____, 20____.



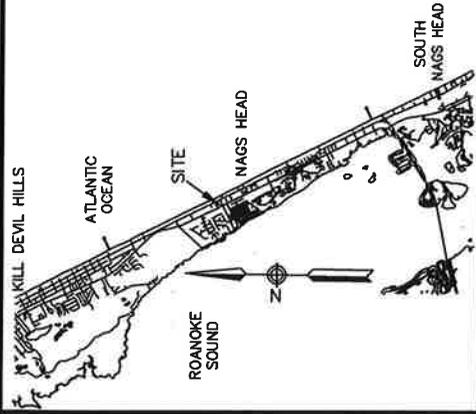
Signature of Notary Public

Typed or printed name of Notary Public

My commission expires: _____

Affix Notary Seal Inside This Box

EXHIBIT A
Plat Depicting Encroachments
(See attached)



VICINITY MAP (NTS)

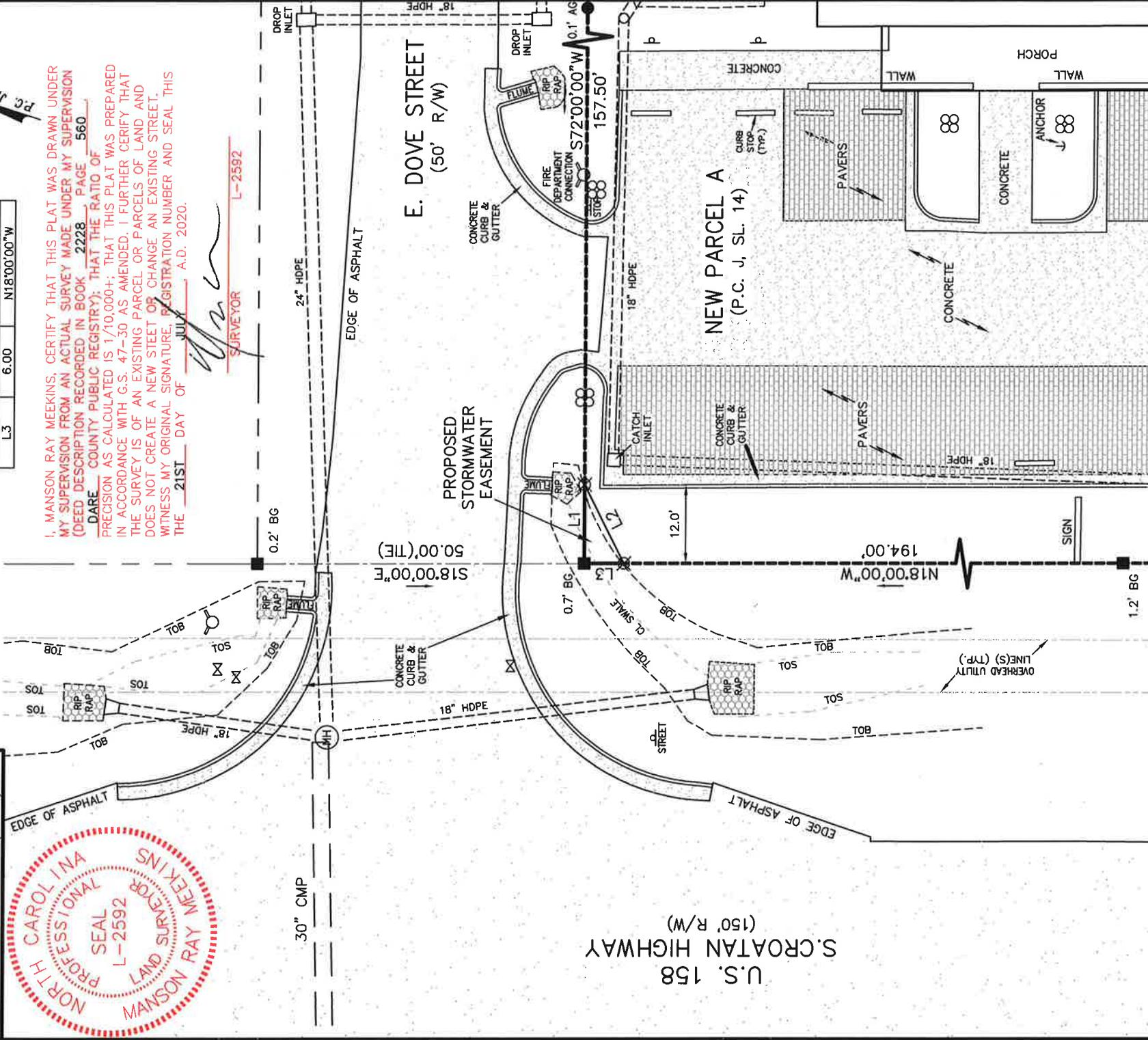
LEGEND

- EX. 1" OPEN PIPE
- EX. 1/2" REBAR
- 8" WOOD PILING
- EX. 4" X 4" CONC. MON.
- EX. MAG NAIL
- CALCULATED POINT
- FIRE HYDRANT
- WATER VALVE WITHIN CONCRETE COLLAR
- AG — ABOVE GRADE
- BG — BELOW GRADE
- PL — PROPERTY LINE
- CL — CENTERLINE
- TOB — TOP OF BANK
- TOS — TOE OF SLOPE

NOTES:

1. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH AND EASEMENTS & RESTRICTIONS OF RECORD.
2. AREA BY COORDINATE COMPUTATION = 36 S.F.
3. F.I.R.M. ZONE: "X" (R.F.P.E.: 9.0')
4. PIN NO.: 14-080109-06 2755
5. RECORDED REFERENCE: P.C. J. SL. 14; D.B. 2228, PG. 560
6. MINIMUM BUILDING LINES (MBL), IF SHOWN HEREON, ARE PER THE CURRENT LOCAL ZONING REGULATIONS. OTHER SETBACKS AND/OR RESTRICTIONS MAY APPLY AND MUST BE VERIFIED PRIOR TO CONSTRUCTION.
7. ELEVATIONS (NAVD 1988): N/A
8. THE EXISTING STORMWATER DRAINAGE INFRASTRUCTURE SHOWN HEREON ARE FROM PLAT ENTITLED "AS-BUILT SURVEY FOR GANDT DEVELOPMENT, LLC - DOVE STREET - 50' R/W", DATED AUGUST 23, 2019.

LINE	LENGTH	BEARING
L1	12.00	N72°00'00"E
L2	13.42	S45°26'06"W
L3	6.00	N18°00'00"W



I, MANSON RAY MEEKINS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 2228, PAGE 560 DARE COUNTY PUBLIC REGISTRY); THAT THE RATIO OF PRECISION AS CALCULATED IS 1/10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. I FURTHER CERTIFY THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS THE 21ST DAY OF JULY, A.D. 2020.

Manson Ray Meekins
 SURVEYOR L-2592

PLAT OF PROPOSED STORMWATER EASEMENT TO BE CONVEYED TO

TOWN OF NAGS HEAD

NEW PARCEL A - "RECOMBINATION PLAT FOR GANDT DEVELOPMENT, LLC"
NAGS HEAD - NAGS HEAD TOWNSHIP - DARE COUNTY - NORTH CAROLINA



1 inch = 20 ft.

FILE: 1808054-PARCELA-ESMT

SURVEYED: 06/03/20 JC

PLATTED: 07/17/20 TG



SEABOARD SURVEYING & PLANNING, INC. C-1536
 103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959
 OFFICE: (252) 480-9998 FAX: (252) 480-0571



Agenda Item Summary Sheet

Item No: **E-9**
Meeting Date: **August 5, 2020**

Item Title: Consideration of agreement with Outer Banks Professional Services

Item Summary:

The attached agreement is between the Town and Outer Banks Professional Services, LLC which is also known as The Outer Banks Hospital Center for Healthy Living ("Clinic"). The agreement would permit Town employees to utilize the Clinic's facility to provide immediate convenience care for acute complaints. The Clinic will accept from the Town's health insurance provider, MedCost, the allowable amount under the current network agreement between the Clinic and MedCost. Employees would not be required to pay a co-pay fee for these services.

Number of Attachments: 1

Specific Action Requested:

Request Board approval to execute the attached agreement allowing Town employees access via walk-in or virtual visit to the Clinic.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

I concur with the request.

Signature: Greg Sparks

Date: July 29, 2020

**AGREEMENT BY AND BETWEEN
OUTER BANKS PROFESSIONAL SERVICES, LLC
AND
TOWN OF NAGS HEAD**

THIS AGREEMENT is made and entered into on _____, 2020, and is effective as of the date of last signature below (“Effective Date”), by and between Town of Nags Head (“Town”) and Outer Banks Professional Services, LLC d/b/a The Outer Banks Hospital Center for Healthy Living (“Clinic”), hereinafter referred to individually as “the party” or collectively as “the parties.”

WITNESSETH

WHEREAS, Clinic is a limited liability corporation organized and existing under the laws of the State of North Carolina which provides personalized medical care in a positive and inspiring setting intended to complement a person’s primary care physician; and

WHEREAS, Clinic uses lifestyle and integrative medicine to improve nutrition, manage stress and quit smoking, among other things; and

WHEREAS, Town is a municipality located in the State of North Carolina, which provides health care benefits to its employees through MedCost; and

WHEREAS, Town desires to contract with Clinic to permit the Clinic to provide immediate convenience care for acute complaints for its employees; and

WHEREAS, the Town’s health plan allows its employees to receive services at Clinic without paying a co-payment; and

WHEREAS, Clinic is willing and able to provide services to Town employees pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreement contained in this Agreement, the sufficiency of which are hereby acknowledged, the parties agrees as follows:

1. **SCOPE OF SERVICES**. Clinic agrees to provide its full complement of services to employees of Town. Walk-in visits are permitted and virtual visits are available.

2. **PAYMENT**. Clinic shall charge its usual and customary rates pursuant to its chagemaster but shall accept as payment in full from MedCost the allowable amount under the current network agreement between Clinic and MedCost. The Town warrants and represents that its health plan currently allows its employees to seek services at Clinic without paying a co-payment. The Clinic represents that the compensation set forth in this Agreement represents the

fair market value of the items and services to be provided under this Agreement. Further, this Agreement has been negotiated in an arm's length transaction, has not been determined in a manner which takes into account the volume or value of referrals or business that may otherwise be generated between the parties, and the items and services to be provided as set forth herein reflect the commercially reasonable needs of the parties. Further, the Clinic represents that this Agreement does not violate anti-kickback or any state or federal law governing billing or claim submission and does not involve the counseling or promotion of a business arrangement or other activity that violates the law.

3. TERM. The term of this Agreement shall commence as of the Effective Date and shall continue in full force and effect for a period of one (1) year. Thereafter, this Agreement shall automatically renew for successive one (1) year terms unless the Agreement is terminated as provided herein. Unless otherwise provided herein, either party shall have the right to terminate this Agreement, with or without cause, upon the giving of thirty (30) days notice in writing to the other party.

4. ENTIRE AGREEMENT AND AMENDMENTS. This Agreement, any attachments, contains the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior written negotiations or agreements and all prior or contemporaneous oral negotiations or agreements between them regarding the subject matter hereof. This Agreement may be amended only in writing, which writing must be signed by both of the parties. Each of the statements set forth in the recitals to this Agreement are hereby incorporated herein by reference as a valid representation of the party or parties to whom such statement relates.

5. INDEPENDENT CONTRACTOR. The relationship between the parties to this Agreement shall be that of independent contractors, and no party shall be construed to be the agent, partner, employee, or joint venturer of the other parties to the Agreement. The parties shall not exercise control or direct the manner in which other parties perform their duties hereunder except to assure compliance with this Agreement.

6. ASSIGNMENT. This Agreement is personal to each of the parties hereto, and neither party may assign nor delegate any of its rights or obligations without first obtaining the written consent of the other party. Any purported assignment without prior written consent from the other party shall be null and void.

7. FORCE MAJEURE. The parties understand and acknowledge that neither shall be liable for any loss, damage, detention, delay or failure to perform in whole or part resulting in causes beyond their control including, but not limited to an act of God, fire, strikes, insurrections, riots, embargoes, shortages of motor vehicles, delays in transportation, and inability to obtain supplies of raw materials or requirements or regulations of the United States government or any other civil or military authority.

8. HOLD HARMLESS AND INDEMNIFICATION. As to the Clinic, the Town accepts responsibility for any and all losses, liabilities, or damages that may arise due to acts of

nonfeasance, malfeasance, misfeasance or negligence committed by itself or its agents, employees, or independent contractors while in the performance of their duties or assignments under this Agreement or for any breach of any warranty or covenant under this Agreement. As to the Town, the Clinic accepts responsibility for any and all losses, liabilities, or damages that may arise due to acts of nonfeasance, malfeasance, misfeasance or negligence committed by itself or its agents, employees, or independent contractors while in the performance of their duties or assignments under this Agreement.

9. INSURANCE. Each party agrees to procure and maintain general liability insurance covering claims, causes of actions, actions, losses, liabilities, damages, and expenses arising out of, caused by or otherwise resulting from the negligence or otherwise wrongful acts or omissions of it or its employees. The limits of liability of said insurance shall be at least one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in annual aggregate. The insurance shall be provided by an insurance company licensed to do business in North Carolina or a company approved in advance by the other party.

10. OBRA COMPLIANCE. The parties agree that upon request they will make their books, documents and records available to the Secretary of Health and Human Services, the comptroller general or their duly authorized representative to the extent required by Section 952 of the Omnibus Budget Reconciliation Act of 1980.

11. DEBARMENT CERTIFICATION. By signing this Agreement, each party hereby represents and warrants the following: (1) that such Party has not been debarred, excluded, suspended or otherwise determined to be ineligible to participate in federal health care programs (collectively, "Debarment" or "Debarred," as applicable); (2) no basis for Debarment exists; and (3) that such party agrees to immediately notify the Chief Compliance Officer of the other in the event that the party (a) receives notice of action or threat of action with respect to its Debarment during the term of this Agreement; or (b) becomes Debarred. Upon receipt of such notice from a party, this Agreement shall automatically terminate without further action or notice.

12. RESTRUCTURING. It is the intention of the parties to comply with all applicable laws and regulations, including, but not limited to, the Internal Revenue Code of 1986, as amended, the Medicare and Medicaid Anti-Kickback statute, the "Stark II" anti-referral legislation, and any regulations promulgated thereunder. The parties acknowledge that legislation, regulations, an administrative ruling or other legally binding opinion may be adopted, amended, promulgated or issued which effectively renders this Agreement unlawful, could affect the tax-exempt status of either party or any affiliates thereof, could impose liability or exclusion from participation in the Medicare or Medicaid program or otherwise have a negative impact on either party. In such event, either party may by written notice propose the termination, restructuring or renegotiation of this Agreement in order to effect compliance. If such notice is given and the parties are unable within fifteen (15) days thereafter to reach an agreement with respect to the termination, restructuring or renegotiation of this Agreement, either party may terminate this Agreement by providing at least fifteen (15) days' written notice to the other.

13. HIPAA. Each party agrees to comply with all federal and state laws and regulations, and all rules, regulations and policies of Clinic regarding the confidentiality of any individually identifiable patient or medical record information regarding Clinic patients (“protected health information”). It is the intent of the parties to comply with all provisions of the Health Insurance Portability and Accountability Act of 1996, now codified at Title XI, Part C of the Social Security Act and all regulations promulgated thereunder (“HIPAA”), when such federal code provisions and regulations take effect, and as they may change from time to time. Each party agrees not disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by Clinic in writing, any protected health information.

14. DISCLAIMER OF REFERRALS. The parties acknowledge that payment of considerations, whether direct or indirect, to induce referral of any patient, service or equipment reimbursable under the Federal Medicare/Medicaid Program is unlawful. Each of the parties agrees that no benefit accruing to either party pursuant to this Agreement shall be conditioned upon nor granted in consideration of the referral of any patient, service or equipment to any party. The parties specifically disclaim any requirement that any party refer patients to the other party for any reason whatsoever.

15. NOTICE. Any notice required or permitted to be given hereunder shall be deemed to have been given when delivered personally or three (3) days after being mailed by certified mail, return receipt requested, to the following addresses:

Outer Banks Professional Services
Attn: Ronnie Sloan
4800 S. Croatan Highway
Nags Head, NC 27959

Town of Nags Head
Attn: Town Manager,
5401 S. Croatan Highway
Nags Head, NC 27959

With a copy to:
Legal Affairs
P.O. Box 6028
Greenville, NC 27835-6028

16. E-VERIFY. Clinic complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, including the requirement for it to verify the work authorization of its employees through the federal E-Verify system.

17. ACCESS TO PERSON AND RECORDS. North Carolina’s State Auditor and the County’s internal auditor shall be provided access to persons and records that are generated as a result of, or are related to, this Agreement for the purposes of verifying accounts and data affecting fees or performance in accordance with N.C. General Statutes § 147-64.7 and N.C. Session Laws 2010-194, Section 21

18. THIRD PARTY BENEFICIARY. The parties do not intend to confer any rights, privileges or benefits upon any other individual(s) or entity(ies), not signatories to this

Agreement, arising out of this Agreement. The parties agree that nothing in this Agreement shall be construed or interpreted to confer any such rights, privileges or benefits upon any individual or entity not a signatory to this Agreement.

19. SEVERABILITY. If any provision of this Agreement is determined to be invalid or unenforceable, the provision shall be deemed to be severable from the remainder of the Agreement and shall not cause the invalidity or unenforceability of the remainder of this Agreement.

20. WAIVER. The failure by the party at any time to require performance by the other party of any provision hereof shall not affect in any way the right to require such performance at a later time nor shall the waiver by either party of a breach of any provision hereof be taken or be held to be a waiver of such provision.

21. COUNTERPARTS AND FACSIMILES. This Agreement may be executed in one or more counterparts each of which may be deemed an original, but all of which constitute one and the same. An executed Agreement transmitted by facsimile to the other party may be relied upon as an original and if there is any inconsistency between such facsimile and an executed Agreement subsequently received by "hard-copy," the terms contained in the facsimile shall prevail.

22. JURISDICTION. This Agreement has been entered into in the State of North Carolina and all questions with respect to the construction of this Agreement and the rights and liabilities of the parties shall be governed by the laws of the State of North Carolina.

23. GENDER. Throughout this Agreement, wherever the context requires or permits, the neuter gender shall be deemed to include the masculine and the feminine, and the singular number, the plural and vice versa.

24. HEADINGS. The headings and numbers of sections and paragraphs contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, the duly authorized representative of the parties hereto have set their hands and seals, the day and year first above written.

TOWN OF NAGS HEAD

OUTER BANKS PROFESSIONAL SERVICES, LLC

By: _____
Name: _____
Title: _____


By: _____
Ronnie Sloan, Manager

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act

By: _____
Name: _____
Title: CFO



Agenda Item Summary Sheet

Item No: **E-10**
Meeting Date: **August 5, 2020**

Item Title: Request for Public Hearing to consider numerous minor text amendments to the Unified Development Ordinance for clarification and to correct identified typographical errors

Item Summary:

Since the Board of Commissioners May 6, 2020 meeting where the first iteration of post-Unified Development Ordinance adoption typographical errors was adopted, staff has identified several additional areas for correction or improvement of the UDO. These proposed amendments include: correction to the Post-Firm Definition, correction of various mis-spelled words, amending the UDO with the updated information from the December 5, 2018 approval of stormwater management amendments, correction to clarify that there are no supplemental standards for the use of Government Administrative Office, and to include "flag (non-advertising, non-informational)" regulations that were inadvertently deleted during the adoption of the UDO.

Staff Recommendation/Planning Board Recommendation

Planning staff recommends that the amendments be adopted as proposed.

At their July 21, 2020 meeting the Planning Board voted unanimously to recommend approval of the proposed text amendments as proposed.

Number of Attachments: 0

Specific Action Requested:

Schedule the Public Hearing.

Submitted By: Planning and Development

Date: July 28, 2020

Finance Officer Comment:

N/A

Signature: Amy Miller

Date: July 28, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 28, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Greg Sparks

Date: July 28, 2020



Agenda Item Summary Sheet

Item No: **E-11**
Meeting Date: **August 5, 2020**

Item Title: Request for Public Hearing to consider a text amendment to the Unified Development Ordinance to allow Furniture Stores as an allowable use as part of Commercial Mixed-Use uses

Item Summary:

Cahoon and Kasten Architects, PC has submitted a text amendment application on behalf of Sumit Gupta of Legacy Homes, Inc. If adopted, this text amendment would amend the Unified Development Ordinance ("UDO"), Section 7.32.2., to add the "Furniture Store" use as an allowable use for all Commercial Mixed-Use designations. This includes the following use types: Commercial with Accessory Residential, Group Development, Mixed Use Development, Multiple Principal Uses, and Shopping Centers. Furniture is an allowed use within the C-2 Zoning District therefore it would within that district only that a furniture store could be incorporated as part of a mixed use. With the exception of the Commercial with Accessory Residential use, all other mixed-use designations require a conditional use permit within the C-2 District.

Staff Recommendation/Planning Board Recommendation

Planning staff generally has no concern with listing the use of "Furniture Store" as an allowable use for all Commercial Mixed-Use designations and believes that is consistent with applicable policies.

At their July 21, 2020 meeting the Planning Board voted unanimously to recommend approval of the proposed text amendment as proposed.

Number of Attachments: 0

Specific Action Requested:

Schedule the Public Hearing.

Submitted By: Planning and Development Date: July 28, 2020

Finance Officer Comment:

N/A

Signature: Amy Miller Date: July 28, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: July 28, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Greg Sparks Date: July 28, 2020



Agenda Item Summary Sheet

Item No: **F-1**
Meeting Date: **August 5, 2020**

Item Title: Public Hearing to consider 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 and Parcel# 006749039; PIN# 989108893398); the revised Preliminary Plat proposes to create 17 building lots, along with an associated street and other required improvements, and requires a public hearing due to requested waivers

Item Summary:

The subject application is a Preliminary Plat for a Major Subdivision known as Coastal Villas, revised from the previous version considered by the Board in January 2020. The revised Plat now proposes the new street from US 158 (as opposed to Sea Bass Court) and incorporates a parcel owned by Dare County, planned for a future well site, determined to have not been properly subdivided in 2004. The proposed layout of the Dare County parcel necessitates waivers from provisions of the Subdivision Regulations concerning street access, access to US 158, and frontage; similar waivers were considered and approved in 2004.

Planning Board/Staff Recommendation

Staff recommends approval of the Preliminary Plat, with conditions, and recommends approval of the requested waivers.

The Planning Board, at their June 16, 2020 meeting, voted 7-0 to recommend approval of the Preliminary Plat to the Board of Commissions, with the conditions recommended by Staff, and recommended approval of the requested waivers based upon the required findings.

Number of Attachments: 8

Specific Action Requested:

Consider action on waivers and Preliminary Plat.

Submitted By: Planning and Development

Date: July 24, 2020

Finance Officer Comment:

Signature: Amy Miller

Date: July 28, 2020

Town Attorney Comment:

Signature: John Leidy

Date: July 28, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks

Date: July 28, 2020



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

**NOTICE OF PUBLIC HEARING
TOWN OF NAGS HEAD BOARD OF COMMISSIONERS**

NOTICE IS HEREBY GIVEN that the Nags Head Board of Commissioners will conduct a public hearing on **Wednesday, August 5, 2020** beginning at 9:00 am in the Board Room of the Municipal Complex, 5401 S. Croatan Highway, Nags Head, NC to consider and take action upon the following request:

Public Hearing to consider 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 and Parcel # 006749039; PIN # 989108893398); the revised Preliminary Plat proposes to create 17 building lots, along with an associated street and other required improvements, and requires a public hearing due to requested waivers

A copy of the application request is available for public inspection at the Office of the Town Clerk, Town Municipal Complex, 5401 S. Croatan Hwy, Nags Head, NC 27959, telephone (252) 441-5508 during normal business hours.

As a result of this hearing substantial changes may be made in the proposal as advertised to reflect objections, debate and discussion at the hearing. Any person desiring to be heard on the proposal as stated above should appear at the time and place specified above.

This the 20th day of July 2020.

Kelly Wyatt
Dep Planning Director



STAFF REPORT

Town of Nags Head

Planning & Development Department

To: Board of Commissioners

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

Date: July 24, 2020

Subject: Consideration 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 and Parcel #: 006749039; PIN #: 989108893398); the revised Preliminary Plat proposes to create 17 building lots, along with an associated street and other required improvements.

BACKGROUND

As the Board is aware, a Preliminary Plat for the subject property (excluding Parcel #: 006749039; PIN #: 989108893398) was presented for review and action at the Board's meeting on January 8, 2020. In written comments received prior to the 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 Planning Board unanimously recommended approval of the Preliminary Plat as recommended by Staff, but noted concerns related to safety due to the possibility of two additional curb cuts on 158 (one being associated with Fourth Street), and a preference for the preliminary plat that had been presented to the Board in December 2019 providing access through Mariners Way/Sea Bass Court.

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 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. This further revised preliminary plat with waivers was similarly determined to require reconsideration by the Planning Board, held at the meeting on June 16, 2020. The Planning Board recommended approval of the Preliminary Plat with conditions, and recommended approval of the requested waivers.

With regard to Fourth Street, 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 requesting and making improvements to this right-of-way. Staff has been made aware that NCDOT, at least preliminarily, is inclined to allow the connection to US 158/S. Croatan Highway, likely requiring this to be restricted to right-in/right-out only. 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 Subdivision¹ of an approximately 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

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."

Subdivision”). The Proposed Subdivision would create seventeen (17) building lots, located along a new street connecting directly to US 158/ S. Croatan Highway; 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 new street, identified as Coastal Breeze Way, would terminate at the southern property line, allowing future connectivity 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. As noted, the property is zoned R-2, Medium Density Residential; all proposed building lots (numbered 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.

It is also important to note that the 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. This was a change from previous versions, 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. 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..."

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.

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, as previously indicated, the applicant's engineer did communicate that they received "preliminary verbal confirmation from NCDOT...that they will allow access off of S. Croaton Hwy," and were expecting to receive written confirmation with any applicable restriction or requirements. Staff can confirm that NCDOT's communications regarding Fourth Street noted this preliminary approval.

- 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. Staff suggested that the applicant provide some alternatives to alleviate any perceived concerns that the proposed name may lead to confusion; at least informally the applicant inquired whether Coastal Way would be an acceptable name, which the UDO Administrator deemed acceptable.

- 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 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 recently 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 Commissioners, 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

Based upon their review of the further and final revised version of the Preliminary Plat on June 16, 2020, now before the Board of Commissioners, the Planning Board voted 7-0 to recommend approval of the Preliminary Plat to the Board of Commissions, with the conditions recommended by Staff, and recommended approval of the requested waivers based upon the required findings.

STAFF RECOMMENDATION

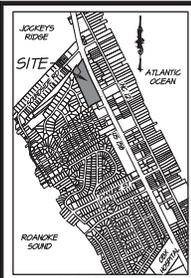
Staff recommends approval of the Preliminary Plat as revised and proposed, with the conditions noted below. With the exception of the requested waivers, Staff is of the opinion that the Preliminary Plat complies with all applicable requirements and that the applicant has addressed all issued comments; 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.

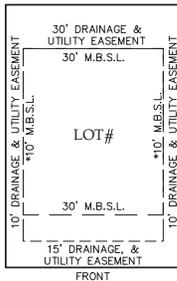
Attachments:

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



- NOTES:**
- CURRENT OWNER: NASS HEAD CONSTRUCTION AND DEVELOPMENT, INC. PO BOX 2100 VIRGINIA BEACH, VA 23460
 - DARE COUNTY PD BOX 1000 MANTO, NC 27544
 - PIN / PID: 0841-0088-6881 / 00674004 (COASTAL VILLAS)
 - 4941-0094-3348 / 00674004 (DARE COUNTY WELL LOT)
 - ZONING: R2
 - TOTAL SUBDIVISION AREA = 406,374 sqft / 11.17 acres
 - SUBJECT REFERENCES: DB 1266, PG 276, PC E, SL 3600
 - ADDITIONAL REFERENCES: DB 1284, PG 1028, PG 1034, PG 446, PC E, SL 101, PG E, SL 181, PG F, SL 67, PG G, SL 360, PG L, SL 343
 - FIELD SURVEY DATES: FEBRUARY 2019
 - PROPERTY IS LOCATED IN NEIP FLOOD ZONES AS SHOWN AND SUBJECT TO CHANGES BASED ON COMMUNITY CDD NO. 375956; PANEL 1084; SURF. J. MAP NUMBER 3720890040 EFFECTIVE DATE: 09/20/2006
 - THIS SURVEY SUBJECT TO ANY FACTS, INCLUDING BUILDING SETBACK RESTRICTIONS, EASEMENTS, COVENANTS, ETC., THAT MAY BE REVEALED BY A FILL AND ACCURATE TITLE SEARCH.
 - ALL DISTANCES ARE US SURVEY FEET AND HORIZONTAL GROUND.
 - APPROVAL OF THIS SUBDIVISION DOES NOT GUARANTEE SEPTIC APPROVAL ON ANY INDIVIDUAL LOT.
 - MINIMUM BUILDING SETBACKS MAY BE SUBJECT TO CHANGE AND SHOULD BE VERIFIED WITH A ZONING OFFICIAL.
 - SETBACKS: FRONT = 30' SIDE = 10' REAR = 30'
 - 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 PILE OR ROOF DRAINS.
 - A RIGHT-OF-WAY ENCROACHMENT AGREEMENT IS REQUIRED FROM NCDOT PRIOR TO ANY DISTURBANCE WITHIN THE STATE RIGHT-OF-WAY.
 - BUILDING CONSTRUCTION SHALL COMPLY WITH ALL ASPECTS OF THE NORTH CAROLINA BUILDING AND FIRE CODE.
 - DEVELOPER RESERVES A TEMPORARY ACCESS EASEMENT AS SHOWN ON LOTS 1 & 2 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.
 - LOT 1 & 2 REQUIRES WASTEWATER REQUESTS FROM SECTIONS 1068 OF THE TOWN UNIFORM DEVELOPMENT ORDINANCE PERTAINING TO LOT FRONTAGE REQUIREMENTS. THE LOT SHALL BE LIMITED TO A HELL PRODUCTION SITE FOR THE DARE COUNTY REVERSE OSMOSIS PLANT.

- LEGEND:**
- OPEN CONCRETE MONUMENT ECH
 - EXISTING IRON PIPE EIP
 - EXISTING IRON ROD EIR
 - SET IRON ROD SIR
 - CALCULATED POINT
 - WATER METER
 - TELEPHONE PEB
 - MONITORING WELL
 - SIGN
 - WATER VALVE
 - FIRE HYDRANT
 - UTILITY POLE
 - TOTAL DISTANCE
 - △6 - ABOVE GRADE
 - △6 - 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 NASS HEAD

I, _____, TOWN CLERK OF NASS HEAD, NORTH CAROLINA, DO CERTIFY THAT ON THE _____ DAY OF _____, 20____, THE TOWN OF NASS HEAD APPROVED THIS PLAN 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 NASS HEAD, IT IS IN THE PUBLIC INTEREST TO DO SO.

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 NASS HEAD AND THAT THIS PLAT HAS BEEN APPROVED BY THE TOWN OF NASS HEAD PLANNING BOARD FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS OF DARE COUNTY.

TOWN OF NASS HEAD UDO ADMINISTRATOR

REVIEW OFFICER'S CERTIFICATE

STATE OF NORTH CAROLINA
COUNTY OF DARE
I HEREBY CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER

OWNER'S CERTIFICATE

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, WHICH IS LOCATED IN THE SUPERVISION JURISDICTION OF THE TOWN OF NASS 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 NASS HEAD.

DARE COUNTY (ROBERT L. OUTVEN) DATE _____

***NOTARY CERTIFICATE**

STATE OF NORTH CAROLINA
COUNTY OF _____
I, _____, A NOTARY PUBLIC OF THE ABOVE REFERENCED COUNTY AND STATE, DO HEREBY CERTIFY THAT _____ 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 SUPERVISION JURISDICTION OF THE TOWN OF NASS 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 NASS HEAD.

NASS 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 _____ BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT.
WITNESS MY HAND AND OFFICIAL SEAL, THIS THE _____ DAY OF _____, 20____.

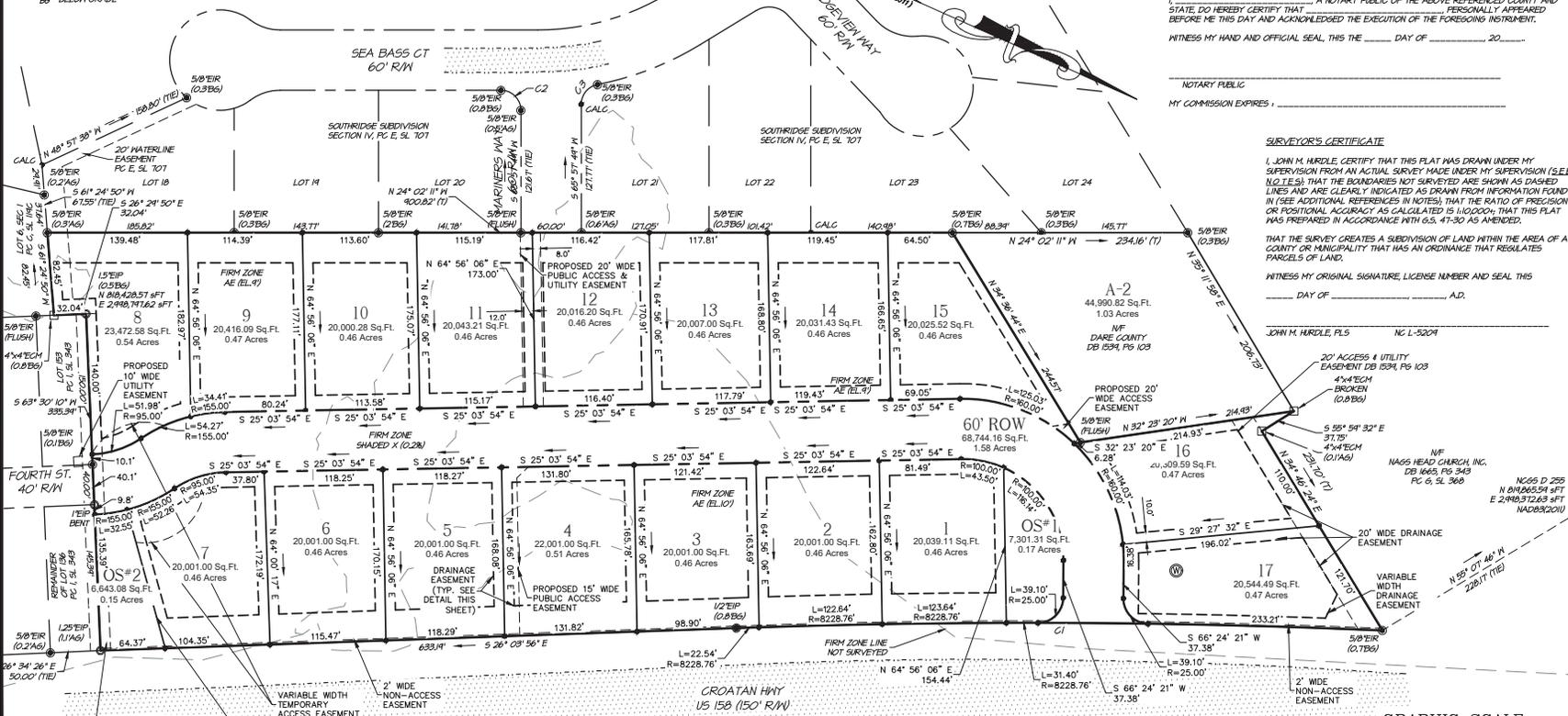
NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

SURVEYOR'S CERTIFICATE

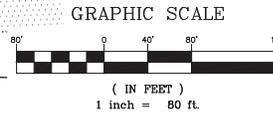
I, JOHN H. HARDLE, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (SEE NOTES); THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS DASHED LINES AND ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN (SEE ADDITIONAL REFERENCES IN NOTES); THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1/100,000; 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 H. HARDLE, PLS NC L-5204



CURVE TABLE

CURVE#	LENGTH	RADIUS	CHD LENGTH	CHD BEARING
C1	64.310'	8228.76'	642.94'	S 23° 41' 36" E
C2	31.42'	20.00'	28.28'	S 20° 57' 41" H
C3	27.57'	20.00'	25.44'	N 74° 33' 05" H



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SINCE 1959
Quible & Associates, P.C.
ENGINEERING • CONSULTING • PLANNING
ENVIRONMENTAL SCIENCES • SURVEYING
90 CHESAPEAKE DRIVE, SUITE 8
VIRGINIA BEACH, VA 23462
Phone: (252) 481-8147
Fax: (252) 481-8147
www.quibleandassociates.com



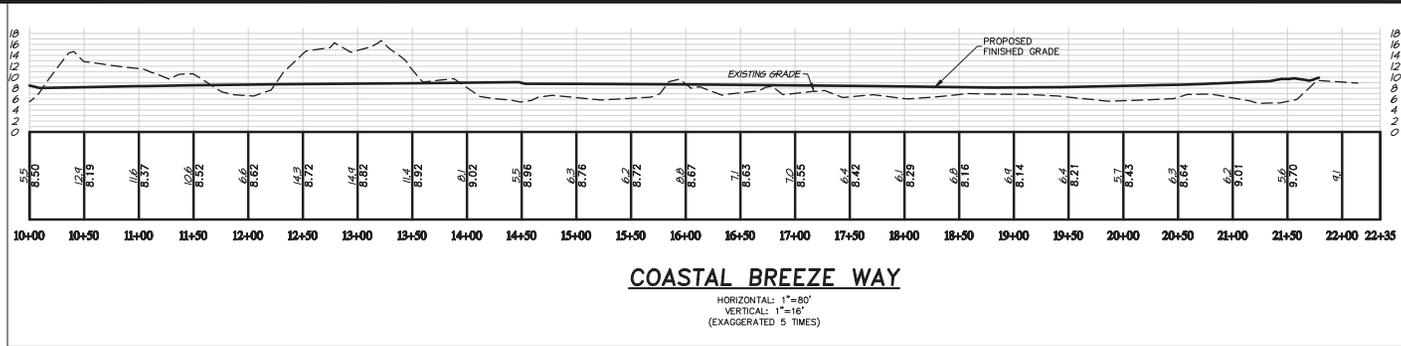
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DRAFT PRELIMINARY PLAT 1 OF 3

PARCEL A
COASTAL VILLAS

NORTH CAROLINA
DARE COUNTY
TOWN OF NASS HEAD

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



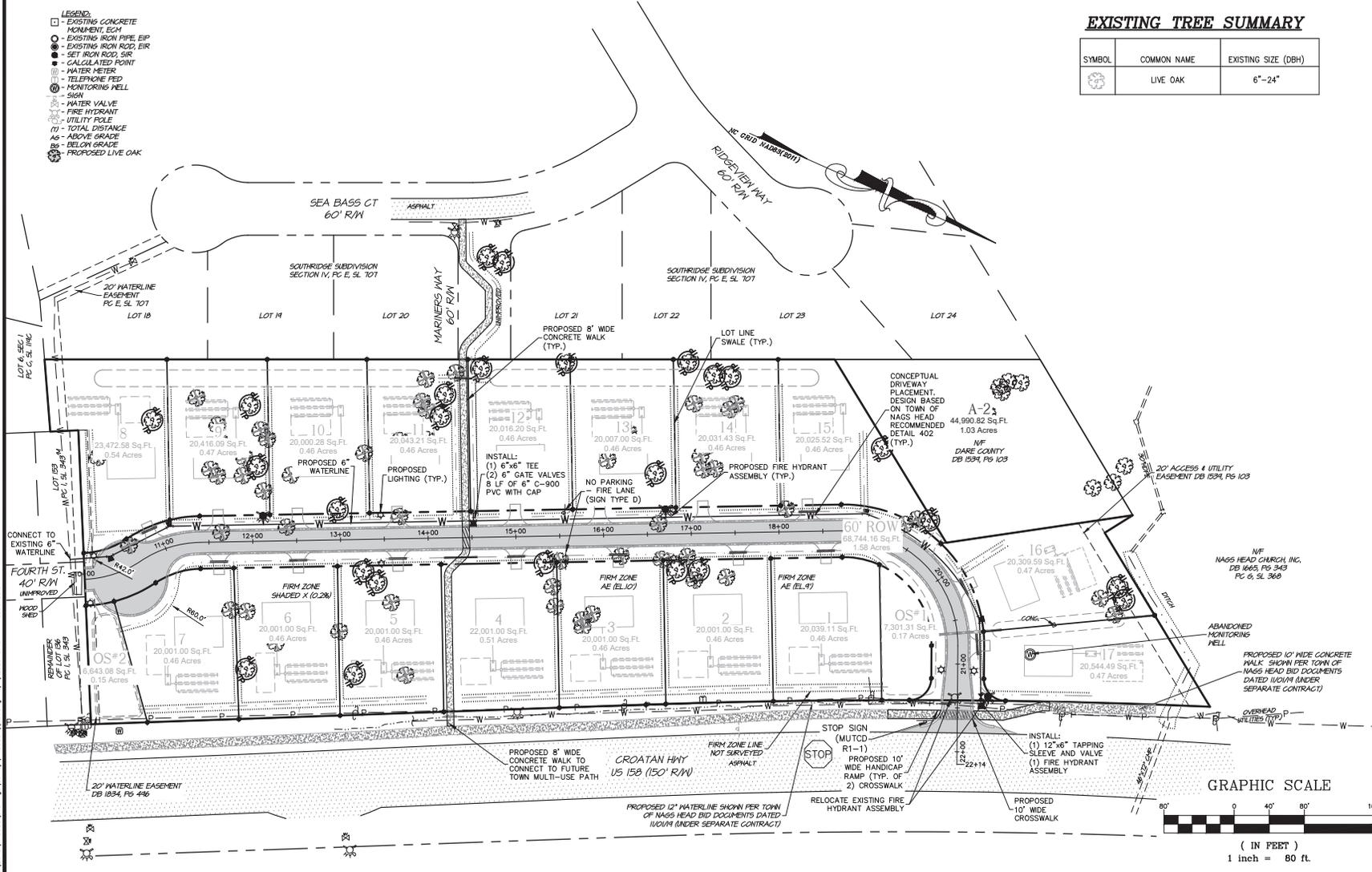
COASTAL BREEZE WAY

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

- LEGEND**
- EXISTING CONCRETE MONUMENT ECH
 - 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
 - ⊕ TOTAL DISTANCE
 - ⊕ ABOVE GRADE
 - ⊕ BELOW GRADE
 - ⊕ PROPOSED LIVE OAK

EXISTING TREE SUMMARY

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



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ENVIRONMENTAL SCIENCES * SURVEYING**

90 CHURCH STREET, SUITE 8
RALEIGH, NC 27606
Phone: (919) 795-0088
www.quibleandassociates.com



CERTIFICATION

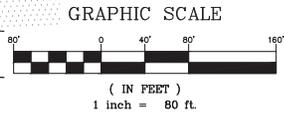
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DRAFT PRELIMINARY PLAT 2 OF 3

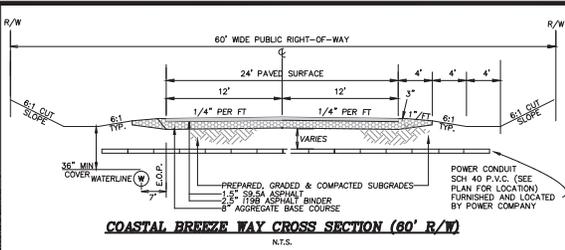
**PARCEL A
COASTAL VILLAS**

NORTH CAROLINA
DARE COUNTY
TOWN OF NAGS HEAD

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

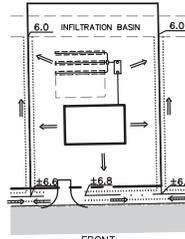


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COASTAL BREEZE WAY CROSS SECTION (60' R/W)

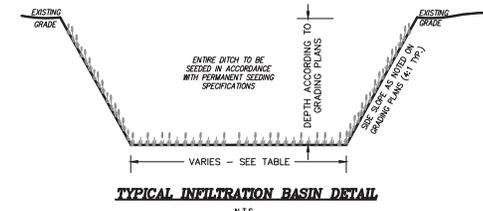
1. CONTRACTOR TO INSURE THAT WATERMAIN IS INSTALLED SO AS TO MAINTAIN LEAST 36" COVER FROM FINISH GRADE OF SIDE SLOPES & SWALES.
2. PAVEMENT DESIGN, INCLUDING THICKNESS, TO BE DETERMINED BY GEOTECHNICAL ENGINEERING.



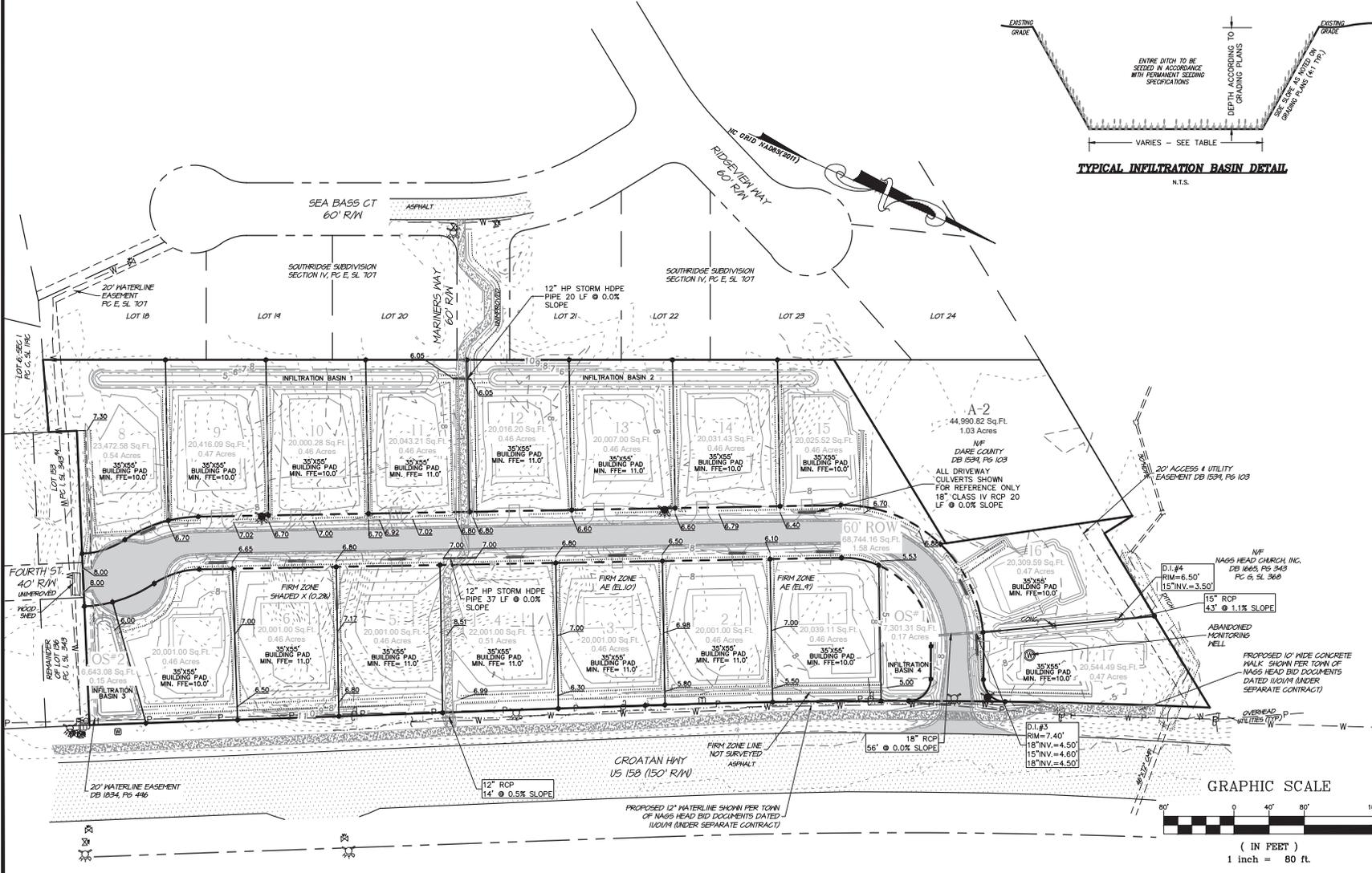
EXAMPLE LOT GRADING

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



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SINCE 1959

Quible & Associates, P.C.

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90 CHURCH STREET, SUITE 8
DURHAM, NC 27601
Phone: (919) 795-0088
Fax: (919) 795-0089
www.quibleandassociates.com



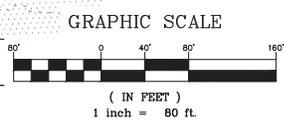
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DRAFT PRELIMINARY PLAT 3 OF 3

PARCEL A
COASTAL VILLAS

NORTH CAROLINA
DARE COUNTY

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 & Associates, P.C.

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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.

Coastal Villas
Preliminary Plat

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 meditation 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

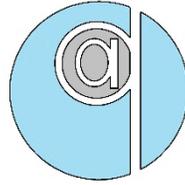
Consideration of grant request from Jennette's Pier for environmental educational programs

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

Table of Contents

Overview 2

Existing Site 2

Proposed Development..... 2

 Access..... 2

 Stormwater Management Plan 3

 Soils 3

 Downstream Analysis 4

 Utilities..... 4

Proposed Zoning Conditions/Dimensional Standards..... 5

Appendices

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

Appendix B – On-site Wastewater Evaluation and Well Documentation

Appendix C – Stormwater Calculations

Overview

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

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

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

Existing Site

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

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

Proposed Development

Access

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

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

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

Stormwater Management Plan

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

<i>Infiltration Basin</i>	<i>TONH Required Storage</i>	<i>Provided Storage</i>
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.

<i>Infiltration Basin</i>	<i>Bottom Elevation</i>	<i>Top Elevation</i>	<i>Side Slopes</i>
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 SINCE 1959
& Associates, P.C.

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**

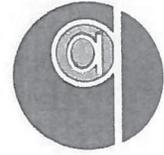
Cathleen,

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:

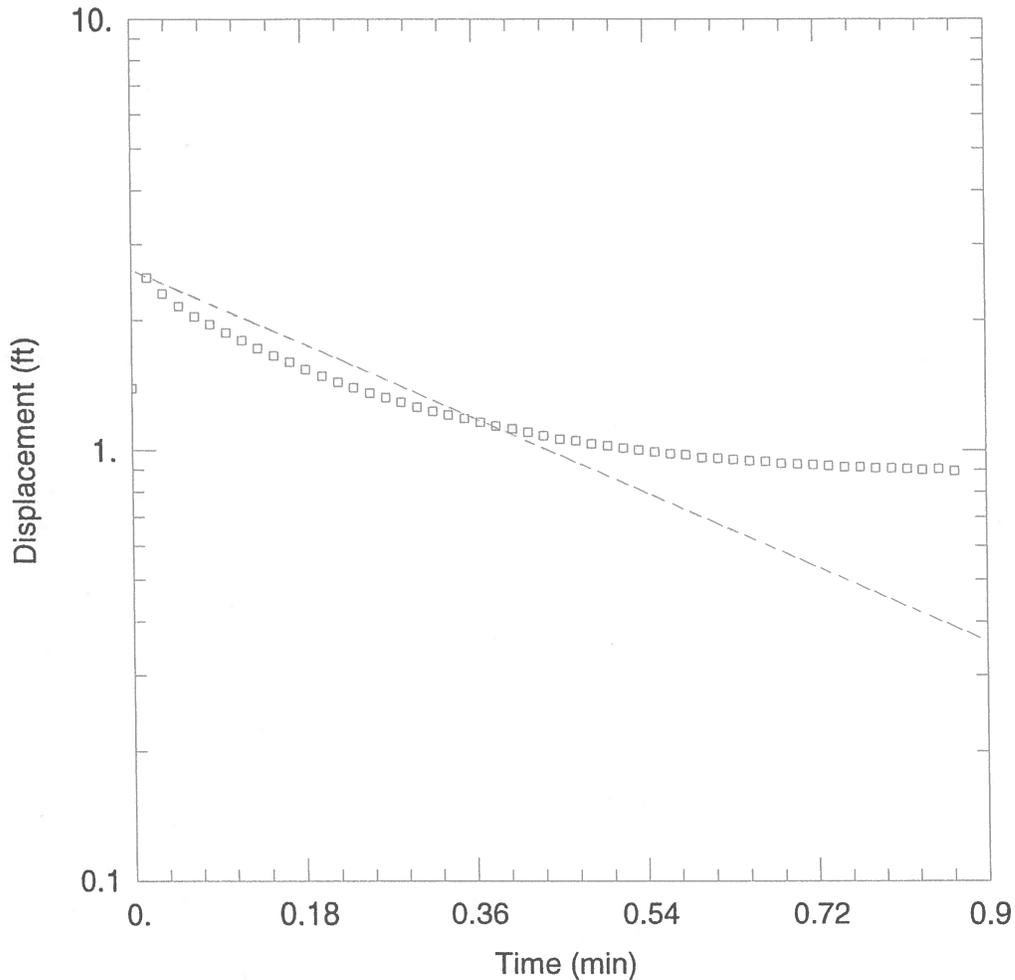
Soil Boring	Ground Elevation (ft)	Groundwater Elevation (ft)	Approx. Elevation of SHWT (ft)	Mapped USDA Soil Type
SB-1	5.61	3.11	3.28	Newhan-Corolla complex (NhC)
SB-2	4.65	3.40	3.65	Newhan-Corolla complex (NhC)
SB-3	7.98	3.43	3.81	Newhan-Corolla complex (NhC)
SB-4	6.16	3.16	3.49	Newhan-Corolla complex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



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

SOLUTION

Aquifer Model: Unconfined Solution Method: Bowyer-Rice
 K = 0.009148 ft/min *0.58 in/hr.* y0 = 2.624 ft

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

Time (min)	Observation Data		Displacement (ft)
	Displacement (ft)	Time (min)	
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

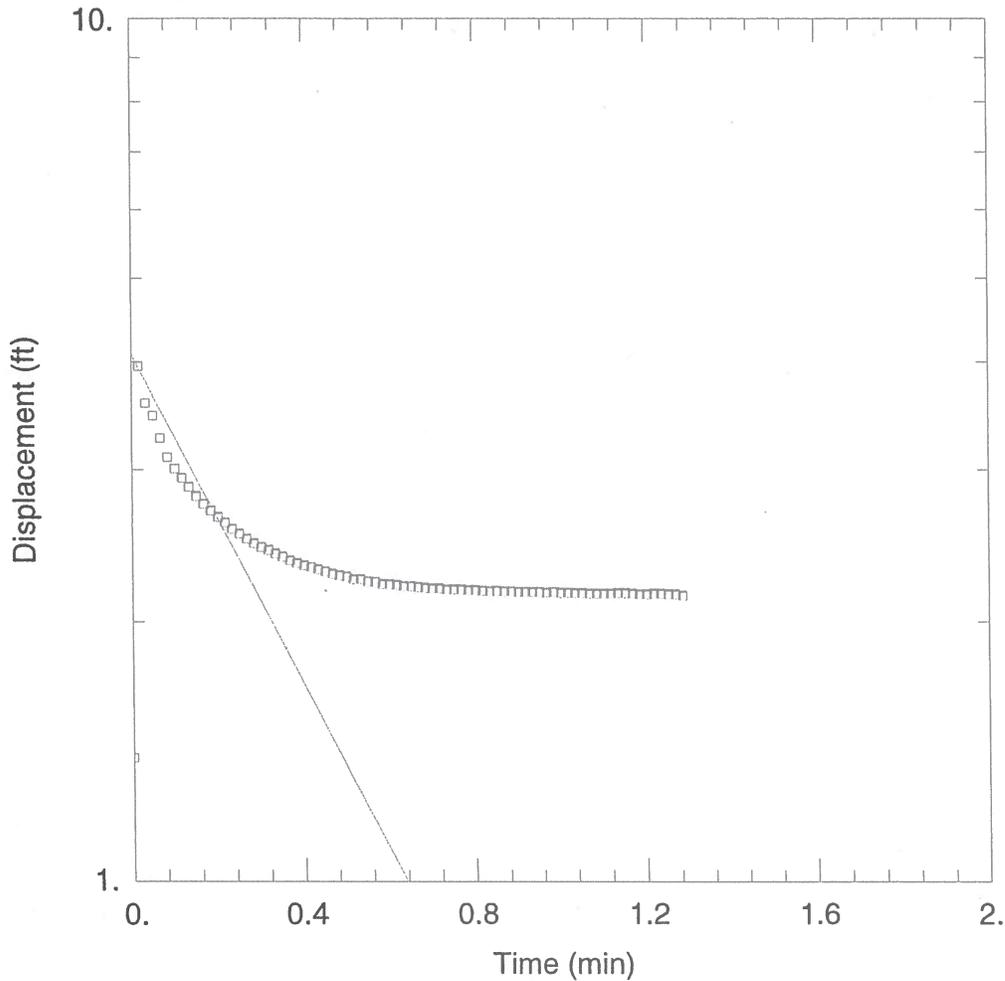
Slug Test
Aquifer Model: Unconfined
Solution Method: Bouwer-Rice
ln(Re/rw): 1.383

VISUAL ESTIMATION RESULTS

Estimated Parameters

<u>Parameter</u>	<u>Estimate</u>	
K	0.009148	ft/min
y0	2.624	ft

K = 0.004647 cm/sec
T = K*b = 0.5489 ft²/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 Static Water Column Height: 0.895 ft
 Total Well Penetration Depth: 4. ft Screen Length: 4. ft
 Casing Radius: 0.167 ft Well Radius: 0.333 ft
 Gravel Pack Porosity: 0.

SOLUTION

Aquifer Model: Unconfined Solution Method: Bower-Rice

K = 0.009155 ft/min 6.59 in/hr. y0 = 4.078 ft

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

Time (min)	Observation Data		Displacement (ft)
	Displacement (ft)	Time (min)	
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

<u>Time (min)</u>	<u>Displacement (ft)</u>	<u>Time (min)</u>	<u>Displacement (ft)</u>
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

<u>Parameter</u>	<u>Estimate</u>	
K	0.009155	ft/min
y0	4.078	ft

K = 0.004651 cm/sec
 T = K*b = 0.5493 ft²/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



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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Contents

Preface	2
Soil Map	5
Soil Map.....	6
Legend.....	7
Map Unit Legend.....	8
Map Unit Descriptions.....	8
Dare County, North Carolina.....	10
DtA—Duckston fine sand, 0 to 2 percent slopes, occasionally flooded.....	10
DuE—Dune land, 2 to 40 percent slopes.....	11
DwE—Dune land-Newhan complex, 2 to 40 percent slopes.....	11
NhC—Newhan-Corolla complex, 0 to 10 percent slopes.....	13
NuC—Newhan-Urban land complex, 0 to 10 percent slopes.....	15
References	17

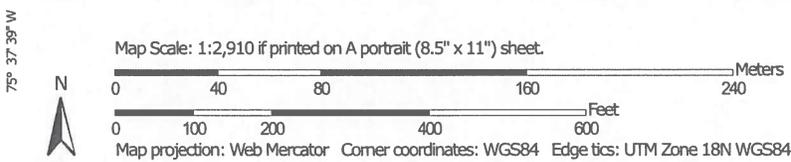
Soil Map

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

Custom Soil Resource Report Soil Map



Soil Map may not be valid at this scale.



MAP LEGEND

	Area of Interest (AOI)		Spoil Area
	Area of Interest (AOI)		Stony Spot
	Soils		Very Stony Spot
	Soil Map Unit Polygons		Wet Spot
	Soil Map Unit Lines		Other
	Soil Map Unit Points		Special Line Features
	Special Point Features		Water Features
	Blowout		Streams and Canals
	Borrow Pit		Transportation
	Clay Spot		Rails
	Closed Depression		Interstate Highways
	Gravel Pit		US Routes
	Gravelly Spot		Major Roads
	Landfill		Local Roads
	Lava Flow		Aerial Photography
	Marsh or swamp		Background
	Mine or Quarry		
	Miscellaneous Water		
	Perennial Water		
	Rock Outcrop		
	Saline Spot		
	Sandy Spot		
	Severely Eroded Spot		
	Sinkhole		
	Slide or Slip		
	Sodic Spot		

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

Custom Soil Resource Report

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

Custom Soil Resource Report

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

Custom Soil Resource Report

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

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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

Custom Soil Resource Report

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 REQUIRES 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 BETWEEN 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 REVIŠTING 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.



NOTES:
 1. DESIGN OWNER: MWS REALTY CONSTRUCTION AND DEVELOPMENT, INC.
 2. PROJECT ADDRESS: 5 CROATAN HWY, VIRENNA BEACH, VA 23060
 3. LOT AREA: 1.426000 ACRES
 4. SUBJECT: SUBDIVISION OF 1.426000 ACRES, 5 CROATAN HWY, VIRENNA BEACH, VA 23060
 5. PREPARED BY: JIMMY H. MUMFORD, P.E., SURVEYOR
 6. DATE: 07/26/2019
 7. THIS DOCUMENT IS PRELIMINARY AND IS NOT A CONTRACT. IT IS BASED ON THE DATA AND IS NOT A GUARANTEE OF ACCURACY. THE USER SHALL BE RESPONSIBLE FOR VERIFYING THE DATA AND FOR ANY REVISIONS. THE USER SHALL BE RESPONSIBLE FOR ANY REVISIONS.
 8. THE USER SHALL BE RESPONSIBLE FOR ANY REVISIONS.
 9. THE USER SHALL BE RESPONSIBLE FOR ANY REVISIONS.
 10. THE USER SHALL BE RESPONSIBLE FOR ANY REVISIONS.

DESIGNED BY: JMH
 DRAWN BY: JMH
 CHECKED BY: MWS/JMH
 ISSUE DATE: 04/08/19

SUBDIVISION SKETCH

PARCEL A
SOUTHRIDGE SUBDIVISION, SECTION VI

TOWN OF NAGS HEAD DARE COUNTY NORTH CAROLINA

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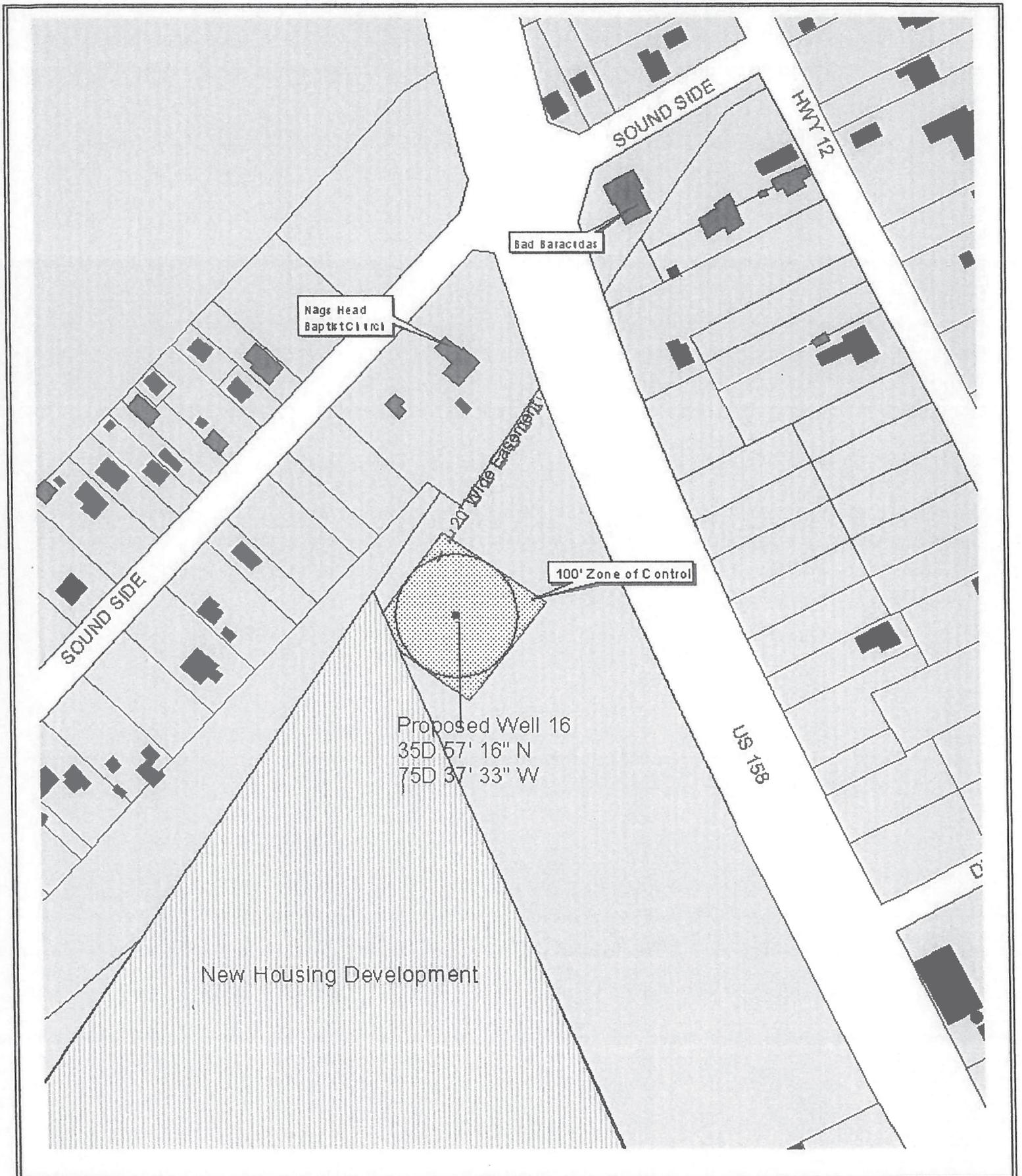


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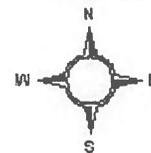
8465 CAROLINE HWY 90 CHURCH STREET, SUITE B
 POWERS POINT, NC 27966 BLACK MOUNTAIN, NC 28711
 Phone: (252) 451-8147 Phone: (252) 763-0598
 Fax: (252) 451-8146 Fax: (252) 691-8146
 admin@quible.com admin@quible.com



DARE COUNTY WATER
GIS
MATTHEW HIBLER
APRIL 16, 2003

**Proposed Well 16
Nags Head, NC**

60 0 60 120 180 Feet



LEGEND

- Proposed Well 16

WELL ABANDONMENT RECORD

For Internal Use ONLY:

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:	
<input type="checkbox"/> Agricultural	<input type="checkbox"/> Municipal/Public
<input type="checkbox"/> Geothermal (Heating/Cooling Supply)	<input type="checkbox"/> Residential Water Supply (single)
<input type="checkbox"/> Industrial/Commercial	<input type="checkbox"/> Residential Water Supply (shared)
<input type="checkbox"/> Irrigation	
Non-Water Supply Well:	
<input checked="" type="checkbox"/> Monitoring	<input type="checkbox"/> Recovery
Injection Well:	
<input type="checkbox"/> Aquifer Recharge	<input type="checkbox"/> Groundwater Remediation
<input type="checkbox"/> Aquifer Storage and Recovery	<input type="checkbox"/> Salinity Barrier
<input type="checkbox"/> Aquifer Test	<input type="checkbox"/> Stormwater Drainage
<input type="checkbox"/> Experimental Technology	<input type="checkbox"/> Subsidence Control
<input type="checkbox"/> Geothermal (Closed Loop)	<input type="checkbox"/> Tracer
<input type="checkbox"/> Geothermal (Heating/Cooling Return)	<input type="checkbox"/> 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.)

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):

- | | |
|---|---|
| <input checked="" type="checkbox"/> Neat Cement Grout | <input type="checkbox"/> Bentonite Chips or Pellets |
| <input checked="" type="checkbox"/> Sand Cement Grout | <input type="checkbox"/> Dry Clay |
| <input type="checkbox"/> Concrete Grout | <input type="checkbox"/> Drill Cuttings |
| <input type="checkbox"/> Specialty Grout | <input type="checkbox"/> Gravel |
| <input type="checkbox"/> Bentonite Slurry | <input type="checkbox"/> 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:

Disinfected 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:

 Signature of Certified Well Contractor or Well Owner Date 8/23/19

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 & aeriels](#)

PF tabular

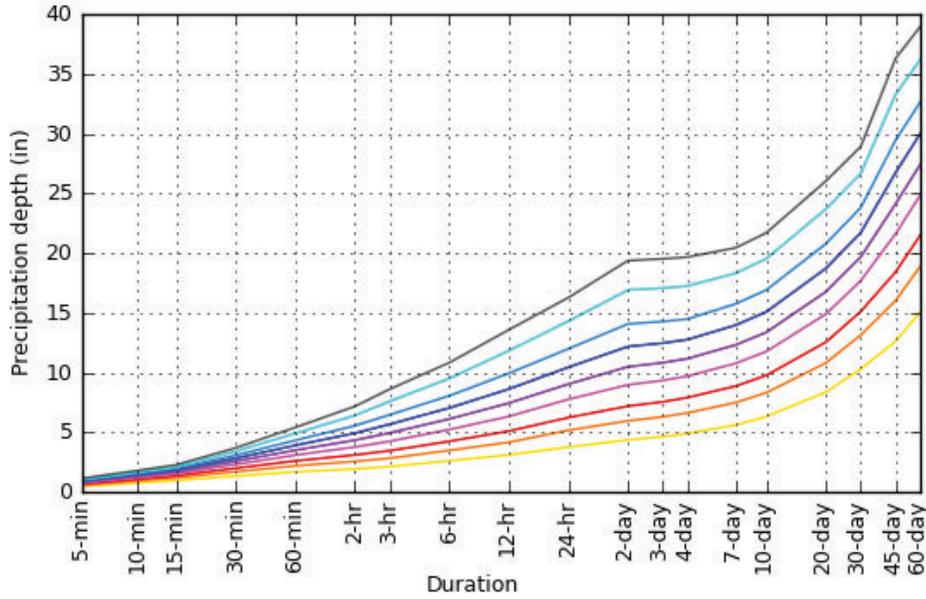
AMS-based point precipitation frequency estimates with 90% confidence intervals (in inches)¹									
Duration	Annual exceedance probability (1/years)								
	1/2	1/5	1/10	1/25	1/50	1/100	1/200	1/500	1/1000
5-min	0.491 (0.449-0.538)	0.600 (0.549-0.656)	0.689 (0.627-0.752)	0.781 (0.709-0.851)	0.856 (0.771-0.932)	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.

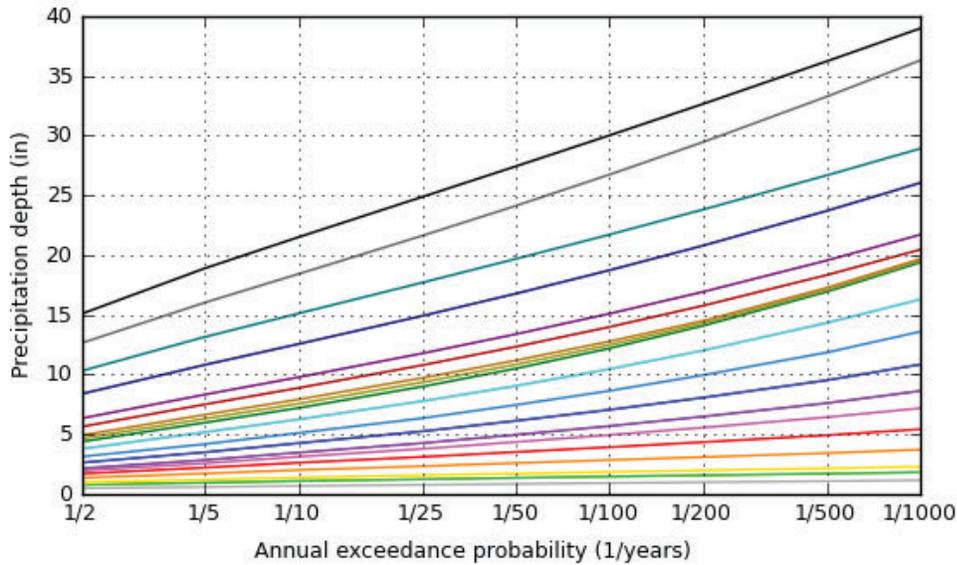
[Back to Top](#)

PF graphical

AMS-based depth-duration-frequency (DDF) curves
Latitude: 35.9533°, Longitude: -75.6250°



Annual exceedance probability (1/years)	
2	
5	
10	
25	
50	
100	
200	
500	
1000	



Duration	
5-min	2-day
10-min	3-day
15-min	4-day
30-min	7-day
60-min	10-day
2-hr	20-day
3-hr	30-day
6-hr	45-day
12-hr	60-day
24-hr	

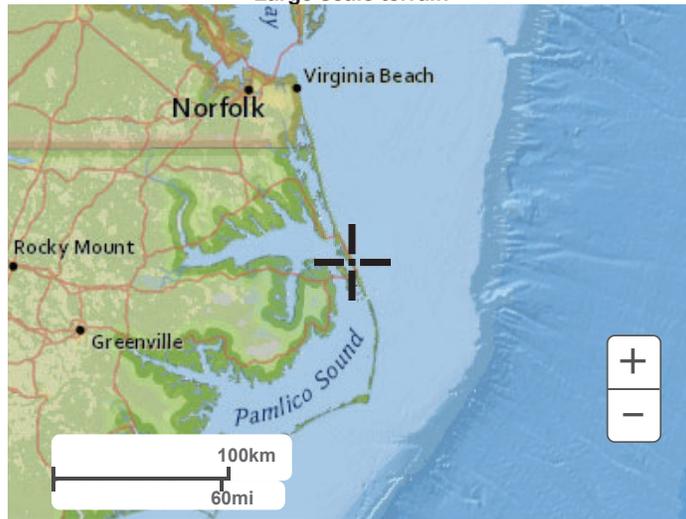
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Maps & aeriels

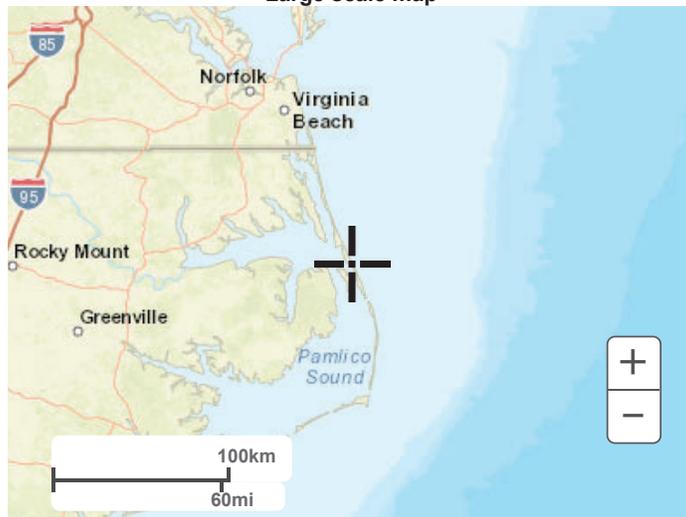
Small scale terrain



Large scale terrain



Large scale map



Large scale aerial



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[National Weather Service](#)
[National Water Center](#)
1325 East West Highway
Silver Spring, MD 20910
Questions?: HDSC.Questions@noaa.gov

[Disclaimer](#)



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



POINT PRECIPITATION FREQUENCY ESTIMATES

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

NOAA, National Weather Service, Silver Spring, Maryland

[PF tabular](#) | [PF graphical](#) | [Maps & aerials](#)

PF tabular

AMS-based point precipitation frequency estimates with 90% confidence intervals (in inches/hour)¹									
Duration	Annual exceedance probability (1/years)								
	1/2	1/5	1/10	1/25	1/50	1/100	1/200	1/500	1/1000
5-min	5.89 (5.39-6.46)	7.20 (6.59-7.87)	8.27 (7.52-9.02)	9.37 (8.51-10.2)	10.3 (9.25-11.2)	11.1 (10.00-12.1)	12.0 (10.7-13.0)	13.0 (11.5-14.2)	13.9 (12.3-15.2)
10-min	4.72 (4.31-5.16)	5.76 (5.27-6.31)	6.60 (6.01-7.21)	7.47 (6.77-8.14)	8.18 (7.38-8.91)	8.84 (7.95-9.62)	9.47 (8.47-10.3)	10.3 (9.11-11.2)	11.0 (9.66-12.0)
15-min	3.95 (3.61-4.32)	4.86 (4.45-5.32)	5.57 (5.08-6.08)	6.31 (5.72-6.88)	6.91 (6.23-7.52)	7.44 (6.70-8.11)	7.97 (7.12-8.67)	8.63 (7.65-9.41)	9.18 (8.08-10.0)
30-min	2.73 (2.49-2.99)	3.45 (3.16-3.78)	4.04 (3.68-4.41)	4.68 (4.24-5.09)	5.20 (4.69-5.66)	5.70 (5.13-6.21)	6.20 (5.54-6.75)	6.87 (6.09-7.48)	7.44 (6.55-8.12)
60-min	1.71 (1.57-1.88)	2.22 (2.03-2.42)	2.63 (2.39-2.87)	3.11 (2.82-3.39)	3.52 (3.18-3.84)	3.93 (3.53-4.28)	4.35 (3.89-4.73)	4.93 (4.37-5.37)	5.43 (4.78-5.93)
2-hr	0.978 (0.888-1.08)	1.29 (1.17-1.42)	1.56 (1.42-1.71)	1.89 (1.71-2.07)	2.18 (1.96-2.38)	2.47 (2.21-2.70)	2.78 (2.48-3.04)	3.22 (2.83-3.51)	3.59 (3.14-3.92)
3-hr	0.717 (0.652-0.790)	0.951 (0.863-1.05)	1.16 (1.05-1.27)	1.42 (1.28-1.56)	1.65 (1.48-1.80)	1.90 (1.69-2.07)	2.16 (1.91-2.35)	2.53 (2.21-2.76)	2.87 (2.48-3.13)
6-hr	0.440 (0.400-0.485)	0.585 (0.531-0.646)	0.713 (0.644-0.786)	0.877 (0.788-0.963)	1.02 (0.916-1.12)	1.18 (1.05-1.29)	1.35 (1.19-1.47)	1.59 (1.38-1.73)	1.81 (1.56-1.98)
12-hr	0.260 (0.235-0.291)	0.347 (0.313-0.387)	0.425 (0.382-0.473)	0.527 (0.471-0.583)	0.619 (0.550-0.683)	0.717 (0.630-0.791)	0.826 (0.718-0.910)	0.983 (0.842-1.08)	1.13 (0.954-1.24)
24-hr	0.158 (0.146-0.171)	0.216 (0.200-0.234)	0.261 (0.240-0.281)	0.324 (0.296-0.349)	0.377 (0.341-0.406)	0.436 (0.391-0.469)	0.500 (0.444-0.540)	0.597 (0.520-0.647)	0.679 (0.582-0.740)
2-day	0.091 (0.084-0.100)	0.125 (0.114-0.136)	0.150 (0.138-0.164)	0.187 (0.170-0.204)	0.219 (0.197-0.238)	0.254 (0.226-0.277)	0.293 (0.258-0.320)	0.352 (0.304-0.387)	0.404 (0.342-0.445)
3-day	0.065 (0.059-0.071)	0.088 (0.081-0.096)	0.105 (0.096-0.115)	0.130 (0.118-0.141)	0.151 (0.136-0.164)	0.173 (0.155-0.189)	0.198 (0.175-0.217)	0.237 (0.206-0.260)	0.271 (0.231-0.299)
4-day	0.051 (0.047-0.056)	0.069 (0.064-0.076)	0.083 (0.076-0.090)	0.101 (0.092-0.110)	0.117 (0.105-0.127)	0.133 (0.119-0.145)	0.151 (0.133-0.165)	0.180 (0.156-0.197)	0.205 (0.176-0.226)
7-day	0.034 (0.031-0.037)	0.045 (0.041-0.049)	0.053 (0.048-0.058)	0.064 (0.058-0.070)	0.073 (0.066-0.080)	0.083 (0.074-0.091)	0.094 (0.083-0.102)	0.109 (0.095-0.120)	0.122 (0.105-0.134)
10-day	0.026 (0.024-0.029)	0.035 (0.032-0.038)	0.041 (0.038-0.044)	0.049 (0.045-0.053)	0.056 (0.051-0.060)	0.063 (0.057-0.068)	0.070 (0.063-0.076)	0.081 (0.072-0.089)	0.090 (0.079-0.099)
20-day	0.017 (0.016-0.019)	0.023 (0.021-0.024)	0.026 (0.024-0.028)	0.031 (0.029-0.033)	0.035 (0.032-0.037)	0.039 (0.036-0.042)	0.043 (0.039-0.047)	0.049 (0.044-0.053)	0.054 (0.048-0.059)
30-day	0.014 (0.013-0.015)	0.018 (0.017-0.019)	0.021 (0.020-0.022)	0.025 (0.023-0.026)	0.027 (0.025-0.029)	0.030 (0.028-0.032)	0.033 (0.030-0.035)	0.037 (0.034-0.040)	0.040 (0.036-0.043)
45-day	0.012 (0.011-0.012)	0.015 (0.014-0.016)	0.017 (0.016-0.018)	0.020 (0.019-0.021)	0.022 (0.021-0.024)	0.025 (0.023-0.026)	0.027 (0.025-0.029)	0.031 (0.028-0.033)	0.034 (0.030-0.036)
60-day	0.010 (0.010-0.011)	0.013 (0.012-0.014)	0.015 (0.014-0.016)	0.017 (0.016-0.018)	0.019 (0.018-0.020)	0.021 (0.019-0.022)	0.023 (0.021-0.024)	0.025 (0.023-0.027)	0.027 (0.025-0.029)

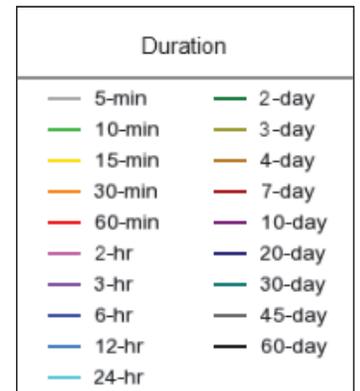
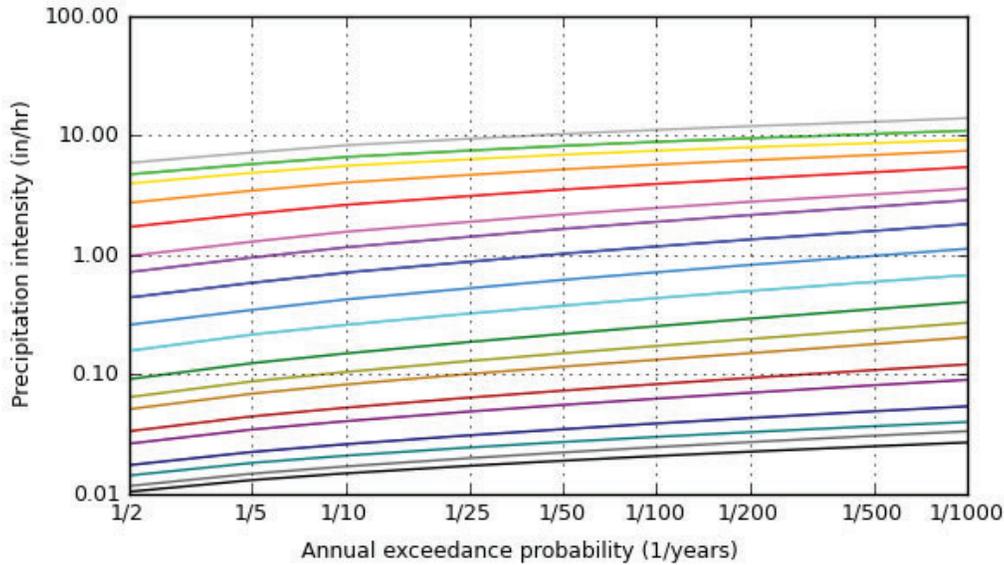
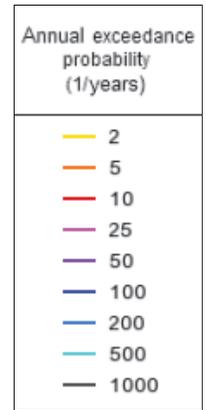
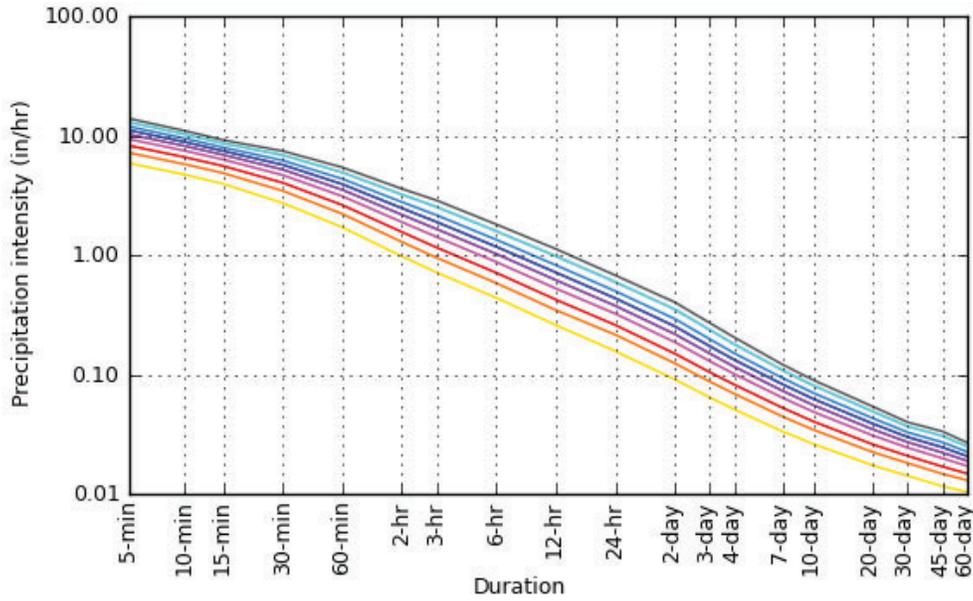
¹ Precipitation frequency (PF) estimates in this table are based on frequency analysis of annual maxima series (AMS).
 Numbers in parenthesis are PF estimates at lower and upper bounds of the 90% confidence interval. The probability that precipitation frequency estimates (for a given duration and annual exceedance probability) will be greater than the upper bound (or less than the lower bound) is 5%.
 Estimates at upper bounds are not checked against probable maximum precipitation (PMP) estimates and may be higher than currently valid PMP values.
 Please refer to NOAA Atlas 14 document for more information.

[Back to Top](#)

PF graphical

AMS-based intensity-duration-frequency (IDF) curves

Latitude: 35.9533°, Longitude: -75.6250°



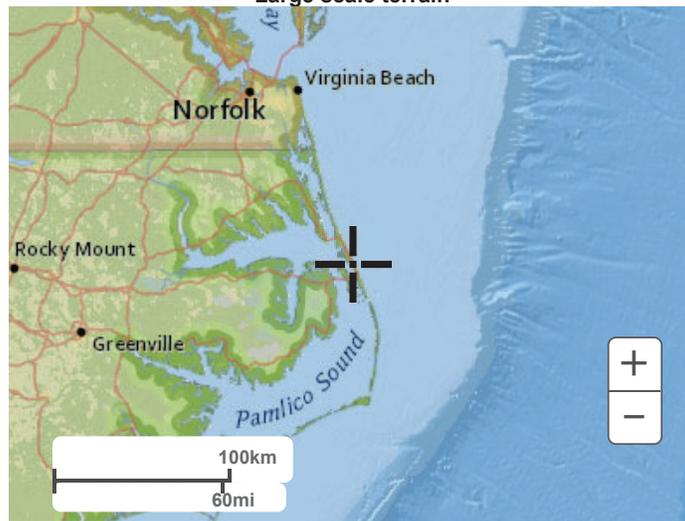
[Back to Top](#)

Maps & aerials

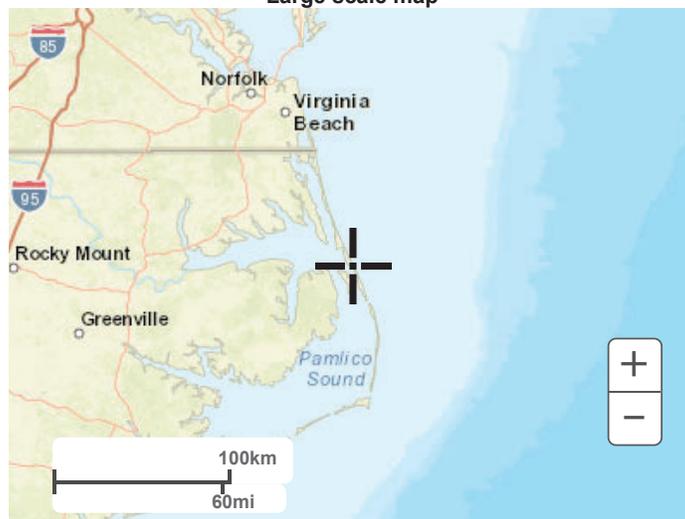
Small scale terrain



Large scale terrain



Large scale map



Large scale aerial



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[National Weather Service](#)
[National Water Center](#)
1325 East West Highway
Silver Spring, MD 20910
Questions?: HDSC.Questions@noaa.gov

[Disclaimer](#)

	Total Sq. Ft	33%	<i>30% plus 300 sf</i>	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	<i>6,312 SF</i>	6,613 SF	0.15 ACRE
Lot 2	20,001.00	6,600 SF	<i>6,300 SF</i>	6,600 SF	0.15 ACRE
Lot 3	20,001.00	6,600 SF	<i>6,300 SF</i>	6,600 SF	0.15 ACRE
Lot 4	22,001.00	7,260 SF	<i>6,900 SF</i>	7,260 SF	0.17 ACRE
Lot 5	20,001.00	6,600 SF	<i>6,300 SF</i>	6,600 SF	0.15 ACRE
Lot 6	20,001.00	6,600 SF	<i>6,300 SF</i>	6,600 SF	0.15 ACRE
Lot 7	20,001.00	6,600 SF	<i>6,300 SF</i>	6,600 SF	0.15 ACRE
Lot 8	23,472.00	7,746 SF	<i>7,342 SF</i>	7,746 SF	0.18 ACRE
Lot 9	20,416.00	6,737 SF	<i>6,425 SF</i>	6,737 SF	0.15 ACRE
Lot 10	20,000.28	6,600 SF	<i>6,300 SF</i>	6,600 SF	0.15 ACRE
Lot 11	20,043.21	6,614 SF	<i>6,313 SF</i>	6,614 SF	0.15 ACRE
Lot 12	20,016.20	6,605 SF	<i>6,305 SF</i>	6,605 SF	0.15 ACRE
Lot 13	20,007.00	6,602 SF	<i>6,302 SF</i>	6,602 SF	0.15 ACRE
Lot 14	20,031.43	6,610 SF	<i>6,309 SF</i>	6,610 SF	0.15 ACRE
Lot 15	20,025.52	6,608 SF	<i>6,308 SF</i>	6,608 SF	0.15 ACRE
Lot 16	20,309.59	6,702 SF	<i>6,393 SF</i>	6,702 SF	0.15 ACRE
Lot 17	20,544.49	6,780 SF	<i>6,463 SF</i>	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)

la = Impervious Percentage = Impervious Area/Drainage Area

Rv= Runoff Coefficient, 0.05+0.9la

Rd= Rain fall depth

V= Runoff Volume, 3630*Rd*Rv*A

	A (1.5")
la =	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)

la = Impervious Percentage = Impervious Area/Drainage Area

Rv= Runoff Coefficient, 0.05+0.9la

Rd= Rain fall depth

V= Runoff Volume, 3630*Rd*Rv*A

	A (1.5")
la =	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)

la = Impervious Percentage = Impervious Area/Drainage Area

Rv= Runoff Coefficient, 0.05+0.9la

Rd= Rain fall depth

V= Runoff Volume, 3630*Rd*Rv*A

	A (1.5")
la =	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)

la = Impervious Percentage = Impervious Area/Drainage Area

Rv= Runoff Coefficient, 0.05+0.9la

Rd= Rain fall depth

V= Runoff Volume, 3630*Rd*Rv*A

	A (1.5")
la =	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)

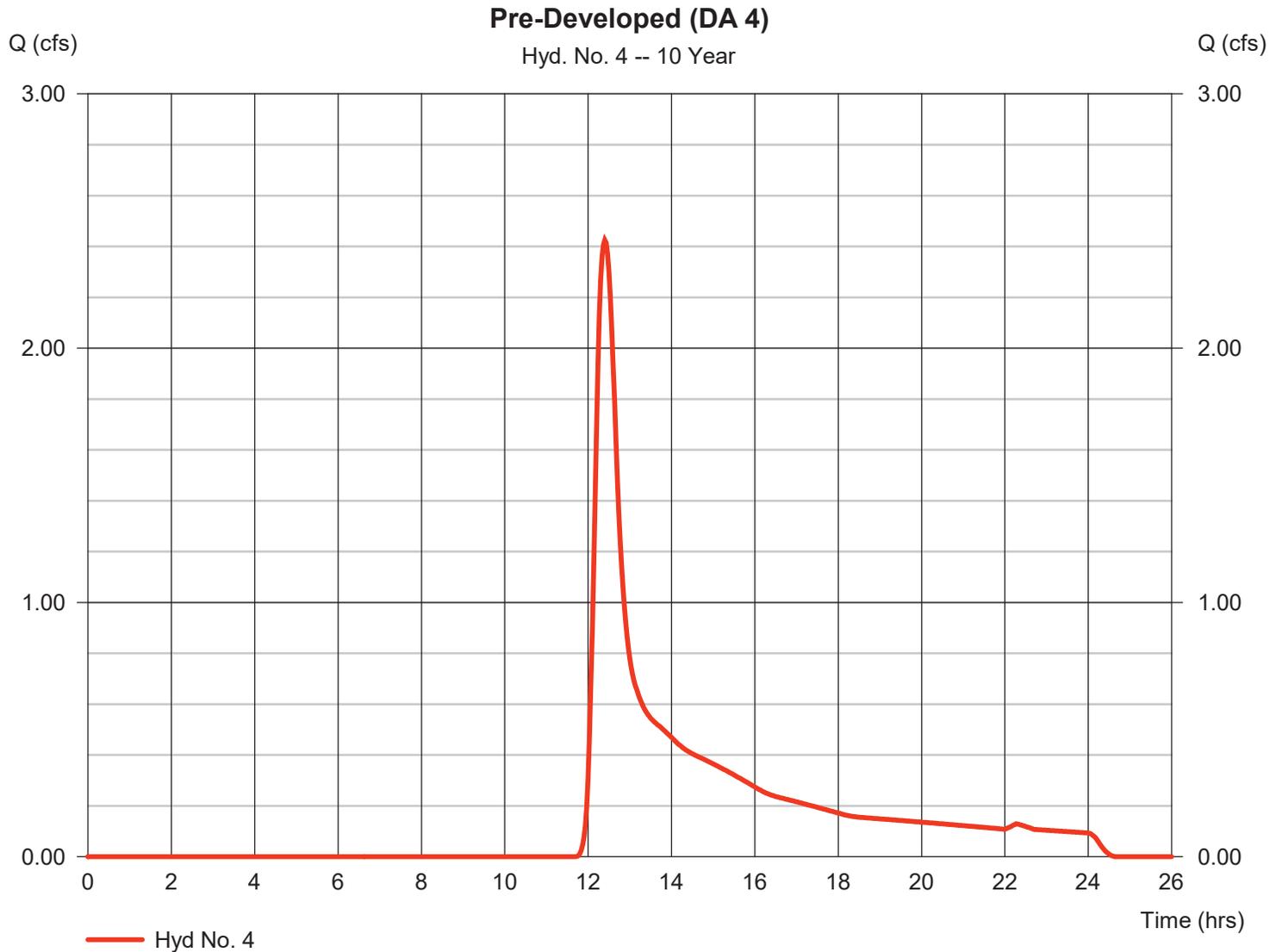
Elev	Area (sf)	Avg area (sf)	Volume (cf)	Cum Vol. (cf)
4.5	5433.7			0
		6052.65	3026	
5	6671.6			3026
		7984.65	7985	
6	9297.7			11011
		9991.85	4996	
6.5	10686			16007

Hydrograph Report

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

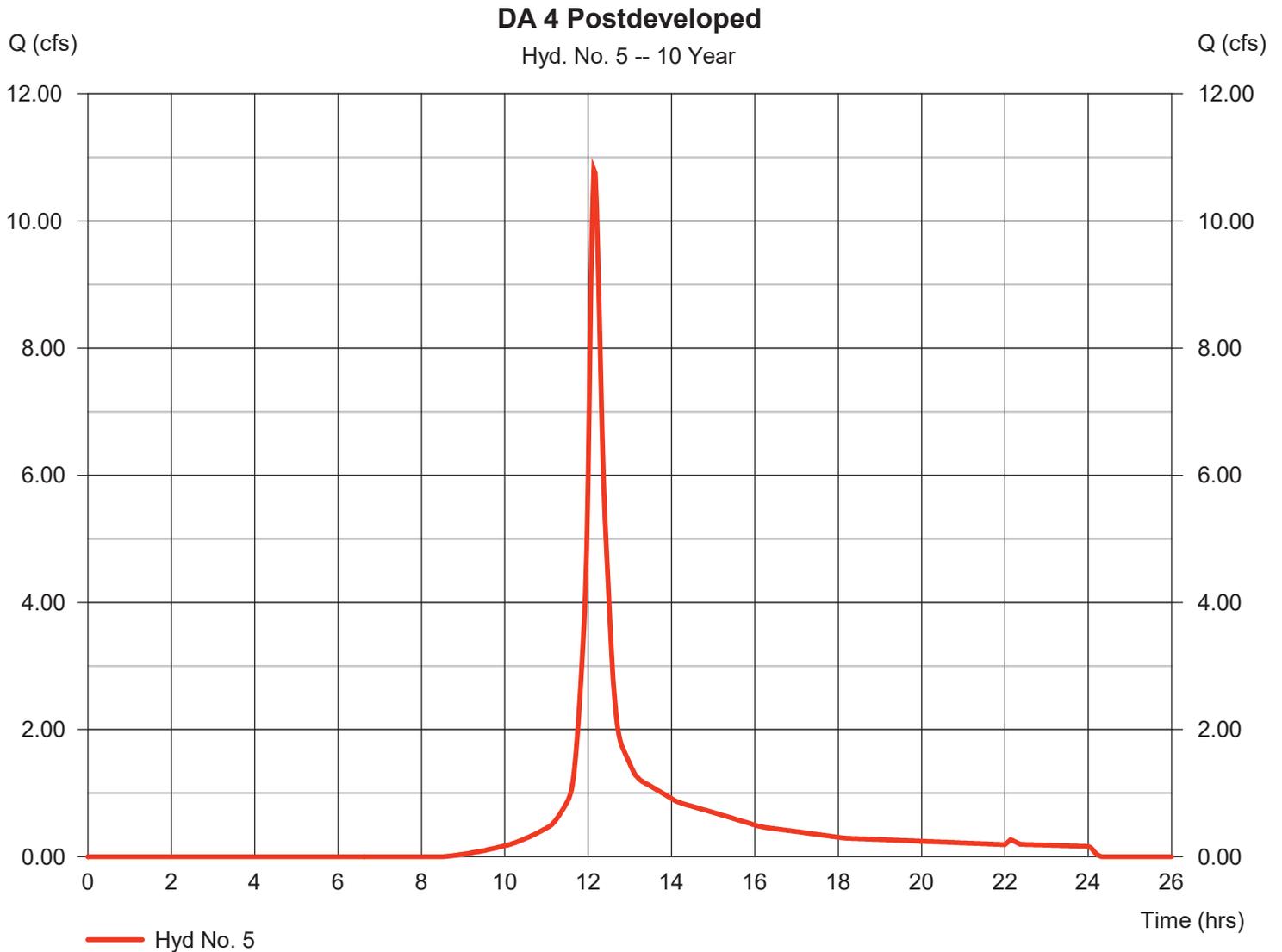


Hydrograph Report

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



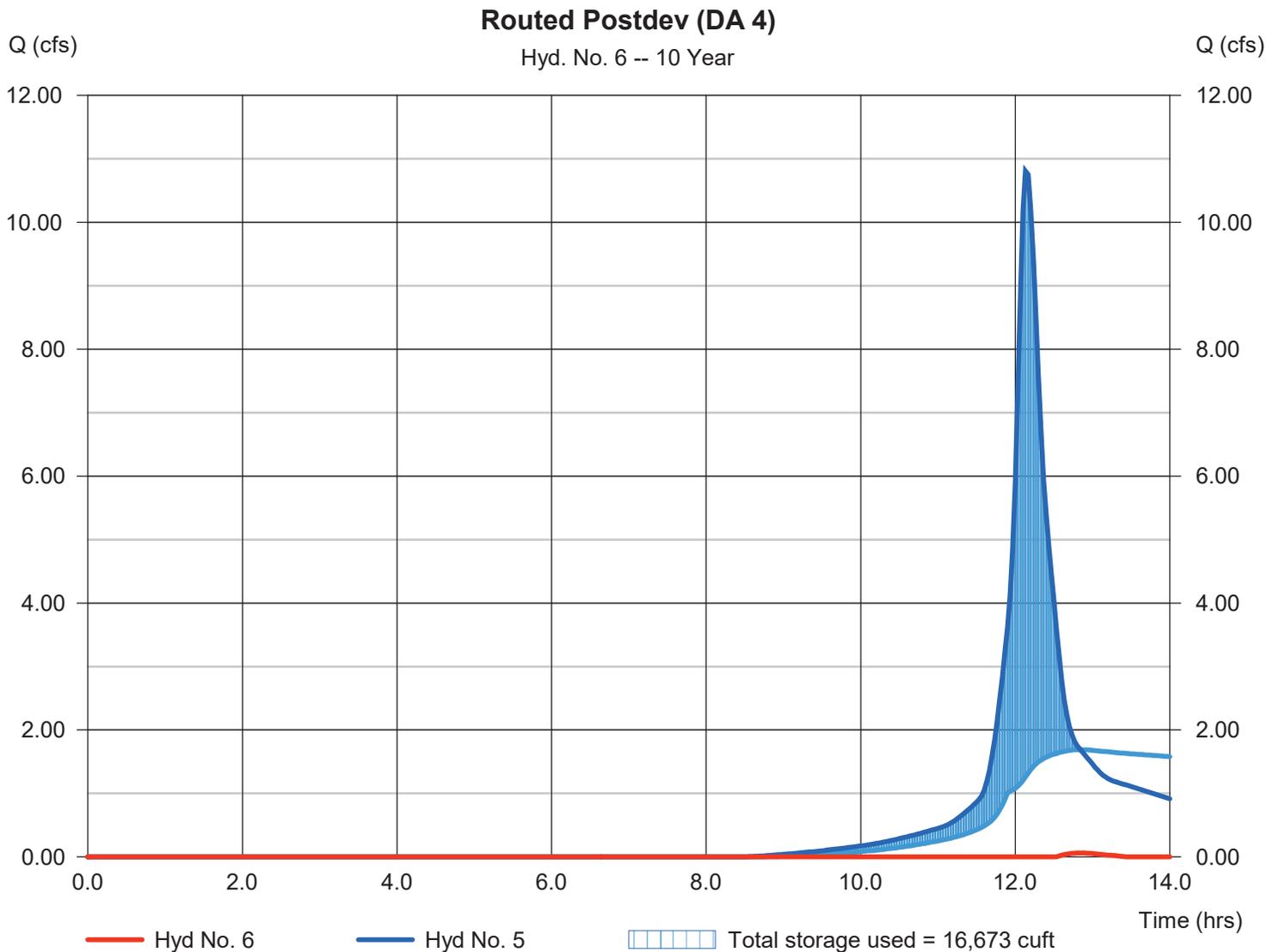
Hydrograph Report

Hyd. No. 6

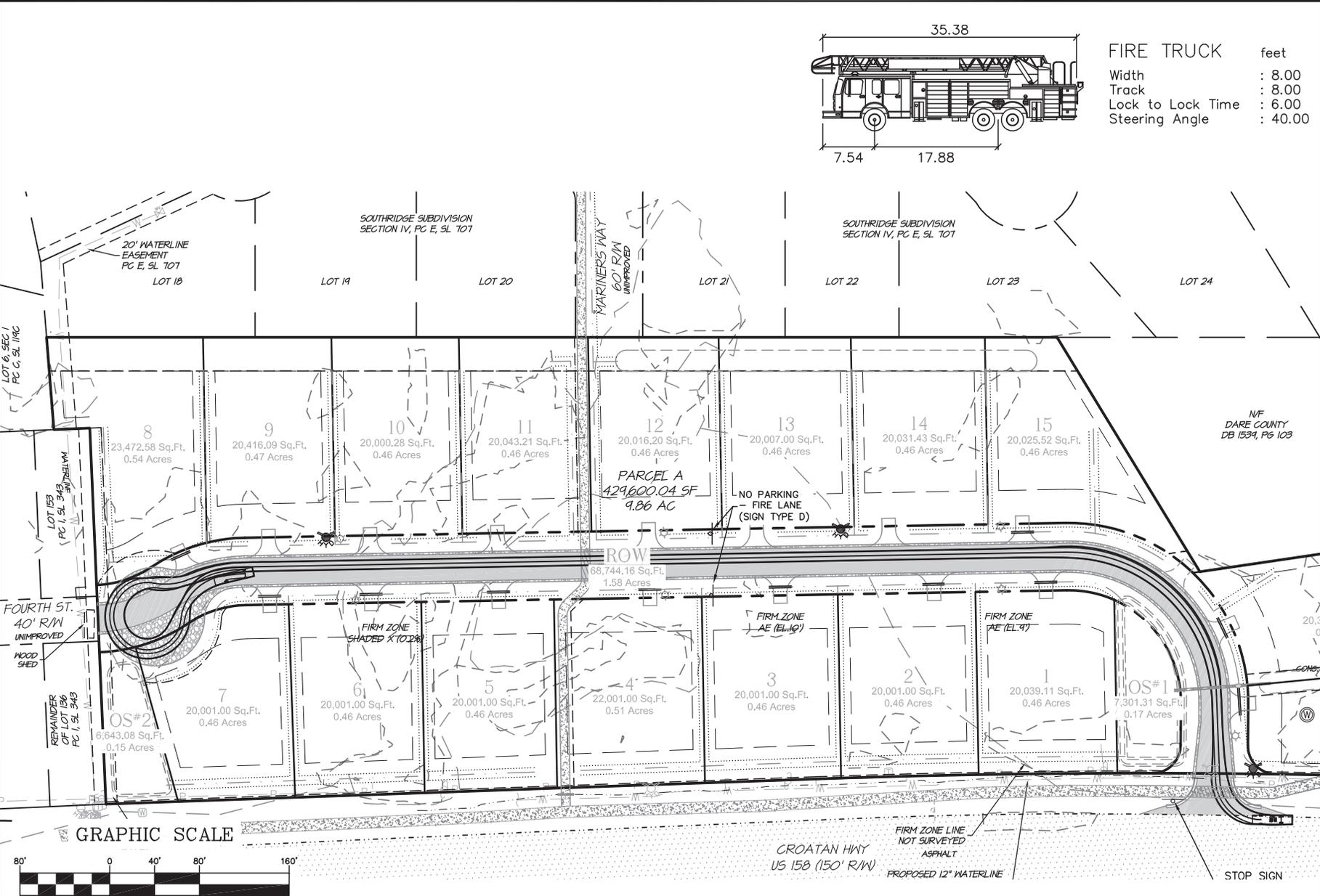
Routed Postdev (DA 4)

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.



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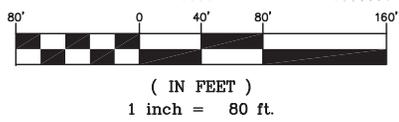
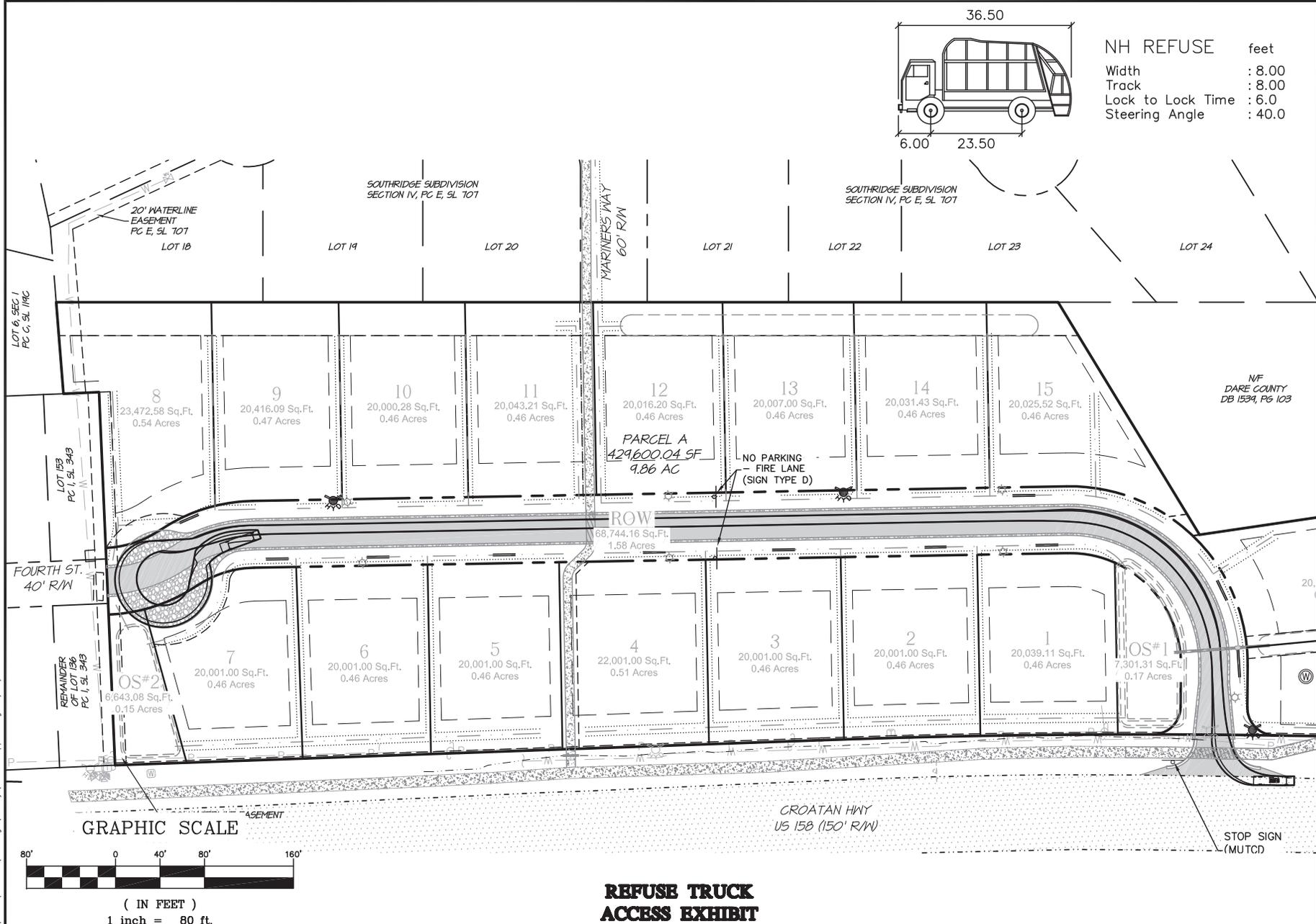
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SOUTHRIDGE SUBDIVISION VI
 DARE COUNTY
 TOWN OF NAGS HEAD
 NORTH CAROLINA
 SCALE 1X
 SCALE 2X
 GRAPHIC SCALE IN FEET 1"=SCALE 1X

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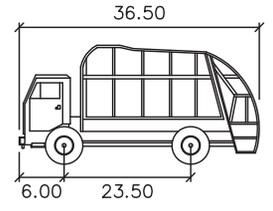
PROJECT
P18085
 DRAWN BY
CMS
 CHECKED BY
CMS
 DATE
03/27/20

FIRE ACCESS EXHIBIT

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**REFUSE TRUCK
ACCESS EXHIBIT**



NH REFUSE feet
 Width : 8.00
 Track : 8.00
 Lock to Lock Time : 6.0
 Steering Angle : 40.0

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



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,

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 regulations 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 THERE TO

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.

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

(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.

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 or 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.

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

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

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

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, {00660574 4}

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

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

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

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,

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.

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

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:

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

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,

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

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 and 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).

ARTICLE X

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

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

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 guest 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

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.

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-1-101, 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,

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]

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}

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, therefore, 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



Agenda Item Summary Sheet

Item No: **G-1**
Meeting Date: **August 5, 2020**

Item Title: Update from Planning Director

Item Summary:

Attached please find a monthly update from Planning Director Michael Zehner.

Number of Attachments: 1

Specific Action Requested:

Provided for Board information and update.

Submitted By: Planning and Development

Date: July 29, 2020

Finance Officer Comment:

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks

Date: July 29, 2020



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Board of Commissioners
Planning Board

From: Michael Zehner, Director of Planning & Development

Date: July 24, 2020

Subject: Planning and Development Director's Report

This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on August 5, 2020; however, there are several items for which feedback from the Commissioners would be requested, as follows: Skate Park - Potential Grant Application, Residential Stormwater Regulations, and RFQ for Update of Decentralized Wastewater Management Plan.

Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for June 2020*. In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, Staff was involved in the following meetings or activities of note during the month:

- Tuesday, June 9 - Board of Commissioners Budget Workshop
- Wednesday, June 10 - Arts & Culture Committee Meeting
- Tuesday, June 16 - Planning Board Meeting

Impact of Coronavirus on Permitting

As previously reported, a total of 67 building permits (non-trade) were applied for in both March 2020 and March 2019. In April, 48 building permits were applied for in both 2020 and 2019. In May, 57 building permits were applied for in 2020, while 48 were applied for in 2019. Finally, in June, 48 permits were applied for in 2020, while 39 were applied for in 2019. Since March 16 through July 23, 215 permits were applied for in 2020 compared to 194 in 2019.

With regard to trade permits, a total of 469 were issued in March through June of 2019, and a total of 300 were issued during the same period in 2020.

We will continue to monitor and report any impacts to permitting.

Report on Permitting - 3rd & 4th Quarters FY19-20

Please find attached an updated report to include the 3rd and 4th Quarters of FY19-20 (January 2020 - March 2020 and April 2020 - June 2020, respectively).

Skate Park - Potential Grant Application

As previously noted, Staff is considering applying for the National Endowment for the Arts Our Town Grant. This application would be seeking funds to design and develop plans for a future renovation of the Skate Park located at the YMCA. Staff estimates that this work would total \$30,000, and the grant requires a 50% local match, so the Town's contribution would be at least \$15,000. As the Board is aware, no funds are currently budgeted for this project; therefore, Staff would like the Board's feedback as to whether Staff should pursue this grant, recognizing that, if successful, the Board would need to decide at a later date whether these funds could be made available or that the grant award should be declined. The grant requires a partnership with a non-profit cultural arts or design organization, and Staff has been coordinating with the Dare County Arts Council

Residential Stormwater Regulations

At the July 1 meeting of the Board of Commissioners, Staff presented recommendations from the Planning Board pertaining to the Town's residential stormwater regulations, a review initiated at the request of the Board of Commissioners. It was the consensus of the Commissioners that the recommendations and regulations be discussed at a future workshop. At the Planning Board meeting on July 21, the Planning Board indicated their interest in participating in such a workshop with the Commissioners. It is also important to note that the Commissioners had suggested that a review of the regulations by a third-party consultant may be beneficial. Staff would suggest feedback from the Board on the timeline of a potential workshop, whether they would like to include the Planning Board, and whether this workshop should coincide with any review by a consultant, if include a consultant in the workshop.

RFQ for Update of Decentralized Wastewater Management Plan

Staff is working to prepare an RFQ based upon the scope that was presented at the July 1, 2020 Board of Commissioners meeting, expected to be released by mid-August. In terms of evaluating responses, and selecting the eventual consultant, Staff would request the Commissioners feedback as to whether they, along with certain Staff, would like to evaluate the responses, interview consultants if determined ideal, and select the consultant.

Planning Board - Pending Applications and Discussions

The July 21, 2020 meeting of the Planning Board was held in person, with one member participating remotely via the Zoom platform. Applicants also choose to participate via Zoom. This was the first meeting held in person since the Board's meeting held on February 18, 2020. The agenda included a further housekeeping text amendment to the UDO, reconsideration of a withdrawn text amendment to allow the Real Estate Rental Management Facility use in the C-2 zoning district, a text amendment to allow Furniture Stores as an allowable use as part of Commercial Mixed Use uses, and continued consideration of legacy establishments/structures.

The Planning Board's next meeting is scheduled for August 18, 2020. At this time, the agenda is expected to include consideration of a text amendment to address

nonconforming hotels and preexisting uses in conjunction with fishing piers, and conditional use permit applications for the Dream Center property contingent upon the text amendments for Real Estate Rental Management Facilities and Furniture Stores.

Additional Updates

- **2020 Census** - As previously indicated, the number/percentage of vacant vacation/rental homes in Town would skew the response rate recognized by the Census, as the rate is not adjusted at this time to account for those homes. Dare County has begun releasing the information on the rate depicting more accurate response rates based upon the number of occupied homes in the various communities. Based upon this methodology, the Town's response rate as of July 20, 2020 has been determined to be 85.46%, up from 83.91% on June 23.

On July 24, 2020, the Mayor and Director participated in a call with Derek Dorazio, Partner Specialist for North Carolina with the U.S. Census Bureau. Mr. Dorazio discussed the response rate for the Town and recommended actions that could be taken to increase the response rate. Staff provided Mr. Dorazio with information that may assist in making upcoming door-to-door efforts more efficient.

- **Town Workforce Housing Study & Plan** - Phase 1 Report presented to the Board of Commissioners at the February 5, 2020 meeting. Further action on this project is on hold pending direction from the Board of Commissioners; however, it is important to note that funds associated with this project were liquidated due to budgetary constraints associated with the Covid-19 Pandemic.
- **Hazard Mitigation Plan Update** - With the Board of Commissioners adoption of the updated Plan on July 1, 2020, this project is considered complete.
- **Skate Park Renovation - Phase 1** - Staff is working to finalize a survey to determine community preferences for any future renovation of the Skate Park. Staff has also discussed the project with the Arts & Culture Committee, who are supportive of incorporating public art within the Park; this focus is the basis for the National Endowment for the Arts Our Town Grant previously referenced.
- **CAMA Land Use Plan Update** - Staff has prepared and submitted responses and proposed draft revisions responding to comments issued by DCM staff. On July 15, 2020, Staff received further comments pertaining to the completeness of the Plan based upon CAMA requirements. As of the date of this memo, Staff is preparing revisions responding to these comments. A determination of Plan completeness is required before further review is initiated.
- **UDO Reference Manual & Permitting Workflow** - Staff continues to develop Reference Manual materials, including identifying and refining workflows, to be brought to the Board of Commissioners for approval at a later date.
- **Art Masts** - As previously noted, the Art Mast project, coordinated with the Arts & Culture Committee, has resulted in four completed art panels. The Arts & Culture

Committee continues to discuss the locations for the new Art Masts, and is considering installations beginning at Bonnet Street and ending in the Gallery Row District. Staff is working with a sign company to determine the best way to install the masts.

- **Decentralized Wastewater Master Plan** - As noted above, Staff is working to prepare an RFQ, to be released by mid-March.
- **Islington Street Beach Access** - Subject to DCM/CAMA and CIP funds to improve the access, Staff will be working to prepare plans for permitting. Staff anticipates the site plan to be reviewed initially at the September Planning Board meeting.
- **Jacob Street Beach Access** - With the exception of the installation of a bike rack and completed of an as-built plan, construction of this project has been completed and Staff is working with DCM staff to close out the grant.
- **Legacy Establishments/Structures** - Working with the Planning Board, the focus of this effort has been narrowed to pertain to nonconforming hotels, as well as one fishing pier property that includes residential units, also a nonconforming condition. Staff anticipates bringing a text amendment forward at the August Planning Board meeting.
- **Dowdy Park Farmer's Market** - The Market is scheduled to run every Thursday in the months of July and August with a wide range of vendors including fresh produce, local honey, seafood, wood carving, ceramics, pottery and other handmade crafts. Thus far, 3 of the 4 scheduled markets have been held, with the Market schedule for July 9 being cancelled based upon the weather forecast. Staff has been enforcing masking and other protocols to ensure the public's health and safety.
- **Permitting/Online Permitting** - Staff had previously contacted representatives of the Outer Banks Home Builders Association to coordinate a schedule for a workshop/forum for the building community. However, given current circumstances, this effort has been placed on hold. Staff is considering developing a series of videos in the interim.

Staff has begun an email distribution to contractors registered with the Town to provide updates on changes to permitting and inspection procedures associated with the Coronavirus Pandemic and response. Similar updates in the future are expected to be made on a more regular schedule and Staff will likely transition to using the News Flash feature on the Town's website.

As previously reported, as of May 8, 2020, online permitting has been activated for all residential and commercial building and trade permit types, with the exception of permits for moving of residential or commercial structures; moving permits are expected to be added now that updated fees have been approved. Staff will continue to work to make improvements to the platform, publicize the

availability of the resource, and refine documents providing guidance to the Town's customers.

- **Grants and Assistance**

- Staff had submitted a request under the Hazard Mitigation Grant Program (Tropical Storm Michael) to update the Town's Emergency Operations Plan. Staff learned that funding under that event was no longer being considered, but that the request was being considered under funding decisions related to Hurricane Dorian,
- Staff submitted a Letter of Interest ("LOI") under the Hazard Mitigation Grant Program related to Hurricane Dorian for the acquisition of property, and assisted Fire Chief Wells in the submission of an LOI for replacement of a generator; we have been notified that the generator request has been selected for further consideration, and have also learned that the request for funds for property acquisition also continues to be considered.
- An LOI has been submitted for a National Fish and Wildlife Foundation - National Coastal Resilience Fund grant to develop an Estuarine Shoreline Management Plan; the final application will be submitted shortly. Additionally, a preapplication was submitted for the 2020 North Carolina Attorney General Environmental Enhancement Grant for the same project, for which the Town was approved to submit a full application, which was submitted on May 28, 2020.
- As noted, Staff is preparing an application for the National Endowment for the Arts Our Town Grant seeking funds to prepare designs for the renovation of the Town's Skate Park.
- Staff had previously reported on the CASSI Autonomous Shuttle Pilot program. Due to NCDOT budget constraints, Staff was notified that the program would require the Town to cover a lease payment of \$46,000 per month for the shuttle. Based upon this information, Staff decided not to submit for the program at this time. Staff did request to be notified if future opportunities become available.

Upcoming Meetings and Other Dates

- Thursday, July 30 - Farmers' Market
- Monday, August 3 - P&D Staff Meeting
- Wednesday, August 5 - Board of Commissioners Meeting
- Thursday, August 6 - Farmers' Market
- Thursday, August 6 - Annual Emergency Operations Exercise
- Tuesday, August 18 - Planning Board Meeting

**TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
JUNE 2020**

DATE SUBMITTED: July 7, 2020

	Jun-20	Jun-19	May-20	2019-2020 FISCAL YEAR	2018-2019 FISCAL YEAR	FISCAL YEAR INCREASE/ DECREASE
BUILDING PERMITS ISSUED - RESIDENTIAL						
New Single Family	0	1	0	7	17	(10)
New Single Family, 3000 sf or >	0	0	0	6	8	(2)
Duplex - New	0	0	0	0	0	0
Sub Total - New Residential	0	1	0	13	25	(12)
Miscellaneous (Total)	38	27	40	437	425	12
<i>Accessory Structure</i>	4	2	5	46	46	0
<i>Addition</i>	1	2	0	17	21	(4)
<i>Demolition</i>	0	0	0	2	6	(4)
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	6	5	11	98	92	6
<i>Repair</i>	27	18	24	274	260	14
Total Residential	38	28	40	450	450	0
BUILDING PERMITS ISSUED - COMMERCIAL						
Multi-Family - New	0	0	0	0	0	0
Motel/Hotel - New	0	0	0	0	0	0
Business/Govt/Other - New	0	0	0	2	4	(2)
Subtotal - New Commercial	0	0	0	2	4	(2)
Miscellaneous (Total)	2	12	3	80	115	(35)
<i>Accessory Structure</i>	2	3	0	19	28	(9)
<i>Addition</i>	0	0	0	0	1	(1)
<i>Demolition</i>	0	0	0	4	4	0
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	0	1	2	27	31	(4)
<i>Repair</i>	0	8	1	30	51	(21)
Total Commercial	2	12	3	82	119	(37)
Grand Total	40	40	43	532	569	(37)
SUB-CONTRACTOR PERMITS						
Electrical	39	61	25	424	492	(68)
Gas	2	0	1	21	23	(2)
Mechanical	59	40	40	373	434	(61)
Plumbing	8	5	3	92	100	(8)
Sprinkler	2	0	0	3	4	(1)
VALUE						
New Single Family	\$0	\$200,000	\$0	\$1,864,797	\$3,546,000	(\$1,681,203)
New Single Family, 3000 sf or >	\$0	\$0	\$0	\$3,982,561	\$5,380,460	(\$1,397,899)
Duplex - New	\$0	\$0	\$0	\$0	\$0	\$0
Misc (Total Residential)	\$547,315	\$344,558	\$573,689	\$9,346,153	\$9,029,637	\$316,516
Sub Total Residential	\$547,315	\$544,558	\$573,689	\$15,193,511	\$17,956,097	(\$2,762,586)
Multi-Family - New	\$0	\$0	\$0	\$0	\$0	\$0
Motel/Hotel - New	\$0	\$0	\$0	\$0	\$0	\$0
Business/Govt/Other - New	\$0	\$0	\$0	\$1,030,000	\$3,646,975	(\$2,616,975)
Misc (Total Commercial)	\$5,340	\$244,751	\$474,000	\$4,169,726	\$4,172,476	(\$2,750)
Sub Total Commercial	\$5,340	\$244,751	\$474,000	\$5,199,726	\$7,819,451	(\$2,619,725)
Grand Total	\$552,655	\$789,309	\$1,047,689	\$20,393,237	\$25,775,548	(\$5,382,311)

**TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
JUNE 2020**

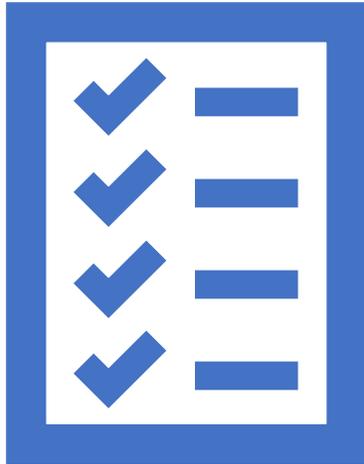
DATE SUBMITTED: July 7, 2020

	Jun-20	Jun-19	May-20	2019-2020 FISCAL YEAR	2018-2019 FISCAL YEAR	FISCAL YEAR INCREASE/ DECREASE
ZONING						
Zoning Permits	17	27	23	309	331	(22)
CAMA						
CAMA LPO Permits	0	3	1	30	59	(29)
CAMA LPO Exemptions	8	5	13	116	89	0
Sand Relocations	0	N/A	0	143	N/A	N/A
CODE COMPLIANCE						
CCO Inspections	75	145	68	774	1064	(290)
Cases Investigated	53	67	25	173	636	(463)
Warnings	7	6	10	236	86	150
NOVs Issued	41	61	15	95	528	(433)
Civil Citations (#)	0	0	0	0	0	0
Civil Citations (\$)	\$0	\$0	\$0	\$0	\$0	\$0
SEPTIC HEALTH						
Tanks inspected	8	149	0	40	376	(336)
Tanks pumped	4	5	3	132	78	54
Water quality sites tested	92	92	46	259	299	(40)
Personnel Hours in Training/School	6	0	38	115	291	(176)



Michael D. Zehner, Director of Planning & Development

COMMENTS:



Report on Planning and Development Department Permitting Processes

FY19-20 - 3rd Quarter (Jan '20 - March '20)

FY19-20 - 4th Quarter (April '20 – June '20)

August 5, 2020

Board of Commissioners Meeting

Report on Planning and Development Department Permitting Processes

FY19-20, 3rd & 4th Quarters

- Completed/Instituted – Since January 2019
 - Bi-weekly Permit Tracking benchmarks reduced
 - Focus on internal and external communication improvements
 - Monthly Permitting, Inspections, and Enforcement Team Meeting
 - Fees increased consistent with adjacent communities and to offset cost of services
 - Coordination of zoning, E&S, and stormwater pre- and post-construction inspections
 - Require final zoning and stormwater inspections prior to final building inspections
 - Code Enforcement Officer received probationary building inspection certificate
 - Additional Munis Training for Staff - Nov. 7 & 8, 2019; addressed general use, inspection scheduling, report and form generation, and updating property owner information
 - Customer kiosk with computer installed in lobby
 - Publicly-accessible permits & inspections search portal added to Citizen Self Service: <https://selfservice.nagsheadnc.gov/MSS/citizens/PermitsInspections/Default.aspx>
 - Permitting staff met with Bill News, Chief Building Code Official for Currituck County, to review use of Munis, and specially online permitting modules.

Report on Planning and Development Department Permitting Processes

FY19-20, 3rd & 4th Quarters

- Completed/Instituted – New items since January 2020
 - Rollout Citizen Self Service for online trade permits
 - Rollout Citizen Self Service for all building permits
 - Developed and implemented remote permitting protocols in response to the Pandemic
 - Developed and implemented remote inspections protocols.
 - Streamlined fees for demolitions and moving permits

Report on Planning and Development Department Permitting Processes

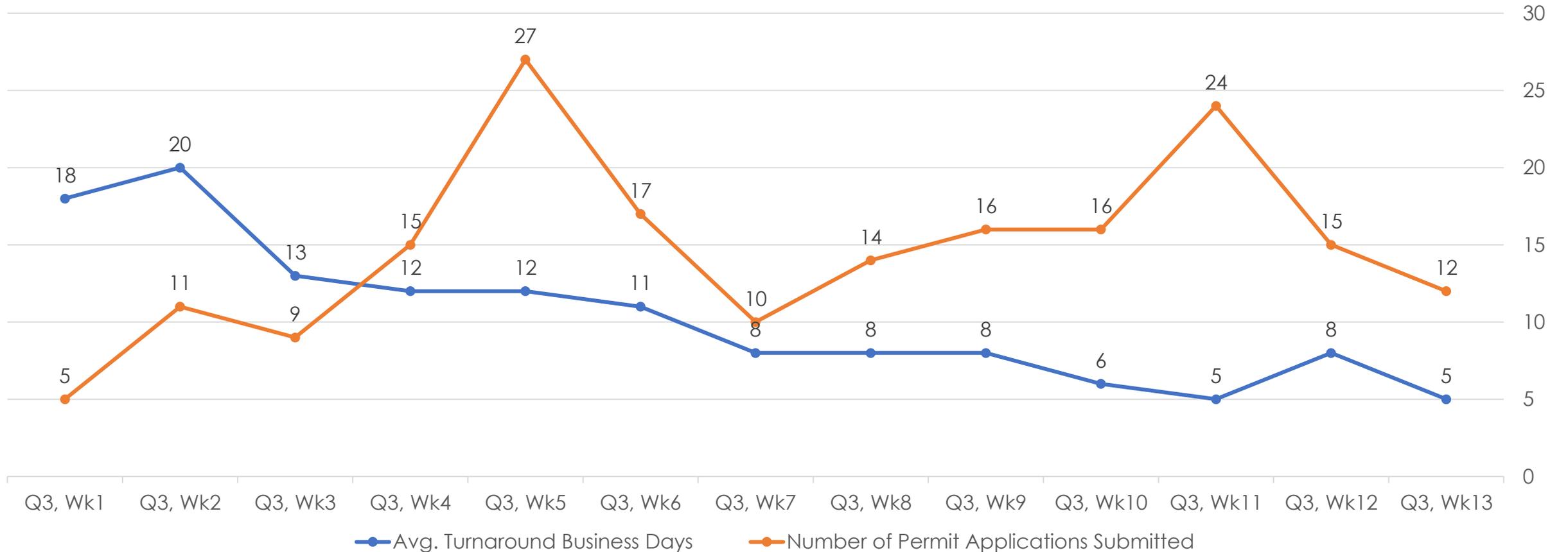
FY19-20, 3rd & 4th Quarters

- Next Steps/Moving Forward
 - Document and improve permitting workflows
 - Create separate review processes for less complicated permits/work
 - Prepare Development Manual as part of UDO adoption
 - Plan workshops or develop videos for Home Builders, Real Estate Association, residents, etc.
 - Continue to refine and improve online permitting; resolve Munis platform issues
 - Facilitate and encourage use of customer kiosk
 - Transition Blue Prince records to Munis
 - Develop preferences and goals for records management and digitization
 - Update Munis platform and permits for new F.I.R.M. and CRS

Report on Planning and Development Department Permitting Processes

FY19-20, 3rd & 4th Quarters

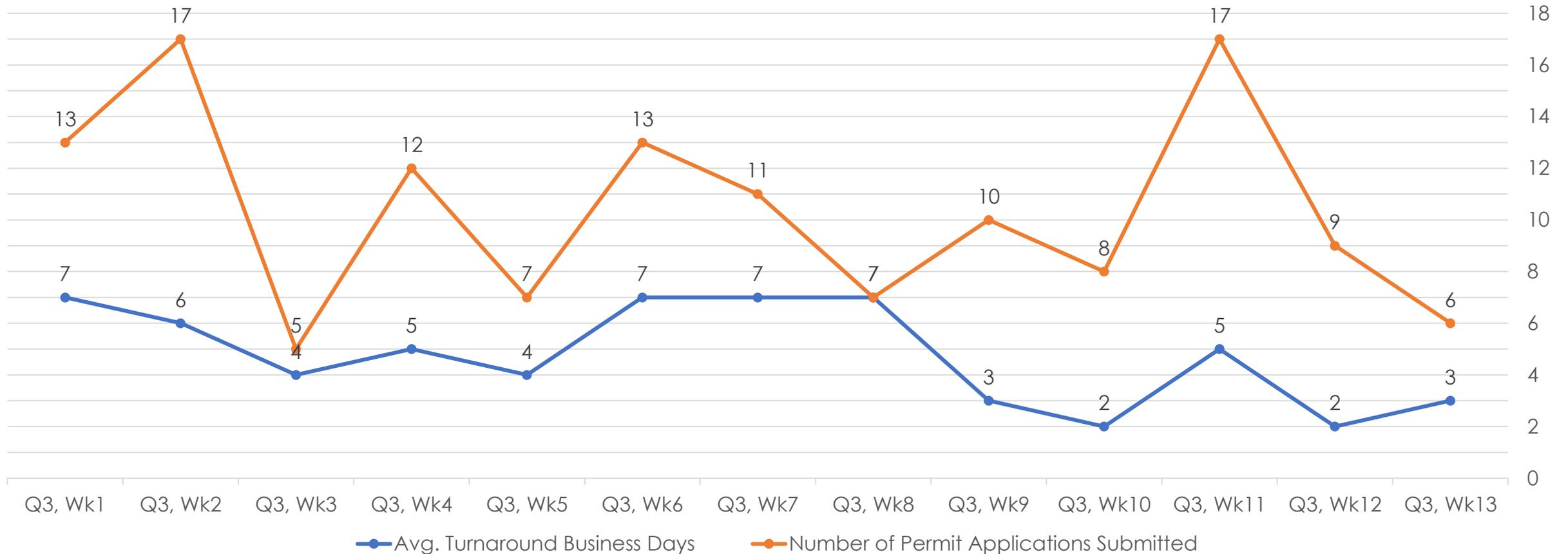
FY18-19, 3rd Quarter - Permits Applied & Turnaround
191 Permit Applications Submitted; 8.89 Days Avg. Turnaround



Report on Planning and Development Department Permitting Processes

FY19-20, 3rd & 4th Quarters

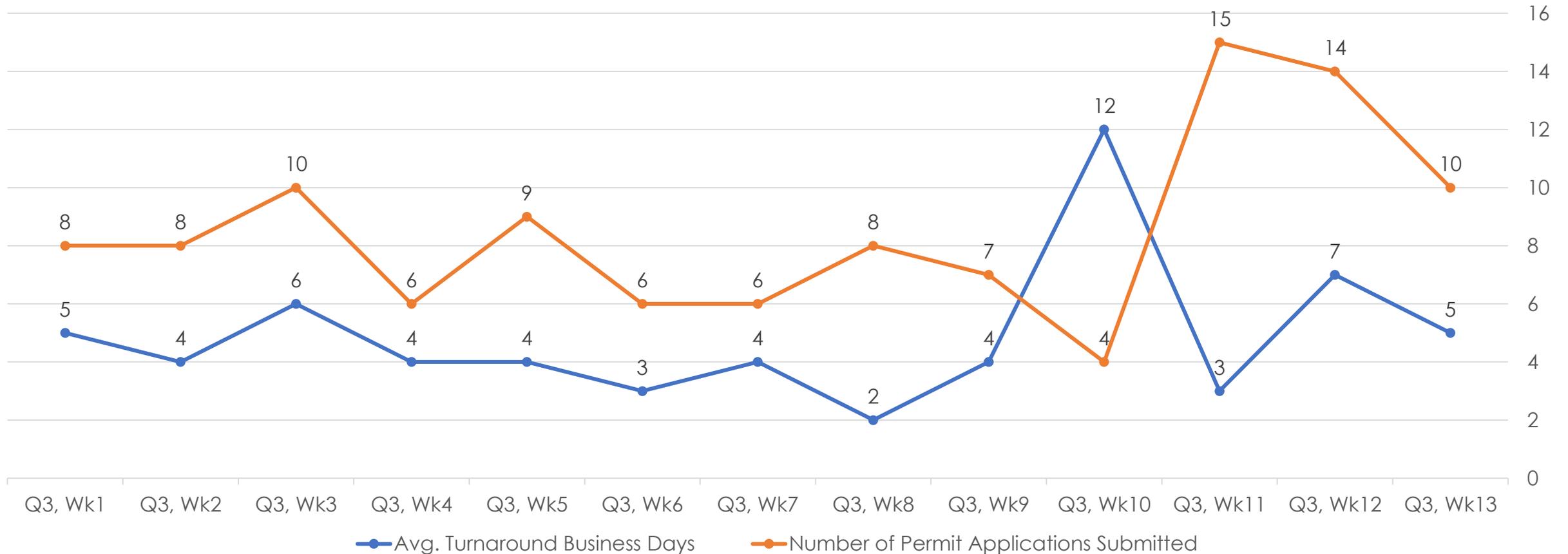
FY18-19, 4th Quarter - Permits Applied & Turnaround
136 Permit Applications Submitted; 5.11 Days Avg. Turnaround



Report on Planning and Development Department Permitting Processes

FY19-20, 3rd & 4th Quarters

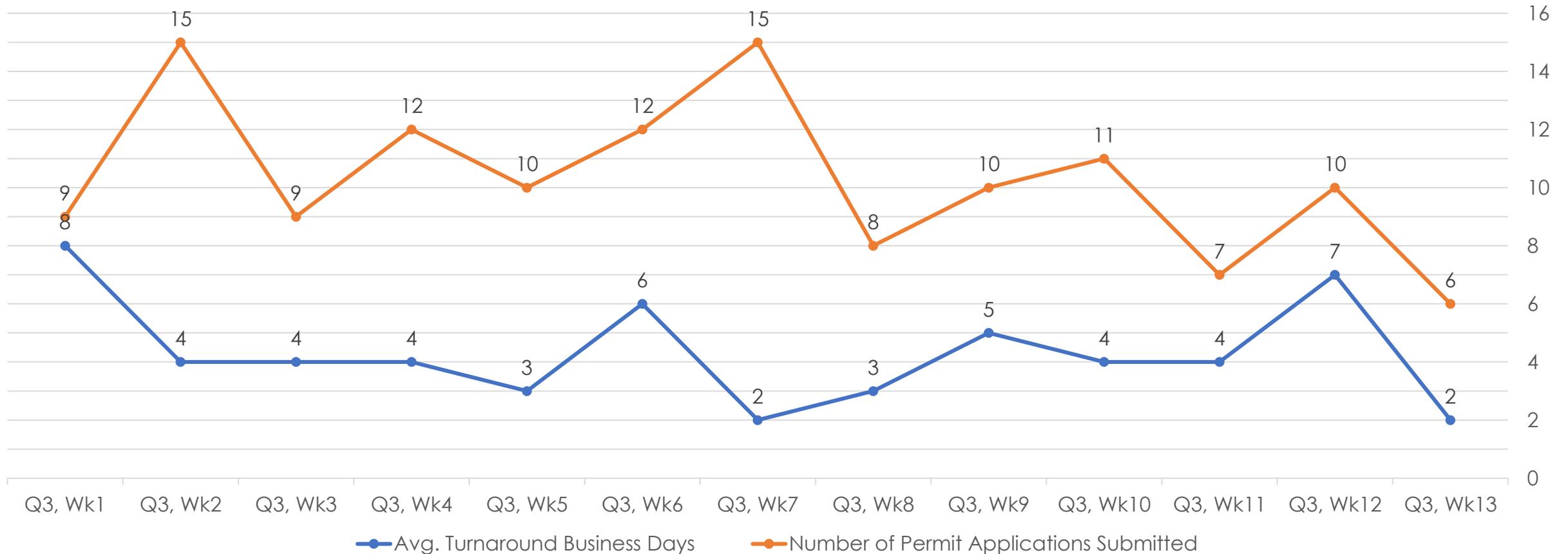
FY19-20, 1st Quarter - Permits Applied & Turnaround
111 Permit Applications Submitted; 4.72 Days Avg. Turnaround



Report on Planning and Development Department Permitting Processes

FY19-20, 3rd & 4th Quarters

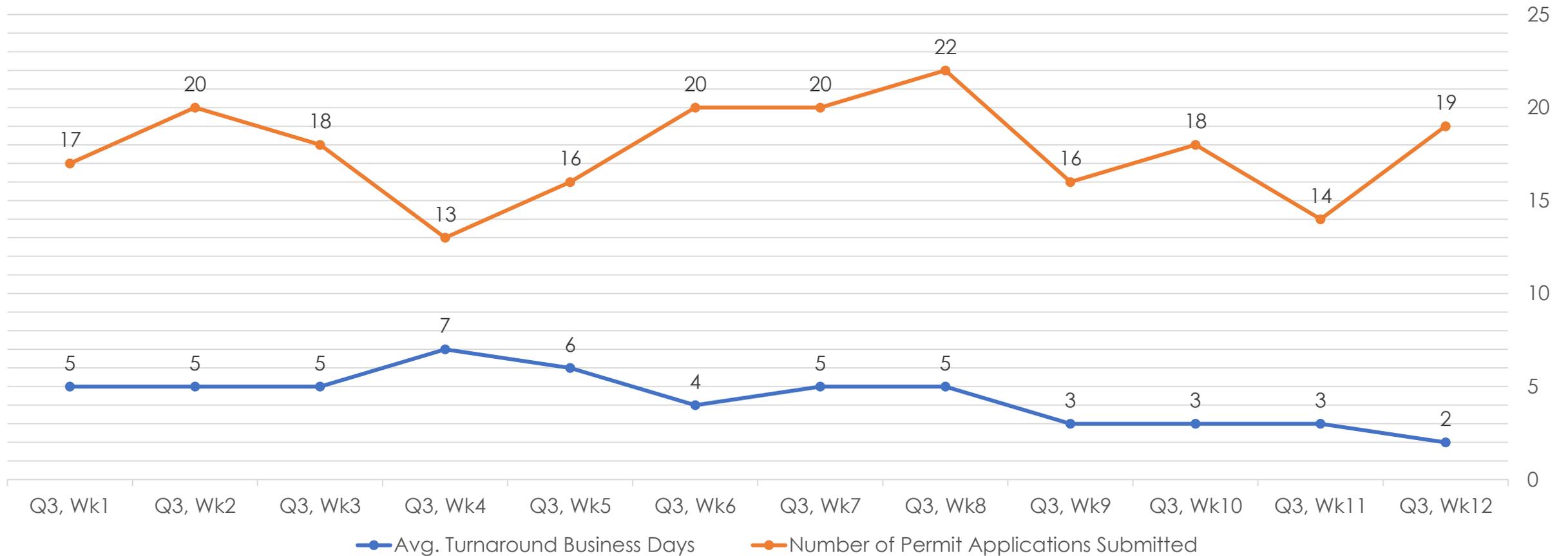
FY19-20, 2nd Quarter - Permits Applied & Turnaround
134 Permit Applications Submitted; 4.23 Days Avg. Turnaround



Report on Planning and Development Department Permitting Processes

FY19-20, 3rd & 4th Quarters

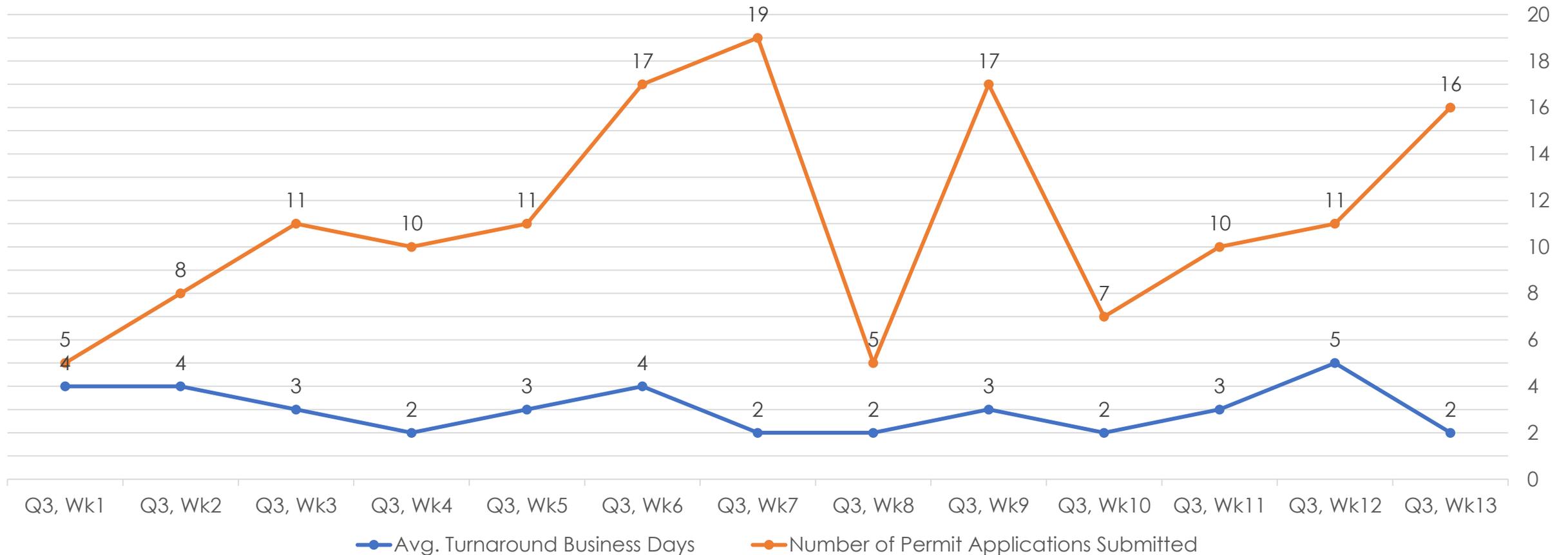
FY19-20, 3rd Quarter - Permits Applied & Turnaround
213 Permit Applications Submitted; 4.19 Days Avg. Turnaround



Report on Planning and Development Department Permitting Processes

FY19-20, 3rd & 4th Quarters

FY19-20, 4th Quarter - Permits Applied & Turnaround
147 Permit Applications Submitted; 2.95 Days Avg. Turnaround



Report on Planning and Development Department Permitting Processes

FY19-20, 3rd & 4th Quarters

	FY18-19 3 rd Quarter/FY19-20 4 th Quarter	FY18-19 4 th Quarter/FY19-20 4 th Quarter	FY19-20 1 st Quarter	FY19-20 2 nd Quarter
Total Number of Permits	191/213	136/147	111	134
Avg. Turnaround	8.89/4.19 days	5.11/2.95 days	4.72 days	4.23 days
Residential Projects				
Total Number of Permits	164/182	102/135	91	116
Avg. Turnaround	8.68/4.00 days	4.97/2.80 days	4.21 days	4.16 days
Commercial Projects				
Total Number of Permits	27/31	34/12	20	18
Avg. Turnaround	10.25/5.19 days	5.38/4.58 days	6.90 days	3.83 days



Agenda Item Summary Sheet

Item No: **H-1**
Meeting Date: **August 5, 2020**

Item Title: From July 1st Board meeting - Discussion of Dowdy Park part-time position

Item Summary:

At the July 1st Board meeting, the Board passed a motion to unfreeze the \$16,000 Dowdy Park part-time position funds for a 30-day period - until the August 5th Board meeting - and to have staff spend the funds at their discretion. Post action reports were provided to the Board after the Thursday, July 2nd and the Thursday, August 6th Farmer's Market events as requested.

Number of Attachments: 0

Specific Action Requested:

Provided for Board discussion.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted costs associated with this agenda item.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

I will participate in the discussion.

Signature: Greg Sparks

Date: July 29, 2020



Agenda Item Summary Sheet

Item No: **H-2**
Meeting Date: **August 5, 2020**

Item Title: From July 1st Board meeting - Consideration of Charge for and Appointments to the Reuse and Recycle Task Force

Item Summary:

At the July 1st Board of Commissioners meeting, the Board directed staff to include on the August 5th Board meeting agenda a discussion of the Reuse and Recycle Task Force to include an accurate charge. Appointments to the Task Force were also expected to be made at that time.

Attached please find a memo from Dep Town Manager Andy Garman summarizing a charge and providing some possible tasks for consideration by the Task Force.

Also attached please find a spreadsheet with information concerning each applicant wishing to serve on the Task Force.

Number of Attachments: 2

Specific Action Requested:

Provided for Board discussion of Task Force charge and member appointments.

Submitted By: Administration Date: July 29, 2020

Finance Officer Comment:

Insufficient information to determine precise fiscal impact.

Signature: Amy Miller Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: July 29, 2020

Town Manager Comment and/or Recommendation:

I will participate in the discussion as necessary.

Signature: Greg Sparks Date: July 29, 2020



Ben Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Greg L Sparks
Interim Town Manager

Town of Nags Head

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

M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

TO: Board of Commissioners

FROM: Andy Garman, Deputy Town Manager

DATE: July 30, 2020

SUBJECT: Consideration of Charge for and Appointments to the Reuse and Recycle Task Force

The Board would like to establish a task force focused on waste reduction initiatives. These initiatives would promote the reuse of materials, reduced consumption, and diversion of materials from the waste stream. They would also focus on the proper and responsible handling of materials by the consumer as well as the town or the town's contractors. Although there are policies in the town's comprehensive plan and solid waste plan related to waste management and waste reduction goals, these need to be reviewed in light of changing market conditions, available resources, current practices, and community needs and desires. The task force could provide research and recommendations to inform the town's waste reduction efforts and provide leadership as it relates to this important community need and government function. Although this discussion began with a focus on the town's curbside recycling program, Nags Head recognizes that recycling is only one facet of waste reduction and is often cited as the last of the three R's, Reduce, Reuse, and Recycle. Many communities have expanded this list and also identify "Refuse" and "Rot" which illustrate the need for a broader focus when discussing waste reduction. Individual effort as it relates to responsible product and consumption choices and programs focused on composting or removing food waste from the waste stream are important components of this conversation. Therefore, community education and a multi-faceted approach becomes critical for a successful and comprehensive waste reduction program. Attention should also be paid to the life cycle of materials to ensure that expenditures related to collection and processing have legitimate benefits as opposed to landfilling and incineration.

To get this process started, the Board will need to appoint members to the task force. Staff would recommend no more than an eight person citizen task force with support from staff. The board has a list of 13 individuals who have expressed interest in the task force which summarizes their background and interests. Although staff has no specific recommendation on members, the task force members should represent a broad spectrum of town interests, including business,

institutional, government and academia. There are several individuals listed whose background and interests align well with the following tasks. During this process, staff would expect to bring in individuals from industry, NC DENR, or other local governments who can provide information to the task force and/or discuss opportunities for collaboration.

It is anticipated that the first assignment of the task force would be to review and recommend goals for Nags Head community waste reduction efforts. This would involve a review of existing goals from adopted plans and policies. Other items for the task force could include:

- Establish a planning framework to review the town's waste reduction efforts
- Evaluate existing town recycling and waste reduction programs to understand community needs and desired service levels; provide cost effective recommendations to enhance these services
- Define metrics for cost effectiveness and service quality related to waste reduction and disposal initiatives; this could include a cost-benefit analysis of curbside vs. distributed collection/disposal options
- Identify new programs to remove materials from the waste stream including food waste, household hazardous waste, etc.; review the use of distributed town recycling drop off sites and recommend service enhancements
- Identify high return recycling activities that could be enhanced such as commercial collection of pre-sorted materials
- Review the current limitations of single-stream recycling programs and provide research on the state of the industry; provide recommendations for future efforts that align with anticipated recycling industry changes
- Determine local and regional capacity to support reuse, reduction and recycling programs; identify gaps that need further policy level support or regional collaboration; this also includes review of available private sector resources that are available to the town
- Identify local, regional, or state partnerships that support the goals of the task force and the town
- Develop and implement progressive educational programming aimed at reducing waste and promoting reuse, recycling, and consumer education on consumption
- Develop education campaigns that improve recycling participation and minimize contamination

Staff welcomes feedback on the suggested work items for the task force. It is anticipated that the task force would meet at least monthly through the early part of 2021 in order to have recommendations to the Board prior to consideration of the FY 2021/22 budget.

Reuse and Recycling Task Force – Characteristics Chart

Meeting Date: August 5, 2020

Applicant Name	Yrs of Residency	Location of Residency	Education - Work Skills	Role in Community	Attributes to offer Bd/Comm	Special Interest in Bd/Comm
Meredith Fish	3 yrs	Va Dare Trl	- Education Dept @ Jennette’s Pier - Created YouTube videos on the subject	- Frequent walks on beach leads to picking up trash - Encourage others to use reusable bags	Skill and resources to educate the community on reuse/recycling	Passionate about concept to reduce-reuse-recycle instead of it going to the landfill
Robert Netsch	1.5 yrs	Villa Dunes area	Professional IT - engineering - management	None	- Difficult to say w/o knowing Task Force mission - Good communicator	Would like to help establish a reasonable approach to recycling for environmental reasons
David Bragg	7 yrs	Village	- Property Mgr - USCG Supervisory Accountant	Past advisory Bd member NH Golf Links	Performed extensive research on the town’s recycling program	Concerned citizen trying to control costs of town’s expenditures
Russell Lay	26 yrs	Villa Dunes area	- Instructor @ COA - Former local commercial banker & business owner	- First Flight Rotary - Manteo Masonic Lodge - Dare Cty Shrine Club - Former member OB Homebuilders	Served on BOA, CAC and other town committees	- To continue a recycling program if possible - Can only serve if evening meetings
Adam Herman	20 yrs	Vista Colony West	- Retired Dare Cty teacher - Motivated “Making a Difference” project	-Took Civics students to Dare Cty courts - Led voter registration drives - Stressed importance of elections to pupils	- Knowledge of municipal government-taught civics -Students presented curbside recycling proposal to towns of NH & KDH	- Care about environment - Would like to see solution/option for curbside recycling

Applicant Name	Yrs of Residency	Location of Residency	Education - Work Skills	Role in Community	Attributes to offer Bd/Comm	Special Interest in Bd/Comm
Brian M Taylor	4 yrs	NH Acres	- Retired mathematician -Designed quality control test for military hardware	- No experience w/formal government	College training in personal counseling	Recycling products have better uses rather than going to landfill or in the ocean or other waterways
Karen Pearce	6 yrs	NH Cove	- Exceptional organizing skills - Caregiver	In another state -served on a board for a charitable organization for under privileged ppl	Being a crafty person- believes in Reuse - Repurpose - Recycle	Particularly interested in recycling and wants to help town & community
Ann Daisy	17 yrs	Northridge	- BS Natural Resources - GS Geosciences Community - Conservationist- Dare Cty Soil/Water	Volunteer: - Surfriders Adopt a Beach - NC Coastal Federation - Earth Fair @ Dowdy Park	- Certified Environmental Educator - Coach-Golden Leaf Scholars Leadership program - Knowledge of Marine Debris Reduction plan/initiative	- To continue curbside recycling; encourage new & innovative approaches to reduce deposits into landfill - Improve natural resources
Robert Edwards	21 yrs	Sugar Creek	- Retired - recycling experience in paper industry - Worked on town's original recycling program	- President HOA Sugar Creek Condos - Former Planning Bd and Mayor	30 yrs - experience in management in paper industry 15 yrs - construction	To develop a viable recycling program

Applicant Name	Yrs of Residency	Location of Residency	Education - Work Skills	Role in Community	Attributes to offer Bd/Comm	Special Interest in Bd/Comm
Kari Bakus	2 yrs	South Nags Head	30 yrs experience with business to business marketer	-To be more involved in local community groups re: natural resources - Beach Food Pantry	Experience in strategic planning; communication & marketing would help educate the community accept the reuse, reduce, recycle program	To have a long-term plan on how to reuse, reduce and recycle for our community and our natural resources
Barb Nowland	15 yrs	NH Cove	Mainframe computer programmer & analyst	Elder & Treasurer at OB Presbyterian Church	Knowledge of Microsoft Word & Excel	Care about the environment and what the trash is doing to it
Missy Rotchford	24 yrs	NH Cove	Controller @ Kellogg Supply	- OB Surfrider Fdn - NHES PTA bd mbr - OB History Center bd - DVAC bd mbr - Girl Scout Leader	Volunteer of year: - DVAC - State of NC Volunteer of Yr - Va Dare BPW Young Professional	Want to leave a smaller footprint for future generations to have to correct
Susan Kershner	10 yrs	South Nags Head	RN Mgr– Center for Healthy Living @ OB Hospital	Volunteer: - OBH Community Outreach - Roanoke Island Food Bank - Beach clean-up - OB Marathon	Work with community outreach and familiar with culture here	Recycling is important to our community. Want clean beaches for children to enjoy and wildlife to flourish



Agenda Item Summary Sheet

Item No: **I-1**
Meeting Date: **August 5, 2020**

Item Title: Committee Reports

Item Summary:

At the August 5th Board of Commissioners meeting, Board members will provide reports from meetings they have attended on behalf of the Town.

Number of Attachments: 0

Specific Action Requested:

Provided for Board update.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Greg Sparks

Date: July 29, 2020



Agenda Item Summary Sheet

Item No: **I-2**
Meeting Date: **August 5, 2020**

Item Title: Consideration of Human Resources Manager job description

Item Summary:

Attached for Board review and approval is a job description for Human Resources Manager.

Informal approval was received from the Board to create and advertise the position. This formalizes approval of the position.

Number of Attachments: 1

Specific Action Requested:

Provided for Board review and approval.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted costs associated with this agenda item.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

The current Human Resources Director position is vacant and to more accurately reflect what the Town needs, the Human Resources Manager position, to work under the direction of the Finance Director, is being formally requested.

Signature: Greg Sparks

Date: July 29, 2020

Human Resources Director Manager

Primary Reason Why Classification Exists

To perform managerial and administrative work focused on planning, organizing, and directing a comprehensive personnel management program for the Town of Nags Head.

Distinguishing Features of the Class

An employee in this class is responsible for the management of the human resources functions for the Town of Nags Head. Emphasis of the work is on defining operating policies and procedures for recruitment, selection and retention, employee relations, management and staff development, equal employment opportunity, classification and pay, employee benefits, performance review and merit pay, policy development, and personnel records. ~~Work is performed under the general direction of the Town Manager~~ This position reports to the Finance Officer and is part of the Administrative Services Department. ~~and p~~Performance is evaluated on the basis of attainment of specific performance objectives, personal observation, feedback from department managers and employees.

Illustrative Examples of Work

- Administers comprehensive personnel management programs including recruitment and selection, employee relations, management and staff development, equal employment opportunity, classification and pay, employee benefits, performance review and merit pay, policy development, and personnel records
- Prepares, processes and maintains personnel records and files; coordinates recruiting efforts and advertising of job vacancies; serves on various interview panels as needed; maintains applicant records
- ~~Writes~~ Prepares and administers personnel policies and procedures; determines long-range and short-term program goals and objectives; identifies program mission and scope of services; ~~develops, interprets, and enforces Town-wide personnel policies and procedures~~
- Resolves complex, sensitive and controversial issues involving all aspects of public personnel administration; consults with ~~Town Manager~~ senior management to resolve problems in resolution of problems
- Ensures Town's compliance with applicable federal, state and local statutes; advises Town's leadership on matters concerning human resources management and potential claims of discrimination; prepares summary reports for ~~Town Manager~~ senior management
- Presents, clarifies, and explains personnel program activities to Town Board or designated committees
- Conducts new employee orientation assisting with the completion of all new employee enrollment forms; ensures timely submission and enrollment of new employees in pay and benefits coverage
- Assists employees with personnel-related benefit questions; provides assistance to employees in resolving benefit issues; processes retirement applications.
- Serves as a professional technical consultant to management staff; when requested, provides guidance in the ~~utilization of staff, organizational design, and~~ development of new positions or staff roles

- ~~Administers department budget; assesses needs for additional resources; requests additional funding to support program growth and development; justifies budget expansion requests to Town Manager~~
- Conducts and/or monitors investigation of personnel grievances, complaints and incidents
- ~~Participates in key management decisions affecting the nature and scope of various municipal programs and services; provides input in the expansion or revision of existing programs and services; assesses recommendations for expansion or revision of programs to determine impact on the Town's human resources or related personnel management activities~~
- Serves as Deputy Safety Officer; investigates and prepares incident reports in coordination with the Safety Officer and department heads
- Administers Workers' Compensation program; completes OSHA mandated reporting
- Completes and submits Town position statements and documentation to Employment Security Commission and represents Town at unemployment hearings
- Performs other job-related tasks as required

Knowledge, Skills and Abilities

- Comprehensive knowledge of accepted theories, practices, and principles associated with public personnel administration and human resource management
- Comprehensive knowledge of applicable federal, state and local laws and regulations governing public personnel administration
- Comprehensive knowledge of standard personnel programs in job classification, wage and salary structures and compensation administration, employee relations, staff development, recruitment, selection and retention, and benefits administration
- Comprehensive knowledge of the Town's personnel policies
- Thorough knowledge of equal employment opportunity and affirmative action regulations
- Knowledge of organizational theory and human dynamics
- Knowledge of OSHA guidelines and workplace safety procedures
- Ability to present ideas effectively in written and oral form
- Ability to establish and maintain effective working relationships with Town officials, management, employees, and the general public
- Ability to exercise good judgement and discretion
- Ability to conduct detailed analysis and assessment of program information
- Ability to plan, organize, and manage multiple personnel management and benefit programs
- Ability to plan and coordinate periodic and annual employee recognition programs

Education

Graduation from an accredited college or university with a Bachelor's degree in human resources management, public administration, business administration, or other field of study or experience related to the nature of the work performed

Experience

At least 5 - 7 years of progressively responsible and broad-based professional experience in governmental or private sector human resource management

Physical Requirements

Work in this class is generally inside and sedentary. An employee must be able to move throughout Town facilities freely to perform or observe work. An employee must have such visual acuity as to be able to read and write handwritten and typewritten material including being able to read a computer screen. ~~An employee in this class must be able to talk and hear in order to be able to respond to the public and other employees~~

Working Conditions

Work is typically performed in an office setting with a temperature controlled environment and no exposure to external environmental conditions.

Special Requirement

- Valid North Carolina Driver's License
- Certification as a PHR or SPHR with the Society of Human Resource Management (SHMR) is desired

Storm Duties

This position is classified as essential personnel and must maintain duty assignment in adverse conditions.

FLSA Status: Exempt-Administrative

Disclaimer

This classification specification has been designed to indicate the general nature and level of work performed by employees within this classification. It is not designed to contain or be interpreted as a comprehensive inventory of all duties, responsibilities, and qualifications required of employees to perform the job. The Town of Nags Head reserves the right to assign or otherwise modify the duties assigned to this classification.

~~April 2016~~ August 2020



Agenda Item Summary Sheet

Item No: **J-1**
Meeting Date: **August 5, 2020**

Item Title: Town Attorney John Leidy - Request for Closed Session

Item Summary:

At the August 5th Board of Commissioners meeting, Attorney Leidy will request a Closed Session to discuss the pending case of Blackburn v Dare County, Town of Nags Head, et al to preserve attorney/client privilege in accordance with GS 143-318.11(a)(3).

Number of Attachments: 0

Specific Action Requested:

Provided for Board discussion.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

Insufficient information to determine precise fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Greg Sparks

Date: July 29, 2020



Agenda Item Summary Sheet

Item No: **K-1**
Meeting Date: **August 5, 2020**

Item Title: Interim Town Manager Greg Sparks - Presentation by Dominion Energy

Time Specific - 10:00 a.m.

Item Summary:

At the August 5th Board of Commissioners meeting, Ms. Katherine "Winnie" Wiseman, External Affairs, Representative III, with Dominion Energy, will provide a brief presentation to include a powerpoint presentation, of Dominion's project to install new electric transmission lines on US 158.

This item is time specific for 10:00 a.m.

Number of Attachments: 0

Specific Action Requested:

Provided for Board information and update.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

Provided for Board information and update.

Signature: Greg Sparks

Date: July 29, 2020



Agenda Item Summary Sheet

Item No: **K-2**
Meeting Date: **August 5, 2020**

Item Title: Interim Town Manager Greg Sparks - Project update
- West side US 158 Multi-Use Path Construction

Item Summary:

At the August 5th Board of Commissioners meeting, Interim Town Manager Greg Sparks and staff will provide a verbal update on the west side US 158 Multi-Use Path Construction Project.

Number of Attachments: 0

Specific Action Requested:

Provided for Board information and update.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

Update provided on the Multi-Use Path Construction Project.

Signature: Greg Sparks

Date: July 29, 2020



Agenda Item Summary Sheet

Item No: **K-3**
Meeting Date: **August 5, 2020**

Item Title: Interim Town Manager Greg Sparks - Discussion of Town Organizational Assessment/Recommendations

Item Summary:

Attached please find a forwarding memo from Interim Town Manager Greg Sparks subject entitled "Organizational Assessment and Recommendations" detailing the following organizational charts (also attached) for Board review and discussion:

Overall Organizational Chart
Fire and Ocean Rescue Department
Police Department
Planning and Development
Administrative Services
Public Works
Proposed Organizational Chart

Number of Attachments: 7

Specific Action Requested:

Provided for Board review.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

I will present/discuss with Board members.

Signature: Greg Sparks

Date: July 29, 2020

Benjamin Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Greg L. Sparks
Interim Town Manager



Town of Nags Head
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M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

To: Honorable Mayor and Board of Commissioners
From: Greg L. Sparks, Interim Town Manager
Date: July 23, 2020
Subject: Organizational Assessment and Recommendations

INTRODUCTION

The Board of Commissioners requested the incoming Interim Town Manager to review the organizational structure with the goal of improving communication and accountability within the organization. This report represents an initial assessment of observations and analysis, with recommendations for accomplishing the Commission's objectives.

BACKGROUND

-Organizational Structure

An initial review of organization structure based on the chart posted on the town's website and in other documents indicates that the Town Manager directs all departmental activities through the Deputy Town Manager (Appendix A). However, the Deputy Town Manager was overseeing Planning and Development, Administrative Services, Public Works, Town Engineer, and Information Technology, while the Town Manager directly supervised the two public safety departments and the Human Resources Director. This was further complicated in that the Public Works Director typically reported directly to the Town Manager and coupled with the remote location of Public Works has led to both overlapping and insufficient oversight of the department from the Town Manager and Deputy Town Manager.

Following is a review of departmental organization charts and structure issues:

-Fire and Rescue Department

The Fire Chief has two direct reports-Deputy Fire Chief who oversees six Captains at the two stations and the Ocean Rescue Captain who manages four supervisors of Lifeguards; Office Manager. (Appendix B)

-Police Department

The Chief has amended the Organizational Chart to reflect two direct reports: Deputy Chief who oversees operations through the Lieutenant over four Patrol Sergeants, Investigations Sergeant, and Animal Control; Office Systems Manager who oversees an Office Assistant. (Appendix C)

-Planning and Development

The departmental organization chart shows the Planning Director as a direct report to the Deputy Town Manager, and with one direct report-Deputy Director of Planning who oversees 10 positions: Administrative Assistant, PT Event Coordinator, Principal Planner, Zoning Administrator, Permitting Coordinator, Code Enforcement, Environmental Planner, Engineering Technician, and Chief Building Official and Senior Building Official. The Director has indicated that it has not functionally operated in the manner as indicated by the chart. (Appendix D)

-Administrative Services

Organization chart reflects the Finance Officer as a direct report to the Deputy Town Manager and that the Finance Officer oversees the Deputy Finance Officer who supervises six positions: Tax Collection, Accounting Technician, Payroll/Benefits Specialist, Customer Service Representative/Cashier, Water Billing and Customer Service Coordinator, and a PT Office Assistant. (Appendix E)

-Public Works

The current organization chart shows the Director as having three direct reports: Office Manager, Fleet Maintenance Superintendent, and the Facilities/Sanitation Superintendent. In addition, the Water Superintendent is also a direct report but is not reflected in the organization chart. Additionally, another organization chart shows the reporting structure to the Deputy Town Manager and includes the unfunded Deputy Public Works Director, as well as the Sanitation Superintendent and Sanitation Supervisor positions that are unfunded with the Superintendent combined with Facilities Maintenance. (Appendix F)

-Other Positions

Information Technology-includes the Coordinator and contractual services under the direction of the Deputy Town Manager.

Administrative Assistant/Public Information Officer-under the direction of the Town Manager.

Town Engineer-under the direction of the Deputy Town Manager.

Human Resources Director-Under the direction of the Town Manager. With the recent changes in the HR position the Town Manager has previously recommended that this position be amended to a Human Resources Manager under the general direction of the Finance/Administrative Services Director.

The Interim Town Manager has re-initiated weekly staff meetings with department directors, a weekly check-in meeting with Town Manager staff-Deputy Town Manager, Town Clerk, Administrative Assistant/PIO, and Deputy Town Clerk, as well as monthly one on one meetings with department directors for the purpose of improving communication and addressing significant issues and coordination of town services. One of the themes that has emerged both from the Commission

perspective and departmental level is the need for improved communication and the building of trust up and down the organization. Of concern is the perspective from Public Works that staffing issues are not given enough priority from management or the Board. With the upcoming retirement of the Public Works Director, timing is key for addressing several issues that impact the department.

The town has conducted strategic planning sessions in the past that included the Town Manager and Deputy Town Manager. However, department directors were not generally included in all aspects of the sessions. Department directors and the board have both noted that communication between the board and staff could be improved. Staff has questions about the board's priorities and the board would like more information from departments that demonstrate an effective approach to providing public services.

CONCLUSIONS

1. Departmental organization structures need to be evaluated for optimal reporting, accountability, and efficiency.
2. The group of "Other Positions" should be evaluated in terms of reporting requirements to the Town Manager and Deputy Town Manager.
3. All departments except Public Works have Deputy Director positions that are responsible for managing a significant number of staff.
4. The current Personnel Policy indicates that changes to job descriptions and the Position Classification Plan require Board approval. As a result, minor changes to job descriptions and the pay plan tend to be delayed due to the extra steps involved in making changes.
5. Communication can be enhanced between staff and the commission through strategic visioning and regular written and oral communication from the management team, and ongoing agenda review meetings between the Town Manager and Commission.
6. Public Works has an immediate need for additional supervisory staffing due to the previously approved combination of the Facilities and Sanitation Superintendent positions and not filling a vacated Sanitation Supervisor position.

RECOMMENDATIONS

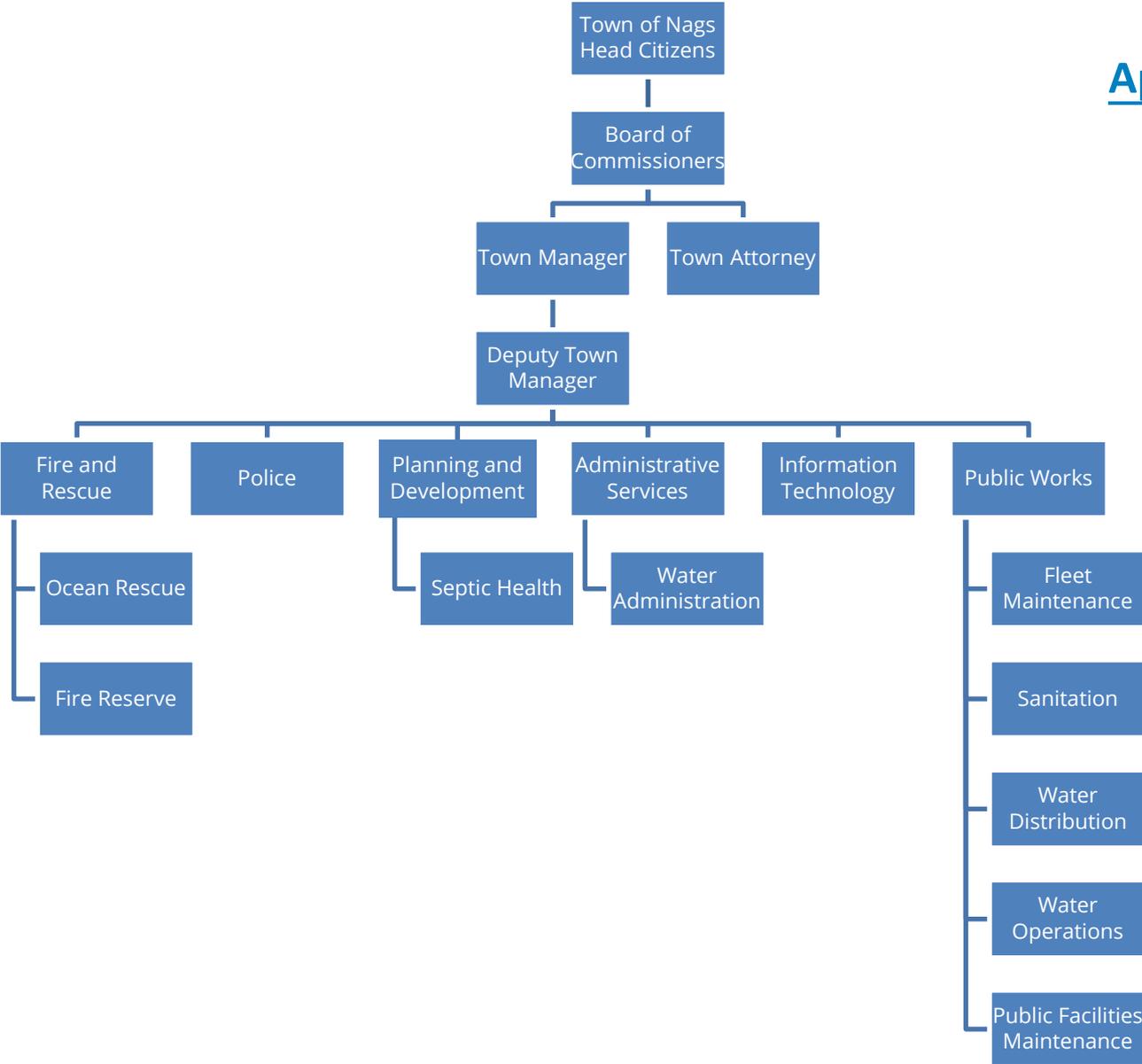
1. Refine organizational oversight responsibilities between the Town Manager and Deputy Town Manager. The Deputy Town Manager to be responsible for management oversight of Public Works, Planning and Development, and Information Technology. The Town Manager will directly oversee the Deputy Town Manager, Police, Fire/Rescue, Administrative Services, and Town Clerk.
2. Capital project planning and engineering functions should be coordinated to a higher degree with Public Works. The Deputy Town Manager and Town Engineer should establish weekly meetings with the Public Works Director and Superintendents to address capital project planning and on-going maintenance of public facilities. The Town Engineer would continue to be responsible for specific project engineering as well as managing outside engineering contracts.
3. The Administrative Assistant/PIO to be placed under the supervision of the Town Clerk.
4. The Human Resources Director to be re-classified as a Human Resources Manager at one salary grade lower (from a 16 to 15), and to be incorporated into the Administrative Services Department as a direct report to the Finance/Administrative Services Director.

5. Amend the Public Works organization chart to reflect the inclusion of the Water Division.
6. Public Works should re-institute the vacated Sanitation Supervisor position.
7. Amend the Personnel Policy to allow the Town Manager to approve changes to job descriptions and pay classification plan, if the changes are cost neutral or result in a decrease. Any changes that result in an increase in compensation or to a higher grade in the pay plan would continue to require Commission approval.
8. Schedule a strategic visioning session in the Fall of 2020 that has the active participation of all department directors with the Board of Commissioners.
9. Departmental staffing, use, and responsibilities of deputy director positions and general staffing issues should be reviewed for potential changes prior to the next fiscal year budget process.
10. Approve a revised organization chart. (Appendix G)

Appendices A-G

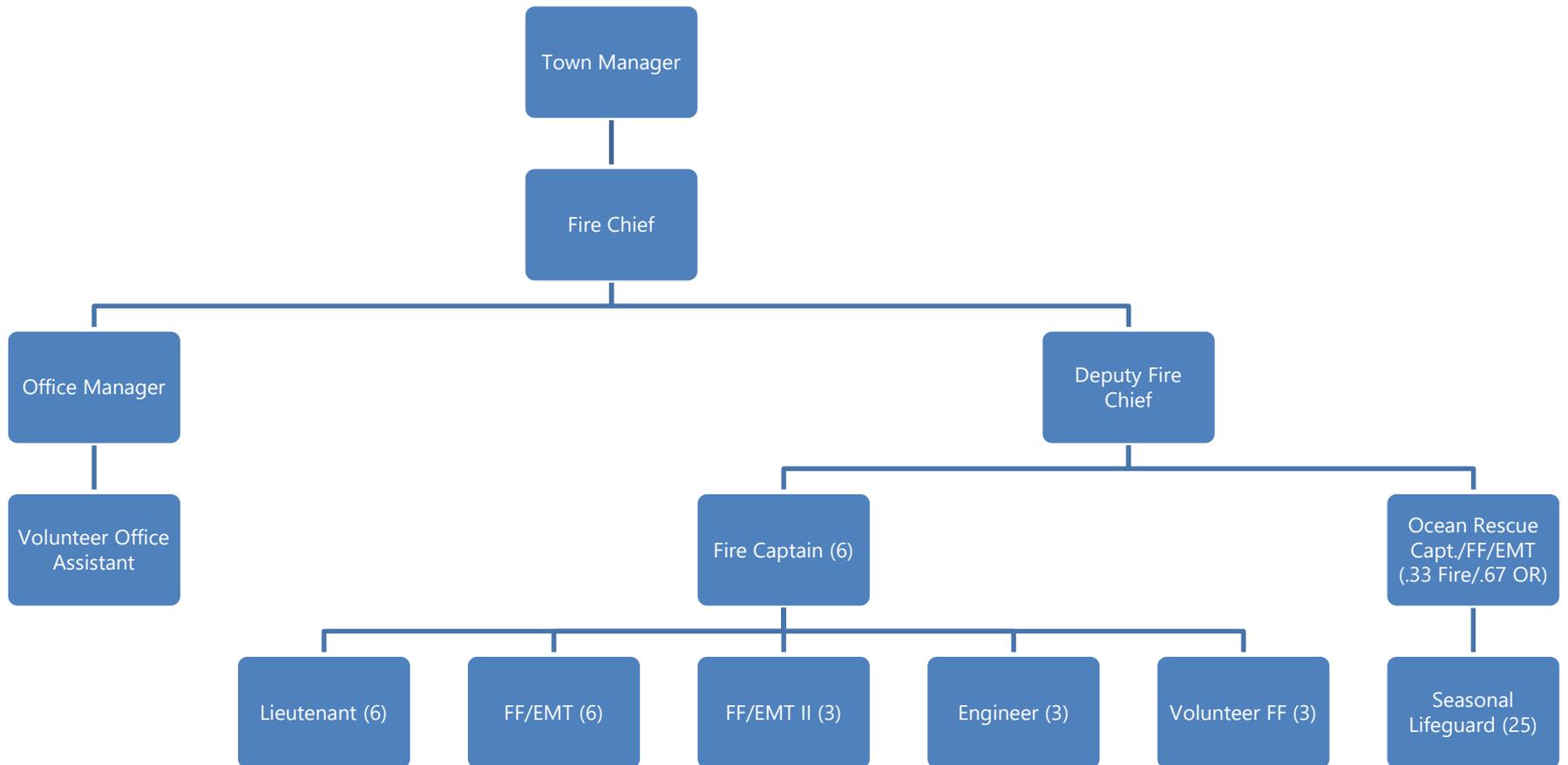
TOWN OF NAGS HEAD ORGANIZATION

Appendix A



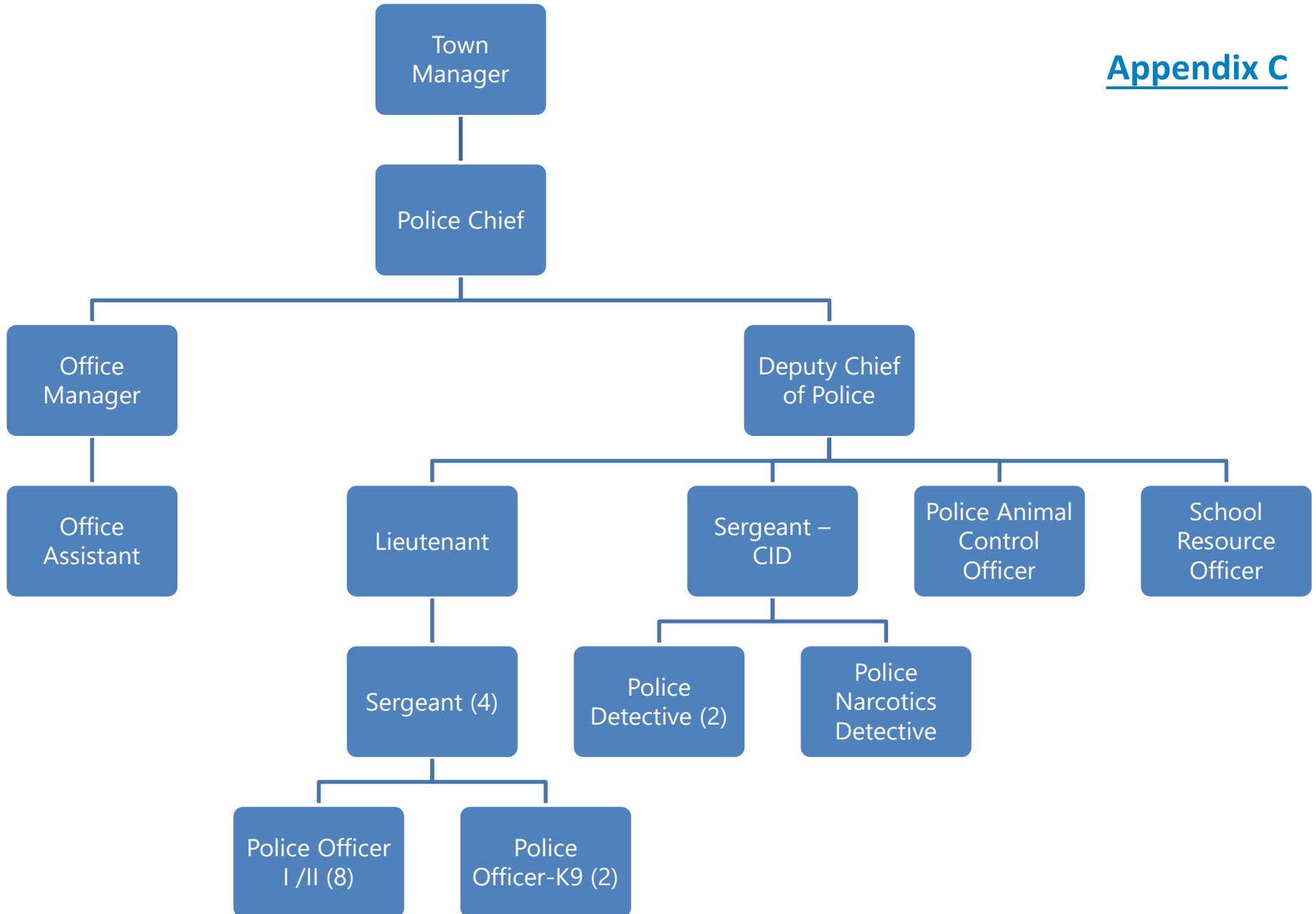
FIRE AND OCEAN RESCUE ORGANIZATION AND STAFFING

Appendix B



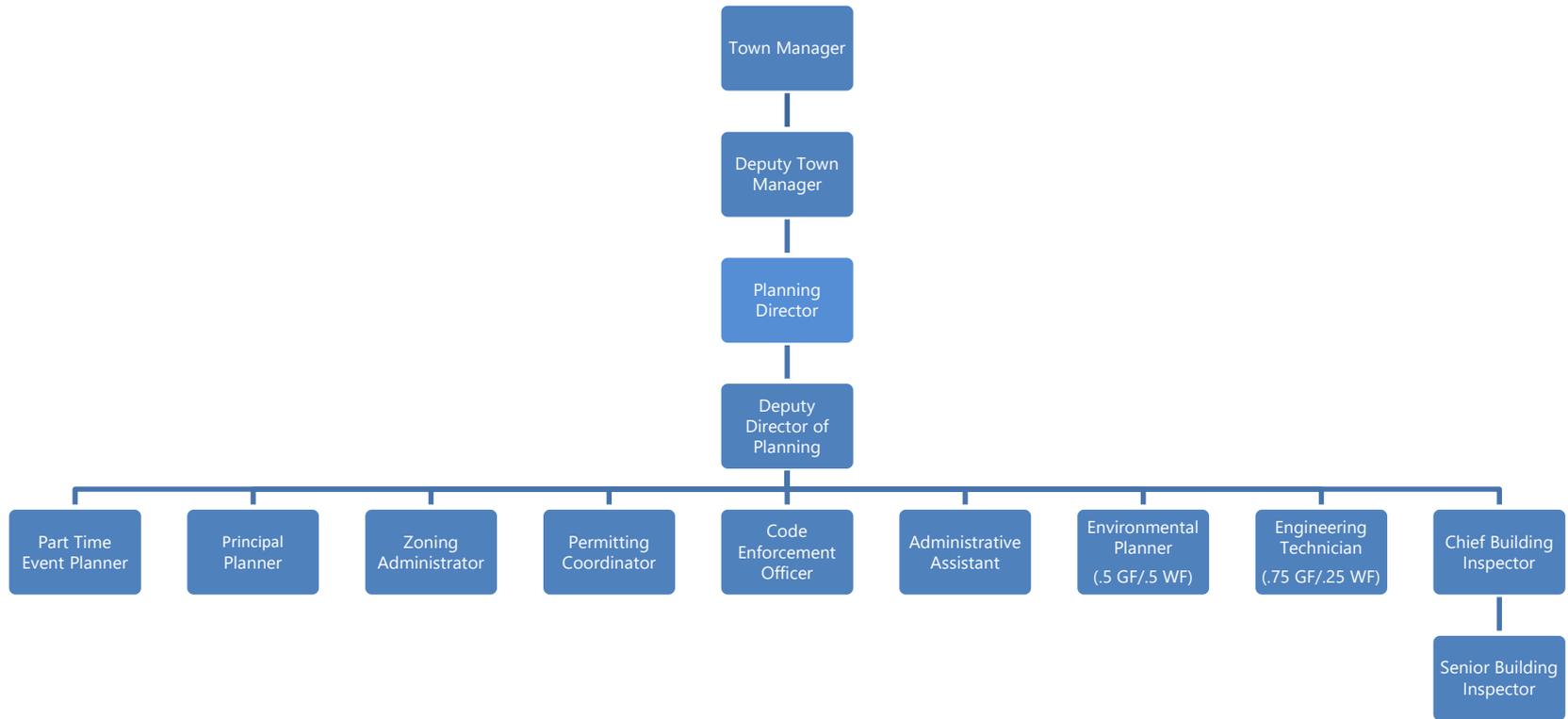
POLICE ORGANIZATION AND STAFFING

[Appendix C](#)



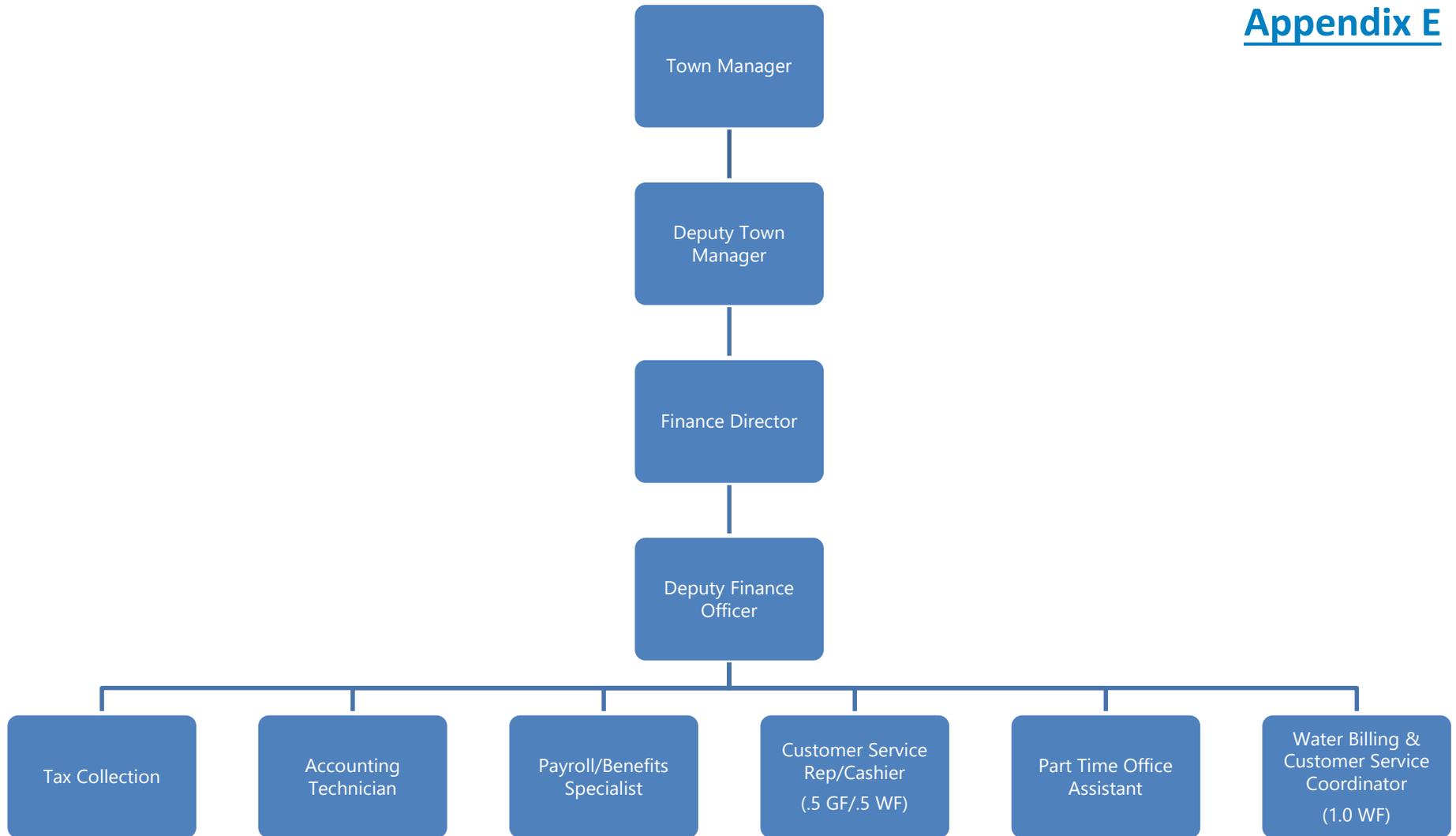
PLANNING AND DEVELOPMENT ORGANIZATION AND STAFFING

Appendix D



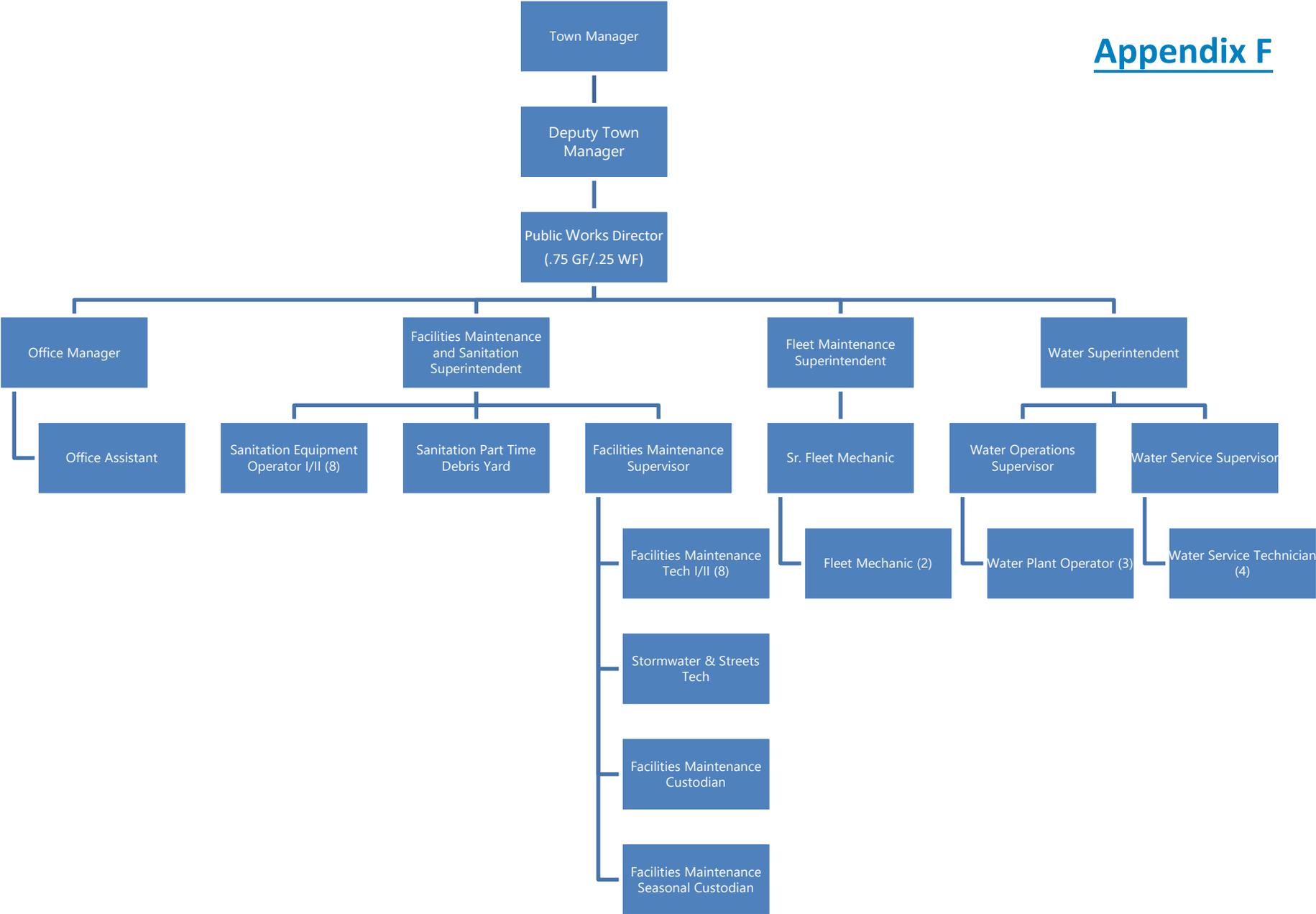
ADMINISTRATIVE SERVICES ORGANIZATION AND STAFFING

Appendix E



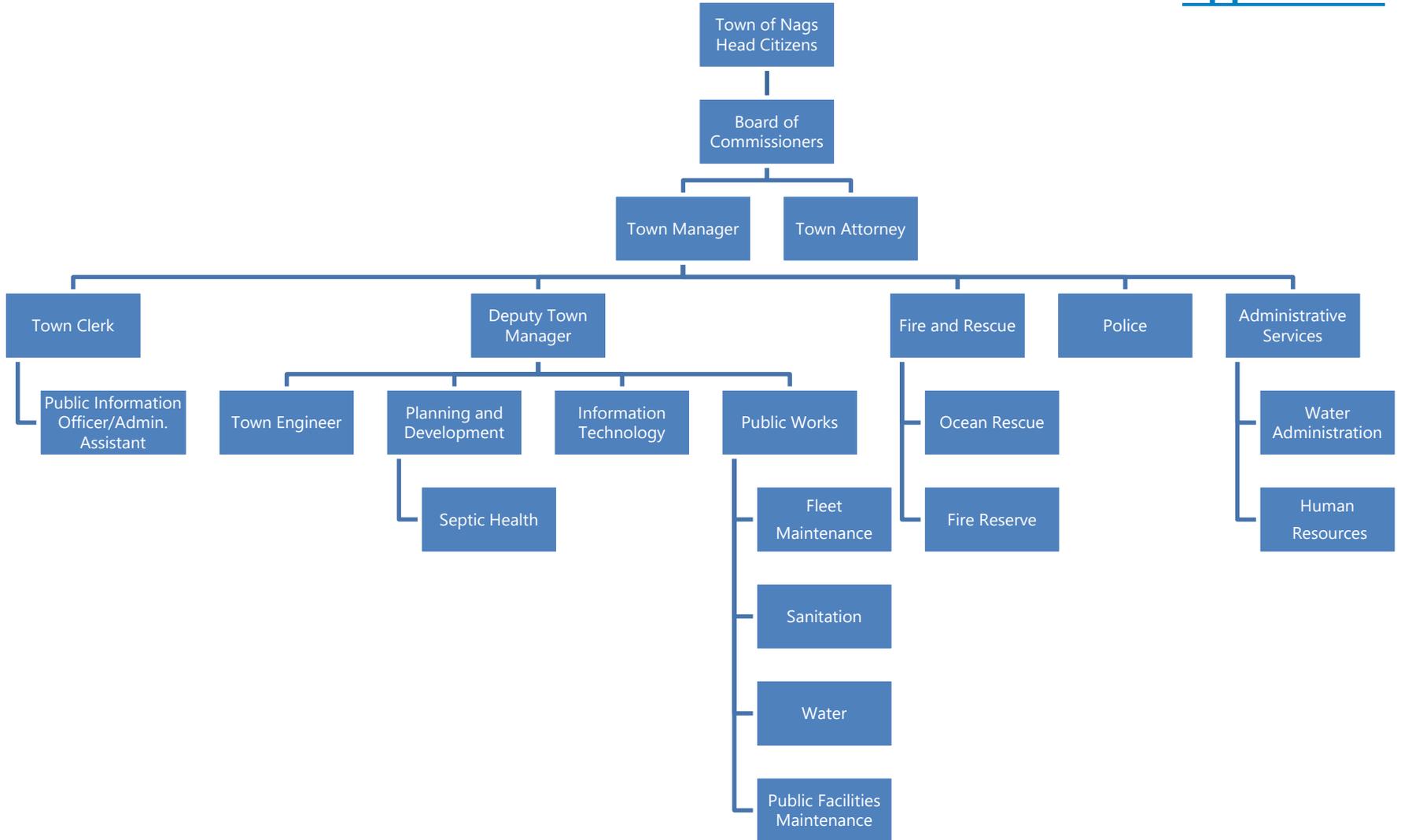
PUBLIC WORKS ORGANIZATION AND STAFFING

Appendix F



TOWN OF NAGS HEAD ORGANIZATION (PROPOSED)

Appendix G





Agenda Item Summary Sheet

Item No: **M-1**
Meeting Date: **August 5, 2020**

Item Title: Mayor Ben Cahoon – Future of Nags Head - from the Jan 23-24, 2020 Board Retreat

Item Summary:

One of the topics of discussion at the January 2020 Board of Commissioners Retreat concerned envisioning the future of Nags Head.

While this item will remain as a standing agenda item, discussion will continue once the Board can resume normal meetings.

Number of Attachments: 0

Specific Action Requested:

Provided for Board discussion.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

Insufficient information to determine fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks

Date: July 29, 2020



Agenda Item Summary Sheet

Item No: **M-2**
Meeting Date: **August 5, 2020**

Item Title: Mayor Ben Cahoon - Discussion of September 2020 Board Retreat

Item Summary:

At the August 5th Board of Commissioners meeting, Mayor Cahoon will discuss with Board members the September 2020 Board Retreat to include Retreat dates, use of a facilitator and possible agenda items.

Below is a note, in part, from Interim Town Manager Greg Sparks concerning proposed facilitator Richard Fursman of HueLife:

Attached is a proposal for a two-day strategic visioning of the Board and management team, for September 23rd and 24th, with a third day, the 25th being a follow up with staff to work on the implementation plan. The company is HueLife, based in Minnesota. Richard Fursman, the partner is a former city manager who earned an EdD in Organizational Development and has 13 years of experience in training and facilitation. Mr. Fursman has conducted sessions with the West Des Moines City Council/Staff for two years, and the Eureka Council/Staff for three years. I believe that he brings a strong and effective combination of real life city government management and leadership with academic and training experience.

Number of Attachments: 1

Specific Action Requested:

Provided for Board discussion on August 5th.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

Interim Town Manager Sparks confirmed with Finance Director Amy Miller that funds could be encumbered in FY 2020 to cover the cost (\$10,000) with a carryover purchase order.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

I will respond to any questions/inquiries.

Signature: Greg Sparks

Date: July 29, 2020



Town of Nags Head
Strategic Planning and Implementation
September 23-25, 2020



HueLife Values

INTEGRITY



Be worthy of trust.
Take responsibility.
Keep principles and
values present.

COURAGE



Be open.
Take smart risks.
Be a change agent.

RELATIONSHIPS



Build strong ties.
Develop and main-
tain caring support
systems.

HUMILITY



Be a servant leader.
Always be learning

Thank you for the opportunity

Dear Greg

On behalf of our team at HueLife, I want to thank you for the opportunity to submit a proposal for conducting a Strategic Planning Retreat with the leadership team in Nags Head.

Working with teams to develop strategic plans and high-performance is at the heart of what we do.

We are truly looking forward to the opportunity to work with you!

Richard Fursman Ed.D.
Co-Founder/Senior Consultant

HueLife
Richard.fursman@hue.life
651.338.2533



Proposal Overview

Strategic Planning and Execution

SUMMARY

The Town of Nags Head, NC would like to update its' current Strategic Plan, set expectations, and construct workplans. The Town has a new group of elected board members, Town Manager, and Department Directors who have not worked on their collective Vision for the community, or their shared expectations for operating and decision-making.

Scope and Outcomes A retreat will be conducted for the purposes of:

1. Setting a 3-5-year vision for the community
2. Reviewing the strategic direction of the Town and to ensure the focus is where it should be for the next year or two.
3. Elected and appointed leadership continue team building efforts toward the creation of a High Performing Organization
4. Constructing work plans to implement the Vision and Strategic Direction of the Board with the Department Director Staff
5. Identify guiding principles/values for staff performance

Process Points and Components

PART 1: Do brief, pre-event interviews with the elected officials for the purpose of designing the retreat (30 minutes or so per member)

- Calls placed at the end of July or early August

PART 2: Hold 2-Day retreat with Elected and Department Directors

- September 23 Objectives
 - Create shared Vision
 - Identify underlying contradictions/obstacles/barriers to achieving the vision
 - Identify Strategic Directions
- September 24 Objectives
 - Identify 2-year success indicators
 - Identify pillars of what would make Nags Head a High Performing Organization
 - How do we build it?
 - How do we hold ourselves accountable?

PART 3: Staff follow-up to complete implementation planning phase

- September 25
 - Build work plan from 2-years success indicators
 - Develop S.M.A.R.T. goals (Specific, Measurable, Achievable, Realistic, Timely)
 - Prepare report for Commission Adoption
 - Identify guiding principles/values for staff performance

PART 4: Write report and Commission Adoption of final plan

- Early October completed



Proposal Cost Overview:

COMPONENTS OF ENGAGEMENT	Time	Investment
PART 1: Do brief, pre-event interviews with the elected officials for the purpose of designing the retreat <ul style="list-style-type: none"> Use findings to finalize the agenda 	(30 minutes or so per member)	No Charge
PART 2A: Day 1 retreat with Elected and Department Directors <ul style="list-style-type: none"> Create shared Vision Identify underlying contradictions/obstacles/barriers to achieving the vision Identify Strategic Directions 	September 23 6-hour workshop	\$2,500
PART 2B Day 2: with Elected and Department Directors <ul style="list-style-type: none"> Identify 2-year success indicators Identify pillars of what would make Nags Head a High Performing Organization <ul style="list-style-type: none"> Imagine it How do we build it? How do we hold ourselves accountable? 	September 24 6-hour workshop	\$2,500
PART 3: Staff follow-up to complete implementation planning phase <ul style="list-style-type: none"> Build work plan from 2-years success indicators Develop S.M.A.R.T. goals (Specific, Measurable, Achievable, Realistic, Timely) Prepare report for Commission Adoption Identify guiding principles/values for staff performance 	September 25 4-6-hour workshop	\$2,500
PART 4: Write report and Commission Adoption of final plan [Report written by HueLife consulting team]	Due by Oct 2	\$500
	Prep, facilitation, and report	\$8,000
	Travel, Lodging, Materials Flights Hotels Rental Car Supplies	Reimbursed

HueLife Team Bios

Team assigned to the Braham Leadership Training

Dr. Richard Fursman and Irina Fursman a.b.d.



Irina Fursman is an engagement consultant, trainer and facilitator, as well as HueLife's co-founder and President. She is a Certified ToP® Facilitator and Mentor Trainer specializing in organization and team development, adult learning, change management, conflict resolution and strategic planning. She trains individuals and groups in the art and science of human engagement and facilitation.



Stephanie Ahles is the VP of Training and Development. She has 20 plus years of leadership experience in local government as well as experience and expertise working with for profit and nonprofit organizations. She is a Certified ToP® Facilitator and Mentor Trainer, specializing in leadership and organizational development, change and project management, and strategic planning.



Dr. Richard Fursman is a co-founder of HueLife, he has worked with over 200 public sector and non-profit organizations recruiting and placing senior staff, developing strategic plans, and helping organizations take steps to become more effective and great places to work. As a former City Manager, he advises, mentors, develops and coaches leaders across the United States and abroad, helps executive teams create a shared purpose, strategic plans, and implementation. He teaches leadership at St. Thomas U.



Megan Jacobson is the Insights Discovery Coordinator/Practitioner for HueLife. She has recently completed the ToP Mastery program and is working towards facilitation certification. She is experienced in facilitating teams towards shared awareness and shared agreement. Megan has a passion for working on projects related to youth empowerment, employee well-being and community engagement. Her caring and empathetic style helps bridge differences and heal teams in conflict.



Karie Terhark is a Certified ToP Facilitator and Qualified Trainer who previously worked as the Director for Allies for Substance Abuse Prevention Coalition (A.S.A.P.). While at A.S.A.P., she facilitated a countywide coalition of volunteers to assess, plan, and implement environmental strategies to change the culture around underage drug and alcohol abuse.



Jeremy Kautza is a certified ToP® Facilitator and Mentor Trainer with over 20 years of facilitation experience. He brings in depth expertise in strategic planning, conflict resolution, organizational change management, and interest-based negotiation. He also continues to serve the University of Wisconsin-Madison, facilitating the employee groups as they work to build their capacity for organizational change and improvement within complex systems.



Angie Asa-Lovstad is a Certified ToP® Facilitator and Mentor Trainer. Prior to joining HueLife, she served as the director of a local non-profit drug prevention coalition for 19 years. In this role, she facilitated the efforts of local drug prevention coalitions across all of Iowa. Today, Angie continues to support and coach coalition leaders in their efforts to engage stakeholders and develop strategic plans that meet the desired outcomes of the grants they have received.

HueLife
5775 Wayzata Blvd. #700
St. Louis Park, MN 55416

WWW.hue.life





Agenda Item Summary Sheet

Item No: **M-3**
Meeting Date: **August 5, 2020**

Item Title: Mayor Ben Cahoon - Discussion of Town Manager search firm selection

Item Summary:

At the August 5th Board of Commissioners meeting, Mayor Cahoon will discuss with Board members the selection of a firm to perform the Town Manager search.

Proposals have been received and forwarded to Board members from the following search firms:

Slavin Management Consultants (Proposal only)

Baker Tilly Virchow Krause, LLP (Proposal only)

Colin Baenziger & Associates (Proposal and appendices)

Developmental Associates, LLC (Proposal and two sample recruitment documents for Chapel Hill and Waxhaw)

The Mercer Group, Inc. (Proposal, sample recruitment document for Southern Shores, and three sample work products)

Number of Attachments: 0

Specific Action Requested:

Provided for Board discussion.

Submitted By: Administration

Date: July 29, 2020

Finance Officer Comment:

Insufficient information to determine precise fiscal impact.

Signature: Amy Miller

Date: July 29, 2020

Town Attorney Comment:

N/A

Signature: John Leidy

Date: July 29, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Greg Sparks

Date: July 29, 2020