



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

www.southernshores-nc.gov

OCTOBER 4, 2016

COUNCIL MEETING-5:30 P.M.-PITTS CENTER

1. Opening
 - A. Call Meeting to Order (all citizens interested in offering Public Comment are reminded to sign up.)
 - B. Pledge of Allegiance
 - C. Moment of Silence
 - D. Amendments/Approval to Agenda
 - E. Consent Agenda
 - i. Approval of Minutes-September 6, 2016
2. Annual Audit Presentation-FY 2015-2016 -Teresa Osborne, Dowdy & Osborne
3. Staff Reports
 - A. Town Planner
 - B. Police Chief
 - C. Fire Chief, Southern Shores Volunteer Fire Department
4. Board Reports
 - A. Planning Board
5. Presentation- Proposed Annual Beach Profile Monitoring Initiative (Kenneth Wilson) - Invitation of Town Council
6. General Public Comment (Limit: 3 minutes per speaker.)
7. Old Business
 - A. Public Hearing- Establish a Historic Landmark Designation Program and a Historic Landmarks Commission Pursuant to Authority of Article 19 Part 3C, Chapter §160A of the North Carolina General Statutes - Initiative of Town Council
8. New Business
 - A. Discussion of Beach Access Parking permits - Request by Council Member Newberry
 - B. Discussion of Possible Amendment to Council Rule of Procedure #15-Public Address to the Council - Request by Council Member Newberry
 - C. Public Hearing- Consideration of Conditional Use Permit application CUP-16-02 to add lighting to the SSCA Tennis Courts located at 320 Hillcrest Drive - Submitted by Southern Shores Civic Association (SSCA)
9. Other Business
 - A. Town Manager's Report
 - B. Mayor's Comments & Responses
 - C. Council Member's Comments & Responses
 - D. Town Attorney's Report
10. Adjourn



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**Town of Southern Shores
Regular Council Meeting
September 6, 2016**

12 The Town of Southern Shores Council met in the Pitts Center located at 5375 N. Virginia
13 Dare Trail at 5:30 p.m. on Tuesday, September 6, 2016.

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15 COUNCIL MEMBERS PRESENT: Mayor Bennett, Mayor Pro Tem Fred Newberry,
16 Council Members Leo Holland, Chris Nason and Gary McDonald.

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18 COUNCIL MEMBERS ABSENT: None

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20 **CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE**

21 Mayor Bennett called the meeting to order at 5:30 p.m., led the Pledge of Allegiance, and
22 held a moment of silence.

23
24 **TROPICAL STORM HERMINE/ DEBRIS REMOVAL BRIEFING**

25 Town Manager Peter Rascoe gave a brief update on the September 3rd Tropical Storm
26 Hermine storm debris cleanup. He reported that after consultations with the County, it
27 appeared that it would be improbable for the Governor or the President to declare a
28 Disaster for the storm event in here and therefore allow us to be eligible for state or federal
29 assistance in debris removal utilizing one of the Town's FEMA contractors. He reported
30 that he and the Public Works Director had therefore implemented the storm cleanup rates
31 under the Town's existing contract with Atlantic Tree Experts (ATX) and had projected a
32 cost for that firm to pick up storm-generated yard waste put out by property owners on the
33 street rights-of-way. He also reported that this arrangement with ATX presumes the Town
34 policy of not picking up contractor-handled yard waste will remain in place. The Manager
35 stated storm debris cleanup will occur simultaneously alongside the existing limb and
36 branch pickup service schedule and will take a minimum of 30 days.

37 **MOTION:** Mayor Bennett moved to approve a \$40,000 transfer from the undesignated
38 fund balance to the 2016-2017 storm cleanup budget line to fund the extra cost to the Town
39 of pick-up of storm-generated yard waste in the arrangement described by the Manager.
40 The motion was seconded by Council Member Holland. The motion passed unanimously
41 (5-0).

42
43 **AMENDMENTS / APPROVAL OF AGENDA**

44 **MOTION:** Council Member Holland moved to approve the agenda The motion was
45 seconded by Council Member Nason. The motion passed unanimously (5-0).

46
47 **CONSENT AGENDA**

48 The consent agenda consisted of the following items:

- 49 — Approval of Minutes-August 2, 2016
50 — Budget Amendment #3 (Revenue from surplus of police equipment and donation)

51 **MOTION:** Council Member Holland moved to approve the consent agenda. The motion
52 was seconded by Council Member Nason. The motion passed unanimously (5-0).
53

54 **EMPLOYEE RECOGNITION**

55 Police Chief avid Kole recognized Lieutenant Jonathan Slegel for 15 years' service for the
56 Town of Southern Shores.
57

58 **STAFF REPORTS**

59 Town Planner:

60 The Town Planner presented the Planning Department's monthly report containing the
61 following:

- 62 – Permitting and Inspections August, 2016
- 63 – Update on Town Code Update Project - Chad Meadows with CodeWright Planners
64 stated his Draft assessment of the Town's current Code of Ordinances is available
65 for viewing on the Town's website. His draft assessment is the framework for
66 considering future-suggested changes to the Town Code. It includes a summary of
67 input from the community and Council. It also includes a series of comments from
68 the staff regarding suggested updates, and analysis from the consulting team in
69 reference to organization, layout, and illustration. Code Wright is having the public
70 review the draft assessment published on the Town's website and encouraging
71 written and verbal comments to CodeWright and Town planning staff over the next
72 three (3) weeks. CodeWright's Final assessment of the Town's current Code of
73 Ordinances will be transmitted to Council on October 10, 2016, along with an
74 appendix containing any received comments. At that point, CodeWright will
75 commence drafting proposed changes of text to the existing Town Code for Council
76 to consider. Drafting will take six (6) months and will go through a process of two
77 public hearings to evaluate the proposed changes before Council considers them.
78 The final proposed updated Town Code will be available to Council for its
79 consideration and possible action by September 2017.
80

81 Southern Shores Police Department

82 Chief Kole presented the Police Department's monthly report for July.
83

84 Southern Shores Volunteer Fire Department: Fire Chief, Ed Limbacher presented the Fire
85 Department's monthly report for July. At the end of his report, Chief Limbacher stated the
86 Southern Shores Volunteer Fire Department's facility needs analysis currently underway
87 should be completed and ready for him to share with Council in December, 2016.
88

89 Mayor Pro Tem Newberry stated to Chief Limbacher that he needs justification for why the
90 Fire Department needs to be enlarged and he wants data on specific items to show it. He
91 stated it is also important for the public to understand it because what the SSVFD is asking
92 for is going to be quite an expensive project and will cause a lot of public concerns as far
93 as cost. He stated they have questions and need some answers.
94

95 **BOARD AND COMMITTEE REPORTS (RECOMMENDATIONS)**

96 Council Planning Committee

97 Mayor Bennett gave a briefing of the Council Planning Committee report of the August 8th
98 meeting (report attached).
99

100 **MOTION:** Following up on one item discussed at the committee meeting, Mayor Bennett
101 himself moved to invite Kenneth Wilson of Coastal Planning and Engineering to present to
102 Council in person on a recent proposal of his to perform a Town Beach Profile Monitoring
103 Initiative for the Town of Southern Shores. The motion to invite Mr. Wilson was seconded by
104 Council Member Holland. The motion passed unanimously (5-0).
105

106 Council Public Safety Committee

107 Mayor Bennett gave a briefing on the Council Public Safety Committee report of the August
108 22nd meeting (report attached). The committee recommendations were brought to Council for
109 consideration.

110 **MOTION:** Per one of the committee recommendations, Mayor Bennett moved to
111 authorize a meeting between the Mayor and NCDOT District One Board Member and the
112 NCDOT Division One Engineer to discuss safety enhancements for pedestrian crosswalks
113 along NC Highway 12, and to discuss NCDOT possibly lowering the speed limit on NC
114 Highway 12 in Southern Shores from 45 mph to 35 mph during the summer season only. The
115 motion was seconded by Council Member Nason. The motion passed unanimously (5-0).

116
117 The Council's Public Safety Committee also recommended removal of stop signs at four (4)
118 locations: 2 on South Dogwood Trail at private Mallard Cove intersection; 2 on East Dogwood
119 trail at Hickory Trail intersection; 2 on Chicahawk trail at easternmost Clamshell Trail
120 intersection; 2 on Hickory Trail at Hillcrest Drive intersection.

121
122 **MOTION:** Council Member McDonald moved to table consideration of the committee's stop
123 sign removal recommendation until the November 1, 2016 Council meeting for consideration,
124 allowing the public time to review the proposed committee recommendation. The motion was
125 seconded by Council Member Holland. The motion passed unanimously (5-0).

126
127 The Public Safety Committee also recommended raising the speed limit on Circle Drive from
128 the current 15 mph to 25 mph.

129
130 **MOTION:** Council Member McDonald also moved to table consideration of the committee's
131 recommendation to change the speed limit on Circle Drive until the November 1, 2016 Council
132 meeting for consideration, allowing the public time to review the proposed committee
133 recommendation. The motion was seconded by Council Member Nason. The motion passed
134 unanimously (5-0).

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136
137 **OLD BUSINESS**

138 Report/ Recommendation on Council's Historic Landmarks Designation program initiative

139 Council previously gave staff authority to begin exploration of a historic landmarks designation
140 program in Southern Shores in recognition of the cultural resource of not only the flat top
141 cottages in Southern Shores that began in 1946 and subsequent years, but other properties
142 that were presumably 50 years old or of historic significance.

143
144 At least 34 flat top cottages remain intact in Town and also a number of other structures that
145 are of the same age. Staff developed an inventory with the assistance of volunteers who also
146 volunteer each year for the historic flattop cottage tours. An inventory of 44 total structures
147 was developed with the possibility of several others existing as well. Staff was able to notify
148 and get responses back from owners on whether they were interested in this type of program,
149 which is a state program. Staff has had several meetings with the owners, one of which
150 included a representative from the State Historical Preservation Office from the NC
151 Department of Environment and Cultural Resources. Staff has been able to determine the
152 positive interest of 26 property owners in Southern Shores. Out of those 26 properties, 23 are
153 flattop cottages. The program itself is identical to the program in Kill Devil Hills which is a
154 historic landmark designation program. The enabling state statute calls for the Council to
155 create a commission of legal residents of Southern Shores who would consider applications
156 from eligible property owners for their properties become designated historic landmarks in
157 Southern Shores. The process would then entail a property owner applying for designation,
158 and written analysis of the owner's property going to the State Historic Preservation Office for
159 nonbinding comments. The SHPO's nonbinding comments would then come back to the
160 Council for it to decide whether or not to include that property as a historic landmark in the

161 program. Once included in the program the landmark is protected on the exterior in that no
162 substantial changes may be made to the exterior unless the commission issues a certificate of
163 appropriateness based on an application from an owner.
164

165 Once in the program, the property will remain in the program until it becomes unqualified. By
166 state statute, the property owner gets a 50% property tax abatement on the ad valorem tax bill.
167 The tax abatement is on both County and Town ad valorem taxes. If all 26 properties were to
168 be designated, based on current tax assessments that would account for approximately
169 \$14,553.31 in abated revenue to the Town of Southern Shores as a result of the designations.
170

171 **MOTION:** Council Member Holland moved to

172 (1) authorize the Town Manager and the Town Attorney to develop a draft ordinance creating
173 a Southern Shores Historic Landmarks Commission in accordance with North Carolina
174 General Statute§ 160A-400.7 for presentation at Council's October 4th meeting. In accordance
175 with the North Carolina General Statutes and if created, the Commission would be charged
176 with duties and responsibilities cited in the enabling legislation, including {1} adopting rules of
177 procedure and guidelines for designating historic landmarks, (2) adopting guidelines for
178 altering, restoring, moving or demolishing historic landmarks, (3) undertaking a formal
179 inventory of historic properties to be forwarded to the North Carolina State Historic
180 Preservation Office for its review and concurrence, and (4) proposing draft ordinances
181 designating one or more of the properties in the inventory as historic landmarks. The draft
182 ordinance shall also include the following requirements: (a) No property shall be designated a
183 historic landmark except by application executed by all current record property owners; (b) No
184 interior features of any structure shall be subject to regulation; (c) No colors of any exterior
185 feature of a designated historic landmark shall be subject to regulation; and
186

187 (2) Schedule a Public Hearing for October 4th to receive public comment on the possible
188 creation of a Historic Landmarks Commission by proposed ordinance; and
189

190 (3) In the event of establishment of a Historic Landmarks Designation Program, authorize a
191 budget amendment for the current fiscal year of \$5,000 for the Town Planning Department, for
192 the purpose of covering any costs of initial program establishment, including costs of
193 professional writing for development of historical and architectural assessments for Initial
194 applications to be considered by the North Carolina State Historic Preservation Office for
195 comment to the Southern Shores Town Council.
196

197 The motion was seconded by Council Member Nason. The motion passed unanimously (5-0).
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200 Consideration of Draft Resolution Amending Council Rules of Procedure Section 13

201 Mayor Bennett stated, in accordance with Council's directive of August 2, 2016 passed on
202 motion of Mayor Pro Tem Newberry, Council has received a proposed draft amendment to the
203 Rules of Procedure-Section 13. for review. The proposed amendment contains revised
204 business days for a Clerk-proposed, Mayor-approved agenda to be transmitted to Council,
205 and revised business days for agenda back up materials to be transmitted to Council and
206 made available for public review.
207

208 Mayor Pro Tem Newberry moved to adopt the proposed draft amendment but stated he would
209 also like to amend it to require that high level matters the Town Manager plans on reporting to
210 Council during its meetings also need to be listed ahead of time in the proposed meeting
211 agenda so that the public knows what to expect and can comment if they feel they need to.
212 Mr. Newberry stated the public wants to know in advance of a meeting what important matters
213 the Town Manager, or any of his staff, intend to report on to the Council.
214

215 During discussion, the Town Manager stated any issue having that much significance as an
216 action item would be listed as his own proposed agenda item. Under the current Council
217 Rules of Procedure, the Town Manager has authority to propose an agenda item for
218 consideration by the Mayor. Mayor Pro Tem Newberry was asked by Council Member Holland
219 if he desired to amend his motion. Mayor Pro Tem Newberry stated he did not.
220

221 **MOTION:** Mayor Pro Tem Newberry moved to approve the proposed amendment to the
222 Council Rules of Procedure Section 13 as presented (Resolution 2016-09-01). The motion
223 was seconded by Council Member Holland. The motion passed unanimously (5-0).
224

225 **NEW BUSINESS**

226 Draft Resolution Incorporating a Veterans Preference Policy (Resolution 2016-09-02) into
227 Employment Policy of the Town of Southern Shores

228 **MOTION:** Mayor Bennett moved to adopt Resolution 2016-09-02 a Resolution
229 Incorporating a Veterans Preference Policy into the Employment Policy of the Town of
230 Southern Shores. The motion was seconded by Council Member Holland. The motion passed
231 unanimously (5-0).
232

233 Discussion of Potential Town Liability for Placement of Street Traffic Devices

234 Council member McDonald requested this agenda item by his question of the Town's liability
235 regarding placement of traffic control devices, such as street bumps, on Town streets. Town
236 Attorney Gallop stated being the 2-inch x 10-inch speed hump/bump recently installed
237 temporarily on East Dogwood Trail is limited in size, is located at a stop sign, and is visible,
238 making for an exceptionally low risk of liability to the Town. He stated it is not a regulatory
239 device and it has also since been removed.
240

241 **GENERAL PUBLIC COMMENT**

242 Mayor Bennett called for public comment and the following citizens offered comment with
243 topic(s) as indicated:
244

- 245 – Van Price, 18 Ocean Blvd.- Southern Shores is in need of Beach Nourishment now.
- 246 – Karen Price, 18 Ocean Blvd.-very concerned about the beach conditions, supports
247 beach nourishment.
- 248 – Jim Kranda, 82 Poteskeet Trail, SSVFD did great job with storm cleanup, Town
249 newsletter does not need to become a blog page; policy of removing structures from
250 beach has worked.
- 251 – Lawrence Sawyer, 119 Chicahauk Trail- lives at the corner of Chicahauk Trail and
252 Clamshell. It is a busy corner and thinks the stop sign helps slow the traffic down,
253 making it safer.
- 254 – Al Ewerling, 187 S. Dogwood Trail-Thanked the Council for approving the Veterans
255 preference resolution. Would like to go back to parking stickers for Town residents for
256 beach access parking in Town parking areas - rather than hang tags.
- 257 – Debbie Newberry- 267 N Dogwood Trail-warnings should still be given out before tent
258 structures or belongings are removed from beach; need two public comment periods;
259 push blinking lights at crosswalks.
- 260 – Trisha Farinholt-69 Ocean Blvd. - Thinks two public comment periods in agenda is good;
261 thinks the beach access parking hang tags are fine and as taxpayer can use it as they
262 choose; speed limit on NC12 should be lowered year-around; not all areas of the
263 beach need replenishment; thanked Council for approving Historic Landmark
264 Preservation.
- 265 – Geri Sullivan - 31 Tenth Avenue-Thanked Mayor, Town Manager, and Police Chief for
266 advocating reducing speed on NC12.
- 267 – Evelyn Grieve - 6 Mallard Cove- Would like the stop sign at Dogwood Trail and Mallard
268 Cove to remain.

269 [Clerk's Note: A copy of the public comment signup sheet is hereby attached].

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OTHER BUSINESS

Town Manager's report

The Town Manager addressed several matters:

- The NC12 / East Dogwood project is currently under design and about 90% complete. Once complete it will go to NCDOT Division One for engineering review and approval. The project will then go out for bid.
- An RFQ was sent out for a physical survey of South and East Dogwood Trails. A total of four (4) firms submitted statement of qualifications (SOQs). All firms were found to be equally qualified to perform a survey of street right of way, thereby the firm submitting the lowest unit price as a response to the RFQ was Quible and Associates, who was selected. Quible will do the survey in three parts. The survey map will be an aerial view and will include all topographical information, obstructions in the Town right-of-way, and all trees in the Right-of-Way 8 inches in diameter and larger. South Dogwood Trail is 2.43 miles long with a sixty (60) foot right-of-way and East Dogwood Trail is .98 miles long with a hundred (100) foot right-of-way.
- The structural engineer is working on the bulkhead design for Yaupon Trail. There are three sections of bulkhead that will need repair. The CAMA permit for the road repair is being developed for submission this fiscal year, and actual street improvement will take place next fiscal year.
- The north section of Wild Swan Lane final design will be reviewed soon with the residents. Storm water remediation is the main focus of this project. No trees will be removed as a part of the project
- The surveys on both Juniper Trail and Osprey Lane are in progress. The Town's engineer is still doing testing on the Juniper Trail Bridge and hopefully will have a recommendation for its repair in the next few weeks.

Council Member's Comment & Responses

Mayor Bennett stated at the close of the Managers' report at the August 2nd meeting, one Council members questioned and was critical of Town Manager Rascoe regarding his Council-directed negotiations to acquire the property at 29 E. Dogwood Trail. The Council Member had indicated since the property had been on the market for a number of years it was not very desirable, and the Town should have been able to acquire it for less than what the Town paid for it. The Mayor stated it should be noted that the Council essentially took away the Town Manager's ability to negotiate from a strong position by refusing to go into a closed session at the April 19 meeting to discuss the purchase. As a result of the open meeting discussion, the public and the owner's agent were well aware of the Town's desire and need to acquire the property to address and hopefully resolve a serious public safety issue, namely the storm water flooding on NC12 and East Dogwood Trail. The Mayor further stated that at the Council's July 5th meeting, all the Council members present unanimously voted to direct Town Manager Rascoe to negotiate and acquire the property to a price not to exceed the list price as of that day. The Mayor stated that Councilman McDonald even then said himself that the Town shouldn't pay more than the tax assessment. The Town purchased the parcel for a price equal to the tax assessment, \$186,500.00. the Mayor stated, as a reminder, that closed sessions of Council can be a friend of Council and a friend of the taxpayers. In this instance if the property owner and agent had not been publicly aware of the extent of the Town's commitment to acquire the property, Mr. Rascoe could have, in the Mayor's opinion, negotiated from a stronger position on behalf of the Town.

323 Mayor Bennett reported he attended the Southern Shores Boat Club breakfast a few weeks
324 back and Town Planner Wes Haskett and Permit Officer Dabni Shelton made a wonderful
325 presentation on the new flood maps and how they would affect our residents.

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327 Mayor Pro Tem Newberry stated the reason he wrote and submitted his beach parking
328 hang tag article for the Town email newsletter was purely for public awareness and to get
329 information and feedback. Council voted at the June 7th meeting to allow Council Members
330 to write personal articles for inclusion in the Town email newsletter. He took the liberty to
331 write an article that concerned him and wanted to make the public aware and wanted public
332 input. Mr. Newberry stated the intent was public awareness, not to step on anyone's idea.
333 He stated citizens have complained to him. He stated he had personally received 37
334 emails in which 35 agreed with his position stated in the article and 2 adamantly that did
335 not. He spoke with 5 people on the street who agreed with him and those people stated
336 they have spoken to miscellaneous others who agreed, counting another 7 people. Mr.
337 Newberry stated some citizens had ideas on how to improve the program, stating that the
338 program needs to include all property owners, not just residents, the ability to get passes.
339 Also, that open vehicles, such as jeeps, are allowing for the theft of the hang tags and that
340 stickers prevent abuse.

341
342 Council Member Holland thanked Staff, the Fire Department, and the Police Department for
343 their hard work during Tropical Storm Hermine over the holiday weekend. He stated he
344 also is on the Tourism Board and there was a big concern with the month of June on lack
345 of occupancy and prepared meals taxes received. July and August did seem to pick back
346 up and real estate firms are reporting mostly booked reservations for September. Mr.
347 Holland stated we all benefit from the tourism market as taxes would be approximately
348 \$2,700 higher for each county resident. Dare County ranks #4 out of the 100 counties in
349 North Carolina.

350
351 Council Member Nason thanked Police, Fire, and Atlantic Tree Experts (ATX) for a fine job
352 with storm cleanup.

353
354 Council Member McDonald stated the Fire Department and Police Department did an
355 outstanding job during the storm and providing emergency services for our Town. Mr.
356 McDonald thanked citizens for their input. He stated some major budget items have been
357 mentioned tonight that Council has no plans for the long term, such as a new fire station
358 and beach nourishment. The Town currently has a lot that we are paying for such as the
359 Code rewrite, the survey, and the roads. He stated it will be important to look at the budget
360 going into next year. The Town had \$20,000 set aside for storm damage and he now
361 knows that it is not enough. In the future he hopes we can better budget for storm events.
362 He stated this is why he has asked for historical data.

363
364 **ADJOURN**

365 **MOTION:** Council Member McDonald moved to adjourn. The motion was seconded by
366 Council Member Holland. The motion passed unanimously (5-0). The time was 8:20 pm.

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368
369 ATTEST: Respectfully submitted,

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371 _____
372 Thomas G. Bennett, Mayor

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371 _____
372 Sheila Kane, Town Clerk

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COASTAL PLANNING & ENGINEERING OF NORTH CAROLINA, INC.

4038 MASONBORO LOOP ROAD, WILMINGTON, NC 28409

910-791-9494 PHONE 910-791-4129 FAX

September 21, 2016

Peter Rascoe
Town Manager
Town of Southern Shores
5375 N. Virginia Dare Trail
Southern Shores, NC 27949

Re: Proposal: Beach Profile Surveys and Beach Assessment

Dear Mr. Rascoe:

CPE-NC is pleased to provide you with this proposal to provide professional services to the Town of Southern Shores (OWNER), associated with an assessment of beach conditions. CPE-NC has a special preferred relationship with CB&I Environmental & Infrastructure, Inc. (CB&I), and through that relationship CPE-NC will utilize CB&I's personnel, resources and assets to perform the proposed Services.

The Scope of Professional Services (the Services) is attached to this proposal as Exhibit A. These services include beach profile surveys and a shoreline and volume change assessment of the Town's oceanfront beach. The Work included in Task 1 and 2 will be performed for a lump sum fee of \$33,957.00. Exhibit B includes a breakdown of costs by Task.

As stated in the Scope of Services, the beach profile surveys are anticipated to be conducted in conjunction with post-construction beach profile surveys associated with the Dare County, Town of Duck, Town of Kitty Hawk, and Town of Kill Devil Hills Beach Nourishment projects in fall 2017. Barring any unforeseen circumstances, we anticipate all deliverables will be provided within 90 days of the completion of the beach profile surveys. Please see Exhibit C – List of Deliverables, for a description and schedule of each of the following deliverables:

- Monthly Progress Reports;
- Beach Profile Survey Report;
- Beach Monitoring Assessment

CPE-NC's performance of the proposed Services is conditioned upon mutually acceptable contract terms and conditions. In that regard, attached to this proposal is our Services Agreement for your consideration as the terms and conditions that will govern our performance of the proposed Services.

If this proposal is acceptable to you, please have the attached Services Agreement signed, and return it to me. CPE-NC will then sign the Services Agreement and return a fully signed copy to you for your records.

Very truly yours,

COASTAL PLANNING & ENGINEERING OF NORTH CAROLINA, INC.



Tom Jarrett, P.E.
Senior Vice President

COASTAL PLANNING & ENGINEERING OF NORTH CAROLINA, INC.
SERVICES AGREEMENT
FIXED PRICE BASIS

All in accordance with the following terms and conditions.

- 1. SCOPE OF SERVICES: COASTAL PLANNING & ENGINEERING OF NORTH CAROLINA, INC. ("CPE-NC") agrees to perform for the undersigned CLIENT, engineering and consulting ("Services") described in attached Proposal dated September 21, 2016 and/or as follows:**

for Beach Profile Surveys and Beach
Assessment

- 2. FEES, INVOICES AND PAYMENTS:** The Services will be performed on a fixed price basis for Thirty Three Thousand Nine Hundred Fifty Seven----- Dollars (\$ 33,957.00 -----). Invoices will be submitted by CPE-NC no more frequently than every two weeks, with payment due upon CLIENT'S receipt of invoice. Payment shall be in U.S. Dollars. CLIENT shall be responsible for payments (without deduction or offset from the total invoice amount) of any and all sales, use, value added, gross receipts, franchise and like taxes, tariffs and duties levied against CPE-NC or its employees by any government or taxing authority. A service charge equal to on and one-half percent (1 1/2 %) per month, or the maximum rate permitted by law, whichever is less, will be added to all accounts which remain unpaid for more than thirty (30) calendar days beyond the date of the invoice. Should there be any dispute as payments to be made on a percent complete basis to any portion of an invoice, the undisputed portion shall be promptly paid.
- 3. CLIENTS COOPERATION:** To assist CPE-NC in performing the Services, CLIENT shall (i) provide CPE-NC with relevant material, data, and information in its possession pertaining to the specific project or activity, (ii) consult with CPE-NC when requested, (iii) permit CPE-NC reasonable access to relevant project sites, (iv) ensure reasonable cooperation of CLIENT's employees in CPE-NC's activities, and (v) notify and report to all regulatory agencies as required by such agencies.
- 4. CONFIDENTIALITY:** In the course of performing Services, to the extent that CLIENT discloses to CPE-NC, business or technical information that CLIENT clearly marks in writing as confidential or proprietary, CPE-NC will exercise reasonable efforts to avoid the disclosure of such information to others. Nonetheless, CLIENT shall treat as confidential all information and data furnished to it by CPE-NC in connection with this Agreement including, but not limited to, CPE-NC's technology, formulae, procedures, processes, methods, trade secrets, ideas, inventions, and/or computer

programs; and CLIENT shall not disclose such information to any third party.

Nothing herein is meant to prevent nor shall be interpreted as preventing either party from disclosing and/or using any information or data (i) when the information or data are actually known to the receiving party before being obtained or derived from the transmitting party, (ii) when information or data are generally available to the public without the receiving party's fault at any time before or after it is acquired from the transmitting party; (iii) where the information or data are obtained or acquired in good faith at any time by the receiving party from a third party who has the same in good faith and who is not under any obligation to the transmitting party in respect thereto; (iv) where a written release is obtained by the receiving party from the transmitting party; (v) three (3) years from the date of receipt of such information; or (vi) when required by process of law; provided, however, upon service of such process, the recipient thereof shall use reasonable efforts to notify the other party and afford it an opportunity to resist such process.

- 5. DELAYS AND CHANGES IN CONDITIONS:** If CPE-NC is delayed or otherwise in any way hindered or impacted at any time in performing the Services by (i) an act, failure to act or neglect of CLIENT or CLIENT'S employees or any third parties; (ii) changes in the scope of the work; (iii) unforeseen, differing or changed circumstances or conditions including differing site conditions, acts of force majeure (such as fires, floods, riots, and strikes); (iv) changes in government acts or regulations; (v) delay authorized by CLIENT and agreed to by CPE-NC; or (vi) any other cause beyond the reasonable control of CPE-NC, **then** 1) the time for completion of the Services shall be extended based upon the impact of the delay, and 2) CPE-NC shall receive an equitable compensation adjustment. Any such equitable adjustment shall be based on CPE-NC's then current Time and Material Rates, as may be provided in a Rate sheet attached hereto.
- 6. INSURANCE:** CPE-NC is presently protected by Worker's Compensation Insurance as required by applicable law and by General Liability and Automobile Liability Insurance (in the amount of \$1,000,000 combined single limit) for bodily injury and property damage. Insurance certificates will be furnished to CLIENT on request. If the CLIENT requires further insurance coverage, CPE-NC will endeavor to obtain said coverage, and CLIENT shall pay any extra costs therefor.
- 7. INDEMNITIES:** CPE-NC shall defend, indemnify and hold harmless CLIENT from and against loss or damage

to tangible property, or injury to persons, to the extent arising from the negligent acts or omissions or willful misconduct of CPE-NC, its borrowed servants and their employer and its subcontractors, and their respective employees and agents acting in the course and scope of their employment. CLIENT shall defend, indemnify and save harmless CPE-NC (including its borrowed servants and their employers and its and their affiliated companies and their officers, directors, employees, and agents) from and against, and any indemnity by CPE-NC shall not apply to, loss, damage, injury or liability arising from the acts or omissions of CLIENT, its contractors, and their respective subcontractors, employees and agents, or of third parties.

8. LIMITATIONS OF LIABILITY:

- a. GENERAL LIMITATION - CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ANY ALLEGED BREACH OF WARRANTY BY CPE-NC SHALL BE TO REQUIRE CPE-NC TO RE-PERFORM ANY DEFECTIVE SERVICES. CPE-NC'S LIABILITY AND CLIENT'S REMEDIES FOR ALL CAUSES OF ACTION ARISING HEREUNDER WHETHER BASED IN CONTRACT, WARRANTY, NEGLIGENCE, INDEMNITY, OR ANY OTHER CAUSE OF ACTION, SHALL NOT EXCEED IN THE CUMULATIVE AGGREGATE (INCLUDING ANY INSURANCE PROCEEDS) WITH RESPECT TO ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHATEVER MINIMUM AMOUNT MAY BE REQUIRED BY LAW OR, IF NONE, THE LESSER OF THE AMOUNT OF COMPENSATION FOR SUCH SERVICES, OR \$100,000 (WHICH AMOUNT INCLUDES ANY FEES AND COSTS INCURRED IN RE-PERFORMING SERVICES). THE REMEDIES IN THIS AGREEMENT ARE CLIENT'S SOLE AND EXCLUSIVE REMEDIES. ALL CLAIMS, INCLUDING THOSE FOR NEGLIGENCE OR ANY OTHER CAUSE WHATSOEVER SHALL BE DEEMED WAIVED UNLESS SUIT THEREON IS FILED WITHIN ONE (1) YEAR AFTER THE EARLIER OF (1) CPE-NC'S SUBSTANTIAL COMPLETION OF THE SERVICES OR (2) THE DATE OF CPE-NC'S FINAL INVOICE. FURTHER, CPE-NC SHALL HAVE NO LIABILITY FOR ANY ACTION INCLUDING DISCLOSURE OF INFORMATION WHERE IT BELIEVES IN GOOD FAITH THAT SUCH ACTION IS REQUIRED BY PROFESSIONAL STANDARDS OF CONDUCT FOR THE PRESERVATION OF PUBLIC HEALTH, SAFETY OR WELFARE, OR BY LAW.
- b. CONSEQUENTIAL DAMAGES: FURTHER AND REGARDLESS OF ANY OTHER PROVISION HEREIN, CPE-NC SHALL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS, DECLINE IN PROPERTY VALUE, REGULATORY AGENCY FINES, LOST PRODUCTION OR LOSS OF USE) INCURRED BY

CLIENT OR FOR WHICH CLIENT MAY BE LIABLE TO ANY THIRD PARTY OCCASIONED BY THE SERVICES OR BY APPLICATION OR USE OF REPORTS OR OTHER WORK PERFORMED HEREUNDER.

- 9. **GOVERNING LAWS:** This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina.

- 10. **TERMINATION:** Either party may terminate this Agreement with or without cause upon twenty (20) days' written notice to the other party. Upon such termination, CLIENT shall pay CPE-NC for all Services performed hereunder up to the date of such termination. In addition, if CLIENT terminates, CLIENT shall pay CPE-NC all reasonable costs and expenses incurred by CPE-NC in effecting the termination, including, but not limited to non-cancelable commitments and demobilization costs.

- 11. **ASSIGNMENT:** Neither CPE-NC nor CLIENT shall assign any right or delegate any duty under this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, CPE-NC may, upon notice to CLIENT, assign, pledge or otherwise hypothecate the cash proceeds and accounts receivable resulting from the performance of any Services or sale of any goods pursuant to this Agreement.

12. MISCELLANEOUS:

- a. **ENTIRE AGREEMENT, PRECEDENCE, ACCEPTANCE MODIFICATIONS:** The terms and conditions set forth herein constitute the entire understanding of the Parties relating to the provisions of the Services by CPE-NC to the CLIENT. All previous proposals, offers, and other communications relative to the provisions of these Services by CPE-NC, oral or written, are hereby superseded, except to the extent that they have been expressly incorporated by reference herein. In the event of conflict, the three pages of this Agreement shall govern. CLIENT may accept these terms and conditions by execution of this Agreement or by authorizing CPE-NC to begin work. Any modifications or revision of any provisions hereof or any additional provisions contained in any purchase order, acknowledgement or other document issued by the CLIENT is hereby expressly objected to by CPE-NC and shall not operate to modify the Agreement.

- b. **DISPUTES, ATTORNEY FEES** – Any dispute regarding this Agreement or the Services shall be resolved first by exchange of documents by senior management of the parties, who may be assisted by counsel. Any thereafter unresolved disputes shall be litigated in the state whose law governs under Section 9 hereunder. In any litigation, the Prevailing Party shall be entitled to receive, as part of any award or judgment, eighty percent (80%) of its reasonable attorneys' fees and costs incurred

in handling the dispute. For these purposes, the "Prevailing Party" shall be the party who obtains a litigation result more favorable to it than its last formal written offer (made at least twenty calendar days prior to the formal trial) to settle such litigation.

- c. **WAIVER OF TERMS AND CONDITIONS** - The failure of CPE-NC or CLIENT in any one or more instances to enforce one or more of the terms or conditions of this Agreement or to exercise any right or privilege in the Agreement or the waiver by CPE-NC or CLIENT of any breach of the terms or conditions of this Agreement shall not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same shall continue and remain in force and effect as if no such failure to enforce had occurred.
- d. **NOTICES** – Any notices required hereunder may be sent by orally confirmed US Mail, courier service (e.g. FedEx), orally confirmed telecopy (fax) or orally confirmed email (further confirmed by US Mail) to the addresses set forth below.
- e. **SEVERABILITY AND SURVIVAL** - Each provision of this Agreement is severable from the others. Should any provision of this Agreement be found invalid or unenforceable, such provision shall be ineffective only to the extent required by law, without invalidating the remainder of such provision or the remainder of this Agreement.

Further, to the extent permitted by law, any provision found invalid or unenforceable shall be deemed automatically redrawn to the extent necessary to render it valid and enforceable consistent with the parties' intent. The terms and conditions set forth herein shall survive the termination of this Agreement.

CLIENT and CPE-NC agree to the foregoing (**INCLUDING THE LIMITATIONS ON LIABILITY IN SECTIONS herein**) and have caused this Agreement to be executed by their duly authorized representatives as of the date set forth below.

Executed on _____, 2016 .

COASTAL PLANNING & ENGINEERING OF NORTH CAROLINA, INC.

By (Sign): _____

Print Name: _____

Title: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

CLIENT: TOWN OF SOUTHERN SHORES

By (Sign): _____

Print Name: _____

Title: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

EXHIBIT “A”
DRAFT: SCOPE OF PROFESSIONAL SERVICES
TOWN OF SOUTHERN SHORES, NORTH CAROLINA
BEACH ASSESSMENT

Coastal Planning & Engineering of North Carolina, Inc. (hereinafter ENGINEER) proposes to provide professional services to the Town of Southern Shores (hereinafter the OWNER) associated with surveying and assessing the oceanfront beach. This proposal includes topographic and hydrographic survey services, engineering analysis and report production, and presentation of results to OWNER at a public meeting. These services are described in detail in the following sections.

TASK 1 – BEACH PROFILE SURVEYS

The standard method used to monitor a beach is to conduct repeated beach profile surveys and track the changes in volume of sand along the beach and the shoreline position. CPE-NC will conduct beach profile surveys along 14 profiles spaced approximately 1000 ft. apart from station -70+00 (approximately 600 ft. south of the southern end of Ocean Blvd.) to the northern town limit of Southern Shores. The area to be surveyed is shown on Figure 1. Beach profiles along the southern portion of Southern Shores, south of station -70+00, will be surveyed as part of a contract between CPE-NC and Dare County associated with the Kitty Hawk Beach Nourishment Project. Surveying of each beach profile includes a topographic survey of the dune, berm, and foreshore section of the beach, while a bathymetric survey will be conducted for the offshore portion of the profile.

Beach profiles will extend landward from their respective baseline station until a structure is encountered or a range of 25 feet beyond the dune is reached, whichever is more seaward. Elevation measurements will also be taken seaward along the profile to a range of 2,500 feet beyond the shoreline or to the -30 NAVD88 contour, whichever is more landward.

Land-based or “upland” data collection will include all grade breaks and changes in topography to provide a representative description of the conditions at the time of the work. The maximum spacing between data points along individual profiles will be 25 feet. The upland work will extend into wading depths sufficiently to provide a minimum 50-foot overlap with the offshore data. This overlap between the topographic and bathymetric surveys provides quality control and quality assurance of the survey.

The hydrographic survey work or “offshore” portions of the beach profiles will be conducted with industry standard depth sounding equipment and RTK GPS systems. Tide corrections will be obtained redundantly through the use of RTK GPS and a local tide gauge verified to meet the requirements for the specific work. Offshore data points shall also be collected with a maximum spacing of 25 feet.

Horizontal and vertical positioning checks will be conducted to verify the accuracy is within a horizontal limit of 3 feet and a vertical limit of 0.5 ft. for all electronic equipment. Vertical positioning checks for depth measuring equipment will be conducted at 5 ft. increments between the minimum and maximum depths expected.

EXHIBIT "A"
DRAFT: SCOPE OF PROFESSIONAL SERVICES
TOWN OF SOUTHERN SHORES, NORTH CAROLINA
BEACH ASSESSMENT

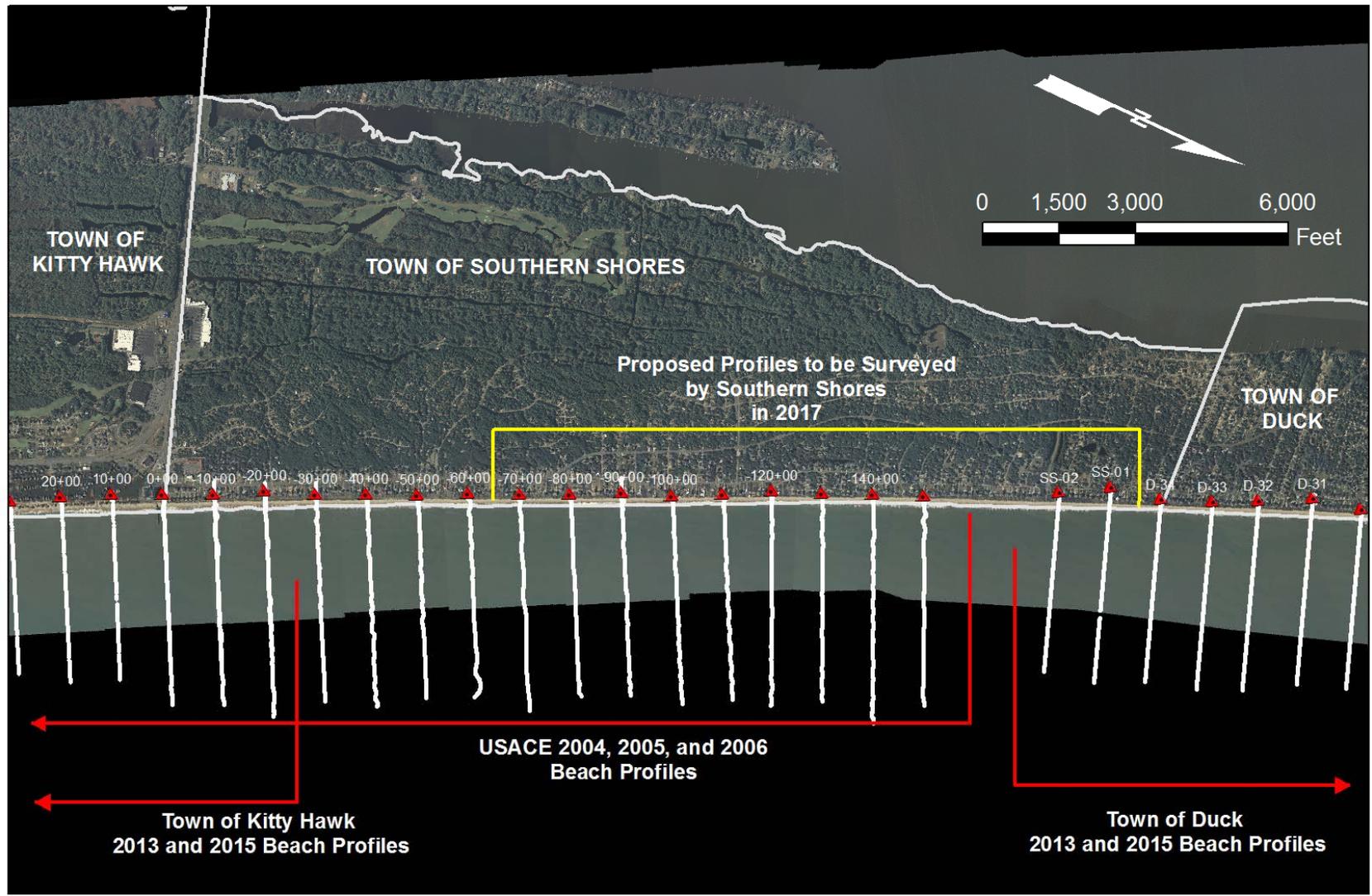


Figure 1. Map showing existing beach profile data coverage and the portion of the shoreline along which beach profile surveys will be conducted.

EXHIBIT “A”
DRAFT: SCOPE OF PROFESSIONAL SERVICES
TOWN OF SOUTHERN SHORES, NORTH CAROLINA
BEACH ASSESSMENT

Costs for this task assume surveys are scheduled to be conducted concurrently with the post-construction beach profile surveys for the Towns of Duck, Kitty Hawk, and Kill Devil Hills. These surveys are scheduled for the fall of 2017. Additional mobilization costs will be required if the Southern Shores monitoring surveys are conducted independently of the post-construction surveys being conducted by CPE-NC as part of the Dare County beach nourishment projects.

CPE-NC will provide the OWNER with a survey report including both the beach profile data collected as part of this proposal and the data collected within Southern Shores as part of a separate contract between CPE-NC and Dare County. The report will include methodology, survey notes, control information, profile plots, cross sections, and digital XYZ data. All work activities and deliverables shall be conducted in accordance with the Minimum Performance Standards for the U.S. Army Corps of Engineers (USACE) (EM 1110-2-1003).

TASK 2 – BEACH MONITORING ANALYSIS AND REPORT

As previously stated, the standard method used to monitor a beach is to conduct repeated beach profile surveys and track the changes in volume of sand along the beach and the shoreline position. Typically shoreline position is a predetermined elevation contour or a combination of several contours. Using the data collected as part of this scope of services and those profiles collected along the southern 6,000 ft. of the Town as part of the post-construction surveys for the Kitty Hawk beach nourishment project, CPE-NC will compare these data with the 2004, 2005, and 2006 survey data collected by the USACE along the southern 15,000 ft. of the Southern Shore oceanfront and the 2013 and 2015 beach profile surveys conducted by CPE-NC along the southern and northern 2,000 ft. of Southern Shores. Volume and shoreline changes will be computed based on the comparison of the 2017 profile data and available historic data. The results of this analysis will provide valuable information to the Town regarding the current conditions of the beach and erosional and accretional trends.

Upon completion of the survey operations and data analysis, CPE-NC will prepare a beach monitoring analysis report. The report will summarize and discuss the survey data and identify erosion and accretion patterns within the monitoring area. Both volume and shoreline change rates will be provided. Profile drawings will be provided to show a comparison of the current status of the beach compared to historic beach profile data. The report will include graphical representations of volumetric changes for the monitoring area. Results will be analyzed for patterns, trends, and changes between monitoring surveys and further recommendations will be provided as warranted.

Deliverables include three (3) hardcopies of the report with CD's which will include digital versions of the report, appendices, and data. In addition to the report, one (1) in-person meeting is included to present the findings of the monitoring report to the TOWN.

EXHIBIT “A”
DRAFT: SCOPE OF PROFESSIONAL SERVICES
TOWN OF SOUTHERN SHORES, NORTH CAROLINA
BEACH ASSESSMENT

The information contained in this proposal is confidential commercial information and shall not be used or disclosed, except for evaluation purposes, provided that if a contract is awarded to CPE-NC as a result of or in connection with the submission of this proposal, the requester shall have the right to use or disclose the data to the extent provided in the contract. This restriction does not limit the requester's right to use or disclose any technical data obtained from another source without restriction.

**EXHIBIT B:
BREAKDOWN OF COSTS
TOWN OF SOUTHERN SHORES, NORTH CAROLINA
BEACH ASSESSMENT**

Table 1. Breakdown of the total cost of the beach profile surveys and beach assessment in Exhibit A: Scope of Professional Services.

TASK	DESCRIPTION	Cost
1	Beach Profile Surveys	\$12,713.00
2	Beach Monitoring Analysis and Report	\$21,244.00
TOTAL:		\$33,957.00

**EXHIBIT C:
LIST OF DELIVERABLES
TOWN OF SOUTHERN SHORES, NORTH CAROLINA
BEACH PROFILE SURVEYS AND VOLUME CHANGE ANALYSIS**

The following items have been identified as deliverables for the completion of this scope of work.

- Monthly Progress Reports
- Beach Profile Survey Report
- Beach Monitoring Analysis Report

A detailed description and an individual schedule for each deliverable are provided below.

Monthly Progress Reports: CPE-NC will provide an approximately 1-page summary of the project status via e-mail approximately every 30 days during the course of the contract period. The letter will describe activities completed throughout the month and update the anticipated schedule of milestones as appropriate.

Beach Profile Surveys Report: Upon completion of the beach profile surveys described under Task 1, CPE-NC will provide a survey report to the Town. The survey report will include methodology, survey notes, control information, profile plots, cross sections, and digital XYZ data. Barring any unforeseen circumstances, the reports will be provided within 90 days following completion of survey operations.

Beach Monitoring Assessment Report: Upon completion of the beach analysis described under Task 2, CPE-NC will provide a beach monitoring assessment report to the Town. The report will include methodology, results of shoreline change and volume change analysis, a discussion on erosion and/or accretion changes, as well as any recommendations warranted. Barring any unforeseen circumstances, the reports will be provided within 90 days following completion of survey operations.



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

Ordinance 2016-xx-xx

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, under the authority of Chapter 160A, Article 19, Part 3C of the North Carolina General Statutes, the Town finds that certain structures within the Town contribute to the Town’s historical, architectural, prehistorical and cultural significance.

WHEREAS, the Town finds that it is necessary to protect structures of historical, architectural, prehistorical and cultural significance to the Town.

WHEREAS, the Town further finds that the conservation and preservation of historic landmarks stabilize and increase property values and strengthen the overall economy of the State.

WHEREAS, the Town further finds that to safeguard the heritage of the Town by it is necessary to preserve landmarks therein that embody important elements of the Town’s culture, history, architectural history, or prehistory.

WHEREAS, the Town further finds that preserving such landmarks will promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the city or county and the State as a whole.

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town’s Town Code of Ordinances as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipses (“...”) shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Town Code.

1 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern
2 Shores, North Carolina, that the Town Code shall be amended as follows:

3
4 **PART I.** That Chapter 17 **HISTORIC LANDMARK DESIGNATION AND**
5 **HISTORIC LANDMARKS COMMISSION** be added as follows:

6
7 **Sec. 17-1. Commission Established; Membership; Terms**

8
9 (1) There is hereby established a Southern Shores Historic Landmarks Commission
10 ("Commission") under the authority of Chapter 160A, Article 19, Part 3C of the North
11 Carolina General Statutes.

12
13 (2) The Commission shall consist of five members appointed by the town council. All
14 members shall reside within the planning and zoning jurisdiction of the Town. A majority
15 of the members of the Commission shall have demonstrated special interest, experience or
16 education in history, architecture, archaeology or related fields. The Commission may
17 appoint advisory bodies and committees as appropriate.

18
19 (3) Members of the Commission shall serve terms of three years. Terms shall be staggered
20 with three (3) of the initial commissioners being designated by the town council to serve
21 an initial two (2) year term. Vacancies occurring for reasons other than expiration of terms
22 shall be filled as they occur, for the period of the unexpired term, by the town council. The
23 Commission shall elect its chairman and vice-chairman. The term of the chairman and vice-
24 chairman shall be for one year, with eligibility for reelection.

25
26 **Sec. 17-2. Powers and Duties**

27
28 (1) The powers of the Historic Landmarks Commission are as follows:

29
30 (a) Undertake an inventory of properties of historical, prehistoric, architectural
31 and/or cultural significance.

32
33 (b) Recommend to the Town Council individual structures, buildings, sites, areas
34 or objects to be designated by ordinance as "Landmarks".

35
36 (c) Recommend to the Town Council that designation of any building, structure,
37 site, area or object as a landmark, be revoked or removed for cause.

38
39 (d) Review and act upon proposals for the alteration or demolition of designated
40 landmarks.

41
42 (e) Conduct an educational program with respect to historic landmarks within its
43 jurisdiction.

44
45 (f) Cooperate with the state, federal and local government in pursuance of the
46 purpose of this subchapter; to offer or request assistance, aid, guidance or advice

1 concerning matters under its purview or mutual interest. The Town Council, or the
2 Commission when authorized by the Town Council, may contract with the State or
3 the United States, or any agency of either, or with any other organization provided
4 the terms are not inconsistent with state or federal law.

5
6 (g) Enter, solely in performance of its official duties and only at reasonable times,
7 upon private lands for examination or survey thereof. However, no member,
8 employee or agent of the Commission may enter any private building or structure
9 without express consent of the owner or occupant thereof.

10
11 (h) Prepare and recommend the official adoption of a preservation element as part
12 of the Town of Southern Shores Land Use Plan.

13
14 (2) Prior to any official action the Commission shall adopt rules of procedure governing
15 its meetings and the conduct of official business and the election of officers and related
16 matters. The Commission shall also prepare and adopt principles and guidelines for
17 altering, restoring, moving, or demolishing properties designated as landmarks.

18
19 **Sec. 17-3. Historic Landmark Designation Procedure**

20
21 (1) Upon complying with the required landmark designation procedures set forth herein,
22 the Town Council may adopt and from time to time amend or repeal an ordinance
23 designating one or more historic landmarks. No property shall be recommended for
24 designation as a landmark unless it is deemed and found by the Commission to be of special
25 significance in terms of its historical, prehistoric, design, setting, workmanship, materials,
26 feeling and/or association. No property shall be proposed for designation as a landmark,
27 nor shall any ordinance be adopted designating a property as a landmark, unless a written
28 application is received from the record owner(s) of the property requesting such
29 designation.

30
31 (2) The ordinance shall describe each property designated in the ordinance, the name or
32 names of the owner or owners of the property, those elements of the property that are
33 integral to its historical, architectural or prehistoric value, including the land area of the
34 property so designated, and any other information the governing board deems
35 necessary. For each building, structure, site, area or object so designated as a landmark,
36 the ordinance shall require that the waiting period set forth in this subchapter be observed
37 prior to its demolition. A suitable sign for each property designated as a landmark may be
38 placed on the property at the owner's consent; otherwise the sign may be placed on a nearby
39 public right-of-way.

40
41 (3) No property shall be designated as a landmark until the following steps have been
42 taken:

43
44 (a) As a guide for the identification and evaluation of landmarks, the Commission
45 shall, at the earliest possible time and consistent with the resources available to it,
46 undertake an inventory of properties of historical, architectural, prehistoric and

1 cultural significance within the Town.

2
3 (b) The Commission shall make or cause to be made an investigation and report
4 on the historic, architectural, prehistoric, educational or cultural significance of
5 each building, structure, site, area or object proposed for designation or
6 acquisition. Such report shall be forwarded to the Division of Archives and
7 History, North Carolina Department of Cultural Resources.

8
9 (c) The Department of Cultural Resources, acting through the State Historic
10 Preservation Officer, or his or her designee, shall either upon request of the
11 Department or at the initiative of the Commission be given an opportunity to review
12 and comment upon the substance and effect of the designation of any landmark. All
13 comments will be provided in writing. If the Department does not submit its
14 comments to the Commission within 30 days following receipt by the Department
15 of the report, the Commission and the Town Council shall be relieved of any
16 responsibility to consider such comments.

17
18 (d) The Commission and the Town Council shall hold a joint public hearing (or
19 separate public hearings) on the proposed ordinance. Reasonable notice of the time
20 and place thereof shall be given.

21
22 (e) Following the public hearing(s) the Town Council may adopt the ordinance as
23 proposed, adopt the ordinance with any amendments it deems necessary, or reject
24 the proposed ordinance.

25
26 (f) Upon adoption of the ordinance the owners and occupants of each landmark
27 shall be given written notification of such designation insofar as reasonable
28 diligence permits. One copy of the ordinance and all amendments thereto shall be
29 filed by the Commission in the office of the Register of Deeds of Dare
30 County. Each landmark shall be indexed according to the name of the owner of the
31 property in the grantor and grantee indexes in the Register of Deeds office and the
32 Commission shall pay a reasonable fee for filing and indexing. A second copy of
33 the ordinance and all amendments thereto shall be kept on file in the office of the
34 Town Clerk and be made available for public inspection at any reasonable time. A
35 third copy of the ordinance and all amendments thereto shall be kept on file with
36 the Planning and Code Enforcement Department. The fact that a building,
37 structure, site, area or object has been designated a building, structure, site, area or
38 object has been designated a landmark shall be clearly indicated on all tax maps
39 maintained by Dare County for such period as the designation remains in effect.

40
41 (g) Upon the adoption of the landmark ordinance or any amendments thereto, it is
42 the duty of the Commission to give notice thereof to the tax supervisor of Dare
43 County. The tax supervisor in appraising it for tax purposes shall consider the
44 designation and any recorded restrictions upon the property limiting its use for
45 preservation purposes.

1 **Sec. 17-4. Certificate of Appropriateness**

2
3 (1) Definition. For the purpose of this section, the following definition shall apply unless
4 the context clearly indicates or requires a different meaning:

5
6 **EXTERIOR FEATURES.** Includes the architectural style, general design, and
7 general arrangement of the exterior of a building or other structure, including the
8 kind and texture of the building material, the size and scale of the building, and the
9 type and style of all windows, doors, light fixtures, signs and other appurtenant
10 features. **EXTERIOR FEATURES** also includes historic signs and significant
11 landscape, archaeological and natural features of the area. In the case of outdoor
12 advertising signs, **EXTERIOR FEATURES** shall be construed to mean the style,
13 material, size and location of all such signs.

14
15 (2) Certificate of Appropriateness required.

16
17 (a) From and after the designation of a landmark, no exterior portion of any
18 building or other structure (including masonry walls, fences, light fixtures, steps
19 and pavement, or other appurtenant features), nor any above-ground utility
20 structure nor any type of outdoor advertising sign shall be erected, altered,
21 restored, moved or demolished on such landmark until after an application for
22 a Certificate of Appropriateness as to exterior features has been submitted to
23 and approved by the Commission. Such a certificate is required to be issued by
24 the Commission prior to the issuance of a building permit or other permit
25 granted for the purposes of construction, altering, moving, or demolishing
26 structures, which certificate may be issued subject to reasonable conditions
27 necessary to carry out the purposes of this subchapter. A Certificate of
28 Appropriateness shall be required whether or not a building or other permit is
29 required.

30
31 (b) The State of North Carolina (including its agencies, political subdivisions and
32 instrumentalities), the Town, and all public utilities shall be required to obtain
33 a Certificate of Appropriateness for construction, alteration, moving or
34 demolition of designated landmarks.

35
36 (3) Application for Certificate of Appropriateness.

37
38 (a) Applications for a Certificate of Appropriateness shall be obtained from the
39 Planning and Code Enforcement Department and when completed, filed with the
40 Zoning Administrator. The application shall be filed two weeks prior to the next
41 regularly scheduled meeting of the Commission. Each application shall be
42 accompanied by sketches, drawings, photographs, specifications, descriptions and
43 other information of sufficient detail to clearly show the proposed exterior
44 alterations, additions, changes or new construction. The names and mailing
45 addresses of property owners filing and/or subject to the application and the
46 addresses of the property within 100 feet on all sides of the property that is the

1 subject of the application must also be filed. No application that does not include
2 the aforementioned information will be accepted.

3
4 (b) It shall be the policy of the Commission, in regard to applications involving new
5 construction or extensive alterations and/or additions to existing structures, that a
6 subcommittee of the Commission shall be available to meet with persons involved
7 in planned or pending applications in order to advise them informally at an early
8 stage in the development process concerning the Commission's guideline, the
9 nature of the area where the proposed project will take place, and other relevant
10 factors. The members of the subcommittee, collectively and individually, shall
11 refrain from any indication of approval or disapproval. Advice or opinions given
12 by a member of the subcommittee at such informal meeting shall not be considered
13 official or binding upon the Commission.

14
15 (4) Action on application. On behalf of the Commission, the Zoning Administrator shall
16 notify, by mail, not less than one week prior to the meeting at which the matter is to be
17 heard, the owners of the property within 100 feet on all sides of the subject
18 property. Application for a Certificate of Appropriateness shall be acted upon within 90
19 days after filing, otherwise the application shall be deemed approved and a certificate shall
20 be issued. An extension of time may be granted by mutual consent of the Commission and
21 the applicant. As part of the review procedures the Commission may view the premises
22 and seek advice, as it may deem necessary under the circumstances. The Commission may
23 hold a public hearing on any application when deemed necessary. The action on an
24 application shall be approval, approval with conditions or denial and the decision of the
25 Commission must be supported by specific findings of fact indicating the extent to which
26 the application is or is not congruous with each special character of the landmark.

27
28 (5) Hearing on application; jurisdiction; appeal.

29
30 (a) Prior to the issuance or denial of a Certificate of Appropriateness the applicant or
31 other property owner(s) likely to be materially affected by the application shall be
32 given an opportunity to be heard. All meetings of the Commission shall be open to
33 the public in accordance with the North Carolina Open Meetings Laws, G.S. Ch.
34 143, Art. 33C.

35
36 (b) The Commission shall have no jurisdiction over any interior design, arrangement,
37 or materials.

38
39 (c) In any action granting or denying a Certificate of Appropriateness, an appeal by an
40 aggrieved party may be taken to the Board of Adjustment. The Commission is an
41 aggrieved party with regard to any application approved by the Zoning
42 Administrator as minor works on the issue of whether the Zoning Administrator
43 had jurisdiction to approve the application.

44
45 (d) Absent a general rule by the Commission to the contrary, written notice of the intent
46 to appeal must be sent to the Commission and to the Board of Adjustment, post

1 marked within 30 days following the date of the decision is reduced to writing and
2 mailed to the applicant. Appeals shall be in the nature of certiorari. Appeals of
3 decisions of the Board of Adjustment shall be heard by the Superior Court of Dare
4 County.

- 5
6 (e) The State of North Carolina shall have a right of appeal to the North Carolina
7 Historical Commission, which shall render its decision with 30 days from the date
8 that the notice of appeal by the state is received by the Historical Commission. The
9 decision of the Historical Commission shall be final and binding upon both the state
10 and the Commission.

11
12 **Sec. 17-5. Administrative Approval of Minor Works**

13
14 (1) For the purpose of this section, the following definition shall apply unless the context
15 clearly indicates or requires a different meaning:

16
17 **MINOR WORKS.** Those exterior changes that do not involve substantial
18 alterations, additions or removals that could impair the integrity of the
19 property. **MINOR WORKS** shall be limited to those listed in the Commission's
20 "Design Guidelines".

21
22 (2) Notwithstanding Section 17-3, (4), upon receipt of a completed application the Zoning
23 Administrator may issue a Certificate of Appropriateness for a minor works.

24
25 (3) No application may be denied without formal action of the Commission. The Zoning
26 Administrator in his or her sole discretion may treat any proposed minor works application
27 as an application that must be heard by the Commission. If the Zoning Administrator
28 exercises such discretion or otherwise determines that an application for minor works
29 cannot be approved the application shall be treated as if it is a non-minor works application
30 for a certificate of appropriateness and shall be forwarded to the Commission for
31 consideration pursuant to Sec. 17-4. All minor works applications approved by the Zoning
32 Administrator shall be provided to the Commission at the next meeting of the Commission,
33 and the Commission may appeal such approvals to the Board of Adjustment for
34 consideration of whether the Zoning Administrator had jurisdiction to approve the
35 application.

36
37 **Sec. 17-6. Review Criteria**

38
39 (1) No Certificate of Appropriateness shall be granted unless the Commission finds that
40 the application complies with the principles and guidelines adopted by the Commission for
41 review changes. It is the intent of these regulations to insure insofar as possible that
42 construction, reconstruction, alteration, restoration, moving or demolition of buildings,
43 structures, appurtenant fixtures, outdoor advertising signs, or other significant features of
44 landmarks shall be congruous with the special character of the landmark.

1 (2) At a minimum, the Design Guidelines adopted by the Commission shall address the
2 following features or elements of design which shall be considered in reviewing
3 applications for Certificates of Appropriateness:

- 4
- 5 (a) Lot coverage;
- 6
- 7 (b) Setbacks;
- 8
- 9 (c) Building height;
- 10
- 11 (d) Spacing of buildings, defined as the distances between adjacent buildings;
- 12
- 13 (e) Proportion, shape, positioning, location, pattern, sizes and style of all elements
14 of fenestration and entry doors;
- 15
- 16 (f) Surface materials and textures;
- 17
- 18 (g) Roof shapes, forms and materials;
- 19
- 20 (h) Use of regional or local architectural traditions;
- 21
- 22 (i) General form and proportion of buildings and structures, and the relationship of
23 additions to the main structure;
- 24
- 25 (j) Expression of architectural detailing;
- 26
- 27 (k) Orientation of the building to the street;
- 28
- 29 (l) Scale, determined by the size of the units of construction and architectural
30 details in relation to the human scale and also by the relationship of the building,
31 as to adjoining open space and nearby buildings and structures; maintenance of
32 pedestrian scale;
- 33
- 34 (m) Proportion of width to height of the total building facade;
- 35
- 36 (n) Archaeological sites and resources associated with standing structures;
- 37
- 38 (o) Effect of trees and other landscape elements;
- 39
- 40 (p) Major landscaping which would impact archaeological sites;
- 41
- 42 (q) Style, material, size and location of all outdoor advertising signs;
- 43
- 44 (r) Appurtenant features and fixtures, such as lighting;
- 45
- 46 (s) Structural condition and soundness;

- 1
2 (t) Walls - Physical ingredients, such as brick, stone or wood walls, wrought iron
3 fences, evergreen landscape masses or combination of these;
4
5 (u) Ground cover or paving;
6
7 (v) Significant landscaping, archaeological and natural features.
8

9 (3) The Secretary of the Interior's "Standards for Rehabilitation and Guidelines for
10 Rehabilitating Historic Buildings" shall be the sole principles and guidelines used in
11 reviewing applications of the State of North Carolina for Certificates of Appropriateness.
12

13 (4) Color shall not be considered as a feature or element of design regulated under this
14 Chapter by either the principles and guidelines adopted by the Commission, or by the
15 Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating
16 Historic Buildings".
17

18 **Sec. 17-7. Certain Changes Not Prohibited**

19

20 Nothing in this Chapter shall be construed to prevent the ordinary maintenance or repair of
21 any exterior architectural feature of a landmark which does not involve a change in design,
22 material, or outer appearance thereof; the ordinary maintenance or repair of streets,
23 sidewalks, pavement markings, street signs or traffic signs; the construction,
24 reconstruction, alteration, restoration or demolition of any such features which the building
25 inspector shall certify is required by the public safety because of an unsafe or dangerous
26 condition. Nothing herein shall be construed to prevent either maintenance, or in the event
27 of an emergency, the immediate restoration of any existing above ground utility structure
28 without approval by the Commission.
29

30 **Sec. 17-8. Enforcement and Remedies**

31

32 (1) Compliance with the terms of the Certificate of Appropriateness shall be enforced by
33 the Zoning Administrator. Failure to comply with the certificate issued shall be a violation
34 of the Code of Ordinances and subject to established procedures and penalties for such
35 violations.
36

37 (2) In case a building, structure, site, area or object designated as a landmark is about to
38 be demolished, whether a result of deliberate neglect or otherwise, materially altered,
39 remodeled, removed or destroyed except in compliance with this Chapter, the Town
40 Council on its own accord or at the request of the Commission or other party aggrieved by
41 such action may institute any appropriate action or proceeding to prevent such unlawful
42 demolition, destruction, material alteration, remodeling or removal, to restrain, correct or
43 abate such violations, or to prevent any illegal act or conduct with respect to such a building
44 or structure. Such remedies shall be in addition to any other remedies available to the Town.
45

46 **Sec. 17-9. Delay in Demolition of Landmarks**

1
2 (1) An application for a Certificate of Appropriateness authorizing the demolition,
3 removal, or destruction of a designated landmark may not be denied except as provided in
4 subsection (3) below. However, the effective date of such a certificate may be delayed for
5 up to 365 days from the date of approval. The period of delay shall be reduced by the
6 Commission if it finds that the owner would suffer extreme hardship or be permanently
7 deprived of all beneficial use or return from such property by virtue of the delay. During
8 the delay period the Commission shall negotiate with the owner in an effort to find a means
9 of preserving the building, structure or site.

10
11 (a) If the Commission has voted to recommend the designation of a landmark, and
12 the final designation has not been made by the Town Council, the demolition
13 or destruction of any building, structure or site on the property of the designated
14 landmark may be delayed by the Commission for up to 180 days or until the
15 Town Council takes final action on the designation, whichever occurs first.

16
17 (2) The Town Council may enact an ordinance to prevent the demolition by neglect of any
18 designated landmark. Such ordinance shall provide appropriate safeguards to protect
19 property owners from undue hardship.

20
21 (3) An application for a Certificate of Appropriateness authorizing the demolition of a
22 building, structure or site determined by the State Historic Preservation Officer as having
23 statewide significance as defined in the criteria of the National Register of Historic Places
24 may be denied except where the Commission finds that the owner would suffer extreme
25 hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

26
27 **PART II. That Town Code Sec. 1-6 General penalty; enforcement of ordinances;**
28 **continuing violations.** be amended as follows:

29
30 ...
31 (d) Violations of the following provisions of this Code shall subject the offender to a civil
32 penalty upon the issuance of a citation for said violations as provided in this section. The
33 civil penalty, if not paid to the town treasurer within 15 days of the issuance of a citation,
34 may be recovered by the town in a civil action in the nature of debt. Unless otherwise
35 provided by a specific provision of this Code, such civil penalties shall be no more than
36 \$500.00 for each violation, and each day any single violation continues shall be a separate
37 violation. The provisions of this Code which shall subject the offender to a civil penalty
38 are as follows:

39
40 ...
41 (4) Chapters 6, 16, 17, 24, 30, all provisions.

42 ...
43
44 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
45 **Reasonableness.**

1 The Town's adoption of this ordinance amendment is consistent with the Town's adopted
2 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
3 is applicable. For all of the above-stated reasons and any additional reasons supporting the
4 Town's adoption of this ordinance amendment, the Town considers the adoption of this
5 ordinance amendment to be reasonable and in the public interest.

6
7 **ARTICLE V. Severability.**

8
9 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are
10 hereby repealed. Should a court of competent jurisdiction declare this ordinance
11 amendment or any part thereof to be invalid, such decision shall not affect the remaining
12 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
13 Town of Southern Shores, North Carolina which shall remain in full force and effect.

14
15 **ARTICLE VI. Effective Date.**

16
17 This ordinance amendment shall be in full force and effect from and after the ___ day of
18 _____, 2016.

19
20
21 _____
22 Mayor

23 ATTEST:

Date: x/x/2016

24
25 _____
26 Deputy Clerk

Vote: Ayes Naves

27
28
29
30 APPROVED AS TO FORM:

31
32
33 _____
34 Town Attorney

Part 3C. Historic Districts and Landmarks.

§ 160A-400.1. Legislative findings.

The historical heritage of our State is one of our most valued and important assets. The conservation and preservation of historic districts and landmarks stabilize and increase property values in their areas and strengthen the overall economy of the State. This Part authorizes cities and counties of the State within their respective zoning jurisdictions and by means of listing, regulation, and acquisition:

- (1) To safeguard the heritage of the city or county by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory; and
- (2) To promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the city or county and the State as a whole. (1989, c. 706, s. 2.)

§ 160A-400.5. Designation of landmarks; adoption of an ordinance; criteria for designation.

Upon complying with G.S. 160A-400.6, the governing board may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a historic landmark unless it is deemed and found by the preservation commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area, or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in this Part be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way. (1989, c. 706, s. 2.)

§ 160A-400.6. Required landmark designation procedures.

As a guide for the identification and evaluation of landmarks, the commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistorical, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History. No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by a preservation commission or the governing board of a municipality, until all of the following procedural steps have been taken:

- (1) The preservation commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines, not inconsistent with this Part, for altering, restoring, moving, or demolishing properties designated as landmarks.
- (2) The preservation commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Office of Archives and History, North Carolina Department of Natural and Cultural Resources.
- (3) The Department of Natural and Cultural Resources, acting through the State Historic Preservation Officer shall either upon request of the department or at the initiative of the preservation commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this Part. Any comments shall be provided in writing. If the Department does not submit its comments or recommendation in connection with any designation within 30 days following receipt by the Department of the investigation and report of the commission, the commission and any city or county governing board shall be relieved of any responsibility to consider such comments.
- (4) The preservation commission and the governing board shall hold a joint public hearing or separate public hearings on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C.
- (5) Following the joint public hearing or separate public hearings, the governing board may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- (6) Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the preservation commission in the office of the register of deeds of the county in which the landmark or landmarks are located. In the case of any landmark property lying within the zoning jurisdiction of a city, a second copy of the ordinance and all amendments thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the city or county building inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on

all tax maps maintained by the county or city for such period as the designation remains in effect.

- (7) Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the preservation commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes. (1989, c. 706, s. 2; 2002-159, s. 35(m); 2012-18, s. 1.24; 2015-241, s. 14.30(s).)

§ 160A-400.7. Historic Preservation Commission.

Before it may designate one or more landmarks or historic districts, a municipality shall establish or designate a historic preservation commission. The municipal governing board shall determine the number of the members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than four years. A majority of the members of such a commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. All the members shall reside within the territorial jurisdiction of the municipality as established pursuant to G.S. 160A-360. The commission may appoint advisory bodies and committees as appropriate.

In lieu of establishing a historic preservation commission, a municipality may designate as its historic preservation commission, (i) a separate historic districts commission or a separate historic landmarks commission established pursuant to this Part to deal only with historic districts or landmarks respectively, (ii) a planning board established pursuant to this Article, or (iii) a community appearance commission established pursuant to Part 7 of this Article. In order for a commission or board other than the preservation commission to be designated, at least three of its members shall have demonstrated special interest, experience, or education in history, architecture, or related fields. At the discretion of the municipality the ordinance may also provide that the preservation commission may exercise within a historic district any or all of the powers of a planning board or a community appearance commission.

A county and one or more cities in the county may establish or designate a joint preservation commission. If a joint commission is established or designated, the county and cities involved shall determine the residence requirements of members of the joint preservation commission. (1989, c. 706, s. 2; 2005-418, s. 12.)

§ 160A-400.8. Powers of the Historic Preservation Commission.

A preservation commission established pursuant to this Part may, within the zoning jurisdiction of the municipality:

- (1) Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance;
- (2) Recommend to the municipal governing board areas to be designated by ordinance as "Historic Districts"; and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks";
- (3) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;
- (4) Restore, preserve and operate historic properties;
- (5) Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause;
- (6) Conduct an educational program with respect to historic properties and districts within its jurisdiction;
- (7) Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission when authorized by the governing board may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law;
- (8) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof;
- (9) Prepare and recommend the official adoption of a preservation element as part of the municipality's comprehensive plan;
- (10) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Part; and
- (11) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate. (1989, c. 706, s. 2.)

§ 160A-400.9. Certificate of appropriateness required.

(a) From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such landmark or within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. The municipality shall require such a certificate to be issued by the commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Part. A certificate of appropriateness shall be required whether or not a building or other permit is required.

For purposes of this Part, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size, and location of all such signs. Such "exterior features" may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area.

Except as provided in (b) below, the commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district which would be incongruous with the special character of the landmark or district.

(b) Notwithstanding subsection (a) of this section, jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds of the county in which the property is located and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

(c) Prior to any action to enforce a landmark or historic district ordinance, the commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines not inconsistent with this Part for new construction, alterations, additions, moving and demolition. The ordinance may provide, subject to prior adoption by the preservation commission of detailed standards, for the review and approval by an administrative official of applications for a certificate of appropriateness or of minor works as defined by ordinance; provided, however, that no application for a certificate of appropriateness may be denied without formal action by the preservation commission.

Prior to issuance or denial of a certificate of appropriateness the commission shall take such steps as may be reasonably required in the ordinance and/or rules of procedure to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard. In cases where the commission deems it necessary, it may hold a public hearing concerning the application. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C.

(d) All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application for a certificate of appropriateness is filed, as defined by the ordinance or the commission's rules of procedure. As part of its review procedure, the commission may view the premises and seek the advice of the Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.

(e) An appeal may be taken to the Board of Adjustment from the commission's action in granting or denying any certificate, which appeals (i) may be taken by any aggrieved party, (ii) shall be taken within times prescribed by the preservation commission by general rule, and (iii) shall be in the nature of certiorari. Any appeal from the Board of Adjustment's decision in any such case shall be heard by the superior court of the county in which the municipality is located.

(f) All of the provisions of this Part are hereby made applicable to construction, alteration, moving and demolition by the State of North Carolina, its political subdivisions, agencies and instrumentalities, provided however they shall not apply to interiors of buildings or structures owned by the State of North Carolina. The State and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of a local preservation commission. The commission shall render its decision within 30 days from the date that the notice of appeal by the State is received by it. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the commission shall be final and binding upon both the State and the preservation commission. (1989, c. 706, s. 2.)

§ 105-278. Historic properties.

(a) Real property designated as a historic property by a local ordinance adopted pursuant to former G.S. 160A-399.4 or designated as a historic landmark by a local ordinance adopted pursuant to G.S. 160A-400.5 is designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Property so classified shall be taxed uniformly as a class in each local taxing unit on the basis of fifty percent (50%) of the true value of the property as determined pursuant to G.S. 105-285 and 105-286, or 105-287.

(b) The difference between the taxes due on the basis of fifty percent (50%) of the true value of the property and the taxes that would have been payable in the absence of the classification provided for in subsection (a) shall be a lien on the property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1F when the property loses the benefit of this classification as a result of a disqualifying event. A disqualifying event occurs when there is a change in an ordinance designating a historic property or a change in the property, other than by fire or other natural disaster, that causes the property's historical significance to be lost or substantially impaired. In addition to the provisions in G.S. 105-277.1F, no deferred taxes are due and all liens arising under this subsection are extinguished when the property's historical significance is lost or substantially impaired due to fire or other natural disaster. (1977, c. 869, s. 2; 1981, c. 501; 1989, c. 706, s. 3.1; 2005-435, s. 38; 2006-162, s. 28; 2008-35, s. 2.5; 2010-95, s. 17.)



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

PLANNING BOARD GENERAL APPLICATION FORM TOWN OF SOUTHERN SHORES, NC 27949

Date: 8/22/16 Filing Fee: \$300 Receipt No. 461160 Application No. C4A-16-C

NOTE: The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36, Article X Administration and Enforcement, Section 36-299.

Please check the applicable Chapter/Article:

- Chapter 30. Subdivisions-Town Code
- Chapter 36, Article VII. Schedule of District Regulations, Section 36-207 C-General Commercial District
- Chapter 36, Article IX. Planned Unit Development (PUD)
- Chapter 36, Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units *
- Chapter 36, Article X, Section 36-300-Application for Permit for Conditional Use
- Chapter 36, Article X, Section 36-303 Fees
- Chapter 36, Article X, Section 36-304-Vested Rights
- Chapter 36, Article XIV. Changes and Amendments

Certification and Standing: As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

Applicant

Name SOUTHERN SHORES CIVIC ASSOC.
Address: 5372 N VIRGINIA DARE TRAIL
SOUTHERN SHORES, NC 27949
Phone 252-261-8617 Email SSCA@obxbeach.net

Applicant's Representative (if any)

Name FRAN KAPINOS
Agent, Contractor, Other (Circle one)
Address 40 TENTH AVE
SOUTHERN SHORES, NC 27949
Phone 252-202-8467 Email fkapinos@aol.com

Property Involved: Southern Shores Martin's Point (Commercial only)

Address: 320 HILLCREST DR Zoning district Parcel # 020962000
Section _____ Block 62/12/82 Lot _____ Lot size (sq.ft.) 3.517 AC

Request: Site Plan Review Final Site Plan Review Conditional Use Permitted Use
 PUD (Planned Unit Development) Subdivision Ordinance Vested Right Variance

Change To: Zoning Map Zoning Ordinance

Frances M. Kapinos
Signature
Pres. of SSSCA Tennis Club

Aug. 22, 2016
Date

* Attach supporting documentation and twelve copies of the site plan.

COASTAL ENGINEERING & SURVEYING, INC.



INFO@COASTALES.COM



252-261-4151

4425 NORTH CROATAN
HIGHWAY, KITTY HAWK, NC
27949

TOWN OF SOUTHERN SHORES

Dear TOWN OF SOUTHERN SHORES,

We are applying for a conditional use permit for the Town of Southern Shores Civic Association in regards to the scope of Hillcrest tennis courts lighting.

Our purpose is to light the Southern Shores Civic Association's tennis courts adequately enough for safety, with a proposed 9pm cut off.

Our Intent is to install LED lights around the perimeter of the courts extending no more than 18' feet tall. As you will see by the site plans there is considerable vegetative buffer surrounding the court which will shield the lumens from the neighboring properties. The lights will be designed to keep any lumens off the adjoining properties regardless of the vegetative buffer.

Additional descriptive information is as follows:

- To the North and Northwest other areas of the Southern Shores Civil Association provide buffers to neighbors on the North.
- Properties to the East are six or more feet higher than the courts elevations
- There is a three-four foot bulkhead between courts and properties to the East.
- On the South, two acres of dense vegetation buffers the Southern neighbors.
- Hillcrest will also provide a natural buffer to the West neighbors due to the higher elevation of the road.
- The courts themselves are two foot lower than the street.

Sincerely,

Natalie D. Garrett, ASLA, Landscape Designer
COASTAL ENGINEERING & SURVEYING, INC.

ADJACENT PROPERTY OWNER INFORMATION:

SEA OATS TRAIL

LOT 1: 327 Sea Oats Tr.
John W Jr Chiles
Ruth L Chiles
Mailing Address:
298 Hillcrest Dr.
Southern Shores NC 27949

LOT 2: 325 Sea Oats Tr.
Barry C Smith
Theresa A Smith
Mailing Address:
10129 Johns Dr.
Damascus, MD 20872

LOT 3: 323 Sea Oats Tr.
James F Wagner
Kathryn J Wagner
Mailing Address:
323 Sea Oats Tr.
Kitty Hawk, NC 27949

LOT 4: 321 Sea Oats Tr.
Teddy C Porter
Mailing Address:
673 Kelso Dr.
Newport News, VA 23601

LOT 5: 319 Sea Oats Tr.
Robert G Landen, Trustees
Patricia K Landen
Mailing Address:
108 Edgewood Ln.
Williamsburg, VA 23185

LOT 6: 317 Sea Oats Tr.
John I Jr Hanly
Patrica B Hanly
Mailing Address:
5626 Signal Point Ct.
Burke, VA 22015

HILLCREST DRIVE

LOT 1: 314 Hillcrest Dr.
Karen L Moore
Glenn T Moore
Mailing Address:
7500 Cherry Tree Dr.
Fulton, MD 20759

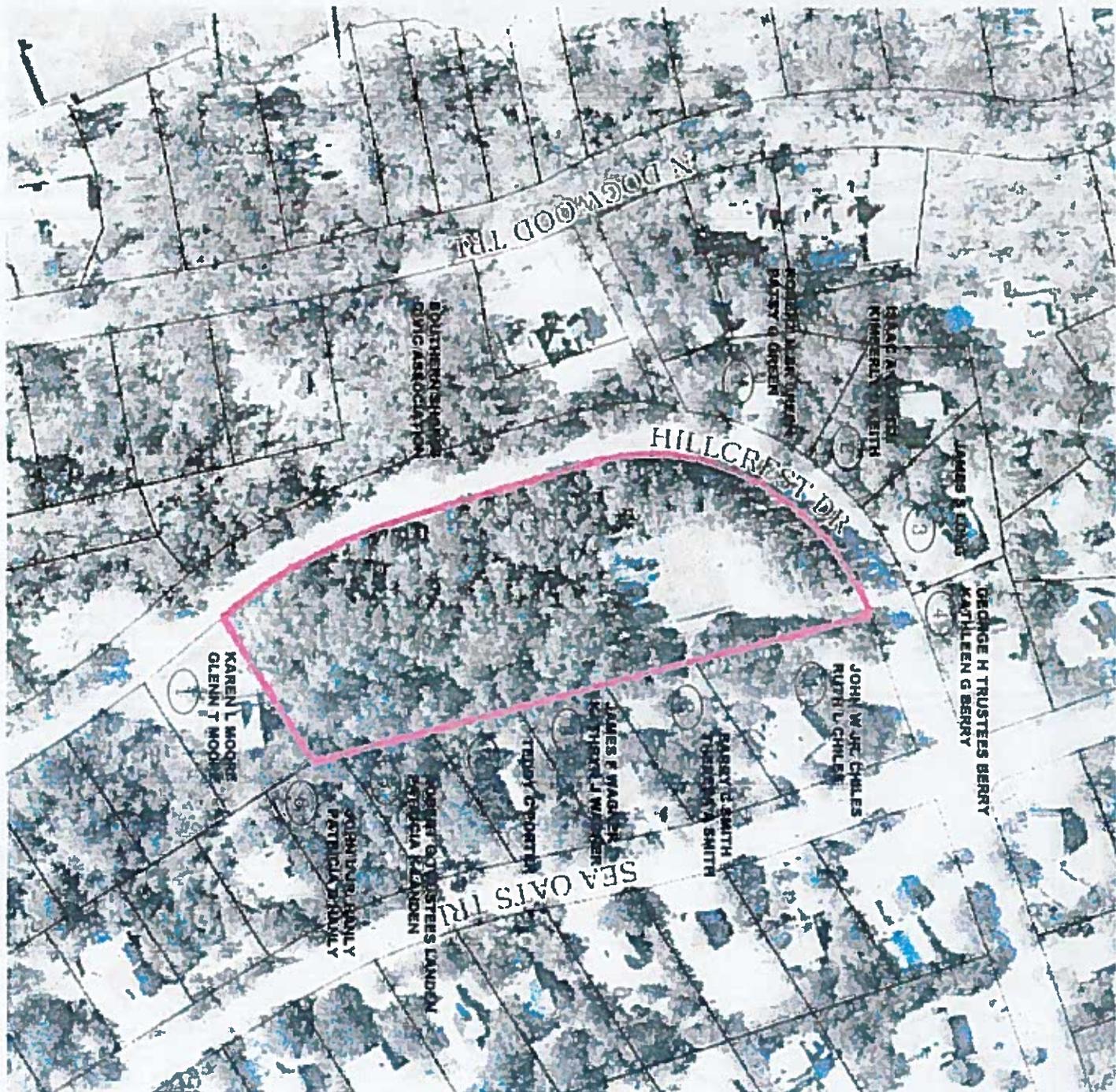
BLK 93: 315 Hillcrest Dr.
Southern Shores Civic Association Inc.
Mailing Address:
5377 Virginia Dare Tr. N
Kitty Hawk, NC 27949

LOT 1: 317 Hillcrest Dr.
Robert M Sr. Green
Patsy G Green
Mailing Address:
14920 Lampec St
Centerville, VA 20120

LOT 2: 319 Hillcrest Dr.
Isaac A Iv Keith
Kimberly D Keith
Mailing Address:
504 Old Fort Rd
Winchester, VA 22601

LOT 3: 321 Hillcrest Dr.
James S Long
Mailing Address:
511 San Vicente Blvd, Unit 207
Santa Monica, CA 90402

LOT 4: 323 Hillcrest Dr.
George H Berry, Trustees
Kathleen G Berry
Mailing Address:
239 N Dogwood Tr.
Southern Shores, NC, 27949



NOT TO SCALE

ANNUAL PLAN FOR
SOUTHERN SHORES CIVIC ASSOC.
 ATLANTIC TWP DARE COUNTY NORTH CAROLINA
3.5 ac. PARCEL, BLK 82A, SOUTHERN SHORES

REVISIONS		
NO	DATE	DESCRIPTION

Coastal
 ENGINEERING & SURVEYING, INC.
 116 W. 11th Street Rd.
 P.O. Box 1129
 Kitty Hawk, NC 28549
 (252) 26-4191
 Civil - Structural
 Site Development

Scale: 1" = 100'
 Date: 11/17/11
 Project No: 1107A.00

STAFF REPORT

To: Southern Shores Town Council
Date: September 27, 2016
Case: CUP-16-01
Prepared By: Wes Haskett, Town Planner/Code Enforcement Officer

GENERAL INFORMATION

Applicant: Southern Shores Civic Association
5377 N. Virginia Dare Trl.
Southern Shores, NC 27949

Representative: Fran Kapinos
40 Tenth Ave.
Southern Shores, NC 27949

Requested Action: Conditional Use Permit application to provide lighted tennis courts at 320 Hillcrest Drive.

PIN #: 986809164460
Location: 320 Hillcrest Dr.
Zoning: RS-1, Single-Family Residential District

Existing Land Use: "Recreational"

Surrounding Land Use & Zoning:

North- Residential; RS-1, Single-Family Residential District
South- Residential; RS-1, Single-Family Residential District
East- Residential; RS-1, Single-Family Residential District
West- Residential; RS-1, Single-Family Residential District

Physical Characteristics: Developed (existing tennis courts)

Applicable Regulations: Town Zoning Ordinance: Article III, Interpretation and Definition of Terms; Article IV, Application of Regulations; Article VI, General Provisions; Article VII, Schedule of District Regulations; Article X, Administration and Enforcement.

ANALYSIS

The applicant seeks a Conditional Use Permit to provide lighted tennis courts at 320 Hillcrest Drive. The tennis courts were originally approved through the issuance of a Conditional Use Permit on April 20, 2001 with the condition that the courts would not be lighted and made available for night play. Community recreation facilities, including tennis courts, and concessions integral thereto are permitted uses in the RS-1, Single-Family Residential District provided that a Conditional Use Permit is granted by the Town Council following a recommendation made by the Town Planning Board. In granting any Conditional Use Permit, the Town Council may prescribe appropriate conditions and safeguards in conformity with Article X, Administration and Enforcement. Before granting any Conditional Use Permit, the Town Council shall make affirmative findings that:

- a. The applicant has met the requirements of the applicable provisions of the Town Chapter pertaining to Zoning, Subdivision Chapter, and all other applicable Ordinances.
- b. That the use as proposed will conform with the Town's Land Use Plan, and will be compatible with the area in which it is to be located, if developed in accordance with the conditions specified in the Chapter and additionally required by the Town Council as authorized by the Chapter.
- c. That the use will not materially endanger the public health and safety if located where proposed and developed according to the plan submitted.
- d. That the use as proposed will not overburden the Town Volunteer Fire Department fire-fighting capabilities and the County water supply capacity to the Town, as said facilities and capabilities will exist on the completion date of the conditional use for which the application is made.

RECOMMENDATION

The Land Use Plan identifies this area as Recreational in the RS-1, Single-Family Residential zoning district which is consistent with the improvements proposed in the application. All applicable regulations of the Town Zoning Ordinance and all of Town Staff's concerns that are applicable to this application have been identified or are addressed in the recommended condition. The Town Planning Board unanimously (4-0) recommended approval of the application with the following condition for your consideration:

1. The applicant must strictly abide by all requirements of the Town's Outdoor Lighting Ordinance.

LED COURTBLADE (XARL)



DOE LIGHTING FACTS

Department of Energy has verified representative product test data and results in accordance with its Lighting Facts Program. Visit www.lightingfacts.com for specific catalog strings.

LIGHT OUTPUT - XARL

		Lumens (Nominal) Type FT	Watts (Nominal)
Cool White	HO	58917	528
Neutral White	HO	56960	528

LED Chips are frequently updated therefore values may increase.

1. Verified by ITL Report
ITL #6921 (Available upon request)
2. Verified by ITL Report
ITL #6920 (Available upon request)

US patent D726,947 7,828,456 8,002,428 8,177,386 8,434,893 8,567,983 and US & Int'l. patents pending

SMARTTEC™ - LSI drivers feature integral sensor which reduces drive current, when ambient temperatures exceed rated temperature.

ENERGY SAVING CONTROL OPTION - DIM - 0-10 volt dimming enabled with controls by others

EXPECTED LIFE - Minimum 60,000 hours to 100,000 hours depending upon the ambient temperature of the installation location. See LSI web site for specific guidance.

LEDS - Select high-brightness LEDs in Cool White (5000K), or Neutral White (4000K) color temperature, 70 CRI.

DISTRIBUTION/PERFORMANCE - High performance, multi-faceted, reflector provides uniform Forward Throw (FT) distribution with sharp backlight cutoff. Photometric data is tested in accordance with IESNA guidelines

HOUSING - One-piece, die-formed aluminum housing contains factory prewired driver in a gasketed, weather-resistant wiring compartment. Hinged wiring access door (with safety lanyard) located underneath. Fixture is IP65 rated.

OPTICAL UNIT - Clear tempered optical-grade flat glass lens permanently sealed to weather-tight aluminum optic frame (includes pressure-stabilizing breather).

MOUNTING - The fixture is furnished with installed stainless steel, threaded mounting studs protruding from the rear of the housing. Stainless steel nuts and washers used to secure the fixture to the bracket are also included

ELECTRICAL - Two-stage surge protection (including separate surge protection built into electronic driver) meets IEEE C62.41.2-2002, Location Category C. Available with universal voltage power supply 120-277VAC (50/60Hz input) and 347-480 VAC.

DRIVER - Available in HO (High Output) drive current. Components are fully encased in potting material for moisture resistance. Driver complies with FCC standards. Driver and key electronic components can be easily accessed.

OPERATING TEMPERATURE - -40°C to +50°C (-40°F to +122°F)

FINISH - Fixtures are finished with LSI's DuraGrip® polyester powder coat finishing process. The DuraGrip finish withstands extreme weather changes without cracking or peeling.

WARRANTY - LSI LED fixtures carry a limited 5-year warranty.

PHOTOMETRICS - Please visit our web site at www.lsi-industries.com for detailed photometric data.

SHIPPING WEIGHT (in carton) - 55 lbs / 24.9Kg

LISTING - UL listed to US and international safety standards. Suitable for wet locations.

This product, or selected versions of this product, meet the standards listed below. Please consult factory for your specific requirements.



Fixtures comply with ANSI C136.31-2010 American National Standard for Recreational Lighting Equipment - Luminaires (Recreation LSI requirements).



Project Name _____ Fixture Type _____
 Catalog # _____

07 28 16
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 LSI INDUSTRIES INC.

LED COURTBLADE (XARL)

LUMINAIRE ORDERING INFORMATION

TYPICAL ORDER EXAMPLE **XARL FT LED HO CW UE WHT**

Prefix	Distribution	Light Source	Drive Current	Color Temperature	Input Voltage	Finish	Options
XARL	FT - Fix. with Trim	LED	HO - High Output	CW - Cool White (5000K) NW - Neutral White (4000K)	UE - Universal Voltage (120-277V) 347-480 - Universal Voltage (347-480V)	BLK - Black BRZ - Bronze GPT - Graphite MSV - Metallic Silver	PLP - Platinum Plus GRN - Green WHT - White DIM - 0-10V Dimming (from External Supply)

Configuration	Single	2
—	1.2	2.4
—	1.8	3.6
—	2.4	4.8
—	3.0	6.0

Note: House Side Shields adds to fixture EPA. Consult Factory.

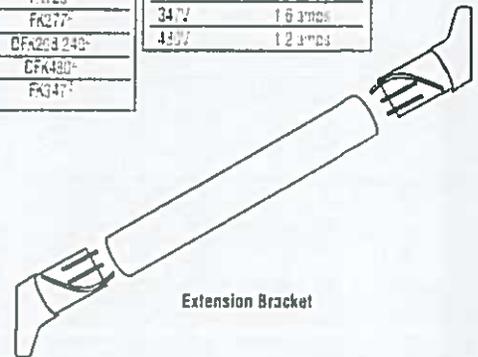
Description	Order Number
VLCL FT HSS RM - External House Side Shield (Black only - rear mounted)	610098BLK*
FK120 - Single Fusing (120V)	FK120*
FK277 - Single Fusing (277V)	FK277*
DFK208 240 - Double Fusing (208V 240V)	DFK208 240*
DFK480 - Double Fusing (480V)	DFK480*
FK347 - Single Fusing (347V)	FK347*

120V	4.8 amps
208V	2.6 amps
240V	2.3 amps
277V	2.0 amps
347V	1.6 amps
480V	1.2 amps

Bracket Designation	Bracket Type	Bracket Configuration	Length	Bracket Finish
BRKT - Extension Bracket ¹	BO - Bolt On	S - Single	39"	BLK - Black BRZ - Bronze GPT - Graphite MSV - Metallic Silver PLP - Platinum Plus GRN - Green WHT - White
BRKT - Pole Top Hub ^{1,5}	4ESF - External Splitter	S - Single D180 - Double D70 - Double D90 - Double Q90 - Quad Q70 - Quad		



Pole Top Hub

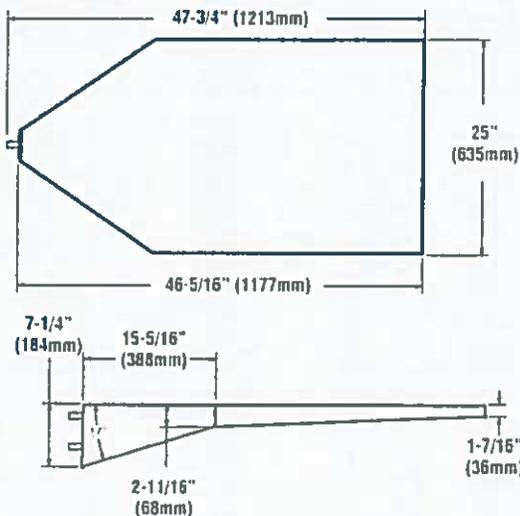


Extension Bracket

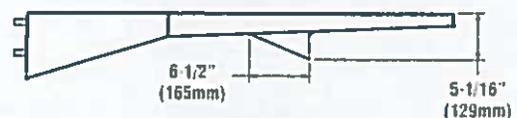
FOOTNOTES:

- House Side Shields add to fixture EPA. Consult factory.
- Fusing must be located in hand hole of pole.
- One extension bracket is required per fixture.
- Pole top hub will fit over 4" OD pole or 5" OD pole with 4" tenon.
- Cap is included with pole top hub.

DIMENSIONS



House Side Shields



Side View



Front View

Rear Mount (610098BLK)

BUG CHARTS

XARL- TYPE FT

Drive Current	Color Temp.*	Lumens	Watts	LER	BUG Rating
HO	CW	58,977	528	112	B5-U0-G4
	NW	56,960	528	108	B5-U0-G5

* Color Temperature: NW-4000K, CW-5000K



Project Name _____ Fixture Type _____
Catalog # _____

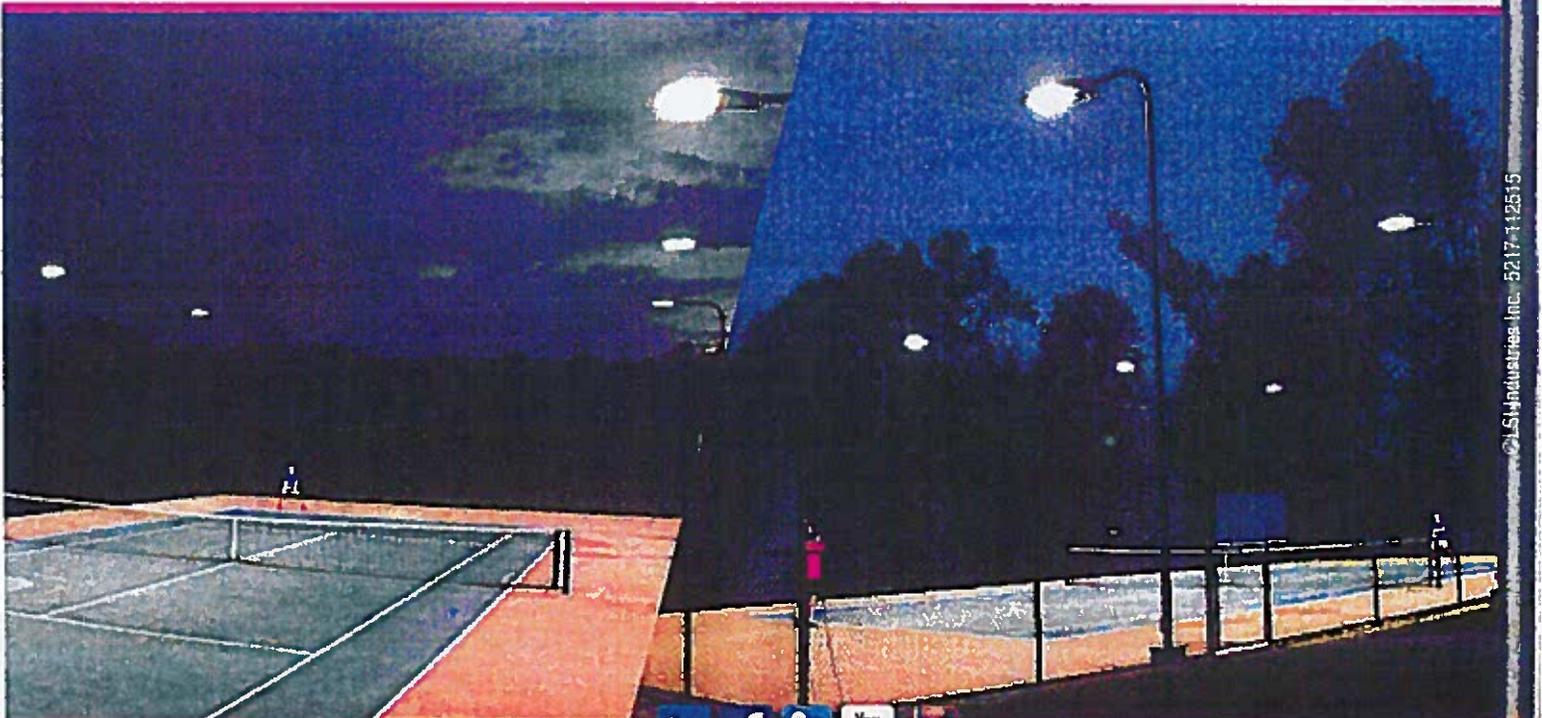
07.23.16
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LSI INDUSTRIES INC



LSI CourtBlade (XARL) LED Sports Lighting



- High Performance, Full Cutoff LED
- Aerodynamic, Low-Profile Shape
- 50% Energy Reduction vs. 1000W Metal Halide
- 60,000 - 100,000 Hr Expected Life
- Direct Retrofit Mounting of LSI Courtsider® and Aerosystem® fixtures
- Matching Poles & Brackets Available
- Lightweight for Easy Installation (55 lbs.)
- Strong Lumen Maintenance over fixture life
- Instant On and Dimmable
- 5-Year Warranty



Based on the high level of interest, staff recommends Council consider the following actions:

1. Authorize the Town Manager and the Town Attorney to develop a draft ordinance creating a Southern Shores Historic Landmarks Commission in accordance with North Carolina General Statute § 160A-400.7 for presentation at Council's October 4th meeting. In accordance with the North Carolina General Statutes and if created, the Commission would be charged with duties and responsibilities cited in the enabling legislation, including (1) adopting rules of procedure and guidelines for designating historic landmarks, (2) adopting guidelines for altering, restoring, moving or demolishing historic landmarks, (3) undertaking a formal inventory of historic properties to be forwarded to the North Carolina State Historic Preservation Office for its review and concurrence, and (4) proposing draft ordinances designating one or more of the properties in the inventory as historic landmarks. The draft ordinance shall also include the following requirements: (a) No property shall be designated a historic landmark except by application executed by all current record property owners; (b) No interior features of any structure shall be subject to regulation; (c) No colors of any exterior feature of a designated historic landmark shall be subject to regulation.
2. Schedule a Public Hearing for October 4th to receive public comment on the possible creation of a Historic Landmarks Commission by proposed ordinance.
3. In the event of establishment of a Historic Landmarks Designation Program, authorize a budget amendment for the current fiscal year of \$5,000 for the Town Planning Department, for the purpose of covering any costs of initial program establishment, including costs of professional writing for development of historical and architectural assessments for Initial applications to be considered by the North Carolina State Historic Preservation Office for comment to the Southern Shores Town Council.

• A catalogue of historic landmarks designated by the Town of Kill Devil Hills may be viewed online at <http://www.kdhnc.com/DocumentCenter/View/7498>.



Town of Southern Shores

"A Town of Volunteers"

6 Skyline Road, Southern Shores, NC 27949

Telephone: (252) 261-2394 Fax: (252) 261-0452

Web Site: southernshores.org

E-mail: info@southernshores.org

Public Hearing

April 20, 2001

9:00 a.m.-Pitts Center

Mayor Sutherland called the public hearing to order at 9:00 a.m. He explained that the hearing is to consider a conditional use permit application from the Southern Shores Civic Association (SSCA) regarding the construction of two (2) tennis courts located at the Hillcrest Drive common area.

All Council members present.

Mayor Sutherland announced that anyone wishing to testify needs to sign in and be sworn in that this will be a quasi-judicial hearing for a conditional use.

Mayor Sutherland led the Pledge of Allegiance.

Mayor Sutherland announced that five emails were received on this subject and they have been distributed to Council but that they cannot be considered at this hearing.

Tom White, Town Attorney, stated that the nature of a conditional use application sets Council as a quasi-judicial body. In accordance with the Town's zoning ordinance issues that Council needs to consider for a determination of the application are do applicant's plans meet the zoning ordinance and Council may attach applicable conditions if they approve the request. He stated that location is not an issue and only what the ordinance addresses are what may be addressed today. He stated that this Board has no authority on the finances, location, or architectural design.

He stated that the applicant has the right to cross-examine witnesses on crucial facts on what meets the standards of the zoning ordinance. That this is not an arena for public debate. All comments will be directed to Council.

Mayor Sutherland reviewed the past history on the tennis courts process. He stated that the site plan was presented to the Planning Board in February and that they recommended to Council that the plan be approved. Council reviewed the site plan at their March Council meeting. At that time it was told to Council that property owners were notified of the tennis courts.

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SSCA-Tennis Courts
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Council approved the site plan with the condition that the courts would not have lighting. At that time Council voted not to hold a public hearing on the issue.

Mayor Sutherland explained that it was later learned that all the property owners were not notified and at the April Council meeting Council rescinded the approval of the conditional use for tennis courts.

Mayor Sutherland called the conditional use hearing to order at 9:08 a.m. to consider the application by the SSCA for the construction of two tennis courts at the common area on Hillcrest Drive.

Mayor Sutherland asked that everyone who signed up to speak come forward and be sworn in. He explained that they would need to come to the microphone and state their name before speaking. The Town Clerk swore in all of those on the list as a group. (See list).

After being sworn in by the Town Clerk, Dan Shields, Planning Board Chairman, presented the recap from the Planning Board meeting held on March 19 regarding the review of the submitted SSCA conditional use application for tennis courts.

D. Shields stated that in the application the SSCA stated that there are twelve (12) property owners impacted by the application. It was stated that the SSCA talked personally to John Childs who had no objection to the courts.

The Town Clerk swore in Paul Kapinos, Chairman of the SSCA ARB.

Ursula Zdziarski, Acting President of the SSCA (previously sworn in) presented the background of the location as a common area and the how/why of the application for the proposed unlit tennis courts. She stated that there are five reasons that the location at Hillcrest was selected over the site at the Sea Oats Park. Summarized: 1) offers best protection from the wind and gives shelter from the sun, 2) existing vegetation provides for a good visual and sound buffer, 3) only about 1/4 of the property will be cleared for the courts, the remaining lot will remain in its natural state, 4) fewer surrounding properties with a view of the courts and the courts will be at a lower elevation impacting less adjacent property owners, and 5) if the courts were placed at the Sea Oats park the soccer play area would need to be eliminated and the area to the south was designated a quiet area. (See Attached)

Councilman Smith asked why only one out twelve adjacent property owners were notified. U. Zdziarski stated that it is not true that the eleven others were not contacted.

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She stated that Paul Kapinos could tell you who were contacted. She stated that information regarding the tennis courts has been disseminated through the SSCA newsletters and the SSCA meetings.

Councilman Smith asked for the record if the testimony that D. Shields gave is inaccurate? U. Zdziarski said the minutes as recorded might not reflect what was actually said.

Paul Kapinos presented a slide of the proposed tennis courts site plan and made comment on who would be impacted (7 adjacent property owners) and who would not by the location. Also he stated that he talked personally to John Chiles and Karen LeBlanc, property owners on Hillcrest Drive.

Mayor Sutherland stated there is nothing in the Town ordinance that mandates property owners to be notified of construction projects for conditional uses.

Councilman Smith read a portion of the November SSCA newsletter regarding the tennis courts stating that notification was given to property owners. He objects that the SSCA was untruthful to the membership.

Mayor Sutherland stated that the public hearing today is to consider the submitted site plan to determine if it meets the Town's zoning requirements.

Tom White commented that at conditional use application hearings many statements are made but that Council cannot consider these when making their decision. It is irrelevant and a waste of time and if there should be a court case it could be detrimental. He stated that in accordance with the Zoning Ordinance Section 10.05(e) Council should consider three findings of facts; 1) does the submitted application meet the requirements of the zoning ordinance 2) does the submitted application meet the general conformity of the Town's Land Use Plan and 3) is the submitted application compatible with the area it is located in accordance with the zoning ordinance?

Councilman Campbell stated that everything heard so far today should be dismissed since it is irrelevant according to the zoning ordinance.

P. Kapinos presented the specifics of the submitted site plan. He stated that the setting, location and safety of the courts were all considered. He stated that the property is $\frac{3}{4}$ of an acre and only 22% would be used for the courts. There would be a porta-john with a screened buffer, trash containers and a rollaway trash container on site. He stated that the courts are to be unlit and that should be included in the conditional use approval if Council approves.

He stated that safety is a factor and that additional trees can be removed for the vehicle line of sight if needed. He stated that a number of signs would be posted. He personally clocked traffic on two different occasions. The average speed of vehicles there is 33 mph.

T. White referred to and read Section 7.04 R-1 Low Density D of the Town Zoning Ordinance and asked P. Kapinos can you give testimony from your knowledge and the site plan that the dimensional requirements meets the zoning ordinance requirements of Section 7.04 R-1 D as read by T. White. P. Kapinos stated that the submitted site plan does meet all the requirements. T. White stated that it is appropriate that anyone who testifies on the project can be cross-examined by the applicant as well as the Council.

Councilman Smith asked if a traffic study is a part of this? T. White explained that the Zoning Ordinance does not include a traffic study as part of the application at this time and he recommends that this be included as a condition on future projects in the zoning ordinance. He stated that the zoning ordinance does have such standards for Planned Unit Developments and these should be included for all zones.

Councilman Smith stated that he is very concerned about the traffic safety issue and your saying it has no bearing on Council's decision? T. White said that is correct. Councilman Smith asked how could Council rescind the approval of the site plan if issues like this can't be addressed? If someone gets in an accident due to the location of the access to the tennis courts and no traffic study was done and the Town is taken to court how will that look? T. White stated that the Town does not require a traffic study. T. White stated that the concerns for safety need to be addressed in the zoning ordinance and adopted through the legislative process. Councilman Smith stated that residents thought they could come to the public hearing today and address their concerns on traffic safety and environment and then found out the issues would not be addressed. He stated that most residents are not against the tennis courts but that the proposed location is a very poor location.

Councilman Kennedy stated that these issues should be discussed in legislative session not in the hearing portion of this deliberation and he would like to move on with the public hearing.

Mayor Sutherland stated that the purpose of holding today's public hearing is that Council elected to not hold the public hearing on this issue due to the information that they received from the SSCA and then later found that they were misinformed.

Councilman Campbell asked the applicant if they are planning any commercial activity at that location? P. Kapinos said they are not.

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Mayor Sutherland asked if there is anyone wishing to testify for the applicant or anyone wishing to present factual evidence as to why the applicant's request does not meet the standards of the zoning ordinance? No one came forward.

Mayor Sutherland asked again if there is anyone wishing to speak on the evidence that the request does not meet the standards of the zoning ordinance?

Jennifer Frost of 43 Fairway Drive addressed Council by asking that they hold the SSCA responsible that no other uses be allowed on the proposed Hillcrest site. She stated that the access is unsuitable and that a traffic light may be needed or a traffic guard. She stated that this is known as an "attractive nuisance" and she recuses herself as a resident from any liability if approved. She pledged \$100 in her support that the SSCA select another location.

Mayor Sutherland asked again for anyone wishing to speak?

Ralph Ambrose of 298 Hillcrest Drive and member on the SSCA Board asked if the safety factor is not a part of the zoning ordinance? T. White stated that there are standards in the zoning ordinance for parking requirements addressing the safety factor.

R. Ambrose stated that in his opinion since Council approved this once and it meets the zoning ordinance requirements he recommends that Council reconsider and reissue the conditional use of the tennis courts. He stated that if this property was privately owned and zoned residential and had a house of 6-7 bedrooms would there be any more of a safety problem with 6 or 7 cars going in and out perhaps 18-20 weeks a year? He doesn't think so. The traffic impact of the tennis courts would be less than a residential house.

T. White stated that the applicant has the right to cross-examine or rebut any evidence that has been given.

U. Zdziarski stated that Town Council has the right to impose additional restrictions and the SSCA would like to make sure in Council's deliberation if you chose to approve this that it be specified that no lights be placed at the site as part of the approval.

Councilman Denny asked of the adjoining property owners, are all members of the SSCA? U. Zdziarski stated that two are not members.

T. White asked Dan Shields the same questions as of P. Kapinos in reference to the specific zoning requirements for the tennis courts? T. White continued by asking D. Shields if the Planning Board had reviewed the site plan against these requirements Sections 6.01 C 2, 6.04, 7.04 R-1D and 10.04 B 2) and made a determination that all these requirements were met by the site plan?

D. Shields stated that he was not in attendance or the chairman at the time this was voted on but that he was a member of the Board and when it was reviewed it was discussed a number of times and to the best of his knowledge it meet all the features of the requirements. T. White asked now that you're a member and chairman and having access to the records are you satisfied that the review was made against the requirements and that the plan did meet the requirements? D. Shields stated that there are no specific parking requirements for tennis courts but that the application meets the zoning parking requirements. T. White addressed section 6.04 outdoor lighting? D. Shields stated that the proposed tennis courts do not include lighting. T. White addressed section 6.03 Signage? D. Shields stated that was not discussed. T. White addressed section 10.05 B Conditions? D. Shields stated that the only condition that was discussed is that there would be no lighting at the courts.

Mayor Sutherland asked for anyone else wishing to speak?

Tim Rardin of 22 Ocean View Loop presented Council with a letter that gives the time line for this project. He stated that if Council delays in their action it will cost 6-7 weeks of delay for the construction of the tennis courts and he hopes Council will consider this quickly.

Jim Conners of 83 Duck Woods Drive a member of the SSCA and involved in the planning of the tennis courts asked to speak. He came in late in the meeting, at which time the Town Clerk swore him in. He stated that parking was discussed with Mike Hejduk, Code Enforcement Administrator, since there were no specific requirements for tennis courts. He stated that if parking proves to be inadequate it can be amended and that nothing is planned for further use of the property but there can be additional parking.

Bonnie Wolf of 6 Birch Lane and a member of the SSCA stated that she is not against the tennis courts but she is concerned about the change in location from the Sea Oats Park to Hillcrest. She stated that the better location is at Sea Oats Park. She asks that Council consider the impact for all the homeowners not just the ones near the site.

T. White explained the conditional use process again.

U. Zdziarski stated that all twelve-property owners were notified by mail at the end of March with a copy of the site plan.

T. White stated that the Town Zoning Ordinance does not require individual notification of surrounding property owners at this time it only requires that in the event of a public hearing that notification be placed in the newspaper and that the property be posted.

He stated that Council is considering an amendment to the zoning ordinance that would require all applicants of conditional use permits to certify a list of surrounding property owners and that the Town will then undertake to notify those property owners. This has not been adopted yet. It is a legislative process and the Planning Board is considering this.

Bonnie Wolf asked if any comments were received from the twelve property owners when notified? T. White stated that comments, letters, or emails can not be considered since they are not present. B. Wolf stated that not being required to do something doesn't mean that the right thing shouldn't be done. She asked if the comments received is not being allowed to be read to the public? T. White stated that they could not be considered in this decision because they are not here in person and cannot be cross-examined. Mayor Sutherland stated that each Council member received copies of the comments.

Councilman Campbell stated that people would have the opportunity today to hear the testimony for the conditional use application.

Teresa Stanley of 250 Sea Oats Trail stated that a great deal of effort has been set forth to being a good neighbor by the SSCA and that she applauds the SSCA, the ad hoc committee and the Town. She is proud in the way the project has been handled and she hopes Council will come to a quick resolution.

Dorthea Brick of 8 Ginguite Woods stated that she is concerned about the traffic situation but that it can be overcome by installing stop signs or traffic lights. She stated that she is an avid and the oldest tennis player in captivity and hopes this goes through.

Maureen Schorzman of 255 Hillcrest Drive stated that she is concerned about the tennis courts being a quasi-business in that money would be exchanged for the use in a residential area? U. Zdziarski stated that no profit would be made.

Mayor Sutherland closed the public hearing on the conditional use application site plan for the Hillcrest tennis courts proposed by the Southern Shores Civic Association (SSCA).

A member of the audience asked if she could speak. Mayor Sutherland stated that many times he had asked if anyone else wished to speak. He reopened the public hearing.

Lucille McGrath of 318 Sea Oats Trail stated that she is a member of the SSCA and she is not against the tennis courts but she is concerned about the traffic, the environment and the noise. She asked if she could speak on these issues? Mayor Sutherland stated that she could speak on anything but none of those issues would be considered when Council deliberates. He stated that if you have testimony that is at odds with the zoning ordinance then Council could consider.

T. White stated that when you talk about noise category the Town has a nuisance ordinance. If any activity creates too much noise and the ordinance is violated the Town can take action to abate that nuisance. A projection that there may be noise is not sufficient in showing that it will be a nuisance. It is not an issue because tennis courts are allowed in the zoning district. Those kinds of comments are generally for legislative actions on what uses are allowed in a zoning district.

T. White stated that if there is anyone in the audience that has concerns regarding inappropriate uses in zoning districts they should bring them to the Town's attention. The zoning ordinance was written some 20 years ago. He stated that certain conditions in the zoning ordinance requiring e.g. traffic study for projects should be reviewed to see if it would need to be included as part of the zoning ordinance. The zoning ordinance is an ordinance, which is not always static. Projects come up that point out changes that are needed in the zoning ordinance. Once the changes are adopted then they would be considered.

L. McGrath asked if the conditional use permit could have a condition that no other projects be included at the site? T. White stated that if any changes to the property were needed the SSCA would need to go before the Planning Board and Council again to see that the zoning requirements are met for any changes.

Councilman Smith stated that if the SSCA presented a letter stating that they are going to develop only 13% of the property but then wished to come back and put in a swimming pool they could. T. White stated that the whole process would need to go before the Planning Board and Council and if additional standards were adopted they would have to be met before being approved.

U. Zdziarski stated that the SSCA Board couldn't speak for future boards.

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Jennifer Frost stated that it befits the Council to put a condition on the tennis courts that there shall be no further development on that property. T. White stated Council has no authority to do that.

Laura Strickland of 21 Widgeon Court, an avid tennis player, thanked Council for allowing everyone to speak and she approves of the site.

Mayor Sutherland asked if there was anyone else wishing to speak, hearing no one he closed the public hearing at 10:47 a.m.

Councilman Denny made a motion that whereas the Town Council of the Town of Southern Shores having found a) that the site plan for the tennis courts at the Hillcrest site as submitted by the Southern Shores Civic Association (SSCA) meets the requirements of the Town's zoning ordinance, b) that it is in keeping with the Town's Land Use Plan, c) that it fits within the intended use of the property envisaged by the developer and who subsequently deeded the property to the SSCA therefore be it resolved that the site plan for the Hillcrest tennis courts as submitted by the SSCA and as recommended by the Town Planning Board, without change, be approved subject to the provision that the courts will not be lighted and made available for night play. T. White recommended to include in the motion that the proposed use will be compatible with the area in which it is to be located and is developed under the conditions specified by the zoning ordinance. Councilman Denny agreed to this but stated that he thought he had covered that within the motion.

Councilman Kennedy seconded.

Councilman Smith read the portion of the zoning ordinance Article I. Title, Enactment and Purpose Section 1.01 that states in part that an ordinance in accordance to General Statutes is for the purpose of promoting public health, safety, morals and general welfare. He stated that he is still concerned about the lack of a traffic study.

Councilman Smith stated he supports the tennis courts being constructed at the Sea Oats Park. He is concerned about the potential for traffic accidents at the proposed location. He stated that a traffic study should be done and should be done during the summer months as protection for the Town.

Councilman Kennedy stated that he doesn't see that there is a traffic concern at the site and that there are other areas in Town that are more of a concern. He doesn't believe the turnover of activity there is going to be too much. He supports the conditional use request.

Mayor Sutherland stated that he also doesn't have any traffic concerns for that location.

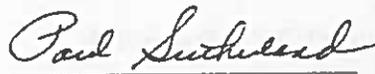
Mayor Sutherland called for the vote. Approved 4 to 1. Councilman Smith voting no.

Mayor Sutherland stated that if the public hearing were held in the beginning then we would have been there. He stated that it is never a good idea not to hold a public hearing, people should have their say. He stated that Council has been made aware that there are deficiencies in the Town's current zoning ordinance, which we will try to correct. He stated that the first recommendation would be that a public hearing would be required for any conditional use request. He also stated that notification of advertisement for a public hearing should be changed from 15 days to 10 days. He stated that the zoning ordinance does not require notification to anybody that is impacted by a conditional use application and he recommends that the Town take the responsibility of notification of the conditional use public hearings. He stated that he thinks Council has learned from this and that safety consideration should be a part of the zoning ordinance in the future.

Mayor Sutherland apologized for the delay of this project by not having the public hearing earlier and he stated that the Town appreciates all that the SSCA does for the Town.

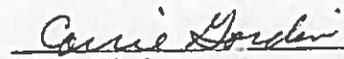
Mayor Sutherland made a motion to adjourn the public hearing at 10:55 a.m. Councilman Campbell seconded. Approved unanimously.

Attest:



Mayor

Respectfully submitted:



Town Clerk



Notice is hereby given that the Town of Southern Shores will conduct a Public Hearing on April 20, 2001 at 9:00 a.m. in the Pits Center.

The purpose of the Public Hearing is to review a request from the Southern Shores Civic Association for a conditional use for two (2) tennis courts located at Hillcrest Drive west of Sea Oats Trail in the Common Area zoned RS-1. A copy of the site plan is on file at Town Hall during regular working hours.

The public is encouraged to attend the Public Hearing. Any person wishing to be heard on the request should appear at the time and place above specified.

Submitted by:
Carrie Gordin
Town Clerk

4-5,12c

NORTH CAROLINA
DARE COUNTY.

AFFIDAVIT OF PUBLICATION

Before the undersigned, a Notary Public of said County and State, duly commissioned, qualified, and authorized by law to administer oaths, personally appeared

Susan M. Simpson, treasurer.....

....., who being first duly sworn, deposes and says: that he (she) is of The Times Printing Co., Inc., engaged in the publication of a newspaper known as THE COASTLAND TIMES, published, issued, and entered as second class mail in the Town of Manteo, in said County and State; that he is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a true copy of which is attached hereto, was published in THE COASTLAND TIMES on the following dates:

April 5, 12, 2001.....

..... and that the said newspaper in which said notice, paper, document, or legal advertisement was published was, at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Sections 1-596 and 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

This 28th day of May....., 2001

Sworn to and subscribed to before me, this 28th

day of May....., 2001

Patricia A. McCleary
Notary Public

My Commission expires: Aug. 17, 2005.....



TOWN OF SOUTHERN SHORES

Sign in for Public Hearing : Tennis Courts/Hillcrest

Date: 4/20/01 9AM

CONDITIONAL USE PUBLIC HEARING SSCA SITE PLAN - HILLCREST TENNIS COURTS

The Town Council will sit as a quasi-judicial body for this hearing today. You should understand the following as you sign-up to testify:

- The hearing is to consider a conditional use approval for the site plan for tennis courts at the SSCA Hillcrest Property.
- It is not appropriate to discuss alternate sites as the only item being considered is the site plan under consideration.
- Testimony should be as brief as possible and no more than 5 minutes.
- All testifying will be sworn.
- Questions from the floor are not appropriate or permitted.

NAME	ADDRESS
Site CHARLIE NEIDER ^{appeals to be removed}	19 KINGFISHER TRAIL
Barbara Wrothen Breich	#8 Langwin Wood
Marianne Schroeder	255 Hillcrest Dr.
Bonnie "Wolf" Holt	6 Birch Lane.
Waille McGrath	718 Sea Oats Trail
MICHAEL ZONA	31 10 th Ave West
GEORGE McGILLEN	8 CIRCLE DRIVE
Laura Studdland	27 Wadwin Court
Jennifer Frost	43 Fairway
Teresa Stanley	
Karel Ambrose	SSCA Board
Ann Davidson	SSCA Board
Tim Rardin	SSCA

PUBLIC HEARING ON TENNIS COURT CONSTRUCTION

April 20, 2001

The public hearing today is in response to a request by the Southern Shores Civic Assoc. to build 2 unlit tennis courts at the SSCA Hillcrest summit common area southwest of the intersection of Sea Oats Trail and Hillcrest Drive. (Indicate area in question on the Town map; displayed)

The SSCA's standing as applicant is based on its ownership of the property in question, as evidenced by a legal agreement dated October 5, 1976, between Kitty Hawk Land Company and Southern Shores Civic Assoc, Inc., in which the Kitty Hawk Land Company conveyed its right, title and interest in this parcel, among others, to the SSCA. The parcel was granted and conveyed to the Association to be held by it as a scenic overlook park and other uses incidental thereto.

Further, this parcel is zoned ^{Town} RS1, Single Family Residential. Zoning Ordinance Article VII, Section 7.01 C lists community recreation facilities, including tennis courts, as being among the permitted conditional uses in an RS1 district, ^{and, in fact, tennis cts have been previously approved as conditional use 1-2 Chickahom} ~~As indicated by the Planning Board Chairman,~~ ^{As the Planning Board has reported in its recommendation for approval,} the SSCA has met all the conditional use permit application requirements. Town Council may also impose additional regulations and requirements as provided in Article X of the ordinances.

As Mayor Sutherland has indicated, this hearing is for the purpose of approval of a site plan for the Hillcrest property, as presented to the Town Council. The questions of whether or not the courts should be built, whether the optimal site was chosen, or whether the appropriate amount of money is being expended, are Civic Association decisions, and the Town Council has no responsibilities in these matters. Having said this, however, it is nevertheless true that these issues have been brought up several times at Council meetings, and statements have been made, ^{on these issues} some of which were inaccurate. In view of this, and because some of those present in the audience today may not have read all the information in their SSCA newsletters, or may not be SSCA members, I would ask the Councils' indulgence for a brief summary of the ~~background~~ ^{criteria used to decide on the site} of the tennis court project.

The beginning of the project was ^{Early in the year 2000} --- At a membership meeting a member raised the question of building tennis courts. President Connors suggested the member generate a petition on the question to assess whether there was enough interest in tennis courts to pursue further discussion. A petition was subsequently prepared and circulated within a limited area (~~it was~~ ^{it was not, and was} by no means intended to be a comprehensive town-wide survey).

^{That} May, 2000 --- ~~The~~ petition, with 124 residents' signatures, was presented to the Board at the May 11 membership meeting.

Within a week, an Ad Hoc committee was formed, including two SSCA Board members and three SSCA members with an interest in tennis. They were asked to research the costs to build and maintain courts, where they could be located, and how they would be managed.

^{That} Late June, 2000 --- Ad Hoc Committee report was completed and presented to the Board. Six properties were evaluated for suitability and construction costs: Hillcrest Oceanfront, Soundside Beach, Hickory/Hillcrest Triangle, Duck Woods Drive, Sea Oats Park (both soccer area and

for final review

wooded area), and Hillcrest summit. The Sea Oats Park soccer area and Hillcrest summit were deemed to be the two best possible locations. (The Board had also investigated the possibility of using the Chichahauk courts or the old Duck Woods Country Club courts, but neither option was open to us.)

June/July, 2000 --- Information about the petition and the formation of the Ad Hoc Committee was presented in the SSCA Newsletter, along with a request for members to submit their thoughts or comments. The Ad Hoc Committee report was discussed at the July 10 membership meeting.

Aug/September, 2000 --- The Ad Hoc Committee report was presented in the newsletter and members were again asked for input via letter, e-mail, or phone. The newsletter also stated that if the courts were approved, construction would begin early in 2001. Tennis court issues were again discussed at the September 11 membership meeting.

2-12 The member comments that were received by mail, e-mail, and phone, although small in number, were about 2 to 1 in favor of constructing tennis courts.

Late September, 2000 --- Additional evaluation of the recommended sites was done, including a topographic survey of the Hillcrest summit area and site visits by several Board members. Based on all the above information, the Board met in special session on October 5 and voted to place the courts at the Hillcrest summit. The reasons for choosing this site over Sea Oats were:

1. It offers the best protection from the wind and, except at midday, gives shelter from the hot summer sun
2. The existing vegetation provides a good visual and sound barrier, and there is sufficient surrounding property to plant additional screening vegetation ^{where} needed
3. Only about 1/4 of the property will be ~~used~~ ^{cleared} for the courts, leaving the remainder in its natural state
4. Because there are few surrounding properties with a view of the court site, and because the courts will be at a lower elevation than any of the ^{adjacent} properties, this choice impacts the fewest adjacent property owners.
5. The Sea Oats site was planned and ~~approved~~ ^{approved} in November 1994 by a previous Board to include a soccer play area in the level grassy field, and a soccer goal was donated by an SSCA member; this area would be eliminated by the tennis courts. The wooded area immediately to the south was designated a quiet area.

Although the Hillcrest site ^{was} not the cheapest alternative, the Board felt that the seclusion and aesthetic considerations offered by this site outweighed the additional cost and ^{having} ~~the~~ courts ^{outweighed} at a less desirable location.

Oct/November 2000 --- The newsletter stated that the Hillcrest site had been chosen, the reasons for that choice were given, and the 2001 budget, containing costs for tennis court construction, ^{at Hillcrest} ~~the~~ Hillcrest, ^{was} presented. It was also stated that, if the budget was approved, permitting would begin and construction would start in early 2001. At the November 13 membership meeting, after extended discussion, the budget was approved by a vote of 49 to 12.

The January 2001 newsletter reported passage of the budget and construction preparations ^{at the Hillcrest site.} The appropriate information and applications for a conditional use permit were submitted to the Planning Board in February of 2001, and the Planning Board unanimously voted to recommend approval.

So, in short, information about the progress of the tennis court planning was discussed ~~at~~ member meetings ⁴ nine months before and in newsletters for seven months before submission of the final plans to the Planning Board.

And now, I'd like to turn the podium over to Paul Kapinos,
who will describe the site plans and specifications.