



# County of Dare

P.O. Box 1000 | Manteo, NC 27954

## MINUTES

### DARE COUNTY BOARD OF COMMISSIONERS MEETING

Dare County Administration Building, Manteo, NC

5:00 p.m., April 3, 2023

Commissioners present: Chairman Robert Woodard, Sr., Vice Chairman Wally Overman  
Rob Ross, Steve House, Danny Couch, Ervin Bateman

Commissioners absent: Jim Tobin (excused)

Others present: County Manager/Attorney, Robert Outten  
Deputy County Manager/Finance Director, David Clawson  
Master Public Information Officer, Dorothy Hester  
Clerk to the Board, Cheryl Anby

**A full and complete account of the Board of Commissioners meeting is archived on a video available for viewing on the Dare County website [www.darenc.gov](http://www.darenc.gov). A brief synopsis follows.**

At 5:00 p.m. Chairman Woodard called to order the regularly scheduled meeting with appropriate prior public notice having been given. He invited Rev. Tom Wilson to share a prayer, and then he led the Pledge of Allegiance to the flag. It was announced Room 168 in the administrative building was open for overflow participants to the meeting. Chairman Woodard asked for continued prayer for Commissioner Tobin and his wife.

#### ITEM 1 – OPENING REMARKS – CHAIRMAN’S UPDATE

Following is a brief outline of the items mentioned by Chairman Woodard:

- Requested the Board move Agenda Items 5-9 to be heard before Item 4:  
**MOTION**  
Commissioner Ross motioned that Agenda Items 5-9 be heard before Item 4.  
Commissioner Bateman seconded the motion.  
VOTE: AYES unanimous.
- At the south end of the old Manns Harbor Bridge was an area that Andy DeVillar and his wife had cut back and removed fallen trees, relocated sand along with the removal and trimming of vegetation. He presented Mr. DeVillar with a certificate of appreciation for his extensive volunteer work in the creation of Pineapple Beach on Roanoke Island

#### ITEM 2 – PRESENTATION OF COUNTY SERVICE PINS

- 1) Julie Cabana, In-Home Service Aid, received a 10-year pin.
- 2) Charlene Garrish, Emergency Medical Tech Lieutenant, received a 15-year pin.
- 3) Yvette Pollock, Day Care Service Coordinator, was recognized for her 25-year pin.

**ITEM 3 – EMPLOYEE OF THE MONTH – April 2023**

Crystal Ambrose received the Employee of the Month award from Chuck Lycett who described her skills as an income maintenance supervisor for the Economic Services Unit of Social Services. Mr. Lycett stated she committed to the ongoing development of her team.

*Clerk has placed the minutes in the order the items were addressed by the Board.*

**ITEM 5 – BROADBAND - UPDATE**

Eric Collins, Director of Government Affairs with Charter Communications, provided an update. He shared the service areas of his broadband services. There was an internet assist program to aid customers with lower incomes to receive affordable service beginning at \$19.95. Over the next 2-3 years the infrastructure would be upgraded with “high split” allowing for a more reliable system. Chairman Woodard asked about unincorporated villages on Hatteras Island, which had a single optic line by Brightspeed. Weather issues had caused the area to lose 911 communications for long durations. He asked if Charter had the ability to provide service without relying on Brightspeed’s fiber. After a brief discussion, Mr. Collins said he would check with field officers and provide an update to the County Manager.

**ITEM 6 – PROCLAMATION – “WEEK OF THE YOUNG CHILD”**

Children & Youth Partnership for Dare County presented a proclamation supporting “Week of the Young Child” for April 1-7, 2023.

**MOTION**

Commissioner House and Vice-Chairman Overman motioned to adopt the proclamation. Commissioner Couch seconded the motion.

VOTE: AYES unanimous.

**ITEM 7 – PROCLAMATION – CHILD ABUSE PREVENTION MONTH**

Children & Youth Partnership and Dare’s Social Services presented a proclamation to recognize the month of April as child abuse prevention month.

**MOTION**

Vice-Chairman Overman motioned to adopt the proclamation. Commissioners Bateman and House seconded the motion.

VOTE: AYES unanimous.

\*Mr. Nettles presented these items in reverse order.

**\*ITEM 8 – DARE COUNTY TOURISM BOARD REQUEST CONSENT EXPENDITURE FROM LONG TERM UNAPPROPRIATED GRANT FUND LINE ITEM**

Lee Nettles, Executive Director of Outer Banks Visitors Bureau, presented this item to the Board.

**MOTION**

Commissioner House motioned to consent for expenditures totaling \$75,000 from line item 4585 for a Long-Term Unappropriated Grant Award to Roanoke Island Historical Association.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

**\*ITEM 9 – DARE COUNTY TOURISM BOARD REQUEST CONSENT EXPENDITURE FROM SHORT TERM RESTRICTED FUND LINE ITEM 5160**

Mr. Nettles also presented this item for area firework awards to Avon Property Owners Association, Kill Devil Hills, Manteo and Nags Head.

**MOTION**

Commissioner Bateman motioned to consent for expenditures totaling \$55,000.00 from line item 5160 for July 4<sup>th</sup> Fireworks Grant Awards.

Commissioner House seconded the motion.

VOTE: AYES unanimous

**ITEM 4 – PUBLIC COMMENTS**

At 5:53 p.m. the Manager outlined the procedure for making public comments in Manteo and via the video link to the Fessenden Center Annex in Buxton. Mr. Outten explained Item 10 was a quasi-judicial hearing for the applicant to prove they had met the conditions of the ordinance. They would present evidence for those requirements as sworn evidence. He outlined the statutory requirements for those with “standing” to testify in the hearing. He also answered why the ordinance could not just be changed to stop the development (G.S. 143-755) and why a moratorium could not be instituted based upon N.C. G.S. 160D-107.

***Following is a summary of all citizen remarks made in Manteo. There were no comments from Buxton.***

1. Justin Bateman from Wanchese asked the developer why he wanted to build the project after all of the public pushback. He opposed the development.
2. Johnnie Robbins, Jr. stated Wanchese was more like it was than any other place in Roanoke Island. He opposed the appearance of the planned project.
3. Tom Stewart was in support of Mr. Alexander’s project. He was pleased that workforce housing was a priority with the Board.
4. Rex Mann opposed the cluster homes. He felt the sewer systems were inferior in the development. He wanted to work together to find a better solution.
5. Amy Phillips stated there already was high traffic and not enough grocery stores and amenities to preserve the quality of life on the island.
6. Sybil Ross raised concern over the use of the Yorktown aquifer, stating the area’s water sources were limited.
7. Joey Daniels stated Wanchese’s zoning changed without residents being in the process. He asked the Board to look at the future and return the zoning the way it was.
8. Laurie Tillett spoke against the development. He stated putting 60 trailers on stilts was not pretty at all. He asked the Board to change the zoning back and lessen the impact.
9. Jackie Beasley had no additional comment but voiced she agreed with everyone.
10. Janine Emery said it was time to move forward with housing. She supported the development for quality housing for teachers, nurses, EMT and support staff.
11. Pattie Callum was concerned about the environmental impact of the growth of the island. She opposed the development.
12. Mitchell Bateman offered a prayer for Commissioner Tobin and his wife. A great deal of effort was placed with the Wanchese zoning model. He opposed the development.
13. Ken Mann was concerned about traffic and asked what constituted affordable housing. He was concerned with growth in an area that did not have an EMS station.

14. Amy Stone said housing needs had not changed since 1983. She disagreed the development could be considered affordable. Wanchese was not the solution.
15. Carson Creef said there was one way in and out and the traffic will be too much. There was no guarantee who would reside there to really benefit the village workforce.
16. Kobe Beasley stated Walker Park had been named after his grandfather. He loved Wanchese and asked for no cluster homes in his hometown.
17. Lindsey Kee was concerned how the emergency services would serve the area and stated EMS was not equipped to handle this added development.
18. Craig Parker said Wanchese had a problem with the EMS 911 service. He suggested the development be built in other areas owned by Dare County.
19. Chetty Parker was concerned about the amount of traffic in the area with children nearby. He asked the Board to reconsider the development.
20. Lorraine Tillett thanked the Board for returning the zoning plan back to the Planning Board and asked for a delay on their vote. They wanted single family homes.
21. Sandra Barile read the 2009 Dare County Land Use Plan for Wanchese and stated 60 stilt homes on 10.5 acres without overflow parking would change Wanchese forever.
22. Ralph Barile stated this development would change Wanchese forever. He asked the Board to have Mr. Alexander negotiate changes to the development.
23. Pixie Wescott stated how caring Wanchese residents were to one another's problems and added Wanchese was a community without adequate ambulance service.
24. Britton Shackelford recited the quote at the top of the agenda. He stated there were people who commuted for their jobs every day.
25. Robin Mann said Wanchese chose to be a unique and novel community. She requested the development not be approved and warned of a Manns Harbor request.

***BOARD RECESS AT 7:30 P.M. – MEETING RECONVENED AT 7:45 P.M.***

26. Nan Willis gave her long family history. Years ago, the Indians were driven away and now Wanchese long-time residents and their way of life were being driven away.
27. Alison Beacham lived near where the development was proposed. She stated a cluster housing project was polar opposite to what Wanchese desired in zoning.
28. Lynn Davis lived next door to the proposed development. He looked at the plans and there are septic tanks close to his home. He asked the Board to reconsider.
29. Nancy Gray wanted to encourage everyone that change was possible. She added the community was at a special place where we could plot our course in history.
30. Brimage Silver stated the applicant was willing to add deed restrictions to prevent the likelihood of the homes becoming vacation rentals. An HOA plan should be presented.
31. Mickie Daniels wanted to talk with the Board about the water quality of the area.
32. Will Brooks wanted to remind everyone that the Board was not our enemy. When tensions rose, it was easy to forget and asked the Board to do the right thing.
33. Dillon Silver, a property owner in Wanchese, stated she drove five hours to share her feelings that she opposed the development.
34. Jade Midgett opposed development and voiced concerned about the gate for the fire department. The land was low and the road was not maintained.
35. Kathryn Fagan stated zoning was supposed to be noticed and this was not properly noticed. She stated the quality of community would be lost with this development.
36. Alyson Flynn of NC Coastal Federation requested that the Board reconsider the storm water plan to prevent chronic flooding in the area.

The County Manager closed Public Comments at 8:24 p.m.

**ITEM 10 - THE VILLAGES AT OLD WHARF ROAD CLUSTER HOME DEVELOPMENT – SPECIAL USE PERMIT APPLICATION #3-2023 (Att. # 1)**

This agenda item began at 8:24 p.m. and was handled as a quasi-judicial proceeding. Mr. Outten explained the Board could only use the evidence presented at this hearing to make their decision. If the Board expressed an opinion or made a decision before the meeting, then they were not allowed to hear the evidence.

Commissioner Bateman addressed the Board and explained that he would have to recuse himself. He stated he had an opinion regarding the development and had reached out to Mr. Alexander, therefore he could not participate in the hearing or a decision of the matter.

**MOTION**

Chairman Woodard made a motion to recuse Commissioner Bateman.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous.

**Commissioner Bateman left the meeting at 8:26 p.m.**

Mr. Outten asked Noah Gillam, Planning Director, if he had presented the packet of evidence to each Commissioner and to the applicant, as statute required. Mr. Gillam affirmed he had done so. Mr. Gillam explained the applicant, Aria Construction & Development, Inc., had submitted a special use permit for a cluster home development on Old Wharf Road in Wanchese. Cluster homes were permitted subject to the review of the Board. Lloyd C. Smith, Jr., Esq. presented himself as the applicant's counsel. He called Noah Gillam as his first witness and the Clerk placed him under oath.

**Questions to Noah Gillam by Mr. Smith:**

Q. Would you state your name, where you reside and who you are employed by?

A. Noah Hardy Gillam, resident of Manteo, employed by Dare County as the Planning Director. My duties are to administer the ordinances of Dare County.

Q. Have you had occasion to become involved with this project known as Old Wharf Road?

A. Yes sir.

Q. What has your involvement been?

A. As the Planning Director, the application was submitted to me and I reviewed it before it was submitted to the Planning Board in a preliminary forum and again tonight for a quasi-judicial proceeding.

Q. Did you receive certain exhibits?

A. Yes sir.

Q. And have marked them 1-11?

A. Yes sir.

Q. That includes the application, letter from property owner, site plan, house plan, letter from George Wood?

A. Yes sir.

Q. What was the purpose of putting that letter in the exhibits?

A. After Mr. Alexander had the property surveyed, we had received notification from the Army Corps of Engineers that there was a potential for wetlands on the property and the applicant, Mr. Alexander, would have to have someone perform a wetland delineation on the property.

And that is what Mr. Woods' letter states, that there are certain pockets of wetlands that they believed they could fill through Army Corps' permit.

Q. Exhibit #6 appears to be the Dare County Fire Marshal comments?

A. Yes sir.

Q. What was the purpose of soliciting those comments?

A. Typically in any type of review of a site plan of this nature, or a subdivision, the fire marshal reviews to make sure it meets the compliance of the North Carolina fire code.

Q. And what were his conclusions?

A. That in review of the layout of the plan that it met those requirements.

Q. And you attached copies of Section 22-31.1 and Section 22-27.7 of the zoning ordinance?

A. Yes sir.

Q. And what was the purpose of doing that?

A. So that the Board in their review tonight would have the ordinances in front of them that listed out the requirements that a cluster home would have to adhere to.

Q. And has each of those requirements been met?

A. Yes sir.

Q. And the other three exhibits are concerning notices which you posted on property, notice of the hearing and notice that was posted on the website?

A. Correct, some of the notices were mailed to the property owner and to the adjoining property owners.

Mr. Smith: At this time, we introduce the exhibits which were already given to the Board 1-11.

Q. Mr. Gillam, in looking at the site plan, the requirements for cluster home development requires some setbacks?

A. Yes sir.

Q. And does this development meet those setbacks as shown on the engineered plan?

A. 22-31.1 requires that the cluster home meet the applicable setbacks for the zoning district in which it is in.

Q. And does it do that?

A. Yes.

Q. And it also has requirements concerning the amount of coverage of the entire tract is that correct?

A. That is correct.

Q. And I believe it is 30%, is that correct?

A. Yes.

Q. And does this cover less than the 30% of the entire tract?

A. Yes sir.

Q. So that in that sense it also complies, is that right?

A. Yes.

Q. Have you had occasion with the fire marshal to examine the site drawings concerning the roads and the ability of emergency equipment to get into this project?

A. Yes, his comments provided there was never a question of access. He listed in his comments where the secondary access being keyed to the Roanoke Island Volunteer Fire Department lock box system, which is a key that they have to access gates in this situation. Through the process of him reviewing it and conversations with him, it met those requirements.

Q. Even without the secondary gate it meets the requirements?

A. I can't answer that. That would be a question for the fire marshal.

Q. He is here?

A. Yes sir.

Q. While we are talking about this, this is a blown-up version of the site plan, do you recognize it?

A. Yes sir.

Q. I will mark this as petitioner's exhibit 12. Is this the gated area we talked about on the secondary road?

A. Yes sir.

Q. And explain to the Board who would have a key to that.

A. The Roanoke Volunteer Fire Department.

Q. And is that standard procedure?

A. Yes, I have seen it in other places where there is a gate involved.

Q. And this is the main drag to the proposed building development?

A. Yes sir.

The Board had no further questions of Mr. Gillam and would recall him if necessary. The Chairman asked if there was someone representing the community present to ask any questions. No one came forward.

Mr. Smith called the applicant.

Q. State your name.

A. Brad Davenport Alexander.

Q. And where do you reside?

A. I reside in Creswell.

Q. What is your relationship with the petitioner, Aria Construction & Development, Inc.?

A. Owner and CEO of Aria Construction.

Q. Does Aria Construction hold any license for the state of North Carolina?

A. Yes, I have an unlimited commercial license.

Q. What does that mean?

A. It means I can build residential and commercial with unlimited money value placed on it.

Q. Who is the qualifier for the corporation?

A. I am.

Q. You are familiar with the project at The Village of Old Wharf Road, right?

A. Yes, I am.

Q. How are you familiar with it?

A. I am the designer with House Engineering. We put it all together and tried to do something we thought that Dare County's community needed for housing for employees.

Q. And I have shown Mr. Gillam what we marked as Petitioner's Exhibit 12. Are you familiar with this site map that we have blown up so we can look at various aspects of it and other maps?

A. Yes, I am.

Q. And who was that site map prepared by?

A. House Engineering.

Q. And where are they located?

A. In Southern Shores.

Q. And are they a firm of professional engineers?

A. Yes, they are.

Q. And whom do you deal with there?

A. Rick House and David Neff.

Q. And there has been already introduced a statement from the landowner concerning your ability to have this hearing, but did you also get an option and an extension on the option for this property

A. Yes.

Q. I want to show you Mr. Alexander what I have marked as Petitioners Exhibit No. 13 and ask if you recognize it.

A. Yes, I do.

Q. What is it?

A. An Offer to Purchase Agreement and the amended due diligence.

Q. I offer Exhibit 13 to the Board. Now I will show you what I will mark as Exhibit No. 14. Would you tell the Commissioners what this is?

A. This is an Amended Agreement for the due diligence where the procedure has taken longer than we originally thought and so we had to have the due diligence extended.

Q. And what was it extended to?

A. June 16, 2023

Q. Mr. Alexander if the special use permit is issued, do you or your company intend to go forward with the purchase?

A. Yes, we do.

Q. What do you intend to build out there?

A. We are going to build 36 two-bedroom houses and 24 three-bedroom houses.

Q. Do you recognize Exhibit 15?

A. Yes, I do.

Q. And can you tell the Commissioners what that is?

A. The top part is the actual blueprint of the house plus the elevations of each. The bottom part is a rendering showing the ...looking down each cul-de-sac what it will look like at the completion of the project.

Q. And how many three-bedroom houses will there be and how many two-bedroom houses will there be?

A. There would be twenty-four 3 bedrooms and thirty-six 2 bedrooms.

Q. How will these houses be built? What kind of material will they be built out of?

A. These houses are all 2 x 6 construction for the walls. They are shotgun style houses. They have been referred to as trailers but they are far from trailers. We build anything from three bedroom to twenty-bedroom houses on the Outer Banks and they will be built to the same specifications as what we built those houses.

Q. I don't have anything to point with but can you tell me what this here is a design of?

Q. Rather than the long shotgun style house and just having a solid wall down the side, I decided to put the gable at each end so it would give some character to the houses. So, you will see the three windows with transom windows over top and they will all be facing the main road going into the development with a reverse plan on the opposite side of the road. As you are driving through the neighborhood, you will see this side of the house and gives it a lot more character.

Q. The ordinance itself requires that there be a number of parking places for cars, I believe it is one for each bedroom. Is that your understanding?

A. That's correct.



Q. And how are these houses designed to accommodate that requirement?

A. Every house has the capability of two parking places underneath the house on non-pervious concrete surfaces and then two cars on the exterior in the front of the house that will be a rock gravel drive.

Q. So you intend to comply with the ordinance as far as having two impervious places for each vehicle as required.

A. Yes.

Q. Are you familiar with the request and potential discussion at the zoning board meeting discussing covenants on the property?

A. Yes.

Q. What is the term as you understand it in the ordinance for long-term as the ordinance is written now?

A. It's thirty-one days or more. Someone spoke at the planning board if I would be willing to have it six months or more and I have no problem with that. And there have been a lot of statements that I am planning on renting all of the properties and that is not true. I do retain the right to rent some if they don't sell as fast as I want them to. Before we start they will be preconstruction pricing placed on them to start selling them.

Q. What will be the pre-construction price?

A. I think we are going to start at \$299,000 on 2 bedrooms and \$329,000 on 3 bedrooms.

Q. Are you aware of any requirement in the ordinance that you price these at any particular level?

A. No. There is not anything that I know of. We are just trying to get it in the ballpark of.....to my knowledge it will be the cheapest price in Dare County of any two or three-bedroom new construction at the present time.

Q. Are you familiar with construction in Dare County

A. I am very knowledgeable.

Q. There is a limit of size that these houses can be, the limit being 1,200 square feet. Do you know the size for the two-bedroom house?

A. It would be 960 sq. feet.

Q. How about the three-bedroom houses?

A. It would be 1,120 sq. feet.

Q. I want to return for a minute to the construction of these houses. Of course, this is just to get the special use permit, but do these houses have to be built to any other standards if the special use permit is allowed.

A. They have to be built to the same standards of any other house in Dare County.

Q. How about wind speeds for coastal counties which I believe is 140 mph, is that correct?

A. They will be built to 140 mph wind code.

Q. Are you familiar with the lot coverage on this plan?

A. Yes, I am.

Q. How many acres approximately are there Mr. Alexander?

A. Approximately 10.5 acres.

Q. And what is going to the lot coverage with the asphalt and the houses?

A. It will be less than 30%.

Q. And I am going to ask your engineer these questions, but in your opinion do these houses all meet the setback requirements and the distance requirements of this county's ordinances as written tonight?

A. Yes, they do.

Q. Who will own the houses up until a certain number of them are sold? The unsold lots I should say?

A. Aria Construction will.

Q. Is there a number when according to other laws that it has to revert to some type of association?

A. Well at 51%, up until that point Aria Construction will be responsible for all maintenance of everything in the neighborhood. At 51%, at that time we have the right to turn it over to the neighborhood association.

Chairman Woodard:

Q. Mr. Alexander, I believe it was Item 12 that showed the eastern part of the property with a gate. Is that correct Mr. Smith?

Mr. Smith: Yes sir.

Q. Mr. Alexander, is this considered a gated community?

A. No it is not.

Q. Then why do we have to have a gate?

A. That is not actually an access for the community. We put that in there extra for the fire department in case they needed a second entrance coming in for emergency situations. And it would be lock boxed with a key that is universal to all the fire departments.

Q. You answered this question, but I want it on record again. It's been said numerous times mobile homes on stilts. A mobile home as far as I know of at least in my dealings over the years is pretty much a metal structure type of unit that is premanufactured. You have stated that you will built these... this is no how no way a mobile home on stilts is that correct?

A. They are not mobile homes.

Q. You will build these just like you build a regular beach box for lack of a better term, right?

A. They will all be stick-built houses.

Q. Stick-built houses just like we do all over the county?

A. That's correct.

Q. I believe according to the conditional use permit both the two-bedroom 960 sq. feet, that's roughly 40 square feet below what's special use permit, is that correct?

A. That's correct.

Q. 1,120 square feet three-bedroom is roughly 80 square feet below what the special use permit calls for is that correct?

A. Yes.

Q. Fire walls, will there be fire walls in between units?

A. No there will not be fire walls between units.

Q. That's not code?

A. No.

Q. Will they be hard wired with smoke detectors.

A. Yes.

Q. They will be... with backup battery operated?

A. Yes. They will be exactly like the construction of any other house built in Dare County.

Q. And I believe you said that there was going to be an HOA.

A. Yes.

Q. And you will have the right to turn it over once 51% I believe is completed?

A. That is correct.

Q. I was concerned about the size of the units – I would like to have one of those 960. I had a house in Kill Devil Hills for thirty-seven years with 720 square feet. The cost to purchase I think is reasonable. What are the rents going to be? You mentioned you potentially had some possibility of rents? Do you have an idea right now what those rents might go for?

A. Based on rental property in Dare County in the surrounding area here, they would probably be somewhere between \$1,800 to \$2,200 a month.

Chairman Woodard warned the audience to remain respectful during the hearing and continued his questions to Mr. Alexander.

Q. At any time Mr. Alexander ... let me back up, you have promoted these from day one as market rate housing, have you not?

A. Yes, I have.

Q. Thank you. You have not stated that this will be essential living or affordable living type housing. You have stated from day one it is market-rate housing?

A. Yes. There are lots of rumors floating out there what this neighborhood is going to be and 90% of them are false.

Q. Right. You have been gracious enough to say that you would be willing to do a six-month lease. Would you so far as much as say that you would consider an annual lease?

A. I would.

Q. On the east side, it was hard for me and our residents out there that have seen copies of this. On the east side it doesn't appear that it's as much vegetation as the north, west and south sides of that property. Is that correct?

A. It should be basically the same all the way around. The objective is we want to plant a buffer zone so when it gets in and gets grown as well the neighbors on the outside can't look in and the neighbors on the inside don't want to look out. So, we were going to make a buffer zone so that takes care of that.

Q. How about the existing trees on the lot that are the closest to the ingress and egress?

A. Any of the trees that are in that buffer zone that are native trees, oaks or things like that, other than the tall pine trees, we are planning on leaving a lot of those in that buffer zone, as well as planting new trees in that area.

Chairman asked if other commissioners had questions.

Vice Chairman Overman:

Q. Going back to the issue regarding the setbacks. Noah may need to come up and address this just to get it on the record regarding what the standard setbacks are and rules and ordinances on that throughout the County. I think that in a prior discussion they run 10 to 15 to 8 feet in places.

Mr. Outten: Those are questions for Noah when he is called back.

Vice-Chairman Overman: There was a discussion about flood control and drainage. And I understand you still need to get a state permit on that.

A. Yes sir.

Q. What are the capacity and the terms of your design of this project right now. What's the capacity of the swales, basins and the collection areas versus any kind of normal projected rainfall?

A. That's a question you will have to talk with my engineers about. I know some about the depths of the things but they have all of the calculations and everything on that.

Q. Do you have any idea – what I am trying to get a feel for is what the capacity of them are.

Mr. Outten/Mr. Smith: In cross conversation agreed that was a question for the engineer.

Mr. Smith: Also Mr. Commissioners, stormwater narratives are contained on the map, that's why I was trying to get it closer. It is very hard to read.

Vice-Chairman Overman: You probably have an expert that is going to talk about sewage and waste, is that right?

Mr. Smith: Yes sir.

Chairman Woodard called upon Commissioner Couch.

Commissioner Couch questioned Mr. Alexander: I've lived in Hatteras all my life, my 63 years, and my biggest concern with this all along has been the homeowners' association because I can tell you two cluster home developments down there where the cluster home developments for essential work force were there for a very short while and then they became Airbnb and rented out to kite boarders, wind surfers and stuff like that. What kind of assurances can we have – and you might not be able to answer this. Maybe this is something that the docs and the bylaws will have to be drawn up with a homeowners' association. But I'm asking you if it is your intent and in the spirit of workforce housing that this will be for people, for healthcare professionals, for law enforcement people, for cleaners, for people who make our economy go. I would like some assurances.

A. 100%. If I had any thoughts of making it any other way I would not have offered to make it a year lease. By putting that in there I feel that that takes care of that and prevents that from happening.

Commissioner Ross: I think you're asking if you sell the property to John Smith, John Smith isn't going to...

A. It's the same thing

Commissioner Couch: That's what bylaws are for.

A. I have no problem with... If I own them and I rent them, that's how I would want to have it. So, anything that I sell with have that in it.

Mr. Smith: (addressed the Board) If I may intercede here, you have the power to add certain conditions to usage when its granted and we are perfectly content with making that a condition of use that it's got to be year-long rent to whoever owns them.

Chairman Woodard called upon Commissioner Ross.

Commissioner Ross: This may be satisfied by the experts, but I was looking and I heard during public comment this thing is going to flood, it can't drain, there is no filtration, this is going to be really bad. I've been studying the drainage maps and the drawings and it appears that the calculations show a storage requirement of 46,000 cubic feet. I'm reading off the chart – compared to provision of storage of over 90,000 square feet with the addition of grass swales not included therein which would add additional absorption and/or filtration of stormwater. It's prepared by House Engineering. I presume they are licensed engineers and they do this for a living?

A. Yes, they are.

Q. So, I also heard public comment that the calculations were completely inaccurate and incorrect.

A. That is not correct.

Q. Ok. Second point. I understood that there was some concern and question about ingress egress, traffic on the turn, and the site lines at the entrance, not the security gate that will be for emergency vehicles, but the main entrance in and out, would be unsafe because it is part of that sweeping turn that sweeps around Old Wharf Road. Has any traffic study or analysis been done?

A. Yes. And I have two of the people from the traffic study here tonight.

Q. So we will be hearing from them?

A. Yes.

Commissioner House questioned Mr. Alexander: In the previous questioning you said you never said this was going to be affordable housing, but market-rate housing. Is that correct?

A. Yes. It's going to be affordable as it can be in Dare County.

Q. I was just asking because on your application, project description: affordable housing. I just want to make sure there is a clarification and that we are all on the same page.

A. Yes.

Q. Since the houses are so close together, and I've been in fire service for thirty years, are you considering residential sprinkler systems for those houses?

A. No I'm not.

Q. Would you consider doing that?

A. That would be something that I would have to look into.

Commissioner Ross: Do you have any estimate about what the additional costs that would be added to the \$299k and \$329k rough estimate?

A. No I would have to look into finding out. I'm not sure what that would be for a two or three-bedroom. I know on a bigger house. I'm building a twenty-bedroom right now and a residential sprinkler system has been quoted anywhere from \$40-55,000.

Commissioner House: Also, it has also been brought up several times before from some of the people in the community are wondering, with your design and everything laid out – obviously we are going to have families there with children and obviously your lot coverage does not cover the entire lot.

A. No.

Q. Are you planning on putting a play area for these children that are not in a swale, they're not in a retention area for stormwater, it's separate from everything else and would be high and dry for them to play in?

A. There is repair areas at the back end of each one the cul-de-sacs that is high land and is not in the swales. That's six different areas that could be considered as play areas.

Q. Alright. I have some other questions for your engineer when he comes up.

Mr. Smith questioned Mr. Alexander: I forgot to ask you. Are any of these buildings going to be more than 40 feet in height?

A. No they're not.

Q. And regarding the emergency services, just so there's no confusion for the commissioners, this gate was something that was requested to be put there by the fire marshal?

A. Yes it was.

Q. And the main entrance is here (pointing to site exhibit)?

A. Yes.

Q. So has the fire marshal requested you to name each street that comes in there?

A. Yes.

Q. And you and your engineers, more the engineers than you actually, studied and followed his weight recommendations for emergency fire equipment coming onto this property, if necessary at 75,000 pounds.

A. Yes, all roads will be able to meet that criteria.

Chairman Woodard asked if there was anyone in the audience representing homeowners that had any questions for Mr. Alexander. (There was not.)

Mr. Smith called Rick House (he was placed under oath by the Clerk):

Commissioner Ross: Who are you sir?

Mr. House: My name is Rick House with House Engineering, I am a special engineer.

Commissioner Ross: So, you prepared all of these?

Mr. House: Yes, me and Dave Neff.

Mr. Smith: Mr. House, you live where?

A. In Kitty Hawk, North Carolina.

Q. Would you state your educational background please.

A. I went to Virginia Tech and got a bachelor of civil engineering in 91', worked at Norfolk Naval Shipyard for seven years as a structural engineer and a naval architect. I worked underneath a professional engineer for the four years I needed to before I could take the test. Professional engineering test that is. Took that test and passed it in 1999 and opened up my company in May of 1999.

Q. Do you hold licenses in several states as a professional engineer?

A. I've got my national council record which allows me to practice in thirty-eight states. I have an active license in eight states, including North Carolina.

Q. What are the other seven?

A. Virginia, South Carolina, Georgia, Tennessee, Texas, Oklahoma and Mississippi I think? Oklahoma for sure. Eight states right now with active licenses, including North Carolina and South Carolina.

Q. We previously introduced before the Board through Mr. Gillam some drawings, site drawings for this project. Did you and your associates and employees do those?

A. Yes

Q. Are you familiar with them?

A. Yes.

Q. Tell me how these site plans were first developed. What was the first thing that was done?

A. The first thing we looked at was the site needs to be over 10 acres. And the setbacks, trying to figure out how the traffic circulation would work and how the fire, emergency services, and trash pickup and things would all work. Building layout, parking, and things like that and we come up with this for a very efficient use of the property. There're not many wetlands on it. I think it's less than a tenth of an acre of wetlands that we're planning on...

Commissioner Ross: I think it was 4,000 square feet, which is less (inaudible)

Mr. House: Given that we've come up with this plan for you guys.

Mr. Smith: Where is the main entrance?

A. The main entrance is right here.

Q. Can you describe the layout.

A. It comes in with a 22-foot wide entrance all the way to the back where we've got room to turn our emergency vehicles. They can back in and front load the dumpsters at the very end for trash pickup. They can back into one of the finger roads, as you call them, and turn around and leave. There're six finger roads coming off the main road, that break the property up so we can put seventy-six feet long buildings in.

Q. I understand these are going to be stick built?

A. Yes sir.

Q. Tell us about the roads and swales. What will they be constructed of and what weight bearing will they have.

A. The roads will be built to road standards and carry a 75,000-pound wheel load. They will be made of a base course of rock, 6-8 inches and then an i-2 asphalt, and then the driveways for each one will be gravel driveway for imperviousness.

Q. And did you also plan concrete underneath each of the structures?

A. Yes that is correct. Concrete underneath each structure, in some form or fashion to add at least two parking spaces under each one – two in and two out.

Q. And is that one of the eight requirements to qualify for this special use and build?

A. Yes, it is.

Q. And this may be a little unfair and I may have to recall Mr. Gillam, but are you familiar with the setback requirements?

A. Yes, in the VR-C2 zone district, I think they are 25 in the front, 10 on the side, then 15 on the side next to Brinkly if it's a corner lot or road, and then 20 in the back or 20% of the lot depth, whichever is least.

Q. And does each of these structures shown on this site map, which is also a storm drainage map, reflect like that?

A. Yes, they do.

Mr. Smith: And we have another map that I will mark 16, what is that?

A. This is a site utility plan. C2 of the eight sheets in the binder that we have given you guys.

Q. Just walk us through the general requirements.

A. Basically it says that the subject property, the street address, the developer, the parcel ID number, the global PIN, the recorded reference parcel area.

Q. And what is that?

A. 10.55 acres.

Q. Alright, go ahead please.

A. And then the proposed development is the 36 2-bedrooms and 24 3-bedrooms that Mr. Alexander mentioned earlier. Lot coverage is 28.45, which is under the 30%, which is required by zoning. Parking data: 60 units and one space per bedroom, we have 144 spaces. Total spaces required: we have 144 and total spaces provided is 204. So, we are overparked by 60. So, the zoning is VR, Wanchese Village Residential. The dwellings shall be rented on long term basis as defined. I don't know if you want me to read through every one.

Q. Tell us about the roads?

A. The roads are constructed of material to have all weather surface, capable of carrying the imposed weight of fire apparatus of at least 75,000 pounds, which I said earlier.

Q. Returning back to Exhibit 12, and you see the storm drainage, are you familiar with that?

A. Yes, sir.

Q. Now this seems like a rudimentary question living on the coast, and I've been flooded four times at my office, but tell us what storm drainage is about.

A. Stormwater collection is mandated by the authority having jurisdiction in the state. Typically, we are using in Dare County unincorporated a 10-year, two-hour storm, which is 2.15 inches per hour which adds up to be 4.3 inches for the storm, designed storm and we carry twice that on this project. We are right around 43,000 cubic feet and I think we are holding in excess of twice that.

Q. What is the purpose of holding twice that?

A. Just the factor of safety. Generally, we try to meet the main guidelines, that's also not letting any of the stormwater leave the property. Before anything leaves the property, it goes into an erosion side ditch. It has to only get to the ten-year, two-hour storm, but we've got twice that amount on this particular property. It just worked out that way. The soil scientist that we had and we found out what the water table was, designed our stormwater swales and that's the volume calculations we came up with.

Q. Mr. House, does Dare County itself have an ordinance controlling drainage, or are we under the state's purview?

A. This is Dare County's 10-year, 2-hour storm requirement. First inch and a half of rain has to be kept on site. We ended up keeping nearly 8.6 inches on site before anything leaves the site.

Q. Tell us about the septic system for this proposed development please?

A. The septic system is a TS2 type system. It's six, roughly 3,000 gallons per day system. It's a series of tankage and drain fields that pretreats effluent to certain level of qualities so that it can be distributed in a LPD drain field. And those are shown here (points to six locations).

Q. And who did you associate with, if anyone, to help you design that?

A. Mike Stidham at EZ Treat is the fella we worked with for years now on dozens and dozens of projects. We have a very good working relationship.

Q. Is this drainage system like the septic system I might have at my house, or is it something more fancy?

A. It's a little different. The effluent quality coming out of this is a little better – irrigation quality effluent coming out of this system. It's called a treatment standard 2. The effluent quality coming out of a gravity system that has not been treated other than to be anaerobically treated inside of a tank so there's not any circulation or any denitrification or any UV stimulation of the "bad things".

Q. What's the effect of that?

A. It makes the quality effluent going into the drain field much less hard to take on the water table and the environment.

Q. Let's talk about emergency water system and hydrants. Was that designed into this?

A. Yeah, we use the rule of 400 foot as the hose is laid from the fire department. To be able to protect any building so there are fire hydrants added in a couple of locations. Right here on the main road you should see some fire hydrants. I'm trying to find them before I point them to you sir. detect any of this – (some inaudible conversation) I don't see them on this plan. It's probably on the other plan.

After several plans being reviewed for location, Mr. Smith asked Mr. House:

Q. Is it your testimony that the hydrants ...

A. They are on there per the requirement. I just can't see them. They are going to be such that they are 400 feet from the edge of any building, as the hoses are laid down on the road for protection.

Q. What size pipes are laid down?

A. Minimum six for fire hydrants and I think the main, water main at Old Wharf Road is twelve-inch diameter that we will be tapping into.

Chairman Woodard: Mr. House, has it been considered or is it even approvable by NCDOT. The county doesn't own the first street. I apologize for lack of proper terminology, but an approach lane going into the community rather than just you got a two-lane road and turning. Is that something that would be approved by NCDOT or something you guys?



A. DOT would recommend something like that in the program that we get from DOT yes.

Q. Is that something that you guys would consider?

A. I think we would consider that. I think it is a good idea from what I have heard tonight.

Q. In light of the traffic and what's been said I think that's critical if you guys will certainly entertain that. I would ask Mr. Anderson that and I am sure, rather than calling him back up.

A. We'll look at that.

Q. You mentioned that the sewage is a TS2 system and I've looked at those and done some studying on that. Pretty impressive. I'm told or I have read that once it goes through the regular system and you got pumps that treat it and for lack of a better term macerates its again?

A. Recirculates. Basically, it drops the solids out and treats the water and by recirculation and detention time.

Q. Am I correct in making a statement that potentially that once it hits the drainage system it would be a gray water type?

A. That's correct.

Q. Is it recommended, just like at my home...

A. It's an unabated wastewater system that the state has approved and is it recommended for areas where you need to save space its recommended. Its on the expensive side so if you can get away with a lesser treatment for a personal home, I would probably recommend that. But for something like this where we're treating a lot of effluent, it's a great, great way of handling that.

Q. That's not where I was going with this. But that's ok, I'm glad you said that. I am fortunately on a town system now; but for forty years, I had a septic tank. Where I was going with that is...

A. It's better on the environment.

Q. Is there something in the HOA documents that you entertain recommending that the association look at cleaning those on a five-year basis?

A. There is an operation and maintenance agreement that you have to have in place that is every six months I think... yearly?

Q. Because you got to have an operator that has to respond in twenty-four hours is that correct?

A. That's correct.

Q. Now I looked with our planning director and there was a little controversy there with the drainage. You talked about the state and I didn't follow that like I should have, so I'm going to ask our planning director to come up again later ... I don't know if its proper to do it right now since my fellow commissioners haven't had a chance to ask questions. But I am going to ask him to come up and ask that in a minute.

Commissioner Couch: Just to get clarification, the light goes off and you got a sewage problem with sixty occupied houses and every bedroom is full in there. The light goes off. Am I understanding you correctly, they've got eighteen hours to get there, diagnose it and fix it?

A. It has twenty-four storage capacity built into every system. Each system is capable of 3,000 gallons so you wouldn't have all sixty on one. You would have ten on one and you would have six systems. And I doubt all six would go alarm at one time. So, I think twenty-four-hour storage capacity and being able to get that taken care of with an operator is a reasonable standard.

Vice-Chairman Overman: With regard to maintenance, who is responsible for it before and after the HOA takeover of the development?

A. The septic system?

Q. Yes.

A. Well I don't know exactly. I am thinking the developer needs to be and the installer are responsible for it until it is turned over. I guess there would be an installer and the developer until the operation of maintenance agreement is put into force through the HOA.

Q. Let's take it one at a time. Before the HOA, whose responsible for it?

A. The developer.

Q. Ok after the HOA?

A. The HOA.

Q. So they would be calling and contracting the same people each time, right?

A. Yes there are several operators that maintain these type systems. One of those guys or groups would be on hire to take care of that twenty-four seven.

Q. Just a question that was asked about if one of the systems fails you got a twenty-four-hour lead time.

A. A capacity for your septic tankage, yes sir.

Q. Now getting back to a perfect storm type system, I am asking the question because I know nothing about a TS2 system. You get a heavy rainfall, you get that two-inch rain fall you were talking about, does that have any bearing at all on that system's twenty-four-hour capacity?

A. No the rain fall - the septic system is a sealed system so stormwater will not infiltrate that.

Q. How long, you said they had been around for a long time, how long have these TS2 systems been used?

A. TS2? Two decades probably. This particular one, I want to say fifteen years. Twenty-three years?

Q. So you got a great history on them?

A. Yeah, we've got two decades at least, I'm sure. We've done dozens of them.

Commissioner House: One thing I want to do is clear the air because I've heard this from a couple of other people from the Wanchese community. You and I are not related even though we have the same last name?

A. We're not but you look like my older brother.

Q. And I am not employed and I do not reap any benefits from House Engineering?

A. None whatsoever.

Q. Couple of things. The TS2 system, this is not brand new. They've been around for a while?

A. Yes.

Q. Are there many here on the Outer Banks already?

A. Absolutely.

Q. Especially some of those bigger houses on the beach?

A. Bigger houses on the beach, some restaurants, we just did a system startup today down in a small motel right in Kitty Hawk. There are dozens, literally dozens if not hundreds on the beach.

Q. So I can say it is not new to the area and they've been proven?

A. No.

Q. Also, in Southern Shores there is a cluster home there, forty units built on four acres?

A. That's right.

Q. Now with their stormwater in that particular area they do have some swales but they have a retention pond. Now I noticed with this system you are actually covering like over twice, double, almost triple the amount that you would need.

A. For stormwater?

Q. For stormwater.

A. That's right.

Q. But, if it were to come to fruition that the numbers were not right on this, is there enough room on this property as it sits, to actually have to go back in and dig a retention pond if necessary?

A. We have repair area fields yes sir. We have a full repair area field for this particular job.

Q. So if the calculations were wrong, you do have an area that you can go back.

A. We have a 100% repair area.

Q. The other question I had with the two fire hydrants and all that and those were with... I got confused on a couple of your questions, was that a 12" or 8" line?

A. It's a 12" line on Wharf I believe that is existing, and it's a 6-inch minimum for fire hydrants. We could go to an 8 if need be, but I think six is plenty for fire flow. We will be doing fire flow testing to make sure that we have the proper gallons per minute and that will dictate what we use.

Q. And that will be on the dead-end system not a loop system, correct?

A. That's a dead-end system that I can't see right now because I don't have glasses on.

Q. And I'm sure Fire Marshal Kovacs has gone over the calculations for that so I'm good.

Commissioner Ross: An awful lot of talk here about septic systems. I heard public comment say that this will smell like an open sewer. Do you have concerns as an engineer that the system will result in the neighbors smelling sewer?

A. I do not.

Q. Ok. Number two, I have a note saying that the calculations made on stormwater, retention and runoff are grossly inaccurate and done incorrectly. Under oath, have you done grossly inaccurate and incorrect calculations?

A. Absolutely not.

Commissioner Couch: Just an observation and to confirm that it is a twelve-inch line coming down Old Wharf Road and then running down Brinkly according to Dare County website, it is six inches around on over to Hooper Lane.

Vice-Chairman Overman: We were talking about HOA versus developer in terms of maintenance for the TS2 system. Will the HOA have a funding source or a fund or something that they donate to for the repairs and maintenance?

A. Typically there would be HOA fees involved.

Mr. Smith: I will recall Mr. Alexander to deal with that question.

Chairman Woodard: Mr. Smith, do you have another witness that you will call?

A. Yes sir.

Chairman Woodard: Before you do that, I would like to clarify if I can call our planning director up.

Mr. Gillam returns for questions.

Chairman Woodard: Noah, you heard that statement on the drainage issues. Can you speak to that?

A. Yes sir. Dare County doesn't have any stormwater requirements in their cluster home ordinance or in the VR ordinance. From my understanding in talking to the engineer that I have been dealing with in the project, which was David Neff, who works for Mr. House with House Engineering, that his design is designed to the North Carolina State stormwater requirements. When you disturb an acre of property, the state has two different sets of permits that you have to go through. One of them is the North Carolina Sedimentation and Erosion Control permit. As part of that permit, you are required to get a low-density stormwater permit through the state. But the conditions for both of those permits have been addressed through conditions with the special use permit.

Q. Thank you Noah, I just wanted to clarify that.

Mr. Smith questioned Mr. Gillam:

Q. The state has to issue those permits assuming the Board issues the Special Use, right? They will look at it. They will make determination.

A. Yes sir. The applicant won't be able to break ground or do any ground disturbing activity you know, removing dirt, pushing dirt, doing any of those until they had the permit.

Q. So they would have to get a bunch of permits before they would move dirt, is that correct until they had proven to the state satisfaction that these things had been met, is that right?

A. Yes sir. With review of the project there are three permits that would be outside of the scope of Dare County. One would be the wetlands and field permit for the Army Corps of Engineers. The other two would be the North Carolina Sedimentation and Erosion Control permit issued by the North Carolina Department of Environmental Quality, and as part of that would be the North Carolina Stormwater Management Permit.

Chairman Woodard: Hold on a minute Noah, we've got a setback question we need to ask you.

Vice-Chairman Overman: Getting back Noah to how close the houses were together and how close they were on the back end and front end. How about go through those setback ordinances in the county and what the rules are there.

A. So this is in Wanchese Village Residential District. The front yard setbacks going to be 25' measured from the property line. The side yard that doesn't abut the corner of Brinkly Drive, those are going to be a 10' side yard setback. The side that abuts Brinkly the VR District requires that there be an additional 5' requirement on that for that side abutting Brinkly Drive, so that would be a 15' side back. The rear property line set back would be, I believe it's 20' or 20% not to exceed 20' that's how it reads in the ordinance.

Q. So simplify it. On both ends it's about 20'.

A. Yes sir. (Mr. Gillam went to the map to repeat the information and it was inaudible.)

Q. And I think you had mentioned to me in a prior discussion when we were talking about this that in some places in Dare County its as low as 8' that houses can be apart?

A. Yes sir in the R4 district, which is portions of Colington Island, they have an 8' side yard setback for all their residential lots in that development.

Q. Ok, so these setbacks are ...

A. Their property line setbacks here are greater than that. The building setbacks per the requirement or the building separation requirements in the cluster home ordinance are 15'.

Mr. Smith asked Mr. Gillam: Are you familiar with the proposed landscaping around the property?

A. Yes sir.

Q. I am going to show you Exhibit 17. Does the landscaping meet up with what you understand was required or allowed?

A. So for clarification for the Commissioners, you have all these sheets in the packet provided by myself. This is sheet C4 of 8 out of that packet. The Dare County Cluster Home ordinance does not require any type of buffer. The applicant shows a proposed a buffer on his site plan. And so, as a condition of this Special Use Permit, myself and the Planning Board thought it appropriate to add a condition to the Special Use Permit that made this requirement and I believe it's in there it reads he shall leave existing trees and strengthened that with indigenous natural bushes or something to that affect. I don't have the language directly in front of me.

Commissioner Couch: Correct, I'm reading it.

Mr. Gillam: And I believe again on the bottom property boundary against Mr. Werth's property and the properties on Old Wharf state that the applicant proposed a fence there and that language is again included in the Special Use Permit.

Chairman Woodard: Well the vegetation buffer is Item 14 under the special conditions listed in our packet.

A. Yes sir. And again, that was not a requirement of the ordinance but the applicant had his designer show that on the site plan so I felt it was appropriate to include that as a condition that that be installed.

Mr. Smith: I have no more questions, but I would like to submit (C4 of 8) that as Exhibit 17.

Chairman Woodard: At this time is there a representative attorney in the audience that represents the citizens of Wanchese that has any questions to ask of Mr. House? (No one came forward) Mr. Smith continue with your next witness.

Mr. Smith called and questioned Mike Stidham

Chairman Woodard: Mike Stidham and what is your profession?

(Clerk placed Mr. Stidham under oath.)

A. So I am the Vice-President and co-owner of EZ Treat, Incorporated. We manufacture waste water treatment systems.

Q. Where is that located?

A. Our factory is in Catlett, Virginia.

Q. What type of...you heard Mr. House's testimony?

A. Yes.

Q. Was he talking about a system you sell?

A. We manufacture the system so the TS2 system is a treatment standard two developed in...it came into effect in North Carolina in July 1, 2007 under the 1970 rules. So, what it does, it allows due to the quality of the effluent, we get reductions and allowances for the quality effluent that we get with this, which allows us to develop these properties where we have vertical separation issues. Water in lands and reductions that we may need from (inaudible).

Q. So go back you said vertical?

A. Yes we get vertical separation so instead of a conventional gravity system, you need to have 30" of dry soil basically good soil. By using a TS2 system we can reduce that down to 18" and in some cases even 13.

Q. What's the effect of stormwater on these systems?

A. No effect to the treatment system itself for stormwater.

Q. Why is that?

A. We are one of only two systems in the country that passed the NSF350, which is a reuse quality testing with the National Science Foundation. So, there are more credits coming out for a system like ours here starting January 1, 2024 with the new rules, the 18E Rules, which actually allow us to even reduce and do even more better things than what they're doing on the property. Right now, we are required to have 100% drain field, and as of January 1, 2024, in type one soils, sandy soils, we won't be required to even have a reserve drain field.

Q. But in this one you do have a reserve drain field?

A. Yes sir we do.

Q. And how are these systems maintained? How is this project going to be maintained?

A. It's being maintained by rule. Right now, there are six systems on there just under 3,000 gallons a day. So, each of those systems will require a maintenance operator. He'll have to make four visits a year and will have to test the system for the quality effluent twice a year.

Q. And is that required by the State of North Carolina?

A. That's by the State of North Carolina, and the operators have to be certified. They can't just have an operator's license. I have to certify that operator so I have to know what they're doing... I train them personally. So, I work very close with these guys. There is I think right now five or six operators in the region from Hatteras all the way up through Corolla. Not anybody's going to be doing this. They've got to demonstrate to me that... it's just like if you had a BMW, you don't want a Chevy mechanic working on your BMW. You've got to demonstrate to me that you are doing this... then the operator's required to turn in these samples and these inspection reports to the local health department, the state health department, and to the owner. So, before we can get an occupancy permit on any of these buildings whatsoever, when we start this system the contract has to be in place with the county. The county has to have a copy that the contract's in place or they will not issue the occupancy permit.

Q. Is there an odor problem with this system?

A. Lots of septic systems have odor problems. With our type system, a recirculating medium filter, if you have an odor to it, then we know there's a problem. And typically, that's a user issue. It could be something like somebody on chemo that killed the biology in a single-family house or it could be something happening inside the facility, but when you get an odor, you know that that system's not functioning right. The correction on that is one sampling the effluent sample from the septic tank intake to make sure nothings killed the bacterial system. So, if it kills the bacterial you are going to have a resolve for it. But the worst thing that could possibly happen is you have to pump the septic tank and fill it up with clean water and restart it. It's not a major issue. We've been doing this for twenty-years, as of February here in the area, even the market place. We're in Southern Shores and there's a 20,000 gallon-a-day system there. We just installed an 18,000 gallon-a-day system over at the – it's a sea ranch over on the Beach Road, revitalizing that system. I would say we're probably in the neighborhood of, I would say between 150 homes here between Currituck and Hatteras, up and down the beach with systems consisting of single families, major rental properties, subdivisions, all over the country, we do RV parks, campgrounds, restaurants, shopping centers, subdivisions. We are the largest manufacturer in North Carolina throughout the whole state. So, I think we're somewhere in excess of 60% of this type work is done as EZ Treat.

Mr. Smith: Those are my questions Mr. Chairman.

Chairman Woodard: Mr. Stidham, am I to assume that this TS2 system requires less than the normal one-story beach box house drain field?

A. If you have a conventional system, a septic tank and a leach field, TS2. I get a 40% reduction right off the top of the size of that drain field. If I go out and do what's called a special assessment, hydraulic study over a period of twenty-four hours, and demonstrate that the soil has the ability to move more water than that, right now, typically here in the beach, in type one sands we get about 1.2 gallons a day per square foot with a drain field. But after doing the hydraulic study over here on the Beach Road, we've got systems that do 3-5 gallons a square foot. The way everything is, it's prescriptive in the rules. It says you can do "x", but if you want to go spend the money to prove that you can do more then you have that opportunity. But the burden becomes the owner's burden to prove.

Q. I missed this, you said the operators are certified. These systems are required to be inspected how often?

A. Well for under 3,000 gallons a day, which these systems are, they will require that the operator make four visits a year for maintenance and operation, and he has to test the effluent twice a year.

Q. Now when the inspector takes the sample, does he take it from the system or does he take it from the drain field?

A. Ok so he'll take the grab sample out of the pump tank that goes to the drain field. So, most of these systems are under pressure, even though we're on flat lands, we've got to pump it anyway. So, I don't know of any gravity system that I have here in the Outer Banks. Everything is under pressure, so in the pump tank he'll take the grab sample, the operator will, and he'll bring it down to the lab and have it tested and we get the results back in about a week or so.

Q. Would you characterize my statement earlier to Mr. House as a factual statement that this drain field once its going through this TS2 type system is equal or better than gray water?

A. It's not gray water, it's water.

Q. So, it's even better?

A. Yeah gray water is not clean.

Q. I know what gray water is.

A. This is reuse quality water. It's water.

Q. Thank you my friend. Appreciate your testimony

Commissioner Couch: No questions.

Vice-Chairman Overman: I must say it sounds like a pretty impressive system. You said something earlier about solid separation. I guess it gets into how the system operates, but if you would, go into that. You said the solids separate and then the water goes on back through the system.

A. Basic septic tank 101: We branded this thing and call it a septic tank. What it is is a biological digester. So, every component has a job. The septic tank itself separates your solids and your scum, so you will have a scum layer up top of toilet paper and then you will have a clarified zone and the solids will settle out at the bottom, which are typically your organic carbonic material. So, there is a filter in that tank that filters down to one sixteenth slot that comes down into the clarified zone and then draws water from the clarified zone and moves it over to what we call a recirculation tank. Then in the recirculation tank I'll have

pumps in there that pumps up to the pods and they're treatment pods, which are basically a synthetic sand filter and will recirculate that about seven-to-one time ratio. During that process, the bacteria grows on the media. So, it's a service area equation, how much media you have in there, so we dose that and feed the bugs that grow in there and keep that healthy. After it comes out of the pods it will go to a device called a bypass valve which will split the flow 80/20. Eighty percent will go to circulation again and 20% to your pump tank to go over to your drain field. In that process is where we do the water, I mean...

Q. So the solids are eventually broken down?

A. Solids stay in the septic tank. They stay in the septic tank as a digester. That's why we need to protect those bugs. Those bugs there are deficient of oxygen. So, when we come over to the treatment system, we are introducing the oxygen in a surface area for those bugs. So, it's an anaerobic to aerobic condition that does the process.

Q. So when the water comes out, you said, currently where you are in the project right now you need how much depth?

A. Well with the LPP system on this job it's probably going to be a bed system, but you know to your seasonable water table, I'm good at 18". If I use drip irrigation rather than LPP, then I can make it 13" instead of 18".

Q. Do you know how much fill is going to be put on this lot?

A. They're currently finishing up the soil work right now. I don't have that information sir.

Commissioner Ross: Wally, the information is between 15,000 to 18,000 square feet.

Vice-Chairman Overman: Maybe I'm not asking this question right. When they cut trees, clear the land, and back in with fill, that fill is going to have a certain depth, and what I am trying to get to is ...

A. It may not have any. We don't know, because the soil study that they are doing right now is going to tell us where that seasonable water table is.

Q. Gotcha.

A. If I am more than 18" above that seasonable water table then I don't need it.

Q. Ok that's what I needed to know. Thank you.

Commissioner House: I'm good.

Commissioner Ross: I heard public comment that there was a serious threat that this development would destroy the aquifer under Roanoke Island. Can you testify under oath that you do not have concerns that the aquifer will be destroyed?

A. I can testify under oath that my equipment is not going to destroy your aquifer.

Q. Ok thank you.

Chairman Woodard: Is there a representative in the audience, an attorney representing the homeowners of Wanchese, if they have any questions of Mr. Stidham. (addressing someone that stood up). Are you an attorney? I need you on record. You will have to be sworn in and you have to have standing. (inaudible response)

Mr. Smith: I am lodging my objection. She has to have standing and unfortunately she doesn't.

Chairman Woodard: She said she was a property owner.

Mr. Outten: Questioned the resident and determined she did not have standing to testify.

Chairman Woodard: Mr. Smith would you bring your next witness please. (Clerk placed the witness under oath) State your name and who you are with?

A. Jessup Lee Lewis.



Q. And your profession Mr. Lewis?

A. I am a licensed engineer in North Carolina. I specialize in transportation.

Mr. Smith:

Q. Mr. Lewis would you tell us a little bit about your educational background.

A. I graduated from NC State in 1993 with a bachelor of science in civil engineering, specializing in transportation.

Q. And you are a licensed professional engineer?

A. I am licensed in North Carolina and Virginia.

Q. And how are you presently employed?

A. I am employed with VHB Engineering as senior project manager, again specializing in traffic and transportation planning.

Q. And what does VHB Engineering NC, P.C. do basically?

A. All kinds of engineering, transportation and traffic engineering is just one of them. We do structures, environmental studies, airports, specializing in bicycle and pedestrian planning as well.

Q. And does it do road traffic studies and road impact traffic studies?

A. Yes. In the past ten years we have performed 200 studies similar to this one.

Q. And are you familiar with this project that we've been here about tonight?

A. Yes.

Q. How did you become familiar with it and what were you employed to do if anything?

A. We entered into a contract in mid-February to perform a traffic impact analysis study for the development.

A. And how did you do that?

A. Once we entered the contract we mobilized staff to set up video cameras at three intersections along Old Wharf Road for the purposes of gathering traffic data. Once we got the traffic data in then we got it processed and we started working on our analysis as well. The original goal was to be here I think in March, but we got postponed until today.

Q. Was the study required by the North Carolina Department of Transportation?

A. It was not, but we did perform it to their standards and we submitted it to them for any kind of feedback. We haven't received any written feedback yet.

Q. When you did this was there any type of... when you did this what was the purpose of the cameras?

Q. Well in the olden days we would have people set up with chairs by the roadside and press buttons or even make tic marks on a piece of paper counting cars, but now the new way is to actually put video cameras up that actually video and then we send the video out for processing and get the data that way. It's very reliable and its preferred standard right now by NCDOT.

Q. And did you in fact prepare a written report?

A. Yes, we did.

Q. And I want to show you what I have marked as Petitioner's 18, which I am going to hand to Mr. Outten. If the Commissioners would like a couple of copies, I have some extras.

Q. What period of time that you did this traffic analysis.

A. We gathered traffic data Wednesday and Thursday, February 22<sup>nd</sup> and 23<sup>rd</sup> I believe for two days of weekday traffic and also the following Saturdays. We did counts, we have a weekend count as well.

Q. Why did you pick a Wednesday and Thursday during the week?

A. We typically try to capture days when schools are in session so we make sure we capture that peak traffic. So peak areas in the am and pm so we try to get those and Saturday we just picked the highest peak hour. Again, that is standard practice.

Q. I was going to say, does this meet the standard for the North Carolina Department of Transportation?

A. Yes.

Q. What is the speed limit on Old Wharf Road?

A. It's 35 mph.

Q. And did you come to certain conclusions after arriving all of the data that's in this 100-page plus report?

A. Yeah, we concluded that even though there was going to be traffic generated by the site, it's not going to be a significant level so as to create exceptional queuing which is backing up the traffic at the existing intersections or delays at the existing intersections.

Q. I believe on page 20 of your report, you have your conclusions?

A. Yes.

Q. Could you just walk us through those because they're way above my pay grade?

A. Basically on the intersection that we studied we are operating at a really high level of service A and B.

Q. And what does that mean?

A. Which means they have less than fifteen seconds of delay on average during the peak hours of study.

Q. Is that a good thing or a bad thing?

A. It's a good thing. These are unsignalized intersections and typically you go to full service E and F and actually be acceptable for these intersections, but we're not even approaching that here.

Q. Is it correct that A for example would be the best?

A. A is the best.

Q. Did you come up with any recommendations for the site?

A. For the site we analyzed that just a single driveway with a single inbound lane and one outbound lane, we did not study any additional improvements at offsite intersections. Although I understand there is some discussion now about adding like a decel lane going into the site.

Q. And why didn't you propose that?

A. We try to be conservative in our analysis. Look at the least capacity improvements at the intersection – and just see what we had to work with and so we had very good level of service so we didn't recommend adding an additional unsignalized road.

Q. I am pointing here at Petitioner's 17 in which the road appears the same on all of them. So, you're saying your recommendation was one lane in and one lane out?

A. Yes based on the traffic goings.

Q. And would you have any other recommendations at all based on your study?

A. No just make sure we have at least one lane in one lane out that was it.

Q. For example, were there any certain traffic density out here were there any left turns off of Pugh Road that you found on any of the three days that you did this turning onto Old Wharf Road?

A. No.

Q. And did you determine how much of an increase there would be in traffic by assuming that in 2024 this is built – this project is completed in 2024 over what was out there in 2023?

A. Yeah, we'd anticipate that during the weekday A and B our increase of just over 50 vehicles on the frontage of the site and then with weekday p.m. about 60 and the same thing on Saturdays, an increase of about sixty vehicles along Old Wharf Road at the site.

Q. And you mentioned something called LOS?

A. Level of service.

Q. Ok, how are those vehicles going to affect the level of services at all?

A. Well like I said all the intersections operate on a LOS of A and B during all scenarios so pretty insignificant in terms of operations.

Q. Did you have any other recommendations other than those that we just discussed?

A. No.

Mr. Smith: Those are my questions Mr. Chairman.

Chairman Woodard: Thank you Mr. Smith. Mr. Lewis thank you for being here. This is a lot to digest tonight.

A. Yes sir.

Q. I'm sure we're not going to make any decisions tonight because this is critical to a piece of the testimony that we've heard here tonight. As a novice of reading this, and you just presented this to me.

Mr. Smith: Yes sir.

Chairman Woodard: So, I don't have a clue at what I am looking at. And Mr. Lewis has stated that they did studies. Tell me in layman's terms how many days you did the study and what time of the day that you did the study and what were the three locations?

A. Our three locations are Brinkly, Pugh and Mills Landing.

Q. Ok let me write that... Brinkly, Pugh and what?

A. Mills Landing – Mill Landing, sorry.

Q. Alright. How many times did you do it at Brinkly, at Pugh and at Mill Landing?

A. We counted all three intersections, two days, a Wednesday and a Thursday to be able to get one good day of traffic because of the weather. We understand that on a Wednesday there was a crash and we did not even use Wednesday's data, we just used Thursday's data. And then we did count Saturday, immediately after Wednesday and Thursday. We discovered equipment issues, so we went back the following week til we made two trips down here to count on the Saturday.

Q. Two trips on Saturday?

A. Yeah, but we only used the one good data. One good data set. And we recounted all three intersections on that Saturday to make sure we had consistent data at all three intersections.

Q. And what were the dates that you did that?

A. It was February 22<sup>nd</sup> and 23<sup>rd</sup> and March 5<sup>th</sup>, the following Saturday.

Q. With all due respect.

A. The 4<sup>th</sup> I'm sorry.

Q. Would you not find that February and March, which we know we just asked that this to be done. This is a hypothetical question I guess, but I would seem to think that we would have a lot different findings come May, June or July, August, September, in the summer months.

A. You might, yeah. But the timing of this meeting and the study was now.

Q. This Board said let's do a traffic study. We weren't under any timeline to get it done. We could have done this in another 30-60 whatever days. We couldn't? Why couldn't we?

Mr. Smith: The hearing was scheduled for tonight.

Chairman Woodard: Well I know but we could have postponed – we could have had the hearing in May or June Mr. Smith. The point I'm making is... I gotta shoot holes in this because you did samples of four days. And what was the times the samples were taken?

Mr. Lewis: We counted morning peak period, which was 6-9 a.m.

Chairman Woodard: 6-9

A. And then the evening peak, which was 4-6. And that's pretty typical where we capture the peak areas.

Q. So we did a traffic study four days, 6-9 and 4-6? And, once again, I have to look at this because I don't know what the numbers are. I am going to have to go through this and find out what the total numbers are. You did this via video camera. Your conclusion is, based on the numbers, and maybe you can help me out. Tell me what the maximum number was in the peak hours, rather than me having to guess and look at this through this report right now?

A. I'll find the figures real quick for you. Figure 4.

Q. What page is that on?

A. It would be page 8, it's got the existing weekday and Saturday peak hour volumes displayed.

Q. I can't find it, just give me the numbers.

A. So passing in front of the site during the weekend a.m./p.m., it's about 180 vehicles total.

Q. And that's 6-9 a.m.?

A. Well that's just a peak hour so we've got that down for the peak hour.

Q. So is that peak for Pugh or Mills Landing?

A. That's the peak volume in front of the site along Old Wharf

Q. Alright, so roughly 180 vehicles?

A. Yes

Q. At peak?

A. Yes.

Q. Is that average for the four times you did it?

A. That was the absolute peak for the Thursday count. 94 in one direction and 85 in the other direction.

Q. So it's based on these calculations and your findings. You may have heard me earlier ask Mr. House if they would entertain a turn lane. Based on your calculations, you don't think that's necessary?

A. Well the volumes I just quoted to you are the existing counts. If you want to talk about the build volumes, we're talking about right turn in in the morning, would be twelve vehicles approximately. In the afternoon, we think peak would be about 38 vehicles turning in. And then on Saturday peak about 33 vehicles turning right in. So that's actually a really light volume for that movement, but I understand that is pretty typical if you put in a right turn decel lane in this situation.

Q. Well thank you Mr. Lewis, I appreciate your patience and like I say I just got this so I apologize not being able to understand this, but I gotta look at this packet a lot more.

A. Well only about a third of it is report, the other two-thirds are all the backup data, if you want to look at that. It's pretty simple.

Mr. Outten: Chairman, I have just one question along the lines you were just talking.

Q. You are saying, if I heard you say this, this was however you rate it is at best along the lowest rating, therefore you had very few recommendations. I don't remember the acronym that you used.

A. LOS – level of service.

Q. So how much more traffic would you need to generate the next level worse.

A. Well for an unsignalized intersection like I said so your threshold for acceptability is pretty high because of all the side street traffic you don't have any delay so.

Q. If you doubled that traffic, what would that do to your recommendations?

A. We would have to run that analysis and take a look at that and see. It might change a little bit.

Q. In what way?

A. Well then you are talking about the burden is really on the traffic exiting the site really. Because we assign all the traffic only coming from the site. We didn't assign traffic coming right (inaudible). Again, that's taking a very conservative approach so the burden...

Q. It wouldn't change anything putting your site lines at the intersection north and south?

A. Site lines? We didn't really focus on the site lines so much that going to be something to be decided with a discussion with DOT, as part of the site driveway permit access. That's still... we did talk with DOT about that and we know that it is a concern. But no, the traffic, the volumes wouldn't have as much of a factor on the site line as you might think. I mean if you want a sensitivity analysis we could do something like that depending on what extra volume would raise us to the next level.

Chairman Woodard to Mr. Outten: Did you get your answer? Thank Mr. Lewis. I am going to ask Commissioner Couch if he has any questions.

Commissioner Couch: No there's been a lot of deep information. I'm good.

Vice-Chairman Overman: Mr. Lewis, this study was done in February and early March let's say. Do you have a factor that you would plug in for what we anticipate the traffic on that road being in the summertime? We have eight times the number of residents in Dare County coming every week and a bunch of those folks go to Wanchese for various reasons. Some go to buy seafood, some just ride around site seeing and that sort of thing. We have a totally different dynamic in the summertime, which again goes back to the question do we need a turn in lane?

A. I can go back to NCDOT and go ask about a seasonal adjustment factor. I don't think they said they had one at the time. I can double check again. And we've got some other data that we can rely on, it's called "pro data", use of cell phone signals things like that, the manufacture traffic data that's becoming more and more reliable. We can take a look at something like that. You can go back in time, if you tell us a date, we can probably go back and extract some kind of data, but again that goes back to I guess the density of the cell phone signals in the area, if its not that dense that you are not really going to get a lot but we could take a look at something like that if you really wanted to see it, but I really understand your point.

Q. Yes sir, thank you.

Commissioners House: I'm good. I'm still trying to digest all of this.

Commissioner Ross: No questions.

Chairman Woodard: Thank you Mr. Lewis, I appreciate it. I am going to ask if there is a representative in the audience on behalf of the Wanchese residents, if they have any questions of Mr. Lewis.

Someone stood up and stated: "I believe I have enough cause to stand before the court."

Chairman Woodard: Ok let's see if you meet the criteria for standing. Tell me what you figure you – I just need to know if you qualify.

Resident: An accident and recovery (inaudible) through a training course through wreck masters and I actually have a certification too. I'd like to comment on the traffic study that was done.

Chairman Woodard: I will defer to my attorney to see if you meet the standards.

Mr. Outten: Do you have an ownership interest in the property?

Resident: An ownership interest?

Mr. Outten: I'm reading from the statute what the standing requirements are. To have standing, you have to have an ownership of interest in the property or you have to have an option contract to purchase the property. Do have that?

A. No sir.

Q. You have to be the applicant or you have to be a person who suffers special damages.

A. I am a first responder.

Q. That's not one of the ... a person who would suffer special damages as a result of the decision and that's damages to you as a person distinct from ...

A. (inaudible) highway with a loaded tractor trailer (inaudible) personal damages.

Q. Damages that are distinct from you from the public. Is the damage to you different from the public at large?

A. (Inaudible.) Yes sir.

Mr. Outten: It would be your call Mr. Chairman.

Chairman Woodard: Go ahead.

Resident: So in your study of a 180 cars...

Chairman Woodard: You've got to be sworn in.

Mr. Outten: Are you going to testify or are you going to ask questions.

Resident: I am going to ask a question but I am going to testify.

Mr. Outten: Then you have to be sworn in. (Clerk swears in resident)

Mr. Outten to Mr. Smith: You're objection is noted.

Resident: If the 180 vehicles that were recorded.

Mr. Outten: You've got to give your name:

Resident: My name is Rex Mann. Of the 180 vehicles that were recorded, how many were tractor trailers.

Mr. Lewis: I don't think we really had a number on that.

Mr. Mann: The federal motor carrier safety administration says that it takes almost two football fields to stop a loaded tractor trailer.

Mr. Outten: At what speed?

Mr. Mann: At normal operating speed.

Mr. Outten: What's that?

Mr. Mann: So let's say its 55-65 mph.

Mr. Outten: But's its 35.

Mr. Mann: Well how many pounds are on it. What is it carrying. At 80,000 pounds on 65 so we can figure they need at least a football field to stop, correct?

Mr. Outten: In a 35 mph zone?

Mr. Mann: I would guess. I would say that it would take one football field to stop a tractor trailer. If you divide it by two, am I wrong?

Mr. Smith: Mr. Chairman, I am going to move to object. He is not an expert in this area and he's asking me a question.

Mr. Mann: Divided by two, 720 divided by two is 360 – so you have never stopped a tractor trailer on this corner before. I am just asking if you would have another traffic study done ... (inaudible).

Chairman Woodard: The object is sustained on Mr. Smith's part. Since unfortunately you are not an expert in that area, but thank you. Any other questions of Mr. Lewis?

Mr. Smith: Yes sir. Mr. Lewis, ultimately if this project is approved for special use, the North Carolina Department of Transportation would make the decisions concerning this road, right?  
A. Yes.

Mr. Smith: Thank you. Those are my questions.

Chairman Woodard: Let me ask you this Mr. Smith. How many more witnesses do you have?

Mr. Smith: None.

Chairman Woodard: Do you have any closing comments?

Mr. Smith: No.

Mr. Outten: You have to ask (inaudible)

Chairman Woodard: You are talking about the citizens of Wanchese?

Mr. Outten: So, anyone who has standing that wants to present evidence.

Chairman Woodard: I've asked that up to this point and no one has said anything. But if anybody feels like that they have standing, please present yourself and we'll see if you meet the criteria. County Attorney has addressed...

Resident came forward: Chairman Woodard: State your name.

Good evening my name is Joseph T Willis.

Chairman Woodard: Ok you've heard the county manager and it requires standing. Do you have that?

Mr. Willis: Yes sir, I believe I do but I'll leave it up to the county manager.

Chairman Woodard: State your standing.

A. My standing is I am the heir to 365 and 383 Old Schoolhouse Road.

Mr. Outten: Where's that:

A. It is in Wanchese, North Carolina, it is probably about 300 yards from this proposed site.

Q. And as that are you a person who suffers special damages independent of the public?

A. No sir, I am not.

Q. Do you have any ownership interest in the property?

A. I am the heir to the property.

Q. The heir to this property?

A. Yeah the heir to 365 and 383 Old Schoolhouse Road.

Q. The property that is under this site?

A. No sir, I am not.

Q. And you don't have a contract to purchase that property?

A. I do not.

Q. And you don't represent an owners' association on behalf of the community?

A. I was speaking on behalf of the community.

Q. Are you part of an incorporated or an unincorporated association designated by virtue of owning or leasing the property in that area, or association otherwise organized to protect and foster the interest of the particular neighborhood who also has standing to be here?

A. I am a person representing the Wanchese Lions, I believe is an unincorporated entity.

Q. And are they designed to ...What's the purpose of the Lion's?

A. I would have to defer to the (inaudible) of that.

Q. Then it's not one of the purposes of

Chairman Woodard: You do not have standing unfortunately.

A. If that's the case sir since I believe I did have standing at the time. I do see a five-minute clock here. If it pleases, I would...

Chairman Woodard: It's not open to the public. This is a quasi-judicial hearing

Mr. Outten: This is not a public hearing. This is a trial.

Chairman Woodard: This is a quasi-judicial hearing. I am sorry I can't allow you to speak.

A. I understand. Thank you very much. Is there an opportunity for me to speak otherwise at some other future date for five minutes?

Mr. Outten: Yes, every meeting we have public comment.

A. Ok thank you sir.

Chairman Woodard: That would be our May meeting. Is there anyone else in the audience feel like they have standing. Alright hearing none, Mr. Smith.

Question from the audience as to the definition of the last person that didn't have standing. (partially inaudible)

Mr. Outten: I'll read it to you with the Chairman's permission. An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision. (inaudible audience response) If the purpose of that committee was to organize and protect and foster the interest of a neighborhood, then that committee would require, but he would have to have standing...(inaudible audience response). He would then have to have standing as an individual of that organization. So, he would have to be somebody who met those other criteria as well, and that's where it falls apart. This is a trial to put on evidence, not to give opinion. (inaudible audience responses)

Chairman Woodard: Stand down please. We'll move forward County Manager. You've answered the question. I would ask Mr. Smith if he has anything else to present.

Mr. Smith: I just have a very brief statement. More than fifty years ago, the North Carolina Supreme Court in deciding the issue of special use permits, such as the one that we are dealing with here, said that the governmental entity, such as yourself, is restricted to its own ordinance and that it is not the burden of the petitioner such as Aria here to persuade. It is just the burden to present. And we have presented overwhelming evidence as to those things that are in your per venue. And we've gone beyond that because you'd had an interest, like the traffic study for example. You had rightly, I suppose, for your constituents' concerns asked for one so we attempted to provide it; but if you look at your statute, what has to be shown, is that it is an allowable special use, which it is at VR according to your manager. That the setbacks are made, separations of the dwellings are appropriate, the lot coverage is appropriate, the building height is appropriate, the maximum size is appropriate, the parking is appropriate and the roads can be serviced by emergency or service vehicles. All that we have shown and that's what we have to prove. That's our presentation. Thank you.

Chairman Woodard: In light of the time this evening, it's 10:30.....



Mr. Outten suggested to the Board that they close the presentation of the evidence formally and if they are going to come back, and they could either deliberate now or take time to read all of the evidence and deliberate and come back at another meeting.

Chairman Woodard: Stated he had had all his questions answered. He would defer to his fellow commissioners; however, he wanted time to digest the traffic study. He further stated that the matter be taken up at the May 1, 2023 Board meeting with a change of time to 5:00 p.m.

**MOTION**

Commissioner Couch motioned that the Board digest the information in the next thirty days and be prepared to arrive at a decision after an opportunity to review the various reports at the May meeting.

Commissioner House seconded the motion.

VOTE: AYES unanimous.

***Hearing adjourned at 10: 30 p.m.***

**ITEM 11– CONSENT AGENDA**

The Manager announced the items as they were visually displayed in the meeting room.

**MOTION**

Commissioner House motioned to approve the Consent Agenda:

- 1) Approval of Minutes (03.06.23) (**Att. #2**)
- 2) Tax Collector's Report
- 3) DHHS – Social Services Adult Protective Services Essential Services Funding
- 4) Billing Services for Dare Water Department
- 5) Zacchaeus Legal Services – Tax Collection
- 6) Public Works – Bulk Fuel Purchases Budget Amendment
- 7) Virginia Tillett Community Center Budget Amendment
- 8) Advertise 2022 Tax Year Liens
- 9) Health and Human Services – Public Health Division, Trillium Opioid Remediation Program Funding

Commissioner Couch seconded the motion.

VOTE: AYES unanimous

**ITEM 12 – BOARD APPOINTMENTS**

- 1) Aging Advisory Council for the Albemarle Commission

Commissioner Ross motioned to appoint Beth Moore and Sandy Pace Vice-Chairman Overman and Commissioner Couch seconded the motion.  
VOTE: AYES unanimous

- 2) Dare County Board of Adjustment

Commissioner Couch motioned to reappoint Edward Mann, Jr. and Anna Creef.  
Commissioner House seconded the motion.  
VOTE: AYES unanimous

- 3) Airport Authority

Vice-Chairman Overman motioned to reappoint James R. Kenny for a 4-year term.  
Commissioner House seconded the motion.  
VOTE: AYES unanimous

- 4) Manns Harbor Marina Commission  
Vice-Chairman Overman motioned to reappoint Cyndy Holda, Ladd Bayliss, Jonathan Oglesby and Jessie Outland, Jr.  
Commissioners Couch and House seconded the motion.  
VOTE: AYES unanimous
- 5) Veterans Advisory Council  
Vice-Chairman Overman motioned to reappoint Robert Probst and Marsha Brown.  
Commissioner House seconded the motion.  
VOTE: AYES unanimous
- 6) Upcoming Board Appointments  
The upcoming Board appointments for May, June and July, 2023 were announced.

Chairman Woodard summarized statements: This Wanchese project was a market rate project. It was not one of the projects currently in process by the County. Commissioner Ross stated we had sewer questions. Those had been answered tonight.

#### **ITEM 13 – COMMISSIONERS’ BUSINESS & MANAGER’S/ATTORNEY’S BUSINESS**

A brief summary of the items mentioned by Commissioners and the County Manager follows:

##### Commissioner Overman

- On March 14, the Community Foundation had their yearly meeting. It was well attended.
- The Veterans Advisory Council met on March 28. He and Roxanne Ballinger attended to promote the “fentanyl kills” campaign and left literature and kits.
- On March 30 the Savings Lives Task Force hosted a summit on substance use and mental health issues at St. Andrews by the Sea.
- He congratulated the service pin recipients and the employee of the month.

##### Commissioner House

- On April 12 the NC Marine Fisheries would meet at Dare to review shell fish leases.
- He said several teams from Dare schools were moving forward in the Odyssey of the Mind, a problem-solving and creativity program. He recommended providing some assistance with the cost of the world championship trip to Michigan which was expected to be around \$25,000. Typically, private donations raised funds. Board discussed briefly.

##### **MOTION:**

Commissioner House motioned to provide \$10,000 towards the cost of the trip for this year’s Odyssey of the Mind. Board discussed briefly.

##### **MODIFIED MOTION:**

Commissioner House motioned to contribute to the Odyssey of the Mind trip in an amount not to exceed \$10,000.00.

Vice Chairman Overman seconded the motion.

VOTE: AYES unanimous.

Commissioners Ross and Couch did not have further business.

**MANAGER’S/ATTORNEY’S BUSINESS (Att.# 3)**

Mr. Outten explained the need to process a voluntary annexation with Manteo for sewer disposal work on the land that Woda Cooper was planning to build essential housing pending permits.

**MOTION**

Vice-Chairman Overman motioned to authorize the County Manager to write a letter on behalf of Woda Cooper to authorize a voluntary annexation with the Town of Manteo, if they grant the sewage permit.

Commissioner Couch seconded the motion.

VOTE: AYES unanimous

He had been working on the budget with Mr. Clawson and the implementation of the salary study. As they moved funds around they would be short and he needed authority to cover the gaps with budget amendments for fiscal year 2023. The subject would be addressed again and covered during the next budget cycle.

**MOTION**

Commissioner Couch motioned to authorize the County Manager to sign any budget amendments necessary for fiscal year 2023 as they relate to the salary study changes for fiscal year 2023.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

At the conclusion of the meeting, Chairman Woodard asked for a motion to adjourn.

**MOTION**

Commissioner House motioned to adjourn the meeting and recess the decision of the quasi-judicial item until May 1, 2023.

Commissioner Ross seconded the motion.

VOTE: AYES unanimous

At 10:51 p.m., the Board of Commissioners adjourned until 5:00 p.m., May 1, 2023.

Recess the meeting

Respectfully submitted,



APPROVED:

By: *Cheryl C. Anby*  
Cheryl C. Anby, Clerk to the Board

By: *Robert Woodard Sr.*  
Robert Woodard, Sr., Chairman  
Dare County Board of Commissioners

Note: Copies of attachments (Att.), ordinances, contracts, presentations, and supporting material considered by the Board of Commissioners at this meeting are on file in the office of the Clerk to the Board. Public comment has been summarized with attempts made to accurately reflect the spelling of each name as spoken at the podium based on the legibility of the sign-in sheet.