



Town of Oak Island

Brunswick County, NC

The Town of Oak Island will preserve, protect, and enhance the quality of the natural and cultural environment of the community. In order to achieve this goal, the Town will improve the quality of its waterways, natural environment, beaches, dunes, water access and residential areas. The Town will maintain a unique scale and character that fosters a sense of community to make the Town a desirable place to live, work and call home, and a family vacation destination. The Town will also develop efficient sidewalks, bikeways, and roadway systems to protect its attractiveness in the future. The Town will also expand its recreational opportunities for residents of all ages and abilities. The Town will balance social and commercial needs and objectives for economic vitality.

Planning Board Meeting Agenda May 18, 2017 • 10:30 AM Town Hall • Council Chambers

I. START-UP

1. **Call to Order:**
2. **Additions or corrections to the agenda**
3. **Approval of the Minutes:** (3-13-2017, 4-20-2017)
4. **Public Comment:** Please state your name and address for the record.

II. OLD BUSINESS

1. **Flood Damage Prevention Ordinance**

III. NEW BUSINESS

1. **Conditional Use Permit – Mansfield Dwelling in Principal Business**
2. **Conditional Use Permit – Contractor Office with Storage**
3. **Text Amendment – Signage**
4. **Text Amendment – Ocean Front USACE – MHW line setbacks**

IV. REPORTS/UPDATES

1. **Board Member Reports**
2. **Staff Reports –**
3. **Updates from Council Meeting –** Pine Forest Assisted Living Community CUP, Golf Cart CUP, Outdoor Sales & Displays CUP, Tree ordinance

V. OTHER

Future Meetings: June 15, 2017 (Planning Board)
Adjournment

MINUTES
PLANNING BOARD
Monday, March 13, 2017—10:30 AM
TOWN OF OAK ISLAND COUNCIL CHAMBERS

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

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

Additions/Corrections to Agenda: Ms. Cashwell asked about the remaining discussion on signage. Chairman Manos said that the sign issue should be addressed at next UDO meeting. Chairman Manos then asked for Approval of Minutes from September 27, 2016, February 16, 2017 and February 20, 2017. There were no corrections and the Minutes were approved. There were no public comments.

Old Business: Gene Kudgus, the Town's Stormwater Engineer presented a review of the stormwater program. The 2009 NC State Stormwater permit has been renewed once; it requires the Town to have a stormwater program. He reviewed the components of the program with the Board:

1. Public Information and Outreach—provide publications to explain the program and how the public can participate.
2. Public involvement and Participation
3. Detection and elimination of pollutants in the stormwater runoff
4. Construction site run off controls
5. Post Construction site run off controls
6. Systems Controls

Mr. Kudgus said that #5, post construction run off controls, seems to affect the most. The Town has developed an ordinance to address this situation and it is guided and approved by the State. This ordinance has the language of retaining the first 1.5 inches of rainwater and Mr. Kudgus reviewed the many ways this can be done. The core of the ordinance for development requires the site mimic the hydrology of both pre- and post- development; once the home is put on the property, the same rate of infiltration must occur with man-made devices. The State simplified the pre- and post- requirement by the 1.5 inches of rainwater control and the many commercial devices used. Chairman Manos clarified that this refers to the impervious surface as a result of construction. Mr. Kudgus confirmed that the Town had not implemented new regulations, but that improper calculations led to a corrected calculation of volume storage. All the surveyors and engineers he has dealt with are on board and the submitted plans are now spot-on. The engineering requirement kicks in when the impervious surface exceeds 30%, when an engineered survey is required. He has done 220 site reviews since July, and he said he feels stormwater issues are going along quite well. Mr. Kudgus also referenced the stormwater devices taking up too much room and that they cannot coexist with trees. The Town's setback of 8 feet eliminated many trees as well and he explained that practically speaking, the actual building of a structure and the required 8 feet of room does not leave much room in order to construct the home. He said he did not believe it hinders the trees; Chairman Manos said that it is not the stormwater requirements that affect trees. Mr. Kudgus repeated that developers need construction room, and that stormwater is the number one issue in North Carolina but especially in a Town which is in one of 20 more restrictive Coastal counties in the State. Ms. Cashwell asked about houses being sold; Mr. Kudgus said that they are grandfathered in unless an addition or a pool is added. He then explained how the footage of the pool is determined; the pool is not

included as impervious, only the decking around the pool as the pool itself contains the water. Chairman Manos asked about the issue of stormwater; Mr. Kudgus has seen many areas for improvement, such as increased usage of silt fences. He added that Town staff has been working hard to address this issue. Ms. Pacula asked about the Town's work in containing its own stormwater; the crumbling infrastructure is not being repaired. Mr. Kudgus agreed that the Town is not doing enough, and he is working on a plan to work on maintaining 25 miles of ditches and 15 miles of pipe that have not been maintained in the last few years. He said he is working on prioritizing the worst areas and develop a plan that can address these issues. The flatness of the land lends to ditches silting up and not working; this is a very important area that needs to be addressed. Ms. Bowes asked about street end issues; Mr. Kudgus said this is again all a part of the plan and explained how it works in areas with road-side ditches that are cleared. Stormwater pollution is the reason that areas are closed for shell fishing. Ms. Pacula asked if these issues being addressed in the budget, and Chairman Manos asked whether it was a money or staffing problem. Mr. Kudgus answered that it was both, and that the Water/Sewer department has been very helpful in using the Jet-Vac truck in clearing sediment from the pipes. He explained that all the staff is working together on these issues. Mr. Kudgus explained to Chairman Manos that Development Services monitors construction sites. Chairman Manos then asked about contact from Town Council on stormwater ordinances and he said that he has discussed with Manager David Kelly regarding the language of the ordinance. He felt, in his opinion, there is no need to change the ordinance as it is working. Chairman Manos thanked Mr. Kudgus for his information.

New Business: Chairman Manos introduced the CUP item #1. Ms. Pacula said that her husband has a building in the district with an apartment that is not rented; Town Planner Jake Vares said there was not a conflict of interest. Chairman Manos asked that Mr. Vares provide the applicant's name in future Agenda Item Memos. Mr. Vares gave a summary of the memo. Chairman Manos asked about Conditional Use Standards and the conflict in the fees, and Mr. Vares said that the fee is actually \$500. The business presenting the CUP is ARC Wellness Center; Mr. Stiffler explained the concept of the Wellness Center. They have been operating since October and are proposing putting a residential area in the back so that he can live there. He said there would not be negative impacts, and that both surrounding businesses are live/work areas. Chairman Manos then asked how much of the area would be living space and Mr. Stiffler explained the layout that was included in the rendering of the location. He added that he has been practicing since 2008, with one year at Oak Island. Mr. Gullledge confirmed that he owns the property. Mr. Germaine asked about parking, with only three spaces in the front and two in the back, for his customers. Mr. Stiffler said that parking has not been an issue, and that regulations require one client space for each practitioner. He added that four cars can easily fit into his property lines; Mr. Germaine again said his major concern is parking. Mr. Gullledge said that the trailer in the back of the lot has been removed and he intends to clear an additional 15 feet of vegetation in the back of the lot that will allow for additional parking. He added that neighbors have cleared out their overgrown landscaping, and that parallel parking along the driveway may be possible. He said that at the back of the property, which is 50 feet wide, they could add plenty of additional parking and he again stated that they have great neighbors that always work together. Mr. Stiffler confirmed that the businesses work as a community; Mr. Germaine cautioned that this could change. Ms. Cashwell asked about entry between the business and the residence; Mr. Gullledge said there is a pass through and that the Fire Marshal did not require a firewall but that they would be installing a new door. Mr. Carpenter asked whether the Planning Board could direct that only an owner or leaser could be an occupant, as he was concerned that it could become a rental unit. As Mr. Stiffler understood the regulation, the required parking was based on the number of bedrooms, and the dwelling only has one bedroom. Chairman Manos asked about the rooms in the plan; there is one office space of 8 x 11 with no closet and one bedroom. Mr. Gullledge said it connects to the business, with only a door between the two; Mr. Carpenter said that he has seen things that one would not think would happen, and that he does not want to prevent Mr. Stiffler from living there. Mr. Jenkins asked about preventing other rooms in the business section from being rented out; he was expanding on what Mr.

Carpenter was asking about. Mr. Vares said this would require a change of use permit from the Town and it would depend on the Table of Uses in that district; it would be denied based on the Table. There was no public comment; Mr. Vares said it was an informal hearing, he had received a couple of phone calls and that was all. **Mr. Carpenter made a motion to approve the Conditional Use Permit with the added condition that the only occupants allowed were the owner or the lessee. Ms. Bowes seconded and the motion passed unanimously.**

New Business #2: Mr. Vares explained that this applicant was seeking to establish vested rights and that Dan Weeks, the applicant, was present. Mr. Vares gave a brief staff summary of the CUP for a PUD (Planned Unit Development). Dan Weeks, H&W Design in Wilmington NC addressed the Board and said that he was there on behalf of Equity Investments. He reviewed the plans that have been involved up to date. This project of 564 acres is the initial phase of the project, with 2,200 acres involved. The Corps has signed off on the wetland delineation of the property and the 564 acres (about 112 acres of which is wet). The initial project is mixed use; Mr. Weeks explained that they are trying to be as detailed as they can, and are projecting about 2,800 units. He listed the types of development, with a minimum of 90 acres of open space with plans to engage the wetlands as more than buffers. He explained that with the medical campus, assisted and independent living, this is a gateway to Oak Island and that this mixed use project promotes the area. Mr. Weeks then explained the concept of a "working farm," with a component to provide locally grown produce to the area as well as employment opportunities. This will be a community within a community, with open space areas. Chairman Manos asked where the initial development would occur, and Mr. Weeks explained the Phase 1 Concept Plan. There was discussion among the Board members regarding the two maps and the roundabouts. Ms. Bowes asked about the location of the existing shooting range in relationship to the project, and Mr. Vares explained that it was not in that area. She also asked about the access easement; Mr. Weeks explained that it could be an access point, if needed, on Midway Road. She asked about housing prices; Mr. Weeks said that it is too early, but that there will be a wide range and that the developer wants it to be a gateway. Ms. Cashwell said that this would not be located in Smithfield Township in response to Ms. Bowes' questions regarding supporting Doshier Hospital. Ms. Pacula confirmed that water and sewer would be with the County, but she wondered about fire services. Mr. Weeks said that highway access on 211 is about 4.5 miles, and that the Fire Marshal said they would work with the developer; however, they cannot get to that point at this time. Ms. Pacula re-stated that her concern was regarding services and the potential need for the Town to provide these services and Chairman Manos agreed. Mr. Vares said that site specific items would need review by the Town and that these items could be addressed at that time. Ms. Pacula noted that she is concerned about costs on the Town, but Mr. Vares said he would not have an exact answer. There has been a meeting with Equity Investments with all department heads, and that all responses were positive. Ms. Bowes asked about requesting that they set aside land for infrastructure; Mr. Vares said this could be handled with a Development Agreement that would be decided by the Town Manager or the Council. Chairman Manos asked for clarification as far as vested rights; Mr. Vares explained more detailed items would be covered by ordinances. Chairman Manos restated he would like an answer regarding what is and what is not in the paperwork and what the vested rights entailed. Ms. Pacula asked about the involvement with the Town of Navassa; Mr. Weeks explained that this was a typo. Mr. Weeks added that, as far as police and fire stations, the developer had discussions regarding placement and said that, at that point in time, there is an area that could accommodate the services. Ms. Pacula pressed as to who would be responsible for building the infrastructure for these services; Mr. Vares said adding this as a condition of approval could land the Town in hot water. Chairman Manos said that the Town will ultimately have to make an agreement; his concern was to ensure they are not overlooking something. Mr. Weeks added that the developer is pursuing grants to assist in providing opportunities to cover such areas. He added that the setbacks in the design are to use a smaller lot for a condensed, clustered development with more open space. Chairman Manos said that the original concept of The Charles was assisted living, and that this is going in a different direction. **Ms. Cashwell made a motion to approve the Conditional Use Permit**

for the vested rights of Pine Forest Plantation as presented. After further discussion, Mr. Germaine seconded and the motion passed unanimously.

Text Amendment/Shared Beach Access Walkway: Mr. Vares said that this is a citizen-initiated application and explained the language of the amendment. The benefit is that it is more environmentally friendly. Chairman Manos requested clarification as they are trying to change the Town ordinance regarding access to the beach and that any two adjoining properties could come to ask for a special use permit for a walkway. Mr. Vares explained that this gives an allowance for two properties to essentially build only one walkway. Ms. Cashwell questioned crossing the dunes; Mr. Vares was not sure, but that CAMA issues permits all the time. Mr. Jenkins questioned whether this would preclude property owners from building another individual walkway, resulting in three. Mr. Vares said wording could be added. Liz Bianchini explained that this is something that she has seen in many properties that she has sold in Carolina Beach. Mr. Germaine questioned the possibility of new owners changing the walkway, and she explained that restrictive covenants are in place and that owners understand that ownership responsibilities are their responsibility. Ms. Pacula questioned access to the walkway and Mr. Vares said it would be deeded to the home owners; Ms. Bianchini added that the walkways would come off the backs of the houses involved. Chairman Manos recounted a similar encounter he has had in drafting an agreement between two property owners and a shared pier. There was further discussion regarding past incidents regarding shared walkways. Ms. Cashwell again questioned whether these walkways would be over the dunes and Chairman Manos added his concerns. Ms. Pacula said that CAMA actually wants the walkways to go over the dunes; there was further discussion regarding walkways and dunes, CAMA permits and beach nourishment. Ms. Bianchini added that the shared aspect of the walkway stops for the turtles. Mr. Vares offered to contact Steve Edwards, Director of Development Services, regarding this situation for clarification for the Board.

Mr. Carpenter made a motion to table this discussion until the next Planning Board meeting for additional information and Ms. Bowes seconded. Mr. Jenkins said he would rather contact Mr. Edwards for the above mentioned clarification and take care of this matter. The Board decided to break to allow Mr. Edwards to join the discussion and the Planning Board recessed at 11:20 a.m. There was no action taken on the motion to table the discussion. The Planning Board reconvened at 11:29 a.m. when Mr. Edwards arrived.

Chairman Manos asked Director of Development Services, Steve Edwards, for clarification regarding walkways across the dunes. Mr. Edwards referred to Sec. 14-129 Access Provisions and said that these rules from the renourishment project of 2000 would still apply and that the crossovers are required on existing projects. Ms. Pacula asked about the existing project area; there is still a dune system where this project is proposed. These areas must still maintain the dune area; this specific property is still in the Turtle project per Ms. Pacula. Walkways stopped on the landward side of the dune, then beach entry was made laterally through cut-throughs. Chairman Manos asked about new project rules; Mr. Edwards said this would be discussed and that CAMA prefers walkways over dunes to protect them. Chairman Manos asked if there was anything in the Town rules that precludes one from building over the dunes; Mr. Edwards said the existing projects adhere to the rules, but that new projects could have new conditions. Mr. Jenkins questioned whether new construction had to stop landward of the dunes; Mr. Edwards said these are items to be discussed, and that Town Council will make the decision. Chairman Manos said that it makes sense, then suggested tabling this as it may not be applicable and that there are many that think walkways over dunes are desirable. There are no dunes now, and new rules should be applicable all across the beach. Mr. Edwards said there could be two walkways instead of one; he suggested making the text amendment compliant with Sec. 14-129. Ms. Pacula said this was discussed April 2016 and Mr. Vares confirmed this. Mr. Jenkins added this text amendment does not say that the walkway must cross over the dune, and that it could stop short of the dune. Ms. Cashwell said she would still like to table this

discussion. Mr. Edwards said they are looking at too many "what ifs"; they still have to get state permitting, and that once the dunes are back they will decide what access would be permitted. He said he feels reducing the impact with one shared walkway is positive, and that by not suggesting it is taking a step backward. Ms. Bowes asked what they would be approving; Mr. Edwards said that this would allow two property owners to put one walkway to the dunes, not over them. Mr. Vares added that Mr. Jenkins's suggestion regarding limiting to one walkway would be added. Mr. Jenkins noted that they would be making an amendment to 14-130. Mr. Edward brought up Sec. 14-130; there was further discussion.

Chairman Manos made a motion to adopt the text amendment as it is written; after further discussion, Mr. Jenkins seconded and suggested adding the caveat for only one walkway per home. Mr. Jenkins then explained to Ms. Bianchini the basis for this decision and this would limit to only one walkway for each home. After further discussion, Ms. Bianchini agreed to this addition to the text amendment that there will be only one single or shared walkway per residence as proposed by Chairman Manos. Ms. Pacula brought up the possibility of the steps touching public property; Mr. Edwards explained the accesses and the easement that allow for access over the dunes. He also explained public access to the dry sand beach and CAMA regulations regarding the access to this beach. Chairman Manos questioned whether these regulations would not be better than allowing dune protection by allowing structures to be built over the dunes. Mr. Edwards said that footpaths over the dune have less of an environmental impact than wooden structures that would leave more debris if removed.

Chairman Manos referred to the motion on the floor and confirmed there were no other additions than those made by Mr. Jenkins regarding one walkway per home. Mr. Vares verified that he will listen to the audio to ensure the wording of the additional component is correct. **Mr. Jenkins seconded the motion and it passed unanimously.**

Staff Reports: Mr. Vares said that the Council meeting is tomorrow night, and will include the two text amendments from the previous meeting. He introduced Marty Little, the new intern, who will be working with GIS. Ms. Bowes said the Parks and Recreation department had won a grant and will be building a handicapped access ramp on west 27th. Board members reported on having a successful meeting with David Kelly and Gene Kudgus.

Ms. Bowes made a motion to adjourn the meeting at 12:56 p.m. Mr. Carpenter seconded and the motion passed unanimously.

Chairman Ted Manos

Attested: _____
Lisa Stites, CMC

TOWN OF OAK ISLAND
PLANNING BOARD
April 20, 2017 – 10:30 A.M.
TOWN HALL COUNCIL CHAMBERS

Present: Chairman Ted Manos, Vice-chairman Denise Pacula, Board members Bob Germaine, Cathy Bowes, Helen Cashwell, Bob Carpenter and Clay Jenkins, Town Planner Jake Vares and Human Resource Officer/Clerk to the Board Debbie Lasek.

Chairman Manos called the meeting called to order at 10:30 a.m. He led the Pledge of Allegiance to the Flag and gave the invocation. There were no additions or corrections to the Agenda and there were no minutes to approve.

Old Business

Text amendment to Tree Ordinance: Mr. Jenkins has reviewed the ordinance. Mr. Vares reviewed the joint meeting between the Planning Board and the Tree Committee and explained several modifications to the amendment. It essentially allows homeowners to cut trees in an inconvenient area and sets up a tree protection fund. Mr. Jenkins added that he tried to keep his personal feelings aside, that the Town is 75% developed and that he tried to allow people to remove trees easily, but also to leave trees and pay into a fund for tree protection. Chairman Manos said he liked the changes, but had a few questions. In 32-76.1 under section B1, he suggested adding the words "at planting" in regards to the trees and shrubbery specifications. After discussion, this was acceptable. Section C was also questioned; Mr. Jenkins said this was the wording present in the plan. Mr. Vares said this is what he refers to with commercial applications, not residential development. After further discussion, Chairman Manos asked where the vegetation buffer would be, and Mr. Vares said he would determine at a site plan review for compliance. The Board discussed whether a buffer would be necessary if a commercial property had parking in the back; Mr. Jenkins explained this section concerned buffer requirements for a parking area, and that other areas are addressed in other ordinances. Chairman Manos moved to 32-76.1; Mr. Jenkins explained that this was to protect the roots of the tree, and that roots would be clean cut rather than scraped. Ms. Bowes reported a typo on 32-80 B1. She also asked if the tree fund would be used exclusively for trees; the Board recommended leaving it for just trees. Ms. Cashwell said she did not think any homeowner with a dead tree should have to pay \$50; Mr. Jenkins said that he had considered this, but that he wanted to add to the Tree replenishment fund. After further discussion, Mr. Jenkins said he did not disagree and that it could be scratched if they did not want to raise funds for additional trees for the island. He also added that there is a hazard section in the ordinance that addresses dead trees. After further discussion, the Board wanted to add in that if the Town comes out and says a tree must be removed, then the \$50 permit would not be required. Mr. Vares reviewed language that could be used, and the Board agreed to this change. Ms. Pacula asked about Arbor Day, and Tree City USA member Jane Kulesza said that the Town issued a proclamation. Mr. Jenkins said that the Town must have an Arbor Day celebration in order to be a Tree City. Ms. Kulesza explained how the Tree City Board organizes the event and the proclamation involved, and that the Town employees do not work it. The Town hosts it, at the will of Council, as to whether the Town is a Tree City USA. It must be renewed annually. Mr. Vares said that the appropriate language will be added. Ms. Pacula then added several changes and then moved on to bush hogging and the diameter of the trees to be taken out; Mr. Vares said that the change was adopted by Council and that he cannot recall the exact diameter at this time. Ms. Pacula questioned the definition of "vegetation plan" and Chairman Manos explained the definition. Mr. Vares then said that a photograph may, at times, be acceptable for the plan. Ms. Pacula then questioned the \$50 fee per tree; Mr. Jenkins said that this was an arbitrary amount that he came up with for the permit and that it would cost additional money to have the trees cut down. This money would allow the Town to buy live oaks to replace the trees that were cut down. Mr. Jenkins again explained the text amendment to Chairman Manos regarding the permit fees and the per tree fee that would be required if a homeowner with an existing home wanted to cut down his trees. He tried to

consider property rights along with tree protection in this amendment. There was further discussion regarding property rights and the fees involved in this ordinance and the costs of replacement trees. Director of Development Services Steve Edwards noted that palm trees are acceptable as a replacement tree. John Coble, a licensed landscape contractor, added that there is a lot of open, gray area when talking of palm trees and native trees. He would recommend specifying the height of the palm trees involved, and also to consider trees such as a multi-trunk crepe myrtle. Mr. Jenkins said that this ordinance specifies the types of plants that can be used; there are choices to be made, and he doesn't think they should limit it any further. Chairman Manos added that it is confined to the island side.

Ms. Bowes made a motion to adopt the Text Amendment to the Tree Ordinance with the changes regarding tree removal fees as discussed by the Board. Mr. Carpenter seconded and the motion passed unanimously.

Conditional Use Permit for Pine Forest Senior Living Center: Mr. Vares explained that this is for an assisted living center. This is permissible in the zoning district of the location but they must apply for a CUP. A simple majority is needed to pass the vote, and then it will be passed on to Town Council. Daniel Weeks made a presentation regarding the 14-acre site that is intended to be a "campus," with 150 units in assisted living, 80 units in skilled nursing care, and additional units in memory care. He explained the timeline of Pine Forest Plantation and said they are trying to enhance the site with plantings, but the Infinity Living Group mandates there be no water areas on site. Ms. Pacula asked about parking accommodations and it was corrected to four areas. She also asked about height limits, and Mr. Weeks said it would not exceed 35 feet per the current zoning. She suggested this be added. Ms. Pacula asked Mr. Vares about the current Table of Uses; she could not find any listing for skilled nursing, and Mr. Vares suggested bringing it up to Mr. Holland at the next UDO meeting. Chairman Manos confirmed with Mr. Weeks that the assisted living is individual apartments; independent living apartments could house residents as a single or as a couple. Ms. Pacula again questioned parking; Mr. Weeks said it was based on 1.25 cars per unit, and that residents could not have 2 cars per the HOA. Mr. Vares said he has done a zoning compliance review, and that this plan meets their minimum requirements for an assisted living facility. Ms. Pacula wanted to add something to the UDO regarding parking; Chairman Manos agreed that this would be needed. Mr. Weeks added that these are projects; the parking for apartments is for a residential use, and that this parking would be open for everybody. He explained that when residents come into this for independent living, they have no need of parking. He feels that it would be up to the facility as to who would have these spaces and that sometimes sites are "over parked" with more spaces than are used. Ms. Bowes said that her experience is that people do bring cars, as often times they just "downscale." Mr. Weeks agreed with her; every municipality he has every dealt with has a wide degree of parking requirements. The development will use whatever the Town mandates, but he hates to take trees down to provide for parking. Ms. Pacula then explained that the Town does not have provisions to deal with these situations in the UDO. Mr. Weeks said he thinks that the number of parking spaces is fine, and that anything above 1.5 is excessive. Mr. Germaine mentioned the Cedars in Chapel Hill and it appears that they have never had parking problems. Mr. Weeks said this is a managed facility; these people know what they are doing and they do it well. This ratio he is providing is 1.25; Ms. Cashwell agreed with this figure. **Ms. Pacula made a motion to grant the Conditional Use Permit to Pine Forest Plantation. Ms. Bowes seconded and the motion passed unanimously.**

CUP—Outdoor Sales and Displays: Mr. Vares gave a brief explanation regarding the request for the corner of SE 50th and E. Oak Island Drive. He confirmed to Chairman Manos that surrounding neighbors were notified. John Coble explained that he is leasing the property. They have worked on improving the appearance of the property, and added a storage building; this is when the Town notified them of the need for a CUP. He is setting up for landscape bulk material sales; his main office is on U.S. 17 and another location is in Ocean Isle. Ms. Bowes questioned parking and truck deliveries; Mr. Coble said there is one

dump truck on site, that deliveries depend on the product and that there is an access road off 49th street that comes behind the pawn shop so that traffic is not impeded. Parking is not an issue for their customers. They have no access to 50th. Chairman Manos said he has not had a chance to review this location and Mr. Coble explained the clean-up and improvements made to the property since he took over the location. Chairman Manos questioned whether this property would be a “good neighbor” for the potential Publix location and admitted that this was a personal question. Mr. Coble said this was his plan, as this is his business and they have already added plantings. He also asked the VFW if they would like screening around his plant material, and though they have not responded, he is willing to install it. Ms. Pacula asked Mr. Vares about the zoning district; Mr. Vares said it is listed in the CB district and this mistake has been reported to Brunswick County. She expressed concern with compliance with the Land Use Plan and the UDO; she questioned if this would not be a conflict. Mr. Vares said that this is allowed with a CUP; Ms. Pacula stated that this goes against the adopted Comprehensive Land Use Plan. Mr. Vares said that he can make a case against the Land Use Plan for a whole plethora of uses, and that he did not hear outdoor sales and displays in her list. Mr. Carpenter said that they are really maintaining what is already there; he commended the cleanup of the site, but he questioned whether the material moved to the next door site would be taken care of. Mr. Coble said that the land is Mr. Shannon’s; Mr. Carpenter said that the material is not on property that he is leasing, and that he is using another sliver of property to park his dump truck. Mr. Vares said that he could amend the application. Mr. Coble said he could move that property. Mr. Coble also stated that they are installing a well, and the VFW is providing water temporarily. Mr. Carpenter wanted to table the discussion until they have their own water source and that the material in question has been removed and the site cleaned up. After further discussion, Steve Edwards, Director of Development Services, stated that Mr. Coble cannot obtain other permits, such as for water or electric, until the CUP is obtained. Mr. Carpenter again questioned whether the approval of the CUP could be conditional on the removal of the debris and the Board agreed that this could be considered; Chairman Manos reminded the Board that the applicant would still have to go before Council. After further discussion, Mr. Jenkins asked what issues would result if Mr. Coble lost the access behind the pawn shop and that he would not be in favor of declining this due to the Land Use Plan. Mr. Carpenter agreed with Mr. Jenkins that the property was greatly improved. Ms. Pacula said that she did not feel this was an outdoor display; Mr. Vares said that if a new proposed use does not quite fit into the table of uses, the Board must use their best judgment as to what is applicable. If the contents of the CUP are modified, it would have to go back before the Board of Adjustments for permission to change the compliance. Ms. Pacula expressed concern that the site could, with a bad economic turn, decline again; Mr. Vares said there is language that could address this. Conditions have to be proportional to what is being asked, and they must also be conditional. After further discussion, Chairman Manos and Ms. Pacula said they would feel comfortable to grant the CUP with conditions, and that those are that it be cleaned up with and independent water source. He also asked about the access; he feels the document provided was lousy and that pictures were not provided and that he had questions about the access. Mr. Jenkins said there is no legal easement or right of way; it is a neighbor allowing him to use the property. There was further discussion regarding traffic and access to this property. Mr. Edwards answered Ms. Pacula that a culvert could be added and a driveway added to 50th street for additional access. Chairman Manos suggested obtaining a legal easement from the property next to this business. Mr. Carpenter asked Mr. Vares if he could add new language; Mr. Vares said he would verify and confirm before bringing this before Council. Ms. Pacula added that the County would also have to fix the zoning. There was further discussion among the Board members regarding access to the property if he were to lose his access behind the pawn shop. Mr. Coble said the “sliver” behind his property could be used for only his use; Chairman Manos said that it was not a not an issue then. **Mr. Carpenter made a motion to approve the Conditional Use Permit with conditions to clean up the lot and obtain an independent water source. Chairman Manos added the condition that landscaping be added on the south and east side of the property. Mr. Germaine added a condition that electrical service be added. Mr. Germaine seconded the motion. Mr. Vares interjected that these are recommended conditions from the Planning Board; Chairman**

Manos asked the applicant if he was agreeing to the conditions and he said he was. Mr. Coble again said he could ask the VFW about adding landscaping or a fence. Mr. Vares said he could have the Planning Board add conditions. The Planning Board passed the motion unanimously.

CUP—Recreational Vehicles and Repairs: Applicant Vern Marley wants to sell golf carts at 4801 E. Oak Island Drive. He is a licensed manufacturer of Low Speed Vehicles (LSV) that will be built with nothing stored outside. He operates out of Asheboro on 2.5 acres of land; Mr. Vares noted that the photos are mostly of his headquarters. He would use the front building as an office to sell golf carts and eventually rent them at some point in time and that the back building would be used for a garage. He said that there will not be golf carts outside when the business is not open. Kelly Germaine said that he should refer to them as licensed golf carts; the Board did say that he said street legal golf carts. Mr. Germaine said his concern was that a previous study indicated that the island infrastructure cannot support golf carts. Mr. Carpenter said that his selling and servicing golf carts does not affect the speed limit that golf carts are driving. Ms. Bowes said that they should want to encourage tourism, and that we should have businesses on the island to cater to this. She said she feels this would be a good business to encourage visitors to come to the island. Mr. Carpenter agreed, and said that having a place to drop off for service would be agreeable. Ms. Pacula asked if he would provide inspections, and he said his business plan is to include this service. There was further discussion regarding golf carts and whether they should be on the island. Mr. Marley said he has been in business for 35 years selling golf carts; Chairman Manos said he has heard that the applicant is a very good business man. Mr. Marley clarified that the building is being leased, and that his plan is to have an office in the front and a shop in the back, with parking LSVs around the property and that there are four parking spaces present. He anticipates having 6-10 golf carts at a time for sale or rent. Mr. Carpenter verified that there would be room for his trailer that is used for transporting carts. Mr. Vares verified the standards that apply for this CUP and read them to the Board.

Ms. Cashwell made a motion to approve the Conditional Use Permit as presented. Ms. Bowes seconded and the motion passed with Mr. Germaine opposed.

Kelly Germaine, Public comment, said she wanted to say good luck to Mr. Marley but she also wanted to mention to the Board that they need to do something about the infrastructure regarding golf carts. She emphasized the traffic projections that are in the Comprehensive Plan and that they need to look at future transportation plans.

Mr. Vares confirmed that the next Planning Board meeting is May 18th and the UDO meeting is April 27th. He added that all three items from last month's meeting were adopted at the last Council meeting. Mr. Vares then said that Helen Cashwell and Bob Carpenter both have terms that are ending in August and that he will check to see if Chairman Manos' term is also ending. The time of the UDO meeting was confirmed as 10 a.m. Mr. Carpenter noted that the next UDO meeting would be the Thursday before Memorial Day and wondered if it should be changed; Mr. Vares said he would check with Dale Holland before changing the meeting time.

Mr. Carpenter made a motion to adjourn the meeting. Ms. Bowes seconded and the Planning Board meeting adjourned at 12:55 p.m.

Ted Manos, Chairman

Attested: _____

Lisa P. Stites, CMC
Assistant Manager/Town Clerk

FLOOD DAMAGE PREVENTION ORDINANCE

Coastal Regular Phase

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

Municipal: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

County: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the _____ (*governing body*) of _____ (*community name*), North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT.

- (1) The flood prone areas within the jurisdiction of _____ (*community name*) are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION C. STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this ordinance are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (7) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

“Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.

“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Building” see “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Coastal Area Management Act (CAMA)” means North Carolina’s Coastal Area Management Act, this act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources’ (NCDENR’s) Division of Coastal Management (DCM).

“Coastal A Zone (CAZ)” means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LiMWA))

“Coastal Barrier Resources System (CBRS)” consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or State governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

“Coastal High Hazard Area” means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Article 3, Section B of this ordinance, as Zone VE.

“Design Flood” means the flood associated with the greater of the following two areas:

- (a) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- (b) Area designated as a flood hazard area on the community’s flood hazard map, or otherwise legally designated.

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before _____ (*insert date the community’s first floodplain management ordinance was adopted*).

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

“Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

“Limit of Moderate Wave Action (LiMWA)” means the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

“Lowest Adjacent Grade (LAG)” means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“Mean Sea Level” means, for purposes of this ordinance, the North American Vertical Datum (NAVD) as corrected in 1988, to which Base Flood Elevations (BFEs) shown on a DFIRM are referenced. North Carolina uses NAVD 1988.

“New Construction” means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

“Non-Conversion Agreement” means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk’s or recorder’s stamps and/or notations that the filing has been completed. (**OPTIONAL**)

“Non-Encroachment Area (NEA)” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“Otherwise Protected Area (OPA)” see “Coastal Barrier Resources System (CBRS)”.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before ____ (*insert date of community’s first FIRM*) (**OPTIONAL**), the effective date of the initial Flood Insurance Rate Map.

“Primary Frontal Dune (PFD)” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

(Alternative acceptable language for Reference Level) “Reference Level” is the bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE *plus* ____ () *feet of freeboard*. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least ____ () feet above the highest adjacent grade. *(Two (2) feet is a State-recommended minimum, greater than two (2) feet is **OPTIONAL**.)*

“Remedy a Violation” means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

“Sand Dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

“Shear Wall” means walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the

main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed 50 percent (**<50% = 20 CRS points possible OPTIONAL**) of the market value of the structure before the damage occurred. See definition of “substantial improvement”. *Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. (The last sentence is OPTIONAL but required for eligibility for Increased Cost of Compliance (ICC) benefits for repetitive losses.)*

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent (**30 percent recommended, <50% = 20 CRS points possible OPTIONAL**) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area. (**OPTIONAL**)

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, *including Extra-Territorial Jurisdictions (ETJs),[if applicable]* of _____ (*community name*).

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated _____ (*Insert effective date shown on FIS*) for _____ (*Insert County name*) County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of _____ (*community name*) are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of _____ (*community name*) or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. . Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent _____ (community name) from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The _____ (staff title), hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this ordinance. The Floodplain Administrator may delegate performance of certain duties to other employees.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

- (1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
 - (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
 - (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 - (v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;
 - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (vii) The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable; and
 - (viii) *The certification of the plot plan by a registered land surveyor or professional engineer. (OPTIONAL)*

- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to mean sea level to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
 - (iii) The following, in Coastal High Hazard Areas, in accordance with the provisions of Article 5, Section B(4)(e) and Article 5, Section G and (Article 5, Section H if applicable):
 - (1) V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs; *In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction. (OPTIONAL);*
 - (2) Plans for open wood latticework or insect screening, if applicable; and
 - (3) Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.
- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

- (2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:
- (a) A complete description of all the development to be permitted under the floodplain development permit (i.e. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
 - (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.
 - (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
 - (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
 - (e) All certification submittal requirements with timelines.
 - (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met.
 - (g) The flood openings requirements, if in Zones A, AE, AH, AO, A99.
 - (h) *Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only). (OPTIONAL)*
 - (i) *A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage. (OPTIONAL)*
 - (j) *A statement, if in Zone VE, that there shall be no fill used for structural support. (OPTIONAL)*
 - (k) *A statement, that all materials below BFE/RFPE must be flood resistant materials. (OPTIONAL)*
- (3) **Certification Requirements.**
- (a) Elevation Certificates
 - (i) *An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. (STATE RECOMMENDED BUT OPTIONAL)*
 - (ii) *An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project. (STATE RECOMMENDED BUT OPTIONAL)*

- (iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. *The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable. (OPTIONAL) (THE FEMA ELEVATION CERTIFICATE IS OPTIONAL FOR FLOODPLAIN MANAGEMENT ELEVATION DATA, BUT RECOMMENDED. THE USE OF THE FEMA ELEVATION CERTIFICATE IS REQUIRED FOR THE PURCHASE OF FLOOD INSURANCE AND MANDATORY FOR CRS PARTICIPATION.)*

(b) Floodproofing Certificate

If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- (c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (e) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
- (i) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
 - (ii) Temporary Structures meeting requirements of Article 5, Section B(7); and
 - (iii) Accessory Structures that are _____ square feet (150 recommended) or less or \$ _____ (\$3,000 recommended) or less and meeting requirements of Article 5, Section B(8).

- (f) A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this ordinance are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this ordinance. This certification is not a substitute for an Elevation Certificate. . *In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction. (OPTIONAL)*

(4) **Determinations for existing buildings and structures.**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When BFE data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D(2)(c), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
- (13) *When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file. (OPTIONAL)*
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Article 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. CORRECTIVE PROCEDURES.

- (1) Violations to be corrected: When the Floodplain Administrator finds violations of applicable State and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than (____) calendar days. (*One-hundred-eighty (180) calendar days or less is recommended*) Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

SECTION E. VARIANCE PROCEDURES.

- (1) The _____ (*appeal board*) as established by _____ (*community name*), hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance. (*The Board of Adjustment is the recommended appeal board.*)
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
 - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- (9) Conditions for Variances:
- (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
- (a) The use serves a critical need in the community.
 - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
 - (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
 - (d) The use complies with all other applicable Federal, State and local laws.
 - (e) The _____ (*community name*) has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches. If replaced as part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet these provisions.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of “new construction” as contained in this ordinance.
- (9) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage

facilities shall not be permitted, except by variance as specified in Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).

- (11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (15) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- (17) Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not approving Conditional Letters or Letters of Map Revision - Based on Fill (CLOMR-F or LOMR-F). **(maximum 280 CRS points possible)**
(OPTIONAL) Note: this should be consistent with Article 5, Section G (11)(e).

SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section I (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and the inspection and maintenance plan.

(3) Manufactured Homes.

- (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4).
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor or below the lowest horizontal structural member in VE zones:

- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- (b) Shall not be temperature-controlled or conditioned; (*OPTIONAL, strongly encouraged*)
- (c) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
- (d) Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

- (e) Shall, in Coastal High Hazard Areas (Zone VE), either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:
- (i) Material shall consist of open wood or plastic lattice (*having an opening ratio of at least 40 percent*) (**OPTIONAL**), or insect screening; or
 - (ii) Breakaway walls shall meet the following design specifications:
 - (1) Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per Article 5, Section B(4)(d)(i-vi); (**OPTIONAL**) and
 - (2) Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or
 - (3) Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.
 - (iii) Concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required: (**OPTIONAL**)
 - (1) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
 - (2) Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
 - (3) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
 - (4) Pad thickness shall not exceed 4 inches; or
 - (5) Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.
- (f) Fill/Grading (**OPTIONAL**)
- (i) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
 - (ii) The fill material must be similar and consistent with the natural soils in the area.
 - (iii) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runoff and wave reflection that would increase damage to adjacent elevated buildings and structures.

(iv) Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runoff and wave reflection that would increase damage to adjacent elevated buildings and structures.

(v) Fill is prohibited in the SFHA (*maximum 280 CRS points possible*) (*OPTIONAL*) Note: this should be consistent with Article 5, Section A(17).

(g) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space (30 CRS points); _____ (community name) will have the right to inspect the enclosed area (30 CRS points). _____ (community name) will conduct annual inspections (30 CRS points). This agreement shall be recorded with the _____ (county name) County Register of Deeds and shall transfer with the property in perpetuity. (*OPTIONAL for a maximum total of 90 CRS points*)

(h) Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation. (*OPTIONAL*)

(i) All building enclosures, of any size, are prohibited below BFE, including those with breakaway walls. Screening and open lattice-work are not considered enclosures. (*maximum 240 CRS points*) (*OPTIONAL*)

(5) Additions/Improvements.

(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and *must not be any more non-conforming than the existing structure.* (*non-conforming language is OPTIONAL*).

(ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

(b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

(c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.

(ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a _____ (number of years) year period (*minimum of one*), the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the _____ (number of years) year period (*minimum of one*) begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

- (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (6) Recreational Vehicles. Recreational vehicles shall either:
 - (a) Temporary Placement
 - (i) Be on site for fewer than 180 consecutive days; or
 - (ii) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)
 - (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
- (7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
 - (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
 - (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - (b) Accessory structures shall not be temperature-controlled;
 - (c) Accessory structures shall be designed to have low flood damage potential;
 - (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - (e) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A(1);
 - (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and

- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(d).

An accessory structure with a footprint less than _____ square feet (*recommend 150 square feet*) or that is a minimal investment of \$_____ (*recommend \$3,000*) or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

- (9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
 - (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (10) Other Development.
 - (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
 - (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
 - (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.
 - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.
 - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.
 - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted

unless:

- (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met:
- (a) The anchoring and the elevation standards of Article 5, Section B(3); and
 - (b) The encroachment standards of Article 5, Section F(1).

SECTION G. COASTAL HIGH HAZARD AREA (ZONE VE).

Coastal High Hazard Areas are Special Flood Hazard Areas established in Article 3, Section B, and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Article 5, Sections A and B:

- (1) All new construction and substantial improvements shall:
 - (a) Be located landward of the reach of mean high tide;
 - (b) Comply with all applicable CAMA setback requirements.
- (2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
- (3) All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
 - (a) Open wood or plastic latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact and in accordance with the provisions of Article 5, Section B(4)(e)(i). Design plans shall be submitted in accordance with the provisions of Article 4, Section B(1)(d)(iii)(2); or
 - (b) Breakaway walls may be permitted provided they meet the criteria set forth in Article 5, Section B(4)(a),(b),(c)&(e)(ii). Design plans shall be submitted in accordance with the provisions of Article 4, Section B(1)(d)(iii)(1).
- (4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - (a) Water loading values used shall be those associated with the base flood.
 - (b) Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.

- (5) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required: **(OPTIONAL)**
- (a) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
 - (b) Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
 - (c) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
 - (d) Pad thickness shall not exceed 4 inches; or
 - (e) Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.
- (6) For swimming pools and spas, the following is required: **(OPTIONAL)**
- (a) Be designed to withstand all flood-related loads and load combinations.
 - (b) Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or
 - (c) Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
 - (d) Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
 - (e) Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
 - (f) Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.
- (7) All elevators, vertical platform lifts, chair lifts, etc., the following is required: **(OPTIONAL)**
- (a) Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
 - (b) Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
 - (c) The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.
 - (d) Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.
 - (e) Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.

- (f) If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.
- (8) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor, or the detached accessory building shall not be improved, or otherwise converted; _____ (*community name*) will have the right to inspect the enclosed area. This agreement shall be recorded with the _____ (*county name*) County Register of Deeds and shall transfer with the property in perpetuity. (**OPTIONAL**)
- (9) Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation. (**OPTIONAL**)
- (10) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Article 4, Section B and Article 5, Section G(3) and (4), on the current version of the North Carolina V-Zone Certification form or equivalent local version. *In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.* (**OPTIONAL**)
- (11) Fill/Grading
- (a) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
- (b) The fill material must be similar and consistent with the natural soils in the area.
- (c) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
- (d) Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
- (e) Fill is prohibited in the SFHA (***maximum 280 CRS points possible***) (**OPTIONAL**) Note: this should be consistent with Article 5, Section A(17)
- (12) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.
- (13) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Section have been satisfied.
- (14) Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Article 5, Section B(6)(a).
- (15) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Article 4, Section B, (3)(f).

- (16) A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- (17) In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:
 - (a) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 - (b) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.
- (18) No more than four (4) electrical outlets and no more than four (4) electrical switches may be permitted below RFPE unless required by building code. (**OPTIONAL**)

SECTION H. STANDARDS FOR COASTAL A ZONES (ZONE CAZ) LiMWA (maximum 650 CRS points)

Structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, *Openings in Foundation Walls and Walls of Enclosures*). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.

- (1) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal A Zones to satisfy the regulatory flood protection elevation requirements.
- (2) All new construction and substantial improvements shall have the space below the lowest horizontal structural member free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
 - (a) Open wood latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact and in accordance with the provisions of Article 5, Section B(4)(e)(i). Design plans shall be submitted in accordance with the provisions of Article 4, Section B(1)(d)(iii)(2); or
 - (b) Breakaway walls may be permitted provided they meet the criteria set forth in Article 5, Section B(4)(e)(ii). Design plans shall be submitted in accordance with the provisions of Article 4, Section B(1)(d)(iii)(1).
- (3) All new construction and substantial improvements shall include, in Zones CAZ, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the design criteria in Article 5, Section B(4)(d).
- (4) Concrete pads, including patios, decks, parking pads, walkways, driveways, etc. must meet the provisions of Article 5, Section G(5). (**OPTIONAL**)
- (5) All new construction and substantial improvements shall meet the provisions of Article 5, Section G(3)
- (6) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Article 4, Section B and Article 5, Section G(3) and (4), on the current version of the North Carolina V-Zone Certification form or a locally developed V-Zone Certification form.
- (7) Recreational vehicles may be permitted in Coastal A Zones provided that they meet the Recreational Vehicle criteria of

Article 5, Section B(6)(a).

- (8) Fill/Grading must meet the provisions of Article 5, Section G(11)
- (9) Fill is prohibited in the SFHA (*maximum 280 CRS points possible*) (OPTIONAL)
- (10) Decks and patios must meet the provisions of Article 5 Section G(15) and (16).
- (11) In coastal high hazard areas, development activities other than buildings and structures must meet the provisions of Article 5, Section G(17)

SECTION I. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of ____ (__) feet, above the highest adjacent grade; or at least ____ (__) feet above the highest adjacent grade if no depth number is specified. *A minimum of two (2) feet is required and four (4) feet is recommended where a depth is not provided.*
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section I(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B(3) and Article 5, Section B(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

ARTICLE 6. LEGAL STATUS PROVISIONS.

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted _____ (*adoption date of the community's initial Flood Damage Prevention Ordinance*) as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of _____ (*community name*) enacted on _____ (*adoption date of the community's initial Flood Damage Prevention Ordinance*), as amended, which are not reenacted herein are repealed.

Municipal: The date of the initial Flood Damage Prevention Ordinance for _____ County is _____.

County: The date of the initial Flood Damage Prevention Ordinance for each municipal jurisdiction within _____ County is as follows:

List each municipality within the County with its initial ordinance date.

SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her

authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

SECTION C. SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION D. EFFECTIVE DATE.

This ordinance shall become effective _____ (*upon adoption or specific date*).

SECTION E. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the _____ (*governing body*) of _____ (*community name*), North Carolina, on the _____ day of _____, 20__.

WITNESS my hand and the official seal of _____, this the _____ day of _____, 20__.

(*signature*)

**TOWN OF OAK ISLAND
TOWN COUNCIL
AGENDA ITEM MEMO**

Agenda Item: New Business Number 1

Date: May 3, 2017



Issue: Conditional Use Permit Application

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 35 Minutes

Subject Summary:

The applicant is applying for a Conditional Use Permit (CUP) in order to have a *dwelling in a principal business* at located at NE 54th Street and E. Oak Island Drive; tax parcel number 235MP001. The CUP is being applied for by the property owner. The applicant currently has an air conditioning business across the street and wishes to relocate and build on the undeveloped lot E. Oak Island Drive, see site map. The proposed land use would have the retail air conditioning business and offices on the bottom floor and the residential units for the owner/managers above.

The table of uses (Sec.18-116) codifies a “Dwelling in a Principal Business” as permissible with a Conditional Use Permit from the town if it is located within the CB (Community Business) zoning district.

Uses	R-20	R-9	R-7.5	R-7	R-6A	R-6B	R-6MF	R-6MH	O & I	CB	CR	C-LD	OS	AD	Club Overlay Dist.	CUCB
Dwelling in principal business									C	<u>C</u>		P				C

Furthermore, additional standards specific to this land use are listed in Sec.18-226 of the zoning ordinance (see below excerpt).

(15) *Dwellings in principal business.*

a. Off-street parking spaces equal to one space for each residential bedroom shall be provided in addition to any other off-street parking required for the principal use.

b. The structure in which the residential use is located must comply with all requirements of the state building code.

According to first standard in letter ‘a’, a parking space must be provided for each residential bedroom. The application has included in the site-plan survey those necessary parking spaces. The second standard listed states if must comply with the state building code which is a given as the building inspector has and will continue inspect the site as required to verify compliance with the state building code. It is for the Planning Board to determine if the attached Conditional Use Permit (CUP) application meets these criteria. The site-plan survey has been reviewed for zoning compliance and meets the standards and regulations of the zoning ordinance.

Given that this is for a Conditional Use Permit, even though it is an informal review it is a best practice to not discuss this hearing item outside of the meeting, either with the applicant, with one-another, or the public. This is a way to ensure fairness by having all the discussion take place in the open at the hearing. The Town Council is required to follow those same restrictions as well. If anyone has a direct or potential financial interest in this proposed project then they should recuse themselves.

The Court of Appeals approved the use of four fairly general standards for considering and approving Conditional Use Permits: (1) does not materially endanger the public health or safety, (2) does not meet all required conditions and specifications, (3) will not substantially injure the value of adjoining property, and (4) will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan. This is also the criteria codified in the Town of Oak Island zoning ordinance that is to be reviewed when deciding to approve a CUP. With Conditional Use Permits the applicant has the burden of presenting sufficient evidence that an application meets the standards of the ordinance. Furthermore, the burden of proof that the Conditional Use Permit application meets the four standards outlined above rests with the applicant. Only the standards actually listed in the ordinance may be used as a basis for denial if such denial is predicated on the fact that all the required standards could not be met. The Planning Board will need a quorum to vote and a simple majority is all that is needed to pass a vote. Only expert testimony is supposed to be considered.

Official certified letters have been sent to the adjacent property owners and a sign, required by the Town zoning ordinance, has been placed at the site detailing the hearing date, time and location, per the zoning ordinance requirements. Traditionally, this is a quasi-judicial decision and carries with it a separate, more officious operating procedure. After the Planning Board meeting the CUP still must be approved by the Town Council as a quasi-judicial hearing. Some considerations to take into account are the health & safety of the public, potential injury to adjacent property values, undue concern to the neighbors, and the use will be in harmony with area. If it is approved by Council the application will then have vested rights to the dwelling in a principal business land use classification. The Conditional Use Permit recommendation can be for denial, approval, or approval with recommended conditions.

Attachments: CUP application, Applicant justification narrative, Service request form, Site-plan surveys, floor plans, site area map

Recommendation/Action Needed: Recommendation to Town Council to approve, deny, or approve with conditions

Funds Needed: \$0.00

Planning Board Recommendation/Conditions: _____

Follow Up Action Needed: Inform applicant, forward recommendation to Town Council

Attachments:



APPLICATION FOR SPECIAL USE

Office Use Only
Date Rec'd: 4-12-17
Rec'd by: CC paid JV
Amount Paid: \$500.00

Town of Oak Island • 4601 E. Oak Island Drive, Oak Island, NC 28465 • Phone: (910) 201-8001 • Fax: (910) 278-1811

All applications for conditional use must be complete and accompanied by the permit fee of \$500 payable in cash or by check made to the Town of Oak Island. Applicants will not be responsible for any additional cost of public notices. All fees must be paid in full before a Certificate of Zoning Compliance (Zoning Permit) will be issued and before an application will be submitted for review by the Planning Board or Town Council. Applicants are responsible attending all Planning Board and Board of Aldermen meetings where this application will be considered.

In accordance with the Town of Oak Island Code of Ordinances, Chapter 18, Article 2 Section 18-221 the purpose of this division is to allow for those uses that have a potential of being incompatible with adjacent land uses. For this reason special consideration shall be given to those uses listed as conditional uses in the zoning districts as listed in Division 4 of the code of ordinances.

The reasons for requiring such special considerations involve, among other things, the size of the area required for the development of a use, the effect such uses have on any adjoining land uses and on the health, safety, and general welfare and development of the community as a whole. Approval of a conditional use does not provide a binding precedent to grant other conditional uses. A conditional use is not transferable from one parcel of land to another. Conditional uses must be approved by the Town Council. All conditional uses must satisfy all standards in Chapter 18, Article 2 Section 18-221.

The application must be reviewed by town staff before the application can be placed on the Planning Board Agenda. Please consider that review time before submitting your application. Applications will not be considered as accepted for review unless all required information is provided. Prior to the date of the review the board shall hold an evidentiary hearing on the special use permit request.

Parcel Identifier Number (PIN): _____ Date: _____

Section A: Property Information

Applicant Name: Matthew Mansfield

Project Name: Mansfield Sales and Repair Inc.

Property Address: 5215 East Oak Island Dr State: NC Zip Code: 28465

Phone: 910-278-9669 Fax: _____ Email: mmansfield9669@gmail.com

Existing Zoning District: CB-Commercial Business

Parcel ID #(s): 235MP001

Total Site Acres or Square Feet: 19,720 sf/0.45 acres

Current Zoning District(s): CB

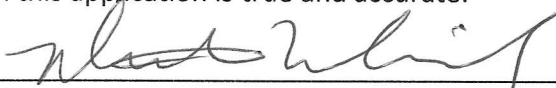
Use Classification (from Table of Uses): Mixed Use

Project Description:

Single family apartment above a commercial retail sales facility
specializing in heating and cooling parts, equipment and service.

(attach a separate page is needed)

The undersigned applicant hereby certifies that, to the best of his knowledge and belief, all information supplied with this application is true and accurate:

Signature:  Date: 4-12-17

Section B: Project Owner Information (if different from above)

Applicant Name: Mansfield Property Holdings LLC

Project Name: Mansfield Sales & Repair Inc

Property Address: 4844 Beech Ave State: NC Zip Code: 28161

Phone: 910-612-0596 Fax: 270-7900 Email: mmansfield9669@gmail.com

Section C: Conditional Use Standards

In order to approve a conditional use, the Town Council must hold a hearing and find, based on the evidence presented, that the application adequately satisfies the conditional use standards identified in Section 18 – Division 8 of the Unified Development Ordinance. You are encouraged to attach any documentation supporting how the proposed project satisfies the following standards, including a statement describing separately for each standard in significant detail the facts and arguments you intend to present to the Board during the hearing:

(1) That the use will not materially endanger the public health or safety.

The existing Mansfield Sales and Service facility is across the street from this proposed new location. The current facility poses no danger to the public health or safety, nor will the proposed new location.

(2) That the use will not substantially injure the value of adjoining or abutting property.

The current facility, located across the street, doesn't injure neighborhood property values, nor does the proposed new location. A new building in the neighborhood will enhance the property values of the neighborhood.

(3) That the use will be in harmony with the area in which it is to be located.

The proposed use of the new facilities will be the same use as the existing facility, except in a newer, more up to date building.

(3) That the use will be in general conformity with the Land Use Plan, Thoroughfare Plan, or other plans officially adopted by the Board of Aldermen.

The use, being an existing use in the neighborhood, is in general conformity with the above standards.

(5) That the use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property.

Since the proposed new use is simply a relocation of an existing use in the neighborhood there will be no adverse impact to the safety, health, morals, or welfare of the neighborhood

(4) That the use is essential or desirable to the public convenience or welfare.

The use meets a need in providing a local source for heating and air conditioning sales and service of parts and equipment.

(7) That the use will have adequate utilities, access roads, drainage, sanitation, or other necessary facilities.

The services of a Civil Engineer have been retained to insure that the above concerns are addressed.

(8) That the use will have adequate facilities to provide ingress and egress so designed as to minimize the traffic congestion in the public streets.

The services of a Civil Engineer along with DOT review of proposed traffic flow have been engaged to insure that the above concerns are addressed.

Section D: Conditional Use Standards and Requirements

Each application for a special use must include:

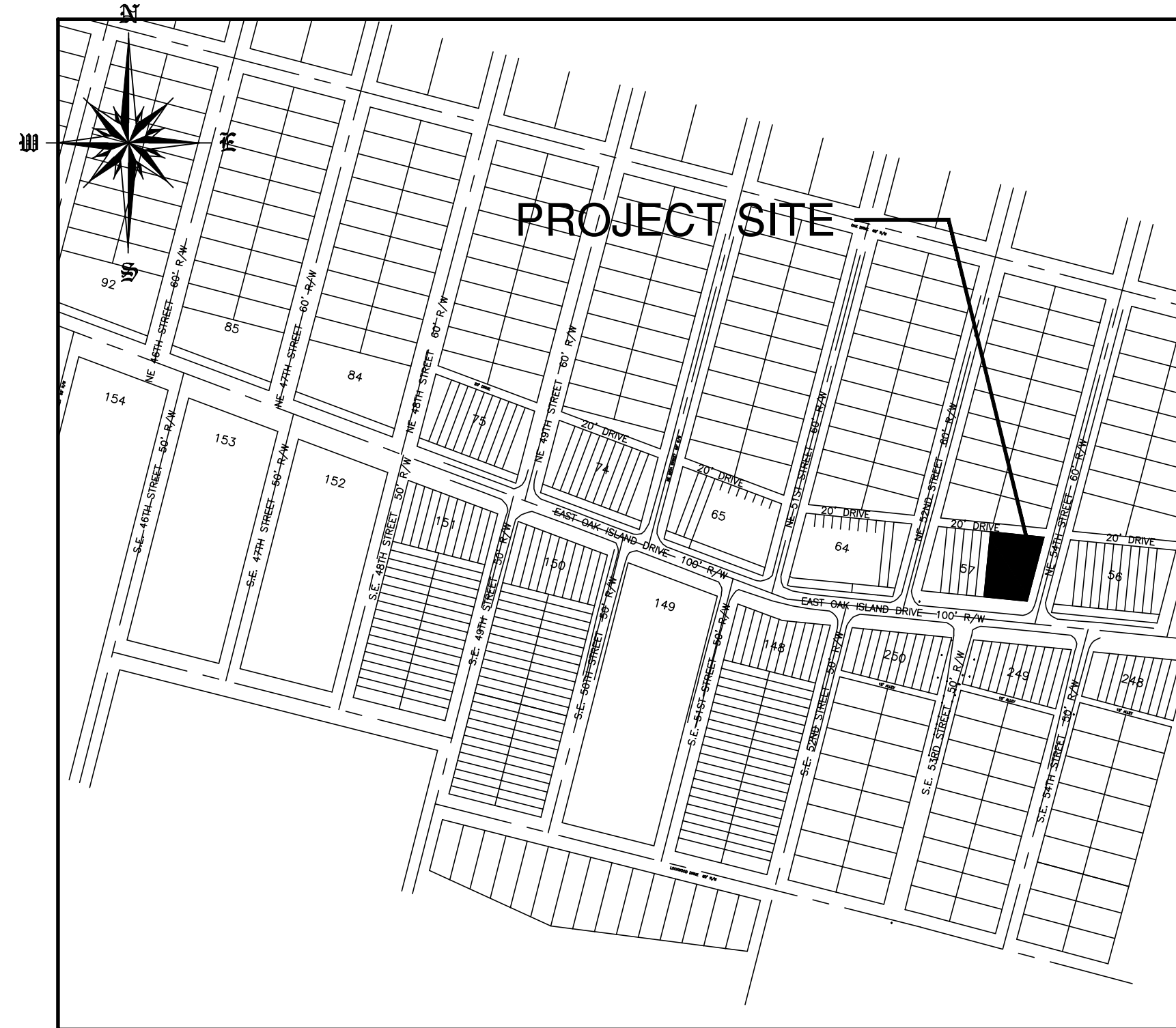
- ☐ An application fee of \$500.00 plus in cash or check made payable to the Town of Oak Island.
- ☐ A Site/Landscaping Plan Application with required plans containing all required information from the Unified Development Ordinance.
- ☐ A notarized letter of authorization if acting as the agent for the property owner(s).
- ☐ Copies of an accurate map, site-plan, survey or plat of property showing:
 - Title Box including the project name, applicant name, and address of the property
 - Names of the owners of record for adjacent properties
 - Property lines and dimensions
 - The location and names of all adjacent street rights of way
 - Location, size, zoning designation, and total area of the property
- ☐ Directional feature of all parking spaces, driveways, and curb cuts (if applicable)
- ☐ Accurate depiction of the project to scale with layout of proposed buildings including the length, width, height, placement, and building envelope with required setbacks
- ☐ A Site/Landscaping Plan Application with required plans containing all required information
 - General location and type of stormwater facilities including preliminary stormwater report indicating pre and post retention (if applicable)
- ☐ Proposed or required buffering and landscaping
- ☐ If applicable the proposed phasing of the project
- ☐ Location of Service facilities such as dumpsters and any planned screening or treatment to those areas (if applicable)
- ☐ General location of on-site utilities and proposed tie into facilities
- ☐ All existing easements, reservations, or restrictive covenants (if applicable)
- ☐ Copies of a detailed project narrative describing the proposed use, site, and nature of the request
- ☐ Any other information deemed necessary by Development Services

Office Use Only

Planning Board Hearing Date: 5-18-17 Recommendation: _____ Staff: JV

Town Council Hearing Date: 6-13-17 Action: _____ Staff: _____

CONSTRUCTION PLANS FOR
MANSFIELD SALES & REPAIR, INC.
5215 EAST OAK ISLAND DRIVE
OAK ISLAND, NC 28465



VICINITY MAP
SCALE: 1" = 300'

LIST OF DRAWINGS

XX	COVER SHEET
C1	SITE PLAN
C2	GRADING, DRAINAGE & EROSION CONTROL
C3	DETAILS

R4	4-5-17	ADDRESSED OAK ISLAND PLANNING COMMENT'S DATED 3/29/17
R3	3-22-17	ADDRESSED OAK ISLAND PLANNING COMMENTS DATED 3/14/17
R2	3-7-17	MODIFIED DRIVEWAY & INFILTRATION BASIN
R1	1-31-17	RELEASED FOR REGULATORY REVIEW
NUMBER	DATE	DESCRIPTION



OWNER

MANSFIELD SALES AND
REPAIR, INC.
MATTHEW MANSFIELD
4844 BEECH TREE DRIVE
SOUTHPORT, NC 28461

SURVEYOR

McHENRY SURVEYING
PROFFESIONAL LAND
SURVEYOR
PO BOX 433
8509 E. OAK ISLAND DR.
OAK ISLAND, NC 28465
TEL: 910-278-9874
FAX: 910-278-3799

CIVIL ENGINEER

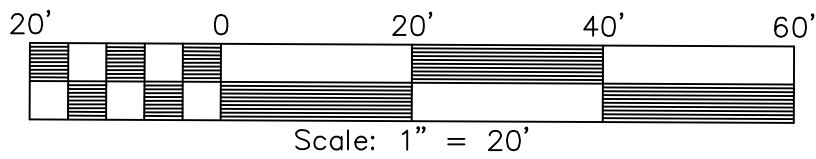
JBS CONSULTING, PA
MR. BRAD SEDGWICK, PE
7332 COTESWORTH DRIVE
WILMINGTON, NC 28405
910-619-9990
bradsedgwick@hotmail.com

ARCHITECT

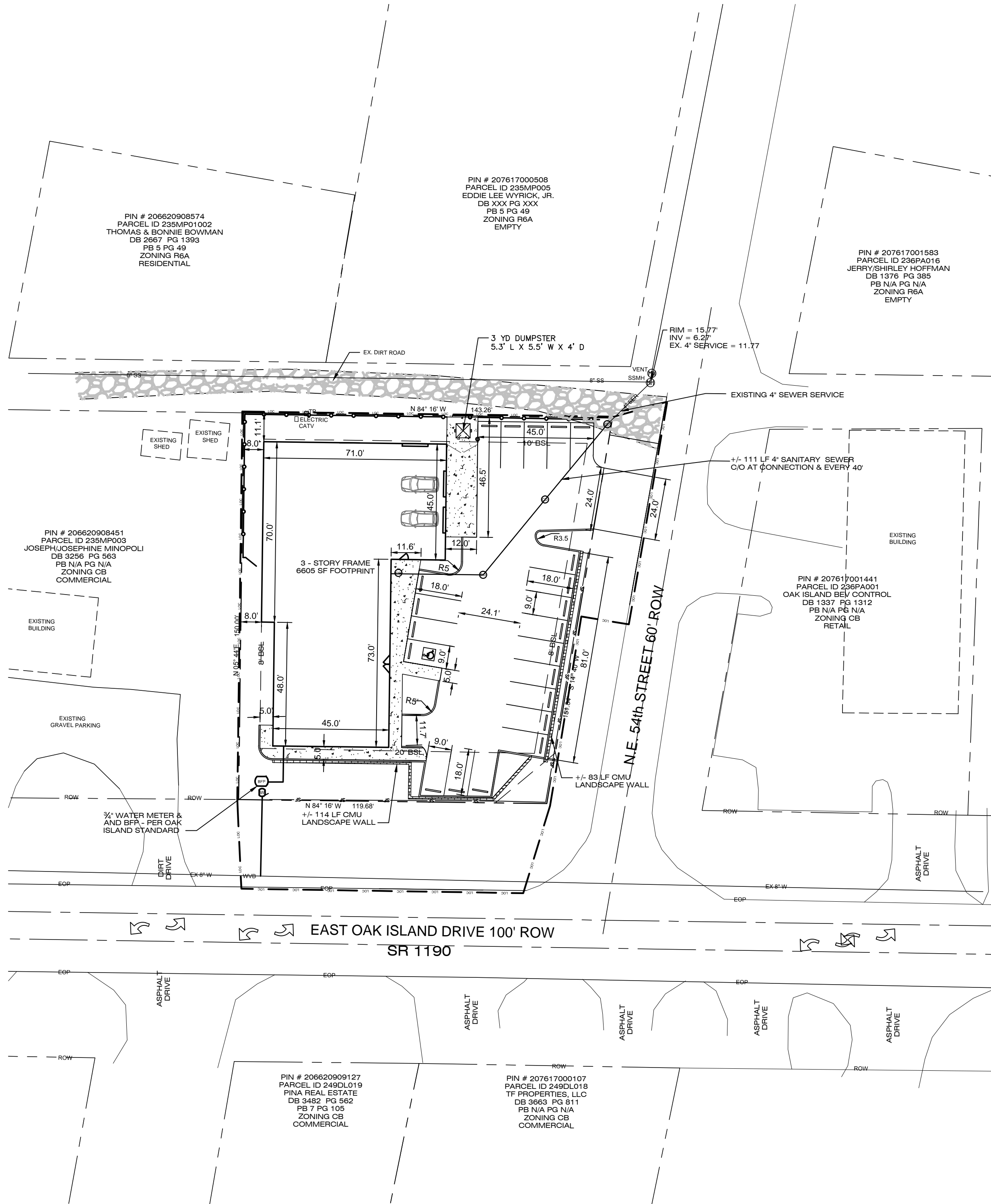
MARK GRENNELL, ARCHITECT
PO BOX 393
CASTLE HAYNE, NC 28429
1-910-233-1061
mg.architect@gmail.com



R4	4-5-17	ADDRESSED OAK ISLAND PLANNING COMMENTS DATED 3/28/17
R3	2-22-17	ADDRESSED OAK ISLAND PLANNING COMMENTS DATED 3/14/17
R2	3-7-17	MODIFIED DRIVEWAY & INFILTRATION BASIN
R1	1-31-17	RELEASED FOR REGULATORY REVIEW
NUMBER	DATE	REVISION



NO WETLAND WITHIN PROJECT AREA



SITE PLAN
SCALE 1" = 20'

SITE DATA

ADDRESS: 5215 EAST OAK ISLAND DRIVE
OAK ISLAND, NC

AREA: 19,720 SF = 0.45 ACRES

PARCEL ID NUMBERS: PIN # 206620909470
PARCEL ID # 235MP001
DB 3727 PG 231
PB 5 PG 49

ZONING = CB - COMMERCIAL BUSINESS

BUILDING SET BACK REQUIREMENTS

	REQUIRED	PROPOSED
FRONT YARD	20'	21'
REAR YARD	10'	11'
SIDE YARD (CORNER)	08'	8'
BUILDING HEIGHT	35'	34'

OFF STREET PARKING REQUIREMENTS

MIN. SPACE SIZE = 9' WIDE X 18' LONG
PROVIDED SPACE SIZE = 9' WIDE X 18' LONG

NUMBER OF SPACES REQUIRED

RESIDENTIAL @ 1 PER BEDROOM = 3 SPACES
EXTRA ROOM/LIVING ROOM = 1 SPACE
BUSINESS @ 1 PER 200 SF (3,377 SF / 200) = 17 SPACES
WAREHOUSE @ 1 PER EMPLOYEE (1 EMPLOYEE) = 1 SPACE

22 SPACES REQUIRED

SPACES PROVIDED: 22 - 9'x18' SPACES
± 1 - HANDICAPPED SPACES
23 TOTAL SPACES

FLOOD INFORMATION

FIRM PANEL 2097
MAP NUMBER 3720207600J
EFFECTIVE DATE JUNE 2, 2006
ZONE X - MINIMAL FLOOD RISK

WATER SERVICE PROVIDED BY OAK ISLAND

SEWER SERVICE IS PROVIDED BY OAK ISLAND

BUA COVERAGE (INSIDE PROPERTY)

BUILDING	6,605 SF
CONCRETE S/W	1,479 SF
ASPHALT PAVEMENT	7,086 SF
TOTAL	15,170 SF

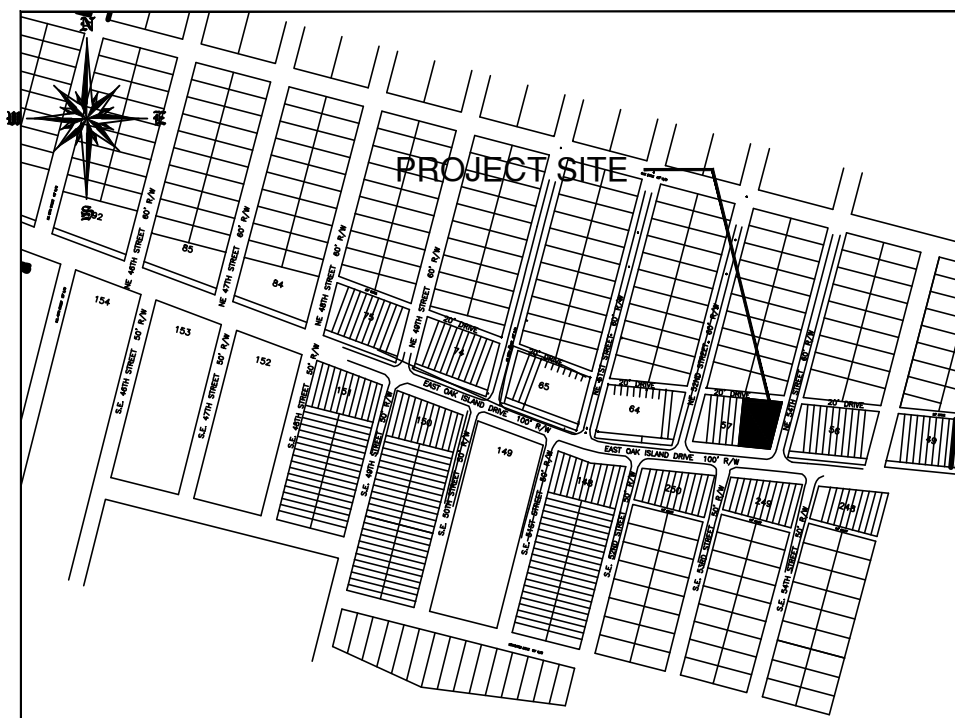
WATER/SEWER CALCULATIONS

120 GPD PER BEDROOM - 2 BEDROOMS = 240 GPD
GENERAL BUSINESS 25 GAL/EMPLOYEE/SHIFT = 10 EMPLOYEES X 1 SHIFT = 250 GPD
WAREHOUSE = 100 GAL/DAY/LOADING BAY = 2 LOADING BAYS X 100 GAL = 200 GPD
TOTAL = 690 GPD

WATER USAGE CURRENT = 0 GPD
WATER USAGE PROPOSED = 690 GPD

SEWER USAGE CURRENT = 0 GPD
SEWER USAGE PROPOSED = 690 GPD

NO IRRIGATION PROPOSED



VICINITY MAP
SCALE: 1" = 600'

LEGEND	
PROPERTY LINE	---
EXISTING SPOT ELEVATION	582' 16.03
EXISTING CONTOUR	13'
PROPOSED SPOT ELEVATION	36.3' FIL
PROPOSED CONTOUR	13'
SILT FENCE	---
LIMITS OF DISTURBANCE	---
PROPOSED CONCRETE	[Pattern]
PROPOSED ASPHALT	[Pattern]
EX. SEWER MANHOLE	(MH)
PROPOSED SEWER CLEAN OUT	(CO)
PRO. BACKFLOW PREVENTOR	(BFP)
PRO. WATER METER	(W)
RIP-RAP OUTLET PROTECTION	[Pattern]

DESIGN BY: BDS
DRAWN BY: BDS
CHECKED BY: BDS
DATE: JAN., 2017

SITE PLAN

MANSFIELD SALES & REPAIR
5215 EAST OAK ISLAND DRIVE
OAK ISLAND, NC

CLIENT

MARK GRENNELL, ARCHITECT
PO BOX 393
CASTLE HAYNE, NC 28429

JBS CONSULTING, PA
7332 Catesworth Drive
Wilmington, NC 28405
(910) 619-9990
License Number C-2525

PLANNING - ENGINEERING - PROJECT MANAGEMENT

SHEET

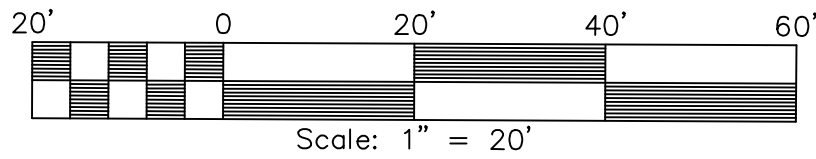
C1

of 4

JOB NO.

012-005

NUMBER	DATE	REVISION
R4	1-5-17	ADDRESSED OAK ISLAND PLANNING COMMENTS DATED 3/28/17
R3	3-22-17	ADDRESSED OAK ISLAND PLANNING COMMENTS DATED 3/14/17
R2	3-7-17	MODIFIED DRIVEWAY & INFILTRATION BASIN
R1	1-31-17	RELEASED FOR REGULATORY REVIEW



NO WETLAND WITHIN PROJECT AREA

GRADING, DRAINAGE & EROSION CONTROL SCALE 1" = 20'

LEGEND	
EXISTING SPOT ELEVATION	16.03
EXISTING CONTOUR	13
PROPOSED SPOT ELEVATION	38.3
PROPOSED CONTOUR	13
SILT FENCE	
LIMITS OF DISTURBANCE	
PROPOSED CONCRETE	
PROPOSED ASPHALT	
EX. SEWER MANHOLE	MH
PROPOSED SEWER CLEAN OUT	CO
PRO. BACKFLOW PREVENTOR	BFP
PRO. WATER METER	W
RIP-RAP OUTLET PROTECTION	

1) GROUND STABILIZATION		
LABEL	STABILIZATION TIME FRAME	STABILIZATION TIME FRAME EXCEPTIONS
	SITE AREA DESORPTION	7 DAYS
	PERIMETER DITCHES AND SLOPES	NONE
	HIGH QUALITY WATER (HOW) ZONES	NONE
	SLOPES STEEPER THAN 3:1	7 DAYS
	SLOPES 3:1 OR FLATTER	14 DAYS
	ALL OTHER AREAS WITH SLOPES FLATTER THAN 4:1	14 DAYS
2) BUILDING WASTES HANDLING		
-NO PAINT OR LIQUID WASTES IN STREAM OF STORM DRAINS		
-DEDICATED AREAS FOR DEMOLITION, CONSTRUCTION AND OTHER WASTES MUST BE LOCATED 50' FROM STORM DRAINS AND STREAMS UNLESS NO REASONABLE ALTERNATIVES AVAILABLE		
-EARTHEN-MATERIALS STOCKPILES MUST BE LOCATED 50' FROM STORM DRAINS AND STREAMS UNLESS NO REASONABLE ALTERNATIVES AVAILABLE		
-CONCRETE MATERIALS MUST BE CONTROLLED TO AVOID CONTACT WITH SURFACE WATERS, WETLANDS, OR BUFFERS		
3) INSPECTIONS		
-SAME WEEKLY INSPECTION REQUIREMENTS		
-SAME RAIN GAUGE & INSPECTIONS AFTER 0.5" RAIN EVENT		
-INSPECTIONS ARE ONLY REQUIRED DURING "NORMAL BUSINESS HOURS"		
-INSPECTION REPORTS MUST BE AVAILABLE ON-SITE DURING BUSINESS HOURS UNLESS A SITE-SPECIFIC EXEMPTION IS APPROVED		
-RECORDS MUST BE KEPT FOR 3 YEARS AND AVAILABLE UPON REQUEST		
-ELECTRONICALLY-AVAILABLE RECORDS MAY BE SUBSTITUTES UNDER CERTAIN CONDITIONS		
4) SEDIMENT BASINS		
-OUTLET STRUCTURES MUST WITHDRAW FROM BASIN SURFACES UNLESS DRAINAGE AREA IS LESS THAN 1 ACRE		
-USE ONLY DWS-APPROVED FLOCCULANTS		
NPDES - SPECIFIC PLAN SHEET NOTES		
1. THIS PAGE IS SUBMITTED TO COMPLY WITH NPDES GENERAL STORMWATER PERMIT NCG0010000.		
2. THIS PAGE CAN BE APPROVED BY THE COUNTY PURSUANT TO NPDES GENERAL STORMWATER PERMIT NCG0010000 ONLY.		
3. THIS PAGE OF THE APPROVED PLANS IS ENFORCEABLE EXCLUSIVELY PURSUANT TO NPDES GENERAL STORMWATER PERMIT NCG0010000.		
4. THE COUNTY IS NOT AUTHORIZED TO ENFORCE THIS PAGE OF THE PLANS AND IT IS NOT PART OF THE APPROVED PLANS FOR THE PURPOSES OF ENFORCEMENT ACTION UNDER THE CITY CODE.		

EROSION CONTROL NOTES

1. ANY CONSTRUCTION ACTIVITY BEYOND THE 0.61 ACRE LIMITS SHOWN ON THE PLAN IS A VIOLATION OF THE COUNTY EROSION CONTROL ORDINANCE AND IS SUBJECT TO FINES.
2. CONTRACTOR SHALL REMOVE ALL TREES AND VEGETATION WITHIN ROAD RIGHT OF WAY AND WITHIN MASS GRADING AREA UNLESS OTHERWISE DESIGNATED TO REMAIN.
3. CONTRACTOR SHALL RAKE AND REMOVE ROOTS, STUMPS, VEGETATION, DEBRIS, EXISTING STRUCTURES ABOVE AND BELOW GRADE, ORGANIC MATERIAL OR ANY OTHER UNSUITABLE MATERIAL WITHIN THE LIMITS OF CONSTRUCTION.
4. CONTRACTOR SHALL COORDINATE WITH OWNER AND THEIR GEOTECHNICAL REPRESENTATIVE TO COORDINATE REMOVAL OF ANY UNSUITABLE SOILS.
5. CLEARED, GRUBBED, STRIPPED OR OTHER WASTE MATERIALS SHALL BE REMOVED FROM THE SITE AND DISPOSED OF IN A PROPERLY PERMITTED FACILITY.
6. THE CONTRACTOR SHALL FURNISH ANY REQUIRED BORROW MATERIALS FROM A PROPERLY PERMITTED OFF-SITE FACILITY.
7. ALL GRADED SLOPES MUST BE SEEDED AND MULCHED WITHIN 21 CALENDAR DAYS OF COMPLETION OF GRADING. STABILIZE AREAS OTHER THAN SLOPES WITHIN 15 WORKING DAYS OR 90 CALENDAR DAYS, WHICHEVER IS SHORTER.
8. ADDITIONAL MEASURES TO CONTROL EROSION AND SEDIMENT MAY BE REQUIRED BY A REPRESENTATIVE OF THE COUNTY ENGINEERING DEPARTMENT.
9. SLOPES SHALL BE GRADED NO STEEPER THAN 3:1.
10. ADDITIONAL DEVICES MAY BE REQUIRED AS AGREED UPON BY THE FIELD INSPECTOR, ENGINEER, AND OWNER.
11. IF ACTIVE CONSTRUCTION CEASES IN ANY AREA FOR MORE THAN 15 WORKING DAYS, ALL DISTURBED AREAS MUST BE SEEDED, MULCHED, AND TACKED UNLESS WRITTEN APPROVAL IS GRANTED BY THE EROSION CONTROL OFFICER.

EROSION CONTROL MAINTENANCE PLAN

1. INSPECT SKIMMER SEDIMENT BASINS AT LEAST WEEKLY AND AFTER EACH SIGNIFICANT (1/2" OR GREATER) RAINFALL EVENT AND REPAIR IMMEDIATELY. REMOVE SEDIMENT AND RESTORE THE BASIN TO ITS ORIGINAL DIMENSIONS WHEN SEDIMENT ACCUMULATES TO ONE-HALF THE HEIGHT OF THE FIRST BAFFLE. PULL THE SKIMMER TO ONE SIDE SO THAT THE SEDIMENT UNDERNEATH IT CAN BE EXCAVATED. EXCAVATE THE SEDIMENT FROM THE JUSTICE BASIN, NOT JUST AROUND THE SKIMMER. MAKE SURE THE SKIMMER IS NOT PLUGGED. VEGETATION GROWING IN THE BOTTOM OF THE BASIN DOES NOT HOLD DOWN THE SKIMMER.

REPAIR THE BAFFLES IF THEY ARE DAMAGED. RE-ANCHOR THE BAFFLES IF WATER IS FLOWING UNDERNEATH OR AROUND THEM.

IF THE SKIMMER IS CLOGGED WITH TRASH AND THERE IS WATER IN THE BASIN, USUALLY JERKING ON THE ROPE WILL MAKE THE SKIMMER BOB UP AND DOWN AND DISLODGE THE DEBRIS AND RESTORE FLOW. IF THIS DOES NOT WORK, PULL THE SKIMMER OVER TO THE SIDE OF THE BASIN AND REMOVE THE DEBRIS. ALSO CHECK THE ORIFICE INSIDE THE SKIMMER TO SEE IF IT IS CLOGGED; IF SO REMOVE DEBRIS.

IF THE SKIMMER ARM OR BARREL PIPE IS CLOGGED, THE ORIFICE CAN BE REMOVED AND THE OBSTRUCTION CLEARED WITH A PLUMBER'S SNAKE OR BY FLUSHING WITH WATER. BE SURE TO REPLACE THE ORIFICE BEFORE REPOSITIONING THE SKIMMER.

CHECK THE FABRIC LINED SPILLWAY FOR DAMAGE AND MAKE ANY REQUIRED REPAIRS WITH FABRIC THAT SPANS THE FULL WIDTH OF THE SPILLWAY. CHECK THE EMBANKMENT, SPILLWAYS, AND OUTLET FOR EROSION DAMAGE AND INSPECT THE EMBANKMENT FOR PINGING AND SETTLEMENT. MAKE ALL NECESSARY REPAIRS IMMEDIATELY. REMOVE ALL TRASH AND OTHER DEBRIS FROM THE SKIMMER POOL AREA.

FREEZING WEATHER CAN RESULT IN ICE FORMING IN THE BASIN. SOME SPECIAL PRECAUTIONS SHOULD BE TAKEN IN THE WINTER TO PREVENT THE SKIMMER FROM PLUGGING WITH ICE.

GRADING NOTES

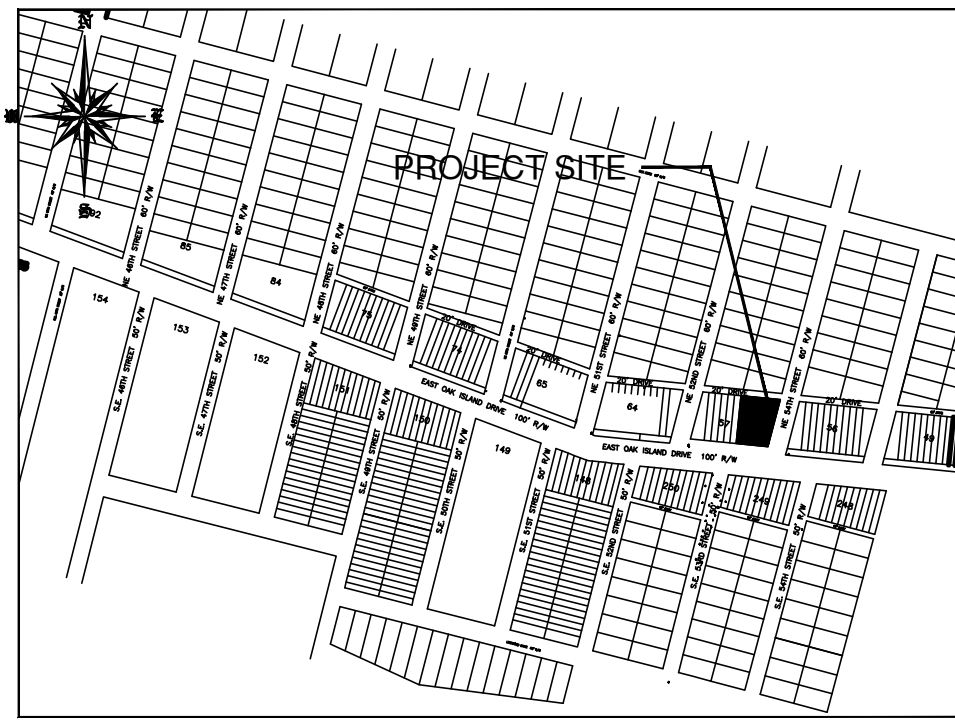
1. INITIATE EROSION CONTROL SEQUENCE BEFORE BEGINNING CLEARING, GRUBBING AND GRADING OPERATIONS.
2. CLEAR AREAS TO BE GRADED OF ALL VEGETATION. PROTECT VEGETATION BEYOND GRADING LIMITS.
3. STRIP TOPSOIL TO FULL DEPTH IN AREAS TO BE GRADED AND STOCKPILE.
4. COMPACT ALL FILL AREAS TO 95% OF MAXIMUM DENSITY.
5. ALL BANKS AND SWALE SIDE SLOPES SHALL BE GRADED WITH NO GREATER THAN 3:1 SLOPES.
6. ALL AREAS ARE TO BE GRADED SO THAT NO AREAS OF STANDING WATER OCCUR.
7. PROPOSED CONTOUR ELEVATIONS ARE SHOWN AT FINISHED GRADE.
8. OPERATOR SHALL FIELD VERIFY EXISTING TOPOGRAPHY IN RELATION TO THE PROPOSED GRADES TO ENSURE DRAINAGE IN THE DIRECTIONS INDICATED ON THE PLAN.

CONSTRUCTION SEQUENCE

1. OBTAIN ALL NECESSARY PERMIT APPROVALS PRIOR TO ANY LAND DISTURBING ACTIVITY.
2. HOLD A PRE-CONSTRUCTION MEETING WITH THE EROSION CONTROL INSPECTOR.
3. INSTALL GRAVEL CONSTRUCTION ENTRANCE AND SILT FENCE. COMMENCE CLEARING AND ROUGH GRADING OF LAYDOWN/SPILLS STORAGE AREAS. SPOILS/STORAGE AREAS ARE SHOWN ON THE PLANS. INSTALL SPOILS AREA SILT FENCE.
4. AFTER ROUGH GRADING IS COMPLETE, ISOLATE THE AREA FOR THE INFILTRATION BASIN. KEEP CONSTRUCTION TRAFFIC OFF OF THIS AREA. DO NOT ROUTE ANY STORMWATER THROUGH THE BASIN UNTIL THE PAVEMENT AREA HAS BEEN INSTALLED.
4. CONTINUE ROUGH GRADING SITE AND INSTALL UNDERGROUND UTILITIES.
5. PROVIDE TEMPORARY PROTECTION MEASURES AND DEVICES AS REQUIRED UNTIL UNDERGROUND UTILITIES AND PAVEMENT SECTION IS COMPLETE AND FINAL GRADES ARE STABILIZED WITH TEMPORARY VEGETATIVE COVER.
6. STABILIZE (FERTILIZE, SEED, AND MULCH) ALL DISTURBED AREAS AS SOON AS FINAL GRADES ARE ESTABLISHED.
7. ONCE CONSTRUCTION IS COMPLETE AND ALL DISTURBED AREAS ARE STABILIZED, REMOVE TEMPORARY EROSION CONTROL MEASURES, REMOVE SEDIMENT FROM SEDIMENT BASIN.

EROSION CONTROL MAINTENANCE PLAN

1. ALL EROSION AND SEDIMENT CONTROL PRACTICES WILL BE CHECKED FOR STABILITY AND OPERATION FOLLOWING EVERY RUNOFF - PRODUCING RAINFALL, BUT IN NO CASE LESS THAN ONCE EVERY WEEK. ANY NEEDED REPAIRS WILL BE MADE IMMEDIATELY TO MAINTAIN ALL PRACTICES AS DESIGNED.
2. INSPECT INLET PROTECTION AND SILT FENCE AT LEAST WEEKLY AND AFTER EACH SIGNIFICANT RAINFALL EVENT AND REPAIR IMMEDIATELY. REMOVE SEDIMENT AND RESTORE THE TRAP TO ITS ORIGINAL DIMENSIONS WHEN THE SEDIMENT HAS ACCUMULATED TO ONE-HALF THE DESIGN DEPTH OF THE TRAP. PLACE THE SEDIMENT THAT IS REMOVED IN DESIGNATED DISPOSAL AREA, AND REPLACE THE PART OF THE GRAVEL FACING THAT IS IMPAIRED BY SEDIMENT.
3. SEDIMENT WILL BE REMOVED FROM BEHIND THE SEDIMENT FENCE WHEN IT BECOMES ABOUT 0.5 FEET DEEP AT THE FENCE. THE SEDIMENT FENCE WILL BE REPAIRED OR REPLACED AS NECESSARY TO MAINTAIN A BARRIER.
4. ALL AREAS WILL BE FERTILIZED, RESEDED AS NECESSARY, AND MULCHED ACCORDING TO SPECIFICATIONS IN THE VEGETATIVE PLAN TO MAINTAIN A VIGOROUS, DENSE VEGETATIVE COVER.
5. GRAVEL CONSTRUCTION ENTRANCE TO BE CLEANED WHEN SEDIMENT ACCUMULATIONS ARE VISIBLE OR SEDIMENT IS DEPOSITED ON THE ASPHALT AND STONE WILL BE PERIODICALLY TOP DRESSED WITH 2 INCHES OF #4 STONE TO MAINTAIN 6 INCH DEPTH.
6. SEE SEDIMENT BASINS MAINTENANCE PLAN BELOW.
7. INSPECT INLETS AT LEAST WEEKLY AND AFTER EACH SIGNIFICANT (1/2" OR GREATER) RAINFALL EVENT. CLEAR THE WIRE OF ANY DEBRIS OR OTHER OBJECTS TO PROVIDE ADEQUATE FLOW FOR SUBSEQUENT RAINS. TAKE CARE NOT TO DAMAGE OR UNDERCUT THE WIRE MESH DURING SEDIMENT REMOVAL. REPLACE STONE AS NEEDED.



VICINITY MAP
SCALE: 1" = 600'

DESIGN BY:	BDS
DRAWN BY:	BDS
CHECKED BY:	BDS
DATE:	JAN., 2017

GRADING, DRAINAGE &
EROSION CONTROL
MANSFIELD SALES & REPAIR
5215 EAST OAK ISLAND DRIVE
OAK ISLAND, NC

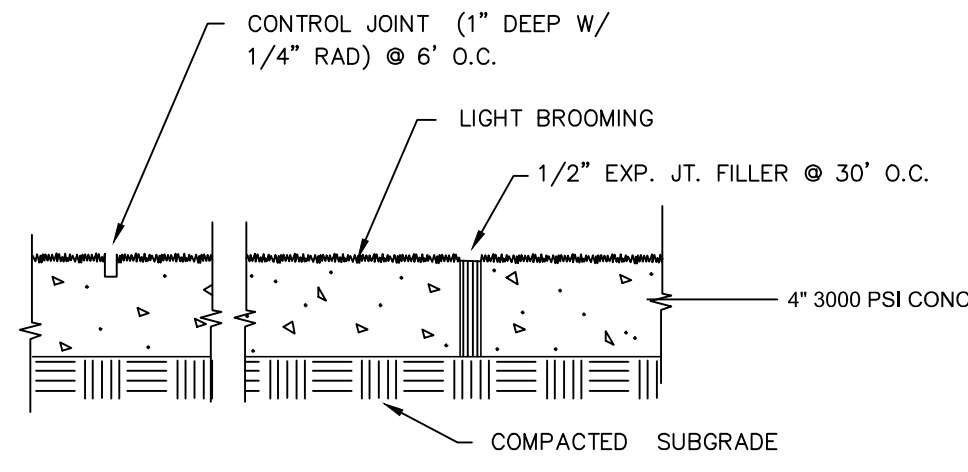
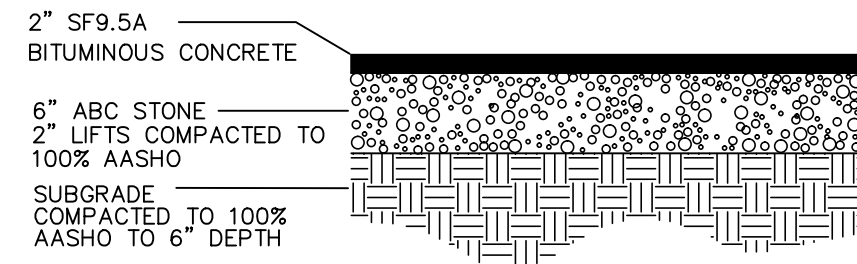
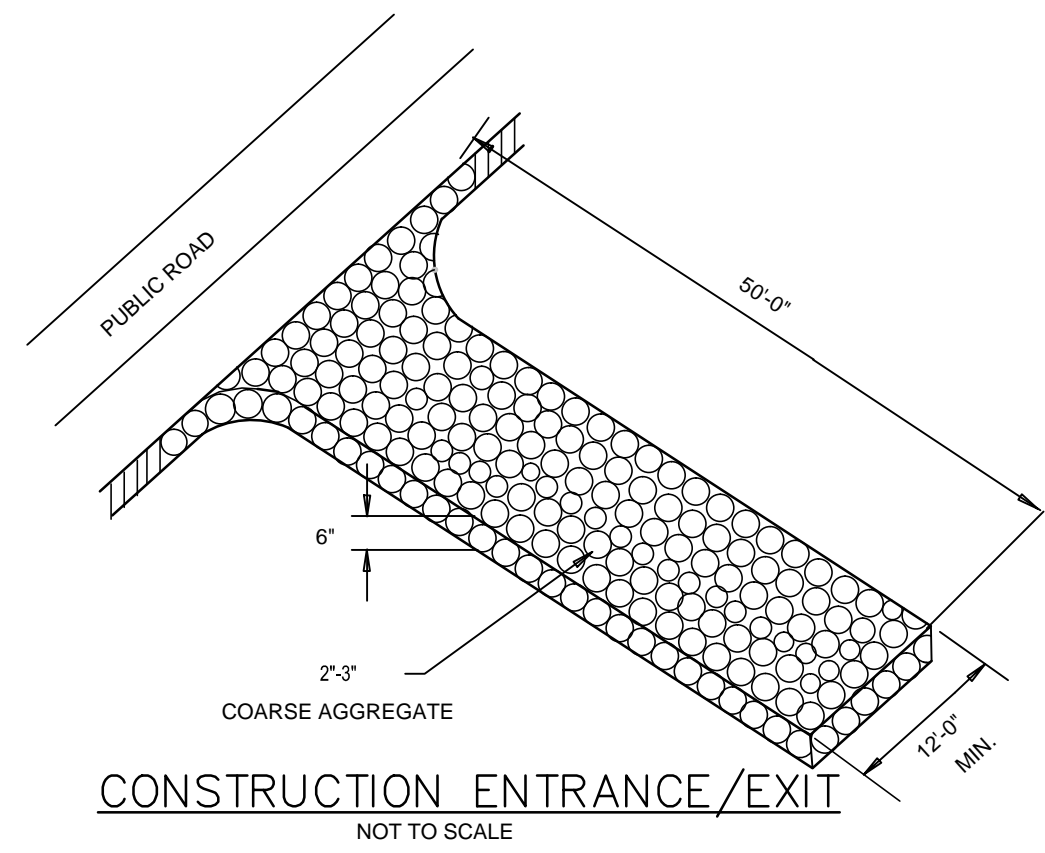
CLIENT
MARK GRENELL, ARCHITECT
PO BOX 393
CASTLE HAYNE, NC 28429



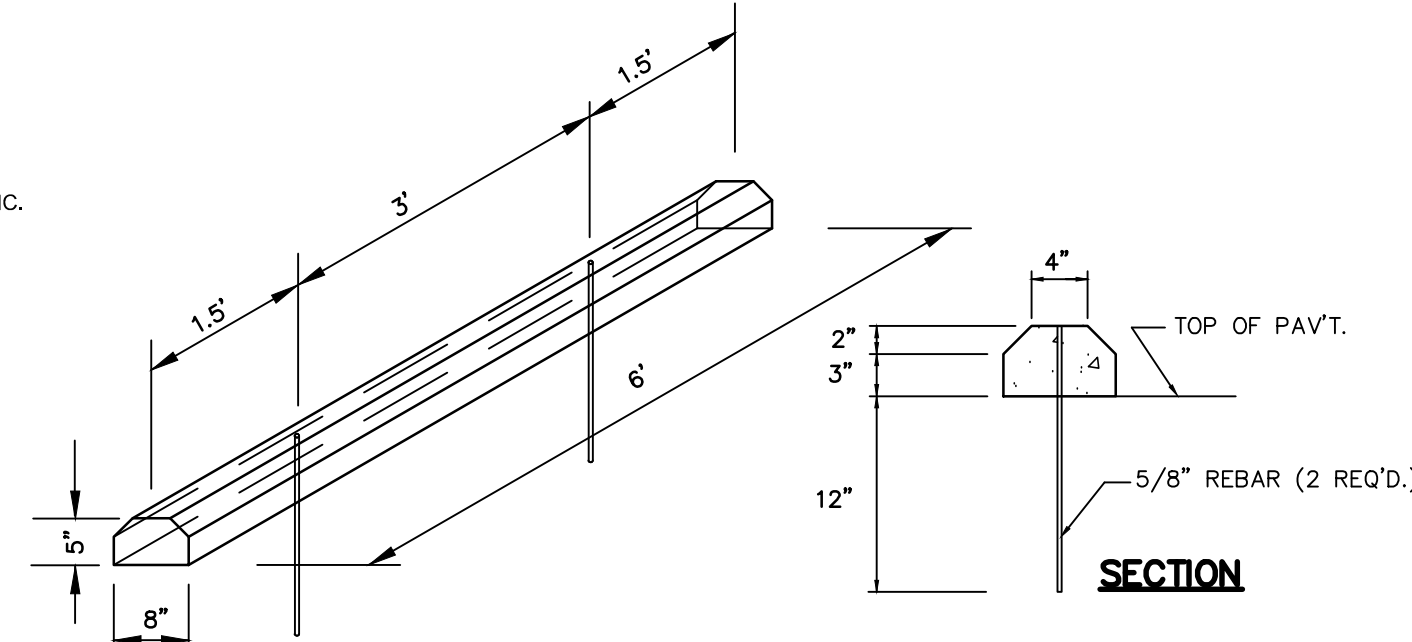
JBS CONSULTING, PA
7332 Catesworth Drive
Wilmington, NC 28405
(910) 619-9990
License Number C-2525
PLANNING - ENGINEERING - PROJECT MANAGEMENT

SHEET	C2	of 4
JOB NO.	012-005	

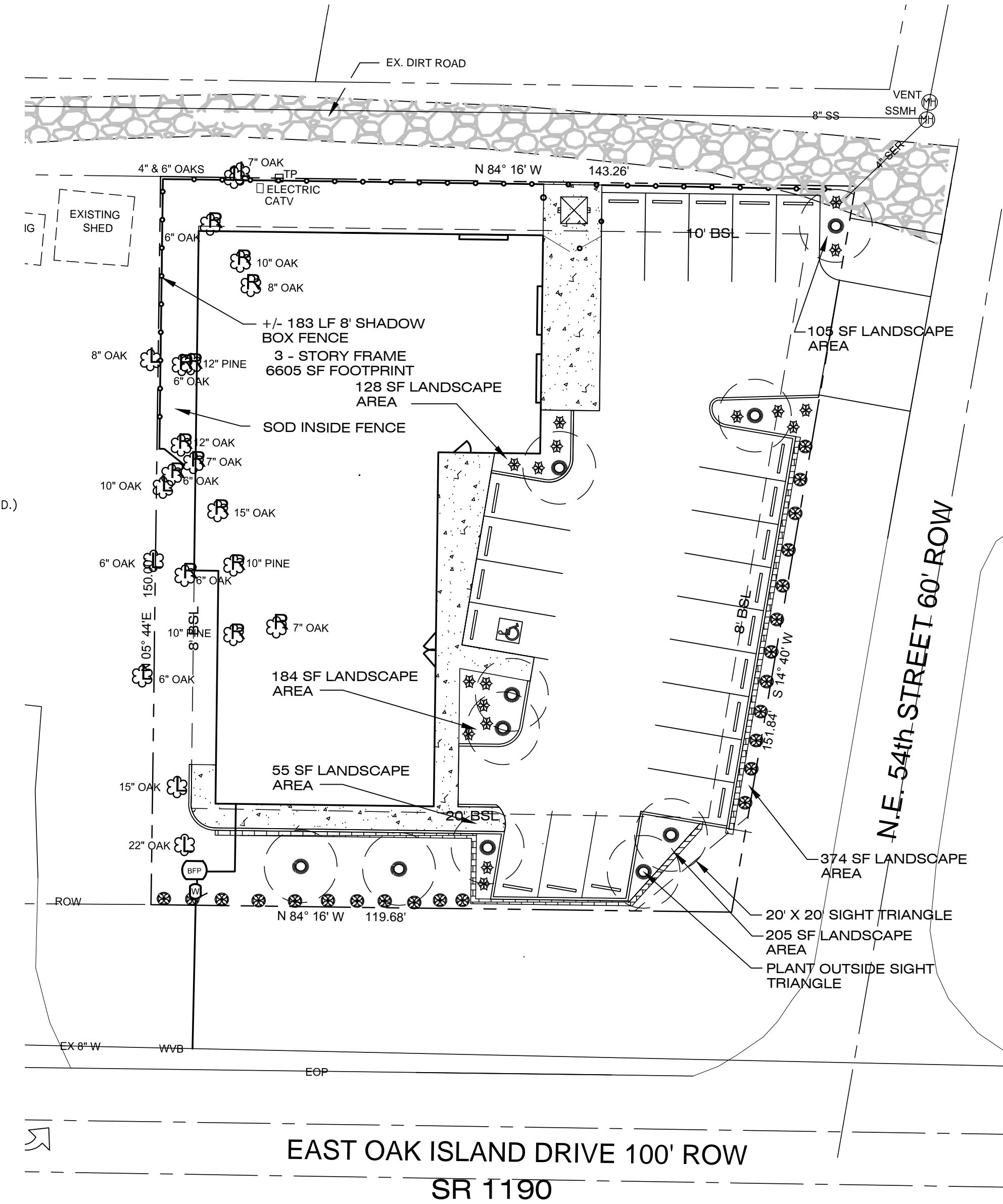
R4	4-5-17	ADDRESSED OAK ISLAND PLANNING COMMENTS DATED 3/28/17
R3	3-22-17	ADDRESSED OAK ISLAND PLANNING COMMENTS DATED 3/14/17
R2	3-7-17	MODIFIED DRIVEWAY & INFILTRATION BASIN
R1	1-31-17	RELEASED FOR REGULATORY REVIEW
NUMBER	REVISION	DATE



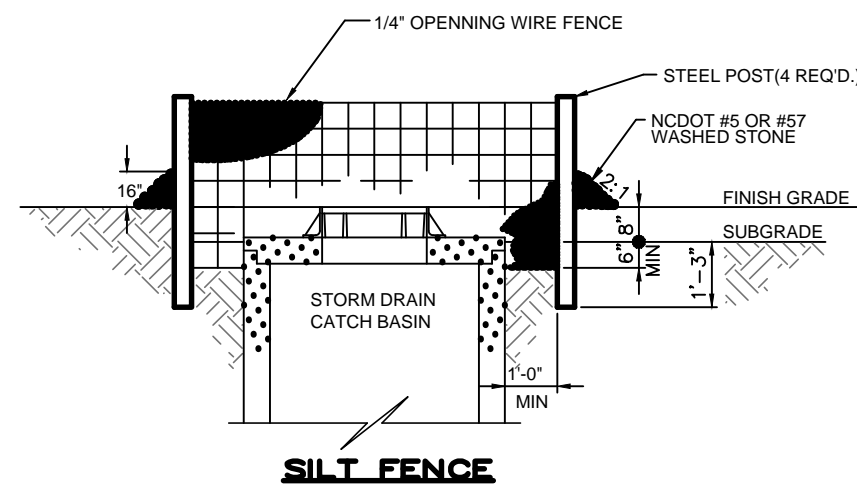
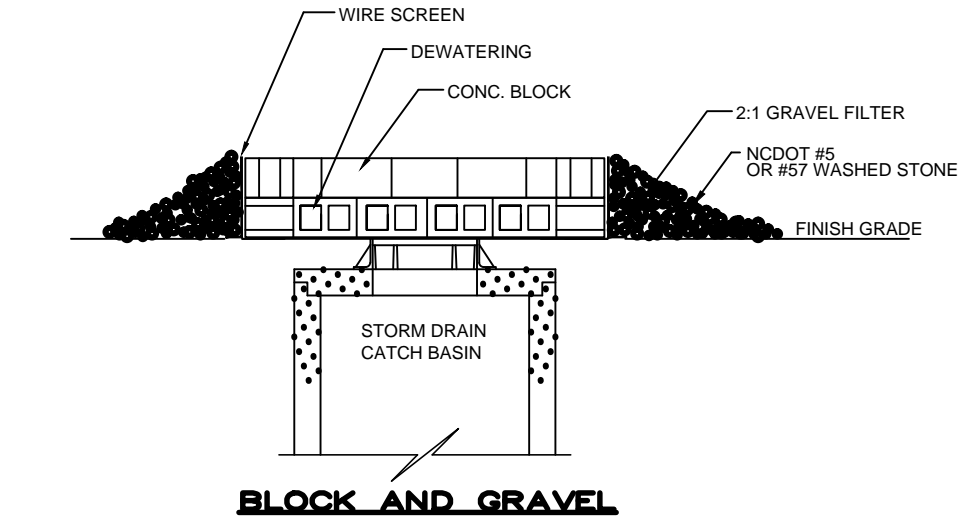
NOTES : ALL EDGES TO BE EDGED W/ 1/4" PAD



PLANTING SCHEDULE				
Common Name	SHADE TREE	Size	Qty	
YALPON	ILEX VOMITORIA	15' HOOT 2 1/2" CAL	10	
SHRUBS				
Evergreen Euonymus	Euonymus japonica	3 Gal./3ft	16	
Common Privet	Ligustrum vulgare	3 Gal./3ft	21	

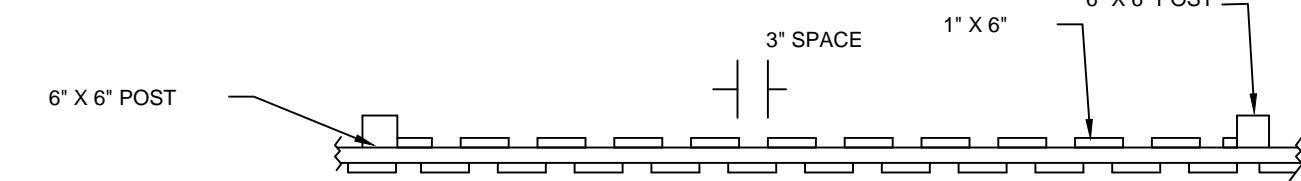
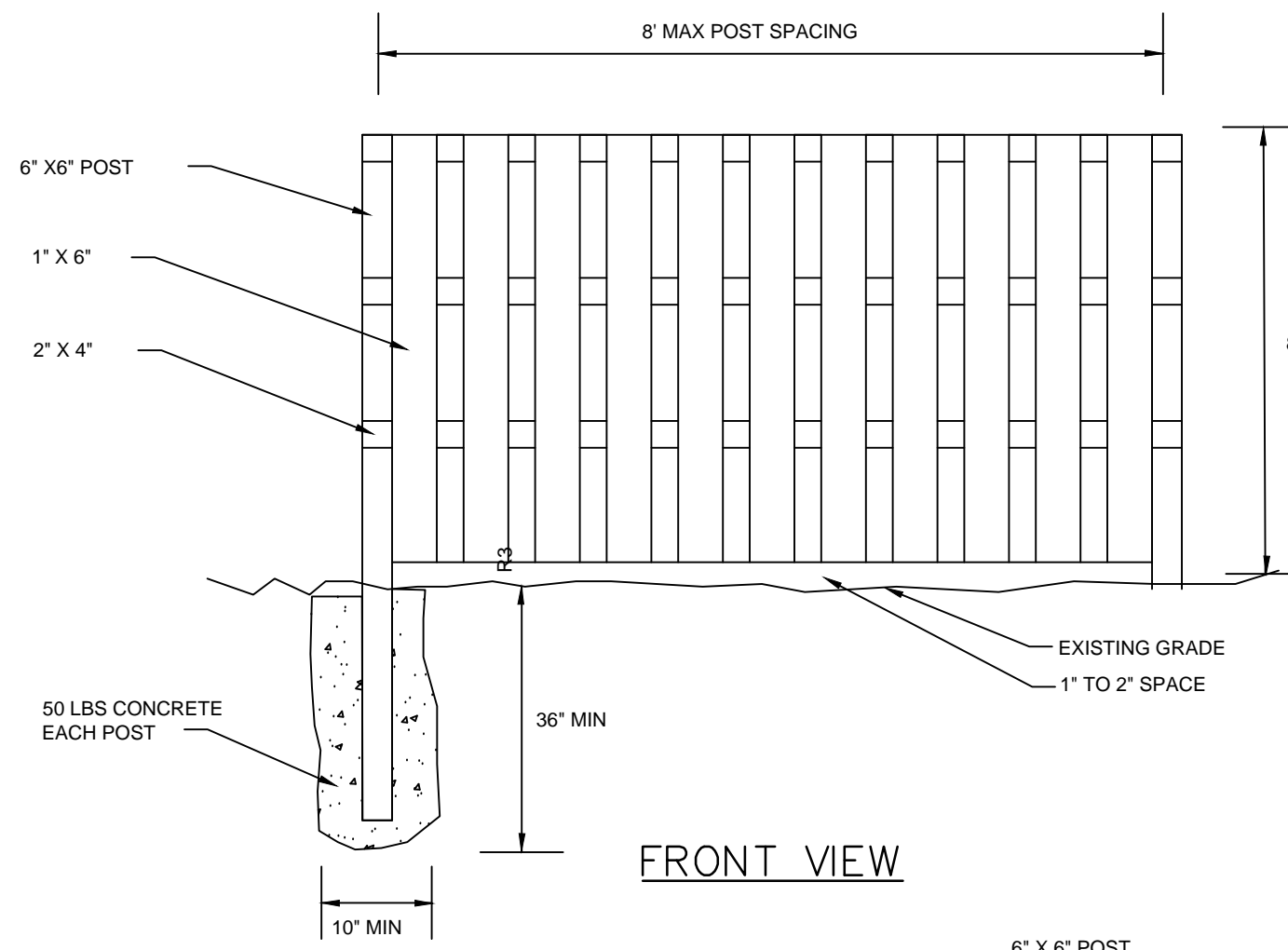


LANDSCAPE NOTES
PER OAK ISLANDS ORDINANCES 8% PARKING AREA TO BE LANDSCAPE
ASPHALT PAVEMENT = 7,086 SF
LANDSCAPE AREA = 1,051 SF
1,051 / 7,086 = 14.8%



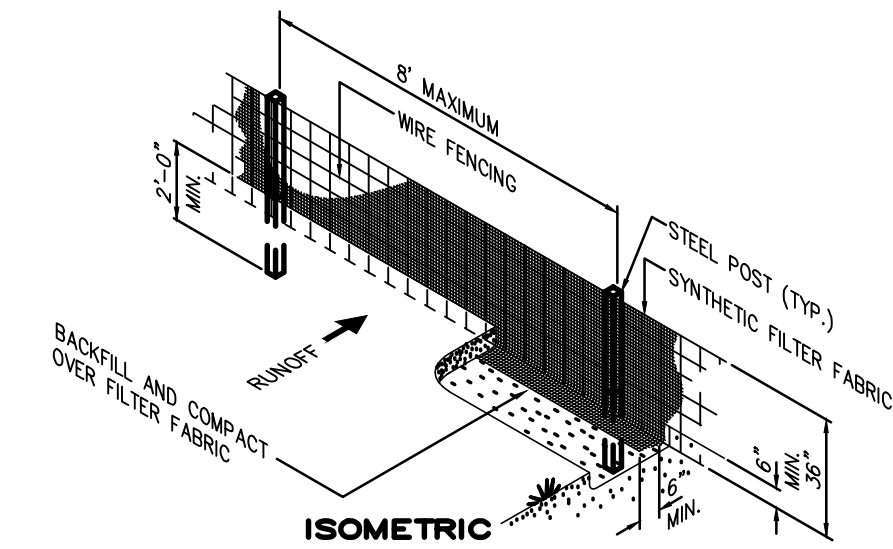
NOTE: USE BLOCK AND GRAVEL INLET PROTECTION IN AREAS WHERE SILT FENCE INLET PROTECTION CAN NOT BE INSTALLED.

INLET SEDIMENTATION CONTROL
NOT TO SCALE

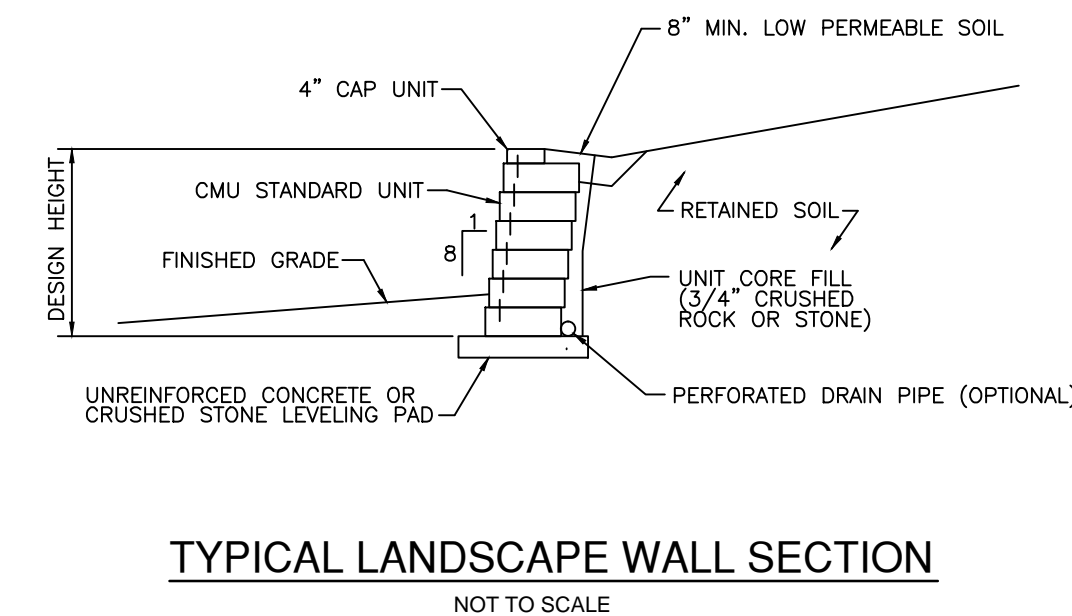
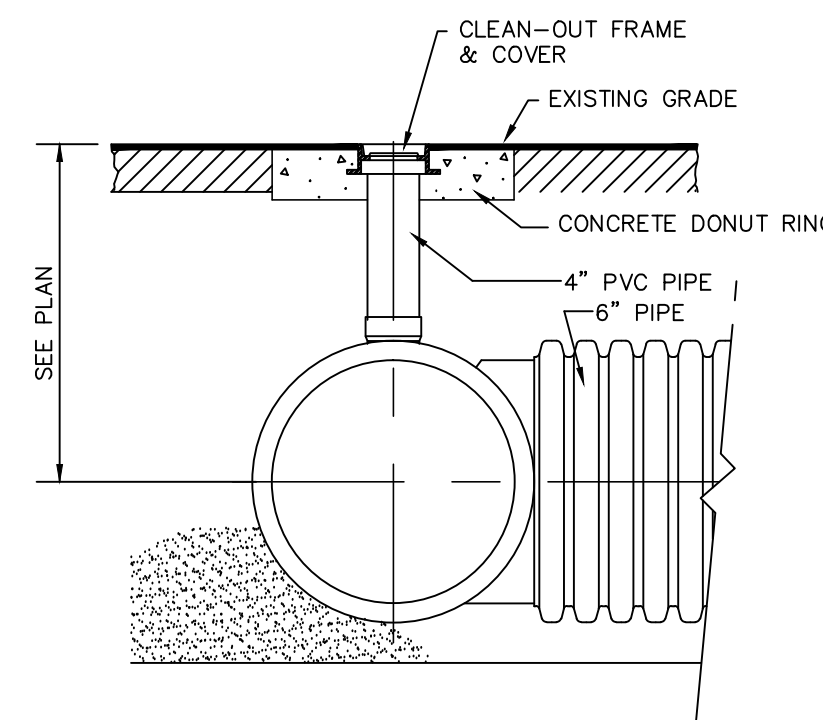
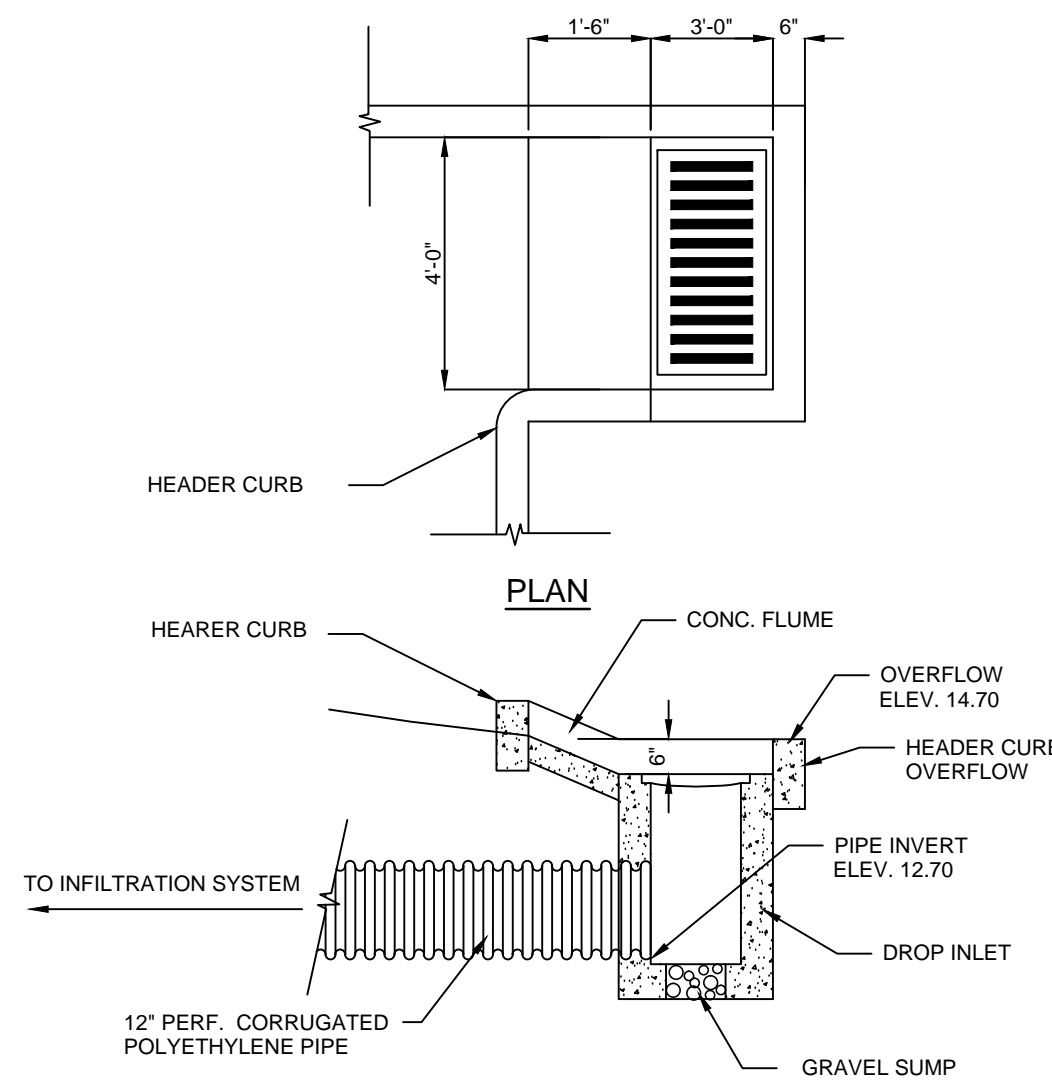
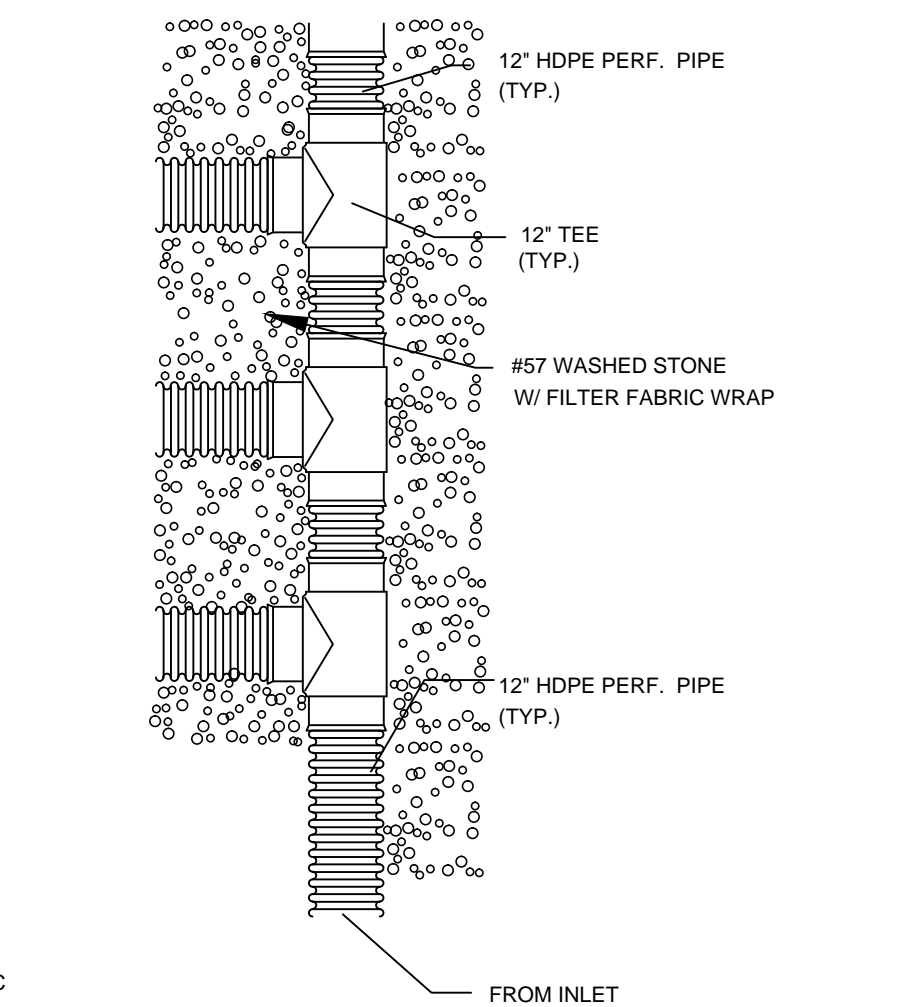
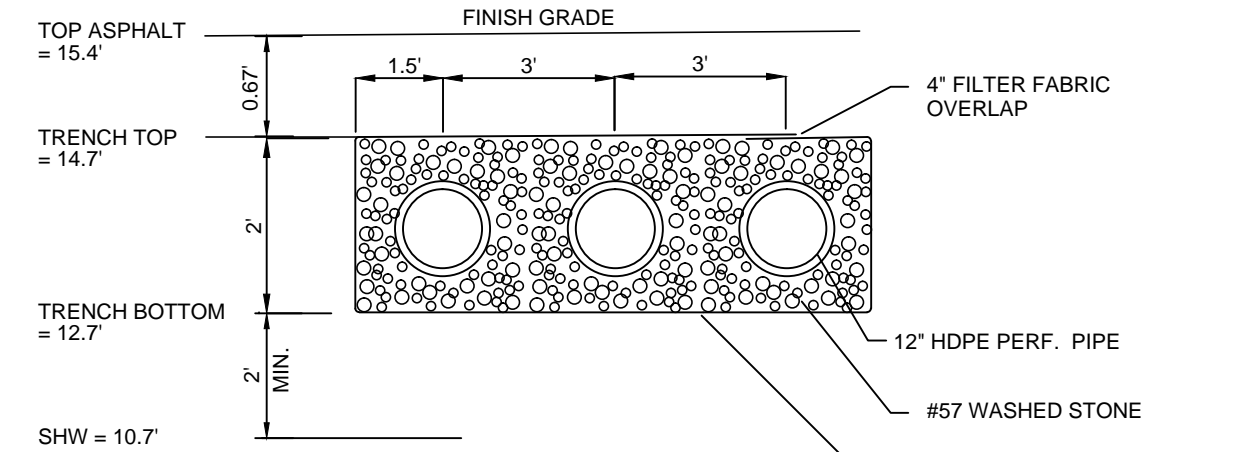


ALL FENCE MATERIAL TO BE PRESSURE TREATED PINE. USE GALVANIZED FASTENERS

SHADOW BOX FENCE DETAIL
N.T.S.



SILT FENCE DETAIL
NOT TO SCALE



CLIENT
MARK GRENELL, ARCHITECT
PO BOX 393
CASTLE HAYNE, NC 28429

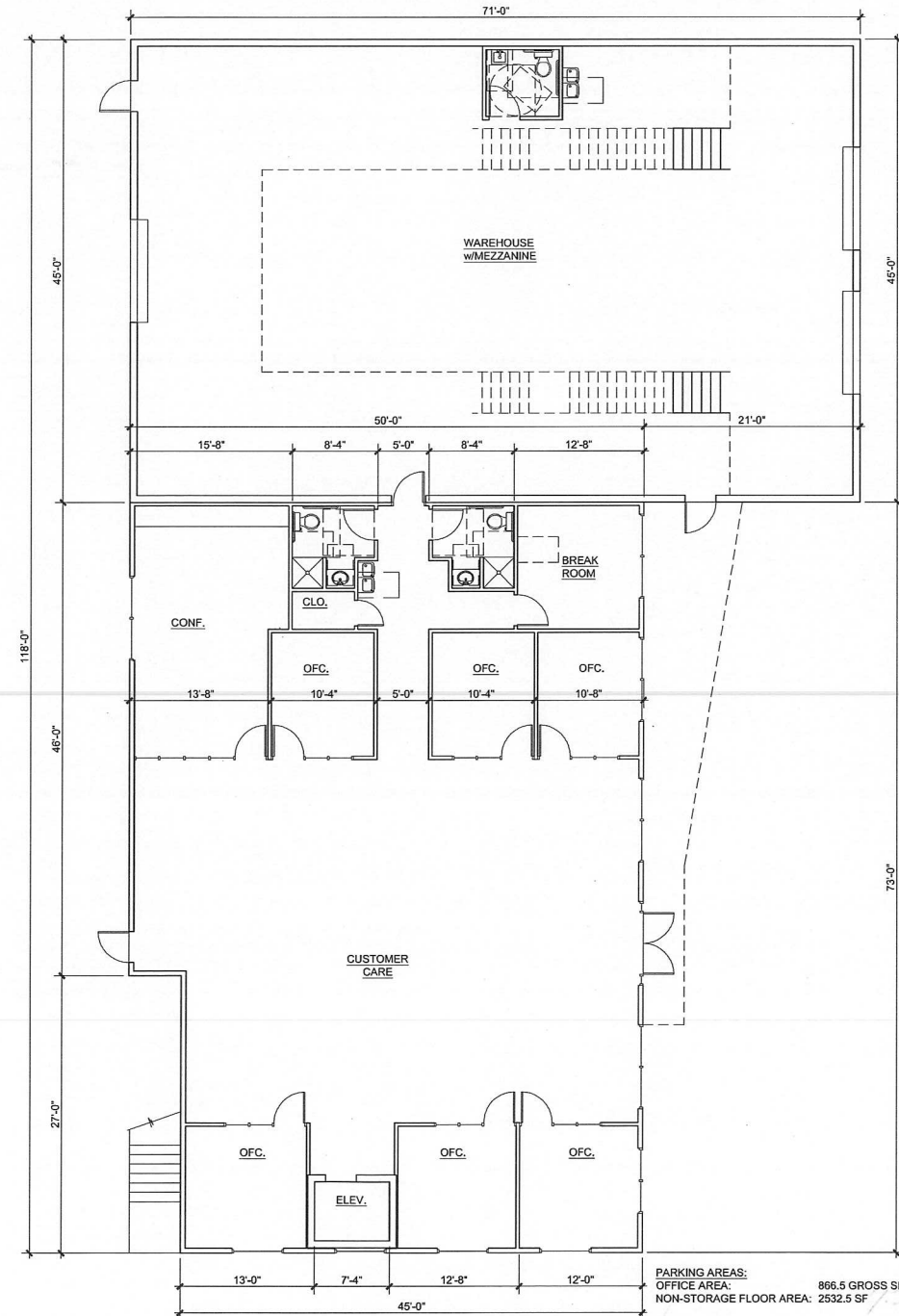


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(910) 619-9990
License Number C-2525
PLANNING - ENGINEERING - PROJECT MANAGEMENT

SHEET
C3
JOB NO. 012-005

DESIGN BY: BDS
DRAWN BY: BDS
CHECKED BY: BDS
DATE: JAN., 2017

DETAILS
MANSFIELD SALES & REPAIR
5215 EAST OAK ISLAND DRIVE
OAK ISLAND, NC



2 PROPOSED GROUND FLOOR PLAN
1/8"=1'-0"

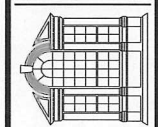


New Facility For
Mansfield Sales and Repair
Lots 6-11, Block 57, East Oak Island Drive
Oak Island, North Carolina



3 March 2017

Mark Grenell, Architect
215 South Kerr Ave. Wilmington, NC 28403 Voice: 910-233-1061 email: mg.architect@gmail.com
All information and dimensions shown are subject to verification. All information and dimensions shown are subject to verification. All information and dimensions shown are subject to verification.



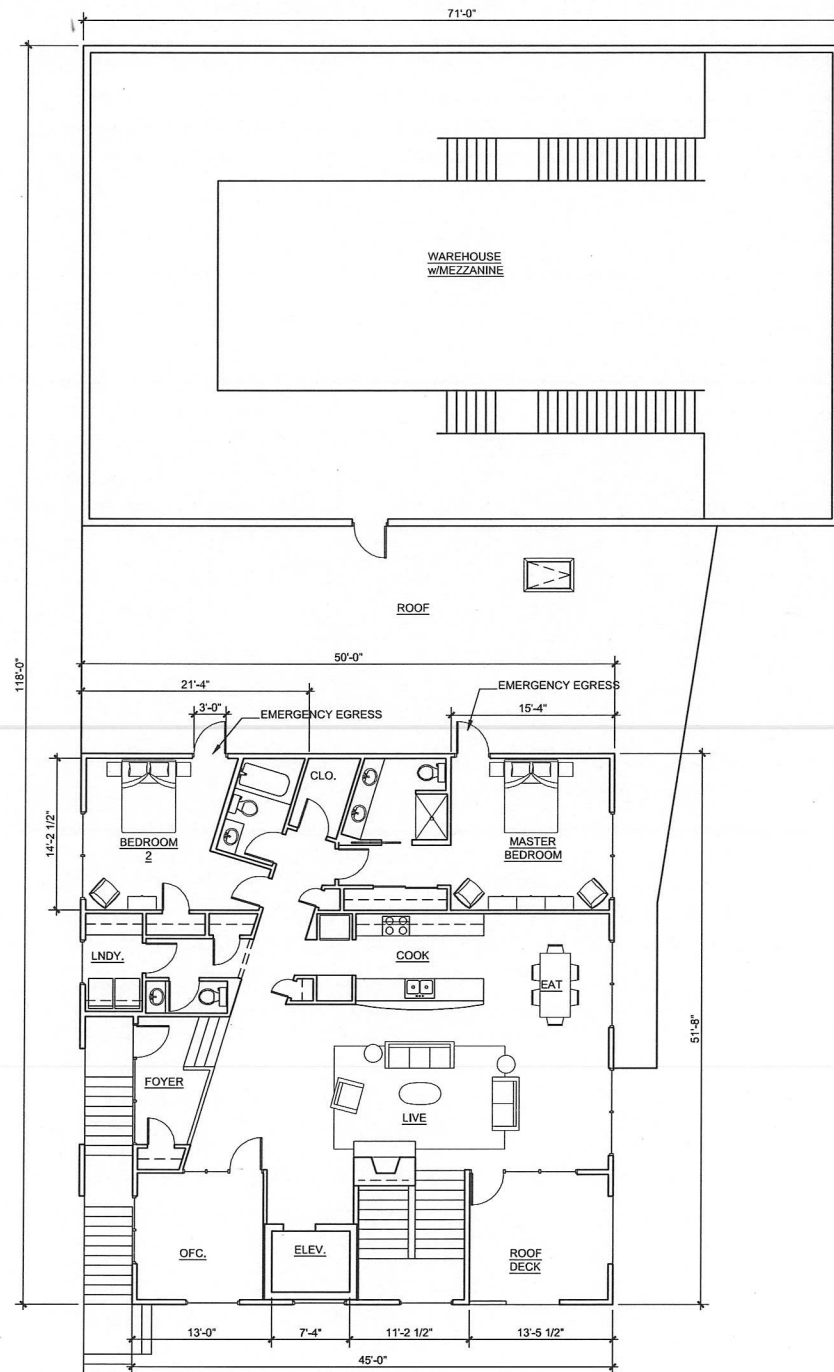
3 March 2017

REVISIONS	
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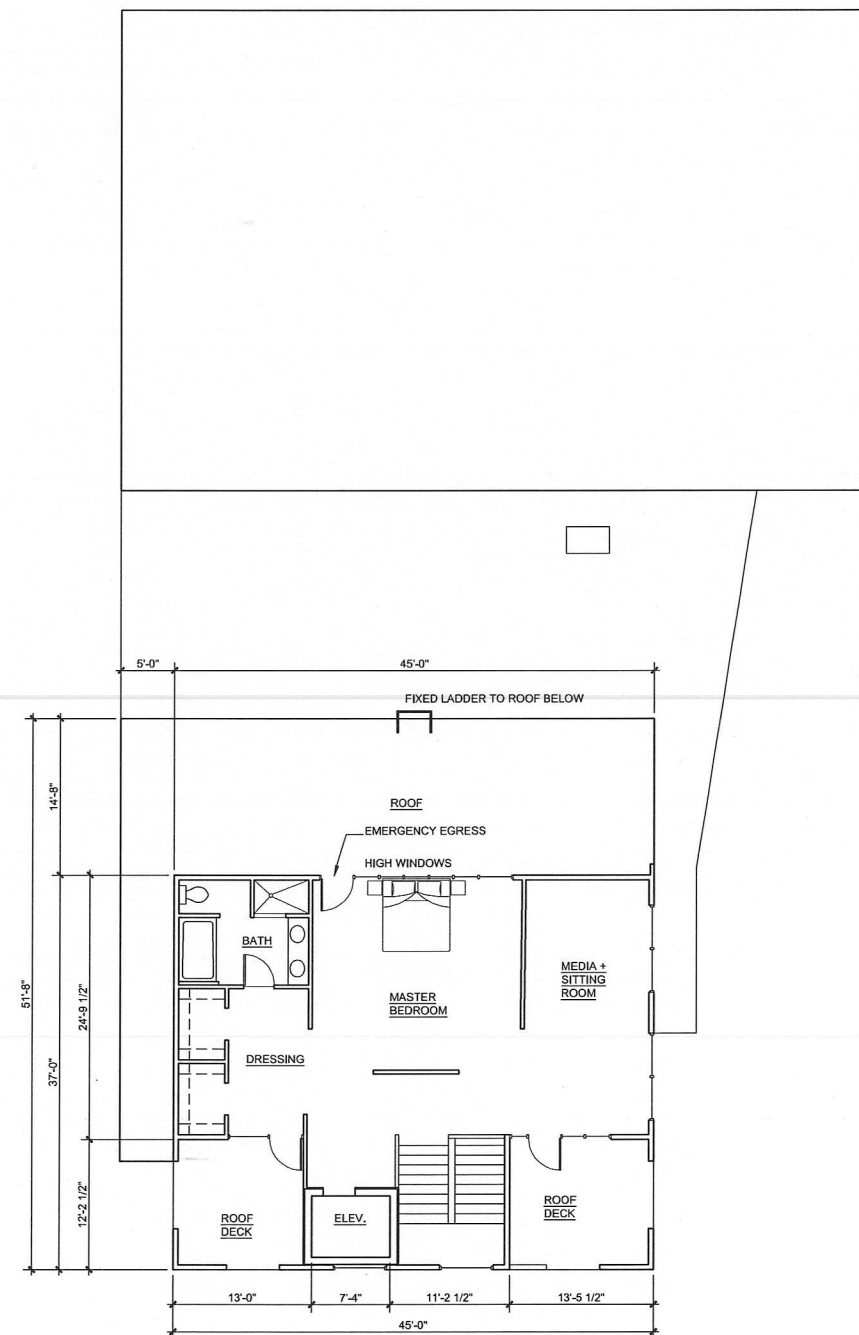
Proposed Ground Floor

SCALE AS NOTED

ARCH
A1



2 PROPOSED 2nd FLOOR PLAN
1/8"=1'-0"

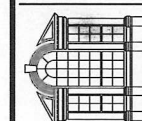


1 PROPOSED 3rd FLOOR PLAN
1/8"=1'-0"



3 March 2017

Mark Grenell, Architect
215 South Kerr Ave. Wilmington, NC 28403 Voice: 910-233-1061 email: mg.architect@gmail.com



3 March 2017

REVISIONS

no. date

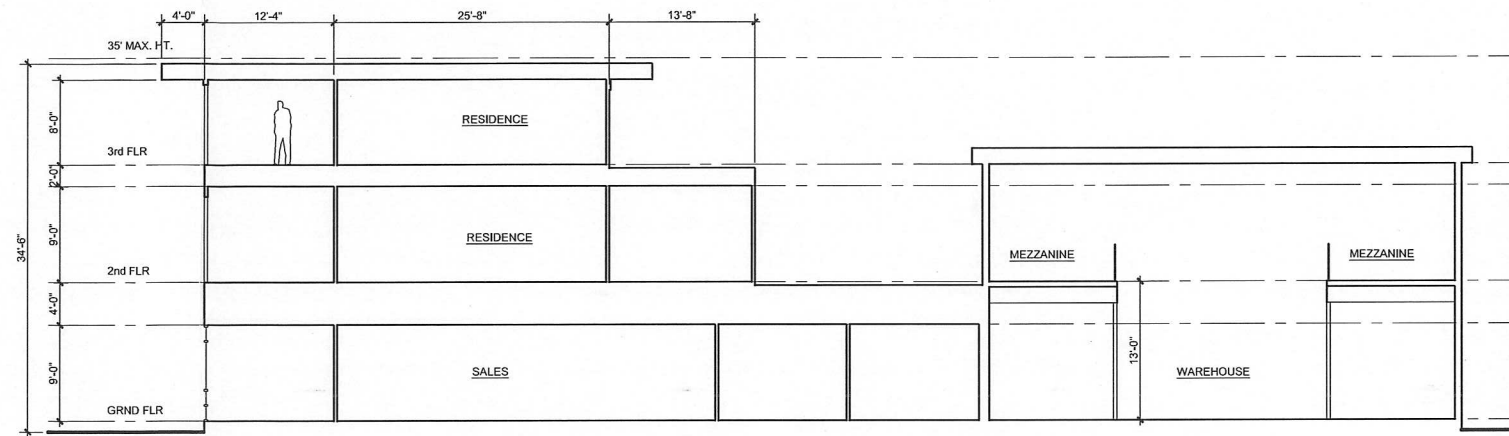
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Second Floor Plan
Third Floor Plan

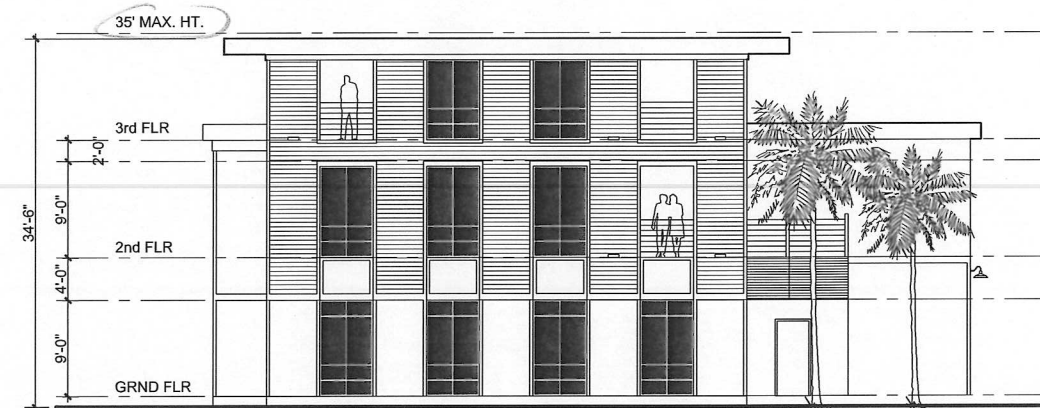
SCALE AS NOTED

ARCH
A2

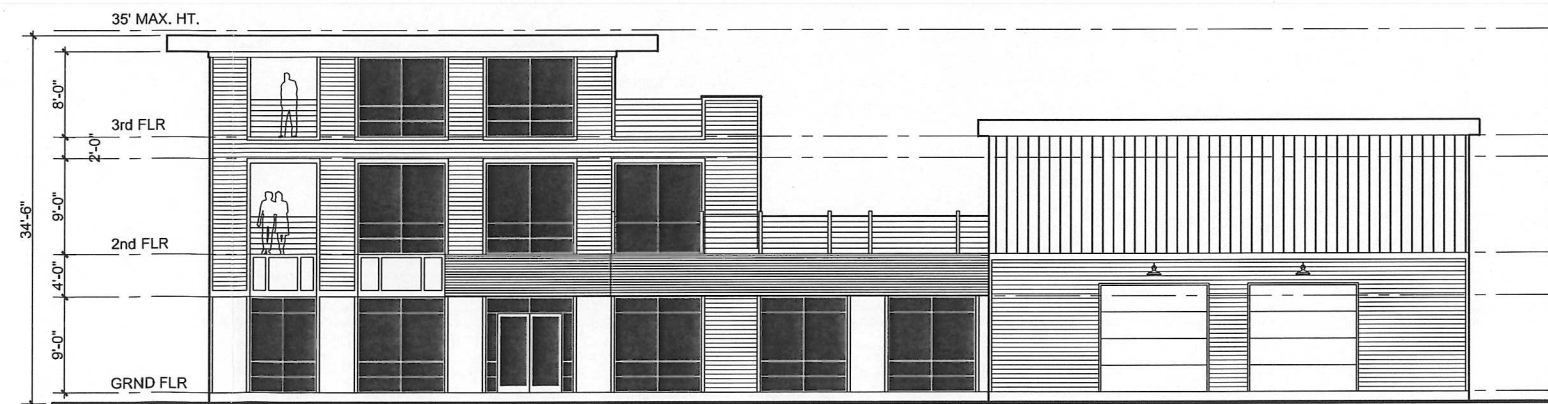
New Facility For
Mansfield Sales and Repair
Lots 6-11, Block 57, East Oak Island Drive
Oak Island, North Carolina



5 PROPOSED BUILDING SECTION
3/32"=1'-0"



2 PROPOSED ELEVATION FROM STREET
1/8"=1'-0"



1 PROPOSED ELEVATION FROM PARKING LOT
1/8"=1'-0"

New Facility For
Mansfield Sales and Repair
Lots 6-11, Block 57, East Oak Island Drive
Oak Island, North Carolina

Mark Grenell, Architect
215 South Kerr Ave. Wilmington, NC 28403 Voice: 910-233-1061 email: mgarchitect@gmail.com
All information and dimensions shown are subject to verification.
These drawings and ideas here depicted are instruments of service, and as such are the sole property of Mark Grenell, Architect.

3 March 2017

REVISIONS	
no.	date
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Exterior Elevations

SCALE AS NOTED

ARCH
A3

Rev: 5/2016

Public Utilities Department Service Request Form

Building Permit Tracking Number

2017
LAND 2016-47

Date Received by Dev. Services

Information to be filled in by Owner/Contractor

Type of Construction	Tax Parcel Number
NSF Comm.	235MP001

Irrigation Meter	Water Service Size
Yes <input checked="" type="radio"/> No <input type="radio"/>	3/4" <input checked="" type="radio"/> 1" <input type="radio"/> 2" <input type="radio"/>

Was lot previously combined?	NO
If Yes- Original Parcel Number	YES

Lot Block Section Description
6-11 / 57 / 5

# of Fixture Units	# Baths	# Habitable Rooms

Water Tap Location (Facing Property)
Other: <input checked="" type="radio"/> Right <input type="radio"/> Left
Previously installed Utilities may effect location

Information to be filled in by Town Official

Water Impact (30-372-0000)
Cost \$
Water Tap (30-373-0000)
Size 3/4"
Cost \$
Irrigation Tap (30-373-0000)
Size 3/4"
Cost \$

Sewer Impact (31-372-0000)
Cost (1st 4 Habitable Rooms) \$
Cost EXTRA Habitable Room(S) \$
Sewer Tap (31-373-0000)
Type Vac Gravity
Size
Cost \$
OTHER:

Sewer Assessment Paid?	No <input type="radio"/> Yes <input checked="" type="radio"/>
(31-380-0000)	
Amount Owed \$	

Collection Department Reviewed By

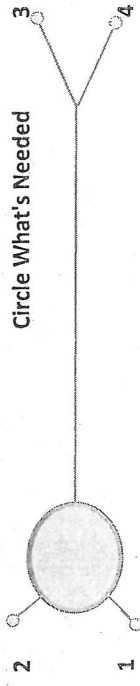
Public Utilities Department Reviewed By

Date

Date

Address (Project)			
5216 E Oak Island Dr			
Owner of Record	Mansfield Property Holdings LLC		
Billing Address	2844 Beach Tree Dr		
Town	Southport	State	NC
Phone / Cell	910 - 278-9669	Zip	28461
Email			
Contractor/Agent	Matt Mansfield		
Phone / Cell	910 - 278-9669		

Water Service	Short	Long
Gravity Service	Short	Long



House #	Avg Daily Flow* (GPM)
#1	
#2	
#3	
#4	
Vac Station #	
Valve Pit #	
Lift Station #	








WO #'s
Notes:

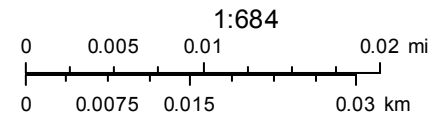
Meter Number
Install Reading
Install Date
WO Number

Brunswick County GIS Data Viewer



May 3, 2017

-  Addresses
  US Hwy
  Minor
  Parcel
  Blue: Band_3
- Roads**
  NC Hwy
Parcels
  Red: Band_1
-  Interstate
  State Road
 Condo
 Green: Band_2



**TOWN OF OAK ISLAND
TOWN COUNCIL
AGENDA ITEM MEMO**

Agenda Item: New Business Number 2

Date: May 8, 2017



Issue: Conditional Use Permit Application

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 35 Minutes

Subject Summary:

The applicant is applying for a Conditional Use Permit (CUP) in order to have a *contractor office, outdoor storage and display* located at 4912 E. Oak Island Drive; tax parcel number 235MM005. The CUP is being applied for by the property owner. The applicant currently has a contractor office at the site and wishes to have outdoor storage in the rear of the lot, see attached site-plan survey.

The table of uses (Sec.18-116) codifies a “contractor office, outdoor storage and display” as permissible with a Conditional Use Permit from the town if it is located within the CB (Community Business) zoning district.

Uses	R-20	R-9	R-7.5	R-7	R-6A	R-6B	R-6MF	R-6MH	O & I	CB	CR	C-LD	OS	AD	Club Overlay Dist.	CUCB
contractor office, outdoor storage and display										<u>C</u>	C	P		C		C

No additional standards specific to this land use are codified the zoning ordinance. The applicant has added in fence screening schematics into his application. That is not required by the ordinance but can be voluntarily installed by the applicant.

Given that this is for a Conditional Use Permit, even though it is an informal review it is a best practice to not discuss this hearing item outside of the meeting, either with the applicant, with one-another, or the public. This is a way to ensure fairness by having all the discussion take place in the open at the hearing. The Town Council is required to follow those same restrictions as well. If anyone has a direct or potential financial interest in this proposed project then they should recuse themselves.

The Court of Appeals approved the use of four fairly general standards for considering and approving Conditional Use Permits: (1) does not materially endanger the public health or safety, (2) does not meet all required conditions and specifications, (3) will not substantially injure the value of adjoining property, and (4) will be in harmony with the area in which it is

located and be in general conformity with the comprehensive plan. This is also the criteria codified in the Town of Oak Island zoning ordinance that is to be reviewed when deciding to approve a CUP. With Conditional Use Permits the applicant has the burden of presenting sufficient evidence that an application meets the standards of the ordinance. Furthermore, the burden of proof that the Conditional Use Permit application meets the four standards outlined above rests with the applicant. Only the standards actually listed in the ordinance may be used as a basis for denial if such denial is predicated on the fact that all the required standards could not be met. The Planning Board will need a quorum to vote and a simple majority is all that is needed to pass a vote. Only expert testimony is supposed to be considered.

Official certified letters have been sent to the adjacent property owners and a sign has been placed at the site detailing the hearing date, time and location, per the zoning ordinance requirements. Traditionally, this is a quasi-judicial decision and carries with it a separate, more officious operating procedure. The Planning Board review of this application is not a quasi-judicial hearing. After the Planning Board meeting the CUP still must be approved by the Town Council as a quasi-judicial hearing. Some considerations to take into account are the health & safety of the public, potential injury to adjacent property values, undue concern to the neighbors, and the use will be in harmony with area. The Conditional Use Permit recommendation can be for denial, approval, or approval with recommended conditions.

Attachments: CUP application, Site-plan surveys, Fence screening schematics, site area map

Recommendation/Action Needed: Recommendation to Town Council to approve, deny, or approve with conditions

Funds Needed: \$0.00

Planning Board Recommendation/Conditions: _____

Follow Up Action Needed: Inform applicant, forward recommendation to Town Council

Attachments:



APPLICATION FOR SPECIAL USE

Office Use Only

Date Rec'd: 5-8-17

Rec'd by: JV

Amount Paid: \$ paid - JV

Town of Oak Island • 4601 E. Oak Island Drive, Oak Island, NC 28465 • Phone: (910) 201-8001 • Fax: (910) 278-1811

All applications for conditional use must be complete and accompanied by the permit fee of \$300 payable in cash or by check made to the Town of Oak Island. Applicants will not be responsible for any additional cost of public notices. All fees must be paid in full before a Certificate of Zoning Compliance (Zoning Permit) will be issued and before an application will be submitted for review by the Planning Board or Town Council. Applicants are responsible attending all Planning Board and Board of Aldermen meetings where this application will be considered.

In accordance with the Town of Oak Island Code of Ordinances, Chapter 18, Article 2 Section 18-221 the purpose of this division is to allow for those uses that have a potential of being incompatible with adjacent land uses. For this reason special consideration shall be given to those uses listed as conditional uses in the zoning districts as listed in Division 4 of the code of ordinances.

The reasons for requiring such special considerations involve, among other things, the size of the area required for the development of a use, the effect such uses have on any adjoining land uses and on the health, safety, and general welfare and development of the community as a whole. Approval of a conditional use does not provide a binding precedent to grant other conditional uses. A conditional use is not transferable from one parcel of land to another. Conditional uses must be approved by the Town Council. All conditional uses must satisfy all standards in Chapter 18, Article 2 Section 18-221.

The application must be reviewed by town staff before the application can be placed on the Planning Board Agenda. Please consider that review time before submitting your application. Applications will not be considered as accepted for review unless all required information is provided. Prior to the date of the review the board shall hold an evidentiary hearing on the special use permit request.

Parcel Identifier Number (PIN): _____ Date: _____

Section A: Property Information

Applicant Name: David Purser

Project Name: LPM OFFICE

Property Address: 4912 East Oak Island Drive State: N.C. Zip Code: 28465

Phone: 980-254-1489 Fax: _____ Email: Dpurser4@carolina.rr.com

Existing Zoning District: CB

Parcel ID #(s): 235MM005 Total Site Acres or Square Feet: 6000 sq ft
Current Zoning District(s): CB Use Classification (from Table of Uses): _____

Project Description:

To obtain a conditional use permit for outside storage

(attach a separate page is needed)

The undersigned applicant hereby certifies that, to the best of his knowledge and belief, all information supplied with this application is true and accurate:

Signature: [Signature] Date: 5-4-17

Section B: Project Owner Information (if different from above)

Applicant Name: David Purser

Project Name: LPM Office

Property Address: 4917 E Oak Island Dr. State: N.C Zip Code: 28465

Phone: 980-254-1489 Fax: _____ Email: Dpurser4@carolina.rr.com

Section C: Conditional Use Standards

In order to approve a conditional use, the Town Council must hold a hearing and find, based on the evidence presented, that the application adequately satisfies the conditional use standards identified in Section 18 – Division 8 of the Unified Development Ordinance. You are encouraged to attach any documentation supporting how the proposed project satisfies the following standards, including a statement describing separately for each standard in significant detail the facts and arguments you intend to present to the Board during the hearing:

- (1) That the use will not materially endanger the public health or safety.
- (2) That the use will not substantially injure the value of adjoining or abutting property.
- (3) That the use will be in harmony with the area in which it is to be located.
- (3) That the use will be in general conformity with the Land Use Plan, Thoroughfare Plan, or other plans officially adopted by the Board of Aldermen.
- (5) That the use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property.
- (4) That the use is essential or desirable to the public convenience or welfare.
- (7) That the use will have adequate utilities, access roads, drainage, sanitation, or other necessary facilities.
- (8) That the use will have adequate facilities to provide ingress and egress so designed as to minimize the traffic congestion in the public streets.

Section D: Conditional Use Standards and Requirements

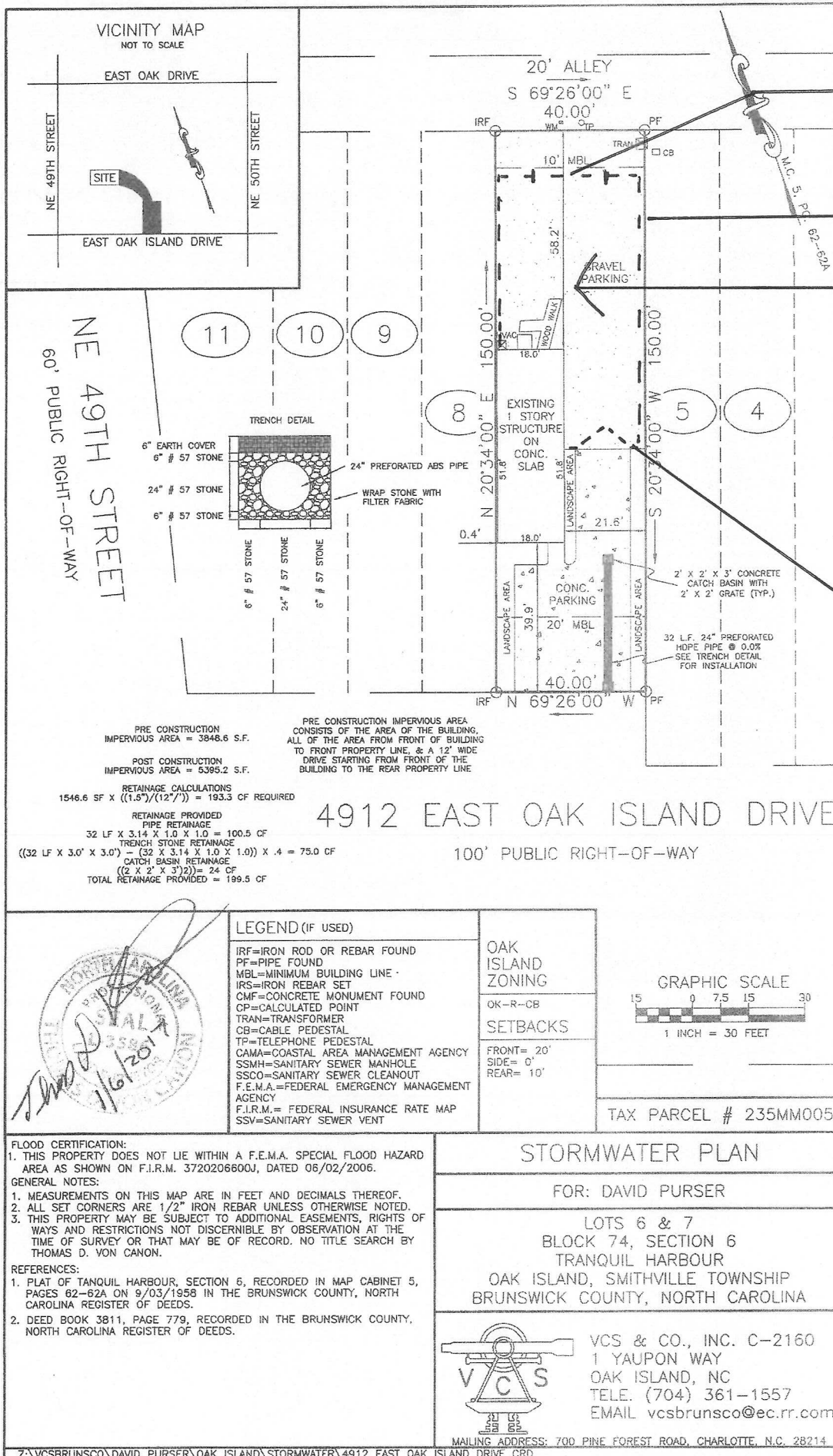
Each application for a special use must include:

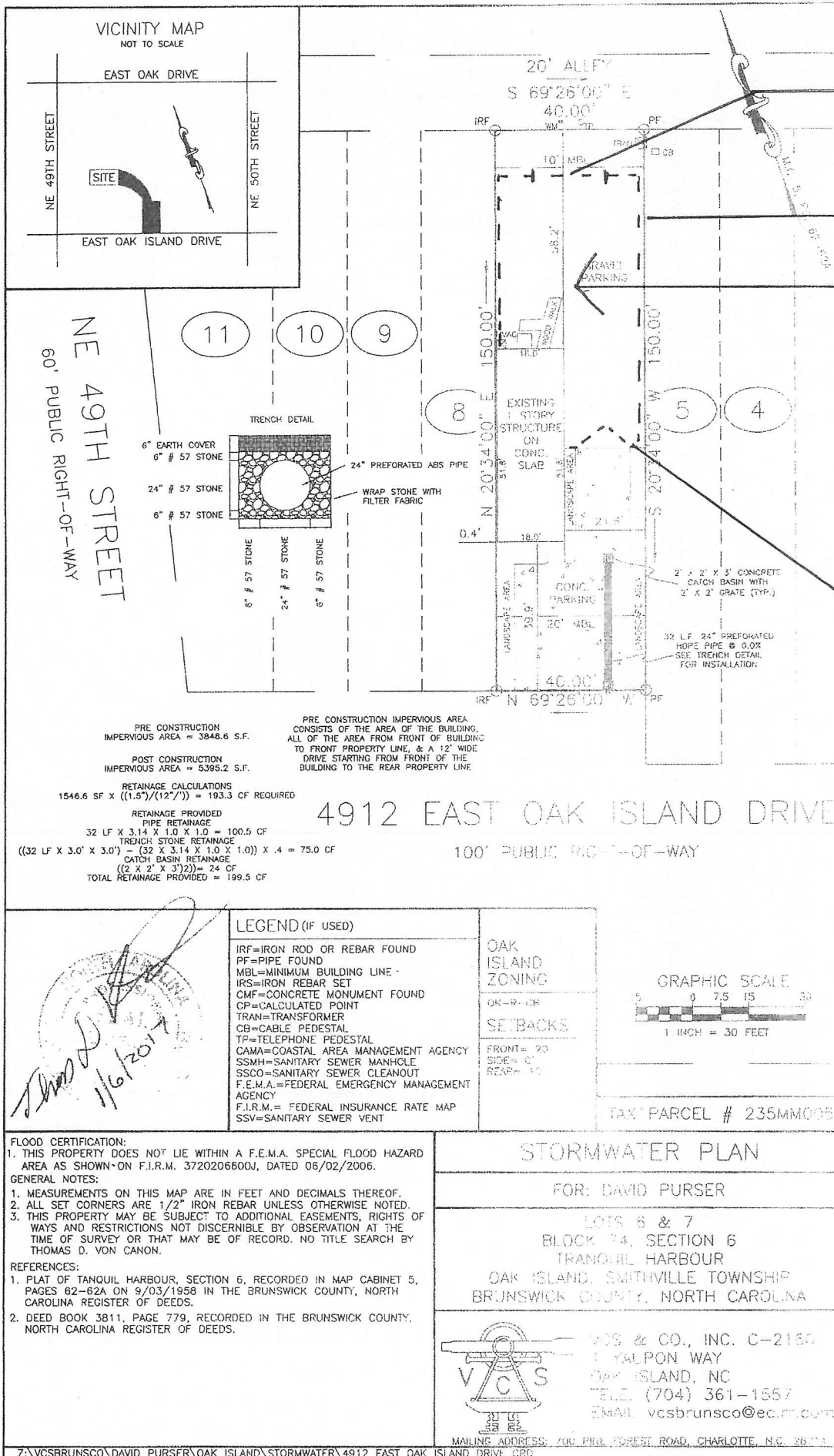
- ☒ An application fee of \$300.00 plus in cash or check made payable to the Town of Oak Island.
- ☒ A Site/Landscaping Plan Application with required plans containing all required information from the Unified Development Ordinance.
- ☒ A notarized letter of authorization if acting as the agent for the property owner(s).
- ☒ copies of an accurate map, site-plan, survey or plat of property showing:
 - Title Box including the project name, applicant name, and address of the property
 - Names of the owners of record for adjacent properties
 - Property lines and dimensions
 - The location and names of all adjacent street rights of way
 - Location, size, zoning designation, and total area of the property
- ☒ Directional feature of all parking spaces, driveways, and curb cuts (if applicable)
- ☒ Accurate depiction of the project to scale with layout of proposed buildings including the length, width, height, placement, and building envelope with required setbacks
- ☒ A Site/Landscaping Plan Application with required plans containing all required information
 - General location and type of stormwater facilities including preliminary stormwater report indicating pre and post retention (if applicable)
- ☐ Proposed or required buffering and landscaping
- ☒ If applicable the proposed phasing of the project
- ☒ Location of Service facilities such as dumpsters and any planned screening or treatment to those areas (if applicable)
- ☒ General location of on-site utilities and proposed tie into facilities
- ☒ All existing easements, reservations, or restrictive covenants (if applicable)
- ☒ Copies of a detailed project narrative describing the proposed use, site, and nature of the request
- ☒ Any other information deemed necessary by Development Services

Office Use Only

Planning Board Hearing Date: _____ Recommendation: _____ Staff: _____

Town Council Hearing Date: _____ Action: _____ Staff: _____





Drive Thru Gate

Dash L1 Represents Fence with Fence B Screen

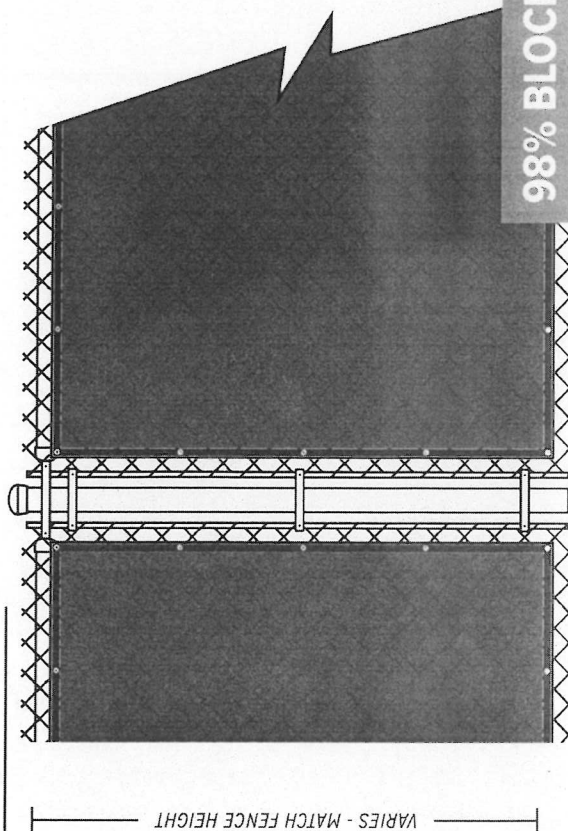
Area to Be used as storage

Drive Thru Gate

100 SERIES

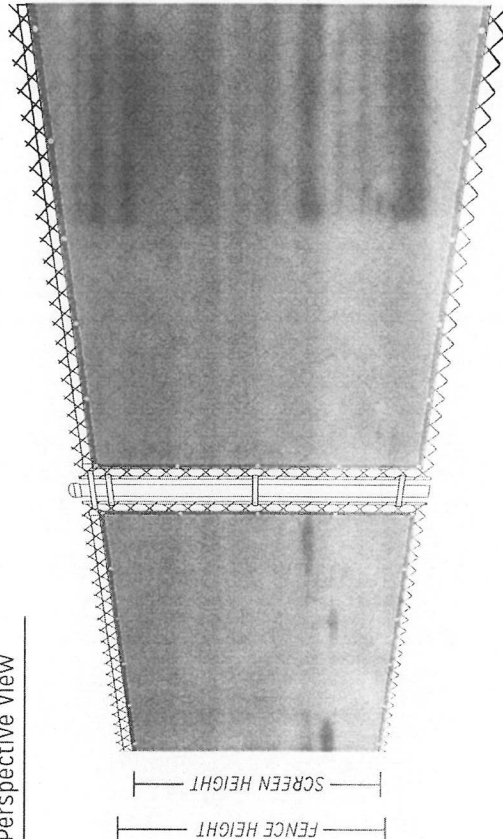
FENCEBLOCK

Elevation View



- FENCESCREEN PANELS WITH 2" POLYPROPYLENE WEBBING FOR EDGE REINFORCEMENT.
- 3/8" BRASS GROMMETS AT 24" ON CENTER ATTACH TO FENCE WITH FENCESCREEN FASTENERS OR GALVANIZED HOG RINGS.

Perspective View



FENCESCREEN SPECIFICATIONS

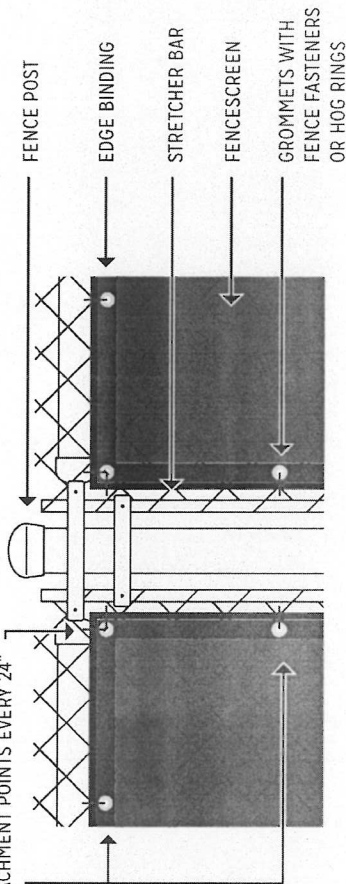
PROPERTIES

RESULTS

Construction (tapes/inch)	Warp: 20 Weft: 10
Tenacity (lb/inch)	Warp: > 60 Weft: > 90
Weight (oz/yd ²)	3.0 (+0.15 oz)
UV Resistance (70% Tenacity Retained After 200 Hours)	Warp: 85 Weft: 85
Water Permeability	4.2 gallons/yd ² /second
Shade / Wind Blockage	98%

Attachment Enlargement

ATTACHMENT POINTS EVERY 24"



NOTE:

- INSTALL PER FENCESCREEN MANUFACTURER RECOMMENDATIONS.
- REFER TO STRUCTURAL PLANS FOR ALL FOOTING SIZES.

Available Colors

Bassalt Green, Black



Material Composition

FENCEBLOCK is made from 100% virgin polypropylene with UV additives.

Drawings not to scale.

Detail Name:

100 Series FENCEBLOCK

Drawing Number:

FSFB100



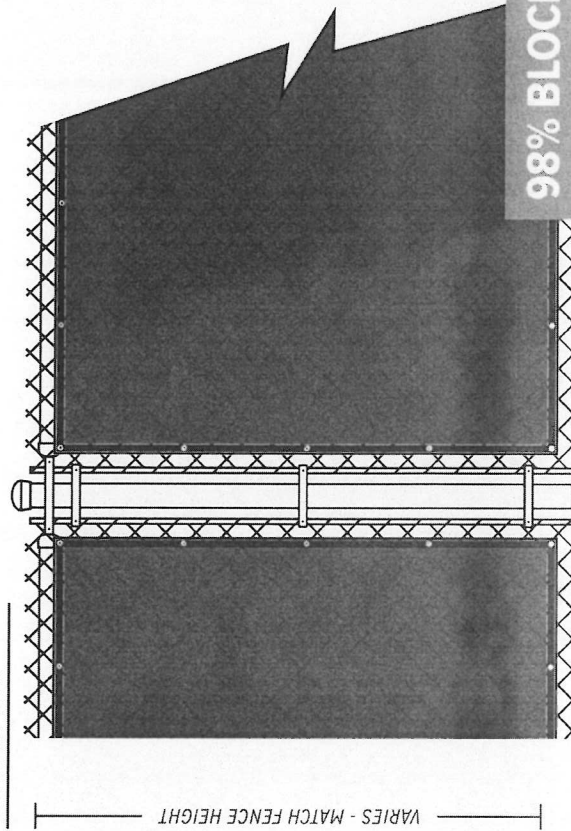
PHONE: 1.888.313.6313

www.FenceScreen.com

100 SERIES

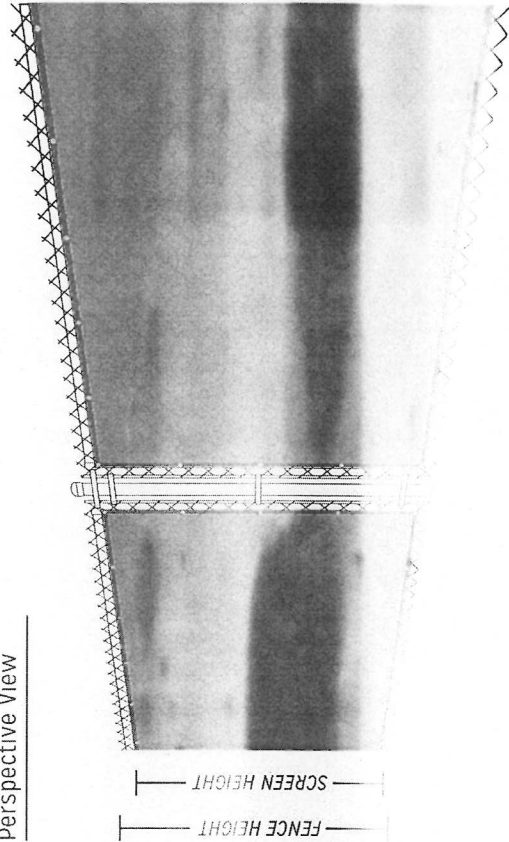
FENCEBLOCK

Elevation View



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Perspective View

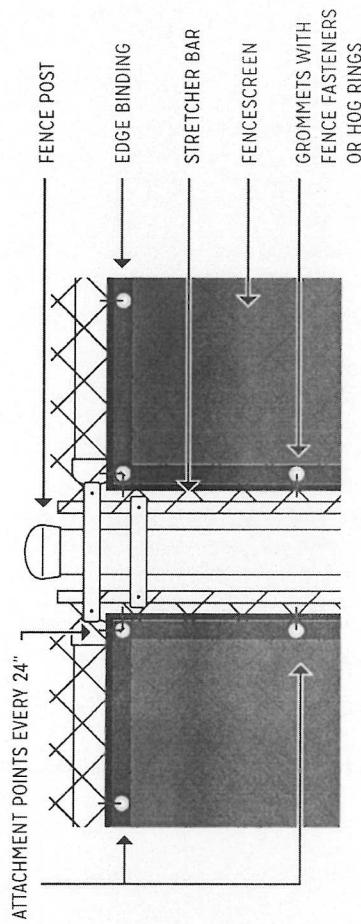


FENCESCREEN SPECIFICATIONS

PROPERTIES

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Tenacity (lb/inch)	Warp: > 60 Weft: > 90
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Shade / Wind Blockage	98%

Attachment Enlargement



- NOTE:
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Available Colors

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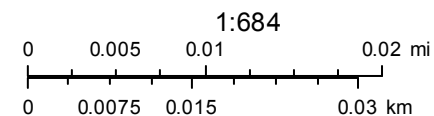
www.FenceScreen.com

Brunswick County GIS Data Viewer



May 8, 2017

- | | | | | |
|--------------|--------------|----------------|-----------------|----------------|
| ■ Addresses | — US Hwy | — Minor | □ Parcel | ■ Blue: Band_3 |
| Roads | — NC Hwy | Parcels | ■ Red: Band_1 | |
| — Interstate | — State Road | ▨ Condo | ■ Green: Band_2 | |



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

Agenda Item: New Business Number 3

Date: May 9, 2017



Issue: Signage

Department/Title: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 25 Minutes

Subject Summary:

This text amendment is staff initiated in an attempt to better regulate the commercial signage on Oak Island, particularly along E. Oak Island Drive in the commercial district. The term A-frame and sandwich signs can be used interchangeable, they are the same sign.

The feather flag definition comes directly from the Unified Development Ordinance draft. Images next to the sandwich signs and inflatable air dancer regulations are included in order to avoid any confusion regarding interpretation. The proposed ordinance language states that not more than two A-frame/sandwich sign, or feather sign is permissible for each business and such signage cannot obstruct access to the property or be a visual impairment to road signage. A property or business owner in the zoning districts where this signage type is permissible could choose any combination of these types of signs they prefer for one business. Currently these types of signs are largely unregulated and this ordinance establishes standards. A maximum of 48 square feet is set for A-frame/sandwich board signs. That allows a business owner to have a six by eight foot sign, or any dimension they pick that does not exceed 48 square feet. The ordinance stipulates also that A-frame/sandwich board and feather flag signs cannot be lighted. A maximum allowable height is also included for feather flag signs. A requirement that those signs be attached with an auger is also included to make sure they are tightly and safely secured, this is important particularly in high wind zones. The inflatable air dancer are also made not permissible with this text amendment. The movement of such signs is a distraction to motorist and the UDO does not allow them.

If approved a mass mailing will be sent out to all the property owners of the Oak Island businesses informing them of the new ordinance and asking them to apply for a sign permit. An eighty dollar sign permit fee is currently listed in the town adopted fee schedule and that would apply to those wanting a permit for feather, inflatable dancer, or sandwich signs.

Attachments: Proposed Ordinance Language

Recommendation/Action Needed: Recommendation to Town Council to approve or deny with the associated consistency statement

Funds Needed: Public Advertisement Cost

Follow up Action Needed: Forward recommendation to Town Council, update staff report

Attachments:

Sec. 18-252. - Definitions.

Sign, A-frame, sandwich signs. Any sign, not permanently affixed or which is capable of being transported on its own chassis or by other mobile means.



Sign, feather. A freestanding temporary sign typically constructed of a single plastic or metal or metal shaft driven in the ground with an attached pennant that is vertically elongated and attached to the shaft.



Sign, outdoor advertising. Any sign, including a standard poster panel either free standing or attached to a structure which directs attention to a business commodity, service, entertainment, or other activity conducted, sold, or offered elsewhere than on the premises on which said sign is located. Also commonly known as a billboard sign.

Sign, portable. Any sign not permanently affixed or which is capable of being transported on its own chassis or by other mobile means. (See subsection [18-254\(c\)](#))

Sign, temporary. Any sign that advertises or directs attention to a product, event, election, activity, meeting, exhibition or performance of any kind where such sign is not permanently affixed, placed, attached or erected, and is allowed for a limited timeframe. (See [section 18-258](#)).

Sec. 18-255. - Signs requiring permit.

No sign, unless specifically exempted herein, may be erected, moved, enlarged or substantially altered except in accordance with the following requirements and standards:

(1) *Wall signs.* Wall signs shall be permitted as long as they meet the following requirements:

- a. Wall signs shall not project more than ten inches from any building wall or canopy, and must maintain a minimum of eight feet from the bottom of the sign to the sidewalk grade.
- b. Wall signs shall not extend above parapet walls or above rooflines of buildings without parapet walls. If the roof is a mansard type roof the sign may be attached flat against but may not extend above said roof.

c. Except as provided in [section 18-259](#) below, wall signs shall have a maximum sign surface area of 64 square feet or a square footage no greater than two times the linear frontage in feet of the wall of the building to which said sign is attached, whichever is less. In the case of a shared frontage, only the linear footage equal to the width of the unit may be used to calculate sign area.

(2) *Freestanding signs.* Except as provided in [section 18-259](#) below, freestanding signs shall be limited to 64 square feet in area and shall not exceed a height of 24 feet.

a. Any freestanding sign that is elevated on posts, pilings, or by single pole must maintain a minimum height of eight feet from the bottom of said sign to the ground or pedestrian walkway grade.

(3) *Projection signs.* Projection signs will be allowed as long as they project no more than three feet from a flat surface of the building, canopy, or marquee and have a maximum square footage of 12 feet and there is eight feet from the bottom of the sign to pedestrian walkway grade.

(4) Feather Signs, not more than two is permissible for each business. No sign shall be erected or maintained that obstructs ingress and/or egress to or from property or opening intended to provide ingress or egress to or from any room or building as required by law. The sign permit fee codified in the town adopted fee schedule shall apply one time for each individual new sign. Such signage cannot be a visual impairment to road signage as determined by the Planning & Zoning Administrator or his/her designee, cannot be lighted or exceed 10 feet in height. Feather signs must be securely attached with an auger or a similar device as approved by the town.

(5) A-frame, sandwich signs, and inflatable air dancer Signs, not more than two is permissible for each business. No sign shall be erected or maintained that obstructs ingress and/or egress to or from property or opening intended to provide ingress or egress to or from any room or building as required by law. The sign permit fee codified in the town adopted fee schedule shall apply one time for each individual new sign. Such signage cannot be a visual impairment to road signage as determined by the Planning & Zoning Administrator or his/her designee. A-frame and sandwich signs may not exceed 48 square feet and cannot be lighted.

Sec. 18-254. - Prohibited signs.

(a) *Signs erected on or over public streets.* No sign shall be erected or maintained within any public street right-of-way nor be allowed to extend over or into any public area, except for wall signs on a building built to the right-of-way line. Such signs must be erected flush against the building, and no lower than eight feet above sidewalk grade. This subsection shall not apply to signs required to be posted by law, open house signs and signs deemed necessary by the town in the furtherance of a governmental, public or civic interest.

(b) *Signs obstructing ingress or egress of building.* No sign shall be erected or maintained that obstructs ingress and/or egress to or from any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress to or from any room or building as required by law.

(c) *Portable signs.* Any sign not permanently affixed or which is capable of being transported on its own chassis or by other mobile means. This subsection shall not apply to government or non-profit organizations that have obtained a valid special event(s) permit as set forth

in [section 18-258](#) of this Code. For purposes of these regulations, portable signs shall not be defined as magnetic signs on vehicles displaying business logos, official identification, advertising, or campaign signs when all other requirements of this section are met.

(d) All off-premises signs, including but not limited to real estate directional signs, private advertisement, for sale by owner, etc., are prohibited, except as noted in [section 18-256](#) for open house or promotional sales signs.

(e) Excepting those for which a valid permit is currently issued from the department of transportation, no outdoor advertising sign shall be permitted within the jurisdiction.

(f) Flashing, fluttering, swinging, rotating signs (except governmental signs and signs, which give time and temperature and other commercial public information message) such as an inflatable air dancer is prohibited.



Sec. 18-264. - Table of permitted and prohibited signs.

SIGNS	ZONING:								Max. Size	Max. Height	Min. Setback
	All Rs	OI	CB	CR	C- LD	OS	AD	Notes:			
<i>Subject to the general and special provisions of Article 18, Division 9</i>											
A-frame, sandwich signs, and inflatable air dancer		Y	Y		Y			Max 2, See [18-255]	48 sf		10'
Commercial [Sec. 18-259]		Y	Y	Y	Y		Y	All Min. 8' above sidewalk			
Commercial Accessory		Y	Y	Y	Y		Y	Max 2	36 sf	24'	10'
Feather flag		Y	Y		Y			Max 2 See [18-255]		10'	10'
Franchise or business condominium		Y	Y	Y	Y			See [18-259(5)]	64 sf*	24'	10'

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

Agenda Item: New Business Number 4

Date: May 10, 2017



Issue: Ocean-Front Setbacks

Department/Title: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 35 Minutes

Subject Summary:

This text amendment is staff initiated in an attempt to rectify some setback issues with some ocean front properties. Recently a survey for a development permit application was submitted to us that highlights this issue well. The survey is attached at the end of this staff report.

The ocean beaches are in constant flux “due to the action of wind, waves, tides, and storms and includes the wet sand area of the beach that is subject to regular flooding by tides and the dry sand area of the beach that is subject to occasional flooding by tides, including wind tides other than those resulting from a hurricane or tropical storm”, but ocean beaches are part of the public trust, meaning the government holds title to such lands in trust for the benefit of the public.

When the Oak Island erosion setback line was adopted by the legislature, it took the initial form of house bill 1154. From that point forward it was then referred to as the January 2000 USACE (United States Army Corps of Engineers) line. That line determined the mean high water (MHW) mark for Oak Island’s oceanfront. This line can be view on an interactive map on the towns website here <http://www.oakislandnc.com/general-information/maps-and-floodinsurance-info>. At some points the development line overlaps with the USACE – MHW line. The USACE – MHW line serves to determine where the private property vs pubic trust land demarcation line exists. All ocean-front property landward (i.e. north) of the USACE – MHW line is under the ownership of the private property owner. The reverse is also true, all ocean-front property seaward (i.e. south) of the USACE – MHW line is under the ownership of the Town of Oak Island. Additionally, said land that is south of the USACE – MHW line is open to the public for public use purposes.

This concept is further clarified in the Town of Oak Island Zoning Ordinance in Sec. 14-124. And Sec 14-125, attached below. Section 14-129 of the Town of Oak Island ordinances states “For purposes of this article, private property ends and public property begins at the mean high

water mark as surveyed by the U.S. Army Corps of Engineers prior to placement of sand for the sea turtle project or other sand placement projects.”

In a semi-recent unanimous North Carolina Court of Appeals opinion, the court expressly confirmed a common law right in *Nies v. Town of Emerald Isle*. The Court unqualifiedly held that the “ocean beaches of North Carolina ... are subject to public trust rights.” What this case means is that all the dry-sand beaches, whether natural or nourished, are open to public use for purposes related to the enjoyment of the State’s ocean waters and shorelines. Private oceanfront landowners cannot exclude the public from any portion of the dry-sand beach even if the private landowner’s legal title includes the dry-sand beach.

When, due to storm and wave activity, the shoreline erodes and houses, once nested safely behind protective dunes, end up on what is the dry-sand beach. The question then is what authority does a municipality or the State have to force the owners of such structures to move them off and whether the public trust beach included the dry sand. The law is now clear that the public trust beach includes the dry-sand area. Therefore, if erosion results in a house ending up on the dry-sand beach, its presence would interfere with the public’s customary right to use the dry sand and the Town or State, as the enforcer of public trust rights, could take action to compel the removal of the offending structure. If a beach has been the object of a nourishment project, once the project is completed, title to all of the newly created beach seaward of the pre-project mean high water mark is in the State or Town and open to public uses. After completion of a beach nourishment project, the pre-project mean high mark remains the seaward boundary of the affected oceanfront property owner. Any portion of the dry-sand beach lying landward of the pre-project high water mark remains the private property of the oceanfront property but also remains open to public use. As one can see from the General Statute excerpt below it establishes the USACE – MHW line as the demarcation line between public trust property and private property.

General Statute 77-20. Seaward boundary of coastal lands.

(a) *The seaward boundary of all property within the State of North Carolina, not owned by the State, which adjoins the ocean, is the mean high water mark.*

(b) *Notwithstanding any other provision of law, no agency shall issue any rule or regulation which adopts as the seaward boundary of privately owned property any line other than the mean high water mark. The mean high water mark also shall be used as the seaward boundary for determining the area of any property when such determination is necessary to the application of any rule or regulation issued by any agency.*

Where publicly financed beach nourishment has occurred and previously lost public and private land is restored, who holds title to the restored land? Title to the restored land vests in the State of North Carolina pursuant to N.C.G.S. § 146-6(f) which says "Notwithstanding the other provisions of this section, the title to land in or immediately along the Atlantic Ocean raised above the mean high water mark by publicly financed projects which involve hydraulic dredging

or other deposition of spoil materials or sand vests in the State.” If the restoration is done via private funds, the title of such lands go back to the private adjacent property owner.

When title to the renourished land vests in the State, it is impressed with public trust rights and becomes a part of the "vacant and appropriated lands" of the State. General Statute 146-4 authorizes the Department of Administration to sell the "vacant and appropriated lands . . . at public or private sale, at such times, upon such consideration, in such portions, and upon such terms as are deemed proper by the Department and approved by the Governor and Council of State." That fact does not directly apply to this text amendment but is helpful contextual information to have. Owners of property lost to natural causes can make application to purchase any part of the newly created land which is not needed to meet the public trust reservations. Along with the other requirements to which such a sale may be subjected under Chapter 146, the sale would have to include a condition or limitation which preserved the public trust rights created in and impressed on the lands by N.C.G.S. §146-6(f).

N.C.G.S. §77-20(a) declares that the boundary between public and private property along the ocean front is the mean high water mark of the Atlantic Ocean. All lost lands belonged to the State and all raised lands could be acquired by the owner who was adjacent to the raised lands. The statute was amended in 1985 by the addition of paragraph (f), which says lands raised on the ocean front by publicly financed projects become State owned while lands raised without any use of public funds become the property of the adjacent property owner, subject to public rights of use. A condition of such a sale is listed in N.C.G.S. §146-6(f), which reads "All such raised lands shall remain open to the free use and enjoyment of the people of the State, consistent with the public trust rights in ocean beaches, which rights are part of the common heritage of the people of this State."

If there is significant natural accretion along a waterway the accretion would be owned by the current owner of the upland property the owner of the newly accreted land. This is affirmed by both statutory and case law. N.C. General Statute 146-6(a), states "If any land is, by any process of nature. . . , raised above the high watermark of any navigable water, title thereto shall vest in the owner of that land which, immediately prior to the raising of the land in question, directly adjoined the navigable water." (State v. Johnston)

The State would not acquire any interest in the accreted land because N.C. Gen. Statute 146-6(f) is inapplicable (see below). Subsection (f) does not apply to lands raised by accretion. It applies only where the new land is raised above the mean high water mark by direct deposit by man of dredging fill or spoil on the shore.

The text amendment itself is rather straightforward and simple, the background contextual information is more complex. At the May Town Council meeting the Town Attorney mentioned that the Emerald Isle case may go to Supreme Court, so that case may still be active.

The reason this lengthy explanation is before you is due to parcels such as the one in the attached survey. A simple solution is to recognize the 2000 USACE - MHW line as a setback line through a text amendment and reference it in Tables 18-117 & 18-118. As you can see from the proposed text amendment highlighted in yellow below the ordinance language clarifies that the 2000 USACE - MHW line is where the rear yard setback is calculated. That way the rear yard setback is not applicable on the rear property line that may be much further seaward than the 2000 USACE - MHW line. In situations where no standards exist in a zoning ordinance it is always the most restrictive that is applied. This would be the case with regards to Oak Island development line and the first line of vegetation setbacks.

Attachments: Proposed Ordinance Language

Recommendation/Action Needed: Recommendation to Town Council to approve or deny with the associated consistency statement

Funds Needed: Public Advertisement Cost

Follow up Action Needed: Forward recommendation to Town Council, update staff report

Sources: Town ordinances, General Statutes that address public trust lands, DOJ opinions on title to raise lands, Article on dry-sand beaches, Coastal Submerged Lands report to the 1985 General Assembly, Easements for lands underwater, and HB 1154 Session 2007

Attachments:

Sec. 18-117. - Area and height table; residential districts.

Zoning District	Lot Area Per Dwelling Unit (Square Feet)	Lot Width (Feet)	Front Yard Setback (Feet) ^(c)	Side Yard Setback		Rear Yard Setback (Feet) ^(c)	Building Height Limits ^(d)	
				Interior Lot (feet)	Corner Lot (Feet) ^(f)		Outside VE Zone (Feet)	Inside VE Zone (Feet)
R-20	20,000	100	30	10	20	15	35	41
R-9 ^(e)	9,000	75	25	8	10	20	35	41
R-7.5 ^(a)	7,500	75	25	8	15	20	35	41
R-7 ^(e)			25	8	10	20	35	41
One-family	7,500	60 ^(b)						
Two-family	10,000	75						
R-6A ^(e)			25	8	10	20	35	41
One-family	6,600	60 ^(b)						
Two-family								
R-6B	6,600	60 ^(b)	25	8	10	20	35	41
R-6MF ^(e)			25	8	10	20	35	41
One-family	6,600	60 ^(b)						
Two-family	11,000	100						
Three-family	15,000	140						
MH						10		
Triplex	15,000							

^(a) Special dimension requirements:

Places of worship: lot area equals three acres.

Public education facilities: lot width equals 300 feet and lot area equals five acres.

Private education facilities: lot width equals 200 feet and lot area equals two acres.

Community and municipal buildings: lot width equals 200 feet and lot area equals one acre.

Private clubs: lot area equals ten acres.

Residential lots of record 60 feet or less in width:

Interior lot: side yard equals eight feet.

Corner lot: side yard equals ten feet.

(b) Lots created before effective date of the ordinance from which this article is derived: lot width equals 50 feet.

(c) Steps and uncovered landings may encroach up to a maximum of three feet into the required front yard setback, or up to a maximum of five feet into the required rear yard. These encroachments are allowed in the front yard or rear yard, but not both.

(d) The following are exceptions to the height limits: Spires or belfries on places of worship, cupola, dome or ornamental tower not intended for human occupancy, monuments, water towers, observation towers, chimneys and smokestacks, conveyors, flagpoles, radio or televisions aerials for residential use, masts, parapet walls not to exceed more than three feet above the roofline of the building, and necessary mechanical appurtenances. Building height in the island part of the town is established by an act of the state legislature, and may only be changed by a local referendum.

(e) The front yard setback for oceanfront properties in zoning districts R-9, R-7, R-6A, and R-6MF shall be 15 feet. **The 2000 USACE - MHW line is considered the rear-yard setback.**

(f) Corner lots on the island that are contiguous to major water bodies shall have an eight-foot corner side yard setback and no additional flexibility per section 32-78.

(g) 1. Fireplaces may extend up to 24 inches into required yard setbacks.

2. New elevators, mobility or cargo lifts on existing residential structures may encroach up to five feet into the required rear setback, or up to five feet into the required front setback. The board of adjustment will review variance requests for proposed elevators, mobility and cargo lifts in any other areas of existing residential structures to determine if it meets the General Statute required findings of facts.

Sec. 18-118. - Area and height table; nonresidential districts.

				Side Yard Setback		Building Height Limits ^(b)		
Zoning District	Lot Area (Square Feet)	Lot Width (Feet)	Front Yard Setback (Feet)	Interior Lot (Feet)	Corner Lot (Feet) ^(f)	Rear Yard Setback (Feet)	Outside VE Zone (Feet)	Inside VE Zone (Feet)
O&I	6,600	60	20	10	15	15	35	41
CUCB	None	60 ^(d)	20	None ^(e)	8	10	35	41
CB	None	None	20	None	8	10	35	41
CR ^(h)	None	None	20	8	10	10	35	41
C-LD ^{(a), (c)}	7,500	150	40	8	25	15	35	41
AD	40,000	125	50	15	35	40	35	
OS	None	None	None	None	None	None	35	41

(a) Special dimension requirements:

Places of worship: Lot area equals same as requirements for district, plus a requirement for two square feet of open space for each one square foot of building coverage. Area designated for parking may be included as open space.

Nursing homes (domiciliary homes): Lot area equals two acres.

Hospitals, private clubs, mortuaries: Lot width equals 150 feet.

Offices and studios, personal service establishments, vocational schools: No lot area or width established.

Retails stores, sales and display rooms and shops, banks and financial institutions, eating and drinking establishments, hotels and motels, commercial recreational structural uses, clinics and laboratories: No lot area established; lot width equals 75 feet.

(b) The following are exceptions to the height limits: Spires or belfries on places of worship, cupola, dome or ornamental tower not intended for human occupancy, monuments, water towers, observation towers, chimneys and smokestacks, conveyors, flagpoles, radio or television aerials for residential use, masts, parapet walls not to exceed more than three feet above the roofline of the building, and necessary mechanical appurtenances.

(c) Mainland height requirements: Offices, motels, hotels, medical facilities, boat storage and multifamily residential buildings and structures up to a maximum of 55 feet in height may be permissible as a conditional use if the following conditions are met:

- (1) For every foot in height in excess of 35 feet, an additional two feet of setback must be provided above those required by this article for front, side, corner side and rear yards in the C-LD district.
- (2) Each building must be separated from other buildings on the same parcel by a distance of 30 feet.
- (3) The planning board and town council may impose such additional conditions as they see fit, such as, but not limited to, fences and walls, street dedications, additional parking, vehicular access points, buffering, and landscaping improvements.

Exceptions to this height limit are listed in (b).

Nothing in this section shall exempt the building or structure from the provisions of the airport height ordinance for the county airport.

(d) Measured along East Oak Island Drive.

(e) Minimum eight feet wherever a CUCB district lot abuts a residential district.

(f) Corner lots on the island that are contiguous to major water bodies shall have an eight-foot corner side yard setback and no additional flexibility per section 32-78.

(g) 1. Fireplaces may extend up to 24 inches into required yard setbacks.

2. New elevators, mobility or cargo lifts on existing residential structures may encroach up to five feet into the required rear setback, or up to five feet into the required front setback. The board of adjustment will review variance requests for proposed elevators, mobility and cargo lifts in any other areas of existing residential structures to determine if it meets the General Statute required findings of facts.

(h) The front yard setback for oceanfront properties in zoning district CR when used for a single-family residence shall be 15 feet. **The 2000 USACE - MHW line is considered the rear-yard setback.**

General Statute 77-20. Seaward boundary of coastal lands.

(a) The seaward boundary of all property within the State of North Carolina, not owned by the State, which adjoins the ocean, is the mean high water mark. Provided, that this section shall not apply where title below the mean high water mark is or has been specifically granted by the State.

(b) Notwithstanding any other provision of law, no agency shall issue any rule or regulation which adopts as the seaward boundary of privately owned property any line other than the mean high water mark. The mean high water mark also shall be used as the seaward boundary for determining the area of any property when such determination is necessary to the application of any rule or regulation issued by any agency.

(c) For purposes of this Article, "agency" means any part, branch, division, or instrumentality of the State; any county, municipality, or special district; or any commission, committee, council, or board established by the State, or by any county or municipality.

(d) The public having made frequent, uninterrupted, and unobstructed use of the full width and breadth of the ocean beaches of this State from time immemorial, this section shall not be construed to impair the right of the people to the customary free use and enjoyment of the ocean beaches, which rights remain reserved to the people of this State under the common law and are a part of the common heritage of the State recognized by Article XIV, Section 5 of the

Constitution of North Carolina. These public trust rights in the ocean beaches are established in the common law as interpreted and applied by the courts of this State.

(e) As used in this section, "ocean beaches" means the area adjacent to the ocean and ocean inlets that is subject to public trust rights. This area is in constant flux due to the action of wind, waves, tides, and storms and includes the wet sand area of the beach that is subject to regular flooding by tides and the dry sand area of the beach that is subject to occasional flooding by tides, including wind tides other than those resulting from a hurricane or tropical storm. The landward extent of the ocean beaches is established by the common law as interpreted and applied by the courts of this State. Natural indicators of the landward extent of the ocean beaches include, but are not limited to, the first line of stable, natural vegetation; the toe of the frontal dune; and the storm trash line. (1979, c. 618, s. 2; 1998-225, s. 5.1.)

General Statute 146-6. Title to land raised from navigable water.

(a) If any land is, by any process of nature or as a result of the erection of any pier, jetty or breakwater, raised above the high watermark of any navigable water, title thereto shall vest in the owner of that land which, immediately prior to the raising of the land in question, directly adjoined the navigable water. The tract, title to which is thus vested in a riparian owner, shall include only the front of his formerly riparian tract and shall be confined within extensions of his property lines, which extensions shall be perpendicular to the channel, or main watercourses.

(b) If any land is, by act of man, raised above the high watermark of any navigable water by filling, except such filling be to reclaim lands theretofore lost to the owner by natural causes or as otherwise provided under the proviso of subsection (d), title thereto shall vest in the State and the land so raised shall become a part of the vacant and unappropriated lands of the State, unless the commission of the act which caused the raising of the land in question shall have been previously approved in the manner provided in subsection (c) of this section. Title to land so raised, however, does not vest in the State if the land was raised within the bounds of a conveyance made by the State Board of Education, which included regularly flooded estuarine marshlands or lands beneath navigable waters, or if the land was raised under permits issued to private individuals pursuant to G.S. 113-229, G.S. 113A-100 through 113A-128, or both.

(c) If any owner of land adjoining any navigable water desires to fill in the area immediately in front of his land, he may apply to the Department of Administration for an easement to make such fill. The applicant shall deliver to each owner of riparian property adjoining that of the applicant, a copy of the application filed with the Department of Administration, and each such person shall have 30 days from the date of such service to file with the Department of Administration written objections to the granting of the proposed easement. If the Department of Administration finds that the purpose of the proposed fill is to reclaim lands theretofore lost to the owner by natural causes, no easement to fill shall be required. In such a case the Department shall give the applicant written permission to proceed with the project. If the purpose of the proposed fill is not to reclaim lands lost by natural causes and the Department finds that the proposed fill will not impede navigation or otherwise interfere with the use of the navigable water by the public or injure any adjoining riparian owner, it shall issue to such applicant an easement to fill and shall fix the consideration to be paid for the easement, subject to the approval of the Governor and Council of State in each instance. The granting by the State of the written permission or easement so to fill shall be deemed conclusive evidence and proof that the applicant has complied with all requisite conditions precedent to the issuance of such written permission or easement, and his right shall not thereafter be subject to challenge by reason of any alleged omission on his part. None of the provisions of this section

shall relieve any riparian owner of the requirements imposed by the applicable laws and regulations of the United States. Upon completion of such filling, the Governor and Council of State may, upon request, direct the execution of a quitclaim deed therefor to the owner to whom the easement was granted, conveying the land so raised, upon such terms as are deemed proper by the Department and approved by the Governor and Council of State.

(d) If an island is, by any process of nature or by act of man, formed in any navigable water, title to such island shall vest in the State and the island shall become a part of the vacant and unappropriated lands of the State. Provided, however, that if in any process of dredging, by either the State or federal government, for the purpose of deepening any harbor or inland waterway, or clearing out or creating the same, a deposit of the excavated material is made upon the lands of any owner, and title to which at the time is not vested in either the State or federal government, or any other person, whether such excavation be deposited with or without the approval of the owner or owners of such lands, all such additions to lands shall accrue to the use and benefit of the owner or owners of the land or lands on which such deposit shall have been made, and such owner or owners shall be deemed vested in fee simple with the title to the same.

(e) The Governor and Council of State may, upon proof satisfactory to them that any land has been raised above the high watermark of any navigable water by any process of nature or by the erection of any pier, jetty or breakwater, and that this, or any other provision of this section vests title in the riparian owner thereof, whenever it may be necessary to do so in order to establish clear title to such land in the riparian owner, direct execution of a quitclaim deed thereto, conveying to such owner all of the State's right, title, and interest in such raised land.

(f) Notwithstanding the other provisions of this section, the title to land in or immediately along the Atlantic Ocean raised above the mean high water mark by publicly financed projects which involve hydraulic dredging or other deposition of spoil materials or sand vests in the State. Title to such lands raised through projects that received no public funding vests in the adjacent littoral proprietor. All such raised lands shall remain open to the free use and enjoyment of the people of the State, consistent with the public trust rights in ocean beaches, which rights are part of the common heritage of the people of this State. (1959, c. 683, s. 1; 1979, c. 414; 1985, c. 276.)

ARTICLE III. - PROTECTION OF SAND DUNES, SEA TURTLES AND OTHER WILDLIFE HABITAT; SAND MANAGEMENT PROJECTS

Sec. 14-121. - Definitions.

PCA means the project cooperation agreement entered into by the town and the U. S. Army Corps of Engineers prior to the commencement of the sea turtle habitat restoration project (sea turtle project), the Wilmington Harbor section 933 project (harbor project), or any other sand placement project entered into by the town and other government agency following the adoption of this article.

Sec. 14-124. - Territorial coverage.

This article shall apply to dunes, berms, and any other landform or sand project placement or management areas, both natural and manmade, and the vegetation located thereon, from the "mean low water mark" extending landward to the "mean high water mark" as surveyed by the

USACE in January 2000; to a distance equal to the Ocean Erodible Area and/or Inlet Hazard Area as shown on maps compiled by the Division of Coastal Management, whichever distance is further landward. The maps shall be available for public review at the Development Services Department.

Sec. 14-125. - Use and development coverage.

This article shall be applicable to all use of and development on ocean beaches in the town. Included, but not limited to the following, are types of uses and development activity to which this article applies. Specifically, this article is applicable to all oceanfront property owners intending to construct, repair or replace decks, walkways, and/or steps for the purpose of gaining access to the public ocean beach from private property along the oceanfront in the town. This article applies to all persons crossing ocean beaches for the purpose of gaining access to the beaches and Atlantic Ocean.

No structures shall be built seaward of the Oak Island development line except as allowed under CAMA regulations 15A NCAC 07H.0309.

Sec. 14-129. - Access provisions.

(a) Town-owned and maintained street-end access points will employ sand walkovers, except those required to be elevated by the PCA in the sea turtle project and at town-designated disability access sites.

(b) For the purpose of establishing access points between town-owned and maintained street-end access points, sand walkover access paths shall be located at approximately 180-foot intervals in 750-foot wide blocks, and at approximately 157-foot intervals where blocks between town-owned street-end access points are approximately 320 feet wide. Town staff is authorized to vary distances between access points established between town-owned street-end access points as may be necessary to accomplish as nearly as possible equal distance between access points. Access paths in the sea turtle project area shall be approximately six feet wide, except in those areas designated for emergency vehicle access and town equipment access, which may be up to ten feet in width. Access paths outside the sea turtle project and the harbor project shall be up to ten feet in width as town staff determines necessary for emergency vehicle access and access for town equipment. Emergency vehicle and town equipment access points shall be designated by town staff and clearly marked as such. Unless required by the USACE pursuant to the PCA or other USACE agency rule, wooden walkways or walkovers from private property onto public property will not be permitted. For purposes of this article, private property ends and public property begins at the mean high water mark as surveyed by the U.S. Army Corps of Engineers prior to placement of sand for the sea turtle project or other sand placement projects.

PLAT OF SURVEY FOR LAURA GREER VICK

4915 EAST BEACH DRIVE
LOT 8, BLOCK 8, SECTION "ELB"
SMITHVILLE TOWNSHIP, BRUNSWICK COUNTY
OAK ISLAND, NORTH CAROLINA



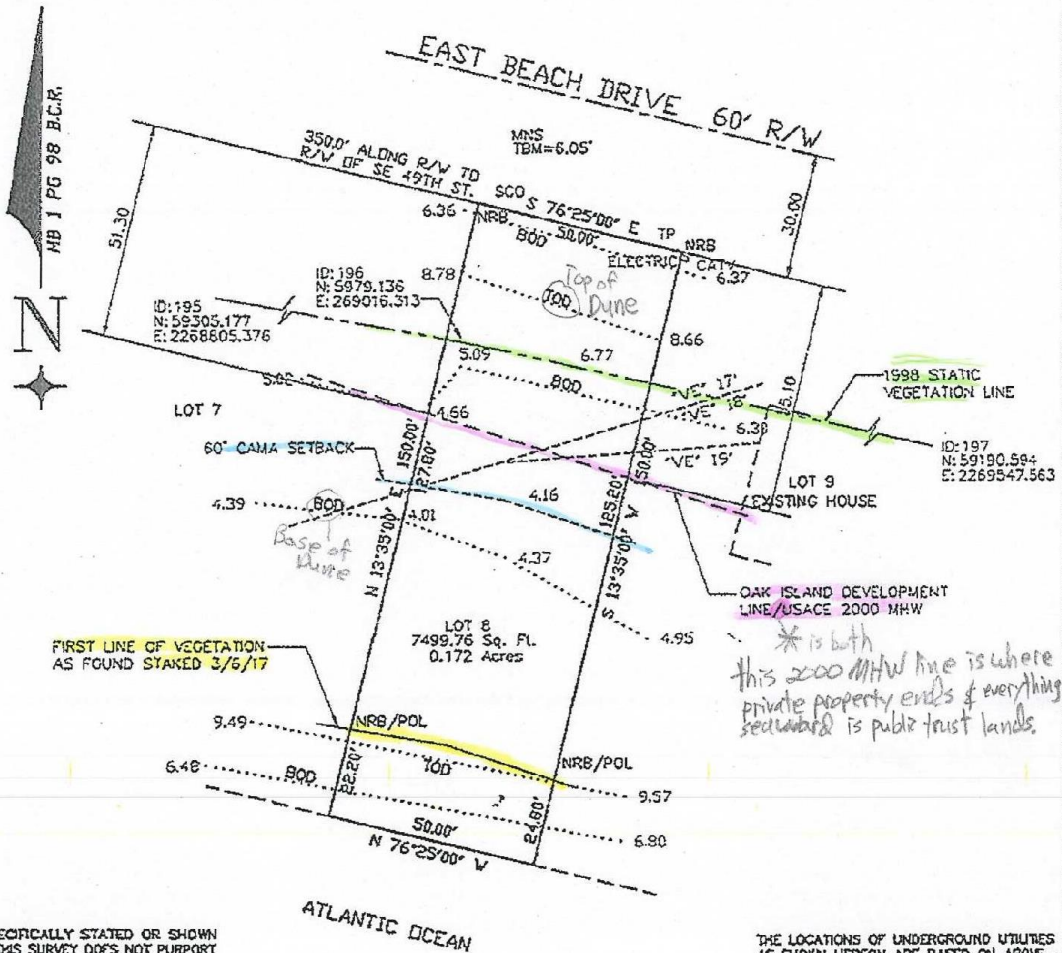
NOTES:

THE PROPERTY SHOWN HEREON IS LOCATED IN A FLOOD HAZARD ZONE "VE" ELEVATIONS DETERMINED VARIES. REF., F.L.R.M. COMMUNITY NUMBER 370523, PANEL 063, SUFFIX "J", DATED 6/2/06.

THIS PARCEL IS LOCATED IN OAK ISLAND ZONE R-7.

SETBACKS: 15' FRONT, 8' SIDES, REAR SETBACK IS DEPENDENT UPON LOCATION OF CAMA SETBACK.

THE FIRST LINE OF VEGETATION WAS STAKED BY LOCAL CAMA OFFICER AND LOCATED 3/6/17.



EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS THAT WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY; BUILDING SETBACK LINES; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS; ZONING OR OTHER LAND USE REGULATIONS AND ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

THE LOCATIONS OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE-GROUND STRUCTURES AND RECORDED DRAWINGS PROVIDED THE SURVEYOR. LOCATIONS OF UNDERGROUND UTILITIES/STRUCTURES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES/STRUCTURES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES/STRUCTURES.

STATE OF NORTH CAROLINA
BRUNSWICK COUNTY

I, ROBERT B. McHENRY, JR. CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION; THAT THE RATIO OF PRECISION AS CALCULATED BY COMPUTER IS 10,000 ±; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN BOOKS REFERENCED.

WITNESS MY HAND AND SEAL THIS THE 7TH DAY OF MARCH A.D. 2017.

Robert B. McHenry, Jr.
LAND SURVEYOR REG. NO. 14521



DATE SURVEYED: MARCH 6, 2017

SCALE: 1 INCH = 30 FEET

SURVEY BY: PF/CN

JOB NUMBER: 17-0100

DRAWN BY: C.KENNEDY

FIELD BOOK: RBM-2017-2

LEGEND:

NRB = NEW REBAR SET
POL = POINT ON LINE
MNS = MAC NAIL SET
TP = TELEPHONE PEDESTAL
SC0 = SEWER CLEANOUT
MHW = MEAN HIGH WATER
BOO = BOTTOM OF DUNE
TOO = TOP OF DUNE

McHENRY SURVEYING
PROFESSIONAL LAND SURVEYOR

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