

CAROLINA BEACH

Town Council Regular Meeting

Tuesday, December 13, 2022 – 6:00 PM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



AGENDA

CALL TO ORDER

INVOCATION GIVEN BY PASTOR SHAWN BLACKWELDER OF ST. PAUL'S UMC OF CAROLINA BEACH,
FOLLOWED BY THE PLEDGE OF ALLEGIANCE

ADOPT THE AGENDA

CONSENT AGENDA

- [1.](#) Budget Amendments/Transfers
- [2.](#) Adoption of 2023 Meeting Schedule
- [3.](#) Request Approval to Submit ROT Reimbursement Request
- [4.](#) Approval of Council Meeting Minutes from November 3, 9, and 22, 2023

SPECIAL PRESENTATIONS

- [5.](#) Events Update by Tim Murphy
- [6.](#) Manager's Update

PUBLIC COMMENT

Public Comment allows the public the opportunity to address Town Council. Please direct your comments to Council only. Speakers should restrict comments to no more than three minutes. Items or questions presented during this time will not be discussed by Council. However, the topic may be deferred to Town staff or a Town committee for follow-up. Please be sure to state your name and address, and speak directly into the microphone for those watching online.

PUBLIC HEARINGS

- [7.](#) **Voluntary Annexation** to annex 20,853 sq. ft. parcel located at 601 Augusta Ave (PID 313017.12.6484.000) into the Town of Carolina Beach municipal boundaries.

Applicant: Parris Stratton

8. **Conditional Zoning** to consider a Planned Unit Development consisting of 22 townhome units located at 205 and 211 Spartanburg Avenue in the Residential (R-1) zoning district.

Applicant: WB Coastal Development LLC

9. Approval of Financing Terms, Resolution of Necessary Finding and Reimbursement Resolution for acquisition of 1101 N Lake Park Blvd.

COUNCIL COMMENTS

ADJOURNMENT



AGENDA ITEM COVERSHEET

PREPARED BY: Debbie Hall, Finance Director

DEPARTMENT: Finance

MEETING: Town Council – 12/13/2022

SUBJECT: Budget Amendments/Transfers

BACKGROUND:

I received several budget transfers requests. As you know, transfers require only your notification whereas amendments require your approval. Listed below you will find a description of the amendments and/or transfers. I have also attached a copy of the supporting documentation for the appropriation.

Transfers:

Transfer \$1,641.78 from account 10-530-009 Fire Workers Comp to account 10-450-052 HR Unemployment to cover line-item shortage.

Transfer \$50.00 from account 10-510-059 Police Longevity to account 10-630-059 Beach Maintenance Longevity to cover line-item shortage.

Transfer \$20,000 from account 10-580-045 Environmental Contract Services and \$20,000 from account 10-630-056 Beach Maintenance (Maintenance) to account 10-650-044 Boardwalk Temps to cover anticipated shortfall in the temporary labor line item.

Transfer \$10,000 from account 10-420-090 Executive Contingency to account 10-550-003 Marina Over Time Pay needed for managing the harbor.

Transfer \$2,000 from account 10-420-090 Executive Contingency to account 10-550-016 Marina M&O Equipment for upfitting costs for the new Harbor Master vessel.

Transfer \$35,000 from account 10-630-081 Beach Maintenance Inlet Dredging to account 10-550-074 Marina Capital Over \$10,000 to replace small chains on all mooring balls and replace the two that experienced failure.

BUDGET IMPACT:

Transfers will not affect the budget.

ACTION REQUESTED:

Approve the budget amendments and/or transfers as presented by the Finance Director.

Debbie Hall

From: Holly Brooks
Sent: Wednesday, November 16, 2022 5:06 PM
To: Debbie Hall
Subject: Budget Transfer

Debbie, please transfer \$1,641.78 from 10-530-009 to 10-450-052 for the purpose of paying the annual Division of Unemployment Security payment to the Department of Commerce.

Thank you in advance for your assistance.

Holly Brooks, SHRM-SCP, IPMA-SCP, MESH-PS, aPHR
Director of Human Resources
Town of Carolina Beach
910-458-9530

Departmental Budget vs Actual

Town of Carolina Beach
12/2/2022 11:54:10 AM

Period Ending 6/30/2023

Department: 630 Beach Maintenance

Expenditures

Description	Budget	Encumbrance	MTD	QTD	YTD	Variance	Percent
10-630-001 Holiday Pay	10,363	0.00	0.00	0.00	0.00	10,363.00	
10-630-002 Wages	209,577	0.00	0.00	0.00	81,313.47	128,263.53	39%
10-630-003 Overtime Pay	8,637	0.00	0.00	0.00	2,065.24	6,571.76	24%
10-630-005 FICA Taxes	17,513	0.00	0.00	0.00	6,161.91	11,351.09	35%
10-630-006 Medical Insurance	32,064	0.00	0.00	0.00	12,104.47	19,959.53	38%
10-630-007 Retirement	29,990	0.00	0.00	0.00	10,924.71	19,065.29	36%
10-630-009 Workmans Comp	5,109	0.00	0.00	0.00	5,109.00	0.00	100%
10-630-010 LEO 401K	11,446	0.00	0.00	0.00	4,168.92	7,277.08	36%
10-630-016 Maintenance & Repair-Fish Tiles	9,500	0.00	0.00	0.00	1,766.00	7,734.00	19%
10-630-025 401K Match Program	6,868	0.00	0.00	0.00	2,172.84	4,695.16	32%
10-630-033 Supplies	7,500	1,800.00	0.00	0.00	0.00	5,700.00	24%
10-630-046 Professional Services	165,154	0.00	0.00	0.00	48,738.65	116,415.35	30%
10-630-056 Beach Maintenance	242,000	21,500.00	0.00	0.00	2,511.58	217,988.42	10%
10-630-059 Longevity Pay Plan	350	0.00	0.00	0.00	400.00	(50.00)	114%
10-630-074 Capital Projects Over \$10,000	7,500	0.00	0.00	0.00	0.00	7,500.00	
10-630-081 Inlet Dredging	58,587	0.00	0.00	0.00	0.00	58,587.00	
Total Expenditures for Department	822,158	23,300.00	0.00	0.00	177,436.79	621,421.21	24%

Debbie Hall

From: Brian Stanberry
Sent: Friday, December 2, 2022 9:19 AM
To: Ed Parvin; Debbie Hall
Cc: Alisa Perry
Subject: Budget Transfer

Debbie,

To account for an anticipated shortfall in out temporary labor line item for the Boardwalk, I would like to request the following budget transfers:

\$20,000 from the 10-580-045 to the 10-650-044 account
 \$20,000 from the 10-630-056 to the 10-650-044 account

Thank you for your assistance and let me know if there are any questions.

Sincerely,

Brian Stanberry

Director of Public Works

Town of Carolina Beach

910-458-8291 office

910-443-1837 mobile

brian.stanberry@carolinabeach.org



DISCLAIMER:

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties

From: Ed Parvin
Sent: Thursday, December 1, 2022 4:37 PM
To: Brian Stanberry
Subject: preagenda workshop

Brian,

We had our preagenda workshop today and you and I both received requests from financing to put in for budget transfers. Mine was to cover Marina shortages and yours was to cover boardwalk temp expenses. Debbie has requested we send her the line item to take money from and where we will be adding it. Let me know if you have questions/concerns.

V/R,

Ed H. Parvin
Assistant Manager

Debbie Hall

From: Ed Parvin
Sent: Friday, December 2, 2022 12:25 PM
To: Debbie Hall
Cc: Bruce Oakley
Subject: Budget Transfer: Executive contingency to Marina

Debbie,

Due to the overtime needed for managing the harbor, and upfitting costs for the new Harbor Master vessel we are requesting the following budget transfer.

\$10,000 from the 10-420-090 to the 10-550-003 account

\$2,000 from the 10-420-090 to the 10-550-016 account

Thank you for your assistance and let me know if there are any questions.

V/R,

Ed H. Parvin
Assistant Manager

910 465 2766

ed.parvin@carolinabeach.org



1121 North Lake Park Blvd.
Carolina Beach, NC 28428

www.CarolinaBeach.org

Debbie Hall

From: Ed Parvin
Sent: Friday, December 2, 2022 4:14 PM
To: Debbie Hall
Cc: Bruce Oakley
Subject: Budget Transfer

Debbie,

Two of our moorings have experienced failures in the smaller chain that connects directly to the mooring ball. Based on safety concerns we are recommended replacing:

1. All the small chain on the remaining eight balls and
2. the two moorings.

To accommodate this request we are recommending the following budget transfer:

\$35,000 from the 10-630-081 to the 10-550-074 account

Thank you for your assistance and let me know if there are any questions.

VIR,

Ed H. Parvin
Assistant Manager

910 465 2766
ed.parvin@carolinabeach.org



1121 North Lake Park Blvd.
Carolina Beach, NC 28428

www.CarolinaBeach.org



AGENDA ITEM COVERSHEET

PREPARED BY: Kim Ward, Town Clerk

DEPARTMENT: Clerk

MEETING: Town Council 12/13/2022

SUBJECT: Adoption of 2023 Meeting Schedule

BACKGROUND:

Attached is the 2023 meeting schedule for Town Council and all committees. Any changes in meeting dates will be properly noticed.

2023 Town of Carolina Beach Standing Committees
Regular Scheduled Meetings
1121 N Lake Park Blvd. Carolina Beach, NC 28428

EVENT	TIME	PLACE	DAY	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Council and Committee Meetings															
Beautification Committee	6:00 p.m.	Multi-purpose room	1st Wed	4	1	1	5	3	7	5	2	6	4	1	6
Bike/Pedestrian Planning Committee	6:00 p.m.	Confrence Room	3rd Mon	9	13	20	17	15	19	17	21	18	16	20	18
Board of Adjustment (as needed)	6:00 p.m.	Council Chambers	3rd Mon	17	21	20	17	15	19	17	21	18	16	20	18
Centennial Committee	6:00 p.m.	Multi-purpose room	3rd Wed	18	15	15	19	17	21	19	16	20	18	15	20
Marketing Advisory Committee	2:30 p.m.	Council Chambers	4th Tue	24	N/A	28	25	N/A	N/A	N/A	22	N/A	N/A	N/A	N/A
Operations Advisory	10:00 a.m.	Confrence Room	2nd Tue	10	14	14	11	9	13	N/A	8	12	10	14	12
Parks and Recreation	7:00 p.m.	Recreation Center	1st Mon	9	6	6	3	1	5	3	7	14	2	6	4
Planning & Zoning	6:00 p.m.	Council Chambers	2nd Thu	12	9	9	13	11	8	13	10	14	12	9	14
Police Advisory Committee	7:00 p.m.	Multi-purpose room	1st Mon	9	6	6	3	1	5	10	1	11	2	6	2
Unified Development Ordinance Committee	4:00 p.m.	Council Chambers	3rd Wed	18	15	15	19	17	14	19	16	20	18	15	20
Town Council - Regular Meeting	6:00 p.m.	Council Chambers	2nd Tue	10	14	14	11	9	13	11	8	12	10	14	12
Town Council - Workshop	9:00 a.m.	Council Chambers	4th Tue	N/A	28	28	25	23	27	25	22	26	24	28	N/A
Town Council - Budget Open House	4:00 p.m.	Council Chambers	Wed	18											
Town Council - Budget Workshop	9:00 a.m.	Ft. Fisher Air Force Base	Thursday	26											
Town Council - Budget Workshop	9:00 a.m.	Ft. Fisher Air Force Base	Friday	27											



AGENDA ITEM COVERSHEET

PREPARED BY: Sheila Nicholson

DEPARTMENT: Executive

MEETING: Town Council 12/13/2022

SUBJECT: Request Approval to Submit ROT Reimbursement Request

BACKGROUND:

The Town would like to request a reimbursement of \$470,193.65 from the Room Occupancy Tax fund.

ACTION:

Approve under the Consent Agenda

Lynn Barbee
Mayor

Joe Benson
Council Member

Deb LeCompte
Council Member



Jay Item 3.
Mayor Pro Tem

Mike Hoffer
Council Member

Bruce Oakley
Town Manager

Town of Carolina Beach
1121 N. Lake Park Blvd.
Carolina Beach, NC 28428
Tel: (910) 458-2999
Fax: (910) 458-2997

TO: New Hanover County Tourism Development Authority
FROM: Bruce Oakley, Town Manager, Carolina Beach

The Town of Carolina Beach respectfully requests ROT funds for reimbursement in the amount of **\$470,193.650** for the following:

Hamlet Ave. Public Bathroom Building-\$ 72,201.33

Construction of public restroom facility at Hamlet Ave. public beach access; will be used by visitors/tourists while at Carolina Beach; will also serve as Ocean Rescue office and storage facilities 11/23/22 payment.

Ocean Rescue/Lifeguard Expenses-\$ 272,506.96

Salaries, expenses, and benefits related to ocean rescue/lifeguard staff 7/1/22-10/31/22 (also includes costs not previously reimbursed 3/1/21-9/1/22 that are HR related).

Parks and Recreation Events-\$ 123,485.36

Events held by P&R to promote travel and tourism to Carolina Beach. Examples include weekly fireworks displays, band performances, Sunday night movies, family nights at boardwalk (face painters, bands, other entertainment), Christmas by the Sea, and other.



AGENDA ITEM COVERSHEET

PREPARED BY: Kim Ward, Town Clerk

DEPARTMENT: Clerk

MEETING: Town Council Meeting 12/13/2022

SUBJECT: Approval of Council Meeting Minutes from November 3, 9, and 22, 2023

BACKGROUND:

Attached are the meeting minutes from November 3, 9, and 22, 2022.

ACTION REQUESTED:

Review and consider approving under the consent agenda.

CAROLINA BEACH

Town Council Workshop

Thursday, November 3, 2022 – 8:30 AM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



MINUTES

CALL TO ORDER

Mayor Barbee called the meeting to order at 8:30 AM.

COUNCIL PRESENT:

Mayor Lynn Barbee

Mayor Pro Tem Jay Healy

Council Member Joe Benson

Council Member Deb LeCompte

ALSO PRESENT:

Town Manager Bruce Oakley

Assistant Town Manager Ed Parvin

Town Clerk Kim Ward

Colonel Chad Blacketer, MOTSU

Malcolm Charles, MOTSU

Mayor Barbee welcomed the guests from MOTSU and made introductions.

Mr. Parvin reviewed the current license agreements with MOTSU. Those include:

50.11 acres for the Wastewater Treatment Plant

10 acres for Mike Chappell Park

Four wells at 1 acre each

Three stormwater retention ponds

Temporary storage of storm debris on the Wastewater Treatment Plant site

Mr. Parvin presented the current request from the Town which is a water tank and relocation of habitable buildings. This request for Well 15H would have to run up the Army's chain of command for final approval.

Mr. Parvin reviewed a wish list for future projects. One item gained mutual interest, which is a firing range that could be used by local, state, and federal law enforcement.

Colonel Blacketer informed Council that more fencing will be erected along the buffer zone within the next 3 or 4 years.

Meeting adjourned at 9:40 a.m.

CAROLINA BEACH

Town Council Regular Meeting

Wednesday, November 9, 2022 - 6:00 PM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



MINUTES

CALL TO ORDER

Mayor Barbee called the meeting to order at 6:00 PM, followed by the invocation by Council Member LeCompte and Pledge of Allegiance.

PRESENT

Mayor Lynn Barbee

Mayor Pro Tem Jay Healy

Council Member Joe Benson

Council Member Mike Hoffer

Council Member Deb LeCompte

ALSO PRESENT

Town Manager Bruce Oakley

Assistant Town Manager Ed Parvin

Finance Director Debbie Hall

Town Clerk Kim Ward

Town Attorney Noel Fox

ADOPT THE AGENDA

ACTION: Motion to adopt the agenda

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

CONSENT AGENDA

1. Set a Public Hearing for December 13, 2022, to Consider a Conditional Zoning Application for a 22-Unit Townhome Project Located at 205 and 211 Spartanburg Avenue in the R-1 Zoning District
Applicant: WB Coastal Development, LLC
2. Set a Public Hearing for December 13, 2022, to Consider a Voluntary Annexation for a 20,853-Square-Foot Tract Located on 601 Augusta Avenue into the Town of Carolina Beach Municipal Boundaries
Applicant: Parris Stratton
3. Approval of Council Meeting Minutes from October

ACTION: Motion to adopt the consent agenda

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

Council Member LeCompte read a message from former Mayor LeAnn Pierce thanking Council, staff, and citizens for supporting her successful run for County Commissioner.

Mayor Barbee asked if any of the County's beach towns ever had a former Mayor or Council Member go on to serve as a County Commissioner. Council Member LeCompte said she was told this has never happened. Mayor Barbee said in his opinion, this will be good for all the County's beach towns because Ms. Pierce understands the issues facing coastal communities.

SPECIAL PRESENTATIONS

4. Events Update by Ed Parvin

Mr. Parvin reviewed upcoming special events:

- Neon Bike Brigade – November 12 beginning at Lake Park
- Police Department Bike Rodeo – November 13 at the Recreation Center
- CB Art and Skate Festival – November 19 at Mike Chappell Park
- Santa by the Sea – starts November 26 at the Boardwalk Gazebo
- Letters to Santa – mid-November through December 6 at the Recreation Center
- Christmas Parade – December 2 along Lake Park Boulevard
- Holiday Market – December 3 at Lake Park
- Movie by the Lake – December 9 at Lake Park

Council Member Hoffer asked about the Lighting at the Lake. Council Member LeCompte said this is part of the Island of Lights organization.

Mayor Barbee recognized Jim DeGilio from the Pleasure Island Chamber of Commerce and praised the organization for a fantastic job with the Cape Fear Kite Festival.

5. Filming Request – “Vacation 911”

Glistening Productions has requested to film the series “Vacation 911” in the Town. The series covers the day-to-day activities of police departments in tourist destinations. The producers aim to provide a real reflection of law enforcement and crime and not fabricated “reality.” The show will demonstrate how crime is being dealt with effectively and use Town Police Department officers in filming.

Police Chief Vic Ward said he met with Glistening Productions representatives via Zoom and sent them information about call volume and events. He said the group felt like the series was a good fit for the Town and he felt good about it.

Mayor Barbee said he assumed filming would be done during the summer season. Chief Ward said yes, the series wants to get peak season activities but would also film a little before and a little after the summer.

Angela Smith, Sarah Walters, and Kyle Prince of Glistening Productions made a presentation to Council via Zoom.

Ms. Smith gave background about the series and said they are seeking a place with a beautiful backdrop. She said the goal of the series is to get to know officers as human beings and see crimes from their perspective with fly-on-the-wall-style filming.

Mr. Prince described the logistics of how filming would work. He said the series would use small crews of two to four people and engage in local spending on accommodations, equipment, etc.

Mayor Barbee asked for examples of their work. Ms. Smith directed him to the Glistening Productions website for more information and said they can send shows the company has made.

Mayor Barbee asked if Chief Ward would have the authority to halt production during times when he sees fit. Ms. Smith said yes, they don't want to get in anyone's way and plan to be collaborative to make the relationship work.

Council Member Benson asked how they identified the Town and what stood out. Ms. Walters said she was charged with finding beautiful places that attract tourists from across the country and world. She said she was searching for a police force with a strong connection to its local community and full of relatable personalities.

Mayor Pro Tem Healy asked about the liability of the crew riding with officers. Ms. Smith said they have insurance for every production and there would be no liability on the Town's behalf. She said Glistening Productions has teams of lawyers who tell them what to do to protect everybody.

Council Member LeCompte said the Town would need to see how this would fit with its Human Resources Department.

Mayor Barbee said anything that shows the Police Department in a positive light is a good thing, but he has some concerns about employees being filmed. He said he wants to voice support for the project but needs to hear about potential legal issues.

Council Member Hoffer said he doesn't have enough information to approve this project right now.

Ms. Smith asked Council to come up with a list of concerns so they can be addressed before entering into an agreement. She said the series only wants to feature officers who are comfortable on camera, and no one will be forced to participate.

Staff will review the legalities and bring back details to Council. Mayor Barbee said mid-December is likely when Council might have an answer about the Town's participation in the series. He said he is flattered and honored that they found the Town and thanked them for their consideration.

6. Manager's Update

Mr. Oakley gave an update on various projects and events.

Starfish Public Access Grant

The Town just received approval for a \$130,000 grant from Coastal Area Management Act (CAMA) for the Starfish public access. This will go toward rebuilding the pier, putting in a bulkhead, and replacing the stormwater pipe and valve to improve flooding issues. Staff reached out to neighboring property owners to try to shift the location of the pier, but the Town failed to get signatures on the riparian rights there so it must be rebuilt in its current location. If it is over 50% is damaged, the Town will have to do some work this year and some next year, but if not all the work can be done this year. Damage started years ago, but Hurricane Florence made the situation worse.

Council Member Hoffer asked if there is a match to this grant. Planning Director Jeremy Hardison said yes, there is a 20% match to this grant.

Council Member Benson said the Town had budgeted the entire \$130,000 for the project, so this grant will be a net positive for the budget even with the required match.

Mayor Barbee asked for specifics about the negotiations with residents. Mr. Oakley said the Town wanted to center the pier, which is now closer to one of the neighboring properties, between the two. To do this the Town needed both signatures, and to move it 4 feet from the existing property only one signature was needed, but neither one has signed at this time, he said. Mayor Barbee said it seems that what the Town is proposing to do would benefit the neighbors when it comes to stormwater and flooding.

Marina Project

After what's left of Tropical Storm Nicole moves through the area, piling work will begin. Then work will move to the last phase. Only the right-turn lane heading south on Canal Drive will have to be closed to complete the final phase of the project.

Mayor Pro Tem Healy said the docks are constructed so well that the Town may want to consider redoing the west side next year.

Snow's Cut Bridge Beautification Project

The plan, which was recently scaled back due to costs, is being sent to the N.C. Department of Transportation (DOT) for approval in the next few days. The Town anticipates easy approval and hopes to get started on the project this month.

Council Member LeCompte said the North Carolina Wildlife Federation is willing to partner and help pay for the project.

Florida Avenue

Stormwater improvements will begin on November 14 and last about a week. The Town is hoping to get some quotes from paving contractors shortly after that. A relentless tidal cycle during late summer and fall contributed to delays with this project, but next week looks good for conditions to be right.

Pavement Condition Index (PCI) Paving

The project is out to bid, and bids are due by November 16. Once paving starts the work will move quickly, but many paving contractors are booked so there may not be an immediate start.

Spartanburg Avenue/2nd Street Stormwater Project

Project bids are due by November 18.

Rock Revetment

This project involves a rock revetment on the North End that has been washed over and filled in by the past few storms after the nourishment project. CAMA is ready to sign off but must wait until the sea turtle moratorium is over in December. The contractor is ready to begin as soon as CAMA approves. Work will involve restacking the rocks and filling in sand behind them.

Mayor Barbee said the Town needs to remember this issue every time there is a nourishment project. He said it's not part of work done by the U.S. Army Corps of Engineers, so it falls by the wayside.

Council Member Benson said maybe the Corps can knock out this work as a line item in future nourishment contracts. Mr. Oakley said he will reach out to see if this can be included.

Henniker's Ditch Maintenance

Staff is working on getting quotes for annual maintenance of the Town's main drainageway so it can continue to work as intended.

Budget Retreat Tentative Plans

- Community survey – December 12-January 11
- Town Hall open house – January 18
- Budget retreat – January 26-27

Mayor Barbee said one of the goals of Council's strategic plan was to increase public involvement in the budget process. He said before planning for the next budget cycle starts, he wants Council to pull up the current plan and report on progress for accountability and improvement purposes.

Miscellaneous

Council Member Benson asked whether Military Ocean Terminal Sunny Point (MOTSU) will allow the Town to temporarily store docks on MOTSU property by the wastewater treatment plant. Mr. Oakley said the Town received verbal approval yesterday.

Mr. Oakley praised staff involved with grant work. Council Member LeCompte said she would like an update on how much the Town has gotten in grant money this year.

Council Member Hoffer asked if there is any update on the Ocean Boulevard sidewalk project. Mr. Oakley said he has heard nothing new and that work is continuing on the final design.

Mayor Barbee asked if there are any updates on the lake dredge issue. Mr. Oakley said the Town is getting close to receiving a final response from the Corps.

PUBLIC COMMENT

Mayor Barbee said an earlier version of the agenda had a typo that indicated there would be a public hearing about golf cart regulations. He said the golf cart regulations item will not have its own public hearing, and anyone who wants to speak about the matter should do so now during public comment.

Wayne Rouse spoke about the debt service coming up for water and sewer. He asked that Council and staff communicate this with residents.

Patrick Boykin of 712 Glenn Avenue spoke about the condition of the property next door to his home and said he continues to have health and safety concerns. He said he made a service request over two months ago and has not received any communication from the Town, so he will be looking for help at the County and State levels.

PUBLIC HEARINGS

7. Conditional Zoning to Consider a Drinking and Eating Establishment Classified as a Bar to Serve on-Premises Alcohol Located at 604 North Lake Park Boulevard
Applicant: Shagri-La, LLC

ACTION: Motion to open the public hearing

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

The applicant has applied for a Conditional Zoning (CZ) application for a bar/tavern in the Highway Business (HB) District. The proposal includes providing on-premise wine, beer, and liquor. When on-premise alcohol is being served and the use is not classified as a standard restaurant, the ordinance defines the use as a bar. Alcoholic Beverage Control (ABC) requires restaurants to have food comprise at least 30% of their sales or it is classified as a bar. A bar is allowed through the approval of CZ in HB.

The applicant is proposing to change the use of the business at 604 North Lake Park Boulevard from a restaurant to a bar. No new bars/taverns shall be permitted within 200 feet of an established church or school or 200 feet of any residential district. This location meets that separation requirement.

The existing building is a two-unit commercial building built in 1998. It meets the current lot coverage and setbacks requirements. No additions are proposed outside of the current footprint. The applicant is providing 11 on-site parking spaces and four off-site parking spaces across Lake Park Boulevard in

Winner's RV Park on property adjacent to the public right-of-way. The parking space amount and location were approved in the original Conditional Use Permit approved on December 9, 1997.

The building consists of 3,200 square feet of indoor area. The most recent previous use was an eating and drinking establishment, which has the same parking calculation as bars and taverns. At the time of the approval of the existing building, the 1984 zoning ordinance did not require pedestrian access between off-site parking and the building.

Proposed conditions

1. 5-foot sidewalk must be installed per Sec. 40-150(5) to provide safe pedestrian access between off-site parking and the building.
2. The four off-site parking spaces at 605 North Lake Park Boulevard shall be designated with signage, wheel stops, and an approved parking surface.

As part of the application process, a community meeting is required. The applicant held the required meeting on August 26. No one attended, but a neighbor sent a statement of support for the proposal.

The project is in general conformity with the 2020 Land Use Plan. This area is recognized as a higher-density area with a mix of uses within the district and individual buildings. Staff recommends approval of the project as proposed.

Senior Planner Gloria Abbotts presented the details. She showed photos of the site, the site plan from 1997, and the existing floor plan of the business.

The Planning and Zoning Commission recommended approval 4-1 with the omission of the sidewalk condition and omission of the requirement for an approved parking surface for the four off-site parking spaces as long as they are designated with wheel stops and signage.

Applicant Nicole Adkins of 209 North 3rd Avenue in Kure Beach said nothing about the business will change. She said a cocktail program has always been her main focus, and she is unsure Shagri-La will routinely meet 30% in food sales. Ms. Adkins said being classified as a bar will allow her to continue to operate the business if she loses her kitchen staff. She said she is not planning to stay open late, become a nightclub, or have DJs.

ACTION: Motion to close the public hearing

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

Council Member Hoffer said he agrees with the Planning and Zoning Commission's recommendation to omit the sidewalk and paved parking requirements. He said this would be an unrealistic burden on the business owner.

Mr. Oakley said Council needs to ask for public comment. Ms. Fox advised Council to reopen the public hearing.

ACTION: Motion to reopen the public hearing

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

Wayne Rouse of 508 Monroe Avenue, who is Chairman of the Planning and Zoning Commission, said he can answer any questions Council has about the Commission's recommendation. He pointed out that Brad Jones, who previously owned a business at Shagri-La's current location, is in attendance.

Brad Jones of 616 Charlotte Avenue said the restaurant and retail space he opened in Shagri-La's current location was a great place for families to come, especially in the off-season. He said he would love to see that tradition carried on by the current business.

No one else requested to speak.

ACTION: Motion to close the public hearing again

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

Mayor Pro Tem Healy said there is a bar to the left and right of Shagri-La.

Council Member LeCompte said one of those was just approved last year without a sidewalk requirement.

Mayor Barbee said he reached out to the property owner to see if there were any concerns, and the property owner is fully supportive of what the business owner is proposing.

Council Member Benson said the plan looks good with the changes the Planning and Zoning Commission recommended.

Mayor Barbee said this business is doing well and strives to raise the bar in terms of the guest experience. He said he may feel differently about requiring a sidewalk if it was a new building breaking ground.

ACTION: Motion that whereas in accordance with the provisions of the NCGS, the Council does hereby find and determine that the adoption of the Conditional Use District to allow for a bar located at 604 North Lake Park Boulevard is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans and the potential impacts of the surrounding area are mitigated by the

approved conditions, but in this motion we are removing the sidewalk and the parking conditions that staff recommended in agreeing with Planning and Zoning

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

ITEMS OF BUSINESS

8. Text Amendment: Consider Amending Chapter 16 Article II Sec. 16-75. – Rules and Regulations for Golf Carts

Applicant: Town of Carolina Beach

The Police Department has requested that the Town's golf cart regulations be consistent with the State statute. Chief Ward presented the details. The proposed amendments would add the following requirements to the existing language:

- Carts must be equipped with a rearview mirror, side mirrors on each side of the cart, reflex reflectors, windshields, and windshield wipers.
- Seat belts must be worn by all passengers exceeding 8 years of age and exceeding 80 pounds. A child passenger less than 8 years of age and less than 80 pounds shall be properly secured in a weight-appropriate passenger restraint system.
- Weight-appropriate passenger restraint systems may only be used in the front seat or another forward-facing seat within a cart.

Mayor Barbee said these regulations would put golf carts in line with low-speed vehicles (LSVs), which must have license plates.

Council Member LeCompte said she thought the Town passed this years ago. Ms. Fox said there were significant safety revisions a long time ago, but because of the large number of golf carts in the Town there was some concern that including everything at one time would be burdensome. She said a previous Council struck some of the safety provisions considered at that time and they never came back, so she thinks it's appropriate to pass this proposal at this time.

Council Member LeCompte asked if there will be time for golf cart owners to comply with the new regulations. Chief Ward suggested promoting this immediately but giving a grace period with warnings until the first of the year.

Mayor Barbee said he thinks the Town should sunset golf carts, but he isn't sure how to go about doing this without affecting those who currently have them. He asked staff to look into how this could be done and stressed that he is not referring to LSVs. He said golf carts that don't have license plates create operational issues because owners can't be identified.

Council Member Hoffer said if a golf cart meets all the criteria proposed tonight, it should be able to register for a license plate.

Council Member LeCompte said Council would need to get public input on this.

ACTION: Motion to approve the text amendment to Chapter 16 Article II Sec. 16-75. – Rules and Regulations for Golf Carts as presented by Chief Ward

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

9. 2nd Street Water/Sewer Assessment

The property owners in the 1000 block of South 2nd Street between Greenville Avenue and the Carolina Sands neighborhood filed a petition with the Town to improve the right-of-way in front of their properties. The length of the unimproved right-of-way is approximately 270 feet and adjacent to four impacted parcels. The following were adopted by Council at public hearings:

- Preliminary assessment resolution on March 21, 2022
- Resolution directing the right-of-way be improved with a street, stormwater, and utilities on September 13, 2022

Mr. Parvin presented the details. He said within one year after completion, the owners would reimburse the Town for two-thirds of the cost. Mr. Parvin said tonight staff is asking Council to adopt two ordinances to establish a budget for the project to move forward: one is for street paving and the other is for water/sewer.

Mayor Barbee said Council has already voted to move forward on this project, and this is just a formality to get it done.

ACTION: Motion to approve Ordinance No. 22-1186 and 22-1187 as presented

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

10. Committee Appointment

Council made the following committee appointment:

- Operations – Stephen Taylor

COUNCIL COMMENTS

Council Member Hoffer questioned why some items are being pushed to workshops instead of being heard at regular meetings. Mayor Barbee said Council's intent is to vote on items during regular meetings because that's when there is time for public comment, and informational items are typically reserved for workshops. Mayor Pro Tem Healy said his understanding is that committees typically present during workshops because workshops offer a more open and relaxed way to communicate with Council. Mayor Barbee said he would like to have a general agreement among Council that

committee presentations be done in workshops unless a committee is bringing forward something that requires an immediate decision.

Council Member Benson said the Operations Advisory Committee is looking forward to presenting an update to Council at the November workshop.

Council Member Benson suggested offering a five-year lease for the property that hosts the amusement rides. Mr. Oakley replied that the Town usually prefers contracts for two years but will bring this back to the next workshop. Council Member Hoffer said Council Members need to think about what would make it in the Town's best interest to extend the lease.

Mayor Pro Tem Healy said electric bicycles in the Town pose the potential for serious injury. Mr. Oakley said staff is hoping State legislation will allow the Town to make changes in the future. Council Member Hoffer asked the Police Department to have a presence on the Island Greenway to try to slow down electric bicycles.

Mayor Barbee said he has received complaints from residents on Clarendon Avenue that drivers are speeding in the area by 6th Street where the stop sign was removed. He said they are requesting that the stop sign be reinstalled.

Mayor Barbee said residents have mentioned that there are no stop signs on the Cape Fear Boulevard multi-use path like the ones on the Island Greenway. He said they are requesting that the Town add stop signs at the intersections on the Cape Fear Boulevard path. The Bike/Ped Committee will review this.

Council Member LeCompte asked where things stand with Carolina Beach Avenue South. Council Member Hoffer said the Bike/Ped Committee is still considering possible recommendations.

CLOSED SESSION

11. Closed Session – Attorney/Client

ACTION: Motion to go into closed session to discuss an attorney/client matter in accordance with NCGS 143-318.11(a)(3)

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

Mayor Barbee called the meeting back to order and said Council took no action during closed session.

ADJOURNMENT

Mayor Barbee adjourned the meeting at 8:10 PM.

CAROLINA BEACH

Town Council Workshop

Tuesday, November 22, 2022 - 9:00 AM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



MINUTES

CALL TO ORDER

Mayor Barbee called the meeting to order at 9:00 AM.

PRESENT

Mayor Lynn Barbee

Mayor Pro Tem Jay Healy

Council Member Joe Benson

Council Member Mike Hoffer

Council Member Deb LeCompte

ALSO PRESENT

Town Manager Bruce Oakley

Assistant Town Manager Ed Parvin

Finance Director Debbie Hall

Town Clerk Kim Ward

Town Attorney Noel Fox

Mayor Barbee said he would like to change the order of the agenda to get old business out of the way first. He proposed moving the committee items after the Manager's Update and parking and leased property discussions.

ACTION: Motion to make that change

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer,

Council Member LeCompte

Motion passed unanimously

DISCUSSION ITEMS

1. Manager's Update

Mr. Oakley gave an update on progress for the Strategic Plan 2022-23.

Priority 1 – Infrastructure

- Objective 1A: Develop a funding plan with timelines by the end of the fiscal year (June 2023) to address headworks. This funding plan is not limited to but should include permitting, construction, and competition.

The Town has applied for a grant to pay for this project, and although the application was not selected in the first round of funding, staff is hopeful that it will be successful in the second round. Doing a good job may have hurt the application, as the Town did not have any violations that would've scored it higher.

- Objective 1B: Develop a funding plan with timelines by the end of the fiscal year (June 2023) to address water shortage.

A preliminary engineering design report to get funding is in the budget and will soon be underway.

- Objective 1C: Town Manager will develop an alternative plan regarding the Lake Dredge Project with cost estimates by mid-summer (2022).

The Town is awaiting signoff from the U.S. Army Corps of Engineers and can then put this out to bid.

- Objective 1D: "Close the deal" on Freeman Park.

The Town not only finalized the project with financing but also received a grant to refund the loan so the Town will own Freeman Park outright. Some steps remain before receiving the money, which should happen in about five months.

Priority 2 – Communication

- Objective 2A: Town Manager will present options and recommendations regarding the Public Information Officer position during the budget process (February-May 2022).

This was budgeted but has not yet been advertised or filled. There is a job description that is a work in progress, as staff thinks there may be some different uses for this position.

- Objective 2B: Council will continue to serve as champions and ambassadors for the Town.

This has been successful.

- Objective 2C: Staff will enhance the community room that helps citizens be informed.

There is money in the budget to improve recording and streaming meetings.

Council Member Hoffer asked if part of this objective was improving the entranceway to Town Hall. Mr. Oakley said yes, this has been funded and designs are drawn up, so hopefully work will start soon.

- Objective 2D: Town committees will define their mission and have this mission approved by Council. Members of committees will implement their overall mission and act as liaisons to the community under the direction of Council.
 - Town Attorney and Town Manager will educate committee members on legal issues (February 2022).
 - Town Attorney will lead trainings with committee members on structure (February 2022).
 - Town Clerk will provide an updated document on committees to Council (February 2022).
 - Council will evaluate the proposed mission/purpose of each committee and approve as appropriate (April 2022).
- Objective 2E: Staff will continue to update the Town's website.

Priority 3 – Qualify of Life

- Objective 3A: The Town will complete the following components of the Pedestrian Plan:
 - Spartanburg Avenue crossings: These are still in the works.
 - Saint Joseph Street: This has been approved and will hopefully be underway before too long.
 - Hamlet Avenue: This is still in the hands of the N.C. Department of Transportation (DOT).
 - Ocean Boulevard sidewalk: This is moving forward, and DOT will review final plans soon.
 - Carolina Beach Avenue: The Town hopes to be paving there in the spring.

Mayor Barbee said the Town got notification from DOT about the request for light changes at Cape Fear Boulevard and Lake Park Boulevard. He said all the materials are finally available, and it sounds like work will begin in January.

- Objective 3B: The Town will continue to focus on being a family beach for both citizens and tourists and seek solutions for how to keep people from using illegal fireworks.

The Town is still working on solutions. The North End pier recently caught on fire due to fireworks, but someone promptly reported the fire and it was quickly extinguished.

- Objective 3C: Town Manager, Town Attorney, and Planner will present options to Council for ways to address flag concerns by summer 2022.

Staff was waiting until the Town owned Freeman Park before tackling this. Now that the sale has occurred, Council can discuss this at the upcoming budget retreat.

- Objective 3D: The Town will discuss the topic of a 10-year parks and recreation plan during the budget process (February-May 2022).

Council heard ideas about this during past budget proceedings, and staff will present more ideas this year, including proposed changes to Lake Park made possible by the Brandy Myers playground funding.

Priority 4 – Fiscal Responsibility

- Objective 4A: Council came to consensus on an approach to parking.
 - The current contract will be continued: The Town is still in its contract with Pivot Parking.
 - Town Manager will present a report to Council with data and staff recommendations regarding the contract. Council will evaluate the success of the contract quarterly: Pivot Parking has been doing this.
 - The Town will find 100 more new parking spaces: The town found 74 new parking spaces, but there could be much more coming in future. The Town will be losing a few lots but will continue to search for opportunities.

- Objective 4B: The Town will continue to increase the fund balance as feasible.

The fund balance increased again this year.

- Objective 4C: Staff will continue to research grants and sources of funding for the Town's needs and apply as appropriate. Staff and Council will also discuss the feasibility of a potential grant writer position.

The Town is a victim of its own success, as it has received so much outside funding that staff is overwhelmed with projects. The upcoming budget process will add a public input session and community survey before Council's retreat.

Grant/Outside Funding

The Town has received \$12,701,420.54 in grant/outside funding from 2020 to present:

- \$1,000,000 - Brandy Myers Playground (Office of State Budget and Management)
- \$175,000 – Lake Park Playground (Land and Water Conservation Fund)
- \$485,100 – Ocean Boulevard Sidewalk (Office of State Budget and Management)
- \$2,000,000 - Lake Park Dredge and Improvements (Office of State Budget and Management)
- \$1,019,672.47 – Stormwater Projects and Premium Pay (American Rescue Plan Act)
- \$2,112,493.60 – Town Marina (Golden LEAF Foundation)
- \$1,019,672.47 – Town Marina (American Rescue Plan Act)
- \$343,332 – Saint Joseph Multi-Use Path (DOT)
- \$131,250 – Starfish Lane Access (Coastal Area Management Act)
- \$4,000,000 – Freeman Park (Land and Water Conservation Fund)

Grant/outside funding is in progress or there are plans to pursue it for the following projects:

- Headworks
- Water storage

Council Member Benson said Mr. Oakley forgot to mention the Carolina Beach Avenue North project that was funded in conjunction with the Ocean Boulevard sidewalk.

Mayor Barbee said the Town has done a phenomenal job going from minimal outside funding to this.

Mayor Pro Tem Healy said the Town needs to go for as much grant/outside funding as it can get and hire more people to handle the projects if necessary. Mr. Oakley said he is leery to take on too much without additional employees because if projects are not completed on time, this may not reflect favorably on the Town when it applies for funding in the future.

Mayor Barbee praised staff for implementing changes that have resulted in this level of accountability and transparency.

Council Member LeCompte said the Town needs to ensure the public is aware they are welcome to attend budget retreats. She said recording these would be beneficial.

Mayor Pro Tem Healy said he was not aware of the previously mentioned fire at the pier. Mr. Oakley said this happened about two weeks ago.

Council Member Benson asked if the marina project will offer an opportunity for traffic redesign. Mr. Oakley said staff has talked internally about how coming up Canal Drive and moving into Carl Winner Drive is awkward and potentially dangerous. He said it would be ideal to shift the turn lane for a straight shot.

2. Parking Discussion

Council Member LeCompte requested a parking discussion after collecting data on the 2022 parking season and compiling a presentation. She said she asked Pivot Parking for the top five towns using parking, and they went above and beyond by gathering a list of the top 20 parking users by ZIP code by month from March to October.

Council Member LeCompte said Wilmington ZIP codes 28412 and 28409 represent one-quarter of the Town's parking revenue. She said Sheila Nicholson, Executive Assistant to the Town Manager, helped pull data for 2021 non-resident passes, and the Wilmington area accounted for 563 of the 656 passes sold; Kure Beach only accounted for 14.

Council Member LeCompte reviewed the history of the Central Business District (CBD) and Boardwalk. She said the Town created the CBD with zero setbacks and no parking requirements, so there is an implied promise for the Town to provide parking in the CBD. Council Member LeCompte said Boardwalk improvements have been funded exclusively by taxpayer dollars and room occupancy tax (ROT) funds. She reviewed the steps that have been taken to protect the Boardwalk, including recent changes to the parking program, and proposed the following steps to protect parking revenue:

- Free parking in November and December
- Grace period for expired parking before a ticket is issued
- Increase in the in-season daily parking rate (Memorial Day through Labor Day)

- More shoulder season activities at the Boardwalk
- Use of more ROT marketing dollars to promote the Town's holiday season activities

Council Member Benson asked if the management fee for Pivot Parking is the same every month. Ms. Hall said there is a set base fee but also expenses for employees, so this will fluctuate based on the number of employees.

Council Member Hoffer said the proposed steps did not include non-resident parking passes and asked Council Member LeCompte for her thoughts on this. Council Member LeCompte said with Wilmington ZIP codes 28409 and 28412 being the top-paying parking customers, offering non-resident passes would significantly decrease parking revenue. She said the Town must be proactive and not reactive in finding revenue to pay for its aging infrastructure to the tune of \$53,512,342 for the 10-year capital improvements program. Council Member LeCompte said a lower figure offered at a previous meeting did not include stormwater improvements. She said parking and Freeman Park revenue is a way for tourists to share the cost with residents.

Council Member LeCompte offered the following proposed timeline:

- December 2022 Council meeting – parking options open for public and Council discussion
- January 2023 – review the parking revenue expenses for November and December
- January 2023 – Council vote on implementation

Council Member Hoffer said this speaks to why he was not a fan of the Council vote on parking in October. He said information was still coming in, and that's why he voted against the motion and was frustrated.

Mayor Barbee said there are three numbers missing from the presentation: ROT, sales tax, and Alcoholic Beverage Control (ABC) tax revenue, all of which are off the charts. Council Member LeCompte said she did not cover these because they are not controllable revenue.

Mayor Pro Tem Healy said he thinks it would be difficult to manage a grace period after parking expires. He said he is OK with offering free parking in November and December if data supports this. Mayor Pro Tem Healy said some business owners are responsible for putting out negative publicity and hurting the Town's welcoming vibe.

Council Member Hoffer said he wants to follow Council Member LeCompte's proposed timeline and vote on parking in January.

Mayor Barbee asked how many more months Council is going to work on parking and said a small number of people are manipulating the facts. He said considering more changes to the parking program in January will cost money. Mayor Barbee said he doesn't know how to stop the ongoing parking discussions and apologized to the public.

3. Discussion on Leased Property

Council Member Benson said the Town's small piece of land on the Boardwalk is currently leased for amusement rides. He said in keeping with the goal of establishing, maintaining, and enhancing a family-friendly vibe, it would be in the best interest of the Town to extend a lease for as long a term as possible. He said his proposal is for five years and includes working together to bury aerial cable lines and seeking a non-compete for some of the food sold by the vendors based on the menus of adjacent restaurants.

Ms. Fox said the current lease is fairly simple, and tying additional terms, particularly those related to regulating food sales and other commerce, is probably not advisable.

Mr. Oakley said the cost to bury aerial cable lines is estimated at \$85,000. He said this endeavor was part of a previous project but was not done, likely because the AT&T line may have still been tied to the beachwear building at that time. He said that project was funded and completed, and he thinks the Town spent all the allocated funds to complete what was done.

Council Member Hoffer suggested negotiating, offering a longer lease only if the vendors are open to burying aerial cable lines and not competing with adjacent restaurants. Ms. Fox said the Town would have to figure out how to do this in a legal manner. Mr. Oakley said the Town could require a new Conditional Use Permit and eliminate the food service use.

Mayor Pro Tem Healy said he thinks the Town should stay away from the food issue, but he thinks everyone would like to see the aerial cable lines go underground.

Council Member LeCompte said any way the Town can work with the property owners to keep things going on the Boardwalk is beneficial to the Town. She said this is one step toward keeping things from going vertical in that area.

Mayor Barbee said he is fully supportive of the rides, but the agreement was to get things started initially and then revisit to draft a plan for the area. He said there were some brainstorming discussions, but once the rides went up there hasn't been much more movement. Mayor Barbee said he feels like the Town got bait and switched in the deal and that he expected to see a plan for a redesigned area and how the Town and property owners could partner together.

Mayor Pro Tem Healy asked what happened to a draft plan the Town came up with that included a land swap. Mr. Oakley said Planning Director Jeremy Hardison came up with a drawing, and several Council Members saw it individually. He said it hasn't been formally presented to property owners, who were talking about hiring a land planner and doing something similar, and there has been no feedback from them.

Mayor Barbee said he wants to see this go forward, but he is not in favor of changing any conditions without a plan.

Council Member Hoffer said signing a longer lease doesn't preclude development of a plan, but Mayor Barbee said the Town would lose leverage if it allowed the lease now.

Council Member Benson said he thinks the Town should move on something before too long.

Council Member Hoffer said he is willing to hear a proposal about cost sharing for burying the aerial cable lines.

Mayor Barbee said he is not trying to quash anything, but he thinks the cart is in front of the horse.

Council Member LeCompte said the cable lines were part of the original project, so the Town is just going back to correct something that got overlooked.

4. Committee Presentation – Joint Committee Recommendation on Lake Park Boulevard

Representatives of several Town committees presented ideas for improving Lake Park Boulevard in conjunction with the proposed DOT 2025 paving project.

Cindy Dunn and Karen Graybush of the Beautification Committee made an initial presentation in June and since then have gathered additional information from bringing all Town committees together. They said the main goal is to transform Lake Park Boulevard, the major corridor of Town, to be more aesthetically appealing, safe, and pedestrian-friendly.

Ms. Dunn and Ms. Graybush reviewed ideas for funding and implementation and relayed committee feedback from the joint meeting held on August 17. They also went over the proposed timeline and project help resources to consider.

Operations Advisory Committee Chairman Butch LeCompte reviewed the committee's ideas for complementary projects that would fit in with the timing of the 2025 Lake Park Boulevard repaving project. Among them are:

- Signage to designate a recommended alternate safe bike route on Carolina Beach Avenue South
- Relocating 41 parking spaces on Lake Park Boulevard between Harper Avenue and Cape Fear Boulevard and creating safety bump-outs on both sides of the street
- Decorative bike racks

Mayor Pro Tem Healy asked about feedback from business owners in the area affected by the relocation of parking spaces. Mr. LeCompte said he promoted this to at least 50 businesses, and while there were a couple of naysayers who were worried about losing parking spaces in front of their businesses, most resoundingly liked the idea.

Mayor Barbee said this was a good presentation to get Council Members thinking.

Council Member Hoffer said he's intrigued by the idea of the bump-outs, but it would be a big change.

Council Member Hoffer spoke on behalf of the Bike/Ped Committee. He said the group's recommendations are to add bike lanes on South Lake Park Boulevard from Woody Hewett Avenue to Lake Drive, which would be a simple striping solution, make sidewalk improvements at Lake Park, and add bike lanes on South Lake Park Boulevard from Lake Drive to Carolina Sands Drive.

Council Member Hoffer said the Lake Park sidewalk improvements don't have to wait until 2025, so he encouraged the Town to move forward on this recommendation as soon as possible.

Mayor Barbee asked about the path forward. He said some of these items will be easy, and others will be expensive and hard, and at some point the Town will have to put numbers on things. Mr. Oakley said Council can list priorities for the next fiscal year during upcoming capital and strategic planning sessions.

Mayor Pro Tem Healy asked if there can be a conversation with DOT about repaving all the way to Alabama Avenue. Mr. Oakley said the Town can request that the project be extended.

5. Operations Advisory Committee Chairman Update

Mr. LeCompte gave an update on the Operations Advisory Committee's projects. He said committee members set up an information tent at the Lake Park market on October 1, which was a positive experience that allowed the group to meet residents and visitors. Mr. LeCompte said committee members talked about beautification topics and educated the public on how to use online tools to submit ideas.

Mr. LeCompte provided an update on the following major Town projects:

- Carolina Beach Marina
- Canal stormwater
- Starfish Lane stormwater remediation
- Scotch Bonnet Lane tidal containment
- Clam Shell Lane pump #3 new bulkhead
- Lake dredging
- Boardwalk bathrooms
- Lake Park Boulevard repaving
- Water and sewer

Mr. LeCompte said during the public outreach event, the committee received feedback about maintenance issues at the following Town landmark areas:

- Water tower and surrounding area
- Boardwalk
- Joseph Ryder Lewis Jr. Civil War Park
- Freeman Park approach, parking, and entrance
- Bill McDonald Park
- Hamlet Avenue beach access and bathrooms
- Mike Chappell Park
- Lake Park
- Sandpiper Lane beach access, parking, and bathrooms
- Alabama Avenue beach access, parking, and bathrooms
- Florida Avenue/Georgia Avenue kayak launch and fishing area

Mr. LeCompte said the committee would like Council to take an interest in focusing on these areas and send a message to staff to consider these key landmarks and maintain them well.

Mayor Barbee praised Mr. LeCompte for a good presentation.

Council Member Benson said the feedback from the market was useful, and he appreciates committee members going out to solicit that.

6. Committee Appointment

Council made the following committee appointment:

- Marketing Committee – Michael Hannan

Mayor Barbee said there were a lot of applications, and he encouraged everyone interested in serving on a committee to attend meetings now rather than waiting to be appointed.

COUNCIL COMMENTS

7. Council Comments and Requests for December Agenda Items

None

ADJOURNMENT

Mayor Barbee adjourned the meeting at 12:10 PM.



AGENDA ITEM COVERSHEET

PREPARED BY: Tim Murphy

DEPARTMENT: Parks and Rec

MEETING: Town Council Meeting 12/13/2022

SUBJECT: Events Update by Tim Murphy

BACKGROUND:

Tim Murphy will give an update on the upcoming events.

ACTION REQUESTED:



AGENDA ITEM COVERSHEET

PREPARED BY: Bruce Oakley, Town Manager

DEPARTMENT: Executive

MEETING: Town Council 12/13/2022

SUBJECT: Manager's Update

BACKGROUND:

Town Manager Bruce Oakley will give an update on the following items:

Golf Carts/LSV: Town of Carolina Beach Ordinance, Article II Section 16-75 Rule and Regulations for Golf Carts was amended at the November 11, 2022, Town Council meeting. The adopted changes made the Town's regulation for golf carts consistent with the North Carolina General Statutes. At the meeting, staff was requested to bring back a plan to "sunset" existing golf carts that were not licensed by the North Carolina Division of Motor Vehicles and set a date when all golf carts would be required to be licensed.

It is staff's recommendation that no golf carts be issued permits in the Town of Carolina Beach after June 30, 2023 and that only state licensed golf carts be allowed to operate on public roads within the town of Carolina Beach beginning January 1, 2024. Staff will prepare changes to the ordinance based on input from the Town Council.

PCI Paving: A contractor has been selected for the paving of the roads identified in the PCI study performed earlier in the year. The project is scheduled to start in February.

Brandy Myers Memorial Playground: A schematic layout of the proposed playground will be presented.

Boardwalk Bathroom: A design of the proposed boardwalk bathroom replacement will be presented.

Project Updates and Schedules: Staff will provide an updated list of current and upcoming projects along with timelines.

Miscellaneous Updates: Staff will provide updates on projects, initiatives, or other items that arise prior to the meeting.



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning Director **DEPARTMENT:** Planning & Development

MEETING: Town Council – December 13, 2022

SUBJECT: **Voluntary Annexation** to annex 20,853 sq. ft. parcel located at 601 Augusta Ave (PID 313017.12.6484.000) into the Town of Carolina Beach municipal boundaries.

Applicant: Parris Stratton

BACKGROUND:

The owner of 601 Augusta Ave, Parris Stratton, is requesting a voluntary annexation of a 20,853 sq. ft. vacant tract located at 601 Augusta Ave. The Town Council may annex by ordinance any area contiguous to its boundaries upon a petition signed by the owners of the area. The proposed property annexation is owned by one entity. This area of undeveloped land is situated between Carolina Sands neighborhood and developed lots off of Augusta Ave. The lot abuts up to the Sunny Point buffer area to the west. The lot is on the corner of 6th Street and Augusta Ave. Augusta Ave terminates 285' west to the Sunny Point buffer area. Sunny Point acquired the adjacent property in the early 50's. Carolina Sands and the surrounding area owners petitioned the area to be annexed in 1980. The owner of the lot located at 601 Augusta Ave at the time was not part of the petition and the property subsequently has never been annexed in the town.

The property is zoned Conservation. Conservation zoning district allows for single-family dwellings. An annexation does not change the zoning district or how the area could be developed. It is the only private land that is not incorporated in the Town. In 2000 the Town zoned all the properties that are outside the town limits conservation, this includes the subject property, Sunny Point, State Park, and Freeman Park. The property is in the Town's exterritorial jurisdiction (ETJ). The town has the authority to regulate how property is developed and zoned within a certain distance from its town limits. Any property owner can petition the town to annex their property into the town limits. There would not be any additional cost to the town with this request as the property abuts a paved street and water & sewer lines. With the close proximity to the Town limits Police and Fire would respond to any emergency situations for the property as they would with the Island Greenway, which is not in the town limits.

ACTION REQUESTED:

Staff recommends this parcel to be annexed in the town limits.

MOTION:

Approval - whereas in accordance with the provisions of the NCGS, the Town Council does hereby find and determine that the adoption of the annexation request of 601 Augusta Ave

Denial – The Commission does not recommend approval with the proposed adoption of the annexation of 601 Augusta Ave

Attachments

1. Petition
2. Ordinance
3. Map of Property
4. Survey
5. Town limits map
6. Supplemental materials – Deed
7. Certificate of Sufficiency
8. Staff Presentation



PETITION REQUESTING A CONTIGUOUS ANNEXATION

* * * * *

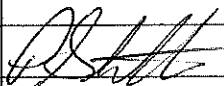
IMPORTANT: Supplementary information required as part of the petition:

- Copy of the New Hanover County Tax Map which delineates the property requested for annexation with relation to the primary corporate limits of Carolina Beach
- Legal description of property requested for rezoning, by metes and bounds

To the Town Council of the Town of Carolina Beach:

1. We the undersigned owners of real property respectfully request that the area described in Paragraph 2 below be annexed to the Town of Carolina Beach.
2. The area to be annexed is contiguous to the Town of Carolina Beach. Below is the Metes and Bounds Description of the boundaries: Augusta Ave & South 6th Street, Lot 1 PT LTS 2/4/5 BLK 152
601 Augusta Ave. FEE: \$370.00 Carolina Beach

3. A map is attached showing the area proposed for annexation in relation to the primary corporate limits of the Town of Carolina Beach. [and in relation to the primary corporate limits of the (City/Town/Village) of Federal Point Township .]
4. We acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 must be declared and identified on this petition. We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate below and attached proof.)

<u>Name</u>	<u>Address</u>	<u>Do you declare vested rights? (indicate yes or no)</u>	<u>Signature</u>
Parris Stratton	8759 West Telfair Cir. Wilmington, NC 28412	Yes - Sec 40-424	
		Nonconforming lots	
		of Article 111 -	
		Zoning District	
		Regulations	

Ordinance 22-1190

Town of Carolina Beach
Town Council



AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE TOWN OF CAROLINA BEACH

601 AUGUSTA AVENUE, PARCEL ID R09009-014-003-000

WHEREAS, the Town Council of the Town of Carolina Beach has been petitioned under NCGS 160A-31, as amended, to annex the area described herein; and

WHEREAS, the Town Council of the Town of Carolina Beach has by resolution directed the Town Clerk to investigate the sufficiency of the said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held on Tuesday, December 13, 2022, in the Council Room at the Carolina Beach Municipal Administration Building located at 1121 North Lake Park Boulevard, Carolina Beach, North Carolina, at 6:00 p.m. or soon thereafter, and after due notice by advertising in the Island Gazette on November 23, 2022, and November 30, 2022;

WHEREAS, the Town Council of the Town of Carolina Beach does hereby find as a fact that said petition meets the requirements of NCGS 160A-31, as amended;

NOW, THEREFORE BE IT ORDAINED, by the Town Council of the Town of Carolina Beach, North Carolina:

Section 1. By virtue of the authority granted by NCGS 160A-31, as amended, the following described territory, is hereby annexed and made part of the Town of Carolina Beach as of the 13th day of December, 2022.

Ordinance 22-1190

Town of Carolina Beach
Town Council

BEGINNING at the intersection of the western right of way line (25.0 feet from its centerline) of Sixth Avenue with the southern right of way line (25.0 feet from its centerline) of Augusta Avenue as shown on the map of Portion of Carolina Beach as recorded in Map Book 10, at Page 8, of the New Hanover County Registry; running thence from said beginning point and with the southern right of way line of said Augusta Avenue, North 70 degrees 36' West 225.0 feet to a point; running thence at right angles, South 19 degrees 24' West 120.70 feet to the northern line of Section 2, Carolina Sands subdivision, as recorded in Map Book 21, at Page 14, of the New Hanover County Registry; running thence with said line, South 85 degrees 45' 30" East 233.11 feet to the western right of way line of Sixth Avenue; running thence with said right of way line, North 19 degrees 24' East 59.75 feet to the point of beginning, containing 0.466 acres, more or less, and being all of Lot 1 and a part of lots 2, 4 and 5, Block 152, as shown on the aforementioned map of Carolina Beach as recorded in Map Book 10, at Page 8, of the New Hanover County Registry.

Section 2. Upon and after the 13th day of December, 2022, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the Town of Carolina Beach, North Carolina, and shall be entitled to the same privileges and benefits as other parts of the Town. Said territory shall be subject to municipal taxes according to NCGS 160A-58.10.

Section 3. The Mayor of the Town of Carolina Beach shall cause to be recorded in the office of the Register of Deeds of New Hanover County, and in the office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this ordinance.

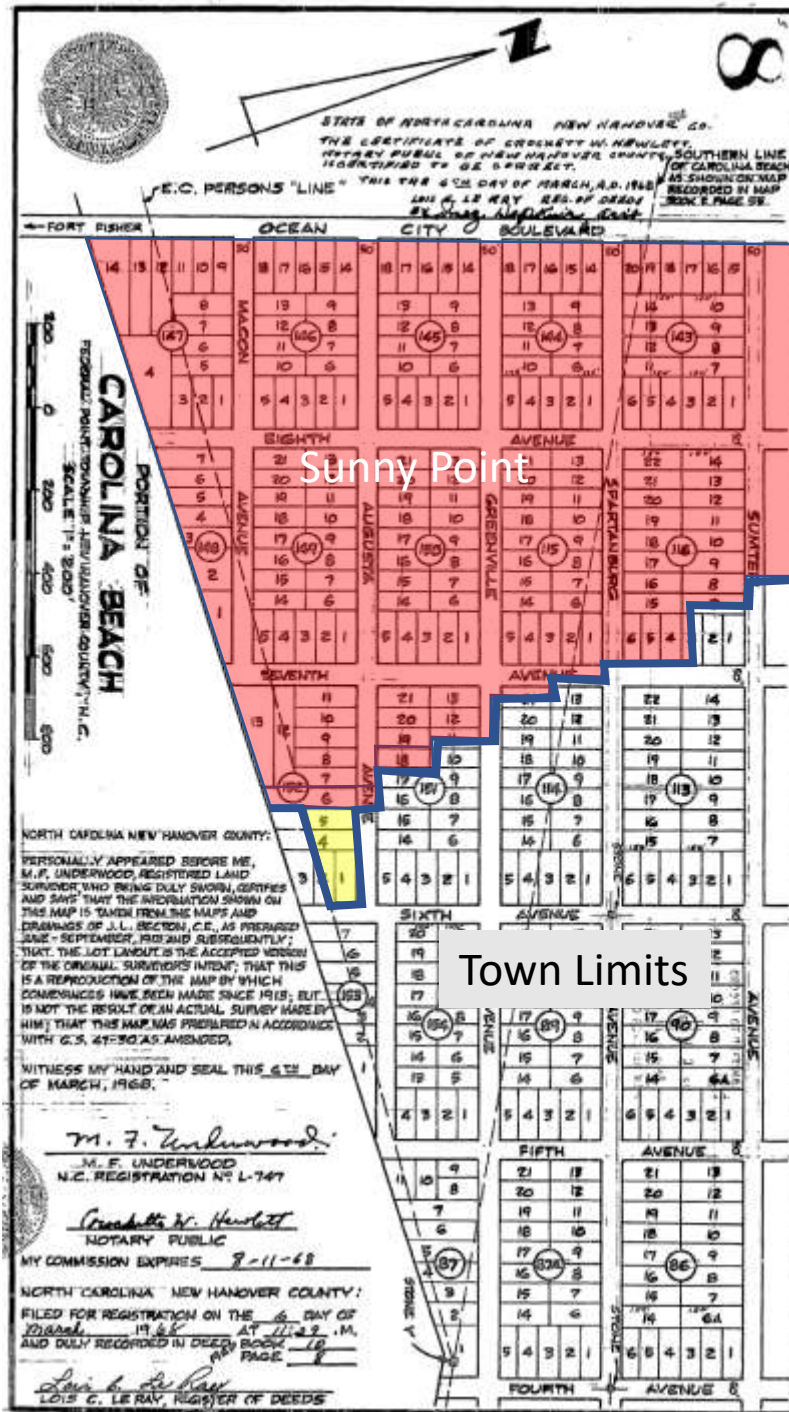
Adopted this 13th day of December, 2022.

Albert L. Barbee, Mayor

Attest: Kimberlee Ward, Town Clerk

Approved as to form: Noel Fox, Town Attorney

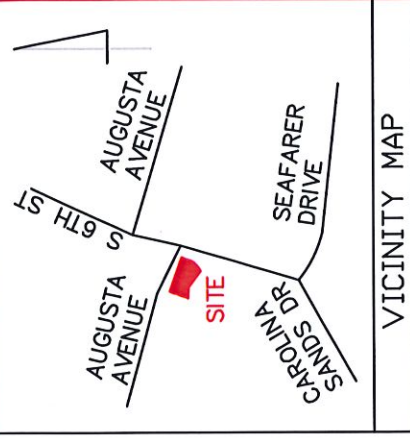
Town of Carolina Beach
Ordinance No. 22-1190



NORTH CAROLINA
PENDER COUNTY

I, L. SCOTT BAGGIE, CERTIFY THAT THIS SURVEY PLAN WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, DESCRIPTION RECORDED IN DEED BOOK 5781 PAGE 0548. PLOTTED FROM INFORMATION REFERENCED, THAT THIS PLAT WAS NOT PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 19TH DAY OF OCTOBER, A.D., 2021.

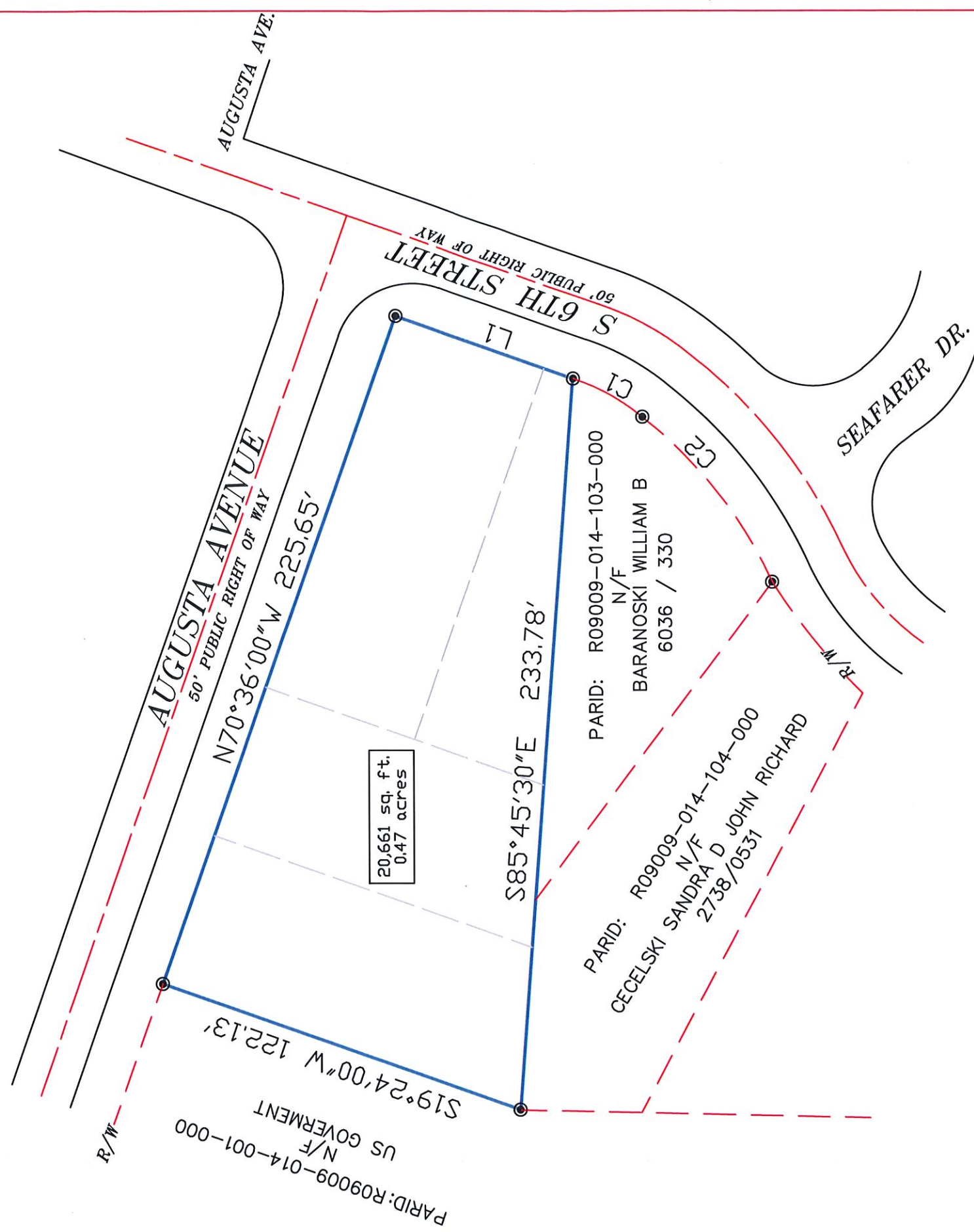
L. SCOTT BAGGIE, P.L.S.
REGISTRATION NUMBER L-3450



VICINITY MAP

LEGEND:

- R/W - RIGHT OF WAY
- - IRON PIPE FOUND



LINE	BEARING	DISTANCE
L1	N19°24'00"E	61.00'
L2	S85°45'30"E	233.11'
L3	S85°45'30"E	166.11'

CURVE	LENGTH	RADIUS	CHORD	BEARING
C1	25.48'	65.65'	25.32'	S28°50'38"W
C2	67.29'	140.66'	66.65'	S51°57'28"W

NOTE:

SUBJECT PROPERTY REFERENCED AT DEED BOOK 5781 PAGE 0548 (TRACT FIVE), MAP BOOK 10 PAGE 8; PARID: R09009-014-003-000.

THIS PROPERTY IS NOT LOCATED WITH IN A FLOOD HAZARD AREA.

THIS SURVEY IS OF AN EXISTING PARCEL OF PROPERTY AND DOES NOT CREATE A SUBDIVISION.

EA IS COMPUTED BY COORDINATES.

SURVEY FOR

CENTER CITY DEVELOPMENT, INC

AUGUSTA AVE. & SOUTH 6TH STREET

LOT 1 PT LTS 2/4/5 BLK 152 CAROLINA BEACH

FEDERAL POINT TWP. - NEW HANOVER COUNTY - NORTH CAROLINA

OCTOBER 19, 2021 JOB No.0305-2021

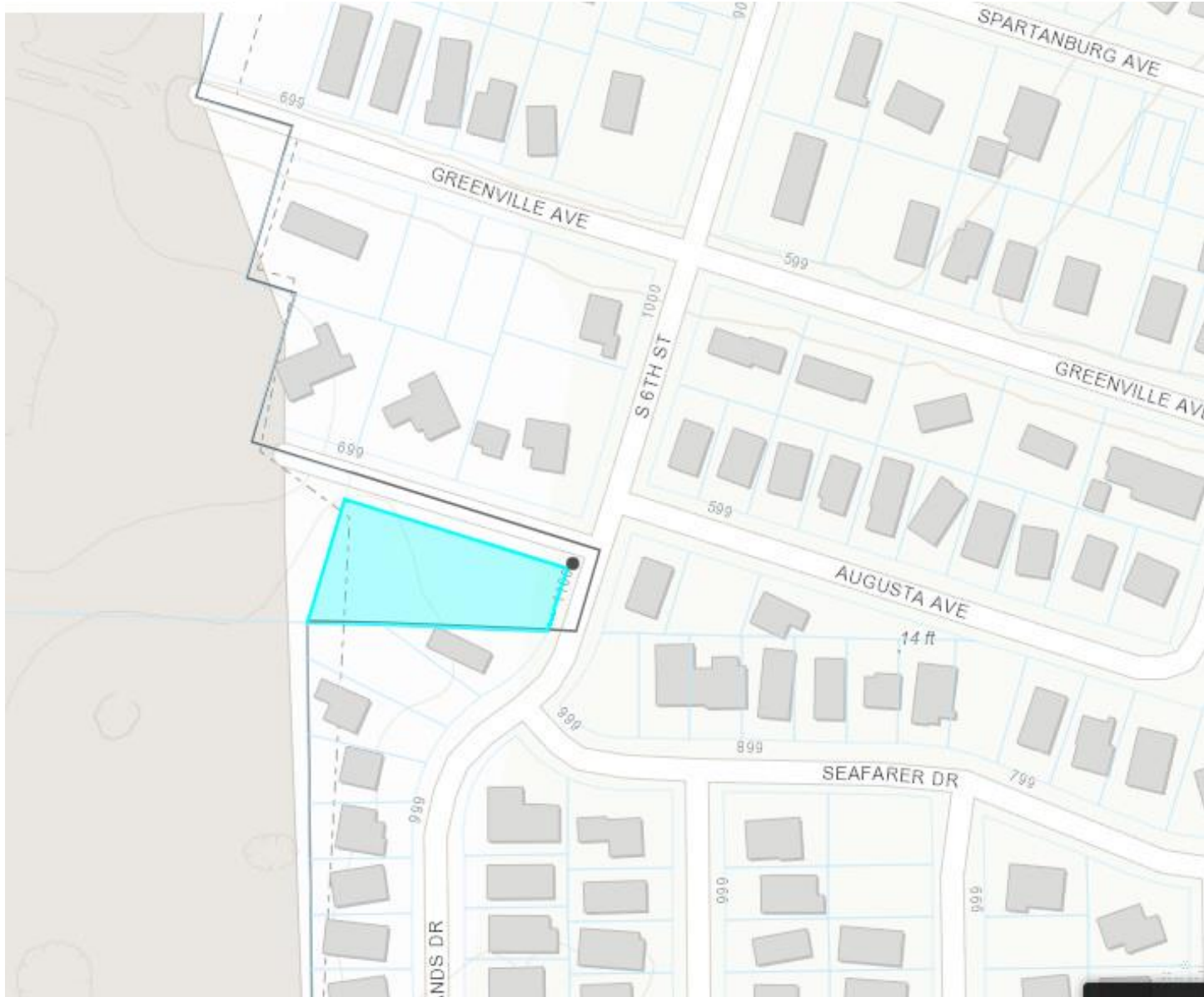
PROGRESSIVE LAND DEVELOPMENT CONSULTANTS, PLLC
P.O. BOX 1028
CAROLINA BEACH, NORTH CAROLINA 28428

TELE: (910) 367-0066
Lsbaggie@pldcnc.com (P-0874)

SCALE 1" = 40'



Town Limits



Item 7.
RID: R09009-014-003-000
RATTON PARRIS R

N/A

Parcel

Alt ID 313017.12.6484.000

Address

Unit

City

Zip Code

Neighborhood

Class

Land Use Code

Living Units

Acres

Zoning

313017.12.6484.000
-
A5031
RES-Residential
958-Unused Land
C-C

Legal

Legal Description

Tax District

LOT 1 PT LTS 2/4/5 BLK 152 CAROLINA BEACH
FD

Owners (On January 1st)

Owner

City

State

Country

Zip

CENTER CITY DEVELOPMENT INC
CAROLINA BEACH
NC
28428

THE DATA IS FROM 2022

Item 7.

CONTACT us | ?

47

Home Property Records ▾ NHC Tax Home Register of Deeds

PARID: R099009-014-003-000
STRATTON PARRIS R

- enter a parcel id -

N/A

Profile
Sales
Residential
Commercial
Misc. Improvements
Permits
Land
Values
Agricultural
Sketch
Full Legal
Exemptions
Sub-parcel(s) Info
Original Parcel Info
Parcel Map



Item 7.



Town of Carolina Beach

GIS Viewer

Layer List

Layers

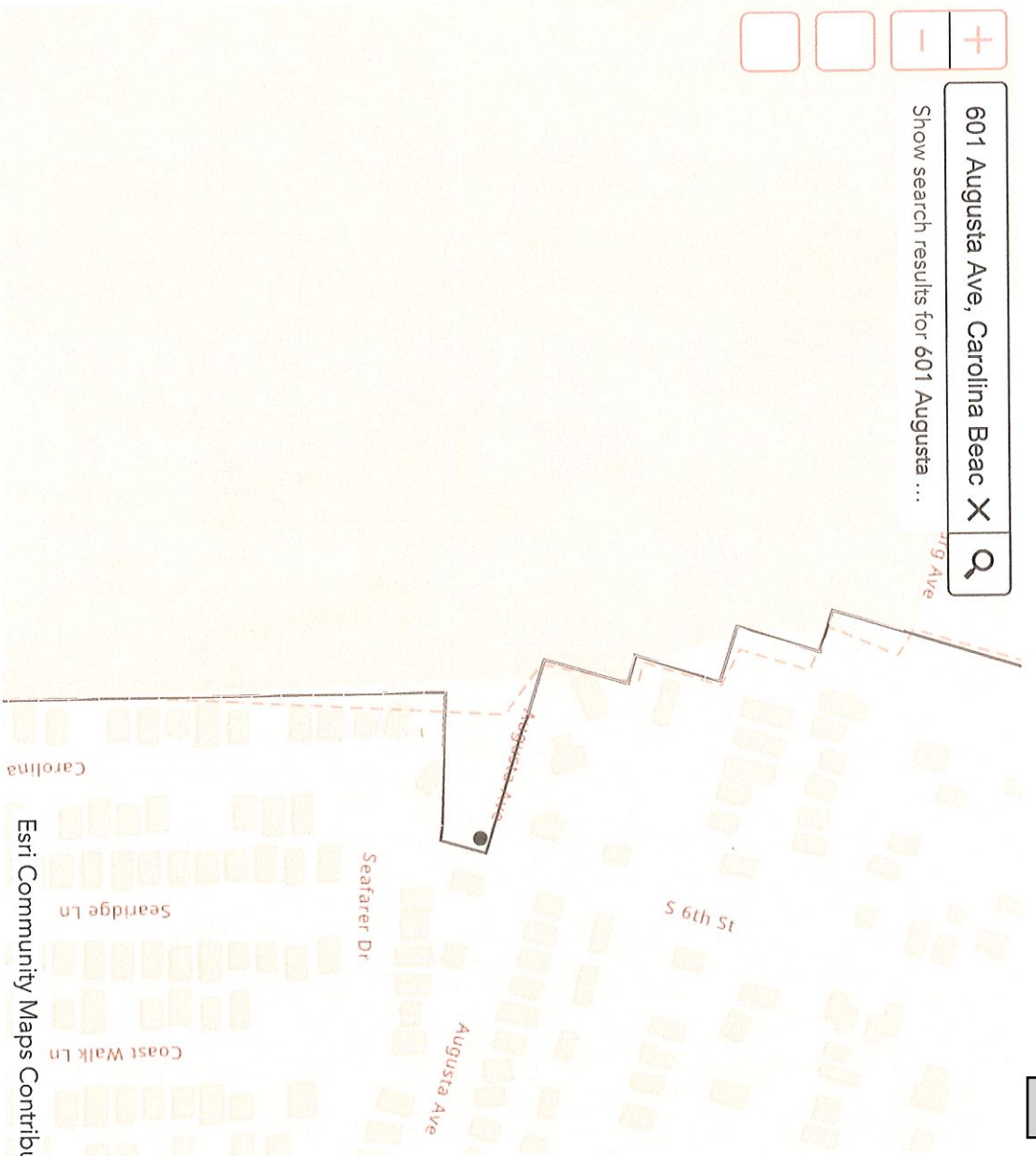
- Parcels
- Addresses
- Property Owners
- Buildings 2014
- Buildings 2021
- Town Limits
- Public Restrooms
- Public Street Parking
- Public Parking Lots
- Permits - CO Issued



601 Augusta Ave, Carolina Beach X



Show search results for 601 Augusta ...



Town Limits

300ft

-77.90534, 027 Degrees

All rights reserved

App State

Click to restore the map extent and layers visibility where you left off.



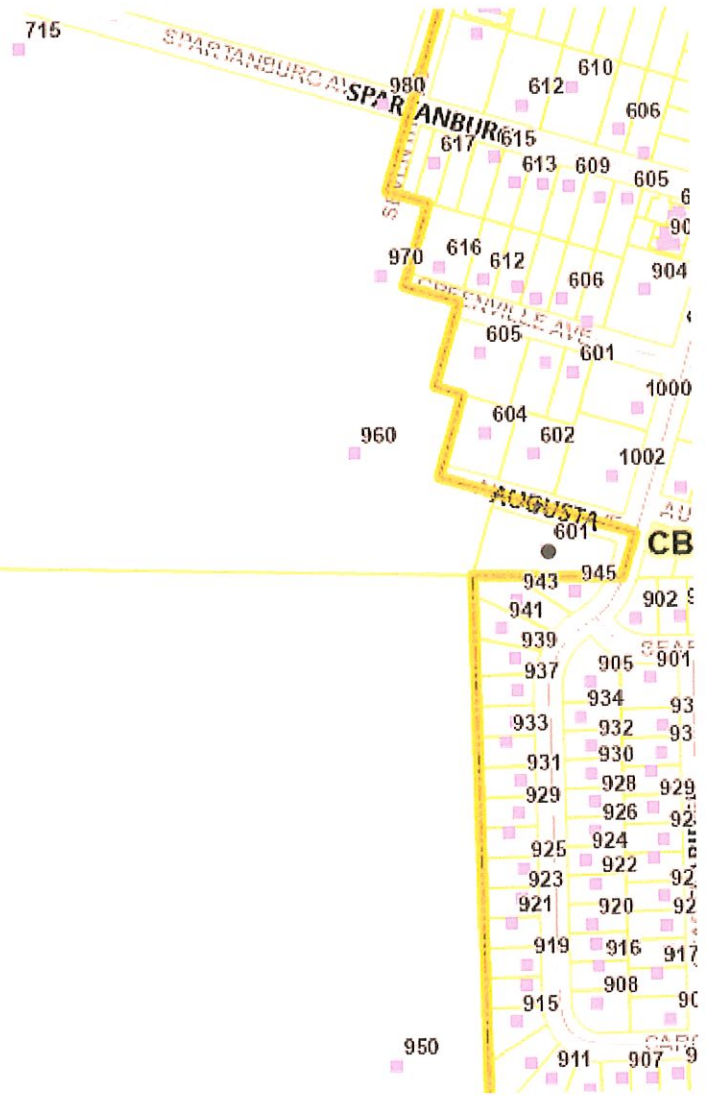
Basic Map

An Interactive Map of New Hanover County, NC

X
Q

601 Augusta Ave

Show search results for 601 Augusta ...



NHC/CR line



- **Sec. 40-424. - Nonconforming lots.**

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONEMAIL SECTIONCOMPARE VERSIONS](#)

(a)

Use by right when all setbacks can be met. Where the owner of a lot of record identified as nonconforming by the county tax parcel identification numbers as they exist on December 13, 2005 does not own sufficient land to enable the owner to conform to the dimensional requirements established by this chapter, such lot may be developed as a single-family residence, provided the lot can be used in conformance with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such use may be made as of right. Nonconforming lots created by transfer on or after December 14, 2005 shall not be developed.

(b)

Recombination of lots required when possible. Whenever this article creates a nonconforming lot, and the owner of the nonconforming lot also owns land having continuous frontage to it, and a portion of this other land can be combined with the nonconforming lot to create a conforming lot (without thereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, shall combine the lots in accordance with the Town's subdivision ordinance to create one or more conforming lots prior to developing the property.

(c)

Exception. Subsection (b) of this section does not apply to those parcels identified as nonconforming lots of record as of July 14, 2004, and any subsequent nonconforming lots of recorded created between July 14, 2004, and December 14, 2005.

(d)

Odd lots groupings. Where lots of record having the same street front have been combined in odd-numbered contiguous groups (3, 5, 7, etc.) existing conformities within the group (i.e., a minimum of two adjoining lots) shall be maintained and the remaining single lot may be developed as a nonconforming lot as provided in subsection (a) of this section.

(e)

Subdivide platted lots. Where original platted lots in common ownership create an area over the minimum lot size, but will not meet the lot size or frontage requirements when subdivided, then the owner may subdivide the platted lots in accordance with

the Town's subdivision ordinance to create lots that are no more than 25 percent less than the minimum lot size for that district.

(f)

Variance required when exceptions to setbacks are requested. The board of adjustment may issue a variance to the setback requirements in accordance with the procedures and "required findings" set forth under article XVI of this chapter.

(g)

Reduction of required lot area when lost to shore erosion. Where lots abut the estuarine tidal waters, as defined in article XVII, or by the Carolina Beach Erosion Control and Hurricane Wave Protection Projects and where lot depth has been lost due to the encroachment of such waters, making such lot area non-conforming to the zoning district requirements, the existing lot area may be considered conforming to meet the minimum lot area requirements of the zoning district in which located. However, the front and side yards of the zoning district shall apply.

(1)

For sound-front lots, a 50 percent reduction in the front yard shall apply where appropriate provisions are made for off-street parking.

(2)

Where the Carolina Beach building line creates a reduction in lot area that results in a non-conforming lot a 50 percent reduction in the front yard setback may apply where appropriate provisions are made for off-street parking.

Lots which have lost area due to estuarine tidal waters or Carolina Beach Erosion Control and Hurricane Wave Protection Projects may be developed in accordance with all applicable permitted uses of the zoning district in which located, provided that the actual lot area above the mean high water level shall be utilized when computing the density for multifamily dwellings per lot. The Zoning Administrator shall make the determination of actual lot area. Appeals to the decision of the Zoning Administrator shall be made to the board of adjustment in accordance with the provisions of article XVI of this chapter.

(Code 1986, app. A, § 18.2; Ord. No. 02-514, 9-17-2002; Ord. No. 04-558, 7-13-2004; Ord. No. 05-603, 10-11-2005; Ord. No. 05-617, 12-13-2005; Ord. No. 08-717, 1-8-2008; Ord. No. 10-855, 12-14-2010; Ord. No. 16-1023, 9-13-2016)

1255 0395

REDECOA P. JONES
REGISTER OF DEEDS
NEW HANOVER CO. NC

MAY 30 11 43 AM '84

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

QUITCLAIM DEED

THIS DEED, Made and entered into this 30th day of April
April, 1984, by and between DONALD R. FONVILLE, (Single) of
Burlington, North Carolina, GRANTOR, and HENRY D. CAPILLARY and
Son, CHARLES A. CAPILLARY, of Graham, North, as Joint Tenants
with right of survivorship, GRANTEE:

W I T N E S S E T H:

22

That said GRANTOR, for and in consideration of the sum of
TEN DOLLARS (\$10.00) to him in hand paid, the receipt of which is
hereby acknowledged, has bargained, sold, remised and released
and by these presents does bargain, sell, remise, release and
forever quitclaim unto the GRANTEE and their heirs and assigns,
all right, title, claim and interest of the said GRANTOR in and
to a certain tract or parcel of land lying and being in the
County of New Hanover, State of North Carolina and more
particularly described as follows:

BEGINNING at the intersection of the western right of
way line (25.0 feet from its centerline) of Sixth Avenue
with the southern right of way line (25.0 feet from its
centerline) of Augusta Avenue as shown on the map of
Portion of Carolina Beach as recorded in Map Book 10, at
Page 8, of the New Hanover County Registry; running
thence from said beginning point and with the southern
right of way line of said Augusta Avenue, North 70
degrees 36' West 225.0 feet to a point; running thence
at right angles, South 19 degrees 24' West 120.70 feet
to the northern line of Section 2, Carolina Sands
subdivision, as recorded in Map Book 21, at Page 14, of
the New Hanover County Registry; running thence with
said line, South 85 degrees 45' 30" East 233.11 feet to
the western right of way line of Sixth Avenue; running
thence with said right of way line, North 19 degrees 24'
East 59.75 feet to the point of beginning, containing
0.466 acres, more or less, and being all of Lot 1 and a
part of lots 2, 4 and 5, Block 152, as shown on the
aforementioned map of Carolina Beach as recorded in Map
Book 10, at Page 8, of the New Hanover County Registry.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land
and all privileges thereunto belonging unto Henry D. Capillary,
and Son, Charles A. Capillary, the said GRANTEE, and their heirs
and assigns free and discharged from all right, title, claim or
interest of said GRANTOR or anyone claiming by, through or under
him.

IN TESTIMONY WHEREOF, said GRANTOR has hereunto set his hand
and seal, the day and year first above written.

RETURNED TO Andy Howell, Sec'y

BOOK PAGE
1255 0396

-2-

Donald R. Jonville (SEAL)

STATE OF NORTH CAROLINA
COUNTY OF ALAMANCE

I, Louise L. Collins, a Notary Public in and for the State and County aforesaid, do hereby certify that Donald R. Jonville personally appeared before me this date, and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and Notarial Seal, this the 1st day of May, 19 84.



Louise L. Collins
Notary Public

Commission Expires: _____

STATE OF NORTH CAROLINA
New Hanover County
The Foregoing Certificate of
Louise L. Collins
Notary Public
is certified to be correct.
This the 30 day of May 1984

Rebecca P. Tucker, Register of Deeds
By Mary Sue Oates
clerk

BK: RB 6566
PG: 2320 - 2322
 RECORDED: 2022019421 NC FEE \$26.00
 05/19/2022 **NEW HANOVER COUNTY,**
 04:10:24 PM **TAMMY THEUSCH PIVER** EXTX \$0.00
 BY: ANGELA ENGLISH **REGISTER OF DEEDS**
 DEPUTY **ELECTRONICALLY RECORDED**

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

REVENUE STAMPS: \$0.00

NON-WARRANTY DEED

Tax Parcel ID # R09009-014-003-000

Mail After Recording To: Parris R. Stratton
(Grantee's Address) 8759 West Telfair Circle
 Wilmington, NC 28412

DRAWN BY AND RETURNED TO: CALDER LAW, PLLC
 1410 Commonwealth Drive, #205, Wilmington, NC 28403

DRAWN WITHOUT OPINION ON TITLE

N/A If checked, the property includes the primary residence of at least one of the Grantors, otherwise, note as N/A. (per NC GS § 105-317.2)

Grantor's Address: 920 Oceanward Lane Carolina Beach, NC 28428

Brief Description: Lot 1 & Part of Lots 2, 4 and 5, Block 152, Carolina Beach

This deed, made and entered into this, the 19th day of May, 2022, by and between **Center City Development, Inc.**, a North Carolina corporation, the **GRANTOR** herein; and, **Parris R. Stratton**, the **GRANTEE** herein.

W I T N E S S E T H:

That the Grantor, for and a good and valuable consideration, the receipt of which is hereby acknowledged, has and by these presents, does grant, bargain, sell and convey unto the Grantees in fee simple, all of the Grantor's right, title and interest, in that real estate located in the County of New Hanover, State of North Carolina, more particularly described as follows:

Being that tract located at 601 Augusta Avenue in Carolina Beach, New Hanover County, NC having Tax Parcel ID Number R09009-014-003-000; described in instrument recorded in Book 6505, Page 2676 in the said New Hanover County Registry, as the same is more particularly described in that Exhibit A attached hereto and incorporated herein by reference.

To have and to hold the Grantor's right, title and interest in the aforesaid lot or parcel, together with all privileges and appurtenances thereto, heretofore belonging to the Grantee in fee simple.

In witness whereof, the Grantor(s) have hereunto set their hands and seals this the day and year first above written.

Center City Development, Inc.

By: [Signature]
Kilon Wilson

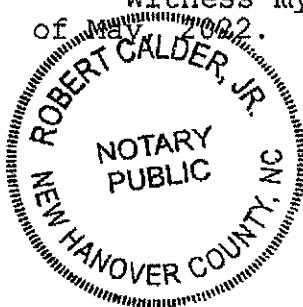
Its: President

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, a Notary Public of the County and State aforesaid, certify that Kilon Wilson, President of Center City Development, Inc. personally appeared before me, known to me or proven to me by photographic identification, this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this the 19th day of May, 2022.



[Signature]

Notary Public

Printed Name: Robert Calder, Jr.

My Commission Expires: 08/07/2022

EXHIBIT A

That real estate located in the County of New Hanover, State of North Carolina, more particularly described as follows:

BEGINNING at the intersection of the western right of way line (25.0 feet from its centerline) of Sixth Avenue with the southern right of way line (25.0 feet from its centerline) of Augusta Avenue as shown on the map of Portion of Carolina Beach as recorded on Map Book 10, at Page 8, of the New Hanover County Registry; running thence from said BEGINNING POINT and with the southern right of way line of said Augusta Avenue, North 70 degrees 36 minutes West 225.0 feet to a point; running thence at right angles, South 19 degrees 24 minutes West 120.70 feet to the northern line of Section 2, Carolina Sands Subdivision, as recorded in Map Book 21, at Page 14, of the New Hanover County Registry; running thence with said line, South 85 degrees 45 minutes 30 seconds East 233.11 feet to the western right of way line of Sixth Avenue; running thence with said right of way line, North 19 degrees 24 minutes East 59.7 feet to the POINT OF BEGINNING, containing 0.466 acres, more or less, and being all of Lot 1 and a part of Lots 2, 4 and 5, Block 152, as shown on the aforementioned map of Carolina Beach as recorded in Map Book 10, at Page 8, of the New Hanover County Registry; having Tax Parcel Identification Number R09009-014-003-000. Also being the same property described in Deed recorded in Book 6505, Page 2676 in said Registry.

CERTIFICATE OF SUFFICIENCY

Reference: Annexation of 601 Augusta Avenue, Carolina Beach, NC.
Parcel ID: R09009-014-003-000

To the Town Council of the Town of Carolina Beach, North Carolina,

I, Kimberlee Ward, Town Clerk, do hereby certify that I have investigated the petition attached hereto and have found that said petition is signed by all owners of real property lying in the area described therein, in accordance with NCGS 160A-31, as amended.

In witness whereof, I have set my hand and affixed the seal of the Town of Carolina Beach, the 29th day of November, 2022.

Kimberlee Ward

Kimberlee Ward, Carolina Beach Town Clerk

(SEAL)





Annexation Request 601 Augusta Ave

DECEMBER 9, 2021

Annexation by petition.

The governing board of any municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all the real property located within such area.

Annexed

- Police and fire protection
- Water and sewer lines
- Solid waste collection
- Street maintenance.

601 Augusta Ave

Item 7.



Lot Size = 20,853 sq. ft.

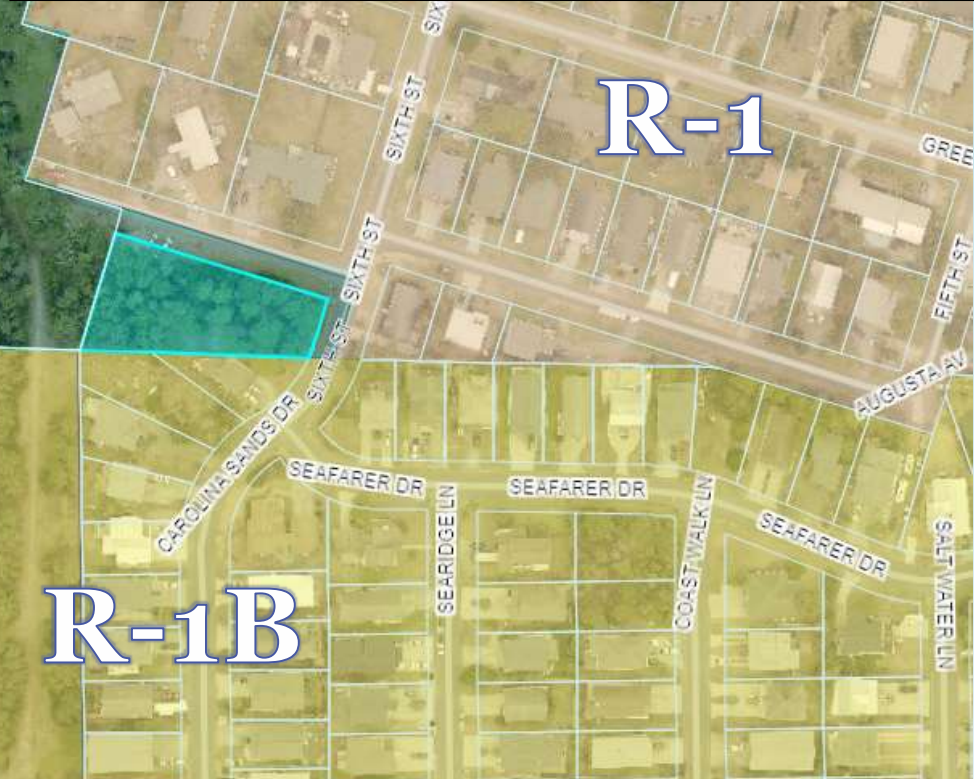
Town Limits

Item 7.



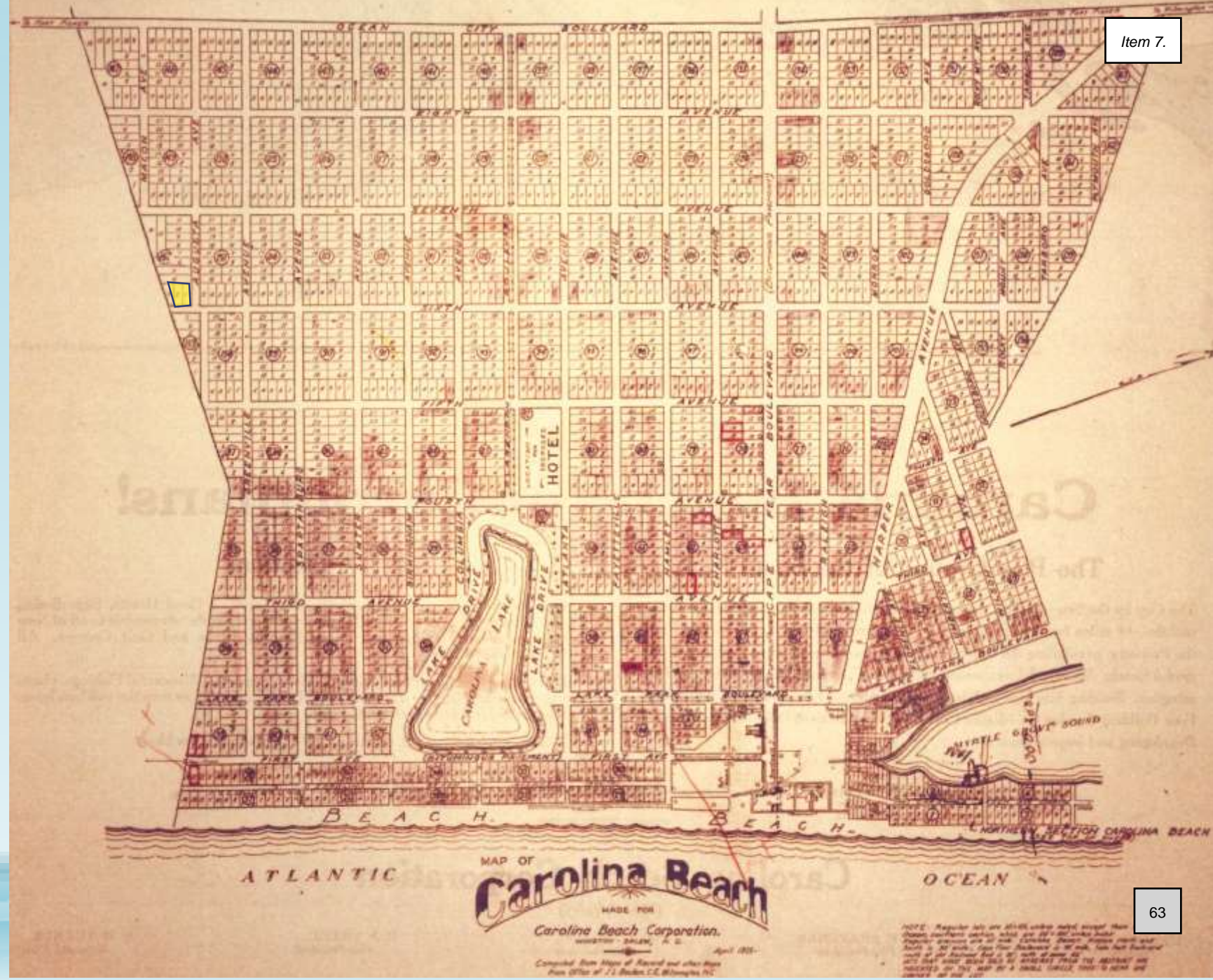


Zoning District	Primary Permitted Uses	Min. Lot Size	Min. Lot Width ⁶	Min. Front Yard	Min. Rear Yard	Min. Side Yards [*] (Corner Lot—Min. 12.5 ft.) ⁴	Residential Max. Density	Max. Height	Lot Coverage
C	Conservation District Single-Family	80,000 sq. ft.	200 ft.	30 ft.	20 ft.	20 ft.	0.5 units/acre	50 ft. ¹	15%

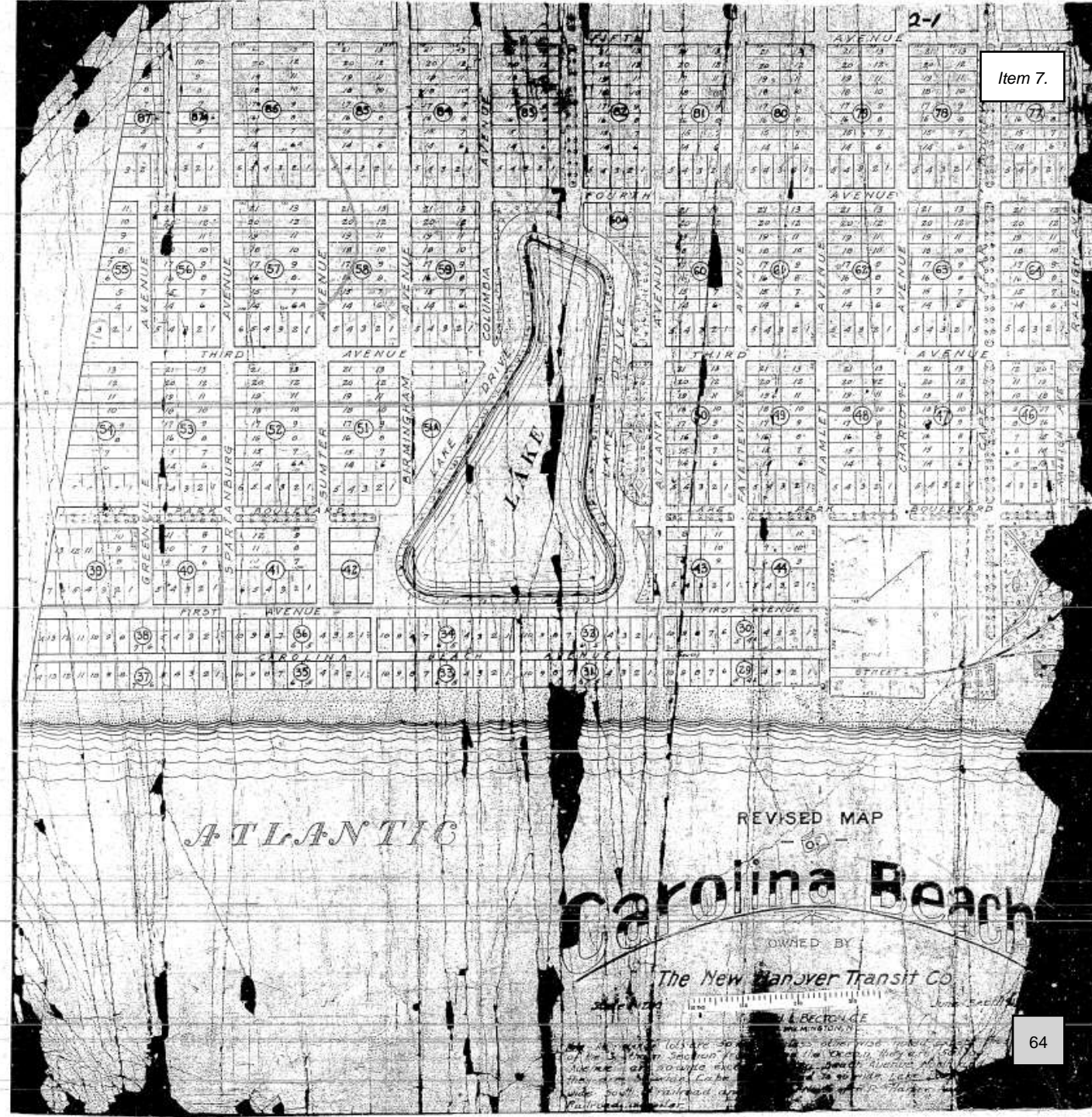


Zoning Designation

1925 plated



1925 Town was Incorporated

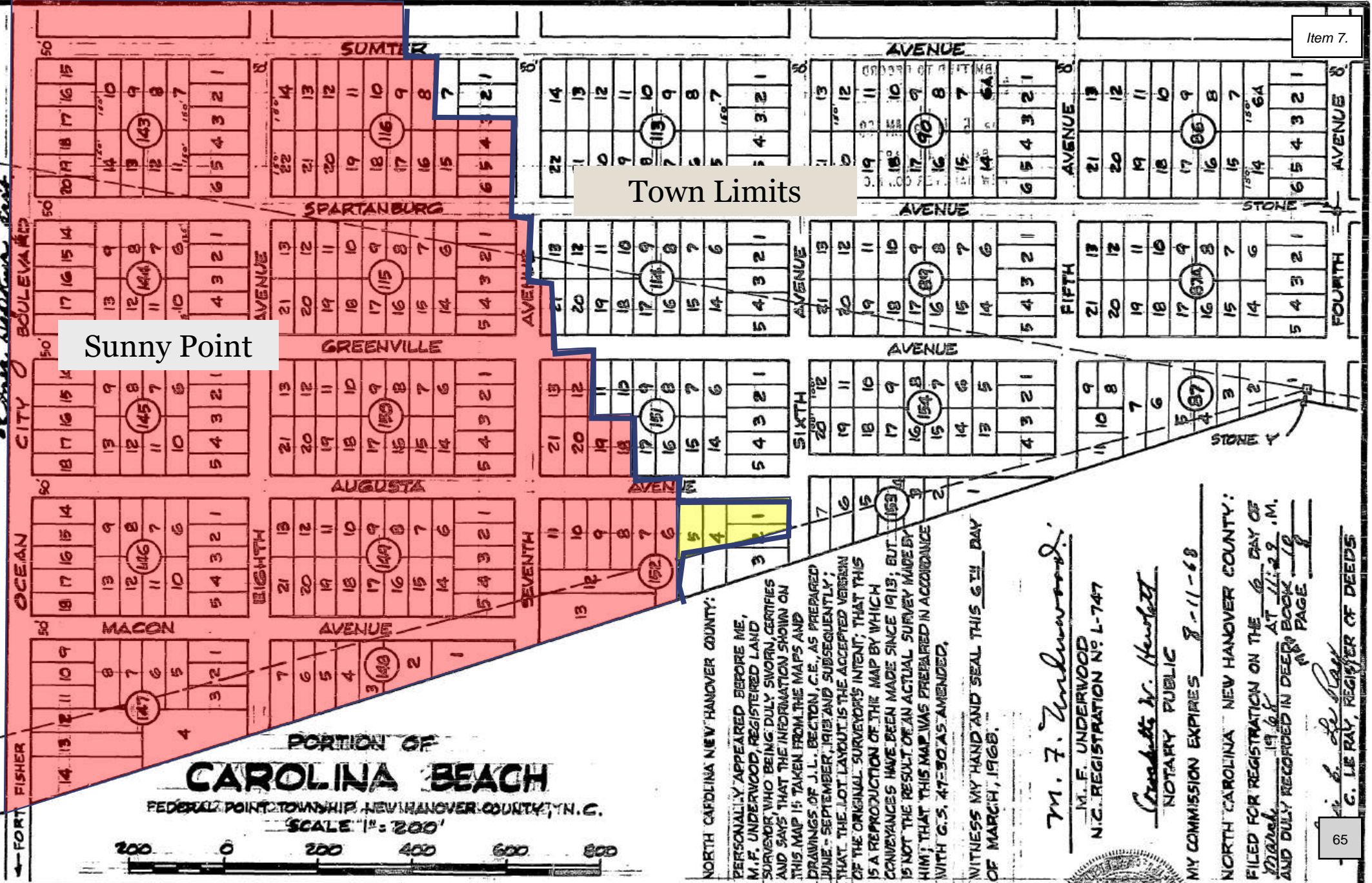


Item 7.



8

STATE OF NORTH CAROLINA NEW HANOVER CO.
 THE CERTIFICATE OF GROCKETT W. HEWLETT,
 NOTARY PUBLIC OF NEW HANOVER COUNTY,
 IS HEREBY PUBLISHED TO BE EFFECT.
 SOUTHERN LINE OF CAROLINA BEACH AS SHOWN ON MAP RECORDED IN MAP BOOK PLACE 58
 THIS THE 6TH DAY OF MARCH, A.D. 1968
 BY LE RAY REG. OF DEEDS
 BY *Shirley A. DeRay* Clerk

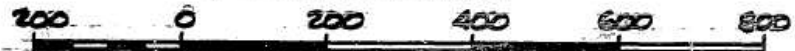


Sunny Point

Town Limits

Item 7.

PORTION OF
CAROLINA BEACH
 FEDERAL POINT TOWNSHIP, NEW HANOVER COUNTY, N. C.
 SCALE 1" = 200'



NORTH CAROLINA NEW HANOVER COUNTY:

PERSONALLY APPEARED BEFORE ME,
 M. F. UNDERWOOD, REGISTERED LAND
 SURVEYOR WHO BEING DULY SWORN, CERTIFIES
 AND SAYS THAT THE INFORMATION SHOWN ON
 THIS MAP IS TAKEN FROM THE MAPS AND
 DRAWINGS OF J. L. BECTON, C. E., AS PREPARED
 JUNE - SEPTEMBER, 1918 AND SUBSEQUENTLY;
 THAT THE LOT LAYOUT IS THE ACCEPTED VERSION
 OF THE ORIGINAL SURVEYOR'S INTENT; THAT THIS
 IS A REPRODUCTION OF THE MAP BY WHICH
 CONVEYANCES HAVE BEEN MADE SINCE 1919; BUT
 IS NOT THE RESULT OF AN ACTUAL SURVEY MADE BY
 HIM; THAT THIS MAP WAS PREPARED IN ACCORDANCE
 WITH G. S. 47-30 AS AMENDED.

WITNESS MY HAND AND SEAL THIS 6TH DAY
 OF MARCH, 1968.

M. F. Underwood
 M. F. UNDERWOOD
 N. C. REGISTRATION NO. L-747

Grockett W. Hewlett
 GROCKETT W. HEWLETT
 NOTARY PUBLIC

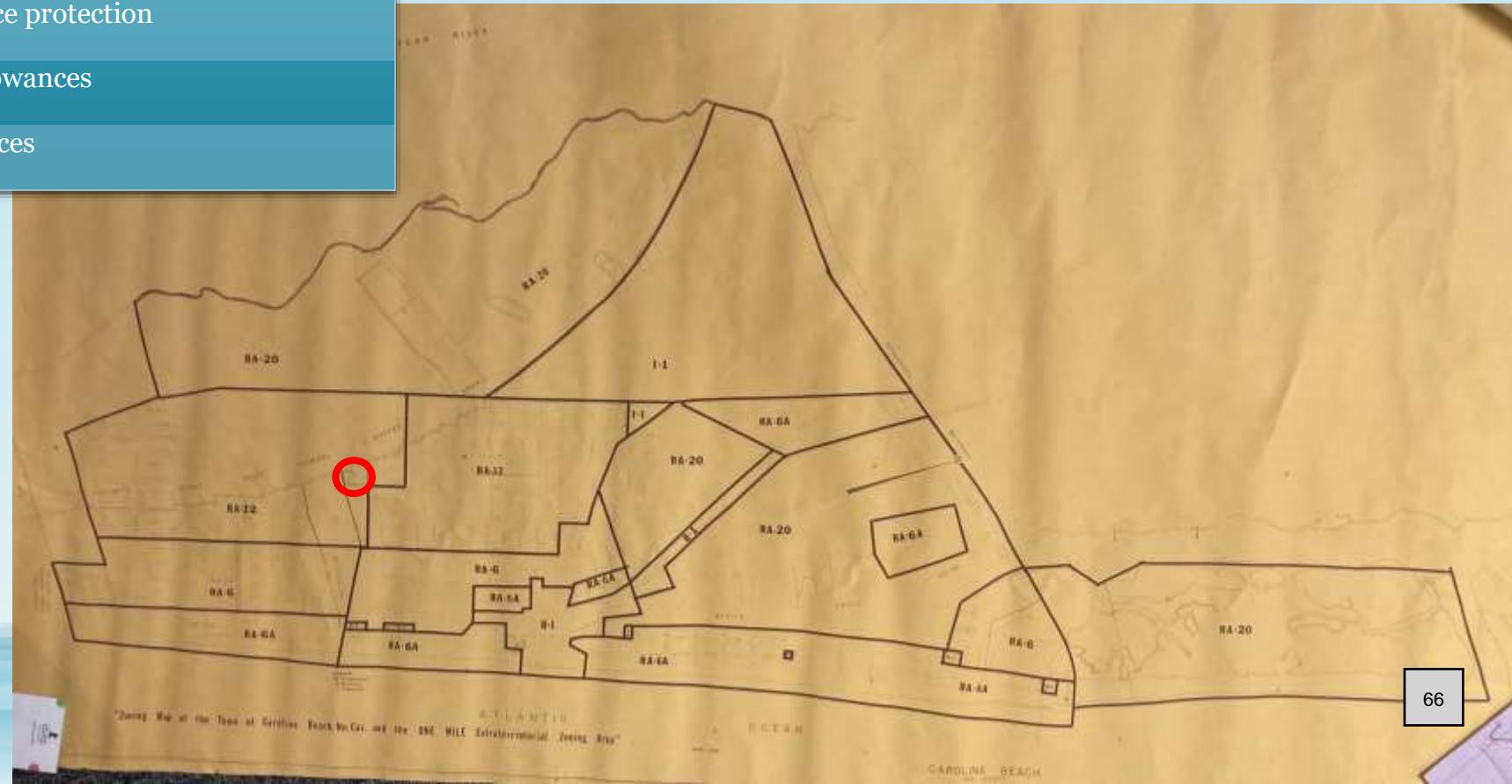
MY COMMISSION EXPIRES 8-11-68
 NORTH CAROLINA NEW HANOVER COUNTY:
 FILED FOR REGISTRATION ON THE 6 DAY OF
 March 19 68 AT 11:29 A.M.
 AND DULY RECORDED IN DEED BOOK 10
 PAGE 8

Shirley A. DeRay
 SHIRLEY A. DERAY, REGISTER OF DEEDS

1971 – ETJ

Item 7.

Town – Land use	County – Police Power
Zoning	Nuisance
Subdivision	Junked cars
Building codes	Noise
Community development	Grass
Stormwater	Fire & Police protection
Flood regulations	Animal allowances
Road requirements, but not maintenance	Trash services



JACK G. STOKS
REGISTERED LAND SURVEYOR
N.C. REGISTRATION NO. L-896
WILMINGTON, N.C.

4

NOTES: MINIMUM BUILDING SETBACK LINE ALONG ALL FRONTAGE IS 20' FROM THE STREET RIGHTS-OF-WAY.
THE 20' WIDE SCREENING EASEMENT LOCATED TO THE REAR OF LOTS 40-50 THRU 57 IS ESTABLISHED FOR THE PURPOSE OF RETAINING THE EXISTING PREPARED VEGETATION AND/OR THE PLANTING OF VEGETATION, VEHICULAR ACCESS TO AND FROM SAID LOTS VIA AUGUSTA AVE. IS PROHIBITED.
OCEAN ACCESS TO BE PROVIDED BY THE OWNER/DEVELOPER CONVENIENT TO THE DEVELOPMENT.

CURVE	A	T	RAD.
1	277.83'	88.92'	144.21'
2	271.83'	91.04'	135.04'
3	285.41'	88.01'	137.93'
4	314.44-31'	73.91'	152.30'
5	275.62-30'	48.27'	281.81'
6	307.00'	75.01'	78.01'
7	297.85'	41.82'	135.01'
8	345.96-30'	41.37'	79.50'
9	274.34-30'	78.24'	143.90'



CERTIFICATE OF APPROVAL OF WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS

I HEREBY CERTIFY THAT THE WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS INSTALLED OR PROPOSED FOR INSTALLATION IN CAROLINA SANDS SUBDIVISION FULLY MEET THE REQUIREMENTS OF THE NORTH CAROLINA BOARD OF HEALTH AND THE NEW HANOVER COUNTY HEALTH DEPARTMENT OR THE OFFICE OF WATER AND AIR RESOURCES, N.C. DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES (WHICHEVER OR BOTH AS APPLICABLE) AND ARE HEREBY APPROVED AS SHOWN.

DATE _____ COUNTY HEALTH OFFICER OR HIS AUTHORIZED REPRESENTATIVE _____
DATE _____ OFFICE OF WATER AND AIR RESOURCES _____

CERTIFICATE OF APPROVAL BY THE PLANNING AND ZONING COMMISSION

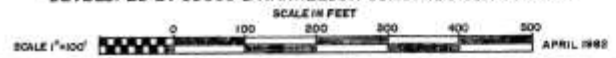
THE CAROLINA BEACH PLANNING AND ZONING COMMISSION HEREBY APPROVES THE FINAL PLAT FOR SECTION 2 OF CAROLINA SANDS SUBDIVISION.

June 7, 1992 DATE _____ Chairman _____



STATE OF NORTH CAROLINA
New Hanover County
The foregoing plat was filed in my office on this 7th day of June, 1992.
I am satisfied as to the correctness thereof.
Notary Public for New Hanover County, North Carolina
[Signature]

SECTION 2
CAROLINA BEACH NEW HANOVER COUNTY NORTH CAROLINA
DEVELOPED BY SJGGS & HARRELSON CONSTRUCTION COMPANY



Item 7.

67

Timeline

Item 7.

Town Limit

- Property platted in 1925
- ETJ in 1971 .
- Only private lot that has not been annexed by petition in the area. Adjacent lots were annexed in 1980.



Motion

Approval - whereas in accordance with the provisions of the NCGS, the Town Council does hereby find and determine the adoption of the annexation request for 601 Augusta Ave

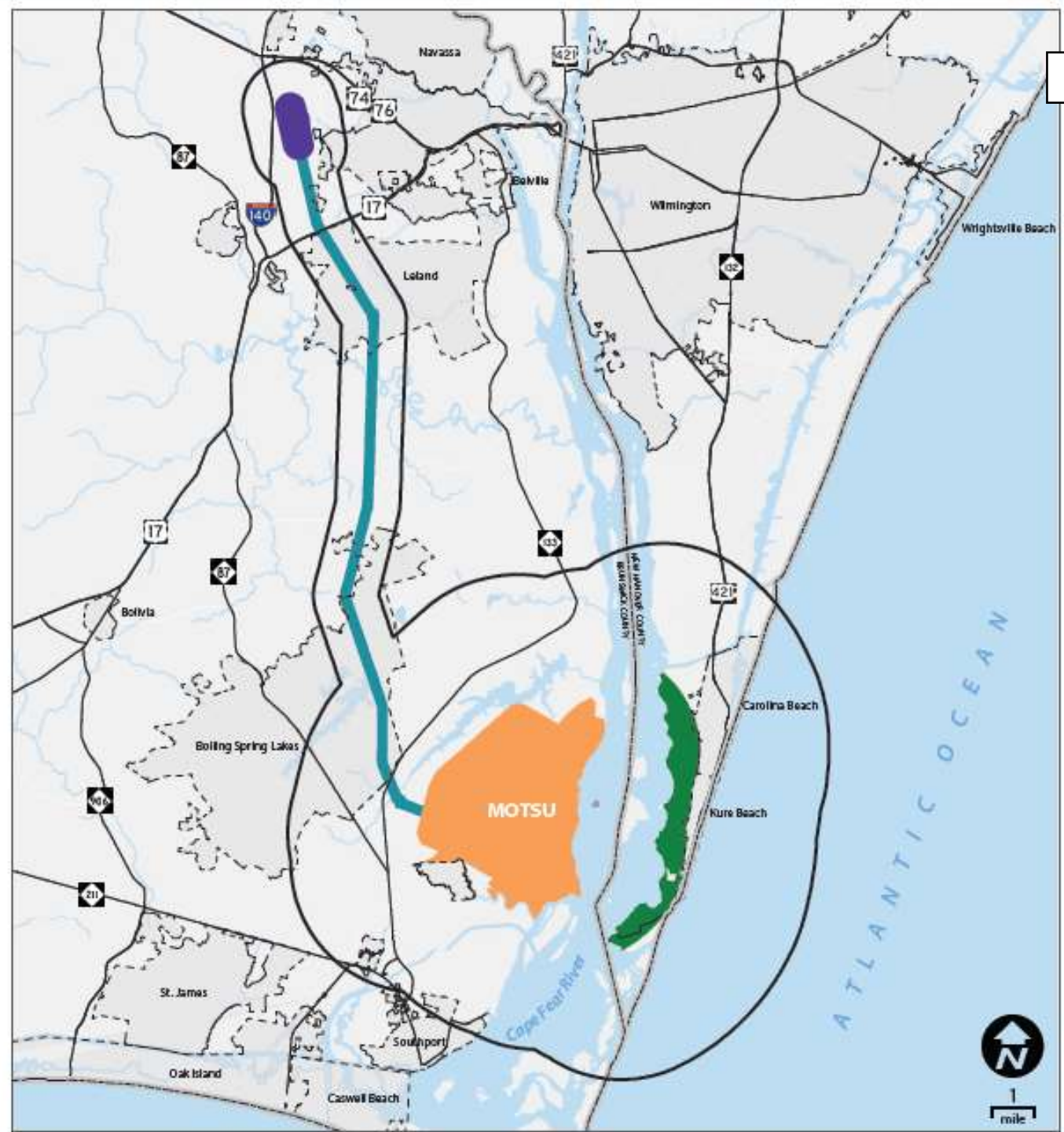
Denial – The Town Council does not recommend approval of the proposed adoption of the annexation of 601 Augusta Ave.

Annexed

- Police and fire protection
- Water and sewer lines
- Solid waste collection
- Street maintenance.

- Tax Value of the property $\$382,000/21.50 = \823.02

MOTSU



Item 7.



AGENDA ITEM COVERSHEET

PREPARED BY: Gloria Abbotts, Sr Planner **DEPARTMENT:** Planning & Development

MEETING: Town Council – December 13th, 2022

SUBJECT: **Conditional Zoning** to consider a Planned Unit Development consisting of 22 townhome units located at 205 and 211 Spartanburg Avenue in the Residential (R-1) zoning district.
Applicant: WB Coastal Development LLC

BACKGROUND:

The applicant, WB Coastal Development LLC, applied for a Conditional Zoning application for a Planned Unit Development project in the Residential R-1 District. The proposal includes 22 townhome units. Planned Unit Developments greater than 4 units are allowed through the approval of a conditional zoning district in the R-1 District.

The Conditional Zoning District allows a particular use to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, the review process provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions which ensure compatibility of the use with the use and enjoyment of neighboring properties.

All applications shall include a site plan and any development standards to be approved concurrently with the rezoning application. Development standards may include such things as parking, landscaping, design guidelines, and buffers. When evaluating an application for the creation of a conditional zoning district, Council shall consider the following:

1. The application's consistency to the general policies and objectives of the Town's CAMA Land Use Plan, any other officially adopted plan that is applicable, and the Zoning Ordinance.
2. The potential impacts and/or benefits on the surrounding area, adjoining properties.

3. The report of results from the public input meeting.

Prior to scheduling a public hearing on the rezoning application, the applicant shall conduct one (1) public input meeting and file a report of the results with the Zoning Administrator. In approving a petition for the reclassification of property to a conditional zoning district, the Planning & Zoning Commission may recommend, that the applicant add reasonable and appropriate conditions to the approval of the petition. Any such conditions should relate to the relationship of the proposed use to the impact on the following details:

1. Town services
2. Surrounding property
3. Proposed support facilities such as parking areas and driveways
4. Pedestrian and vehicular circulation systems
5. Screening and buffer areas
6. Timing of development
7. Street and right-of-way improvements
8. Infrastructure improvements (i.e. water)
9. Provision of open space
10. Other matters that the participants in the public input meeting, staff, Planning & Zoning Commission, and Town Council find appropriate or the petitioner may propose

If the applicant does not agree with the Planning & Zoning Commission or staff's recommendations of additional conditions, the Town Council shall have the authority to accept none, any, or all of the conditions forwarded from the review process.

No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and applicable site plan, subdivision plat, and/or permit for the district.

Proposal:

The applicant is proposing to construct 22 townhomes located on the properties at 205 and 211 Spartanburg Avenue. The project will include 10 two-unit buildings and 2 single-family buildings with 3-4 bedrooms each. There is currently one single-family home on the entirety of the property to be demolished. The purpose of the Residential (R-1) district is to provide for moderate-density, single-family and two-family residential use. The regulations of this district are intended to discourage any use which, because of its character, would not be in harmony with the residential community and which would be detrimental to the residential quality and value of this district.

Residential planned unit developments are conditional zoning uses intended to encourage innovation, flexibility of design, and better land use by allowing deviations from the standard requirements of the Town's specific zoning districts. Attachment 1 details the specific review

criteria for planned unit developments. The purpose of providing for these conditional zoning uses is to promote:

- (1) Improved compatibility of new development with existing residential neighborhoods, commercial enterprises, and industrial uses;
- (2) Flexibility of design to take greatest advantage of a site's natural and developmental qualities;
- (3) Accumulation of large areas of usable permanent open space to preserve important natural resources; and
- (4) Efficient use of land that may result in lower development and public service costs.

Maximum lot coverage is 40%, which includes the footprint of the building, decks, and steps. The applicant's proposed total lot coverage equals 19,235 square feet or 31%. Twenty-five percent of the gross acreage of a residential planned unit development shall be permanent open space. The applicant is providing 34,060 square feet or 54.5%. The structures will not exceed the 50' height limit. The applicant meets the minimum separation between on-site structures of fifteen feet. Cantilevers and HVAC units are permitted to encroach within the required setback. Setbacks in the R-1 district are 20' (front), 10' (rear), 7.5' (sides). The applicant is requesting a 10-foot front setback from Greenville Ave, Second St, and Spartanburg Avenue. A setback of ten feet, shall be the minimum allowed for a planned unit development. A written request must be made and submitted (attachment 2) along with the application for a conditional zoning for a departure from the standard district regulations and must be recommended for approval or denial by the Planning and Zoning Commission and formally approved or denied by Town Council.

The applicant is providing the required 3 parking spaces per unit for a total of 66 parking spaces. The applicant is providing the required Type B 10' Landscape Buffer. Existing trees to be maintained have not been identified on the landscaping plan. Maximum density in the R-1 district for Single-family/two-family is 15 units/acre. The combined square footage of the 2 properties is 1.43 acres (62,500 square feet) equaling a maximum of 22 units. A pool, pool house with bathrooms, pickleball court, and walking trail are also proposed on the site. The units fronting Second Street will have an interior drive aisle with a minimum of 24' for two-way traffic to access the units without disturbing the existing stormwater ditch. Per the attached letter (attachment 3), the Town's Stormwater Department has requested that the ditch remain open for volume capacity, ability to control velocity flow, and filtration to prevent pollution and sedimentation flow into the Lake Park stormwater retention pond.

Conditional Zoning Process

As part of the application process a community meeting is required. The applicant held the required meeting on September 6, 2022. The applicant has provided summary comments from the meeting. Based off the comments from the meeting the applicant can place conditions on the project to help mitigate the impacts and concerns from the neighboring properties.

Staff Proposed Conditions

1. All stormwater must meet state standards for containment on site
2. Utilities must be installed in accordance with Town requirements
3. Install new fire hydrant on the corner of Spartanburg Avenue and 2nd Street
4. Recombination plat required prior to issuance of a building permit
5. Outdoor lighting not to disturb neighboring properties
6. Type B Landscape buffer required
7. 2-year expiration date from TC approval

Applicant Proposed Conditions

1. Add sidewalks on Spartanburg Ave and Greenville Ave
2. Screening of existing stormwater pump on 2nd Street

Land Use Plan

The project is in general conformity with the 2020 Land Use Plan for medium density residential. Mostly medium-sized lots (min. 5,000 sq ft) with primarily single family detached residences. Smaller-scale, attached residences (two-family homes and townhomes) allowed occasionally if contextually compatible.

ACTION REQUESTED:

Consider recommending approval or denial of a conditional zoning to approve a multifamily project consisting of 22 townhome units located at 205 and 211 Spartanburg Avenue.

Staff recommends approval of the project with the proposed conditions.

P&Z recommends approval with the additional condition of a 2" waterline installed along Spartanburg Avenue to eliminate multiple cuts to the street. Staff believes that this will be satisfied under the proposed condition that utilities must be installed in accordance with Town requirements.

MOTION:

Approval - whereas in accordance with the provisions of the NCGS, the Council does hereby find and determine that the adoption of the Conditional Use District to allow for a multifamily project consisting of 22 townhome units located at 205 and 211 Spartanburg Avenue. is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans.

Denial - based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long-range planning documents and the potential impacts on the surrounding areas.

REFERENCE ATTACHMENTS:

ATTACHMENT 1: Sec. 40-354. – Planned Unit Development Review Criteria

ATTACHMENT 2: Reduced setback request

ATTACHMENT 3: Stormwater ditch letter

SUPPLEMENTAL ATTACHMENTS:

Site Plans

Application

Public Meeting Mailing List

Public Meeting Minutes

Elevations & Floor Plans

Draft Grant Order

ATTACHMENT 1

Sec. 40-354. Review criteria.

The following review criteria are established as general guidelines for the Planning and Zoning Commission and the Town Council in their deliberations and decision making regarding planned unit developments:

- (1) Degree of departure of the proposed planned unit development from surrounding areas in terms of character, or density. Type of use shall be limited to those which are permitted or conditionally permitted in the underlying zoning district.
- (2) Compatibility within the planned unit development and relationship with the surrounding neighborhoods.
- (3) Prevention of the erosion of property values and degrading of surrounding area.
- (4) Provision for future public recreational facilities, transportation, water supply, sewage disposal, surface drainage, flood control, and for soil conservation as shown in the development plans.
- (5) The nature, intent, and compatibility of permanent open space, including the proposed method for the maintenance and conservation of said permanent open space.
- (6) The feasibility and compatibility of the specified stages contained in the preliminary development plan to exist as an independent development.
- (7) The availability and adequacy of water and sewer service to support the proposed planned unit development.
- (8) The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development, and including the promotion of bicycling, walking and other alternatives to the automobile.
- (9) The benefits within the proposed development and to the general public to justify the requested departure from the standard zoning district requirements.
- (10) The conformity and compatibility of the planned unit development with any adopted development plan of the Town.
- (11) The conformity and compatibility of the proposed open space, primary and secondary uses within the proposed planned unit development.
- (12) Provision for emergency vehicle access and service to the proposed development.
- (13) Preservation of important natural amenities on the site of the proposed development.

(Code 1986, app. A, § 16.2; Ord. No. 07-709, 10-9-2007)

ATTACHMENT 2**Social on 2nd****Project Narrative**

The project consists of 22 townhomes built on piles above the flood elevation. Parking for each unit will be directly under each unit and two units will share a common driveway per plan.

We are requesting 10-foot setbacks off 2nd Street, Spartanburg Ave, and Greenville Ave.

All sewer and water will connect to Town of Carolina Beach Utilities within the right-away as discussed with the Utilities.

Stormwater management will be maintained onsite for the townhomes and upgraded stormwater will be added down Spartanburg and Greenville Ave.

The installation of a new hydrant down Spartanburg Ave will also be part of the new project.

The development will meet Town tree requirements and have a mixture of Live Oaks and Evergreen Shrubs.

The grounds will also have a pool with bathrooms, a pickleball court and a walking trail.

Refuge will be handled with roll out carts for each townhome.

Lynn Barbee
Mayor

Joe Benson
Council Member

Deb LeCompte
Council Member



Jay Item 8.
Mayor Pro Tem

Mike Hoffer
Council Member

Bruce Oakley
Town Manager

Town of Carolina Beach
1121 N. Lake Park Blvd.
Carolina Beach, NC 28428
Tel: (910) 458-2999
Fax: (910) 458-2997

ATTACHMENT 3

October 4, 2022

By copy of this letter, I certify that the Town of Carolina Beach stormwater department adheres to the MS4 Operation and Maintenance plan as required for Pollution Prevention/Good Housekeeping minimum control measures to reduce pollutant discharge.

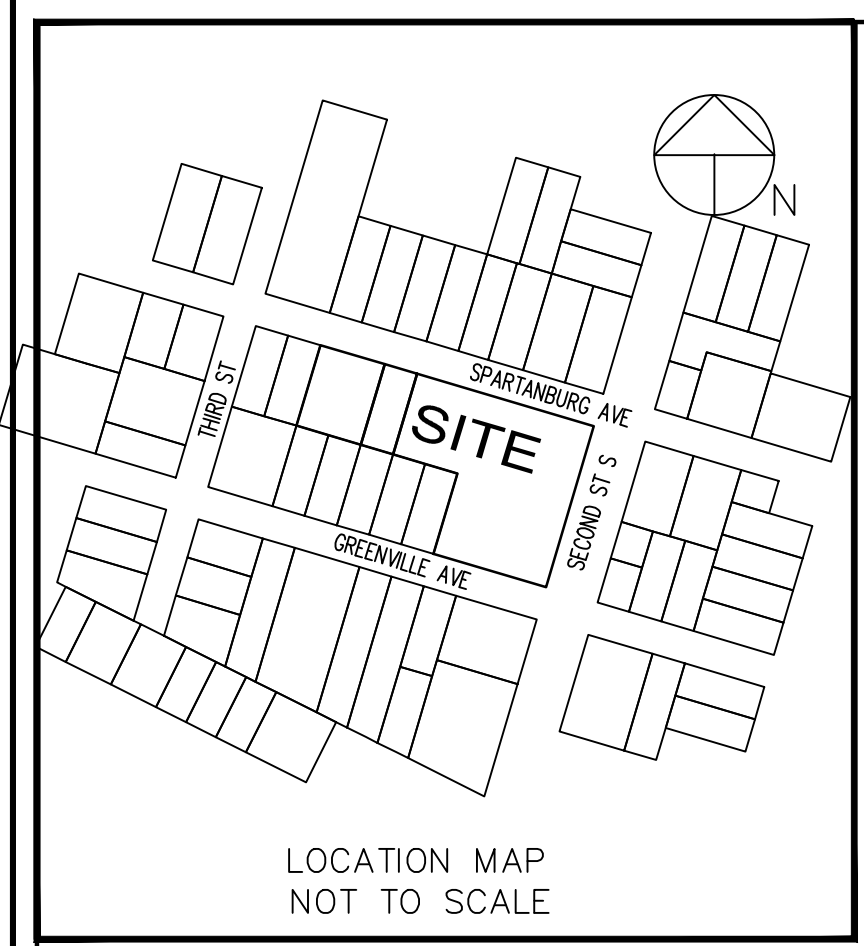
The Town's Stormwater Department for inspection and maintenance procedures request that the South 2nd street ditch remain open for volume capacity, ability to control velocity flow, and filtration to prevent pollution and sedimentation flow into the Lake Park stormwater retention pond.

Please let us know if you have questions or need any additional information.

Sincerely,

Daniel Keating
Stormwater Manager

Cc: Bruce Oakley Town Manager
Brian Stanberry, Public Works Director



LINE TABLE

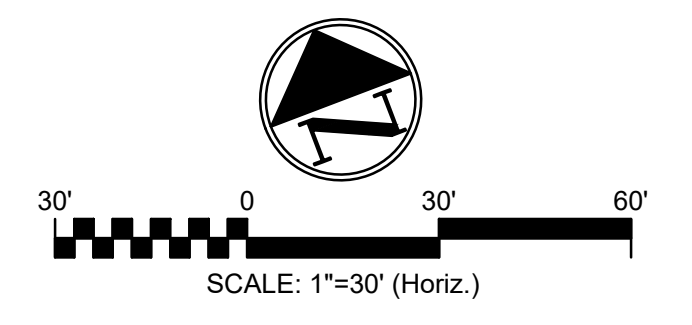
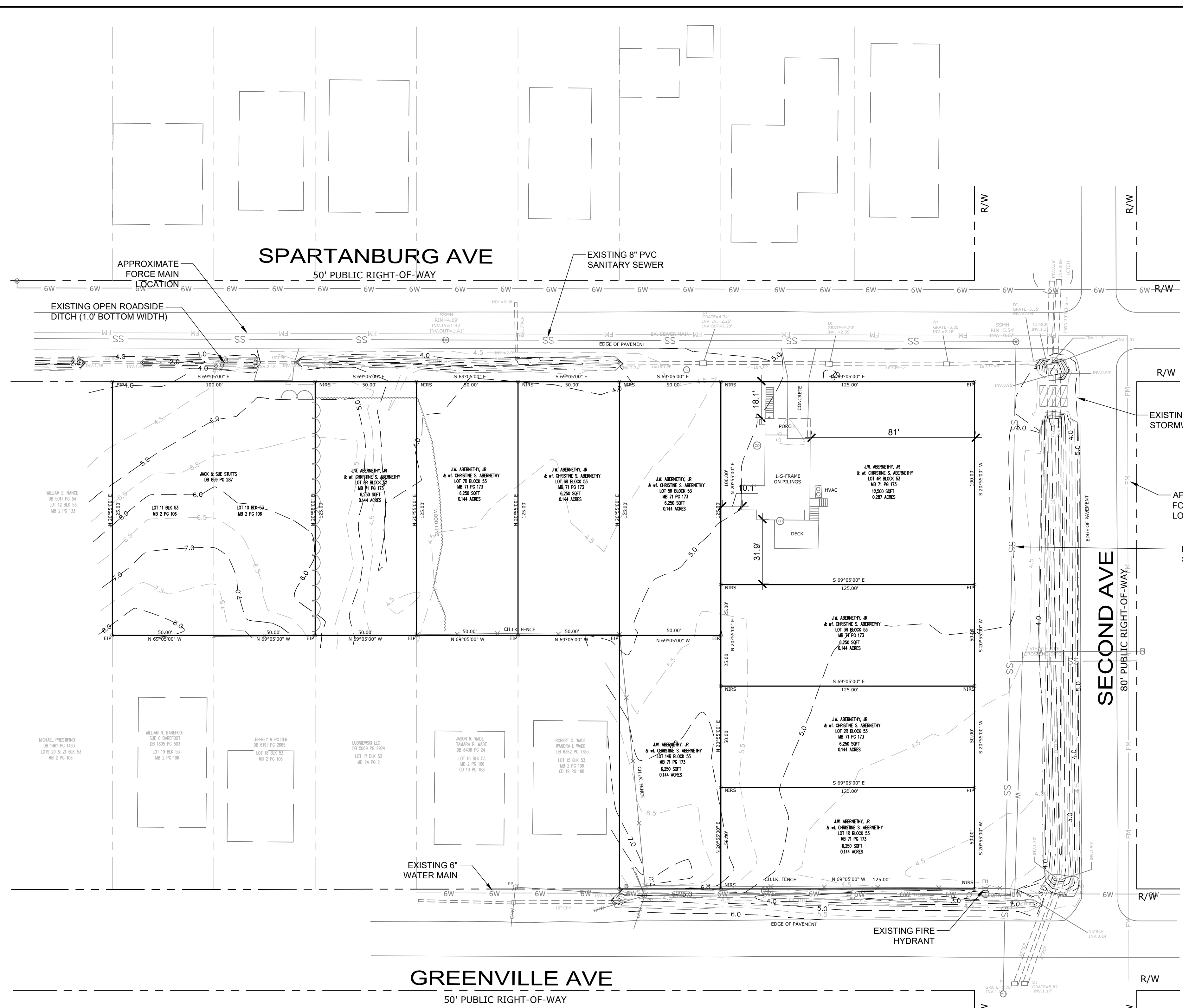
PROPERTY LINE
LINE NOT SURVEYED
CENTER LINE
RIGHT OF WAY (R/W or ROW)
EASEMENT

SYMBOL TABLE

OVERHEAD WIRE(S)
CATV PEDESTAL
FIRE HYDRANT
SPOT ELEVATION
WATER METER

ABBREVIATIONS

BC BACK OF CURB
CB CATCH BASIN
CO CLEANOUT
DB, PG DEED BOOK, PAGE
DI DRAINAGE INLET
EP EXISTING IRON PIPE
INV EXISTING IRON ROD
MB, PG MAP BOOK, PAGE
NIRS NEW IRON ROD SET
NAVD NORTH AMERICAN VERTICAL DATUM
SSMH SANITARY SEWER MANHOLE
SDMH STORM DRAINAGE MANHOLE



EXISTING SITE DATA

PROJECT NAME	SOCIAL ON 2nd
PROJECT ADDRESS	205, 211 SPARTANBURG AVENUE
PARCEL ID	R09010-032-004-000, R09010-032-005-000
PROPERTY DEVELOPER	WB COASTAL DEVELOPMENT, LLC
ZONING	R-1
PROPOSED USE	TOWNHOUSE RESIDENTIAL
TOTAL PROPERTY ACREAGE	62,500 SF (1.43 AC)

- EXISTING CONDITIONS NOTES:**
- THE ENTIRE PROPERTY FOR THE PROPOSED DEVELOPMENT IS WITHIN FLOOD ZONE AE10. FINISHED FLOOR OF EACH BUILDING WILL BE 2-FEET ABOVE THE BASE FLOOD ELEVATION OF 10-FEET, OR 12-FEET AMSL.
 - WETLANDS ARE NOT PRESENT ON THE EXISTING PROPERTY.
 - EXISTING ZONING IS R-1.
 - PROJECT WILL REQUIRE RECOMBINATION MAPPING INTO A SINGLE PARCEL.
 - THE TOWN OF CAROLINA BEACH PUBLIC UTILITIES MAINTAINS THE DRAINAGE DITCH AND PUMP SYSTEM ALONG S SECOND STREET.

- SURVEY NOTES:**
- PARCEL ID: R09010-032-004-000 AND R09010-032-005-000.
 - ALL DISTANCES ARE HORIZONTAL GROUND IN FEET UNLESS OTHERWISE NOTED.
 - ZONING: R-1 WB
 - BOUNDARY AREA: 1.43 ACRES.
 - AREA COMPUTED BY COORDINATED METHOD.
 - PROPERTY IS SUBJECT TO ALL ZONING AND PLANNING REGULATIONS OF THE TOWN OF CAROLINA BEACH, NC.
 - MINIMUM BUILDING SETBACKS:
FRONT = 20'
SIDE = 7.5'
REAR = 10'
MAX. HEIGHT = 50'
 - CONTOURS SHOWN HEREON IS FROM AN ACTUAL FIELD SURVEY. DATUM NAVD '88.
 - THIS MAP WAS DRAWN WITHOUT THE BENEFIT OF A COMPLETE TITLE SEARCH. THE OWNERSHIP INFORMATION WAS OBTAINED FROM THE TAX RECORDS OF THE COUNTY REGISTRY.
 - NO NCGS MONUMENT WITHIN 2000' OF SITE.
 - PURPOSE OF THIS MAP IS TO DEPICT THE EXISTING TOPOGRAPHIC FEATURES OF THE SITE FOR FUTURE DEVELOPMENT.
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 - BASE FLOOD ELEV. = 11.0'; DATUM: NAVD '88

SURVEY REFERENCES:
M.B. 71, PG. 173,
M.B. 2, PG. 106,
C.D. 19, PG. 188,
M.B. 2, PG. 133,
NEW HANOVER
COUNTY REGISTRY.

OWNER OF RECORD: (ALL LOTS EXCEPT #215)
J W ABERNETHY JR & Wf CHRISTINE S ABERNETHY
NEWTON, NC 28658

OWNER OF RECORD: (#215 SPARTANBURG)
JACK & SUE STUTTS
YADKINVILLE, NC 27055

PENDING PURCHASER:
WB COASTAL DEVELOPMENT, LLC
206 TEXAS AVE.
CAROLINA BEACH, NC 28428

EXISTING IMPERVIOUS SURFACE (SQ.FT.):
HOUSE = 2267
PORCHES = 300
DRIVEWAY = 612
HVAC = 6
TOTAL = 3185

BOUNDARY AND TOPOGRAPHIC SURVEY FOR WB COASTAL DEVELOPMENT, LLC
205, 211, 215 SPARTANBURG AVENUE
TOWN OF CAROLINA BEACH, FEDERAL POINT TOWNSHIP
LOTS 1R THRU 8R, 14R, MAP BOOK 71 PAGE 173
LOTS 10, 11, MAP BOOK 2 PAGE 106
NEW HANOVER COUNTY, NORTH CAROLINA 28428
SCALE 1"= 20' DATE: SEPTEMBER 23, 2022



1 SITE PLAN

SCALE: 1"=30'

1 NOTES

SCALE: NTS

REV. NO.	DESCRIPTIONS/REVISIONS	DATE

SEAL

SEAL

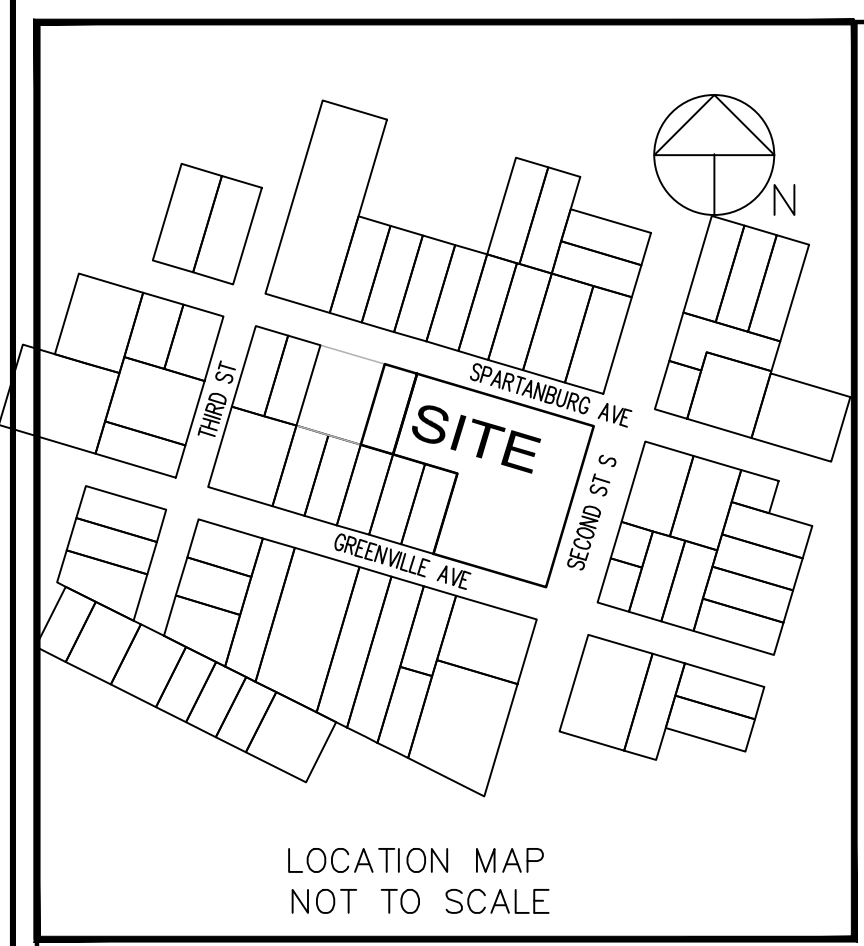
MCKIM & CREED
243 NORTH FRONT STREET
WILMINGTON, NORTH CAROLINA 28401
TELE: (910) 343-1048
FAX: (910) 251-8282
NC License # C-0342

WB COASTAL DEVELOPMENT

SOCIAL ON 2nd
INTERSECTION SECOND STREET AND SPARTANBURG AVENUE - CAROLINA BEACH, NC

EXISTING CONDITIONS

DATE:	10/05/2022	SCALE:	
MCE PROJ. #	----	HORIZONTAL:	C2.0
DRAWN:	RMC	VERTICAL:	----
DESIGNED:	RMC		
CHECKED:	RMC		
PROJ. MGR.	RMC		
STATUS: PRELIMINARY PLANS			



LOCATION MAP NOT TO SCALE

LINE TABLE

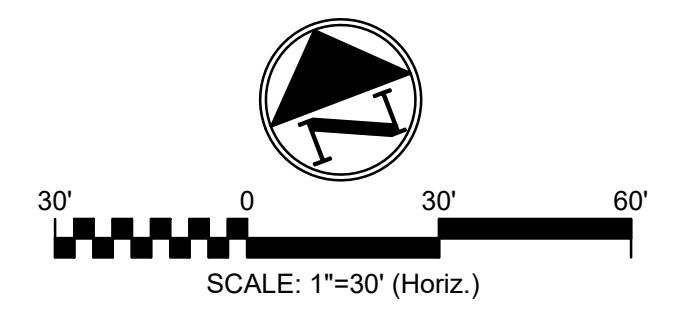
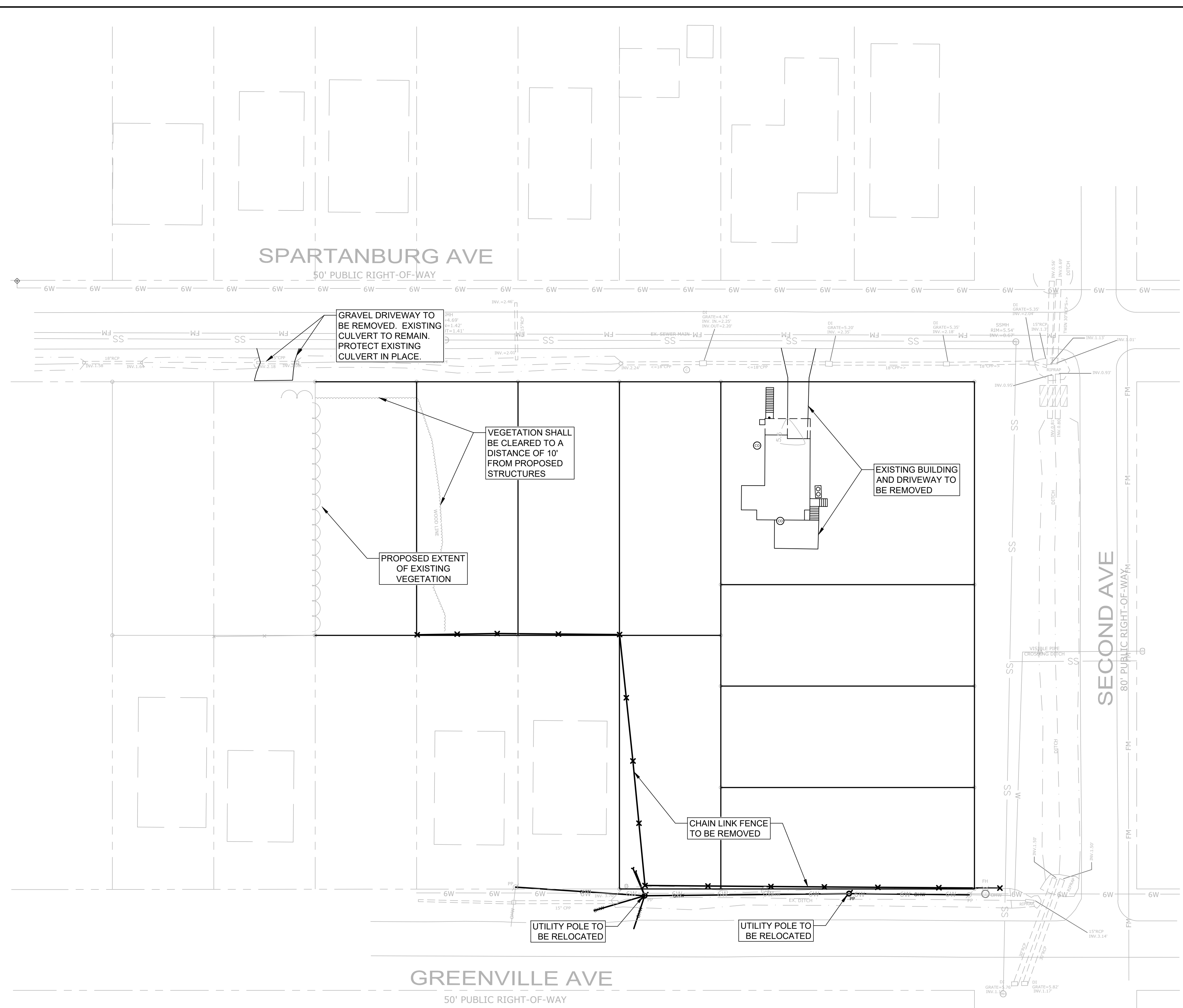
— PROPERTY LINE
 - - - LINE NOT SURVEYED
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 - - - OVERHEAD WIRE(S)

SYMBOL TABLE

○ CATV PEDESTAL
 ⊕ FIRE HYDRANT
 × 24.19' SPOT ELEVATION
 ⊙ WATER METER

ABBREVIATIONS

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 CB CATCH BASIN
 CD CLEANOUT
 DB, PG DEED BOOK, PAGE
 DI DRAINAGE INLET
 EP EXISTING IRON PIPE
 ER EXISTING IRON ROD
 INV INVERT
 MB, PG MAP BOOK, PAGE
 NRS NEW IRON ROD SET
 NAVD NORTH AMERICAN VERTICAL DATUM
 SSMH SANITARY SEWER MANHOLE
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SURVEY REFERENCES:
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 M.B. 2, PG. 106,
 C.D. 19, PG. 188,
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 NEW HANOVER COUNTY REGISTRY.

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 205, 211, 215 SPARTANBURG AVENUE
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 LOTS 1R THRU 8R, 14R, MAP BOOK 71 PAGE 173
 LOTS 10, 11, MAP BOOK 2 PAGE 106
 NEW HANOVER COUNTY, NORTH CAROLINA 28428
 SCALE 1" = 20' DATE: SEPTEMBER 23, 2022

PORT CITY LAND SURVEYING, PLLC
 FIRM LICENSE No. P-1493
 1144 SHIPYARD BOULEVARD
 WILMINGTON, NORTH CAROLINA 28412
 (910) 791-0080

1 SITE PLAN

SCALE: 1"=30'

1 NOTES

SCALE: NTS

REV. NO.	DESCRIPTIONS/REVISIONS	DATE

SEAL

SEAL

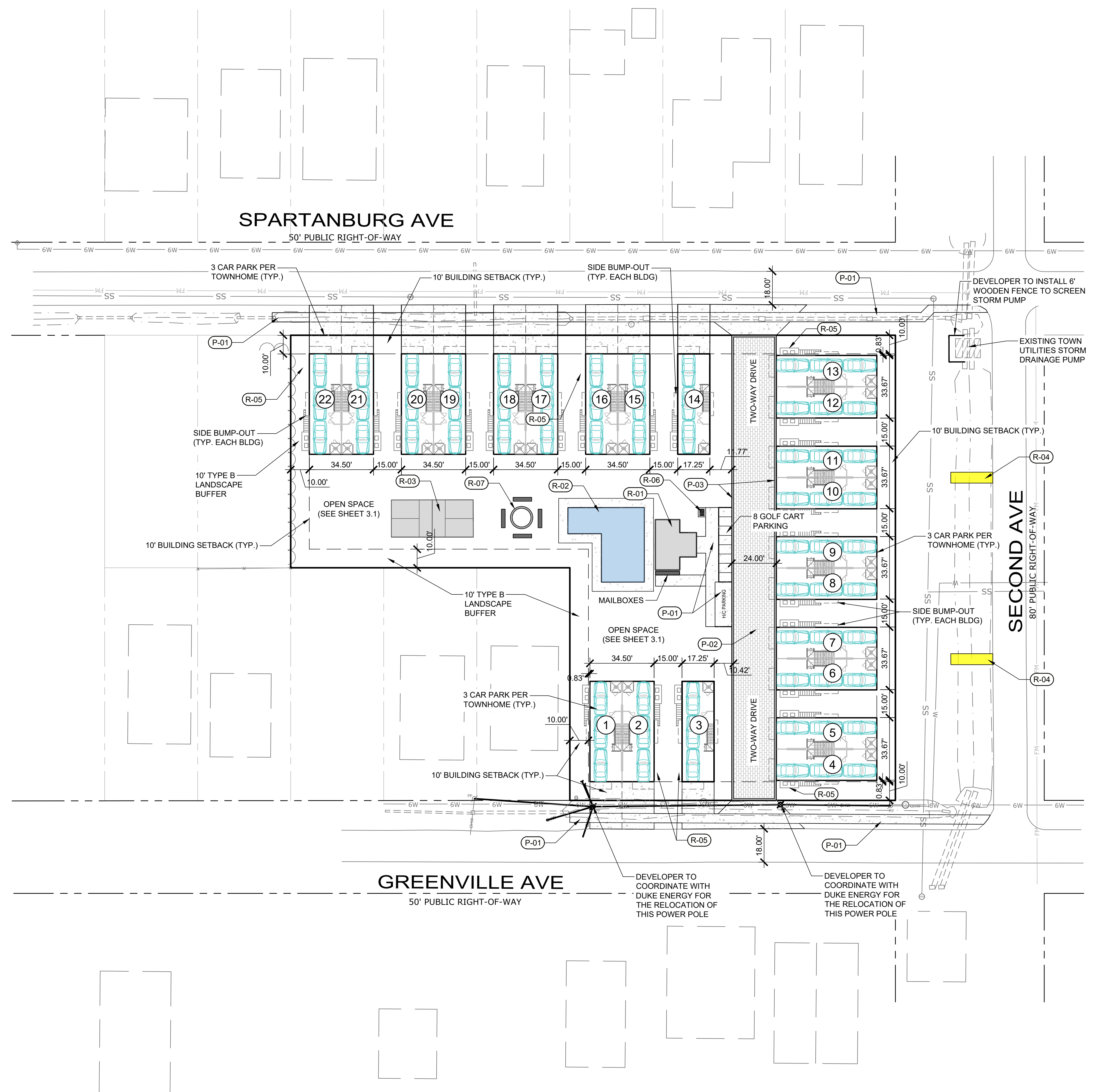
MCKIM & CREED
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WB COASTAL DEVELOPMENT

SOCIAL ON 2nd
 INTERSECTION SECOND STREET AND SPARTANBURG AVENUE - CAROLINA BEACH, NC

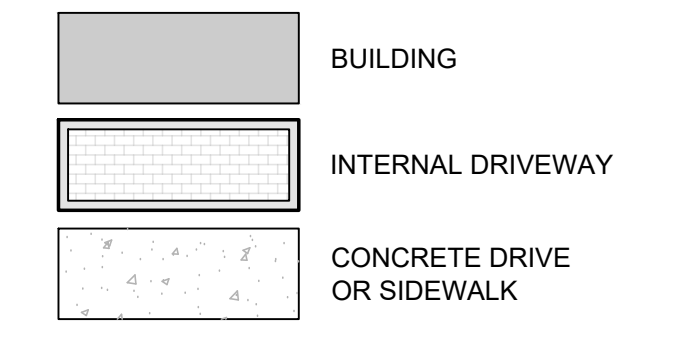
SITE DEMOLITION PLAN

DATE: 10/05/2022	SCALE: HORIZONTAL: C2.1
MCE PROJ. #	VERTICAL: --
DRAWN: RMC	REVISION: --
DESIGNED: RMC	
CHECKED: RMC	
PROJ. MGR: RMC	
STATUS: PRELIMINARY PLANS	



SITE DATA		
PROJECT NAME	SPARTANBURG TOWNHOMES	
PROJECT ADDRESS	S. SECOND STREET CAROLINA BEACH, NC	
PARCEL ID		
PROPERTY OWNER	W3 BUILT, LLC	
ZONING	RESIDENTIAL	
PROPOSED USE	MULTI-FAMILY RESIDENTIAL	
TOTAL PROPERTY ACREAGE	62,500 SF (1.43 AC)	
NC BUILDING CODE CONSTRUCTION TYPE	V-8	
BUILDING LOT COVERAGE	19,235 SF / 31%	
NUMBER OF BUILDINGS	20	
TOWNHOMES	20	
SINGLE-FAMILY	2	
OTHER	1	
TOTAL	23	
DENSITY	ALLOWED XX DU/AC	PROVIDED 15 DU/AC
NON-RESIDENTIAL BUILDING GFA (CLUBHOUSE, POOL BUILDING, PAVILION)	468 SF	
BUILDING HEIGHT ALLOWABLE	50'	
PARKING SPACES	66	66
BUILDING SETBACKS	REQUIRED	PROVIDED
FRONT	10'	SEE PLAN
REAR	10'	SEE PLAN
SIDE	10'	SEE PLAN
OPENSACE	REQUIRED 29,969 SF	PROVIDED 34,060 SF
IMPERVIOUS AREA	EXISTING 2,500 SF	PROPOSED 19,235 SF
BUILDINGS	00,000 SF	5,915 SF
ROADS / DRIVES	00,000 SF	9,286 SF
SIDEWALKS (INCLUDES STREET SW ADDITION)	00,000 SF	1,500 SF
OTHER (POOL)	00,000 SF	34,936 SF
TOTAL IMPERVIOUS	00,000 SF	4%
PERCENT IMPERVIOUS COVERAGE	4%	56%

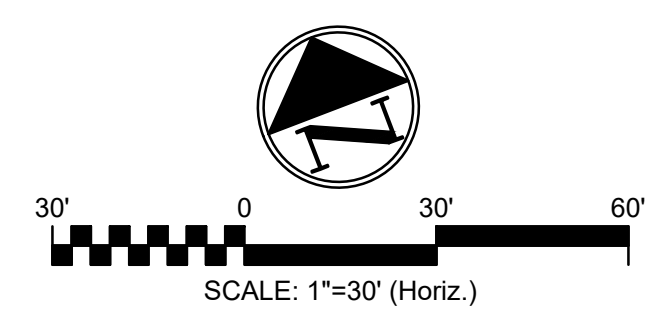
SURFACE MATERIAL LEGEND



PAVEMENTS AND CURBING		
KEY CODE	DESCRIPTION	DETAIL REFERENCE
P-01	CONCRETE DRIVE OR SIDEWALK	
P-02	BRICK PAVERS	
P-03	12" FLAT CONCRETE BAND	

BUILDINGS AND RECREATION		
KEY CODE	DESCRIPTION	DETAIL REFERENCE
R-01	CLUBHOUSE WITH MAILBOX	
R-02	POOL AND POOL DECK	
R-03	PICKLE BALL COURT (44'X20')	
R-04	PEDESTRIAN BRIDGE CROSSING	
R-05	HVAC PLATFORM AND STAIRS (HVAC PLATFORM 10'X4')	
R-06	5-RACK BIKE RACK	
R-07	FIRE PIT AND SEATING AREA	

- LIGHTING NOTES:**
- ALL OUTDOOR LIGHTING SHALL BE SHIELDED TO PREVENT GLARE FROM TRESPASSING ONTO ADJACENT PROPERTIES, ADJACENT STREETS, OR OTHERWISE CREATE A NUISANCE OR SAFETY HAZARD.
 - ALL OUTDOOR LIGHTING SHALL BE DOWNWARD FACING, AND/OR ARRANGED OR SHIELDED AS TO:
 - AVOID CASTING LIGHT UPON ADJACENT PROPERTIES AND STREETS
 - AVOID CASTING LIGHT INTO THE RIGHT-OF-WAY CREATING A HAZARD FOR MOTOR VEHICLES AND/OR PEDESTRIANS.



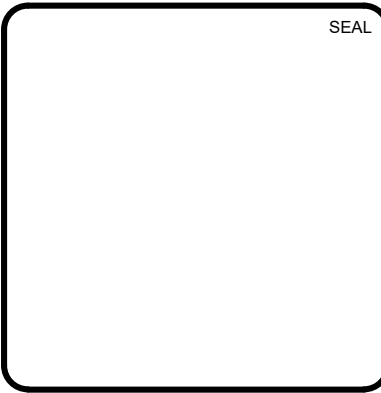
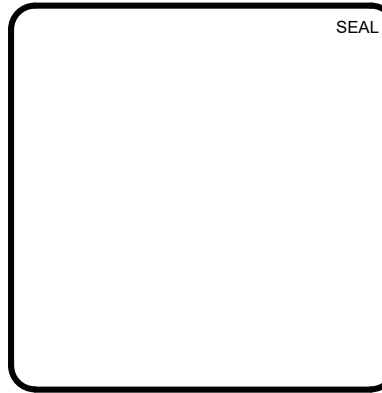
1 SITE PLAN

SCALE: 1"=30'

1 DETAIL TITLE

SCALE: NTS

REV. NO.	DESCRIPTIONS	DATE



MCKIM & CREED
 243 NORTH FRONT STREET
 WILMINGTON, NORTH CAROLINA 28401
 TELE: (910) 343-1048
 FAX: (910) 251-8282
 NC License # C-0342

WB
 COASTAL DEVELOPMENT I


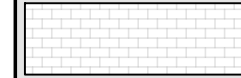



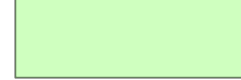
SOCIAL ON 2nd
 INTERSECTION SECOND STREET AND SPARTANBURG AVENUE - CAROLINA BEACH, NC

SITE PLAN

DATE: 10/05/2022	SCALE: HORIZONTAL: 1"=30'	C3.0
MCE PROJ. #	VERTICAL: N/A	
DRAWN: RMC	DESIGNED: RMC	DRAWING NUMBER
CHECKED: RMC	PROJ. MGR: RMC	REVISION
STATUS: PRELIMINARY PLANS		

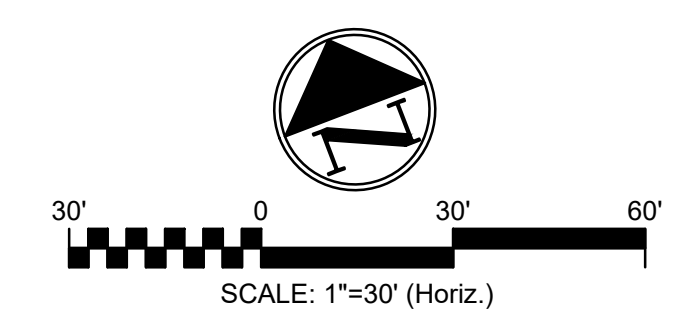


SURFACE MATERIAL LEGEND

-  BUILDING
-  INTERNAL DRIVEWAY
-  CONCRETE DRIVE OR SIDEWALK
-  OPEN SPACE (TBD)
-  10' TYPE - B LANDSCAPE BUFFER
-  PROPOSED LANDSCAPED AREA (NOT IN BUFFER)

OPEN SPACE AND LANDSCAPING		
KEY CODE	DESCRIPTION	DETAIL REFERENCE
OS-01	OPEN SPACE	
OS-02	10' TYPE B BUFFER	
OS-03	OTHER LANDSCAPED AREAS	

- LIGHTING NOTES:**
- ALL OUTDOOR LIGHTING SHALL BE SHIELDED TO PREVENT GLARE FROM TRESPASSING ONTO ADJACENT PROPERTIES, ADJACENT STREETS, OR OTHERWISE CREATE A NUISANCE OR SAFETY HAZARD.
 - ALL OUTDOOR LIGHTING SHALL BE DOWNWARD FACING, AND/OR ARRANGED OR SHIELDED AS TO:
 - AVOID CASTING LIGHT UPON ADJACENT PROPERTIES AND STREETS
 - AVOID CASTING LIGHT INTO THE RIGHT-OF-WAY CREATING A HAZARD FOR MOTOR VEHICLES AND/OR PEDESTRIANS.



1 LANDSCAPE AND BUFFER PLAN

SCALE: 1"=30'

1 DETAIL TITLE SCALE: NTS

REV. NO.	DESCRIPTIONS	DATE

SEAL

SEAL

MCKIM & CREED
 243 NORTH FRONT STREET
 WILMINGTON, NORTH CAROLINA 28401
 TELE: (910) 343-1048
 FAX: (910) 251-8282
 NC License # C-0342

WB
 COASTAL DEVELOPMENT I

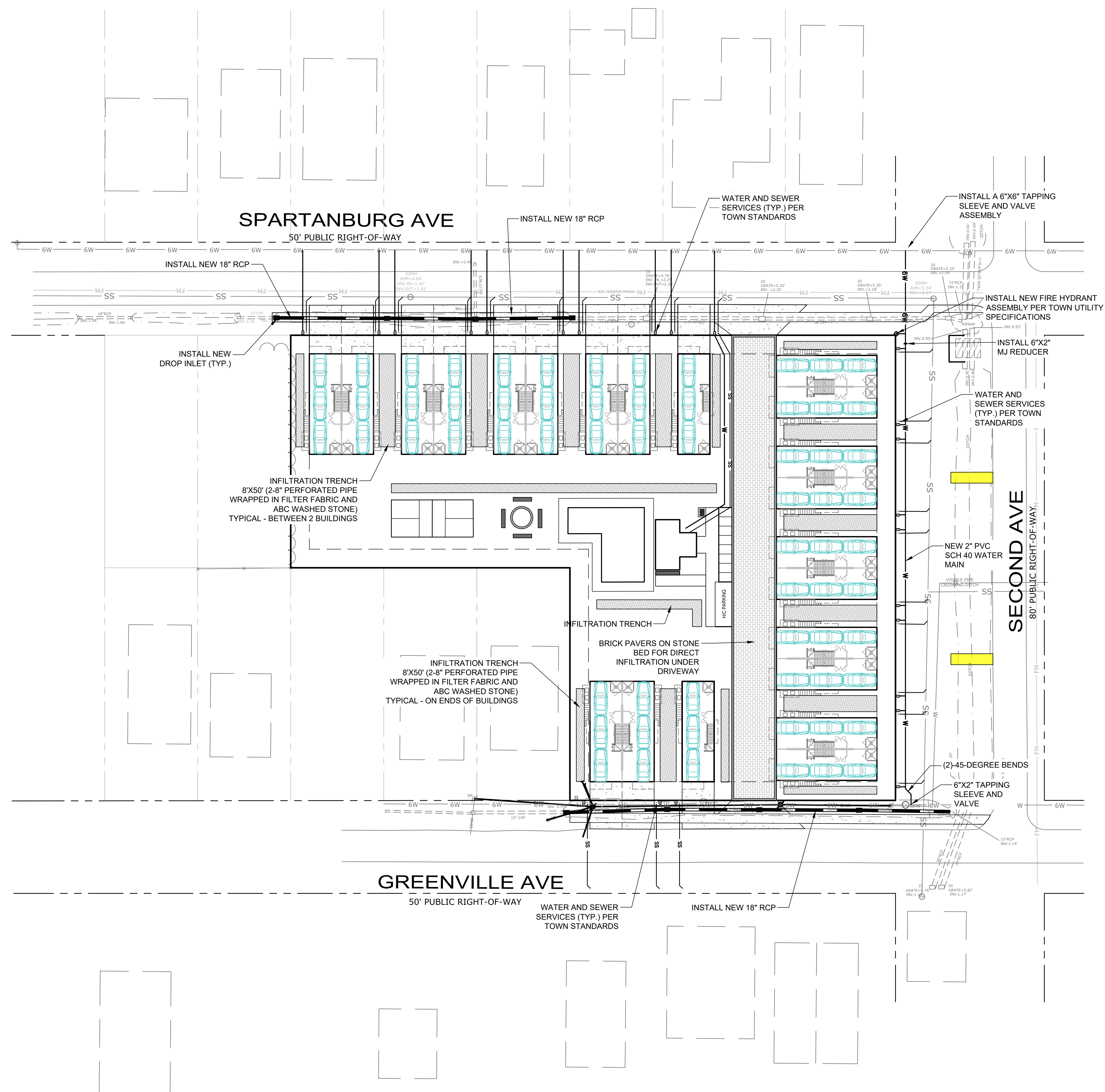
SOCIAL ON 2nd
 INTERSECTION SECOND STREET AND SPARTANBURG AVENUE - CAROLINA BEACH, NC

LANDSCAPE AND BUFFER


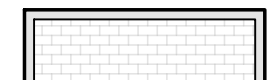

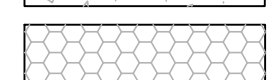
DATE:	10/05/2022
MCE PROJ. #	----
DRAWN	RMC
DESIGNED	RMC
CHECKED	RMC
PROJ. MGR.	RMC

SCALE	C3.1
HORIZONTAL:	
VERTICAL:	----
DRAWING NUMBER	----
REVISION	----

STATUS: PRELIMINARY PLANS



SURFACE MATERIAL LEGEND

-  BUILDING
-  INTERNAL DRIVEWAY
-  CONCRETE DRIVE OR SIDEWALK
-  INFILTRATION TRENCH

1 UTILITY PLAN

SCALE: 1"=30'

1 DETAIL TITLE

SCALE: NTS

REV. NO.	DESCRIPTIONS	DATE

SEAL

SEAL



MCKIM & CREED
 243 NORTH FRONT STREET
 WILMINGTON, NORTH CAROLINA 28401
 TELE: (910) 343-1048
 FAX: (910) 251-8282
 NC License # C-0342



WB
 COASTAL DEVELOPMENT

SOCIAL ON 2nd
 INTERSECTION SECOND STREET AND SPARTANBURG AVENUE - CAROLINA BEACH, NC

UTILITY PLAN

DATE:	10/05/2022
MCE PROJ. #	----
DRAWN	RMC
DESIGNED	RMC
CHECKED	RMC
PROJ. MGR.	RMC

SCALE	C4.0
HORIZONTAL:	--
VERTICAL:	--
DRAWING NUMBER	----
REVISION	----

STATUS: PRELIMINARY PLANS

1121 N. Lake Park Blvd.
Carolina Beach, NC 28428
permits@carolinabeach.org
Phone (910) 458-2999



Permit # _____

TOWN OF CAROLINA BEACH Conditional Zoning Application

The Conditional Zoning process for the Town of Carolina Beach may be found in the ordinance (Sec. 40-527).

Prior to the application submission, the applicant must conduct a Public Input Meeting. The following are the public meeting requirements:

- The applicant must mail notice of said meeting to all property owners within 500 feet of the perimeter of the project bounds no less than 10 days prior to the meeting.
- The notice must include time, date, location, and project description.
- The applicant must maintain and submit to with their application a:
 - o A copy of the letter announcing the meeting
 - o A list of property owners contacted
 - o An attendance roster from the meeting
 - o A summary of the issues discussed
 - o The results and any changes related to the proposal based on meeting discussions


Each application submitted to staff must be legible, contain the public scoping meeting required information, and provide all other required materials to be accepted as a completed application. Supplemental application materials may include, but not be limited to, site plans, building designs, engineered drawings, stormwater designs, landscaping plans, project narratives, Federal and/or State permits/permissions, and Traffic Impact Analyses. **It is strongly suggested that the applicant set up a meeting with Planning Staff prior to the submission deadline, to ensure the application is complete.**

The Planning Department, Technical Review Committee, Planning and Zoning Commission and/or Town Council reserve the right to require additional information if needed to assure that the use in its proposed location will meet be developed in accordance with the Code of Ordinances of the Town of Carolina Beach.

Application fees. The owner or owners, or their duly authorized agent, of the property included in the application for Conditional Zoning shall submit a complete application and supplemental information to the Planning Department. A fee in accordance with the Town’s adopted schedule of fees, payable to the Town of Carolina Beach, must accompany each application. For the purposes of determining the fee, the Zoning Administrator shall categorize each such Conditional Zoning Permit Application as either “major” or “minor”, depending upon the complexity of review. Generally, Planned Residential (over 3 units), Mixed Uses, Business Developments, and similarly complex projects shall be categorized as “major”, while projects such as bed and breakfast inns, small day care services, etc. shall be categorized as “minor”.

Major Conditional Zoning Permit	=	\$ 800.00
Minor Conditional Zoning Permit	=	\$ 350.00

This permit will be scheduled for the next possible Technical Review Committee, provided the public scoping meeting has taken place and the application is otherwise complete.



2022 Submission Deadlines & Meeting Dates

Technical Review Committee		Planning & Zoning Commission		Town Council	
Submission	Meeting	Submission	Meeting	Submission	Meeting
Jan 3	Jan 17	Dec 30	Jan 13	Dec 28	Jan 11
Feb 7	Feb 22	Jan 27	Feb 10	Jan 25	Feb 8
Mar 7	Mar 21	Feb 24	Mar 10	Feb 22	Mar 8
Apr 4	Apr 18	Mar 31	Apr 14	Mar 29	Apr 12
May 2	May 16	Apr 28	May 12	Apr 26	May 10
June 6	June 20	May 26	June 9	May 31	June 14
July 4	July 18	June 30	July 14	June 28	July 12
Aug 1	Aug 15	July 28	Aug 11	July 26	Aug 9
Sept 5	Sept 19	Aug 25	Sept 8	Aug 30	Sept 13
Oct 3	Oct 17	Sept 29	Oct 13	Sept 26	Oct 10
Nov 7	Nov 21	Oct 20	Nov 10	Oct 25	Nov 8
Dec 5	Dec 19	Nov 24	Dec 8	Nov 29	Dec 13
Board	# Copies Full Size	# Copies Electronic	Recipients		
TRC	9	1	1 Manager, 3 Planning, 1 Fire, 1 Police, 2 Operations, 1 Admin		
P&Z	9	1	7 P&Z, 1 Manager, 2 Planning, 1 Secretary, 1 Island Gazette		
Town Council	9	1	5 Town Council, 1 Manager, 1 Planning, 1 Clerk, 1 Island Gazette		

PURPOSE

Conditional zoning allows flexibility with regard to the zoning regulations. Subject to high standards of planning and design, certain uses may be allowed in certain districts or on properties provided they can be developed to minimize any adverse effects they might have on surrounding properties. Conditional Zoning allows for public and governing board input to help any proposed project meet its goals while also contributing to the positive development of Carolina Beach.

Social on 2nd

Project Narrative

The project consists of 26 townhomes built on piles above the flood elevation. Parking for each unit will be directly under each unit and two units will share a common driveway per plan.

We are requesting 10-foot setbacks off 2nd Street, Spartanburg Ave, and Greenville Ave.

All sewer and water will connect to Town of Carolina Beach Utilities within the right-away as discussed with the Utilities.

Stormwater management will be maintained onsite for the townhomes and upgraded stormwater will be added down Spartanburg and Greenville Ave.

The installation of a new hydrant down Spartanburg Ave will also be part of the new project.

The development will meet Town tree requirements and have a mixture of Live Oaks and Evergreen Shrubs.

The grounds will also have a pool with bathrooms, a pickleball court and a walking trail.

Refuge will be handled with roll out carts for each townhome.

Please complete all sections of the application.

A. Property Information

Address(es): 215, 211 & 205 Spartanburg Ave

PIN(s): R09010-032-005-000, R09010-32-004-000

Project Name Social On 2nd

Size of lot(s): 1.41 Acres, 61,419 SF Combining 2 lots into 1 Plan Development

B. Application for Conditional Zoning

Application is hereby made for a Conditional Use Permit for use of the property described above as a (please provide a brief description of the use):

22 Multi-Family Townhomes 2 & 3 Stories on Piles. Parking below structures. HOA

will manage Pool House, Pools and Grounds.

C. Applicant Contact Information

WB Coastal Development, LLC

Company/corporate Name (if applicable):

Wescott Butler

Applicant's Name

206 Texas Ave

Mailing Address

Carolina Beach, NC 28428

City, State, and Zip Code

910.599.5789

Telephone

butler@w3built.com

Email

D. Owner Contact Information (if different)

Estate of Christine S. Abernethy- James S. Abernethy and Robert C. Abernethy, executors

Owner's Name

112 E J Street

Mailing Address

Newton, NC 28658

City, State, and Zip Code

828-381-9527

Telephone

skifast49@msn.com

Email



Check the box beside each item verifying that the item has been submitted with this application

I. Site Plan Criteria

For new construction all boxes in this section shall be marked yes by the applicant to be considered a complete application.

Yes No N/A

- ✓ The name, address, and phone number of the professional(s) responsible for preparing the plan if different than the applicant.
- ✓ An appropriate scaled plan
- ✓ Title block or brief description of project including all proposed uses
- ✓ Date
- ✓ North arrow
- ✓ Property and zoning boundaries
- ✓ The square footage of the site
- ✓ Lot coverage (buildings, decks, steps)
- ✓ Location of all existing and proposed *structures* and the setbacks from property lines of all affected structures to remain on-site
- ✓ Design of driveways and parking
- ✓ Adjacent right-of-ways labeled with the street name and right of way width
- ✓ Location of all existing and/or proposed easements

Additional information or data as determined necessary by town staff and/or other reviewing agencies including but not limited to the following may be required:

Yes No N/A

- ✓ Location and design of refuse facilities
- ✓ Approximate locations and sizes of all existing and proposed *utilities*
- ✓ Existing and/or proposed fire hydrants (showing distances)
- ✓ Adjacent properties with owners' information and approximate location of structures
- ✓ Distances between all *buildings*
- ✓ Number of *stories* and height of all *structures*
- ✓ Locations of all entrances and exits to all *structures*
- ✓ Calculate the *gross floor area* with each room labeled (i.e. kitchen, bedroom, bathroom)
- ✓ Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be use
- ✓ Location of flood zones and finished floor elevations
- ✓ CAMA Areas of Environmental Concern (AEC) and CAMA setbacks
- ✓ Delineation of *natural features* and wetlands with existing and proposed topography with a maximum of two-foot contour intervals
- ✓ Proposed landscaping including percentages of *open space*
- ✓ Stormwater management systems
- ✓ Cross-sectional details of all streets, roads, ditches, and *parking lot* improvements
- ✓ *Building* construction and occupancy type(s) per the building code
- ✓ Location of fire department connection(s) for standpipes
- ✓ Turning radii, turnarounds, access grades, height of overhead obstructions
- ✓ Dimensions and locations of all *signs*
- ✓ A vicinity map drawn with north indicated

- ✓ I have provided two hard-copies and one scaled electronic version of each required drawing
- ✓ I am prepared to pay the application fee today

SUPPLEMENTAL INFORMATION REQUIRED WITH THE APPLICATION

1. Detailed project narrative describing the proposed site and request.
2. Agent form if the applicant is not the property owner
3. Request for site specific vesting plan shall be submitted in accordance with Chapter 40 Article XIII

OWNER'S SIGNATURE: In filing this application for a conditional zoning, I/we as the property owner(s), hereby certify that all of the information presented in this application is accurate to the best of my knowledge, information and belief.


Signature

10.20.22

Date

AUTHORITY FOR APPOINTMENT OF PERSON TO ACT ON MY BEHALF

Estate of Christine S. Abernethy- James S. Abernethy and Robert C. Abernethy, executors

The undersigned owner, WB Coastal Development, LLC does hereby appoint WB Coastal Development, LLC to act on my behalf for the purpose of petitioning the Town of Carolina Beach for: a) an amendment to the text regulations; b) a change to the zoning map; and/or c) street closing, as applicable to the property described in the attached petition. The owner does hereby covenant and agree with the Town of Carolina Beach that said person has the authority to do the following acts for and on behalf of the owner: (1) To submit a proper petition and the required supplemental materials: (2) To appear at public meetings to give testimony and make commitments on behalf of the owner; and (3) In the case of conditional zoning, to accept conditions or recommendations made for the conditional zoning on the owner's property. (4) To act on the owner's behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of any petition. This appointment agreement shall continue in effect until final disposition of the petition submitted in conjunction with this appointment.

Date: 11/3/22

Appointee's Name, Address & Telephone:

WB Coastal Development, LLC
Wescott Butler
206 Texas Ave, Carolina Beach, NC
910.599.5789

Signature of Owner:

James S Abernethy dotloop verified 11/04/22 9:29 AM EDT IJB4-EQT1-FFIN-65TX
Robert C Abernethy dotloop verified 11/04/22 12:15 PM EDT BOUA-5EMZ-2NFR-TCXI

August 25, 2022

Subject: **205 and 211 Spartanburg / Proposed Townhome Community**

RE: SCHEDULED PROPERTY OWNERS MEETING

To whom it concerns,

The owners of the subject property and proposed development have scheduled a meeting. The meeting will be held at the subject property, September 6th, 2022 at 9:30AM.

Please see attached primary Site Plan of the proposed Townhome Community. The proposed townhouse community will be a 3 story, 24 Unit framed structure with parking below each unit. For further information email (Michael.urti@nestrealty.com).

Kind regards,

Item 8.



Owner Name	First Name 1	Last Name 1	First Name 2	Last Name 2	Owner Address	Owner City	Owner State	Owner Zip	Property Address	Property City	Property Zip	Last Sale Date	Property Type	Subdivision	Lot Dimensions
Hamby Beach Properties LLC					607 Columbia Ave	Carolina Beach NC	NC	28428-4516	702 Lake Park Blvd S	Carolina Beach	28428-5310	06/07/2016	Commercial	T1 & B1 Hwy 421 South	
Elizabeth L King	Elizabeth	King	Jerry	King	1080 Saint Joseph St, Apt 9C	Carolina Beach NC	NC	28428-4713	703 Lake Park Blvd S	Carolina Beach	28428	06/01/1979	Commercial	T1 & B1 Hwy 421 South	
Angela R Stalnaker	Angela	Stalnaker	Robert	Stalnaker	510 Augusta Ave	Carolina Beach NC	NC	28428-5201	802 Lake Park Blvd S	Carolina Beach	28428	10/17/2003	Commercial	T1 & B1 Hwy 421 South	
Mega Investments LLC					1000 Lake Park Blvd S	Carolina Beach NC	NC	28428-5335	1000 Lake Park Blvd S	Carolina Beach	28428-5335	02/12/2003	Commercial	T1 & B1 Hwy 421 South	
Roof Ralph W					2221 Lochview Dr	Cary	NC	27518	1006 Lake Park Blvd S	Carolina Beach	28428-5335	07/19/2012	Commercial	T1 & B1 Hwy 421 South	
Roof Ralph W					221 Lochview Dr	Cary	NC	27518-9620	1012 Lake Park Blvd S	Carolina Beach	28428-5335	05/20/2020	Commercial	T1 & B1 Hwy 421 South	
Albert Earle Sara H Garrett III	Albert	Garrett			1410 Commonwealth Dr Ste 20	Wilmington NC	NC	28403-0377	810 Lake Park Blvd S	Carolina Beach	28428	08/10/2020	Commercial	T1 & B1 Hwy 421 South	
Carolina Beach Town Of					1121 Lake Park Blvd N	Carolina Beach NC	NC	28428-4130	807 Lake Park Blvd S	Carolina Beach	28428-5332	03/30/2001	County Exempt	T1 & B1 Hwy 421 South	
New Hanover County					320 Chestnut St	Wilmington NC	NC	28401-4060	800 S 2nd St	Carolina Beach			County Exempt	Carolina Beach Residential	
Carolina Beach Town Of					1121 Lake Park Blvd N	Carolina Beach NC	NC	28428-4130	211 Summer Ave	Carolina Beach			Open Space	Carolina Beach Residential	
Carolina Beach Town Of					1121 Lake Park Blvd N	Carolina Beach NC	NC	28428-4130	213 Summer Ave	Carolina Beach			Open Space	Carolina Beach Residential	
John E Templeton	John	Templeton	Myrna	Templeton	7235 Devereux Ct	Alexandria VA	VA	22315-4247	813 Carolina Beach Ave	Carolina Beach	28428-6310	12/31/2001	Residential	Blue Water Townhouses	
Ericson P Kimbel	Ericson	Kimbel			3271 McCully Rd	Allison Park PA	PA	15101-1333	204 Spartanburg Ave	Carolina Beach	28428-5309		Residential	Carolina Beach Residential	
Susan L Dickens	Susan	Dickens			1724 White Oak Church Rd	Apeex NC	NC	27523-6068	806 Lake Park Blvd S	Carolina Beach	28428	08/28/2008	Residential	T1 & B1 Hwy 421 South	
Timothy Jay Vernonelli	Timothy	Vernonelli			100 Hope Ln	Acher Lodge NC	NC	27527-6250	107 Greenville Ave	Carolina Beach	28428	06/07/2010	Residential		
Lubniewski LLC					4830 33rd Rd N	Arlington VA	VA	22207-2802	210 Greenville Ave	Carolina Beach	28428	05/01/1986	Residential	Carolina Beach Residential	
Maguire David B					929 Gardner Dr	Bay Shore NY	NY	11706-7602	831 Carolina Beach Ave	Carolina Beach	28428-6310	07/01/2002	Residential	Blue Water Townhouses	
Maguire James Trust					929 Gardner Dr	Bay Shore NY	NY	11706-7602	905 Carolina Beach Ave	Carolina Beach	28428-6312	05/08/1987	Residential	Carolina/Wilmington Beach-421	
Jason Tamara Wade	Jason	Wade			704 S 2nd St	Carolina Beach NC	NC	28428	Nb Address Available	Carolina Beach			Residential		
Ann O'Neill	Ann	O'Neill			805 Carolina Beach Ave S	Carolina Beach NC	NC	28428	805 Carolina Beach Ave	Carolina Beach	28428	11/18/2002	Residential	Carolina/Wilmington Beach-421	
Kevin T Bradford	Kevin	Bradford	Jocelyn	Bradford	829 South Carolina Ave	Carolina Beach NC	NC	28428	829 Carolina Beach Ave	Carolina Beach	28428-6310	03/25/2020	Residential	Blue Water Townhouses	
Jason Tamara Wade	Jason	Wade			704 S 2nd St	Carolina Beach NC	NC	28428	704 S 2nd St	Carolina Beach			Residential	Carolina Beach Residential	
Salty Shore Estates LLC					Po Box 844	Carolina Beach NC	NC	28428-0944	908 Lake Park Blvd S	Carolina Beach	28428-5333	01/13/2017	Residential	Carolina Beach Residential	
Lorri Honeycutt	Lorri	Honeycutt			Po Box 2226	Carolina Beach NC	NC	28428-2226	812 Carolina Beach Ave	Carolina Beach	28428-6309	01/13/2012	Residential	T1 & B1 Hwy 421 South	
Carolina Beach Town Of					1121 Lake Park Blvd N	Carolina Beach NC	NC	28428-4130	215 Birmingham Ave	Carolina Beach			Residential	Carolina Beach Residential	
Henry D Capillary	Henry	Capillary	Charles	Capillary	301 Seventh St S	Carolina Beach NC	NC	28428-4454	215 Summer Ave	Carolina Beach	28428	10/20/2017	Residential	Carolina Beach Residential	
Hamby Beach Properties LLC					607 Columbia Ave	Carolina Beach NC	NC	28428-4516	106 Summer Ave	Carolina Beach	28428	08/28/1996	Residential	Carolina Beach Residential	
Hamby Beach Properties LLC					607 Columbia Ave	Carolina Beach NC	NC	28428-4516	701 S 2nd St	Carolina Beach			Residential	Carolina Beach Residential	
Todd C Peterson	Todd	Peterson			102 Carolina Sands Dr	Carolina Beach NC	NC	28428-4601	102 Carolina Sands Dr	Carolina Beach	28428-4601	07/16/2019	Residential	Carolina Sands	
Miller James Barbara Rev Trust					104 Carolina Sands Dr	Carolina Beach NC	NC	28428-4601	104 Carolina Sands Dr	Carolina Beach	28428-4601	06/01/1988	Residential	Carolina Sands	
Devon Speas	Devon	Speas			106 Carolina Sands Dr	Carolina Beach NC	NC	28428-4601	106 Carolina Sands Dr	Carolina Beach	28428-4601	06/04/2020	Residential	Carolina Sands	
Frank W Dombrosky	Frank	Dombrosky	Donna	Dombrosky	200 Seafarer Dr # 02	Carolina Beach NC	NC	28428-4621	200 Seafarer Dr	Carolina Beach	28428-4621	02/07/2000	Residential	Carolina Sands	
Geraldine J Todd	Geraldine	Todd	Gonzales	Todd	202 Seafarer Dr	Carolina Beach NC	NC	28428-4621	202 Seafarer Dr	Carolina Beach	28428-4621	11/17/1997	Residential	Carolina Sands	
Donna L Farrell	Donna	Farrell			210 Seafarer Dr	Carolina Beach NC	NC	28428-4621	210 Seafarer Dr	Carolina Beach	28428-4621	03/02/2020	Residential	Carolina Sands	
Carolina Sands Owners Association					928 Rip tide Ln	Carolina Beach NC	NC	28428-4643	1100 Lake Park Blvd S	Carolina Beach	28428		Residential	Carolina/Wilmington Beach-421	
J R Perryman	Jodi	Perryman			407 Cape Fear Blvd Apt 1	Carolina Beach NC	NC	28428-5037	106 Greenville Ave	Carolina Beach	28428-5301	03/03/2009	Residential	Carolina Beach Residential	
Jill Lee Andrews	Caitlin	Andrews			104 Greenville Ave	Carolina Beach NC	NC	28428-5301	104 Greenville Ave	Carolina Beach	28428-5301	05/10/2021	Residential	Carolina Beach Residential	
Jel Joseph Gillespie IV	Daniel	Gillespie			108 Greenville Ave	Carolina Beach NC	NC	28428-5301	108 Greenville Ave	Carolina Beach	28428-5301	06/07/2022	Residential	Carolina Beach Residential	
hearnie S Parker	Catherine	Parker			105 Greenville Ave	Carolina Beach NC	NC	28428-5302	105 Greenville Ave	Carolina Beach	28428-5302	01/27/2014	Residential	Carolina Beach Residential	
hearnie S Parker	Catherine	Parker			105 Greenville Ave	Carolina Beach NC	NC	28428-5302	107 S 2nd St	Carolina Beach	28428-5302	01/27/2014	Residential	Carolina Beach Residential	
hearnie S Parker	Catherine	Parker			105 Greenville Ave	Carolina Beach NC	NC	28428-5302	1009 S 2nd St	Carolina Beach	28428-5302	01/27/2014	Residential	Carolina Beach Residential	
hearnie S Parker	Catherine	Parker			105 Greenville Ave	Carolina Beach NC	NC	28428-5302	1011 S 2nd St	Carolina Beach	28428-5303	04/13/2021	Residential	Carolina Beach Residential	
on R Tamara R Wade	Jason	Wade			208 Greenville Ave Unit B	Carolina Beach NC	NC	28428-5303	208 Greenville Ave	Carolina Beach	28428-5303	09/22/2017	Residential	Carolina Beach Residential	
ery M Potter	Jeffery	Potter			212 Greenville Ave	Carolina Beach NC	NC	28428-5303	212 Greenville Ave	Carolina Beach	28428-5303	02/07/2019	Residential	Carolina Beach Residential	
on Tamara Wade	Jason	Wade			208B Greenville Ave	Carolina Beach NC	NC	28428-5303	205 Summer Ave	Carolina Beach	28428-5303	04/04/2017	Residential	Carolina Beach Residential	
on R Wade	Jason	Wade	Tamara	Wade	206 Greenville Ave	Carolina Beach NC	NC	28428-5303	702 S 2nd St	Carolina Beach	28428-5303		Residential		

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Jason R	Jason	Wade	Tamara	Wade	206 Greenville Ave	Carolina Beach NC	28428-5303	702 S 2nd St	Carolina Beach	28428-5307	04/04/2017	Residential	Carolina Beach Residential
Jason T	Jason	Wade			208B Greenville Ave	Carolina Beach NC	28428-5303	804 S 2nd St	Carolina Beach	28428-5304	02/07/2019	Residential	Carolina Beach Residential
Karen M	Karen	McCallon			203 Greenville Ave	Carolina Beach NC	28428-5304	203 Greenville Ave	Carolina Beach	28428-5304	06/25/2020	Residential	Carolina Beach Residential
David T Cole	David	Cole			205 Greenville Ave	Carolina Beach NC	28428-5304	205 Greenville Ave	Carolina Beach	28428-5304	01/08/2020	Residential	Carolina Beach Residential
Eric W Damstrom	Eric	Damstrom			209 Greenville Ave	Carolina Beach NC	28428-5304	209 Greenville Ave	Carolina Beach	28428-5304	10/16/1997	Residential	Carolina Beach Residential
Jonathan Susan Blanchard	Jonathan	Blanchard			215 Greenville Ave	Carolina Beach NC	28428-5304	215 Greenville Ave	Carolina Beach	28428-5304	07/09/2019	Residential	Carolina Beach Rev
Robert C Stewart	Robert	Stewart	Ann	Stewart	104 Sumter Ave	Carolina Beach NC	28428-5307	104 Sumter Ave	Carolina Beach	28428-5307	05/09/2016	Residential	T1 & B1 Hwy 421 South
Zanis P Paulos	Zanis	Paulos	Athina	Paulos	212 Spartanburg Ave	Carolina Beach NC	28428-5309	212 Spartanburg Ave	Carolina Beach	28428-5309		Residential	Carolina Beach Residential
Roland A Cattano	Roland	Cattano	Patricia	Cattano	301 Spartanburg Ave	Carolina Beach NC	28428-5312	301 Spartanburg Ave	Carolina Beach	28428-5312	04/20/2017	Residential	Carolina Beach Residential
Maliba Inc					105 Sumter Ave	Carolina Beach NC	28428-5313	107 Sumter Ave	Carolina Beach	28428-5312	04/02/2003	Residential	T1 & B1 Hwy 421 South
Maliba Inc					105 Sumter Ave	Carolina Beach NC	28428-5313	109 Sumter Ave	Carolina Beach	28428-5332	05/01/1988	Residential	T1 & B1 Hwy 421 South
Maliba Inc					106 Sumter Ave	Carolina Beach NC	28428-5313	105 S 2nd St	Carolina Beach	28428-5333	07/05/2011	Residential	Carolina Beach Residential
Greene Paul E					707 Third St S	Carolina Beach NC	28428-5320	707 S Third St	Carolina Beach	28428-5333	11/06/2020	Residential	T1 & B1 Hwy 421 South
Greene Paul E					707 Third St S	Carolina Beach NC	28428-5320	709 S Third St	Carolina Beach	28428-5335	06/25/2020	Residential	Residential
Milan J Jakub	Milan	Jakub	Nancy	Jakub	801 Lake Park Blvd S	Carolina Beach NC	28428-5332	704 Carolina Beach Ave	Carolina Beach	28428-6307	10/17/2019	Residential	T1 & B1 Hwy 421 South
Nancy Jayne Jakub	Nancy	Jakub			801 Lake Park Blvd S	Carolina Beach NC	28428-5332	801 Lake Park Blvd S	Carolina Beach	28428-5332	04/02/2003	Residential	T1 & B1 Hwy 421 South
Elbac Enrotrim Rev Living Trust					811 Lake Park Blvd S	Carolina Beach NC	28428-5332	811 Lake Park Blvd S	Carolina Beach	28428-5332	05/01/1988	Residential	T1 & B1 Hwy 421 South
Tanya A Parker	Tanya	Parker			906 Lake Park Blvd S	Carolina Beach NC	28428-5333	906 Lake Park Blvd S	Carolina Beach	28428-5333	07/05/2011	Residential	Carolina Beach Residential
Robert W Keistler	Robert	Keistler	Morgan	Keistler	1002 Lake Park Blvd S	Carolina Beach NC	28428-5335	1002 Lake Park Blvd S	Carolina Beach	28428-5335	11/06/2020	Residential	T1 & B1 Hwy 421 South
Brandon S Bowers	Brandon	Bowers	Trace	Bowers	801 Third St S	Carolina Beach NC	28428-5344	801 S Third St	Carolina Beach	28428-5344	06/25/2020	Residential	Residential
Christina A Avery	Christine	Avery			904 Third St S	Carolina Beach NC	28428-5345	904 S Third St	Carolina Beach	28428-5345	04/20/1998	Residential	Carolina Beach Residential
Phillip H Smith	Phillip	Smith	Jacqueline	Smith	210 Lake Dr	Carolina Beach NC	28428-5350	210 Lake Dr	Carolina Beach	28428-5350	01/01/1986	Residential	Carolina Beach Residential
Paradise Tower Condo Hoa Inc					901 Lake Park Blvd S	Carolina Beach NC	28428-5354	901 S Lake Park Blvd	Carolina Beach	28428-5350	01/01/1985	Residential	Paradise Towers
Cottage 905 LLC					1000 North Carolina Ave	Carolina Beach NC	28428-5631	905 Second St S	Carolina Beach	28428-5381	09/26/2019	Residential	Carolina Beach Residential
Paradise Tower Condo Hoa Inc					300 Carolina Beach Ave S	Carolina Beach NC	28428-6234	901 Carolina Beach Ave	Carolina Beach	28428	02/01/1985	Residential	Paradise Towers
Blue Water Estates LLC					1225 Croaker Ln	Carolina Beach NC	28428-6256	821 Carolina Beach Ave	Carolina Beach	28428-6310	09/01/1983	Residential	Blue Water Townhouses
Robert J Smith	Robert	Smith	Mary	Smith	808 Carolina Beach Ave S	Carolina Beach NC	28428-6309	808 Carolina Beach Ave	Carolina Beach	28428-6309	07/08/2003	Residential	T1 & B1 Hwy 421 South
Robert J Smith	Robert	Smith	Mary	Smith	808 Carolina Beach Ave S	Carolina Beach NC	28428-6309	809 Lake Park Blvd S	Carolina Beach	28428-5332	08/19/2020	Residential	T1 & B1 Hwy 421 South
Scott D Trawick	Scott	Trawick	B	Jessica	823 Carolina Beach Ave S	Carolina Beach NC	28428-6310	823 Carolina Beach Ave	Carolina Beach	28428-6310	09/05/2017	Residential	Blue Water Townhouses
Tropical Winds Coa					1004 Carolina Beach Ave S	Carolina Beach NC	28428-6313	1004 Carolina Beach Ave	Carolina Beach	28428-6313	01/20/1989	Residential	Tropical Winds
Charles C Garcia	Charles	Garcia			117 Large Oaks Dr	Cary NC	27518-9050	817 Carolina Beach Ave	Carolina Beach	28428-6310	07/10/2007	Residential	Blue Water Townhouses
Roof Ralph W					221 Lodiway Dr	Cary NC	27518-9620	1004 Lake Park Blvd S	Carolina Beach	28428	04/30/2012	Residential	T1 & B1 Hwy 421 South
Phillips Family Holdings LLC					6701 Good Hope Church Rd	Cary NC	27519-8869	202 Spartanburg Ave	Carolina Beach	28428-5309	05/24/2019	Residential	Carolina Beach Residential
Paul Carolyn Kouroupas	Paul	Kouroupas			503 Grant Forest Ln	Cary NC	27519-9321	807 S Third St	Carolina Beach	28428-5344	07/22/2020	Residential	Residential
Woodrow R Glazier	Woodrow	Glazier	Saengduan	Glazier	2025 Oakley Rd	Castle Hayne NC	28429-4416	205 Birmingham Ave	Carolina Beach	28428-5304	07/22/2020	Residential	Carolina Beach Residential
Steven P Megson	Steven	Megson	Suzette	Alvarez	1201 Barkley Rd	Charlotte NC	28209-3005	201 Greenville Ave Unit 2	Carolina Beach	28428-5304	06/03/2020	Residential	Carolina Beach Residential
Frank P Boardman	Frank	Boardman	Demetra	Boardman	1116 Jarrico Ln	Charlotte NC	28270-9518	909 Carolina Beach Ave	Carolina Beach	28428-6312	01/04/2019	Residential	Carolina Beach Residential
Rebecca N Tibbitt	Rebecca	Tibbitt	David	Tibbitt	12103 Crescent Run Ct	Charlotte NC	28277-2448	809 Carolina Beach Ave	Carolina Beach	28428-6310	01/09/2019	Residential	Blue Water Townhouses
K L Joyner	Mark	Joyner	Heather	Joyner	5317 Addington Ct	Charlotte NC	28277-3208	207 Greenville Ave	Carolina Beach	28428-5304	09/20/1995	Residential	Carolina Beach Rev
Ina Ambrosi	Donna	Ambrosi			12 Kruger Ct	Clifton NJ	07013-1710	900 Lake Park Blvd S	Carolina Beach	28428-5333	09/15/2017	Residential	Carolina Beach Residential
Jam Nathan Sue C Barefoot	William	Barefoot			309 Red Hill Church Rd	Clinton NC	28328-1402	214 Greenville Ave	Carolina Beach	28428-5332	08/25/1994	Residential	Carolina Beach Residential
Idie Wayne Jane Clara M Tew	Gardie	Tew			405 Fox Lake Dr	Clinton NC	28328-3111	803 Lake Park Blvd S	Carolina Beach	28428-5332	07/25/1989	Residential	T1 & B1 Hwy 421 South
Richard W					10217 Pioneer Mill Rd	Concord NC	28028-6942	800 Carolina Beach Ave	Carolina Beach	28428		Residential	T1 & B1 Hwy 421 South
Greenville Avenue Coa					5000 N Roxboro St	Durham NC	27704-1418	109 Greenville Ave	Carolina Beach	28428-5302	06/21/2010	Residential	Residential
Pamela T Barber	Pamela	Barber			2109 Strebor St	Durham NC	27705-2755	217 Greenville Ave	Carolina Beach	28428	09/22/1997	Residential	Carolina Beach Residential
R Washington Jr	Otis	Washington			23 Woodgate Ct	Durham NC	27713-7039	819 Carolina Beach Ave	Carolina Beach	28428-6310	09/13/2002	Residential	Blue Water Townhouses
Michael Prestipino	Michael	Prestipino			1510 Stones Crossing Rd	Easton PA	18045-5736	218 Greenville Ave	Carolina Beach	28428	06/30/1989	Residential	Carolina Beach Residential

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Larkin R	site			804 E Capitol Ave	Ellensburg	WA	98928-3421	1008 Carolina Beach Ave	Carolina Beach	28428-6313	08/03/2001	Residential	T1 & B1 Hwy 421 South
P & C R				Po Box 306	Fayetteville	NC	28302-0306	1003 S Third St	Carolina Beach	28428	08/01/1986	Residential	Carolina Beach Residential
P & C R				Po Box 306	Fayetteville	NC	28302-0306	1005 S Third St	Carolina Beach	28428		Residential	Carolina Beach Residential
Rickey L Moorefield				1006 Brook St	Fayetteville	NC	28305-4810	103 Spartانبurg Ave	Carolina Beach	28428-5308	06/18/1999	Residential	Carolina Beach Residential
Joe Connie Walters				725 N Beaverdam Dr	Florence	SC	29501-1998	809 S Third St	Carolina Beach	28428-5344	10/23/2007	Residential	Carolina Beach Residential
James C Ransdell				6336 Dwight Rowland Rd	Fuquay Varina	NC	27628-9217	212 Seafarer Dr	Carolina Beach	28428-4621	06/20/2002	Residential	Carolina Beach Residential
Robert Mack Karen Watkins Tew J				107 Clayfield Dr	Garner	NC	27628-4995	607 Lake Dr	Carolina Beach	28428	09/09/2016	Residential	Carolina Beach Residential
First Presbyterian Church				1101 E Ash St	Goldsporo	NC	27530-5101	209 Summer Ave	Carolina Beach			Residential	Carolina Beach Residential
Roy Michael Karen Denise Woodard				2603 Pinedeas Rd	Goldsporo	NC	27534-4229	825 Carolina Beach Ave	Carolina Beach	28428-6310	06/01/1998	Residential	Blue Water Townhouses
Donald E Clark				2719 Graves Dr Ste 13	Goldsporo	NC	27534-4536	815 Carolina Beach Ave	Carolina Beach	28428-6310	05/29/1998	Residential	Blue Water Townhouses
2011 Maple Street LLC				1401 Norwalk St	Greensboro	NC	27407-1923	908 Carolina Beach Ave	Carolina Beach	28428-6311	08/01/2018	Residential	T1 & B1 Hwy 421 South
Gna Investments LLC				3005 Ingleside Dr	High Point	NC	27266-1959	219 Spartانبurg Ave	Carolina Beach		12/17/2021	Residential	Carolina Beach Residential
Robert O Wade				2733 Weagner Bnd	Hillsborough	NC	27276-9459	206 Greenville Ave	Carolina Beach	28428-5303	08/24/2012	Residential	Carolina Beach Residential
Robert Wandra Wade				2733 Wagner Bnd	Hillsborough	NC	27276-9459	802 S 2nd St	Carolina Beach		02/07/2019	Residential	Carolina Beach Residential
Bernadene L Simpson				29 Sherwood Cir	Hurricane	WV	25526-9265	1000 Carolina Beach Ave	Carolina Beach	28428		Residential	T1 & B1 Hwy 421 South
Jan Massey Ernest R Query				1425 Meadow Ave	Kannapolis	NC	28083-6032	1002 Carolina Beach Ave	Carolina Beach	28428-6313	08/11/2010	Residential	T1 & B1 Hwy 421 South
Mid State Prop Inc				Po Box 1487	Kernersville	NC	27286-1487	300 Spartانبurg Ave	Carolina Beach	28428	09/12/1974	Residential	Carolina Beach Residential
Pierce Properties #2 LLC				Po Box 1487	Kernersville	NC	27286-1487	302 Spartانبurg Ave	Carolina Beach	28428	09/01/1985	Residential	Carolina Beach Residential
Nancy H Strother				300 Roehlele Dr	Knightdale	NC	27545-9762	911 Carolina Beach Ave	Carolina Beach	28428-6312		Residential	Carolina/Wilmington Beach-421
1001 Cba South Association				857 Fort Fisher Blvd S	Kure Beach	NC	28449-3743	1001 Carolina Beach Ave	Carolina Beach	28428-6314	01/19/2005	Residential	Carolina/Wilmington Beach-421
Paul J Manchak				41935 Green Hills Ln	Leopardown	MD	20650-5814	802 Carolina Beach Ave	Carolina Beach	28428-6309	04/06/2021	Residential	T1 & B1 Hwy 421 South
Kurt A Merchant				1330 Root Trl	Martinsville	VA	24112-5528	204 Seafarer Dr	Carolina Beach	28428-4621	09/03/2013	Residential	Carolina Sands
Richard Yeager				9371 Ruffin Ridge Rd	Mechanicsville	VA	23116-6641	216 Seafarer Dr	Carolina Beach	28428-4621	08/30/2017	Residential	Carolina Sands
Richard F Yeager				9371 Ruffin Ridge Rd	Mechanicsville	VA	23116-6641	218 Seafarer Dr	Carolina Beach	28428-4621	03/31/1992	Residential	Carolina Sands
Brian P Rowe				849 Spring Lake Dr	Middle Island	NY	11935-2638	208 Seafarer Dr	Carolina Beach	28428-4621	07/10/1996	Residential	Carolina Sands
Thomas J Marr				113 Charter Pl	Mooresville	NC	28117-7090	214 Spartانبurg Ave	Carolina Beach	28428-5309	04/25/2019	Residential	Carolina Beach Residential
James A Perryman				112 Sea Hide Ct	Mooresville	NC	28117-7103	803 S Third St	Carolina Beach	28428-5344	07/26/2013	Residential	Carolina Beach Residential
J W Abernethy				806 S College Ave	Newton	NC	28668-3512	205 Spartانبurg Ave	Carolina Beach			Residential	Carolina Beach Residential
J W Abernethy				806 S College Ave	Newton	NC	28668-3512	211 Spartانبurg Ave	Carolina Beach			Residential	Carolina Beach Residential
Edward Marlon J Schaefer				1801 Aubury Ave	Ocean City	NJ	08226-2821	303 Greenville Ave	Carolina Beach	28428-5369	12/30/2004	Residential	Carolina Beach Residential
Harold M Howard				455 Providence Church Rd	Pittsboro	NC	27312-7619	108 Spartانبurg Ave	Carolina Beach	28428	05/14/2003	Residential	Carolina Beach Residential
Ocean Walk Townhomes Hoa Inc				200 S Dawson St Apt 104	Raleigh	NC	27601-1360	813 S Third St	Carolina Beach	28428		Residential	Carolina Beach Residential
Wilson Brian Mountain				313 Sherwee Dr	Raleigh	NC	27603-3521	206 Seafarer Dr	Carolina Beach	28428-4621	01/15/2020	Residential	Carolina Sands
Wilson Pour House LLC				620 Dennis Ave	Raleigh	NC	27604-2212	805 Lake Park Blvd S	Carolina Beach	28428	12/22/2021	Residential	T1 & B1 Hwy 421 South
Ernest D Walker				3504 Bridlespur Ln	Raleigh	NC	27604-5912	827 Carolina Beach Ave	Carolina Beach	28428-6310	05/17/1991	Residential	Blue Water Townhouses
Michael Hoehle				804 Glenwood Ave	Raleigh	NC	27605-1510	811 Carolina Beach Ave	Carolina Beach	28428-6310	06/30/2017	Residential	Blue Water Townhouses
James W Earp				1420 Crete Dr	Raleigh	NC	27606-2585	804 S Third St	Carolina Beach	28428-5343	11/03/1997	Residential	Carolina Beach Residential
Patricia Marie Sabol				8713 Albright Rd	Raleigh	NC	27612-7444	902 Lake Park Blvd S	Carolina Beach	28428	06/14/2022	Residential	Carolina Beach Residential
Her Sterling Wells III				10415 Neland St	Raleigh	NC	27614-8624	802 S Third St	Carolina Beach	28428-5343	02/22/2022	Residential	Carolina Beach Residential
Na R Gupta				6033 Over Hadden Ct	Raleigh	NC	27614-8850	1003 Carolina Beach Ave	Carolina Beach	28428-6314	03/09/2017	Residential	Carolina/Wilmington Beach-421
Yes R Hinte				10728 Durhill Ter	Raleigh	NC	27615-1439	804 Carolina Beach Ave	Carolina Beach	28428-6309	02/11/2021	Residential	T1 & B1 Hwy 421 South
Yes R Hinte				10728 Durhill Ter	Raleigh	NC	27615-1439	807 Carolina Beach Ave	Carolina Beach	28428-6310	08/20/2012	Residential	Blue Water Townhouses
pherd Ann Rosenblum				8105 Carnes View Pl W	Raleigh	NC	27615-4747	811 S Third St	Carolina Beach	28428	03/27/2007	Residential	Blue Water Townhouses
ond Street Realty LLC				7413 Capstone Dr	Raleigh	NC	27615-5711	1004 Greenville Ave	Carolina Beach	28428	04/15/2005	Residential	Carolina Beach Residential
Shane Johns				3724 Massey Ridge Ct	Raleigh	NC	27616-9114	4 Spartانبurg Ave	Carolina Beach	28428-6301	03/02/2022	Residential	T1 & B1 Hwy 421 South
In G Kristina H Bowen				1001 Semmes Ave	Richmond	VA	23224-2245	805 S Third St	Carolina Beach	28428	09/26/2014	Residential	Residential
n J Urban Jr				636 Glen Hill Dr	Saunderstown	RI	02874-1968	910 Carolina Beach Ave	Carolina Beach	28428-6311	03/11/2022	Residential	T1 & B1 Hwy 421 South
Ballard				1060 Robert Ruark Dr SE	Southport	NC	28461-2654	207 Sumner Ave	Carolina Beach			Residential	Carolina Beach Residential

Spartanburg Rev Trust	Linwood Piper	Piper		25020 Northside Dr	Summerland Kk FL	33042-4604	200 Spartanburg Ave	Carolina Beach	28428-5309	01/27/2017	Residential	Carolina Beach Residential
Garby E	Linwood Piper	Piper		3801 Calverton Dr	University Park MD	20782-1008	211 Greenville Ave	Carolina Beach	28428	02/01/1986	Residential	Carolina Beach Residential
William Earl Nance	William Nance	Nance		5720 Mitchell Mill Rd	Wake Forest NC	27587-7256	904 Lake Park Blvd S	Carolina Beach	28428-5333	05/22/1996	Residential	Carolina Beach Residential
David H Blackburn	David Blackburn	Blackburn	Terry	5002 E 89 Hwy	Wahut CO	27052	217 Spartanburg Ave	Carolina Beach	28428		Residential	Carolina Beach Residential
James W Zisa	James Zisa	Zisa	L	5657 Quail Covey Ln	Wendell NC	27591-7901	105 Spartanburg Ave	Carolina Beach	28428-5308	05/15/2012	Residential	Carolina Beach Residential
Argiro P Brown	Argiro Brown	Brown	Katsikis	709 Princess St	Wilmington NC	28401-4199	908 S Third St	Carolina Beach	28428-5345	07/30/2014	Residential	Carolina Beach Residential
Argiro P Brown	Argiro Brown	Brown	William	2057 Van Buren St	Wilmington NC	28401-6935	206 Spartanburg Ave	Carolina Beach	28428-5309		Residential	Carolina Beach Residential
Pains Of Carolina Beach Coa	Argiro Brown	Brown	William	2053 Van Buren St	Wilmington NC	28401-6935	208 Spartanburg Ave	Carolina Beach	28428		Residential	Carolina Beach Residential
Katsikis Kyriakoula Basile Eta				6312 S Bradley Overhook	Wilmington NC	28403-3838	805 Second St S	Carolina Beach	28428-5368	04/23/2004	Residential	Carolina Beach Residential
201 Greenville Avenue Townhomes Owners Association				5913 Windhammer Ln	Wilmington NC	28409-3448	210 Spartanburg Ave	Carolina Beach	28428		Residential	Carolina Beach Residential
201 Greenville Avenue Townhomes Owners Association				609 Piner Rd Unit 116	Wilmington NC	28409-4201	201 Greenville Ave	Carolina Beach	28428-5304	07/19/2019	Residential	
James A Cerniglia	James Cerniglia	Cerniglia	Elizabeth	609 Piner Rd	Wilmington NC	28409-4201	201 Greenville Ave	Carolina Beach	28428-5304	06/03/2020	Residential	
Laurel Companies LLC				609 Piner Rd	Wilmington NC	28409-4201	201 Greenville Ave	Carolina Beach	28428-5304	07/19/2019	Residential	
John L Douglas	John Douglas	Douglas	Judith	101 Seaview Rd N	Wilmington NC	28409-4620	216 Spartanburg Ave	Carolina Beach	28428	01/22/2021	Residential	Carolina Beach Residential
Eli Courie III	Eli Courie	Courie	Michael	7528 Myrtle Grove Rd	Wilmington NC	28409-4925	810 Carolina Beach Ave	Carolina Beach	28428-6309	09/23/1998	Residential	T1 & B1 Hwy 421 South
Eli Courie III	Eli Courie	Courie	Michael	3109 Braemar Ln	Wilmington NC	28409-8569	207 Birmingham Ave	Carolina Beach			Residential	Carolina Beach Residential
Eli Courie III	Eli Courie	Courie	Michael	3109 Braemar Ln	Wilmington NC	28409-8569	211 Birmingham Ave	Carolina Beach			Residential	Carolina Beach Residential
Eli Courie III	Eli Courie	Courie	Michael	3109 Braemar Ln	Wilmington NC	28409-8569	206 Sumter Ave	Carolina Beach		10/12/1973	Residential	Carolina Beach Residential
Eli Courie III	Eli Courie	Courie	Michael	3109 Braemar Ln	Wilmington NC	28409-8569	210 Sumter Ave	Carolina Beach		07/29/1974	Residential	Carolina Beach Residential
Eli Courie III	Eli Courie	Courie	Michael	3109 Braemar Ln	Wilmington NC	28409-8569	708 S 2nd St	Carolina Beach			Residential	Carolina Beach Residential
Fragos Grp LLC				8101 Yellow Daisy Dr	Wilmington NC	28412-3269	109 Spartanburg Ave	Carolina Beach	28428	07/07/2004	Residential	Carolina Beach Residential
Dixie Heirs Hull	Dixie Hull	Hull		2744 S 17th St Unit 129	Wilmington NC	28412-6672	806 Carolina Beach Ave	Carolina Beach	28428-6309	02/28/1969	Residential	T1 & B1 Hwy 421 South
Jimmy Sherwood McCorquodale	Jimmy McCorquodale	McCorquodale		4009 Appleton Way	Wilmington NC	28412-7307	804 Lake Park Blvd S	Carolina Beach	28428-5331	03/22/1994	Residential	T1 & B1 Hwy 421 South
Andrew F Robbins	Andrew Robbins	Robbins	Leslie	1055 S Hawthorne Rd	Winston Salem NC	27103-4426	907 Carolina Beach Ave	Carolina Beach	28428	01/27/2012	Residential	Carolina/Wilmington Beach-421
Corral Surf Unit Owners				Po Box 505	Wrightsville Beach NC	28480-0505	705 Carolina Beach Ave	Carolina Beach	28428-6326	11/01/1983	Residential	Corral Surf
Jack L Stuts	Jack Stuts	Stuts	Sue	2421 Union Cross Church Rd	Yadkinville NC	27055-7314	215 Spartanburg Ave	Carolina Beach			Residential	Carolina Beach Residential

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9/6/2022 9:30am Meeting Minutes

Attendees:

- Michael Urti, 513 Monroe Avenue, Carolina Beach, NC
- Katie Urti, 513 Monroe Avenue, Carolina Beach, NC
- Wescott Butler, 206 Texas Ave, Carolina Beach, NC
- Meaghan Butler, 206 Texas Ave, Carolina Beach, NC
- Bob Stewart, 104 Sumter Ave, Carolina Beach, NC
- Bill Nance, 217 Spartanburg Ave, Carolina Beach, NC
- Jeff Potter, 212 Greenville Ave, Carolina Beach, NC
- Paul Phillips, 202 Spartanburg Ave, Carolina Beach, NC
- Tim Veronelli, 107 Greenville Ave, Carolina Beach, NC
- Rolland Cattano, 301 Spartanburg Ave, Carolina Beach, NC
- Thomas Marr, 214 Spartanburg Ave, Carolina Beach, NC
- Tammy Marr, 214 Spartanburg Ave, Carolina Beach, NC
- Sharon Stout, 306 Seventh St. S., Carolina Beach, NC
- Bruce McCallen, 203 Greenville Ave, Carolina Beach, NC

Meeting Notes

Wescott Butler and Meaghan Butler of W3 Built along with Michael and Katie Urti of Nest Realty started the meeting by explaining the site plan, goals of the developer and introducing themselves and their philosophy on the project.

After speaking with the neighbors, there were several recurring concerns voiced during the meeting. Concerns for residents were as follows...

1. Storm Water Runoff and drainage for the number of units being proposed. The neighbors feel the current storm water drainage and pump that are existing are not adequate to accommodate the current homes in that area.
2. Jeff Potter (212 Greenville) expressed concerns about the location of the pickle ball court. He requested it be moved to a more central location inside the amenity space.
3. 2 residents expressed a need for sidewalks for pedestrians to safely walk to and from the beach down Spartanburg Ave.
4. One resident across the street expressed concerns about the setbacks from the front of the road. His point was that his house was 20' so this project should be the same.
5. 3 residents expressed interest in "joining" or using the pickle ball courts.
6. We also received emails from Terry Stuuts (215 Spartanburg) Argio Brown (208, 210, 212 Spartanburg) and Melissa Phillips who were unable to attend but wanted additional clarification. All concerns were related to storm water and potential flooding.
7. Neighbors also inquired about the price point of the units when they are listed. They were happy to hear they will be in the \$800's and a few expressed interest in purchasing a townhome.

After explaining how WB Coastal Development was working with the Town of CB Storm Water by maintaining our site storm water on site and expanding the existing storm water pipe down Spartanburg on our site only, there was a large agreement that we were doing the right thing.

WB plans on shifting the pickle ball court down closer to the pool.

WB explained that in order to help with maintaining the current Storm Water down 2nd Street, we are requesting reduced set backs allowing more room for green space due to having add access between Greenville and Spartanburg.

Additional comments from surrounding neighbors:

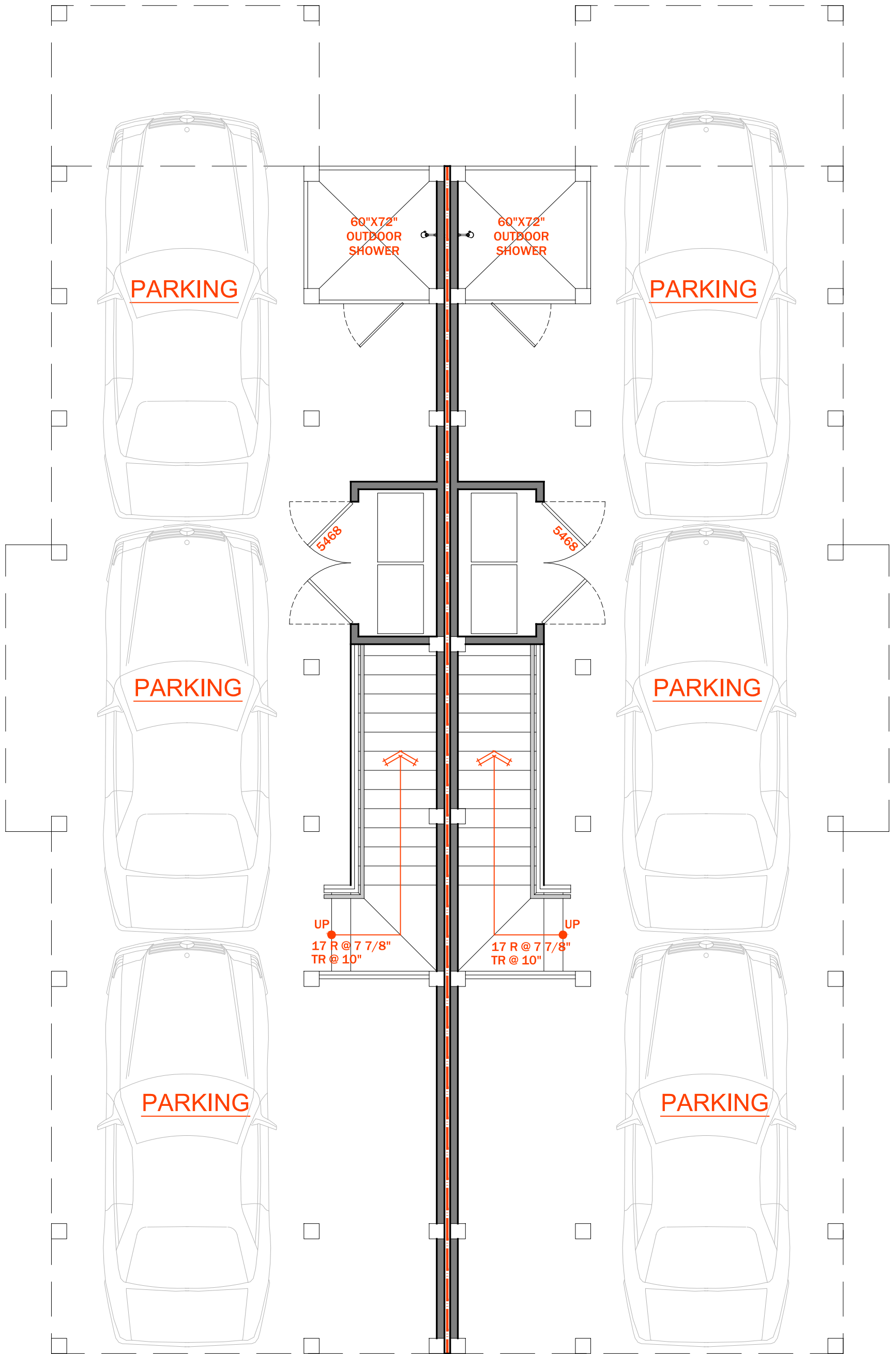
Jeff Potter 212 Greenville Ave – Appreciated us moving the pickleball court.

Bill Nance 217 Spartanburg Ave – Never responded, but in original meeting, he wanted to know what he needed to do to be able to use the pickleball court.

Argiro Brown 208, 210 & 212 Spartanburg Ave - Thanked us for the update.

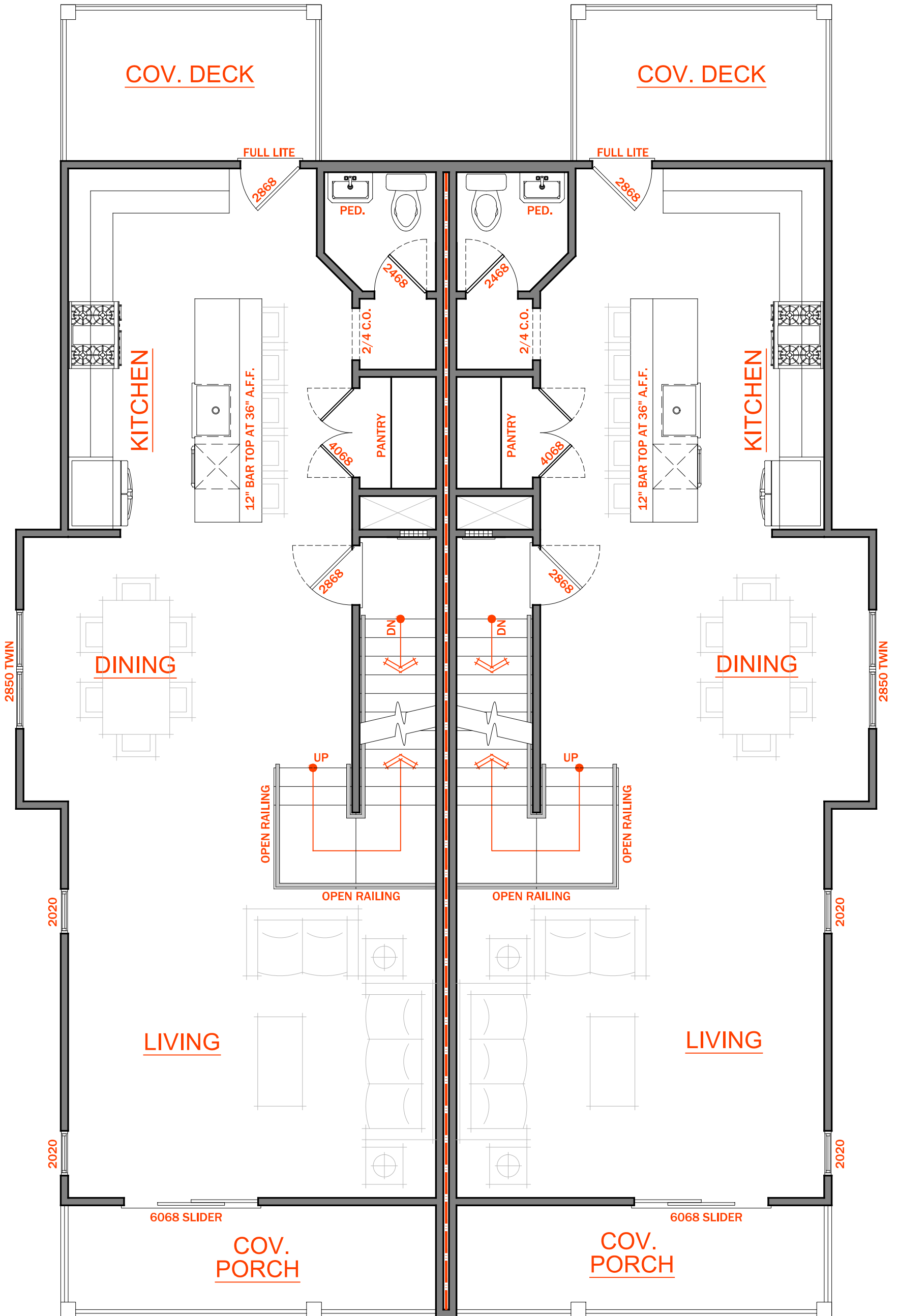






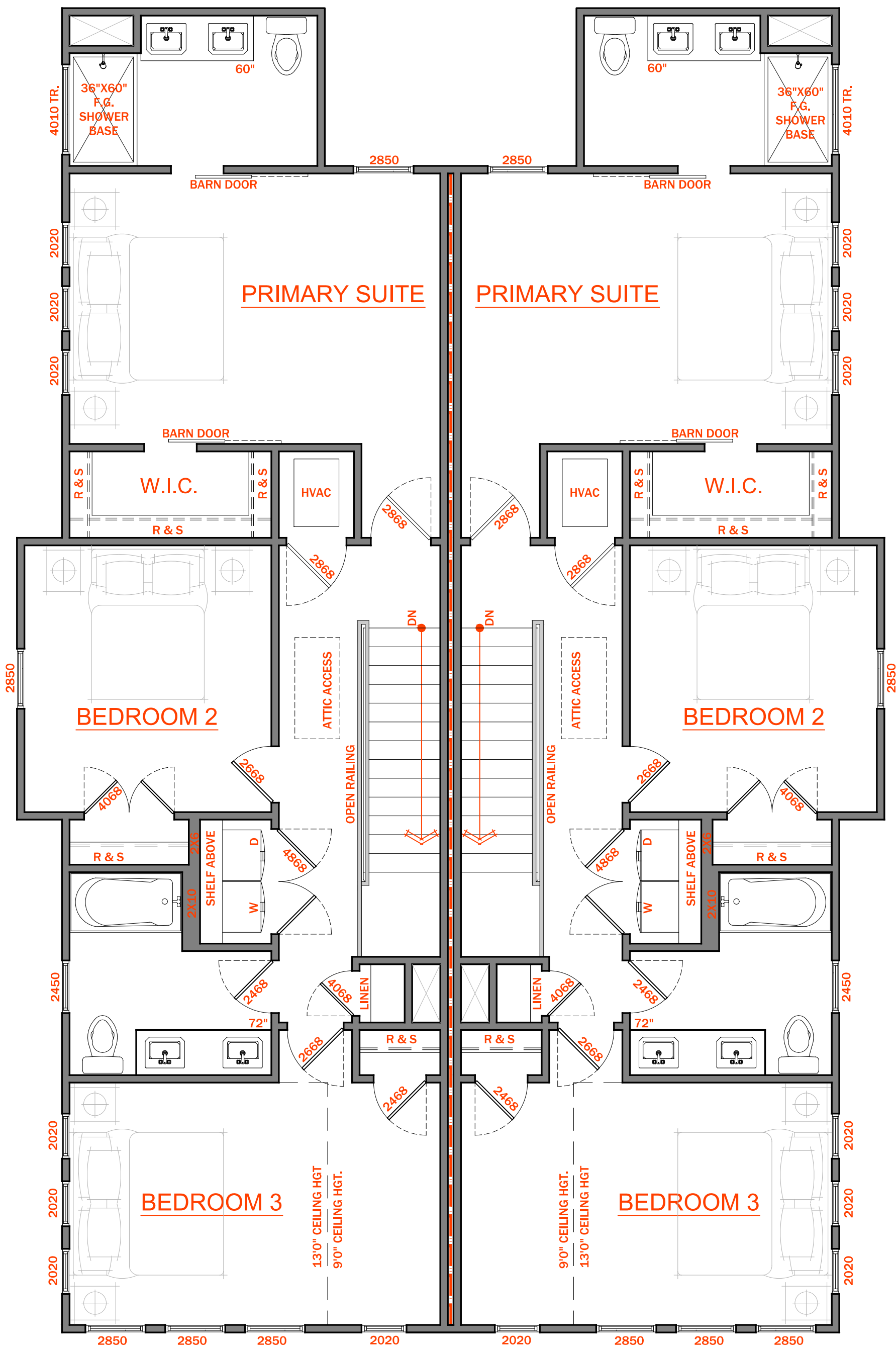
1 / A3.0

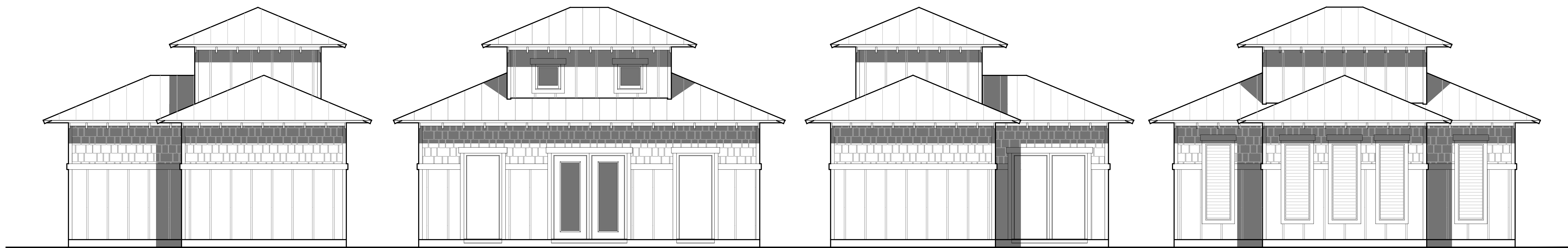
PLAN: ground floor



1 / A4.0

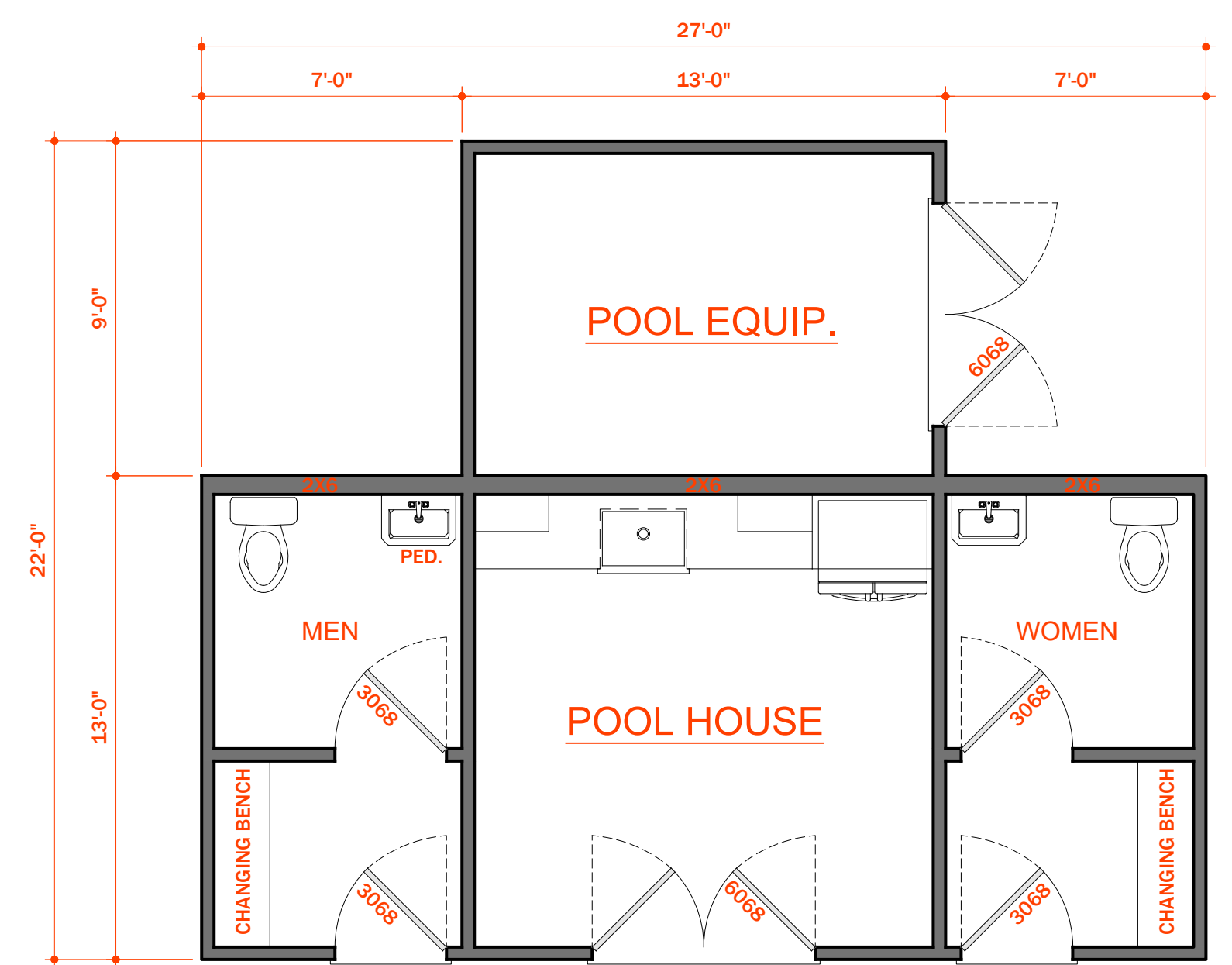
PLAN: first floor



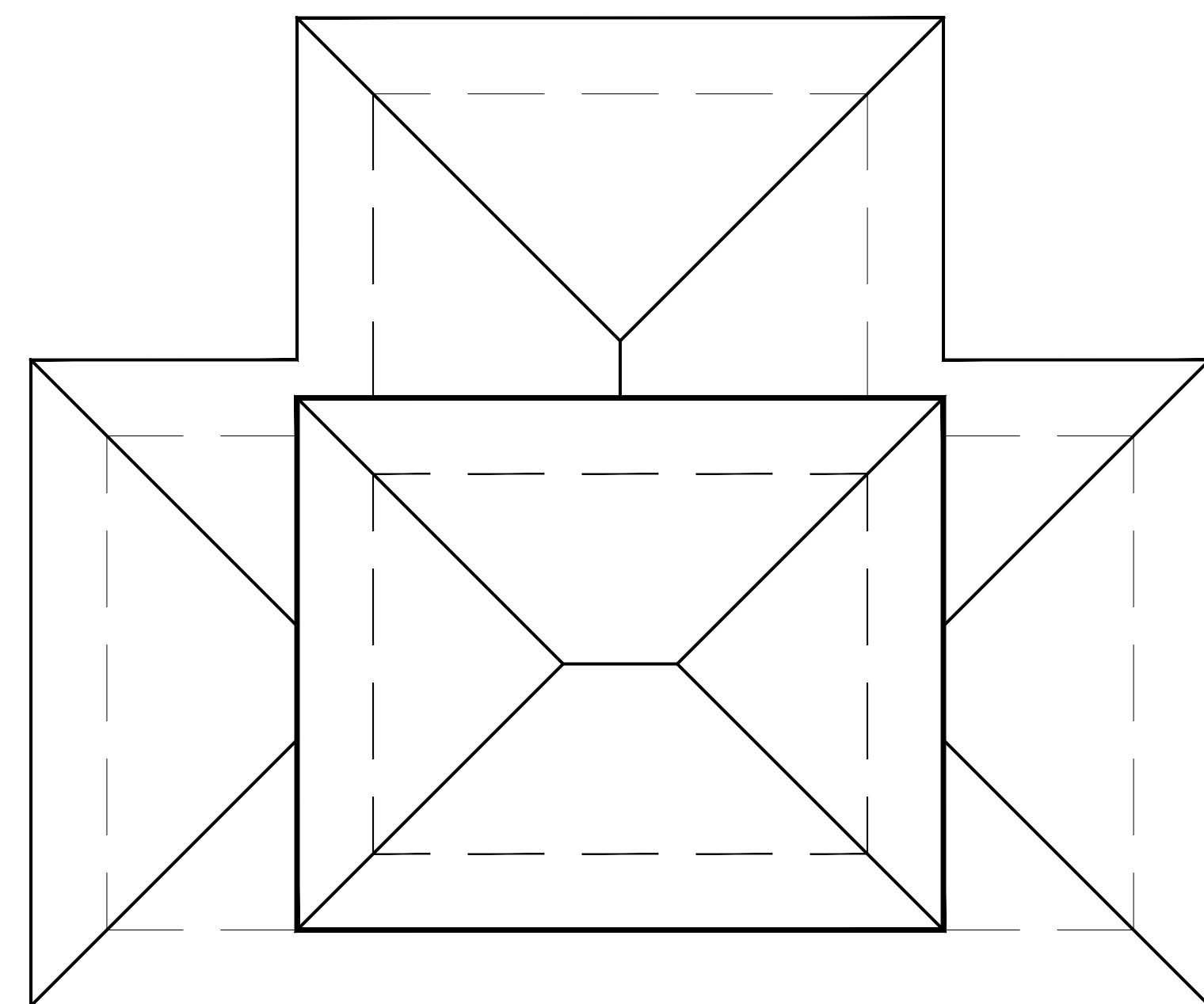


2 / A4.0 ELEVATION: front
POOL SIDE

3 / A4.0 ELEVATION: rear
PARKING LOT SIDE



1 / A4.0 PLAN: first floor
351 SQUARE FEET - POOL HOUSE
117 SQUARE FEET - POOL EQUIPMENT



4 / A4.0 PLAN: roof plan

Drawing Title
Floor Plan
Scale 1/4"=1'-0"

Sheet No.
A4.0

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Conditional Zoning District



ORDINANCE NO. _____

Ordinance Amending the Official Zoning Map of the Town to Rezone Property Containing 19,235 square feet of Land Located at 205 and 211 Spartanburg Avenue, in The Residential District (R-1) to Conditional Zoning (CZ) Multifamily Dwellings for 22 townhome units

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS §§ 160D-102, 160D-108(d), 160D-603, and 160D-702 authorizes local governments to change or modify zoning boundaries within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS § 160D-601 and Article XVII, of the Carolina Beach Land Development Code.

THEREFORE, BE IT ORDAINED:

SECTION 1: The Official Zoning Maps of the Town of Carolina Beach are hereby amended by removing the hereinafter described tract of land from the present R-1, Residential and putting it in the Planned Unit Development Conditional District (CD) classification, said tract being more particularly described as follows:

Legal Description for Conditional Rezoning of 205 & 211 Spartanburg Avenue

205 SPARTANBURG AVE
53 1-8 & 14 CAR BCH
PARID: R09010-032-004-000

As more specifically described on Deed Recorded in Book 9912, Page 1191 of the New Hanover County Register of Deeds.

211 SPARTANBURG AVE
 53 9 CAROLINA BEACH
 PARID: R09010-032-005-000

As more specifically described on Deed Recorded in Book 9912, Page 1191 of the New Hanover County Register of Deeds.

SECTION 2: The following rules, regulations, and conditions shall apply to the property described in this ordinance

1. The use and development of the subject properties shall be in substantial accordance with the site plan submitted and approved which was prepared by Cape Fear Engineering dated 10/5/22.
2. The use and development of the subject property shall comply with all regulations and requirements imposed by the Land Development Code, the Town of Carolina Beach Technical Standards and Specifications Manual and any other applicable federal, state or local law, ordinance or regulation, as well as any condition stated below.
3. Approval of this conditional district rezoning does not constitute technical approval of the site plan. Final approval by the Technical Review Committee and the issuance of all required permits must occur prior to release of the project for construction.
4. If, for any reason, any condition for approval is found to be illegal or invalid or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted to rezone the property to its previous zoning classification.
5. The use and development of the subject property shall be in substantial accordance with the site plan as submitted and approved.
6. The proposed use shall be limited to 22 residential units.
7. The minimum front setback shall be 10'. All other minimum setbacks required by the R-1 Zoning District shall be met.
8. A stormwater plan must be submitted and approved prior to issuance of a building permit. The stormwater system must meet the Town Stormwater Ordinance for containment of all stormwater on site.
9. Drainage plan must be submitted and approved prior to issuance of a building permit.
10. All structures shall be limited to 50' in height. Prior to the issuance of a certificate of occupancy, certification by an engineer or architect must be submitted and approved by the Town.
11. Final project must be designed to provide the required 66 parking spaces and must comply with Article 7 of the Carolina Beach Zoning Ordinance.
12. Outdoor lighting shall be installed as to not disturb neighboring properties.
13. Sidewalks shall be added in the Right-of-Way along Spartanburg Avenue and Greenville Avenue.
14. The Town authorizes a screen around the existing stormwater pump on 2nd Street.

15. A recombination plat filed with the New Hanover County Register of Deeds is required prior to the issuance of a building permit.
16. Utilities must be installed in accordance with Town requirements.
17. The final project must be constructed to meet the fire code. Install new fire hydrant on the corner of Spartanburg Avenue and 2nd Street.
18. A Final site plan must include cross-section of paving detail and indicate on the site plan all areas to be paved.
19. A Type B landscape buffer shall be provided and delineated along the perimeter of the property.
20. An as-built and certification shall be provided that all improvements, including but not limited to zoning, paving, drainage, stormwater, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
21. Prior to the issuance of a building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
22. Prior to the issuance of a building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.
23. Approval of this site-specific vesting plan establishes a vested right under G.S. 160D-108. Unless terminated at an earlier date, the vested right shall be valid until 12/13/24.

SECTION 3: The Town Clerk and the Planning Director are hereby authorized and directed under the supervision of the Town Manager to change the Zoning Maps on file in the office of the Town Clerk and the Planning Division, to conform with this ordinance.

SECTION 4: That any person violating the provisions of this ordinance, including the approved site plan, shall be subject to the penalties set forth in ARTICLE XV of the Land Development Code.

SECTION 5: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 6: If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 7: That this ordinance shall be effective upon its adoption by Town Council, and the Town’s receipt of written acceptance by the Applicant of all conditions adopted by the Town.

Adopted this 12th day of December 2022.

Applicant Signature: _____ Date: _____

Applicant Printed Name: _____ Date: _____

Property Owner Signature: _____ Date: _____

Property owner Printed Name: _____ Date: _____

Property Owner Signature: _____ Date: _____

Property Owner Printed Name: _____ Date: _____

Lynn Barbee, Mayor

Attest: _____

Kimberlee Ward, Town Clerk



AGENDA ITEM COVERSHEET

PREPARED BY: Debbie Hall, Finance Director

DEPARTMENT: Finance

MEETING: Town Council – 12/13/2022

SUBJECT: Approval of Financing Terms, Resolution of Necessary Finding and Reimbursement Resolution for acquisition of 1101 N Lake Park Blvd.

BACKGROUND:

The Finance Director requested bid proposals from six lenders for financing the acquisition of 1101 N Lake Park Blvd. for 2,000,000 with a ten-year term. The following proposals were received:

Lenders	Interest Rate	Financing Term	Pre-Payment Penalty	Closing Cost
Truist Bank	4.42%	10 years	1%	\$5,900
SouthState Bank	3.69%	10 Years	None	None

BUDGET IMPACT:

The debt service payment will be appropriated in the FY23/24 annual budget.

ACTION REQUESTED:

Finance Director recommends the proposal received from SouthState Bank. To accept the terms, Council needs to approve the following resolutions:

- **Resolution #22-2275** to accept the terms of the proposal from SouthState Bank
- **Resolution #22-2274** authorizing the Finance Director to file a LGC Application
- **Resolution #22-2276** to allow reimbursement of expenses from loan proceeds



November 22, 2022

Debbie Hall, Finance Director
 Town of Carolina Beach
 1121 N Lake Park Blvd.
 Carolina Beach NC 28428

Re: Installment Financing Agreement RFP for funding not exceeding \$2,000,000 to finance the purchase of land to be used by the Town for future expansion of the Municipal Complex, facilities, and infrastructure.

Dear Ms. Hall:

SouthState Bank, National Association (the "Bank") is pleased to provide our response to Request for Proposal 2022 (the "RFP") for funding not exceeding \$2,000,000 for The Town of Carolina Beach, North Carolina with an Installment Financing Agreement (the "Agreement") as more fully described in the RFP, which is attached and, by reference, hereby made a part of this bid. The Bank agrees to the contract specifications set forth in Part B of the RFP.

Terms and Payment: Issue date is to be no later than January 13, 2023, with ten (10) annual level principal and interest payments over a ten-year period.

Rate: Tax-exempt, bank qualified fixed interest rate equaling 3.69% per annum. Rate shall be fixed for the duration of the term and be calculated based on a 30-day month over a 360-day year. Rate is guaranteed until January 13, 2023.

Fees: No bank fees.

Documentation: All legal and closing documents will be prepared by Bank Counsel.

Security: A first priority lien on the site of the real property financed, together with all improvements and fixtures now or hereafter located thereon.

A title insurance policy on the real property security in an amount equal to the original principal amount of the loan and otherwise in form and substance satisfactory to the Bank and Bank Counsel will be required.

We understand that NC law precludes the Town from pledging its full faith and credit and taxing power for the Agreement.

Prepayment: Allowed, in whole or in part, at any time, with 15 days prior written notice to the Bank, at 100% of the principal amount to be prepaid, together with accrued interest thereon to the prepayment date. Any partial prepayments shall be applied to the outstanding principal of the Agreement in inverse order of maturity.

Events of Default: Standard and customary for transactions of this type, with customary notice and cure periods; and standard and customary remedies for transactions of this type, including, without limitation, acceleration.

Financial/Other Covenants: Standard and customary for transactions of this type.

Other Requirements: The Bank shall receive a written opinion of Town Counsel, in form and substance satisfactory to the Bank and Bank's Counsel, as to (1) the existence of the Town; (2) the due enactment of all ordinances or resolutions relating to the issuance of the Agreement; (3) the due authorization, execution, validity, and enforceability of the Agreement and the related financing documents; (4) the absence of litigation against the Town relating to its existence or powers, or the proceedings for the authorization and issuance of the Agreement, (5) the obtaining of all consents, approvals, authorizations and orders in connection with the issuance of the Agreement; and (6) such other matters as the Bank may reasonably request, in form and substance satisfactory to the Bank and Bank's Counsel.

The Bank shall also receive one or more written opinions of Bank Counsel, in form and substance satisfactory to the Bank that (a) the interest on the Agreement is excludable from gross income for federal income and State of North Carolina

income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax and the Agreement is a "qualified tax-exempt obligation" as defined in Section 265 (b)(3) of the Code.

No Advisory or Fiduciary Role: The Town acknowledges and agrees that: (i) information contained in this proposal regarding the proposed Agreement is for discussion purposes only in anticipation of engaging in an arm's length commercial transaction with the Town in which the Bank would be acting solely as a principal to make the proposed Agreement to the Town, and not as a municipal advisor, financial advisor or fiduciary to the Town or any other person or entity regardless of whether the Bank or an affiliate has or is currently acting as such on a separate transaction; (ii) the Bank has not assumed any advisory or fiduciary responsibility to the Town with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Bank or its affiliates have provided other services or are currently providing other services to the Town on other matters); (iii) the only obligations the Bank has to the Town with respect to the transaction contemplated hereby expressly are or will be set forth in this term sheet or the related financing documents; and (iv) the Town has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

We acknowledge that the Town may reject all proposals as well as negotiate with the lowest responsible proposer. We acknowledge that we may not alter, modify, or withdraw our bid after we have submitted it to the Town.

Respectfully submitted,

A. Mark Tyler

A. Mark Tyler
Senior Vice President and Relationship Manager
SouthState Bank, National Association
(910) 508-7858

Accepted this ____ day of _____, 2022.

Town of Carolina Beach:

By: _____

Title: _____

Loan Amount	\$ 2,000,000.00
Disbursement Date	1/13/2023
First Payment Date	1/13/2024
Payment Frequency	Annual
Number of Interest Only Payments	
Rate During Interest Only Period	
Number of Amortizing Payments	10
Amortization Period	
Rate During Amortization	3.6900%
Principal Payment	\$ 200,000.00
Accrual Method	365/365

Amortization schedule assumes closing date of 1/13/2023. If payment dates are different then interest due will vary. Loan is a 30/360 based loan.

	Date	Days In Period	Rate	Interest Due	Principal Due	Ending Principal Balance	Payment Amount	Balloon
	January 13, 2023		3.6900%			\$ 2,000,000.00		
1	January 13, 2024	365.00	3.6900%	\$ 73,800.00	\$ 200,000.00	\$ 1,800,000.00	\$ 273,800.00	\$ 2,073,800.00
2	January 13, 2025	365.00	3.6900%	\$ 66,420.00	\$ 200,000.00	\$ 1,600,000.00	\$ 266,420.00	\$ 1,866,420.00
3	January 13, 2026	365.00	3.6900%	\$ 59,040.00	\$ 200,000.00	\$ 1,400,000.00	\$ 259,040.00	\$ 1,659,040.00
4	January 13, 2027	365.00	3.6900%	\$ 51,660.00	\$ 200,000.00	\$ 1,200,000.00	\$ 251,660.00	\$ 1,451,660.00
5	January 13, 2028	365.00	3.6900%	\$ 44,280.00	\$ 200,000.00	\$ 1,000,000.00	\$ 244,280.00	\$ 1,244,280.00
6	January 13, 2029	365.00	3.6900%	\$ 36,900.00	\$ 200,000.00	\$ 800,000.00	\$ 236,900.00	\$ 1,036,900.00
7	January 13, 2030	365.00	3.6900%	\$ 29,520.00	\$ 200,000.00	\$ 600,000.00	\$ 229,520.00	\$ 829,520.00
8	January 13, 2031	365.00	3.6900%	\$ 22,140.00	\$ 200,000.00	\$ 400,000.00	\$ 222,140.00	\$ 622,140.00
9	January 13, 2032	365.00	3.6900%	\$ 14,760.00	\$ 200,000.00	\$ 200,000.00	\$ 214,760.00	\$ 414,760.00
10	January 13, 2033	365.00	3.6900%	\$ 7,380.00				\$ 207,380.00



RESOLUTION NO. 22-2274

RESOLUTION OF NECESSARY FINDINGS

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20

WHEREAS, the Town of Carolina Beach, North Carolina desires to acquire 3 +/- acres of real property to enable it to perform municipal functions and (the “Project”) to better serve the citizens and visitors of the Town of Carolina Beach; and

WHEREAS, The Town of Carolina Beach desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Carolina Beach, North Carolina, meeting in regular session on the 13th day of December, 2022, make the following findings of fact:

1. The proposed contract is necessary for the Town to carry out governmental functions which could include providing storage of additional water and construction of additional recreational facilities for use by citizens and visitors.
2. The proposed contract is preferable to a bond issue for the same purpose because general obligation bond authorization could not be obtained in a timely manner and would not permit the alternative financing structures and repayment provisions available in the proposed negotiated installment contract financing.
3. The sums to fall due under the contract are adequate and not excessive for the proposed purpose because we have proposals in hand which detail the project costs.
4. The Town of Carolina Beach’s debt management procedures and policies are sound because we have annual audits prepared and are reviewed by the Local Government Commission. Our past audit reports indicate that the Town’s debt management and contract obligation payment policies have been carried out in strict compliance with the law.
5. The Town of Carolina Beach is not in default in any of its debt service obligations.
7. The attorney for the Town of Carolina Beach has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.



NOW, THEREFORE, BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to act on behalf of the Town of Carolina Beach in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this _____ day of _____, 20____.

The motion to adopt this resolution was made by _____, seconded by

_____ and passed by a vote of _____ to _____

Mayor

ATTEST:

Clerk

This is to certify that this is a true and accurate copy of Resolution No. _____ Adopted by the

Town of Carolina Beach on the _____ day of _____, 20____.

Clerk

Date



Resolution No. 22-2275

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CAROLINA BEACH, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING CONTRACT AND DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING; THE EXECUTION AND DELIVERY THEREOF; AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS

WHEREAS, the Town of Carolina Beach, North Carolina (the “*Town*”) is a validly existing political subdivision of the State of North Carolina, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the “*State*”);

WHEREAS, the Town has the power, pursuant to the General Statutes of North Carolina to (1) purchase real and personal property, (2) enter into installment financing contracts in order to finance and refinance the purchase of real and personal property used, or to be used, for public purposes and (3) grant a security interest in some or all of the property purchased to secure repayment of the purchase price;

WHEREAS, the Town Council of the Town (the “*Town Council*”) has determined that it is in the best interest of the Town to finance all or a portion of the costs of acquiring real property to be used by the Town as the site of a future expansion of the Town’s Municipal Complex, facilities and infrastructure (the “*Property*”);

WHEREAS, the Town Council hereby determines that it is in the best interest of the Town to enter into an Installment Financing Contract, dated on or about January [13], 2023 (the “*Contract*”), between SouthState Bank, National Association (the “*Lender*”) and the Town in order to (i) finance all or a portion of the costs of acquiring the Property and (ii) pay certain costs incurred in connection with the execution and delivery of the Contract;

WHEREAS, the Town Council hereby further determines that it is in the best interest of the Town to execute and deliver a Deed of Trust, Security Agreement and Fixture Filing, dated on or about January [13], 2023 (the “*Deed of Trust*”), to the deed of trust trustee named therein for the benefit of the Lender, granting a lien on the Town’s fee simple interest in all or some portion of the Property, as more particularly described in the Deed of Trust (the “*Mortgaged Property*”), in order to secure the Town’s obligations under the Contract;

WHEREAS, a public hearing was held on [December 13], 2022 to receive public comments on the Contract, the Deed of Trust and the financing of the Property;

WHEREAS, the Town filed an application with the Local Government Commission (the “*LGC*”) for the approval of the LGC with respect to the Town entering into the Contract in an aggregate principal amount of not to exceed \$2,000,000, and the Town hereby determines that all findings, conclusions and determinations of the Town in this Resolution are subject to such approval by the LGC;

WHEREAS, there have been described to the Town Council the forms of the following documents (collectively, the “*Instruments*”), copies of which have been made available to the Town Council, which the Town Council proposes to approve, enter into and deliver, as applicable, to effectuate the proposed installment financing:

- (1) the Contract; and

- (2) the Deed of Trust; and

WHEREAS, it appears that each of the Instruments is in appropriate form and is an appropriate instrument for the purposes intended;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CAROLINA BEACH, NORTH CAROLINA, AS FOLLOWS:

Section 1. ***Ratification of Prior Actions.*** All actions of the Town, the Town Manager, the Finance Director, the Town Clerk and their respective designees in effectuating the proposed financing of the Property are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Contract.

Section 2. ***Findings.*** The Town Council hereby finds and confirms that (i) the financing of the Property by an installment financing contract with the Lender is necessary and expedient for the Town; (ii) the financing of the Property by an installment financing contract with the Lender, under the circumstances, is preferable to a bond issue by the Town; (iii) the sums to fall due under said installment financing contract with the Lender are adequate and not excessive for their proposed purpose; (iv) the Town's debt management procedures and policies are good and its debt will continue to be managed in strict compliance with law; (v) the increase in taxes, if any, necessary to meet the sums to fall due under said installment financing contract with the Lender will not be excessive; and (vi) the Town is not in default regarding any of its debt service obligations.

Section 3. ***Approval, Authorization and Execution of Contract.*** The Town Council hereby approves the financing of the Property in accordance with the terms of the Contract, which will be a valid, legal and binding obligation of the Town in accordance with its terms. The Town Council hereby approves the amount advanced by the Lender to the Town pursuant to the Contract in an aggregate principal amount not to exceed \$2,000,000, the annual interest rate (in the absence of default or change in tax status) shall not exceed 3.69% per annum, calculated on a 30/360 day basis, and the financing term shall not exceed ten (10) years from the date of closing, such amount to be repaid by the Town to the Lender as provided in the Contract. The form, terms and content of the Contract are in all respects authorized, approved and confirmed, the Town Manager, the Finance Director and the Town Clerk or their respective designees are authorized, empowered and directed, individually and collectively, to execute and deliver the Contract for and on behalf of the Town, including necessary counterparts, in substantially the form presented to the Town Council, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions. From and after the execution and delivery of the Contract, the Town Manager, the Finance Director and the Town Clerk or their respective designees are hereby authorized, empowered and directed, individually and collectively, to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Contract as executed.

Section 4. ***Approval, Authorization and Execution of Deed of Trust.*** The form, terms and content of the Deed of Trust are in all respects authorized, approved and confirmed, the Town Manager, the Finance Director and the Town Clerk or their respective designees are authorized, empowered and directed, individually and collectively, to execute and deliver the Deed of Trust for and on behalf of the Town, including necessary counterparts, in substantially the form presented to the Town Council, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions. From and after the execution and delivery of the Deed of

Trust, the Town Manager, the Finance Director and the Town Clerk or their respective designees are hereby authorized, empowered and directed, individually and collectively, to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Deed of Trust as executed.

Section 5. **Further Actions.** The Town Manager and the Finance Director are each hereby designated as the Town’s representatives to act on behalf of the Town in connection with the transactions contemplated by the Contract. The Town Manager and the Finance Director are authorized and directed, individually and collectively, to proceed with the financing of the Property in accordance with the terms of the Contract and to seek opinions on matters of law from the Attorney for the Town, which the Attorney for the Town is authorized to furnish on behalf of the Town, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The Town Manager and the Finance Director are hereby authorized to designate one or more employees of the Town to take all actions which the Town Manager or the Finance Director is authorized to perform under this Resolution, and the Town Manager, the Finance Director or their designees are in all respects authorized on behalf of the Town, individually and collectively, to supply all information pertaining to the transactions contemplated by the Contract. The Town Manager, the Finance Director and the Town Clerk are authorized, individually and collectively, to execute and deliver for and on behalf of the Town any and all additional certificates, documents, opinions, or other papers and perform all other acts as may be required by the Contract or as they may deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.

Section 6. **Sworn Statement of Debt.** The Finance Director shall prepare and file a sworn statement of debt with the LGC and with the Town Clerk, which shall be available for public inspection in the office of the Town Clerk, in accordance with North Carolina General Statutes Section 159-150.

Section 7. **Repealer.** All motions, orders, resolutions, ordinances, and parts thereof in conflict with this Resolution are hereby repealed.

Section 8. **Qualified Tax-Exempt Obligation.** The Town Council hereby designates the Contract as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 9. **Severability.** If any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration will not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 10. **Effective Date.** This Resolution is effective on the date of its adoption.

WITNESS my hand and the corporate seal of said Town, this 13th day of December, 2022.

Albert L Barbee
Mayor of Carolina Beach, North Carolina

[SEAL]



Resolution No. 22-2276

Reimbursement Resolution for acquisition of real property at 1101 N Lake Park Blvd

Whereas: The Finance Director has described to the Board the desirability of adopting a resolution as provided under federal tax law to facilitate the unit’s using financing proceeds to restore the unit’s funds when the unit makes capital expenditures prior to closing on financing

BE IT THEREFORE RESOLVED by the Town of Carolina Beach, as follows:

1. The Town hereby determines to acquire (“Expenditures”) 3+/- acres of real property located at 1101 N Lake Park Blvd. (“Project”).
2. The purchase of the Project is to be financed. The insurer intends to finance the costs of the purchase and installation of the Project with the proceeds of debt to be issued by the Issuer (The “Borrowing”), the interest on which is to be excluded from gross income for Federal income tax purposes. The currently expected maximum amount of bonds or other obligations to be issued or contracted for this project is \$2,000,000.
3. Funds have been advanced or may be advanced from the General Fund for the purchase of the Project and these costs are intended to be reimbursed from the financing proceeds.
4. The adoption of this resolution is intended as a declaration of this unit’s official intent to reimburse Project expenditures from financing proceeds.

Date: _____

Mayor: _____

Albert L Barbee, Mayor

Attest: _____

Kimberlee Ward, Town Clerk

Prepared by and
Return to: Nexsen Pruet, PLLC (SLC)
227 West Trade Street, Suite 1550
Charlotte, North Carolina 28202

STATE OF NORTH CAROLINA

TOWN OF CAROLINA BEACH

**DEED OF TRUST,
SECURITY AGREEMENT
AND FIXTURE FILING**

This **DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING**, is made and entered into as of January [13], 2023 (this “*Deed of Trust*”), from the **TOWN OF CAROLINA BEACH, NORTH CAROLINA** (the “*Grantor*”), 1121 N. Lake Park Boulevard, Carolina Beach, North Carolina 28428, to **SSB PROPERTIES INC., d/b/a SSB REALTY, INC.**, P.O. Box 118068, Charleston, South Carolina 29423-9910, as trustee (the “*Trustee*”), for the benefit of **SOUTHSTATE BANK, NATIONAL ASSOCIATION** (the “*Purchaser*”). The Purchaser and its successors and assigns are collectively referred to herein as the “*Beneficiary*.”

PREAMBLES

WHEREAS, the Grantor and the Purchaser have entered into an Installment Financing Contract, dated as of January [13], 2023 (the “*Contract*”), pursuant to which (1) the Purchaser has agreed to advance funds to enable the Grantor to finance all or a portion of the costs of the Property (as defined in the Contract) and (2) the Grantor has agreed to make the Installment Payments (as defined in the Contract) to the Purchaser;

WHEREAS, this Deed of Trust has been executed and delivered to secure (1) the obligations of the Grantor to make the Installment Payments, and (2) the payment and performance of all of the other liabilities and obligations, whether now existing or hereafter arising, of the Grantor to the Purchaser under the Contract, all such obligations and liabilities described in (1) or (2) above hereinafter collectively called the “*Indebtedness*”;

COLLATERAL IS OR INCLUDES FIXTURES

WHEREAS, it is intended that this Deed of Trust comply with the provisions of Sections 45-67, *et. seq.* of the General Statutes of North Carolina, as amended; and for purposes of complying with such provisions, the Grantor hereby represents as follows:

- (a) This Deed of Trust has been executed and delivered by the Grantor to secure present and future Indebtedness which may be incurred from time to time under the Contract;
- (b) That the principal amount of Indebtedness presently secured by this Deed of Trust is \$[2,000,000];
- (c) The maximum principal amount, including present and future Indebtedness, which may be secured by this Deed of Trust at any one time is \$[10,000,000] (exclusive of advances that may be made under the terms of the Contract or this Deed of Trust for the protection of collateral, payment of taxes, impositions and assessments, attorneys' fees and costs and other sums which the Grantor is required by the terms of said instruments to repay), subject to the limitation that any increase must be authorized by the Grantor's governing board and at no time shall the total principal amount of Indebtedness secured hereby exceed said maximum principal sum of \$[10,000,000] plus interest, attorneys' fees and costs and other sums for the protection of collateral, payment of taxes, impositions and assessments and similar sums advanced by the Beneficiary which the Grantor is obligated to repay hereunder, under the Contract, or otherwise;
- (d) The period within which such future Indebtedness may be incurred shall expire not later than 30 years from the date of this Deed of Trust, and shall be effective without the recordation of an amendment, modification or supplement to this Deed of Trust; and
- (e) It shall not be a requirement for any such future Indebtedness to be secured hereby that the Grantor sign an instrument or other notation stipulating that such Indebtedness is secured by this Deed of Trust, as no such future Indebtedness is required, under the Contract or otherwise, to be evidenced by a written instrument or notation; and

WHEREAS, the Grantor desires to secure (1) the payment of the Indebtedness and any renewals, modifications or extensions thereof, in whole or in part, and (2) the additional payments hereinafter agreed to be made by or on behalf of the Grantor, by a conveyance of the lands and security interests hereinafter described;

NOW, THEREFORE, in consideration of the above preambles and for the purposes aforesaid, and in further consideration of the sum of \$10.00 paid to the Grantor by the Trustee and other valuable consideration, receipt of which is hereby acknowledged, the Grantor has given, granted, bargained and sold, and by these presents does give, grant, bargain, sell and convey unto the Trustee, its heirs, successors and assigns, the following property (hereinafter collectively referred to as the "*Mortgaged Property*"):

- (a) The real property lying and being in the County of New Hanover, North Carolina, and described below in the legal description attached as Exhibit A hereto (hereinafter referred to as the "*Property*"):

SEE EXHIBIT A ATTACHED HERETO FOR THE PROPERTY DESCRIPTION, WHICH EXHIBIT A IS SPECIFICALLY INCORPORATED HEREIN BY REFERENCE.

(b) All buildings, structures, additions and improvements of every nature whatsoever now or hereafter situated on or about the Property (the “*Improvements*”).

(c) All gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, fire extinguishers and any other safety equipment required by governmental regulation or law, washers, dryers, water heaters, mirrors, mantels, air conditioning apparatus, refrigerating plants, refrigerators, cooking apparatus and appurtenances, window screens, awnings and storm sashes and other machinery, equipment or other tangible personal property, which are or shall be so attached to the Improvements, including all extensions, additions, improvements, betterments, renewals, replacements and substitutions, or proceeds from a permitted sale of any of the foregoing, as to be deemed to be fixtures under North Carolina law (collectively, the “*Fixtures*”) and accessions to the Property and a part of the Mortgaged Property as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the Indebtedness. The location of the collateral described in this paragraph is also the location of the Property, and the record owner of the Property is the Grantor.

(d) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Property or under or above the same or any part or parcel thereof, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversion and reversions, remainder and remainders, whatsoever, in any way belonging, relating or appertaining to the Mortgaged Property or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by the Grantor.

(e) All leases affecting the Mortgaged Property or any part thereof and all income, rents and issues of the Mortgaged Property and the Improvements now or hereafter located thereon from time to time accruing (including without limitation all payments under leases or tenancies, proceeds of insurance, condemnation payments, tenant security deposits whether held by the Grantor or in a trust account, and escrow funds), and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Grantor of, in and to the same; reserving only the right to the Grantor to collect and apply the same (other than insurance proceeds and condemnation payments) so long as the Grantor is not in Default hereunder.

TO HAVE AND TO HOLD, the Mortgaged Property unto the Trustee, its heirs, successors and assigns, in fee simple forever, upon the trusts, terms and conditions and for the uses and purposes hereinafter set out;

And the Grantor covenants with the Trustee that the Grantor is lawfully seized of the Mortgaged Property in fee simple and has the right to convey the same in fee simple; that, except for Permitted Encumbrances (as defined in Exhibit B attached hereto and specifically incorporated herein by reference), the same are free and clear of all encumbrances, and that the Grantor will warrant and defend the title to the same against the claims of all persons whomsoever arising by, under or through the Grantor.

THIS CONVEYANCE IS MADE UPON THIS SPECIAL TRUST, that if the Grantor shall pay the Indebtedness in accordance with the terms of the Contract, together with interest thereon, and any

renewals or extensions thereof in whole or in part, and shall comply with all the covenants, terms and conditions of this Deed of Trust, then this conveyance shall be null and void and may be cancelled of record at the request and at the cost of the Grantor.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, the Grantor hereby further covenants and agrees as follows:

ARTICLE I

Section 1.1. **Payment of Indebtedness.** The Grantor will pay the Indebtedness and all other sums now or hereafter secured hereby promptly as the same shall become due.

Section 1.2. **Taxes, Liens and Other Charges.**

(a) The Grantor will pay, before the same become delinquent, all taxes, liens, assessments and charges of every character including all utility charges, whether public or private, already levied or assessed or that may hereafter be levied or assessed upon or against the Mortgaged Property; and will furnish the Beneficiary, on or before the final date whereon the same can be paid without penalty, evidence of the due and punctual payment of all such taxes, assessments and other fees and charges. Nothing contained herein shall require the payment or discharge of any such tax, lien, assessment or charge by the Grantor for so long as the Grantor shall in good faith and at its own expense contest the same or the validity thereof by appropriate legal proceedings provided that such proceedings shall prevent (1) the collection thereof or other realization thereof and the sale or forfeiture of the Mortgaged Property or any part thereof to satisfy the same or (2) the enforcement thereof, against the Grantor, the Trustee, the Beneficiary and the Mortgaged Property and so long as the Grantor first deposits with the Beneficiary in escrow such sums or other security as the Beneficiary may reasonably require to assure Beneficiary of the availability of sufficient money to pay such tax, lien, assessment or charge if and when the same is finally determined to be due.

(b) The Grantor will not suffer any mechanic's, materialman's, laborer's, statutory or other lien to be created and to remain outstanding upon all or any part of the Mortgaged Property. The Grantor shall be entitled to discharge such liens by bonds or to contest any such liens pursuant to the same procedure as the Grantor is entitled to contest taxes in the preceding Subsection 1.2(a).

Section 1.3. **Insurance.**

(a) The Grantor shall procure for, deliver to and maintain for the benefit of the Beneficiary, during the term of this Deed of Trust, the insurance coverage required by the Contract. Such insurance shall be noncancellable except upon at least 30 days' prior written notice to the Beneficiary, and shall otherwise comply with the requirements of the Contract.

(b) The Grantor, with the participation of the Beneficiary if (i) permitted by the terms of any such policy or policies and (ii) so elected in writing by the Beneficiary to the Grantor, is hereby authorized and empowered to adjust or compromise any loss under any insurance policies maintained pursuant to this Section 1.3, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to the Grantor and the Beneficiary jointly to the extent permitted by the terms of any such policy or policies. The net proceeds from any such policy or policies shall be applied as provided in the Contract. The Beneficiary shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

(c) For the portion of such insurance which is not self-insurance, at least 30 days prior to the expiration date of each policy maintained pursuant to this Section 1.3, a renewal or replacement thereof satisfactory to the Beneficiary shall be delivered by the Grantor to the Beneficiary, if requested. In the event of the foreclosure of this Deed of Trust or any other transfer of title to the Mortgaged Property in extinguishment of the Indebtedness secured hereby, all right, title and interest of the Grantor in and to all insurance policies then in force shall pass to the purchaser or Beneficiary, as appropriate.

Section 1.4. **Condemnation.** In the event there hereafter occurs a condemnation (which term when used in this Deed of Trust shall include any damage or taking by any governmental authority or other entity having the power of eminent domain, and any transfer by private sale in lieu thereof), resulting in any damage or taking, either temporarily or permanently, of (1) the entire Mortgaged Property, (2) so much of the Mortgaged Property as causes the remainder of the Mortgaged Property to be in violation of any zoning laws, restrictive covenants or similar laws, regulations or restrictions affecting the Mortgaged Property, and the Grantor fails to cure such violation within 30 days of the condemnation or such violation does not prevent the Grantor's continued use of the Mortgaged Property in the ordinary course of its business or (3) so much of the Mortgaged Property that, in the sole reasonable opinion of the Beneficiary, the value of the Mortgaged Property is materially and adversely affected, then, and in any one of said events, the Grantor shall repay the Indebtedness in accordance with Article VI of the Contract. To the extent permitted by law, the Beneficiary shall be entitled to receive all compensation, awards and other payments or relief thereof. The Beneficiary is hereby authorized, at its option, to commence, appear in and prosecute, in its own or in the Grantor's name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by the Grantor to the Beneficiary. After deducting from said condemnation proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorneys' fees, the Beneficiary shall apply the net proceeds as provided in the Contract, subject to the terms of Article VI of the Contract. Any balance of such money then remaining shall be paid to the Grantor. The Grantor hereby agrees to execute such further assignment of any compensation, awards, damages, claims, rights of action and proceeds as the Beneficiary may require.

Section 1.5. **Care of Mortgaged Property.**

(a) The Grantor will keep the buildings, parking areas, roads and walkways, recreational facilities, landscaping and all other improvements of any kind now or hereafter erected on the Property or any part thereof in good condition and repair, will not commit or suffer any waste, and will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof.

(b) The Grantor will not remove or demolish nor alter the structural character of any improvement located on the Mortgaged Property without the prior written consent of the Beneficiary.

(c) If the Mortgaged Property or any part thereof is damaged by fire or any other cause, the Grantor will give immediate written notice thereof to the Beneficiary and the Trustee.

(d) Upon reasonable notice to the Grantor, the Beneficiary or its representative is hereby authorized to enter upon and inspect the Mortgaged Property at any time during normal business hours. The Beneficiary agrees that any confidential information about the Grantor obtained in the exercise of its rights under this subparagraph (d) shall, except as otherwise required by law or regulation applicable to the Beneficiary, be maintained in a confidential manner and shall be used by the Beneficiary only for the protection of its rights and interests hereunder.

(e) The Grantor will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority (including, but not limited to, all environmental and ecological laws and regulations) affecting the Mortgaged Property or any part thereof.

(f) If all or any part of the Mortgaged Property shall be damaged or destroyed as described in Section 6.1 of the Contract, the Grantor will promptly repair, restore, modify, improve or replace the Mortgaged Property or any remaining portions in accordance with Section 6.1 of the Contract or, under certain circumstances described in Section 6.2 of the Contract, apply any Net Proceeds (as defined in the Contract) as provided for in Section 6.2 of the Contract.

Section 1.6. ***Leases and Other Contracts Affecting Property.*** The Grantor will duly and punctually perform all terms, covenants, conditions and agreements binding upon the Grantor under any lease or any other agreement of any nature whatsoever which involves or affects the Mortgaged Property or any part thereof. The Grantor will furnish the Beneficiary with executed copies of all leases now or hereafter created upon the Mortgaged Property or any part thereof, and all leases now or hereafter entered into will be in form and substance subject to the prior written approval of the Beneficiary. The Grantor will not, without the express written approval of the Beneficiary (which approval will not be unreasonably withheld or delayed), modify, surrender or terminate, either orally or in writing, any lease now existing or hereafter created upon the Mortgaged Property or any part thereof, nor will the Grantor permit an assignment or a subletting by any tenant without the prior express written approval of the Beneficiary.

Section 1.7. ***Security Agreement and Fixture Filing.*** With respect to the Fixtures, this Deed of Trust is hereby made and declared to be a security agreement in favor of the Beneficiary encumbering each and every item of such property included herein as a part of the Mortgaged Property, in compliance with the provisions of the Uniform Commercial Code as enacted in the State of North Carolina (the “State”), and the Grantor hereby grants a security interest to the Beneficiary in and to all of such Fixtures. This Deed of Trust shall constitute a financing statement filed as a fixture filing in accordance with N.C. Gen. Stat. §25-9-502 (or any amendment thereto). For purposes of complying with the requirements of N.C. Gen. Stat. §25-9-502, the name of Grantor, as Debtor, and Beneficiary, as Secured Party, and the respective addresses of Grantor, as Debtor, and Beneficiary, as Secured Party, are set forth on the first page of this Deed of Trust. Grantor authorizes Beneficiary to effect any filing or recording of any additional financing statements relating to the Fixtures or amendments thereto where appropriate to perfect and continue the security interest in, and to protect and preserve, the Fixtures. The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Deed of Trust shall be (1) as prescribed herein, or (2) as prescribed by general law, or (3) as prescribed by the specific statutory consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at the Beneficiary’s sole election. The mention in any such financing statement or statements of the rights in and to (a) the proceeds of any fire and/or hazard insurance policy, (b) any award in eminent domain proceedings for a taking or for loss of value or (c) the Grantor’s interest as lessor in any present or future lease or rights to rents, issues or awards growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of the Beneficiary as determined by this Deed of Trust or affect the priority of the Beneficiary’s security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement or statements is solely for the protection of the Beneficiary in the event any court shall at any time hold with respect to the foregoing clauses (a), (b) or (c) of this sentence, that notice of the Beneficiary’s priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records.

Section 1.8. ***Further Assurances; After Acquired Property.*** At any time, and from time to time, upon request by the Beneficiary, the Grantor will make, execute and deliver or cause to be made, executed and delivered, to the Beneficiary and/or the Trustee and, where appropriate, cause to be recorded

and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by the Beneficiary, any and all such other and further deeds of trust, security agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the opinion of the Beneficiary, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve (1) the obligations of the Grantor under the Contract or this Deed of Trust and (2) the security interest created under this Deed of Trust as a first and prior lien upon, and security title in and to, all of the Mortgaged Property, subject to Permitted Encumbrances, whether now owned or hereafter acquired by the Grantor.

Section 1.9. **Expenses.** The Grantor will pay or reimburse the Beneficiary and the Trustee, upon demand therefor, for all reasonable attorneys' fees, costs and expenses actually incurred by the Beneficiary and the Trustee in any suit, action, legal proceeding or dispute of any kind in which the Beneficiary and/or the Trustee is made a party or appears as party plaintiff or defendant, affecting the Indebtedness secured hereby, this Deed of Trust or the interest created herein, or the Mortgaged Property, including, but not limited to, the exercise of the power of sale contained in this Deed of Trust, any condemnation action involving the Mortgaged Property or any action to protect the security hereof, but excepting therefrom any negligence or willful misconduct by the Beneficiary or any breach of this Deed of Trust by the Beneficiary; and all such amounts paid by the Beneficiary shall be added to the Indebtedness.

Section 1.10. **Estoppel Affidavits.** The Grantor, upon 10 days' prior written notice, shall furnish the Beneficiary a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the Indebtedness and whether or not any offsets or defenses exist against such principal and interest.

Section 1.11. **Subrogation.** The Beneficiary shall be subrogated to the claims and liens of all parties whose claims or liens are discharged or paid with the proceeds of the Indebtedness.

Section 1.12. **Books, Records, Accounts and Annual Reports.** The Grantor will keep and maintain or will cause to be kept and maintained proper and accurate books, records and accounts relating to the Mortgaged Property. The Beneficiary shall have the right from time to time at all times during normal business hours to examine such books, records and accounts at the office of the Grantor or such other person or entity maintaining such books, records and accounts and to make copies or extracts thereof as the Beneficiary shall desire.

Section 1.13. **Limit of Validity.** If from any circumstances whatsoever fulfillment of any provision of this Deed of Trust or the Contract at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then *ipso facto* the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Deed of Trust or the Contract that is in excess of the current limit of such validity, but such obligation shall be fulfilled to the limit of such validity.

Section 1.14. **Changes in Ownership.** The Grantor hereby acknowledges to the Beneficiary that (1) the identity and expertise of the Grantor were and continue to be material circumstances upon which the Beneficiary has relied in connection with, and which constitute valuable consideration to the Beneficiary for, the extending to the Grantor of the Indebtedness and (2) any change in such identity or expertise could materially impair or jeopardize the security for the payment of the Indebtedness granted to the Beneficiary by this Deed of Trust. The Grantor therefore covenants and agrees with the Beneficiary, as part of the consideration for the extending to the Grantor of the Indebtedness, that the entire Indebtedness shall, at the option of the Beneficiary, become immediately due and payable, should the Grantor further encumber, pledge, convey, transfer or assign any or all of its interest in the Mortgaged Property or any portion thereof without the prior written consent of the Beneficiary or except as otherwise permitted herein.

Section 1.15. *Use and Management of the Mortgaged Property.* The Grantor shall not alter or change the use of the Mortgaged Property or abandon the Mortgaged Property without the prior written consent of the Beneficiary.

Section 1.16. *Acquisition of Collateral.* The Grantor shall not acquire any portion of the personal property, if any, covered by this Deed of Trust, subject to any security interest, conditional sales contract, title retention arrangement or other charge or lien taking precedence over the security title and lien of this Deed of Trust without the prior written consent of the Beneficiary.

Section 1.17. *Hazardous Material.*

(a) The Grantor represents, warrants and agrees that, except as previously disclosed to the Purchaser in writing: (1) the Grantor has not used or installed any Hazardous Material (as hereinafter defined) in violation of applicable Environmental Laws on, from or in the Mortgaged Property and to the Grantor's actual knowledge no other person has used or installed any Hazardous Material on, from or in the Mortgaged Property; (2) to the Grantor's knowledge, no other person has violated any applicable Environmental Laws (as hereinafter defined) relating to or affecting the Mortgaged Property or any other property owned by the Grantor except as previously disclosed to the Beneficiary; (3) to the best of the Grantor's knowledge the Mortgaged Property is presently in compliance with all applicable Environmental Laws, and there are no facts or circumstances presently existing upon or under the Mortgaged Property, or relating to the Mortgaged Property, which may violate any applicable Environmental Laws, and there is not now pending or, to the best knowledge of the Grantor, threatened any action, suit, investigation or proceeding against the Grantor or the Mortgaged Property (or against any other party relating to the Mortgaged Property) seeking to enforce any right or remedy against the Grantor or the Mortgaged Property under any of the Environmental Laws; (4) the Mortgaged Property shall be kept free of Hazardous Materials to the extent required by applicable Environmental Laws, and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, or process Hazardous Materials other than the processing of materials in the ordinary course of the Grantor's business as of the date hereof; (5) the Grantor shall not cause or permit the installation of Hazardous Materials in, on, over or under the Mortgaged Property or a Release (as hereinafter defined) of Hazardous Materials unto or from the Mortgaged Property or suffer the presence of Hazardous Materials in, on, over or under the Mortgaged Property in violation of applicable Environmental Laws; (6) the Grantor shall comply with Environmental Laws applicable to the Mortgaged Property, all at no cost or expense to the Beneficiary or the Trustee; (7) the Grantor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary for the Mortgaged Property to comply with applicable Environmental Laws (the "Permits") and the Grantor will be and at all times remain in full compliance with the terms and provisions of the Permits; and (8) to the best of the Grantor's knowledge there has been no Release of any Hazardous Materials on or from the Mortgaged Property in violation of applicable Environmental Laws, whether or not such Release emanated from the Mortgaged Property or any contiguous real estate which has not been abated and any resulting violation of applicable Environmental Laws abates.

The Grantor covenants and agrees that Grantor shall immediately give the Beneficiary oral and written notice in the event that the Grantor receives any notice from any governmental agency, entity, or any other party with regard to Hazardous Materials on, from or affecting the Mortgaged Property and the Grantor shall conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Mortgaged Property in accordance with all applicable Environmental Laws.

(b) To the fullest extent permitted by applicable law, the Grantor hereby agrees to indemnify the Beneficiary and the Trustee and hold the Beneficiary and the Trustee harmless from and against any and all liens, demands, defenses, suits, proceedings, disbursements, liabilities, losses, litigation, damages,

judgments, obligations, penalties, injuries, costs, expenses (including, without limitation, attorneys' and experts' fees) and claims of any and every kind whatsoever paid, incurred, suffered by, or asserted against the Beneficiary, the Trustee and/or the Mortgaged Property for, with respect to, or as a direct or indirect result of: (1) the presence of Hazardous Materials in, on or under the Mortgaged Property, or the escape, seepage, leakage, spillage, discharge, emission or Release on or from the Mortgaged Property of any Hazardous Materials regardless of whether or not caused by or within the control of the Grantor; (2) the violation of any Environmental Laws applicable to the Mortgaged Property or the Grantor, whether or not caused by or within the control of the Grantor; (3) the failure by the Grantor to comply fully with the terms and provisions of this Section 1.17; (4) the violation of any of the Environmental Laws in connection with any other property owned by the Grantor, which violation gives or may give rise to any rights whatsoever in any party with respect to the Mortgaged Property by virtue of any of the Environmental Laws, whether or not such violation is caused by or within the control of the Grantor; or (5) any warranty or representation made by the Grantor in subparagraph (a) of Section 1.17 being false or untrue in any material respect.

(c) In the event the Beneficiary has a reasonable basis to suspect that the Grantor has violated any of the covenants, warranties, or representations contained in this Section 1.17, or that the Mortgaged Property is not in compliance with the applicable Environmental Laws for any reason, the Grantor shall take such steps as the Beneficiary reasonably requires by written notice to the Grantor in order to confirm or deny such occurrences, including, without limitation, the preparation of environmental studies, surveys or reports. In the event that the Grantor fails to take such action, the Beneficiary may take such action as the Beneficiary reasonably believes necessary to protect its interest, and the cost and expenses of all such actions taken by the Beneficiary, including, without limitation, the Beneficiary's reasonable attorneys' fees, shall be added to the Indebtedness.

(d) For purposes of this Deed of Trust: (1) "*Hazardous Material*" or "*Hazardous Materials*" means and includes, without limitation, (A) solid or hazardous waste, as defined in the Resource Conservation and Recovery Act of 1980, as amended, or in any applicable state or local law or regulation, (B) hazardous substances, as defined in CERCLA, or in any applicable state or local law or regulation, (C) gasoline, or any other petroleum product or by-product, (D) toxic substances, as defined in the Toxic Substances Control Act of 1976, as amended, or in any applicable state or local law or regulation or (E) insecticides, fungicides, or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, as amended, or in any applicable state or local law or regulation, as each such Act, statute or regulation may be amended from time to time; (2) "*Release*" shall have the meaning given such term, in the Environmental Laws, including, without limitation, Section 101(22) of CERCLA; and (3) "*Environmental Law*" or "*Environmental Laws*" shall mean any "*Super Fund*" or "*Super Lien*" law, or any other federal, state or local statute, law, ordinance or code, regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials as may now or at any time hereafter be legally in effect, including, without limitation, the following, as same may be amended or replaced from time to time, and all regulations promulgated and officially adopted thereunder or in connection therewith: the Super Fund Amendments and Reauthorization Act of 1986, as amended ("*SARA*"); the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("*CERCLA*"); the Clean Air Act, as amended ("*CAA*"); the Clean Water Act, as amended ("*CWA*"); the Toxic Substance Control Act, as amended ("*TSCA*"); the Solid Waste Disposal Act, as amended ("*SWDA*"), as amended by the Resource Conservation and Recovery Act, as amended ("*RCRA*"); the Hazardous Waste Management System; and the Occupational Safety and Health Act of 1970, as amended ("*OSHA*"). The obligations and liabilities of the Grantor under this Section 1.17 which arise out of events or actions occurring prior to the satisfaction of this Deed of Trust shall survive the exercise of the power of sale under or foreclosure of this Deed of Trust, the delivery of a deed in lieu of foreclosure of this Deed of Trust, the cancellation or release of record of this Deed of Trust, and/or the payment in full of the Indebtedness.

(e) The parties expressly agree that an event under the provisions of Section 1.17 which may be deemed to be a default under this Deed of Trust shall not be a default until the Grantor has received notice of such event. Further, in terms of compliance with future governmental laws, regulations or rulings applicable to environmental conditions, the Grantor shall be permitted to afford itself of any defense or other protection against the application or enforcement of any such law, regulation or ruling.

Section 1.18. ***Release of Mortgaged Property.*** Notwithstanding any other provisions of this Deed of Trust, at any time so long as there is no Event of Default, the Trustee must release the Mortgaged Property or any part thereof from the lien and security interest of this Deed of Trust, but only when and if the following requirements have been fulfilled:

(a) In connection with any release of the Mortgaged Property, or any part thereof, there shall be filed with the Beneficiary a certified copy of the resolution of the Town Council of the Grantor stating the purpose for which the Grantor desires such release of the Mortgaged Property, giving an adequate legal description of the part of the Mortgaged Property to be released, requesting such release and providing for the payment by the Grantor of all expenses in connection with such release.

(b) In connection with the release of any part of the Mortgaged Property constituting less than the entire Mortgaged Property, the Beneficiary shall have consented in writing to such release.

(c) In connection with the release of all property constituting the entire Mortgaged Property, there is paid to the Beneficiary an amount sufficient to provide for the payment in full of all Installment Payments in accordance with the Contract.

Section 1.19. ***Grant and Release of Easements and Fixtures.*** (a) Notwithstanding any other provisions of this Deed of Trust, at any time so long as there is no Event of Default, with the prior written consent of the Trustee and the Beneficiary, the Grantor may at any time or times grant easements, licenses, rights of way and other rights and privileges in the nature of easements with respect to any part of the Mortgaged Property and the Grantor may release existing interests, easements, licenses, rights of way and other rights or privileges with or without consideration. The Beneficiary agrees that it shall execute and deliver and will cause, request or direct the Trustee to execute and deliver any instrument reasonably necessary or appropriate to grant or release any such interest, easement, license, right of way or other right or privilege but only upon receipt of (i) a copy of the proposed instrument of grant or release, (ii) a written request of the Grantor requesting such instrument and (iii) a certificate executed by the Grantor that the grant or release is not detrimental to the proper conduct of the operations of the Grantor at the Mortgaged Property and will not impair the effective use, nor decrease the value, of the Mortgaged Property.

(b) Notwithstanding any other provisions of this Deed of Trust, at any time so long as there is no Event of Default, with the prior written consent of the Trustee and the Beneficiary, the Grantor may at any time or times release fixtures which will be added to the Mortgaged Property from the security interest created hereby with or without consideration. The Beneficiary agrees that it shall execute and deliver and will cause, request or direct the Trustee to execute and deliver any instrument reasonably necessary or appropriate to release any such fixture but only upon receipt of (i) a copy of the proposed instrument of release, (ii) a written request of the Grantor requesting such instrument and (iii) a certificate executed by the Grantor that the release is not detrimental to the proper conduct of the operations of the Grantor at the Mortgaged Property and will not impair the effective use, nor decrease the value, of the Mortgaged Property.

ARTICLE II

Section 2.1. ***Events of Default.*** The terms “*Default*”, “*Event of Default*” or “*Events of Default,*” wherever used in this Deed of Trust, shall mean any one or more of the following events:

- (a) Failure by the Grantor to pay any principal component or interest component of the Installment Payments when due as required by the Contract or by this Deed of Trust; or
- (b) Failure by the Grantor to duly observe or perform after notice and lapse of any applicable grace period any other term, covenant, condition or agreement of this Deed of Trust; or
- (c) Any warranty of the Grantor contained in this Deed of Trust, proves to be untrue or misleading in any material respect; or
- (d) The occurrence of any “*Event of Default*” under the Contract.

Section 2.2. ***Acceleration upon Default, Additional Remedies.*** In the event an Event of Default shall have occurred and is continuing, the Beneficiary may declare all Indebtedness to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter, the Beneficiary may:

- (a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Mortgaged Property, or any part thereof, in its own name or in the name of the Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Mortgaged Property, or part thereof or interest therein, increase the income therefrom or protect the security hereof, and, with or without taking possession of the Mortgaged Property, sue for or otherwise collect the rents and issues thereof, including those rents and issues past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorney’s fees, upon any Indebtedness, all in such order as the Beneficiary may determine. The entering upon and taking possession of the Mortgaged Property, the collection of such rents and issues and the application thereof as aforesaid, shall not cure or waive any Event of Default or notice of Event of Default hereunder or invalidate any act done in response to such Default or pursuant to such notice of Default and notwithstanding the continuance in possession of the Mortgaged Property or the collection, receipt and application of rents and issues, the Trustee or the Beneficiary shall be entitled to exercise every right provided for in any instrument securing or relating to the Indebtedness or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;
- (b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, specially enforce any of the covenants hereof, or cause the Trustee to foreclose this Deed of Trust by power of sale; and
- (c) Exercise any or all of the remedies available to a secured party under the Uniform Commercial Code of North Carolina or under any other applicable laws.
- (d) Notwithstanding any provision to the contrary in this Deed of Trust, no deficiency judgment may be rendered against the Grantor in any action to collect any of

the Indebtedness secured by this Deed of Trust and the taxing power of the Grantor is not and may not be pledged directly or indirectly or contingently to secure any money due or secured under this Deed of Trust.

Section 2.3. **Foreclosure by Power of Sale.** Should the Beneficiary elect to foreclose by exercise of the power of sale herein contained, the Beneficiary shall notify the Trustee and shall deposit with the Trustee this Deed of Trust and such receipts and evidence of expenditures made and secured hereby as the Trustee may require.

Upon application of the Beneficiary, it shall be lawful for and the duty of the Trustee, and the Trustee is hereby authorized and empowered to expose to sale and to sell the Mortgaged Property at public auction for cash, after having first complied with all applicable requirements of North Carolina law with respect to the exercise of powers of sale contained in deeds of trust and upon such sale, the Trustee shall convey title to the purchaser in fee simple. After retaining from the proceeds of such sale just compensation for the Trustee's services and all expenses incurred by the Trustee, including a Trustee's commission not exceeding 1% of the bid and reasonable attorneys' fees for legal services actually performed, the Trustee shall apply the residue of the proceeds first to the payment of all sums expended by the Beneficiary under the terms of this Deed of Trust; second, to the payment of the Indebtedness and interest thereon secured hereby; and the balance, if any, shall be paid to the Grantor. The Grantor agrees that in the event of sale hereunder, the Beneficiary shall have the right to bid thereat. The Trustee may require the successful bidder at any sale to deposit immediately with the Trustee cash or certified check in an amount not to exceed 25% of the bid, provided notice of such requirement is contained in the advertisement of the sale. The bid may be rejected if the deposit is not immediately made and thereupon the next highest bidder may be declared to be the purchaser. Such deposit shall be refunded in case a resale is had; otherwise, it shall be applied to the purchase price.

Section 2.4. **Performance by the Beneficiary on Defaults by the Grantor.** If the Grantor shall Default in the payment, performance or observance of any term, covenant or condition of this Deed of Trust, the Beneficiary may, at its option, pay, perform or observe the same, and all payments made or costs or expenses incurred by the Beneficiary in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by the Grantor to the Beneficiary with interest thereon at the rate provided in the Contract. The Beneficiary shall be the sole judge of the necessity for any such actions and of the amounts to be paid. The Beneficiary is hereby empowered to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to the Grantor or any person in possession holding under the Grantor.

Section 2.5. **Receiver.** If an Event of Default shall have occurred and is continuing, and as to Events of Default occurring under Subsections 2.1(b), (c) and (d) hereof continues uncured for a period of 30 days or more after written notice of such Event of Default is given by the Beneficiary to the Grantor, the Beneficiary, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right without notice and without regard to the adequacy or value of any security for the Indebtedness secured hereby or the solvency of any party bound for its payment, to the appointment of a receiver or receivers to take possession of and to operate the Mortgaged Property and to collect and apply the rents and issues thereof. The Grantor hereby irrevocably consents to such appointment, provided the Grantor receives notice of any application therefor. Any such receiver or receivers shall have all of the rights and powers permitted under the laws of the State and all the powers and duties of the Beneficiary in case of entry as provided in Section 2.2(a), and shall continue as such and exercise all such powers until the date of confirmation of sale of the Mortgaged Property unless such receivership is sooner terminated. The Grantor will pay to the Beneficiary upon demand all reasonable expenses, including receiver's fees, attorneys' fees,

costs and agent's compensation, incurred pursuant to the provisions of this Section; and all such expenses shall be secured by this Deed of Trust.

Section 2.6. ***Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws.*** The Grantor agrees to the full extent permitted by law, that in case of a Default hereunder, neither the Grantor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension, homestead exemption or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, or the absolute sale of the Mortgaged Property, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and the Grantor, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprised in the security intended to be created hereby marshalled upon any foreclosure of the lien hereof.

Section 2.7. ***Leases.*** The Beneficiary and the Trustee, or either of them, at their option and to the extent permitted by law, are authorized to foreclose this Deed of Trust and such right supersedes any rights of any tenants of the Mortgaged Property, and the failure to make any such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by the Grantor, a defense to any proceedings instituted by the Beneficiary and the Trustee to collect the sums secured hereby.

Section 2.8. ***Discontinuance of Proceedings and Restoration of the Parties.*** In case the Beneficiary and the Trustee, or either of them, shall have proceeded to enforce any right, power or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Beneficiary and the Trustee, or either of them, then and in every such case the Grantor and the Beneficiary and the Trustee, and each of them, shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of the Beneficiary and the Trustee, and each of them, shall continue as if no such proceeding had been taken.

Section 2.9. ***Remedies Not Exclusive.*** Subject to the Enforcement Limitation as defined in the Contract, the Trustee and the Beneficiary, and each of them, shall be entitled to enforce payment and performance of any Indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or any other agreement securing or relating to the Indebtedness secured hereby or any laws now or hereafter in force, notwithstanding some of the Indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect the Trustee's or the Beneficiary's right to realize upon or enforce any other security now or hereafter held by the Trustee or the Beneficiary, it being agreed that the Trustee and the Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by the Beneficiary or the Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to the Trustee or the Beneficiary is intended to be exclusive of any other remedy herein or by law provided or preclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any instrument securing or relating to the Indebtedness secured hereby to the Trustee or the Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by the Trustee or the Beneficiary and either of them may pursue inconsistent remedies.

Section 2.10. **Waiver.** No delay or omission of the Beneficiary or the Trustee to exercise any right, power or remedy accruing upon any Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Default, or acquiescence therein; and every right, power and remedy given by this Deed of Trust to the Beneficiary and the Trustee, and each of them, may be exercised from time to time and as often as may be deemed expedient by the Beneficiary and the Trustee, and each of them. No consent or waiver, expressed or implied, by the Beneficiary to or of any breach or Default by the Grantor in the performance of the obligations thereof hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or Default in the performance of the same or any other obligations of the Grantor hereunder. Failure on the part of the Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by the Beneficiary of its rights hereunder or impair any rights, powers or remedies consequent on any breach or Default by the Grantor.

Section 2.11. **Suits to Protect the Mortgaged Property.** The Beneficiary and the Trustee, and each of them, shall have the power (a) to institute and maintain such suits and proceedings as they may deem expedient to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or in violation of this Deed of Trust, with notice of commencement of such suits and proceedings to be given to the Grantor, (b) to preserve or protect their interest in the Mortgaged Property and in the rents and issues arising therefrom, and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of the Beneficiary.

Section 2.12. **Beneficiary May File Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Grantor, its creditors or its property, the Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Beneficiary allowed in such proceedings for the entire amount due and payable by the Grantor under this Deed of Trust at the date of the institution of such proceedings and for any additional amount which may become due and payable by the Grantor hereunder after such date.

ARTICLE III

Section 3.1. **Successors and Assigns.** This Deed of Trust shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, legal representatives, successors and assigns. Whenever a reference is made in this Deed of Trust to the Grantor, the Trustee or the Beneficiary such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of the Grantor, the Trustee or the Beneficiary, respectively.

Section 3.2. **Terminology.** All personal pronouns used in this Deed of Trust whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Deed of Trust itself, and all references herein to Articles, Sections or subsections thereof, shall refer to the corresponding Articles, Sections or subsections thereof, of this Deed of Trust unless specific reference is made to such Articles, Sections or subsections thereof of another document or instrument.

Section 3.3. **Severability.** If any provision of this Deed of Trust or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Deed of Trust and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

Section 3.4. ***Applicable Law and Jurisdiction.*** This Deed of Trust shall be interpreted, construed and enforced according to the laws of the State. The exclusive forum and venue for all actions arising out of this Deed of Trust are with the North Carolina General Court of Justice in New Hanover County, North Carolina or the U.S. District Court for the Eastern District of North Carolina.

Section 3.5. ***Notices, Demands and Request.*** All notices, demands or requests provided for or permitted to be given pursuant to this Deed of Trust must be in writing and shall be deemed to have been properly given or served (i) by personal delivery, (ii) by depositing with Federal Express or other similar reputable national overnight delivery service, or (iii) by depositing in the United States Mail, postpaid and registered or certified return receipt requested, and addressed to the addresses set forth in the first paragraph of this Deed of Trust. All notices, demands and requests shall be effective upon personal delivery or upon being deposited in the United States Mail or with a national overnight delivery service. However, the time period in which a response to any notice, demand or request must be given, if any, shall commence to run from the date of receipt of the notice, demand or request by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. By giving at least 30 days written notice thereof, the Grantor, the Trustee or the Beneficiary shall have the right from time to time and at any time during the term of this Deed of Trust to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

Section 3.6. ***Appointment of Successor to the Trustee.*** The Beneficiary shall at any time have the irrevocable right to remove the Trustee herein named without notice or cause and to appoint a successor thereto by an instrument in writing, duly acknowledged, in such form as to entitle such written instrument to be recorded in the State, and in the event of the death or resignation of the Trustee named herein, the Beneficiary shall have the right to appoint a successor thereto by such written instrument, and any the Trustee so appointed shall be vested with the title to the Mortgaged Property and shall possess all the powers, duties and obligations herein conferred on the Trustee in the same manner and to the same extent as though such were named herein as the Trustee.

Section 3.7. ***Trustee's Powers.*** At any time, or from time to time, without liability therefor and without notice, upon written request of the Beneficiary and presentation of this Deed of Trust, and without affecting the personal liability of any person for payment of the Indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of the Mortgaged Property, the Trustee may (1) reconvey any part of the Mortgaged Property, (2) consent in writing to the making of any map or plat thereof, (3) join in granting any easement therein, or (4) join in any extension agreement or any agreement subordinating the lien or charge hereof.

Section 3.8. ***Beneficiary's Powers.*** Without affecting the liability of any other person liable for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Mortgaged Property not then or theretofore released as security for the full amount of all unpaid obligations, the Beneficiary may, from time to time and without notice (1) release any person so liable, (2) extend the maturity or alter any of the terms of any such obligation, (3) grant other indulgences, (4) cause to be released or reconveyed at any time at the Beneficiary's option, any parcel, portion or all of the Mortgaged Property, (5) take or release any other or additional security for any obligation herein mentioned, or (6) make compositions or other arrangements with debtor in relation thereto. The provisions of Section 45-45.1 of the General Statutes of North Carolina, as amended, or any similar statute hereafter enacted in replacement or in substitution thereof shall be inapplicable to this Deed of Trust.

Section 3.9. ***Acceptance by Trustee.*** The Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made of public record as provided by law.

Section 3.10. ***E-Verify.*** The Trustee and the Beneficiary understand that “E-Verify” is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. The Trustee and the Beneficiary use E-Verify to verify the work authorization of its employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. The Trustee and the Beneficiary will require that any subcontractor that it uses in connection with the transactions contemplated by this Deed of Trust certify to such subcontractor's compliance with E-Verify.

Section 3.11. ***Iran Divestment Act Certification.*** As of the date of this Deed of Trust, neither the Trustee nor the Beneficiary are on any list created and maintained by the North Carolina Department of State Treasurer pursuant to the Iran Divestment Act of 2015, Article 6E, as amended, of Chapter 147 of the General Statutes of North Carolina.

Section 3.12. ***Companies that Boycott Israel Act Certification.*** As of the date of this Deed of Trust, neither the Trustee nor the Beneficiary are on any list created and maintained by the North Carolina Department of State Treasurer pursuant to the Divestment from Companies that Boycott Israel Act, Article 6G, as amended, of Chapter 147 of the General Statutes of North Carolina.

Section 3.13. ***Waiver of Rights.*** By execution of this Deed of Trust and to the extent permitted by law, the Grantor expressly: (1) acknowledges the right to accelerate the Indebtedness and the power of sale given herein to the Trustee to sell the Mortgaged Property by non-judicial foreclosure upon default by the Grantor and without any notice other than such notice (if any) as is specifically required to be given by law or under the provisions of this Deed of Trust; (2) waives any and all rights of the Grantor to appraisal, dower, curtesy and homestead rights to the extent permitted by applicable law; (3) acknowledges that the Grantor has read this Deed of Trust and any and all questions regarding the legal effect of this Deed of Trust and its provisions have been explained fully to the Grantor and the Grantor has consulted with counsel or its choice prior to executing this Deed of Trust; and (4) acknowledges that all waivers of the aforesaid rights of the Grantor have been made knowingly, intentionally and willingly by the Grantor as part of a bargained for transaction.

Section 3.14. ***Limited Obligation of the Grantor.***

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, PURSUANT TO SECTION 160A-20 OF THE GENERAL STATUTES OF NORTH CAROLINA, NO DEFICIENCY JUDGMENT SHALL BE RENDERED AGAINST THE GRANTOR IN ANY ACTION FOR BREACH BY THE GRANTOR OF ITS OBLIGATIONS UNDER THE CONTRACT OR THIS DEED OF TRUST, OR FOLLOWING THE EXERCISE BY THE GRANTOR OF ITS RIGHT OF TERMINATION OF ITS OBLIGATION TO MAKE THE INSTALLMENT PAYMENTS AND ANY ADDITIONAL PAYMENTS UNDER THE CONTRACT; THE REMEDIES PROVIDED UNDER THIS DEED OF TRUST, INCLUDING FORECLOSURE AND SALE OF THE MORTGAGED PROPERTY UNDER THIS DEED OF TRUST, BEING THE SOLE REMEDY GRANTED HEREBY. THE TAXING POWER OF THE GRANTOR IS NOT AND MAY NOT BE PLEDGED IN ANY WAY, DIRECTLY OR INDIRECTLY, TO SECURE THE PAYMENT OF ANY MONEYS DUE UNDER THE CONTRACT, INCLUDING THE INSTALLMENT PAYMENTS UNDER THE CONTRACT, OR ANY OTHER INSTRUMENT CONTEMPLATED HEREBY OR THEREBY. No provision of this Deed of Trust shall be construed or interpreted as creating a pledge of the faith and credit of Grantor within the meaning of the Constitution of the State of North Carolina. This Deed of Trust shall not directly or indirectly or contingently obligate Grantor to make any payments beyond the amount appropriated, if any, in the sole discretion of the Grantor for any fiscal year in which this Deed of Trust shall be in effect. Grantor may at the end of any fiscal year terminate its future payment obligations under the Contract secured by this Deed of Trust if Grantor has not

appropriated sufficient funds to make the next fiscal year's scheduled payment obligations; however, during each fiscal year, Grantor shall exercise its best efforts to appropriate funds for such obligations due in the next fiscal year. **No deficiency judgment may be rendered against Grantor in any action for breach of a contractual obligation under the Contract or this Deed of Trust and the taxing power of the Grantor is not and may not be pledged directly or indirectly to secure any moneys due thereunder or hereunder.** In addition, any term of this Deed of Trust which is, or may have the effect of being, a "non-substitution clause" is void and of no effect. To the extent of any conflict between this Section and any other provision of this Deed of Trust, this Section shall take priority. Notwithstanding the foregoing, nothing in this Section is intended to impair or prohibit foreclosure under this Deed of Trust if the Installment Payments (as defined under the Contract) are not paid when due or otherwise upon the occurrence of any Event of Default, and in such event, Beneficiary may request the Trustee to foreclose on the Mortgaged Property as provided in this Deed of Trust.

Section 3.15. *Miscellaneous.* The covenants, terms and conditions herein contained shall bind, and the benefits and powers shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. Whenever used herein, the singular number shall include the plural, the plural the singular, and the term "*Beneficiary*" shall include any payee of the indebtedness hereby secured and any transferee or assignee thereof, whether by operation of law or otherwise.

[SIGNATURE PAGE BEGINS ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Grantor has caused this Deed of Trust to be executed under seal the day and year first above written.

TOWN OF CAROLINA BEACH, NORTH CAROLINA

[SEAL]

By: _____
Bruce Oakley
Town Manager

ATTEST:

Kimberlee Ward
Clerk to the Town Council
of the Town of Carolina Beach, North Carolina

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, _____, a Notary Public for said County and State, certify that Bruce Oakley personally came before me this day, and being by me duly sworn, acknowledged that he is the Town Manager of the Town of Carolina Beach, North Carolina, a political subdivision organized and existing under the Constitution and laws of the State of North Carolina, and that, by authority duly given and as the act of such political subdivision, the foregoing instrument was signed in its name by him as the Town Manager thereof, sealed with its seal, and attested by Kim Ward as the Clerk to the Town Council.

Witness my hand and notarial seal, this _____ day of January 13, 2023

My commission expires: _____

Notary Public _____, 20____.

EXHIBIT A

PROPERTY DESCRIPTION

[Insert Legal Description]

EXHIBIT B

PERMITTED ENCUMBRANCES

"Permitted Encumbrances" means, as of any particular time: (a) this Deed of Trust; (b) the Contract, as it may be amended from time to time, including any liens or encumbrances permitted by the terms of the Contract, as so amended; (c) liens for taxes and assessments not then delinquent, (c) easements, rights-of-way and other such minor defects, encumbrances or restrictions as normally exist with respect to property of the same general character the Mortgaged Property and which will not impair the Grantor's title to the Mortgaged Property or materially impair the Grantor's intended use of the Mortgaged Property.

[[Items shown on [Schedule B – II] to the Title Insurance Policy provided by _____ Title Insurance Company pursuant to Commitment Number: _____].]]

INSTALLMENT FINANCING CONTRACT

Dated as of January [13], 2023

between

TOWN OF CAROLINA BEACH, NORTH CAROLINA

and

SOUTHSTATE BANK, NATIONAL ASSOCIATION

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INSTALLMENT FINANCING CONTRACT

This INSTALLMENT FINANCING CONTRACT, dated as of January [13], 2023 (the “Contract”), between the TOWN OF CAROLINA BEACH, NORTH CAROLINA, a municipal corporation duly organized and validly existing under the laws of the State of North Carolina (the “Town”), and SOUTHSTATE BANK, NATIONAL ASSOCIATION, and its successors and assigns (the “Lender”);

WITNESSETH:

WHEREAS, the Town is a municipal corporation duly organized and validly existing under and by virtue of the Constitution and laws of the State of North Carolina;

WHEREAS, pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended, the Town may finance the acquisition of property and the construction of fixtures or improvements on real property by contracts that create in the fixtures or improvements, or in all or some portion of the property upon which the fixtures or improvements are located, or in both, a security interest to secure repayment of the moneys advanced or made available for construction;

WHEREAS, after a public hearing and due consideration, the Town Council of the Town has determined to finance all or a portion of the costs of acquiring real property located in the Town and to be used by the Town as the site of a future expansion of the Town’s Municipal Complex, facilities and infrastructure (the “Property”);

WHEREAS, in order for the Town to obtain the funds to pay all or a portion of the costs of financing the Property, the Town has determined to enter into this Contract whereby the Lender will advance funds to the Town to be applied, together with any other available funds, to (a) pay the costs of acquiring the Property and (b) pay certain financing costs relating thereto, and the Town will repay such advancement with interest in installments pursuant to the terms of this Contract;

WHEREAS, as security for the performance of its obligation under this Contract, including the payment of the installment payments hereunder, the Town will execute and deliver a Deed of Trust, dated as of the date hereof (the “Deed of Trust”), to the Deed of Trust trustee named therein, for the benefit of the Lender, pursuant to which the Town will grant a first priority lien on the Site (hereinafter defined), together with all buildings, improvements and fixtures located and to be located thereon, subject to certain Permitted Encumbrances (as defined herein);

WHEREAS, the Lender is willing to advance moneys to the Town for the purpose of financing all or a portion of the costs of acquiring the Property, and the Town is willing to repay the moneys so advanced by the Lender in installments as more fully provided herein; and

WHEREAS, the Town and the Lender have each duly authorized the execution and delivery of this Contract.

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBIT

SECTION 1.1. Definitions and Rules of Construction. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa. The words “hereby”, “herein”, “hereof”, “hereto”, “hereunder” and other words of similar import refer to this Contract as a whole and not to any particular Article, Section or subdivision hereof. All references herein to “Articles”, “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Contract unless some other reference is indicated.

“Act” means Section 160A-20 of the General Statutes of North Carolina, as amended.

“Advancement” means the advance being made by the Lender to the Town in the amount of \$[2,000,000] pursuant to Section 3.1 to pay the costs of acquiring the Property and the Closing Costs.

“Contract” means this Installment Financing Contract, including any amendment or supplement hereto as permitted hereby.

“Closing” means the date on which the Town executes and delivers this Contract and the Lender makes the Advancement to the Town (January [13], 2023).

“Closing Costs” means and further includes all items of expense directly or indirectly payable by or reimbursable to the Town relating to the financing of the Property, including, but not limited to, filing and recording costs, settlement costs, printing costs, word processing costs, reproduction and binding costs, title insurance premiums, legal fees and charges and financing and other professional consultant fees.

“Deed of Trust” means the Deed of Trust, of even date herewith, from the Town to the Deed of Trust Trustee, for the benefit of the Lender, securing the payment of the Installment Payments and the other obligations specified hereunder and thereunder, as supplemented and amended from time to time.

“Deed of Trust Trustee” means the person or other entity at the time serving as trustee under the Deed of Trust.

“Determination of Taxability” means and shall be deemed to have occurred on the date when (a) the Town shall receive notice from the Lender that the Internal Revenue Service has assessed as includable in gross income the interest component of the Installment Payments made by the Town under this Contract that is the result of the occurrence of an Event of Taxability or (b) the Town or the Lender shall receive notice from the Commissioner or any District Director of the Internal Revenue Service that the interest component of the Installment Payments made by the Town under this Contract is includable in the gross income of the Lender for federal income tax purposes that is the result of the occurrence of an Event of Taxability.

“Default Rate” means the interest rate in effect under this Contract immediately prior to an event of default hereunder, plus 4.0% per annum; provided, however that the Default Rate shall not at any time exceed the maximum rate of interest permitted by law.

“Enforcement Limitation” means the provisions of the Act that provide that no deficiency judgment may be rendered against the Town in any action for breach of a contractual obligation incurred under the Act and that the taxing power of the Town is not and may not be pledged directly or indirectly to secure any moneys due under this Contract.

“Event of Nonappropriation” means (a) the failure by the Town Council to budget and appropriate in its budget for the ensuing Fiscal Year adopted on or about June 30 of each year moneys sufficient to pay all Installment Payments and any reasonably estimated additional payments under this Contract coming due in the next ensuing Fiscal Year or (b) the Town Council’s deletion from its duly adopted budget of any appropriation for the purposes specified in clause (a). In the event that during any Fiscal Year, any additional payments shall become due that were not included in the Town’s current budget, and if there are no moneys available to pay such additional payments prior to the date upon which such additional payments are due, an Event of Nonappropriation shall be deemed to have occurred upon notice by the Lender to the Town to such effect.

“Event of Taxability” means the occurrence or existence of any fact, event or circumstance caused by either an action or inaction by the Town which has the effect of causing the interest component of the Installment Payments made by the Town under this Contract to be includable in the gross income of the Lender for federal income tax purposes.

“Fiscal Year” means the period beginning on July 1 of any year and ending on June 30 of the following year.

“Inclusion Date” means the effective date that the interest component of the Installment Payments made by the Town under this Contract is includable in the gross income of the Lender as a result of a Determination of Taxability.

“Installment Payment Date” means each of the dates set forth on the Installment Payment Schedule attached hereto as Exhibit A.

“Installment Payments” means the payments required to be paid by the Town pursuant to Section 4.1 in order to repay the Advancement, as specified in Exhibit A.

“Lender” means SouthState Bank, National Association and any of its successors or assigns.

“LGC” means the Local Government Commission of North Carolina, a division of the Department of the State Treasurer, and any successor thereto.

“Mortgaged Property” means the property subject to the lien of the Deed of Trust, consisting of the Site, together with all buildings, improvements and fixtures located or to be located thereon.

“Net Proceeds” means any proceeds of insurance or taking by eminent domain or condemnation paid with respect to the Mortgaged Property remaining after payment therefrom of any expenses (including attorneys’ fees) incurred in the collection thereof.

“Permitted Encumbrances” shall mean those Permitted Encumbrances set forth in Exhibit B to the Deed of Trust.

“Site” means the real property identified in Exhibit A to the Deed of Trust, such site being the site where the Property will be located.

“State” means the State of North Carolina.

“Town” mean the Town of Carolina Beach, North Carolina, a municipal corporation duly organized and validly existing under and by virtue of the Constitution and laws of the State, and any successor entity.

“Town Council” means the Town Council of the Town.

SECTION 1.2. Exhibits. The following exhibits are attached to, and by reference made a part of, this Contract:

- Exhibit A: Payment Schedule
- Exhibit B: Form of Requisition

ARTICLE II

REPRESENTATIONS OF THE TOWN AND THE LENDER

SECTION 2.1. Representations, Covenants and Warranties of the Town. The Town represents, covenants and warrants to the Lender as follows:

- (a) The Town is a municipal corporation duly organized and validly existing under and by virtue of the Constitution and laws of the State.
- (b) The Constitution and laws of the State authorize the Town to execute and deliver this Contract and the Deed of Trust and to enter into the transactions contemplated by and to carry out its obligations under this Contract and the Deed of Trust.
- (c) The Town has duly authorized and executed this Contract and the Deed of Trust in accordance with the Constitution and laws of the State.
- (d) Neither the execution and delivery of this Contract and the Deed of Trust, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any charter provision, restriction or any agreement or instrument to which the Town is now a party or by which the Town is bound, or constitutes a default under any of the foregoing.
- (e) No approval or consent is required from any governmental authority with respect to the entering into or performance by the Town of this Contract, the Deed of Trust or any other documents related thereto and the transactions contemplated hereby and thereby, or if such approval is required, it has been duly obtained.

(f) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or threatened against or affecting the Town challenging the validity or enforceability of this Contract, the Deed of Trust or any other documents relating hereto or the performance of the Town's obligations hereunder and thereunder.

(g) The Town shall obtain or cause to be obtained all licenses, permits and other approvals of any other governmental entity having jurisdiction over the Town or the Property that are necessary for the acquisition of the Property.

(h) The Town shall not (i) request the assignment of a rating on this Contract by any municipal securities rating agency, (ii) register this Contract with The Depository Trust Company or any other securities depository, (iii) offer this Contract pursuant to any type of offering document or official statement or (iv) request the assignment of a CUSIP number by Standard & Poor's CUSIP Service.

SECTION 2.2. Representations, Covenants and Warranties of the Lender. The Lender represents, covenants and warrants to the Town as follows:

(a) The Lender has the power and authority to enter into this Contract.

(b) Neither the execution and delivery of this Contract nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of the organizational documents of the Lender or any restriction or any agreement or instrument to which the Lender is now a party or by which the Lender is bound.

(c) The Lender (i) is familiar with the Town; (ii) has been furnished certain financial information about the Town; (iii) acknowledges that the Town has made available to it the opportunity to obtain additional information to verify the accuracy of the information supplied and to evaluate the merits and risks of entering into this Contract; (iv) has had the opportunity to ask questions of and receive answers from the Town representatives, including officers, attorneys, advisors and accountants, concerning the terms of this Contract, the information supplied to it and the Town's condition, financial and otherwise; and (v) acknowledges that the Town has been responsive to all of its requests for information.

(d) The Lender is capable of evaluating the merits and risks of entering into this Contract and has agreed to enter into this Contract although no formal offering material has been provided to it.

(e) The Lender has undertaken to discuss and investigate the form and substance of this Contract and the transactions related thereto with such counsel and other persons as it has deemed appropriate.

(f) The Lender acknowledges that this Contract is not registered under the United States Securities Act of 1933, as amended, and that the Town is not presently required to register this Contract under the United States Securities Exchange Act of 1934, as amended. Therefore, if and when the Lender wishes to sell or assign part or all of the Contract, current financial and other information may not be available. The Lender further realizes that the Town may, but is not under any obligation to, provide current financial and other information upon the sale or assignment of

all or part of the Contract at some subsequent time, or to pay any costs associated with any such sale or assignment. Further, the Lender understands that it may need to bear the risks of this Contract for an indefinite period of time, because any sale or assignment of this Contract may not be possible or, if possible, may be at a price below that which the Lender is entering into this Contract.

(h) The Lender represents that it is entering into the Contract for its own account with the present intent to hold the loan to maturity with no present intention to resell or distribute the Contract or any interest therein; provided, however, that the Lender reserves the right at all times to control the disposition of its assets, including this Contract. The Lender or its assignees may assign or reassign all or any part of the Contract in accordance with the provisions of Section 8.1.

ARTICLE III

ADVANCEMENT; ACQUISITION OF THE PROPERTY

SECTION 3.1. Advancement; Creation of Acquisition Fund. In consideration of the covenants, warranties and representations contained herein, and in consideration of the Town's agreement to repay the moneys advanced hereunder and interest thereon, the Lender hereby agrees to advance \$[2,000,000] to the Town at Closing (the "Advancement"). On the date of Closing, the proceeds of the Advancement shall be deposited in an account established with the Lender designated "Town of Carolina Beach, North Carolina 2023 Acquisition Fund" (the "Acquisition Fund") and shall be applied to pay the costs of acquiring the Property and/or the Closing Costs in accordance with the provisions of this Article.

SECTION 3.2. Acquisition of the Property. The Town shall enter into, or cause to be entered into, one or more contracts or purchase orders providing for the acquisition of the Property. The Town shall cause the acquisition of the Property to be carried on expeditiously and in compliance with all applicable ordinances and statutes and requirements of all regularly constituted authorities having jurisdiction over the same.

SECTION 3.3. Investment. Amounts held in the Acquisition Fund may be invested and reinvested in accordance with Section 159-30 of the General Statutes of North Carolina, as may be amended from time to time, or any substitute or successor statute. Investment earnings on the Acquisition Fund shall be retained in the Acquisition Fund pending disbursement to pay the Closing Costs and costs of acquiring the Property in accordance with Section 3.4. The Town shall be solely responsible for ascertaining that all proposed investments and reinvestments of amounts held in the Acquisition Fund comply with federal, state and local laws, regulations and ordinances governing investment of such funds. Accordingly, the Lender shall not be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to investment or reinvestment of all or a portion of the moneys held in the Acquisition Fund, and the Town hereby agrees, to the extent permitted by law, to release and indemnify and hold harmless the Lender from any such liability, cost, expense, loss or claim.

SECTION 3.4. Disbursements. Unless the Acquisition Fund is earlier terminated in accordance with the provisions of Section 3.5, the moneys held in the Acquisition Fund shall be used to pay, or reimburse the Town for payment of, the Closing Costs and/or the costs of acquiring the Property. Prior to withdrawing funds from the Acquisition Fund, the Town shall submit to the

Lender a written requisition signed by an authorized officer of the Town. A form of the requisition letter for disbursement of funds held in the Acquisition Fund is attached hereto as Exhibit B. If the moneys held in the Acquisition Fund and any other moneys provided by the Town are insufficient to pay all of the Closing Costs and/or the costs of acquiring the Property, the Town shall provide any balance of the funds needed to complete the acquisition of the Property. Any moneys remaining in the Acquisition Fund upon completion of the acquisition of the Property and not theretofore applied to pay Closing Costs or costs of acquiring the Property shall, at the written direction of the Town, be applied to the next succeeding Installment Payments until such funds are fully expended. After completion of the acquisition of the Property, if requested by the Lender, the Town shall provide the Lender with an itemized list of the Closing Costs and costs of acquiring the Property paid or reimbursed from the proceeds of the Advancement and any investment earnings deposited in the Acquisition Fund.

SECTION 3.5. Termination. The Acquisition Fund shall be terminated at the earliest of (a) the final distribution of moneys from the Acquisition Fund, (b) written notice given by the Lender of an event of default by the Town under this Contract and (c) termination of this Contract.

SECTION 3.6. Reliance of the Lender on Documents. The Lender may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Lender shall not be liable in any manner for the sufficiency or correctness as to the form, manner of execution, or validity of any instrument or as to the identity, authority, or right of any person executing the same; and the Lender’s duties hereunder shall be limited to the receipts of such moneys, instruments or other documents received by it as the Lender, and for the disposition of the same in accordance herewith.

SECTION 3.7. Disclaimer of Lender. The Town acknowledges and agrees that the Lender has not supplied any specifications with respect to the Property and that the Lender (a) is not a dealer in any part of the Property or similar Properties, (b) has not made any recommendation, given any advice nor taken any other action with respect to (i) the choice of the Property or any component part thereof or any property or rights relating thereto, or (ii) any action taken or to be taken with respect to the Property or any component part thereof or any property or rights relating thereto, (c) has not at any time had physical possession of the Property or any component part thereof or made any inspection thereof or any property or rights relating thereto, and (d) has not made any warranty or other representation, express or implied, that the Property or any component part thereof or any property or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) will accomplish the results which the Town intends therefor, or (iii) is safe in any manner or respect.

THE LENDER MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER WITH RESPECT TO THE PROPERTY OR ANY COMPONENT PART THEREOF TO THE TOWN OR ANY OTHER CIRCUMSTANCE WHATSOEVER WITH RESPECT THERETO, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE MERCHANTABILITY OR THE FITNESS OR SUITABILITY THEREOF FOR ANY PURPOSE; THE CONDITION THEREOF; THE QUALITY OR CAPACITY THEREOF; COMPLIANCE THEREOF WITH THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION OR CONTRACT PERTAINING THERETO; ANY LATENT DEFECT; THE

TITLE TO OR INTEREST OF THE LENDER THEREIN BEYOND THAT TITLE OR INTEREST WHICH THE TOWN OBTAINS FROM THE LENDER PURSUANT HERETO; THE ABILITY THEREOF TO PERFORM ANY FUNCTION; THAT THE PROCEEDS DERIVED FROM THE ADVANCEMENT WILL BE SUFFICIENT, TOGETHER WITH ANY OTHER AVAILABLE FUNDS OF THE TOWN, TO PAY THE COST OF ACQUIRING THE PROPERTY; OR ANY OTHER CHARACTERISTICS OF THE PROPERTY, IT BEING AGREED THAT ALL RISKS RELATING TO THE PROPERTY, THE ACQUISITION THEREOF OR THE TRANSACTIONS CONTEMPLATED HEREBY ARE TO BE BORNE BY THE TOWN, AND THE BENEFITS OF ANY AND ALL IMPLIED WARRANTIES AND REPRESENTATIONS OF THE LENDER ARE HEREBY WAIVED BY THE TOWN.

ARTICLE IV

REPAYMENT OF THE ADVANCEMENT; SECURITY FOR REPAYMENT

SECTION 4.1. Repayment of the Advancement. (a) The Town shall repay the Advancement, with interest computed at the rate of 3.69% per annum (calculated based upon a 360-day year consisting of twelve 30-day months), in installments due at the times and in the amounts set forth in Exhibit A attached hereto and made a part hereof. Notwithstanding the foregoing, upon the occurrence and continuation of an event of default under Section 9.1, all amounts payable under this Contract shall bear interest at the Default Rate until paid.

(b) All payments required to be made to the Lender hereunder shall be made to the Lender at the address set forth in Section 11.1 in immediately available funds or as may be otherwise directed in writing by the Lender.

(c) In the event of a Determination of Taxability, the interest rate payable under this Contract, from and after the Inclusion Date, shall be adjusted to preserve the Lender's after-tax economic yield with respect to the interest components of the Installment Payments, taking into account any interest expense deductions that may be lost by the Lender as a direct or indirect result of the Determination of Taxability. In addition, the Town shall pay to the Lender (i) an amount necessary to reimburse the Lender for any interest, penalties, or other charges assessed by the Internal Revenue Service and the Department of Revenue by reason of the Lender's failure to include the interest portion of the Installment Payments in its gross income for income tax purposes, and (ii) upon request of the Lender, additional interest as a result of the increase in the interest rate on all previous payments made by the Town after the Inclusion Date. In the event of a Determination of Taxability, the Lender shall provide the Town with a new Installment Payment Schedule which reflects the new interest rate which will replace the Installment Payment Schedule set forth in Exhibit A.

(d) The Town agrees to give prompt written notice to the Lender upon the Town's determination or receipt of any notice or information from any source whatsoever to the effect that an Event of Taxability or a Determination of Taxability shall have occurred or that an Event of Default has occurred.

SECTION 4.2. Budget and Appropriation. (a) The officer of the Town at any time charged with the responsibility for formulating budget proposals shall include in the budget proposals for review and consideration by the Town Council in any Fiscal Year in which this

Contract shall be in effect, items for all Installment Payments and any additional payments required for such Fiscal Year under this Contract or the Deed of Trust. Any budget item referred to in this Section shall be deleted from the applicable budget by the Town Council only by the adoption of a resolution to such effect containing a statement of its reasons therefor, which resolution shall be adopted by roll-call vote and shall be spread upon the minutes of the Town Council. The Town shall furnish the Lender with copies of its annual budget within thirty (30) days after its adoption and copies of any amended budget affecting appropriations for Installment Payments or additional payments required under this Contract or the Deed of Trust. The Town shall promptly provide written notice to the Lender of any Event of Nonappropriation.

(b) NO PROVISION OF THIS CONTRACT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OF THE TOWN WITHIN THE MEANING OF ANY CONSTITUTIONAL DEBT LIMITATION. NO PROVISION OF THIS CONTRACT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A DELEGATION OF GOVERNMENTAL POWERS NOR AS A DONATION BY OR A LENDING OF THE CREDIT OF THE TOWN WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. THIS CONTRACT SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE TOWN TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED IN THE SOLE DISCRETION OF THE TOWN FOR ANY FISCAL YEAR IN WHICH THIS CONTRACT IS IN EFFECT; PROVIDED, HOWEVER, THAT ANY FAILURE OR REFUSAL BY THE TOWN TO APPROPRIATE FUNDS WHICH RESULTS IN THE FAILURE BY THE TOWN TO MAKE ANY PAYMENT COMING DUE HEREUNDER WILL IN NO WAY OBLVIATE THE OCCURRENCE OF THE EVENT OF DEFAULT RESULTING FROM SUCH NONPAYMENT. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE TOWN IN ANY ACTION FOR BREACH OF A CONTRACTUAL OBLIGATION UNDER THIS CONTRACT AND THE TAXING POWER OF THE TOWN IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONEYS DUE UNDER THIS CONTRACT.

No provision of this Contract shall be construed to pledge or to create a lien on any class or source of the Town’s moneys, nor shall any provision of this Contract restrict the future issuance of any of the Town’s bonds or moneys. To the extent of any conflict between this Section and any other provision of this Contract, this Section shall take priority.

SECTION 4.3. Deed of Trust. In order to secure its obligations under this Contract, including its obligation to make the Installment Payments hereunder, the Town shall execute and deliver the Deed of Trust simultaneously with the execution and delivery of this Contract.

SECTION 4.4. No Set-Off; Recoupment, Etc. Subject to Section 4.2 and the Enforcement Limitation, the obligation of the Town to make the Installment Payments hereunder and to perform and observe the other covenants of this Contract shall be absolute and unconditional, and the Town will pay without abatement, diminution or deduction all such amounts regardless of any cause or circumstance whatsoever, including, without limitation, any defense, set-off, recoupment or counterclaim that the Town may have against the Lender.

ARTICLE V
INSURANCE

SECTION 5.1. Comprehensive General Liability. The Town shall maintain or cause to be maintained throughout the term of this Contract, a comprehensive general liability policy or policies in protection of the Town, its officers, agents and employees. Said policy shall cover such losses and for such amounts and shall have such deductible amounts as shall be satisfactory to the Town Council and, in the judgment of the Town Council, shall protect the Town against losses not protected under the principles of sovereign immunity. The net proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the insurance proceeds shall have been paid.

SECTION 5.2. Workers’ Compensation. The Town shall maintain workers’ compensation insurance issued by a responsible carrier authorized under the laws of the State to insure its employees against liability for compensation under the laws now in force in the State, or any act hereafter enacted as an amendment or supplement thereto or in lieu thereof. The proceeds of such workers’ compensation insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the insurance proceeds shall have been paid.

SECTION 5.3. Property and Flood Insurance. (a) The Town shall procure and maintain, or cause to be procured and maintained, throughout the term of this Contract, insurance against loss or damage to any portion of the Mortgaged Property by fire and lightning, with extended coverage, and vandalism, theft and malicious mischief insurance. Said extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. Such insurance policies shall name the Lender as a loss payee/mortgagee and shall provide for notice to the Lender in advance of any cancellation or reduction in the amount of such insurance. To the extent that any contractor shall provide an insurance policy or certificate of insurance (naming the Lender as mortgagee or loss payee) demonstrating that the same coverage as is required by this subsection is being carried by such contractor with respect to the Mortgaged Property or any part thereof and adequately protects the interest of the Town and the Lender, the insurance provided for by this subsection shall not be required with respect to the Mortgaged Property or such part thereof while the Mortgaged Property or such part thereof is so covered by such other insurance. The Town shall cause to be delivered to the Lender prior to acquisition of the Property a certificate of insurance evidencing that the insurance required by this subsection is in full force and effect.

(b) If any buildings, fixtures or other improvements are located on any portion of the Mortgaged Property that is located in a special flood hazard area according to the Federal Emergency Management Agency (“FEMA”), then the Town must maintain a flood insurance policy on the Mortgaged Property. If at any time during the term of the Contract, such portion of the Mortgaged Property is classified by FEMA as being located in a special flood hazard area, flood insurance will be mandatory. Should this occur, federal law requires the Lender to notify the Town of the reclassification. If, within forty-five (45) days of receipt of notification from the Lender that any portion of the Mortgaged Property has been reclassified by the FEMA as being located in a special flood hazard area, the Town has not provided sufficient evidence of flood insurance, the Lender is mandated under federal law to purchase flood insurance on behalf of the

Town, and any amounts so expended shall immediately become debts of the Town, shall bear interest at the rate specified in the Contract, and payment thereof shall be secured by the Deed of Trust.

(c) Such insurance required by this Section shall be in an amount equal to 100% of the replacement cost of the Mortgaged Property (except that such insurance may be subject to a reasonable and customary deductible clause for any one loss).

(d) The Net Proceeds of such insurance required by this Section shall be applied as provided in Section 6.1 or Section 6.2.

SECTION 5.4. General Insurance Provisions. (a) The Town shall pay or cause to be paid when due the premiums for all insurance policies required by this Contract.

(b) All insurance policies required by this Article shall be issued by a responsible carrier authorized to do business under the laws of the State.

(c) The Lender shall not be responsible for the sufficiency or adequacy of any insurance herein required and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Lender.

(d) In lieu of obtaining the policies of insurance required by Section 5.1, Section 5.2 and Section 5.3, and with the prior written consent of the Lender for insurance required by Section 5.3, the Town may adopt alternative risk management programs which the Town determines to be reasonable, including, without limitation, to self-insure in whole or in part, individually or in connection with other units of local government or other institutions, to participate in programs of captive insurance companies, to participate with other units of local government or other institutions in mutual or other cooperative insurance or other risk management programs, to participate in State or federal insurance programs, to take advantage of State or federal laws now or hereafter in existence limiting liability, or to establish or participate in other alternative risk management programs, all as may be reasonable and appropriate risk management by the Town.

(e) The insurance coverage required under Section 5.3 may be maintained under a blanket policy covering other properties of the Town.

(f) The Town shall cause to be delivered to the Lender annually a certificate stating that the insurance policies or alternative risk management programs required or permitted by this Contract are in full force and effect.

(g) The Town shall cooperate fully with the Lender in filing any proof of loss with respect to any insurance policy maintained pursuant to this Article and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Mortgaged Property or any portion thereof.

SECTION 5.5. Title Insurance. The Town shall obtain, at its own cost and expense, a policy of title insurance or an endorsement to such policy, from a title insurance company and in a form satisfactory to the Lender, at the time of and dated as of the date of execution and delivery of this Contract, in an amount not less than the Advance, payable to the Lender, as its interest may appear, insuring fee title of the Town to the Mortgaged Property.

ARTICLE VI

DAMAGE AND DESTRUCTION; USE OF NET PROCEEDS

SECTION 6.1. Obligation of the Town to Repair and Replace the Mortgaged Property. Unless applied to the payment in full of the remaining Installment Payments pursuant to Section 6.2 and Section 10.1, the Town shall cause the Net Proceeds of any insurance policies or condemnation proceedings to be applied to the prompt repair, restoration or replacement of the Mortgaged Property. In the event that any such Net Proceeds exceeds \$100,000, the Town shall cause such Net Proceeds to be deposited in a separate fund maintained by the Town with the Lender or its designee unless applied to the payment in whole or in part of the remaining Installment Payments pursuant to Section 6.2. The Lender shall cooperate with the Town in the administration and application of such Net Proceeds. Any repair, restoration, modification, improvement or replacement paid for in whole or in part out of such Net Proceeds shall be the property of the Town, subject to the Deed of Trust and Permitted Encumbrances, and shall be included as part of the Mortgaged Property under this Contract.

SECTION 6.2. Insufficiency of Net Proceeds; Discharge of the Obligation of the Town to Repair or Replace the Mortgaged Property. (a) If the Net Proceeds shall be insufficient to pay in full the cost of repair, restoration or replacement of the Mortgaged Property, the Town may elect to complete the work and pay any cost in excess of the amount of the Net Proceeds, and the Town agrees that, if by reason of any such insufficiency of the Net Proceeds, the Town shall make any payments pursuant to the provisions of this subsection (a), the Town shall not be entitled to any reimbursement therefor from the Lender, nor shall the Town be entitled to any diminution of the Installment Payments payable under Section 4.1.

(b) If the Town elects not to apply the Net Proceeds to the repair, restoration or replacement of the Mortgaged Property, the Town may apply the Net Proceeds, together with any other available funds of the Town, to the prepayment of the principal component of the Installment Payments in accordance with Section 10.1. In the event the amount of such Net Proceeds exceeds the amount necessary to prepay the principal component of all remaining Installment Payments, plus any prepayment premium and the interest component of the Installment Payments accrued to the date of prepayment, such excess shall be paid to or retained by the Town.

Within 90 days following the receipt of Net Proceeds, unless a further extension is approved by the Lender, the Town shall commence the repair, restoration or replacement of the Mortgaged Property, or shall elect, by written notice to the Lender, to apply the Net Proceeds, together with any other available funds of the Town, to the prepayment of the Installment Payments under the provisions of Section 10.1. For purposes of this subsection, “commence” shall include the retention of an engineer in anticipation of the repair, restoration, modification, improvement or replacement of the Mortgaged Property. In the event that the Town shall, after commencing the repair, restoration, modification, improvement or replacement of the Mortgaged Property, determine that the Net Proceeds (plus any amount withheld therefrom by reason of any deductible clause) shall be insufficient for the accomplishment thereof, the Town may elect to apply the Net Proceeds to the prepayment of the Installment Payments under the provisions of Section 10.1.

SECTION 6.3. Notice to and Cooperation of the Lender. The Town shall promptly provide notice to the Lender of any material damage or destruction of the Mortgaged Property or

any prospective or pending condemnation proceeding relating to the Mortgaged Property. The Lender shall cooperate fully with the Town in filing any proof of loss with respect to any insurance policy covering the events specified in Section 5.3. In no event shall the Lender or the Town voluntarily settle, or consent to the settlement of, any insurance proceeding arising out of any insurance claim with respect to the Mortgaged Property or with respect to any condemnation proceedings with respect to the Mortgage Property without the written consent of the other.

ARTICLE VII

COVENANTS OF THE TOWN

SECTION 7.1. Installation of Additional Improvements. The Town may at any time and from time to time, in the sole discretion of the Town, and at its own expense, construct real property improvements and install items of equipment or other personal property in or upon any portion of the Mortgaged Property that does not materially impair the effective use, nor materially decrease the value, of the Mortgaged Property; provided, however, that the Town shall repair and restore any and all damage resulting from the construction, installation, modification or removal of any such items. All such items provided by the Town shall be subject to the lien of the Deed of Trust.

SECTION 7.2. Access to the Mortgaged Property. The Town agrees that the Lender and its agents and employees, shall have the right, at all reasonable times during normal business hours of the Town upon the furnishing of reasonable notice to the Town under the circumstances, and subject to such safety restrictions or requirements that the Town may deem appropriate, to enter upon the Mortgaged Property or any portion thereof to examine and inspect the same. The Town further agrees that the Lender and the Lender’s successors, assigns or designees shall have such rights of access to the Mortgaged Property as may be reasonably necessary to cause the proper maintenance of the Mortgaged Property in the event of failure by the Town to perform its obligations hereunder. No right of inspection shall be deemed to impose on the Lender any duty or obligation whatsoever to undertake any inspection, and no inspection made by the Lender shall be deemed to impose upon the Lender any duty or obligation to identify any defects in the Mortgaged Property or to notify any person with respect thereto.

SECTION 7.3. Maintenance, Utilities, Taxes and Assessments. (a) Subject to the Enforcement Limitation, the Town shall provide for the repair and replacement of any portion of the Mortgaged Property required on account of ordinary wear and tear or want of care.

(b) Subject to the Enforcement Limitation, the Town shall also pay, or provide for the payment of, all taxes and assessments, including, but not limited to, utility charges of any type or nature levied, assessed or charged against any portion of the Mortgaged Property; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Town shall be obligated to pay only such installments as are required to be paid as and when the same become due.

(c) The Town may, at the Town’s expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom; provided, however, that prior to such nonpayment, the Town shall

furnish to the Lender an opinion of counsel acceptable to the Lender to the effect that, by nonpayment of any such items, the interest of the Lender in the Mortgaged Property will not be materially endangered and that all or any portion of the Mortgaged Property will not be subject to loss or forfeiture. Otherwise, subject to the Enforcement Limitation, the Town shall promptly pay such taxes, assessments or charges or make provisions for the payment thereof.

SECTION 7.4. Modification of the Mortgaged Property. The Town shall, in its sole discretion and at its own expense, have the right to make additions, modifications and improvements to any portion of the Mortgaged Property if such additions, modifications or improvements are necessary or beneficial for the use of the Mortgaged Property. Such additions, modifications and improvements shall not in any way damage any of the Mortgaged Property (unless such damage is to be repaired as provided in Section 6.1) or cause the Mortgaged Property to be used for purposes other than those authorized under the provisions of law, and the Mortgaged Property, upon completion of any additions, modifications and improvements made pursuant to this Section, shall be of a value which is not less than the value of the Mortgaged Property immediately prior to the making of such additions, modifications and improvements. The Mortgaged Property, as so modified, shall be subject to the lien of the Deed of Trust.

Except for Permitted Encumbrances, the Town shall not permit any lien to be established or remain against the Mortgaged Property for labor or materials furnished in connection with any additions, modifications or improvements made by the Town pursuant to this Section; provided, however, that if any such lien is established, the Town may, at its own expense and in its name, in good faith contest any lien filed or established against the Mortgaged Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, provided that the Town shall furnish to the Lender full security against any loss or forfeiture which might arise from the nonpayment of any such item in form satisfactory to the Lender.

SECTION 7.5. Encumbrances. Except as provided in this Article (including, without limitation, Section 7.4 and this Section), the Town shall not, directly or indirectly, create, incur, assume or suffer to exist any pledge, lien, charge, encumbrance or claim, as applicable, on or with respect to the Mortgaged Property, other than Permitted Encumbrances. Except as expressly provided in this Article and subject to the Enforcement Limitation, the Town shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such pledge, lien, charge, encumbrance or claim for which it is responsible if the same shall arise at any time; provided, however, that the Town may contest any such lien, charge, encumbrance or claim if it desires to do so and if it provides the Lender with full security against any loss or forfeiture which might arise from the nonpayment of any such item in form satisfactory to the Lender.

SECTION 7.6. Indemnification of the Lender and the LGC. To the fullest extent permitted by law, the Town covenants to defend, indemnify and hold harmless the Lender and the LGC and their respective officers, directors, members, employees and agents (collectively, the “Indemnified Party”) against any and all losses, claims, damages or liabilities, joint or several, including fees and expenses incurred in connection therewith, to which such Indemnified Party may become subject under any statute or at law or in equity or otherwise in connection with the transactions contemplated by this Contract or the Deed of Trust and shall reimburse any such Indemnified Party for any legal or other expenses incurred by it in connection with investigating any claims against it and defending any actions, insofar as such losses, claims, damages, liabilities

or actions arise out of the transactions contemplated by this Contract or the Deed of Trust. In particular, without limitation, the Town shall and hereby agrees to indemnify and save the Indemnified Party harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of any breach or default on the part of the Town in the performance of any of its obligations under this Contract or the Deed of Trust.

SECTION 7.7. Financial Statements and Other Information. The Town shall furnish to the Lender, when the same become available, but in no event later than 210 days after the end of the Fiscal Year, its annual audited financial statements. The Town also agrees that it will furnish the Lender copies of its annual budget as approved within 30 days after such approval. The Town shall also furnish to the Lender, at such reasonable times as the Lender shall request, all other financial information as the Lender may reasonably request that confirms the Town is in compliance with the terms and conditions of this Contract (excluding any privileged or confidential information).

ARTICLE VIII

ASSIGNMENT AND LEASING

SECTION 8.1. Assignment by the Lender. The Lender may, at any time and from time to time, assign to any bank, insurance company or similar financial institution or to any other entity approved by the LGC all or any part of its interest in the Mortgaged Property or this Contract, including, without limitation, the Lender's rights to receive the Installment Payments and any additional payments due and to become due hereunder. Reassignment by any assignee may also only be to a bank, insurance company or similar financial institution or to any other entity approved by the LGC. In addition, the Lender or its assignees may assign or reassign all or any part of this Contract, including the assignment or reassignment of any partial interest through the use of certificates evidencing participation interests in this Contract, or making this Contract part of a pool of obligations without the consent of the LGC, so long as such assignment or reassignment is to (i) a bank, insurance company or similar institution or any other entity approved by the LGC; or (ii) a trustee for the purpose of issuing certificates of participation or other forms of certificates evidencing an undivided interest in the Contract, provided such certificates are sold only to a bank, insurance company or similar financial institution or other entity approved by the LGC. Notwithstanding the foregoing, no assignment or reassignment of the Lender's interest in the Mortgaged Property or this Contract shall be effective unless and until the Town shall receive a duplicate original counterpart of the document by which such assignment or reassignment is made disclosing the name and address of each assignee. The Town covenants and agrees with the Lender and each subsequent assignee of the Lender to maintain for the full term of this Contract a written record of each such assignment or reassignment. The Town agrees to execute any document reasonably required by the Lender in connection with any assignment. Notwithstanding any assignment by the Lender of its interest in this Contract, the Town shall not be obligated to provide any financial or other information to any assignee of the Lender except as set forth in Section 7.7.

After the giving of notice described above to the Town, the Town shall thereafter make all payments in accordance with the notice to the assignee named therein and shall, if so requested, acknowledge such assignment in writing, but such acknowledgement shall in no way be deemed to make the assignment effective.

The Lender covenants that any disclosure document circulated by it or an assignee in connection with the sale of the Lender's rights in this Contract will contain a statement to the effect that the Town has not reviewed and is not responsible for the disclosure document. The Lender covenants to defend, indemnify and hold harmless the Town and its officers, employees and agents against any and all losses, claims, damages or liabilities, joint or several, including fees and expenses incurred in connection therewith, to which such Indemnified Party may become subject on account of any statement included in a disclosure document, or failure to include a statement in a disclosure document, unless the Town shall have expressly approved the use of such disclosure document.

SECTION 8.2. Assignment and Leasing by the Town. (a) This Contract may not be assigned by the Town.

(b) The Town may lease all or any portion of the Mortgaged Property, subject to each of the following conditions:

(i) the obligation of the Town to make Installment Payments hereunder shall remain obligations of the Town;

(ii) the Town shall within thirty (30) days prior to the execution and delivery of any such lease, furnish or cause to be furnished to the Lender, a true and complete copy of the form of such lease;

(iii) the Lender shall have received evidence satisfactory to the Lender that such lease is subordinate in all respects to the lien of the Deed of Trust; and

(iv) the lease by the Town shall not cause the Mortgaged Property to be used for a purpose other than a governmental or proprietary function of the Town authorized under the provisions of the Constitution and laws of the State and shall not cause the interest component in the Installment Payments to be includable in gross income of the Lender for federal income tax purposes.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

SECTION 9.1. Events of Default Defined. The following shall be "events of default" under this Contract and the terms "events of default" and "default" shall mean, whenever they are used in this Contract, any one or more of the following events:

(a) The failure by the Town to pay any Installment Payment required to be paid hereunder when due.

(b) The occurrence of an Event of Nonappropriation.

(c) Failure by the Town to observe and perform any warranty, covenant, condition or agreement on its part to be observed or performed herein or otherwise with respect hereto other than as referred to in clause (a) or (b) of this Section, for a period of thirty (30) days after written

notice specifying such failure and requesting that it be remedied has been given to the Town by the Lender; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period and if corrective action is instituted by the Town within the applicable period and diligently pursued, the Town shall have such additional period of time to correct the failure as shall be necessary to correct such failure so long as such correction is diligently pursued, but in no event for an additional period of time in excess of sixty (60) days after the end of such thirty (30) day period.

(d) The Town becomes insolvent or the subject of insolvency proceedings; or is unable, or admits in writing its inability, to pay its debts as they mature; or makes a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its property; or files a petition or other pleading seeking reorganization, composition, readjustment or liquidation of assets, or requesting similar relief; or applies to a court for the appointment of a receiver for it or for the whole or any part of its property; or has a receiver or liquidator appointed for it or for the whole or any part of its property (with or without the consent of the Town) and such receiver is not discharged within ninety (90) consecutive days after his appointment; or becomes the subject of an “order for relief” within the meaning of the United States Bankruptcy Code; or files an answer to a creditor’s petition admitting the material allegations thereof for liquidation, reorganization, readjustment or composition or to effect a plan or other arrangement with creditors or fail to have such petition dismissed within sixty (60) consecutive days after the same is filed against the Town.

(e) The occurrence of an “Event of Default” under the Deed of Trust as defined therein.

(f) Any warranty, representation or statement made by the Town herein or in the Deed of Trust or any other document executed and delivered by the Town in connection herewith is found to be incorrect or misleading in any material respect as of the date made.

SECTION 9.2. Remedies on Default. Upon the occurrence of any event of default under Section 9.1, the Lender may, without any further demand or notice, exercise any one or more of the following remedies:

(a) declare the entire amount of the principal component of the Installment Payments and the accrued and unpaid interest component to the date of declaration to be immediately due and payable;

(b) exercise all remedies available at law or in equity or under the Deed of Trust, including foreclosure and sale of the Mortgaged Property, and apply the proceeds of any such sale or other disposition, after deducting all costs and expenses, including court costs and reasonable attorneys’ fees incurred with the recovery, repair, storage and other sale or other disposition costs, toward the principal component and accrued and unpaid interest of the balance of Installment Payments due; and

(c) subject to the Enforcement Limitation, proceed by appropriate court action to enforce performance by the Town of the applicable covenants of this Contract or to recover for the breach thereof.

NOTWITHSTANDING ANY OTHER PROVISIONS HEREIN, IT IS THE INTENT OF THE PARTIES HERETO TO COMPLY WITH SECTION 160A-20 OF THE

GENERAL STATUTES OF NORTH CAROLINA, AS AMENDED. NO DEFICIENCY JUDGMENT MAY BE ENTERED AGAINST THE TOWN IN FAVOR OF THE LENDER OR ANY OTHER PERSON IN VIOLATION OF SAID SECTION 160A-20, INCLUDING, WITHOUT LIMITATION, ANY DEFICIENCY JUDGMENT FOR AMOUNTS THAT MAY BE OWED HEREUNDER WHEN THE SALE OF ALL OR ANY PORTION OF THE MORTGAGED PROPERTY IS INSUFFICIENT TO PRODUCE ENOUGH MONEYS TO PAY IN FULL ALL REMAINING OBLIGATIONS HEREUNDER.

SECTION 9.3. No Remedy Exclusive. No remedy conferred herein upon or reserved to the Lender is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. To the extent permitted by law, any delay or omission to exercise any right or power accruing upon any default shall not impair any such right or power nor shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lender to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice other than such notice as may be required in this Article or by law.

SECTION 9.4. Agreement to Pay Attorneys' Fees and Expenses. In the event the Town should default under any of the provisions hereof and the Lender should employ attorneys or incur other expenses for the collection of moneys or the enforcement of performance or observance of any obligation or agreement on the part of the Town contained herein, the Town agrees that it will pay on demand to the Lender, subject to the limitations and provisions of Section 6-21.2 of the General Statutes of North Carolina, as amended, the reasonable fees of such attorneys and such other expenses so incurred by the Lender. For purposes of this Section, the reasonable fees of attorneys shall mean attorneys' fees actually incurred at such attorneys' standard hourly rate for such services and shall not be based on any percentage of the outstanding amount due; provided, however that such attorneys' fees shall not exceed the maximum amount permitted by law.

SECTION 9.5. No Additional Waiver Implied by One Waiver. In the event any provision contained in this Contract should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder except as may be provided by law.

ARTICLE X

PREPAYMENT OF INSTALLMENT PAYMENTS

SECTION 10.1. Optional Prepayment of Installment Payments. (a) Upon at least 15 days' prior written notice to the Lender (unless otherwise waived by the Lender), which prepayment may be conditioned upon the availability of funds on the prepayment date, the Town may prepay, in whole or in part, the outstanding principal component of the Installment Payments on any date at a prepayment price of 100% of the principal component of the Installment Payments to be prepaid, plus accrued interest to the prepayment date.

(b) Any prepayment in part shall be applied in inverse order of maturity of the principal components of the Installment Payments unless otherwise agreed to by the Lender. In the event

of such a prepayment in part, the Lender shall provide the Town with a new Installment Payment Schedule which reflects such prepayment which will replace the Installment Payment Schedule set forth in Exhibit A.

ARTICLE XI

MISCELLANEOUS

SECTION 11.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received upon the earlier of actual receipt or three days after deposit in the United States first-class, registered or certified mail (unless otherwise provided herein), postage prepaid, at the following addresses:

If to the Town:

Town of Carolina Beach, North Carolina
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428
Attention: Finance Director

If to the Lender:

SouthState Bank, National Association
1117 Military Cutoff Road
Wilmington, North Carolina 28405
Attention: A. Mark Tyler

The Town and the Lender, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

SECTION 11.2. Binding Effect. This Contract shall be binding upon and inure to the benefit of the Town and the Lender and their respective successors and assigns. Whenever in this Contract either the Town or the Lender is named or referred to, such reference shall be deemed to include the successors or assigns thereof and all the covenants and agreements in this Contract contained by or on behalf of the Town or the Lender shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

SECTION 11.3. Severability. In the event any provision of this Contract shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 11.4. Execution in Counterparts. This Contract may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 11.5. Commitment Letter. The terms of this Contract shall supersede the terms of any commitment letter, proposal or other term sheet provided by the Lender. To the

extent of any conflict between this Contract and such other documents, this Contract shall take priority.

SECTION 11.6. Applicable Law. This Contract shall be construed and governed in accordance with the laws of the State.

SECTION 11.7. No Advisory Services. The Town acknowledges and agrees that: (i) this Contract is an arm's length commercial transaction between the Town and the Lender in which the Lender is acting solely as a principal to make a loan to the Town, and not as a municipal advisor, financial advisor or fiduciary to the Town or any other person or entity regardless of whether the Lender or an affiliate has or is currently acting as such on a separate transaction; (ii) the Lender has not assumed any advisory or fiduciary responsibility to the Town with respect to the transaction contemplated by this Contract, and the discussions, undertakings and procedures leading to this Contract (irrespective of whether the Lender or its affiliates have provided other services or are currently providing other services to the Town on other matters); (iii) the only obligations the Lender has to the Town with respect to the transaction contemplated by this Contract are expressly set forth herein or the relating financing documents; and (iv) the Town has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

SECTION 11.8. E-Verify. The Lender hereby certifies that the Lender understands that "E-Verify" is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. The Lender uses E-Verify to verify the work authorization of its employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. The Lender shall require that any subcontractor that it uses in connection with the transactions contemplated by this Contract certify to such subcontractor's compliance with E-Verify.

SECTION 11.9. Patriot Act Notice. The Lender is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56) (signed into law October 26, 2001) (the "Act") and hereby notifies the Town that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Town, which information includes the name and address of the Town and other information that will allow the Lender to identify the Town in accordance with the Act.

SECTION 11.10. Iran Divestment Act Certification. As of the date of this Contract, the Lender is not on any list created and maintained by the North Carolina Department of State Treasurer pursuant to the Iran Divestment Act of 2015, Article 6E of Chapter 147 of the General Statutes of North Carolina.

SECTION 11.11. Companies that Boycott Israel Act Certification. As of the date hereof, the Lender is not listed on any list created and maintained by the North Carolina Department of State Treasurer pursuant to the Divestment from Companies that Boycott Israel Act, Article 6G, as amended, of Chapter 147 of the General Statutes of North Carolina.

(Signatures begin on the following page)

IN WITNESS WHEREOF, the Town and the Lender have caused this Contract to be executed in their respective names by their respective duly authorized officers as of the date first above written.

TOWN OF CAROLINA BEACH, NORTH CAROLINA

[SEAL]

By: _____
Bruce Oakley
Town Manager

Attest:

Kimberlee Ward
Town Clerk

SOUTHSTATE BANK, NATIONAL ASSOCIATION

By: _____
A. Mark Tyler
Senior Vice President

[Signature page to the Installment Financing Contract, dated as of January [13], 2023, between the Town of Carolina Beach, North Carolina and SouthState Bank, National Association]

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The foregoing Installment Financing Contract has been approved under the provisions of Section 160A-20 and Article 8 of Chapter 159 of the General Statutes of North Carolina, as amended.

Secretary, Local Government Commission
of North Carolina

EXHIBIT A

PAYMENT SCHEDULE

<u>PAYMENT DATE</u>	<u>BEGINNING PRINCIPAL BALANCE</u>	<u>INSTALLMENT PAYMENT - PRINCIPAL COMPONENT</u>	<u>INSTALLMENT PAYMENT - INTEREST COMPONENT*</u>	<u>TOTAL INSTALLMENT PAYMENT</u>	<u>ENDING PRINCIPAL BALANCE</u>
01/[13]/2024	\$[2,000,000]	\$	\$	\$	\$
01/[13]/2025					
01/[13]/2026					
01/[13]/2027					
01/[13]/2028					
01/[13]/2029					
01/[13]/2030					
01/[13]/2031					
01/[13]/2032					
01/[13]/2033					
Totals		\$[2,000,000]	\$[_____]	\$[_____]	

*Interest rate of 3.69%, calculated on a 30-day month/360-day basis, except as otherwise provided in accordance with Section 4.1(c).

NOTE: The amounts set forth under the heading “TOTAL INSTALLMENT PAYMENT” in the amortization schedule above correctly state the aggregate amount of each semi-annual installment payment. However, since this is a “simple” interest loan, the actual interest component of each semi-annual installment payment will depend upon when the installment payment is actually made. This in turn will affect both the actual principal component of each installment payment and the resulting ending balance after each installment payment. Accordingly, with the exception of the semi-annual payments set forth under the heading “TOTAL INSTALLMENT PAYMENT,” the remaining information set forth in the Payment Schedule above is **only** an estimate based upon the assumption that all semi-annual installment payments are made on their respective due date(s) and is included herein **solely** for purposes of illustration.

All payments required to be made to the Lender hereunder shall be made to the Lender (1) at SouthState Bank, National Association, PO Box 118068, Charleston, SC 29423-9910 in immediately available funds, (2) as wire transfers to the Lender on the payable date as directed by the Lender or (3) as may be otherwise directed in writing by the Lender.

EXHIBIT B

FORM OF REQUISITION

ACQUISITION FUND REQUISITION

[To Be Prepared on Town’s Letterhead for Submission]

[Date]

SouthState Bank, National Association, as Custodian
Attn: A. Mark Tyler
1117 Military Cutoff Road
Wilmington, North Carolina 28405

RE: Request for disbursement of funds from the Acquisition Fund related to the Installment Financing Contract, dated as of January [13], 2023, between the Town of Carolina Beach, North Carolina and SouthState Bank, National Association (the “Contract”)

Ladies and Gentlemen:

The Town of Carolina Beach, North Carolina (the “Town”), requests the disbursement of funds from the Acquisition Fund established under the terms and provisions of the Contract for the following costs of acquisition of the Property and/or Closing Costs of the above-referenced Contract:

[insert description and Costs of acquisition of the Property and/or Closing Costs]

This is requisition number ____ from the Acquisition Fund.

Disbursements will be made to the [Town][Vendor] as follows:

Amount:

Applicable Vendor Invoices:

Description of Costs of acquiring the Property/Closing Costs:

To receive funds via wire transfer please include:

Receiving Bank:

ABA Routing Number:

Beneficiary Name:

Beneficiary Physical Address:

Account Number:

The Town makes this requisition pursuant to the following representations:

1. The purpose of this disbursement is for partial payment on the Costs of acquisition of the Property and/or Closing Costs under the Contract.

2. The requested disbursement has not been subject to any previous requisition.

3. No notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable herein to any of the persons, firms or corporations named herein has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of this requisition.

4. This requisition contains no items representing payment on account of any percentage entitled to be retained on the date of this requisition.

5. Each amount requested for payment in this requisition either (a) represents reimbursement to the Town for a cost related to either the Costs of acquisition of the Property and/or related Closing Costs of the Contract which have been previously paid by the Town, or (b) as directed by the Town in this requisition, will be paid by the Custodian from the Acquisition Fund directly to the third party vendors described in this requisition to provide for payment of either the Costs of acquisition of the Property and/or related Closing Costs of the Contract.

6. Attached is evidence that demonstrates that the amounts shown in this requisition are properly payable at this time, such as bills, receipts, invoices or other appropriate documents.

TOWN OF CAROLINA BEACH, NORTH
CAROLINA

By: _____

Name: _____

Title: _____

APPROVED BY SOUTHSTATE BANK, NATIONAL ASSOCIATION:

By: _____

Name: _____

Title: _____