

TO:	The Coastal Resources Commission
FROM:	Christine A. Goebel, DEQ Assistant General Counsel
DATE:	April 18, 2024 (for the April 24-25, 2024 CRC Meeting)

RE: Variance Request by Paul Andrus (CRC-VR-24-01)

Petitioner is Paul Andrus. He owns property at 4140 Thick Ridge Road in Kitty Hawk, Dare County which is developed with an existing docking facility. That docking facility is non-conforming in that it extends more than one-quarter the width of the waterbody, though it appears this is due to the landward movement of the high water and disappearance of coastal wetlands. Petitioner proposed to add a boat lift and an additional platform to the existing docking facility without adding length to the existing pier. In accordance with the Commission's rules at 15A NCAC 7H .0208(b)(6)(G) and 7H .0208(a)(2)(G), DCM denied Petitioner's CAMA major permit application on October, 31, 2023. Petitioner now seeks a variance to develop the lift and platform as proposed in his permit application.

The following additional information is attached to this memorandum:

Attachment A: Attachment B:	Relevant Rules Stipulated Facts
Attachment C:	Petitioner's Positions and Staff's Responses to Variance Criteria
Attachment D:	Petitioner's Variance Request Materials
Attachment E:	Stipulated Exhibits including powerpoint
cc(w/enc.):	Paul Andrus, Petitioner, electronically Rob Testerman, Kitty Hawk LPO, electronically Mary Lucasse, Special Deputy AG and CRC Counsel, electronically



RELEVANT STATUTES OR RULES

APPENDIX A

15A NCAC 07H .0201 ESTUARINE AND OCEAN SYSTEM CATEGORIES

Included within the estuarine and ocean system are the following AEC categories:

- (a) estuarine waters;
- (b) coastal wetlands;
- (c) public trust areas; and
- (d) estuarine and public trust shorelines.

Each of the AECs is either geographically within the estuary or, because of its location and nature, may affect the estuarine and ocean system.

15A NCAC 07H .0203MANAGEMENT OBJECTIVE OF THE ESTUARINE AND
OCEAN SYSTEM

It is the objective of the Coastal Resources Commission to conserve and manage estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines, as an interrelated group of AECs, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values and to ensure that development occurring within these AECs is compatible with natural characteristics so as to minimize the likelihood of significant loss of private property and public resources. Furthermore, it is the objective of the Coastal Resources Commission to protect present common law and statutory public rights of access to the lands and waters of the coastal area.

15A NCAC 07H .0206 ESTUARINE WATERS

(a) Definition. Estuarine waters are defined in G.S. 113A-113(b)(2) to include all the waters of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters. The boundaries between inland and coastal fishing waters are set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environment and Natural Resources and in the most current revision of the North Carolina Marine Fisheries Regulations for Coastal Waters, codified at 15A NCAC 3Q .0200.

(b) Significance. Estuarine waters are the dominant component and bonding element of the entire estuarine and ocean system, integrating aquatic influences from both the land and the sea. Estuaries are among the most productive natural environments of North Carolina. They support the valuable commercial and sports fisheries of the coastal area which are comprised of estuarine dependent species such as menhaden, flounder, shrimp, crabs, and oysters. These species must spend all or some part of their life cycle within the estuarine waters to mature and reproduce. Of the 10 leading species in the commercial catch, all but one are dependent on the estuary.

This high productivity associated with the estuary results from its unique circulation patterns caused by tidal energy, fresh water flow, and shallow depth; nutrient trapping mechanisms; and protection to the many organisms. The circulation of estuarine waters transports nutrients, propels plankton, spreads seed stages of fish and shellfish, flushes wastes from animal and plant life, cleanses the system of pollutants, controls salinity, shifts sediments, and mixes the water to create

a multitude of habitats. Some important features of the estuary include mud and sand flats, eel grass beds, salt marshes, submerged vegetation flats, clam and oyster beds, and important nursery areas.

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Secondary benefits include the stimulation of the coastal economy from the spin off operations required to service commercial and sports fisheries, waterfowl hunting, marinas, boatyards, repairs and supplies, processing operations, and tourist related industries. In addition, there is considerable nonmonetary value associated with aesthetics, recreation, and education.

(c) Management Objective. To conserve and manage the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and ocean system.

(d) Use Standards. Suitable land/water uses shall be those consistent with the management objectives in this Rule. Highest priority of use shall be allocated to the conservation of estuarine waters and their vital components. Second priority of estuarine waters use shall be given to those types of development activities that require water access and use which cannot function elsewhere such as simple access channels; structures to prevent erosion; navigation channels; boat docks, marinas, piers, wharfs, and mooring pilings.

In every instance, the particular location, use, and design characteristics shall be in accord with the general use standards for coastal wetlands, estuarine waters, and public trust areas described in Rule .0208 of this Section.

15A NCAC 07H .0207 PUBLIC TRUST AREAS

(a) Description. "Public trust areas" are all waters of the Atlantic Ocean and the lands thereunder from the mean high water mark to the seaward limit of state jurisdiction; all natural bodies of water subject to measurable lunar tides and lands thereunder to the normal high water or normal water level; all navigable natural bodies of water and lands thereunder to the normal high water or normal water level as the case may be, except privately-owned lakes to which the public has no right of access; all water in artificially created bodies of water containing public fishing resources or other public resources which are accessible to the public by navigation from bodies of water in which the public has rights of navigation; and all waters in artificially created bodies of water in which the public has acquired rights by prescription, custom, usage, dedication, or any other means. In determining whether the public has acquired rights in artificially created bodies of water, the following factors shall be considered:

- (1) the use of the body of water by the public;
- (2) the length of time the public has used the area;
- (3) the value of public resources in the body of water;
- (4) whether the public resources in the body of water are mobile to the extent that they can move into natural bodies of water;

- (5) whether the creation of the artificial body of water required permission from the state; and
- (6) the value of the body of water to the public for navigation from one public area to another public area.

(b) Significance. The public has rights in these areas, including navigation and recreation. In addition, these areas support commercial and sports fisheries, have aesthetic value, and are important resources for economic development.

(c) Management Objective. To protect public rights for navigation and recreation. In addition, these areas support commercial and sports fisheries, have aesthetic value, and are important resources for economic development.

(d) Use Standards. Acceptable uses shall be those consistent with the management objectives in Paragraph (c) of this Rule. In the absence of overriding public benefit, any use which jeopardizes the capability of the waters to be used by the public for navigation or other public trust rights which the public may be found to have in these areas shall not be allowed. The development of navigational channels or drainage ditches, the use of bulkheads to prevent erosion, and the building of piers, wharfs, or marinas are examples of uses that may be acceptable within public trust areas, provided that such uses shall not be detrimental to the public trust rights and the biological and physical functions of the estuary. Projects which would directly or indirectly block or impair existing navigation channels, increase shoreline erosion, deposit spoils below normal high water, cause adverse water circulation patterns, violate water quality standards, or cause degradation of shellfish waters are considered incompatible with the management policies of public trust areas. In every instance, the particular location, use, and design characteristics shall be in accord with the general use standards for coastal wetlands, estuarine waters, and public trust areas.

15A NCAC 07H .0208 USE STANDARDS

(a) General Use Standards

(2) Before being granted a permit, the CRC or local permitting authority shall find that the applicant has complied with the following standards:

(G) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.

(b) Specific Use Standards

(6) Piers and Docking Facilities.

(A) Piers shall not exceed six feet in width. Piers greater than six feet in width shall be permitted only if the greater width is necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur;

(B) The total square footage of shaded impact for docks and mooring facilities (excluding the pier) allowed shall be eight square feet per linear foot of shoreline with a maximum of 2,000 square feet. In calculating the shaded impact, uncovered open water slips shall not be counted in the total. Projects requiring dimensions greater than those stated in this Rule shall be permitted only if the greater dimensions are necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur. Size restrictions shall not apply to marinas;

(C) Piers and docking facilities over coastal wetlands shall be no wider than six feet and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking;

(D) A boathouse shall not exceed 400 square feet except to accommodate a documented need for a larger boathouse and shall have sides extending no farther than one-half the height of the walls and covering only the top half of the walls. Measurements of square footage shall be taken of the greatest exterior dimensions. Boathouses shall not be allowed on lots with less than 75 linear feet of shoreline. Size restrictions do not apply to marinas;

(E) The total area enclosed by an individual boat lift shall not exceed 400 square feet except to accommodate a documented need for a larger boat lift;

(F) Piers and docking facilities shall be single story. They may be roofed but shall not be designed to allow second story use;

(G) Pier and docking facility length shall be limited by:

(i) not extending beyond the established pier or docking facility length along the same shoreline for similar use; (This restriction does not apply to piers 100 feet or less in length unless necessary to avoid unreasonable interference with navigation or other uses of the waters by the public);

(ii) not extending into the channel portion of the water body; and

(iii) not extending more than one-fourth the width of a natural water body, or humanmade canal or basin. Measurements to determine widths of the water body, canals or basins shall be made from the waterward edge of any coastal wetland vegetation that borders the water body. The one-fourth length limitation does not apply in areas where the U.S. Army Corps of Engineers, or a local government in consultation with the Corps of Engineers, has established an official pier head line. The one-fourth length limitation shall not apply when the proposed pier is located between longer piers or docking facilities within 200 feet of the applicant's property. However, the proposed pier or docking facility shall not be longer than the pier head line established by the adjacent piers or docking facilities, nor longer than one-third the width of the water body.

(H) Piers or docking facilities longer than 400 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least 1 foot each 100 foot increment of length longer than 400 feet, or, if the additional length is necessary to span some obstruction to navigation. Measurements to determine lengths shall be made from the waterward edge of any coastal wetland vegetation that borders the water body;

(I) Piers and docking facilities shall not interfere with the access to any riparian property and shall have a minimum setback of 15 feet between any part of the pier or docking facility and the adjacent property owner's areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co applicants. If the adjacent property is sold before construction of the pier or docking facility commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development of the pier. Application of this Rule may be aided by reference to the approved diagram in 15A NCAC 07H .1205(t) illustrating the rule as applied to various shoreline configurations. Copies of the diagram may be obtained from the Division of Coastal Management. When shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier shall be aligned to meet the intent of this Rule to the maximum extent practicable as determined by the Director of the Division of Coastal Management; and

(J) Applicants for authorization to construct a pier or docking facility shall provide notice of the permit application to the owner of any part of a shellfish franchise or lease over which the proposed dock or pier would extend. The applicant shall allow the lease holder the opportunity to mark a navigation route from the pier to the edge of the lease.

STIPULATED FACTS

ATTACHMENT B

- Petitioner Paul Andrus ("Petitioner") owns property with his wife Mary Andrus located at 4140 Thick Ridge Road in Kitty Hawk, Dare County (the "Property"). Petitioner and his wife took title to the Property on April 17, 1984 through a deed recorded in the Dare County Registry at Book 367, Page 76, a copy of which is attached as a stipulated exhibit. The Property is also Lot 9, Section 6 of the Kitty Hawk Landing Subdivision, shown on a plat recorded at Plat B, Slide 64 of the Dare County Registry, a copy of which is attached.
- 2. The Property is shown in aerial and ground level photos contained in a powerpoint presentation, attached as a stipulated exhibit. The property is 0.46 acres and is adjacent to Lot 8 (owned by the Vaughts) to the north, by a dredged canal to the west, by Thick Ridge Road to the east, and by part of the Kitty Hawk Woods Coastal Reserve (part of the DCM Coastal Reserve) to the south. Also to the south is an embayment and creek which feeds into the dredged canal.
- 3. The Property is developed with an existing pier and platform totaling 82' long pier/platform structure with a fixed pier and a fixed platform measuring 8' x 6.6' then widening to 8.3' x 16' developed in 1984. DCM was not able to locate a copy of an old CAMA permit searching the address and the name Andrus.
- 4. The upland is developed with a 3,104 square foot two-story house with associated decks, porches and driveway. A copy of the 2023 tax card is attached as a stipulated exhibit.
- 5. The Property is also developed with a garage and a shed which are located both on the Property and on the land south of the Property. A copy of a 2020 survey performed for DCM by Quible & Associates is attached showing the location of structures on Reserve property at that time. Also attached is a letter from Petitioner's attorney to DCM discussing the issue dated March 22, 2021 which was in response to DCM Northern Sites Manager speaking with Petitioner about encroachments.
- 6. At this location the waters of the adjacent man-made canal which connects to the Albemarle Sound are classified as SB Waters by the Environmental Management Commission ("EMC"). These waters are closed to the harvest of shellfish by the Marine Fisheries Commission ("MFC").
- 7. The waters of the canal and Albemarle at the Property are Public Trust Areas and Estuarine Waters Areas of Environmental Concern ("AECs").
- 8. As noted in the DCM Field Report, attached, a review of aerial imagery shows that "at the time of construction, wetlands were present between the shoreline and platform and the structure met the total length limitation of that time" which the Commission's pier length rule at the time limited piers to one-third of the waterbody width. An aerial photograph from 1984 is attached and shows a pier at the Site and the extent of Coastal Wetlands at of 1984.

- 9. Pursuant to N.C.G.S. § 113A-118, any "development" within an AEC must be authorized by the issuance of a CAMA permit.
- 10. In the area of the Property, the canal is now approximately 133' wide. Petitioner's existing pier/platform structure is 82' which spans 62% of the waterbody width. The quarter-width of the waterbody at the Property is approximately 33' and the one-third width of the waterbody at the Property is approximately 44'.
- 11. Petitioner first discussed seeking a permit for a boat lift and dock addition as part of an onsite meeting with former DCM Field Representative Sarah Loeffler on Site on October 13, 2022. The meeting was set to address Petitioner correcting a violation where a shed was placed within the 30' buffer on the Site in violation of the Commission's buffer rules and without a CAMA permit, and where a cantilevered section was added to the existing platform without a CAMA permit. During this site visit, Petitioner also discussed applying for a major permit, and staff explained that a permit denial would be required if work was proposed to be located more than the quarter-width distance. On November 29, 2022, DCM issued an NOV directing the removal of the unpermitted shed from the 30' buffer, and this restoration was complete and verified on February 22, 2023. A civil penalty assessment letter was sent March 15, 2023 and payment was received on March 29, 2023 and closed April 3, 2023.
- 12. On February 25, 2023, Petitioner sent notice to DCM describing his proposed development of a boat lift and second platform and requesting a pre-application meeting with DCM and DWR staff. A copy of this project narrative letter is attached.
- 13. Following two incomplete application letters from DCM (December 15, 2022 and June 7, 2023 following the resolution of the NOV), on June 12, 2022, the Petitioner, who owns Andrus Construction Co, LLC, submitted a revised CAMA Major Permit application to DCM for a proposed boat lift and second platform addition to the existing access pier and platform, consisting of the installation of a 12' x 12' boatlift and a fixed 16' x 5'6" platform. Petitioner's permit drawings dated 10-28-22 are attached with one showing water depths and the other showing the details of the proposed development. The new platform would be located on the landward side of the existing platform and the proposed lift would be located as a stipulated of the existing platform and new platform. A copy of the application is attached as a stipulated exhibit. The application as accepted as complete by DCM on June 26, 2023.
- 14. Based on the site plan drawings which are part of the application, the water body width is 133' wide. The depth in the proposed area of the lift is approximately -3.0' and the depth in the area of the second platform range from -3.0' to -2.5'. The water depth at the one-quarter width at 33' across is approximately -2' and the depth at the one-third width at 44' is approximately 2.5'.
- 15. Petitioner and Staff agree that this is a wind-driven system and sustained winds can impact water depths. Attached are two phots from Petitioner showing the waterbody at the Site during wind events.

- 16. Petitioner has supplied a sworn affidavit, a copy of which is attached as a stipulated exhibit. While Staff may not agree with the substance of the affidavit, Staff acknowledges that the statements in that affidavit are Petitioner's sworn statements.
- 17. As required, Petitioner provided notice of the application to the adjacent riparian owners. In this case, Petitioner gave notice to the Vaughts through a form dated June 12, 2023 and signed by Mr. Vaught on June 13, 2023, a copy of which is attached. Mr. Vaught indicated he had no objection to the proposed lift and new platform. Petitioner also sent notice dated June 12, 2023 to Mike Moser at the State Property Office and a copy of the notice form signed by Mr. Moser on June 13, 2023 is attached indicating no objections.
- 18. As required, Petitioner posted notice of the permit application on the site Notice of the application was also published in the Coastland Times Newspaper on July 16, 2023. DCM did not receive any comments about this project from the public.
- 19. As part of the CAMA Major Permit Process, DCM Field Representative Sarah Loeffler completed a Field Investigation Report dated July 10, 2023, a copy of which is attached as a stipulated exhibit. This report was sent with the application materials to the other permit reviewing agencies.
- 20. On January 3, 2024, DWR issued a 401 Water Quality Certification, a copy of which is attached.
- 21. None of the other review agencies had any objection to the proposed development.
- 22. On August 31, 2023, DCM Major Permits Manager Gregg Bodnar phoned Petitioner and asked to discuss his proposed development and its non-conformity with the quarter-width rule. Petitioner indicated that he wished to receive a final denial decision on the project as proposed as he did not wish to place the lift in the more shallow waters at the quarter-width location. On October 30, 2023, Mr. Bodnar emailed Petitioner notifying him that the review was complete and a denial was coming.
- 23. On October 31, 2023, DCM denied Petitioner's permit application as being inconsistent with 15A N.C.A.C. 07H.0208(b)(6)(G), where the proposed lift and new platform extend more than one-fourth the width of the waterbody and 15A N.C.A.C. 07H .0208(a)(2)(G) which states "Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters." A copy of the denial letter is attached.
- 24. On November 20, 2023, Mr. Bodnar emailed a copy of the denial letter to Petitioner after the certified mail delivery was returned to DCM as undeliverable on November 8, 2023.
- 25. On January 12, 2024, DCM received Petitioner's initial variance petition and notified him that it was missing copies of notice of the variance request sent to the adjacent riparian owners as well as an initial set of proposed facts, but Petitioner subsequently provided these. A copy of Petitioner's variance filing items (minus the initial proposed facts and duplicate exhibits) is attached at Attachment E.

- 26. Google Earth photographs of the area around the Property are attached as stipulated exhibits showing the relative location of piers in the area of the Property.
- 27. Pursuant to 15A N.C.A.C. 07J.0701(a), Petitioners would have been required to furnish to the Commission proof that a variance was sought from the local government; however, the requirement is inapplicable, since it appears that the local 100' dock limit for the Sound Water District (Sec. 42-360) does not apply to this canal/creek lot, it does not appear that there are applicable Town of Kitty Hawk requirements restricting the Dock Expansion at the Site.
- 28. Pursuant to 15A NCAC 7J. 0701(c)(6), Petitioner stipulates that the proposed project is inconsistent with the rules from which the Petitioner seeks a variance.
- 29. Pursuant to 15A NCAC 7J .0701(c)(7), Petitioners sent notice of this variance petition to the adjacent riparian owners. Copies of the notice and delivery information are attached. The notice to the State Property Office for the Kitty Hawk Woods Reserve property to the south was sent to Mike Moser, the Director of the State Property Office. A copy of a notice form signed by Mr. Mosher on January 29, 2024 is attached. A copy of the Notice signed by the Vaughts on February 27, 2024 is attached. No comments have been received to date, but any comments received by the time of the variance hearing will be provided to the Commission.
- 30. Without a variance, Petitioner could keep the existing non-conforming pier as-is, could relocate the proposed lift and new platform at the one-quarter width where it would be in approximately -2.25' of water at the quarter-width mark, or Petitioner could propose dredging as the waters at this location are not classified as Primary Nursery Areas (PNA).

Stipulated Exhibits

- A. Andrus Deed 367/76
- B. Plat B-64 Kitty Hawk Landing Subdivision
- C. 2023 Tax Card for the Property
- D. 2020 Quible Encroachment Survey
- E. 3/22/21 letter from P's attorney to DCM re: encroachment
- F. 1984 aerial
- G. Petitioner's two phots showing Site during wind events
- H. 2/25/23 P's pre-application meeting request and project narrative
- I. CAMA Major Permit application materials including two site plans
- J. Petitioner's sworn affidavit
- K. Notice of permit application to adjacent riparian owners, signed by each
- L. 7/10/23 DCM Field Investigation Report
- M. DWR 1-3-22 401 Certification
- N. October 31, 2023 Denial Letter
- O. Notice of Variance Request to adjacent riparian owners, signed by each
- P. Aerial and ground level photos of the Property in Powerpoint

PETITIONER'S and STAFF'S POSITIONS

I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? If so, the petitioner must identify the hardships.

Petitioner's Position: Yes.

The hardship from this decision would result in not having a boat lift all together. There is no possibility of moving closer to the new shore line because it is too shallow. The frequency and intensity of strong coastal storms in the reason I want to install a lift to safely secure my boat. The forecasters project even more frequent and stronger storms in the future.

Staff's Position: Yes.

Staff agrees that a strict application of the quarter-width rule would result in unnecessary hardships for the Petitioner where the existing docking facility would not be extended from its current length. The now-non-conforming pier was made non-conforming due to the landward movement of the water line on the property and disappearance of coastal wetlands over the decades since the original pier was constructed. Based on aerial photography, when it was constructed, it was likely conforming with the narrower waterbody as measured between the waterward extents of the coastal wetlands, and at the time, the Commission had a one-third-width rule instead of the quarter-width rule. However, denial of the permit application was required where Petitioner was seeking to expand the pier structure with a new platform and new lift waterward of the current quarter-width measurement.

II. Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.

Petitioner's Position: Yes.

The original property line as per Dare County Tax maps shows the line up to the existing dock. The existing dock was built 40 years ago with a walkway built over the shallow marsh to get to the existing canal and 2-3 feet of water depth to dock a sailboat. Over the 40 years erosion has occurred and the reeds have gone but the shallow water exists and the existing canal remains in the same location. The water is too shallow for any usable dock closer to the shore.

Staff's Position: Yes/No.

While the tax map shows lines into the water to the existing dock, the deed and plat map control ownership and there is no private submerged lands claim here. Petitioner's deed conveyed Lot 9, and the attached plat at note 5 indicates "it is the intent of the developer concerning all waterfront lots shown on this plat to convey to the waters edge." This language indicates that where the boundary follows the location of MHW, Petitioner is a riparian property owner. Staff agree that the lines on the tax map reflect a prior location of the shoreline and that the shoreline has moved landward over time. This is supported by the old aerial photograph attached which show the coastal wetland which had been present in the area of the dock and are no longer present and an old survey showing a normal high water line which is more similar to the tax map line. As waterbody widths

are measured from the waterward extent of the coastal wetlands per 7H.0208 (b)(6)(G)(iii), the existing pier may have met the Commission's pier length limits at the time (which were a one-third limit in the 1980's) and the non-conformity with this rule happened as the water line moved landward and the coastal wetlands disappeared. Staff also acknowledge that Petitioner is not proposing to make the existing non-conforming pier <u>longer</u>, but the Commission's quarter-width rule does not allow the proposed development even at the existing pier length.

Petitioner's permit application was also denied based on non-conformity with 7H .0208(a)(2)(G) which states "Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters." While staff acknowledge this is a shallow creek, placement of the proposed boat lift in the area near the confluence of the canal and a natural creek which exists adjacent to the Reserve property south of the Site would significantly impact navigation by small boats navigating the waters of the canal and this creek and embayment. Staff disagree that the denial of the proposed new platform results in a hardship based on the peculiar conditions of the Site.

III. Do the hardships result from actions taken by the Petitioner? Explain.

Petitioner's Position: No.

The hardship resulted because my CAMA application to install a boat lift was denied. Without a boat lift I cannot safely secure my boat. During strong NC winds the water blows out of the canal and my boat sits on the bottom in its present location. Lifting the boat is a safer way to secure my boat. Weather has changed. I now feel it is necessary to install a boat lift. Weather changed the situation, nothing I have done changed this canal. Mother nature changed the circumstances and my needs.

Staff's Position: No/Yes.

Staff agrees that Petitioner's hardships would not have resulted from Petitioner's actions if he limited his proposal to just the new boat lift placed waterward of the quarter-width on the existing pier structure.

However, to the extent that Petitioner has proposed to also expand his pier structure waterward of the quarter-width with approximately 96 square feet of new platform, all portions of the additional platform are waterward of the quarter width and therefore Staff contend Petitioner has created his hardships through his choice of design.

IV. Will the variance requested by the petitioner (1) be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve justice? Explain.

Petitioner's Position: Yes.

The existing boat dock (for 40 years) does not hinder any canal traffic or the kayak access to the shallow bay. By installing the boat lift on the side of the existing dock, it gives more room for canal navigation and still does not hinder any kayak traffic. The only other option I have is to dredge a canal to my dry shoreline. After years of paper work, I am guessing that it probably won't be approved. The bottom line as it stands now, I am being denied the ability to install a usable boat lift on my property with no viable options.

I have a 40-year investment in my property location in a boating community. I have enjoyed the current dock location, but now find it necessary to invest in a lift to make sure I'm able to safely secure my boat.

Staff's Position: Yes/No.

Staff agrees that the requested variance for the boat lift on the existing pier is consistent with the spirit, purpose and intent of the quarter-width rule where the lift is being added to an existing pier which appears to have been conforming to the pier length rules in place when it was constructed and where Petitioner likely did not cause the landward movement of the water line or the disappearance of the coastal wetlands. Petitioner claims that he needs the lift at this location and not at the quarter-width distance in order to have enough water depth for his boat.

Staff disagree that a variance for the new platform meets this statutory criterion where the additional platform waterward of the quarter-width is not needed due to the access provided by the existing pier platform. Staff believes that a variance allowing the proposed lift at the proposed location but not granting a variance for the proposed additional platform would strike a reasonable balance between Petitioner's right to pier out, the public's right to navigate, and the protection of public trust resources.

ATTACHMENT D:

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PETITIONER'S VARIANCE REQUEST MATERIALS



Date:1-10-24

- To: Braxton Davis, Director Division of Coastal Management 400 Commerce Ave. Morehead City, NC 28557
- Ref: CAMA Variance Petition Request Response to the criteria supplied on DCM Form 11

Location: 4140 Thick Ridge Rd, Kitty Hawk, NC 27949

- a) The hardship from this decision would result in not having a boat lift all together. There is no possibility
 of moving closer to the new shore line because it is too shallow.
 The frequency and intensity of strong coastal storms is the reason I want to install a lift to safely secure
 my boat. The forecasters project even more frequent and stronger storms in the future.
- b) The original property line as per Dare County Tax maps shows the line up to the existing dock. The existing dock was built 40 years ago with a walkway built over the shallow marsh to get to the existing canal and 2-3 feet of water depth to dock a sailboat. Over the 40 years erosion has occurred and the reeds have gone but the shallow water exists and the existing canal remains in the same location. The water is too shallow for any usable dock closer to the shore.
- c) The hardship resulted because my CAMA application to install a boat lift was denied. Without a boat lift I cannot safely secure my boat. During strong NE winds the water blows out of the canal and my boat sits on the bottom in its present location. Lifting the boat is a safer way to secure my boat. Weather has changed. I now feel it is necessary to install a boat lift. Weather changed the situation, nothing I have done changed this canal. Mother nature changed the circumstances and my needs.
- d) The existing boat dock (for 40 yrs) does not hinder any canal traffic or the kayak access to the shallow bay. By installing the boat lift on the side of the existing dock, it gives more room for canal navigation and still does not hinder any kayak traffic. The only other option I have is to dredge a canal to my dry shoreline. After years of paper work, I am guessing that it probably won't be approved. The bottom line as it stands now, I am being denied the ability to install a usable boat lift on my property with no viable options.

I have a 40-year investment in my property located in a boating community. I have enjoyed the current dock location, but now find it necessary to invest in a lift to make sure I'm able to safely secure my boat.

General Contractor - Residential/Commercial - NC Licensed

ATTACHMENT E:

016

STIPULATED EXHIBITS INCLUDING POWERPOINT

- A. Andrus Deed 367/76
- B. Plat B-64 Kitty Hawk Landing Subdivision
- C. 2023 Tax Card for the Property
- D. 2020 Quible Encroachment Survey
- E. 3/22/21 letter from P's attorney to DCM re: encroachment
- F. 1984 aerial
- G. Petitioner's two phots showing Site during wind events
- H. 2/25/23 P's pre-application meeting request and project narrative
- I. CAMA Major Permit application materials including two site plans
- J. Petitioner's sworn affidavit
- K. Notice of permit application to adjacent riparian owners, signed by each
- L. 7/10/23 DCM Field Investigation Report
- M. DWR 1-3-22 401 Certification
- N. October 31, 2023 Denial Letter
- O. Notice of Variance Request to adjacent riparian owners, signed by each
- P. Aerial and ground level photos of the Property in Powerpoint

Prepared by: Starkey Sharp, Attorney at Law, Kitty Hawk, NC 27949 Return to: Charlie Aycock, Attorney at Law, P.O. Box 117, Nags Head, NC 27959 BOOK 367 PAGE 76

FILED

DORRIS A. FRY Register of Deeds Dare County, N. U.

NORTH CAROLINA DARE COUNTY

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178900 178900 THIS DEED, made this the 21st day of March, 1984, by and between DECATUR PARTNERSHIP, a general partnership of the State of North Carolina, and DWIGHT H. WHELESS, Trustee, as GRANTORS, to PAUL ROBERT ANDRUS and wife, MARY COCKRELL ANDRUS, as tenants by the entirety, of Route 1, Box 419, Nags Head, North Carolina, 27959, as GRANTEE (whether one or more);

017

WITNESSETH:

THAT the Grantors, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable considerations to them in hand paid by the Grantee, the receipt of which is hereby acknowledged, have bargained and sold and by these presents do grant, bargain, sell and GoPvey unto the Grantee, his heirs and assigns, all that certain lot of land lying and being in Atlantic Township, Dare County, North Carolina, and more particularly described as follows:

Being Lot No. 9 of the subdivision known as "Section 6, Kitty Hawk Landing", as shown on map or plat thereof duly recorded in Plat Cabinet B, Slides 64 and 65, Public Registry of Dare County, Marth Carolina.

Same being a part of the property conveyed to Decatar Partnership by deed from B&B Associates, dated September 1, 1980, and recorded in Book 299, page 932, Dare County Public Registry.

Dwight H. Wheless) Trustee, joins in the execution of this instrument for the purpose of releasing this conveyance from the liem of that certain deed of trust of record in the Public Registry of Dare County, North Carolina, as follows:

Deed of trust dated Soptember 1, 1980, of record in Book 299, page 936, Dare County Registry, with release provisions included therein.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land, together with all privileges and appurtchances thereunto belonging unto the Grantee, his heirs and assigns or successors, in fee simple forever, subject, however, to those certain covenants, reservations and restrictions contained in Restrictive Covenants filed for record in the Dare County Public Registry in Book 324, page 843

AND THE GRANTOR, Decatur Partnership, for itself and its successors and assigns, covenants to and with the add Grantee, their heirs and assigns that it is seized of said lands in fee simple; that it has a good right to convey the same in fee; that the same is free and clear of all encumbrances whatsoever; and that it will forever warrant and defend the title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the said Grantor, by its General Partner, has hereunto executed this instrument, the day and year first above written.

DECATUR WARTNERSHEP (SEAL) al Partner (SEAL) uns Dwight H. Wheless Trustee S. A.

Covrect Deed Confirmed

6.12.23

018 - 2 official Docum BOOK 367 PAGE 77 NORTH CAROLINA DARE COUNTY I, a motary public, do hereby certify that ______ Mike A. Beacham a General Partner of Decatur Partnership, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. And Horsrial seal, this the 27th day of March WITNESS my hand 1984. NOTARY aticia *** Notary Public commission expare PUBLIC Ny UCH COUN Tertsteptettett NOETE CAROLINA DARE COUNTY I, a notary public, do hereby certify that Dwight H. Wheless, Trantee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. WITNESS my hand and notarial seal, this the $lb^{\prime\prime}$ day of Ω 1984. 1111111:11 n Notary Public AJTARY My commission expires 1. 10-2-88 UPIIC Country COUNT AF COUNTY HORTH CAROLINA BARE COUNTY The foregoing certificate(s) of Patricia A: Lough 500 Rubic urritus TY (D. Notaries Rubic Is/are certified to be correct. This instrument and this cortificate are duly registered at the date and time and in the Book and Page shown on the first page hereof. Frul Donia Register of Deeds For_ Done County ANA Deputy/hsststant-Register of Deede Jocument RECORDED: APR. 2 0 1984

AF 11654B \sim N K KITY <u>CERTIFICATE VOF OWNERSHIP AND DEDICATION</u> I (We) hereby certify that I am (we are) the owners of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish minimum building lines and dedicate all roads, alleys, walks, parks, and other sites to public or private use as noted. Further, I (we) certify that the land as shown hereon is within the platting jurisdiction of Kitty Hawk. I (we) make as a material pepresentation of fact to purchases of property within this subdivision, and to governing authorities of Kipty Hawk in accord with Section 72A of the Kitty Hawk Subdivision Regulations, that the road improvements proposed witin the subdivision will be made. Mike. $\sim \sim$ Owner NOTARY CERTIFICATE Subscribed and sworn to before me this <u>8+h</u> day of <u>January</u>, 1982 1. My commission expires 11/19/86 NOTARY V *** Shomas D. Milgelto PUBLIC COUNT HEALTH DEPARTMENT I hereby certify that the lots as proposed in this map of the subdivision entitled Kitty Hawk Landing, Section 6 meet the requirements as to minimum area for an individual sewage disposal and water supply as provided by ordinance of the Dare County Board of Health. (Lots are evaluated seperately as to/topography, drainage, and soil porosity.) lealth Director NOTE: The streets and roads in this subdivision are dedicated to public use, however their maintenance will be the sole responsibility of the adjacent property owners until they are brought up to the standards of the North Carolina Department of Transportation (Section 81D Kitty Hawk Subdivision Regulations and N.C.G.S. 136-102.6) <u>CERTIFICATE OF APPROVAL BY THE PLANNING BOARD</u> 1, ROGES W-RSEARS, Chairman of the Kitty Hawk Planning Board, hereby certify that said board duly approved the final plat of the subdivision entitled KITTY HAWK LANDING -Sec. 6 Koger W.K. Sears 1-20-82 Vie Chairman Date File: 080-81

KITT

HAWK SECTION

ATLANTIC TOWNSHIP

HAWK



VICINITY MAP

Yards 2000 3000 1000



LANDING

6

COUNTY DARE

NORTH CAROLINA

February 1, 1982 Date

SURVEYORS CERTIFICATE

NOTARY CERTIFICATE

Sub	scribed	and	sworn	to	before	me	th	is	
Му	commiss	sion	expires				1	19	

CERTIFICATE FOR RECORDING PLAT

The	fore	going	cert	ificat	es of	Her	ndon	F.	ł
Dare		Cour	ity, N	North	Caro	olina,	are	cer	1
day office	of <u>(</u>	De	ne	<u>)</u>		- · · · · · ·			,
office	e in	Map	- Do c	*P <u>C</u>	B	_, F	age (64	د

CB	

FILED *32 APR 8 PM 4 46 ALVA G. WISE RECKTE. HE DEEDS 14. T. M.C. CERTIFICATE OF APPROVAL FOR RECORDING PLAT AND ACCEPTANCE OF DEDICATION _____, the Mayor of Kitty Hawk, North Carolina, do certify that on the 15t day of <u>February</u>, 1982, the Kitty Hawk board of Commissioners approved this plat for recording and accepted the dedication of roads, easements, right-of-way, public parks, and other sites for public purposes as shown hereon, but assume no responsibility to open or maintain same until in the opinion of the governing body of Kitty Hawk, it is in the public interest to do so. Mayor I, H. F. Pyatt, Jr, certify that this map was drawn under my supervision from an actual survey made under my supervision, that the error of closure as calculated by latitudes and departures is 1:10,000, that the boundaries not actually surveyed are shown as broken lines plotted from information found in existing records and that this map was prepared in accordance with G. S. 47-30 as amended. Witness my hand and seal this <u>6 th</u> day of <u>January</u>, 19<u>82</u> Hunder Matt. R.L.S. L-1508 19<u>82</u> 6th January day of NOTARY <u>Ihomas D. Midgette</u> * * * PUBLIC Notary -4488EIREBBBBB Pyatt, Jr., R.L.S. and Thomas D. Midgette a Notary Public of rtified to be correct, presented for registration this the <u>S</u> 1992, at 4.44 o'clock, <u>p</u>. M., and recorded in this alin D. Wiss Register of Deeds Jama Sean Ward By -Accietant Register of Deeds Deputy Professional Land Services, Inc. Kitty Hawk, North Carolina





DECATUR PARTNER

(16.1 N * 1 1 RÔAD



CANAL

Book PCB Page 065



Dare County - Property Records

011293009 4140 THICK RIDGE RD, KITTY HAWK, NC, 27949 ANDRUS, PAUL ROBERT ANDRUS, MARY COCKRELL 4140 THICK RIDGE RD KITTY HAWK, NC,27949, USA

PARCEL INFORMATION

Parcel ID	011293009	PIN	986511572246
Land Use Code	0100	Land Use Description	SINGLE FAMILY RESIDENTIAL
District	KITTY HAWK	Neighborhood	08150001
Zoning Code	VR-1	Zoning Desc.	LOW DENSITY VILLAGE RESIDENTIAL
Subdivision Code	K610	Subdivision	KITTY HAWK LANDING SEC 6
Legal Desc.	LOT: 9 BLK: SEC: 6		
Plat Cab Slide	PL: B SL: 64		
Deed Date	04/17/1984	Book / Page	<u>0367 / 0076</u>
Tax Status	Taxable		

021

SECONDARY OWNERS

No data to display

ASSESSMENT DETAILS

REAL ESTATE ASSESSED VALUE

Land Value	\$164,000
Building Value	\$269,600
Other Improvements	\$15,500
Total Assessed	\$449,100

BILLING VALUE

Land Value	\$164,000
Building Value	\$269,600
Other Improvements	\$15,500
Total Value	\$449,100

LAND

LAND DESCRIPTION	SQFT	ACRES
1 H15-08-Canal Front	20,000	0.4591
Total	20,000	0.4591

BUILDINGS

BUILDING #: 1

	022
Year Built	1984
Finished Area	3,104 SqFt
Stories	1
Style	CONTEMPORARY/MODERN
Exterior Wall	MODERN FRAME
Heating / Cooling	CENTRAL A/C
Fuel Type	ELECTRIC
Bedroom(s)	3
Full Bath(s)	3
Half Bath(s)	0
Fireplace(s)	1
Attached Garage	NO
Units	N/A



	AREA INDEX	AREA
	0	897
+	1	310
12 - EFP ENCL F	RAME PORCH	
+	2	440
10 - 1S FR ONE \$	STORY FRAME	
10 - 1S FR ONE \$	STORY FRAME	

	AREA INDEX		AREA	
+	3	023	60	
31 - DCK WO	OD DECK			
+	4		199	
14 - FR UT FF	RAME UTILITY BUILDING			
10 - 1S FR 01	NE STORY FRAME			
+	5		409	
10 - 1S FR OI	NE STORY FRAME			
10 - 1S FR OI	NE STORY FRAME			

OTHER IMPROVEMENTS

BUILDING #	DESCRIPTION	YEAR BUILT	QTY	SIZE / COUNT
2	RD2 - MED. WD. DOCK WD. GIRDERS BOLT	1985	1	264
3	RS1 - FRAME UTILITY SHED	1985	1	512
4	LDG - LANDING - ATCHD TO MH OR OTHER	1985	1	128
5	WD1 - WOOD DECK OR RAMP	1985	1	571
6	RS1 - FRAME UTILITY SHED	2000	1	288

RECENT SALES HISTORY

The sales history includes only qualified sales made since January 1, 2016. A sale is qualified when it has been verified, by the appraiser, as an arm's length transaction for fair market value. Only qualified sales are considered in the appraisal process.

No data to display

VALUE CHANGES

The value change history shows only changes in appraised value; it does not show exemptions, exclusions or deferrals that could reduce a property's taxable value. If any of these are in effect for a particular tax year, it will be shown on the property tax bill for that year. It is also possible that some previous value changes might be missing from this list or listed in the wrong order.

REVALUATION EFFECTIVE DATE	ASSESSED VALUE
01/01/2020	\$449,100
01/01/2013	\$327,300
01/01/2005	\$444,800

PERMITS

Permits issued in the past 6 years. All information deemed reliable but not guaranteed. For more information, please visit Dare County's <u>searchable</u> permit site.

No data to display





Data last updated: 03/20/2024





from data used for the inventory of the real property for tax purposes. Primary information sources such as recorded deeds, plats, wills, and other primary public records should be consulted for verification of the information contained in this map.

This map is prepared

4140 Thick Ridge RD Kitty Hawk NC, 27949 Parcel: 011293009 Pin: 986511572246 Owners: Andrus, Paul Robert -Primary Owner Andrus, Mary Cockrell -Primary Owner Building Value: \$269,600 Land Value: \$164,000 Misc Value: \$15,500 Total Value: \$449,100 Tax District: Kitty Hawk Subdivision: Kitty Hawk Landing Sec 6 Lot BLK-Sec: Lot: 9 Blk: Sec: 6 Property Use: Residential Building Type: Contemporary/modern Year Built: 1984





SHARP, GRAHAM, BAKER AND VARNELL, L.L.P. ATTORNEYS AT LAW

KITTY HAWK, NORTH CAROLINA TELEPHONE: (252) 261-2126 FACSIMILE: (252) 261-1188

STARKEY SHARP JOHN C. GRAHAM, III RONALD G. BAKER CASEY C. VARNELL JAMIE G. VARNELL KATHERINE S. HARRELL

www.ncobxlaw.com SENDER'S EXTENSION:

Website Address

245 245

MAILING ADDRESS: POST OFFICE DRAWER 1027 KITTY HAWK, NC 27949-1027

STREET/SHIPPING ADDRESS: 4417 N. CROATAN HIGHWAY KITTY HAWK, NC 27949-1027

> Sender's E-mail Address: varnell@ncobxlaw.com

March 22, 2021

State of North Carolina ATTN: Department of Natural and Cultural Resources 4601 Mail Service Center Raleigh, NC 27699

RE: KITTY HAWK WOODS COASTAL RESERVE

To whom it may concern:

This office represents Mr. Paul Andrus. Mr. Andrus owns property in Kitty Hawk, North Carolina located at 4140 Thick Ridge Road, Kitty Hawk, North Carolina (hereinafter "Andrus Property"). The State of North Carolina owns real property adjacent to the Andrus Property, which parcel is more particularly identified as 4186 Tarkle Ridge Road, Kitty Hawk, North Carolina, Dare County Parcel Number 011293000 (hereinafter "State Property"). The State Property is maintained as a dedicated nature preserve.

Recently, our client was made aware that the State of North Carolina takes the position that certain improvements constructed by Mr. Andrus are encroaching onto the State Property. This stance was given by a local DNCR representative to our client. At this point, we do not have a survey which confirms any such encroachment. However, we take the position that any alleged encroachment is of inconsequential value, as our client has made open, notorious, and hostile use of the disputed area for a period of more than twenty (20) years.

We believe there to be a simple solution to this dispute and would enjoy the chance to a speak with a representative from the appropriate State division concerning our proposal. The disputed area exists on a very small portion near the front of the nature preserve. We do not find our client's use of this area affects the purposes of the preserve, nor the public's use of the same. That being said, I think an amicable resolution makes sense.

Upon receipt of this letter, please contact our office and let us know of a date and time convenient to converse concerning the above. We look forward to hearing from you.

Sincerely, Casey C. Varnell

cc: Mr. Paul Andrus







032



RECEIVED

IUN 1 2 2023

DCM-EC

Date: 2-25-23 Revised 6-12-23

To: DEQ / Division of Coastal Management, Elizabeth City Office

From: Paul Andrus

Ref: Narrative Description of the proposed project: Platform and boat lift at 4140 Thick Ridge Rd, Kitty Hawk, NC 27949

This project is for installing a boat lift and an extension platform to an existing platform. The existing platform and walkway was constructed in 1984 even before house construction. We owned a sailboat and purchased the lot because of the deepwater canal and needed the dock to moor the boat. The permits were all included in the building permit. Those records were destroyed in one of the many floods experienced here. The reason for the placement of the dock was to reach at least 3' of water in order to moor a sailboat. At the time there was wetlands and the water was only 1' deep out to the existing location. We needed to reach the existing canal to navigate. The original property lines shown in the Dare County Property Records map confirms the existing dock is right next to the property line. The water depth now is still 1' to 2' depth out to the dock.

The project proponent hereby certifies that all information contained herein is true. Accurate, and complete to the best of my knowledge and belief.

The project proponent hereby request that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time.

I request a Pre-Filing CAMA Major Permit Meeting with DWR staff.

Thank you,

11

General Contractor - Residential/Commercial - NC Licensed



033

Paul Andrus

From: Sent: To: Subject: Paul Andrus <prandrus@charter.net> Monday, June 12, 2023 3:24 PM '401prefile@ncdenr.gov' CAMA

REF: Major CAMA permit for a boat lift at 4140 Thick Ridge Rd., Kitty Hawk, NC

I am requesting a Pre-Filing CAMA Major Permit Meeting with DWR staff.

Thank you, Paul Andrus

Paul Andrus P.O. Box 687 Kitty Hawk, NC 27949 Office: 225-261-7903 Cell: 252-216-8902 Email: paul@andrusconstructiononline.com Web: andrusconstructiononline.com 034

RECEIVED

APPLICATION for Major Development Permit

JUN 1 2 2023



DCM-EC

(last revised 12/27/06)

North Carolina DIVISION OF COASTAL MANAGEMENT

1. Primary Applica	nt/ Landowner Inf	form	ation						
Business Name				Project Name (il	f applicabl	e)			
`									
Applicant 1: First Name Paul		M		LastName					
Applicant 2: First Name		AAL		Andrus					
Applicant 2. First Marile		MI		Last Name					
If additional applicants, plea	se attach an additional pag	ge(s) v	with names l	isted.					
Mailing Address				PO Box	City			State	
4140 Thick Ridge Rd						Hawk		NC	
ZIP	Country		Phone No.				FAX No.		
27949	USA		252 - 216	8902 ext.			-		
Street Address (if different f	rom above)			City	Stat	e		ZIP	-
Email					i				
prandrus@charter.net									
2. Agent/Contract	or Information								
Business Name Andrus Construction Co	LTC								
Agent/ Contractor 1. First N	lame	M		Last Name					
Paul				Andrus					
Agent/ Contractor 2: First N	lame	MI		Last Name					
Mailing Address		1		PO Box	City				State
4140 Thick Ridge Rd				. e box	Kitty H	lawk			NC
ZIP		Pho	ne No. 1	L		Phone N	No. 2		
27949		252	- 216 - 890	2 ext					ext.
FAX No.		Con 774	tractor #						
Street Address (if different i	from above)			City	Stat	e		ZIP	
Email							F	RECE	IVED
		<for< td=""><td>m contini</td><td>ues on back></td><td>•</td><td></td><td>J</td><td>IUL 1</td><td>2 2023</td></for<>	m contini	ues on back>	•		J	IUL 1	2 2023
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Major Development Permit

3. Project Location		- JUN 1 2 2023	- Manual of the Parameters of	
3. Project Location	Charles			
Dare	Street Address 4140 Thick Ridge Re	d DCM-EC		State Rd. #
Subdivision Name Kitty Hawk Landing		City Kitty Hawk	State NC	Zip 27949 -
Phone No. 252 - 216 - 8902 ext.		Lot No.(s) (if many, att	ach additional	
a In which NC river basin is the pi PASQUATANK	roject located?	b. Name of body of wa Manmade Can	ter nearest to	proposed project
c. Is the water body identified in (b		e? d. Name the closest m Albemarle Sound	ajor water bod	ly to the proposed project site.
e. Is proposed work within city limi	its or planning jurisdiction?	f. If applicable, list the work falls within. Kitty Hawk	planning jurisd	liction or city limit the proposed
4. Site Description				
a. Total length of shoreline on the ± 130 ff	tract (ft.) SWL	b. Size of entire tract (s 22166 SF for lo	sq.ft.) of #9	
c Size of individual lot(s) 22166 sf L (If many lot sizes, please attach	additional page with a list)	NWL (normal water	on of tract abo level) VHW or XINM	ve NHW (normal high water) o 5wL
Lawre grasses	5 deciduous to	nees, pine thee GR	Priph A	v name tal
f Man-made features and uses no	ow on tract	rees, pine thee Gpu teetc. Walkway, picr, and		
Man-made features and uses no House and storage an g. Identify and describe the existin House to the north a	ow on tract rea ; prev みにとらう N ng land uses <u>adiacent</u> to the p and vacant land to the se	proposed project site.	onsistent with	SWL m6,
 Man-made features and uses no House and storage and g. Identify and describe the existin House to the north and h. How does local government zon 	ow on tract rea ; prev なくにょうう n ng land uses <u>adiacent</u> to the p and vacant land to the se ne the tract?	Walleway, pier, and proposed project site. outh L is the proposed project (Attach zoning complian @Yes []No []NA	onsistent with	SwL m6, h the applicable zoning? if applicable)
 Man-made features and uses no House and storage and storage and generative the existing House to the north and the house to the north and the storage of the north and the storage of the north and the storage of the proposed activity part of a storage of the proposed activity part of the prop	ow on tract rea , ארפי אבנב אין ng land uses <u>adjacent</u> to the p and vacant land to the se ne the tract? ne the tract?	walleway, pier, and proposed project site. outh L is the proposed project (Attach zoning complian @Yes []No []NA	consistent with nce certificate,	5w∟ m6, h the applicable zoning? if applicable)
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 Man-made features and uses no House and storage at House and storage at House and storage at the stora	ow on tract rea , איז פון פון איז פון איז פון פון איז פון	walkway, pier, and proposed project site. outh L is the proposed project (Attach zoning complian @Yes []No []NA pment proposal? or the tract? If yes, attach a copy.	consistent with nce certificate, Yes	Św⊾ m.6, In the applicable zoning? if applicable) ⊠No ⊠No ⊠No □NA

form DCM MP-1 (Page 3 of 4)	RECEIVED	APPLICATION fo Major Development Perm			
	JUN 1 2 2023				
(i) Are there wetlands on the site?		Yes	No		
(ii) Are there coastal wetlands on the site?	DCM-EC	Yes	No		
 (iii) If yes to either (i) or (ii) above, has a delineation been cond (Attach documentation, if available) 		Yes	No		
Describe existing wastewater treatment facilities. On lot 9 there is a septic system for the house	3	5			
Describe existing drinking water supply source.					
Public					
Describe existing storm water management or treatment system N/A	ns.				
. Activities and Impacts					
Will the project be for commercial, public, or private use?		Commercia		c/Government	
Give a brief description of purpose, use, and daily operations o		Private/Co	randing		
4					
L Describe the proposed construction methodology, types of con- of equipment and where it is to be stored. Install pilings by hand and water pump	struction aquipment to be used	I during const	ruction, the r	umber of each type	
of equipment and where it is to be stored. Install pilings by hand and water pump	struction equipment to be used	I during const	ruction, the r	number of each type	
of equipment and where it is to be stored. Install pilings by hand and water pump List all development activities you propose. Install a 6'x16' Platf orm and a 12'x12' boat lift		I during const	ruction, the r	number of each type	
of equipment and where it is to be stored. Install pilings by hand and water pump List all development activities you propose Install a 6'x16' Platf orm and a 12'x12' boat lift Are the proposed activities maintenance of an existing project, NEW WORK	new work, or both?	I during const		number of each type	
of equipment and where it is to be stored. Install pilings by hand and water pump List all development activities you propose. Install a 6'x16' Platf orm and a 12'x12' boat lift Are the proposed activities maintenance of an existing project, NEW WORK	new work, or both? h the proposed project?	None			
of equipment and where it is to be stored. Install pilings by hand and water pump List all development activities you propose. Install a 6'x16' Platf orm and a 12'x12' boat lift Are the proposed activities maintenance of an existing project, NEW WORK What is the approximate total disturbed land area resulting from Will the proposed project encroach on any public easement, put that the public has established use of?	new work, or both? In the proposed project? ublic accessway or other area	None			
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of equipment and where it is to be stored. Install pilings by hand and water pump List all development activities you propose. Install a 6'x16' Pletf orm and a 12'x12' boat lift Are the proposed activities maintenance of an existing project, NEW WORK What is the approximate total disturbed land area resulting from Will the proposed project encroach on any public easement, pi that the public has established use of? Describe location and type of existing and proposed discharge NONE	new work, or both? In the proposed project? Iublic accessway or other area its to waters of the state.	None Yes () Yes () Yes ()			
Install pilings by hand and water pump I. List all development activities you propose. Install a 6'x16' Platf orm and a 12'x12' boat lift a. Are the proposed activities maintenance of an existing project, NEW WORK What is the approximate total disturbed land area resulting from Will the proposed project encroach on any public easement, pi that the public has established use of? Describe location and type of existing and proposed discharge NONE Will wastewater or stormwater be discharged into a wetland? If yes, will this discharged water be of the same salinity as the Is there any mitigation proposed? If yes, attach a mitigation proposal.	new work, or both? In the proposed project? Iublic accessway or other area its to waters of the state.	None Yes () Yes () Yes ()	3No □NA 3No □NA 3No □NA	g.Ft or ∏Acres	
Major Development Permit

ð.	Additional	Informati	ion
----	------------	-----------	-----

Name John and Ashley Vaught

In addition to this completed application form, (MP-1) the following items below, if applicable, must be submitted in order for the application package to be complete. Items (a) – (f) are always applicable to any major development application. Please consult the application instruction booklet on how to properly prepare the required items below.

a. A project narrative

b. An accurate, dated work plat (including plan view and cross-sectional drawings) drawn to scale. Please give the present status of the proposed project. Is any portion already complete? If previously authorized work, clearly indicate on maps, plats, drawings to distinguish between work completed and proposed.

c. A site or location map that is sufficiently detailed to guide agency person	nel unfamiliar with the area to the site
--	--

d A copy of the deed (with state application only) or other instrument under which the applicant claims title to the affected properties.

e The appropriate application fee. Check or money order made payable to DENR.

f. A list of the names and complete addresses of the adjacent waterfront (riparian) landowners and signed return receipts as proof that such owners have received a copy of the application and plats by certified mail. Such landowners must be advised that they have 30 days in which to submit comments on the proposed project to the Division of Coastal Management.

		Phone No.
	Address 4144 Thick Ridge Rd., Kitty Hawk, NC 27949	
	Name State Propety Office: Atten: Tim Walton	Phone No.
	Address 1321 MSC, Raleigh, NC 27699-1321	
	Name	Phone No.
	Address	
g	A list of previous state or federal permits issued for work on the project trac	t. Include permit numbers, permittee, and issuing dates.
	The House and dock was built in 1984	
h.	Signed consultant or agent authorization form, if applicable.	
i.	Wetland delineation, if necessary.	
j.	A signed AEC hazard notice for projects in oceanfront and inlet areas. (Mu	ist be signed by property owner)
k.	A statement of compliance with the N.C. Environmental Policy Act (N.C.G.	5. 113A 1-10), if necessary. If the project involves expenditure

of public funds or use of public lands, attach a statement documenting compliance with the North Carolina Environmental Policy Act.

7. Certification and Permission to Enter on Land

I understand that any permit issued in response to this application will allow only the development described in the application. The project will be subject to the conditions and restrictions contained in the permit.

I certify that I am authorized to grant, and do in fact grant permission to representatives of state and federal review agencies to enter on the aforementioned lands in connection with evaluating information related to this permit application and follow-up monitoring of the project.

I further certify that the information provided in this application is truthful to the best of my knowledge.

0.25.2 Date

Print Name Paul Andrus Signature

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Please indicate application attachments pertaining to your proposed project.
DCM MP-2 Excavation and Fill Information
DCM MP-5 Bridges and Culverts

DCM MP-2 Excavation and Fill Information DCM MP-3 Upland Development

DCM MP-4 Structures Information

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DCM-EC

STRUCTURES

(Construction within Public Trust Areas)

Attach this form to Joint Application for CAMA Major Permit, Form DCM MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project. Please include all supplemental information.

038

1. DOCKING FACILITY/MARINA CHARACTERISTICS

- a. (i) Is the docking facility/marina:
- c. (i) Dock(s) and/or pier(s)

Form DCM MP-4

- (ii) Number
- (iii) Length
- (iv) Width
- (v) Floating Yes No
- e. (i) Are Platforms included? Xes No If yes:
 - (ii) Number 1
 - (iii) Length 16'
 - (iv) Width 5.8'
 - (v) Floating Yes XNs

Note: Roofed areas are calculated from dripline dimensions.

- g. (i) Number of slips proposed
 - 1
 - (ii) Number of slips existing
 - 0

If yes: (ii) Number _____ (iii) Length _____ (iv) Width _____ (v) Floating □Yes □No f. (i) Are Boatlifts included? ⊠Yes □No

d. (i) Are Finger Piers included? Yes No

b. (i) Will the facility be open to the general public?

 If yes:

 (ii) Number
 1

 (iii) Length
 12'

 (iv) Width
 12'

TYes No

h. Check all the types of services to be provided.

- Full service, including travel lift and/or rail, repair or maintenance service
- Dockage, fuel, and marine supplies
- Dockage ("wet slips") only, number of slips: _____
- Dry storage; number of boats: ____
- Boat ramp(s); number of boat ramps:
- Other, please describe:
- Describe the typical boats to be served (e.g., open runabout, charter boats, sail boats, mixed types).
 private center console

- k. Typical boat length: 26'
- m. (i) Will the facility have tie pilings?
 □Yes ⊠No
 (ii) If yes number of tie pilings?

i. Check the proposed type of siting:

Other; please describe:

Land cut and access channel

Open water; no dredging required

Open water; dredging for basin and/or channel

I. (i) Will the facility be open to the general public? □Yes ⊠No

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2.	DOCKING FACILITY/MARINA OPERATIONS	FEB 2 7 2023	⊠This section not applicable
а.	Check each of the following sanitary facilities that will be included in Office Toilets		
	Toilets for patrons; Number:; Location:	DCM-EC	
	Showers Boatholding tank pumpout; Give type and location:		
b.	Describe treatment type and disposal location for all sanitary waster	water.	
C.	Describe the disposal of solid waste, fish offal and trash.	×	
d.	How will overboard discharge of sewage from boats be controlled?		
e.	(i) Give the location and number of "No Sewage Discharge" signs pr		
	(ii) Give the location and number of "Pumpout Available" signs prop	osed.	
f.	Describe the special design, if applicable, for containing industrial ty	ype pollutants, such as paint, sandblasting wa	aste and petroleum products.
g.	Where will residue from vessel maintenance be disposed of?		
h.	Give the number of channel markers and "No Wake" signs proposed	d.	
İ.	Give the location of fuel-handling facilities, and describe the safety r		ity.
j.	What will be the marina policy on overnight and live-aboard dockage	e?	
k.	Describe design measures that promote boat basin flushing?	L	
I.	If this project is an expansion of an existing marina, what types of se	ervices are currently provided?	RECEIVED
m.	Is the marina/docking facility proposed within a primary or secondar	ry nursery area?	JUL 12 2023
	Yes No		DCM-MHD CITY

	0	+U)	RECEIVED
n.	Is the marina/docking facility proposed within or adjacent to any shellfish Yes No	hai	vesting area?	
				FEB 2 7 2023
0.	Is the marina/docking facility proposed within or adjacent to coastal wetla (SB), or other wetlands (WL)? If any boxes are checked, provide the r			regetation (SAV), shell bottom
				DCM-EC
	WL None			LUN-EU
p.	Is the proposed marina/docking facility located within or within close prox	imi	ty to any shellfish leases? □Yes	ΠNo
	If yes, give the name and address of the leaseholder(s), and give the pro			
				×
3. 1	BOATHOUSE (including covered lifts)			This section not applicable
a.	(i) Is the boathouse structure(s):			
	Commercial Public/Government Private/Community			
	(ii) Number			
	(iii) Length			
	(iv) Width			
	Note: Roofed areas are calculated from dripline dimensions.			
4.	GROIN (e.g., wood, sheetpile, etc. If a rock groin, use MP-2, Ex	ca	vation and Fill.)	⊠This section not applicable
а.	(i) Number			
	(ii) Length			
	(iii) Width			
5.	BREAKWATER (e.g., wood, sheetpile, etc.)			⊠This section not applicable
a.	Length	b.	Average distance from NHW, NW	or wetlands
~	Maximum distance beyond NHW, NWL or wetlands			
Ç.	waxing of distance beyond where it we wanted			
6.	MOORING PILINGS and BUOYS			⊠This section not applicable
a	Is the structure(s):	b.	Number	
ц.	Commercial Public/Government Private/Community			
C.	Distance to be placed beyond shoreline	d.	Description of buoy (color, inscript	tion, size, anchor, etc.)
	Note: This should be measured from marsh edge, if present.			
e.	Arc of the swing			RECEIVED
				a source for land I V beau lied
7	CENEDAL			UU 4 0 0000
1.	GENERAL			JUL 12 2023

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Form DCM MP-4 (Schlotures, Page 4 of 4)

a. Proximity of structure(s) to adjacent riparian property lines

* 48' South of northern vipanicalline + * 29' north of Southern vipanian line Note. For buoy or mooring piling, use arc of swing including length of vessel

- c. Width of water body 133' to 200' (range North to South)
- e. (i) Will navigational aids be required as a result of the project?

(ii) If yes, explain what type and how they will be implemented

Proximity of structure(s) to adjacent docking facilities.

No Structures exist on the adjacent southern property

= 80' south of the northern Structure (Vangh

d. Water depth at waterward end of structure at NLW or NWL <u>+</u> 3'

8. OTHER		This section pet andiant
а		☐This section not applicable
	installation of one boat lift and an extension platform to an existing platform as per plan	
		\$1.000 \$1.000 \$1.000 \$1.000 \$1.000 \$1.000 \$1.000 \$1.000 \$1.000 \$1.000 \$1.000 \$1.000 \$1.000 \$1.000 \$1.000 \$1.000

Date	
10-25-22	
Project Name Boat Li	ft
Applicant Name	
Paul Andrus	01.1
Applicant Signatur	e fillen
	fle 6.12.23

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JUL 12 2023

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042 ALL AND ; RAMP TO CANAL DOCK EDDE DE WATER 2.5 1. PIPE SET NORTHAT 1019 22166±FT² 0.51±AC 5 in a the state in . 45% 10.1 1 1 I.P.N. 0 FRUND 23 NOTES: 12.2 DNATURAL GEOUND ELEVATION IIII 238.04 59.2 APPROXIMATE CENTER OF LOT 9 NOW AR ROBARELY DELATUR PARTNERLY 3.28' F 2) PROPERTY IS LOCATED IN A "A" ZONG PER FEDERAL FLOOD MAPS BEING 25 A "SPECIAL FLOOD HALARD AREA 30 41 200. 189° LOTS 3 40.04 0 141 580 RECEIVED 25 MBL ALB SES ARC: 82.50. P: 60.0. FEB 2 7 2023 1010 1.841 No. 2.68 I.PIN I. PIN FOUND DCM-EC P. 100 FOLIND 102.35 505'58'24"W 1. PIN THICK RIDGE ROAD 60 RINI TARKEL RIIZHE LANVE-I. C. P. LEWIS, JR., CERTIFY THAT UNDER MY DIRECTION AND SUPERVISION THIS MAP SURVEYED FOR WAS DRAWN FROM AN ACTUAL FIELD LAND SURVEY; THAT THE ERROR OF CLOSURE AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:2007; THAT THIS MAP WAS PREPARED IN PAUL R. ANDRUS, & WIFE, TERRY C. ANDRUS ACCORDANCE WITH GS 47-30 AS AMENDED. WITNESS MY HAND AND SEAL THIS LOT 9, SECTILAN 6, KITTY HAWK LANDING, 24 DAY OF_ amil , 1999 TOWN OF LITTY HAWK, ATLANTIC TOWNSHIP, CARCY. ORTH CARO C. P. LEWIS, JR., R. L. S., L-2441 ATLANTIC DUNSHIP, IDARE COUNTY, N.C. REFERENCE: PEB, 565 SURVEYETS 4-16 EA FAV PLATILIS 4-19- BA BLRECEIVED REGISTERE C. P. Lewis - SURVEYOR SEAL NC REG. NO L-2441 L-2441 AND SURVE 400B S. CROATAN HWY. LEWIS P. O. Box 2228 JUL 12 2023 Kill Devil Hills, NC 27948 SCALE 1": 40 1 (919) 441-2113 DCM-MHD CITY · • 41.29-1



Vincinity Map NTS



Date

6-12-23



N

Site

Albemarle Sound

Water depth / Site Plan

Project number

Date 10-28-22

Drawn by PRA

Checked by



Scale 1" = 30'-0"

6/12/2023 3:04:03 PM





Construction Drawing

A102

Scale 1/4" = 1'-0"

STATE OF NORTH CAROLINA

AFFIDAVIT FOR PAUL ANDRUS

DARE COUNTY

Comes now the Affiant, and being duly sworn, states as follows:

- 1. I am the owner of the property at 4140 Thick Ridge Rd., Kitty Hawk, NC, of which I am applying for a variance to place a boat lift next to an existing dock on my property.
- 2. Water depth minimum for boat lift to function.
 - a. The boat draft is 1'-7"
 - b. The aluminum cradle is 6"
 - c. The bunks to hold the boat are 9"
 - d. Added together gives you 2'-10" minimum depth.
 - e. You add 100 gals of fuel and two people, the boat will push down 2"-3" more.
 - f. For the boat lift to function properly it needs 3' depth.
 - g. Photos are supplied.
- 3. North wind water depth calculations
 - a. The north wind water depth is simply measured from the average water line on the dock piling down to the north wind water level.
 - b. I also have an aluminum pole with makings that is used to gage the water level. Photo is supplied.
 - c. The measurement for the photos supplied were taken on 4-9-23.
 - d. That measurement was 1'- 6" lower than average, therefore arriving to the calculations on the site plan.
 - e. The water elevation can be lower than that and everything in between depending on the wind direction.

Further Affiant sayeth not.

[Signature page follows.]

045

This the 12th day of April, 2024

EXECITED COPY TO BE PROVIDED TO CRC

IN

Paul Andrus

State of North Carolina County of Darte

Sworn to and subscribed before me on This $/2^{4k}$ day of April 2024.

Notary Public ernance c2

(Typed/Printed Name of Notory Public)

My Commission Expires: 10-6-2026

(NOTARIAL SEAL/STAMP)





CRC Variances

Page 1 of 2

Below are photos of the boat draft and clearance needed for the boat lift.

Boat lift for: Paul Andrus at 4140 Thick Ridge Rd, Kitty Hawk, NC



The cradle and bunks that go under the boat. The bunks are 9" tall



The boat draft is 1'-7" The boat draft with the motors down is 2'-5" The cradle at 6" and the bunks at 9" adds 1'-3" The boat draft with the cradle and bunks is 2'-10" You add another 100 gals of gas and two people, it would add 2"-3" more. The lift would need to be in 3' of water to function.

General Contractor - Residential/Commercial - NC Licensed



Page 2 of 2

The North wind water depth is simply measured from the average water line on the dock piling and measuring down to the water level during a north wind. This day it was 1'-6'' lower.



I also use this aluminum pipe with makers on it.



This photo shows the posted notice for CAMA.



General Contractor - Residential/Commercial - NC Licensed

P.O. Box 687 - Kitty Hawk, NC 27949 - (252) 261 7903 - Paul Andrus - prandrus@charter.net

N.C. DIVISION OF COASTAL MANAGEMENT ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT) CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

612.23

Name of Adjacent Riparian Property Owner 4144 THICKRIDGERP

Addres

City, State Zip

in

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I am applying for a CAMA Minor permit to

FUSALL NUATLIFT & DECK EXTERISION. on my property at 4140 TIKICK RIPGER , KITY/XAWIK, UC

County, which is adjacent to your property. A copy of the application and project

drawing is attached/enclosed for your review.

If you have no objections to the proposed activity, please mark the appropriate statement below and return to me as soon as possible. If no comments are received within 10 days of receipt of this notice, it will be considered that you have no comments or objections regarding this project.

If you have objections or comments, please mark the appropriate statement below and send your correspondence to: NC Division of Coastal Management (DCM) at 401 S. Griffin St., Ste 300, Elizabeth City, NC 27909.

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact DCM staff at 252-264-3901.

Sincerely,

Property Owner's Name

252-216-890**2** Telephone Number

4140 THCLL RIDGER	p. KITS KAL	K, UC 2	7949
Address	City	State	Zip

I have no objection to the project described in this correspondence. I have objection(s) to the project described in this correspondence.

Address 4144 THEK RIDGURD. City Katy HAWK,

Adjacent Riparian Signature

Vaught Print or Type Name

6/13/23 Date 152619 0302

Telephone Number

State UC

Zip 27994

N.C. DIVISION OF COASTAL MANAGEMENT ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT) CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

GATE PROPERTY CASE ATTEN? TIM WALTON. Name of Adjacent Riparian Property Owner MSC

1721 Address

UC. 27699-1321 City, State Zip

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I am applying for a CAMA Minor permit to

WOALL NOAT LIFT & APP DOCK EXTENSION 4140 THICK RIDGE RO, KITCHANK, UC. 2.7949 on my property at DARE County, which is adjacent to your property. A copy of the application and project in

drawing is attached/enclosed for your review.

If you have no objections to the proposed activity, please mark the appropriate statement below and return to me as soon as possible. If no comments are received within 10 days of receipt of this notice, it will be considered that you have no comments or objections regarding this project.

If you have objections or comments, please mark the appropriate statement below and send your correspondence to: NC Division of Coastal Management (DCM) at 401 S. Griffin St., Ste 300, Elizabeth City, NC 27909.

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact DCM staff at 252-264-3901.

Sincerely,

<u>202 - 216 - 840</u> Telephone Number Property Owner's Name 4140 THICK Zip State City Address I have no objection to the project described in this correspondence. I have objection(s) to the project described in this correspondence. Adjacent Riparian Signature -236-0292 Telephone Number Print or Ty te Property Of Zip 27603 State N.C. · City Lole. K

Revised July 2021

050

051 DIVISION OF COASTAL MANAGEMENT FIELD INVESTIGATION REPORT

- 1. APPLICANT'S NAME: Paul Andrus
- 2. LOCATION OF PROJECT SITE: 4140 Thick Ridge Road, Lot #9 within Kitty Hawk Landing Subdivision, Kitty Hawk, Dare County, adjacent to a man-made canal that leads to the Albemarle Sound.

Latitude: 36.061807°N Longitude: -75.733830°W

- 3. INVESTIGATION TYPE: CAMA
- 4. INVESTIGATIVE PROCEDURE: Dates of Site Visit 10/19/22; 2/22/23 Was Applicant Present - Yes
- 5. PROCESSING PROCEDURE: Application Received Complete 6/26/2023 Office – Elizabeth City
- 6. SITE DESCRIPTION:
 - (A) Local Land Use Plan Town of Kitty Hawk Land Classification From LUP - Residential
 - (B) AEC(s) Involved: Public Trust Area (PTA), Estuarine Waters (EW)
 - (C) Water Dependent: Yes
 - (D) Intended Use: Private Residential
 - (E) Wastewater Treatment: Existing Septic System

Planned – N/A

(F) Type of Structures: Existing – Single-family residence with wooden deck,

carport, storage sheds (2), concrete pad, walkway, pier, & platforms (2).

Planned – Boat lift & additional platform

- (G) Estimated Annual Rate of Erosion: None reported Source - Applicant
- 7. HABITAT DESCRIPTION:

	Shaded	Filled	Other
(A) Shallow Bottom PTA & EW AEC's	144 ft ² (Boat Lift)		
(A) Shallow Bolton FTA & LW ALC'S	$96~ft^2$ (Platform)		

- (D) Total Area Disturbed: 240 ft² (0.005 acres)
- (E) Primary Nursery Area: No

(F) Water Classification: SB Open to Shellfishing: No

 PROJECT SUMMARY: The applicant proposes the construction of a 12'x12' boat lift and 6'x16' platform adjacent to an existing docking facility structure (pier & platform) that exceeds the ¼ width limitation.

JUL 1 2 2023

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Paul Andrus Field Investigation Report Page 2 of 3

Project Setting

The proposed development is located at 4140 Thick Ridge Road (Lot 9) within the Kitty Hawk Landing Subdivision. The property is located in Kitty Hawk, Dare County, and is adjacent to a man-made canal which connects to the Albemarle Sound.

The property is platted at $\pm 22,166$ ft² (± 0.51 acres) and contains ± 130 ft of shoreline. Elevation averages $\pm 3'$ above Normal Water Level (NWL) in the high ground areas. Man-made features within the high ground area include a single-family dwelling with a septic system, wooden deck, two storage sheds, a carport, concrete parking area, and fence. The property is primarily vegetated with domestic lawn grasses, deciduous trees, pine tree species, ornamental landscape plants, and wax myrtle. The shoreline of the property has not been hardened and wetlands do not exist along the shoreline at this time. Two docking facility structures currently exist along the shoreline. One consists of a single 3'x14' platform located on the southeast portion of the shoreline and the other structure located on the northern portion of the property consists of a 3'x25' walkway, 63'x3' pier, and a 24'x $\pm 8'$ platform.

The property is adjacent to a man-made canal which is connected to the Albemarle Sound. The adjacent canal and waters of the Albemarle Sound are joint waters, classified as SB, and are closed to shellfish taking. The canal width at this location ranges from $\pm 133'$ at the northern property line to $\pm 200'$ at the southern property line. The location is not classified as a Primary or Secondary Nursery Area by the Division of Marine Fisheries (NCDMF) and no SAV was reported to be growing within the project area. The shoreline of the adjacent property to the north is similarly developed with man-made structures including a single-family dwelling, pier, and platform. The property to the south is vacant, undeveloped and is part of the Kitty Hawk Woods Coastal Reserve.

The applicant purchased the property in March 1984, and he stated that the house and existing docking facility were constructed that same year. A search of CAMA records found no permits issued for the property or the name Andrus. The property has not been evaluated for archaeological significance.

Development Proposal

The applicant is proposing the construction of a 6'x16' platform and a 12'x12' uncovered boat lift located to the southeast and south sides of the existing platform respectively. Water depths within the project area range from ± 2.5 ' to ± 4 ' below NWL. The proposed platform and boat lift are similar to others in the area, and do not encroach within the 15' riparian access setback. Because the proposed structures are to be located adjacent to a currently nonconforming existing structure, they do not meet the 1⁄4 width limitation. However, both proposed structures are proposed no further waterward than the existing structure. A review of aerial imagery revealed that at the time of construction, wetlands were present between the shoreline and platform and the structure met the total length limitation of that time. The proposed platform and boat lift are located ± 80 ' south of the northern docking facility and no docking facilities exist on the adjacent southern property.

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Paul Andrus Field Investigation Report Page **3** of **3**

Anticipated Impacts

- The construction of the proposed platform will shade 96 ft² of Estuarine Waters & Public Trust Area AEC's.
- The installation of the proposed boat lift will increase the number of designated slips from zero to one.
- The construction of the proposed boat lift will usurp 144 ft² of Estuarine Waters & Public Trust Area AEC's

Submitted by: Sarah Loeffler Date: July 10, 2023

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JUL 1 2 2023 DCM-MHD CITY

054

Andres

From:	Tankard, Robert
То:	prandrus@charter.net
Cc:	Carver, Yvonne; josh.r.pelletier@usace.army.mil; Bodnar, Gregg; Weychert, Curtis R
Subject:	4140 Thick Ridge Rd Platform and Boat Lift, DWR Project #20231047
Date:	Friday, September 15, 2023 1:18:49 PM
Attachments:	<u>GC4501.pdf</u>
	image001.png

Please find attached the documentation indicating that your project is authorized under North Carolina Division of Water Resources General Certification 4501, with the DWR Project Number being 20231047. If you have any other questions, please let me know how I can be of help.

The General Certification 4501 can also be found at Web Access URL: https://edocs.deg.nc.gov/Laserfiche/index.aspx?db=WaterResources#id=2152988

Thanks! Robert

Robert Tankard

Assistant Regional Supervisor Division of Water Resources North Carolina Department of Environmental Quality Office: (252) 948-3921 | Cell: (252) 402-5694 Robert.tankard@deq.nc.gov



Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

055

STATE OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF WATER RESOURCES

WATER QUALITY GENERAL CERTIFICATION NO. 4501

GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR US ARMY CORPS OF ENGINEERS PROGRAMMATIC GENERAL PERMIT NUMBER 198000291 (NC COASTAL AREA MANAGEMENT ACT)

Water Quality General Certification Number 4501 is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Regulations in 15A NCAC 02H .0500 and 15A NCAC 02B .0200 for the discharge of fill material to surface waters and wetland areas as described in the US Army Corps of Engineers Wilmington District's Programmatic General Permit 198000291.

The State of North Carolina certifies that the specified category of activity will comply with water quality requirements and applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

Effective date: January 3, 2022

Signed this day: October 28, 2021

By

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for

S. Daniel Smith Director

GENERAL CERTIFICATION COVERAGE:

Activities that are eligible for US Army Corps of Engineers Wilmington District's Programmatic General Permit 198000291 qualify for coverage under this General Certification unless they meet one of the thresholds listed below. Activities meeting any one (1) of the thresholds or circumstances listed below are not eligible for coverage under this General Certification and require <u>an Individual</u> 401 Water Quality Certification from the Division of Water Resources (DWR):

- a) If any of the conditions of this General Certification cannot be met; or
- b) Activities authorized by CAMA Major Development Permits, except:
 - i. Boat Ramps and associated access (i.e. roads and parking lots) that involve the excavation or filling of less than 500 square feet total of wetland and open water area, with the exception that the excavation or filling of coastal wetlands (as defined in 15A NCAC 07H .0205) shall not exceed 100 square feet;
 - ii. Shoreline protection measures (excluding living shorelines/marsh sills) that (1) tie into existing bulkheads, land, or other shoreline protection measures or (2) do not extend waterward of the normal high water or normal water line more than 10 feet, provided the activity will not involve the excavation or filling of any Submerged Aquatic Vegetation (SAV) or significant shellfish resources (as identified by the Division of Marine Fisheries) and impacts less than 500 square feet total of wetland, with the exception that the excavation or filling of coastal wetlands (as defined in 15A NCAC 07H .0205) shall not exceed 100 square feet;
 - iii. Living shorelines/marsh sills where (1) the landward edge of the sill does not extend waterward of the normal high water or normal water line more than 30 feet or five feet waterward of the existing wetlands whichever distance is greater, (2) the activity will not involve the excavation or fill of any Submerged Aquatic Vegetation (SAV) or significant shellfish resources (as identified by the Division of Marine Fisheries), and (3) does not result in any fill landward of the toe of the sill alignment, provided the Division of Coastal Management representative submits a copy of the written authorization for the General Permit to the Division upon issuance; or
 - Piers and docks designed to accommodate up to but not exceeding 10 vessels (except where prohibited in Outstanding Resource Waters (ORW) as defined in 15A NCAC 02B. 0225(7) & (8)) and where the water depth is equal to or greater than two feet of water at normal low water level or normal water level (whichever is applicable);
 - v. Maintenance dredging of less than 0.5 acres of open water or non-vegetated wetlands, provided that the applicant can provide documentation showing the historic dimensions of the dredged channel, and no SAV or shellfish beds are excavated or filled;
 - vi. Projects that involve only shading of waters or wetlands that do not meet the criteria listed in item (iv) above;

- vii. Utility lines, except wastewater lines and potable water discharge lines which are subject to an NPDES Permit, as long as all impacts are temporary;
- viii. Upland development which involves no more than 1/10 of an acre of excavation or filling of non-coastal wetlands, with the exception that no more than 2,000 square feet of the non-coastal excavation or filling may take place within a Coastal Shoreline Area of Environmental Concern (AEC). For the purposes of this area calculation, the excavation or filling impacts of the entire project shall be considered, which may include boat ramps, bulkheads or other shoreline stabilization measures; and
- ix. Single family home construction that results in fill of wetlands; or
- c) Any stream relocation or stream restoration; or
- d) Any high-density project, as defined in 15A NCAC 02H .1003(3) and by the density thresholds specified in 15A NCAC 02H .1017, which:
 - i. Disturbs one acre or more of land (including a project that disturbs less than one acre of land that is part of a larger common plan of development or sale); and
 - ii. Has permanent wetland, stream or open water impacts; and
 - iii. Is proposing new built-upon area; and
 - iv. Does not have a stormwater management plan reviewed and approved under a state stormwater program¹ or a state-approved local government stormwater program².

Projects that have vested rights, exemptions, or other legacy rights or exemptions from state or locally-implemented stormwater programs and projects that satisfy state or locally-implemented stormwater programs through use of community in-lieu fee programs **require an Individual 401 Certification**; or

- e) Any impacts to SAV or significant shellfish resources as identified by the (DMF); or
- f) Any permanent impacts to Unique Wetlands (UWL) [15A NCAC 02B .0231]; or
- g) Any impacts to subject water bodies and/or state regulated riparian buffers along subject water bodies in the Neuse, Tar-Pamlico, or Catawba River Basins or in the Randleman Lake, Jordan Lake or Goose Creek Watersheds (or any other basin or watershed with State Regulated Riparian Area Protection Rules in Chapter 2B of Title 15A in the North Carolina Administrative Code in effect at the time of application) unless:
 - i. The activities are listed as "EXEMPT" or "DEEMED ALLOWABLE" from these rules; or
 - ii. A Buffer Authorization Certificate is issued by the NC Division of Coastal Management (DCM); or
 - A Buffer Authorization Certificate, Certificate with Exception, or Minor Variance is issued by a delegated or designated local government implementing a state riparian buffer program pursuant to 143-214.23.

¹ e.g. Coastal Counties, HQW, ORW, or state-implemented Phase II NPDES

² e.g. Delegated Phase II NPDES, Water Supply Watershed, Nutrient-Sensitive Waters, or Universal Stormwater Management Program

In accordance with 15A NCAC 02H .0503(f), the Director of the North Carolina Division of Water Resources may require submission of a formal application for Individual Certification for any project if it is deemed in the public's best interest or determined that the project is likely to have a significant adverse effect upon water quality, including state or federally listed endangered or threatened aquatic species, or will degrade the waters so that existing uses of the waters or downstream waters are precluded.

This General Certification does not relieve the permittee of the responsibility to obtain all other required Federal, State, or Local approvals before proceeding with the project, including those required by, but not limited to, Sediment and Erosion Control, Non-Discharge, Water Supply Watershed, and Trout Buffer regulations.

This General Certification neither grants nor affirms any property right, license, or privilege in any waters, or any right of use in any waters. This General Certification does not authorize any person to interfere with the riparian rights, littoral rights, or water use rights of any other person and does not create any prescriptive right or any right of priority regarding any usage of water. This General Certification shall not be interposed as a defense in any action respecting the determination of riparian or littoral rights or other rights to water use. No consumptive user is deemed by virtue of this General Certification to possess any prescriptive or other right of priority with respect to any other consumptive user regardless of the quantity of the withdrawal or the date on which the withdrawal was initiated or expanded.

Upon the presentation of proper credentials, DWR may inspect the property.

This General Certification shall expire on the same day as the expiration date of the corresponding Nationwide Permit. The conditions in effect on the date of issuance of Certification for a specific project shall remain in effect for the life of the project, regardless of the expiration date of this General Certification. This General Certification is rescinded when the US Army Corps of Engineers reauthorizes the corresponding Nationwide Permit or when deemed appropriate by the Director of the Division of Water Resources.

Non-compliance with or violation of the conditions herein set forth by a specific project may result in revocation of this General Certification for the project and may also result in criminal and/or civil penalties.

I. ACTIVITY SPECIFIC CONDITIONS:

 The effluent water from the dredge spoil shall not be released into open shellfish waters unless Shellfish Sanitation and the DWR Washington (252-946-6481) or Wilmington (910-796-7215) Regional Office, as applicable, are notified and provide approval prior to the release.

Citation: 15A NCAC 02B .0221

Justification: Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule (including, at minimum: aquatic life propagation, survival, and maintenance of biological integrity, wildlife, primary contact recreation,

agriculture, and shellfishing for market purposes); and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis.

2. If this Water Quality Certification is used to access residential, commercial or industrial building sites, then all parcels owned by the permittee that are part of the single and complete project authorized by this Certification must be buildable without additional impacts to streams or wetlands.

Citation: 15A NCAC 02H .0502(a);15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c) Justification: A project that affects waters shall not be permitted unless the existing uses, and the water quality to protect such uses, are protected. In determining that the proposed activity will comply with state water quality standards (including designated uses, numeric criteria, narrative criteria and the state's antidegradation policy), the Division must evaluate if the activity has avoided and minimized impacts to waters, would cause or contribute to a violation of standards or would result in secondary or cumulative impacts.

3. For road construction purposes, this Certification shall only be utilized from natural high ground to natural high ground.

Citation: 15A NCAC 02H .0502(a);15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c) Justification: A project that affects waters shall not be permitted unless the existing uses, and the water quality to protect such uses, are protected. In determining that the proposed activity will comply with state water quality standards (including designated uses, numeric criteria, narrative criteria and the state's antidegradation policy), the Division must evaluate if the activity has avoided and minimized impacts to waters, would cause or contribute to a violation of standards or would result in secondary or cumulative impacts.

4. Deed notifications or similar mechanisms shall be placed on all lots/parcels with retained jurisdictional wetlands, waters, and state regulated riparian buffers within the project boundaries in order to assure compliance with NC Water Quality Certification Rules (15A NCAC 02H .0500), NC Isolated Wetland Rules (15A NCAC 02H .1300), Non-Jurisdictional Wetland Rules (15A NCAC 02H .1400), and/or State Regulated Riparian Buffer Rules in Chapter 2B of Title 15A in the North Carolina Administrative Code. These mechanisms shall be put in place at the time of recording of the property or individual parcels, whichever is appropriate.

Citation: 15A NCAC 02H .0502(a); 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c) Justification: A project that affects waters shall not be permitted unless the existing uses, and the water quality to protect such uses, are protected. In determining that the proposed activity will comply with state water quality standards (including designated uses, numeric criteria, narrative criteria and the state's antidegradation policy), the Division must evaluate if the activity has avoided and minimized impacts to waters, would cause or contribute to a violation of standards or would result in secondary or cumulative impacts.

5. For living shorelines, the sills shall have at least one five-foot opening every 100 feet and may be staggered or overlapped or left open as long as the five-foot separation between sections

is maintained. Overlapping sections shall not overlap more than 10 feet.

Citation: 15A NCAC 02H .0506(b)(1) and (3); 15A NCAC 02H .0507(c) Justification: Surface water quality standards require that conditions of waters be suitable for all best uses (including aquatic life propagation, survival, and maintenance of biological integrity) provided for in state rule and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis.

6. For living shorelines, the permittee shall employ all sedimentation and erosion control measures necessary to prevent an increase in sedimentation and turbidity within waters and wetlands outside the permitted area. This shall include, but is not limited to, the immediate installation of silt fencing, turbidity curtains or similar appropriate devices around all areas subject to soil disturbance. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act and the Mining Act of 1971.

Citation: 15A NCAC 02H .0506(b)(1) and (3); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200 Justification: Surface water quality standards require that conditions of waters be suitable for all best uses (including aquatic life propagation, survival, and maintenance of biological integrity) provided for in state rule and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis.

II. GENERAL CONDITIONS:

 The permittee shall report to the appropriate DWR Regional Office any noncompliance with, and/or any violation of, stream or wetland standards [15A NCAC 02B .0200], including but not limited to sediment impacts to streams or wetlands. Information shall be provided orally within 24 hours (or the next business day if a weekend or holiday) from the time the permittee became aware of the non-compliance circumstances.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c) Justification: Timely reporting of non-compliance is important in identifying and minimizing detrimental impacts to water quality and avoiding impacts due to water pollution that precludes any best use on a short-term or long-term basis.

2. No waste, spoil, solids, or fill of any kind shall occur in wetlands or waters beyond the footprint of the impacts (including temporary impacts); or beyond the thresholds established for use of this General Certification and Programmatic General Permit.

Citation: 15A NCAC 02H .0506; 15A NCAC 02H .0507(c)

Justification: Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule (including, at minimum: aquatic life propagation, survival, and maintenance of biological integrity; wildlife; secondary contact recreation; agriculture); and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis.

3. All activities shall be in compliance with any applicable State Regulated Riparian Buffer Rules in Chapter 2B of Title 15A in the North Carolina Administrative Code.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c) Justification: The referenced Riparian Buffer rules were adopted to address water quality impairments and further protect existing uses.

4. When applicable, all construction activities shall be performed and maintained in full compliance with G.S. Chapter 113A Article 4 (Sediment and Pollution Control Act of 1973). Regardless of applicability of the Sediment and Pollution Control Act, all projects shall incorporate appropriate Best Management Practices for the control of sediment and erosion so that no violations of state water quality standards, statutes, or rules occur.

Design, installation, operation, and maintenance of all sediment and erosion control measures shall be equal to or exceed the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*, or for linear transportation projects, the *North Caroline Department of Transportation Sediment and Erosion Control Manual*.

All devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) sites, including contractor-owned or leased borrow pits associated with the project. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.

For borrow pit sites, the erosion and sediment control measures shall be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*. Reclamation measures and implementation shall comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.

If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNAs), SA, WS-I, WS-II, High Quality Waters (HQW), or Outstanding Resource Waters (ORW), then the sedimentation and erosion control designs shall comply with the requirements set forth in 15A NCAC 04B .0124, *Design Standards in Sensitive Watersheds*.

Citation: 15A NCAC 02H .0506(b)(2); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

Justification: A project that affects waters shall not be permitted unless the existing uses, and the water quality to protect such uses, are protected. Activities must not cause water pollution that precludes any best use on a short-term or long-term basis. As cited in Stream Standards: (2) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, or to aquatic life and wildlife, or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses; and (12) turbidity in the receiving water shall not exceed 50 Nephelometric Turbidity Units (NTU) in streams not designated as trout waters and 10 NTU in streams, lakes, or reservoirs designated as trout waters; for lakes and reservoirs not

designated as trout waters, the turbidity shall not exceed 25 NTU; if turbidity exceeds these levels due to natural background conditions, the existing turbidity level shall not be increased. As cited in Wetland Standards: (1) Liquids, fill or other solids, or dissolved gases shall not be present in amounts that may cause adverse impacts on existing wetland uses; and (3) Materials producing color or odor shall not be present in amounts that may cause adverse impacts on existing wetland uses.

5. Sediment and erosion control measures shall not be installed in wetland or waters except within the footprint of temporary or permanent impacts otherwise authorized by this Certification. If placed within authorized impact areas, then placement of such measures shall not be conducted in a manner that results in dis-equilibrium of any wetlands, streambeds, or streambanks. Any silt fence installed within wetlands shall be removed from wetlands and the natural grade restored within two (2) months of the date that DEMLR or locally delegated program has released the specific area within the project to ensure wetland standards are maintained upon completion of the project.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

Justification: A project that affects waters shall not be permitted unless the existing uses, and the water quality to protect such uses, are protected. Activities must not cause water pollution that precludes any best use on a short-term or long-term basis. As cited in Stream Standards: (2) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, or to aquatic life and wildlife, or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses; and (12) turbidity in the receiving water shall not exceed 50 Nephelometric Turbidity Units (NTU) in streams not designated as trout waters and 10 NTU in streams, lakes, or reservoirs designated as trout waters; for lakes and reservoirs not designated as trout waters, the turbidity shall not exceed 25 NTU; if turbidity exceeds these levels due to natural background conditions, the existing turbidity level shall not be increased. As cited in Wetland Standards: (1) Liquids, fill or other solids, or dissolved gases shall not be present in amounts that may cause adverse impacts on existing wetland uses; and (3) Materials producing color or odor shall not be present in amounts that may cause adverse impacts on existing wetland uses.

6. Erosion control matting that incorporates plastic mesh and/or plastic twine shall not be used along streambanks or within wetlands.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

Justification: A project that affects waters shall not be permitted unless the existing uses (including aquatic life propagation and biological integrity), and the water quality to protect such uses, are protected. Protections are necessary to ensure any remaining surface waters or wetlands, and any surface waters or wetlands downstream, continue to support existing uses during and after project completion. The Division must evaluate if the activity has avoided and minimized impacts to waters, would cause or contribute to a violation of standards, or would result in secondary or cumulative impacts.

7. If the project is covered by NPDES Construction Stormwater Permit Number NCG010000 or NPDES Construction Stormwater Permit Number NCG250000, full compliance with permit conditions including the erosion & sedimentation control plan, inspections and maintenance, self-monitoring, record keeping and reporting requirements is required.

The North Carolina Department of Transportation (NCDOT) shall be required to be in full compliance with the conditions related to construction activities within the most recent version of their Individual NPDES Stormwater Permit Number NCS000250.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

Justification: A project that affects waters shall not be permitted unless the existing uses, and the water quality to protect such uses, are protected. Activities must not cause water pollution that precludes any best use on a short-term or long-term basis. As cited in Stream Standards: (2) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, or to aquatic life and wildlife, or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses; and (12) turbidity in the receiving water shall not exceed 50 Nephelometric Turbidity Units (NTU) in streams not designated as trout waters and 10 NTU in streams, lakes, or reservoirs designated as trout waters; for lakes and reservoirs not designated as trout waters, the turbidity shall not exceed 25 NTU; if turbidity exceeds these levels due to natural background conditions, the existing turbidity level shall not be increased. As cited in Wetland Standards: (1) Liquids, fill or other solids, or dissolved gases shall not be present in amounts that may cause adverse impacts on existing wetland uses; and (3) Materials producing color or odor shall not be present in amounts that may cause adverse impacts on existing wetland uses.

8. All work in or adjacent to streams shall be conducted so that the flowing stream does not come in contact with the disturbed area. Approved best management practices from the most current version of the NC Sediment and Erosion Control Manual, or the NC Department of Transportation Construction and Maintenance Activities Manual, such as sandbags, rock berms, cofferdams, and other diversion structures shall be used to minimize excavation in flowing water.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200 Justification: Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule, and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis. As cited in Stream Standards: (2) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, or to aquatic life and wildlife, or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses; and (12) turbidity in the receiving water shall not exceed 50 Nephelometric Turbidity Units (NTU) in streams not designated as trout waters and 10 NTU in streams, lakes, or reservoirs designated as trout waters; for lakes and reservoirs not designated as trout waters, the turbidity shall not exceed 25 NTU; if turbidity exceeds these

levels due to natural background conditions, the existing turbidity level shall not be increased.

9. If activities must occur during periods of high biological activity (e.g. sea turtle nesting, fish spawning, or bird nesting), then biological monitoring may be required at the request of other state or federal agencies and coordinated with these activities.

All moratoriums on construction activities established by the NC Wildlife Resources Commission (WRC), US Fish and Wildlife Service (USFWS), NC Division of Marine Fisheries (DMF), or National Marine Fisheries Service (NMFS) shall be implemented. Exceptions to this condition require written approval by the resource agency responsible for the given moratorium.

Work within a designated trout watershed of North Carolina (as identified by the Wilmington District of the US Army Corps of Engineers), or identified state or federal endangered or threatened species habitat, shall be coordinated with the appropriate WRC, USFWS, NMFS, and/or DMF personnel.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 04B .0125 Justification: In order to protect against impairment of water quality standards and best usage of receiving and downstream waters, water quality based management practices must be employed to protect against direct or indirect discharge of waste or other sources of water pollution. Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule (including, at minimum: aquatic life propagation, survival, and maintenance of biological integrity, wildlife, secondary contact recreation, agriculture), and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis.

10. In-stream structures installed to mimic natural channel geomorphology such as cross-vanes, sills, step-pool structures, etc. shall be designed and installed in such a manner that allow for continued aquatic life movement.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

Justification: Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule, and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis. Ensuring that in-stream structures are installed properly will ensure that surface water quality standards are met and conditions of waters are suitable for all best uses.

11. Culverts shall be designed and installed in such a manner that the original stream profiles are not altered and allow for aquatic life movement during low flows. The dimension, pattern, and profile of the stream above and below a pipe or culvert shall not be modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity. The width, height, and gradient of a proposed culvert shall be such as to pass the average historical low flow and spring flow without adversely altering flow velocity. If the width of the culvert is wider than the stream channel, the culvert shall

include multiple boxes/pipes, baffles, benches and/or sills to maintain the natural width of the stream channel. If multiple culverts/pipes/barrels are used, low flows shall be accommodated in one culvert/pipe and additional culverts/pipes shall be installed such that they receive only flows above bankfull.

Placement of culverts and other structures in streams shall be below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20% of the culvert diameter for culverts having a diameter less than or equal to 48 inches, to allow low flow passage of water and aquatic life. If the culvert outlet is submerged within a pool or scour hole and designed to provide for aquatic passage, then culvert burial into the streambed is not required.

For structures less than 72" in diameter/width and in area where topographic constraints dictate culvert slopes will be greater than 2.5%, culvert burial is not required, provided that all alternative options for flattening the slope have been investigated and aquatic life movement/connectivity has been provided when possible (e.g. rock ladders, cross-vanes, sills, baffles etc.). Notification, including supporting documentation to include a location map of the culvert, culvert profile drawings, and slope calculations, shall be provided to DWR 30 calendar days prior to the installation of the culvert.

When bedrock is present in culvert locations, culvert burial is not required, provided that there is sufficient documentation of the presence of bedrock. Notification, including supporting documentation such as a location map of the culvert, geotechnical reports, photographs, etc. shall be provided to DWR a minimum of 30 calendar days prior to the installation of the culvert. If bedrock is discovered during construction, then DWR shall be notified by phone or email within 24 hours of discovery.

Installation of culverts in wetlands shall ensure continuity of water movement and be designed to adequately accommodate high water or flood conditions. When roadways, causeways, or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges shall be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in destabilization of streams or wetlands.

The establishment of native woody vegetation and other soft stream bank stabilization techniques shall be used where practicable instead of rip-rap or other bank hardening methods.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

Justification: Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule, and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis. Ensuring that in-stream structures are installed properly will ensure that surface water quality standards are met and conditions of waters are suitable for all best uses.

12. Bridge deck drains shall not discharge directly into the stream. Stormwater shall be directed across the bridge and pre-treated through site-appropriate means to the maximum extent practicable (e.g. grassed swales, pre-formed scour holes, vegetated buffers, etc.) before entering the stream.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c) Justification: Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis. Ensuring that in-stream structures are installed properly will ensure that surface water quality standards are met and conditions of waters are suitable for all best uses.

13. Application of fertilizer to establish planted/seeded vegetation within disturbed riparian areas and/or wetlands shall be conducted at agronomic rates and shall comply with all other Federal, State and Local regulations. Fertilizer application shall be accomplished in a manner that minimizes the risk of contact between the fertilizer and surface waters.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200 Justification: A project that affects waters shall not be permitted unless the existing uses, and the water quality to protect such uses, are protected. Activities must not cause water pollution that precludes any best use on a short-term or long-term basis. As cited in Stream Standards: (2) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, or to aquatic life and wildlife, or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses.

14. If concrete is used during construction, then all necessary measures shall be taken to prevent direct contact between uncured or curing concrete and waters of the state. Water that inadvertently contacts uncured concrete shall not be discharged to waters of the state.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200 Justification: A project that affects waters shall not be permitted unless the existing uses, and the water quality to protect such uses, are protected. Activities must not cause water pollution that precludes any best use on a short-term or long-term basis. As cited in Stream Standards: (2) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, or to aquatic life and wildlife, or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses.

15. All proposed and approved temporary fill and culverts shall be removed and the impacted area shall be returned to natural conditions within 60 calendar days after the temporary impact is no longer necessary. The impacted areas shall be restored to original grade, including each stream's original cross-sectional dimensions, planform pattern, and longitudinal bed profile. All temporarily impacted sites shall be restored and stabilized with native vegetation.

Citation: 15A NCAC 02H. 0506(b); 15A NCAC 02H .0507(c)

Justification: A project that affects waters shall not be permitted unless the existing uses, and the water quality to protect such uses, are protected. Protections are necessary to ensure any remaining surface waters or wetlands, and any surface waters or wetlands downstream, continue to support existing uses after project completion.

16. All proposed and approved temporary pipes/culverts/rip-rap pads etc. in streams shall be installed as outlined in the most recent edition of the *North Carolina Sediment and Erosion Control Planning and Design Manual* or the *North Carolina Surface Mining Manual* or the *North Carolina Department of Transportation Best Management Practices for Construction and Maintenance Activities* so as not to restrict stream flow or cause dis-equilibrium during use of this General Certification.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

Justification: Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule, and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis. Ensuring that in-stream structures are installed properly will ensure that surface water quality standards are met and conditions of waters are suitable for all best uses.

17. Any rip-rap required for proper culvert placement, stream stabilization, or restoration of temporarily disturbed areas shall be restricted to the area directly impacted by the approved construction activity. All rip-rap shall be placed such that the original streambed elevation and streambank contours are restored and maintained and shall consist of clean rock or masonry material free of debris or toxic pollutants. Placement of rip-rap or other approved materials shall not result in de-stabilization of the stream bed or banks upstream or downstream of the area or be installed in a manner that precludes aquatic life passage.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

Justification: Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule, and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis. The Division must evaluate if the activity has avoided and minimized impacts to waters, would cause or contribute to a violation of standards, or would result in secondary or cumulative impacts.

18. Any rip-rap used for stream or shoreline stabilization shall be of a size and density to prevent movement by wave, current action, or stream flows, and shall consist of clean rock or masonry material free of debris or toxic pollutants. Rip-rap shall not be installed in the streambed except in specific areas required for velocity control and to ensure structural integrity of bank stabilization measures.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0201 Justification: Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule, and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis. The Division must evaluate if

the activity has avoided and minimized impacts to waters, would cause or contribute to a violation of standards, or would result in secondary or cumulative impacts.

19. Rip-rap groins proposed in accordance with 15A NCAC 07H .1401 (NC Division of Coastal Management General Permit for construction of Groins in Estuarine and Public Trust Waters and Ocean Hazard Areas) shall meet all the specific conditions for design and construction specified in 15A NCAC 07H .1405.

Citation: 15A NCAC 02H .0507(c); 15A NCAC 07H .1400 et seq. Justification: Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule, and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis. The Division must evaluate if the activity has avoided and minimized impacts to waters, would cause or contribute to a violation of standards, or would result in secondary or cumulative impacts.

20. All mechanized equipment operated near surface waters shall be inspected and maintained regularly to prevent contamination of surface waters from fuels, lubricants, hydraulic fluids, or other toxic materials. Construction shall be staged in order to minimize the exposure of equipment to surface waters to the maximum extent practicable. Fueling, lubrication, and general equipment maintenance shall be performed in a manner to prevent, to the maximum extent practicable, contamination of surface waters by fuels and oils.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200 Justification: A project that affects waters shall not be permitted unless the existing uses, and the water quality to protect such uses, are protected. Activities must not cause water pollution that precludes any best use on a short-term or long-term basis. As cited in Stream Standards: (2) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, or to aquatic life and wildlife, or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses.

21. Heavy equipment working in wetlands shall be placed on mats or other measures shall be taken to minimize soil disturbance and compaction.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0231 Justification: Wetland standards require maintenance or enhancement of existing uses of wetlands such that hydrologic conditions necessary to support natural biological and physical characteristics are protected; populations of wetland flora and fauna are maintained to protect biological integrity of the wetland; and materials or substances are not present in amounts that may cause adverse impact on existing wetland uses.

22. In accordance with G.S 143-215.85(b), the permittee shall report any petroleum spill of 25 gallons or more; any spill regardless of amount that causes a sheen on surface waters; any petroleum spill regardless of amount occurring within 100 feet of surface waters; and any petroleum spill less than 25 gallons that cannot be cleaned up within 24 hours.

Citation: 15A NCAC 02H .0507(c); N.C.G.S 143-215.85(b)

Justification: Person(s) owning or having control over oil or other substances upon notice of discharge must immediately notify the Department, or any of its agents or employees, of the nature, location, and time of the discharge and of the measures which are being taken or are proposed to be taken to contain and remove the discharge. This action is required in order to contain or divert the substances to prevent entry into the surface waters. Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule (including, at minimum: aquatic life propagation, survival, and maintenance of biological integrity; wildlife; secondary contact recreation; agriculture); and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis.

23. The permittee and their authorized agents shall conduct all activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act), and any other appropriate requirements of State and Federal Law.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c) Justification: Surface water quality standards require that conditions of waters be suitable for all best uses provided for in state rule, and that activities must not cause water pollution that precludes any best use on a short-term or long-term basis. The Division must evaluate if the activity has avoided and minimized impacts to waters, would cause or contribute to a violation of standards, or would result in secondary or cumulative impacts.

24. The permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this General Certification. A copy of this General Certification shall be available at the project site during the construction and maintenance of this project.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c) Justification: Those actually performing the work should be aware of the requirements of this 401 Water Quality General Certification to minimize water quality impacts.

History Note: Water Quality Certification (WQC) Number 4501 issued October 28, 2021 replaces WQC 4175 issued February 1, 2019; WQC 4175 issued December 14, 2018; WQC 4144 issued December 1, 2017; WQC 4097 issued March 6, 2017; WQC 3900 issued March 19, 2012; WQC 3641 and 3642 issued March 19, 2007; WQC 3371 and 3400 issued March 18, 2002; WQC 3274 issued June 1, 2000; WQC 3112 issued February 11, 1997; and WQC 3025 issued September 6, 1995.

ROY COOPER Governor ELIZABETH S. BISER Secretary BRAXTON DAVIS Director



October 31, 2023

Paul Andrus 4140 Thick Ridge Rd. Kitty Hawk, NC 27949 prandrus@charter.net DEN23-03

Dear Mr. Andrus:

This letter is in response to your application for a Major Permit under the Coastal Area Management Act (CAMA), in which authorization was requested to expand an existing nonconforming docking facility adjacent to a canal connected to the Albemarle Sound, at 4140 Thick Ridge Road, in Kitty Hawk, Dare County. The proposed project is within the Estuarine Waters and Public Trust Areas of Environmental Concern, as designated by the N.C. Coastal Resources Commission (CRC). Processing of the application, which was received as complete by the Division of Coastal Management's Elizabeth City Office on June 26, 2023, is now complete. Based on the state's review, the Division of Coastal Management has made the following findings:

- 1) The width of the waterbody at the location of the pier is approximately 133 feet as measured from the Normal Water Level (NWL) on both shorelines. The existing pier and docking facility was built in 1984 and extends approximately 82 waterward from NWL, or approximately 62% across the waterbody. The existing pier and docking extend beyond the quarter width of the waterbody, which is approximately 33.25 feet waterward from NWL at the pier.
- 2) The existing docking facility is located at the confluence of the canal and a natural creek within the Kitty Hawk Woods Coastal Reserve.
- 3) The applicant proposes to add a 12x12 uncovered boatlift along the southern edge of the terminal end of the existing docking facility and a 6x16 fixed platform landward of the existing structure. Both proposed structures would extend beyond



North Carolina Department of Environmental Quality | Division of Coastal Management Morehead City Office | 400 Commerce Avenue | Moorehead City, North Carolina 28557 252.808.2808 071

the quarter width of the waterbody and would be located in close proximity to the confluence of the canal and the natural creek and adjacent to the Coastal Reserve.

- 4) The water depths at the terminal end of the existing pier are approximately -3ft at NWL, and approximately -2.0 at the quarter width of the waterbody.
- 5) Based upon the above referenced findings, the Division has determined that the proposed project including is inconsistent with the following Rules of the Coastal Resources Commission:
 - a) 7H .0208(b)(6)(G) which states, in part, "Pier and docking facility length shall be limited by:
 - ii. Not extending more than one-fourth the width of the natural water body, or human made canal or basin."
 - b) 7H .0208(a)(2)(G) which states, "Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters."

Given the preceding findings, it is necessary that your request for issuance of a CAMA Major Permit under the Coastal Area Management Act be denied. This denial is made pursuant to N.C.G.S. 113A-120(a)(8) which requires denial for projects inconsistent with the state guidelines for Areas of Environmental Concern or local land use plans.

If you wish to appeal this denial, you are entitled to a contested case hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties before making a final decision on the appeal. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within twenty (20) days from the date of this denial letter. The requirements for filing a contested case can be found at http://www.oah.state.nc.us/hearings. A copy of this petition must be filed with DEQ's agent for service of process at the following address:

William F. Lane, General Counsel Dept. of Environmental Quality 1601 Mail Service Center Raleigh, NC 27699-1601

Finally, I request that you also send me a copy of the petition at the address or email included in the letterhead so that I may forward it to the attorney who will be representing the Division of Coastal Management in the contested case proceeding.

Another response to a permit denial available to you is to petition the N.C. Coastal Resources Commission for a variance to undertake a project that is prohibited by the Rules of the Commission. Applying for a variance requires that you first stipulate that the Division of Coastal Management applied the Rules properly in issuing this denial. You may then request that the Commission vary the rules at issue and show how you believe your request meets the four



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criteria found at GS 113A-120.1. To apply for a variance, you must file a petition for a variance with the Director of the Division of Coastal Management and the State Attorney General's Office on a standard form, which must be accompanied by additional information on the nature of the project and the reasons for requesting a variance. The variance request may be filed at any time but must be filed a minimum of six weeks before a scheduled Commission meeting to be eligible to be heard at that meeting.

Information about both a permit appeal in the Office of Administrative Hearings and the Variance process may be obtained by contacting a member of my staff, or by visiting this link: https://deq.nc.gov/about/divisions/coastal-management/coastal-management-permits/variances-appeals

Members of my staff are available should you desire assistance in the future. If you have any questions concerning this matter, please contact Mr. Gregg Bodnar at (252) 515-5416 or Gregg.Bodnar@deq.nc.gov.

Sincerely,

Braxton C. Davis Director, NC Division of Coastal Management

cc: Tommy Fennel – U.S. Army Corps of Engineers, Wilmington, NC Raleigh Bland - U.S. Army Corps of Engineers, Wilmington, NC Robert Tankard – NC DWR, Washington

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	City
	PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



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N.C. DIVISION OF COASTAL MANAGEMENT ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT) CERTIFIED MAIL. RETURN RECEIPT REQUESTED or HAND DELIVERED

24.24 Date

NC. STATE DROPERTY OFF. ATTEN! MIKE MOSER Name of Adjacent Riparian Property Owner 116 11. TONES STREET Address KALEIGH, City, State Zip

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I am applying for a CAMA Minor permit to

I AM APPLYING FOR & VARIANCE FOTHERULES TO INSTALL & BOATLIFT on my property at 4140 THICK ROGE RO, KITIY HAUNS, NC 27949 DARE County, which is adjacent to your property. A copy of the application and project in

drawing is attached/enclosed for your review.

If you have no objections to the proposed activity, please mark the appropriate statement below and return to me as soon as possible. If no comments are received within 10 days of receipt of this notice, it will be considered that you have no comments or objections regarding this project.

If you have objections or comments, please mark the appropriate statement below and send your correspondence to: NC Division of Coastal Management (DCM) at 401 S. Griffin St., Ste 300, Elizabeth City, NC 27909.

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact DCM staff at 252-264-3901.

Sincerely,

Property Owner's Name

2-216 8902 Telephone Number

Zip City State Address I have no objection to the project described in this correspondence. I have objection(s) to the project described in this correspondence. enerliles Estate Ma 984-236-0292 Telephone Number Print or Type Name State NC Zip 27603 City RALEGH Address /16 W. Doves St.

Revised July 2021

N.C. DIVISION OF COASTAL MANAGEMENT ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT) CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

1.2424 Date

Name of Adjacent Riparian Property Owner

4144 THICK RIDDE Address KITTY HALOK, UC. 27949

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I am applying for a CAMA Minor permit to

I AM APPLYING FOR A VARIANCE TO THE RULES TO INSTALLA BUAT LIFT. on my property at 1140 THICK RIDGE RD, KITTY KAWKINC 27949 DARE County, which is adjacent to your property. A copy of the application and project in

drawing is attached/enclosed for your review.

If you have no objections to the proposed activity, please mark the appropriate statement below and return to me as soon as possible. If no comments are received within 10 days of receipt of this notice, it will be considered that you have no comments or objections regarding this project.

If you have objections or comments, please mark the appropriate statement below and send your correspondence to: NC Division of Coastal Management (DCM) at 401 S. Griffin St., Ste 300, Elizabeth City, NC 27909.

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact DCM staff at 252-264-3901.

Sincerely,

252-216-8902 Telephone Number

Address

I have no objection to the project described in this correspondence. I have objection(s) to the project described in this correspondence.

Adjacent Riparian Signature

John Varaht

Print or Type Name

2(27)24 Date 2326190302 Telephone Number

Address 4140 THICKRIDGERD. CityKITY HOWK State NC

4140 THICKRIPGERD CityKITTSHAWIK State NC Zip 27999

Zip 27949

Revised July 2021



NC COASTAL RESOURCES COMMISSION MEETING 04/25/2024

PAUL ANDRUS (CRC-VR-24-01) 4140 THICK RIDGE ROAD, KITTY HAWK, DARE COUNTY, QUARTER-WIDTH PIER LENGTH RULE & NAVIGATION

Ron Renaldi, District Manager Yvonne Carver, Field Representative Northeastern District Office Elizabeth City, NC

Department of Environmental Quality



Wide-view of Site in Kitty Hawk



12/17/1984 Imagery



079 DARE COUNTY GIS 2022 IMAGERY



080 PHOTOS TAKEN BY SARAH LOEFFLER, FIELD REPRESENTATIVE, 06/29/23



081 PHOTO TAKEN BY SARAH LOEFFLER, FIELD REPRESENTATIVE, 06/29/23



082 PHOTOS TAKEN BY SARAH LOEFFLER, FIELD REPRESENTATIVE, 10/19/2022



083 PHOTO TAKEN BY SARAH LOEFFLER, FIELD REPRESENTATIVE, 10/19/2022



SITE PLAN

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2/2023 3:04:03 PM

SITE PLAN

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⁰⁸⁶ § 113A-120.1. Variances.

(a) Any person may petition the Commission for a variance granting permission to use the person's land in a manner otherwise prohibited by rules or standards prescribed by the Commission, or orders issued by the Commission, pursuant to this Article. To qualify for a variance, the petitioner must show all of the following:

(1) Unnecessary hardships would result from strict application of the rules, standards, or orders.

(2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

(3) The hardships did not result from actions taken by the petitioner.

(4) The requested variance is consistent with the spirit, purpose, and intent of the rules, standards, or orders; will secure public safety and welfare; and will preserve substantial justice.

(b) The Commission may impose reasonable and appropriate conditions and safeguards upon any variance it grants.