

DRAFT DOCUMENT – Amendment to Article 7 of Navassa Zoning Ordinance

For Council Review—Unanimously recommended for adoption by the Planning Board on January 9, 2013

7.4 Natural Resource Conservation Overlay

A. General Provisions

1. Authority

This overlay district is adopted pursuant to N.C. Const. art XIV, sec 5 and N.C. Gen. Stat. §160A, Article 19, §160A-174 and §160A-381 (2011).

2. Effective Date

This ordinance takes effect on _____

3. Findings of Fact

- a. Natural resources such as natural water supply systems, forests, and plant and wildlife habitat provide valuable cultural, educational, and recreational opportunities and support local industries and public health and welfare.
- b. Areas that contain a diversity of plant and animal species can be a natural resource of local, state, national, and global significance.
- c. Plants and animals play an important role in maintaining healthy ecosystems through ecological interactions such as predation, pollination, and seed dispersal. Maintaining healthy natural resources mitigates air pollution, improves water quality, reduces drought and flooding, and sustains local timber, recreation and associated jobs and local revenue.
- d. The quantity and quality of drinking water is enhanced by healthy ecosystems through mechanisms such as water absorption and filtration. These services can be degraded when impervious surfaces are placed in sensitive areas.
- e. Maintaining healthy and diverse natural resources is important for a robust farming, forestry, and horticulture economy. These industries rely on pollinators, predators of pests, healthy soil, and other natural resources. These industries can be compromised when incompatible land uses surround them.
- f. Certain types of land development can negatively impact ecosystems, natural areas and wildlife. Properly planned development can maintain these natural resource assets by avoiding the fragmentation of key natural areas and the associated reduction of ecosystem function and services.
- g. Outdoor recreation and preservation of green space is important to the community, as reflected in the Goals and Policies of the Town of Navassa Future Land Use Plan (2012) and Parks and Recreation Master Plan (2011).

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4. Purposes and Goals

- a. The purpose of the Natural Resource Conservation Overlay is to maintain the quality of life in the Town of Navassa and to protect the health, safety, welfare and general well-being of the citizens of the Town of Navassa by conserving and connecting the highest priority waterways, forests, and habitat for terrestrial and aquatic native plants and animals in the Town of Navassa’s jurisdiction while accommodating development and other land uses.
- b. The Natural Resource Conservation Overlay is designed to preserve and protect ecosystems while balancing the need for planned growth. This shall be accomplished by minimizing fragmentation or separation of *significant natural resource areas*, protecting upland habitats in addition to adjacent waterways and water sources, maintaining plant and animal habitat diversity and specifically protecting unique environmental features identified as integral parts of the designated landscape.
- c. This district shall establish standards and procedures for the use and development of land. The standards and procedures are designed to protect, conserve, enhance, restore, and maintain *significant natural resource areas* and the ecological connections between them.
- d. The Natural Resource Conservation Overlay conserves *significant natural resource areas* identified by the Town of Navassa.
- e. It is intended that the implementation of this district accomplish the following goals:
 - i. Create an aesthetically pleasing and functional living environment by conserving remaining healthy terrestrial and aquatic habitats within our jurisdiction.
 - ii. Maximize the retention of existing streams, longleaf pine forests, cypress gum swamp forests, tidal freshwater marshes, inland freshwater marshes, and hardwood forests which constitute *significant natural resource areas*, which is identified as a valuable natural resource of our community.
 - iii. Connect *significant natural resource areas* with corridors of land in a natural state to maximize the migration of wildlife and plant species among habitat areas.
 - iv. Maintain balanced outdoor recreation opportunities such as fishing, bird watching, kayaking and canoeing, and other outdoor pursuits.
 - v. Create opportunities for greenways and blueways throughout the community for trails, connecting habitat, buffering streams, sustaining wildlife, and providing recreation activities for residents.

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- vi. Ensure that land uses and development are planned and designed to be harmonious with *significant natural resources areas* and to reduce conflicts with working lands, wildlife conservation, and habitat management activities.
- vii. Protect remaining large, contiguous *significant natural resource areas* from activities that would alter their ecological integrity, balance, or character.
- viii. Maintain the diversity of plant and wildlife species and habitat found in the community and help to keep rare species from requiring Endangered Species Act protections in the future.
- ix. Promote multiple community benefits such as nutrient pollution reduction, water supply protection, flood protection, steep slope protection, priority plant and animal habitat protection, air quality, soil conservation, minimizing noise and light pollution, and others.
- x. Protect and enhance scenic resources including landscapes, ridgelines, meadows, and geologic features that have special scenic character or a historic or aesthetic interest or value.

5. Relationship to Other Laws, Regulations, and Ordinances.

- a. The regulations contained in this law are not intended to be substituted for other general zoning district provisions, but should be considered as additional requirements to be met by applicants, prior to project approval. The purpose of the Natural Resource Conservation Overlay is to provide the Town of Navassa with an additional level of review and regulation to specify how land use and development, permitted by the Town of Navassa’s primary zoning districts, occurs in *significant natural resource areas*.
- b. Nothing in the Natural Resource Conservation Overlay is intended to alter or pre-empt any other applicable regulations or the federal, state, or local government as they may apply within or outside the Natural Resource Conservation Overlay. Specifically, all federal or state regulations regarding protection of waterways, water bodies, and wildlife or plant species habitat shall apply throughout the jurisdiction notwithstanding this ordinance. Nothing in this ordinance is intended to usurp, limit or to be inconsistent with the authority of local, state or federal regulatory agencies. Further, the regulations set forth in this ordinance shall be in addition, or in substitution where explicitly allowed in the Town of Navassa Zoning, Subdivision, and Stormwater Ordinances, to the regulations set forth in the Town of Navassa ordinances regarding landscaping, bufferyards, streetyards, tree removal, site clearing, wetland protections, open space requirements, and setbacks.

Areas set aside as conservation may be used to satisfy the following:

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- i. Minimum setback requirements;
- ii. Minimum streetyard requirements;
- iii. Minimum passive open space requirements; and
- iv. Monumental tree preservation requirements.

Areas set aside as conservation may contain the following:

- i. Non-structural stormwater Best Management Practices (BMPs)
- ii. Active recreation facilities such as shared use paths or walking trails

6. Severability

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance are adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

7. Interpretation

a. Meaning and Intent

All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in this ordinance. If a different or more specific meaning is given for a term defined elsewhere in the Town of Navassa Zoning Ordinance, the meaning and application of the term in this district shall control for purposes of application of this district. Any term not herein defined elsewhere in the Town of Navassa Zoning Ordinance, or if not defined elsewhere in other adopted Town of Navassa Ordinances, then as defined in Webster’s New International Dictionary most recent addition, unless the result does not effectuate the intent of the governing bodies, leads to absurd or illogical results, or is inconsistent with the surrounding textual context.

b. Text Controls in Event of Conflict

In the event of a conflict or inconsistency between the text of this district and any heading, caption, figure, illustration, table, or map, the text shall control.

c. References to Statutes, Regulations, and Documents

Whenever reference is made to a resolution, ordinance, statute, regulation, manual, or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

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d. Word Usage

i. Mandatory and Discretionary Terms

The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” or “should” are permissive in nature.

ii. Conjunctions

Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word “and” indicates that all connected items, conditions, provisions and events apply. The word “or” indicates that one or more of the connected items, conditions, provisions or events apply.

iii. Tense, Plural, and Gender

Words used in the present tense include the future tense. Words used in the singular number include the plural number and plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the female gender and vice versa.

B. Natural Resources Conservation Overlay Established and Official Map

1. The Natural Resource Conservation Overlay is hereby established as a separate overlay district. The boundaries of the Natural Resource Conservation Overlay are shown on the Town of Navassa’s Natural Resources Conservation Map, dated [insert data], on file with the office of Town Clerk, which map is herein adopted by reference. This map shall be known and cited as the “Official Natural Resources Conservation Map.” The Official Natural Resources Conservation Map and all explanatory information contained therein accompany and are hereby made part of this ordinance. Upon adoption of this ordinance, the parcels included in the Natural Resource Conservation Overlay shall be shown on the official zoning map.
2. The general boundaries of the Natural Resource Conservation Overlay are defined by the best available conservation data delineating *significant natural resource areas* identified by the Town of Navassa, with rights-of-way and property lines used to determine inclusion or exclusion in the Natural Resource Conservation Overlay.
3. In the event of a dispute, the applicability of this ordinance to a particular area of land shall be determined by reference to the North Carolina General Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

C. Applicability

1. Applicability

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The provisions of this ordinance shall apply to all *development* that requires *development approval* in all residential zoning districts and the PUD district. This overlay district does not preclude the non-residential uses allowed within the underlying zoning districts, except for those uses prohibited under this section, provided that all applicable Zoning Ordinance requirements are met. Residential properties in this overlay district may be rezoned to non-residential districts if approved under the guidelines set forth in Article 16 of this ordinance.

Whenever the city annexes any parcel or property, the annexed area shall undergo review for a determination of existence of *significant natural resource areas*.

2. Exempt Activities

a. The following are exempt from the provisions of this ordinance:

- i. Development and redevelopment that cumulatively disturbs less than one (1) acre, does not add ten thousand (10,000) square feet or more of built upon area and is not part of a larger common plan of development or sale;
- ii. The division of land, classified as a minor subdivision or exempt subdivision, as defined by the latest version of Town of Navassa Subdivision Ordinance, that cumulatively disturbs less than one (1) acre, does not add ten thousand (10,000) square feet or more of built upon area and is not part of a larger common plan of development or sale;
- iii. The installation, repair, replacement or maintenance of subsurface utilities by public or private utility operators so long as the location of the proposed utilities meet the requirements of section D.2.b.iv;
- iv. Activities in which the Town of Navassa does not have the authority to regulate;
- v. Development activities that are vested pursuant to statutory or common law as of the date of adoption of this ordinance.

b. If the Zoning Administrator determines an activity is not exempt from the Natural Resource Conservation Overlay standards, the applicant may appeal that decision to the Planning Board. Such appeal shall be submitted in writing within thirty (30) days of the decision being appealed. The Planning Board shall hear the appeal within forty-five (45) days.

3. Uses Prohibited

- a. The following non-residential uses are prohibited in the Natural Resource Conservation Overlay
 - i. Borrow pit, mineral extraction

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- ii. Garbage disposal plant, sanitary landfill refuse dump
- iii. Recycling facility, resource recovery, transfer station, and junkyard

D. Standards

1. General Standards

All activities to which this ordinance applies shall comply with the standards in this ordinance. The approval of the *Natural Resource Conservation Plan* shall require an enforceable restriction on property usage that runs with the land to ensure that future activities maintain the site consistent with the approved project plans.

2. Natural Resources Conservation Plan

Natural Resource Conservation Plans shall be developed by *persons* proposing to impact a *significant natural resource area* within the Natural Resources Conservation Overlay.

No *person* shall commence *development* that is subject to this ordinance without an approved *Natural Resource Conservation Plan*. Planned Unit Developments may combine the *Natural Resource Conservation Plan* with the required Planned Unit Development Concept Plan, as long as the necessary site information is provided and the Planning and Post-Construction Performance Standards are met. The *person* proposing to conduct *development activity* shall prepare a *Natural Resource Conservation Plan* that consists of the following:

- a. Site information, if not otherwise required for the approval of the *development*, including the following:
 - i. A location plan and boundary line survey of the tract.
 - ii. The location of the Natural Resource Conservation Overlay boundaries.
 - iii. A habitat survey shall confirm the presence of *significant natural resources*. The habitat survey should include documentation of wetlands, intermittent and perennial streams, longleaf pine forest, upland hardwoods and upland pine forest, and other *significant natural resource areas*. The habitat survey shall be conducted by a *qualified biologist* with demonstrated experience in wildlife habitat identification. The boundaries of all of the *significant natural resources* shall be identified and labeled on the sketch plan and all site plans. Photographs depicting each of the significant natural resources on the site shall be provided.
 - iv. The site plan must identify and provide pictures of existing disturbed areas, existing buildings, structures, utility lines, sewers, water and storm drains, all constructed stormwater management systems, roads, and existing impervious surfaces.

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- v. Detailed sketch plan of proposed development outlining the total disturbance area, including proposed building footprints, site property improvements, utilities, and landscaping. The sketch plan is intended to be an approximation of the final site plan and serves the purpose of providing an opportunity for changes to be proposed ahead of significant investment by the applicant. The sketch plan should be reviewed by the Zoning Administrator ahead of formal submission of the detailed final site plan.
 - vi. Final site plan of proposed development outlining the total disturbance area, including proposed building footprints, site property improvements, utilities, and landscaping.
- b. Planning and Post-Construction Performance Standards:
- i. *Significant natural resources* shall not be cleared of vegetation and shall not be developed in any manner that would negatively impact the habitat, except under the following conditions:
 - a) Improvements that protect or enhance the enjoyment of the habitat, including but not limited to uncovered walkways, self-guided trails, and protective fences.
 - b) If the *significant natural resources* cover greater than forty percent (40%) of the tract, then up to sixty percent (60%) of the tract may be developed. If the *significant natural resources* cover less than forty percent (40%) of the tract, then one hundred percent (100%) of the *significant natural resources* shall be conserved and the remaining portion the tract may be developed. The total land area of the conserved *significant natural resources* must be greater than or equal to the minimum open space requirements for subdivisions (Town of Navassa Subdivision Ordinance Section 4.8.2) and/or multifamily development (Town of Navassa Zoning Ordinance Article 9, section 16), if applicable. Significant natural resources should be permanently protected in order of priority listed in the definition section such that any higher item on the list is a higher priority. The undeveloped habitat areas shall be contiguous within the tract and with habitat areas on adjacent tracts to the maximum extent possible. The undeveloped habitat should have the maximum habitat interior to edge ratio possible (circular shape) to prevent habitat *fragmentation*. To the maximum extent possible the development design shall protect and connect as many priority *significant natural resources* as possible and such that wetlands, as defined under definition F. 32. , are not filled and the buffer is maintained around the wetland that is connected to other wetlands or streams or floodplain forest. Connectivity means that habitat areas are linked with areas of contiguous, natural vegetation that is at least three hundred (300) feet wide.

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- c) To provide for access to otherwise inaccessible parts of the parcel/development. If part of the parcel could be developed, but would be inaccessible due to the existence of *significant natural resources*, a road and/or utilities may be constructed through the *significant natural resources*. The road and/or utilities, however, shall cross at the narrowest practical point and shall be designed and constructed to the greatest extent possible to minimize impact to and fragmentation of the highest priority *significant natural resources*. Where *significant natural resources* must be negatively impacted, an equal area must be restored and protected on site, up to forty percent (40%) of the tract.

In lieu of, or in combination with, the requirement to restore and protect an equal area of significant natural resources, the applicant may construct one (1) amphibian and reptile road underpass crossing per four hundred (400) feet of road. Each underpass must be two (2) feet wide by one (1) foot in height with an earthen bottom and must have a grated portion at the top to allow for rainfall into the underpass. Buried fencing must run along the entire road edge from the developed area to the access road and must run along the top of underpasses such that amphibians and reptiles are guided into underpasses and cannot get under or over fencing and onto the road. Fencing must be three (3) to three and one half (3.5) feet high and must have a six (6) inch horizontal lip at the top bending away from the road. Fencing must have a one (1) foot above ground impenetrable strip that is buried twenty (20) cm into the ground. The remaining fencing above this must be one (1) cm or less mesh to prevent passage of snakes. The wall or fencing must be kept free of climbing vegetation and must be maintained buried twenty (20) cm into the ground and in a standing position. Terrestrial underpasses should be designed such that water will not pool at either end. A stream culvert may only be used as a road underpass if it is buried at least one (1) foot into the streambed and it has at least one (1) foot of upland bank on either side for passage of terrestrial animals. Underpasses must be kept free of blockage and complete flooding. Maintenance of the underpasses shall be the responsibility of the Developer or an established Homeowners Association if the roadway is not dedicated to the Town of Navassa for public use. Maintenance of the underpasses shall be the responsibility of the Town of Navassa if the roadway is dedicated for public use.

- ii. *Significant natural resource areas* shall be permanently protected. Permanent protection shall be by conservation easements, protective covenants, or similar restrictions or by any of the procedures for the dedication of park, recreation, and open space areas. Conservation easements on *significant natural resource areas* may, at the discretion of the Town of Navassa, be required as a condition of *Natural Resource Conservation Plan* approval.

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- iii. Runoff from impervious surfaces on the parcel shall not be discharged directly to the *significant natural resources* without vegetated filtration and energy dissipation.
 - iv. Sewer lines, water lines, and other utility infrastructure shall not be constructed within one hundred (100) feet of perennial and intermittent streams to the maximum extent possible. All utility crossings shall be minimized. The directional bore stream crossing method (installation of utilities beneath the riverbed avoiding impacts to the stream and buffer) shall be used for utility crossings wherever practical, and the open stream crossing method shall only be used when water level is low and stream flow is minimal, when practical.
 - v. Pesticides (including insecticides and herbicides) shall not be used for maintenance of rights-of-way within one hundred (100) feet of perennial and fifty (50) feet of intermittent streams, or within the one hundred (100) year floodplain, unless the pesticide is labeled for use in aquatic systems or is part of the approved Natural Resource Conservation Plan.
 - vi. If curbs are used, curbing shall be with a 1:4 slope to allow passage of small animals.
 - vii. Use bridges for all permanent roadway crossings of streams and associated wetlands. If culverts must be used, culvert must be designed to allow passage of aquatic organisms by burying the culvert(s) in the stream bottom or bank by at least one (1) foot. Stream relocation or widening shall be avoided but may be done if necessary providing state-of-the-art natural channel design and construction techniques are used.
 - viii. The land surrounding built structures should be maintained in natural vegetation to the maximum extent possible. Non-native invasive species shall not be planted for any purpose.
 - ix. The post-development condition should maintain connectivity of all *significant natural resources*, both within the tract and between adjacent tracts. Connectivity means that habitat areas are linked with areas of contiguous, natural vegetation that is at least 300 feet wide.
 - x. Site gas stations, car washes, and other potential “spill” land uses at least two hundred (200) feet from perennial and intermittent streams.
- c. Subdivision Density Standards
- i. For subdivisions that conserve greater than the minimum required in the Town of Navassa Subdivision Ordinance Section 4.8.2, an increase in the number of lots above the number of lots permitted by the underlying zoning district (base number of lots) is allowed provided the development plan meets open space requirements and other design requirements set forth within the Navassa Subdivision Ordinance.

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In no case shall the density of the development exceed the maximum permitted density of the site's designated zoning district.

- ii. The base number of lots may be determined based on a yield plan for the site, whereby the applicant presents a rough or sketch conventional subdivision development plan that fully complies with the development requirements of the underlying zoning for the site. Yield Plans include, at minimum, basic topography, wetland locations, 100-year floodplains, and slopes exceeding 25 percent in defining areas unsuited for development. The Yield Plan does not have to meet formal requirements for a site design plan and is not intended to involve significant engineering or surveying costs. However, the design must be realistic and economically capable of being constructed.
- iii. Subdivisions shall meet all design requirements for a subdivision/site plan and all other applicable Town ordinances except for dimensional standards, which is defined in this Section. Alternative street designs may also be considered if such designs further protect on-site resources.
- iv. Provided the arrangement, design, and shape of house lots is such that lots provide satisfactory and desirable sites for building, and contribute to the preservation of designated significant natural resource areas, minimum lot area, lot width, and setback requirements may be reduced from the base zoning district as set forth below.
 - a. Minimum lot area requirements may be reduced by up to sixty percent (60%) but shall be no smaller than 5,000 square feet.
 - b. Minimum lot width requirements may be reduced by forty percent (40%) but shall be no less than forty (40) feet.
 - c. Minimum front setback requirements may be reduced by fifty percent (50%) but shall be no less than fifteen (15) feet.
 - d. Minimum rear and side setback requirements may be reduced by fifty percent (50%) but shall be no less than five (5) feet. Side setbacks may be combined on one side provided that at least two (2) feet of setback remains on the other. Such combinations are permitted in lot layouts where this pattern is repeated with homes located off-center on their lots but evenly spaced between buildings on adjoining lots.

3. Approval of *Natural Resource Conservation Plan*:

Approval of a *Natural Resource Conservation Plan* does not abrogate any legal requirement to comply with the regulations of any other governmental agency, local, state, or federal, which may have jurisdiction over the proposed activity upon the land.

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- a. The Town of Navassa may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included in the approval.
- b. Approval will be issued by the Town of Navassa pursuant to this ordinance only if the applicant demonstrates that:
 - i. The *Natural Resource Conservation Plan* complies with this ordinance, including being consistent with the purposes and objectives set forth in this ordinance.
 - ii. The *Natural Resource Conservation Plan* completely addresses the minimum performance standards outlined in this ordinance. The Town of Navassa shall make a determination on the completeness of the *Natural Resource Conservation Plan* within forty-five (45) days of receipt. If the Town of Navassa determines that the *Natural Resource Conservation Plan* is incomplete, the developer shall be notified of the deficient elements and shall be provided the opportunity to submit a complete *Natural Resource Conservation Plan*. If the Town does not make a determination on the completeness of the *Natural Resource Conservation Plan* within forty-five (45) days, the *Natural Resource Conservation Plan* will be deemed valid.
 - iii. The proposed activity is compatible with public health, safety, and welfare.
 - iv. The *Natural Resource Conservation Plan* shall be considered void if no building Permit(s) has been obtained within three (3) years after the final *Natural Resource Conservation Plan* approval has been granted. A *Natural Resource Conservation Plan* approved as part of a PUD Concept Plan shall be considered void if, three (3) years after the approval by the Town Council, no final development plan or final subdivision plat approval has been granted for any section of the PUD. Any development approval not acted upon within the prescribed time limit shall become void and future work shall require a new plan approval.

An extension, not to exceed twelve (12) months, may be granted by the Planning Board for good cause shown. The Planning Board may grant one, twelve (12) month extension. A *Natural Resource Conservation Plan* approved as part of a PUD Concept Plan may be extended for a period up to a maximum of two (2) years.

- c. Administration
 - i. The Zoning Administrator shall approve all *Natural Resource Conservation Plans* for development approvals requiring a Zoning Permit, as defined in the Town of Navassa Zoning Ordinance Article 16.2
 - ii. The Subdivision Administrator shall approve all *Natural Resource Conservation Plans* for Minor Subdivisions as part of the Minor Subdivision Review Procedures found in the Town of Navassa Subdivision Ordinance Article 3.2.

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- iii. The Town Council shall approve all *Natural Resource Conservation Plans* for Major Subdivisions at the time of preliminary plat review and approval, as outlined in the Town of Navassa Subdivision Ordinance Article 3.3; Planned Unit Developments, at the time of concept plan approval as outlined in the Town of Navassa Zoning Ordinance Article 6.7(A); and Conditional Use Permits, at the time of Conditional Use Permit approval as outlined in the Town of Navassa Zoning Ordinance Article 16.5.

E. Variance

- 1. When owing to special conditions, practical difficulties or unnecessary hardships that would result from carrying out the strict letter of this Ordinance, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of this section, so the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done (N.C.G.S. 160A-388(d)). The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance. A variance may be granted in such individual cases of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:
 - a. Unnecessary hardships would result from strict application of this ordinance.
 - b. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.
 - c. The hardships did not result from actions taken by the petitioner.
 - d. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.
 - e. The requested variance is consistent with the spirit, purpose, and intent of this ordinance to protect, conserve, enhance, restore, and maintain significant natural resource areas; shall secure public safety and welfare; and shall preserve substantial justice.
- 2. The Town of Navassa Board of Adjustment may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

F. Definitions

- 1. *Adjacent*: Property abutting directly on the boundary of, touching, or sharing a common point.
- 2. *Aquatic Significant Natural Heritage Area*: an Aquatic Significant Natural Heritage Area as defined and mapped by the North Carolina Natural Heritage Program. These are aquatic

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- sites that are of special biodiversity significance. A site’s significance may be due to the presence of rare species, exemplary or unique natural communities, or other important ecological features. The areas identified represent the approximate boundaries of ecologically significant sites.
3. *Building*: Any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings, or vehicles situated on private property and used for purposes of building. The word “building” includes the word “structure.”
 4. *Buffer*: A portion of property designated to mitigate impacts between land uses or transportation routes, or to protect natural areas from pollutants.
 5. *Developer*: The person, firm, corporation or legal entity that has financial or operational control over the development activity; or the person, firm, corporation, or legal entity in possession or control of the land when he/she directly or indirectly allowed the development activity, has benefited from it, or has failed to comply with any provision of this ordinance.
 6. *Development*: The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or facility, or any grading, soil removal or relocation, excavation or landfill, or any use or change in the use of any building or other structure or land or extension of the use of the land.
 7. *Development approval*: any of the following approvals issued by the local government regardless of the form of approval, that are for the development of land:
 - a. Any approval by the Town of Navassa of sketch plans, preliminary plats, plats regarding a minor or major subdivision of land, a site specific development plan or a phased development plan, a PUD Concept Plan, a zoning or development permit, or a building permit under the Town of Navassa Zoning, Subdivision, or Building Ordinance (Article 19 of Chapter 160A of the General Statutes).
 8. *Disturbance area or disturbed area*: the area where vegetation clearing or land manipulation takes place for the purpose of development. This includes the area where fill material is removed or placed, the area affected by changes to natural hydrology, land converted from natural vegetation to lawns, golf courses and other non-native vegetation, and any area where development and related activities negatively impact wildlife habitat. This term includes the area lost to the construction of new lakes and other impoundments. It does not include alteration of existing disturbed areas (e.g. paving of an existing gravel road).
 9. *Existing conditions*: Conditions that exist at time of plan or plat submittal.

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10. *Final Plat*: The final map or plan of a subdivision and any accompanying material as described in the Town of Navassa Subdivision Ordinance, submitted in accordance with Article 3 of the Town of Navassa Subdivision Ordinance and in such a form as required by Brunswick County for the purpose of recording.
11. *Flood or flooding*: A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; and/or (2) The unusual and rapid accumulation of runoff of surface waters from any source.
12. *Fragmentation*: Disruption in continuity and loss of habitat or *significant natural resources* by development of land or alteration of *natural vegetation*. Disruption or impediment of the natural movement and dispersal of wildlife within and between previously connected blocks of habitat caused by removing or altering the natural vegetation (forest, shrubland and grassland) within or between blocks of habitat or by building structures or other *infrastructure* within or between habitats and *significant natural resources*.
13. *Impervious Surface*: Any surface which in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces may include, but not be limited to compacted earth (such as marl and coquina), gravel, concrete, asphalt, or other paving material, and all area covered by the footprint of buildings or structures. Porous pavement, uncovered wooden slatted decks, the water area of a swimming pool, and LEED (Leadership in Energy and Environmental Design) “green” roofs shall not be considered impervious.
14. *Infrastructure*: includes roads, sidewalks, houses, commercial and industrial buildings, utilities and utility corridors, railways, docks, and other forms of built structures and impervious surfaces.
15. *Natural Resources Conservation Plan*: A document that details the specific required measures that the developer will take to minimize impacts and fragmentation of significant natural resources on the development site as described in section D.
16. *Natural vegetation*: Vegetation, excluding any non-native vegetation, as it exists on the tract prior to any of the proposed development or disturbance associated with the proposed development that is not part of a disturbance area or a disturbed area.
17. *Non-native invasive species*: 1) non-native (or alien) to the ecosystem under consideration and 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health.
18. *Non-native vegetation*: non-native (or alien) to the ecosystem under consideration.
19. *Plat*: A map or plan of a parcel of land which is to be, or has been subdivided.
20. *Person* includes, without limitation, individuals, firms, partnerships, joint ventures, trusts, trustees, estates, corporations, associations, and any other similar entities.

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21. *Qualified biologist*: A qualified biologist is defined as one or more of the following: a Wildlife Society Certified Wildlife Biologist (CWB), a Professional Wetlands Scientist (PWS) certified by the Society of Wetlands Scientists, a Certified Ecologist or Certified Senior Ecologist certified by the Ecological Society of America, a biologist currently employed by the North Carolina Wildlife Resources Commission, US Fish and Wildlife Service, North Carolina Natural Heritage Program, US Army Corps of Engineers, or a biologist that is prequalified by the North Carolina Department of Transportation or the North Carolina Environmental Enhancement Program to conduct biological or ecological surveys.
22. *Runoff*: Water from precipitation that flows off a property.
23. *Sediment*: Solid particulate matter, both mineral and organic that has been or is being transported by water, air, gravity, or ice from its site of origin.
24. *Sedimentation*: The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.
25. *Significant natural resource areas*: shall include those areas so designated by the Town of Navassa by virtue of containing rare or declining habitats or habitats that support rare species or a high diversity of species. These significant natural resource areas consist of the following natural resources and habitats which are:
 - a. Jurisdictional and non-jurisdictional wetlands and or endangered species habitat as designated by state and federal agencies for environmental permitting.
 - b. The presence of a natural community or communities as defined by the North Carolina Natural Heritage Program in the Classification of the Natural Communities of North Carolina (the most recent addition at the time of application) within Significant Natural Heritage Areas identified and mapped by the North Carolina Natural Heritage Program. Significant Natural Heritage Areas are not the same as significant natural resource areas and have their own definition.
 - c. Floodplain forests with a canopy that is dominated by pine and or hardwood trees within the one hundred (100) year floodplain. Floodplain forests are also Coastal Floodplains within and outside of the one hundred (100) year floodplain as defined by the North Carolina Natural Heritage Program in the Classification of the Natural Communities of North Carolina (the most recent addition at the time of application): Coastal plain levee forest, Cypress-gum swamp, Coastal plain bottomland hardwoods, Coastal plain small stream swamp.
 - d. An average seven hundred and fifty (750) foot radius upland area of any shape adjacent to isolated non-alluvial wetlands not connected to streams or not within conserved floodplains, starting from the edge of the wetland. This area includes a one hundred

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and fifty (150) foot radius buffer of symmetrical shape around the wetland water's edge. Wetlands are jurisdictional and non-jurisdictional wetlands of the following types defined by the NC Natural Heritage Program in the Classification of the Natural Communities of North Carolina: Floodplain Pool, Upland Seepages, Coastal Plain Depression Communities and Interdune Ponds.

- e. Two hundred (200) feet on either side of permanent (“blue line”) streams or rivers within *subwatersheds* (14 digit Hydrologic Unit Code) which support federally endangered or threatened aquatic species. These buffers may be reduced to accommodate other priority habitat conservation on site, but shall not be less than one hundred (100) feet.
- f. A three hundred (300) foot wide area on either side of the waterway adjacent to Aquatic Significant Natural Heritage Areas identified by the North Carolina Natural Heritage Program. These buffers may be reduced to accommodate other priority habitat conservation on site, but shall not be less than one hundred (100) feet.
- g. Habitat that is sufficient (as determined by the qualified biologist) to conserve species occurrences on the tract of documented Natural Heritage Element Occurrences tracked by the North Carolina Natural Heritage Program
- h. Sufficient habitat as determined by the qualified biologist, of state listed wildlife species or federally listed plants observed opportunistically during site visits. The term “listed” includes designation as Endangered, Threatened, or Special Concern.
- i. A three hundred and thirty (330) foot wide area on all sides of a colonial waterbird nesting colony as mapped by the North Carolina Wildlife Resources Commission. A waterbird nesting colony is defined as an area where two (2) or more colonial waterbirds are nesting or have nested within the past two (2) years. Colonial waterbirds are any species of heron, egret, anhinga, tern, skimmer, plover, ibis, pelican, stork, and gull.
- j. All types of Coastal Fringe Evergreen Forest and Pine/Scrub Oak Sandhill (Coastal Fringe Subtype) as defined by the North Carolina Natural Heritage Program in the Classification of the Natural Communities of North Carolina (the most recent addition at the time of application)
- k. Longleaf pine forest, defined as forests where twenty percent (20%) of the tree canopy consists of longleaf pine trees, regardless of age, within a stand at least ten (10) acres in size. These ten (10) contiguous acres can occur solely on the development tract or only a portion of the ten (10) acres can occur within the development tract.
- l. An undeveloped area at least three hundred (300) feet wide connecting isolated wetlands on the property.

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- m. Wet Pine Savannas, Peatland Pocosins, Streamhead Pocosins, and Coastal Plain Nonalluvial Wetland Forests as defined by the North Carolina Natural Heritage Program in the Classification of the Natural Communities of North Carolina (the most recent addition at the time of application).
 - n. A one hundred (100) foot wide area adjacent to each side of perennial streams, rivers, lakes and reservoirs and a fifty (50) foot wide area adjacent to intermittent streams.
 - o. Mature hardwood forest consisting of greater than twenty-five percent (25%) hardwood trees native to the region over fifty (50) years old or greater than twenty (20) inches diameter to indicate “mature” trees (this will vary depending upon tree species and growing conditions).
 - p. Lands designated by the Town of Navassa as important for hunting, wildlife viewing, and other traditional forms of wildlife-related recreation, including lands outside of North Carolina Wildlife Resources Commission Game Lands, within one hundred and fifty (150) yards of Game Land boundaries.
 - q. Wildlife corridors and habitat connectors between significant natural resource areas where sufficient information exists to designate and map these areas or where these areas are part of the Biodiversity and Wildlife Habitat Assessment of the North Carolina Department of Environment and Natural Resources Conservation Planning Tool.
26. *Significant natural resources*: significant natural resource areas that have been confirmed in site surveys by the *qualified biologist* and or state and federal permitting biologist.
27. *Significant Natural Heritage Area*: A Significant Natural Heritage Area as defined and mapped by the NC Natural Heritage Program. These are terrestrial sites that are of special biodiversity significance. A site’s significance may be due to the presence of rare species, exemplary or unique natural communities, or other important ecological features. The areas identified represent the approximate boundaries of ecologically significant sites.
28. *Site Plan*: An accurately scaled development plan that shows existing conditions on a site as well as depicting details of proposed development. Site Plan includes “site specific development plan.”
29. *Stormwater*: The flow of water which results from precipitation and which occurs immediately following rainfall or snowmelt.
30. *Subwatersheds which support federally endangered or threatened aquatic species*: These watersheds (fourteen (14) digit Hydrologic Unit Code) have been surveyed by state and federal biologists and are known to contain federally endangered and threatened species.

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31. *Tract*: Contiguous land under one ownership or under multiple ownership either developed as a single unit or recorded as a single unit.
32. *Wetlands*: Jurisdictional and non-jurisdictional wetlands as defined as designated by state and federal regulatory agencies or those wetlands following the definition under the definition of significant natural resource areas (d.). Wetlands are important for flood and drought control and water pollutant filtration and act as sponges across the landscape.
33. *Wildlife corridors*: Areas of undeveloped land at least three hundred (300) feet wide that connects significant natural resource areas allowing wildlife to move between habitats.