



**CURRITUCK COUNTY
NORTH CAROLINA**

January 18, 2022

Minutes – Regular Meeting of the Board of Commissioners

6:00 PM CALL TO ORDER

The Currituck County Board of Commissioners held a regular meeting at 6:00 PM in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina

Attendee Name	Title	Status	Arrived
Michael H. Payment	Chairman	Present	
Paul M. Beaumont	Vice Chairman	Present	
J. Owen Etheridge	Commissioner	Present	
Mary "Kitty" Etheridge	Commissioner	Present	
Selina S. Jarvis	Commissioner	Present	
Kevin E. McCord	Commissioner	Present	
Bob White	Commissioner	Present	

Chairman Payment called the meeting to order.

A) Invocation & Pledge of Allegiance

Commissioner Beaumont offered the invocation and led the Pledge of Allegiance.

B) Approval of Agenda

Commissioner White moved for approval. Commissioner Jarvis seconded the motion. The motion carried. 7-0

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Bob White, Commissioner
SECONDER:	Selina S. Jarvis, Commissioner
AYES:	Michael H. Payment, Chairman, Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner, Bob White, Commissioner

PUBLIC COMMENT

Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 3 minutes.

Chairman Payment opened the Public Comment period.

Shawn O'Sullivan, Powells Point resident expressed his view of Currituck as the Sportsman's Paradise.

Glenn Hines expressed his concerns of Albemarle Regional Health employee openings and the timeline of those positions not being filled effecting Currituck county inspections.

No others were signed up nor wished to speak and the Public Comment period was closed.

COMMISSIONER'S REPORT

Commissioner J. Owen Etheridge recognized the Corolla Fire Department for the video featured on the YouTube show Hero's Next-Door.

Commissioner McCord recognized the efforts of all those involved with leading the Wounded Warrior in Action program in Currituck County. He provided an update on the park benches located in Knotts Island and Moyock Landing. Mr. McCord encouraged kindness on social media.

Commissioner Beaumont echoed Commissioner Owen Etheridge regarding the video featuring Corolla Fire Department.

Chairman Payment apologized for his absence from the last meeting due to illness. Encouraged safety with the winter weather forecast.

Commissioner White encouraged citizens to develop a Civic Associates group to advocate concerns of the community. He provided an update on the Tourism Advisory Board report on Occupancy Tax base to increase the seasons growth.

Commissioner Mary Etheridge praised the participates with Currituck Kids Program for all their efforts. She encouraged community to become involved.

Commissioner Jarvis expressed gratitude for serving on the Board for the past three years and pledged to continue to listen to the citizens. She recognized the Juvenile Board and thanked members for providing guidance to our children.

COUNTY MANAGER/COUNTY ATTORNEY REPORT

Interim County Manager/ County Attorney, (ICM/CA) Ike McRee reported the Animal Shelter will be operating by appointment only until further notice due staff shortage. Mr. McRee annouced the Commissioners Retreat on January 27, and 28, 2022 held at the Public Safety Center.

ADMINISTRATIVE REPORTS

A) Currituck County Auditors Report- Carr, Riggs and Ingram

Madonna Stafford of Carr, Riggs and Ingram presented results of the 2021 financial audit performed by the firm for Currituck County. She reviewed the audits of special funds and programs, presented findings and results for key operating funds, and reported gains and losses for revenue funds and tax collections. No internal control deficiencies or concerns were noted. She thanked Sandra Hill, Finance Director, for her assistance which enabled the audit to be submitted in a timely manner. Following

presentation, Mrs. Stafford responded to questions and clarified information as requested by Board members.

PUBLIC HEARINGS

Motion for Recusal- Chairman Payment

Chairman Payment requested to be recused from the vote since the applicant and Mr. Payment have a business relationship. Commissioner McCord moved to allow the recusal and the motion was seconded by Commissioner J. Owen Etheridge. The motion carried and Chairman Payment exited the Board Room.

RESULT:	APPROVED [6 TO 0]
MOVER:	Kevin E. McCord, Commissioner
SECONDER:	J. Owen Etheridge, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner, Bob White, Commissioner
RECUSED:	Michael H. Payment, Chairman

A. PB 21-24 W & J Development, LLC:

Kevin Kemp Development Services Director reviewed the Text Amendment with the Board. He used a PowerPoint to review the proposed text amendment language in the Unified Development Ordinance to modify the allowable uses and maximum building size in the MXR (Mixed Residential) zoning district. Review standards and consistency statements were presented. Staff recommended denial of the proposed text amendment and the Planning Board recommend approval of the request. Mr. Kemp presented the findings of fact and responded to questions related to the TRC comments included in the agenda documents.

Engineer, Mark Bissell presented a PowerPoint discussing the reviews and modifications.

Vice Chairman Beaumont opened Public Comment

Paul O'Neal Grandy resident, discussed the property's history, the land use plan discussed in 2010 for Grandy Village development. Mr. O'Neal expressed the need of growth in Lower Currituck.

No others were signed up nor wished to speak. Public Hearing was closed.

Commissioner White moved to approve PB 21-24 because the request is consistent with the unified Development Ordinance and policies CD2, CD5 and CD8 of the 2006 Land Use Plan. Commissioner J. Owen Etheridge seconded the motion. Motion carried, 5-1. Commissioner Mary Etheridge opposed.



To: Board of Commissioners

From: Planning Staff

Date: December 27, 2021

Subject: PB 21-24 W & J Development LLC Text Amendment

Request

W&J Development, LLC submitted a text amendment to the Unified Development Ordinance (UDO) that would amend Chapter 3 dimensional standards for the Mixed Residential (MXR) zoning district and allow commercial buildings up to 10,000 square feet on lots fronting major arterial streets. In addition, the request includes language to amend Chapter 4 that would allow restaurants, grocery stores, retail sales establishments, and shopping centers in the MXR district with a zoning compliance permit.

Background

The MXR zoning district was established with the adoption of the 2013 UDO by reclassifying the Mixed Residential (RA) zoning district to the MXR district. The UDO identifies the MXR zoning district as a residential zoning district and limits the building area and intensity of neighborhood serving commercial uses due to the residential designation of the district. As provided in Section 3.4.6, District Purpose, the MXR district is established to accommodate a variety of residential use types at moderate densities with very low intensity neighboring serving commercial, personal service and institutional uses outside of a community and village center. The UDO limits commercial and personal uses in the MXR district to a maximum of 2,500 square feet per building. Larger size buildings are permitted in business districts such as General Business (GB) or Limited Business (LB), and if the building is more than 5,000 square feet a special use permit is required when located outside of full-service designation.

In the MXR district, lands designated with non-residential uses can be used to calculate overall residential density.

2006 Land Use Plan

The Land Use Plan (LUP) does not provide detailed policies related to a particular size or type of uses for neighborhood serving commercial. However, the following

policies are relevant to general neighborhood serving commercial development, but do not necessarily support the amendment:

COMMERCIAL DEVELOPMENT POLICIES

POLICY CD2: Commercial and office development of greater than a neighborhood scale shall be encouraged to cluster in COMMERCIAL OR MIXED-USE CENTERS to curtail the proliferation of strip development and minimize traffic generation.

POLICY CD5: Incompatible or poorly planned COMMERCIAL ENCROACHMENT within or immediately adjoining existing residential areas shall be prohibited. Such incompatible encroachments often exclude, but are not limited to, large scale commercial uses or automobile oriented commercial uses such as service stations, car lots, car washes, drive through restaurants, and the like.

POLICY CD8: MIXED-USE DEVELOPMENT, properly planned from the outset, which allow for a compatible mixture of residential and non-residential uses with a pedestrian scale and design, are encouraged. Similarly, businesses may be located adjoining (and therefore convenient to) an existing residential area, when such businesses can be shown to satisfy design considerations similar to a newly planned, pedestrian-scale, mixed use development.

Staff commentary: The MXR district is a transitional residential district that typically would be located between residential zoning (single family) and more intense commercial zoning (GB). Commercial uses greater than a neighborhood scale should be located in commercial or mixed-use districts and not the residential district.

Staff Comments Regarding the Proposed Request

Planning staff identified concerns with the proposed text amendment at the pre-application meeting and after the application was submitted. The applicant is considering a development plan for a particular site and staff suggested options at that time to facilitate the proposed development. The properties being considered include GB zoned lands adjacent to the major arterial street that will accommodate the commercial development at the proposed size and intensity.

Since the MXR district is a residential zoning district with very low-density neighboring serving commercial, uses such as shopping centers, grocery stores, and larger scale retail establishments are not permitted in the district. The current ordinance allows:

1. More intense larger scale commercial uses in the General Business (GB) zoning district in areas typically located on major arterials and in full-service areas; and,
2. A mixture of housing types in the MXR district.

The proposed language attempts to combine uses and intensity of uses found in the GB district and in some instances less restrictive than the GB district. This type of amendment could create an imbalance in the zoning district standards and Summary Use Table. Staff suggested the applicant consider other options to address the concerns and comments including:

1. Exclude GB lands from the request to reduce the limitations on current GB zoned property. Only include the areas intended for multi-family, open space, and smaller less intense commercial land uses in the MXR zoning district.
2. A maximum 5,000 square foot building single tenant for properties in the MXR with a full-service land use designation located on a major thoroughfare and maintain 2,500 square foot building maximum within the limited-service land use designation. Although this is an option, it is not the more preferred option.
3. Establish a mixed-use zoning district.
4. Evaluate the Commercial Center (CC) zoning district standards. This district requires a small area plan or civic master plan that includes the development area.

Text Amendment Review Standards

The advisability of amending the text of the UDO is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the Board of Commissioners may weigh the relevance of and consider whether and the extent to which the proposed text amendment:

1. Is consistent with the goals, objectives, and policies of the Land Use Plan and other applicable county-adopted plans;
2. Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
3. Is required by changed conditions;
4. Addresses a demonstrated community need;
5. Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the county;
6. Would result in a logical and orderly development pattern; and
7. Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

Staff Recommendation

The staff recommendation on the proposed text amendment involves concluding whether the application complies with all applicable review standards (Text Amendment Review Standards). As presented, staff recommends denial of the proposed text amendment because the proposed amendment:

1. Is in conflict with the UDO by creating intensity discrepancies between the MXR zoning district and the business districts; and,
2. Is not consistent with the purpose and intent of the MXR zoning district.

And, the request will not result in a logical and orderly development pattern since the proposed language increased the intensity of business use types in a residential district and creates inconsistencies between the MXR, a residential zoning district, and business districts.

Planning Board Recommendation

On December 14, 2021, the Planning Board recommended approval of the requested text amendment with a 5-1 vote.

Motion

Mr. Doll moved to **deny** **PB 21-24** because the request is not consistent with the

Unified Development Ordinance and will not result in a logical and orderly development pattern because:

1. The amendment establishes intensity and use discrepancies between the MXR zoning district and the business districts; and,
2. Is not consistent with the purpose and intent of the MXR zoning district.

The request is not consistent with Policies CD2, CD5, and CD8 of the 2006 Land Use Plan and will not result in a logical and orderly development pattern since the proposed language increased the intensity of business use types in a residential district and creates inconsistencies between the MXR, a residential zoning district, and business districts.

Chairman Balance asked for a second on the motion to deny the request. There was no second and the motion failed.

Chairman Balance motioned to **approve PB 21-24** because the request is consistent with the Land Use Plan and Unified Development Ordinance and is in the public interest.

Mr. Hurley seconded the motion and the motion was approved with a 5-1 vote; Mr. Doll voting nay.

**PB 21-24 W & J DEVELOPMENT, LLC TEXT
AMENDMENT BOARD OF COMMISSIONERS
JANUARY 3, 2022**

Amendment to the Unified Development Ordinance, Chapter 3. Zoning Districts and Chapter 4. Use Standards to modify the allowable uses and building size in the MXR (Mixed Residential) zoning district.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

Item 1: That Chapter 3, Section 3.4.6., Mixed Residential (MXR) District is amended by adding the underlined language:

D. DIMENSIONAL STANDARDS CD=COTTAGE DEVELOPMENT

	Residential	Multi-Family		Nonresidential
	Single-Family Detached	C D	O t h e r	
Max. Gross Density, Full-Service Area (du/ac)	2.0	3.0	3.0	2.0
Max. Gross Density, Limited-Service Area (du/ac)	1.0	1.5	1.5	1.0
Max. FAR (%)	N/A	N/A	N/A	0.40

Min. Lot Area/Dwelling Unit (sq ft) [1]	15,000	N/A	N/A	20,000	1
Min. Open Space Set-Aside (% of development size) [2]	30	40	30	10	2
Min. Lot Width (corner or interior lots) (ft)	100	10 0 [3]	10 0 [3]	200 [3]	3
Max. Lot Coverage (%)	30	40 [3]	40 [3]	65 [3]	
Perimeter Building Wall Setbacks (from development boundaries)					
Front and Corner Side Setback (ft)	20	20	50	20	4
Major Arterial Street Setback (ft)	50	50	50	50	
Side Setback (ft) [5]	10	10 [3]	15	15	5
Rear Setback (ft)	25	30 [3]	30 [3]	30	6
Min. Agricultural Setback (ft) [4]	50	50	50	50	
Min. Accessory Use Setback (ft)	10	10 [3]	10	10	7
Min. Driveway/Parking Setback (ft)	10	10 [3]	10 [3]	10 [3]	8
Min. Fill Setback from Perimeter Lot Line	10	10	10	10	
Min. Wetland/Riparian Buffer (ft) [4]	30	30	30	30	
Max. Building Height (ft)	35	35	35	35	
Min. Spacing Between Buildings (ft)[5] [6]	20	20	20	20	9
Max. Building Length (ft)	N/A	N/A	25 0	[7]	0

[1] Maximum lot depth shall not exceed four times the lot width [2] Applied to subdivisions platted after UDO effective date [3] Applied to entire development, not individual building lots [4] Applied to major subdivisions platted after January 1, 2013 and site plans on lots 10 acres in area and greater

[5] Setbacks are subject to needed fire flow based on the ISO method [6] Not applied to individual units in a zero lot line development [7] Commercial and personal service uses are limited to a maximum size of 2,500 square feet per building, unless the site fronts on a major arterial, in which case the maximum building size will be 10,000 square feet.

Item 2: That Chapter 4, Table 4.1.1.A., Summary Use Table is amended by adding the underlined language and removing the strikethrough language:

TABLE 4.1.1.A: SUMMARY USE TABLE

Z = Zoning Compliance Permit; U = Special Use Permit; MP = Allowed with Master Plan; CZ= Allowed in a Conditional Zoning District
blank cell = Prohibited

USE CATEGORY	USE TYPE	ZONING DISTRICT [NOTE: OVERLAY OR SUB-DISTRICT REQUIREMENTS MAY FURTHER LIMIT USES]												ADDITIONAL REQ. (4.2.)
COMMERCIAL USE CLASSIFICATION														
Eating EstablishmentsDinner														

theater															
	Restaurant, with indoor or outdoor seating														
	Specialty eating establishment														
Retail Sales & Services	Grocery store														
	Retail sales establishments														
	Shopping center														4.G4

*Uses shown with an asterisk apply to sites that front on a major arterial

Item 3: Staff suggested Statement of Consistency

The proposed text amendment is not consistent with the Unified Development Ordinance and will not result in a logical and orderly development pattern because:

1. The amendment establishes intensity and use discrepancies between the MXR zoning district and the business districts; and,
3. Is not consistent with the purpose and intent of the MXR zoning district.

Item 4: The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Item 5: This ordinance amendment shall be in effect from and after the _____ day of _____, 2021.

RESULT:	APPROVED [6 TO 0]
MOVER:	Bob White, Commissioner
SECONDER:	J. Owen Etheridge, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner, Bob White, Commissioner
RECUSED:	Michael H. Payment, Chairman

B. PB 21-11 Foster Forbes Mine

Parties were sworn in and Developmental Services Director Kevin Kemp, reviewed the Special Use Permit to the Board. A PowerPoint was used to display the site location and site plan. Mr. Kemp reviewed the background and presented the findings of fact and responded to questions related to the TRC comments included in the agenda documents.

Jeff Malarney, Attorney for the applicant, called Ken Elliott, Elliott Consulting, Katherine Bell, Real Estate Appraiser and Derrick Hatchell, manager of HOM Development, LLC, to provide testimony as expert witnesses

Ken Elliott, Elliott consulting, explained his role in the Foster Forbes Mine operation as an expert inspector for North Carolina with 30 years of experience. He gave testimony to ensure company compliance with environment management and permit regulations including coordination and monitoring of operations.

Katherine Bell explained her role as a State Certified Residential Appraiser. Ms. Bell provided an analysis to determine the effects of the residential values. Provided in her data evolutions of the locations six active mines located in Lower Currituck County and sales of residential homes from 2018 through 2021 were negatively affected by the presence of Foster Forbes Mine.

Derrick Hatchell explained his role in the Foster Forbes Mine construction, operation of sand and topsoil Mine. Mr. Hatchell operates the development strictly in accordance with the plans submitted to Currituck County Planning Department, North Carolina Department of Environmental Quality, Division of Energy, and Mineral and Land Resources.

Chairman Payment opened Public Comment

Shannon O'Sullivan, Powell's Point resident, expressed specific concerns of noise control, Wetland CAMA permits, Decimal map, air quality concerns and applicants' knowledge of wetlands. She expressed concerns of contamination of well water and loss of wildlife.

Ken Elliott addressed Mrs. O'Sullivan's concerns regarding the CAMA permit. He explained the high noise level meter reading location was found at highway. Mr. Hatchell addressed the hydration ditch process during the mine dewatering operation and use of the sediment pond and excavation area. Drainage patterns of the area will not be altered.

No others signed up nor wished to speak and the Public Hearing was closed.

Mr. Malarney provided a summary of the witness testimony and stated the applicant has met the burden to support the findings of fact and asked the Board to approve the Special Use Permit.

Chairman Payment moved to approve PB 21-11 Foster Forbes Mine because the applicant has demonstrated the proposed use meets the special use permit review standards of the UDO. The use will not endanger the public health or safety with conditions of testing of wells installed. The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located based on the testimony of the real estate appraiser. The use will be in conformity with the 2006 Land Use Plan or other officially adopted plans Policy ID8, WQ1, WQ6, and the use will not exceed the county's ability to provide adequate facilities and have no impact on schools or water supply. Commissioner White seconded the motion. Motion carried 7-0.

Chairman Payment called a recess at 9:20 PM. The meeting reconvened at 9:24 PM.

**STAFF REPORT PB 21-11 FOSTER FORBES MINE
SPECIAL USE PERMIT BOARD OF
COMMISSIONERS JANUARY 18, 2022**

APPLICATION SUMMARY	
Property Owner: Foster Allen Forbes 5104 Lunar Drive Kitty Hawk, NC 27949	Applicant: HOM Development, LLC PO Box 2405, 1002 Driftwood Dr. Manteo, NC 27954
Case Number: PB 21-11	Application Type: Special Use Permit
Parcel Identification Number: 0123-000-0079-0000	Existing Use: Residential/woodland/farmland
Parcel Size (Acres): 41 acres	Zoning: AG (Agriculture)
Land Use Plan Classification: Limited-Service Area	
Request: Special Use Permit to establish a 6.23-acre mine operation (extractive industry)	

SURROUNDING PARCELS		
	Land Use	Zoning
North	Low-density residential/farmland/woodland	GB/AG
South	Low-density residential/farmland/woodland	GB/AG
East	Commercial/Low-density residential/woodland	GB/AG
West	Undeveloped woodland	AG

The applicant, HOM Development, LLC, and property owner, Foster Allen Forbes, are requesting a special use permit to excavate 6.23 acres of sand/topsoil on a 41-acre parcel located in Powells Point. The Foster Forbes Mine operator will be HOM Development, LLC. The proposed mine affected area is 16.46 acres and includes the 6.23-acre mine, 4.43-acre stockpile and loading area, 0.51-acre sediment pond (existing) for dewatering operations, 2' x 8' vegetated berm, 1,200 liner foot hydration swale, and 450' entrance and haul road.

1. **Size:** The proposed excavation area is 16.4% of the total tract and 19.9% of the net acreage (less jurisdictional wetlands). Future expansion is not planned.
2. **Setbacks:** The proposed activities, excluding the haul road, will maintain 300 feet from the residential dwellings and 100 feet from all property lines. The proposed haul road is less than 300 feet from the single-family dwelling to the south and the existing dwelling on-site but will maintain 150' setback (50% reduction). The reduced setback will require a complete visual screen for a height of 6 feet and an intermittent visual screen to a height of 20 feet. The screen shall be in place prior to commencing mining operations.
3. **Access:** The proposed access will be located 188' from the centerline of Pinewood Acres Drive and equal spacing to the off-site driveway to the south. The driveway will be surfaced with pavement beginning at the edge of pavement at Caratoke Highway, extending 200' into the property, and will be a minimum 24' in width. A gate will be installed 80' from the front property line to secure the mine area. The operator estimates a maximum average of 12 vehicles per day leaving the mine site with the maximum trips per hour to be an average of 2-

- 3 during peak operations.
4. Reclamation: The proposed mine will be retained by the property owner for scenic and recreational purposes and for wildlife habitat. The sediment pond, partially located in the Dominion Energy (VEPCO) right of way, will be filled in and leveled.
 5. Depth: The proposed mine will be excavated to an average depth of 30 feet and the maximum depth of 35 feet.
 6. Dewatering: The excavation activities include dewatering to the sediment pond that will overflow to a recharge or hydration swale and wetlands. There are 10 properties with potential in use wells within 1,500 feet of the excavation area. The applicant identified seven wells within 1,500 feet of the excavation area. Four monitoring wells will be installed at the same depth as the dewatering operation.
 7. Environmental: A portion of the property is in the 100-year and 500-year floodplain. No mine activities are proposed in these areas. The site contains 9.69 acres of USACOE jurisdictional wetlands. The site does not contain significant natural heritage areas.

COMMUNITY MEETING SUMMARY

The community meeting was held on March 8, 2021, at the Currituck County Rural Center in Powells Point. Two virtual meetings were also scheduled. A copy of the community meeting minutes is provided in the packet. The concerns expressed at the meeting and written comments received after the meeting included mining operation impacts to existing wells, groundwater, property values, wildlife and ecosystem, enjoyment of property, and air quality.

PERMITS AND APPROVALS

Dominion Energy (TE021068001)	Consent Agreement for Right of Way Encroachment
NCDOT (D011-027-21-00014)	Driveway Permit
NCDEQ, Div. of Energy, Minerals, and Land Resources (27-56)	Mine Permit
US Army Corps of Engineers (SAW-2021-00139)	Jurisdictional Determination - no work planned in jurisdictional area
Phase 1 Archaeological Survey	No further archaeological work is recommended

STAFF REVIEW

TECHNICAL REVIEW COMMITTEE

The Technical Review Committee (TRC) reviewed the application and provided the following comments:

1. The applicant has demonstrated the proposed mining operation will meet the use specific standards for Extractive Industry (UDO Chapter 4, Section 4.2.5.A.) provided the following items are addressed:
 - a. The Salazar property boundary and the area around the existing single-family dwelling located on the subject property shall contain a complete visual screen at least 6 feet in height and an intermittent visual screen to a height of at least 20 feet between the mining activity and the adjoining single-family dwelling. In areas where existing vegetation does not meet this requirement additional plantings and/or solid fencing shall be provided.

(UDO Section 4.2.5.A.)

- b. A maximum of two driveways are permitted for frontages greater than 500 feet but less than 1,000 feet. The minimum separation between driveways shall be is 200 feet. The director, upon advice with NCDOT, may authorize a reduction in spacing due to the lot width, presence of existing streets or curb cuts, or other physical features that make compliance with these standards impractical. (UDO Section 5.6.7 and LUP POLICIES ID8, CA1, and TR6)

Other staff concerns:

1. The depth of the wells located within 1,500 feet of the excavation area is unknown. However, according to Albemarle Regional Health Services older wells in this area generally access a shallow water supply with some wells potentially less than the maximum dewatering depth of the mine. There are 10 properties with possible in-use wells within 1,500 feet of the excavation area, there are 3 residential subdivisions located on the east side of Caratoke Highway (Currituck Woods, Pinewood Acres, and Azalea Acres) utilizing wells. The applicant identified 7 in-use wells within 1,500 feet of the excavation area. There are approximately 38 in-use wells within 2,000 feet of the excavation area; mainly wells located in the 3 residential subdivisions. (LUP POLICY WQ1)

2006 Land Use Plan

The 2006 Land Use Plan classifies the site as Limited-Service Area in the Point Harbor subarea. The following policy statement is relevant to mining activities:

POLICY ID8: MINING ACTIVITIES, or secondary impacts of mining activities not subject to permit approval by the State of North Carolina, may be subject to review and management by Currituck County. Activities to be addressed may include, but not limited to, the adequacy of roads serving the mine site, visual impacts during operation and after closing of the mine site, noise, dust considerations, etc.

The following policy statements are not specific to mining activities but may be relevant to secondary impacts as noted:

POLICY WQ1: Currituck County's GROUND WATER RESOURCES shall receive a level of protection commensurate with their enormous value. Efforts shall be made to monitor the quantity and quality of groundwater resources, with an eye toward preventing pollution, saltwater intrusion, or excessive drawdowns. Particular attention shall be given to locations near water and sewer treatment plants and areas with concentrations of septic tanks.

POLICY WQ6: Currituck County supports the retention or preservation of VEGETATED BUFFERS along the edge of drainage ways, streams, and other components of the estuarine system as an effective, low coast means of protecting water quality.

Staff commentary: The 30' Currituck County riparian buffer and the 50' state wetland buffer are required for the mining operation. The buffers offer protection to wildlife habitat and critical aquatic nurseries.

POLICY CA1: The important economic, tourism, and community image benefits of attractive, functional MAJOR HIGHWAY CORRIDORS through Currituck County shall be recognized. Such highway corridors, beginning with US 158 and NC 168 shall receive priority attention for improved appearance and development standards, including driveway access, landscaping, buffering, signage, lighting, and tree preservation.

POLICY TR6: HIGHWAY 158/168 shall receive special attention concerning the proper development of land and properties adjoining and/or accessing this critical arterial.

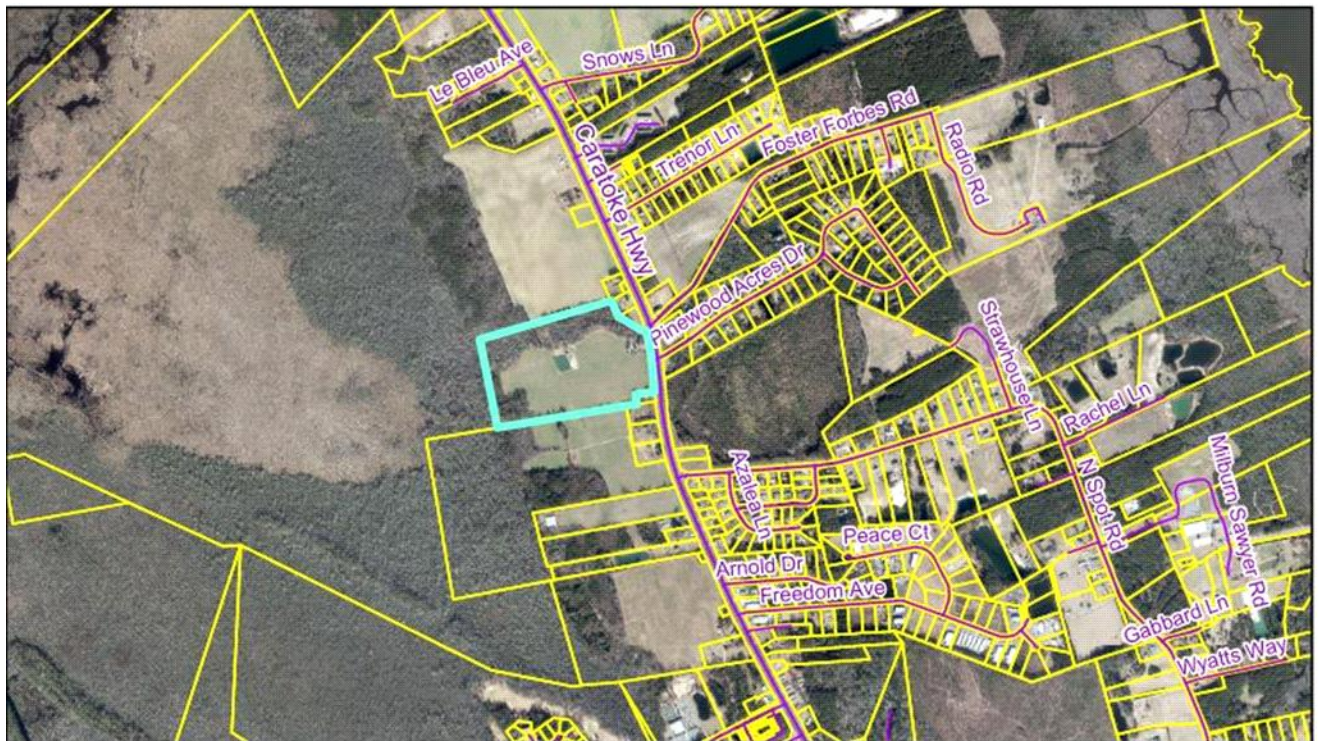
SPECIAL USE PERMIT REVIEW STANDARDS

Following an evidentiary hearing, the board shall decide if the application is in accordance with Section 2.3.10, Decision-Making Body Review and Decision, and Section 2.4.6.D, Special Use Permit Review Standards. It is the burden of the applicant to provide evidence to address the Review Standards. The applicant's findings can be found in the attached application.

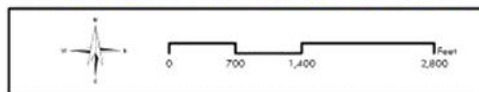
Special Use Permit Review Standards

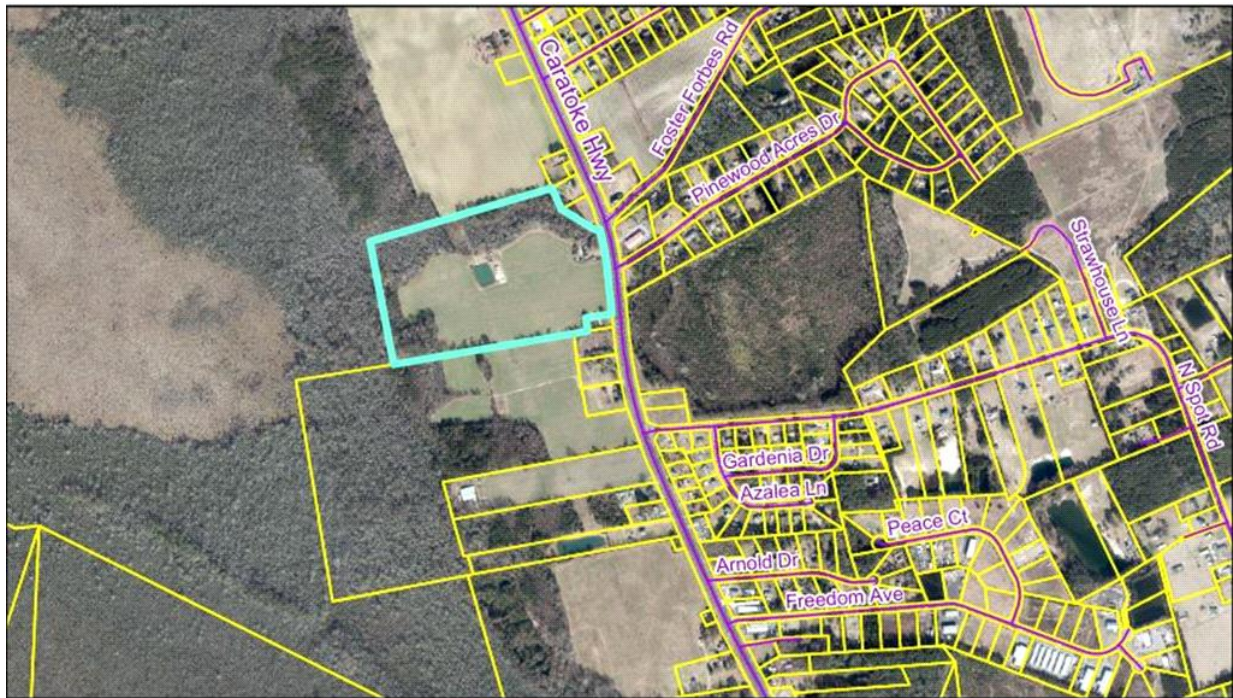
A special use permit shall be approved on a finding that the applicant demonstrates the proposed use will:

1. Not endanger the public health or safety.
2. Not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.
3. Be in conformity with the Land Use Plan or other officially adopted plan.
4. Not exceed the county's ability to provide adequate public facilities, including but not limited to schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate.

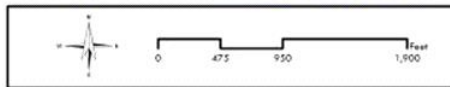


PB 21-11 Foster Forbes Mine
Special Use Permit
Context Map

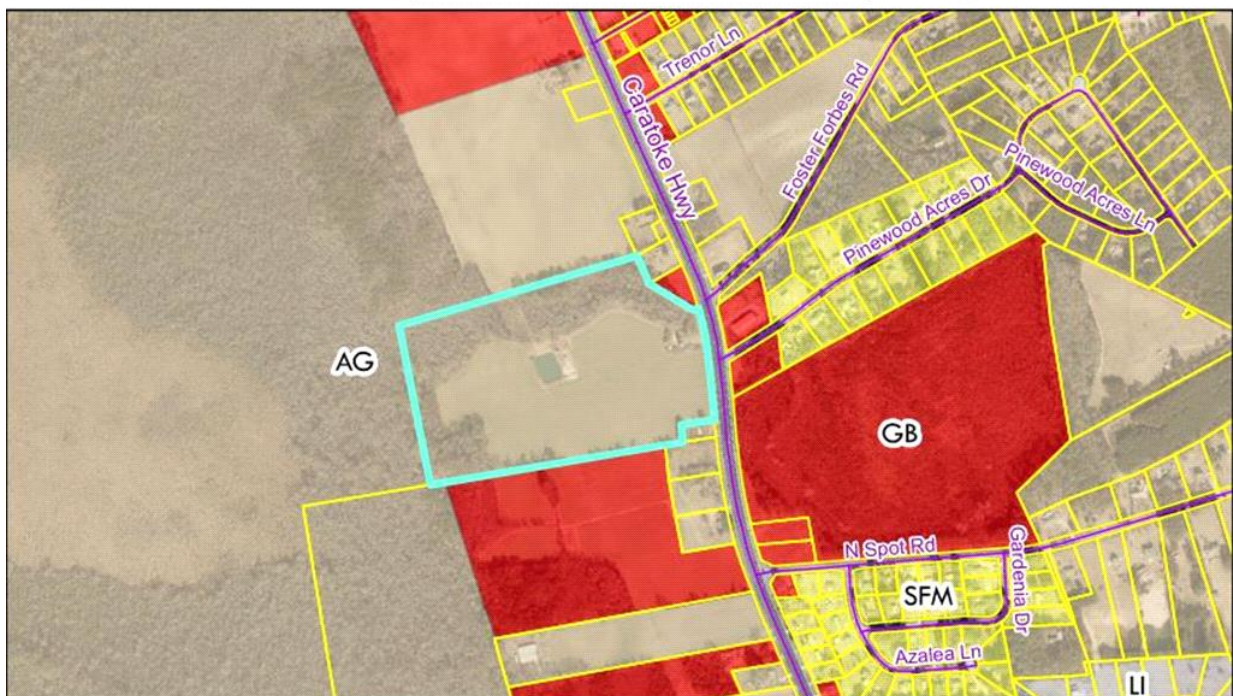




PB 21-11
Foster Forbes Mine
Aerial



Currituck County
Planning and Community
Development



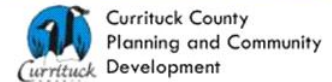
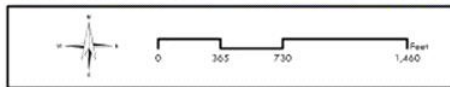
PB 21-11 Foster Forbes Mine
Special Use Permit
Zoning



Currituck County
Planning and Community
Development



PB 21-11 Foster Forbes Mine
Special Use Permit
Land Use Plan



RESULT:	APPROVED [UNANIMOUS]
MOVER:	Michael H. Payment, Chairman
SECONDER:	Bob White, Commissioner
AYES:	Michael H. Payment, Chairman, Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner, Bob White, Commissioner

NEW BUSINESS

A. Consideration and Approval of Brindley Beach Building Elevation to be Located on Lot 1, Maple Commerce Park

Kevin Kemp presented the proposal for the Brindley Beach Laundry Facility. He reviewed the site plan and the restrictive covenants.

Commissioners discussed the appearance of the East Elevation and suggested the applicant provide other options for broadside of the building.

Commissioner White motioned to continue item to next meeting February 7, 2022, for further action, following a rewrite to remove the metal building limitation language. Commissioner Beaumont seconded the motion. Motion carried 7-0.

RESULT: CONTINUED TO FUTURE MEETING**Next: 2/7/2022 6:00 PM****B) Consent Agenda**

Commissioner Beaumont moved for approval of the Consent Agenda. Commissioner Jarvis seconded the motion. The motion carried, 7-0.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Paul M. Beaumont, Vice Chairman
SECONDER: Selina S. Jarvis, Commissioner
AYES: Michael H. Payment, Chairman, Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner, Bob White, Commissioner

1. Budget Amendments

		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
<u>Account Number</u>	<u>Account Description</u>		
10530-533900	Ambulance Supplies	\$ 500	
10380-483530	Donations - EMS		\$ 500
		<u>\$ 500</u>	<u>\$ 500</u>
Explanation:	Emergency Medical Services (10530) - Increase appropriations to record a private donation for pet resuscitators.		
Net Budget Effect:	Operating Fund (10) - Increased by \$500.		
		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
<u>Account Number</u>	<u>Account Description</u>		
10460-536000	Uniforms	\$ 3,000	
10460-590000	Capital Outlay	\$ 1,050	
10460-592000	Projects		\$ 4,050
		<u>\$ 4,050</u>	<u>\$ 4,050</u>
Explanation:	Public Buildings (10460) - Transfer budgeted funds for uniforms for new employees and increased cost of budgeted vehicle.		
Net Budget Effect:	Operating Fund (10) - No change.		

		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
<u>Account Number</u>	<u>Account Description</u>		
20609-511010	Data Transmission	\$ 6,000	
20609-588000	Contingency		\$ 6,000
		\$ 6,000	\$ 6,000
Explanation: Whalehead Watershed (20609) - Transfer funds from contingency for increased costs in data transmission for the SCADA system.			
Net Budget Effect: Whalehead Stormwater Drainage District Fund (20) - No change.			
		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
<u>Account Number</u>	<u>Account Description</u>		
63838-516000	Repairs & Maintenance	\$ 8,000	
63838-571500	Recycling	\$ 242,000	
63838-545001	Contracted Services Collection		\$ 242,000
63838-590000	Capital Outlay		\$ 8,000
		\$ 250,000	\$ 250,000
Explanation: Solid Waste (63838) - Transfer budgeted funds to reinstate recycling and for additional maintenance costs.			
Net Budget Effect: Solid Waste Fund (63) - No change.			
		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
<u>Account Number</u>	<u>Account Description</u>		
50531-590000	Capital Outlay	\$ 92,000	
50531-588000	Contingency		\$ 92,000
		\$ 92,000	\$ 92,000
Explanation: County Governmental Construction Fund (50531) - Transfer contingency funds for capital outlay for communications furnishings.			
Net Budget Effect: County Governmental Construction Fund (50) - No change.			

		Debit	Credit
Account Number	Account Description	Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10510-516200	Vehicle Maintenance	\$ 80,000	
10510-526000	Advertising	\$ 250	
10510-532000	Supplies	\$ 10,000	
10510-536000	Uniforms	\$ 5,000	
10510-502100	Overtime		\$ 10,000
10510-590000	Capital Outlay		\$ 5,250
10320-411000	Article 39 Sales Tax		\$ 55,500
10330-424000	Officer Fees		\$ 15,000
10340-456510	Sheriff Fees		\$ 7,500
10380-483510	Donations - Sheriff		\$ 2,000
		\$ 95,250	\$ 95,250
Explanation: Sheriff (10510) - Increase appropriations for vehicle maintenance and transfers for operations for the remainder of this fiscal year.			
Net Budget Effect: Operating Fund (10) - Increased by \$80,000.			

2. Consideration of License Agreement Between Currituck County and Tidewater Council Boy Scouts of America

3) Approval of Minutes for January 3, 2022

1. Approval Of Minutes for January 3, 2022

SPECIAL MEETING OF THE TOURISM DEVELOPMENT AUTHORITY

The Regular Meeting of the Board of Commissioners recessed to hold a special meeting of the Tourism Development Authority. The Special Meeting took place in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina, for the purpose of considering Budget Amendments.

C. TDA Budget Amendment

Commissioner White moved for approval of the TDA Budget Amendments. Commissioner J. Owen Etheridge seconded the motion. The motion carried, 7-0.

		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
Account Number	Account Description		
15447-545015	Beach Nourishment	\$ 20,000	
15320-415000	Occupancy Tax		\$ 20,000
		\$ 20,000	\$ 20,000
Explanation: Tourism Related Expenses (15447) - Increase appropriations to fund beach grass and beach fencing grant programs.			
Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$20,000.			

		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
Account Number	Account Description		
15447-587050	T T - County Govt Construction	\$ 770,850	
15320-415000	Occupancy Tax		\$ 770,850
50447-590012	Coral St Walkover 2021	\$ 221,243	
50447-590013	Dolphin St Walkover 2021	\$ 248,023	
50447-590014	Makeral St Walkover 2021	\$ 301,584	
50390-495015	T F - Occupany Tax		\$ 770,850
		\$ 1,541,700	\$ 1,541,700
Explanation: Tourism Related Expenses (15447) - Increase appropriations for Dolphone, Coral and Mackerel walkovers. Each site will include beach grass plugs, retaining walls and showers.			
Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$770,850.			
County Governmental Construction (50) - Increased by \$770,850.			

		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
<u>Account Number</u>	<u>Account Description</u>		
15447-590000	Capital Outlay	\$ 265,000	
15320-415000	Occupancy Tax		\$ 265,000
		<u>\$ 265,000</u>	<u>\$ 265,000</u>
Explanation: Tourism Related Expenses (15447) - Increase appropriations to purchase a used 2013 Rosenbauer Rescue Pumper for protection of firefighters and rescue personnel and enhancement of fire and rescue functions for the Corolla Fire Services District. This purchase will be repaid from the Corolla Volunteer Fire Contract over the next ten years, beginning in FY 2023 and concluding in FY 2032.			
Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$265,000.			

		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
<u>Account Number</u>	<u>Account Description</u>		
15448-532160	Maintenane Supplies	\$ 10,000	
15448-506000	Health Insurance		\$ 10,000
		<u>\$ 10,000</u>	<u>\$ 10,000</u>
Explanation: Tourism Related Expenses - Historic Corolla Park (15448) - Increase appropriations for additional maintenance supplies due to adding the Maritime Museum, restrooms and Wildlife Resource Center to County operations for this fiscal year.			
Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$10,000.			

RESULT: APPROVED [UNANIMOUS]
MOVER: Bob White, Commissioner
SECONDER: J. Owen Etheridge, Commissioner
AYES: Michael H. Payment, Chairman, Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner, Bob White, Commissioner

ADJOURN TDA AND RECONVENE REGULAR MEETING

The Board had no further business and the regular meeting was reconvened.

CLOSED SESSION

Commissioner White moved the board into Closed Session Pursuant to G.S. 143-318.11 (a) (6) to discuss personnel matters.

ADJOURN

Motion to Adjourn Meeting

The Board had no further business and Commissioner M. Etheridge moved to adjourn. Commissioner Jarvis seconded the motion. The motion carried, 7-0, and the meeting of the Board of Commissioners was adjourned at 10:45PM.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mary "Kitty" Etheridge, Commissioner
SECONDER:	Selina S. Jarvis, Commissioner
AYES:	Michael H. Payment, Chairman, Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner, Bob White, Commissioner



Currituck County

Development Services Department
 Planning and Zoning Division
 153 Courthouse Road Suite 110
 Currituck NC 27929
 252-232-3055 Fax 252-232-3026

To: Board of Commissioners
 From: Planning Staff
 Date: December 27, 2021
 Subject: PB 21-24 W & J Development LLC Text Amendment

Request

W&J Development, LLC submitted a text amendment to the Unified Development Ordinance (UDO) that would amend Chapter 3 dimensional standards for the Mixed Residential (MXR) zoning district and allow commercial buildings up to 10,000 square feet on lots fronting major arterial streets. In addition, the request includes language to amend Chapter 4 that would allow restaurants, grocery stores, retail sales establishments, and shopping centers in the MXR district with a zoning compliance permit.

Background

The MXR zoning district was established with the adoption of the 2013 UDO by reclassifying the Mixed Residential (RA) zoning district to the MXR district. The UDO identifies the MXR zoning district as a residential zoning district and limits the building area and intensity of neighborhood serving commercial uses due to the residential designation of the district. As provided in Section 3.4.6, District Purpose, the MXR district is established to accommodate a variety of residential use types at moderate densities with very low intensity neighboring serving commercial, personal service and institutional uses outside of a community and village center. The UDO limits commercial and personal uses in the MXR district to a maximum of 2,500 square feet per building. Larger size buildings are permitted in business districts such as General Business (GB) or Limited Business (LB), and if the building is more than 5,000 square feet a special use permit is required when located outside of full-service designation. In the MXR district, lands designated with non-residential uses can be used to calculate overall residential density.

2006 Land Use Plan

The Land Use Plan (LUP) does not provide detailed policies related to a particular size or type of uses for neighborhood serving commercial. However, the following policies are relevant to general neighborhood serving commercial development, but do not necessarily support the amendment:

COMMERCIAL DEVELOPMENT POLICIES

POLICY CD2: Commercial and office development of greater than a neighborhood scale shall be encouraged to cluster in COMMERCIAL OR MIXED-USE CENTERS to curtail the proliferation of strip development, and minimize traffic generation.

POLICY CD5: Incompatible or poorly planned COMMERCIAL ENCROACHMENT within or immediately adjoining existing residential areas shall be prohibited. Such incompatible encroachments often exclude, but are not limited to, large scale commercial uses or automobile oriented commercial uses such as service stations, car lots, car washes, drive through restaurants, and the like.

POLICY CD8: MIXED-USE DEVELOPMENT, properly planned from the outset, which allow for a compatible mixture of residential and non-residential uses with a pedestrian scale and design, are encouraged. Similarly, businesses may be located adjoining (and therefore convenient to) an existing residential area, when such businesses can be shown to satisfy design considerations similar to a newly planned, pedestrian-scale, mixed use development.

Staff commentary: The MXR district is a transitional residential district that typically would be located between residential zoning (single family) and more intense commercial zoning (GB). Commercial uses greater than a neighborhood scale should be located in commercial or mixed-use districts and not the residential district.

Staff Comments Regarding the Proposed Request

Planning staff identified concerns with the proposed text amendment at the pre-application meeting and after the application was submitted. The applicant is considering a development plan for a particular site and staff suggested options at that time to facilitate the proposed development. The properties being considered include GB zoned lands adjacent to the major arterial street that will accommodate the commercial development at the proposed size and intensity.

Since the MXR district is a residential zoning district with very low-density neighboring serving commercial, uses such as shopping centers, grocery stores, and larger scale retail establishments are not permitted in the district. The current ordinance allows:

1. More intense larger scale commercial uses in the General Business (GB) zoning district in areas typically located on major arterials and in full-service areas; and,
2. A mixture of housing types in the MXR district.

The proposed language attempts to combine uses and intensity of uses found in the GB district and in some instances less restrictive than the GB district. This type of amendment could create an imbalance in the zoning district standards and Summary Use Table. Staff suggested the applicant consider other options to address the concerns and comments including:

1. Exclude GB lands from the request to reduce the limitations on current GB zoned property. Only include the areas intended for multi-family, open space, and smaller less intense commercial land uses in the MXR zoning district.
2. A maximum 5,000 square foot building single tenant for properties in the MXR with a full-service land use designation located on a major thoroughfare and maintain 2,500 square foot building maximum within the limited-service land use designation. Although this is an option, it is not the more preferred option.
3. Establish a mixed-use zoning district.
4. Evaluate the Commercial Center (CC) zoning district standards. This district requires a small area plan or civic master plan that includes the development area.

Text Amendment Review Standards

The advisability of amending the text of the UDO is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the Board of Commissioners may weigh the relevance of and consider whether and the extent to which the proposed text amendment:

1. Is consistent with the goals, objectives, and policies of the Land Use Plan and other applicable county-adopted plans;
2. Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
3. Is required by changed conditions;
4. Addresses a demonstrated community need;
5. Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the county;
6. Would result in a logical and orderly development pattern; and
7. Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

Staff Recommendation

The staff recommendation on the proposed text amendment involves concluding whether the application complies with all applicable review standards (Text Amendment Review Standards). As presented, staff recommends denial of the proposed text amendment because the proposed amendment:

1. Is in conflict with the UDO by creating intensity discrepancies between the MXR zoning district and the business districts; and,
2. Is not consistent with the purpose and intent of the MXR zoning district.

And, the request will not result in a logical and orderly development pattern since the proposed language increased the intensity of business use types in a residential district and creates inconsistencies between the MXR, a residential zoning district, and business districts.

Planning Board Recommendation

On December 14, 2021, the Planning Board recommended approval of the requested text amendment with a 5-1 vote.

Motion

Mr. Doll moved to **deny PB 21-24** because the request is not consistent with the Unified Development Ordinance and will not result in a logical and orderly development pattern because:

1. The amendment establishes intensity and use discrepancies between the MXR zoning district and the business districts; and,
2. Is not consistent with the purpose and intent of the MXR zoning district.

The request is not consistent with Policies CD2, CD5, and CD8 of the 2006 Land Use Plan and will not result in a logical and orderly development pattern since the proposed language increased the intensity of business use types in a residential district and creates inconsistencies between the MXR, a residential zoning district, and business districts.

Chairman Ballance asked for a second on the motion to deny the request. There was no second and the motion failed.

Chairman Ballance motioned to **approve PB 21-24** because the request is consistent with the Land Use Plan and Unified Development Ordinance and is in the public interest.

Mr. Hurley seconded the motion and the motion was approved with a 5-1 vote; Mr. Doll voting nay.



PB 21-24 W & J DEVELOPMENT, LLC
TEXT AMENDMENT
BOARD OF COMMISSIONERS
JANUARY 3, 2022

Amendment to the Unified Development Ordinance, Chapter 3. Zoning Districts and Chapter 4. Use Standards to modify the allowable uses and building size in the MXR (Mixed Residential) zoning district.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

Item 1: That Chapter 3, Section 3.4.6., Mixed Residential (MXR) District is amended by adding the underlined language:

D. DIMENSIONAL STANDARDS					
CD=COTTAGE DEVELOPMENT					
	Residential Single-Family Detached	Multi-Family CD Other		Nonresidential	
Max. Gross Density, Full-Service Area (du/ac)	2.0	3.0	3.0	2.0	
Max. Gross Density, Limited-Service Area (du/ac)	1.0	1.5	1.5	1.0	
Max. FAR (%)	N/A	N/A	N/A	0.40	
Min. Lot Area/Dwelling Unit (sq ft) [1]	15,000	N/A	N/A	20,000	1
Min. Open Space Set-Aside (% of development size) [2]	30	40	30	10	2
Min. Lot Width (corner or interior lots) (ft)	100	100 [3]	100[3]	200 [3]	3
Max. Lot Coverage (%)	30	40 [3]	40 [3]	65 [3]	
Perimeter Building Wall Setbacks (from development boundaries)					
Front and Corner Side Setback (ft)	20	20	50	20	4
Major Arterial Street Setback (ft)	50	50	50	50	
Side Setback (ft) [5]	10	10 [3]	15	15	5
Rear Setback (ft)	25	30[3]	30[3]	30	6
Min. Agricultural Setback (ft) [4]	50	50	50	50	
Min. Accessory Use Setback (ft)	10	10[3]	10	10	7
Min. Driveway/Parking Setback (ft)	10	10 [3]	10 [3]	10 [3]	8
Min. Fill Setback from Perimeter Lot Line	10	10	10	10	
Min. Wetland/Riparian Buffer (ft) [4]	30	30	30	30	
Max. Building Height (ft)	35	35	35	35	
Min. Spacing Between Buildings (ft)[5] [6]	20	20	20	20	9
Max. Building Length (ft)	N/A	N/A	250	[7]	0

Attachment: PB 21-24 W&J Development LLC TA Staff Report (PB 21-24 W & J Development, LLC)

- [1] Maximum lot depth shall not exceed four times the lot width
 [2] Applied to subdivisions platted after UDO effective date
 [3] Applied to entire development, not individual building lots
 [4] Applied to major subdivisions platted after January 1, 2013 and site plans on lots 10 acres in area and greater

- [5] Setbacks are subject to needed fire flow based on the ISO method
 [6] Not applied to individual units in a zero lot line development
 [7] Commercial and personal service uses are limited to a maximum size of 2,500 square feet per building, unless the site fronts on a major arterial, in which case the maximum building size will be 10,000 square feet.

Item 2: That Chapter 4, Table 4.1.1.A., Summary Use Table is amended by adding the underlined language and removing the strikethrough language:

TABLE 4.1.1.A: SUMMARY USE TABLE

Z = Zoning Compliance Permit; U = Special Use Permit; MP = Allowed with Master Plan;
 CZ= Allowed in a Conditional Zoning District blank cell = Prohibited

USE CATEGORY	USE TYPE	ZONING DISTRICT [NOTE: OVERLAY OR SUB-DISTRICT REQUIREMENTS MAY FURTHER LIMIT USES]													ADDITIONAL REQ. (4.2.____)
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI	HI	
COMMERCIAL USE CLASSIFICATION															
Eating Establishments	Dinner theater								Z	Z	Z	Z			
	Restaurant, with indoor or outdoor seating							<u>Z*</u>	Z	Z	Z	Z	Z		4.C
	Specialty eating establishment							Z	Z	Z	Z	Z	Z		
Retail Sales & Services	Grocery store							<u>Z*</u>	Z		Z				
	Retail sales establishments							<u>Z*</u>	Z	Z	Z	Z			
	Shopping center							<u>Z*</u>	U		Z	Z			4.G4

*Uses shown with an asterisk apply to sites that front on a major arterial

Item 3: Staff suggested Statement of Consistency

The proposed text amendment is not consistent with the Unified Development Ordinance and will not result in a logical and orderly development pattern because:

1. The amendment establishes intensity and use discrepancies between the MXR zoning district and the business districts; and,
3. Is not consistent with the purpose and intent of the MXR zoning district.

Item 4: The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Item 5: This ordinance amendment shall be in effect from and after the _____ day of _____, 2021.

 Board of Commissioners' Chairman
 Attest:

 Leeann Walton
 Clerk to the Board

DATE ADOPTED: _____
 MOTION TO ADOPT BY COMMISSIONER: _____
 SECONDED BY COMMISSIONER: _____
 VOTE: _____AYES _____NAYS

PLANNING BOARD DATE: 12/14/2021
 PLANNING BOARD RECOMMENDATION: Approved
 VOTE: 5 AYES 1 NAYS
 ADVERTISEMENT DATE OF PUBLIC HEARING: 12/22/2021 & 12/29/2021
 BOARD OF COMMISSIONERS PUBLIC HEARING: 1/3/2022
 BOARD OF COMMISSIONERS ACTION: _____
 POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____
 AMENDMENT NUMBER: _____

Attachment: PB 21-24 W&J Development LLC TA Staff Report (PB 21-24 W & J Development, LLC)

OFFICIAL USE ONLY:

Case Number: _____
Date Filed: _____
Gate Keeper: _____
Amount Paid: _____

APPLICANT:

Name: W&J Development, LLC

Address: 109 43rd Street
Virginia Beach, VA 23451

Telephone: 757-477-1469

E-Mail Address: wgs@cox.net

I, the undersigned, do hereby make application to change the Currituck County UDO as herein requested.

Amend Chapter(s) 3 and 4 Section(s) 3.4.6.D and 4.1.2 as follows:

Please refer to attachments.

*Request may be attached on separate paper if needed.

Petitioner

Date _____

Chapter 3: Zoning Districts

SECTION 3.4: RESIDENTIAL BASE ZONING DISTRICTS

Subsection 3.4.6: Mixed Residential (MXR) District

D. DIMENSIONAL STANDARDS

CD=COTTAGE DEVELOPMENT

	Residential Single-Family Detached	Multi-Family CD	Other	Nonresidential	
Max. Gross Density, Full Service Area (du/ac)	2.0	3.0	3.0	2.0	
Max. Gross Density, Limited Service Area (du/ac)	1.0	1.5	1.5	1.0	
Max. FAR (%)	N/A	N/A	N/A	0.40	
Min. Lot Area/Dwelling Unit (sq ft) [1]	15,000	N/A	N/A	20,000	1
Min. Open Space Set-Aside (% of development size) [2]	30	40	30	10	2
Min. Lot Width (corner or interior lots) (ft)	100	100 [3]	100[3]	200 [3]	3
Max. Lot Coverage (%)	30	40 [3]	40 [3]	65 [3]	
Perimeter Building Wall Setbacks (from development boundaries)					
Front and Corner Side Setback (ft)	20	20	50	20	4
Major Arterial Street Setback (ft)	50	50	50	50	
Side Setback (ft) [5]	10	10 [3]	15	15	5
Rear Setback (ft)	25	30[3]	30[3]	30	6
Min. Agricultural Setback (ft) [4]	50	50	50	50	
Min. Accessory Use Setback (ft)	10	10[3]	10	10	7
Min. Driveway/Parking Setback (ft)	10	10 [3]	10 [3]	10 [3]	8
Min. Fill Setback from Perimeter Lot Line	10	10	10	10	
Min. Wetland/Riparian Buffer (ft) [4]	30	30	30	30	
Max. Building Height (ft)	35	35	35	35	
Min. Spacing Between Buildings (ft)[5] [6]	20	20	20	20	9
Max. Building Length (ft)	N/A	N/A	250	[7]	10

[1] Maximum lot depth shall not exceed four times the lot width
 [2] Applied to subdivisions platted after UDO effective date
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[5] Setbacks are subject to needed fire flow based on the ISO method
 [6] Not applied to individual units in a zero lot line development
 [7] Commercial and personal service uses are limited to a maximum size of 2,500 square feet per building, unless the site fronts on a major arterial, in which case the maximum building size will be 10,000 square feet.

Chapter 4: Use Standards

SECTION 4.1: USE TABLE

Subsection 4.1.2: Use Table

TABLE 4.1.1.A: SUMMARY USE TABLE

Z = Zoning Compliance Permit; U = Special Use Permit; MP = Allowed with Master Plan;
CZ = Allowed in a Conditional Zoning District; blank cell = Prohibited

USE CATEGORY	USE TYPE	ZONING DISTRICT [NOTE: OVERLAY OR SUB-DISTRICT REQUIREMENTS MAY FURTHER LIMIT USES]												ADDITIONAL REQ. (4.2.____)		
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI		HI	
Trans- portation	Airport		U						U		U		U	U		
	Helicopter landing facility								U		U		U	U	3.G	
	Passenger terminal, surface transportation			U	U				Z		Z	Z				
Utilities	Solar array															
	Solar Energy Facility		U												3.K	
	Telecommunications antenna collocation on tower or building		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	3.H	
	Telecommunications tower, freestanding		U			U			U	U			U	U	3.H	
	Utility, major	U	U	U	U	U	U	U	U	U	U	U	U	U	3.I	
	Utility, minor	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	3.J	
	Wind energy facility, large															
COMMERCIAL USE CLASSIFICATION																
Adult Entertain- ment	All													U	4.A	
Animal Care	Animal grooming									Z	Z	Z	Z	Z		4.B
	Animal shelter									Z					Z	4.B
	Kennel		U							Z	Z		Z	Z	Z	4.B
	Veterinary clinic		U							Z	Z	Z	Z	Z		4.B
Eating Establish- ments	Dinner theater									Z	Z	Z	Z			
	Restaurant, with indoor or outdoor seating							U Z*	Z	Z	Z	Z	Z			4.C
	Specialty eating establishment								Z	Z	Z	Z	Z	Z		
Offices	Business and sales								Z	Z	Z	Z	Z	Z		4.D
	Professional services								Z	Z	Z	Z	Z			4.D
Parking, Commercial	Parking lot									Z	Z	Z	Z	Z	Z	4.E.1
	Parking structure											Z	Z			4.E.2
Recreation/ Entertain- ment, Indoor	Fitness center								Z	Z	Z	Z	Z	Z		
	Recreation, indoor								Z	Z	Z	Z	Z	Z		
	Theater								Z	Z	Z	Z	Z			
Recreation / Entertainment, Outdoor	Automotive Racing														U	
	Arena, amphitheater, or stadium									U		U	U			4.F.1
	Athletic facility			Z	Z			Z	Z	Z	Z	Z	Z			4.F.2
	Golf course			U	U				U							
	Golf driving range								Z	Z	Z					
	Marinas								U	Z			Z	Z	Z	4.F.3

Attachment: W & J Application (PB 21-24 W & J Development, LLC)

Chapter 4: Use Standards

SECTION 4.1: USE TABLE

Subsection 4.1.2: Use Table

TABLE 4.1.1.A: SUMMARY USE TABLE

Z = Zoning Compliance Permit; U = Special Use Permit; MP = Allowed with Master Plan;
 CZ= Allowed in a Conditional Zoning District; blank cell = Prohibited

Use Category	Use Type	ZONING DISTRICT [NOTE: OVERLAY OR SUB-DISTRICT REQUIREMENTS MAY FURTHER LIMIT USES]												Additional Req. (4.2.____)	
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI		HI
Retail Sales & Services	Outdoor shooting range		U											U	4.F.5
	Outdoor tour operator								U	U	Z	Z			4.F.6
	Outdoor tour operator, Aviation		U						U	U	Z	Z			4.F.7
	Recreation, outdoor							U	Z	Z	Z	Z			4.F.4
	Artisan Food and Beverage Producer								Z				Z		
	Auction House												Z		
	Bar, nightclub, or cocktail lounge								Z		Z	Z			4.G.1
	Brewery, Large												Z		
	Convenience store							Z	Z	Z	Z	Z	Z		
	Crematory													U	
	Distillery												Z		
	Drug store or pharmacy							Z	Z	Z	Z	Z			
	Entertainment establishment							Z	Z	Z	Z	Z			
	Financial institution							Z	Z	Z	Z	Z			
	Flea market												Z	Z	4.G.2
	Funeral home								Z	Z	Z	Z			
	Grocery store							Z*	Z		Z	Z			
	Laundromat							Z	Z	Z	Z	Z	Z		
	Pawn shop								U				U		
	Personal services establishment							Z	Z	Z	Z	Z	Z		
	Repair establishment								Z	Z	Z	Z	Z	Z	4.G.3
	Retail sales establishments							Z*	Z	Z	Z	Z			
	Shopping center							Z*	U		Z	Z			4.G.4
	Tattoo parlor/body piercing establishment												Z	Z	4.G.5
	Winery								Z				Z		
Vehicle Sales and Services, Heavy	Aircraft parts, sales, and maintenance												Z	Z	
	Automotive wrecker service												Z	Z	4.H.1
	Boat and marine rental, sales, and service								Z				Z	Z	4.H.2
Vehicle Sales and Services, Light	Automotive parts and installation								Z		Z	Z	Z		4.I.1
	Automobile repair and servicing (including painting/bodywork)								Z		Z	Z	Z		4.I.2
	Automobile sales or rentals								U		Z	Z	Z		4.I.3
	Car wash or auto detailing								Z		Z	Z	Z		4.I.4
	Taxicab service								Z	Z	Z	Z			4.I.5
Visitor	Bed and breakfast inn				Z	Z		Z	Z	Z	Z				4.J.1

*Uses shown with an asterisk apply to sites that front on a major arterial

Attachment: W & J Application (PB 21-24 W & J Development, LLC)



STAFF REPORT
PB 21-11 FOSTER FORBES MINE
SPECIAL USE PERMIT
BOARD OF COMMISSIONERS
JANUARY 18, 2022

APPLICATION SUMMARY

Property Owner: Foster Allen Forbes 5104 Lunar Drive Kitty Hawk, NC 27949	Applicant: HOM Development, LLC PO Box 2405, 1002 Driftwood Dr. Manteo, NC 27954
Case Number: PB 21-11	Application Type: Special Use Permit
Parcel Identification Number: 0123-000-0079-0000	Existing Use: Residential/woodland/farmland
Parcel Size (Acres): 41 acres	Zoning: AG (Agriculture)
Land Use Plan Classification: Limited-Service Area	
Request: Special Use Permit to establish a 6.23-acre mine operation (extractive industry)	

SURROUNDING PARCELS

	Land Use	Zoning
North	Low-density residential/farmland/woodland	GB/AG
South	Low-density residential/farmland/woodland	GB/AG
East	Commercial/Low-density residential/woodland	GB/AG
West	Undeveloped woodland	AG

STAFF ANALYSIS

The applicant, HOM Development, LLC, and property owner, Foster Allen Forbes, are requesting a special use permit to excavate 6.23 acres of sand/topsoil on a 41-acre parcel located in Powells Point. The Foster Forbes Mine operator will be HOM Development, LLC. The proposed mine affected area is 16.46 acres and includes the 6.23-acre mine, 4.43-acre stockpile and loading area, 0.51-acre sediment pond (existing) for dewatering operations, 2' x 8' vegetated berm, 1,200 liner foot hydration swale, and 450' entrance and haul road.

1. **Size:** The proposed excavation area is 16.4% of the total tract and 19.9% of the net acreage (less jurisdictional wetlands). Future expansion is not planned.
2. **Setbacks:** The proposed activities, excluding the haul road, will maintain 300 feet from the residential dwellings and 100 feet from all property lines. The proposed haul road is less than 300 feet from the single-family dwelling to the south and the existing dwelling on-site but will maintain 150' setback (50% reduction). The reduced setback will require a complete visual screen for a height of 6 feet and an intermittent visual screen to a height of 20 feet. The screen shall be in place prior to commencing mining operations.
3. **Access:** The proposed access will be located 188' from the centerline of Pinewood Acres Drive and equal spacing to the off-site driveway to the south. The driveway will be surfaced

with pavement beginning at the edge of pavement at Caratoke Highway, extending 200' into the property, and will be a minimum 24' in width. A gate will be installed 80' from the front property line to secure the mine area. The operator estimates a maximum average of 12 vehicles per day leaving the mine site with the maximum trips per hour to be an average of 2-3 during peak operations.

4. Reclamation: The proposed mine will be retained by the property owner for scenic and recreational purposes and for wildlife habitat. The sediment pond, partially located in the Dominion Energy (VEPCO) right of way, will be filled in and leveled.
5. Depth: The proposed mine will be excavated to an average depth of 30 feet and the maximum depth of 35 feet.
6. Dewatering: The excavation activities include dewatering to the sediment pond that will overflow to a recharge or hydration swale and wetlands. There are 10 properties with potential in use wells within 1,500 feet of the excavation area. The applicant identified seven wells within 1,500 feet of the excavation area. Four monitoring wells will be installed at the same depth as the dewatering operation.
7. Environmental: A portion of the property is in the 100-year and 500-year floodplain. No mine activities are proposed in these areas. The site contains 9.69 acres of USACOE jurisdictional wetlands. The site does not contain significant natural heritage areas.

COMMUNITY MEETING SUMMARY

The community meeting was held on March 8, 2021, at the Currituck County Rural Center in Powells Point. Two virtual meetings were also scheduled. A copy of the community meeting minutes is provided in the packet. The concerns expressed at the meeting and written comments received after the meeting included mining operation impacts to existing wells, groundwater, property values, wildlife and ecosystem, enjoyment of property, and air quality.

PERMITS AND APPROVALS

Dominion Energy (<i>TE021068001</i>)	Consent Agreement for Right of Way Encroachment
NCDOT (<i>D011-027-21-00014</i>)	Driveway Permit
NCDEQ, Div. of Energy, Minerals, and Land Resources (<i>27-56</i>)	Mine Permit
US Army Corps of Engineers (<i>SAW-2021-00139</i>)	Jurisdictional Determination – no work planned in jurisdictional area
Phase 1 Archaeological Survey	No further archaeological work is recommended

STAFF REVIEW

TECHNICAL REVIEW COMMITTEE

The Technical Review Committee (TRC) reviewed the application and provided the following comments:

1. The applicant has demonstrated the proposed mining operation will meet the use specific standards for Extractive Industry (UDO Chapter 4, Section 4.2.5.A.) provided the following items are addressed:

- a. The Salazar property boundary and the area around the existing single-family dwelling located on the subject property shall contain a complete visual screen at least 6 feet in height and an intermittent visual screen to a height of at least 20 feet between the mining activity and the adjoining single-family dwelling. In areas where existing vegetation does not meet this requirement additional plantings and/or solid fencing shall be provided. (UDO Section 4.2.5.A.)
- b. A maximum of two driveways are permitted for frontages greater than 500 feet but less than 1,000 feet. The minimum separation between driveways shall be is 200 feet. The director, upon advice with NCDOT, may authorize a reduction in spacing due to the lot width, presence of existing streets or curb cuts, or other physical features that make compliance with these standards impractical. (UDO Section 5.6.7 and LUP POLICIES ID8, CA1, and TR6)

Other staff concerns:

1. The depth of the wells located within 1,500 feet of the excavation area is unknown. However, according to Albemarle Regional Health Services older wells in this area generally access a shallow water supply with some wells potentially less than the maximum dewatering depth of the mine. There are 10 properties with possible in-use wells within 1,500 feet of the excavation area, there are 3 residential subdivisions located on the east side of Caratoke Highway (Currituck Woods, Pinewood Acres, and Azalea Acres) utilizing wells. The applicant identified 7 in-use wells within 1,500 feet of the excavation area. There are approximately 38 in-use wells within 2,000 feet of the excavation area; mainly wells located in the 3 residential subdivisions. (LUP POLICY WQ1)

2006 Land Use Plan

The 2006 Land Use Plan classifies the site as Limited-Service Area in the Point Harbor subarea. The following policy statement is relevant to mining activities:

POLICY ID8: MINING ACTIVITIES, or secondary impacts of mining activities not subject to permit approval by the State of North Carolina, may be subject to review and management by Currituck County. Activities to be addressed may include, but not limited to, the adequacy of roads serving the mine site, visual impacts during operation and after closing of the mine site, noise, dust considerations, etc.

The following policy statements are not specific to mining activities but may be relevant to secondary impacts as noted:

POLICY WQ1: Currituck County's GROUND WATER RESOURCES shall receive a level of protection commensurate with their enormous value. Efforts shall be made to monitor the quantity and quality of groundwater resources, with an eye toward preventing pollution, saltwater intrusion, or excessive drawdowns. Particular attention shall be given to locations near water and sewer treatment plants and areas with concentrations of septic tanks.

POLICY WQ6: Currituck County supports the retention or preservation of VEGETATED BUFFERS along the edge of drainage ways, streams, and other components of the estuarine system as an effective, low coast means of protecting water quality.

Staff commentary: The 30' Currituck County riparian buffer and the 50' state wetland buffer are required for the mining operation. The buffers offer protection to wildlife habitat and critical aquatic nurseries.

POLICY CA1: The important economic, tourism, and community image benefits of attractive, functional MAJOR HIGHWAY CORRIDORS through Currituck County shall be recognized. Such highway corridors, beginning with US 158 and NC 168 shall receive priority attention for improved appearance and development standards, including driveway access, landscaping, buffering, signage, lighting, and tree preservation.

POLICY TR6: HIGHWAY 158/168 shall receive special attention concerning the proper development of land and properties adjoining and/or accessing this critical arterial.

SPECIAL USE PERMIT REVIEW STANDARDS

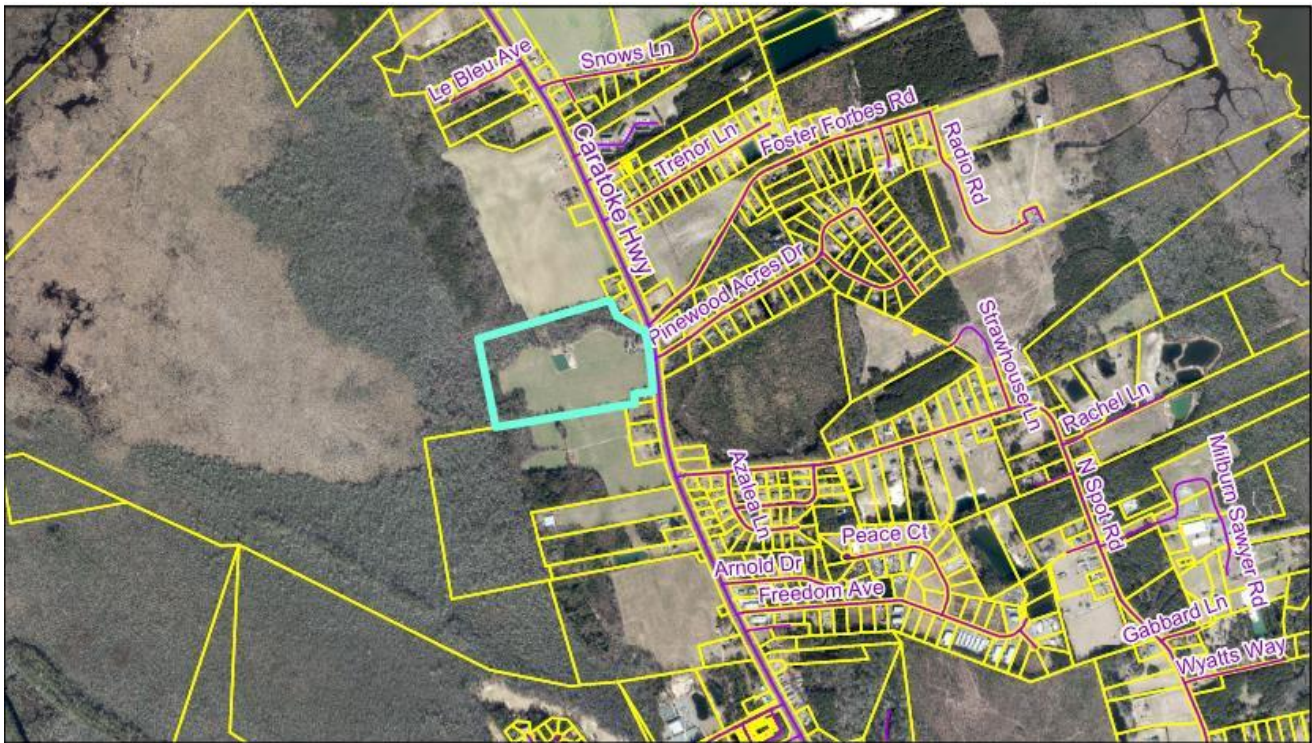
Following an evidentiary hearing, the board shall decide if the application is in accordance with Section 2.3.10, Decision-Making Body Review and Decision, and Section 2.4.6.D, Special Use Permit Review Standards. It is the burden of the applicant to provide evidence to address the Review Standards. The applicant's findings can be found in the attached application.

Special Use Permit Review Standards

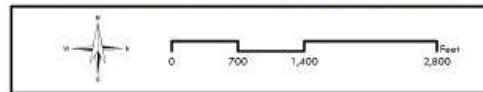
A special use permit shall be approved on a finding that the applicant demonstrates the proposed use will:


1. Not endanger the public health or safety.
2. Not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.
3. Be in conformity with the Land Use Plan or other officially adopted plan.
4. Not exceed the county's ability to provide adequate public facilities, including but not limited to schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate.

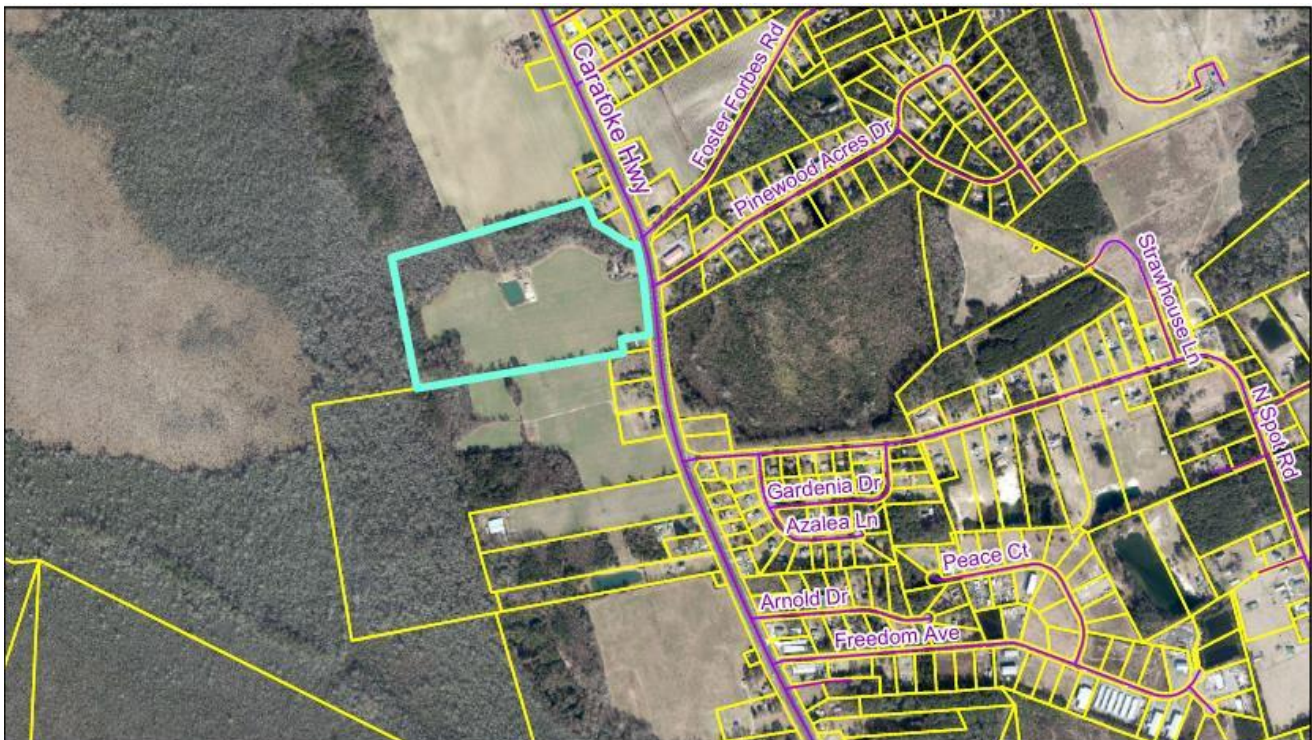
THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE
Board of Commissioners: www.co.currituck.nc.us/board-of-commissioners-minutes-current.cfm



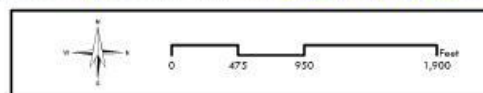
PB 21-11 Foster Forbes Mine
Special Use Permit
Context Map




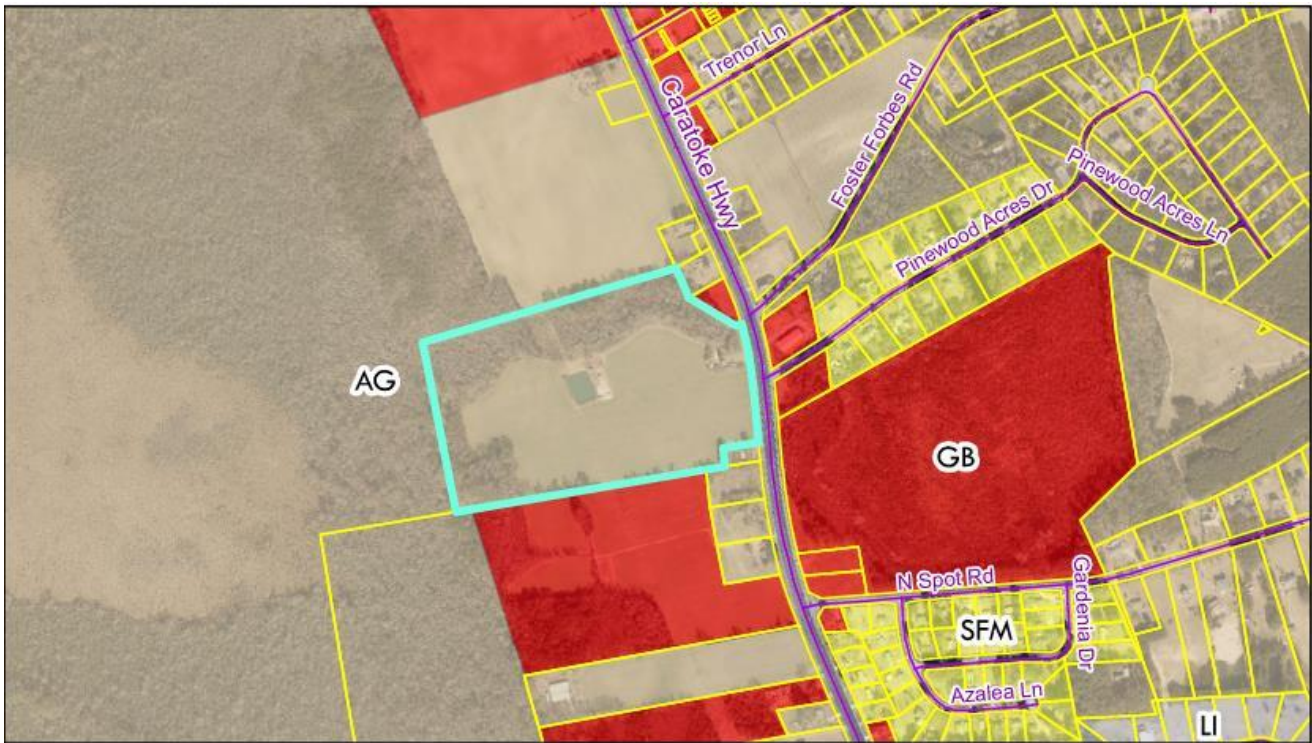
 Currituck County
Planning and Community
Development



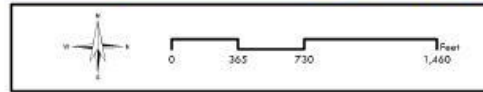
PB 21-11
Foster Forbes Mine
Aerial



 Currituck County
Planning and Community
Development



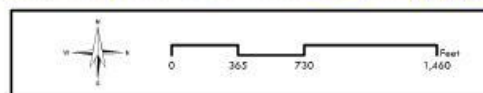
PB 21-11 Foster Forbes Mine
Special Use Permit
Zoning



Currituck County
Planning and Community
Development

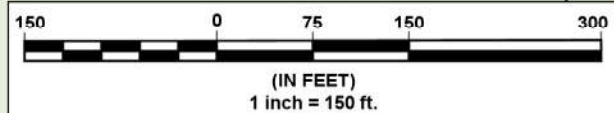


PB 21-11 Foster Forbes Mine
Special Use Permit
Land Use Plan



Currituck County
Planning and Community
Development

EXCAVATION - 6.23 AC
STOCKPILES - 4.43 AC
SEDIMENT POND - 0.51 AC
ACCESS ROAD - 0.32 AC
UNEXCAVATED BUFFERS - 2.05 AC
OTHER UNEXCAVATED - 2.92 AC
TOTAL AFFECTED - 16.46 AC
UNDISTURBED WETLANDS - 9.69 AC
UNDISTURBED BUFFERS - 3.50 AC
OTHER UNDISTURBED - 11.35 AC
TOTAL PERMIT - 41.00 AC



PROPERTY OWNER
FOSTER A. FORBES
5104 LUNAR DRIVE
KITTY HAWK, NC 27949

OPERATOR:
HOM DEVELOPMENT, LLC
PO BOX 2405
MANTEO, NC 27954

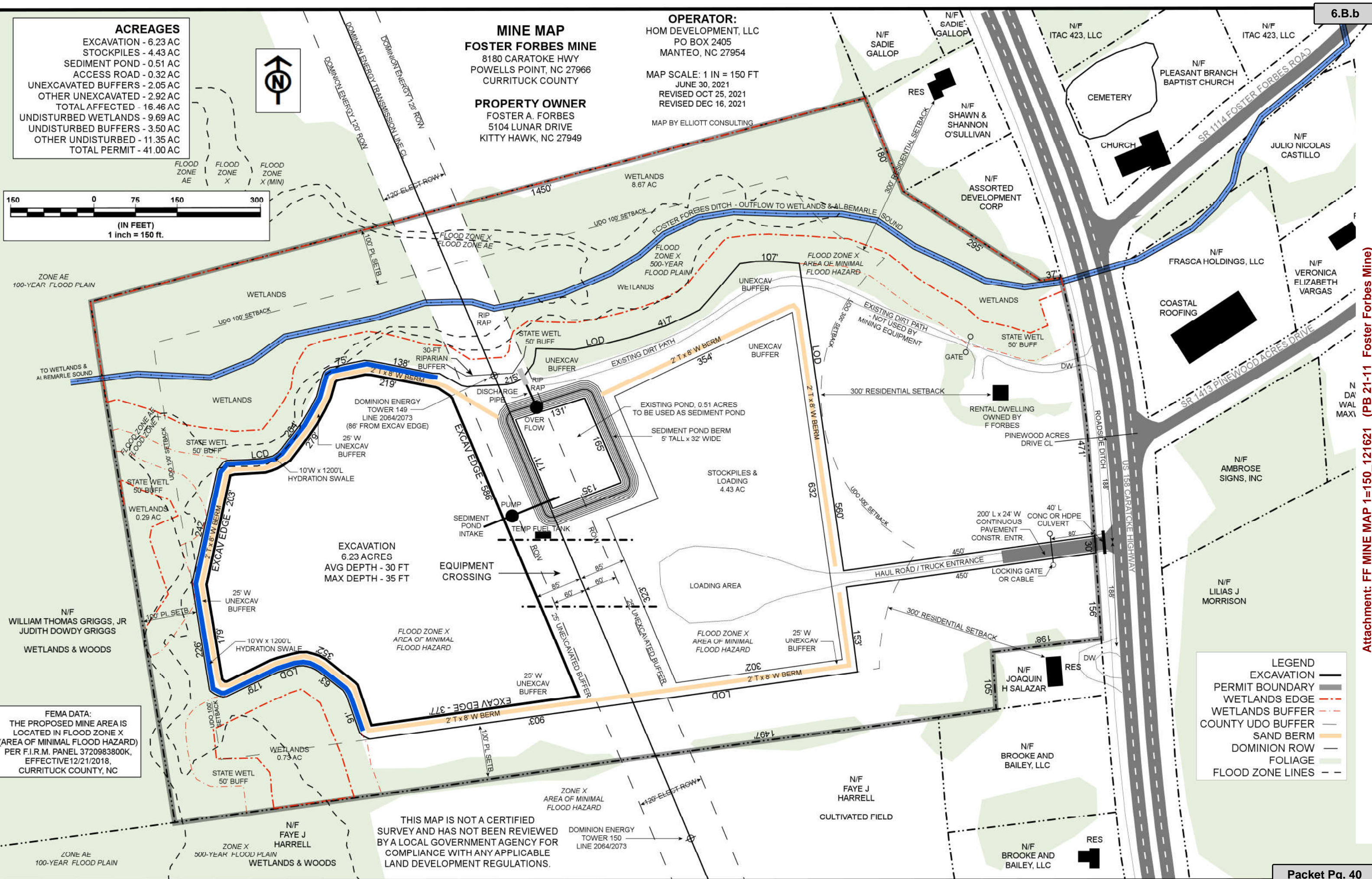
MAP SCALE: 1 IN = 150 FT
JUNE 30, 2021
REVISED OCT 25, 2021
REVISED DEC 16, 2021

MAP BY ELLIOTT CONSULTING

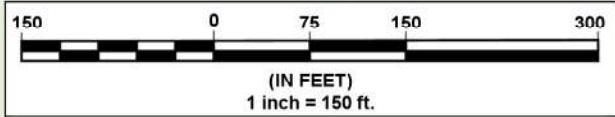
6.B.b

Attachment: FF MINE MAP 1=150_121621 (PB 21-11 Foster Forbes Mine)

Packet Pg. 40



EXCAVATION - 6.23 AC
STOCKPILES - 4.43 AC
SEDIMENT POND - 0.51 AC
ACCESS ROAD - 0.32 AC
UNEXCAVATED BUFFERS - 2.05 AC
OTHER UNEXCAVATED - 2.92 AC
TOTAL AFFECTED - 16.46 AC
UNDISTURBED WETLANDS - 9.69 AC
UNDISTURBED BUFFERS - 3.50 AC
OTHER UNDISTURBED - 11.35 AC
TOTAL PERMIT - 41.00 AC

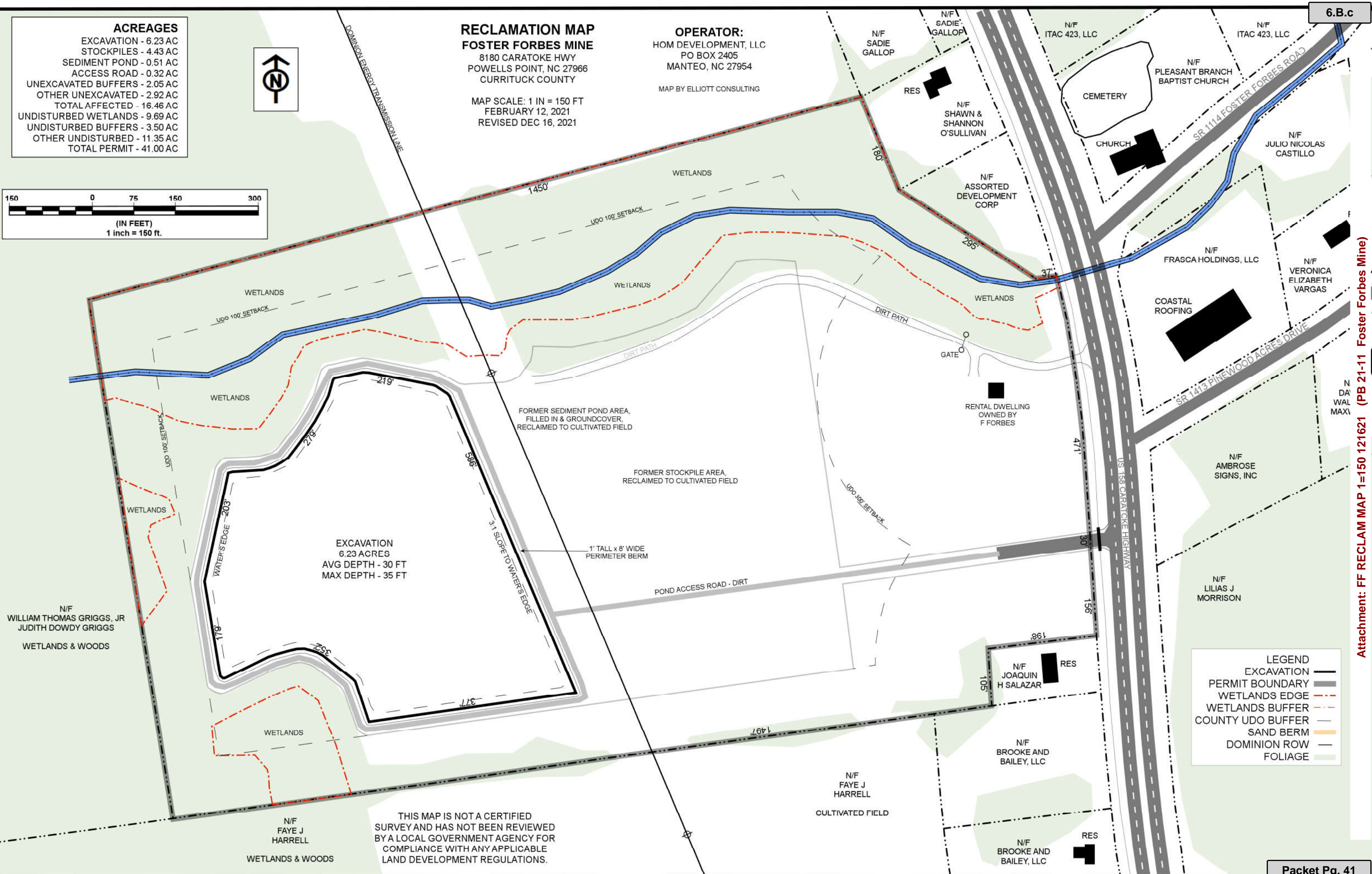


8180 CARATOKE HWY
POWELLS POINT, NC 27966
CURRITUCK COUNTY

MAP SCALE: 1 IN = 150 FT
FEBRUARY 12, 2021
REVISED DEC 16, 2021

HOM DEVELOPMENT, LLC
PO BOX 2405
MANTEO, NC 27954

MAP BY ELLIOTT CONSULTING



Attachment: FF RECLAM MAP 1=150 121621 (PB 21-11 Foster Forbes Mine)



Use Permit Application

OFFICIAL USE ONLY:

Case Number: _____
 Date Filed: _____
 Gate Keeper: _____
 Amount Paid: _____

Contact Information
APPLICANT:

Name: HOM Development, LLC
 Address: PO Box 2405, 1002 Driftwood Dr.
Manteo, NC 27954
 Telephone: 252-473-6074, 252-202-4040
 E-Mail Address: jamie@hatchellconcrete.com

PROPERTY OWNER:

Name: Foster Allen Forbes
 Address: 5104 Lunar Drive
Kitty Hawk, NC 27949
 Telephone: 252-395-4930
 E-Mail Address: fossiecat@aol.com

LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: Contract Lessee

Property Information

Physical Street Address: 8180 Caratoke Hwy.
 Location: Powells Point, NC 27966
 Parcel Identification Number(s): 0123-000-0079-0000
 Total Parcel(s) Acreage: 41.0 acres
 Existing Land Use of Property: Agricultural - cultivated field, woodland

Request

Project Name: Foster Forbes Mine
 Proposed Use of the Property: Sand mine
 Deed Book/Page Number and/or Plat Cabinet/Slide Number: DB 78, DP E/17
 Total square footage of land disturbance activity: 716,998 sf
 Total lot coverage: 716,998 sf Total vehicular use area: _____
 Existing gross floor area: 0 Proposed gross floor area: 0

Community Meeting

Date Meeting Held: March 8, 2021 Meeting Location: Currituck County Rural Center
 Two virtual community meetings held on March 10, 2021, in addition to the above.

Purpose of the Use Permit and Project Narrative (please provide on additional paper if needed): _____

See Attachment A - Purpose of Use Permit and Project Narrative

The applicant shall provide a response to the each one of the following issues. The Board of Commissioners must provide specific findings of fact based on the evidence submitted. All findings shall be made in the affirmative for the Board of Commissioners to issue the use permit.

- A. The use will not endanger the public health or safety.

See Attachment B - Findings of Fact Statement

- B. The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.

See Attachment B - Findings of Fact Statement

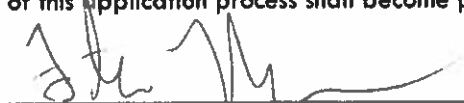
- C. The use will be in conformity with the Land Use Plan or other officially adopted plan.

See Attachment B - Findings of Fact Statement

- D. The use will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate.

See Attachment B - Findings of Fact Statement

I, the undersigned, do certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief. Further, I hereby authorize county officials to enter my property for purposes of determining zoning compliance. All information submitted and required as part of this application process shall become public record.



Property Owner(s)/Applicant*

4-17-2021

Date

*NOTE: Form must be signed by the owner(s) of record, contract purchaser(s), or other person(s) having a recognized property interest. If there are multiple property owners/applicants a signature is required for each.

April 19, 2021

Elliott Consulting

PO Box 112
Aydlett, North Carolina 27916
Phone: 252-339-9021

County of Currituck, NC

Planning and Community Development Dept.
Planning and Zoning Division
153 Courthouse Rd., Ste. 110
Currituck, North Carolina 27929

Foster Forbes Mine - Use Permit

Appendix A – Purpose of Use Permit and Project Narrative

1. Ms. Jamie Basnight Hatchell, manager of HOM Development, LLC, 1002 Driftwood Drive, Manteo, NC 27954, desires to construct and operate a sand and topsoil mine on one (1) parcel located at 8180 Caratoke Highway (US 158), 2.3 miles southeast of the Powells Point, NC Post Office. The parcel is owned by Foster Allen Forbes, 5104 Lunar Drive, Kitty Hawk, NC 27949, and is identified in the Currituck County Tax Office as Parcel ID No. 0123-000-0079-0000, Deed Book 78, Deed Page E/17, being approximately 41 acres, zoned Agricultural, and has been historically used for agricultural activities.
2. The mine shall be titled as the Foster Forbes Mine and will allow the applicant and operator, HOM Development, LLC, to excavate sand and topsoil in a 6.23-acre excavation, operating within an approved affected area of 16.46 acres and an approved permit area of 41.0 acres. The sand mine will have an average depth of 30 feet below natural ground level, and a maximum depth of 35 feet below natural ground level.
3. The excavated pit, stockpiles and processing areas will be constructed and located on the 41-acre parcel. After deducting for 9.47 acres of existing wetlands on the parcel, the 6.23-acre excavation will encompass 19.8% of the remaining 31.53 acres, with a maximum percentage of 30% required by Currituck County Ordinance. Permitted acreage will have sufficient room for a sand mining operation.
4. Access to the excavation area will be via a new 450-ft long by 35-ft wide gravel and dirt driveway with an entrance onto Caratoke Highway, located east of the excavation area. The first 200 feet of the driveway will have solid pavement. The access road will be gated and locked at its entrance from Caratoke Highway. Vehicles owned or contracted by HOM Development will be allowed onsite by right, all others by permission only.

Attachment: Foster Forbes App (PB 21-11 Foster Forbes Mine)

5. HOM Development, LLC, will complete the development strictly in accordance with the plans submitted to Currituck County Planning and Community Development Department, and the North Carolina Department of Environmental Quality, Division of Energy, Mineral and Land Resources.
6. After completion of the project the remaining pit will become an 6.23-acre pond, utilized for environmental habitat and recreational use by the landowner, and will increase the scenic and recreational value of the property.
7. The property contains one zoning designation: AG, Agricultural. All mining activities occur within the AG, Agricultural zoning district. Sand mining is a permitted use in an AG, Agricultural zoning district with an approved Use Permit.
8. The property is surrounded by the following land uses:
 - A. North: cultivated farmland, zoned Agricultural.
 - B. Northeast: two residences, zoned Agricultural, one undeveloped parcel zoned General Business.
 - C. East: One occupied parcel across Caratoke Highway (Coastal Roofing) zoned General Business, two undeveloped parcels across Caratoke Highway, zoned General Business.
 - D. South: one undeveloped parcel zoned General Business, and two residential parcels, zoned Agricultural.
 - E. West: undeveloped swampland and marsh, zoned Agricultural.
9. Currituck County Soil Maps indicate five types of soil on the property: To (Tomotley sandy loam), BoA (Bojac fine sandy loam), and CnA (Conetoe loamy sand). All mining activities will occur inside the Tomotley and Bojac soil type areas.
10. Current Currituck County Flood Maps indicate the excavation portion of the mining site to be located in the area of minimal flood hazard, outside of Flood Zone X (0.2% annual chance flood hazard, 500 year flood plain) according to FIRM panel map 3720983800K, dated December 21, 2018. Flood zone lines are illustrated on the attached flood map.

Appendix B – Currituck County Applicable Standards, Findings of Fact

1. The proposed use will not endanger the public health or safety.
 - a. Site of the Proposed Use is located 450 feet from Caratoke Highway (US 158). Proposed Use access road will intersect with Caratoke Highway via a paved construction entrance at an 85.9° sight angle,

which is within specification of county UDO Section 4.2.5.A(5)(a). Caratoke Highway is a four-lane public road and is considered heavily travelled. The last traffic count taken in 2019 by NCDOT along Caratoke Highway near the Foster Forbes parcel showed an annual daily traffic count of 17,000 vehicles per day, an average of 708 vehicles per hour. The mine operator estimates there will be an average maximum of 12 vehicles per day leaving the mine site and intersecting with Caratoke Highway, an increase of 1-2 vehicles per hour (0.3%) over the current traffic volume. Maximum trips per hour are anticipated to average 2-3 during peak operation of the mine.

- b. Closest occupied residence to the Proposed Use area is located 840 feet from location of mining activity and 975 feet from the proposed location of the dewatering pump. A comparison of noise levels was taken from a similar sand mine operation utilizing a dewatering pump located at Green Acres Land Development Sand Mine in Jarvisburg. Noise levels were found to be 40.9 decibels at 956 feet from the dewatering pump operation and 47.9 decibels at 335 feet from other mine activity, below the maximum 60 dB allowed by Chapter 9, Article II, Section 9-33 of the Currituck County Code of Ordinances. Noise levels were measured along Caratoke Highway at the same distances from the highway as the closest residences to the mine site. Noise levels were found to be 65-68 decibels. The noise that may be generated by the Proposed Use will not be at a level that would materially endanger the public health and safety.
- c. The Proposed Use will have adequate sediment and erosion control measures in place around all active areas of the site, including erosion control berms, groundcover on active areas to control erosion, and construction entrances on access roads to prevent sedimentation from leaving the site. All storm-water will drain internally to the mine excavation. Except for a 200-foot long by 30-foot wide paved driveway, there will be no impervious surfaces inside the permit area.
- d. The mine dewatering discharge of clear water will be routed away from neighboring residences and will exit the landowner's private property via existing ditch directly into wetlands draining into Albemarle Sound on the west side of the permit area. Route of dewatering discharge to Albemarle Sound is shown on map attached to this application; photos of existing discharge ditch are also attached.
- e. The mine dewatering wastewater discharge from the sedimentation pond will be tested quarterly by a State-certified laboratory for turbidity, settleable solids, and total suspended solids, and on premises for salinity and pH. The purpose of this analysis is to prevent excess sedimentation from leaving the mining activity area. Results from the analyses will be reported quarterly to Currituck County Planning and Community Development.

- f. A written groundwater well survey questionnaire was sent by certified mail to all landowners within 1500 feet of the proposed excavation boundary. The questionnaire requested information about the landowner's groundwater well if one was utilized, type, depth, location, and other information. A self-addressed stamped envelope was provided for their voluntary response. A summary of landowner's responses and copy of questionnaire is attached.
 - g. Groundwater well survey and data from Currituck County Water Department indicates approximately seven (7) active groundwater pumps and wells in use within 1500 feet of the proposed Foster Forbes Mine, closest being 850 feet away.
 - h. In lieu of a hydrogeological report, the operator will establish a monetary guarantee of \$21,000 with Currituck County Planning to replace seven (7) groundwater wells located within 1500 feet of the proposed excavation area, if they are damaged or contaminated by mine dewatering, per county UDO Section 4.2.5.A(13)(b)(i)(B).
2. The Proposed Use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.
 - a. Mining activities in the Foster Forbes Mine parcel will occur behind a natural full growth foliage visual screen minimum 250-feet wide north of mining activity, 200-feet wide northeast, and 110-feet wide west, which will limit the impact of noise from the Proposed Use and will screen the activity from adjoining properties. Intermittent visual screening is existing southward but is adjacent to undeveloped farm fields. Mining activities will occur behind sand berms which, along with distance, will screen activities from the east.
 - b. The Proposed Use will comply with the setbacks required by UDO Section 4.2.5.A(3)(a) and will include all landscape buffers that meet the requirements of UDO Section 4.2.5.A(3)(b), both of which will limit the Proposed Use's impact on adjoining property.
 - c. The Applicant has requested the services of a North Carolina Real Estate Appraisal Firm who will present appraiser testimony on the issue of whether the Proposed Use would substantially injure the value of adjoining property to the proposed Foster Forbes Mine.
 - d. The Proposed Use is intended to serve the growing residential and commercial area of Lower Currituck County in which the proposed Foster Forbes Mine site will be located. Sand is a required component in many types of residential and commercial construction, and the location of the Proposed Use will benefit the local community with reduced costs of this commodity due to lower transportation costs.

- e. The Foster Forbes Mine is located on a parcel zoned AG Agricultural. Mining is a permitted use on a parcel zoned AG Agricultural with an approved Use Permit.
3. The Proposed Use will be in conformity with the Land Use Plan or other officially adopted plan.
- a. The Foster Forbes Mine parcel is in the Point Harbor Land Use Plan Subarea and is designated as a Limited Service class in the Currituck County Land Use Plan. There will be no structures or residential development on the Subject Property.
 - b. The Subject Property is in the AG Agricultural zoning district. Sand mining is a permitted use in an AG Agricultural zoning district with an approved Use Permit and is therefore not an incompatible land use.
 - c. The Proposed Use is believed to be in conformity with the Currituck County Land Use Plan and the Unified Development Ordinance.
4. The Proposed Use will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate.
- a. The Proposed Use will not add any additional burden on schools, fire and rescue, law enforcement or other public facilities due to the nature of the Proposed Use itself. The site will have no structures, no electrical, phone or public water requirements. The remaining pond will be available as a water source for usage by EMS if needed. The proposed Use is expected to have minimal to no impact on the County's public facilities.

Additional Considerations for the Operation of the Foster Forbes Mine

- 1. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Currituck County Board of Commissioners.
- 2. All trucks hauling mined or quarried materials (i.e., sand, clay, topsoil) shall be covered with a tarpaulin when materials extend above the raised board of the truck.
- 3. All trucks hauling mined or quarried materials will utilize the single mine access road entrance to Caratoke Highway. A locking gate provides security to the access road entrance.

4. The mine operator estimates there will be an average maximum of 12 vehicles per day leaving the mine site and intersecting with Caratoke Highway, an increase of 1-2 vehicles per hour over the current traffic volume. Maximum trips per hour are anticipated to average 2-3 during peak operation of the mine.
5. No bulk waste, hazardous waste, commercial waste, garbage, construction, or demolition waste will be placed on the site.
6. A weekly log shall be maintained by the operator to ensure on-going maintenance of sediment and erosion control devices.
7. This Use Permit application is requested to be valid for 10 years.
8. "No Trespassing" signs will be posted around the mining permit area at a maximum distance of 250 feet apart indicating that a mining operation is being conducted on the property.
9. Copies of the following documents shall be provided to Currituck Planning and Community Development prior to the start of this project:
 - a. Approved NCDEQ Division of Energy, Mineral & Land Resources mining permit.
 - b. Approved NCDEQ Stormwater Program and National Pollutant Discharge Elimination System permit for dewatering.
 - c. US Army Corps of Engineers Certification of Jurisdictional Determination.
 - d. NCDOT Driveway Permit
 - e. Dominion Energy Consent Agreement for Right of Way Encroachment.
10. The hours of operation of the mine shall not be beyond sunrise to sunset. No mining activities will be conducted on Saturdays from Memorial Day through Labor Day, or any Sunday.
11. A sign shall be placed at the entrance to the property showing the applicant's name, telephone number and basic permit information.
12. All provisions of state and federal permits shall remain valid, and any conditions required within the permits shall be upheld throughout the lifetime of the mining operation.

13. If any conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.

14. Sequence of events for the development and operation of the Foster Forbes Mine:

- a. Operator will obtain approved mining and dewatering permits from NC Dept. of Environmental Quality, and approved Use Permit from Currituck County Dept. of Planning & Community Development.
- b. Operator will construct and maintain 30-ft wide access/haul road from mine activity area across field to Caratoke Highway.
- c. Operator will pave the first 200 feet of access road starting at its intersection with Caratoke Highway with continuous pavement.
- d. Mine operator will install two groundwater level monitoring wells along the eastern mining permit boundary, siting to be determined by recommendation of Currituck County Planning.
- e. Operator will remove topsoil down to 2.5 feet below natural ground level, and stockpile overburden for use in erosion control berms.
- f. 2-ft tall x 8-ft wide perimeter berm will be constructed inside unexcavated buffer around the excavation area and stockpile area using onsite soils and stabilized with groundcover seeded per seeding schedule in this application.
- g. Operator will maintain existing foliage visual screen along perimeter of the affected area.
- h. Operator will construct sand berm around existing 0.51-acre pond located 85 feet east of the proposed excavation boundary, which will be utilized as a sedimentation pond for dewatering the excavation. Sediment pond will be 133 feet wide by 168 feet long with 0.65-acre water surface for sedimentation. Sediment pond berm will be minimum 32 feet wide, 5 feet tall, with 18-ft wide exterior slope at 3:1 grade, and 12-ft wide interior slope at 2:1 grade. Minimum 36-in half-pipe flash-board riser overflow will be located at north corner of sediment pond, discharging into minimum 12-in plastic pipe leading to riprap-protected existing ditch draining to Foster Forbes Ditch and Albemarle Sound.
- i. Operator will construct 1200-ft long by 10-ft wide by 6-ft deep hydration ditch for groundwater recharge along the western edge of the mine activity area inside the unexcavated buffer. Ditch will be sited between the mining perimeter berm and the adjacent undisturbed buffer. Undisturbed buffer will serve as filter strip to allow slow overflow of water into the adjacent wetlands without erosion of the buffer. Hydration ditch will be kept full of water during mine dewatering operation.
- j. Operator will install dewatering pump between northeast corner of sediment pond and excavation area. Dewatering pump will be 8-in Godwin Dri-Prime model running at idle speed with 400-500 gallon per minute flow into sediment pond.

- k. Operator will begin excavation of main pond (6.23 acres) approximately 85 feet west of sediment pond by digging with excavator and removing sand & topsoil to maximum depth feasible without dewatering the excavation.
- l. Operator will dewater main excavation into sediment pond, discharging overflow water from sediment pond through half-pipe riser water height control through discharge pipe into Foster Forbes Ditch draining to Albemarle Sound. Operator will dewater main excavation down approximately 25 feet below normal groundwater level.
- m. 3:1 cut slopes will be constructed around excavation edge down to normal groundwater level. As water is removed from excavation, 2:1 cut slopes will be constructed below normal groundwater level around excavation edge.
- n. Pond will be excavated to average 30 feet and maximum 35 feet below natural ground level while dewatering is maintained. Excavated material (sand) will be stockpiled in a 4.43-acre stockpile and loading area east of the excavation. Sand will be loaded into trucks and removed from area via the access road leading to Caratoke Highway.
- o. When final excavation of pond is complete, dewatering will be discontinued, and pump shut down and removed. Groundwater will refill the excavation to normal seasonal high groundwater level.
- p. After all excavation is complete, operator will establish groundcover on 3:1 above-water slopes of excavation and will construct 8-ft wide by 1-ft tall 4:1 berm around excavation edge to prevent erosion of pond slopes, with outside edge of berm graded down to natural ground level.
- q. Sediment pond will be drained of water and filled with sand at request of landowner. Sediment pond berm will be used as part of fill. Once filled, sediment pond area will be graded, levelled, and sowed with groundcover. Area will be allowed to return to non-erosive field state.
- r. Former stockpile / perimeter berm areas and processing areas outside of main excavation will be graded, leveled, and seeded with groundcover. Areas will be allowed to return to previous non-erosive field state.
- s. Hydration ditch will be filled with overburden soil and will be graded, levelled and sown with groundcover. Area will be allowed to return to non-erosive field state.
- t. Internal roadways and haul roads will be graded, leveled, seeded with groundcover, and allowed to return to natural field state. A field path will remain around the perimeter of the excavated pond.
- u. Operator will grade and level dirt portion of access road to Caratoke Highway back to original non-erosive state. Paved portion of access road will remain as is. Field path will lead from access road around perimeter of pond.
- v. Remaining affected areas inside main permit area will be fertilized and returned to natural field state.

- w. Remaining pond will be utilized by landowner for scenic & recreational purposes, and as wildlife habitat.
15. Reclamation of the sides of the excavated pond and the general permit area will be conducted simultaneously with mining operations according to NCDEQ specifications. Annual Reclamation Reports will be submitted to Currituck County Planning Division and to NCDEQ in June of each year.
 16. HOM Development, LLC will maintain a State-required minimum 25-ft wide bonded unexcavated buffer (no excavation in buffer, but roadways, berms and erosion & sedimentation control measures may be installed within it) between mining activity and the undisturbed buffer, per NCDEQ mining permit requirements.
 17. HOM Development, LLC will maintain a minimum 50-ft wide undisturbed buffer between any land disturbing activities within the mining permit boundaries and any adjacent wetlands.
 18. HOM Development, LLC will maintain an undisturbed minimum 100-ft property line setback, required by Currituck County ordinance, on all sides of the permit area between affected area and adjacent property lines.
 19. HOM Development, LLC will maintain an undisturbed minimum 300-ft property line setback, required by Currituck County ordinance, on all sides of the permit area between affected area and adjacent residences, commercial buildings, or public highways.
 20. HOM Development, LLC will maintain a reclamation bond of \$25,000 with NCDEQ to guarantee correct reclamation of the property once excavation has been completed.
 21. HOM Development, LLC will maintain a performance bond of \$21,000 with Currituck County Planning and Community Development Department for seven (7) in-use water wells located within a 1500-ft radius of the Foster Forbes Mine excavation, in order to assure the availability of funds should the need arise replace any of the in-use wells.
 22. All provisions of State and local permits shall be met.
 23. If at any time the NCDEQ permits for this mining project are revoked or suspended, the revocation or suspension will cause the Currituck County Use Permit to become void.
 24. Any modifications to the State permit will be filed within 10 days to Currituck County Planning and Community Development Department.

25. Surrounding areas use (agriculture) will not be affected by location of sand mine. Sand mine will enhance storm water drainage of adjacent fields and can supply water for irrigation efforts. Excavated pond can also serve as water source for the local volunteer fire department and EMS service if needed.
26. On a yearly basis, the operator anticipates an average of no more than 4-5 people will be present for excavation purposes on site at any given time. Vehicular traffic will be minimal, operator anticipates a maximum daily average of 12 trucks transporting sand. Noise from loaders and excavators will be mitigated by presence of sand berms and foliage along perimeter of sand mine. Dewatering pump will be located at furthest point away from residences in corner of excavation surrounded by berms or below ground level, running at idle speed.
27. No fume generation or land clearing burning will be necessary to prepare area for excavation.
28. Dust from access road will be controlled by 10-mph maximum speed limit for haul trucks on the premises, and application of water to roads will help minimize dust. Topsoil stockpile areas and berms will be stabilized with groundcover to reduce wind and water erosion.
29. The mine access road entering from Caratoke Highway will be properly graded and drained to minimize potholes and standing water. Roadside drainage ditches will have rock dams installed to mitigate sedimentation leaving the site.
30. Limited ingress/egress to site will insure safe traffic movement. Upon exiting the primary access haul road, trucks will travel 0.6 mile southwest on N. Spot Road to US 158 Caratoke Highway. Proposed maximum removal is up to 12 truckloads per day.
31. No explosives will be used during excavation of the Bayview Sand Mine.
32. No fuel tanks, solvents or other chemical reagents will be stored onsite during excavation of the Foster Forbes Mine.
33. HOM Development, LLC will maintain a locked gate at the mine access road entrance to help prevent inadvertent public entry.
34. Drainage patterns of the area will not be altered to cause flooding off-site while the permit is valid and after reclamation.
35. An NCDEQ Division of Energy, Mineral & Land Resources Mining Permit application for the Foster Forbes Mine, and an NCDEQ DEMLR NCG02 Notice of Intent General Permit application for

dewatering is in process of being submitted for review. When received, copies of all approved State permits will be submitted to Currituck County Planning and Community Development Department.

36. An NCDEQ DEMLR Stormwater permit application will be submitted if required by NCDEQ. A stormwater permit has not been required thus far due to minimal impervious surface impact in the affected area.
37. No sewage will be generated during the mining operation or after reclamation.
38. No temporary construction trailers or permanent construction will be established on this project site or permit area.
39. No single-family homes or dwellings will be constructed on this property during the permit period.
40. Sole drinking water supply in this area is well water. No drinking water wells are planned to be in this project area. Closest private well or septic system is located 252 feet from proposed excavation edge.
41. The proposed mining operation should not negatively affect or impact the ability of Currituck County to provide public services. The remaining sand pit will be available as a water source to the local Volunteer Fire Department and EMS.

The applicant shall complete the development strictly in accordance with the plan submitted to and approved by the Currituck County Board of Commissioners, in addition to those additional requirements contained herein. The applicant acknowledges that if any of the conditions affixed hereto or any part thereof shall be held invalid or void then this permit shall be void and of no effect.



Ken Elliott

Elliott Consulting

For Jamie Basnight Hatchell, manager

HOM Development, LLC

April 18, 2021

Attachment: Foster Forbes App (PB 21-11 Foster Forbes Mine)

U.S. ARMY CORPS OF ENGINEERS

WILMINGTON DISTRICT

Action Id. SAW-2021-00139 County: Currituck U.S.G.S. Quad: NC- Jarvisburg

NOTIFICATION OF JURISDICTIONAL DETERMINATION

Requestor: Mr. Foster Forbes
 Address: 5104 Lunar Drive
Kitty Hawk, North Carolina 27949
 Telephone Number: (419) 283-4575
 E-mail: fossiecat@aol.com

Size (acres) 34.4 (Review Area)
 Nearest Waterway Albemarle Sound
 USGS HUC 03010205

Nearest Town Powells Point
 River Basin Albemarle-Chowan
 Coordinates Latitude: 36.1318
 Longitude: 75.8406

Location description: : The property is identified as Currituck County Tax Parcel #012300000790000 and is located at 8180 Caratoke Highway in Powells Point, Currituck County, North Carolina. The property total area is 39.7 acres with a review area of 34.4 acres containing approximately 4.49 acres of potential wetlands. See attached Site Exhibit dated 03/24/2021.

Indicate Which of the Following Apply:

A. Preliminary Determination

- ☒ There appear to be **wetlands** on the above described project area/property, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). The **wetlands** have been delineated, and the delineation has been verified by the Corps to be sufficiently accurate and reliable. The approximate boundaries of these waters are shown on the enclosed delineation map dated 3/24/2021. Therefore this preliminary jurisdiction determination may be used in the permit evaluation process, including determining compensatory mitigation. For purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a preliminary JD will treat all waters and wetlands that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the U.S. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331). However, you may request an approved JD, which is an appealable action, by contacting the Corps district for further instruction.
- ☐ There appear to be **wetlands** on the above described project area/property, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). However, since the **wetlands** have not been properly delineated, this preliminary jurisdiction determination may not be used in the permit evaluation process. Without a verified wetland delineation, this preliminary determination is merely an effective presumption of CWA/RHA jurisdiction over all of the **wetlands** at the project area, which is not sufficiently accurate and reliable to support an enforceable permit decision. We recommend that you have the **wetlands** on your project area/property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.

B. Approved Determination

- ☐ There are Navigable Waters of the United States within the above described project area/property subject to the permit requirements of Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403) and Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- ☐ There are **wetlands** on the above described project area/property subject to the permit requirements of Section 404 of the Clean Water Act (CWA) (33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- ☐ We recommend you have the **wetlands** on your project area/property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.
- ☐ The **wetlands** on your project area/property have been delineated and the delineation has been verified by the Corps. The approximate boundaries of these waters are shown on the enclosed delineation map dated DATE. We strongly suggest you have this delineation surveyed. Upon completion, this survey should be reviewed and verified by the Corps. Once verified, this survey

Attachment: US ACOE PJD (PB 21-11 Foster Forbes Mine)

SAW-2021-00139

will provide an accurate depiction of all areas subject to CWA jurisdiction on your property which, provided there is no change in the law or our published regulations, may be relied upon for a period not to exceed five years.

- ☐ The **wetlands** have been delineated and surveyed and are accurately depicted on the plat signed by the Corps Regulatory Official identified below on **DATE**. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- ☐ There are no waters of the U.S., to include wetlands, present on the above described project area/property which are subject to the permit requirements of Section 404 of the Clean Water Act (33 USC 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- ☒ The property is located in one of the 20 Coastal Counties subject to regulation under the Coastal Area Management Act (CAMA). You should contact the Division of Coastal Management in **Elizabeth City, NC, at (252) 264-3901** to determine their requirements.

Placement of dredged or fill material within waters of the US, including wetlands, without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). Placement of dredged or fill material, construction or placement of structures, or work within navigable waters of the United States without a Department of the Army permit may constitute a violation of Sections 9 and/or 10 of the Rivers and Harbors Act (33 USC § 401 and/or 403). If you have any questions regarding this determination and/or the Corps regulatory program, please contact **Anthony Scarbraugh at (910) 251-4619 or anthony.d.scarbraugh@usace.army.mil**.

C. Basis For Determination: Basis For Determination: The wetlands within the review area were delineated using the Corps of Engineers 1987 Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement Version 2.

D. Remarks: The potential wetlands within the review area are depicted on the attached Site Exhibit dated March 24, 2021.

E. Attention USDA Program Participants

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

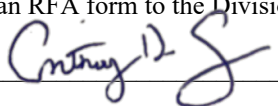
F. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B. above)

This correspondence constitutes an approved jurisdictional determination for the above described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

US Army Corps of Engineers
South Atlantic Division
Attn: Phillip Shannin, Review Officer
60 Forsyth Street SW, Room 10M15
Atlanta, Georgia 30303-8801

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **Not applicable**.

****It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.****

Corps Regulatory Official: 

Date of JD: **04/28/2021** Expiration Date of JD: **Not applicable**

Attachment: US ACOE PJD (PB 21-11 Foster Forbes Mine)

SAW-2021-00139

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete the Customer Satisfaction Survey located at http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0

Copy furnished:

Agent: **Quible and Associates, P.C.**
Mr. Troy Murphy
Address: **Post Office Box 870**
Kitty Hawk, North Carolina 27966
Telephone Number: **(252) 491-8147**
E-mail: **tmurphy@quible.com**

Property Owner: **Elliot Consulting**
Mr. Kenneth Elliott
Address: **Post Office Box 112**
Aydlett, North Carolina 27916
Telephone Number: **(252) 339-9021**
E-mail: **ken@kenobx.com**

Attachment: US ACOE PJD (PB 21-11 Foster Forbes Mine)

Q:\2020\20053\Drawings\20053 - FORBES PROPERTY.dwg 3/25/2021 8:15 AM Tmurphy

NOTE: THIS DOCUMENT IS PRELIMINARY – NOT FOR CONSTRUCTION, RECORDATION, SALES OR CONVEYANCES – THIS DOCUMENT IS FOR DISCUSSION PURPOSES ONLY! EXISTING INFORMATION SHOWN ON THIS DOCUMENT IS BASED ON BEST AVAILABLE DATA AND IS NOT A CERTIFIED SURVEY. ALL INFORMATION SHOWN ON THIS DOCUMENT IS SUBJECT TO ANY REQUIREMENTS BY ANY REGULATORY AGENCY, ENTITY OR AUTHORITY.

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*PARCEL & AERIAL DATA SHOWN BASED ON COUNTY GIS DATA.



APPROXIMATE
WETLAND AREA 2
12,922 SF
(0.29 AC)

APPROXIMATE
WETLAND AREA 1
31,641 SF
(0.73 AC)

DATA SHEET
LOCATIONS
(TYP.)

APPROXIMATE
WETLANDS LINE
FIELD APPROVED BY
USACE ON 03/23/2021

APPROXIMATE
WETLAND AREA 3
151,572.5 SF
(3.47 AC)

AREA OF REVIEW

PROPERTY BOUNDARY

US HWY 150 (CARATOKE HWY)

FOSTER FORBES RD

PINWOOD ACRES DR

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ENGINEER, THEN THIS DOCUMENT SHALL BE
CONSIDERED PRELIMINARY, NOT A
CERTIFIED DOCUMENT AND SHALL NOT
BE USED FOR CONSTRUCTION,
RECORDATION, SALES OR LAND
CONVEYANCES, UNLESS OTHERWISE
NOTED.

PROJECT
P20053
DRAWN BY
TM/OTH
CHECKED BY
WDE
DATE
3/24

Packet Pg. 58

SITE EXHIBIT

FORBES PROPERTY
8180 CARATOKE HIGHWAY

POPLAR BRANCH TOWNSHIP
NORTH CAROLINA

CURRITUCK COUNTY

0 200 400

Attachment: US ACOE PJD (PB 21-11 Foster Forbes Mine)

THIS MAP IS NOT
CERTIFIED SURVEY
AND HAS NOT BEE
REVIEWED BY A
LOCAL GOVERNMENT
AGENCY FOR
COMPLIANCE WITH
ANY APPLICABLE
LAND DEVELOPEMENT
REGULATIONS.

NC License#: C-0208
Quible
SINCE 1959
& Associates, P.C.
ENGINEERING** * CONSULTING * PLANNING
ENVIRONMENTAL SCIENCES * SURVEYING**
**ENG./SUR. NOT OFFERED AT BLACK MTN. OFFICE
8466 Caratoke Hwy, Powells Point, NC 279
Phone: (252) 491-8147 Fax: (252) 491-81
90 Church St., Sta. B, Black Mountain, NC 2

6.B.e

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Mr. Foster Forbes	File Number: SAW-2021-00139	Date: 04/28/2021
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input checked="" type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at or <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx> or the Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the district engineer. This form must be received by the division engineer within 60 days of the date of this notice.

Attachment: US ACOE PJD (PB 21-11 Foster Forbes Mine)

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

District Engineer, Wilmington Regulatory Division
Attn: Anthony Scarbraugh
Washington Regulatory Office
U.S Army Corps of Engineers
2407 West Fifth Street
Washington, North Carolina 27889

If you only have questions regarding the appeal process you may also contact:

Mr. Phillip Shannin, Administrative Appeal Review Officer
CESAD-PDO
U.S. Army Corps of Engineers, South Atlantic Division
60 Forsyth Street, Room 10M15
Atlanta, Georgia 30303-8801
Phone: (404) 562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number:
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For appeals on Initial Proffered Permits send this form to:

District Engineer, Wilmington Regulatory Division, Attn: Anthony Scarbraugh, 69 Darlington Avenue, Wilmington, North Carolina 28403

For Permit denials, Proffered Permits and Approved Jurisdictional Determinations send this form to:

Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Phillip Shannin, Administrative Appeal Officer, CESAD-PDO, 60 Forsyth Street, Room 10M15, Atlanta, Georgia 30303-8801
Phone: (404) 562-5137

Attachment: US ACOE PJD (PB 21-11 Foster Forbes Mine)



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

BRIAN WRENN
Director

NORTH CAROLINA
Environmental Quality

November 5, 2021

Ms. Jamie Basnight Hatchell
HOM Development, LLC
PO Box 2405
Manteo, NC 27954

RE: Foster Forbes Mine
Mining Permit No. 27-56
Currituck County
Pasquotank River Basin

Dear Ms. Hatchell:

The application for a mining permit for the above referenced mine site has been found to meet the requirements of N.C.G.S. §74-51 of The Mining Act of 1971. As we have received the required security to cover this application, I am enclosing the mining permit.

The conditions of Mining Permit No. 27-56 were based primarily upon information supplied in the application with conditions added as necessary to ensure compliance with The Mining Act of 1971. N.C.G.S. §74-65 states that the issuance of a mining permit does not supersede or otherwise affect or prevent the enforcement of any zoning regulation or ordinance duly adopted by an incorporated city or county or by any agency or department of the State of North Carolina.

As a reminder, your permitted acreage at this site is 41.0 acres and the amount of land you are approved to disturb is 16.46 acres as indicated on the mine maps received March 30, 2021, and revised maps received May 18, 2021.

Please review the permit and contact Adam Parr, Assistant State Mining Specialist, at (919) 707-9220 of any objection or questions concerning the terms of the permit.

Sincerely,

A handwritten signature in blue ink, appearing to read "David A. Miller".

David Miller, PE
State Mining Engineer

DM/ap

Enclosures

cc: Mr. Samir Dumpor, PE
Mr. William Gerringer-DOL, Mine and Quarry Bureau, w/o enclosures



DEPARTMENT OF ENVIRONMENTAL QUALITY**DIVISION OF ENERGY, MINERAL, AND LAND****RESOURCES****LAND QUALITY SECTION****PERMIT**

For the operation of a mining activity

In accordance with the provisions of N.C.G.S. §74-46 through 68, “The Mining Act of 1971,” Mining Permit Rule 15A NCAC 5 B, and other applicable laws, rules, and regulations

Permission is hereby granted to:

HOM Development, LLC.

Foster Forbes Mine

Currituck County - Permit No. 27-56

for the operation of a

Sand Mine

Which shall provide that the usefulness, productivity and scenic values of all lands and waters affected by this mining operation will receive the greatest practical degree of protection and restoration.

Attachment: NC Mine Permit (PB 21-11 Foster Forbes Mine)

In accordance with the application for this mining permit, which is hereby approved by the Department of Environmental Quality, hereinafter referred to as the Department, and in conformity with the approved Reclamation Plan attached to and incorporated as part of this permit, provisions must be made for the protection of the surrounding environment and for reclamation of the land and water affected by the permitted mining operation. This permit is expressly conditioned upon compliance with all the requirements of the approved Reclamation Plan. However, completed performance of the approved Reclamation Plan is a separable obligation, secured by the bond or other security on file with the Department, and may survive the revocation or suspension of this permit.

This permit is not transferable by the permittee with the following exception: If another operator succeeds to the interest of the permittee in the permitted mining operation, by virtue of a sale, lease, assignment or otherwise, the Department may release the permittee from the duties imposed upon him by the conditions of his permit and by the Mining Act with reference to the permitted operation, and transfer the permit to the successor operator, provided that both operators have complied with the requirements of the Mining Act and that the successor operator agrees to assume the duties of the permittee with reference to reclamation of the affected land and posts a suitable bond or other security.

In the event that the Department determines that the permittee or permittee's successor is not complying with the Reclamation Plan or other terms and conditions of this permit or is failing to achieve the purposes and requirements of the Mining Act, the Department may give the operator written notice of its intent to modify, revoke or suspend the permit, or its intent to modify the Reclamation Plan as incorporated in the permit. The operator shall have right to a hearing at a designated time and place on any proposed modification, revocation, or suspension by the Department. Alternatively, and in addition to the above, the Department may institute other enforcement procedures authorized by law.

I. Definitions. N.C.G.S. §74-49.

Wherever used or referred to in this permit, unless the context clearly indicates otherwise, terms shall have the same meaning as supplied by the Mining Act, N.C.G.S. §74-49.

II. Issuance and Modifications. N.C.G.S. §74-52.

November 5, 2021: This permit has been issued to HOM Development, LLC for the operation of a Sand and Gravel mine. Mining activities shall occur as indicated on the mine maps received March 30, 2021, and revised maps received May 18, 2021, and supplemental information received on March 30, 2021, May 18, 2021, October 13, 2021, October 22, 2021, and November 4, 2021. Permitted acreage at this site is 41.0 acres and the amount of land approved to disturb is 16.46 acres.

This permit is valid for the life of the site or life of lease, if applicable, as defined by Session Law 2017-209 and has no expiration date. However, all provisions of N.C.G.S. §74-51 and N.C.G.S. §74-52 still apply for new, transferred, and modified mining permits.

III. Operating Conditions. N.C.G.S. §74-51.

1. Wastewater and Quarry Dewatering.

- A. Any wastewater processing or mine dewatering shall be in accordance with the permitting requirements and rules promulgated by the N.C. Environmental Management Commission.

- B. Any stormwater runoff from the affected areas at the site shall be in accordance with any applicable permit requirements and regulations promulgated by the Environmental Protection Agency and enforced by the N.C. Environmental Management Commission. It shall be the permittee's responsibility to contact the Stormwater Program to secure any necessary stormwater permits or other approval documents.
- C. Any sampling required under the NPDES Stormwater permit will be performed as required in the NPDES permit, or monthly, whichever is more frequent, and will be provided annually with the Annual Reclamation Report.

2. Air Quality and Dust Control.

- A. Any mining process producing air contamination emissions shall be subject to the permitting requirements and rules promulgated by the N.C. Environmental Management Commission and enforced by the Division of Air Quality.
- B. During mining operations, water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the permitted area.

3. Buffer Zones.

- A. Sufficient buffer (minimum 50 foot undisturbed) shall be maintained between any affected land and any adjoining waterway or wetland to prevent sedimentation of that waterway or wetland from erosion of the affected land and to preserve the integrity of the natural watercourse or wetland.
- B. Any mining activity affecting waters of the State, waters of the U. S., or wetlands shall be in accordance with the requirements and regulations promulgated and enforced by the N. C. Environmental Management Commission.

4. Erosion and Sediment Control.

- A. Adequate mechanical barriers including but not limited to diversions, earthen dikes, sediment check dams, sediment retarding structures, rip rap pits, or ditches shall be provided in the initial stages of any land disturbance and maintained to prevent sediment from discharging onto adjacent surface areas or into any lake, wetland, or natural watercourse in proximity to the affected land.
- B. All drainage from the affected areas around the mine excavations shall be diverted internal to said excavations.
- C. Mining activities, including dewatering activities and including the installation and maintenance of the approved sediment basins and associated diversion channels, shall occur as indicated on the mine maps received March 30, 2021, and revised maps received May 18, 2021, and supplemental information received on March 30, 2021, May 18, 2021, October 13, 2021, October 22, 2021, and November 4, 2021.

5. Permanently Marked Boundaries.

All affected area boundaries (16.46 acres) shall be permanently marked at the site on 100-foot intervals unless the line of sight allows for larger spacing intervals.

6. Graded Slopes and Fills.

The angle for graded slopes and fills shall be no greater than the angle, which can be retained by vegetative cover or other adequate erosion control measure, structure, or device. In any event, exposed slopes or any excavated channels, the erosion of which may cause off-site damage because

of sedimentation, shall be planted, or otherwise provided with ground cover, devices, or structures sufficient to restrain such erosion.

7. Surface Drainage.

The affected land shall be graded so as to prevent collection of pools of water that are, or likely to become, noxious or foul. Necessary structures such as drainage ditches or conduits shall be constructed or installed when required to prevent such conditions.

8. Visual Screening.

Existing vegetation or vegetated earthen berms shall be maintained between the mine and public thoroughfares whenever practical to screen the operation from the public.

9. Buffer Between Mining Permit Boundaries and/or Right-of-ways.

Sufficient buffer as indicated on the revised maps received on May 18, 2021, shall be maintained between any excavation and any mining permit boundary to protect adjacent property.

10. Refuse Disposal.

- A. No on-site disposal of refuse or other solid waste that is generated outside of the mining permit area shall be allowed within the boundaries of the mining permit area unless authorization to conduct said disposal has first been obtained from both the Division of Waste Management and the Division of Energy, Mineral and Land Resources, Department of Environmental Quality. The method of disposal shall be consistent with the approved reclamation plan.
- B. Mining refuse as defined by N.C.G.S. §74-49 (14) of The Mining Act of 1971 generated on-site and directly associated with the mining activity may be disposed of in a designated refuse area. All other waste products must be disposed of in a disposal facility approved by the Division of Waste Management. No petroleum products, acids, solvents or their storage containers or any other material that may be considered hazardous shall be disposed of within the permitted area.
- C. For the purposes of this permit, the Division of Energy, Mineral and Land Resources considers the following materials to be "mining refuse" (in addition to those specifically listed under N.C.G.S. §74-49 (14) of the N.C. Mining Act of 1971):
 - i. on-site generated land clearing debris.
 - ii. conveyor belts.
 - iii. wire cables.
 - iv. v-belts.
 - v. steel reinforced air hoses.
 - vi. drill steel.
- D. If mining refuse is to be permanently disposed within the mining permit boundary, the following information must be provided to and approved by the Division of Energy, Mineral and Land Resources prior to commencement of such disposal:
 - i. the approximate boundaries and size of the refuse disposal area.
 - ii. a list of refuse items to be disposed.
 - iii. verification that a minimum of 4 feet of cover will be provided over the refuse.

- iv. verification that the refuse will be disposed at least 4 feet above the seasonally high-water table; and,
- v. verification that a permanent vegetative groundcover will be established.

IV. Annual Reclamation Report and Annual Operating Fee. N.C.G.S. §74-55.

An Annual Reclamation Report and Annual Operating Fee of \$400.00 shall be submitted to the Department by September 1 of each year until reclamation is completed and approved for release by the Department.

V. Prior Approval Required for Plan Modification. N.C.G.S. §74-52.

The operator shall notify the Department in writing of the desire to delete, modify or otherwise change any part of the mining, reclamation, or erosion/sediment control plan contained in the approved application for a mining permit or any approved revision to it. Approval to implement such changes must be obtained from the Department prior to on-site implementation of the revisions.

VI. Bonding. N.C.G.S. §74-54.

The security, which was posted pursuant to N.C.G.S. §74-54 in the form of a \$24,700.00 bond, is sufficient to cover the operation as indicated in the approved application. This security must remain in force for this permit to be valid. The total affected land shall not exceed the bonded acreage.

VII. Archaeological Resources. N.C.G.S. §70-3.

- A. Authorized representatives of the Division of Archives and History shall be granted access to the site to determine the presence of significant archaeological resources.
- B. Pursuant to N.C.G.S. §70-3, "The Unmarked Human Burial and Human Skeletal Remains Protection Act," should the operator or any person in his employ encounter human skeletal remains, immediate notification shall be provided to the county medical examiner and the chief archaeologist, North Carolina Division of Archives and History.

VIII. Approved Reclamation Plan. N.C.G.S. §74-53.

The Mining Permit incorporates this Reclamation Plan, the performance of which is a condition on the continuing validity of that Mining Permit. Additionally, the Reclamation Plan is a separable obligation of the permittee, which continues beyond the terms of the Mining Permit.

To comply with N.C.G.S. §74-53 the approved plan will provide:

1. Minimum Standards.

- A. The final slopes in all excavations in soil, sand, gravel, and other unconsolidated materials shall be at such an angle as to minimize the possibility of slides and be consistent with the future use of the land.
- B. Provisions for safety to persons and to adjoining property must be provided in all excavations in rock.
- C. All overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices, and which is suitable for the proposed subsequent use of the land.

- D. No small pools of water shall be allowed to collect or remain on the mined area that are, or are likely to become noxious, odious, or foul.
- E. The revegetation plan shall conform to accepted and recommended agronomic and reforestation practices as established by the North Carolina Agricultural Experiment Station and the North Carolina Forest Service.
- F. Permittee shall conduct reclamation activities pursuant to the Reclamation Plan herein incorporated. These activities shall be conducted according to the time schedule included in the plan, which shall to the extent feasible provide reclamation simultaneous with mining operations and in any event, provide reclamation at the earliest practicable time after completion or termination of mining on any segment of the permit area and shall be completed within two years after completion or termination of mining.

2. Reclamation Conditions.

- A. Provided further, and subject to the Reclamation schedule, the planned reclamation shall be to restore the mine excavation to a lake area and to grade and revegetate the adjacent disturbed areas.
- B. The specifications for surface gradient restoration to a surface suitable for the planned future use are as follows:
 - i. The lake area shall be excavated to maintain a minimum water depth of four feet measured from the low water table elevation.
 - ii. The side slopes to the lake excavation shall be graded to a 3 horizontal to 1 vertical or flatter to the water line and 2 horizontal to 1 vertical or flatter below the water line.
 - iii. Any settling ponds or sediment basins shall be backfilled and stabilized.
 - iv. Any areas used for waste piles, screening, stockpiling, or other processing shall be leveled and smoothed.
 - v. Compacted surfaces shall be disced, subsoiled, or otherwise prepared before revegetation.
 - vi. No contaminants shall be permanently disposed of at the mine site. On-site disposal of waste shall be in accordance with Operating Condition Nos. III.10.A through III.10.D.
 - vii. The affected land shall be graded to prevent the collection of noxious or foul water.

3. Revegetation Plan.

After site preparation, all disturbed land areas shall be revegetated as per the following:

Permanent Seeding Specifications

<u>Dates</u>	<u>Species</u>	<u>Rate, Lbs. / Acre</u>
February 15- April 1	Kobe Lespedeza	10
	Bahiagrass	50
	Redtop	1
	Winter rye (grain)	15
April 1- July 31	Common Bermuda	50
August 1- October	Lespedeza (unscarified)	30
	German millet	40

October 25- February 15

Rye (grain- temporary)

120

Soil Amendments

Lime 2000 lbs./acre or follow recommendations from a soil test.

Fertilizer 1000 lbs./acre 8-8-8 or 10-10-10 or follow recommendations from a soil test.

Mulch All seeded areas shall be mulched using small grain straw at a rate of 2000 lbs./acre and anchored appropriately.

Whenever possible, disturbed areas should be vegetated with native warm season grasses such as switch grass, Indian grass, bluestem, and gamma grass.

In addition, the permittee shall consult with a professional wildlife biologist with the N.C. Wildlife Resources Commission to enhance post-project wildlife habitat at the site.

4. Reclamation Plan.

Reclamation shall be conducted simultaneously with mining to the extent feasible. In any event, reclamation shall be initiated as soon as feasible after completion or termination of mining of any mine segment under permit. Final reclamation, including revegetation, shall be completed within two years of completion or termination of mining.

IX. Issuance and Modification Summary. N.C.G.S. §74-51 and §74-52.

This permit is hereby issued this 5th day of November 2021 pursuant to N.C.G.S. §74-51.

By: , For

Brian Wrenn, Director
Division of Energy, Mineral, and Land Resources
By Authority of the Secretary
Of the Department of Environmental Quality

CERTIFIED MAILNOTICE OF ISSUANCE OF
MINING PERMIT

You have previously expressed an interest and/or are listed as an adjoining landowner in the application for a mining permit filed by HOM Development, LLC to conduct mining activities off US 158 (Caratoke Hwy) in Currituck County. The mining permit (no. 27-56) was issued on November 5, 2021.

North Carolina law allows persons aggrieved by the issuance of a mining permit to contest the decision by filing a petition for a contested case in the Office of Administrative Hearings pursuant to N.C.G.S. 150B-23 of the Administrative Procedure Act (APA).

If you believe that you are an aggrieved party within the meaning of the APA, a petition for a contested case must be filed in writing with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within sixty (60) days of the issuance of the permit.

Requirements for filing and serving a Petition are set forth in Chapter 150B of the North Carolina General Statutes and Title 26 of the North Carolina Administrative Code. In accordance with NCGS 150B-23, the party who files the petition must serve a copy of the petition on the Department of Environmental Quality and the person who holds the permit. Additional information regarding requirements for filing a Petition and Petition forms may be accessed at <http://www.ncoah.com/> or by calling the OAH Clerk's Office at (919) 431-3000. In order to serve a petition on the **North Carolina Department of Environmental Quality** you must mail a copy of the petition to Mr. Bill Lane, Registered Agent and General Counsel, Department of Environmental Quality, 1601 Mail Service Center, Raleigh, NC 27699-1601.



Brian Wrenn
Director
Division of Energy, Mineral, and Land Resources
North Carolina Department of Environmental Quality

This notice was mailed on _____.

Brenda Harris
Mining Program Administrative Assistant

Attachment: NC Mine Permit (PB 21-11 Foster Forbes Mine)

Aerial View of Foster Forbes Mine site, showing current ambient noise levels on site and estimated noise levels from dewatering along permit area perimeter.

- - Ambient Noise Levels (June 2021)
● - Estimated Noise Levels at Distance

Estimated Noise Levels at Distance from Dewatering Pump

1 - 835 ft, 51.4 dB
2 - 810 ft, 52.2 dB
3 - 525 ft, 56.6 dB
4 - 490 ft, 55.3 dB
5 - 870 ft, 51.8 dB
6 - 960 ft, 52.6 dB
7 - 995 ft, 50.3 dB
8 - 1070 ft, 48.5 dB
9 - 1095 ft, 48.4 dB
10 - 930 ft, 58.0 dB
11 - 995 ft, 50.3 dB
12 - 625 ft, 53.8 dB
13 - 590 ft, 55.6 dB

Noise levels for estimates were taken August 2021 at comparative distances from dewatering pump in operation at Pitts Chapel Mine #2, Sand Pit Road, Elizabeth City, NC, Bear Garden, Inc., operator.

602 ft

1

13

12

11

10

62 dB

9

57 dB

53 dB

58 dB

56 dB

Dewatering Pump Location

6.23-acre Excavation

Processing Area & Stockpiles

62.5 dB

8

7

61 dB

5

6

60 dB

4

3

2

© 2021 Google

158

Foster Forbes Mine

Pinewood Acres

In-Person Community Meeting Summary

Foster Forbes Mine – Use Permit

Monday, March 8, 2021

Scheduled Time & Place: 2:00 pm, Currituck County Rural Center, Powells Point, NC

Meeting began at approximately 2:10 pm and ended at approximately 2:35 pm.

Attendees:

- Derek Hatchell, Mine Operator
- Bo Owens, Mine Operator
- Donna Voliva, Currituck County
- Selina Jarvis, Currituck County
- Ken Elliott, Elliott Consulting
- Nancy Goblinger, Elliott Consulting
- Barbara Zemienieuski, 166 N. Spot Rd, Powells Point, Resident
- Fred Simmons, 271 N. Spot Rd, Powells Point, Resident

Presentation:

An overview of the requested application and County review and approval process was presented. The overview included explanation of the applicant's proposal to excavate a sand mine on the Foster Forbes property, and attendees were provided with a full mine map and aerial map showing location of the proposed mine in relation to surrounding area. Details were given regarding depth of the mine, access to the mine, dewatering activities, noise generation, distances to nearby homes and businesses, traffic, dust generation, performance bonding of groundwater wells within 1500 feet of excavation, and reclamation of affected areas at end of excavation.

Copies of all presentation materials and groundwater well surveys were provided to all interested parties.

Comments & Questions:

- Zemienieuski
 - Is HOM surveying all who would be affected by dewatering? Answer – HOM is surveying all landowners within 1500 ft of excavation, per County UDO.
 - \$3000 bond per well? Answer – yes, per County, survey to be mailed to property owners, list will be given to County with application, HOM will bond \$3000 per in use well
 - Comment – said site location was more feasible than that of last application, tended to be favorable if submitted as presented
- Simmons – no questions, said was checking on location of proposed mine, said was favorable if submitted as presented.

Adjourn at 2:35 pm

Virtual Community Meeting No. 1 Summary**Foster Forbes Mine – Use Permit**

Wednesday, March 10, 2021

Scheduled Time: 10:00 am

Meeting began at 10:00 am and ended at 10:45 am.

Attendees:

- Ken Elliott, Elliott Consulting
- No other attendees

Meeting opportunity was provided to all interested parties not able to attend the in-person community meeting on March 8, 2021 for the Foster Forbes Mine. Meeting was advertised in invitation letter sent by certified US Mail to all residents living within 1500 feet of the proposed mining excavation.

No residents attended; meeting was adjourned at 10:45 am.

Virtual Community Meeting No. 2 Summary**Foster Forbes Mine – Use Permit**

Wednesday, March 10, 2021

Scheduled Time: 4:00 pm

Meeting began at 4:00 pm and ended at 4:45 pm.

Attendees:

- Ken Elliott, Elliott Consulting
- No other attendees

Meeting opportunity was provided to all interested parties not able to attend the in-person community meeting on March 8, 2021 for the Foster Forbes Mine. Meeting was advertised in invitation letter sent by certified US Mail to all residents living within 1500 feet of the proposed mining excavation.

No residents attended; meeting was adjourned at 4:45 pm.

Personal Informational Meeting Request Summary

Foster Forbes Mine – Use Permit

Saturday, April 10, 2021

Scheduled Time & Place: 10:00 am, Currituck County Rural Center, Powells Point

Meeting began at 10:00 am and ended at 11:30 am.

Attendees:

- Ken Elliott, Elliott Consulting
- Mrs. Shannon O'Sullivan, 8156 Caratoke Highway, Powells Point

Summary:

Mrs. O'Sullivan had been unable to attend any of the previous community meetings for the proposed Foster Forbes Mine due to death in the family. She was provided with a full mine map and aerial map showing location of the proposed mine in relation to surrounding area. Details were given regarding depth of the mine, access to the mine, dewatering activities, noise generation, distances to nearby homes and businesses, traffic, dust generation, performance bonding of groundwater wells within 1500 feet of excavation, and reclamation of affected areas at end of excavation.

Specific concerns were expressed by Mrs. O'Sullivan and were addressed as such:

- Concern with contamination of well water – it was explained that all water leaving the site, either stormwater or mine dewatering wastewater, will be discharged through a single point source, and will be monitored and sampled quarterly for sedimentation, pH, and salinity. Monitoring wells, which will be established along the eastern perimeter of the mine site, will be sampled semi-annually, and tested for drinking water specifications, if required by the Currituck Planning Department and Board of Commissioners.
- Concern with reduction of groundwater levels – it was explained that past collection of data from hydrogeological surveys in the area indicates that there is generally no impact to groundwater levels beyond 500 feet from a mine dewatering operation. Mrs. O'Sullivan's residence is 1024 feet from the closest top edge of the proposed excavation. Effects from dewatering are expected to be minimal to none at her residence. In addition, the operator of the Foster Forbes Mine will establish groundwater level monitoring wells along the eastern perimeter of the mine site, which will be monitored monthly for groundwater level impacts before they are observed off-site. It was also explained that the operator will establish a monetary performance bond with Currituck County Planning to repair or replace damage to water wells or pumps to all groundwater wells located within 1500 feet of the excavation.
- Reduction in property values – It was explained that historical research into home sales near sand pits in our area indicate that sand pits do not appear to have a negative effect on sales prices of land or homes near them. In addition, the number of home sales has not decreased near sand pits in our area.
- Concern with air-borne particulates and reduction of air quality – it was explained that dust generated on the mine site will be minimized by the use of a paved or graveled mine access

road, watering of unpaved haul roads, and groundcover stabilization of stockpiles which will reduce generation of dust in the area.

- Concern with ecosystem disruption and loss of wildlife – Land affected by the mining operation will be primarily in an existing cultivated field area and should not impact wildlife living in nearby wooded areas. In addition, the operator is establishing a dewatering recharge ditch which will mitigate impacts to nearby wetlands and swamps. Finally, the operator will be discharging clear water into the Foster Forbes Ditch, draining directly into nearby wetlands and swamps, helping to mitigate impacts there.
- Concern with contamination of Foster Forbes Ditch running along the Forbes northern property line – Water leaving the mine site and discharging into the Foster Forbes Ditch will be monitored visually weekly, and sampled and tested quarterly for sedimentation, pH, and salinity, per State and County requirements. Test reports are submitted quarterly to Currituck Planning.
- Concern with disruption of enjoyment of their property during the life of the mine operation – Disruption of property enjoyment from the mine operation is expected to be minimal due primarily to distance. The mine site will be located at the back of a large field, surrounded by woods and other fields. The single dewatering pump at the mine site will be located either behind sand berms or below ground level to mitigate noise. Existing foliage screening and construction of berms and stockpiles will also mitigate noise and visual impacts. Noise levels of 40-45 decibels measured at other nearby mine sites indicate lower readings than the 65-68 decibel readings measured near Caratoke Highway caused by existing traffic.

In summary, Mrs. O'Sullivan expressed valid concerns that the mine operator, HOM Development, must always be aware of during the operation of the Foster Forbes Mine. Though measures are in place to help mitigate impacts to all neighboring lands and property owners, it is important to be vigilant to maintain those measures during the life of the mine. It was explained to Mrs. O'Sullivan that HOM Development is always willing to listen to concerns or complaints from neighbors of the Foster Forbes Mine and is willing to work with them to solve any problems that may arise.

The above summary is true and correct to the best of my recollection and knowledge.



Ken Elliott
For HOM Development, LLC

April 13, 2021

March 19, 2021

Elliot Consulting / HOM Development, LLC

PO Box 112

Aydlett, NC 27916

RE: Proposed Pond / Sand Mine Excavation 8180 Caratoke Hwy

Dear Mr. Elliot,

We are in receipt of certified letters sent by your firm on behalf of HOM Development, LLC, regarding the proposed 6.23 acre pond/sand mine to be excavated on Foster Forbes land located at 8180 Caratoke Hwy., Powells Point, NC.

First, thank you for your condolences, it is appreciated. We are aware there was a community meeting on Monday March 8th, 2021. My husband and I planned to attend that meeting, however the unexpected passing of my husband's brother occurred the day before and we were unable to attend.

As you know we own property at 8156 Caratoke Hwy., located adjacent to your proposed site. We also reside at this property full time and have for over 20 years. We are quite concerned about the proposed mine for several reasons including but not limited to:

1. The complete loss of enjoyment of our property for the duration of the mine operation
2. Contamination of our well water, which is our sole potable water source
3. Potential reduction in the amount of water we are able to obtain from our well
4. The likelihood of a large drop in our property value
5. The increase of particulates in the air, and reduction of air quality
6. Disruption to the ecosystem and loss of wildlife
7. Contamination of the waterway which runs along Forbes northern property boundary

We are aware of how such a site operates, ie. dump trucks continually entering and exiting the property, heavy equipment running all day long, and pumps, which as I understand, run 24/7. The noise generated at the proposed site will be overwhelmingly loud and will carry very easily into our backyard which is less than 300' from the proposed site. We spend quite a bit of time outside in our backyard and the forested areas of our property. We have young nieces and a nephew who spend a lot of time at our home and enjoy being outside. We also enjoy the large amount of wildlife that resides on and around our property such as deer, fox, raccoons, rabbits, the occasional bear or coyote, and tons of birds including red tail hawks, pileated woodpeckers, and the occasional eagle. The mass amount of noise and activity at the proposed site would drive the wildlife away, and destroy any enjoyment of our property.

We are also aware there would be large amounts of fuel being delivered and stored on site, which means a potential for spillage and contamination of the site, and possibly our ground water. There is also concern regarding the amount of water we will obtain from our well, due to disruption of water levels within the water table. We use our well for all of our water needs, and have no desire to hook up to the county water, pay a tap fee, and then incur a monthly bill for the remainder of our time on this property. We have greatly enjoyed the freedom of having a well and wish to continue doing so without issue.

My husband and I have backgrounds in construction and real estate. We have done research regarding sand mines in close proximity to residential properties. In addition to the above concerns, we are also anticipating a major drop in the value of our property, 30% and potentially higher.

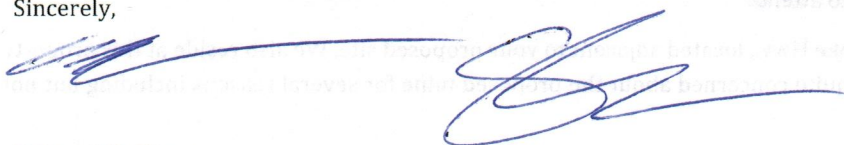
Attachment: Comm Mtg Summary (PB 21-11 Foster Forbes Mine)

The increase of particulates in the air due to extraction and transportation of silica is also a concern. The CDC (Center for Disease Control) and NIOSH (National Institute for Occupational Safety and Health) recognize the link of silica to Lung Cancer, Silicosis, COPD (Chronic Obstructive Pulmonary Disease), Kidney Disease, and Auto-Immune Disease. We have an adult daughter who lives with us full time who has respiratory issues, and her health will potentially be affected by the increase of dust and particulates.

As I mentioned, we were unable to attend the community meeting. I hope you will give my husband and I the courtesy of meeting with us, providing the same information that was made available at the community meeting. I have listed and briefly explained our concerns regarding the proposed pond/sand mine and would like to give you the opportunity to address them, prior to filing our comments/concerns/grievances with the county.

We look forward to hearing from you soon. You may call Shannon at 252-722-2914 to arrange a meeting.

Sincerely,



Shawn O'Sullivan

Shannon O'Sullivan

P.S. - I've enclosed the Water-Supply-Well-Summary
you requested.

Personal Informational Meeting – Phone**Foster Forbes Mine – Use Permit****Saturday, April 17, 2021****Time & Place: 9:53 am, by phone****Meeting began at 9:53 am and ended at 10:03 am****Attendees:**

- Ken Elliott, Elliott Consulting
- Mrs. Faye J. Harrell, 8222 Caratoke Highway, Powells Point, NC

Mrs. Harrell had been unable to attend any of the previous community meetings. She had responded to my water-supply well survey letter with a note that she was concerned with the effect the mine project would have on her property. Mrs. Harrell owns a parcel of land, which is vacant cultivated field, that is adjacent to the mining permit boundary on its south side. Mrs. Harrell's home is on a separate parcel at 8222 Caratoke Highway, 1060 feet from the proposed excavation.

I called Mrs. Harrell by phone and spoke with her for about 10 minutes. She told me her concern was with possible reduction of the water table and loss of her drinking water supplied by her well. I explained to her that past collection of data from hydrogeological surveys in the area indicates that there is generally no impact to groundwater levels beyond 500 feet from a mine dewatering operation. Harrell's residence is 1060 feet from the closest top edge of the proposed excavation. Effects from dewatering are expected to be minimal to none at her residence. In addition, the operator of the Foster Forbes Mine will establish groundwater level monitoring wells along the eastern perimeter of the mine site, which will be monitored monthly for groundwater level impacts before they are observed off-site. It was also explained that the operator will establish a monetary performance bond with Currituck County Planning to repair or replace damage to water wells or pumps to all groundwater wells located within 1500 feet of the excavation.

During the conversation I promised to send further information to her by mail, including a full mine map and project narrative to explain the proposed project further. I also asked her to let me know if there were any perceived problems with her water supply system after the project starts. Mrs. Harrell seemed satisfied with the answers given.

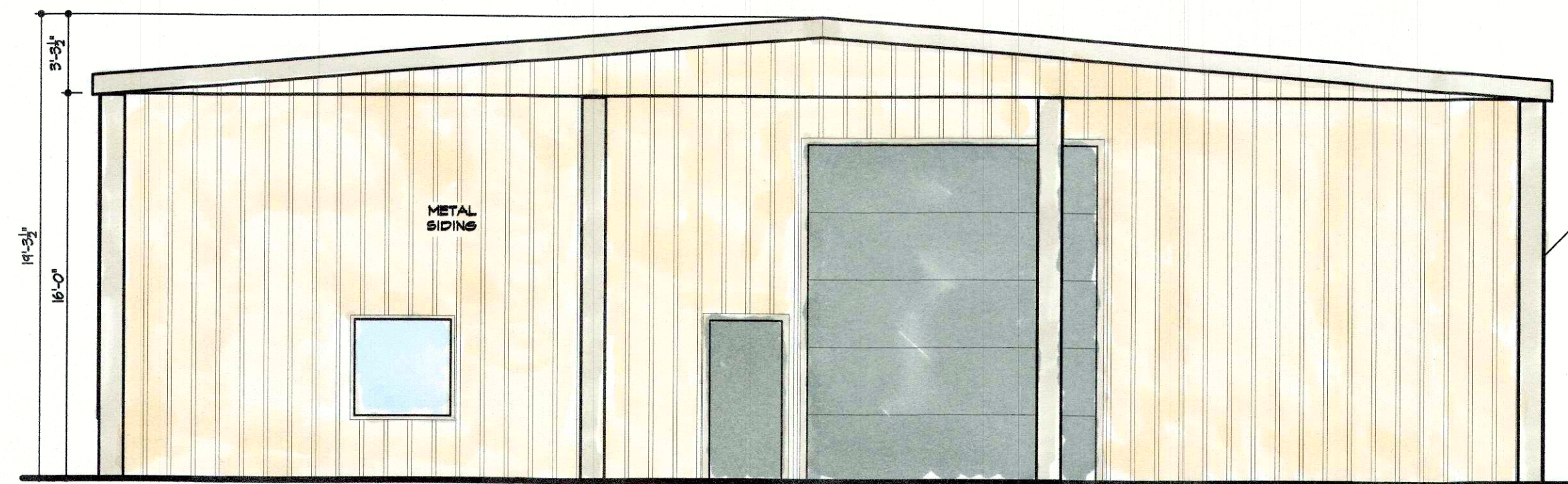
In summary, Mrs. Harrell expressed valid concerns that the mine operator, HOM Development, must always be aware of during the operation of the Foster Forbes Mine. Measures will be put in place by the operator to help mitigate impacts to all neighboring lands and property owners, and it is important to be vigilant to maintain those measures during the life of the mine.

The above summary is true and correct to the best of my recollection and knowledge.

A handwritten signature in blue ink, appearing to read "Ken Elliott". The signature is fluid and cursive, with the first name "Ken" and last name "Elliott" clearly distinguishable.

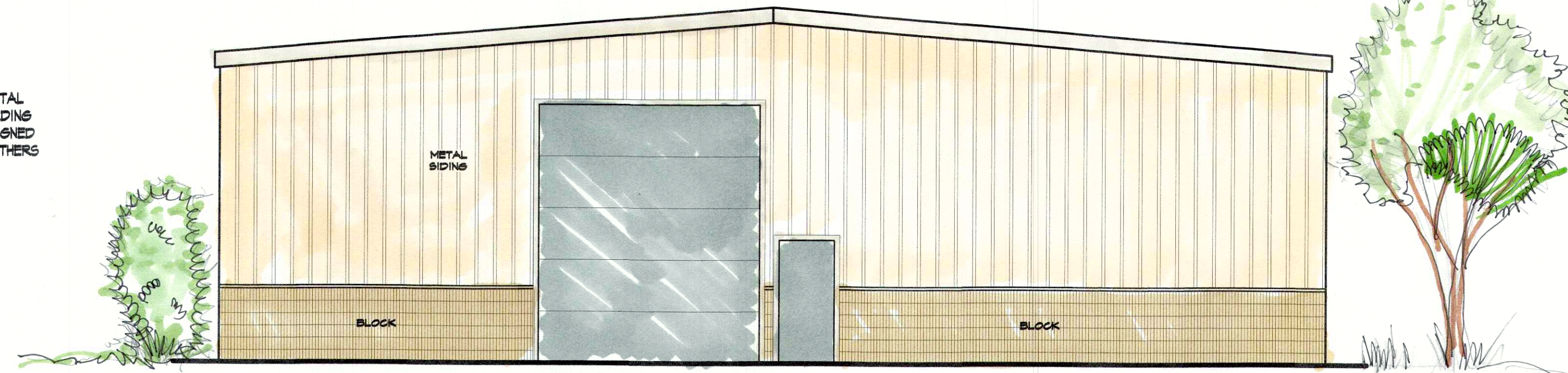
Ken Elliott
For HOM Development, LLC

April 17, 2021



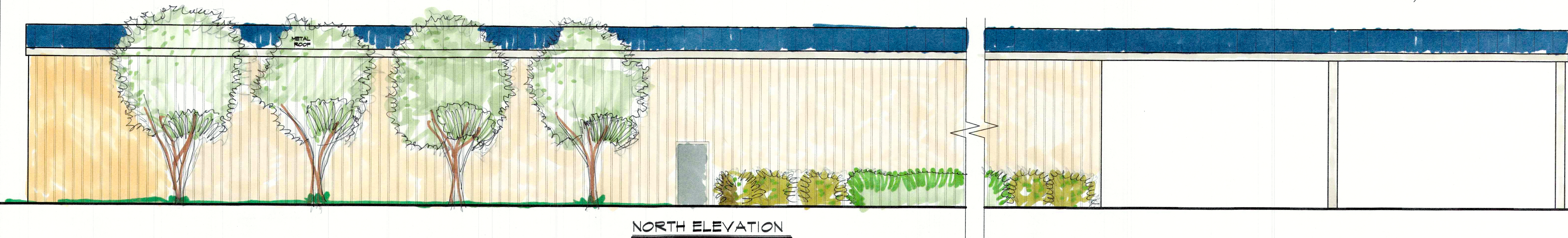
WEST ELEVATION
3/16\"/>

METAL
BUILDING
DESIGNED
BY OTHERS

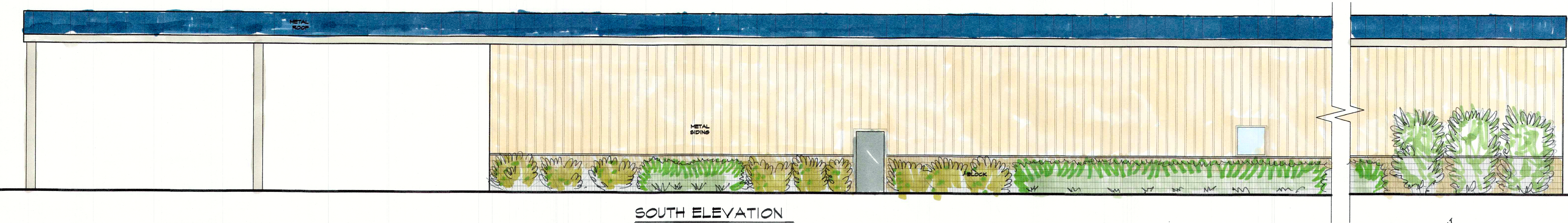


EAST ELEVATION
3/16\"/>

PRELIMINARY



NORTH ELEVATION
3/16\"/>



SOUTH ELEVATION
3/16\"/>

PRELIMINARY

BRINDLEY BEACH
LAUNDRY SERVICE
LOT 1, MAPLE COMMERCE PARK
BARCO

DATE: 5/27/21
CHECKED: CG
PROJECT NO: P726.20
CAD FILE: P726.20
SHEET: D1 OF D3

SCALE: 3/16\"/>

DRAWN: BW

REVISIONS		BY
NO.	DATE	DESCRIPTION
01		BLOCK ELEVATIONS

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C-0836
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Site Development

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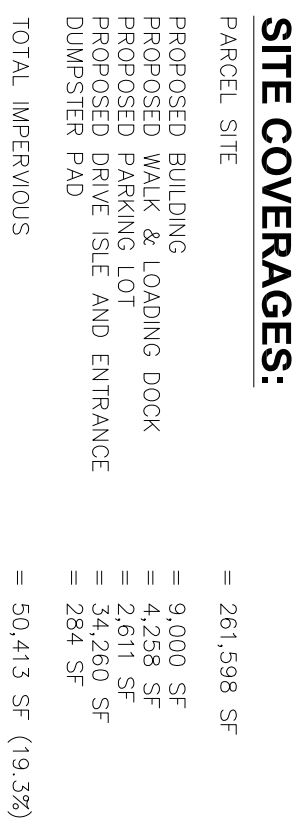
Packet Pg. 80

4. Consistent application of waste and cleaner on the wall system will ensure constant color after completion of cleaning – Inconsistent application will cause color variation. Work from the bottom of the wall to the top. Keep cleaned area wet while cleaning overhead.

4. **Consistent application of water on cleaner on the wall system will ensure consistent color after completion of cleaning.** – Inconsistent application will cause color variation. Work from the bottom of the wall to the top. Keep cleaned area wet while cleaning overhead.

[illegible]

JOB TITLE: P/26 LAWO/JT P/26-21	DATE: 9/22/21	LOT 1, MAPLE COMMERCE PARK		
	CHECKED: GFC	SCALE: 1/8" = 1'-0"	BRINDLEY BEACH LAUNDRY SERVICE	
	PROJECT NO: P/26-21	DRAWN: JHR	CRAWFORD TWP.	CURRITUCK COUNTY
			NORTH CAROLINA	
			BUILDING ELEVATIONS DETAILS	



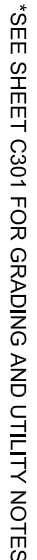
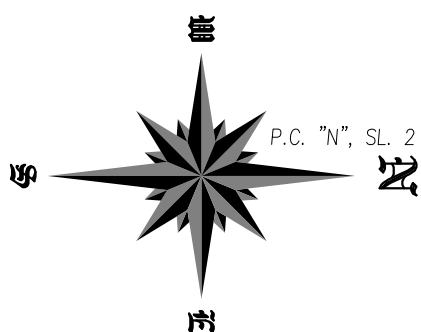
PEAK RUNOFF FOR EXISTING CONDITIONS (2-YEAR 24-HOUR EVENT):

PEAK RUNOFF FOR PROPOSED CONDITIONS (5-YEAR 24-HOUR EVENT):
Qpeak = (0.35/5.0)(6.01)
Qpeak = 14.07 CFS

RUNOFF VOLUME:
 VR = (5.75/12)*6.01
 VR = 2.88 ACRE-FT
 REQUIRED STORAGE VOLUME:
 VS = 1.613,33*2.88*[(4.81/10.52)
 VS = 2.499 CF

STORMWATER CONVEYANCE DITCHES.

CROSS SECT. AREA	2 SF
DITCH LENGTH	540 LF
VOLUME	1,080 CF
TOTAL VOLUME = 2,880 CF > 2,499 CF	



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 Site Development

ISO FIREFLOW CALCULATIONS:

- | | |
|--|--------|
| TOTAL AREA OF ENTIRE BUILDING, 12,000 SQ'FT | |
| CONSTRUCTION TYPE FOUND IN SPEC. NON-COMBUSTIBLE | |
| C VALUE = SQUAREROOT OF THE AREA, $F \times 8$ | |
| C VALUE = 1500 | |
| OCCUPANCY FACTOR (OI) FOR LAUNDRY FACILITY = 1.0 | |
| AREA $X \times D = 1500 \times 1.0 = 1500$ SQ'FT | |
| EXPOSURE FACTOR (N) IS NOT APPLICABLE, THEREFORE $N = 1.0$ | |
| BUILDING WILL NOT HAVE A SPRINKLER SYSTEM, THEREFORE NO CREDIT SHALL BE USED | |
| DETERMINE THEOR. FOR 12,000 SQ'FT LAUNDRY FACILITY = 1500 SQ'FT | |
| DATA FROM APPROPRIATE FLOW TESTS OF HOBASIT LOCATED AT 165. AVALITION PARKWAY: | |
| STATIC PRESSURE (PSI) | = 55 |
| HOBASIT RESIDUAL PRESSURE (PSI) | = 37 |
| HOBASIT FRICTION LOSS (PSI) | = 1021 |
| HOBASIT FLOW (GPM) | = 1462 |
| AVAILABLE FLOW AT 20 PSI | = 1462 |

- LONGITUDINAL SLOPES SHALL BE

- FOR DETAILS AND SPECIFICATIONS,
AND SPECIFICATIONS.

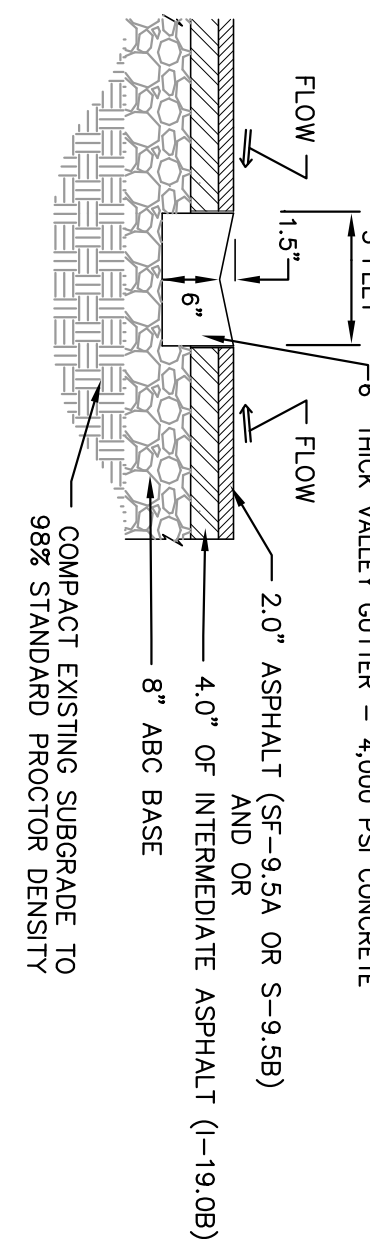
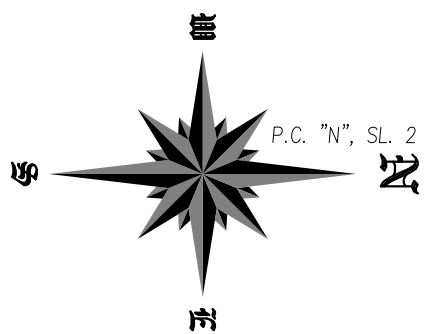


ASPHALT SECTION FOR DRIVE ISLE

DRIVE ISLE PAVING TO WITHSTAND 75,000 PSI LOAD

NT

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CONVENTIONAL CURB AND GUTTER DETAIL

VALLEY GUTTER DETAIL

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The logo for Coastal Engineering & Surveying, Inc. features a central graphic of a lighthouse with a black and white striped body and a black top section with a white light. The word "Coastal" is written in a large, serif font, with the "C" and "a" being significantly larger than the other letters. Below "Coastal", the words "ENGINEERING & SURVEYING, INC." are written in a smaller, sans-serif font. To the right of the lighthouse, the text "C-0836" is displayed. Further to the right, the company's address and phone numbers are listed: "P.O. Box 1129", "4425 N. Croatan Hwy.", "Kitty Hawk, N.C. 27949", "(252)-261-4151", and "(252)-261-1333". At the bottom right, the company's services are listed: "Civil - Structural" and "Site Development".

PLANTING LEGEND	SCIENTIFIC NAME	SIZE	QUANTITY	COMMENTS
SYMBOL	COMMON NAME			

	ACER TRUNCATUM X PLATANUS SM JFS (W/87' PPM2754) URBAN SUNSET MAPLE	2" CAL & 8' HT.	3	MATCHED SINGLE TRUNK
--	---	-----------------	---	-------------------------

EXISTING CANOPY TREES - SEE SHEET C401-C402 FOR ADDITIONAL INFORMATION

TOTAL 3 - EXISTING

PROPOSED UNDERSTORY TREES

CM	LAGERSTROMIA INDICA DATAMBA	1.5" CAL & 8' HT.	4	MATCHED
CM	BETULA ALBA TRIPLE HEAT	1.5" CAL & 8' HT.	4	MATCHED
RB	DWARF HEAT RIVER BIRCH		4	MULTI TRUNKED

EXISTING UNDERSTORY TREES - SEE SHEET C401-C402 FOR ADDITIONAL INFORMATION

TOTAL 8

SHRUBS

LG	LIGULASTRA ALONCUM	70 & 3' HEIGHT MINIMUM	5	MATCHED
CG	LEIA X MESERVEAE MESOG	>18" & 7'0	19	EVERGREEN
CG	CHINA SHI HOLLY	>18" & 7'0	4	EVERGREEN
CB	CHINA BOY HOLLY	>18" & 3'0	18	EVERGREEN
LL	NANDINA DOMESTICA LEMON LINE	>18" & 3'0	24	MATCHED
DY	LEI YOMITORIA NANA SHILLINGS	>18" & 3'0	24	EVERGREEN

PERENNIALS AND GRASSES

ML	MISCANTHUS SP.	3'0	6	MATCHED
NP	NEPETA X FAASSENII NOVEMBER JULY (PP4 20074)	1'0	14	MATCHED

GROUNDCOVERS

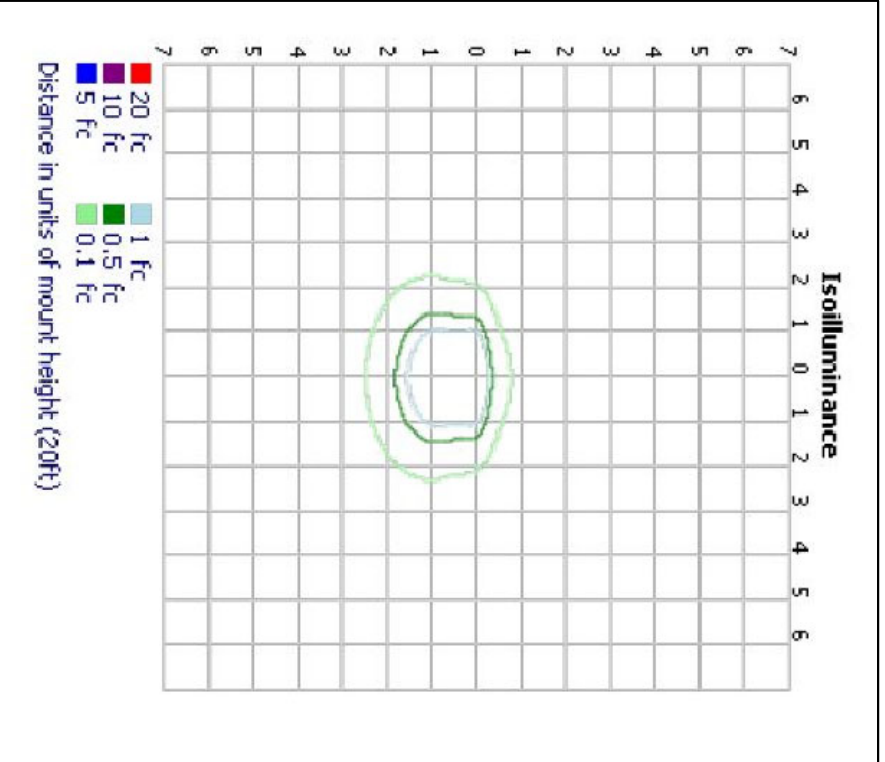
	AREA TO REMAIN NATURAL			
	AREA TO REMAIN NATURAL - CLEAR UNDERBUSH - POTENTIALLY ADD FINE STRAW			
	AREA TO REMAIN NATURAL - SOD			
	3/8" LIGHT TAN / RIVER ROCK			
	6/8" SF PLANT TRIPLE SHREDED HARDWOOD MULCH - SEE PLAN FOR LOCATIONS			
	1.20 SF			

NOTE: SEE SHEETS C401-C402 FOR ADDITIONAL LANDSCAPE INFORMATION

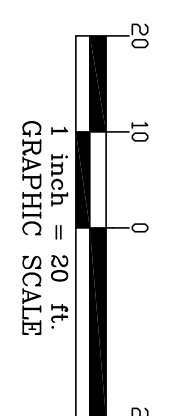
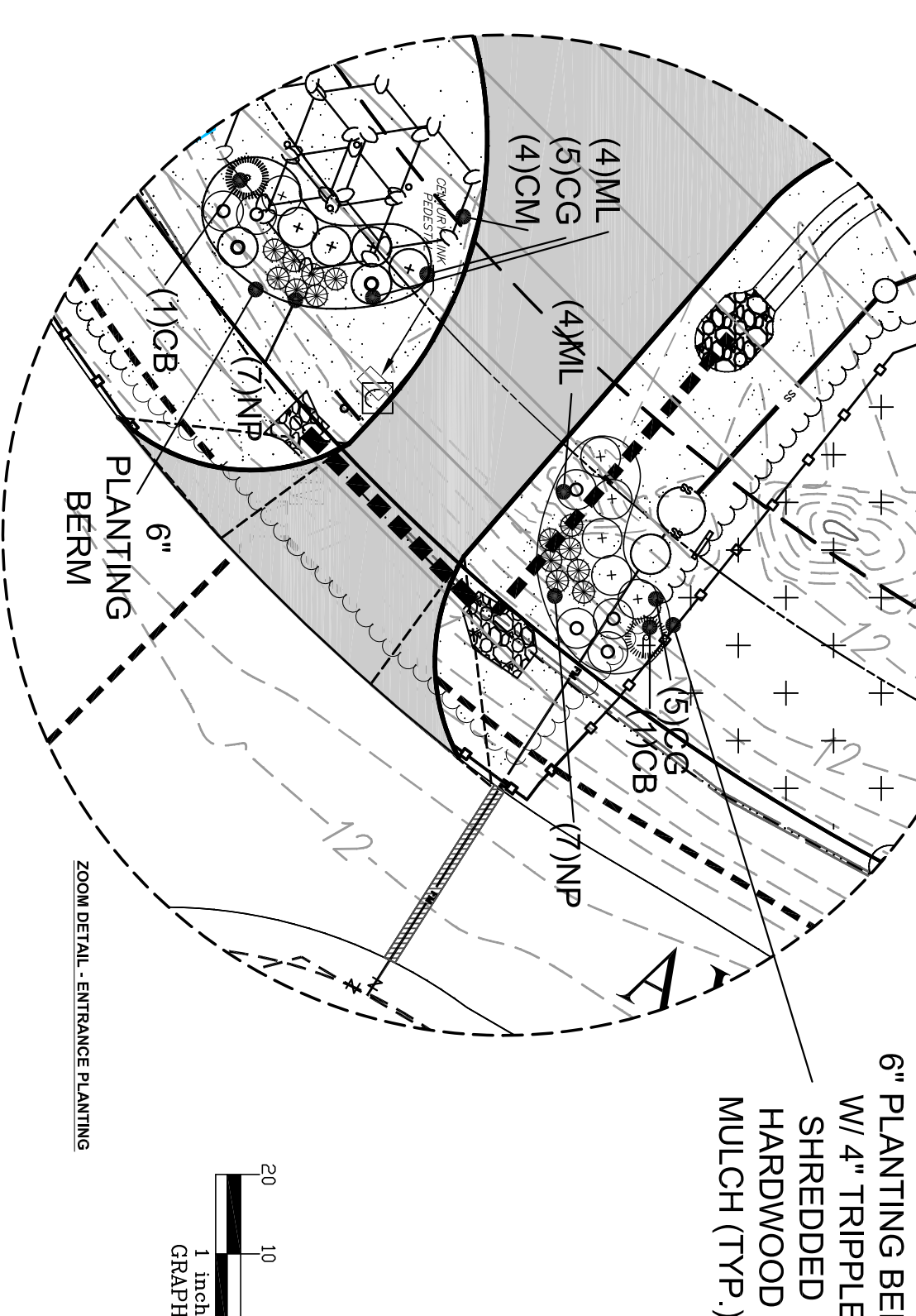
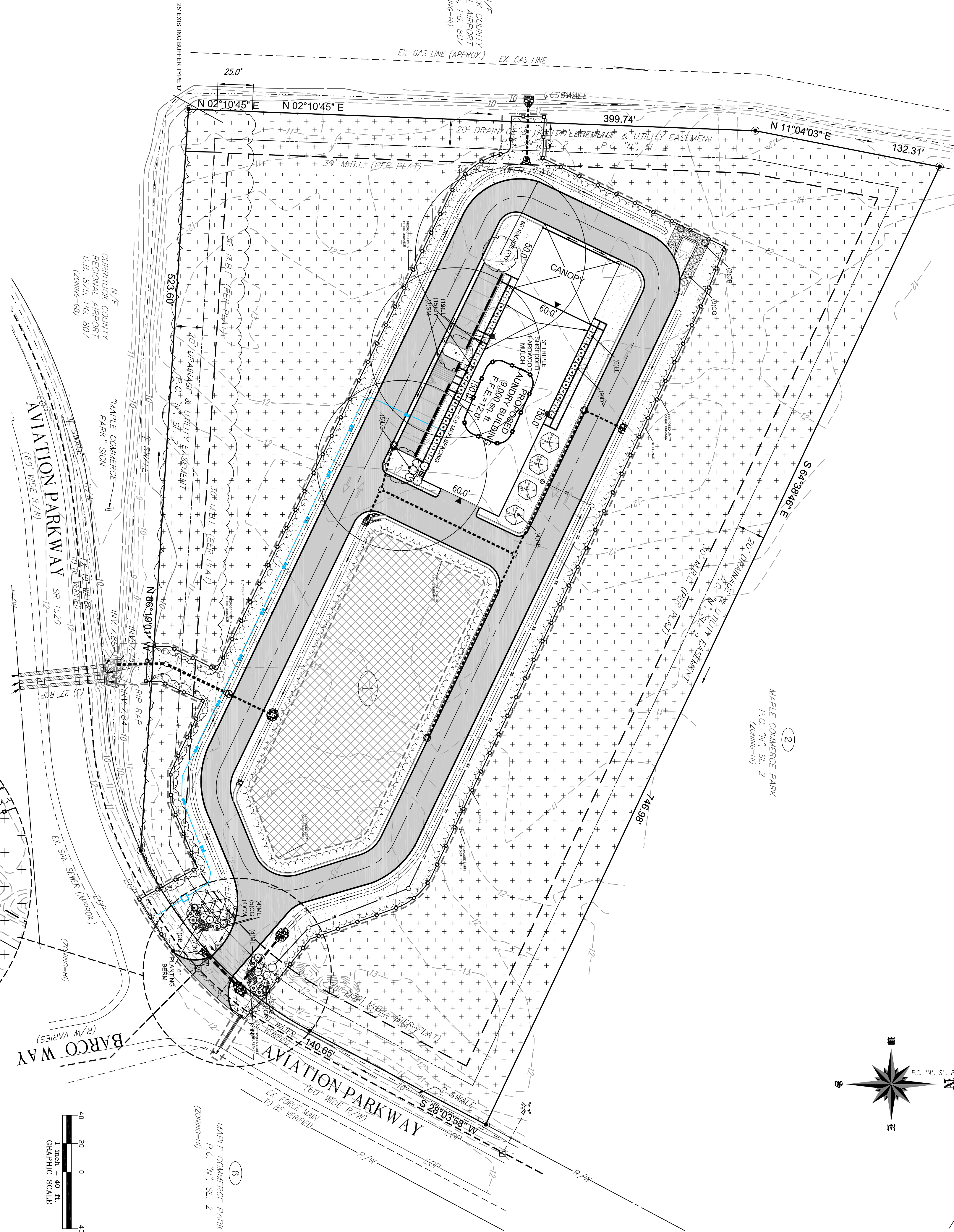
IMAGE	SYMBOL	NAME/NOTE	QTY	DESCRIPTION
	NAME: LITOMIA MODEL: W0021 LED PL 20K B001 W/	2	DWARF DAWN LIGHTING	
	NAME: LITOMIA MODEL: W0021 LED PL 20K B001 W/	2	TYPE E1	

LIGHTING NOTES AND SPECIFICATIONS

- ALL EXTERIOR LIGHTING WILL BE INSTALLED BY A LICENSED ELECTRICAL CONTRACTOR.
- LOCAL CODES, ORDINANCES, NATIONAL ELECTRICAL CODE, AND ALL OTHER APPLICABLE REQUIREMENTS SHALL COMPLY TO ALL CURRENT ELECTRICAL CODES AND REQUIREMENTS.
- THE ELECTRICAL INSTALLATION SHALL BE COORDINATED WITH ALL OTHER TRADES SO THAT INTERFERENCES BETWEEN ELECTRICAL INSTALLATION AND ARCHITECTURAL, STRUCTURAL, MECHANICAL, PLUMBING, FIRE PROTECTION AND ALL DIMENSIONS AND RELATED ELECTRICAL NOTES SHALL BE RESPONSIBLE FOR INCLUDING FIELD VERIFICATION IN THEIR BID DIMENSIONS.
- CONTRACTOR SHALL PROVIDE ALL DISCONNECTS TO MEET LOCAL CODES.
- CONTRACTOR SHALL PROVIDE ALL DISCONNECTS TO MEET LOCAL CODES.
- COORDINATE ALL LIGHTING AND MECHANICAL AND PLUMBING EQUIPMENT.



ILLUMINANCE FOR LITOMIA W0021 LED PL 20K B001 W/



ZOOM DETAIL - ENTRANCE PLANTING

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LOT 1, MAPLE COMMERCE PARK

BRINDLEY BEACH LAUNDRY SERVICE

CRAWFORD TWP. CURRITUCK COUNTY NORTH CAROLINA

LANDSCAPE & EXTERIOR LIGHTING PLAN

NO. 1

DATE 10/28/21

TRC COMMENT REVISIONS

NO. 2

DATE 12/21/21

TRC COMMENT REVISIONS

REVISIONS

BY NG

NG

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Civil - Structural Site Development

Coastal

C-0836

PROJECT NO. P726.21

CAD FILE: P726_LS

SHEET 17

DATE: 9/14/21

CHECKED: JBR/NDG

PROJECT NO. P726.21

SHEET 17

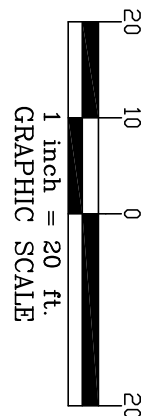
LANDSCAPE RATIONALE		
SITE LANDSCAPING - COMMERCIAL		
CANOPY TREES	REQUIRED: 2 ACI PER ACR X 6 ACERS	= 12 ACI REQUIRED
SHRUBS	PROVIDED: 6 TREES AT 1.5ACI EACH	= 12 ACI REQUIRED
	PROVIDED:	= ONE SHRUB PER 5.1 FT PLACING STREET (BUILDING 150 LF) = 30
		= ONE SHRUB PER 5.1 FT = 30
LANDSCAPE BUFFER TYPE D - SOUTH WEST OF BARCO WAY		
CANOPY TREES	REQUIRED: 18 ACI PER 100 LINEAR FEET AT 600 LINEAR FT TO EDGE OF DRIVEWAY = 108 ACI REQUIRED	
UNDERSTORY TREES	PROVIDED: 178 ACI (OF TREES TO REMAIN PER TYPICAL 100 LF SECTION SHEET THIS SHEET - ALSO SEE SHEET C404 & C402	
SHRUBS	REQUIRED: 20 ACI PER 100 LINEAR FEET AT 600 LINEAR FEET TO EDGE OF DRIVEWAY - 120 ACI REQUIRED	
	PROVIDED: PER ALTERNATIVE LANDSCAPE PLAN AND UNDERSTORY OTHER THAN EXISTING - SEE SHEET C401 & C402	
	REQUIRED: 35 SHRUBS PER 100 LINEAR FEET = 210 REQUIRED	
	PROVIDED: PER ALTERNATIVE LANDSCAPE PLAN AND SHRUBS PROVIDED DUE TO ALTERNATIVE COVER	
VEHICULAR LANDSCAPING		
TREES	60 FOOT DIAMETER CANOPY PERIMETERS REQUIRED TO COVER PARKING	
	SEE PLAN SHEET C-400 FOR 60 FOOT RADIIUS ON TREES	
EXISTING TREE SURVEY		
TREES TO REMAIN	ACI	DRIP LINE IN DIAMETER
TREE 1	6	10"
TREE 2	12	14"
TREE 3	12	16"
TREE 4	11	18"
TREE 5	7	10
TREE 6	12	10
TREE 7	12	10
TREE 8	5	7
TREE 9	14	18
TREE 10	9	16
TREE 11	12	16
TREE 12	5	8
TREE 13	12	18
TREE 14	9	6
TREE 15	4	8
TREE 16	12	16
TREE 17	5	16
TREE 18	6	16
TREE 19	12	12
TREE 20	6	12
TREE 21	4	12
TREE 22	6	12
TREE 23	4	3
TREE 24	4	3
TREE 25	10	10
TREE 26	2	4
TREE 27	5	8
TREE 28	4	6
TREE 29	10	14
TREE 30	3	6
TREE 31	2	4
TREE 32	4	4
TREE 33	2	2
TREE 34	2	4
TREE 35	4	6
TREE 36	3	3
TREE 37	2	4
TREE 38	4	6
TREE 39	2	4
TREE 40	2	2
TREE 41	2	4
TREE 42	2	2
TREE 43	8	16
TREE 44	3	3
TREE 45	3	3
TREE 46	3	3
TREE 47	4	4
TREE 48	2	2
TREE 49	2	2
TREE 50	4	4
TREE 51	2	2
TREE 52	3	3
TREE 53	2	2
TREE 54	3	3
TREE 55	2	2
TREE 56	2	2
TREE 57	2	2
TREE 58	2	2
TREE 59	4	10
TREE 60	16	20
TREE 61	5	12
TREE 62	2	2
TREE 63	2	2
TREE 64	3	3
TREE 65	2	2
TREE 66	12	12
TREE 67	14	16
TREE 68	3	3
TREE 69	3	3
TREE 70	3	3
TREE 71	3	3
TREE 72	2	2
TREE 73	2	2
TREE 74	12	16
TREE 75	16	16

EXISTING TREE SURVEY		
TREES TO BE REMOVED	ACI	DRIP LINE IN DIAMETER
TREE 1	4	12
TREE 2	12	10"
TREE 3	20	18"
TREE 4	4	24"
TREE 5	4	6
TREE 6	14	20
TREE 7	7	20
TREE 8	14	20
TREE 9	6	20
TREE 10	4	2
TREE 11	12	16
TREE 12	6	18
TREE 13	12	20
TREE 14	4	10
TREE 15	12	20
TREE 16	15	24
TREE 17	4	4
TREE 18	4	6
TREE 19	2	4
TREE 20	8	14
TREE 21	3	3
TREE 22	4	8
TREE 23	3	2
TREE 24	12	16
TREE 25	12	16
TREE 26	12	16
TREE 27	3	2
TREE 28	2	2
TREE 29	9	14
TREE 30	3	6
TREE 31	6	10
TREE 32	5	6
TREE 33	6	6
TREE 34	3	4
TREE 35	2	4
TREE 36	16	20
TREE 37	2	2
TREE 38	2	2
TREE 39	2	2

NOTE: SEE SHEETS C400-C402 FOR ADDITIONAL LANDSCAPE INFORMATION



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FOR REVIEW PURPOSES ONLY



LOT 1, MAPLE COMMERCE PARK
BRINDLEY BEACH LAUNDRY SERVICE

CRAWFORD TWSP. CURRITUCK COUNTY NORTH CAROLINA

LANDSCAPE RATIONALE

NO. DATE DESCRIPTION

REV10/28/21 TRC COMMENT REVISIONS

REV21/23/21 TRC COMMENT REVISIONS

BY NG

BY NG

DATE: 9/14/21

CHECKED: JBR/NDG

PROJECT NO: P726.21

CAD FILE: 7/26 LS

SHEET: C401

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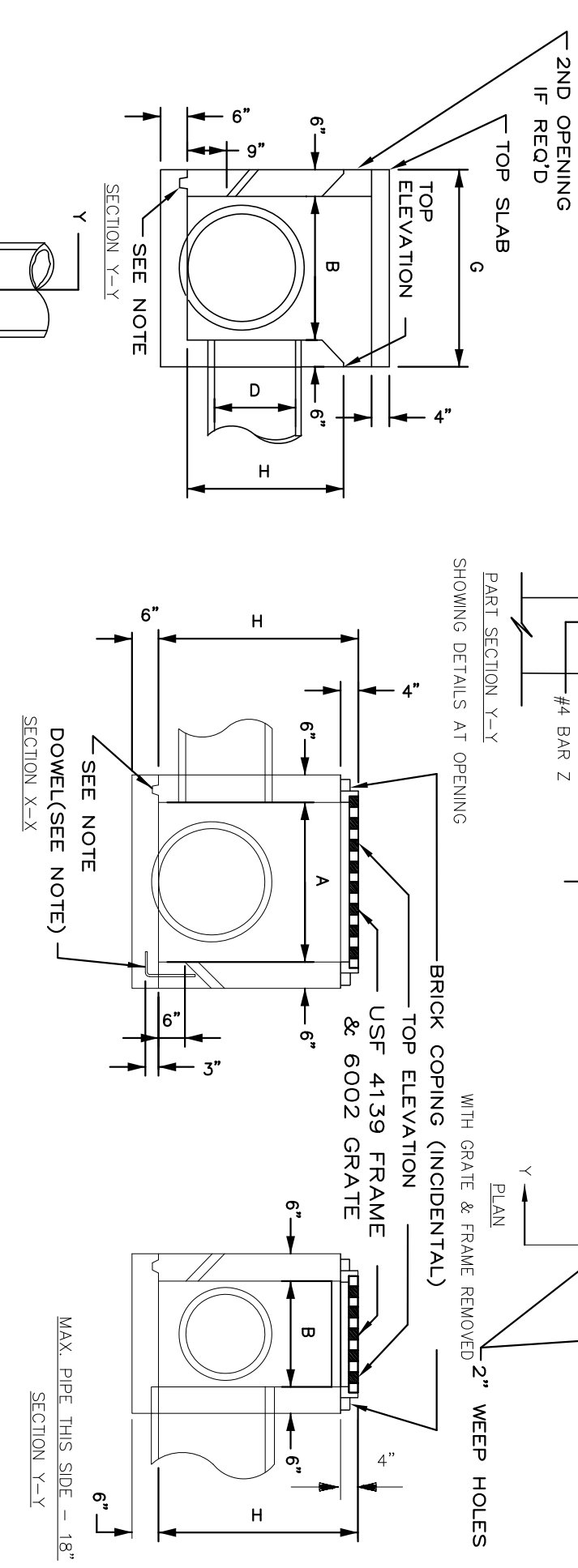
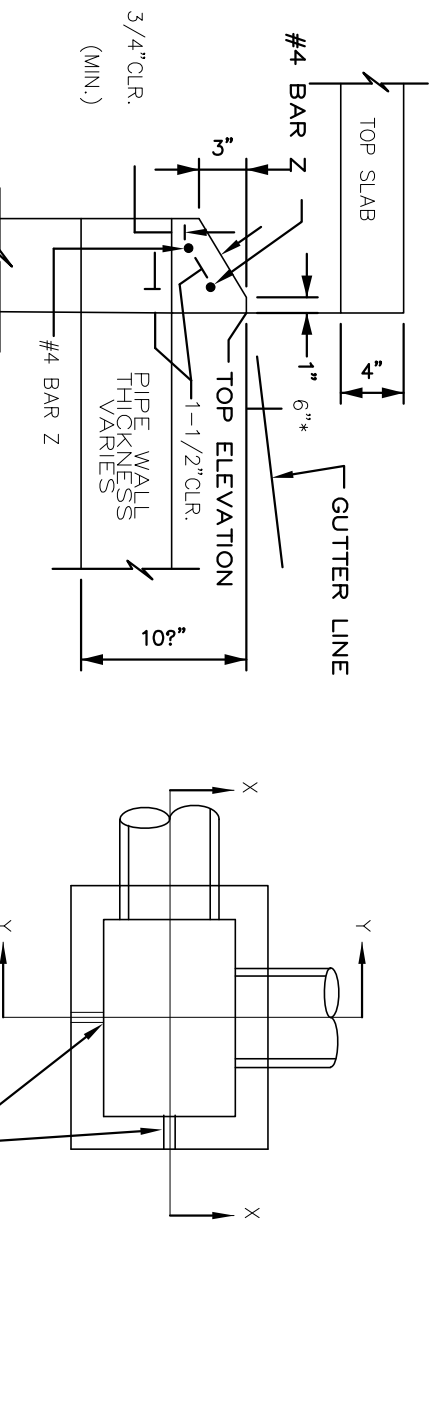
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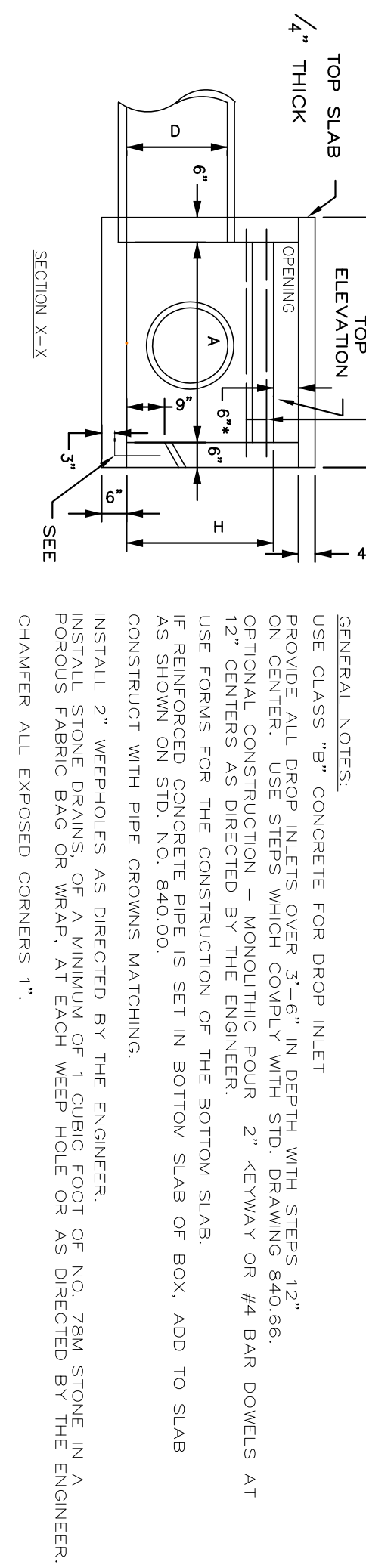
Civil - Structural
Site Development

BRINDLEY BEACH LAUNDRY SERVICE - CONSTRUCTION DETAILS

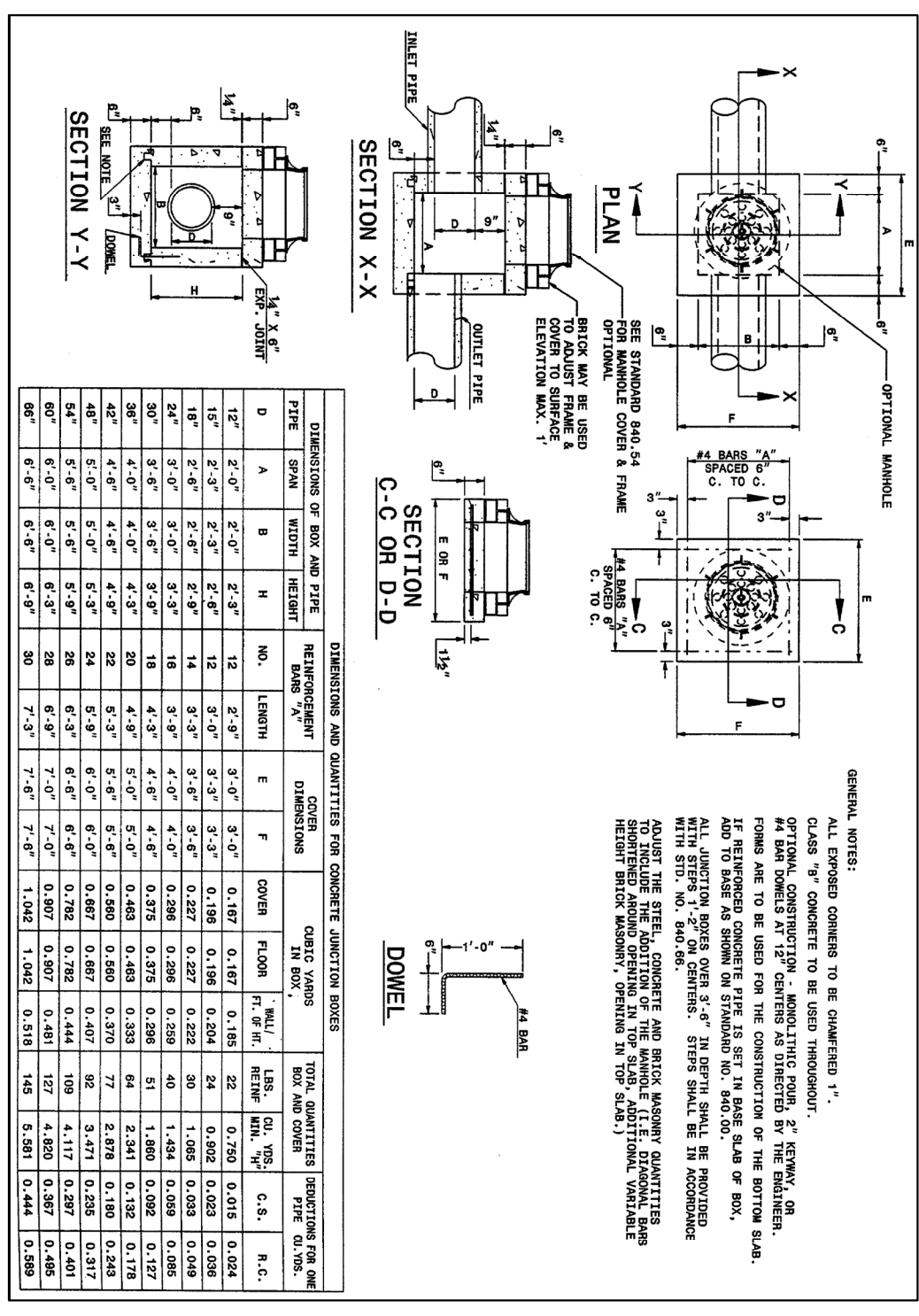
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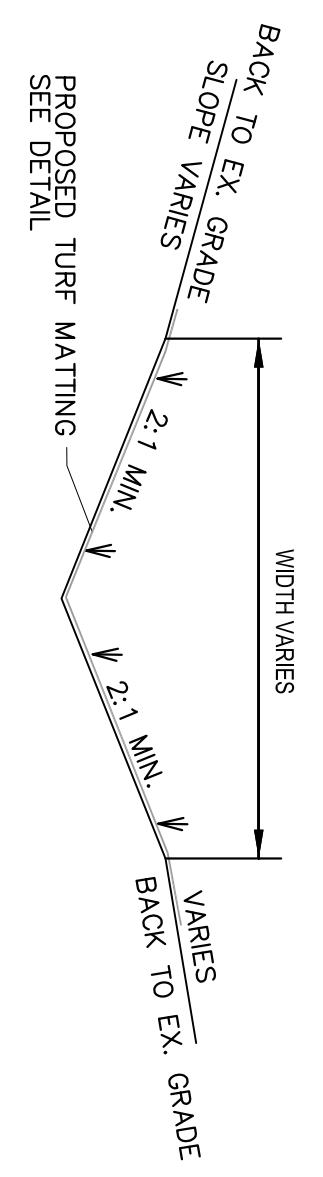
DIMENSIONS AND QUANTITIES FOR DROP INLET (BASED ON MIN. HEIGHT, H)									
PIPE	SPAN	WIDTH	MIN. HEIGHT	BOTTOM CONC. IN BOX	WALL PER FOOT	REDUCED R.C.	DEDUCTIONS FOR ONE PIPE	C.M.	R.C.
D	A	B	H	2'-0"	0.222	0.055	0.026	0.055	0.026
12"	3'-0"	2'-0"	2'-0"	0.222	0.055	0.026	0.026	0.055	0.026
18"	3'-0"	2'-0"	2'-0"	0.222	0.055	0.026	0.026	0.055	0.026
24"	3'-0"	2'-0"	2'-0"	0.222	0.055	0.026	0.026	0.055	0.026



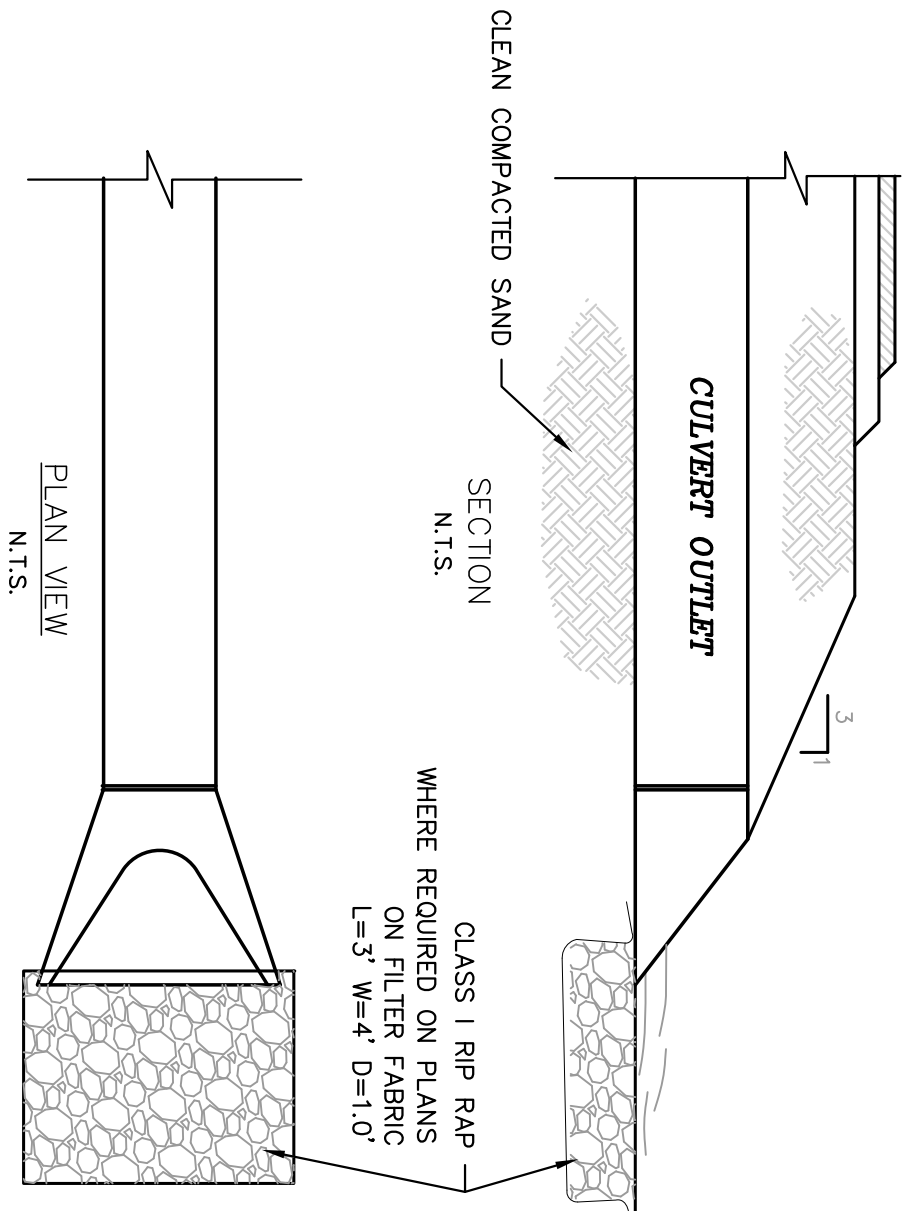
CONCRETE DROP INLET DETAIL



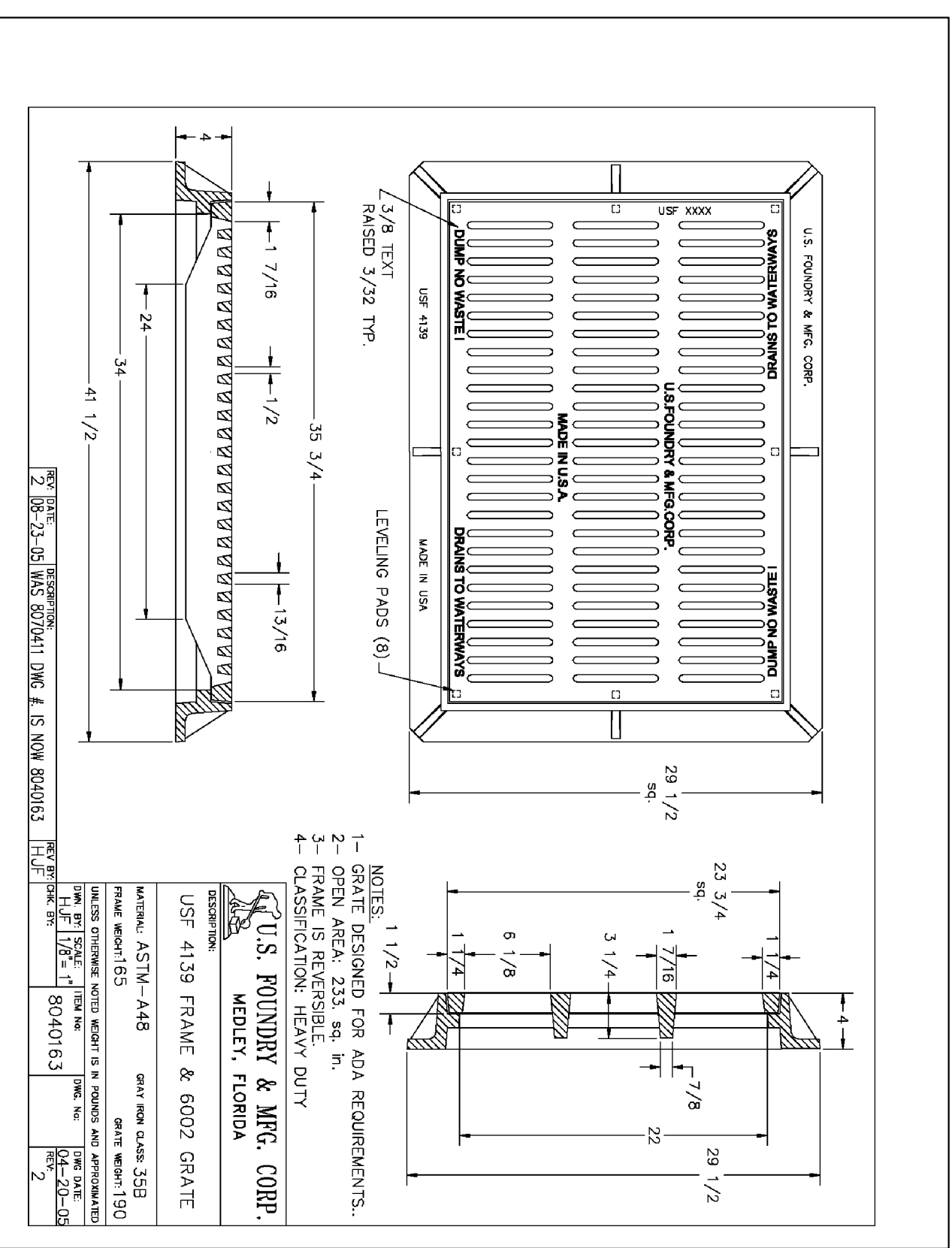
CONCRETE JUNCTION BOX DETAIL



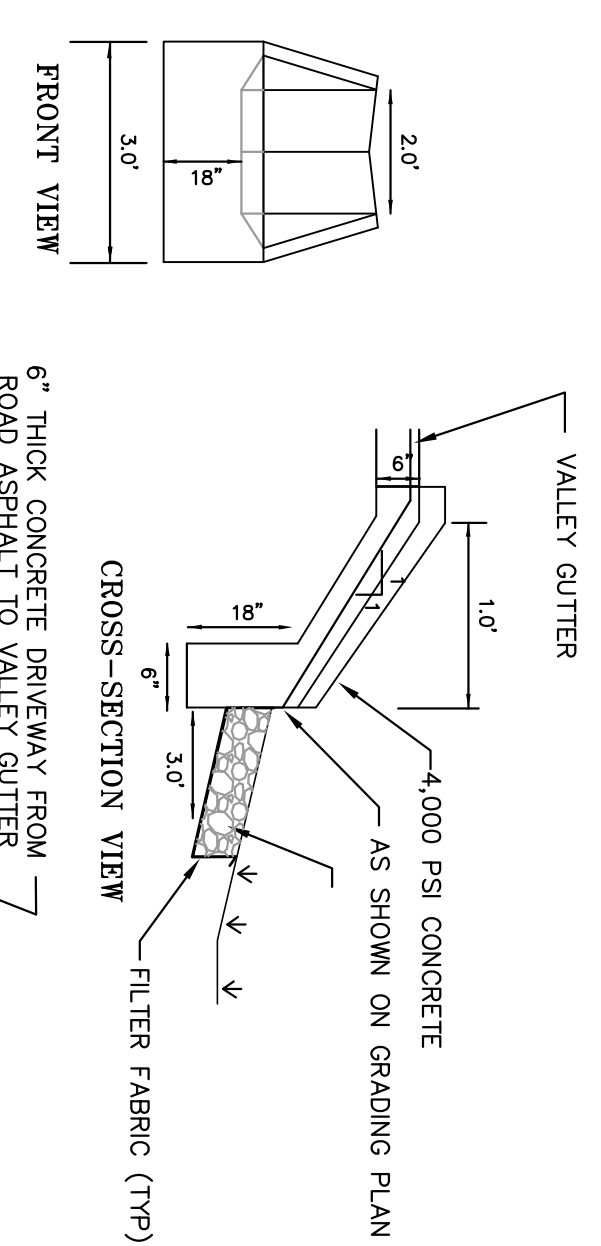
DITCH DETAIL



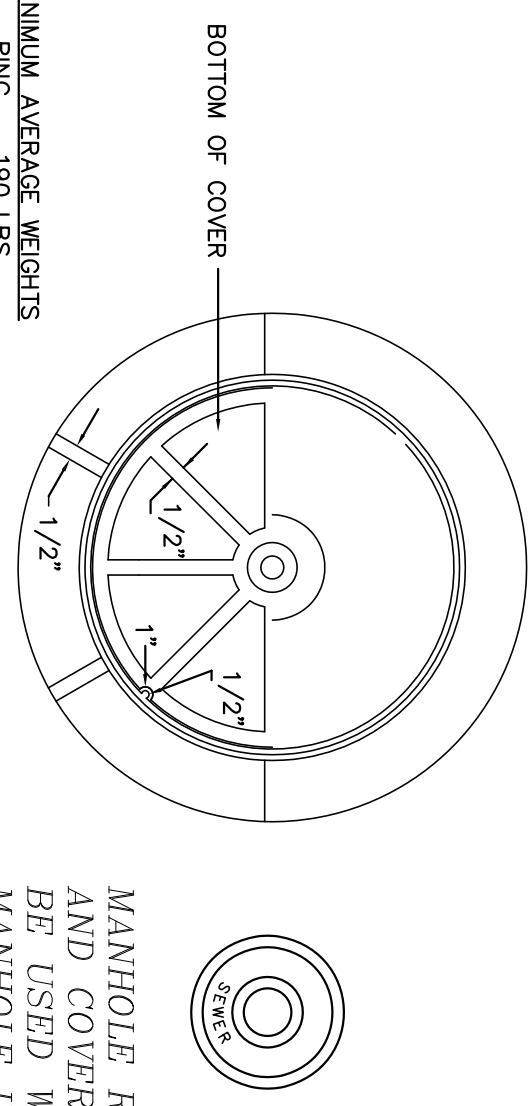
OUTFALL CULVERT DETAIL



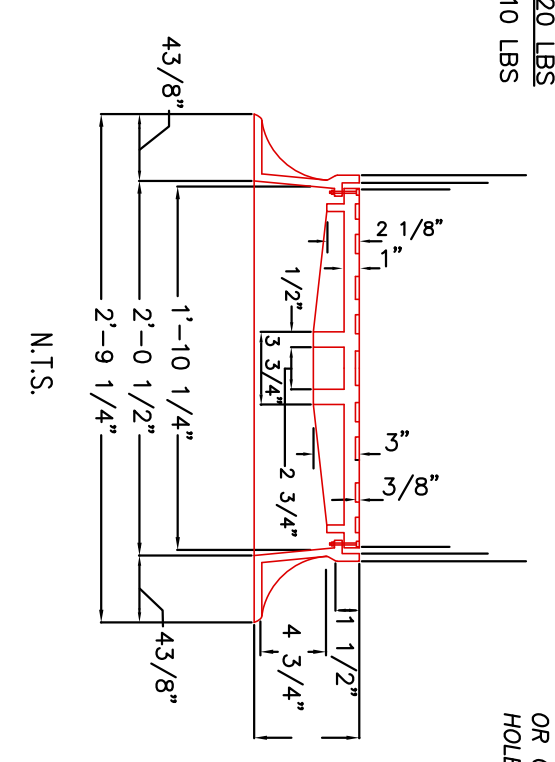
DROP INLET FRAME AND GRATE



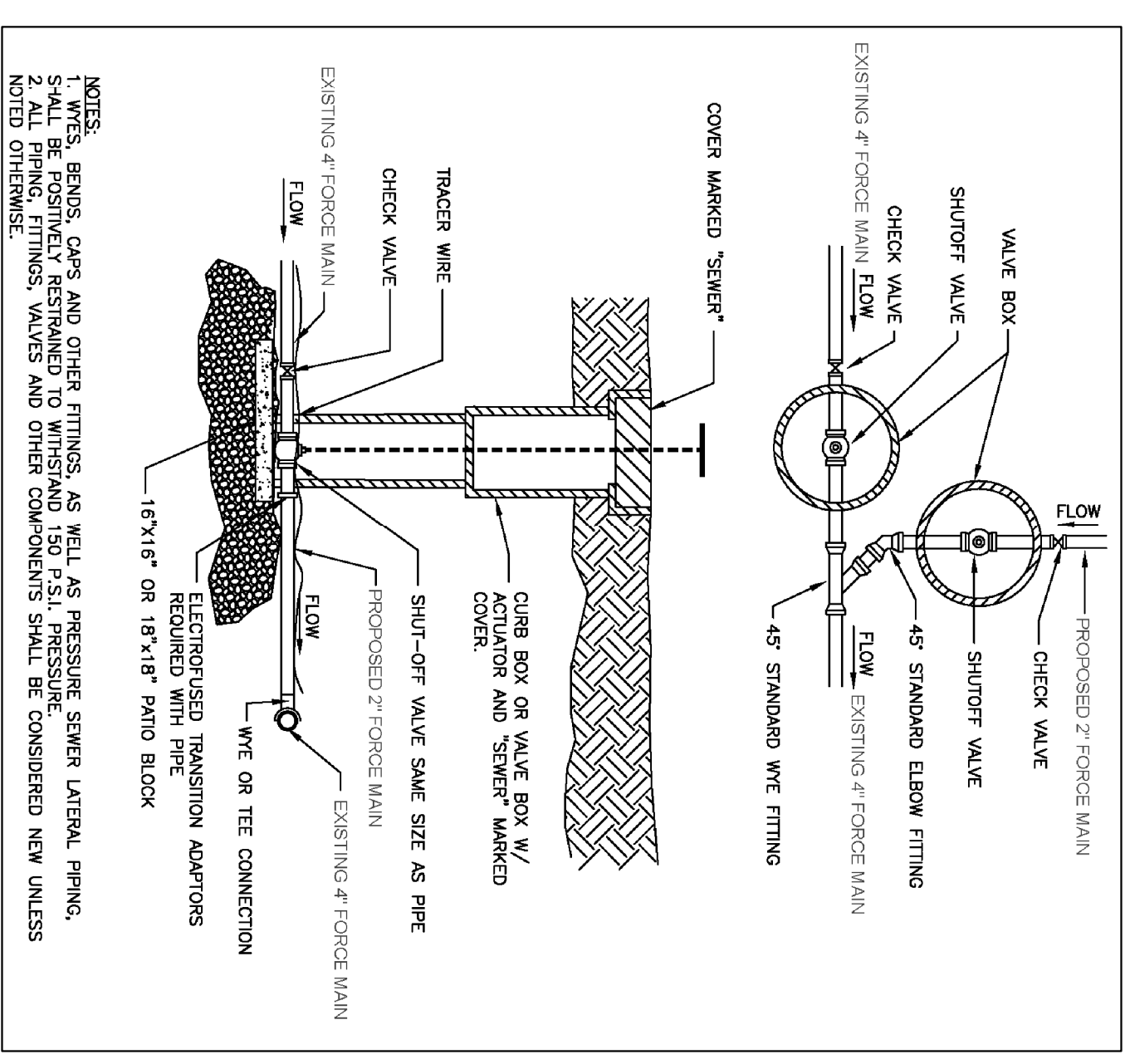
CUSTOM CONCRETE FLUME DETAIL



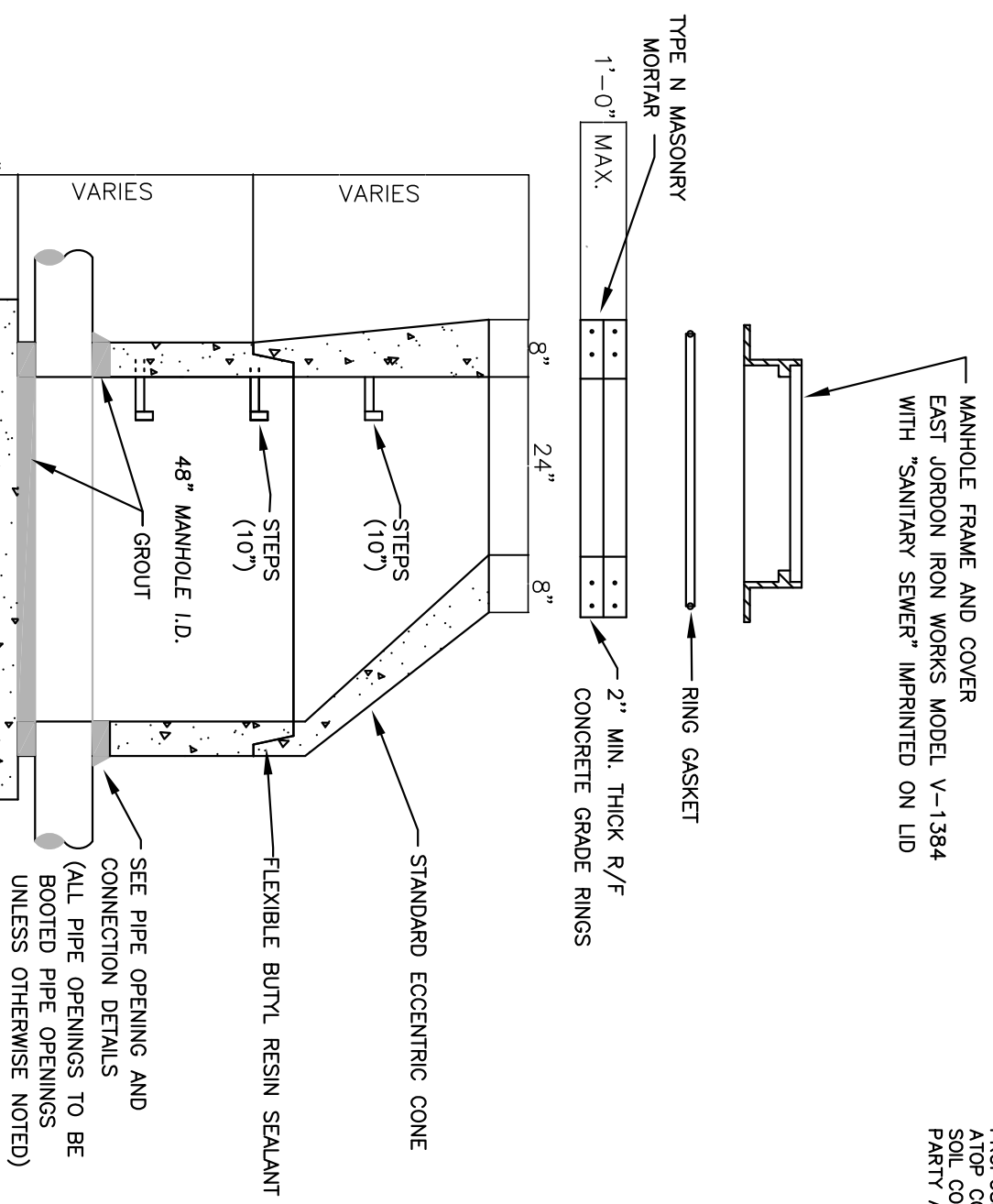
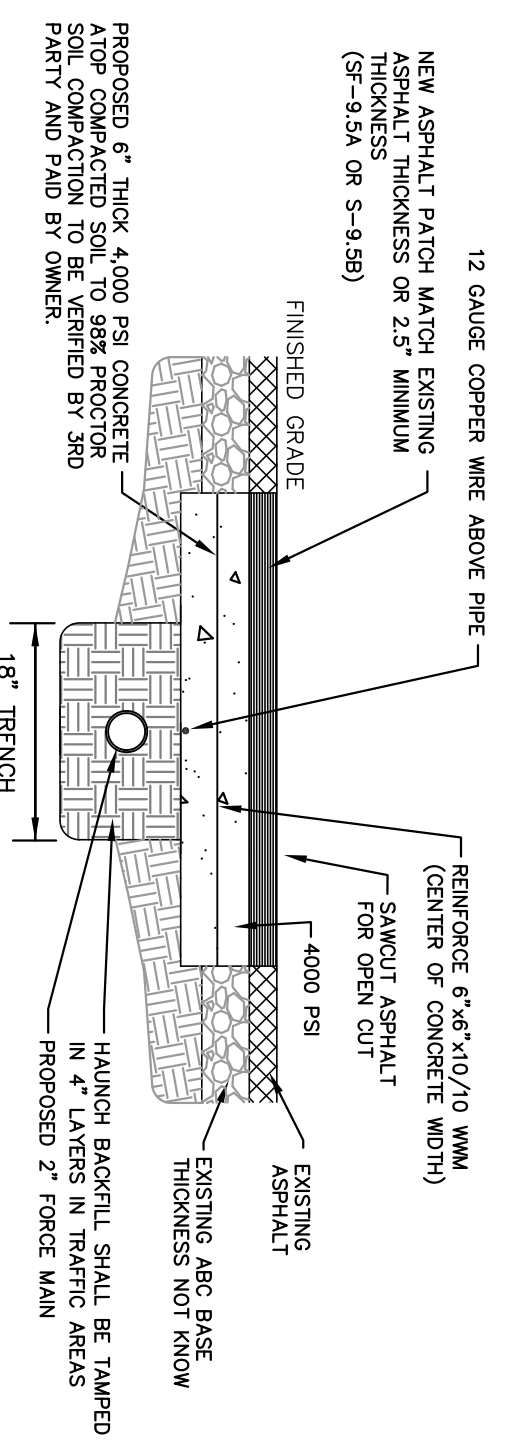
MINIMUM AVERAGE WEIGHTS
RING 190 LBS
COVER 120 LBS
TOTAL 310 LBS



NEW FORCE MAIN BRANCH CONNECTION, TYPICAL



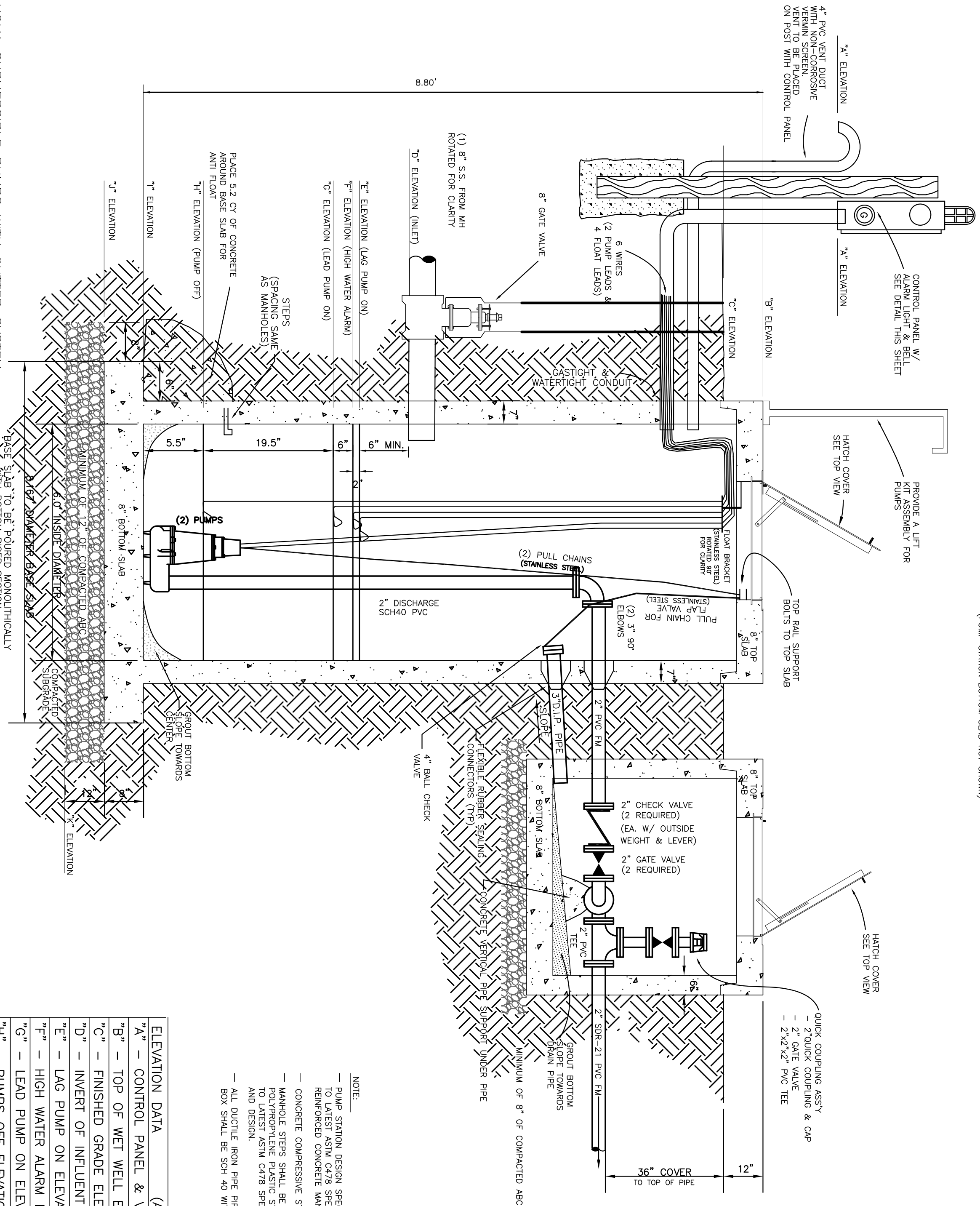
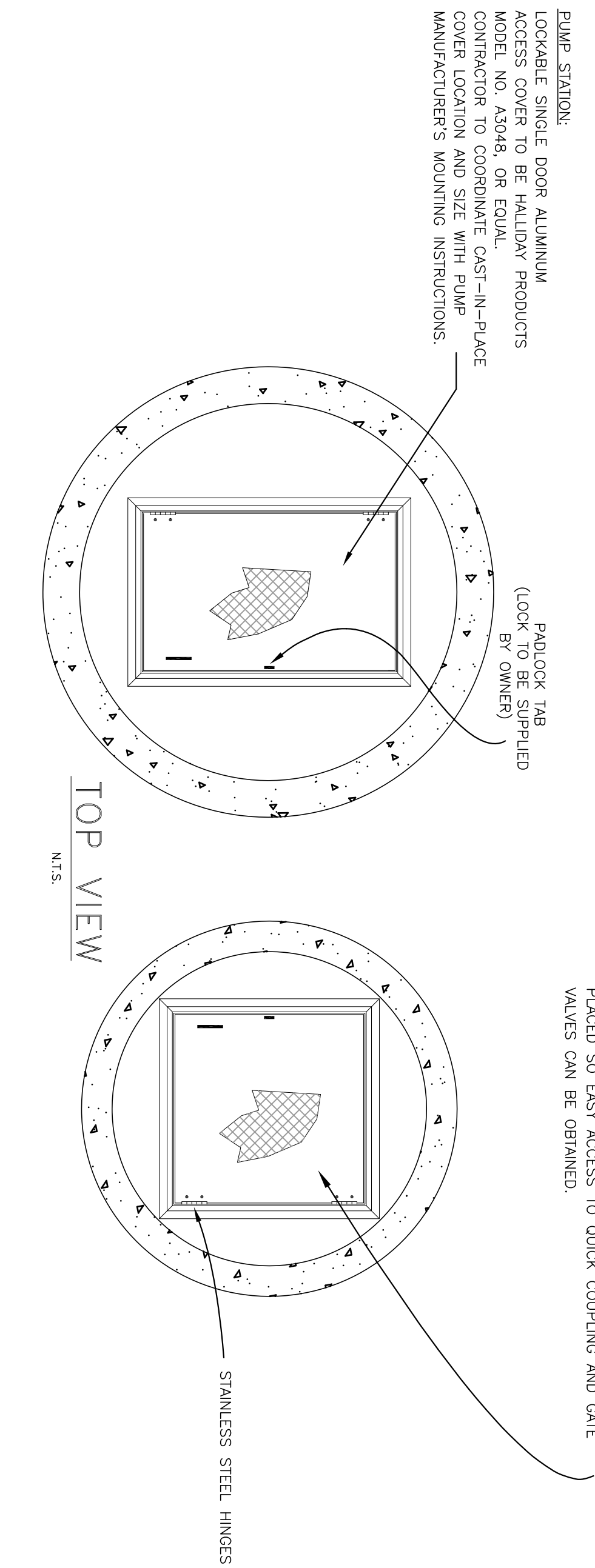
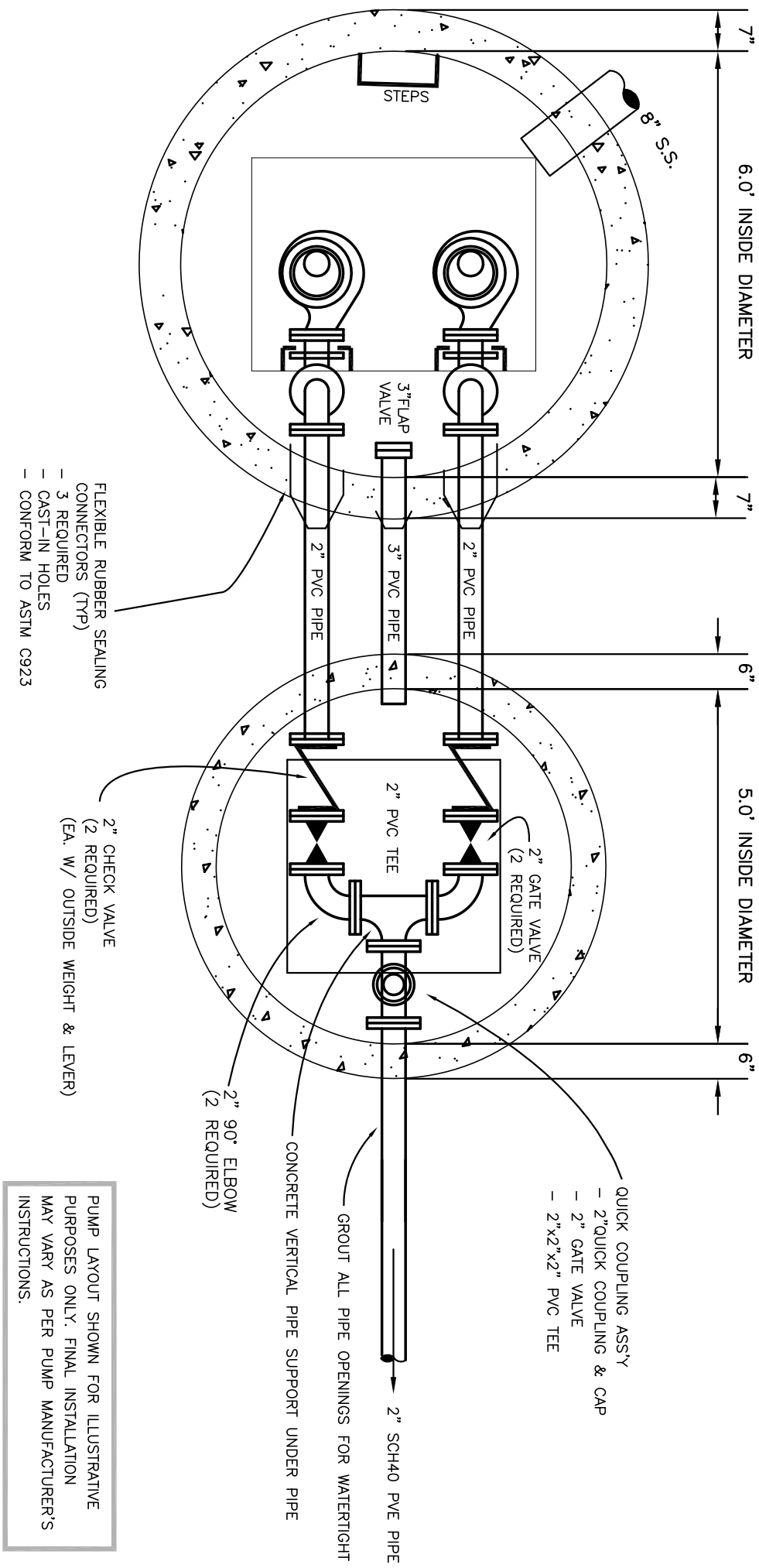
FORCE MAIN INSTALLATION UNDER ASPHALT ROAD



STANDARD PRECAST CONCRETE MANHOLE

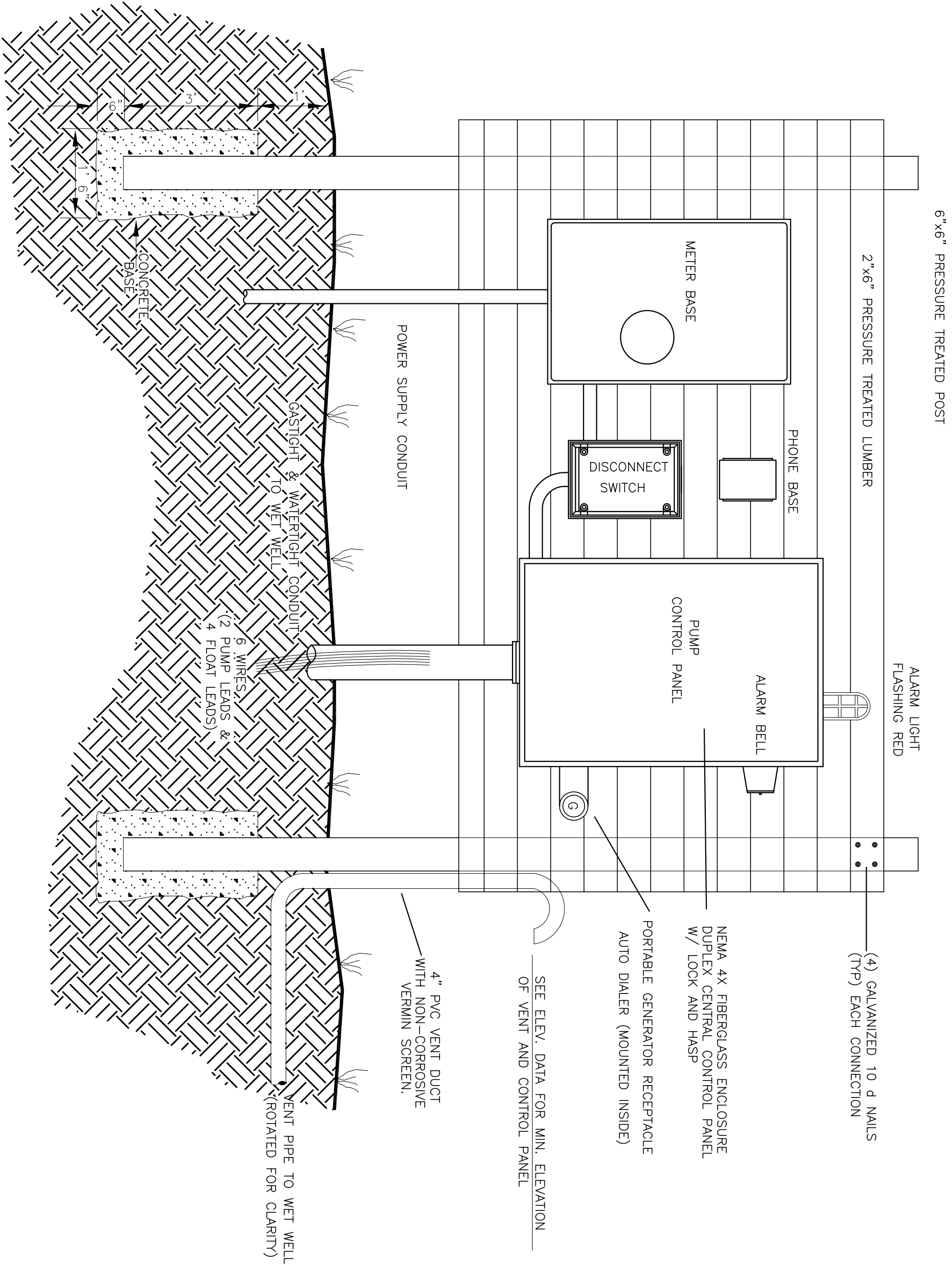
NOT FOR CONSTRUCTION
FOR REVIEW PURPOSES ONLY

BRINDLEY BEACH LAUNDRY SERVICE - LIFT STATION DETAILS



NOTE:
— PUMP STATION DESIGN SPECIFICATIONS TO CONFORM TO LATEST ASTM C478 SPECIFICATIONS FOR PRECAST REINFORCED CONCRETE MANHOLE SECTIONS.
— CONCRETE COMPRESSIVE STRENGTH 4000 PSI MIN.
— MANHOLE STEPS SHALL BE STEEL REINFORCED COPOLYMER POLYPROPYLENE PLASTIC STEPS WHICH CONFORM TO ASTM C1363 SPEC. IN BOTH MATERIAL AND DESIGN.
— ALL DUCTILE IRON PIPE PRING WITH PUMP STATION AND VALVE BOX SHALL BE SCH 40 WITH FLANGE TYPE FITTINGS.

ELEVATION DATA (ALL ELEV'S M.S.L.)	
"A" — CONTROL PANEL & VENT	14.92'
"B" — TOP OF WET WELL ELEVATION	12.92'
"C" — FINISHED GRADE ELEVATION	12.25'
"D" — INVERT OF INFLUENT ELEVATION	7.42'
"E" — LAG PUMP ON ELEVATION	6.70'
"F" — HIGH WATER ALARM ELEVATION	6.53'
"G" — LEAD PUMP ON ELEVATION	6.03'
"H" — PUMPS OFF ELEVATION	4.40'
"I" — WET WELL FLOOR ELEVATION	4.12'
"J" — BOTTOM ELEVATION	3.45'
"K" — BOTTOM OF STONE ELEVATION	2.45'



HOMA SUBMERSIBLE PUMPS WITH CUTTER SYSTEM:
— MODEL GRP 18
— SPEED 3450 RPM
— 230 VOLT SINGLE PHASE MOTOR
(CONTRACTOR TO VERIFY EXISTING POWER CAPABILITY TO SUPPORT TO ORDERING PUMPS AND CONTROLS)

PUMP STATION
N.T.S.

CONTROL PANEL & VENT MOUNTING
N.T.S.



Doc No: 305200
Recorded: 11/08/2013 at 02:14:31 PM
Fee Amt: \$42.00 Page 1 of 19

Currituck County North Carolina
Denise A. Hall Reg of Deeds

Bk **1272** Pg **542-560**

NORTH CAROLINA

CURRITUCK COUNTY

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration, made this 23rd day of October, 2013, by COUNTY OF CURRITUCK, a body corporate and politic existing under the laws of the State of North Carolina, made with reference to the following facts:

WITNESSETH:

WHEREAS, the County of Currituck, (the "County"), is the owner of that certain real property in the County of Currituck, State of North Carolina, described in Exhibit A attached hereto and by this reference incorporated herein, and known as MAPLE COMMERCE PARK; and

WHEREAS, Maple Commerce Park is being developed as a planned business/industrial park. It is the County's desire and intention to subject the real property in said business park to certain covenants, conditions, and restriction for the benefit of the property, Maple Commerce Park, and the purchasers of lots in Maple Commerce Park. It is intended that said covenants, conditions, and restrictions bind and benefit not only said purchasers and Maple Commerce Park but also their respective successors, heirs, and assigns and that all lots in Maple Commerce Park should be held, used, leased, sold, and conveyed subject to the covenants, conditions, and restrictions set forth in this Declaration; and

WHEREAS, it is the intention of the County to further a plan of subdivision by means of the covenants, conditions, and restrictions set forth in this Declaration. Said covenants, conditions, and restrictions are intended to be common to all of the lots in Maple Commerce Park and to enhance and protect the value desirability, and attractiveness of all such lots to their mutual benefit.

NOW, THEREFORE, for and in consideration of the premises for the purposes herein expressed, Declarant does hereby set forth and declare the following restrictions and does hereby covenant and agree to and with all persons, firms and corporations, now or hereafter acquiring any property within Maple Commerce Park and located on the lands described in Exhibit A to this instrument, that the said property is now and shall hereafter be subject to the following conditions and restrictions:

ARTICLE I **Definitions**

Unless the context otherwise specifies or requires, the terms defined in this Article I shall, as used in this Declaration, have the meanings herein set forth:

1.1 Architect. The term "architect" shall mean a person holding a certificate of registration to practice architecture in the State of North Carolina under the authority of Chapter 83A of the North Carolina General Statutes.

1.2 Beneficiary. The term "beneficiary" shall mean a mortgagee under a mortgage as well as a beneficiary under a deed of trust.

1.3 Declarant. The term "Declarant" shall mean County of Currituck and, to the extent provided in Article VIII of this Declaration, its successors and assigns.

1.4 Declaration. The term "Declaration" shall mean this Declaration of Covenants, Conditions, and Restrictions for Maple Commerce Park, as it may from time to time be amended or supplemented.

1.5 Deed of Trust. The term "deed of trust" shall mean a mortgage as well as a deed of trust.

1.6 Maple Commerce Park. The term "Maple Commerce Park" shall be synonymous with the term "subject property" and shall mean all of the real property now or hereafter made subject to this Declaration.

1.7 Improvement--Improvements. The term "improvement" or "improvements" shall include buildings, outbuildings, roads, parking areas, fences, screening walls and barriers, retaining walls, stairs, decks, waterlines, sewers, electrical and gas distribution facilities, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, loading areas, and all other structures, installations, and landscaping of every type and kind, whether above or below the land surface.

1.8 Lot. The term "lot" shall mean a fractional part of the subject property as subdivided on subdivision or parcel maps recorded from time to time in the Currituck County Registry.

1.9 Mortgage. The term "mortgage" shall mean a deed of trust as well as a mortgage.

1.10 Mortgagee. The term "mortgagee" shall mean a beneficiary under, or holder of, a deed of trust as well as a mortgagee under a mortgage.

1.11 Occupant. The term "Occupant" shall mean a lessee or licensee of an Owner, or any other person or entity other than an Owner in lawful possession of a lot with the permission of the Owner.

1.12 Owner. The term "Owner" shall mean and refer to any person or entity that is the recorded Owner of fee simple title to any lot, excluding any entity or person who holds such interest as security for the payment of an obligation, but including contract sellers and any mortgagee or other security holder in actual possession of a lot.

1.13 Record--Recorded--Recordation. The terms "record," "recorded," or "recordation" shall mean, with respect to any document, the recordation of said document in the Currituck County Registry.

1.14 Sign. The term "sign" shall mean any structure, device, or contrivance, electric or nonelectric, upon or within which any poster, bill, bulletin printing, lettering, painting, device, or other advertising of any kind whatsoever is used, placed, posted, tacked, nailed, pasted, or otherwise fastened or affixed.

1.15 Street--Streets. The term "street" or "streets" shall mean any street, highway, road, or thoroughfare within or adjacent to the subject property and shown on any recorded subdivision or parcel map, or record of survey, whether designated thereon as street, boulevard, place, drive, road, court, terrace, way, lane, circle, or otherwise.

1.16 Subject Property. The term "subject property" shall be synonymous with the term "Maple Commerce Park" and shall mean all of the real property now or hereafter made subject to this Declaration.

1.17 Visible from Neighboring Property. The term "visible from neighboring property" shall mean, with respect to any given object on a lot, that such object is or would be visible to a person six (6) feet tall, standing on any part of any adjacent lot or other property at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE II Subject Property

2.1 General Declaration. Declarant hereby declares that all of that real property identified as Maple Commerce Park, located in Crawford Township, County of Currituck, State of North Carolina, and more particularly described in Exhibits A and B is, and shall be, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved, or transferred in whole or in part, subject to this Declaration. All of the covenants, conditions, and restrictions set forth herein are declared and agreed to be in furtherance of a general plan for the subdivision, improvement, and sale of said real property and are established for the purpose of enhancing and protecting the value, desirability, and attractiveness of the subject property and every part thereof. All of said covenants, conditions, and restrictions shall run with all of the subject property for all purposes and shall be binding upon and inure to the benefit of Declarant and all Owners, Occupants, and their successors in interest as set forth in this Declaration.

2.2 Addition of Other Realty. Declarant may at any time during the pendency of this Declaration add all or a portion of any real property now or hereinafter owned by Declarant to the subject property, and upon recording of a notice of addition of real property containing at least the provisions set forth in Section 2.3, the provisions of these Declarations specified in said notice shall apply to such added real property in the same manner as if it were originally covered by this Declaration. Thereafter, to the extent that this Declaration is made applicable thereto, the rights, powers, and responsibilities of Declarant and the Owners and Occupants of lots within such added real property shall be the same as in the case of the real property described in Exhibits A and B.

2.3 Notice of Addition to Land. The notice of addition of real property referred to in Section 2.2 shall contain at least the following provisions:

- (a) A reference to this Declaration stating the date of recording and the book or books of the records of the Currituck County Registry, and the page numbers where this Declaration is recorded;
- (b) A statement that the provisions of this Declaration, or some specified part thereof, shall apply to such added real property;
- (c) A legal description of such added real property; and
- (d) Such other or different covenants, conditions, and restrictions as Declarant shall, in its discretion, specify to regulate and control the use, occupancy, and improvements of such added real property.

ARTICLE III Construction of Improvements

3.1 Approval of Plans Required. No improvements shall be erected, placed, altered, maintained, or permitted or remain on any lot by any Owner or Occupant until final plans and specifications shall have been submitted to and approved in writing by Declarant. Such final plans and specifications shall be submitted in duplicate over the authorized signature of the Owner or Occupant or both of the lot or the authorized agent thereof. Such plans and specifications shall be in such form and shall contain such information as may be required by the Declarant but shall in any event include the following:

- (a) A site development plan of the lot showing the nature, grading scheme, kind, shape, composition, and location of all structures with respect to the particular lot (including proposed front, rear, and side setback lines), and with respect to structures on adjoining lots, and the number and location of all parking spaces and driveways on the lot;

(b) A landscaping plan for the particular lot;

(c) A plan for the location of signs and lighting; and

(d) A building elevation plan showing dimensions, materials, and exterior color scheme in no less detail than required by the appropriate governmental authority for the issuance of a building permit. Material changes in approved plans must be similarly submitted to and approved by Declarant.

3.2 Basis for Approval. Approval shall be based, among other things, upon compliance with the Design Guidelines prepared for the subject property, including adequacy of site dimensions, adequacy of structural design, conformity and harmony of external design with neighboring structures, effect of location and use of proposed improvements upon neighboring lots, proper facing of main elevation with respect to nearby streets, adequacy of screening of mechanical, air-conditioning, or other roof-top installations, and conformity of the plans and specifications to the purpose and general plan and intent to this Declaration. No plans will be approved that do not provide for the underground installation of power, electrical, telephone, and other utility lines from the property line to buildings.

Plans that provide for metal-clad buildings will be approved only on the conditions that such buildings are constructed so as not to have the appearance of a pre-engineered metal building, are designed by an architect, and are specifically approved in writing by Declarant. Declarant shall not arbitrarily or unreasonably withhold its approval of any plans and specifications. Except as otherwise provided in this Declaration, Declarant shall have the right to disapprove any plans and specifications submitted hereunder on any reasonable grounds including, but not limited to, the following:

(a) Failure to comply with any of the restrictions set forth in this Declaration;

(b) Failure to include information in such plans and specifications as may have been reasonably requested by Declarant;

(c) Objection to the exterior design, the appearance of materials, or materials employed in any proposed structure;

(d) Objection on the ground of incompatibility of any proposed structure or use with existing structures or uses upon other lots, or other property in the vicinity of the subject property;

(e) Objection to the location of any proposed structure with reference to other lots, or other property in the vicinity;

(f) Objection to the grading or landscaping plan for any lot;

(g) Objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any structure;

(h) Objection to the number or size of parking spaces, or to the design of the parking area;

(i) Any other matter that, in the judgment of the Declarant, would render the proposed improvements or use inharmonious with the general plan for improvement of the subject property or with improvements located upon other lots or other property in the vicinity.

3.3 Review Fee. An architectural review fee shall be paid to Declarant at such time as plans and specifications are submitted to it based upon a schedule adopted from time to time by Declarant.

3.4 Result of Inaction. If Declarant fails either to approve or disapprove plans and specifications submitted to it for approval within forty-five (45) days after the same have been submitted, it shall be conclusively

presumed that Declarant has disapproved said plans and specifications; provided, however, that if within the forty-five (45)-day period Declarant gives written notice of the fact that more time is required for the review of such plans and specifications, there shall be no presumption that the same are disapproved until the expiration of such reasonable period of time as is set forth in the notice.

3.5 Approval. Declarant may approve plans and specifications as submitted, or as altered or amended, or it may grant its approval to the same subject to specific conditions. Upon approval or conditional approval by Declarant of any plans and specifications submitted, a copy of such plans and specifications, together with any conditions, shall be deposited for permanent record with Declarant, and a copy of such plans and specifications, bearing such approval together with any conditions, shall be returned to the applicant submitting the same.

3.6 Proceeding with Work. Upon receipt of approval from Declarant pursuant to Section 3.5, the Owner, or Occupant, or both, to whom the same is given, shall, as soon as practicable, satisfy any and all conditions of such approval and shall diligently proceed with the commencement and completion of all approved excavation, construction, refinishing, and alterations. In all cases, submission of plans and specifications to Declarant for approval and work shall commence within one (1) year from the date Owner purchases a lot from Declarant, and if submission of plans and work is not so commenced, approval shall be deemed revoked unless Declarant, pursuant to written request made and received prior to the expiration of said one (1)-year period, extends the period of time within which work must be commenced. Failure to comply with this Section shall constitute a breach of this Declaration and the party in breach shall convey the property back to Declarant.

3.7 Completion of Work. Any improvement commenced pursuant hereto shall be completed within two (2) years from the date of Owner's purchase of a lot from Declarant, except for so long as such completion is rendered impossible due to strike, fire, national emergency, natural disaster, or other supervening force beyond the control of Owner or Occupant. Declarant may, upon written request made and received prior to the expiration of the two (2) year period, extend the period of time within which work must be completed. Failure to comply with this Section shall constitute a breach of this Declaration and the party in breach shall convey the property back to the Declarant.

3.8 Declarant Not Liable. Declarant shall not be liable for any damage, loss, or prejudice suffered or claimed by any person on account of:

- (a) The approval or disapproval of any plans, drawings, and specifications, whether or not in any way defective;
- (b) The construction of any improvement, or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; or
- (c) The development of any lot within Maple Commerce Park.

3.9 Construction without Approval. If any improvement shall be erected, placed, or maintained upon any lot, or any new use commenced upon any lot, other than in accordance with the approval by the Declarant pursuant to the provisions of this Article III, such alteration, erection, placement, maintenance, or use shall be deemed to have been undertaken in violation of this Declaration, and upon written notice from Declarant, any such improvement so altered, erected, placed, maintained, or used upon any lot in violation of this Declaration shall be removed or altered so as to conform to this Declaration, and any such use shall cease or be amended so as to conform to this Declaration. Should such removal or alteration or cessation or amendment or use not be accomplished within thirty (30) days after receipt of such notice, then the party in breach of this Declaration shall be subject to the enforcement procedures set forth in Article VII.

ARTICLE IV Development Standards

4.1 Density.

- (a) The minimum lot size is two (2) acres (87,120 feet).
- (b) The minimum principal building size is 5,000 square feet. Accessory buildings may be constructed less than 9,000 square feet.
- (c) Lot coverage, including all buildings, pavement, walkways, stone or similar materials shall not exceed 65% of the gross lot area. This covenant is intended to insure continued compliance with the stormwater permit issued by the State of North Carolina. This covenant may not be changed or deleted without the consent of the State of North Carolina. No one may fill in, pipe, or alter any roadside ditch except as necessary to provide a minimum driveway crossing.

4.2 Minimum Setback. No improvements of any kind, and no part thereof, shall be placed closer than permitted by Declarant to an interior property line, except as otherwise provided in Section 4.3. "Interior property line" shall mean the boundary between any lot within the subject property and all other lots bordering upon said lot. No improvements of any kind, and no part thereof, shall be placed closer than thirty (30) feet from a property line fronting any roadway within the Maple Commerce Park. No improvements of any kind, and no part thereof, shall be placed closer than thirty (30) feet from a side or rear property line.

4.3 Exceptions to Setback Requirements. The following improvements, or parts of improvements, are specifically excluded from the setback requirements set forth in Section 4.2:

- (a) Roof overhang, subject to approval in writing from Declarant, provided said overhang does not extend more than eighteen (18) inches into the setback area;
- (b) Steps and walkways;
- (c) Fences, subject to the requirements set forth in Section 4.7;
- (d) Landscaping and irrigation systems;
- (e) Planters, not to exceed three (3) feet in height, except that planters of greater height may be built within the setback area with the prior written approval of Declarant;
- (f) Industrial park identification signs, directional and parking signs, and signs identifying the owner or Occupant of a lot, subject to the prior written approval of Declarant;
- (g) Lighting facilities, subject to the prior written approval of Declarant; and
- (h) Underground utility facilities and sewers.

4.4 Landscaping. No improvements to a lot shall be occupied prior to installation of such lot's landscaping in accordance with the plans and specifications. The area of each lot between any street and any minimum setback line as set forth in Section 4.2 shall be landscaped with an attractive combination of trees, shrubs, and other ground cover. All portions of a lot not fronting a street and not used for parking, storage, or buildings shall be landscaped in a complementary and similar manner.

Priority shall be given to retention of existing vegetation within 45' of all street right of ways, excluding site access & utilities. A vegetation retention plan shall be submitted to the County at the time of application for

individual lot development by the Owner. It shall be the responsibility of the Owner or Occupant to retain vegetation during development of the lot according to the approved plan.

When existing vegetation cannot be preserved, property owners shall submit a vegetation retention/planting plan to the County at the time of application for individual lot development that meets the minimum street tree requirements of the UDO. It shall be the responsibility of the individual lot Owner to install vegetation according to the approved plan.

The perimeter of parking areas shall be landscaped with solid screen evergreen plant material so as to screen said areas from view from adjacent streets and freeways. Such screening shall extend at least forty-eight (48) inches above the high point of the finished pavement in said parking area. Landscaped earth berms at least three feet high may substitute for the solid screen planting.

If the outdoor parking lot contains fifteen or more parking stalls, not less than 6% of the interior of such parking lot shall be landscaped. The use of depressed rain gardens between parking bays to capture and treat excess stormwater run-off is encouraged. Strips between parking bays may also be landscaped with appropriate ground cover and deciduous trees.

After completion, such landscaping as is herein required shall be maintained in a sightly and well-kept condition. If, in Declarant's reasonable opinion, the required landscaping is not maintained in a sightly and well-kept condition, Declarant shall be entitled to the remedies set forth in Article VII.

4.5 Signs. No sign shall be permitted on any lot unless approved by Declarant in writing. No sign shall be approved other than business park identification signs; informational and vehicular control signs; signs identifying the building or the business of the Owner or Occupant of a lot, in which instance signs may be placed upon each side of the building and one sign may be placed upon the lot; signs offering the lot for sale or lease; and temporary development signs.

4.6 Fences. No fences or walls shall be permitted on any lot unless such fence or wall is necessary for security or screening purposes. The Declarant reserves the right to approve the location and design of all fences, and no fence shall be constructed without a letter of approval from the Declarant.

4.7 Lighting. All exterior lighting, including floodlights, parking lights, and security lighting, constructed by the owner or occupant of a lot, must be a cut-off style fixture to prevent excess light pollution. Lights illuminating signage as provided in section 4.5 shall be exempt from this provision, but shall in no case run counter to county ordinances that regulate signage.

4.8 Parking Areas. Off-street parking adequate to accommodate the parking needs of the Owner or Occupant and the employees and visitors thereof shall be provided by the Owner or Occupant of each Lot. The intent of this provision is to eliminate the need for any on street parking; provided, however, that nothing herein shall be deemed to prohibit on-street parking of public transportation vehicles. If parking requirements increase as a result of a change in the use of a lot or in the number of person employed by the Owner or Occupant, additional off-street parking shall be provided so as to satisfy the intent of this section. All parking areas shall conform to the following standards:

(a) Required off-street parking shall be provided on the lot, on a contiguous lot, or within such distance from the lot as Declarant deems reasonable. Where parking is provided other than upon the lot concerned, Declarant shall be given a certified copy of a recorded instrument, duly executed and acknowledged by the person or person holding title to the lot or other property upon which the parking area is located, stipulating to the permanent reservation of the use of the lot or other property for such parking area.

(b) All parking areas, driveways and walks shall be surfaced with bituminous concrete, concrete, asphalt, brick or an equal material approved by Declarant. Declarant encourages the use of pervious pavement surfaces and materials to limit stormwater impacts. Each parking space provided shall be designated by lines painted upon the paved surface and shall be adequate in area. All parking areas shall provide, in addition to parking spaces, adequate driveways and space for the movement of vehicles; and

(c) Parking areas are located to the side or rear of buildings.

4.9 Storage and Loading Areas. Storage, maintenance, and loading areas must be constructed, maintained, and used in accordance with the following conditions:

(a) Outside storage of materials, supplies, or equipment, including trucks or other motor vehicles, shall be permitted only if:

(i) The material, equipment, or objects stored outside are incidental to the activities regularly conducted on the premises;

(ii) The area devoted to outside storage combined with all other impervious surfaces does not exceed 50% of the gross floor area of the principal structure on the site;

(iii) The area is screened on sides and top and harmonizes with the architecture, design, and appearance of neighboring structures and other surroundings; and

(iv) The area is located upon the rear portions of a lot, unless otherwise approved in writing by Declarant.

(b) Provision shall be made on each site for any necessary vehicle loading, and no on-street vehicle loading shall be permitted.

(c) Loading dock areas shall be set back, recessed, or screened so as not to be visible from neighboring property or streets, and in no event shall a loading dock be closer than seventy-five (75) feet from a property line fronting upon a street unless otherwise approved in writing by Declarant.

ARTICLE V

Regulation of Operations and Uses

5.1 Permitted Uses. The only uses allowed within the Maple Commerce Park shall be as follows:

1. Aviation related industries and services, including the manufacture of airplanes, aeronautical instruments and parts; distribution and warehousing of said parts, airplane and parts repair and overhaul facilities; and any other aviation or airport related goods and services as deemed appropriate by Declarant;

2. General building contractors, general contractors other than building, landscaping contractors and special trade contractors;

3. Manufacturing in the nature of apparel and other finished products; bakery products; beverages; cabinet and woodworking shop; electric, electronic machines, equipment and supplies; fabricated metal products; food and kindred products; furniture and fixtures; instruments and related products; lumber and wood products; machinery other than electrical; printing and publishing; stone, clay, glass and concrete products; textile manufacturing; transportation equipment;

4. Motor freight transportation and warehousing;

5. Warehousing; wholesaling of items manufactured on or off the premises. Mini storage warehouses or garages are **not** permitted uses.

6. Farm implement sales;

7. Electrical repair shops; equipment rental and leasing;

8. Governmental offices and buildings;

9. Offices for private business and professional activities.

10. Sexually oriented businesses are **prohibited** within the park.

11. Any use not expressly permitted or prohibited by this section shall be considered at the sole discretion of the Declarant.

5.2 Nuisances. No nuisance shall be permitted to exist or operate upon any lot so as to be offensive or detrimental to any adjacent lot or property or to its occupants. A "nuisance" shall include, but not be limited to, any of the following conditions:

(a) Any use, excluding reasonable construction activity, of the lot that emits dust, sweepings, dirt, or cinders into the atmosphere, or discharges liquid, solid wastes, or other matter into any stream, river, or other waterway that, in the opinion of Declarant, may adversely affect the health, safety, comfort of, or intended use of their property by persons within the area. No waste nor any substance or materials of any kind shall be discharged into any public sewer serving the subject property or any part thereof in violation of any regulation of any public body having jurisdiction over such public sewer;

(b) The escape or discharge of any fumes, odors, gases, vapors, steam, acids, or other substance into the atmosphere, which discharge, in the opinion of Declarant, may be detrimental to the health, safety, or welfare of any person or may interfere with the comfort of persons within the area or may be harmful to property or vegetation;

(c) The radiation or discharge of intense glare or heat, or atomic, electromagnetic, microwave, ultrasonic, laser, or other radiation. Any operation producing intense glare or heat or such other radiation shall be performed only within an enclosed or screened area and then only in such manner that the glare, heat, or radiation emitted will not be discernible from a point exterior to the site or lot upon which the operation is conducted.

(d) Excessive noise. At no point outside of any lot plane shall the sound pressure level of any machine, device, or any combination of same, from any individual plant or operation, create any unreasonably loud, disturbing sound levels, taking into consideration volume, duration, frequency and other characteristics of the sound.

(e) Excessive emissions of smoke, steam, or particulate matter. Visible emissions of smoke or steam will not be permitted (outside any building) that exceed Ringlemann No. 1 on the Ringlemann Chart of the United States Bureau of Mines. This requirement shall also be applied to the disposal of trash and waste materials. Windborne dust, sprays, and mists originating in plants are not permitted.

(f) Ground vibration. Buildings and other structures shall be constructed and machinery and equipment installed and insulated on each lot so that the ground vibration inherently and recurrently generated is not perceptible without instruments at any point exterior to any lot.

5.3 Well-head Protection Areas. Parcels located within the subdivision and containing designated 500' Well-head Protection Areas as outlined in Exhibit B, "Maple Commerce Park Final Plat", and specifically identified as lots 6, 7 & 8, shall be further restricted on development types in order to manage or control potential sources of contamination throughout the designated area (Well-head Protection Area). The wells to be protected by this section are Mainland water system wells number 9, 10, 11, 12, 13, 14 and 15.

The designated lots can contribute infiltration water, or recharge, to the municipal wells. Contaminants found at or below the land's surface can move with this recharge toward the public water supply well. In no case shall hazardous materials or other deleterious substances be stored, handled, treated, used, produced, recycled, or disposed of in a way that would pose a significant groundwater hazard within the Maple Commerce Park.

Land uses or activities for the designated lots that pose a significant hazard to the County's groundwater resources resulting from storing, handling, treating, using, producing, recycling or disposing of hazardous materials or other deleterious substances shall be prohibited in lots 6,7 & 8. These land uses and activities include, but are not limited to:

- (a) On-site community sewage disposal systems.
- (b) Hazardous liquid pipelines.
- (c) Solid waste landfills.
- (d) Solid waste transfer stations.
- (e) Liquid petroleum refining, reprocessing and storage.
- (f) Bulk storage facilities for petroleum products and chemicals.
- (g) The storage or distribution of gasoline
- (h) Hazardous waste treatment, storage and disposal facilities.
- (i) Chemical manufacturing, including but not limited to organic and inorganic chemicals, plastics and resins, pharmaceuticals, cleaning compounds, paints and lacquers, and agricultural chemicals.
- (j) Dry cleaning establishments using the solvent perchloroethylene.
- (k) Primary and secondary metal industries that manufacture, produce, smelt or refine ferrous and non-ferrous metals from molten materials.
- (l) Wood preserving and wood products preserving.
- (m) Mobile fleet fueling operations.
- (n) Other uses and activities that the Declarant determines would pose a significant groundwater hazard to the County Mainland groundwater supply.

5.4 Condition of Property. The Owner or Occupant of any lot shall at all times keep it and the buildings, improvements, and appurtenances thereon in a safe, clean, and wholesome condition and comply, at its own expense, in all respects with all applicable governmental, health, fire and safety ordinances, regulations, requirements, and directives, and the Owner or Occupant shall at regular and frequent intervals remove at its own expense any rubbish of any character whatsoever that may accumulate upon such lot.

5.5 Maintenance of Grounds.

(a) Each Owner shall be responsible for the maintenance and repair of all parking areas, driveways, walkways, and landscaping on his Lot. Such maintenance and repair shall include, without limitation:

(1) Maintenance of all parking areas, driveways, and walkways in a clean and safe condition, including the paving and repairing or resurfacing of such areas when necessary with the type of material originally installed thereon or such substitute therefore as shall, in all respects, be equal thereto in quality, appearance, and durability; the removal of debris and waste material and washing and sweeping of paved areas; the painting and repainting of striping markers and directional signals as required;

(2) Cleaning, maintenance, and relamping of any external lighting fixtures, except such fixtures as may be the property of any public utility or government body; and

(3) Performance of all necessary maintenance of all landscaping, including the trimming, watering, and fertilization of all grass, groundcover, shrubs, or trees; the removal of dead or waste materials; the replacement of any dead or diseased grass, groundcover, shrubs, or trees.

(b) Nothing contained herein shall preclude an Owner from recovering from any person liable therefore, damages to which such Owner might be entitled for any act or omission to act requiring an expenditure by the Owner for the maintenance and repair of the parking area, driveway, walkway, and/or landscaping on his Lot.

(c) The Maple Commerce Park subdivision contains common area open space owned by the Declarant, including drainage swales, ditches, forebays, stormwater ponds and multi-use trails. These areas are shown on Exhibit B. The maintenance of these areas will be completed by the Declarant on a regular schedule. The Owner or Occupant of any parcel within the Maple Commerce Park will be responsible for a portion of all maintenance fees related to the upkeep of open space, stormwater infrastructure and multi-use paths. This fee will be determined at a future date by the Declarant and assessed annually. Maintenance fees will be calculated on a site-to-site basis using a combination of the Owner or Occupants total land area, total impervious area, and factors such as the installation of additional on-site features to limit stormwater impacts.

5.6 Remedies for Failure to Maintain and Repair.

(a) *Remedies.* If any Owner shall fail to perform the maintenance and repair required by Section 5.6, then Declarant, after fifteen days prior written notice to such delinquent Owner, shall have the right, not the obligation, to perform such maintenance and repair and to charge the delinquent Owner with costs of such assessment or such work, together with interest thereon at the rate of eight percent (8%) per annum from the date of Declarant's advancement of funds for such payment or such work to the date of reimbursement of Declarant by Owner. If the delinquent Owner shall fail to reimburse Declarant for such costs within ten days after demand therefore, Declarant may, at any time within two years after such advance, file a claim of lien signed by Declarant for the amount of such charge together with interest thereon. The lien created by this section shall be effective to establish a lien against the interest of the delinquent Owner in his lot together with interest at eight percent (8%) per annum on the amount of such advance from the date thereof, in addition to recording fees, cost of title search obtained in connection with such lien or the foreclosure thereof, and court costs and reasonable attorney's fees that may be incurred in the enforcement of such a lien.

(b) *Foreclosure of Lien.* Subject to the provisions of Article XII, such a lien, when so established against the lot described in said claim, shall be prior or superior to any right, title, interest, lien, or claim that may be or may have been acquired in or attached to the real property interests subject to the lien subsequent to the time of filing such claim for record. Such lien shall be for the benefit of Declarant and may be enforced and foreclosed in a like manner as a real estate mortgage is foreclosed but without redemption.

(c) *Cure.* If a default for which a notice of claim of lien was filed is cured, Declarant shall file or record a rescission of such notice, upon payment by the defaulting Owner of the costs of preparing and filing or recording such rescission, and other reasonable costs, interest, or fees that have been incurred.

(d) *Nonexclusive Remedy.* The foregoing lien and the rights to foreclose thereunder shall be in addition to, and not in substitution for, all other rights and remedies that any party may have hereunder and by law, including any suit to recover a money judgment for unpaid assessments. If any Owner shall fail to perform such maintenance and repair and, notwithstanding such failure, Declarant should fail to exercise its rights and remedies hereunder, then any other Owner, after fifteen (15) days prior written notice to Declarant and such delinquent Owner, shall have the right, but not the obligation, to perform such maintenance and repair and shall have the same rights and remedies with respect thereto as are provided herein to Declarant.

5.7 Taxes and Assessments. If any Owner fails to pay taxes or assessments on its lot that become a lien on any portion of the subject property utilized for parking, service, or loading areas, then any other Owner may pay such taxes or assessments, together with any interest, penalties, and costs arising out of or related thereto, except while the validity thereof is being contested by judicial or administrative proceedings, and in such event the defaulting Owner obligated to pay such taxes or assessments shall promptly reimburse the other Owner for all such taxes or assessments, interest, penalties, and costs paid or incurred by such other Owner, and until such reimbursement has been made, the amount of the payment by such other Owner shall constitute a lien on and charge against the lot of the defaulting Owner, subject and subordinate, however, to any mortgage or deed of trust then outstanding and affecting said lot.

5.8 Refuse Collection Areas. All outdoor refuse collection areas shall be visually screened so as not to be visible from neighboring property or streets. No refuse collection area shall be permitted between a street and the front of a building.

5.9 Repair of Buildings. No building or structure upon any lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

5.10 Public Utilities. Declarant reserves the sole right to grant consents for the construction and operation of public utilities, including, but not limited to poles or lines for electricity, telephone, or telegraph, above- or below-ground conduits, and gas pipes in an upon any and all streets now existing or hereafter established upon which any portion of the subject property may now or hereafter front or abut. Declarant reserves the exclusive right to grant consents and to petition the property authorities for any and all street improvements, such as grading, seeding, tree planting, sidewalks, paving, and sewer and water installation, whether it be on the surface or subsurface, which in the opinion of Declarant are necessary on or to the subject property. Notwithstanding the provisions of Section 3.2, Declarant reserves the exclusive right to approve above-ground utility lines across the subject property or any portion thereof on a temporary basis for the purpose of construction, and such lines shall be permitted when required by a government agency. Notwithstanding the provisions of this Section, the construction and operation of public utilities in rights-of-way dedicated to the public must be approved by the appropriate governmental authority.

5.11 Utilities Lines and Antennas. No sewer, drainage, or utility lines or wires or other devices for the communication or transmission of electric current, power, or signals, including telephone, television, microwave, or radio signals, shall be constructed, placed, or maintained anywhere in or upon any portion of the subject property other than within buildings or structures, unless the same shall be contained in conduits or cables constructed, placed, or maintained underground or concealed in or under buildings or other structures. No antenna for the transmission or reception of telephone, television, microwave, or radio signals shall be placed on any lot within the subject property unless (a) such antenna shall be so located that it cannot be seen from five (5) feet zero (0) inches above the ground or ground-floor level at a distance of two hundred (200) feet in any direction and (b) the consent of Declarant shall first be obtained. Nothing contained herein shall be deemed to forbid the erection or use of temporary power or telephone facilities incidental to the construction or repair of buildings on the subject property.

5.12 Mechanical Equipment. All mechanical equipment, utility meters, storage tanks, air-conditioning equipment, and similar items shall be screened with landscaping or attractive architectural features integrated into the structure itself.

5.13 Mineral Exploration. No portion of the subject property shall be used in any manner to explore for or to remove any steam, heat, oil or other hydrocarbon, gravel, earth, or any earth substances or other minerals of any kind, provided, however, that this shall not prevent the excavation of earth in connection with the grading or construction of improvements within the subject property. Water may be extracted to the extent permitted by the appropriate governmental agency.

5.14 Other Operations and Uses. Operations and uses that are neither specifically prohibited nor specifically authorized by this Declaration may be permitted in a specific case if operational plans and specifications are submitted to and approved in writing by Declarant in accordance with the procedures set forth in Article III of this Declaration. Approval or disapproval of such operational plans and specifications shall be based upon the effect of such operations or uses on other property subject to this Declaration or upon the occupants thereof, but shall be in the sole discretion of Declarant.

5.15 Stormwater. The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit **Number SW7100602**, as issued by the Division of Water Quality under the Stormwater Management Regulations.

1. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit.
2. These covenants are to run with the land and be binding on all persons and parties claiming under them.
3. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality.
4. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Water Quality.
5. The maximum allowable built-upon area per lot is 65% of the lot area.

The maximum built-upon area per lot, in square feet, is as listed below:

LOT #	LOT SIZE (ACRES)	LOT SIZE (SQUARE FEET)	ALLOWABLE BUA (ACRES)(65% Max.)	ALLOWABLE BUA (SQUARE FEET)(65% Max.)
1	6.00	261,592	3.90	170,000
2	6.72	293,134	4.36	190,000
3	4.57	199,296	2.96	129,000
4	3.81	166,189	2.48	108,000
5	4.44	193,795	2.87	125,000
6	4.88	212,901	3.17	138,000
7	6.58	286,903	4.27	186,000
8	5.49	239,264	3.56	155,000
9	24.51	1,067,656	15.91	693,000
10	4.81	209,584	3.12	136,000
11	5.11	223,016	3.31	144,000

This allotted amount includes any built-upon area constructed within the lot property boundaries. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

6. All runoff from the built-upon areas on the lot must drain into the permitted system. This may be accomplished through a variety of means including roof drain gutters which drain to the street, grading the lot to drain toward the street, or grading perimeter swales to collect the lot runoff and directing them into a component of the stormwater collection system. Lots that will naturally drain into the system are not required to provide these additional measures.

7. The owner of each lot, whose ownership is not retained by the permittee, is required to submit a separate stormwater permit application to the Division of Water Quality and receive a permit prior to construction.

8. The project and each lot will maintain a 50** foot wide vegetated buffer between all impervious areas and surface waters.

ARTICLE VI Modification and Repeal

6.1 Procedure. Except as otherwise provided in Section 6.2, this Declaration or any provision hereof, or any covenant, condition, or restriction contained herein, may be terminated, extended, modified, or otherwise amended, as to the whole of the subject property or any portion thereof, with the written consent of the Owners of eighty percent (80%) of the subject property, based upon the number of square feet subject to these covenants, conditions, and restrictions (excluding dedicated streets); provided, however, that so long as Declarant owns at least twenty percent (20%) of the property subject to these covenants, conditions, and restrictions, or for a period of fifteen (15) years from the effective date hereof whichever period is shorter no such termination, extension, modification, or other amendment shall be effective without the written approval of Declarant, which approval shall not be unreasonably withheld. No such termination, extension, modification, or other amendment shall be effective if it conflicts with a valid governmental enactment, ordinance, or regulation and until a proper instrument in writing has been executed, acknowledged, and recorded.

6.2 Modification by Declarant. For so long as Declarant owns any interest (excepting a leasehold interest) in the subject property, or any part thereof, or for a period of fifteen (15) years from the effective date hereof, whichever period is shorter, Declarant acting alone may modify or amend the provisions of Articles III, IV, and V; provided, however, that (i) any such modification or amendment must be within the spirit and overall intention of the development as set forth herein; (ii) prior to any such modification or amendment Declarant shall obtain the approval of any governmental agency to such modification or amendment where such approval is necessary; and (iii) any modification or amendment shall not provide for any type of improvements or use not presently permitted by this Declarations. No such modification or amendment shall be effective until the Owners have been given thirty (30) days prior written notice of the proposed change and a proper instrument in writing has been executed, acknowledged, and recorded.

6.3 Governmental Regulations. All valid governmental enactments, ordinances, and regulations are deemed to be a part of this Declaration, and to the extent that they conflict with any provision covenant, condition, or restriction hereof, said conflicting governmental enactment, ordinance, and regulation shall control and the provision, covenant, condition, or restriction hereof in conflict therewith shall be deemed (i) amended to the extent necessary to bring it into conformity with said enactment, ordinance, or regulation while still preserving the intent and spirit of the provision, covenant, condition, or restriction; or (ii) stricken herefrom should no amendment conforming to the governmental enactment, ordinance, or regulation be capable of preserving the intent and spirit of said provision, covenant, condition, or restriction.

ARTICLE VII Enforcement

7.1 Abatement and Suit. The Owner of each lot shall be primarily liable and the Occupant, if any, secondarily liable for the violation or breach of any covenant, condition, or restriction herein contained. Violation or breach of any covenant, condition, or restriction herein contained shall give to Declarant, following thirty (30) days written notice to the Owner or Occupant in question except in exigent circumstances, the right, privilege, and license to enter upon the lot where said violation or breach exists and to summarily abate and remove, or

abate or remove, at the expense of the Owner or Occupant thereof, any improvement, structure, thing, or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, or the prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these covenants, conditions, or restrictions to enjoin or prevent them from doing so, to cause said violation to be remedied, or to recover damages for said violation. No such entry by Declarant or its agents shall be deemed to trespass, and neither Declarant nor its agents shall be subject to liability to the Owner or Occupant of said lot for such entry and any action taken to remedy or remove a violation. The cost of any abatement, remedy, or removal hereunder shall be a binding personal obligation on any Owner or Occupant in violation of any provision of this Declaration, as well as a lien (enforceable in the same manner as a mortgage) upon the lot in question. The lien provided for in this section shall not be valid as against a bona fide purchaser or mortgagee for value of the lot in question unless a suit to enforce said lien shall have been filed in a court of record in Currituck County, North Carolina, prior to the recordation of the deed or mortgage conveying or encumbering the lot in question to such purchaser or mortgagee, respectively.

7.2 Right of Entry. During reasonable hours and upon reasonable notice and subject to reasonable security requirements, Declarants, or its agents, shall have the right to enter upon and inspect any lot and the improvements thereon covered by this Declaration for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and neither Declarant nor its agents shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

7.3 Deemed to Constitute a Nuisance. The result of every act or omission whereby any covenant, condition, or restriction herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or in equity against an Owner or Occupant either public or private shall be applicable against every such result and may be exercised by Declarant.

7.4 Attorney's Fees. In any legal or equitable proceeding for the enforcement of this Declaration or any provision hereof, whether it be an action for damages, declaratory relief, or injunctive relief, or any other action, the losing party or parties shall pay the attorney's fees of the prevailing party or parties, in such reasonable amount as shall be fixed by the court in such proceedings or in a separate action brought for that purpose. The prevailing party shall be entitled to said attorney's fees even though said proceeding is settled prior to judgment. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

7.5 Failure to Enforce Is No Waiver. The failure of Declarant to enforce any requirement, restriction, or standard herein contained shall in no event be deemed to be a waiver of the right to do so thereafter or in other cases nor of the right to enforce any other restriction.

ARTICLE VIII Assignment

Any and all of the rights, powers, and reservations of Declarant herein contained may be assigned to any person, partnership, corporation, or association that will assume the duties of Declarant pertaining to the particular rights, powers, and reservations assigned, and upon any such person, partnership, corporation, or association evidencing its consent in writing to accept such assignment and assume such duties, he or it shall, to the extent of such assignment and assume such duties, he or it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. If at any time Declarant ceases to exist and has not made such an assignment, a successor to Declarant may be modified or amended under Section 6.1. Any assignment or appointment made under this article shall be in reasonable form and shall be recorded.

ARTICLE IX Constructive Notice and Acceptance

Every person or entity who now or hereafter owns, occupies, or acquires any right, title, or interest in or

to any portion of the subject property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in the subject property.

ARTICLE X
Waiver

Neither Declarant nor its successors or assigns shall be liable to any Owner or Occupant of the subject property by reason of any mistake in judgment, negligence, nonfeasance, action, or inaction or for the enforcement or failure to enforce any provision of this Declaration. Every Owner or Occupant of any of said property by acquiring its interest therein agrees that it will not bring any action or suit against Declarant to recover any such damages or to seek equitable relief because of same.

ARTICLE XI
Runs with Land

All covenants, conditions, restrictions, and agreements herein contained are made for the direct, mutual, and reciprocal benefit of each and every lot of the subject property; shall create mutual equitable servitude upon each lot in favor of every other lot; shall create reciprocal rights and obligations between respective Owners and Occupants of all lots and privity of contract and estate between all grantees of said lots, their heirs, successors, and assigns; and shall, as to the Owner and Occupant of each lot, his heirs, successors, and assigns, operate as covenants running with land, for the benefit of all other lots, except as provided otherwise herein.

ARTICLE XII
Rights of Mortgagees

No breach of any covenant, condition, or restriction herein contained, or any enforcement thereof, shall defeat or render invalid the lien of any mortgage or deed of trust now or hereafter executed upon the subject property or a portion thereof, provided, however, that if any portion of said property is sold under a foreclosure of any mortgage or under the provisions of any deed of trust, any purchaser at such sale and its successors and assigns shall hold any and all property so purchased subject to all of the covenants, conditions, and restrictions contained in this Declaration.

ARTICLE XIII
Captions

The caption of articles and sections herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular article or section to which they refer.

ARTICLE XIV
Effect of Invalidation

If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

EXHIBIT A

Legal Description of Maple Commerce Park

That certain real estate shown on plat entitled "Final Plat, Maple Commerce Park, Crawford Township, Currituck County, North Carolina" prepared by Hyman & Robey, P.C. , dated July 25, 2013 and recorded in Plat Cabinet N, Slide 2 in the Currituck County Registry which plat is incorporated herein by reference.

Unofficial Document

Unofficial Document

Unofficial Document

Attachment: Restrictive Covenants (Brindley Beach-Maple Commerce Park Building Elevation)

EXHIBIT B

Maple Commerce Park Final Plat

Plat entitled "Final Plat, Maple Commerce Park, Crawford Township, Currituck County, North Carolina" prepared by Hyman & Robey, P.C., dated July 25, 2013 and recorded in Plat Cabinet N, Slide 2 in the Currituck County Registry which plat is incorporated herein by reference.

Unofficial Document

Unofficial Document

Unofficial Document

Attachment: Restrictive Covenants (Brindley Beach-Maple Commerce Park Building Elevation)

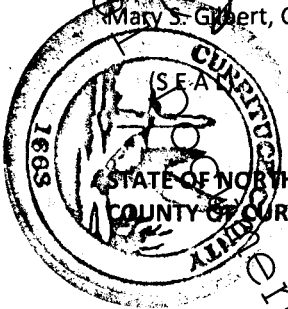
IT TESTIMONY WHEREOF, Declarant has caused this instrument to be executed by its proper officials and its corporate seal affixed, all by authority duly given by its elective board this the day and year first above written.

ATTEST:

COUNTY OF CURRITUCK
NORTH CAROLINA

By: S. Paul O'Neal
S. Paul O'Neal, Chairman
Board of Commissioners

Mary S. Gilbert, Clerk to the Board



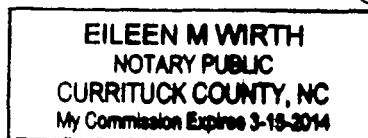
I, Eileen M. Wirth, a Notary Public of the County of Currituck, State of North Carolina, hereby certify that Mary S. Gilbert personally appeared before me this day and acknowledged that she is Clerk to the Board of County Commissioners of Currituck County, a body corporate and politic existing pursuant to the laws of the State of North Carolina, and that by authority duly given, and as the act of the county, the foregoing instrument was signed in its name by its Chairman and attested by herself as its Clerk, all by authority of the Board of County Commissioners of Currituck County.

WITNESS my hand and notarial stamp or seal, this the 23rd day of October, 2013.

Eileen M. Wirth
Notary Public Eileen M. Wirth

My Commission Expires:

3-15-2014



Number

20220063

BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 18th of January 2022, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2022.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
10530-533900	Ambulance Supplies	\$ 500	
10380-483530	Donations - EMS		\$ 500
		<u>\$ 500</u>	<u>\$ 500</u>

Explanation: Emergency Medical Services (10530) - Increase appropriations to record a private donation for pet resuscitators.

Net Budget Effect: Operating Fund (10) - Increased by \$500.

Minute Book # _____, Page # _____

Journal # _____

Clerk to the Board

Attachment: 1-18-22_Budget Amendments (Budget Amendments)

Number

20220064

BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 18th of January 2022, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2022.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
10460-536000	Uniforms	\$ 3,000	
10460-590000	Capital Outlay	\$ 1,050	
10460-592000	Projects		\$ 4,050
		<u>\$ 4,050</u>	<u>\$ 4,050</u>

Explanation: Public Buildings (10460) - Transfer budgeted funds for uniforms for new employees and increased cost of budgeted vehicle.

Net Budget Effect: Operating Fund (10) - No change.

Minute Book # _____, Page # _____

Journal # _____

Clerk to the Board

Attachment: 1-18-22_Budget Amendments (Budget Amendments)

Number

20220065

BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 18th of January 2022, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2022.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
20609-511010	Data Transmission	\$ 6,000	
20609-588000	Contingency		\$ 6,000
		<u>\$ 6,000</u>	<u>\$ 6,000</u>

Explanation: Whalehead Watershed (20609) - Transfer funds from contingency for increased costs in data transmission for the SCADA system.

Net Budget Effect: Whalehead Stormwater Drainage District Fund (20) - No change.

Minute Book # _____, Page # _____

Journal # _____

Clerk to the Board

Attachment: 1-18-22_Budget Amendments (Budget Amendments)

Number

20220066

BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 18th of January 2022, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2022.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
63838-516000	Repairs & Maintenance	\$ 8,000	
63838-571500	Recycling	\$ 242,000	
63838-545001	Contracted Services Collection		\$ 242,000
63838-590000	Capital Outlay		\$ 8,000
		<u>\$ 250,000</u>	<u>\$ 250,000</u>

Explanation: Solid Waste (63838) - Transfer budgeted funds to reinstate recycling and for additional maintenance costs.

Net Budget Effect: Solid Waste Fund (63) - No change.

Minute Book # _____, Page # _____

Journal # _____

Clerk to the Board

Attachment: 1-18-22_Budget Amendments (Budget Amendments)

Number

20220067

BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 18th of January 2022, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2022.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
50531-590000	Capital Outlay	\$ 92,000	
50531-588000	Contingency		\$ 92,000
		<u>\$ 92,000</u>	<u>\$ 92,000</u>

Explanation: County Governmental Construction Fund (50531) - Transfer contingency funds for capital outlay for communications furnishings.

Net Budget Effect: County Governmental Construction Fund (50) - No change.

Minute Book # _____, Page # _____

Journal # _____

Clerk to the Board

Attachment: 1-18-22_Budget Amendments (Budget Amendments)

Number

20220068

BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 18th of January 2022, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2022.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
10510-516200	Vehicle Maintenance	\$ 80,000	
10510-526000	Advertising	\$ 250	
10510-532000	Supplies	\$ 10,000	
10510-536000	Uniforms	\$ 5,000	
10510-502100	Overtime		\$ 10,000
10510-590000	Capital Outlay		\$ 5,250
10320-411000	Article 39 Sales Tax		\$ 55,500
10330-424000	Officer Fees		\$ 15,000
10340-456510	Sheriff Fees		\$ 7,500
10380-483510	Donations - Sheriff		\$ 2,000
		<u>\$ 95,250</u>	<u>\$ 95,250</u>

Explanation: Sheriff (10510) - Increase appropriations for vehicle maintenance and transfers for operations for the remainder of this fiscal year.

Net Budget Effect: Operating Fund (10) - Increased by \$80,000.

Minute Book # _____, Page # _____

Journal # _____

Clerk to the Board

Attachment: 1-18-22_Budget Amendments (Budget Amendments)

NORTH CAROLINA

CURRITUCK COUNTY

LICENSE AGREEMENT

THIS LICENSE AGREEMENT made and entered into this ____ day of ____ 2022, by and between Currituck County North Carolina, a body corporate and politic existing pursuant to the laws of the State of North Carolina, (the "Licensor"), and Tidewater Council, Inc., Boy Scouts of America with principal offices in Virginia Beach, Virginia, (the "Licensee").

WITNESSETH:

That the County of Currituck in consideration of the license fee in the amount of One and No/100 Dollars (\$1.00) payable in advance hereby grants a non-exclusive license to let the Licensee use, beginning on the date first above entered and ending December 31, 2025, the property illustrated in Exhibit 1 attached to this License and incorporated hereinafter by reference, (the "Premises"), for recreational and incidental purposes.

THIS LICENSE is granted subject to the following conditions:

1. The Premises may be used for the following: park and or recreational purposes only with no others: camping, hiking and training in connection with programs of Boy Scouts of America. Other similar youth activities by other groups or organizations may be permitted by Licensor. The Currituck County Manager's Office shall resolve any scheduling or use conflicts.

Attachment: tidewater council camp license 010322 (Lease Agreement-Tidewater Boy Scouts)

2. Any development and/or maintenance the Licensee elects to do to the Premises must be done in accordance with a Development and Maintenance Program to be mutually agreed upon in writing by both parties. All structures shall be constructed and landscaping accomplished in accordance with plans approved by the Currituck Board of Commissioners or its designee. Title to improvements constructed or erected by the Licensee shall remain vested in Licensee subject to the provisions of condition 8 of this License and shall be maintained by Licensee in a condition satisfactory to Licensor.

3. Licensee shall not cut timber, conduct mining operations, remove sand, gravel or kindred substances from the ground, commit waste of any kind, nor in any manner substantially change the contour or condition of the Premises except authorized under and pursuant to condition 2 of this License. Licensee may salvage fallen or dead timber as may be desirable for use as firewood.

4. Licensee shall not discharge waste, effluent, or gaseous or vapor emissions from the Premises in such a manner that would violate Federal, State or local regulations pertaining to water and/or air pollution control.

5. The Licensor shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges granted by this License or for damages to the property of the Licensee or for damages to the property or injuries to the person of the Licensee's officers, agents, servants, employees, members, or others who may be on the premises at Licensee's invitation or the invitation of anyone of them arising from or incident to any of

Licensor's governmental activities on the Premises and the Licensee shall hold Licensor harmless from any and all such claims except for the sole negligence of Licensor or its agents.

6. This License may be relinquished by the Licensee at any time by giving the Licensor at least 30 days' notice in writing.

7. This License may be revoked by Licensor in the event the Licensee violates any of the terms and conditions of this agreement and continues and persists therein for a period of 30 days after notice thereof in writing by the Licensor or in the event the Licensor determines the Premises are required by Licensor for another use.

8. On or before the date of expiration of this License or its termination by the Licensor, the Licensee shall vacate the premises, remove its property and restore the Premises to a condition satisfactory to the Licensor. If, however, this License is revoked, Licensee shall vacate the Premises, remove its property, and restore the Premises to a condition satisfactory to the Licensor within such time as the Licensor shall designate. In either event, if Licensee shall fail or neglect to remove its property and restore the Premises to a condition satisfactory to Licensor, then at the option of the Licensor the Licensee's property shall either become the property of Licensor without compensation or Licensor may cause it to be removed and the Premises restored to a condition satisfactory to Licensor.

9. All notices to be given pursuant to this License shall be addressed if to the Licensee, to Tidewater Council, Inc., Boy Scouts of America, 1032 Heatherwood

Drive, Virginia Beach VA, 23455 6675; if to Licensor, to County of Currituck, 153
Courthouse Road, Suite 204, Currituck NC 27929.

10. This License is not assignable by the Licensee.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Licensor and Licensee have executed this License Agreement in duplicate originals, one of which is retained by each of the parties, the day and year first above written.

COUNTY OF CURRITUCK

By: _____
Michael H. Payment, Chairman
Board of Commissioners

ATTEST:

Clerk to the Board

(COUNTY SEAL)

TIDEWATER COUNCIL, INC.
BOY SCOUTS OF AMERICA

By: _____
Executive Director

Attachment: tidewater council camp license 010322 (Lease Agreement-Tidewater Boy Scouts)



BOY SCOUT CAMP AREA
AT MAPLE COMMERCE PARK



CAMP AREA

EXHIBIT A





**CURRITUCK COUNTY
NORTH CAROLINA**

January 3, 2022

Minutes – Regular Meeting of the Board of Commissioners

6:00 PM CALL TO ORDER

The Currituck County Board of Commissioners held a regular meeting at 6:00 PM in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina.

Attendee Name	Title	Status	Arrived
Michael H. Payment	Chairman	Absent	
Paul M. Beaumont	Vice Chairman	Present	
J. Owen Etheridge	Commissioner	Present	
Mary "Kitty" Etheridge	Commissioner	Present	
Selina S. Jarvis	Commissioner	Present	
Kevin E. McCord	Commissioner	Present	
Bob White	Commissioner	Absent	

Vice-Chairman Paul Beaumont called the meeting to order. He acknowledged the absence of Chairman Mike Payment and Commissioner Bob White.

A) Invocation & Pledge of Allegiance

Engineer, Mark Bissell, was in attendance and offered the invocation and lead the Pledge of Allegiance.

B) Moment of Silence

Commissioners observed a moment of silence for the loss of a 20 year County Employee, Crawford Fire Chief, Ryland Lee Poyner.

Commissioners also observed a moment of silence for the loss of Veteran Advisory Board member Aaron Sterling.

C) Approval of Agenda

Commissioner Mary Etheridge made a motion to amend the agenda and requested Old Business Items A and B, moved to the next regular meeting due to absent Board Members Commissioner White and Chairman Payment. Commissioner Jarvis seconded the motion, motion failed 2-3, Commissioner Beaumont, J.O. Etheridge and McCord opposed.

Communication: Approval Of Minutes for January 3, 2022 (Approval of Minutes for January 3, 2022)

Vice Chairman Beaumont moved to amend the agenda to move Public Hearing Item B to the January 18, 2022, meeting and approve the agenda with the Public Hearing 21-24 moved. Commissioner McCord seconded the motion. The motion carried. 5-0

Approved agenda:

6:00 PM Call to Order

- A) Invocation & Pledge of Allegiance
- B) Moment of Silence
- C) Approval of Agenda

Public Comment

Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 3 minutes.

Commissioner's Report

County Manager/County Attorney Report

Public Hearings

A) **PB 21-28 Currituck County Text Amendment:** Request to amend the Currituck County Unified Development Ordinance, Chapter 4. Use Standards, to allow Elementary and Middle Schools in the Agriculture and Single-Family Residential-Isolated zoning district subject to a zoning compliance permit.

B) **AMENDED- PB 21-24 W & J Development, LLC** ~~Requests a text amendment to the Unified Development Ordinance to modify the allowable uses and maximum building size in the MXR (Mixed Residential) zoning district.~~

The agenda was amended, and this item was moved to January 18, 2022 BOC Meeting.

C) **PB 21-26 Royal Farms Conditional Rezoning:** Two Farms, Inc. requests conditional rezoning of 3.55-acres from General Business & Single-Family Mainland to Conditional-General Business for properties located south of the

Communication: Approval Of Minutes for January 3, 2022 (Approval of Minutes for January 3, 2022)

intersection of Caratoke Highway and Walnut Island Blvd.

Old Business

A) Deliberation and Decision for PB 21-25 Flora Farms, Special Use Permit Application

B) Deliberation and Decision for PB 18-23 Fost, Phase 6-9, Preliminary Plat/Special Use Permit Application

New Business

A. Consideration of the Guaranteed Maximum Price for Moyock Middle School Addition and Renovation Project.

B. Consideration of Phase 2 Dune Walk-Over Design Alternates

C. Consideration of the Easement Agreement between Currituck County and Eric B. Kean for Easement Extending from Lot 17 Corolla Bay across Currituck County property to the Currituck Sound.

D. Consent Agenda

1. Budget Amendments
2. Surplus Resolution and Authorization for Corporal Mark Chappell to Purchase His Service Weapon in the Amount of \$1.00 Upon Retirement.
3. Approval Of Minutes for December 17, 2021, Special Meeting and December 20, 2021, Regular Meeting.

Adjourn

Communication: Approval Of Minutes for January 3, 2022 (Approval of Minutes for January 3, 2022)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Paul M. Beaumont, Vice Chairman
SECONDER:	Kevin E. McCord, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner
ABSENT:	Michael H. Payment, Chairman, Bob White, Commissioner

PUBLIC COMMENT

Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 3 minutes.

Vice Chairman Beaumont opened the Public Comment.

No one signed up nor wished to speak. Public Comment was closed

COMMISSIONER'S REPORT

Commissioner Mary Etheridge encouraged community involvement.

Commissioner McCord recognized Corporal Mark Chappell for his retirement from the Currituck County Sheriff's Office along with his K-9. He encouraged community involvement with the Annual Wounded Warrior Project scheduled for the weekend.

Commissioner J.Owen Etheridge, recognized the Weeping Radish Farm Brewery and Butchery located in Jarvisburg, North Carolina and the contribution the family brought to the County. He conveyed well wishes to the new owners.

Vice-Chairman Beaumont encouraged community involvement as a Public Servant.

Commissioners conveyed tribute to Mr. Ryland Poyner and reflected on his role as a Public Servant and wished all a Happy New Year.

COUNTY MANAGER/COUNTY ATTORNEY REPORT

Interim County Manager/County Attorney, (ICM/CA) Ike McRee, presented a map of the Maple Commerce area as a suited location for the Boy Scouts of America to continue their camping program. Mr. McRee discussed the Boy Scouts of America's previous arrangement and he recommended the Board to proceed with the practice establishing similar terms and conditions. A lease agreement provided at a future meeting. Board consensus was to continue.

Mr. McRee provided an update on the Corolla Civic Association lawsuit against the county challenging the use of occupancy tax revenue. The Pasquotank County Superior Court granted the county's Motion for Judgment in the county's favor.

PUBLIC HEARINGS

A. PB 21-28 Currituck County Text Amendment:

To: Board of Commissioners
 From: Planning Staff
 Date: December 27, 2021
 Subject: PB 21-28 Currituck County Text Amendment
 Elementary and Middle Schools in AG and SFI

Background

The enclosed text amendment submitted by the Currituck County Development Services Department is intended to revise Section 4.1.1.A, "Summary Use Table," of the Unified Development Ordinance (UDO) as it relates to:

- Allowing Elementary and Middle Schools in the AG (Agriculture) and SFI (Single-family Residential Isolated) zoning districts subject to a zoning compliance permit instead of a special use permit.

The need for this text amendment became evident when reviewing the submittal criteria for the Moyock Middle School expansion and the new elementary school proposed in Moyock. During this process, it was found that Elementary and Middle Schools were a permitted use requiring only a zoning compliance permit in the SFM, SFO, MXR residential districts and the GB, LB, CC and VC commercial districts. The only two districts where a special use permit is required are the AG and the SFI districts.

Text Amendment Review Standards

The advisability of amending the text of the UDO is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the Board of Commissioners may weigh the relevance of and consider whether and the extent to which the proposed text amendment:

1. Is consistent with the goals, objectives, and policies of the Land Use Plan and other applicable county-adopted plans;
2. Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
3. Is required by changed conditions;
4. Addresses a demonstrated community need;
5. Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the county;
6. Would result in a logical and orderly development pattern; and
7. Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

Staff Recommendation

Staff recommends approval of this request subject to the suggested Consistency Statement. It is staff's belief that Elementary and Middle Schools are compatible with the uses permitted in agriculture and residential zoning districts. This amendment will make the approval process for elementary and middle schools more efficient by alleviating the extra time and expense of approval from the Board of Commissioners. It will also provide consistency with the approval process required for Elementary and Middle Schools for all other residential and commercial districts (except for the SFR district, the residential district encompassing the off-road area).

POLICY SFI: Currituck County shall support and actively engage in ADVANCED PLANNING FOR THE LOCATION OF NEW SCHOOLS. Such locations shall serve to reinforce contiguous growth patterns near existing developments rather than promoting sprawl in more rural locations. New schools shall be viewed as a cornerstone of the communities in which they are located and shall serve to proactively influence growth.

This amendment is consistent with this policy in that it expands the number of speculative sites for elementary and middle schools by making the development approval process less laborious in the AG and SFI districts. Elementary and Middle School uses are consistent and compatible with typical uses within the AG and SFI districts, which include single-family sites and cultivated fields, many with

adjacent

commercial uses along major thoroughfares. Consistent with these uses not requiring a special use permit in the other residential zoning districts (not including the off-road area), schools act as cornerstones in residential districts.

By permitting elementary and middle schools in the AG and SFI zoning districts with a zoning compliance permit, rather than requiring a special use permit, the number of speculative sites for new schools is broadened. Additionally, the process for approval of renovations and expansions to existing schools located within those zoning districts becomes more efficient.

POLICY SF2: Currituck County encourages OFFERS OF LAND FOR THE SITING OF NEW SCHOOLS, particularly in conjunction with related community development. Acceptance of such properties shall be based on approved location and design criteria.

This amendment creates an easier path for the construction of new elementary and middle schools in areas where there is undeveloped land remaining in a community. By expanding the zoning districts in which these schools are permitted without the special use permit process, the number of sites that the School Board may be able to consider will expand.

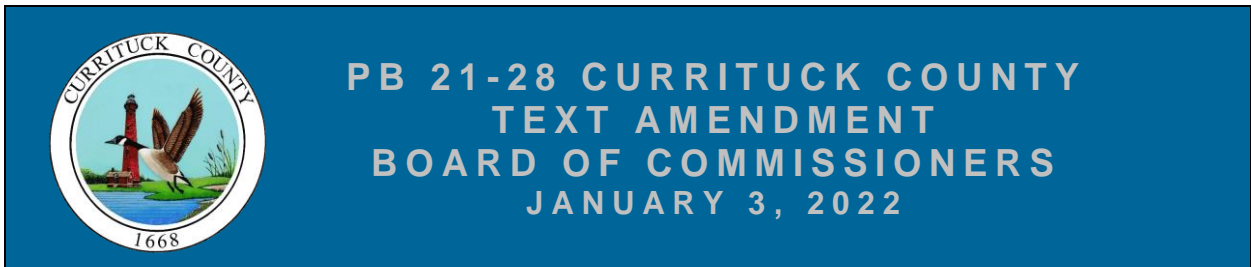
Planning Board Recommendation

On December 14, 2021, the Planning Board recommended approval of the requested text amendment with a 6-0 vote.

Motion

Vice-Chairman Owens moved to **approve PB 21-28** because the request is consistent with Policy SF1 and SF2 of the 2006 Land Use Plan.

Mr. Bass seconded the motion and the motion was approved unanimously 6-0.



Currituck County requests an amendment to the Unified Development Ordinance, Chapter 4 Use Standards to allow elementary and middle schools in the AG and SFI zoning districts subject to a zoning compliance permit.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

Item 1: That Chapter 4 is amended by deleting the following strikethrough language and adding the underlined language:

TABLE 4.1.1.A: SUMMARY USE TABLE

USE CATEGORY	USE TYPE	ZONING DISTRICT [NOTE: OVERLAY OR SUB-DISTRICT REQUIREMENTS MAY FURTHER LIMIT USES]												ADDITIONAL REQ. (4.2.____)	
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	U		HI
INSTITUTIONAL USE CLASSIFICATION															
Educational Facilities	College or university								Z	Z	Z	Z			
	School, elementary		Z U	Z	Z		Z U	Z	Z	Z	Z	Z			
	School, middle		Z U	Z	Z		Z U	Z	Z	Z	Z	Z			

Item 2: Staff suggested Consistency Statement:

The requested zoning text amendment is consistent with the 2006 Land Use Plan Policies SF-1 and SF-2:

Item 3: The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Item 4: This ordinance amendment shall be in effect from and after the _____ day of ____, 2022.

Development Services Director, Kevin Kemp, reviewed the text amendment with the Board. Mr. Kemp used a powerpoint discussing the background of the request which would provide criteria for the Moyock Middle School expansion and the new elementary school proposed in Moyock. He discussed the zoning districts for schools, and consistency statements were reviewed. Mr. Kemp said the Technical Review Committee (TRC) recommended approval. He presented the findings of fact and responded to questions related to the TRC comments included in the agenda documents.

Vice-Chairman Beaumont opened the public hearing. No one was signed up nor wished to speak and the Public Hearing was closed.

Commissioner J. Owen Etheridge moved to approve PB 21-28 because the request is consistent with Policy SF1 and SF2 of the 2006 Land Use Plan. Commissioner M. Etheridge seconded the motion. The motion carried, 5-0

RESULT:	APPROVED [UNANIMOUS]
MOVER:	J. Owen Etheridge, Commissioner
SECONDER:	Mary "Kitty" Etheridge, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner
ABSENT:	Michael H. Payment, Chairman, Bob White, Commissioner

B. AMENDED-PB 21-24 W & J Development, LLC

The agenda was amended, and this item was moved to January 18, 2022 BOC Meeting

RESULT:	CONTINUED WITH NO VOTE	Next: 1/18/2022 6:00 PM
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C. PB 21-26 Royal Farms Conditional Rezoning:

APPLICATION SUMMARY	
Property Owner: Multiple Property Owners: See attachment A	Applicant: Two Farms, Inc. c/o Ward and Smith, P.A. 120 W Fire Tower Rd. Greenville, NC 28590 Attn: Drake Brinkley/Clint Cogburn
Case Number: PB 21-26	Application Type: Conditional Rezoning
Parcel Identification Number: 1) 0107000059A0000 2) 0107000061A0000 3) 010700000620000 4) 0107000067A0000	Existing Use: 1) Retail 2) Vacant 3) Vacant 4) Single Family Dwelling
Land Use Plan Classification: Full Service	Parcel Size (Acres): 3.55
	Zoning History: Recreational Residential – 1989 General Business – 2013
Current Zoning: General Business	Proposed Zoning: Conditional General Business
Request: Conditional rezoning of multiple properties currently zoned General Business and Single- Family Mainland to Conditional General Business to allow construction of a convenience store with fuel sales. The properties are located on the south side of the intersection of Caratoke Hwy. and Walnut Island Blvd. in Grandy, Poplar Branch Township.	

NARRATIVE

The applicant is requesting conditional rezoning of four parcels, including three General Business parcels and one Single Family Mainland parcel, which have a combined area of 3.55 acres and are proposed to be zoned Conditional-General Business. The parcels will be recombined to accommodate a new Royal Farms convenience store with fuel sales. Historically, located at the corner of Caratoke Hwy. and Walnut Island Blvd was a 7-Eleven convenience store with fuel sales. However, currently the building is being used for retail sales and the fuel tanks and pumps have been removed. The applicant has been working closely with staff, during the concurrent major site plan review process, to achieve a development that will enhance the grandy commercial area while remaining in harmony with the surrounding communities. The community compatibility standards of

the UDO provide requirements for the appearance of the rear of the site and building, which will ease the transition from the convenience store to Walnut Island subdivision.

COMMUNITY MEETING

- 1) Time/Location. The community meeting ("Community Meeting") was held at 5:30 PM on Tuesday, September 14, 2021, at the Jarvisburg Church of Christ located at 121 Forbes Road, Jarvisburg, NC 27947. Enclosed is a copy of the notice that was mailed to the provided list of nearby property owners, and a copy of that provided list.
- 2) Attendees. In attendance at the Community Meeting on behalf of Two Farms, Inc. were Drake Brinkley of Ward and Smith, P.A., Andrew Mueller of BL Companies, and William McAnally of BL Companies. The following individuals signed the attendee sheet at the Community Meeting: Teresa MacPherson, Jim Branthask, Steve Danna, Nancy M. Walker, Barry M. Walker, Robert S. Seelow, Jim Hoverbrook, Mike Payment, Michele Thomas, Curtis Inge, Matthew Sweeley, Leslie Knoffler, and Colon Grandy (please note we have attempted to spell the preceding names correctly based on the handwritten names provided by such attendees). Jason Litteral attended on behalf of the Currituck County planning staff. Enclosed is a redacted version of the sign in sheet provided at the meeting.
- 3) Material Discussed / Issues Relates to Application. Drake Brinkley introduced the project to the attendees. He discussed the proposed use, a Royal Farms convenience store with gasoline sales. He, and those in attendance from BL companies, explained the current conceptual design. Drake also explained the conditional rezoning process, the current status of the project in the process, and the projected target dates for future steps in the conditional rezoning process.
- 4) Summary of Attendee Comments. The Two Farms, Inc. team fielded a variety of questions about the project, primarily about ingress/egress locations, traffic impacts along both Caratoke Highway and Walnut Island Blvd., and how the back parcel (the current single-family parcel) would be utilized.
- 5) Addressing Attendee Comments. The Two Farms, Inc. team provided information in response to the various questions asked by attendees. With regard to how the back parcel (single-family parcel) would be utilized, the current conceptual plan was shown to the attendees, and it was explained that based on the current conceptual design the store and parking would not be located on the back parcel. Regarding the various questions associated with traffic and ingress/egress concerns, the current conceptual plan was explained to the attendees, and additionally, it was noted that much of the design associated with such topics will be dependent on the DOT analysis. The Two Farms, Inc. team welcomed any additional questions/comments from attendees.

CONDITIONS OF APPROVAL

The applicant submitted the following conditions of approval:

1. All permitted uses in the General Business ((IB) zoning district shall be allowed, except for the following:
 - a. Equestrian Facility
 - b. Farmers Market
 - c. Nursery, Production
 - d. Agricultural Research Facility
 - e. Distribution Hub for Agricultural and Agronomic Products
 - f. Farm Machinery Sale, Rental, and Service
 - g. Agricultural Retail Facility
 - h. Silviculture
 - i. Dormitory
 - j. Family Care Home
 - k. Rooming or Boarding House
 - l. Adult Day Care Center
 - m. Child Care Center

- n. All Educational Facilities
- o. All Government Facilities
- p. All Health Care Facilities
- q. All Institutions
- r. All Public Safety
- s. All Transportation
- t. Animal Shelter
- u. Kennel
- v. All Parking, Commercial
- w. All Recreation/Entertainment, Indoor
- x. All Recreation/Entertainment, Outdoor
- y. Bar, Nightclub, or Cocktail Lounge
- z. Entertainment Establishment
- aa. Funeral Home
- bb. Pawn Shop
- cc. Shopping Center
- dd. Winery
- ee. All Vehicle Sales and Services, Heavy ff. Automotive
Parts and Installation
- gg. Automobile Repair and Servicing (Including Painting/Bodywork)
- hh. Automobile Sales or Rentals
- ii. Taxicab Service
- jj. All Visitor
- kk. All Accommodations
- ll. All Industrial Uses

SURROUNDING PARCELS

	Land Use	Zoning
North	Hardee's	General Business
South	Vacant	General Business/Single Family Mainland
East	Walnut Island Subdivision	Single Family Mainland
West	Dunkin Donuts/Convenience/Fuel Sales	General Business

LAND USE PLAN

The 2006 Land Use Plan classifies this site as Full Service within the Grandy subarea. The policy emphasis for the Grandy subarea is to allow Grandy to further evolve as a community center in its own right. The proposed plan is consistent with the policies of the plan, some of which are:

Policy CD2	Commercial and office development of greater than a neighborhood scale shall be encouraged to cluster in COMMERCIAL OR MIXED-USE CENTERS to curtail the proliferation of strip development and minimize traffic generation.
Policy CD4	HIGHWAY ORIENTED COMMERCIAL USES should be clustered along segments of highways and contain land uses which are mutually compatible and reinforcing in use and design; they should be designed in such a way as to minimize signage, access points, and to prevent unsightly, dysfunctional STRIP DEVELOPMENT.

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Policy ED1	NEW AND EXPANDING INDUSTRIES AND BUSINESSES should be especially encouraged that: 1) diversify the local economy, 2) train and utilize a more highly skilled labor force, and 3) are compatible with the environmental quality and natural amenity-based economy of Currituck County.
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Technical Review Committee

The Technical Review Committee recommends approval of the conditional rezoning subject to the following conditions:

1. Modify the rear building elevation to fully comply with the community compatibility standards of the UDO.

The applicant has been working closely with staff to meet the community compatibility standards. This will be resolved prior to approval of the Major Site Plan.

Planning Board

On December 14, 2021, the Planning Board recommended approval of the requested conditional rezoning with a 6-0 vote.

Motion

Mr. Bass moved to move to **approve PB 21-26**, with agreed upon conditions, because the request is consistent with Land Use Plan policies:

- CD2
- CD4
- ED1

And the request is reasonable and in the public interest because it results in a logical and orderly development pattern.

Mr. Hurley seconded the motion and the motion carried unanimously 6-0.

A conditional zoning is a legislative decision of the Board of Commissioners. In determining whether to approve or deny a conditional rezoning the Board of Commissioners shall adopt a written statement of consistency and reasonableness.

This conditional zoning request is:

- 1) ***consistent with the goals, objectives, and policies of the Land Use Plan, other applicable county-adopted plans, and the purposes of this Ordinance.***
- 2) ***is compatible with existing and proposed uses surrounding the land subject to the application and is the appropriate zoning district and uses for the land.***

It is reasonable and in the public interest because it:

- 1) ***would result in a logical and orderly development pattern.***
- 2) ***would not conflict with the public interest and is in harmony with the purposes and intent of this Ordinance.***

CONDITIONS OF APPROVAL

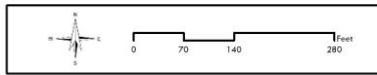
Only conditions mutually agreed to by the owner(s) may be approved as part of a conditional zoning district. Conditions shall be limited to those that address conformance of development and use of the site with county regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use. No condition shall be less restrictive than the standards of the parallel general use zoning district.

Agreed upon conditions of approval:

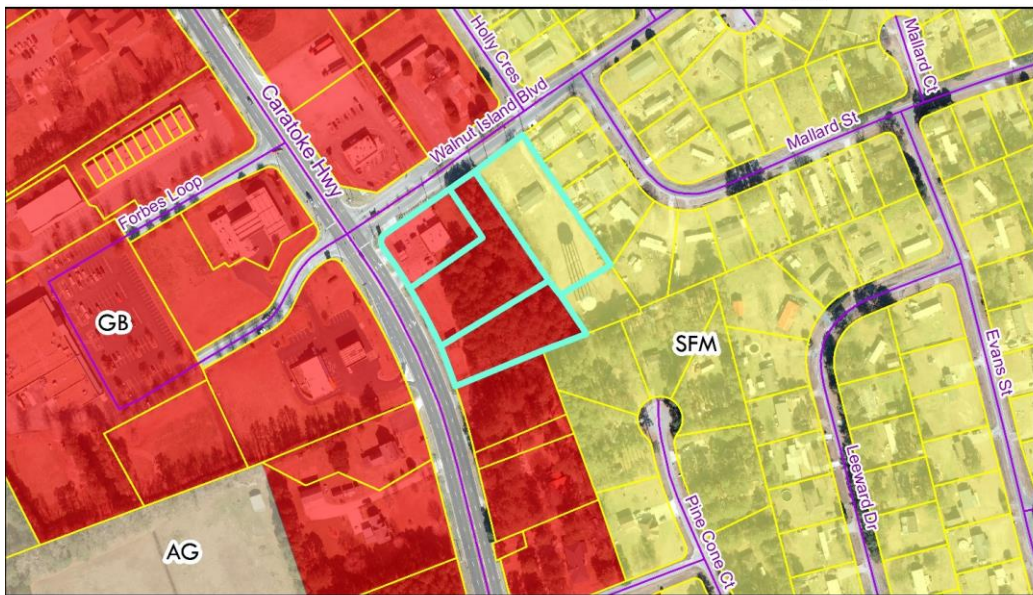
1. **Front elevation fenestration shall be increased to 50 percent.**
2. **The front elevation shall include a pitched roof element.**



Royal Farms
Aerial



Currituck County
Planning and Community
Development



Royal Farms
Zoning

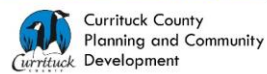
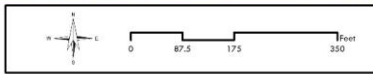


Currituck County
Planning and Community
Development

Communication: Approval Of Minutes for January 3, 2022 (Approval of Minutes for January 3, 2022)



Royal Farms
Land Use Plan Classes



Royal Farms
Vicinity Map



Development Services Director, Kevin Kemp, reviewed the conditional rezoning application with Commissioners. A powerpoint displayed location maps and zoning for the subject property and surrounding parcels. He discussed the traffic analysis, consistency and reasonableness statements were reviewed. Mr. Kemp said the Technical Review Committee (TRC) recommended approval. He presented the findings of fact and responded to questions related to the TRC comments included in the agenda documents.

Attorney for the applicant, Clinton Cogburn, provided testimony of the clients and the proposed development site. Mr. Cogburn responded to the Boards questions and

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introduced Senior Project Manager, Bill McAnally, with BL Companies. Mr. McAnally discussed the proposed fuel site, and the traffic impact analysis.

Vice-Chairman Beaumont opened the public hearing. No one was signed up nor wished to speak and the Public Hearing was closed.

Commissioner Jarvis moved to approve PB 21-26, with agreed upon conditions, because the request is consistent with the Land Use Plan policies CD2, CD4, and ED1 and the request is reasonable and in the public interest because it results in a logical and orderly development pattern Commissioner McCord seconded the motion. The motion carried. 5-0.

Vice-Chairman Beaumont called for a brief recess at 7:05 PM. The meeting reconvened at 7:15 PM.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Selina S. Jarvis, Commissioner
SECONDER:	Kevin E. McCord, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner
ABSENT:	Michael H. Payment, Chairman, Bob White, Commissioner

OLD BUSINESS

A. Deliberation and Decision for PB 21-25 Flora Farms, Special Use Permit Application

Vice-Chairman Beaumont opened discussion and deliberation to the Board.

Commissioner Jarvis expressed her concern of the growth occurring in the county and the school capacity numbers provided for the mobile classrooms do not fulfill an adequate education for students, nor does it exemplify adequacy for cafeterias, gymnasiums, playgrounds, common areas, nor auditoriums. She said approving the preliminary plates does not ensure adequacy for our children and she is not against growth, welcomes visitors to become residents but the growth is outpacing the county facilities and advocates to slow down the phasing process.

Commissioner McCord mentioned the school district lines, population of surrounding schools operating over capacity, and suggested aggressive phasing schedule to establish adequate facilities.

Commissioner Mary Etheridge referenced the rules and regulations in the UDO adopted by the Board September 13, 1994. Mrs. Etheridge echoed Commissioner Jarvis stating she is not against growth, but growth needs to be managed, allowing the schools to catch up.

Vice Chairman Beaumont expressed that he does not like the language of the UDO and the lack of specific aspects of adequate state standards.

The Board discussed the school capacity, requested for each phase schedule to push back an additional 6 months and the applicant's attorney Jamie Schwedler, answered Commissioner questions regarding the phase timeline referenced in agenda packet. The applicant agreed to Phase 1 to December 1, 2022. Phase 2 to June 1, 2023, Phase 3 to December 1, 2023, Phase 4 to March 1, 2025 and Phase 5 to September 1, 2025.

Commissioner McCord moved to approve PB 21-25 Flora Farms, Preliminary Plat/Special Use Permit, because the applicant has demonstrated the proposed use meets the special use permit review standards of the UDO. Special Use Permit review standards based with the phase and to Phase 1 to December 1, 2022. Phase 2 to June 1, 2023, Phase 3 to December 1, 2023, Phase 4 to March 1, 2025 and Phase 5 to September 1, 2025. The use will not endanger the public health or safety. The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located. The use will be in conformity with the 2013 Land Use Plan. The statutory regulations were met, and the applicant has met their burden to prove their case.

Commissioner J. Owen Etheridge seconded the motion. Motion carried, 3-2. Commissioner Jarvis and Commissioner Mary Etheridge opposed.

RESULT:	APPROVED [3 TO 2]
MOVER:	Kevin E. McCord, Commissioner
SECONDER:	J. Owen Etheridge, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Kevin E. McCord, Commissioner
NAYS:	Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner
ABSENT:	Michael H. Payment, Chairman, Bob White, Commissioner

B. Deliberation and Decision for PB 18-23 Fost, Phase 6-9, Preliminary Plat/Special Use Permit Application

Vice-Chairman Beaumont opened discussion and deliberation to the Board. The applicant offered to push back the Fost Phases 6-9 to a full year from prior offer. Phase 6 to August 2023, Phase 7 to February. 2024, and Phase 8-9 to August 2025.

Commissioner J. Owen Etheridge move to approve PB 18-23 Fost, Phases 6-9, Preliminary Plat/Special Use Permit because the applicant has demonstrated the proposed use meets the special use permit review standards of the UDO. They have presented competent evidence that the use will not endanger the public health or safety. The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located. The use will be conformity with the Land Use Plan and other officially adopted plans, specifically the 2006 Land Use Plan and the 2014 Land Use Plan and that is used for the County's ability to provide adequate public facilities with the phasing schedule being moved back Phase 6 to August 2023, Phase 7 to February. 2024, and Phase 8-9 to

August 2025.

Commissioner McCord seconded the motion. Motion carried, 3-2. Commissioner Jarvis and Commissioner Mary Etheridge opposed.

RESULT:	APPROVED [3 TO 2]
MOVER:	J. Owen Etheridge, Commissioner
SECONDER:	Kevin E. McCord, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Kevin E. McCord, Commissioner
NAYS:	Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner
ABSENT:	Michael H. Payment, Chairman, Bob White, Commissioner

NEW BUSINESS

A. Consideration of the Guaranteed Maximum Price for Moyock Middle School Addition and Renovation Project.

Assistant County Engineer, Michelle Perry discussed the last phase of the design build process to establish the guaranteed maximum price for Moyock Middle School addition and renovation project in the amount of \$7,163,039.07.

Commissioner J.Owen Etheridge motioned to approve the maximum price \$7,163,039.07. Commissioner Jarvis seconded the motion. Motion carried 5-0

RESULT:	APPROVED [UNANIMOUS]
MOVER:	J. Owen Etheridge, Commissioner
SECONDER:	Selina S. Jarvis, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner
ABSENT:	Michael H. Payment, Chairman, Bob White, Commissioner

B. Consideration of Phase 2 Dune Walk-Over Design Alternates

County Engineer, Eric Weatherly discussed the bids for Phase 2 Whalehead subdivision public access walk over replacements. Mr. Weatherly responded to the Board's questions, and He recommended to award W.D. Dunn Construction, of Powells Point.

Commissioner McCord motioned to award the bid to W.D. Dunn Construction as presented. Commissioner Jarvis seconded the motion. The motion carried, 5-0

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MOVER:	Kevin E. McCord, Commissioner
SECONDER:	Selina S. Jarvis, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner
ABSENT:	Michael H. Payment, Chairman, Bob White, Commissioner

C. Consideration of the Easement Agreement between Currituck County and Eric B. Kean for Easement Extending from Lot 17 Corolla Bay across Currituck County property to the Currituck Sound.

ICM/CA McRee discussed the easement agreement between Currituck County and Eric B. Kean. Mr. McRee reviewed conditions of the easement extending from Lot 17 Corolla Bay across county property to the Currituck Sound.

Commissioner Mary Etheridge moved for approval. Commissioner McCord seconded. Motion carried, 5-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mary "Kitty" Etheridge, Commissioner
SECONDER:	Kevin E. McCord, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner
ABSENT:	Michael H. Payment, Chairman, Bob White, Commissioner

D) Consent Agenda

Commissioner Jarvis moved for approval of the Consent Agenda. Commissioner McCord seconded the motion. The motion carried, 5-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Selina S. Jarvis, Commissioner
SECONDER:	Kevin E. McCord, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner
ABSENT:	Michael H. Payment, Chairman, Bob White, Commissioner

1. Budget Amendments

		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
<u>Account Number</u>	<u>Account Description</u>		
10420-589000	OSD Reserve	\$ 3,000	
10320-411000	Article 39 Sales Tax - Local Option		\$ 3,000
		<u>\$ 3,000</u>	<u>\$ 3,000</u>
Explanation:	Governing Body (10420) - Increase appropriation due to increase in number of retirees for this fiscal year.		
Net Budget Effect:	Operating Fund (10) - Increased by \$3,000.		
		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
<u>Account Number</u>	<u>Account Description</u>		
10441-514000	Travel		\$ 1,864
10441-514500	Training & Education	\$ 1,864	
		<u>\$ 1,864</u>	<u>\$ 1,864</u>
Explanation:	Information Technology (10441) - Transfer budget funds for additional training for IT staff.		
Net Budget Effect:	Operating Fund (10) - No change.		
		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
<u>Account Number</u>	<u>Account Description</u>		
10794-545000	PASS/Teen Court	\$ 1,000	
10330-447000	Juvenile Crime Prevention (JCPC)		\$ 1,000
		<u>\$ 1,000</u>	<u>\$ 1,000</u>
Explanation:	JCPC - Teen Court/PASS (10794) - Increase appropriations to record donation to the JCPC program.		
Net Budget Effect:	Operating Fund (10) - Increased by \$1,000.		
		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
<u>Account Number</u>	<u>Account Description</u>		
51848-594007	Moyock Middle School - Addition 2021	\$ 6,763,039	
51390-495010	T F - Operating Fund		\$ 6,763,039
10990-587051	T T - School Construction Fund	\$ 6,763,039	
10390-499900	Fund Balance Appropriated		\$ 6,763,039
		<u>\$ 13,526,078</u>	<u>\$ 13,526,078</u>
Explanation:	School Construction Fund - Moyock Middle School Addition (51848) - Increase appropriations in the operating fund to transfer funds to the School Construction fund; increase appropriations in the School Construction fund to receive the funds from the operating fund for the Moyock Middle School addition. The Guaranteed Maximum Price for the Moyock Middle School addition is \$7,163,039.07. A design fee of \$900,000 was previously appropriated and there is a \$500,000 contingency included for costs that may be necessary outside of the construction. Any unspent funds at the completion of this project will remain in the construction fund and will be available for future school projects.		
Net Budget Effect:	Operating Fund (10) - Increased by \$6,763,039.		
	School Construction Fund (51) - Increased by \$6,763,039.		

2. Surplus Resolution and Authorization for Corporal Mark Chappell to Purchase His Service Weapon in the Amount of \$1.00 Upon Retirement

COUNTY OF CURRITUCK

WHEREAS, The Currituck County Board of Commissioners, during its regular meeting held on Monday, January 3, 2022, authorized the following property listed below be declared surplus and disposed of; and

WHEREAS, Sheriff Matt Beickert has requested that upon the retirement of Corporal Mark Chappell, that his service weapon, a Glock 45 9M handgun, Serial No. BSBD915, be given to him. Mr. Chappell has made the request to purchase upon his retirement.

ADOPTED this 3rd day of January 2022.

Paul Beaumont, Vice Chairman,
Board of Commissioners

Samantha M. Evans
Deputy Clerk to the Board

3) Approval Of Minutes for December 17, 2021, Special Meeting and December 20, 2021, Regular Meeting

1. Approval of Special Meeting Minutes for 12/17/2021

2. Approval of Regular Meeting Minutes for 12/20/2021

ADJOURN

Motion to Adjourn Meeting

The Board had no further business and Commissioner Mary Etheridge moved to adjourn. Commissioner Jarvis seconded the motion and the motion carried, 5-0. The regular meeting of the Board of Commissioners adjourned at 8:55PM

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mary "Kitty" Etheridge, Commissioner
SECONDER:	Selina S. Jarvis, Commissioner
AYES:	Paul M. Beaumont, Vice Chairman, J. Owen Etheridge, Commissioner, Mary "Kitty" Etheridge, Commissioner, Selina S. Jarvis, Commissioner, Kevin E. McCord, Commissioner
ABSENT:	Michael H. Payment, Chairman, Bob White, Commissioner

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Number TDA20220013

BUDGET AMENDMENT

The Currituck County Board of Commissioners sitting as the Tourism Development Authority, at a meeting on the 18th day of January 2022, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2022.

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
15447-545015	Beach Nourishment	\$ 20,000	
15320-415000	Occupancy Tax		\$ 20,000
		<u>\$ 20,000</u>	<u>\$ 20,000</u>

Explanation: Tourism Related Expenses (15447) - Increase appropriations to fund beach grass and beach fencing grant programs.

Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$20,000.

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Journal # _____

Clerk to the Board

Attachment: 1-18-22_TDA Budget Amendments (TDA Budget Amendment)

Number TDA20220014

BUDGET AMENDMENT

The Currituck County Board of Commissioners sitting as the Tourism Development Authority, at a meeting on the 18th day of January 2022, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2022.

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
15447-587050	T T - County Govt Construction	\$ 770,850	
15320-415000	Occupancy Tax		\$ 770,850
50447-590012	Coral St Walkover 2021	\$ 221,243	
50447-590013	Dolphin St Walkover 2021	\$ 248,023	
50447-590014	Makeral St Walkover 2021	\$ 301,584	
50390-495015	T F - Occupany Tax		\$ 770,850
		\$ 1,541,700	\$ 1,541,700

Explanation: Tourism Related Expenses (15447) - Increase appropriations for Dolphone, Coral and Mackerel walkovers. Each site will include beach grass plugs, retaining walls and showers.

Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$770,850.
County Governmental Construction (50) - Increased by \$770,850.

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Clerk to the Board

Attachment: 1-18-22_TDA Budget Amendments (TDA Budget Amendment)

Number TDA20220015

BUDGET AMENDMENT

The Currituck County Board of Commissioners sitting as the Tourism Development Authority, at a meeting on the 18th day of January 2022, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2022.

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
15447-590000	Capital Outlay	\$ 265,000	
15320-415000	Occupancy Tax		\$ 265,000
		<u>\$ 265,000</u>	<u>\$ 265,000</u>

Explanation: Tourism Related Expenses (15447) - Increase appropriations to purchase a used 2013 Rosenbauer Rescue Pumper for protection of firefighters and rescue personnel and enhancement of fire and rescue functions for the Corolla Fire Services District. This purchase will be repaid from the Corolla Volunteer Fire Contract over the next ten years, beginning in FY 2023 and concluding in FY 2032.

Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$265,000.

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Clerk to the Board

Attachment: 1-18-22_TDA Budget Amendments (TDA Budget Amendment)

Number TDA20220016

BUDGET AMENDMENT

The Currituck County Board of Commissioners sitting as the Tourism Development Authority, at a meeting on the 18th day of January 2022, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2022.

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
15448-532160	Maintenane Supplies	\$ 10,000	
15448-506000	Health Insurance		\$ 10,000
		<u>\$ 10,000</u>	<u>\$ 10,000</u>

Explanation: Tourism Related Expenses - Historic Corolla Park (15448) - Increase appropriations for additional maintenance supplies due to adding the Maritime Museum, restrooms and Wildlife Resource Center to County operations for this fiscal year.

Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$10,000.

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Clerk to the Board

Attachment: 1-18-22_TDA Budget Amendments (TDA Budget Amendment)