



# Board of Commissioners Agenda

## Town of Swansboro

Tuesday, March 12, 2024

### Board Members

John Davis, Mayor | William Justice, Mayor Pro Tem | Pat Turner, Commissioner  
Jeffrey Conaway, Commissioner | Douglas Eckendorf, Commissioner | Joseph Brown, 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.](#) August 14, 2023, Regular Meeting
- [b.](#) August 14, 2023, Closed Session
- [c.](#) August 28, 2023, Regular Meeting
- [d.](#) August 28, 2023, Closed Session
- [e.](#) Budget Ordinance Amendment #2024-7

#### IV. Appointments/Recognitions/Presentations

##### a. Recognition of McKenna Panos

*Presenter: Mayor Pro Tem Bill Justice*

#### V. Public Hearing

##### [a.](#) UDO Text Amendment to Massing Study Standards in the Historic District

*Presenter: Rebecca Brehmer – Projects/Planning Coordinator, CFM, CZO*

During the October 17, 2023, and November 28, 2023, Swansboro Historic Preservation Commission meetings, a request was made by the board to review and amend the current Massing Study Standards found under Section 11 New Construction of our Historic District Design Standards. The Planning Board recommended this amendment to the Board of Commissioners at their February 6, 2024, meeting.

*Recommended Action:*

- 1. Hold a public hearing;*
- 2. Motion to approve Ordinance 2024-04 amending Appendix III Historic District Design Standards Section 11 New Construction.*

## **VI. Business Non-Consent**

### **a. Sidewalk Repair and Street Repaving Project** ***Presenter: Jon Barlow – Interim Town Manager***

The property owner of 101-104 Church Street, aka Port of Swannsborough, is replacing the concrete parking pad in front of this business location. The Town owns a 6' wide portion of this pad along Church Street. The Town received a quote from the contractor working for the private property owner to replace the Town's portion in the amount of \$7,560 for 4" of concrete or \$9,000 for 6" of concrete (120 feet in length). Additionally, a quote to repave the portion of Church Street from Water Street to Front Street was received from Onslow Grading and Paving in the amount of \$22,755.50. Both of these projects are Powell Bill eligible. The FY23/24 Budget has funds remaining to cover these expenditures.

*Recommended Action: Authorize staff to enter into a contract with Sun City Contractors in the amount of \$9,000 to replace 6'x120' of concrete and a separate contract with Onslow Grading and Paving in the amount of \$22,755.50 to repave a portion of Church Street.*

### **b. Future Agenda Topics** ***Presenter: 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.*

### **c. Attorney's Report**

### **d. Amendment to Board Policy # 15 – Private Roads and Associated Facilities Acceptance of Dedication and Maintenance** ***Presenter: Jon Barlow – Interim Town Manager***

As requested by the board, an amendment to Board Policy #15 has been drafted by the Town Attorney for review.

*Recommended Action: Motion to approve Resolution 2024-R4 to amend Board Policy # 15 – Private Roads and Associated Facilities Acceptance of Dedication and Maintenance.*

## **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**

**Town of Swansboro**  
**Board of Commissioners**  
**August 14, 2023, Regular Meeting Minutes**

Item IV - a.

In attendance: Mayor John Davis, Mayor Pro Tem Frank Tursi, Commissioner Pat Turner, Commissioner Larry Philpott, Commissioner Jeffrey Conaway, and Commissioner PJ Pugliese.

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**Call to Order/Opening Prayer/Pledge**

The meeting was called to order at 5:30 pm. Mayor Davis led the Pledge of Allegiance.

**Public Comment**

Hariette Nichols of 122 Front Street shared that the downtown area had places that needed to be addressed such as holes in the sidewalks. She felt that it was not easy for older people to maneuver safely. In response to the board's inquiry of if she was in favor of the Social District, she shared that she would be only with the presence of law enforcement.

Charels Gillcan of 105 Church Street shared that as a local business owner downtown, he supported having a Social District downtown.

Lee Schuller of 140 Front Street, as a long-time resident downtown, he shared that he had seen too many incidents with individuals under the influence and was not in support of the Social District, fearing it could make things worse.

**Adoption of Agenda and Consent Items**

On a motion by Commissioner Turner, seconded by Mayor Pro Tem Tursi, the agenda and the below consent items were approved unanimously.

- March 12, 2023, Regular Meeting Minutes
- March 27, 2023, Regular Meeting Minutes
- Budget Ordinance Amendment #2024-1

**Business Non-Consent**

*Social District Consideration*

Projects/Planning Coordinator Rebecca Brehmer reviewed that the Board of Commissioners expressed interest in learning more about implementing a social district downtown. The topic was first brought to the Board by staff on March 27, 2023, and staff was instructed at the July 10th meeting to bring it back with a few adjustments.

Ms. Brehmer further reviewed that an updated survey was distributed to both residential and business owners within the proposed boundary on August 4, 2023, along with an updated draft ordinance, boundary map to limit the district to span Front Street and go

up Church Street stopping at the Visitors Center and outlining a new condition of the district just being open during event/festivals only. Responses were due by Friday, August 11th.

Additionally, during a team meeting comprised of the Manager, Police Chief, Planner, Clerk, and Projects/Planning Coordinator reasons were identified as to why the Board may want to consider allowing the social district from Wednesday – Sunday from 5-11pm. In regard to frequent staff turnover at local businesses and an influx of people from out of town during the busy tourist season, a set schedule would be easier to establish continuity with all parties involved in regulating and enforcing the social district.

In response to inquiries from the board Ms. Brehmer and or Police Chief Taylor clarified the following:

- The Schuller property could be omitted from the map
- Other areas were not contacted with regards to why they did not do the districts
- Survey results were:
  - o Last survey only businesses were polled. 10-yes and 2-no.
  - o The recent survey polled residents, 30 sent and 8 were returned, all no.
- The surveys returned as “no” mentioned reasons such as litter and behavior.
- Residents of Water Street were not surveyed.
- The Visitor Center was included in the area because it is also a public restroom.
- Enforcement is outlined in NCGS and the Town Code, however officers are not capable of ticketing every infraction.
- In the past, the Police Department had been instructed to turn a blind eye to open containers and only address situations that became out of control.
- A restriction could be added that cups must be discarded before entering another business.
- If something happens on a resident’s property, the resident would not be liable, the business that sold the beverage would be liable.

After discussion of possibly testing or doing a dry run, on a motion by Commissioner Conaway, seconded by Commissioner Turner, the consideration was tabled. The vote was 4:1 (Ayes: Conaway, Turner, Pugliese, Philpott. No: Tursi) The board wanted more research, survey residents from Shore Drive to the waterfront, and contact other municipalities to find out why they did or did not proceed with having a social district.

#### *Parking Ordinance Discussion*

Police Chief Taylor reviewed that the Board expressed their desire to review the parking ordinance with specific attention related to downtown parking. Currently there were no provisions to restrict parking in the right-of-way downtown. There were provisions for blocking driveways under §72.10 (A) (2). It should be noted that in general streets

downtown are anywhere from 30 feet to 40 feet wide with a 15 foot or 20 foot right-of-way on either side. Contact was made to nearby communities with downtown's similar to Swansboro, and neither have regulations that differ from ours.

Chief Taylor also shared that creating language that could prohibit all other parking except for residential property owners/tenants would prove challenging due to several reasons, such as visitors, AirBNB's, and residents that did not have driveways.

In response to inquiries from the board, Chief Taylor clarified the following:

- The town can initiate towing of vehicles parked in the right-of-way.
- If a vehicle is parked outside of the right-of-way, the property owner would have to initiate towing of the vehicle.
- A MOU with a Towing company exists for festivals, extending to handling vehicle in the right-of-way outside the festival area could be considered.
- Providing parking passes to only residents would be logistically difficult due to relocations, new cars, lost passes, etc.

Mayor Pro Tem Tursi commented that the rights-of-way are public, and people have a right to park unless there is an ordinance in effect prohibiting which there was not. He suspects that property owners believe that the right-of-way was their property.

Commissioner Turner suggested educating owners that they can do something about blocked driveways.

#### *Samuel Swann Bland Outstanding Community Service Award Revision Consideration*

Town Clerk Fender reviewed the history of the Samuel Swann Bland Outstanding Community Service Award which was to be given annually to a public employee, civic leader, or community volunteer that has demonstrated the qualities outlined in the application. Traditionally, recipients were announced and recognized at a December Board meeting and presented with a plaque. In August and September of 2022, the Board expressed its desire to elevate the award by expanding the selection criteria, changing the name, and to make the recognition more formal. For FY 23-24, funds in the amount of \$1,400 were allocated to accomplish a more formal recognition of the award, even making the event more of an alumni reunion. In addition to the individual plaque, the names of all recipients would be placed in the lobby of Town Hall, and a more formal banquet will be held where the next year's recipient will be celebrated and/or announced. Staff recommended leaving the nomination criteria as originally created in honor of Sam Bland's outstanding dedication to the improvement of community services, diligence, hard work, and leadership. Elevate the recognition of the award by holding an Alumni

Banquet where the new recipient is inducted into this elite group annually. Invites would be extended to all past recipients to the banquet each year.

During discussion, it was requested that an employee of the year also be chosen and announced at the banquet as well, however board members did not agree due to that taking away from the award being given. Board members supported removal of public employee from the application form leaving eligibility criteria as civic leader or community volunteer and for announcement of the recipient at the December meeting.

In response to inquiries from the board, Mrs. Fender clarified that nominations are sought by sending out through the Town's social media platforms and additional postal mailings could be sent to the area churches, and civic organizations.

### **Public Comment**

Joe Brown of 202 Knightheds Drive inquired that he would like to know what liability the Police Department had with turning a blind eye. He also shared that he did not think less people would visit the Downtown area if the Social District was not approved, stating people will come no matter what.

Attorney Parrish responded to Mr. Brown, stating that there shouldn't be a directive given to staff not to follow the law. If there are laws in effect that are not amended by the enactment of the social district, then they should be followed as written.

### **Manager's Comments**

Public Works Director Gerald Bates provided the board with an update on the downtown Muscovy ducks overpopulation. He shared that over the past several weeks many interested individuals responded by coming and removing 154 ducks to their properties. Additionally, around 3 dozen eggs were removed. Two more individuals were coming to rehome more of the ducks. Mr. Bates shared that education of citizens, installation of signs, and removal of eggs would be a continued effort in attempts to avoid an increase in population and if the amount rises again, they will offer rehoming options. A recommendation by the Humane Society of the United States was to administer a sterilization medication, which could be costly.

Commissioner Turner commented that a Facebook post was made earlier indicating that the Board called for euthanasia of the ducks, and she wanted it on record that at no point was that requested, and the allegation was false.

The board took a recess from 7:00 to 7:05.

Commissioner Philpott provided the board with an EOC/PSB update. He shared staff had research grants and funding opportunities such as BRIC, EOC Grant through FEMA, ad

financing and that a formal request to the state was sent around July 19<sup>th</sup> for more assistance.

Finance Director Johnson shared that many of the application processes for these options would likely require action by the LGC, and that a schematic design would be beneficial in those processes.

Commissioner Philpott shared that the consultant BeckerMorgan shared that they could assist with creating a 25% schematic design at a fee of around 9% of project cost. This would also give us more of an idea towards the length of time to complete the project and estimates on tasks that must be completed based on the location of where the building will be located. If the board approved moving forward with a schematic design, that process would take approximately 3 months. The committee would review their proposal and return to the board at a future meeting with a recommendation.

Commissioner Philpott also shared that JUMPO had refined the proposed superstreet and would provide updates to the Board once they have addressed concerns that were provided to them related to our intersections and our downtown area. Per Planner Correll that would likely be in 2025.

### **Closed Session**

On a motion by Commissioner Turner, seconded by Commissioner Pugliese the board entered closed session at 7:15 pm pursuant to NCGS 143-318.11 (a) (3) to allow the Town Attorney to provide updates on legal matters under the attorney-client privilege.

Pursuant to a motion duly made and seconded in closed session the board returned to open session.

### **Adjournment**

On a motion by Commissioner Turner, seconded by Commissioner Pugliese, the meeting adjourned at 7:40 pm.

**Town of Swansboro**  
**Board of Commissioners**  
**August 28, 2023, Regular Meeting Minutes**

Item IV - c.

In attendance: Mayor John Davis, Mayor Pro Tem Frank Tursi, Commissioner Pat Turner, Commissioner Larry Philpott, Commissioner Jeffrey Conaway, and Commissioner PJ Pugliese.

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**Call to Order/Opening Prayer/Pledge**

The meeting was called to order at 5:30 pm. Mayor Davis led the Pledge of Allegiance.

**Public Comment**

Citizens were offered an opportunity to address the Board regarding items listed on the agenda. No comments were given.

**Adoption of Agenda and Consent Items**

On a motion by Commissioner Turner, seconded by Commissioner Philpott, the agenda was amended to remove the agenda item “*Dockwalk Bulkhead/Mattocks Property*” and for further discussion on the item to occur in closed session. The amended agenda and the below consent items were approved unanimously.

- Resolution Accepting LASII ARPA Funding for Stormwater Master Plan
- Resolution Accepting Fiscal Year (FY)2022 Assistance to Firefighters Grant

**Appointments/Recognitions/Presentations**

*Swan Reveal*

Seaside Arts Council representatives, Rich & Maureen Well and Debra Pylypiw thanked the Town for supporting the Swans by the Sea Project. 1 of 2 swans purchased was revealed, which was beautifully hand painted by a local artist.

*The public hearings scheduled for this meeting were moved to be handled after the below agenda item.*

**Business Non-Consent**

*Emergency Operations Center Option Selection*

Town Manager Webb reviewed that the final draft feasibility study was presented to the Board of Commissioners on July 10, 2023. The study included four options that capture the space needs in differing ways. In all options the EOC will be designed as a highly secure and hardened facility capable of resisting Category 4 hurricane conditions. Of those (see attachment A), Option C was most preferred by Staff because it provided drive-thru bays and allows for the existing building to be re-purposed in the future for another



use. The estimated cost for Option C was \$9.3-12.6 million dollars. SCIF Funding obtained a total of \$6 million for this project. Staff was directed to gather additional funding opportunities/resources. Committee Chair/Commissioner Philpott gave a brief on those funding opportunities/resources under Board Comments on August 14, 2023, and further discussion was scheduled for August 28, 2023. In order for staff to proceed with grant applications etc., a firm decision on one of the options will be needed for the next step, which will be to create a design schematic.

In response to inquiries from the board the following details were clarified by staff:

- The town's healthy fund balance helps support being able to obtain financing.
- The chances of being selected for available grants would depend on the amount of applicants and are typically awarded 3 to 6 months after application deadlines close.
- With Option C there would be no disturbance in operations only a disturbance in parking.
- Area of the building used was only to give an idea, the final building design could be 2 stories.

On a motion by Commissioner Turner, seconded by Commissioner Conaway with unanimous approval, Option C was selected for Becker Morgan to proceed with design schematic.

The board requested that the site area be staked out in order to give a better idea of where the building would be located.

## **Public Hearing**

*Text Amendment to 152.016 Definitions of Basic Terms*

***Presenter: Rebecca Brehmer – Projects/Planning Coordinator***

Projects/Planning Coordinator Brehmer reviewed that a text amendment to section 152.016 Definitions of Basic Terms was needed to add a definition of "Marina". The suggested definition was as follows:

*"MARINA. A facility for the docking, mooring, berthing, or storage of marine vessels. Such uses may include a wide variety of accessory uses such as boat fuel sales, sales of boating supplies and equipment, boating related services, laundries, boat repair and rental, storage racks and dry storage of boats."*

In response to inquiries from the board it was clarified that the Town's transient dock was not considered a Marina.

The public hearing was opened at 6:03 pm, then closed as there were no comments offered.

Board members felt that there were needed edits to the definition, and it was suggested using the term "shall" instead of "may". So the amendment was tabled to a future meeting for additional edits made to the definition.

#### *Amendment to the CAMA Land Use Plan*

Projects/Planning Coordinator Brehmer reviewed an amendment to the CAMA Land Use Plan was recommended regarding protecting environmentally sensitive and to clarify the recommendations from Appendix A. The goal of this amendment was to include not only all wetlands, but all environmentally sensitive areas in the CAMA Land Use Plan. These were the result of the recent Supreme Court Case 21-454 Sackett v. EPA, which limits the regulatory power of the EPA. This limited protection to wetlands is only connected to other water sources.

The public hearing was opened at 6:10 pm, then closed as there were no comments offered.

In response to inquiries from the board related to the use of the term "plans" in the proposed statement of *"Going forward, the Town plans to amend the Unified Development Ordinance to enable clustering in office and business zoning districts, as well as residential district"*, Planner Correll shared that the term "plans" applied because there is not a legal standing to do business clusters and it is unknown if the town will have the authority. The board requested that the term "intends" be used instead of "plans".

On a motion by Commissioner Philpott seconded by Commissioner Conaway, Resolution 2023-R7 to amend the CAMA Land Use Plan Appendix A, was approved unanimously with the term change mentioned above.

### **Business Non-Consent**

#### *Future Agenda Topics*

Future agenda items were shared for visibility and comment. In addition, an opportunity was provided for the Board to introduce items of interest and subsequent direction for placement on future agendas. There were no additional items added, however, Mayor Davis shared that cancellation of meetings should not be occurring and inquired why the

Planning Board meeting was recently canceled. Per Planner Correll, the Planning Board did not have any business for that meeting.

### **Public Comment**

Rachel Henson of 437 Patriots Point Lane shared that she was interested in knowing how the town intends to make Corbett Avenue/Highway 24 and downtown more complaint for ADA with installation of sidewalks. She shared that the town's walkability score was a 3, and as a visually challenged individual she was unable to walk safely to a grocery store or even walk downtown due to obstacles. She offered to walk the town with staff to help identify needed changes.

### **Board Comments**

Commissioner Conaway shared that the town was making many updates to sidewalks and to install in areas where there are not any. He feels that the downtown area should be addressed as soon as possible.

Mayor Davis shared that he had been made aware that someone on the staff had given a candidate a tour around town and shows projects, at which point that candidate took it upon themselves to speak to a contractor about work they were doing that they should not have been doing. Manager Webb shared that she was unaware of such a situation and to her knowledge staff had only shared a packet of information with all the candidates via email which shared details about political signs, and other items they needed to know about.

### **Closed Session**

On a motion by Commissioner Turner, seconded by Commissioner Philpott, the board entered closed session at 6:27 pm pursuant to NCGS 143-318.11 (a) (3) to allow the Town Attorney to provide updates on legal matters under the attorney-client privilege and (5) to instruct the public body's staff on negotiating terms for property acquisition.

Pursuant to a motion duly made and seconded in closed session the board returned to open session. Mayor Davis shared that action was taken related to the Dockwalk Bulkhead/Mattocks Property to approve appropriated funds for repair of the bulkhead.

On a motion by Commissioner Turner, seconded by Commissioner Philpott, with unanimous approval, \$101,450 was appropriated to reconstruct the deteriorated bulkhead on the mattock Property and amend the project ordinance for the Swansboro Bicentennial Park Boardwalk Extension with Public Day Docks.

### **Adjournment**

On a motion by Mayor Pro Tem Tursi, seconded by Commissioner Turner the meeting adjourned at 7:36 pm.

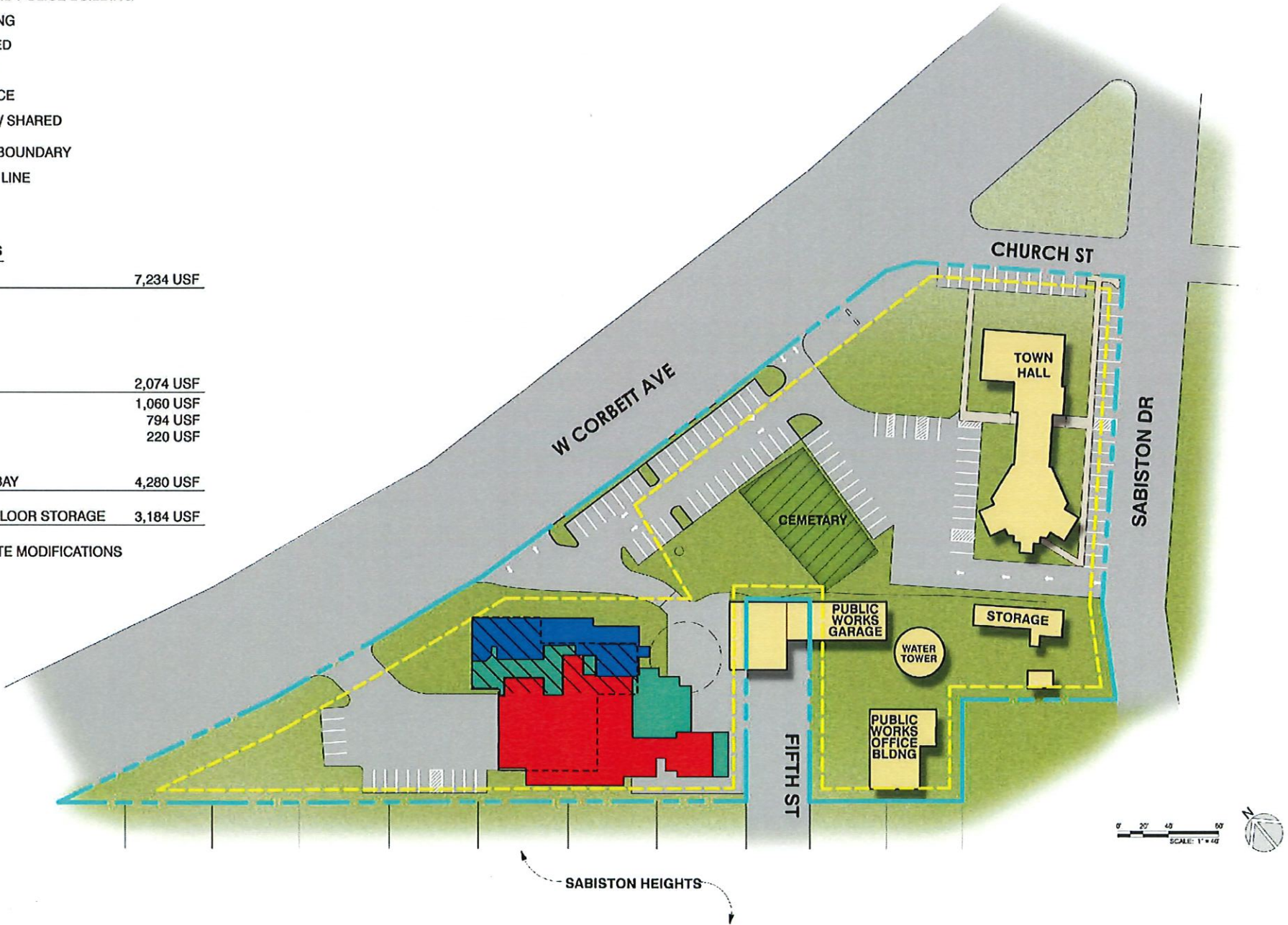
Site Plan Diagrams

LEGEND

- EXISTING FIRE AND POLICE BUILDING
- EXISTING BUILDING
- TO BE RENOVATED
- PROPOSED FIRE
- PROPOSED POLICE
- PROPOSED EOC / SHARED
- SET BACK BOUNDARY
- PROPERTY LINE

SQUARE FOOTAGES

NEW A	7,234 USF
POL	
FIRI	
EOC	
RENOVATION	2,074 USF
POLICE	1,060 USF
FIRE	794 USF
EOC / SHARED	220 USF
EXISTING FIRE APP BAY	4,280 USF
EXISTING SECOND FLOOR STORAGE	3,184 USF
NOTE: REQUIRED SITE MODIFICATIONS NOT SHOWN	



OPTION A



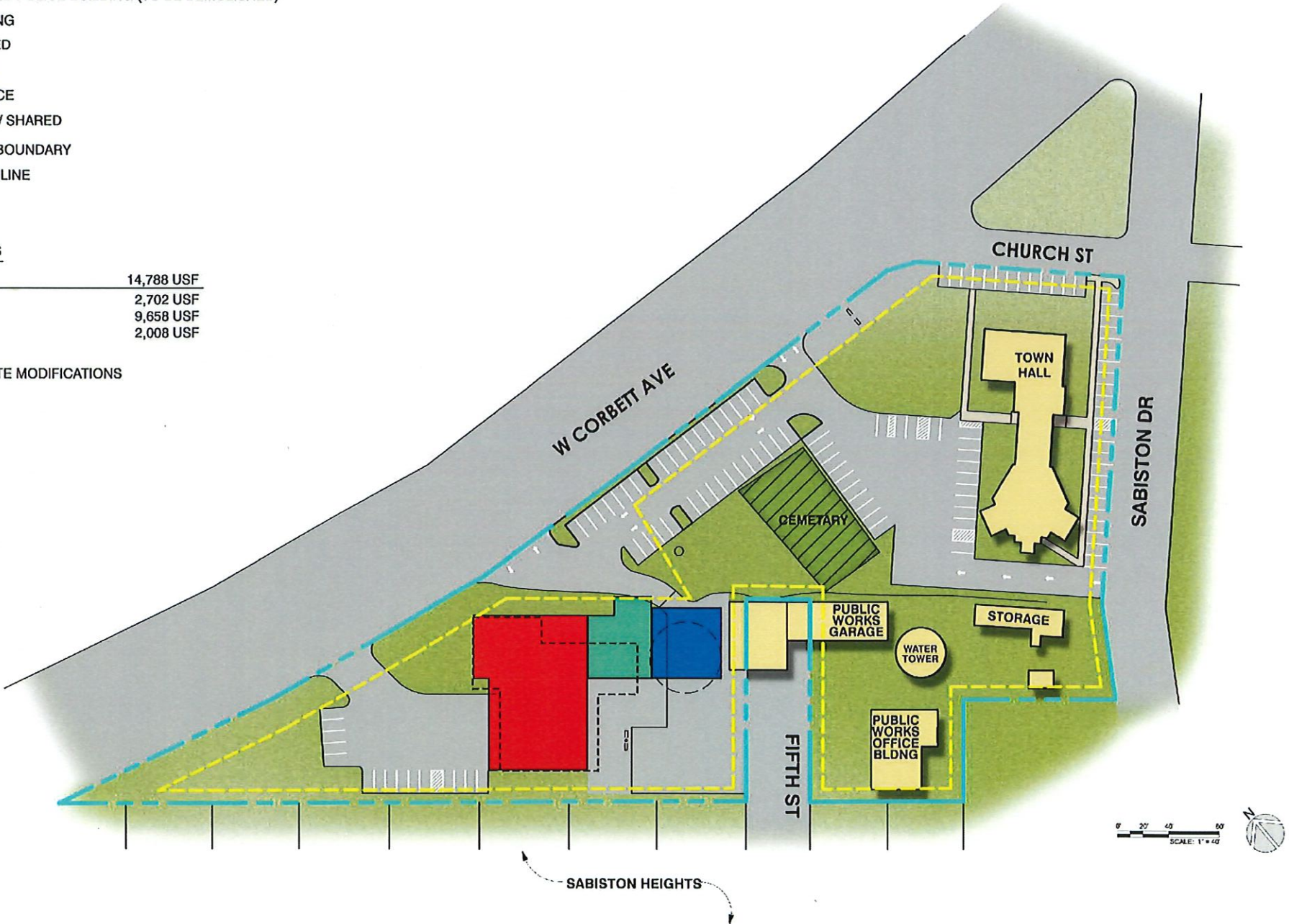
LEGEND

- EXISTING FIRE AND POLICE BUILDING (TO BE DEMOLISHED)
- EXISTING BUILDING
- TO BE RENOVATED
- PROPOSED FIRE
- PROPOSED POLICE
- PROPOSED EOC / SHARED
- SET BACK BOUNDARY
- PROPERTY LINE

SQUARE FOOTAGES

NEW BUILDING	14,788 USF
POLICE	2,702 USF
FIRE	9,658 USF
EOC / SHARED	2,008 USF

NOTE: REQUIRED SITE MODIFICATIONS  
NOT SHOWN



OPTION B



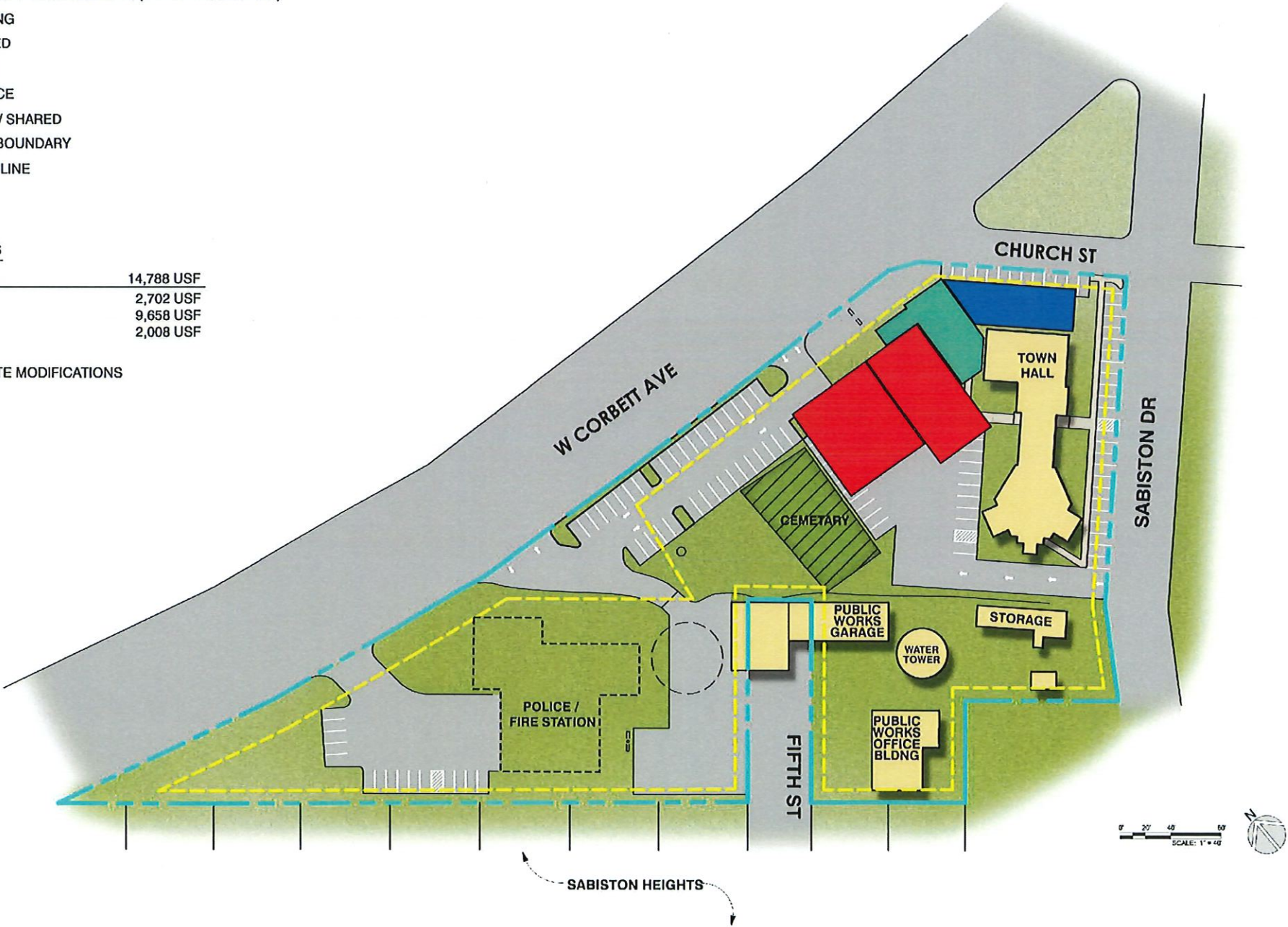
LEGEND

- EXISTING FIRE AND POLICE BUILDING (TO BE DEMOLISHED)
- EXISTING BUILDING
- TO BE RENOVATED
- PROPOSED FIRE
- PROPOSED POLICE
- PROPOSED EOC / SHARED
- SET BACK BOUNDARY
- PROPERTY LINE

SQUARE FOOTAGES

NEW BUILDING	14,788 USF
POLICE	2,702 USF
FIRE	9,658 USF
EOC / SHARED	2,008 USF













NOTE: REQUIRED SITE MODIFICATIONS  
NOT SHOWN



OPTION C

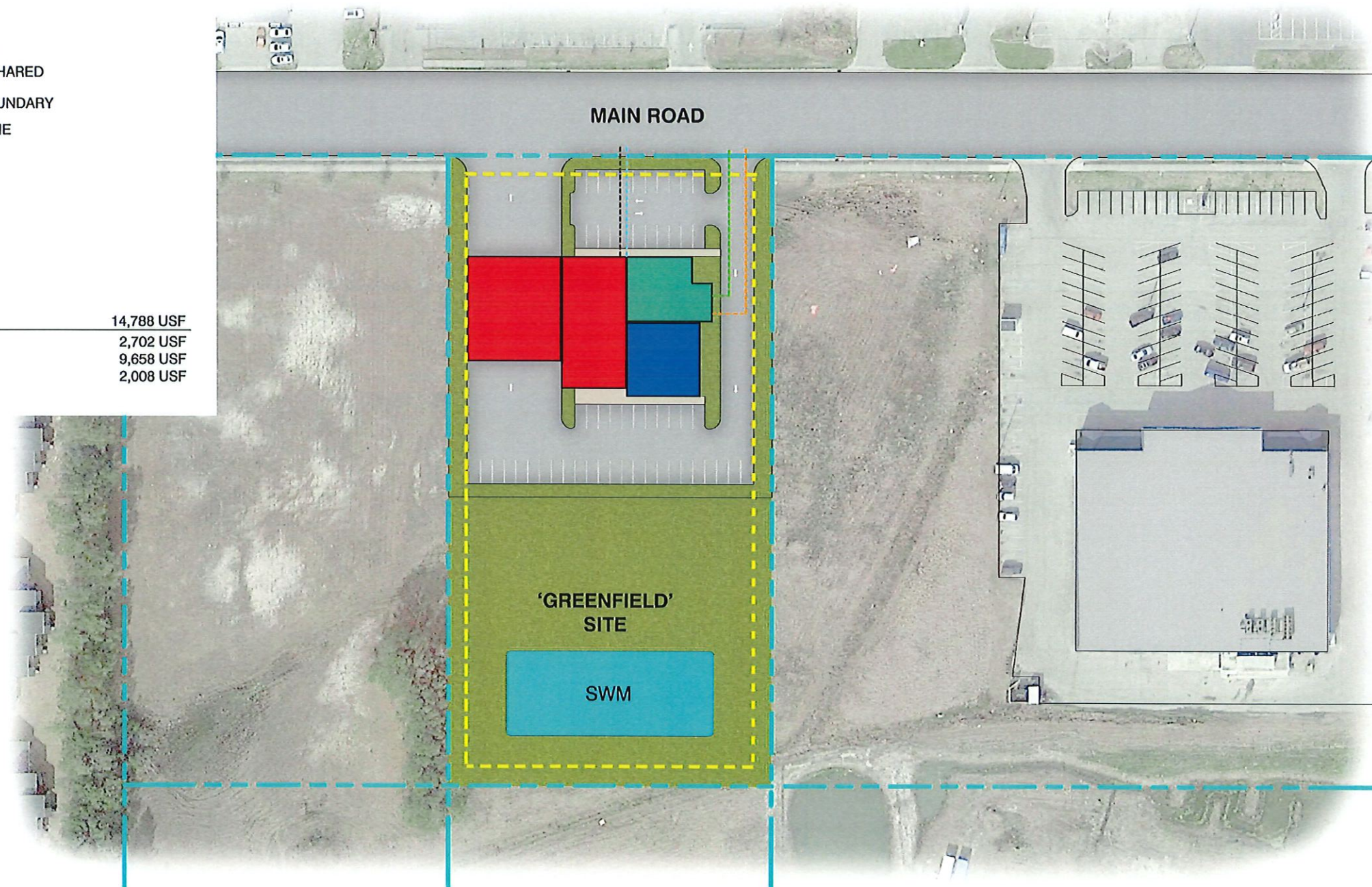


### LEGEND

-  EXISTING FIRE AND POLICE BUILDING  
 EXISTING BUILDING  
 TO BE RENOVATED  
 PROPOSED FIRE  
 PROPOSED POLICE  
 PROPOSED EOC / SHARED  
 SET BACK BOUNDARY  
 PROPERTY LINE  
 SEWER LINE  
 WATER LINE  
 POWER LINE  
 DATA LINE

SQUARE FOOTAGES

NEW BUILDING	14,788 USF
POLICE	2,702 USF
FIRE	9,658 USF
EOC / SHARED	2,008 USF



**OPTION D**





# Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Budget Ordinance Amendment #2024-7**

Board Meeting Date: **March 12, 2024**

Prepared By: **Sonia Johnson – Finance Director**

**Overview: Parks & Recreation:** The Town received a donation in the amount of \$2,100. The donor specifically asked for the funds to go towards the Easter Egg Hunt on March 23rd.

This budget amendment serves to acknowledge the receipt of \$2,100 to purchase eggs (pre-filled & empty), candy, easter baskets, toys, and prizes for participants for the Easter Egg Hunt.

**Source of Funds: Donations Parks & Recreation**

**Background Attachment(s):** Budget Ordinance Amendment #2024-7

**Recommended Action:** Motion to approve Budget Ordinance Amendment #2024-7

**Action:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BUDGET ORDINANCE AMENDMENT #2024-7**

**BE IT ORDAINED** by the Board of Commissioners of the Town of Swansboro that the following amendment be made to the annual budget ordinance for fiscal year ending June 30, 2024:

Section 1. To amend the General Fund budget, the following changes are to be made:

<u>Appropriations</u>	<u>Increase</u>
Parks & Recreation	\$2,100

<u>Revenues</u>	<u>Increase</u>
Donation-Parks & Recreation-(Easter Egg Hunt)	\$2,100

Section 2. Copies of this budget amendment shall be furnished to the Town Clerk, the Budget Officer, and the Finance Director, to carry out their duties.

Adopted by the Board of Commissioners in regular session, March 12, 2024.

\_\_\_\_\_  
John Davis, Mayor

Attest:

\_\_\_\_\_  
Alissa Fender, Town Clerk



# Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **UDO Text Amendment to Massing Study Standards in the Historic District**

Board Meeting Date: **March 12, 2024**

Prepared By: **Rebecca Brehmer – Projects/Planning Coordinator, CFM, CZO**

**Overview:** During the October 17, 2023, and November 28, 2023, Swansboro Historic Preservation Commission meetings, a request was made by the board to review and amend the current Massing Study Standards found under Section 11 New Construction of our Historic District Design Standards. The Planning Board recommended this amendment to the Board of Commissioners at their February 6, 2024, meeting.

Currently, Section 11 New Construction of our Historic District Design Standards requires all new construction, including additions, require a Massing Study completed by an architect or engineer to make sure anything new is congruous with the special character of the district. The purpose of the draft amendment is to exclude small additions or projects from needing massing studies as is currently required. The draft ordinance proposed to the Swansboro Unified Development Ordinance adds to Appendix III Section 11.1 New Construction Standards that if a small outbuilding is 150 square feet or less or if an addition of a home is 250 square feet or less a massing study is not required.

**Background Attachment(s):**

- 1. Draft Ordinance 2024-O4
- 2. Section 11 New Construction (current massing study requirements)
- 3. Comprehensive Plan Consistency Statement

**Recommended Action:**

- 1. Hold a public hearing;
- 2. Motion to approve Ordinance 2024-O4 amending Appendix III Historic District Design Standards Section 11 New Construction.

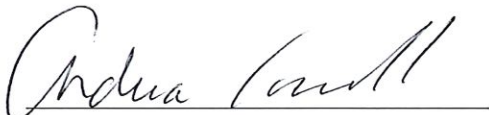
**Action:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## TOWN OF SWANSBORO PLANNING AND ZONING BOARD STATEMENT OF CONSISTENCY

On February 6, 2024, the Planning Board heard the requested text amendment and recommended unanimous approval of the text amendment to the Town Unified Development Ordinance as followed: Appendix III Historic District Design Standards, Section 11.1 New Construction.

The Town's Planning Board finds that the proposed text amendment is consistent with the current Comprehensive Plan and other applicable plans and policies and considers the action taken to be reasonable and in the public interest because it provides the structure, for Town staff to proactively address issues related to impacts caused by development in order to protect the health, safety, and welfare of the Town's residents.

  
Planning Board Chair

  
Town Planner

It is the intent of these regulations to assure that new construction, including additions to existing improvements, is congruous with the special character of the district. In considering new construction, the Commission and/or the Planner shall direct design that it is harmonious with the character of the district.

Consultation with the Swansboro Historic Preservation Commission in the early stages of a new construction project to become familiar with its procedures and aspects of design is recommended.

Massing studies enable graphic analysis of the shape, form, size and building envelope of proposed new construction. The massing study provides the applicant with a way to document the proposed building height and scale, and other elements of the proposed construction as they relate to nearby existing buildings, especially in the block.

#### **MASSING STUDY**

1) Engage a state-licensed architect or engineer to prepare a massing study. This massing study shall include an existing conditions plan (including, but not limited to, showing topography, any significant trees, and utilities,) and a proposed condition site plan. Plans shall be prepared with a scale of 1 inch = 20 feet or of a size easily reviewed by staff and the Swansboro Historic Commission.

#### **SITE PLACEMENT**

2) Maintain a similar front, side, and rear yard setback to other contributing and non- contributing buildings on the block and/or side of the street.

3) Orient the building's front entrance similar to other contributing and non-contributing structures on the block and/or side of the street. Use architectural elements such as porches to define new entrances.

4) Maintain the pattern of building separation and lot coverage that is found on the block and/or side of the street.

5) Place outbuildings and accessory structures in rear yards. Avoid locations that obscure the principal building's prominent architectural features or significant site features.

6) Make the proposed landscaping, groundcover, and any pavement treatment for the site compatible with surrounding properties on the block and in the historic district.

7) Minimize ground disturbance during new construction to avoid unnecessary damage to unknown archaeological resources.

#### **BUILDING HEIGHT/SCALE**

8) Maintain a building height that is consistent with the height of contributing buildings found on the block or side of the street. Residential buildings traditionally range from one to two and one-half stories in height, while commercial buildings range in height from one to four stories.

9) Make the scale (the relationship of a building's mass and details to a human being) of the proposed building compatible with the scale of other contributing structures in the historic district. This relationship to building mass should include nearby buildings in the block and adjoining open space.

10) Design the proportion (the ratio of height to width) of the proposed new building and its architectural elements to be consistent with the proportion of contributing buildings and their associated architectural elements in the historic district.

11) Use windows and doors in new construction that are compatible in proportion, shape, location, pattern, and size with windows and doors of contributing buildings in the historic district.

#### **MATERIALS**

12) Keep the siding and trim material of the proposed building consistent with materials traditionally used on the immediate block and in the historic district. This includes the physical elements of the building, such as stone or wood walls, brick, fencing, landscaping mass, building facades and other elements, or combinations thereof.

13) The use of synthetic products such as vinyl siding and other modern day products marketed to imitate traditional building materials are permitted but not encouraged.

14) Use materials in traditional ways. New materials should appear as if they were applied in a traditional manner so as to convey the same visual appearance as historically used and applied building materials.

#### **DETAILS**

15) Use architectural details on the building that complement the architectural details of contributing structures on the block and/or side of the street.

16) Avoid exact replications of historic buildings and their architectural elements. Such efforts may provide a false sense of history by confusing the age of a "new" building.

17) Provide a date brick or other exterior date identification marker on all new construction to assist future generations in the dating of buildings.

## TEXTURE

Item V - a.

18) Create in new construction a similar degree of texture that is found in contributing buildings in the historic district. However, concentrate on the ability to blend rather than duplication. Texture is the relief on a building surface that is achieved through the use and interaction of a variety of building materials and shapes. Materials such as weatherboard siding, decorative fish-scale shingles, and beaded board porch ceilings are examples of wooden architectural elements that have different physical and visual qualities and contribute to the “texture” of a building surface.

19) Use traditional building materials in traditional locations to achieve texture.

## COLOR

20) Choose exterior colors for new construction that will blend and work with the surrounding buildings and area.

## FORM AND RHYTHM

21) Design new construction that reflects the basic shapes and forms found on the block and in the historic district.

22) Maintain a consistency in roof shape between new construction and the contributing structures found on the block and/or side of the street. Roof forms commonly found in the historic district include gable varieties with an average pitch of 7/12 or greater, hipped roofs in the residential areas, and flat roofed buildings in the late 19th and early 20th century commercial downtown with storefront facades.

23) Maintain similar percentages and patterns of window and door openings. Openings which vary considerably from the established patterns found on the block in which the new construction is placed will tend to have a disruptive effect on the desired harmony of the streetscape.

24) Create form and rhythm in new construction through the use of architectural elements and details. Study neighboring historic structures on the block to see if a consistent treatment of elements exists and emulate this pattern in the new construction. However, limit the amount in which one new building emulates a contributing building unless the building is a reproduction of an existing contributing building from the Town's Historic District. In which case, a key stone should be imbedded in the foundation to identify when the new building was built.

(Ord. 2005-O3, passed 3-15-2005; Am. Ord. 2021-O3, passed 5-24-2021; Am. Ord. 2023-O2, passed 1-23-2023)

## ORDINANCE 2024-O4

WHEREAS North Carolina General Statute 160D-605 and 160D-701 requires that zoning regulations shall be made in accordance with a Comprehensive Plan; and

WHEREAS the Board of Commissioners finds that the proposed text amendment to the Unified Development Ordinance regarding a revision to the massing standards that massing studies do not apply to outbuildings and additions 100 sq. ft or less in the Historic District to be consistent with the Town of Swansboro CAMA LAND USE Plan updated January 22, 2019, and amended August 28, 2023.

NOW BE IT ORDAINED by the Town of Swansboro Board of Commissioners that the Town Unified Development Ordinance be amended.

### ***Appendix III***

#### **HISTORIC DISTRICT DESIGN STANDARDS**

##### **SECTION 11 NEW CONSTRUCTION**

###### *11.1 New Construction Standards*

*(Text highlighted in yellow are amendments that need to be added to the Unified Development Ordinance.)*

It is the intent of these regulations to assure that new construction, including additions to existing improvements, is congruous with the special character of the district. In considering new construction, the Commission and/or the Planner shall direct design that is harmonious with the character of the district. **If a small outbuilding is 150 square feet or less or an addition of a home is a 250 square feet or less a massing study is not required.**

This Ordinance shall be effective upon adoption.

Adopted by the Board of Commissioners in regular session, March 12, 2024.

Attest:

\_\_\_\_\_  
Alissa Fender, Town Clerk

\_\_\_\_\_  
John Davis, Mayor



## Board of Commissioners Meeting Agenda Item Submittal

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Item To Be Considered: **Sidewalk Repair and Street Repaving Project**

Board Meeting Date: **March 12, 2024**

Prepared By: **Jon Barlow – Interim Town Manager**

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**Overview:** The property owner of 101-104 Church Street, aka Port of Swannsborough, is replacing the concrete parking pad in front of this business location. The Town owns a 6' wide portion of this pad along Church Street. The Town received a quote from the contractor working for the private property owner to replace the Towns portion in the amount of \$7,560 for 4" of concrete or \$9,000 for 6" of concrete (120 feet in length). Additionally, a quote to repave the portion of Church Street from Water Street to Front Street was received from Onslow Grading a Paving in the amount of \$22,755.50. Both of these projects are Powell Bill eligible. The FY23/24 Budget has funds remaining to cover these expenditures.

**Background Attachment(s):**

1. SunCity Quote
2. Onslow Granding & Paving quote

**Recommended Action:** Authorize staff to enter into a contract with Sun City Contractors in the amount of \$9,000 to replace 6'x120' of concrete and a separate contract with Onslow Grading and Paving in the amount of \$22,755.50 to repave a portion of Church Street.

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**Action:** \_\_\_\_\_

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# PROPOSAL

Date: 3/5/2024

To Gerry Bates, Town of Swansboro  
Project: Church St Sidewalk/Slab

Salesperson	Job	Payment Terms	Due Date
	Tear out and Replace 6' x120' of Concrete		

Qty	Description	Unit Price	Line Total
252 LF	Sawcut 240' of concrete/asphalt @4-6" depth		
1	Removal 720 SQFT of concrete		
1	Grade for either 4" or 6" of 57 Stone		
1	Pour back/finish of concrete		
9/14 YDS	9YD of Concrete for 4" or 14Yd of concrete for 6"		
1 Day	Excavator Rental, Skid Steer Rental, Walk Behind Saw Rental		
1 day	Dump Truck Rental for removal		
	4" Concrete Thickness Option Price		\$7560.00
	6" Concrete Thickness Option Price		\$9,000.00
		Subtotal	
		Sales Tax	
		Total	

Make all checks payable to Sun City Construction, LLC

**Thank you for your business!**

Sun City Construction, LLC 2067 Burgaw Hwy. Jacksonville, NC 28540 Phone:910-320-9300  
Email: tanderson@suncityconstructionnc.com

## Proposal/Contract

**TO:** Town of Swansboro Public Works  
601 W. Corbett Ave  
Swansboro, NC 28584  
**Phone:** 540-809-9665  
**Email:** [gbates@ci.swansboro.nc.us](mailto:gbates@ci.swansboro.nc.us)

**FROM:** ONSLOW GRADING & PAVING, INC.  
115 ATLAS BROWN DR.  
JACKSONVILLE, N.C. 28540  
**PHONE** 910-346-8266  
**FAX** 910-346-9555

**ATTN:** Tank Bates

**Date:** 3/6/2024

We are pleased to submit the following bid:

**Job Description:**

Church St Road Repairs  
Swansboro, NC

ITEM#	QUANTITY	UNITS	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1	641.000	SY	Overlay Existing Roadway With 1.5" Asphalt Surface Course S9.5B (Incidental Milling Included)	\$35.50	\$22,755.50
			All Work To Be Completed In One Mobilization		
			Additional Mobilizations Will Be \$1500 Each		
				<b>Bid Total</b>	<b>\$22,755.50</b>

**Note: This proposal excludes the following: Payment or Performance Bonds, Seeding, Staking, Layout or Surveying, Testing, Traffic Control, Undercutting, Herbicide or Backfilling.**

Unless Onslow Grading & Paving, Inc. explicitly agrees to otherwise, this is a unit price quote. All asphalt prices in this proposal are based on the NCDOT monthly terminal F.O.B. asphalt binder price of **\$591.88** per ton for the month of March 2024. If the asphalt cement price fluctuates from this stated price at any time during the performance of the asphalt work, we reserve the right to adjust our prices in accordance with the NCDOT monthly terminal F.O.B. asphalt binder prices. These prices can be found at:

<https://connect.ncdot.gov/projects/construction/Pages/Pavement-Construction-Prices.aspx>

Progress payment for work performed during any month under this contract shall be invoiced on an agreed upon cut-off date shall be paid within fifteen (15) days from the date of invoice. Final payment will be made in full within fifteen(15) days from completion of the project. Payment is NOT contingent on payment you by the owner or any other company or person. Interest at the highest rate allowable under the laws of the jurisdiction in which the contract is executed or one and one-half percent (1½%) per month, whichever is less, shall be charged and paid on all unpaid balances from the due date until we receive payment. You agree to pay all expenses incurred by Onslow Grading & Paving, Inc. in collecting amounts owed by you under this proposal and contract, including but not limited to attorney's fees and court costs.

Owner/Contractor is responsible for providing a firm and unyielding stone base, balanced and graded to within +/- 0.10 feet of planned subgrade elevations. No import or export of subgrade and/or base materials is included. Onslow Grading & Paving, Inc. does not accept responsibility for poor drainage, standing water, ponding water, "birdbaths" on areas that have less than 1.0% grade or inadequate storm drainage design.

Any unforeseen conditions requiring undercut, remobilization, incidental work, etc... shall be treated as additional work and will be set forth in writing as soon as practical. We will be compensated for any increases due to such changes as agreed to and followed up in writing. Time extensions may be granted in connection with these changes as necessary.

We shall be provided suitable access to our work area. If others are to be working in our area they must schedule so our work can continue in one uninterrupted operation. Lost time due to delays by others will be your responsibility and will be charged to you.

Unless Onslow Grading & Paving, Inc. explicitly agrees to otherwise, this is a unit price quote. This quote expires in 30 days. It is the sole option of Onslow Grading & Paving to accept any agreement or contract reflecting the above prices and/or quantities after 30 days from the quote date listed above.

\_\_\_\_\_/\_\_\_\_\_  
Owner/Contractor Date

Austin Mackey \_\_\_\_\_ Date \_\_\_\_\_  
Onslow Grading & Paving, Inc.



# Board of Commissioners Meeting Agenda Item Submittal

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

Board Meeting Date: **March 12, 2024**

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

**Overview:** 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 an 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.

## **March 14<sup>th</sup> – Budget Workshop**

### **March 26<sup>th</sup>**

- \* Recognition of Trevor Hucal
- \* Presentation – Ricky’s Retreat
- \* Conditional Rezoning – RA to R20SF, parcel off Swansboro Loop Road
- \* EOC/PSB Site Selection Committee Updates
- \* Financial Report

**May meeting dates**  
14th & 28th

### **April 9<sup>th</sup> or April 23<sup>rd</sup>**

- \* Presentation – Backpack Friends
- \* EOC/PSB Site Selection Committee Updates
- \* Financial Report

## **Future Agenda Items**

- |  |  |
|--|--|
| * American Rescue Plan Funding Recommendations (updates)   | * Wayfinding Signs   |
| * Further LUP Review/Amendments – Comprehensive Transportation Plan Revisions  | * High School Recognitions – <i>revisit/revise</i>                                 |
| * Text Amendments – R/A Zoning Uses – <i>referred back to Planning Board</i>   | * Street Acceptance of Swansgate and Shadow Creek ( <i>developed has applied</i> ) |
| * Sub-committee designations for Strategic Plan Implementation ( <i>Eco Dev Committee est. Oct 2020</i> )            | * Text Amendment – Airbnb regulations  |
| * Building Standards ( <i>Concerns with tarps and homes in poor repair all around town brought up 2.14 meeting</i> ) | * Highway 24 Superstreet Presentation – <i>rescheduled to later date</i>           |
| * Swimming Pool/Consideration for Establishing a Pool Committee ( <i>on hold for P&amp;R Master Plan</i> )           | * Waterfront Access and Development Plan ( <i>review/revision considerations</i> ) |
| * Wetlands Policy ( <i>creation &amp; review by planning board</i> )   | * Town Code Amendment to Chapter 91: Fire Prevention                               |
| * Duke Energy Presentation   | * Community Presentations ( <i>ongoing monthly</i> )                               |
| * Major Subdivision Final Plat – Parrish Green   | * Special Meeting Workshops as needed  |
| * Onslow County Soil & Water Presentation  | * Moratorium discussion  |
|  | * Sidewalk considerations to connect One Harbor property to Recreation Center      |
|  | * 2 <sup>nd</sup> Amendment/Weapon Allowance at Town Hall                          |
|  | * Recognition of High School Basketball Team                                       |



# Board of Commissioners Meeting Agenda Item Submittal

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Item To Be Considered: **Amendment to Board Policy # 15 – Private Roads and Associated Facilities Acceptance of Dedication and Maintenance**

Board Meeting Date: **March 12, 2024**

Prepared By: **Jon Barlow – Interim Town Manager**

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**Overview:** As requested by the board, an amendment to Board Policy #15 has been drafted by the Town Attorney for review.

**Background Attachment(s):**

1. Board Policy # 15 – Private Roads and Associated Facilities Acceptance of Dedication and Maintenance Amendment
2. Resolution 2024-R4

**Recommended Action:** Motion to approve Resolution 2024-R4 to amend Board Policy # 15 – Private Roads and Associated Facilities Acceptance of Dedication and Maintenance.

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**Action:** \_\_\_\_\_

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*Originally  
Adopted: June  
21, 2011*

**BOARD OF COMMISSIONERS - POLICY NO. 15**  
**PRIVATE ROADS AND ASSOCIATED FACILITIES**  
**ACCEPTANCE OF DEDICATION AND MAINTENANCE**

**A. Purpose**

The purpose of this policy is to set forth the procedures, criteria, and conditions under which the Town will consider accepting dedication and maintenance of private streets or roads and associated facilities, such as drainage, sidewalks, street lighting, traffic signs, and street markers.

**B. Statement of Intent**

1. Future Private Streets and Roads. In order to insure (1) that street facilities are properly designed, constructed, and maintained from the beginning, (2) that the Town and its citizens are not asked to assume ownership and maintenance of facilities that have not been properly and continuously maintained, and (3) that the Town is not asked to assume maintenance of infrastructure as it is entering periods of higher maintenance costs, it is the intention of the Town to avoid, in the future, acceptance and maintenance of streets ~~initially designated as private streets or roads, not meeting the Town's standards.~~
2. Dedication at Outset. From and after the adoption of this policy, it shall be the policy of the Town that any road or street facility for which dedication and maintenance by the Town is to be considered should be offered for dedication *at the time of initial construction*. The Town will decline to consider the acceptance or maintenance of streets or roads *constructed* after the date of this policy, unless such streets or roads and any associated facilities are offered for dedication and maintenance by the Town immediately after construction.
3. Limited Scope of Policy. The procedures, criteria, and conditions set forth in this policy for the acceptance and maintenance of private streets and roads shall apply only to such private roads and streets *constructed prior to the adoption of this policy*.
4. Acceptance of Facilities. For those facilities (only) that are eligible for acceptance under this policy and which comply with the requirements of this policy, it shall be general intention of the Town to accept such facilities for ownership and maintenance.

**Commented [FR1]:** The original language arguably limits the scope of the Policy to streets originally intended to be private . As noted previously, the recorded plat for Charleston Park contains an unequivocal "offer of dedication" of the streets, to the Town, **as public streets**. To keep things simple, I recommend the amended language.

**C. Request for Consideration**

1. Authority. All requests for municipal acceptance of private streets or roads and any associated facilities shall be made by a person or persons with complete and

verifiable legal authority to offer dedication and to request municipal maintenance of such facilities, such as the owner(s) or the owner(s)' legal agent.

2. Application. All requests shall be in writing and shall specifically identify all of the facilities for which dedication is being offered and maintenance is being requested, including any land, rights-of-way, easements, and/or improvements to be conveyed. If a specific form of application is provided by the Town, the request shall be submitted in that form and shall be complete with regard to any associated informational requirements.
3. Fees. All requests for consideration shall be accompanied by an application fee, deposits, and/or promissory commitments that may be established from time to time by the Town in association with this process.

#### D. Standards and principles of Acceptance

In order to be eligible for municipal acceptance and maintenance, the private facilities must meet the following standards and conditions:

1. Subdivision Standards Compliance. The private facilities must be constructed to a level equal to or better than the infrastructure design standards of the Town's subdivision regulations. Any facilities that are not designed in a manner, have not been constructed in a manner, have not maintained at a level, or are not found to be in a condition substantially equal to the Town's standards must be improved to those standards prior to acceptance; provided, however, in unusual or exceptional circumstances where equitable or other considerations are present, the Town may accept streets and associated infrastructure, including easements and rights of way accommodating the infrastructure, which do not meet the Town's construction or maintenance standards. The Town may require, at the applicant's expense, any appropriate tests, investigations, or engineering inspections necessary to evaluate the condition of the facilities. The Town will not ordinarily accept for maintenance any facilities that are designed or configured in a manner inconsistent with Town standards.
2. Plans and Certifications. The Town may require submission of facilities design and construction plans for review and evaluation. The Town may require the applicant to provide certifications, from an engineer or engineers licensed to practice in North Carolina, regarding the design and construction of the facilities.
3. Deeds of Dedication. The Town shall require deeds and/or plats of dedication for any facilities proposed to be transferred to Town ownership and maintenance. Such deeds and/or plats shall be in a form acceptable to the Town, shall be suitable for recording, and shall be executed by a person or persons with suitable legal authorization. The applicant shall be responsible for any survey costs associated with preparation of needed maps or plats and for any legal costs incurred by the Town or the applicant for research of the title and/or verification of ownership and authority.
4. Equitable Cost Consideration. Except in unusual circumstances as referenced above, the private facilities may not present anticipated maintenance- costs that exceed- the normal- costs of similar facilities and -services

**Commented [FR2]:** A provision along these lines would allow for exceptions in unusual circumstances, with considerations such as the passage of time, relative level of street deficiencies, failure of the Town to pursue performance warranties or remedies, etc. justifying exceptions from the general policy. I recommend having this expressed in general terms, rather than attempting to list criteria.

provided by the Town to other residents or property owners. *[For example, if street lighting has been installed at a level or in a form that would exceed the average cost of similar developments in the town, the Town may decline to accept acceptance or operation of those facilities that would exceed normal levels.]*

5. Improvement Responsibilities. Unless special provisions to the contrary are included in any action or agreement to accept dedication or maintenance of previously private facilities, the Town will not be responsible for any improvements necessary to bring private facilities up to a level equivalent to prevailing municipal standards. Any such improvements - required by the Town or desired by the property owner(s) - will be the responsibility of the property owner(s).

Application for acceptance and maintenance of private streets or roads and associated facilities shall constitute a specific acknowledgement of this condition. The Town may, at its option, require additional, specific acknowledgements of this condition.

6. Special Improvements or Features. If the Town elects to accept dedication and maintenance of formerly-private streets or roads and associated facilities under this policy, such acceptance shall not include responsibility to maintain any special improvements, features, or amenities that would not customarily be included in its program of municipal maintenance.] Such special improvements or features might include. For example, entrance signs, street marker logos, decorative features, special landscaping areas, special signage, off-street parking, or other amenities.]

#### E. Evaluation of Facilities

1. Process. The private streets or roads and associated facilities proposed to be dedicated to and maintained by the Town shall be thoroughly inspected and evaluated by the Town public works department and by a consulting engineer employed by the Town. The inspection and evaluation process shall include field inspection, plan review, and any tests or surveys and engineering evaluations. The Town may require that the costs of such tests, surveys, or evaluations shall be borne by the applicant, and the applicant ~~may~~shall be required to deposit funds sufficient to pay the expenses of same or to otherwise guarantee payment of such costs.
2. Tests and Surveys. The Public works Director ~~may~~ require any such tests, surveys, or engineering evaluations required for the facilities evaluation, including but not limited to soil borings, core sampling and evaluation, dynamic core penetrometer tests, proof rolling, drainage elevation surveys, and camera surveys of drainage facilities. The ~~P~~ublic ~~W~~orks ~~D~~irector may require that any such tests be conducted by a properly qualified geo-technical firm or under the supervision of persons that hold QMS Roadway certifications from the North Carolina Department of Transportation (NCDOT). The ~~P~~ublic ~~W~~orks ~~D~~irector may



also require that testing or survey information be submitted under the seal of a supervisory professional engineer and/or on standard forms utilized by NCDOT. The acceptable standards of acceptance for such tests shall be determined by the ~~P~~ublic ~~W~~orks ~~D~~irector, in consultation (as needed) with the Town's consulting engineer.

3. Report. Following completion of the facilities evaluation, the ~~P~~ublic ~~W~~orks ~~D~~irector will submit a report of the evaluation and any needed repairs or improvements to the applicant and to the Town Manager, together with any recommendations regarding corrective actions. The Town Manager shall provide a report or a summary of the report to the Board of Commissioners. If repairs or improvements are needed, the "Corrections and Improvements" provisions below shall apply.

#### F. Corrections and Improvements

1. Application Response. Following receipt of the facilities evaluation report, the applicant shall advise the ~~T~~own ~~M~~anager within 90 days whether the applicant intends to make the needed repairs and/or improvements that are required or desires to withdraw the application. If the applicant intends to make the needed repairs, the applicant shall provide a timetable for completion of the work and shall diligently pursue such repairs and/or improvements. If the applicant does not indicate an intention within 90 days (or the response deadline is not extended with the approval of the ~~T~~own ~~M~~anager), the application shall be considered withdrawn and any further consideration must take place under a new application.
2. Reinspection. Following the completion of any repairs or improvements undertaken in response to the facilities evaluation report, the facilities shall be re-evaluated under the same requirements set forth under "evaluation of Facilities" above and a new evaluation report shall be issued by the public works director. Such inspections and reports shall continue until the facilities are suitable for recommendation for acceptance.
3. Satisfactory Completion. When the report finds that the facilities are in compliance with Town standards, the application shall be eligible for submission to the Board of Commissioners for acceptance of dedication (ownership) and maintenance under the "Eligibility for Acceptance" provisions above.

#### G. Acceptance Procedure

1. Recommendation. Upon a finding that the private street or road and/or associated facilities meet the requirements of this policy and that necessary transfer of ownership documentation associated with the offer of dedication has been provided and approved by the ~~T~~own ~~A~~ttorney, the application shall be calendared for consideration by the Board of Commissioners. The Board shall be provided with the final facilities evaluation report, any other information related to the issue of acceptance, and the recommendation of the town staff.

2. Board Action. If the Board finds that any or all the facilities included in the application meet the requirements of the policy, those facilities shall be accepted for ownership and maintenance, under any appropriate conditions deemed prudent by the Board. Any action of acceptance may include some but not all of the facilities in the application, if the Board finds that not all facilities comply with requirements for acceptance. The Board shall, at its discretion, determine the effective date of any acceptance of maintenance.
3. Guarantee for Minor Corrections. The Board, in its sole discretion, may elect to accept ownership and prospective maintenance of certain facilities that may need *minor* corrections, provided that an adequate financial guarantee, in the form of a cashier's check or letter of credit equal to 125% of the cost of improvements, is submitted to guarantee their completion. If a facility is accepted under such a guarantee, the acceptance shall not become effective until the corrections are satisfactorily ~~completed~~.
4. Warranties and Bonds. All streets, roads, or associated facilities accepted for ownership and maintenance shall remain under warranty by the applicant for a period of at least one year (or a greater period if specified for acceptance of similar facilities in the Town's subdivision ordinance) following acceptance by the Town. The Board of Commissioners may, for good reason and at its sole discretion, require a bond to ensure such warranty- if it so desires.

RESOLUTION 2024- R4 TO AMEND AND UPDATE  
THE TOWN OF SWANSBORO’S BOARD POLICY #15 REGARDING  
ACCEPTANCE OF DEDICATED STREETS AND FACILITIES

Item VI - d.

WHEREAS, the Town of Swansboro has in effect an official policy regarding the dedication and acceptance of public streets and related facilities; and

WHEREAS, this policy is designated as “Policy No. 15”, adopted by the Board of Commissioners and made effective June 21, 2011; and

WHEREAS, the Board of Commissioners has reviewed Policy No. 15, and has determined that amendments are justified and needed, specifically, that the Policy should include provisions allowing for exceptions under appropriate circumstances.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF SWANSBORO:

1. Policy No. 15 of the Town, entitled, “PRIVATE ROADS AND ASSOCIATED FACILITIES ACCEPTANCE OF DEDICATION AND MAINTENANCE TOWN OF SWANSBORO” is hereby updated and amended to read as follows:

“TOWN OF SWANSBORO POLICY NO. 15 PRIVATE ROADS  
AND ASSOCIATED FACILITIES ACCEPTANCE OF  
DEDICATION AND MAINTENANCE”

A. Purpose

The purpose of this policy is to set forth the procedures, criteria, and conditions under which the Town will consider accepting dedication and maintenance of private streets or roads and associated facilities, such as drainage, sidewalks, street lighting, traffic signs, and street markers.

B. Statement of Intent

1. Future Private Streets and Roads. In order to insure (1) that street facilities are properly designed, constructed, and maintained from the beginning, (2) that the Town and its citizens are not asked to assume ownership and maintenance of facilities that have not been properly and continuously maintained, and (3) that the Town is not asked to assume maintenance of infrastructure as it is entering periods of higher maintenance costs, it is the intention of the Town to avoid, in the future, acceptance and maintenance of streets not meeting the Town’s standards.

2. Dedication at Outset. From and after the adoption of this policy, it shall be the policy of the Town that any road or street facility for which dedication and maintenance by the Town is to be considered should be offered for dedication *at the time of initial construction*. The Town will decline to consider the acceptance or maintenance of streets or roads *constructed* after the date of this policy, unless such streets or roads and any associated facilities are offered for dedication and maintenance by the Town immediately after construction.
3. Limited Scope of Policy. The procedures, criteria, and conditions set forth in this policy for the acceptance and maintenance of private streets and roads shall apply only to such private roads and streets *constructed prior to the adoption of this policy*.
4. Acceptance of Facilities. For those facilities (only) that are eligible for acceptance under this policy and which comply with the requirements of this policy, it shall be general intention of the Town to accept such facilities for ownership and maintenance.

#### C. Request for Consideration

1. Authority. All requests for municipal acceptance of private streets or roads and any associated facilities shall be made by a person or persons with complete and verifiable legal authority to offer dedication and to request municipal maintenance of such facilities, such as the owner(s) or the owner(s)' legal agent.
2. Application. All requests shall be in writing and shall specifically identify all of the facilities for which dedication is being offered and maintenance is being requested, including any land, rights-of-way, easements, and/or improvements to be conveyed. If a specific form of application is provided by the Town, the request shall be submitted in that form and shall be complete with regard to any associated informational requirements.
3. Fees. All requests for consideration shall be accompanied by an application fee, deposits, and/or promissory commitments that may be established from time to time by the Town in association with this process.

#### D. Standards and Principles of Acceptance

In order to be eligible for municipal acceptance and maintenance, the private facilities must meet the following standards and conditions:

1. Subdivision Standards Compliance. The private facilities must be constructed to a level equal to or better than the infrastructure design standards of the Town's subdivision regulations. Any facilities that are not designed in a manner, have not been constructed in a manner, have not maintained at a level, or are not found to be in a condition substantially equal to the Town's standards must be improved to those standards prior to acceptance; provided, however, in unusual or exceptional circumstances where equitable or other considerations are present, the Town may accept streets and associated infrastructure, including easements and rights of way accommodating the infrastructure, which do not meet the Town's construction or maintenance standards. The Town may require, at the applicant's expense, any appropriate tests, investigations, or engineering inspections necessary to evaluate the condition of the facilities. The Town will not ordinarily accept for maintenance any facilities that are designed or configured in a manner inconsistent with Town standards.
2. Plans and Certifications. The Town may require submission of facilities design and construction plans for review and evaluation. The Town may require the applicant to provide certifications, from an engineer or engineers licensed to practice in North Carolina, regarding the design and construction of the facilities.
3. Deeds of Dedication. The Town shall require deeds and/or plats of dedication for any facilities proposed to be transferred to Town ownership and maintenance. Such deeds and/or plats shall be in a form acceptable to the Town, shall be suitable for recording, and shall be executed by a person or persons with suitable legal authorization. The applicant shall be responsible for any survey costs associated with the preparation of needed maps or plats and for any legal costs incurred by the Town or the applicant for research of the title and/or verification of ownership and authority.
4. Equitable Cost Consideration. Except in unusual circumstances as referenced above, the private facilities may not present anticipated maintenance costs that exceed the normal costs of similar facilities and services provided by the Town

to other residents or property owners. *(For example, if street lighting has been installed at a level or in a form that would exceed the average cost of similar developments in the town, the Town may decline to officially accept, or assume responsibility for operation of, those facilities that would exceed normal levels.)*

5. Improvement Responsibilities. Unless special provisions to the contrary are included in any action or agreement to accept dedication or maintenance of previously private facilities, the Town will not be responsible for any improvements necessary to bring private facilities up to a level equivalent to prevailing municipal standards. Any such improvements - required by the Town or desired by the property owner(s) - will be the responsibility of the property owner(s). Application for acceptance and maintenance of private streets or roads and associated facilities shall constitute a specific acknowledgement of this condition. The Town may, at its option, require additional, specific acknowledgement of this condition.

6. Special Improvements or Features. If the Town elects to accept dedication and maintenance of formerly private streets or roads and associated facilities under this policy, such acceptance shall not include responsibility to maintain any special improvements, features, or amenities that would not customarily be included in its program of municipal maintenance. (Such special improvements or features might include. For example, entrance signs, street marker logos, decorative features, special landscaping areas, special signage, off-street parking, or other amenities.)

#### E. Evaluation of Facilities

1. Process. The private streets or roads and associated facilities proposed to be dedicated to and maintained by the Town shall be thoroughly inspected and evaluated by the Town public works department and by a consulting engineer employed by the Town. The inspection and evaluation process shall include field inspection, plan review, and any tests or surveys and engineering evaluations. The Town may require that the costs of such tests, surveys, or evaluations shall be borne by the applicant, and the applicant may be required to deposit funds sufficient to pay the expenses of same or to otherwise guarantee payment of such costs.

2. Tests and Surveys. The Public works Director may require any such tests, surveys, or engineering evaluations required for the facilities evaluation, including but not limited to soil borings, core sampling and evaluation, dynamic core penetrometer tests, proof rolling, drainage elevation surveys, and camera surveys of drainage facilities. The Public Works Director may require that any such tests be conducted by a properly qualified geo-technical firm or under the supervision of persons that hold QMS Roadway certifications from the North Carolina Department of Transportation (NCDOT). The Public Works Director may also require that testing or survey information be submitted under the seal of a supervisory professional engineer and/or on standard forms utilized by NCDOT. The acceptable standards of acceptance for such tests shall be determined by the Public Works Director, in consultation (as needed) with the Town's consulting engineer.
3. Report. Following completion of the facilities evaluation, the Public Works Director will submit a report of the evaluation and any needed repairs or improvements to the applicant and to the Town Manager, together with any recommendations regarding corrective actions. The Town Manager shall provide a report or a summary of the report to the Board of Commissioners. If repairs or improvements are needed, the "Corrections and Improvements" provisions below shall apply.

#### F. Corrections and Improvements

1. Application Response. Following receipt of the facilities evaluation report, the applicant shall advise the Town Manager within 90 days whether the applicant intends to make the needed repairs and/or improvements that are required or desires to withdraw the application. If the applicant intends to make the needed repairs, the applicant shall provide a timetable for completion of the work and shall diligently pursue such repairs and/or improvements. If the applicant does not indicate an intention within 90 days (or the response deadline is not extended with the approval of the Town Manager), the application shall be considered withdrawn and any further consideration must take place under a new application.
2. Reinspection. Following the completion of any repairs or improvements undertaken in response to the facilities evaluation report, the facilities shall be re evaluated under the same requirements set forth under "evaluation of

Facilities above and a new evaluation report shall be issued by the public works director. Such inspections and reports shall continue until the facilities are suitable for recommendation for acceptance.

3. Satisfactory Completion. When the report finds that the facilities are in compliance with Town standards, the application shall be eligible for submission to the Board of Commissioners for acceptance of dedication (ownership) and maintenance under the "Eligibility for Acceptance" provisions above.

#### G. Acceptance Procedure

1. Recommendation. Upon a finding that the private street or road and/or associated facilities meet the requirements of this policy and that necessary transfer of ownership documentation associated with the offer of dedication has been provided and approved by the Town Attorney, the application shall be calendared for consideration by the Board of Commissioners. The Board shall be provided with the final facilities evaluation report, any other information related to the issue of acceptance, and the recommendation of the Town staff.
2. Board Action. If the Board finds that any or all the facilities included in the application meet the requirements of the policy, those facilities shall be accepted for ownership and maintenance, under any appropriate conditions deemed prudent by the Board. Any action of acceptance may include some but not all of the facilities in the application, if the Board finds that not all facilities comply with requirements for acceptance. The Board shall, at its discretion, determine the effective date of any acceptance of maintenance.
3. Guarantee for Minor Corrections. The Board, in its sole discretion, may elect to accept ownership and prospective maintenance of certain facilities that may need minor corrections, provided that an adequate financial guarantee, in the form of a cashier's check or letter of credit equal to 125% of the cost of improvements, is submitted to guarantee their completion. If a facility is accepted under such a guarantee, the acceptance shall not become effective until the corrections are satisfactorily completed.
4. Warranties and Bonds. All streets, roads, or associated facilities accepted for ownership and maintenance shall remain under warranty by the applicant for a period of at least one year (or a greater period if specified for acceptance of



similar facilities in the Town's subdivision ordinance) following acceptance by the Town. The Board of Commissioners may, for good reason and at its sole discretion, require a bond to ensure such warranty if it so desires.

2. Adopted this the 12<sup>th</sup> day of March, 2024.

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John Davis, Mayor

Attest:

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Alissa Fender, Town Clerk