

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
WILLIAM F. LANE
General Counsel



TO: The Coastal Resources Commission

FROM: Christine A. Goebel, DEQ Assistant General Counsel

DATE: February 10, 2023 (for the February 22-23, 2023 CRC Meeting)

RE: Variance Request by Town of Carolina Beach (CRC-VR-22-06)

Petitioner is the Town of Carolina Beach, which owns much of the dry sand beach in the area of the existing boardwalk and central business district. The Town has received three variances from the Commission, including one each in 2014 and 2015 for two parts of the now-existing boardwalk, and in 2021 for the use of beach mats which allow wheelchair access along and across the dry sand beach. In September of 2022, the Town filed a CAMA Minor Permit application with DCM seeking authorization for the development of a 2-story bathhouse with accessible stalls and a larger footprint to replace a ground-floor single-story existing bathhouse. On October 4, 2022, DCM denied the Town's CAMA Minor Permit application as the proposed development does not comply with 15A NCAC 7H .0306(a)(9)(3) where the proposed bathhouse does not meet the setback under the applicable static line exception rules. The Town now seeks a variance to develop the new bathhouse as proposed in their permit application.

The following additional information is attached to this memorandum:

Attachment A: Relevant Rules
Attachment B: 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.): C. Noel Fox, Esq., Petitioner's Counsel, electronically
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically



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RELEVANT STATUTES OR RULES**APPENDIX A****15A NCAC 07H .0301 OCEAN HAZARD CATEGORIES**

The Ocean Hazard categories of AECs encompass the natural hazard areas along the Atlantic Ocean shoreline where, because of their vulnerability to erosion or other adverse effects of sand, wind, and water, uncontrolled or incompatible development could endanger life or property. Ocean hazard areas include beaches, frontal dunes, inlet lands, and other areas in which geologic, vegetative and soil conditions indicate a substantial possibility of excessive erosion or flood damage.

15A NCAC 07H .0302 SIGNIFICANCE OF THE OCEAN HAZARD CATEGORY

(a) Hazards associated with ocean shorelines are due to the constant forces exerted by waves, winds, and currents upon the unstable sands that form the shore. During storms, these forces are intensified and can cause changes in the bordering landforms and to structures located on them. Ocean hazard area property is in the ownership of a large number of private individuals as well as several public agencies and is used by a vast number of visitors to the coast. Ocean hazard areas are critical due to both the severity of the hazards and the intensity of interest in the areas.

(b) The location and form of the various hazard area landforms, in particular the beaches, dunes, and inlets, are in a permanent state of flux, responding to meteorologically induced changes in the wave climate. For this reason, the siting of development on and near these landforms shall be subject to the provisions in this Section in order to avoid loss or damage. The flexible nature of these landforms presents hazard to development situation immediately on them and offers protection to the land, water, and structures located landward of them. The value of each landform lies in the particular role it plays in affording protection to life and property. Development shall not diminish the energy dissipation and sand storage capacities of the landforms essential to the maintenance of the landforms' protective function.

15A NCAC 07H .0303 MANAGEMENT OBJECTIVE OF OCEAN HAZARD AREAS

(a) The CRC recognizes that absolute safety from the destructive forces of the Atlantic shoreline is an impossibility for development located adjacent to the coast. The loss of life and property to these forces, however, can be greatly reduced by the proper location and design of structures and by care taken in prevention of damage to natural protective features particularly primary and frontal dunes. Therefore, it is the CRC's objective that development in ocean hazard areas shall be sited to minimize danger to life and property and achieve a balance between the financial, safety and social factors that are involved in hazard area development.

(b) The rules set forth in this Section shall further the goals set out in G.S. 113A-102(b), to minimize losses to life and property resulting from storms and long-term erosion, prevent encroachment of permanent structures on public beach areas, preserve the natural ecological conditions of the barrier dune and beach systems, and reducing the public costs of development within ocean hazard areas, and protect common-law and statutory public rights of access to and use of the lands and waters of the coastal area.

15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS

The ocean hazard AECs contain all of the following areas:

(1) Ocean Erodible Area. This is the area where there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The oceanward boundary of this area is the mean low water line. The landward extent of this area is the distance landward from the vegetation line as defined in 15A NCAC 07H .0305(a)(5) to the recession line established by multiplying the long term annual erosion rate times 90; provided that, where there has been no long term erosion or the rate is less than two feet per year, this distance shall be set at 180 feet landward from the vegetation line. For the purposes of this Rule, the erosion rates are the long-term average based on available historical data. The current long-term average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled “North Carolina 2019 Oceanfront Setback Factors & Long-Term Average Annual Erosion Rate Update Study” and approved by the Coastal Resources Commission on February 28, 2019 (except as such rates may be varied in individual contested cases or in declaratory or interpretive rulings). In all cases, the rate of shoreline change shall be no less than two feet of erosion per year. The maps are available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at <http://www.nccoastalmanagement.net>.

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission’s rules shall be located according to whichever of the following is applicable:

(1) The ocean hazard setback for development is measured in a landward direction from the vegetation line, the pre-project line, or the measurement line, whichever is applicable.

(8) Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the pre-project vegetation line as defined in this Section, unless an unexpired static line exception or Beach Management Plan approved by the Commission has been approved for the local jurisdiction by the Coastal Resources Commission in accordance with 15A NCAC 07J .1200.

(9)(C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent habitable building or structure. The alignment shall be measured from the most oceanward point of the adjacent building or structure’s roof line, including roofed decks, if applicable. An “adjacent” property is one that shares a boundary line with the site of the proposed development. When no adjacent buildings or structures exist, or the configuration of a lot, street, or shoreline precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Director of the Division of Coastal Management based on an approximation of the average seaward-most positions

of the rooflines of adjacent structures along the same shoreline, extending 500 feet in either direction. If no structures exist within this distance, the proposed structure must meet the applicable setback from the Vegetation Line and will not be held to the landward-most adjacent structure or an average line of structures.

STIPULATED FACTS**ATTACHMENT B**

1. Petitioner, The Town of Carolina Beach (“Town”), is a North Carolina municipal body politic organized and existing in Carolina Beach, New Hanover County, North Carolina. The Town is represented by its Town Attorney, Charlotte Noel Fox.
2. The Carolina Beach Building Line Act was passed in 1963. The 1963 Session Law granted the Town title to the land between the building line and the low water mark of the Atlantic Ocean subject to the public trust rights. The 1963 Session Law also provides that no building or structure shall be built and erected on the made and built-up land lying East of “the building line” and further provides that all made and constructed land lying East of “the building line” shall be at all times kept open for the purpose of street and highways for the use of the public and further for the development and uses as a public square or park, as the governing authorities of the Town of Carolina Beach by ordinance shall determine....” A copy of the 1963 Session Law and the Building Line Map (Map Book 8, Page 52) are attached as Stipulated Exhibits.
3. In 1985, the Legislature amended the State Lands Act, found in Chapter 146, by adding a new section addressing title to land in or immediately along the Atlantic Ocean raised above the mean high-water mark. (State Lands Act of May 30, 1985, 1985 N.C. Sess. Laws Ch. 276, sec. 2 (codified at N.C.G.S. §146-6(f)). Under this section, publicly funded projects involving hydraulic dredging or deposition of spoil materials or sand vest title to the raised land in the State.
4. A portion of the site where the bathhouse is proposed to be located was described by the Town in its Statement of Ownership portion of the CAMA permit application as follows: Title to all lands east of the established “building line” was conveyed to the Town of Carolina Beach in the 1963 NC General Assembly House Bill 612, Chapter 511. A portion of the site was conveyed to the Town and New Hanover County via Sheriff’s Deed dated November 27th 1973 and recorded in Book 990, Page 46 of the New Hanover County Registry, a copy of which is attached as a stipulated exhibit.
5. Though the Commission’s development line rules have now been repealed, the Town had adopted a development line in September 2016, the location of which is depicted on the Development Line Map recorded at Book 62, Page 145 of the New Hanover County Registry, a copy of which is attached as a Stipulated Exhibit. The development line was in the same location as the 1963 Building Line. The development line/ building line is shown as a blue line overlain on 2021 aerial imagery on the schematic prepared by the Town as part of the CAMA permit application showing the approximate location of the proposed bathhouse, a copy of which is attached as a Stipulated Exhibit. The Site for the proposed bathhouse is located just east/oceanward of the development line/building line, on land subject to the 1963 Act which vested title in this land to the Town.
6. Prior to the adoption of the Town’s development line, in accordance with 15A NCAC 07J.1200 *et seq.*, the Town had a static line exception approval from the Commission since

August 2009. The static line exception was last renewed by the Commission in February 2020 and following the repeal of the Commission's development line rules, the static line exception remains in effect.

7. The Site for the proposed bathhouse, which has a physical address of 9 Boardwalk, is located east of the development line/building line and east of Boardwalk Avenue. The Site is located just landward (west) of the existing Carolina Beach Wooden Boardwalk. The Site is located east of where Cape Fear Boulevard would extend to the ocean.
8. The Site is within the Ocean Erodible Area of Environmental Concern, and per GS 113A-118, any development at the Site requires authorization through a CAMA permit.
9. The Site is currently developed with an existing 1-story brick and cinderblock bathroom building. This building is not accessible directly from the boardwalk. A wheelchair or similar device must leave the wooden boardwalk and access the bathhouse from the alley—a route which is shown on aerial photographs attached as stipulated exhibits. The existing structure does not have any ADA compliant bathroom stalls.
10. On September 7, 2022, the Petitioner applied for a CAMA minor development permit (Permit Application Number CB22-13) (“Application”) requesting approval of construction of a two story 36' x 28' bathroom facility which would replace the existing facility. As the Town was the permit applicant, pursuant to G.S. 113A-118(b) the Division processed the minor permit application for the Town.
11. The second floor of the proposed bathroom facility will connect directly to the Carolina Beach Wooden Boardwalk and will include three handicap accessible stalls (1Male/1Female/1Family)
12. The ground floor of the proposed bathroom facility will include three handicap accessible stalls (1Male/1Female/1Family) as seen on the site plan drawings and the elevation drawings which are part of the CAMA minor permit application materials, attached as a Stipulated Exhibit.
13. The Town stipulates that the proposed bathroom facility is located in a VE- Coastal High Hazard Flood Zone and does not meet the requirements for construction as designed. Pursuant to Chapter 30-95 of the Town's Code of Ordinances, a copy of which is attached, the Town will seek a variance from the Town's Board of Adjustment. The Town contends that as a condition precedent to seeking the local variance, the Town must first receive a variance from the Coastal Resource Commission and a subsequent CAMA permit. Accordingly, the Town also seeks a procedural variance from the Commission's rule 15A NCAC 7J .0701 which requires a variance petitioner to first “seek relief from local requirements restricting use of the property...”
14. DCM posted a notice placard on the Site on September 28, 2022, a copy of which is attached as a Stipulated Exhibit. DCM also ran notice of the proposed project in the Wilmington Star News on October 2, 2022 and Star News Online.

15. On September 28, 2022, the Town issued a press release on their website describing the proposed project. A copy of the website notice is attached as a Stipulated Exhibit. On September 29, 2022, the Town put notice of their CAMA permit application on their Facebook Page, a copy of which is attached.
16. As part of the CAMA Minor Permit process, notice of the project was required to be given to the adjacent riparian landowners, which include: Carolina Beach Land Holdings, LLC, URCOWA Investments, LLC and JLM Partnership. These owners received notice by certified mail delivered on September 20, 2022, October 3, 2022 and September 19, 2022 respectively. Copies of the notice letters and certified mail and tracking information are attached as Stipulated Exhibits.
17. DCM received correspondence regarding the project through a September 29, 2022 email from Ms. Amanda LaValley who indicated support for the project. A copy of her comment email is attached. DCM also received an email on September 29, 2022 from David Hall, with questions regarding ventilation. A copy of his email is attached.
18. On October 4, 2022, the Division of Coastal Management denied the Town's Application because the development extended oceanward of the landward-most adjacent habitable building or structure as described in the static line exception rules at 15A NCAC 7H .0306(a)(9)(C), and a bathhouse is not among the setback exceptions listed in 15A NCAC 07H .0309(a).
19. In accordance with 15 NCAC 07H .0309(a), development is not permitted if it is seaward of the vegetation line or pre-project vegetation line. A portion of the proposed two-story bathroom facility is to be constructed seaward of the static vegetation line.
20. In accordance with 15 NCAC 07 H. 0306 (a)(9)(C), in part, "No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent habitable building or structure". The proposed two-story bathroom facility is to be constructed oceanward of the most-adjacent habitable buildings.
21. The Town previously petitioned for and received three variances for development more seaward than the vegetation line or pre-project vegetation line, including:
 - a. CRC-VR-14-02 for the boardwalk
 - b. CRC-VR-15-07 also for the northern end of the now-existing boardwalk
 - c. CRC-VR-21-01 Beach Mats
22. As part of the variance process, 15A NCAC 7J .0701(c)(7) requires that notice of the variance petition sent certified mail, return receipt requested to the adjacent property owners and persons who submitted written comments to the Division of Coastal Management.... during the permit review process and copies of the documents that the certified mail notices are attached. Neighbor JLM Partnership received Petitioner has provided such notice, as evidenced by the certified mail information, copies of which are attached as stipulated exhibits. The Notice sent to URCOWA Investments, LLC was classified by the USPS as unclaimed on

January 17, 2023 and was in the process of being returned to sender on January 30, 2023, as shown on the attached tracking report.

23. The Town stipulates that the proposed bathhouse facility is inconsistent with 15A NCAC 7H .0306(a)(9)(c) and that the bathhouse is not within the listed exceptions to the setback found in 7H .0309(a).
24. The Town requests a variance from the Commission from the Commission's setback rules at 7H .0306(a)(9)(C) in order to develop the bathhouse as proposed in its CAMA minor permit application.

STIPULATED EXHIBITS

1. 1963 Session Law
2. Building Line Map recorded in Map Book 8, Page 52
3. 1985 Session Law
4. Deed recorded in Book 990, Page 46 of the New Hanover County Registry
5. Development Line Map recorded in Map Book 62, Page 145
6. Area Aerial showing steps/ramps for current route from boardwalk to existing bathhouse
7. CAMA Minor Permit application, including:
 - 2021 Aerial Imagery showing the proposed structure and the Static Vegetation Line, 60 Foot setback, Stable Vegetation Line, and Development Line.
 - Plans prepared by Ardurra showing elevations and site plans
 - Application Form and AEC Hazard Notice
8. Town Ordinance 30-95
9. Site posting placard
10. Island Gazette Notice publication info
11. Town's 9/28/22 Press Release
12. Town's 9/29/22 Facebook Post
13. Notice to 3x neighbors plus tracking showing delivery
14. LaValley and Hall comments
15. CAMA Permit Denial Letter
16. Notice to 3x neighbors re: variance request plus tracking showing delivery of notice
17. Powerpoint presentation

PETITIONERS' and STAFF'S POSITIONS**ATTACHMENT C****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.****Petitioners' Position: Yes.**

Petitioner Town of Carolina Beach ("Town") respectfully contends that the proposed two-story bathroom facility meets the four variance criteria specified in the North Carolina Coastal Area Management Act ("CAMA"). In support, the Town presents the following statements and information, and respectfully requests that the Coastal Resources Commission ("CRC") issue a variance order allowing the Town's requested variance from 15 NCAC 07H.0306 (a) and 15 NCAC 07H.0309 (a).

The Carolina Beach Boardwalk has existed in some respect since the early 1930s. Due to its proximity to the Atlantic Ocean, the Boardwalk is a popular means for the public to view, enjoy and access the public resources of the dry and wet sand beaches, and the Atlantic Ocean. Variances were granted to the Town in 2014 and 2016 to improve the Boardwalk with a focus on increasing accessibility to the ocean for the aged and handicapped public. The Boardwalk is constructed in a deliberate manner in order to maximize access to persons with disabilities. Specifically, the Boardwalk is constructed in the Town's popular central business district in proximity to public parking and is accessed by an ADA compliant ramp. The Boardwalk includes two additional ADA compliant ramps which provide access to the public beach for persons with disabilities. In 2021, the Town received a variance which allowed for the installation of beach mats which connect to the ADA compliant ramps further improving access to the ocean beach for the aged and handicapped. The Boardwalk is routinely used by those with disabilities (See Proposed Stipulated Exhibits). Currently, there is no access to a public bathroom facility directly from the Boardwalk and the existing bathroom facility is not ADA compliant.

The proposed two-story bathroom facility and its provision for handicapped bathrooms directly from the Boardwalk is necessary due to the significant number of visitors to the Boardwalk with disabilities. An undue hardship to the Town, its citizens and the thousands of disabled visitors to the Town will be created if strict application of 15 NCAC 07H.0306 (a)(9) and 15 NCAC 07H.0309(a) prevent construction of this public bathroom facility.

Yes. Strict application of 15 NCAC 07H .0306(a)(9) and 15 NCAC 07H .0309(a) will prevent the Town from, in accordance with 15A NCAC 07H .0203 and 15A NCAC 07H .0207(c), "providing and protecting public rights for navigation and recreation and to conserve and manage the public trust areas so as to safeguard and perpetuate their biological, economic and aesthetic values"). These rules were designed, in part, to limit a private individual's ability to infringe on the public's access to the public trust areas. Here the applicant is a municipality, and the Town of Carolina Beach is committed and has always been committed to providing access to the public trust areas to the general public.

As staff has previously argued in support of variance petitions before the Commission,

In creating the Coastal Area Management Act (CAMA), the legislature recognized the importance of preserving and protecting the public's opportunity to enjoy the physical, aesthetic, cultural and recreational qualities of the shorelines of the State. Included among the stated goals of CAMA are (1) insuring the orderly and balanced use and preservation of coastal resources on behalf of the people of North Carolina and the nation and (2) the establishment of policies, guidelines, and standards for economic development, recreation and tourist facilities, preservation and enhancement of the historic and cultural aspects of the coastal area. *Staff's position CRC-VR-14-02 and CRC-VR-21-01*

Lack of access to public bathroom facilities is a detriment to those visiting ocean beach and has negative biological impacts. Lack of convenient access to public bathroom facilities when disabled creates a significant hardship. The proposed two story bathroom facility will double the number of handicap accessible stalls and provide direct access to those facilities from the Boardwalk. It will also double the total number of bathroom stalls available for the general public.

Staff's Position: Yes.

Staff agrees that strict application of the Commission's rule prohibiting development oceanward of the applicable ocean hazard setback line causes Petitioner unnecessary hardships.

Staff believes that the quoted position above is relevant to this variance as well.

The proposed location of the expanded bath house is on the uniquely town-owned public beach within the Town's Central Business District. The proposed structure largely meets the oceanfront setback, except for a portion of the 36' x 28' structure (approximately 130 square feet in area) that is waterward of the pre-project vegetation line. The expanded bath house will have more total stalls by having two floors and will enhance public access along the beach and the boardwalk by replacing the existing facilities. Additionally, it will have at least three ADA compliant stalls and access directly from the boardwalk rather than requiring those with disabilities having to exit the boardwalk via the ramp to access the bath house via the alley. Accordingly, strict application of the oceanfront erosion setback will cause the Town unnecessary hardships in providing access to the public where a small portion of the proposed bath house extends waterward of the pre-project vegetation line, and where it allows for ADA compliant stalls and more-direct wheelchair access from the boardwalk to the bath house.

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

Petitioner's Position: Yes.

See discussion regarding factor I above. The property upon which the proposed two-story bathroom facility is to be located is unique public property. This property was raised from the tides of the Atlantic Ocean by taxpayer funded beach nourishment efforts first undertaken by the Corps in the mid-1960's, and uniquely was deeded to the Town by the North Carolina General Assembly pursuant to the provisions of the governing 1963 Session Law. The 1963 Session Law balances public and private property rights by recognizing that the Corps' publicly funded beach nourishment project extinguished the common law littoral rights of the impacted oceanfront property owners, by deeding the raised lands to the Town, by requiring the Town to use those raised lands for public street and public park purposes. In addition to the foregoing, the previous variances granted by the Commission (CRC-VR-14-02, CRC-VR-15-07 and CRC-VR-21-01) allowed the Town to improve the property in such a manner to significantly increase public access to all able bodied and disabled individuals. The Town's significant investments in improving the Boardwalk to create a more accessible environment has created a unique ocean front area enjoyed by all.

Staff's Position: Yes.

Petitioner's hardship is caused by conditions peculiar to Petitioner's property. The hardship results from a combination of the Town's unique ownership of the historically maintained dry sand beach identified by the General Assembly for public access purposes and the provision of enhanced handicap access to this unique feature. Additionally, the enlarged bath house will be at the same location as the existing bath house and is convenient to the boardwalk, the beach mats, and on the town-owned area.

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

Petitioners' Position: No.

See responses above for discussion of the relevant hardships, the unique nature of the Town's public property and the provisions of the governing 1963 Session Law requiring the Town to use such areas for public park uses. The hardship further results from a shortage of public facilities in proximity to restaurants, parking and the ocean and a need to provide adequate bathroom facilities to both the able bodied and disabled bodied general public.

Staff's Position: No.

Petitioner proposes to build the replacement bath house on the same site as the existing bath house and has little ability to site the larger structure landward of the pre-project vegetation line. Staff contend that this minor incursion into the setback area will enhance access for the public.

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 substantial justice? Explain.

Petitioners' Position: Yes.

The Commission's regulations are intended, in part, to limit private property owners from infringing upon the public's right to access and to preserve public trust rights.

(d)(1) The variance requested by the Town will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission. 15A NCAC 07H. 0203 states that:

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 ABC's, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values...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.

The two-story bathroom facility is entirely consistent with spirit, purpose, and intent of the rules. Specifically, the CAMA calls for the public's right to enjoy the shorelines of the State to be preserved. It is imperative that access to public bathroom facilities be provided when possible, to alleviate hurdles to the public from enjoying the shorelines. Access to public bathroom facilities should be equally convenient for all individuals. Finally, there is potential negative biological impact from failing to provide adequate access to public bathroom facilities.

(d)(2) The variance requested by the Town will secure the public safety and welfare. The proposed two-story bathroom facility will replace the inadequate, non ADA compliant, existing facilities. The proposed two-story bathroom facility will provide the disabled public the ability to access a bathroom directly from the Boardwalk. As proposed, the two-story bathroom facility is 1) adjacent to a handicap ramp and 2) in close proximity to the location where the Town installs the beach mats. The Town routinely allows organizations supporting those with disabilities to hold special events and camps in this location. Additionally, the two-story bathroom facility will provide adequate access to the general public mitigating biological impacts resulting from inadequate bathroom facilities.

(d)(3) The construction of the two-story bathroom facility will preserve substantial justice by affording the general public convenient access to public bathroom facilities in proximity to highly accessible public infrastructure. It will further preserve substantial justice by providing the disabled and elderly general public access to bathroom facilities.

Staff's Position: Yes.

Staff agrees that granting the requested variance would be consistent with the spirit, purpose and intent of the Commission's rules. The limited area of the proposed bath house enlargement in the same location as the existing bath house results in a de minimis portion, approximately 130 square feet of area, of the proposed structure being waterward of the pre-project vegetation line. However, it results in increased access for visitors with disabilities specifically and for the public generally, which would meet the legislative goals of the NC Coastal Area Management Act.

Though this proposed use and location are not within the listed development exceptions allowed by 7H .0309 within the setback area, it is consistent with the Commission's general policy of allowing only small-scale development within the setback area. Staff also agrees that making public beach access more accessible to individuals with disabilities is in keeping with the legislature's mandate to provide and preserve *all* of the public's opportunity to enjoy the physical, aesthetic, cultural and recreational qualities of the shorelines of the State.

Staff also agrees that granting the requested variance would secure the public safety and welfare and preserve substantial justice. The proposed bath house expansion is designed to increase access to the public beach and boardwalk for all disabled visitors and improve restroom access for the public at large through more stalls, including ADA compliant stalls, and is conveniently located next to and connected to the boardwalk. The Town's commitment to improving access for visitors with disabilities is exemplary, and in keeping with the goals of the CAMA and the Commission's rules.

**ATTACHMENT D:
PETITIONERS' VARIANCE REQUEST MATERIALS**

CRAIGE⁰¹⁵ & FOX

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December 27, 2022

Braxton Davis, Director
N.C. Division of Coastal Management
400 Commerce Avenue
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Via Electronic Mail: Braxton.Davis@NCDENR.Gov

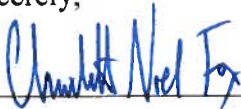
Re: Variance Request – Town of Carolina Beach

Dear Mr. Davis,

Enclosed please find the Variance Request being filed this day by the Town of Carolina Beach, seeking issuance by the Coastal Resources Commission of a variance order allowing the Division to issue a Minor Development CAMA Permit for the Town's bathroom facilities.

Thank you for your service and consideration of the Town's variance request to construct improved bathroom facilities.

Sincerely,



Charlotte Noel Fox, Town Attorney
Town of Carolina Beach
1121 N Lake Park Blvd.
Carolina Beach NC 28428

Enclosures

Cc: Willis, Angela (angela.willis@ncdenr.gov)
Goebel, Christine A. (Christine.Goebel@NCDENR.GOV)
Lucasse, Mary (MLucasse@ncdoj.gov)

PRACTICE AREAS

Elder Law / Estate Administration / Estate Planning
Fiduciary Litigation / Guardianships / Municipal Law

CAMA VARIANCE REQUEST FORM

DCM FORM 11

DCM FILE No.: CB22-13

PETITIONER'S NAME TOWN OF CAROLINA BEACH
 COUNTY WHERE THE DEVELOPMENT IS PROPOSED NEW HANOVER

Pursuant to N.C.G.S. § 113A-120.1 and 15A N.C.A.C. 07J .0700 *et seq.*, the above named Petitioner hereby applies to the Coastal Resources Commission (CRC) for a variance.

VARIANCE HEARING PROCEDURES

A variance petition will be considered by the CRC at a regularly scheduled meeting, heard in chronological order based upon the date of receipt of a complete petition. 15A N.C.A.C. 07J .0701(e). A complete variance petition, as described below, must be *received* by the Division of Coastal Management (DCM) a minimum of six (6) weeks in advance of the first day of a regularly scheduled CRC meeting to be eligible for consideration by the CRC at that meeting. 15A N.C.A.C. 07J .0701(e). The final set of stipulated facts must be agreed to at least four (4) weeks prior to the first day of a regularly scheduled meeting. 15A N.C.A.C. 07J .0701(e). The dates of CRC meetings can be found at DCM's website: www.nccoastalmanagement.net

If there are controverted facts that are significant in determining the propriety of a variance, or if the Commission determines that more facts are necessary, the facts will be determined in an administrative hearing. 15A N.C.A.C. 07J .0701(b).

VARIANCE CRITERIA

The petitioner has the burden of convincing the CRC that it meets the following criteria:

- (a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.
- (b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.
- (c) Do the hardships result from actions taken by the petitioner? Explain.
- (d) 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 substantial justice? Explain.

Please make your written arguments that Petitioner meets these criteria on a separate piece of paper. The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as a variance hearing before the Commission. These opinions note that the practice of professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written or oral argument, may be considered the practice of law. Before you proceed with this variance request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.

For this variance request to be complete, the petitioner must provide the information listed below. The undersigned petitioner verifies that this variance request is complete and includes:

- The name and location of the development as identified on the permit application;

- A copy of the permit decision for the development in question;
- A copy of the deed to the property on which the proposed development would be located;
- A complete description of the proposed development including a site plan;
- A stipulation that the proposed development is inconsistent with the rule at issue;
- Proof that notice was sent to adjacent owners and objectors*, as required by 15A N.C.A.C. 07J .0701(c)(7);
- N/A Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.
- This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

**Please contact DCM or the local permit officer for a full list of comments received on your permit application. Please note, for CAMA Major Permits, the complete permit file is kept in the DCM Morehead City Office.*

Due to the above information and pursuant to statute, the undersigned hereby requests a variance.

<u>Charlotte Noel Fox</u>			<u>12/27/2022</u>
Signature of Petitioner or Attorney			Date
<u>Charlotte Noel Fox</u>			<u>cnfox@craigeanalfox.com</u>
Printed Name of Petitioner or Attorney			Email address of Petitioner or Attorney
<u>701 Market Street</u>			<u>(910) 815-0085</u>
Mailing Address			Telephone Number of Petitioner or Attorney
<u>Wilmington</u>	<u>NC</u>	<u>28401</u>	<u>(910) 815-1095</u>
City	State	Zip	Fax Number of Petitioner or Attorney

**TOWN OF CAROLINA BEACH –VARIANCE REQUEST
CHECKLIST OF VARIANCE PACKAGE ITEMS**

December 27, 2022

1. Name-Location of Development: Bathroom Facilities located at 9 Boardwalk, Carolina Beach.
2. Copy of Permit Decision: See attached denial letter dated October 4, 2022.
3. Copy of Deed: See Proposed Stipulate Exhibit of Deed recorded in Book 990, Page 46 and Proposed Stipulated Exhibit of 1963 Session Law and Proposed Stipulated Exhibit of recorded Building Line map.
4. Complete Description of Proposed Development: See Ardurra Plans and renderings proposed as Stipulated Exhibits .
5. Stipulation: The Town stipulates that the proposed bathroom facility is inconsistent with 15 NCAC 07H.0306 (a)(9)(c) and 15 NCAC 07H.0309 (a).
6. Proof of Notice: See enclosed notice letters and certified mail information provided to all adjacent property owners and those individuals who commented during the permit review process who requested written notification.
7. Proof of local government variance request: Not Applicable
8. Town’s Written Statements in Support of Variance Request: Enclosed.
9. Draft Set of Proposed Stipulated Facts: Enclosed.
10. Signed Variance Request Form: Enclosed.

WRITTEN REASONS AND ARGUMENTS

Petitioner Town of Carolina Beach (“Town”) respectfully contends that the proposed two story bathroom facility meets the four variance criteria specified in the North Carolina Coastal Area Management Act (“CAMA”). In support, the Town presents the following statements and information, and respectfully requests that the Coastal Resources Commission (“CRC”) issue a variance order allowing the Town’s requested variance from 15 NCAC 07H.0306 (a) and 15 NCAC 07H.0309 (a).

The Carolina Beach Boardwalk has existed in some respect since the early 1930s. Due to its proximity to the Atlantic Ocean, the Boardwalk is a popular means for the public to view, enjoy and access the public resources of the dry and wet sand beaches, and the Atlantic Ocean. Variances were granted to the Town in 2014 and 2016 to improve the Boardwalk with a focus on increasing accessibility to the ocean for the aged and handicapped public. The Boardwalk is constructed in a deliberate manner in order to maximize access to persons with disabilities. Specifically, the Boardwalk is constructed in the Town’s popular central business district in proximity to public parking and is accessed by an ADA compliant ramp. The Boardwalk includes two additional ADA compliant ramps which provide access to the public beach for persons with disabilities. In 2021, the Town received a variance which allowed for the installation of beach mats which connect to the ADA compliant ramps further improving access to the ocean beach for the aged and handicapped. The Boardwalk is routinely used by those with disabilities (See Proposed Stipulated Exhibits). Currently, there is no access to a public bathroom facility directly from the Boardwalk and the existing bathroom facility is not ADA compliant.

The proposed two story bathroom facility and its provision for handicapped bathrooms directly from the Boardwalk is necessary due to the significant number of visitors to the Boardwalk with disabilities. An undue hardship to the Town, its citizens and the thousands of disabled visitors to the Town will be created if strict application of 15 NCAC 07H.0306 (a)(9) and 15 NCAC 07H.0309(a) prevent construction of this public bathroom facility.

(A) Will strict application of the applicable development rules, standards or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.

Yes. Strict application of 15 NCAC 07H .0306(a)(9) and 15 NCAC 07H .0309(a) will prevent the Town from, in accordance with 15A NCAC 07H .0203 and 15A NCAC 07H .0207(c), “providing and protecting public rights for navigation and recreation and to conserve and manage the public trust areas so as to safeguard and perpetuate their biological, economic and aesthetic values”). These rules were designed, in part, to limit a private individual’s ability to infringe on the public’s access to the public trust areas. Here the applicant is a municipality and the Town of Carolina Beach is committed and has always been committed to providing access to the public trust areas to the general public.

As staff has previously argued in support of variance petitions before the Commission, In creating the Coastal Area Management Act (CAMA), the legislature recognized the

importance of preserving and protecting the public's opportunity to enjoy the physical, aesthetic, cultural and recreational qualities of the shorelines of the State. Included among the stated goals of CAMA are (1) insuring the orderly and balanced use and preservation of coastal resources on behalf of the people of North Carolina and the nation and (2) the establishment of policies, guidelines, and standards for economic development, recreation and tourist facilities, preservation and enhancement of the historic and cultural aspects of the coastal area. *Staff's position CRC-VR-14-02 and CRC-VR-21-01*

Lack of access to public bathroom facilities is a detriment to those visiting ocean beach and has negative biological impacts. Lack of convenient access to public bathroom facilities when disabled creates a significant hardship. The proposed two story bathroom facility will double the number of handicap accessible stalls and provide direct access to those facilities from the Boardwalk. It will also double the total number of bathroom stalls available for the general public.

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

See discussion regarding factor I above. The property upon which the proposed two story bathroom facility is to be located is unique public property. This property was raised from the tides of the Atlantic Ocean by taxpayer funded beach nourishment efforts first undertaken by the Corps in the mid-1960's, and uniquely was deeded to the Town by the North Carolina General Assembly pursuant to the provisions of the governing 1963 Session Law. The 1963 Session Law balances public and private property rights by recognizing that the Corps' publicly funded beach nourishment project extinguished the common law littoral rights of the impacted oceanfront property owners, by deeding the raised lands to the Town, by requiring the Town to use those raised lands for public street and public park purposes. In addition to the foregoing, the previous variances granted by the Commission (CRC-VR-14-02, CRC-VR-15-07 and CRC-VR-21-01) allowed the Town to improve the property in such a manner to significantly increase public access to all able bodied and disabled individuals. The Town's significant investments in improving the Boardwalk to create a more accessible environment has created a unique ocean front area enjoyed by all.

(C) Do the hardships result from action taken by the petitioner. Explain.

No. See responses above for discussion of the relevant hardships, the unique nature of the Town's public property and the provisions of the governing 1963 Session Law requiring the Town to use such areas for public park uses. The hardship further results from a shortage of public facilities in proximity to restaurants, parking and the ocean and a need to provide adequate bathroom facilities to both the able bodied and disabled bodied general public.

(D) 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.

Yes. See responses to factors I, II, and III above.

The Commission's regulations are intended, in part, to limit private property owners from infringing upon the public's right to access and to preserve public trust rights.

(d)(1) The variance requested by the Town will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission. 15A NCAC 07H. 0203 states that:

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 ABC's, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values...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.

The two story bathroom facility is entirely consistent with spirit, purpose, and intent of the rules. Specifically, the CAMA calls for the public's right to enjoy the shorelines of the State to be preserved. It is imperative that access to public bathroom facilities be provided when possible to alleviate hurdles to the public from enjoying the shorelines. Access to public bathroom facilities should be equally convenient for all individuals. Finally, there is potential negative biological impact from failing to provide adequate access to public bathroom facilities.

(d)(2) The variance requested by the Town will secure the public safety and welfare. The proposed two story bathroom facility will replace the inadequate, non ADA compliant, existing facilities. The proposed two story bathroom facility will provide the disabled public the ability to access a bathroom directly from the Boardwalk. As proposed, the two story bathroom facility is 1) adjacent to a handicap ramp and 2) in close proximity to the location where the Town installs the beach mats. The Town routinely allows organizations supporting those with disabilities to hold special events and camps in this location. Additionally, the two story bathroom facility will provide adequate access to the general public mitigating biological impacts resulting from inadequate bathroom facilities.

(d)(3) The construction of the two story bathroom facility will preserve substantial justice by affording the general public convenient access to public bathroom facilities in proximity to highly accessible public infrastructure. It will further preserve substantial justice by providing the disabled and elderly general public access to bathroom facilities.

**ATTACHMENT E:
STIPULATED EXHIBITS**

1. 1963 Session Law
2. Building Line Map recorded in Map Book 8, Page 52
3. 1985 Session Law
4. Deed recorded in Book 990, Page 46 of the New Hanover County Registry
5. Development Line Map recorded in Map Book 62, Page 145
6. Area Aerial showing steps/ramps for current route from boardwalk to existing bathhouse
7. CAMA Minor Permit application, including:
 - 2021 Aerial Imagery showing the proposed structure and the Static Vegetation Line, 60 Foot setback, Stable Vegetation Line, and Development Line.
 - Plans prepared by Ardurra showing elevations and site plans
 - Application Form and AEC Hazard Notice
8. Town Ordinance 30-95
9. Site posting placard
10. Island Gazette Notice publication info
11. Town's 9/28/22 Press Release
12. Town's 9/29/22 Facebook Post
13. Notice to 3x neighbors plus tracking showing delivery
14. LaValley and Hall comments
15. CAMA Permit Denial Letter
16. Notice to 3x neighbors re: variance request plus tracking showing delivery of notice
17. Powerpoint presentation



NORTH CAROLINA GENERAL ASSEMBLY
1963 SESSION

CHAPTER 511
HOUSE BILL 612

AN ACT RELATING TO THE TITLE TO THE LAND BUILT UP AND CONSTRUCTED IN THE TOWN OF CAROLINA BEACH IN THE COUNTY OF NEW HANOVER AS A RESULT OF CERTAIN EROSION CONTROL WORK IN SAID TOWN.

WHEREAS, during the course of many years in the Town of Carolina Beach, in the County of New Hanover, North Carolina, much of the land abutting and fronting on the Atlantic Ocean in said town formerly belonging to various property owners has been and is now being washed away by successive storms, tides and winds; and

WHEREAS, the said Town of Carolina Beach, with aid from the State of North Carolina, the United States Government, and with its own funds, has from time to time made available funds with which to control the erosion caused by said tides and winds and other causes, and to that end the said town has pumped sand from Myrtle Grove Sound and also pushed up sand and hauled sand, and as a result thereof there has been, is now, and will be made and constructed new land on the ocean front of said town which will change the ordinary and usual low water mark of the waters of the Atlantic Ocean along the front of said town, and when the work has been completed the question will arise as to whom title to the said new land shall belong; and

WHEREAS, it is the desire of the authorities of the Town of Carolina Beach, as well as the State of North Carolina, to fix and define the title to such new land and to fix and determine its use, and to further define the littoral rights of the property owners abutting on the ocean front which will be destroyed or taken by and through the making of such new made lands: Now, therefore,

The General Assembly of North Carolina do enact:

Section 1. All land filled in, restored, and made, and to be filled in, restored, and made, as the result of the recitals in the preamble to this Act, which will exist between the present eastern property line of the lot owners at present bordering on said ocean and the low water mark of the Atlantic Ocean after the work referred to in the preamble hereof is completed, shall be within the corporate limits of the Town of Carolina Beach and so much of said lands so filled in, restored and made which will lie West of "the building line" to be defined and determined by Section 2 of this

Act, is hereby granted and conveyed in fee simple to the land owner, to the extent that his land abuts thereon, and the balance of said land lying East of said "building line" to be fixed and determined by Section 2 of this Act is hereby granted and conveyed in fee simple to the Town of Carolina Beach, provided, however, that no building or structure shall be built and erected on said made and built-up land lying East of "the building line" to be defined and set out in Section 2 of this Act, and provided further that all made and constructed land lying East of "the building line" shall be at all times kept open for the purpose of street and highways for the use of the public and further for the development and uses as a public square or park, as the governing authorities of the Town of Carolina Beach by ordinance shall determine; and provided further that if any such property as is hereby granted and conveyed to the Town of Carolina Beach shall cease to be used for the purposes or in the manner prescribed in this Act, it shall revert and become the property of the State of North Carolina, and provided further that the owners of the property abutting on said newly made or constructed land, shall, in front of their said property possess and keep their rights, as if littoral owners, in the waters of the Atlantic Ocean, bordering on said newly acquired and constructed land.

Sec. 2. Within thirty (30) days from the date of the completion of said work to be carried on by the Town of Carolina Beach and referred to in the preamble hereof, the said Town of Carolina Beach shall, at its own cost, survey or have surveyed by a competent engineer a line to be known as "the building line", and which shall constitute and define "the building line" referred to in Section 1 of this Act, and which shall run the full length of the beach within the town limits, and after "the building line" shall have been surveyed and fixed and determined, the said authorities of the Town of Carolina Beach shall immediately cause to be prepared a map showing, fixing, and determining "the building line", which map so prepared shall be immediately recorded in the office of the Register of Deeds of New Hanover County in a map book kept for said purposes, after the engineer has appended an oath to the effect that said line has been truly and properly surveyed and laid out and marked on said map, and the register of deeds shall properly index and cross-index said map, and when so recorded in said map book or entered or placed therein, in lieu of inserting a transcript thereof, and indexed, the said map shall be competent and prima facie evidence of the facts thereon, without other or further proof of the making of said map, and shall conclusively fix and determine "the building line" referred to in Section 1 of this Act.

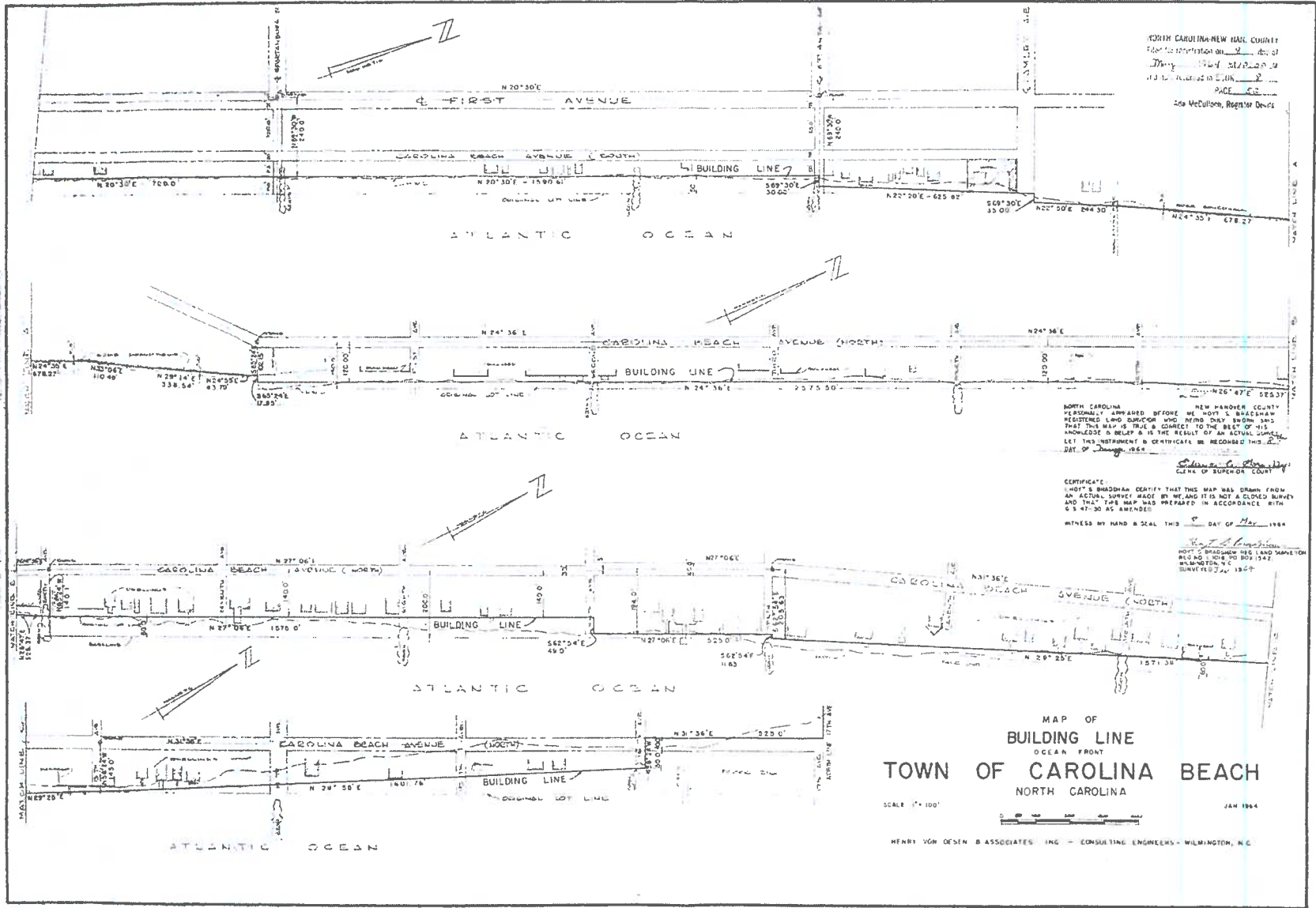
Sec. 3. Any property owner or claimant of land who is in any manner affected by the provisions of this Act, and who does not bring suit against the Town of Carolina Beach, or assert such claims by filing notice thereof with the governing body of the town, either or both, as the case may be, or any claimant thereto under the provisions of this Act, or their successor or successors in title, within six (6) months after "the building line" is surveyed and established, and the map thereof recorded, as provided for herein, shall be conclusively presumed to have acquiesced in, and to have accepted the terms and conditions hereof, and to have abandoned any claim, right, title or interest in and to the territory immediately affected by and through or as

a result of the doing of act or acts or thing or things herein mentioned, and shall be forever bound from maintaining any action for redress upon such claim.

Sec. 4. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1963.



GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 276
HOUSE BILL 111

AN ACT TO ESTABLISH THE TITLE TO CERTAIN LANDS RAISED FROM
NAVIGABLE WATERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 146-6 is amended as follows:

(1) by adding a new sentence at the end of subsection (b) to read:

"Title to land so raised, however, does not vest in the State if the land was raised within the bounds of a conveyance made by the State Board of Education, which included regularly flooded estuarine marshlands or lands beneath navigable waters, or if the land was raised under permits issued to private individuals pursuant to G.S. 113-229, G.S. 113A-100 through -128, or both."; and

(2) by adding a new subsection to read:

"(f) Notwithstanding the other provisions of this section, the title to land in or immediately along the Atlantic Ocean raised above the mean high water mark by publicly financed projects which involve hydraulic dredging or other deposition of spoil materials or sand vests in the State. Title to such lands raised through projects that received no public funding vests in the adjacent littoral proprietor. All such raised lands shall remain open to the free use and enjoyment of the people of the State, consistent with the public trust rights in ocean beaches, which rights are part of the common heritage of the people of this State."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1985.

NOV 29 1973

SHERIFF'S DEED

STATE OF NORTH CAROLINA :

COUNTY OF NEW HANOVER :

This deed, made and entered into this the 22 day of November, 1973,
by and between H. O. Grohman, Sheriff of New Hanover
County, North Carolina, party of the first part, and New Hanover County and
Town of Carolina Beach
_____, party [parties] of the second part, _____

WITNESSETH:

That whereas the party of the first part, being duly licensed there to by and execution issued upon a certain Judgment docketed in the office of the Clerk of the Superior Court for New Hanover County, N. C. in Judgment Docket Book 7, at page 145, in a proceeding entitled " New Hanover County and

Town of Carolina Beach vs Mrs George O'Fiech (O'Fiech) ."
After due advertisement in accordance with law, did offer for sale and did sell, at public auction for cash to the highest bidder, at the courthouse door in New Hanover County, N. C. on the 5th day of November, 19 73 certain real estate herein described, New Hanover County and when and where Town of Carolina Beach became the last and highest bidder for the price \$1,285.79.

Whereas, more than ten days have elapsed since the report of the said sale was filed with the Clerk of the Superior Court and no increased bid has been filed, and said sale having been confirmed by an Order of the Superior Court, and the said New Hanover County and
Town of Carolina Beach
party [parties] of the second part has [have] fully paid the amount of the bid to the party of the first party;

NOW, THEREFORE, in consideration of the premises and in further consideration of the sum of Twelve Hundred eighty five and 79/100 \$ 1,285.79 in hand paid to the party of the first part by the party [parties] of the second part, the receipt of which is hereby acknowledged, the said party of the first part has given, granted, bargained, sold and conveyed, and does hereby give, grant, bargain, sell and convey unto the party [parties] of the second part, and to its [their] successors and assigns, a 57.3 % undivided interest to the Town of Carolina Beach North Carolina, and a 42.7 undivided interest to New Hanover County, North Carolina, in and to the following described real estate, same lying and being in Town of Carolina Beach ~~Town of~~, New Hanover County, North Carolina, and being more particularly described and bounded as follows:

Beginning at a point in the south margin of a twenty (20) foot Street, (said Street being a prolongation of Cape Fear Boulevard), being the northeast corner of Lot Six (6); thence in a southwardly direction with the eastern line of Lot Six (6) fifty (50) feet to a point, the northeast corner of Lot Nine (9) thence with the northern line of Lot Ten (10) seventeen and fifty-five hundredths (17.55) feet to a point the northeast corner of Lot Ten (10) and the high water mark of the Atlantic Ocean; thence with the high water mark of the Atlantic Ocean north Fifty and Two-tenths (50.2) feet to a point in the south margin of said twenty (20) foot Street; thence west with the south line of said Street Twenty One and Five-tenths (21.5) feet to the point of beginning; the same being known and designated as Lot Number Seven (7) according to a map of property conveyed by P. Q. Moore and wife to J. W. Eford, by deed dated July 8, 1926, which said deed is recorded in book 173 at page 330; and which said map is entitled "Section of Carolina Beach", prepared by J. L. Becton, C. E., July 1926, and which said map is duly recorded in the office of the Register of Deeds of New Hanover County in Map Book 2 at page 104, to which said map reference is hereby had for a more complete description of the Lot herein conveyed.

BOOK 99C PAGE 47

For more particular description, see deed from _____

to _____, recorded in Deed Book 199, page 491, in the Office of the Register of Deeds of New Hanover County.

To have and to hold the above-described premises and all privileges and appurtenances thereunto appertaining, to the said party [parties] of the second part, his [her, their] heirs and assigns, to their only use and behoof forever free and clear of all encumbrances except all out-standing city and county taxes and all local improvement assessments against the above-described property not included in the execution in the above-entitled cause in as full and ample manner as said party of the first part is authorized and empowered to convey the same,

In witness whereof, the said party of the first part has hereunto set his hand and seal, the day and year first above written.

[Signature] (Seal)

_____ (Seal)

Personally appeared before me this day H.G. GROHMAN Sheriff of New Hanover County, who duly acknowledged the execution of the foregoing deed as his own act and deed.

Witness my hand and notarial seal, this 27 day of NOV

Thomas H. Evans
Notary Public



My commission expires _____
State of North Carolina -- New Hanover County
The foregoing certificate of Thomas H. Evans, a

Notary Public of and for the County of New Hanover, State of North Carolina, is certified to be in due form and according to law. Filed Nov. 28, 1973, and recorded in Deed Book 990, page 46, in the office of the Register of Deeds of New Hanover County.

This 28 day of November, 1973

Lois C. Le hay

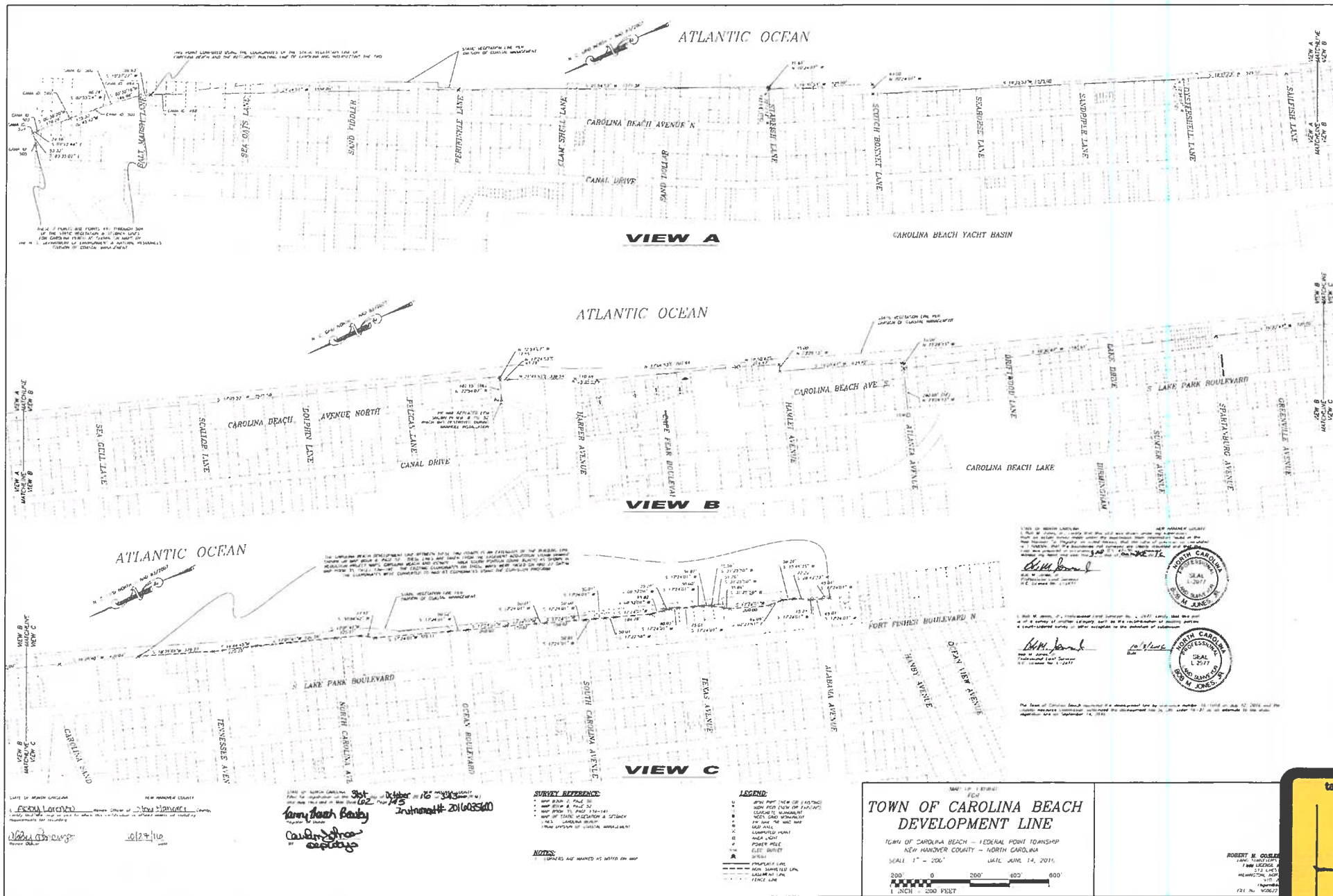
Register of Deeds

Drawn by New Hanover Co
Tax office

By [Signature] Assistant

Received and Recorded
November 28, 1973 at 11:18 AM

[Signature]
Register of Deeds



I, the undersigned, being a duly qualified and licensed Professional Surveyor in the State of North Carolina, do hereby certify that the foregoing is a true and correct copy of the original survey as the same appears in my field notes and field sketches, and that the same was made by me or under my direct supervision and in accordance with the provisions of the General Statutes of the State of North Carolina relating to surveys.

JOHN M. JONES
 PROFESSIONAL SURVEYOR
 License No. 12277
 State of North Carolina

JAMES W. JONES
 PROFESSIONAL SURVEYOR
 License No. 12277
 State of North Carolina

The Town of Carolina Beach is authorized to adopt the development line by Ordinance No. 18-002 on July 12, 2018, and the Ordinance may be amended by the Board of Zoning Adjustment by Ordinance No. 18-003 on July 14, 2018, and by Ordinance No. 18-004 on July 17, 2018.

State of North Carolina
 County of New Hanover
 Town of Carolina Beach
 Survey # 201602560
 Date: October 16, 2016

SURVEY REFERENCE:
 • W.P. 1905 P. 104
 • W.P. 1905 P. 104
 • W.P. 1905 P. 104
 • W.P. 1905 P. 104

LEGEND:
 - - - - - PROPERTY LINE
 - - - - - W.P. 1905 P. 104
 - - - - - W.P. 1905 P. 104
 - - - - - W.P. 1905 P. 104
 - - - - - W.P. 1905 P. 104

NOTES:
 SPICES ARE MARKED AS SHOWN ON MAP

TOWN OF CAROLINA BEACH
 DEVELOPMENT LINE

TOWN OF CAROLINA BEACH - FEDERAL POINT TOWNSHIP
 NEW HANOVER COUNTY - NORTH CAROLINA
 SCALE: 1" = 200'
 DATE: JUNE 14, 2011

0 200 400 600
 1 INCH = 200 FEET

ROBERT M. OSBORN
 LAND SURVEYOR
 License No. 12277
 State of North Carolina



TAMMY THEUSCH
BEASLEY
Register of Deeds

New Hanover County Register of Deeds

320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401
Telephone 910-798-4530 • Fax 910-798-7751




State of North Carolina, County of NEW HANOVER
Filed For Registration: 10/31/2016 03:43:51 PM
Book: PLAT 62 Page: 145-146
2 PGS \$21.00
Real Property \$21.00
Recorder: CAROLYN JOHNSON
Document No: 2016035600

DO NOT REMOVE!

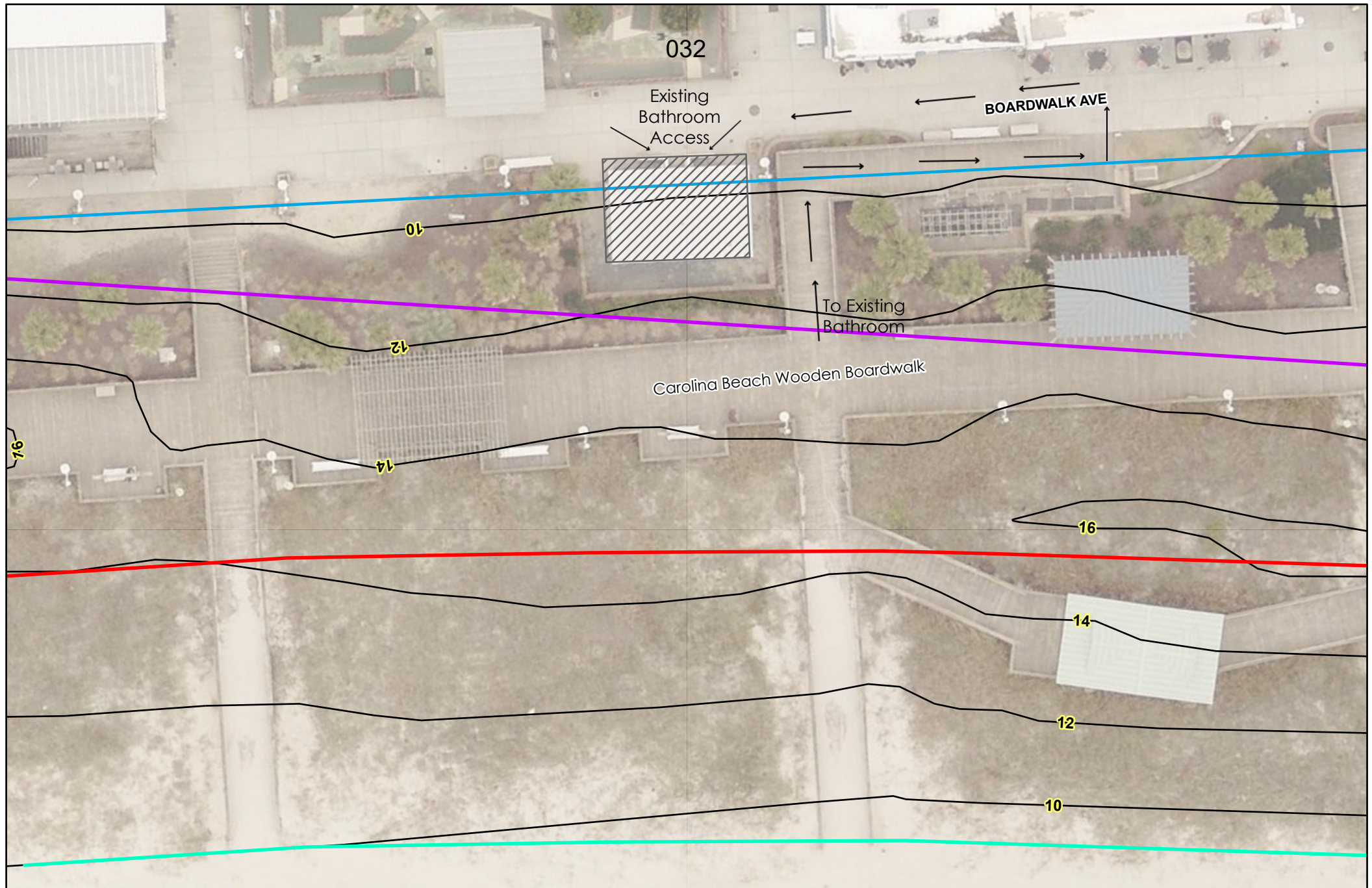
This certification sheet is a vital part of your recorded document. Please retain with original document and submit when re-recording.

BK: PLAT 62
PG: 145-146
RECORDED
10-31-2016
03:43:51 PM
BY: CAROLYN JOHNSON
DEPUTY

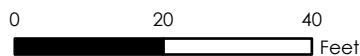
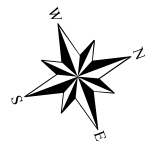


2016035600
NEW HANOVER COUNTY, NC
TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS

NC FEE \$21.00

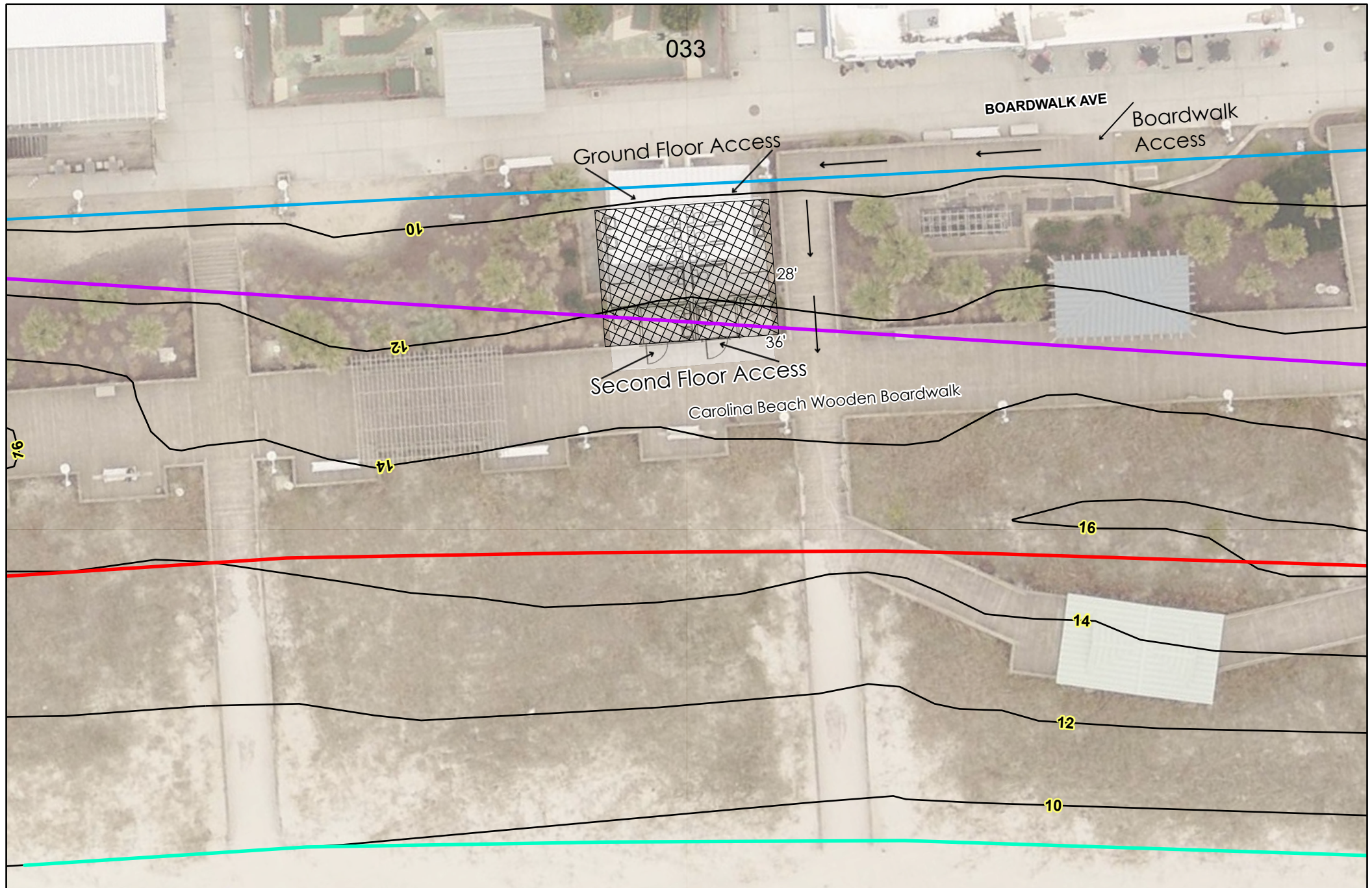


Existing Boardwalk Bathrooms



Legend

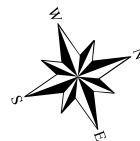
- Static Vegetation Line
- 60 Foot Setback
- Stable Vegetation - Digitized using 2021 Aerial
- Existing Bathroom
- Topography
- Development Line
- CB_Parcels



Proposed Boardwalk Bathrooms

Total Proposed Area:
~1,000 square feet

Total Proposed Dimensions:
36' X 28'



Legend

- Static Vegetation Line
- 60 Foot Setback
- Stable Vegetation - Digitized using 2021 Aerial
- Proposed Bathroom
- Topography
- Development Line
- CB_Parcel

SITE DRAWING/APPLICATION CHECKLIST

Please make sure your site drawing includes the following information required for a CAMA minor development permit. The Local Permit Officer will help you, if requested.

PHYSICAL DIMENSIONS

- Label roads
- Label highways right-of-ways
- Label local setback lines
- Label any and all structures and driveways currently existing on property
- Label adjacent waterbody

PHYSICAL CHARACTERISTICS

- Draw and label normal high water line (contact LPO for assistance)
- Draw location of on-site wastewater system

If you will be working in the ocean hazard area:

- Draw and label dune ridges (include spot elevations)
- Draw and label toe of dunes
- Identify and locate first line of stable vegetation (contact LPO for assistance)
- Draw and label erosion setback line (contact LPO for assistance)
- Draw and label topographical features (optional)

If you will be working in a coastal shoreline area:

- Show the roof overhang as a dotted line around the structure
- Draw and label landward limit of AEC
- Draw and label all wetland lines (contact LPO for assistance)
- Draw and label the 30-foot buffer line

DEVELOPMENT PLANS

- Draw and label all proposed structures
- Draw and label areas that will be disturbed and/or landscaped
- Note size of piling and depth to be placed in ground
- Draw and label all areas to be paved or graveled
- Show all areas to be disturbed
- Show landscaping

NOTE TO APPLICANT

Have you:

- completed all blanks and/or indicated if not applicable?
- notified and listed adjacent property owners?
- included your site drawing?
- signed and dated the application?
- enclosed the \$100.00 fee?
- completed an AEC Hazard Notice, if necessary? (Must be signed by the property owner)

FOR STAFF USE

Site Notice Posted Final Inspection Fee Received

Site Inspections _____

Date of Action: Issued Exempted Denied Appeal Deadline (20 days from permit action) _____



APPLICATION FOR CAMA MINOR DEVELOPMENT PERMIT

In 1974, the North Carolina General Assembly passed the Coastal Area Management Act (CAMA) and set the stage for guiding development in fragile and productive areas that border the state's sounds and oceanfront. Along with requiring special care by those who build and develop, the General Assembly directed the Coastal Resources Commission (CRC) to implement clear regulations that minimize the burden on the applicant.

This application for a minor development permit under CAMA is part of the Commission's effort to meet the spirit and intent of the General Assembly. It has been designed to be straightforward and require no more time or effort than necessary from the applicant. Please go over this folder with the Local Permit Officer (LPO) for the locality in which you plan to build to be certain that you understand what information he or she needs before you apply.

Under CAMA regulations, the minor permit is to be issued within 25 days once a complete application is in hand. Often less time is needed if the project is simple. The process generally takes about 18 days. You can speed the approval process by making certain that your application is complete and signed, that your drawing meets the specifications given inside and that your application fee is attached.

Other permits are sometimes required for development in the coastal area. While these are not CAMA-related, we urge you to check with the Local Permit Officer to determine which of these you may need. A list is included on page two of this folder.

We appreciate your cooperation with the North Carolina Coastal Management Program and your willingness to build in a way that protects the resources of our beautiful and productive coast.

Coastal Resources Commission
Division of Coastal Management

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SEP 07 2022

DCM WILMINGTON, NC

APPLICATION:

LOCALITY:

PERMIT ISSUED USING
STATIC LINE EXCEPTION?
 YES NO

Locality _____ Permit Number _____
Ocean Hazard _____ Estuarine Shoreline _____ ORW Shoreline _____ Public Trust Shoreline _____ Other _____
(For official use only)

GENERAL INFORMATION

LAND OWNER - MAILING ADDRESS

Town of Carolina Beach
Name _____
Address 1121 N Lake Park Blvd _____
City Carolina Beach State NC Zip 28428 Phone 910-458-2999
Email bruce.oakley@carolinabeach.org

AUTHORIZED AGENT

Bruce Oakley
Name _____
Address 1121 N Lake Park Blvd _____
City Carolina Beach State NC Zip 28428 Phone 910-458-2999
Email bruce.oakley@carolinabeach.org

LOCATION OF PROJECT: (Address, street name and/or directions to site; name of the adjacent waterbody.)

Physical address 9 Boardwalk, Carolina Beach, NC- Atlantic Ocean

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.)

Construction of 2 story - 36'x28' bathroom facility

SIZE OF LOT/PARCEL: N/A square feet _____ acres

PROPOSED USE: Residential (Single-family Multi-family) Commercial/Industrial Other

COMPLETE EITHER (1) OR (2) BELOW (Contact your Local Permit Officer if you are not sure which AEC applies to your property):

(1) OCEAN HAZARD AECs: TOTAL FLOOR AREA OF PROPOSED STRUCTURE: 2,000 square feet (includes air conditioned living space, parking elevated above ground level, non-conditioned space elevated above ground level but excluding non-load-bearing attic space)

(2) COASTAL SHORELINE AECs: SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT UPON SURFACES: _____ square feet (includes the area of the foundation of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC. Attach your calculations with the project drawing.)

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Energy, Mineral and Land Resources (DEMLR)?
YES _____ NO X

If yes, list the total built upon area/impervious surface allowed for your lot or parcel: _____ square feet.

OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit, including, but not limited to: Drinking Water Well, Septic Tank (or other sanitary waste treatment system), Building, Electrical, Plumbing, Heating and Air Conditioning, Insulation and Energy Conservation, FIA Certification, Sand Dune, Sediment Control, Subdivision Approval, Mobile Home Park Approval, Highway Connection, and others. Check with your Local Permit Officer for more information.

STATEMENT OF OWNERSHIP:

I, the undersigned, an applicant for a CAMA minor development permit, being either the owner of property in an AEC or a person authorized to act as an agent for purposes of applying for a CAMA minor development permit, certify that the person listed as landowner on this application has a significant interest in the real property described therein. This interest can be described as: (check one)

_____ an owner or record title, Title is vested in name of _____, see Deed Book _____ page _____ in the _____ County Registry of Deeds.

_____ an owner by virtue of inheritance. Applicant is an heir to the estate of _____; probate was in _____ County.

_____ if other interest, such as written contract or lease, explain below or use a separate sheet & attach to this application.

NOTIFICATION OF ADJACENT RIPARIAN PROPERTY OWNERS:


I furthermore certify that the following persons are owners of properties adjoining this property. I affirm that I have given ACTUAL NOTICE to each of them concerning my intent to develop this property and to apply for a CAMA permit.

(Name)	(Address)
(1) <u>Carolina Beach Land Holdings LLC</u>	<u>3 Boardwalk</u>
(2) <u>URCOWA Investments LLC</u>	<u>5 Cape Fear</u>
(3) <u>JLM Partnership</u>	<u>5 Boardwalk</u>
(4) _____	_____

ACKNOWLEDGEMENTS:

I, the undersigned, acknowledge that the land owner is aware that the proposed development is planned for an area which may be susceptible to erosion and/or flooding. I acknowledge that the Local Permit Officer has explained to me the particular hazard problems associated with this lot. This explanation was accompanied by recommendations concerning stabilization and floodproofing techniques.

I furthermore certify that I am authorized to grant, and do in fact grant, permission to Division of Coastal Management staff, the Local Permit Officer and their agents to enter on the aforementioned lands in connection with evaluating information related to this permit application.

This the 7th day of September, 2022

Landowner or person authorized to act as his/her agent for purpose of filing a CAMA permit application

This application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the Ocean Hazard AEC Notice where necessary, a check for \$100.00 made payable to the locality, and any information as may be provided orally by the applicant. The details of the application as described by these sources are incorporated without reference in any permit which may be issued. Deviation from these details will constitute a violation of any permit. Any person developing in an AEC without permit is subject to civil, criminal and administrative action.

* Statement of Ownership - title to all lands east of the established "building line" was conveyed to the Town of Carolina Beach in NC - General Assembly House Bill 612 Chapter-511 *

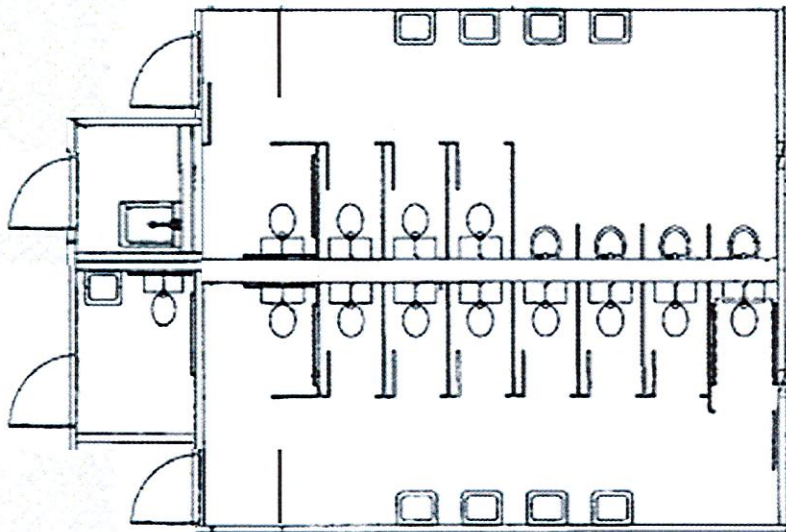
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SEP 07 2022

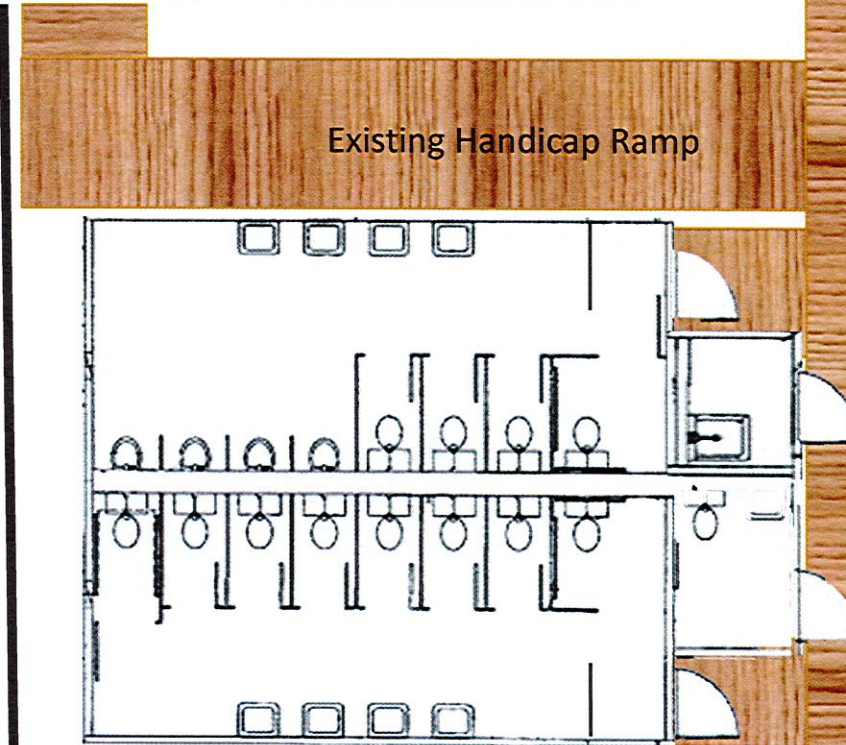
DCM WILMINGTON, NC

28' X 36' Proposed Boardwalk Bathrooms

Pedestrian
Concrete
Boardwalk Ave



1st floor



2nd floor

Existing Handicap Ramp

Existing
Wooden
Boardwalk

RECEIVED

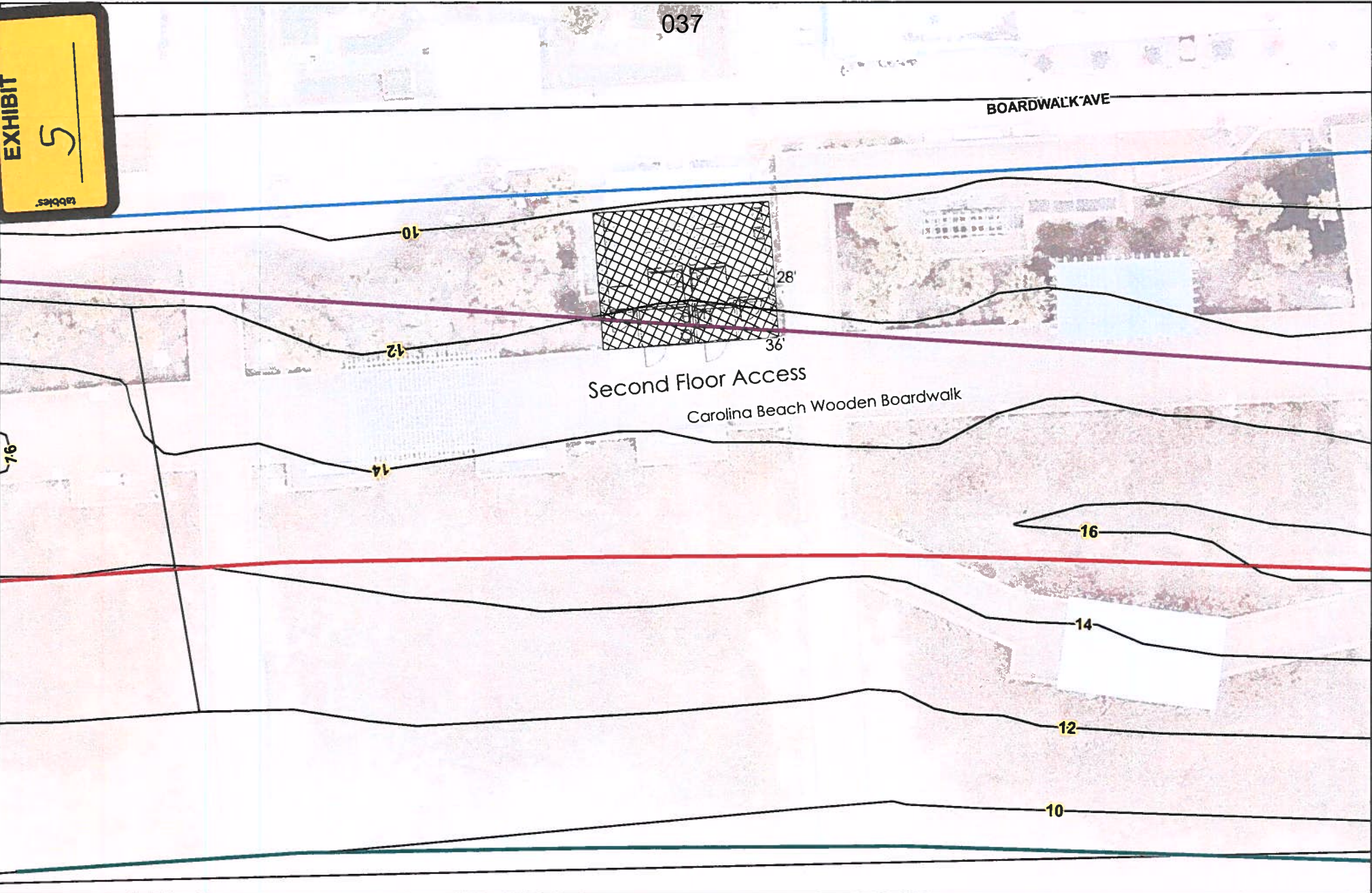
SEP 28 2022

DCM WILMINGTON, NC

EXHIBIT
5

037

BOARDWALK AVE



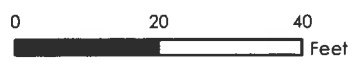
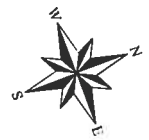
Second Floor Access
Carolina Beach Wooden Boardwalk



Proposed Boardwalk Bathrooms

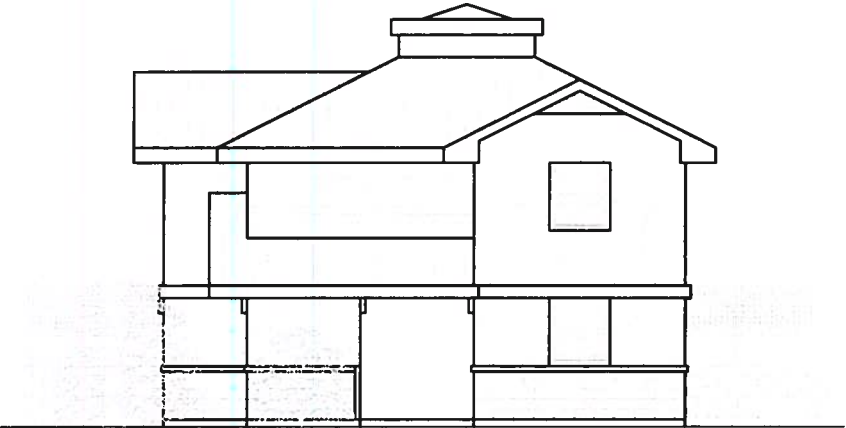
Total Proposed Area:
~1,000 square feet

Total Proposed Dimensions:
36' X 28'

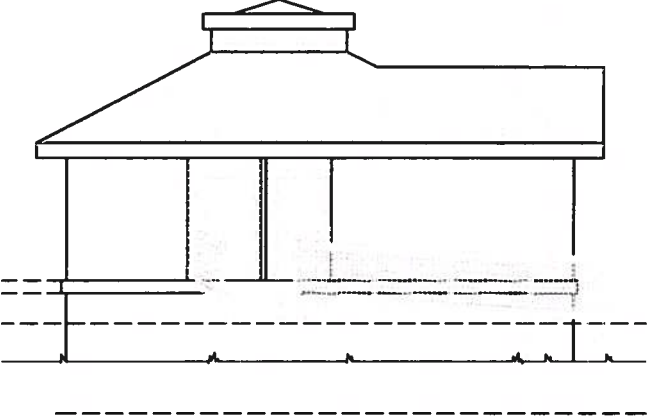


Legend

- Static Vegetation Line
- 60 Foot Setback
- Stable Vegetation - Digitized using 2021 Aerial
- Proposed Bathroom
- Topography
- Development Line
- CB_Parcels

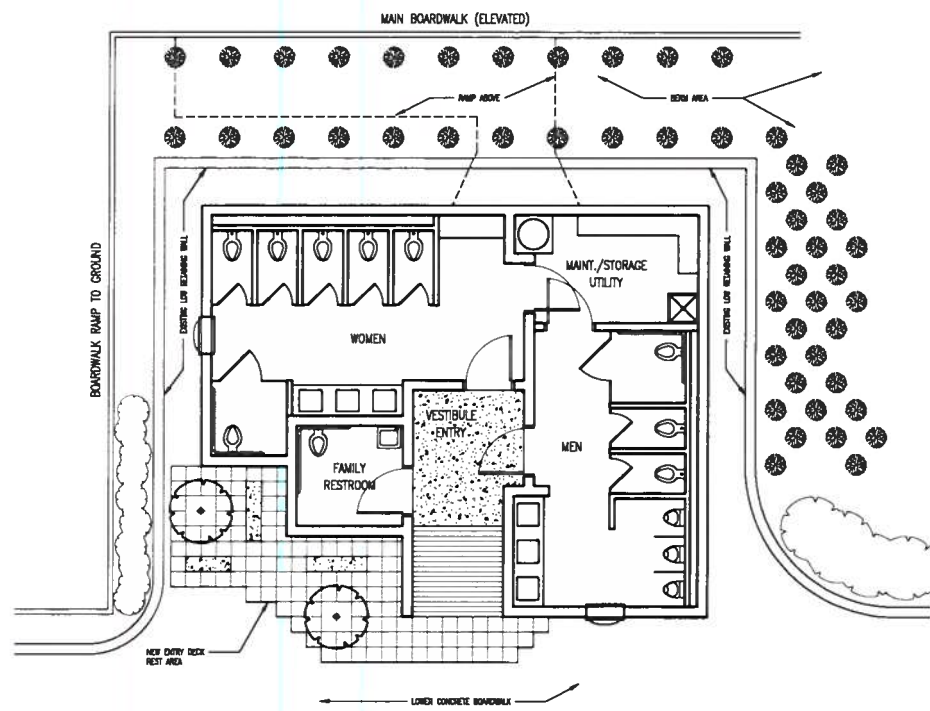


A WEST ELEVATION (option A)
SCALE: 1/8"=1'-0"

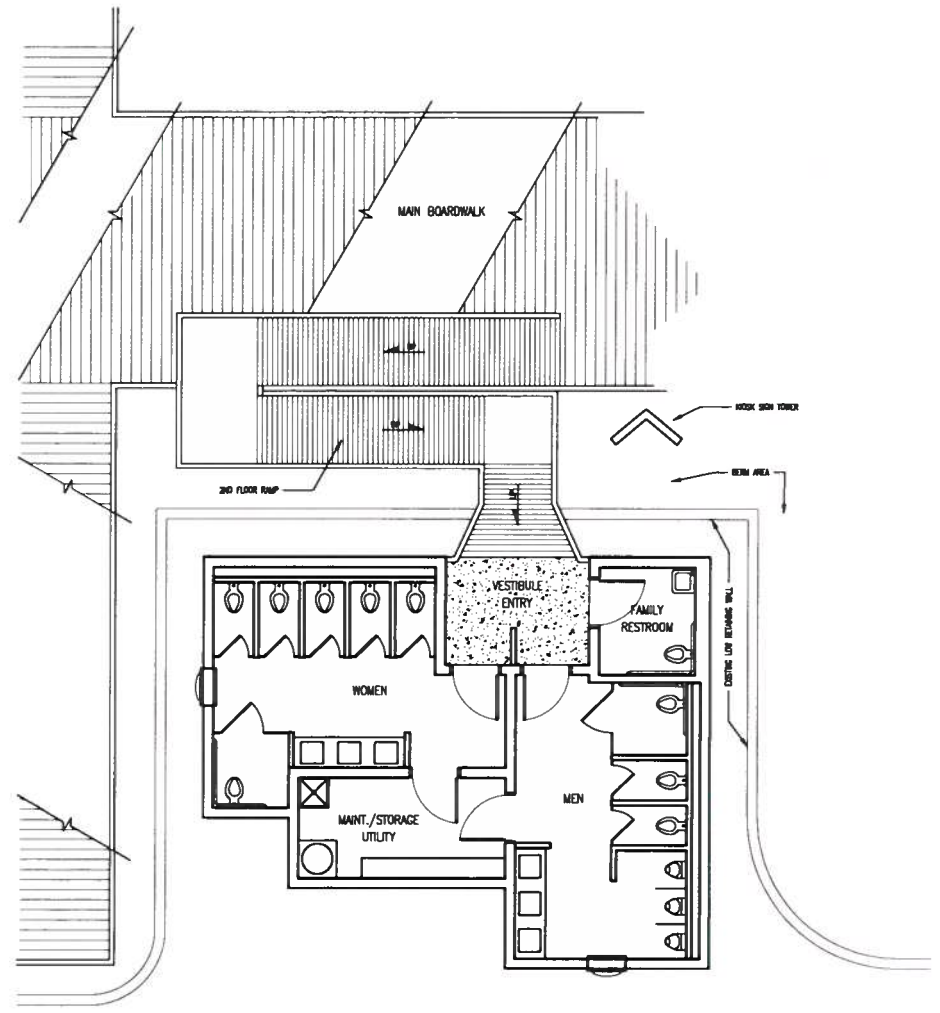


B EAST ELEVATION (option A)
SCALE: 1/8"=1'-0"

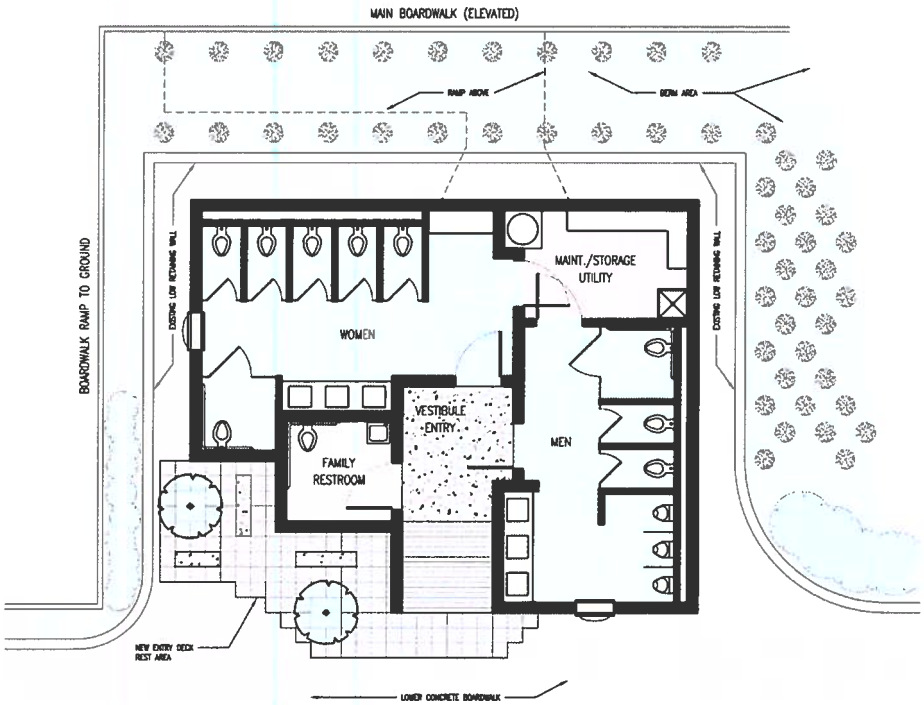
EXHIBIT
66-(1-2)
Lobbies



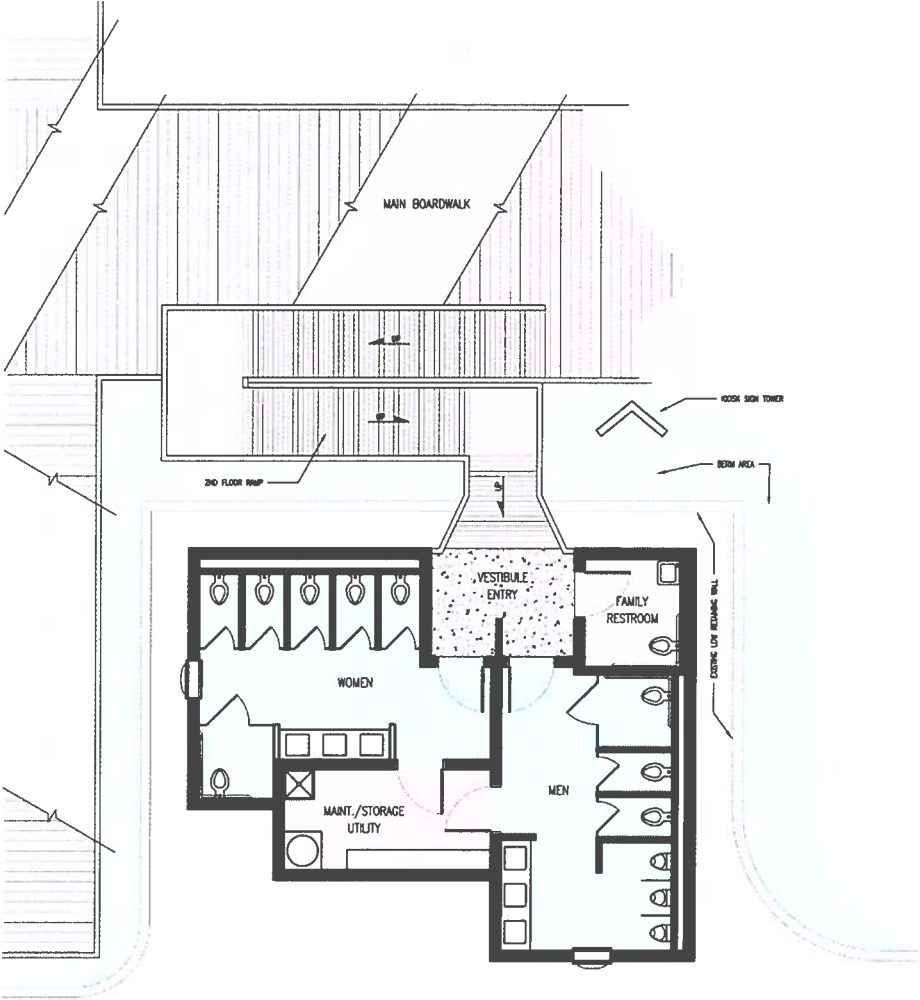
A GROUND FLOOR PLAN / SITE AREA
SCALE: 1/8"=1'-0"



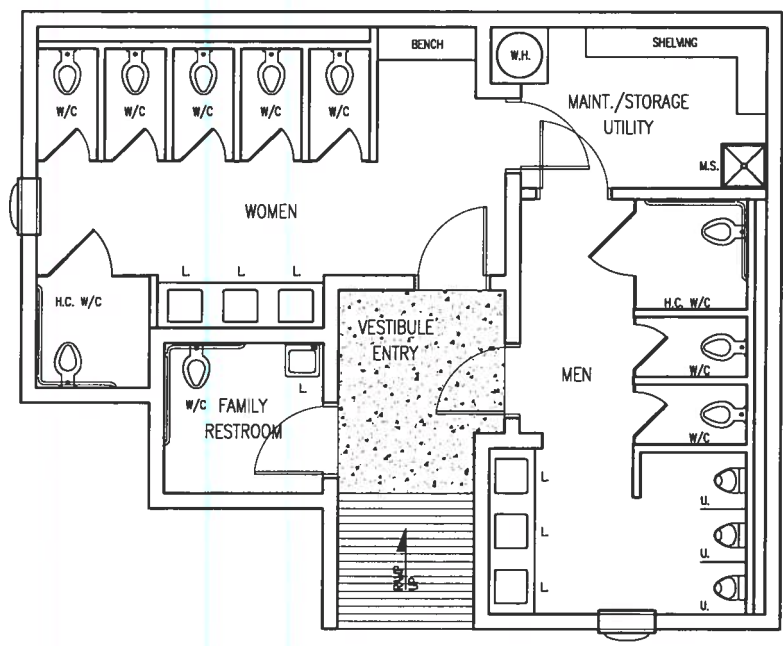
B SECOND FLOOR PLAN / SITE AREA
SCALE: 1/8"=1'-0"



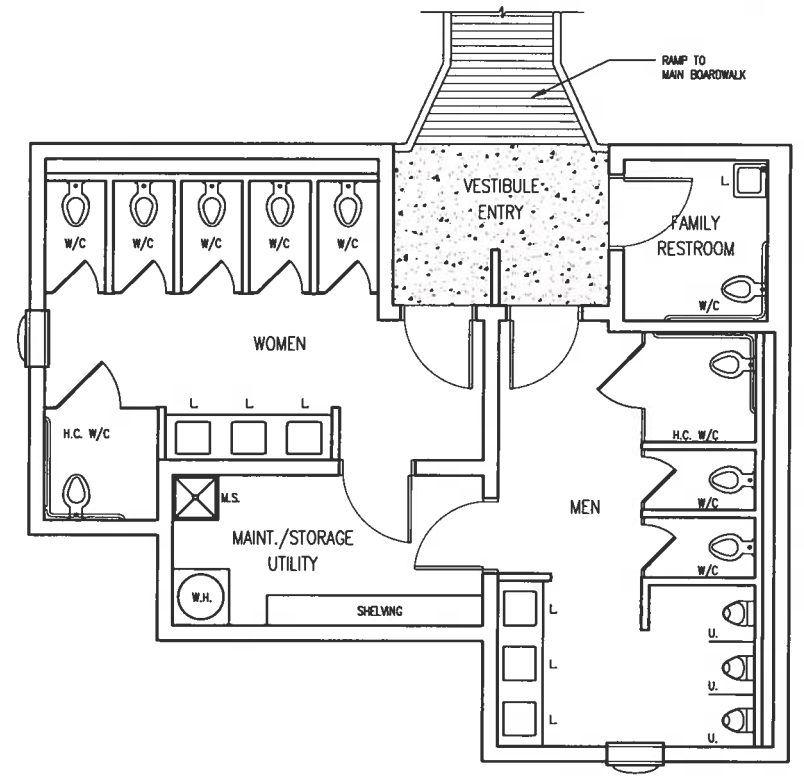
A GROUND FLOOR PLAN / SITE AREA
SCALE: 1/8"=1'-0"



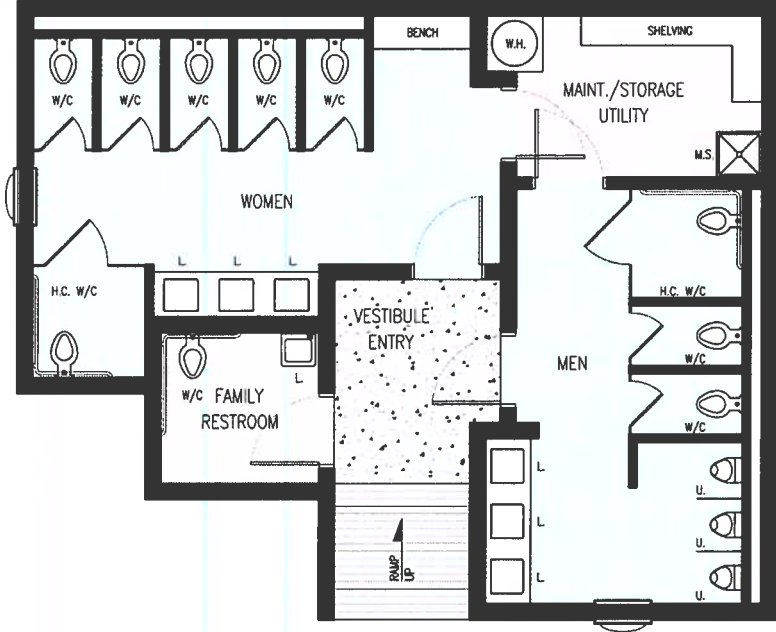
B SECOND FLOOR PLAN / SITE AREA
SCALE: 1/8"=1'-0"



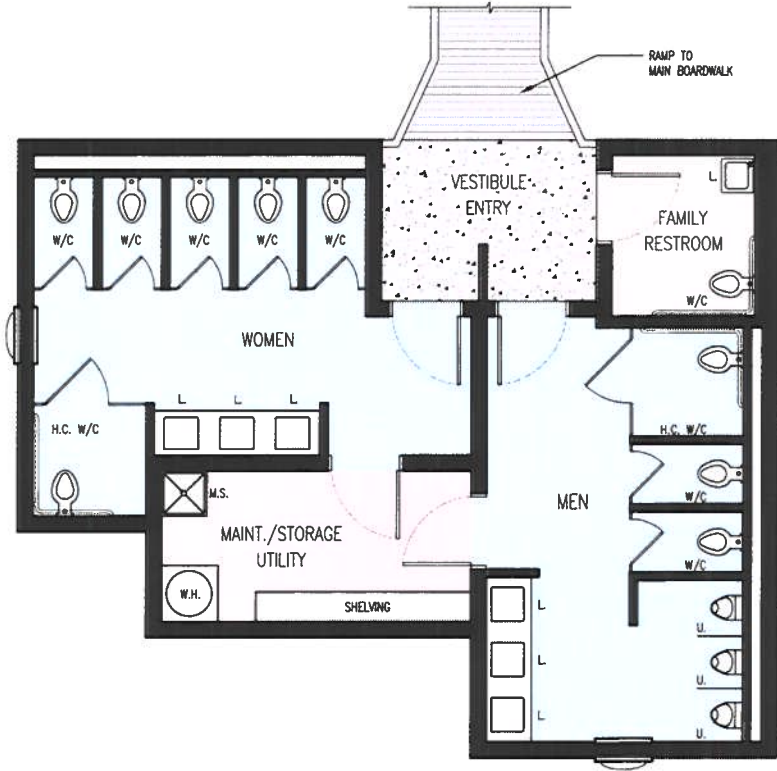
A GROUND FLOOR PLAN
SCALE: 3/16"=1'-0"



B SECOND FLOOR PLAN
SCALE: 3/16"=1'-0"



A GROUND FLOOR PLAN
SCALE: 3/16"=1'-0"

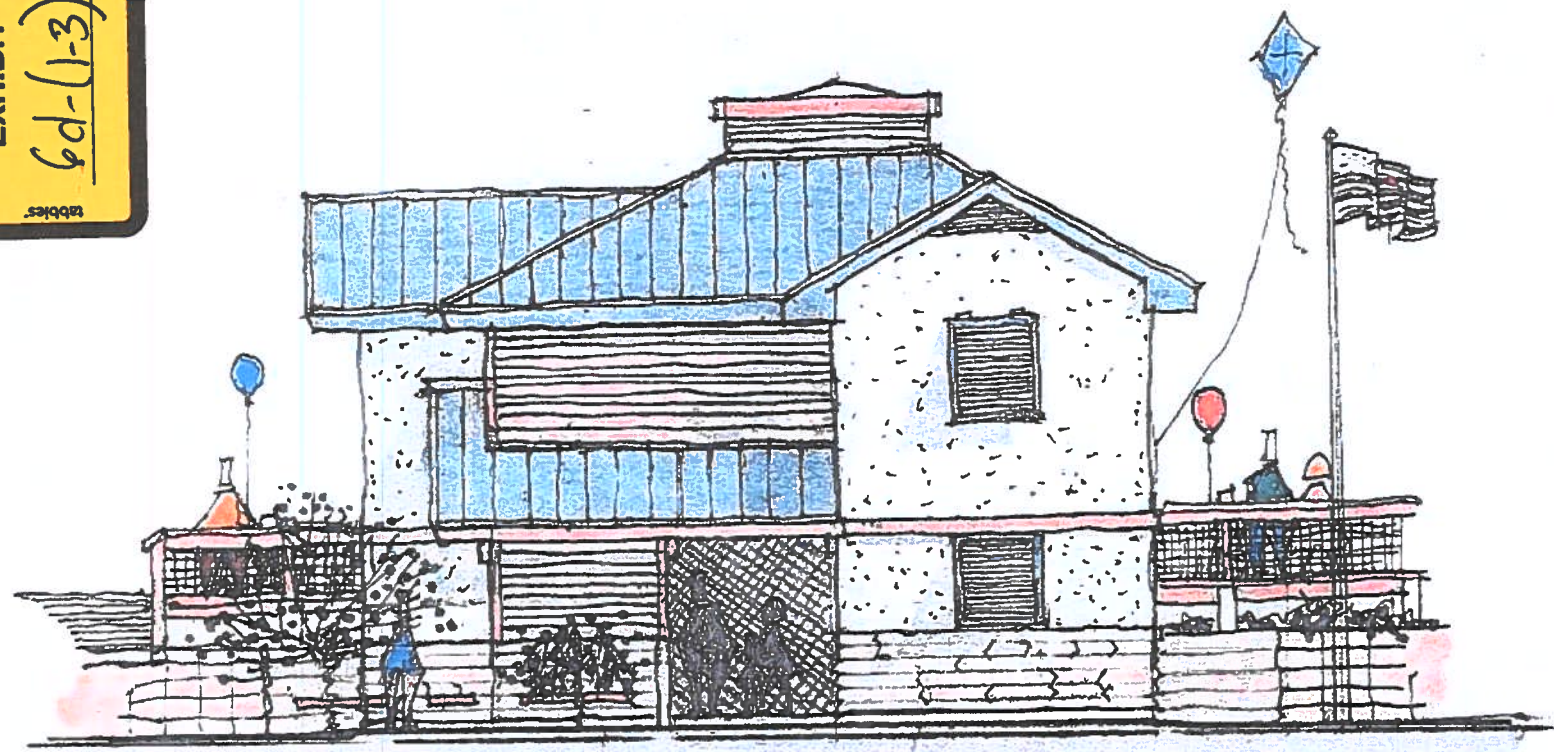


B SECOND FLOOR PLAN
SCALE: 3/16"=1'-0"

EXHIBIT

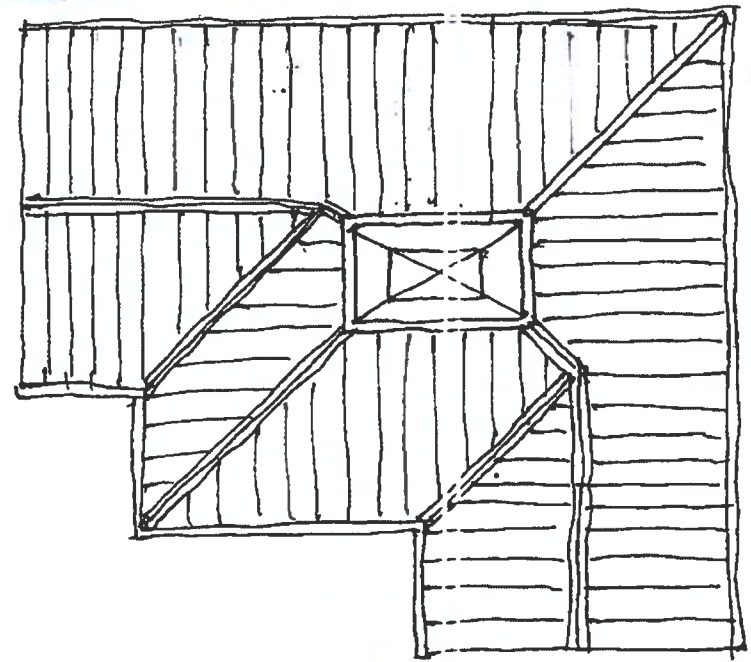
6d-(1-3)

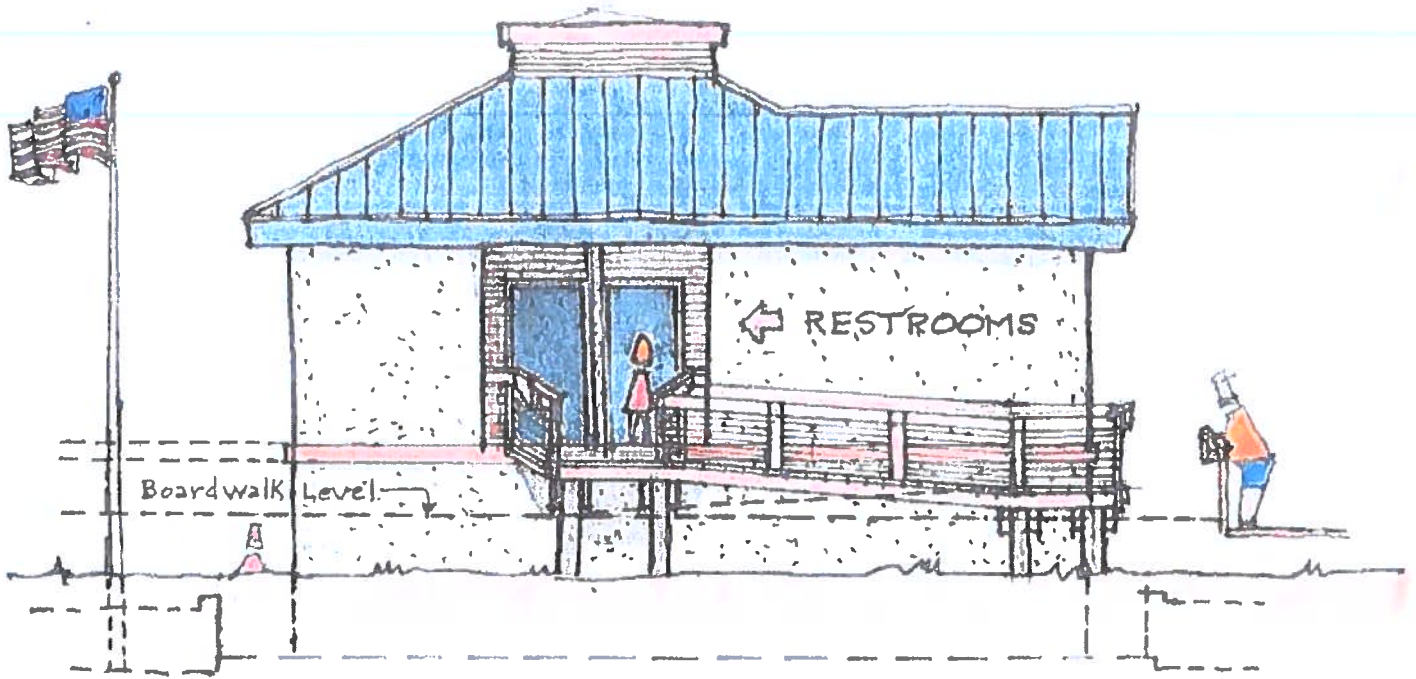
043



WEST ELEVATION

$\frac{1}{8}'' = 1'-0''$

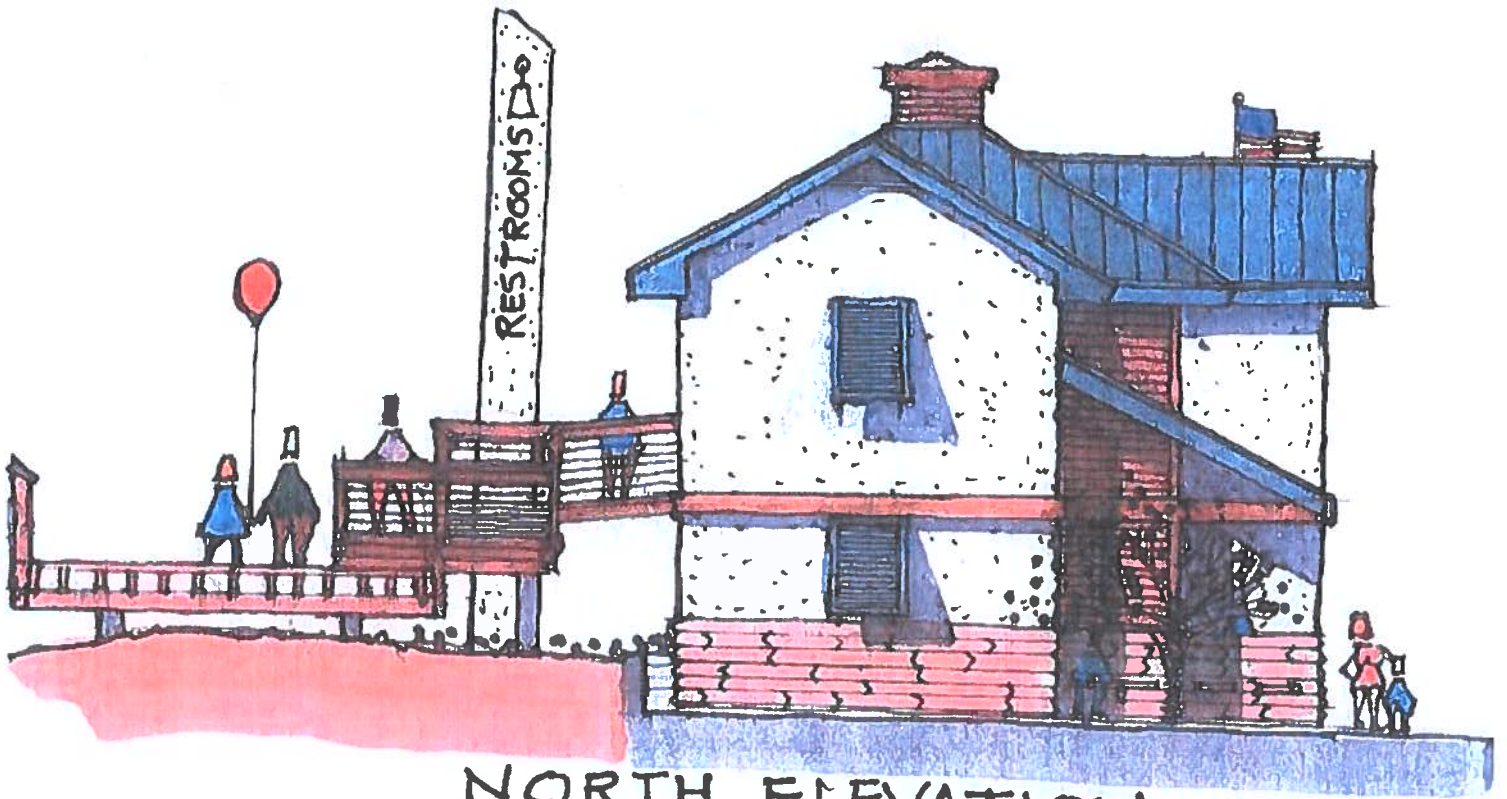




EAST ELEVATION

BOARDWALK SIDE

$\frac{1}{8}'' = 1'-0''$



NORTH ELEVATION

$\frac{1}{8}'' = 1'-0''$

AEC HAZARD NOTICEProject Is In An: X Ocean Erodlble Area High Hazard Flood Area Inlet Hazard AreaProperty Owner: TOWN of CAROLINA BEACHProperty Address: 9 BOARDWALK

Date Lot Was Platted: _____

This notice is intended to make you, the applicant, aware of the special risks and conditions associated with development in this area, which is subject to natural hazards such as storms, erosion and currents. The rules of the Coastal Resources Commission require that you receive an AEC Hazard Notice and acknowledge that notice in writing before a permit for development can be issued.

The Commission's rules on building standards, oceanfront setbacks and dune alterations are designed to minimize, but not eliminate, property loss from hazards. By granting permits, the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development. Permits issued in the Ocean Hazard Area of Environmental Concern include the condition that structures be relocated or dismantled if they become imminently threatened by changes in shoreline configuration. The structure(s) must be relocated or dismantled within two (2) years of becoming imminently threatened, and in any case upon its collapse or subsidence.

The best available information, as accepted by the Coastal Resources Commission, indicates that the annual long-term average ocean erosion rate for the area where your property is located is 2 feet per year.

The rate was established by careful analysis of aerial photographs of the coastline taken over the past 50 years.

Studies also indicate that the shoreline could move as much as 420 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 12-15 feet deep in this area.

Preferred oceanfront protection measures are beach nourishment and relocation of threatened structures. Hard erosion control structures such as bulkheads, seawalls, revetments, groins, jetties and breakwaters are prohibited. Temporary sand bags may be authorized under certain conditions.

The applicant must acknowledge this information and requirements by signing this notice in the space below. Without the proper signature, the application will not be complete.


Applicant Signature

9/7/22
Date

SPECIAL NOTE: This hazard notice is required for development in areas subject to sudden and massive storms and erosion. Permits issued for development in this area expire on December 31 of the third year following the year in which the permit was issued. Shortly before work begins on the project site, the Local Permit Officer must be contacted to determine the vegetation line and setback distance at your site. If the property has seen little change since the time of permit issuance, and the proposed development can still meet the setback requirement, the LPO will inform you that you may begin work. Substantial progress on the project must be made within 60 days of this setback determination, or the setback must be remeasured. Also, the occurrence of a major shoreline change as the result of a storm within the 60-day period will necessitate remeasurement of the setback. It is important that you check with the LPO before the permit expires for official approval to continue the work after the permit has expired. Generally, if foundation pilings have been placed and substantial progress is continuing, permit renewal can be authorized. It is unlawful to continue work after permit expiration.

For more information, contact:

Local Permit Officer

Town of Carolina Beach
Address 1121 N Lake Park Blvd
Carolina Beach, NC 28428

Locality

Phone Number

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SEP 07 2022

DCM WILMINGTON, NC

Revised 2/07

BEFORE YOU BUILD

Setting Back for Safety: A Guide to Wise Development Along the Oceanfront

When you build along the oceanfront, you take a calculated risk. Natural forces of water and wind collide with tons of force, even on calm days.

Man-made structures cannot be guaranteed to survive the force of a hurricane. Long-term erosion (or barrier island migration) may take from two to ten feet of the beach each year, and, sooner or later, will threaten oceanfront structures. These are the facts of life for oceanfront property owners.

The Coastal Resources Commission (CRC) has adopted rules for building along the oceanfront. The rules are intended to avoid an unreasonable risk to life and property, and to limit public and private losses from storms and long-term erosion. These rules lessen but do not eliminate the element of risk in oceanfront development.

As you consider building along the oceanfront, the CRC wants you to understand the rules and the risks. With this knowledge, you can make a more informed decision about where and how to build in the coastal area.

The Rules

When you build along the oceanfront, coastal management rules require that the structure be sited to fit safely into the beach environment.

Structures along the oceanfront must be behind the frontal dune, landward of the crest of the primary dune, and set back from the first line of stable natural vegetation a distance equal to 30 times the annual erosion rate (a minimum of 60 feet). Large structures (multi-family residential structures greater than 5,000 square feet and nonresidential structures greater than 5,000 square feet) must be set back from the first line of natural stable vegetation a distance equal to 60 times the annual erosion rate of 120 feet, whichever

is greater. If the erosion rate is greater than 3.5 feet/year, the setback is 30 times the erosion rate plus 105 feet.

The Reasons

The beachfront is an ever-changing landform. The beach and the dunes are natural "shock absorbers," taking the beating of the wind and waves and protecting the inland areas. By setting back 30 or 60 times the annual long-term erosion rate, you have a good chance of enjoying the full life of the structure. At first, it seems very inviting to build your dream house as close to the beach as possible, but in five years you could find the dream has become a nightmare as high tides and storm tides threaten your investment.

The Exception

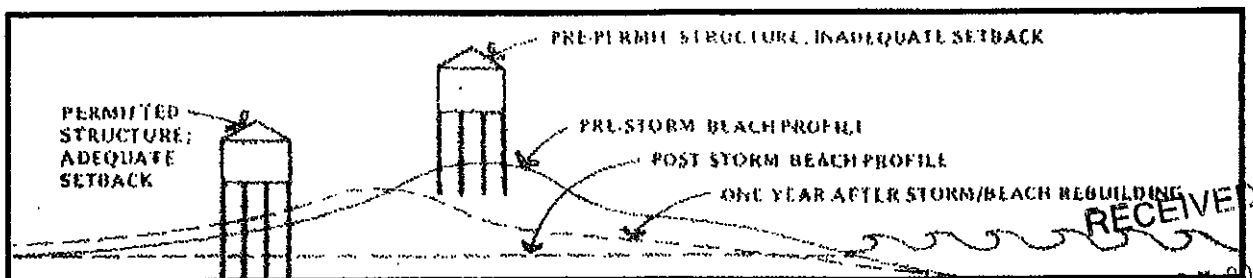
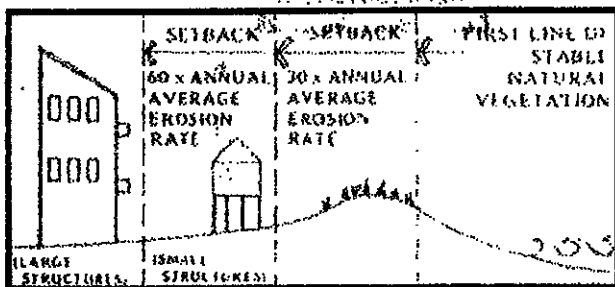
The Coastal Resources Commission recognized that these rules, initially passed in June 1979, might prove a hardship for some property owners. Therefore, they established an exception for lots that cannot meet the setback requirement. The exception allows buildings in front of the setback line if the following conditions apply:

(1) the lot must have been platted as of June 1, 1979, and is not capable of being enlarged by combining with adjoining land under the same ownership; (2) development must be as far back on the property as possible and in no case less than 60 feet landward of the vegetation line; (3) no development can take place on the frontal dune; (4) special construction standards on piling depth and square footage must be met; and (5) all other CAMA, state and local regulations must be met.

The exception is not available in the Inlet Hazard Area.

To determine eligibility for the exception, the Local Permit Officer will make these measurements and observations:

- _____ required setback from vegetation line
- _____ exception setback (maximum feasible)
- _____ rear property line setback
- _____ max. allowable square footage on lowest floor
- _____ lot area as calculated from vegetation line
- _____ piling length needed to extend 4 feet below MSL



After the storm, the house on the dune will be gone. The other house has a much better chance of survival.

SEP 07 2022
DCM WILMINGTON, NC

Sec. 30-95. - Variance procedures.

- (a) The board of adjustments as established by the Town, hereinafter referred to as the "appeal board," shall hear and decide requests for variances from the requirements of this chapter.
- (b) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in G.S. Chapter 7A.
- (c) Variances may be issued for:
 - (1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - (2) Functionally dependent facilities if determined to meet the definition in section 30-235 and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (3) Any other type of development, provided it meets the requirements stated in this section.
- (d) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location, as defined under article II of this chapter as a functionally dependent facility, where applicable;
 - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (e) A written report addressing each of the factors in subsection (d) of this section shall be submitted with the application for a variance.
- (f) Upon consideration of the factors listed in subsection (d) of this section and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to

further the purposes of this chapter.

- (g) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (h) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25.00 per \$100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (i) Conditions for variances.
 - (1) Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (3) Variances shall only be issued prior to development permit approval.
 - (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (5) Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (j) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met:
 - (1) The use serves a critical need in the community.
 - (2) No feasible location exists for the use outside the special flood hazard area.
 - (3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
 - (4) The use complies with all other applicable federal, state and local laws.
 - (5) The Town has notified the secretary of the state department of crime control and public safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

NOTICE

CAMA PERMIT APPLIED FOR

PROJECT: Applicant proposes to replace an
~~existing public bathroom facility with a new two-~~
~~story, 36' x 28' public bathroom facility adj. to the~~
~~existing boardwalk at 9 Boardwalk, adj. to the~~
 Atlantic Ocean in Carolina Beach, New Hanover

COMMENTS ACCEPTED THROUGH October 5, 2022

APPLICANT:

Town of Carolina Beach

c/o Bruce Oakley

1121 N Lake Park Blvd

Carolina Beach, NC 28426

(910) 458-2999



FOR MORE DETAILS CONTACT
THE LOCAL PERMIT OFFICER BELOW:

NC Div. of Coastal Management

127 Cardinal Dr. Ext.

Wilmington, NC 28405

Bryan Hall (910) 796-7423

Agent: n/a

Ad Preview**NOTICE OF FILING OF
APPLICATION FOR CAMA
MINOR
DEVELOPMENT PERMIT**

The Department of Environmental Quality hereby gives public notice as required by NCGS 113A-119(b) that the following applications were submitted for a development permits in Areas of Environmental Concern as designated under the CAMA: On September 16, 2022, the Town of Carolina Beach proposes to replace an existing public bathroom facility with a new two-story, 36' x 28' public bathroom facility adjacent to existing boardwalk at 9 Boardwalk, adjacent to the Atlantic Ocean in Carolina Beach, New Hanover County. Copies of these applications can be examined or copied at the office of Bryan Hall N.C. Dept. of Environmental Quality, Division of Coastal Management, 127 Cardinal Drive Ext., Wilmington, NC 28405, (910) 796-7423 during normal business hours.

Comments mailed to Braxton C. Davis, Director, Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557-3421, prior to October 5, 2022 will be considered in making the permit decision. Later comments will be accepted and considered up to the time of permit decision. Project modification may occur based on review and comment by the public and state and federal agencies. Notice of the permit decision in these matters will be provided upon written request.



StarNews | The Dispatch | Times-News
 Sun Journal | The Daily News | The Star
 The Free Press | Gaston Gazette
 The Fayetteville Observer

052

Order Confirmation

Not an Invoice

Account Number:	489895
Customer Name:	Coastal Mgmt
Customer Address:	Coastal Mgmt 127 CARDINAL EXT. DR WILMINGTON NC 28405
Contact Name:	Coastal Mgmt
Contact Phone:	9107967215
Contact Email:	
PO Number:	

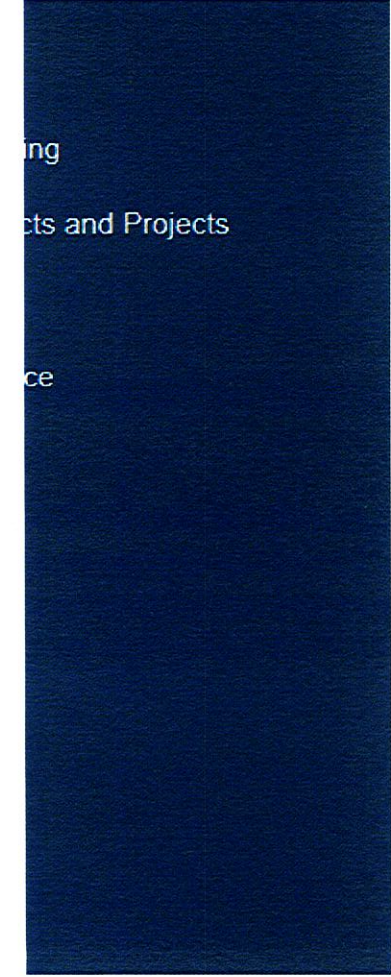
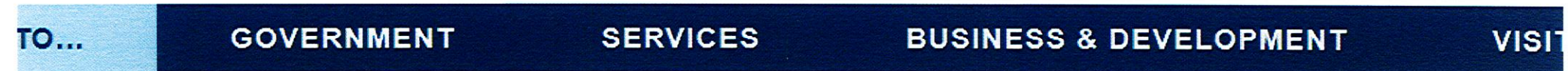
Date:	09/28/2022
Order Number:	7853104
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	44.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
WLM StarNews	1	10/02/2022 - 10/02/2022	Govt Public Notices
WLM starnewsonline.com	1	10/02/2022 - 10/02/2022	Govt Public Notices

Total Order Confirmation	\$145.20
---------------------------------	-----------------



News

Font Size: [Share & Box](#)

Boardwalk Bathrooms CAMA Minor Permit Applied For

Post Date: 09/28/2022

The Town has applied for a CAMA Minor Permit through the NC Division of Coastal Management to rebuild the bathro boardwalk. The proposed bathrooms would be a 2 story - 36'x28' facility. The second floor would be accessible via the boardwalk. To view the proposed plans click [here](#). The public is invited to comment on the project by October 5th. Cor be sent Bryan Hall with the NC Division of Coastal Management (bryan.l.hall@ncdenr.gov 910-796-7423).

[Retur](#)

Free viewers are required for some of the attached documents.
They can be downloaded by clicking on the icons below.



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SEP 29 2022

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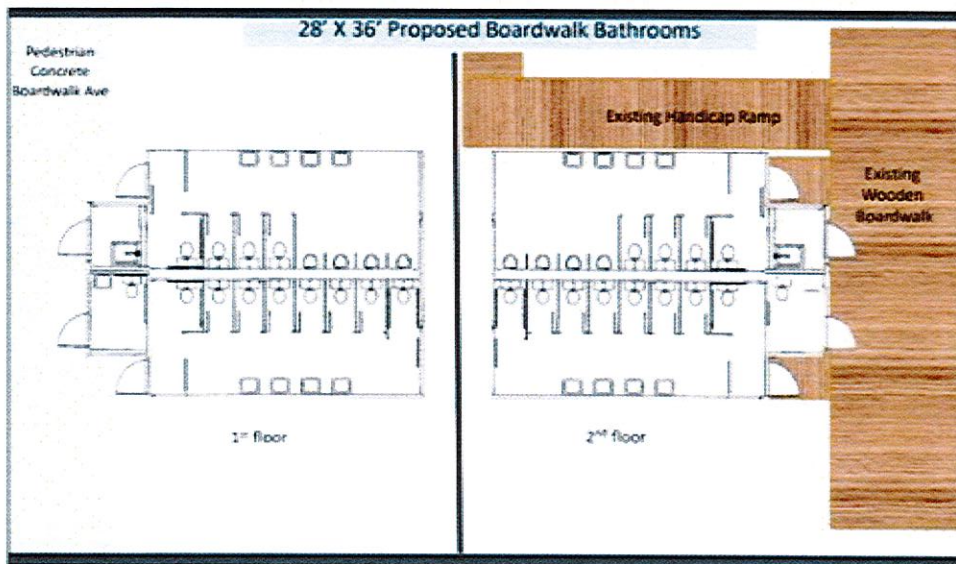


Town of Carolina Beach Government, NC

5h · 🌐

The Town has applied for a CAMA Minor Permit through the NC Division of Coastal Management to rebuild the bathrooms at the boardwalk. The proposed bathrooms would be a 2 story - 36'x28' facility. The second floor would be accessible via the existing boardwalk. To view the proposed plans click here. The public is invited to comment on the project by October 5th. Comments can be sent Bryan Hall with the NC Division of Coastal Management (bryan.l.hall@ncdenr.gov 910-796-7423).

CAMA PERMIT APPLIED FOR



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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Carolina Beach Land Holdings LLC
 1202 Lake Park Blvd N Suite A
 Carolina Beach NC 28428



9590 9402 5697 9346 4007 37

2. Article Number (Transfer from service label)

7016 0910 0001 1903 9494

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A. Signature

X  Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

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- | | |
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PS Form 3811, July 2015 PSN 7530-02-000-9053

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Street and Apt. No., or PO Box No. **PO BOX 2304**

City, State, ZIP+4® **Carolina Beach NC 28428**

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

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Street and Apt. No., or PO Box No. **205 Greenville Ave**

City, State, ZIP+4® **Carolina beach NC 28428**

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

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Street and Apt. No., or PO Box No. **1202 Lake Park Blvd N suite A**

City, State, ZIP+4® **Carolina Beach NC 28428**

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

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SEP 07 2022

DCM WILMINGTON, NC

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

9/7/2022

Date

JLM Partnership LLC
Name of Adjacent Riparian Property Owner
205 Greenville Ave
Address
Carolina Beach, NC 28428
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 construction of a 2 story - 36'28' bathroom facility on my property at 9 Boardwalk, Carolina Beach, in New Hanover 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: (Gloria Abbotts, Town of Carolina Beach, 1121 N Lake Park Blvd, Town of Carolina Beach, NC, 28428)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (Gloria Abbotts) at (910-458-8380), or by email at: (gloria.abbotts@carolinabeach.org).

Sincerely,

Bruce Oakley - Town Manager

910-458-2999

Property Owner's Name

Telephone Number

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.

Adjacent Riparian Signature

Date

Print or Type Name

Telephone Number

Address

City

State

Zip

RECEIVED
SEP 07 2022
DCM WILMINGTON, NC

058
N.C. DIVISION OF COASTAL MANAGEMENT
ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT)
CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

9/7/2022

Date

URCOWA Investments LLC
Name of Adjacent Riparian Property Owner
PO BOX 2304
Address
Carolina Beach, NC 28428
City, State Zip

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Property Owner's Name

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Address

City

State

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_____ I have objection(s) to the project described in this correspondence.

Adjacent Riparian Signature

Date

Print or Type Name

Telephone Number

Address

City

State

Zip

RECEIVED
SEP 07 2022
DCM WILMINGTON, NC

059
N.C. DIVISION OF COASTAL MANAGEMENT
ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT)
CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

9/7/2022

Date

Carolina Beach Land Holdings LLC
Name of Adjacent Riparian Property Owner
1202 Lake Park Blvd N Suite A
Address
Carolina Beach, NC 28428
City, State Zip

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Bruce Oakley – Town Manager

910-458-2999

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Address

City

State

Zip

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_____ I have objection(s) to the project described in this correspondence.

Adjacent Riparian Signature

Date

RECEIVED

Print or Type Name

Telephone Number

SEP 07 2022

DCM WILMINGTON, NC

Address

City

State

Zip

Revised July 2021

Tracking Number:

Remove X

70160910000119039517

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Latest Update

Your item was picked up at the post office at 2:08 pm on September 19, 2022 in CAROLINA BEACH, NC 28428.

Feedback

Get More Out of USPS Tracking:**USPS Tracking Plus[®]**

Delivered

Delivered, Individual Picked Up at Post Office

CAROLINA BEACH, NC 28428

September 19, 2022, 2:08 pm

Reminder to Schedule Redelivery of your item

September 15, 2022

Notice Left (No Authorized Recipient Available)

CAROLINA BEACH, NC 28428

September 10, 2022, 5:11 pm

Out for Delivery

CAROLINA BEACH, NC 28428

September 10, 2022, 8:21 am

Arrived at Post Office

CAROLINA BEACH, NC 28428

September 10, 2022, 8:10 am

Departed USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX
September 10, 2022, 3:52 am

Arrived at USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX
September 9, 2022, 9:20 am

Arrived at USPS Regional Facility

CHARLOTTE NC DISTRIBUTION CENTER
September 8, 2022, 11:33 pm

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USPS Tracking Plus®



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Enter tracking or barcode numbers

Need More Help?

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FAQs

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Latest Update

Your item was delivered to an individual at the address at 10:06 am on October 3, 2022 in CAROLINA BEACH, NC 28428.

Feedback

Get More Out of USPS Tracking:**USPS Tracking Plus[®]**

Delivered

Delivered, Left with Individual

CAROLINA BEACH, NC 28428

October 3, 2022, 10:06 am

Redelivery Scheduled for Next Business Day

CAROLINA BEACH, NC 28428

October 1, 2022, 9:18 am

Distribution to PO Box in Progress

CAROLINA BEACH, NC 28428

October 1, 2022, 9:08 am

Arrived at Post Office

CAROLINA BEACH, NC 28428

October 1, 2022, 8:00 am

Departed USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX

September 30, 2022, 1:37 pm

Arrived at USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX

September 30, 2022, 9:09 am

Departed USPS Regional Facility

RALEIGH NC DISTRIBUTION CENTER

September 29, 2022, 5:45 pm

Arrived at USPS Regional Facility

RALEIGH NC DISTRIBUTION CENTER

September 29, 2022, 10:37 am

Unclaimed/Being Returned to Sender

CAROLINA BEACH, NC 28428

September 27, 2022, 8:42 am

Reminder to pick up your item before September 24, 2022

CAROLINA BEACH, NC 28428

September 15, 2022

Available for Pickup

CAROLINA BEACH, NC 28428

September 10, 2022, 8:11 am

Arrived at Post Office

CAROLINA BEACH, NC 28428

September 10, 2022, 8:10 am

Departed USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX

September 10, 2022, 3:52 am

Arrived at USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX

September 9, 2022, 9:21 am

Arrived at USPS Regional Facility

CHARLOTTE NC DISTRIBUTION CENTER

September 8, 2022, 11:30 pm

Hide Tracking History

Tracking Number:

Remove X

70160910000119039494

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Add to Informed Delivery

[\(https://informedelivery.usps.com/\)](https://informedelivery.usps.com/)

Latest Update

Your item was picked up at the post office at 3:23 pm on September 20, 2022 in CAROLINA BEACH, NC 28428.

Feedback

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Delivered

Delivered, Individual Picked Up at Post Office

CAROLINA BEACH, NC 28428
September 20, 2022, 3:23 pm

No Access to Delivery Location

CAROLINA BEACH, NC 28428
September 10, 2022, 2:31 pm

Out for Delivery

CAROLINA BEACH, NC 28428
September 10, 2022, 8:21 am

Arrived at Post Office

CAROLINA BEACH, NC 28428
September 10, 2022, 8:10 am

Departed USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX

065

September 10, 2022, 3:52 am

Arrived at USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX

September 9, 2022, 9:23 am

Arrived at USPS Regional Facility

CHARLOTTE NC DISTRIBUTION CENTER

September 8, 2022, 11:30 pm

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Text & Email Updates



USPS Tracking Plus®



Product Information



See Less

Feedback

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

Hall, Bryan L

From: Amanda LaValley <ALaValley@CatawbaCountyNC.gov>
Sent: Thursday, September 29, 2022 4:01 PM
To: Hall, Bryan L
Subject: [External] Carolina Beach boardwalk bathrooms

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

LOVE seeing that this project is on the table. One of the many issues with the current ones is the sand and such being drug in. Maybe next we could add some changing rooms to try to keep the sand out of the stalls from those using this as their beach access?

Thanks!

Amanda LaValley
Eligibility Specialist

Need more information about your benefits? You can access information about your benefits by downloading the ebtEDGE app on your smart device or login at www.ebtedgemobile.com

All records of communications to or from this email address are public records resulting in monitoring and potential disclosure of this message to third parties upon request, unless an exception applies. This message may contain confidential information and is intended only for the individual named. If you are not the named addressee, you should not disseminate, distribute or copy this email. Please notify the sender immediately by email if you have received this email by mistake and delete it from your system.

From: [Hall, Bryan L](#)
To: [David Hall](#)
Subject: RE: [External] CB Boardwalk Bathroom Cama Minor Plans
Date: Monday, October 3, 2022 8:12:00 AM
Attachments: [image001.png](#)
[image002.png](#)

Thank you for your email. The Division is reviewing the Town of Carolina Beach's application. The Division permits the footprint of the facility as it relates to the Coastal Area Management Act. For any design-related questions or suggestions, it's best to contact the town. Let me know if you have any questions.

Thanks,

Bryan Hall
Field Representative
NC Division of Coastal Management
Department of Environmental Quality

(910) 796-7423 office
bryan.l.hall@ncdenr.gov

127 Cardinal Drive Ext
Wilmington, NC 28405

[Find a Field Rep \(arcgis.com\)](#)



From: David Hall <david.hall@trshvac.com>
Sent: Thursday, September 29, 2022 10:39 PM
To: Hall, Bryan L <Bryan.L.Hall@ncdenr.gov>
Subject: [External] CB Boardwalk Bathroom Cama Minor Plans

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Bryan,

Will the bathroom incorporate any hot water and will you guys provide some ventilation for these bathhouses? I am a local resident as well as a manufacturers representative for commercial hvac and ventilation. My family uses these facilities when necessary and would love an opportunity to discuss

a few products. Primarily I am wanting to eliminate odors, promote healthy/breathable air, and prohibit any mold growth in the facility as I would assume these bathrooms will not be cooled in the Summer and only enough heat to keep the pipes from freezing in the winter.

Stay safe during the storm and we can talk early next week if that is possible.

Thanks,
David

David and Kristin Hall
404 Charlotte Ave
Carolina Beach, NC

David Hall



Sales Engineer-TRS

cell: [910-616-3013](tel:910-616-3013) email: david.hall@trshvac.com

7215 Ogden Business Lane Ste. 109, Wilmington, NC 28411

www.trs-sesco.com

This email originated from a smartphone device. Please excuse any misspelled words or grammatical errors.

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director



NORTH CAROLINA
Environmental Quality

October 4, 2022

CERTIFIED MAIL – 7018 3090 0000 0969 0006
RETURN RECEIPT REQUESTED

Town of Carolina Beach
c/o Bruce Oakley
1121 N. Lake Park Blvd.
Carolina Beach, NC 28428

RE: **DENIAL OF CAMA MINOR DEVELOPMENT PERMIT**
APPLICATION NUMBER- # CB22-13
PROJECT ADDRESS- Located at 9 Boardwalk

Dear Mr. Oakley:

After reviewing the Town of Carolina Beach's application in conjunction with the development standards established through rules of the N.C. Coastal Resources Commission (CRC) and in accordance with the N.C. Coastal Area Management Act (CAMA), the proposed permit application must be denied due to inconsistencies with specific CRC rules.

The town has applied to replace an existing public bathroom facility with a new two-story, 36' x 28' public bathroom facility adjacent to the existing boardwalk at 9 Boardwalk. The Town of Carolina Beach has an active static line exception that allows the oceanfront setback to be measured from the vegetation line per 15A NCAC 07H .0306(a)(8), however the proposed development is inconsistent with 15A NCAC 07H .0306(a)(9)(C), which states in part: "No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent habitable building or structure". The proposed development is also not among the listed exceptions under 15A NCAC 07H .0309(a), which are allowed oceanward of the pre-project vegetation line (static line).

Should you wish to appeal my decision to the N.C. Office of Administrative Hearings (within twenty days of the date of this letter), please contact me so I can provide you with the proper forms and any other information you may require. Based on our recent communications, it is our understanding that the Town intends to pursue a petition for a variance from the N.C. Coastal Resources Commission. The Division remains committed to supporting this petition and assisting in any way so that it can be heard at the April meeting, provided your variance request is submitted in a timely matter. As previously discussed, the scheduled deadline for a variance petition for the November meeting is October 5, 2022, unless an extension is requested and granted by the CRC Chair. Please let us know if you have any questions or if we can assist in the submittal of your request. Your Town Attorney may contact our attorney, DEQ Asst. GC Christy Goebel at Christine.goebel@ncdenr.gov with any questions about the variance process.

Sincerely,

A handwritten signature in black ink that reads "Robb Mairs".

Robb Mairs

DCM-Minor Permits Coordinator



North Carolina Department of Environmental Quality | Division of Coastal Management
Wilmington Office | 127 Cardinal Drive Extension | Wilmington, North Carolina 28405
910.796.7215

070
CRAIGE & FOX
ATTORNEYS & COUNSELORS AT LAW

701 Market Street / Wilmington, North Carolina 28401
Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

LAWRENCE S. CRAIGE*
CHARLOTTE NOEL FOX

*NC Board Certified Specialist in Elder Law

JENNIFER M. RODEN*

*NC Board Certified Specialist in Elder Law
*National Elder Law Foundation Certified Elder Law Attorney

December 27, 2022

URCOWA Investments, LLC
PO BOX 2304
Carolina Beach, NC 28428
Via US Certified Mail # 7019 2280 0000 1683 4755

Re: Variance Request – Town of Carolina Beach

To Whom It May Concern,

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 0711.0306 (a)(9) and 15 NCAC 0711.0309 (a) in order to construct a two story bathroom facility which will connect to the Carolina Beach Boardwalk.

If the CRC grants the requested variance, the two story bathroom facility will be constructed on the public land located adjacent to your property.

The Town's variance request will be heard at the next regularly scheduled meeting of the CRC, currently scheduled to be held on February 23rd and 24th at the Ocean Isle Beach Town Hall, 111 Causeway Drive, Ocean Isle.

If you have any questions or comments about the Town's proposed project, please contact the Town Attorney, Noel Fox, Esq. at (910) 815-0085, or via e-mail at enfox@craigeandfox.com, or by United States mail at the address listed below. If you wish to file written comments in support of, or objecting to the Town's proposed project, you should send your comments by e-mail, fax or regular United States Mail, addressed to the Division of Coastal Management, as follows:

PRACTICE AREAS

Elder Law / Estate Administration / Estate Planning
Fiduciary Litigation / Guardianships / Municipal Law

Braxton Davis, Director
E-mail: Braxton.Davis@ncdcmr.gov
Division of Coastal Management
400 Commerce Ave
Morehead City, NC 28557
252-808-2808 / 1-888-4RCOAST (1-888-472-6278)
Fax: 252-247-3330

Sincerely,

Charlotte Noel Fox, Town Attorney
Town of Carolina Beach
1121 N Lake Park Blvd.
Carolina Beach NC 28428

U.S. Postal Service™

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- Adult Signature Required \$ _____
- Adult Signature Restricted Delivery \$ _____

Postmark
Here

Postage

\$

Total Postage and Fees

\$

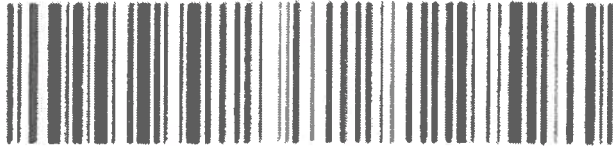
Send To

URCOWA Investments, LLC
 P.O. BOX 2304
 Carolina Beach, NC

55 4 504 1111 1033 1111

073

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**United States
Postal Service**

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CRAIGE & FOX, PLLC
Attorneys at Law
701 Market Street
Wilmington, NC 28401

074

CRAIGE & FOX

ATTORNEYS & COUNSELORS AT LAW

701 Market Street • Wilmington, North Carolina 28401

CERTIFIED MAIL®



7019 2280 0000 1683 4755

URCOWA Investments, LLC
PO Box 2304
Carolina Beach, NC 28428

CRAIGE & FOX

ATTORNEYS & COUNSELORS AT LAW

701 Market Street / Wilmington, North Carolina 28401

Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.comLAWRENCE S. CRAIGE*
CHARLOTTE NOEL FOX*North Carolina Board Certified Specialist in Elder Law

JENNIFER M. RODEN*

*North Carolina Board Certified Specialist in Elder Law
*North Carolina Board Certified Specialist in Elder Law Attorney

December 27, 2022

JLM Partnership, LLC
205 Greenville Ave
Carolina Beach, NC 28428
*Via US Certified Mail # 7019 2280 0000 1683 4748****Re: Variance Request – Town of Carolina Beach*****To Whom It May Concern,**

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 0711.0306 (a)(9) and 15 NCAC 0711.0309 (a) in order to construct a two story bathroom facility which will connect to the Carolina Beach Boardwalk.

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PRACTICE AREAS

Elder Law / Estate Administration / Estate Planning
Fiduciary Litigation / Guardianships / Municipal Law

Braxton Davis, Director
E-mail: Braxton.Davis@ncdenr.gov
Division of Coastal Management
400 Commerce Ave
Morehead City, NC 28557
252-808-2808 / 1-888-4RCOAST (1-888-472-6278)
Fax: 252-247-3330

Sincerely,

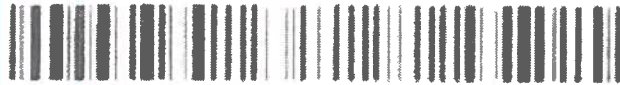
Charlotte Noel Fox, Town Attorney
Town of Carolina Beach
1121 N Lake Park Blvd.
Carolina Beach NC 28428

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JLM Partnership, LLC
205 Greenville Ave
Carolina Beach, NC 28428



9590 9402 6136 0209 0151 99

2. Article Number (Transfer from service label)

7019 2280 0000 1683 4748

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

 Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)

- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

078

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT

Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	
\$	
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____
Postage	
\$	
Total Postage and Fees	
\$	

Postmark
Here

JLM Partnership, LLC
205 Greenville Ave
Carolina Beach, NC 28428

CRAIGE & FOX

ATTORNEYS & COUNSELORS AT LAW

701 Market Street / Wilmington, North Carolina 28401
 Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

LAWRENCE S. CRAIGE*
 CHARLOTTE NOEL FOX

*No. 060401 Certified Specialist in Elder Law

JENNIFER M. RODEN*

*No. 060401 Certified Specialist in Elder Law
 *No. 060401 Certified Specialist in Estate Planning

December 27, 2022

Carolina Beach Land Holdings, LLC
 1202 Lake Park Blvd N
 Suite A
 Carolina Beach, NC 28428
Via US Certified Mail # 7019 2280 0000 4731

Re: Variance Request – Town of Carolina Beach

To Whom It May Concern,

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 0711.0306 (a)(9) and 15 NCAC 0711.0309 (a) in order to construct a two story bathroom facility which will connect to the Carolina Beach Boardwalk.

If the CRC grants the requested variance, the two story bathroom facility will be constructed on the public land located adjacent to your property.

The Town's variance request will be heard at the next regularly scheduled meeting of the CRC, currently scheduled to be held on February 23rd and 24th at the Ocean Isle Beach Town Hall, 111 Causeway Drive, Ocean Isle.

If you have any questions or comments about the Town's proposed project, please contact the Town Attorney, Noel Fox, Esq. at (910) 815-0085, or via e-mail at enfox@craigeandfox.com, or by United States mail at the address listed below. If you wish to file written comments in support of, or objecting to the Town's proposed project, you should send your comments by e-mail, fax or regular United States Mail, addressed to the Division of Coastal Management, as follows:

PRACTICE AREAS

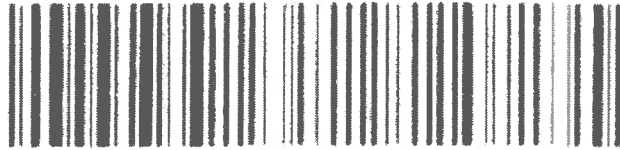
Elder Law / Estate Administration / Estate Planning
 Fiduciary Litigation / Guardianships / Municipal Law

Braxton Davis, Director
E-mail: Braxton.Davis@ncdcmr.gov
Division of Coastal Management
400 Commerce Ave
Morehead City, NC 28557
252-808-2808 / 1-888-4RCOAST (1-888-472-6278)
Fax: 252-247-3330

Sincerely,

Charlotte Noel Fox, Town Attorney
Town of Carolina Beach
1121 N Lake Park Blvd.
Carolina Beach NC 28428

USPS TRACKING #



9590 9402 6136 0209 0152 05



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

**United States
Postal Service**

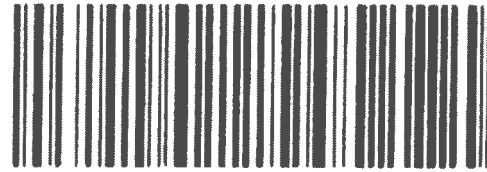
• Sender: Please print your name, address, and ZIP+4® in this box•

CRAIGE & FOX, PLLC
Attorneys at Law
701 Market Street
Wilmington, NC 28401

14-CNF-5848

CRAIGE & FOX
ATTORNEYS & COUNSELORS AT LAW
701 Market Street • Wilmington, North Carolina 28401

CERTIFIED MAIL



7019 2280 0000 1683 4731

Carolina Beach Land Holdings, LLC
1202 Lake Park Blvd N, Suite A
Carolina Beach, NC 28428

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT *Domestic Mail Only*

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
\$ _____

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____

Postmark
Here

Postage
\$ _____

Total Postage and Fees
\$ _____

Carolina Beach Land Holdings
1202 Lake Park Blvd N, Suite A
Carolina Beach, NC 28428

POSTAL SERVICE

Tracking Number:

Remove X

70192280000016834731

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

Latest Update

Your item was picked up at the post office at 12:21 pm on December 30, 2022 in CAROLINA BEACH, NC 28428.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Feedback

Delivered

Delivered, Individual Picked Up at Post Office

CAROLINA BEACH, NC 28428
December 30, 2022, 12:21 pm

Notice Left (No Authorized Recipient Available)

CAROLINA BEACH, NC 28428
December 29, 2022, 1:09 pm

Out for Delivery

CAROLINA BEACH, NC 28428
December 29, 2022, 7:22 am

Arrived at Post Office

CAROLINA BEACH, NC 28428
December 29, 2022, 7:11 am

Departed USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX
December 29, 2022, 4:01 am

Arrived at USPS Regional Facility

085

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX

December 28, 2022, 8:53 am

● **Arrived at USPS Regional Facility**

CHARLOTTE NC DISTRIBUTION CENTER

December 27, 2022, 11:33 pm

● **Hide Tracking History**

Text & Email Updates 

USPS Tracking Plus® 

Product Information 

See Less 

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

Dear Customer,

The following is the proof-of-delivery for tracking number: 771176411648

Delivery Information:

Status:	Delivered	Delivered To:	Residence
Signed for by:	M.COLE	Delivery Location:	
Service type:	FedEx Standard Overnight		
Special Handling:	Deliver Weekday; Residential Delivery; Direct Signature Required		CAROLINA BEACH, NC,
		Delivery date:	Feb 1, 2023 12:54

Shipping Information:

Tracking number:	771176411648	Ship Date:	Jan 31, 2023
-------------------------	--------------	-------------------	--------------

Weight:

Recipient:
CAROLINA BEACH, NC, US,

Shipper:
Wilmington, NC, US,

Reference 14-CNF-5848

Signature image is available. In order to view image and detailed information, the shipper or payor account number of the shipment must be provided.

Thank you for choosing FedEx

087

(https://www.fedex.com/en-us/home.html)

Sign Up or Log In

FedEx® Tracking



DELIVERED

Tuesday

2/7/2023 at 1:10 pm

Signed for by: M.URTI

[↓](#) Obtain Proof of delivery

How was your delivery?



DELIVERY STATUS

Delivered

TRACKING ID

771176844559

FROM

Wilmington, NC US

Label Created

1/31/2023 2:26 PM

PACKAGE RECEIVED BY FEDEX

WILMINGTON, NC

1/31/2023 5:36 PM

IN TRANSIT

WILMINGTON, NC

2/7/2023 9:29 AM

OUT FOR DELIVERY

WILMINGTON, NC

2/7/2023 10:07 AM

DELIVERED

CAROLINA BEACH, NC US

Delivered

2/7/2023 at 1:10 PM

[↓](#) View travel history

Want updates on this shipment? Enter your email and we will do the rest!

YOUR EMAIL

SUBMIT

MORE OPTIONS

088

(https://www.fedex.com/en-us/home.html)

Shipment facts



Shipment overview

TRACKING NUMBER 771176844559

DELIVERED TO Residence

SHIP DATE 1/31/23

STANDARD TRANSIT 2/1/23 before 8:00 pm

ACTUAL DELIVERY 2/7/23 at 1:10 pm

Services

SERVICE FedEx Standard Overnight

TERMS Shipper

SPECIAL HANDLING SECTION Deliver Weekday, Residential Delivery, Direct Signature Required

SIGNATURE SERVICES Direct signature required

Package details

TOTAL PIECES 1

PACKAGING FedEx Envelope

[↑ Back to top](#)

Travel history



Ascending



TIME ZONE

Local Scan Time



Tuesday, 1/31/2023

- 2:26 PM Shipment information sent to FedEx
- 5:36 PM Picked up WILMINGTON, NC
- 5:37 PM Shipment arriving On-Time WILMINGTON, NC
- 5:54 PM At local FedEx facility WILMINGTON, NC

089

(<https://www.fedex.com/en-us/home.html>)

- 8:14 AM At local FedEx facility WILMINGTON, NC
- 8:36 AM On FedEx vehicle for delivery WILMINGTON, NC
- 12:52 PM Operational Delay
Incorrect Address WILMINGTON, NC
- 1:27 PM Delay
Customer not available or business closed. WILMINGTON, NC
- 5:43 PM At local FedEx facility WILMINGTON, NC

Thursday, 2/2/2023

- 9:13 AM At local FedEx facility WILMINGTON, NC
- 9:26 AM On FedEx vehicle for delivery WILMINGTON, NC
- 3:16 PM Delay
Customer not available or business closed. WILMINGTON, NC
- 5:59 PM At local FedEx facility WILMINGTON, NC

Friday, 2/3/2023

- 10:20 AM At local FedEx facility WILMINGTON, NC
- 11:09 AM On FedEx vehicle for delivery WILMINGTON, NC
- 3:39 PM Delay
Customer not available or business closed. WILMINGTON, NC
- 5:44 PM At local FedEx facility WILMINGTON, NC

Saturday, 2/4/2023

- 5:46 PM At local FedEx facility WILMINGTON, NC

Monday, 2/6/2023

- 7:15 AM At local FedEx facility WILMINGTON, NC
- 7:22 AM Delay
Package delayed WILMINGTON, NC
- 8:30 AM On FedEx vehicle for delivery WILMINGTON, NC
- 12:06 PM Delay
Customer not available or business closed. WILMINGTON, NC
- 5:51 PM At local FedEx facility WILMINGTON, NC

Tuesday, 2/7/2023

- 9:29 AM At local FedEx facility WILMINGTON, NC
- 10:07 AM On FedEx vehicle for delivery WILMINGTON, NC
- ☑ 1:10 PM Delivered CAROLINA BEACH, NC

[↑ Back to top](#)

090

(<https://www.fedex.com/en-us/home.html>)



- About FedEx(<https://www.fedex.com/en-us/about.html>)
- Our Portfolio(<https://www.fedex.com/en-us/about/company-structure.html>)
- Investor Relations(<https://investors.fedex.com/home/default.aspx>)
- Careers(<https://careers.fedex.com/fedex/>)
- FedEx Blog(<https://www.fedex.com/en-us/blog.html>)
- Corporate Responsibility(<https://www.fedex.com/en-us/about/corporate-social-responsibility.html>)
- Newsroom(<https://newsroom.fedex.com/>)
- Contact Us(<https://www.fedex.com/en-us/customer-support/contact-us.html>)

MORE FROM FEDEX

- FedEx Compatible(<https://www.fedex.com/en-us/compatible.html>)
- FedEx Developer Portal(<https://developer.fedex.com/api/en-us/home.html>)
- FedEx Logistics(<https://www.fedex.com/en-us/logistics.html>)
- FedEx Cross Border(<https://www.fedex.com/en-us/cross-border.html>)
- ShopRunner(<https://www.fedex.com/en-us/shoprunner.html>)

LANGUAGE

 [Change Country/Territory\(https://www.fedex.com/?location=home\)](https://www.fedex.com/?location=home)

FOLLOW FEDEX  (<https://www.fedex.com/en-us/email.html>)  (<https://www.facebook.com/FedEx/>)

 (<https://twitter.com/fedex>)  (<https://www.instagram.com/fedex/>)  (<https://www.linkedin.com/company/fedex>)

 (<https://www.youtube.com/fedex>)  (<https://www.pinterest.com/FedEx/>)

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Tracking Number:

Remove X

70192280000016834755

Copy

Add to Informed Delivery

[\(https://informedelivery.usps.com/\)](https://informedelivery.usps.com/)

Latest Update

Your package is moving within the USPS network and is on track to be delivered to its final destination. It is currently in transit to the next facility.

Feedback

Get More Out of USPS Tracking:**USPS Tracking Plus®**

Moving Through Network

In Transit to Next Facility

January 28, 2023

Departed USPS Regional Facility

RALEIGH NC DISTRIBUTION CENTER

January 24, 2023, 9:30 pm

Arrived at USPS Regional Facility

RALEIGH NC DISTRIBUTION CENTER

January 24, 2023, 6:30 am

Unclaimed/Being Returned to Sender

CAROLINA BEACH, NC 28428

January 17, 2023, 9:23 am

Reminder to pick up your item before January 12, 2023

CAROLINA BEACH, NC 28428

January 3, 2023

Available for Pickup

CAROLINA BEACH, NC 28428
December 29, 2022, 9:20 am

Arrived at Post Office

CAROLINA BEACH, NC 28428
December 29, 2022, 9:20 am

Departed USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX
December 29, 2022, 4:01 am

Arrived at USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX
December 28, 2022, 8:53 am

Arrived at USPS Regional Facility

CHARLOTTE NC DISTRIBUTION CENTER
December 27, 2022, 11:33 pm

Hide Tracking History

Feedback

Text & Email Updates



USPS Tracking Plus®



Product Information



See Less ^

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.



NC COASTAL RESOURCES COMMISSION MEETING

February 23, 2023

**Town of Carolina Beach
(CRC-VR-22-06)**

Carolina Beach, Public Bathroom





River Rd SE

Orton Pond

Sunny Point
Military Ocean
Terminal

094

Sea Breeze

Carolina Beach
State Park

Dow Rd

Carolina Beach

Wilmington
Beach

Sunny Point
Army Terminal

Kure Beach

Project area

2km

34.060 Degrees

ancys

Fort Fisher

Image Source: DCM Map Viewer

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geograph



**Project Site
9 Boardwalk Ave**



Project Site
9 Boardwalk Ave

Image Source: Town of Carolina Beach GIS 2021 Aerial



Landward Most Adjacent Structure

Static Vegetation Line

Proposed Bathroom footprint



Development Line

Image Source: Town of Carolina Beach GIS 2021 Aerial

098



View of existing public bathroom facing east

Image source: DCM 1/24/23



View of existing public bathroom facing west

Image source: DCM 1/24/23



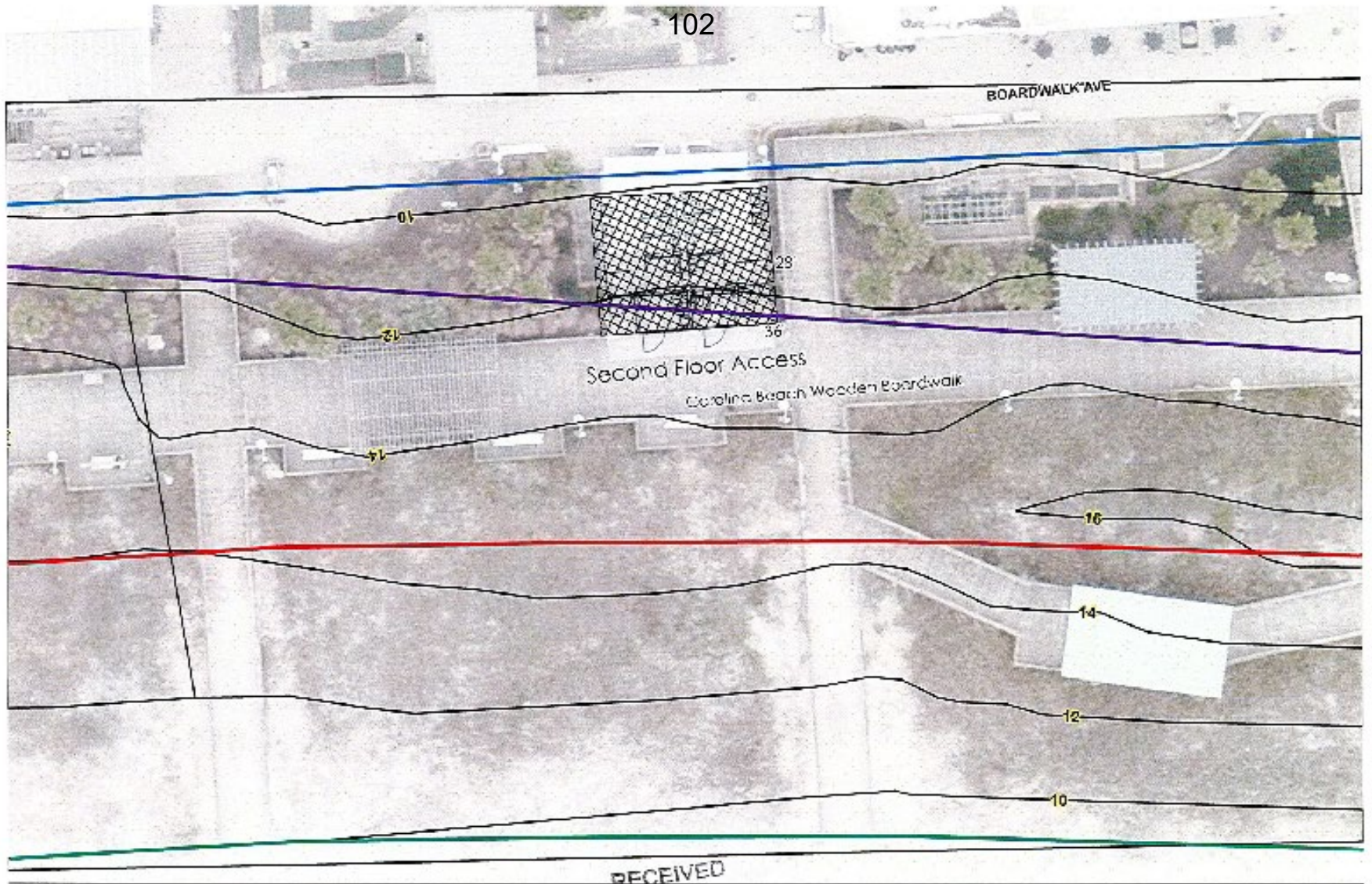
View of existing public bathroom facing north

Image source: DCM 1/24/23



View of existing public bathroom facing south

Image source: DCM 1/24/23

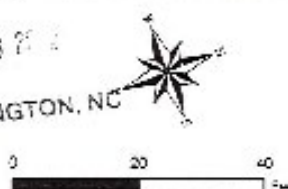


**Proposed Boardwalk
Bathrooms**

Total Proposed Area:
~1,000 square feet

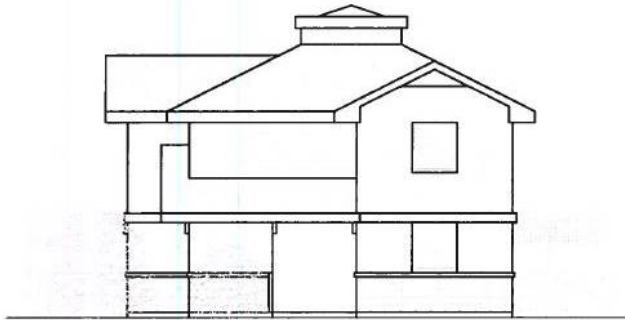
Total Proposed Dimensions:
36' X 28'

SEP 28 2021
DGM, WILMINGTON, NC

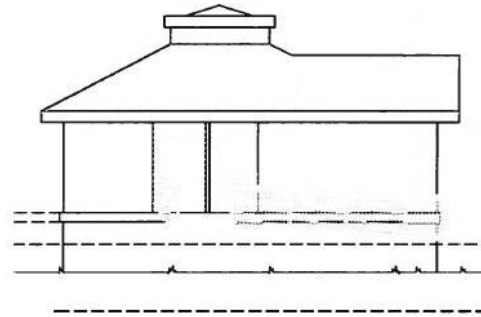


Legend

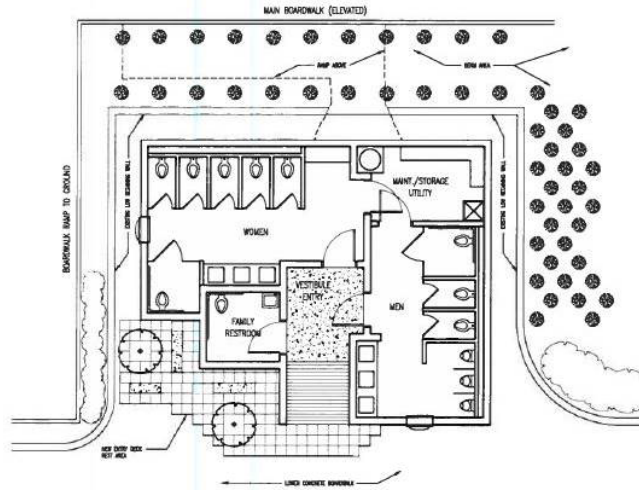
- Static Vegetation Line
- 60 Foot Setback
- Stable Vegetation Digitized using 2021
- Proposed Bathroom
- Topography
- Development Line



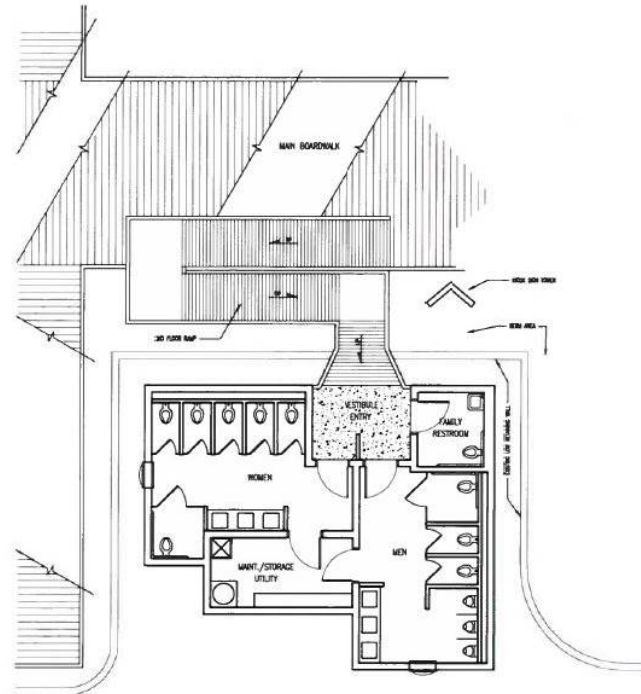
A WEST ELEVATION (option A)
SCALE: 1/8"=1'-0"



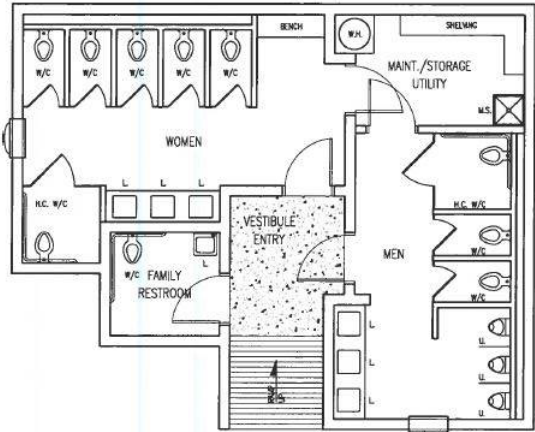
B EAST ELEVATION (option A)
SCALE: 1/8"=1'-0"



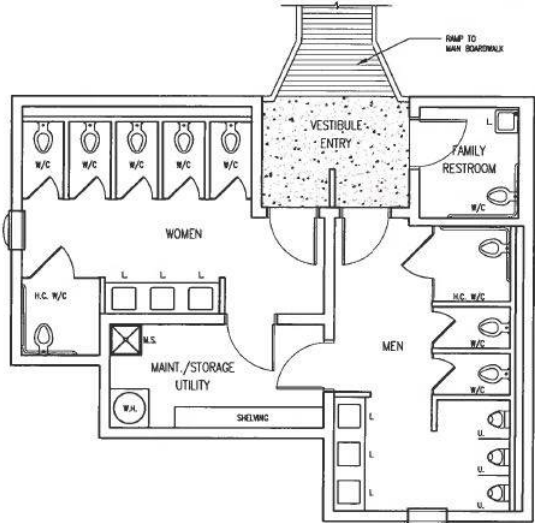
A GROUND FLOOR PLAN / SITE AREA
SCALE: 1/8"=1'-0"



B SECOND FLOOR PLAN / SITE AREA
SCALE: 1/8"=1'-0"

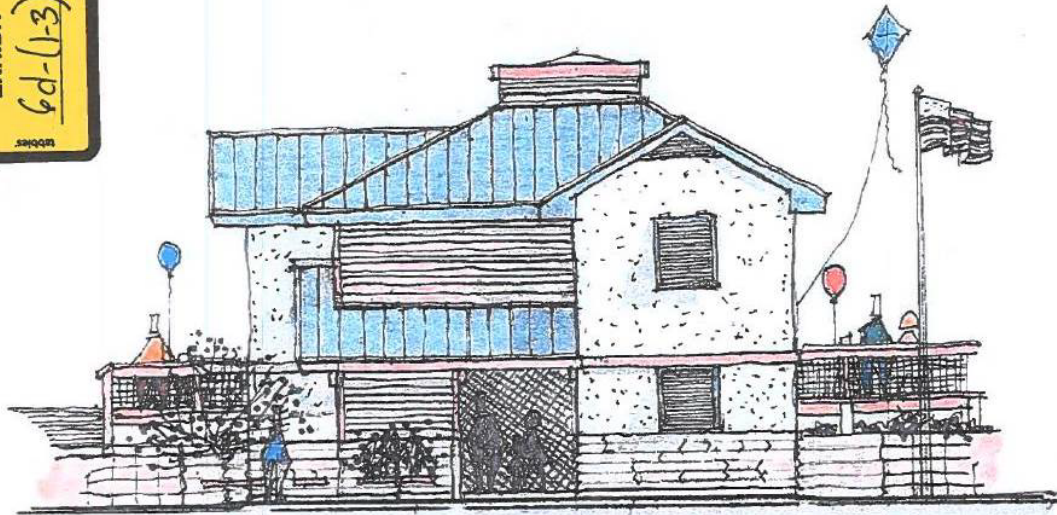


A GROUND FLOOR PLAN
SCALE: 3/16"=1'-0"



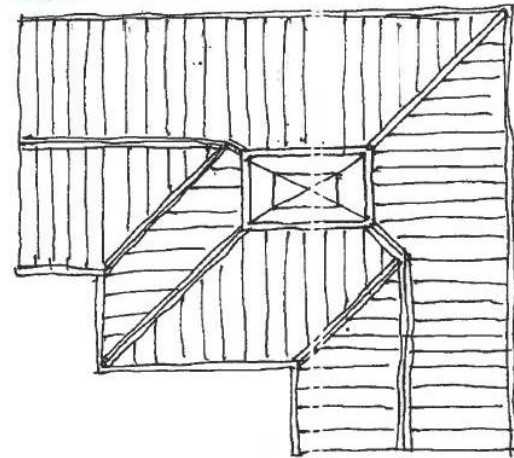
B SECOND FLOOR PLAN
SCALE: 3/16"=1'-0"

EXHIBIT
6d-1-3
LDBCHES



WEST ELEVATION

$\frac{1}{8}'' = 1'-0''$

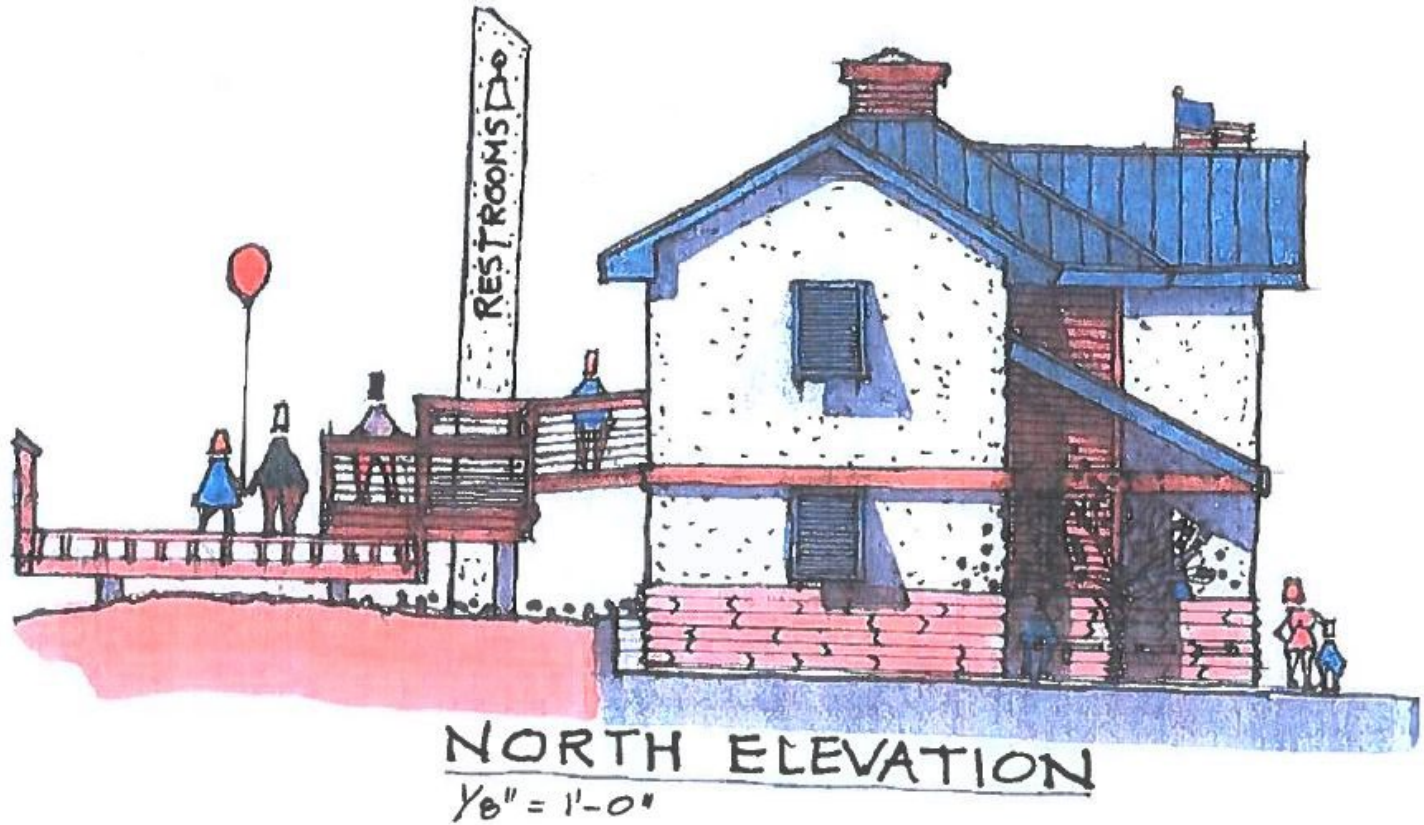




EAST ELEVATION

BOARDWALK SIDE

$\frac{1}{8}'' = 1'-0''$





VARIANCE CRITERIA

15A NCAC 07J.0703(f)

To grant a variance, the Commission must affirmatively find each of the four factors listed in G.S. 113A-120.1(a).

- (1) that unnecessary hardships would result from strict application of the development rules, standards, or orders issued by the Commission;**
- (2) that such hardships result from conditions peculiar to the petitioner's property such as location, size, or topography;**
- (3) that such hardships did not result from actions taken by the petitioner; and**
- (4) that the requested variance is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will preserve substantial justice.**