

Recorded: 10/04/2021 12:54:42 PM

BY: CATHY VALENCIA

Cheryl L. House, Register of Deeds

Dare County, NC

Fee Amt: \$26.00

NC Excise Tax: \$0.00

Land Transfer Fee: \$0.00

BOOK 2550 PAGE 564 (6)

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Prepared by and Return to: James R. Gilreath, Jr., Rose Harrison Gilreath & Powers, P.C. P.O. Box 405 Kill Devil Hills, NC 27948

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**ROAD MAINTENANCE AGREEMENT**

**Date of Document:** September 29, 2021

**Grantors:** Thomas B. Alexander and wife, Molly M. Alexander

**Grantors' Addresses:** 3100 S. Virginia Dare Trail, Nags Head NC 27959

**Grantees:** Thomas B. Alexander and wife Molly M. Alexander

**Grantees' Addresses:** 3100 S. Virginia Dare Trail, Nags Head NC 27959

**Legal Description:** See Exhibit A, attached hereto

## ROAD MAINTENANCE AGREEMENT

THIS ROAD MAINTENANCE AGREEMENT (“Agreement”) is made and entered into this 4 day of October, 2021, by the Grantors and Grantees (individually or collectively, the “Owners”) of that portion of the right of way of Soundside Road as depicted on Plat Cabinet F, Slide 74, Dare County Public Registry (the “Recorded Plat”) as an unimproved private road known as Soundside Road (formerly Chowan Avenue a 30’ Right of Way) (the “Road”).

WHEREAS, the Road is a private road along which rest the various properties owned and occupied by the Owners, which properties are more particularly described as follows:

**See Exhibit A, attached hereto and incorporated herein by reference (the “Property”); and**

WHEREAS, the Owners desire to provide for the maintenance, repair and upkeep of the Road from the date of this Agreement and henceforth, and to share equally in the costs of same.

NOW THEREFORE, by the acknowledgement of this Agreement, and for other good and valuable consideration, the Owners hereby agree as follows:

1. The Owners collectively and individually agree that they will maintain, repair, and keep up their pro rata share of the Road so that it is maintained in a manner and to the minimum condition and standard required by the Town of Nags Head (the “Town”), or if no standard is required by the Town, to the standard and condition agreed to by a majority of the individual Owners after notice and a vote in a manner as set forth below (the “Maintenance Standard”).
2. The Owners’ obligations under this Agreement shall include, and the Owners hereby accept and assume, the maintenance obligations of that portion of the Road fronting Parcel 2 as shown on the Recorded Plat notwithstanding the fact that the record owner of Parcel Two is not a party to this Agreement. Parcel 1 and Parcel 3 are the only lots to which this Agreement applies for voting and Road maintenance cost sharing purposes.
3. Any Owner (the “Initiating Owner”) shall have the right to propose maintenance to be performed on the Road to comply with the Maintenance Standard by sending written notice describing such maintenance to the other Owners. Any written notice from the Initiating Owner shall be sent by certified mail, return receipt requested. The notice shall contain a description of proposed maintenance and of the time and place of a meeting of the

Owners (said meeting to take place no less than 10 days following the mailing of such notice) to all such Owners at their last known addresses as shown on the Dare County Tax Records.

4. At such Owners' meeting, any proposed maintenance may be approved by a majority of the votes cast (each Owner having one vote for each subdivided lot). Any tie in voting shall require the matter to be submitted to binding arbitration using the arbitration process set forth below.
5. The Owners shall bear on a pro-rata basis the cost of maintaining the Road to the Maintenance Standard, including but not limited to the cost of grading the Road, installing rock and soil, filling ruts, holes, and washed-out sections, and replacing or adding drainage culverts as needed.
6. Each Owner's pro-rata share of the maintenance costs of the Road shall be the total cost of the approved maintenance multiplied by the Owner's votes and divided by the total of all the Owners' votes. Each Owner's pro-rata share of the maintenance cost of the Road shall be due and owing to that Owner who initiated the proposed maintenance and who plans to be in charge of the maintenance work. Payment from all Owners shall be made to the Initiating Owner within 10 days after the said Owners' meeting. If not paid by that time, such nonpayment shall be a violation of this Agreement. The vote of the majority of the owners shall be conclusive as to what maintenance is mandated by this Agreement unless an Owner objecting to such vote submits the matter to binding arbitration (using the procedure as set forth below) by 5:00 p.m. ET on the second business day following the Owners' meeting.
7. Any provision of this Agreement may be enforced by any Owner through legal action or by submitting such matter to binding arbitration as follows. Any Owner may require that any dispute under this Agreement be submitted to binding arbitration under the rules and regulations of the American Arbitration Association (as governed by the Uniform Arbitration Act of North Carolina, North Carolina General Statutes Section 1.567.1 et seq, as it may be from time to time amended) by notice mailed to all Owners at their last known addresses as shown in the records of the Dare County Tax Office by certified mail, return receipt requested.
8. The Owners may offer to dedicate the Road to the public at the election of a majority vote of the Owners using the same procedure outlined above for the maintenance of the Road. In that event, the Owners and their successors in title and interest to any of the Property described herein will remain responsible for road maintenance until such offer of dedication is accepted

by the Town, the North Carolina Department of Transportation, or other governmental body.

9. In the event that extensions are made to the Road within the Property, or to other property, or for utility access to other property, the costs of maintaining the entire Road system shall be borne by all the record owners of any property served by the entire road system as set forth above; provided, however, that the initial costs of constructing any extension of the road shall be borne solely by the owners of the portion of said property abutting said road extension as they may agree, or if they do not agree, then among them by the same point system as set out above.
10. This Agreement shall remain in full force and effect until such time as the public maintenance of the Road shall be accepted by the North Carolina Department of Transportation or the Town. If such public maintenance pertains to only a portion of the Road, any portion of the Road not so accepted for public maintenance shall remain subject to this Agreement. The Owners accept all liability related to the use and maintenance of the Road and agree to hold the Town and the State of North Carolina harmless from such liability. The Owners acknowledge that some public services may not be provided to the Property abutting the said private road due to the private nature of the Road.
11. This Agreement shall govern the private maintenance of the Road when subject to ordinary use. If any Owner liable under this Agreement shall cause any extraordinary wear and tear to the Road by building, well drilling, or other heavy use, said Owner shall be responsible to pay such extraordinary costs of maintenance as is caused by said use. If the responsibility for such extraordinary costs of maintenance is not agreed between the Owners at an Owners' meeting called under the provisions set forth above, the responsibility for said cost shall be submitted to binding arbitration as set forth above.
12. This Agreement shall run with and be appurtenant to the Property and shall be binding upon the heirs, successors, and assigns of each of the Owners of the aforesaid Property. When used in this Agreement, the singular shall include the plural, the masculine shall include the feminine and the neuter, and vice versa, as the meaning may require.
13. Because this Agreement was a requirement of subdivision approval by the Town, this Agreement may not be modified or terminated by the Owners unless such modification or termination is approved in writing by the Town in each instance.

IN WITNESS WHEREOF, Owners have caused this instrument to be signed and sealed on the day and year first written above.

Thomas B. Alexander (SEAL)  
Thomas B. Alexander

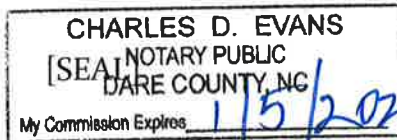
Molly M. Alexander (SEAL)  
Molly M. Alexander

NORTH CAROLINA

DARE COUNTY

I, a Notary Public of said State and County, do hereby certify that Thomas B. Alexander and Molly M. Alexander personally appeared before me this day and acknowledged the due execution of the foregoing Agreement.

Witness my hand and notarial seal, this 4 day of October, 2021.  
2021.



Charles D. Evans  
Notary Public

My Commission Expires: 1/5/2025

**Exhibit A – Legal Description(s)**

Those parcels of land located in Nags Head Township, Dare County, North Carolina and more particularly described as follows:

**Parcels 1 and 3 as set forth on that certain map or plat entitled “Subdivision Plat for Thomas B. Alexander, Nags Head Township, Dare County, North Carolina” dated December 1, 2003 by Edward T. Hyman, Jr., PLS and recorded at Plat Cabinet F, Slide 374 of the Dare County Public Registry.**

4852-9552-3319, v. 4