

Joann M. McDermion, Mayor
Tom Leonard, Mayor Pro Tem

Aldermen:
Mike Benson
Richard Grant
Laura Olszewski
Connie Pletl



Alice Derian, ICMA-CM
Town Manager

Alexis Stanfield, NCCCC
Town Clerk

Board of Aldermen October 1, 2025

Issue: Request Approval of Town Maintenance and Repair of the Grant Drive Public Pier and Observatory-style Gazebo

Department: Planning

Prepared by: Deborah J. Hill MPA AICP CFM CZO

Presentation: Yes

BACKGROUND

While the private 10-slip docking facility was eliminated from CAMA Major Permit 55-99, approval was granted for the construction of a 6-foot-wide walkway and an 8-foot diagonal wooden gazebo to serve as a public and community nature observatory within the designated 10-foot Public Access Easement. Notwithstanding this approval, continued references to a "public/private" easement have resulted in ambiguity regarding the respective ownership and maintenance obligations of the Dolphin Shore Homeowners Association and the Town.

CHRONOLOGY

At the Board of Aldermen meeting on November 10, 1998:

- **Dolphin Shores:** John Parker presented the proposal of Dolphin Shores. 42 single family lots will be developed. Two community areas are being proposed, a small cabana style clubhouse with access to the ocean and behind the fire station, there will be a combination public/private pier. There will also be an observatory style gazebo. Also proposed is a private area with 10 boat slips. Construction of the pier, as well as the public access will meet town's requirements.

There are proposed walkways to the ocean and the sound. They will attempt to get pier permits for 10 slips. The water is shallow, so the size of the boats will be restricted. Bill O'Donnell reported that the Planning Board approved the preliminary plan and that they are comfortable with the amenities. Mr. Parker did note that CAMA will have to approve this. Mr. Parker asked for approval of the preliminary plan for Dolphin Shores.

Alderman Peter Hillyer moved, seconded by Alderman Barbara Haynes approval of the preliminary plat of Dolphin Shores as presented by John Parker. Alderman Otis Sizemore asked to be excused from voting on this issue. The motion passed.

- **Old Business: Ocean Club Village,** Bill O'Donnell noted that Dolphin Shores is spending a lot of money to provide amenities, but he didn't think we were being unfair to request them to maintain this pier. Attorney Fuss asked if this pier was built in lieu of something else, i. e. dedication of land and Mr. Parker noted that it was built in place of cash. Attorney Fuss stated that the board was within their rights to take the streets and walkways and hold the pier issue. It was decided that the pier would be inspected by John Starzynski and then a decision would be made.

Alderman Otis Sizemore moved, seconded by Alderman Steve Smith acceptance of the streets and walkways of Dolphin Shores and hold acceptance of the pier until December and until it is inspected. The motion was passed unanimously.

- **New Business: Dolphin Shores Cama Permit:** Parker and Associates asked the town manager to sign the CAMA permit for Dolphin Shores so that they can proceed with the development project.

Alderman Joe Vecchione moved, seconded by Alderman Barbara Haynes approval of Dolphin Shores to receive a CAMA permit. The motion passed unanimously.

Staff Analysis: North Carolina Department of Environment and Natural Resources and Coastal Resource Commission issued CAMA Major Permit Number 55-99 on June 25, 1999 (**Attachment 1**). The developer initially proposed a private 10-slip docking facility waterward of the proposed public pier and gazebo. Development of the “6-foot wide walkway” and “public & community nature observatory 8-foot diagonal Wooden gazebo” within the “10-foot Public Access Easement” as indicated on the site plan was approved (**Attachment 2**). The permit stipulates all references within the permit application and the attached workplan drawings to the proposed private docking facility waterward of the public pier and gazebo are hereby deleted. The remaining portion of the public pier facility may be constructed in accordance with the attached workplan drawings. ***The permit eliminated the private portion of the proposal as well as any conflict of public funds being used solely for the benefit of particular persons or interests.***

At the Board of Aldermen meeting on June 3, 1999:

- **Old Business: DOLPHIN SHORES:** Mr. Parker reported that they have all their permits. The Major CAMA permit is expected at any time. They eliminated 10 boat slips at the end of the public pier portion. Mr. Parker noted that they may still be able to attain 10 slips, but it was easier to withdraw them from the application at this time. The project is the same as before. Bonds have been posted. The public portion of the pier will be built. The association will maintain the pier with no expense to the town. Alderman Sizemore had a concern with the location of the pier since it was adjacent to the firehouse since it may cause some traffic near the firehouse. Mr. Parker noted that this issue was discussed the last time at the Planning Board. At that time, the Planning Board was concerned that the soundside be more actively used. The ocean front area is now available, and the 10 slips are gone. If people park there you should ticket them. Alderman Sizemore questioned cash in lieu of pier. Mr. Parker noted that the pier is a passive recreational use, it cannot have boats and the pier is also an amenity for the development. People who live in this project want the opportunity to walk to the sound.

Alderman Steve Smith moved, seconded by Alderman Peter Hillyer to approve the final preliminary plat for Dolphin Shores. The motion passed unanimously.

1. **Staff Analysis:** The final plat approved on June 3, 1999, was erroneously designated as “preliminary” final due to a miswording or clerical error. The Final Plat for Dolphin Shores, prepared by Parker & Associates, Inc., was duly recorded on July 9, 1999, in Book 38, Page 54 (**Attachment 3**). Therefore, the Final Plat recorded on July 9, 1999, in Book 38, Page 54 shall control and supersede any inconsistent references to a “preliminary” plat. The Dolphin Shores Restrictive Covenants were recorded on August 9, 1999, as Book 1569 Page 980. (**Attachment 4**).

Mr. Parker’s assertion that they may still be able to attain 10 private boats slips and the offer that the association will maintain the pier with no expense to the town avoided any conflict of public funds being used solely for the benefit of particular persons or interests.

At the Board of Aldermen meeting on February 2, 2000:

- Patsy Jordan reported that on January 13, 2000, the Planning Board met. Mr. Tucker, of Blue Green, requested the release of the performance bonds for Dolphin Shores. Ms. Jordan noted that they are in compliance and that it is a nice subdivision and recommended to the Aldermen the release of the performance bonds.
- Alderman O'Donnell asked if the walkover was too narrow at Dolphin Shores. Mr. Tucker said that it was large enough (4 feet). Alderman Sizemore asked if the performance bonds covered the roads and were they completed? Mr. Tucker said that it was probably the right of way for the sewer that Alderman Sizemore was looking at because all of the streets are completed.
- **Old Business: Performance Bond Release and Street Acceptance:** Mr. Sheldon Tucker requested the release of a performance bond by Blue Green Carolina for the subdivision known as Dolphin Shores. Alderman Sizemore noted that there was nothing stating that the roads were constructed to state specifications. Mr. Tucker stated that the Town is taking over the roads, not the state. Mayor Bostic said that D.O.T. would not inspect our streets and we have a registered engineer who reviewed the plans. Mayor Bostic noted that the letter in our possession states that the streets are acceptable to state standards. Attorney Fuss also said that there is sufficient proof.

Alderman Sizemore moved, seconded by Alderman Smith approval of the release of the performance bonds for Dolphin Shores. The motion passed unanimously. Alderman Flynn moved, seconded by Alderman Sizemore, acceptance of the streets in Dolphin Shores, namely Porpoise Lane and Bottlenose Court. The motion passed unanimously.

At the Board of Aldermen meeting on April 5, 2017:

C. Discussion of 10-foot Public Access Easement Adjacent to Grant Drive:

Ms. Hill introduced this item with the recommendation that the Town will assume maintenance of the walkway and gazebo. She said that the Building Inspector and Public Works Director found some minor repairs that need to be made and that those will be made soon and would be within the Town’s current budget. Mr. Edes agreed with Staff and strongly recommended that the Town

take over maintenance. Alderman Peters asked if the Town could put a kayak launch in this location and wanted to know if more property needs to be acquired to construct one in that location.

Staff Analysis: The Board of Aldermen did not formally approve the Town taking over maintenance at this meeting on April 5, 2017.

At the Board of Aldermen meeting on April 13, 2017:

Ms. Hill briefly discussed the Grant Drive access. The Board had requested that Town Staff look into installing a kayak launch at this access. She indicated that the water at this location is very shallow and not ideal for a kayak launch. She recommended that the Board consider other possible locations as Mr. Riggs works with the Town to inventory Town property.

Staff Analysis: A cost estimate of the repairs was provided by the Public Works Director, Thomas Best (**Attachment 5**) Onslow County GIS aerial with Street Dedication for Grant Drive Book 30 Page 90 (**Attachment 6**) overlay and Onslow County GIS aerial with Book 38 Page 54 overlay (**Attachment 7**) were created August 1, 2017.

At the Board of Aldermen meeting on August 2, 2017:

Mr. Peters introduced this item and indicated that getting a title search would give the Board more direction. There was consensus from the Board to direct the Town Attorney to look at potential legal issues and to get a title opinion.

At the Board of Aldermen meeting on September 6, 2017:

X. Old Business: B. Report on Title Search for Grant Drive Access.

Mayor Pro Tem Macartney moved that the Board see if Option B can be worked out with Dolphin Shores HOA. Alderman McDermon seconded the motion. Mayor Pro Tem Macartney amended the motion to include authorization to perform any surveys. Alderman Peters seconded the amended motion. The motion passed unanimously.

At the Board of Aldermen meeting on October 4, 2017:

VIII. Assistant Town Manager's Report: Grant Drive Kayak Launch

On September 6, 2017, the Board of Aldermen directed Town Staff to see if Option B (installation of a ramp on the right side 90% on Town Property. Estimated cost \$2,500.00 could be worked out, the motion included authorizing staff to perform surveys and contact Dolphin Shores HOA should permission be required to install the ramp. Town Staff followed up with Onslow County to see if grant funds could be used to install the ramp. Onslow County denied this request. Town Staff would like the Board to give further directions on funding of this project as it is currently not budgeted.

At the Board of Aldermen meeting on November 1, 2017:

IX. ASSISTANT TOWN MANAGER'S REPORT: Grant Drive Kayak Launch

Town Staff was authorized to have surveys performed to determine the ownership of the property in order to permit and construct Option B (installation of a ramp on the right side 90%

on Town Property. Estimated cost \$2,500.00). The surveyors have been to the site and staff is waiting on the survey.

Staff Comments:

- Town staff received the Boundary Survey for the Town of North Topsail Beach by Charles F. Riggs & Associates, Inc. dated November 1, 2017 (**Attachment 8**).
- Stuart Turille letter *Grant Drive Access & Proposed Kayak Launch* dated and mailed on December 7, 2017, emailed 12/8/2017 9:51 AM (**Attachment 9**), indicates that the Town, at its own expense, obtained the services of a professional surveyor, Charles Riggs, and he sealed a survey on November 1, 2017 (**Attachment 8**) which unequivocally illustrates that the proposed kayak launch is in the public right-of-way. Based on the forgoing, the Town is of the opinion that it has the legal authority to move forward with the proposed kayak launch.
- Steve Foster was appointed Interim Town Manager on December 20, 2017.
- At the January 2018, Board of Aldermen meeting, Town Attorney Edes was directed to write a legal opinion as to why the Town maintains authority to use the 10-foot access easement and the 25' Grant Drive.
- On or about March 8, 2018, Dolphin Shores HOA voted against the Town's request for a 15 ft waiver for a kayak launch at Grant Drive.
- The State of North Carolina owns all land below Mean High Water, except provided for by NCGS 113-205 and -206.

CAMA Land Use Plan

- **P.1** The Town supports Onslow County's economic development efforts and recreational-related developments that protect and preserve the natural environment while promoting the Town as a family vacation destination. The Town supports the private and public development of waterfront access through private funds, grant monies, and local investment.
- **P.28** The Town supports the establishment of passive recreational uses in areas designated as conservation on the Future Land Use Map and/or CON-D on the Town's officially adopted zoning map. All uses must comply with all federal, state, and local rules and regulations.
- **P.39** The Town supports the provision of public recreational facilities and areas and will pursue grant funds and private donations for public open space and recreation facilities.
- **P.44** The Town supports state and federal funding for maintenance/dredging of the Intracoastal Waterway, as well as the New River Inlet. Town residents and visitors rely on these resources for recreational and navigational purposes.
- **I.30** The Town will coordinate the development of recreational facilities with all applicable property owners' associations in order to maximize the potential quality, access, and use of these facilities. Schedule: Continuing Activity; Funding Source: General Fund, Staff Time, Applicable POAs.
- **P.60** The Town supports commercial and recreational fishing in its waters and will cooperate with other local governments and state and federal agencies to control pollution of these waters to improve conditions so that commercial and recreational fisheries will not be depleted. It also supports the preservation of primary nursery and habitat areas.

ATTACHMENTS

1. CAMA Major Permit 55-99 dated June 25, 1999.
2. CAMA Major Permit 55-99 Site Plan titled *Plan General Grading, Drainage, Erosion & Sedimentation Control Plan Dolphin Shores* by Parker & Associates, Inc. dated July 23, 1998.
3. Final Plat Dolphin Shores by Parker & Associates, Inc. recorded on July 9, 1999, as Book 38 Page 54.
4. Dolphin Shores Restrictive Covenants recorded on August 9, 1999, as Book 1569 Page 980.
5. Thomas Best email *Grant Dr access* dated July 18, 2017.
6. Onslow County GIS aerial with Street Dedication for Grant Drive Book 30 Page 90 overlay created August 1, 2017.
7. Onslow County GIS aerial with Book 38 Page 54 overlay created August 1, 2017.
8. Boundary Survey for the Town of North Topsail Beach by Charles F. Riggs & Associates, Inc. dated November 1, 2017.
9. Stuart Turille letter *Grant Drive Access & Proposed Kayak Launch* dated December 7, 2017.
10. Thomas Best email *RE: Soundside Grant Drive Access to water* dated September 22, 2023.

RECOMMENDATION

As only the public portion of the proposed gazebo and walkway were permitted and constructed within the 10-foot public access and “No boat dockage is allowed at the facility, even temporarily,” that the Town repair and maintain the public walkway, pier and gazebo within the 10-foot public access easement, consistent with the CAMA Land Use Plan and as referenced by:

- CAMA Major Permit 55-99 (**Attachment 1**) and Site Plan (**Attachment 2**), which was approved by the Board of Aldermen for submittal on November 10, 1998;
- Final Plat Dolphin Shores (**Attachment 3**), which indicates the 10-foot public easement, Certificate of Ownership and Dedication by the owner and certified approved by the Board of Aldermen by Mayor Marty Bostic;
- Dolphin Shores Restrictive Covenants (**Attachment 4**); and
- Boundary Survey for the Town of North Topsail Beach (**Attachment 8**).

ACTION NEEDED

Yes

SUGGESTED MOTION

“I make a motion that the Board of Aldermen approve the Town repairs and maintenance of the pier and gazebo within the 10-foot public access easement.”

