

Agenda  
Town of Duck Council  
Paul F. Keller Meeting Hall  
March 6, 2024  
1:00 p.m.  
Regular Meeting

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1. Call to Order
  - A. Pledge of Allegiance
  - B. Moment of Silence
2. Public Comments
3. Consent Agenda
  - A. Minutes from the February 7, 2024, Regular Meeting
  - B. Government & Education Access Channel 2024-2025 Proposed Budget
  - C. Budget Amendment
4. Special Presentations
  - A. None at This Time
5. Quasi-Judicial Public Hearings
  - A. Public Hearing/Discussion/Consideration of SUP 24-001, a Special Use Permit Application by Verizon Wireless, with the Authorization of the Northpoint Association, Inc., to Establish a Small Wireless Facility on Northpoint Neighborhood Common Property at 100 Dianne Street in the Single-Family Residential (RS-1) Zoning District *Note: The Applicant for this Special Use Permit has withdrawn the application, so this Public Hearing will not be held*
  - B. Public Hearing Discussion/Consideration of SUP 24-002, a Special Use Permit Application by Property Owner Jerry Tatum Requesting the Following Allowances for Fill and Grading Activities Related to Stabilization of Fill and Construction of a Single-Family Residence at 121 East Sea Hawk Drive: (1) to Allow a Bulkhead to Support and Contain Fill, and (2) to Allow Land Disturbance Activities and Fill within Five Feet (5') of the Property Line to the East
6. Legislative Public Hearing
  - A. None At This Time

7. Old Business/Items Deferred from Previous Meetings
  - A. Discussion/Consideration of Directing Staff to Develop an Ordinance to Ban the Release of Balloons in Duck
8. New Business
  - A. None At This Time
9. Items Referred to and Presentations from the Town Attorney
10. Items Referred to and Presentations from the Town Manager
  - A. Departmental Updates
  - B. January FY 2024 Financial Presentation
11. Mayor's Agenda
12. Council Member's Agenda
13. Other Business
  - A. Additional Public Comments
14. Adjournment

**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #1:**

Call to Order

- A.     Pledge of Allegiance
- B.     Moment of Silence

**RECOMMENDED ACTION:**

- Call the Town Council to Order
- Conduct the Pledge of Allegiance
- Hold a Moment of Silence

**SUMMARY OF INFORMATION:**

The Mayor will call the Council to order and the Council will lead the audience in the recitation of the Pledge of Allegiance and will hold a Moment of Silence.

**ATTACHMENTS:**

- None

**AGENDA:      March 6, 2024      Regular Meeting**

**ITEM #2:**

Public Comments

**RECOMMENDED ACTION:**

- None required.

**SUMMARY OF INFORMATION:**

The Council will receive comments from the public.

**ATTACHMENTS:**

- None



**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #3:**

Consent Agenda

- A.       Minutes from the February 7, 2024, Regular Meeting
- B.       Government & Education Access Channel 2024-2025 Proposed Budget
- C.       Budget Amendment

**RECOMMENDED ACTION:**

- Approve the Consent Agenda

(As a reminder, the Consent Agenda is intended to be voted on and approved as one motion. If discussion is required on individual items, a motion must be made to remove that item from the Consent Agenda and add it to the Regular Agenda.)

**SUMMARY OF INFORMATION:**

The Consent Agenda includes minutes from the February 7, 2024, regular meeting; the Government & Education Access Channel proposed budget; and a budget amendment. The budget amendment increases the Police Department expenditures, Police Donations, and Fund Balance appropriated revenue for projects funded by police donations received both in Fiscal Year 2024 as well as prior years. Council is asked to approve the minutes, the proposed budget and the budget amendment.

**ATTACHMENTS:**

- February 7, 2024, Minutes
- Government & Education Access Channel Proposed Budget
- Budget Amendment Sheet

**TOWN OF DUCK  
TOWN COUNCIL  
REGULAR MEETING  
February 7, 2024**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 1:00 p.m. on Wednesday, February 7, 2024

COUNCIL MEMBERS PRESENT: Mayor Don Kingston; Mayor Pro Tempore Monica Thibodeau; Councilor Sandy Whitman; Councilor Brenda Chasen; and Councilor Kevin Lingard.

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Town Manager Drew Havens; Director of Community Development Joseph Heard; Police Chief Jeffrey Ackerman; Fire Chief Donna Black; Town Attorney Robert Hobbs; Finance and Human Resources Administrator Jessica Barnes; Public Information and Events Director Kristiana Nickens; and Town Clerk Lori Ackerman.

OTHERS ABSENT: None.

Mayor Kingston called the meeting to order at 1:00 p.m.

Mayor Kingston asked Councilor Kevin Lingard to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

**PUBLIC COMMENTS**

Mayor Kingston opened the floor for public comments. He noted that comments will be limited to three minutes as there was a timer for the time limit. There being no one wishing to speak, Mayor Kingston closed the time for public comments.

**CONSENT AGENDA**

**Minutes from the December 6, 2023, Regular Meeting; Minutes from the January 3, 2024, Regular Meeting; Minutes from the January 17, 2024, Mid-Month Meeting**

Mayor Pro Tempore Thibodeau moved to approve the consent agenda as presented.

Motion carried 5-0.

**SPECIAL PRESENTATIONS**

**Recognition of the Promotion of Cameron Whitaker to the Rank of Fire Engineer**

Fire Chief Donna Black was recognized to speak. Fire Chief Black went on to recognize Cameron Whitaker, adding that he was recently promoted to the rank of Fire Engineer. Mayor Kingston and Council congratulated Fire Engineer Whitaker on his promotion.

### **QUASI-JUDICIAL PUBLIC HEARING**

There were no Quasi-Judicial public hearings at this time.

### **LEGISLATIVE PUBLIC HEARINGS**

There were no Legislative public hearings at this time.

### **OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS**

#### **Discussion/Consideration of Appointing Two Individuals to Serve on the Board of Adjustment**

Mayor Kingston stated that there have been several changes to the Board of Adjustment with Councilor Lingard previously being appointed to the Board but then was elected to Council which created a vacancy. He stated that Bob Webb was an Alternate on the Board of Adjustment and was recently appointed to the Planning Board. He noted that there was an opening for a Member and an Alternate, adding that it has been the policy of Council in the past to appoint an existing Alternate as a Member where a vacancy occurred.

Mayor Kingston moved to appoint Tim McKeithan as a full Member of the Board of Adjustment for a term to expire July 1, 2025.

Mayor Pro Tempore Thibodeau stated that she was in favor of the motion. Councilor Chasen thought it was an appropriate process to move an Alternate to a Member position.

Motion carried 5-0.

Mayor Kingston pointed out that there were two vacancies on the Board of Adjustment for the Alternate positions. He stated that three individuals had submitted an application for the positions – Miriam Rollin, Thomas Burton, and Daniel Snyder. He stated that he would like each individual to introduce themselves and explain why they would like to serve on the Board.

Miriam Rollin of 149 Plover Drive was recognized to speak. Ms. Rollin went on to introduce herself, adding that she was interested in serving on the Board of Adjustment. She explained that she and her husband have lived permanently in Duck for about one year but spent time in Duck for decades, adding that it was a very special place to them. She stated that since they moved to Duck, she has volunteered extensively with N.E.S.T., the Marine Mammal Stranding Network, as well as the grass planting in Duck. She stated that the Board of Adjustment, as she understood it, was involved in applying the

Code to specific fact situations. She noted that she was a recovering attorney and had been an attorney throughout her career and as an attorney, she was trained to do the application of the law to the facts of a given situation. She thought she would bring analytical skills in deciphering what the relevant facts and irrelevant facts were and coming to a conclusion in terms of what the law, as applied, meant.

Daniel Snyder of 139A Jaycrest Road was recognized to speak. Mr. Snyder went on to introduce himself, adding that he was interested in serving on the Board of Adjustment. He stated that he has been coming to the Outer Banks since he was a child and he and his wife purchased a home in Duck in 2016 and moved full-time in 2020. He stated that both he and his wife have been involved with the Town as much as they can; they help at the Concerts on the Green, the Turkey Trot, the 4<sup>th</sup> of July parade, and other events. He stated that he was trying to stay involved as much as he could, adding that he saw this as a steppingstone for future involvement on other committees. He added that he was an IT administrator/manager for a small consulting firm in Washington, DC and some of his strengths were responsibility, creativity, and being detail oriented which he felt would help on the Board of Adjustment.

Mayor Kingston noted that Thomas Burton had applied for the position but was not present for the meeting.

Mayor Kingston thanked the candidates for their time and opened it up for deliberation or discussion. Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs explained that Council's procedures included the opportunity to nominate one or more person and then take a vote. He added that it could include a discussion if necessary. He stated that each position would be voted on and one or more Council Member could nominate one person for the position and then have a vote and the person that receives the highest number of votes would be selected. He noted that it did not have to be a majority vote.

Mayor Kingston nominated Daniel Snyder. Mayor Pro Tempore Thibodeau nominated Miriam Rollin. Councilor Lingard nominated Thomas Burton.

Mayor Kingston called for a vote for Daniel Snyder. Mayor Kingston, Councilor Lingard, Councilor Whitman, and Councilor Chasen voted in favor; Mayor Pro Tempore Thibodeau voted against.

Daniel Snyder was appointed to the Board of Adjustment as an Alternate for a term to expire July 1, 2025.

Mayor Pro Tempore Thibodeau nominated Miriam Rollin. Councilor Lingard nominated Thomas Burton. Councilor Chasen nominated Miriam Rollin. Councilor Whitman nominated Thomas Burton.

Mayor Kingston called for a vote for Miriam Rollin. Mayor Pro Tempore Thibodeau, Councilor Lingard, and Councilor Chasen voted in favor; Mayor Kingston and Councilor Whitman voted against.

Mayor Kingston called for a vote for Thomas Burton. Mayor Kingston and Councilor Whitman voted in favor; Mayor Pro Tempore Thibodeau, Councilor Lingard, and Councilor Chasen voted against.

Miriam Rollin was appointed to the Board of Adjustment as an Alternate for a term to expire July 1, 2025.

## **NEW BUSINESS**

### **Discussion/Consideration of Updating the Town's Facility Use Policy**

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman stated that the Town has had a Facility Use Policy in effect since 2012. She explained that the Facility Use Policy was put into place for different groups to rent Town facilities such as the first-floor conference room and the Paul F. Keller Meeting Hall, adding that the rooms were mostly used by homeowner associations for their annual meetings with a monitor that oversees things. She stated that staff realized that the policy needed updating with one of the newest changes being a sheet for the monitor to fill out as well as all groups being required to fill out a Release and Indemnity Agreement. She noted that the fee schedule was also updated to reflect the changes made to the policy. She went on to review the changes with Council and the audience.

Mayor Pro Tempore Thibodeau clarified that if someone wanted to use one of the rooms at 8:00 a.m., they could request to come in at 7:45 a.m. to complete their set up, adding that the rest of the meeting would not start until 8:00 a.m. Town Clerk Ackerman stated she was correct. Mayor Pro Tempore Thibodeau clarified that Priority Four groups were charged a rental fee as opposed to not being charged. Town Clerk Ackerman stated that they were not charged, adding that Priority Four groups were non-profit groups. Mayor Pro Tempore Thibodeau clarified that the policy had not changed in terms of who would be charged, but only the fees as well as cleaning up the language. Town Clerk Ackerman stated she was correct.

Councilor Whitman clarified that with the Indemnity Agreement, there was a \$1 million insurance policy required. He asked if the Town received that now. Town Clerk Ackerman stated that the Town did not, adding that it was never a requirement for groups to fill the form out. Councilor Whitman clarified that the Town would receive a copy of the Certificate of Insurance. Town Clerk Ackerman stated he was correct.

Mayor Kingston asked if there was any reference to any other Town facilities such as the picnic shelter, the amphitheater, or gazebo. He asked if they were excluded from outside groups using them. Town Clerk Ackerman stated he was correct. Mayor Kingston asked if it should be highlighted in the policy.

Town Manager Drew Havens was recognized to speak. Town Manager Havens explained that the Town does not take reservations for those facilities, adding that someone could reserve the Paul F. Keller Meeting Hall with a monitor, but if a family wanted to have a picnic in the picnic shelter, it would be allowed with the understanding that it cannot be exclusively reserved. Mayor Kingston stated that he wasn't sure if there should be some sort of explanation about it in the policy. He wondered if there should be any exclusions. Town Manager Havens reiterated that staff do not take reservations for those facilities, but if it was something that Council wanted to do, it could be done. He stated that, historically, if someone showed up and wanted to have a wedding on the gazebo stage, they could, but it was with the understanding that they could not stop other people from using it at the same time. Mayor Kingston asked if there should be any further definition or explanation of the use of those facilities in the policy.

Mayor Pro Tempore Thibodeau asked Town Clerk Ackerman if she has to explain that policy to people that call regarding renting one of the facilities for a wedding. She asked if that was a question that was asked a lot. Town Clerk Ackerman stated that she has never received a request for someone to hold a wedding in any of the facilities. Town Manager Havens thought it would be easy to insert some language that the first-floor conference room and the Paul F. Keller Meeting Hall were for solely available to rent. He stated that if Council wanted that language in there, staff would add it.

Councilor Whitman asked if there was any language in the policy that the Town has first rights to all of the facilities. Town Clerk Ackerman stated that Town Council and staff were considered a Priority One group, so they would always have the first priority. Councilor Whitman pointed out that it was only for the Town Hall and Paul F. Keller Meeting Hall. He asked about the other facilities. Town Manager Havens explained that the Town's Park Use Policy expressly gives priority to Town Council and staff.

Mayor Pro Tempore Thibodeau thought the other facilities were covered in the Park Use Policy. Town Manager Havens stated that he would have to look at that policy.

Mayor Kingston stated that his reservation was whether or not people are allowed to use the gazebo for a non-Town sponsored event. He stated he had the same reservation with the amphitheater and if someone decided to come in and hold a concert. Town Manager Havens stated that because it was public property, staff do not throw anyone out. He added that if Public Information and Events Assistant Betsy Trimble was going to the amphitheater with a magician to help him set up for a Town event and someone was on the stage, they would be asked to leave. He reiterated that staff does not reserve those facilities for anyone other than Town events. Mayor Kingston stated that he was concerned about the use of the park and what was and was not acceptable. Town Clerk Ackerman stated that the only thing that was held in the amphitheater was a memorial service a few years ago and they were told they could hold it but it was public property and other people could use it at the same time.

Mayor Pro Tempore Thibodeau clarified that the changes to the policy were refinements that would tighten up what staff has experienced as well as addressing anything that has come up over the last 12 years. Town Clerk Ackerman stated she was correct.

Councilor Lingard asked if Council was to push that the gazebo was available for weddings, there was a way for the Town to make some money or if it was something that would not be considered. Mayor Pro Tempore Thibodeau thought it would be a lot of administrative time and may cost the Town money. Councilor Lingard thought if the Town could receive any money from the rental, it would cover the administrative time. Town Manager Havens stated that if it was something Council wanted staff to explore, options could be brought back. He added that it was never done, but did not mean it could not be done, and the facilities were so compact and programmed during the summer. Town Clerk Ackerman reiterated that she was never approached by anyone to use any of the facilities for a wedding since the policy was implemented in 2012.

Mayor Kingston asked who worked on the updated policy. Town Clerk Ackerman stated that it was Town Manager Havens, and all of the department heads.

Councilor Chasen stated that she had suggested on the Fee Schedule that the language be changed from “Note: It is the policy of the Town that any fees submitted shall not be refunded.” to the following: “Note: Submitted fees are nonrefundable.” She added that the new language seemed cleaner and less complicated. Mayor Pro Tempore Thibodeau stated that she liked the suggested language.

Councilor Whitman moved to approve the updated Facility Use Policy with the changes noted.

Motion carried 5-0.

#### **ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY**

Town Attorney Hobbs stated he had nothing to report.

#### **ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER**

Town Manager Havens stated that with regard to obtaining a value on the Public Safety building land with the Corps of Engineers – the appraisals have been submitted to the Corps by the appraiser. He explained that there would be a couple rounds of reviews with the review appraiser at the Corps of Engineers Property Division asking questions and the appraiser would respond to them. He expected that to take a few weeks before staff sees the appraisals, which having the appraisals done was the first step in having an understanding of what the value difference was in terms of the lease value of a new piece of land that would be needed for the new building and the value of the current improved

property. He stated that progress was being made and as soon as he gets the results he will share with Council.

Town Manager Havens stated that the Town has applied for a grant through the North Carolina Department of Environmental Management that specifically targets BRIC-type projects and the shortfalls that many BRIC projects in the state of North Carolina have seen because of the long drag from being told a municipality has the BRIC money and actually receiving the final approval. He stated that the grant application was submitted last week and staff expects to hear something in April. He added that \$1.5 million was requested, which covers the shortfall. He thanked Director Heard for putting the application together, adding that he would let Council know as soon as staff hears anything.

Town Manager Havens stated that all of Council recently received an email regarding helium balloon regulations. He stated that he had sent Council a memorandum earlier in the week and was asking for direction as to how they want to proceed, whether they wanted staff to work on ordinance changes, focus their efforts on education, or both.

Mayor Kingston explained that the inquiry came from another town but it does apply to any beach on the Outer Banks. He thought it was something that would be very difficult to get into with regard to enforcement. He thought something could be put in the ordinance regarding bringing balloons to the beach and taking them off. He understood the harm and danger but thought the enforcement would be very difficult to control helium balloons on the beach even though he recognized that it was a problem. He thought communication and an ordinance change would be of value.

Mayor Pro Tempore Thibodeau thought communication was important as well as the value of protecting the environment. She stated that she would like to see that incorporated in some regard because she thought it was educational. She pointed out that people don't think about it, adding that she learned a lot from the initial correspondence regarding balloons coming from another state and the impact globally with how long they last. She thought more of a public service educational piece would be how she would like to start things. She pointed out that many years ago, Council had to deal with fireworks, adding that the Town could not ban the sale of fireworks but could let the public know that they were prohibited from use in Duck. She stated that it gets tricky in terms of what a municipality can do but thought it would start with education.

Councilor Lingard thought having some regulation was a back-up to the education. He stated that since he received the email, he picked up four balloons on the beach in the last two days. He added that he picks them up on a regular basis. He thought having something to back up the education was important.

Councilor Chasen agreed that it was more of a communication/education issue than it was with anything the Town could regulate because, while it was considered littering, enforcement was near impossible, but was an opportunity for education. She stated that helium balloons as well as latex balloons were a major problem not only for sea turtles



but also for birds and whales. She agreed with Mayor Pro Tempore Thibodeau's comments regarding education, adding that having some sort of information that could be sent out to the public would be helpful.

Councilor Whitman agreed with the other Council member's comments. He thought education was important and if the Town tried to enforce it, it was nearly impossible.

Councilor Lingard asked how the public could be educated. He asked if there was a way to formally communicate with the rental companies and the public. He thought there needed to be a formal way to educate the public. Town Manager Havens stated that Public Information and Events Director Kristiana Nickens sends out general information and targets it to specific audiences. He added that with regard to the tent issue previously, a direct mailing was sent to vendors and property managers. He stated that the Town's website was another source of information for the public.

Councilor Chasen pointed out that Ms. Swick has gone to the other municipalities. She thought there should be some kind of combined effort with the municipalities.

Town Manager Havens stated that staff will keep an eye on things and if the problem is beyond what the Town's current ordinances will enforce, he will come back to Council. He believed that the littering ordinance would be beneficial in enforcement.

Mayor Kingston thought most balloons that were released were accidental, adding that they are usually tied on chairs, at houses for parties, anniversaries, and weddings.

Mayor Pro Tempore Thibodeau thought the Outer Banks Wedding Association would be a good place to emphasize the issue. She thought that they do think about these kind of things. She stated that she liked the idea of a combined message across the towns and educating people in various ways. She thought there were creative ways to get the message across, especially if the towns were united in that message.

### **Departmental Updates**

Public Information and Events Director Kristiana Nickens was recognized to speak. Director Nickens gave a brief overview of activities to Council and the audience.

Director of Community Development Joseph Heard was recognized to speak. Director Heard gave a brief overview of the past month's permit activities to Council and the audience.

Police Chief Jeffrey Ackerman was recognized to speak. Police Chief Ackerman gave a brief overview of the past month's police activities to Council and the audience.

Fire Chief Black gave a brief overview of the past month's fire activities to Council and the audience.

## **December FY 2024 Financial Presentation**

Finance and Human Resources Administrator Jessica Barnes was recognized to speak. Administrator Barnes gave a short presentation on the December Fiscal Year 2024 financials to Council and the audience.

## **MAYOR'S AGENDA**

Mayor Kingston stated that he had his mayor/chairman meeting on February 20, 2024 hosted by the Town of Kitty Hawk. He stated that, with regard to the Outer Banks Housing Task Force of which he was a member, he decided to step down, adding that Mayor Pro Tempore Thibodeau would be replacing him. He stated that he was looking forward to the upcoming Retreat.

## **COUNCIL MEMBER'S AGENDA**

Mayor Pro Tempore Thibodeau stated that she was happy to step in to the Outer Banks Housing Task Force role. She went on to give an update on the Outer Banks Tourism Board activities to Council and the audience.

Councilor Lingard stated that he and Councilor Chasen had attended Essentials of Municipal Government recently and learned a lot from it. He gave an update on the RPA Committee meeting to Council and the audience.

Councilor Whitman thanked Public Information and Events Director Nickens and Public Information and Events Assistant Betsy Trimble for their hard work on the recent Community Celebration. He reminded Council and the audience that there would be beach grass planting on Friday, February 9, 2024 at 1:00 p.m.

Councilor Chasen stated that that she had attended Essentials of Municipal Government with Councilor Lingard recently. She gave a short update on the Government and Education Access Committee meeting to Council and the audience. She thanked staff for providing Council with needed information to help them do the best job they can for the citizens of Duck. She thanked the audience for attending the meeting.

## **OTHER BUSINESS**

### **Additional Public Comments**

Mayor Kingston opened the floor for public comments. There being no one wishing to comment, Mayor Kingston closed the time for public comments.

Mayor Kingston noted that the next meeting would be the annual Retreat on Wednesday, February 21 and 22, 2024 at 9:00 a.m.

**ADJOURNMENT**

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 2:32 p.m.

\_\_\_\_\_  
Lori A. Ackerman, Town Clerk

Approved: \_\_\_\_\_

\_\_\_\_\_  
Don Kingston, Mayor

## **Government Education Access Channels Committee**

### **CURRENTtv**

#### **2024-2025 Proposed Budget**

The following items are presented to for review and approval.

#### **Board Action Requested:**

Approve the proposed 2024-2025 GEAC Budget.

#### **Budget Summary**

The Government Education Access Channels (GEAC) Committee has reviewed and approved the proposed 2024-2025 budget for the operation of the Government and Education Channels. The proposed budget, which would take effect July 1, 2024 must be approved by every participating member entity of the channels, which includes the towns of Duck, Southern Shores, Kitty Hawk, Kill Devil Hills, Nags Head, Manteo, and Dare County, Dare County Schools, College of The Albemarle, and ECU Coastal Studies Institute.

The budget as proposed requires no additional funding from the participating entities above the current annual \$1,000 membership fee. The budget is funded primarily from the North Carolina Video Distribution proceeds, which are disbursed quarterly by the state to certified channels throughout the state. These funds must be used for the operations of the two channels and no other purpose.

Additionally, the legislation that originally established the Video Distribution funding required that the proceeds not supplant current funding. Accordingly, the annual \$1000 membership fee that was in place when the program began must remain, or the Channels would lose all Video Distribution funding from the state.

The GEAC committee recommends the attached budget, which includes, in part, the following: continued funding for two full-time staff positions and the Local Programming Development Initiative to assist members in the development of programming for the Government and Education Channels. The funding also includes contractor funding to continue to help produce two regular news magazine shows that highlight each of the participating members on the Education Channel and the Government Channel.

# Proposed Government and Education Access Channel Budget for Fiscal Year 2024/2025

	Current Fiscal Year	Next Fiscal Year
<b>INCOME</b>	<b>2024 Amount</b>	<b>2025 Amount</b>
NC PEG Supplemental Video Disbursement [1]	247,000.00	257,518.00
Member Fees [2]	10,000.00	10,000.00
Interest Income [3]	5,000.00	8,000.00
Appropriated Fund Balance [4]	63,626.00	66,641.00
<b>Total Revenue</b>	<b>325,626.00</b>	<b>342,159.00</b>
<b>EXPENDITURES</b>		
Salaries (2 Positions) [5]	-128,422.00	-144,144.00
Merit Pay [6]	-2,568.00	-3,000.00
FICA	-9,825.00	-11,027.00
Retirement	-16,579.00	-19,661.00
401K		-4,324.00
Health Insurance [7]	-37,781.00 [1]	-24,596.00 [2]
Life Insurance	-210.00	-210.00
Retiree Health	-231.00	-252.00
Insurance & Bonds	-2,975.00	-3,361.00
Contractual Services [8]	-40,000.00	-40,000.00
Professional Services [9]	-2,000.00	-2,000.00
Equipment Repair & Purchase [10]	-5,000.00	-5,000.00
Supplies [11]	-3,500.00	-3,500.00
Music Library	-350.00	-350.00
Training	-1,000.00	-1,000.00
Travel	-1,000.00	-1,000.00
Professional Memberships	-500.00	-500.00
Channel Operations [12]		
OBX Media	-4,200.00	-4,200.00
Adobe	-600.00	-675.00
Tightrope Hardware	0.00	0.00
Cablecast Software Assurance Service	0.00	0.00
Spectrum Subscription		-324.00
Cablecast Reflect (Streaming/VOD Service)	-2,400.00	-2,500.00
Cablecast Closed Captioning Service (500 hours)	-3,700.00	0.00
Envato Elements Digital Assets Library	-385.00	-385.00
Marketing	-1,000.00	-3,000.00
Miscellaneous	-500.00	-500.00
Capital Outlay Projects	0.00	0.00
Contingency (Reserve for unexpected expenses)	-5,000.00	-10,000.00
Emergency Contingency (Storm related overtime)	-2,500.00	-2,500.00
Car Maintenance	-1,000.00	-1,000.00
Car Fuel	-2,000.00	-2,000.00
Uniforms	-400.00	-400.00

Proposed Government and Education Access Channel Budget for Fiscal Year 2024/2025

Verizon Contract for Streaming [13]	-750.00	-750.00
<b>Total</b>	<b>-275,626.00</b>	<b>-292,159.00</b>
<b>LPDI</b>		
LPDI 1- Coastal Studies Institute	-5,000.00	-5,000.00
LPDI 2- College of The Albemarle	-5,000.00	-5,000.00
LPDI 3 - Dare County Government	-5,000.00	-5,000.00
LPDI 4 - Dare County Schools	-5,000.00	-5,000.00
LPDI 5 - Duck	-5,000.00	-5,000.00
LPDI 6 - Kill Devil Hills	-5,000.00	-5,000.00
LPDI 7 - Kitty Hawk	-5,000.00	-5,000.00
LPDI 8 - Manteo	-5,000.00	-5,000.00
LPDI 9 - Nags Head	-5,000.00	-5,000.00
LPDI 10 - Southern Shores	-5,000.00	-5,000.00
<b>Total LPDI</b>	<b>-50,000.00</b>	<b>-50,000.00</b>
<b>Total LPDI Grand And Operating Expenditures</b>	<b>-325,626.00</b>	<b>-342,159.00</b>

Continue to footnotes on next page

# Government and Education Access Channel Draft Budget Notes for Fiscal Year 2025

## **Goals and Objectives to be achieved with this budget.**

To continue to fund the operation of the channel at a level that provides a professional, reliable and quality service to the citizens of Dare County. To increase awareness of CURRENTtv.

**[1] NC PEG Supplemental Video Disbursement** - this is revenue that is collected by the state in the form of a use tax on cable and satellite providers. The money is pooled and disbursed to qualifying PEG operations within the state. PEG stands for Public, Education, and Government Access. Dare County has 10 qualifying PEG entities, each is a member of the Government and Education Access Channel Committee. Each quarter, this money is disbursed to the entities by the state, and then the Government and Education Access Channels invoices the entities for this money. These state funds are the main source of funding for the Government and Education Access Channels.

**[2] Member Fees** - Each entity member pays an annual membership fee to participate in the Government and Education Channel Access. This money must remain in place in order for each entity to receive the PEG Supplement from the state. There is no change to this amount from last year, so impact on each entity's budget is unchanged.

**[3] Interest Income** - The unappropriated fund balance is invested and earns interest. Dare County Finance had advised that \$8,000 be included for interest income for this budget.

**[4] Appropriated Fund Balance** -The appropriated fund balance is the amount pulled from the unappropriated fund balance to meet the obligations of the budget. The unappropriated fund balance was \$340,119 as of 6/30/23.

**[5] Salaries** - This budget currently funds two full-time positions that are Dare County employees, and includes a 3.5% COLA increase as recommended by Dare County Finance for planning purposes.

**[6] Merit Pay** - Merit pay is awarded based on employee on performance. Dare County Finance has advised that \$3,000 be included for FY2024/2025.

**[7] Health Insurance** - Includes individual health insurance coverage for both employees.

**[8] Contractual Services** - This is for assistance in the production of Destination Dare and Dare Education Awareness, our two main programming initiatives that highlight interesting aspects of government and education in Dare County. Each entity contributes one segment to each episode. Destination Dare is produced every other month, and Dare Education Awareness is produced in the alternate months.

**[9] Professional Services** - To pay for costs associated with professional services such as professional voiceover work, acting, and potential production support.

**[10] Equipment** - Monies set aside for the purchase and repair of large item video production equipment, such as cameras, editing computers, and lighting equipment.

**[11] Supplies** - This supports the purchase of supplies such as batteries, gaffers tape, lighting gels, accessories, and small equipment items that do not qualify as Capital Outlay or Equipment.

**[12] Channel Operations** - Expenses that support the day to day operation of the channels. This includes:

- \$4,200.00 - OBX Media: for website hosting and maintenance
- \$2,500.00 - Reflect: Streaming Video/VOD for online video streaming service
- \$675.00 - Adobe: Creative Cloud subscription for professional non-linear editing tools
- \$324.00 - Spectrum subscription to monitor channels in CURRENTtv offices
- \$385.00 - Envato Elements: Digital asset and stock footage library

**[13] Verizon Wireless** - Line item dedicated to Verizon Wireless fee for use in mobile live broadcasting with Cradlepoint device.



**Town of Duck, North Carolina**  
**FY 2024**  
**Budget Amendment**

5

Police

Date: 3/6/2024

Budget Amendment					
Revenues	Fund	Dept. Code	Acct. Code	Obj. Code	Requested Amount
Miscellaneous Income: Police Donations	100	3800	3844	-	\$6,291
Fund Balance Appropriated		-	3991	-	\$2,269
				TOTAL:	\$8,560
Expenditures	Fund	Dept. Code	Acct. Code	Obj. Code	Requested Amount
Police: Supplies & Materials - Donated Funds	100	4310	310	216	\$8,560
				TOTAL:	\$8,560

Reason for Amendment:

This amendment increases the Police Department expenditures, Police Donations and Fund Balance Appropriated revenue budgets by \$8,560 for projects funded by police donations received both in FY 24, as well as prior years that are included in our fund balance. Projects completed with police donations in this fiscal year include an additional video surveillance camera, membership dues, as well as equipment for Project Lifesaver.

Approved: \_\_\_\_\_ Denied: \_\_\_\_\_

Date:

**AGENDA:      March 6, 2024      Regular Meeting**

**ITEM #4:**

Special Presentations

- A.      None at This Time

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None

**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #5:**

Quasi-Judicial Public Hearing

- A. Public Hearing/Discussion/Consideration of SUP 24-001, a Special Use Permit Application by Verizon Wireless with the authorization of Northpoint Association, Inc. to establish a small wireless facility (pole and attached equipment) on Northpoint neighborhood common property at 100 Dianne Street in the Single-Family Residential (RS-1) zoning district. *Note: The Applicant for this Special Use Permit has withdrawn the application, so this Public Hearing will not be held.*
- B. Public Hearing/Discussion/Consideration of SUP 24-002, a Special Use Permit Application by Owner Jerry Tatum requesting allowances for fill and grading activities related to stabilization of fill and construction of a single-family residence at 121 East Sea Hawk Drive: (1) to allow a bulkhead to support and contain fill, which is not permitted under Subsection 156.128(A)(6); and (2) to allow land disturbance activities and fill within five feet (5') of the property to the east at 123 East Sea Hawk Drive, which is not permitted in Subsection 156.128(A)(2).

**RECOMMENDED ACTION:**

- See Attachments

**SUMMARY OF INFORMATION:**

- See Attachments

**ATTACHMENTS:**

- See Attachments

**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #5A:**

Quasi-Judicial Public Hearing

- A. Public Hearing/Discussion/Consideration of SUP 24-001, a Special Use Permit Application by Verizon Wireless with the authorization of Northpoint Association, Inc. to establish a small wireless facility (pole and attached equipment) on Northpoint neighborhood common property at 100 Dianne Street in the Single-Family Residential (RS-1) zoning district.

**RECOMMENDED ACTION:**

- None required

**\*\* Please note that the applicant has withdrawn their application, so the Public Hearing will not be held.**

**SUMMARY OF INFORMATION:**

The applicants decided to withdraw their application for this Special Use Permit, therefore, a Public Hearing is no longer needed.

**ATTACHMENTS:**

- Email from Amy Whittington, Assistant Program Manager for Network Building & Consulting representing Verizon Wireless.

## Lori Ackerman

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**From:** Amy Whittington <awhittington@nbcllc.com>  
**Sent:** Wednesday, February 28, 2024 4:16 PM  
**To:** Sandy Cross; Joe Heard; Lori Ackerman  
**Cc:** Ryan Fletcher; Jim Gould; Melissa Felthousen  
**Subject:** RE: 100 DIANNE STREET - SPECIAL USE PERMIT

Good Afternoon Sandy,

Thank you so much for the information below. After talking with my colleagues, we have decided it is best for us to withdraw the special use permit application entirely. We will resubmit at a later date.

Thank you again for all your help, we greatly appreciate it. Please let me know if you need any other information from me.

Thank you so much!

**Amy Whittington**  
*Assistant Program Manager*

**NETWORK BUILDING + CONSULTING**

120 Eastshore Drive | Suite 300 | Glen Allen, VA | 23059  
M 804.467.6369



**From:** Sandy Cross <SCross@TownofDuck.com>  
**Sent:** Wednesday, February 28, 2024 2:53 PM  
**To:** Amy Whittington <awhittington@nbcllc.com>; Joe Heard <JHeard@TownofDuck.com>; Lori Ackerman <lackerman@townofduck.com>  
**Cc:** Ryan Fletcher <rfletcher@nbcllc.com>; Jim Gould <jgould@townofduck.com>; Melissa Felthousen <mfelthousen@townofduck.com>  
**Subject:** RE: 100 DIANNE STREET - SPECIAL USE PERMIT

Dear Ms. Whittington,

Per our conversation a short while ago, Town staff cannot grant you a deferral till the April Town Council meeting. Only the Town Council may grant a continuance after they open the public hearing at their March meeting. You have two options: (1) withdraw the special use permit application entirely and resubmit a minimum of 30 days in advance of the meeting you wish to be heard; or (2) proceed with the public hearing scheduled for the March 5th Town Council meeting (at which time the Town Council can consider your request for a continuance or conduct the public hearing).

I was able to confirm that if Council did not defer your request and held the public hearing and a denial was passed down, you would not be able to resubmit a new application in the same location.

**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #5B:**

Quasi-Judicial Public Hearing

- A. Public Hearing/Discussion/Consideration of SUP 24-002, a Special Use Permit Application by Owner Jerry Tatum Requesting the Following Allowances for Fill and Grading Activities Related to Stabilization of Fill and Construction of a Single-Family Residence at 121 East Sea Hawk Drive: (1) to Allow a Bulkhead to Support and Contain Fill; and (2) to Allow Land Disturbance Activities and Fill within Five Feet (5') of the Property to the East

**RECOMMENDED ACTION:**

- Conduct the Public Hearing
- Discuss & Consider Approval of SUP 24-002

**SUMMARY OF INFORMATION:**

The applicant is requesting a special use permit to:

- Allow the retaining wall to support and contain fill, which is not permitted under Subsection 156.128(A)(6).
- Allow land disturbance activities and fill within five feet (5') of the property to the east at 123 East Sea Hawk Drive, which is not permitted under Subsection 156.128(A)(2).

**ATTACHMENTS:**

- Staff Report
- Location Map and Property Information
- Special Use Permit Application
- Building Permit & Approved Site Plan (dated December 16, 2020)
- Final As-Built Survey (dated May 16, 2023)
- Tributary & Runoff Areas (prepared by Calfee Engineering)
- Stormwater Runoff Evaluation (prepared by Calfee Engineering)
- Stormwater Management Evaluation (prepared by Calfee Engineering)
- Transect/Cross Section of Proposed Improvements (prepared by Calfee Engineering)
- Draft Order Granting SUP 24-002



Town of Duck, North Carolina  
**Department of Community Development**  
SUP 24-002, 121 E. Sea Hawk Drive

*Agenda Item 5B*

**TO:** Mayor Kingston and Members of the Duck Town Council  
**FROM:** Joe Heard, Director of Community Development  
**DATE:** March 6, 2024  
**RE:** Staff Report for SUP 24-002, 121 East Sea Hawk Drive

**Application Information**

Application #:	SUP 24-002
Project Location:	121 East Sea Hawk Drive
Dare County PIN:	986917116210
Existing Use:	Single-Family Residence
Zoning:	Single-Family Residential (RS-1)
Property Owner/Applicant:	Jerry & Lois Tatum
Applicant's Representative:	Jeff Ballard, B & B Contractors (contractor)

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**Public Hearing Notice**

Public Hearing Advertised:	February 18 & 25, 2024 (Coastland Times)
Public Hearing Notices Sent:	February 20, 2024
Public Hearing Sign Posted:	February 23, 2024
Public Hearing Town Website:	February 20, 2024
Public Hearing Town Hall Posted:	February 20, 2024

**Property Information**

The subject property at 121 East Sea Hawk Drive is part of the Sea Hawk subdivision. The property is 17,619 square feet (0.40 acre) in size and zoned Single-Family Residential (RS-1). The rectangular lot is 75 feet in width and approximately 235 feet in depth. The property presently contains a four-bedroom, 4,025 square foot single-family residence that was constructed in 2023. This residence has been occupied under a Temporary Certificate of Occupancy pending resolution of the grading and fill issues. A swimming pool and surrounding concrete patio are located to the rear of the residence.

The adjoining property to the west at 119 East Sea Hawk Drive is zoned RS-1 and contains a six-bedroom, 3,646 square foot single-family residence constructed in 2004. The adjoining property to the east at 123 East Sea Hawk Drive is zoned RS-1 and contains a five-bedroom, 2,568 square foot single-family residence constructed in 1984. Across East Sea Hawk Drive to the north are



two other properties zoned RS-1 that are developed with single-family residences. Two properties zoned RS-1 abut the rear (south) of the subject property. These parcels have frontage on cul-de-sacs in the Tuckahoe neighborhood and each contains a single-family residence.

### **Current Issues**

When approved for development in December 2020, the residence proposed on the site plan had a setback of 17.5 feet from the eastern side property line. As part of this permit, a land disturbance plan was approved to add up to three feet (3') of fill in the area where the residence was to be constructed. The proposed fill tapered down to the existing lot elevation before the required minimum setback of five feet (5') for fill/grading activities. Upon completion of the construction project in 2023, the as-built survey showed that the residence was constructed only twelve feet (12') from the eastern property line. This difference in location has created issues with compliance with the fill and grading while maintaining the required minimum setback for land disturbing activities from the eastern property line.

### **SUP Proposal**

As outlined in the attached application materials, the applicant has worked with Calfee Engineering to develop a resolution to the issue that involves constructing a low retaining wall for stability (supporting the house pad) and tapering a lesser amount of fill toward the adjoining property to the east.

To be constructed as proposed, the retaining wall and associated fill will require approval of the following allowances requested in this special use permit:

1. Allow the retaining wall to support and contain fill, which is not permitted under Subsection 156.128(A)(6).
2. Allow land disturbance activities and fill within five feet (5') of the property to the east at 123 East Sea Hawk Drive, which is not permitted under Subsection 156.128(A)(2).

### **Applicable Ordinance Standards**

The Duck Town Code standards applicable to the retaining walls and associated fill proposed in this special use permit application read as follows:

#### **156.128(A)(6):**

“Bulkheads or retaining walls shall not be allowed as a method to stabilize or contain fill, except bulkheads established for shoreline protection and as otherwise permitted by special use permit granted by the Town Council.”





156.128(A)(2):

“Land disturbing activities, excluding necessary clearing and grubbing shall not be permitted within 5 feet from any property line with the exception of drainage and storm water improvements and underground utilities.”

156.128(A)(4)(e):

“All fill shall be established at a slope not to exceed 3 feet horizontal run for every 1-foot vertical rise. The toe of the slope shall meet the 5-foot setback requirement from all property lines.”

156.128(A)(4)(f):

“No fill of any kind shall be allowed within 5 feet of any property line except as associated with a driveway, bulkhead or other permitted setback encroachments.”

**Special Use Permit Criteria/Staff Analysis**

Subsection 156.128(C) of the Duck Town Code establishes review criteria for special use permit applications involving fill and grading activities. Staff has evaluated this application and provided the following comments and recommended findings: (analysis and comments in red)

**1. The site for the proposed fill is otherwise adequate in size, shape and other characteristics to accommodate the proposed project.**

- The recently constructed residence, swimming pool, and accessory improvements otherwise comply with the Town’s current development standards (minimum setbacks, maximum lot coverage, etc).
- Staff finds that the subject property adequately accommodates the recently developed improvements, and the application meets Finding 1.

**2. The applicant has demonstrated that the requirements of this chapter are unreasonable or impractical due to the necessity for the fill, lot shape, topographical features, location of mature vegetation, or location and characteristics of existing improvements on the lot.**

- Due to the height of the fill added and the relatively close proximity of the residence to the eastern side property line, the applicant cannot comply with Town standards regarding the minimum setback of fill and grading activities from property line.
- In addition, attempts to further minimize the encroachment of fill and grading activities results in either a steeper slope or potential destabilization of the house pad.
- The proposed retaining wall and associated fill are intended to stabilize the house pad on the subject property and minimize any stormwater drainage impacts to the adjoining property.
- The Town’s current standards limit this solution for stabilization and minimizing impacts on the adjoining property by preventing the use of a low retaining wall to stabilize the house pad.



- As the height of fill and location of the residence limit the application of traditional land disturbance standards, Staff finds that the Town standards are impractical when applied to the current situation and the application meets Finding 2.
3. **The amount of fill proposed is the minimum necessary to accommodate the proposed project, especially for soundfront properties.**
    - The addition of fill and height of the proposed retaining wall appear to be consistent with the height necessary to support the existing elevation of the house pad.
    - Staff finds that the height of the proposed retaining wall and the amount of fill have been minimized and the application meets Finding 3.
  4. **The proposed fill will not negatively impact adjacent properties or the surrounding area, especially for soundfront properties.**
    - A stormwater runoff analysis (Attachments F & G), stormwater management evaluation (Attachment H), and cross section of the proposed design (Attachment I) were prepared by Calfee Engineering.
    - As described in Attachment H and designed in Attachment I, the proposed retaining wall and accompanying improvements will provide adequate on-site stormwater management and not negatively impact the adjoining property to the east.
    - In light of the information contained in the stormwater runoff analysis and stormwater management evaluation, Staff finds that the proposed improvements will not negatively impact adjoining properties and the application meets Finding 4.
  5. **The special exception will be consistent with any applicable goals, policies and objectives specified in the Town's adopted Comprehensive & Land Use Plan and Vision Statement. This review includes the Town of Duck's evaluation of the proposal's consistency with its adopted Comprehensive & Land Use Plan, which may be more flexible or more stringent than interpretations by others.**
    - See details and analysis in the section below.
    - Finding 5 requires interpretation of general statements in the Comprehensive & Land Use Plan and 2032 Vision by the Town Council.
    - This special use permit request is intended to address stormwater management issues, which is a stated goal of the CLUP and 2032 Vision.
    - Staff finds that the proposal is consistent with the CLUP and 2032 Vision and the application meets Finding 5.

#### **Comprehensive & CAMA Land Use Plan**

Section 156.128(C) of the Duck Town Code states that the Town Council must evaluate the proposal's consistency with the Town's adopted Comprehensive & CAMA Land Use Plan. While not addressing issues specific to this special use permit application, the Town's adopted CLUP



provides the following goal and objective relating to the design and impact of the proposed improvements.

**6: Engage in efforts to improve local flooding and stormwater management.**

6.4: Reduce runoff through minimizing impervious surface coverage, encouraging tree preservation, and accommodating low impact development solutions to stormwater management.

**Duck Vision 2032**

Section 156.128(C) of the Duck Town Code states that the Town Council must evaluate the proposal's consistency with the Town's adopted Vision Statement. Duck's 2032 Vision contains several general statements, none of which are directly relevant to the proposed project and SUP.

One of the 3-5 Year Goals established by the Town Council under the Environmental Stewardship section of the 2032 Vision states,

"Evaluate and implement stormwater improvements.

- Investigate mitigation of stormwater issues in neighborhoods.
- Stormwater management needs to move into the neighborhoods; many are private roads and neighborhoods don't always know how to address the issue; need to partner with the neighborhoods to provide assistance."

While this action is clearly intended to address neighborhood-scale issues (as referenced in the sub-statements), it emphasizes the importance of stormwater management in residential areas of the Town.

**Staff Recommendation**

Staff determined that all five required findings are met by the proposal and, therefore, recommends APPROVAL of this special use permit application subject to the following conditions:

1. The applicant must submit the required application materials and obtain necessary land disturbance and building permits prior to commencing work.
2. All areas of land disturbance must be stabilized prior to issuance of a final Certificate of Completion/Occupancy for the project.



Town of Duck, North Carolina  
**Department of Community Development**  
*SUP 24-002, 121 E. Sea Hawk Drive*

*Agenda Item 5B*

## **ATTACHMENTS**

- A. Location Map and Property Information
- B. Special Use Permit Application
- C. Cover Letter
- D. Building Permit & Approved Site Plan (dated December 16, 2020)
- E. Final As-Built Survey (dated May 16, 2023)
- F. Tributary & Runoff Areas (prepared by Calfee Engineering)
- G. Stormwater Runoff Evaluation ( prepared by Calfee Engineering)
- H. Stormwater Management Evaluation (prepared by Calfee Engineering)
- I. Transect/Cross Section of Proposed Improvements (prepared by Calfee Engineering)
- J. Draft Order Granting SUP 24-002





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

121 E Sea Hawk DR  
Duck NC, 27949  
Parcel: 029186000  
Pin: 986917116210

Owners: Tatum, Jerry F Ttee -Primary Owner  
Tatum, Lois R Ttee -Primary Owner  
Building Value: \$762,800  
Land Value: \$293,000  
Misc Value: \$56,200  
Total Value: \$1,112,000

Tax District: Duck  
Subdivision: Sea Hawk South  
Lot BLK-Sec: Lot: 10 Blk: Sec:  
Property Use: Residential  
Building Type: Beach Contemporary  
Year Built: 2021



029186-000 21-986917-185 10/22





## Department of Community Development

PO Box 8369

1200 Duck Road

Town of Duck, North Carolina 27949

(252) 255-1234

## SPECIAL USE PERMIT APPLICATION – FILL/GRADING

Date: 1/30/24 Application #: SUP 24-002Amendment to an Existing Special Use Permit? (Y/N) N If yes, Permit #: \_\_\_\_\_Applicant: Jerry TatomMailing Address: 13800 Fairwood Rd, South Prince George, VA 23805Telephone #: 804-712-4114 Email: Jerry@Leetetire.comRepresentative (if different from applicant): Jeffrey BallardMailing Address: PO Box 2998 Kitty Hawk NC 27949Representative Telephone #: 252 489 9531 Email: Ballardnboy2@aol**Property Information:**Property Address/Location: 121 E SeahawkDare County PIN #: 986917112210 Zoning District: RS-1Existing Use of Property: Residential Single Family Dwelling

\*\*\*\*\*

Project Description: Construct 4500 sq ft Single Family HomeApplicable Ordinance Section: SPECIAL USE 156/55Ordinance Requirement: Fill is not allowed within 5' of property lineRelief Requested: Retaining wall @ 5' setback

The Duck Town Council, with a vote of a majority of the membership, may grant a special use permit. Subsection 156.128(C) of the Zoning Ordinance states that the Town Council is required to make certain findings as a prerequisite to granting a special use permit. The following section is intended to offer the applicant an opportunity to address these criteria for the Council members. Please answer each request as thoroughly as possible.

.....

1. Describe how the site of the proposed fill is otherwise adequate in size, shape, and other characteristics to accommodate the proposed project.

The lot size & proposed lot coverage  
comply with town regulations.

2. Explain how the requirements of the chapter are unreasonable or impractical due to the necessity for fill, lot shape, topographic features, mature vegetation, or location and characteristics of existing improvements on the lot.

The location of the development  
allows insufficient space for fill  
setbacks along the eastern property  
line common with 123 E Sea Hawk Drive.

3. Describe how the amount of fill requested is the minimum necessary to accommodate the proposed project.

The fill raises the site development  
above historic standing water levels.  
The depth of fill complies with  
town regulations.

4. Describe how the proposed fill/grading will not negatively impact adjacent properties or the surrounding area.

A Stormwater Management Evaluation  
by Ralph D. Calfee PE, Calfee Engineering,  
demonstrates no adverse stormwater  
impacts.

5. Explain how the proposal is consistent with the Town's adopted Vision and Comprehensive & Land Use Plan.

The development is single family  
residential consistent with the  
zoning district.

.....  
I understand that the Planning Board will first review the application and submit its recommendation to the Duck Town Council prior to the public hearing. The owner of the property for which the permit is sought, his/her agent, and adjoining property owners will be notified by mail. Notice of such hearing will be advertised and posted on the property within the required legal timeframe prior to the hearing. Any party may appear at such hearing, in person or by agent. As part of its decision, the Duck Town Council may impose reasonable and appropriate conditions and safeguards to ensure that the spirit and intent of this ordinance is preserved and that an approved special use permit will not adversely affect the public interest.

**The Following MUST Be Completed by the Property Owner**

I/We JERRY F. TATUM

hereby certify that the applicant named above has the authority vested by me to make this application.

Jerry F. Tatum  
(Signature of Property Owner or Authorized Agent)

SELF  
(Title or Relationship)

JERRY F. TATUM  
(Printed Name)



A complete application can be submitted in person to the Town of Duck Community Development Department at Duck Town Hall, 1200 Duck Road or mailed to Town of Duck, P.O. Box 8369, Duck, NC 27949. Checks should be made payable to the Town of Duck. A complete application consists of:

- ☒ Complete, signed special use permit application form
- ☐ Special use permit application fee
- ☒ Cover letter describing and supporting the proposal
- ☒ Site plans and/or building plans drawn to scale showing the existing and proposed improvements
- ☒ Drainage plan prepared by a N.C. licensed surveyor, engineer, landscape architect, or soil scientist depicting how stormwater on the site will be managed to avoid runoff on adjoining properties, rights-of-way, waterways and easements
- ☒ Other exhibits or information necessary to describe and support the proposal
- ☒ Any other information in support of the special use permit request

Fees are published in the Town's adopted Fee Schedule and are subject to change.

Special Use Permit	\$400.00
Special Use Permit - Home Occupation	\$200.00
Special Use Permit - Amendment	\$250.00

**FOR OFFICE USE ONLY**

Application Received 2/5/2024

Received By SMC

Fee Paid \$400.00

Receipt # 5942



Department of Community Development  
PO Box 8369  
1200 Duck Road  
Town of Duck, North Carolina 27949  
(252) 255-1234

Attachment

Date Issued:

12/20/2020

Permit #:  
B20-000305

## Building/Floodplain Development Permit

Project Address: 121 East SEA HAWK DR

Property Owner: TATUM, JON WESLEY

PIN #: 986917116210

Mailing Address: 1315 BUTLER BRANCH RD  
PETERSBURG, VA 23805

### Contractor:

Company Name: B&B Contractors

Phone: (252) 489-9551

Email: ballardnboyz@aol.com

Contact Name: Jeff Ballard

Address: P.O. Box 2998

Kitty Hawk, NC 27949

Classification: General Contractor

NC State License #: 60944

Expiration Date: 01/31/2012

Description of Work: Construct new 4 BR SFD, pool, parking, driveway and septic

Use:  
Single Family

Structure/Work Type:  
Primary Structure: **1.New Construction**  
Pool/Hot Tub: **Pool Only**  
Deck:  
Demo:

Accessory Building: ☐  
Bukhead (L.F.):  
Pier (L.F.):  
House Moving:

Permit Amount:  
3,721.25

Proposed Area Schedule (Sq.Ft.): Heated: 4,025 Unheated: 1,200 Accessory Heated: Accessory Unheated:

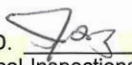
Proposed Finished Grade (ft.): N/A: ☐ House: 10 Pool: 9 Driveway: 8 Parking: Other:

Floodplain Development: Flood Zone: Unshaded X Existing Elevation: 7 LES/RFPE: 10 Structure Value: Storage Below Existing Elevation: ☐

Vegetation Management (Sq.Ft.): N/A: ☐ Required Coverage: 2373.0 Area Preserved: 0 Required Plantings: 2373.0

Project Cost Estimate:	Building	Electrical	Mechanical	Plumbing	Gas	Other	Total
	\$430,000.00	\$20,000.00	\$25,000.00	\$25,000.00	\$0.00	\$0.00	\$500,000.00

### Permit Conditions:

- Any change or changes in the plans for development, construction or land use activities will require a re-evaluation and modification of this permit.
- The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7 am and 6 pm, Monday through Saturday is prohibited.
- No areas of fill, including graded and leveled areas, may exceed 3 in depth.
- Slope of any fill areas from toes of the slope to the final ground elevations can be no greater than 3:1.
- All fill slopes must be installed so that the toe of the slope matches the existing grade no closer than five feet to any lot line.
- No land disturbing activity within 5 feet of property line.
- Vegetation canopy at completion of development and prior to CO must be greater than or equal to 15% coverage of Net Lot Area, or 2,373 s.f.
- Stabilize all disturbed areas prior to CO.
- Foundation survey required.
- Pool fence height limited to six (6) feet above adjacent grade.
- Height certificate required prior to CO.
- RFPE is 10'. All mechanicals and habitable space must be elevated to RFPE. Elevation Certificate required prior to CO.
- Provide Final As-Built Survey with Updated Coverage Breakdown.
- Tree removal permitted per attached tree removal plan.
- Environmental Health AWSC must be provided prior to the start of construction of the SFD.  (initial)
- See list of Required inspections at: <https://www.townofduck.com/wp-content/uploads/Typical-Inspections-revised-2020-03-11.pdf>.

This permit is issued on the expressed condition that all information is correct and all work will comply with the State Building Code and all other applicable State and Local laws, ordinances and regulations. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not.

Applicant Signature

Date



# NOTES:

Address: 121 East Sea Hawk Drive

Lot Area = 17,619 Sq. Ft.

Proposed Lot Coverage Info.

Structure Under Roof/  
Over Concrete= 2,020 Sq. Ft.

Concrete Drive= 1,861 Sq. Ft.

Pool Area= 1,200 Sq. Ft.

Lot Coverage= 5,081 Sq. Ft. (28.8%)

Setbacks shown are as per the Subd. Plat and as per Zoning; they do not reflect any Restrictive Covenants that may exist.

Certifier hereon is not responsible for utilities and/or features that are not visible at the time of the survey, nor any additional setbacks that are not shown.

## UTILITY EASEMENTS:

10' Along Sides

10' Along Street Frontage

15' Along Rear

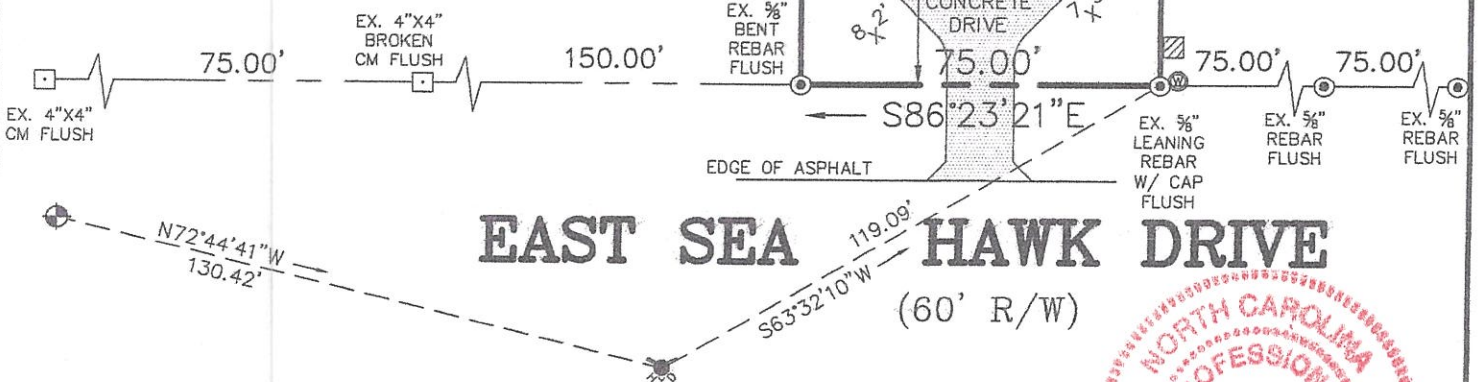
## LEGEND:

- Ex. CM
- ⊙ Ex. Rebar
- Rebar Set
- ⊙ Water Meter
- ⊙ Transformer
- ⊙ Fire Hydrant
- ⊙ Ex. S.S.S. Nail & Washer
- ⊙ Spot Elevation NAVD 88
- ⊙ Stake Set
- 6.6' Ground @ House Cn. NAVD 88

**APPROVED**  
Jul 11, 2020  
(9) 11/16/2020

D.B. 1957,  
PG. 401

D.B. 1568,  
PG. 322



I, M. DOUGLAS STYONS, JR., P.L.S., certify that this plat was drawn from an actual field and survey that the error of closure as calculated by latitudes and departures is at least 1:10,000.

Witness my hand and seal this 1st day of December A.D. 2020

P.L.S. L-3227

REVISED SITE PLAN OF

LOT 10, SEA HAWK SOUTH

SURVEYED FOR

**JON W. TATUM**

ATLANTIC TOWNSHIP  
DUCK

DARE COUNTY  
NORTH CAROLINA

DATE SURVEYED:  
6-19-2020

REV.: 12-1-20 ELEV.

SCALE: 1" = 40'

FILE NO.: 20-172

DWG NO.: 20172SPR

F.I.R.M.: 3720 9869 00 K

F.I.R.M. DATE: 6-19-2020

FLOOD ZONE: "X"

REC. REF. P.C.-B, SL. 169

D.B. 1812, PG. 19

PIN NO.: 21986917116210

*Styons Surveying Services P.A.*  
C-1697  
2700 N. Croatan Hwy. Kill Devil Hills, NC. 27948  
Phone: (252) 441-1415 Fax: (252) 480-1182

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CURRITUCK  
SOUND

DUCK

SITE

ATLANTIC  
OCEAN

SOUTHERN  
SHORES

VICINITY MAP (N.T.S.)



# NOTES:

Address: 121 East Sea Hawk Drive

Lot Area = 17,619 Sq. Ft.

Proposed Lot Coverage Info.

Structure Under Roof/  
Over Concrete= 2,020 Sq. Ft.

Concrete Drive= 1,861 Sq. Ft.

Pool Area= 1,200 Sq. Ft.

Lot Coverage= 5,081 Sq. Ft. (28.8%)

Setbacks shown are as per the Subd. Plat and as per Zoning; they do not reflect any Restrictive Covenants that may exist.

This survey was based on the existing property corners found in conjunction with the recorded reference given.

Certifier hereon is not responsible for utilities and/or features that are not visible at the time of the survey, nor any additional setbacks that are not shown.

## UTILITY EASEMENTS:

10' Along Sides

10' Along Street Frontage

15' Along Rear

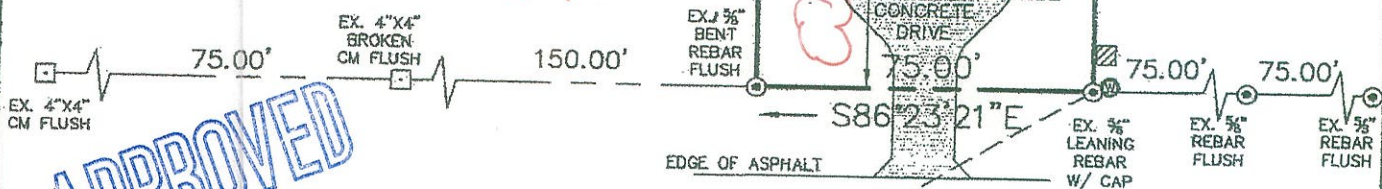
## LEGEND:

- Ex. CM
- Ex. Rebar
- Rebar Set
- ⊙ Water Meter
- ⊙ Transformer
- ⊙ Fire Hydrant
- ⊙ Ex. S.S. Nail & Washer
- ⊙ Spot Elevation
- ⊙ NAVD 88

Septic Layout Approved  
by DCDHHS, DPH, EH Unit  
On 11/25/20  
By *Tammie Payne*

D.B. 1957,  
PG. 301

6 @ 17" DBH  
multi branch  
(Typ)



**APPROVED**  
12/16/2020

**EAST SEA HAWK DRIVE**

(60' R/W)

I, M. DOUGLAS STYONS, JR., P.L.S., certify that this plat was drawn from an actual field land survey that the error of closure as calculated by latitudes and departures is at least 1:10,000.

Witness my hand and seal this 11th day of November A.D. 2020

P.L.S. L-3227

SITE PLAN OF

LOT 10, SEA HAWK SOUTH

SURVEYED FOR

**JON W. TATUM**

ATLANTIC TOWNSHIP  
DUCK

DARE COUNTY  
NORTH CAROLINA

VICINITY MAP (N.T.S.)

DATE SURVEYED:  
6-19-2020  
REV.: 11-6-20 SITE PLAN  
SCALE: 1" = 40'  
FILE NO.: 20-172  
DWG NO.: 20172SP

F.I.R.M.: 3720 9869 00 K  
F.I.R.M. DATE: 6-19-2020  
FLOOD ZONE: "X"  
REC. REF. P.C.-B, SL. 169  
D.B. 1812, PG. 19  
PIN NO.:  
21986917116210

*Styons Surveying Services P.A.*  
C-1697  
2700 N. Croatan Hwy. Kill Devil Hills, NC. 27948  
Phone: (252) 441-1415 Fax: (252) 480-1182

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NOTES:

Current Owner: Jon W. Tatum  
Address: 121 East Sea Hawk Drive  
Lot Area = 17,619 Sq. Ft.  
Existing Lot Coverage Info.  
Structure Under Roof/  
Over Concrete= 2,089.9 Sq. Ft.  
Concrete Drive= 1,543.3 Sq. Ft.  
Pool Area / Conc. Walk = 1,648.0 Sq. Ft.  
Lot Coverage= 5,281.2 Sq. Ft. (29.97%)

Setbacks shown are as per the Subd. Plat and as per Zoning; they do not reflect any Restrictive Covenants that may exist.

This survey was based on the existing property corners found in conjunction with the recorded reference given.

Certifier hereon is not responsible for utilities and/or features that are not visible at the time of the survey, nor any additional setbacks that are not shown.

UTILITY EASEMENTS:

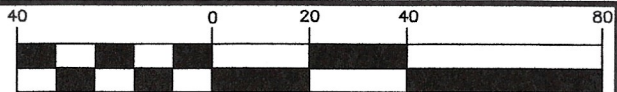
- 10' Along Sides
- 10' Along Street Frontage
- 15' Along Rear

LEGEND:

- Ex. CM
- Ex. Rebar
- Rebar Set
- Water Meter
- Transformer
- Fire Hydrant
- Ex. S.S.S. Nail & Washer
- UG Gas Tank
- Fence

REVISIONS:

5-16-23: Concrete removed from drive



1 inch = 40 ft.

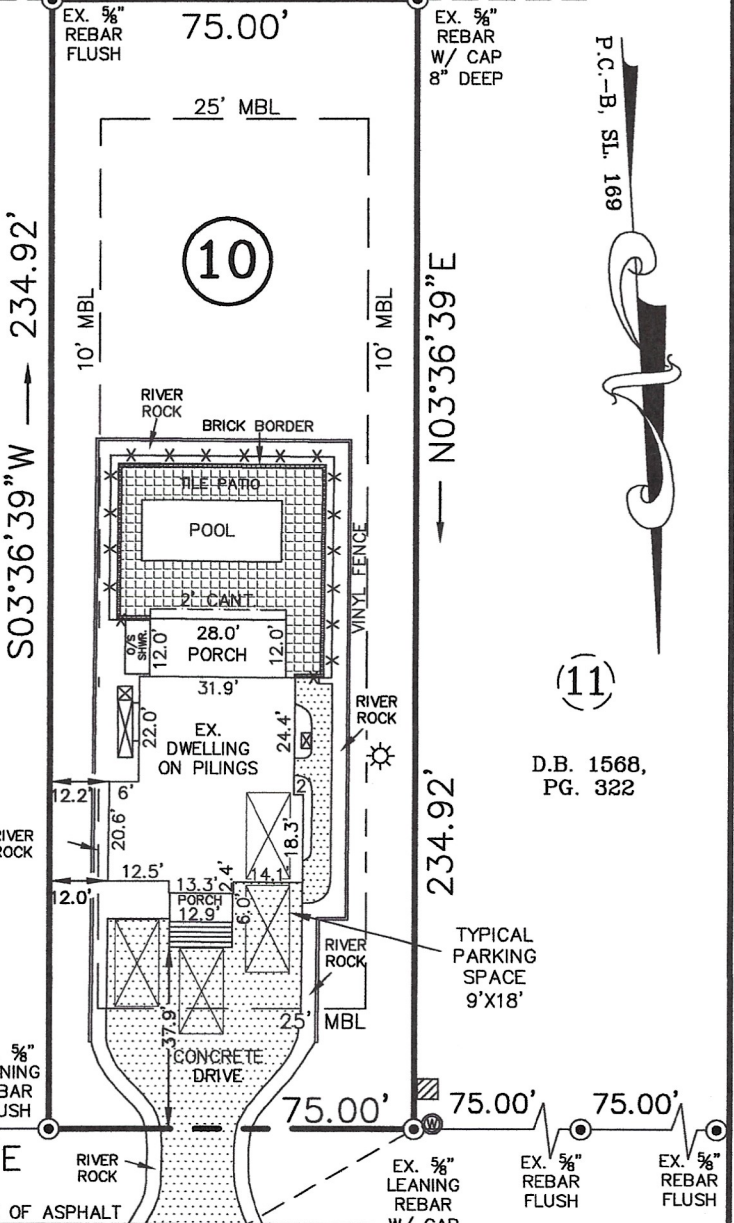
TUCKAHOE  
PHASE 1

P.C.-B, SL. 216

D.B. 2184,  
PG. 328

D.B. 2513,  
PG. 481

N86°23'21"W



EAST SEA HAWK DRIVE

(60' R/W)

I, M. DOUGLAS STYONS, JR., P.L.S., certify that this plat was drawn from an actual field land survey that the error of closure as calculated by latitudes and departures is at least 1:10,000.

Witness my hand and seal this 16th day of May A.D. 2023

P.L.S. L-3227

REVISED SECOND  
AS-BUILT SURVEY

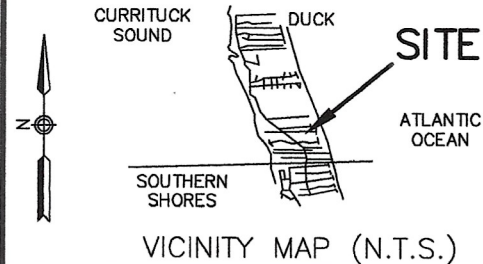
LOT 10, SEA HAWK SOUTH

SURVEYED FOR

JON W. TATUM

ATLANTIC TOWNSHIP  
DUCK

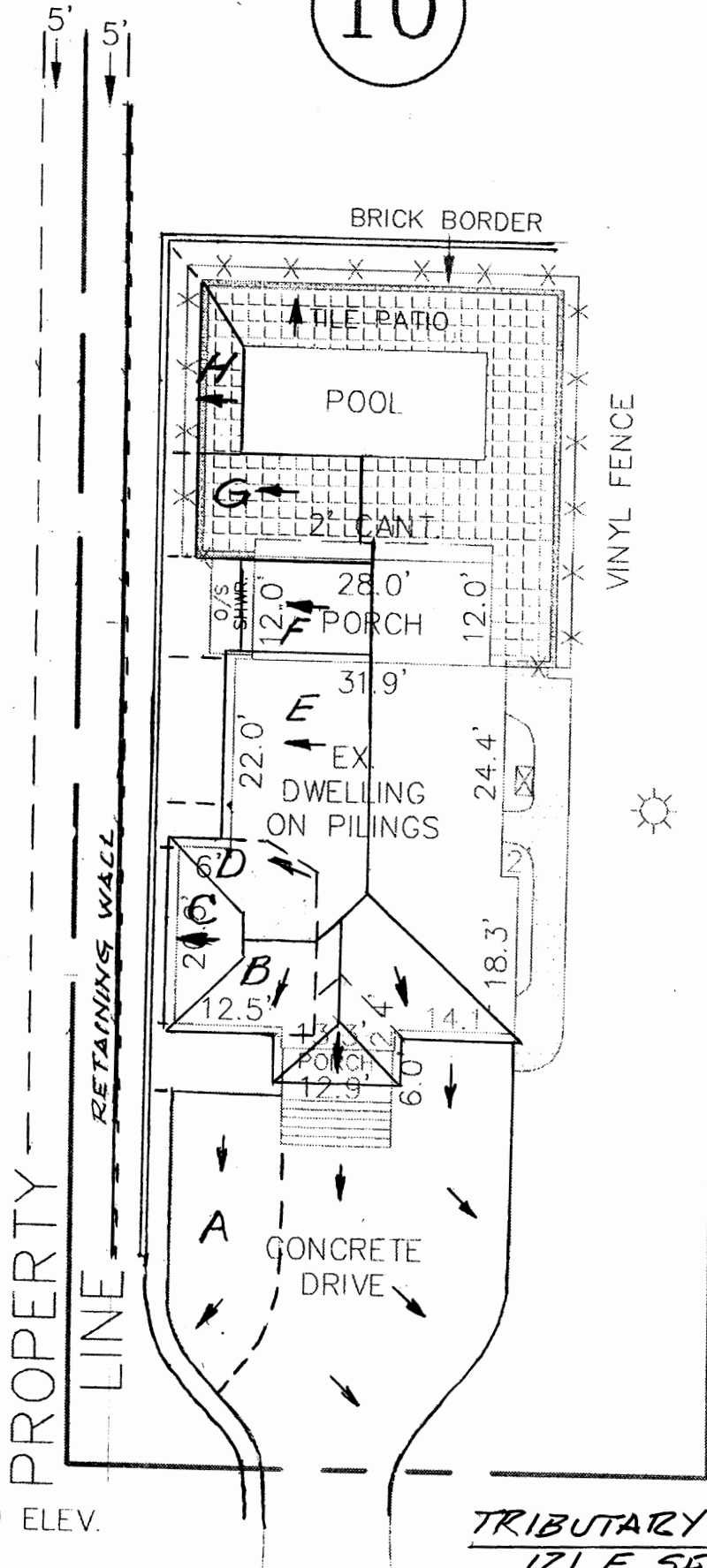
DARE COUNTY  
NORTH CAROLINA



DATE SURVEYED:  
05-16-2023  
REV.:  
SCALE: 1" = 40'  
FILE NO.: 20-172  
DWG NO.: 20172AB2R  
F.I.R.M.: 3720 9869 00 K  
F.I.R.M. DATE: 6-19-2020  
FLOOD ZONE: "X"  
REC. REF. P.C.-B, SL. 169  
D.B. 2607, PG. 936  
PIN NO.:  
21986917116210

Styons Surveying Services P.A.  
C-1697  
2700 N. Croatan Hwy. Kill Devil Hills, NC. 27948  
Phone: (252) 441-1415 Fax: (252) 480-1182  
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10



*[Signature]*  
1/22/24  
12200  
RALPH A. LIAW  
REGISTERED PROFESSIONAL ENGINEER  
CALIFORNIA No. 12200

CALFEE ENGINEERING  
3048 MARTINS PT. RD  
KITTY HAWK, NC 27849  
(252) 203-4025  
calfeengineering@  
charter.net

"=20'  
TYPICAL GROUND ELEV.  
NAVD 88

TRIBUTARY & RUNOFF AREAS  
121 E SEAHAWK DRIVE

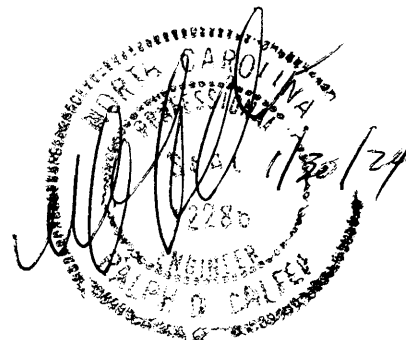
# Attachment F

Stormwater Runoff Evaluation Spreadsheet  
East-sloping Impermeable Surfaces  
121 Sea Hawk Drive, Duck, NC 27949  
January 30, 2024

## Assumptions:

Depth in feet to Seasonal High Water Table (DSHWT): +/- 5'  
Rainfall: 1.5" = 0.125 cubic foot (CF) per square foot area (SF)  
Max Rainfall Rate (MRR): 6" per hour (for 15 minutes) = 0.5 CF per hour per SF  
Soil Interstitial Capacity (SIC): 25% = 0.25 CF water per CF soil  
Soil Infiltration Rate (SIR): Greater than 20 in per hour => 1.68 CF per hour per SF  
Tributary Area: Impermeable Area (SF)  
Receiving Area: Area receiving Tributary Area Runoff (SF)  
Runoff Volume (RV): Impermeable SF x Rainfall (runoff coefficient = 1.0)  
Incident Rainfall Volume (IRV): Receiving SF x Rainfall (runoff coefficient = 0.0)  
RV + IRV: Runoff Volume + Incident Rainfall Volume  
Receiving Area Capacity: Receiving SA x Depth to SHWT x SIC  
Required Infiltration Rate: MRR x (Impermeable SF + Receiving SF) / Receiving SF

Tributary Area	Imperm Area SF	Receive Area SF	Runoff Vol CF	Incident Vol CF	RV+IRV CF	Rec Area Cap CF	Cap / (RV+IRV) RATIO	Req'd Infil Rate CF/hr	Average Req Infil Rate CF/hr	Soil Infil Rate / Avg Req'd Rate RATIO
A	293	448	36.6	56	92.6	560	6.05	0.827	0.827	2.03
B	198	124	24.8	15.5	40.3	155	3.85	1.3	1.3	1.29
C	117	53	14.6	6.6	21.2	66.3	3.13	1.6	1.6	1.05
D	173	45	21.6	5.6	27.2	56.3	2.07	2.42	1.68	1.00
E	374	158	46.8	19.8	66.6	198	2.97	1.68		
F	165	99	20.6	12.4	33	124	3.76	1.33		
G	238	48	29.8	6	35.8	60	1.68	2.98	1.64	1.02
H	80	92	10	11.5	21.5	115	5.35	0.93		
Total	1638	1067	205	133	338	1335	3.95			



CALFEE ENGINEERING  
3048 MARTINS POINT RD  
KITTY HAWK, NC 27949  
(252) 202-4025  
calfeeengineering@charter.net

Stormwater Management Evaluation  
121 E Sea Hawk Drive, Duck, NC  
January 30, 2024

Stormwater runoff from the western portions of impermeable lot cover (driveway, parking, residence, and swimming pool deck) at 121 E Sea Hawk Drive is managed as conventional residential development under Town of Duck regulations.

Stormwater runoff management from eastern portions of impermeable lot cover at 121 Sea Hawk Dr is the subject of the following evaluation:

## Summary:

Receiving area capacities for stormwater runoff from eastern-sloping impermeable surfaces range from 2 times to 6 times the runoff and incident rainfall volumes directed to the receiving areas. Receiving areas A, B and C, and combined receiving areas D, E and F, and G and H, provide receiving area infiltration rate capacities ranging from 1 time to 2 times the runoff and incident rainfall rates. 123 E Sea Hawk Drive is not anticipated to receive stormwater runoff from proposed development on 121 E Sea Hawk Drive for a design rainfall of 1.5 inches, including such rainfall occurring in 15 minutes.

## Narrative:

Proposed final development of 121 E Sea Hawk Drive does not provide sufficient space between the eastern property boundary common with 123 E Sea Hawk Drive and eastern portions of impermeable parking, residence and swimming pool deck at 121 E Sea Hawk Drive to accommodate conventional residential fill and stormwater management in accordance with Town of Duck residential development regulations. The proposed development on 121 E Sea Hawk Drive adjacent to 123 E Sea Hawk Drive includes a stabilized, east-west level (with slight down-slope to the south), natural sand soil area in the strip within 5 feet of the eastern property line common with 123 E Sea Hawk Drive; 2-foot high, neighbor-friendly (fence-faced) retaining wall along a line 5 feet from the E 121 Sea Hawk Drive eastern property line; impermeable facing on the western side of the retaining wall; 6-inch exposure on the upper portion of the western side of the retaining wall; 1:3 (rise:run) stabilized sand soil surface slope up to level; 6"x6" preservative-treated wood river-rock border; and 4-inch deep, level surface, river rock extending to the eastern edge of the ground-level parking/residential slab or swimming pool deck (the river-rock area generally is equal-to, or greater-than, 2 feet wide). See the attached drawing "Proposed Transect "D"".

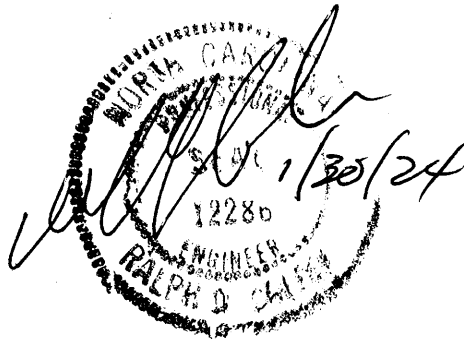
The stormwater runoff management evaluation is developed from tributary areas and runoff-receiving areas depicted on the attached sketch "Tributary and Runoff Areas". Tributary areas are designated by letters; the associated receiving areas are immediately east of the tributary areas. The boundaries of the tributary areas are established by field evaluation of existing slope directions of impermeable roof and slab surface areas. Receiving areas are defined as river-rock areas anticipated to receive runoff from the associated tributary areas.

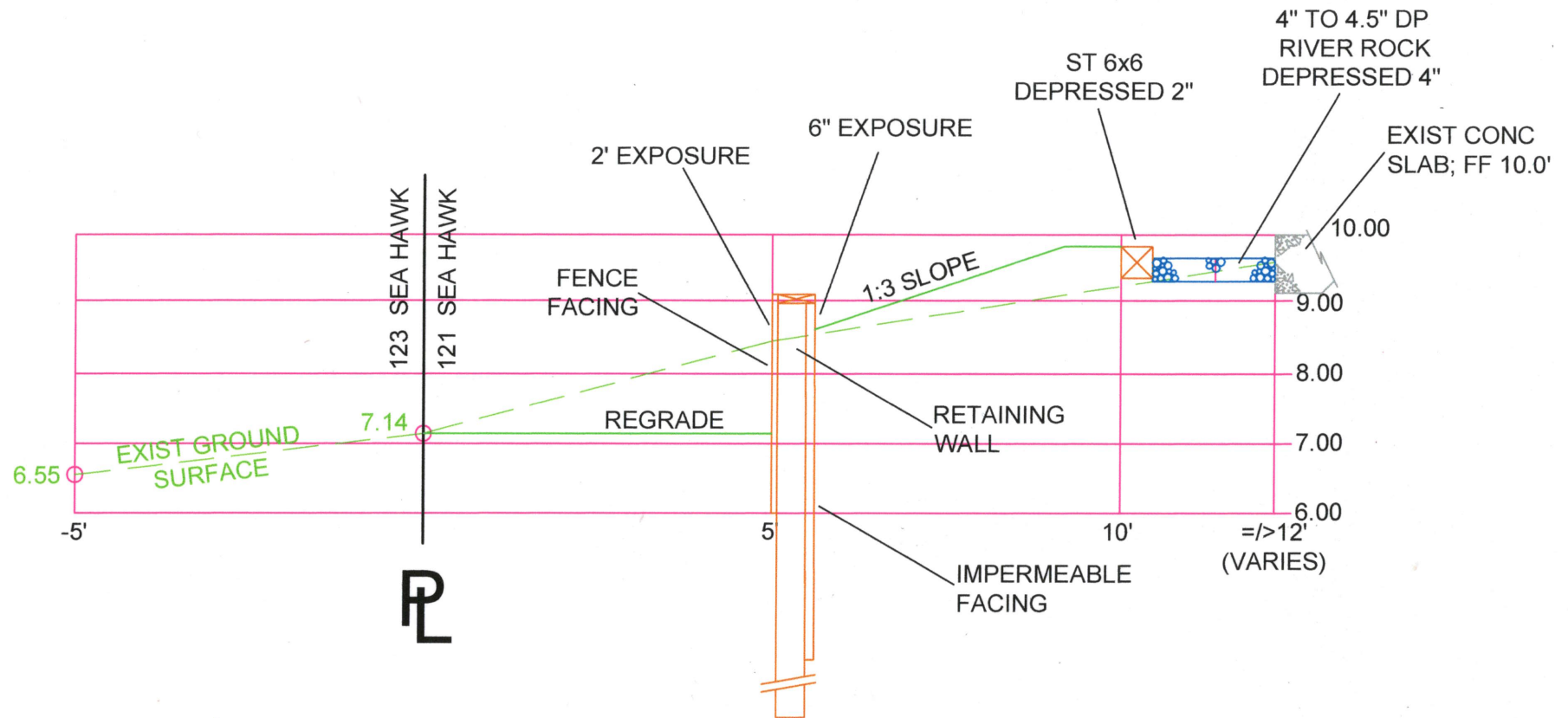
Calculations of stormwater runoff from impermeable surfaces, incident rainfall on receiving surfaces, receiving area runoff and rainfall capacities, and required receiving area infiltration rates are shown on the attached "Stormwater Runoff Evaluation Spreadsheet".



Receiving area capacities for stormwater runoff from eastern-sloping impermeable surfaces range from 2 times to 6 times the combined runoff and incident rainfall volumes directed to the receiving areas. Receiving area infiltration rate capacities range from 1 time to 2 times the runoff and incident rainfall rates for receiving areas A, B, and C. Receiving area D alone does not provide sufficient infiltration rate, but the slight down-slope to the south provides sufficient infiltration rate for combined receiving areas D, E, and F. Similarly, combined receiving areas G and H provide sufficient infiltration rate. 123 E Sea Hawk Drive is not anticipated to receive stormwater runoff from proposed development on 121 E Sea Hawk Drive for a design rainfall of 1.5 inches, including such rainfall occurring in 15 minutes.

Ralph D Calfee PE  
Calfee Engineering  
3048 Martins point Rd  
Kitty Hawk, NC 27949  
[calfeeengineering@charter.net](mailto:calfeeengineering@charter.net)





PROPOSED TRANSECT "D"  
121 SEA HAWK, DUCK  
(TYPICAL CONDITION)

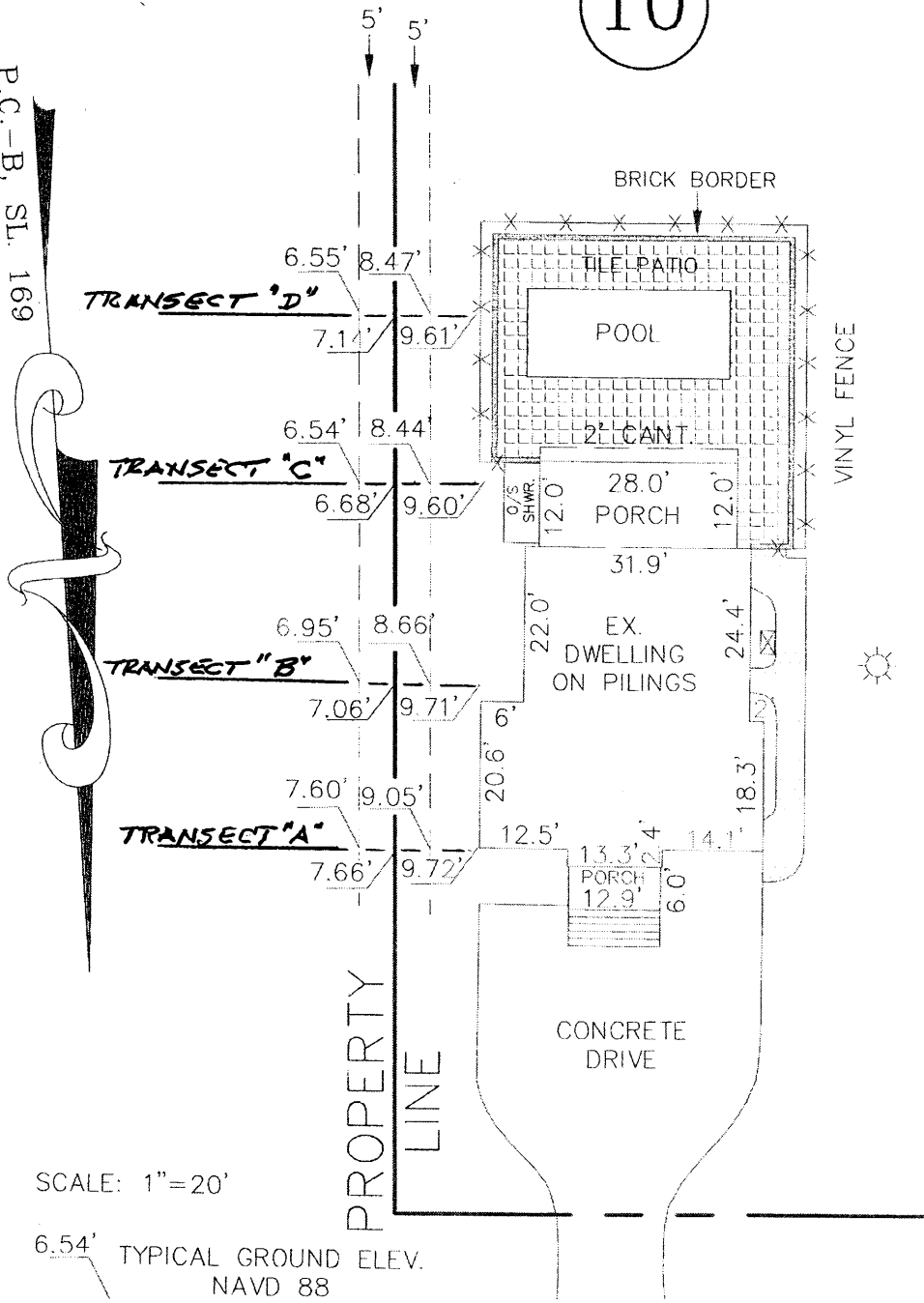
N.T.S.

JANUARY 28, 2024

CALFEE ENGINEERING  
3048 MARTINS POINT RD  
KITTY HAWK, NC 27949  
(252) 202-4025  
calfeeengineering@charter.net



P.C.-B, SL. 169

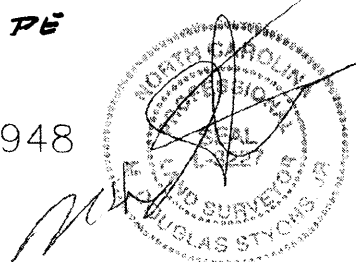


THIS IS NOT A COMPLETE SURVEY BUT FOR INFORMATION PURPOSES ONLY.

Witness my hand and seal this 17th day of November A.D. 2023

MARK-UP 12/23/23 RALPH D GALTRE PE

STYONS SURVEYING SERVICES, PA  
2700 N. CROATAN HIGHWAY, NC 27948  
252-441-1415



Return to: Town of Duck  
P.O. Box 8369  
Duck, NC 27949

Document Prepared by: Town of Duck  
P.O. Box 8369  
Duck, NC 27949



TOWN OF DUCK, NORTH CAROLINA

**ORDER GRANTING A SPECIAL USE PERMIT**

The Town Council for the Town of Duck, having held a public hearing on March 6, 2024 to consider application number SUP 24-002 submitted by Jerry & Lois Tatum, a request for a special use permit to at the property located at 121 East Sea Hawk Drive, Duck, North Carolina, in a manner prescribed under Subsection 156.155 of the Zoning Ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS and draws the following CONCLUSIONS:

1. It is the Town Council's CONCLUSION that the site for the proposed fill is otherwise adequate in size, shape and other characteristics to accommodate the proposed project. This conclusion is based on the following FINDINGS OF FACT:
  - a) The recently constructed residence, swimming pool, and accessory improvements otherwise comply with the Town's current development standards (minimum setbacks, maximum lot coverage, etc).
2. It is the Town Council's CONCLUSION that the applicant has demonstrated that the requirements of this chapter are unreasonable or impractical due to the necessity for the fill, lot shape, topographical

features, location of mature vegetation, or location and characteristics of existing improvements on the lot. This conclusion is based on the following FINDINGS OF FACT:

- a) Due to the height of the fill added and the relatively close proximity of the residence to the eastern side property line, the applicant cannot comply with Town standards regarding the minimum setback of fill and grading activities from property line.
  - b) In addition, attempts to further minimize the encroachment of fill and grading activities results in either a steeper slope or potential destabilization of the house pad.
  - c) The proposed retaining wall and associated fill are intended to stabilize the house pad on the subject property and minimize any stormwater drainage impacts to the adjoining property.
  - d) The Town's current standards limit this solution for stabilization and minimizing impacts on the adjoining property by preventing the use of a low retaining wall to stabilize the house pad.
3. It is the Town Council's CONCLUSION that the amount of fill proposed is the minimum necessary to accommodate the proposed project. This conclusion is based on the following FINDINGS OF FACT:
- a) The addition of fill and height of the proposed retaining wall appear to be consistent with the height necessary to support the existing elevation of the house pad.
4. It is the Town Council's CONCLUSION that proposed fill will not negatively impact adjacent properties or the surrounding area. This conclusion is based on all of the FINDINGS OF FACT:
- a) A stormwater runoff analysis), stormwater management evaluation, and cross section of the proposed design were prepared by Calfee Engineering show that the proposed retaining wall and accompanying improvements will provide adequate on-site stormwater management and not negatively impact the adjoining property to the east.
5. It is the Town Council's CONCLUSION that the special exception will be consistent with any applicable goals, policies and objectives specified in the Town's adopted Comprehensive & CAMA Land Use Plan and Vision Statement.

a) This special use permit request is intended to address stormwater management issues, which is a stated goal of the CLUP and 2032 Vision.

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a SPECIAL USE PERMIT be GRANTED:

- (1) to allow the retaining wall and bulkhead to support and contain fill.
- (2) to allow fill and grading activities, tapered per the approved plan, to the eastern property line.

This ORDER granting APPROVAL shall be SUBJECT to the following CONDITIONS:

1. The applicant must submit required application materials and obtain necessary land disturbance and building permits prior to commencing work.
2. All areas of land disturbance must be stabilized prior to issuance of a Certificate of Completion for the project.

ORDERED this 6th day of March, 2024

SEAL:

ATTEST:

TOWN OF DUCK

By: \_\_\_\_\_  
Lori A. Ackerman, Town Clerk

By: \_\_\_\_\_  
Don Kingston, Mayor

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County and State of \_\_\_\_\_, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission Expires: \_\_\_\_\_ Notary Public

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

**THIS PERMIT IS ACCEPTED:**

By: \_\_\_\_\_

Jerry Tatum

By: \_\_\_\_\_

Lois Tatum

DRAFT

**AGENDA:      March 6, 2024      Regular Meeting**

**ITEM #6:**

Legislative Public Hearings

A.      None at This Time

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None



**AGENDA:      March 6, 2024      Regular Meeting**

**ITEM #7:**

Old Business/Items Deferred from Previous Meetings

- A.    Discussion/Consideration of Directing Staff to Develop an Ordinance to Ban the Release of Balloons in Duck

**RECOMMENDED ACTION:**

- See attachments

**SUMMARY OF INFORMATION:**

- See attachments

**ATTACHMENTS:**

- See attachments

**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #7A:**

Old Business/Items Deferred from Previous Meetings

- A. Discussion/Consideration of Directing Staff to Develop an Ordinance to Ban the Release of Balloons in Duck

**RECOMMENDED ACTION:**

- Discuss and provide direction to staff.

**SUMMARY OF INFORMATION:**

In early February, the Town Council received an e-mail from Southern Shores resident Debbie Swick highlighting the concerns about the release of balloons due to the environmental damage caused by the litter resulting when they return to earth.

The Town Council, at the February 7, 2024 meeting, recommended pursuing this matter through education and public information rather than taking steps toward adopting a specific regulation banning releases.

A second e-mail from Ms. Swick was received on February 18, 2024 prompting further consideration of this topic.

**ATTACHMENTS:**

- Debbie Swick balloon ban letter
- Balloon memorandum from Drew Havens
- E-mail from Debbie Swick (2/18/2024)

Debbie Swick  
59 Deer Path Lane, Southern Shores, NC 27949  
252-715-5945 570-269-7188  
[debswick@hotmail.com](mailto:debswick@hotmail.com)

**RE: BAN THE RELEASE OF HELIUM BALLOONS IN THE STATE OF NORTH CAROLINA**

Dear Mayor and Esteemed Town Commissioners,

As an extremely active volunteer for many organizations on the Outer Banks I can bear witness to the horrors that all litter, and more specifically, balloon pollution, creates on Our beautiful shoreline and in Our oceans. As a member of N.E.S.T. and a member of The Mammal and Seal Stranding Teams, I see firsthand examples of how balloons cause injury and death to these magnificent creatures, some who have sadly obtained Government Status as ENDANGERED. With your help, I hope to acquire local resolutions prohibiting the release of ALL helium/nitrous balloons while also implementing other restrictions for safer sales and post purchasing practices. My goal is to obtain Legislation throughout the State of North Carolina, and further use it to entice other States throughout Our Country to do the same. The Releasing of Balloons is not strictly a coastal issue. It harms wildlife AND domestic animals throughout the whole United States. Balloon Pollution is a Global problem; one we can address here, at home, and make a grand statement that it is not only not accepted here but will no longer be tolerated in our Beautiful Outer Banks and its surrounding areas.

The Latex balloon is made from plant-based materials and is marketed as biodegradable. There are, in fact, chemicals added to the process which allows the balloon to exist longer. These take approximately 4 to 5 years to break down. The Mylar balloon is created from Nylon and a thin layer of metalized film on top, which is made from petroleum. This type of balloon can take, according to scientific research, upwards of 100 years to break down. The ribbon takes about 150 years. THEY NEVER, NEVER COMPLETELY GO AWAY as they break down into microplastics, causing damage to sea life of all sizes.

Sea inhabitants become ensnared in ribbon, as do Our magnificent shorebirds. Balloon plastic is the number one threat to a shorebird's existence and is 32% higher than the threat of hard plastics. Sea Turtles mistake balloons for jellyfish, a staple in their diet. Larger mammals ingest these balloons. They become lodged in the digestive tract giving the animal a sense of having eaten recently. This causes the animal to stop feeding and it will die a horrific and agonizing death of starvation. In November 2023, a Gervais Beaked Whale was found deceased on Emerald Isle, NC. It was determined that the cause of death was in fact an ingested balloon which was found to be intact at the necropsy. This was a nursing calf, still at his mother's side. At the site of the December 27, 2023 stranding of a Sperm Whale in Nags Head I found a balloon not far from the water that had a company logo on it. When I traced the company to its location, I found that it had traveled 760 miles from a realtor office in Birmingham, Alabama. While it had not made it to the ocean it certainly could have caused harm to another animal as BALLOONS ARE THE NUMBER 1 CAUSE OF DEATH FOR SPERM WHALES.

The average helium balloon is able to travel approximately 1300 miles. The Cape Hatteras National Seashore National Park Service recently reported that they collected 1786 balloons in 2023. The number collected in 2022 was 733; an increase of more than 1000 balloons. One of the balloons collected this year had been released 3 days prior to its being found and was released from Wisconsin. I remind people to liken a balloon traveling through the wind currents across our Country as did the smoke from the Canadian wildfires in the Summer of 2023. Balloons can blow! I also like to remind listeners that while the number of retrieved balloons is impressive, consider firstly that this is over a span of approximately 70 miles of our 3375 mile coastline and secondly, imagine if you can, how many thousands more balloons did not land on our coast, but came to rest in our beautiful ocean. The numbers must be staggering.

Balloon releases can be both ACCIDENTAL and PURPOSEFUL. An accidental release occurs when attempting to load your car in a windy environment, or breaking free from a sign or mailbox, for example. A purposeful release occurs for Weddings, Graduations, Gender Reveals and most popular, Memorializing a loved one. Alternatives exist in many forms. One can choose brightly colored pinwheels for signage or mailboxes. One can scatter birdseed or wildflower seeds, use all natural confetti, plant a tree, or my favorite, blow bubbles. I promise you; BALLOONS DO NOT MAKE IT TO HEAVEN! The use of balloons can and should be replaced with items that are more respectful to the world we live in and all its inhabitants. As a frequent roadside and beach trash collector, the number of balloons retrieved is heartbreaking, but I promise you I've never had cause to pick up seeds or bubbles.

If you are driving down the road and throw a deflated balloon out of your car window, it is called littering. If you fill a balloon with helium and let it go into the air, do you know what that is called? It is STILL littering!

I ask that you consider implementing covenants, resolutions or bylaws for the following:

1. All Helium/Nitrous filled balloons sold in your town jurisdiction be required to have a one ounce or more weighted object attached to their tether at the time of sale.
2. No balloons may be used as attachments to unsupervised and unmonitored outdoor signage, mailboxes, railings, tables, etc. where accidental releasing may occur.
3. No companies may advertise or offer for sale, at any time, balloons whose sole intention is that for releasing, i.e., memorial, wedding, graduation, etc.,
4. NO BALLOONS, WITH THE EXCEPTION OF GOVERNMENTAL PERMISSION, MAY BE RELEASED AT ANY TIME, FOR ANY PURPOSE, IN ANY AMOUNT.

We are all so fortunate to reside where we do. What a great and resounding testament to our residents and visitors alike that we, together are taking a stand to exclaim that our Coast and its inhabitants matter to us, today, and for all time to come.

Most humbly and Respectfully,

Debbie Swick



February 5, 2024

To: Members of the Duck Town Council

From: Drew Havens, Town Manager

Re: Balloon Release Regulations

Following up on the e-mail Southern Shores resident Debbie Swick sent you regarding regulating balloons in Duck, I did some research and spoke with colleagues while at the NC City/County Managers Association conference last week.

Ms. Swick specifically asked Council to consider:

1. All Helium/Nitrous filled balloons sold in your town jurisdiction be required to have a one ounce or more weighted object attached to their tether at the time of sale.
2. No balloons may be used as attachments to unsupervised and unmonitored outdoor signage, mailboxes, railings, tables, etc. where accidental releasing may occur.
3. No companies may advertise or offer for sale, at any time, balloons whose sole intention is that for releasing, i.e., memorial, wedding, graduation, etc.
4. No balloons, with the exception of governmental permission, may be released at any time, for any purpose, in any amount.

It does not appear that authority exists in North Carolina for towns to regulate how balloons are sold or advertised for sale. This effectively eliminates items one and three from the above list. States, such as California, have enabled these types of provisions, but such enabling legislation does not exist in North Carolina.

With regard to item two, it appears that we have the authority, in our sign regulations, to include a prohibition on the use of balloons on signs.

For item four, we have the authority to prohibit the release of balloons (intentional or accidental) from any property within the Town. Several towns in North Carolina have a such a provision in

their ordinances, some with a general prohibition and others specifically including releases from waters and beach front within the zoning jurisdiction of the town.

One of the more recent instances of this type of ordinance being considered was in the City of Greenville, where, after some initial conversations and the development of an ordinance, the City Council voted against adopting the proposed ordinance (4-3 vote).

Absent any change in our ordinance, we would fall back on the state law that prohibits littering to deal with any release of balloons an officer observes. Of course, this is a great topic to include in our public education/outreach to ensure that our residents and visitors are aware of the potential harm balloons can cause.

I will bring this up, unless told otherwise, at your meeting on Wednesday and get your direction regarding the development of any ordinance changes you desire to make (if any).

**From:** Account Update <[debswick@hotmail.com](mailto:debswick@hotmail.com)>  
**Sent:** Sunday, February 18, 2024 2:44 PM  
**To:** Lori Ackerman <[lackerman@townofduck.com](mailto:lackerman@townofduck.com)>  
**Subject:** Balloon Release Ban NC

Dear Mayor Kingston and Esteemed Council Members,

As a follow up to my previous email requesting ordinances to prevent the release of helium balloons, I wanted to share with you my recent accomplishment having received support from OBAR, the Outer Banks Association of Realtors. As this organization contains approximately one thousand members, I feel a great sense of pride in articulating the need for balloon use responsibility to this large group of residents. The Board for OBAR will no longer permit the use of helium balloons for their agents' open houses. My journey to acquire much needed legislation will not diminish my need to continue educating all those who live and visit Our beautiful area, as well as those who reside in other States whose releases can impact Our beaches and wildlife as well. I also successfully contacted Realty South, which is a very large real estate company in Alabama. A balloon released from one of their offices was found by me on December 27, 2023 on the beach in Nags Head at the site of a beached Whale. After many calls and emails, they have agreed to no longer provide helium balloons to their agents for use and will educate them as to the impact balloons have on Our coast and wildlife.

I have set up a Facebook page under the heading **Ban Balloon Releases NC** and encourage you to visit and join in the conversations from so many like-minded people who are angered by balloon litter. I have numerous hard copy petitions located throughout the Outer Banks and one online, available to educate and gather signatures from residents as well. This may be visited at [Change.org/BanBalloonReleasesNC](https://www.change.org/BanBalloonReleasesNC). I continue to speak at groups and meetings. I have recently been interviewed on BEACH 104 and will be seen on SPECTRUM 1 NEWS on Wednesday, February 21, 2024, airing from 5:00am to 12:00pm, several times throughout the morning. I hope to create a PSA for Current TV as well. I pledge to serve this most magnificent beach community by never ceasing in my message about an easily remedied problem. Although enforcement of these ordinances may seem improbable, I believe that the enactment of them will create a strong voice to all and will undoubtedly deter a possible release when there are understood consequences for their actions. The action of littering is also very hard to enforce. The undeniable difference between the two is that ordinary litter falls to the ground. A balloon as litter will float away and with lack of evidence may not be covered under any pre-existing litter ordinances.

What a great opportunity lay before this administration to be a part of this monumental movement. As I continue towards legislation on then State level, I encourage you to take pause and consider creating ordinances for the town of Duck, NC and be a well-remembered and appreciated Board who made decisions everyone will respect.

I ask this not for myself, but for the wildlife we strive to spare from human impact and for the State we are all so fortunate to call home.

Respectfully submitted,  
Debbie Swick

**AGENDA:      March 6, 2024      Regular Meeting**

**ITEM #8:**

New Business

A. None at This Time

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None



**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #9:**

Items Referred to and Presentations from the Town Attorney

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None

**AGENDA:        March 7, 2024        Regular Meeting**

**ITEM #10:**

Items Referred to and Presentations from the Town Manager

- A.     Departmental Updates
- B.     January FY 2024 Financial Presentation

**RECOMMENDED ACTION:**

- See attachments

**SUMMARY OF INFORMATION:**

- See attachments

**ATTACHMENTS:**

- See attachments

**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #10A:**

Items Referred to and Presentations from the Town Manager

- A.     Departmental Updates

**RECOMMENDED ACTION:**

- None required.

**SUMMARY OF INFORMATION:**

The Town Council will receive an update on departmental activities.

**ATTACHMENTS:**

- None

**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #10B:**

Items Referred to and Presentations from the Town Manager

B. January FY 2024 Financial Presentation

**RECOMMENDED ACTION:**

- None required

**SUMMARY OF INFORMATION:**

A financial summary will be available at the Town Council meeting.

**ATTACHMENTS:**

- None

**AGENDA:      March 6, 2024      Regular Meeting**

**ITEM #11:**

Mayor's Agenda

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None

**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #12:**

Council Members' Agenda

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None

**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #13:**

Other Business

A. Additional Public Comments

**RECOMMENDED ACTION:**

- None required

**SUMMARY OF INFORMATION:**

- Council will take additional comments from the public.

**ATTACHMENTS:**

- None

**AGENDA:        March 6, 2024        Regular Meeting**

**ITEM #14:**

Adjournment

**RECOMMENDED ACTION:**

- Per discussion

**SUMMARY OF INFORMATION:**

The next scheduled meeting will be the Regular Meeting on Wednesday, April 3, 2024 at 1:00 p.m.

**ATTACHMENTS:**

- None