



## TOWN OF KILL DEVIL HILLS

*Land Where Flight Began*

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF  
THE TOWN OF KILL DEVIL HILLS, NORTH CAROLINA,  
AUTHORIZING ACQUISITION BY CONDEMNATION OF  
BEACH NOURISHMENT EASEMENTS ON CERTAIN PROPERTIES  
LOCATED IN  
THE TOWN OF KILL DEVIL HILLS**

**WHEREAS**, for the purposes allowed by Section 40A-3(b1)(10) of the North Carolina General Statutes, and particularly in connection with a beach nourishment project to be undertaken by the Town pursuant to prior action by the Town Council (the "Project") is to protect structures of historic significance, to maintain the Town's tax and economic base, protect Town infrastructure including facilities for public recreational access, and for erosion control and flood and hurricane protection works via a beach nourishment project; and for erosion control and hurricane protection works via a beach nourishment project, the Town Council of the Town of Kill Devil Hills hereby determines that it is desirable, necessary and in the public interest to acquire a limited easement over certain portions of the properties described on Attached Exhibit "A" (the "Subject Properties") that are located in the nourishment project area, which extends from the northern boundary of Kill Devil Hills South to the North boundary of Prospect Road extended to the Atlantic Ocean (the "Project Area") and bordering the Atlantic Ocean; and

**WHEREAS**, the Town believes that the interest needed in each of the Subject Properties is of minimal or *de minimis* value, and is worth less than the amount by which work done in connection with the Project will preserve, enhance or increase the value of the Subject Properties; and

**WHEREAS**, the Town anticipates that it will be unable to acquire the needed easement rights in Subject Properties by the owners' voluntary conveyance; and

**WHEREAS**, it is necessary that the Town obtain the limited easement rights on the Subject Properties within the Project Area so that the Project may proceed without undue delay.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF KILL DEVIL HILLS, NORTH CAROLINA, THIS 16<sup>th</sup> DAY OF MAY, 2016, AS FOLLOWS:**

1. For each of the Subject Properties in the Project Area, the Town shall acquire, by condemnation, for purposes allowed by Section 40A-3(b1)(10) of the North Carolina General Statutes and particularly as and to the extent needed in connection with the Project, an easement in each of the Subject Properties, described as follows:

The easement area shall be that portion of the Property located between the mean high water mark of the Atlantic Ocean, and the landward toe of the Frontal Dune or Primary Dune. In the absence of a discernable Frontal Dune or Primary Dune, the easement area shall be that portion of the Property located between the mean high water mark of the Atlantic Ocean, and the waterward edge of any Permanent Structure located on the Property as of the date of this Easement. In the absence of a discernable Frontal Dune or Primary Dune or a Permanent Structure, the easement area shall be that portion of the Property located between the mean high water mark of the Atlantic Ocean, and a northern and/or southern extension of the Western boundary of the easement area for the property or properties adjoining the Property on the north and/or south whose comparable easement areas have been established using either the Frontal Dune or Primary Dune or a Permanent Structure located on such adjoin property (the "Easement Area").

The capitalized terms as used in the description of the Easement Area for each of The Subject Properties shall have the following meanings:

Accessory Building: A subordinate Building consisting of walls and a roof, the use of Which is clearly incidental to that of a Principal Building on the same lot.

Building: Any structure enclosed and isolated by exterior walls and constructed or used for a residence or business. The word Building includes the word Structure.

Frontal Dune: The first mound of sand located landward of the Ocean Beach having Sufficient vegetation, height, continuity and configuration to offer protective value.

Improved Dune Walkover Access: A raised walkway constructed for the purpose of providing access to the Ocean Beach from points landward of the dune system.

Ocean Beach: The lands consisting of unconsolidated soil materials that extend landward of the mean low water mark of the Atlantic Ocean to a point where either the growth of vegetation occurs or a distinct change in slope or elevation alters the configuration, whichever is farther landward.

Permanent Structure: A Building, including a Principal Building and any Accessory Building(s), covered decks, swimming pool, and improvements associated with a swimming pool, but not including any uncovered decks or any Improved Dune Walkover Access or any associated gazebos or other improved portions of an Improved Dune Walkover Access.

Primary Dune: The first mound of sand located landward of the Ocean Beach having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. The primary dune extends landward to the lowest elevation in the depression behind that same mound of sand (commonly referred to as the dune toe).

Principal Building: A Building in which is conducted the principal use of the lot on which it is located.

2. The easement shall be effective immediately upon acquisition but shall expire On December 31, 2026.

3. Pursuant to Section 40A-11 of the North Carolina General Statutes, Town staff, and any agents, engineers, surveyors, appraisers, contractors and others employed or contracted by

the Town or Dare County as the Town's agent, are authorized to enter upon any of the Subject Properties, but not structures, to make surveys, borings, examinations, and appraisals as may be necessary or expedient in carrying out and performing the Town's rights or duties under Chapter 40A of the North Carolina General Statutes, after the Town gives 30 days' notice in writing to the owner of each of the Subject Properties at his or her last known address and the party in possession of the land of the intended entry authorized by Section 40A-11 and this Resolution.

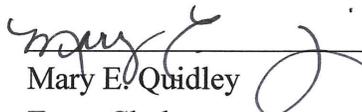
4. The attorneys representing the Town are authorized and directed to institute the necessary proceedings under Chapter 40A of the North Carolina General Statutes to acquire the easement rights or interests in the Subject Properties and take any actions as necessary in connection with the acquisition process.

Adopted this the 16<sup>th</sup> day of May, 2016.



  
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Sheila F. Davies  
Mayor, Town of Kill Devil Hills

ATTEST:

  
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Mary E. Quidley  
Town Clerk

## **Kill Devil Hills Legals**

1. **3317 N. Virginia Dare Trail – 000053000 (James & Maude Hawkins)**  
Being Lot 2, of Block 1, of the subdivision known as Orville Beach, as shown on map or plat thereof made by J.L. Foy, Registered Surveyor, dated August 1947, which said map or plat is duly recorded in Map Book 1, Page 138, Public Registry of Dare County, North Carolina.
2. **3215 N. Virginia Dare Trail – 000094000 (Hobbs-Stone, LLC)**  
All those certain lots of land having a frontage of seventy-five (75) feet on the Atlantic Ocean near Kill Devil Hills, Dare County, North Carolina, and being on the Southeast corner of the Virginia Dare Trail and Arch Street, and being Lot No. 1, and the North one-half of Lot No. 2, in Block 6, Orville Beach, map or plat of said subdivision made by J.L. Foy, Registered Surveyor, August 1947, and duly recorded in Map Book 1, Page 138, in the Office of the Register of Deeds of Dare County, North Carolina, reference to which is hereby made for a more particular description of the lands above-described.
3. **3123 N. Virginia Dare Trail – 000103000 (Robert L Holland)**  
Being Lot No. 6 of Block 7 of the subdivision known as Orville Beach as shown on map or plat thereof made by P.F. Crank, Surveyor, dated July 13-22, 1960 which said plat is duly of record in the Office of the Register of Deeds of Dare County, North Carolina in Map Book 2, at Page 144.
4. **No Address – 000106000 (Estate of Frances B. Rose)**  
Being Lot No. 9 of Block 7 of the subdivision known as Orville Beach, as shown on map or plat thereof, made by P.F. Crank, Surveyor, dated July 13-22, 1960 which said plat is duly of record in the Office of the Register of Deeds of Dare County, North Carolina, in Map Book 2 at Page 144.
5. **3115 N. Virginia Dare Trail – 000816000 (Charles Huffman & Robert Santiago)**  
All that certain lot or parcel of land together with all improvements situated thereon, lying and being in the Town of Kill Devil Hills, and known as Lot No 4 of the subdivision known as “Plat B of Virginia Dare Shores” as shown and delineated on a map or plat thereof recorded in Deed Book 17 at Page 105, in the Office of the Register of Deeds of Dare County, North Carolina, and said map or plat reference is expressly made thereto for a more particular description of the land herein conveyed.
6. **3113 N. Virginia Dare Trail – 000817000 (Joyce Fields Simpson, Elizabeth Fields Bishop, Lorna Fields Lyerly, and Cecelia Fields Hughes) (have 2 of 4 signatures)**  
All that certain lot or parcel of land together with all improvements situated thereon, lying and being in the Town of Kill Devil Hills, and known as Lot No 5 of the subdivision known as “Plat B of Virginia Dare Shores” as shown and delineated on a map or plat thereof recorded in Deed Book 17 at Page 105, in the Office of the Register of Deeds of Dare County, North Carolina, and said map or plat reference is expressly made thereto for a more particular description of the land herein conveyed.

- 7. 3003 N. Virginia Dare Trail – 000820000 (James F. Perry)**  
All that certain lot of land, together with improvements thereon known as, designated and being Lot No. 14 of the subdivision known as Virginia Dare Shores as shown on plat entitled “Virginia Dare Shores, Plat B” made by David Cox, Registered Engineer, dated October 10, 1935, and recorded in Book 17, Page 105, Public Registry of Dare County, North Carolina.
- 8. 2907 N. Virginia Dare Trail – 000822000 (Christopher D. Lampman)**  
Being Lot 16 on Plat B of the subdivision known as Virginia Dare Shores, as shown and delineated on a map of said subdivision designated “Virginia Dare Shores, Plat B”, made by David Cox, Registered Surveyor, dated October 10, 1935, and recorded in Book 17, Page 105 in the Office of the Register of Deeds of Dare County, North Carolina.
- 9. 2801 N. Virginia Dare Trail – 000830000 (Lauren Raus & Ryan Lankford)**  
Being Lot No. 24 as shown and delineated on Plat B of the subdivision known as Virginia Dare Shores, map or plat of said subdivision made by David Cox, Jr., Surveyor, dated October 10, 1935, and duly recorded in Book 17, Page 105 in the Office of the Register of Deeds of Dare County, North Carolina.
- 10. 2705 N. Virginia Dare Trail – 000832000 (Kenneth Byron Waldrop & Lisa Lynn Waldrop)**  
All that certain lot of land together with the houses and improvements thereon, lying and being in the Town of Kill Devil Hills, in Atlantic Township, Dare County, North Carolina, and known as, designated and being Lot No. 27 as shown on Plat “B” of the subdivision known as “Virginia Dare Shores”. Map or plat of said subdivision made by David Cox, Registered Engineer, October, 1935, and duly recorded in Book 17, Page 105, in the Office of the Register of Deeds of Dare County, North Carolina, reference to which is hereby made for a more particular description thereof.
- 11. 2503 N. Virginia Dare Trail – 000840000 (123 Property Services, LLC)**  
All those certain lots or parcels of land, together with the houses and improvements thereon, lying and being in the Town of Kill Devil Hills, in Atlantic Township, Dare County, North Carolina, and known as, designated, and being Lot Nos. 35 and 36, Plat B, map of Virginia Dare Shores, duly recorded in Deed Book 17, Page 105, Office of the Register of Deeds of Dare County, North Carolina.
- 12. 2301 N. Virginia Dare Trail – 000847000 (Gary H & Susan M Tarpley & Betty K Carraway)**  
All those certain lots or parcels of land, together with the houses and improvements thereon, lying and being in the Town of Kill Devil Hills, in Atlantic Township, Dare County, North Carolina, and known as, designated, and being Lot No. 47, Plat B, map of Virginia Dare Shores, duly recorded in Deed Book 17, Page 105, Office of the Register of Deeds of Dare County, North Carolina.
- 13. 2209 N. Virginia Dare Trail – 003036000 (Calvin S & Latrelle S & Gary K & Terry W Hill)**  
Being that certain lot or parcel of land situate in said Atlantic Township, Dare County, North Carolina, and located on the East side of Highway No 158, and being known and designated as Lot No 48, as delineated on the map of Virginia Dare Shores Subdivision, Plat “B”, said map

being duly of record in Deed Book 17, Page 105 in the office of the Register of Deeds of Dare County, North Carolina, to which plat reference is hereby made for a complete description of said land; said lot fronting on said highway a distance of 50 feet and extending back therefrom to the high water mark of the Atlantic Ocean; also reference is herewith made to deed of record in Book 34, Page 280, and particular reference is herewith made to deed of record in Book 45, Page 483 executed by W. H. C. White and wife to J. B. Rose and wife, Bell Gard Rose, and the deeds referred to therein, and being the same lot or parcel of land conveyed to A. Parker Midgett and Robert P. Midgett in that certain deed from C. A. Haggard and wife, Cora Haggard, of record in Book 93, Page 258 in said Public Registry.

**14. 2207 N. Virginia Dare Trail – 000848000 (Mary Lou Taylor)**

Lots 49 as shown on Plat B of Virginia Dare Shores, which plat is recorded in Book 17, Page 105, Dare County Public Registry.

**15. 2205 N. Virginia Dare Trail – 000849000 (Mary Lou Taylor)**

Lots 50 as shown on Plat B of Virginia Dare Shores, which plat is recorded in Book 17, Page 105, Dare County Public Registry.

**16. 2111 N. Virginia Dare Trail – 003070000 (Dare Resorts Inc—Avalon Pier)**

Beginning at an iron pipe set in the eastern right of way margin of US 158 Business (also known as Virginia Dare Shores), such point being the southwestern-most corner of Lot 51 on Plat "B" of the Subdivision of Virginia Dare Shores, said plat being duly recorded in Deed Book 17, Page 105, of the Public Registry of Dare County, North Carolina; thence from said point of beginning, in a line approximately perpendicular to said right-of-way, N 69 degrees 15 minutes East 137.75 seconds along the southern line of the said Lot 51, to an iron pipe set in the bulkhead crossing the within described property; thence continuing along the southern line of the said Lot 51, the same course of North 69 degrees 15 minutes East 70 +/- feet to the high water mark of the Atlantic Ocean a southerly course to the point of intersection of the said high water mark with northern line of a public beach access, which point lies North 69 degrees 15 minutes East approximately 80 +/- feet from a nail set in the southern end of the bulkhead of the within described property, a corner; thence along the northern line of the above referenced public beach access South 69 degrees 15 minutes West approximately 80 +/- feet through a groin to the above referenced nail set in the bulkhead; thence continuing South 69 degrees 15 minutes West along the northern line of the public beach access 137.32 feet to an iron pipe set in the eastern right of way margin of US 158 Business; thence along the eastern right of way margin of US 158 Business North 20 degrees 45 minutes West 349 seconds to the point and place of Beginning, as shown on survey entitled "Survey of the Avalon Pier Parcel for Dare Resorts, Inc.", by Wesley M. Meekins, Jr., Registered Land Surveyor, dated October, 1986, which said plat is duly recorded in the Office of the Register of Deeds for Dare County, North Carolina, in Deed Book 478, Page 285.

It being the same property conveyed to Dare Resorts, Inc., a North Carolina Corporation, by deed from Avalon Pier Associates, A North Carolina limited partnership, dated October, 1986, and filed for record in Deed Book 478, Page 282.

**17. No Address – 003069000 (Avalon Beach Improvement Association)**

All that certain parcel of land situated on U. S. Highway 158 Business, bounded on the North by Lot No. 3 and on the South by Lot No. 2, Avalon Beach, as shown on that map or plat recorded in Map Book 1, Pages 106 and 107, said parcel being bounded on the West by U.S. Highway 158 Business, otherwise known as Virginia Dare Trail, and on the East by the Atlantic Ocean.

**18. 1713 N. Virginia Dare Trail – 002791000 (Brian K & Elizabeth D Newman)**

Beginning at a point on the Atlantic Ocean at the Northeast corner of the lot and property now or formerly owned and occupied by Adelaide Harrison, running thence from the beginning point in a Northerly direction along the Atlantic Ocean 75 feet to the Southeast corner of the lot and property now or formerly owned by Roy Fuller; thence in a Westerly direction along the Fuller South line, and on a course at right angles to US Highway 158 Business, sometimes known as Virginia Dare Trail, to a point in and on the East margin or right of way of US Highway No 158 Business; thence in a Southerly direction along the aforesaid highway 75 feet to a point in the Northwest corner of the lands now or formerly owned by Adelaide Harrison, thence along the North line of the lands nor or formerly owned by Adelaide Harrison Easterly to the Atlantic Ocean.

Said lot fronting 75 feet on the Atlantic Ocean and extending back therefrom between parallel lines to the aforesaid highway, and also being known as Lot No 13 and the North one-half or 25 feet of Lot No 14 in Block C Section 2 of the subdivision known as Croatan Shores, as shown and delineated on a map or plat thereof duly recorded in Map Book 1, Page 164, in the Office of the Register of Deeds of Dare County, North Carolina.

**19. 1617 N. Virginia Dare Trail – 002777000 (1617 N. Virginia Dare Trail, LLC)**

All those certain lots of land lying and being in the subdivision known as Croatan Shores in Atlantic Township, Dare County, NC near Kill Devil Hills, bounded on the South by the lands of Charles H. Jenkins; on the east by the Atlantic Ocean; on the North by J.M. Coulbourn and on the West by the North Carolina State Highway designated as US Highway No 158, and generally known as Virginia Dare Trail and being 150 feet wide and extending between parallel lines from said Highway to the Atlantic Ocean, and also known as, delineated and being Lot No 11, Block "B", Section 1, of the subdivision known as Croatan Shores, Map or plat thereof made by J. L. Murphey Aug. 1939, and duly recorded in Map Book 1, Page 173, Office of the Register of Deeds of Dare County, NC, reference to which is hereby made for a more particular description of the lands above described. See also map or plat of said subdivision of record in Map Book 1, Page 161.

**20. 1613 N. Virginia Dare Trail – 002779000 (Walter & Teresa Ulickas)**

All those certain lots of land lying and being in the subdivision known as Croatan Shores in Atlantic Township, Dare County, NC near Kill Devil Hills, bounded on the South by the lands of Charles H. Jenkins; on the east by the Atlantic Ocean; on the North by J.M. Coulbourn and on the West by the North Carolina State Highway designated as US Highway No 158, and generally

known as Virginia Dare Trail and being 150 feet wide and extending between parallel lines from said Highway to the Atlantic Ocean, and also known as, delineated and being Lot No 13, Block "B", Section 1, of the subdivision known as Croatan Shores, Map or plat thereof made by J. L. Murphey Aug. 1939, and duly recorded in Map Book 1, Page 173, Office of the Register of Deeds of Dare County, NC, reference to which is hereby made for a more particular description of the lands above described. See also map or plat of said subdivision of record in Map Book 1, Page 161.

Same being the property conveyed to Kimberly H. Lane and husband, William J. Lane, by deed dated September 26, 2011 and recorded in Book 1876, Page 458, Public Registry of Dare County, North Carolina.