

# 1. STREET CONNECTIVITY and ROANOKE ISLAND TRANSPORTATION PLAN

## DOT Plan

More than a decade ago, citizens rejected westside bypass and widening of US 64 to 5 lanes because those two options would destroy homes and businesses. New bridge built instead.

## 20-Year Plan Update 2005-2025

Traffic worries ranked high in survey. Plan Update recognized the need to improve circulation and connections over the next 20 years.

## Roanoke Island Transportation Plan 2006-2026

Task force established in 2004 during a joint meeting of Dare County and Town Commissioners to develop a 20-year transportation plan for the north half of Roanoke Island. Other entities participated: North Carolina Department of Transportation, Fort Raleigh National Historic Site, the Roanoke Island Commission, the Albemarle Commission, Dare County Airport Authority and the Coastal Studies Institute. The group met monthly for two years. From the start, all agreed to look for alternatives to widening US 64 to 5 lanes or construction of a bypass.

## Traffic Counts Projected to Double in 10 Years

The Task Force looked for ways to deal with what DOT projected would be more than double the number of cars on the island by 2013, increasing from 17,000 to 37,000 vehicles per day. DOT Average Daily Transportation Counts in 2003:

1. 7,600 vehicles daily at Etheridge Road

2. 18,000 vehicles daily at ABC Store
3. 17,000 vehicles daily at Midway with a projection of 37,000 vehicles daily by 2013.

### Manteo Adopts 6 Proposals

The Task Force, working with the nationally renowned engineering firm Kimley-Horn, developed 17 conceptual proposals. Each partner in the planning process will review and adopt, modify, or reject those proposals within their respective jurisdictions.

The Town adopted six conceptual proposals located within the town limits:

1. The Uppowoc extension is nearing completion.
2. The West Side Connector only affects properties voluntarily requesting annexation.
3. Bowsertown/Viccars Lane is partially finished.
4. Agona Street Connector needs land.
5. DOT Yard Connectors only work if/when DOT moves out of Town.
6. And the last one is about operational improvements along Highway 64.

Except for Uppowoc Street, none of the above plans, proposals, or development codes ever even considered connections east of Highway 64.

### A Guide, Not A Law

The Roanoke Island Transportation Plan is a planning document that offers alternatives to a bypass or a 5-lane road through the island. There is no implementation component to the plan. DOT will not be arriving with bulldozers and

asphalt trucks. It is simply a plan, something to be consulted over the next 20 years, something to consider if and when the majority of residents believe that traffic on Highway 64 has reached the point where it negatively impacts their daily lives.

## 2. 50-FOOT SETBACK ON HIGHWAY 64

### New Development

Nothing in the new development codes requires anyone to change anything unless or until they expand or redevelop.

### Example of Commercial Site

**Illustration 2-A** shows a 300- by 200-foot lot with a 15,000-square-foot building, 30 parking spaces, and approximately 55 percent lot coverage without a 50-foot setback. Nothing in the Zoning Ordinance requires an existing property to change anything.

**Illustration 2-B** shows the same 300- by 200-foot lot with a 15,000 square foot building, 30 parking spaces, and approximately 55 percent lot coverage, but with a 50-foot setback for green space, stormwater absorption, and the corridor. It also shows connectivity of parking lots to commercial development on either side should it be appropriate and feasible at the time of development or in the future. This illustration applies only to new development or expansion or redevelopment of existing properties.

## Example of Mixed-Use Residential/Commercial Site

**Illustration 2-C** further shows that the 50-foot setback has no impact on a person's ability to develop his property to its fullest potential. Commercial lot coverage is 55 percent. If a developer chooses to put residential above commercial, he may increase lot coverage to 70 percent. This illustration shows on the same 300- by 200-foot lot a 20,000-square-foot building, 10,000 square feet on each floor, with required parking and the possibility of connectivity to commercial uses on either side and does not exceed the 70 percent lot coverage allowed – all while maintaining the 50-foot setback. This illustration applies only to new development or expansion or redevelopment of existing properties.

Let's look at **Illustration 2-D**.

It shows five hypothetical properties of various sizes along Highway 64. It shows how we have developed over time; we have pushed our parking lots as close to the highway as possible, we have put in one or two curb cuts for every business and we have traditionally not connected our parking lots to the ones next door. It shows 7 curb cuts. And every time we want to go from one store to another, we have go onto the highway.

Now let's look at **Illustration 2-E**.

It shows the very same lots. And it shows how our ordinances want new development and redevelopment to occur. It shows a 50 foot setback, the same amount of parking, the same sized buildings, but with only 3 curb cuts. We can go from store to store and never have to go back out onto the highway.

## Impacts

The owner's ability to develop his property to its fullest potential is not impacted by the 50-foot setback. It is simply a matter of where we place the building and parking on the lot.

## Public Benefits

The public benefits of maintaining a 50-foot setback on US 64 are to:

1. Absorb stormwater within green space between the parking lot and the highway, which would otherwise flow onto the highway and then into the bay;
2. Provide the opportunity for trees to shade parking spaces;
3. Enhance the Roanoke Voyages Corridor; and
4. Place a higher value on locating the required open space on the highway side of the property rather than at the rear.

### 3. Fran Jolliff Land

Explain the 35-foot easement through the Fran Jolliff land.  
Why is it required?

A 35-foot easement was not required for this development.

Any confusion that may have arisen about this project could have been resolved sooner with better communication.

The Comprehensive Development Codes call for a courtesy review early in the development process so that:

- Town staff can explain to the developer aspects of the ordinance that would affect the property's development;
- Staff can assist the developer or property owner in maximizing his use of the property; and
- Staff can help prevent the developer or property owner from prematurely incurring fees for design, surveying, engineering, etc.

During preliminary review, a Planning Board member asked the project's engineer about the proposed use. He declined to inform the board, saying only that the use would be one permitted for that zone.

The zone in which the property is located allows single-family and multi-family residential, as well as a number of commercial uses ranging from fast-food restaurants to dog kennels.

Without knowing the specific use, there were discussions by the planning staff about connectivity, easements, and other issues pertinent to commercial uses, should that be the developer's choice.

It is incumbent upon the Town to review projects not only for the benefit of the property's owner, but also for the health, safety, and welfare of the town at large, and to place appropriate conditions on certain uses.

It was important for the planning staff review thoroughly all options and their implications.

When the developer informed the Town of his intention to develop the property as single-family residential, the project proceeded smoothly through staff review, Planning Board review, and eventual approval by the Board of Commissioners as a conditional use.

If the developer had identified his plans for residential use earlier in the process, there would have been no discussion of easements.

When and why would there be a need for easements? If the two corner lots on this property had been developed for a fast-food franchise and a bank, for example, it would be in the public's best interest to work with the developer to provide an easement connector to land on either side so as to connect to parking lots on adjacent properties should they be needed at some future time.

To conclude, this property was approved for single-family residential development. No 35-foot easement was required.

## 4. PERMITTED USES

### Section 8-3 Permitted Uses

#### Permitted By Zoning Administrator

The Zoning Administrator may approve single-family detached residences without consulting the planning board.

### Section 8-4: Permitted Uses

#### Permitted by The Planning And Zoning Board

The Planning and Zoning Board may approve home occupations, temporary structures, accessory dwelling units, etc. without consulting the Board of Commissioners.

### SECTION 8-5: CONDITIONAL USES PERMITTED BY THE TOWN COMMISSIONERS

There is a list of 38 use categories, **all of which are permitted in the town.** Prior to approval, these uses must be reviewed by the planning staff to ensure that all necessary documents and information are in place. Then they are reviewed by the Planning and Zoning Board for compliance with the Community Development Codes and for recommended conditions. Final approval and final conditions are approved by the Town Board.



## 5. CHANGE OF USE

### Use Categories

Section 12-10, page 558 of the Zoning Ordinance addresses change of use and when a substantial change of use requires a permit. It states:

- (a) A substantial change of use of property...occurs whenever...
  - (1) The change involves a change from one principal use CATEGORY to another....

Use categories for B-2, the General Business District, are listed on pages 356 and 357. All retail uses such as antiques, books, cameras, candy, clothing, crafts, drugs, dry goods, flowers, furniture, gifts, etc. are listed as one category.

Therefore, to change from one retail use to another does NOT require a permit.

If someone wants to buy the Christmas Shop and sell furniture or musical instruments or sporting goods rather than Christmas ornaments.....all they have to do is stop by the Town Hall and pick up their business license and open the doors for business. **No permit is required.**

But if someone wants to buy the Christmas Shop and turn it into a hotel or a restaurant or an animal clinic **a permit is required.** That is because hotels, restaurants and animal clinics have different requirements for parking, kitchens, impacts on neighbors from keeping dogs in kennels, etc.

If 20/20 Realty wants to change the use of its building from office to retail, restaurant, inn, or any other use permitted in that zone, it is a change of category and **a permit would be required**. It would be necessary to review parking, signage, lighting, buffers, etc. The site (building and existing parking) remains grandfathered.

Section (2) explains that if the original use is a mixed use (meaning commercial and residential) and the mix changes to such an extent that parking requirements are different, **a permit is required**. Parking must be recalculated for the new uses, and may or may not require changes to the property.

It is important to understand that:

1. A change in status from occupied to unoccupied or vice versa **does not constitute a change in use**
2. A change in the name of a business **does not constitute a change in use**.
3. A change in ownership **does not constitute a change in use**

The Christmas Shop has not changed from occupied to unoccupied but even if it had, it is not a change of use. You could change the name of the Christmas Shop to Davis Wants To See You and no permit is required and nothing has to be changed. You could change the ownership of Sawyer Motor Company to Cavalier Ford and no permit is required and nothing has to be changed.

### Tenant Change: Abandonment

In the Zoning Ordinance, all operations maintained on a lot are to be considered as a whole. Therefore, if one apartment in a building is vacant or one commercial space in a shopping center is vacant for more than 365 days, it is not considered abandoned nor is it considered a discontinuance of a nonconforming situation. Only if the entire apartment building or shopping center is vacant for more than 365 could there be consideration of abandonment and a written notice from the Zoning Administrator is required.

For example, if the Christmas Shop decides to lease part of its building for retail use, no permit is required. If Chesley Mall leases the vacant CVS space for retail use, no permit is required. It does not matter how long it has been vacant; the 365-day period does not apply because the operations as a whole on the lot have been maintained.

**While working on the answer to this question, it was discovered that Sec. 12-10 (4) and the example in (4)i are in direct conflict with the other provisions of the section. It needs to be re-written or deleted. Also the 180 days in (b) was amended by the board to be 365 days and that needs to be corrected.**

Section 21-7, Page 1005, Abandonment and Discontinuance of Non-Conforming Situations states that when a nonconforming use is discontinued for a period of 365 days, the property involved may thereafter be used only for conforming purposes. The Zoning Administrator shall notify the property owner when the 365-day period begins.

For the Christmas Shop, it is neither abandoned nor discontinued as long as it continues to be used by its owner and/or as long as there continue to be sales of merchandise from time to time. Therefore, since the 365-day period has not begun, there has been no reason for the Zoning Administrator to notify the property owner of such.

#### Manteo Way of Building: Change of Use

The Manteo Way of Building only applies to new construction and has nothing to do with change of use.

#### Manteo Way of Building: Existing Structures

If an existing building is partially destroyed to any extent, it may be reconstructed exactly as it was, using the same style, same roof, same materials. The Manteo Way of Building specifically states that any building in the Town of Manteo may be added onto in the same style, same roof, same materials.

This means that the Christmas Shop or Sawyer Motor Company or the Duke of Dare Motor Lodge may all expand or reconstruct damaged buildings using the very same style, same roof, and same materials as long as they have enough land. Existing dealerships such as Manteo Marine and Sawyer Motor Company can sell their businesses, change the name of their businesses, and expand their businesses. To expand, they do not have to change the style of their buildings or their setbacks. They are grandfathered. Only a new car or boat dealership would have to comply with the 200-foot use setback.

## 6. GRANDFATHERING

### Provisions

Section 21 of the Zoning Ordinance states:

“(a) It is the intent of this ordinance to "grandfather" non-conformities that existed on the date of the adoption of this ordinance September 14, 2005. Within the districts established by this ordinance or amendments that may later be adopted, there exist densities, structures, premises, and parking lots which were lawful before this ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance to permit these densities, structures, premises, and parking lots:

- (1) To continue unless or until they are voluntarily removed;
- (2) To be enlarged upon, expanded, or extended, in compliance with the regulations of the district in which it is located; and that
- (3) Such nonconformities may not be used as grounds for replicating elsewhere in the town.

(b) It is the intent that nonconforming densities, structures, premises, and parking lots involuntarily destroyed by wind, fire, flood, or other natural disasters, may be rebuilt as they existed prior to the effective date of this ordinance, where not inconsistent with federal and state regulations such as CAMA and FEMA.

(c) It is the intent of this ordinance to avoid undue hardship, and nothing in this ordinance shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment

of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, that excavation, demolition, or removal shall be considered to be actual construction, provided that work shall be carried on diligently.

(d) It is the intent that where practicable, landscaping, buffers, lighting, signage, and curb cuts be brought into compliance.”

#### Sale of Grandfathered Structures and Transfer of Grandfathered Uses

A legal opinion was rendered that the grandfathered status of any property that existed on September 14, 2005, transfers with the land to the new owner. Furthermore, all existing uses are grandfathered and transfer to the new owner or tenant.

For example, a boat dealership is a use allowed in the General Business District providing it is set back 200 feet from Highway 64. Manteo Marine is located within the 200 feet and would not be permitted today in its current location. But because it existed on September 14, 2005, it is grandfathered. It may continue to operate. Its building could be expanded in the same style and with the same roof and with the same materials if it has enough land. The owners could rent it to someone else, they could continue to sell boats, they could sell the building and business which could then continue as a boat dealership, or it could have a

change of use through the very same process as any other change of use. It is completely protected.

Pugh's Automotive with its storage of wrecked cars is a use that is no longer permitted in Manteo. But it is grandfathered. It could be sold or rented to someone else and they could continue to store wrecked cars. It, too, is completely protected. Ron and Phil's is another example. It is currently for sale. The buyer will enjoy the same protection as the current owners.

## **7. 20,000-SQUARE-FOOT LIMIT**

### Expansion for Existing Commercial Structures

As a result of the tremendous community debate about whether or not we wanted big box stores on the island, both the town and the county passed ordinances restricting buildings to 20,000 square feet. The Town of Manteo grandfathered the few existing buildings that exceeded 20,000 square feet – such as Foodarama, the Christmas Shop, Ace Hardware, Manteo Furniture – anything that existed at the time of passage of the ordinance.

No new buildings may be built that exceed 20,000 square feet and no existing buildings that exceed 20,000 square feet may be expanded.

## 8. INCLUSIONARY AFFORDABLE HOUSING

This is a codified ordinance of the Town of Manteo. It is not a zoning ordinance, but it is placed in the zoning ordinance as a convenience to developers.

**“This ordinance is not intended to make the developer incur any out of pocket expense.”**

### **Sec. 11-1. Purpose.**

The purpose of this chapter is to promote the public health, safety, and welfare by promoting housing of high quality located in neighborhoods throughout the community for households of all income levels, ages and sizes in order to meet the town's goal of preserving and promoting a culturally and economically diverse population in our community.

The diversity of the town's housing stock has declined because of increasing property values and construction costs. The town recognizes the need to provide affordable housing to low and

moderate-income households in order to maintain a diverse population and to provide housing for those who live or work in the town.

Without intervention, the trend toward increasing housing prices will result in an inadequate supply of affordable housing for town residents and local employees, which will have a negative impact upon the ability of local employers to maintain an adequate local work force and will otherwise be detrimental to the public health, safety, and welfare of the town and its residents. Since the remaining land appropriate for new residential development within the town is limited, it is essential that a reasonable proportion of such land be developed into housing units affordable to low and moderate income households and working families.

This ordinance is not intended to make the developer incur any out of pocket expense. The formulas in this ordinance may be adjusted with a recommendation from the planner and approval from the Board of Commissioners.

### Who Qualifies?

Based upon income,

1. First priority is given to residents of the town and employees of the Town of Manteo;
2. Second priority is given to residents of Roanoke Island, employees of Dare County, and employees of businesses located in the town;
3. Third priority is given to residents of Dare County; and
4. Fourth, the general public.

### Income Calculations

Median income for Dare County is currently \$58,100.

Low-Income: 65 percent of median equals \$37,765.  
Moderate Income: 80 percent of median equals \$46,480.

### Dwelling Unit Costs

Low-income price  $\$37,765 \times 3.25 = \$122,736$

Moderate-income  $\$46,480 \times 3.25 = \$151,060$

### Lot Costs

Low-income price  $\$37,765 \times 3.25 / 4 = \$30,684$

Moderate-income  $\$46,480 \times 3.25 / 4 = \$37,765$

### Resale Price

Amount paid plus CPI added annually and not compounded plus market value of other improvements.

Property Calculations:  
Number of dwelling units.

1. Total acreage and subtract *wetlands area*, result: *uplands*.
2. Subtract total area encumbered by rights of way from uplands, result: *total buildable area*.
3. Divide total buildable area by maximum number of units allowed per acre, result: *maximum density*.
3. Multiply maximum density by 20%, result: *number of required affordable units*.
4. Add maximum density number to number of required affordable units, result: *maximum number of buildable units*.
5. For lots....divide buildable area by maximum number of units, result: *average lot size*. Lay out lots such that no lot is less than 6000 square feet.

Look at **Illustration 8-A**.

It shows the sub-division of a parcel of land into 10 market rate lots of the minimum size, 7,500 square feet.

Look at **Illustration 8-B**.

It shows the same parcel sub-divided in accordance with the affordable housing ordinance. There are still 10 market rate lots for sale. And there are two affordable lots that are 6,000 square feet.

So if a developer can sell a minimum sized single family lot in Manteo for \$100,000; in illustration 8-A he would get \$1,000,000. In 8-B, he would get the same \$1,000,000 for the 10 lots plus \$68,449 for the two affordable lots so it not only has not cost him anything, he has an extra \$68,449 in sales.

## 9. STORMWATER MANAGEMENT

### Federal Requirements for Towns

Stormwater management is a top priority for all planners across the country. As we have built more and more buildings and paved more parking lots, stormwater has become an increasing concern to all our residents. Streets flood, yards flood, residents complain about neighbors filling land and causing stormwater to run onto their property. Cities with a population of more than 50,000 already have federally mandated stormwater management requirements. The federal government will soon require the same of small towns.

Science tells us that in order to restore water quality in our bays, rivers, sounds, and oceans, we need 75 feet of undisturbed, uncut, untrimmed, all natural growth buffers between the water's edge and the beginning of development and we need to retain the first 4 inches of rainfall on site. Both of these requirements are unrealistic in terms of practical land use.

### Manteo's Fill Rules

Last year, Manteo implemented its first stormwater ordinance. Disturbance of less than 5,000 square feet of land for development or redevelopment, and individual homes, are exempt.

Trying to balance property rights and water quality issues, Manteo:

1. Requires the retention of 1.5 inches of rainfall on site;
2. Did not increase setbacks from the water's edge beyond the 30 feet required by the Coastal Resources Commission (CAMA); and
3. Implemented a requirement for a contiguous 100-foot stormwater buffer to be maintained with a maximum slope of no more than 2 percent from the property boundary, sometimes referred to as the 2 percent fill ordinance. This means you may not fill your property more than 2 feet above its natural grade within the first 100 feet of your property boundaries.

This stormwater buffer is not a setback. You can develop in this area, build houses, put in parking lots, construct roadways, etc. You just can't fill your property directly adjacent to your neighbor at a slope greater than 2 percent and at the bottom of the slope you have to construct a swale to prevent your stormwater from running onto your neighbor's property.

The ordinance also prevents a property owner from building a bulkhead several feet above the natural grade along the property line and filling to the top of it. Remember how the Food Lion plan called for the construction of a 6-foot-tall bulkhead on three sides of the property to be filled to the top.

## 10. CAPACITY OF WASTEWATER TREATMENT PLANT

### Permitted Plant Capacity

The plant was permitted and built for the treatment of 600,000 gallons per day. The town has a discharge permit for up to 1,000,000 gallons per day; however, we do not know whether the state would permit its expansion because environmental policies today no longer allow overboard discharge of wastewater effluent. Our plant discharges into Shallowbag Bay.

### Average Daily Flow

When our plant reaches an average daily flow of 80 percent of its capacity, development stops and the state requires us to increase capacity if possible. Eighty percent of 600,000 gallons is 480,000 gallons. While the law states an average annual daily flow equal to 80 percent, in coastal resort communities, we have to realize that it should not be 80

percent of the average daily flow over the course of a year but rather the average daily flow during our 3 or 4 peak months.

#### Four Years from 80 Percent Capacity at Current Growth Rate

Let's look at average daily flows for the months of June, July, and August. In 2003, it was 330,000 gallons. In 2004, it was 360,000 gallons. In 2005, it was 380,000 gallons. We do not yet have the numbers for 2006. But we do know that the growth rate in Manteo today is greater than it has ever been. If we continue to grow at this rate of 25,000 gallons per year, we would reach 80 percent in 2009 – just 4 years from now – and 90 percent in 6 years, the year 2012. And yet, the plant will not be paid for until 2013 – and the plant we built before this one will not be paid off until 2019.

#### Need for Reserve Capacity

There are more dwelling units already permitted and not yet built than at any time in the town's history. I think we would all agree we need to reserve some capacity for the vacant land currently inside the corporate limits and it would be sensible to try to make the plant's capacity last at least until we've paid for it.

That's why we are working with our engineer and with our town planning staff to try to determine how many gallons per day we need to reserve for vacant land already inside the corporate limits and to project the date at which the average daily flow for the 3 or 4 peaks months will reach 80 percent of plant capacity.

### Environmental Issues

We are currently using a Clean Water Management Trust Fund grant to determine impacts and nutrient loading of our current discharge into Shallowbag Bay. If we have any chance of expanding the plant, we are going to have to prove that our discharge is not damaging the water quality in the bay.

### Current Status of Plant Expansion and Future Annexations

As soon as we have all the above information, we will ask the permitting agencies of the Department of the Environment and Natural Resources if it is possible to expand the plant to 1,000,000 gallons. Then we can determine how much the expansion of the plant will cost, and how much your sewer bill will increase.

Until we know the answers to all of these questions, the Board of Commissioners agreed not to consider any more voluntary annexations outside the corporate limits of the town except for affordable housing projects sponsored by a government entity.