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General Counsel



TO: The Coastal Resources Commission

FROM: Christine A. Goebel, DEQ Assistant General Counsel

DATE: August 12, 2024 (for the August 27-28, 2024 CRC Meeting)

RE: **Variance Request by Dare County Tourism Board & Town of Nags Head (CRC-VR-24-06)**

Petitioners Dare County Tourism Board and Town of Nags Head own property known as the Soundside Event Site in Nags head which is governed by an MOU between Petitioners. They propose to further develop the Site public amenities such as piers, kite boarding pier, walkways, gazebo, viewing platforms and a pergola. On June 21, 2024, DCM issued Petitioners CAMA Major Permit No. 61-24 authorizing most of the proposed amenities, but in accordance with the Commission's Rules, DCM conditioned out those portions of boardwalk located over Coastal Wetlands and which were proposed to be 10' wide- to no more than the 6' width allowed by rule. Petitioners now seek a variance to develop the walkway with the wider width as proposed in their application for those portions over Coastal Wetlands.

The following additional information is attached to this memorandum:

Attachment A: Relevant Rules  
Attachment B: Stipulated Facts  
Attachment C: Petitioner's Positions and Staff's Responses to Variance Criteria  
Attachment D: Petitioner's Variance Request Materials  
Attachment E: Stipulated Exhibits including powerpoint

cc(w/enc.): Bob Hornick, Esq., Petitioners' Attorney, electronically  
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically



## ATTACHMENT A

## RELEVANT RULES

## 15A NCAC 07H .0208 USE STANDARDS

## (a) General Use Standards

(1) **Uses that are not water dependent shall not be permitted in coastal wetlands, estuarine waters, and public trust areas. Restaurants, residences, apartments, motels, hotels, trailer parks, private roads, factories, and parking lots are examples of uses that are not water dependent. Uses that are water dependent include: utility crossings, wind energy facilities, docks, wharves, boat ramps, dredging, bridges and bridge approaches, revetments, bulkheads, culverts, groins, navigational aids, mooring pilings, navigational channels, access channels and drainage ditches;**

(2) Before being granted a permit, the CRC or local permitting authority shall find that the applicant has complied with the following standards:

(A) The location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC in Rule .0203 of this Section and shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission in 15A NCAC 03I .0101(4)(i), and spawning and nursery areas;

(B) Development shall comply with State and federal water and air quality rules, statutes, and regulations;

(C) Development shall not cause irreversible damage to documented archaeological or historic resources as identified by the N.C. Department of Natural and Cultural Resources;

(D) Development shall not increase siltation;

(E) Development shall not create stagnant water bodies;

(F) Development shall be timed to avoid significant adverse impacts on life cycles of estuarine and ocean resources; and

(G) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.

(3) When the proposed development is in conflict with the general or specific use standards set forth in this Rule, the CRC may approve the development if the applicant can demonstrate that the activity associated with the proposed project will have public benefits consistent with the findings and goals of the Coastal Area Management Act identified in G.S. 113A-102, that the public benefits outweigh the adverse effects of the project, that there is no alternate site available for the project, and that all means and measures to mitigate adverse impacts of the project have been incorporated into the project design and shall be implemented at the applicant's expense. Measures taken to mitigate or minimize adverse impacts shall include actions that:

- (A) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
  - (B) restore the affected environment; or
  - (C) compensate for the adverse impacts by replacing or providing substitute resources.
- (4) "Primary nursery areas" are defined as those areas in the estuarine and ocean system where initial post larval development of finfish and crustaceans takes place and populations are uniformly in their early juvenile stages. Primary nursery areas are designated and described by the N.C. Marine Fisheries Commission (MFC) at 15A NCAC 03R .0103 and by the N.C. Wildlife Resources Commission (WRC) at 15A NCAC 10C .0502;
- (5) "Outstanding Resource Waters" (ORW) are defined as those estuarine waters and public trust areas classified by the N.C. Environmental Management Commission (EMC) as defined in 15A NCAC 02B .0225; and
- (6) Beds of "submerged aquatic vegetation" are defined as those habitats in public trust and estuarine waters, that occur in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas, vegetated with one or more species of submergent vegetation as listed in 15A NCAC 03I .0101(4)(i). Any rules relating to beds of submerged aquatic vegetation shall not apply to non-development control activities authorized by the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et seq.).
- (7) "Adverse impact", "adverse impacts", "adverse effects", or similar formulations, are defined as an effect or impact that is opposed to the goals of the Coastal Area Management Act as found in G.S. 113A-102(b) and with the provisions of G.S. 113-229(e).
- (8) "Significant" as used in this Section includes consideration of both context and intensity. Context means that the impact or effect shall be analyzed from several perspectives that include society as a whole (human, national), the affected subregion of the North Carolina coast, the local area and all directly and indirectly affected parties. Both short- and long-term effects are relevant. Intensity refers to the severity of impact or effect. The following shall be considered in evaluating intensity:
- (A) both adverse impacts as defined in Subparagraph (a)(7) of this Rule and impacts that promote or enhance the goals of the Coastal Area Management Act set out at G.S. 113A-102(b);
  - (B) the degree to which the proposed action affects public health or safety;
  - (C) unique characteristics of the geographic area;
  - (D) the degree to which the possible effects on the environment are uncertain or involve unique or unknown risks;
  - (E) the degree to which the CRC's permit decisions may establish a precedent for future CRC permit decisions;
  - (F) the degree to which the CRC's permit decisions are related to other CRC permit decisions with individually insignificant but cumulatively significant impacts. Significance cannot be

avoided by terming an action temporary or by breaking it down into smaller component parts;  
and

(G) the degree to which the CRC's permit decision may cause the loss or destruction of scientific, cultural, historical, and environmental resources as those terms are commonly defined and understood.

**(b) Specific Use Standards**

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**(6) Piers and Docking Facilities.**

(A) Piers shall not exceed six feet in width. Piers greater than six feet in width shall be permitted only if the greater width is necessary for safe use, to improve public access or to support a water dependent use that cannot otherwise occur;

(B) The total square footage of docks, platforms, and mooring facilities (excluding the pier) allowed shall be eight square feet per linear foot of shoreline with a maximum of 2,000 square feet to limit shading impacts to the substrate. In calculating the total square footage, uncovered open water slips shall not be counted in the total. Projects requiring dimensions greater than those stated in this Rule shall be permitted only if the greater dimensions are necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur. Size restrictions shall not apply to marinas;

**(C) Piers and docking facilities over coastal wetlands shall be no wider than six feet and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking;**

(D) A boathouse shall not exceed 400 square feet except to accommodate a documented need, provided to the Division of Coastal Management by the applicant for a larger boathouse and shall have sides extending no farther than one-half the height of the walls as measured from the Normal Water Level or Normal High Water to the bottom edge of the roofline, and covering only the top half of the walls. Measurements of square footage shall be taken of the greatest exterior dimensions. Boathouses shall not be allowed on lots with less than 75 linear feet of shoreline, except that structural boat covers utilizing a frame-supported fabric covering may be permitted on properties with less than 75 linear feet of shoreline when using screened fabric for side walls. Size restrictions do not apply to marinas;

(E) The total area enclosed by an individual boat lift shall not exceed 400 square feet except to accommodate a documented need for a larger boat lift;

(F) Piers and docking facilities shall be single story. They may be roofed but shall not be designed to allow second story use;

(G) Pier and docking facility length shall be limited by:

(i) not extending into the channel portion of the water body; and



(ii) not extending more than one-fourth the width of a natural water body, or human-made canal or basin. Measurements to determine widths of the water body, canals, or basins shall be made from the waterward edge of any coastal wetland vegetation that borders the water body. The one-fourth length limitation does not apply in areas where the U.S. Army Corps of Engineers, or a local government in consultation with the Corps of Engineers, has established an official pier head line. The one-fourth length limitation shall not apply when the proposed pier is located between longer piers or docking facilities within 200 feet of the applicant's property.

(iii) Notwithstanding Subparts (i) and (ii) of this Part, the proposed pier or docking facility shall not be longer than the pier head line established by the piers or docking facilities along the same contiguous shoreline having the same land use, nor longer than one-third the width of the water body. This restriction does not apply to piers 100 feet or less in length unless necessary to avoid unreasonable interference with navigation or other uses of the waters by the public.

(H) Piers or docking facilities longer than 400 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least 1 foot for each 100 foot increment of length longer than 400 feet, or, if the additional length is necessary to span some obstruction to navigation. Measurements to determine lengths shall be made from the waterward edge of any coastal wetland vegetation that borders the water body;

(I) Piers and docking facilities shall not interfere with the access to any riparian property and shall have a minimum setback of 15 feet between any part of the pier or docking facility and the adjacent property owner's areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co applicants. If the adjacent property is sold before construction of the pier or docking facility commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development of the pier. Application of this Rule may be aided by reference to the approved diagram in 15A NCAC 07H .1205(t) illustrating the rule as applied to various shoreline configurations. When shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier shall be aligned to meet the intent of this Rule to the maximum extent practicable as determined by the Director of the Division of Coastal Management; and

(J) Applicants for authorization to construct a pier or docking facility shall provide notice of the permit application to the owner of any part of a shellfish franchise or lease over which the proposed dock or pier would extend. The applicant shall allow the lease holder the opportunity to mark a navigation route from the pier to the edge of the lease.

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**ATTACHMENT B****STIPULATED FACTS**

1. Petitioners are the Dare County Tourism Board (the “Tourism Board”) and the Town of Nags Head (the “Town” and collectively “Petitioners”). Both are represented by Robert Hornik, Esq. The Tourism Board is a public authority formed and operated pursuant to the laws of the State of North Carolina per Sessions Law 1991, Chapter 177. The Town is a municipality formed and operated pursuant to, *inter alia*, North Carolina General Statutes Chapter 160A.
2. Petitioners jointly own fee simple title to properties identified as 6800, 6900 and 6906 South Croatan Highway in the Town of Nags Head. The Tourism Board owns fee simple title to properties identified as 6708 and 6714 South Croatan Highway in Nags Head. Together the properties make up the site of the Soundside Event Site (the “Site”) which consists of about 26 acres of land located west of South Croatan Highway and east of the Roanoke Sound. The Site has about 2400 linear feet of frontage on Roanoke Sound. Copies of the deeds to the lots which make up the Site are attached.
3. Petitioners have agreed to develop the Site with the Tourism Board being responsible for the development and management of the Site pursuant to a Memorandum of Understanding dated April 14, 2015, a copy of which is attached.
4. The Site is bounded to the east by South Croatan Highway, to the west by Roanoke Sound, to the north by SanDar, LLC and to the south by 16 Mile Post, LLC. Copies of Secretary of State filings for these LLCs are attached.
5. The waters of the Roanoke Sound at this location are classified as SA-High Quality Waters by the Environmental Management Commission and are open to the harvest of shellfish.
6. The upland area within 75’ of normal water level of Roanoke Sound is within the Estuarine Shorelines sub-category of the Coastal Shorelines Area of Environmental Concern (“AEC”). The waters of Roanoke Sound at the Site are Public Trust Areas and Estuarine Waters AECs. There are also areas of wetlands within the Coastal Wetlands AEC at the Site. Any development proposed within one of these AECs requires CAMA permit authorization per G.S. 113A-118 and any dredging and filling activity requires a Dredge and Fill permit per G.S. 113-229.
7. Currently the Site is developed with paved asphalt parking, gazebo, decks, ramp, office building, pier, platform and slips as well as onsite septic systems for the former restaurants on the Site. One parcel also has the climbing structure which was formerly First Flight Adventure Park.
8. On or about August 14, 2023, Petitioners jointly applied to the Division of Coastal Management (“DCM”) for a CAMA Major Development Permit to develop the Site. A copy of the Major Permit application materials is attached.

9. Petitioners initially proposed the following development at the Site:
  - a. Ten (10) foot wide wooden elevated boardwalks,
  - b. Six (6) foot wide elevated vinyl access walkways
  - c. Two (2) viewing platforms, and
  - d. One pergola to be constructed on an upland portion of the site (over Section 404 wetlands), and
  - e. proposed gazebo over open water.
10. On September 29, 2023, DCM Field Representative Yvonne Carver completed a Field Investigation Report for the project, a copy of which is attached and describes the site and impacts from the (initially) proposed development.
11. As part of the CAMA Major Permit process, information about the proposed development was sent to other resource agencies for review and comment. Substantive comments included those from Division of Marine Fisheries who raised concerns about shading impacts by a wider walkway over coastal wetlands. A copy of all the DMF comments is attached. NC WRC also raised concerns about shading and walkway width, and a copy of their comments is attached. Petitioners have received approval from the Corps of Engineers, DWR (401 Certification, but will need to be modified if variance granted), State Stormwater Permit (will need to be modified if project is modified through a variance)
12. On or about May 5, 2024, Petitioners submitted amended plans for the Site. The amended plans generally call for the construction of approximately 3,000 linear feet of boardwalk and piers on the Site, such boardwalk and piers designed with a deck to be eight (8) feet wide with an additional one foot of width for handrails, for a total of nine (9) feet in width. The plans also call for, among other amenities and features, the construction of a gazebo extending into the Roanoke Sound, and a pier with seven (7) boat slips also extending into the Roanoke Sound. A Boardwalk Plan (Sheet C201), which was part of the amended application and a copy of which is attached, illustrates more specifically the proposed improvements associated with the application and this Petition.
13. As part of the application, Petitioners sent notice to the two adjacent riparian property owners. Copies of the notice and tracking information is attached and shows that Sandbar, LLC (through Darnell Tillett) received notice on August 19, 2023. 16 Mile Post, LLC through Brian Wilson received notice on May 23, 2023. Petitioners also posted notice of the application on the Site and DCM published notice in the Coastland Times newspaper on October 8, 2023. Mr. Tillett of SanBar, LLC commented favorably about the revised project after expressing concerns about the initial design.
14. On June 21, 2024, DCM issued CAMA Major Permit No. 61-24 (the "Permit") to Petitioners. The Permit largely approved the Petitioners' application, as amended, including the piers, kite board pier, walkways, gazebo, viewing platforms, and pergola. However, DCM conditioned out the wider boardwalk dimensions through Condition 8, which limits the width of "[a]ny portion of the permitted piers, boardwalk and docking

facilities built over coastal wetlands [to not more than] six feet in width and shall be elevated a minimum of three feet above the wetland substrate as measured from the bottom of the decking. 15A NCAC 07H .0208(b)(6)(C).”

15. 15A NCAC 07H .0208(b)(6)(A) provides “(A) Piers shall not exceed six feet in width. Piers greater than six feet shall be permitted only if the greater width is necessary for safe use, to improve public access, or to support water dependent use that cannot otherwise occur;”
16. There are two segments of the proposed boardwalk, as shown on the attached Boardwalk Plan which are proposed to be built over coastal wetlands. Segment 1 (a 145.75 linear feet section) and Segment 7 (a 177.34 linear feet section) are proposed to be built over coastal wetlands and are each proposed to be eight feet wide (the boardwalk deck itself; with an additional one foot of width for handrails). The attached plans submitted demonstrate that the proposed boardwalk platform as measured from the bottom of the decking will be approximately (6) feet above the wetland substrate, well above the three (3) foot minimum established by Permit condition number 8. The six (6) foot height of the decking will match the height of the existing walkway located north and west of the existing climbing tower on the site.
17. Petitioners assert that the purpose for the proposed development of the Site is to provide pedestrian connection from the Harvey Sound access (to the south of the Site), northward across the entire length of the Site, to the abutting properties to the north. The Tourism Board intends to create this connection to bring enhanced public access to Site and to provide enhanced views of and access to the Roanoke Sound, other existing features at the Site, the First Flight Adventure Park and abutting properties to the north.
18. Petitioners assert that the proposed boardwalk as designed with an eight foot wide deck and six inch handrails on each side (for a total width of nine (9) feet), is necessary for safe use and will improve public access to the Roanoke Sound and other features at the Site by making two-way pedestrian traffic possible, particularly for individuals with mobility impairments, such as wheelchair-bound individuals. Moreover, the uniform eight foot wide boardwalk deck will make it possible for visitors to more easily walk side-by-side on the boardwalk and would reduce or eliminate “bottlenecks” in traffic at the locations where the eight foot wide boardwalk transitions to the narrower, six foot wide boardwalk (if the variance requested is not granted).
19. Petitioners assert that the additional height of the bottom of the proposed boardwalk deck, approximately six feet above the substrate below, is double the minimum height required by the regulation. The additional height reduces the amount of shading of vegetation beneath the boardwalk, as demonstrated by the graphic submitted with the amended application attached.

20. Pursuant to 15A NCAC 7J.0701(c)(6) the Petitioners stipulate that Segments 1 and 7 of the proposed Boardwalk Plan for the Site are inconsistent with 15A NCAC 07H.0208(b)(6)(C) from which Petitioners seek a variance because the proposed width of the boardwalk exceeds six (6) feet.
21. Pursuant to 15A NCAC 07J.0701(c)(7), Petitioners sent notice of this Variance Petition to adjoining riparian owners, and copies of the notice and certified mail receipt demonstrating mailing are attached. Notice to SanDar, LLC, care of Tony Dartnell Tillett, Jr., was mailed on July 10, 2024 and was received by him on July 16, 2024. Notice to Joe, LLC, care of Sandra Dowdy Jump, was mailed on July 10, 2024, and was received by her on July 24, 2024. Notice to 16 Mile Post, LLC, care of Bryan Wilson, was mailed on July 10, 2024 and sent by Federal Express on August 7, 2024, and was delivered on August 8, 2024.
22. Pursuant to 15A NCAC 07J.0701(a) which states in relevant part “Before filing a petition for a variance from a rule of the Commission, the person must seek relief from local requirements restricting use of the property...” However in this case, Petitioners have not sought a variance from the Town where it asserts there are no ordinances related to boardwalk width.
23. Without a variance, Petitioners could construct the boardwalk segments 1 and 7 as permitted at 6 feet in width.
24. A powerpoint is attached with ground-level and aerial photographs of the Site.

Stipulated Exhibits:

1. Deeds to the Site
2. MOU from 2015 between Petitioners
3. LLC filings for adjacent riparian owners
4. Initial Major Permit Application documents
5. September 29, 2023 DCM Field Investigation Report
6. DMF Comments on initial and revised plan
7. WRC Comments on initial and revised plan
8. Amended Site Plans/application materials
9. Notice and tracking to adjacent riparian owners
10. CAMA Major Permit No. 61-24
11. Notice and tracking to adjacent riparian owners for the Variance Request
12. Powerpoint

**PETITIONERS' and STAFF'S POSITIONS****ATTACHMENT C**

- I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? If so, the petitioner must identify the hardships.**

**Petitioners' Position: Yes.**

The Petitioners own the approximately 26 acres of land on which the Site is being developed, located in the Town of Nags Head on the west side of Croatan Highway (NC Highway 158) lying between South Croatan Highway and the Roanoke Sound. A considerable portion of the property (about 11 acres) is encumbered by Section 404 and coastal wetlands lying between the Roanoke Sound and upland portions of the property. The property has been used by the Petitioners and their predecessors for recreational purposes for several years. The Petitioners, both public agencies, have developed a master plan for the property, which includes the development of a boardwalk as presented in the Permit Application. One of the goals of the Master Plan is to connect existing boardwalks located north and south of the site so as to create a single, continuous boardwalk along the Roanoke Sound waterfront.

As public agencies, the Petitioners have a legal obligation to make their facilities accessible to the broadest section of the public possible, including those with mobility impairments. It is primarily for that reason that the boardwalk design calls for a uniform eight (8) foot wide boardwalk deck (with an additional 6 inches on each side for handrails). This design is intended to accommodate those with mobility-impairing disabilities and to provide a uniform width platform to facilitate two-way pedestrian traffic on the boardwalk. The eight (8) foot wide boardwalk deck design was approved by the Permit for most of the proposed boardwalk (i.e., the entire length of boardwalk area which does not encroach upon coastal wetlands). The Petitioners desire permission to construct and operate a boardwalk of uniform eight (8) foot width (plus one additional foot for railings) for the entire north-south expanse of the Site to facilitate accessibility for the entire Soundside Event Site. It would be a hardship for Petitioners to design and construct non-uniform width boardwalks. Moreover, the narrower segments of the proposed boardwalk, if the requested variances are not granted, will result in pedestrian "bottlenecks" as the wider boardwalk deck transitions to the narrower deck. Furthermore, the narrower boardwalk deck will reduce access to the Site's other features for the mobility impaired public. Finally, it would be impractical to attempt to design a boardwalk which avoids the coastal wetland areas, adding complexity and expense to the construction and more difficult features (such as corners and intersections) for mobility impaired guests.

**Staff's Position: Yes.**

Staff agrees that Petitioner has unnecessary hardships due to the strict application of the rules limiting the boardwalk width within the Coastal Wetlands AEC. While the 6' boardwalk width limitation is generally sufficient for boardwalks over Coastal Wetlands for residential use, the combination of the overall length of the boardwalk and the significant length of the boardwalk over Coastal Wetlands in this case because as a public access, it will cause Petitioner an unnecessary hardship in limiting the number of pedestrians utilizing the boardwalk at one time

possibly presenting a safety issue. Staff agrees that the strict application of the Commission's limitations on boardwalk width in Coastal Wetlands causes Petitioner unnecessary hardships.

**II. Do such hardships result from conditions peculiar to the petitioner's property, such as location, size, or topography of the property? Explain.**

**Petitioners' Position: Yes.**

As is demonstrated by the Site Plan, the shoreline areas of the site are irregularly shaped and have irregular boundaries for coastal wetlands, which encumber nearly 40% of the Site. Additionally, the design of the boardwalk contemplates connections to the existing boardwalks to the north and south of the Site. The proposed boardwalk has a somewhat irregularly shaped, curving design from north to south, with "spokes" radiating from the central reinforced turf area of the Site toward the proposed new gazebo (towards the southeast) and the proposed boat slips (towards the northeast). Boardwalk Section 1, consisting of 145.75 linear feet, lies at the southern terminus of the proposed new boardwalk, where it will connect to a ten (10) foot wide concrete pad. This location is where many guests and visitors will enter the boardwalk from the existing parking lots on the site. Boardwalk Section 7, consisting of 177.34 linear feet, will provide access to the proposed pier just off the western shoreline of the Site. The eight (8) foot wide boardwalk in this location is necessary to ensure mobility-impaired access to and from the pier. The features of the Site, including the transition from upland to coastal wetlands to the Roanoke Sound, and the desire to connect the boardwalk to existing boardwalks north and south, are peculiar to this Site.

**Staff's Position: No.**

Staff disagree that conditions peculiar to the Site cause Petitioner's unnecessary hardship. While this Site has an expansive Coastal Wetland AEC and 404 Wetland area between high-ground and the proposed boardwalks, such wetlands are not unique physical conditions to this part of Roanoke Sound and the estuarine shoreline areas of the Outer Banks of North Carolina.

**III. Do the hardships result from the actions taken by the Petitioner? Explain.**

**Petitioners' Position: No.**

Petitioners have acquired the properties which make up the Site over the course of the past several years. They have done nothing to change the features of the Site in a way that makes the requested variances necessary.

**Staff's Position: No.**

Staff notes that a large portion of the Site is covered with the Coastal Wetlands, making avoidance of Coastal Wetlands difficult. Staff also notes that Petitioner has redesigned the project to reduce the impacts of shading the Coastal Wetlands by the boardwalk by elevating the boardwalk higher than the 3' elevation over the substrate required by the rules. Accordingly, Petitioner has taken steps to reduce hardships by reducing impacts to the Coastal Wetlands on this Site, while still providing important access at this public amenity.

- IV. Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards, or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.**

**Petitioners' Position: Yes.**

The purpose of the development of the Soundside Event Site is to enhance public access to the Roanoke Sound while, at the same time, being sensitive to the important environmental characteristics of the land and the water. The creation and maintenance of public access for all people is critical to the mission of the Petitioners. Petitioners have carefully designed various features of the Project, including features to preserve and protect the environment (such as increased height of piers to about six (6) feet above the substrate to limit shading concerns, choice of materials, proposed "path" of boardwalks) carefully balancing the environmental concerns with the obligation to provide access to a diverse population. Petitioners submit that the limited variances requested are consistent with the spirit, purpose and intent of the applicable rules and standards, the design as presented secures the public safety and welfare, and preserves substantial justice particularly for our mobility-impaired visitors and guests.

**Staff's Position: Yes.**

The variance would be consistent with the spirit, purpose, and intent of the rules, standards or orders of the Commission, because on balance, there is a reduction in shading of Coastal Wetlands through Petitioner's voluntary, additional elevation of the pier to 6' over the Coastal Wetlands substrate (only 3' elevation above Coastal Wetlands is required by rule). While the limitations on building over Coastal Wetlands, specifically the pier accessway width limit, is important to the protection of Coastal Wetland, the limited nature of the proposed expansion of this boardwalk results in minimal additional impacts to Coastal Wetlands (2' extra width for the tread area x approximately 322') = 644 additional SF over Coastal Wetlands.

Staff notes that the Commission's rules can allow for wider pier accessway widths in certain situations where 15A NCAAC 7H .0208(b)(6)(A) states in part, "Piers greater than six feet in width shall be permitted only if the greater width is necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur.",

In this case Staff believes that a wider walkway width on this facility will allow for improved public access and the greater width is necessary for safe use, allowing for easier two-way access on the boardwalk. The project will help enhance recreational use in the area and will enhance the public's opportunity to enjoy the physical, esthetic and recreational qualities of the natural shoreline on the Site while minimizing damage to this coastal wetland environment. For those reasons, Staff recommend that the Commission find that granting a variance will be consistent with the Commission's rules. It will protect public safety and welfare to have wider access for the public along this boardwalk while taking steps to minimize impacts to the Coastal Wetlands through elevating and the earlier project redesign.



**ATTACHMENT D**

Petitioner's Petition Materials  
(without initial proposed facts or duplicative exhibits)

## CAMA VARIANCE REQUEST FORM

DCM FORM 11

DCM FILE No.: \_\_\_\_\_

PETITIONER'S NAME Dare County Tourism Board/Town of Nags Head  
 COUNTY WHERE THE DEVELOPMENT IS PROPOSED DARE

Pursuant to N.C.G.S. § 113A-120.1 and 15A N.C.A.C. 07J .0700 *et seq.*, the above named Petitioner hereby applies to the Coastal Resources Commission (CRC) for a variance.

### VARIANCE HEARING PROCEDURES

A variance petition will be considered by the CRC at a regularly scheduled meeting, heard in chronological order based upon the date of receipt of a complete petition. 15A N.C.A.C. 07J .0701(e). A complete variance petition, as described below, must be *received* by the Division of Coastal Management (DCM) a minimum of six (6) weeks in advance of the first day of a regularly scheduled CRC meeting to be eligible for consideration by the CRC at that meeting. 15A N.C.A.C. 07J .0701(e). The final set of stipulated facts must be agreed to at least four (4) weeks prior to the first day of a regularly scheduled meeting. 15A N.C.A.C. 07J .0701(e). The dates of CRC meetings can be found at DCM's website: [www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)

If there are controverted facts that are significant in determining the propriety of a variance, or if the Commission determines that more facts are necessary, the facts will be determined in an administrative hearing. 15A N.C.A.C. 07J .0701(b).

### VARIANCE CRITERIA

The petitioner has the burden of convincing the CRC that it meets the following criteria:

- (a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.
- (b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.
- (c) Do the hardships result from actions taken by the petitioner? Explain.
- (d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

***Please make your written arguments that Petitioner meets these criteria on a separate piece of paper. The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as a variance hearing before the Commission. These opinions note that the practice of professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written or oral argument, may be considered the practice of law. Before you proceed with this variance request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.***


**For this variance request to be complete, the petitioner must provide the information listed below. The undersigned petitioner verifies that this variance request is complete and includes:**

The name and location of the development as identified on the permit application;

- A copy of the permit decision for the development in question;
- A copy of the deed to the property on which the proposed development would be located;
- A complete description of the proposed development including a site plan;
- A stipulation that the proposed development is inconsistent with the rule at issue;
- Proof that notice was sent to adjacent owners and objectors\*, as required by 15A N.C.A.C. 07J .0701(c)(7);
- N/A* Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.
- This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

*\*Please contact DCM or the local permit officer for a full list of comments received on your permit application. Please note, for CAMA Major Permits, the complete permit file is kept in the DCM Morehead City Office.*

Due to the above information and pursuant to statute, the undersigned hereby requests a variance.

  
 \_\_\_\_\_  
 Signature of Petitioner or Attorney

July 10, 2024  
 \_\_\_\_\_  
 Date

Robert E. Hornik, Jr.  
 \_\_\_\_\_  
 Printed Name of Petitioner or Attorney

hornik@broughlawfirm.com  
 \_\_\_\_\_  
 Email address of Petitioner or Attorney

1526 E. Franklin St., Ste 200  
 \_\_\_\_\_  
 Mailing Address

(919 ) 929-3905  
 \_\_\_\_\_  
 Telephone Number of Petitioner or Attorney

Chapel Hill                      NC    27514  
 City                                      State                      Zip

(       ) \_\_\_\_\_  
 Fax Number of Petitioner or Attorney

**DELIVERY OF THIS HEARING REQUEST**

This variance petition must be **received** by the Division of Coastal Management at least six (6) weeks before the first day of the regularly scheduled Commission meeting at which it is heard. A copy of this request must also be sent to the Attorney General's Office, Environmental Division, 15A N.C.A.C. 07J .0701(e).

Contact Information for DCM:**By mail, express mail or hand delivery:**

Director  
Division of Coastal Management  
400 Commerce Avenue  
Morehead City, NC 28557

**By Fax:**

(252) 247-3330

**By Email:**

Check DCM website for the email  
address of the current DCM Director  
**[www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)**

Contact Information for Attorney General's Office:**By mail:**

Environmental Division  
9001 Mail Service Center  
Raleigh, NC 27699-9001

**By express mail:**

Environmental Division  
114 W. Edenton Street  
Raleigh, NC 27603

**By Fax:**

(919) 716-6767

Revised: July 2014



**PETITION SEEKING VARIANCE FOR  
THE SOUND SIDE EVENT SITE LOCATED AT  
6708, 6714, 6800, 6900 AND 6906 SOUTH CROATAN HIGHWAY  
IN NAGS HEAD, DARE COUNTY, NORTH CAROLINA**

The undersigned counsel, on behalf of Petitioners Dare County Tourism Board and Town of Nags Head, respectfully submits as follows:

1. The Name of the Project for which Petitioners seek a variance, as shown on the permit application (copy attached) is "The Soundside Event Site Boardwalk Project".
2. The Location of the Project as shown on the permit application is parcels having street addresses of 6906, 6900, 6800, 6714 and 6708 South Croatan Highway in Nags Head, North Carolina.

**DARE COUNTY TOURISM BOARD/TOWN OF NAGS HEAD/STATEMENT OF REASONS AND ARGUMENTS IN SUPPORT OF VARIANCE APPLICATION**

Dated: July 10, 2024

The undersigned, as counsel for the Dare County Tourism Board and the Town of Nags Head, Petitioners for variances with respect to the Sound Side Event Complex and Docking Facility Expansion (Major Permit Number 61-24) submits the following in support of the Petitioners' variance application.

**GENERAL STATEMENT/DESCRIPTION OF PROPOSED DEVELOPMENT**

Petitioners applied for a Major Permit in August 2023 seeking approval of improvements consisting of boardwalks, piers, a kite board pier, walkways, a gazebo, viewing platforms, a pergola and other structures and uses on parcels of land they own and have been developing for several years as a public events center and docking facility (hereinafter referred to as the "Soundside Event Site" or the "Site"). The Site lies adjacent to the Roanoke Sound in Nags Head. Petitioners' plans were revised after consultations with Division of Coastal Management ("DCM") staff, and revised plans were submitted for review and approval in May 2024. On June 21, 2024 Major Permit 61-24 (the "Permit") was issued, approving Petitioners' application with various conditions. By this Petition, Petitioners seek relief (a variance) from Permit condition number 8, which provides as follows:

Any portion of the permitted piers, boardwalk and docking facilities built over coastal wetlands shall not exceed six feet in width and shall be elevated a minimum of three feet above the wetland substrate measured from the bottom of the decking.

[07H .0208(b)(6)(C)]

The regulation cited in Permit condition number 8 reads as follows:

Piers and docking facilities over coastal wetlands shall be no wider than six feet and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking...

However, 07H .0208(b)(6)(A) allows piers greater than six feet in width "if the greater width is necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur." Here, the Permit approved an eight (8) foot wide boardwalk deck (with an additional one foot to allow for railing width) throughout the Site EXCEPT, because of Permit condition number 8, for two sections of the boardwalk which cross over designated coastal wetlands. The Boardwalk Plan included in Petitioners' permit application (Sheet C201, last revised May 2, 2024; copy attached) shows that the entire length of the proposed boardwalk is about 3,000 linear feet, of which two sections, designated as Section 1 (145.75 linear feet) and Section 7 (177.34 linear feet) on the plan, are designed to be built above coastal wetlands. Permit



condition number 8 would require these two sections to be considerably narrower (five (5) foot wide boardwalk with one foot additional for railings) than the rest of the proposed boardwalk. Petitioners submit that the variance(s) requested to allow the eight (8) foot wide boardwalk deck (nine feet when railings included) in Section 1 and Section 7 are necessary for safe use of the boardwalk, will improve public access to the boardwalk and the various other amenities proposed, such as piers, the gazebo, the pergola, and viewing stations, and will help support the dock and kiting facilities at the Site.

With respect to the variance standards set out in the applicable regulations, Petitioners submit the following:

**1. Strict application of applicable development rules, standards or orders issued by the Commission caused the Petitioners unnecessary hardships.**

The Petitioners own the approximately 26 acres of land on which the Site is being developed, located in the Town of Nags Head on the west side of Croatan Highway (NC Highway 158) lying between South Croatan Highway and the Roanoke Sound. A considerable portion of the property (about 11 acres) is encumbered by Section 404 and coastal wetlands lying between the Roanoke Sound and upland portions of the property. The property has been used by the Petitioners and their predecessors for recreational purposes for several years. The Petitioners, both public agencies, have developed a master plan for the property, which includes the development of a boardwalk as presented in the Permit Application. One of the goals of the Master Plan is to connect existing boardwalks located north and south of the site so as to create a single, continuous boardwalk along the Roanoke Sound waterfront.

As public agencies, the Petitioners have a legal obligation to make their facilities accessible to the broadest section of the public possible, including those with mobility impairments. It is primarily for that reason that the boardwalk design calls for a uniform eight (8) foot wide boardwalk deck (with an additional 6 inches on each side for handrails). This design is intended to accommodate those with mobility-impairing disabilities and to provide a uniform width platform to facilitate two-way pedestrian traffic on the boardwalk. The eight (8) foot wide boardwalk deck design was approved by the Permit for most of the proposed boardwalk (i.e., the entire length of boardwalk area which does not encroach upon coastal wetlands). The Petitioners desire permission to construct and operate a boardwalk of uniform eight (8) foot width (plus one additional foot for railings) for the entire north-south expanse of the Site to facilitate accessibility for the entire Soundside Event Site. It would be a hardship for Petitioners to design and construct non-uniform width boardwalks. Moreover, the narrower segments of the proposed boardwalk, if the requested variances are not granted, will result in pedestrian "bottlenecks" as the wider boardwalk deck transitions to the narrower deck. Furthermore, the narrower boardwalk deck will reduce access to the Site's other features for the mobility impaired public. Finally, it would be impractical to attempt to design a boardwalk which avoids the coastal wetland areas, adding complexity and expense to the construction and more difficult features (such as corners and intersections) for mobility impaired guests.



**2. The hardships result from conditions peculiar to Petitioners' property.**

As is demonstrated by the Site Plan, the shoreline areas of the site are irregularly shaped and have irregular boundaries for coastal wetlands, which encumber nearly 40% of the Site. Additionally, the design of the boardwalk contemplates connections to the existing boardwalks to the north and south of the Site. The proposed boardwalk has a somewhat irregularly shaped, curving design from north to south, with "spokes" radiating from the central reinforced turf area of the Site toward the proposed new gazebo (towards the southeast) and the proposed boat slips (towards the northeast). Boardwalk Section 1, consisting of 145.75 linear feet, lies at the southern terminus of the proposed new boardwalk, where it will connect to a ten (10) foot wide concrete pad. This location is where many guests and visitors will enter the boardwalk from the existing parking lots on the site. Boardwalk Section 7, consisting of 177.34 linear feet, will provide access to the proposed pier just off the western shoreline of the Site. The eight (8) foot wide boardwalk in this location is necessary to ensure mobility-impaired access to and from the pier. The features of the Site, including the transition from upland to coastal wetlands to the Roanoke Sound, and the desire to connect the boardwalk to existing boardwalks north and south, are peculiar to this Site.

**3. The hardships do not result from actions taken by Petitioners.**

Petitioners have acquired the properties which make up the Site over the course of the past several years. They have done nothing to change the features of the Site in a way that makes the requested variances necessary.

**4. The variances requested by Petitioners will be consistent with the spirit, purpose and intent of the rules, standards and orders of the Commission, will secure the public safety and welfare and will preserve substantial justice.**

The purpose of the development of the Soundside Event Site is to enhance public access to the Roanoke Sound while, at the same time, being sensitive to the important environmental characteristics of the land and the water. The creation and maintenance of public access for all people is critical to the mission of the Petitioners. Petitioners have carefully designed various features of the Project, including features to preserve and protect the environment (such as increased height of piers to about six (6) feet above the substrate to limit shading concerns, choice of materials, proposed "path" of boardwalks) carefully balancing the environmental concerns with the obligation to provide access to a diverse population. Petitioners submit that the limited variances requested are consistent with the spirit, purpose and intent of the applicable rules and standards, the design as presented secures the public safety and welfare, and preserves substantial justice particularly for our mobility-impaired visitors and guests.



THE BROUGH LAW FIRM, PLLC

By:



---

Robert E. Hornik, Jr.  
N.C. State Bar #23728  
1526 E. Franklin Street, Suite 200  
Chapel Hill, North Carolina 27514  
Tel.: 919/929-3905  
Email: [hornik@broughlawfirm.com](mailto:hornik@broughlawfirm.com)  
Attorneys for Petitioners

Relevant  
Deeds

Recorded: 12/20/2019 04:13:18 PM  
BY: TONI MIDGETT  
Cheryl L. House, Register of Deeds  
Dare County, NC

Fee Amt: \$26.00 NC Excise Tax: \$0.00

BOOK 2344 PAGE 166 (3)

700072395



UNOFFICIAL Document

EXEMPT  
DARE COUNTY  
LAND TRANSFER TAX

NO. 24224-19 / \$0

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \_\_\_\_\_

Parcel Identification No. 008795-000 Verified by \_\_\_\_\_ County on the \_\_\_ day of \_\_\_, 20\_\_

Mail/Box to: W. Jay Wheless, Wheless & Wheless, PLLC, P. O. Box 500, Manteo, NC 27954

This instrument was prepared by: Christopher L. Seawell

Brief description for the Index: Metes and Bounds, Town of Nags Head

THIS DEED made this 20th (day) of December, 2019, by and between:

GRANTOR	GRANTEE
MICHAEL W. KELLY, a free trader	DARE COUNTY TOURISM BOARD a North Carolina Public Authority, an 18.42% undivided interest
P. O. Box 1089 Nags Head, NC 27959	One Visitors Center Circle Manteo, NC 27954

THIS IS A DEED OF GIFT

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, as a gift has by these presents does grant and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Nags Head Township, Dare County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A"

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UNOFFICIAL Document

The fair market value of the interest conveyed is \$700,000.00.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 555, Page 676, Dare County Registry,

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple and that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

Easements and restrictions appearing of record, and all zoning ordinances and other land regulations applicable thereto.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Michael W Kelly (SEAL)  
Michael W. Kelly

STATE OF NORTH CAROLINA  
COUNTY OF DARE

I, the undersigned Notary Public of the County and State aforesaid, certify that Michael W. Kelly, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this the 18th day of December, 2019.

(NOTARY STAMP/SEAL)

Sandra K. Atkinson  
Notary Public

My commission expires:

7-13-22



UNOFFICIAL Document

## EXHIBIT "A"

All that certain lot or parcel of land lying and being in the town of Hags Head, Hags Head Township, Dare County, North Carolina, and more particularly described as follows:

Beginning at an iron pipe in the West margin or the right of way of U. S. 188 By-Pass, also known as South Croatan Highway, said iron pipe being in the Northeast corner of the lands now or formerly belonging to Daughtry, Hooker, and Booth, recorded in Deed Book 324 at Page 367, Dare County Registry; said iron pipe lying and being on a course North 17 deg. 56 min. 35 sec. West 211.50 feet from the Northeast of Lot 1, Block 15, Whalebone Beaches Subdivision, being the Southeast corner of the parcel herein conveyed; running thence North 17 deg. 56 min. 35 sec. West, along the West margin or right of way of the aforementioned highway to an iron pin in the South line of Whalebone Beaches Subdivision, recorded in Map Book 1, at Page 148; thence, turning and running South 72 deg. 00 min. 00 sec. West 901.53 feet to an iron pipe; thence continuing on a course South 72 deg. 00 min. 00 sec. West and crossing a small creek, 520 feet more or less, to the shore of Roanoke Sound; thence following the various courses and meanderings of the shore of the Roanoke Sound and the aforementioned creek in a general Southeasterly, then Northeasterly direction to a point on the Western shore of said creek, said point being 285 feet more or less, on a course South 72 deg. 00 min. 00 sec. West from an iron pipe located in a course South 72 deg. East 840.12 feet from the point and place of beginning; thence North 72 deg. 00 min. 00 sec. East 285 feet more or less to an iron pipe; thence North 72 deg. East 840.12 feet to the point and place of beginning containing 5.9 acres and same being Lot 1 as shown on that plat by W. M. Meekins, Jr. & Associates, entitled "Division of the Lands of Frank Turner et ux" and recorded in Plat Cabinet B, Slide 269, Dare County Registry.

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Unofficial Document  
Unofficial Document



Unofficial Document

DARE COUNTY TAX COLLECTOR

1132-19 / \$ 23,000

DARE COUNTY REAL ESTATE TRANSFER TAX  
LT 1132-19 \$23,000

Recorded: 04/11/2019 04:42:47 PM  
BY: TONI MIDGETT  
Cheryl L. House, Register of Deeds  
Dare County, NC

Fee Amt: \$26.00 NC Excise Tax: \$4,600.00

BOOK 2294 PAGE 407 (6)

700063490



**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \_\_\_\_\_

Parcel Identification No. 030880-000, 030881-000, 030879-000 Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Mail/Box to: W. Jay Wheless, Wheless & Wheless, PLLC, P. O. Box 500, Manteo, NC 27954

This instrument was prepared by: Christopher L. Seawell

Brief description for the Index: Metes and Bounds, Town of Nags Head

THIS DEED made this 11th day of April, 2019, by and between:

GRANTOR	GRANTEE
ON TRADING CORPORATION, a NC Corporation	DARE COUNTY TOURISM BOARD a North Carolina Public Authority, an 85.66% undivided interest
and	
OVERRUN II, LLC, a NC Limited Liability Company	
P. O. Box 389 Kill Devil Hills, NC 27948	One Visitors Center Drive Manteo, NC 27954

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee

Unofficial Document

simple, all that certain lot or parcel of land situated in Nags Head Township, Dare County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A"

The Grantor, On Trading Corp. hereby conveys all its right, title and interest in and to that certain Deed of Easement and Maintenance Agreement recorded in Book 1965, Page 899, Dare County Registry, subject to the obligations and responsibilities referenced in said agreement.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 1860, Page 265 and Book 1965, Page 899, and Book 1946, Page 278, Dare County Registry,

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

AND the Grantor covenants with the Grantee, that:

- (a) With respect to Tract 1, Grantor, Overrun II, LLC is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that the Grantor, Overrun II, LLC will warrant and defend the title against the lawful claims of all persons whatsoever, other than for easements and restrictions appearing of record, and all zoning ordinances and other land regulations applicable thereto; and
- (b) With respect to Tract 2, The Grantor, On Trading Corporation is seized of the premises in fee simple, has the right to convey the same in fee simple; that title is marketable and free and clear of all encumbrances, and that the Grantor, Overrun II, LLC will warrant and defend the title against the lawful claims of all persons whatsoever, other than for easements and restrictions appearing of record, and all zoning ordinances and other land regulations applicable thereto; and
- (c) With respect to Tract 3, The Grantor, On Trading Corporation, makes no warranty, express or implied, as to title to the property hereinabove described.

(SIGNATURE PAGES FOLLOW)

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

ON TRADING CORPORATION

By: [Signature]  
Nicholas R. Nuzzi, Jr.,  
Vice-President



STATE OF NORTH CAROLINA  
COUNTY OF DARE

I, the undersigned Notary Public of the County and State aforesaid, certify that Nicholas R. Nuzzi, Jr., Vice-President of On Trading Corporation, personally appeared before me this day and acknowledged that she is the President of On Trading Corp., and that being authorized to do so, executed the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this the 5<sup>th</sup> day of April, ~~March~~, 2019.

(NOTARY STAMP/SEAL)

Rebecca S. January  
Notary Public



My commission expires:

8-20-2022

Unofficial Document

Unofficial Document



IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

OVERRUN II, LLC

By: Nicholas R. Nuzzi, Jr.,  
Manager



STATE OF NORTH CAROLINA  
COUNTY OF DARE

I, the undersigned Notary Public of the County and State aforesaid, certify that Nicholas R. Nuzzi, Jr., Manager of Overrun II, LLC, personally appeared before me this day and acknowledged that he is the Manager of Overrun II, LLC, and that being authorized to do so, executed the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this the 5<sup>th</sup> day of ~~March~~ <sup>April</sup> 2019.

(NOTARY STAMP/SEAL)

Rebecca S. January  
Notary Public



My commission expires:

8-20-2022

Unofficial Document

Unofficial Document

Exhibit "A"TRACT 1 (6716 S. Croatan Highway, Nags Head, NC 27959):

That certain tract of land, together with improvements thereon, situated in Dare County, North Carolina with a street address of 6716 S. Croatan Highway, Nags Head, North Carolina 27948 (with Parcel Number: 030879-000), more particularly described as follows:

Being Parcel 1 as shown on that plat entitled "Final Subdivision Plat for: Outdoor Creations Amended" prepared by Waterway Surveys & Engineering, Ltd., dated 8/8/91 and recorded in Plat Cabinet C, Slide 152A, Dare County Public Registry.

There is conveyed hereby a non-exclusive right of access, including vehicular access, along a certain access easement providing access to the right of way of U.S. Highway 158 (Croatan Highway) to the north property line of the property line of Parcel 1 as shown on plat recorded in Plat Cabinet C, Slide 152A, Dare County Registry. The property over which the access easement is granted is described as follows: Beginning at a point located in the western right of way of U.S. Highway 158, said highway having a 150 foot right of way at this point and said point of beginning being located the following courses and distances from a point of reference identified as North Carolina Geodetic Survey Station "Douglas", having NAD 1983 coordinates as follows: N-807014.9443, E-3005018.2710; running thence from the point of reference identified as Station "Douglas" a course of South 14 deg. 10' 53" East a distance of 667.35 feet to a point in the western right of way of U.S. Highway 158, which point is marked by an iron pin and having coordinates of N-806367.9319 and E-3005181.7670 and such point also marking the southeastern corner of property identified as Penguin Isle Restaurant, now or formerly owned by Michael W. Kelly and identified in a deed recorded in Deed Book 555 at page 673 of the Dare County Registry; thence from said point of beginning South 26 deg. 29' 41" East a distance of 50.00 feet following the right of way of U.S. Highway 158 to an iron pin; running thence South 63 deg. 27' 19" West a distance of 164.18 feet; thence South 26 deg. 29' 41" East a distance of 8.38 feet; thence South 63 deg. 27' 19" West a distance of 55.0 feet to an iron pin or other marker; thence North 27 deg. 18' 14" West 58.38 feet to a point located in the South line of the property now or formerly owned by Michael W. Kelly; thence along the South line of the aforesaid Michael W. Kelly property North 63 deg. 27' 19" East 217.10 feet, more or less, to the point and place of beginning.

**TRACT 2 (6714 S. Croatan Highway, Nags Head, NC 27959):**

That certain tract of land, together with improvements thereon, situated in Dare County, North Carolina with a street address of 6714 S. Croatan Highway, Nags Head, North Carolina 27948 (with Parcel Number: 030880-000), more particularly described as follows:

Being Parcel 2 as shown on that plat entitled "Final Subdivision Plat for Outdoor Creations Amended" prepared by Waterway Surveys & Engineering, Ltd., dated 8/8/91 and recorded in Plat Cabinet C, Slide 152A, Dare County Public Registry.

**TRACT 3 (6714 S. Croatan Highway, Nags Head, NC 27959):**

That certain tract of land situated in Dare County, North Carolina with a street address of 6714 S. Croatan Highway, Nags Head, North Carolina 27948 (with Parcel Number: 030881-000), more particularly described as follows:

BEGINNING at an iron pipe or other marker lying in and on the West margin of the right of way of U.S. Highway 158 By-Pass, said point of beginning lying in and at the Northeast corner of those lands conveyed unto H. Dean Harrelson by the deed recorded in Deed Book 303 at page 993, Dare County registry, said point of beginning also being the Northeast corner of Lot 1, Block 15 as shown on that plat entitled "Revised Plat - Portion of Whalebone Beaches Subdivision" which appears of record in Map Book 2 at Page 203, Dare County Registry; proceeding thence, counter clockwise, and following the West margin of the right of way of the aforesaid highway North 17 deg. 57 min. West 211.5 feet to a point, thence South 72 deg. West 1,000 feet more or less across the waters of a creek to a point located in the highwater mark of the Roanoke Sound; thence along the aforesaid Sound in a general Southerly direction to a point which lies on a course of South 72 deg. West from the point of beginning, thence South 72 deg. East 1,100 feet more or less to the point or place of beginning.

There is excluded from the above described Tract 3 that certain Parcel 1 transferred by Dairy Queen of the Outer Banks, Inc., the Grantor herein, to Overrun II, LLC by deed recorded in Book 1860, Page 265, Dare County Registry.

It is intended that Tract 3 described herein also include the southern tip of a marsh peninsula which lies just west of and across a small creek from the upland portion of Parcel 2 shown on the plat referenced in Tract 2 above.



B: 1784 P: 470  
 11/14/2008 03:47 PM  
 Doc Code: DEED  
 Barbara M. Gray, Register of Deeds

Doc Id: 6250088  
 Receipt #: 08-7269  
 NCExercise Tax pd: \$0.00  
 Dare CO, NC

6250088 B: 1784 P: 470 Page 1 of 2 11/14/08 3:47 PM



SPACE ABOVE THIS LINE FOR RECORDING DATA

Land Transfer Tax No. #4290-08  
 Land Transfer Tax: \$0.00  
 Revenue Stamp Amount: \$0.00  
**Parcel No.** 012422000 & 012422001

Prepared by:  
 E. Crouse Gray, Jr., Attorney at Law  
 GRAY & LLOYD, L.L.P.  
 3120 N. Croatan Hwy., Suite 101  
 Kill Devil Hills, NC 27948  
 My File #5281-17

Return to: Jay Wheless  
 Wheless & Wheless  
 PO Box 500  
 Manteo, NC 27954

**NO TITLE SEARCH PERFORMED**

NORTH CAROLINA, DARE COUNTY

**THIS DEED OF GIFT** made this 12th day of November, 2008, by and between Dr. Sarah E. Forbes, Grantor, to the Town of Nags Head, North Carolina, a Municipal Corporation, a 17.949% undivided interest, and Dare County Tourism Board, a Public Authority, a 82.051% undivided interest, as tenants in common, PO Box 99, Nags Head, NC 27959, together, Grantee:

The designation Grantor and Grantees as used herein shall include said parties, their heirs and successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by text.

**WITNESSETH:**

**WHEREAS**, Grantor, for the natural love and affection Grantor has for Grantee, has and by these presents does grant and convey unto the Grantees in fee simple, all that certain lot or parcel of land situated in the Town of Nags Head, Nags Head Township, Dare County, North Carolina and more particularly described as follows:

**A 26.415% undivided interest in all that certain tract or parcel of land known as Lots 1 and 2, of the Forbes Commercial Lots, together with**

any improvements located thereon, situated in the Town of Nags Head , Nags Head Township, Dare County, North Carolina. For a particular description of the lands herein conveyed, reference is made to "Lots 1 and 2" as shown on that certain survey or plat entitled in part, "Forbes Commercial Lots, Nags Head - Nags Head Township - Dare County - North Carolina", dated August 27, 1996, prepared by W. C. Owen, Registered Land Surveyor, and recorded in Plat Cabinet D, Slide 192, Dare County Registry.

That Grantor acquired the above-referenced property by a Warranty Deed as recorded in Book 346, Page 645, Dare County Public Registry.

**TO HAVE AND TO HOLD** the aforesaid lot or parcel of land and all privileges and appurtenances thereunto belonging to the Grantees in fee simple.

And the Grantor covenants with the Grantees, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple; that title is marketable and free and clear of all encumbrances and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

1. Exception is taken to the 2008 ad valorem taxes.
2. Exception is taken to any easements and restrictions of record.
3. Any portion of the property located below the mean highwater mark.

**IN WITNESS WHEREOF**, the Grantor has set her hand and seal, the day and year first above written.

Sarah E. Forbes, MD (SEAL)  
Dr. Sarah E. Forbes

STATE OF Virginia  
CITY/COUNTY OF Newport News

I, Richard E Gregory, a Notary Public of the State aforesaid, certify that Dr. Sarah E. Forbes personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 12<sup>th</sup> day of November, 2008.

Richard E Gregory  
Notary Public  
My Commission Expires: 10/31/2010



GRAY & LLOYD, L.L.P. • ATTORNEYS AT LAW • 3120 N. Croatan Hwy. • Suite 101 • Kill Devil Hills, NC 27948 • (252) 441-4338



Filed Book: 1725 Page: 457 Doc Id: 6218332  
04/12/2007 04:27PM Receipt #: 184416  
Doc Code: DEED  
BARBARA M GRAY, REGISTER OF DEEDS DARE CO, NC



EXCEL T  
DARE COUNTY  
COLLECTION

NO. 1445-07

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \_\_\_\_\_

Parcel Identification No. 008854-000 Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Mail/Box to: W. Jay Wheless, Wheless & Wheless, PLLC, P. O. Box 500, Manteo, NC 27954

This instrument was prepared by: Christopher L. Seawell

Brief description for the Index: Lot 3, Forbes Commercial Lots

THIS DEED made this 13th day of March, 2007, by and between:

GRANTOR	GRANTEE
NAGS HEAD WATERFRONT, LLC, A NC Limited Liability Company	TOWN OF NAGS HEAD, NORTH CAROLINA, a Municipal Corporation, a 34.783% undivided interest, and DARE COUNTY TOURISM BOARD, a Public Authority a 65.217% undivided interest, as tenants in common P. O. Box 99 Nags Head, NC 27959

**THIS IS A DEED OF GIFT**

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Hatteras Township, Dare County, North Carolina and more particularly described as follows:



SEE EXHIBIT "A"

The fair market value of the interest conveyed is \$1,800,000.00.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 1674, Page 138, Dare County Registry,

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, and that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

Easements and restrictions appearing of record, and all zoning ordinances and other land regulations applicable thereto.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

NAGS HEAD WATERFRONT, LLC

By: RVO-III (SEAL)  
R. V. Owens, III, Manager/Member

By: C. Brantley Tillman, Jr. (SEAL)  
C. Brantley Tillman, Jr.,  
Manager/Member

STATE OF North Carolina  
COUNTY/CITY OF DARE

I, the undersigned Notary Public of the County and State aforesaid, certify that R. V. Owens, III and C. Brantley Tillman, Jr., Manager/Members of Nags Head Waterfront, LLC, personally appeared before me this day and acknowledged that they are Manager/Members of Nags Head Waterfront, LLC, and that being authorized to do so, executed the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this the 28<sup>th</sup> day of March, 2007.

(NOTARY STAMP/SEAL)

Carol A. Haywood  
Notary Public

My commission expires:

08/31/2011







A 28.125% undivided interest in all that certain parcel or tract of land, together with any improvements located thereon, situated in the town of Nags Head, Nags Head Township, Dare County, North Carolina, and more particularly described as follows:

BEGINNING at an iron rod or other marker located in the western margin or right-of-way of U. S. Highway 158, also known as South Croatan Highway, said Highway having a right-of-way of 150 feet at this point, said point of beginning being also located South 68 degrees 52 minutes 37 seconds West 660.03 feet from N.C.G.S. Monument "W-168" N: 806,505.6639 feet, E: 3,005,849.362 feet, said point of beginning being also located in the southern line of property now or formerly owned by Dairy Queen of the Outer Banks, Inc.; thence from said point of beginning along the western margin or right-of-way of U. S. Highway 158, South 17 degrees 56 minutes 35 seconds East 455.58 feet to an iron rod or other marker located in the northern line of Lot 2, Forbes Commercial Lots as shown on map or plat recorded in Plat Cabinet D, Slide 192, Dare County Registry; thence along the northern line of the aforesaid Lot 2, Forbes Commercial Lots, South 72 degrees 00 min. 00 sec. West 65.00 feet to an iron rod or other marker; thence continuing along the northern line of the aforesaid Lot 2, Forbes Commercial Lots, South 62 degrees 19 minutes 09 seconds West 65.00 feet to an iron rod or other marker; thence continuing along the northern line of the aforesaid Lot 2, Forbes Commercial Lots, South 72 degrees 00 minutes 00 seconds West 390.85 feet to an iron rod or other marker; thence continuing along the northern line of the aforesaid Lot 2, Forbes Commercial Lots, North 63 degrees 00 minutes 00 seconds West 48.07 feet to an iron rod or other marker; thence continuing along the northern line of the aforesaid Lot 2, Forbes Commercial Lots, South 72 degrees 00 minutes 00 seconds West 200.00 feet to an iron rod or other marker, said iron rod or other marker being the beginning of a tie line hereinafter described; thence South 72 degrees 00 minutes 00 seconds West 14.00 feet more or less to the mean high water mark of the Roanoke Sound; thence along the mean high water mark of the Roanoke Sound in a general northwesterly direction, following the various meanderings thereof, to a point located South 72 degrees 00 minutes 00 seconds West 1032 feet more or less from the point of beginning; thence along the southern line of property now or formerly owned by On Trading Corp., North 72 degrees 00 minutes 00 second East 31 feet more or less to a concrete monument, said concrete monument being located North 47 degrees 37 minutes 54 seconds West 497.60 feet from the iron rod marking the beginning of the tie line previously referred to herein; thence continuing along the southern line of On Trading Corp., North 72 degrees 00 minutes 00 seconds East 826.39 feet to a PK nail set; thence continuing along the southern line of On Trading Corp., and the southern line of Dairy Queen of the Outer Banks, Inc., North 72 degrees 00 minutes 00 seconds East 174.00 feet to the point and place of beginning.

Same being Lot 3, Forbes Commercial Lots, as shown on plat filed in Plat Cabinet D, Slide 192, Dare County Registry.

This being that certain property described and delineated on that plat entitled "Boundary Survey for Dare County Tourism Board, a Public Authority, Town of Nags Head, North Carolina, a Municipal Corporation," by Timothy L. Fish, P.L.S., L-4631, surveyor's certificate dated APRIL 10, 2007, and recorded in Plat Cabinet 6, Slide 380, Dare County Registry, reference to which is hereby made for a more particular description of the parcel herein described.



Recorded: 09/21/2022 04:16:08 PM

BY: CLAUDIA HARRINGTON

Cheryl L. House, Register of Deeds

Dare County, NC

Fee Amt: \$26.00

NC Excise Tax: \$0.00

Land Transfer Fee: \$0.00

**EXEMPT  
DARE COUNTY  
LAND TRANSFER TAX**

NO. 3939-22 / #0

BOOK 2644 PAGE 925 (9)

700122848



Prepared by and return to  
W. Jay Wheless  
Wheless & Wheless, PLLC  
P. O. Box 500  
Manteo, NC 27954

## EASEMENT

THIS EASEMENT AGREEMENT made and entered into this 15<sup>th</sup> day of SEPTEMBER, 2022, by and between the Dare County Tourism Board, a Public Authority (the "Board") and The County of Dare, a Body Politic (the "County").

### BACKGROUND:

1. The Board owns several parcels of land located in South Nags Head, Dare County, North Carolina, known as (a) Lots 1, 2 and 3 of the Forbes Commercial Lots, (b) the Dairy Queen property and (c) the Pamlico Jacks property, all are more particularly described on attached Exhibit A (the "Property"); and
2. The Board desires to improve the Property by constructing boardwalks and gazebos near the shoreline and over certain areas of water (the "Area"); and
3. The North Carolina Parks and Recreation Trust Fund (PARTF), other governmental agencies and non-governmental entities award matching grants to local governments for parks and public beach and waterway access (the "Grant"); and
4. The County is willing to apply for a PARTF Grant (and perhaps others in the future) but must first receive an easement over the Area where the improvements will be constructed and maintained; and
5. The County and the Board, in order to express their intentions with regard to the Property, hereby agree as follows:

NOW, THEREFORE, for and in consideration of the covenants and representations contained herein and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, Board hereby grants and conveys unto County an Easement of the nature and

character and to the extent hereinafter set forth, over the Property described on Exhibit B, in accordance with the following terms and conditions:

ARTICLE I  
DURATION OF EASEMENT

This Easement shall be for a term of 25 years, unless terminated earlier by the parties as further described herein. This Easement is an easement in gross and runs with the land.

ARTICLE II  
PERMITTED USES AND CONTROL OF EASEMENT AREA

A. License to the Board. Although the County will receive this easement, the County turns over and relinquishes control of the easement area to the Board for purposes of constructing, maintaining and repairing various boardwalks and gazebos within the easement area and allowing public use of the same pursuant to reasonable use restrictions imposed by the Board from time to time. The Board's right to use and maintain the area is in the nature of a license of equal duration as the instant easement.

B. Construction. The Board may undertake construction of boardwalks, gazebos and complimentary improvements on and within the Area. The plans and specifications of the improvements have been reviewed and approved by the County. Strict compliance with the plans and specifications is not required by the Board and reasonable deviations are permitted in order to serve the overall project and the long-term uses contemplated in the Area and on the Board's Property.

C. Other Prohibitions. Any other use of, or activity in or on the Area that is or may become inconsistent with the purposes of the Grant and the Permitted Uses of the Property is prohibited.

ARTICLE III  
BOARD'S RESERVED RIGHTS

The Board expressly reserves for itself, its successors or assigns, the right to continue the use of the Area for all purposes not inconsistent with this Easement, including, but not limited to Permitted Uses. The Board (including its successors and assigns) shall not sell, transfer, give or otherwise convey the Area, in whole or in part or any interest therein unless County permits same in writing. Board shall provide 60-days written notice to County that Board seeks County's approval of a sale, transfer, gift or conveyance outlined above.

ARTICLE IV  
COUNTY'S RIGHTS

The County or its authorized representatives, successors and assigns, shall have the right to enter the Property at all reasonable times for the purpose of inspecting the Area to determine if the Board, or his personal representatives, heirs, successors, or assigns, is complying with the terms, conditions, restrictions, and purposes of this Easement.

ARTICLE V



## ENFORCEMENT AND REMEDIES

A. To accomplish the purposes of this Easement and the Grant, County is allowed to prevent any activity on or use of the Area that is inconsistent with the purposes of this Easement and the Grant and to require the restoration of such land areas or features within the easement area that may be damaged by such activity or use. Upon any breach of the terms of this Easement or the Grant by Board that comes to the attention of the County, the County shall notify the Board in writing of such breach. The Board shall have 60 days after receipt of such notice to correct the conditions constituting such breach. If the breach remains uncured after 60 days, the County may enforce its rights under this Easement or the Memorandum of Understanding between the Board and the County dated SEPTEMBER 15, 2022, (hereafter the "MOU") by appropriate legal proceedings including damages, injunctive and other relief. Notwithstanding the foregoing, the County reserves the immediate right, without notice, to obtain a temporary restraining order, injunctive or other appropriate relief if the breach of the term of this Easement, the MOU or the Grant would irreversibly or otherwise materially impair the benefits to be derived from this Easement or the Grant.

B. No failure on the part of the County to enforce any covenant or provision hereof shall discharge or invalidate such covenant or any other covenant, condition, or provision hereof or affect the right to County to enforce the same in the event of a subsequent breach or default.

C. Nothing contained in this Easement, the MOU or the Grant shall be construed to entitle County to bring any action against Board for any injury or change in the Area resulting from causes beyond the Board's control, including, without limitation, fire, flood, storm, war, acts of God, pandemic, endemic, supply chain delays or from actions or inactions caused by third parties, except Board's lessees or invitees; or from any prudent action taken in good faith by Board under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to property or harm to the Area resulting from such causes.

## ARTICLE VI MISCELLANEOUS

A. Warranty. Board warrants, covenants and represents that it owns the Area in fee simple; three parcels are owned as tenants in common with the Town of Nags Head.

B. Subsequent Transfers. The Board agrees to incorporate the terms of this Easement in any deed or other legal instrument that transfers any interest in all or a portion of the Property. The Board agrees to provide written notice of such transfer to County at least thirty (30) days prior to the date of the transfer. The Board and County agree that the terms of this Easement shall survive any merger of the fee and easement interests in the Property or any portion thereof.

C. Assignment. The parties recognize and agree that County's benefits under this Easement are in gross and are assignable except as the use and control over the Area are assigned to the Board pursuant to this Agreement, the MOU and the Grant, if applicable.

D. Entire Agreement and Severability. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations,





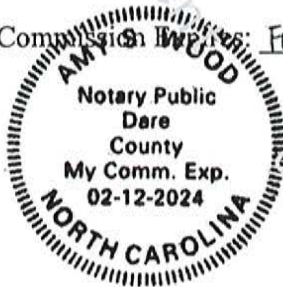
DARE COUNTY

I, the undersigned Notary Public for the County and State aforesaid, do hereby certify that the following named person personally came before me this day and acknowledged that the foregoing instrument was signed as the official act of the Dare County Tourism Board. Person signing: Timothy Cafferty.

Witness my hand and official seal, this 15<sup>th</sup> day of SEPTEMBER, 2022.

Amy S. Wood  
Notary Public

My Commission Expires: FEBRUARY 12 2024



COUNTY:  
THE COUNTY OF DARE

By: Robert Woodard, Sr. (SEAL)  
Robert Woodard, Sr., Chair

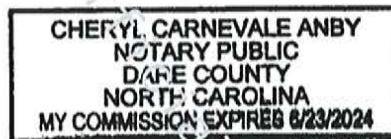
STATE OF NORTH CAROLINA  
DARE COUNTY

I, the undersigned Notary Public for the County and State aforesaid, do hereby certify that the following named person personally came before me this day and acknowledged that the foregoing instrument was signed as the official act of the County of Dare. Person signing: Robert Woodard, Sr.

Witness my hand and official seal, this 6<sup>th</sup> day of September, 2022.

Cheryl Carnevale Anby  
Notary Public

My Commission Expires: 6/23/2024



This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Donna Oles 8/26/2022  
104470-550000

EXHIBIT A  
(THE PROPERTY)

**PARCEL 1 (Forbes Commercial Lots):**

Lots 1, 2 and 3 as shown on that certain survey or plat entitled in part, "Forbes Commercial Lots, Nags Head, Nags Head Township - Dare County - North Carolina", dated August 27, 1996, prepared by W.C. Owen, Registered Land Surveyor and of record in Plat Cabinet D, Slide 192, Dare County Registry.

**PARCEL 2 (Pamlico Jacks Property):**

All that certain lot or parcel of land lying and being in the Town of Nags Head, Nags Head Township, Dare County, North Carolina, and more particularly described as follows:

Beginning at an iron pipe in the West margin of the right of way of U.S. 158 By-Pass, also known as South Croatan Highway, said iron pipe being in the Northeast corner of the lands now or formerly belonging to Daughtry, Hooker and Booth, recorded in Deed Book 324 at Page 367, Dare County Registry; said iron pipe lying and being on a course North 17 deg. 56 min. 35 sec. West 211.50 feet from the Northeast of Lot 1, Block 15, Whalebone Beaches Subdivision, being the Southeast corner of the parcel herein conveyed; running thence North 17 deg. 56 min. 35 sec. West, along the West margin or right-of-way of the aforementioned highway to an iron pin in the South line of Whalebone Beaches Subdivision, recorded in Map Book 1 at Page 148; thence, turning and running South 72 deg. 00 min. 00 sec. West 901.53 feet to an iron pipe; thence continuing on a course South 72 deg. 00 min. 00 sec. West and crossing a small creek, 520 feet more or less, to the shore of Roanoke Sound; thence following the various courses and meanderings of the shore of the Roanoke Sound and the aforementioned creek in a general Southeasterly, then Northeasterly direction to a point on the Western shore of said creek, said point being 285 feet more or less, on a course South 72 deg. 00 min. 00 sec. West from an iron pipe located in a course South 72 deg. East 840.12 feet from the point and place of beginning; thence North 72 deg. 00 min. East 285 feet more or less to an iron pipe; thence North 72 deg. East 840.12 feet to the point and place of beginning containing 5.9 acres and same being Lot 1 as shown on that plat by W. M. Meekins, Jr. & Associates, entitled "Division of the Lands of Frank Turner et ux" and recorded in Plat Cabinet B, Slide 269, Dare County Registry.

**PARCEL 3 (The Dairy Queen Properties):**

TRACT 1 (6716 S. Croatan Highway, Nags Head, NC 27959):

That certain tract of land, together with improvements thereon, situated in Dare County, North Carolina with a street address of 6716 S. Croatan Highway, Nags Head, North Carolina 27948 (with Parcel Number: 030879-000), more particularly described as follows:

Being Parcel 1 as shown on that plat entitled "Final Subdivision Plat for: Outdoor Creations Amended" prepared by Waterway Surveys & Engineering, Ltd., dated 8/8/91 and recorded in Plat Cabinet C, Slide 152A, Dare County Public Registry.

There is conveyed hereby a non-exclusive right of access, including vehicular access, along a certain access easement providing access to the right of way of U.S. Highway 158 (Croatan Highway) to the



north property line of the property line of Parcel 1 as shown on plat recorded in Plat Cabinet C, Slide 152A, Dare County Registry. The property over which the access easement is granted is described as follows: Beginning at a point located in the western right of way of U.S. Highway 158, said highway having a 150 foot right of way at this point and said point of beginning being located the following courses and distances from a point of reference identified as North Carolina Geodetic Survey Station "Douglas", having NAD 1983 coordinates as follows: N-807014.9443, E-3005018.2710; running thence from the point of reference identified as Station "Douglas" a course of South 14 deg. 10' 53" East a distance of 657.35 feet to a point in the western right of way of U.S. Highway 158, which point is marked by an iron pin and having coordinates of N-806367.9319 and E-3005181.7670 and such point also marking the southeastern corner of property identified as Penguin Isle Restaurant, now or formerly owned by Michael W. Kelly and identified in a deed recorded in Deed Book 555 at page 673 of the Dare County Registry; thence from said point of beginning South 26 deg. 29' 41" East a distance of 50.00 feet following the right of way of U.S. Highway 158 to an iron pin; running thence South 63 deg. 27' 19" West a distance of 164.18 feet; thence South 26 deg. 29' 41" East a distance of 8.38 feet; thence South 63 deg. 27' 19" West a distance of 55.0 feet to an iron pin or other marker; thence North 27 deg. 18' 14" West 58.38 feet to a point located in the South line of the property now or formerly owned by Michael W. Kelly; thence along the South line of the aforesaid Michael W. Kelly property North 63 deg. 27' 19" East 217.10 feet, more or less, to the point and place of beginning.

TRACT 2 (6714 S. Croatan Highway, Nags Head, NC 27959):

That certain tract of land, together with improvements thereon, situated in Dare County, North Carolina with a street address of 6714 S. Croatan Highway, Nags Head, North Carolina 27948 (with Parcel Number: 030880-000), more particularly described as follows:

Being Parcel 2 as shown on that plat entitled "Final Subdivision Plat for: Outdoor Creations Amended" prepared by Waterway Surveys & Engineering, Ltd., dated 8/8/91 and recorded in Plat Cabinet C, Slide 152A, Dare County Public Registry.

TRACT 3 (6714 S. Croatan Highway, Nags Head, NC 27959):

That certain tract of land situated in Dare County, North Carolina with a street address of 6714 S. Croatan Highway, Nags Head, North Carolina 27948 (with Parcel Number: 030881-000), more particularly described as follows:

BEGINNING at an iron pipe or other marker lying in and on the West margin of the right of way of U.S. Highway 158 By-Pass, said point of beginning lying in and at the Northeast corner of those lands conveyed unto H. Dean Harrelson by the deed recorded in Deed Book 303 at page 993, Dare County registry, said point of beginning also being the Northeast corner of Lot 1, Block 15 as shown on that plat entitled "Revised Plat - Portion of Whalebone Beaches Subdivision" which appears of record in Map Book 2 at Page 203, Dare County Registry; proceeding thence, counterclockwise, and following the West margin of the right of way of the aforesaid highway North 17 deg. 57 min. West 211.5 feet to a point, thence South 72 deg. West 1,000 feet more or less across the waters of a creek to a point located in the highwater mark of the Roanoke Sound; thence along the aforesaid Sound in a general Southerly direction to a point which lies on a course of South 72 deg. West from the point of beginning, thence South 72 deg. East 1,100 feet more or less to the point or place of beginning.

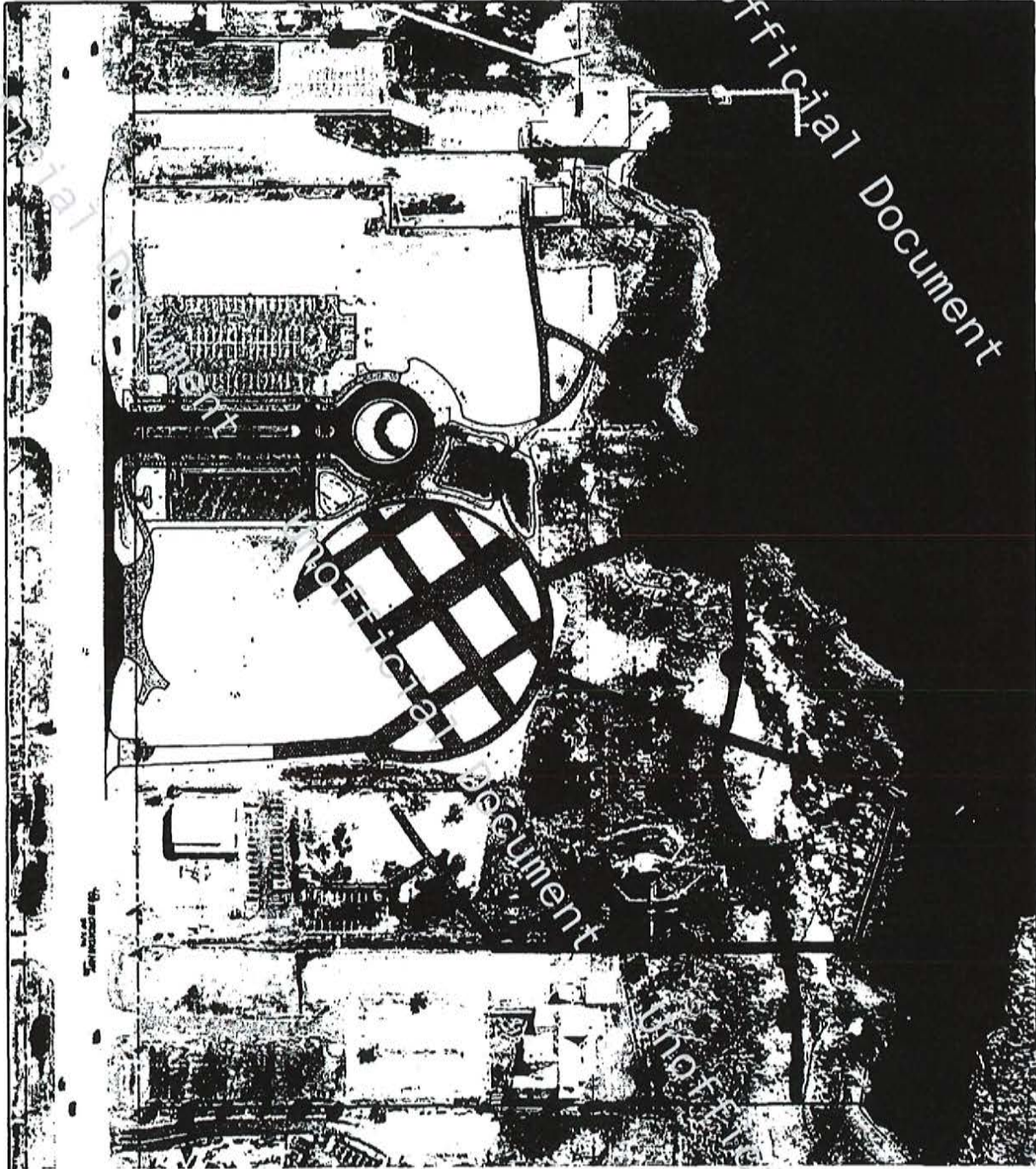
There is excluded from the above-described Tract 3 that certain Parcel 1 transferred by Dairy Queen of the Outer Banks, Inc., the Grantor herein, to Overrun II, LLC by deed recorded in Book 1860, Page 265, Dare County Registry.

**EXHIBIT B  
(THE EASEMENT "AREA")**

Any and all of those lands or submerged lands (to the extent the same are owned by the Dare County Tourism Board), as shown on the attached arial image entitled, "Conceptual Boardwalk Plan, the Soundside Event Center, 6813 S. Croatan Highway, Nags Head, Nags Head Township, Dare County, North Carolina," and highlighted (pink) on the face thereof and including an area extending 5 feet on all sides of and around those highlighted areas.

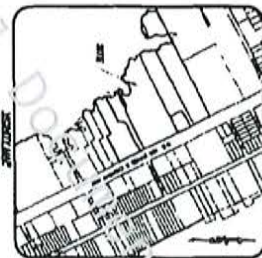


EXHIBIT B



This map may not be a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations and has not been reviewed for compliance with recording requirements for plats.

PRELIMINARY ONLY  
NOT FOR  
CONSTRUCTION



SCALE:  
1" = 60'  
C201

CONCEPTUAL BOARDWALK PLAN  
THE SOUND SIDE EVENT SITE  
6813 S CROATAN HIGHWAY  
WIDE HEAD    WIDE HEAD TOWNSHIP    OHNE COUNTY    NORTH CAROLINA

REVISIONS	
NO.	DESCRIPTION

Albemarle & ASSOCIATES, L.P.  
10000 ...  
Phone: (919) 474-7111  
Fax: (919) 474-7111  
www.albemarle.com



Recorded: 05/11/2023 03:02:26 PM

BY: CLAUDIA HARRINGTON

Cheryl L. House, Register of Deeds

Dare County, NC

Fee Amt: \$26.00

NC Excise Tax: \$0.00

Land Transfer Fee: \$0.00

BOOK 2680 PAGE 112 (4)

700129299



Prepared by and returned to  
 W. Jay Wheless  
 Wheless & Wheless, PLLC  
 P. O. Box 500  
 Manteo, NC 27954

## AMENDMENT TO EASEMENT

THIS AMENDMENT TO EASEMENT AGREEMENT is made and entered into this 27<sup>th</sup> day of April, 2023, by and between the Dare County Tourism Board, a Public Authority (the "Board") and The County of Dare, a Body Politic (the "County").

### BACKGROUND:

1. The Board owns several parcels of land located in South Nags Head, Dare County, North Carolina, known as (a) Lots 1, 2 and 3 of the Forbes Commercial Lots, (b) the Dairy Queen property and (c) the Pamlico Jacks property, all are more particularly described on Exhibit A (the "Property") attached to the Original Easement defined below; and
2. The North Carolina Parks and Recreation Trust Fund (PARTF), other governmental agencies and non-governmental entities award matching grants to local governments for parks and public beach and waterway access (the "Grant"); and
3. The County is willing to apply for a PARTF Grant (and perhaps others in the future) but must first receive an easement over the Additional Area where the improvements will be constructed and maintained;
4. An Easement agreement was entered into by and between the parties herein on or about September 15, 2022, and recorded in Book 2644, Page 925, Dare County Registry (the "Original Easement");
5. The parties desire to expand and amend the easement areas conveyed from the Board to the County so as to allow the construction of pilings, boardwalks, decks, gazebos and boat slips near the shoreline and over certain areas of water (the "Additional Areas"); and
6. The Additional Areas lie within the circled and labeled areas shown on Exhibit A attached hereto;

- 7. Improvements within the Additional Areas would be part of the improvements for which the Grant is sought; and
- 8. The County and the Board, hereby add the Additional Areas to the Property encumbered by the Original Easement.

NOW, THEREFORE, for and in consideration of the covenants and representations contained herein and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, Board hereby grants and conveys unto County an Easement of the nature and character and to the extent hereinafter set forth, over the Property described on Exhibit A, in accordance with the terms and conditions set out in the Original Easement.

TO HAVE AND TO HOLD the said rights and easements perpetually unto County for the aforesaid purposes.

IN TESTIMONY WHEREOF, the Board has hereunto set its hand and seal, the day and year below acknowledged:

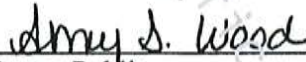
**BOARD:**  
DARE COUNTY TOURISM BOARD

By:  (SEAL)  
Timothy Cafferty, Chair

STATE OF NORTH CAROLINA  
DARE COUNTY

I, the undersigned Notary Public for the County and State aforesaid, do hereby certify that the following named person personally came before me this day and acknowledged that the foregoing instrument was signed as the official act of the Dare County Tourism Board. Person signing: Timothy Cafferty.

Witness my hand and official seal, this 4th day of May, 2023.

  
Notary Public

My Commission Expires: 02/12/2024



COUNTY:  
THE COUNTY OF DARE

By: [Signature] (SEAL)  
Robert Woodard, Sr., Chair

STATE OF NORTH CAROLINA  
DARE COUNTY

I, the undersigned Notary Public for the County and State aforesaid, do hereby certify that the following named person personally came before me this day and acknowledged that the foregoing instrument was signed as the official act of the County of Dare. Person signing: Robert Woodard, Sr.

Witness my hand and official seal, this 2<sup>nd</sup> day of May, 2023.

[Signature]  
Notary Public

My Commission Expires: 6/23/2024

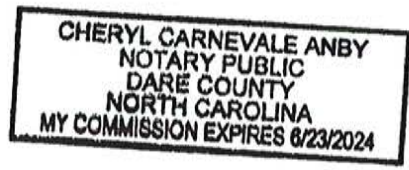
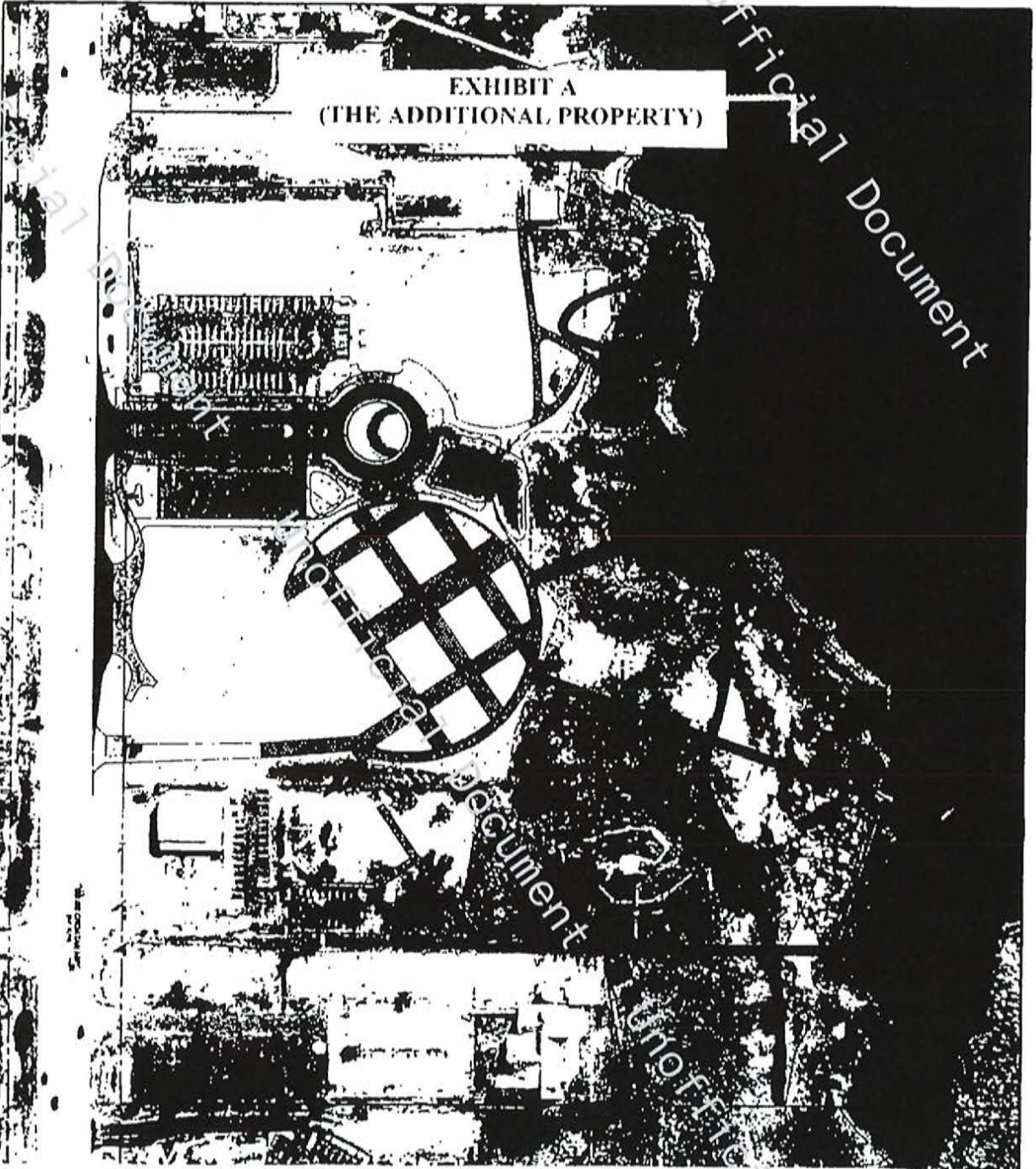


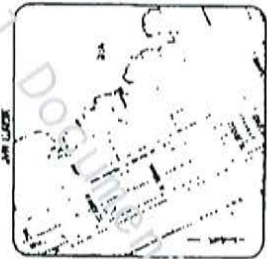


EXHIBIT A  
(THE ADDITIONAL PROPERTY)



PRELIMINARY ONLY  
NOT FOR  
CONSTRUCTION

This map may not be a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations and has not been reviewed for compliance with recording requirements for plats.



<p>C201</p>	<p>SCALE 1" = 50'</p>	<p>CONCEPTUAL BOARDWALK PLAN THE SOUNDSIDE EVENT SITE 6813 S CROATAN HIGHWAY</p>	<p>DATE: JAN 2011</p>	<p>BY: [Signature]</p>	<p><b>Albemarle</b> Engineering and Planning</p>
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**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE DARE COUNTY TOURISM BOARD  
AND THE TOWN OF NAGS HEAD**

THIS MEMORANDUM OF UNDERSTANDING ("MOU" or "Agreement") is entered into between the TOWN OF NAGS HEAD (the "Town") and the DARE COUNTY TOURISM BOARD (the "Board").

WHEREAS, the Town and the Board jointly own three properties located in South Nags Head, Dare County, North Carolina known as Lots 1, 2 and 3 of the Forbes Commercial Lots and more particularly described on attached Exhibit A (the "Property"); and

WHEREAS, the Town and the Board wish to agree on certain aspects of their joint ownership in the Property; and

WHEREAS, the Town and the Board, in order to express their intentions with regard to the Property, hereby agree as follows:

**Ownership.** As to Lots 1 and 2 of the Property, the parties hereby confirm that the Board owns an 82.051% undivided interest and the Town owns a 17.949% undivided interest. As to Lot 3 of the Property, the parties hereby confirm that the Board owns a 65.217% undivided interest and the Town owns a 34.783% undivided interest. As to Lots 1 and 2 of the Property, the Town financed its share of the purchase price with a loan from Branch Bank & Trust Co. ("BB&T") and the parties gave a deed of trust in favor of the lender as security.

**Property Decisions, Management and Development.** The Property was originally purchased by the parties as a site for a multi-use facility; however, following careful study and actual experience in managing the Property, it was subsequently designated to serve as the Outer Banks Event Site (the "Event Site") for a period of approximately ten (10) years, which period began in late 2012. This Agreement shall be in effect so long as the Property remains designated as an event site and both the Town and Board remain owners of the Property.

While the Town recognizes the value of events to its residents and visitors, it has no desire to be directly responsible for Property decisions and the management and development of the Event Site, except as otherwise provided in this Agreement. As such, and except as otherwise provided in this Agreement, the parties agree that the Board shall make all decisions relating to the Property's management and development during the Term. Similarly, and except as otherwise provided in this Agreement, the Board will accept all financial responsibility for these Property decisions and liability as to the uses and activities made thereon during the Term. This understanding shall not impede or otherwise affect the Town's ability to govern the municipality through the creation and enforcement of ordinances and permits, or as otherwise permitted by applicable law, which may affect the Property's usage.

**Rental of the Property.** As the Event Site manager, the Board will be responsible for collecting rental proceeds from users of the Property and, except as otherwise provided in this Agreement, for paying expenses related to the Property. Funds accrued from a previous watersports rental tenant and administered from a Board enterprise fund will revert to and shall be the sole and exclusive property of the Board; said funds shall be used in managing the Property.

**Prohibition Against Unilateral Transfers.** A party to this Agreement may transfer all or part of its interest in the Property only to the other party to this Agreement. Neither party will have the right to sell, mortgage, pledge, hypothecate, convey or otherwise deal with the Property, or its undivided interest therein, without the written consent of the other.

**Determination and Payment of Price.** In the event a party decides to sell its interest in the Property to the other party to this Agreement, and the said other party decides, in its sole discretion, to purchase the interest owned by the party that desires to sell its interest, then the value of the Property and the terms of payment shall be determined as follows:

- a. Unless otherwise agreed by the Board and the Town, the value of the Property shall be the fair market value of the Property as determined by this section as of the date the selling party gives written notice to the other of its intent to sell its interest in the Property.
- b. The parties, or their respective representatives, within ninety (90) days from giving written notice of a party's desire to sell its interest in the Property (1) shall jointly appoint an appraiser for this purpose, or (2) failing to agree upon the appraiser, shall each separately designate an appraiser and, within thirty (30) days after their appointment, the two designated appraisers shall jointly designate a third appraiser. The failure of either the party's representative to appoint an appraiser within the time allowed shall be deemed equivalent to appointing the appraiser appointed by the other party. Each appraiser shall be disinterested in the transaction and shall have a least five (5) years experience in Dare County, North Carolina in appraising commercial property.
- c. If a majority of the appraisers concur on the value of the interest being appraised, that appraisal shall be binding and conclusive. If a majority of the appraisers are unable to agree on the fair market value of the Property within thirty (30) days from the date of their appointment, the three appraisals shall be added together and their arithmetic total divided by three; the resulting quotient shall be deemed to be the fair market value of the Property, provided however, that an appraisal which is either five percent (5%) higher or lower than the middle appraisal shall be adjusted upward or downward so that it does not vary from the middle appraisal by more than five percent (5%) of the middle appraisal.



- d. The party whose interest is to be conveyed shall be paid its proportionate share of the value of the Property. Such payment shall be payable in cash within sixty (60) days from the date that all of the appraisals are available, or as negotiated and agreed to by both parties.

**Waiver of Right to Partition.** The parties hereto specifically waive their right to partition with respect to the Property.

**Memorandum of Agreement.** The parties may cause a memorandum of this Agreement to be filed in the Office of the Register of Deeds for the County of Dare.

**Arbitration.** Any controversy or claim arising out of, or relating to this Agreement, or its breach, shall be settled by arbitration in Dare County, North Carolina in accordance with the provisions of the North Carolina Revised Uniform Arbitration Act, N.C.G.S. § 1-569.1 *et seq.* ("the Act"). The costs of such arbitration shall be paid in equal shares. Each party shall pay its own attorneys fees and out-of-pocket expenses. Judgment upon the award entered may be enforced in any court of competent jurisdiction as provided by the Act.

**Agreement to Perform Necessary Acts.** Each party subject to this Agreement agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

**Invalidity.** The invalidity or unenforceability of any part or parts of this Agreement shall not result in a termination of the whole, nor shall such affect any other part or parts and this Agreement shall continue to be binding and effective with the invalid or unenforceable parts being the stricken the same as if never written.

**Waiver of Breach.** The waiver of any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.

**Notices.** Any and all notices, designations, consents, offers, acceptances, or any other communications provided for herein shall be given in writing by registered or certified mail, return receipt requested or hand delivery. Such notice shall be addressed as follows:

If to the Board:  
 Executive Director  
 One Visitors Center Circle  
 Manteo, NC 27954

If to the Town:  
 Town Manager  
 P.O. Box 99  
 Nags Head, NC 27959



Such communication for all purposes shall be deemed to have been given or sent as of the date of deposit of such communication as registered or certified mail in the United States Postal Service. Such communication shall, for all purposes, be deemed to have been received as of two (2) days following the date of deposit of such communication as registered or certified mail in the United States Postal Service.

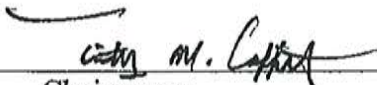
**Amendments.** No modification, amendment, addition to, or termination of this Agreement shall be valid or enforceable unless in writing and signed by all the parties to this Agreement.

**Captions.** The underlined captions set forth in this Agreement at the beginning of the various divisions are for convenience of reference only and shall not be deemed to define or limit the provisions thereof or to affect in anyway their construction or application.


**Governing Law.** This Agreement shall be interpreted and construed according to the laws of the State of North Carolina.

IN AGREEMENT to the foregoing, the parties, through their authorized representatives, hereby affix their signatures as of this 14<sup>th</sup> day of April, 2015.

DARE COUNTY TOURISM BOARD, A PUBLIC AUTHORITY

By:   
Chairperson

THE TOWN OF NAGS HEAD, A MUNICIPAL CORPORATION

By:   
Cliff Ogburn, Town Manager



**EXHIBIT A**

Lots 1, 2 and 3 as shown on that certain survey or plat entitled in part, "Forbes Commercial Lots, Nags Head - Nags Head Township - Dare County - North Carolina", dated August 27, 1996, prepared by W.C. Owen, Registered Land Surveyor and of record in Plat Cabinet D, Slide 192, Dare County Registry.



Dare County - Property Records

008822005  
6504 S CROATAN HWY, NAGS HEAD, NC,  
27959

SANDAR LLC  
-  
280 AIRPORT RD  
MANTEO, NC,27954, USA

Assessed Value  
\$1,806,400

PARCEL INFORMATION

Parcel ID	008822005	PIN	080010463879
Land Use Code	5000	Land Use Description	RECREATIONAL
District	NAGS HEAD	Neighborhood	14524499
Zoning Code	C2	Zoning Desc.	GENERAL COMMERCIAL DISTRICT
Subdivision Code	W320	Subdivision	WHALEBONE BEACH EXT AT NH
Legal Desc.	LOT: 1 BLK: K SEC:		
Plat Cab Slide	PL: E SL: 214		
Deed Date	06/07/2010	Book / Page	<a href="#">1834 / 0487</a>
Tax Status	Taxable		

SECONDARY OWNERS

No data to display

ASSESSMENT DETAILS

REAL ESTATE ASSESSED VALUE

Land Value	\$1,618,000
Building Value	\$31,800
Other Improvements	\$156,600
Total Assessed	\$1,806,400

BILLING VALUE

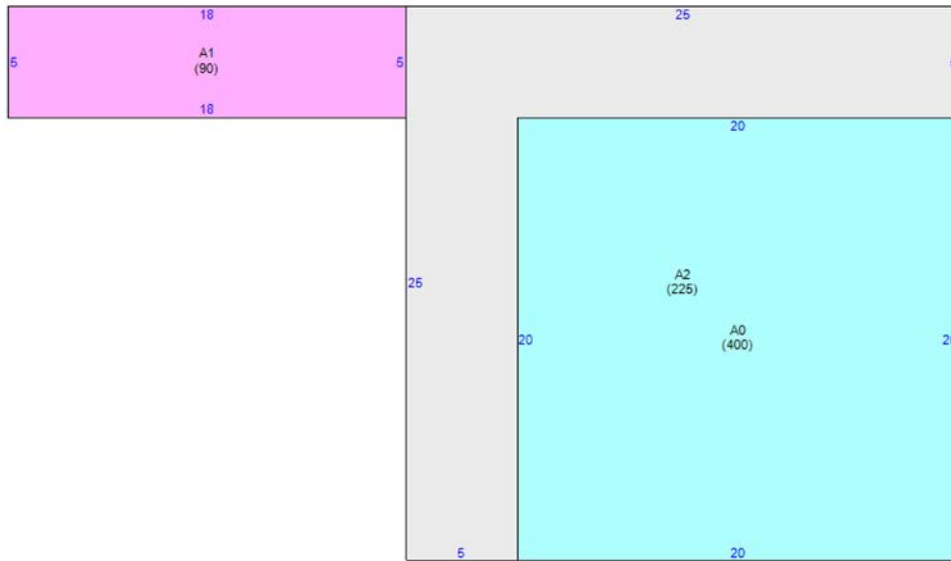
Land Value	\$1,618,000
Building Value	\$31,800
Other Improvements	\$156,600
Total Value	\$1,806,400

LAND

LAND DESCRIPTION	SQFT	ACRES
1 N52-14-Commercial Highway Primary	278,348	6.39
2 N23-14-Marsh Acreage	375,487	8.62
Total	653,835	15.01

BUILDINGS

Year Built	1995
Finished Area	400 SqFt
Stories	1
Style	RETAIL SINGLE OCCUP
Exterior Wall	FRAME
Heating / Cooling	CENTRAL - HEAT PUMP
Fuel Type	N/A
Bedroom(s)	N/A
Full Bath(s)	N/A
Half Bath(s)	N/A
Fireplace(s)	N/A
Attached Garage	N/A
Units	N/A



	AREA INDEX	AREA
+	1	90
WR1 - WHEELCHAIR RAMP		
+	2	225
WD1 - WOOD DECK		



## OTHER IMPROVEMENTS

056

BUILDING #	DESCRIPTION	YEAR BUILT	QTY	SIZE / COUNT
1	PC1 - PAVING CONCRETE AVERAGE	1995	1	30000
2	PA1 - PAVING ASPHALT PARKING	1995	1	45000
3	AP6 - FOUR SIDE OPEN BLDG	1995	2	2720
4	FN1 - FENCE, CHAIN LINK	1995	1	4520
5	RS1 - FRAME UTILITY SHED	1960	1	250
6	DCK - DECK	2012	1	180
7	CA2 - AIR COND. UNIT	2012	1	250

## RECENT SALES HISTORY

The sales history includes only qualified sales made since January 1, 2016. A sale is qualified when it has been verified, by the appraiser, as an arm's length transaction for fair market value. Only qualified sales are considered in the appraisal process.

No data to display

## VALUE CHANGES

The value change history shows only changes in appraised value; it does not show exemptions, exclusions or deferrals that could reduce a property's taxable value. If any of these are in effect for a particular tax year, it will be shown on the property tax bill for that year. It is also possible that some previous value changes might be missing from this list or listed in the wrong order.

REVALUATION EFFECTIVE DATE	ASSESSED VALUE
01/01/2020	\$1,806,400
01/01/2013	\$1,617,300
01/01/2005	\$2,368,000

## PERMITS

Permits issued in the past 6 years. All information deemed reliable but not guaranteed. For more information, please visit Dare County's [searchable permit site](#).

DATE	PERMIT #	PURPOSE	PERMIT AMOUNT
05/07/2012	CA2012-0042	COMM NEW MISC	\$6,000



057



008822-005

14-080010-008

01/11

Data last updated: 08/11/2024

Issued by WIRO  
Surf City

SC17-17  
Permit Number

# CAMA MINOR DEVELOPMENT PERMIT



as authorized by the State of North Carolina, Department of Environment, and Natural Resources and the Coastal Resources Commission for development in an area of environment concern pursuant to Section 113A-118 of the General Statutes, "Coastal Area Management"

Issued to Ridgestone Construction, LLC authorizing development in the Ocean Hazard Area (AEC) at 1212 S. Shore Drive, in Surf City, Pender County as requested in the permittee's application package, dated October 31, 2017. This permit, issued on November 17, 2017, is subject to compliance with the application and site drawing (where consistent with the permit) dated and received by DCM on October 31, 2017, and all applicable regulations and special conditions and notes set forth below. Any violation of these terms may subject permittee to a fine, imprisonment or civil action, or may cause the permit to be null and void.

**This permit authorizes: Demolition of an existing dwelling and reconstruction of a new dwelling with amenities.**

- (1) All proposed development and associated construction must be done in accordance with the permitted drawing dated and received by DCM on October 31, 2017.
- (2) All construction must conform to the N.C. Building Code requirements and all other local, State and Federal regulations, applicable local ordinances and FEMA Flood Regulations.
- (3) Any change or changes in the plans for development, construction, and/or land use activities will require re-evaluation and modification of this permit.
- (4) A copy of this permit shall be posted or available on site throughout the construction process. Contact this office at (910) 796-7221 for a final inspection at completion of work.

(Additional Permit Conditions on Page 2)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. This permit must be on the project site and accessible to the permit officer when the project is inspected for compliance. Any maintenance work or project modification not covered under this permit, require further written permit approval. All work must cease when this permit expires on:

December 31, 2020

In issuing this permit it is agreed that this project is consistent with the local Land Use Plan and all applicable ordinances. This permit may not be transferred to another party without the written approval of the Division of Coastal Management.

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Jason Dail  
CAMA LOCAL PERMIT OFFICIAL  
127 Cardinal Drive Extension  
Wilmington, NC 28405-3845

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PERMITTEE  
(Signature required if conditions above apply to permit)



Name: Ridgestone Construction, LLC

Minor Permit # SC17-17

Date: November 17, 2017

Page 2

- (5) The permittee is required to contact the Local Permit Officer (910) 796-7270, shortly before he plans to begin construction to arrange a setback measurement that will be effective for sixty (60) days barring a major shoreline change. Construction must begin within sixty (60) days of the determination or the measurement is void and must be redone.
- (6) Any structure(s) constructed within the Ocean Hazard area shall comply with the NC Building Code, including the Coastal and Flood Plain Construction Standards of the N. C. Building Code, and the Local Flood Damage Prevention Ordinance as required by the National Flood Insurance Program. If any provisions of the building code or a flood damage prevention ordinance are inconsistent with any of the following AEC standards, the more restrictive provision shall control.
- (7) With exception of 500 sq. ft. or less of proposed decking, beach access walkway and 200 sq. ft. or less of structurally detached covered gazebo, all other structure(s) must be set back a minimum of 60 feet from the First Line of Stable Natural Vegetation (FLSNV), as determined by the DCM, the LPO, or another assigned agent of the DCM.
- (8) Any decking located within 60 feet from the FLSNV shall not exceed a combined footprint of 500 sq. ft. and shall be structurally independent of the residential or primary structure. The deck(s) may be cosmetically attached, but shall remain free standing as a single unit.
- (9) All unconsolidated material resulting from associated grading and landscaping shall be retained on site by effective sedimentation and erosion control measures. Disturbed areas shall be vegetated and stabilized (planted and mulched) within 14 days of construction completion.
- (10) Any structure authorized by this permit shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration. The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach renourishment takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under CRC rules.
- (11) Pursuant to 15A NCAC, Subchapter 7J.0406(b), this permit may not be assigned, transferred, sold or otherwise disposed of to a third-party.
- (12) No development is authorized beyond (seaward of) the First Line of Stable Natural Vegetation (FLSNV), with exception of the stairs for beach access.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PERMITTEE





Dare County - Property Records

027424000  
6916 S CROATAN HWY, NAGS HEAD, NC,  
27959

16 MILE POST, LLC  
C/O BRYAN L WILSON, MANAGER  
PO BOX 324  
NAGS HEAD, NC,27959, USA

Assessed Value  
\$1,624,700

PARCEL INFORMATION

Parcel ID	027424000	PIN	080011553186
Land Use Code	4000	Land Use Description	RESTAURANT
District	NAGS HEAD	Neighborhood	14520099
Zoning Code	C2	Zoning Desc.	GENERAL COMMERCIAL DISTRICT
Subdivision Code	W340	Subdivision	WHALEBONE BEACHES REVISED
Legal Desc.	LOT: 5&12 BLK 14; PT 5 PT 6 BLK: 17 SEC:		
Plat Cab Slide	PL: 2 SL: 203		
Deed Date	09/20/2016	Book / Page	<a href="#">2120 / 0458</a>
Tax Status	Taxable		

SECONDARY OWNERS

No data to display

ASSESSMENT DETAILS

REAL ESTATE ASSESSED VALUE

Land Value	\$1,004,400
Building Value	\$575,300
Other Improvements	\$45,000
Total Assessed	\$1,624,700

BILLING VALUE

Land Value	\$1,004,400
Building Value	\$575,300
Other Improvements	\$45,000
Total Value	\$1,624,700

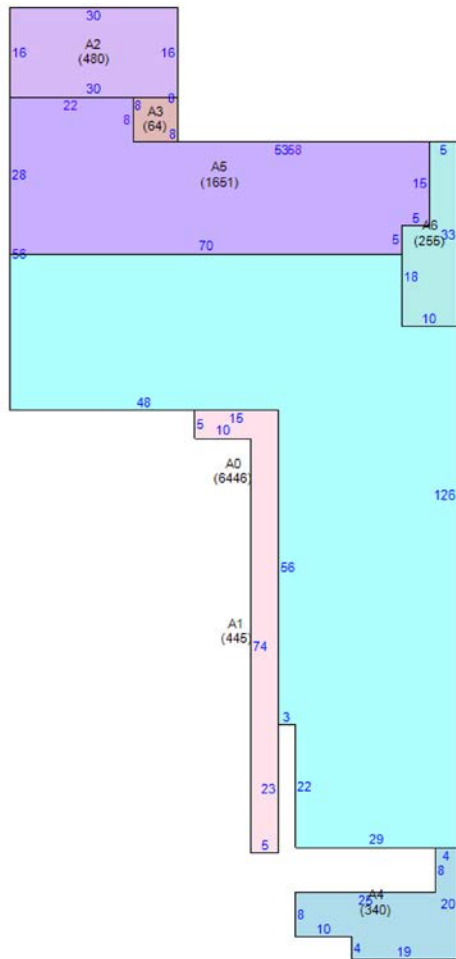
LAND

LAND DESCRIPTION	SQFT	ACRES
1 N52-14-Commercial Highway Primary	73,000	1.6758
Total	73,000	1.6758

BUILDINGS



Year Built	1981
Finished Area	8,416 SqFt
Stories	2
Style	RESTAURANT
Exterior Wall	FRAME
Heating / Cooling	CENTRAL - HOT AIR
Fuel Type	N/A
Bedroom(s)	N/A
Full Bath(s)	N/A
Half Bath(s)	N/A
Fireplace(s)	N/A
Attached Garage	N/A
Units	N/A



	AREA INDEX	AREA
+	1	445
PR5 - PORCH COVERED		
+	2	480
WD1 - WOOD DECK		
+	3	64

AREA INDEX	063	AREA
PR2 - PORCH, ENCLOSED		
+	4	340
WR1 - WHEELCHAIR RAMP		
+	5	9112
SS1 - SPRINKLER SYS WET		
+	6	48
OD1 - OVERHEAD DR-WOOD/MTL		

## OTHER IMPROVEMENTS

BUILDING #	DESCRIPTION	YEAR BUILT	QTY	SIZE / COUNT
1	RS1 - FRAME UTILITY SHED	1995	1	80
2	PA1 - PAVING ASPHALT PARKING	1981	1	23000
3	RD2 - MED. WD. DOCK WD. GIRDERS BOLT	2005	1	522
4	GZ1 - GAZEBO	2005	1	224
5	RD2 - MED. WD. DOCK WD. GIRDERS BOLT	2017	1	864
6	RD2 - MED. WD. DOCK WD. GIRDERS BOLT	2019	1	330
7	RD2 - MED. WD. DOCK WD. GIRDERS BOLT	2019	2	36

## RECENT SALES HISTORY

The sales history includes only qualified sales made since January 1, 2016. A sale is qualified when it has been verified, by the appraiser, as an arm's length transaction for fair market value. Only qualified sales are considered in the appraisal process.

No data to display

## VALUE CHANGES

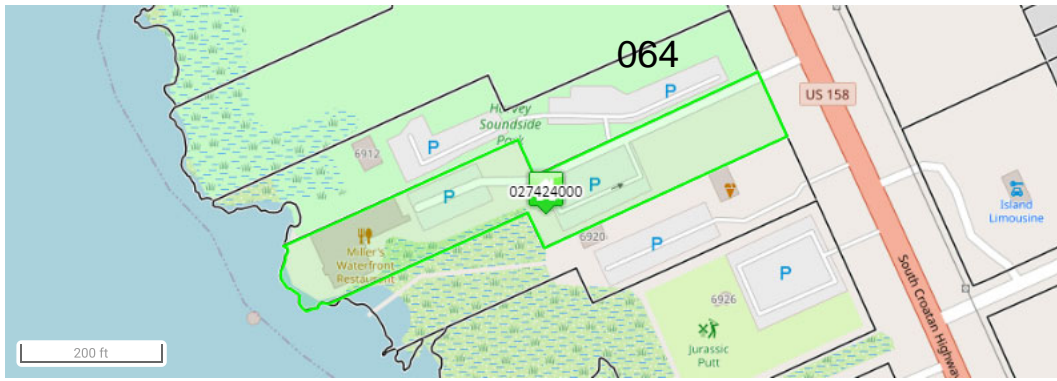
The value change history shows only changes in appraised value; it does not show exemptions, exclusions or deferrals that could reduce a property's taxable value. If any of these are in effect for a particular tax year, it will be shown on the property tax bill for that year. It is also possible that some previous value changes might be missing from this list or listed in the wrong order.

REVALUATION EFFECTIVE DATE	ASSESSED VALUE
01/01/2020	\$1,624,700
01/01/2013	\$1,160,000
01/01/2005	\$1,663,500

## PERMITS

Permits issued in the past 6 years. All information deemed reliable but not guaranteed. For more information, please visit Dare County's [searchable permit site](#).

DATE	PERMIT #	PURPOSE	PERMIT AMOUNT
08/09/2019	201900568	COMM NEW MISC	\$15,600
03/20/2017	CA2017-0232	COMM NEW MISC	\$35,000
12/04/2015	CA2015-1137	COMM NEW ADDTN	\$125,000
09/13/2011	BP2011-275	STORM DAMAGE REPAIRED	\$80,000



Data last updated: 08/11/2024







066

RECEIVED

AUG 22 2023

DCM-EC



**Dare County Tourism Board  
Soundside Event Site Boardwalk Project  
5/11/2023  
(Revised 8/18/2023)**

The Dare County Tourism Board is pursuing the development of a boardwalk system along the Roanoke Sound waterfront at the Soundside Event Site in the Town of Nags Head. The project will provide a pedestrian connection to the town owned Harvey Sound Access on the south and extend north across the length of the Dare County owned property, providing opportunity for the potential extension/interconnection to the north. The boardwalk project is intended to bring the public enhanced pedestrian access across the site and provide views of and access to the sound while interconnecting various elements of the Event Site, the First Flight Adventure Park and adjacent property.

The 24.16-acre site contains a fringe of confirmed jurisdictional wetlands separating the upland portion of the Event Site from the shoreline. The CAMA Estuarine Area of Environmental Concern (75' AEC) is entirely within the wetland delineation. The project includes 10' wide elevated wooden boardwalks and 6' wide elevated vinyl access walkway as well as two viewing platforms and a pergola on inland portions of the project area. The boardwalk will better protect the wetland areas by providing the public with a safe route to and along the waterfront. Improvements over water / public trust areas include a 10' wide pier extending to a platform / gazebo with two sections of 10' wide "platforms" connecting the pier to adjacent elevated boardwalks. Also included with public trust areas is a 6' wide pier with five 4' wide finger piers.

The 10' wide sections of the walkway are planned to be elevated approximately 6' above the ground to allow sunlight penetration to coastal wetlands below. This would match the elevation of the existing walkway located north and west of the existing climbing tower. This walkway will likely be heavily used by the general public and will support events at this site. The ten foot width is being proposed due to the Public Use nature of this project and also to allow better pedestrian movement with less restrictive widths. The increased width allows better pedestrian passing opportunity for ADA compliance and provides a much more desirable walking experience. Attached to this Narrative is a graphic illustrating a 6' wide located 36" above grade (permissible) and a 10' wide walk located 6' above the coastal wetland grade. Projected on this drawing is the anticipated shading with both deck heights and widths. This clearly shows that with increased height, a wider walkway can provide less shading than is allowed for a 6' wide walkway. The height of the current walkway and underlying vegetation proves that there is adequate light penetration below the walkway to promote healthy vegetative growth below.



AUG 22 2023

## DCM-EC

The 6' wide section of elevated walkway located within the southern portion of the project is intended to provide access for kite boarding and other water sports activities. Due to the nature of the use, we propose that this walkway be allowed to be only 30" above grade instead of the customary 36". At 30" above grade the walkway is not required to have handrails. The current user group has requested not having handrails which tend to snag their kites and sport equipment. We propose to construct this walkway with vinyl decking that will allow 50% sunlight penetration. The area where this walk is proposed exhibits significant foot traffic degradation to the wetlands and an elevated walkway without rails is preferred. The NC Building Code requires handrails for walkways that are more than 32" above grade so lowering this section of walkway is necessary for Building Code compliance.

Concrete sidewalks located within upland areas and outside of the CAMA AEC will provide connection from the boardwalk to the event site. A scoping / prenotification meeting was held on 4/25/2022 in the form of an interagency meeting and items discussed at this meeting were addressed in the plans within this submittal.

**CAMA Permitting:** The project site is adjacent to the Roanoke Sound. George Wood (EPI) assisted with this project to identify potentially jurisdictional wetlands on the Event Site. George met with Yvonne Carver and Ron Renaldi (NCDEQ DCM) on 8/10/2021 to obtain confirmation of the coastal wetland limits. George also obtained a Jurisdictional Determination (approved on 8/16/2022) from Billy Standbridge with the USACOE. The location of the shoreline as well as the wetland limits were obtained by Seaboard Surveying during the physical survey for the project area and are shown on the prepared plans. It was found that the public trust area (estuarine) 30' buffer and 75' AEC are located entirely within confirmed jurisdictional wetlands. Additionally, coastal wetlands on the site occasionally extend outside of the 75' public shoreline AEC.

Proposed development over open water includes:

- Platform with gazebo consisting of
  - A 2,217 sf platform gazebo that includes 1,690 of covered gazebo area
  - 141 lf of 10' wide pier connecting a proposed inland boardwalk to the platform
  - A 109 lf and a 78 lf (10' wide) elevated wooden platforms connecting adjacent proposed inland boardwalks to the new pier
  
- 8 boat slips consisting of
  - 108.6 lf (average) of 6' wide pier
  - 5 finger piers (20' long & 4' wide)
  - 8 tie pilings
  - Work includes the removal of 4 mooring pilings (2 slips)

AUG 22 2023

DCM-EC

Proposed development within the <sup>CW</sup> non-open waters portion of the CAMA AEC includes:

- 914 of 10' wide elevated wooden boardwalk
- 102 lf of 6' wide elevated vinyl access walkway to provide recreational sound access

Proposed development outside the CAMA AEC but within non-coastal wetlands includes:

- 471 lf of 10' wide elevated wooden walkway
- One 641 sf viewing platform and one 628 sf viewing platform
- One 1,134 sf viewing platform with pergola (located outside of the CAMA AEC)

Proposed development within upland areas includes:

- 943 lf of 10' wide concrete sidewalk
- 70 lf of 10' wide elevated wooden boardwalk
- One 48' long retaining wall (located outside of the CAMA AEC)
- One arch welcome sign (located outside of the CAMA AEC)

A scoping meeting was held at which DWR was present. The date of the scoping meeting was 4/25/2022 and this project was discussed. This meeting met the requirement for requesting a pre-filing meeting under 40 CFR Part 121 for 401 Certifications in accordance with the federal Clean Water Act.

1) The project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of my knowledge and belief, and 2) The project proponent hereby requests that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time.



RECEIVED

DCM MP-1

SEP 01 2023

# APPLICATION for Major Development Permit

DCM-EC



(last revised 12/27/06)

North Carolina DIVISION OF COASTAL MANAGEMENT

1. Primary Applicant/ Landowner Information			
Business Name Dare County Tourism Board (Note: the Town of Nags Head shares ownership of portions of the land)		Project Name (if applicable) The Soundside Event Site Boardwalk Project	
Applicant 1: First Name Diane	MI	Last Name Bognich	
Applicant 2: First Name See attached for "Town of Nags Head"	MI	Last Name	
<i>If additional applicants, please attach an additional page(s) with names listed.</i>			
Mailing Address One Visitors Center Circle		PO Box	City Manteo
			State NC
ZIP 27954	Country USA	Phone No. 252 - 473 - 2138 ext.	FAX No. - -
Street Address (if different from above)		City	State
			ZIP -
Email bognich@outerbanks.org			

2. Agent/Contractor Information			
Business Name Albemarle & Associates, Ltd			
Agent/ Contractor 1: First Name John	MI M	Last Name DeLucia	
Agent/ Contractor 2: First Name	MI	Last Name	
Mailing Address		PO Box PO Box 3989	City Kill Devil Hills
			State NC
ZIP 27948		Phone No. 1 252 - 441 - 2113 ext.	Phone No. 2 - - ext.
FAX No. 252-441-0965	Contractor #		
Street Address (if different from above) 115 West St. Clair St.		City Kill Devil Hills	State NC
			ZIP 27948 -
Email johnd@albemarleassociates.com			

&lt;Form continues on back&gt;

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3. Project Location			
County (can be multiple) Dare	Street Address 6800 South Croatan Highway (underlying parcels have street addresses of 6906, 6900, 6800, 6714 & 6708 South Croatan Highway)	State Rd. # US-168	
Subdivision Name See attached	City Nags Head	State NC	Zip 27959 -
Phone No. n/a - - ext.	Lot No.(s) (if many, attach additional page with list) (attached)		
a. In which NC river basin is the project located? Pasquotank	b. Name of body of water nearest to proposed project Roanoke Sound		
c. Is the water body identified in (b) above, natural or manmade? <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Manmade <input type="checkbox"/> Unknown	d. Name the closest major water body to the proposed project site. Roanoke Sound		
e. Is proposed work within city limits or planning jurisdiction? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	f. If applicable, list the planning jurisdiction or city limit the proposed work falls within. Town of Nags Head		

4. Site Description	
a. Total length of shoreline on the tract (ft.) 2,444 ft	b. Size of entire tract (sq.ft.) 1,115,063
c. Size of individual lot(s) see attached (if many lot sizes, please attach additional page with a list)	d. Approximate elevation of tract above NHW (normal high water) or NWL (normal water level) 0.5' to 3.0' <input type="checkbox"/> NHW or <input checked="" type="checkbox"/> NWL
e. Vegetation on tract Grassed on uplands, various wetland/marsh vegetation in wetlands	
f. Man-made features and uses now on tract parking areas (paved and reinforced grass), sidewalks, a shade structure, a rope climbing course and two former restaurants	
g. Identify and describe the existing land uses <u>adjacent</u> to the proposed project site. North - West / Soundfront - Commercial (go-cart track) East - Commercial (mini-golf) South - public sound access and pavilion	
h. How does local government zone the tract? C-2 General Commercial (with hotel overlay)	i. Is the proposed project consistent with the applicable zoning? (Attach zoning compliance certificate, if applicable) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
j. Is the proposed activity part of an urban waterfront redevelopment proposal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
k. Has a professional archaeological assessment been done for the tract? If yes, attach a copy. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA If yes, by whom?	
l. Is the proposed project located in a National Registered Historic District or does it involve a National Register listed or eligible property? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA	

&lt;Form continues on next page&gt;

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Soundside Event Site Boardwalk  
Dare County Tourism Board

CAMA Major Development Permit Application Supplement

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DCM-EC

DCM MP-1

Section 1 - Applicant 2

Business Name: The Town of Nags Head

First Name: Andy Last Name: Garmen

Mailing Address: 5401 South Croatan Highway, Nags Head, NC, 27959

Section 3 - Subdivision & Lot numbers (6 total)

Forbes Commercial Lots (Lot 1, Lot 2 & Lot 3)

Outdoor Creations (Parcel 1, Parcel 2)

None (formerly "Pamlico Jacks")

Section 4 - Site Description - (c) Size of Individual Lots

Forbes Commercial Lots (Lot 1) :	159,527.05 sf
Forbes Commercial Lots (Lot 2) :	74,786.34 sf
Forbes Commercial Lots (Lot 3) :	397,475.64 sf
Outdoor Creations (Parcel 1):	34,769.95 sf
Outdoor Creations (Parcel 2):	183,803.11 sf
None (former Pamlico Jacks):	264,701.90 sf

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APPLICATION for  
Major Development Permit

m. (i) Are there wetlands on the site?	<b>DCM-EC</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(ii) Are there coastal wetlands on the site?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(iii) If yes to either (i) or (ii) above, has a delineation been conducted? <i>(Attach documentation, if available)</i>		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
n. Describe existing wastewater treatment facilities. on-site septic systems with subsurface drainfield disposal at former restaurants		
o. Describe existing drinking water supply source. Town of Nags Head Water System		
p. Describe existing storm water management or treatment systems. State issued stormwater management permit SW 7140809 issued for Event Site includes infiltration basins and permeable pavement		

<b>5. Activities and Impacts</b>		
a. Will the project be for commercial, public, or private use? public use		<input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Public/Government <input type="checkbox"/> Private/Community
b. Give a brief description of purpose, use, and daily operations of the project when complete.  The public site is mostly grassed with paved and grassed and parking areas for public use. The primary use is a place to host a variety of public events. Boardwalk and platforms will provide access to and views of the Roanoke Sound as well as connectivity between adjacent parcels. 8 small boat slips are being added to provide boat access and temporary dockage for the site.		
c. Describe the proposed construction methodology, types of construction equipment to be used during construction, the number of each type of equipment and where it is to be stored.  Boardwalk will be timber frame with wood or composite deckboards. Pilings will be installed using a vibratory hammer. Standard power driven construction hand tools will be used for frame and deck construction. Small excavator and/or skid steers may be used for transitional grading in upland areas. Staging / storage areas will be on site in upland areas.		
d. List all development activities you propose.  Wooden walkways (6' wide) and boardwalks (10' wide), as well as a platform with gazebo and 8 boat docks are proposed within the CAMA AEC. Concrete sidewalks, additional wooden boardwalks, a pergola, two viewing platforms, and a retaining wall are proposed outside of the AEC to provide access and connectivity to and from existing parking areas and sidewalks.		
e. Are the proposed activities maintenance of an existing project, new work, or both? new work		
f. What is the approximate total disturbed land area resulting from the proposed project?	0.65	<input type="checkbox"/> Sq.Ft or <input checked="" type="checkbox"/> Acres
g. Will the proposed project encroach on any public easement, public accessway or other area that the public has established use of?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
h. Describe location and type of existing and proposed discharges to waters of the state. There is an existing drainage easement with a stormwater drainage pipe outfall to the Roanoke Sound that is located approximately in line with the current driveway location. This will not be impacted by this project.		
i. Will wastewater or stormwater be discharged into a wetland?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA
If yes, will this discharged water be of the same salinity as the receiving water?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
j. Is there any mitigation proposed?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA
If yes, attach a mitigation proposal.		

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**6. Additional Information**  
*In addition to this completed application form, (MP-1) the following items below, if applicable, must be submitted in order for the application package to be complete. Items (a) -- (f) are always applicable to any major development application. Please consult the application instruction booklet on how to properly prepare the required items below.*

a. A project narrative.

b. An accurate, dated work plat (including plan view and cross-sectional drawings) drawn to scale. Please give the present status of the proposed project. Is any portion already complete? If previously authorized work, clearly indicate on maps, plats, drawings to distinguish between work completed and proposed.

c. A site or location map that is sufficiently detailed to guide agency personnel unfamiliar with the area to the site.

d. A copy of the deed (with state application only) or other instrument under which the applicant claims title to the affected properties.

e. The appropriate application fee. Check or money order made payable to DENR.

f. A list of the names and complete addresses of the adjacent waterfront (riparian) landowners and signed return receipts as proof that such owners have received a copy of the application and plats by certified mail. Such landowners must be advised that they have 30 days in which to submit comments on the proposed project to the Division of Coastal Management.

Name	18 Mile Post LLC	Phone No.	252-441-0151
Address	PO Box 324, Nags Head, NC, 27959		
Name	Sandar LLC	Phone No.	252-423-0408
Address	280 Airport Road, Manteo, NC, 27954		
Name		Phone No.	
Address			

g. A list of previous state or federal permits issued for work on the project tract. Include permit numbers, permittee, and issuing dates.  
 NCDDEQ Stormwater Permit SW7140809 - (Issued to the Dare County Tourism Board on 9/10/2014)  
 CAMA Major Permit #13B-11 Issued 11/21/11 (revised 9/30/13, 3/14/14 & 0/9/15) Issued to On-Trading Corp.

h. Signed consultant or agent authorization form, if applicable.

i. Wetland delineation, if necessary.

j. A signed AEC hazard notice for projects in oceanfront and inlet areas. (Must be signed by property owner) N/A


k. A statement of compliance with the N.C. Environmental Policy Act (N.C.G.S. 113A 1-10), if necessary. If the project involves expenditure of public funds or use of public lands, attach a statement documenting compliance with the North Carolina Environmental Policy Act.

**7. Certification and Permission to Enter on Land**

I understand that any permit issued in response to this application will allow only the development described in the application. The project will be subject to the conditions and restrictions contained in the permit.

I certify that I am authorized to grant, and do in fact grant permission to representatives of state and federal review agencies to enter on the aforementioned lands in connection with evaluating information related to this permit application and follow-up monitoring of the project.

I further certify that the information provided in this application is truthful to the best of my knowledge.

Date 8/14/2023 Print Name MICHAEL MORWAY  
 Signature 

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Please indicate application attachments pertaining to your proposed project.  
 DCM MP-2 Excavation and Fill Information  DCM MP-5 Bridges and Culverts  
 DCM MP-3 Upland Development  
 DCM MP-4 Structures Information

DCM-EC

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Form DCM MP-3

# UPLAND DEVELOPMENT

DCM-EC

(Construction and/or land disturbing activities)

Attach this form to Joint Application for CAMA Major Permit, Form DCM MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project. Please include all supplemental information.

## GENERAL UPLAND DEVELOPMENT

a. Type and number of buildings, facilities, units or structures proposed.

10x9 concrete side walk (943'), 18' wide wooden boardwalk (1,465')

6' wide vinyl access walkway (102'), 3 viewing platforms (1,289 sf)

total, pergola (1,134 sf), retaining wall (48'), welcome sign

Density (give the number of residential units and the units per acre).

N/A

b. Number of lots or parcels.

5

i. Size of area to be graded, filled, or disturbed including roads, ditches, etc.!

0.65 Ac

e. If the proposed project will disturb more than one acre of land, the Division of Land Resources must receive an erosion and sedimentation control plan at least 30 days before land-disturbing activity begins.

(i) If applicable, has a sedimentation and erosion control plan been submitted to the Division of Land Resources?

Yes  No  NA

(ii) If yes, list the date submitted: N/A

f. List the materials (such as marl, paver stone, asphalt, or concrete) to be used for impervious surfaces.

concrete

g. Give the percentage of the tract within the coastal shoreline AEC to be covered by impervious and/or built-upon surfaces, such as pavement, building, rooftops, or to be used for vehicular driveways or parking.

3.0% 0% (handwritten)

h. Projects that require a CAMA Major Development Permit may also require a Stormwater Certification.

(i) Has a site development plan been submitted to the Division of Water Quality for review?

Yes  No  NA

(ii) If yes, list the date submitted: 4/25/2022

i. Give the percentage of the entire tract to be covered by impervious and/or built-upon surfaces, such as pavement, building, rooftops, or to be used for vehicular driveways or parking.

20.9 %

j. Describe proposed method of sewage disposal.

none

k. Have the facilities described in Item (i) received state or local approval?

Yes  No  NA

If yes, attach appropriate documentation.

l. Describe location and type of proposed discharges to waters of the state (e.g., surface runoff, sanitary wastewater, industrial/commercial effluent, "wash down" and residential discharges).

N/A

m. Does the proposed project include an innovative stormwater design?

Yes  No  NA

If yes, attach appropriate documentation.

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Form DCM MP-3 (Upland Development, Page 2 of 2)

m. Describe proposed drinking water supply source (e.g., well, community, public system, etc.)

none

n. (i) Will water be impounded?  Yes  No  NA

(ii) If yes, how many acres? N/A

o. When was the lot(s) platted and recorded?

Lots 1, 2 & 3 Forbes Commercial Lots - PC D, SL 192 (recorded 8/27/96)

Parcel 1 & 2, Outdoor Creations Amended, PC C, SL 152A (recorded 2/26/92)

Penguin Isle Property, PC B, SL 269 (recorded 10/23/1984)

p. If proposed development is a subdivision, will additional utilities be installed for this upland development?

Yes  No  NA

7/3/23 Revised 5/9/24 (GB)

Date Seaside Event Site, Nags Head JMD  
5/14/24

Project Name John M. DeLuca PE

Applicant Name [Signature]

Applicant Signature [Signature]

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Form DCM MP-4

STRUCTURES

DCM-EC

(Construction within Public Trust Areas)

Attach this form to Joint Application for CAMA Major Permit, Form DCM MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project. Please include all supplemental information.

1. DOCKING FACILITY/MARINA CHARACTERISTICS

This section not applicable

a. (i) Is the docking facility/marina:  Commercial  Public/Government  Private/Community

b. (i) Will the facility be open to the general public?  Yes  No

c. (i) Dock(s) and/or pier(s)  
(ii) Number 1  
(iii) Length 141  
(iv) Width 10'  
(v) Floating  Yes  No

d. (i) Are Finger Piers included?  Yes  No  
If yes:  
(ii) Number 54  
(iii) Length 20'  
(iv) Width 4.0'  
(v) Floating  Yes  No

e. (i) Are Platforms included?  Yes  No  
If yes:  
(ii) Number 1  
(iii) Length varies  
(iv) Width varies  
(v) Floating  Yes  No

f. (i) Are Boatlifts included?  Yes  No  
If yes:  
(ii) Number N/A  
(iii) Length N/A  
(iv) Width N/A

g. (i) Number of slips proposed 85  
(ii) Number of slips existing 2

h. Check all the types of services to be provided. N/A  
 Full service, including travel lift and/or rail, repair or maintenance service  
 Dockage, fuel, and marine supplies  
 Dockage ("wet slips") only, number of slips: \_\_\_\_\_  
 Dry storage; number of boats: \_\_\_\_\_  
 Boat ramp(s); number of boat ramps: \_\_\_\_\_  
 Other, please describe: \_\_\_\_\_

i. Check the proposed type of siting:  
 Land cut and access channel  
 Open water; dredging for basin and/or channel  
 Open water; no dredging required  
 Other, please describe: \_\_\_\_\_

j. Describe the typical boats to be served (e.g., open runabout, charter boats, sail boats, mixed types).  
small personal watercraft

k. Typical boat length: < 20'

l. (i) Will the facility be open to the general public?  Yes  No

m. (i) Will the facility have tie pilings?  Yes  No  
(ii) If yes number of tie pilings? 8

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2. DOCKING FACILITY/MARINA OPERATIONS

This section not applicable

a. Check each of the following sanitary facilities that will be included in the proposed project.

Office Toilets

Toilets for patrons; Number: \_\_\_\_\_; Location: N/A

Showers

Boatholding tank pumpout; Give type and location: N/A

b. Describe treatment type and disposal location for all sanitary wastewater.

N/A

c. Describe the disposal of solid waste, fish offal and trash.

N/A

d. How will overboard discharge of sewage from boats be controlled?

N/A

e. (i) Give the location and number of "No Sewage Discharge" signs proposed.

N/A

(ii) Give the location and number of "Pumpout Available" signs proposed.

N/A

f. Describe the special design, if applicable, for containing industrial type pollutants, such as paint, sandblasting waste and petroleum products.

N/A

g. Where will residue from vessel maintenance be disposed of?

N/A

h. Give the number of channel markers and "No Wake" signs proposed. N/A

i. Give the location of fuel-handling facilities, and describe the safety measures planned to protect area water quality.

N/A

j. What will be the marina policy on overnight and live-aboard dockage?

No overnight or live-aboard dockage will be permitted

k. Describe design measures that promote boat basin flushing?

N/A (open waters / tidal movements)

l. If this project is an expansion of an existing marina, what types of services are currently provided?

N/A

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- m. Is the marina/docking facility proposed within a primary or secondary nursery area?  
 Yes  No
- n. Is the marina/docking facility proposed within or adjacent to any shellfish harvesting area?  
 Yes  No
- o. Is the marina/docking facility proposed within or adjacent to coastal wetlands/marsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.  
 CW \_\_\_\_\_  SAV \_\_\_\_\_  SB \_\_\_\_\_  
 WL \_\_\_\_\_  None
- p. Is the proposed marina/docking facility located within or within close proximity to any shellfish leases?  Yes  No  
If yes, give the name and address of the leaseholder(s), and give the proximity to the lease.

**3. BOATHOUSE (including covered lifts)**  This section not applicable

- a. (i) Is the boathouse structure(s): N/A  
 Commercial  Public/Government  Private/Community
  - (ii) Number N/A
  - (iii) Length N/A
  - (iv) Width N/A
- Note: Roofed areas are calculated from dripline dimensions.*

**4. GROIN (e.g., wood, sheelpile, etc. If a rock groin, use MP-2, Excavation and Fill.)**  This section not applicable

- a. (i) Number N/A
- (ii) Length N/A
- (iii) Width N/A

**5. BREAKWATER (e.g., wood, sheelpile, etc.)**  This section not applicable

- a. Length N/A
- b. Average distance from NHW, NWL, or wetlands N/A
- c. Maximum distance beyond NHW, NWL or wetlands N/A

**6. MOORING PILINGS and BUOYS**  This section not applicable

- a. Is the structure(s):  
 Commercial  Public/Government  Private/Community
- b. Number \_\_\_\_\_
- c. Distance to be placed beyond shoreline 81'  
*Note: This should be measured from marsh edge, if present.*
- d. Description of buoy (color, inscription, size, anchor, etc.)  
N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- e. Arc of the swing N/A

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Form DCM MP-4 (Structures, Page 4 of 4)

7. GENERAL

a. Proximity of structure(s) to adjacent riparian property lines  
305'

b. Proximity of structure(s) to adjacent docking facilities.  
860'

Note: For buoy or mooring piling, use arc of swing including length of vessel.

c. Width of water body  
11,400'

d. Water depth at waterward end of structure at NLW or NWL.  
2.0' (pier / finger piers) & 1.4' (gazebo platform)

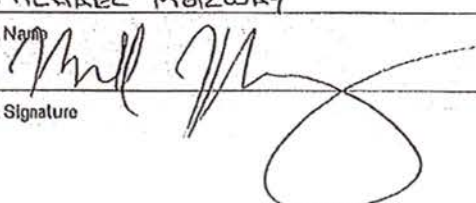
e. (i) Will navigational aids be required as a result of the project?  
 Yes  No  NA  
(ii) If yes, explain what type and how they will be implemented.

8. OTHER

This section not applicable

a. Give complete description:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date 8/14/2023  
Project Name NAGS HEAD EVENT SITE  
Applicant Name MICHAEL MORZWAY  
Applicant Signature 

Revised 5/9/24 GB  
JMD  
5/14/24  
Schmitt Deluca PE

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080  
**DIVISION OF COASTAL MANAGEMENT**  
**FIELD INVESTIGATION REPORT**

1. APPLICANT'S NAME: **Dare County Tourism Board & Town of Nags Head**
2. LOCATION OF PROJECT SITE: 6906, 6900, 6800, 6714, & 6708 S. Croatan Hwy, Nags Head; adjacent the Roanoke Sound.  
 Latitude: 35.916424°      Longitude: -75.605386°  
 Latitude: 35.916816°      Longitude: -75.607322°
3. INVESTIGATION TYPE: CAMA
4. INVESTIGATIVE PROCEDURE: Dates of Site Visit – 08/10/2021; 07/18/2023  
 Was Applicant Present – No; No
5. PROCESSING PROCEDURE: Application received 07/07/2023  
 Application received complete 09/01/2023  
 Office - Elizabeth City
6. SITE DESCRIPTION:
  - (A) Local Land Use Plan – Town of Nags Head  
 Land Classification From LUP – C2; General Commercial District
  - (B) AEC(s) Involved: Estuarine Waters (EW), Public Trust Areas (PTA), and Coastal Wetlands (CW), Coastal Shoreline (CS)
  - (C) Water Dependent: Yes and No
  - (D) Intended Use: Public/Government
  - (E) Wastewater Treatment: Existing – Onsite septic systems at former restaurants  
 Planned - None
  - (F) Type of Structures: Existing – Paved asphalt parking, gazebo, deck(s), ramp, office building, pier, platform, slips  
 Planned – Boardwalks, walkway, viewing platforms (climbing tower), Pergola, pier to platform/gazebo, 8 slips, 5 finger piers
  - (G) Estimated Annual Rate of Erosion: N/A  
 Source – Onsite observation

7. HABITAT DESCRIPTION:

	DREDGED	[AREA] FILLED	OTHER
(A) CW 404	N/A	N/A	Shading: 9,748.5 sf 7,813.48 sf
(B) EW/PTA	N/A	N/A	Shading: 6,544.63
(C) CS (High ground)	N/A	N/A	Disturbed: 10,217.1

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**Field Investigation Report: Dare County Tourism Board & Town of Nags Head**

Page 2

- (D) Total Area Disturbed: 34,323.71 (.78 acres)
- (E) Primary Nursery Area: No
- (F) Water Classification: SA; HQW            Open to Shellfishing

8. **PROJECT SUMMARY:** Development proposed includes 10' wide boardwalks, 6' wide vinyl access walkway, viewing platforms, pergola, 10' wide pier to a 2,217-sf platform with gazebo; remove 2 slips & create 8 boat slips & 5 finger piers .

Project Setting

The project is proposed on 5 parcels, located at 6708, 6714, 6800, 6900, and 6906 S. Croatan Hwy in Nags Head, Dare County. These parcels equate to a total of 25.5 acres, with a ~2,444 linear foot (lft) shoreline adjacent the Roanoke Sound. Per Dare County parcel records, each parcel was assessed as follows: Parcel #008795000 at 6708 = 284,882 sf; Parcel #030880000 at 6714 = 175,982 sf; Parcel # 008854000 at 6800 = 407,286; Parcel #012422001 at 6900 = 75,500 sf; and Parcel #012422000 at 6906 = 168,577 sf. The development for 6708 consists of the old Pamlico Jack Restaurant with associated parking and driveway. The development for 6714 (aka First Flight Adventure Park) consists of a roofed climbing tower with ziplines, office building, paved asphalt parking, driveway, elevated ramp and walkway, observation deck, pier, upper platform with partial roof, steps down to a lower platform, and four pilings for two slips. The upland development for the current Soundside Event Center consists of paved asphalt parking, driveways, and a covered pavilion.

The elevation for the properties varies from 0.5' to 3.0' Normal Water Level (NWL). Starting from the southern parcel going north, the vegetation consists of Coastal Wetland (CW) plants including Bulrush (*Scirpus* spp), Black needlerush (*Juncus roemerianus*), Giant cord grass (*Spartina cynosuroides*), Smooth cordgrass (*Spartina alterniflora*), and Salt meadow grass (*Spartina patens*). Non-CW vegetation included indigenous grass, Pennywort, Phragmites, Sea ox-eye, and Bayberry (*Myrica cerifera*).

The riparian property to the north is developed as a commercial go kart track with a four-sided open building, utility shed, deck, paved asphalt parking and driveway (outside of the AECs). A large area of the property is undeveloped, with approximately ±8 acres of marsh. The riparian property directly south of the project area is a Town of Nags Head's Harvey Public Sound Access, developed with a pavilion with restrooms, deck, ramp, and catamaran racks. The next riparian property to the south is developed with a restaurant with paved asphalt parking, driveway, deck, pier, platforms, gazebo, finger piers, and slips.

Permit history on file for the parcel at 6714 includes Major Permit (MP) #138-11 issued to On Trading Corp c/o Nicholas Nuzzi on 11/21/2011 and expired on 02/09/2017. Division of Water Quality Project No. 11-0733 and USACE SAW-2011-01574 were issued in association with this permit. The MP authorized upland development (walkway, gazebo, docking facility with boat slips, pier, and platform. The applicant also confirmed that NCDEQ Stormwater Permit SW7140809 was issued to Dare County Tourism Board on 09/16/2014.

A virtual scoping meeting was held on 04/25/2022 to discuss the proposal, at which representative(s) of the Division of Water Resources (DWR) were present.



**Field Investigation Report: Dare County Tourism Board & Town of Nags Head**

Page 3

The USACE provided a Jurisdictional Determination for the project site dated 08/16/2022.

The water classifications for the Roanoke Sound are Market Shellfishing, Tidal Salt Water (SA) and High Quality Waters (HQW). The waters are open to shellfishing and are not in a primary nursery area. The waterbody of the Sound is designated as Coastal Waters and is in the Pasquotank River Basin. The water depths in the project area of the waterbody vary from -0.25 to -1.61 NWL in front of the southern-most parcel, -0.50 to -1.52 NWL in the area of the proposed gazebo, to -0.42 to -2.86 NWL in the area of the existing pier/platform and proposed finger pier/slips on the northern parcel.

An SAV survey was conducted by George Wood of Environmental Professionals on 09/05/2022, and a copy is included in the application. There were dense areas of Widgeon grass, (*Ruppia maritima*) and sparse areas of Common eelgrass (*Zostera marina*).

Development Proposal

The applicants are requesting to develop the Soundside Event Site to provide pedestrian access to the Town-owned Harvey Sound access on the south and the length of the properties to the north, connecting to the First Flight Adventure Park and adjacent property. The project includes the following:

6906 and 6900 S. Croatan Hwy

- A 101.8 lft x 6' wide (610.8 sf) sound access walkway is proposed across CW to provide access for kite boarding and other water sports activist to the sound. The request is to be allowed to **construct the walkway at an elevation of 30"** above the CW versus the required 36". The NC Building Code requires handrails for walkways that are more than 32" above grade, and it was noted that kites and sporting equipment tend to get snagged on handrails. The applicants are also proposing to use vinyl planking that purportedly will allow 50% more sunlight penetration to the CW vegetation.
- A 473.65 lft x 10' wide (4736.5 sf) concrete sidewalk is proposed on high ground, and a 48' retaining wall border is proposed between the CW line and the proposed concrete sidewalk outside of the 75' AEC (high ground).
- A 145.75 lft x 10' (1,457.5 sf) wide boardwalk over CW to connect to a 109.18 lft x 10' (1,091.8 sf) boardwalk over the Sound.

6800 S. Croatan Hwy

- An entrance arch welcome sign is proposed at the intersection of the proposed 468.86 lft x 10' (4,688.6 sf) wide concrete sidewalk on high ground and the 70.25 lft x 10' wide boardwalk (702.5 sf) over 404 wetlands.
- A 628.32 sf viewing platform is proposed off the boardwalk over 404 wetlands, and the boardwalk will continue over for another 77.95 lft x 10' (779.5 sf) over CW.
- A 141.10 lft x 10' (1,410 sf) wide pier will extend off the boardwalk over the Sound, over a dense coverage of Widgeon grass, and connect to a 2,216.73-sf circular platform with 1,689.88 sf roofed area for a gazebo.
- A 74.4 lft x 10' wide boardwalk is proposed west of an existing stormwater basin on high ground outside of the AECs.

**Field Investigation Report: Dare County Tourism Board & Town of Nags Head**

Page 4

- Another section of boardwalk, proposed at 77.71 lft x 10' wide (777.1 sf), will be over the sound going north, and then connect to 97.02 lft x 10' (970.2 sf) boardwalk going over CW and transitioning to a 126.55 lft x 10' (1,265.55 sf) and 84.01 lft x 10' (840.1 sf) boardwalk over 404 wetlands. Also proposed over 404 wetlands is a 640.73 sf viewing platform.
- A 260.22 lft x 10' (2,602.2 sf) wide boardwalk will extend west from the proposed concrete sidewalk, with a 1,134.11-sf proposed pergola over 404 wetlands. A 177.34 lft x 10' (1,773.4 sf) boardwalk will continue west over CW to connect to the existing boardwalk associated with the pier on 6714.

**6714 and 6708 S. Croatan Hwy**

- 2 sections of boardwalk (206.65 lft x 10' wide and 209.06 lft x 10' wide for a total of 4,157.1 sf) will extend north over CW, terminating at the property boundary with the adjacent riparian property.
- 4 pilings will be removed from the existing docking facility, thereby removing 2 existing slips.
- An extension of the existing docking facility will include a 108' x 6' pier, five-20'x4' finger piers, and 8 pilings to create 8 new slips (for a total shading of 1,048 sf).
  - There is a moderate coverage of Widgeon grass in the proposed development area; however, the water depths range from -2.16' to -2.86' NWL.

**Anticipated Impacts**

The installation of the sound access walkway and sections of boardwalk will shade 9,748.5 sf of CW AEC.

The installation of the viewing platforms and pergola will shade 7,813.48 sf of 404 wetlands.

The installation of the piers, platforms, finger piers, and sections of boardwalk over the sound will shade 6,544.63 sf of Open Water habitat in the EW/PTA AECs.

The installation of concrete sidewalks, boardwalk, and retaining wall will disturb 10,217.1 sf of High Ground habitat outside of the AECs.

Submitted by: Yvonne Carver

Date: 09/29/2023



**Bodnar, Gregg**

**From:** Harrison, James A  
**Sent:** Thursday, May 30, 2024 1:36 PM  
**To:** Bodnar, Gregg; Pelletier, Josh R SAW; Tankard, Robert; Nyarko, Paul; Stewart, Glenn A; Wooten, Samantha; Dunn, Maria T.  
**Subject:** Re: Revised Project for Dare County Tourism Board and the Town of Nags Head

Afternoon Gregg,

The DMF supports the width restriction of the walkways over coastal wetlands, as this will minimize shading impacts (one of the issues raised in the original comments). Additionally, the adjusted layout appears to relocate some of the walkways to outside of the coastal wetlands, which addresses one of my biggest concerns. My original comments regarding the gazebo still stand - that the walkway parallel to shore shouldn't cross over SAV (or should incorporate grated material); the walkway to the gazebo should be extended further from SAV and/or incorporate grated material; and ensure that the gazebo design prevents the use of the structure for docking. Additionally, I would recommend that they utilize a pergola-style rook for the gazebo, as this helps to further minimize shading impacts. No additional comments to provide at this time. Thanks Gregg!

Jimmy

Jimmy Harrison  
 Habitat and Enhancement Section  
 NC Division of Marine Fisheries  
[james.harrison@deq.nc.gov](mailto:james.harrison@deq.nc.gov)

\*\*Please note that effective 29 May 2023, my email address switched to [james.harrison@deq.nc.gov](mailto:james.harrison@deq.nc.gov)\*\*  
 252-948-3835 (Office)  
 757-272-3230 (Mobile)



"Every pizza can be a personal pizza if you try hard enough and believe in yourself"

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---

**From:** Bodnar, Gregg <[gregg.bodnar@deq.nc.gov](mailto:gregg.bodnar@deq.nc.gov)>  
**Sent:** Wednesday, May 29, 2024 13:25  
**To:** Pelletier, Josh R SAW <[Josh.R.Pelletier@usace.army.mil](mailto:Josh.R.Pelletier@usace.army.mil)>; Tankard, Robert <[robert.tankard@deq.nc.gov](mailto:robert.tankard@deq.nc.gov)>; Nyarko, Paul <[Paul.Nyarko@deq.nc.gov](mailto:Paul.Nyarko@deq.nc.gov)>; Stewart, Glenn A <[Glenn.Stewart@deq.nc.gov](mailto:Glenn.Stewart@deq.nc.gov)>; Wooten, Samantha <[samantha.wooten@deq.nc.gov](mailto:samantha.wooten@deq.nc.gov)>; Harrison, James A <[James.Harrison@deq.nc.gov](mailto:James.Harrison@deq.nc.gov)>; Dunn, Maria T. <[maria.dunn@ncwildlife.org](mailto:maria.dunn@ncwildlife.org)>  
**Subject:** FW: Revised Project for Dare County Tourism Board and the Town of Nags Head

Afternoon all,



ROY COOPER  
*Governor*

ELIZABETH S. BISER  
*Secretary*

KATHY B. RAWLS  
*Director*

TO: Curt Weychert, NCDCM Assistant Major Permits Coordinator  
FROM: James Harrison, NCDMF Fisheries Resource Specialist  
SUBJECT: Soundside Event Site, Nags Head  
DATE: 18 December 2023

A North Carolina Division of Marine Fisheries (DMF) Fisheries Resource Specialist has reviewed the Coastal Area Management Act (CAMA) permit application and associated documents regarding the proposed Dare County Tourism Board project. The proposed project is located at 6906, 6900, 6800, 6714, and 6708 S Croatan Highway, Nags Head within Dare County, North Carolina. The applicants, the Dare County Tourism Board and the Town of Nags Head, are proposing to construct numerous boardwalks, an access walkway, viewing platforms, pergola, and a platform with a gazebo. The applicants are also proposing to remove two of the existing slips and construct eight new boat slips and five finger piers. The waters at this location are classified as SA; HQW and are open to shellfish harvest. Submerged aquatic vegetation (SAV) is present at this location.

The applicants are proposing to develop the Soundside Event Site over multiple parcels of land. The proposed development at 6906 and 6900 S. Croatan Highway includes a 101.8' by 6' access walkway to provide access for kite boarding and other water sports. The walkway would be located 30 inches above coastal wetlands as opposed to the required 36 inches. State building code requires handrails for walkways that are more than 32 inches above grade, and it has been noted that water sport equipment occasionally gets caught on/in handrails. The applicants are proposing to utilize vinyl planking that is expected to allow 50% more sunlight penetration to coastal wetlands. The applicants are also proposing to construct a 473.65' by 10' concrete sidewalk on the high ground, as well as a 48' retaining wall between the coastal wetlands line and the proposed sidewalk. Finally, the applicants are proposing a 145.75' by 10' boardwalk over coastal wetlands to connect to a 109.18' by 10' boardwalk that will go over the Sound.

At 6800 S. Croatan Highway, the applicants are proposing a 468.88' by 10' concrete sidewalk on high ground and a 70.25' by 10' boardwalk over Section 404 wetlands. A 628.32 square foot (SF) viewing platform is proposed off the boardwalk over Section 404 wetlands, and the boardwalk will continue for an additional 77.95' over coastal wetlands. A 141.1' by 10' pier is proposed to extend from the boardwalk over the sound, over dense SAV, and connect to a 2,216.73 SF circular platform with 1,689.88 SF being roofed for a gazebo. A 74.4' by 10' boardwalk is proposed west of an existing stormwater basin on the high ground. An additional 77.71' by 10' boardwalk will be over the Sound going north and connect to a 97.02' by 10' boardwalk going over coastal wetlands. This will transition to a 126.55' by 10' and 84.01' by 10'



boardwalk over Section 404 wetlands. A 640.73 SF viewing platform is also proposed for construction within Section 404 wetlands. A 260.22' by 10' boardwalk will extend west from the concrete sidewalk, with a 1,134.11 SF proposed pergola over Section 404 wetlands. A 177.34 by 10' boardwalk will continue west over coastal wetlands to connect to the existing boardwalk associated with the pier at 6714 S. Croatan Highway.

At 6714 and 6708 S. Croatan Highway, the applicants are proposing to construct 206.65 by 10' and 209.06' by 10' sections of boardwalk that will extend over coastal wetlands, terminating at the property boundary with the adjacent riparian property. Four pilings will be removed from the existing docking facility, removing two slips. An extension of the existing docking facility will include a 108' by 6' pier, five finger piers that are 20' by 4' each, and 8 pilings, creating 8 new slips.

The DMF has reviewed the permit application and has significant concerns with the proposal. First, the DMF has concerns with the proposed walkway that is primarily intended for kiteboard access. However, based on the 13 December discussion, it appears that this aspect of the proposal has been removed. As such, the DMF concerns with this portion of the proposal are alleviated. Should this aspect be included in the final design, the DMF would recommend that the structure be built in accordance with applicable CAMA requirements, such as structure height.

The DMF also has concerns with the amount of crossing over wetlands, particularly considering that the applicant is proposing 10' widths for walkways as opposed to 6' wide walkways. The DMF would recommend that either the walkway widths be redesigned to a narrower width, or the project be redesigned to minimize wetland impacts. This can be accomplished by either relocating the proposed walkways to minimize wetland crossings or by removing sections of the proposed walkways.

The DMF also has concerns with the proposed project aspects that may impact SAV. The walkway that leads to the overwater gazebo and the boardwalk section that this walkway intersects may result in impacts to SAV. The overwater portion of the boardwalk that is parallel to the shoreline should either be removed or repositioned to avoid crossing SAV. An additional option is to utilize construction materials that allow for increased light penetration compared to standard construction materials. Regarding the walkway that leads to the overwater gazebo, the DMF would recommend that this portion of the project also be removed or redesigned in order to minimize SAV impacts. Additionally, the gazebo should be extended further from mapped SAV (to avoid potential shading impacts) and should be minimized in size. The gazebo should also feature design elements that will prevent the structure from being used for docking.

The DMF also has concerns with the proposed slips. While the slips will be in waters that are greater than 2' deep, the presence of SAV in the slips is a concern for the DMF. Adding a small walkway that would extend between the existing platform and the proposed slips would help to minimize SAV impacts associated with the use of the slips. The DMF would recommend that this walkway roughly follow the proposed pier alignment and have the first finger pier be located at the position of the second finger pier as proposed. This may also help to limit the amount of shading in SAV that may occur as a result of the proposed project. Additionally, the DMF would recommend that the proposed docking structure include design elements that only the proposed



slips are used for docking. This could include handrails and ensuring that cleats are not positioned outside of the proposed slips (i.e., along the north side of the proposed dock).

Thank you for your consideration of our comments and concerns. Please contact Jimmy Harrison at (252) 948-3835 or at [james.harrison@deq.nc.gov](mailto:james.harrison@deq.nc.gov) with any further questions or concerns.

**Bodnar, Gregg**

---

**From:** Dunn, Maria T.  
**Sent:** Monday, December 11, 2023 6:04 AM  
**To:** Weychert, Curtis R  
**Subject:** FW: [External] RE: Dare County Tourism Board/ Town of Nags Head Project

Hi Curt.

Sorry about scheduling. NCWRC is concern with the project due to the height above wetlands and the overall width. They should demonstrate avoidance and minimization of impacts. Meeting the height standards over wetlands is a start, but the width could also be reduced. The Town of Belville's Riverwalk Park narrows to 6' over wetlands and Duck's boardwalk is more over open water and factored into its position SAV presence and shading. Let me know when would be a good time to discuss. I am rather full this week so give me a call on my personal cell. I am getting ready for a long field day with other staff. Tomorrow is full of meetings but I should be able to take a call.

Maria

---

**From:** Nyarko, Paul <Paul.Nyarko@deq.nc.gov>  
**Sent:** Friday, December 8, 2023 1:31 PM  
**To:** Dunn, Maria T. <maria.dunn@ncwildlife.org>; Harrison, James A <James.Harrison@deq.nc.gov>  
**Subject:** FW: [External] RE: Dare County Tourism Board/ Town of Nags Head Project

Paul Nyarko  
 Environmental Specialist II  
 Department of Environmental Quality- Division of Water Resources  
[paul.nyarko@deq.nc.gov](mailto:paul.nyarko@deq.nc.gov)  
 office : 252-948-3845  
 cell phone: 252-402-7368

943 Washington Square Mall  
 Washington, NC 27889.



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---

**From:** Nyarko, Paul <Paul.Nyarko@deq.nc.gov>  
**Sent:** Friday, December 8, 2023 10:13 AM  
**To:** Weychert, Curtis R <curt.weychert@deq.nc.gov>  
**Subject:** Re: [External] RE: Dare County Tourism Board/ Town of Nags Head Project



December 21, 2023

Gregg Bodnar  
Major Permits Coordinator  
Division of Coastal Management  
North Carolina Department of Environmental Quality

**RE: Nags Head Event Site – Proposed Waterfront Improvement Considerations**

Dear Mr. Bodnar:

In response to our meeting last week, we have made some considerations for revisions to the current plan being reviewed by NCDQM and others. We discussed several options and elements of the plan that might be scaled back or modified to reduce the impacts to coastal wetlands and submerged aquatic vegetation. As we discussed, this site has and will have heavy public use and is envisioned to provide public interaction, appreciation of the coastal ecosystem, and access to the Sound for water dependent activities such as kite boarding, fishing, boating, swimming, observation of nature and several other activities that are beneficial and desired by the Community. Portions of these improvements are also a part of the long range Town of Nags Head plan for a sound side boardwalk to connect Forbes St to the north to the Sugar Creek area on the causeway.

We have considered the concerns and observations from the various regulatory agencies and have weighed these concerns based upon the programming / use of the site. The following items have been considered for modification or elimination from the current CAMA Major Permit. We propose these modifications to facilitate the issuance of the permit so that the project can be bid, and construction can commence this summer. Since the current plan is still what the design team believes is needed for this public use site, we anticipate continued coordination with DCM to achieve these components in subsequent modifications.

We will consider making these changes in lieu of seeking a variance if the Division so deems them appropriate and sufficient for avoidance and mitigation of agency concerns. They are as follows:

*Planning – Surveying – Engineering – Environmental – Construction Management*  
P.O. Box 3989, 115 W. Saint Clair St., Kill Devil Hills, North Carolina 27948  
North Carolina License No. C-1027  
Phone: 252-441-2113 www.AlbemarleAssociates.com Fax: 252-441-0965



Letter to Gregg Bodnar  
 Nags Head Event Site – Proposed Waterfront Improvement Considerations  
 December 21, 2023  
 Page 2 of 2

- ① • Eliminate the northernmost walkway shown north of the existing walkway that accesses the climbing tower and current boat slip area.
- ② • Eliminate the Kiteboard access walkway on the south end of the property.
- ③ • Eliminate the easternmost finger pier at the boat slips to reduce the impact to SAVs and to remove the easternmost slip. This will locate all slips out of SAV areas.
- ④ • Reduce the Gazebo square footage by eliminating some of the lower platform area by an amount of 254 square feet.
- ⑤ • Reduce all proposed walkway and pier widths to 9' total width with the actual walking surface having an 8' width with handrails projecting 6" beyond the walkway surface on each side.

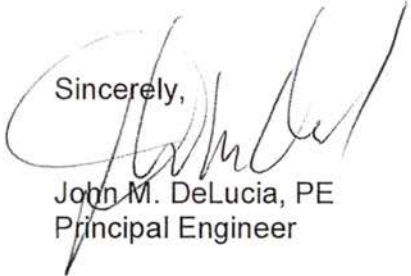
This will result in the following reduction of square footage in various locations as follows:

Within DCM AEC	3,406 sf
Over Open Water	664 sf
Within other 404 areas	541 sf
<b>Total Reduction</b>	<b>4,611 Square Feet</b>

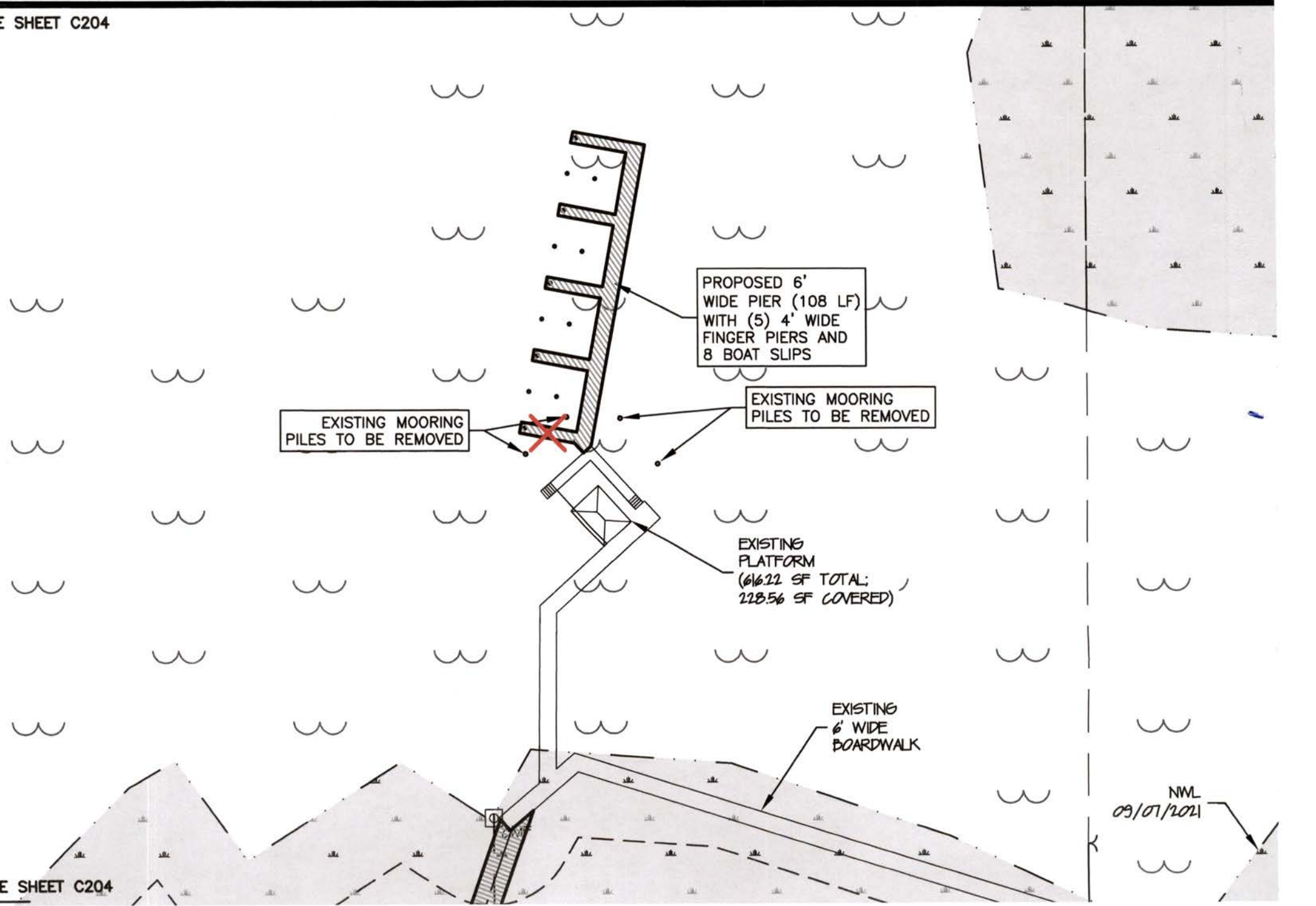
After thoughtful consideration, the design team, in consultation with the applicant, believes that these changes will allow the achievement of the programmatic goals of the site. As we discussed, this project has scheduling deadlines and grant provisions that need to be met to facilitate the construction of these soundside improvements.

We respectfully request that the Division consider these modifications and issue a permit. We will continue to explore designs that would allow the eliminated elements to be become reconsidered and permissible in the future. If the proposed modifications meet with the Division's concurrence, we will modify the permit documents accordingly.

Sincerely,

  
 John M. DeLucia, PE  
 Principal Engineer

cc: File  
 Lee Nettles  
 Diane Bognich  
 George Wood



NWL  
09/07/2011

Still waiting on any updates from your agency on the above revised project.

Gregg Bodnar (he/him/his)  
Major Permits Coordinator  
Division of Coastal Management  
North Carolina Department of Environmental Quality  
(252) 515-5416



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**From:** Bodnar, Gregg

**Sent:** Wednesday, May 15, 2024 7:12 AM

**To:** Kelly.Wyatt@nagsheadnc.gov; Love-Adrick, Rachel A <rachel.love-adrick@deq.nc.gov>; DCR - Environmental\_Review <Environmental.Review@dncr.nc.gov>; Whitfield, Clif <clif.whitfield@deq.nc.gov>; Josh.R.Pelletier@usace.army.mil; Harrison, James A <James.Harrison@deq.nc.gov>; Harris, David B <davidharris@ncdot.gov>; Jenkins, Shannon <shannon.jenkins@deq.nc.gov>; Haines, Andrew <andrew.haines@deq.nc.gov>; Moser, Mike <mike.moser@doa.nc.gov>; Hilliard, Wanda <wanda.hilliard@doa.nc.gov>; Montalvo, Sheri A <sheri.montalvo@deq.nc.gov>; Dumpor, Samir <samir.dumpor@deq.nc.gov>; Thorpe, Roger <roger.thorpe@deq.nc.gov>; Stewart, Glenn A <Glenn.Stewart@deq.nc.gov>; Baker, Caroline D <caroline.baker@deq.nc.gov>; Dunn, Maria T. <maria.dunn@ncwildlife.org>; natural.heritage <natural.heritage@dncr.nc.gov>; Menefee-Dunn, Barbara A <Barbara.Menefee-Dunn@deq.nc.gov>; Tankard, Robert <robert.tankard@deq.nc.gov>; Nyarko, Paul <Paul.Nyarko@deq.nc.gov>; Thorpe, Roger <roger.thorpe@deq.nc.gov>

**Cc:** Renaldi, Ronald <ronald.renaldi@deq.nc.gov>; Carver, Yvonne <yvonne.carver@deq.nc.gov>; Doepker, Lisa <lisa.doepker@deq.nc.gov>

**Subject:** Revised Project for Dare County Tourism Board and the Town of Nags Head

Morning all,



Please see above for a revised proposal after significant avoidance and minimization efforts by the applicants. Here is a breakdown of the revised proposal.

1. The kiteboard pier will be 6ft wide and 3ft above Coastal Wetland (CW). Compliant with CRC rule.
2. All boardwalk/walkway over CW and 404 is proposed to be 8ft wide decking with hand rails at 6in. wide, for a total of 9ft wide. In shading calculations DCM only used the 8ft wide decking.
3. Gazebo has been reduced by 254ft<sup>2</sup> and is below 2,000ft<sup>2</sup>.
4. The slip over SAV was removed.
6. Walkway sections over CW near the east of the property were moved to 404 and uplands near the old restaurant.

Above are the revised plans, MP forms (this was originally a traditional paper permit application), bio-report, etc. Please review and let me know if you comments change ASAP. The applicant will be requesting a variance for the sections of boardwalk over Coastal Wetlands that are greater than 6ft wide, per CRC rule.

Thanks,

Gregg

Gregg Bodnar (he/him/his)  
Major Permits Coordinator  
Division of Coastal Management  
North Carolina Department of Environmental Quality  
(252) 515-5416



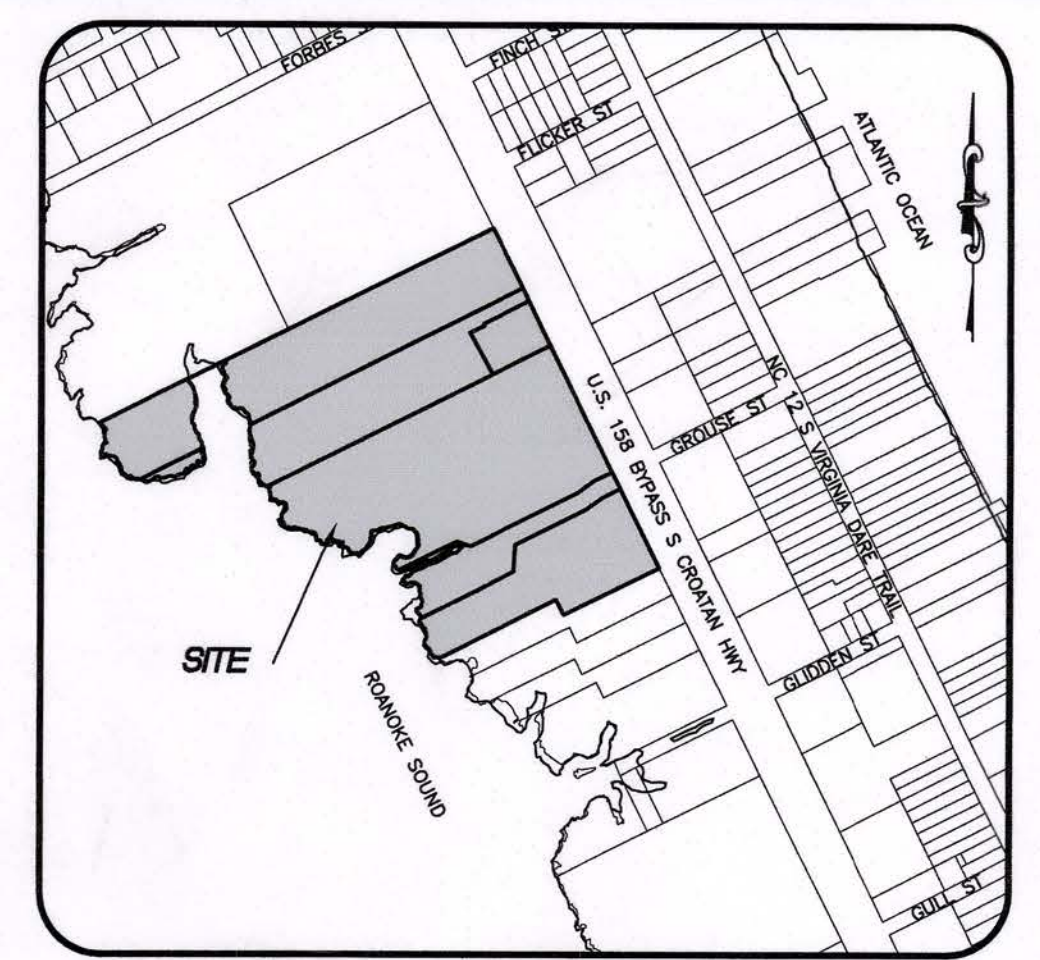
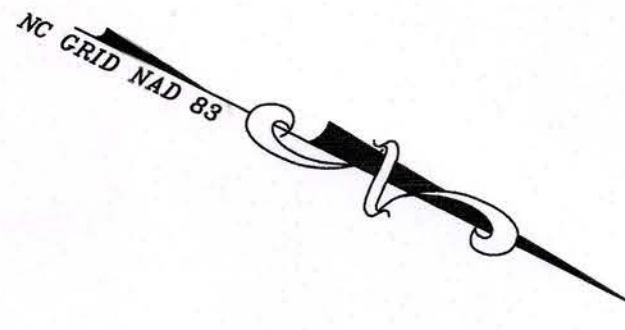
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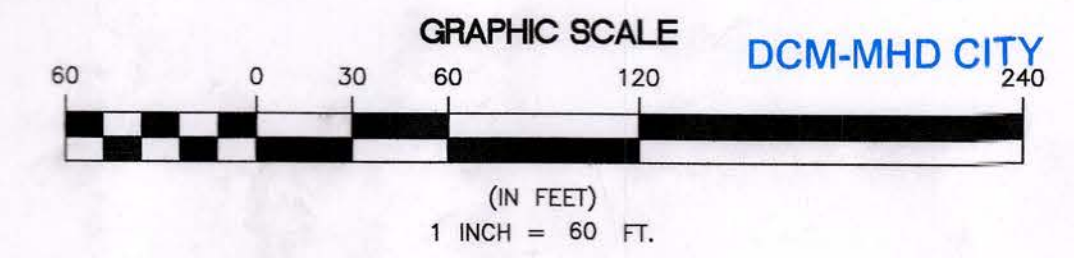
VICINITY MAP  
NTS

NOTES:

- OWNERS: TOWN OF NAGS HEAD  
DARE COUNTY TOURISM BOARD  
PO BOX 99  
NAGS HEAD, NC 27959
- PROPERTY IS:  
LOT 1, FORBES COMMERCIAL LOTS,  
PARCEL ID 012422000, P.C. D, SL. 192  
6906 S. CROATAN HIGHWAY, NAGS HEAD  
LOT 2, FORBES COMMERCIAL LOTS,  
PARCEL ID 012422001, P.C. D, SL. 192  
6900 S. CROATAN HIGHWAY, NAGS HEAD  
LOT 3, FORBES COMMERCIAL LOTS,  
PARCEL ID 008854000, P.C. G, SL. 380  
6800 S. CROATAN HIGHWAY, NAGS HEAD  
PARCEL 1, OUTDOOR CREATIONS  
PARCEL ID 030879000, P.C. C, SL. 152A  
6716 S. CROATAN HIGHWAY, NAGS HEAD  
PARCEL 2, OUTDOOR CREATIONS  
PARCEL ID 008795000, P.C. B, SL. 269  
6708 S. CROATAN HIGHWAY, NAGS HEAD  
EASEMENT TO DARE COUNTY D.B. 2644, PG 925  
"PAMUCO JACKS" RESTAURANT  
PARCEL ID 008795000, P.C. B, SL. 269  
6708 S. CROATAN HIGHWAY, NAGS HEAD  
3. PROPERTY IS LOCATED IN FIRM ZONES X, SHADED X, AE-4  
FIRM MAP NO. 3730080000; EFFECTIVE DATE: JUNE 19, 2020.  
(SUBJECT TO CHANGE BY FEMA)  
4. BOARDWALK TO BE 9'-0" TOTAL WIDTH, 8'-0" DECK AND 12" OF HANDRAILS.

LEGEND

- CALC CALCULATED POINT
- IRON PIPE FOUND
- IRON PIPE SET
- IRON ROD FOUND
- IRON ROD SET
- PK NAIL FOUND
- PK NAIL SET
- RIGHT OF WAY
- PROJECT BOUNDARY LINE
- INTERIOR OR ADJACENT PROPERTY LINE
- EXISTING POWER POLE
- EXISTING GUY WIRE
- OVERHEAD ELECTRIC
- EXISTING TELEPHONE PEDESTAL
- EXISTING CABLE TV PEDESTAL
- EXISTING LIGHT POLE
- HANDICAP PARKING
- SIGNAGE
- EXISTING FIRE HYDRANT
- EXISTING WATER METER
- EXISTING WATER VALVE
- EXISTING SPOT ELEVATIONS
- PROPOSED SPOT ELEVATIONS
- EXISTING FENCE
- EXISTING WETLANDS
- AREA OF ENVIRONMENTAL CONCERN
- EXISTING CONCRETE
- EXISTING PAVEMENT
- PROPOSED CONCRETE
- PROPOSED BOARDWALK



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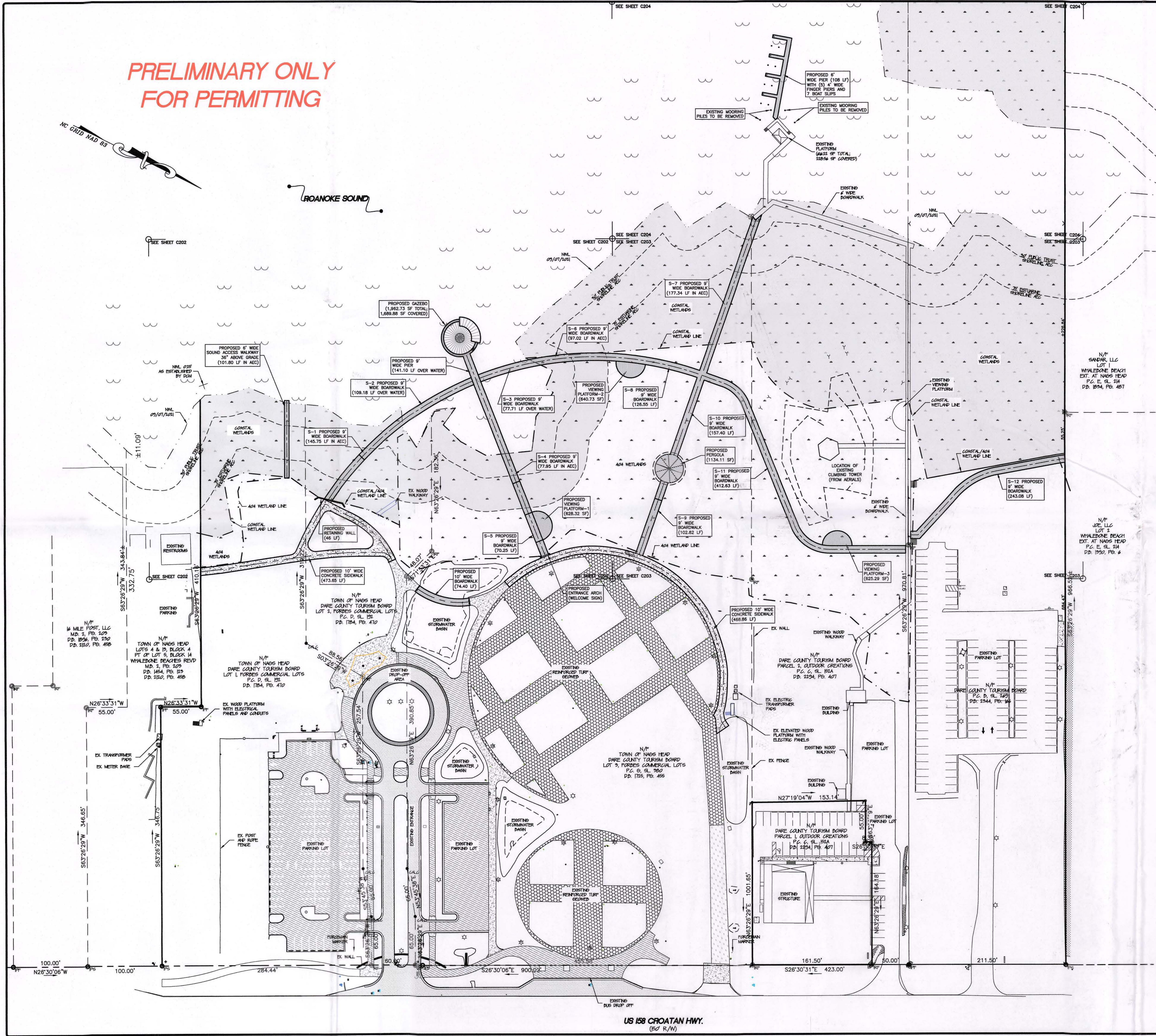
Albemarle & Associates, Ltd.  
115 West St. Asheville, NC 28801  
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Kil Devil Hills, NC 27648  
Tel: (828) 252-4411  
Fax: (828) 441-0965  
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NO.	DATE	DESCRIPTION	BY
1	04/05/2023	ISSUED FOR PERMITTING	JMD
2	04/05/2023	REVISIONS	KCA
3	04/05/2023	REVISIONS	JMD
4	04/05/2023	REVISIONS	JMD
5	04/05/2023	REVISIONS	JMD
6	04/05/2023	REVISIONS	JMD
7	04/05/2023	REVISIONS	JMD
8	04/05/2023	REVISIONS	JMD
9	04/05/2023	REVISIONS	JMD
10	04/05/2023	REVISIONS	JMD

BOARDWALK PLAN  
THE SOUNDSIDE EVENT SITE  
6800 S CROATAN HIGHWAY  
NAGS HEAD TOWNSHIP  
DARE COUNTY  
NORTH CAROLINA

DATE:	04/05/2023
SURVEYED:	SEE NOTES
DESIGNED:	JMD
DRAWN:	KCA
CHECKED:	JMD
FILE:	01411R

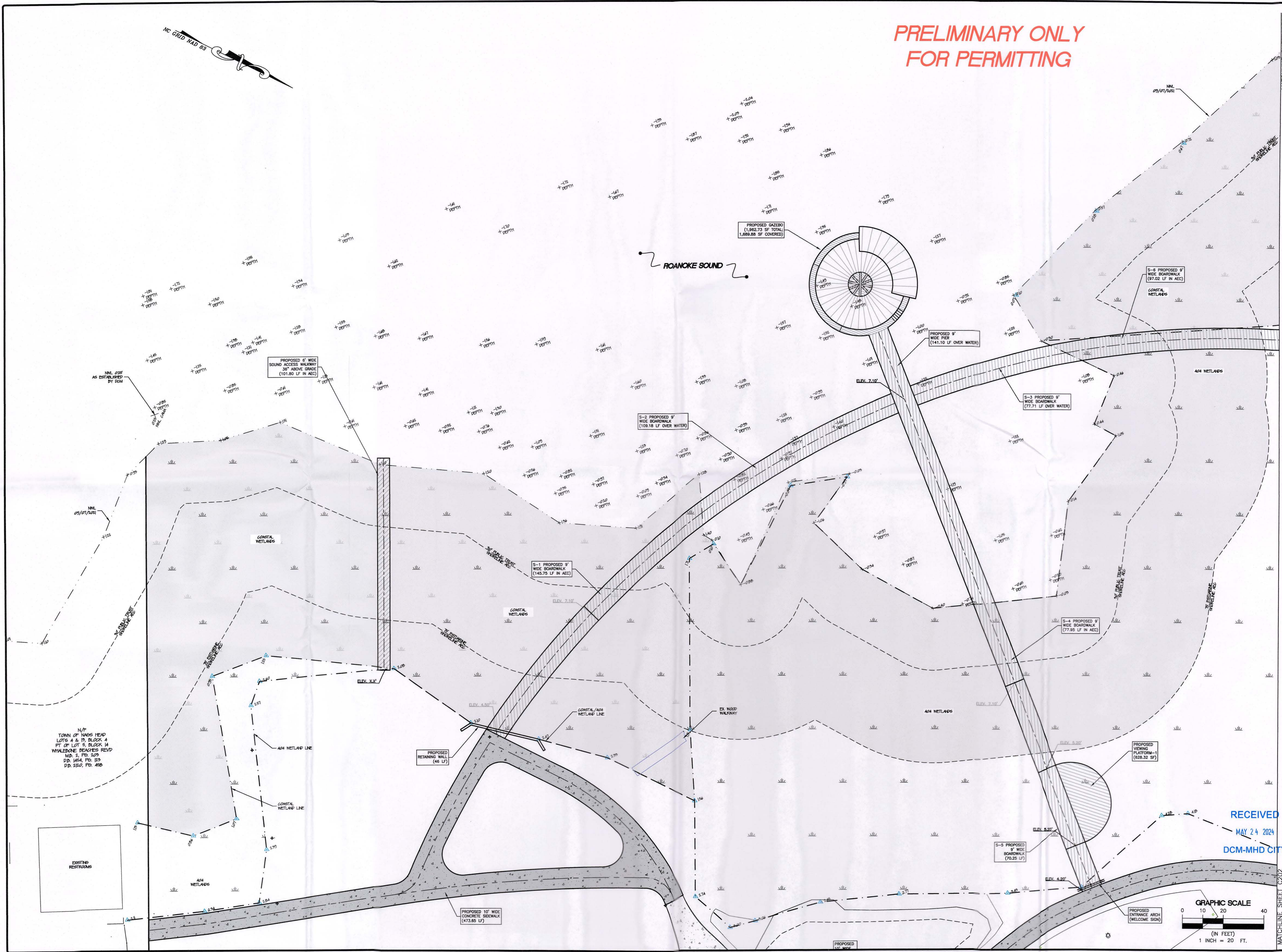
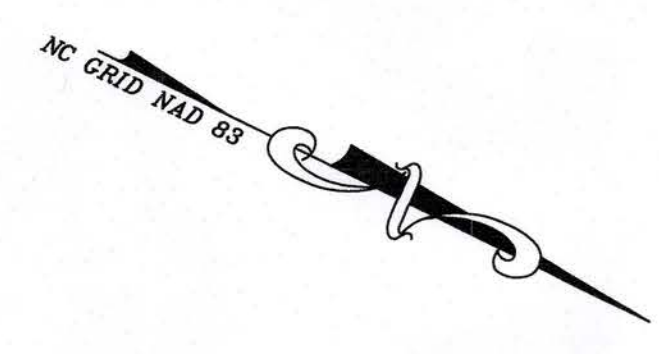
SCALE:  
1" = 60'  
C201  
PROJ. NO. 01411R



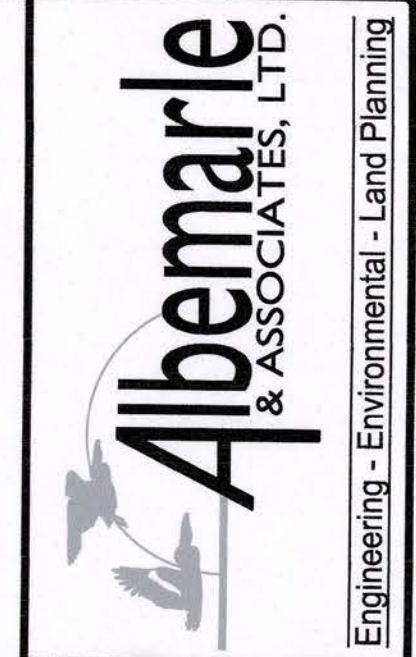
K:\Active Projects\01411R - The Soundside Event Site\01411R Boardwalk.dwg, 5/2/2024 4:23:17 PM, ALBEMARLE & ASSOCIATES, LTD. C-1027



PRELIMINARY ONLY  
FOR PERMITTING



MATCHLINE SHEET C202



Albemarle & Associates, L.T.D.  
115 West St. Clair Street  
P.O. Box 3989  
Wilmington, NC 28402  
Phone: (252) 441-2113  
Fax: (252) 441-0865  
www.albemarleassociates.com  
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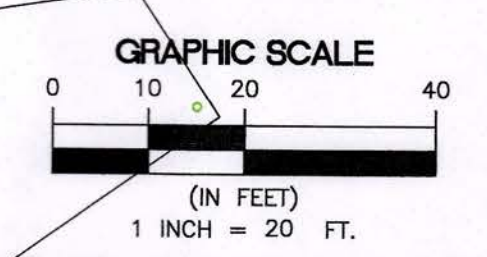
REVISIONS		
NO.	DATE	DESCRIPTION
1	05/01/2024	ISSUED FOR PERMITTING
2	05/01/2024	ISSUED FOR PERMITTING
3	05/01/2024	ISSUED FOR PERMITTING

**BOARDWALK PLAN**  
**THE SOUND SIDE EVENT SITE**  
**6800 S CROATAN HIGHWAY**  
 NAGS HEAD TOWNSHIP DARE COUNTY NORTH CAROLINA

DATE:	04/05/2023
SURVEYED:	SEE NOTES
DESIGNED:	JMD
DRAWN:	KCA
CHECKED:	JMD
FILE:	01411R

SCALE:  
1" = 20'

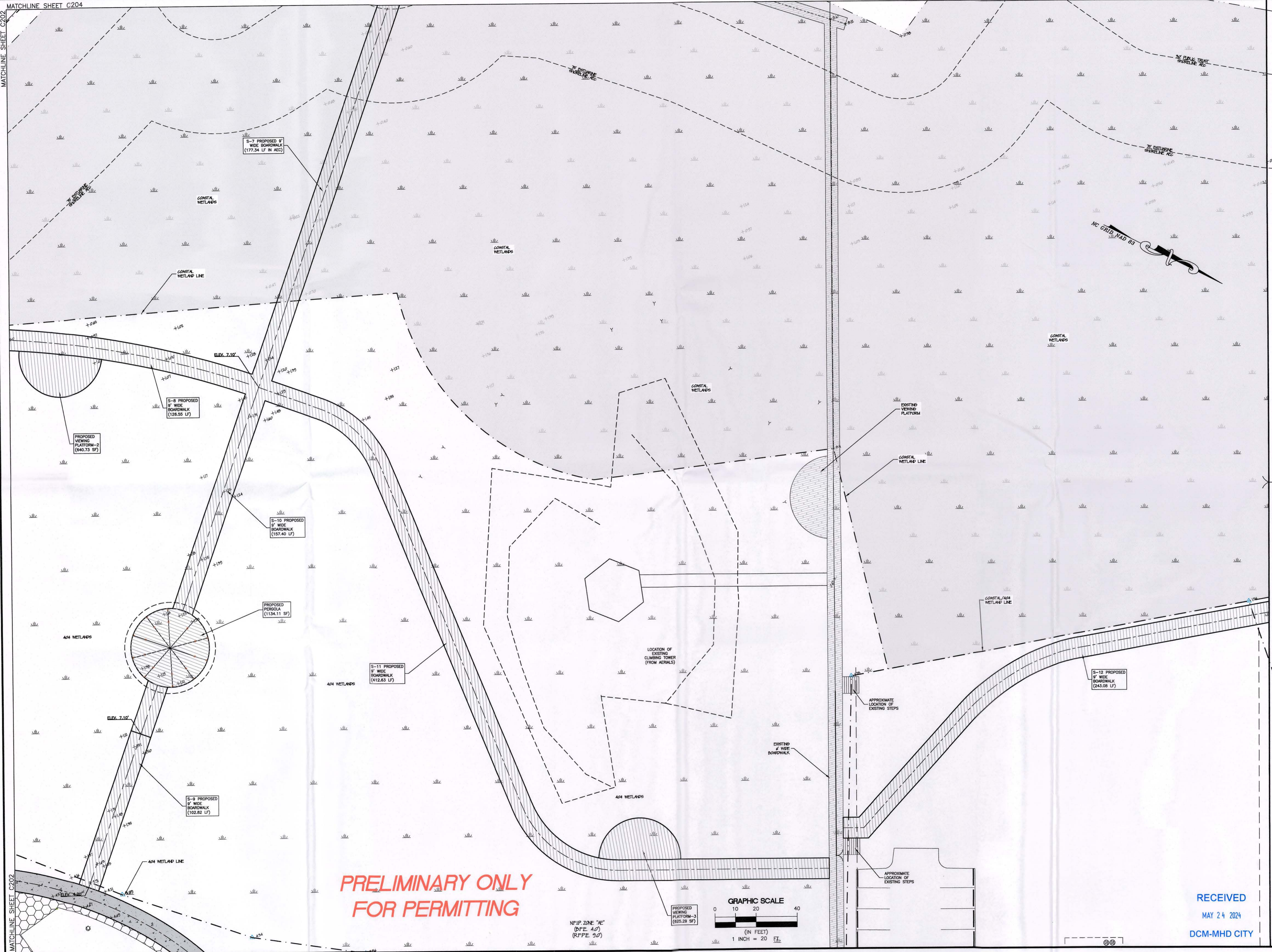
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PROJ. NO. 01411R



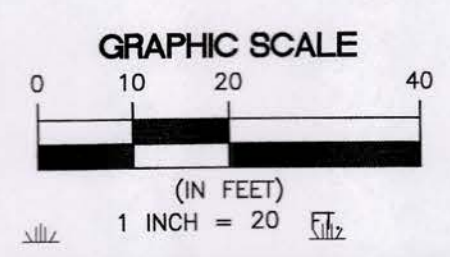
RECEIVED  
MAY 24 2024  
DCM-MHD CITY

K:\Active Projects\01411R - Boardwalk\Code Files\01411R Boardwalk.dwg, 5/27/2024 4:16:43 PM, ALBEMARLE & ASSOCIATES, LTD. C-1027





**PRELIMINARY ONLY  
FOR PERMITTING**



NFIP ZONE "A"  
(DFE 40)  
(RFPE 90)



Albemarle & Associates, Ltd.  
P.O. Box 3889  
Kiln Drive Hills, NC 27948  
Phone: (252) 441-0863  
www.AlbemarleAssociates.com  
Cmt. of Licensure No. C-1027  
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**REVISIONS**

NO.	DATE	DESCRIPTION
1	04/05/2023	ISSUED FOR PERMITTING
2	04/05/2023	FOR BOARD COUNTS

N/F SANDRA LLC  
LOT 1  
WHALEBONE BEACH  
EXT. AT NAGS HEAD  
P.C. E. 24  
D.B. 1994, PG. 487

N/F JOE LLC  
LOT 2  
WHALEBONE BEACH  
EXT. AT NAGS HEAD  
P.C. E. 24  
D.B. 1992, PG. 6

**BOARDWALK PLAN  
THE SOUNDSIDE EVENT SITE  
6800 S CROATAN HIGHWAY**

NAGS HEAD  
NORTH CAROLINA  
DARE COUNTY  
NAGS HEAD TOWNSHIP

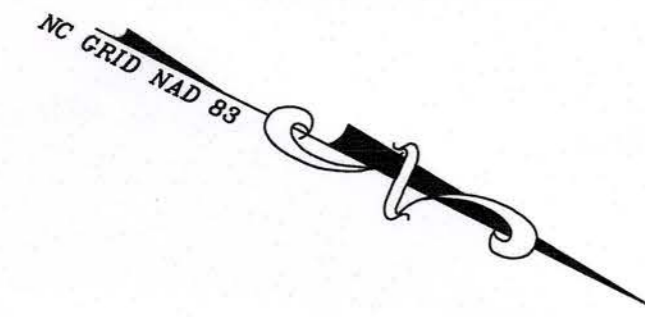
DATE:	04/05/2023
SURVEYED:	SEE NOTES
DESIGNED:	JMD
DRAWN:	KCA
CHECKED:	JMD
FILE:	01411R

SCALE:  
1" = 20'  
**C203**  
PROJ. NO. 01411R

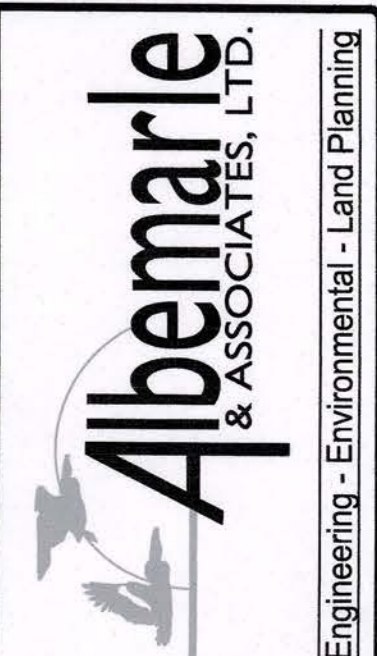
RECEIVED  
MAY 24 2024  
DCM-MHD CITY



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FOR PERMITTING



ROANOKE SOUND



Albemarle & Associates, L.T.D.  
115 West St. Oak Street  
P.O. Box 3989  
Plymouth, NC 27748  
Ph: (252) 441-0965  
Fax: (252) 441-0965  
www.albemarle.com  
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REVISIONS

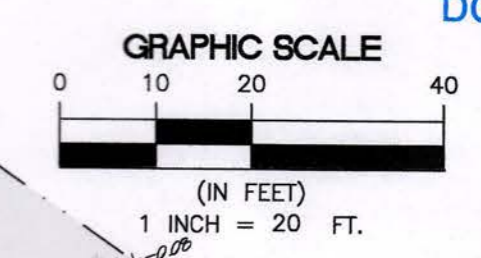
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2	05/24/2024	REVISED PER DCM-MHD CITY COMMENTS	JMD
3	05/24/2024	REVISED PER DCM-MHD CITY COMMENTS	JMD
4	05/24/2024	REVISED PER DCM-MHD CITY COMMENTS	JMD

NO.	DATE	DESCRIPTION	BY
1	04/05/2023	ISSUED FOR PERMITTING	JMD
2	05/24/2024	REVISED PER DCM-MHD CITY COMMENTS	JMD
3	05/24/2024	REVISED PER DCM-MHD CITY COMMENTS	JMD
4	05/24/2024	REVISED PER DCM-MHD CITY COMMENTS	JMD

BOARDWALK PLAN  
THE SOUNDSIDE EVENT SITE  
6800 S CROATAN HIGHWAY  
N/4 SANDAR, LLC  
LOT 1  
WHALEDONE BEACH  
EXT. AT NAGS HEAD  
P.L. E. 24  
D.P. 1934, P.O. 487  
NORTH CAROLINA  
DARE COUNTY  
NAGS HEAD TOWNSHIP  
MAGS HEAD

DATE:	04/05/2023
SURVISED:	SEE NOTES
DESIGNED:	JMD
DRAWN:	KCA
CHECKED:	JMD
FILE:	01411R

RECEIVED  
MAY 24 2024  
DCM-MHD CITY



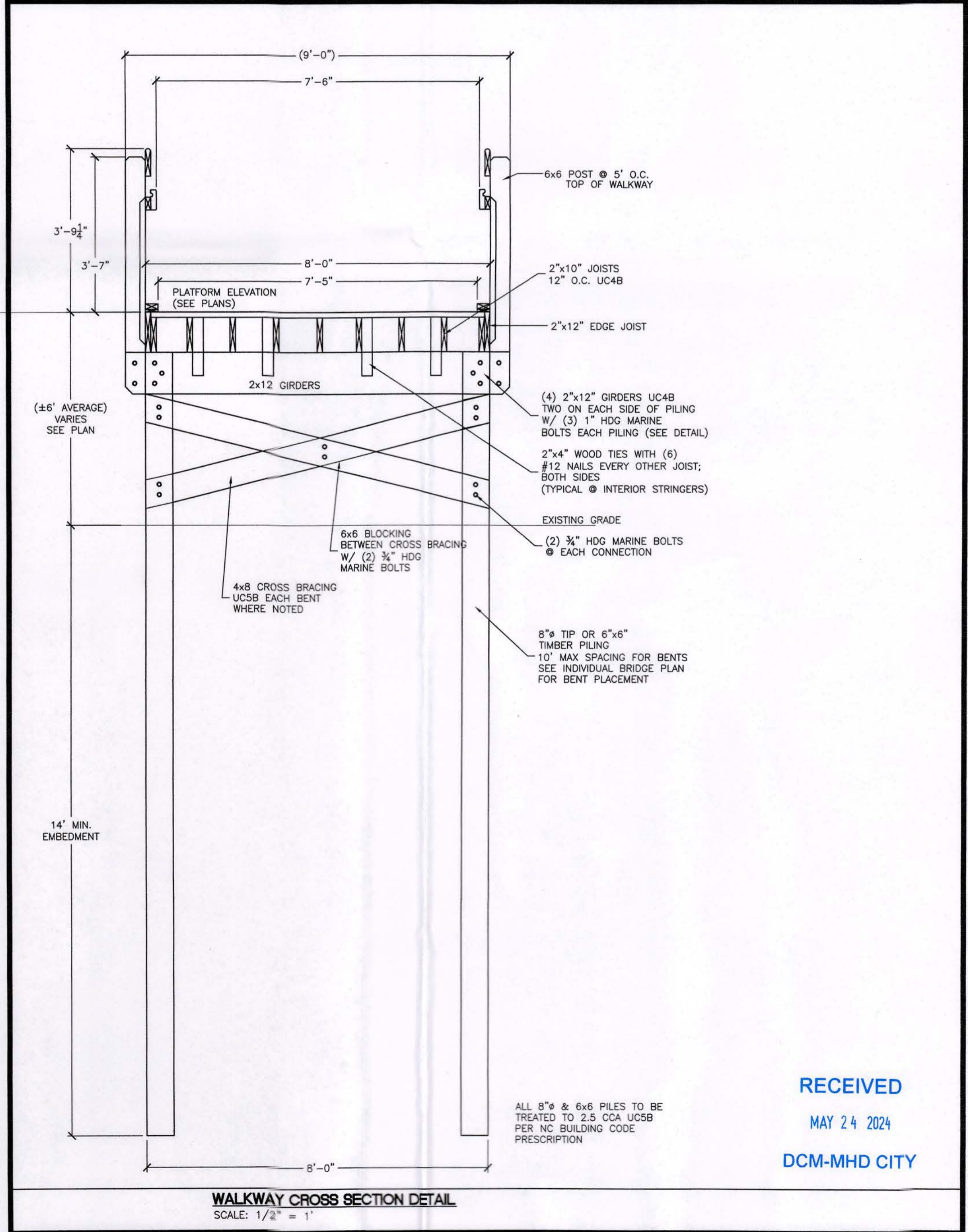
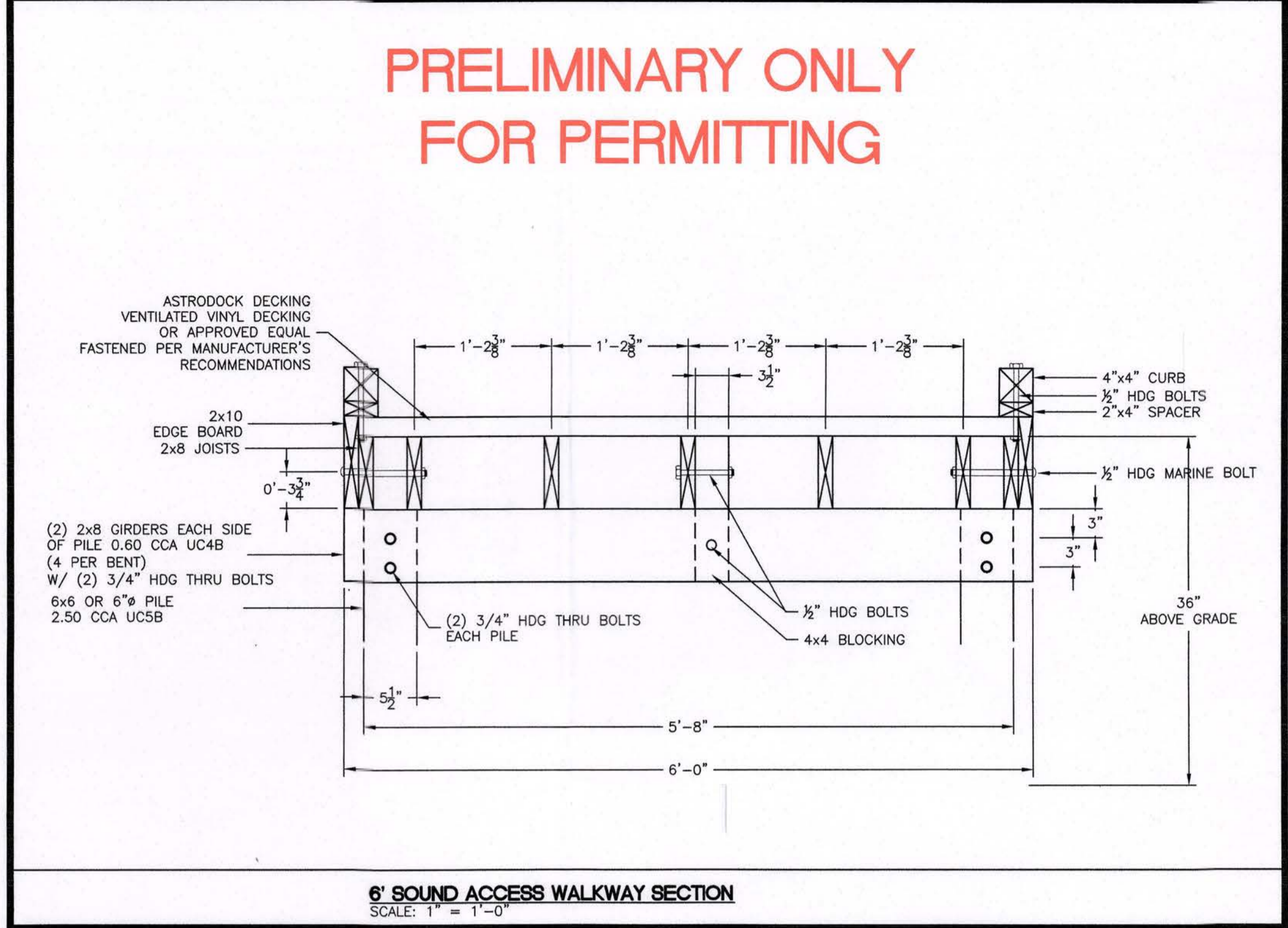
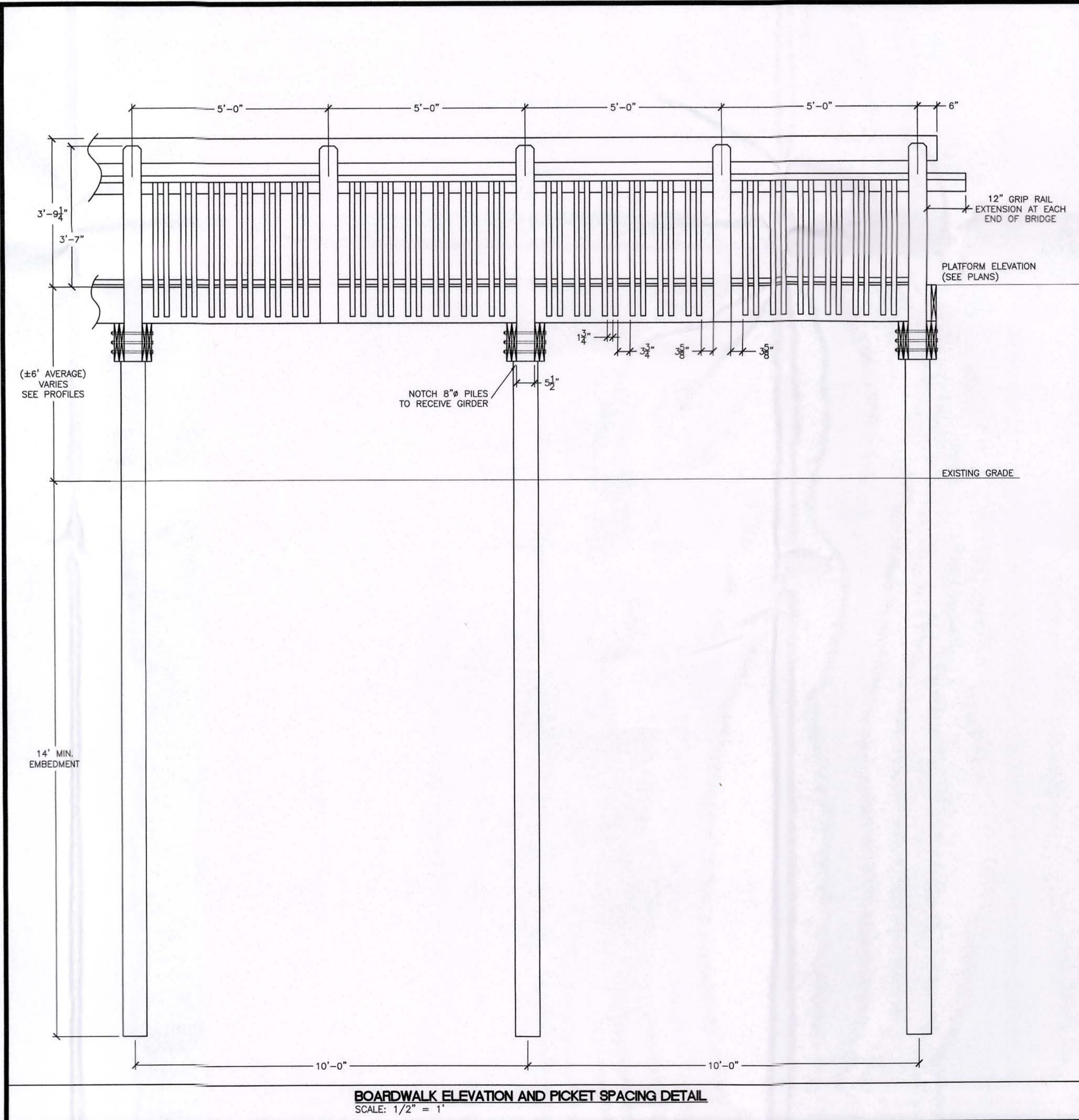
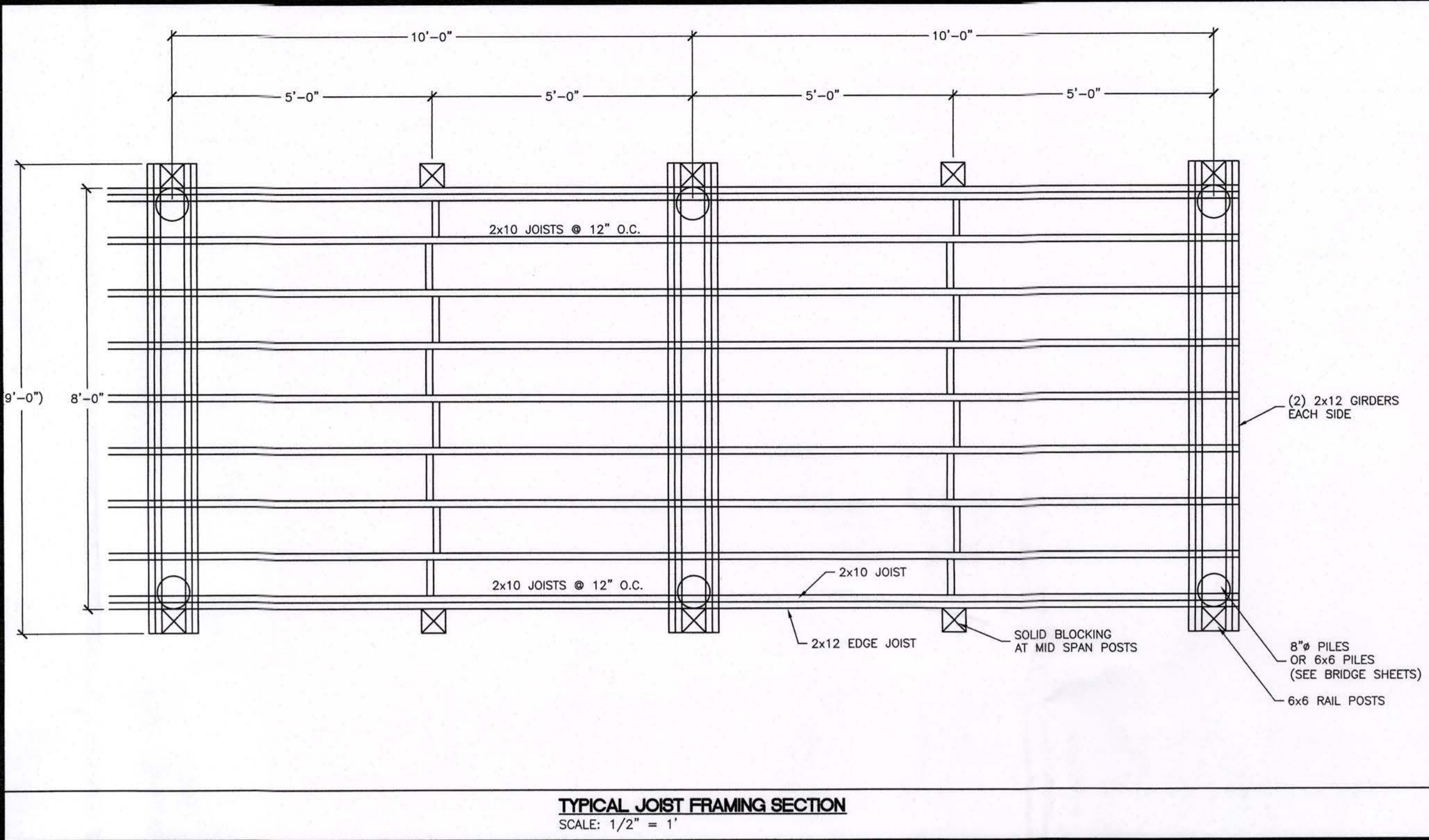
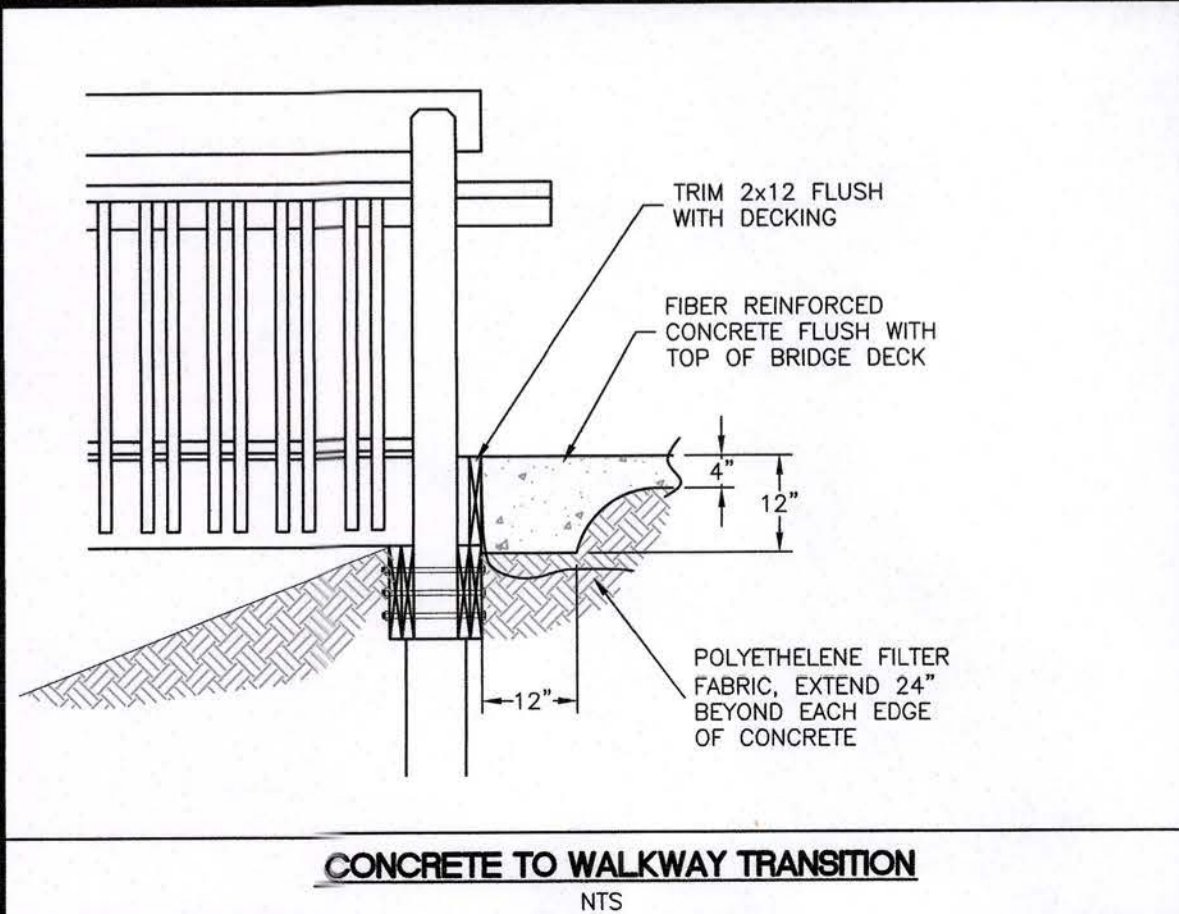
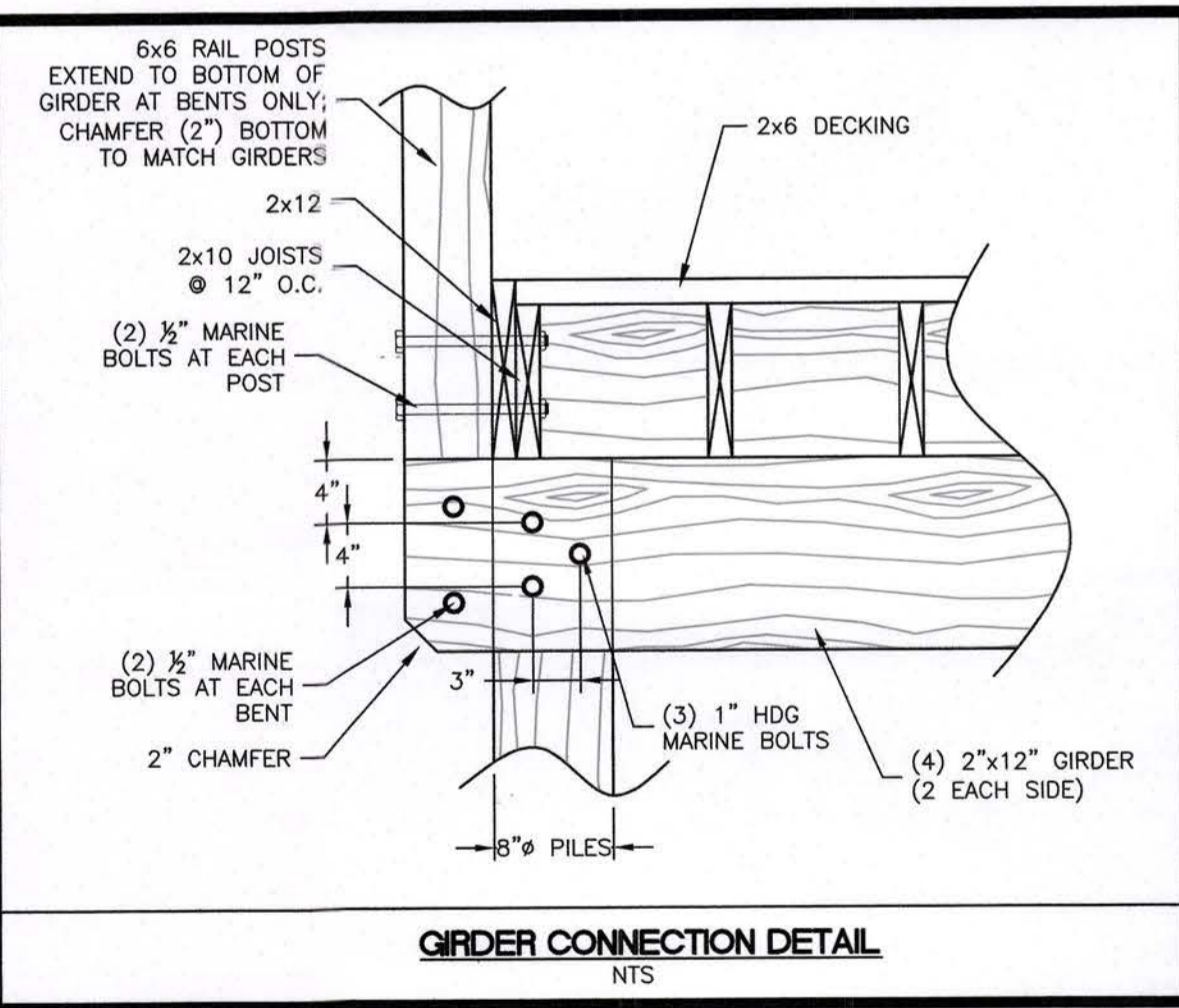
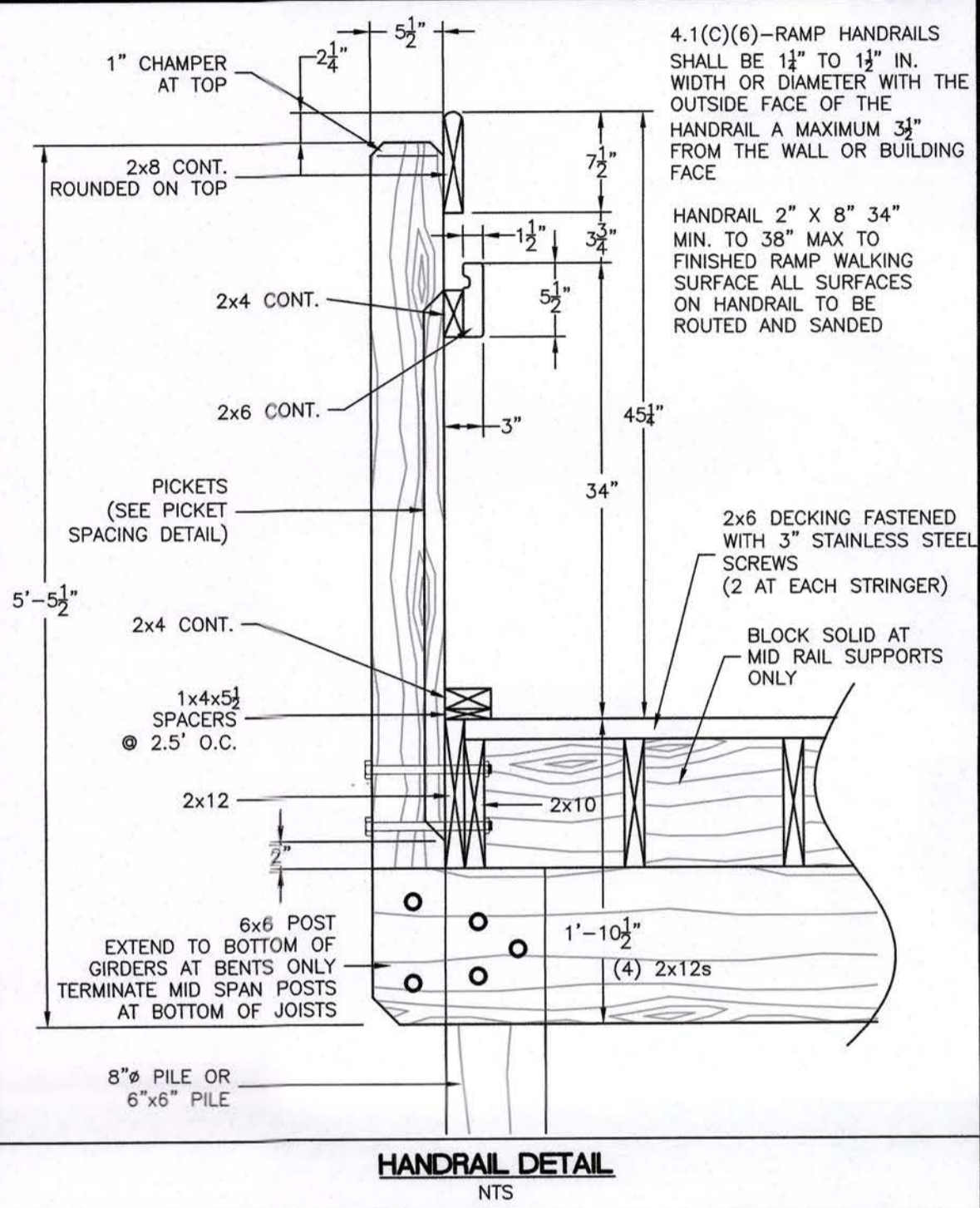
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C204  
PROJ. NO. 01411R

K:\Active Projects\01411 - The Soundside Event Site\01411R - Boardwalk.dwg, 5/2/2024 4:17:37 PM, ALBEMARLE & ASSOCIATES, LTD., C-1027



**STRUCTURAL NOTES**

- WHERE A DETAIL IS SHOWN ON STRUCTURAL DRAWINGS FOR ONE CONDITION, IT SHALL APPLY TO ALL SIMILAR OR LIKE CONDITIONS UNLESS NOTED OR SHOWN OTHERWISE ON PLANS.
- ALL ITEMS SHALL BE TIGHTLY ANCHORED OR ATTACHED SQUARE, PLUMB AND TRUE, OR IN OTHER PLANES AND SHAPES AS SHOWN ON THE DRAWINGS. JOINTS SHALL BE TIGHT, EVEN AND FREE OF OFFSETS. NO FIELD ALTERING OF ANY MEMBERS WILL BE ALLOWED THAT WILL CAUSE THEM NOT TO BE IN ACCORDANCE WITH THE DRAWINGS AND SPECIFICATIONS WITHOUT WRITTEN APPROVAL OF THE PROJECT ENGINEER.
- IF THE CONTRACTOR FINDS A DIFFERENCE BETWEEN THESE DRAWINGS AND EXISTING ELEVATIONS OR OTHER CONDITIONS THAT PROHIBIT EXECUTION OF THE WORK AS DIRECTED IN THESE DRAWINGS, THE CONTRACTOR SHALL NOTIFY THE ENGINEER IMMEDIATELY.
- 8" & 6" & 6" TIMBER PILES SHALL BE A MINIMUM OF 2.5 CCA UCSB (8") OR UC4B (6x6) AND SHALL MEET OR EXCEED AWPA STANDARDS (C-18) FOR PRESERVATION TREATMENT AS APPLICABLE. PILES SHALL ACHIEVE A MINIMUM OF 10' PENETRATION INTO SUITABLE SUBSURFACE MATERIAL.
- STRUCTURAL FRAMING SHALL BE #2 SYP, 0.6 CCA TREATMENT AS SHOWN, AND SHALL MEET OR EXCEED AWPA STANDARDS (UC4C) FOR PRESERVATION TREATMENT AS APPLICABLE.
- DECKING, HANDRAILS AND PICKETS SHALL BE #1 SYP, TREATMENT AS SHOWN, AND SHALL MEET OR EXCEED AWPA STANDARDS (UC4B) FOR PRESERVATION TREATMENT AS APPLICABLE. 0.6 ACQ OR ACZA, NO CCA.
- ALL CROSS BRACING SHALL BE #2 GRADE MATERIAL WITH A MINIMUM OF 2.5 CCA UCSB AND SECURED WITH (2) 3/4" HDG BOLTS IN PRE-DRILLED HOLES.
- ALL FASTENERS SHALL BE STAINLESS STEEL OR HOT-DIP ZINC COATED IN ACCORDANCE WITH ASTM A 153 AS INDICATED ON PLANS.



Albemarle & Associates, Ltd.  
115 West St. Clair Street  
P.O. Box 3989  
Raleigh, NC 27604  
Tel: (919) 876-1111  
Fax: (919) 876-1112  
www.albemarle.com  
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NO.	DATE	DESCRIPTION	BY	CHKD.

**BOARDWALK DETAILS**  
**THE SOUNDSIDE EVENT SITE**  
**6800 S CROATAN HIGHWAY**  
NORTH CAROLINA  
DARE COUNTY  
MAGS HEAD TOWNSHIP  
MAGS HEAD

DATE:	04/05/2023
SURVEYED:	SEE NOTES
DESIGNED:	JMD
DRAWN:	KCA
CHECKED:	JMD
FILE:	01411R

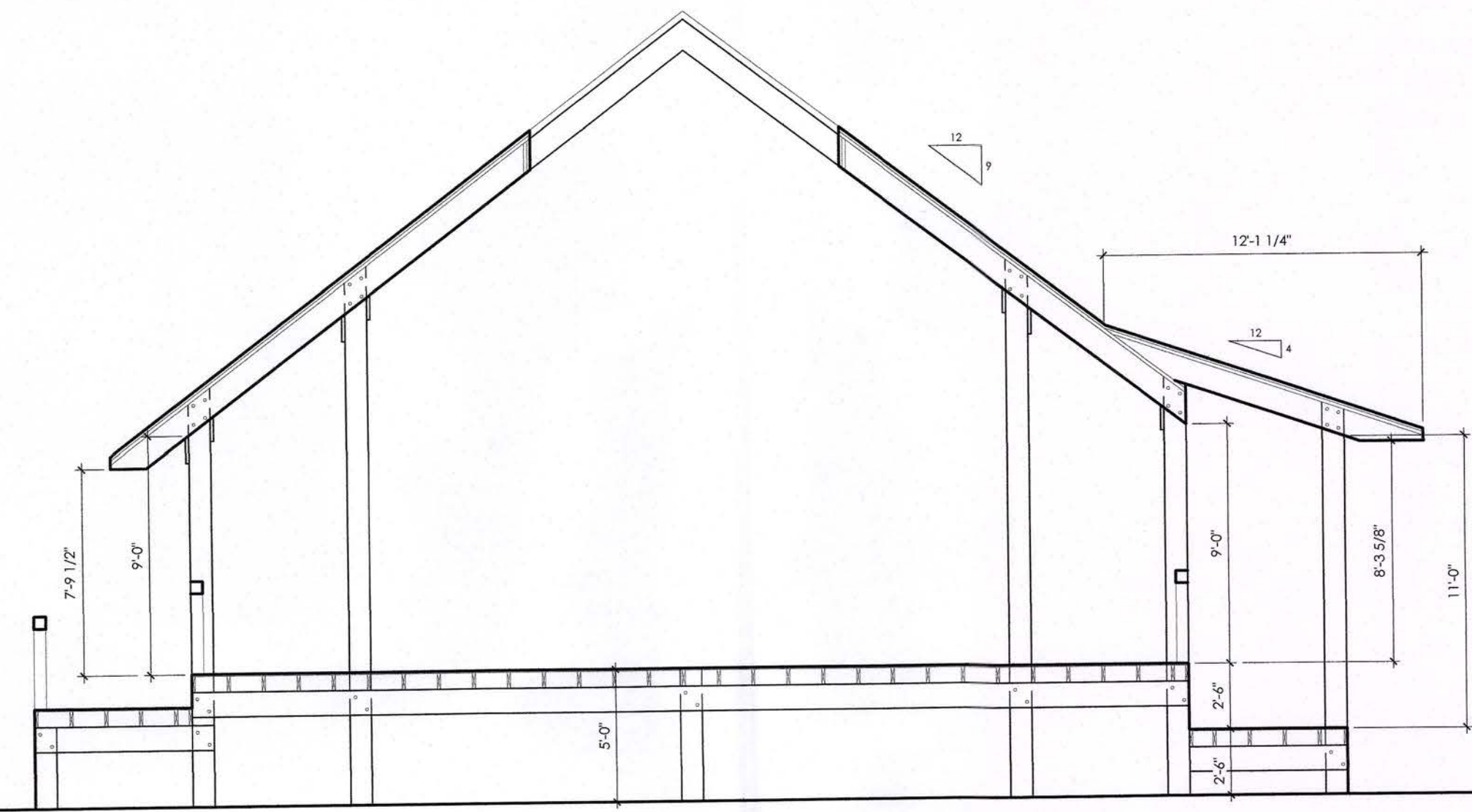
RECEIVED  
MAY 24 2024  
DCM-MHD CITY

SCALE:  
1" = 60'

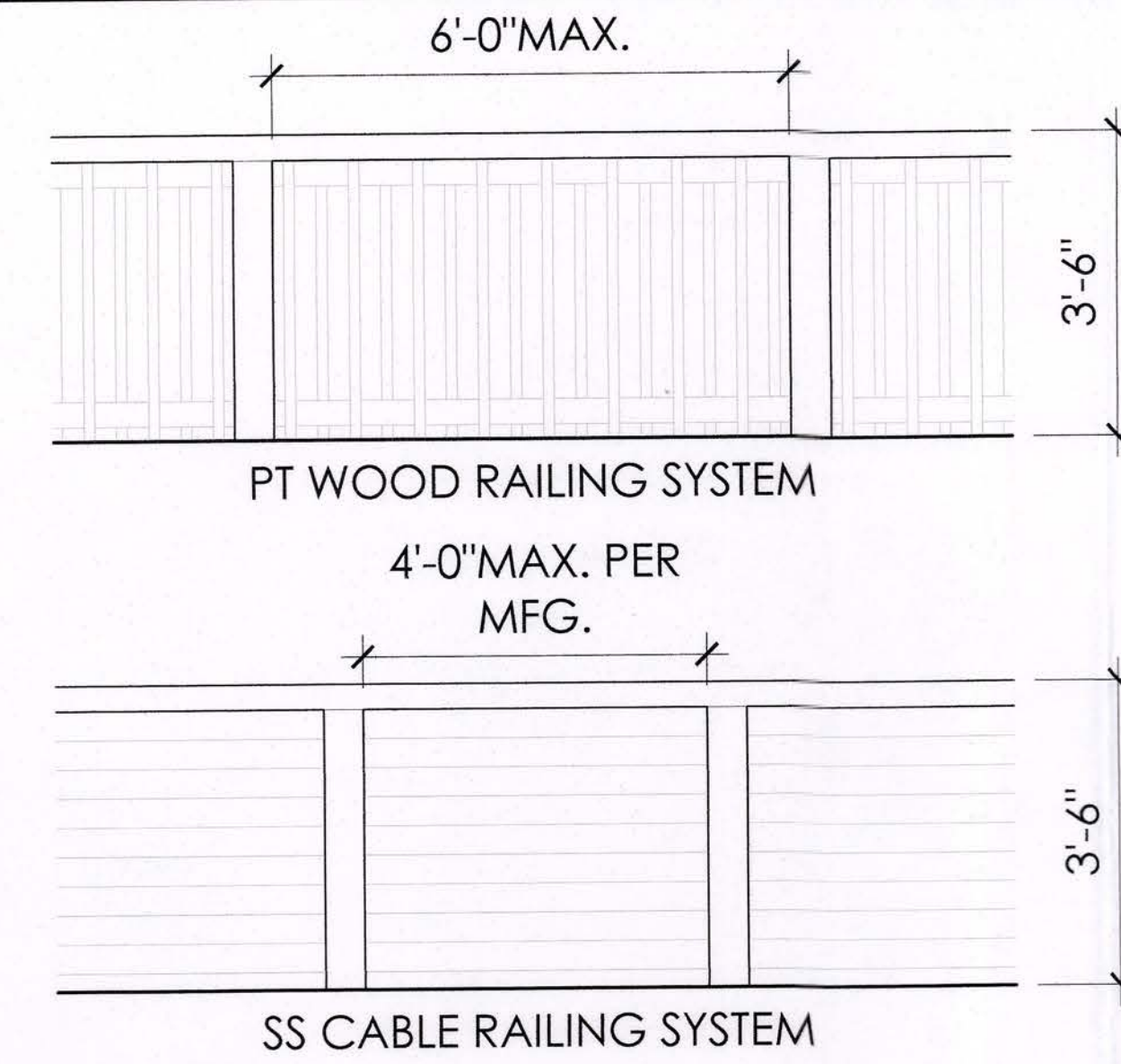
**S11**

PROJ. NO. 01411R

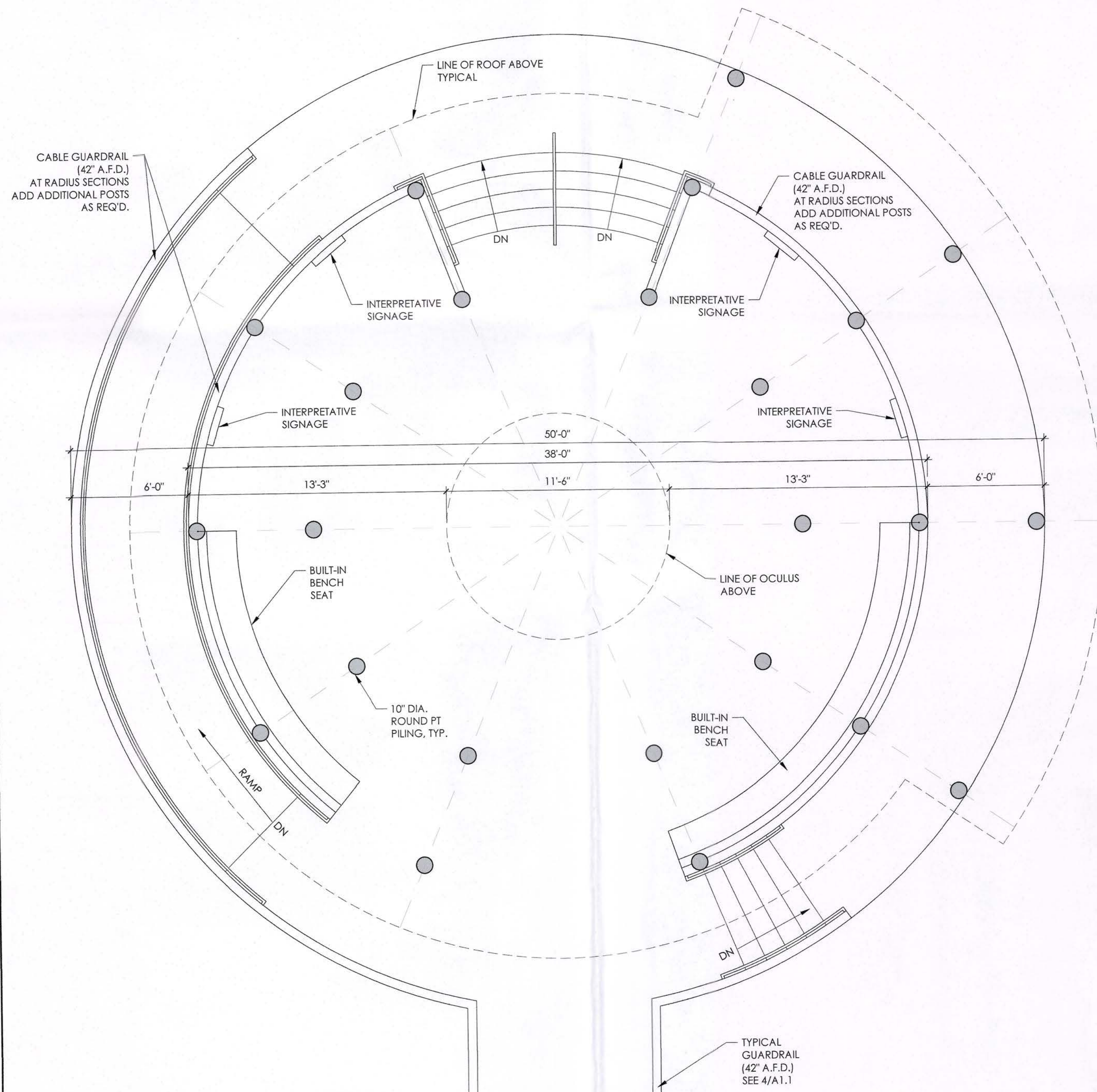




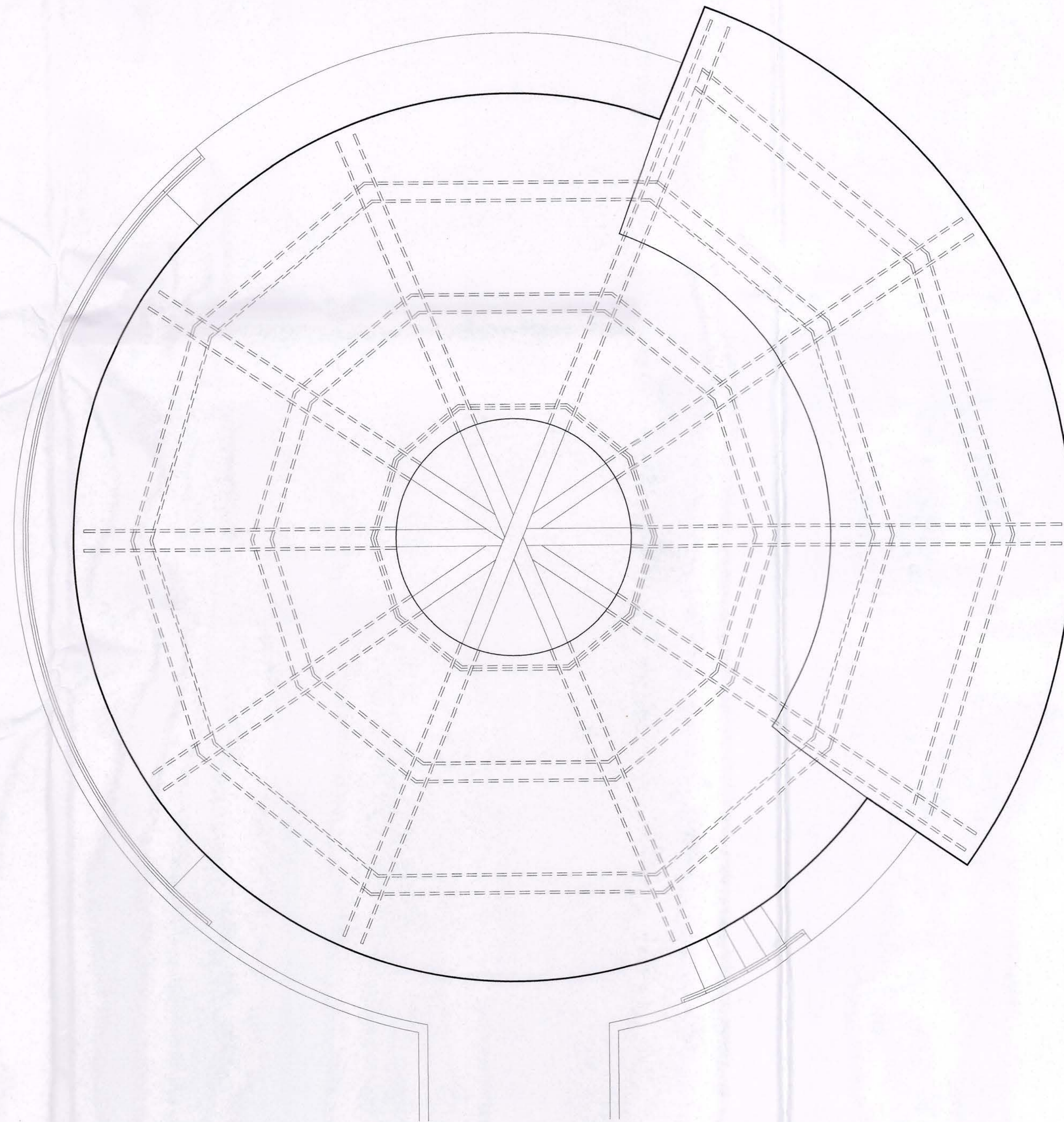
3 GAZEBO SECTION  
SCALE:  $\frac{3}{8}'' = 1'-0''$



4 RAILING ELEVATIONS  
SCALE:  $\frac{1}{2}'' = 1'-0''$



1 GAZEBO FLOOR PLAN- 1,742 SF (LESS RAMP AREA)  
SCALE:  $\frac{1}{4}'' = 1'-0''$



2 GAZEBO ROOF PLAN  
SCALE:  $\frac{1}{4}'' = 1'-0''$

**BEACON**  
ARCHITECTURE + DESIGN, P.L.L.C.  
P.O. BOX 1827  
KITTY HAWK, NC 27949  
PH: (252) 441-6767, FAX (252) 261-6045

STRUCTURAL ENGINEER:  
**ALBEMARLE & ASSOCIATES, LTD.**  
P.O. BOX 3989, KILL DEVIL HILLS  
NORTH CAROLINA 27948

PROJECT NAME:  
**CONCEPTUAL BOARDWALK**  
6813 S. CROATAN HIGHWAY  
NAGS HEAD, NC

REVISIONS:	DATE:
CLIENT REVIEW	11 / 17 / 22
CLIENT REVIEW	12 / 6 / 22
CLIENT REVIEW	4 / 30 / 24

DRAWING NAME:  
**BUILDING PLANS**

PRELIMINARY DRAWINGS  
NOT FOR CONSTRUCTION:

DRAWN BY: CN

DATE: 4 / 30 / 24

SCALE: -

STAMP:  
THIS COMPUTER FILE/DRAWING IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED FOR CONSTRUCTION. DO NOT START CONSTRUCTION WITHOUT A SEALED SET OF CONSTRUCTION DOCUMENTS FROM THE ARCHITECT.

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SHEET:  
**A1.1**

RECEIVED

MAY 24 2024

DCM-MHD CITY



Tracking Number:

Remove X

## 70182290000162521972

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### Latest Update

Your item was picked up at the post office at 4:12 pm on May 23, 2023 in NAGS HEAD, NC 27959.

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USPS Tracking Plus®

#### Delivered

**Delivered, Individual Picked Up at Post Office**

NAGS HEAD, NC 27959

May 23, 2023, 4:12 pm

#### Available for Pickup

NAGS HEAD

100 DEERING ST

NAGS HEAD NC 27959-9998

M-F 0900-1630; SAT 1000-1200

May 20, 2023, 9:56 am

#### Available for Pickup

NAGS HEAD

100 DEERING ST

NAGS HEAD NC 27959-9998

M-F 0900-1630; SAT 1000-1200

May 20, 2023, 8:49 am

#### Arrived at Post Office

NAGS HEAD, NC 27959

Feedback

May 20, 2023, 8:49 am

**Arrived at USPS Regional Facility**

ROCKY MOUNT NC DISTRIBUTION CENTER  
May 20, 2023, 1:45 am

**Departed USPS Regional Facility**

RALEIGH NC DISTRIBUTION CENTER  
May 19, 2023, 8:53 pm

**Arrived at USPS Regional Facility**

RALEIGH NC DISTRIBUTION CENTER  
May 19, 2023, 12:12 am

**Departed Post Office**

KILL DEVIL HILLS, NC 27948  
May 18, 2023, 4:36 pm

**USPS in possession of item**

KILL DEVIL HILLS, NC 27948  
May 18, 2023, 3:39 pm

**Hide Tracking History**

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

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Enter tracking or barcode numbers



**N.C. DIVISION OF COASTAL MANAGEMENT  
 ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION/WAIVER FORM  
CERTIFIED MAIL · RETURN RECEIPT REQUESTED or HAND DELIVERY**

(Top portion to be completed by owner or their agent)

Name of Property Owner: 16 Mile Post LLC  
 Address of Property: 6916 S. Croatan Hwy, Nags Head, NC, 27959  
 Mailing Address of Owner: PO Box 324, Nags Head, NC, 27959  
 Owner's email: \_\_\_\_\_ Owner's Phone#: \_\_\_\_\_  
 Agent's Name: Mike Morway Agent Phone#: 252-441-2113  
 Agent's Email: mikem@albemarleassociates.com

**ADJACENT RIPARIAN PROPERTY OWNER'S CERTIFICATION  
 (Bottom portion to be completed by the Adjacent Property Owner)**

I hereby certify that I own property adjacent to the above referenced property. The individual applying for this permit has described to me, as shown on the attached drawing, the development they are proposing. A description or drawing, with dimensions, must be provided with this letter.

\_\_\_\_\_ I DO NOT have objections to this proposal. \_\_\_\_\_ I DO have objections to this proposal.

*If you have objections to what is being proposed, you must notify the N.C. Division of Coastal Management (DCM) in writing within 10 days of receipt of this notice. Correspondence should be mailed to 401 S. Griffin St., Ste. 300, Elizabeth City, NC, 27909. DCM representatives can also be contacted at (252) 264-3901. No response is considered the same as no objection if you have been notified by Certified Mail.*

**WAIVER SECTION**

I understand that any proposed pier, dock, mooring pilings, boat ramp, breakwater, boathouse, lift, or groin must be set back a minimum distance of 15' from my area of riparian access unless waived by me (this does not apply to bulkheads or riprap revetments). (If you wish to waive the setback, you must sign the appropriate blank below.)

I DO wish to waive some/all of the 15' setback

\_\_\_\_\_  
*Signature of Adjacent Riparian Property Owner*

-OR-

I do not wish to waive the 15' setback requirement (initial the blank) \_\_\_\_\_

Signature of Adjacent Riparian Property Owner: \_\_\_\_\_

Typed/Printed name of ARPO: \_\_\_\_\_

Mailing Address of ARPO: \_\_\_\_\_

ARPO's email: \_\_\_\_\_ ARPO's Phone#: \_\_\_\_\_

Date: \_\_\_\_\_ \*waiver is valid for up to one year from ARPO's Signature\*



May 18, 2023

Sandar LLC  
280 Airport Rd.  
Manteo, NC, 27954

**RE: Riparian Landowner Notification  
Dare County Tourism Board  
Soundside Event Site Boardwalk Project**

Dear Riparian Landowner:

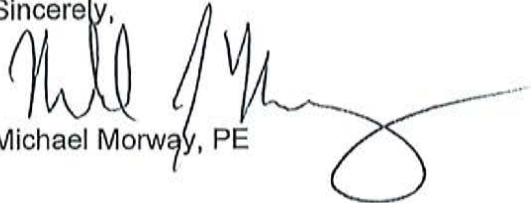
This notification is being sent to inform you of a project at the Soundside Event Center in Nags Head which is adjacent to your property and requires a CAMA permit. This project is being prepared by the Dare County Tourism Board and includes a series of elevated wooden boardwalks with platforms and sitting areas as well as concrete sidewalk connections. Enclosed is a (reduced-size) copy of the plans and application materials.

You have thirty days to comment on this proposal. Your comments should be directed to Ms. Yvonne Carver, at the Division of Coastal Management at the address below:

Ms. Yvonne Carver  
NCDEQ Division of Coastal Management  
401 South Griffin Street, Suite 300  
Elizabeth City, NC 27909  
Ph 252-264-3901 (x237)  
[yvonne.carver@ncdenr.gov](mailto:yvonne.carver@ncdenr.gov)

For any questions regarding this project, please feel free to contact John DeLucia at 252-441-2113 or by email at [johnd@albemarleassociates.com](mailto:johnd@albemarleassociates.com).

Sincerely,



Michael Morway, PE

Enc: Plans (11" x 17") & Application Package

cc: File 01411R (122)

*Land Planning – Engineering – Environmental – Construction Management*  
P.O. Box 3989, 115 W. Saint Clair St., Kill Devil Hills, North Carolina 27948  
North Carolina License No. C-1027  
Phone: 252-441-2113 [www.AlbemarleAssociates.com](http://www.AlbemarleAssociates.com) Fax: 252-441-0965



**N.C. DIVISION OF COASTAL MANAGEMENT  
 ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION/WAIVER FORM  
CERTIFIED MAIL · RETURN RECEIPT REQUESTED or HAND DELIVERY**

(Top portion to be completed by owner or their agent)

Name of Property Owner: Sandar, LLC  
 Address of Property: 6504 South Croatan Highway, Nags Head, NC, 27959  
 Mailing Address of Owner: 280 Airport Rd., Manteo, NC, 27954  
 Owner's email: \_\_\_\_\_ Owner's Phone#: \_\_\_\_\_  
 Agent's Name: \_\_\_\_\_ Agent Phone#: \_\_\_\_\_  
 Agent's Email: \_\_\_\_\_

**ADJACENT RIPARIAN PROPERTY OWNER'S CERTIFICATION  
 (Bottom portion to be completed by the Adjacent Property Owner)**

I hereby certify that I own property adjacent to the above referenced property. The individual applying for this permit has described to me, as shown on the attached drawing, the development they are proposing. A description or drawing, with dimensions, must be provided with this letter.

\_\_\_\_\_ I DO NOT have objections to this proposal. \_\_\_\_\_ I DO have objections to this proposal.

*If you have objections to what is being proposed, you must notify the N.C. Division of Coastal Management (DCM) in writing within 10 days of receipt of this notice. Correspondence should be mailed to 401 S. Griffin St., Ste. 300, Elizabeth City, NC, 27909. DCM representatives can also be contacted at (252) 264-3901. No response is considered the same as no objection if you have been notified by Certified Mail.*

**WAIVER SECTION**

I understand that any proposed pier, dock, mooring pilings, boat ramp, breakwater, boathouse, lift, or groin must be set back a minimum distance of 15' from my area of riparian access unless waived by me (this does not apply to bulkheads or riprap revetments). (If you wish to waive the setback, you **must sign** the appropriate blank below.)

I DO wish to waive some/all of the 15' setback

\_\_\_\_\_  
*Signature of Adjacent Riparian Property Owner*

-OR-

I do not wish to waive the 15' setback requirement (initial the blank) \_\_\_\_\_  
 \_\_\_\_\_

Signature of Adjacent Riparian Property Owner: \_\_\_\_\_

Typed/Printed name of ARPO: \_\_\_\_\_

Mailing Address of ARPO: \_\_\_\_\_

ARPO's email: \_\_\_\_\_ ARPO's Phone#: \_\_\_\_\_

Date: \_\_\_\_\_ \*waiver is valid for up to one year from ARPO's Signature\*

7018 2290 0001 6252 1989

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Manteo, NC 27954

**OFFICIAL USE**

Certified Mail Fee	\$4.15	0448
Extra Services & Fees (check box, add fee as appropriate)	\$3.35	16
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$2.46	
Total Post	\$9.96	05/18/2023

Sandar, LLC  
 280 Airport Road  
 Manteo, NC 27954

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 6252 1972

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Nags Head, NC 27959

**OFFICIAL USE**

Certified Mail Fee	\$4.15	0448
Extra Services & Fees (check box, add fee as appropriate)	\$3.35	16
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$2.46	
Total	\$10.00	05/18/2023

4 Mile Post, LLC  
 Attn. Brian Wilson  
 PO Box 324  
 Nags Head, NC 27959

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



Tracking Number:

Remove X

**70182290000162521989**

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## Latest Update

Your item was picked up at the post office at 3:22 pm on May 22, 2023 in MANTEO, NC 27954.

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#### Delivered

##### Delivered, Individual Picked Up at Post Office

MANTEO, NC 27954

May 22, 2023, 3:22 pm

#### Notice Left (No Authorized Recipient Available)

MANTEO, NC 27954

May 20, 2023, 2:47 pm

#### Departed USPS Regional Facility

RALEIGH NC DISTRIBUTION CENTER

May 19, 2023, 8:53 pm

#### Arrived at USPS Regional Facility

RALEIGH NC DISTRIBUTION CENTER

May 19, 2023, 12:12 am

#### Departed Post Office

KILL DEVIL HILLS, NC 27948

May 18, 2023, 4:36 pm

Feedback

**USPS in possession of item**

KILL DEVIL HILLS, NC 27948

May 18, 2023, 3:40 pm

Hide Tracking History

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

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**FAQs**



Permit Class  
**NEW**

Permit Number  
**61-24**

STATE OF NORTH CAROLINA  
Department of Environmental Quality  
and  
Coastal Resources Commission

# Permit

for

Major Development in an Area of Environmental Concern  
pursuant to NCGS 113A-118

Excavation and/or filling pursuant to NCGS 113-229

Issued to Dare Co. Tourism Board & Town of Nags Head, 1 Visitors Circle, Nags Head, NC 27954

Authorizing development in Dare County adj. to Roanoke Sound, at 6906, 6900, 6800, 6714, 6708 S Croatan Hwy, in Nags Head, as requested in the permittee's application dtd 8/14/23 (MP-1) and "Rev 5/14/24" (MP-3,4), incl att wrkpln drawings (7), SAV Survey dtd "Rev 8/17/23", C201-C204, S1.1 all dtd "Rev 5/2/24 & A1.1 dtd "Rev 4/30/24".

This permit, issued on June 21, 2024, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to civil or criminal penalties; or may cause the permit to be null and void.

### Sound Side Event Complex and Docking Facility Expansion

- 1) This permit authorizes only the piers, kite board pier, walkways, gazebo, viewing platforms, pergola, and other structures and uses located in or over the water that are expressly and specifically set forth in the permit application. No other structure, whether floating or stationary, shall become a permanent part of this sound side event complex and docking facility expansion without permit modification. No non-water dependent uses of structures shall be conducted on, in or over Public Trust waters without permit modification. [07J .0202(c); 07H .0208(a)(1)]
- 2) No sewage, whether treated or untreated, shall be discharged at any time from any boats using the docking facility. Any sewage discharged at the docking facility shall be considered a violation of this permit for which the permittee is responsible. This prohibition shall be applied and enforced throughout the entire existence of the permitted structure. [07H .0208(a)(2)(B)]

**(See attached sheets for Additional Conditions)**

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date.

Signed by the authority of the Secretary of DEQ and the Chair of the Coastal Resources Commission.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

**June 21, 2029**

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

  
for Tancred Miller, Director  
Division of Coastal Management

This permit and its conditions are hereby accepted.

\_\_\_\_\_  
Signature of Permittee

**ADDITIONAL CONDITIONS**

- 3) The permittee shall install and maintain at their expense any signal lights or signals prescribed by the U.S. Coast Guard, through regulation or otherwise, on the authorized facilities. At minimum, permanent reflectors shall be attached to the structure in order to make it more visible during hours of darkness or inclement weather. [07H .0208(a)(2)(G); 07J .0209(a); G.S. 113-229(a)]
- 4) This permit authorizes a maximum of seven (7) formalized boat slips located as shown on the drawing labeled C204 dated "Rev 5/2/24". The docking of vessels at any location not shown on the permitted drawings shall be considered a violation of this permit. [07J .0202(c)]

**Upland Development**

- 5) Unless specifically altered herein, this permit authorizes the grading and other land disturbing activities associated with the development of the above referenced property, including the retaining wall, sidewalk, boardwalk and sign, all as expressly and specifically set forth in the attached permit application and workplan drawings. Any new development proposed in an Area of Environmental Concern (AEC), including but not limited to the Coastal and Estuarine Shoreline AECs and located within the applicant's property, shall require additional authorization from the Division of Coastal Management prior to work commencing. [07J .0202(c); 07H .0209(d); G.S. 113A-103(5)(a)]

**Sedimentation and Erosion Control**

- 6) In order to protect water quality, runoff from construction shall not visibly increase the amount of suspended sediments in adjacent waters. [07H .0208(a)(2)(B); 07H .0209(d)(4)]
- 7) Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses or properties. [07H .0208(a)(2)(B); 07H .0209(d)(4)]

**General**

**NOTE:** This permit, in full or part, was authorized under 15A NCAC 07H .0207(d) and 15A NCAC 07H .0208(a)(3).

- 8) Any portion of the permitted piers, boardwalk and docking facilities built over coastal wetlands shall not exceed six feet in width and shall be elevated a minimum of three feet above the wetland substrate as measured from the bottom of the decking. [07H .0208(b)(6)(C)]
- 9) No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work. [07H .0208(a)(2)(G)]
- 10) The authorized structure and associated activity shall not cause an unacceptable interference with navigation and shall not exceed the dimensions shown on the attached permit drawings. [07H .0208(a)(2)(G)]



**ADDITIONAL CONDITIONS**

- 11) All mechanized equipment will be regularly inspected and maintained to prevent contamination of waters and wetlands from fuels, lubricants, hydraulic fluids, or other toxic materials. In the event of a spill of petroleum products or any other hazardous waste, the permittee shall immediately report it to the National Response Center at (800) 424-8802 and provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act will be followed. [07H .0208(a)(2)(A); 07H .0208(a)(2)(B)]
- 12) This permit shall not be assigned, transferred, sold, or otherwise disposed of to a third party without the written approval of the Division of Coastal Management. [07J .0406(b)]
- 13) All construction debris associated with the removal or construction of the permitted development shall be contained within the authorized project area and disposed of in an approved upland location. [07J .0209(a); G.S. 113A-120(b)]
- 14) The permittee and/or their contractor shall meet with a representative of the Division prior to project initiation. [07J .0209(a)]

**NOTE:** This permit does not eliminate the need to obtain any additional state, federal or local permits, approvals or authorizations that may be required, including but not limited to any authorizations from the U.S. Army Corps of Engineers. Authorization must be received from The U.S. Army Corps of Engineers prior to the commencement of any operations authorized under this permit.

**NOTE:** The N.C. Division of Water Resources authorized the proposed project by way of Individual Water Quality Certification No. 006952 and assigned the project DWR Project No. 2023-1371 v2.

**NOTE:** Future development of the permittee's property may require a modification of this permit. Contact a representative of the Division at (252) 621-6450 prior to the commencement of any such activity for this determination. The permittee is further advised that many non-water dependent activities are not authorized within 30 feet of the normal water level.

**NOTE:** An application processing fee of \$400 was received by DCM for this project. This fee also satisfied the Section 401 application processing fee requirements of the Division of Water Resources.

July 10, 2024

**BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

SanDar LLC  
Attn.: Tony Darnell Tillett, Jr.  
Post Office Box 1938  
Manteo NC 27954

16 Mile Post LLC  
Bryan Wilson  
PO Box 324  
Nags Head NC 27959

Joe, LLC  
Attn.: Sandra Dowdy Jump  
280 Airport Rd  
Manteo NC 27954

Re: Dare County Tourism Board – Town of Nags Head  
Petition for Variance From 15A NCAC 07H.0208(b)(6)(C)

To Whom It May Concern:

Enclosed herewith please find a copy of the Petition being submitted this date to the Division of Coastal Management seeking a variance from condition number 8 of the above-referenced permit with respect to the width of the proposed boardwalk deck for two (2) sections of the proposed new boardwalk at the Soundside Event Site. If you want a copy of the entire Petition (with exhibits) or if you have any questions, please call me at the number indicated below or by email at [hornik@broughlawfirm.com](mailto:hornik@broughlawfirm.com).

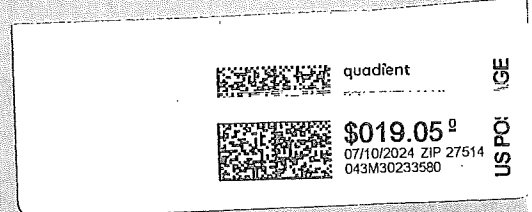
Sincerely,

THE BROUGH LAW FIRM, PLLC

  
Robert E. Hornik, Jr.

REHjr:las  
Enclosure  
cc: Dare County Tourism Board  
W. Jay Wheless, Esq.





**COMPLETE THIS SECTION ON DELIVERY**

**SENDER: COMPLETE THIS SECTION**

Complete items 1, 2, and 3.  
 Print your name and address on the reverse so that we can return the card to you.  
 Attach this card to the back of the mailpiece, or on the front, if space permits.

1. Signature  
 Agent  
 Addressed  
 Date of Delivery

2. Article Number (Transfer from service label)  
 7016 1630 0000 9500 9337

3. Service Type  
 Priority Mail Express®  
 Registered Mail™  
 Adult Signature Restricted Delivery  
 Certified Mail®  
 Collect on Delivery  
 Signature Confirmation™  
 Return Receipt for Restricted Delivery  
 Signature Confirmation™ Restricted Delivery

4. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

Joe, LLC  
 Attn.: Sandra Dowdy Jump  
 280 Airport Rd  
 Manteo NC 27954

9590 9402 5158 9122 2403 93

PS Form 3811, July 2015 PSN 7530-02-000-9053

**THE BROUGH LAW FIRM, PLLC**  
 1526 E. Franklin Street, Suite 200  
 Post Office Box 2388  
 Chapel Hill, North Carolina 27514

To:

Joe, LLC  
 Attn.: Sandra Dowdy Jump  
 280 Airport Rd  
 Manteo NC 27954

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<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

Postage \$

Total Pos \$

Sent To  
 Street and  
 City, State

Joe, LLC  
 Attn.: Sandra Dowdy Jump  
 280 Airport Rd  
 Manteo NC 27954

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

**COMPLETE THIS SECTION ON DELIVERY**

**SENDER: COMPLETE THIS SECTION**

Complete items 1, 2, and 3.  
 Print your name and address on the reverse so that we can return the card to you.  
 Attach this card to the back of the mailpiece, or on the front, if space permits.

1. Signature  
 Agent  
 Addressed  
 Date of Delivery

2. Article Number (Transfer from service label)  
 7016 1630 0000 9500 9337

3. Service Type  
 Priority Mail Express®  
 Registered Mail™  
 Adult Signature Restricted Delivery  
 Certified Mail®  
 Collect on Delivery  
 Signature Confirmation™  
 Return Receipt for Merchandise  
 Signature Confirmation™ Restricted Delivery

4. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

Joe, LLC  
 Attn.: Sandra Dowdy Jump  
 280 Airport Rd  
 Manteo NC 27954

9590 9402 5158 9122 2403 93

PS Form 3811, July 2015 PSN 7530-02-000-9053

701A 1830 0000 9500 9313

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Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$	
<input type="checkbox"/> Return Receipt (electronic)	\$	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	

Postmark  
Here

Postage

Total Postage \$

Sent To  
Street and Apt  
City, State, ZIP

SanDar LLC  
Attn.: Tony Darnell Tillett, Jr.  
Post Office Box 1938  
Manteo NC 27954

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

- SENDER: COMPLETE THIS SECTION**
- Complete items 1, 2, and 3.
  - Print your name and address on the reverse so that we can return the card to you.
  - Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SanDar LLC  
Attn.: Tony Darnell Tillett, Jr.  
Post Office Box 1938  
Manteo NC 27954

9590 9402 5158 9122 2403 86

2. Article Number (Transfer from service label)

701A 1830 0000 9500 9313

PS Form 3811, July 2015 PSN 7530-02-000-9053

### SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front, if space permits.

1. Article Addressed to:

SanDar LLC  
Attn.: Tony Darnell Tillett, Jr.  
Post Office Box 1938  
Manteo NC 27954

9590 9402 5158 9122 2403 86

2. Article Number (Transfer from service label)

701A 1830 0000 9500 9313

PS Form 3811, July 2015 PSN 7530-02-000-9053

### COMPLETE THIS SECTION ON DELIVERY

- A. Signature  Agent
- B. Received by (Printed Name)  Addressee
- C. Date of Delivery
- D. Is delivery address different from item 1?  Yes  No
- If YES, enter delivery address below.

3. Service Type  Priority Mail Express®  Registered Mail Restricted Delivery  Registered Mail Restricted Delivery  Certified Mail®  Return Receipt for Certified Mail®  Signature Confirmation™  Signature Confirmation Restricted Delivery  Collect on Delivery Restricted Delivery  Registered Mail Restricted Delivery (PSN 7530)

Domestic Return Receipt



1526 E. Franklin Street, Suite 200  
Post Office Box 2388  
Chapel Hill, North Carolina 27514

To:

SanDar LLC  
Attn.: Tony Darnell Tillett, Jr.  
Post Office Box 1938  
Manteo NC 27954

### COMPLETE THIS SECTION ON DELIVERY

- A. Signature  Agent
- B. Received by (Printed Name)  Addressee
- C. Date of Delivery
- D. Is delivery address different from item 1?  Yes  No
- If YES, enter delivery address below:

3. Service Type  Priority Mail Express®  Registered Mail™  Registered Mail Restricted Delivery  Return Receipt for Merchandise  Collect on Delivery Restricted Delivery  Signature Confirmation™  Signature Confirmation Restricted Delivery

quadrant

\$019.05<sup>2</sup>  
07/10/2024 ZIP 27514  
043M30233580

US PO: AGE



N.C. DIVISION OF COASTAL MANAGEMENT  
ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION/WAIVER FORM  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED or HAND DELIVERY

(Top portion to be completed by owner or their agent)

Name of Property Owner: 16 Mile Post LLC  
Address of Property: 6916 S. Croatan Hwy, Nags Head, NC, 27959  
Mailing Address of Owner: PO Box 324, Nags Head, NC, 27959  
Owner's email: Wilsonbryan11@gmail.com Owner's Phone#: 252.256.0718  
Agent's Name: Mike Morway Agent Phone#: 252-441-2113  
Agent's Email: mikem@albemarleassociates.com

ADJACENT RIPARIAN PROPERTY OWNER'S CERTIFICATION  
(Bottom portion to be completed by the Adjacent Property Owner)

I hereby certify that I own property adjacent to the above referenced property. The individual applying for this permit has described to me, as shown on the attached drawing, the development they are proposing. A description or drawing, with dimensions, must be provided with this letter.

I DO NOT have objections to this proposal.  I DO have objections to this proposal.

*If you have objections to what is being proposed, you must notify the N.C. Division of Coastal Management (DCM) in writing within 10 days of receipt of this notice. Correspondence should be mailed to 401 S. Griffin St., Ste. 300, Elizabeth City, NC, 27909. DCM representatives can also be contacted at (252) 264-3901. No response is considered the same as no objection if you have been notified by Certified Mail.*

WAIVER SECTION

I understand that any proposed pier, dock, mooring pilings, boat ramp, breakwater, boathouse, lift, or groin must be set back a minimum distance of 15' from my area of riparian access unless waived by me (this does not apply to bulkheads or riprap revetments). (If you wish to waive the setback, you must sign the appropriate blank below.)

I DO wish to waive some/all of the 15' setback

Bryan Wilson  
Signature of Adjacent Riparian Property Owner

-OR-

I do not wish to waive the 15' setback requirement (initial the blank) \_\_\_\_\_

Signature of Adjacent Riparian Property Owner: \_\_\_\_\_

Typed/Printed name of ARPO: Bryan Wilson

Mailing Address of ARPO: Box 324 Nags Head NC 27959

ARPO's email: Wilsonbryan11@gmail.com ARPO's Phone#: 252.256.0718

Date: 8/8/24 \*waiver is valid for up to one year from ARPO's Signature\*



# Division of Coastal Management

## **NC COASTAL RESOURCES COMMISSION MEETING**

**08/28/24**

### **DARE COUNTY TOURISM BOARD, TOWN OF NAGS HEAD, DARE COUNTY, VARIANCE CRC-24-06 STRUCTURES OVER COASTAL WETLANDS**

**Ron Renaldi, District Manager  
Yvonne Carver, Field Representative  
Northeastern District Office  
Elizabeth City, NC**

*Department of Environmental Quality*



# LOCATION MAP: 6906, 6000, 6800, 6714, & 6708 S. Croatan Hwy, Nags Head; adjacent Roanoke Sound

116





# 09/07/2019-09/21/2019 Imagery

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**DARE COUNTY  
GIS 2022  
IMAGERY**

118







**PHOTOS TAKEN BY YVONNE CARVER, FIELD REPRESENTATIVE, 08/10/2021  
(With District Manager Ron Renaldi)**





**PHOTOS TAKEN BY YVONNE CARVER, FIELD  
REPRESENTATIVE, 08/10/2021  
(With District Manager Ron Renaldi)**





**PHOTOS TAKEN BY YVONNE CARVER, FIELD  
REPRESENTATIVE, 08/10/2021  
(With District Manager Ron Renaldi)**





122  
**PHOTOS TAKEN BY YVONNE CARVER, FIELD  
REPRESENTATIVE, 07/18/23**





123  
**PHOTOS TAKEN BY YVONNE CARVER, FIELD  
REPRESENTATIVE, 07/18/23**





PRELIMINARY ONLY  
FOR PERMITTING

# SITE PLAN



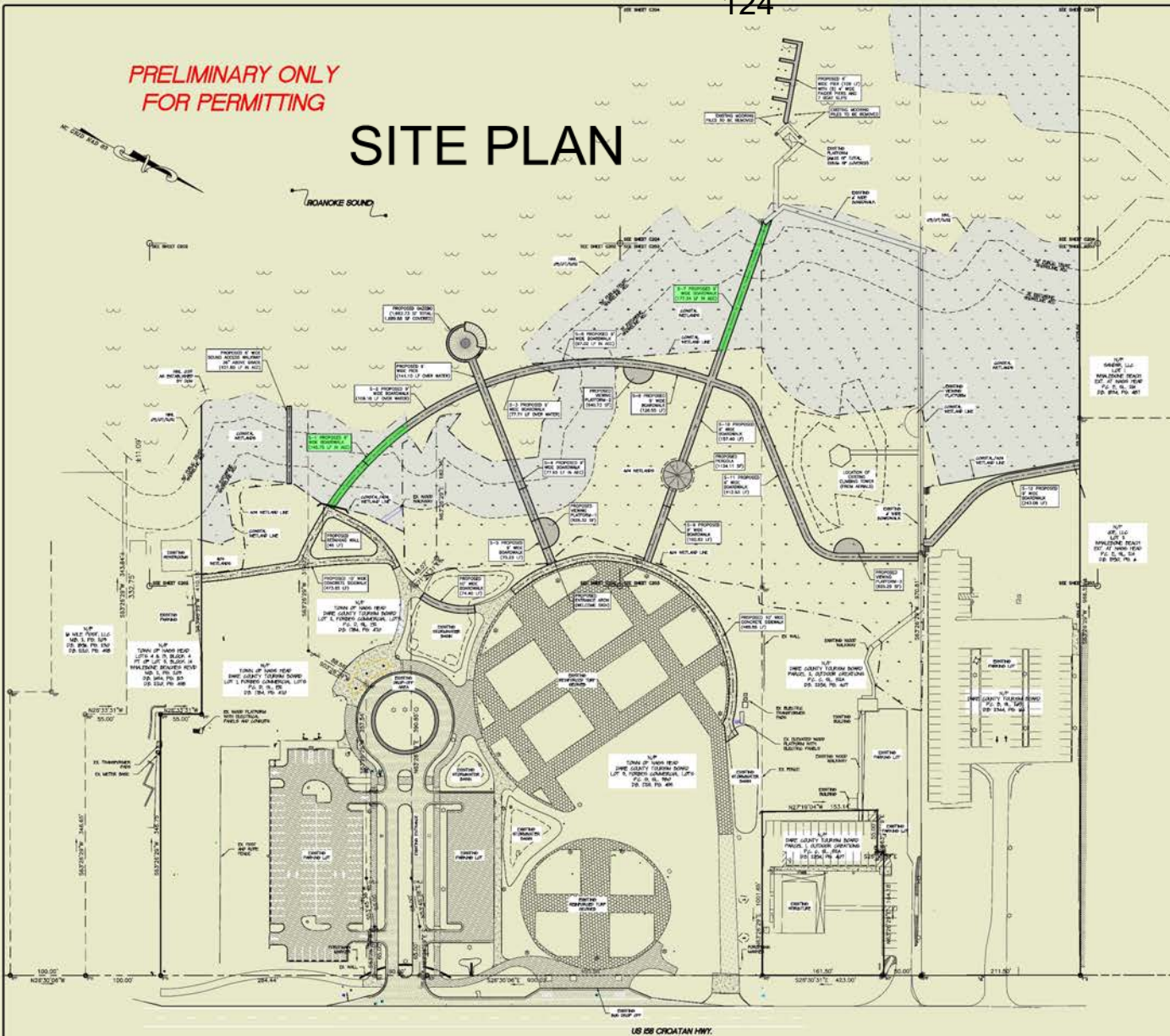
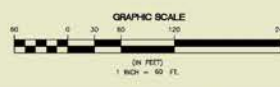
### NOTES

- OWNERS: TOWN OF NAHS HEAD  
DAKE COUNTY TOURISM BOARD  
PO BOX 99, NC 27558
- PROPERTY IS:  
LOT 1, FORBES COMMERCIAL LOTS,  
PARCEL 021242000, P.C. D. S. 192  
8802 S. CROATAN HIGHWAY, NAHS HEAD  
LOT 2, FORBES COMMERCIAL LOTS,  
PARCEL 021242000, P.C. D. S. 192  
8802 S. CROATAN HIGHWAY, NAHS HEAD  
LOT 3, FORBES COMMERCIAL LOTS,  
PARCEL 020894000, P.C. D. S. 192  
8802 S. CROATAN HIGHWAY, NAHS HEAD  
PARCEL 1, OUTDOOR CREATIONS  
PARCEL 020894000, P.C. D. S. 192  
8714 S. CROATAN HIGHWAY, NAHS HEAD  
PARCEL 2, OUTDOOR CREATIONS  
PARCEL 020894000, P.C. D. S. 192  
8714 S. CROATAN HIGHWAY, NAHS HEAD  
3. PROPERTY IS LOCATED IN PRM JONES X, SHADCO X, AC-4  
PRM MAP NO. 3130000000, EFFECTIVE DATE: JUNE 19, 2005.  
SUBJECT TO CHANGE BY FUTURE  
4. BOARDWALK TO BE 8'-0" TOTAL WIDTH, 8'-0" DECK AND 12" OF HANDRAILS.

### LEGEND

- CALCULATED POINT
- IRON PIPE FOUND
- IRON PIPE SET
- IRON ROD FOUND
- IRON ROD SET
- PV MAIL FOUND
- PV MAIL SET
- RIGHT OF WAY
- INTERIOR OR ADJACENT PROPERTY LINE
- EXISTING POWER POLE
- EXISTING COT WIRE
- OVERHEAD ELECTRIC
- EXISTING TELEPHONE PEDESTAL
- EXISTING CABLE TV PEDESTAL
- EXISTING LIGHT POLE
- HANDBIC PARKING
- SEWER
- EXISTING FIRE HYDRANT
- EXISTING WATER METER
- EXISTING WATER VALVE
- EXISTING SPOT ELEVATIONS
- PROPOSED SPOT ELEVATIONS
- EXISTING FENCE

- EXISTING METLANDS
- AREA OF ENVIRONMENTAL CONCERN
- EXISTING CONCRETE
- EXISTING ASPHALT
- PROPOSED CONCRETE
- PROPOSED BOARDWALK



**Albemarle**  
AN ASSOCIATE OF  
EGGENSEN, Environmental & Land Planning

1111 W. Hargett Street, Suite 200  
Raleigh, NC 27601  
Phone: (919) 876-1000  
Fax: (919) 876-1001  
www.albemarle.com

PROJECT NO. 0418  
DATE: 04/20/2005  
DESIGNED BY: [ ]  
DRAWN BY: [ ]  
CHECKED BY: [ ]  
FILE: 011119

**THE SOUNDSIDE EVENT SITE**  
6800 S CROATAN HIGHWAY  
NAHS HEAD TOWNSHIP  
DAKE COUNTY  
NORTH CAROLINA

BOARDWALK PLAN  
PROJ. NO. 0418



PRELIMINARY ONLY  
FOR PERMITTING

# SITE PLAN





## **§ 113A-120.1. Variances.**

- (a) Any person may petition the Commission for a variance granting permission to use the person's land in a manner otherwise prohibited by rules or standards prescribed by the Commission, or orders issued by the Commission, pursuant to this Article. To qualify for a variance, the petitioner must show all of the following:
- (1) Unnecessary hardships would result from strict application of the rules, standards, or orders.
  - (2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.
  - (3) The hardships did not result from actions taken by the petitioner.
  - (4) The requested variance is consistent with the spirit, purpose, and intent of the rules, standards, or orders; will secure public safety and welfare; and will preserve substantial justice.
- (b) The Commission may impose reasonable and appropriate conditions and safeguards upon any variance it grants.