



NORTH CAROLINA  
Environmental Quality

ROY COOPER  
Governor

MARY PENNY KELLEY  
Secretary

WILLIAM F. LANE  
General Counsel

TO: The Coastal Resources Commission

FROM: Christine A. Goebel, DEQ Assistant General Counsel

DATE: November 4, 2024 (for the November 13-14, 2024 CRC Meeting)

RE: **Variance Request by McCoy ENC, LLC (CRC-VR-24-09)**

Petitioner McCoy ENC, LLC owns property at 41971 Ocean View Drive in Avon, Dare County. Petitioner proposes to develop the Site with a five-bedroom cottage with a TFA of 1,996 SF and several related structures. The lot was platted in 1986, after the 1979 oceanfront setback was first effective, and are not eligible for the “grandfather” lot exception found in the Commission’s rules. On August 7, 2024, The Dare Co. LPO denied Petitioner’s CAMA Minor Permit application as the proposed design did not meet the applicable 180’ setback measured from the PPVL as required by 7H.0306. Petitioner now seeks a variance to waive the 180’ oceanfront setback in order to develop their proposed pier shown in their application which meets the “grandfather” rule at 7H.0309(a) except for the platted year of the lot.

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.): Stephen Coggins, Esq., Petitioners’ Attorney, electronically  
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically  
KD Jackson, Dare County LPO, electronically



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**ATTACHMENT A****RELEVANT RULES****SECTION .0300 - OCEAN HAZARD AREAS****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 may subject the area to 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 these 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 their loss or damage. The flexible nature of these landforms presents hazards to development situated 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 Ocean 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 reduce 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 .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 shall be measured in a landward direction from the vegetation line, the pre-project vegetation line, or the measurement line, whichever is applicable.

(2) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:

(A) The total square footage of heated or air-conditioned living space;

(B) The total square footage of parking elevated above ground level; and

(C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.

Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

**(3) With the exception of those types of development defined in 15A NCAC 07H .0309(a), no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback.** This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:

**(A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;**

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(5) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune or ocean hazard setback, whichever is farthest from the vegetation line, pre-project vegetation line, or measurement line, whichever is applicable.

(6) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically but not be structurally attached to an existing structure that does not conform with current setback requirements.

(7) Established common law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted, nor shall such development increase the risk of damage to public trust areas. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.

(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) A local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for approval of a "Beach Management Plan" in accordance with 15A NCAC 07J .1200. If the request for a Beach Management Plan is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the pre-project vegetation line under the following conditions:

(A) Development meets all setback requirements from the vegetation line defined in

Subparagraphs (a)(1) and (a)(3) of this Rule;

(B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;

(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.

(D) With the exception of swimming pools, the exceptions defined in Rule .0309(a) of this Section shall be allowed oceanward of the pre-project vegetation line.

(b) Development shall not cause irreversible damage to historic architectural or archaeological resources as documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or the National Historical Registry.

(c) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.

(d) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:

(1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;

(2) restore the affected environment; or

(3) compensate for the adverse impacts by replacing or providing substitute resources.

(e) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. The acknowledgement shall state that the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.

(f) The relocation or elevation of structures shall require permit approval.

(1) Structures relocated landward with public funds shall comply with the applicable ocean hazard setbacks and other applicable AEC rules.

(2) Structures relocated landward entirely with non-public funds that do not meet current applicable ocean hazard setbacks may be relocated the maximum feasible distance landward of its present location. Septic tanks shall not be relocated oceanward of the primary structure.

(3) Existing structures shall not be elevated if any portion of the structure is located seaward of the vegetation line.

(g) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within eight years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within eight years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed pursuant to 15A NCAC 07H .0308(a)(2).

**15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS:  
EXCEPTIONS**

(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand, or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet. Existing decks exceeding a footprint of 500 square feet may be replaced with no enlargement beyond their original dimensions;
- (4) beach accessways consistent with Rule .0308(c) of this Section;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands consistent with Section .1900 of this Subchapter;
- (8) sand fences;
- (9) swimming pools; and
- (10) fill not associated with dune creation that is obtained from an upland source and is of the same general characteristics as the sand in the area in which it is to be placed.

In all cases, this development shall be permitted only if it is landward of the vegetation line or pre-project vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; is not essential to the continued existence or use of an associated principal development; and meets all other non-setback requirements of this Subchapter.

**(b) Where application of the oceanfront setback requirements of Rule .0306(a) of this Section would preclude placement of a structure on a lot existing as of June 1, 1979, the structure shall be permitted seaward of the applicable setback line in Ocean Erodible Areas, State Ports Inlet Management Areas, and Inlet Hazard Areas, but not Unvegetated Beach Areas if each of the following conditions are met:**

- (1) The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;**
- (2) The development is at least 60 feet landward of the vegetation line, measurement line, or pre-project vegetation line, whichever is applicable;**
- (3) The development is not located on or oceanward of a frontal dune, but is entirely behind the landward toe of the frontal dune;**

**(4) The development incorporates each of the following design standards, which are in addition to those required by Rule .0308(d) of this Section;**

**(A) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;**

**(B) The footprint of the structure shall be no more than 1,000 square feet, and the total floor area of the structure shall be no more than 2,000 square feet. For the purpose of this Section, roof-covered decks and porches that are structurally attached shall be included in the calculation of footprint;**

**(C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases, other material may be used; and**

**(D) No portion of a building's total floor area, including elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, may extend oceanward of the total floor area of the landward-most 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. An "adjacent" property is one that shares a boundary line with the site of the proposed development. When no adjacent building or structure exists, or the geometry or orientation of a lot or shoreline precludes the placement of a building in line with the landward most adjacent structure of similar use, 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 shall meet the applicable setback from the Vegetation Line but shall not be held to the landward-most adjacent structure or an average line of structures. The ocean hazard setback shall extend landward of the vegetation line, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.**

**(5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.**

1. The Petitioner is McCoy ENC, LLC which is a North Carolina Limited Liability Company. It is represented by Stephen D. Coggins, Esq. of Rountree Losee, LLP. DCM is represented by DEQ Assistant General Counsel, Christine Goebel.
2. McCoy ENC, LLC was organized in North Carolina in 2017. The creation filing and 2024 annual report are attached as stipulated exhibits. Donald McCoy is the Registered Agent and Managing Member. It owns the property at 41971 Ocean View Drive in Avon, Dare County (the "Site"). Petitioner has owned the Site since September 22, 2021, according to a deed recorded at Book 2547, Page 139 of the Dare County Registry, a copy of which is attached as a stipulated exhibit.
3. The Site is also known as Lot no. 10, Kinnakeet Shores Phase 2 as shown on a plat recorded on May 6, 1986 and recorded in Plat Cabinet C, Slide 23-C of the Dare County Registry, a copy of which is attached as a stipulated exhibit. The Site was platted after June 11, 1979 (when the Commission's oceanfront setback rules first took effect). The Site is 0.34 acres in area.
4. The Lot is bordered by federal land and then the Atlantic Ocean to the east, Ocean View Drive to the west, 41957 Ocean View to the north (owned by Reilly/McKendree-Reilly), and 41981 Ocean View Drive to the south (owned by Ms. Lake).
5. The Site and surrounding area are shown on the attached powerpoint which has both ground level and aerial (current and past) photos. Currently, the Site is undeveloped.
6. The Lot is located within the Ocean Erodible Area of Environmental Concern ("AEC"). N.C.G.S. 113A-118 requires a CAMA permit to authorize any development on the Site.
7. At the Site, the currently applicable (and adopted in 2020) long term average erosion rate is 6' per year. Per 7H.0306(a)(3)(A), a building less than 5,000 square feet requires a minimum setback of  $30 \times \text{the erosion rate} = 180'$  at the Site.
8. An image from the DCM Map Viewer showing the applicable average erosion rate, the historic shorelines at the Site, the location of the pre-project vegetation line ("PPVL") on the Site, and the erosion measured at the nearest transects to the Site (-5.81' To the north and -5.87' to the south) is attached as a stipulated exhibit.
9. The Site is subject to a PPVL (f.k.a. static vegetation line) based on the location of the vegetation line on August 12, 2021 (The date contractor CSE surveyed the flagged PPVL) before the County's large-scale nourishment in the area of the Site. This large-scale project began on June 19, 2022 and was completed on July 27, 2022 per the Dare County Nourishment website. [Avon Beach Nourishment Project | Dare County, NC](#) The County has not been approved by the Commission for a static line exception or for a beach plan and so the Commission's rules direct that the setback is measured landward from the PPVL or the Vegetation Line, whichever is more restrictive.
10. The location of the PPVL (labeled as static line) is shown on the Site plans survey dated July 12, 2024 by Frederick A. House, P.L.S., a copy of which is attached as a stipulated



exhibit. The PPVL is located waterward of the Lot and is more restrictive than the Vegetation Line flagged on June 5, 2024 by Dare County LPO KD Jackson. The 180' setback is also shown on this survey and is located approximately 37' (northern side) to 42' (southern side) waterward of the western property line.

11. On April 19, 2019, the Dare County Board of Commissioners approved a special tax district for Avon in order to pay for the planned 2022 nourishment project that would include the Site.
12. Petitioner's predecessor in interest Mr. Hamilton applied for a soil/site permit for the development of a peat septic system on the Site on June 29, 2021, a copy of which is attached as a stipulated exhibit. His application was approved on August 31, 2021, a copy of which is attached as a stipulated exhibit.
13. On October 5, 2021, a perpetual easement to Dare County for beach nourishment for the Site was recorded at Book 2551, Page 316 of the Dare County Registry, a copy of which is attached. It was signed on September 22, 2021 (the same day Hamilton sold the Site to Petitioner) by Hamilton Real Estate Holdings, LLC, the predecessor in interest to Petitioner of the Site.
14. In 2021, Petitioner obtained a survey of the Site from Seaboard Surveying, a copy of which is attached as a stipulated exhibit. This Survey shows the 180' oceanfront setback measured landward of the vegetation line which was applicable to the Site at the time. This is based on a vegetation line flagged by Dare County LPO KD Jackson on August 3, 2021 (the survey indicates it was "Approved by CAMA on 8/4/21").
15. On October 19, 2021, the Reillys on the lot to the north of the Site received CAMA Minor Permit HI-3-2021 authorizing the development of a 2,437 SF residence which met the 180' setback from the vegetation line. A copy of the permit and site plan drawings are attached as a stipulated exhibit. Also attached is aerial photography from 2021 showing the location of the vegetation line at that time.
16. On June 14, 2022, Petitioner submitted his first application for a CAMA Minor Permit (HI-20-2022), a copy of which is attached as a stipulated exhibit. It proposed an 8-bedroom building with pool and cabana located 180' landward of the vegetation line reviewed on August 4, 2021.
17. A comparison of the location of the vegetation line from the 2022 site plan and the 2024 site plan shows that the vegetation line moved seaward by approximately 17'.
18. The LPO requested changes to the Site Plan to show the PPVL location and the corresponding 180' setback from that line. This was completed by Seaboard Surveying on August 16, 2022, a copy of which is attached as a stipulated exhibit.
19. On November 4, 2022, the LPO denied Petitioner's CAMA Minor Permit Application as the proposed development did not meet the 180' setback from the PPVL. A copy of the denial letter is attached as a stipulated exhibit. Petitioner did not appeal this denial to the Office of Administrative Hearings.

20. On or about May 7, 2024, the CAMA Local Permitting Officer (LPO) for the Dare County, Mr. KD Jackson, received a CAMA minor permit application (HI-71-24) from Petitioner, through its authorized agent Rick House of House Engineering, PC, a copy of which is attached as a stipulated exhibit. It proposed to construct a three-story, piling-supported, five-bedroom rental cottage, septic system, gravel driveway, a 12' x 43.5' covered deck, a 14' x 31' swimming pool with 6' wide concrete surround, 470 SF open decking, 199 SF gazebo, fire pit, bench, and beach accessway. The residence would have a Total Floor Area of 1,996 SF. A copy of these plans is attached. The initial site plan used the 2021 vegetation line and the LPO requested an updated vegetation line be shown. The updated site plan was received on July 15, 2024.
21. As part of the CAMA Minor permitting process, the Petitioner sent notice of the project to the two adjacent riparian owners through letters each dated May 7, 2024 and mailed on May 10, 2024. Certified mail receipts also attached and tracked on usps.gov indicate delivery of the notice letter to the Reillys on May 13, 2024.
22. The letter to Ms. Lake was never delivered as shown on the attached tracking. On October 29, 2024 in anticipation of this variance and discovery that the notice during permit review was not delivered, Counsel for Petitioner renotified Ms. Lake of the variance. A copy of this letter and delivery information is attached as a stipulated exhibit and shows delivery to Ms. Lake on November 2, 2024.
23. On August 7, 2024, Mr. Jackson, a Dare County CAMA LPO denied the CAMA Minor Permit as inconsistent with 15A NCAC 7H .0306 where the proposed development did not meet the applicable 180' setback from the PPVL. Petitioner did not file a timely contested case petition to challenge this denial.
24. Petitioner stipulates that the permit application was properly denied based on 15A NCAC 7H .0306(a)(5) where it does not meet the applicable setback (180' from the PPVL) and does not meet any of the exceptions in 7H.0309(a) (platted after 1979).
25. Petitioner also stipulates that it did not seek relief from local setbacks as required by the Commission's rule at 15A NCAC 7J.0701 before seeking this variance from the Commission. Petitioner seeks a variance from this procedural rule.
26. As part of the variance process, Petitioner sent DCM adjacent riparian owner notice forms (instead of notice of the variance request) to the adjacent riparian owners as required by 15A NCAC 7J.0701. These notice forms were sent on September 16, 2024. Tracking information attached shows these letters were mailed on and were received by The Rilleys on September 27, 2024 and by Ms. Lake on September 24, 2024. DCM has not received any correspondence from either neighbor.
27. In addition to the variance from the Commission's local variance requirement noted in fact 25 above, Petitioner is seeking a variance from the Commission from the Commission's rule at 15A NCAC 7H.0306(a)(5) (setting forth the setback) in order to develop the lot as described in their 2024 application materials.

28. Without a variance, a CAMA permit could be issued for development within the setback area at the Site per 7H .0309, or in the area landward of the 180' setback from the PPVL per 15A NCAC 7H.0306.
29. 15A NCAC 7H .0309(b) in effect today has a "grandfather" provision for lots platted before June 1, 1979, which is the date the Commission's oceanfront setback rules first became effective. This allows lots platted before them to meet a 60' setback is the application of the setback rules would "preclude placement of a structure on a lot existing as of June 1, 1979" if four conditions are met including a minimum 60' setback and a footprint of no more than 1,000 SF/max TFA of 2,000 SF.
30. During the spring and summer of 2023, DCM Staff were working with the Commission to revise 7H.0305, 7H.0306 and 7H.0309 to, among other things, remove the 1979 date for the 60' "grandfather" exception but retain the 2,000 SF TFA limit. A copy of the April 12, 2023 memo from DCM to the Commission and the April 26, 2023 CRC Minutes are attached as a stipulated exhibit showing that the Commission sent the rules to public hearing.
31. On June 15, 2023, the Commission conditionally approved the fiscal review for the amended version of 7H.0309 pending OBMB approval of the fiscal note. A copy of the June 2023 CRC meeting minutes is attached as a stipulated exhibit. The amendments to these rules have not appeared on the Commission's agendas since the June 2023 meeting and have not been finally approved by the Commission to date and sent to the RRC for approval.
32. Petitioner asserts that he had intended his 2024 design and location to meet the revised language of 7H.0306 which has never taken effect.
33. Donald McCoy who with his wife are the sole owners of McCoy ENC, LLC, signed a sworn affidavit dated October 30, 2024 in anticipation of this variance hearing. He states that he was unaware that a PPVL would be adopted and applicable to the Site in 2022. A copy of the sworn statement is attached as a stipulated exhibit, though Staff note they cannot stipulate to the truth of the statements.

**LIST OF STIPULATED EXHIBITS**

- 1. McCoy ENC, LLC Creation Filing and 2024 Annual Report**
- 2. Deed in 2547/139**
- 3. Plat C/23-C**
- 4. DCM Map Viewer of Site with erosion, average rate, historic shorelines and PPVL**
- 5. 7-12-24 House Survey of Site with proposed development**
- 6. 2021 Hamilton Septic Application and Approval**
- 7. 2021 Nourishment easement from Hamilton to Dare Co**
- 8. 2021 Seaboard Surveying Survey of Site**
- 9. Reilly 2021 CAMA Permit and Site Plan**
- 10. Petitioner's June 2022 CAMA Minor Permit Application materials**
- 11. Petitioner's 2022 CAMA Permit Denial**
- 12. Petitioner's 2024 CAMA Minor Permit Application materials**
- 13. Petitioner's notice to Reilly with tracking**
- 14. Petitioner's notice to Lake with tracking (undelivered)**
- 15. Petitioner's 8-7-24 CAMA Minor Permit Denial**
- 16. Notice to Reilly and Lake in anticipation of variance**
- 17. April 12, 2023 memo from DCM to CRC re: revisions to 7H.0305, .0306, 0309**
- 18. April 2023 CRC Minutes**
- 19. June 2023 CRC Minutes**
- 20. Donald McCoy Affidavit**
- 21. Powerpoint showing ground, aerial and historic ariel photos of Site and surrounding area**

**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.**

**Petitioner's Position: Yes.**

CAMA Rule 15A NCAC 07H .0309(b) [which provides an exception (the "Exception") to the otherwise-applicable-180-foot-setback from the Pre-Project Vegetation Line ("Static Vegetation Line" or "SVL") as set forth in CAMA Rule 15A NCAC 07H .0306(a)(3)(A)] applies only to lots created before June 1, 1979. Strict application of those provisions in the Exception will cause Petitioner hardship that is unnecessary. The Coastal Resources Commission ("CRC") has already approved amending the Exception so that the limitation of its effect to only on lots platted before June 1, 1979 is deleted. Recent actions of the CRC described below indicate that the State public policy behind the Exception does not require the Exception being limited to only lots created before June 1, 1979:

- a. In a memorandum dated April 12, 2023, Division of Coastal Management staff proposed amendments to Rule 15A 07H .0309(b) to remove the 1,000 square feet footprint, retain the total area of 2,000 square feet, and remove the June 1, 1979, stipulation.
- b. On April 26, 2023, the CRC approved a public hearing to be held for amendments to 15A NCAC 07H .0309(b), removing the requirement that developments excepted from 15A 07H .0306 setbacks must be on lots platted before June 1, 1979. No objections were received at the public hearing.
- c. On June 15, 2023, the CRC approved the fiscal analysis of the proposed amendment to 15A NCAC 07H .0309(b), removing the requirement that developments excepted from 15A NCAC 07H .0306 setbacks must be on lots platted before June 1, 1979.

The foregoing demonstrates that the CRC as the State's policy-making body with respect to the Coastal Area Management Act deems that the Exception in CAMA Rule 15A NCAC 07H .0309(b) should no longer be limited to lots created on or before June 1, 1979. However, because of a conflict between the CRC and the Rules Review Commission ("RRC"), these CRC-approved amendments to the Exception have not yet gone into effect.

Under these circumstances, denying the Petitioner a permit to build a small (less than 2000 square feet) residential structure (the "Proposed Development") that is far landward of the First Line of Stable and Natural Vegetation ("FLSNV") – 201 to 205 feet, and approximately 120 feet landward of the SVL, is entirely unnecessary, especially when one considers the peculiarity of the location as shown in Factor (2) below and the fact that Petitioner had no role in the creating the hardship, which is demonstrated in the discussion of Factor (3) set forth below.

**Staff's Position: No.**

Staff disagree that strict application of the Commission's oceanfront erosion setback and specifically the "grandfather" exception's requirement of the lot being platted by 1979 causes Petitioner unnecessary hardships. The Site was platted in 1986, which was seven years after the Commission's oceanfront erosion setbacks were codified. The Site has an average annual erosion rate of 6'/year which results in a setback (for a 5,000 SF or less structure) of 180' measured landward of the vegetation line. This Site has remained undeveloped since being platted in 1986. In 2022, Dare County undertook a large-scale nourishment project which included the Site, in response to long-term erosion in the area, at which time the PPVL took effect in accordance with CRC rules. PPVLs have been in place for large scale nourishment project since 1996 and are not a new phenomenon. Staff contend that allowing this new development within the setback area would constitute inappropriately sited development. While Dare County has implemented several beach nourishment projects since 2010, the county has not at this time applied to the Commission for approval of a Beach Management Plan which has several provisions for PPVL relief .

While the Commission was undertaking amendments to its rules including the setback and the "grandfather" exception in 2022-2023, those amendments were not adopted by the Commission to be sent to the Rules Review Commission for the final steps in the rulemaking process and the likely outcome of that process is not known. The Commission has directed Staff to focus on rulemaking related to the Commission's rules removed from the code in October 2023 since that time. Staff have significant concerns about granting variances in individual cases based on uncompleted rulemaking proposals related to possible amendments to the oceanfront setback and "grandfather" exception rules These include potential uneven application of draft amended rules and a potential surge of similarly situated lots platted after 1979 seeking to use the amended rules before they have completed the rulemaking process.

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

**Petitioners' Position: Yes.**

The hardship arises from a combination of factors that render peculiar the location of Petitioner's property and the Proposed Development, such as:

- (a) recent public confusion over whether the original vegetation line (FLSNV) or the new vegetation line (SVL) is the applicable ocean setback line, which confusion leads Petitioner to question why the LPO denied Petitioner's first Application for a CAMA Minor Development Permit on the basis of noncompliance with the SVL setback when SVL did not go into effect until after the Application was filed; and
- (b) a dispute between the RRC and the CRC over the procedures employed for CAMA Rules amendments, thus delaying the effective date of the amendment that CRC has approved which removes the June 1, 1979, limitation to the Exception in CAMA Rule 15A 07H .0309(b).

- (a) Recent confusion over when the SVL should have been applied and whether it applies to Petitioner's first CAMA Permit Application.

For many years, the applicable ocean front setback for the Property and adjacent ocean front properties in Avon was the FLSNV. When Petitioner first applied to build on the Property, all understood that the FLSNV was the applicable setback, including the CAMA LPO, the prior owner/seller of the property ("Hamilton"), the engineering company designing the Proposed Development for both the seller and the Petitioner McCoy as buyer ("House Engineering"), and the surveying company performing survey work for Petitioner ("Seaboard Surveying").

Dare County meanwhile was interested in obtaining approval for an extensive beach renourishment along the Avon oceanfront. In that context, the applicable setback would eventually become the "Pre-Project Vegetation Line", which is also referred to and known as the "Static Vegetation Line" ("SVL"). The SVL would eventually apply instead of the prior-used FLSN, but the SVL would not apply until the first depositing of sand took place during the project. CAMA Rule 15A 07H .0305 provides that "[o]nce a pre-project vegetation line is established, and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line"

In 2021, McCoy became interested in acquiring the Property from Hamilton and retained Seaboard Surveying to conduct a survey of the Property that would show, among other things, the ocean front setback for the Property that was applicable under CAMA Rules 15A NCAC 07H .0306(a)(3)(A).

On August 4, 2021, DCM, through its Local Permit Officer, approved the location of the Property's 180-foot CAMA FLSNV Setback Line as marked by Seaboard Surveying, as indicated on its survey.

On August 12, 2021, the location of the pre-project vegetation line or SVL applicable to oceanfront development in Avon, North Carolina was approved, as indicated by the DCM website at <https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=f5e463a929ed430095e0a17ff803e156>. This soon-to-be-effective new SVL setback is significantly landward of the FLSNV. Petitioner today understands that the planned location for the SVL would shift the applicable setback for the Property approximately 61 ft landward of the FLSNV. As a result, that the proposed Property structure as shown on the previous Seaboard Surveying Surveys would be 12 ft oceanward of the SVL setback and thus would be non-compliant with applicable CAMA Rules once the SVL goes into effect.

However, this new setback under the terms of CAMA Rule 15A 07H .0305 was not supposed to go into effect until the first deposition of sand onto the beach during the upcoming beach nourishment project. As shown below, Petitioner submitted its first CAMA Minor Permit Application before the beach nourishment project began depositing sand onto the beach.

On June 14, 2022, Petitioner submitted its first application for a CAMA Minor Development Permit (HI-20-2022) authorizing a single-family 8-bedroom dwelling with pool and cabana, with the development area being less than 5000 sf (and, including "non-development area" space being 6,779 sf), and being located 180 feet landward of the FLSNV. Petitioner understands that the FLSNV was still the applicable setback under CAMA Rule 15A 07H .0305 when the application was submitted because sand had not yet been deposited onto the beach by the Avon beach nourishment project. Sand was not first deposited on the beach until five days later on June 19, 2022.

For reasons not clear to the Petitioner, the LPO applied the SVL to Petitioner's application, even though the Petitioner's application was submitted before the date sand was first deposited on the Avon oceanfront during the beach nourishment project. The sand was not first deposited until June 19, 2022 – five days after Petitioner's application was submitted. Petitioner understood that the FLSNV setback would be applied to the Application, since the FLSNV was still the applicable setback on the date the Application was submitted.

(b) RRC – CRC dispute adds to peculiarity.

The only reason Rule 15A 07H .0309(b) has not been amended to provide that its setback exception is no longer limited to lots formed on or before June 1, 1979, is because of an “intra-government” dispute between the RRC and the CRC over the procedures employed by the CRC in adopting amendments to CAMA Rules – a matter unrelated to the merits of the amendment to the Exception. This imposes yet another peculiarity upon Petitioner's property: but for the dispute between the RRC and the CRC over rulemaking procedures, Petitioner's CAMA application for the Proposed Development would be approved.

All the foregoing factors act together to create conditions peculiar to the Property, conditions resulting in hardship.

**Staff's Position: No.**

Staff first notes that the permit denial from which Petitioners now seek a variance is that from August 7, 2024. The Petitioners did not timely challenge the denial from November 4, 2022 in the Office of Administrative Hearings as prescribed. Staff believes that the Commission does not have jurisdiction to adjudicate the 2022 CAMA Minor Permit denial now through this variance request in Petitioners' above response to this factor under (a). Additionally, Staff cannot stipulate to some of the information in the response to this factor above as fact, and Staff caution the Commission that only the set of stipulated facts at Appendix B of this Recommendation are those Staff stipulated to.

Staff also notes that in Petitioners' response to this factor under (b) above describe the rulemaking process undertaken to partway by the Commission in 2022 and 2023. However, there is no dispute that the amendments to 7H.0306 and 7H .0309 did not complete the rulemaking process. Staff caution the Commission on basing the grant of a variance on draft rules which have not completed the rulemaking process.

G.S. § 113A-120.1(a)(2) states: (2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property. Petitioners fail to argue that any hardship they may face is a result of the location, size, or topography of the property as required. Instead they point to the 2022 unchallenged denial and the language of draft rules which have not completed the rulemaking process. Neither of these describes how any hardship is a result of a peculiarity of the location, size or topography of the property.

Staff find no peculiarities with the size, location or topography of the Site which cause any hardships to Petitioner. The Site has a high average annual erosion rate of 6'/year and



corresponding setback of 180' (for a structure 5,000 SF or less). Despite this lot being platted in 1986, it remains undeveloped. Due to erosion in the area of the Site, the Site is also now within the bounds of a large-scale beach nourishment project with a corresponding PPVL from which to measure the setback. This is common in many areas along the coast where the vegetation line has retreated due to storms and other natural coastal processes. Staff were unable to identify any conditions peculiar to this property which would cause the Petitioner's claimed hardship.

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

**Petitioners' Position: No.**

Petitioner had no role in the change to from the FLSNV to the SVL as the applicable ocean front setback. Nor did Petitioner have a role in any dispute between the RRC and the CRC regarding amendments to CAMA Rules.

**Staff's Position: No.**

While Staff believes that due diligence steps by Petitioner and its consultants to stay abreast of the special tax district, the large-scale nourishment project and the resulting new PPVL, could have revealed the potential regulatory limitations on the Site, Staff believes that any hardships faced by Petitioner result largely from the landward movement of the vegetation line due to erosion on the Site combined with the nourishment and PPVL, as well as their current inability to use the "grandfather" exception as the Site was platted after 1979.

**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.**

Existing Rule 15A NCAC 07H .0309(b) defines exceptions within the Ocean Hazard ACE (OHA) setback when proposed development cannot meet the required erosion rate-based construction setback. This Rule limits the exception to lots created before June 1, 1979, to a total floor area no greater than 2,000 square feet with a maximum 1,000 square feet footprint and requires the structure to be set back the maximum feasible distance on the lot (a minimum of 60-feet) and no more oceanward than the landward-most adjacent structure. The purpose and intent of the Rules is to protect life and property.

The Proposed Development is less than 2000 sf. Its footprint is less than 1000 sf. It is no more oceanward than the landward-most adjacent structure. The Proposed Development is amply protected from ocean forces because it is well landward -- approximately 201 to 205 ft -- of the FLSNV setback. The lot on which the Proposed Development is located was created after June

1, 1979. Such is nonetheless consistent with CRC policy as reflected in its adoption of pending amendments to the setback exceptions in Rule 15A NCAC 07H .0309(b) that delete the limitation of the Exception as being applicable to only to lots created on or before that date. The only reason this amendment is not applicable today is because of a dispute between the CRC and the RRC.

The Proposed Development, located under the variance will be so far landward of the ocean, that the risk of damage from ocean forces is substantially reduced, thereby securing public safety. The structure of the Proposed Development is 202 to 206.4 feet landward of the FLSNV, well in excess of the minimum 180 feet minimum distance allowed under the Exception. Further, the Proposed Development will be located no further oceanward than the adjacent structures. Moreover, the Proposed Development that is the subject of this variance request is much smaller than the originally proposed development in the first CAMA permit application submitted June 14, 2022 (which Petitioner believes should have been approved for the reasons set forth above in the explanation of why the first variance criteria is met).

Further, the public welfare is secured by the fact that the Proposed Development will be consistent with Dare County Zoning Ordinances. The lot on which the Proposed Development is located is within Zoning District R-1 Low Density Residential. Per the Dare County, North Carolina Code of Ordinances at Section 22- 21(b), the permitted uses of lots in the R-1 district include: detached single-family dwellings. Petitioner seeks to develop a single-family dwelling, conforming with the Dare County Ordinance. The Proposed Development is thus consistent with the public welfare.

The variance would preserve substantial justice in several respects.

1. But for Rule 15A NCAC 07H .0309(b)'s limiting its setback exception to lots created before June 1, 1979, McCoy's current CAMA Permit Application would comply with the Rule's Exception. The Proposed Development will be located no further oceanward than the landward-most adjacent structure. The structure total floor area of the Proposed Development is less than 2000 square feet, and its footprint is less than 1000 sf. The Proposed Development is thus consistent with the Exception's size limitations before and after the approved-by-CRC amendment, and is consistent with the approved-by-CRC amendment that deletes the "pre-June 1, 1999 [sic] lot limitation".

2. Allowing the variance will allow the owner to develop the Property in a responsible manner and not unnecessarily penalize the owner, the engineering firm, the surveyor and the LPO for failure to understand the complex context over when the SVL came into effect and supplanted the FLSNV as the applicable setback.

3. Had McCoy submitted his first CAMA Minor Permit Application earlier and completed construction before the transition to the SVL, he would have been approved for an 8-bedroom home. This is demonstrated by what occurred in the permitting and construction of a home adjacent to the Property that is larger than what Petitioner now proposes. And that home is well oceanward of the now applicable SVL setback. That is explained below:

The next door property ("Lot 11") is owned by Mark and Melissa Reilly. They submitted a CAMA Permit Application on September 20, 2021, well after the SVL was adopted on August 12, 2021 for the Avon oceanfront, but before the SVL went into effect on June 19, 2022. On October 19, 2021, a CAMA permit was issued for the Lot 11 adjacent property, based on the house being 180-

feet landward of the FLSNV. The Lot 11 home was built on the adjacent property in 2022 under the FLSNV rules. Thus, had McCoy submitted his CAMA Permit Application in September of 2021 when the Lot 11 owners submitted their application, it appears that McCoy's original CAMA Permit application would have been treated the same as the Lot 11 application and thus would also been approved. In this context, Petitioner should not be penalized by a denial of this variance request.

4. The only reason that Petitioner is not entitled to have its application approved by the LPO is because of a dispute between the CRC and RRC over the procedures by which the CRC amends CAMA Rules, a situation over which Petitioner has no control. But for the "intra-government" RRC dispute, the Exception would apply to Petitioner's application and thus, the fact that the Property is a lot approved after June 1, 1979 would have no consequence.

5. McCoy is not aware of opposition by the adjacent neighbors to the Proposed Development as stated in the CAMA Minor Permit Application.

6. McCoy is not aware of opposition by Dare County to this Proposed Development.

**Staff's Position: No.**

Staff have significant concerns about granting variances based on draft rule amendments which have not been finally approved by the Commission and have not finished the rulemaking process. While Staff agree that the structure designed to meet the draft rule amendments allowing for a more limited-size structure no farther forward than the adjacent structures would be in the spirit of the Commission's draft setback rule amendments, the fact is that the 1979 date remains in the effective rule.

The Commission's rules have required oceanfront erosion setbacks since 1979 and all structures are required to meet an oceanfront setback (in this case, 180-feet) landward of the vegetation line/PPVL. The Commission has made limited exceptions for some types of development to be sited oceanward of the setback line (See those types of development listed in 7H.0309). The Significance and Management Objectives of the Commission's Ocean Hazard rules are stated in 15A NCAC 7H .0302 and .0303 , which are printed in full in Attachment A, but specifically note that

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 their loss or damage. 7H.0302(b)

And

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 reduce 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. 7H .0303(b)

As reflected in the Stipulated Facts, the County just received its first large-scale nourishment project in Avon in 2022 and there is a possibility that the vegetation line could move further waterward- but may also move landward.

Staff agrees that granting a variance may secure public safety and welfare where Petitioner has fashioned the house to otherwise meet the draft rule (other than the platted by date) including limiting the footprint to 1,000 SF and TFA to 2,000, and not being farther waterward than adjacent structures. Staff disagrees with Petitioner's statement above that they are so far back the "risk of damage from ocean forces is substantially reduced." Though 6'/year is an average, the approximately 200' distance from the vegetation line at 6'/year is 33 years (and we know the Commission's setback factors are based on past shorelines and not future predicted conditions).

Substantial justice will not be preserved where Petitioner seeks to avail itself of the current draft setback rule amendments which have not completed the rulemaking process. Staff does not agree that the pause in rulemaking or the circumstances of the 2022 denial not appealed by Petitioner should be considered in this factor.

**ATTACHMENT D**

Petitioner's Petition Materials  
(without initial proposed facts or duplicative exhibits)



**ROUNTREE LOSEE** LLP

Est. 1896

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(1904-1979)  
Ryan F. Tennant  
(1973-2016)  
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September 16, 2024

via United States Mail and Email  
N.C. Department of Environmental Quality  
c/o William F. Lane, General Counsel  
bill.lane@deq.nc.gov  
1601 Mail Service Center  
Raleigh, NC 27699-1601

N.C. Department of Environmental Quality  
Division of Coastal Management  
c/o Tancred Miller, Director  
tancred.miller@deq.nc.gov  
400 Commerce Avenue  
Morehead City, NC 28557

Office of the N.C. Attorney General  
Air and Natural Resources Section  
Environmental Division  
9001 Mail Service Center  
Raleigh, NC 27699-9001

Coastal Resources Commission  
Environmental Division  
c/o Mary L. Lucasse, Special Deputy AG and CRC Counsel  
mlucasse@ncdoj.gov  
P.O. Box 629  
Raleigh, NC 27602

N.C. Department of Environmental Quality  
c/o Christine Goebel, DEQ Assistant General Counsel  
christine.goebel@deq.nc.gov  
1601 Mail Service Center  
Raleigh, NC 27699-1601

September 16, 2024  
Page 2 of 2

RE: Petition to Coastal Resources Commission to Allow Variance from CAMA Rule 15A NCAC 07H .0309(b) at 41971 Ocean View Drive, Avon, NC; our file 2024-00341;

To Whom It May Concern:

I represent McCoy ENC LLC with respect to the enclosed Petition for a Variance. Enclosed please find:

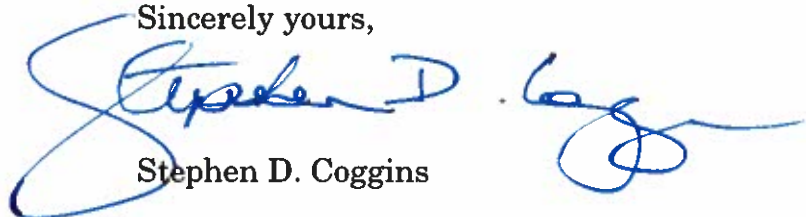
1. Variance Request Form (DCM Form 11)
2. CAMA Minor Development Permit Application indicating name and location of proposed development, and the Site Plan for the proposed development;
3. Denial of the Application;
4. Copy of Petitioner's deed to the property on which the proposed development is to be located;
5. Site plan for the proposed development;
6. Stipulation that the proposed development is inconsistent with the rule at issue;
7. Proof of Notice;
8. Draft proposed stipulation of facts and exhibits;
9. Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria.

This request seeks a variance from the verbiage within CAMA Rule 15A NCAC 07H .0309(b) that limits its provisions to only lots created before June 1, 1979.

Petitioner stipulates that the Proposed Development is inconsistent with 15A NCAC 07H .0309(b).

Thank you for your attention to this matter.

Sincerely yours,



Stephen D. Coggins

Enclosures

**CAMA VARIANCE REQUEST FORM****DCM FORM 11****DCM FILE No.:** \_\_\_\_\_PETITIONER'S NAME McCoy ENC LLCCOUNTY WHERE THE DEVELOPMENT IS PROPOSED Dare

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](http://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.

Stephen D. Coggins  
Signature of Petitioner or Attorney

9/13/2024  
Date

Stephen D. Coggins  
Printed Name of Petitioner or Attorney

scoggins@routreelosee.com  
Email address of Petitioner or Attorney

P.O. Box 1409  
Mailing Address

(910) 763-3404  
Telephone Number of Petitioner or Attorney

Wilmington                      NC                      28402  
City                                      State                      Zip

(910) 763-0320  
Fax Number of Petitioner or Attorney

**DELIVERY OF THIS HEARING REQUEST**

This variance petition must be **received** by the Division of Coastal Management at least six (6) weeks before the first day of the regularly scheduled Commission meeting at which it is heard. A copy of this request must also be sent to the Attorney General's Office, Environmental Division. 15A N.C.A.C. 07J .0701(e).

**Contact Information for DCM:****By mail, express mail or hand delivery:**

Director  
Division of Coastal Management  
400 Commerce Avenue  
Morehead City, NC 28557

**By Fax:**

(252) 247-3330

**By Email:**

Check DCM website for the email  
address of the current DCM Director  
**[www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)**

**Contact Information for Attorney General's Office:****By mail:**

Environmental Division  
9001 Mail Service Center  
Raleigh, NC 27699-9001

**By express mail:**

Environmental Division  
114 W. Edenton Street  
Raleigh, NC 27603

**By Fax:**

(919) 716-6767

Revised: July 2014

AGENT AUTHORIZATION FORM

Name of Property Owner Requesting Permit: McCoy ENC LLC ("LLC") through Donald McCoy, Managing Member

Mailing Address: 3113 Camille Drive  
Winterville, NC 28590

Phone Number(s): (252) 258-5186

Email Address: mccoyncllc@gmail.com

I certify that I have authorized Stephen Coggins, Halee Morris, and the law firm of Rountree Losee LLP to act on my behalf, for the purpose of applying for and obtaining a variance from the Coastal Resources Commission regarding proposed development at the Company's property located at 41971 Ocean View Drive, Avon, North Carolina in Dare County.

*I furthermore certify that I am authorized to grant and do in fact grant permission to the 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 appointment agreement shall continue in effect until final deposition of petitions submitted in conjunction with this appointment.*

Date: 9/13/24

Appointee's Name, Address & Telephone:



Stephen D. Coggins  
NC State Bar No. 8223  
[scoggins@rountreelosee.com](mailto:scoggins@rountreelosee.com)

Halee A. Morris  
NC State Bar No. 57329  
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ROUNTREE LOSEE LLP  
2419 Market Street  
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Tel.: (910) 763-3404  
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McCoy ENC LLC



Donald McCoy  
Managing Member  
[mccoyncllc@gmail.com](mailto:mccoyncllc@gmail.com)  
3113 Camille Drive  
Winterville, NC 28590  
Tel: (252) 258-5186





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Title	Agent Authorization Form - McCoy ENC LLC.pdf
File name	Agent%20Authoriza...y%20ENC%20LLC.pdf
Document ID	05b957c30a40119d7a8158fd0f22bcfc19a7bf56
Audit trail date format	MM / DD / YYYY
Status	• Signed

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This document was requested from [app.clio.com](https://app.clio.com)

### Document History

 SENT	<b>09 / 13 / 2024</b> 19:28:52 UTC	Sent for signature to McCoy ENC LLC (mccoyencllc@gmail.com) from mray@rountreelosee.com IP: 172.126.120.65
 VIEWED	<b>09 / 13 / 2024</b> 19:46:20 UTC	Viewed by McCoy ENC LLC (mccoyencllc@gmail.com) IP: 128.136.226.132
 SIGNED	<b>09 / 13 / 2024</b> 19:47:41 UTC	Signed by McCoy ENC LLC (mccoyencllc@gmail.com) IP: 128.136.226.132
 COMPLETED	<b>09 / 13 / 2024</b> 19:47:41 UTC	The document has been completed.

**To: Coastal Resources Commission**

**Fr: Stephen D. Coggins, counsel for Petitioner McCoy ENC LLC**

**Re: Petitioner’s Explanation of How It Meets the Four Variance Criteria Set Forth in [N.C. Gen. Stat. § 113A-120.1](#) and 15A N.C.A.C. 7J.0700**

The Petitioner, McCoy ENC LLC (“Petitioner” or “McCoy”) carries its burden to establish that the requested variance meets each of the four variance criteria as set forth in [N.C. Gen. Stat. § 113A-120.1](#) and 15A N.C.A.C. 7J. 0700 for the reasons set forth below.

**(1) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? YES**

CAMA Rule 15A NCAC 07H .0309(b) [which provides an exception (the “Exception”) to the otherwise-applicable-180-foot-setback from the Pre-Project Vegetation Line (“Static Vegetation Line” or “SVL”) as set forth in CAMA Rule 15A NCAC 07H .0306(a)(3)(A)] applies only to lots created before June 1, 1979.

Strict application of those provisions in the Exception will cause Petitioner hardship that is unnecessary. The Coastal Resources Commission (“CRC”) has already approved amending the Exception so that the limitation of its effect to only o lots platted before June 1, 1979 is deleted.

Recent actions of the CRC described below indicate that the State public policy behind the Exception does not require the Exception being limited to only lots created before June 1, 1979:

- a. In a memorandum dated April 12, 2023, Division of Coastal Management staff proposed amendments to Rule 15A 07H .0309(b) to remove the 1,000 square feet footprint, retain the total area of 2,000 square feet, and remove the June 1, 1979, stipulation. **Stipulated Exhibit 11**
- b. On April 26, 2023, the CRC approved a public hearing to be held for amendments to 15A NCAC 07H .0309(b), removing the requirement that developments excepted from 15A 07H .0306 setbacks must be on lots platted before June 1, 1979. No objections were received at the public hearing. **Stipulated Exhibit 12**
- c. On June 15, 2023, the CRC approved the fiscal analysis of the proposed amendment to 15A NCAC 07H .0309(b), removing the requirement that

developments excepted from 15A NCAC 07H .0306 setbacks must be on lots platted before June 1, 1979. **Stipulated Exhibit 13**

The foregoing demonstrates that the CRC as the State's policy-making body with respect to the Coastal Area Management Act deems that the Exception in CAMA Rule 15A NCAC 07H .0309(b) should no longer be limited to lots created on or before June 1, 1979.

However, because of a conflict between the CRC and the Rules Review Commission ("RRC"), these CRC-approved amendments to the Exception have not yet gone into effect.

Under these circumstances, denying the Petitioner a permit to build a small (less than 2000 square feet) residential structure (the "Proposed Development") that is far landward of the First Line of Stable and Natural Vegetation ("FLSNV") – 201 to 205 feet, and approximately 120 feet landward of the SVL, is entirely unnecessary, especially when one considers the peculiarity of the location as shown in Factor (2) below and the fact that Petitioner had no role in the creating the hardship, which is demonstrated in the discussion of Factor (3) set forth below.

**(2) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? YES.**

The hardship arises from a combination of factors that render peculiar the location of Petitioner's property and the Proposed Development, such as:

(a) recent public confusion over whether the original vegetation line (FLSNV) or the new vegetation line (SVL) is the applicable ocean setback line, which confusion leads Petitioner to question why the LPO denied Petitioner's first Application for a CAMA Minor Development Permit on the basis of non-compliance with the SVL setback when SVL did not go into effect until after the Application was filed; and

(b) a dispute between the RRC and the CRC over the procedures employed for CAMA Rules amendments, thus delaying the effective date of the amendment that CRC has approved which removes the June 1, 1979, limitation to the Exception in CAMA Rule 15A 07H .0309(b).

(a) Recent confusion over when the SVL should have been applied and whether it applies to Petitioner's first CAMA Permit Application.

For many years, the applicable ocean front setback for the Property and adjacent ocean front properties in Avon was the FLSNV. When Petitioner first

applied to build on the Property, all understood that the FLSNV was the applicable setback, including the CAMA LPO, the prior owner/seller of the property (“Hamilton”), the engineering company designing the Proposed Development for both the seller and the Petitioner McCoy as buyer (“House Engineering”), and the surveying company performing survey work for Petitioner (“Seaboard Surveying”).

Dare County meanwhile was interested in obtaining approval for an extensive beach renourishment along the Avon ocean front. In that context, the applicable setback would eventually become the “Pre-Project Vegetation Line”, which is also referred to and known as the “Static Vegetation Line” (“SVL”). The SVL would eventually apply instead of the prior-used FLSN, but the SVL would not apply until the first depositing of sand took place during the project. CAMA Rule 15A 07H .0305 provides that “[o]nce a pre-project vegetation line is established, and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line”

In 2021, McCoy became interested in acquiring the Property from Hamilton and retained Seaboard Surveying to conduct a survey of the Property that would show, among other things, the ocean front setback for the Property that was applicable under CAMA Rules 15A NCAC 07H .0306(a)(3)(A).

On August 4, 2021, DCM, through its Local Permit Officer, approved the location of the Property’s 180-foot CAMA FLSNV Setback Line as marked by Seaboard Surveying, as indicated on its survey. See **Stipulated Exhibit 4**.

On August 12, 2021, the location of the pre-project vegetation line or SVL applicable to oceanfront development in Avon, North Carolina was approved, as indicated by the DCM website at <https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=f5e463a929ed430095e0a17ff803e156> (See **Stipulated Exhibits 5**).

This soon-to-be-effective new SVL setback is significantly landward of the FLSNV. Petitioner today understands that the planned location for the SVL would shift the applicable setback for the Property approximately 61 ft landward of the FLSNV. As a result, that the proposed Property structure as shown on the previous Seaboard Surveying Surveys would be 12 ft oceanward of the SVL setback and thus would be non-compliant with applicable CAMA Rules once the SVL goes into effect. (See **Stipulated Exhibit 6**).

However, this new setback under the terms of CAMA Rule 15A 07H .0305 was not supposed to go into effect until the first deposition of sand onto the beach during the upcoming beach nourishment project. As shown below, Petitioner submitted its first CAMA Minor Permit Application before the beach nourishment project began depositing sand onto the beach.

On June 14, 2022, Petitioner submitted its first application for a CAMA Minor Development Permit (HI-20-2022) authorizing a single-family 8-bedroom dwelling with pool and cabana, with the development area being less than 5000 sf (and, including “non-development area” space being 6,779 sf), and being located 180 feet landward of the FLSNV. Petitioner understands that the FLSNV was still the applicable setback under CAMA Rule 15A 07H .0305 when the application was submitted because sand had not yet been deposited onto the beach by the Avon beach nourishment project. Sand was not first deposited on the beach until five days later on June 19, 2022.

For reasons not clear to the Petitioner, the LPO applied the SVL to Petitioner’s application, even though the Petitioner’s application was submitted before the date sand was first deposited on the Avon oceanfront during the beach nourishment project. The sand was not first deposited until June 19, 2022 – five days after Petitioner’s application was submitted. Petitioner understood that the FLSNV setback would be applied to the Application, since the FLSNV was still the applicable setback on the date the Application was submitted.

(b) RRC – CRC dispute adds to peculiarity.

The only reason Rule 15A 07H .0309(b) has not been amended to provide that its setback exception is no longer limited to lots formed on or before June 1, 1979, is because of an “intra-government” dispute between the RRC and the CRC over the procedures employed by the CRC in adopting amendments to CAMA Rules -- a matter unrelated to the merits of the amendment to the Exception. This imposes yet another peculiarity upon Petitioner’s property: but for the dispute between the RRC and the CRC over rulemaking procedures, Petitioner’s CAMA application for the Proposed Development would be approved.

All the foregoing factors act together to create conditions peculiar to the Property, conditions resulting in hardship.

**(3) Do the hardships result from actions taken by the petitioner? *NO*.**

Petitioner had no role in the change to from the FLSNV to the SVL as the applicable ocean front setback. Nor did Petitioner have a role in any dispute between the RRC and the CRC regarding amendments to CAMA Rules.



**(4) Will the variance requested by the petitioner:**

- a. be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission? *YES.***

Existing Rule 15A NCAC 07H .0309(b) defines exceptions within the Ocean Hazard ACE (OHA) setback when proposed development cannot meet the required erosion rate-based construction setback. This Rule limits the exception to lots created before June 1, 1979, to a total floor area no greater than 2,000 square feet with a maximum 1,000 square feet footprint and requires the structure to be set back the maximum feasible distance on the lot (a minimum of 60-feet) and no more oceanward than the landward-most adjacent structure. The purpose and intent of the Rules is to protect life and property.

The Proposed Development is less than 2000 sf. Its footprint is less than 1000 sf. It is no more oceanward than the landward-most adjacent structure. The Proposed Development is amply protected from ocean forces because it is well landward -- approximately 201 to 205 ft -- of the FLSNV setback.

The lot on which the Proposed Development is located was created after June 1, 1979. Such is nonetheless consistent with CRC policy as reflected in its adoption of pending amendments to the setback exceptions in Rule 15A NCAC 07H .0309(b) that delete the limitation of the Exception as being applicable to only to lots created on or before that date. The only reason this amendment is not applicable today is because of a dispute between the CRC and the RRC.

- b. secure the public safety and welfare? *YES.***

The Proposed Development, located under the variance will be so far landward of the ocean, that the risk of damage from ocean forces is substantially reduced, thereby securing public safety. The structure of the Proposed Development is 202 to 206.4 feet landward of the FLSNV, well in excess of the minimum 180 feet minimum distance allowed under the Exception. Further, the Proposed Development will be located no further oceanward than the adjacent structures. Moreover, the Proposed Development that is the subject of this variance request is much smaller than the originally proposed development in the first CAMA permit application submitted June 14, 2022 (which Petitioner believes should have been approved for the reasons set forth above in the explanation of why the first variance criteria is met).

Further, the public welfare is secured by the fact that the Proposed Development will be consistent with Dare County Zoning Ordinances. The lot on which the Proposed Development is located is within Zoning District R-1 Low Density Residential. Per the Dare County, North Carolina Code of Ordinances at Section 22-21(b), the permitted uses of lots in the R-1 district include: detached single-family

dwellings. Petitioner seeks to develop a single-family dwelling, conforming with the Dare County Ordinance. The Proposed Development is thus consistent with the public welfare.

and

**c. Preserve substantial justice? *YES*.**

The variance would preserve substantial justice in several respects.

1. But for Rule 15A NCAC 07H .0309(b)'s limiting its setback exception to lots created before June 1, 1979, McCoy's current CAMA Permit Application would comply with the Rule's Exception. The Proposed Development will be located no further oceanward than the landward-most adjacent structure. The structure total floor area of the Proposed Development is less than 2000 square feet, and its footprint is less than 1000 sf. The Proposed Development is thus consistent with the Exception's size limitations before and after the approved-by-CRC amendment, and is consistent with the approved-by-CRC amendment that deletes the "pre-June 1, 1999 lot limitation".
2. Allowing the variance will allow the owner to develop the Property in a responsible manner and not unnecessarily penalize the owner, the engineering firm, the surveyor and the LPO for failure to understand the complex context over when the SVL came into effect and supplanted the FLSNV as the applicable setback.
3. Had McCoy submitted his first CAMA Minor Permit Application earlier and completed construction before the transition to the SVL, he would have been approved for an 8-bedroom home. This is demonstrated by what occurred in the permitting and construction of a home adjacent to the Property that is larger than what Petitioner now proposes. And that home is well oceanward of the now applicable SVL setback. That is explained below:

The next door property ("Lot 11") is owned by Mark and Melissa Reilly. They submitted a CAMA Permit Application on September 20, 2021, well after the SVL was adopted on August 12, 2021 for the Avon oceanfront, but before the SVL went into effect on June 19, 2022.

On October 19, 2021, a CAMA permit was issued for the Lot 11 adjacent property, based on the house being 180-feet landward of the FLSNV. The Lot 11 home was built on the adjacent property in 2022 under the FLSNV rules.

*State of North Carolina*  
*Department of the Secretary of State*

SOSID: 1626849  
Date Filed: 9/26/2017 4:23:00 PM  
Elaine F. Marshall  
North Carolina Secretary of State  
C2017 269 00224

**Limited Liability Company**  
**ARTICLES OF ORGANIZATION**

Pursuant to §57D-2-20 of the General Statutes of North Carolina, the undersigned does hereby submit these Articles of Organization for the purpose of forming a limited liability company.

1. The name of the limited liability company is: McCoy ENC, LLC  
(See Item 1 of the Instructions for appropriate entity designation)
2. The name and address of each person executing these articles of organization is as follows: (State whether each person is executing these articles of organization in the capacity of a member, organizer or both. Note: This document must be signed by all persons listed.)  
Danny A. Harrington, Organizer  
211-A West 14th Street  
Greenville, N.C. 27834
3. The name of the initial registered agent is: Donald L. McCoy
4. The street address and county of the initial registered agent office of the limited liability company is:  
Number and Street 3113 Camille Drive  
City Winterville State: NC Zip Code: 28590 County: Pitt
5. The mailing address, if different from the street address, of the initial registered agent office is:  
Number and Street N/A  
City \_\_\_\_\_ State: NC Zip Code: \_\_\_\_\_ County: \_\_\_\_\_
6. Principal office information: (Select either a or b.)  
a.  The limited liability company has a principal office.  
The principal office telephone number: \_\_\_\_\_  
The street address and county of the principal office of the limited liability company is:  
Number and Street \_\_\_\_\_  
City \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ County: \_\_\_\_\_

The mailing address, if different from the street address, of the principal office of the company is:

Number and Street \_\_\_\_\_

City \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ County: \_\_\_\_\_

b.  The limited liability company does not have a principal office.

7. Any other provisions which the limited liability company elects to include (e.g., the purpose of the entity) are attached.

8. (Optional): Please provide a business e-mail address: N/A  
The Secretary of State's Office will e-mail the business automatically at the address provided above at no cost when a document is filed. The e-mail provided will not be viewable on the website. For more information on why this service is offered, please see the instructions for this document.



9. These articles will be effective upon filing, unless a future date is specified:  
\_\_\_\_\_

This is the 26th day of September, 2017.

\_\_\_\_\_  
*D. Harrington*  
Signature

Danny A. Harrington, Organizer  
Type or Print Name and Title

The below space to be used if more than one organizer or member is listed in Item #2 above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Type and Print Name and Title

\_\_\_\_\_  
Signature

27836  
Type and Print Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Type and Print Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Type and Print Name and Title

NOTES:

1. Filing fee is \$125. This document must be filed with the Secretary of State.



LIMITED LIABILITY COMPANY ANNUAL REPORT

037

1/6/2022

NAME OF LIMITED LIABILITY COMPANY: McCoy ENC LLC

SECRETARY OF STATE ID NUMBER: 1626849 STATE OF FORMATION: NC

REPORT FOR THE CALENDAR YEAR: 2024

Filing Office Use Only
E - Filed Annual Report
1626849
CA202408703449
3/27/2024 01:02
Changes

SECTION A: REGISTERED AGENT'S INFORMATION

1. NAME OF REGISTERED AGENT: McCoy, Donald L.

2. SIGNATURE OF THE NEW REGISTERED AGENT:

SIGNATURE CONSTITUTES CONSENT TO THE APPOINTMENT

3. REGISTERED AGENT OFFICE STREET ADDRESS & COUNTY 4. REGISTERED AGENT OFFICE MAILING ADDRESS

3113 Camille Drive 3113 Camille Drive
Winterville, NC 28590 Pitt County Winterville, NC 28590

SECTION B: PRINCIPAL OFFICE INFORMATION

1. DESCRIPTION OF NATURE OF BUSINESS: Monthly Single Family Rentals, Vacation Rentals, Property Management, Real Estate Investment

2. PRINCIPAL OFFICE PHONE NUMBER: (252) 258-5186 3. PRINCIPAL OFFICE EMAIL: Privacy Redaction

4. PRINCIPAL OFFICE STREET ADDRESS 5. PRINCIPAL OFFICE MAILING ADDRESS

3113 Camille Drive 3113 Camille Drive
Winterville, NC 28590 Winterville, NC 28590

6. Select one of the following if applicable. (Optional see instructions)

- The company is a veteran-owned small business
The company is a service-disabled veteran-owned small business

SECTION C: COMPANY OFFICIALS (Enter additional company officials in Section E.)

NAME: Donald Lee McCoy NAME: NAME:

TITLE: Managing Member TITLE: TITLE:

ADDRESS: ADDRESS: ADDRESS:

3113 Camille Drive

Winterville, NC 28590

SECTION D: CERTIFICATION OF ANNUAL REPORT. Section D must be completed in its entirety by a person/business entity.

Donald Lee McCoy 3/27/2024

SIGNATURE

DATE

Form must be signed by a Company Official listed under Section C of This form.

Donald Lee McCoy Managing Member

Print or Type Name of Company Official

Print or Type Title of Company Official

This Annual Report has been filed electronically.

MAIL TO: Secretary of State, Business Registration Division, Post Office Box 29525, Raleigh, NC 27626-0525

BK 2547 PG 139 - 141 (3)

DOC# 700106002

This Document eRecorded:

09/22/2021 04:04:21 PM

Fee: \$26.00

Excise Tax: \$800.00

Dare County, North Carolina

Transfer Tax: \$4,000.00

Cheryl L. House, REGISTER OF DEEDS

Dare County Land Transfer No.: 4768-21 Land Transfer Tax: 4000.00 1985 Sessions Law Chapter 670 (HB 215)

LT # 4768-21

Land Transfer \$ 4,000.00

Excise Tax: \$ 800.00

This instrument should be mailed to the preparer:

Dixon &amp; Dixon Law Offices, PLLC; P.O. Box 750, Avon, NC 27915

**Delinquent taxes, if any, are to be paid by the closing attorney to the County Tax Collector upon disbursement of closing proceeds.**

Brief Index Description: Lot 10, Phase 2, Kinnakeet Shores

Parcel Identifier Number: 029593010

File Number: MCCHAM01-0721

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## NORTH CAROLINA GENERAL WARRANTY DEED

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THIS WARRANTY DEED is made this 9th day of September, 2021 by and between:

**HAMILTON REAL ESTATE HOLDINGS, LLC**

a North Carolina limited liability company

**137 Meadowlark Road****Goldsboro, NC 27534**

(hereinafter referred to in the neuter singular as "the Grantor") and

**MCCOY ENC, LLC**

a North Carolina limited liability company

**3113 Camille Drive****Winterville, NC 28590**

(hereinafter referred to in the neuter singular as "the Grantee"):

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does hereby give, grant, bargain, sell and convey unto the Grantee, its heirs, successors, administrators and assigns, all of that certain lot or parcel of land situated in the Village of Avon, Kinnakeet Township of said Dare County, North Carolina, and more particularly described as follows:

submitted electronically by "Dixon & Dixon Law Offices"  
 in compliance with North Carolina statutes governing recordable documents  
 and the terms of the submitter agreement with the Dare County Register of Deeds.

The property herein described was acquired by the Grantor by deed recorded in Book 2247 at Page 931, in the Public Registry of Dare County.

A map showing the above described property is recorded in Plat Cabinet C, Slide 23-C, in the Public Registry of Dare County.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

The Grantor covenants with the Grantee that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the following exceptions:

1. Ad Valorem taxes for 2021 and all subsequent years.
2. Subject to any easements and restrictive covenants as may appear of record in the Public Registry of Dare County.

**GRANTOR MUST INITIAL ONE OF THE FOLLOWING:**

\_\_\_\_\_ This property includes the primary residence of the Grantor. (per NC GS § 105-317.2)

MHW This property does not include the primary residence of the Grantor. (per NC GS § 105-317.2)

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Hamilton Real Estate Holdings, LLC

[Signature] (SEAL)

By: MICHAEL H. WIGGINS, Manager

STATE OF NC COUNTY Wayne

I, a Notary Public of the County and State aforesaid, certify that MICHAEL H. WIGGINS, Manager of HAMILTON REAL ESTATE HOLDINGS, LLC, a North Carolina limited liability company, Grantor personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 9 day of September, 2021.

My Commission Expires: 1-03-2024

[Signature]  
Notary Public

**JULIE U DANIELS**  
Notary Public  
Wayne Co. North Carolina  
My Commission Expires Jan. 03 2026

BEING all of Lot No. 10, Kinnakeet Shores Phase 2, as shown on that plat recorded in Plat Cabinet "C", Slide 23-C of the Dare County Registry.

Unofficial Document

Unofficial Document

Unofficial Document

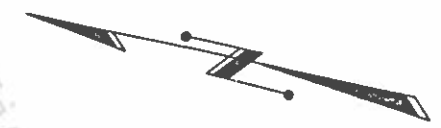
Unofficial Document

Unofficial Document





VICINITY MAP  
NO SCALE

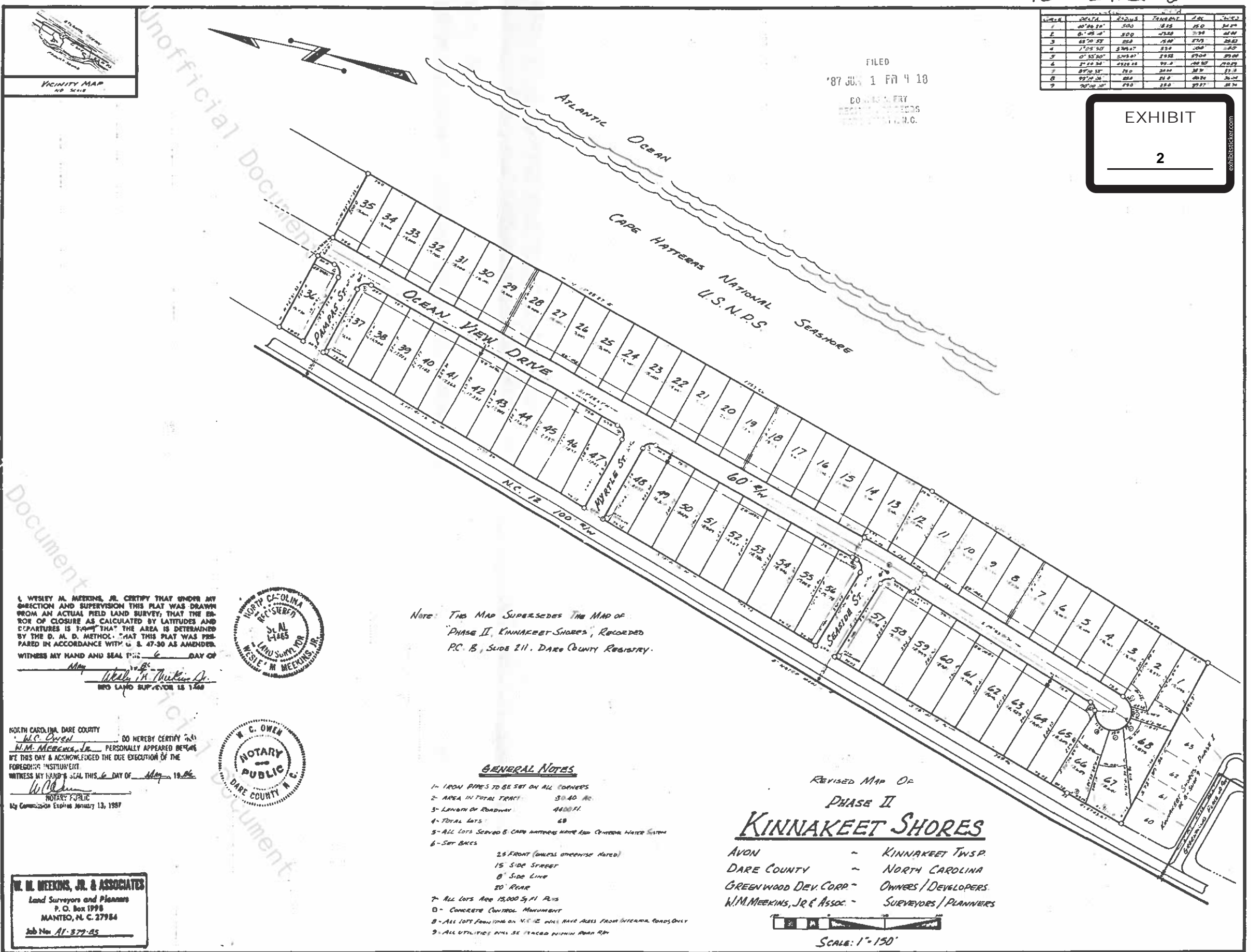


FILED  
'87 JUN 1 PM 4 18

CO. CLERK  
REGISTRY RECORDS  
DARE COUNTY, N.C.

LOT	AREA	PERCENT	AREA	PERCENT
1	40' 00" 20'	500	8.25	15.0
2	40' 00" 20'	500	8.25	15.0
3	40' 00" 20'	500	8.25	15.0
4	40' 00" 20'	500	8.25	15.0
5	40' 00" 20'	500	8.25	15.0
6	40' 00" 20'	500	8.25	15.0
7	40' 00" 20'	500	8.25	15.0
8	40' 00" 20'	500	8.25	15.0
9	40' 00" 20'	500	8.25	15.0

EXHIBIT  
2



I, WESLEY M. WEEKINS, JR. CERTIFY THAT UNDER MY DIRECTION AND SUPERVISION THIS PLAT WAS DRAWN FROM AN ACTUAL FIELD LAND SURVEY; THAT THE ERROR OF CLOSURE AS CALCULATED BY LATITUDES AND DEPARTURES IS  $1/10000$  THAT THE AREA IS DETERMINED BY THE D. M. D. METHOD; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.  
WITNESS MY HAND AND SEAL THIS 6 DAY OF May 1987.  
Wesley M. Weekins, Jr.  
REG. LAND SURVEYOR 18 1468



Note: THIS MAP SUPERSEDES THE MAP OF  
"PHASE II, KINNAKEET SHORES", RECORDED  
PC 18, SLIDE 211, DARE COUNTY REGISTRY.

NORTH CAROLINA, DARE COUNTY  
I, W.C. OWEN, DO HEREBY CERTIFY THAT  
W.M. WEEKINS, JR. PERSONALLY APPEARED BEFORE  
ME THIS DAY & ACKNOWLEDGED THE DUE EXECUTION OF THE  
FOREGOING INSTRUMENT.  
W.C. Owen  
NOTARY PUBLIC  
My Commission Expires January 13, 1987



**GENERAL NOTES**

- 1- IRON PIPES TO BE SET ON ALL CORNERS
- 2- AREA IN TOTAL TRACT 30.40 AC.
- 3- LENGTH OF ROADWAY 4400 FT.
- 4- TOTAL LOTS 68
- 5- ALL LOTS SERVED BY CAPE HATTERAS WATER AND CENTRAL WATER SYSTEM
- 6- SET BACKS  
25' FRONT (UNLESS OTHERWISE NOTED)  
15' SIDE STREET  
0' SIDE LINE  
20' REAR
- 7- ALL LOTS ARE 15,000 Sq Ft PLUS
- 8- CONCRETE CONTROL MONUMENT
- 9- ALL LOTS FRONTING ON N.C. 12 WILL HAVE ACCESS FROM INTERIOR ROADS ONLY
- 9- ALL UTILITIES SHALL BE PLACED WITHIN ROAD R/W

REVISED MAP OF

**PHASE II  
KINNAKEET SHORES**

AVON ~ KINNAKEET TWP.  
DARE COUNTY ~ NORTH CAROLINA  
GREENWOOD DEV. CORP. ~ OWNERS / DEVELOPERS.  
W.M. WEEKINS, JR. & ASSOC. ~ SURVEYORS / PLANNERS



SCALE: 1" = 150'

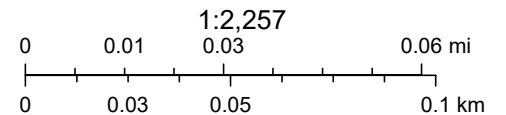
**W. M. WEEKINS, JR. & ASSOCIATES**  
Land Surveyors and Planners  
P. O. Box 1998  
MANTEO, N. C. 27954  
Job No. AT-379-85

# 41971 Ocean View Dr Avon 042



10/27/2024, 10:22:03 PM

- Setback Factors (2020)
- Pre-Project Vegetation Lines
- Shorelines - Oceanfront & Inlet (1849-2020)
- 1,849 – 1,900
- > 1,940 – 1,960
- > 1,960 – 1,980
- > 1,980 – 2,000
- > 2,000 – 2,020
- Erosion Rates (2020)
- Erosion



Maxar, Microsoft, Esri Community Maps Contributors, State of North Carolina DOT, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

**SOIL/SITE EVALUATION**

**For ON-SITE WASTEWATER SYSTEM**

OWNER: Hamilton APPLICANT: McGoy  
 ADDRESS: 41971 Ocean View APPLICATION DATE: 6-29-21 DATE EVALUATED: 7-1-21  
 PROPOSED FACILITY: OPR PROPOSED DESIGN FLOW (.1949): 960 PROPERTY SIZE:                       
 LOCATION OF SITE:                                  PROPERTY RECORDED:                       
 WATER SUPPLY:  Public  Private  Well  Spring  Other                       
 EVALUATION METHOD:  Auger Boring  Pit  Cut  
 TYPE OF WASTEWATER:  Sewage  Industrial Process  Mixed

P R O F I L E #	1940 Land Slope Position Slope%	Horiz- ontal Depth (IN)	SOIL MORPHOLOGY (1941)		OTHER PROFILE FACTORS				Profile Class & LTAR
			1941 STRUCTURE TEXTURE	1941 CONSISTENCE/ MINERALOGY	.1942 Soil Wetness /Color	.1943 Soil Depth	.1956 Soil Class	.1944 Restr. Horiz	
1	—	0-48	S	G	18" wet	48	PS	—	1.0 1.2 Peat System
2	—	0-48	S	G	18" wet	48	PS	—	1.0 1.2 Peat System
3									
4									

Description	Initial System	Repair System	Other Factors (.1946): <u>S</u>
Available Space (.1945) Site LTAR	<u>1.0 low</u>	<u>1.0 low</u>	Site Classification (.1948) <u>PS</u>
	<u>1.2 low</u>	<u>1.2 low</u>	Evaluated by: <u>ASL</u>
			Other(s) Present: <u>                    </u>

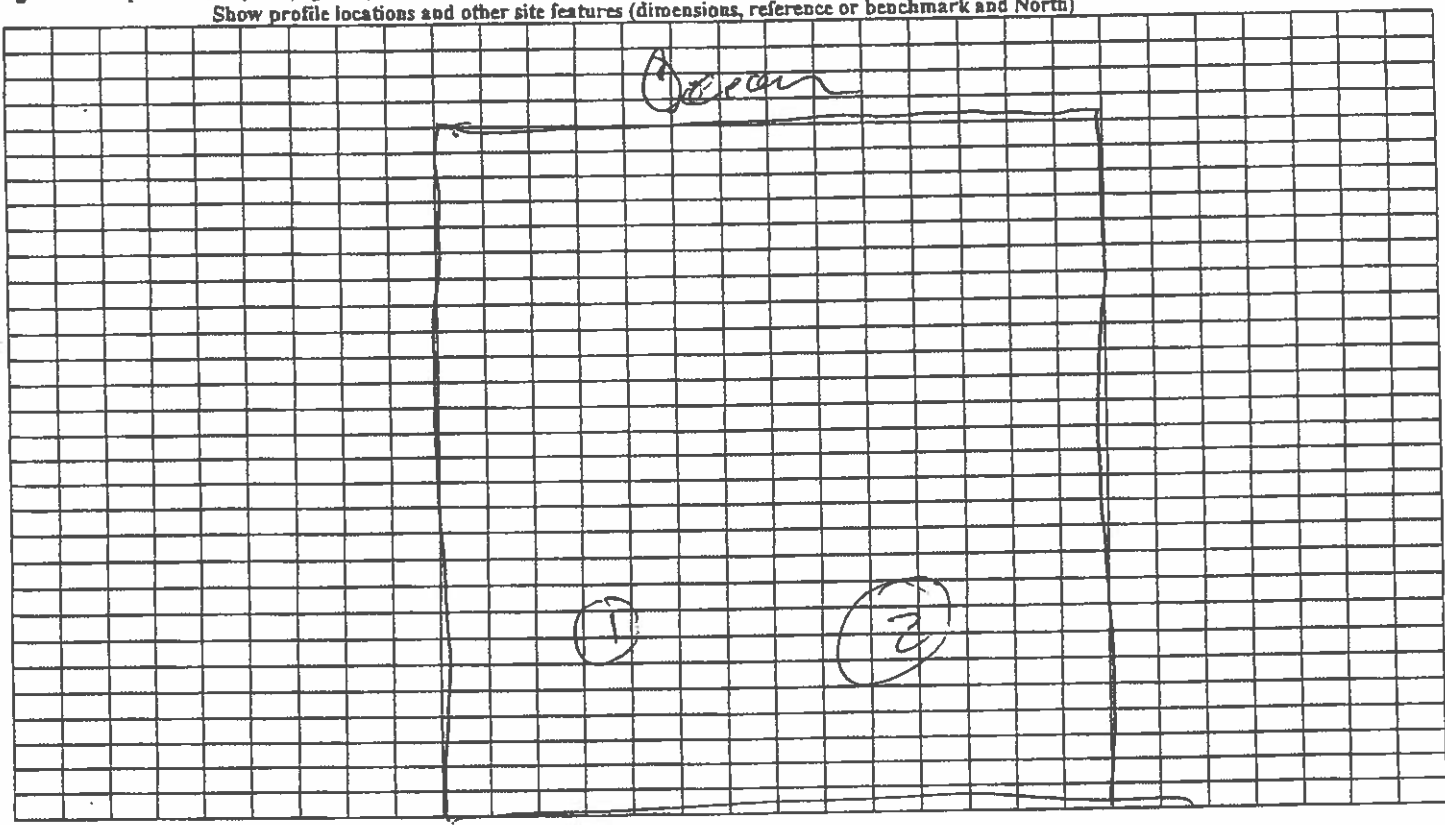
Comments: Permit can be issued once Engineered Plans for  
Pest System Are Approved -

### LEGEND

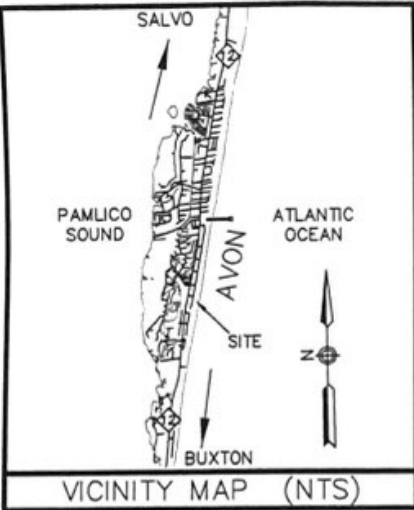
Use the following standard abbreviations

LANDSCAPE POSITION	GROUP	SOIL TEXTURE	CONVENTIONAL .1955 LTR	LP .1957 LTR	MINERALOGY/ CONSISTENCE	STRUCTURE
CC (Concave Slope) CV (Convex Slope) D (Drainage Way) DS (Debris Slump) FP (Flood Plain) FS (Foot Slope) H (Head Slope) L (Linear Slope) N (Nose Slope) R (Ridge) S (Shoulder Slope) T (Terrace)	I	S (Sand) LS (Loamy Soil)	1.2 - 0.8	0.6 - 1.4	NEXP (Non-expansive) SEXP (Slightly Expansive) EXP (Expansive)	G (Single Grain) M (Massive) CR (Crumb) GR (Granular) SBK (Sub-angular Block) ABK (Angular Blocky) PL (Platy) PR (Prismatic)
	II	SL (Sandy Loam) L (Loam)	0.8 - 0.6	0.4 - 0.3		
	III	SI (Silt) SICL (Silty Clay Loam) CL (Clay Loam) SCL (Sandy Clay Loam) SLC (Silt Loam Clay)	0.6 - 0.3	0.3 - 0.15		
	IV	SC (Sandy Clay) 0.4 - 0.1 SIC (Silty Clay)  O (Organic)	0.2 - 0.05  None		<b>MOIST</b> VFR (Very Friable) FR (Friable) FI (Firm) VFI (Very Firm v. Very Sticky) EFI (Extremely Firm)	<b>WET</b> NS (Non-sticky) SS (Slightly Sticky) S (Sticky) VS (Very Sticky) NP (Non-Plastic) SP (Slightly Plastic) P (Plastic) VP (Very Plastic)

- NOTES**
- HORIZAN DEPTH** In inches below natural soil surface
  - DEPTH OF FILL** In inches from land surface
  - RESTRICTIVE HORIZAN** Thickness and depth from land surface
  - SAPROLITE** S(suitable) or U(unsuitable)
  - SOIL WETNESS** Inches from land surface to free water or inches from land surface to soil colors with chroma 2 or less -- record Munsell color chip designation
  - CLASSIFICATION** S(Suitable, PS(Provisionally Suitable) or U(Unsuitable)
- Evaluation of saprolite shall be by pits.  
 Long-term Acceptance Rate (LTR): gal/day/ft<sup>2</sup>  
 Show profile locations and other site features (dimensions, reference or benchmark and North)



Rd ←

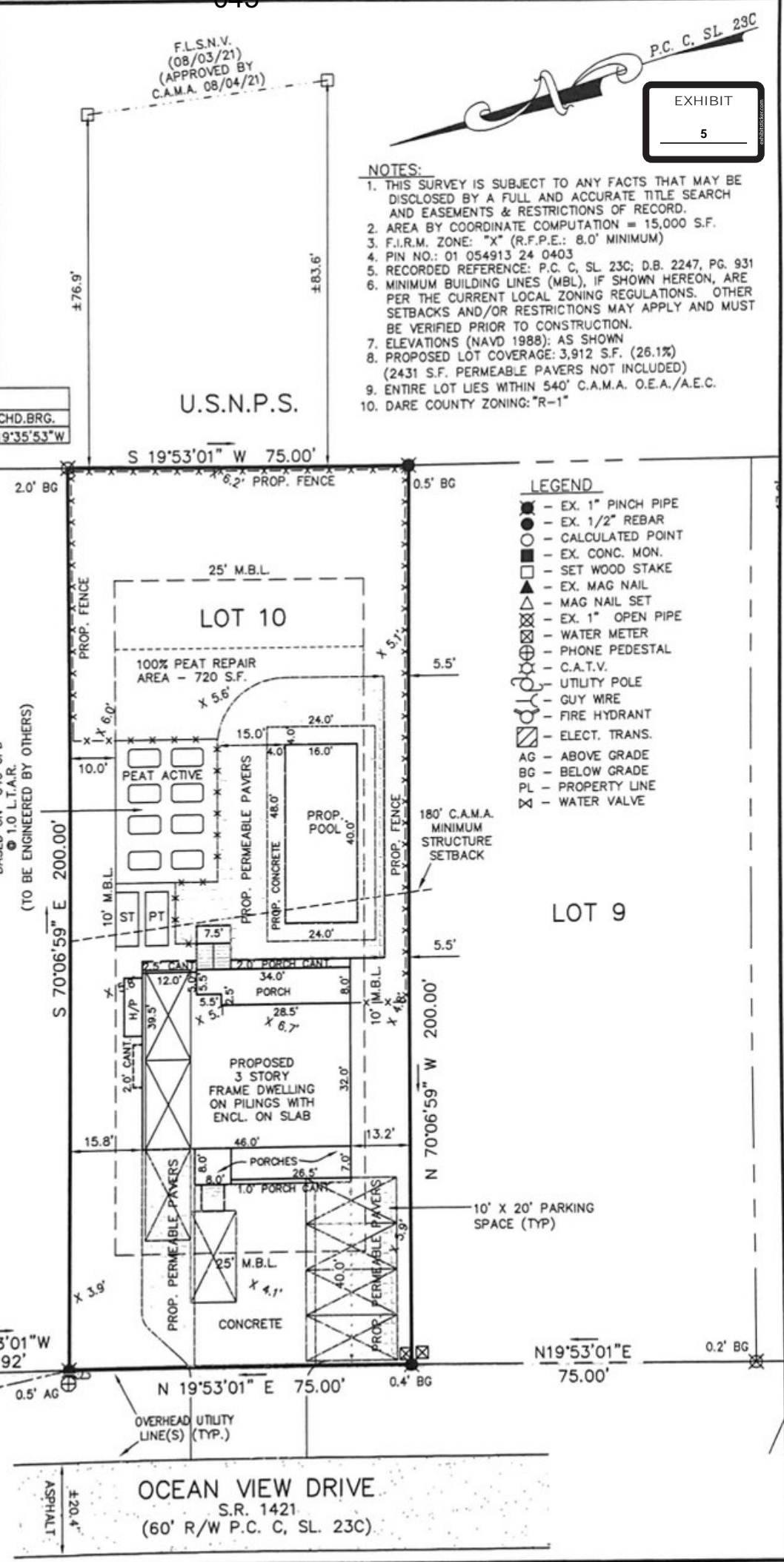


**CURVE TABLE**

CURVE	RADIUS	DELTA	LENGTH	CHORD	CHD.BRG.
C1	4525.23	0°34'16"	45.11	45.11	S19°35'53"W

I, MANSON RAY MEEKINS, CERTIFY THAT THIS PLAN WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE IN 2021, MY PROFESSIONAL (FIELD) NO. IS 21014, I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN NORTH CAROLINA (21 NCAC 56.1600). THAT THE INFORMATION NOT SURVEYED ARE INDICATED AS DRAWN FROM (FIELD) DESCRIPTION RECORDED IN BOOK PAGE THAT THE RATIO OF PRECISION AS CALCULATED IS 1/10,000+, THAT THIS PLAN MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). THIS 27TH DAY OF AUGUST, 2021

MANSON RAY MEEKINS  
SURVEYOR  
L-2592



- NOTES:**
1. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH AND EASEMENTS & RESTRICTIONS OF RECORD.
  2. AREA BY COORDINATE COMPUTATION = 15,000 S.F.
  3. F.I.R.M. ZONE: "X" (R.F.P.E.: 8.0' MINIMUM)
  4. PIN NO.: 01 054913 24 0403
  5. RECORDED REFERENCE: P.C. C. SL 23C; D.B. 2247, PG. 931
  6. MINIMUM BUILDING LINES (MBL), IF SHOWN HEREON, ARE PER THE CURRENT LOCAL ZONING REGULATIONS. OTHER SETBACKS AND/OR RESTRICTIONS MAY APPLY AND MUST BE VERIFIED PRIOR TO CONSTRUCTION.
  7. ELEVATIONS (NAVD 1988): AS SHOWN
  8. PROPOSED LOT COVERAGE: 3,912 S.F. (26.1%) (2431 S.F. PERMEABLE PAVERS NOT INCLUDED)
  9. ENTIRE LOT LIES WITHIN 540' C.A.M.A. O.E.A./A.E.C.
  10. DARE COUNTY ZONING: "R-1"

- LEGEND**
- - EX. 1" PINCH PIPE
  - - EX. 1/2" REBAR
  - - CALCULATED POINT
  - - EX. CONC. MON.
  - ▲ - SET WOOD STAKE
  - ▲ - EX. MAG NAIL
  - △ - MAG NAIL SET
  - ⊗ - EX. 1" OPEN PIPE
  - ⊕ - WATER METER
  - ⊕ - PHONE PEDESTAL
  - ⊕ - C.A.T.V.
  - ⊕ - UTILITY POLE
  - ⊕ - GUY WIRE
  - ⊕ - FIRE HYDRANT
  - ⊕ - ELECT. TRANS.
  - AG - ABOVE GRADE
  - BG - BELOW GRADE
  - PL - PROPERTY LINE
  - ⊗ - WATER VALVE

REV. 08/23/21: SITE PLAN

SURVEY FOR  
**McCOY ENC, LLC**  
LOT 10 - PHASE 2 REVISED - KINNAKEET SHORES - AVON  
KINNAKEET TOWNSHIP - DARE COUNTY - NORTH CAROLINA

**SEABOARD SURVEYING & PLANNING, INC. C-1536**  
103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959  
OFFICE: (252) 480-9998 FAX: (252) 480-0571

FILE: 2109917 SURVEYED: 08/03/21 CA PLATTED: 08/04/21 TG

**Improvement Permit**  
**County of Dare**  
**PO Box Drawer 1000**  
**Manteo NC 27954**

**31000**

Phone: (252) 475-5080

**DARE COUNTY DEPARTMENT OF PUBLIC HEALTH**

An Improvement Permit (IP) issued pursuant to this application is not affected by change in ownership provided the site and wastewater characteristics remain unchanged. An IP issued with a plat is valid without expiration. An IP issued with a site plan is valid for 60 months from the date of issuance.

PIN: 054913240403

Parcel: 029593010

Permit#: 31000

Owner Name: DONALD MCCOY  
 Owner Address: 3113 CAMILLE DRIVE  
 Owner Address: --  
 WINTERVILLE NC 27534

Permit Date: 8/31/2021  
 Permit Type: Residential  
 Owner Phone: (000)000-0000

DBA

Location: 41971 OCEAN VIEW DR AVON, NC  
 Subdivision: KINNAKEET SHORES PHASE 2 LOT: 10 BLK: SEC: BB

Category of System:	NEW	Size of Tank (gallons):	2000
Type of Tank:	PRECAST	Width of Ditch:	22 X 31
Type of System:	TYPE V-D	Rock Above (inches):	0
Amount of Tile (feet):	8	Gallons per Day:	960
Rock Under (inches):	8	Previous Permit Number:	
Number of Bedrooms:	8	Feet from Body of Water:	50
Sleeping Capacity (persons):	16	Feet from Building:	5
Type of Water:	Public		
Feet from Water Supply:	10		
Feet from Property Line:	10		

**Comments:**

HOUSE PLANS AND ENGINEERED SEPTIC SYSTEM PLANS MUST BE APPROVED BEFORE THE AWSK PERMIT AND BUILDING PERMIT CAN BE ISSUED. REPAIR AREA SHOWN ON SITE PLAN. ENSURE THERE ARE NO WELLS WITHIN FIFTY FEET OF SEPTIC SYSTEM

Note: This Permit is issued subject to all provisions of the 15A NCAC .1900 rules governing the installation of septic systems. The person making the installation must notify the Health Department when the septic tank system is ready for inspection. If any septic tank system or part thereof is covered before being inspected and approved, it shall be uncovered at the direction of the Health Officer at the expense of the one responsible for making the installation.

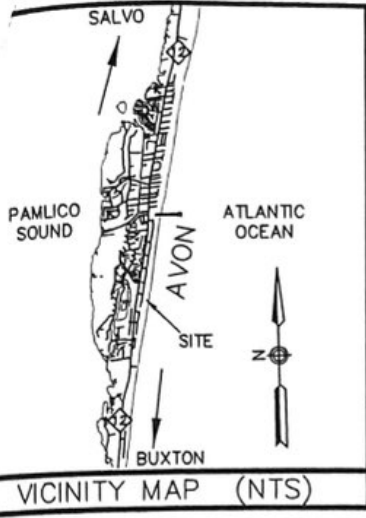
Issued 8/31/2021 By:

Sewer Permit Fee: 400

Rob Crawford  
 Environmental Health Specialist

Applicant Signature DONALD MCCOY

F.L.S.N.V.  
(08/03/21)  
(APPROVED BY  
C.A.M.A. 08/04/21)



Public Layout Approved  
by DCDHHS, DPH, EH Unit

- NOTES:**
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U.S.N.P.S.

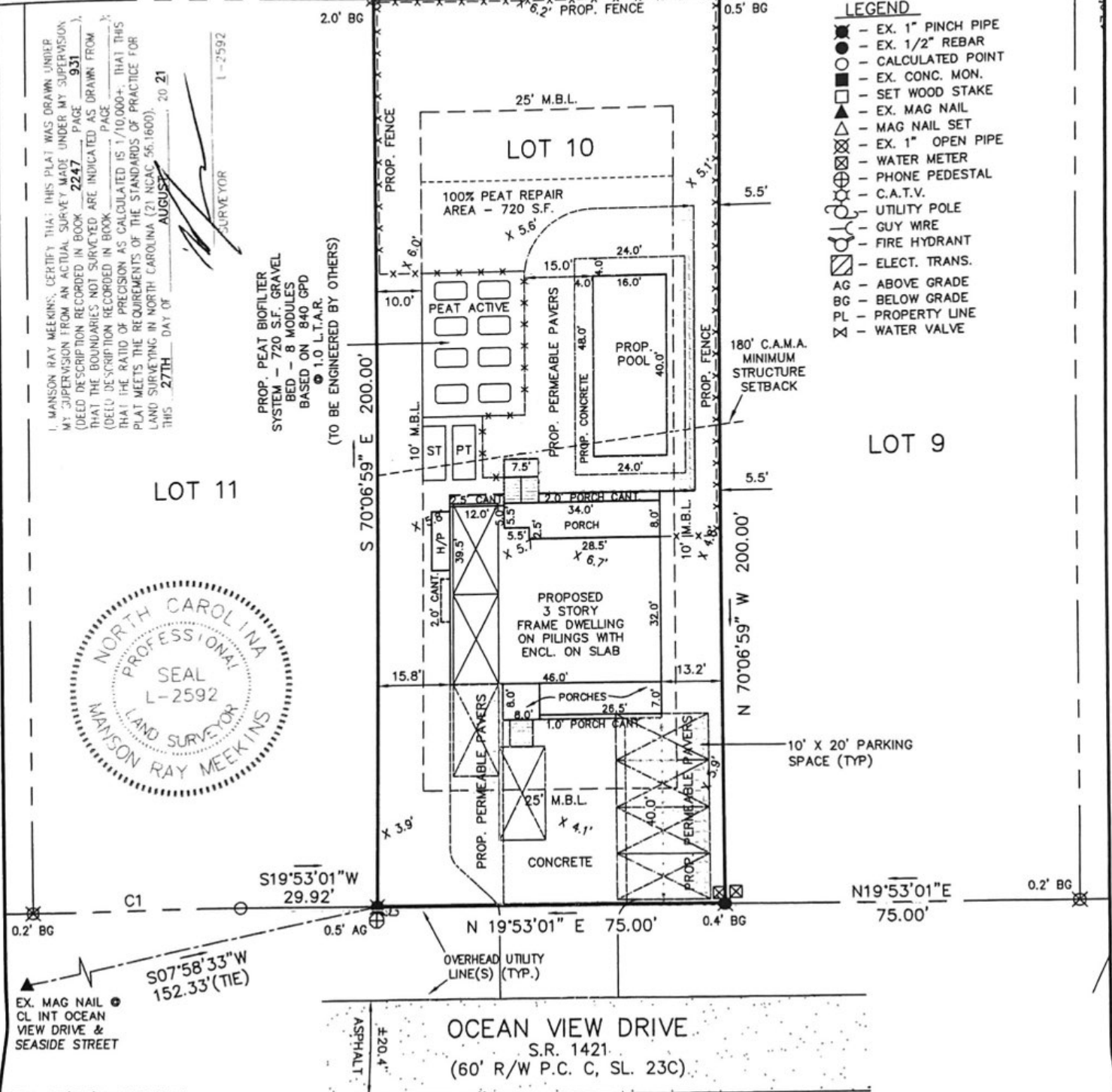
S 19°53'01" W 75.00'

I, MANSON RAY MEEKINS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 2247, PAGE 931) THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM (DEED DESCRIPTION RECORDED IN BOOK PAGE THAT THE RATIO OF PRECISION AS CALCULATED IS 1/10,000+, THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 N.C.A.C. 56.1600). THIS 27TH DAY OF AUGUST, 2021

MANSON RAY MEEKINS  
SURVEYOR  
L-2592

PROP. PEAT BIOFILTER SYSTEM - 720 S.F. GRAVEL BED - 8 MODULES BASED ON 840 GPD @ 1.0 L.T.A.R. (TO BE ENGINEERED BY OTHERS)

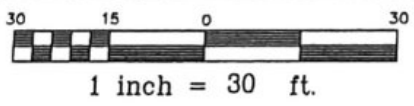
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REV. 08/23/21: SITE PLAN

SURVEY FOR  
**McCOY ENC, LLC**

LOT 10 - PHASE 2 REVISED - KINNAKEET SHORES - AVON  
KINNAKEET TOWNSHIP - DARE COUNTY - NORTH CAROLINA



**SEABOARD SURVEYING & PLANNING, INC. C-1536**  
103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959  
OFFICE: (252) 480-9998 FAX: (252) 480-0571

Recorded: 10/05/2021 01:26:11 PM

BY: CLAUDIA HARRINGTON

Cheryl L. House, Register of Deeds

Dare County, NC

Fee Amt: \$26.00

NC Excise Tax: \$0.00

Land Transfer Fee: \$0.00

BOOK 2551 PAGE 316 (3)

700106709



Unofficial Document

**EXEMPT**  
DARE COUNTY  
LAND TRANSFER TAX

NO. 5078-21 / 40

STATE OF NORTH CAROLINA  
COUNTY OF DARE

**PERPETUAL EASEMENT FOR  
AVON BEACH NOURISHMENT**

Parcel No. 029593011

Prepared by, Return to:

Robert Outten, Dare County Manager

954 Marshall C. Collins Drive., Manteo, NC 27954

Hamilton Real Estate Holdings, LLC, a North Carolina Limited Liability Company, Grantor(s), in consideration of the benefits to be realized by Grantor from the activities performed in that easement area granted herein, hereby grants a perpetual and assignable easement and right-of-way in, on, over and across the hereinafter described land for use by the **County of Dare, North Carolina**, Grantee (sometimes herein "County") its representatives, agents, employees, officials, engineers, consultants, surveyors, contractors, subcontractors, permittees, invitees and assigns, to enter the easement area to evaluate, survey, inspect, construct, preserve, patrol, protect, operate, maintain, repair, rehabilitate, and replace a public beach, a dune system, and other erosion control and storm damage reduction measures together with appurtenances thereto, including: the right to deposit sand together with the right of public use and access over such deposited sand; to accomplish any alterations of contours on said land; to construct berms and dunes; to nourish and renourish periodically; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction, periodic renourishment and maintenance of the County's Beach Renourishment Project (sometimes herein "Project"); to plant vegetation on said dunes and berms; to erect, maintain and remove silt screens and sand fences; to facilitate preservation of dunes and vegetation through the limitation of access to dune areas; to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the easement if debris or obstacles are within the permitted nourishment design templates.

THERE IS RESERVED, HOWEVER, to the Grantor(s), his/her/its/their heirs, successors and assigns, the right to construct dune walkover structures in accordance with any applicable Federal, State or local laws or regulations, provided that such structures shall not violate the

Unofficial Document



UNOFFICIAL Document

integrity of the dune in shape, dimension or function, and that prior approval of the plans and specifications for such structures is obtained from the County and provided further that such structures are subordinate to the construction, operation, maintenance, repair, rehabilitation and replacement of the work authorized herein; and further reserving to the Grantor(s), his/her/its/their heirs, successors and assigns all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired. As a material part of this easement, Grantor agrees to neither remove nor grade (except for finish grading with hand tools) sand placed in the easement area or in the adjacent public trust beach once deposited by a publicly funded nourishment or renourishment project without the written permission of the County and/or other governmental agency sponsoring such a project or otherwise with jurisdiction.

TO HAVE AND TO HOLD the said easement unto the County, its successors and assigns, now and forever. The County shall have the right to temporarily or permanently assign this easement to the federal, state, or county governments, or any agencies or department thereof or any governmental authority formed to implement beach nourishment, renourishment and/or stabilization on Hatteras Island. This easement shall be binding on the Grantor(s), his/her/its/their heirs, successors and assigns, and shall run with the title of the land.

The Property subject to this easement is that portion of the parcel(s) described in that/those deed(s) recorded at the Dare County Registry, Book 2247 Page 0931, which (i) visibly appears above the mean high water mark of the Atlantic Ocean as a part of that ocean's beach strand, (ii) is seaward of the last line of stable vegetation, (iii) is within the frontal sand dune adjacent to said beach; or (iv) is seaward of the crest of the erosion escarpment, whichever shall be larger. Property may be a common area of a condominium or planned development and Grantor(s) may be an owner's association or another body with jurisdiction over the Property.

IN WITNESS WHEREOF, this instrument is executed by Grantor(s) under seal as of the date of notarization below.

*HAMILTON Real Estate Holdings*  
Grantor: *Michael H. Wiggins* (SEAL) Grantor \_\_\_\_\_ (SEAL)  
*MANAGER*

Grantor: \_\_\_\_\_ (SEAL) Grantor \_\_\_\_\_ (SEAL)

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UNOFFICIAL Document

STATE OF North Carolina  
CITY/COUNTY OF Wayne

I, a Notary Public of the County and State aforesaid do hereby certify that Michael H. Wiggins, Manager personally appeared before me this date and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 22 day of September, 2021.

My commission expires: 1-03-2026

Julie U Daniels  
Notary Public

**JULIE U DANIELS**  
Notary Public  
Wayne Co. North Carolina  
Affix Seal My Commission Expires Jan 03 2026

STATE OF \_\_\_\_\_  
CITY/COUNTY OF \_\_\_\_\_

I, a Notary Public of the County and State aforesaid do hereby certify that \_\_\_\_\_ personally appeared before me this date and acknowledged the due execution of the foregoing instrument.

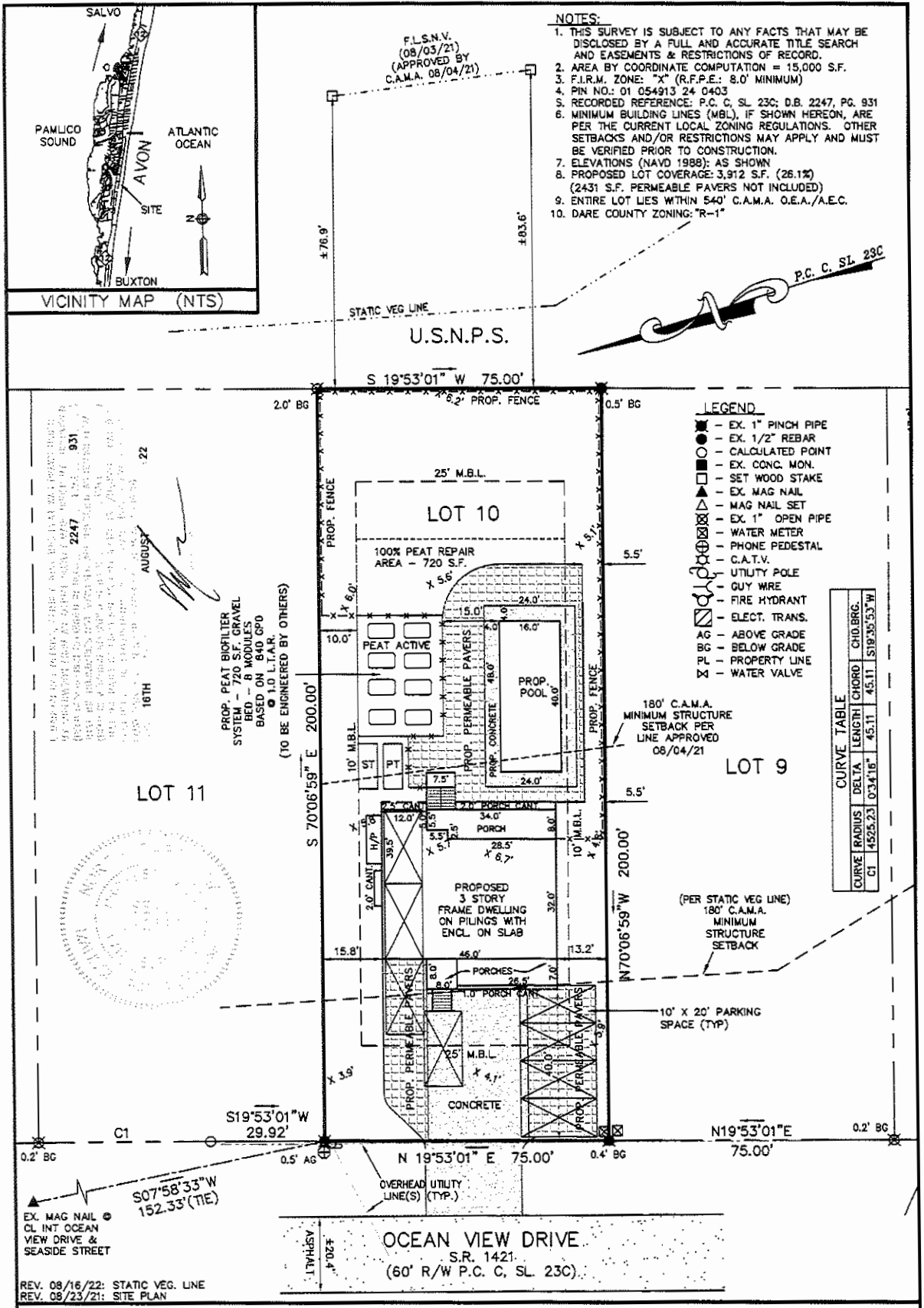
Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_

Notary Public

Affix Seal

UNOFFICIAL Document



SURVEY FOR  
**McCOY ENC, LLC**  
 LOT 10 - PHASE 2 REVISED - KINNAKEET SHORES - AVON  
 KINNAKEET TOWNSHIP - DARE COUNTY - NORTH CAROLINA

1 inch = 30 ft.

SEABOARD SURVEYING & PLANNING, INC. C-1536  
 103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959  
 OFFICE: (252) 480-9998 FAX: (252) 480-0571

FILE: 2109917 SURVEYED: 08/03/21 CA PLATTED: 08/04/21 TG

Dare County  
Local Government

Hi-3-2021  
Permit Number

**CAMA**  
**MINOR DEVELOPMENT**  
**PERMIT**



as authorized by the State of North Carolina, Department of Environmental Quality and the Coastal Resources Commission for development in an Area of Environmental Concern pursuant to the Coastal Area Management Act, Section 113A-118 of the General Statutes.

Issued to Mark & Melissa Reilly, authorizing development in the Ocean Hazard (AEC) at 41957 Ocean View Dr, in Avon, N.C. 27915, as requested in the permittee's application, dated 9-20-2021, and received complete on 10-13-2021. This permit, issued on 10-19-2021, is subject to compliance with the application and site drawing (where consistent with the permit), all applicable regulations and special conditions and notes set forth below. Any violation of these terms may subject permittee to a fine, imprisonment or civil action, or may cause the permit to be null and void.

This permit authorizes: Construct SFD with pool, pool deck, ocean access, dune deck and open shed with roof deck .

- (1) All proposed development and associated construction must be done in accordance with the permitted work plat drawings(s).
- (2) All construction must conform to the N.C. Building Code requirements and all other local, State and Federal regulations, applicable local ordinances and FEMA Flood Regulations.
- (3) Any change or changes in the plans for development, construction, or land use activities will require a re-evaluation and modification of this permit.
- (4) A copy of this permit shall be posted or available on site. Contact this office at 252-475-5879 for a final inspection at completion of work.

(Additional Permit Conditions on Page 2)


This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. This permit must be on the project site and accessible to the permit officer when the project is inspected for compliance. Any maintenance work or project modification not covered under this permit, require further written permit approval. All work must cease when this permit expires on: **DECEMBER 31, 2024**

In issuing this permit it is agreed that this project is consistent with the local Land Use Plan and all applicable ordinances. This permit may not be transferred to another party without the written approval of the Division of Coastal Management.

Check # 3582, in the amount of \$100, was received on 9-28-2021 for the permit fee.

  
K.D. Jackson  
CAMA LOCAL PERMIT OFFICIAL

P.O. Box 859  
Buxton, N.C. 27920

  
PERMITTEE

(Signature required if conditions above apply to permit)

Name: Mark & Melissa Reilly  
Minor Permit # HI-3-2021  
Date: 10-15-2021  
Page 2

- (5) The permittee is required to contact the Local Permit Officer 252-475-5879, shortly before he plans to begin construction to arrange a setback measurement that will be effective for sixty (60) days barring a major shoreline change. Construction must begin within sixty (60) days of the determination or the measurement is void and must be redone.
- (6) All buildings constructed within the ocean hazard area shall comply with the NC Building Code, including the Coastal and Flood Plain Construction Standards of the N. C. Building Code, and the Local Flood Damage Prevention Ordinance as required by the National Flood Insurance Program. If any provisions of the building code or a flood damage prevention ordinance are inconsistent with any of the following AEC standards, the more restrictive provision shall control.
- (7) All buildings must be elevated on pilings with a diameter of at least 8 inches in diameter if round, or 8 inches to a side if square; and the first floor level of the sills and joists must meet the 100-year flood level elevation.
- (8) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure.
- (10) Dune disturbances will be allowed only to the extent necessary for development and if the dune's protective value is not weakened or reduced. Disturbed dune areas will be immediately stabilized.
- (11) All unconsolidated material resulting from associated grading and landscaping shall be retained on site by effective sedimentation and erosion control measures. Disturbed areas shall be vegetatively stabilized (planted and mulched) within 14 days of construction completion.
- (12) Any structure authorized by this permit shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration. The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach renourishment takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under CRC rules.

SIGNATURE:

Mark Reilly

PERMITTEE

DATE: 10/20/2021

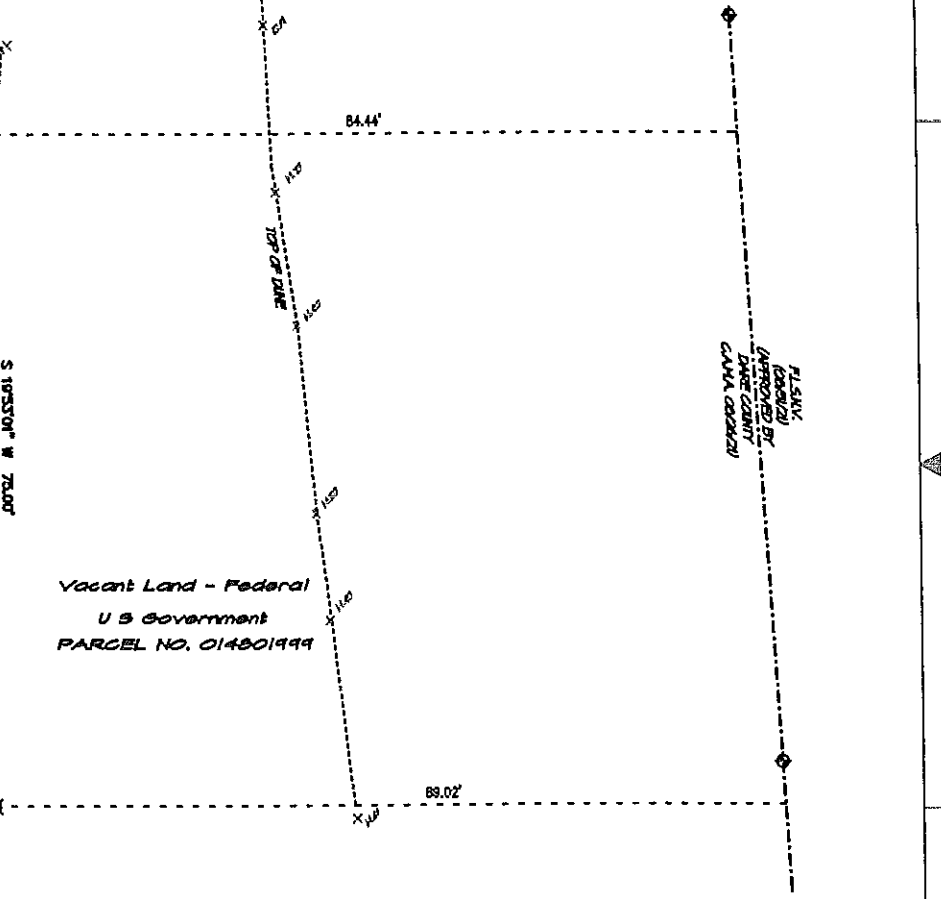
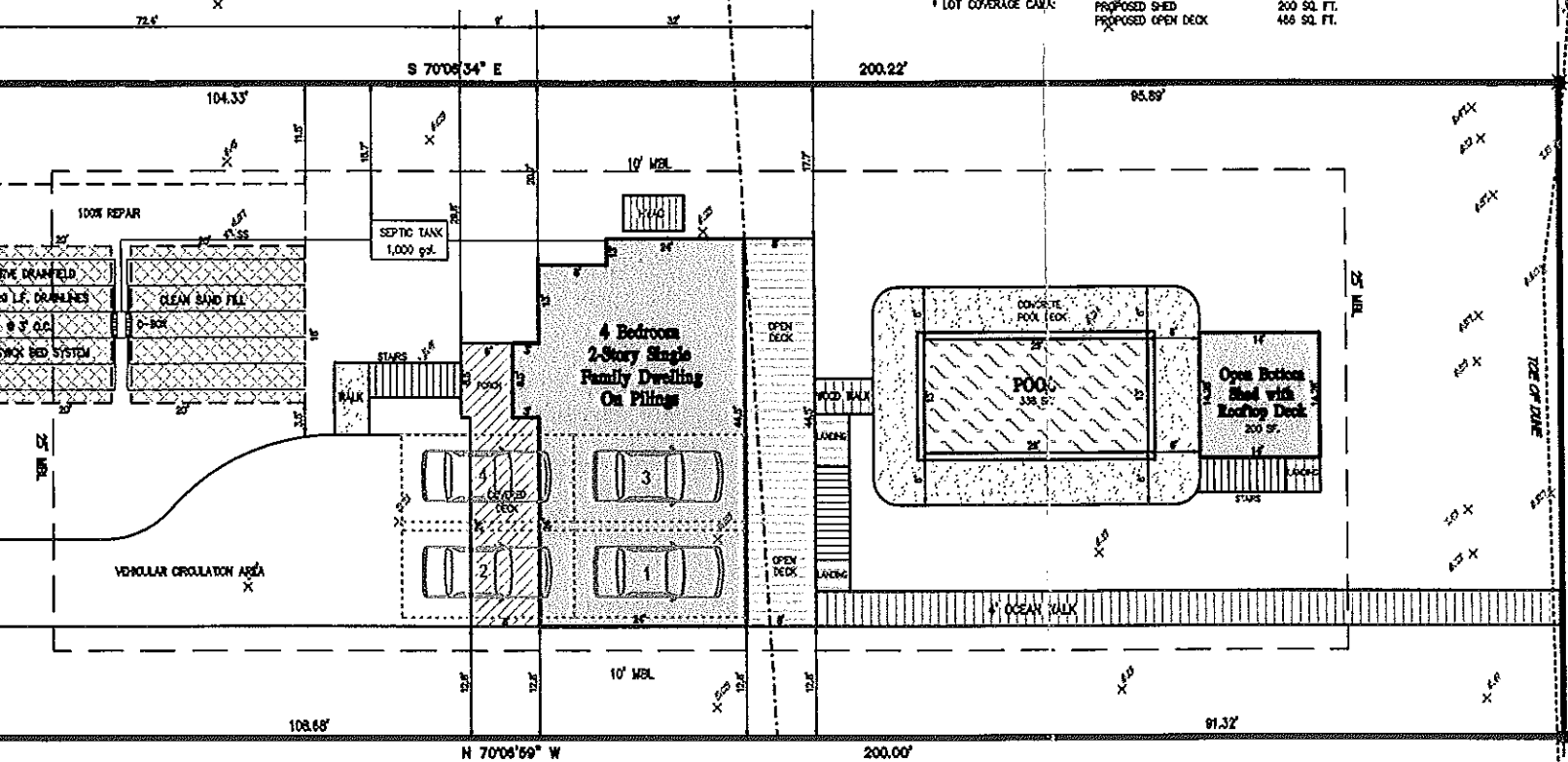
LOT 12

PARKING REQUIREMENTS: BEDROOMS 4 4 SPACES  
4 SPACE REQUIRED  
4 SPACE PROVIDED

LOT COVERAGE: PROPOSED BUILDING AND DECKS 1,792 SQ. FT.  
PROPOSED VEHICULAR SURFACE 1,118 SQ. FT.  
PROPOSED SHED 200 SQ. FT.  
PROPOSED OPEN DECKS 433 SQ. FT.  
PROPOSED POOL 338 SQ. FT.  
PROPOSED POOL DECK 600 SQ. FT.  
TOTAL COVERAGE 4,481 SQ. FT.  
TOTAL PERCENT COVERAGE 29.66%

LOT COVERAGE CALC: PROPOSED SHED 200 SQ. FT.  
PROPOSED OPEN DECK 466 SQ. FT.

054



LEGEND:

PROPOSED VEHICULAR CIRCULATION AREA



PROPOSED CONCRETE AREA



PROPOSED GRAVEL AREA



PROPOSED DWELLING AREA



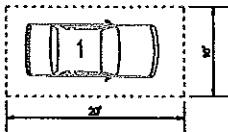
PROPOSED OPEN DECKS



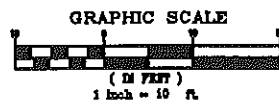
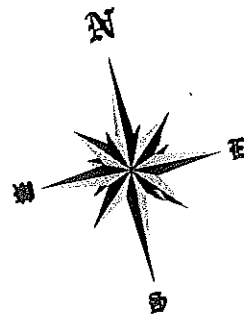
PROPOSED COVERED DECKS



PROPOSED VEHICULAR PARKING AREA



LOT 10



ENGINEER SEAL

Firm Certification: C-1855  
CERTIFIED: R. HOUSE

THIS DOCUMENT IS THE PROPERTY OF HOUSE ENGINEERING, P.C. AND MAY NOT BE COPIED, REPRODUCED OR ADAPTED WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE OWNER. COPIES MAY BE PROVIDED.

APPROVALS	DATE
Drawn: D. NEFF	09/03/21
Checked: R. HOUSE	09/03/21
Engineer: R. HOUSE	09/03/21

REVISIONS		
No.	Date	Description

**HOUSE ENGINEERING, P.C.**

Post Office Box 466 - 6475 N. Croatan Hwy., Suite 201  
Kitty Hawk, North Carolina 27749  
Office: (252) 291-8253 E-Mail: info@houseengr.com

**Dare County Site Plan**  
For:  
**Mark and Melissa Reilly**  
Location:  
**41957 Ocean View Drive**  
**Lot 11, Kinnakeet Shores Phase 2 Subdivision**  
Avon Dare County North Carolina

REV	PROJECT NUMBER	REV	SHEET NO.
D	206276	-	W1 of 1

CAD FILENAME: 206113 SCALE: 1" = 10'-0"



Coastal Management  
ENVIRONMENTAL QUALITY

# 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

Hi-20-22

APPLICATION: Mcroy E&C LLC

LOCALITY: 41971 Ocean View Dr Avon, N.C. 27916

PERMIT ISSUED USING  
STATIC LINE EXCEPTION?  
YES  NO

Locality 41971 Ocean View Dr Avon, N.C. 27915 Permit Number Hi-20-22

Ocean Hazard  Estuarine Shoreline \_\_\_\_\_ ORW Shoreline \_\_\_\_\_ Public Trust Shoreline \_\_\_\_\_ Other \_\_\_\_\_

(For official use only)

### GENERAL INFORMATION

#### LAND OWNER - MAILING ADDRESS

Name McCoy Enc LLC

Address 3113 Camille Dr

City Winterville State NC Zip 28590 Phone 252-258-5186

Email mccoyencllc@gmail.com

#### AUTHORIZED AGENT

Name Michael Jones Renaissance Construction

Address PO Box 1411

City Manteo State NC Zip 27954 Phone 252-473-3312 office  
252-423-0740 cell

Email michael@renconstructobx.com

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

41971 Ocean View Dr. Avon, NC 27915

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

dwelling with pool and cabana

SIZE OF LOT/PARCEL: 15,000 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: 6,779 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 \_\_\_\_\_

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 McCoy ENC LLC  
see Deed Book 2551 page 0313 in the Dare 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>Mark Reilly + Melissa McKendree Reilly</u>	<u>254 Washington St. Glen Ridge NJ 07028</u>
(2) <u>Keith + Kathleen Lake</u>	<u>474 McCarty Rd. Fredericksburg, VA 22405</u>
(3) _____	_____
(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 14<sup>th</sup> day of June, 20 22

Michael D. Jones  
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.*

N.C. DIVISION OF COASTAL  
 ADJACENT RIPARIAN PROPERTY OWNER  
 CERTIFIED MAIL RETURN RECEIPT REQ

Keith + Kathleen Lake  
 Name of Adjacent Riparian Property Owner  
474 McCarty Rd.  
 Address  
Fredericksburg, VA 22405  
 City, State Zip

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner to  
construct a single family dwelling with pool and cabana  
 on my property at 41971 Ocean View Dr. Aven, NC 2795  
 in Dare 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: (K.D. Jackson, Dare County, P.O. Box 859 Buxton, N.C. 27920)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (K.D. Jackson) at (252-475-5879), or by email at: (KD.Jackson@darenc.com).

Sincerely,

McCoys ENC LLC  
 Property Owner's Name

252-258-5186  
 Telephone Number

3113 Camille Dr.                      Winterville                      NC                      28590  
 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

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

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®

**OFFICIAL USE**

Certified Mail Fee \$43.75

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

Return Receipt (hardcopy) \$3.00

Return Receipt (electronic) \$0.00

Certified Mail Restricted Delivery \$0.00

Adult Signature Required \$0.00

Adult Signature Restricted Delivery \$0.00

Postage \$0.78

Total Postage and Fees \$7.58

Sent To  
Keith + Kathleen Lake  
 Street and Apt. No., or PO Box No.  
474 McCarty Rd.  
 City, State, ZIP+4®  
Fredericksburg VA 22405

Postmark Here  
 06/14/2022

PS Form 3800, April 2015 PSN 7530-02-000-90-7 See Reverse for Instructions

N.C. DIVISION OF COASTAL  
ADJACENT RIPARIAN PROPERTY OWNER  
CERTIFIED MAIL, RETURN RECEIPT REC

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

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®  
OFFICIAL USE

Postage	\$	
Certified Fee	\$	2.00
Return Receipt Fee (Endorsement Required)	\$	0.00
Restricted Delivery Fee (Endorsement Required)	\$	0.00
Total Postage & Fees	\$	7.55

Postmark Here  
0954 12  
08/14/2022

7015 0920 0002 3872 1797

Sent To  
Street & Apt. No., or PO Box No. Mark & Melissa Reilly  
City, State, ZIP+4 254 Washington St  
Glen Ridge, NJ 07028  
PS Form 3800, July 2014 See Reverse for Instructions

Mark & Melissa Reilly  
Name of Adjacent Riparian Property Owner  
254 Washington St.  
Address  
Glen Ridge, NJ 07028  
City, State Zip

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I intend to construct a single family dwelling with pool & cabana on my property at 41971 Ocean View Dr. Avon, NC 27915 in Dare 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: (K.D. Jackson, Dare County, P.O. Box 859 Buxton, N.C. 27920)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (K.D. Jackson) at (252-475-5879), or by email at: (KD.Jackson@darenc.com).

Sincerely,

McCoys EMC LLC  
Property Owner's Name

252-258-5186  
Telephone Number

3113 Camille Dr. Winterville NC 28590  
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

DocuSign Envelope ID: B0C0D079-BA71-4249-8EF6-3AC522A5BD30

### OCEAN HAZARD AEC NOTICE

Project is in an:   X   Ocean Erodible Area            Inlet Hazard Area

Property Owner: McCoy ENL LLC

Property Address: 41971 Ocean View Dr. Avon, NC 27915

Date Lot Was Platted: 10/28/1983

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 5.40 feet per year.

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

The flood waters in a major storm are predicted to be about 3 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.

**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 re-measured. Also, the occurrence of a major shoreline change as the result of a storm within the 60-day period will necessitate re-measurement 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:*

K D Jackson

Local Permit Officer

50347 NC Hwy 12

Address

Frisco, NC 27936

Locality

252-475-5879

Phone Number

DocuSigned by:

Don McCoy

6/14/2022

Property Owner's Signature

Date

DocuSign Envelope ID: 92B5BE54-D8E1-4BCC-BE6F-72BD96CB0D8B

N.C. DIVISION OF COASTAL MANAGEMENT  
AGENT AUTHORIZATION FORM

Date 6-6-2022

Name of Property Owner Applying for Permit:

McCoy ENL LLC

Mailing Address:

3113 Camille Drive

Winterville, NC 28590

I certify that I have authorized (agent) Michael Jones; Renaissance <sup>Construction</sup> to act on my behalf, for the purpose of applying for and obtaining all CAMA Permits necessary to install or construct (activity) new single family with pool and cabana at (my property located at) 41957 Ocean View Dr. Avon, NC 27915.

This certification is valid thru (date) 9/30/2022

DocuSigned by:

Don Mcloy

DA6C9A2A0B88463...

6/8/2022

Property Owner Signature

Date



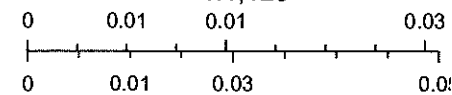
9/13/2022, 9:48:13 AM

Setback Factors (2020) Static Vegetation Lines

Erosion Rates (2020)

Erosion

1:1,128

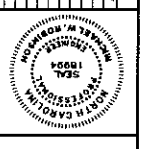


Esri Community Maps Contributors, State of North Carolina, OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoT Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, U

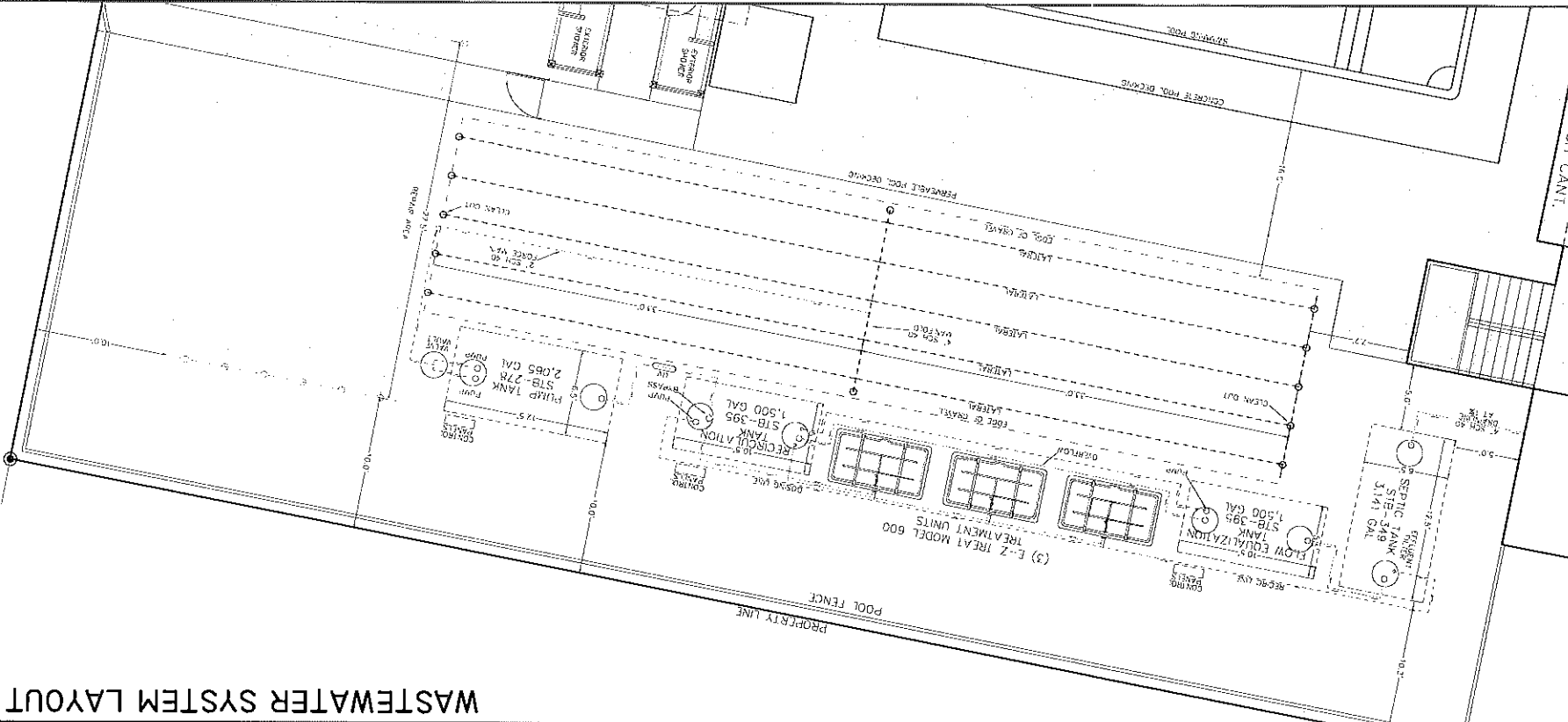
PROJECT NO	080315
CAD FILE	1 OF 3
SHEET	1 OF 3
DATE	05-08-22
SCALE	1"=20'
REVISIONS	08117
DATE	05-08-22

PROJECT: **MCCOY ENC, LLC**  
 DARE COUNTY NORTH CAROLINA  
 LOT 10, KINNAKEET SHORES, PHASE 2 REVISED

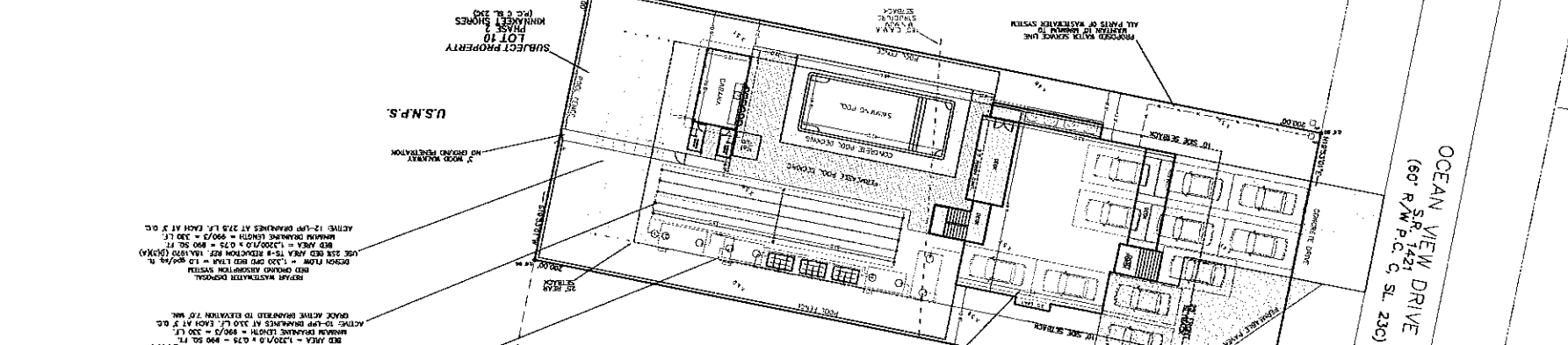
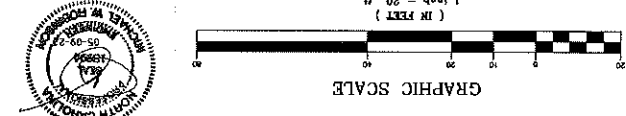
NO.	DATE	DESCRIPTION	BY



**PERMIT PLAN**  
**SITE PLAN**



**WASTEWATER SYSTEM LAYOUT**



DESIGN FLOW = 1,200 GPD PER UNIT = 1.8 GPD/FL. (3)X  
 USE 25% RED. MEAN 15-18 REDUCTION PER. TREATED (3)X  
 NET AREA = 1,200/1.8 x 0.75 = 800 SQ. FT.  
 MINIMUM BREAKING LENGTH = 800/3 = 260 FT.  
 LENGTH BREAKING LENGTH = 800/3 = 260 FT.  
 USE 25% RED. MEAN 15-18 REDUCTION PER. TREATED (3)X  
 NET AREA = 1,200/1.8 x 0.75 = 800 SQ. FT.  
 MINIMUM BREAKING LENGTH = 800/3 = 260 FT.  
 LENGTH BREAKING LENGTH = 800/3 = 260 FT.  
 USE 25% RED. MEAN 15-18 REDUCTION PER. TREATED (3)X  
 NET AREA = 1,200/1.8 x 0.75 = 800 SQ. FT.  
 MINIMUM BREAKING LENGTH = 800/3 = 260 FT.  
 LENGTH BREAKING LENGTH = 800/3 = 260 FT.

NOT RECOMMENDED FOR USE IN ANY STATE OR TERRITORY WHERE THE LOCAL HEALTH DEPARTMENT HAS NOT APPROVED THIS PLAN. THE HEALTH DEPARTMENT HAS THE RIGHT TO REVISIONS TO THIS PLAN.



11-4-2022

## County of Dare

P.O. Box 859 | Buxton, North Carolina 27920 | 252.475.5878

EXHIBIT

12

### CERTIFIED MAIL -

### RETURN RECEIPT REQUESTED

Donald McCoy  
3113 Camille Dr  
Winterville, N.C. 28590

**RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT  
APPLICATION NUMBER- HI-20-2022/McCoy ENC LLC  
PROJECT ADDRESS- 41971 Ocean View Dr**

Dear McCoy:

After reviewing your application in conjunction with the development standards required by the Coastal Area Management Act (CAMA) and our locally adopted Land Use Plan and Ordinances, it is my determination that no permit may be granted for the project which you have proposed.

This decision is based on my findings that your request violates NCGS 113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines. You have applied to build 8 bedroom house with pool, Cabana, and septic system which is inconsistent with 15 NCAC 7H .306(a)(1)(2)(3), which states that (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 shall be measured in a landward direction from the vegetation line, the pre-project vegetation line, or the measurement line, whichever is applicable. (2) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following: (A) The total square footage of heated or air-conditioned living space; (B) The total square footage of parking elevated above ground level; and (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing. Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

(3) With the exception of those types of development defined in 15A NCAC 07H .0309(a), no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings." The project is also inconsistent with 15A NCAC 07H.0309 Use Standards for Ocean Hazard Areas: Exceptions, which states, "(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met: (1) campsites; (2) driveways and parking areas with clay, packed sand, or gravel; (3) elevated decks not exceeding a footprint of 500 square feet. Existing decks exceeding a footprint of 500 square feet may be replaced with no enlargement beyond their original dimensions; (4) beach access ways consistent with Rule .0308(c) of this Section; (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less; (6) uninhabitable, single story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less; (7) temporary amusement stands consistent with Section .1900 of this Subchapter; (8) sand fences; (9) swimming pools; and (10) fill not associated with dune creation that is obtained from an upland source and is of the same general characteristics as the sand in the area in which it is to be placed.

LAND OF BEGINNINGS



The project is also inconsistent with Use Standards and In all cases, this development shall be permitted only if it is landward of the vegetation line or pre-project vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; is not essential to the continued existence or use of an associated principal development; and meets all other non-setback requirements of this Subchapter.

" I have concluded that your request also violates NCGS 113A-120(a)(8), which requires that all applications be denied which are inconsistent with our Local Land Use Plan. On page 162-180 of the Dare County Land Use Plan, you will find that Section Two Natural Hazard Areas MANAGEMENT TOPIC # 4 – NATURAL HAZARD AREAS.

Policy NH #1

Oceanfront shoreline development should continue to be managed to protect and preserve the natural and recreational resources along the oceanfront. The appropriate tools for this are the existing CAMA permit program and the Areas of Environmental Concerns (AECs) designated under the CAMA program. Dare County reserves the right to review, comment, advocate, or oppose any proposed regulations or programs that may affect the regulation of ocean hazards areas of environmental concern.

Implementation Strategies:

1. Rely on existing CAMA AEC regulations to address development activities along the ocean beaches, estuarine shoreline, and other public trust areas in unincorporated Dare County. Dare County will continue to participate in the CAMA permitting process with the provision of a local permit officer for unincorporated Dare County. ( 2010-2015)
2. Rely on existing regulations of the Dare County Zoning Ordinance for development activities along the ocean front. ( 2010-2015)

Should you wish to appeal my decision to the Coastal Resources Commission or request a variance from that group, please contact me so I can provide you with the proper forms and any other information you may require. The Division of Coastal Management Morehead City Headquarters Office must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours,



K.D. Jackson, LPO  
Dare County  
50347 N.C. Hwy 12  
Frisco, N.C. 27936

cc: Yvonne Carver



Coastal Management ENVIRONMENTAL QUALITY

APPLICATION FOR CAMA MINOR DEVELOPMENT PERMIT

APPLICATION:

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

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

Name DONALD McCoy / McCoy ENC LLCAddress 3113 CAMILLE DRCity WINTERVILLE State NC Zip 28590 Phone 1(252)258-5186Email mccoyenc LLC@gmail.com

## AUTHORIZED AGENT

Name RICK HOUSE / HOUSE ENGINEERING, P.C.Address PO Box 466City KITTY HAWK State NC Zip 27949 Phone 1(252)202-8253Email rick@houseengineering.net

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

41971 OCEAN VIEW DRIVE, AVON, NC 27915ADJACENT TO ATLANTIC OCEANDESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) CONSTRUCTIONOF 5 BEDROOM RENTAL COTTAGE & POOLSIZE OF LOT/PARCEL: 15,000 square feet 0.34 acresPROPOSED 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: 1996 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 

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 McCoy ENC LLC  
see Deed Book 2551 page 0313 in the DARE 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>KATHLEEN LAKE</u>       | <u>474 McCARTY RD FREDERICKSBURG, VA 22405</u> |
| (2) <u>MARK/MELISSA REILLY</u> | <u>254 WASHINGTON ST, GLEN RIDGE, NJ 07028</u> |
| (3) _____                      | _____  |
| (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 7<sup>th</sup> day of MAY, 2024

Rich Howe for McCoy ENC LLC

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.*

## OCEAN HAZARD AEC NOTICE

Project is in an:  Ocean Erodible Area  Inlet Hazard Area  
 Property Owner: McCoy ENC LLC  
 Property Address: 41971 OCEAN VIEW DRIVE  
 Date Lot Was Platted: October 1981

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 6 feet per year.

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

The flood waters in a major storm are predicted to be about 3 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.

Ruth Hone for McCoy ENCLLL 5/7/24  
 Property Owner's Signature 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 re-measured. Also, the occurrence of a major shoreline change as the result of a storm within the 60-day period will necessitate re-measurement 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:

KD JACKSON

Local Permit Officer

P.O. BOX 859, FRISCO, NC 27915  
 Address

DARE COUNTY - AVON  
 Locality

1(252) 475-5789  
 Phone Number

AGENT AUTHORIZATION FOR CAMA PERMIT APPLICATIONName of Property Owner Requesting Permit: DONALD McCoy/McCOYENCLLCMailing Address: 3113 CAMILLE DRIVE  
WINTERVILLE, NC 28590Phone Number: (252) 258-5186Email Address: mccoyencllc@gmail.comI certify that I have authorized RICK HOUSE/HOUSE ENGINEERING, PC  
Agent / Contractor

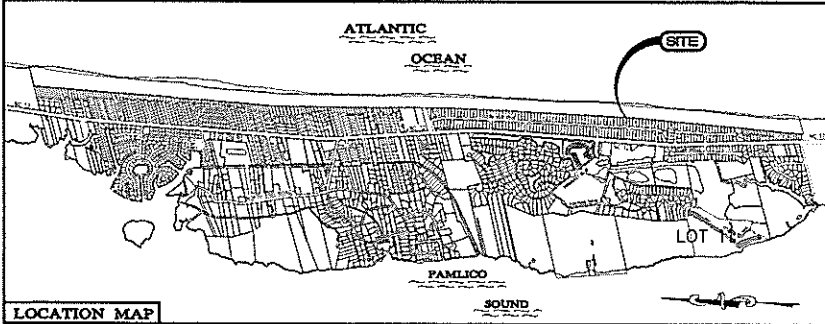
to act on my behalf, for the purpose of applying for and obtaining all CAMA permits

necessary for the following proposed development: CONSTRUCTION OF  
RENTAL COTTAGEat my property located at 41971 OCEAN VIEW DRIVE, AVON, NC 27915  
in DARE County.

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.

## Property Owner Information:

  
SignatureDONALD MCCOY  
Print or Type NameOWNER  
Title4, 26, 24  
DateThis certification is valid through 4, 26, 27

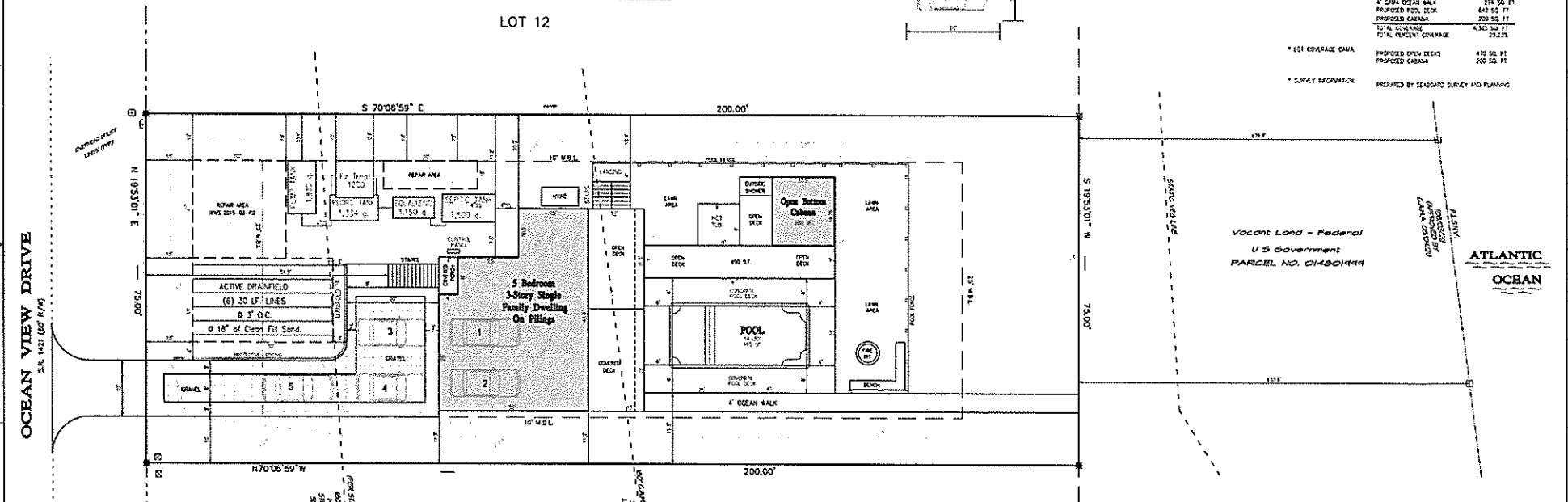


**LEGEND:**

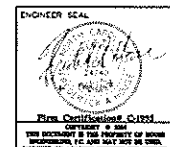
- PROPOSED VEHICLE CIRCULATION AREA
- PROPOSED CONCRETE AREA
- PROPOSED GRAVEL AREA
- PROPOSED DWELLING AREA
- PROPOSED OPEN DECKS
- PROPOSED COVERED DECKS
- PROPOSED VEHICLE PARKING AREA

**GENERAL NOTES:**

- \* SUBJECT PROPERTY: Lot 10, Kinlakeet Shores Phase 2 Subdivision Avon, Dare County, North Carolina
- \* STREET ADDRESS: 41971 Ocean View Drive Avon, North Carolina
- \* PARCEL ID NUMBER: 025533710
- \* GLOBAL PIV: 0249124242
- \* RECORDED REFERENCE: DEED BOOK 2251 PAGE 0213 (10/05/2011)
- \* LOT AREA: 15,000 +/- sq. ft. (Survey)
- \* F.U.M. ZONE: "U" (U.P.A.E. 80% MINIMUM)
- \* PROPOSED DEVELOPMENT: PROPOSED 5 BEDROOM SINGLE FAMILY DWELLING ON PILLS
- \* PARKING REQUIREMENTS: 3 SPACES  
3 SPACE REQUIRED  
3 SPACE PROVIDED
- \* LOT COVERAGE: PROPOSED EXISTING AND DECKS: 2,275 SQ. FT.  
PROPOSED VEHICLE SURFACE: 524 SQ. FT.  
PROPOSED POOL (365 SQ. FT. + 200 SQ. FT.): 0 SQ. FT.  
CAVIA OPEN DECK: 470 SQ. FT.  
4' CAVIA OCEAN BALK: 274 SQ. FT.  
PROPOSED POOL DECK: 642 SQ. FT.  
PROPOSED CASANA: 220 SQ. FT.  
TOTAL COVERAGE: 4,385 SQ. FT.  
TOTAL PERCENT COVERAGE: 29.23%
- \* LOT COVERAGE CAVIA: PROPOSED OPEN DECKS: 470 SQ. FT.  
PROPOSED CASANA: 220 SQ. FT.
- \* SURVEY INFORMATION: PREPARED BY SENGARD SURVEY AND PLANNING



OCEAN VIEW DRIVE  
S.R. 1421 (60' R/W)

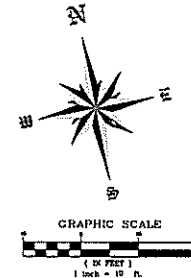


**HOUSE ENGINEERING, P.C.**  
 Port Office Box 466 - 6475 N. Chatham Hwy, Suite 202  
 Kitty Hawk - North Carolina 27949  
 Office (252) 291-2025

**Dare County Site Plan**  
 For:  
**Mccoey Enc LLC**  
 Location:  
 41971 Ocean View Drive  
 Lot 10, Kinlakeet Shores Phase 2 Subdivision  
 Avon Dare County North Carolina

NO.	DATE	DESCRIPTION	REV	SHEET NO.
D			-	CL OF 1

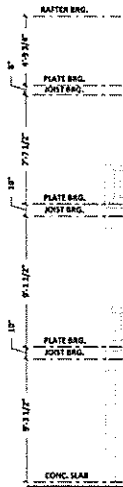
CAD FILENAME: 236924 SCALE: 1" = 10'-0"



BEFORE YOU DIG!  
**North Carolina 811**  
 WWW.nc811.ORG

HOUSE ELEVATIONS

STAIR TOWER ELEVATIONS



WEST FRONT ELEVATION 1-B  
SCALE: 1/4"=1'-0"



NORTH SIDE ELEVATION 1-A  
SCALE: 1/4"=1'-0"

AREA SCHEDULE:

TOTAL LIVING AREA:	1,896 S.F.
FIRST FLOOR:	1,095 S.F.
SECOND FLOOR:	901 S.F.
GROUND FLOOR (U/H):	335 S.F.
DECKS:	1,005 S.F.
BEDROOMS:	5
FULL BATHROOMS:	5
HALF BATHROOMS:	1



ELEVATIONS  
for  
**McCoy Enc, LLC**

Property Location:  
41971 Ocean View Dr,  
Avon, Dare County, North Carolina

ENGINEER SEAL: [Signature]

CONTRACT NO. 236924

DATE: 3/11/2024

APPROVALS:

OWNER	B. MCCOY	DATE	
ARCHITECT	R. HICK		
ENGINEER	R. HICK		
INSPECTOR	R. HICK		

CONTRACTOR: [Signature]

PROJECT: [Signature]

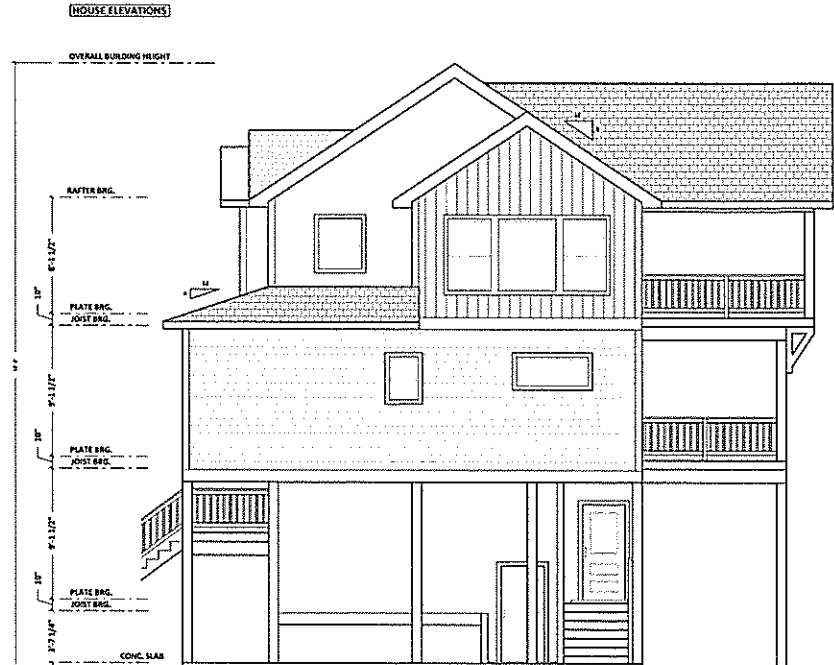
REV	DESCRIPTION	DATE
D	236924	1/18
		4

CAD FILE NAME: 236924.dwg SCALE: 1/4" = 1'-0"





**EAST REAR ELEVATION 2-A**  
SCALE: 1/4"=1'-0"



**SOUTH SIDE ELEVATION 2-B**  
SCALE: 1/4"=1'-0"

**AREA SCHEDULE:**

TOTAL LIVING AREA	1,996 S.F.
FIRST FLOOR:	1,095 S.F.
SECOND FLOOR:	901 S.F.
GROUND FLOOR (D/H):	335 S.F.
DECKS:	1,005 S.F.
BEDROOMS:	5
FULL BATHROOMS:	5
HALF BATHROOMS:	1

**HOUSE ENGINEERING, P.C.**

KETTY HAWK, NORTH CAROLINA 27849  
 OFFICE: (252) 261-6232 FAX: (252) 261-2183  
 e-mail: rich@houseengineering.net

**ELEVATIONS**  
for  
**McCoy Enc, LLC**

Property Location:  
41971 Ocean View Dr,  
Avon, Dare County, North Carolina

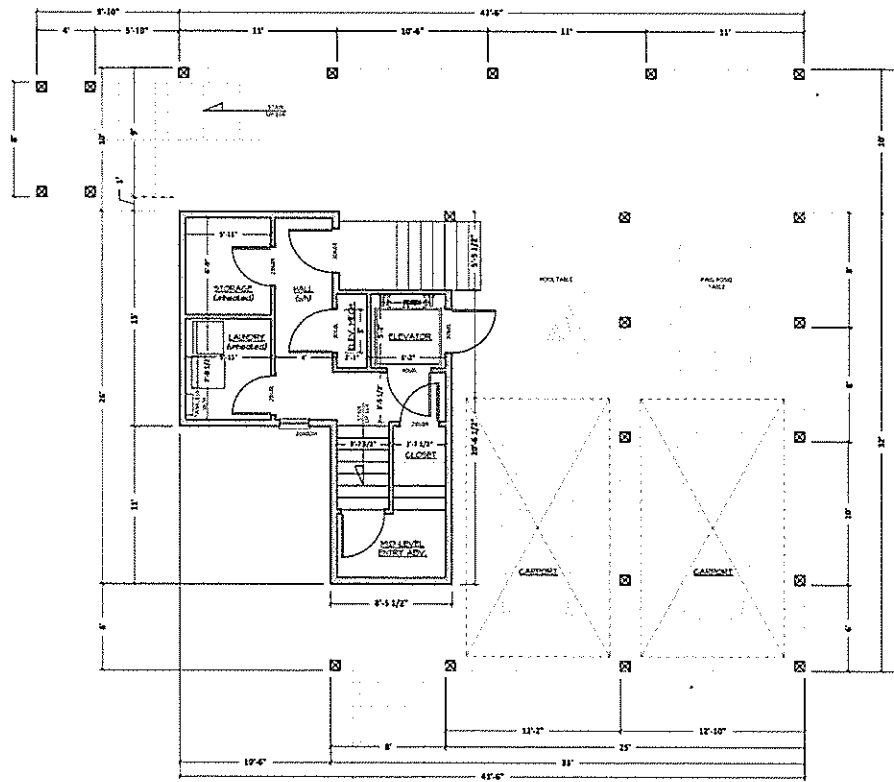
ENGINEER SEAL

PROPERTY NOT FOR CONSTRUCTION

APPROVALS	DATE
DESIGNER: [Signature]	3/19/2024
ENGINEER: [Signature]	
ARCHITECT: [Signature]	
REVISED BY: [Signature]	
REVISIONS:	

FRM CERTIFICATION No. C-1925  
PROFESSIONAL SEAL REQUIRED ONLY TO PHYSICAL COMPONENTS

PROJECT LOCATION:	APPLICABLE DRAWING REVISIONS:
SIZE: D	PROJECT NUMBER: 236924
CAD FILE NAME: 236924.dwg	SCALE: 1/8" = 1'-0"
REV:	DATE:
-	2
4	4



**GROUND FLOOR PLAN 3-A**  
SCALE: 1/4"=1' 0"

AREA SCHEDULE:	
TOTAL LIVING AREA:	1,996 S.F.
FIRST FLOOR:	1,095 S.F.
SECOND FLOOR:	901 S.F.
GROUND FLOOR (U/H):	335 S.F.
DECKS:	1,005 S.F.
BEDROOMS:	5
FULL BATHROOMS:	5
HALF BATHROOMS:	1

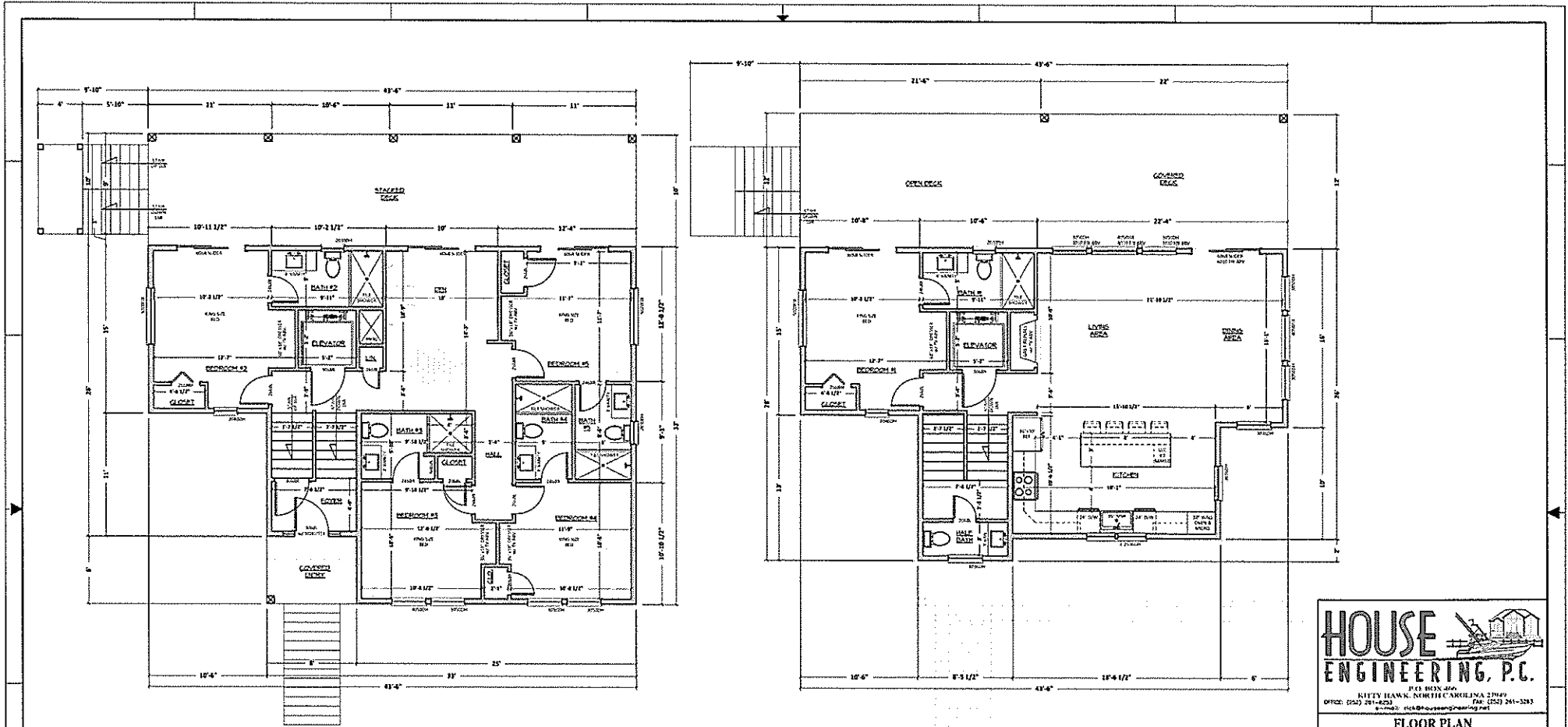
**HOUSE ENGINEERING, P.C.**

1743 BURNING  
RITTY HAWK, NORTH CAROLINA 27949  
OFFICE (252) 291-2252 FAX (252) 291-1283  
e-mail: rich@houseengineering.net

**FLOOR PLAN**  
for  
**McCoy Enc, LLC**

Property Location:  
41971 Ocean View Dr,  
Avon, Dare County, North Carolina

	THIS DOCUMENT IS THE PROPERTY OF HOUSE ENGINEERING, P.C. AND MAY NOT BE USED, REPRODUCED OR ADAPTED WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE OFFICE. COPIES MAY BE PROVIDED.	
	APPROVALS	DATE
DESIGNER: R. HOUSE	3/11/2024	
CHECKED: R. HOUSE		
TRACER: R. HOUSE		
PROJECT: MCCOY ENC.		
SHEET: 3 OF 4		



**FIRST FLOOR PLAN 4-A**  
SCALE: 1/4"=1'-0"

**SECOND FLOOR PLAN 4-B**  
SCALE: 1/4"=1'-0"

AREA SCHEDULE:	
TOTAL LIVING AREA:	1,996 S.F.
FIRST FLOOR:	1,095 S.F.
SECOND FLOOR:	901 S.F.
GROUND FLOOR (U/H):	335 S.F.
DECKS:	1,005 S.F.
BEDROOMS:	5
FULL BATHROOMS:	5
HALF BATHROOMS:	1

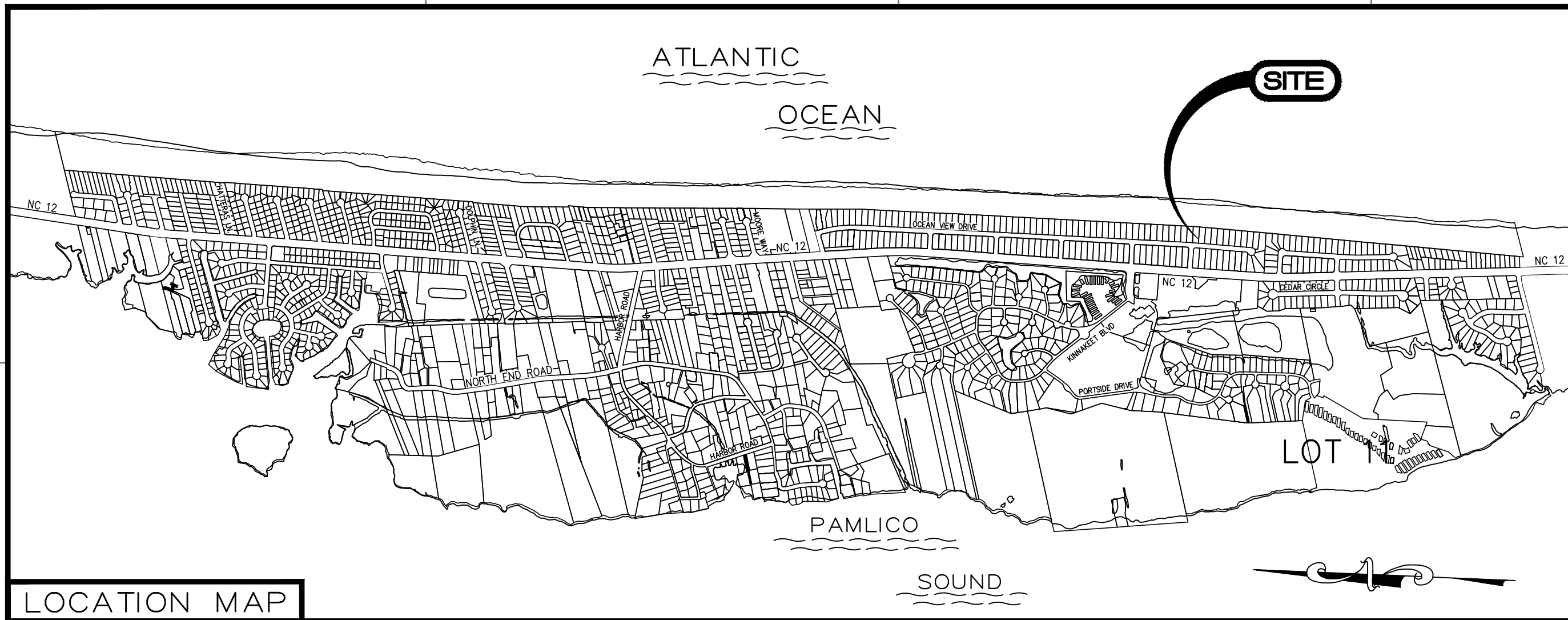
**HOUSE ENGINEERING, P.C.**

1113 BOON AVE.  
KITTY HAWK, NORTH CAROLINA 27949  
OFFICE: (252) 281-8253 FAX: (252) 281-3283  
E-MAIL: [HOUSEENGINEERING@GMAIL.COM](mailto:HOUSEENGINEERING@GMAIL.COM)

**FLOOR PLAN**  
for  
**McCoy Enc, LLC**

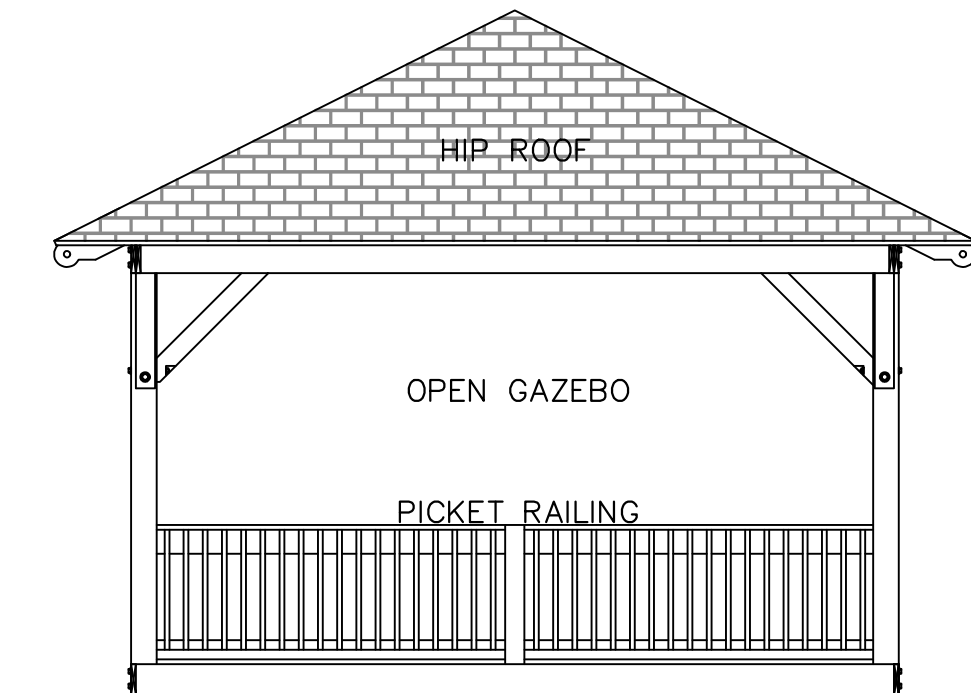
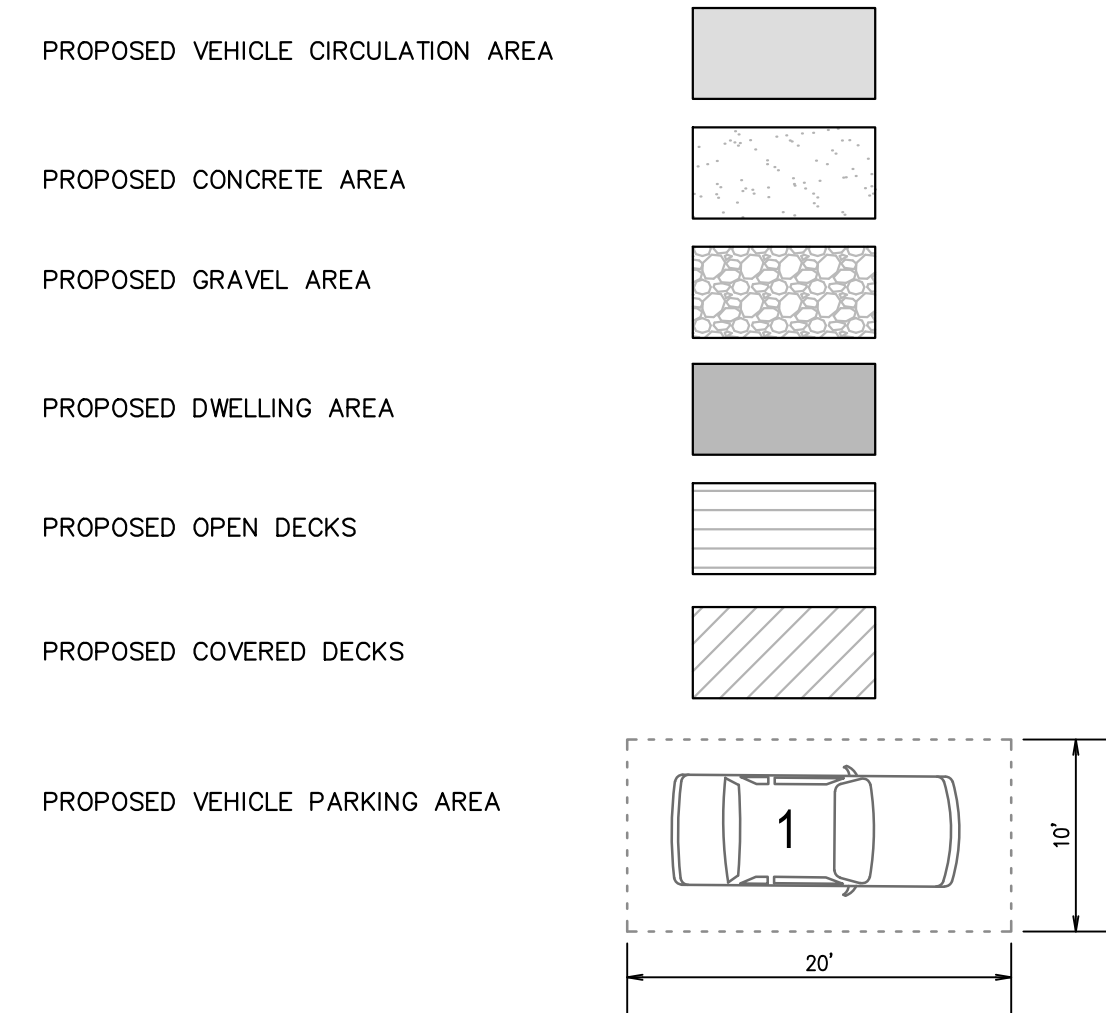
Property Location:  
41971 Ocean View Dr,  
Avon, Dare County, North Carolina

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	APPROVALS DRAWN BY: R. MEANS CHECKED BY: R. MEANS DESIGNED BY: R. MEANS PROJECT: 236924	DATE 3/13/2024
FIRM CERTIFICATION NO. C-1955 REGISTERED SEAL APPLIES ONLY TO STRUCTURAL COMPONENTS PROJECT: 236924 CLIENT: MCCOY ENC. LLC	SHEET NUMBER 4 OF 4	DATE 3/13/2024



LOCATION MAP

LEGEND:

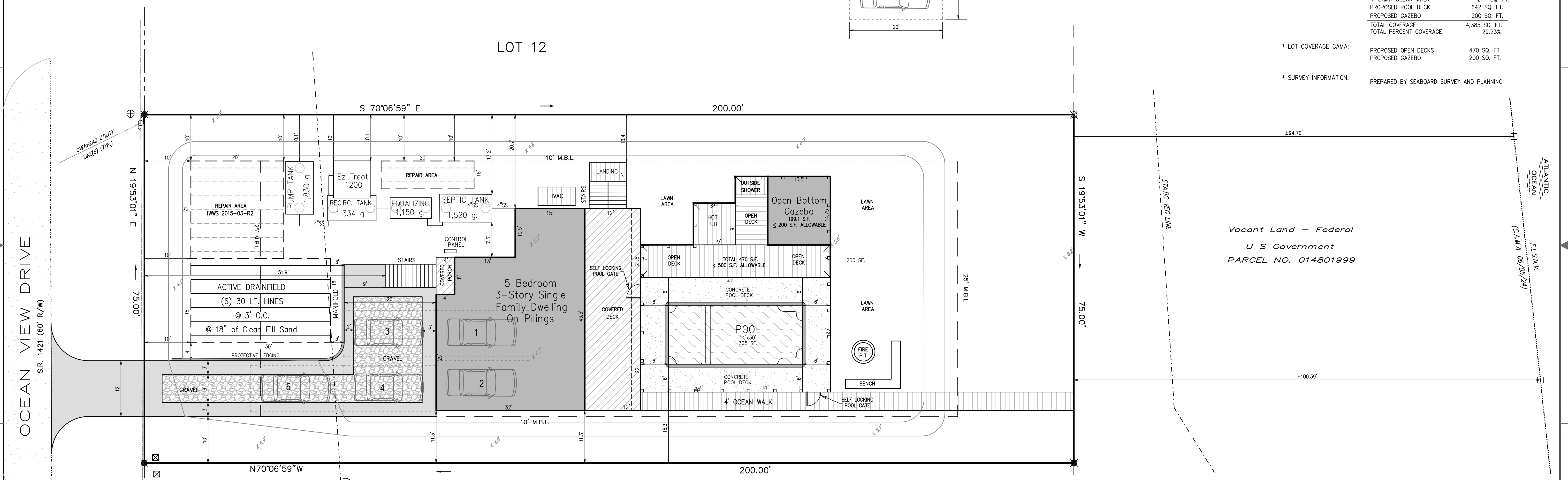


ELEVATION

SCALE: NOT TO SCALE  
PROPOSED GAZEBO

GENERAL NOTES:

- SUBJECT PROPERTY: Lot 10, Kinnakeet Shores Phase 2 Subdivision Avon Dare County North Carolina
- STREET ADDRESS: 41971 Ocean View Drive Avon, North Carolina
- PARCEL ID NUMBER: 029593010
- GLOBAL PIN: 054913240403
- RECORDED REFERENCE: DEED BOOK 2551 PAGE 0313 (10/05/2021)
- LOT AREA: 15,000 +/- sq. ft (Survey)
- F.I.R.M. ZONE: "X" (R.F.P.E.: 8.0' MINIMUM)
- PROPOSED DEVELOPMENT: PROPOSED 5 BEDROOM SINGLE FAMILY DWELLING ON PILES
- PARKING REQUIREMENTS: 5 BEDROOMS 5 SPACES  
5 SPACE REQUIRED 5 SPACE PROVIDED
- LOT COVERAGE: PROPOSED BUILDING AND DECKS 2,275 SQ. FT.  
PROPOSED VEHICULAR SURFACE 524 SQ. FT.  
PROPOSED POOL (365 SF.- 500 SF.) 0 SQ. FT.  
CAMA OPEN DECK 470 SQ. FT.  
4' CAMA OCEAN WALK 274 SQ. FT.  
PROPOSED POOL DECK 642 SQ. FT.  
PROPOSED GAZEBO 200 SQ. FT.  
TOTAL COVERAGE 4,385 SQ. FT.  
TOTAL PERCENT COVERAGE 29.23%
- LOT COVERAGE CAMA: PROPOSED OPEN DECKS 470 SQ. FT.  
PROPOSED GAZEBO 200 SQ. FT.
- SURVEY INFORMATION: PREPARED BY SEABOARD SURVEY AND PLANNING



Vacant Land - Federal  
U S Government  
PARCEL NO. 014801999

OCEAN VIEW DRIVE  
S.R. 1421 (60' R/W)

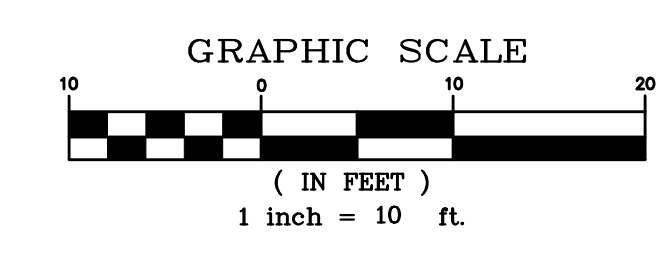
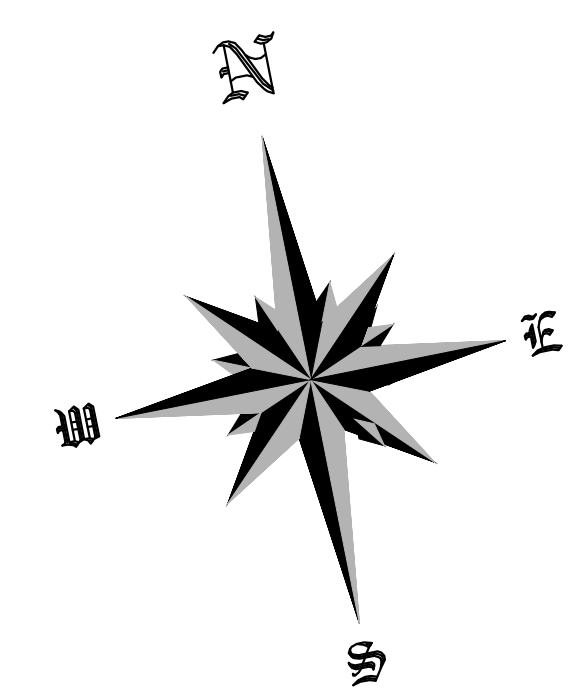
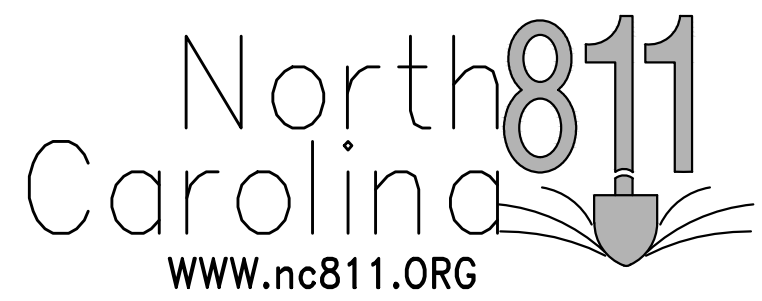
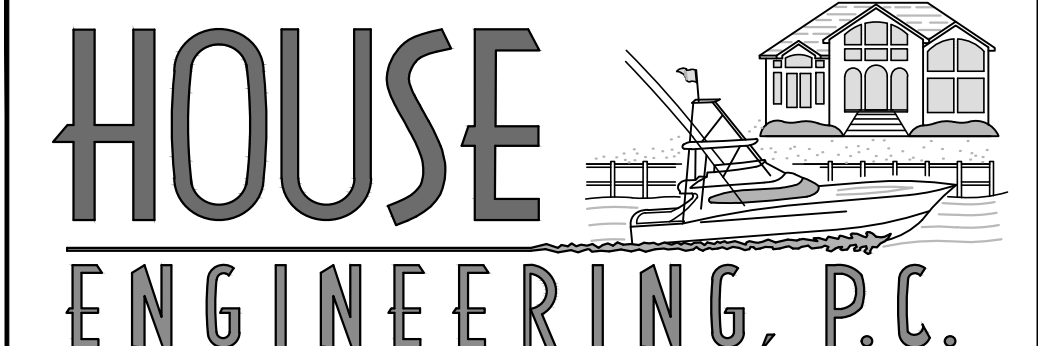


EXHIBIT  
18

BEFORE YOU DIG!



Firm Certification # C-1955  
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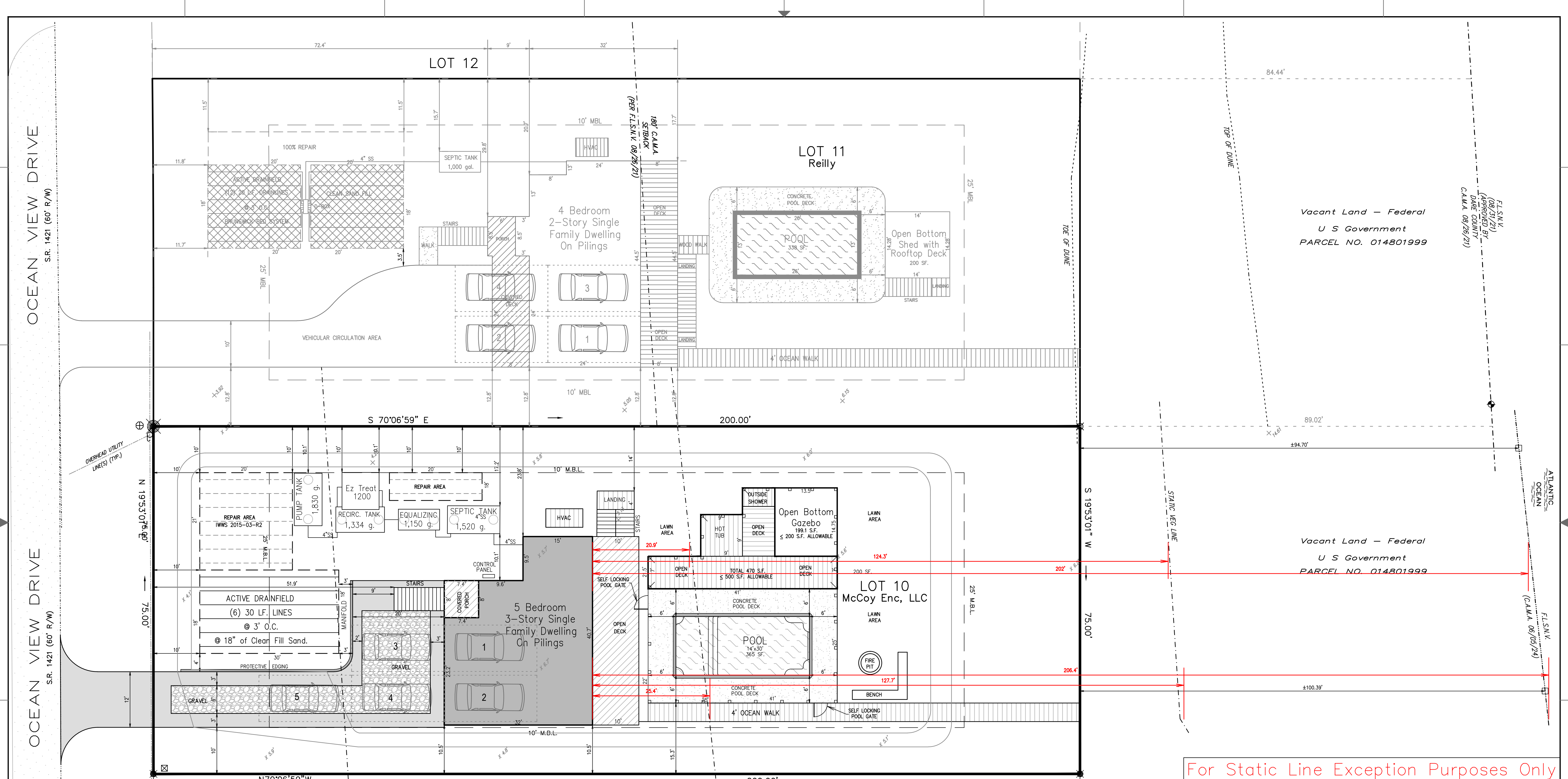


Office Box 466 - 6475 N. Croatan Hwy, Suite 201  
 Kitty Hawk - North Carolina 27949  
 Office# (252) 261-8253 E-Mail: info@houseengineering.net

APPROVALS	DATE
Drawn: M. ROBERTSON	07/12/24
Checked: R. HOUSE	07/12/24
Engineer: R. HOUSE	07/12/24

REVISIONS		
No.	Date	Description

Dare County Site Plan			
For: Mccoy Enc LLC			
Location: 41971 Ocean View Drive			
Lot 10, Kinnakeet Shores Phase 2 Subdivision			
Avon Dare County North Carolina			
SIZE	PROJECT NUMBER	REV	SHEET NO.
D	236924	-	C1 OF 1
CAD FILENAME: 236924		SCALE: 1" = 10'-0"	



OCEAN VIEW DRIVE  
S.R. 1421 (60' R/W)

OCEAN VIEW DRIVE  
S.R. 1421 (60' R/W)

Vacant Land - Federal  
U S Government  
PARCEL NO. 014801999

Vacant Land - Federal  
U S Government  
PARCEL NO. 014801999

FLS.M.V.  
(08/31/21)  
APPROVED BY  
DARE COUNTY  
C.A.M.A. 08/26/21

ATLANTIC OCEAN  
FLS.M.V.  
(C.A.M.A. 06/05/24)

**AREA SCHEDULE:**

TOTAL STRUCTURE LIVING AREA:	1,927 S.F.
FIRST FLOOR:	999 S.F.
SECOND FLOOR:	928 S.F.
GROUND FLOOR (UNHEATED):	308 S.F.
DECKS:	954 S.F.
BEDROOMS:	5
FULL BATHROOMS:	5
HALF BATHROOMS:	1
FOOTPRINT:	999 S.F.

EXHIBIT  
**20**

For Static Line Exception Purposes Only



**HOUSE ENGINEERING, P.C.**

Post Office Box 466 - 6475 N. Croatan Hwy, Suite 201  
Kitty Hawk North Carolina 27949  
Office# (252) 261-8253 E-Mail: info@houseengineering.net

Firm Certification # C-1955  
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APPROVALS	DATE
Drawn: M. ROBERTSON	09/12/24
Checked: R. HOUSE	09/12/24
Engineer: R. HOUSE	09/12/24

**Dare County Site Plan**  
For:  
**Mccoy Enc LLC**  
Location:  
41971 Ocean View Drive  
Lot 10, Kinnakeet Shores Phase 2 Subdivision  
Avon Dare County North Carolina

REVISIONS		
No.	Date	Description

SIZE	PROJECT NUMBER	REV	SHEET NO.
D	236924	-	C1
CAD FILENAME: 236924			SCALE: 1" = 10'-0"



**WEST FRONT ELEVATION 1-B**  
SCALE: 1/4"=1'-0"



**NORTH SIDE ELEVATION 1-A**  
SCALE: 1/4"=1'-0"

**AREA SCHEDULE:**

<b>TOTAL STRUCTURE LIVING AREA:</b>	<b>1,927 S.F.</b>
<b>FIRST FLOOR:</b>	<b>999 S.F.</b>
<b>SECOND FLOOR:</b>	<b>928 S.F.</b>
<b>GROUND FLOOR (UNHEATED):</b>	<b>308 S.F.</b>
<b>DECKS:</b>	<b>954 S.F.</b>
<b>BEDROOMS:</b>	<b>5</b>
<b>FULL BATHROOMS:</b>	<b>5</b>
<b>HALF BATHROOMS:</b>	<b>1</b>
<b>FOOTPRINT:</b>	<b>999 S.F.</b>

**HOUSE ENGINEERING, P.C.**

P.O. BOX 466  
KITTY HAWK, NORTH CAROLINA 27949  
OFFICE: (252) 261-8253 FAX: (252) 261-3283  
e-mail: rick@houseengineering.net

**ELEVATIONS**  
for:  
**McCoy Enc, LLC**

*Property Location:*  
**41971 Ocean View Dr,  
Avon, Dare County, North Carolina**

<p style="color: red; font-weight: bold; transform: rotate(-45deg);">PRELIMINARY NOT FOR CONSTRUCTION 9/12/2024</p>	<small>COPYRIGHT © 2024</small> THIS DOCUMENT IS THE PROPERTY OF HOUSE ENGINEERING, P.C. AND MAY NOT BE USED, MODIFIED OR ADAPTED WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE OWNER. COPIES MAY BE PRODUCED.	
	<small>ENGINEER SEAL</small>	<small>APPROVALS</small>
	<small>FIRM CERTIFICATION No. C-1955</small>	<small>DATE</small>
	<small>ENGINEER'S SEAL APPLIES ONLY TO STRUCTURAL COMPONENTS.</small>	<small>RECEIVED</small>
<small>PROJECT CONTACTS:</small>	<small>APPLICABLE DRAWING TOLERANCES</small>	

<small>SIZE</small>	<small>PROJECT NUMBER</small>	<small>REV</small>	<small>SHEET NO.</small>
<b>D</b>	<b>236924</b>	<b>-</b>	<b>1</b>
			<b>OF</b>
			<b>4</b>

HOUSE ELEVATIONS



**EAST REAR ELEVATION 2-A**  
SCALE: 1/4"=1'-0"



**SOUTH SIDE ELEVATION 2-B**  
SCALE: 1/4"=1'-0"

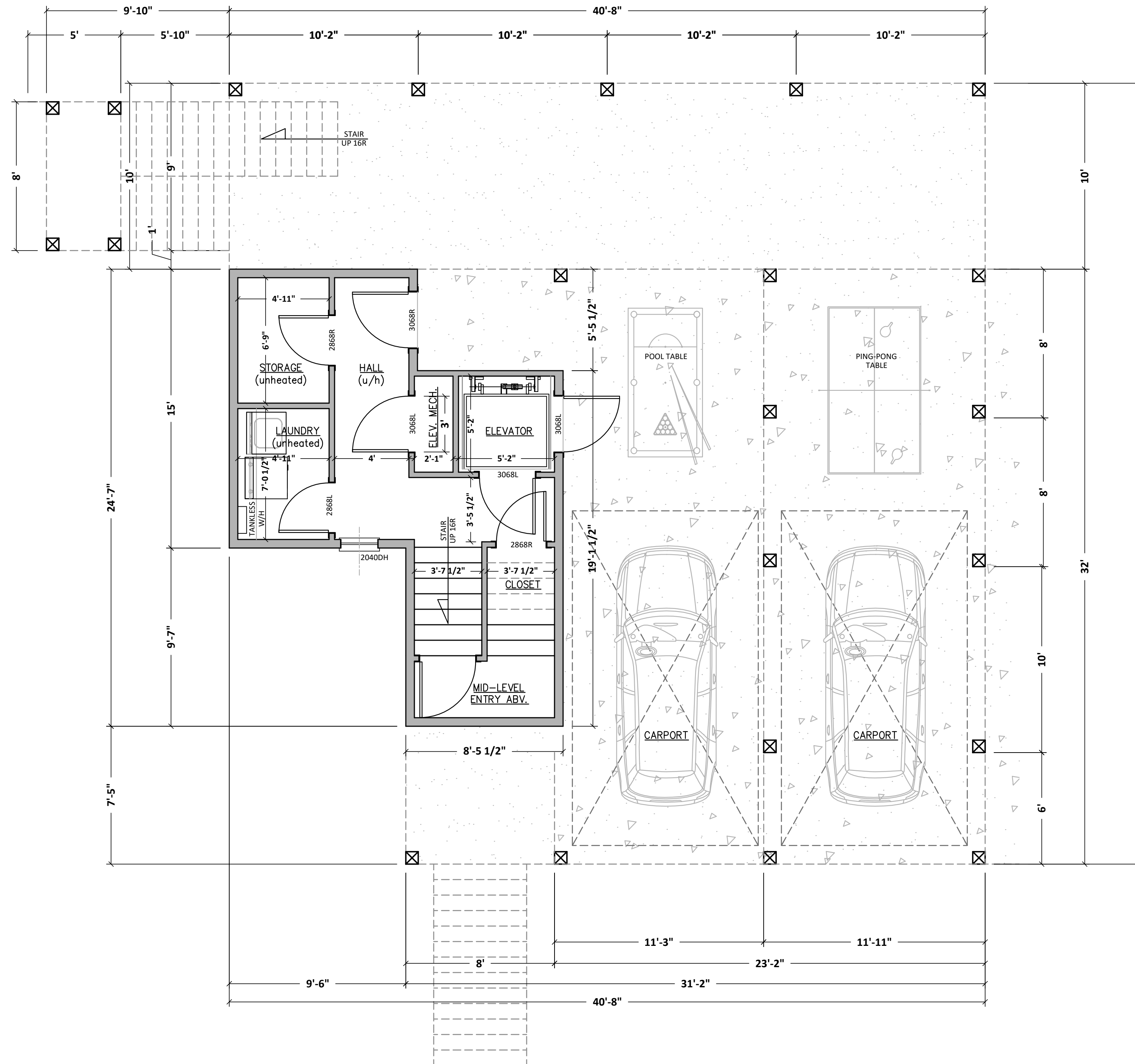
AREA SCHEDULE:	
<b>TOTAL STRUCTURE LIVING AREA:</b>	<b>1,927 S.F.</b>
<b>FIRST FLOOR:</b>	<b>999 S.F.</b>
<b>SECOND FLOOR:</b>	<b>928 S.F.</b>
<b>GROUND FLOOR (UNHEATED):</b>	<b>308 S.F.</b>
<b>DECKS:</b>	<b>954 S.F.</b>
<b>BEDROOMS:</b>	<b>5</b>
<b>FULL BATHROOMS:</b>	<b>5</b>
<b>HALF BATHROOMS:</b>	<b>1</b>
<b>FOOTPRINT:</b>	<b>999 S.F.</b>

**HOUSE ENGINEERING, P.C.**  
 P.O. BOX 466  
 KITTY HAWK, NORTH CAROLINA 27949  
 OFFICE: (252) 261-8253 FAX: (252) 261-3283  
 e-mail: rick@houseengineering.net

**ELEVATIONS**  
 for:  
**McCoy Enc, LLC**  
 Property Location:  
**41971 Ocean View Dr,  
 Avon, Dare County, North Carolina**

ENGINEER SEAL	COPYRIGHT © 2024 THIS DOCUMENT IS THE PROPERTY OF HOUSE ENGINEERING, P.C. AND MAY NOT BE USED MODIFIED OR ADAPTED WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE OWNER. COPIES MAY BE PRODUCED.												
<p><b>PRELIMINARY</b>  <b>NOT FOR CONSTRUCTION</b>                  9/12/2024</p> FIRM CERTIFICATION No. C-1955 ENGINEER'S SEAL APPLIES ONLY TO STRUCTURAL COMPONENTS. PROJECT CONTACTS:	<table border="1"> <thead> <tr> <th>APPROVALS</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>DRAWN B. MORRIS</td> <td>9/12/2024</td> </tr> <tr> <td>CHECKED R. HOUSE</td> <td></td> </tr> <tr> <td>ENGINEER R. HOUSE</td> <td></td> </tr> <tr> <td>SUBMITTED R. HOUSE</td> <td></td> </tr> <tr> <td>RECEIVED</td> <td></td> </tr> </tbody> </table>	APPROVALS	DATE	DRAWN B. MORRIS	9/12/2024	CHECKED R. HOUSE		ENGINEER R. HOUSE		SUBMITTED R. HOUSE		RECEIVED	
	APPROVALS	DATE											
	DRAWN B. MORRIS	9/12/2024											
	CHECKED R. HOUSE												
ENGINEER R. HOUSE													
SUBMITTED R. HOUSE													
RECEIVED													
PROJECT CONTACTS:	APPLICABLE DRAWING TOLERANCES												
SIZE	PROJECT NUMBER												

SIZE	PROJECT NUMBER	REV	SHEET NO.
D	236924	-	2 OF 4
CAD FILENAME: 236924_McCoy		SCALE: 1/4" = 1'-0"	



**GROUND FLOOR DRY ENTRY PLAN 3-A**  
 SCALE: 1/4"=1'-0"  
 (UNHEATED)

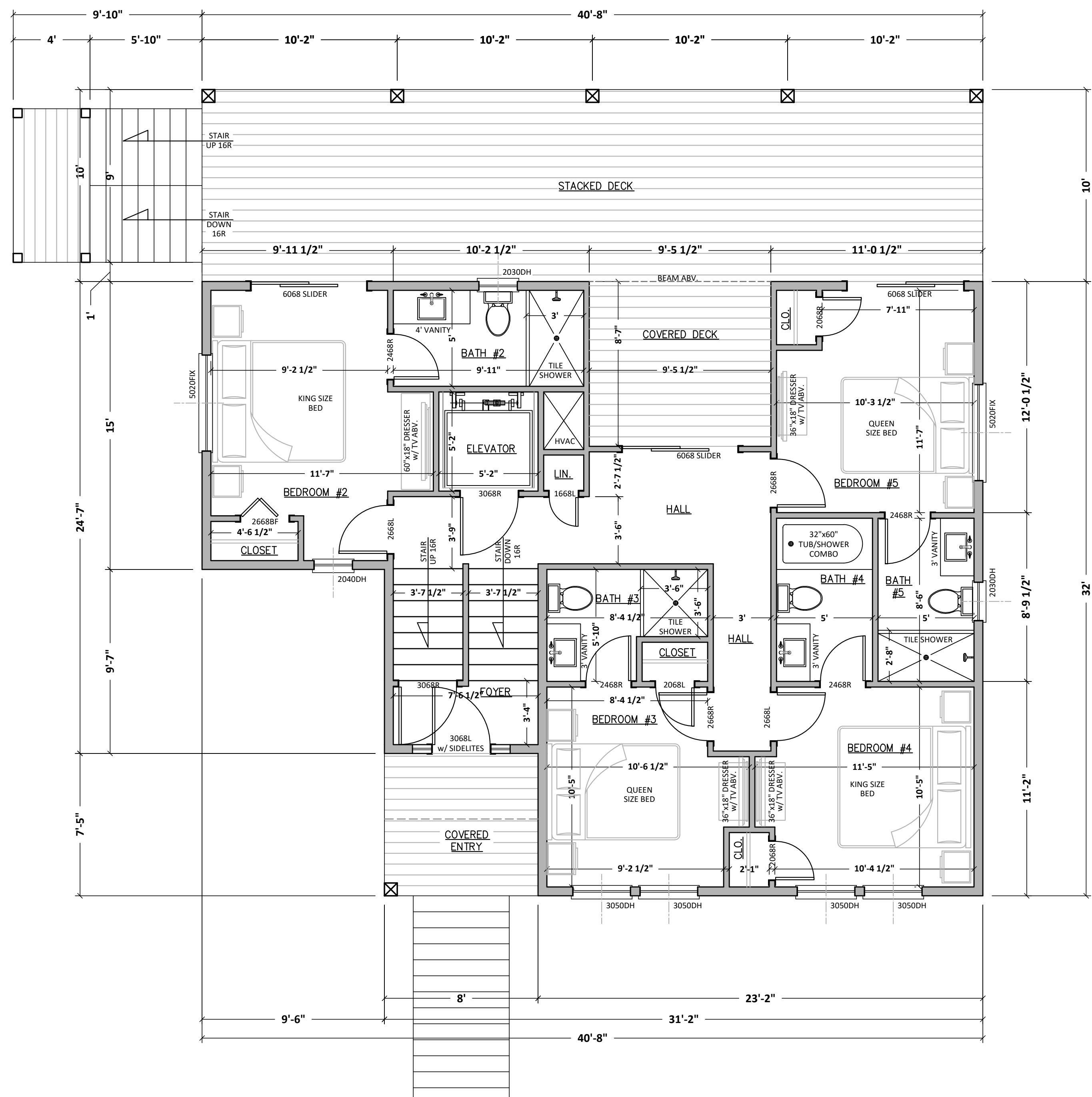
AREA SCHEDULE:	
<b>TOTAL STRUCTURE LIVING AREA:</b>	<b>1,927 S.F.</b>
<b>FIRST FLOOR:</b>	<b>999 S.F.</b>
<b>SECOND FLOOR:</b>	<b>928 S.F.</b>
<b>GROUND FLOOR (UNHEATED):</b>	<b>308 S.F.</b>
<b>DECKS:</b>	<b>954 S.F.</b>
<b>BEDROOMS:</b>	<b>5</b>
<b>FULL BATHROOMS:</b>	<b>5</b>
<b>HALF BATHROOMS:</b>	<b>1</b>
<b>FOOTPRINT:</b>	<b>999 S.F.</b>

**HOUSE ENGINEERING, P.C.**  
 P.O. BOX 466  
 KITTY HAWK, NORTH CAROLINA 27949  
 OFFICE: (252) 261-8253 FAX: (252) 261-3283  
 e-mail: rick@houseengineering.net

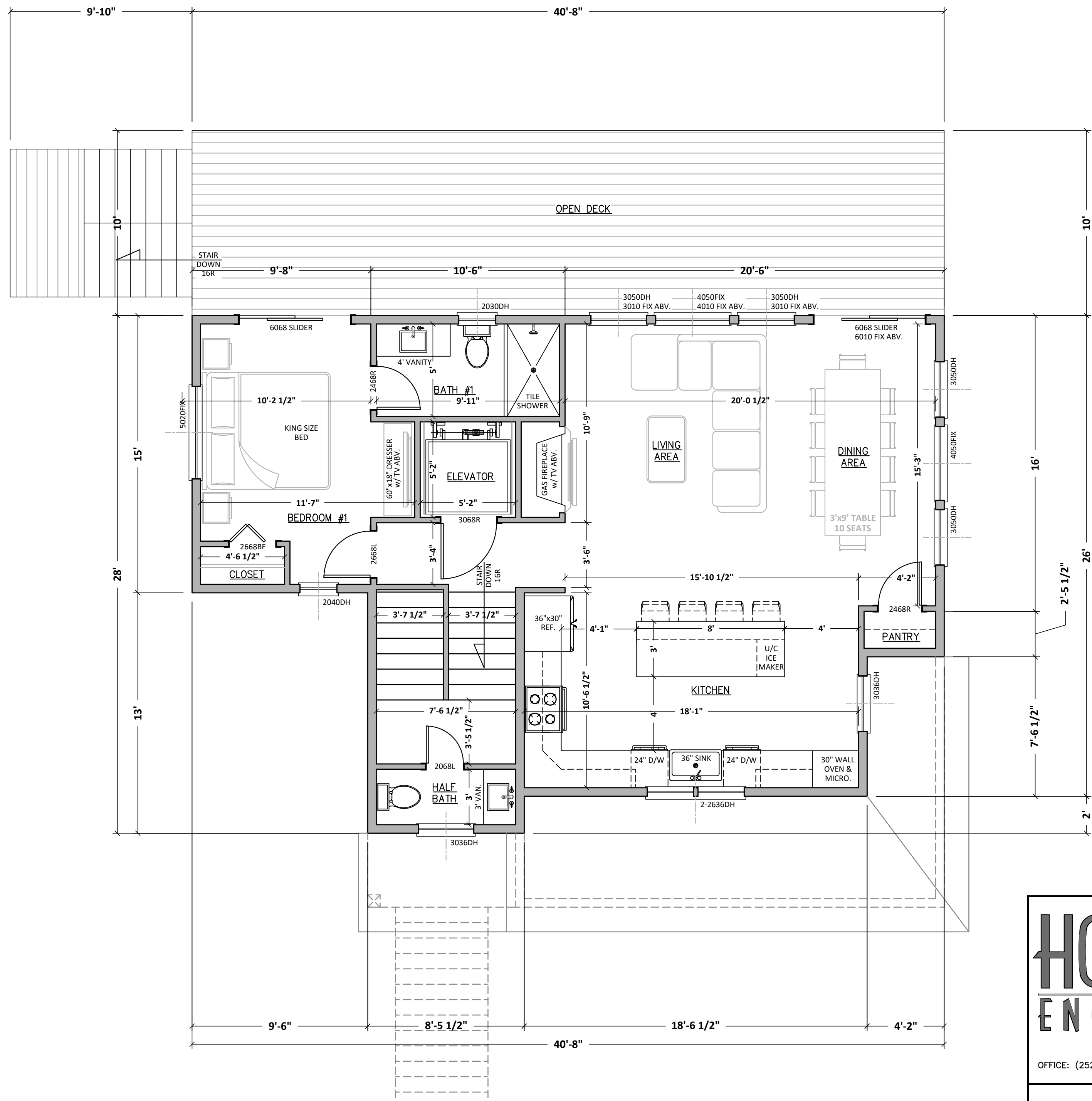
**FLOOR PLAN**  
 for:  
**McCoy Enc, LLC**  
 Property Location:  
**41971 Ocean View Dr,**  
**Avon, Dare County, North Carolina**

ENGINEER SEAL 	COPYRIGHT © 2024 THIS DOCUMENT IS THE PROPERTY OF HOUSE ENGINEERING, P.C. AND MAY NOT BE USED, MODIFIED OR ADAPTED WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE OWNER. COPIES MAY BE PRODUCED.	
	APPROVALS DRAWN B. MORRIS 9/12/2024 CHECKED R. HOUSE ENGINEER R. HOUSE SUBMITTED R. HOUSE RECEIVED	DATE
FIRM CERTIFICATION No. C-1955 ENGINEER'S SEAL APPLIES ONLY TO STRUCTURAL COMPONENTS.	APPLICABLE DRAWING TOLERANCES	
PROJECT CONTACTS:	APPLICABLE DRAWING TOLERANCES	
SIZE <b>D</b>	PROJECT NUMBER <b>236924</b>	REV -
CAD FILENAME: 236924_McCoy	SCALE: 1/4" = 1'-0"	SHEET NO. <b>3</b> OF <b>4</b>





**MID LEVEL FLOOR PLAN 4-A**  
 SCALE: 1/4"=1'-0"  
 (HEATED)



**TOP LEVEL FLOOR PLAN 4-B**  
 SCALE: 1/4"=1'-0"  
 (HEATED)

AREA SCHEDULE:	
<b>TOTAL STRUCTURE LIVING AREA:</b>	<b>1,927 S.F.</b>
<b>FIRST FLOOR:</b>	<b>999 S.F.</b>
<b>SECOND FLOOR:</b>	<b>928 S.F.</b>
<b>GROUND FLOOR (UNHEATED):</b>	<b>308 S.F.</b>
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<b>HALF BATHROOMS:</b>	<b>1</b>
<b>FOOTPRINT:</b>	<b>999 S.F.</b>

**HOUSE ENGINEERING, P.C.**  
 P.O. BOX 466  
 KITTY HAWK, NORTH CAROLINA 27949  
 OFFICE: (252) 261-8253 FAX: (252) 261-3283  
 e-mail: rick@houseengineering.net

**FLOOR PLAN**  
 for:  
**McCoy Enc, LLC**  
 Property Location:  
**41971 Ocean View Dr,  
 Avon, Dare County, North Carolina**

ENGINEER SEAL PRELIMINARY NOT FOR CONSTRUCTION 9/12/2024	COPYRIGHT © 2024 THIS DOCUMENT IS THE PROPERTY OF HOUSE ENGINEERING, P.C. AND MAY NOT BE USED, MODIFIED OR ADAPTED WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE OWNER. COPIES MAY BE PRODUCED.	
	APPROVALS DRAWN B. MORRIS CHECKED R. HOUSE ENGINEER R. HOUSE SUBMITTED R. HOUSE RECEIVED R. HOUSE	DATE 9/12/2024
FIRM CERTIFICATION No. C-1955 ENGINEER'S SEAL APPLIES ONLY TO STRUCTURAL COMPONENTS.	APPLICABLE DRAWING TOLERANCES	
PROJECT CONTACTS:	APPLICABLE DRAWING TOLERANCES	
SIZE D	PROJECT NUMBER 236924	REV -
SHEET NO. 4 OF 4	SCALE: 1/4" = 1'-0"	

N.C. DIVISION OF ~~082~~ **COASTAL MANAGEMENT**  
**ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT)**  
**CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED**

5/7/24  
Date

MARK/MELISSA REILLY  
Name of Adjacent Riparian Property Owner  
41957 OCEAN VIEW DRIVE  
Address  
AVON, NC 27915  
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 RENTAL 5 BEDROOM COTTAGE & POOL  
on my property at 41971 OCEAN VIEW DRIVE, AVON, NC 27915  
in DARE 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: (K.D. Jackson, Dare County, P.O. BOX 859, Frisco, N.C., 27915)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (K.D. Jackson) at (252-475-5789), or by email at: (KD.Jackson@darenc.gov).

Sincerely,

DONALD MCCOY/MCCOY ENC LLC  
Property Owner's Name

1(252)258-5186  
Telephone Number

3113 CAMILLE DR      WINTERVILLE      NC      28590  
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

088  
N.C. DIVISION OF COASTAL MANAGEMENT  
ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT)  
CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

5/7/24  
Date

KATHLEEN LAKE  
Name of Adjacent Riparian Property Owner  
41981 OCEAN VIEW DR  
Address  
AVON, NC 27915  
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 RENTAL 5 BEDROOM COTTAGE & POOL  
on my property at 41971 OCEAN VIEW DRIVE, AVON, NC 27915  
in DARE 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: (K.D. Jackson, Dare County, P.O. BOX 859, Frisco, N.C., 27915)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (K.D. Jackson) at (252-475-5789), or by email at: (KD.Jackson@darenc.gov).

Sincerely,

DONALD McCoy / McCoy ENCLLC  
Property Owner's Name

1 (252) 258-5186  
Telephone Number

3113 CAMILLE DR      WINTERVILLE, NC      28590  
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

7020 3160 0001 2523 8092  
 7020 3160 0001 2523 8092  
 7020 3160 0001 2523 8092

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT 084**  
 Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®.

**Fredericksburg, VA 22405**

**OFFICIAL USE**

Certified Mail Fee	\$4.40	0449 16
Extra Services & Fees (check box, add fee as appropriate)	\$3.65	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$1.87	05/10/2024
Total Postage and Fees	\$9.92	

Sent To **KATHLEEN LAKE**  
 Street and Apt. No., or PO Box No. **414 McCARTY RD**  
 City, State, ZIP+4® **FREDERICKSBURG, VA 22405**

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

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

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®.

**Glen Ridge, NJ 07028**

**OFFICIAL USE**

Certified Mail Fee	\$4.40	0449 16
Extra Services & Fees (check box, add fee as appropriate)	\$3.65	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$1.87	05/10/2024
Total Postage and Fees	\$9.92	

Sent To **MARK & MELISSA PENNEY**  
 Street and Apt. No., or PO Box No. **254 WASHINGTON ST**  
 City, State, ZIP+4® **GLEN RIDGE, NJ 07028**

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



**KITTY HAWK**  
 3841 N CROATAN HWY  
 KITTY HAWK, NC 27949-9238  
 (800)275-8777

05/10/2024 09:42 AM

Product	Qty	Unit Price	Price
First-Class Mail®	1		\$1.87
Large Envelope			
Glen Ridge, NJ 07028			
Weight: 0 lb 2.60 oz			
Estimated Delivery Date			
Mon 05/13/2024			
Certified Mail®			\$4.40
Tracking #:			
70203160000125238062			
Return Receipt			\$3.65
Tracking #:			
9590 9402 6361 0296 8653 12			
Total			\$9.92
First-Class Mail®	1		\$1.87
Large Envelope			
Fredericksburg, VA 22405			
Weight: 0 lb 2.70 oz			
Estimated Delivery Date			
Mon 05/13/2024			
Certified Mail®			\$4.40
Tracking #:			
70203160000125238093			
Return Receipt			\$3.65
Tracking #:			
9590 9402 6361 0296 8653 29			
Total			\$9.92
Grand Total:			\$19.84
Debit Card Remit			\$19.84

Card Name: VISA  
 Account #: XXXXXXXXXXXX8663  
 Approval #: 134825  
 Transaction #: 584  
 Receipt #: 024188  
 Debit Card Purchase: \$19.84  
 AID: A000000C980840 Contactless  
 AL: US DEBIT

Text your tracking number to 28777 (2USPS) to get the latest status. Standard Message and Data rates may apply. You may also visit [www.usps.com](http://www.usps.com) USPS Tracking or call 1-800-222-1811.

Preview your Mail  
 Track your Packages  
 Sign up for FREE @  
<https://infcrmeddelivery.usps.com>

All sales final on stamps and postage.  
 Refunds for guaranteed services only.  
 Thank you for your business.

Tell us about your experience.  
 Go to: <https://postalexperience.com/Pos>  
 or scan this code with your mobile device,



or call 1-800-410-7420.

Tracking Number:

[Remove X](#)

## 70203160000125238062

[Copy](#)

[Add to Informed Delivery \(https://informedelivery.usps.com/\)](https://informedelivery.usps.com/)

### Latest Update

Your item was delivered to an individual at the address at 1:30 pm on May 13, 2024 in GLEN RIDGE, NJ 07028.

Get More Out of USPS Tracking:

**USPS Tracking Plus<sup>®</sup>**

### Delivered

**Delivered, Left with Individual**

GLEN RIDGE, NJ 07028

May 13, 2024, 1:30 pm

[See All Tracking History](#)

Feedback

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

**Text & Email Updates**



**USPS Tracking Plus<sup>®</sup>**



**Product Information**



**See Less ^**

Track Another Package

Enter tracking or barcode numbers

Tracking Number:

Remove X

**70203160000125238093**

Copy

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

## Latest Update

Your item could not be delivered on June 9, 2024 at 3:50 pm in FREDERICKSBURG, VA 22406. It was held for the required number of days and is being returned to the sender.

### Get More Out of USPS Tracking:

**USPS Tracking Plus<sup>®</sup>**

#### Alert

**Unclaimed/Being Returned to Sender**

FREDERICKSBURG, VA 22406

June 9, 2024, 3:50 pm

**Redelivery Scheduled**

FREDERICKSBURG, VA 22405

May 14, 2024

**Notice Left (No Authorized Recipient Available)**

FREDERICKSBURG, VA 22405

May 13, 2024, 3:59 pm

**Out for Delivery**

FREDERICKSBURG, VA 22405

May 13, 2024, 10:34 am

**In Transit to Next Facility**

May 12, 2024

**Arrived at USPS Regional Destination Facility**

RICHMOND VA DISTRIBUTION CENTER

Feedback

087

May 11, 2024, 1:34 am

**Departed Post Office**

KITTY HAWK, NC 27949  
May 10, 2024, 3:20 pm

**USPS in possession of item**

KITTY HAWK, NC 27949  
May 10, 2024, 9:41 am

**Hide Tracking History**

[What Do USPS Tracking Statuses Mean?](https://faq.usps.com/s/article/Where-is-my-package) (https://faq.usps.com/s/article/Where-is-my-package)

**Text & Email Updates**



**USPS Tracking Plus®**



**Product Information**



**See Less** ^

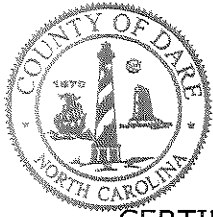
Track Another Package

Enter tracking or barcode numbers

## Need More Help?

Contact USPS Tracking support for further assistance.

**FAQs**



# County of Dare

088

EXHIBIT

19

P.O. Box 859 | Buxton, North Carolina 27920 | 252.475.5878

8-7-24

CERTIFIED MAIL-  
RETURN RECEIPT REQUESTED

Electronic Delivery to: [mccoyencllc@gmail.com](mailto:mccoyencllc@gmail.com)

**Donald McCoy**  
**3113 Camille Dr**  
**Winterville, N.C. 28950**

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT  
APPLICATION NUMBER: **HI-75-24**  
PROJECT ADDRESS: 41971 Ocean View Dr

Dear Mr. McCoy:

After reviewing your application, which was determined to be complete on 7-15-24, the Dare County has determined that no permit may be granted for the proposed development.

You have applied to **construct a 5-bedroom, 1,996-sf single family dwelling, with a covered deck, 470-sf of open decking, pool, pool deck and fence, Gazebo, parking and septic.** Portions of your proposed development do not meet the following rules of the N.C. Coastal Resources Commission, and/or the following provisions of the N.C. Coastal Area Management Act:

**15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS, which states, "**

**(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 shall be measured in a landward direction from the vegetation line, the pre-project vegetation line, or the measurement line, whichever is applicable.**

**(3) With the exception of those types of development defined in 15A NCAC 07H .0309(a), no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:**

**(A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;**



The development proposed at 41971 Ocean View Drive is located within the Ocean Hazard Area. The Ocean Erodible Area (OEA) Area of Environmental Concern (AEC) for this parcel has an erosion rate of 6 feet, and the OEA AEC is 540 feet. The minimum setback is confirmed as 180 feet (30 times 6), which is measured from the Pre-Project Vegetation Line (also known as the Static Vegetation Line). In review of your site plan drawn on 07/12/2024 and received on 07/15/2024, the following development is oceanward of the applicable setback and cannot meet the General Use Standards under 15A NCAC 07H.0306: single-family dwelling, covered porch, covered deck and landing, septic tanks.

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

If you wish to appeal this denial, you are entitled to a contested case hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties before making a final decision on the appeal. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within twenty (20) days from the date of this denial letter. The requirements for filing a contested case can be found at <http://www.oah.state.nc.us/hearings>. Although OAH cannot give legal advice, any questions regarding this process should be directed to OAH at 6714 Mail Service Center, Raleigh, NC 27699-6714 or via telephone at 919-431-3000, including questions regarding the filing fee (if a filing fee is required) and/or the details of the filing process.

A copy of your petition filed at OAH must be served on with DEQ's agent for service of process at the following address:

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

Please also send a copy of the petition to the attention of Tancred Miller, Director, N.C. Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557, so that your petition may be forwarded to the attorney who will be representing the Respondent in the contested case proceeding.

In the alternative, you may petition the N.C. Coastal Resources Commission for a variance to undertake development that is prohibited by the Commission's rules (Note- a Commission variance cannot be granted if your project was denied due to an inconsistency with a CAMA Land Use Plan or other statutory provisions of the CAMA or NC D&F Law). Applying for a variance requires that you first stipulate that the Division of Coastal Management applied the Rules properly in issuing this

denial. Applying for a variance means that you agree that the legal restrictions are valid but request an exception to the restrictions because of hardships resulting from unusual conditions of the property. In seeking a variance, you are requesting that the Commission vary the rules at issue and you must state how you believe your request meets the four criteria found at N.C.G.S. § 113A-120.1. To apply for a variance, you must file a petition for a variance with the Director of the Division of Coastal Management and the State Attorney General's Office on a standard form, which must be accompanied by additional information on the nature of the project and the reasons for requesting a variance. The variance request may be filed at any time but must be filed a minimum of six weeks before a scheduled Commission meeting to be eligible to be heard at that meeting.

You may either appeal the permit decision or seek a variance. These are two separate paths and cannot be pursued simultaneously. If the appeal of the permit decision is denied, you may still seek a variance. However, you may not first seek a variance and if that is denied attempt to challenge the decision to deny the permit. Information about both a permit appeal in the Office of Administrative Hearings and the Variance process may be obtained at <https://deq.nc.gov/about/divisions/coastal-management/coastal-management-permits/variances-appeals>.

Respectfully yours,  
LPO K.D. Jackson



Cc (by email):

Ronald Renaldi, District Manager, Elizabeth City, [ronald.renaldi@deq.nc.gov](mailto:ronald.renaldi@deq.nc.gov)

Robb Mairs, CAMA LPO Minor Permit Coordinator, [robb.mairs@deq.nc.gov](mailto:robb.mairs@deq.nc.gov)

Yvonne Carver, Field Representative, Elizabeth City, [yvonne.carver@deq.nc.gov](mailto:yvonne.carver@deq.nc.gov)

Noah Gillam, Planning Director, Dare County, [noah.gillam@darenc.gov](mailto:noah.gillam@darenc.gov)

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

EXHIBIT  
21

September 13, 2024

Date

Kathleen Lake

Name of Adjacent Riparian Property Owner  
474 McCarty Road

Address  
Fredericksburg, VA 22405

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  
Variance to allow a proposed development

on my property at 41971 Ocean View Drive, Avon, NC,  
in Dare 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:  
(LOCAL PERMIT OFFICER, NAME OF LOCAL GOVERNMENT, MAILING ADDRESS CITY, STATE, ZIP CODE)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (LOCAL PERMIT OFFICER) at (PHONE NUMBER), or by email at: (LPO EMAIL).

Sincerely,

McCoy ENC LLC c/o Donald McCoy

252-258-5186

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

## **TIPS FOR ADJACENT RIPARIAN OWNER NOTIFICATION**

CAMA Regulations require notice of proposed development to the Adjacent Riparian Property Owners (15A NCAC 7J.0204(b)(5)). Proof of actual notice (a sign-off by the owner on this form) or certified mail return receipts (showing *delivery* of notice) are needed, or any other method which satisfies the Local Permit Officer (LPO) that a good faith effort has been made to provide notice.

The purpose of this notice is to make adjacent riparian property owners aware of the proposed development so that they have an opportunity to provide comments (or potentially object to) the proposed development, and to give DCM or the LPO an opportunity to consider these comments/objections before a permit decision is made. “Permission” of adjacent property owners is not necessarily required for DCM or the LPO to issue a permit. It is in the applicant’s best interest to provide comprehensive and accurate notice so that any concerns or objections can be resolved early in the permit review process. In addition, if the adjacent riparian property owner appeals the permit decision, insufficient notice could be a basis for granting such an appeal.

### **Who is an Adjacent Riparian Property Owner?**

**What is Adjacent?** (Note: DCM reads this broadly to ensure comment by potentially impacted neighbors)

- A property that shares a boundary line with the site of proposed development; AND
- A property that fronts a natural or manmade waterbody that is connected to coastal waters and can support some form of navigation, even a kayak or canoe, including a common canal system or a manmade basin.
- Easement holders? Yes, if the easement could be impacted by the proposed development.
- Streets/Roads? Only if the street/road could be impacted by the proposed development. This might include street-ends which might be used for parking and beach access.
- Holders of recognized submerged lands claims/shellfish franchises.

### **What is Riparian?**

Do the boundaries of the adjacent property legally intersect with the water at mean high tide? If there is a question about whether an adjacent property is considered “riparian,” please reach out to DCM Staff or the LPO- especially on the oceanfront beach where there may be undeveloped parcels on the beach or in the water.

### **Who/What is a Property Owner?**

For private individuals (or families), send notice to the address listed on the tax card. If the property is owned by an Inc. or LLC, please send notice to the person listed as the registered agent on the NC Secretary of State’s Corporations Look Up site: <https://www.sosnc.gov/search/index/corp>. For Condominiums or neighborhoods with an owners’ association (HOA/POA), send notice to the association (which is usually a corporation, for which you send notice to its registered agent).

### **What is Notice, and how do I ensure it is received?**

- You can meet with your adjacent property owner, provide a description or drawing of the proposed development, and ask them to sign this form and return it to DCM or the LPO; OR
- You can hand-deliver this form and a description or drawing, and ask your neighbor to return it to DCM or the LPO (consider providing them with a stamped envelope); OR
- You can mail this form by USPS Certified Mail, return receipt requested (the Green Card). If you choose this option, you must provide either the signed & returned green card OR track the certified mail package number on USPS.GOV’s online tracking system, and provide the tracking print-out as proof of delivery to DCM or the LPO

If you have any questions about this process, please reach out to the LPO, DCM Staff and DCM Legal Counsel and we will work to answer your questions.

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

September 13, 2024

Date

Mark & Melissa Reilly

Name of Adjacent Riparian Property Owner  
254 Washington Street

Address  
Glenridge, NJ 07028

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  
Variance to allow a proposed development

on my property at 41971 Ocean View Drive, Avon, NC,  
in Dare 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:  
(LOCAL PERMIT OFFICER, NAME OF LOCAL GOVERNMENT, MAILING ADDRESS CITY, STATE, ZIP CODE)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (LOCAL PERMIT OFFICER) at (PHONE NUMBER), or by email at: (LPO EMAIL).

Sincerely,

McCoy ENC LLC c/o Donald McCoy  
Property Owner's Name

252-258-5186  
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

## TIPS FOR ADJACENT RIPARIAN OWNER NOTIFICATION

CAMA Regulations require notice of proposed development to the Adjacent Riparian Property Owners (15A NCAC 7J.0204(b)(5)). Proof of actual notice (a sign-off by the owner on this form) or certified mail return receipts (showing *delivery* of notice) are needed, or any other method which satisfies the Local Permit Officer (LPO) that a good faith effort has been made to provide notice.

The purpose of this notice is to make adjacent riparian property owners aware of the proposed development so that they have an opportunity to provide comments (or potentially object to) the proposed development, and to give DCM or the LPO an opportunity to consider these comments/objections before a permit decision is made. “Permission” of adjacent property owners is not necessarily required for DCM or the LPO to issue a permit. It is in the applicant’s best interest to provide comprehensive and accurate notice so that any concerns or objections can be resolved early in the permit review process. In addition, if the adjacent riparian property owner appeals the permit decision, insufficient notice could be a basis for granting such an appeal.

### Who is an Adjacent Riparian Property Owner?

**What is Adjacent?** (Note: DCM reads this broadly to ensure comment by potentially impacted neighbors)

- A property that shares a boundary line with the site of proposed development; AND
- A property that fronts a natural or manmade waterbody that is connected to coastal waters and can support some form of navigation, even a kayak or canoe, including a common canal system or a manmade basin.
- Easement holders? Yes, if the easement could be impacted by the proposed development.
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- Holders of recognized submerged lands claims/shellfish franchises.

### What is Riparian?

Do the boundaries of the adjacent property legally intersect with the water at mean high tide? If there is a question about whether an adjacent property is considered “riparian,” please reach out to DCM Staff or the LPO- especially on the oceanfront beach where there may be undeveloped parcels on the beach or in the water.

### Who/What is a Property Owner?

For private individuals (or families), send notice to the address listed on the tax card. If the property is owned by an Inc. or LLC, please send notice to the person listed as the registered agent on the NC Secretary of State’s Corporations Look Up site: <https://www.sosnc.gov/search/index/corp>. For Condominiums or neighborhoods with an owners’ association (HOA/POA), send notice to the association (which is usually a corporation, for which you send notice to its registered agent).

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- You can hand-deliver this form and a description or drawing, and ask your neighbor to return it to DCM or the LPO (consider providing them with a stamped envelope); OR
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If you have any questions about this process, please reach out to the LPO, DCM Staff and DCM Legal Counsel and we will work to answer your questions.

095

# U.S. Postal Service™ CERTIFIED MAIL® RECEIPT

Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®.

## OFFICIAL USE

7022 0410 0002 1904 9344

Certified Mail Fee

\$

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

- Return Receipt (hardcopy) \$ 4.85
- Return Receipt (electronic) \$ 4.50
- Certified Mail Restricted Delivery \$
- Adult Signature Required \$
- Adult Signature Restricted Delivery \$

Postage

\$

Total Postage and Fees

\$ 10.45

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

Mark and Melissa Reilly  
254 Washington Street  
Glenridge, NJ 07028



Postmark Here

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

# U.S. Postal Service™ CERTIFIED MAIL® RECEIPT

Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®.

## OFFICIAL USE

7022 0410 0002 1904 9351

Certified Mail Fee

\$

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

- Return Receipt (hardcopy) \$ 4.85
- Return Receipt (electronic) \$ 4.50
- Certified Mail Restricted Delivery \$
- Adult Signature Required \$
- Adult Signature Restricted Delivery \$

Postage

\$

Total Postage and Fees

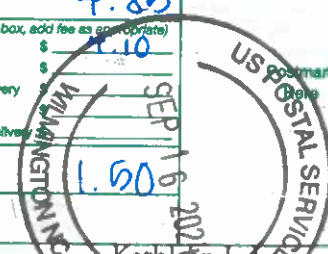
\$

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

Kathleen Lake  
404 McCarty Road  
Fredericksburg, VA 22405



Postmark Here

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

George Rountree, Jr.  
(1904-1979)  
Ryan F. Tennant  
(1973-2016)  
George Rountree, III  
Special Counsel  
Geoffrey A. Losee  
Stephen D. Coggins

Michael A. Becker  
Halee A. Morris  
JD M. Fisher

Joseph E. Horowitz  
Of Counsel



North Carolina Address  
2419 Market Street  
Wilmington, NC 28403

Tennessee Address  
6000 Poplar Ave., Ste 400  
Memphis, TN 38119

Phone  
910-763-3404

Fax  
910-763-0320

October 29<sup>th</sup>, 2024

**Via U.S. Certified Mail, Return Receipt Requested**

Kathleen Lake  
474 McCarty Road, (Tracking # 7022 0410 0002 1904 9399)  
Fredericksburg, VA 22405

41981 Ocean View Dr. (Tracking # 7022 0410 0002 1904 9405)  
Avon, NC 27915

Re: *Petition to Coastal Resources Commission to Allow Variance from CAMA  
Rule 15A NCAC 07H .0309(b) at 41971 Ocean View Drive, Avon, NC;  
Our file no. 2024-00341*

Dear Ms. Lake,

This letter is to inform you that my office on behalf of McCoy ENC LLC, has applied for a CAMA Minor Permit Variance for the property located at 41971 Ocean View Drive, Avon, Dare County. We sent to you on or about September 19, 2024, via Certified Mail a notice with project drawings and the Petitioner's variance documents as notification of the proposed project. Our information is that you received those materials on September 24, 2024. (See USPS tracking # 7022 0410 0002 1904 9351 and [https://tools.usps.com/go/TrackConfirmAction?qt\\_c\\_tLabels1=7022%200410%200002%201904%20%209351](https://tools.usps.com/go/TrackConfirmAction?qt_c_tLabels1=7022%200410%200002%201904%20%209351)).

The above-referenced variance application materials should have also included as Exhibit 16 the enclosed McCoy ENC LLC's second CAMA permit application with site plan drawings (DCM file # HI-75-24). That application was denied. The denial has led to the pending variance application that was sent to you and received.

Our records show that this second CAMA Permit application was sent to you via Certified Mail on May 10, 2024 (USPS tracking # 7020 3160 0001 2523 8093), but that it was not actually picked up by you and hence not delivered. Thus, the US Postal Service returned the mailing to the agent for McCoy ENC LLC that submitted the application.

Consequently, out of an abundance of precaution, we again forward to you the enclosed above-referenced second CAMA Permit Application (DCM file # HI-75-24).



*Petition to Coastal Resources Commission to Allow Variance from CAMA*

*Rule 15A NCAC 07H .0309(b) at 41971 Ocean View Drive, Avon, NC*

October 29, 2024

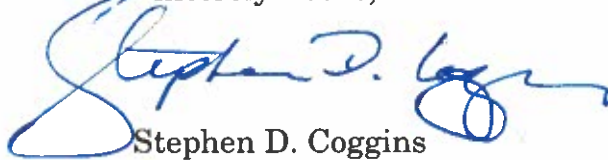
Page 2 of 2

No action is required from you, or you may sign and return the enclosed no-objection form that was sent to you earlier on May 10 and September 14. If you have any questions or comments about my proposed project, please contact me at (910-763-3404, by email at [scoggins@rountreelosee.com](mailto:scoggins@rountreelosee.com), or by mail at the address listed on the letterhead above. If you wish to file comments or objections, you may submit them to me and to:

K.D. Jackson, LPO  
Dare County  
50347 N.C. Hwy 12,  
Frisco, NC 27936

I look forward to hearing from you.

Sincerely Yours,



Stephen D. Coggins

Encl: 2nd CAMA Permit Application with Site Drawings (DCM file # HI-75-24)  
Adjacent Riparian Property Owner Notification Form

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

5/7/24  
Date

KATHLEEN LAKE  
 Name of Adjacent Riparian Property Owner  
41981 OCEAN VIEW DR  
 Address  
AVON, NC 27915  
 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 RENTAL 5 BEDROOM COTTAGE & POOL  
 on my property at 41971 OCEAN VIEW DRIVE, AVON, NC 27915  
 in DARE 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: (K.D. Jackson, Dare County, P.O. BOX 859, Frisco, N.C., 27915)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (K.D. Jackson) at (252-475-5789), or by email at: (KD.Jackson@darenc.gov).

Sincerely,

DONALD MCCOY / MCCOY ENCLLC  
 Property Owner's Name

1 (252) 258-5186  
 Telephone Number

3113 CAMILLE DR      WINTERVILLE, NC      28590  
 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

\_\_\_\_\_  
 Print or Type Name

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Telephone Number

\_\_\_\_\_  
 Address    City    State    Zip



# 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

APPLICATION: Donald McCoy/McCoy Enc LLC

11: - 75-24

LOCALITY: 41971 Ocean View DR

Avon, N.C. 27915

PERMIT ISSUED USING  
STATIC LINE EXCEPTION?  
YES  NO

Locality 41971 Ocean View DR, Avon, N.C. 27915 Permit Number Hi-75-24

Ocean Hazard  Estuarine Shoreline \_\_\_\_\_ ORW Shoreline \_\_\_\_\_ Public Trust Shoreline \_\_\_\_\_ Other \_\_\_\_\_

(For official use only)

**GENERAL INFORMATION**

**LAND OWNER - MAILING ADDRESS**

Name DONALD McCoy / MCCOY ENC LLC

Address 3113 CAMILLE DR

City WINTERVILLE State NC Zip 28590 Phone 1(252)258-5186

Email mccoyencllc@gmail.com

**AUTHORIZED AGENT**

Name RICK HOUSE / HOUSE ENGINEERING, P.C.

Address PO Box 466

City KITTY HAWK State NC Zip 27949 Phone 1(252)202-8253

Email rick@houseengineering.net

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

41971 OCEAN VIEW DRIVE, AVON, NC 27915

ADJACENT TO ATLANTIC OCEAN

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

OF 5 BEDROOM RENTAL COTTAGE & POOL

SIZE OF LOT/PARCEL: 15,000 square feet 0.34 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: 1996 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

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 McCoy ENC LLC  
see Deed Book 2551 page 0313 in the DARE 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>KATHLEEN LAKE</u>	<u>474 McCARTY RD, FREDERICKSBURG, VA 22405</u>
(2) <u>MARY/MELISSA RULLY</u>	<u>254 WASHINGTON ST, GLEN RIDGE, NJ 07028</u>
(3) _____	_____
(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 7<sup>th</sup> day of MAY, 2024

Rich. Home for McCoy ENC LLC  
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.*

## OCEAN HAZARD AEC NOTICE

Project is in an:  Ocean Erodeable Area  Inlet Hazard AreaProperty Owner: McCoy ENC LLCProperty Address: 41971 OCEAN VIEW DRIVEDate Lot Was Platted: October 1981

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 6 feet per year.

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

The flood waters in a major storm are predicted to be about 3 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.

Ruth Hone for McCoy ENC LLC 5/7/24

Property Owner's Signature

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 re-measured. Also, the occurrence of a major shoreline change as the result of a storm within the 60-day period will necessitate re-measurement 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:

KD JACKSON

Local Permit Officer

P.O. BOX 859, FRISCO, NC 27915

Address

DARE COUNTY - AVON

Locality

1(252) 475-5789

Phone Number

AGENT AUTHORIZATION FOR CAMA PERMIT APPLICATIONName of Property Owner Requesting Permit: DONALD McCoy/McCOYENCLLCMailing Address: 3113 CAMILLE DRIVE  
WINTERVILLE, NC 28590Phone Number: (252) 258-5186Email Address: mccoyencllc@gmail.comI certify that I have authorized RICK HOUSE/HOUSE ENGINEERING, PC  
Agent / Contractor

to act on my behalf, for the purpose of applying for and obtaining all CAMA permits

necessary for the following proposed development: CONSTRUCTION OF  
RENTAL COTTAGEat my property located at 41971 OCEAN VIEW DRIVE, AVON, NC, 27915  
in DARE County.

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.

## Property Owner Information:

  
SignatureDONALD MCCOY  
Print or Type NameOWNER  
Title4, 26, 24  
DateThis certification is valid through 4, 26, 27

004  
N.C. DIVISION OF COASTAL MANAGEMENT  
ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT)  
CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

5/7/24  
Date

MARK/MELISSA REILLY  
Name of Adjacent Riparian Property Owner  
41957 OCEAN VIEW DRIVE  
Address  
AVON, NC 27915  
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 RENTAL 5 BEDROOM COTTAGE & POOL

on my property at 41971 OCEAN VIEW DRIVE, AVON, NC 27915

in DARE 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: (K.D. Jackson, Dare County, P.O. BOX 859, Frisco, N.C., 27915)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (K.D. Jackson) at (252-475-5789), or by email at: (KD.Jackson@darenc.gov).

Sincerely,

DONALD MCCOY/MCCOY ENCLLC  
Property Owner's Name

1(252)258-5186  
Telephone Number

3113 CAMILLE DR WINTERVILLE, NC 28590

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



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

5/7/24  
Date

KATHLEEN LAKE  
Name of Adjacent Riparian Property Owner  
41981 OCEAN VIEW DR  
Address  
AVON, NC 27915  
City, State Zip

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CONSTRUCTION RENTAL 5 BEDROOM COTTAGE & POOL  
on my property at 41971 OCEAN VIEW DRIVE, AVON, NC 27915  
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If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (K.D. Jackson) at (252-475-5789), or by email at: (KD.Jackson@darenc.gov).

Sincerely,

DONALD MCCOY / MCCOY ENCLLC  
Property Owner's Name

1(252) 258-5186  
Telephone Number

3113 CAMILLE DR WINTERVILLE, NC 28590  
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

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1871

**HOUSE ENGINE DATE CO**

**41971**  
Date C  
Date B  
Date A

**236**

APPROVALS

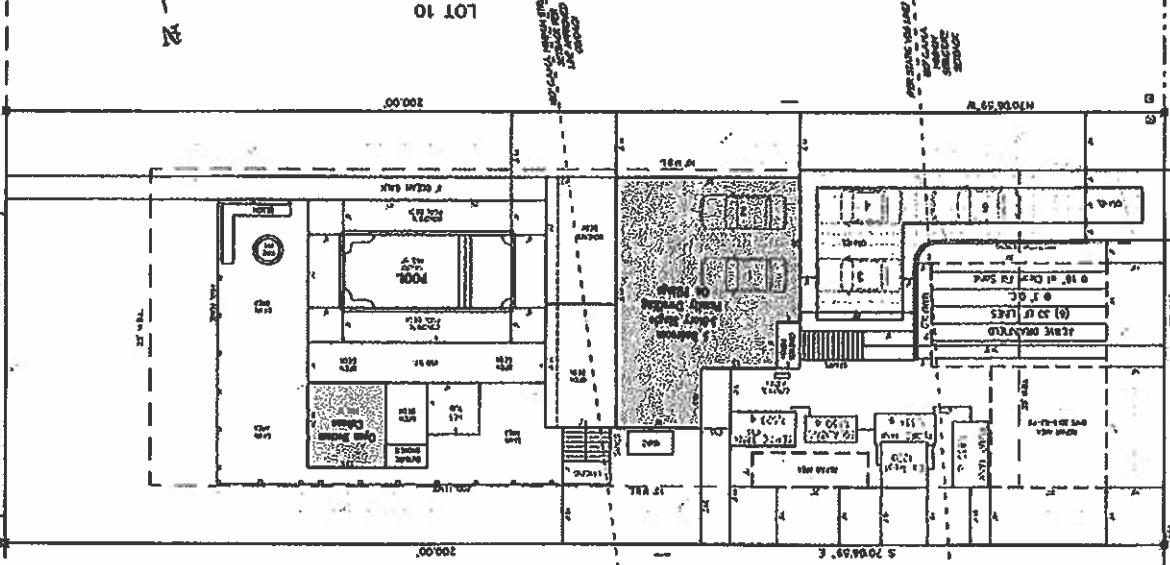
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HOUSE ENGINE DATE CO

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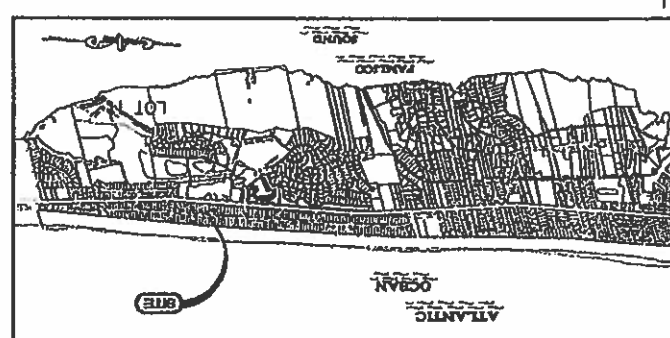


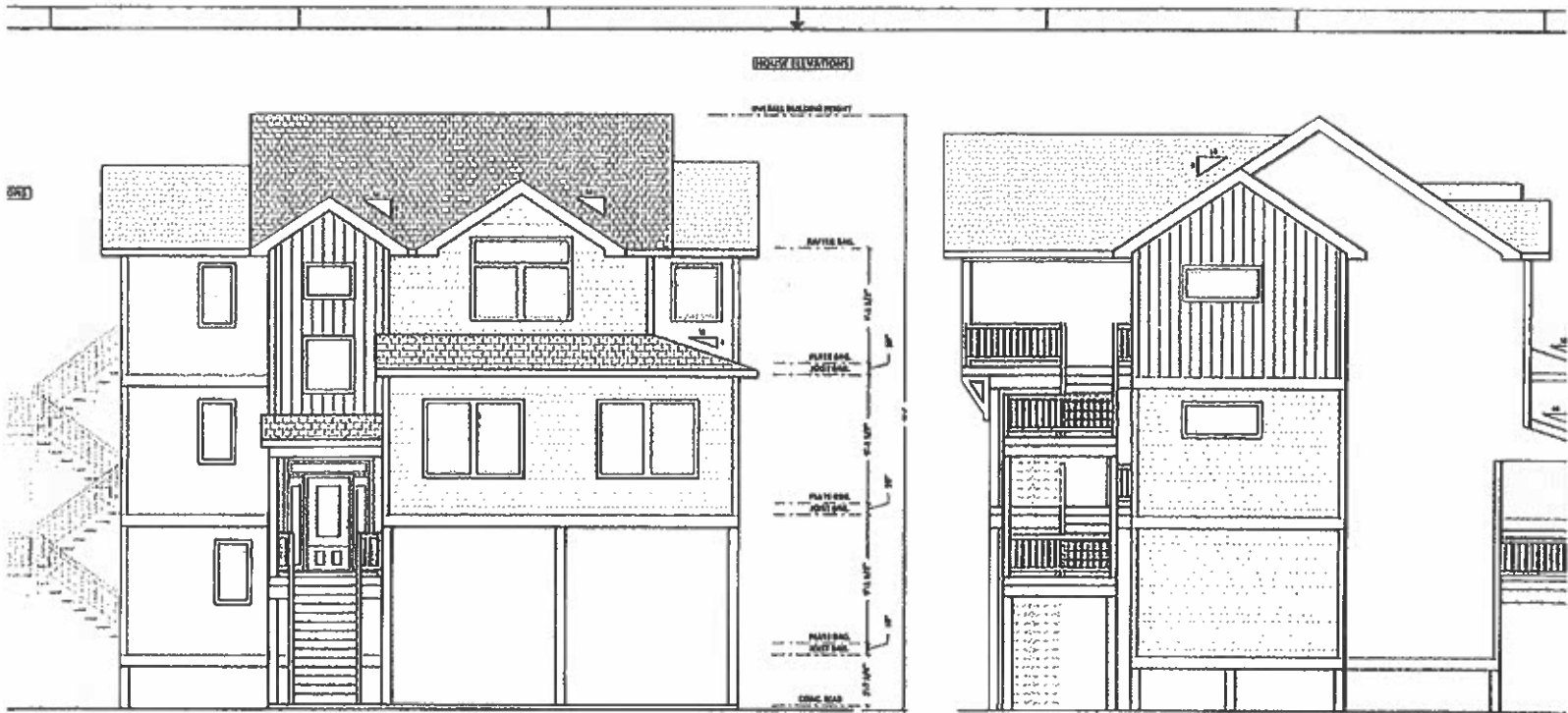
Vegetation land - Federal  
U.S. Government  
Parcel not shown

- GENERAL NOTES**
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**LEGEND:**

- PROPOSED WOOD EXHAUSTION AREA
- PROPOSED COYOTE AREA
- PROPOSED CHINA AREA
- PROPOSED BELLA AREA
- PROPOSED ORCA AREA
- PROPOSED CANYON AREA
- PROPOSED WOOD EXHAUSTION AREA





**WEST FRONT ELEVATION I-B**  
SCALE: 1/4"=1'-0"

**NORTH SIDE ELEVATION I-A**  
SCALE: 1/4"=1'-0"

**AREA SCHEDULE:**

TOTAL LIVING AREA:	1,294 S.F.
FIRST FLOOR:	1,095 S.F.
SECOND FLOOR:	201 S.F.
GROUND FLOOR (PATIO):	338 S.F.
DECK:	1,865 S.F.
BEDROOMS:	3
FULL BATHROOMS:	1
HALF BATHROOMS:	1

**HOU  
ENGIN**

DESIGNED BY  
ARCH. AND ENGRS.  
P.C.

Mc

JH  
Assoc. Engrs.  
LICENSED ENGR.

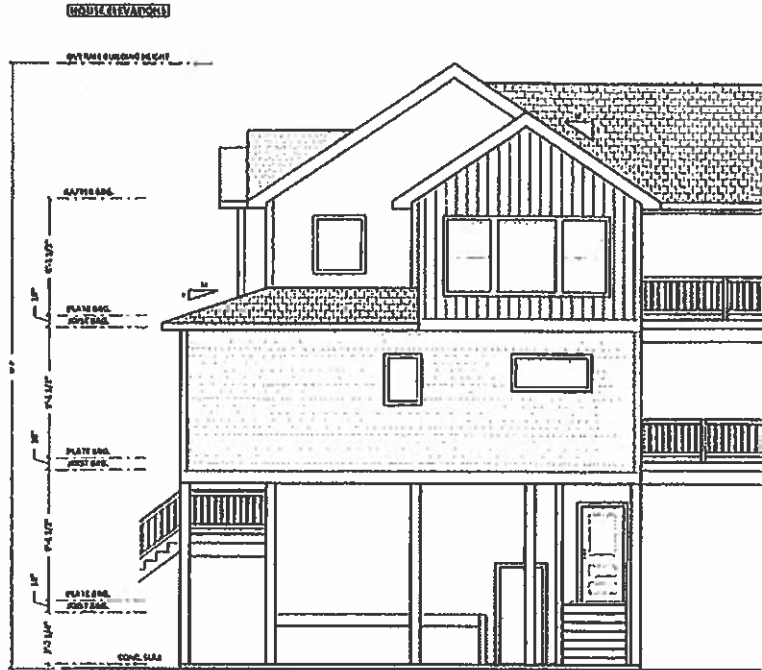
FOR INFORMATION ONLY  
PROVIDED FOR THE  
OWNER'S USE ONLY  
NOT FOR CONSTRUCTION

Mr.	2
D	2

CAUTION: UNL. PLAN



**EAST REAR ELEVATION 2-A**  
SCALE: 1/4"=1'-0"



**SOUTH SIDE ELEVATION 2-B**  
SCALE: 1/4"=1'-0"

AREA SCHEDULE:	
TOTAL FINISH AREA:	6,996 S.F.
FIRST FLOOR:	2,899 S.F.
SECOND FLOOR:	961 S.F.
GROUND FLOOR (U/H):	355 S.F.
DECK:	1,000 S.F.
BEDROOMS:	3
FULL BATHROOMS:	2
HALF BATHROOMS:	1

**HOL**  
**ENGIN**

REGISTERED PROFESSIONAL ENGINEER  
OFFICE: 4111 AVENUE D, DALLAS, TEXAS 75246  
PHONE: (214) 343-1111  
FAX: (214) 343-1112

Mc

41  
Aven, Da  
ENGINEER SEAL

DESIGNED BY: [Signature]  
CHECKED BY: [Signature]  
DATE: 10/1/11

THIS DOCUMENT IS THE PROPERTY OF HOLE ENGINEERING, INC. IT IS TO BE KEPT IN CONFIDENCE AND NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

REV	DATE
D	

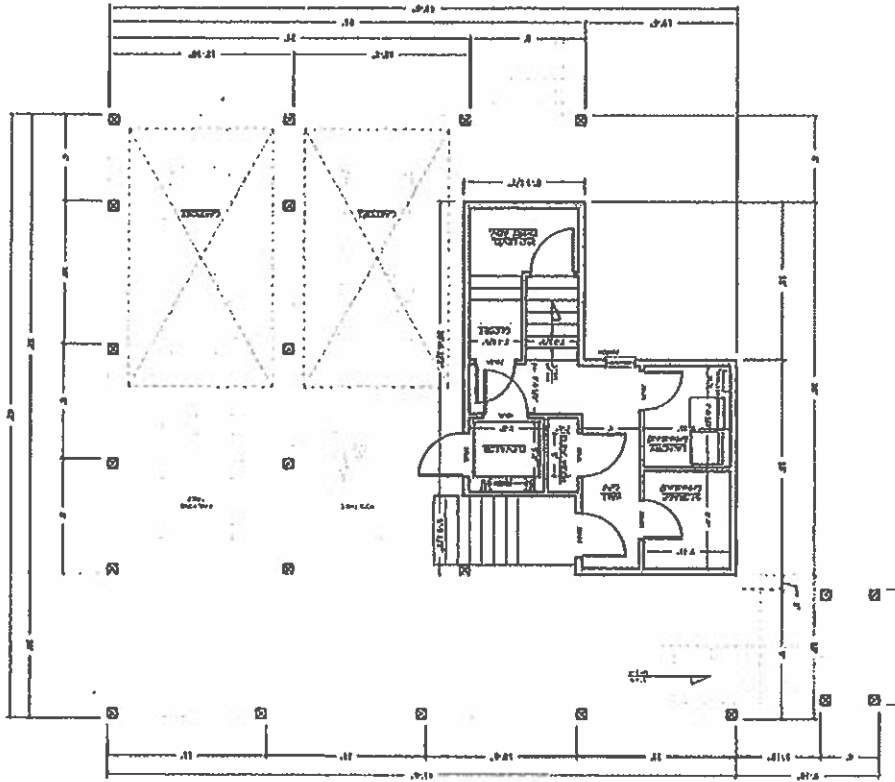
CAD: [Signature]

PROJECT NO. 2011-001  
DATE: 11/15/11  
SCALE: 1/4" = 1'-0"  
SHEET NO. 3 OF 3  
PROJECT: [REDACTED]  
OWNER: [REDACTED]  
ARCHITECT: [REDACTED]

AREA SCHEDULE:

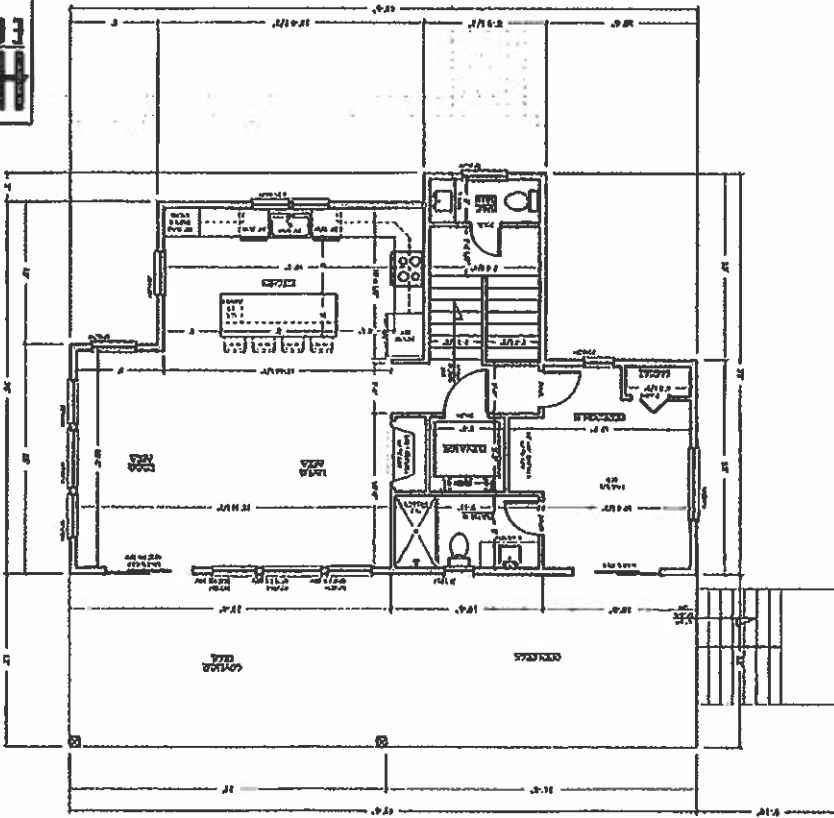
TOTAL LIVING AREA	1,796 S.F.
FIRST FLOOR	1,796 S.F.
SECOND FLOOR	291 S.F.
GROUP ROOM (N/A)	335 S.F.
DECK	1,000 S.F.
SCREENS	5
TRAIL BATHROOMS	1
TRAIL BATHROOMS	5

GROUND FLOOR PLAN 3-A  
SCALE: 1/4" = 1'-0"

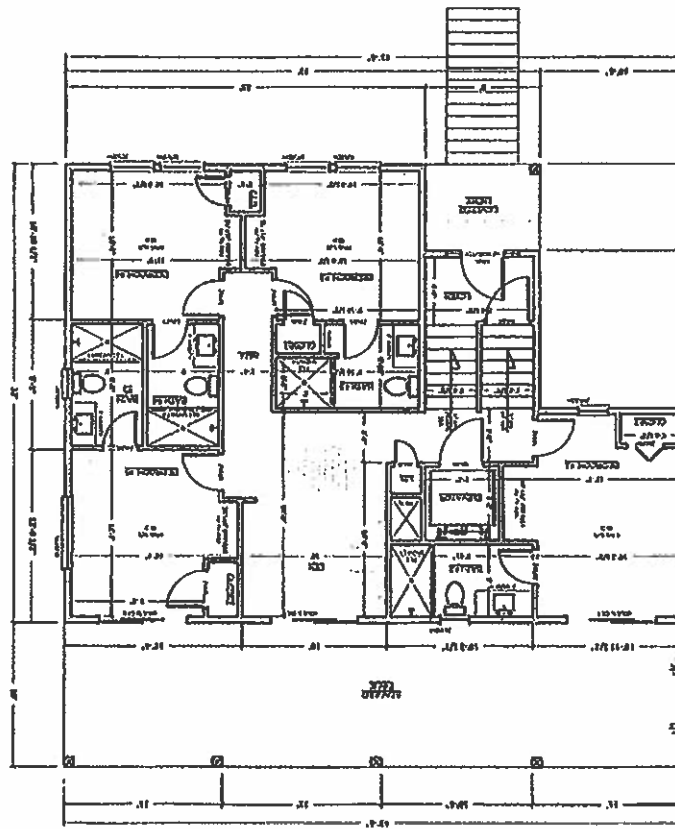


AREA SCHEDULE		
FIRST FLOOR	1,866 S.F.	
SECOND FLOOR	2,000 S.F.	
GROUND FLOOR D/W	215 S.F.	
ROOF	1,005 S.F.	
REAR PATIO	5 S.F.	
REAR PATIO ROOM	5 S.F.	
TOTAL AREA		5,996 S.F.

SECOND FLOOR PLAN 4-II  
SCALE: 1/4"=1'-0"



FIRST FLOOR PLAN 4-A  
SCALE: 1/4"=1'-0"



CONTRACT NO. 100-2312-1  
 PROJECT NO. 100-2312-1  
 SHEET NO. 110  
 DATE: 11/15/99  
 DRAWN BY: JAS  
 CHECKED BY: JAS  
 APPROVED BY: JAS  
 ENGINEER SEAL: JAS  
 PROJECT: 100-2312-1  
 SHEET NO. 110  
 DATE: 11/15/99

7020 3160 0001 2523 8093  
 7020 3160 0001 2523 8062  
 7020 3160 0001 2523 8020

U.S. Postal Service  
**CERTIFIED MAIL® RECEIPT** 111  
 Domestic Mail Only

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Fredericksburg, VA 22405

Certified Mail Fee	\$4.40	0449
\$	\$3.65	16
Extra Services & Fees (check box, add fee as appropriate)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$1.87	05/10/2024
Total Postage and Fees	\$9.92	
\$	\$9.92	
Sent To <b>KATHLEEN LAKE</b>		
Street and Apt. No., or PO Box No. <b>414 McCLARTY RD</b>		
City, State, ZIP+4® <b>FREDERICKSBURG, VA 22405</b>		

PS Form 3800, April 2015 PSN 7533-02-000-9047 See Reverse for Instructions

U.S. Postal Service™  
**CERTIFIED MAIL® RECEIPT**  
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For delivery information, visit our website at [www.usps.com](http://www.usps.com)®.

Glen Ridge, NJ 07028

Certified Mail Fee	\$4.40	0449
\$	\$3.65	16
Extra Services & Fees (check box, add fee as appropriate)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$1.87	05/10/2024
Total Postage and Fees	\$9.92	
\$	\$9.92	
Sent To <b>MARK &amp; MELISSA PENNY</b>		
Street and Apt. No., or PO Box No. <b>254 WASHINGTON ST</b>		
City, State, ZIP+4® <b>GLEN RIDGE, NJ 07028</b>		

PS Form 3800, April 2015 PSN 7533-02-000-9047 See Reverse for Instructions



KITTY HAWK  
 3841 N CROATAN HWY  
 KITTY HAWK, NC 27949-9238  
 (800)275-8777

05/10/2024 09:42 AM

Product	Qty	Unit Price	Price
First-Class Mail® Large Envelope	1		\$1.87
Glen Ridge, NJ 07028 Weight: 0 lb 2.60 oz Estimated Delivery Date Mon 05/13/2024			
Certified Mail®			\$4.40
Tracking #:			
		70203160000125238062	
Return Receipt			\$3.65
Tracking #:			
		9590 9402 6361 0296 8653 12	
<b>Total</b>			<b>\$9.92</b>
First-Class Mail® Large Envelope	1		\$1.87
Fredericksburg, VA 22405 Weight: 0 lb 2.70 oz Estimated Delivery Date Mon 05/13/2024			
Certified Mail®			\$4.40
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		70203160000125238093	
Return Receipt			\$3.65
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		9590 9402 6361 0296 8653 29	
<b>Total</b>			<b>\$9.92</b>
<b>Grand Total:</b>			<b>\$19.84</b>
<b>Debit Card Remit</b>			<b>\$19.84</b>
Card Name: VISA			
Account #: XXXXXXXXXXXX8663			
Approval #: 134825			
Transaction #: 584			
Receipt #: 024188			
Debit Card Purchase: \$19.84			
AID: A000000C980840 Contactless			
AL: US DEBIT			

Text your tracking number to 28777 (2USPS) to get the latest status. Standard Message and Data rates may apply. You may also visit [www.usps.com](http://www.usps.com) USPS Tracking or call 1-800-222-1811.

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 Track your Packages  
 Sign up for FREE @  
<https://infcmedelivery.usps.com>

All sales final on stamps and postage. Refunds for guaranteed services only. Thank you for your business.

Tell us about your experience. Go to: <https://postalexperience.com/Pcs> or scan this code with your mobile device.



or call 1-800-410-7420.

George Rountree, Jr.  
(1904-1979)  
Ryan F. Tennant  
(1973-2016)  
George Rountree, III  
Special Counsel  
Geoffrey A. Losee  
Stephen D. Coggins

Michael A. Becker  
Halee A. Morris  
JD M. Fisher

Joseph E. Horowitz  
Of Counsel



North Carolina Address  
2419 Market Street  
Wilmington, NC 28403

Tennessee Address  
6000 Poplar Ave., Ste 400  
Memphis, TN 38119

Phone  
910-763-3404

Fax  
910-763-0320

October 29<sup>th</sup>, 2024

**Via U.S. Certified Mail, Return Receipt Requested**

Kathleen Lake  
474 McCarty Road, (Tracking # 7022 0410 0002 1904 9399)  
Fredericksburg, VA 22405

41981 Ocean View Dr. (Tracking # 7022 0410 0002 1904 9405)  
Avon, NC 27915

Re: *Petition to Coastal Resources Commission to Allow Variance from CAMA Rule 15A NCAC 07H .0309(b) at 41971 Ocean View Drive, Avon, NC; Our file no. 2024-00341*

Dear Ms. Lake,

This letter is to inform you that my office on behalf of McCoy ENC LLC, has applied for a CAMA Minor Permit Variance for the property located at 41971 Ocean View Drive, Avon, Dare County. We sent to you on or about September 19, 2024, via Certified Mail a notice with project drawings and the Petitioner's variance documents as notification of the proposed project. Our information is that you received those materials on September 24, 2024. (See USPS tracking # 7022 0410 0002 1904 9351 and [https://tools.usps.com/go/TrackConfirmAction?qtC\\_tLabels1=7022%200410%200002%201904%20%209351](https://tools.usps.com/go/TrackConfirmAction?qtC_tLabels1=7022%200410%200002%201904%20%209351)).

The above-referenced variance application materials should have also included as Exhibit 16 the enclosed McCoy ENC LLC's second CAMA permit application with site plan drawings (DCM file # HI-75-24). That application was denied. The denial has led to the pending variance application that was sent to you and received.

Our records show that this second CAMA Permit application was sent to you via Certified Mail on May 10, 2024 (USPS tracking # 7020 3160 0001 2523 8093), but that it was not actually picked up by you and hence not delivered. Thus, the US Postal Service returned the mailing to the agent for McCoy ENC LLC that submitted the application.

Consequently, out of an abundance of precaution, we again forward to you the enclosed above-referenced second CAMA Permit Application (DCM file # HI-75-24).



*Petition to Coastal Resources Commission to Allow Variance from CAMA*

*Rule 15A NCAC 07H .0309(b) at 41971 Ocean View Drive, Avon, NC*

October 29, 2024

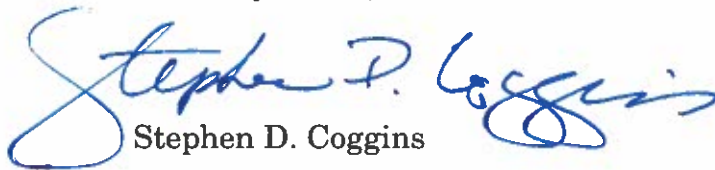
Page 2 of 2

No action is required from you, or you may sign and return the enclosed no-objection form that was sent to you earlier on May 10 and September 14. If you have any questions or comments about my proposed project, please contact me at (910-763-3404, by email at [scoggins@rountreelosee.com](mailto:scoggins@rountreelosee.com), or by mail at the address listed on the letterhead above. If you wish to file comments or objections, you may submit them to me and to:

K.D. Jackson, LPO  
Dare County  
50347 N.C. Hwy 12,  
Frisco, NC 27936

I look forward to hearing from you.

Sincerely Yours,



Stephen D. Coggins

Encl: 2nd CAMA Permit Application with Site Drawings (DCM file # HI-75-24)  
Adjacent Riparian Property Owner Notification Form

114  
**N.C. DIVISION OF COASTAL MANAGEMENT**  
**ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT)**  
**CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED**

5/7/24  
Date

KATHLEEN LAKE  
Name of Adjacent Riparian Property Owner  
41981 OCEAN VIEW DR  
Address  
AVON, NC 27915  
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 RENTAL 5 BEDROOM COTTAGE & POOL  
on my property at 41971 OCEAN VIEW DRIVE, AVON, NC 27915  
in DARE 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: (K.D. Jackson, Dare County, P.O. BOX 859, Frisco, N.C., 27915)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (K.D. Jackson) at (252-475-5789), or by email at: (KD.Jackson@darenc.gov).

Sincerely,

DONALD McCoy / McCoy ENCLLC  
Property Owner's Name

1 (252) 258-5186  
Telephone Number

3113 CAMILLE DR      WINTERVILLE, NC      28590  
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



Coastal Management  
ENVIRONMENTAL QUALITY

# 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

APPLICATION: Donald McCoy/McCoy Eng LLC

11: - 75-24

LOCALITY: 41971 Ocean View DR

Avon, N.C. 27915

PERMIT ISSUED USING  
STATIC LINE EXCEPTION?  
YES  NO

Locality 41971 Ocean View DR, Avon, N.C. 27915 Permit Number Hi-75-24

Ocean Hazard  Estuarine Shoreline \_\_\_\_\_ ORW Shoreline \_\_\_\_\_ Public Trust Shoreline \_\_\_\_\_ Other \_\_\_\_\_

(For official use only)

**GENERAL INFORMATION**

**LAND OWNER - MAILING ADDRESS**

Name DONALD McCoy / McCoy ENC LLC

Address 3113 CAMILLE DR

City WINTERVILLE State NC Zip 28590 Phone 1(252)258-5186

Email mccoyencllc@gmail.com

**AUTHORIZED AGENT**

Name RICK HOUSE / HOUSE ENGINEERING, P.C.

Address PO Box 466

City KITTY HAWK State NC Zip 27949 Phone 1(252)202-8253

Email rick@houseengineering.net

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

41971 OCEAN VIEW DRIVE, AVON, NC 27915

ADJACENT TO ATLANTIC OCEAN

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

OF 5 BEDROOM RENTAL COTTAGE & POOL

SIZE OF LOT/PARCEL: 15,000 square feet 0.34 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: 1996 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

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 McCoy ENC LLC  
see Deed Book 2551 page 0313 in the DARE 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>KATHLEEN LAKE</u>	<u>474 McCarty Rd, Fredericksburg, VA 22405</u>
(2) <u>MARY/MEISSA REILLY</u>	<u>254 Washington St, Glen Ridge, NJ 07028</u>
(3) _____	_____
(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 7<sup>th</sup> day of MAY, 2024

Rick Howe for McCoy ENC LLC  
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.*

## OCEAN HAZARD AEC NOTICE

Project is in an:  Ocean Erodible Area  Inlet Hazard AreaProperty Owner: McCoy ENC LLCProperty Address: 41971 OCEAN VIEW DRIVEDate Lot Was Platted: October 1981

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 6 feet per year.

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

The flood waters in a major storm are predicted to be about 3 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.

Ruth Hone for McCoy ENC LLC 5/7/24  
Property Owner's Signature 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 re-measured. Also, the occurrence of a major shoreline change as the result of a storm within the 60-day period will necessitate re-measurement 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:

KD JACKSON

Local Permit Officer

P.O. BOX 859, FRISCO, NC 27915  
Address

DARE COUNTY - AVON  
Locality

1(252) 475-5789  
Phone Number

AGENT AUTHORIZATION FOR CAMA PERMIT APPLICATIONName of Property Owner Requesting Permit: DONALD McCoy/McCOYENCLLCMailing Address: 3113 CAMILLE DRIVE  
WINTERVILLE, NC 28590Phone Number: (252) 258-5186Email Address: mccoyencllc@gmail.comI certify that I have authorized RICK HOUSE/HOUSE ENGINEERING, PC  
Agent / Contractor

to act on my behalf, for the purpose of applying for and obtaining all CAMA permits

necessary for the following proposed development: CONSTRUCTION OF  
RENTAL COTTAGEat my property located at 41971 OCEAN VIEW DRIVE, AVON, NC, 27915  
in DARE County.

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.

## Property Owner Information:

  
SignatureDONALD McCOY  
Print or Type NameOWNER  
Title4, 26, 24  
DateThis certification is valid through 4, 26, 27

120  
**N.C. DIVISION OF COASTAL MANAGEMENT**  
**ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT)**  
CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

5/7/24  
 Date

MARK/MELISSA REILLY  
 Name of Adjacent Riparian Property Owner  
41957 OCEAN VIEW DRIVE  
 Address  
AVON, NC 27915  
 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 RENTAL 5 BEDROOM COTTAGE & POOL  
 on my property at 41971 OCEAN VIEW DRIVE, AVON, NC 27915  
 in DARE 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: (K.D. Jackson, Dare County, P.O. BOX 859, Frisco, N.C., 27915)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (K.D. Jackson) at (252-475-5789), or by email at: (KD.Jackson@darenc.gov).

Sincerely,

DONALD MCCOY/MCCOY ENC LLC  
 Property Owner's Name

1(252)258-5186  
 Telephone Number

3113 CAMILLE DR      WINTERVILLE      NC      28590  
 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



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

5/7/24

Date

KATHLEEN LAKE

Name of Adjacent Riparian Property Owner

41981 OCEAN VIEW DR

Address

AVON, NC 27915

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 RENTAL 5 BEDROOM COTTAGE & POOL

on my property at 41971 OCEAN VIEW DRIVE, AVON, NC 27915

in DARE 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: (K.D. Jackson, Dare County, P.O. BOX 859, Frisco, N.C., 27915)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (K.D. Jackson) at (252-475-5789), or by email at: (KD.Jackson@darenc.gov).

Sincerely,

DONALD McCoy/McCoy ENCLLC  
Property Owner's Name

1(252) 258-5186  
Telephone Number

3113 CAMILLE DR

WINTERVILLE, NC 28590

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

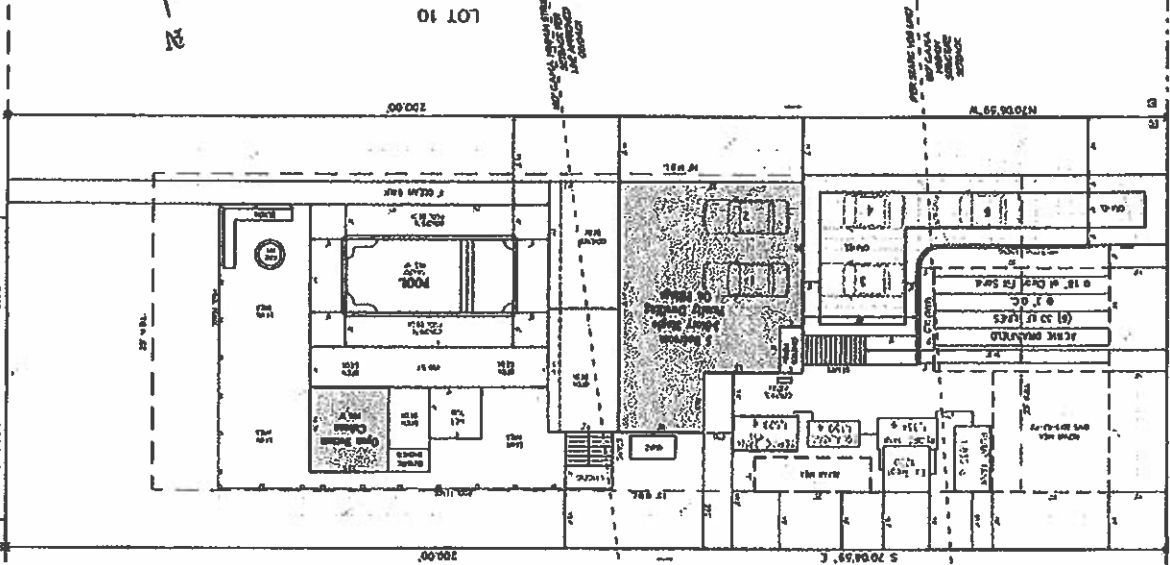
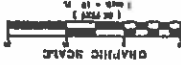


**HOUS ENGINE**  
 DATE CO  
 41971 OC  
 Lot 10, Kingston  
 Date  
 236

**APPROVALS**  
 DATE  
 APPROVED BY  
 (Signature)

**REVISIONS**

**NOTES**

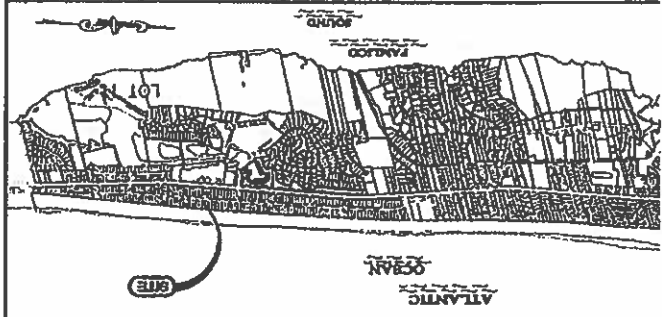


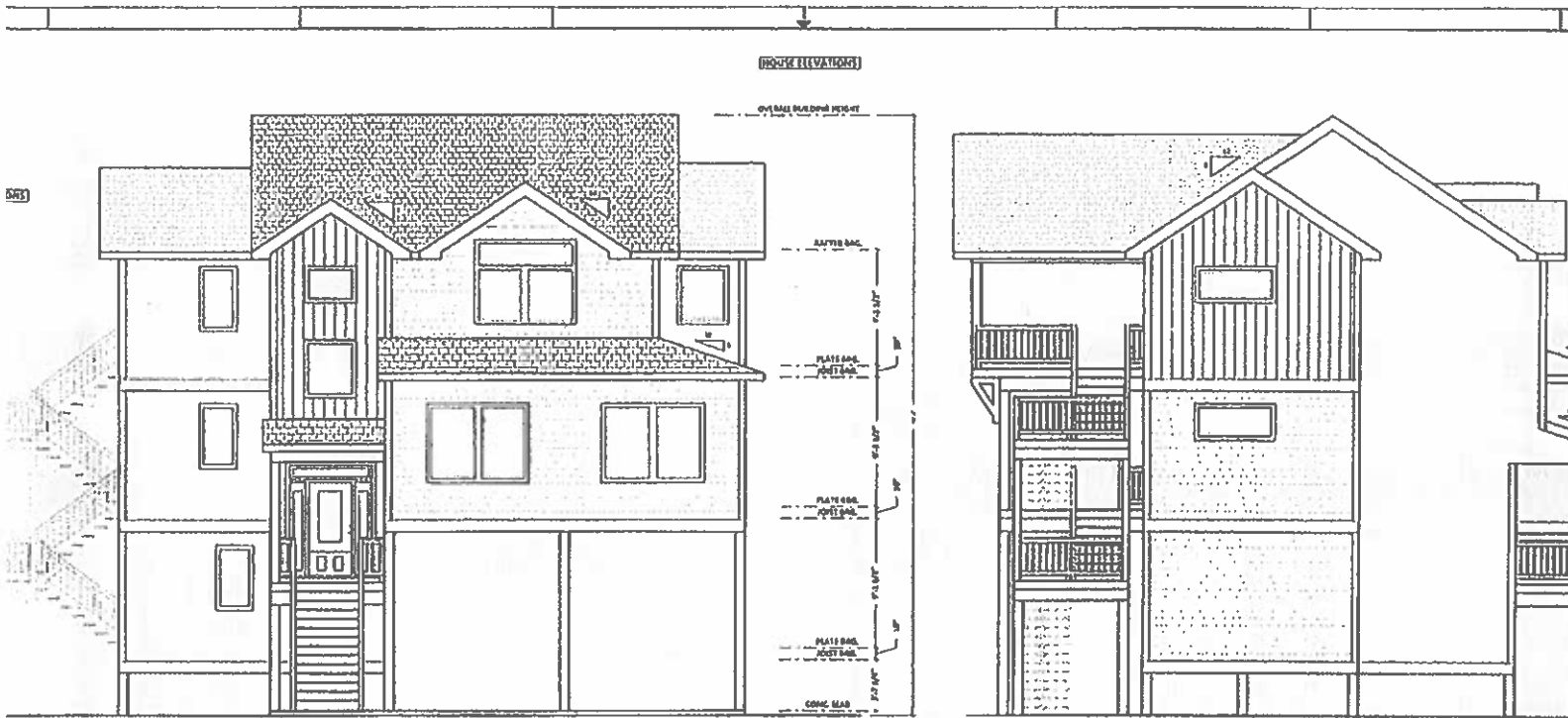
Parcel No. 01400000  
 U.S. Government - Federal  
 Various Land - Federal

- GENERAL NOTES**
- 1. ALL DIMENSIONS ARE IN FEET AND INCHES.
  - 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
  - 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
  - 4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
  - 5. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
  - 6. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
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  - 8. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
  - 9. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
  - 10. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.



- LEGEND**
- REAR DRIVE PAVING AREA
  - REAR DRIVE DRIVE
  - REAR DRIVE DRIVE
  - REAR DRIVE DRIVE
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  - REAR DRIVE DRIVE
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  - REAR DRIVE DRIVE





**WEST FRONT ELEVATION I-B**  
SCALE: 1/4"=1'-0"

**NORTH SIDE ELEVATION I-A**  
SCALE: 1/4"=1'-0"

ARBA SCHEDULE:	
TOTAL LIVING AREA:	1,098 S.F.
FIRST FLOOR:	1,095 S.F.
SECOND FLOOR:	981 S.F.
GROUND FLOOR (1 1/2) :	375 S.F.
DECKS:	1,065 S.F.
BEDROOMS:	3
FULL BATHROOMS:	5
HALF BATHROOMS:	1

**HOU**  
**ENGI**

MEETS 1  
# FOR (1/4) 1/4"=1'-0"

M

J  
Aton, D  
ENGINEER SEAL

FOR CLERK OF THE WORK  
FOR THE ARCHITECT  
DATE OF SUBMITTAL  
1/17/11

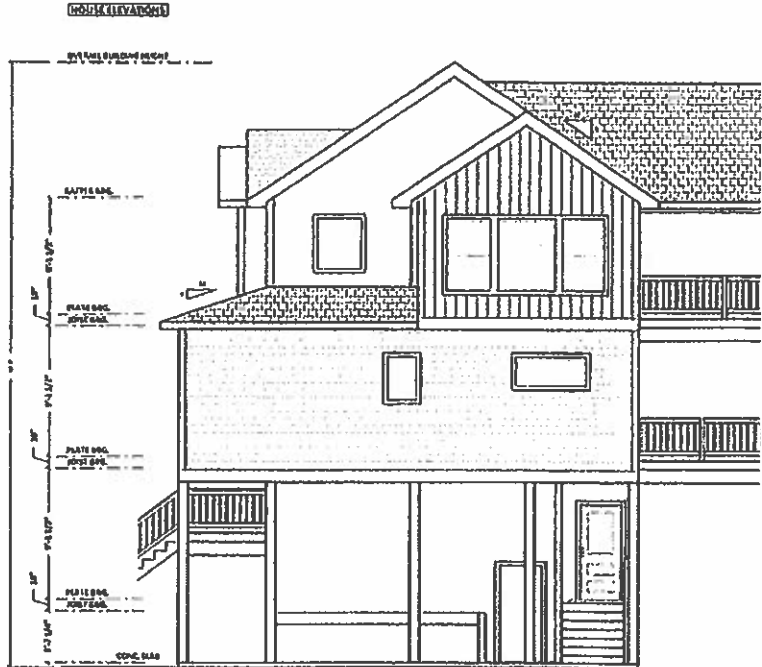
SEAL

D

CADRELLA, INC. 20



**EAST REAR ELEVATION 2-A**  
SCALE: 1/4"=1'-0"



**SOUTH SIDE ELEVATION 2-B**  
SCALE: 1/4"=1'-0"

AREA SCHEDULE:	
TOTAL LIVING AREA:	1,996 S.F.
FIRST FLOOR:	1,099 S.F.
SECOND FLOOR:	901 S.F.
GROUND FLOOR (G/F):	335 S.F.
DECKS:	1,066 S.F.
BEDROOMS:	3
FULL BATHROOMS:	3
HALF BATHROOMS:	1

**HOL**  
**ENGIN**

11111 N  
OFFICE: 2147 1111-1111

Mc

41  
Avon, Oa

ENGINEER: SDM

PROPOSED  
NOT TO BE CONSIDERED

TYPE EXEMPTION IS  
RESERVED FOR  
USE BY ARCHITECT

DATE	BY
D	

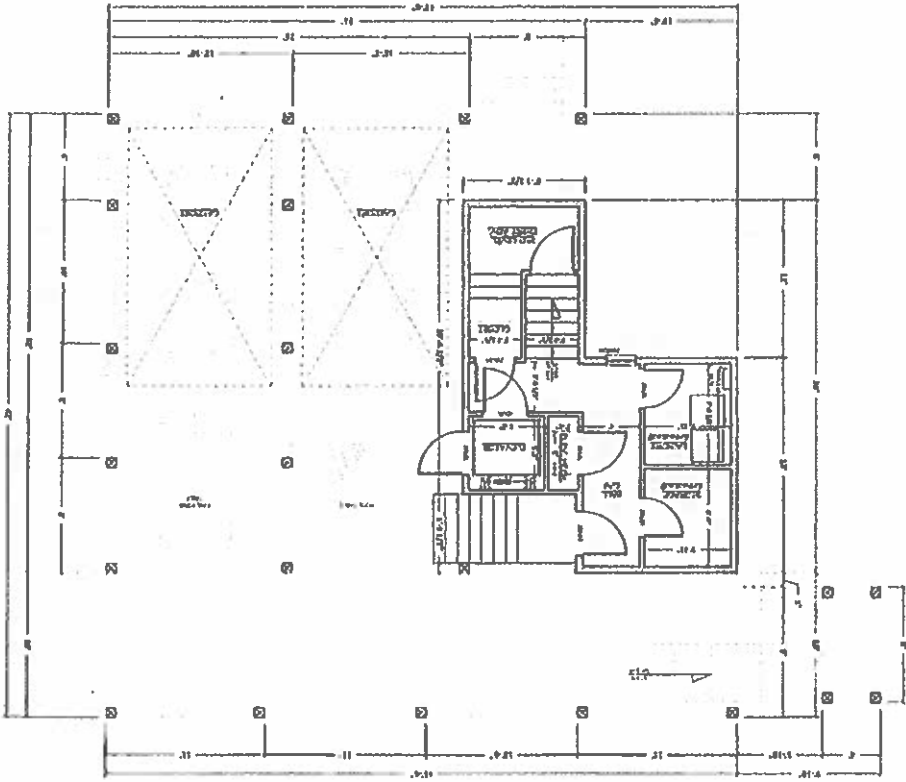
CADRES-AVW/ JPM

PROJECT NO. 100-100-100  
 SHEET NO. 100-100-100  
 DATE 10/10/10  
 DRAWN BY M. J. D.  
 CHECKED BY M. J. D.  
 PROJECT NAME  
 PROJECT ADDRESS  
 PROJECT CITY  
 PROJECT STATE  
 PROJECT ZIP

AREA SCHEDULE:

TOTAL FINISH AREA	1,894 S.F.
FIRST FLOOR	1,093 S.F.
SECOND FLOOR (U/M)	801 S.F.
MECHANICAL	1,007 S.F.
STAIRS	5
TOILET BATHROOMS	1

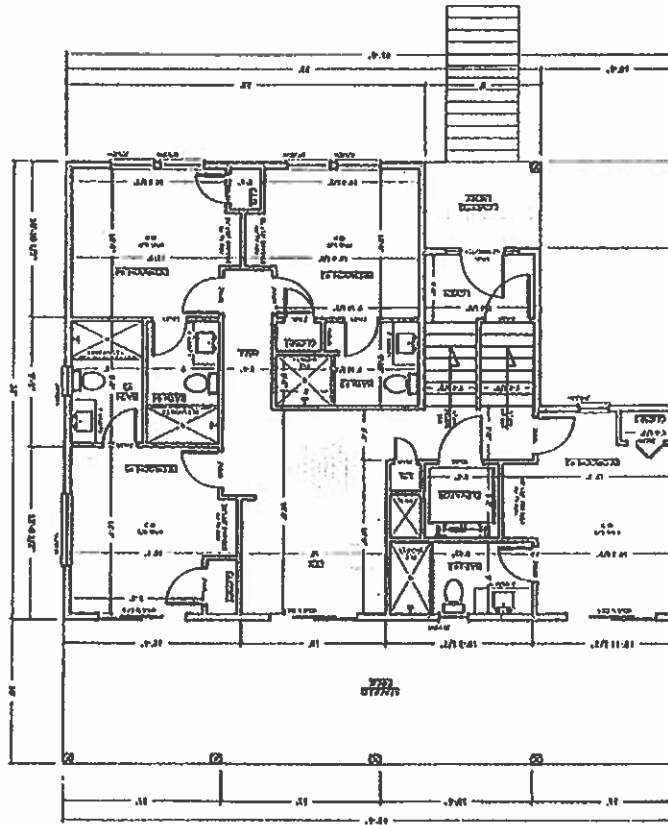
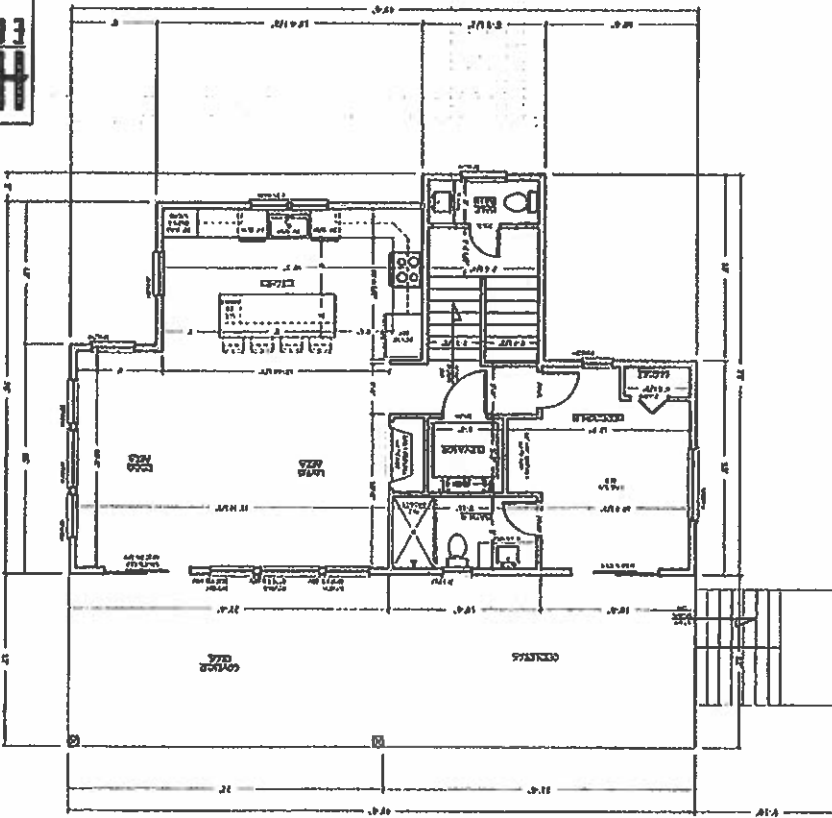
SCALE: 1/4"=1'-0"  
GROUND FLOOR PLAN 3-A



AREA SCHEDULE	
SOTA DRINK AREA	1,094 S.F.
REST ROOM	2,498 S.F.
1ST FLOOR	2,011 S.F.
2ND FLOOR	2,011 S.F.
GROUND FLOOR (T/M)	2,011 S.F.
CEILING	1,005 S.F.
1ST BATHROOMS	5
2ND BATHROOMS	5
HAIR BATHROOMS	1

SCALE: 1/4"=1'-0"  
SECOND FLOOR PLAN 4-B

SCALE: 1/4"=1'-0"  
FIRST FLOOR PLAN 4-A



PROJECT NO. 419  
 PROJECT NAME: Avon, Pa  
 ARCHITECT: HOU ENGINEERING  
 SCALE: 1/4"=1'-0"  
 DATE: 10/11/07

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0449  
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 Return Receipt (hardcopy) \$3.65  
 Return Receipt (electronic) \$0.00  
 Certified Mail Restricted Delivery \$0.00  
 Adult Signature Required \$0.00  
 Adult Signature Restricted Delivery \$0.00

Postmark  
Here

Postage \$1.87

05/10/2024

Total Postage and Fees

\$9.92

Sent To

KATHLEEN LAKE

Street and Apt. No., or PO Box No.

499 McLARTY RD

City, State, ZIP+4®

FREDERICKSBURG, VA 22405

PS Form 3800, April 2015 PSN 7530 02-039-9047

See Reverse for Instructions

U.S. Postal Service™  
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Glen Ridge, NJ 07028

Certified Mail Fee \$4.40

0449  
16

Extra Services & Fees (check box, add fee as appropriate)  
 Return Receipt (hardcopy) \$3.65  
 Return Receipt (electronic) \$0.00  
 Certified Mail Restricted Delivery \$0.00  
 Adult Signature Required \$0.00  
 Adult Signature Restricted Delivery \$0.00

Postmark  
Here

Postage \$1.87

05/10/2024

Total Postage and Fees

\$9.92

Sent To

MARK & MELISSA REUVEY

Street and Apt. No., or PO Box No.

254 WASHINGTON ST

City, State, ZIP+4®

GLEN RIDGE, NJ 07028

PS Form 3800, April 2015 PSN 7530 02-039-9047

See Reverse for Instructions



KITTY HAWK  
 3841 N CROATAN HWY  
 KITTY HAWK, NC 27949-9238  
 (800) 275-8777

05/10/2024

09:42 AM

Product	Qty	Unit Price	Price
First-Class Mail® Large Envelope	1		\$1.87
Glen Ridge, NJ 07028			
Weight: 0 lb 2.60 oz			
Estimated Delivery Date			
Mon 05/13/2024			
Certified Mail®			\$4.40
Tracking #:			
70203160000125238062			
Return Receipt			\$3.65
Tracking #:			
9590 9402 6361 0296 8653 12			
<b>Total</b>			<b>\$9.92</b>

First-Class Mail® Large Envelope	1		\$1.87
Fredericksburg, VA 22405			
Weight: 0 lb 2.70 oz			
Estimated Delivery Date			
Mon 05/13/2024			
Certified Mail®			\$4.40
Tracking #:			
70203160000125238093			
Return Receipt			\$3.65
Tracking #:			
9590 9402 6361 0296 8653 29			
<b>Total</b>			<b>\$9.92</b>

Grand Total: \$19.84

Debit Card Remit \$19.84

Card Name: VISA  
 Account #: XXXXXXXXXX8663  
 Approval #: 134825  
 Transaction #: 584  
 Receipt #: 024188  
 Debit Card Purchase: \$19.84  
 AID: A000000C980840 Contactless  
 AL: US DEBIT

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or call 1-800-410-7420.

6909 2522 1000 0916 0201

2908 2522 1000 0916 0201



ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director

CRC-23-09

April 12, 2023

## MEMORANDUM

**TO:** Coastal Resources Commission  
**FROM:** Ken Richardson  
**SUBJECT:** Exception for Lots Platted Post-1979 15A NCAC 07H .0309

15A NCAC 07H .0309(b) is an existing rule that defines conditions for exceptions within the Ocean Hazard AEC (OHA) setback when proposed development cannot meet the required erosion rate-based construction setback. This rule limits the exception to lots created before June 1, 1979, to a total floor area no greater than 2,000 square feet with a maximum 1,000 square foot footprint, and requires the structure to be set back the maximum feasible distance on the lot (a minimum of 60 feet) and no more oceanward than the landward-most adjacent structure.

At your February 2023 meeting, DCM Staff reviewed draft amendments to 15A NCAC 07H .0309(b) to address concerns expressed over the inability to apply this exception within the oceanfront setback to lots created after June 1, 1979. This issue was raised following the repeal of 15A NCAC 07H .0104, which contained similar provisions for lots created after June 1, 1979, that could not meet the required setback. Aside from the date stipulations, the primary differences between the two rules were that 07H .0104 allowed the option to measure setbacks using the erosion setback factor in place at the time the lot was platted, while 07H .0309(b) requires a setback of at least 60 feet regardless of the erosion rate setback factor. Both rules limited new construction to no greater than 2,000 square feet, but 07H .0309 limits a structure's footprint to 1,000 square feet. Although separate rules, they had been commonly referred to as the "small structure exceptions."

Staff is proposing amendments to 07H .0309(b) to remove the 1,000 square feet footprint, retain the total floor area of 2,000 square feet, and remove the June 1, 1979 stipulation. This would make the .0309 exception applicable to all oceanfront and inlet areas, except for Unvegetated Beach Areas. For those that cannot meet the minimum setback for a larger structure, they could potentially utilize this exception for a structure up to 2,000 square feet if the other conditions outlined above are met. This amendment addresses the primary concern related to the earlier repeal of 07H .0104, while removing the complexity of tracking past erosion rates and recognizing the dates that lots were platted during Minor Permit reviews.

DCM Staff are asking the Commission to consider approval of the proposed amendments to 15A NCAC 07H .0309(b) to move forward with rulemaking.





## PROPOSED AMENDMENTS:

### 15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand, or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet. Existing decks exceeding a footprint of 500 square feet may be replaced with no enlargement beyond their original dimensions;
- (4) beach accessways consistent with Rule .0308(c) of this Section;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands consistent with Section .1900 of this Subchapter;
- (8) sand fences;
- (9) swimming pools; and
- (10) fill not associated with dune creation that is obtained from an upland source and is of the same general characteristics as the sand in the area in which it is to be placed.

In all cases, this development shall be permitted only if it is landward of the vegetation line or pre-project vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; is not essential to the continued existence or use of an associated principal development; and meets all other non-setback requirements of this Subchapter.

(b) Where application of the ~~oceanfront~~ **Ocean Hazard Area** setback requirements of Rule .0306(a) of this Section would preclude placement of a structure ~~on a lot existing as of June 1, 1979, the structure shall be permitted seaward of the applicable setback line~~ in Ocean Erodible Areas, State Ports Inlet Management Areas, and Inlet Hazard Areas, but not Unvegetated Beach ~~Areas~~ **Areas, the structure shall be permitted seaward of the applicable setback line** if each of the following conditions are met:

- (1) The development is set back from the ocean the maximum feasible distance **possible** on the existing lot and the development is designed to minimize encroachment into the setback area;
- (2) The development is at least 60 feet landward of the vegetation line, measurement line, or pre-project vegetation line, whichever is applicable;
- (3) The development is not located on or oceanward of a frontal dune, but is entirely behind the landward toe of the frontal dune;
- (4) The development incorporates each of the following design standards, which are in addition to those required by Rule .0308(d) of this Section;

- (A) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;
  - (B) The footprint of the structure shall be no more than 1,000 square feet, and the total floor area of the structure shall be no more than 2,000 square feet. For the purpose of this Section, roof-covered decks and porches that are structurally attached shall be included in the calculation of footprint;
  - (C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases, other material may be used; and
  - (D) No portion of a building's total floor area, including elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, may extend oceanward of the total floor area of the landward-most 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. An "adjacent" property is one that shares a boundary line with the site of the proposed development. When no adjacent building or structure exists, or the geometry or orientation of a lot or shoreline precludes the placement of a building in line with the landward most adjacent structure of similar use, 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 shall meet the applicable setback from the Vegetation Line but shall not be held to the landward-most adjacent structure or an average line of structures. The ocean hazard setback shall extend landward of the vegetation line, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.
- (5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.
- (c) The following types of water dependent development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:
- (1) piers providing public access; and
  - (2) maintenance and replacement of existing state-owned bridges, and causeways and accessways to such bridges.
- (d) Replacement or construction of a pier house associated with an ocean pier shall be permitted if each of the following conditions is met:

- (1) The ocean pier provides public access for fishing and other recreational purposes whether on a commercial, public, or nonprofit basis;
- (2) Commercial, non-water dependent uses of the ocean pier and associated pier house shall be limited to restaurants and retail services. Residential uses, lodging, and parking areas shall be prohibited;
- (3) The pier house shall be limited to a maximum of two stories;
- (4) A new pier house shall not exceed a footprint of 5,000 square feet and shall be located landward of mean high water;
- (5) A replacement pier house may be rebuilt not to exceed its most recent footprint or a footprint of 5,000 square feet, whichever is larger;
- (6) The pier house shall be rebuilt to comply with all other provisions of this Subchapter; and
- (7) If the pier has been destroyed or rendered unusable, replacement or expansion of the associated pier house shall be permitted only if the pier is being replaced and returned to its original function.

(e) In addition to the development authorized under Paragraph (d) of this Rule, small scale, non-essential development that does not induce further growth in the Ocean Hazard Area, such as the construction of single family piers and ~~small-scale~~ ~~small-scale~~ erosion control measures that do not interfere with natural oceanfront processes, shall be permitted in the Ocean Hazard Area along those portions of shoreline that exhibit features characteristic of an Estuarine Shoreline. Such features include the presence of wetland vegetation, and lower wave energy and erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, ~~small scale~~ ~~small-scale~~ is defined as those projects which are eligible for authorization under 15A NCAC 07H .1100, .1200, and 15A NCAC 07K .0203.

(f) Transmission lines necessary to transmit electricity from an offshore energy-producing facility may be permitted provided that each of the following conditions is met:

- (1) The transmission lines are buried under the ocean beach, nearshore area, and primary and frontal dunes, all as defined in Rule .0305 of this Section, in such a manner so as to ensure that the placement of the transmission lines involves no alteration or removal of the primary or frontal dunes; and
- (2) The design and placement of the transmission lines shall be performed in a manner so as not to endanger the public or the public's use of the beach.

(g) Existing stormwater outfalls as of the last amended date of this rule within the Ocean Hazard AEC that are owned or maintained by a State agency or local government, may be extended oceanward subject to the provisions contained within 15A NCAC 07J .0200. Outfalls may be extended below mean low water and may be maintained in accordance with 15A NCAC 07K .0103. Shortening or lengthening of outfall structures within the authorized dimensions, in response to changes in beach width, is considered maintenance under 15A NCAC 07K .0103. Outfall extensions may be marked with signage and shall not prevent pedestrian or vehicular access along the beach. This Paragraph does not apply to existing stormwater outfalls that are not owned or maintained by a State agency or local government.

*History Note:* Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; 113A-124;

*Eff. February 2, 1981;*

*Amended Eff. April 1, 2020; June 1, 2010; February 1, 2006; September 17, 2002 pursuant to S.L. 2002-116; August 1, 2000; August 1, 1998; April 1, 1996; April 1, 1995; February 1, 1993; January 1, 1991; April 1, 1987;*

*Readopted Eff. December 1, 2020;*

*Amended Eff. December 1, 2022; August 1, 2022.*

**NC COASTAL RESOURCES COMMISSION (CRC)**

April 26, 2023

Dare County Government Center, Manteo

**Present CRC Members**

Renee Cahoon, Chair  
 Neal Andrew  
 Larry Baldwin  
 D.R. Bryan  
 Robert High  
 Sheila Holman  
 Doug Medlin  
 Phil Norris  
 W. Earl Smith  
 Alexander "Dick" Tunnell  
 Angie Wills

**Present CRAC Members**

Bobby Outten, Chair  
 Kyle Breuer  
 Daniel Brinn  
 Sandy Cross  
 Ryan Davenport  
 Webb Fuller  
 David Hewett  
 Ike McRee  
 Spencer Rogers  
 Debbie Smith  
 John Spruill  
 Dave Weaver  
 John Windley

**Present from the Office of the Attorney General**

Mary Lucasse

**Present from the Department of Environmental Quality, Office of the General Counsel**

Christine Goebel

**CALL TO ORDER/ROLL CALL**

Renee Cahoon called the meeting to order at 9:00 a.m. on April 26, 2023, reminding the Commissioners of the need to state any conflicts due to Executive Order Number 34 and the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of a conflict of interest or potential conflict with respect to matters to come before the Commission. The Chair requested that if any member knows of a conflict of interest or a potential conflict of interest, they so state when the roll is

called. Commissioners Emory and Salter were absent. No conflicts were reported. Based upon this roll call Chair Cahoon declared a quorum. The Chair thanked County Manager Bobby Outten and his staff for hosting this meeting at the Government Center. The Chair also recognized DEQ Deputy Secretary Bill Lane and thanked him for attending.

### MINUTES

**Phil Norris made a motion to approve the minutes of the February 23, 2023, Coastal Resources Commission meeting. Neal Andrew seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bryan, High, Holman, Medlin, Norris, Smith, Tunnell, Wills).**

### EXECUTIVE SECRETARY'S REPORT

DCM Director Braxton Davis gave the following report:

It is great to see you all and to be back in Manteo and the Outer Banks. Since your last meeting, we've had a busy spring schedule with a number of events, including an all-staff meeting in Beaufort, which was the first in-person meeting of all DCM staff since the pandemic began, and our annual meetings with NOAA and other coastal states in Washington DC. We've also held meetings of the State-level Interagency Work Group on Threatened Oceanfront Structures, and I'm continuing to chair a national-level work group on coastal erosion through the Coastal States Organization in Washington DC. Recent and upcoming meetings of both groups have focused on the role of insurance in addressing imminently threatened structures, with a focus on the Upton Jones Amendment to the NFIP, which originated here with Walter Jones Sr. back in the mid-1980s. Those two policy initiatives are closely aligned, and I will keep you posted on the findings and recommendations as we hope to wrap up meetings later this year.

On the regulatory side of DCM, I wanted to highlight a CAMA Major Permit issued to the Town of Duck in April to raise NC-12 within the town limits, construct a sidewalk with stormwater infiltration system, rehabilitate and extend an existing revetement, and construct a living shoreline with coastal wetland plantings. This project will assist in maintaining the long-term resilience of Hwy. 12 in this area, which has been experiencing erosion and flooding for many years. A Major permit was also issued to NC Parks and Recreation to enhance and expand an existing oyster sill at Jockeys Ridge State Park which has degraded over time. The living shoreline is composed of rip rap and was designed to protect and enhance existing coastal wetlands and estuarine beach along the Roanoke Sound. Also, NCDOT has made additional progress removing remnant sandbags that are no longer needed to protect NC Highway 12 at Mirlo Beach within the Pea Island National Wildlife Refuge. DOT is coordinating closely with DCM, the Refuge and the NPS staff to ensure the remnant sandbags are being removed as quickly as possible while avoiding negative impacts to the beach, dunes, and sensitive habitats of shorebirds and nesting sea turtles. On April 14, DCM issued a one-time conditional federal consistency concurrence to the Corps of Engineers for their proposed Coastal Storm Risk Management Emergency Repair beach nourishment project at Wrightsville Beach. In our concurrence letter, we noted that the Corps has successfully utilized sand from within Masonboro Inlet since 1965 during congressionally authorized beach renourishment and

navigation dredging projects at Wrightsville Beach. However, a 2021 legal interpretation by the U.S. Department of Interior Office concluded that removal of sand from within a Coastal Barrier Resources Unit could not be used for sand placement projects outside of the same unit. As a result, the Corps proposed to use a new offshore borrow area where surveys have identified the potential for thousands of tires that are remnants from historical artificial reefs that were deployed in the area by the DMF in the 1970s and 1980s. DCM circulated the proposal to state agencies, New Hanover County, Town of Wrightsville Beach and published a public notice. State agencies and the county all expressed concerns about the potential for introduction of noncompatible material. Ultimately, DCM found the proposal conditionally consistent with the State's coastal program, but strongly encouraged the Corps to work with Congress and the U.S. Department of Interior to find a solution to the current policy impasse over sand resources within Coastal Barrier Resource Units. The State's concurrence was limited to this one event, and special conditions included more intensive monitoring during sand placement and additional reporting requirements.

On the Policy and Planning side, the Division certified the Town of Kure Beach's CAMA Comprehensive Land Use Plan on March 31, and several other land use plans are currently under review by staff. The Division also received its first application for approval of a Beach Management Plan under the new rules that went into effect in August of last year (in 7J.1200). The Town of Oak Island submitted its request this week, and it is the first request for the Town since they did not previously have a Static Line Exception. The Division will review the request to ensure that all the required elements are present. If the request is complete, at the next Commission meeting the Town will provide a summary presentation of the plan and the Division will provide a recommendation to grant or deny the approval request. If the Commission approves the Plan, property owners within the Town's jurisdiction will be eligible for several regulatory relief measures related to oceanfront setbacks. DCM recently released a comprehensive land use planning technical guide entitled "Comprehensive Land Use Planning in Coastal North Carolina - Guidance for Local Governments." This online resource provides guidance to local governments for the development of land use plans that comply with the CAMA and CRC land use planning requirements. The guide was developed in partnership with the University of North Carolina-Wilmington's Dr. Mark T. Imperial and Dr. Kirsten Kinzer and is available on the Division's website. At your last meeting I mentioned that the pre-application period for Public Beach and Coastal Waterfront Access grants opens on April 28. Local governments have just a couple more days to submit a pre-application. This year the Division has approximately \$3 million in funding available. As always, additional information is available on our website or through either of our district planners, Rachel Love-Adrick and Mike Christenbury. It remains a busy time for the Resilient Coastal Communities Program (RCCP), and you will be hearing from Mackenzie Todd later today. I will just say that interest in the program remains strong and I'm very proud of the assistance we've been able to provide to local governments through the RCCP. I'm also happy to announce that DCM recently received \$250K in capacity building funds from NOAA that will allow us to hire new time-limited staff to work on conservation and restoration projects. In the Policy and Planning section, one new staff member will lead our work to update the Coastal and Estuarine Land Conservation Program, or CELCP, which was last updated in 2013. In the Reserve program, a new time-limited position will conduct habitat resilience planning and project implementation at the National Estuarine

Research Reserve sites. The funding comes from a portion of NOAA's allocation under the Bipartisan Infrastructure Law, also known as IIJA, and we will use the added capacity to apply for competitive grants for coastal conservation and restoration projects. This work will rely on strong partnerships with other state agencies, non-governmental organizations, and local governments. Last year, under an initial round of Bipartisan Infrastructure Law funding, DCM partnered with the Wildlife Resources Commission and the Coastal Land Trust to apply to acquire 400 acres along the Bay River in Pamlico County. The proposal was awarded the requested \$500K which will be combined with other grant funding to complete the purchase. The property will be added to the State's Public Game Lands system.

In our Coastal Reserve program, staff will hold meetings for 6 of its local advisory committees in May. Additionally, community members are needed to serve on local advisory committees for each of the Coastal Reserve's ten sites and an application period will be held in June. More information about the upcoming meetings and application period will be available on the Reserve's website. The Coastal Reserve's Training Program hosted three workshops for real estate professionals this April on living shorelines and low impact development for water quality protection. The workshops were held in partnership with the Brunswick County Association of Realtors and Cape Fear Realtors. At these workshops, real estate professionals receive 4 elective continuing education credits. The Living Shorelines workshop includes a permitting presentation by regulatory staff. Workshop evaluations are consistently positive and since 2020, the training program has hosted 11 real estate professional workshops reaching over 700 people. Looking towards the future, the training program is considering developing a similar program for licensed building contractors, as they now need continuing education credits as well. The Coastal Reserve and NC Wildlife Resources Commission are gearing up for the 9<sup>th</sup> annual Terrapin Tally to help better understand the overall population status and condition of the diamondback terrapin within the state. This citizen science project takes a snapshot of the diamondback terrapin population numbers in a given area by conducting kayak surveys at specified times and prescribed routes. Terrapin Tally paddling routes are available at 11 locations including: Cape Lookout National Seashore, Rachel Carson Reserve, Calico Creek, Hammocks Beach State Park, Lea Hutaff Island, Masonboro Island Reserve, Carolina Beach State Park, Fort Fisher State Recreation Area, Zeke's Island Reserve, Bald Head Island, and Bird Island Reserve. Data collection will occur during established windows during May and June. Spring student field trips to the Rachel Carson Reserve and Masonboro Island Reserve are starting back up and summer camps at the Rachel Carson Reserve will start in June in partnership with the NC Maritime Museum.

Finally, in response to discussions at last meeting concerning how we better keep the public informed of commission meetings and ongoing policy development, DCM has refreshed the Interested Parties List to provide another option for the public to receive email notifications of DCM meetings, updates, and announcements. Our website has also been updated to make public information and education opportunities more visible. Opportunities to join the DCM Interested Parties List, find Public Notices, DCM grant opportunities and to quickly find our news releases are all front and center on DCM's main landing page on the website. Also, DCM's LPO coordinator will continue to send meeting information, updates, and announcements with a special focus on local issues and minor permitting to LPO's and local governments. I'll note that we've had nearly 100 new subscribers in the past week on the Interested Parties list serve. In staffing news, I'm happy to say that we don't have any new hires or recent departures to report. I



did want to quickly acknowledge that tomorrow is Administrative Professionals Day - and as you know from working with Angela, and maybe you've met some of our other administrative staff in our district offices, DCM is fortunate to have outstanding administrative professionals. They hold everything together and provide support on all fronts, and we're very proud to work with each of them.

### **CRAC REPORT**

CRAC Chair Bobby Outten stated the CRAC meeting was well attended with robust discussion on several topics. Mike Lopazanski gave an overview of proposed amendments to the rules addressing septic tanks and their components along the oceanfront shoreline. The CRAC recommends approval to the Commission on these amendments. Ken Richardson discussed the Inlet Hazard Area update and advised the Council that staff will recommend the Commission halt the current rulemaking process based on the 2019 maps and send a new Charge to the Science Panel to begin the process of reviewing current data to create new Inlet Hazard Area boundaries. The CRAC had one concern regarding the proposed use standards within the IHAs. The CRAC was concerned about dune building being prohibited within IHAs. For some communities this is the only mechanism for defense and the CRAC would recommend the CRC move forward with Staff's recommendation but consider allowing dune work within the IHAs to mitigate risk. Lastly, DCM Counsel Christy Goebel, gave a presentation on the NC Real Estate Commission's current rulemaking on Disclosure Statements. The CRAC recommends the CRC send a letter to the NC Real Estate Commission to request the addition of erosion rate information and previous permitting actions be added to the Disclosure Statements for properties in flood zones.

**Sheila Holman made a motion to send a letter to the NC Real Estate Commission requesting the additional disclosure of erosion rate, previous permitting actions, and any erosion control measures at the property and their expirations. Neal Andrew seconded the motion. The motion passed unanimously (Wills, Smith, Medlin, Baldwin, Andrew, Cahoon, Norris, High, Tunnell, Bryan, Holman).**

**Neal Andrew offered an amendment to the previous motion to have the letter from the CRC drafted by CRC counsel and approved by CRC by May 15<sup>th</sup>. Phil Norris seconded the motion. Commissioner Holman approved the amendment. The motion passed unanimously (Wills, Smith, Medlin, Baldwin, Andrew, Cahoon, Norris, High, Tunnell, Bryan, Holman).**

**Phil Norris offered an additional amendment to include the language from the Texas Disclosure for Flood Hazard Areas and Flood Insurance Requirement in the letter to the NC Real Estate Commission. Sheila Holman approved the amendment and seconded the motion. The motion passed unanimously (Wills, Smith, Medlin, Baldwin, Andrew, Cahoon, Norris, High, Tunnell, Bryan, Holman).**

**AEC NOMINATION****15A NCAC 7H .0500 – AEC Nomination Procedures (CRC 23-07)****Rachel Love-Adrick**

Rachel Love Adrick stated the Division has received a nomination for an area within the Town of Beaufort. The last time an AEC nomination was submitted was in 1994 for a site in Brunswick County. Previous nominations have included Buxton Woods at Cape Hatteras and Bird Island in Sunset Beach. Today I will outline the process of the nomination process. The Commission designates Areas of Environmental Concern (AEC) and adopts rules and policies for coastal development within those areas. AECs include the Estuarine and Ocean System, Ocean Hazard Areas, Public Water Supplies, and Natural and Coastal Resource Areas. Unique to the Natural and Cultural Resources AEC are that they may be nominated by any citizens, interest groups, local governments, or state and federal agencies person or group for the Coastal Resources Commission's consideration. Natural and Cultural Resources Areas AECs are defined as areas containing environmental, natural, or cultural resources of more than local significance in which uncontrolled or incompatible development could result in major or irreversible damage to the natural systems or cultural resources, scientific, educational, or associative values or aesthetic qualities. This definition is codified in 15A NCAC 07H .0501. The nomination process has five steps. After receiving a nomination, the Division of Coastal Management will notify the landowners, local governments, and the Coastal Resources Commission and Coastal Resources Advisory Council members in whose jurisdiction the site is located of the proposed nomination and meet to discuss the proposed nomination within 60-days after receipt of the nomination. The Division will then conduct a preliminary site evaluation in which various protection methods will be examined to determine if AEC designation is appropriate. Staff is currently in this step of the process. A meeting has been set for May 8, 2023, from 9:00 a.m. to 11:00 a.m. at the Morehead City Train Depot. The property owners, Town of Beaufort, CRC and CRAC members from Carteret County have been invited. The meeting is open to the public but is not a public hearing. Following that meeting, the preliminary report will be presented to the CRC at the first CRC meeting following completion of the report. The CRC will determine whether to endorse the evaluations and proceed with more detailed analysis of the site. The CRC can expect the preliminary report on the June Commission agenda. If the AEC nomination receives the CRC's endorsement, DCM will conduct a detailed review of the proposed site. This report will include the development of a management plan, if applicable, or site-specific use standards and will be presented to the CRC for their consideration. If the CRC decides to consider formal designation of the site as an AEC and adopts the management plan or use standards developed, a public hearing will be conducted, and notice of the hearing will be published and distributed in accordance with the requirements of NCGS 113A-115 and NCGS 150B-21.2. After consideration of all comments, the Commission will make its final decision and if the site is designated as an AEC, the CRC will adopt a management strategy or use standards if applicable to the AEC. This management strategy or use standards would then follow the permanent rulemaking process.

**BEACH MANAGEMENT****Science Panel Scope of Work – Oceanfront Erosion Rate Method & Inlet Hazard Areas (CRC 23-08) Ken Richardson**

Ken Richardson stated after considering public comments and consultation with CRC Chair Cahoon and Dr. Moore, Science Panel Chair, staff will be asking the Commission to consider a

temporary delay on adopting the Inlet Hazard Area (IHA) boundaries and rule amendments referencing the most recent study. Over the course of time, much of the public feedback the Commission has received has been addressed. However, for those who have not followed the process from the beginning, or those who are learning about IHAs for the first time, or who have been given misinformation or misleading information, Staff can understand why concerns are expressed and why they want to know more. That does not mean that the inlet hazard area wheel requires re-inventing each time to address new or recycled concerns. The current IHAs and rules began in 1978 with a need for an update starting in 1989. However, it wasn't until the early 2000's that the groundwork actually began. The Science Panel's early work to define methods began around 2006 and used Geographic Information Systems and USGS's Digital Shoreline Analysis System to consider topography, underlying geology, shorelines, vegetation lines, beach width and influences of nourishment, engineering practices and inlet geomorphology process. Many combinations of statistics applied to understanding shoreline change and have been routinely applied and used by professionals and the academia since the 1960's and the tools used in North Carolina's inlet studies are the same as those used by the US Geological Survey since the late 1990's. A significant amount of time has been invested in discussing and analyzing inlet shorelines and areas adjacent to the State's inlets. The current IHA boundaries and rules went into effect in 1979, and then the Science Panel proposed updated IHA boundaries in 2010 and again in 2018. Each time new data was added to the analysis and the methods were evaluated. Although the 2010 and 2018 methods did vary slightly, the foundation of the methods used were based on erosion rates, or shoreline change rates to be more accurate since we're talking about accretion also. Throughout this process there have been many opportunities for the public and local governments to provide input. These opportunities include every Coastal Resources Commission and Advisory Council meeting, 2014 stakeholder meetings, and the many public hearings and workshops thereafter. In early 2020, Covid-19 put the brakes on everything to include moving forward with the current update. When the Science Panel presented its updated IHA boundaries to the Commission in 2018-2019, the Panel also recommended that boundaries be re-evaluated every five years to coincide with the Division of Coastal Management's routine oceanfront erosion rate updates. After careful consultation with Dr. Moore and Chair Cahoon and given the fact that the next update to the oceanfront erosion rates is just around the corner and planned for the 2024-2025 timeframe, Staff agrees that data collected since the 2018 study can be added to the analysis that will also consider recent nourishments, erosion mitigation structures such as terminal groins and sandbags, and give the Science Panel the opportunity to consider methods and criteria. Since the updated studies of oceanfront and inlet shoreline changes would occur simultaneously, DCM staff are recommending that the CRC consider temporarily postponing adoption of the current updated IHA boundaries and issuing a new Charge to the Science Panel on Coastal Hazards. If the Commission adopts this approach, Staff will work with the Science Panel to complete the Charge and provide the Commission updated IHA maps, erosion rates, along with DCM's recommendations for corresponding IHA Use Standards in the summer of 2024.

**Sheila Holman made a motion to draft a new Charge to the CRC's Science Panel on Coastal Hazards and follow DCM Staff's recommendation to pause the current rulemaking process and provide the IHA boundaries and associated Use Standards with the erosion rate update in 2024. Earl Smith seconded the motion. The motion passed unanimously (Wills, Smith, Medlin, Baldwin, Andrew, Cahoon, Norris, High, Tunnell, Bryan, Holman).**

**Exception for Lots Platted Post-1979: 15A NCAC 7H .0309 (CRC 23-09)**

**Ken Richardson**

Ken Richardson stated given the temporary hold on updating the Inlet Hazard Area boundaries, Staff will be recommending that amendments to Exceptions in Use Standards for Ocean Hazard Areas, 15A NCAC 07H .0309, continue to move forward without the IHA amendments. Staff presented these amendments at the February CRC meeting, and you may recall that currently your rules pertaining to development exceptions within the setback are defined in 7H .0309. You may also recall that before 7H .0104 was repealed last August, this rule also provided an alternative for proposed development that could not meet the current setback. Together, these rules were commonly referred to as “small structure exceptions”. However, there were a few differences between the two rules, which often caused confusion and questions regarding how and if they were accurately applied. The key differences between the two rules were that .0309 applied to lots created before June 1, 1979, only requires a 60-foot setback regardless of the erosion rate setback and be no greater than 2,000 square feet and have a footprint of no greater than 1,000 square feet. Rule .0104 applied to lots created after June 1, 1979, and limited the size to 2,000 square feet, but allowed the option to use the setback in place at the time the lot was created. No additional changes have been made to the proposed amendments Staff presented at the February CRC meeting and Staff is asking the Commission to consider removing the June 1, 1979, condition which would allow this exception to be applied to all lots regardless of when it was created or what the erosion rate is and to remove the 1,000 square foot footprint condition.

**Neal Andrew made a motion to approve amendments to 15A NCAC 07H .0309 for public hearing. Larry Baldwin seconded the motion. The motion passed unanimously (Wills, Smith, Medlin, Baldwin, Andrew, Cahoon, Norris, High, Tunnell, Bryan, Holman).**

**Proposed Amendments to 15A NCAC 7H .0305, .0306 – Septic Tanks Seaward of the Vegetation Line (CRC 23-10) Mike Lopazanski**

Mike Lopazanski stated the Division advises the County of the issuance of a CAMA Minor Permit for relocation of a system on the oceanfront beach. Dave Hallac gave a presentation to the CRC regarding the recent structure collapses on the National Seashore which had environmental impacts and a 15-mile debris field covering the public beaches with hazardous materials. Damaged septic tanks have created a chronic issue along the oceanfront. The Department of Health and Human Services, Environmental Health Division oversees the County’s issuance of permits for septic systems. New or replaced systems are required to be 50-feet from mean high water and are subject to the CAMA oceanfront setback. DEQ policy dictated that replacement of systems were usually considered repair, and therefore exempt from CAMA permitting. For septic relocation, the CRC’s rules prohibit siting systems seaward of the primary structure. Recent replacements of systems occurred without relocating the primary structure. Septic systems in the Rodanthe area have been repeatedly damaged by moderate storms resulting in the discharge of sewage onto beaches and into ocean waters. During the Advisory Council discussion, concerns were raised regarding the limitation on relocating septic tanks utilizing public funds, particularly funds associated with payouts from the National Flood Insurance Program (NFIP). Under the proposed rule language in 15A NCAC 7H .0306, septic tanks, pump tanks or components of a ground absorption system as defined in G.S. 130A-334 relocated with public funds would need to comply with the current oceanfront setback requirements. Advisory Council members were

concerned that this language would discourage the relocation of septic tanks off the public beach if NFIP funds were involved. Staff has since learned from direct communications with the NFIP, that NFIP payouts are not considered public funds. However, so as not to preclude the possibility that state or federal funding may become available for the relocation of septic tanks, Staff has removed reference to septic tanks, pump tanks and ground absorption systems from this section of the proposed rule language. Based on further review and public comments, Staff are also no longer proposing amendments to 7H .0305, Definition and Description of Landforms, referencing the components of a septic system as separate structures for repair/replace determinations. This language is now more appropriately incorporated into 7H .0306(f), maintaining the intent that if either structure cannot be repaired in place, they will be subject to the replacement/relocation provisions of 7H .0306. Proposed amendments still include clarification that new development, including these septic system structures, need to meet the oceanfront setback requirements. Comments were received from the NC Septic Tank Association questioned the CRC authority and jurisdiction regarding the siting of septic tanks. The CRC has always had the authority to provide regulations and permit septic systems on the oceanfront similar to any other oceanfront structure. NCGS 77-20 clearly defines the public trust area as the wet sand area subject to regular flooding and dry sand areas subject to occasional flooding by tides. These areas do not include areas where flooding occurs from hurricanes or tropical storms. The landward extent of the ocean beaches is well established and natural indicators of the landward extend of the ocean beaches include but are not limited to the first line of stable, natural vegetation; the toe of the frontal dune; and the storm trash line. The repair of systems in place would be allowed, but the relocation or replacement of septic systems would require a CAMA permit. The amendments use DHHS statutory definitions and language supported by DHHS which defines septic systems as septic tanks, pump tanks, and ground absorption components. The amendments also use the statutory definition of ocean beaches. These amendments fall under the CRC's jurisdiction as the systems are located within public trust areas.

**Neal Andrew made a motion to approve amendments to 15A NCAC 07H .0305 and .0306 for public hearing. Angie Wills seconded the motion. The motion passed unanimously (Wills, Smith, Medlin, Baldwin, Andrew, Cahoon, Norris, High, Tunnell, Bryan, Holman).**

## **PERMITTING**

### **Proposed Permit Fee Increases (CRC 23-11)**

#### **Jonathan Howell**

Jonathan Howell stated that NCGS 113A-119.1 provides the authority for the Commission to establish a graduated fee schedule for the processing of permit applications, renewals, modifications, and transfers. In determining the fee schedule the Commission shall consider administrative and personnel costs incurred by the Department for processing these permit actions and related compliance activities as well as the complexity of the development. The fee to be charged for processing applications is capped at \$400.00. Prior to 1989, most General Permits had no cost. There were also no fees for modifications or transfers. Major Permit fees were \$100 and Minor Permits and renewals were \$25. In 1989, the graduated fee schedule was proposed and adopted by the Commission and fees were increased in 1991. In 2000, fees were doubled, and this was the first time a different fee was charged for private versus commercial development. The increase was attributed to the need to add staff and an increase in permit

workload. Between 2001 and 2006, there was a decline in state appropriations. There was also a reduction in federal appropriations and the Commission increased the fees for General Permits. Since 2006, there has been a 32% decline in state appropriations to the Division's regulatory program and federal appropriations haven't kept pace with inflation. Permit fee increases are needed as coastal development and re-development has increased staff time for each permit action based upon the complexities of the proposals and increased appeals by adjacent property owners. As the General Permit time frames are being increased, the Division will also lose approximately \$43,000 per year. With the increase in operating costs due to inflation and the steady decline in state appropriations the Division is only able to carry the cost of 13 state appropriated staff positions, which is down from the 25 supported by state funds in 2007. The Commission has 12 General Permits that are currently below the statutory maximum of \$400 fee. Staff is requesting the Commission consider an increase in those General Permit fees from \$200 to \$400, as well as renewal fees from \$100 to \$200, minor modification fees from \$100 to \$200, major modification fees from \$250 to \$400, Minor Permits issued by the Division and General Permits from \$100 to \$200, and Major Permit transfers from \$100 to \$400. The Division has reached out to local governments to inquire about their thoughts on permit fee increases for Minor Permits issued by the Local Permitting Program and has received mixed reviews from the Local Permit Officers. Based on permits issued in 2022, if these fee increases are approved the Division would bring in an additional \$277,000 from General Permits, \$26,000 for Major Permits, and \$35,000 in Minor Permit fees to offset some of the operating costs.

**Sheila Holman made a motion to approve the permit fee increases for public hearing. Neal Andrew seconded the motion. The motion passed with ten votes in favor (Wills, Smith, Medlin, Andrew, Cahoon, Norris, High, Tunnell, Bryan, Holman) and one opposed (Baldwin).**

### **COASTAL RESILIENCY**

#### **NC Coastal Resiliency Program Update**

##### **Mackenzie Todd**

Mackenzie Todd provided an update on the Resilient Coastal Communities Program (RCCP) administered by the NC Division of Coastal Management. The RRCP program is the culmination of coastal resilience efforts in the State over the last several years. Beginning in 2016, DCM piloted a coastal resilience program called Resilience Evaluation and Needs Assessment. DCM and its partners worked with local governments to map community assets, engage with the public, identify their social and physical vulnerabilities, and explore potential projects to mitigate future impacts from coastal hazards such as flooding, sea level rise, and other extreme weather events. This process led to several positive outcomes including a more localized understanding of the impact of hazards on community assets, increased public engagement in the resilience planning process, and additional data to assist with grant funding. After Hurricane Florence in 2018, DCM developed resources for local governments to address these impacts, including the Coastal Adaptation and Resiliency website and the NC Coastal Community Resiliency Guide. Additionally, Governor Roy Cooper issued Executive Order 80, which called for the 2020 Climate Risk Assessment and Resilience Plan. This plan led to the creation of the Resilient Communities Program, which catalyzed the RCCP. DCM received approximately \$830,000 in funding from the NC General Assembly and \$1.1 million from the National Fish and Wildlife Foundation's Emergency Coastal Resilience Fund to begin developing and implementing the

RCCP. The RCCP is the first of its kind in this State and is modeled after successful programs in other coastal states such as the Massachusetts Municipal Vulnerability Preparedness Program and Storm Smart Coasts Program, Rhode Island's Municipal Resilience Program, and Florida's Resilient Coastlines Program. Critical to the RCCP has been our program partners at the NC Office of Recovery and Resilience, the Nature Conservancy, and NC Sea Grant who have been on our steering committee and alongside this program from the beginning. They offer staff support and guidance and expertise on implementing the program. A handful of our partners also served as ex-officio members on multiple community action teams during the first two phases of the program. They have also been instrumental in helping DCM in the program evaluation process. We have leveraged \$1.35 million in State funds to bring in \$1.6 million in federal funds and another \$550,000 from NFWF. We have also received \$1.15 million and three full-time employee positions from the NC General Assembly. To date, the RCCP has received approximately \$4.6 million in funding to help build capacity and support for our coastal communities. We now have a RCCP dashboard through ESRI created by Rachel Love-Adrick, DCM District Planner which showcases the communities that have participated in the RCCP so far and the amount of money that was awarded during Phases 1, 2, and 3. We are working on a webmap that would allow users to click on a community and see when they participated in the RCCP and how much money was received with a direct link to their final deliverables. This application is live and is updated regularly. At its core, the RCCP is designed to address barriers to coastal resilience at the local level, assist communities with risk and vulnerability assessments and develop portfolios of well-planned and prioritized projects, advance priority projects to shovel-ready status and link communities to funding streams for project implementation. Phase 1 of the program includes developing a community action team, engaging with the public, and performing a risk and vulnerability assessment. Phase 2 of the program involves a community and data-driven process to identify priority actions that can be taken to adapt to shore and long-term hazards. Phase 3 is the engineering, design and permitting of the prioritized projects. Grants will be available for communities who successfully completed Phases 1 and 2 to develop projects that are shovel-ready. Communities may receive credit towards completion of Phases 1 and 2 of the RCCP for previous or ongoing work which aligns with program requirements. During Phase 4, grants will be available for communities who successfully completed Phases 1-3 for implementation of a shovel-ready project. The first step in Phase 1 is to develop an inclusive and diverse Community Action Team whose role is to actively participate in and inform the process and champion the effort for each community. Members may include locality staff, elected officials, resilience experts, planning board members, business community leaders, faith community leaders, Disaster Recovery Coalitions, Protected Land Managers, leaders representing socially vulnerable communities, public health officials, local school board representatives, and college and university representatives. The Action Team sets the vision and goals. Specific, measurable goals will help the community identify steps that can be taken to achieve the vision. We are asking communities to use the triple bottom line approach which goes beyond traditional hazard mitigation and disaster recovery to develop a holistic strategy considering social, environmental, and economic factors. The next step is to review existing local plans and efforts. We want to make sure we are promoting integration throughout the project development process. A lot of existing plans communities currently have should be considered and pulled from to inform project development such as regional and local plans, ordinances, non-regulatory programs, or other local investments and policies. Getting from resilience planning to action requires jointly created ideas, buy-in, and commitment from a diverse group of

stakeholders. Inclusivity in the planning process, particularly by involving vulnerable and historically underrepresented members of the community, is key to account for a diverse range of community perspectives. The Community Action Team will then select critical assets and natural infrastructure to include with the risk and vulnerability assessment. The last step is to conduct the risk and vulnerability assessment which will evaluate risks to a community's vulnerable populations and critical assets from a number of coastal and climate hazards including flooding, storm surge, sea level rise, and other locally relevant hazards. In Phase 2, communities develop a portfolio of resilience projects and actions aimed at reducing exposure and sensitivity to hazards as well as strengthening adaptive capacity of community assets and vulnerable populations. They then consolidate at least five priority projects organized in a project portfolio. The main deliverable for Phases 1 and 2 is called the Resilience Strategy consisting of a combination of the deliverables developed throughout this process including a CAT report, community engagement strategy, the risk and vulnerability assessment and a portfolio of at least five prioritized projects. While this is not meant to be a comprehensive resilience plan, the information in this Resilience Strategy may later be used to develop a comprehensive Resilience Plan or be integrated into existing local plans or ordinances. Having a planning document like this helps to provide clarity of purpose, attract funding, and provide a more direct path to implementation. For the first round of Phases 1 and 2, we received 30 applications representing 32 coastal communities early last year. DCM reviewed the community applications and were scored across several criteria, including their level of risk exposure to vulnerable populations and critical assets, their economic status and need, their internal capacity and momentum with related efforts. Twenty-six communities were selected. We received 20 applications from contractors and 10 were selected to provide technical assistance. Contractor applications were scored based on experience in resilience planning, community engagement, nature-based solutions, and relevant work experience in the NC coastal region. Staff matched the contractors with communities based on community requests, geographic locations, and other relevant factors. Last summer we awarded 20 projects representing 22 communities for a total grant fund amount of \$1.12 million. In funding Phase 3, DCM staff were looking for projects that were expected to increase local resilience and meet the vision and coastal set out in the local RCCP Resilience Strategy completed in Phases 1 and 2. Applications were scored based upon the project producing engineering and design plans for a shovel-ready project, incorporating nature-based components, potential transferability of the project to another coastal area municipality or county, and size and scope of the expected benefits. Projects range from stormwater management, wetland restoration, and flood mitigation. We currently have a total of one million dollars budgeted for Phase 4 construction. We allocated the budget to focus on planning and community engagement and building a portfolio of shovel-ready projects across multiple coastal communities. We feel this is a good place for DCM to focus initially, rather than on funding construction projects. This program positions communities to be ready and competitive when applying for other sources of federal and state funding. DCM staff have attended multiple conferences and meetings to discuss the RCCP. It is important to raise awareness about the program and learn from other coastal states. The RCCP was highlighted recently as a case study on NOAA's digital coast website. The case study details the program, our evaluation process, funding, tools used, and community engagement. Looking ahead to potential future program funding, Governor Cooper's budget allocated \$1.7 million dollars for two time-limited positions to become permanent. House Bill 259 has \$10 million dollars allocated for the RCCP. We are waiting to see what the Senate will propose. In the meantime, we have submitted a pre-proposal for NFWF's National Coastal



Resiliency Fund. We will know if we are invited to submit a full proposal next month. This proposed project will provide support to RCCP communities leading to final design and permitting for at least 20 projects that have been prioritized as the most effective, efficient, and equitable. Support will initially be provided to communities to verify their project selection through in-depth analysis of the alternatives within their project portfolios and could also lead to the identification of a better nature-based solution that had not been considered. Following the initial analysis, communities will move into final design and permitting.

### **ACTION ITEMS**

#### **Consideration of Approval of Fiscal Analysis – General Permit Time Extension and Correction to 15A NCAC 7H .2300 (CRC 23-12) Cameron Luck**

At the February 2022 CRC meeting, a marine contractor provided comments indicating there was insufficient time to complete projects due to the increased volume of demand in development and issues with securing building materials. The Commission tasked DCM to explore alternatives to the current timeline of 120 days. At the June 2022 CRC meeting, DCM staff proposed an additional 60 days for a total of 180 days for a General Permit to remain active. This number was proposed to create consistency with local ordinance building timelines. Staff also identified nine General Permits where this change would apply. The Commission requested that DCM consider additional options that would provide extensions where work is already in progress. At the September 2022 CRC meeting, Staff proposed a substantial development clause similar to what is currently included in the Major Permit process allowing contractors a 180-day extension if substantial development had occurred. The Commission approved these amendments at that meeting. Based on the fiscal analysis completed by DCM staff, there will be fiscal impact on the Division but not a substantial one. DCM will be impacted by the reduction in the number of permit fees which is estimated to be around \$43,500 annually. DEQ has approved the fiscal analysis and it is under review by the Office of State Budget and Management. In addition to extending the expiration timelines of these nine General Permits, an amendment is also being proposed to correct an error that occurred during the legislatively required periodic review. 15A NCAC 07H .2302 was inadvertently changed from a two-year expiration date to 120 days. DCM is requesting approval to correct this error.

**Larry Baldwin made a motion to approve the fiscal analysis for the General Permit time extensions for public hearing and the amendment to address the error in 15A NCAC 07H .2302. Phil Norris seconded the motion. The motion passed unanimously (Wills, Smith, Medlin, Baldwin, Andrew, Cahoon, Norris, high, Tunnell, Bryan, Holman).**

#### **Comments and Consideration of Adoption of Amendments to 15A NCAC 7H .0308 and 7K .0207 Structural Accessways – Beach Mats (CRC 23-13) Mike Lopazanski**

Mike Lopazanski stated last year the Commission amended the rules that established specific use standards for structural pedestrian accessways that allow for public access to the beach. You will recall that the use standards previously limited these accessways to elevated, pile support structures terminating on the beach near the seaward toe of the frontal dune. Due to numerous local governments expressing interest in using synthetic or wooden roll-out matting as a handicap accessible alternative for beach access, the accessway rules were amended to allow the use of these types of mats for public beach access. The use of these materials was limited to State, federal, or local governments due to concerns expressed by the NC Wildlife Resources

Commission and the US Fish and Wildlife Service about potential adverse impacts on sea turtle habitat resulting from their use waterward of the frontal dune. The CRC has approved three petitions for variances from local governments seeking to install beach mats on the dry sand beach seaward of the frontal or primary dune and vegetation line to enhance handicap accessibility. These variance petitions were granted, and, in each case, efforts were taken to minimize risks to sea turtles including changes in siting, size, and orientation of the proposed structures. Following the Commission's variance and issuance of a CAMA Minor Permit to the Town for installation of beach mats, the Town still assumes some liability for any takes of threatened or endangered species under the Endangered Species Act. Since the amendments went into effect, Staff has had further discussion regarding the use of beach matting for residential applications as an alternative to structural accessways. During storms, dune crossovers, including stairways, can account for a great deal of debris that winds up scattered across beaches and in waterways. Staff believe that if matting conforms to the same general standards that apply to structural accessways (limiting the mats to six feet in width and be no further waterward than six feet from the toe of the dune), public access and wildlife protection goals will be met while reducing debris on the State's beach during storm events. Residential application of matting material would adhere to the same standards previously approved including installation at grade and prohibiting extension onto the public trust beach. Compliance and enforcement are essential components of any regulatory program, and the Division strives to increase its compliance rate through education, inspection, and remediation. In addition to the Division's inspection and enforcement activities, most beach towns have Local Permitting Officers as well as sea turtle programs which traverse the beach on a regular basis. The Division believes that these additional eyes on the oceanfront will be useful in ensuring that any beach mats exceeding the use standards will be reported either to the Division or the Local Permitting Officer for compliance and enforcement. The Division also maintains that while less expensive than a traditional structural accessway, beach mats still represent a sizeable investment for property owners and there will be interest in ensuring that they are removed prior to storm events, leading to less debris on the beaches following these events. In addition to the public comments submitted, the Division has received numerous informal comments of support from the public advocating for the enhanced accessibility this will provide.

**Neal Andrew made a motion to adopt the amendments to 15A NCAC 07H .0308 and 07K .0207. Dick Tunnell seconded the motion. The motion passed unanimously (Wills, Smith, Medlin, Baldwin, Andrew, Cahoon, Norris, High, Tunnell, Bryan, Holman).**

**Comments and Consideration of Adoption of Amendments to 15A NCAC 7M .0600 Floating Structure Policies and 7H .0208 Piers and Docking Facilities – Floating Upweller Systems (CRC 23-14) Daniel Govoni**

Daniel Govoni stated floating upweller systems (FLUPSY) are used to grow seed shellfish and protect them from predation until they can survive in open water leases. These amendments will require FLUPSYs to be sited at a permitted marina or private docking facility and are subject to the same platform limitations that apply to docking facilities. DCM believes this management strategy can accommodate these structures while limiting public trust impacts. Neither the NC Division of Marine Fisheries nor the NC Marine Fisheries Commission have plans to address floating structures in their current leasing program and DMF agrees this development should require CAMA permitting by DCM. These amendments provide clarification that these platforms

will be included in the square footage calculations for shading impacts, add a definition for FLUPSYs, and clarify that FLUPSYs may be permitted as platforms at private docking facilities or permitted marinas. Comments were received from the NC Shellfish Growers Association, NC Farm Bureau, and from local shellfish growers opposing these amendments. One comment received stated that aquaculture is agriculture and should be exempt from being considered development. However, CRC Counsel Mary Lucasse provided a legal opinion that FLUPSYs are development as defined in CAMA and aquaculture is not included within the CAMA exceptions. Another comment stated FLUPSYs are small in size and have little environmental impact or conflicts with navigation. Since there are no regulations for the US Army Corps of Engineers that would restrict size and location for these floating structures, a CAMA permit is appropriate so size and location can be regulated. The last comment received stated that a streamline permit should be available for FLUPSYs. DCM prefers that initial applications be reviewed through the Major Permit review process to identify any federal or State concerns.

Commissioner Tunnell questioned why aquaculture is not exempt from CAMA permitting and commented the Commission should make every effort to support the industry. Mary Lucasse stated that she prepared an opinion for the Commission's consideration and provided the opinion to negative commentors as well. Neal Andrew stated he is a proponent of mariculture and aquaculture; however, some standards need to be in place to regulate structures. Larry Baldwin stated there is difference between farming or having an agriculture operation on private property and putting structures over the public trust.

**Larry Baldwin made a motion to adopt amendments to 15A NCAC 7M .0600 and 7H .0208. Sheila Holman seconded the motion. The motion passed with ten votes in favor (Wills, Smith, Medlin, Baldwin, Andrew, Cahoon, Norris, High, Bryan, Holman) and one opposed (Tunnell).**

#### **PUBLIC INPUT AND COMMENT**

Donna Creef, Outer Banks Association of Realtors, spoke in favor of the CRC's approach to comment to the Real Estate Commission regarding additional disclosures and would ask the letter include the requirement for flood insurance as a disclosure. Texas has specific language for property located in special flood hazard areas are required to have flood insurance.

Keith Larick, NC Farm Bureau, spoke against the CRC's action regarding FLUPSYs.

Carlos Gomez, coastal engineer, spoke in favor of living shorelines, handicap access, and owner disclosure requirements. Mr. Gomez stated that there are serious dune stabilization issues in the Rodanthe area.

Steve Smith, Topsail Beach Mayor, spoke in favor of the CRC's action to send a letter of support for beach nourishment projects. There is support in the General Assembly for a Bill that would allow the use of sand for projects older than 15 years.

**NC COASTAL RESOURCES COMMISSION (CRC)****June 15, 2023****Riverfront Convention Center, New Bern****Present CRC Members**

Larry Baldwin  
 D.R. Bryan  
 Bob Emory  
 Robert High  
 Doug Medlin  
 Phil Norris  
 Lauren Salter  
 W. Earl Smith

**Present from the Office of the Attorney General**

Mary Lucasse

**Present from the Department of Environmental Quality, Office of the General Counsel**

Christine Goebel

**CALL TO ORDER/ROLL CALL**

In the absence of CRC Chair Renee Cahoon, commissioner Bob Emory served as acting chair and called the meeting to order at 10:00 a.m. on June 15, 2023, reminding the Commissioners of the need to state any conflicts due to Executive Order Number 34 and the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of a conflict of interest or potential conflict with respect to matters to come before the Commission. Commissioner Emory requested that if any member knows of a conflict of interest or a potential conflict of interest, they so state when the roll is called. Commissioners Renee Cahoon, Neal Andrew, Sheila Holman, Dick Tunnell, and Angie Wills were absent. No conflicts were reported. Based upon this roll call Commissioner Emory declared a quorum, recognized DEQ Deputy Secretary Bill Lane, and thanked him for attending.

**MINUTES**

**Phil Norris made a motion to approve the minutes of the April 26, 2023, Coastal Resources Commission meeting. Larry Baldwin seconded the motion. The motion passed unanimously (Baldwin, Bryan, Emory, High, Medlin, Norris, Salter, Smith).**

**EXECUTIVE SECRETARY'S REPORT**

DCM Director Braxton Davis gave the following report:

This is a relatively abbreviated summer commission meeting due to travel and scheduling conflicts, so we did not have a CRAC meeting yesterday. We will be working with the CRAC chair to reconvene during the August meeting.

On the regulatory side of DCM, overall, permitting numbers remain historically high, but not quite as high as last year. We are seeing about a 12% decline in fees in comparison with the prior fiscal year, which ends June 30. A couple of quick highlights, starting with the recently completed beach nourishment project in Dare County. The Town of Duck's nourishment project was completed on May 8, and included a small volume of sand at the northern end of Southern Shores to account for a prior shortage of sand placement in their template. The total volume placed on the beach for the Towns of Duck, Southern Shores, Kitty Hawk and Kill Devil Hills totaled just over 2.8 million cubic yards over the past year. Farther south, Lockwood Folly Inlet is currently being dredged under one of the shallow draft inlet dredging permits issued back in 2016. Severe shoaling in the inlet had restricted safe navigation and the USCG had to pull the buoys. After moratorium relief coordination with state and federal agencies, dredging on the ocean bar channel began on May 20 and will be completed by the end of the month to restore safe navigation in the inlet. This dredging is being undertaken using the recent special purpose dredge, the Miss Katie.

On the Policy & Planning front, the pre-applications for Public Beach and Coastal Waterfront Access grants were due on April 28, and the Division has approximately \$3 million in funding available. We received applications from 11 communities totaling \$3.2M million in requests. Staff reviewed the applications and invited 10 communities to submit final applications, which are due August 28. As always, additional information is available on our website or through either of our district planners, Rachel Love-Adrick and Mike Christenbury. The Division has received project deliverables for the 2022-23 Planning and Management Grants that were prioritized for beach, shoreline, and water management projects; specifically, Beach Management Plans in accordance with 15A NCAC 07J.1200, and local ordinances covering estuarine and navigable waters. Wrightsville Beach, Oak Island and Surf City completed draft Beach Management Plans, while Dare County completed the Rodanthe Beach Nourishment Feasibility Report. Carteret County completed an Additional Sand Search study for the Bogue Banks Beach Master Plan, and Nags Head completed a Beach Nourishment S1 Borrow Area Analysis. The draft Oak Island Beach Management Plan is on your agenda today and the other plans will be on a future agenda.

One update from our federal consistency program: you may be aware that the State Ports Authority recently conducted a feasibility study on the potential for significant navigation improvements for Wilmington Harbor. The study was intended to identify and evaluate alternatives to increase transportation efficiencies for the current and future fleet of container vessels operating at the Port. The Port Authority's preferred option is to deepen the Federal Navigation Channel to -47ft, from a minimum clearance of -42ft, and widen the channel to provide for passage of Panamax class ships following the expansion of the Panama Canal. The Army Corps of Engineers' Civil Works program has reviewed the study and determined that the Port Authority's plan is technically feasible, however, that the study lacked certain information and requires an Environmental Impact Statement. Congress conditionally authorized the proposal for construction, contingent upon an economic analysis and the EIS. The Corps initiated the EIS process and held an initial public scoping meeting this past Tuesday. The draft EIS is expected in 2025 and a Final EIS and Record of Decision in 2026. DCM staff will stay involved throughout the process and we will keep you posted as this progresses.

The Science Panel's Scope of Work, which you all approved at your last meeting for the 5-year re-evaluation of IHA methods, boundaries, and beachfront erosion rates, has been delivered to the Panel and will be discussed at their next meeting. Ken Richardson is already working on initial data and alternatives analysis, and we are hoping to bring the panel together for a first meeting in the late summer or early fall. As always, Science Panel meetings will be open to the public and advertised in advance. We are also working with Panel Chair Laura Moore to present their sea level rise update at your August or November meeting, and hope to complement her presentation with talks from other researchers on impacts to our coast.

### **Coastal Reserve**

The Coastal Reserve is seeking applications from citizens and community organizations for its local advisory committees. Citizens and community organizations with knowledge and experience of relevant topical areas and an interest in serving as a local advisory committee member are encouraged to apply. Applications are due June 30, and more information is available on the Reserve's website. Appointments to the committees are made by the DEQ Secretary and newly appointed members will begin their terms in 2024. On June 2, the Coastal Reserve hosted DEQ Secretary Biser, Currituck County Manager Ike McRee, NOAA liaison Stephanie Robinson, and other local, non-profit, and academic partners to celebrate the grand re-opening of the recently refurbished Currituck Banks Reserve boardwalk. The boardwalk was rededicated in memory of Erin Crowell, daughter of Bill (APNEP director) and Denise Crowell. After remarks by state, local, and federal representatives and a ribbon cutting, participants enjoyed an interpretive walk on the refurbished ADA-compliant boardwalk and explored the maritime forest trail. The boardwalk refurbishment was funded by a CAMA Public Access Grant, which also served as match for federal funds that will provide interpretive signage along the boardwalk and other national site infrastructure improvements. The event provided an excellent opportunity to highlight the work of DCM staff and DEQ Facilities staff in enhancing public access at the site, as well as sharing information about the reserve itself. This event marked the kickoff of a NC Coastal Reserve Road Trip, in which events and site visits will be held over the next several years to increase awareness about the reserve sites and programs. Finally, earlier this week in Beaufort, local teachers participated in the Coastal Reserve's Teachers On The Estuary (TOTE) Program. The workshop included a field trip to the Rachel Carson Reserve to give teachers the opportunity to explore North Carolina's coastal habitats, presentations from researchers to learn more about the science happening at the reserve, and activities for teachers to use in their classrooms. TOTE is a teacher education program implemented at all 30 reserves in the National Estuarine Research Reserve System.

In staffing news, we have filled a vacant field representative position with the hiring of Jessica Thomas in the Washington Regional Office. Jessica has an Associates degree from Northwest Florida State College and a Bachelors degree in Biology from the University of West Florida. She has regulatory work experience from her previous employment with the Florida Department of Environmental Protection as an Environmental Specialist and was most recently employed by the North Carolina Department of Agriculture and Consumer Services. We have also filled an administrative assistant position in the Elizabeth City office that was vacated when Ella Godrey retired earlier this year. This position was filled by Lisa Doepker who just started. She has 18 years of experience working for the State with both the Museum of the Albemarle as well as with NC Department of Natural and Cultural Resources at the Dismal Swamp State Park. One other

significant change within DCM has occurred since your last meeting. Tina Martin, a field rep in our Morehead City District, will be moving from the regulatory side of the Division to the Resilient Coastal Communities Program as DCM's new Conservation Coordinator. In this role Tina will be working with partners to update our land conservation and restoration priorities, and to seek funding through federal and state grant opportunities such as the Bipartisan Infrastructure Law and the Inflation Reduction Act. Tina starts her new duties on June 26th and will continue to work out of our Morehead City Office. We are excited for Tina to start in her new role, which is similar to a position she previously held in Florida.

### VARIANCES

#### **Wetmore (CRC-VR-23-02), Bald Head Island, oceanfront setback**

**Tara MacPherson, Christine Goebel, Esq., Louis Wetmore (Pro-se)**

Tara MacPherson gave an overview of the site. Christine Goebel represented staff and stated Petitioner, Louis Wetmore, is present and will represent himself. Petitioner owns property at 230 South Bald Head Wynd in the Village of Bald Island. The petitioner proposed adding a new double tiered deck next to his existing oceanfront deck. The proposed site of the development is waterward of the pre-project vegetation line. The Village does not have a Commission approved Static Line Exception or Beach Management Plan; therefore, the pre-project vegetation line is the applicable line from which to measure oceanfront erosion setbacks. Petitioner's Minor Permit application was denied by the Local Permit Officer as the proposed development does not comply with the applicable setback and the 7H .0309 exceptions do not apply waterward of the pre-project vegetation line. Ms. Goebel reviewed the stipulated facts of this variance request and stated Staff disagrees with Petitioner on three of the four statutory criteria which must be met in order to grant the variance. Mr. Wetmore reviewed the stipulated facts which he contends supports the granting of the variance.

**Larry Baldwin made a motion that the Commission hold that Petitioner has shown that strict application of the applicable development rules, standards, or orders issued by the Commission cause the Petitioner an unnecessary hardship. Phil Norris seconded the motion. The motion passed unanimously (Baldwin, Bryan, Emory, High, Medlin, Norris, Salter, Smith).**

**Phil Norris made a motion that the Commission hold that Petitioner has shown that hardships result from conditions peculiar to the property. Robert High seconded the motion. The motion passed unanimously (Baldwin, Bryan, Emory, High, Medlin, Norris, Salter, Smith).**

**Larry Baldwin made a motion that the Commission hold that Petitioner has shown that hardships do not result from his actions. Doug Medlin seconded the motion. The motion passed unanimously (Baldwin, Bryan, Emory, High, Medlin, Norris, Salter, Smith).**

**Doug Medlin made a motion that the Commission hold that Petitioner has shown that the variance request will be consistent with the spirit, purpose, and intent of the Commission's rules, standards, or orders; will secure the public safety and welfare; and preserve substantial justice. Additionally, the variance should include a condition to limit Petitioner's decking to a total of 500 square feet. Larry Baldwin seconded the motion.**

**Lauren Salter added a friendly amendment to the motion that any new development be located a minimum of 90 feet landward from the vegetation line. Commissioners Medlin and Baldwin agreed to the amendment. The motion passed unanimously (Baldwin, Bryan, Emory, High, Medlin, Norris, Salter, Smith).**

This variance request was granted.

### **BEACH MANAGEMENT**

#### **Consideration of Town of Oak Island Beach Management Plan (CRC 23-16)**

##### **Sam Morrison, Moffatt & Nichol/Ken Richardson, DCM**

David Kelly, Oak Island Town Manager, thanked the Commission for allowing the Town to present the Town of Oak Island's Beach Management Plan. Sam Morrison of Moffatt & Nichol stated this presentation will display the Town's commitment to a long-term beach management program and to display the Town's planned sand sources. The Town of Oak Island desires to develop a comprehensive long-term beach maintenance program that will set the Town up for success. The Town has engaged and funded Moffatt & Nichol for the last three years to develop a beach nourishment 50-year master plan. This master plan is the basis for the 30-year plan that is being presented today. The master plan will provide increased protection for life, safety, and infrastructure during storm events. It will also increase overall Town resilience against background erosion and storm events which allows for quicker recovery for the Town by minimizing damage. In addition, it will increase the overall health of the beach to attract tourism to the community and restore some of the protections the Development Line provided oceanfront property owners prior to August 1, 2022. Since 2014, the Town has been collecting annual monitoring data and modeled the results to provide a level necessary for a level of protection that would protect during a 10-year storm event. In 2020-21 and 2021-22 there were two projects within the town to build up the dune system. Based on background and storm erosion, we will conduct an advance fill project in 2024-25. The Town has already secured funds for this project. The maintenance events, that will occur on a six-year interval, will need future funding which has been identified as annual revenues from the accommodations fund and the sand tax. If either of these two sources fall short, then the Town is committed to transferring the difference from the general fund. DCM provided a letter which showed concerns over borrow sources. The Town has conducted extensive investigations over the past five years. The Town is committed to continue to research compatible, permissible, and economical borrow sources for the management of the Oak Island beaches. The Management Plan is intended to be a living document and will be updated every five years to include new information or changes to existing information that is pertinent to the long-term maintenance plan. The Division's main concern was Frying Pan Shoals, but that is not the only borrow area that was submitted with the Plan. There were five additional sites identified as potential borrow area sources. In addition to the sites submitted with the plan, other potential sources are being explored that may be included in future updates to the Beach Management Plan. Recently, the Town has also signed a letter of intent to enter into an agreement for a three-year feasibility study to investigate the prospect of the Town becoming a federal project. The BOEM investigation area cleared tracklines for sand investigation in the Outer Continental Shelf of Long Bay. There were promising initial results at some locations and the Town is currently further investigating targeted areas. Should the CRC adopt the Beach Management Plan today it would create a timeline where the 2024-25 planned berm project would place the advance fill in front of the 10-year LOP dune projects that were



completed in 2020-2022. The Management Plan would be up for renewal in 2028 with any changes to borrow sources, updated financial information, and sand needs. In 2030-31, the first planned maintenance event to maintain the 10-year LOP. In 2033, the Plan would be up for renewal the second time which allows for further updates. DCM clearly states in its memo to the Commission that it believes the Town's Beach Management Plan adequately demonstrates a long-term commitment to beach nourishment. The Plan covers the needs of the first two projects and likely the third without the use of Frying Pan Shoals. The Town wishes to continue to work with the agencies to permit the use of Frying Pan Shoals as a viable beach nourishment sand source even if it is supplemental to other sand sources and not the primary source for the Beach Management Plan. The Town has shown its understanding that the Beach Management Plan is a living document and continues to look for other viable sand sources. Regardless of the outcome of the BOEM investigation, it will not affect the Town's ability to complete the first two to three projects during which time the opportunity to update the Beach Management Plan with new sand sources will be available. The Town acknowledges the State's concerns regarding our potential sand sources. There is sand available for the Town's next planned projects and the Town is committed to continuing to work with the State and Federal agencies for future project needs.

Elizabeth White, Mayor of Oak Island, added that the Town has demonstrated it has the resources to complete the next projects. We have the Town Council's and residents' support for the Beach Plan. If the CRC denies or delays its decision, then we may lose the local level of commitment to this Plan.

Ken Richardson stated the Division has reviewed the Plan and it contains all of the required elements, but there is concern about the Town's proposal to use Frying Pan Shoals. While discussions continue on potential borrow sites, the Commission may want to delay a decision on approval of the Plan. Heather Coats stated in past requests to use Frying Pan Shoals as a potential borrow site, the National Marine Fisheries Service and the NC Division of Marine Fisheries both expressed concerns about the use of this site. The Cape Shoals are designated as essential fish habitat and a habitat area of concern. These are highly valuable ecosystem habitats for shrimp and coastal migratory fish and there is not enough data to adequately assess the potential impacts of dredging. BOEM is working on a study of an additional offshore borrow site and data collection is scheduled to begin this summer and conclude in 2025.

Commissioners Baldwin and Norris spoke in favor of approving the Town's Plan as they have identified sand sources, demonstrated dedicated funding, and have the community support necessary for a successful Beach Plan. Braxton Davis echoed the Division's support for the Plan and noted that the information provided today was helpful. If the Commission is comfortable with the proposed borrow sites and the Plan is approved then it will be reviewed again in five years. Mike Lopazanski added that with the approval of this Plan, setbacks will be determined, and permits will be written based on the vegetation line. If there are shortfalls with sand sources, there will be development within areas that may not have protection. Doug Medlin stated as a former Mayor, the Town has provided a Plan as outlined by the CRC and the Commission should support the efforts of the Town to help encourage their citizens' continued support for funding this Plan.

**Phil Norris made a motion to approve the Town of Oak Island's Beach Management Plan. Larry Baldwin seconded the motion. The motion passed unanimously (Smith, Bryan, Norris, Baldwin, Emory, Salter, Medlin, High).**

### **PUBLIC INPUT AND COMMENT**

Logan Lewis, Beaufort Citizens Alliance, spoke in favor of the proposed AEC designation for Gibbs Creek.

Jud Kenworthy, Beaufort Citizens Alliance, spoke in favor of the proposed AEC designation for Gibbs Creek.

Mariko Polk, Coastal Processes Specialist for NC Sea Grant, introduced herself and expressed an interest in collaborating with DCM staff. She is at UNCW Center for Marine Science. In her position, she serves as a resource for coastal processes and hazards including hurricanes, sea level rise, and climate change.

Beth Clifford, coastal property owner and real estate developer, spoke against the proposed AEC designation for Gibbs Creek.

### **AEC NOMINATION**

#### **15A NCAC 7H .0500 – Gibbs Creek AEC Nomination – Preliminary Evaluation (CRC 23-17) Rachel Love-Adrick**

Rachel Love Adrick stated she will present the preliminary report for the Gibbs Creek Watershed Area of Environmental Concern (AEC) nomination. Before doing so, she reviewed the AEC nomination process which has five steps: the preliminary evaluation which is being presented today; CRC endorsement of the evaluation; a detailed review; a public hearing; and formal designation. After receiving a nomination, the Division of Coastal Management notified the landowners, local governments, and the Coastal Resources Commission and Advisory Council members in whose jurisdiction the site is located of a meeting to discuss the proposed nomination which took place on May 8, 2023 (within 60 days after receipt of the nomination). The Division then conducted a preliminary site evaluation to consider various protection methods and to determine if AEC designation is appropriate. Following presentation of the preliminary report to the CRC, if the AEC nomination receives the CRC's endorsement today, staff will then conduct a detailed review of the proposed site. This report will include the development of a management plan or site specific use standards for consideration. If formal designation of the site as an AEC is approved by the CRC and the management plan or use standards are approved, a public hearing will be conducted, and notice of the hearing will be published and distributed in accordance with the requirements of NCGS 113A-115 and 150B-21.2. The rules will then go through the rulemaking process.

On March 13, 2023, the Beaufort Citizens Alliance nominated a site within the Town of Beaufort to be considered for designation as a Coastal Complex Natural Area of Environmental Concern within the broader category of Fragile Natural and Cultural Resource Areas of Environmental Concern in accordance with procedures set forth in 15A NCAC 07H .0500. The site is located in Carteret County and within the Town of Beaufort's extraterritorial jurisdiction. The site is two miles northwest of the Town of Beaufort along Gibbs Creek and is part of the Outlet North River

HUC 12 Subwatershed. The nominated area is made up of four privately owned parcels. The properties were historically used as farmland and have been cleared for farming and logging. The properties have been and continue to be used by several commercial businesses and residences. The parcels are zoned R-20 Residential Single-Family District under the Town of Beaufort Zoning Map and Land Development Ordinance. The Town of Beaufort's Core Land Use Plan, certified by the CRC on January 27, 2007, classifies the site as Low Density Residential. The AEC nomination has not been on the Town's Planning Board or Board of Commissioner's agendas and is neither supported nor opposed by either Board. There is a mix of residential and commercial development surrounding the properties. The nomination states that there are several natural resources on the site. Wetlands onsite include 404 and coastal wetlands. The public trust waters within Gibbs Creek are classified as SA, market shellfishing tidal salt waters, and HQW, High Quality Waters, by the Division of Water Resources. Gibbs Creek is not designated as a primary or secondary fish nursery by the Division of Marine Fisheries. At the time of nomination, the Creek was classified as conditionally approved open for the harvesting of shellfish by the Division of Marine Fisheries. The creek and the lower part of the river have been temporarily closed on average 11 times per year for an average of 69 days per year. The natural resources in the nominated area are currently managed under various state and federal regulatory programs.

The waters and intertidal salt marshes of Gibbs Creek and its navigable tributaries are designated as Estuarine, Public Trust Waters, and Coastal Wetland AEC by the CRC. Any development occurring in or over these waters or wetlands must be permitted and comply with CAMA and CRC rules. These rules generally restrict development to water dependent uses to conserve the important features and functions of the estuarine waters and coastal wetlands. The shoreline areas along Gibbs Creek and its tributaries are designated as Estuarine Shoreline AECs and any development within 75-feet of the normal high water level or normal water level must be permitted and comply with CAMA use standards for the Coastal Shorelines AEC. These rules include a buffer requirement that all new, non-water dependent development shall be located at least a distance of 30-feet landward of the normal high water level or normal water level. Limitation of impervious surfaces within the 75-foot zone and additional restrictions on development within 30-feet of the shoreline are intended to limit the impact of land-based activities on the quality and productivity of estuarine waters. Waters in the area classified as High Quality Waters are provided additional protection through state water quality antidegradation rules. The freshwater wetlands are subject to permitting requirements of Section 404 of the federal Clean Water Act and a state 401 water quality certification from the Division of Water Resources must be obtained before any filling or other alterations to freshwater wetlands can occur. Both programs allow for limited filling of wetlands based on purpose and need typically in conjunction with mitigation requirements as determined by the Corps of Engineers.

In North Carolina, all state status species whether endangered, threatened, or special concern are given protection under the State Endangered Species Act. Species with federal status are protected under the Federal Endangered Species Act of 1973. The Petitioners have proposed expanded development buffers as part of their AEC nomination. They requested a 575-foot buffer from normal high water as provided for designated Outstanding Resource Waters pursuant to 07H .0209(a)(1). However, the waters of Gibbs Creek are not designated as ORW

by the Environmental Management Commission. Petitioners also request application of a 100-foot of undisturbed vegetative setbacks from intermittent and or perennial streams under a Division of Water Resources rule adopted by the Environmental Management Commission (15A NCAC 02H 1019(6)(b)). Petitioners have also requested 100-foot of undisturbed vegetative setbacks from 404 wetlands pursuant to NCGS 113A-113(b)(1). These 404 wetlands are managed by the US Army Corps of Engineers on the federal level and the Division of Water Resources at the state level. Both programs allow for limited filling of wetlands based on purpose and need, typically in conjunction with mitigation requirements.

Staff does not recommend CRC endorsement of this AEC nomination. The nomination does not include the entire watershed area that drains into Gibbs Creek. The boundary of the AEC focuses solely on four parcels initially proposed for development of a single family residential subdivision. While the Town stated it neither supported nor opposed the AEC nomination, these properties have been classified as Low Density Residential on their Land Use Plan's Future Land Use Map since January 26, 2007. The properties have not remained essentially unchanged by human activity as required in the nomination process. The properties were historically used as farmland and have been cleared for farming and logging over the years. Additionally, the properties have been and continue to be used by several commercial businesses and residences that may have resulted in impacts to the area. While the proposed AEC contains many of the natural resources that make tidal creek systems some of our State's most vulnerable wildlife habitat, the characteristics at this site are common to tidal creek systems found throughout Carteret County and coastal North Carolina. In this context, the designation of a single tidal creek system or watershed as an AEC with unique development standards would be precedent setting for all similar tidal creek systems along the coast.

During the public meeting, the Petitioner indicated that while Gibbs Creek has not been designated as Outstanding Resource Waters by the EMC through the Division of Water Resources, the Creek deserves such recognition and subsequent CRC protections because Petitioner believes the Creek meets the statutory and regulatory definitions and criteria. The CRC and DCM do not have the authority or expertise to consider requests to reclassify waters that are officially designated under the federal Clean Water Act. For Gibbs Creek to be reclassified, the Petitioner would need to submit a separate petition to the EMC. The procedures for assignment of water quality standards can be found in 15A NCAC 02B .0100.

**Larry Baldwin made a motion to deny the AEC nomination for Gibbs Creek. DR Bryan seconded the motion. The motion passed unanimously (Smith, Bryan, Norris, Baldwin, Emory, Salter, Medlin, High).**

### **ACTION ITEMS**

#### **Consideration of Approval of Exception for Lots Platted Post-1979, 7H .0309 fiscal analysis (CRC 23-18) Ken Richardson**

Ken Richardson stated that amendments to Ocean Hazard Area Exception rules in 07H.0309 address the issue of not having an alternative to build a smaller structure of equal to or less than 2,000 square feet within the current required setback when a lot was platted after June 1, 1979. This became an issue following the repeal of 07H.0104 last August, which served as an option for lots created after June 1, 1979. The key differences between the two rules were that .0309 applied

to lots created before June 1, 1979, only requires a 60 feet setback regardless of the erosion rate setback, and no greater than 2,000 square feet with a footprint no greater than 1,000 square feet. While .0104 applied to lots created after June 1, 1979, it also limited size to 2,000 square feet, but allowed the option to use the setback in place at the time the lot was created. Amendments to 15A NCAC 07H .0309 remove the June 1, 1979, condition, and allows this exception to be applied to all lots regardless of when it was created, or what the erosion rate setback is and removes the 1,000 square foot footprint condition. Essentially, these amendments morph 07H.0104 and 07H.0309 into one exception.

Based on a recent evaluation of current setbacks measured from 2022 & 2021 vegetation lines, 74 vacant lots were identified that would likely not meet the current setback requirement but could potentially meet the minimum setback of 60 feet from the vegetation line. These lots are dispersed within four of the eight oceanfront counties: Brunswick (30), Currituck (11), Dare (10), and Onslow (23). No distinctions were made between ownership, or plat dates primarily since attaining plat dates by means of online county tax office data was not possible. Although property owner intentions cannot be predicted or quantified, it can be anticipated that there would be a cost-benefit associated with the ability to construct a smaller home up to 2,000 square feet should owners choose to do so. With the ability to construct, private property owners who choose to build could expect higher resell potential, or revenues generated from vacation rentals and local governments would benefit from the added property taxes collected. Using an example of a market search from last month, the average cost of an oceanfront home that is 2,000 square feet or less, listed for approximately \$1.1 million; while the range varied significantly from \$620,000 to \$2 million. The average asking price of a vacant oceanfront lot at the same time was \$577, 000; while the range varied greatly here too \$30,000 to \$1.9 million. Based purely on this scenario, a lot with a structure up to 2,000 square feet was approximately \$570,000 more compared to vacant lots. With the average tax rate applied of 0.6024, the addition of a structure on all 74 lots would result in an estimated total annual tax revenue between \$400-500,000.

These rule amendments would not change how public infrastructure projects are permitted, so there would be no fiscal impacts associated with these projects. Local government and private property owner impacts cannot be accurately quantified, but it is anticipated to likely have the potential to result in a fiscal impact associated with property development. Should all 74 lots be developed, a CAMA Minor Permit costing \$100 would result in \$7,400 dispersed depending on whether it is LPO or DCM Staff issued. Rule amendments will not result in a quantifiable substantial cost-benefit. Staff is asking the Commission to consider approval of the fiscal analysis associated with amendments to 15A NCAC 07H.0309 on the condition that it is approved by the Office of State Budget & Management (OSBM) without any substantial changes.

**Larry Baldwin made a motion to conditionally approve the fiscal analysis for 15A NCAC 07H .0309 based on OSBM approval. Doug Medlin seconded the motion. The motion passed unanimously (Smith, Bryan, Norris, Baldwin, Emory, Salter, Medlin, High).**

**Consideration of Approval of Proposed Permit Fee Increase Fiscal Analysis (CRC 23-19)  
Mike Lopazanski**

Mike Lopazanski stated the graduated fee schedule was introduced in 1989. There were permit fee increases in 2000 and 2006, but no fees have been increased since that time. Based on the

decline in state appropriations for the regulatory program and federal appropriations not keeping pace with inflation, there is a need to increase fees. Staff time has been increased for permit actions as coastal development and re-development has increased in complexity. There have been additional appeals filed which also require additional staff time. With the Commission's latest actions to increase the General Permit timeframes there will be a loss to the Division of about \$43,000 per year. Additionally, inflation has increased operational costs.

This fee increase will include 12 General Permits, permit renewals, modifications, transfers, and DCM-issued Minor Permits. Local governments were surveyed to check their interest in increasing Minor Permit fees. But there was mixed interest. Therefore, only the permits issued by the Division will be increased. Based on permit numbers from 2022, this fee increase will provide for a revenue to the Division of \$384,000 per year with a majority of this coming from General Permits. If the Commission approves this fiscal analysis, it will be reviewed by the Joint Legislative Commission on Governmental Operations and the NC Board of Transportation for comments and recommendations. Staff requests a conditional approval of the fiscal analysis for public hearing pending approval from the State Office of Budget and Management.

**Phil Norris made a motion to conditionally approve the fiscal analysis for permit fee increase amendments pending no significant changes by OSBM. Doug Medlin seconded the motion. The motion passed unanimously (Smith, Bryan, Norris, Baldwin, Emory, Salter, Medlin, High).**

### LEGAL UPDATES

#### **Update on Litigation of Interest to the Commission (CRC 23-20)**

Mary Lucasse updated the CRC on active litigation and any actions since memo CRC 23-20. Ms. Lucasse stated that the Rules Review Commission has received 10 objection letters regarding the FLUPSY regulations the CRC recently approved. A DCM response will be provided for the RRC to provide to the General Assembly. Ms. Lucasse reminded Commissioners that six Commissioner's terms expire at the end of June. Current Commissioners should continue to serve until new appointments are made. If you do not wish to continue to serve, please communicate that so everyone can stay informed and thank you for your service.

Braxton Davis stated the objection letters received for 7H .0208 and 7M .0603 regulating floating structures hold up these amendments. A CAMA permit is still required for any floating structure. The amendments provide clarification on siting floating upwellers and allowing them within private docking facilities. Notices of violation will be sent if floating structures are found without a permit.

### OLD/NEW BUSINESS

Bob Emory stated the CHPP Steering Committee met to review the updated action plans and progress against the objectives in the Plan. Larry Baldwin stated this action plan includes addressing marine debris. This will help address abandoned boats and proper removal.

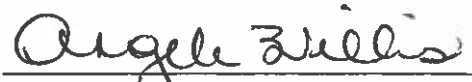
The next meeting of the Coastal Resources Commission is scheduled for August 23-24 in Wilmington.

With no further business, the CRC adjourned.

Respectfully submitted,



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary

STATE OF NORTH CAROLINA

AFFIDAVIT OF DONALD MCCOY

COUNTY OF Pitt

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

1. We, Donald McCoy and Sandra McCoy are the sole members of McCoy ENC, LLC ("LLC"), which is the owner of 41971 Ocean View Drive, Avon, in Dare County North Carolina (the "Property"). Donald McCoy is Manager of McCoy ENC, LLC.
2. Prior to purchase of the Property by the LLC, the LLC retained Seaboard Surveying to conduct a survey of the Property that would show, among other things, the ocean front setback for the Property that was applicable under CAMA Rules 15A NCAC 07H .0306(a).
3. In 2021, I arranged for the LLC to purchase the Property from Hamilton Real Estate Holdings, LLC.
4. Seaboard Surveying and I had the understanding that the First Line of Stable Natural Vegetation ("FLSNV") was the applicable setback for the Property at the time the LLC purchased the property and when it first applied for a CAMA Minor Development (permit # HI-20-2022).
5. Seaboard Surveying and I were unaware of the plans by any governmental authority to adopt a "Pre-Project Vegetation Line" or "PPVL" (which is also referred to and known as the "Static Vegetation Line", or "SVL") that would be applicable to the Property. We were not aware of a PPVL being adopted becoming effective in the general time frame on or before June 19, 2024.
6. I am not aware of opposition by the adjacent property owners or Dare County to the Petitioner's Variance Petition.

Further Affiant sayeth not.

*[Signature Page Follows]*



This the \_\_\_\_ day of October, 2024.

*DMC*  
Donald McCoy

State of North Carolina  
County of Pitt

Sworn to and subscribed before me on this  
30 day of October 2024.

*Sandra Simpkins*  
Notary Public

*Sandra Simpkins*  
(Typed/Printed Name of Notary Public)

My Commission Expires: 8-15-2028

(NOTARIAL SEAL/STAMP)





# Division of Coastal Management

## **NC COASTAL RESOURCES COMMISSION MEETING**

**11/14/24**

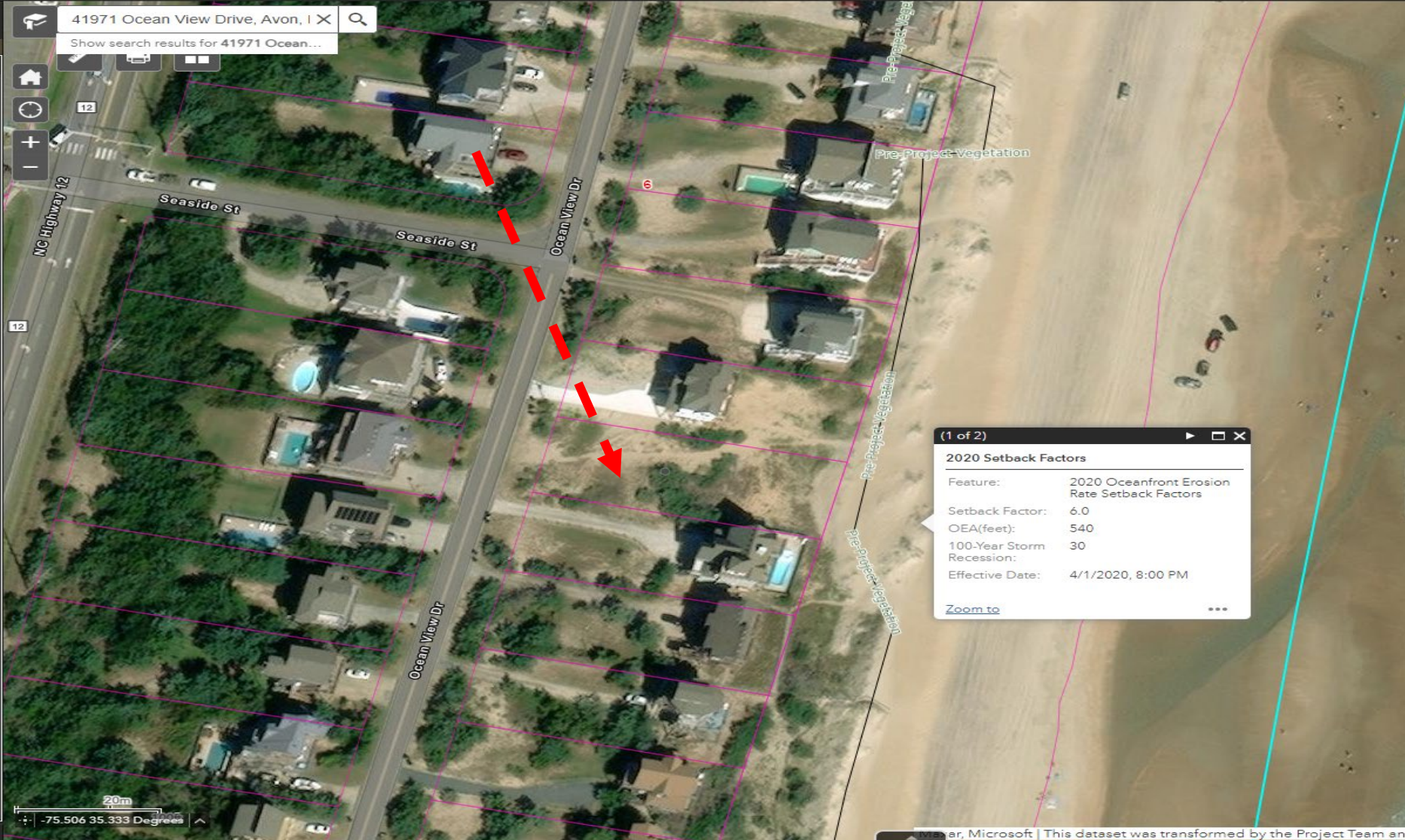
### **McCoy ENC LLC (DONALD MCCOY), DARE COUNTY, VARIANCE CRC-24-09 STRUCTURES IN OCEAN HAZARD SETBACK**

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

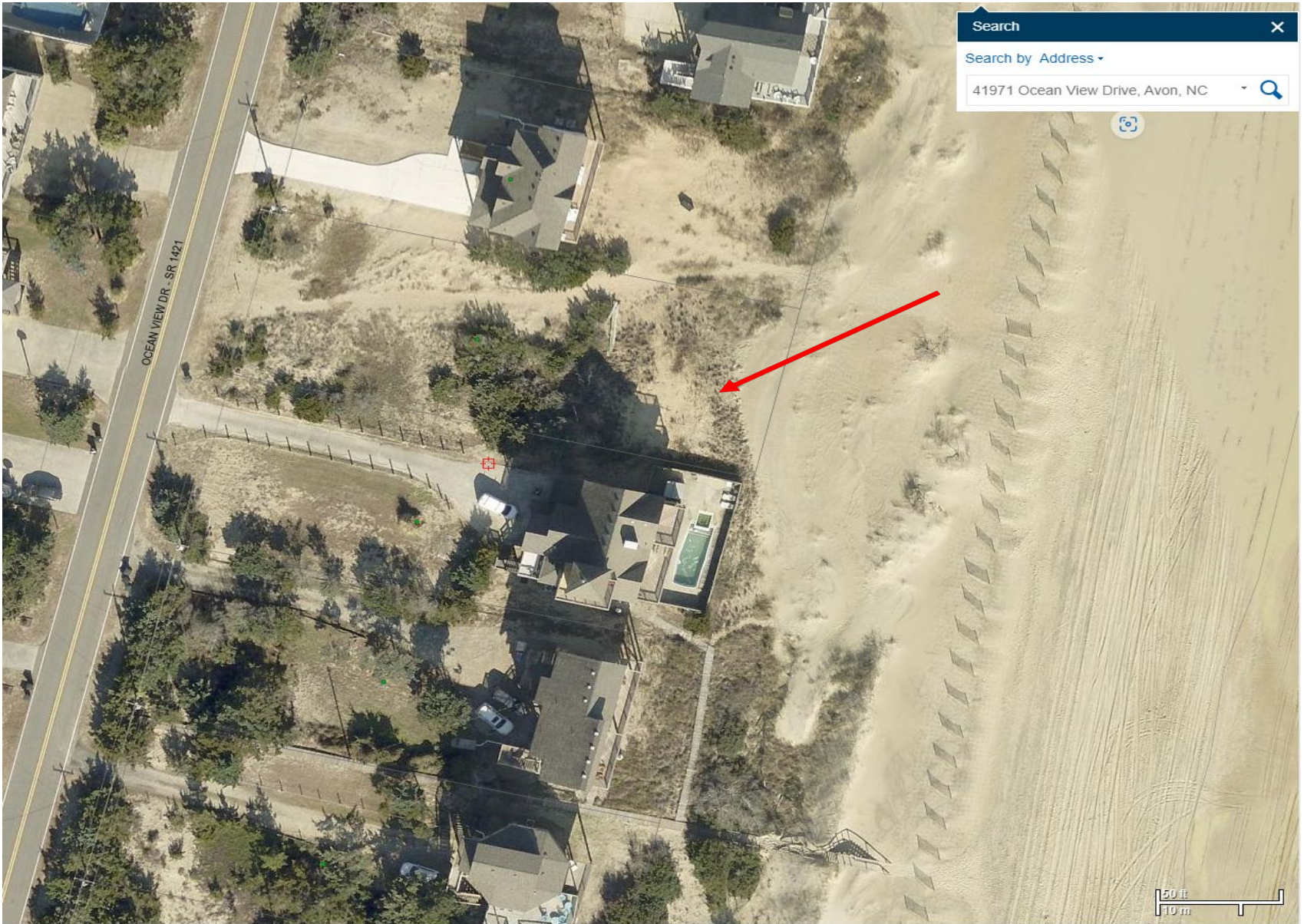
*Department of Environmental Quality*

# LOCATION MAP OF 41971<sup>163</sup> OCEAN VIEW DRIVE, AVON, DCM Interactive Map, 08/12/21 Pre-project Line

Department of Environmental Quality



# ConnectExplorer 104 2022-2023 Imagery



Search ✕  
Search by Address ▾  
41971 Ocean View Drive, Avon, NC 🔍

50 ft  
10 m

12/26/2022 - 01/28/2023



PHOTOS TAKEN BY YVONNE CARVER, FIELD REPRESENTATIVE, 10/04/24  
185  
Facing East



PHOTOS TAKEN BY YVONNE CARVER, FIELD REPRESENTATIVE, 10/04/24  
Facing North



**PHOTOS TAKEN BY YVONNE CARVER<sup>197</sup>, FIELD REPRESENTATIVE, 10/04/24  
Facing South**



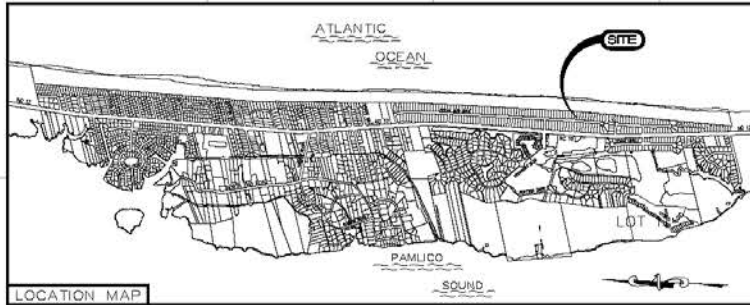
**PHOTOS TAKEN BY YVONNE CARVER, FIELD REPRESENTATIVE, 10/04/24  
Facing West**





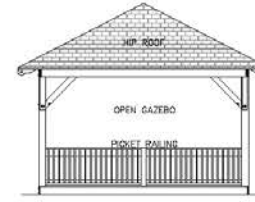
# SITE PLAN

169



### LEGEND:

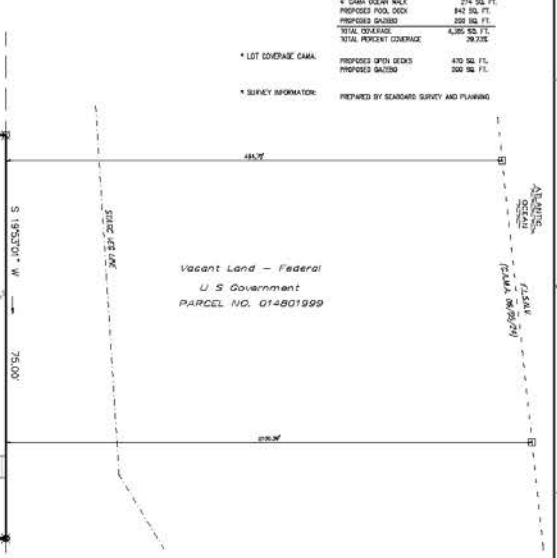
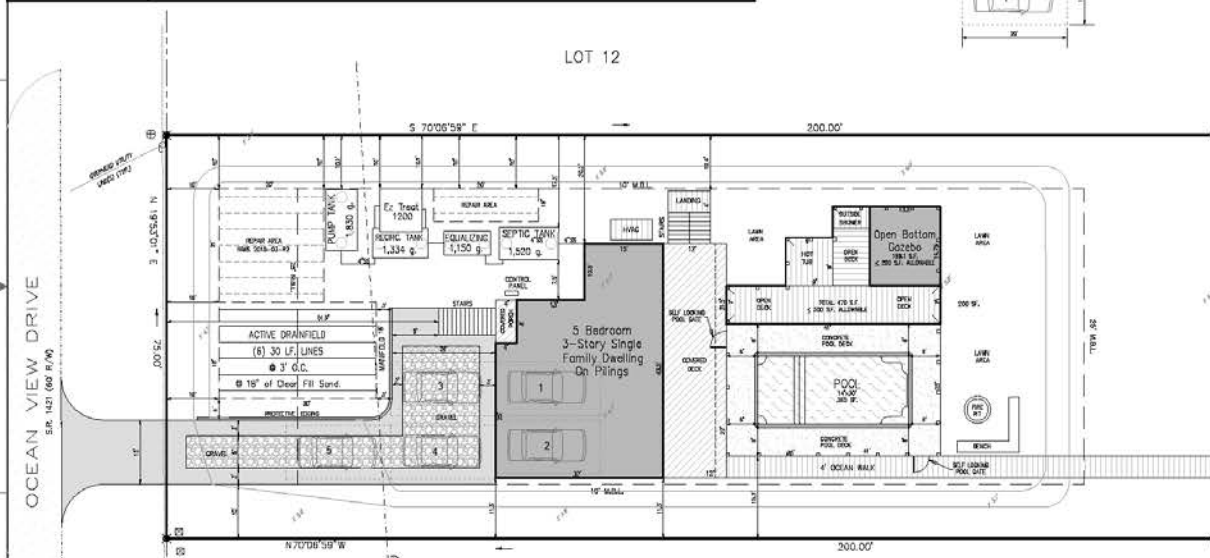
- PROPOSED VEHICLE CIRCULATION AREA
- PROPOSED CONCRETE AREA
- PROPOSED GRAVEL AREA
- PROPOSED DWELLING AREA
- PROPOSED OPEN DECKS
- PROPOSED COVERED DECKS
- PROPOSED VEHICLE PARKING AREA



ELEVATION  
SCALE: NOT TO SCALE  
PROPOSED GAZEBO

### GENERAL NOTES:

- \* SUBJECT PROPERTY: Lot 10, Kinnakeet Shores Phase 2 Subdivision, East Dare County North Carolina
- \* STREET ADDRESS: 41971 Ocean View Drive, Avon, North Carolina
- \* PARCEL ID NUMBER: 2386924
- \* GLOBAL PIN: 0340-2310423
- \* PROPOSED REFERENCE: 2015 BOKK 2041 PART 003 (10/10/2015)
- \* LOT AREA: 15,900 +/- sq. ft. (36ac)
- \* FLOOR ZONE: "C" (R.F.P.C. 6.17 MINIMUM)
- \* PROPOSED DEVELOPMENT: PROPOSED 5 BEDROOM SINGLE FAMILY DWELLING ON PILLS
- \* PARKING REQUIREMENTS: 5 BEDROOMS 3 SPACES REQUIRED 3 SPACES PROVIDED
- \* LOT COVERAGE: PROPOSED BUILDING AND DECKS 3,275 SQ. FT. PROPOSED VEHICULAR SURFACE 370 SQ. FT. PROPOSED POOL (POOL DECK - 500 SQ. FT.) 1,150 SQ. FT. CHINA OVEN DECK 470 SQ. FT. 4' OCEAN DECK WALK 174 SQ. FT. PROPOSED POOL DECK 842 SQ. FT. PROPOSED GRASS 250 SQ. FT. TOTAL COVERAGE 6,508 SQ. FT. 40.92%
- \* LOT COVERAGE CHINA: PROPOSED OPEN DECKS 470 SQ. FT. PROPOSED GAZEBO 300 SQ. FT.
- \* SURVEY INFORMATION: PREPARED BY SEARCHERS SURVEY AND PLANNING



BEFORE YOU DIG!



**ENGINEER SEAL**

Firm Certification No. C-1506

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APPROVALS: DATE: 02/22/24

CHECKED BY: HOUSE 02/22/24

ENGINEER BY: HOUSE 02/22/24

HOUSE

ENGINEERING, P.C.

Office: Box 480 - 8475 N. Drexton Hwy, Suite K1117, Hawk, North Carolina 27849  
OFFICE: (919) 380-8550 FAX: (919) 380-8550

Dare County Site Plan  
For:  
Mccoy Enc LLC  
Location:  
41971 Ocean View Drive  
Lot 10, Kinnakeet Shores Phase 2 Subdivision  
Avon Dare County North Carolina

PROJECT NUMBER: 236924  
SCALE: 1" = 10'-0"

REVISIONS		NO.	DATE	DESCRIPTION	BY	PROJECT	NUMBER	REV	SHEET NO.
						D	236924	-	C1 OF 1

# NORTH & WEST CROSS SECTIONS

170



**WEST FRONT ELEVATION 1-B**  
SCALE: 1/4"=1'-0"



**NORTH SIDE ELEVATION 1-A**  
SCALE: 1/4"=1'-0"

AREA SCHEDULE:	
TOTAL LIVING AREA:	1,898 S.F.
FULLY FINISHED FLOOR:	1,091 S.F.
SECOND FLOOR:	561 S.F.
GROUND FLOOR (P/O):	335 S.F.
DECKS:	1,002 S.F.
BEDROOMS:	1

## HOUSE ENGINEERING, P.C.

1743 DIXON AVE.  
SHELLY BLVD. NORTH CAROLINA 28570  
P.O. BOX 104202 WAREHOUSING FARM ROAD 281-3415  
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**ELEVATIONS**  
for  
**McCoy Enc, LLC**

Property Location:  
**41971 Ocean View Dr,  
Avon, Dare County, North Carolina**

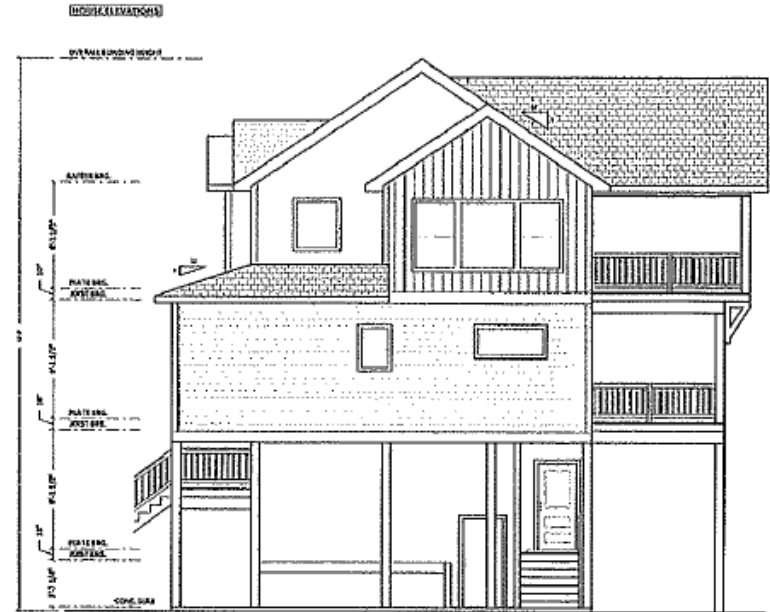
DESIGNED BY	APPROVED BY	DATE
TRUCKY	A. SCHULTZ	12/11/2024
DRAWN BY	REVIEWED BY	
TRUCKY	A. SCHULTZ	
PROJECT NO.	SCALE	
236924	1/4" = 1'-0"	
SHEET NO.	TOTAL SHEETS	
1	1	



# EAST & SOUTH CROSS SECTIONS



**EAST REAR ELEVATION 2-A**  
SCALE: 1/4"=1'-0"



**SOUTH SIDE ELEVATION 2-B**  
SCALE: 1/4"=1'-0"

AREA SCHEDULE:	
IDEAL LIVING AREA:	1,496 S.F.
FIRST FLOOR:	1,495 S.F.
SECOND FLOOR:	903 S.F.
GROUND FLOOR (FIN):	335 S.F.
DECKS:	1,069 S.F.
BEDROOMS:	5
FULL BATHROOMS:	5
HALF BATHROOMS:	1

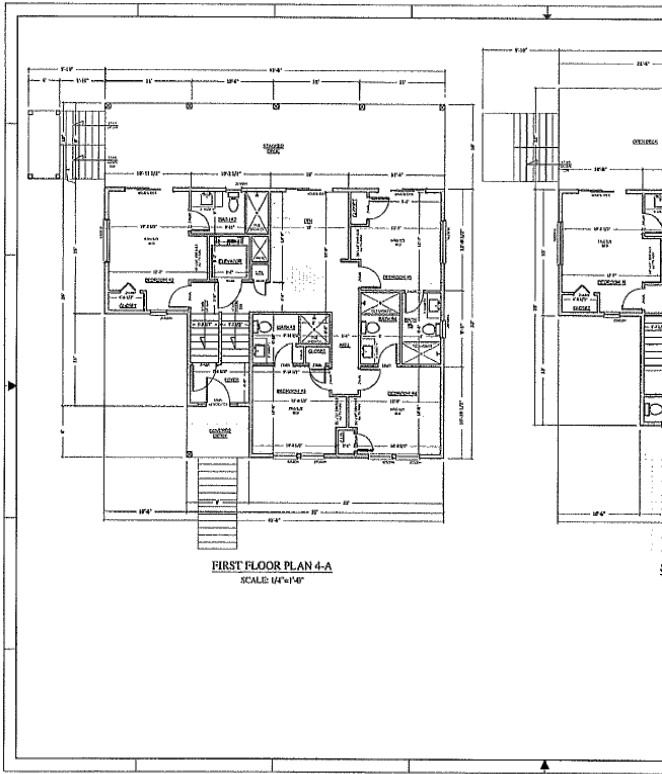
**HOUSE ENGINEERING, P.C.**  
 8141 BUCKINGHAM  
 RITTY HANCOCK, DORCHESTER, MASSACHUSETTS 02124  
 (617) 552-4422 FAX (617) 552-4423

**ELEVATIONS**  
 for  
**McCoy Enc, LLC**  
 Property Location:  
 41971 Ocean View Dr,  
 Avon, Dare County, North Carolina

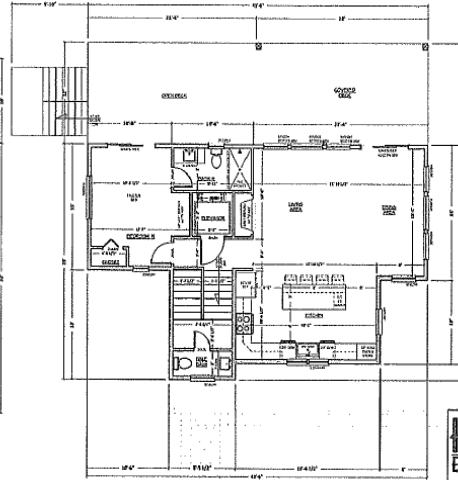
DESIGNER SEAL	DATE
<i>(Seal)</i>	12/11/2014
APPROVALS	DATE
OWNER	12/11/2014
ENGINEER	12/11/2014
ARCHITECT	12/11/2014
INSPECTOR	12/11/2014
PROJECT	APPROVALS IN VARIOUS PHASES
NO. 1	NO. 2
NO. 3	NO. 4

NO.	REVISION	BY	DATE
D	236924		

# FLOOR PLANS



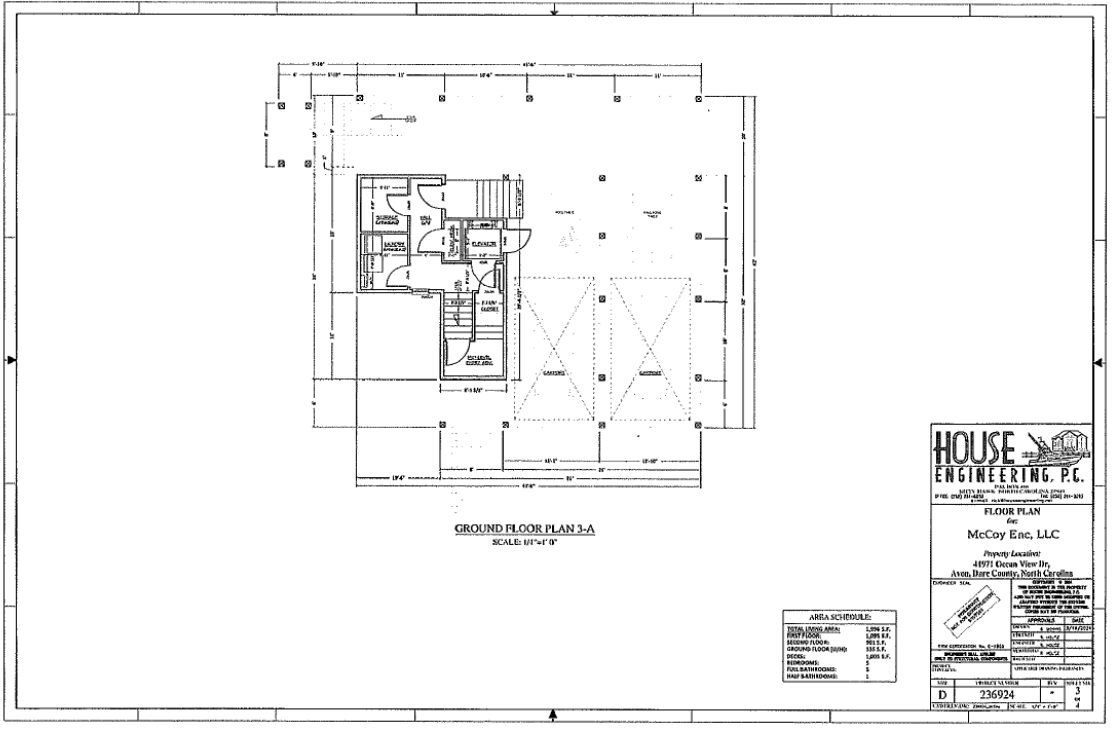
FIRST FLOOR PLAN 4-A  
SCALE: 1/4"=1'-0"



SECOND FLOOR PLAN 4-B  
SCALE: 1/4"=1'-0"

**HOUSE ENGINEERING, P.C.**  
 4875 BANK OF AMERICA DRIVE  
 AVON, NORTH CAROLINA 27001  
 (704) 899-1111

FLOOR PLAN  
 for  
**McCoy Enc, LLC**  
 Property Location:  
 4971 Ocean View Dr,  
 Avon, Dare County, North Carolina



GROUND FLOOR PLAN 3-A  
SCALE: 1/4"=1'-0"

AREA SCHEDULE:	
TOTAL FLOOR AREA:	1,206 S.F.
FIRST FLOOR:	1,076 S.F.
SECOND FLOOR:	85 S.F.
GROUND FLOOR (POND):	145 S.F.
DECK:	100 S.F.
POOL BATHROOMS:	1
POOL BATHROOMS:	1

**HOUSE ENGINEERING, P.C.**  
 4875 BANK OF AMERICA DRIVE  
 AVON, NORTH CAROLINA 27001  
 (704) 899-1111

FLOOR PLAN  
 for  
**McCoy Enc, LLC**  
 Property Location:  
 4971 Ocean View Dr,  
 Avon, Dare County, North Carolina

DATE	PROJECT NUMBER	REV.	DATE
D	236924	3	10/11/14
DRAWN BY: [Signature]		CHECKED BY: [Signature]	DATE: [Date]

## **§ 113A-120.1. Variances.**

- (a) Any person may petition the Commission for a variance granting permission to use the person's land in a manner otherwise prohibited by rules or standards prescribed by the Commission, or orders issued by the Commission, pursuant to this Article. To qualify for a variance, the petitioner must show all of the following:
- (1) Unnecessary hardships would result from strict application of the rules, standards, or orders.
  - (2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.
  - (3) The hardships did not result from actions taken by the petitioner.
  - (4) The requested variance is consistent with the spirit, purpose, and intent of the rules, standards, or orders; will secure public safety and welfare; and will preserve substantial justice.
- (b) The Commission may impose reasonable and appropriate conditions and safeguards upon any variance it grants.