



TOWN OF KITTY HAWK

PROPOSED AGENDA

KITTY HAWK TOWN COUNCIL

Monday, September 9th, 2024

Kitty Hawk Town Hall, Smith Room

6:00 PM

1. **Call to Order**
2. **Moment of Silence/Pledge of Allegiance**
3. **Approval of Agenda**
4. **Town Staff Member Recognition-** Aaron Nelson, five years of service, Police Department; new staff member Greg Hardin, Public Works
5. **Public Comment** – The public is invited to address the Town Council on any topic. Please sign up with the Town Clerk before the meeting and when your name is called, come forward and speak into the microphone at the lectern. Please limit comments to 3 minutes.
6. **Consent Agenda** – Items on the consent agenda are considered to be non-controversial, routine in nature, or items not requiring a presentation to discuss by the Town Council in order to consider the items(s). Any item may be removed for discussion by the council or by any member of the audience who wants to hear the item presented and discussed.
 - a) **Approval of August 5th, 2024, Regular Session Council Minutes** – Approval of the consent agenda will approve these minutes.
 - b) **Proclamation-** Declaring Diaper Need Awareness Week September 23 -September 29, 2024
 - c) **Reasonable Accommodation for Pregnant Workers Policy-** Employee Handbook update Article VI, Section 11.2
 - d) **Budget Amendment #2 FY 2024-2025-** Transfer funds previously saved for the replacement of the AC system at the Fire Station from the Capital Reserve Fund 21 to the General Fund 10
7. **Items Removed from Consent Agenda**
8. **Planning – Schedule Public Hearing**
 - a. **Zoning Text Amendment – 42-360.-** Sound waters district. Proposal to reclassify piers as permitted use, and amend maximum pier length
9. **Old Business:**
 - a. **Roosters in Kitty Hawk-** Staff to report community survey results, and Planning Board recommendation.



TOWN OF KITTY HAWK

10. New Business:

- a. **Ordinance proposal- Live Oak as official Town tree**
- b. **Recreation Committee Trail Plan Proposal**
- c. **Subdivision- 800 W. Kitty Hawk Rd – proposed 2 lot subdivision from 2.41-acre parent parcel**
- d. **Appointment of Planning Board Alternate Member**
- e. **Proposed Police Department Pay Plan Adjustment**

11. Reports/General Comments from Town Manager

12. Reports/General Comments from Town Attorney

13. Reports/General Comments from Town Council

14. Closed Session- Pursuant to N.C. Gen. Stat. 143-318.11(3), Town Council will now enter into closed session for the purposes of receiving legal advice from the Town Attorney and to preserve the attorney-client privilege concerning a recently filed lawsuit styled Mina v. Town of Kitty Hawk, et al.

15. Adjourn

***To Watch Livestream on YouTube:** https://youtube.com/live/2PTAcoU_KQE?feature=share

Go To:

The meeting will also be available to watch on the Town's YouTube channel on demand the next day.

****Send Comments and/or Questions via email:**

You may always send comments or questions at any time to info@kittyhawktown.net. If you would like your question or comment read at this meeting, please send it by 2:30 PM on July 1, 2024, and note that you would like it to be read at the meeting. Be sure to include your full name and address. Please keep your comments to three minutes.

Si habla español, los servicios de asistencia lingüística están disponibles de forma gratuita. Llame al 252-261-3552 para obtener ayuda.



Draft Minutes
KITTY HAWK TOWN COUNCIL
Monday, August 5th, 2024
Kitty Hawk Town Hall, Smith Room
6:00 PM

1. **Call to Order**
2. **Moment of Silence/Pledge of Allegiance**
3. **Approval of Agenda**
4. **Introduction of New Town Staff Member-** Amy Corle, Kitty Hawk Police Department
Administrative Records Technician
5. **Public Comment** – The public is invited to address the Town Council on any topic. Please sign up with the Town Clerk before the meeting and when your name is called, come forward and speak into the microphone at the lectern. Please limit comments to 3 minutes.
6. **Consent Agenda** – Items on the consent agenda are considered to be non-controversial, routine in nature, or items not requiring a presentation to discuss by the Town Council to consider the items(s). Any item may be removed for discussion by the council or by any member of the audience who wants to hear the item presented and discussed.
 - a) **Approval of July 1st, 2024, Regular Session Council Minutes** – Approval of the consent agenda will approve these minutes.
 - b) **Proclamation-** Declaring October 2024 as Life-Saving Service Commemoration Month
 - c) **Increase Daily Deposit Threshold from \$250 to \$500-** This resolution aims to update the daily threshold deposit amount from \$250 to \$500, optimizing the daily time spent going to the bank.
7. **Items Removed from Consent Agenda**
8. **Planning – Public Hearing**
 - a) **Zoning Text Amendment** – 42-414(b).- Mini-warehouse in PCD. Applicant proposes to amend the maximum building size of a mini-warehouse in a PCD to 40,000 square foot footprint.
 - b) **Zoning Text Amendment** – 42-1.- Definitions; 42-225, 42-247 thru 249; 42-273 thru 275. Lot coverage and Permeable paving materials
 - c) **Special Use Permit/Site Plan** - 6100 N Croatan Hwy/The Woods Rd PCD – Applicant is requesting a special use permit and site plan approval for a mini-warehouse facility as well as a second commercial structure
9. **Old Business:**
 - a) **Text Amendment-** 42-1.-Definitions and 42-528.- Accessory Dwelling Units. Applicant proposes language requiring long-term occupancy on sites in the VR-1 district that contain an Accessory Dwelling Unit.
10. **New Business:**
 - a) **Preliminary Financial Statement FY 2023-24-** Presentation of preliminary financial statement for fiscal year 2023-24.
 - b) **Capital Project Ordinance Fund 41.-** The proposed budget amendment in the Capital Project Fund 41 allocates \$212,400 in contingency for the remodeling of the new police station building at 5200 N Croatan Highway. The funds would be transferred from the General Fund. In addition, it is proposed that the Town Manager be authorized to



approve change orders or amendments to construction contracts in amounts up to \$50,000 from the project contingency funds.

- c) **Resolution-** In support of the North Carolina Department of Parks and Recreation Great Trails State Program (GTSP) Grant to construct a 400' boardwalk connecting Sandy Run Park to the Birch Lane Trail within the Kitty Hawk maritime forest.

11. **Reports/General Comments from Town Manager**
12. **Reports/General Comments from Town Attorney**
13. **Reports/General Comments from Town Council**
14. **Adjourn**

Council Members Present:

Mayor Craig Garriss, Mayor Pro Tem Jeff Pruitt, Councilman David Hines, Councilwoman Charlotte Walker, and Councilman Dylan Tillett.

Staff Members Present:

Town Manager Melody Clopton, Town Attorney Casey Varnell, Administrative Services Director Laura Walker, Finance Officer Liliana Noble, Police Chief Mike Palkovics, Police Lieutenant James Helms, Fire Chief Mike Talley, Public Works Director Willie Midgett, Planning Director Rob Testerman, Administrative Planning Technician Jessica Everett, Public Information Officer/Town Clerk, Lauren Garrett

1. **Call to Order**
2. **Moment of Silence/Pledge of Allegiance**
3. **Approval of Agenda**

Garriss: Council, I need a motion to approve tonight's agenda but first I need to amend the agenda to add Item 10C which is a grant for a boardwalk in the North Carolina Department of Parks and Recreation. Can I get a motion to approve the amended agenda?

Hines: So, moved.

Garriss: Motion made by David. Second?

Walker, Charlotte: Second.

Garriss: All in favor?

Council: Aye.

Garriss: All opposed? None. Thank you. Introduction to new Town staff member, Chief Palkovics. Amy, would you come up please?

4. Introduction of New Town Staff Member- Amy Corle, Kitty Hawk Police Department
Administrative Records Technician

Palkovics: Mr. Mayor, Council, Manager, thank you. It's my honor to introduce to you our newest Police employee, Amy Corle. Amy comes from Fauquier, Virginia where she worked for the Commonwealth Attorney's office and then she worked for the sheriff's department there as well. She is our Administrative Records Technician and started with us about a month ago. Amy has resided here for about four years now with her husband Michael and two small children. We are very excited to have her here and trying to replace someone like Sharon Davenport who retired after 28 years is mountainous task, but she is up to the challenge, and she has already started to hit the ground running as we try to organize, update, and upgrade a lot of our systems and processes we have in place. It is my pleasure to introduce Amy to everyone here.



Garriss: Thank you Chief, and welcome Amy. You have some big shoes to fill but I understand you are already making great efforts to reach that goal so thank you.

- 5. Public Comment** – The public is invited to address the Town Council on any topic. Please sign up with the Town Clerk before the meeting and when your name is called, come forward and speak into the microphone at the lectern. Please limit comments to 3 minutes.

Garriss: Public Comment. Lauren, do we have anyone signed up for Public Comment?

Garrett, Lauren: Yes, Mayor Garriss. We have Denise Deacon signed up to speak at Public Comment.

Deacon, Denise: Greetings, my name is Denise and I'm a resident of Kitty Hawk. My comment is regarding the proposed ADU text amendment. I emailed a more detailed version of my thoughts against the proposal to Town Council about a week ago. I respectfully ask that you consider this shorter version as well. It appears the amendment you are considering is aimed at curbing speeding, noise, and short-term rental woes on the applicant's street. I would ask that you please explain what exactly the proposed requirement of a long-term renter on site does to solve the perceived problem. Should the long-term renter approach the short-term renter when traffic laws and noise ordinances are not adhered to? Isn't that a job for law enforcement? As the Town is considering using this to alleviate short-term renters or speeding and noise complaints, why target only those properties with separate living areas? Why not target all short-term renters? A street can be completely lined with large, boisterous multi-bedroom short-term renters with no property owners ever required to be on site yet the owner with the small garage apartment which complies with lot density requirements would have to live there to rent it short term under this proposal. Finally, the wording of this amendment indicates that the owner or long-term renter is required to reside there even if the ADU is empty, "Accessory Dwelling Units located in the VR1 zoning district shall have a long-term tenant or owner residing in the dwelling on the subject property". There is no mention of whether the ADU space is even occupied or not. I request this amendment not be approved. Thank you very much.

Garriss: Thank you. For everyone's information, we will be discussing this matter later tonight.

Varnell, Casey: Mayor, for clarity for everyone so we don't cut anyone off. Are we going to since it's under Old Business and not Public Hearing are we reopening for Public Comment during the discussion of that item?

Garriss: I had asked that question of Rob, and we decided to address it during this Public Comment.

Varnell, Casey: That is how it generally operates so I just wanted everyone to know out there if you want to speak about ADUs.

Garriss: And not go back into Public Hearing, correct?

Varnell, Casey: Correct. So, this would be the time. I heard Grace say something about maybe signing up wrong, so I didn't want anyone to be left out.

Garriss: Okay, next?

Garrett, Lauren: Next we have Grace Anlauf.

Garriss: I forgot to mention to please remember you have three minutes for Public Comment. Thank you.

Anlauf, Grace: Good evening. You all have seen me here before. Hope you all are doing well. My name is Grace Anlauf, and I am now the owner of 3850 Moore Shore Road which is in the VR1 zoning district. I'm here tonight to speak about the Accessory Dwelling Units proposed again. I understand the discussion was tabled at the last meeting. I would like to bring up a few more points this evening. A couple of those points, again with the fact that the natural economy will occur with long-term and short-term rentals, so we talked about that. We talked about how wonderful short-term rentals are for our



economy. This language that's been described to me all sounds like another way of short-term rental restriction and as a local Realtor, I'm not an attorney, but to me that is a material fact. If I show a property that is in the Croatan Condominiums, Manteo, and the waterfront condominium complex in Manteo, there is short-term rental restriction on those properties meaning that you are not allowed to rent them short-term at all. I must disclose that to my clients as I'm showing the property because it restricts the number of things they can do with the property. Now, another topic. In my opinion, taking away or creating a new law that restricts because right now we don't have a restriction against it, creating a new law that restricts it devalues my property, it devalues the ability to rent short-term on my property. If I have two units that are legally permitted right now, I have one unit on my property but when I bought it, I was allowed to build an accessory dwelling unit as current zoning allows me within the confines of a permit and doing it the right way. I'm then allowed to short-term rent that property. If you take that ability away from me to do that in the future, then you are devaluing my property and that is taking away my personal property rights. To me, that is not okay. I am not okay with that. The other thing is, sorry back to devaluing property. Sorry, I got off topic, I thought I had five minutes. To me, that devalues my property, so I feel that with this devaluation of properties across the VR1 zoning district is based on one or two peoples' complaints. I don't feel that it is impacting that many people on what they can do with their property is okay due to one or two peoples' complaints. I ask as I finalize this a little quicker is that when you guys think about what you're going to do tonight, you think about the masses and you don't think about just me, you don't think about just one of the people that have put in a complaint but you think about everybody because that is what you are here to do, we put you in this place to think about everyone and to think about the precedent you are setting for now and in the future because the future generation if you put this into place will have to handle the next proposal from different zoning districts. (3-minute timer expires) Thank you.

Garriss: Anyone else signed up, Lauren?

Garrett, Lauren: Yes, Ralph Buxton.

Buxton, Ralph: Good evening, my name is Ralph Buxton. I'm the Chairman of the Planning Committee for the 150th Anniversary of the US Life Saving Service on the coast of North Carolina. Yes, it was 1874 when the first seven stations were built here on the coast of North Carolina. Kitty Hawk was one of those stations, the first seven eventually turned into 29 stations along the coast by 1905. I gave you all handouts there that I hope you will take home to your kids or grandkids because they are good educational tools to tell you more about the heritage of this area in Kitty Hawk. We've got a big celebration planned but we've also got a lot going on this summer down at Chicamacomico which is the sponsor of this event. We hope you'll come down sometime, the beach apparatus drills every Thursday. We also had the Park Service open Little Kinnakeet for tours, doing it every couple of weeks now and that's been very successful. We'll be having a formal event on October 12th and 13th; you will all of course know about this as you have been considering a proclamation tonight and I'm going to thank you in advance for that proclamation. We really appreciate your support; it's been wonderful working with Melody on that. Going back to 1874 in Kitty Hawk station, you have a very rich history here. I don't think it's commonly known but in 1874 Kitty Hawk station was the first station that was manned year-round. The other stations were manned only seasonally, in the wintertime which was the worst storm season. The Kitty Hawk station had the signal core officer who was the weatherman and the telegraph operator, and he had to be there year-round. When the USS Huron wrecked in Nags Head, none of the stations were open including Nags Head which was a huge catastrophe, nobody could react, but they got word back to Kitty Hawk and the telegraph office and had them wire for help from Norfolk who arrived the



next day for assistance. So, that is something that could be recognized. (3-minute timer expires) Thank you very much.

Garriss: Anyone else signed up, Lauren?

Garrett, Lauren: No sir.

Garriss: Anyone else that is here, it is fine to come up.

Balance, Mary Ellon: My name is Mary Ellon Balance, and I am running for Dare County Commissioner to represent Hatteras Island. I'm kind of doing my homework and wanted to get out to the Town meetings just to introduce myself. I've been a member of the community; I have lived in Hatteras Village for 26 years. I currently serve on the Board of Education finishing my eighth year, wife of a commercial fisherman, I'm very interested in continuing to support and help the people of Dare County. I just wanted to come and say hello, I'm really excited to hear your agenda tonight, it looks very interesting. I'm super excited about that. I'm big on policy with the School Board and trying to figure all of this out so I wanted to come and introduce myself. Thank you for giving me a moment to talk. I look forward to the opportunity to work with you.

Garriss: Thank you. Folks, keep in mind this is not a political forum. This is to conduct Town business. Is there anyone else who would like to speak at Public Comment? Speak about anything other than politics. Please let the record show that no one else chose to speak at Public Comment.

6. **Consent Agenda** – Items on the consent agenda are considered to be non-controversial, routine in nature, or items not requiring a presentation to be discussed by the Town Council in order to consider the items(s). Any item may be removed for discussion by the council or by any member of the audience who wants to hear the item presented and discussed.

Garriss: Council, I need a motion to approve tonight's Consent Agenda please.

Hines: So, moved.

Garriss: Motion by David, second?

Pruitt: Second.

Garriss: All in favor?

All Council: Aye.

Garriss: All opposed? None. Very good.

7. **Items Removed from Consent Agenda**

Garriss: We had no items removed from the Consent Agenda. Item 8A Zoning Text Amendment Mini Warehouse and PCD. Can I get a motion to go into Public Hearing?

Hines: So, moved.

Garriss: Motion by David. Second?

Walker, Charlotte: Second.

Garriss: All in favor?

All Council: Aye.

Garriss: We are in Public Hearing, go ahead Rob.

8. **Planning – Public Hearing**

- a) **Zoning Text Amendment** – 42-414(b).- Mini-warehouse in PCD. Applicant proposes to amend the maximum building size of a mini-warehouse in a PCD to 40,000 square foot footprint.



Testerman, Rob: As you mentioned, this is a Text Amendment regarding mini warehouses. They're currently permitted as a Special Use Permit in the Planned Commercial District. The amendment before you tonight deals with the maximum building size. Our ordinance right now VC1 district caps any tenant or commercial use at 25,000 square feet and VC2 cap is 40,000 square feet. The proposed language in the staff report would change that stating, "buildings shall be of a total building footprint dedicated to mini warehouse not to exceed 40,000 square feet where multistory buildings are utilized total floor on the parcel shall not exceed 40,000 square feet times the number of floors constructed the language is only proposed for that special use language in the PCD as it's written. Our height is a maximum of 35 feet so the tallest building you're looking at is three stories so we could conceivably permit a mini warehouse building up to 120,000 feet. In the packets there is an image shown where all our PCD are located, I was going to put it on the overhead. At the June 27th meeting unanimous approval of the proposed text was recommended by the Planning Board. You can see in the land use plan; goal number three is to reinforce Kitty Hawk's unique coastal identity and sense of community through high quality design and protection of natural and cultural resources. Policy 3.2 is to encourage commercial development and appropriate scales and area zones for commercial districts encouraging larger scale commercial development to be located along 158. The applicant is on hand if they have any questions or to add anything. I can take any questions as well.

Garriss: Council, do you have any questions for Rob?

Hines: I do, for the applicant when he comes up. No questions for Rob.

Cobb, Gordon Jr.: Good evening, Mayor and members of Council. My name is Gordon Cobb, Jr. My address is 3920 Magazine Street, New Orleans, Louisiana. I know that sounds far away from here, but the Outer Banks is a special place for me. I lived and worked here the summer I graduated from high school, and we vacationed here for two weeks during the summer overlapping with this which was very convenient. I was the developer of the Publix down the street and we're looking forward to potentially completing another project in the community. If we receive approval tonight, my partners and I are looking to invest \$17 million into this project. From our experience a project of this size will employ about 150 people during construction. Storage is a very low impact use but generates a fair amount of taxes and so forth, but I appreciate your time this evening. I'm happy to answer any questions.

Garriss: Thank you. Council, any questions for Mr. Cobb? Come on up, Mr. Goodrich. How are you? Would you like to speak tonight? Can you step up to the microphone, please? What happened with the houses you wanted to build on that property years ago?

Goodrich, Eddie: I tried. I offered the property to the town, to Dare County, I offered it for affordable housing, Woda Cooper who went under contract, and you know the rest of the story. Woda Cooper said they couldn't do it. I did everything I could to build some housing there. Quite frankly, given the real estate market today, the cost of land, the cost of construction, with 6% interest I think we're going to be hard pressed to get anybody to invest that kind of money with that kind of return. We're in no man's land right now.

Garriss: Thank you, sir. Good answer. Any questions for Mr. Goodrich?

Testerman, Rob: I did want to note that the special use permit that's on the agenda tonight for the Public Hearing is contingent on the text amendment. If the text amendment fails, then the building size that is proposed for the special use permit would be null.

Garriss: Thank you, Rob. Council, any further business during public hearing? If not, I will entertain a motion to go back into regular session.

Pruitt: So, moved.

Garriss: Motion made by Jeff. Second?



Walker, Charlotte: Second.

Garriss: Second by Charlotte. All in favor?

All Council: Aye.

Garriss: All opposed? None. We are back in regular session. Council, any thoughts? I have a couple.

Walker, Charlotte: We've spent a great deal of money to update our land use plan. Mr. Goodrich, you've been a regular customer here, we've seen you quite often and you've always been respectful, and kind and I appreciate that. We made an exception for mini warehouses; we had a great discussion about that to include a mini warehouse on Kitty Hawk Road. The land use plan just does not seem to support a huge warehouse with loading dock, and I just can't get behind that. For that reason, I would vote nay.

Garriss: Thank you, Charlotte. Jeff?

Pruitt: I'm just waiting to hear comments, thank you.

Garriss: I agree with Charlotte wholeheartedly. I cannot support this project, and I will not vote for it tonight. Anyone else?

Tillett: I agree with all of that too. That's three times the size of what is currently allowed, it's asking a lot.

Hines: I don't really have a comment, rather than just denying it. Is there a way to re-work it or bring it down? What would we like to see there?

Walker, Charlotte: We've already re-worked it to allow the mini warehouse.

Hines: I understand but what do we want to see there?

Walker, Charlotte: Houses or shops, some of the things that we've talked about. There have been several things that we have modified. Would you have any suggestions to how we can modify it?

Hines: No, I was just asking the question.

Garriss: Jeff?

Pruitt: Whether it's warehouses or houses, it's really not up to me. I just think that what is proposed is a very large building for that area with the wetlands surrounding it. I think that's a very large building for that piece of property.

Garriss: We're out of public hearing, Mr. Goodrich, but did you have anything you would like to add?

Goodrich, Eddie: What I'm hearing is that you're against the size?

Garriss: Yes, sir.

Goodrich, Eddie: Could you table to discussion?

Garriss: No, sir. We're ready to vote on this item tonight.

Goodrich, Eddie: I don't know what to say, I think it's a great use for the parcel. We tried everything we could to build on this property. Different pieces of land have different uses

Garriss: Thank you, Mr. Goodrich. I agree with Charlotte, it's always good to see you. Okay, Council I will entertain a motion. If not, I will make it.

Walker, Charlotte: I move to deny the proposed text amendment to Section 42-414 B4. The Town Council finds that this proposal is inconsistent with the Town's Land Use Plan.

Garriss: Thank you, Charlotte. Can I get a second?

Tillett: Second.

Garriss: Second by Dylan. Any further discussion? All in favor of the denial please signify by saying Aye.

Walker, Charlotte, Pruitt, Garriss, Tillett: Aye.

Garriss: All opposed?

Hines: Aye.



TOWN OF KITTY HAWK

Garriss: We have four in favor of denial, and one opposed to the denial. Thank you. Casey, Item 8C we're not going to hear, correct?

Varnell, Casey: Yes, as Rob stated it's superfluous at this point because the property wouldn't be in compliance with if we approved the actual special use being presented.

Garriss: Correct, thank you. Item 8B Zoning Text Amendment. Council, I need a motion to go back into Public Hearing, please.

Walker, Charlotte: So, moved.

Garriss: Motion made by Charlotte. Second?

Pruitt: Second.

Garriss: Second by Jeff. All in favor?

All Council: Aye.

Garriss: Okay, we are in public hearing. Go ahead Rob.

b.) Zoning Text Amendment – 42-1.- Definitions; 42-225, 42-247 thru 249; 42-273 thru 275. Lot coverage and Permeable paving materials

Testerman, Rob: The proposed text amendment to Section 42-1 as well as some language on residential and commercial zones dealing with lot coverage and permeable pavers. In the staff report, the definition of lot coverage is trying to simplify and specify that driveways are going to be counted as lot coverage. Currently, in practice we've been having the survey notate driveway movement that's counting against problems as lot coverage whether it's natural or gravel or concrete it's all considered the same on the survey. This would clarify that we are talking about improved driveways if you keep it natural it's not going to count against lot coverage, it also identifies materials that would be exempted from lot coverage calculations. That means artificial turf and plastic turf reinforcing grids that haven't been mentioned before has been a judgement call by staff whether or not to count artificial turf so I thought it would be a good idea to include it so there's no room for subjectivity. The one caveat with that would be that it would have to be installed with materials and construction methods that would be certified by a state licensed engineer that is would be 100% pervious and would remain so through the installation. If it ever failed or became impervious and we got a complaint about that it would have to be replaced. The second one listed is uncovered open slatted decks that allow water to penetrate through to open pervious material would be exempt from lot coverage calculations. There are a couple other towns in the area that look at this the same way, this is also in line with state storm water permitting. When we had our text amendment a few years ago, about the pool surface water being excluded from lot coverage calculations, one of the public comments from there was to look at this to bring it all in line. The concern with allowing that I could see happening would be that new construction houses get built with their open deck and its natural underneath, then a month after they get CO they go in and get a patio. I guess it would go with any other enforcement issue, if we got a complaint we'd go out and inspect. There are always people who are going to ask for permission later. This is a staff-initiated text amendment, if Council wants to approve part of it that won't hurt my feelings. The third one being the gravel of loose stone being used for walkways, patios, landscaping blockage calculations. We've been doing this in practice although it's not specifically mentioned in the ordinance, I thought it would be good to define it. Like stone around a house or any kind of landscaping rock. Council did catch an error in the proposal in the bottom of the first page, the word coverage is not supposed to be struck through so it would be the area being struck out would be without reduction for built upon area. Then after that dealing with permeable paving material that meets the definition that's included in the staff report for permeable pavement. For residential zones the maximum lot coverage is still going to be 30% over the



maximum lot coverage physical area of 38% provided that any lot coverage physical area in excess of 30% is comprised of permeable pavement. Then there's language in there stating that if the permeable pavement fails then that would have to be replaced with permeable material. That is in align with what we currently allow in our commercial zones, that was adopted in 2018 I believe. The commercial zones allow up to 72% permeable materials so that's the idea of bringing this forward. You can see in the past few weeks how many frequent heavy rainfalls we've been getting so to try and encourage property owners, residential property owners to allow more water infiltration in their lot rather than just paving their entire driveway and shutting it off. I was getting phone calls from neighbors once you get these heavy rains they are getting flooded by their neighbors. If we can do something to encourage those property owners to use materials that will allow better infiltration on their site, then I think we are better off. The Planning Board recommended approval unanimously at their June 27th meeting. CAMA Land Use Plan has some relevant policies and goals, Policy 2.4 the required storm water management systems and new development/predevelopment run off conditions, this wouldn't be requiring anything but storm water management, consider additional incentives for green storm stormwater infrastructure including bios, rain gardens, and green roofs. Policy 3.1 Manage land use and development to minimize primary and secondary impacts on resources and existing residents through standards for development. Policy 3.4 Encourage residential that fits Kitty Hawk's character and maintain zoning regulations. With that, I will turn it over to the Council for any questions.

Garriss: Rob, this was initiated by you, correct? More of the cleaning up you are trying to do. That makes sense.

Varnell, Casey: Rob, to avoid any confusion at the time of motion in the event Council wants to approve as presented, your version of what is presented would have include the word coverage that you were speaking about earlier. Just for the record, coverage as Dylan pointed out to Rob, was intended to be in there so if you decide to approve as presented the word coverage will be included at the bottom of the first paragraph under definition of lot coverage physical area.

Garriss: Thank you. Council, any questions for Rob?

Walker, Charlotte: Rob, are you comfortable with the slatted deck? Is that manageable for you?

Testerman, Rob: Yes, if I wasn't comfortable with it, I would not have put it in there. There is some cause for concern in terms of enforcement.

Walker, Charlotte: The only reason I mentioned is because you had the example of you could go back later and there could be concrete, so I just wanted to make sure that you are comfortable.

Testerman, Rob: It's bound to happen but if it does it would be treated like any other code enforcement issue. If we get a complaint, code enforcement would investigate as needed.

Tillett: We could remove that too if we felt that better fit too, to remove the slatted deck if Council decided to move forward.

Hines: There are more steps you'd have to take; you're going to get wet underneath that deck if you don't take other measures so it's not like you can just put concrete under the deck and your drive. There are more steps that need to be taken. That's in line with the state's stormwater, correct?

Testerman, Rob: Yes.

Garriss: Thank you, good questions. Anything further for Rob? If not, I will entertain a motion to go back into regular session.

Pruitt: So, moved.

Garriss: Motion made by Jeff. Second?

Hines: Second.

Garriss: Second by David. All in favor?



All Council: Aye.

Garriss: Okay, Council we are back in regular session. What would you like to do about this matter?

Pruitt: I'd like to discuss. I agree, I had a little bit of a problem, and I called Rob about the open slatted deck and then the more I think about it as David stated it would take more than you'd have to put something underneath corrugated to run it off. It's more than just going under there so that was my only concern. I also checked with the artificial turf, so once again it is going to be laid on a surface that is 100% permeable and I don't see any conflict there. So, I think that I agree like David that was my only concern was the slatted decks and you've pretty much nailed what I was thinking. There's a lot more to it.

Garriss: Thank you, Jeff. Any more discussion? If not, I will entertain a motion as presented.

Walker, Charlotte: I move to approve the proposed text amendments related to lot coverage and permeable pavement section 42-1.- Definitions; 42-225, 42-247 through 249; 42-273 through 275. Town Council has found this proposal to be consistent with the Town's adopted land use plan.

Garriss: Thank you, Charlotte. Second?

Hines: Second.

Garriss: Thank you, David. All in favor?

All Council: Aye.

9. Old Business

- a.) **Text Amendment-** 42-1.-Definitions and 42-528.- Accessory Dwelling Units. Applicant proposes language requiring long-term occupancy on sites in the VR-1 district that contain an Accessory Dwelling Unit.

Garriss: All opposed? None. Thank you, Council. We're back to accessory dwelling units that was tabled at the last meeting. It was tabled because Rob was going to try to find out some more information for us and so Casey, that was the reason we tabled it so we could get more information before we voted tonight. Keep in mind, I've already heard the words, we're talking ADUs and not short-term rentals.

Varnell, Casey: Most of Rob's research is right in line with the legal leeway and I've looked at it and concur, but I will certainly jump in to the extent Rob needs or wants.

Testerman, Rob: There are a couple of things Council asked staff, one of them dealt with how many ADUs have been permitted in the VR1 district since 2018 when the accessory dwelling unit language was adopted. There have been eight ADUs permitted in VR1, since that language was adopted. There are several that were built before we had any ADU language in place, things at that time could have been a room over a detached garage, and now that falls under ADU definition. I'm not saying that it's only eight out there now. Looking at the number of impacted properties by the proposed amendment, I went through Air BnB, VRBO, and six of the major vacation rental agencies. I can't guarantee that I found all of them but best as I can tell I was able to find six additional accessory dwelling units that are being used for short-term rentals in the VR1 district. However, according to Dare County tax records, the owners of those six are stated to be full-time residents so they would be in compliance with the proposed amendment. The big one that came up in the last meeting was the 12 months to come into compliance. We talked last month about Chapel Hill's ordinance does have that in it as related to short-term rentals. I don't believe that ordinance has been dissolved in its second time in court. I also found that the Town of Highlands has been considering similar regulation of short-term rentals. They had documents in the staff report that they too received some letters and know that if they adopted that it would be quick. On July 22nd, the Highlands Planning Board voted unanimously against the initiation rule.

Varnell, Casey: You mean requiring compliance, Rob? Within a certain amount of time.



Testerman, Rob: Yes, they voted against it. I believe there was public comment that referred to Senate Bill 677 last month, I've attached that language to the staff report. You can see there that there are big restrictions along with what times would be allowed in terms of short-term rentals. As I understand it, that bill is probably not coming back in the same form or fashion but they're planning that something will come back they'll address in a different manner.

Varnell, Casey: Rob, just for the record on that, it is Senate Bill 667 but that is the same bill addressed in your report.

Testerman, Rob: So that's what I've got for you from the last meeting.

Varnell, Casey: The only thing that I will add is that you guys heard me preach last time about liability and things that we as a Town do with decisions, that you as Council members make, and not too long ago it became an event with an ordinance that we draft gets attacked in court and they are challenging the validity of that ordinance, it's now statutory law and not case law when something is embedded in black letter at this point, the word shall award attorney fees to a successful litigant that attacks an ordinance that we have that's very clear in what it's seeking to regulate and that clear regulation is then found to be invalid by a court of law you then the court must award some level of attorney fees. Now, Rob has attached here to you the Schroeder case that I had referenced which was down in Wilmington which was against the city of Wilmington and in that particular case the court used its discretion to award only 80% of the attorney fees but that was still \$35,000 and that's a lot of money and it became a judgement against the town that the town was then indebted to pay back so there are repercussions and again that has been my position on thinking carefully in terms of what we are going to require.

Garriss: Thank you, Casey. Council, if you recall I think everyone up here had a problem with the 12-month period.

Pruitt: Are we still in Public Hearing?

Varnell, Casey: No, now you all can discuss amongst yourselves.

Garriss: So, if we decide to approve, we could approve without that. We could deny the whole thing all together. I really haven't heard anything from Casey or Rob tonight to change my mind from public hearing, excuse me I mean regular session.

Hines: I believe there's a letter inserted into the packet.

Garriss: It is, do you mind if I speak? I had a problem with the 12 months right away. A lot of people have worked hard on this text amendment, the applicant, Rob and his staff. We've had since our last meeting in July to think about this, it's been tabled to get more information. I had been thinking about it constantly, I was thinking about it on the way to this meeting tonight and I still wasn't sure, but I've got a feeling that I just don't think it's right. I think it's being done for the wrong reasons, and I may be the only one for that reason, but I cannot support this text amendment.

Hines: Casey, is it your legal opinion that if we implement a policy of 12 months, we will set ourselves up for a lawsuit?

Varnell, Casey: Yes, I will say it another way, there is nothing out there that Rob or I have found that says we would be safe and not vulnerable from such an attack and that's where I have to come from in these types of situations if I don't have anything out there yet that says this is legal but yet I see many other jurisdictions not allowing for ammonization or not allowing grandfathering so I must say that yes we are subject to an attack here until I see otherwise within our court system and that's not something I've seen.

Pruitt: Casey, can I move forward with the proposed text amendment with the removing of Subsection I?



Varnell, Casey: Rob, help me out with that just to make sure I'm correct, would the applicant need to approve that at that point? In other words, do you accept that and then they move forward with the vote or if you don't accept that then we're going to deny it? I don't think so but I just want to be clear.

Testerman, Rob: Yes, to answer your question.

Pruitt: So, do I need to ask, or would it be?

Varnell, Casey: If that's the way you want to move, Councilman Pruitt, then I think you are fine to do that striking it. I don't think there needs to be any discussion or request.

Pruitt: Legally, with us asking one of the residents if there is an ADU with one of them being occupied full-time meaning 31 days consecutively, you find that to be okay in doing that?

Varnell, Casey: From the long-term tenant perspective, yes. I don't like the fact that the owner is in there frankly, however there is an exception that it is owner or long-term tenant, so I think we are okay given the "or".

Pruitt: To be clear, he can rent it out to anybody, he can live in New York if it's rented to someone for more than 31 days.

Varnell, Casey: Yes, sir.

Pruitt: So that both properties aren't being rented short-term at the same time. I think that's somewhat of the intent of this ordinance in the beginning, we're kind of hung up on the grandfathering or however we want to put it, but this is a great start. If we table it or go forward and deny it, we're back at square one.

Varnell, Casey: All I would point out now that we've gotten to all Council is that there is no, per se, explicit regulation on short-term rentals so what you are ultimately voting on is the regulation of ADUs. I wanted to point that out so that way we're not again back down the path now thinking that short-term rentals are somehow capable of being regulated or something of that nature.

Pruitt: All we're saying that is to do this, someone needs to be long-term if there are multiple dwellings. That's one thing that needs to be clear, I think people are confusing this with all of Kitty Hawk, this is only VR1 not any other zones.

Garriss: Good point. Charlotte?

Walker, Charlotte: I can't in good conscience not grandfather a person who came to the Town and was given a permit and was given information and did what he was asked to do. I have really struggled with this myself and would feel really badly if I were in that position. I'm not sure where the actual problem came from, it may have been a long time ago when this whole thing started, and we didn't get it right then, but it was in the works when I got here. I just can't go back on the grandfathering.

Garriss: Thank you, Charlotte. Dylan?

Tillett: Casey, for clarification, I know you said this, but I want to make sure. Removing the part about 12-months, that does not put the town at the same risk that you had concerns about. Is that correct?

Varnell, Casey: No, there are other instances out there were instances when ordinances like this had been passed and not yet been attacked and have been applied by the municipalities. My concern was that part of the ordinance attacked in Chapel Hill was with the requirement of grandfathering so that's where in watching other local governments adopt similar text but not at the same time not requiring grandfathering for example. Not just Highlands, but there were several others that had been adopted by those local governments.

Tillett: If we remove that part of this text amendment, what does that do?

Varnell, Casey: It does make it a much more viable ordinance, I would say.

Tillett: Do those properties that are currently operating default to grandfathering?



Varnell, Casey: Correct. Then moving forward when applications for ADUs come in, because that is what we are talking about here.

Walker, Charlotte: Multiple ADUs.

Varnell, Casey: Correct. So that is when this would apply, this regulation.

Walker, Charlotte: Is the legislation that Mr. Gaherty mentioned at the last meeting going to make all this a moot point?

Varnell, Casey: If it is passed in substantial form, meaning as it's currently written and I will read you some items, "no city may adopt or enforce an ordinance, rule, or regulation that does any of the following: number one is prohibit use of residential property as a short-term rental". Just in case there is a lack of clarity there, they go with B which is "prohibits the use of accessory dwelling units as short-term rental". That right there says our proposed ordinance would immediately become invalid and unenforceable. So, to move to what we're considering passing, if gets passed then any restriction on short-term rental use as accessory dwelling unit or on a residential property would be void. I do see impacts if that is what you are asking.

Pruitt: Meaning that if us requiring someone to live long-term, we wouldn't be able to regulate that and both could be short-term from what you are reading?

Varnell, Casey: Yes, and I'm saying that because they specify residential property and accessory dwelling units. When you read further in, you've got "requires the owner of a short-term rental to occupy the property", and it doesn't specify between the two; ADU versus primary it's talking about the property. So, yes in reading the way it is currently written if it gets adopted into substantial form then I think there will be issues here. It also clarifies that short-term rentals are not commercial uses which puts the statute we were talking a lot about last time whether short-term rentals are commercial uses. Ms. Creef spoke about it, and I spoke about it, and I don't believe it's a business use under the law. I don't believe this is commercial use and this would act to solidify that certainly in black letter.

Hines: To add further to that, in my opinion, you were thinking about intent. The intent of this bill is clear what they're saying in the first six items highlighted in the packet.

Varnell, Casey: That becomes very important at from an interpretation standpoint then it's the plain letter and plain meaning of the statute itself that governs so I agree. There is no ambiguity in that proposed bill.

Garriss: Dylan, did that answer your question?

Tillett: Yes, thank you.

Garriss: Anything else? David? Any further discussion, Council? If not, I will entertain a motion.

Pruitt: Mr. Mayor, I move to approve text amendment in Section 42-1 and 42-528 relating to ADUs removing Subsection I. Subsection I properties located in the VR1 zoning district with an accessory dwelling unit as of adopted date and having no long-term residents or owner on the subject property shall have a 12-month period to finalize conversion and compliance within the VR1 zoning district as presented in the staff report. Town Council has the proposed to be consistent with the Town adopted land use plan.

Varnell, Casey: Mayor Pro Tem, did you read that to strike the 12-month period in its entirety?

Pruitt: Yes, I did to remove all of Subsection I.

Garriss: Thank you, Jeff. Second?

Hines: Second.

Garriss: Second by David. Any further discussion? All in favor of the motion signify by saying "aye".

Pruitt, Hines, Tillett, Walker: Aye.

Garriss: All opposed? It will be "Nay" for me. Motion carries four to one. Thank you, Council.



Garriss: Alright, Item 10A. Lilliana, you are up.

10. New Business:

a.) Preliminary Financial Statement FY 2023-24- Presentation of preliminary financial statement for fiscal year 2023-24.

Noble, Lilliana: Good evening, Council. Tonight, I will present the preliminary financial for the fiscal year ending June 2024. It's a preliminary statement because we have not closed the fiscal year, the year is officially closed once we complete the audit which is scheduled for September. There are some revenues that have not been received yet that will be arriving in the second week of August. I'm going to provide an overview of the financial statement. These first portions are our revenues, property taxes we have 100% collection, the second part is other taxes which have not been collected for June and will be received in two weeks, the third portion is permit fees and everything has been collected, intergovernmental is grants basically. Fines and forfeits, already everything has been posted. The second page, interest earnings as you can see here this year, we have a lot of interest earnings because of higher rates this fiscal year, like last fiscal year. The Federal Reserve has not decreased rates, and I have projected the same rates up to December, beyond that is unknown. We have collected \$661,000 in interest this fiscal year. We used some of these funds for two projects this year, for the key access to all buildings and to purchase a sweeper for Public Works equipment. The other revenues are related to rent, which is higher this fiscal year because of Beach Medical moving into the building and taking a second suite in November. On the expenditure side, every department stayed within budget and so far, revenues are higher than expenditures. Again, this is preliminary as there are some invoices not yet processed because they take one or two months to arrive, as well as some entries but overall, it looks like a good fiscal year. This is the general fund meaning the operating fund, the second fund is beach nourishment, and this project is closed. The construction happened between June 2022 and May 2023. Before we started construction for this project in 2021, we transferred some money from beach nourishment and reserve to start the design project. Once the project is complete, this money will go back to the reserves for beach nourishment. The last form we have is the remodel of the building for the Police Department. Currently, we have \$3,823,747 to start the project. Before I move to the next item, are there any questions? Okay. A more detailed financial report will be provided to the Council following the audit.

b.) Capital Project Ordinance Fund 41.- The proposed budget amendment in the Capital Project Fund 41 allocates \$212,400 in contingency for the remodeling of the new police station building at 5200 N Croatan Highway. The funds would be transferred from the General Fund. In addition, it is proposed that the Town Manager be authorized to approve change orders or amendments to construction contracts in amounts up to \$50,000 from the project contingency funds.

Noble, Lilliana: Future police station, I'm going to provide some information, here is the most recent picture of the building exterior from the construction that started a month ago. The building was the Sentara building and in 2017 they announced they were moving. This is an article from Outer Banks Voice announced in October that the condition of the building factored into the decision to cease operations at that facility. Extensive renovation would be required to keep it open. Sentara Kitty Hawk has undergone several building repairs in recent years, the company said in October. However, despite these repairs the issues remain ongoing. Sentara moved out in December 2017 and the Town of Kitty Hawk bought the property in 2022 after it being abandoned for five years. Tonight, we are presenting this project with a current budget of \$8,480,307. The revenues for this project are coming from the



general fund, capital reserve, interfund transfers. The expenditures are listed and those in blue have already been paid. The land and building purchase, some repairs that were needed when the building was purchased, inspections, and from the construction management and design costs. Tonight, we are going to talk about contingency. The definition of construction contingency is money we put aside to cover any unexpected costs that can arise with a construction project. Risk management is the name commonly used in construction and including a construction contingency in a budget is the first step to protecting yourself against unforeseen risks. Currently, the Town's budget for the building remodel does not have any contingency. Today, we are proposing a budget amendment for a contingency. Establishing a contingency is a construction best practice and deciding the amount for the contingency is always a balancing act. It is important to have enough funds available for any unforeseen costs, risks, events, or changes in the scope that might affect the project causing delays. Just a reminder that this is an old building that was abandoned for five years, and we need to keep this project going. The most common practice in establishing a contingency in construction is between 5 and 10 percent of the total budget. Tonight, we are proposing the Council approve a contingency of 6 percent of the construction contract which is \$212,400. In addition, authorization for the Town Manager to approve any change order or amendment to the construction contract in the amount of \$50,000 using the contingency funds. Anything above that must be brought before the Council for approval. What are the benefits? Manage the risks and ensure we have the funds to respond to any unexpected challenges and keep the project on schedule and within budget. We are presenting today to the Council for approval budget amendment for \$212,400 to establish a contingency and authorization for the Town Manager to approve any change orders or contract amendments up to \$50,000 using these contingency funds. Do you have any questions?

Garriss: Any questions for Lilliana?

Hines: A couple of comments. We knew the condition of the building when we purchased it. I was heavily involved in that so I'm aware as well. I do agree that there needs to be a contingency in place for the construction. I get the 6 percent contingency plan based on the price and whatnot. I think \$50,000 is kind of high though on a change order without it being presented. Not that I don't believe in a Town Manager's ability to do something but that's a lot of money. If we're going to keep it at \$50,000 without Council approval, then I think that someone like David Lewis would need to be involved in that, which I'm not saying that he wouldn't be. That's just a lot of money to be approved unilaterally, more of a comment. I will stand by for any further comments.

Pruitt: When I first spoke with Craig about this, I too thought I would like to see the Building Inspector when somebody comes and say we need it. I would like to see a professional working with the Town, like our Building Inspector to also sign off. I don't have a problem with the \$50,000 but I would like a second opinion when they say this doesn't meet code rather than her say oh fix it, I'd like David or whoever our Building Inspector is to oversee the request for contingency.

Noble, Lilliana: We do have a construction management company who deals with the contractor when they present the change orders, it reviewed by the designers, and the construction manager then presents to the Town Manager so there is a filter there just for clarification. In consideration of the \$50,000 that is standard with my colleagues throughout Dare County for authorization.

Hines: I don't have a problem with the \$50,000, okay. I want somebody else to have a check and balance on this situation. I understand Dills is a construction management company okay but I'm with Jeff, I feel like somebody else that represents Kitty Hawk directly and not by contract should be involved with approving the change order. That's all I'm saying.



TOWN OF KITTY HAWK

Garriss: This matter came up and we've all talked about this. I've talked to mayors and town managers, and they all agreed. You and I had the same discussion, David, that we wouldn't dare go into a project of this size without a contingency. I find \$50,000 in line as well as the 6%, I get what both of you are saying. The only way around that is to call a special council meeting every time we must approve something and that's not the way it should be done. We have a very competent Town Manager sitting there who can make those decisions without us. If there's something she's not sure about she can contact David Lewis.

Clopton, Melody: I will just add that I am fine with whatever you all decide. I am not going to make these decisions by myself. I have backup, I have David, Willie, Dills, Chief. I have lots of back up.

Noble, Lilliana: I also made these comments as we have an audience at home, so we need to make clear what the numbers are in terms of the \$50,000 comes from. So, when a comment is made, I clarify just for our audience at home. It is the decision of the Council.

Clopton, Melody: There is some rule about the Building Inspector inspecting work that he has been involved in and I can check that. I've spoken with him a little bit about it.

Hines: But a change order is separate from that, is it not?

Clopton, Melody: Like I said, I'm fine with any way you want to proceed.

Hines: Casey, what is your opinion in terms of contract law?

Varnell, Casey: Honestly, I believe that it is implicit that the Town Staff is going to partake in Melody's decisions. I don't know about the builder inspector rule, but David probably knows, of course he knows a ton more than I do. I could look at that, but I don't believe something along the lines of Town Manager with appropriate Town Staff input, I do see that sometimes in certain ordinances.

Hines: No one wants to see this Police Department built more than I do. I've been invested in it from day one.

Noble, Lilliana: Councilman Hines and Mayor Pro Tem, what you're suggesting is the change order should be reviewed, or the Building Inspector should have an opinion?

Clopton, Melody: What Casey said, Town Manager and appropriate staff.

Varnell, Casey: It could be a scenario when it could be Willie, for example.

Clopton, Melody: We've already had questions.

Hines: I want to be clear that I know you're competent in handling all of this but it's not your thing. Commercial construction.

Clopton, Melody: Of course, I'm not doing this in my own bubble.

Hines: There are plenty of contractors that don't deal with commercial construction, it's a different animal. That's all I'm saying.

Garriss: I will add that Lilliana needs a decision tonight. Demolition is well underway inside that building and she needs a decision tonight. She should have had it last month, but we put it off.

Pruitt: Is this something we need a motion for? I move to approve the contingency budget of \$212,400 and the Town Manager authorized for change order and amend the construction contract up to the amount of \$50,000 using the project contingency fund with input from appropriate Town Staff.

Hines: I second the motion.

Garriss: Any further discussion? All in favor?

All Council: Aye.

Garriss: All opposed? None. Thank you, Lilliana, great job. Thank you, Council.

- c.) Resolution-** In support of the North Carolina Department of Parks and Recreation Great Trails State Program (GTSP) Grant to construct a 400' boardwalk connecting Sandy Run Park to the Birch Lane Trail within the Kitty Hawk maritime forest.



Garriss: The item that was added, Item 10C. Willie, can you please come up? We've got a resolution that came in asking for a motion from Council regarding construction of a boardwalk bridge.

Midgett, Willie: I'll start with my apology for the late submission. While completing the application, I found that my dates were not as accurate as I thought they were. This is a resolution seeking Council support for a grant application through the Great Trails State Program from the North Carolina Department of Parks and Recreation. This grant is for putting in a boardwalk/bridge from Sandy Run Park over to the Birch Lane Trail. It's approximately 400 feet of bridge and our current estimate is around \$46,000.

Garriss: Any time we get a grant, it's a good thing.

Clopton, Melody: We do have about \$174,000 in the capital reserve fund for Parks and Recreation so we could cover that from capital reserve.

Garriss: Thank you, Melody. Any questions for Willie? If not, I will entertain a motion.

Pruitt: I move to support the proposed resolution for the Great State Trails Grant to construct a boardwalk from Sandy Run Park to the Birch Lane Trail. Town Council has found the resolution to be consistent with the Town's adopted land use plan.

Garriss: Thank you, Jeff. Second?

Hines: Second.

Garriss: Second by David, any further discussion? All in favor?

All Council: Aye.

Garriss: All opposed? None. Thank you, Willie. Good job.

11. Reports/General Comments from Town Manager

Garriss: Item 11 Report from Town Manager. Melody?

Clopton, Melody: As Lilliana said, we had our second construction meeting at the site and demolition of the interior is completed. It looks like a different place there, it's amazing. Conditions permitting, the expect to pour the footers for the new square footage next week. They are also planning to demo exterior walls and remove the concrete for plumbing. The project continues to stay on schedule. We have received several complaints about damage caused by nutria. I have reached out to Federal Wildlife Services, and they are coming to meet with us next week to tour the damaged areas. They evidently have an executive order where they can take action to come up with a plan and help in that area. If someone has experienced nutria damage, they can let us know.

Pruitt: When is that?

Clopton, Melody: Due to the pending storm, they cancelled this week but will most likely come next Wednesday but I will let you know for sure. National Night Out which was scheduled for tomorrow has been cancelled due to the pending inclement weather. I have two Town Hall closures to talk about. Next Monday, August 12th, the Town Hall will be closing at 4 pm. Dominion Power will be replacing the meter base and two exterior breaker boxes due to corrosion so all power can be off. On Friday, the 16th the floors in the hallway will be refinished as part of the front office restoration. We will be relocating that day to the fire station; we will be able to answer the Town Hall phones remotely. We're planning a field day for staff to do some ride alongs, tour with Ocean Rescue. Also on the 16th, between 1 and 3 we're going to invite the community to join us for watermelon at Sandy Run Park so we're having a community activity that day. That's all I have.

Garriss: Great, thank you, Melody. Casey?

12. Reports/General Comments from Town Attorney



Varnell, Casey: I have nothing other than the nutria are not known for their looks. I see them on the golf course all the time.

13. Reports/General Comments from Council

Garriss: Thank you, Casey. Charlotte?

Walker, Charlotte: The Town Recreation Committee met on Tuesday, July 30th. Alsu Lewis has been appointed as the new staff liaison. She did a wonderful job organizing and keeping the meeting on track. The committee review the 2024-2025 budget and approved the 2024-2025 Master Plan without any changes. A special meeting is set for August 27th at 6 o'clock. The purpose of this meeting is to review a presentation that they plan to give to Town Hall at our September 9th Council Meeting. They will also present data from their survey that was done for the trail. Lauren Garrett, our new Town Clerk, was present and she offered a lot of support for that committee, and I appreciate that. That will help promote our activities here. I would like to recognize a member of the Planning Board who will be leaving our area. Dr. Craig Merrill has been quite an asset to our Town, he investigated Planning Board agenda issues and came prepared to offer ideas. He was also very knowledgeable in respect to grants and served on the Community Advisory Board with Chief Palkovics. He is also someone I can call on as I need a little more information. It has been my pleasure to serve with him and to consider him my friend. He will be missed, and the Town wishes him well.

Garriss: Wonderful, thank you, Charlotte. Jeff?

Pruitt: I received a couple call this weekend, I usually don't get that many, but I did, and it was in reference to traffic on The Woods Road. Once again, as the Town Council it's out of our hands. I do understand that people are having tremendous trouble getting in and out of their residence on The Woods Road, but it is a state road. They had asked if there was any way to relieve it at the traffic light or maybe put up a sign that says locals only or whatever, which probably wouldn't do any good. I said I would bring it to Council that there are concerns about safety on The Woods Road. That's all I have.

Garriss: I agree, I got stuck on The Woods Road thinking I made a smart decision, but you can't restrict traffic. It's three or four months out of the year and I'm sorry. I don't know that there's anything that could be done. Southern Shores deals with the same situation every Saturday and Sunday. Dylan?

Tillett: I would like to welcome Amy to the Police Department. I did not know Craig was leaving, he will be very missed on the Planning Board. I appreciate his time and service on the Planning Board. I want to thank all the staff for keeping things running smoothly during this busy summer season. You guys are doing a great job. That's all, thank you.

Hines: I have no comment, thank you.

Garriss: To all the staff, it's August already I can't believe it, the summer will soon be over. To all the people who live on The Woods Road, I feel for them I really do. Thank you to all of our committees, I haven't had a chance to see Dare County EMS, but I did get a chance to see our fire department and police department in action this morning. Great job, fast response, and I want to thank them for what they did. The front lobby, if you haven't had a chance to look you should, it's going to be beautiful. Anything else? If nothing else, I will entertain a motion to adjourn this meeting.

Pruitt: So, moved.

Garriss: Motion made by Jeff. Second?

Walker, Charlotte: Second.

Garriss: Second by Charlotte. We are adjourned, thank you folks.

14. Adjourn



Adjourned at 7:36 pm.

The Minutes of the August 5, 2024, Kitty Hawk Town Council Meeting are approved at the September 9, 2024, Kitty Hawk Town Council Meeting.

D. Craig Garriss, Mayor

Lauren Garrett, Clerk



A PROCLAMATION
Diaper Need Awareness Week
September 23 -September 29, 2024

WHEREAS, diaper need, the condition of not having a sufficient supply of clean diapers to keep babies and toddlers clean, dry, and healthy, can adversely affect the health and well-being of babies, toddlers, and their families; and

WHEREAS, the latest study from the National Diaper Bank Network reports that one in two families struggles with diaper need, an increase from previous studies done in 2010 and 2017; and

WHEREAS, purchasing enough diapers to keep a baby or toddler clean, dry, and healthy can consume 14 percent of a low-wage family's post-tax income, making it difficult to obtain a sufficient supply; and

WHEREAS, a daily or weekly supply of diapers is generally an eligibility requirement for babies and toddlers to participate in child care programs and quality early-education programs; and

WHEREAS, without enough diapers, babies and toddlers risk infections and health problems that may require medical attention, and may prevent parents from attending work or school, thereby hurting the family's economic prospects and well-being; and

WHEREAS, the Kitty Hawk community recognizes that diaper need is a public health issue, and addressing diaper need can lead to economic opportunity for our families and community and improved health for children, thus ensuring all children and families have access to the basic necessities required to thrive and reach their full potential; and

WHEREAS, the Town of Kitty Hawk is proud to be home to trusted community-based organizations including Children & Youth Partnership for Dare County that recognize the importance of diapers in ensuring health and providing economic stability for families and thus distribute diapers to families through various channels.

I, Therefore, Craig Garriss, Mayor of the Town of Kitty Hawk, do hereby proclaim the week of September 23rd through September 29, 2024, as **DIAPER NEED AWARENESS WEEK**.

We thank Children & Youth Partnership, their staff and donors for their service through CYP's Diaper Bank, and encourage the citizens of our community to support CYP's Diaper Bank to help ensure that all Dare County children and families have what they need to thrive.

Proclaimed this 28th day of August 2024.

D. Craig Garriss, Mayor

Lauren Garrett, Town Clerk

AGENDA ITEM

DATE: September 9, 2024

SUBMITTED BY: Laura Walker, Administrative Services Director

SUBJECT: Reasonable Accommodations for Pregnant Workers Policy

REF: Employee Handbook update Article VI, Section 11.2

BACKGROUND: To ensure the Town of Kitty Hawk's compliance with the federal Pregnant Workers Fairness Act (PWFA)

DISCUSSION: Ensures our policies are compliant with federal regulations.

RECOMMENDED MOTION: Approval of the consent agenda will approve this addition to the Policy.

Article VI

Section 11.2 (Under FMLA)

Reasonable Accommodations for Pregnant Workers Policy

Purpose

As required by the federal Pregnant Workers Fairness Act (PWFA), Town of Kitty Hawk will provide reasonable accommodations to employees and applicants with limitations related to pregnancy, childbirth or related medical conditions, unless the accommodation will cause undue hardship to the Town's operations.

Policy

An employee or applicant may request accommodation due to pregnancy, childbirth, or a related medical condition by submitting the request in writing to human resources (HR). The accommodation request should include an explanation of the pregnancy-related limitations, the accommodation needed, and any alternative accommodation(s) that might be reasonable. Depending on the nature of the accommodation, the individual may be requested to submit a statement from a healthcare provider substantiating the need for the accommodation.

Upon receipt of an accommodation request, HR will contact the employee or applicant to discuss the request and determine if accommodation is reasonable and can be provided without significant difficulty or expense, i.e., undue hardship.

While the reasonableness of each accommodation request will be individually assessed, possible accommodations include allowing the individual to:

- Sit while working.
- Drink water during the workday.
- Receive closer-in parking.
- Have flexible hours.
- Receive appropriately sized uniforms and safety apparel.
- Receive additional break time to use the bathroom, eat and rest.
- Take time off to recover from childbirth.
- Be excused from strenuous activities and/or activities that involve exposure to compounds deemed unsafe during pregnancy.

An employee may request paid or unpaid leave as a reasonable accommodation under this policy; however, The Town will not require an employee to take time off if another reasonable accommodation can be provided that will allow the employee to continue to work.

The Town of Kitty Hawk prohibits any retaliation, harassment or adverse action due to an individual's request for an accommodation under this policy or for reporting or participating in an investigation of unlawful discrimination under this policy.

AGENDA ITEM # Consent

DATE: Tuesday, September 9, 2024
SUBMITTED BY: Finance Director
SUBJECT: Budget Amendment # 2 FY 2024-2025 REF: Transfer funds previously saved for the replacement of the A/C system at the Fire Station from the Capital Reserve Fund 21 to the General Fund 10
BACKGROUND: The Fire Station requires a replacement of one A/C unit.
DISCUSSION: .
RECOMMENDED MOTION: Consent Agenda Item

Town of Kitty Hawk
General Fund and Capital Project Fund
Budget Amendment Number #2 (FY 2024-2025)

INCREASE

<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
	GENERAL FUND (10)	
General Fund Revenues		
10-0000-3900-0000	Transfer in from Capital Reserve Funds	\$12,600
General Fund Expenses		
10-4270-5295-0000	Maintenance & Repairs Building & Grounds	\$12,600
Project code B00104	TOTAL	\$12,600
	CAPITAL RESERVE FUND (21)	
Capital Project Fund Revenues		
21-0000-3991-0000	Capital Reserve Appropriated	\$12,600
Capital Project Fund Expenses		
21-4340-5910-0000	Transfer out to the General Fund 10	\$12,600
	TOTAL	\$12,600

Explanation: Transfers out from the Capital Reserve Fund to the General Fund \$12,600
for the replacement of one A/C unit at the Fire Station

Recommended by :



Liliana Noble - Finance Director

Approved by:

D. Craig Garriss- Mayor

Date

Sept 9, 2024

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101 Veterans Memorial Drive
Kitty Hawk, NC 27949



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MEMORANDUM

TO: Mayor Garriss and Members of the Town Council
FROM: Rob Testerman, AICP, CFM, CZO, Director of Planning & Inspections
DATE: September 9, 2024
RE: Text Amendment: 42-360.- Sound waters district

Note: A zoning text amendment decision is a *legislative decision*. The purpose of the hearing is to solicit public comment and opinion on the matter. Council may use public opinion to weigh options and use judgement to determine what is in the best interest of the Town.

Proposal

42-360.- Sound Waters district

(b) *Permitted uses*. The following uses shall be permitted by right:

(3) Private, community or commercial piers and boat slips, subject to continuing compliance with the following requirements:

- a. That all appropriate governmental and regulatory agency permits have been issued for the facility and use;
- b. The land activities of the marine use must be an authorized use within the zoning district where the land activities associated with the marine use will be conducted;
- c. A site plan of the land and water areas to be utilized for the use or uses depicting the location of all proposed and existing improvements must be reviewed and approved by the town. The site plan must conform with the general site plan standards of this chapter together with the additional standards of this section.
- d. The maximum length of all marine improvements, including the pier or docking facility in its entirety, shall be measured from the furthest waterward point of the normal high water mark of the bay or sound adjoining the property. The marine improvements can be placed in any location within the property and extend out to the established distance.

Type of Pier/Docking Facility	Maximum Length
Private residential pier/docking facility	400 feet
Community pier/docking facility	400 feet
Commercial pier/docking facility	400 feet

It is the intent of this subsection to encourage all marine improvements to be located in areas that minimize their impact on the coastal marshes.

e. Light fixtures and lighting. Private and community piers, and commercial piers on Kitty Hawk Bay as well as boat slips used with the piers shall have and maintain lights or

reflectors to warn watercraft operators of the length and location of the pier and boat slips. A minimum length of 15 feet shall be maintained between lights or reflectors along the sides of the pier and not more than two lights shall be located at either end of the pier. Except as provided in this subsection, lights shall not be attached to or on the pier or boat slips.

f. Devices used to create noise or amplified sound shall not be attached to or used on the pier.

g. Group social or party activities shall be prohibited on the pier between the hours of 8:00 p.m. in the evening through and including 8:00 a.m.

h. Covered boat slips are prohibited.

i. Community piers shall be used by the property owners in the multifamily project or subdivision, their guests, or vacation tenants during the rental period of their lease, and community and private piers shall not be open to the general public.

j. No transit boats shall be left at a community pier for more than 48 consecutive hours.

k. A boat dock locker may be located at each boat slip, provided the locker does not exceed two feet in height measured from the pier deck.

l. No fuel dispensing facility shall be located on a pier.

m. Hunting and igniting fireworks shall be prohibited from the pier.

n. The owner of the pier shall place into effect and maintain casualty insurance in an amount equal to 80 percent of the replacement cost of the pier with evidence thereof furnished to the town upon request.

o. The pier and boat slips must be maintained in a good and safe condition at all times.

p. Damage from storms or other casualties must be repaired within six months of the occurrence of the damage. Abandoned piers or piers damaged to the extent of 50 percent or more of its fair market value and which have been unrepaired for a period of nine consecutive months, may be removed by the town and the cost of removal charged to and assessed against the property owners or their association.

q. There shall be only one pier per parcel or lot.

(c) *Special uses.*

~~(2) Private, community or commercial piers and boat slips, subject to continuing compliance with the following requirements:~~

~~a. That all appropriate governmental and regulatory agency permits have been issued for the facility and use;~~

~~b. The land activities of the marine use must be an authorized use within the zoning district where the land activities associated with the marine use will be conducted;~~

~~c. A site plan of the land and water areas to be utilized for the use or uses depicting the location of all proposed and existing improvements must be reviewed and approved by the town. The site plan must conform with the general site plan standards of this chapter together with the additional standards of this section.~~

~~d. The maximum length of all marine improvements, including the pier or docking facility in its entirety, shall be measured from the furthest waterward point of the normal high water mark of the bay or sound adjoining the property. The marine improvements can be placed in any location within the property and extend out to the established distance.~~

Type of Pier/Docking Facility	Maximum Length
-------------------------------	----------------

Private residential pier/docking facility	100 feet
Community pier/docking facility	200 feet
Commercial pier/docking facility	200 feet

It is the intent of this subsection to encourage all marine improvements to be located in areas that minimize their impact on the coastal marshes.

e. Light fixtures and lighting. Private and community piers, and commercial piers on Kitty Hawk Bay as well as boat slips used with the piers shall have and maintain lights or reflectors to warn watercraft operators of the length and location of the pier and boat slips. A minimum length of 15 feet shall be maintained between lights or reflectors along the sides of the pier and not more than two lights shall be located at either end of the pier. Except as provided in this subsection, lights shall not be attached to or on the pier or boat slips.

f. Devices used to create noise or amplified sound shall not be attached to or used on the pier.

g. Group social or party activities shall be prohibited on the pier between the hours of 8:00 p.m. in the evening through and including 8:00 a.m.

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i. Community piers shall be used by the property owners in the multifamily project or subdivision, their guests, or vacation tenants during the rental period of their lease, and community and private piers shall not be open to the general public.

j. No transit boats shall be left at a community pier for more than 48 consecutive hours.

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l. No fuel dispensing facility shall be located on a pier.

m. Hunting and igniting fireworks shall be prohibited from the pier.

n. The owner of the pier shall place into effect and maintain casualty insurance in an amount equal to 80 percent of the replacement cost of the pier with evidence thereof furnished to the town upon request.

o. The pier and boat slips must be maintained in a good and safe condition at all times.

p. Damage from storms or other casualties must be repaired within six months of the occurrence of the damage. Abandoned piers or piers damaged to the extent of 50 percent or more of its fair market value and which have been unrepaired for a period of nine consecutive months, may be removed by the town and the cost of removal charged to and assessed against the property owners or their association.

q. There shall be only one pier per parcel or lot.

Background & Analysis

The proposed amendments to 42-360 would have two components. First, it reclassifies piers and docking facilities from a special use to a permitted use. A special use permit requires an evidentiary based hearing, and is a quasi-judicial decision to be made by Town Council. In practice, staff is unaware of any piers that have gone through the process of a special use permit hearing. As such, staff recommends making this a permitted use, with the same conditions of approval to be applied. Similar to a single-family residence is a permitted use in residential districts, but it is conditioned on the site plan meeting setback, lot coverage and height requirements. This reclassification would make this an administrative decision, where as long as the conditions above are met, the owner is entitled to approval.

The second part of the proposal changes the maximum pier/docking facility length. In recent months, the Board of Adjustment has approved one variance for a 300' pier, had a second application for a pier exceeding 100', and staff has had discussions with at least 3 other property owners who are considering such an application. The reason being, it appears that in many cases on our sound front properties, a 100' long pier does not get you into deep enough water to launch a boat. It is staff's opinion that if the Town is routinely hearing requests and granting variances for the same issue, the ordinance should be brought in line with the patterns of the variance request.

The proposed length of 400' was selected based on CAMA regulations. For private piers and community piers CAMA can issue a general permit for piers up to 400' in length. However, to receive a general permit for a pier longer than 200' the applicant must demonstrate that for every additional 100' in length, 1' of water depth is gained. CAMA does allow piers longer than 400' if a Major permit is obtained. Commercial piers also require a Major permit, regardless of length.

As proposed, should a property owner require a pier longer than 400' they would have to go through the variance application procedure.

All other requirements for piers/docking facilities are proposed to remain as they are currently written.

The goals and policies listed in the CAMA Land Use Plan are silent on this matter.

Planning Board Recommendation

At its August 15, 2024 meeting, the Planning Board unanimously recommended approval of the proposed amendment.

Town Council Recommended Motion

"I move to set a public hearing at the Town Council meeting on October 7, 2024 to consider the proposed text amendment to Sec 42-360."





- (F) Marina basins shall be designed to promote flushing through the following design criteria:
 - (i) the basin and channel depths shall gradually increase toward open water and shall never be deeper than the waters to which they connect; and
 - (ii) when possible, an opening shall be provided at opposite ends of the basin to establish flow-through circulation;
- (G) Marinas shall be designed so that the capability of the waters to be used for navigation or for other public trust rights in estuarine or public trust waters are not jeopardized while allowing the applicant access to deep waters;
- (H) Marinas shall be located and constructed so as to avoid impacts on navigation throughout all federally maintained channels and their boundaries as designated by the US Army Corps of Engineers. This includes permanent or temporary mooring sites; speed or traffic reductions; or any other device, either physical or regulatory, that may cause a federally maintained channel to be restricted;
- (I) Open water marinas shall not be enclosed within breakwaters that preclude circulation sufficient to maintain water quality as determined by the Division of Water Resources.
- (J) Marina design shall comply with all applicable EMC requirements 15A NCAC 02B .0200 for management of stormwater runoff. Stormwater management systems shall not be located within the 30-foot buffer area outlined in 15A NCAC 07H .0209(d);
- (K) Marinas shall post a notice prohibiting the discharge of any waste from boat toilets and listing the availability of local pump-out services;
- (L) Boat maintenance areas shall be designed so that all scraping, sandblasting, and painting will be done over dry land with collection and containment devices that prevent entry of waste materials into adjacent waters;
- (M) All applications for marinas shall be reviewed by the Division of Coastal Management to consider the cumulative impacts of marina development in accordance with G.S. 113A-120(a)(10); and
- (N) Replacement of existing marinas to maintain previous service levels shall be allowed provided that the development complies with the standards for marina development within this Section.

(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.
- (7) Bulkheads
- (A) Bulkhead alignment, for the purpose of shoreline stabilization, shall approximate the location of normal high water or normal water level;
 - (B) Bulkheads shall be constructed landward of coastal wetlands in order to avoid significant adverse impacts to coastal resources;
 - (C) Bulkhead backfill material shall be obtained from an upland source approved by the Division of Coastal Management pursuant to this Section, or if the bulkhead is a part of a permitted project involving excavation from a non-upland source, the material so obtained may be contained behind the bulkhead;
 - (D) Bulkheads shall be permitted below normal high water or normal water level only when the following standards are met:

15A NCAC 07H .1205 SPECIFIC CONDITIONS

- (a) Piers and docking facilities may extend or be located up to a maximum of 400 feet waterward from the normal high water line or the normal water level, whichever is applicable.
- (b) Piers and docking facilities shall not extend beyond the established pier length along the same shoreline for similar use. This restriction shall not apply to piers and docking facilities 100 feet or less in length unless necessary to avoid interference with navigation or other uses of the waters by the public such as blocking established navigation routes or interfering with access to adjoining properties as determined by the Division of Coastal Management. The length of piers and docking facilities shall be measured from the waterward edge of any wetlands that border the water body.
- (c) Piers and docking facilities longer than 200 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least one foot at each 100 foot increment of pier length longer than 200 feet, or if the additional length is necessary to span some obstruction to navigation. Measurements to determine pier and docking facility lengths shall be made from the waterward edge of any coastal wetland vegetation that borders the water body.
- (d) Piers 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.
- (e) The total square footage of shaded impact for docks and mooring facilities (excluding the pier) allowed shall be 8 square feet per linear foot of shoreline with a maximum of 800 square feet. In calculating the shaded impact, uncovered open water slips shall not be counted in the total.
- (f) The maximum size of any individual component of the docking facility authorized by this general permit shall not exceed 400 square feet.
- (g) Docking facilities shall not be constructed in a designated Primary Nursery Area with less than two feet of water at normal low water level or normal water level under the general permit set forth in this Section without prior approval from the Division of Marine Fisheries or the Wildlife Resources Commission.
- (h) Piers and docking facilities located over shellfish beds or submerged aquatic vegetation as defined by the Marine Fisheries Commission may be constructed without prior consultation from the Division of Marine Fisheries or the Wildlife Resources Commission if the following two conditions are met:
 - (1) Water depth at the docking facility location is equal to or greater than two feet of water at normal low water level or normal water level; and
 - (2) The pier and docking facility is located to minimize the area of submerged aquatic vegetation or shellfish beds under the structure as determined by the Division of Coastal Management.
- (i) Floating piers and floating docking facilities located in Primary Nursery Areas, over shellfish beds, or over submerged aquatic vegetation shall be allowed if the water depth between the bottom of the proposed structure and the substrate is at least 18 inches at normal low water level or normal water level.
- (j) Docking facilities shall have no more than six feet of any horizontal dimension extending over coastal wetlands and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking.
- (k) The width requirements established in Paragraph (d) of this Rule shall not apply to pier structures in existence on or before July 1, 2001 when structural modifications are needed to prevent or minimize storm damage. In these cases, pilings and cross bracing may be used to provide structural support as long as they do not extend more than two feet on either side of the principal structure. These modifications shall not be used to expand the floor decking of platforms and piers.
- (l) Boathouses shall not exceed a combined total of 400 square feet and shall have sides extending no further than one-half the height of the walls as measured in a downward direction from the top wall plate or header to the Normal Water Level or Normal High Water and only covering 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. Structural boat covers, utilizing frame-supported fabric covering, can be permitted on properties with less than 75 linear feet of shoreline when using screened fabric for side walls.
- (m) The area enclosed by a boat lift shall not exceed 400 square feet.
- (n) Piers and docking facilities shall be single story. They may be roofed but shall not allow second story use.
- (o) Pier and docking facility alignments along federally maintained channels shall also meet Corps of Engineers regulations for construction pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- (p) Piers and docking facilities shall in no case extend more than 1/4 the width of a natural water body, human-made canal, or basin. Measurements to determine widths of the water body, human-made canals, or basins shall be made from the waterward edge of any coastal wetland vegetation which borders the water body. The 1/4 length limitation shall not apply when the proposed pier and docking facility is located between longer structures within

200 feet of the applicant's property. However, the proposed pier and docking facility shall not be longer than the pier head line established by the adjacent piers and docking facilities or longer than 1/3 the width of the water body.

(q) 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 and docking facility and the adjacent property lines extended into the water at the points that they intersect the shoreline. The minimum setbacks provided in this Paragraph may be waived by the written agreement of the adjacent riparian owner(s), or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the pier commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the Division of Coastal Management prior to initiating any development of the pier or docking facility. 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 property, 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. Application of this Rule may be aided by reference to the diagram in Paragraph (t) of this Rule illustrating the Rule as applied to various shoreline configurations. Copies of the diagram may be obtained from the Division of Coastal Management website at <http://www.nccoastalmanagement.net>. When shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier or docking facility shall be aligned to meet the intent of this Rule to the maximum extent practicable.

(r) Piers and docking facilities shall provide docking space for no more than two boats, as defined in 15A NCAC 07M .0602(a), except when stored on a platform that has already been accounted for within the shading impacts condition of this general permit. Boats stored on floating or fixed platforms shall not count as docking spaces.

(s) 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 pier or docking facility 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.

(t) The diagram shown below illustrates various shoreline configurations:

9a

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101 Veterans Memorial Drive
Kitty Hawk, NC 27949



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MEMORANDUM

TO: Mayor Garriss and Members of the Town Council
FROM: Rob Testerman, AICP, CFM, CZO, Director of Planning & Inspections
DATE: September 9, 2024
RE: **Keeping Roosters in Kitty Hawk**

Recently, the Town has received a handful of complaints about the keeping of roosters within town limits, and the noise associated with them. Before drafting any language to regulate the keeping of roosters, Town Council directed the Planning Board to have the discussion and develop a recommendation. In order to gather public input, Town Hall staff developed an online survey. The survey received 119 responses. At its August 15, 2024 meeting, the Planning Board reviewed the issue and the survey responses below.

Q1. Do you currently reside in the Town of Kitty Hawk? 118 respondents answered, 1 skipped. Of those respondents, 102 (86.44%) responded yes; 16 (13.56%) responded no.

Q2. Are you aware of current regulations regarding keeping roosters in the Town of Kitty Hawk? 44 responded yes (37.29%); 74 responded no (62.71%) - Planning Board note: We do not have specific language regarding keeping roosters; it is policed via the noise ordinance.

Q3. Do you believe roosters should be allowed in the Town of Kitty Hawk? 77 responded yes (64.71%); 17 responded no (14.29%); 25 responded 'depends on conditions' (21.01%)

Q4. What factors should be considered for allowing roosters in Town? Select all that apply.
38 responded 'noise levels' (32.48%)
55 responded 'number of roosters per household' (47.01%)
42 responded 'proximity to neighbors' (35.9%)
80 responded 'rooster welfare' (68.38%)
20 responded 'other' (17.09%)

Q5. If you selected 'Other' in the previous question, please specify which factors should be considered. Responses attached

Q6. Would you support regulations that allow roosters with specific conditions (e.g., noise control, distance from neighbors)? 50 responded yes (42.37); 39 responded no (33.05%); 29 responded 'Need more information' (24.58%)

Q7. Please share any additional comments or concerns you have regarding keeping roosters in the Town of Kitty Hawk. Responses attached.

After having reviewed the survey responses, the Planning Board should discuss a) whether the town should regulate the keeping of roosters, and if so, b) what kind of regulations should be included (number of roosters, amount of land dedicated to the animals, separation from neighboring houses, etc)

Planning Board Recommendation

The Planning Board unanimously recommended that staff is not directed to draft additional language, citing Sec. 18-2.- Noise control. as already regulating the matter. Specifically citing Sec. 18-2(f) Prohibited acts.

(2) Specific prohibitions. The following acts, among others, are declared to be unreasonably loud, disturbing and unusually excessive noises in violation of this chapter, but such enumeration shall not be exclusive:

d. *Animals and birds.* Owning, possessing or harboring any animal or bird which frequently or for continued duration that howls, barks, meows, squawks, or makes other sound which creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.

Q5. Responses

No factors free county
5/15/2024 06:07 PM

No factors should be considered. You should be able to have roosters. This is still a free country.
5/14/2024 11:04 AM

Nothing. It's ridiculous to limit this.
5/12/2024 09:55 AM

This is categorized as a rural area...
5/11/2024 01:19 PM

NONE
5/11/2024 01:16 PM

If someone wants a rooster they should be able to have the rooster
5/11/2024 01:15 PM

you can't regulate pets on peoples properties
5/11/2024 11:47 AM

They should be kept in some type of enclosure or fencing. They should not be allowed to roam and be next to/in roadways.
5/11/2024 11:24 AM

None, let the residents have what they want. Quite regulating everything! If the
5/11/2024 10:02 AM

Lower taxes, lower food prices, then people won't have to raise their own food
5/11/2024 08:44 AM

No factors
5/11/2024 06:57 AM

If roosters are aggressive they should be in enclosed fences
5/10/2024 10:39 PM

Part of town. Village vs east of 158
5/10/2024 10:06 PM

Containment (is fenced area)
5/10/2024 09:59 PM

The town of Kitty Hawk according to their own website has "made a conscious effort to preserve the rural village lifestyle". Please don't stop now!! That being said, most backyard chicken coops

only need one rooster to protect the flock. Numerous roosters per resident shouldn't be necessary.

5/10/2024 09:32 PM

There should not be an ordinance

5/10/2024 09:27 PM

There are not currently any regulations in Kitty Hawk for having roosters and I don't believe there should be. Kitty Hawk should not be the same as surrounding communities. This town is different and has history of families which include fishermen, horse lovers, and animals in general. This is one reason I chose to live here for over 20 years.

5/10/2024 09:10 PM

ALLOW NONE

5/10/2024 08:17 PM

Acres of land?

5/10/2024 08:10 PM

Keep Kitty Hawk County!!! North Carolina Department of Agriculture and Consumer Services sponsors the North Carolina Poultry Resource and Education Program (NC PREP) for small flock/backyard poultry owners. And they can not grow/ keep flocks without roosters and with coyote problems keeping chickens in Kitty Hawk is hard enough!

5/10/2024 08:04 PM

Roosters are typically on the hour and not all day. Quiet by dusk.

5/10/2024 07:15 PM

Q7. Responses

Keep Kitty Hawk Country. The recent complaints stem from a rise in AirB&B's. Perhaps consider more regulations on those profiting from private rentals and not those surviving on their own land.

6/3/2024 07:00 AM

I live in proximity to the roosters that are being discussed. They don't bother me much. I think of them as robins, Carolina wrens and other nature birds. Keep Kitty Hawk Country

5/29/2024 02:29 PM

This is completely ridiculous. I see no harm oh having chickens and roosters. There are SO beneficial to any community. They help keep down big control. They can be used as a source of income. They can feed families and believe it or not they can also be considered as pets. There are cats and other animals that roam the neighborhoods and dedicate in other yards. Maybe people should not be allowed to have male cats. Have you ever heard a male cat when the female is in heat? They howl all night long calling out to the female. The noise from roosters is totally natural. If you don't want to hear the noise then I suggest getting ear plugs. If there were church bells that went off every hour day and night would you be complaining about that noise? This whole thing is totally ridiculous. Let the roosters be

5/18/2024 10:33 PM

Don't let some a few rotten eggs mess up kitty hawk because bought a house next to some one that already had rosters! Come people there are plenty of things to do in town meetings how bout a pathway down kitty hawk rd instead of a little shoulder

5/15/2024 06:07 PM

Please do not put regulations where they are not needed. Kitty hawk is the last town which allows farm animals. Please consider that roosters protect hens from predators.

5/14/2024 11:04 AM

I love kitty Hawk because we can have roosters, goats, horses...etc. PLEASE DON'T CHANGE OUR TOWN!

5/13/2024 06:00 AM

Roosters are no different then the noise landscapers produce

5/12/2024 12:13 PM

Let people have them

5/12/2024 09:55 AM

I see no issue with having roosters in Kitty Hawk.

5/11/2024 10:39 PM

Our rooster protects our hands from predators on a regular basis. We've witnessed it and have always appreciated living in a town that allows chickens / other livestock.

5/11/2024 10:02 PM

KH is becoming a haven for so many growing families, with growing concerns for quality food security. I truly believe it is time for KH to become more advantageous & realize life is more than just money. The folks who continuously complain of 'noise pollution' are the same ones complaining of children riding their bikes in the streets. A little rooster hoot & hollering won't kill you, if anything; it'll bring you more daylight!!!

5/11/2024 07:34 PM

Roosters kept properly with a flock of chickens help with income and food source for people that need it. They also help with rodent population.

5/11/2024 01:41 PM

Leave the roosters alone

5/11/2024 01:16 PM

Let the people have a rooster. Stop making the outer banks a tourist attraction and let it be a true home for those who live here!!!

5/11/2024 01:15 PM

let's keep KH rural!

5/11/2024 11:47 AM

Dogs make tons of noise, a rooster isn't going to be any louder than them. As long as they are happy and taken care of then there shouldn't be an issue.

5/11/2024 10:28 AM

We are country if the noise bothers you move!!! Keep Kitty Hawk Country!

5/11/2024 10:02 AM

Noise travel far and wide too far for roosters

5/11/2024 09:55 AM

Roosters and other animals have been part of Kitty Hawk forever. Please don't create new regulations.

5/11/2024 07:43 AM

Kitty hawk has been zoned for farm animals. Animals make noise.

5/11/2024 07:10 AM

What do they hurt ? They're just another part of nature and a sweet sound to awake to !!

5/11/2024 06:50 AM

I believe that this whole thing could very easily spiral out of control if not handled correctly. I just don't want to see roosters untested and loose out in the streets and local businesses like has happend elsewhere.

5/11/2024 04:40 AM

I would only do #6 because it's the law. Doesn't mean I would be happy or like it

5/10/2024 11:44 PM

People are way too concerned about other people's life. We don't need any more "Karen's". There are enough seasonal ones.

5/10/2024 11:14 PM

How can you control the noise a rooster makes? Please allow roosters at least one per acre? Or something like that

5/10/2024 11:04 PM

Roosters should be allowed but owners should be held responsible for them, their upkeep, making sure they are taken care of properly and ensuring they are in enclosed property because at times some roosters can be aggressive.

5/10/2024 10:39 PM

Keep Kitty Hawk Country

5/10/2024 10:10 PM

1 per location to avoid excess noise/fighting. Not easy of 158--noise and flooding concerns.

5/10/2024 10:06 PM

Kitty hawk is country. Has been for decades. This is ridiculous in my opinion. Next they'll be petitions about the horses. It needs to stop here. Roosters are detrimental for safety of the flock. I could go on and on. Leave kitty hawk country!

5/10/2024 09:49 PM

Keep Kitty Hawk Country!!

5/10/2024 09:32 PM

There are not regulations and I don't want any.

5/10/2024 09:27 PM

This is a no brainer. Roosters not only add charm to our community with their crowing, but they play a vital role in our ecosystem - regulating insect populations and maintaining biodiversity- as well as rural character of Kitty Hawk and promote a healthier environment. Moreover, roosters are a symbol of rural life and can serve as a reminder of our agricultural heritage. I urge the Board to consider policies that support responsible rooster ownership while addressing any concerns regarding noise or nuisance. With proper regulations in place, I believe that sustaining the current rooster population can be a positive step towards fostering sustainable food and community within Kitty Hawk. Thank you for considering this important matter.

5/10/2024 09:11 PM

One rooster and in an enclosure so as not to be able to roam into a neighbors yard

5/10/2024 09:07 PM

Everyone should be allowed 1 rooster to their flock of hens ... people deserve clean eating whether its eggs or chickens..... roosters are no different than wild birds singing. I live on Roanoke Island the owl across the street from me whos each & every night all night. Its natural. Birds shouldn't be restricted from making noise & a rooster should be free to protect his flock . Crowing at sunrise or whenever there is a threat to him or his girls. That's like say police or rescue shouldn't use sirens.

5/10/2024 08:53 PM

The peacocks are way louder

5/10/2024 08:30 PM

Neighbor has a rooster and it's incredibly annoying

5/10/2024 08:20 PM

Lot size, neighbors consideration.

5/10/2024 08:10 PM

I think kitty hawk has bigger problems that worrying about roosters and pleasing the city people that moved to the county/village of kitty hawk which is known for fishing and farm animals they should have done research before moving here and trying to change what was here before them! Leave the locals who struggle to feed their family's as it alone if chicken help them than leave them alone

5/10/2024 08:04 PM

No to fighting roosters!

5/10/2024 07:34 PM

Keeping kitty hawk "rural."

5/10/2024 07:27 PM

My neighbor in Kitty Hawk has had 2 roosters at different times. They are loud at all hours of the day and night and do not belong in neighborhoods.

5/10/2024 07:16 PM

I don't believe it should be regulated. Kitty Hawk is not the same as other communities. It is more back country compared to beach locations. Roosters help control bugs, snakes, and other rodents. Roosters serve a purpose in their group and protect. Dogs, frogs, locusts are louder through the night at times. Unless a unique situation occurs such as a predator, Roosters are more quiet at night than neighbors.

5/10/2024 07:15 PM

Let people keep their roosters, if their pansy neighbors can't handle it that's their problem.

5/10/2024 07:03 PM

DATE: September 9, 2024

SUBMITTED BY: Town of Kitty Hawk citizen with guidance of Town Staff

SUBJECT: Ordinance naming Live Oak as official Town tree

BACKGROUND: A citizen approached Town staff for assistance in drafting language for an ordinance adopting the Live Oak as the official Town tree.

DISCUSSION: The Live Oak has historical and cultural significance to the residents of Kitty Hawk, symbolizing community spirit, and the natural heritage of the region. A citizen has requested to come before Council to propose an ordinance adopting the Live Oak as Kitty Hawk's official Town tree and establish Live Oak protections in similar fashion to neighboring towns.

RECOMMENDED MOTION:

I move to approve the proposed Live Oak protection ordinance. Town council finds the proposed Live Oak protection ordinance to be consistent with the Town's adopted Land Use Plan.

AN ORDINANCE AMENDING THE KITTY HAWK TOWN CODE

WHEREAS, the Live Oak (*Quercus virginiana*) is a tree species known for its strength, longevity, and beauty, and is native throughout the Town of Kitty Hawk; and

WHEREAS, the Live Oak has historical and cultural significance to the residents of Kitty Hawk, symbolizing community spirit, and the natural heritage of the region; and

WHEREAS, the designation of an official town tree promotes environmental awareness, conservation, and pride among the citizens of Kitty Hawk; and

WHEREAS, the Town Council of Kitty Hawk has found this amendment to be consistent with the Town's adopted Land Use Plan:

THEREFORE, BE IT ORDAINED by the Town Council of Kitty Hawk that Kitty Hawk Town Code be amended as follows to include **Chapter 12 – Environment; Article VII.- Live Oak Protection**

Section 12-161.- Designation of the Official Town Tree.

The official tree of the Town of Kitty Hawk is the live oak (*Quercus virginiana*).

Section 12-162.- Removal or destruction.

- (a) The removal or destruction of any live oak with a diameter at breast height (DBH) of 2 inches or more within the Town shall be prohibited except as provided in this subsection.
- (b) During active construction activities live oaks may be removed only within the footprint of the principal building, required accessways, parking areas, utility installation sites, active septic areas, and accessory buildings.

Section 12-163.- Tree damage.

Any tree not authorized to be removed by this section, which is damaged during construction, or damaged occurring as a result of such construction, shall be evaluated by a certified arborist whose services are to be procured by the applicant. If tree repair is possible, the applicant shall repair the tree as designated prior to the issuance of a certificate of occupancy.

Section 12-164.- Tree removal and replacement. Any live oak tree protected by this section which is destroyed shall be replaced prior to the issuance of a certificate of occupancy if associated with an active building or land disturbance permit. If tree removal is not associated with an active building or land disturbance permit, the applicant may satisfy the provisions of this article by (i) planting a replacement live oak tree or (ii) paying to the Town, at the time of violation of this article, for the destruction of each protected tree, a sum equal to five hundred dollars (\$500.00) per protected tree destroyed or damaged on the subject property or site.

AN ORDINANCE AMENDING THE KITTY HAWK TOWN CODE

Section 12-165.- Removal due to Disease or Death.

A live oak tree as referenced in Sec. 12-162 may be removed if designated diseased or dead by a certified arborist. It is the responsibility of the applicant to demonstrate the condition of the tree, and provide the arborist report, if required.

Section 12-166.- Removal due to Hazard.

A hazard tree is likely to fall and injure persons or property as evidenced by cracking, splitting, leaning or physical damage. A hazard tree may also include a tree that is causing damage to existing public services or facilities, and such facilities or services cannot reasonably be relocated or repaired. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure or built element and such hazard or danger cannot reasonably be alleviated by treatment or pruning or moving the service or facility.

Section 12-167.- Topping.

Tree topping shall be considered unauthorized removal.

This ordinance amending the Kitty Hawk Town Code shall take effect the 5th day of August, 2024. Passed and adopted at a regular meeting held by the Town Council of Kitty Hawk the 5st day of August 2024, with a unanimous approval vote.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

The undersigned certifies that the foregoing official ordinance designated ORDINANCE AMENDMENT OF THE TOWN CODE OF KITTY HAWK, NORTH CAROLINA was filed in the Kitty Hawk Ordinance Book on the ____ day of _____, 2024, at _____ o'clock _____.

Town Clerk

Draft
Ordinance No. 24-XX

AN ORDINANCE AMENDING THE KITTY HAWK TOWN CODE

AGENDA ITEM # 10B

DATE: September 9, 2024

SUBMITTED BY: Recreation Committee

SUBJECT: Kitty Hawk Town Hall Trail

BACKGROUND: Recreation Committee conducted a survey, and results indicate that residents and visitors wish to have more hiking/walking trails in Kitty Hawk

DISCUSSION: Recreation Committee will present proposed trail, survey results and general information about the project. The Committee would like to answer any questions that the Council has and seek approval for the project.

RECOMMENDED MOTION:

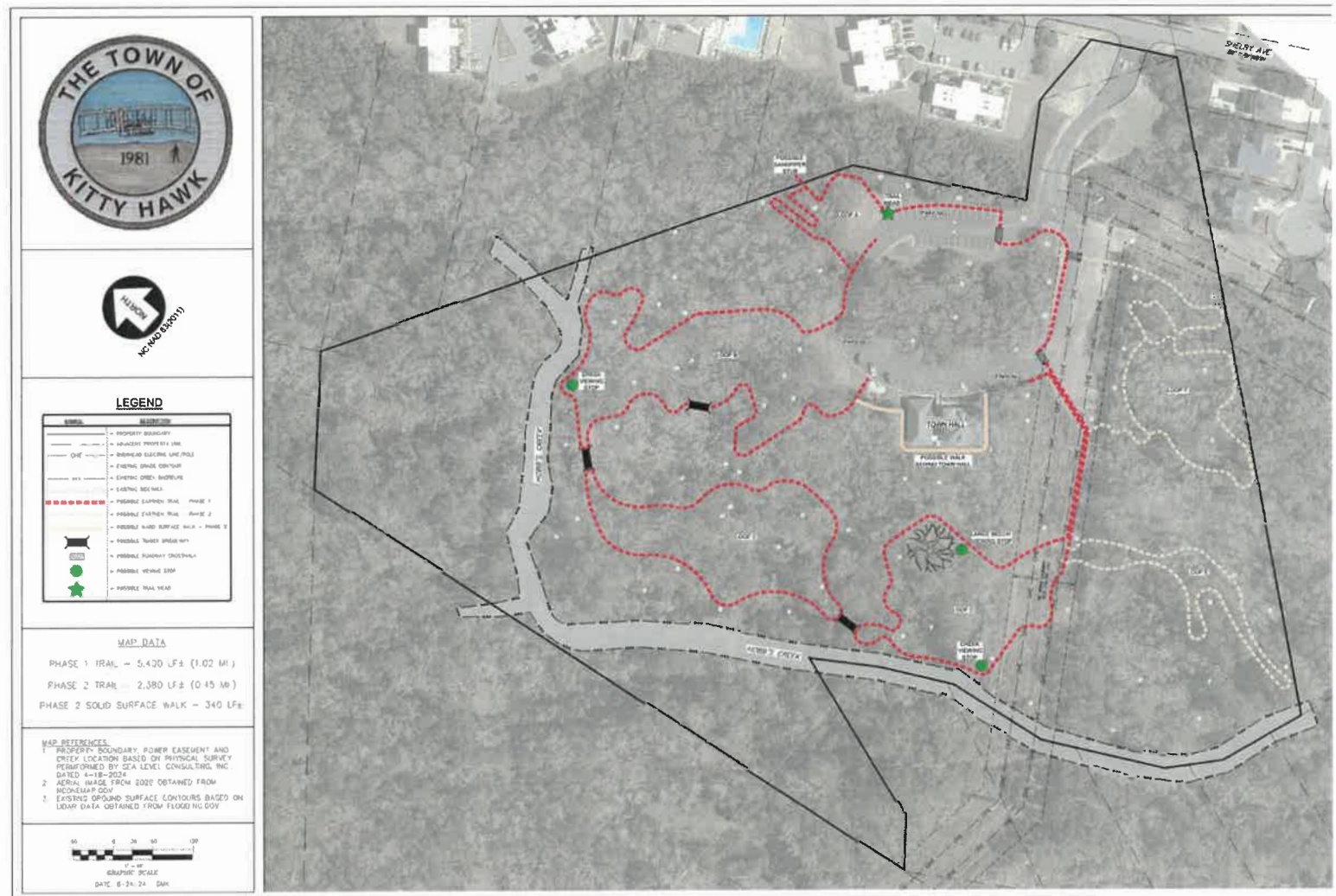
I move to approve the proposed Kitty Hawk Town Hall Trail by the Recreation Committee. Town council finds the proposed trail project to be consistent with the Town's adopted Land Use Plan as well as the Recreation Committee's adopted Master Use Plan.

A photograph of a forest scene. In the foreground, a large, thick tree trunk with rough, grey bark is prominent. Behind it, several other trees of varying heights and thicknesses are visible. The ground is covered with dry leaves and some green vegetation. Sunlight filters through the canopy, creating a dappled light effect. The sky is visible through the branches, showing a bright blue color with some white clouds.

Kitty Hawk Town Office Trail

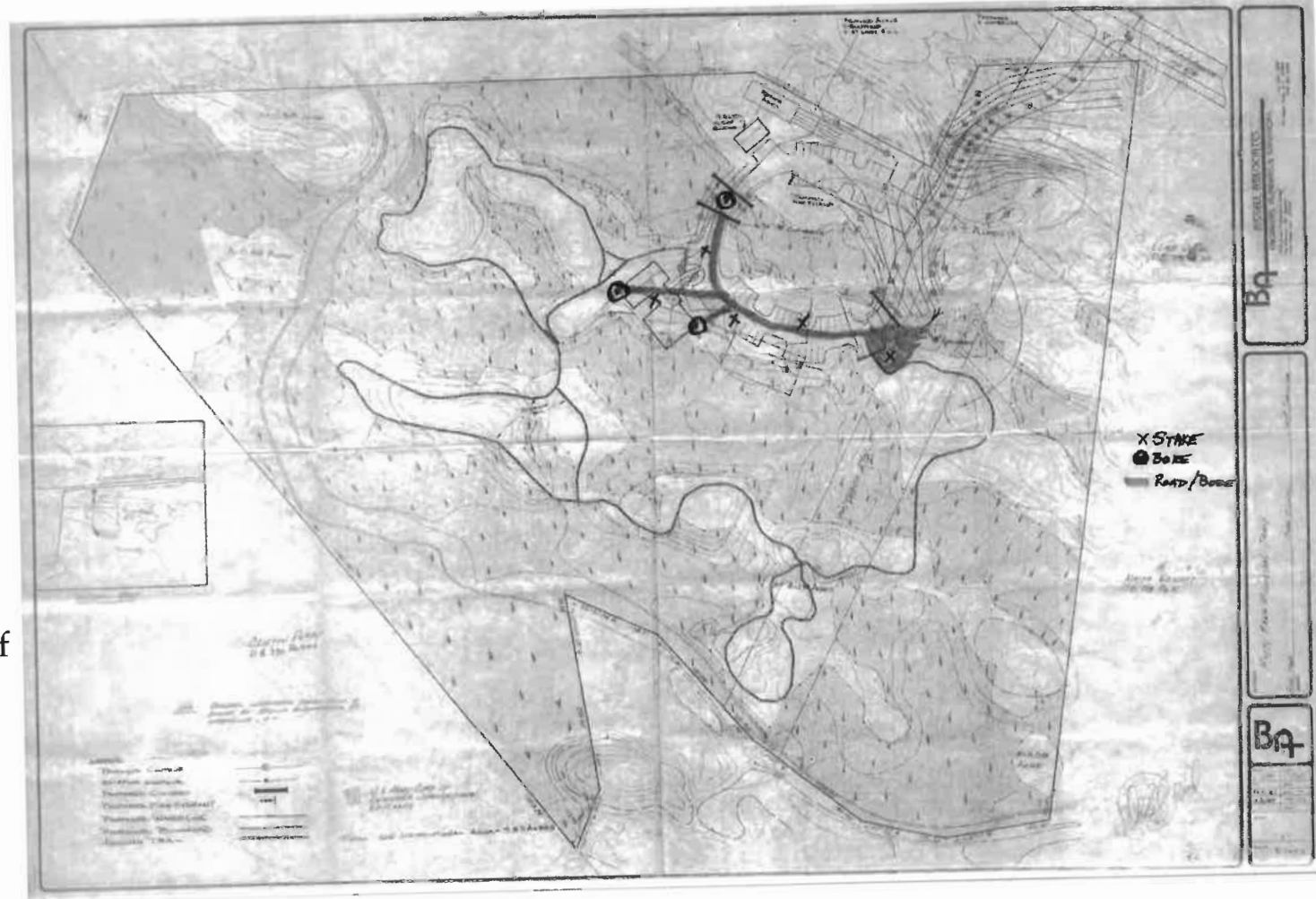
Proposed Trails

- The town of Kitty Hawk recreation committee is proposing a series of trails on the town hall property highlighting the beauty of our maritime forest would benefit residents and visitors. We would like your approval for our proposal.
- This trail is consistent with the town's CAMA land use plan.



1987 Trail Map

- The concept of a trail highlighting the maritime forest surrounding Town Hall is not new.
- The 1987 plans for the town of Kitty Hawk Town Hall include an extensive trail network.
- Our preliminary walk of the property suggests the 1987 trail would include swamp and marsh and is not practical.



American Beech

- Our initial walk of the property has found some remarkable beauty in the forest.
- This is an American Beech on the southwest side of the proposed trail system.



High Ground

This is a ridge that runs north to the Sandpiper Cay property.

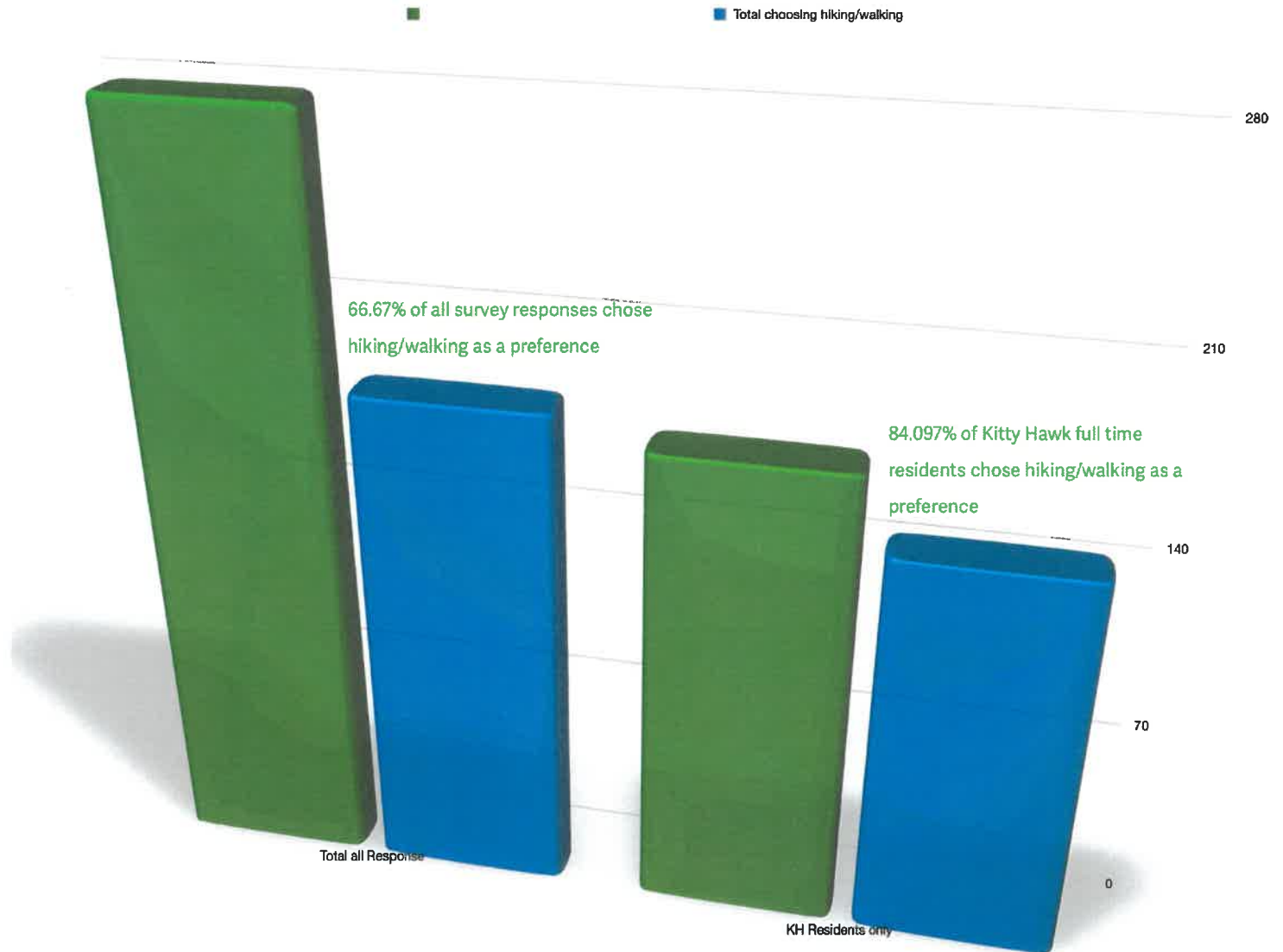
- It is possible Sandpiper Cay may wish to connect to the town trail, although that would be their option.



Survey Results

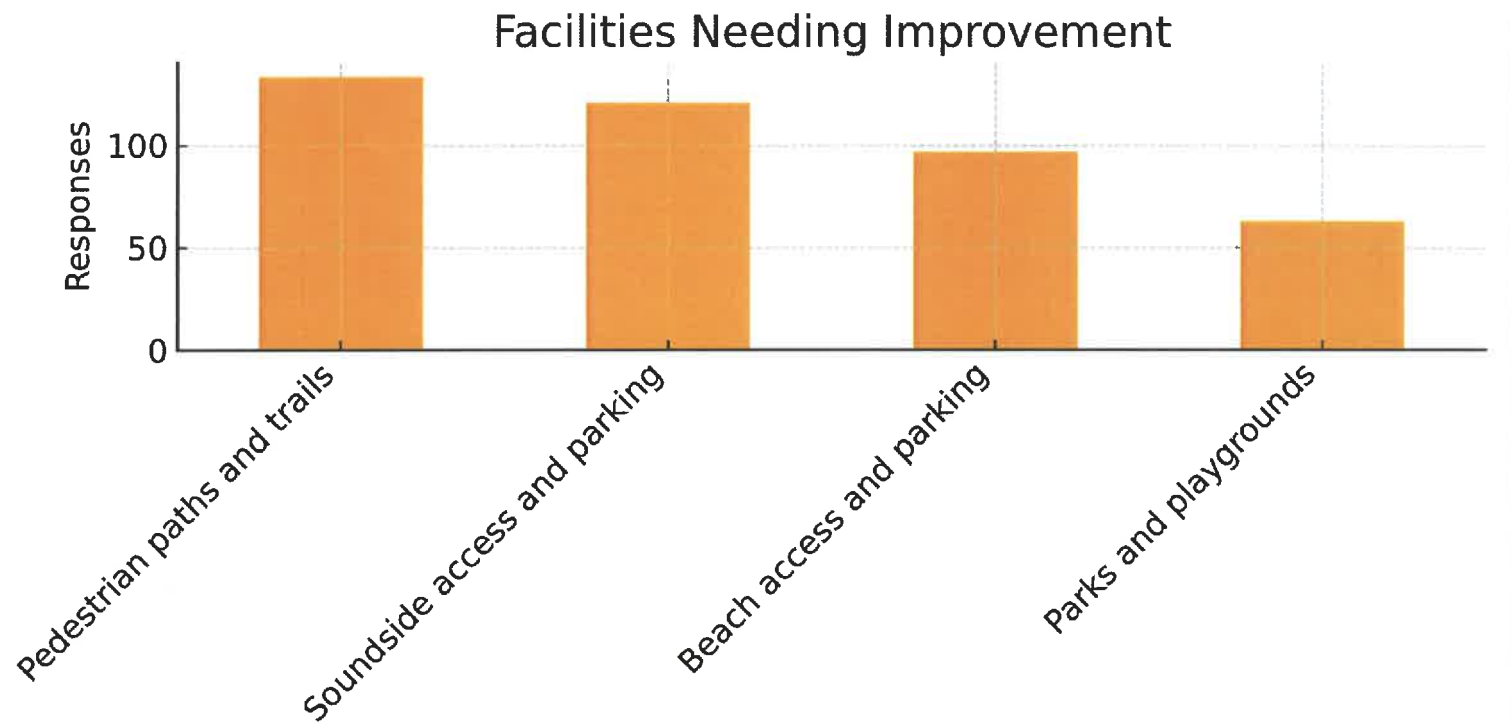
Rec Committee survey shows widespread support for town trails.

- Survey asked respondents to evaluate personal preferences and town needs.
- 279 total responses
- 176 were from full time Kitty Hawk residents
- There was a clear preference for hiking & walking as a recreational activity.



More Trails/Paths Needed

- Survey showed a clear preference for more town trails.
- Response trends were consistent for full time and part time residents as well as business owners and visitors.

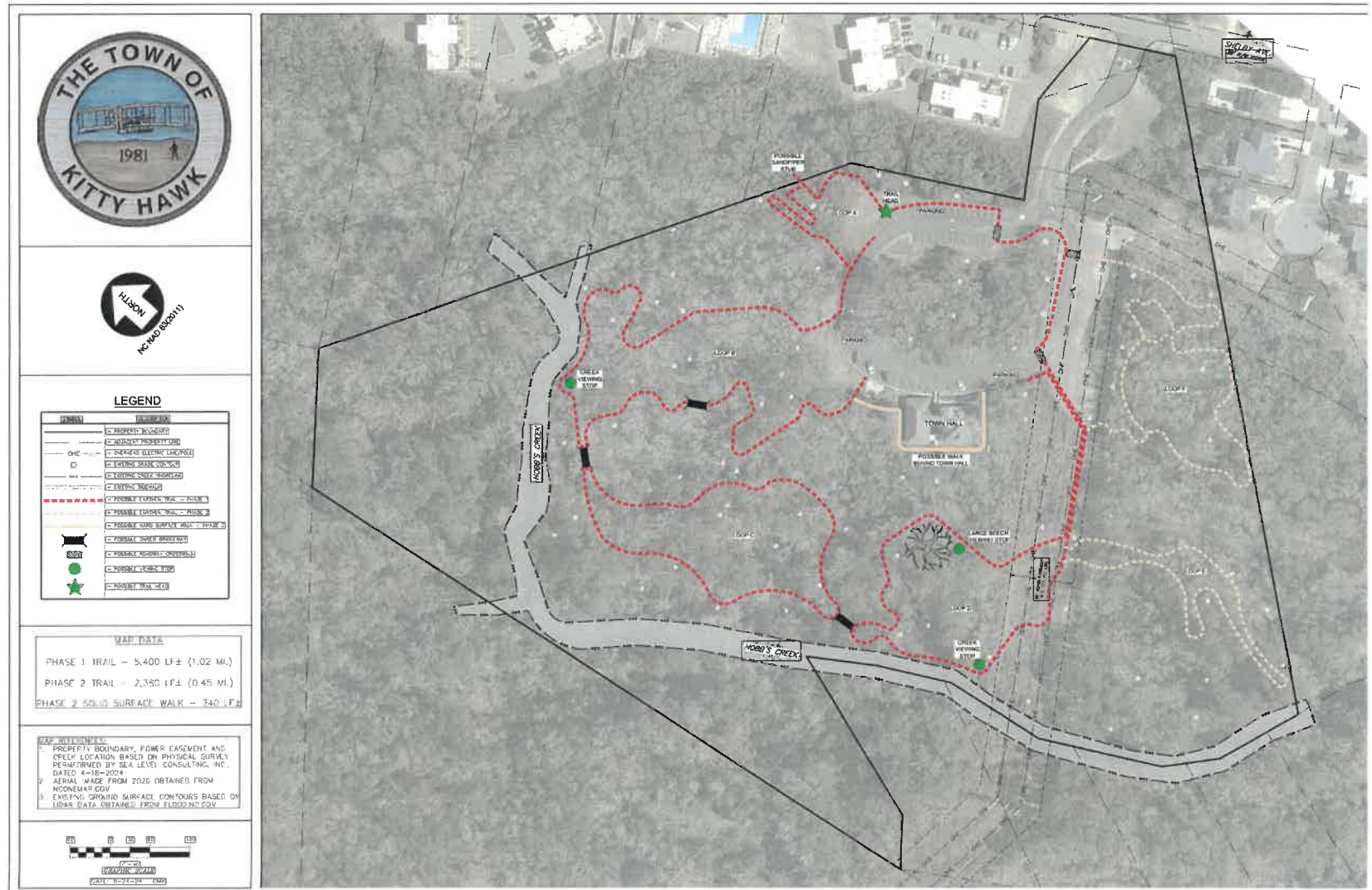




What we are proposing

Trail Plan

- Two phase plan
- Phase one in red
- Phase 1 slightly more than 1 mile.
- Trailhead on north side of property.
- First phase brings trail to front of Town Hall



Trailhead Preliminary work

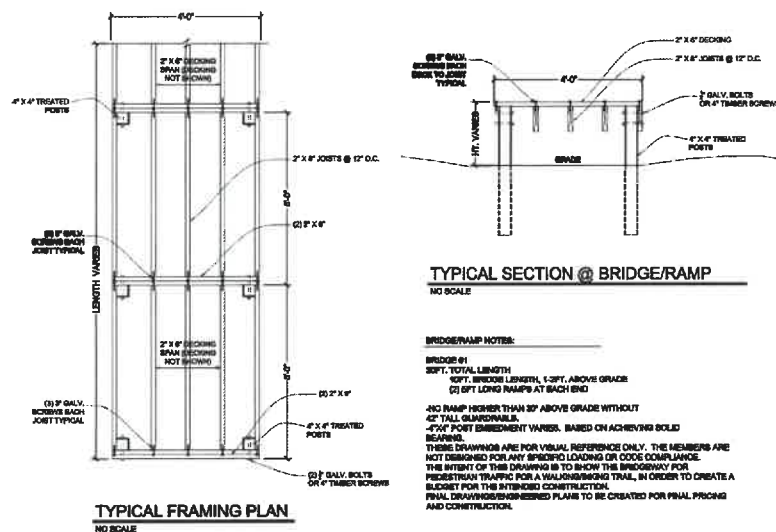
North end parking lot

- Trails to be built to NC Extension Service guidelines.
- 4' width
- Clearing heights
 - 7' for foot trails
 - 8' for biking trails
 - 10' for equestrian trails.



Proposed Bridge for low areas

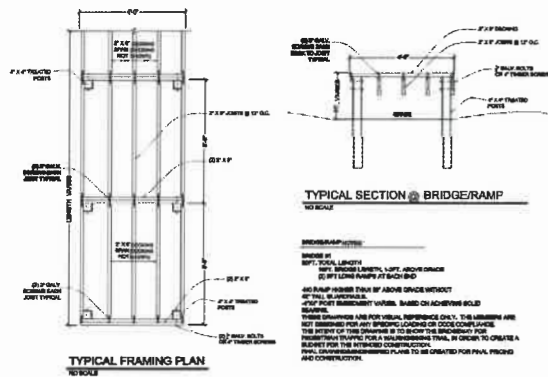
- Low areas will require a bridge.
- Preliminary survey indicates three bridges needed.
- Proposed design in use on Kitty Hawk Woods Barlow Trail. Design by Chairman Henriques
- Approximate cost \$2400/bridge.
- It is possible a fourth bridge will be needed.



Trail Cost

- Three bridges at \$2400 = 7200

- Sign at trailhead = \$400



- If fourth bridge needed \$9600
- Total estimated cost \$7600-\$10,000
- 2024-2025 Rec Committee Budget = \$10,000

Timeline

- Plan on beginning work on trails, pending town council approval, in October.
- Anticipate completion of Phase One March or April of next year.
- The recreation committee is committed to working on creating the trail
- Eagle Scout candidate has agreed to work with us as part of his community service requirement.
- Anticipate other volunteers.

Figure 5. Brown dog tick.



Centers for Disease Control and Prevention

Figure 4. American dog tick.



Centers for Disease Control and Prevention

Figure 7. Black-legged tick.

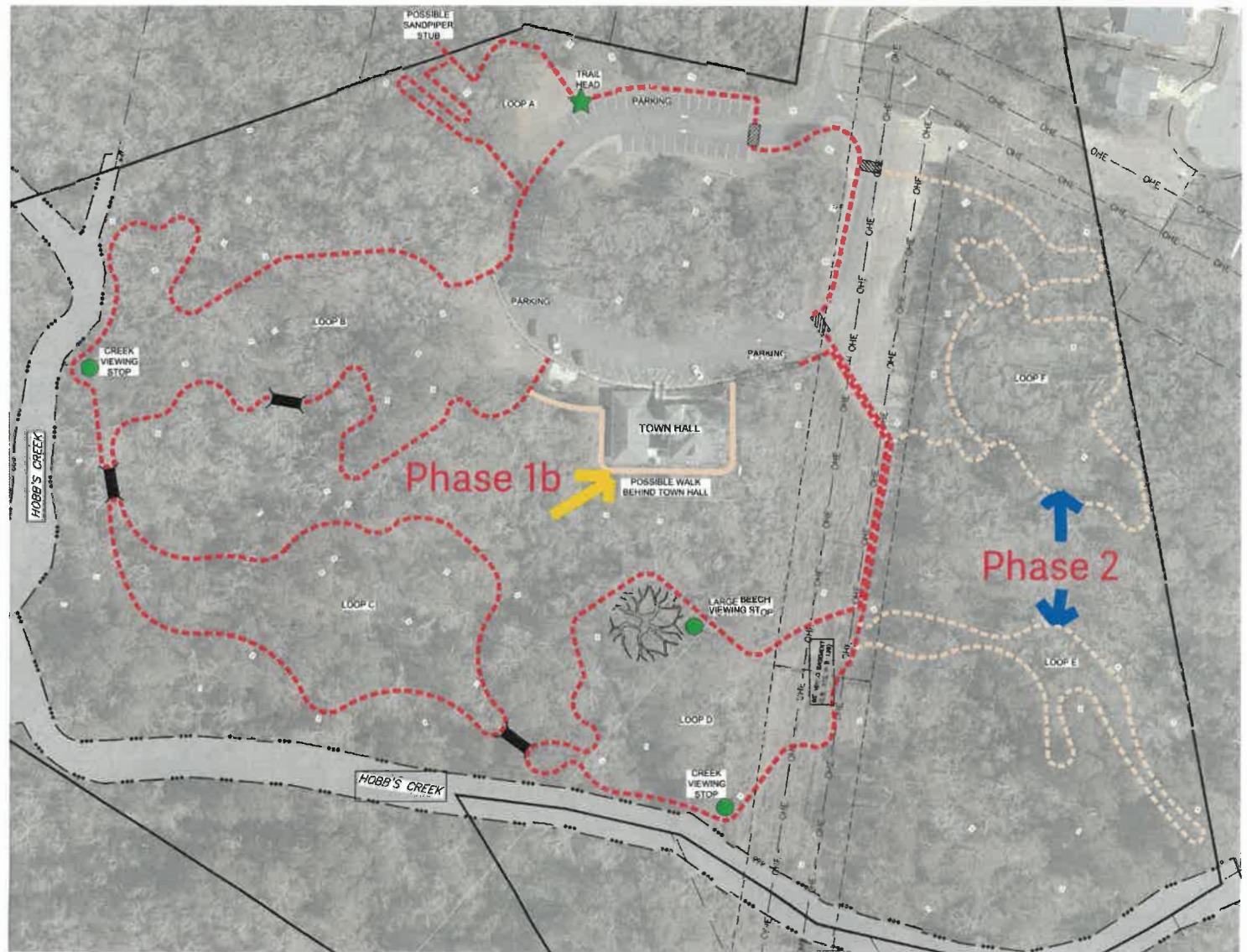


Centers for Disease Control and Prevention

- Waiting for the end of tick season.

What the Future Holds

- Phase 1b brings trail behind Town Hall.
- Low area with poor drainage. Too soft to be practical without improvement.
- Low area is approximately 370'
- Estimated cost: \$8000
- Phase 2 will include areas to the east of the power company right of way.



Issues still to be resolved

- Waivers needed
 - For volunteers
 - For use of town equipment if needed
- Advise Vepco Power of trail through easement
- Creating a volunteer base for upkeep
- Will this be the equivalent of a town park as a legal issue?

Town Council approval for the Project

Post Office Box 549
101 Veterans Memorial Drive
Kitty Hawk, NC 27949



Phone (252) 261-3552
Fax (252) 261-7900
www.townofkittyhawk.org

MEMORANDUM

TO: Mayor Garriss and Members of the Town Council
FROM: Rob Testerman, AICP, Planning Director
DATE: September 9, 2024
RE: **Preliminary Plat/Final Plat: Beacham Heirs Subdivision (2 Lots)**

Note: Subdivision reviews are an administrative decision. If all requirements of Chapters 38 and 42 of Town Code are met, the applicant is entitled to approval.

Proposal

The applicant has submitted an application and preliminary plat for the subdivision of the parcel at 800 W Kitty Hawk Road. The plat outlines a proposal to subdivide one existing parcel totaling 2.41 acres on the north side of W Kitty Hawk Rd into two lots. No new road, or road expansions are proposed as part of this subdivision. The two lots would be 36,112.22 sq ft or 0.83 acre total area (29,211.5 sq. ft. contiguous uplands), and 68,659.49 sq ft or 1.58 acres total area (68,210.55 sq. ft. contiguous uplands).

Because the parent parcel is larger than two acres, this subdivision does not meet the requirements to be considered an "exempt subdivision". The Town currently does not have a process in place to allow staff to approve/deny minor subdivisions such as this, therefore it must go to the Planning Board and Council for approval.

Because there are no improvements proposed, or recommended conditions of approval, the plat is being presented as both the preliminary and final plat. Should there be any conditions of approval which would require a revised plat, Council can make a separate preliminary plat approval, and require a revised final plat to be submitted at a later date.

Staff Analysis

Zoning: The subject property currently has two single family dwellings and associated accessory structures, and is zoned VC-1, village commercial district. The VC-1 district allows single family residences as a permitted use, by-right.

Lot Size: The minimum lot size in the VC-1 district is 15,000 square feet of contiguous uplands. As noted above, both proposed lots exceed the minimum lot size.

Density: Maximum permitted density is two single-family dwellings per acre. This proposal equals 0.82 dwellings per acre.

Lot Width: The minimum lot width in the VR-1 district is seventy-five feet (75'), measured at

the front building setback line on each parcel. As shown on the plat, each proposed lot meets this requirement.

Road Frontage: Lots must have a minimum road frontage fifty feet. It appears that all three lots will comply with this standard.

Building Setbacks: Minimum building setbacks in the VR-1 district are 10 feet along the sides and 25 feet at the front and rear. The minimum building setbacks not shown on the plat, however, all existing structures currently on site meet minimum setback requirements.

Road Rights-of-Way: There are no new roads proposed as part of this subdivision.

Planning Board Recommendation

At its August 15, 2024 meeting, the Planning Board unanimously recommended approval of the preliminary/final subdivision plat.

Note: Per Sec. 38-50, should the planning board recommend disapproval or conditional approval of the preliminary plat, the reasons for such action shall be noted in the minutes of the board **and reference shall be made to the specific sections of Chapter 38 of town code which the preliminary plat does not comply**, and the subdivider shall be so notified.

Recommended Motion

Should the Town Council decide to recommend approval of the preliminary/final plat for the 800 W Kitty Hawk Road subdivision, the motion could be worded in the following manner:

“I move to approve of the preliminary/final plat for Jean B. Beacham Heirs subdivision, as shown on the submitted plat.”

Should Council wish to deny the preliminary plat, the following motion could be made:

“I move to deny approval of the preliminary plat for the Jean B. Beacham Heirs subdivision. The proposed plat is not compliant with the following sections of Town Code: *Cite specific sections of code here*”

Directions to the Subject Property

(from Kitty Hawk Post Office, N. Croatan Highway & Kitty Hawk Road)
Drive west on W. Kitty Hawk Road for 0.8 miles
Subject parcel is on the right.



September 9, 2024

To: Mayor and Town Council

From: Town Manager, Melody Clopton

Subj: Alternate Appointment to the Planning Board

With the resignation of Dr. Craig Merrill, the Council will need to appoint someone to fulfill his term.

I make a motion to appoint _____ as an alternate member on the Planning Board with a term of office to expire June 30, 2025.

Also attached is the volunteer list and the terms of office sheet with the expiring terms highlighted. If you would like to review someone's application again, just let me know, and I will email it to you.

Volunteer List

5/15/2024

(Volunteers have marked their preference. Council may decide to contact a volunteer to see if they will serve another board or committee.)

	Name	Planning	Board of Adjustment	Recreation
1/18/2022	Amy Davalos 3817 Elijah Baum Rd. 252-489-0566 adavalos76@yahoo.com	3	2	1
11/2/2021	Catherine Heath 512 W. Kitty Hawk Rd. 252-301-6403 (h) 919-649-9154 (c) cmheath@mindspring.com	(Planning and Bd. Adj. checked)		
2/7/2022	Margaret Caldwell 4000 Tarkle Ridge Dr. 252-202-1231 (h) 252-255-2090 (w) beachgirlyobx@yahoo.com	(Recreation Co. checked)		
5/27/2022	Terry Zeigler 4613 Seascapes Dr. 252-305-2521 terryzeigler@me.com	1	2	
9/13/2023	Ben Alexander 2806 Seahorse 252-207-3572 benalexander7533@gmail.com	1		
9.12.22	David Morton 3880 Elijah Baum Rd.	1		

buddaman920@gmail.com

3.14.23

Sam Barker

1

4604 Seascape Dr.

P.O. Box 2888

449-6796 (w)

sam@seasidebuildersinc.com

4/24/2024 Ron Tumolo

1

2

3916 Ivy Lane

Kitty Hawk, NC 27949



To: Mayor and Town Council

From: Melody Clopton, Town Manager; Laura Walker, Administrative Services Director and Chief Michael Palkovics

Date: September 9, 2024

Subject: Law Enforcement Pay Plan and Pay Increases

The town staff has collected information from all neighboring counties and towns. Based on our research, we are proposing a 6% increase in the Town's Law Enforcement Pay Plan. We are proposing a 6% pay adjustment for all law enforcement officers to be in line with the new pay plan.

We believe this adjustment will competitively position the Law Enforcement pay scale and level the playing field when recruiting new and lateral officers. If approved the increase would become effective September 14, 2024. We did not find any positions that needed additional adjustments or re-classification.

New Starting Salary

Police Officer I: \$55,061.60

A 6% pay plan adjustment puts the Town's starting pay in the middle of the other entities' starting pay.

Other Town's POI Starting Pay	
Duck	\$53,140.00
Southern Shores	\$55,072.00
Kill Devil Hills	\$55,954.00
Nags Head	\$56,910.00
Manteo	\$49,518.00
Dare County	\$54,000.00
Currituck County	\$49,546.00

Cost of Initiative

Cost for Remaining Pay periods, Including Open Positions: **\$64,806.10**

The cost of this initiative will not impact this year's budget as it is covered by unspent salary budget resulting from vacancies.

This change will increase the FY 2025-2026 Police Salary budget.

I want to take a moment to recognize the dedication and hard work of Laura Walker and Chief Palkovics. I sincerely appreciate all of their efforts and genuinely value your quick support when this initiative was first proposed. I am happy to answer any questions in advance of the meeting.



Agenda Item: 10E

Proposed Law Enforcement Compensation Plan

September 2024

Grade	Title	Minimum Range	Maximum Range
57	Police Officer Trainee	\$49,693.10	\$78,002.42
59	Police Officer I	\$55,061.60	\$86,429.28
60	Police Officer II	\$57,959.58	\$90,978.19
61	Police Officer III	\$61,010.09	\$95,766.51
62	Detective	\$64,221.15	\$100,806.86
63	Sergeant	\$67,601.21	\$106,112.48
66	Lieutenant	\$78,846.72	\$123,764.37