



Board of Commissioners Agenda

Town of Swansboro

Monday, September 12, 2022

Board Members

John Davis, Mayor | Frank Tursi, Mayor Pro Tem | Pat Turner, Commissioner | Harry PJ Pugliese, Commissioner | Larry Philpott, Commissioner | Jeffrey Conaway, Commissioner

I. Call to Order/Opening Prayer/Pledge

II. Public Comment

Citizens have an opportunity to address the Board for no more than three minutes per speaker regarding items listed on the agenda. There is a second opportunity at the end of the agenda for the public to address the Board on items not listed on the agenda.

III. Adoption of Agenda and Consent Items

The Town Clerk respectfully submits to the Board, the Regular Agenda and the below consent items, which are considered to be of general agreement and little or no controversy. These items may be voted on as a single group without Board discussion "or" if so desired, the Board may request to remove any item(s) from the consent agenda and placed for consideration separately.

III. Consent Items:

[a.](#) Resolution Approving the Plan to Annex Certain Real Property

[b.](#) Stormwater Planning Application Assistance Resolution of Support

IV. Appointments/Recognitions/Presentations

a. Employee Introductions

V. Public Hearing

[a.](#) Petition for Voluntary Annexation – Swansgate Subdivision

Alissa Fender – Town Clerk

The property owners of Swansgate subdivision have petitioned to voluntary annex consolidated real property known as Swansgate Subdivision. The consolidated real property is zoned R20SF and is currently located within the ETJ – contiguous to the town limits.

Recommended Action:

1) Hold a public hearing; and

2) Motion to adopt Ordinance 2022-013 annexing the Swansgate Subdivision as described by its legal description and all exhibits into the Swansboro Town Limits.

VI. Business Non-Consent

a. Direction on Scheduling Public Hearing for Rezoning Request

Alissa Fender – Town Clerk

Per the Board of Commissioners Policy #9, public hearings related to proposed changes in the official zoning map are authorized to be scheduled when supported by both the Planning Board and staff.

A rezoning request from Emerald Coast, LLC, on behalf of themselves and other property owners was submitted and reviewed by the Planning Board on September 6, 2022. The request was to rezone the four parcels located on Queen Creek Road from O/I (Office and Institutional) to B-1 (Business). The areas are further identified as 140 Queens Creek Road containing 0.48 acres (tax parcel 1313-88), 144 Queens Creek Road containing one acre (tax parcel ID 1313-87) and 150 Queens Creek Road containing 1.35 acres (tax parcel ID 1313-85) 160 Queens Creek Road containing 5 acres (tax parcel ID 1313-85.1) the total acreage requested for rezoning is +/-7.83 acres.

The proposed change from O\I (Office\Institutional) to B-1 (Business) is not consistent with the Comprehensive Plan, specifically the Future Land Use Map, and was unanimously not recommended for approval by the Planning Board because of the low-density land use designation identified on the site and development pattern in the area and due to safety concerns identified in the 2019 Traffic Impact Analysis.

Recommended Action: *Provide direction to staff on scheduling a public hearing for the rezoning request.*

b. Future Agenda Items

Alissa Fender - Town Clerk

Future agenda items are shared for visibility and comment. In addition, an opportunity is provided for the Board to introduce items of interest and subsequent direction for placement on future agendas.

Recommended Action: Discuss and provide any guidance

VII. Items Moved from Consent

VIII. Public Comment

Citizens have an opportunity to address the Board for no more than five minutes regarding items not listed on the Agenda.

IX. Manager's Comments

X. Board Comments

XI. Closed Session

XII. Adjournment



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Resolution Approving the Plan to Annex Certain Real Property**

Board Meeting Date: **September 12, 2022**

Prepared By: **Alissa Fender – Town Clerk**

Overview: North Carolina General Statutes Section 160A-31(g) allows the Board of Commissioners to begin the process for annexation of contiguous real property owned by the Town of Swansboro by resolution in lieu of filing a petition.

The Town of Swansboro owns real property located in Swansboro, Onslow County, North Carolina that is contiguous, within the ETJ, and identified as Parcel ID 168580. The parcel is further described as the Swansgate Subdivision Open Space.

Background Attachment(s): Resolution 2022-R9

Recommended Action: Approval of Resolution 2022-R9 to begin the process for annexation of Swansgate Subdivision Open Space.

Action: _____

Resolution # 2022-R9
Resolution of the Board of Commissioners of the Town of Swansboro
Approving the Plan to Annex Certain Real Property

Swansgate Subdivision Open Space

WHEREAS, the Town of Swansboro owns real property located in Swansboro, Onslow County, North Carolina as more fully described on Exhibit A attached hereto (the "Annexation Property"); and,

WHEREAS, the Annexation Property is contiguous to and is not within the corporate limits of the Town of Swansboro; and,

WHEREAS, North Carolina General Statutes Section 160A-31(g) allows the Board of Commissioners to begin the process for annexation of contiguous real property owned by the Town of Swansboro by resolution in lieu of filing a petition; and

WHEREAS, the Annexation Property consists of wetlands, and annexing additional wetlands into the Town's limits will promote and protect the health, safety, and welfare of the local residents.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners finds that annexing the Annexation Property will promote and protect the health, safety, and welfare of the local residents; and

BE IT FURTHER RESOLVED, that the Board of Commissioners intends to annex into the Town of Swansboro the Annexation Property pursuant to North Carolina General Statutes Section 160A-31(g) in lieu of filing a petition for contiguous annexation.

BE IT FURTHER RESOLVED that the Board of Commissioners directs that a public hearing on the annexation of the Annexation Property be held during the regular meeting of the Board of Commissioners scheduled for October 10, 2022, in the Town Hall.

BE IT FURTHER RESOLVED that the Board of Commissioners directs the Town Clerk to publish notice of the public hearing once at least ten days before October 10, 2022.

This action is effective upon adoption. This, the 12th day of September, 2022.

Town of Swansboro

John Davis, Mayor

Attest:

Alissa Fender, Town Clerk

EXHIBIT AAnnexation Property Description

The Town of Swansboro intends to annex the following described property:

Beginning at an existing iron pin at the southwest corner of the property conveyed to the Town of Swansboro by deed recorded in Book 5419, Page 666 in the office of the Register of Deeds of Onslow County, the same being the "Open Space to be Dedicated to the Town of Swansboro 4.49 Ac." on the map of Swansgate recorded in Map Book 79, Page 98A in the office of the Register of Deeds of Onslow County; thence from the beginning point thus established and with the northern margin of Main Street Extension South 77 degrees 57 minutes 46 seconds East 168.01 feet to a point; thence leaving said margin and running North 12 degrees 02 minutes 14 seconds East, 58.33 feet to a point; thence North 45 degrees 40 minutes 28 seconds East, 64.19 feet to a point; thence North 06 degrees 11 minutes 19 seconds West, 84.73 feet to a point; thence North 52 degrees 04 minutes 21 seconds West, 143.87 feet to a point; thence North 32 degrees 19 minutes 39 seconds East, 31.20 feet to a point; thence North 32 degrees 19 minutes 39 seconds East, 95.35 feet to a point; thence North 32 degrees 19 minutes 39 seconds East, 39.75 feet to a point; thence South 88 degrees 41 minutes 56 seconds East, 39.86 feet to a point; thence North 76 degrees 35 minutes 14 seconds East, 88.40 feet to a point; thence North 30 degrees 58 minutes 55 seconds West, 58.68 feet to a point; thence North 06 degrees 43 minutes 46 seconds West, 40.17 feet to a point; thence North 42 degrees 24 minutes 45 seconds West, 51.49 feet to a point; thence North 08 degrees 49 minutes 50 seconds West, 138.89 feet to a point; thence North 08 degrees 49 minutes 50 seconds West, 26.68 feet to a point; thence North 32 degrees 44 minutes 24 seconds East, 84.43 feet to a point; thence North 71 degrees 23 minutes 21 seconds East, 79.25 feet to a point; thence North 50 degrees 08 minutes 33 seconds East, 58.85 feet to a point; thence South 85 degrees 37 minutes 14 seconds East, 93.36 feet to a point; thence North 83 degrees 07 minutes 13 seconds East, 80.12 feet to a point; thence North 55 degrees 47 minutes 05 seconds East, 30.29 feet to a point; thence North 55 degrees 47 minutes 05 seconds East, 28.60 feet to a point; thence North 87 degrees 31 minutes 17 seconds West 395.03 feet to an existing iron pipe; thence North 42 degrees 36 minutes 44 seconds West, 197.33 feet to an existing iron rod in an existing iron pipe; thence South 04 degrees 23 minutes 10 seconds West, 1026.39 feet to the point and place of beginning.

Being the same real property conveyed to Town of Swansboro by deed recorded in Book 5419, Page 666 – 668 in the office of the Register of Deeds of Onslow County; and being further depicted on that map recorded in Map book 79, Page 98.

ND:4874-5440-7728, v. 1



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Stormwater Planning Application Assistance Resolution of Support**

Board Meeting Date: **September 12, 2022**

Prepared By: **Gerald “Tank” Bates – Public Works Director**

Overview: As required by the LASII Planning Grant Program, a resolution is required to be adopted by the governing board for requesting grant assistance for the purpose of conducting a study of the Town’s Stormwater Management Plan.

The deadline for submission is September 30, 2022, with awards being announced in February of 2023. The maximum funds granted per award is \$400,000 per submission.

This is an excellent opportunity for the Town of Swansboro to gain the funding necessary to aggressively address the many stormwater issues facing the Town, beginning with a comprehensive stormwater map.

Upon approval, the Town would enter a contract for professional services with WithersRavenel in the amount of \$5,000 to inventory existing stormwater infrastructure, document conditions, and prepare tools to help manage the system. The cost could be funded through the Stormwater Enterprise Fund.

Background Attachment(s):

Resolution 2022-R10

WithersRavenel Proposal for Professional Services

Recommended Action: Approval of Resolution 2022-R10

Action: _____

2022-R10**RESOLUTION BY GOVERNING BODY OF APPLICANT**

WHEREAS, The Town of Swansboro has need for and intends to conduct a study in a project described as a stormwater master plan, and

WHEREAS, The Town of Swansboro intends to request State loan and/or grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE Board of Commissioners OF THE Town of Swansboro:

That Town of Swansboro, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Swansboro to make a scheduled repayment of the loan, to withhold from the Town of Swansboro any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That Paula Webb, Town Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 12th of September 2022 at Swansboro, North Carolina.

(Signature of Chief Executive Officer)

(Title)

CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting Town Clerk of the Town of Swansboro does hereby certify:
That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of
an application with the State of North Carolina, as regularly adopted at a legally convened meeting of
the Town of Swansboro Board of Commissioners duly held on the 12th day of September, 2022; and,
further, that such resolution has been fully recorded in the journal of proceedings and records in my
office. IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of September, 2022.

(Signature of Recording Officer)

(Title of Recording Officer)

September 2, 2022

Paula Webb, Town Manager
Town of Swansboro
601 W. Corbett Avenue
Swansboro, NC 28584

**RE: Proposal for Professional Services
Stormwater LASII Planning Application Assistance
Swansboro, North Carolina
WR Project No. 03220917.00**

Dear Ms. Webb,

WithersRavenel is pleased to provide this Proposal for Professional Services. We look forward to working with you on this project. If you have any questions or concerns about this proposal, please do not hesitate to call me at the number listed below.

Sincerely,
WithersRavenel



Bob Taylor
Project Consultant II, Funding Services, Funding and Asset Management
btaylor@withersravenel.com
Mobile. 919.593.3003

Attachment:
Proposal for Professional Services

Town of Swansboro Swansboro, North Carolina Proposal for Professional Services

A. Project Description

This fee proposal is intended to provide the scope of services and associated fees to provide consulting services per request of Town of Swansboro and formalize an agreement for the implementation and logistics for these services.

This proposal is based on the project located in Onslow County, Swansboro, North Carolina.

Listed below is a summary of the key aspects of the project based on discussions and preliminary research. Refer to the Scope of Services and Additional Services/Exclusions for further detailed information.

For the purposes of this proposal and any subsequent agreements the following references shall apply:

1. Town of Swansboro shall be known as the "Client" or "Town";
2. WithersRavenel shall be known as the "Consultant";
3. The property and overall project shall be known as the "Project";
4. Onslow County shall be known as "County";
5. North Carolina Department of Environmental Quality shall be known as "NCDEQ";
6. Division of Water Infrastructure shall be known as "DWI";
7. Local Assistance for Stormwater Infrastructure Investments shall be known as "LASII";
8. The executed proposal shall be known as the "Agreement".

The Client wishes to pursue funding assistance from NCDEQ's DWI through the Local Assistance for Stormwater Infrastructure Investments (LASII) Planning Grant Program and would like assistance with completing the application for the Fall 2022 funding cycle (Project). The Project provides funding to complete an inventory of existing stormwater infrastructure, to document the condition of the inventoried infrastructure, and to prepare tools to help manage the system, such as an Asset Management Plan

B. Timeline for Services

Consultant will begin work upon receipt of executed Agreement and written notice to proceed from the Client. Services will complete upon Consultant's submission of the proposed application to the North Carolina Division of Water Infrastructure by the Fall 2022 application deadline, which is 09/30/2022, and delivery of an application copy to the Client.

C. Scope of Services

Consultant shall provide the services identified under each task below as its "Basic Services" under the Agreement.

Task 1 - Application Preparation, Submittal, and Support

- A. Assemble all materials necessary for the applications as outlined in DWI's LASII 2022 Planning Funding Program guidance.
- B. Prepare all forms, narratives, and all required documents to support the application process.

- C. Coordinate collection of any supporting information required for the applications.
- D. Draft required application resolutions for Client to present to Board of Commissioners for adoption to support the application process.
- E. Meet with Client representatives to discuss the scope of the projects which may be via web-based conferencing.
- F. Thoroughly understand project scope and prepare a technical project description. The description of the project will be described in enough detail that it will include the project purpose, what the project entails, as well as technical information such as estimates of size/length and materials.
- G. Develop project cost estimates based off a technical project description. Budgets will be in the format stipulated by the DWI and will also be signed and sealed by Consultant's licensed professional engineer.
- H. Circulate application information to the Client for review and approval.
- I. Participate in any teleconferences with DWI and Client as needed.
- J. Provide other assistance, as required, to facilitate the complete application process.
- K. Work with Client to support obtaining needed signatures of the application materials from the Client representative;
- L. Submit application to DWI via their approved method and by their submittal deadline.
- M. Provide a PDF copy of the submitted application to Client. Hardcopy to be provided upon request.

D. Exclusions/Additional Services

Services that are not included in the Scope of Services or are specifically excluded from this Proposal (see below) shall be considered Additional Services if those services can be performed by Consultant and its agents if requested in writing by the Client and accepted by Consultant. Additional services shall be paid by the Client in accordance with the Fee & Expense Schedule outlined in Exhibit II. The exclusions are described below but are not limited to the following:

General

- o All plan submittal, review, or permitting fees;
- o Any work previously provided in other proposals;
- o Any other services not specifically listed within the Scope of Services.

The above list is not all inclusive, and the Scope of Services defines the services to be provided by Consultant for this project.

E. Client Responsibilities

The following are responsibilities of the Client and Consultant will rely upon the accuracy and completeness of this information:

1. General:
 - a. Provide representative for communications and decisions;
 - b. Preferred media platforms for communications with the Client;
 - c. Provide any information needed to complete the Project not specifically addressed in the Scope of Services;
 - d. Provide all available information pertinent to the Project, including any GIS information, reports, maps, drawings, and any other data relative to the Project;

- e. Examine all proposals, reports, sketches, estimates and other documents presented by the Consultant and render in writing decisions pertaining thereto within a reasonable period so as not to delay the services of the Consultant;
- f. Give prompt written notice to Consultant whenever Client observes or otherwise becomes aware of any defect in the Project or the services of Consultant;
- g. Attend one (1) virtual Town meeting as required/needed;
- h. Coordinate adoption of the required DWI resolution ahead of the application deadline;
- i. Review and execution of application materials by authorized official ahead of the application deadline.

F. Compensation for Services

Consultant proposes to provide the Basic Services outlined in the Scope of Services on a lump sum basis with budgets as shown below plus reimbursable expenses in accordance with Exhibit II. The amounts set forth below have been determined based on the nature, scope and complexity of the Project as represented in the information provided to Consultant by Client prior to submittal of this proposal; subsequent changes thereto may result in additional fees.

Task No.	Task Name	Fee
1	Application Preparation, Submittal, and Support	\$5,000
TOTAL		\$5,000

(Hourly) Denotes hourly tasks. The fee budgets represented with hourly tasks are good faith estimates of what can be expected during the performance of this contract.

1. Invoices will be issued monthly, based on the percentage of completion for each lump sum task and the hourly rate for Consultant personnel in accordance with Exhibit II for hourly tasks, as accomplished during the billing period. Payment is due upon receipt of invoice.
2. The above fees are based on the estimated timelines noted in the Timeline for Services. Any adjustments to those timelines may result in additional fees.
3. The attached Exhibit II, Fee & Expense Schedule, is based on Consultant's rates as of the date of this proposal and may be subject to change for hourly tasks and any Additional Services that occur after any adjustments to such rates go into effect.

G. Acceptance

This proposal is valid 15 days from the date it is transmitted to Client. Receipt of an executed copy of this proposal will serve as the written Agreement between WithersRavenel and Town of Swansboro. All Exhibits identified after the signature blocks below, including the Standard Terms and Conditions (Exhibit I) and the Fee & Expense Schedule (Exhibit II), are incorporated herein and are integral parts of the Agreement.

OFFERED BY:

WITHERSRAVENEL



Digitally signed by Amanda
Whitaker
Date: 2022.09.02 15:32:48 -04'00'

Signature

Amanda Whitaker

Name

Director, Funding Services
Funding and Asset Management

Title



Digitally signed by Bob Taylor
Date: 2022.09.02 15:33:09
-04'00'

Signature

Bob Taylor

Name

Project Consultant II, Funding Services
Funding and Asset Management

Title

PREAUDIT STATEMENT: *This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act (NC G.S. 159-28(a)).*

Signature of Finance Officer:

Printed Name:

Date:

ACCEPTED BY:

TOWN OF SWANSBORO

Signature

Paula Webb

Name

Town Manager

Title

Attachments:

Exhibit I- Standard Terms and Conditions

Exhibit II- Fee & Expense Schedule

EXHIBIT I

Standard Terms and Conditions

WithersRavenel, Inc.

The proposal submitted by WithersRavenel, INC. ("CONSULTANT") is subject to the following terms and conditions, which form an integral part of the Agreement. By accepting the proposal, the services, or any part thereof, the CLIENT agrees and accepts the terms and conditions outlined below:

1. Payment:

- a) The CLIENT will pay CONSULTANT for services and expenses in accordance with periodic invoices to CLIENT and a final invoice upon completion of the services. Each invoice is due and payable in full upon presentation to CLIENT. Invoices are past due after 30 days. Past due amounts are subject to interest at a rate of one and one-half percent per month (18% per annum) on the outstanding balance from the date of the invoice.
- b) If the CLIENT fails to make payment to the CONSULTANT within 45 days after the transmittal of an invoice, the CONSULTANT may, after giving 7 days written notice to the CLIENT, suspend services under this Agreement until all amounts due hereunder are paid in full. If an invoice remains unpaid after 90 days from invoice date, the CONSULTANT may terminate the Agreement. If Consultant initiates legal proceedings to collect the fees owed, Consultant shall also be entitled to recover the reasonable expenses of collection including attorney's fees.

2. Notification of Breach or Default: The CLIENT shall provide prompt written notice to the CONSULTANT if CLIENT becomes aware of any breach, error, omission, or inconsistency arising out of CONSULTANT's services or any other alleged breach of contract or negligence by the CONSULTANT. The failure of CLIENT to provide such written notice within ten (10) days from the time CLIENT became aware of the fault, defect, error, omission, inconsistency or breach, shall constitute a waiver by CLIENT of any and all claims against the CONSULTANT arising out of such fault, defect, error, omission, inconsistency or breach. Emails shall be considered adequate written notice for purposes of this Agreement.

3. Standard of Care: CONSULTANT shall perform its services in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with the standards of professionals providing the same services in the same or a similar locality as the Project. THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE THAT WILL OR CAN ARISE OUT OF THE SERVICES PROVIDED BY CONSULTANT OR THIS AGREEMENT.

4. Waiver of Consequential Damages/Limitation of Liability: CLIENT agrees that CONSULTANT's aggregate liability for any and all claims that may be asserted by CLIENT is limited to \$50,000 or to the fee paid to CONSULTANT under this Agreement, whichever is greater. Both CLIENT and CONSULTANT hereby waive any right to pursue claims for consequential damages against one another, including any claims for lost profits.

5. Representations of CLIENT: CLIENT warrants and covenants that sufficient funds are available or will be available upon receipt of CONSULTANT's invoice to make payment in full for the services rendered by CONSULTANT.

6. Ownership of Instruments of Service: All reports, plans, specifications, field data and notes and other documents, including all documents on electronic media, prepared by the CONSULTANT as instrument of service, shall remain the property of the CONSULTANT. The CONSULTANT shall retain all common law, statutory and other rights, including the copyright thereto. In the event of termination of this Agreement and upon full payment of fees owed to CONSULTANT,

CONSULTANT shall make available to CLIENT copies of all plans and specifications.

7. Change Orders: CONSULTANT will treat as a proposed change order any written or oral order (including directions, instructions, interpretations, or determinations) from CLIENT which requests changes in the Agreement or CONSULTANT's Scope of Services. If CONSULTANT accepts the proposed change order, CONSULTANT will give CLIENT written notice within ten (10) days of acceptance of any resulting increase in CONSULTANT's fees.

8. Opinion of Cost/Cost Estimates: Since the CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over methods of determining prices, or over competitive bidding or market conditions, any and all opinions as to costs rendered hereunder, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of CONSULTANT'S experience and qualifications and represent its reasonable judgment as an experienced and qualified professional familiar with the construction industry; but the CONSULTANT cannot and does not guarantee the proposals, bids or actual costs will not vary significantly from opinions of probable costs prepared by it. If at any time the CLIENT wishes assurances as to the amount of any costs, CLIENT shall employ an independent cost estimator to make such determination.

9. Assignment and Third Parties: Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the CLIENT and CONSULTANT, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the CLIENT and the CONSULTANT and not for the benefit of any other party. Neither the CLIENT nor the CONSULTANT shall assign, sublet, or transfer any rights under or interests in this Agreement without the written consent of the other, which shall not be unreasonably withheld. However, nothing contained herein shall prevent or restrict the CONSULTANT from employing independent subconsultants as the CONSULTANT may deem appropriate to assist in the performance of services hereunder.

10. Project Site: Should CLIENT not be owner of the Project site, then CLIENT agrees to notify the site owner of the possibility of unavoidable alteration and damage to the site. CLIENT further agrees to indemnify, defend, and hold harmless CONSULTANT against any claims by the CLIENT, the owner of the site, or persons having possession of the site which are related to such alteration or damage.

11. Access to Site: CLIENT is responsible for providing legal and unencumbered access to site, including securing all necessary site access agreements or easements, to the extent necessary for the CONSULTANT to carry out its services.

12. Survival: All of CLIENT's obligations and liabilities, including but not limited to, its indemnification obligations and limitations of liability, and CONSULTANT's rights and remedies with respect thereto, shall survive completion, expiration or termination of this Agreement.

13. Termination: Either party may terminate the Agreement with or without cause upon ten (10) days advance written notice, if the other party has not cured or taken reasonable steps to cure the breach giving rise to termination within the ten (10) day notice period. If CLIENT terminates without cause or if CONSULTANT terminates for cause, CLIENT will pay CONSULTANT for all costs incurred, non-cancelable commitments, and fees earned to the date of termination and through demobilization, including any cancellation charges of vendors and subcontractors, as well as demobilization costs.

14. Severability: If any provision of this Agreement, or application thereof to any person or circumstance, is found to be invalid then such provision shall be modified if possible, to fulfill the intent of the parties as reflected in the original provision. The remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by applicable law.

15. No Waiver: No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be construed as a waiver of any future default, whether like or different in character.

16. Merger, Amendment: This Agreement constitutes the entire Agreement between the CONSULTANT and the CLIENT and all negotiations, written and oral understandings between the parties are integrated and merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the CONSULTANT and the CLIENT.

17. Unforeseen Occurrences: If, during the performance of services hereunder, any unforeseen hazardous substance, material, element of constituent or other unforeseen conditions or occurrences are encountered which affects or may affect the services, the risk involved in providing the service, or the recommended scope of services, CONSULTANT will promptly notify CLIENT thereof. Subsequent to that notification, CONSULTANT may: (a) if practicable, in CONSULTANT's sole judgment and with approval of CLIENT, complete the original Scope of Services in accordance with the procedures originally intended in the Proposal; (b) Agree with CLIENT to modify the Scope of Services and the estimate of charges to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or (c) Terminate the services effective on the date of notification pursuant to the terms of the Agreement.

18. Force Majeure: Should completion of any portion of the Agreement be delayed for causes beyond the control of or without the fault or negligence of CONSULTANT, including force majeure, the reasonable time for performance shall be extended for a period at least equal to the delay and the parties shall mutually agree on the terms and conditions upon which Agreement may be continued. Force majeure includes but is not restricted to acts of God, acts or failures of governmental authorities, acts of CLIENT's contractors or agents, fire, floods, epidemics, pandemics, riots, quarantine restrictions, strikes, civil insurrections, freight embargoes, and unusually severe weather.

19. Safety: CONSULTANT is not responsible for site safety or compliance with the Occupational Safety and Health Act of 1970 ("OSHA"). Job site safety remains the sole exclusive responsibility of CLIENT or CLIENT's contractors, except with respect to CONSULTANT's own employees. Likewise, CONSULTANT shall have no right to direct or stop the work of CLIENT's contractors, agents, or employees.

20. Dispute Resolution/Arbitration: Any claim or other dispute arising out of or related to this Agreement shall first be subject to non-binding mediation in accordance with the then-current Construction Industry Mediation Procedures of the American Arbitration Association ("AAA"). If mediation is unsuccessful, such claim or other dispute shall be subject to arbitration in accordance with the AAA's then-current Construction Industry Arbitration Rules. Any demand for arbitration shall be filed in writing with the other party and with the American Arbitration Association. CLIENT agrees to the inclusion in such arbitration (whether by initial filing, by joinder or by consolidation) of any other parties and of any other claims arising out of or relating to the Project or to the transaction or occurrence giving rise to the claim or other dispute between CLIENT and CONSULTANT.

21. Independent Contractor: In carrying out its obligations, CONSULTANT shall always be acting as an independent contractor and not an employee, agent, partner or joint venturer of CLIENT. CONSULTANT's work does not include any supervision or direction of the work of other contractors, their employees or agents, and

CONSULTANT's presence shall in no way create any liability on behalf of CONSULTANT for failure of other contractors, their employees or agents to properly or correctly perform their work

22. Hazardous Substances: CLIENT agrees to advise CONSULTANT upon execution of this Agreement of any hazardous substances or any condition existing in, on or near the Project Site presenting a potential danger to human health, the environment or equipment. By virtue of entering into the Agreement or of providing services, CONSULTANT does not assume control of, or responsibility for, the Project site or the person in charge of the Project site or undertake responsibility for reporting to any federal, state or local public agencies, any conditions at the Project site that may present a potential danger to the public, health, safety or environment except where required of CONSULTANT by applicable law. In the event CONSULTANT encounters hazardous or toxic substances or contamination significantly beyond that originally represented by CLIENT, CONSULTANT may suspend or terminate the Agreement. CLIENT acknowledges that CONSULTANT has no responsibility as a generator, treater, storer, or disposer of hazardous or toxic substances found or identified at a site. Except to the extent that CONSULTANT has negligently caused such pollution or contamination, CLIENT agrees to defend, indemnify, and hold harmless CONSULTANT, from any claim or liability, arising out of CONSULTANT's performance of services under the Agreement and made or brought against CONSULTANT for any actual or threatened environmental pollution or contamination if the fault (as defined in N.C.G.S. 22B-1(f)(7)) of CLIENT or its derivative parties (as defined in N.C.G.S. 22B-1(f)(3)) is a proximate cause of such claim or liability.

23. Choice of Law: The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the law of the State of North Carolina, excluding only its conflicts of laws principles.

24. Construction Services: If construction administration and review services are requested by the CLIENT, CLIENT agrees that such administration, review, or interpretation of construction work or documents by CONSULTANT shall not relieve any contractor from liability in regard to its duty to comply with the applicable plans, specifications, and standards for the Project, and shall not give rise to a claim against CONSULTANT for contractor's failure to perform in accordance with the applicable plans, specifications or standards.

25. Field Representative: If CONSULTANT provides field services or construction observation services, the presence of the CONSULTANT's field personnel will only be for the purpose of providing observation and field testing of specific aspects of the Project. Should a contractor be involved in the Project, the CONSULTANT's responsibility does not include the supervision or direction of the actual work of any contractor, its employees, or agents. All contractors should be so advised. Contractors should also be informed that neither the presence of the CONSULTANT's field representative nor the observation and testing by the CONSULTANT shall excuse contractor in any way for defects in contractor's work. It is agreed that the CONSULTANT will not be responsible for job or site safety on the Project and that the CONSULTANT does not have the right to stop the work of any contractor.

26. Submittals: CONSULTANT's review of shop drawings and other submittals is to determine conformity with the design concept only. Review of shop drawings and submittals does not include means, methods, techniques, or procedures of construction, including but not limited to, safety requirements.



EXHIBIT II

Fee & Expense Schedule

Description	Rate
Project Management	
Director	\$ 215
Client Experience Manager	\$ 209
Assistant Project Manager	\$ 161
Project Manager	\$ 177
Senior Project Manager	\$ 193
Principal	\$ 225
Engineering	
Intern I	\$ 60
Intern II	\$ 80
CAD Technician I	\$ 96
CAD Technician II	\$ 107
Senior CAD Technician	\$ 128
Designer I	\$ 123
Designer II	\$ 134
Senior Designer	\$ 155
Project Coordinator I	\$ 91
Project Coordinator II	\$ 102
Project Coordinator III	\$ 112
Senior Project Coordinator	\$ 118
Project Coordinator Team Leader	\$ 134
Project Engineer I	\$ 150
Project Engineer II	\$ 161
Project Engineer III	\$ 177
Staff Professional I	\$ 86
Staff Professional II	\$ 128
Staff Professional III	\$ 139
Staff Professional IV	\$ 171
Senior Staff Professional	\$ 166
Senior Project Engineer	\$ 193
Senior Technical Consultant	\$ 209
Zoning Specialist	\$ 246
Construction Administration	
Construction Manager I	\$ 139
Construction Manager II	\$ 150
Senior Construction Manager	\$ 171
Resident Project Representative I	\$ 86
Resident Project Representative II	\$ 102
Resident Project Representative III	\$ 118
Senior Resident Project Representative	\$ 128
Administration	
Administrative Assistant	\$ 54
Office Administration	\$ 59
Administrative Assistant I	\$ 70
Administrative Assistant II	\$ 80
Administrative Assistant III	\$ 91
Director of Marketing	\$ 91
Marketing Administration II	\$ 102
Marketing Administration I	\$ 80
Office Administrator I	\$ 102
Office Administrator II	\$ 107
Office Administrator III	\$ 112

Description	Rate
Geomatics	
Geomatics CAD I	\$ 85
Geomatics CAD II	\$ 105
Geomatics CAD III	\$ 120
Geomatics Project Manager I	\$ 150
Geomatics Project Manager II	\$ 160
Geomatics Project Professional I	\$ 135
Geomatics Project Professional II	\$ 155
Geomatics Principal	\$ 220
Geomatics Remote Sensing Crew I	\$ 195
Geomatics Remote Sensing Crew II	\$ 275
Geomatics Survey Crew I	\$ 140
Geomatics Survey Crew II (2 Man)	\$ 170
Geomatics Survey Crew III (3 Man)	\$ 210
Geomatics Senior Manager	\$ 190
Geomatics Survey Tech I	\$ 50
Geomatics Survey Tech II	\$ 80
Geomatics Survey Tech III	\$ 105
Geomatics Survey Tech IV	\$ 115
Geomatics Sr. Technical Consultant	\$ 200
Geomatics SUE Crew 1	\$ 175
Geomatics SUE Crew 2	\$ 245
Geographic Information Systems	
GIS Survey Technician I	\$ 65
GIS Survey Technician II	\$ 86
GIS Survey Technician III	\$ 102
GIS Survey Lead	\$ 118
GIS Technician	\$ 86
GIS Analyst I	\$ 102
GIS Analyst II	\$ 118
GIS Specialist	\$ 134
GIS Senior Specialist	\$ 150
GIS Project Manager	\$ 150
Funding & Asset Management	
F&AM Project Consultant I	\$ 102
F&AM Project Consultant II	\$ 112
F&AM Project Consultant III	\$ 118
F&AM Senior Project Consultant I	\$ 134
F&AM Senior Project Consultant II	\$ 139
F&AM Implementation Specialist	\$ 134
F&AM Staff Professional III	\$ 139
F&AM Assistant Project Manager	\$ 145
F&AM Project Manager	\$ 150
F&AM Senior Project Manager	\$ 187
F&AM Principal	\$ 203
F&AM Senior Technical Consultant	\$ 225

Description	Rate
Environmental	
Environmental Tech I	\$ 90
Environmental Tech II	\$ 100
Senior Environmental Tech	\$ 120
Environmental Geologist I	\$ 110
Environmental Geologist II	\$ 125
Environmental Geologist III	\$ 135
Project Geologist I	\$ 145
Project Geologist II	\$ 155
Project Geologist III	\$ 165
Sr. Environmental Project Geologist	\$ 180
Environmental Scientist I	\$ 110
Environmental Scientist II	\$ 125
Environmental Scientist III	\$ 135
Environmental Project Scientist I	\$ 145
Environmental Project Scientist II	\$ 155
Environmental Project Scientist III	\$ 165
Sr. Environmental Project Scientist	\$ 180
Environmental Professional I	\$ 110
Environmental Professional II	\$ 125
Environmental Professional III	\$ 135
Environmental Project Engineer I	\$ 145
Environmental Project Engineer II	\$ 155
Environmental Project Engineer III	\$ 165
Sr. Environmental Project Engineer	\$ 180
Environmental Assistant PM	\$ 155
Environmental Project Manager	\$ 165
Environmental Sr. Project Manager	\$ 175
Environmental Sr. Technical Consultant	\$ 205
Environmental Principal	\$ 225
Landscape Architecture/Planning	
Landscape Architect I	\$ 139
Landscape Architect II	\$ 150
Landscape Architect III	\$ 166
Landscape Designer I	\$ 118
Landscape Designer II	\$ 128
Planner I	\$ 112
Planner II	\$ 128
Planner III	\$ 150
Planning Technician	\$ 102
Senior Landscape Architect	\$ 182
Senior Planner	\$ 171
Expenses	
Bond Prints (Per Sheet)	\$ 1.75
Mylar Prints (Per Sheet)	\$ 11.00
Mileage	Per IRS
Delivery - Project Specific (Distance & Priority)	
Subcontractor Fees (Markup)	1.15
Expenses / Reprod. / Permits (Markup)	1.15

Effective January 1, 2022 - Schedule is subject to change



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Petition for Voluntary Annexation – Swansgate Subdivision**

Board Meeting Date: **September 12, 2022**

Prepared By: **Alissa Fender – Town Clerk**

Overview: The property owners of Swansgate subdivision have petitioned to voluntary annex consolidated real property known as Swansgate Subdivision. The consolidated real property is zoned R20SF and is currently located within the ETJ – contiguous to the town limits.

In accordance with Board Policies 9 & 10, the petition has been investigated and a public hearing scheduled for September 12, 2022. The petitions meet the requirements of law.

Once annexed and street acceptance (developer must still request) is completed, the Town will maintain that portion annexed.

Background Attachment(s): Ordinance 2022-O13

Recommended Action:

- 1) Hold a public hearing; and
- 2) Motion to adopt Ordinance 2022-O13 annexing the Swansgate Subdivision as described by its legal description and all exhibits into the Swansboro Town Limits.

Action: _____

Town of Swansboro
Annexation Ordinance

Ordinance No: 2022-O13

Property Annexed: Swansgate Subdivision - per Map Book 79, Page 98

Ordinance Effective: September 12, 2022

Effective Date: October 1, 2022

Mail to:

Town of Swansboro
601 W. Corbett Avenue
Swansboro, NC 28584

TOWN OF SWANSBORO
ORDINANCE 2022-O13
Voluntary Annexation
Swansgate Subdivision

WHEREAS, the Board of Commissioners has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the Board of Commissioners has by policy directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at 5:30 pm on September 12, 2022, after due notice by the Carteret News Times/Tideland News on August 31, 2022; and

WHEREAS, the Board of Commissioners finds that the petition meets the requirements of G.S.160A-31 (b) as it has been signed by all owners of real property (or those authorized to do so) in the area who are required by law to sign; and

NOW THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Swansboro, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Swansboro, as of September 12, 2022.

BEGINNING at an existing iron pipe on the Western Right-of-Way line of Swansboro Loop Road, said pipe being located North 34 degrees 10 minutes 38 seconds West, 63.59 feet from an existing mag nail at the centerline intersection of Swansboro Loop Road and Stillwater Drive; THENCE from said point of beginning and with said right-of-way line, South 06 degrees 51 minutes 53 seconds East, 455.24 feet to a point; thence South 06 degrees 39 minutes 59 seconds East, 106.73 feet to a point; thence South 05 degrees 47 minutes 00 seconds East, 51.42 feet to a point; thence South 03 degrees 33 minutes 38 seconds East, 55.22 feet to a point; thence South 00 degrees 31 minutes 17 seconds East, 56.12 feet to a point; thence South 02 degrees 26 minutes 44 seconds West, 50.27 feet to a point; thence South 06 degrees 06 minutes 43 seconds West, 48.72 feet to a point; thence South 09 degrees 20 minutes 57 seconds West, 53.31 feet to a point; thence South 12 degrees 59 minutes 57 seconds West, 54.62 feet to a point; thence South 16 degrees 06 minutes 55 seconds West, 25.39 feet to an existing iron pipe; thence leaving said right-of-way line, North 75 degrees 55 minutes 26 seconds West, 268.23 feet to an existing iron pipe; thence North 56 degrees 39 minutes 16 seconds West, 212.24 feet to an existing iron pipe; thence South 26 degrees 34 minutes 42 seconds West, 245.90 feet to an

existing iron pipe on the Northern Right-of-Way line of Main Street Extension, NCSR 1447, 50-foot Right-of-Way; thence with said right-of-way line, North 55 degrees 10 minutes 17 seconds West, 36.87 feet to a point; thence North 64 degrees 10 minutes 01 seconds West 53.49 feet; thence North 72 degrees 38 minutes 41 seconds West, 54.46 feet to a point; thence North 76 degrees 57 minutes 45 seconds West, 50.86 feet to a point; thence North 77 degrees 43 minutes 18 seconds West, 84.51 feet to a point; thence North 77 degrees 57 minutes 46 seconds West, 91.77 feet to a point, the southwest corner of that tract conveyed to the Town of Swansboro by deed recorded in Book 5419, Page 666 in the office of the Register of Deeds of Onslow County; thence North 12 degrees 02 minutes 14 seconds East, 58.33 feet to a point; thence North 45 degrees 40 minutes 28 seconds East, 64.19 feet to a point; thence North 06 degrees 11 minutes 19 seconds West, 84.73 feet to a point; thence North 52 degrees 04 minutes 21 seconds West, 143.87 feet to a point; thence North 32 degrees 19 minutes 39 seconds East, 31.20 feet to a point; thence North 32 degrees 19 minutes 39 seconds East, 95.35 feet to a point; thence North 32 degrees 19 minutes 39 seconds East, 39.75 feet to a point; thence South 88 degrees 41 minutes 56 seconds East, 39.86 feet to a point; thence North 76 degrees 35 minutes 14 seconds East, 88.40 feet to a point; thence North 30 degrees 58 minutes 55 seconds West, 58.68 feet to a point; thence North 06 degrees 43 minutes 46 seconds West, 40.17 feet to a point; thence North 42 degrees 24 minutes 45 seconds West, 51.49 feet to a point; thence North 08 degrees 49 minutes 50 seconds West, 138.89 feet to a point; thence North 08 degrees 49 minutes 50 seconds West, 26.68 feet to a point; thence North 32 degrees 44 minutes 24 seconds East, 84.43 feet to a point; thence North 71 degrees 23 minutes 21 seconds East, 79.25 feet to a point; thence North 50 degrees 08 minutes 33 seconds East, 58.85 feet to a point; thence South 85 degrees 37 minutes 14 seconds East, 93.36 feet to a point; thence North 83 degrees 07 minutes 13 seconds East, 80.12 feet to a point; thence North 55 degrees 47 minutes 05 seconds East, 30.29 feet to a point; thence North 55 degrees 47 minutes 05 seconds East, 28.60 feet to a point; thence South 87 degrees 31 minutes 17 seconds East, 417.12 feet to the point and place of beginning.

The described tract contains 21.95 acres and being that property and Lots 1 through 37, as recorded in Map Book 79, Page 98, of the Onslow County Registry, less and excepting the 4.49 Ac. open space previously conveyed to the Town of Swansboro. All courses are referenced to North per Map Book 79, Page 98.

Section 2. Upon and after September 12, 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 Swansboro and shall be entitled to the same privileges and benefits as other parts of the Town of Swansboro.

Section 3. The Mayor of the Town of Swansboro shall cause to be recorded in the office of the Register of Deeds of Onslow County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed of the annexed territory described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Onslow County Board of Elections, as required by G.S. 163-288.1.

Adopted this 12 day of September 2022.

John Davis, Mayor

Attest:

Alissa Fender, Town Clerk



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: Direction on Scheduling Public Hearing for Rezoning Request

Board Meeting Date: September 12, 2022

Prepared By: Alissa Fender – Town Clerk

Overview: Per the Board of Commissioners Policy #9, public hearings related to proposed changes in the official zoning map are authorized to be scheduled when supported by both the Planning Board and staff.

A rezoning request from Emerald Coast, LLC, on behalf of themselves and other property owners was submitted and reviewed by the Planning Board on September 6, 2022. The request was to rezone the four parcels located on Queen Creek Road from O/I (Office and Institutional) to B-1 (Business). The areas are further identified as 140 Queens Creek Road containing 0.48 acres (tax parcel 1313-88), 144 Queens Creek Road containing one acre (tax parcel ID 1313-87) and 150 Queens Creek Road containing 1.35 acres (tax parcel ID 1313-85) 160 Queens Creek Road containing 5 acres (tax parcel ID 1313-85.1) the total acreage requested for rezoning is +/-7.83 acres.

The proposed change from O/I (Office\Institutional) to B-1 (Business) is not consistent with the Comprehensive Plan, specifically the Future Land Use Map, and was unanimously not recommended for approval by the Planning Board because of the low-density land use designation identified on the site and development pattern in the area and due to safety concerns identified in the 2019 Traffic Impact Analysis.

Background Attachment(s):

Recommended Action: Provide direction to staff on scheduling a public hearing for the rezoning request.

Action: _____



Board of Commissioners Meeting

Agenda Item Submittal

Item To Be Considered: **Future Agenda Topics**

Board Meeting Date: **September 12, 2022**

Prepared By: **Alissa Fender - Town Clerk/Admin Services Director**

The purpose of this memo is to provide the Board with matters that staff anticipates/proposes for upcoming meetings. It should be noted that these items are tentatively scheduled for the specified monthly agenda but are subject to change due to preparation of materials, public notice requirements, etc.

In providing this memo each month, we hope it will also provide opportunity for the Board to introduce items of interest and subsequent direction for placement on future agendas, which will allow staff the opportunity to plan accordingly.

Proposed for September 26, 2022

- * Sidewalk Priorities Map
- * Financial Report – 2 months

Proposed for October 10, 2022

Proposed for October 24, 2022

- * Financial Report

November Meetings:

Regular – 14th

Regular – 28th

Future Agenda Items

- * American Rescue Plan Funding Recommendations (updates)
- * Further LUP Review/Amendments
 - o Comprehensive Transportation Plan Revisions
- * Text Amendments – Occupancy Tax
- * Text Amendments – R/A Zoning Uses – *referred back to Planning Board*
- * Sub-committee designations for Strategic Plan Implementation
(*Eco Dev Committee est. Oct 2020*)
- * Historic Preservation Commission Recommendations (Joint Meeting Items)
 - o Demo by neglect
- * Building Standards
- * Table of Permitted Uses Amendments (*after consider re-empowering BOA for Special Use Permit Review*)
- * Joint Meeting with Historic Preservation Commission
- * Special Use Permit/Starbucks – Additional details needed; Planning Board tabled
- * Board Meeting Alternatives for Public viewing (*undergoing further research*)
- * Church Street Dock Safety Policy
- * Church Street One Way consideration past Water Street
- * Emerald Coast Queens Creek Road Rezoning request
- * Swimming Pool/Consideration for Establishing a Pool Committee (*on hold for P&R Master Plan*)