



# COUNTY OF DARE

PO Box 1000, Manteo, NC 27954

## DARE COUNTY BOARD OF COMMISSIONERS

Dare County Administration Building  
954 Marshall C. Collins Dr., Manteo, NC

**Monday, May 21, 2018**

**“HOW WILL THESE DECISIONS IMPACT OUR CHILDREN AND FAMILIES?”**

### AGENDA

- 5:00 PM**            **CONVENE, PRAYER, PLEDGE OF ALLEGIANCE**
- ITEM 1**            Opening Remarks - Chairman's Update
- ITEM 2**            Public Comments
- ITEM 3**            Proclamation - Positivity Day
- ITEM 4**            Resolution - Supporting a Request for Emergency Dredging of Manteo Channel
- ITEM 5**            Exhibit - North Carolina Watermen Foundation
- ITEM 6**            Proclamation - Vulnerable Adults and Elder Abuse Awareness Month
- ITEM 7**            Dare County Soil and Water Quarterly Report
- ITEM 8**            East Carolina Radio - H345 District Text Amendment - Request to Schedule a Hearing
- ITEM 9**            Letter Supporting Reappointment of Renee Cahoon to the Coastal Resources Commission
- ITEM 10**           Representation in Raleigh
- ITEM 11**           Presentation of Manager's Fiscal Year 2019 Budget
- ITEM 12**           Public Hearings – 5:30 p.m.
- 1. Roanoke Shores HOA - RS-8 Text Amendment
  - 2. J. D. Johnson Realty and Construction
  - 3. System Development Fee Calculation
- ITEM 13**           Consent Agenda
- 1. Approval of Minutes (05.07.18 & 05.11.18 Budget Workshop)
  - 2. Colington Road Waterline Relocation
  - 3. Motorola - System Maintenance Agreement
  - 4. Motorola - System Upgrade Agreement
  - 5. Tax Collector's Report
- ITEM 14**           Commissioners' Business & Manager's/Attorney's Business
- ITEM 15**           Closed Session

ADJOURN UNTIL 9:00 A.M. ON JUNE 4, 2018



*Opening Remarks - Chairman's Update*

**Description**

Dare County Chairman Robert Woodard will make opening remarks.

**Board Action Requested**

Informational Presentation

**Item Presenter**

Chairman Robert Woodard



*Public Comments*

**Description**

The Board of Commissioners will provide time on the agenda for Public Comments. Each regularly scheduled meeting begins with an opportunity for anyone to speak directly to the entire Board of Commissioners for up to five minutes on any topic or item of concern.

In an effort to encourage public participation, the Board accepts public comments from 2 locations - - -

- Public Comments can be made at the Commissioners Meeting Room in Manteo.
- Public Comments can be made via a video link at the Fessenden Center in Buxton.

**Board Action Requested**

Hear Public Comments

**Item Presenter**

Robert Outten, County Manager



*Proclamation - Positivity Day*

**Description**

Girl Scout Troop 2139 members have worked to create positive messages that will be shared with the community to encourage everyone to practice positive thinking.

The Girl Scout Troop has asked the Dare County Board of Commissioners to support their effort by issuing a proclamation establishing June 3, 2018 as "Positivity Day" in Dare County.

**Board Action Requested**

Issue Proclamation

**Item Presenter**

Kathleen Wasniewski, Girl Scout Troop #2139



**PROCLAMATION**  
**DECLARING SUNDAY, JUNE 3, 2018 AS POSITIVITY DAY**

**WHEREAS**, Girl Scout Troop 2139 brings forth the idea of promoting positivity, by displaying positive messages at Dare County Family Recreation Park, in Kill Devil Hills; and

**WHEREAS**, Girl Scout Troop 2139 members have worked to create their positive messages that will be shared with the community; and

**WHEREAS**, the Dare County Board of Commissioners welcomes the idea of communicating positivity to its residents and visitors; and

**WHEREAS**, the mind is a powerful thing; and

**WHEREAS**, thinking positively assists in reducing stress and eliminating negative self-talk; and

**WHEREAS**, the elements of positivity, including optimism, confidence, and encouragement are lessons we should communicate to each other every day; and

**WHEREAS**, positive thinking is vital for success, and leads to happiness; and

**WHEREAS**, the Dare County Board of Commissioners calls on all Dare County local governments to adopt similar proclamations to encourage their citizens to practice positive thinking and communications.

**NOW, THEREFORE**, the Dare County Board of Commissioners, do hereby proclaim Sunday, June 3, 2018, as "Positivity Day" in Dare County, and hereby encourages citizens to practice positive thinking, today and every day.

This the 21<sup>st</sup> day of May, 2018

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Robert Woodard, Chairman

Attest: \_\_\_\_\_  
Gary Gross, Clerk to the Board



*Resolution - Supporting a Request for Emergency Dredging of Manteo Channel*

**Description**

The Town of Manteo, Roanoke Island Festival Park, and Friends of Elizabeth II have asked the Dare County Board of Commissioners to adopt a resolution in support of their request for urgent assistance for emergency approval to dredge the Manteo Channel.

Attached is a draft resolution outlining the need for emergency approval.

**Board Action Requested**

Adopt Resolution

**Item Presenter**

Melissa Dickerson, Town of Manteo Planner



**RESOLUTION**  
**SUPPORTING A REQUEST FOR ASSISTANCE FOR EMERGENCY DREDGING**  
**OF THE MANTEO CHANNEL**

**WHEREAS**, the Manteo Channel in Roanoke Sound leading to Shallowbag Bay was authorized by an Act of the United States Congress as part of the River and Harbor Bill on June 25, 1910, and has remained a federally authorized channel for more than 100 years; and

**WHEREAS**, in 1976, in support of the development of a Seafood Industrial Park in Wanchese Harbor, the State of North Carolina agreed to accept fiscal responsibility for maintenance dredging of the northern portion of the Manteo Channel from the US Army Corps of Engineers; and

**WHEREAS**, the State of North Carolina dredged a portion of that channel in 1983 in furtherance of America's 400<sup>th</sup> Anniversary Celebration of the Roanoke Voyages, 1584-1587, to include: the launching of the *Elizabeth II*, a representative 16<sup>th</sup> century vessel; a royal visit from HRH the Princess Anne; the inauguration of Operation Raleigh under the auspices of HRH Prince Charles; a flotilla of boats under the honorary command of veteran newsman Walter Cronkite; the opening of Roanoke Island Festival Park, a state historic site administered by the North Carolina Department of Natural and Cultural Resources; construction of a bridge, municipal marina and public boardwalks connecting Festival Park with the town; the opening of the George Washington Creef Boathouse, now the Roanoke Island Maritime Museum; and some \$20 million invested in public/private partnerships as part of the revitalization of the Town of Manteo in preparation for the celebration; and

**WHEREAS**, public facilities such as Roanoke Island Festival Park have provided an economic stimulus to the Town of Manteo, as well as bringing history, education, and the arts to hundreds of thousands of visitors to Manteo; and

**WHEREAS**, since her maiden voyage from Manteo to Beaufort and Newbern in 1985, the *Elizabeth II*, as North Carolina's floating ambassador, has sailed to Hatteras, Elizabeth City, Winton, Edenton, Wilmington, Southport, Morehead City, Little Washington, Engelhard, Ocracoke, Columbia, and Bath, North Carolina, and to Norfolk and Jamestown, Virginia, where tens of thousands of school children have gone aboard the vessel to learn about the history of the Roanoke Voyages, 1584-1587, and the establishment of the first English colony in America; and

**WHEREAS**, significant public and private investments in Manteo have been a draw to transient boaters travelling the Intracoastal Waterway, thereby contributing more than a half million dollars annually in municipal docking fees, as well as revenues for shops, restaurants, galleries, private marinas, ships' stores, and boat repair facilities, along with admission fees to educational and cultural sites on Roanoke Island such as the North Carolina Aquarium, the Elizabethan Gardens, Fort Raleigh National Historic Site, Pea Island Life-Saving Museum, Island Farm, Roanoke Island Maritime Museum, Roanoke Island Festival Park, Alligator River National Wildlife Visitor Center, and *The Lost Colony* Outdoor Drama; and

**WHEREAS**, this boat traffic integral to the economic viability of Roanoke Island, as well as the *Elizabeth I*'s ability to visit coastal towns and to travel the short distance for her annual haul-out for maintenance at the state's ferry repair facility, have been negatively impacted by shoaling in the Manteo Channel; and

**WHEREAS**, since it was last dredged in 2005, a portion of the 12-foot-deep channel in Range 3 and 4 has shoaled to a depth of only 4 feet, creating a navigational hazard not only for the *Elizabeth II*, which draws 8 feet, but also to the boating public at large; and

**WHEREAS**, on November 19<sup>th</sup>, 2016, when the ship was returning to Manteo, she ran aground with the volunteer crew stranded overnight, and this dangerous situation is negatively impacting not only annual haul-out for routine maintenance, but also major repairs scheduled over a three-year period, leading her original builders contracted for the repairs to warn that even more expense could be incurred if the ship cannot move; and

**WHEREAS**, captains of large private yachts are being advised to avoid this section of the Intracoastal Waterway altogether and once word spreads, it is difficult to entice transient boat traffic back to the area; and

**WHEREAS**, recognizing this dire situation after hearing pleas from representatives from the Town of Manteo, Roanoke Island Festival Park, and Friends of *Elizabeth II*, the Dare County Waterways Commission at its May 14, 2018, meeting, unanimously passed a resolution of support for emergency dredging of this portion of the Manteo Channel, stating that this historic channel should remain viable, that a wooden vessel such as the *Elizabeth II* cannot sit at dock without incurring significant damage, and that negative feedback from boaters could impact the region for years to come; and

**WHEREAS**, identifying a suitable site for disposal of dredge material and acquiring a plethora of state and local permits could take years, to devastating effect.

**NOW THEREFORE BE IT RESOLVED** that the Dare County Board of Commissioners supports the request from the Town of Manteo, Roanoke Island Festival Park, and Friends of *Elizabeth II* for urgent assistance for emergency approval to dredge the Manteo Channel to its authorized depth of 12 feet in the US Army Corps of Engineers' Range 3 and 4, from North Carolina delegation in the United States House of Representatives and the United States Senate; and assistance in permitting and in funding from Governor Roy Cooper and the North Carolina General Assembly.

This the 21<sup>st</sup> day of May, 2018.

COUNTY OF DARE, NORTH CAROLINA

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Robert Woodard, Chairman

ATTEST

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Gary Gross, Clerk to the Board



*Exhibit - North Carolina Watermen Foundation*

**Description**

The Dare County Board of Commissioners will preview an exhibit showcasing the working watermen that put healthy North Carolina seafood on American tables. The educational exhibit has been prepared on behalf of the North Carolina Watermen Foundation.

**Board Action Requested**

None - Informational Presentation

**Item Presenter**

Capt. Ernie Foster  
Lynne Foster



*Proclamation - Vulnerable Adults and Elder Abuse Awareness Month*

**Description**

On behalf of the Dare County Department of Health and Human Services a proclamation will be presented on Vulnerable Adult and Elder Abuse Awareness Month.

**Board Action Requested**

Issue Proclamation

**Item Presenter**

Katherine McCarron



## PROCLAMATION

### VULNERABLE ADULT AND ELDER ABUSE AWARENESS MONTHS 2018

**WHEREAS**, North Carolina joins the world in recognizing World Elder Abuse Awareness Day every June 15; and

**WHEREAS**, protecting North Carolina's vulnerable and older adults is a community responsibility, and all citizens are charged under state law to report suspected abuse, neglect, or exploitation to their local County Department of Social Services; and

**WHEREAS**, North Carolina's vulnerable and older adults of all social, economic, racial, and ethnic backgrounds may be targets of abuse, neglect, or exploitation which can occur in families, long-term care settings, and communities; and

**WHEREAS**, in state Fiscal Year 2017, there were 27,483 reports of abuse, neglect, or exploitation of vulnerable and older adults made to North Carolina's 100 County Departments of Social Services; and

**WHEREAS**, national and international research shows that abuse, neglect, and exploitation of vulnerable and older adults is grossly underreported; and

**WHEREAS**, the State of North Carolina enacted the nation's first elder abuse law, and recognizes the need for a comprehensive system of protection for vulnerable and older adults; and

**WHEREAS**, Mother's and Father's Days are national holidays intended to honor, respect, and promote the dignity and well-being of our older citizens;

**NOW THEREFORE**, the Dare County Board of Commissioners do hereby proclaim Mother's Day through Father's Day, May 13 – June 17, 2018, as "**VULNERABLE ADULT AND ELDER ABUSE AWARENESS MONTHS**" in Dare County and commend its observance to all citizens.

This the 21<sup>st</sup> day of May, 2018

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Robert Woodard, Chairman

Attest: \_\_\_\_\_

Gary Gross, Clerk to the Board



*Dare County Soil and Water - Quarterly Report*

**Description**

Ann Daisey with the Dare County Soil and Water Conservation Board will present her quarterly report.

**Board Action Requested**

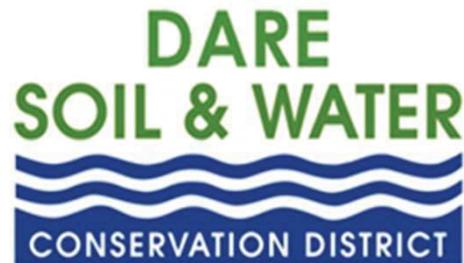
Information item only.

**Item Presenter**

Ann Daisey

# Dare Soil and Water Conservation District

## Quarterly Update



# Community Outreach





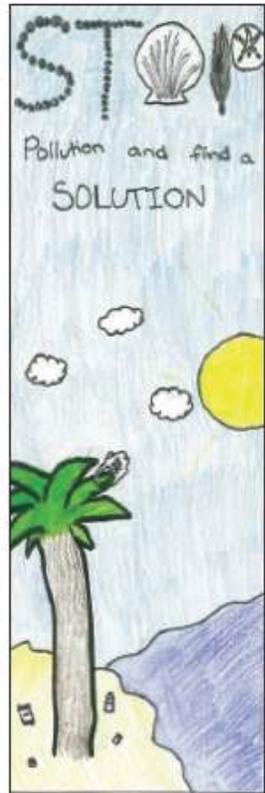
Earth Fair OBX VI  
Tree planting

Dare Soil & Water  
Conservation District  
**2018**



by Javana Lemmon  
Heron Pond  
Montessori  
School

Dare Soil & Water  
Conservation District  
**2018**



by Jamie Hopkins  
Manteo  
Elementary  
School

Dare Soil & Water  
Conservation District  
**2018**



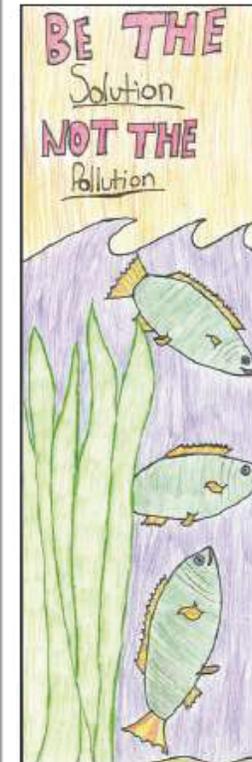
by Aubrey Phanton  
First Flight  
Elementary  
School

Dare Soil & Water  
Conservation District  
**2018**



by Kaylee Mackenzie  
Cape Hatteras  
Elementary  
School

Dare Soil & Water  
Conservation District  
**2018**



by Alexa Hallac  
Nags Head  
Elementary  
School

12<sup>th</sup> Annual 5<sup>th</sup> Grade Bookmark Contest



Resource Conservation Workshop – NC State  
Dare SWCD Student Representative – Julia Bachman

# Stream Debris & Drainage





before



after

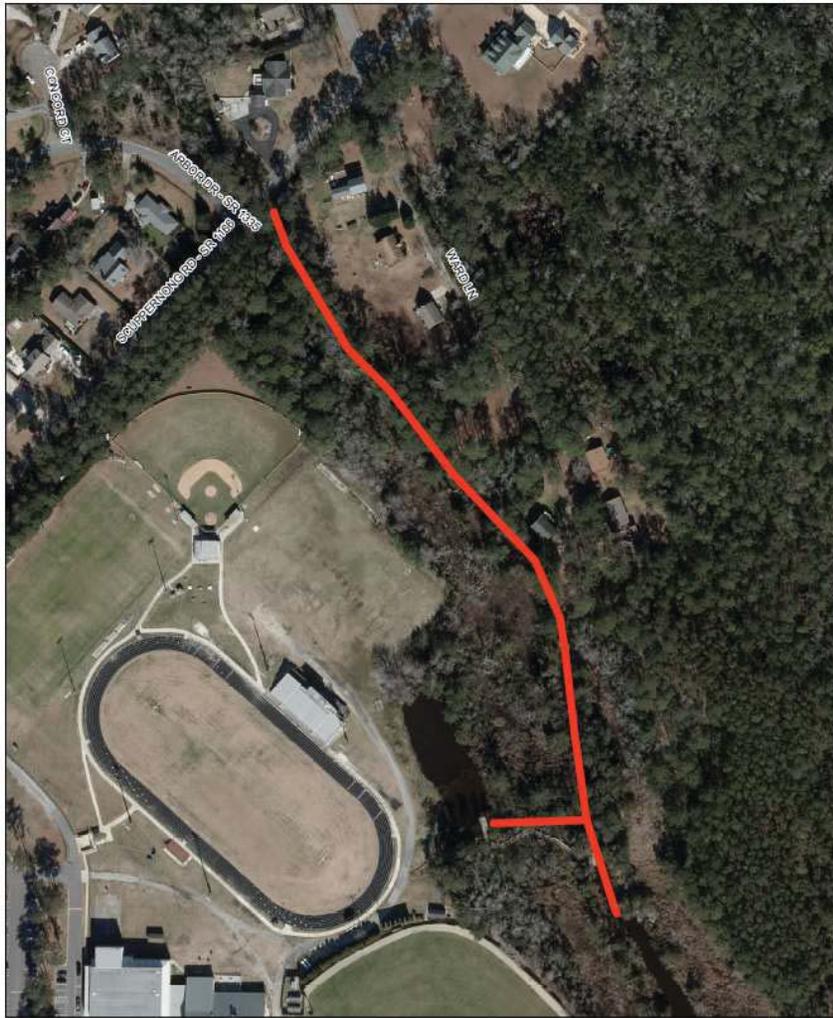
## Stream Debris Kitty Hawk



before



after

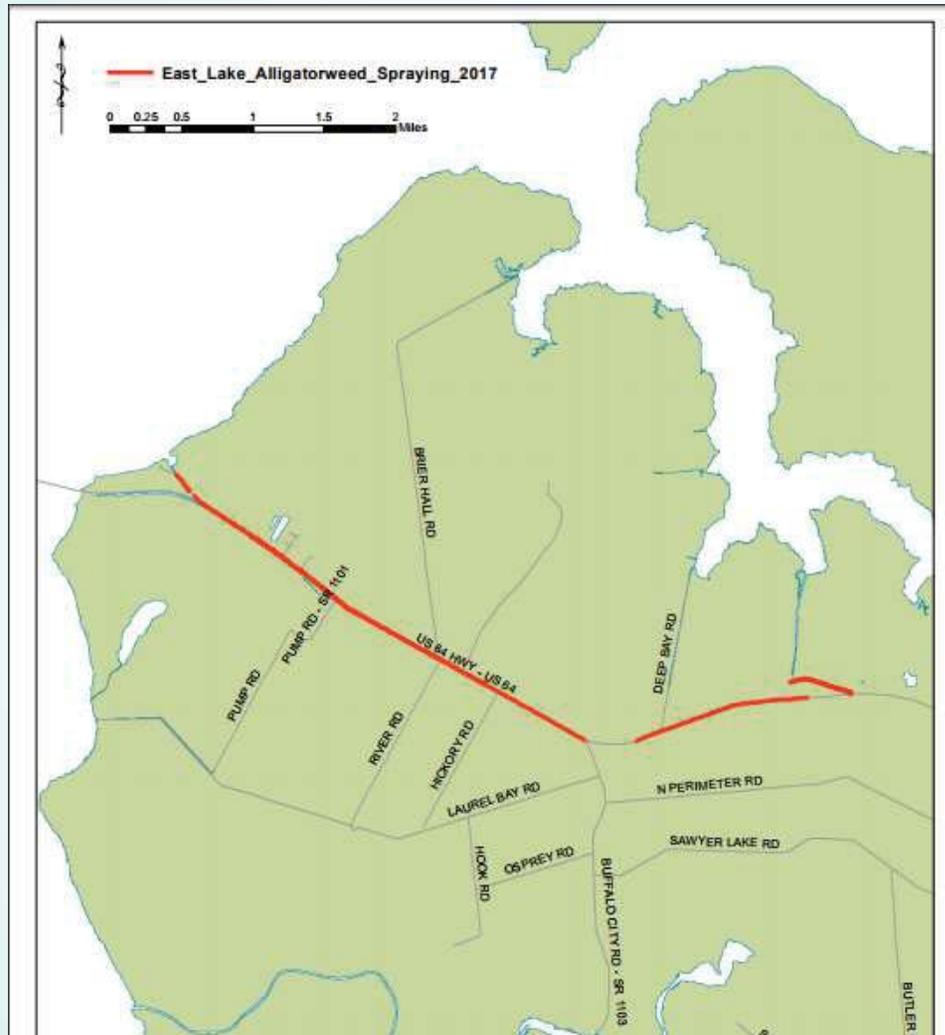


Doughs Creek



East Lake/Highway 64

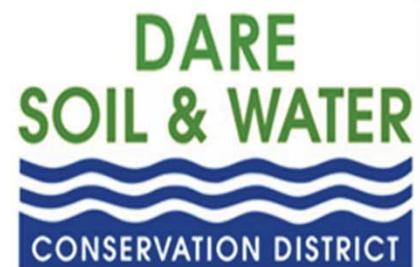
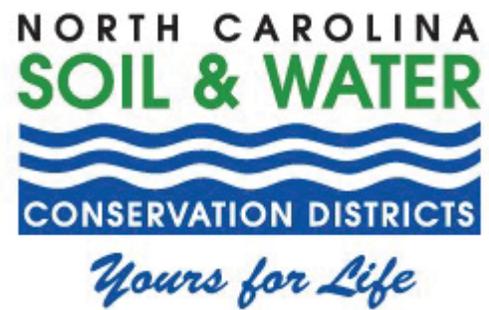
# East Lake Alligator Weed 2<sup>nd</sup> year of treatment



Recognition of Larry Bray  
Dare Soil & Water Conservation District  
Board Supervisor and Chair 1988-2018



30 years of service





*East Carolina Radio - H345 District Text Amendment Request*

**Description**

Rick Loesch on behalf of East Carolina Radio has submitted a text amendment application to amend the Highway 345 district as it pertains to telecommunication towers. A staff report is attached as well as a letter from Mr. Loesch that was included with this application. He explains current FCC regulations and the motivation for his request. The requested action is to schedule a public hearing on the matter.

**Board Action Requested**

Motion to schedule a public hearing on June 18, 2018 at 5:30 p.m.

**Item Presenter**

Donna Creef, Planning Director

PLANNING DEPARTEMNT STAFF REPORT

DATE: May 21, 2018 DCBC MEETING

FROM: Donna Creef, Planning Director

RE: East Carolina Radio --Text Amendment to H345 District  
Request for Public Hearing

Mr. Rick Loesch on behalf of East Carolina Radio has submitted a zoning text amendment application to revise the H345 business district regulations for telecommunications towers. Currently, the H345 district permits telecommunications towers as conditional uses “only associated with a principal or conditional use in this district and subject to all standards established in Section 22-29.2 of the Zoning Ordinance. “ Mr. Loesch seeks to amend this language to uncouple the construction of a telecommunications tower with a principal or conditional use. Mr. Loesch has included a cover letter with this application which explains his request. His request is based on changing broadcast technology and changes in FCC regulations since 2006 when the Wanchese zoning map and the H345 business district was adopted.

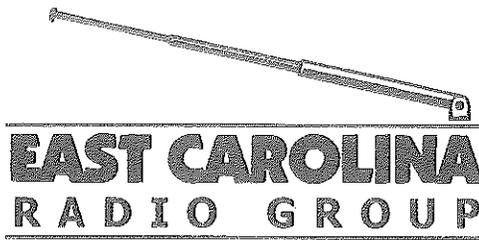
A copy of the Wanchese zoning map is included with my staff memorandum. The H345 district applies along Highway 345 as you enter Wanchese village. Another property in the Highway 345 district is already developed with other towers that are 525 feet and 175 feet in height. These towers, also owned by East Carolina Radio, were addressed with specific language during the development of the Wanchese zoning map because Mr. Loesch had FCC permits for them in hand in 2006. He has since acquired another property along Highway 345 and plans to build another 80’ tower on this site. He had applied to the tower permit earlier this year with only a small maintenance shed associated with the tower. I issued the determination then that the storage shed did not qualify as “a principal or conditional use” and advised Mr. Loesch to consideration construction of an office on the site or to seek a text amendment. I am uncertain of the reasoning behind the original H345 zoning that links the construction of a telecommunications tower with another H345 use. The associated principal use does not lessen the visual or aesthetic impacts of a telecommunications tower.

The Planning Board reviewed this request on April 9 and voted to recommend favorable action and found the request to be consistent with the Dare County Land Use Plan.

Should it be the consensus of the Board to offer additional consideration of the East Carolina text amendment, a public hearing on the matter must be held. Typically, the Board schedules land use hearing at the evening meetings. The requested action today is the scheduling of a public hearing on June 18, 2018.

Motion to schedule a hearing: “I move that a public hearing be scheduled on the East Carolina Radio request for June 18, 2018 at 5:30 p.m.”

If it is the consensus of the Board to not offer any additional consideration to this request, then no further action is needed.



March 14, 2018

Donna Creef  
Planning Director  
Planning Department  
P. O. Box 1000  
Manteo, NC 27954

Dear Donna,

I am interested in applying for an H345 text amendment at our proposed tower site for AM1530 radio station. The reason is because over the last 12 years the radio industry has changed the way it operates, and FCC regulations have changed as well. The radio industry back in 2006 employed many more people than today. An example is that radio stations had to staff 24 hours a day, and studios had to be located within their community of license. Today, 12 years later, radio stations use newer technology that requires less personnel. An example is that local radio stations might have only one "live" shift and the rest of the day might be prerecorded, or received via internet or satellite as in a syndicated program. Our morning show, John Boy & Billy on 95.3 WOBR is delivered to us via satellite, our midday program is prerecorded, our afternoon program is "live", and our evenings come to us via the internet.

FCC regulations have changed over the years as well. In 2006, studio locations were required to be in their community of license. Today they can be located anywhere as long as the public in the community of license has access to station public files. Today these public files are online. The tower we are proposing on the Mavrommatis property next to the campground will be about 80' tall (75' pole on top of a 4-5' support structure). The tower is made of fiberglass and only about 8" in diameter, so it will be quite obscure. There is no FAA requirement for lights because it is less than the threshold for lights of 200'.

A small transmitter building approximately 7' x 10' is proposed to be located next to the tower. The permitted usage of this transmitter building is subject of this text amendment request. We no longer need a studio where programming personnel are "live" 24 hours a day, and the FCC now allows studios to be located anywhere. We just need a building that houses our transmitting equipment like the one we are proposing.

Sincerely

Rick Loesch, President  
East Carolina Radio

**WERX • WRSF • WOBX • WOBR • WKJX • WCNC • WZBO**

**NAGS HEAD OFFICE**

P.O. Box 1418, Nags Head, NC 27959  
2422 S. Wrightsville Ave., Nags Head, NC 27959  
Tel 252-441-1024 • Bus Fax 252-441-2109

**ELIZABETH CITY OFFICE:**

P.O. Box 1246, Elizabeth City, NC 27906  
911 Parsonage Ext., Elizabeth City, NC 27909  
Tel 252-335-4379 • Bus Fax 252-338-5275

**EDENTON OFFICE:**

P.O. Box 950, Edenton, NC 27932  
1331 Paradise Rd, Edenton, NC 27932  
Tel 252-482-2104 • Bus Fax 252-482-5591

# Zoning Amendment Petition Application



## A. APPLICANT INFORMATION

NAME: LAWRENCE F. LOESCH TELEPHONE: 252-216-6624  
ADDRESS: 4744 ELM COURT COMMUNITY: Kitty Hawk  
Kitty Hawk, NC 27949

B. PRESENT ZONING CLASSIFICATION: Highway 345 business

C. REQUESTED ZONING CHANGE: H345 text amendment

D. EXPLANATION OF REQUEST: text amendment to revise  
telecommunications tower requirement to be associated  
with a H345 permitted/conditional principal use -  
see attached letter for additional description

## E. ATTACHED IS THE FOLLOWING DATA AS REQUESTED:

- N/A ❖ 12 COPIES OF THE PLAT OR SURVEY OF PROPERTY TO BE CONSIDERED.
- ❖ CHECK IN THE AMOUNT OF FOUR HUNDRED \$400.00 MADE PAYABLE TO THE DARE COUNTY PLANNING DEPARTMENT. WE UNDERSTAND THAT ADVERTISING COST MAY BE FORWARDED TO US AT A LATER DATE.
- N/A ❖ A LIST OF NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS VERIFIED BY PIN# AS LISTED ON THE DARE COUNTY TAX RECORDS.

We, I, LAWRENCE F. LOESCH understand that Section 22.83 and Section 22.84 require a fee of four hundred (\$400.00), plus the cost of the required legal advertisement, to be paid to the County with the application to cover the costs of advertising and other administrative expenses involved.

\_\_\_\_\_  
Date of application

Lawrence F. Loesch  
Name of applicant (signature in full)

Lawrence F. Loesch

\_\_\_\_\_  
Printed Name of applicant

Rev. 7-15

## ZONING AMENDMENT CONSISTENCY DETERMINATION

On April 9 2018, the Dare County Planning Board considered a zoning text amendment application submitted by East Carolina Radio. This zoning amendment application seeks to revise the Highway 345 district to allow stand along telecommunications towers up to 75 feet in height. .

The 2009 Dare County Land Use Plan is the comprehensive plan for unincorporated Dare County adopted by the Dare County Board of Commissioners on December 6, 2010.

A review of the Dare County Land Use Plan found the following policies to be applicable to the zoning text amendment:

### Land Use Compatibility Management Topic

#### Policy # LUC # 5

*Dare County encourages the continued existence and development of locally-owned businesses in unincorporated Dare County.*

*Implementation Strategy for LUC #5 – Inventory of older existing commercial businesses and consideration of zoning amendment to ensure their replacement or repair in the event of damage from a natural disaster.*

#### Policy #LUC 6

*Policy #LUC6 Commercial development should be designed to meet the needs of Dare County's unincorporated village and not serve as regional commercial centers. The gross floor area limitations of the Dare County Zoning Ordinance and other applicable land use codes shall be used as a tool to manage the footprint of commercial structures. The goal is to manage the size of commercial structures, which serve as a disincentive for regional commercial centers for location in villages.*

Based upon a review of the policy, the Dare County Planning Board finds the zoning amendment to be consistent with the 2009 Dare County Land Use Plan. The commercial development policies do not address the construction of telecommunications towers and the request is not inconsistent with the general language of the commercial development policies. The Highway 345 district permits telecommunication towers in conjunction with a principal or conditional use of the Highway 345 district. Changing technology in the radio broadcast business and changing FCC regulations do not require an on-site broadcast studio to be located on-site with radio broadcast towers.

The Dare County Planning Board hereby recommends the East Carolina Radio zoning text amendment be adopted.

(3) Minimum side yard: 10 feet; an additional 5-foot side setback for corner lots adjacent to a street. Lots less than 75 feet in width shall have an 8-foot setback and an additional 5-foot setback for corner lots adjacent to a street.

(4) Minimum rear yard: 20 feet maximum, or 20% of lot depth for interior lots. Zero line setback for waterfront lots.

(5) Lot coverage: 60% as defined in Section 22-2.

(6) Building height: 40 feet to the highest elevation of any feature of the structure or portion of the roof measured from the base flood elevation, from natural ground elevation if natural ground elevation exceeds the base flood elevation, or from an unnatural ground elevation created by placement of fill material on a site on or before March 24, 2006. Chimneys, lightning rods, weather vanes, wind gauges, and other similar roof appurtenances shall not be considered the highest portion of the roof. The pitch of the principal roof shall be no less than 4/12. Principal roof is defined as the largest section of the roof on the structure.

(7) Maximum commercial building size: 10,000 square feet excluding decks, porches, and other non-heated space. Hotels, motels, churches, fire stations, public buildings and schools are exempt from the 10,000 square foot building size.

(8) Density limitations for motels, hotels, and similar seasonal lodging structures:

a. Structures on a lot or tract that has no soils classified as wetlands, coastal marsh or section 404 jurisdictional soils: 10 rental rooms per acre.

b. Structures on a lot or tract that has between .01% and 19.9% of its soils classified as wetlands, coastal marsh, or section 404 jurisdictional soils: 8 rental rooms per acre.

c. Structures on a lot or tract that has more than 20% of its soils classified as wetlands, coastal marsh or section 404 jurisdictional soils: 6 rental rooms per acre.

(f) **Non-conforming uses and non-conforming structures:** The standards of Section 22-27.19 shall apply to this district.

(g) **Performance standards and other information:** The standards of Section 22-27.20 shall apply to this district.

(h) **The sections contained in Articles I, Article III, Article VII, Article VIII, and Article IX of the Dare County Zoning Ordinance shall apply to this district.** (Adopted by the DCBC on March 24, 2006)

#### **SECTION 22-27.16 - HIGHWAY 345 BUSINESS DISTRICT (HWY 345)**

The Highway 345 Business district shown on the Dare County tax map, tax district 17 originally dated November 20, 1975 depicts tracts of land that lie along Highway NC 345 bounded on the east by the Pamlico Sound and on the west by Croatan Sound and Oyster Creek. Moreover, these tracts of land border NC Highway 345, a heavily traveled thoroughfare to the southern portion of Roanoke Island.

(a) **Scope and intent:** This district provides for a mix of residential and commercial neighborhoods that offer a broad range of services and commodities that will serve seasonal and local residents. The mixed residential district includes single family homes and duplex homes in a group housing development setting that support private wells or a central water supply with alternative methods of wastewater treatment facilities approved by the Dare County Environmental Health Department (not to include centralized urban-style wastewater collection and treatment systems). A maximum gross building size of 30,000 square feet (10,000 square feet of heated space and 20,000 square feet of non-heated space) for commercial structures is included in the regulations thereby allowing for future compatible land uses such as hotels and motels and similar lodging structures.

Furthermore, the Highway 345 Business District provides for land uses that allow goods and services for people and industry while strengthening the economic base of Dare County and ensures the

protection of the fragile and pleasant atmosphere at the south end of Roanoke Island. Highway 345 provides the only vehicular transportation route into the Village of Wanchese. There is concern for the large expanses of wetland areas along NC 345 that contain marginal soils and are not suitable for high-density development. A number of water supply wells, which serve the Dare County water system, are located within this district. Land use adjacent to these wells is also a concern and is reflected in the minimum lot size established in this zoning district. Density in this district shall be limited to 20,000 square feet and duplex lots limited to 25,000 square feet. Another goal is to protect the quality of the communities' surface water and ground water supply particularly with the close proximity of this district to Broad Creek, Croatan Sound, Pamlico Sound and the various creeks and canals that serve as nursery areas for fish and wildlife.

**(b) Permitted uses:** Any use in existence on June 5, 2006 shall be allowed to continue in operation without seeking approval from Dare County, regardless if that use is listed as a permitted use or is listed as a conditional use in any of the Wanchese zoning districts. Additions or expansion of uses in existence on June 5, 2006 shall be subject to administrative review and approval by the Dare County Planning Department for compliance with the zoning regulations. Construction of additional principal use structures at existing business sites that would require a conditional use permit if not already established prior to June 5, 2006 shall trigger review and approval under the conditional use permit process.

The following uses and no other uses shall be permitted by right. Any use not permitted herein shall be deemed prohibited.

**(1) Commercial uses:**

- a. Boat yards and repair.
- b. Boat and motor display, sales and service.
- c. Boarding of horses, equestrian related uses and activities, tack shop.

- d. Box making facilities.
- e. Cabinet and woodworking shop.
- f. Contractors' offices, supplies and services.
- g. Crab shedding operations and associated equipment.
- h. Commercial fishing nets, sales, service and storage.
- i. Crab pot storage and other crabbing and commercial fishing gear.
- j. Docks private, public and commercial.
- k. Dry cleaning and laundromats.
- l. Electrical equipment, sales and service.
- m. Electronic equipment, sales and service.
- n. General village store without fuel pumps and not associated with a marina.
- o. Hotels, motels - administrative review for one principal building per site, two or more buildings require conditional use permit for group development -see CUP.
- p. Fish houses, including packing, processing, seafood sales, storage and loading and unloading trawlers.
- q. Fishing - party fishing excursions and associated services.
- r. Food services -carryout (if seating see CUP).
- s. Hardware supplies.
- t. Heating and air, sales, service.

u. Tourist homes as defined in Section 22-2.

v. Mobile home parks according to the Mobile Home Park Ordinance.

w. Plumbing supplies, sales and service.

x. Retail shops, including, but not limited to gifts and imports.

y. Radio, TV broadcasting and film production studio.

z. Seafood processing and seafood market sales – wholesale /retail.

aa. Schools, commercial limited to sailing/marine oriented outdoor lifestyle.

bb. Travel trailer parks and campgrounds according to the Travel Trailer Park Ordinance.

cc. Upholstery, fabric dry goods.

dd. Village general store without fuel pumps and not associated with a marina.

ee. Welding shop and steel fabrication.

(2) Single-family dwelling in conjunction with a commercial business may be located above or in the rear of a commercial building, or a detached structure, provided that all federal, state and local regulations are met. Additional parking for the residential use shall not be needed.

(3) Detached single-family dwelling on individual lots or parcels.

(4) Bed and breakfast homes.

a. Small bed and breakfast home as defined in Section 22-2.

b. Large bed and breakfast home as defined in Section 22-2.

(5) Single-family mobile homes on individual lots, provided that:

a. Compliance with the building code for mobile homes in a hurricane area.

b. Compliance with the building inspector requirements regarding skirting material and skirting area.

(6) Duplexes.

(7) Small childcare homes as defined in Section 22-2.

(8) Customary accessory uses associated with commercial or residential principal use, including windmills, not to exceed height limit of this district, garages, sheds, swimming pools and other accessory uses associated with the commercial and or residential use.

(9) Accessory dwelling unit associated with residential use referred to as a "guesthouse" is permitted, subject to the following requirements:

a. A dwelling unit may be attached to the principal residence or may be detached from the principal residence. The size of the accessory dwelling unit, whether attached to or detached from principal residence, shall not to exceed 900 square feet of heated space.

b. An accessory dwelling unit, whether attached to or detached from the principal residence, shall be located on the lot in conformance with the building setbacks of this zoning district.

c. Owner and/or family members shall occupy either the primary residence or accessory dwelling unit.

d. One additional off-street parking space shall be required.

e. Accessory dwelling unit shall not be subdivided or otherwise segregated in ownership from the primary residence.

f. An outbuilding on a residential lot that exists at the time of adoption of this ordinance may be converted into an accessory building unit, provided that lot coverage is met for the dwelling unit and the primary residence.

g. The accessory dwelling unit shall be constructed according to all applicable federal, state regulations and local building inspection requirements. And, if applicable, compliance with federal flood plain elevation standards.

h. Once permitted, the property owner shall submit annual verification of year round occupancy of the principal structure or the accessory dwelling unit to the Dare County Zoning Administrator, if necessary.

i. Travel trailers, recreational vehicles, and/or mobile homes shall not be used as accessory dwelling units.

j. Accessory dwelling units shall not be used for any commercial or business use.

**(10) Traditional village business** - A commercial accessory use conducted by owner and/or family member residing on the lot or parcel of the principal residence provided the following conditions are met:

a. Property owner and/or family member operates a business and resides on the premises.

b. Merchandise produced on or off of the premises may be sold on premises.

c. An accessory commercial building shall not exceed 1,200 square feet. In addition, 25% of the total floor area of the principal residence may be used for said business.

d. One indirectly lighted freestanding sign, not to exceed 36 square feet, may be posted on the property.

e. On-site parking for up to 4 spaces shall be provided on the site.

f. Visual buffer: A 6-foot opaque wooden fence or vegetative buffer shall be provided for any business established after June 5, 2006. In some instances, existing dense shrubs, trees, and plants may provide screening.

g. In the case where a property owner owns land that is contiguous to the principal residential use and accessory business, said land may be used as an extension and a part of the traditional village business use. The setbacks listed in subsection (d) of this district shall not apply.

h. The traditional village business shall be located a minimum of 15 feet from the front property line and 10 feet from any side or rear property line. The setbacks listed in subsection (d) of this district shall not apply.

i. An average of 3 non-resident employees may be employed.

The following list of uses may be permitted as a traditional village business including, but not limited to:

1. Offices: business, financial, professional, and medical.

2. Retail/wholesale shops:  
a. Antiques, furniture, and home decor.

b. Apparel.

c. Artist and art supplies.

d. Bait and tackle supplies.

e. Beehives.

f. Books.

g. Camera and photo supplies.

h. Coffee/tea cakes, pies, bakery goods and edibles.

- i. Florist.
  - j. Fruit and vegetable stand.
  - k. Gifts and imports.
  - l. Hobby goods.
  - m. Hunting and fishing supplies.
  - n. Jewelry.
  - o. Leather goods.
  - p. Millinery shop.
  - q. Music shop.
  - r. Photography equipment sales and service.
  - s. Sewing shop/needle works, dry goods and supplies.
  - t. Tack and equestrian associated sales.
  - u. Toys.
  - v. Upholstery.
  - w. Woodcarving, ducks and other wildlife.
3. Service establishments:
- a. Automobile detailing.
  - b. Barber and beauty shops including tanning and exercise facilities.
  - c. Bicycle rentals with buffered storage area.
  - d. Boarding of horses, equestrian associated activities according to state regulations.
- e. Boat building shop - (not to exceed 1,200 sq. ft. boat size limited to 36 ft.).
  - f. Bricklayer.
  - g. Bake shops - cakes, pastries, edibles and bakery goods.
  - h. Carpenter/cabinet/wood-working.
  - i. Catering business.
  - j. Computer and internet services.
  - k. Concrete finishing business and equipment.
  - l. Crab pot storage and other crabbing and commercial fishing gear.
  - m. Crab shedders and associated operations.
  - n. Craft production and retail sales.
  - o. Electrician.
  - p. Electronics.
  - q. Excavating and equipment.
  - r. Hardwood flooring, carpet, vinyl and ceramic tile installation.
  - s. Heating and air.
  - t. History home place tours and interpretation of village lifestyle.
  - u. Home schooling.
  - v. House and boat moving business.

- w. Landscape and lawn care.
  - x. Music lessons.
  - y. Outboard engine repair.
  - z. Painter and dry wall.
  - aa. Photographer.
  - bb. Plumber.
  - cc. Potter, clay works, ceramics .
  - dd. Pressure washing business.
  - ee. Radio, TV broadcasting and film production studio.
  - ff. Roofer.
  - gg. Seafood sales as per North Carolina regulations.
  - hh. Small engine repair.
  - ii. Small trucking business — parking business truck on site.
  - jj. Taxidermist.
  - kk. Tree removal, stump grinding, log splitting and wood sales.
  - ll. Welding shop.
4. Specific waterfront commercial accessory uses associated with principal use:
- a. Commercial fishing and crabbing business, retail and wholesale markets, including all rigging and storage of crab and fish gear.
  - b. Boat dockage of 10 slips or less.
- c. Boat shop not to exceed 1200 square feet of floor area and limited to the construction of 36-foot boats.
  - d. Boathouses and sheds.
  - e. Boat rentals limited to non-motorized watercraft.
  - f. Fishing party excursions 1/2 day and full day trips.
  - g. Private boat ramps for residential use or commercial accessory use.
  - h. Schools offering private lessons for sailing and other outdoor activities.
- (11) Agriculture farming, livestock, waterfowl, poultry and related activities for personal use.
  - (12) Aquaculture and associated activities related to fish farming as regulated by the State.
  - (13) Private home antennas and on-site accessory business use antennas.
  - (14) County, state and U.S. government owned and leased facilities.
  - (15) Heritage gardens — designated areas of land leased to the public for gardening projects.
  - (16) Radio and broadcast studio facilities and associated broadcast transmission towers that existed prior to March 24, 2006. Replacement or reconstruction of towers that existed prior to March 24, 2006 may be authorized as permitted uses provided that such towers have received all necessary Federal Communications Commission license and Federal Aviation Administration license prior to March 24, 2006 and shall not exceed the height authorized by the FCC. The standards of Section 22-29.2 shall not apply to towers that qualify for replacement under this section. Replacement towers shall be located in a manner that maximizes separations from all property lines and in no

case shall the setbacks be less than those of the Highway 345 district. Documentation shall be submitted that is signed and sealed from a North Carolina licensed engineer that the replacement tower meets the structural requirements of the North Carolina building code and a professional engineering certification which states that the structure's construction will cause the tower to crumble inward so that in the event of collapse, no damage to surrounding structures will result. Lighting of the tower shall be according to all Federal Communications Commission and Federal Aviation Association standards.

**(c) Conditional uses:** Any use in existence on June 5, 2006 shall be allowed to continue in operation without seeking approval from Dare County, regardless if that use is listed as a permitted use or is listed as a conditional use in any of the Wanchese zoning districts. Additions or expansion of uses in existence on June 5, 2006 shall be subject to administrative review and approval by the Dare County Planning Department for compliance with the zoning regulations. Construction of additional principal use structures at existing business sites that would require a conditional use permit if not already established prior to June 5, 2006 shall trigger review and approval under the conditional use permit process.

The following conditional uses and no other conditional uses may be permitted, subject to the requirements of this district and the regulations and requirements imposed by the Board of Commissioners as provided by Article IX of this chapter. Any use not permitted herein shall be deemed prohibited.

**(1)** Boat building facilities.

**(2)** Churches, fire stations, cemeteries, and other public buildings.

**(3)** Telecommunication tower only associated with a principal use that is authorized as either a permitted use or conditional use in this district and subject to all standards established in Section 22-29.2 of the Zoning Ordinance.

**(4)** Home occupations as defined in Section 22-2.

**(5)** Elder in-home care, up to 4 non-related patients (private home nursing) provided the following minimum requirements are met:

a. Employee and visitor parking according to Section 22-56 in addition to 1 parking space for each non-resident employee.

b. Other reasonable conditions imposed by the Board of Commissioners.

**(6)** Fuel storage only associated with on-site business use.

**(7)** Group development housing projects according to Section 22-31 plus the following requirements:

a. Density shall not exceed 1 unit per 20,000 square feet of soils not classified as coastal wetlands; duplex home 25,000 square feet of soils not classified as coastal wetlands provided this area may be reduced to 20,000 square feet if duplex is served by central water supply.

b. Every dwelling unit shall be accessible to emergency service vehicles and Dare County Public Works vehicles.

c. Turning lane into project shall be provided with additional setback buffer along state-maintained rights-of-way into the residential neighborhoods.

d. Building height limit of 40 feet as defined in this section.

e. No mooring of permanent floating homes and other permanent floating structures as defined in 15A NCAC 7M00602 in the surrounding public trust waters of Dare County.

f. Accessory dwelling units are not allowed in sites developed as a group housing development.

g. A traditional village business use is not allowed in sites developed as a group housing development.

h. Other requirements that may be imposed by the Board of Commissioners.

(8) Commercial group development projects (more than one principal structure per parcel under single ownership) according to Section 22-31.

(9) Marinas, boat dockage, village marina store with fuel pumps, boat rentals for fishing excursions, and other non-motorized boat rentals provided the following minimum conditions are met:

a. Lot size shall be sufficient to meet requirements of the Dare County Health Department and to provide adequate siting for structures, parking, loading and maneuvering space as provided in Section 22-56.

b. Food and beverage service and/or a restaurant may be associated with a marina.

c. All boat rentals, except for fishing excursion rentals, shall be limited to non-motorized vessels and shall be limited to a total of 10 vessels offered for rent.

d. Fuel pumps shall not be located within 50 feet of a residential zoning district or residential use and that such fuel pumps shall be setback a minimum of 25 feet from all rights-of-way.

e. One 10' x 20' parking space shall be provided for each wet boat slip.

f. Outdoor lighting shall be complete cut-off design, low-profile, shielded and oriented in such a manner to minimize spill across property lines and prevent glare at any location on or off the property. A lighting plan shall be submitted as part of the site plan.

g. Subject to the other requirements of the Zoning Ordinance and other reasonable conditions as may be imposed by the Board of Commissioners.

(10) Public and private utilities (shall provide a planted vegetative buffer 10 feet in height).

(11) Private meeting and recreational facilities such as an event center for weddings and group parties, including private boat launching areas, tennis courts, picnic areas, private swimming pools and beaches, whereby catering is an integral part thereto. The following minimum requirements shall be met:

a. Parking for the event center and associated uses shall be based on the maximum occupancy of the proposed structure. Maximum occupancy shall be determined according to the North Carolina state building codes. One 10' x 20' space for every 4 persons or a minimum of 30 spaces whichever is greater.

(12) Pet grooming provided the following minimum requirements are met:

a. Shall be owner and/or family occupied residential premises.

b. Day care only for grooming – hours of operation limited to 7:00 a.m. to 6:00 p.m.

c. No outdoor run facilities and no overnight guests (not a kennel).

d. Other reasonable conditions imposed by the Board of Commissioners.

(13) Restaurants, food service, café provided the minimum following conditions are met:

a. Lot size shall be sufficient to meet requirements of the Dare County Health Department and to provide adequate siting for structures, parking, loading and maneuvering space as provided in Section 22-56. In addition, a fence or vegetative buffer shall be provided adjacent to residential use or residential zoning district.

b. The restaurant shall not feature drive-thru window service whereby patrons are served while seated in a motor vehicle or drive-up wait service whereby patrons are served while seated in a motor vehicle.

c. The restaurant shall include facilities for indoor and outdoor seating.

d. On-site parking shall be according to Section 22-56 – one 10' x 20' parking space for every 3 customer seats plus one 10' x 20' space for every 3 employees and loading space.

e. Outdoor lighting shall be complete cut-off design, low-profile, shielded and oriented in such a manner to minimize spill across property lines and prevent glare at any location on or off the property. A lighting plan shall be submitted as part of the site plan.

f. Other reasonable conditions as may be imposed by the Board of Commissioners.

(14) Retail garden shops and landscaping business may be permitted, subject to requirements of this chapter, provided the following minimum conditions are met:

a. Storage of mulch material may be allowed for retail sale only. Storage "stockpiles" shall not exceed 6 feet in height and no more than 3 stockpiles allowed for each site. Industrial production of mulch is not permitted.

b. One accessory greenhouse for storage and outdoor protection of plants is permitted. Greenhouse is not to be used for wholesale growing of plants.

c. Associated equipment used by the landscape business such as trailers, lawn mowers, single-axle trucks and tractors may be stored on the site. Storage area that is well buffered from general public may include draglines, bulldozers backhoes and other heavy equipment.

d. Storage areas of mulch and equipment shall be buffered with fencing.

e. Outdoor display and storage of plants, bags of soil, mulch, fertilizer, landscaping stone, landscape timbers, yard ornaments, and the like shall

not restrict parking areas. Bags of mulch, soil, and the like shall be stacked in an orderly manner.

f. Bulk irrigation piping shall be stored indoors.

g. Other conditions imposed by the Board of Commissioners.

(15) Storage/warehousing and warehouse storage centers, including boat trailers and long-term storage containers and mobile storage, provided the following minimum conditions are met:

a. Site shall be buffered with wooden opaque fencing not to exceed 10 feet in height and also provide sound and site screening as visual and sound buffer to residential homes in and around area of warehouse storage site.

b. Outdoor lighting plan shall be submitted with a site plan.

c. Hours of operation shall be included as part of CUP review.

d. Other reasonable conditions as may be imposed by the Board of Commissioners.

(16) Village center project: a mixed use development situated on single parcel of land under single ownership whereby an existing commercial building, or new structure, may be developed and limited to retail sales units on the lower level of the structure with residential units on upper level. Additional residential units may be situated on the site. The following minimum requirements shall be met:

a. Village center complex site must contain a minimum of 3 acres.

b. Approval of all supplementary local, state and federal permits. Site must be adequate for siting commercial structure, parking, loading and maneuvering space as required by Article VII. Two 10' x 20' parking spaces per residential use shall be provided. Overflow parking, if applicable, shall be directed to off peak use of commercial spaces.

c. Site screening - a vegetative or fence buffer not to exceed 10 feet in height. A 10-foot wide setback shall be required where the site abuts a residential use or zone (not subject to 20-foot dimensional requirements in D.1 - Dimensional requirements).

d. Food service shall be limited to packaged items, such as snacks, drinks and ice cream. Food service may be located outside the building on site as a refreshment pavilion to serve patrons in the village complex. Food service shall be exempt from parking as required for restaurants.

(17) Village general store with fuel pumps provided that no principal or accessory building shall be located within 50 feet of a residential use, accessory dwelling unit, or residential district and that such fuel pumps shall be set back at least 25 feet from all rights-of-way. The following minimum requirements shall be met for open canopy lighting to preserve the night time environment :

a. The area directly below the canopy may be illuminated with a minimum foot candle of 4 but not to exceed a foot-candle rating of 10.

b. Parking spaces provided under a canopy shall be 10' x 20' in area.

(18) Spoil sites for maintenance dredging.

(19) Wind energy research facilities according to the standards of Section 22-29.3. (Adopted 4-18-11)

(20) Temporary, portable concrete plant including silos, aggregate bins, dust collector, hoppers, conveyors, batch mix, office and other accessory equipment necessary to the operation of the portable concrete plant including storage of aggregate and other materials necessary for the making of concrete.

a. The lot or parcel upon which the portable concrete plant is located shall contain at least four (4) acres of contiguous non-wetland area.

b. The plant and all accessory equipment shall be mobile and may be not permanently attached to the property. The equipment may be temporarily secured to the property for safety reason but must be removed upon the expiration of the conditional use permit.

c. Notwithstanding any other provision of the Zoning Ordinance, the portable concrete plant when erected shall not exceed 60 feet in height.

d. The concrete plant and storage of aggregate and other materials shall be at least twenty-five (25) feet from any property line and there shall be wooden opaque fence no less than ten (10) feet high between the plant and any residence or residential zone.

e. The concrete plant shall include a dust collection system which collects dust at the load out point and the particulate that is collected is recycled into the system.

f. All aggregate stored on the site shall be kept moist at all times to prevent dust.

g. All outdoor lighting shall be low profile, shielded with glare directed on-site and away from any adjoining properties and streets.

h. No more than eight (8) trucks used for the transport of concrete may be parked overnight on the property.

i. There shall be no concrete transport trucks that enter or exit the site between the hours of 7:00 a.m. to 8:30 a.m. and 2:00 p.m. to 3:30 p.m. on any day public schools in Dare County are in session.

j. The concrete plant shall be operated in accordance with all requirements of the North Carolina Department of Transportation and any other regulatory body.

k. This conditional use permit shall remain in effect for a period of 39 months. This 39-month period shall commence on the date identified

by NC Department of Transportation in the notice to proceed issued by NCDOT to the bridge contractor. Upon the showing of good cause, the Dare County Board of Commissioners may extend the permit for up to 180 additional days. Good cause shall mean unavoidable conditions or events necessitating the continued operation of the plant for the purpose for which it was originally installed.

**l.** Upon expiration of the conditional use permit, operation of the concrete plant shall cease and the concrete plant and all accessory equipment and materials shall be removed from the site and the site returned to its original condition within thirty (30) days.

**m.** A performance bond, satisfactory to Dare County, to be used for removal and reclamation activities shall be established by the permittee at the time a site specific development plan and conditional use permit for a temporary portable concrete plant is authorized by Dare County. The bond shall be in the amount of \$20,000 shall be issued to Dare County to be used in the event the permittee does not remove all equipment from the site and restore the site to its original condition as provided above. If this amount is insufficient to cover the cost of reclamation of the site, then the property owner shall be held accountable for the additional amount and a lien shall be placed on the site for any amount over the \$20,000 bond amount that is incurred by Dare County in the reclamation of the site. The bond shall remain in place until released by Dare County upon certification by Dare County of compliance with the conditions of this permit. Dare County shall be authorized to use the bond to cover all costs and expenses of removal, including but not limited to all legal fees or other costs or expenses associated with enforcement of the provisions of the conditional use permit. This bond shall be forfeited if the concrete plant, all equipment, components and accessories of the concrete plant have not been removed from the site and the site restored to its pre-plant conditions within the time required by this conditional use permit. In lieu of a bond, permittee may post a cash bond with Dare County to be held for the purposes set forth above. (Adopted 11-19-2012)

**(d) Dimensional requirements for residential uses:**

**(1) Minimum lot size:**

**a.** Single-family lots with accessory dwelling units and accessory commercial structures used in association with a single-family use shall be of sufficient size to meet the requirements of the Dare County Environmental Health Department and to provide adequate setbacks for the single-family structure, accessory dwelling unit and all other accessory use structures.

Existing lots - All lots that were subdivide and recorded before June 5, 2006 shall meet the approval of the Dare County Environmental Health Department for well and on-site wastewater systems. The setbacks and lot coverage standards of Section 22-27.18 shall apply to lots recorded June 5, 2006.

**b.** Newly platted lots -- For those lots subdivided and recorded after June 5, 2006:

Single family lots: 20,000 square feet of soils not classified as coastal wetlands.

Duplex lots: 25,000 square feet of soils not classified as coastal wetlands.

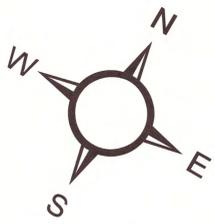
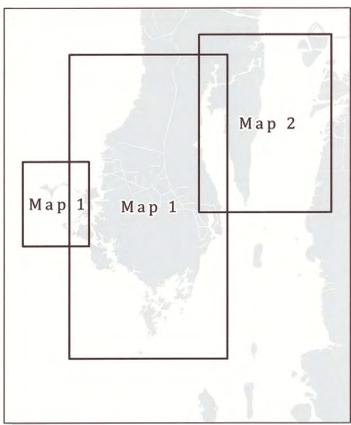
**(2) Minimum lot width:** 75 feet at building setback line.

**(3) Minimum front yard:** 25 feet.

**(4) Minimum side yard:** 10 feet; an additional 5-foot side setback for corner lots adjacent to a street. Lots less than 75 feet in width shall have an 8-foot setback and an additional 5-foot setback for corner lots adjacent to a street.

**(5) Minimum rear yard:** 20 feet maximum, or 20% of lot depth. Zero line setback for waterfront lots.

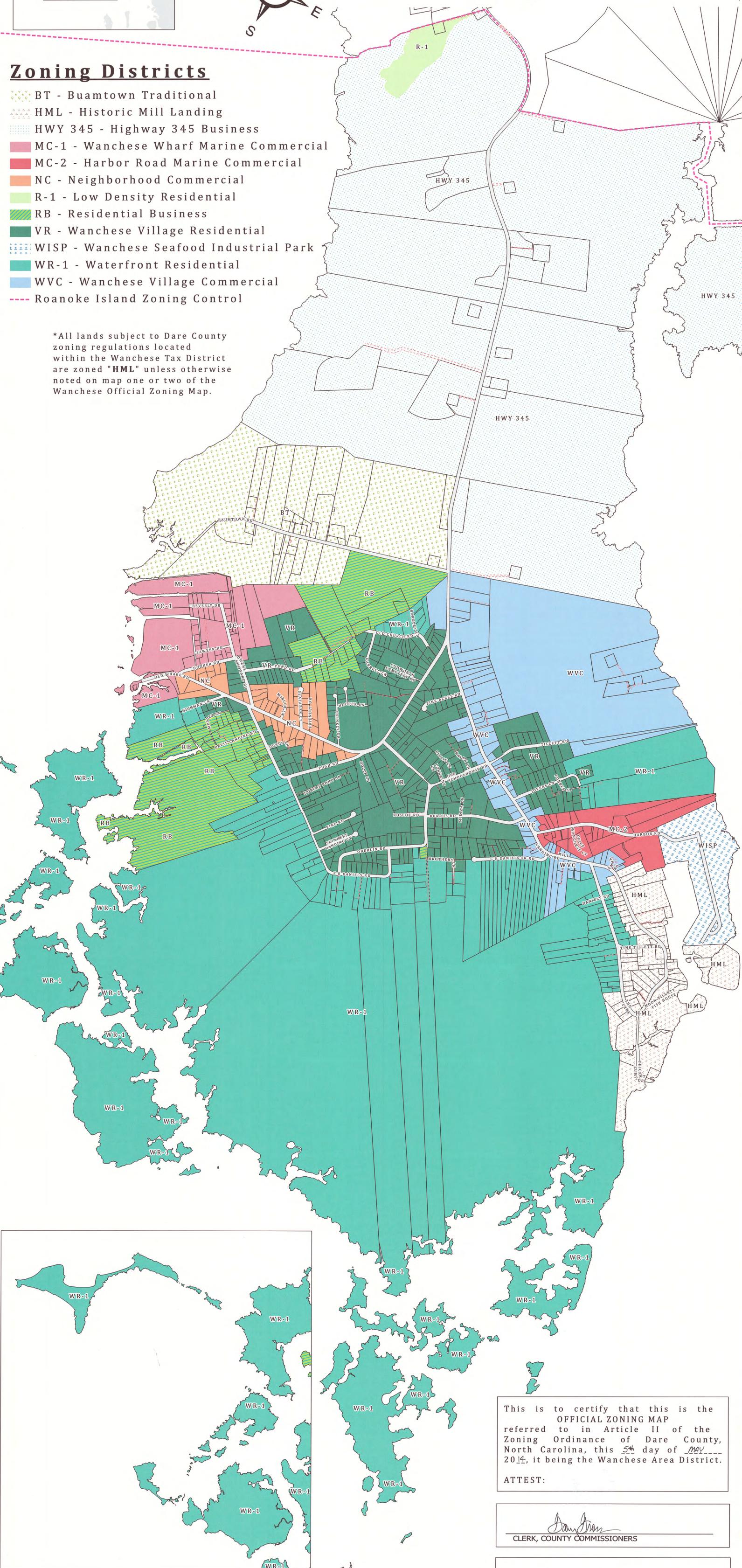
# Wanchese, N.C. Official Zoning Map 1 in = 575 ft Map 1



## Zoning Districts

-  BT - Buamtown Traditional
-  HML - Historic Mill Landing
-  HWY 345 - Highway 345 Business
-  MC-1 - Wanchese Wharf Marine Commercial
-  MC-2 - Harbor Road Marine Commercial
-  NC - Neighborhood Commercial
-  R-1 - Low Density Residential
-  RB - Residential Business
-  VR - Wanchese Village Residential
-  WISP - Wanchese Seafood Industrial Park
-  WR-1 - Waterfront Residential
-  WVC - Wanchese Village Commercial
-  --- Roanoke Island Zoning Control

\*All lands subject to Dare County zoning regulations located within the Wanchese Tax District are zoned "HML" unless otherwise noted on map one or two of the Wanchese Official Zoning Map.



This is to certify that this is the  
OFFICIAL ZONING MAP  
referred to in Article II of the  
Zoning Ordinance of Dare County,  
North Carolina, this 5<sup>th</sup> day of MAY,  
2014, it being the Wanchese Area District.

ATTEST:  
  
  
CLERK, COUNTY COMMISSIONERS

  
CHAIRMAN, COUNTY COMMISSIONERS



*Letter Supporting Reappointment of Renee Cahoon as Chair of the Coastal Resources Commission*

**Description**

The term of Renee Cahoon, Chair of the North Carolina Coastal Resources Commission, expires June 30, 2018. The Town of Nags Head has asked the Dare County Board of Commissioners to submit a letter supporting her reappointment.

**Board Action Requested**

Authorize a letter supporting the reappointment of Renee Cahoon

**Item Presenter**

Robert Outten, County Manager



*Representation in Raleigh*

**Description**

The Board of Commissioners will discuss the engagement of representation in Raleigh to assist with legislative matters that are of importance to Dare County.

**Board Action Requested**

Discuss and take appropriate action

**Item Presenter**

Robert Outten, County Manager



*Presentation of Manager's Fiscal Year 2019 Budget*

**Description**

Presentation of Manager's Fiscal Year 2019 Budget

**Board Action Requested**

Schedule Public Hearing for June 4

**Item Presenter**

Bobby Outten, County Manager



*Public Hearing -- Roanoke Shores HOA RS-8 Text Amendment*

**Description**

A public hearing has been scheduled for May 21 on the Roanoke Shores Homeowners Association zoning text amendment request to revise the RS-8 district to include non-conforming language specific to the Roanoke Shores apartment complex located at 117 Old NC 345 on Roanoke Island. A staff report is included with this cover sheet. Following the close of the hearing the Board may choose to act upon the text amendment. Staff recommends approval of the text amendment.

**Board Action Requested**

Conduct public hearing and adoption of RS-8 text amendment.

**Item Presenter**

Donna Creef, Planning Director

## PLANNING DEPARTEMNT STAFF REPORT

DATE: May 21, 2018 DCBC MEETING  
FROM: Donna Creef, Planning Director  
RE: Roanoke Shores Homeowners Association  
Text Amendment to RS-8 District – Public Hearing

Earlier this month, the Board scheduled a public hearing on a proposed text amendment submitted by the Roanoke Shores Homeowners Association. The RSHOA has requested an amendment to the RS-8 district regulations to add non-conforming language specific to their property.

Roanoke Shores is a multifamily structure located at 117 Old NC 345 on the north end of Roanoke Island. It was constructed in 1985 and features 21 units. All of the units are currently individually owned. When the structure was constructed in 1985, the units were owned by one entity and rented by the entity. At the time of construction the multifamily dwelling density was eight units per acre and the development was built to comply with this standard. The County amended all of the multifamily dwelling densities in 2003 and as result the Roanoke Shores site was rendered non-conforming in terms of dwelling density. The Roanoke Shores property is 2.5 acres in size. Based on the current dwelling density, only 15 units could be rebuilt if the structure was damaged beyond 50% of its value based on the non-conforming language found in Section 22-49 of the Dare County Zoning Ordinance. Section 22-49 states that any non-conforming structure damaged beyond 50% of its value must be rebuilt in conformance with the current regulations.

The RSHOA proposed text amendment would allow the development to be rebuilt if damaged beyond 50% of its market value to its original density but no greater. The draft language is as follows:

### **Proposed non-conforming language for RS-8 district:**

*RS-8 (e) Non-conforming Multifamily Structures -- If any non-conforming multifamily structure constructed before 2003 when the RS-8 dwelling density was decreased to six units per acre is destroyed or damaged more than 50% of its market value, the structure may be reconstructed to its former dwelling density at the time of its original construction but no greater.*

I have included the narratives and policies on residential development from the 2009 Land Use Plan. Policy LUC#4 identifies multifamily dwellings as appropriate alternatives for year-round housing and workforce housing. Based on this language

the proposed amendment is consistent with the land use plan. I have prepared a draft zoning consistency statement.

The Planning Board reviewed this proposal at their April 9, 2018 meeting and voted unanimously to recommend approval of the proposed amendment and adopted a finding of consistency. I also recommend adoption of the proposed RS-8 text amendment.

At the close of the hearing, the Board will have completed all statutory requirements to act on the proposed text amendment. A consistency statement must also be adopted by the Board. I have attached a draft copy of a consistency statement with my staff report. A draft motion to adopt the proposed text amendment is included below:

**Motion to adopt:** “I move to adopt the draft RS-8 revision for non-conforming multifamily structures as recommended by the Planning Board. A finding of consistency is also adopted as part of this motion and this consistency statement shall be part of the public record.”

village heritage, traditional industries, and development patterns is essential to the continued livelihood of our residents and our continued ranking as a top tourist destination. This includes an emphasis on locally-owned and operated businesses versus franchises that rely on corporate building designs to make their businesses universally recognizable. The continued successful of our locally-owned businesses adds to our unique character and as appealing traits to many of visitors and residents. The development patterns found in our various coastal villages do not follow traditional patterns of land development due to the isolated nature of some of the areas and the island geography of Dare County. However, this should not be seen as a disadvantage but as part of our heritage and our unique nature. The incompatibility of adjoining land uses that can be found throughout unincorporated Dare County must be viewed with some level of tolerance because of the uneven balance of public-private ownership and the historical patterns of development that follow the confines of the various village communities and separation of land masses by water bodies.

*Policy LUC #1*

Dare County recognizes the importance of our coastal village heritage and will continue to work toward the preservation of that heritage with appropriate land use guidelines and regulations.

*Policy LUC #2*

Public sector and private sector development activities should recognize Dare County's coastal heritage and incorporate traits reflective of our heritage in building design and other site features and improvements.

*Implementation Strategy:*

1. Identify amendments to the Dare County Zoning Ordinance and other land use ordinances that may be necessary to implement management objectives for residential and commercial development. This may include the elimination of drive-thru window service for restaurants (but not all businesses employing drive-thru window service such as banks and pharmacies) in all commercial and S-1 zonings districts and building design standards for commercial structures. (2011-2012)

**Residential Development**

The construction of detached single family residential structures as the preferred pattern of development in Dare County dates back to the 1987 Dare County Land Use Plan. The 2009 update continues this preference as expressed at public input workshops, in the Citizen Involvement Poll results, and at Planning Board workshops. The 2009 update also recognizes that the need for workforce housing and year-round housing opportunities might conflict with this objective but are necessary to address the housing needs of Dare County. Multifamily structures may be a more cost-effective alternative for workforce housing and the 2009 LUP acknowledges this option. Comments from the Planning Board workshops indicate support for residential development that is consistent

with existing neighborhoods patterns and that is reflective of the coastal heritage architecture style prevalent along the Outer Banks. The scale and size of residential development should follow existing neighborhood patterns. Since the 2003 update, the trend in seasonal accommodations has been the construction of large, multi-bedroom structures.

There has been some criticism of these large structures and adjustments made to local zoning regulations to link the numbers of bedrooms to the lot size and to address on-site parking. The construction of these large residential structures is reflective of the seasonal market demands and the stated land use policy of detached residential structures versus townhomes or multifamily structures. Most of these large homes have been constructed along the oceanfront and in areas that are generally dedicated to seasonal or second home accommodations. However, some of the large residential homes have been constructed in more year-round residential settings and this often results in complaints from the residents of noise, overflowing trash cans, and excessive vehicles parked in the right-of-way. Such compatibility issues are difficult, if not impossible to address with local zoning regulations, since the use remains residential but the occupancy of the structure creates conflicts. Some subdivisions have adopted covenant restrictions on seasonal rentals which seem to be successful in curbing incompatible occupancy issues.

Since 1982, the minimum lot size standards for Dare County have remained unchanged for new residential lots – 15,000 square feet for lots served by central water and 20,000 square feet for new lots served by private wells. During the development of the Wanchese zoning maps, the majority of the residents expressed the sentiment that the minimum lot size of 20,000 square feet should be applicable in all Wanchese zoning districts even if central water becomes available in the future. The zoning regulations adopted for Wanchese reflect this sentiment. The issue of changing the minimum lot size has not been identified as an issue of concern during the 2009 update. The scale of development associated with the current minimum lot sizes is congruent with the objective of residential development that is compatible with existing neighborhood patterns.

The issue of moderately-priced housing for permanent residents has received a great deal of attention since the 2003 LUP update. In 2003, the Dare County Board of Commissioners appointed an ad hoc committee to study housing issues and identify incentives for the private sector to encourage development of moderately-priced housing. A set of zoning standards, entitled the Family Housing Incentives Standards, were adopted which provide multi-family dwelling density bonuses, reduced lot size for duplexes, and accessory unit provisions in exchange for housing that is rented or sold to certain household incomes ranges. Since the adoption of the FHIS ordinance, one site plan for the development of a multi-family project on Hatteras Island has been approved by Dare County. The committee has also identified a tract of County-owned land on Bowsertown Road for construction of workforce housing for year-round residents. The County is working with the Outer Banks Community

Development Corporation (CDC) on this project. The CDC is a non-profit group founded in 2003 to provide guidance to local residents in identifying housing opportunities. The County has provided funding assistance to the CDC since its inception.

The Dare County Board of Commissioners has provided financial support to the Dare County Educational Foundation for the construction of a housing complex for teachers to be located in Kill Devil Hills adjacent to the First Flight Schools campus. This project is financed by the North Carolina State Employees Credit Union and will be built on land owned by the Dare County Board of Education. Similar projects have been funded by the State Employee Credit Union in other areas of North Carolina. For years, the Board of Education has struggled with recruitment and retention of teachers in Dare County due to the area's high cost of housing and living expenses. The construction of this housing complex is designed to provide moderately priced housing for newly graduated teachers who may not otherwise be able to live and work in Dare County.

Another factor affecting the workforce housing issue is housing for seasonal employees. In recent years, workers from foreign countries comprise a large sector of the seasonal workforce. These foreign visitors live in Dare County for several months on temporary work visas and provide labor in many restaurants, grocery stores, retail establishments, and other hourly-wage businesses. The same workforce housing that is affordable to the seasonal workers is the same housing market that is affordable to the year-round service industry. This creates competition among the two sectors of the workforce. The lack of affordable housing opportunities often results in many of the foreign workers residing in one residential structure and exceeding the approved occupancy of the structure. The housing of these workers in traditional neighborhoods also results in conflicts with the adjoining property owners due to varying work schedules and lack of understanding of local customs. Noise and trash issues are the most frequent complaints. Some employers provide housing for their seasonal workers but this is the exception not the norm.

The parking of heavy equipment and commercial vehicles in residential neighborhoods is an often-made complaint received by the Planning Department. With many service-oriented and construction related businesses, heavy equipment and commercial vehicles are parked in neighborhoods where current zoning regulations do not address such issues. This often results in complaints from neighbors concerned about the inconsistency of this activity with a residential zoning designation. As neighborhoods continue to build-out and develop over the next several years, the need to amend the Zoning Ordinance to address the parking and location of heavy equipment and commercial vehicles may be necessary. However, such efforts will most likely meet with resistance from the business owners who may be impacted by such a change.

Another issue that has increased in frequency of complaints since the 2003 LUP update is the issue of junked and abandoned vehicles. The County Code of Ordinances includes a junked and abandoned vehicle ordinance that is outdated and extremely cumbersome to enforce. The issue is complicated by the lack of a storage yard available for the relocation of junked and/or abandoned vehicles once removed from private property. In larger metropolitan areas, local governments often own and maintain vehicle yards for the storage of junked vehicles. This is not the case in Dare County where County owned lands are dedicated to other uses such as schools, office buildings, and infrastructure needs. The vehicle storage yards are often the source of contaminants in stormwater which is another concern. As Dare County continues to grow and become more developed, updating the County's junked and/abandoned vehicle ordinance to include alternatives to the traditional removal and mass storage may be needed.

#### *Policy LUC #3*

Residential structures shall be the preferred land use in unincorporated Dare County for both seasonal accommodations and permanent housing. All new residential structures, whether attached or detached, are encouraged to be on a scale that is consistent with existing neighborhood patterns of development.

#### *Implementation Strategy:*

1. Administration of existing regulations of the Dare County Zoning Ordinance for minimum lot size, dwelling density, building height and other standards for residential development. Changes in wastewater technology, improved construction practices for "green" buildings, market conditions, and demographic trends should be examined periodically to ensure that the standards of the Dare County Zoning Ordinance are not obsolete and recognize newer technologies that may benefit our existing communities. (2010-2015).

#### *Policy LUC #4*

To address the housing needs of the year-round population, multi-family dwellings and other types of residential structures such as accessory use dwellings, are considered appropriate alternatives when located in areas zoned for multi-family structures and constructed on lots or parcels greater than the minimum lot size for single family lots established in the individual zoning districts of the Dare County Zoning Ordinance. This diversification of housing opportunities is important to address the needs of Dare County's workforce.

#### *Implementation Strategy:*

1. Administration of Family Housing Incentive Standards (section 22-58.2) of the Dare County Zoning Ordinance to address workforce housing needs. (2010-2015)

## ZONING AMENDMENT CONSISTENCY DETERMINATION

On May 21, 2018 the Dare County Board of Commissioners conducted a public hearing on a zoning text amendment application submitted by Roanoke Shores Homeowners Association. This zoning amendment application seeks to add non-conforming language to the RS-8 district for multifamily structures constructed before 2003.

The 2009 Dare County Land Use Plan is the comprehensive plan for unincorporated Dare County adopted by the Dare County Board of Commissioners on December 6, 2010.

A review of the Dare County Land Use Plan found the following policies to be applicable to the zoning text amendment:

### Land Use Compatibility Management Topic

#### Policy LUC #4

*To address the housing needs of the year-round population, multi-family dwellings and other types of residential structures, such as accessory use dwellings, are considered appropriate alternatives when located in areas zoned for multi-family structures and constructed on lots or parcels greater than the minimum lot size for single family lots established in the individual zoning districts of the Dare County Zoning Ordinance. This diversification of housing opportunities is important to address the needs of Dare County's workforce.*

On April 9, 2019 the Dare County Planning Board voted to recommend favorable adoption of this text amendment. Based upon the recommendation of the Planning Board and a review of the policy, the Dare County Board of Commissioners finds the zoning amendment to be consistent with the 2009 Dare County Land Use Plan since the amendment will allow for the reconstruction of a multifamily structure that is nonconforming with the RS-8 density limitations. The density limitations were revised in 2003, which rendered the Roanoke Shores site non-conforming in terms of dwelling density per acre regulations. This amendment will address the ability to reconstruct at its original dwelling density of eight units per acre. Policy LUC#4 identifies multifamily structures as an appropriate housing alternative.

The Dare County Board of Commissioners hereby recommends the Roanoke Shores Homeowners Association zoning text amendment for non-conforming multifamily structures be adopted.



## PLANNING DEPARTMENT STAFF REPORT

DATE: May 21, 2018 DCBC Meeting  
FROM: Donna Creef, Planning Director  
RE: J. D. Johnson Realty and Construction – Wanchese Zoning Map  
Amendment \_ Public Hearing

Earlier this month, the Board scheduled a public hearing on a rezoning request filed by Mr. Jonathan Johnson on behalf of J. D. Johnson Realty and Construction to rezone lots 2, 3 and 4 of the George Mann Tract on Roanoke Island. All of the property has frontage on Highway 345 and is currently classified as Baumtown Traditional on the Wanchese zoning map. Mr. Johnson is seeking to rezone the property to Highway 345 Business. A copy of the aerial tax map of the three parcels is attached. The property is contiguous with land zoned Highway 345 to the north, land zoned Baumtown Traditional to the east, and Highway 345 across the road.

The Highway 345 business district offers a broader range of commercial uses than the Baumtown Traditional district. The uses permitted in the BT district include residential dwellings, traditional village business (commercial accessory with principal residential), nursery and greenhouse, churches, animal rehabilitation centers and fishing and hunting clubs. The Highway 345 district includes many commercial uses such as hotels, boat yards, offices, retail uses, residential uses, travel trailer parks, marinas, and food service.

A copy of the Wanchese zoning map is included with my staff report. The Highway 345 Business district applies to multiple properties on both sides of Highway 345. The Baumtown Traditional district applies along Baumtown Road and to the Johnson property along Highway 345. The existing land uses found in the vicinity of the Johnson property include the Dare Challenge facility, a boat storage facility, a radio tower and a campground. There is a farm market currently under construction on Lot 1 of the George Man Tract.

The Planning Board held a public hearing on the rezoning application at their April 9 meeting. The adjoining property owner to the south and west of the Johnson property spoke in opposition to the rezoning. Following the hearing, the Planning Board voted unanimously to recommend approval. It was noted by the Planning Board members that the location of the property along Highway 345 and the surrounding commercial uses were factors contributing to their favorable recommendation. The Planning

Board also found the request to consistent with the policies of the Dare County Land Use Plan and adopted a consistency statement with their recommendation.

I have attached the pertinent policies from the 2009 Dare County Land Use Plan for commercial development. Policy LUC #5 is the most relative and indicates Dare County's support of locally-owned businesses. The Johnson property is classified as Community Village on the future land use map included in the land use plan. The purpose of the Community Village land classification is "to identify areas with a mixture of low-density residential dwelling, various commercial services, and small retail businesses in a village environment.

Following the close of the hearing, the Board will be in a position to act on the Johnson rezoning request. If favorable action is taken, a finding of consistency must be adopted as part of the motion. If based upon public input, the Board chooses to reject the zoning amendment, a finding of inconstancy should be adopted as part of the motion. I have included motions for both of these actions below:

To adopt Johnson rezoning request: " I move to adopt the Johnson request to rezone lots 2,3 and 4 of the George Mann tract to Highway 345 business as recommended by the Planning Board. I find this rezoning to be consistent with the Dare County Land Use Plan. A consistency statement is included in the packet and adopted as part of this motion. "

To deny Johnson rezoning request: "I move to deny the Johnson request to rezone lots 2, 3 and 4 of the George Mann tract to Highway 345 business district. I find this rezoning to be inconsistent with the Dare County Land Use Plan as detailed in the finding of inconsistency included in the Board's packet. The scope of uses offered in the requested Highway 345 is incompatible with the adjoining zoning classifications of Baumtown Traditional."

# Zoning Amendment Petition Application



## A. APPLICANT INFORMATION

NAME: Jonathan D. Johnson TELEPHONE: 252-305-9982

ADDRESS: LOT 2,3,4 George Mann COMMUNITY: Wanchese

Tract 2  
(P.O. Box 340 - Manteo, NC 27954)

B. PRESENT ZONING CLASSIFICATION: BT

C. REQUESTED ZONING CHANGE: H345

D. EXPLANATION OF REQUEST: Map Amendment from BT to H345  
Higher intensity of uses - all uses associated w/H345  
would be permitted including wholesale Hunting/Fishing  
supplies

## E. ATTACHED IS THE FOLLOWING DATA AS REQUESTED:

- ❖ 12 COPIES OF THE PLAT OR SURVEY OF PROPERTY TO BE CONSIDERED.
- ❖ CHECK IN THE AMOUNT OF FOUR HUNDRED \$400.00 MADE PAYABLE TO THE DARE COUNTY PLANNING DEPARTMENT. WE UNDERSTAND THAT ADVERTISING COST MAY BE FORWARDED TO US AT A LATER DATE.
- ❖ A LIST OF NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS VERIFIED BY PIN# AS LISTED ON THE DARE COUNTY TAX RECORDS.

We, I, Jonathan D Johnson understand that Section 22.83 and Section 22.84 require a fee of four hundred (\$400.00), plus the cost of the required legal advertisement, to be paid to the County with the application to cover the costs of advertising and other administrative expenses involved.

2-19-18  
Date of application

Jonathan D Johnson  
Name of applicant (signature in full)

Jonathan D Johnson  
Printed Name of applicant



Leaflet

50 m  
300 ft

This map is prepared from data used for the inventory of the real property for tax purposes. Primary information sources such as recorded deeds, plats, wills, and other primary public records should be consulted for verification of the information contained in this map.

**DARE COUNTY ASSUMES NO LEGAL RESPONSIBILITY FOR THE INFORMATION CONTAINED IN THIS MAP.**

 **0 Nc 345**  
**Wanchese, NC 27981**  
**Parcel:** 028158004  
**Pin:** 979800336315  
**Tax District:** Wanchese  
**Subdivision:** George Mann Tract 2  
**Lot-Blk-Sect:** Lot: 4 Blk: Sec:  
**Property Use:** Vacant Land (Private)  
**Building Type:**  
**Year Built:**

**Tax Ownership**  
J.d. Johnson Realty &  
Construction Llc

Current Tax Value	
Land	33,300
Building	0
Misc	0
<b>Total</b>	<b>33,300</b>

**Map Legend**  
**Scale:** 1:4,265  
**Basemap:** Aerials(2012)  
Parcel Lines  
— Property Line  
 Selected Parcel

TO DARE CHALLENGE

Property Photo



60

100 m  
500 ft

Leaflet

This map is prepared from data used for the inventory of the real property for tax purposes. Primary information sources such as recorded deeds, plats, wills, and other primary public records should be consulted for verification of the information contained in this map.

**DARE COUNTY ASSUMES NO LEGAL RESPONSIBILITY FOR THE INFORMATION CONTAINED IN THIS MAP.**

Print Date: Apr 6, 2018

**0 Nc 345**  
**Wanchese, NC 27981**  
**Parcel: 028158002**  
**Pin: 979800327981**  
**Tax District: Wanchese**  
**Subdivision: George Mann Tract 2**  
**Lot-Blk-Sect: Lot: 2 Blk: Sec:**  
**Property Use: Vacant Land (Private)**  
**Building Type:**  
**Year Built:**

**Tax Ownership**  
 J.d. Johnson Realty &  
 Construction Llc

Current Tax Value	
Land	36,400
Building	0
Misc	0
<b>Total</b>	<b>36,400</b>

*Distances Measured to nearest Residences*

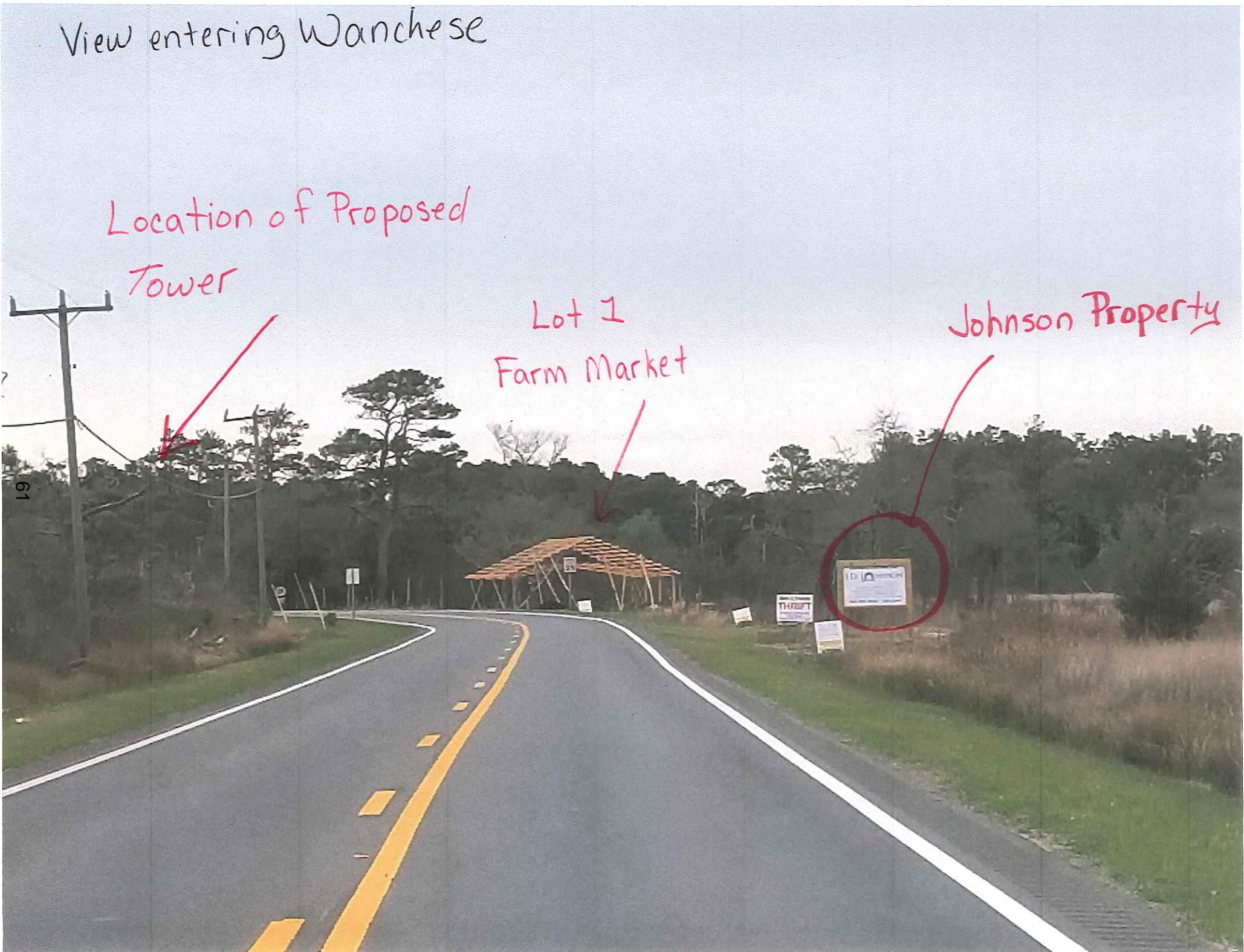
Map Legend	
Scale:	1:8,531
Basemap:	Aerials(2012)
Parcel Lines	
	Property Line
	Selected Parcel

View entering Wanchese

Location of Proposed  
Tower

Lot 1  
Farm Market

Johnson Property



61

Lot 1



Lot 2



← Farm Market

ROAD BASE  
Farm Market  
Parking Lot

10' Separation  
Parking lot to  
Johnson Land

Johnson  
Land Corner

62



c. Structures on a lot or tract that has more than 20% of its soils classified as wetlands, coastal marsh or section 404 jurisdictional soils: 6 rental rooms per acre.

(f) **Non-conforming uses and non-conforming structures:**The standards of Section 22-27.19 shall apply to this district.

(g) **Performance standards and other information:** The standards of Section 22-27.20 shall apply to this district.

(h) **The sections contained in Article I, Article III, Article VII, Article VIII, and Article IX of the Dare County Zoning Ordinance shall apply to this district.**

(Adopted by the DCBC on March 24, 2006; Amended 2-20-2017)

## **SECTION 22-27.16-HIGHWAY 345 BUSINESS DISTRICT (HWY 345)**

The Highway 345 Business district shown on the Dare County tax map, tax district 17 originally dated November 20, 1975 depicts tracts of land that lie along Highway NC 345 bounded on the east by the Pamlico Sound and on the west by Croatan Sound and Oyster Creek. Moreover, these tracts of land border NC Highway 345, a heavily traveled thoroughfare to the southern portion of Roanoke Island.

(a) **Scope and intent:**This district provides for a mix of residential and commercial neighborhoods that offer a broad range of services and commodities that will serve seasonal and local residents. The mixed residential district includes single family homes and duplex homes in a group housing development setting that support private wells or a central water supply with alternative methods of wastewater treatment facilities approved by the Dare County Environmental Health Department (not to include centralized urban-style wastewater collection and treatment systems). A maximum gross building size of 30,000 square feet (10,000 square feet of heated space and 20,000 square feet of non-heated space) for commercial structures is included in the regulations thereby allowing for future compatible land uses such as hotels and motels and similar lodging structures.

Furthermore, the Highway 345 Business District provides for land uses that allow goods and services for people and industry while strengthening the economic base of Dare County and ensures the protection of the fragile and pleasant atmosphere at the south end of Roanoke Island. Highway 345 provides the only vehicular transportation route into the Village of Wanchese. There is concern for the large expanses of wetland areas along NC 345 that contain marginal soils and are not suitable for high-density development. A number of water supply wells, which serve the Dare County water system, are located within this district. Land use adjacent to these wells is also a concern and is reflected in the minimum lot size established in this zoning district. Density in this district shall be limited to 20,000 square feet and duplex lots limited to 25,000 square feet. Another goal is to protect the quality of the communities' surface water and ground water supply particularly with the close proximity of this district to Broad Creek, Croatan Sound, Pamlico Sound and the various creeks and canals that serve as nursery areas for fish and wildlife.

(b) **Permitted uses:**Any use in existence on June 5, 2006 shall be allowed to continue in operation without seeking approval from Dare County, regardless if that use is listed as a permitted use or is listed as a conditional use in any of the Wanchese zoning districts. Additions or expansion of uses in existence on June 5, 2006 shall be subject to administrative review and approval by the Dare County Planning Department for compliance with the zoning regulations. Construction of additional principal use structures at existing business sites that would require a conditional use permit if not already established prior to June 5, 2006 shall trigger review and approval under the conditional use permit process.

The following uses and no other uses shall be permitted by right. Any use not permitted herein shall be deemed prohibited.

(1) Commercial uses:

- a. Boat yards and repair.
- b. Boat and motor display, sales and service.
- c. Boarding of horses, equestrian related uses and activities, tack shop.
- d. Box making facilities.
- e. Cabinet and woodworking shop.
- f. Contractors' offices, supplies and services.
- g. Crab shedding operations and associated equipment.
- h. Commercial fishing nets, sales, service and storage.
- i. Crab pot storage and other crabbing and commercial fishing gear.
- j. Docks private, public and commercial.
- k. Dry cleaning and laundromats.
- l. Electrical equipment, sales and service.
- m. Electronic equipment, sales and service.
- n. General village store without fuel pumps and not associated with a marina.
- o. Hotels, motels – administrative review for one principal building per site, two or more buildings require conditional use permit for group development –see CUP.
- p. Fish houses, including packing, processing, seafood sales, storage and loading and unloading trawlers.
- q. Fishing - party fishing excursions and associated services.
- r. Food services –carryout (if seating see CUP).
- s. Hardware supplies.
- t. Heating and air, sales, service.
- u. Tourist homes as defined in Section 22-2.
- v. Mobile home parks according to the Mobile Home Park Ordinance.
- w. Plumbing supplies, sales and service.
- x. Retail shops, including, but not limited to gifts and imports.
- y. Radio, TV broadcasting and film production studio.
- z. Seafood processing and seafood market sales – wholesale /retail.
- aa. Schools, commercial limited to sailing/marine oriented outdoor lifestyle.
- bb. Travel trailer parks and campgrounds according to the Travel Trailer Park Ordinance.
- cc. Upholstery, fabric dry goods.
- dd. Village general store without fuel pumps and not associated with a marina.
- ee. Welding shop and steel fabrication.

(2) Single-family dwelling in conjunction with a commercial business may be located above or in the rear of a commercial building, or a detached structure, provided that all federal, state and local regulations are met. Additional parking for the residential use shall not be needed.

(3) Detached single-family dwelling on individual lots or parcels.

(4) Bed and breakfast homes.

a. Small bed and breakfast home as defined in Section 22-2.

b. Large bed and breakfast home as defined in Section 22-2.

(5) Single-family mobile homes on individual lots, provided that:

a. Compliance with the building code for mobile homes in a hurricane area.

b. Compliance with the building inspector requirements regarding skirting material and skirting area.

(6) Duplexes.

(7) Small childcare homes as defined in Section 22-2.

(8) Customary accessory uses associated with commercial or residential principal use, including windmills, not to exceed height limit of this district, garages, sheds, swimming pools and other accessory uses associated with the commercial and or residential use.

(9) Accessory dwelling unit associated with residential use referred to as a “guesthouse” is permitted, subject to the following requirements:

a. A dwelling unit may be attached to the principal residence or may be detached from the principal residence. The size of the accessory dwelling unit, whether attached to or detached from principal residence, shall not to exceed 900 square feet of heated space.

b. An accessory dwelling unit, whether attached to or detached from the principal residence, shall be located on the lot in conformance with the building setbacks of this zoning district.

c. Owner and/or family members shall occupy either the primary residence or accessory dwelling unit.

d. One additional off-street parking space shall be required.

e. Accessory dwelling unit shall not be subdivided or otherwise segregated in ownership from the primary residence.

f. An outbuilding on a residential lot that exists at the time of adoption of this ordinance may be converted into an accessory building unit, provided that lot overage is met for the dwelling unit and the primary residence.

g. The accessory dwelling unit shall be constructed according to all applicable federal, state regulations and local building inspection requirements. And, if applicable, compliance with federal flood plain elevation standards.

h. Once permitted, the property owner shall submit annual verification of year round occupancy of the principal structure or the accessory dwelling unit to the Dare County Zoning Administrator, if necessary.

i. Travel trailers, recreational vehicles, and/or mobile homes shall not be used as accessory dwelling units.

j. Accessory dwelling units shall not be used for any commercial or business use.

**(10) Traditional village business** – A commercial accessory use conducted by owner and/or family member residing on the lot or parcel of the principal residence provided the following conditions are met:

- a. Property owner and/or family member operates a business and resides on the premises.
- b. Merchandise produced on or off of the premises may be sold on premises.
- c. An accessory commercial building shall not exceed 1,200 square feet. In addition, 25% of the total floor area of the principal residence may be used for said business.
- d. One indirectly lighted freestanding sign, not to exceed 36 square feet, may be posted on the property.
- e. On-site parking for up to 4 spaces shall be provided on the site.
- f. Visual buffer: A 6-foot opaque wooden fence or vegetative buffer shall be provided for any business established after June 5, 2006. In some instances, existing dense shrubs, trees, and plants may provide screening.
- g. In the case where a property owner owns land that is contiguous to the principal residential use and accessory business, said land may be used as an extension and a part of the traditional village business use. The setbacks listed in subsection (d) of this district shall not apply.
- h. The traditional village business shall be located a minimum of 15 feet from the front property line and 10 feet from any side or rear property line. The setbacks listed in subsection (d) of this district shall not apply.
- i. An average of 3 non-resident employees may be employed.

The following list of uses may be permitted as a traditional village business including, but not limited to:

1. Offices: business, financial, professional, and medical.
2. Retail/wholesale shops:
  - a. Antiques, furniture, and home decor.
  - b. Apparel.
  - c. Artist and art supplies.
  - d. Bait and tackle supplies.
  - e. Beehives.
  - f. Books.
  - g. Camera and photo supplies.
  - h. Coffee/tea cakes, pies, bakery goods and edibles.
  - i. Florist.
  - j. Fruit and vegetable stand.
  - k. Gifts and imports.
  - l. Hobby goods.
  - m. Hunting and fishing supplies.
  - n. Jewelry.

- o. Leather goods.
  - p. Millinery shop.
  - q. Music shop.
  - r. Photography equipment sales and service.
  - s. Sewing shop/needle works, dry goods and supplies.
  - t. Tack and equestrian associated sales.
  - u. Toys.
  - v. Upholstery.
  - w. Woodcarving, ducks and other wildlife.
3. Service establishments:
- a. Automobile detailing.
  - b. Barber and beauty shops including tanning and exercise facilities.
  - c. Bicycle rentals with buffered storage area.
  - d. Boarding of horses, equestrian associated activities according to state regulations.
  - e. Boat building shop – (not to exceed 1,200 sq. ft. boat size limited to 36 ft.).
  - f. Bricklayer.
  - g. Bake shops – cakes, pastries, edibles and bakery goods.
  - h. Carpenter/cabinet/wood- working.
  - i. Catering business.
  - j. Computer and internet services.
  - k. Concrete finishing business and equipment.
  - l. Crab pot storage and other crabbing and commercial fishing gear.
  - m. Crab shedders and associated operations.
  - n. Craft production and retail sales.
  - o. Electrician.
  - p. Electronics.
  - q. Excavating and equipment.
  - r. Hardwood flooring, carpet, vinyl and ceramic tile installation.
  - s. Heating and air.
  - t. History home place tours and interpretation of village lifestyle.
  - u. Home schooling.
  - v. House and boat moving business.
  - w. Landscape and lawn care.

- x. Music lessons.
  - y. Outboard engine repair.
  - z. Painter and dry wall.
  - aa. Photographer.
  - bb. Plumber.
  - cc. Potter, clay works, ceramics.
  - dd. Pressure washing business.
  - ee. Radio, TV broadcasting and film production studio.
  - ff. Roofer.
  - gg. Seafood sales as per North Carolina regulations.
  - hh. Small engine repair.
  - ii. Small trucking business – parking business truck on site.
  - jj. Taxidermist.
  - kk. Tree removal, stump grinding, log splitting and wood sales.
  - ll. Welding shop.
4. Specific waterfront commercial accessory uses associated with principal use:
- a. Commercial fishing and crabbing business, retail and wholesale markets, including all rigging and storage of crab and fish gear.
  - b. Boat dockage of 10 slips or less.
  - c. Boat shop not to exceed 1200 square feet of floor area and limited to the construction of 36-foot boats.
  - d. Boathouses and sheds.
  - e. Boat rentals limited to non-motorized watercraft.
  - f. Fishing party excursions 1/2 day and full day trips.
  - g. Private boat ramps for residential use or commercial accessory use.
  - h. Schools offering private lessons for sailing and other outdoor activities.
- (11) Agriculture farming, livestock, waterfowl, poultry and related activities for personal use.
- (12) Aquaculture and associated activities related to fish farming as regulated by the State.
- (13) Private home antennas and on-site accessory business use antennas.
- (14) County, state and U.S. government owned and leased facilities.
- (15) Heritage gardens – designated areas of land leased to the public for gardening projects.
- (16) Radio and broadcast studio facilities and associated broadcast transmission towers that existed prior to March 24, 2006. Replacement or reconstruction of towers that existed prior to March 24, 2006 may be authorized as permitted uses provided that such towers have received all necessary Federal Communications Commission license and Federal Aviation Administration license prior to March 24, 2006

and shall not exceed the height authorized by the FCC. The standards of Section 22-29.2 shall not apply to towers that qualify for replacement under this section. Replacement towers shall be located in a manner that maximizes separations from all property lines and in no case shall the setbacks be less than those of the Highway 345 district. Documentation shall be submitted that is signed and sealed from a North Carolina licensed engineer that the replacement tower meets the structural requirements of the North Carolina building code and a professional engineering certification which states that the structure's construction will cause the tower to crumble inward so that in the event of collapse, no damage to surrounding structures will result. Lighting of the tower shall be according to all Federal Communications Commission and Federal Aviation Association standards.

(17) Residential recovery and treatment center to include housing in multifamily structures and educational training. Center can be located in a single structure or multiple structures on one parcel of land. If more than one structure on parcel, it will be considered a group development subject to conditional use permit review according to Section 22-31 of the Dare County Zoning Ordinance.

(c) **Conditional uses:** Any use in existence on June 5, 2006 shall be allowed to continue in operation without seeking approval from Dare County, regardless if that use is listed as a permitted use or is listed as a conditional use in any of the Wanchese zoning districts. Additions or expansion of uses in existence on June 5, 2006 shall be subject to administrative review and approval by the Dare County Planning Department for compliance with the zoning regulations. Construction of additional principal use structures at existing business sites that would require a conditional use permit if not already established prior to June 5, 2006 shall trigger review and approval under the conditional use permit process.

The following conditional uses and no other conditional uses may be permitted, subject to the requirements of this district and the regulations and requirements imposed by the Board of Commissioners as provided by Article IX of this chapter. Any use not permitted herein shall be deemed prohibited.

(1) Boat building facilities.

(2) Churches, fire stations, cemeteries, and other public buildings.

(3) Telecommunication tower only associated with a principal use that is authorized as either a permitted use or conditional use in this district and subject to all standards established in Section 22-29.2 of the Zoning Ordinance.

(4) Home occupations as defined in Section 22-2.

(5) Elder in-home care, up to 4 non-related patients (private home nursing) provided the following minimum requirements are met:

a. Employee and visitor parking according to Section 22-56 in addition to 1 parking space for each non-resident employee.

b. Other reasonable conditions imposed by the Board of Commissioners.

(6) Fuel storage only associated with on-site business use.

(7) Group development housing projects according to Section 22-31 plus the following requirements:

a. Density shall not exceed 1 unit per 20,000 square feet of soils not classified as coastal wetlands; duplex home 25,000 square feet of soils not classified as coastal wetlands provided this area may be reduced to 20,000 square feet if duplex is served by central water supply.

b. Every dwelling unit shall be accessible to emergency service vehicles and Dare County Public Works vehicles.

c. Turning lane into project shall be provided with additional setback buffer along state-maintained rights-of-way into the residential neighborhoods.

- d. Building height limit of 40 feet as defined in this section.
  - e. No mooring of permanent floating homes and other permanent floating structures as defined in 15A NCAC 7M00602 in the surrounding public trust waters of Dare County.
  - f. Accessory dwelling units are not allowed in sites developed as a group housing development.
  - g. A traditional village business use is not allowed in sites developed as a group housing development.
  - h. Other requirements that may be imposed by the Board of Commissioners.
- (8) Commercial group development projects (more than one principal structure per parcel under single ownership) according to Section 22-31.
- (9) Marinas, boat dockage, village marina store with fuel pumps, boat rentals for fishing excursions, and other non-motorized boat rentals provided the following minimum conditions are met:
- a. Lot size shall be sufficient to meet requirements of the Dare County Health Department and to provide adequate siting for structures, parking, loading and maneuvering space as provided in Section 22-56.
  - b. Food and beverage service and/or a restaurant may be associated with a marina.
  - c. All boat rentals, except for fishing excursion rentals, shall be limited to non-motorized vessels and shall be limited to a total of 10 vessels offered for rent.
  - d. Fuel pumps shall not be located within 50 feet of a residential zoning district or residential use and that such fuel pumps shall be setback a minimum of 25 feet from all rights-of-way.
  - e. One 10' x 20' parking space shall be provided for each wet boat slip.
  - f. Outdoor lighting shall be complete cut-off design, low-profile, shielded and oriented in such a manner to minimize spill across property lines and prevent glare at any location on or off the property. A lighting plan shall be submitted as part of the site plan.
  - g. Subject to the other requirements of the Zoning Ordinance and other reasonable conditions as may be imposed by the Board of Commissioners.
- (10) Public and private utilities (shall provide a planted vegetative buffer 10 feet in height).
- (11) Private meeting and recreational facilities such as an event center for weddings and group parties, including private boat launching areas, tennis courts, picnic areas, private swimming pools and beaches, whereby catering is an integral part thereto. The following minimum requirements shall be met:
- a. Parking for the event center and associated uses shall be based on the maximum occupancy of the proposed structure. Maximum occupancy shall be determined according to the North Carolina state building codes. One 10' x 20' space for every 4 persons or a minimum of 30 spaces whichever is greater.
- (12) Pet grooming provided the following minimum requirements are met:
- a. Shall be owner and/or family occupied residential premises.
  - b. Day care only for grooming – hours of operation limited to 7:00 a.m. to 6:00 p.m.
  - c. No outdoor run facilities and no overnight guests (not a kennel).
  - d. Other reasonable conditions imposed by the Board of Commissioners.
- (13) Restaurants, food service, café provided the minimum following conditions are met:

a. Lot size shall be sufficient to meet requirements of the Dare County Health Department and to provide adequate siting for structures, parking, loading and maneuvering space as provided in Section 22-56. In addition, a fence or vegetative buffer shall be provided adjacent to residential use or residential zoning district.

b. The restaurant shall not feature drive-thru window service whereby patrons are served while seated in a motor vehicle or drive-up wait service whereby patrons are served while seated in a motor vehicle.

c. The restaurant shall include facilities for indoor and outdoor seating.

d. On-site parking shall be according to Section 22-56 – one 10' x 20' parking space for every 3 customer seats plus one 10' x 20' space for every 3 employees and loading space.

e. Outdoor lighting shall be complete cut-off design, low-profile, shielded and oriented in such a manner to minimize spill across property lines and prevent glare at any location on or off the property. A lighting plan shall be submitted as part of the site plan.

f. Other reasonable conditions as may be imposed by the Board of Commissioners.

**(14)** Retail garden shops and landscaping business may be permitted, subject to requirements of this chapter, provided the following minimum conditions are met:

a. Storage of mulch material may be allowed for retail sale only. Storage “stockpiles” shall not exceed 6 feet in height and no more than 3 stockpiles allowed for each site. Industrial production of mulch is not permitted.

b. One accessory greenhouse for storage and outdoor protection of plants is permitted. Greenhouse is not to be used for wholesale growing of plants.

c. Associated equipment used by the landscape business such as trailers, lawn mowers, single-axle trucks and tractors may be stored on the site. Storage area that is well buffered from general public may include draglines, bulldozers backhoes and other heavy equipment.

d. Storage areas of mulch and equipment shall be buffered with fencing.

e. Outdoor display and storage of plants, bags of soil, mulch, fertilizer, landscaping stone, landscape timbers, yard ornaments, and the like shall not restrict parking areas. Bags of mulch, soil, and the like shall be stacked in an orderly manner.

f. Bulk irrigation piping shall be stored indoors.

g. Other conditions imposed by the Board of Commissioners.

**(15)** Storage/warehousing and warehouse storage centers, including boat trailers and long-term storage containers and mobile storage, provided the following minimum conditions are met:

a. Site shall be buffered with wooden opaque fencing not to exceed 10 feet in height and also provide sound and site screening as visual and sound buffer to residential homes in and around area of warehouse storage site.

b. Outdoor lighting plan shall be submitted with a site plan.

c. Hours of operation shall be included as part of CUP review.

d. Other reasonable conditions as may be imposed by the Board of Commissioners.

**(16)** Village center project: a mixed use development situated on single parcel of land under single ownership whereby an existing commercial building, or new structure, may be developed and limited to

retail sales units on the lower level of the structure with residential units on upper level. Additional residential units may be situated on the site. The following minimum requirements shall be met:

a. Village center complex site must contain a minimum of 3 acres.

b. Approval of all supplementary local, state and federal permits. Site must be adequate for siting commercial structure, parking, loading and maneuvering space as required by Article VII. Two 10'x 20' parking spaces per residential use shall be provided. Overflow parking, if applicable, shall be directed to off peak use of commercial spaces.

c. Site screening - a vegetative or fence buffer not to exceed 10 feet in height. A 10-foot wide setback shall be required where the site abuts a residential use or zone (not subject to 20-foot dimensional requirements in D.1 – Dimensional requirements).

d. Food service shall be limited to packaged items, such as snacks, drinks and ice cream. Food service may be located outside the building on site as a refreshment pavilion to serve patrons in the village complex. Food service shall be exempt from parking as required for restaurants.

(17) Village general store with fuel pumps provided that no principal or accessory building shall be located within 50 feet of a residential use, accessory dwelling unit, or residential district and that such fuel pumps shall be set back at least 25 feet from all rights-of-way. The following minimum requirements shall be met for open canopy lighting to preserve the night time environment :

a. The area directly below the canopy may be illuminated with a minimum foot candle of 4 but not to exceed a foot-candle rating of 10.

b. Parking spaces provided under a canopy shall be 10' x 20' in area.

(18) Spoil sites for maintenance dredging.

(19) Wind energy research facilities according to the standards of Section 22-29.3. (Adopted 4-18-11)

(20) Temporary, portable concrete plant including silos, aggregate bins, dust collector, hoppers, conveyors, batch mix, office and other accessory equipment necessary to the operation of the portable concrete plant including storage of aggregate and other materials necessary for the making of concrete.

a. The lot or parcel upon which the portable concrete plant is located shall contain at least four (4) acres of contiguous non-wetland area.

b. The plant and all accessory equipment shall be mobile and may be not permanently attached to the property. The equipment may be temporarily secured to the property for safety reason but must be removed upon the expiration of the conditional use permit.

c. Notwithstanding any other provision of the Zoning Ordinance, the portable concrete plant when erected shall not exceed 60 feet in height.

d. The concrete plant and storage of aggregate and other materials shall be at least twenty-five (25) feet from any property line and there shall be wooden opaque fence no less than ten (10) feet high between the plant and any residence or residential zone.

e. The concrete plant shall include a dust collection system which collects dust at the load out point and the particulate that is collected is recycled into the system.

f. All aggregate stored on the site shall be kept moist at all times to prevent dust.

g. All outdoor lighting shall be low profile, shielded with glare directed on-site and away from any adjoining properties and streets.

h. No more than eight (8) trucks used for the transport of concrete may be parked overnight on the property.

i. There shall be no concrete transport trucks that enter or exit the site between the hours of 7:00 a.m. to 8:30 a.m. and 2:00 p.m. to 3:30 p.m. on any day public schools in Dare County are in session.

j. The concrete plant shall be operated in accordance with all requirements of the North Carolina Department of Transportation and any other regulatory body.

k. This conditional use permit shall remain in effect for a period of 39 months. This 39-month period shall commence on the date identified by NC Department of Transportation in the notice to proceed issued by NCDOT to the bridge contractor. Upon the showing of good cause, the Dare County Board of Commissioners may extend the permit for up to 180 additional days. Good cause shall mean unavoidable conditions or events necessitating the continued operation of the plant for the purpose for which it was originally installed.

l. Upon expiration of the conditional use permit, operation of the concrete plant shall cease and the concrete plant and all accessory equipment and materials shall be removed from the site and the site returned to its original condition within thirty (30) days.

m. A performance bond, satisfactory to Dare County, to be used for removal and reclamation activities shall be established by the permittee at the time a site specific development plan and conditional use permit for a temporary portable concrete plant is authorized by Dare County. The bond shall be in the amount of \$20,000 shall be issued to Dare County to be used in the event the permittee does not remove all equipment from the site and restore the site to its original condition as provided above. If this amount is insufficient to cover the cost of reclamation of the site, then the property owner shall be held accountable for the additional amount and a lien shall be placed on the site for any amount over the \$20,000 bond amount that is incurred by Dare County in the reclamation of the site. The bond shall remain in place until released by Dare County upon certification by Dare County of compliance with the conditions of this permit. Dare County shall be authorized to use the bond to cover all costs and expenses of removal, including but not limited to all legal fees or other costs or expenses associated with enforcement of the provisions of the conditional use permit. This bond shall be forfeited if the concrete plant, all equipment, components and accessories of the concrete plant have not been removed from the site and the site restored to its pre-plant conditions within the time required by this conditional use permit. In lieu of a bond, permittee may post a cash bond with Dare County to be held for the purposes set forth above. (Adopted 11-19-2012)

**(d) Dimensional requirements for residential uses:**

**(1) Minimum lot size:**

a. Single-family lots with accessory dwelling units and accessory commercial structures used in association with a single-family use shall be of sufficient size to meet the requirements of the Dare County Environmental Health Department and to provide adequate setbacks for the single-family structure, accessory dwelling unit and all other accessory use structures.

Existing lots – All lots that were subdivide and recorded before June 5, 2006 shall meet the approval of the Dare County Environmental Health Department for well and on-site wastewater systems. The setbacks and lot coverage standards of Section 22-27.18 shall apply to lots recorded June 5, 2006.

**b. Newly platted lots -- For those lots subdivided and recorded after June 5, 2006:**

Single family lots:

15,000 square feet of soils not classified as coastal wetlands for lots connected to a central water supply.

20,000 square feet of soils not classified as coastal wetlands for lots connected to a private well.

Duplex lots: 25,000 square feet of soils not classified as coastal wetlands.

**(2) Minimum lot width: 75 feet at building setback line.**

(3) Minimum front yard: 25 feet.

(4) Minimum side yard: 10 feet; an additional 5-foot side setback for corner lots adjacent to a street. Lots less than 75 feet in width shall have an 8-foot setback and an additional 5-foot setback for corner lots adjacent to a street.

(5) Minimum rear yard: 20 feet maximum, or 20% of lot depth. Zero line setback for waterfront lots.

(6) Lot coverage: 30% as defined in Section 22-2. Lot coverage of 50% may be authorized for those sites with an accessory dwelling unit and/or a traditional village business.

(7) Building height: 40 feet to the highest elevation of any feature of the structure or portion of the roof measured from the base flood elevation, from natural ground elevation if natural ground elevation exceeds the base flood elevation, or from an unnatural ground elevation created by placement of fill material on a site on or before June 5, 2006. Chimneys, lightning rods, weather vanes, wind gauges, and other similar roof appurtenances shall not be considered the highest portion of the roof. The pitch of the principal roof shall be no less than 4/12. Principal roof is defined as the largest section of roof on the structure.

**(e) Dimensional requirements for individual commercial use on separate lot or parcel that is not in conjunction with principal residential use:**

(1) Minimum lot size: Commercial lots need to be of sufficient size to meet the requirements of the Dare County Environmental Health Department and to provide adequate siting for structures, parking, loading and maneuvering space according to Section 22-56. Also, a visual buffer of vegetation or fencing and a 20-foot wide setback is required when an individual commercial use abuts a residential use or residential zone. All outdoor lighting shall be low profile, shielded with glare directed on site and away from all adjoining properties and streets.

(2) Minimum front yard: 15 feet.

(3) Minimum side yard: 10 feet; an additional 5-foot side setback for corner lots adjacent to a street. Lots less than 75 feet in width shall have an 8-foot setback and an additional 5-foot setback for corner lots adjacent to a street.

(4) Minimum rear yard: 20 feet maximum, or 20% of lot depth for interior lots. Zero line setback for waterfront lots.

(5) Lot coverage: 60% as defined in Section 22-2.

(6) Building height: 40 feet to the highest elevation of any feature of the structure or portion of the roof measured from the base flood elevation, from natural ground elevation if natural ground elevation exceeds the base flood elevation, or from an unnatural ground elevation created by placement of fill material on a site on or before June 5, 2006. Chimneys, lightning rods, weather vanes, wind gauges, and other similar roof appurtenances shall not be considered the highest portion of the roof. The pitch of the principal roof shall be no less than 4/12. Principal roof is defined as the largest section of the roof on the structure.

(7) Maximum commercial building size: 10,000 square feet of heated space excluding decks, porches, and other non-heated space. Non-heated space shall not exceed 20,000 square feet of area. The total building size shall not exceed 30,000 square feet based on these heated/non-heated square footage limitations. Hotels, motels, churches, fire stations, schools and other public buildings are excluded from this building size limitation.

(8) Density limitations for motels, hotels, and similar seasonal lodging structures:

a. Structures on a lot or tract that has no soils classified as wetlands, coastal marsh or section 404 jurisdictional soils: 10 rental rooms per acre.

b. Structures on a lot or tract that has between .01% and 19.9% of its soils classified as wetlands, coastal marsh, or section 404 jurisdictional soils: 8 rental rooms per acre.

c. Structures on a lot or tract that has more than 20% of its soils classified as wetlands, coastal marsh or section 404 jurisdictional soils: 6 rental rooms per acre.

**(f) Non-conforming uses and non-conforming structures:**The standards of Section 22-27.19 shall apply to this district.

**(g) Performance standards and other information:**The standards of Section 22-27.20 shall apply to this district.

**(h) The sections contained in Articles I, Article III, Article VII, Article VIII, and Article IX of the Dare County Zoning Ordinance shall apply to this district.**

(Adopted by the DCBC on June 5, 2006; amended 2-20-2017; amended 11-20-2017)

**SECTION 22-27.9 - BAUMTOWN TRADITIONAL ZONING DISTRICT (BT)**

Baumtown Road.

**(a) Scope and intent:** The Baumtown Traditional Zoning District is bound on the north and south by Baumtown Road, and a portion of the lands that lie along Highway 345 at Baumtown Road. The district is established to recognize and preserve the traditional family-fishing village lifestyle, whereby a property owner or family member conducts water-related or non-water related commercial accessory business on a lot or parcel in conjunction with the principal residential use. Moreover, the district provides space for diverse types of agricultural farming and related activities in a quiet area with low vehicular traffic flow. Furthermore, the district is designed to promote and accommodate such future development that is sensitive to any environmental conditions in close proximity of the Dare County well field sites. Land uses in the district provide for a compatible, harmonious and orderly business relationship as a way of life, which gives the village its attractiveness, both as a place to live and a place to visit.

The purpose of this district is to allow for the continuation of goods and services associated with a coastal village location that furnishes a broad range of services and commodities to meet the needs of the local residents, the entire community, and seasonal visitors while retaining the charm of a quaint fishing village.

**(b) Permitted uses:** Any use in existence on March 24, 2006 shall be allowed to continue in operation without seeking approval from Dare County, regardless if that use is listed as a permitted use or is listed as a conditional use in any of the Wanchese zoning districts. Additions or expansions of uses in existence on March 24, 2006 shall be subject to administrative review and approval by the Dare County Planning Department for compliance with the zoning regulations. Construction of additional principal use structures at existing business sites that would require a conditional use permit if not already established prior to March 24, 2006 shall trigger review and approval under the conditional use permit process.

The following uses shall be permitted by right and any use not permitted herein shall be deemed prohibited:

- (1) Detached single-family dwellings on individual lots.
- (2) Single-family mobile homes located on individual lots, provided
  - a. Compliance with building code for mobile homes in a hurricane area.
  - b. Compliance with the requirements of the building inspector regarding skirting materials and skirting area.
- (3) Bed and breakfast homes.
  - a. Small bed and breakfast home as defined in Section 22-2.
  - b. Large bed and breakfast home as defined in Section 22-2.
- (4) Small child care home as defined in Section 22-2.
- (5) Customary accessory uses associated with principal use, including windmills not to exceed height limit of this district, garages, sheds, swimming pools, tennis courts, commercial accessory business structures and any other structure associated with a residential use.

(6) Accessory dwelling unit associated with principal residential use and referred to as a “guesthouse” is permitted, subject to compliance with all supplementary local, state and federal permit approvals and in addition to the following:

- a. An accessory dwelling unit may be attached to the principal residence or be detached from the principal residence. The size of an accessory dwelling unit, whether attached to or detached from, the principal residence shall not exceed 900 square feet of heated space.
- b. An accessory dwelling unit, whether attached to or detached from the principal residence, shall be located on the site in conformance with the building setbacks of this zoning district.
- c. The owner of the property and/or family member shall occupy either the primary residence or accessory dwelling unit.
- d. One additional off-street parking space shall be required.
- e. An accessory dwelling unit shall not be subdivided or segregated in ownership from the principal use structure.
- f. An outbuilding on a residential lot that exists at the time of adoption of this ordinance may be converted into an accessory dwelling unit, if lot coverage can be met for the accessory unit and the primary residence.
- g. The accessory dwelling unit shall be constructed according to all applicable state and federal regulations and local building code requirements, including federal floodplain elevation regulations if applicable.
- h. Once permitted, the property owner shall submit annual verification of year round occupancy of the principal use structure or the accessory dwelling unit to the Dare County Planning Department, if necessary.
- i. Travel trailers, recreational vehicles, and/or mobile homes shall not be used as accessory dwelling units.
- j. Accessory dwelling units shall not be used for any commercial or business activity.

(7) Traditional village business – A commercial accessory use conducted by owner and/or family member residing on the lot or parcel of the principal residence provided the following conditions are met:

- a. Property owner and/or family member operates a business and resides on the premises.
- b. Merchandise produced on or off of the premises may be sold on premises.
- c. An accessory commercial building shall not exceed 1,200 square feet. In addition, 25% of the total floor area of the principal residence may be used for said business.
- d. One indirectly lighted freestanding sign, not to exceed 36 square feet, may be posted on the property.
- e. On-site parking for up to 4 spaces shall be provided on the site.
- f. Visual buffer: A 6-foot opaque wooden fence or vegetative buffer shall be provided for any business established after March 24, 2006. In some instances, existing dense shrubs, trees, and plants may provide screening.
- g. In the case where a property owner owns land that is contiguous to the principal residential use and accessory business, said land may be used as an extension and a part of the traditional village business use.

**h.** The traditional village business shall be located a minimum of 15 feet from any front property line and a minimum of 10 feet from any side or rear property line. The setbacks listed in subsection (d) of this district shall not apply.

**i.** An average of 3 non-resident employees may be employed.

The following list of uses may be permitted as a traditional village business including, but not limited to:

**(1)** Offices: business, financial, professional, and medical.

**(2)** Retail/wholesale shops:

- a.** Antiques, furniture, and home decor.
- b.** Apparel.
- c.** Artist and art supplies.
- d.** Bait and tackle supplies.
- e.** Beehives.
- f.** Books.
- g.** Camera and photo supplies.
- h.** Coffee/tea cakes, pies, bakery goods and edibles.
- i.** Florist.
- j.** Fruit and vegetable stand.
- k.** Gifts and imports.
- l.** Hobby goods.
- m.** Hunting and fishing supplies.
- n.** Jewelry.
- o.** Leather goods.
- p.** Millinery shop.
- q.** Music shop.
- r.** Photography equipment sales and service.
- s.** Sewing shop/needle works, dry goods and supplies.
- t.** Tack and equestrian associated sales.
- u.** Toys.
- v.** Upholstery.
- w.** Woodcarving, ducks and other wildlife.

**(3)** Service establishments:

- a.** Automobile detailing.
- b.** Barber and beauty shops including tanning and exercise facilities.

- c. Bicycle rentals with buffered storage area.
- d. Boarding of horses, equestrian associated activities according to state regulations.
- e. Boat building shop – (not to exceed 1,200 sq. ft. boat size limited to 36 ft.).
- f. Bricklayer.
- g. Bake shops – cakes, pastries, edibles and bakery goods.
- h. Carpenter/cabinet/woodworking.
- i. Catering business.
- j. Computer and internet services.
- k. Concrete finishing business and equipment.
- l. Crab pot storage and other crabbing and commercial fishing gear.
- m. Crab shedders and associated operations.
- n. Craft production and retail sales.
- o. Electrician.
- p. Electronics.
- q. Excavating and equipment.
- r. Hardwood flooring, carpet, vinyl and ceramic tile installation.
- s. Heating and air.
- t. Historic home place tours and interpretation of village lifestyle.
- u. Home schooling.
- v. House and boat moving business.
- w. Landscape and lawn care.
- x. Music lessons.
- y. Outboard engine repair.
- z. Painter and dry wall.
- aa. Photographer.
- bb. Plumber.
- cc. Potter, clay works, ceramics.
- dd. Pressure washing business.
- ee. Radio, TV broadcasting and film production studio.
- ff. Roofer.
- gg. Seafood sales as per North Carolina regulations.
- hh. Siding contractors.
- ii. Small engine repair.

jj. Small trucking business – parking business truck on site.

kk. Taxidermist.

ll. Tree removal, stump grinding, log splitting and wood sales.

mm. Welding shop.

(4) Specific waterfront commercial accessory uses associated with principal use:

a. Commercial fishing and crabbing business, retail and wholesale markets, including all rigging and storage of crab and fish gear.

b. Boat dockage of 10 slips or less.

c. Boat shop not to exceed 1,200 square feet of floor area and limited to the construction of 36-foot boats.

d. Boathouses and sheds.

e. Boat rentals limited to non-motorized watercraft.

f. Fishing party excursions 1/2 day and full day trips.

g. Private boat ramps for residential use or commercial accessory use.

h. Schools offering private lessons for sailing and other outdoor activities.

(8) Agriculture farming, livestock, waterfowl, poultry and related activities for personal use.

(9) Aquaculture and associated activities related to fish farming as regulated by the State of North Carolina.

(10) Nursery/greenhouse/tree/shrub farms and associated activities with buffered storage areas.

(11) Private home antennas and on-site accessory business use antennas.

(12) County owned and leased facilities

(13) Heritage gardens – Designated areas of land leased to the public for gardening projects.

(c) **Conditional uses:** Any use in existence on March 24, 2006 shall be allowed to continue in operation without seeking approval from Dare County, regardless if that use is listed as a permitted use or is listed as a conditional use in any of the Wanchese zoning districts. Additions or expansions of uses in existence on March 24, 2006 shall be subject to administrative review and approval by the Dare County Planning Department for compliance with the zoning regulations. Construction of additional principal use structures at existing business sites that would require a conditional use permit if not already established prior to March 24, 2006 shall trigger review and approval under the conditional use permit process.

The following conditional uses and no other conditional uses may be permitted, subject to the requirements of this district and the regulations and requirements imposed by the Board of Commissioners as provided by Article IX of this chapter. Any use not permitted herein shall be deemed prohibited.

(1) Churches, cemeteries, schools and other public buildings.

(2) Animal rehabilitation home center (required permits from North Carolina Wildlife Resources).

(3) Elder in-home care, up to 4 non-related patients (private home nursing) provided the following minimum requirements are met:

a. Employee and visitor parking according to Section 22-56 in addition to 1 parking space for each non-resident employee.

b. Other reasonable conditions imposed by the Board of Commissioners.

(4) Fishing and hunting club, horse ranch including amenities such as clubhouse facility with overnight lodging or guest quarters, swimming pools, storage buildings, piers docks, private beach and boat launching subject to other requirements of the chapter including Section 22-31 as may be applicable and provided the following minimum requirements are met:

a. Overnight guest facilities – see density requirements for hotels, motels, and seasonal lodging.

b. Number of rooms in lodging facility – see density requirements for hotel, motel, and seasonal lodging.

c. Individual guest quarters – as calculated for group housing development projects.

d. Prohibit mooring or permanent floating homes and other permanent floating structures as defined in 15A NCAC 7M00602 in the surrounding public trust waters of Dare County.

e. Other reasonable conditions that may be imposed by the Board of Commissioners.

(5) Pet grooming provided the following minimum requirements are met:

a. Shall be owner and/or family occupied residential premises.

b. Day care only for grooming - hours of operation limited to 7:00 a.m. to 6:00 p.m.

c. No outdoor run facilities and no overnight occupancy (not a kennel).

d. Other reasonable conditions imposed by the Board of Commissioners.

(6) Private and public utilities (shall provide vegetative buffer at least 10 feet in height).

(7) Small childcare center, large childcare center - As defined in Sec. 22.2 and only associated with a church, school or other public building.

(8) Spoil sites for maintenance dredging.

**(d) Dimensional requirements for all residential uses:**

(1) Minimum lot size:

a. Single-family lots with accessory dwelling units and accessory commercial structures used in association with a single-family use shall be of sufficient size to meet the requirements of the Dare County Environmental Health Department and to provide adequate setbacks for the single-family structure, accessory dwelling unit and all other accessory use structures.

Existing lots – All lots that were subdivided and recorded before March 24, 2006 shall meet the approval of the Dare County Environmental Health Department for well and on-site wastewater systems. The setbacks and lot coverage standards of Section 22-27.18 shall apply to lots recorded before March 24, 2006.

b. Newly platted lots -- For those lots subdivided and recorded after March 24, 2006:

Single family lots:

15,000 square feet of soils not classified as coastal wetlands for lots connected to a central water supply.

20,000 square feet of soils not classified as coastal wetlands for lots connected to a private well.

(2) Minimum lot width: 75 feet at building setback line.

(3) Minimum front yard: 25 feet.

(4) Minimum side yard: 10 feet; an additional 5-foot side setback for corner lots adjacent to a street. Lots less than 75 feet in width shall have an 8-foot setback and an additional 5-foot setback for corner lots adjacent to a street.

(5) Minimum rear yard: 20 feet maximum, or 20% of lot depth. Zero line setback for waterfront lots.

(6) Lot coverage: 30% as defined in Section 22-2. Lot coverage of 50% may be authorized for those sites with an accessory dwelling unit and/or a traditional village business.

(7) Building height: 40 feet to the highest elevation of any feature of the structure or portion of the roof measured from the base flood elevation, from natural ground elevation if natural ground elevation exceeds the base flood elevation, or from an unnatural ground elevation created by placement of fill material on a site on or before March 24, 2006. Chimneys, lightning rods, weather vanes, wind gauges, and other similar roof appurtenances shall not be considered the highest portion of the roof. The pitch of the principal roof shall be no less than 4/12. Principal roof is defined as the largest section of the roof on the structure.

**(e) Dimensional requirements for individual commercial use on separate lot or parcel that is not in conjunction with the principal residential use:**

(1) Minimum lot size: Commercial lots need to be of sufficient size to meet the requirements of the Dare County Environmental Health Department and to provide adequate siting for structures, parking, loading and maneuvering space according to Section 22-56 . Also, a visual buffer of vegetation or fencing and a 20-foot wide setback is required when an individual commercial use abuts a residential use or residential zone. All outdoor lighting shall be low profile, shielded, with glare directed on site and away from all adjoining properties and streets.

(2) Minimum front yard: 15 feet.

(3) Minimum side yard: 10 feet; an additional 5-foot side setback for corner lots adjacent to a street. Lots less than 75 feet in width shall have an 8-foot setback and an additional 5-foot setback for corner lots adjacent to a street.

(4) Minimum rear yard: 20 feet maximum, or 20% of lot depth for interior lots. Zero line setback for waterfront lots.

(5) Lot coverage: 60% as defined in Section 22-2.

(6) Building height: 40 feet to the highest elevation of any feature of the structure or portion of the roof measured from the base flood elevation, from natural ground elevation if natural ground elevation exceeds the base flood elevation, or from an unnatural ground elevation created by placement of fill material on a site on or before March 24 2006. Chimneys, lightning rods, weather vanes, wind gauges, and other similar roof appurtenances shall not be considered the highest portion of the roof. The pitch of the principal roof shall be no less than 4/12. Principal roof is defined as the largest section of the roof on the structure.

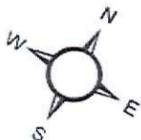
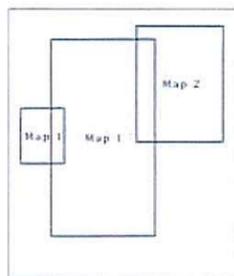
(7) Maximum commercial building size: 10,000 square feet excluding decks, porches, and other non-heated space. Churches, fire stations, public buildings and schools are excluded from this building size limitation.

(8) Density limitations for motels, hotels, and similar seasonal lodging structures:

a. Structures on a lot or tract that has no soils classified as wetlands, coastal marsh or section 404 jurisdictional soils: 10 rental rooms per acre.

b. Structures on a lot or tract that has between .01% and 19.9% of its soils classified as wetlands, coastal marsh, or section 404 jurisdictional soils: 8 rental rooms per acre.

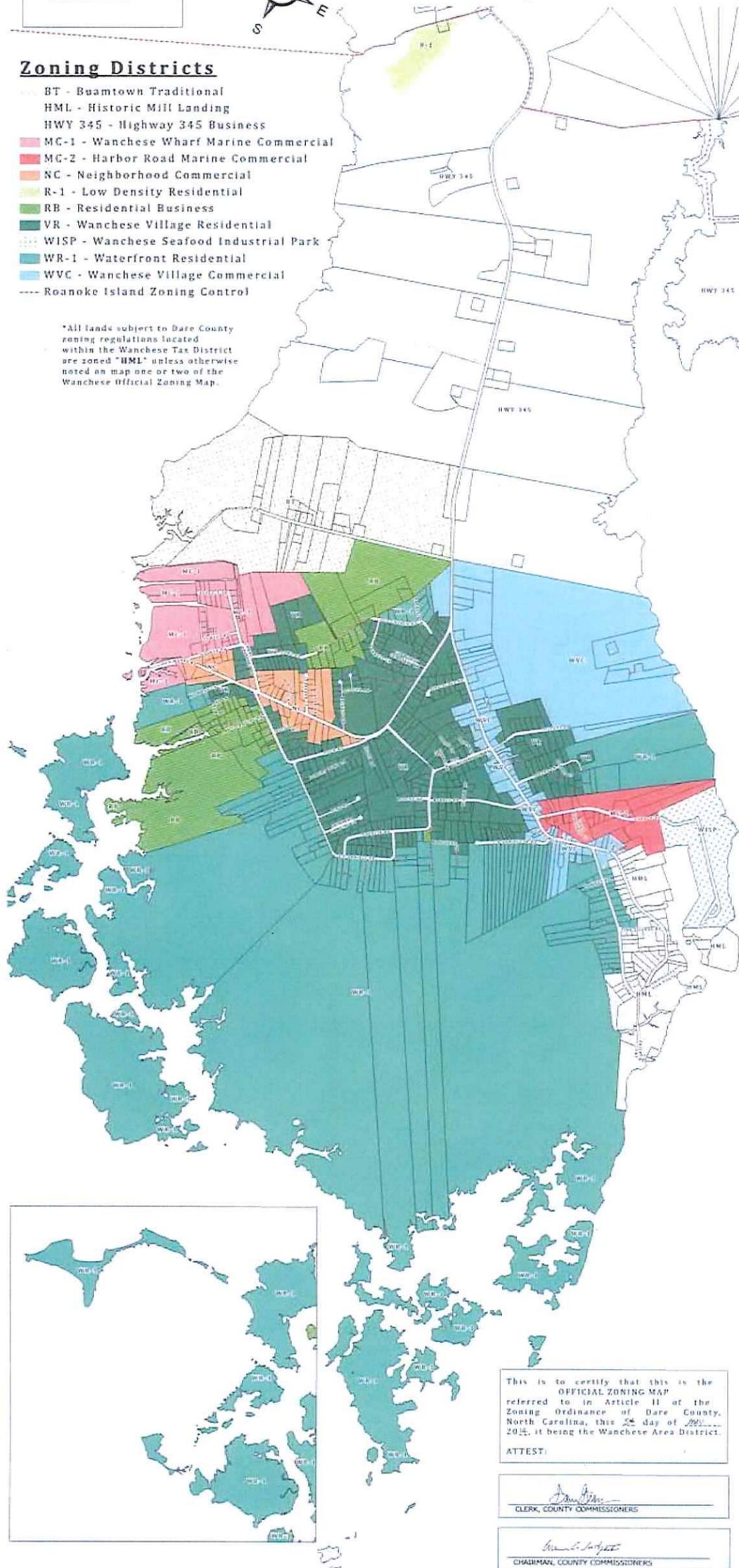
# Wanchese, N.C. Official Zoning Map 1 in = 575 ft Map 1



## Zoning Districts

- BT - Buamtown Traditional
- HML - Historic Mill Landing
- HWY 345 - Highway 345 Business
- MC-1 - Wanchese Wharf Marine Commercial
- MC-2 - Harbor Road Marine Commercial
- NC - Neighborhood Commercial
- R-1 - Low Density Residential
- RB - Residential Business
- VR - Wanchese Village Residential
- WISP - Wanchese Seafood Industrial Park
- WR-1 - Waterfront Residential
- WVC - Wanchese Village Commercial
- Roanoke Island Zoning Control

\*All lands subject to Dare County zoning regulations located within the Wanchese Tax District are zoned "HML" unless otherwise noted on map one or two of the Wanchese Official Zoning Map.



This is to certify that this is the OFFICIAL ZONING MAP referred to in Article II of the Zoning Ordinance of Dare County, North Carolina, this 24 day of 2014, it being the Wanchese Area District.

ATTEST:

*[Signature]*  
CLERK, COUNTY COMMISSIONERS

*[Signature]*  
CHAIRMAN, COUNTY COMMISSIONERS

would provide an additional layer of protection for the unincorporated areas from franchise businesses that often employ unoriginal, generic, or replicated corporate building designs that are inconsistent with the traditional architecture of the Outer Banks. In addition to the incompatibility of these franchise restaurants with existing coastal village atmosphere, there are secondary impacts such as trash, lines of waiting vehicles, and a decrease in the appeal of the neighborhood that accompany these commercial developments.

The first section of the LUP noted that the needs of the permanent population and the seasonal population vary in terms of what commercial services and goods are desired. Many of the commercial businesses in Dare County are solely focused on the provision of souvenirs and tourist-related goods to the visiting population. The proliferation of these tourist-oriented businesses was identified by a vast majority of the respondents to the Citizen Involvement Poll as an important issue of concern. This concern was also voiced at all of the public input workshops held at the beginning of the update process in 2007. Other jurisdictions have adopted building design standards to address concerns about the aesthetics of these tourist-oriented retail operations. Building design standards do not address the profusion of such retail establishments. The legality of targeting one segment of the retail market and how to do so was identified as an implementation strategy by the Planning Board. Although it may prove extremely difficult to craft an ordinance aimed at tourist-related businesses, there was a strong consensus among the Planning Board that such efforts were worthy of study and research.

*Policy LUC #5*

Dare County encourages the continued existence and development of locally-owned businesses in unincorporated Dare County.

*Implementation Strategy:*

1. Inventory of older existing commercial businesses and consideration of zoning amendments to ensure their replacement or repair in the event of damage from a natural disaster. (2011)

*Policy LUC #6*

Commercial development should be designed to meet the needs of Dare County's unincorporated villages and not to serve as regional commercial centers. The gross floor area limitations of the Dare County Zoning Ordinance and other applicable land use codes shall be used as a tool to manage the footprint of commercial structures. The goal is to manage the size of the commercial structures, which serves as a disincentive for regional commercial centers for location in villages.

*Policy LUC #7*

Commercial businesses, regardless of size, should individualize their sites and building designs to reflect Dare County's coastal heritage. Adaptations of corporate or franchise designs to reflect our coastal character are encouraged. This is particularly applicable to the food service industry.

*Implementation Strategies:*

1. Identify amendments to the Dare County Zoning Ordinance and other land use ordinances that may be necessary to implement management objectives for residential and commercial development. This may include the elimination of drive-thru window restaurant service (but not all businesses employing drive-thru window service such as banks and pharmacies) in all commercial and S-1 zonings districts, building design standards for commercial structures, and amendments to Zoning Ordinance and Sign Ordinance as needed for commercial businesses. (2010-2013)
2. Rely on existing dimensional standards of the Dare County Zoning Ordinance for dwelling densities, lot coverage limitations, and commercial gross floor area limitations. These standards should be periodically examined relative to changes in technology for wastewater treatment, improved construction practices, market conditions, and demographic changes. (2011)
3. Study legality of regulations designed to address the proliferation of tourist-oriented retail establishments. (2011)
4. Work with East Lake residents to review zoning alternatives for this area. (2011)

**Re-development**

The redevelopment of under-utilized land or outdated structures will become more of an issue over the next few years. As the number of vacant tracts diminishes, redevelopment options will be considered by private owners. One factor that influences the redevelopment decision is federal flood regulations. The federal flood regulations require conformance and elevation to current base flood elevations if an older structure is remodeled to exceed 50% of its value. Because of this rule, some owners chose to demolish older structures and simply start again. Dare County encourages redevelopment activities and construction to utilize energy efficient construction methods.

Re-development activities shall be consistent with existing patterns and scale of development although this may prove to be difficult in some of the older subdivisions and neighborhoods that were platted and recorded in the 1970s before the current minimum lot sizes, current building codes, and flood standards.

*Policy LUC #8:*

Redevelopment of older structures shall be accomplished in a manner that is compatible with current NC building codes and federal flood insurance regulations and conforms with Dare County zoning regulations. Energy efficient construction standards are encouraged.

served by a central water system. A central water supply may be provided in these areas as noted in each area discussion. Central wastewater treatment facilities are not available except as noted in the individual village discussions and then only to serve specific areas where soil conditions preclude the use of on-site septic systems. The areas designated as Community are colored purple [REDACTED] on the future land use map. Individual village discussions are as follows:

East Lake – East Lake is largely rural in nature with a handful of commercial uses located along the US 64 highway frontage. Although the area is unzoned, a gross floor area of 20,000 square feet was established for East Lake in 2006. It is anticipated that a zoning map for East Lake will be adopted during the next 5-year planning period. Soil conditions are severely limiting in the East Lake community thus impacting the scope of future development activities. On-site septic tank/drainfield systems are used for wastewater treatment and private wells are used for potable water. Central water is not available in East Lake. Minimum lot sizes are set at 20,000 square feet for new lots served by private wells which equates to a dwelling density of 2 units per acre. The planned four-lane expansion of US 64 through the village is anticipated to result in some increased development activity however the poor soil conditions and lack of central water and wastewater facilities will serve as limiting factors.

Stumpy Point - Since the 2003 LUP update, a zoning map for Stumpy Point has been adopted by the Dare County Board of Commissioners. Residential development is limited to single family structures and mobile homes. Commercial uses are designed to serve neighborhood needs. Central water is available in Stumpy Point. Wastewater has historically been managed by on-site septic tank drainfield systems however a central wastewater collection and treatment facility is scheduled for completion in 2010 to mitigate existing public health concerns that exist in Stumpy Point due to the use of malfunctioning or outdated septic systems. The minimum lot size for newly platted lots is 15,000 square feet for lots served by central water/central wastewater. This equates to a density of less than 3 units per acre. Future development in the Stumpy Point area is anticipated to be limited by its remoteness from the more populated communities of Dare County. Residential homes with very limited commercial development is expected over the next planning period.

### *Community Village*

This is a sub-classification of the Community classification that was developed during the 2003 land use plan update process. The purpose of this sub-class is to identify areas with a mixture of low-density residential dwellings, various commercial services and small retail businesses in a village environment. Water-related land uses and facilities such as boat building, fishing, fish processing and crabbing are characteristic of this sub-class. This sub-class seeks to preserve the unique mix of land uses that distinguish a non-urbanized coastal village and to prevent the introduction of urban influences or development that changes or overwhelms the existing patterns of land use by disrupting

the "village" environment. Land disturbing activities that alter or remove vast amounts of vegetation, alter natural drainage patterns, or which divert storm water into surface waters are considered incompatible with this sub-classification. Central water is appropriate as a means of insuring a water supply that is not vulnerable to fluctuations in the shallow water table and the introduction of pollution from on-site septic systems. Wastewater services are discussed in each individual community area for this classification. It is depicted as orange  on the future land use map.

Wanchese – All of the Wanchese tax district is classified as Community Village. Central wastewater treatment plants are not compatible with this sub-class except if located within the Wanchese Seafood Industrial Park for the facilities and operations internal to the Seafood Industrial Park. Since the 2003 update, a use-specific zoning map has been adopted for the Wanchese tax district. The Wanchese zoning map establishes zoning regulations for residential uses, not to include multifamily structures, at a minimum lot size of 20,000 square feet regardless of the source of potable water. This minimum lot size equates to a 2 unit per acre dwelling density. Dare County is currently in the planning and design stage of a central water system for Roanoke Island. Once complete (anticipated completion is 2012) all of Roanoke Island will be served by a central water supply. The commercial zoning districts for Wanchese include gross floor area limitations of 10,000 square feet as detailed in the individual zoning districts. Future development can be anticipated to continue to serve the needs of the residents and businesses of Wanchese.

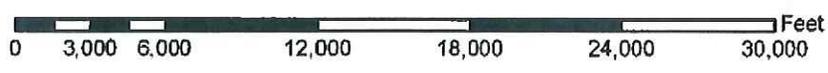
Historical note -- Previous land use plan updates have addressed the land classification of the site of the Globe Fish Company docks in Wanchese and assigned the land class of "transition" to this site. This site is a natural deep water port and has been in use for shipping and harbor activities for hundreds of years. Commercial shipping activities at this site pre-date all regulatory activities and/or land-use planning documents in Dare County. This site continues to hold potential for commercial shipping, aquaculture, aquaculture related research facilities and loading and docking use. Given the historical nature of this site, the Transition classification is the appropriate land classification for the site despite the presence of indicators that might otherwise lead to the placement of the site in a more restrictive land classification. This area is not depicted on the future land use map for Wanchese due to the small scale of the map however this narrative shall serve as the definitive classification of the site.

Hatteras – the Community Village sub-class applies to those areas of Hatteras village located outside the transition corridor boundaries and zoned NH, RS-1, and R2-AH on the Hatteras village zoning map. Residential uses, include single family homes, mobile homes, and handful of commercial uses, including campgrounds, can be found in these areas. Evidence of the commercial fishing industry can be found throughout the Community Village areas of Hatteras. Central water is available from the Dare County central water system. Minimum lot sizes are 20,000 square feet if served by private wells and 15,000 square feet for lots served by central water for a range of 2-2.8 units per acre



# Roanoke Island

-  Community Village (2,657 Acres)
-  Community Residential (3,530 Acres)
-  Transition Corridor (111 Acres)
-  Conservation (5,055 Acres)
-  US Department of the Interior (Nags Head Jurisdiction)
-  Municipal
-  Town of Nags Head ETJ



## ZONING AMENDMENT CONSISTENCY DETERMINATION

On May 21, 2018, the Dare County Board of Commissioners considered a zoning map amendment application submitted by Jonathan Johnson. This zoning map amendment application seeks to reclassify lots 2, 3, and 4 of the George Mann Tract 2 from Baumtown Traditional to a new classification of Highway 345Business. These properties are located on Roanoke Island in the Wanchese tax district and are zoned as part of the Wanchese zoning map.

The 2009 Dare County Land Use Plan is the comprehensive plan for unincorporated Dare County adopted by the Dare County Board of Commissioners on December 6, 2010.

A review of the Dare County Land Use Plan found the following policies to be applicable to the zoning map amendment:

### Land Use Compatibility Management Topic

#### Policy # LUC # 5

*Dare County encourages the continued existence and development of locally-owned businesses in unincorporated Dare County.*

*Implementation Strategy for LUC #5 – Inventory of older existing commercial businesses and consideration of zoning amendment to ensure their replacement or repair in the event of damage from a natural disaster.*

*Policy #LUC6 Commercial development should be designed to meet the needs of Dare County's unincorporated village and not serve as regional commercial centers. The gross floor area limitations of the Dare County Zoning Ordinance and other applicable land use codes shall be used as a tool to manage the footprint of commercial structures. The goal is to manage the size of commercial structures, which serve as a disincentive for regional commercial centers for location in villages.*

A review of the future land classification map found in the 2009 Dare County Land Use Plan found the Wanchese area to be classified as Community Village on the future land classification map. The classification of Community Village applies to the entire Wanchese tax district. The purpose of this classification is to identify areas with a mixture of low-density residential dwellings, various commercial services, and small retail businesses in a village environment. The classification seeks to preserve the unique mix of land uses that distinguish a non-urbanized coastal village and to prevent the introduction of urban influences or development that changes or overwhelms the existing pattern of land uses by disrupting the village environment. Central water is

appropriate for this classification. Future development in this classification is anticipated to serve the needs of the residents and businesses of Wanchese.

On April 9, 2018, the Dare County Planning Board voted unanimously to recommend favorable action on the Johnson request to rezone the property.

Based upon the Planning Board's recommendation and a review of the Dare County Land Use Plan, the Dare County Board of Commissioners finds the zoning map amendment to be consistent with the 2009 Dare County Land Use Plan policies and future land classification map since the map amendment will allow for the locally-owned businesses to locate on the subject property that will provide goods and services for Wanchese village. The subject property has frontage on Highway 345 and is contiguous with other properties currently designated Highway 345. The designation of the subject property as Highway345 Business district reflects the road frontage of the property and its suitability for designation of Highway 345 Business zoning classification.

The Dare County Board of Commissioners hereby adopts the Johnson zoning map amendment to rezone lots 2, 3, and 4 of the George Mann Tract to Highway 345.

## ZONING AMENDMENT INCONSISTENCY DETERMINATION

On May 21, 2018, the Dare County Board of Commissioners considered a zoning map amendment application submitted by Jonathan Johnson. This zoning map amendment application seeks to reclassify lots 2, 3, and 4 of the George Mann Tract 2 from Baumtown Traditional to a new classification of Highway 345Business. These properties are located on Roanoke Island in the Wanchese tax district and are zoned as part of the Wanchese zoning map.

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A review of the Dare County Land Use Plan found the following policies to be applicable to the zoning map amendment:

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*Dare County encourages the continued existence and development of locally-owned businesses in unincorporated Dare County.*

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A review of the future land classification map found in the 2009 Dare County Land Use Plan found the Wanchese area to be classified as Community Village on the future land classification map. The classification of Community Village applies to the entire Wanchese tax district. The purpose of this classification is to identify areas with a mixture of low-density residential dwellings, various commercial services, and small retail businesses in a village environment. The classification seeks to preserve the unique mix of land uses that distinguish a non-urbanized coastal village and to prevent the introduction of urban influences or development that changes or overwhelms the existing pattern of land uses by disrupting the village environment. Central water is

appropriate for this classification. Future development in this classification is anticipated to serve the needs of the residents and businesses of Wanchese.

On April 9, 2018, the Dare County Planning Board voted unanimously to recommend favorable action on the Johnson request to rezone the property.

Based upon a review of the Dare County Land Use Plan, the Dare County Board of Commissioners finds the zoning map amendment to be inconsistent with the 2009 Dare County Land Use Plan policies and future land classification map since the map amendment is requesting the designation of properties with a more intensive zoning designation and the more intensive zoning designation is inconsistent with the other uses found in the adjacent properties zoned Baumtown Traditional.

The Dare County Board of Commissioners hereby denies the Johnson zoning map amendment to rezone lots 2, 3, and 4 of the George Mann Tract to Highway 345.



*Public Hearing - System Development Fee Calculation*

**Description**

During last year's session of the North Carolina General Assembly, the Public Water and Sewer System Development Fee Act, House Bill 436 (Session Law 2017-138) was passed to clarify a local government utility's authority to assess upfront charges for water and sewer services.

As part of the new law, local governments are required to contract with a financial professional or licensed professional engineer to perform an analysis to develop cost-justified water system development fees.

A Public Hearing will held at 5:30 p.m., May 21, 2018 for the purpose of accepting public comments on the System Development Fees that have been developed by Raftelis Financial Consulting for Dare County.

**Board Action Requested**

Conduct a Public Hearing at 5:30 p.m., May 21, 2018 and then consider and take action to adopt the analysis with any modifications or revisions.

**Item Presenter**

Robert Outten, County Manager

NOTICE IS HEREBY GIVEN that a public hearing will be conducted by the Dare County Board of Commissioners for the purpose of accepting public comments on the System Development Fees that have been developed by Raftelis Financial Consulting for Dare County in compliance with the Public Water and Sewer System Development Fee Act (HB436, Session Law 2017-138).

The Public Hearing will be held at the Dare County Administration Building, Commissioners' Meeting Room, 954 Marshall C. Collins Drive, Manteo, NC, May 21, 2018, at 5:30 p.m. All interested persons are invited to make comments at that time.



227 West Trade Street  
Suite 1400  
Charlotte, NC 28202

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February 26, 2018

Mr. David Clawson  
Deputy County Manager/Finance Director  
Dare County Finance  
954 Marshall C. Collins Drive  
Manteo, North Carolina 27954

Dear Mr. Clawson:

Raftelis Financial Consultants, Inc. (Raftelis) has completed its assignment to develop cost-justified water system development fees for consideration by the County of Dare (the County). This letter documents the results of the analysis which is based on a cost justified approach for establishing system development fees (impact fees) as set forth in North Carolina general statute 162A Article 8 “System Development Fees”.

Raftelis is a financial consulting firm that has provided rate and financial consulting to public water and wastewater utilities since 1993, has edited or contributed content for the Seventh Edition of the American Water Works Association “Principles of Water Rates, Fees and Charges M-1 Manual” (AWWA M-1 Manual), and has calculated impact fees for utilities in North Carolina and across the country since 1993 using generally accepted methodologies as provided in the AWWA M-1 Manual and other water/sewer industry publications. Raftelis is qualified to perform system development fee calculations for water and wastewater utilities in North Carolina.

### **Background**

System development fees are defined as one-time charges assessed to new water customers, or developers and builders, to recover a proportional share of capital costs incurred to provide service availability and capacity for new utility customers. Typically, the cost basis for setting system development fees is based on the major system components, or core system assets, that are necessary to serve, and that provide benefit to, all customers. These components typically include reservoirs, water treatment plants, storage tanks, major water transmission lines, and pumping stations.

Raftelis recommends that system development fee calculations be consistent with the common legal standard in setting system development fees in the water industry – the Rational Nexus Test. The Rational Nexus test requires that: 1) the need for capacity is a result of new development; 2) the costs are identified to accommodate new development; and 3) the appropriate apportionment

of that cost to new development is in relation to the benefit the new development reasonably receives<sup>1</sup>.

There are three approaches, as described below, for calculating water system development fees that are recognized in the industry as cost-justified<sup>2</sup> (that meet the requirement of the Rational Nexus standard), and as set forth in North Carolina general statute 162A Article 8 “System Development Fees”.

#### Buy-In Approach

The Capacity Buy-In Approach calculates a system development fee based upon the proportional cost of each user’s share of existing system capacity, and is most appropriate in cases where the existing system assets provide adequate capacity to provide service to new customers. The cost of the facilities is based on fixed asset records and can include escalation of the depreciated value of those assets to current dollars, or “replacement costs” as identified in the general statute. The general statute also identifies adjustments to be made to the replacement cost such as “debt credits, grants, and other generally accepted valuation adjustments.”

#### Incremental Cost Approach

The Incremental Cost (or Marginal Cost) Approach calculates a system development fee based upon a new customer’s proportional share of the incremental future cost of system capacity. This approach focuses on the cost of adding additional facilities to serve new customers. It is most appropriate when existing facilities do not have adequate capacity to provide service to new customers, and the cost for new capacity can be tied to an approved capital improvement plan (CIP) that covers at least a 10-year planning period. Per the general statute, a revenue credit must be applied “against the projected aggregate cost of water or sewer capital improvements”.

#### Combined Approach

The Combined Approach is a combination of the Buy-In and Incremental Cost approaches, and is appropriate to be used when the existing assets provide some capacity to accommodate new customers, but where the capital improvement plan also identifies significant capital investment to add additional infrastructure to address future growth and capacity needs.

#### Calculation of System Development Fees

Raftelis requested and was provided with the following data from County staff to complete the impact fee calculation:

- Water system fixed asset data;
- Outstanding utility debt and associated debt service;
- Construction work in progress (“CWIP”);
- Contributed capital;
- Capacity of the water system;

---

<sup>1</sup> See the AWWA M-1 7<sup>th</sup> Edition Manual –System Development Charges, Chapter VII.2; pp.324.

<sup>2</sup> See the AWWA M-1 Manual –System Development Charges, Chapter VII.2; pp.329-330.

- Daily water production data; and
- History of system development fees collected.

The Capacity Buy-In Approach was chosen as the method to calculate the system development fees. While the County has identified future water projects in its capital improvement plan, these projects are repair and replacement projects that will not expand capacity. Additionally, through discussions with County staff, Raftelis understands that the utility has enough current capacity to appropriately serve its current and planned customers.

Using the Capacity Buy-In approach, Raftelis calculated the estimated cost, or investment in, the current capacity available to provide utility services to existing and new customers. This analysis was based on a review of fixed asset records and other information as of June 30, 2017. The depreciated value of the assets was first adjusted to reflect an estimated replacement cost to determine the “replacement cost new less depreciation” (RCNLD) value for the assets. The asset values were escalated using the Handy Whitman Index of Public Utility Construction Costs (for the South Atlantic Region). The RCNLD value of the water assets includes water supply, treatment, storage, distribution facilities, and construction work in progress (CWIP) for FY2018, but excludes small equipment, meters, vehicles and other rolling stock.

Several larger adjustments were then made to the RCNLD value, to calculate a net value of the system, which were as follows:

- *Subtraction of contributed capital and grant funded assets* – two types of capital were excluded from the total value of the system used for fee calculation: grant funded assets and capital contributed to the system by developers. The rationale for excluding the value of this capital is that the water utility, and thus the existing customers of the system, did not pay for these assets. For contributed assets, Raftelis cross referenced the fixed asset records with a list of donated assets, provided by the County, and excluded any donated assets that were also listed in the fixed asset ledger. For grant funded assets, Raftelis cross referenced the fixed asset ledger with a schedule of grant funded assets, provided by the County, and removed any donated assets that were listed on both schedules.
- *Debt credit* – Utilities often borrow funds to construct assets, and revenues from fees and retail rates and charges can be used to make payments on these borrowed funds. To ensure that new customers are not double charged for these assets, once through impact fees and twice through retail rates and charges, a proportion of the outstanding principal debt is credited towards the net value of the system. This proportional amount was estimated by comparing the historical annual amount of revenues collected from system development fees with the respective, historical annual amount of principal payments. Since the County applies revenues from system development fees to offset outstanding debt service, and since the County's bond ordinance allows the inclusion of system development fees

to be used in meeting debt service coverage requirements, the amount of the debt credit was calculated as the principal amount of outstanding debt less the proportion of the principal amount estimated to be paid for with system development fee revenues.

The net system value: total RCNLD, minus contributed assets, grant funded assets, and the debt credit, was then converted to a unit cost of capacity by dividing the adjusted RCNLD value by a basic unit measure of cost per gallon per day (GPD) for water capacity, as shown in Exhibit 1.

**Exhibit 1 – Cost per GPD of Core Utility Assets**

	<b>Water</b>
<b>Net System Value</b>	<b>\$65,262,824</b>
<b>Total Capacity (gallons per day)</b>	<b>13,316,000</b>
<b>Cost Per Gallon per Day</b>	<b>\$4.90</b>

System cost per gallon per day becomes the basic building block, or starting point, for determining the *maximum cost-justified level* of the water system development fees.

The next step is to define the level of demand associated with a typical, or average, residential customer, often referred to as an Equivalent Residential Unit, or ERU. The level of demand associated with a typical residential customer is often estimated using wastewater design flow rates as specified by the North Carolina Administrative Code Title 15A (Department of Environment and Natural Resources) Subchapter 2T, which states that the sewage from dwelling units is 120 gallons per day per bedroom. Based on input from County staff regarding residential homes, number of bedrooms, and rental properties the average gallons per day used was the average of the 2 and 3-bedroom home (which is 300 gallons per day per ERU). Since the ERU of 300 gallons per day represents average use, to estimate the peak day water use for the County’s customers, a peaking factor (based on daily water production records for FY2015 through FY2017) was applied to derive an adjusted ERU of 491 gallons per day, as shown in Exhibit 2. Because Dare County’s water system faces wide variation in demand based on season, application of a peaking factor appropriately represents the actual demand placed by a residential unit on the system.

**Exhibit 2: Water Demand per Residential ERU**

	<b>Water – gallons per day per ERU</b>
<b>ERU Per State Guidelines</b>	<b>300</b>
<b>Peaking Factor</b>	<b>1.64</b>
<b>Adjusted ERU</b>	<b>491</b>

**Assessment Methodology**

This analysis provides a maximum cost-justified level of system development fees that can be assessed by the County. The calculation of the system development fee for a ¾ inch meter is based on the cost per gallon per day multiplied times the number of gallons per day required to serve each ERU, as shown below in Exhibit 3.

**Exhibit 3 – Calculated Maximum Residential Capacity Fee**

<b>Residential</b>	<b>Water</b>
<b>Cost per GPD</b>	<b>\$4.90</b>
<b>GPD per ERU</b>	<b>491</b>
<b>Total Calculated Capacity Fee per ERU</b>	<b>\$2,405</b>
<b>Existing Capacity Fee per ERU</b>	<b>\$2,500</b>

For customers with larger meter sizes, the fees for the smallest residential meter can be scaled up by the flow ratios for each meter size, as specified in the AWWA M-1 Manual<sup>3</sup>, the results of which are shown in Exhibit 4. This method provides a straightforward approach that is simple to administer and reasonably equitable for most new customers.

Exhibit 4 shows the resulting maximum cost-justified system development fees by meter size for meters ranging from ¾ inches to 6 inches. For these calculations, the system development fees have been rounded to the nearest dollar.

<sup>3</sup> See the AWWA M-1 Manual – Appendix B- Equivalent Meter Ratios; pp.386

**Exhibit 4– Calculated Maximum System Development Fees for Non-Residential Customers**

<b>Meter Size</b>	<b>Existing Fees</b>	<b>Maximum Cost Justified Fees</b>
<b>¾”</b>	<b>\$2,500</b>	<b>\$2,405</b>
<b>1”</b>	<b>\$3,000</b>	<b>\$4,008</b>
<b>1.5”</b>	<b>\$3,500</b>	<b>\$8,017</b>
<b>2”</b>	<b>\$4,000</b>	<b>\$12,827</b>
<b>3”</b>	<b>\$5,000</b>	<b>\$24,050</b>
<b>4”</b>	<b>\$6,000</b>	<b>\$40,083</b>
<b>6”</b>	<b>\$8,000</b>	<b>\$80,166</b>

The County may elect to charge a cost per gallon that is less than the maximum cost justified amount documented in this report. If the County elects to charge a fee that is less, all customers must be treated equally, meaning the same reduced cost per gallon per day must be used for all customers.

We appreciate the opportunity to serve the County of Dare with this important engagement. Should you have any questions, please do not hesitate to contact me at (704) 936-4436.

Very truly yours,  
RAFTELIS FINANCIAL CONSULTANTS, INC.



Elaine Conti, Senior Manager

# Appendix

## Supporting Schedules From the System Development Fee Model

**County of Dare, NC**  
**Supporting Schedule 1 – Fee Calculation**

<u>Water System RCNLD - Unadjusted</u>	
Cape Hatteras Water Plant	\$ 23,249,595
North Reverse Osmosis Plant	24,963,492
RWS Reverse Osmosis Plant	6,595,392
Skyco Water Plant	13,190,569
Stumpy Point Water	9,723,748
Surplus	4,299
Water Administration	2,114
Water Distribution	14,751,210
<i>Total System Cost</i>	<u>\$ 92,480,421</u>
<u>Ineligible Assets - Adjustments</u>	
Cape Hatteras Water Plant	\$ (77,742)
North Reverse Osmosis Plant	(24,746)
RWS Reverse Osmosis Plant	(3,906)
Skyco Water Plant	(15,765)
Stumpy Point Water	(9,723,748)
Water Distribution	(414,949)
<i>Total Deductions</i>	<u>\$ (10,260,856)</u>
(A) <u>Net Water System RCNLD - Adjusted</u>	
<i>Total Adjusted System Cost</i>	\$ 82,219,565
(B) <u>Additions</u>	
Construction Work in Progress	
Water CP - Skyco	\$ 22,353
Skyco Nanofiltration	7,404
Skyco Media (FY15 E&R)	7,309
Skyco WTP Phase I & II	14,950
Skyco WTP Phase I & II (FY15 E&R)	6,697
Skyco WTP Nanofiltration Phase III	2,123
<i>Total CWIP</i>	<u>\$ 60,837</u>
(C) <u>Adjusted System Cost (A + B)</u>	\$ 82,280,402
<i>Outstanding Principal</i>	\$ 29,070,000
<i>Percent of Credit Included</i>	<u>58.5%</u>
(D) Net Debt Service Credit	\$ 17,017,578
(E) <b>Net Value (C - D)</b>	<b>\$ 65,262,824</b>
(F) Existing System Capacity (in GPD)	<u>13,316,000</u>
(G) <b>Cost per GPD (system) (E / F)</b>	<b>\$ 4.90</b>
<u>Calculation of ERU</u>	
(H) Daily ERU (in GPD)	300
(I) Peaking Factor	<u>1.64</u>
(J) <b>Adjusted ERU (H * I)</b>	<b>491</b>
(K) <b>Highest Cost Justified Impact Fee</b>	<b>\$ 2,405</b>

**Supporting Schedule 2 – Removal of Contributed Capital & Non-Eligible Assets by Asset Class**

<u>Adjustments By Asset Class</u>	
Rolling Stock	\$ 310,861
Meter related	6,728
Small equipment	281
Donated	219,238
Grant-Funded	9,723,748
<i>Total Deductions</i>	<u>\$ 10,260,856</u>

**Supporting Schedule 3 – Debt Credit Adjustment Calculation**

2015 - 2016 Average Impact Fee Revenue	
<i>Initial impact fee</i>	\$ 337,813
<i>Initial impact fee - RWS</i>	21,300
<i>Initial impact fee - CH</i>	69,999
(A) Average Total Impact Fee Revenue	<u>\$ 429,111</u>
(B) 2015 - 2016 Total Average Annual Principal Payment	\$ 1,035,000
(C) Percent of Impact Fee Revenue Applied to Principal Annually (A / B)	41.5%
(D) Percent of Principal To Credit (1 - D)	58.5%
(E) Total Outstanding Principal	29,070,000
Amount of Principal to Credit (D * E)	17,017,578

**Supporting Schedule 4 – Peaking Factor Data**

**Peaking Factors**

	FY15	FY16	FY17	
Hatteras	1.61	1.91	1.61	
NRO	1.41	1.53	1.58	
R.I Excl. Manteo-Dare Co.	1.33	1.18	1.13	
Roanoke Island	1.37	1.26	1.33	
RWS	2.18	2.16	2.11	
Skyco (trans.)	1.97	1.92	1.84	
Stumpty Point	1.85	1.67	2.01	
<b>Average Peaking Factors</b>	<b>1.60</b>	<b>1.67</b>	<b>1.64</b>	
				<b>3-yr Average:</b>
				<b>1.64</b>



*Consent Agenda*

**Description**

1. Approval of Minutes (05.07.18 & 05.11.18 Budget Workshop)
2. Colington Road Waterline Relocation
3. Motorola - System Maintenance Agreement
4. Motorola - System Upgrade Agreement
5. Tax Collector's Report

**Board Action Requested**

Approval

**Item Presenter**

County Manager, Robert Outten



*Approval of Minutes*

**Description**

The Board of Commissioners will review and approve their previous Minutes, which follow this page.

**Board Action Requested**

Approve Previous Minutes

**Item Presenter**

County Manager, Robert Outten



# COUNTY OF DARE, NORTH CAROLINA

District 1: Roanoke Island & Mainland; District 2: Nags Head, Colington, Kill Devil Hills; District 3: Kitty Hawk, Southern Shores, Duck; District 4: Chicamacomico, Avon, Buxton, Frisco, Hatteras; District 5: At Large

Regularly scheduled Board meetings are videotaped and can be viewed at [www.darenc.com](http://www.darenc.com)

## MINUTES

### DARE COUNTY BOARD OF COMMISSIONERS MEETING

Dare County Administration Building, Manteo, NC

**9:00 a.m., May 7, 2018**

Commissioners present: Chairman Robert Woodard, Vice Chairman Wally Overman  
Jack Shea, Steve House, Rob Ross, Jim Tobin, Danny Couch

Commissioners absent: None

Others present: County Manager/Attorney, Robert Outten  
Deputy County Manager/Finance Director, David Clawson  
Public Information Officer, Dorothy Hester  
Clerk to the Board, Gary Lee Gross

A full and complete account of the entire Board of Commissioners meeting is archived on a video that is available for viewing on the Dare County website [www.darenc.com](http://www.darenc.com).

Chairman Woodard called the meeting to order at 9:02 a.m. He invited Rev. Cherri Wheeler, a retired U.S. Air Force Chaplain to share a prayer, and then he led the Pledge of Allegiance to the flag. Chairman Woodard commented on the death of Trip Hobbs, the Chief Operating Officer for Dare County Schools. He asked everyone to keep the Hobbs family in their thoughts and prayers and led the audience in observing a moment of silence.

The Chairman asked for a motion to amend the agenda to add item 4-A for EMS Week.

#### **MOTION**

Vice Chairman Overman motioned to amend the agenda.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

#### **ITEM 1 – OPENING REMARKS – CHAIRMAN’S UPDATE**

Following is a brief outline of the items mentioned by Chairman Woodard during his opening remarks, which can be viewed in their entirety in a video on the Dare County website –

- Reported on a meeting held with National Park Service Superintendent David Hallac.
- Commented on the opening ceremonies for the Dare County Senior Games.
- Mentioned the luncheon that was recently held at the Dare County Center to recognize and honor the incredible people who volunteer their time at the facility.
- Noted that a meeting was held with stakeholders regarding beach nourishment issues in the Village of Avon.

- Briefed the Board on a meeting that he and Commissioner Tobin had in Raleigh with Senator Cook to discuss potential beach nourishment funding issues.
- Gave an update on the Health and Human Services Task Force that is looking at regionalization of services throughout the State.
- Reminded that tomorrow is Election Day and urged people to exercise their right to vote.
- Presented a certificate of appreciation to Katherine Schuster in recognition of her achievement in winning the National Drive, Chip and Putt Championship in Augusta.

## **ITEM 2 – PRESENTATION OF COUNTY SERVICE PINS**

- 1) Joseph Shull, Detention Center, received a 10-year pin.
- 2) Tim White, Parks & Recreation, received a 10-year pin

## **ITEM 3 – EMPLOYEE OF THE MONTH – MAY 2018**

Michael Hill received the Employee of the Month award from Jennie Collins who described the many ways that the Dare MedFlight Pilot is an asset to Dare County.

## **ITEM 4 – PUBLIC COMMENTS**

The Manager outlined the procedure for making public comments in Manteo and via the video link to the Fessenden Center in Buxton. Following is a brief summary of citizen remarks, which can be viewed in their entirety in a video on the Dare County website –

*The following comments were made in Manteo –*

1. Martha Wickre provided detailed information about the 43<sup>rd</sup> celebration of Dare Day which will take place on Saturday, June 2 in downtown Manteo.
2. Gail Sonnesso briefed Commissioners on the Harmony Cafe program that GEM (Gentle Expert Memorycare) is conducting throughout Dare County.

*There were no comments made in Buxton –*

## **ITEM 4A – EMS WEEK PROCLAMATION**

Jennie Collins, Chief of Dare County Emergency Medical Services, explained the important role of prehospital medical care and expressed gratitude to the Board of Commissioners for their ongoing support of Dare County EMS and Dare MedFlight. A Proclamation was presented establishing May 20-26, 2018 as Emergency Medical Services Week.

### **MOTION**

Commissioners Shea and House motioned to approve the EMS Week Proclamation. Commissioner Ross seconded the motion.

VOTE: AYES unanimous

**ITEM 5 – REPORT FROM OUTER BANKS SPORTING EVENTS**

Race Director Jenny Ash outlined the mission of Outer Banks Sporting Events (OBSE) and provided statistics concerning the group’s activities for 2017. She reported that the economic impact of OBSE events during 2017 is estimated at \$8.4 million. It was noted that since 2010, OBSE has generated over a million dollars for each of its founding charities. In response to a question from Commissioner Couch, Ms. Ash reported that plans are under consideration for a future sporting event to be held on Hatteras Island.

**ITEM 6 – PUBLIC HEALTH DIVISION – PRESENTATION ON ADULT DAY CARE**

Kaye White, Dare County Delegate to the NC Senior Tar Heel Legislature, and Public Health Director Sheila Davies gave a report on the need for Adult Day Care Centers in Dare County. They outlined possible service models and cited statistics about those who use these facilities. Information was provided about potential funding sources and it was noted that the national average rate for Adult Day Care Centers is \$61 per day. The results of a local needs survey that was done were also presented. Commissioner Ross requested specific information regarding what resources it would take to make an Adult Day Care facility a reality in Dare County.

**RECESS: 10:21 a.m. – 10:42 a.m.**

**ITEM 7 – PUBLIC HEALTH DIVISION – LEASE WITH PORT HUMAN SERVICES**

The County Manager and Public Health Director Sheila Davies presented a 3 year lease with PORT Human Services to provide services at the Medical Building located at 57635 NC Highway 12 in Hatteras Village. Mr. Outten noted that there is no rental amount and that hopefully the site will include other medical providers in the future. Ms. Davies introduced Michelle Hawbaker, Program Supervisor for PORT Human Services, who commented on the creation of a Community Advisory Committee for the Hatteras facility. Vice Chairman Overman expressed gratitude to PORT for the much needed services they will be providing to the people of Hatteras Island.

**MOTION**

Commissioner Shea motioned to approve the lease as presented.

Vice Chairman Overman seconded the motion.

VOTE: AYES unanimous

**ITEM 8 – ROANOKE SHORES HOMEOWNERS ASSOCIATION – PROPOSED RS-8 ZONING TEXT AMENDMENT**

Planning Director Donna Creef outlined a zoning text amendment request submitted by the Roanoke Shores Homeowners Association to amend the RS-8 District regulations to add non-conforming language specific to property at 117 Old NC 345. She explained that the requested language change would allow all 21 condominium units now located on the property to be rebuilt if damage was sustained in excess of 50% of its value. She noted that in order to consider the proposed amendment, a Public Hearing is required.

**MOTION**

Commissioner House motioned to schedule a Public Hearing for 5:30 p.m., May 21, 2018. Commissioners Tobin and Shea seconded the motion.

VOTE: AYES unanimous

**ITEM 9 – J.D. JOHNSON REALTY – WANCHESE ZONING MAP AMENDMENT**

Donna Creef, Planning Director, summarized a zoning map amendment submitted by J.D. Johnson to rezone lots 2, 3, and 4 of the George Mann Subdivision from its current classification of Baumtown Traditional to Highway 345 Business. Ms. Creef briefed the Board on the composition of the property and the recommendation of the Planning Board. She explained that a Public Hearing is required if the Board wishes to consider the request.

**MOTION**

Commissioner Shea motioned to schedule a Public Hearing for 5:30 p.m., May 21, 2018. Commissioner House seconded the motion.

VOTE: AYES unanimous

**ITEM 10 – SYSTEM DEVELOPMENT FEE CALCULATION REQUIRED BY NCGS 162A ARTICLE 8**

Finance Director David Clawson explained that HB 436 requires a calculation of the System Development Fee, formerly known as the Impact Fee for a local government water system. He said the County has contracted with Raftelis Financial Consultants to perform the calculation and described the effects of the study. He outlined the maximum allowed fee for each meter size and noted that a Public Hearing is required, after which the fee structure may then be adopted as of July 1, 2018 as part of the annual budget ordinance.

**MOTION**

Commissioner House and Commissioner Shea motioned to schedule a Public Hearing for 5:30 p.m., May 21, 2018.

Commissioner Tobin seconded the motion.

VOTE: AYES unanimous

**ITEM 11 – SERIES 2018 LIMITED OBLIGATION BONDS – DECISION ON ISSUANCE TYPE, STRUCTURE, AND FINANCING AWARD**

The Finance Director, provided background on the Series 2018 Limited Obligation Bonds (LOBs) that will be issued for part of the County's contribution to the Nags Head beach nourishment project and for improvements to Manteo High School. He explained the approval timeline for the Local Government Commission (LGC) and noted that the County's financial advisor and its underwriter/placement agent recommend a private placement. Mr. Clawson described the difference between a current settlement and a forward settlement and asked the Board to award the LOBs as a private placement with a current settlement on or about July 19, 2018 to Regions Bank at a rate not to exceed 2.72%.

**MOTION**

Commissioner Shea motioned to award the Series 2018 LOBs as a private placement with a current settlement on or about July 19, 2018 to Regions Bank at a rate not to exceed 2.72% Vice Chairman Overman seconded the motion.

VOTE: AYES unanimous

**ITEM 12 – INTERLOCAL AGREEMENT – DARE COUNTY AND TOWN OF NAGS HEAD**

The County Manager outlined an Interlocal Agreement between Dare County and the Town of Nags Head for the Town's 2019 beach nourishment project.

**MOTION**

Commissioner Shea motioned to approve the Interlocal Agreement and authorize the Chairman to execute the document.

Commissioner Couch seconded the motion.

VOTE: AYES unanimous

**ITEM 13 – RESOLUTION REQUESTING FUNDING OF THE COASTAL STORM DAMAGE MITIGATION FUND (Att. #1)**

Chairman Woodard presented a resolution asking the North Carolina General Assembly to fund the Coastal Storm Damage Mitigation Fund. He explained that during 2017, HB56 included a provision to create the fund, however, the Legislature has not yet allocated a funding source. It was noted that the Coastal Storm Damage Mitigation Fund would match local dollars on a cost-shared basis thus allowing beach nourishment funds to be effectively leveraged for maximum benefit. The resolution was read by the County Manager.

Commissioner Ross asked if this item has the support of Senator Cook and Representative Boswell and was assured by Commissioner House that they are in support of it. Vice Chairman Overman recommended that the resolution be revised to include a provision in the final paragraph indicating that no current local revenue streams be used for the purpose of funding the Coastal Storm Damage Mitigation Fund.

**MOTION**

Vice Chairman Overman motioned to adopt the resolution with the revision that no current local revenue streams be used for the purpose of funding the Coastal Storm Mitigation Fund. Commissioner Shea seconded the motion.

VOTE: AYES unanimous

**ITEM 14 – LETTER OF SUPPORT FOR TOWN OF KITTY HAWK GRANT APPLICATION**

Mr. Outten presented a request from the Town of Kitty Hawk for a letter of support for their grant application to the North Carolina Division of Parks & Recreation for two trail connections to the existing 1.8 mile Birch Lane Trail in the Kitty Hawk Woods Preserve.

**MOTION**

Commissioner House and Commissioner Couch motioned to approve the letter and authorize the Chairman to sign it.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

**ITEM 15 – NCDOT RIGHT OF WAY AND UTILITY EASEMENT**

The County Manager informed the Board that NCDOT seeks to acquire a Right of Way and Utility Easement on County owned property on Colington Road. He said the total offer from NCDOT is \$4,375 and noted that the values have been confirmed as being fair and reasonable with the Dare County Tax Office.

**MOTION**

Commissioner Shea motioned to approve the Right of Way and Utility Easement and authorize the County Manager to execute all necessary documents.

Vice Chairman Overman seconded the motion.

VOTE: AYES unanimous

**ITEM 16 – CIVIL COMPLAINT SEEKING REMEDIES AGAINST THOSE RESPONSIBLE FOR THE OPIOID CRISIS**

Mr. Outten presented a civil complaint that was prepared by the consortium of law firms that the County selected on April 3, 2018 to pursue civil remedies against those responsible for the opioid crisis. He explained that the law firm consortium is responsible for the costs of the suit and said they would get paid out of the recovery, if there is a recovery. He added that this is not a class action lawsuit and noted that the filing is not without risk due to the potential for recovery of the defendant’s attorney fees in the event there is an adverse ruling on the unfair trade practices claim that is included in the complaint. After discussing the risks, the following motion was made -

**MOTION**

Vice Chairman Overman motioned to approve filing of the civil complaint.

Commissioner Couch seconded the motion.

VOTE: AYES unanimous

**ITEM 17 – CONSENT AGENDA**

The Manager announced the items as they were visually displayed in the meeting room.

**MOTION**

Commissioner Couch motioned to approve the Consent Agenda:

- 1) Approval of Minutes (04.16.18 & Budget Workshop) **(Att. #2)**
- 2) Detention Center – Willo Service Contract for Mechanical Doors
- 3) Detention Center – Thyssen Krupp Service Contract for Elevator

Commissioner House and Commissioner Shea seconded the motion.

VOTE: AYES unanimous

**ITEM 18 – BOARD APPOINTMENTS**

- 1) Extra Territorial Jurisdiction (ETJ) District – Town of Nags Head

Vice Chairman Overman motioned to reappoint Perry White.

Commissioner Ross seconded the motion.

VOTE: AYES unanimous

2) Zoning Board of Adjustment - Dare

Commissioner House motioned to reappoint Jay Hart to the Zoning Board of Adjustment and reappoint him as its Chair.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

3) Upcoming Board Appointments

The upcoming Board appointments for June, July and August 2018 were announced.

Note: During Commissioners Business an Appointment was made to the Veterans Advisory Council

**ITEM 19 – COMMISSIONERS’ BUSINESS & MANAGER’S/ATTORNEY’S BUSINESS**

Commissioners and the County Manager frequently make extensive remarks, which can be viewed in their entirety in a video on the Dare County website. Following is a brief summary outline of the items mentioned by Commissioners during this segment –

Commissioner Couch

- Reported on the recent opening of the Rodanthe-Waves-Salvo Skateboard Park.
- Noted that people on Hatteras Island are working hard to ramp up for the upcoming tourism season.
- Announced that a final report from the COA Task Force will be presented to the Dare County Board of Commissioners at a future meeting.

Commissioner Tobin

- Outlined work that is being done at the State Capital trying to get legislation to authorize funding of a local dredging vessel that would operate under a private/public partnership with its activities being directed by the Oregon Inlet Task Force. Commissioner Tobin explained that the private/public partnership would provide dredging services at a discounted rate for both Oregon Inlet and Hatteras Inlet. Commissioner Couch suggested that the Dare County Waterways Commission be involved in some fashion. Mr. Outten added that a Memorandum of Agreement (MOA) setting forth all the terms and conditions would need to be done with the private contractor and then approved by the Dare County Board of Commissioners. During discussion of the item, it was noted that maintenance of the vessel would be the responsibility of the private entity.
- Commissioner Tobin presented a resolution supporting the State of North Carolina to increase dredging in Dare County and adjacent waterways. During the reading of the resolution it was discovered that there was a repetitive paragraph on page 2 which would need to be deleted. **(Att. #3)**

**MOTION**

Commissioner House motioned to approve the resolution with the repetitive paragraph deleted.

Vice Chairman Overman seconded the motion.

VOTE: AYES unanimous

Commissioner Ross

- In follow-up to the presentation that was given on Adult Day Care, Commissioner Ross asked the County Manager and Finance Director to assemble financial data. The County Manager reported that senior staff at Dare County Health & Human Services will gather information, which will then be presented by the Manager and Finance Director.
- Commissioner Ross congratulated David Clawson and the Dare County Finance Department on the latest bond rating thanking them for a job well done.
- Echoed the comments made by the Chairman about the recent luncheon to honor the wonderful people who generously volunteer their time at the Dare County Center.
- Congratulations were extended to Michael Hill the May 2018 Employee of the Month.

Commissioner House

- Noted that people are actively getting ready for the upcoming summer tourism season.
- Commissioner House commented on the EMS Week Proclamation and thanked everyone who participated in the search for a four year old child that was involved in the recent tragedy at the beach in Kitty Hawk.

Vice Chairman Overman

- Congratulated the service pin recipients and the Employee of the Month.
- Reported on the recent ceremony for the Outer Banks Senior Games and shared comments that were made by a State official about Dare County's outstanding Senior Games program.
- The Vice Chairman briefed the Board on the excellent conference that was held this month in Pine Knoll Shores by the North Carolina Beach Inlet & Waterway Association.

Commissioner Shea

- Commended the service pin recipients and the Employee of the Month thanking them for making Dare County such a wonderful place.
- Commissioner Shea asked the Board to approve the appointment of Norman St. Laurent to the Dare County Veterans Advisory Council.

**MOTION**

Commissioner Shea motioned to appoint Norman St. Laurent to the Veterans Advisory Council to replace Fred Lamm who did not wish to be reappointed.

Vice Chairman Overman seconded the motion.

VOTE: AYES unanimous

**MANAGER'S/ATTORNEY'S BUSINESS – None**

At the conclusion of the meeting, Chairman Woodard asked for a motion to adjourn.

**MOTION**

Commissioner Shea motioned to adjourn the meeting.

Commissioner Ross seconded the motion.

VOTE: AYES unanimous

At 12:03 p.m., the Board of Commissioners adjourned until 5:00 p.m., May 21, 2018.

Respectfully submitted,

[SEAL]

By: \_\_\_\_\_  
Gary Lee Gross, Clerk to the Board

APPROVED: By: \_\_\_\_\_  
Robert Woodard, Chairman  
Dare County Board of Commissioners



# COUNTY OF DARE, NORTH CAROLINA

District 1: Roanoke Island & Mainland; District 2: Nags Head, Colington, Kill Devil Hills; District 3: Kitty Hawk, Southern Shores, Duck; District 4: Chicamacomico, Avon, Buxton, Frisco, Hatteras; District 5: At Large

## MINUTES

### DARE COUNTY BOARD OF COMMISSIONERS

### SPECIAL MEETING

To conduct a workshop on the upcoming fiscal year budget;

Dare County Administration Building, Room #238, Manteo, NC

**9:00 a.m., May 11, 2018**

Commissioners present: Chairman Robert Woodard, Vice Chairman Wally Overman  
Jack Shea Steve House, Rob Ross, Jim Tobin

Commissioners absent: Danny Couch

Others present: County Manager/Attorney, Robert Outten  
Deputy County Manager/Finance Director, David Clawson  
Public Information Officer, Dorothy Hester  
Clerk to the Board, Gary Gross

The Chairman called the meeting to order at 9:00 a.m. He led the group in the Pledge of Allegiance to the flag and then asked Commissioner Shea to offer an opening prayer

#### **ITEM 1 – UPDATED INFORMATION FROM PREVIOUS BUDGET WORKSHOP**

The County Manager outlined information that has changed since the April 16, 2018 Budget Workshop and briefed Commissioners on each of the following items - - -

- Schools - Additional amount for Dare County School funding \$ 20,376
- Technology - Additional amount for Google licenses \$ 11,000
- Health Insurance – Laser allocation to address excess claims \$ 470,000

Total \$ 501,376

Mr. Outten explained that the \$540,000 that was discussed at the previous Budget Workshop to possibly match employee 401k contributions could be used to cover the three additional items outlined above, which would leave \$38,624 that could then be applied to the deficit in the Insurance Fund. He also asked the Board to consider changing the health insurance Stop Loss threshold from its current \$150,000 amount to \$200,000.

The County Manager advised the Board about a \$150,000 Health Department grant whose revenue and expenses would be budget neutral.

A request was presented by Chief Edward Limbacher on behalf of the Southern Shores Volunteer Fire Department for an increase in the Southern Shores Fire Tax District from 0.0459 to 0.0519 that would impact Martins Point located in unincorporated Dare County. Chief Limbacher said the increase is necessary in order to cover inflationary costs and for replacement of aging equipment in order to comply with OSHA and other regulations. The Chief explained that he has met with the Martins Point Homeowners Association and presented a letter of support from their Board of Directors. Chairman Woodard outlined the process that other Volunteer Fire Departments went through for gaining community support for rate increases and commended Chief Limbacher for the due diligence that has been done vetting his request through the Martins Point community.

## **ITEM 2 – BUDGET DISCUSSION & GIVE DIRECTION TO THE COUNTY MANAGER**

The Board discussed the updated information and posed questions to staff and the Southern Shores Fire Chief. After which, the County Manager asked the Board for budget guidance, which resulted in the following motion - - -

### **MOTION**

Vice Chairman Overman motioned to give guidance to staff to prepare the budget as presented during the Budget Workshops with the addition of the following –

- Include the \$20,376 in additional funding for Dare County Schools.
- Include the \$11,000 technology increase for Google licenses.
- Include the \$470,000 health insurance laser amount.
- Increase the health insurance Stop Loss amount from \$150,000 to \$200,000.
- Allocate \$38,624 to the Insurance Fund deficit as outlined by the Manager.
- Include the \$150,000 revenue neutral Health Department grant.
- Include the requested increase in the Fire District Tax Rate for Martins Point.

Commissioner Tobin and Commissioner Shea seconded the motion.

VOTE: AYES unanimous

Mr. Outten thanked the Board for the guidance that was given and asked if there were any other items or concerns that need to be addressed before the budget is presented at the next Commissioners meeting. Chairman Woodard polled each Commissioner individually to verify their agreement with the budget direction that was given and provide an opportunity for Board Members to express any issues or concerns they may have. Each Commissioner affirmed that they were in agreement and had no other issues or problems with the budget.

Prior to adjournment, the Chairman and Board Members voiced their gratitude for all the hard work that staff put into preparing the budget.

### **MOTION**

Commissioner Shea motioned to adjourn the meeting.

Commissioner House seconded the motion.

VOTE: AYES unanimous

At 9:38 a.m., the Board of Commissioners adjourned the Budget Workshop.

Respectfully submitted,

[SEAL]

By: \_\_\_\_\_  
Gary Lee Gross, Clerk to the Board

APPROVED: \_\_\_\_\_  
Robert Woodard, Chairman



*Colington Road Waterline Relocation CDM-Smith Engineering Contract, NCDOT Utility Preliminary Engineering Agreement, and County of Dare, North Carolina Capital Project Ordinance for Approved FY 2018 Water CIP Projects (Consent Agenda)*

**Description**

The CDM-Smith Engineering Contract for engineering services to relocate approximately 1,800 feet of 8-inch water main so that it is not located under pavement when Colington Road (SR 1217) is widened to install bike lanes on each side of the road. The engineering services include design plans and specifications, permitting, bidding and construction management services associated with the project. NCDOT Utility Preliminary Engineering Agreement assures Dare County will be reimbursed by NCDOT the cost of the engineering services contract in the amount of \$465,400. The County of Dare, North Carolina Capital Project Ordinance for Approved FY 2018 Water CIP Projects creates a funding source to begin work on the project.

**Board Action Requested**

Approval of CDM-Smith Colington Road Waterline Relocation Contract, NCDOT Utility Preliminary Engineering Agreement for Transportation Improvement Project R-5014, and County of Dare, North Carolina Capital Project Ordinance for Approved FY 2018 Water CIP Projects.

**Item Presenter**

Ken Flatt, Dare County Utilities Director

**STANDARD FORM OF AGREEMENT  
BETWEEN  
OWNER AND ENGINEER**

THIS IS AN AGREEMENT made as of \_\_\_\_\_, 2017 between DARE COUNTY ("OWNER") and CDM SMITH, INC. ("ENGINEER").

OWNER's Project is generally identified as follows COLINGTON ROAD WATERLINE RELOCATION (the "Project").

OWNER and ENGINEER, in consideration of their mutual covenants herein, agree in respect of the performance or furnishing of services by ENGINEER to the Project and the payment for those services by OWNER as set forth below. Execution of this Agreement by ENGINEER and OWNER constitutes OWNER's written authorization to ENGINEER to proceed on the date first above written with the Services described in Article 1 below. This Agreement will become effective on the date first above written.

**ARTICLE 1 – SCOPE OF SERVICES**

- 1.1 ENGINEER agrees to perform, or cause to be performed, for OWNER services as described in Exhibit A (hereinafter referred to as "Services") in accordance with the requirements outlined in this Agreement.

**ARTICLE 2 – TIMES FOR RENDERING SERVICES**

- 2.1 Specific time periods and/or specific dates for the performance of ENGINEER's Services are set forth in Exhibit A.
- 2.2 If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- 2.3 If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- 2.4 Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services. If ENGINEER's services are delayed or suspended in whole or in part by OWNER for more than three months through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of the schedule and of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, among other things, reasonable costs incurred by ENGINEER in connection with such delay or suspension and reactivation.

**ARTICLE 3 – OWNER'S RESPONSIBILITIES**

OWNER shall:

- 3.1 Pay the ENGINEER in accordance with the terms of this Agreement.
- 3.2 Designate in writing a person to act as OWNER's representative with respect to the services to be performed or furnished by ENGINEER under this Agreement. Such person will have complete authority to transmit instructions, receive information, interpret, and define OWNER's policies and

decisions with respect to ENGINEER's services for the Project.

- 3.3 Provide all criteria and full information as to OWNER's requirements for the Project, including, as applicable to the Services, design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.
- 3.4 Be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- 3.5 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of ENGINEER's Services or any relevant, material defect or nonconformance in ENGINEER's Services or in the work of any Contractor employed by Owner on the Project.
- 3.6 Bear all costs incident to compliance with the requirements of this Article 3.

#### **ARTICLE 4 – PAYMENTS TO ENGINEER FOR SERVICES**

- 4.1 Methods of Payment for Services of ENGINEER.
  - 4.1.1 OWNER shall pay ENGINEER for Services performed or furnished under this Agreement or as described in Exhibit A. The amount of any excise, VAT, or gross receipts tax that may be imposed shall be added to the compensation shown in Exhibit . If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional taxes in addition to the compensation to which Engineer is entitled.
  - 4.1.2 Invoices for Services will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER at least monthly. Payments are due within 30 days of receipt of invoice.
  - 4.1.3 If OWNER fails to make any payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's invoice therefor, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and, in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses and charges. Payments will be credited first to interest and then to principal. In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

OWNER agrees to pay ENGINEER all costs of collection including but not limited to reasonable attorneys' fees, collection fees and court costs incurred by ENGINEER to collect properly due payments.

## ARTICLE 5 – GENERAL CONDITIONS

### 5.1 Standard of Care

The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar conditions at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

### 5.2 Technical Accuracy

Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

### 5.3 Opinions of Probable Construction Cost

Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

### 5.4 Compliance with Laws and Regulations, and Policies and Procedures

5.4.1 Engineer and Owner shall comply with applicable Laws and Regulations.

5.4.2 This Agreement is based on Laws and Regulations procedures as of the Effective Date. Changes after the Effective Date to Laws and Regulations may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.

5.4.3 Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.

5.4.4 Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

5.4.5 Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.

5.4.6 Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

5.4.7 Engineer is not required to provide and does not have any responsibility for surety bonding

or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.

- 5.4.8 Engineer's services do not include providing legal advice or representation.
- 5.4.9 Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- 5.4.10 While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

## 5.5 Termination

The obligation to provide further services under this Agreement may be terminated:

- 5.5.1 For cause,
  - a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
  - b. by Engineer:
    - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
    - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern.
    - 3) Engineer shall have no liability to Owner on account of such termination.
  - c. Notwithstanding the foregoing, this Agreement will not terminate for cause if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
- 5.5.2 For convenience, by Owner effective upon Engineer's receipt of notice from Owner.
- 5.5.3 Effective Date of Termination: The terminating party under Paragraph 5.5.1 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

5.5.4 Payments Upon Termination:

- a. In the event of any termination under Paragraph 5.5, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 5.6.
- b. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 5.5.4.a, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs.

5.6 Use of Documents

- 5.6.1 All Documents are instruments of service, and ENGINEER shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.
- 5.6.2 If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- 5.6.3 Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.
- 5.6.4 OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Upon receipt of full payment due and owing for all Services, ENGINEER grants OWNER a license to use the Documents on the Project, extensions of the Project, and related uses of OWNER, subject to the following limitations: (1) OWNER acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by ENGINEER, or for use or reuse by OWNER or others on extensions of the Project or on any other project without written verification or adaptation by ENGINEER; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants; (3) OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification without written verification, completion, or adaptation by ENGINEER; (4) such limited license to OWNER shall not create any rights in third parties.
- 5.6.5 If ENGINEER at OWNER's request verifies or adapts the Documents for extensions of the

Project or for any other project, then OWNER shall compensate ENGINEER at rates or in an amount to be agreed upon by OWNER and ENGINEER.

5.7 Controlling Law

This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

5.8 Mutual Waiver of Consequential Damages

Notwithstanding any other provision of this Agreement to the contrary, neither party including their officers, agents, servants and employees shall be liable to the other for lost profits or any special, indirect, incidental, or consequential damages in any way arising out of this Agreement however caused under a claim of any type or nature based on any theory of liability (including, but not limited to: contract, tort, or warranty) even if the possibility of such damages has been communicated.

5.9 Limitation of Liability

In no event shall ENGINEER's total liability to OWNER and/or any of the OWNER's officers, employees, agents, contractors or subcontractors for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to this agreement from cause or causes, including, but not limited to, ENGINEER's wrongful act, omission, negligence, errors, strict liability, breach of contract, breach of warranty, express or implied, exceed the total amount of fee paid to ENGINEER under this agreement or \$50,000, whichever is greater.

5.10 Successors and Assigns

5.10.1 OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 5.10.2 the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

5.10.2 Neither OWNER nor ENGINEER may assign, sublet or transfer any rights under or interest (including, but without limitation, moneys that may become due or moneys that are due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

5.10.3 Unless expressly provided otherwise in this Agreement:

- a. Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by ENGINEER to any Constructor, other person or entity, or to any surety for or employee of any of them, or give any rights in or benefits under this Agreement to anyone other than OWNER and ENGINEER.
- b. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

5.11 Notices

Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from time to

time by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile, or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

5.12 Severability

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

5.13 Changed Conditions

If concealed or unknown conditions that affect the performance of the Services are encountered, which conditions are not ordinarily found to exist or which differ materially from those generally recognized as inherent in the Services of the character provided for under this Agreement or which could not have reasonably been anticipated, notice by the observing party shall be given promptly to the other party and, if possible, before conditions are disturbed. Upon claim by the ENGINEER, the payment and schedule shall be equitably adjusted for such concealed or unknown condition by change order or amendment to reflect additions that result from such concealed, changed, or unknown conditions.

5.14 Environmental Site Conditions

It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to Constituents of Concern, as defined in Article 6. If ENGINEER or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern as defined in Article 6, then ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern, and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of ENGINEER's services under this Agreement, then the ENGINEER shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days' notice.

OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, so defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

5.15 Insurance

ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property.

5.16 Discovery

ENGINEER shall be entitled to compensation on a time and materials basis when responding to all requests for discovery relating to this Project and to extent that ENGINEER is not a party to the lawsuit.

5.17 Nondiscrimination and Affirmative Action

In connection with its performance under this Agreement, ENGINEER shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. ENGINEER shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. Such actions shall include recruiting and hiring, selection for training, promotion, fixing rates or other compensation, benefits, transfers and layoff or termination.

5.18 Force Majeure

Any delays in or failure of performance by ENGINEER shall not constitute a default under this Agreement if such delays or failures of performance are caused by occurrences beyond the reasonable control of ENGINEER including but not limited to: acts of God or the public enemy; expropriation or confiscation; compliance with any order of any governmental authority; changes in law; act of war, rebellion, terrorism or sabotage or damage resulting therefrom; fires, floods, explosions, accidents, riots; strikes or other concerted acts of workmen, whether direct or indirect; delays in permitting; OWNER's failure to provide data in OWNER's possession or provide necessary comments in connection with any required reports prepared by ENGINEER, or any other causes which are beyond the reasonable control of ENGINEER. ENGINEER's scheduled completion date shall be adjusted to account for any force majeure delay and ENGINEER shall be reimbursed by OWNER for all costs incurred in connection with or arising from a force majeure event, including but not limited to those costs incurred in the exercise of reasonable diligence to avoid or mitigate a force majeure event.

5.19 Waiver

Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

5.20 Headings

The headings used in this Agreement are for general reference only and do not have special significance.

5.21 Subcontractors

ENGINEER may utilize such ENGINEER's Subcontractors as ENGINEER deems necessary to assist in the performance of its Services.

5.22 Coordination with Other Documents

It is the intention of the parties that if the ENGINEER's Services include design then the Standard General Conditions will be used as the General Conditions for the Project and that all amendments thereof and supplements thereto will be generally consistent therewith. Except as otherwise defined herein, the terms which have an initial capital letter in this Agreement and are defined in the Standard General Conditions will be used in this Agreement as defined in the Standard General Conditions. The term "*defective*" will be used in this Agreement as defined in the Standard General Conditions.

5.23 Purchase Order

Notwithstanding anything to the contrary contained in any purchase order or in this Agreement, any purchase order issued by OWNER to ENGINEER shall be only for accounting purposes for OWNER and the pre-printed terms and conditions contained on any such purchase order are not incorporated

herein, shall not apply to this Agreement, and shall be void for the purposes of the Services performed by ENGINEER under this Agreement.

5.24 Dispute Resolution

In the event of any dispute between the parties arising out of or in connection with the contract or the services or work contemplated herein; the parties agree to first make a good faith effort to resolve the dispute informally. Negotiations shall take place between the designated principals of each party. If the parties are unable to resolve the dispute through negotiation within 45 days, then either party may give written notice within 10 days thereafter that it elects to proceed with non-binding mediation pursuant to the commercial mediation rules of the American Arbitration Association. In the event that mediation is not invoked by the parties or that the mediation is unsuccessful in resolving the dispute, then either party may submit the controversy to a court of competent jurisdiction. The foregoing is a condition precedent to the filing of any action other than an action for injunctive relief or if a Statute of Limitations may expire.

Each party shall be responsible for its own costs and expenses including attorneys' fees and court costs incurred in the course of any dispute, mediation, or legal proceeding. The fees of the mediator and any filing fees shall be shared equally by the parties.

**ARTICLE 6 – DEFINITIONS**

Whenever used in this Agreement the following terms have the meanings indicated which are applicable to both the singular and the plural.

6.1 Agreement

This Agreement between OWNER and ENGINEER for Professional Services including those exhibits listed in Article 7.

6.2 Constituent of Concern

Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to [a] the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq, (“CERCLA”) [b] the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; [c] the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); [d] the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; [e] the Clean Water Act, 33 U.S.C. §v1251 et seq.; [f] the Clean Air Act, 42 U.S.C. §§7401 et seq.; and [g] any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

6.3 Construction Cost – ♦

The total cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties, or OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Article 3. Construction Cost is one of the items comprising Total Project Costs.

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♦ This provision is applicable for projects where ENGINEER provides Design, Bidding and/or Construction Phase Services.

- 6.4 Constructor  
Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- 6.5 Contractor - ♦  
The person or entity with whom OWNER enters into a written agreement covering construction work to be performed or furnished with respect to the Project.
- 6.6 Documents  
As applicable to the Services, the data, reports, drawings, specifications, record drawings and other deliverables, whether in printed or electronic media format, provided or furnished by ENGINEER to OWNER pursuant to the terms of this Agreement.
- 6.7 ENGINEER's Subcontractor.  
A person or entity having a contract with ENGINEER to perform or furnish Services as ENGINEER's independent professional subcontractor engaged directly on the Project.
- 6.8 Reimbursable Expenses.  
The expenses incurred directly in connection with the performance or furnishing of Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit .
- 6.9 Resident Project Representative - ♦  
The authorized representative of ENGINEER who will be assigned to assist ENGINEER at the site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are set forth in Exhibit B, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative" ("Exhibit B").
- 6.10 Standard General Conditions - ♦  
The Standard General Conditions of the Construction Contract (No. ) of the Engineers Joint Contract Documents Committee.
- 6.11 Total Project Costs - ♦  
The sum of the Construction Cost, allowances for contingencies, the total costs of design professional and related services provided by ENGINEER and (on the basis of information furnished by OWNER) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others to OWNER under Article 3.
- 6.12 Work - ♦  
The entire construction or the various separately identifiable parts thereof required to be

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♦ This provision is applicable for projects where ENGINEER provides Design, Bidding and/or Construction Phase Services.

provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.

**ARTICLE 7 – EXHIBITS AND SPECIAL PROVISIONS**

7.1 This Agreement is subject to the provisions of the following Exhibits which are attached to and made a part of the Agreement:

Exhibit A - Engineer's Services, Owner's Responsibilities, Time for Performance, Method of Payment, and Special Provisions.

This Agreement (consisting of Pages 1 to 11 inclusive), and the Exhibits identified above constitute the entire agreement between OWNER and ENGINEER and supersede all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

OWNER:

ENGINEER:

By:  
Title:  
Date:

By:  
Title:  
Date:

Address for giving notices:

Address for giving notices:

**EXHIBIT A  
TO AGREEMENT BETWEEN  
OWNER AND ENGINEER  
Scope of Work**

This is an exhibit attached to and made a part of the Agreement dated \_\_\_\_\_, between DARE COUNTY (OWNER) and CDM SMITH, INC. (ENGINEER) for professional services associated with the OWNER's project identified as COLINGTON ROAD WATERLINE RELOCATION.

## **Background**

NCDOT is in the process of designing roadway improvements for Colington Road in Kill Devil Hills, Dare County, project R-5014. The OWNER provides water utility service to the primarily residential development located on and around Colington Road, and supplies that water through water mains located within the NCDOT right of way of Colington Road. NCDOT has requested that the OWNER's waterlines be relocated, will complete the construction as a part of the R-5014 project and will provide reimbursement to the OWNER for the cost of engineering services to design and construct the relocation. The OWNER has requested the ENGINEER assist with providing Professional Engineering Services to design the relocation, assist NCDOT with permitting and bidding, and provide engineering services to support construction of the waterline improvements under NCDOT's R-5014 project.

### **1.0 ENGINEER'S SERVICES**

This scope of services describes the engineering services to be provided by the ENGINEER for the OWNER for the Colington Road Waterline Relocation project. The project includes replacing approximately 18,000 feet of 8-inch waterline with an equivalent length of 12-inch waterline. The project is required as part of the North Carolina Department of Transportation's (NCDOT) Colington Road Improvements (R-5014). This scope of services consists of the following major tasks:

- Task 100 – Project Management and Administration
- Task 200 – Conceptual Design Evaluation
- Task 300 – Data Collection
- Task 400 – Final Design
- Task 500 – Permitting and Agency Coordination
- Task 600 – Bidding Assistance
- Task 700 – Construction Contract Administration

The detailed scope of services for the basic services included under this Authorization follows:

#### **TASK 100 PROJECT MANAGEMENT AND ADMINISTRATION**

The project management task includes those activities involved with the planning and subsequent monitoring and control of the project. In addition to the ENGINEER's normal in-

house staff and quality management and job tracking procedures, the following subtasks will be considered project management services:

101 Project Management

ENGINEER shall manage the project in a manner so as to be responsive to the needs and schedule of the OWNER and produce a quality work product. The project management and administration efforts will include the following items:

- Oversee the project team relative to meeting budget, schedule and conformance to the project scope on a day-to-day basis.
- Monitor the quality control program throughout the life of the project.
- Perform project planning and formulation.
- Update the project schedule if during the life of the project a substantial deviation in the schedule occurs for any reason. All other minor schedule updates will occur in the regular project reporting.
- Be available to answer project related questions on a regular basis via phone calls and email.
- Maintain a project cost accounting system throughout the life of the project.
- Maintain a project filing system throughout the life of the project to use for storage and retrieval of project documents.
- Coordinate and manage sub-consultants to the ENGINEER.

All project final deliverables shall be certified (signed, sealed and dated) by a professional engineer and/or surveyor registered in the state of North Carolina. ENGINEER shall participate in project closeout and complete close-out on a timely basis.

Project Management is anticipated to occur on an ongoing basis throughout the entire 30-month project schedule.

102 Develop Project Schedule

A project schedule will be developed for engineering activities during the design phase of the project. The schedule will be based on the milestones outlined in this Authorization. The schedule will be reviewed with the OWNER and finalized, with an electronic pdf copy sent to the OWNER.

The schedule will incorporate interim deliverables and review periods for the following:

- Conceptual Design Meetings and NCDOT Coordination;
- 60-, and 90-percent construction documents
- Final bid ready design package;
- Construction cost estimates at the 60- and 90-percent deliverables.
- OWNER and NCDEQ permit review periods.

ENGINEER will coordinate with the OWNER throughout the project to update the schedule at key milestones, as needed.

103 Project Startup and Scope Review Meeting

A project kickoff meeting will be held with NCDOT to discuss project schedule, administrative procedures, respective responsibilities, communications, OWNER contacts, OWNER expectations, progress reporting, data collection, and other project matters as appropriate.

104 Project Progress Meetings

The ENGINEER will meet with OWNER's representative(s) at appropriate milestones within the duration of the design effort to keep the OWNER apprised of project progress and significant issues. Meeting minutes shall be prepared by the ENGINEER and distributed to meeting attendees to summarize key discussion and action items resulting from project meetings. Progress meetings will not be held during months in which other project meetings are being conducted (e.g. design document review meetings). Up to 2 design progress meetings, in addition to other meetings listed herein with the OWNER, have been assumed.

## **TASK 200 CONCEPTUAL DESIGN EVALUATION**

The ENGINEER will perform a conceptual design evaluation to collect and review existing information, identify key alternatives to be analyzed, define basic design criteria, and present in a workshop with the OWNER. Related subtasks are described below.

201 Data Collection, Review, and Coordination

Collect and review available data on existing infrastructure and R-5014 along the proposed alignment. Data on the existing facilities including GIS, record drawings, subsurface information (if available) shall be provided by the OWNER. An electronic format of all survey data completed as part of R-5014 shall also be provided by the NCDOT prior to Notice to Proceed.

202 Field Reconnaissance

ENGINEER will perform a field reconnaissance of the proposed waterline route for the purpose of identifying design considerations, potential constructability concerns, public and private property impacts, traffic impacts, environmental impacts, private and public water and wastewater service impacts, and public water service impacts.

203 Regulatory Agency Coordination

ENGINEER coordinate with NCDOT throughout the project to confirm the improvement recommendations being designed as part of this project are consistent with the goals of R-5014. ENGINEER will also maintain contact with NCDEQ, and any other regulatory agency having review and approval authority over the design of the project. Submit preliminary design drawings and such other design information as may be required

#### 204 Conceptual Design Evaluation

ENGINEER will perform a conceptual design evaluation, which will include the following:

- Confirm OWNER and NCDOT design standards and requirements.
- Identify waterline route alternatives.
- Identify installation methodologies.
- Identify constructability conflicts.
- Identify potential impacts to private water and wastewater infrastructure.
- Identify R/W and easement needs.
- Identify civil, site, and environmental conditions and constraints.

#### 205 Conceptual Design Review Meeting

ENGINEER will conduct a design review meeting with the OWNER and NCDOT to review the results of the evaluation and identify the improvements to be advanced into Final Design (Task 400). ENGINEER will document the meeting discussion in meeting minutes and distribute to attendees.

### **TASK 300 DATA COLLECTION**

The ENGINEER will review all Level A Subsurface Utility Engineering (SUE) information, topographic survey, and geotechnical analysis that has been prepared by Others for the R-5014 to determine where additional information may be needed to support design of the waterline.

The ENGINEER will submit to NCDOT any written requests for any additional Level A SUE information, topographic survey, and geotechnical analysis that are required to complete the waterline design. These professional services will be provided by NCDOT, through subconsultants procured and managed by NCDOT. All additional survey, SUE, and geotechnical information shall be provided to the ENGINEER within 3-weeks of being requested in writing. Delays in receiving this information may result in overall project delays.

It has been assumed that the final work products for Level A SUE, topographic survey, and geotechnical analysis will be provided to the ENGINEER in electronic format, including all spatial information shall be in a microstation format, along with reports summarizing all field work and findings.

Geotechnical evaluations shall be prepared by and sealed by a licensed Professional Engineer in the State of North Carolina. ENGINEER will rely on the accuracy of survey, geotechnical, and Level A SUE information provided by NCDOT from R-5014 in the project area. It is assumed that all such data requests to NCDOT shall be provided to the ENGINEER within 60-days of the requests.

### **TASK 400 FINAL DESIGN**

The ENGINEER will develop final design documents for the approximately 18,000 feet of 12-inch diameter waterline. The design is anticipated to be in general conformance with the following:

- The proposed waterline will be installed via open-cut with the exception of the following trenchless installations:

- Unnamed tributary connecting Colington Creek and Blount Bay, just south of Beasley Lane.
- Unnamed tributary connecting Albemarle Sound and Blount Bay, just west of Colington Point Drive.
- Unnamed tributary to Blount Bay, south of McPhee Court.
- The existing waterline bridge crossings of Colington Creek and Colington Cut will not be modified or replaced.
- Some intersections may require the trenchless method of installation called Jacking-and-Boring (J/B), where a casing pipe is installed prior to installing the carrier pipe. A maximum of 10 J/B trenchless crossings of the road is assumed.

Final design services provided by the ENGINEER are described as follows:

#### 401 Contract Documents

Prepare design documents to include final drawings and specifications showing the scope, extent, and character of the work to be performed and furnished by contractor. The contract documents do not include Division 00 or 01 sections, but are limited to technical specifications (NCDOT and special provisions), and drawings (plan/profile, details, general sheets) required for the waterline construction. The Contract Documents shall include the following:

- Waterline plan and profile drawings at a 50 (horizontal) to 1 (vertical) scale, including pipe alignment, utility crossings, trenchless crossings, and valve locations. Details for pipe trenching, connections, valves, services, restrained joints, and pavement repair shall be developed.
- Technical specifications shall be prepared, where appropriate, in general conformance with the 16-division format of the Construction Specifications Institute
- Documents shall be prepared in a digital format (Microstation) and for inclusion within the R-5014 project.

The anticipated list of drawings includes up to 15 plan and profile sheets plus supporting detail sheets.

#### 402 Opinion of Probable Construction Cost (OPCC) Estimates

The ENGINEER shall provide a cost opinion update at the 60- and 90- percent design completion milestones and with the final Bid Set.

#### 403 Deliverables

ENGINEER will provide a preliminary horizontal location submittal with R/W and easement needs identified and submitted for NCDOT approval at the Preliminary Design milestone and prior to initiating subsequent submittal phases defined herein.

ENGINEER will provide submittals at the 60 and 90, percent design stages for OWNER review. ENGINEER will meet with the OWNER to discuss review comments for each design

submittal. Meeting minutes and follow-up action items will be developed and distributed to meeting attendees. After review comments have been addressed on the signed and sealed for permitting set, a Bid Set submittal will be provided.

The 60 percent submittal will include design drawings and a majority of design details and technical specifications. A table of contents of the front-end documents will be provided.

The 90 percent submittals will include design drawings, details, technical specifications (Division 1 to 16, as applicable) and front end (Division 0) Bid and Contract Forms.

## **TASK 500 PERMITTING AND AGENCY COORDINATION**

Since the waterline project will be a part of NCDOT's R-5014 project, NCDOT will be responsible for obtaining all permits on the project, except those listed below as the responsibility of the ENGINEER. For the permit(s) listed below, the ENGINEER will assist the OWNER in securing permits associated with the project including the following subtasks:

### 501 Regulatory Review

The ENGINEER will prepare permit applications and manage the permit review process for the OWNER for the following permits:

- NCDEQ (Public Water Supply Section) Water System Expansion Permit
- NCDOT Highway Encroachment Permit (for Level A SUE and Geotechnical Drilling)
- Dare County Plan Review Approval

### 502 Assist NCDOT with Permit Applications

The following permits are anticipated to be needed for both the waterline improvements as well as the entire R-5014 project. NCDOT has agreed to submit all applications and manage the permit review process, including the waterline improvements. ENGINEER will provide assistance to NCDOT for preparing information to support obtaining the required permits, and this effort is limited to not more than 40-manhours.

- NCDEQ Sediment and Erosion Control/NPDES Stormwater Permit
- NCDEQ 401 General Water Quality Certification
- USACE 404 Nationwide Permit
- Coastal Area Management Act (CAMA) Permit, Coastal Zone Consistency Certification
- NCDEQ State Stormwater, customary coordination

### 503 Agency Meetings and Coordination

The ENGINEER will coordinate with NCDEQ / Public Water Supply section as necessary throughout the permit application and review process. This may include up to two regulatory agency meetings. As part of this subtask, once the permit applications are

submitted, the ENGINEER will track and maintain contact with the regulatory agency to monitor and, where possible, facilitate the review process.

504 NCDOT Project Coordination

The ENGINEER will assist the OWNER with NCDOT coordination. The ENGINEER has assumed up to 125-hours of technical staff to assist the OWNER with providing special coordination with NCDOT, including attending meetings, providing requested information, and supporting the OWNER's project needs as it relates to NCDOT as a partner in the project completion.

**TASK 600 BIDDING ASSISTANCE**

NCDOT shall manage the bidding of R-5014. ENGINEER shall perform the following services related to Bidding Assistance, to support that bid:

601 RFI's, Clarifications, and Addenda

Prepare information needed by NCDOT for preparing addenda as appropriate to interpret, clarify, or further define the Contract Documents. Addenda will be issued by NCDOT.

Consult with and advise OWNER to determine the acceptability of substitute materials and equipment proposed by Bidders(s) when substitution prior to the receipt of bids is allowed by the Contract Documents.

**TASK 700 CONSTRUCTION CONTRACT ADMINISTRATION**

The ENGINEER will provide limited services during construction as the OWNER's representative for the Dare County waterline portion of the project with the Contractor and NCDOT. The ENGINEER will provide intermittent inspections and provide administration services for the Dare County waterline construction. It is assumed that the waterline portion of the construction will involve 9 continuous months of active work, including 2-months of submittals and RFI's along with 7-months of continuous construction. NCDOT will provide a resident project representative (RPR) for performing daily inspection duties, and the ENGINEER will coordinate regularly with this individual.

ENGINEER shall consult with and advise OWNER and act as OWNER's representative as set forth herein. OWNER's instructions to the Contractor shall be issued through ENGINEER who shall have the authority to act on behalf of OWNER in communicating with Contractor to the extent provided in this Agreement and the Contract Document.

701 Project Meetings

The ENGINEER will attend a pre-construction meeting with the OWNER and Contractor to review the project prior to the formal Notice to Proceed (NTP). An agenda will be developed for the meeting and minutes compiled and distributed to meeting attendees.

The ENGINEER will meet with OWNER and Contractor representatives and other key project team members on a monthly basis to discuss project progress and significant issues.

702 Project Coordination/Management

The ENGINEER shall coordinate work efforts between key project team members including the OWNER, sub-consultants and other local entities having input into this project (i.e. NCDEQ, NCDOT, City of Kill Devil Hills, etc.). The ENGINEER will also provide day-to-day project management and adherence to project schedule and budget.

703 Visits to Site and Observation of Construction

ENGINEER shall make visits to the site at intervals appropriate to the stage of construction to observe as an experienced and qualified design professional the progress and quality of the work and to determine if the work is proceeding in accordance with the Contract Documents. These visits are not intended to fully observe the work or provide daily inspection. Daily inspection services are to be provided by NCDOT.

ENGINEER's inspections shall not be intended to involve work beyond the responsibility specifically assigned to ENGINEER in this Agreement and the Contract Documents. ENGINEER shall keep the OWNER informed of the progress and quality of the work and shall alert the OWNER to defects and deficiencies in the work of the Contractor. ENGINEER shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures of construction selected by Contractor or for safety and environmental programs and precautions incidental to the work. ENGINEER shall not be responsible for the failure of the Contractor, his Subcontractors, NCDOT or its consultants, or any other persons performing any of the work to comply with laws, rules, regulations, ordinances, code, or orders, or for failure of any of them to carry out the work in accordance with the Contract Documents except as otherwise expressly provided herein.

The purpose of ENGINEER's visits to site shall be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor shall conform to the Contract Documents, and that the integrity of the design concept of the completed project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor.

Up to twenty-four full-day onsite inspections are assumed by the ENGINEER to observe the work in progress. When possible, the site visits shall coincide with monthly progress meetings.

704 Defective Work

ENGINEER shall notify the OWNER and NCDOT's resident project representative if ENGINEER believes that work does not conform to the Contract Documents or that it will prejudice the integrity of the design concept of the project as reflected in the Contract Documents. ENGINEER shall have access to the work at all times.

705 Shop Drawings

ENGINEER shall review and approve or take other appropriate action with respect to Shop Drawings, samples, and other data which Contractor is required to submit, but only for conformance with the design concept of the completed project as a functioning whole as indicated in the Contract Documents and in compliance with the information given in the Contract Documents. Such reviews or other action shall not include means, methods, techniques, sequences, or procedures of construction or safety programs and precautions incident thereto.

706 Clarifications and Interpretations: Field Orders

ENGINEER shall issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents. Field Orders shall not involve change in Contract Price or Time.

707 Change Orders and Work Change Directives

ENGINEER shall recommend Change Orders and Work Change Directives to OWNER as appropriate, and shall prepare Change Orders and Work Change Directives as required. ENGINEER shall not issue such Change Orders and Work Change Directives until OWNER has approved and accepted Contractor's cost and schedule change to implement such Change Orders and Work Change Directives.

708 Substitutes

ENGINEER shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor in accordance with the Contract Documents.

709 Inspections and Tests

ENGINEER shall make recommendations to OWNER regarding the advisability of requiring special inspections or testing of the work and have authority to receive and review certificates of inspections, tests, and approvals required by laws, rules, regulations, ordinances, codes, orders, or the Contract Documents to determine generally that their content complies with the requirements of, and the results certified indicate compliance with, the Contract Documents. NCDOT shall be responsible for procuring the services of a third-party material/laboratory testing contractor to support the ENGINEER inspections and testing requirements as defined in the specifications.

710 Applications for Payment

ENGINEER shall NOT be responsible for review of the Contractor's Application for Payment. The ENGINEER will advise NCDOT's inspection representative(s), as needed, with respect to payment on Dare County waterline related tasks and the acceptability of work.

711 Contractor's Completion Documents

ENGINEER shall receive, review, and transmit to OWNER with written comments maintenance and operating instructions, schedules, guarantees, certificates of insurance, marked-up record drawings (including shop drawings, samples and other pertinent data), bonds, certificates of inspection, and tests and approvals of equipment which are to be provided by Contractor in accordance with the Contract Documents. Such work is limited to the Dare County waterline portions of the work. ENGINEER shall determine that their content complies with the requirements of the Contract Documents.

712 Completion Review

It is assumed that the waterline construction will be completed prior to the overall NCDOT project substantial completion. Therefore, following notice from Contractor that Contractor considers the waterline work ready for its intended use, ENGINEER and OWNER, accompanied by Contractor, shall conduct an inspection to determine if the work is substantially complete. If after considering any objections by the OWNER, ENGINEER considers the work substantially complete, then ENGINEER shall deliver a notice of substantial completion to OWNER and Contractor.

ENGINEER shall not be responsible for conducting the Substantial Completion review or the Final Completion Inspection, since it is assumed that the waterline portion of the work shall be completed in advance of these completion milestone events. The ENGINEER will advise on whether any defects need to be addressed by the Contractor in order to closeout the waterline construction work.

NCDOT shall provide final certification that the work has been completed in accordance with OWNER's approved plans and specifications.

713 Coordination with Permitting Agencies During Construction

The appropriate notices, certifications will be provided to the permitting agencies upon the start and end of construction, to satisfy the permit requirements. Maintain records for permitting agencies during construction.

**2.0 PROJECT ASSUMPTIONS**

The following assumptions were made during development of this Scope of Services. Changes to these assumptions may require additional time extensions and compensation and scope definition which may require an Amendment to this Authorization.

- ENGINEER is to produce design drawings that will be included as sheets within the NCDOT R-5014 drawings set.
- NCDOT will pursue permit applications with all permitting agencies except NCDEQ/Public Water Supply Section. ENGINEER will provide the fee for this permit.
- NCDOT will coordinate and acquire all property, including permanent and temporary easements.

- NCDOT will manage the bid process in its entirety. ENGINEER will assist with answering bidder questions and preparing information to support addenda, as it relates to the waterline
- NCDOT shall provide a resident project representative for the R-5014 project and ENGINEER is not responsible for duties typically provided by the RPR, including record keeping, daily inspection/coordination of the work, certification of the work and final record drawings.
- The existing topographic survey, geotechnical analysis/report and SUE performed by Others for R-5014 project will be provided to the ENGINEER prior to Notice-to-Proceed.
- Additional topographic survey, geotechnical analysis/report and SUE that is requested by the ENGINEER shall be provided by NCDOT, to support design of the waterline. All requested data will be provided within 3-weeks of the written request.
- No soil or groundwater contamination is present.
- No rock coring is assumed for the geotechnical analysis.
- Soil boring holes are to be grouted to the ground surface upon completion.
- No electrical, SCADA/instrumentation, HVAC, or structural engineering services will be required for the waterline or its appurtenances.
- Traffic control plans will be developed by the contractor.
- If an Environmental Assessment and/or Environmental Impact Statement is required, this will be provided by NCDOT.
- Only the permits included in Task 500 will be managed and pursued by the ENGINEER. All other necessary permits for the project will be acquired by NCDOT under the R-5014 project.
- All necessary USACE and NCDEQ (401, 404, and CAMA permits), and NCDCM wetland, stream delineations, CAMA boundaries, surveys and designations will be performed or provided by NCDOT as part of R-5014. These items have been verified and accepted by the USACE, NCDEQ, and NCDCM. NCDOT will be responsible for all coordination with these agencies for the project's impacts and permitting requirements.
- If needed, all protected species evaluations and surveys and archaeological/cultural resource evaluations and surveys will be completed by NCDOT in R-5014.
- NCDOT will be responsible for all utility and design services coordination with other utility owners and R-5014 design disciplines.
- FEMA floodway and floodplain impact evaluations and permitting will be completed as part of R-5014.
- The waterline improvements are already included in the County's WSMP, and no update to the WSMP will be required.
- This Scope of Services assumes shop drawings will be reviewed no more than twice by ENGINEER. Subsequent submittal reviews will be at the Contractors expense.
- Material testing during construction will not be paid for by the ENGINEER.
- ENGINEER will be provided access to all project areas for investigation, evaluation, and design.

- NCDOT will be responsible for providing all coordination with all impacted parties including private utility owners, property owners, R/W acquisition, etc. and make available all information and correspondence from said coordination for ENGINEER to complete the services defined herein.
- No public relations services or public meetings are included.
- ENGINEER assumes a 9-month construction period from Notice-to-Proceed to the completion and acceptance of the waterline portion of the construction project. If the construction period extends beyond 9-months, the ENGINEER and OWNER may negotiate an amendment for the extended period of performance.
- Only assignments and tasks that are explicitly stated herein shall be included in the ENGINEER's scope of work.
- NCDOT will provide a warranty review approximately 11-months after substantial completion.

In the event that a change to the above assumptions is required to complete the project, the ENGINEER will notify the OWNER in writing and the two parties will determine if and how to amend the Agreement, including revisions to funding authorization(s) from NCDOT.

### **3.0 OWNER'S RESPONSIBILITIES AND ASSISTANCE**

- A. Furnish to ENGINEER, as requested by ENGINEER for performance of Services, the following:
- All survey, SUE, and MicroStation drawing files for the R-5014 project to be used by the ENGINEER for preparing the waterline design drawings. It is assumed that sufficient topographic survey as well as Level B and C SUE for underground utilities will be readily available to the ENGINEER. This shall include property boundaries and other survey features which are to be provided in a digital MicroStation compatible format.
  - Available data of physical conditions relating to the sites, including files compiled by NCDOT in the ongoing R-5014 Project.
  - Access to the project areas.
  - Provide written review comments on deliverables within two (2) weeks from submittal by the ENGINEER.
  - Respond to questions and requests for information within one (1) week.

OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all reports, data and other information furnished pursuant to this paragraph. ENGINEER may use such reports, data and information in performing or furnishing services under this Scope of Work.

- B. Bear all costs incident to compliance with the requirements of the OWNER's Responsibilities.
- C. OWNER will coordinate all public relations related to this project.

#### 4.0 **ESTIMATED TIME PERIOD FOR PERFORMANCE**

Tasks 100, 200, 300, and 400 described in this Scope of Work are estimated to be completed within 290 calendar days from Notice to Proceed (NTP).

Interim milestones for Tasks 100 – 400 include:

- 145 Calendar Days from NTP - 60% Plans and Specifications Submitted to NCDOT
- 179 Calendar Days from NTP - 90% Plans and Specifications Submitted to NCDOT (Permit Submittal Set)

Tasks 500 will overlap part of Task 400, and is estimated to be completed 270 calendar days from notice-to-proceed. The schedule for Task 600 will be dictated based on the schedule of R-5014, with a current target bid date of March-2019. Aspects of the schedule for Tasks 500 and 600 are outside the control of the ENGINEER, but the ENGINEER agrees to assist in the timely completion of the work. Task 700 is budgeted for a 9-month construction period starting with the Contractor's notice-to-proceed.

#### 5.0 **METHOD OF PAYMENT**

For the above described Tasks 100 through 700, OWNER will compensate the ENGINEER in accordance with Article 4 of the Agreement a lump sum fee of \$465,400 (USD). For invoice purposes only, the estimated budget of each task is as shown on Table 1 below. These estimated task budgets do not reflect any upper limits by task. Partial payments shall be made by the OWNER on a monthly basis in proportion to the total percentage of work completed during that month. Costs include anticipated labor and expenses that may be required for the completion of the work.

<b>Task</b>	<b>Description</b>	<b>Estimated Value</b>
100	Project Management & Administration	\$45,500
200	Conceptual Design Evaluation	\$47,600
300	Field Data Collection	\$9,900
400	Final Design	\$174,300
500	Permitting and Agency Coordination	\$44,600
600	Bidding Assistance	\$4,400
700	Construction Contract Administration	\$139,100
<b>TOTAL TASK 100 – 700, LUMP SUM</b>		<b>\$465,400</b>

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UTILITY PRELIMINARY ENGINEERING AGREEMENT

WBS ELEMENT: 41162.2.1

TRANSPORTATION IMPROVEMENT PROGRAM NO.: R-5014

COUNTY: Dare

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This agreement made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the DEPARTMENT, and \_\_\_\_\_

Dare County Water Department hereinafter referred to as the COMPANY:

WITNESSETH:

THAT WHEREAS, the DEPARTMENT will submit a project for construction as follows:

SR 1217 (Collington road) from Dead End to US 158 (Croatan Highway) in Kill Devil Hills.

known as route SR 1217 in Dare County, North Carolina to be designated as N.C. State Highway Project and/or WBS Element 41162.2.1 and,

WHEREAS, the construction of said project will require certain engineering of plans for adjustments to be made to the existing facilities of the COMPANY;

NOW, THEREFORE, in order to facilitate the orderly and expeditious relocation of the said facilities of COMPANY, the DEPARTMENT and the COMPANY have agreed as follows:

1. That the DEPARTMENT has agreed to reimburse the COMPANY for preliminary engineering charges associated with certain adjustments to be made to the existing facilities of the COMPANY.

2. That any work performed under this agreement shall comply with DEPARTMENT's "POLICIES AND PROCEDURES FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHTS OF WAY" dated January 1, 1975, and such amendments thereto as may be in effect at the date of this agreement. The work to be performed by the COMPANY shall conform with Federal Highway Administration's Federal-Aid Policy Guide, Subchapter G, Part 645, Subpart A hereinafter referred to as FAPG dated December 9, 1991, and such amendments

thereto as may be in effect at the date of this agreement. The provisions of said FAPG and amendments thereto are incorporated in this agreement by reference as fully as if herein set out. Any work performed under this agreement not in compliance with FAPG shall constitute unauthorized work and the DEPARTMENT shall be relieved of participating in the costs of such unauthorized work unless such work is done pursuant to a supplemental agreement attached to and made a part hereof.

3. That the COMPANY or COMPANY Engineering firm will prepare an estimate, broken down as to estimated cost of preliminary engineering, overhead rate, job classification pay rate, indirect cost rates, cost of capital rate and estimated man-day hours all in sufficient detail to provide the DEPARTMENT a reasonable basis for analysis. The before mentioned estimate is attached hereto and made a part hereof. The DEPARTMENT will not reimburse the COMPANY for any preliminary engineering not necessitated by the construction of the highway project, nor for changes made solely for the benefit or convenience of the COMPANY.

4. That payment for all work done hereunder shall be made in accordance with the requirements of FAPG unless payment is being made pursuant to a supplemental agreement attached to and made a part of this agreement.

5. That the preliminary engineering work provided for in this agreement will be performed by the method or methods as specified below:

BY COMPANY'S REGULAR FORCE: The COMPANY proposes to use its regular personnel at its standard schedule of wages and working hours in accordance with the terms of its agreement with such employees.

BY EXISTING WRITTEN CONTINUING CONTRACT: The COMPANY proposes to use an existing written continuing contract under which certain work as shown by the COMPANY's estimate is regularly performed for the COMPANY and under which the lowest available costs are developed. The COMPANY shall submit a copy of the continuing contract (including rates) to the DEPARTMENT for review and approval.

BY CONTRACT: The COMPANY does not have adequate staff to perform the necessary engineering design with its own forces. The COMPANY submits to DEPARTMENT a draft advertisement for review and approval, and in accordance with NC General Statute 143-64.31 and 23 CFR 172, will select firms qualified to provide such service on the basis of demonstrated competence and qualification for the type of professional services and to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. The COMPANY shall submit overhead rates to the DEPARTMENT for review and approval in accordance with DEPARTMENT audit requirements. Refer to DEPARTMENT requirements at the following site:

<https://connect.ncdot.gov/projects/Roadway/Private%20Engineering%20Firm%20Resources/NCDOT%20Audit%20Requirements%20Fiscal%20Form.pdf>

6. a. It is contemplated by the parties hereto that the construction of this State Highway Project will begin on or about the May 1, 2019

b. Based on the best information available at the present time to the COMPANY, indicate applicable paragraph below:

Preliminary Engineering will be complete allowing adequate time for materials and completion of certain adjustments prior to highway construction.

Preliminary Engineering will be complete prior to highway construction; however, certain adjustments are not expected to be complete prior to highway construction.

Other (Specify)

7. Indicate if (a) or (b) is applicable:

a.  That preliminary engineering is for the adjustments of existing facilities in conflict with said project.

b.  That the preliminary engineering involves COMPANY's request for new facilities in addition to adjustments of existing facilities in conflict with said project.

8. That the total estimated cost of the preliminary engineering proposed herein, including all cost to the DEPARTMENT and COMPANY, is estimated to be----- \$ 465,400.00

The estimated preliminary engineering cost to the DEPARTMENT, including all cost less any preliminary engineering for new facilities requested by the COMPANY.----- \$ 465,400.00

The estimated cost to the COMPANY for any additional preliminary engineering charges for new facilities requested by the COMPANY will be----- \$ 0

*(The above costs shall be supported by attached estimate)*

9. That in the event it is determined there are changes in the scope of work, extra work, or major changes from the statement of work covered by this agreement, reimbursement shall be limited to costs covered by a modification of this agreement or a written change or extra work order approved by the DEPARTMENT.

10. Periodic progress billings of incurred costs may be made by COMPANY to the DEPARTMENT not to exceed monthly intervals; however, total progress billing payments shall not exceed 95% of the approved non-betterment estimate. Progress billing forms may be obtained from the Area Utility Agent. One final and detailed complete billing of all costs shall be made by COMPANY to the DEPARTMENT at the earliest practicable date after completion of work and in any event within 6 months after completion of work. The statement of final billing shall

follow as closely as possible the order of the items in the estimate portion of this agreement.

11. That the DEPARTMENT shall have the right to inspect all books, records, accounts and other documents of the COMPANY pertaining to the work performed by it under this agreement at any time after work begins and for a period of 3 years from the date final payment has been received by the COMPANY.

12. That in the future, it becomes necessary due to highway construction or improvement to adjust or relocate utilities covered under this agreement, the DEPARTMENT does not obligate itself to participate in future payments for preliminary engineering.

IN WITNESS WHEREOF, the parties hereby have affixed their names by their duly authorized officers the day and year first above written.

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
AREA UTILITY AGENT

ATTEST OR WITNESS

\_\_\_\_\_  
(TITLE)

\_\_\_\_\_  
(NAME OF COMPANY)

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Form UT 16.9  
08/17/2016

**County of Dare, North Carolina  
Capital Project Ordinance  
for  
Approved FY 2018 Water CIP Projects**

BE IT ORDAINED by the Board of Commissioners of the County of Dare, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is adopted:

Section 1           The project authorized is an engineering and design contract for Colington Road waterline relocations for a NCDOT road project as authorized and approved by NCDOT.

Section 2           The following budget shall be conducted within the Water Capital Projects Fund (fund #38).

Section 3           The following amounts are appropriated for the projects:

NCDOT Colington Road		
line relocation engineering & design	385815-710302-38047	\$465,400

Section 4           The following revenues are anticipated to be available to complete the projects:

NCDOT reimbursement	383090-427550-38047	\$465,400
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Section 5           The Finance Officer is directed to report the financial status of the project as a part of the normal monthly reporting process.

Section 6           Copies of this capital project ordinance shall be furnished to the Budget Officer, the Finance Officer and to the Clerk to the Board of Commissioners.

Adopted this 21<sup>st</sup> day of May, 2018.

\_\_\_\_\_  
Chairman, Board of Commissioners

[SEAL]

\_\_\_\_\_  
Gary L. Gross, Clerk to the Board of Commissioners



*Motorola - System Maintenance Agreement*

**Description**

This is the annual renewal of the System Maintenance Agreement to provide the most current version of Motorola radio technology at the Dare County Regional Emergency Communications Center.

**Board Action Requested**

Approve the Agreement

**Item Presenter**

Captain Trey Piland

1206 UC-V



# SERVICES AGREEMENT

Attn: National Service Support/4th fl  
 1301 East Algonquin Road  
 (800) 247-2346

Contract Number: USC000020962  
 Contract Modifier:

Date: 01/28/2018

Company Name:	Dare County North Carolina
Attn:	
Billing Address:	Po Box 1000
City, State, Zip:	Manteo, NC, 27954
Customer Contact:	Trey Piland
Phone:	(252)475-5705

Required P.O.: No  
 Customer #: 1011696286  
 Bill to Tag #: 0002  
 Contract Start Date: 07/01/2018  
 Contract End Date: 06/30/2019  
 Anniversary Day: Jun 30th  
 Payment Cycle: ANNUAL  
 PO #:

QTY	MODEL/OPTION	SERVICES DESCRIPTION	EXTENDED AMT
		***** Recurring Services *****	
	LSV01Q00408A	ADVANCED PLUS NETWORK MONITORING	
	LSV01Q00409A	ADVANCED PLUS TECH SUPPORT	
	LSV01Q00410A	ADVANCED PLUS DISPATCH	
	LSV01Q00412A	ADVANCED PLUS NETWK PREV MAINT 1	
	LSV01Q00414A	ADVANCED PLUS SECURITY UPDATE SERVICE	
	LSV01Q00415A	ADVANCED PLUS REMOTE SUS MGMT	
	LSV01Q00423A	ADVANCED PLUS ONSITE INF RESP-PREM	
	LSV01Q00425A	ADVANCED PLUS INFR RPR W/ADV REPL	
	LSV01Q00427A	ADVANCED PLUS SECURITY MONITORING	
	SVC01SVC1101C	ASTRO INFRASTRUCTURE REPAIR W/ADV REPL	
	SVC01SVC1102C	ASTRO DISPATCH SERVICE	
	SVC01SVC1103C	ASTRO NETWORK MONITORING	
	SVC01SVC1104C	ASTRO TECHNICAL SUPPORT	
	SVC01SVC1405C	NETWORK PREVENTATIVE MAINTENANCE-LEGACY	
	SVC01SVC1413C	ONSITE INFRASTRUCTURE RESPONSE- PREMIER	
	SVC01SVC2007C	SP-ONSITE INFRA RESP	
	SVC01SVC2012C	SP - CONTRACT ADMINISTRATION SERVICE	
	SVC02SVC0080A	SP - SYSTEM MANAGER	
	SVC02SVC0127A	NICE GOLD PACKAGE	
	SVC02SVC0351A	REPAIR ARAR 1ADDL YR	

<b>SPECIAL INSTRUCTIONS - ATTACH STATEMENT OF WORK FOR PERFORMANCE DESCRIPTIONS</b>	Subtotal - Recurring Services	\$37,898.20	\$454,778.43
	Subtotal - One-Time Event Services	\$ .00	\$ .00
	<b>Total</b>	<b>\$37,898.20</b>	<b>\$454,778.43</b>
<p>The prices quoted via this service contract renewal are valid only until expiration of the current service contract. If the Customer does not provide to MSI a valid, executed contract renewal within 30 days of contract expiration, a one-time administrative fee equal to 5% of the subsequent year's annual contract rate will be billed to the Customer upon reestablishment of the expired service contract.</p>	Taxes	TBD	TBD
	<b>Grand Total</b>		
	THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA		
	<b>Subcontractor(s)</b>	<b>City</b>	<b>State</b>
	MOTOROLA SYSTEM SUPPORT CENTER	ELGIN	IL
	MOTOROLA SSC NETWORK SECURITY DO298	SCHAUMBU RG	IL
	MOTOROLA SYSTEM SUPPORT CENTER-NETWORK MGMT DO067	SCHAUMBU RG	IL
	MOTOROLA SYSTEM SUPPORT CTR-CALL CENTER DO086	SCHAUMBU RG	IL
	MOTOROLA SYSTEM SUPPORT-TECHNICAL SUPPORT DO068	SCHAUMBU RG	IL
	MOTOROLA SOLUTIONS INC-CAROLINIANS MGD SVCS DO092	CHARLOTTE	NC
	CAMBIUM NETWORKS LIMITED	ASHBURTON	DEVON
	MOBILE COMMUNICATIONS OF THE CAROLINAS, LLC.	KILL DEVIL HILLS	NC
	NICE SYSTEMS INC	PARAMUS	NJ

"This Instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

*Sally DeToose* 05/10/2018

I received Statements of Work that describe the services provided on this Agreement. Motorola's Service Terms and Conditions, a copy of which is attached to this Service Agreement, is incorporated herein by this reference.

AUTHORIZED CUSTOMER SIGNATURE	TITLE	DATE
CUSTOMER (PRINT NAME)		
<i>Carrie La Basco</i>	Customer Support Manager	1/28/2018
MOTOROLA REPRESENTATIVE(SIGNATURE)	TITLE	DATE
CARRIE LA BASCO	704-302-5412	
MOTOROLA REPRESENTATIVE(PRINT NAME)	PHONE	

Company Name: Dare County North Carolina  
 Contract Number: USC000020962 / S00001018132  
 Contract Modifier:  
 Contract Start Date: 07/01/2018  
 Contract End Date: 06/30/2019

## Motorola Solution Service Terms and Conditions

Motorola Solutions Inc. ("Motorola") and Dare County, North Carolina ("Customer") hereby agree as follows:

### Section 1. APPLICABILITY

These Maintenance Service Terms and Conditions apply to service contracts whereby Motorola will provide to Customer either (1) maintenance, support, or other services under a Motorola Service Agreement, or (2) installation services under a Motorola Installation Agreement.

### Section 2. DEFINITIONS AND INTERPRETATION

2.1. "Agreement" means these Maintenance Service Terms and Conditions; the cover page for the Service Agreement or the Installation Agreement, as applicable; and any other attachments, all of which are incorporated herein by this reference. In interpreting this Agreement and resolving any ambiguities, these Maintenance Service Terms and Conditions take precedence over any cover page, and the cover page takes precedence over any attachments, unless the cover page or attachment states otherwise.

2.2. "Equipment" means the equipment that is specified in the attachments or is subsequently added to this Agreement.

2.3. "Services" means those installation, maintenance, support, training, and other services described in this Agreement.

### Section 3. ACCEPTANCE

Customer accepts these Maintenance Service Terms and Conditions and agrees to pay the prices set forth in the Agreement. This Agreement becomes binding only when accepted in writing by Motorola. The term of this Agreement begins on the "Start Date" indicated in this Agreement.

### Section 4. SCOPE OF SERVICES

4.1. Motorola will provide the Services described in this Agreement or in a more detailed statement of work or other document attached to this Agreement. At Customer's request, Motorola may also provide additional services at Motorola's then-applicable rates for the services.

4.2. If Motorola is providing Services for Equipment, Motorola parts or parts of equal quality will be used; the Equipment will be serviced at levels set forth in the manufacturer's product manuals; and routine service procedures that are prescribed by Motorola will be followed.

4.3. If Customer purchases from Motorola additional equipment that becomes part of the same system as the initial Equipment, the additional equipment may be added to this Agreement and will be billed at the applicable rates after the warranty for that additional equipment expires.

4.4. All Equipment must be in good working order on the Start Date or when additional equipment is added to the Agreement. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay Service fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice.

4.5. Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.

4.6. If Equipment cannot, in Motorola's reasonable opinion, be properly or economically serviced for any reason, Motorola may modify the scope of Services related to that Equipment; remove that Equipment from the Agreement; or increase the price to Service that Equipment.

4.7. Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in this Agreement.

## Section 5. EXCLUDED SERVICES

5.1. Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.

5.2. Unless specifically included in this Agreement, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes.; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.

## Section 6. TIME AND PLACE OF SERVICE

Service will be provided at the location specified in this Agreement. When Motorola performs service at Customers location, Customer will provide Motorola, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, Customer agrees to reimburse Motorola for those charges and expenses.

## Section 7. CUSTOMER CONTACT

Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

## Section 8. PAYMENT

Unless alternative payment terms are stated in this Agreement, Motorola will invoice Customer in advance for each payment period. All other charges will be billed monthly, and Customer must pay each invoice in U.S. dollars within twenty (20) days of the invoice date. Customer will reimburse Motorola for all property taxes, sales and use taxes, excise taxes, and other taxes or assessments that are levied as a result of Services rendered under this Agreement (except income, profit, and franchise taxes of Motorola) by any governmental entity.

## Section 9. WARRANTY

Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. In the event of a breach of this warranty, Customers sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. **MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

## Section 10. DEFAULT/TERMINATION

10.1. If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. The non-performing party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement the cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

10.2. Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by Customer to Motorola will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Motorola will have no further obligation to provide Services.

## Section 11. LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Service provided under this Agreement. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account. This limitation of liability will survive the expiration or termination of this Agreement and applies notwithstanding any contrary provision.

## Section 12. EXCLUSIVE TERMS AND CONDITIONS

12.1. This Agreement supersedes all prior and concurrent agreements and understandings between the parties, whether written or oral, related to the Services, and there are no agreements or representations concerning the subject matter of this Agreement except for those expressed herein. The Agreement may not be amended or modified except by a written agreement signed by authorized representatives of both parties.

12.2. Customer agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement will not affect its applicability. In no event will either party be bound by any terms contained in a Customer purchase order, acknowledgement, or other writings unless: the purchase order, acknowledgement, or other writing specifically refers to this Agreement; clearly indicate the intention of both parties to override and modify this Agreement; and the purchase order, acknowledgement, or other writing is signed by authorized representatives of both parties.

## Section 13. PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS

13.1. Any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Motorola's request. Customer may not disclose, without Motorola's written permission or as required by law, any confidential information or data to any person, or use confidential information or data for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section survive the expiration or termination of this Agreement.

13.2. Unless otherwise agreed in writing, no commercial or technical information disclosed in any manner or at any time by Customer to Motorola will be deemed secret or confidential. Motorola will have no obligation to provide Customer with access to its confidential and proprietary information, including cost and pricing data.

13.3. This Agreement does not grant directly or by implication, estoppel, or otherwise, any ownership right or license under any Motorola patent, copyright, trade secret, or other intellectual property, including any intellectual property created as a result of or related to the Equipment sold or Services performed under this Agreement.

## Section 14. FCC LICENSES AND OTHER AUTHORIZATIONS

Customer is solely responsible for obtaining licenses or other authorizations required by the Federal Communications Commission or any other federal, state, or local government agency and for complying with all rules and regulations required by governmental agencies. Neither Motorola nor any of its employees is an agent or representative of Customer in any governmental matters.

## Section 15. COVENANT NOT TO EMPLOY

During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

## Section 16. MATERIALS, TOOLS AND EQUIPMENT

All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction.

## Section 17. GENERAL TERMS

17.1. If any court renders any portion of this Agreement unenforceable, the remaining terms will continue in full force and effect in which the Services are performed.

17.3. Failure to exercise any right will not operate as a waiver of that right, power, or privilege.

17.4. Neither party is liable for delays or lack of performance resulting from any causes that are beyond that party's reasonable control, such as strikes, material shortages, or acts of God.

17.5. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

17.6. Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event.

17.7. THIS AGREEMENT WILL RENEW FOR FOUR (4) ADDITIONAL ONE (1) YEAR TERMS ON EVERY ANNIVERSARY OF THE START DATE UNLESS ONE PARTY NOTIFIES THE OTHER IN WRITING OF ITS INTENTION TO DISCONTINUE THE AGREEMENT NOT LESS THAN THIRTY (30) DAYS PRIOR TO THAT ANNIVERSARY DATE. AT THE END OF THE FIFTH (5th) YEAR FROM THE START DATE THIS AGREEMENT SHALL TERMINATE UNLESS OTHERWISE AGREED BY THE PARTIES.

17.8. If Motorola provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and Customer agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.

17.9 This Agreement may be executed in one or more counterparts, all of which shall be considered part of the Agreement. The parties may execute this Agreement in writing, or by electronic signature, and any such electronic signature shall have the same legal effect as a handwritten signature for the purposes of validity, enforceability and admissibility. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document.



*Motorola - System Upgrade Agreement*

**Description**

This is the annual renewal of the System Upgrade Agreement to provide the most current version of Motorola radio technology at the Dare County Regional Emergency Communications Center.

**Board Action Requested**

Approve the Agreement

**Item Presenter**

Captain Trey Piland



# SERVICES AGREEMENT

National Service Support  
 1301 East Algonquin Road  
 Schaumburg, IL 60196  
 (800) 247-2346

Date: 2/20/2017

Service Agreement # : S00001021984

Company Name: <u>Dare County North Carolina</u>
Attn: _____
Billing Address: <u>PO Box 1000</u>
City, State, Zip: <u>Manteo, NC. 27954</u>
Customer Contact: <u>Trey Piland</u>
Phone: <u>252-475-5705</u>
Fax: _____

Required P.O.: TBD

Customer # : 1011696286

Bill to Tag # : 0002

Contract Start Date: 07/01/18

End Date: 06/30/23

Payment Cycle: ANNUAL

PO#: \_\_\_\_\_

Qty	Model/Option	Description		Annual Ext
1	SVC04SVC0163A	Software Maintenance Agreement (SMA)	2018-2019	\$338,218.00
1	SVC04SVC0169A	System Upgrade Agreement II (SUA II)	2019-20	\$ 342,181.00
			2020-21	\$ 346,263.00
			2021-22	\$ 350,467.00
			2022-23	\$ 354,797.00

Additional terms, definitions and conditions of this SERVICE AGREEMENT are attached.		<b>TOTAL</b>		<b>\$1,731,926.00*</b>
<b>SPECIAL INSTRUCTIONS - ATTACH STATEMENT OF WORK FOR PERFORMANCE DESCRIPTIONS</b>				
<b>*Discounted pricing only valid on 5 year agreement</b>				
THIS SERVICE AMOUNT IS SUBJECT TO STATE & LOCAL TAXING JURISDICTIONS, TO BE VERIFIED BY MOTOROLA.				
<b>SUBCONTRACTOR(S)</b>		<b>CITY</b>	<b>STATE</b>	
Motorola - System Support Center		Schaumburg	IL	

Carrie LaBasco 704-302-5412  
 MOTOROLA REPRESENTATIVE (PRINT NAME) PHONE FAX



# SERVICES AGREEMENT

Attn: National Service Support/4th fl  
 1301 East Algonquin Road  
 (800) 247-2346

Contract Number: S00001021984  
 Contract Modifier:

Date: 02/20/2017

Company Name: Dare County North Carolina  
 Attn:  
 Billing Address: P O Box 1000  
 City, State, Zip: Manteo, NC, 27954  
 Customer Contact:  
 Phone: (252)475-5705

Required P.O.: No  
 Customer #: 1011696286  
 Bill to Tag #: 0002  
 Contract Start Date: 07/01/2018  
 Contract End Date: 06/30/2023  
 Anniversary Day: Jun 30th  
 Payment Cycle: ANNUAL  
 PO #:

QTY	MODEL/OPTION	SERVICES DESCRIPTION	Ext Totals
	SVC04SVC0163A SVC04SVC0169A	Software Maintenance Agreement (SMA) System Upgrade Agreement II (SUA II)	
SPECIAL INSTRUCTIONS - ATTACH STATEMENT OF WORK FOR PERFORMANCE DESCRIPTIONS		Subtotal - Recurring Services	\$1,731,926.00
		Subtotal - One-Time Event Services	
		Total	\$1,731,926.00
		Grand Total	\$1,731,926.00
THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA.			
		Subcontractor(s)	City State

I received Statements of Work that describe the services provided on this Agreement. Motorola's Service Terms and Conditions, a copy of which is attached to this Service Agreement, is incorporated herein by this reference.

AUTHORIZED CUSTOMER SIGNATURE	TITLE	DATE
CUSTOMER (PRINT NAME) 		
MOTOROLA REPRESENTATIVE(SIGNATURE)	TITLE	DATE
CARRIE LA BASCO	704-302-5412	
MOTOROLA REPRESENTATIVE(PRINT NAME)	PHONE	

## Motorola Solution Service Terms and Conditions

Motorola Solutions Inc. ("Motorola") and Dare County, North Carolina ("Customer") hereby agree as follows:

### Section 1. APPLICABILITY

These Maintenance Service Terms and Conditions apply to service contracts whereby Motorola will provide to Customer either (1) maintenance, support, or other services under a Motorola Service Agreement, or (2) installation services under a Motorola Installation Agreement.

### Section 2. DEFINITIONS AND INTERPRETATION

2.1. "Agreement" means these Maintenance Service Terms and Conditions; the cover page for the Service Agreement or the Installation Agreement, as applicable; and any other attachments, all of which are incorporated herein by this reference. In interpreting this Agreement and resolving any ambiguities, these Maintenance Service Terms and Conditions take precedence over any cover page, and the cover page takes precedence over any attachments, unless the cover page or attachment states otherwise.

2.2. "Equipment" means the equipment that is specified in the attachments or is subsequently added to this Agreement.

2.3. "Services" means those installation, maintenance, support, training, and other services described in this Agreement.

### Section 3. ACCEPTANCE

Customer accepts these Maintenance Service Terms and Conditions and agrees to pay the prices set forth in the Agreement. This Agreement becomes binding only when accepted in writing by Motorola. The term of this Agreement begins on the "Start Date" indicated in this Agreement.

### Section 4. SCOPE OF SERVICES

4.1. Motorola will provide the Services described in this Agreement or in a more detailed statement of work or other document attached to this Agreement as Exhibit A. At Customer's request, Motorola may also provide additional services at Motorola's then-applicable rates for the services.

4.2. If Motorola is providing Services for Equipment, Motorola parts or parts of equal quality will be used; the Equipment will be serviced at levels set forth in the manufacturer's product manuals; and routine service procedures that are prescribed by Motorola will be followed.

4.3. If Customer purchases from Motorola additional equipment that becomes part of the same system as the initial Equipment, the additional equipment may be added to this Agreement and will be billed at the applicable rates after the warranty for that additional equipment expires.

4.4. All Equipment must be in good working order on the Start Date or when additional equipment is added to the Agreement. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay Service fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice.

4.5. Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.

4.6. If Equipment cannot, in Motorola's reasonable opinion, be properly or economically serviced for any reason, Motorola may modify the scope of Services related to that Equipment; remove that Equipment from the Agreement; or increase the price to Service that Equipment.

4.7. Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in this Agreement.

## Section 5. EXCLUDED SERVICES

5.1. Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.

5.2. Unless specifically included in this Agreement, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes.; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.

## Section 6. TIME AND PLACE OF SERVICE

Service will be provided at the location specified in this Agreement. When Motorola performs service at Customers location, Customer will provide Motorola, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, Customer agrees to reimburse Motorola for those charges and expenses.

## Section 7. CUSTOMER CONTACT

Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

## Section 8. PAYMENT

Unless alternative payment terms are stated in this Agreement, Motorola will invoice Customer in advance for each payment period. All other charges will be billed monthly, and Customer must pay each invoice in U.S. dollars within twenty (20) days of the invoice date. Customer will reimburse Motorola for all property taxes, sales and use taxes, excise taxes, and other taxes or assessments that are levied as a result of Services rendered under this Agreement (except income, profit, and franchise taxes of Motorola) by any governmental entity.

## Section 9. WARRANTY

Services. Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. In the event of a breach of this warranty, Customers sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. **MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

Software. Software is subject to the terms and conditions of the County's existing Software License Agreement with Motorola attached hereto as Exhibit B, and the warranty period applicable is for ninety (90) days from the date of successful installation of a software upgrade.

## Section 10. DEFAULT/TERMINATION

10.1. If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. The non-performing party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement the cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

10.2. Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by Customer to Motorola will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Motorola will have no further obligation to provide Services.

#### Section 11. LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Service provided under this Agreement. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account. This limitation of liability will survive the expiration or termination of this Agreement and applies notwithstanding any contrary provision.

#### Section 12. EXCLUSIVE TERMS AND CONDITIONS

12.1. This Agreement supersedes all prior and concurrent agreements and understandings between the parties, whether written or oral, related to the Services, and there are no agreements or representations concerning the subject matter of this Agreement except for those expressed herein. The Agreement may not be amended or modified except by a written agreement signed by authorized representatives of both parties.

12.2. Customer agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement will not affect its applicability. In no event will either party be bound by any terms contained in a Customer purchase order, acknowledgement, or other writings unless: the purchase order, acknowledgement, or other writing specifically refers to this Agreement; clearly indicate the intention of both parties to override and modify this Agreement; and the purchase order, acknowledgement, or other writing is signed by authorized representatives of both parties.

#### Section 13. PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS

13.1. Any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Motorola's request. Customer may not disclose, without Motorola's written permission or as required by law, any confidential information or data to any person, or use confidential information or data for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section survive the expiration or termination of this Agreement.

13.2. Unless otherwise agreed in writing, no commercial or technical information disclosed in any manner or at any time by Customer to Motorola will be deemed secret or confidential. Motorola will have no obligation to provide Customer with access to its confidential and proprietary information, including cost and pricing data.

13.3. This Agreement does not grant directly or by implication, estoppel, or otherwise, any ownership right or license under any Motorola patent, copyright, trade secret, or other intellectual property, including any intellectual property created as a result of or related to the Equipment sold or Services performed under this Agreement.

#### Section 14. FCC LICENSES AND OTHER AUTHORIZATIONS

Customer is solely responsible for obtaining licenses or other authorizations required by the Federal Communications Commission or any other federal, state, or local government agency and for complying with all rules and regulations required by governmental agencies. Neither Motorola nor any of its employees is an agent or representative of Customer in any governmental matters.

#### Section 15. COVENANT NOT TO EMPLOY

During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of

Motorola or its subcontractors who are responsible for rendering services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

#### Section 16. MATERIALS, TOOLS AND EQUIPMENT

All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction.

#### Section 17. GENERAL TERMS

17.1. If any court renders any portion of this Agreement unenforceable, the remaining terms will continue in full force and effect in which the Services are performed.

17.3. Failure to exercise any right will not operate as a waiver of that right, power, or privilege.

17.4. Neither party is liable for delays or lack of performance resulting from any causes that are beyond that party's reasonable control, such as strikes, material shortages, or acts of God.

17.5. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

17.6. Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event.

17.7. THIS AGREEMENT WILL RENEW FOR FOUR (4) ADDITIONAL ONE (1) YEAR TERMS ON EVERY ANNIVERSARY OF THE START DATE UNLESS ONE PARTY NOTIFIES THE OTHER IN WRITING OF ITS INTENTION TO DISCONTINUE THE AGREEMENT NOT LESS THAN THIRTY (30) DAYS PRIOR TO THAT ANNIVERSARY DATE. AT THE END OF THE FIFTH (5th) YEAR FROM THE START DATE THIS AGREEMENT SHALL TERMINATE UNLESS OTHERWISE AGREED BY THE PARTIES. NOTWITHSTANDING THE FORGOING, THIS CONTRACT SHALL NOT RENEW AFTER 2023 WITHOUT THE CONSENT OF THE PARTIES.

17.8. If Motorola provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and Customer agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.

17.9 This Agreement may be executed in one or more counterparts, all of which shall be considered part of the Agreement. The parties may execute this Agreement in writing, or by electronic signature, and any such electronic signature shall have the same legal effect as a handwritten signature for the purposes of validity, enforceability and admissibility. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document.



*Tax Collector's Report*

**Description**

April 2018 Releases over \$100  
April 2018 Refunds over \$100  
April 2018 NCVTS Refunds over \$100

**Board Action Requested**

Approved

**Item Presenter**

Becky Huff, Tax Collector

**Release Report for REAL ESTATE, PERSONAL PROPERTY and MOTOR VEHICLE**

*(Releases over (\$100.00) )*

**MONTH:** April                      **DATE RANGE:** 4/1/2018      -      4/30/2018                      **SUBMITTED BY:** Becky Huff

<u>Taxpayer Name</u>	<u>Parcel#</u>	<u>Bill Year</u>	<u>Reason</u>	<u>Value Released</u>	<u>Tax Released</u>
FULTON, BELINDA	025981000	2016	Duplicate Listing	-48,810.00	<b>-294.36</b>
FULTON, BELINDA	025981000	2017	Duplicate Listing	-48,810.00	<b>-313.89</b>
<b>Total Tax Released:</b>					<b>-608.25</b>

**Refund Report for REAL ESTATE, PERSONAL PROPERTY and MOTOR VEHICLE**

*(Refunds over \$100.00 )*

**MONTH: April**

**Date Range: 4/1/2018 - 4/30/2018**

**SUBMITTED BY: Becky Huff**

<u>Taxpayer Name</u>	<u>Parcel</u>	<u>Bill Yr</u>	<u>Reason</u>	<u>Amount</u>
NARLIS, IRENE M	009730000	2017	Overpayment	-273.69
JONES, PATRICIA A	010501002	2017	Overpayment	-492.72
WRIGHT, KATHERINE GRAY HEIRS	016887000	2017	Overpayment	-100.00
ECKERT, DOUGLAS E	030689000	2017	Overpayment	-500.00
PLOCH, PETER	7255	2017	Overpayment	-349.56
POWELL, ELLA ESTATE	004275001	2017	Overpayment	<u>-1,248.35</u>
<b>Total Refunded:</b>				<b>-2,964.32</b>

**COMMISSIONERS' BUSINESS**

**MANAGER'S / ATTORNEY'S BUSINESS**



# North Carolina Vehicle Tax System

APRIL 2018 REFUNDS OVER \$100

## NCVTS Pending Refund report

Report Date 5/3/2018 4:16:41 PM

Primary Owner	Secondary Owner	Address 1	Address 3	Refund Type	Interest Change	Total Change
FINN, TIMOTHY FRANCIS		26376 PINE CONE DR	MILLSBORO, DE 19966	Proration	\$0.00	(\$106.34)
					\$0.00	(\$31.47)
					\$0.00	(\$23.30)
					Refund	\$161.11
HASKE, DAVID FRANCIS	EGAN, JENNIFER CATHERINE	607 WESTHAM WOODS DR	HENRICO, VA 23229	Proration	\$0.00	(\$110.91)
					\$0.00	(\$70.08)
					Refund	\$180.99
KEITH, JULIAN FAISON III		459 CALDWELL DR	MAGGIE VALLEY, NC 28751	Proration	\$0.00	(\$113.84)
					\$0.00	(\$97.95)
					Refund	\$211.79
MALARNEY, AMBER DAVIS		218 THICKET LUMP DR	WANCHESE, NC 27981	Proration	\$0.00	(\$82.42)
					\$0.00	(\$7.63)
					\$0.00	(\$18.06)
					\$0.00	(\$4.66)
					Refund	\$112.77
SNEAD, CHARLES LANDON JR	SNEAD, CHERE PEAY	212 ALBACORE DR	NAGS HEAD, NC 27959	Proration	\$0.00	(\$141.00)
					\$0.00	(\$89.10)
					Refund	\$230.10
					<b>Refund Total</b>	<b>\$896.76</b>

Tax Jurisdiction	District Type	Net Change
C99	COUNTY	(\$554.51)
T10	CITY	(\$97.95)
T14	CITY	(\$159.18)
F50	FIRE	(\$31.47)
F51	FIRE	(\$7.63)
S99	SPECIAL	(\$41.36)
Y17	SPECIAL	(\$4.66)
165	<b>Refund Total</b>	<b>(\$896.76)</b>



*Closed Session*

**Description**

The Dare County Board of Commissioners will go into Closed Session pursuant to NCGS 143-318.11(a)(3) to consult with an attorney employed or retained by the County to preserve the attorney-client privilege including the matter of Lowe's v. Dare County.

The Board will also approve previous Closed Session minutes.

**Board Action Requested**

Approve Going Into Closed Session

**Item Presenter**

County Manager, Robert Outten