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TO: The Coastal Resources Commission

FROM: M. Shawn Maier, DEQ Assistant General Counsel  
Christine A. Goebel, DEQ Assistant General Counsel

DATE: November 5, 2024 (for the November 13-14, 2024 CRC Meeting)

RE: **Variance Request by the Branstrom Residence Trust, (CRC-VR-24-10)**

Petitioner Branstrom Residence Trust owns property at 236 Beach Road North on Figure Eight Island in Wilmington, New Hanover County, which is developed with an existing 4-bedroom, 4.5-bathroom single family home. Figure Eight Island is relatively narrow at this location and is bordered on the western side by Banks Channel, part of the Middle Sound Outstanding Resource Water (“ORW”). The Property is oceanfront, with developed lots to the northeast and southwest. Across Beach Road North is an undeveloped, heavily vegetated lot owned by the Figure Eight Beach Homeowners Association referred to as the “commons area.” The commons area features a relative low point near the Property and a rapid rise in elevation such that stormwater runoff leaving the Property generally flows to the low point and is prevented from reaching Middle Sound. The Property lies partially within the Ocean Erodible Area of Environmental Concern (“OEA”). The Property also sits partially within the 575-ft ORW AEC, which limits the total built upon area (“BUA”) to 25% of the property within the AEC. The existing residence, constructed before the ORW limit became effective, slightly exceeds the 25% BUA limit. Petitioner has proposed to construct an addition to the residence that would increase the BUA by 622 sq ft, bringing the total BUA to 30.4%. Petitioner’s application for a CAMA Minor Permit was denied for exceeding the 25% BUA limit within the ORW AEC. Petitioner now seeks a variance to construct the addition as proposed in its permit application.

The following additional information is attached to this memorandum:

Attachment A: Relevant Rules  
Attachment B: Stipulated Facts  
Attachment C: Petitioner’s Positions and Staff’s Responses to Variance Criteria  
Attachment D: Petitioner’s Variance Request Materials  
Attachment E: Stipulated Exhibits including PowerPoint

cc(w/enc.): Stephen D. Coggins, Attorney for Branstrom Residence Trust, Petitioner, electronically  
Christine R. Bouffard, LPO, New Hanover County, electronically  
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically



**Branstrom Residence Trust Variance Request (CRC-VR-24-10)**

**Attachment A: Relevant Rules**

**ATTACHMENT A****RELEVANT RULES****15A NCAC 07H .0209 COASTAL SHORELINES**

(a) Description. The Coastal Shorelines category includes estuarine shorelines and public trust shorelines.

(1) Estuarine shorelines AEC are those non-ocean shorelines extending from the normal high water level or normal water level along the estuarine waters, estuaries, sounds, bays, fresh and brackish waters, and public trust areas as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environmental Quality [described in Rule .0206(a) of this Section] for a distance of 75 feet landward. For those estuarine shorelines immediately contiguous to waters classified as Outstanding Resource Waters (ORW) by the Environmental Management Commission (EMC), the estuarine shoreline AEC shall extend to 575 feet landward from the normal high water level or normal water level, unless the Coastal Resources Commission establishes the boundary at a greater or lesser extent following required public hearing(s) within the affected county or counties.

(2) Public trust shorelines AEC are those non-ocean shorelines immediately contiguous to public trust areas, as defined in Rule 07H .0207(a) of this Section, located inland of the dividing line between coastal fishing waters and inland fishing waters as set forth in that agreement and extending 30 feet landward of the normal high water level or normal water level.

(b) Significance. Development within coastal shorelines influences the quality of estuarine and ocean life and is subject to the damaging processes of shore front erosion and flooding. The coastal shorelines and wetlands contained within them serve as barriers against flood damage and control erosion between the estuary and the uplands. Coastal shorelines are the intersection of the upland and aquatic elements of the estuarine and ocean system, often integrating influences from both the land and the sea in wetland areas. Some of these wetlands are among the most productive natural environments of North Carolina and they support the functions of and habitat for many valuable commercial and sport fisheries of the coastal area. Many land-based activities influence the quality and productivity of estuarine waters. Some important features of the coastal shoreline include wetlands, flood plains, bluff shorelines, mud and sand flats, forested shorelines and other important habitat areas for fish and wildlife.

(c) Management Objective. All shoreline development shall be compatible with the dynamic nature of coastal shorelines as well as the values and the management objectives of the estuarine and ocean system. Other objectives are to conserve and manage the important natural features of the estuarine and ocean system so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing these shorelines so as to maximize their benefits to the estuarine and ocean system and the people of North Carolina.

(d) Use Standards. Acceptable uses shall be those consistent with the management objectives in Paragraph (c) of this Rule. These uses shall be limited to those types of development activities that will not be detrimental to the public trust rights and the biological and physical functions of the estuarine and ocean system. Every effort shall be made by the permit applicant to avoid or minimize adverse impacts of development to estuarine and coastal systems through the planning and design of the development project. Development shall comply with the following standards:

(1) All development projects, proposals, and designs shall preserve natural barriers to erosion, including peat marshland, resistant clay shorelines, and cypress-gum protective fringe areas adjacent to vulnerable shorelines.

(2) All development projects, proposals, and designs shall limit the construction of impervious surfaces and areas not allowing natural drainage to only so much as is necessary to service the primary purpose or use for which the lot is to be developed. Impervious surfaces shall not exceed 30 percent of the AEC area of the lot, unless the applicant can demonstrate, through innovative design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. Redevelopment of areas exceeding the 30 percent impervious surface limitation shall be permitted if impervious areas are not increased and the applicant designs the project to comply with the rule to the maximum extent feasible.

(3) All development projects, proposals, and designs shall comply with the following mandatory standards of the North Carolina Sedimentation Pollution Control Act of 1973:

(A) All development projects, proposals, and designs shall provide for a buffer zone along the margin of the estuarine water that is sufficient to confine visible siltation within 25 percent of the buffer zone nearest the land disturbing development.

(B) No development project proposal or design shall propose an angle for graded slopes or fill that is greater than an angle that can be retained by vegetative cover or other erosion control devices or structures.

(C) All development projects, proposals, and designs that involve uncovering more than one acre of land shall plant a ground cover sufficient to restrain erosion within 30 working days of completion of the grading; unless the project involves clearing land for the purpose of forming a reservoir later to be inundated.

(4) Development shall not have a significant adverse impact on estuarine and ocean resources. Significant adverse impacts include development that would directly or indirectly impair water quality increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water, or cause degradation of shellfish beds.

(5) Development shall not interfere with existing public rights of access to, or use of, navigable waters or public resources.



(6) No public facility shall be permitted if such a facility is likely to require public expenditures for maintenance and continued use, unless it can be shown that the public purpose served by the facility outweighs the required public expenditures for construction, maintenance, and continued use.

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

(8) Established common-law and statutory public rights of access to the public trust lands and waters in estuarine areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the use of the accessways.

(9) Within the AECs for shorelines contiguous to waters classified as ORW by the EMC, no CAMA permit shall be approved for any project that would be inconsistent with rules adopted by the CRC, EMC or MFC for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the activity would, based on site-specific information, degrade the water quality or outstanding resource values.

**(10) Within the Coastal Shorelines category (estuarine and public trust shoreline AECs), new development shall be located a distance of 30 feet landward of the normal water level or normal high water level, with the exception of the following:**

(A) Water-dependent uses as described in Rule 07H .0208(a)(1) of this Section;

(B) Pile-supported signs (in accordance with local regulations);

(C) Post- or pile-supported fences;

(D) Elevated, slatted, wooden boardwalks exclusively for pedestrian use and six feet in width or less. The boardwalk may be greater than six feet in width if it is to serve a public use or need;

(E) Crab Shedders, if uncovered with elevated trays and no associated impervious surfaces except those necessary to protect the pump;

(F) Decks/Observation Decks limited to slatted, wooden, elevated and unroofed decks that shall not singularly or collectively exceed 200 square feet;

(G) Grading, excavation and landscaping with no wetland fill except when required by a permitted shoreline stabilization project. Projects shall not increase stormwater runoff to adjacent estuarine and public trust waters;

(H) Development over existing impervious surfaces, provided that the existing impervious surface is not increased;

(I) Where application of the buffer requirement would preclude placement of a residential structure with a footprint of 1,200 square feet or less on lots, parcels and tracts platted prior to June 1, 1999, development shall be permitted within the buffer as required in Subparagraph (d)(10) of this Rule, providing the following criteria are met:

(i) Development shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities, such as water and sewer; and

(ii) The residential structure development shall be located a distance landward of the normal high water or normal water level equal to 20 percent of the greatest depth of the lot. Existing structures that encroach into the applicable buffer area may be replaced or repaired consistent with the criteria set out in 15A NCAC 07J .0201 and .0211; and

(J) Where application of the buffer requirement set out in Subparagraph (d)(10) of this Rule would preclude placement of a residential structure on an undeveloped lot platted prior to June 1, 1999 that are 5,000 square feet or less that does not require an on-site septic system, or on an undeveloped lot that is 7,500 square feet or less that requires an on-site septic system, development shall be permitted within the buffer if all the following criteria are met:

(i) The lot on which the proposed residential structure is to be located, is located between:

(I) Two existing waterfront residential structures, both of which are within 100 feet of the center of the lot and at least one of which encroaches into the buffer; or

(II) An existing waterfront residential structure that encroaches into the buffer and a road, canal, or other open body of water, both of which are within 100 feet of the center of the lot;

(ii) Development of the lot shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities;

(iii) Placement of the residential structure and pervious decking shall be aligned no further into the buffer than the existing residential structures and existing pervious decking on adjoining lots;

(iv) The first one and one-half inches of rainfall from all impervious surfaces on the lot shall be collected and contained on-site in accordance with the design standards for stormwater management for coastal counties as specified in 15A NCAC 02H .1005. The stormwater management system shall be designed by an individual who meets applicable State occupational licensing requirements for the type of system proposed and approved during the permit application process. If the residential structure encroaches into the buffer, then no other impervious surfaces shall be allowed within the buffer; and

(v) The lots shall not be adjacent to waters designated as approved or conditionally approved shellfish waters by the Shellfish Sanitation Section of the Division of Marine Fisheries of the Department of Environmental Quality.

(e) The buffer requirements in Paragraph (d) of this Rule shall not apply to Coastal Shorelines where the EMC has adopted rules that contain buffer standards.

(f) Specific Use Standards for ORW Coastal Shorelines.

(1) Within the AEC for estuarine and public trust shorelines contiguous to waters classified as ORW by the EMC, all development projects, proposals, and designs shall limit the built upon area in the AEC to no more than 25 percent or any lower site specific percentage as adopted by the EMC as necessary to protect the exceptional water quality and outstanding resource values of the ORW, and shall:

(A) provide a buffer zone of at least 30 feet from the normal high water line or normal water line; and

(B) otherwise be consistent with the use standards set out in Paragraph (d) of this Rule.

(2) Single-family residential lots that would not be buildable under the low-density standards defined in Subparagraph (f)(1) of this Rule may be developed for single-family residential purposes so long as the development complies with those standards to the maximum extent possible.

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

The ocean hazard AECs contain all of the following areas:

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

**Branstrom Residence Trust Variance Request (CRC-VR-24-10)**

**Attachment B: Stipulated Facts**

**STIPULATED FACTS & EXHIBITS**

1. The Petitioner, Branstrom Residence Trust (“Branstrom”), is represented by Stephen D. Coggins of Rountree Losee LLP.
2. Petitioner is the owner of 236 Beach Road North, Wilmington, New Hanover County, North Carolina (the “Property”). The Property is oceanfront and access to the Property is gained by way of Beach Road North, which the Property abuts along its western frontage. Beach Road North runs north-south along the northern half of Figure 8 Island.
3. The Property is shown on ground level and aerial photographs contained in a powerpoint presentation which is a stipulated exhibit.
4. Petitioner owns fee simple absolute title to the Property by way of that North Carolina General Warranty Deed, recorded June 10, 2003, in the New Hanover County Register of Deeds at Book 3832, Page 566, a copy of which is attached as a stipulated exhibit. Also reflecting Petitioner’s ownership and included as a stipulated exhibit is the New Hanover County Tax Parcel Card
5. The Property is described in the above-referenced deed as being all of Lot 236, Section 15, of the property of The Figure Eight Island Company (“Property” or “Lot 236”), as shown by map thereof recorded in Map Book 13, Page 48, of the New Hanover County Registry, recorded October 11, 1972, in the New Hanover County Registry, a copy of which is attached as a stipulated exhibit.
6. The Property is subject to the Covenants of Record, including the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Figure 8 Island, recorded at Deed Book 6322, Page 1846 of the New Hanover County Registry. Pertinent pages of the lengthy covenants are attached as a stipulated exhibit.
7. The Property is located on Figure 8 Island, which is a roughly 4 miles long barrier island in New Hanover County located between Wrightsville Beach to the south and Lea-Hutaff Island to the north. At the location of the Property, Figure 8 Island is approximately 665 feet wide. The landward border of the Property is approximately 410 feet to 550 feet from the waters of Middle Sound, depending on the particular location of the Channel shore, as the shoreline curves in and out at that general location. The landward border is approximately 230 feet to 245 feet from the first line of stable vegetation on the Atlantic Ocean side.

8. Figure 8 Island's eastern boundary is the Atlantic Ocean. To the west, abutting the western shores of Figure 8 Island, are the coastline estuarine waters and marshlands of Banks Channel, part of the Middle Sound Outstanding Resource Water area, and to the west of them is the Atlantic Intracoastal Waterway.
9. The Property is located within two Areas of Environmental Concern (AECs) as defined by the Commission's rules. A portion of the Property is located in the Ocean Erodible Area (OEA) AEC as defined by the Commission's rules at 15A NCAC 7H.0304(1).
10. Portions of the Property are also located in the Outstanding Resource Water (ORW) Coastal Shorelines AEC, as a portion of the Property is located within 575 feet of the waters of Middle Sound, which at this location is classified as Outstanding Resource Waters by the Environmental Management Commission, as shown on the Site Plan, included as a stipulated exhibit.
11. Located on the Property is an existing 3,405 square foot single-family residence. The house has four bedrooms and four and a half bathrooms and was constructed in 1981. The Site Plan lists the existing square footage as 3,301 while the Tax Card has a square footage of 3,405.
12. The current home was constructed prior to the effective date of that CAMA Rule now codified as 15A NCAC 07H .0209(f)(1) (the "CAMA Rule") limiting built-upon area within 575 feet of Outstanding Resource Waters ("ORW").
13. As the entire Property is located within at least one AEC, any proposed development on the Property requires a CAMA permit under N.C.G.S. § 113A-118.
14. On August 22, 2024, Petitioner applied for a CAMA Minor Development Permit ("Permit") to construct an additional bedroom that would be part of the principal structure on the Property, adding 622 square feet of impervious built upon area to the Property. A copy of the Permit Application is attached hereto as a stipulated exhibit.
15. Petitioner submitted with the Permit Application a proposed Site Plan for the proposed development (the "Proposed Project") dated August 22, 2024, a copy of which is attached separately as a stipulated exhibit. The proposed addition is located on the ocean side of the existing residence, in the area currently developed with a deck.
16. According to the Site Plan completed by John Douglas Murray, dated August 22, 2024, the Property lot area is 23,910 square feet measured to the ocean

mean high water and the lot area within the 575-foot ORW AEC is 16,505 square feet. The Commission's rule at 15A NCAC 7H.0209(f) limits the BUA to 25% of the portion of the Property within the ORW AEC. Thus, the maximum built upon area lot coverage allowed within the ORW is 4,126 square feet, which is 25% of the 16,505 square feet lot area within the ORW.

17. As shown on the Site Plan, the current impervious area, including the existing roof covered decks, driveway/walkways, and existing residence, totals 4,400 square feet.
18. The existing total built upon impervious area of 4,400 square feet exceeds the 25% limit. However, when the residence was constructed in 1981, the Commission's Coastal Shorelines AEC rules were not yet in effect, as they were adopted in 1999.
19. Petitioner's CAMA Application sought to add 622 square feet of built upon impervious area to the Property, increasing the total built upon impervious area to 5,022 square feet, or 30.4% of the area of the lot within the ORW AEC.
20. As part of the CAMA Minor Permit Process, Petitioner provided notice of the permit application to its adjacent riparian owners, which are Lisa Godwin at 238 Beach Road North to the north and Walter and Mary Blackwell at 234 Beach Road North to the South. Copies of the notice letters and delivery confirmation/tracking information are attached as stipulated exhibits. The LPO and DCM did not receive any objections to Petitioner's CAMA Minor Development Permit Application.

On September 11, 2024, the CAMA Local Permit Officer (LPO) for New Hanover County denied Petitioner's CAMA Minor Permit Application based on 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. As Set forth in the denial letter, the Proposed Development is inconsistent with 15A NCAC 07H .0209(f)(1), Specific Use Standards for ORW Coastal Shorelines. A copy of the denial letter is attached as a stipulated exhibit.

21. CAMA Rule 15A NCAC 07H .0209 (entitled COASTAL SHORELINES) at subsection (f) states:
  - (f) Specific Use Standards for ORW Coastal Shorelines.
    - (1) Within the AEC for estuarine and public trust shorelines contiguous to waters classified as ORW by the EMC, all development projects,

proposals, and designs shall limit the built upon area in the AEC to no more than 25 percent or any lower site specific percentage as adopted by the EMC as necessary to protect the exceptional water quality and outstanding resource values of the ORW, and shall:

(A) provide a buffer zone of at least 30 feet from the normal high water line or normal water line; and

(B) otherwise be consistent with the use standards set out in Paragraph (d) of this Rule.

(2) Single-family residential lots that would not be buildable under the low-density standards defined in Subparagraph (f)(1) of this Rule may be developed for single-family residential purposes so long as the development complies with those standards to the maximum extent possible.

A copy of this rule is included as a stipulated exhibit.

22. Subsection (d) of CAMA Rule 15A NCAC 07H .0209 (Use Standards) is expressly referenced in Subsection (f) and lists the standards with which all shoreline development shall comply.
23. The Proposed Project complies with the standards of the CRC, as it is consistent with the use standards set out in Subsection (d) of CAMA Rule 15A NCAC 07H .0209.
24. The Proposed Project does not increase the Total Floor Area to 5,000 sq ft or more.
25. Petitioner has provided notice to the adjacent riparian property owners of this Variance Petition. Copies of Petitioner's delivered notices are included as part of its Variance Petition and are attached as a stipulated exhibit. Petitioner is not aware of opposition by the adjacent property owners to the Petitioner's Variance Petition.
26. As indicated on the DWR/ORW/HQW Management Areas map found on North Carolina Department of Environmental Quality Online GIS at <https://data.ncdenr.opendata.arcgis.com/datasets/c861cd03e245f38c88304a1e4e4ed1/explore?location=35.160937%2C-76.189009%2C10.61>, most properties within an ORW AEC are located entirely within that AEC. Few of those properties have portions that are located on the oceanfront outside of the ORW AEC. Those properties located entirely within the ORW AEC are on coastal estuarine and river waters where stormwater surface drainage is typically expected to flow



directly to those waters. A copy of the GIS map with the ORW layer is included as a stipulated exhibit.

27. Nicholas P. Howell, a licensed Soil Scientist, completed a Soil and Site Evaluation for the Property (“Site Evaluation”) on September 18, 2024. The Site Evaluation is included as a stipulated exhibit.
28. According to the Site Evaluation, the Property is located next to a maritime forest vegetative area that is approximately 45,000 square feet, approximately 80 feet wide, and 700 feet long (the “Commons Area”).
29. The commons area is subject to various restrictions through the HOA’s Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Figure 8 Island (the “Covenants”), a selection of which are included as a stipulated exhibit. The restrictions prohibit the “removal, alteration, damage or change to any of the lands where stormwater management facilities or drainage easements exist.” All lots within the HOA are “burdened with easements for natural drainage of stormwater runoff from other portions of the Property[.]”
30. According to the Site Evaluation, due to the topography at the area surrounding and including the Property, any surface stormwater that would flow from the built upon area of the Property would flow across Beach Road North to the low point of the Commons Area across the street where it is readily absorbed into the soils at that location.
31. According to the Site Evaluation, and as shown on the Site Plan for the Proposed Project, the topographical low point of the vicinity of the Property to where any surface stormwater in the area of the Property may drain is that 4 feet elevation low point located in the Commons Area just west of the Property across Beach Road North. The commons area consists of thick maritime forest vegetation. The roughly northeastern edge of this vegetated area is where the 4 feet low elevation point is located.
32. As shown on the Site Plan, the elevation of the forested area behind that area to the west quickly rises to 22 feet to 26 feet high. According to the Site Evaluation, any surface stormwater that does not immediately drain down through the sandy soils of the commons area cannot cross the 22 feet to 26 feet high elevation point between it and the ORW waters to the west. Any stormwaters that initially pond at the low point of the commons area eventually drain down into the sandy soils below.

33. Petitioner has submitted an Affidavit from Steve Coggins, included as a stipulated exhibit, regarding photos taken in the vicinity of the Property at approximately 5:30 p.m. during the height of severe Subtropical Storm Eight on September 16, 2024. Also attached to the Affidavit is a weather report from the National Weather Service in Wilmington, which states that approximately 4.06 inches of rain fell in the Wilmington area on September 16, 2024.
34. For purposes of the pending Variance Petition, the Petitioner has stipulated that the 5,022 square feet total built upon area will be more than 25% of the portion of the Property within the ORW AEC and thus would be inconsistent with Rule 15A NCAC 07H .0209(f)(1).
35. Petitioner now seeks a variance from the Commission's rules at 7H.0209(f) in order to construct 622 SF addition to the existing residence, thereby causing the total built upon area of the structure to be 5,022 square feet, which further exceeds 25% of the portion of Property that is within the ORW AEC (4,126 square feet).
36. Without a variance, Petitioner cannot increase the built upon area on the Property where the existing residence already exceeds the 25% built upon area within the AEC. Petitioner could add an addition increasing the Total Floor Area which does not also increase the built upon area, such as adding a second story over existing built upon area.

### **Stipulated Exhibits**

1. Petitioner's August 22, 2024, CAMA Minor Development Permit Application.
2. August 22, 2024, Site Plan prepared by Bowman, Murray, Hemingway Architects, PC.
3. North Carolina General Warranty Deed, Book 3832, Page 566.
4. Map Book 13, Page 48, of the New Hanover County Registry, recorded October 11, 1972.
5. Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Figure 8 Island, recorded at Deed Book 6322, Page 1846 of the New Hanover County Registry.
6. Soil and Site Evaluation by Nicholas Howell, Soil Engineer, for 236 Beach Road North dated September 18, 2024.
7. DWR ORW HQW Management Areas map found on North Carolina Department of Environmental Quality Online GIS at [https://data-ncdenr.opendata.arcgis.com/datasets/c861cd03e245f38c88304a1e24e4ed1/explore?location=35.160937%2C-76.189009%2C10.61](https://data.ncdenr.opendata.arcgis.com/datasets/c861cd03e245f38c88304a1e24e4ed1/explore?location=35.160937%2C-76.189009%2C10.61)
8. Affidavit of Steve Coggins, October 31, 2024.
9. September 11, 2024, Denial of August 22, 2024, CAMA Minor Development Permit Application.

10. CAMA Rule 15A NCAC 07H .0209.
11. Notices of Petitioner's Variance Application to adjacent owners.
12. Tax Card for 236 Beach Road North
13. Tax Card for the "Commons Area"

**Branstrom Residence Trust Variance Request (CRC-VR-24-10)**

**Attachment C: Petitioner's Positions and Staff's Responses  
to Variance Criteria**

## PETITIONER'S &amp; STAFF'S POSITIONS

## ATTACHMENT C

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

**Petitioner's Position: Yes.**

Petitioner proposes to add a small bedroom with 622 square feet built upon area ("BUA") (the "Proposed Project") to the residence at 236 Beach Road North on Figure 8 Island (the "Property"). Strict application of CAMA Rule 15A NCAC 07H .0209(f) (the "Rule") limiting the built upon area ("BUA") to no more than 25% of the Property within the Outstanding Resource Water ("ORW") Area of Environmental Concern ("AEC") prevents the Proposed Project, as the percentage of the total built upon impervious area of the residence as proposed would be 30% of the portion of the Property that is within the ORW AEC (but only 21% of the entirety of the Property).

This will cause the Petitioner unnecessary hardship, as the condition that the Rule is designed to prevent does not exist at the Property. The purpose of the Rule is to mitigate the effects of stormwater draining from impervious BUA's into Outstanding Resource Waters ("ORW"). However, the Proposed Project at the Property will not allow or cause stormwater to drain into the ORW. The small, proposed addition will not impair the ability of the lot and the surrounding area to handle stormwater and prevent it from draining into the ORW. [See September 23, 2024, report of Nicholas Howell (Soil Scientist) attached as **Stipulated Exhibit 8** and topographical information on Petitioner's Site Plan attached as **Stipulated Exhibit 2.**] Under these circumstances, denying the Petitioner a permit to build the Proposed Project is 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: Yes.**

Strict application of the Commission's rules prohibits any additional built upon area within the ORW AEC. The house was built in 1981, which was before the ORW Shoreline AEC became effective in 1999. The current BUA, as depicted in the Site Plan, is 4,400 sq ft, which is 26.7% of the ORW lot area. This exceeds the rule's 25% BUA limitation for that portion of the lot within the ORW AEC. Any additional BUA will increase the exceedance. The permit application was denied because the proposed development would further increase this exceedance. However, the rule with which the proposed development did not comply was designed to prevent stormwater runoff from reaching ORW. That purpose will still be accomplished, however, as any additional runoff from the proposed development would be captured in the vegetated

commons area and prevented from reaching the ORW of Middle Sound. Staff agree that the limitations of the ORW AEC rule limiting BUA to 25% cause Petitioner an unnecessary hardship.

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

**Petitioner's Position: Yes.**

The “peculiarity” of the oceanfront Property causing the hardship imposed by the 25% BUA limit is that the Property is both (a) within 575 feet of an ORW of the Coastal Shorelines area of Areas of Environmental Concern (AEC) and (b) within the Ocean Erodible Area (“OEA”). The “oceanfront side” of the property is in the OEA. The combination of the Property’s location, size, and topography along with the Property being subject to both ORW and OEA CAMA Rules results in a peculiarity causing the hardship.

Most **ORW** properties are entirely within an ORW AEC, where much, if not all, of stormwater surface drainage is expected to flow directly to the estuarine sound and river waters.

In contrast, most **OEA** properties in this State are located on a barrier island oceanfront and are not in the ORW AEC. In contrast to the ORW AEC, the location, size, and topography of **OEA** properties are such that virtually all of the surface stormwater is readily absorbed into sandy soil and drains down to the groundwater table and associated aquifer. (See, e.g., September 18, 2024 Soil and Site Evaluation of the Property and area, **Stipulated Exhibit 8**). Thus, surface stormwater drainage concerns regarding ORW and other coastal shoreline properties are not present with OEA properties.

However, there is a small number of properties on N.C. developed barrier islands that happen to be on relatively narrow sections of the island, resulting in the “sound side” portion of the property being in the ORW and the oceanside portion being in the OEA. This condition is so relatively uncommon that it is peculiar. (See DWR ORW HQW Management Areas map found on North Carolina Department of Environmental Quality Online GIS at [https://data-ncdenr.opendata.arcgis.com/datasets/c861cd03e245f38c88304a1e4ed1/explore?location=35.160937%2C-76.189009%2C10.61](https://data.ncdenr.opendata.arcgis.com/datasets/c861cd03e245f38c88304a1e4ed1/explore?location=35.160937%2C-76.189009%2C10.61), **Stipulated Exhibit 9**.)

This peculiarity results in the hardship. Their natural qualities as part of the barrier island oceanfront are such that stormwater surface drainage coming from those properties do not flow directly to the ORW because the stormwater is absorbed by the underlying sandy soils. **See Stipulated Exhibit 8**. Yet, because these few

properties happen to be within 575 feet of an ORW, the CAMA Rule constructs a fiction that surface stormwater will drain into the ORW, even though it will not.

Because of this peculiarity, the CAMA Rule imposing the 25% BUA limitation applies even though stormwater surface drainage into the ORW is not expected. Consequently, the hardship results from conditions peculiar to the Property.

**Staff's Position: Yes.**

**Staff do not believe that a site which is covered by two AECs at once, (OEA/ORW AEC combination) which is present here, is a peculiarity of the site, as other examples of this situation exist along the coast. There are, however, peculiarities of the Property that are significant to this request.** First, the topography of the Property is unique in that the stormwater runoff from the Property is captured by the commons area across the street and thus is unlikely to reach Banks Channel, which is the ORW protected by the BUA limitation..

The most significant feature impacting the maximum BUA, however, is the fact that only approximately 70% of the Property lies within the ORW AEC. If the entire property were within the ORW AEC, the proposed 622 SF addition would only increase the built upon area to 21%, and thus could be permitted without a variance. The OEA AEC prevents any development on the oceanward part of the Property oceanward of the setback. This relatively unique circumstance limits the maximum possible built upon area on the Property to 4,126 sq ft, which the existing BUA already exceeds. To the extent that the limited BUA available on the Property is considered a hardship, it results from only a portion of the Property lying within the ORW AEC and the remainder of the lot lying within the OEA AEC.

### **3. Do the hardships result from actions taken by the petitioner?**

**Petitioner's Position: No.**

Petitioner had no role in placing any portion of the Property in the ORW AEC.

**Staff's Position: Yes.**

The house was built in 1981 before the ORW AEC was adopted by the Commission 1999, and so while the existing house exceeds the 25% BUA limit by 1.6%, that non-conformity was not caused by the actions of the Petitioner or their predecessors. However, the hardship does not preclude the Petitioner from adding a bedroom, only from increasing the BUA. The hardship exists because Petitioner did not design the addition within the footprint of the existing BUA or otherwise avoid an increase in BUA. Petitioner did not provide any indication that it is infeasible to reconfigure the existing built upon area, add second-story space within the existing footprint, or reduce other areas of impervious surface to offset the additional built

upon area, all of which could increase the heated square footage without increasing the built upon area/footprint.

**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?**

**Petitioner's Position: Yes.**

CAMA Rule 15A NCAC 07H .0209(f) requires development projects, proposals, and designs be consistent with the use standards set out in Paragraph (d) of the Rule. Here, the Proposed Project complies with all applicable Paragraph (d) standards. For instance, the Proposed Project will not affect coastal shorelines or natural barriers, impair water quality, increase shoreline erosion, alter wetlands or SAV, deposit spoils waterward, degrade shellfish beds, or interfere with public access rights or known valuable resources.

In addition, while the Proposed Project will result in the total impervious surface being approximately 30% of the Property's ORW AEC area, it will be only 21% of the entirety of the Property area that includes both the portion in the ORW and the portion outside of it in the OEA.<sup>1</sup> Further, the Proposed Project is located well outside of the buffer extending landward of the normal water level of the estuarine waters. Nor is the Proposed Project within a sedimentation-prevention buffer zone. In short, Petitioner is not aware of the Proposed Project being inconsistent with any rules and standards of the EMC, MFC, and CRC, other than the 25% BUA limitation in 15A NCAC 07H .0209(f).

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

The Proposed Project is to add 622 square feet of impervious surface to an existing oceanfront residence that is located on the sandy soils of a barrier island. Most of the stormwater that falls onto the Property percolates down into the sandy soils of the Property and does not drain toward the ORW (Banks Channel waters and

---

<sup>1</sup> All of the 23,910 square feet lot is in either an ORW or OEA AEC, or both. The ORW portion of the Property (inclusive of the part of the Property that is also in the OEA) is 16,505 sf. The portion of the Property that is not in the ORW is in the OEA, which is 7405 sf. (The entire part of the Property in the OEA is actually larger than 7405 sf because there is some overlap of the ORW and OEA areas). The total built upon area of the residence after the Proposed Project would be 5022 sf, which is 30% of the 16505 sf portion of the Property within the ORW AEC and only 21% of the entire 23,910 sf of the Property inclusive of the parts in and outside of the ORW. [Note that the 30% BUA limitation in Subsection (d) of 15A NCAC 07H .0209 is 7,173 square feet, and that the proposed total impervious surface after the Proposed Project is approximately 5,022 square feet, which is much less.]



marshes). To the limited extent any surface stormwater does cross Beach Road North toward the ORW (which is generally those surface stormwaters during heavy rains that drain from the Property driveway to and across Beach Road North), that water is captured by a substantial, natural stormwater barrier located on a 45,251 square feet perpetual commons area (approximately 690 feet long and 80 feet deep) consisting of thick maritime forest vegetation. **See Stipulated Exhibits 2, 4 and 8.** The commons area has highly effective stormwater control qualities. **See Stipulated Exhibit 8.** As shown on the Site Plan, any surface stormwater is captured at a 4 feet elevation low point on the Beach Road North side of the commons area and cannot cross the 22 feet to 26 feet high elevation point between it and the ORW waters to the west. **See Stipulated Exhibit 2 and 8.**

The effectiveness of the stormwater control qualities of the commons area is illustrated by a series of photos taken of the Branstrom residence, the commons area, and the portion of Salters Road that is located between the commons area to the east and the ORW waters of Banks Channel to the west. **See Stipulated Exhibit 10.** The photos were taken by Petitioner's attorney during the height of severe Subtropical Cyclone Eight at approximately 5:30 p.m. on September 16, 2024, during which four inches of rain fell in Wilmington in a short time period. See NWS data at **Stipulated Exhibit 11.** The photos show that all surface stormwater draining from the Property toward the commons area was readily captured and prevented from flowing further westward toward Salters Road and the ORW waters of Banks Channel.

As indicated on the Figure 8 Island Restrictive Covenants, the commons area cannot be developed, and the stormwater treatment facility qualities of the area will not be removed. **See Stipulated Exhibit 5.**

and

**c. preserve substantial justice? YES.**

The variance would preserve substantial justice in several respects.

1. The Proposed Project complies with the standards of the CRC as it is consistent with the use standards set out in Subsection (d) of CAMA Rule 15A NCAC 07H .0209.

2. Once the Proposed Project is built, the percentage of the total built upon area to the entirety of the Property (including the portions in the ORW and those outside of the ORW in the OEA) is only 21%. The percentage of the built upon area to only the portion of the Property is 30%. Allowing the variance will allow the owner to make minor additions to the Property in a responsible manner.

3. Allowing the variance will avoid unnecessarily penalizing the owner for owning a Lot that is unique and peculiar because portions are in an ORW and portions are in an OEA.

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

5. Branstrom is not aware of opposition by New Hanover County or Figure 8 Island Homeowners Association to this Proposed Development.

**Staff's Position: Yes.**

Petitioner has proposed an addition that would add 622 sq ft of built upon area within the ORW AEC. If the Commission finds that the combination of topography and multiple overlapping AECs creates an unnecessary hardship, Staff believe that the project meets the spirit, purpose, and intent of the built upon area limit for the ORW AEC as additional runoff from the development is not expected to reach the ORW waters of Middle Sound due to the topography of the immediate vicinity and capacity of the commons area to capture anticipated stormwater. The features of the property will protect the public and safety and welfare by ensuring stormwater does not flow back into the ORW waters of Banks Channel.

**Branstrom Residence Trust Variance Request (CRC-VR-24-10)**

**Attachment D: Petitioner's Variance Request Materials**

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

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Of Counsel



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6000 Poplar Ave., Ste 400  
Memphis, TN 38119

Phone  
910-763-3404

Fax  
910-763-0320

September 23, 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 23, 2024  
Page 2 of 2

RE: Petition to Coastal Resources Commission to Allow Variance from CAMA Rule 15A N.C.A.C. 07H.0209(f) at 236 Beach Road North, Wilmington, NC; our file 2024-00248;

To Whom It May Concern:

I represent Branstrom Residence Trust with respect to the enclosed Petition for a Variance. Enclosed please find:

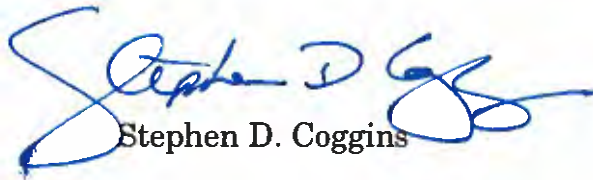
1. Variance Request Form (DCM Form 11)
2. CAMA Minor Development Permit Application indicating name and location of proposed development, and the Site Plan for the proposed development;
3. Denial of the Application;
4. Copy of Petitioner's deed to the property on which the proposed development is to 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 CAMA Rule 15A N.C.A.C. 07H .0209(f) which limits the maximum lot coverage allowed to 25% of the lot area within an ORW.

Petitioner stipulates that the Proposed Development is inconsistent with CAMA Rule 15A N.C.A.C. 07H. 0209(f).

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 Branstom Residence Trust c/o Bill & Robin BranstromCOUNTY WHERE THE DEVELOPMENT IS PROPOSED New Hanover

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

**VARIANCE HEARING PROCEDURES**

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

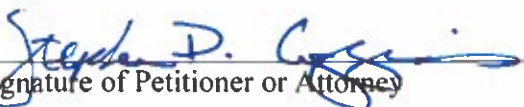
*Commission. These opinions note that the practice of professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written or oral argument, may be considered the practice of law. Before you proceed with this variance request, you may wish to seek 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);
- 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.

			9/23/24
Signature of Petitioner or Attorney			Date
Stephen D. Coggins			scoggins@routreelosee.com
Printed Name of Petitioner or Attorney			Email address of Petitioner or Attorney
P.O. Box 1409			( 910 ) 763-3404
Mailing Address			Telephone Number of Petitioner or Attorney
Wilmington	NC	28402	( 910 ) 763-0320
City	State	Zip	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





16

ROY COOPER  
Governor

MICHAEL S. REGAN  
Secretary

WILLIAM F. LANE  
General Counsel

TO: DCM Permitting Staff and CAMA LPOs

FROM: Christine A. Goebel, Assistant General Counsel

DATE: October 6, 2017

RE: **Guidance on Local Variance Prerequisite before seeking CRC Variance under 15A NCAC 7J .0701(a)**

The Coastal Resources Commission's ("CRC") rule for seeking a variance from the CRC's rules for coastal development ("CAMA Variance") includes the following language:

Before filing a petition for a variance from a rule of the Commission, the person must seek relief from local requirements restricting use of the property. . .

This long-standing rule of the CRC was re-affirmed as recently as the 2009 update to the Variance rules. When it discussed these rules, the Commission indicated an interest in having local governments provide variances from their own setbacks in order for development to happen in those instances in which the CRC was asked to reduce the CAMA setbacks.

Any petitioner requesting a CAMA Variance *must* seek a variance from applicable local requirements as a prerequisite *before* filing for a CAMA Variance. The purpose of this rule is to alleviate the need for or reduce the scope of the CAMA variance and in this manner limit development in Areas of Environmental Concern protected by the CAMA. Most often, this rule is applicable when the petitioner is seeking a variance from either the CRC's oceanfront setbacks or from the CRC's 30' buffer rules. The variance sought from local governments is typically seeking to relax local regulations/ordinances governing lot setbacks, such as street-side setbacks. If petitioner receives a variance from a local government's street-side setback, the project can be sited further landward making the lot "buildable" for the proposed development and may eliminate or reduce the need for a CAMA Variance.

Petitioner does not need to show that a variance from the local government's regulations was granted by the locality in order to proceed with a CAMA Variance. Petitioner must simply show that a good faith attempt to receive a local variance has been made. Sometimes there are situations where a local variance would not provide any relief to a Petitioner. If you believe that is the case, please direct a potential variance petitioner to check with DCM legal counsel to see if this is the case.

If you or the Petitioner have any questions about the application of this rule specifically, or about the variance process generally, please contact me.



**AGENT AUTHORIZATION FORM**Name of Property Owner Requesting Permit: Branstrom Residence TrustMailing Address: 314 Eastover RoadCharlotte, NC 28207Phone Number(s): (704) 578-3112Email Address: bill@branstrominvestments.comrobin@branstrominvestments.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 236 Beach Road N, Wilmington, North Carolina in New Hanover 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: 9/20/24Appointee's Name, Address & Telephone: Branstrom Residence Trust

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

Halee A. Morris  
 NC State Bar No. 57329  
[hmorris@rountreelosee.com](mailto:hmorris@rountreelosee.com)

**ROUNTREE LOSEE LLP**  
 2419 Market Street  
 Wilmington, NC 28403  
 Tel.: (910) 763-3404  
 Fax: (910) 763-0080

  
 Bill Branstrom  
 bill@branstrominvestments.com  
 314 Eastover Road  
 Charlotte, NC 28207  
 Tel: (704) 578-3110

  
 Robin Branstrom  
 robin@branstrominvestments.com  
 314 Eastover Road  
 Charlotte, NC 28207  
 Tel: (704) 578-3112

<b>Title</b>	Agent Authorization Form.pdf
<b>File name</b>	Agent%20Authorization%20Form.pdf
<b>Document ID</b>	3b41366cc8d52ee5ce190965c15bb12e8abccf55
<b>Audit trail date format</b>	MM / DD / YYYY
<b>Status</b>	<span style="color: green;">●</span> Signed

This document was requested from app.clio.com

## Document History

 SENT	<b>09 / 18 / 2024</b> 15:54:47 UTC	Sent for signature to Bill Branstrom (bill@branstrominvestments.com) and Robin Branstrom (robin@branstrominvestments.com) from mray@routreelosee.com IP: 172.126.120.65
 VIEWED	<b>09 / 18 / 2024</b> 16:27:41 UTC	Viewed by Bill Branstrom (bill@branstrominvestments.com) IP: 68.73.206.105
 SIGNED	<b>09 / 18 / 2024</b> 16:29:18 UTC	Signed by Bill Branstrom (bill@branstrominvestments.com) IP: 68.73.206.105
 VIEWED	<b>09 / 20 / 2024</b> 13:46:40 UTC	Viewed by Robin Branstrom (robin@branstrominvestments.com) IP: 174.247.16.148
 SIGNED	<b>09 / 20 / 2024</b> 13:46:51 UTC	Signed by Robin Branstrom (robin@branstrominvestments.com) IP: 174.247.16.148
 COMPLETED	<b>09 / 20 / 2024</b> 13:46:51 UTC	The document has been completed.

**To: Coastal Resources Commission**

**Fr: Stephen D. Coggins, counsel for Petitioner Branstrom Residence Trust**

**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 Branstrom Residence Trust ("Branstrom" or "Petitioner") 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.***

Petitioner proposes to add a small bedroom with 622 square feet built upon area ("BUA") (the "Proposed Project") to the residence at 236 Beach Road North on Figure 8 Island (the "Property"). Strict application of CAMA Rule 15A NCAC 07H .0209(f) (the "Rule") limiting the built upon area ("BUA") to no more than 25% of the Property within the Outstanding Resource Water ("ORW") Area of Environmental Concern ("AEC") prevents the Proposed Project, as the percentage of the total built upon impervious area of the residence as proposed would be 30% of the portion of the Property that is within the ORW AEC (but only 21% of the entirety of the Property).

This will cause the Petitioner unnecessary hardship, as the condition that the Rule is designed to prevent does not exist at the Property. The purpose of the Rule is to mitigate the effects of stormwater draining from impervious BUA's into Outstanding Resource Waters ("ORW"). However, the Proposed Project at the Property will not allow or cause stormwater to drain into the ORW. The small, proposed addition will not impair the ability of the lot and the surrounding area to handle stormwater and prevent it from draining into the ORW. [See September 23, 2024, report of Nicholas Howell (Soil Scientist) attached as **Stipulated Exhibit 8** and topographical information on Petitioner's Site Plan attached as **Stipulated Exhibit 2.**] Under these circumstances, denying the Petitioner a permit to build the Proposed Project is 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 “peculiarity” of the oceanfront Property causing the hardship imposed by the 25% BUA limit is that the Property is both (a) within 575 feet of an ORW of the Coastal Shorelines area of Areas of Environmental Concern (AEC) and (b) within the Ocean Erodible Area (“OEA”). The “oceanfront side” of the property is in the OEA. The combination of the Property’s location, size, and topography along with the Property being subject to both ORW and OEA CAMA Rules results in a peculiarity causing the hardship.

Most **ORW** properties are entirely within an ORW AEC, where much, if not all, of stormwater surface drainage is expected to flow directly to the estuarine sound and river waters.

In contrast, most **OEA** properties in this State are located on a barrier island oceanfront and are not in the ORW AEC. In contrast to the ORW AEC, the location, size, and topography of **OEA** properties are such that virtually all of the surface stormwater is readily absorbed into sandy soil and drains down to the groundwater table and associated aquifer. (See, e.g., September 18, 2024 Soil and Site Evaluation of the Property and area, **Stipulated Exhibit 8**). Thus, surface stormwater drainage concerns regarding ORW and other coastal shoreline properties are not present with OEA properties.

However, there is a small number of properties on N.C. developed barrier islands that happen to be on relatively narrow sections of the island, resulting in the “sound side” portion of the property being in the ORW and the oceanside portion being in the OEA. This condition is so relatively uncommon that it is peculiar. (See DWR ORW HQW Management Areas map found on North Carolina Department of Environmental Quality Online GIS at [https://data-ncdenr.opendata.arcgis.com/datasets/c861cd03e245f38c88304a1e4e4ed1/explore?location=35.160937%2C-76.189009%2C10.61](https://data.ncdenr.opendata.arcgis.com/datasets/c861cd03e245f38c88304a1e4e4ed1/explore?location=35.160937%2C-76.189009%2C10.61), **Stipulated Exhibit 9**.)

This peculiarity results in the hardship. Their natural qualities as part of the barrier island oceanfront are such that stormwater surface drainage coming from those properties do not flow directly to the ORW because the stormwater is absorbed by the underlying sandy soils. **See Stipulated Exhibit 8**. Yet, because these few properties happen to be within 575 feet of an ORW, the CAMA Rule constructs a fiction that surface stormwater will drain into the ORW, even though it will not.

Because of this peculiarity, the CAMA Rule imposing the 25% BUA limitation applies even though stormwater surface drainage into the ORW is not expected. Consequently, the hardship results from conditions peculiar to the Property.

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

Petitioner had no role in placing any portion of the Property in the ORW AEC.

**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.***

CAMA Rule 15A NCAC 07H .0209(f) requires development projects, proposals, and designs be consistent with the use standards set out in Paragraph (d) of the Rule. Here, the Proposed Project complies with all applicable Paragraph (d) standards. For instance, the Proposed Project will not affect coastal shorelines or natural barriers, impair water quality, increase shoreline erosion, alter wetlands or SAV, deposit spoils waterward, degrade shellfish beds, or interfere with public access rights or known valuable resources.

In addition, while the Proposed Project will result in the total impervious surface being approximately 30% of the Property's ORW AEC area, it will be only 21% of the entirety of the Property area that includes both the portion in the ORW and the portion outside of it in the OEA.<sup>1</sup> Further, the Proposed Project is located well outside of the buffer extending landward of the normal water level of the estuarine waters. Nor is the Proposed Project within a sedimentation-prevention buffer zone. In short, Petitioner is not aware of the Proposed Project being inconsistent with any rules and standards of the EMC, MFC, and CRC, other than the 25% BUA limitation in 15A NCAC 07H .0209(f).

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

The Proposed Project is to add 622 square feet of impervious surface to an existing oceanfront residence that is located on the sandy soils of a barrier island. Most of the stormwater that falls onto the Property percolates down into the sandy soils of the Property and does not drain toward the ORW (Banks Channel waters and marshes). To the limited extent any surface stormwater does cross Beach Road North

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<sup>1</sup> All of the 23,910 square feet lot is in either an ORW or OEA AEC, or both. The ORW portion of the Property (inclusive of the part of the Property that is also in the OEA) is 16,505 sf. The portion of the Property that is not in the ORW is in the OEA, which is 7405 sf. (The entire part of the Property in the OEA is actually larger than 7405 sf because there is some overlap of the ORW and OEA areas). The total built upon area of the residence after the Proposed Project would be 5022 sf, which is 30% of the 16505 sf portion of the Property within the ORW AEC and only 21% of the entire 23,910 sf of the Property inclusive of the parts in and outside of the ORW. [Note that the 30% BUA limitation in Subsection (d) of 15A NCAC 07H .0209 is 7,173 square feet, and that the proposed total impervious surface after the Proposed Project is approximately 5,022 square feet, which is much less.]

toward the ORW (which is generally those surface stormwaters during heavy rains that drain from the Property driveway to and across Beach Road North), that water is captured by a substantial, natural stormwater barrier located on a 45,251 square feet perpetual commons area (approximately 690 feet long and 80 feet deep) consisting of thick maritime forest vegetation. **See Stipulated Exhibits 2, 4 and 8.** The commons area has highly effective stormwater control qualities. **See Stipulated Exhibit 8.** As shown on the Site Plan, any surface stormwater is captured at a 4 feet elevation low point on the Beach Road North side of the commons area and cannot cross the 22 feet to 26 feet high elevation point between it and the ORW waters to the west. **See Stipulated Exhibit 2 and 8.**

The effectiveness of the stormwater control qualities of the commons area is illustrated by a series of photos taken of the Branstrom residence, the commons area, and the portion of Salters Road that is located between the commons area to the east and the ORW waters of Banks Channel to the west. **See Stipulated Exhibit 10.** The photos were taken by Petitioner's attorney during the height of severe Subtropical Cyclone Eight at approximately 5:30 p.m. on September 16, 2024, during which four inches of rain fell in Wilmington in a short time period. See NWS data at **Stipulated Exhibit 11.** The photos show that all surface stormwater draining from the Property toward the commons area was readily captured and prevented from flowing further westward toward Salters Road and the ORW waters of Banks Channel.

As indicated on the Figure 8 Island Restrictive Covenants, the commons area cannot be developed, and the stormwater treatment facility qualities of the area will not be removed. **See Stipulated Exhibit 5.**

and

**c. preserve substantial justice? YES.**

The variance would preserve substantial justice in several respects.

1. The Proposed Project complies with the standards of the CRC as it is consistent with the use standards set out in Subsection (d) of CAMA Rule 15A NCAC 07H .0209.

2. Once the Proposed Project is built, the percentage of the total built upon area to the entirety of the Property (including the portions in the ORW and those outside of the ORW in the OEA) is only 21%. The percentage of the built upon area to only the portion of the Property is 30%. Allowing the variance will allow the owner to make minor additions to the Property in a responsible manner.

3. Allowing the variance will avoid unnecessarily penalizing the owner for owning a Lot that is unique and peculiar because portions are in an ORW and portions are in an OEA.

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

5. Branstrom is not aware of opposition by New Hanover County or Figure 8 Island Homeowners Association to this Proposed Development.



### 3.2.6. RESIDENTIAL 20S (R-20S)

#### A. Purpose

The purpose of the R-20S Residential (R-20S) District is provide lands to accommodate primarily very low density single-family development. The intent of the district regulations are to allow development that is compatible with the preservation of the district's very low density single-family character, while accommodating residential opportunities for those who desire an exurban, low-density lifestyle. District residents should be willing to assume the costs of providing many of their own services and amenities while maximizing the protection of resources and the conservation of open space.

#### B. Concept



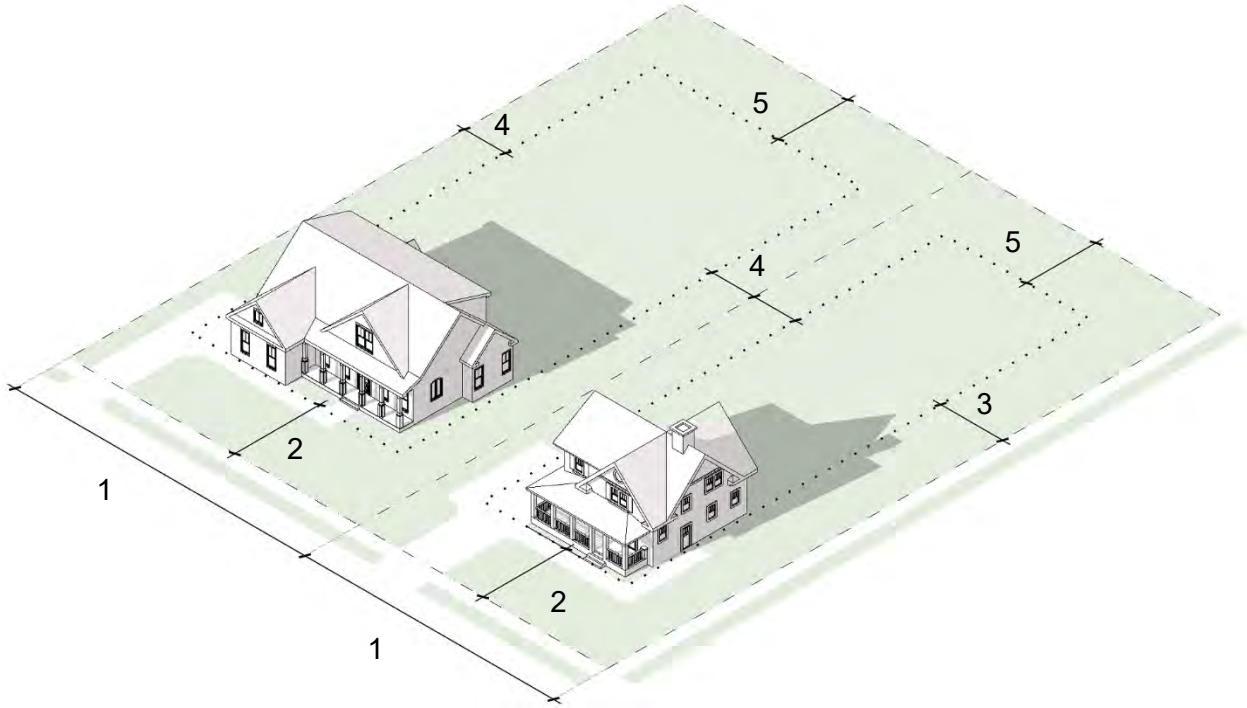
#### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

#### D. District Dimensional Standards [11-16-2020]

Standard	All Uses
Lot area, minimum (square feet)	20,000
<b>1</b> Lot width, minimum (feet)	90
<b>2</b> Front setback (feet)	30
<b>3</b> Side setback, street (feet)	22.5
<b>4</b> Side setback, interior (feet)	15
<b>5</b> Rear setback (feet)	25
Building height, maximum (feet)*	40

\* Structures elevated on open foundations consisting of piers, posts, columns or piles shall have a maximum height of 44 feet.



**E. Reference to Other Standards**

Article 2: Measurements and Definitions	Section 5.8 Open Space Requirements
Section 5.1 Parking and Loading	Section 5.9 Fire Hydrants
Section 5.2 Traffic, Access, and Connectivity	Section 5.10 Airport Height Restriction
Section 5.3 Tree Retention	Article 6: Subdivision Design and Improvement
Section 5.4 Landscaping and Buffering	Article 7: Stormwater Management
Section 5.5 Exterior Lighting	Article 8: Erosion and Sedimentation Control
Section 5.6 Signs	Article 9: Flood Damage Prevention
Section 5.7 Conservation Resources	Article 11: Nonconforming Situations

**Table 4.2.1: Principal Use Table**

Key: P = Permitted by Right S = Special Use Permit Required \* = Specific Use Standards Apply in District blank cell = not allowed

Use	Zoning District																						Use Standards	
	RA	AR	R-20S	R-20	R-15	R-10	R-7	R-5	RMF-L	RMF-M	RMF-MH	RMF-H	PD	UMXZ	B-1	CB	B-2	O&I	SC	CS	AC	I-1		I-2
<b>Agricultural uses</b>																								
Agricultural and Forestry Uses, General [11-16-2020]	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Livestock Sales																							P	
Stable [11-16-2020]	P	P*	P*	P*	P*								P				P					P	P	4.3.1
Wholesale Nursery	P	P	P	P	P	P							P	P	P	P	P	P	P	P	P	P	P	
<b>Residential uses</b>																								
<b>Household Living</b>																								
Dwelling, Dual-Unit Attached				P*	P*	P*	P*	P	P	P	P	P	P	P	S*		S*	P						4.3.2
Dwelling, Multi-Family [05-03-2021]				P*	P*	P*	P*		P*	P*	P*	P*	P*	P*	S*		S*	P*						4.3.2
Dwelling, Quadraplex				P*	P*	P*	P*	P	P	P	P	P	P	P	S*		S*	P						4.3.2
Dwelling, Single-Family Detached	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S*		S*	P			P			4.3.2
Dwelling, Triplex				P*	P*	P*	P*	P	P	P	P	P	P	P	S*		S*	P						4.3.2
Dwelling, Row-Style				P*	P*	P*	P*	P	P	P	P	P	P	P	S*		S*	P						4.3.2
Dwelling, Two-Family (Duplex)				S	P	S	P	P	P	P	P	P	P				S*							4.3.2
Live/Work or Caretaker Unit													P*	P*	S*	S*	S*			P*	S*	S*	S*	4.3.2
Mobile Home	S	P		S	P	P	P															S*	S*	4.3.2
Mobile Home, Doublewide	P*	P*		P*	P*	P*	P*						P*									S*	S*	4.3.2
Mobile Home Park	S*			S*	S*	S*							P											4.3.2
Mobile Home Subdivision	S	S		S	S	S	S																	
Senior Living: Independent Living Retirement Community [11-16-2020]	S		S	S	S	S		P	P	P	P	P	P					S						
<b>Group Living</b>																								
Family Care Home	P*	P*	P*	P*	P*	P*	S*	P*	P*	P*	P*	P*	P*	P*				P						4.3.2
Fraternity/Sorority Residence									S*	S*	S*	S*		P*	P*		P*	P*						4.3.2
Group Home	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*		S*					S*				4.3.2
Senior Living: Assisted Living	S*		S*	S*	S*	S*			S*	S*	S*	S*	P*	P*	S*	S*		S*						4.3.2

**Branstrom Residence Trust Variance Request (CRC-VR-24-10)**

**Attachment E: Stipulated Exhibits including PowerPoint**

1. Petitioner's August 22, 2024, CAMA Minor Development Permit Application
2. August 22, 2024, Site Plan prepared by Bowman, Murray, Hemingway Architects, PC.
3. North Carolina General Warranty Deed, Book 3832, Page 566.
4. Map Book 13, Page 48, of the New Hanover County Registry, recorded October 11, 1972.
5. Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Figure 8 Island, recorded at Deed Book 6322, Page 1846 of the New Hanover County Registry.
6. Soil and Site Evaluation by Nicholas Howell, Soil Engineer, for 236 Beach Road North dated September 18, 2024.
7. DWR ORW HQW Management Areas map found on North Carolina Department of Environmental Quality Online GIS
8. Affidavit of Steve Coggins, October 31, 2024.
9. September 11, 2024, Denial of August 22, 2024, CAMA Minor Development Permit Application.
10. CAMA Rule 15A NCAC 07H .0209.
11. Notices of Petitioner's Variance Application to adjacent owners.
12. Tax Card for 236 Beach Road North
13. Tax Card for the "Commons Area"
14. PowerPoint Presentation

## Directions For Filling Out A CAMA MINOR Permit

Please fill out the application completely including applicant's signature on the second page. Be sure to complete the "statement of ownership" and the "adjacent property owners". Your Local Permit Officer can assist you in preparing your application and project drawings. Once the application and drawing(s) are complete, follow the instructions below:

### **SEND THE FOLLOWING ITEMS TO THE ADJOINING PROPERTY OWNERS: CERTIFIED/RETURN RECEIPT MAIL IS RECOMMENDED**

1. A letter stating you have applied for a CAMA permit and are required to notify them of your intended project. (Attached please find an example of this letter)
2. A copy of the application drawing(s) showing your project.
3. A copy of the completed application.

### **BRING THE FOLLOWING ITEMS TO YOUR LOCAL CAMA PERMIT OFFICER:**

1. A \$100.00 check payable to New Hanover County
2. The completed, signed application.
3. 2 project drawings showing your proposed development.
4. Copies of the letters mailed to the adjoining property owners.
5. The certified mail receipts from the post office showing that you have mailed the letters to adjoining property owners.
6. A copy of the property survey (if applicable).
7. A copy of your Zoning Certificate and/or Improvements Permit, for installation of your septic system (if applicable).

This process usually takes approximately two (2) weeks from the date that we receive your complete application. A review period of 25 days is provided by law and an additional 25-day period can be imposed when such time is necessary to complete the review of the proposed project. Under those circumstances, you will be notified of the need for an extended review period. If you have any questions about the Minor Permit application, your project drawing(s), or any other aspect of the N. C. Coastal Area Management Act (CAMA), please contact the New Hanover County Local Permit Program Office.

EXHIBIT

1

## **PROJECT DRAWINGS**

1. **All drawings** should be drawn to scale (ie. 1"=20', 1"=30') and include the following information:
  - Name, project address, date and drawing scale (title box).
  - Property dimensions and names of adjacent property owners indicated
  - Dimensions and location of all existing and proposed structures, driveways, and sewage disposal system (attach Improvements Permit, if applicable). Decks labeled as covered or uncovered and dimensions shown.
  - Adjacent water body labeled and Normal High Water (NHW) or Normal Water Level (NWL) contour shown.
  - Marsh and/or wetland areas labeled (wetland delineation documentation from USACOE Army Corps of Engineers must be included with the application, if applicable).
  - All areas of ground disturbance and/or landscaping shown.
  
2. If your project is in the Ocean Hazard Area, your application must include an AEC Hazard Notice, **signed by the property owner**. Additional information for project **drawings in the Ocean Hazard Area AECs** includes:
  - Show all dunes and dune system contours, labeling the dune crest and both the landward and oceanward dune toes. Also, include spot elevations on the highest portion of the dunes.
  - The first line of stable, natural vegetation as flagged by the LPO and the applicable setback from the vegetation line. Contact the Local Permit Officer to stake the vegetation line for you if necessary.
  - Cross-sectional/Elevation drawings showing the number of floors and the roof and deck profiles of the proposed structure(s). Additional drawing(s) for each floor plan may be necessary.
  - List the **Total Enclosed Floor Area**. Total Enclosed Floor Area is the combined square-footage of all of the floors, plus any roof covered porches.
  
3. Additional information for project **drawings in the Coastal Shoreline AECs**:
  - Dimensions of the footprint/roofline of all structures (outside walls + roof overhang extended to the ground).
  - Dimensions of all decks, labeled either covered or open (all elevated decks with concrete below them at ground level are considered impervious).
  - Normal high water (NHW) or normal water level (NWL) contour.
  - Show the applicable Area of Environmental Concern (AEC); 75 feet landward of normal high water (NHW) or normal water level (NWL) for Estuarine Shoreline AEC (Coastal or Joint Waters); or 575 feet landward of normal high water (NHW) or normal water level (NWL), if adjacent to Outstanding Resource Waters; or 30 feet landward of normal high water (NHW) or normal water level (NWL), if adjacent to Public Trust Shoreline (Inland Waters).
  - List the total amount (sqft) of impervious surface that will be created from your proposed development.
  - Show the 30-ft. buffer landward of normal high water (NHW) or normal water level (NWL)

**SITE DRAWING/APPLICATION CHECKLIST**

Please make sure your site drawing includes the following information required for a CAMA minor development permit. The drawing may be simple and not necessarily to scale. The Local Permit Officer will help you, if requested.

**PHYSICAL DIMENSIONS**

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

**PHYSICAL CHARACTERISTICS**

- Draw and label mean high water mark
- Draw location of on-site wastewater system

If you will be working in the ocean hazard area:

- Draw and label dune ridges (note height)
- Draw and label toe of dune
- Identify and locate first line of stable vegetation
- Draw and label setback line under CAMA
- Draw and label topographical features  
(optional)

If you will be working in an estuarine shoreline area:

- Draw and label landward limit of AEC
- Describe terrain (slope)

**DEVELOPMENT PLANS**

- Draw and label areas that will be disturbed
- If a house is to be placed on lot, describe location of house
- Note size of piling and depth to be placed in ground
- Draw and label all areas to be paved or graveled
- Describe composition of surface
- Note and list fully all trees and vegetation to be removed or relocated
- Show landscaping

**NOTE TO APPLICANT**

Have you:

- completed all blanks and / or indicated if not applicable?
- notified and listed adjacent property owners?
- included your site drawing?
- signed both application and statement of ownership?
- enclosed the \$100.00 fee?
- completed an AEC Hazard Notice, if necessary?

**FOR STAFF USE**

Site Notice Posted \_\_\_\_\_ Final Inspection \_\_\_\_\_ Fee Received \_\_\_\_\_

Site Inspections

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of Action: Issued \_\_\_\_\_ Exempted \_\_\_\_\_ Denied \_\_\_\_\_ Appeal Deadline (20 days) \_\_\_\_\_

# FILLING OUT THE APPLICATION FORM

044

The shaded area at the top of the first page is completed by the Local Permit Officer. The LPO will assign a permit application number and check the AEC in which the property is located.

In the general information section, the applicant and future permittee is always the **Land Owner**, although an agent, such as a contractor or realtor, may obtain the permit for the property owner. The applicant's mailing address is entered here. If an agent is utilized to apply for the permit, their contact information is entered in the **Authorized Agent** section. **Location of Project** is the address of property where the work is to take place (the 911 address, subdivision and lot number, State or County road, etc.). **Description of Project** should include all land clearing, demolition, construction, and landscaping activities that are proposed to complete the project. It is better to go over-board here, than to omit something that would necessitate having to modify or re-apply for another permit to complete the development. **Size of Lot/Parcel** can be listed as square feet or acres, or both. Check the applicable **Proposed Use**, residential (single-family or multi-family), commercial, or other. The **Total Enclosed Floor Area of a Building in the Ocean Hazard AEC** section is only completed for those projects that are located in one or more of the Ocean Erodible, High Hazard Flood, Inlet Hazard or Unvegetated Beach AECs. Total Enclosed Floor Area is the combined square-footage of all of the floors, plus any roof covered porches. If the project is not in the Ocean Hazard Area, then insert N/A and go to the next section and determine in which Coastal Shoreline AEC the project is located. **The Size of Building Footprint and Other Impervious Surfaces/Built-Upon Surfaces in the Coastal Shoreline AEC** is calculated by totaling all of the impervious surfaces within the applicable distance (30 ft., 75 ft. or 575 ft.) from Normal High Water (NHW) or Normal Water Level (NWL). Sometimes the impervious surfaces that are allowed on an individual lot are further limited by the conditions of the subdivision's **State Stormwater Management Permit**. The applicant should insert the amount of impervious coverage that is allocated to their lot under their subdivision's State Stormwater Permit. This number is usually found on the property deed or subdivision covenants. Typically, any subdivision that was developed after January 1, 1988, will have a State Stormwater Plan.

On the second page of the application, the section entitled **Statement of Ownership** is completed by the applicant using information from the property deed. The applicant must check one of the three options and fill in the appropriate information. Make sure that adjacent riparian property owners have been listed in the **Notification of Adjacent Property Owners** section and that they have been contacted by the applicant, either in person or by certified mail. Copies of the completed letters and certified mail receipts, if required, should accompany the application. **Finally, the applicant/agent must sign and date the application at the bottom of the page.**



Locality **NEW HANOVER COUNTY**

Permit Number \_\_\_\_\_

Ocean Hazard \_\_\_\_\_ Estuarine Shoreline \_\_\_\_\_ ORW Shoreline \_\_\_\_\_ Public Trust Shoreline \_\_\_\_\_ Other \_\_\_\_\_  
 (For official use only)

**GENERAL INFORMATION****LAND OWNER**Name: Branstrom Residence TrustAddress: 314 Eastover RoadCity: Charlotte State: NC Zip: 28207 Phone: 704-578-3112**AUTHORIZED AGENT**Name: John D. MurrayAddress: 514 Market StreetCity: Wilmington State: NC Zip: 28401 Phone: 910-619-6902

**LOCATION OF PROJECT:** (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 236 Beach Road North Wilmington, NC 28411

**DESCRIPTION OF PROJECT:** (List all proposed construction and land disturbance.) 622 sf ground level addition

**SIZE OF LOT/PARCEL:** 23910 square feet \_\_\_\_\_ acres 186 sf first floor addition

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

**TOTAL ENCLOSED FLOOR AREA OF A BUILDING IN THE OCEAN HAZARD AREA OF ENVIRONMENTAL CONCERN (AEC):** 4109 square feet (includes all floors and roof covered decks)

**SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT-UPON SURFACES IN THE COASTAL SHORELINE AREA OF ENVIRONMENTAL CONCERN (AEC):** 5022 square feet

(Calculations includes the area of the roof/drip line of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC.)(Attach your calculations with the project drawing.)

**Choose the AEC area that applies to your property:**

(1) within 75 feet of Normal High Water for the Estuarine Shoreline AEC

(2) within 575 feet of Normal High Water for the Estuarine Shoreline AEC, adjacent to Outstanding Resource Waters

(3) within 30 feet of the Public Trust Shoreline AEC

(Contact your Local Permit Officer if you are not sure which AEC applies to your property.)

**STATE STORMWATER MANAGEMENT PERMIT:** Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality? 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. As a service we have compiled a listing of the kinds of permits that might be required. We suggest you check over the list with your LPO to determine if any of these apply to your project. Zoning, 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.

**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 Branstrom Residential Trust, see Deed Book 3832 page 566 in the New Hanover 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 and attach to this application.

**NOTIFICATION OF ADJACENT 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) | Mr. Harold Godwin                              | 1813 Lakeshore Drive Fayetteville, NC 28305      |
| (2) | Mr. W Harden Blackwell, Mrs. Mary D. Blackwell | 3520 Wildflower Drive #8203 Greensboro, NC 27410 |
| (3) |  |  |
| (4) |  |  |

**FOR DEVELOPERS IN OCEAN HAZARD AND ESTUARINE HAZARD AREAS:**

I 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.

**PERMISSION TO ENTER ON LAND:**

I furthermore certify that I am authorized to grant and do in fact grant permission to the local permit officer and his agents to enter on the aforementioned lands in connection with evaluating information related to this permit application.

This application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the AEC hazard 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.

This the 22nd day of August, 2024

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

## **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**

Mr. W. Harden Blackwell, Mrs. Mary D. Blackwell

August 22nd 2024

Date

Name of Adjacent Riparian Property Owner

3520 Wildflower Drive #8203

Address

Greensboro, NC 27410

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 add a single story 464 sf addition

on my property at 236 Beach Road North Wilmington, NC 28411,

in New Hanover County, which is adjacent to your property. **A copy of the application and project drawing is attached/enclosed for your review.**

*If you have no objections to the proposed activity, please mark the appropriate statement below and return to a New Hanover County Local Permitting Officer (LPO) 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 a Local Permitting Officer with New Hanover County. Mail correspondence can be sent to: New Hanover County Planning & Landuse, 230 Government Center Dr. Suite 110, Wilmington NC, 28403*

*Additionally, if you have any questions about the project, please do not hesitate to contact a New Hanover County LPO. Contact information can be found at: <https://planning.nhcgov.com> or by calling (910) 798-7165.*

Sincerely,

Robin Branstrom

704-578-3112

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

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

Mr. Harold Godwin  
\_\_\_\_\_  
Name of Adjacent Riparian Property Owner

August 22nd, 2024  
\_\_\_\_\_  
Date

1813 Lakeshore Drive  
\_\_\_\_\_  
Address  
Fayetteville, NC 28305  
\_\_\_\_\_  
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  
add a single story 464 sf addition

on my property at 236 Beach Road North Wilmington, NC 28411,  
in New Hanover County, which is adjacent to your property. **A copy of the application and project  
drawing is attached/enclosed for your review.**

*If you have no objections to the proposed activity, please mark the appropriate statement below and return to a New Hanover County Local Permitting Officer (LPO) 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 a Local Permitting Officer with New Hanover County. Mail correspondence can be sent to:  
New Hanover County Planning & Landuse, 230 Government Center Dr. Suite 110, Wilmington NC, 28403*

*Additionally, if you have any questions about the project, please do not hesitate to contact a New Hanover County LPO. Contact information can be found at: <https://planning.nhcgov.com> or by calling (910) 798-7165.*

Sincerely,

Robin Branstrom  
\_\_\_\_\_  
Property Owner's Name

704-578-3112  
\_\_\_\_\_  
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
---------	------	-------	-----

**AGENT AUTHORIZATION FOR CAMA PERMIT APPLICATION**

Name of Property Owner Requesting Permit: Robin Branstrom

Mailing Address: 314 Eastover Road

Charlotte, NC 28207

Phone Number: 704-578-3112

Email Address: robin@branstrominvestments.com

I certify that I have authorized John D. Murray, AIA,  
Agent / Contractor


to act on my behalf, for the purpose of applying for and obtaining all CAMA permits  
necessary for the following proposed development: One story addition

at my property located at 236 Beach Road North Wilmington, NC 28411,

in New Hanover 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:**

  
Signature

Robin Branstrom

*Print or Type Name*

Owner

*Title*

4/3/2024

Date

This certification is valid through 1 / 1 / 2026



## AEC HAZARD NOTICE

Project Is In An:  Ocean Erodible Area     High Hazard Flood Area     Inlet Hazard Area

Property Owner: Branstrom Residential Trust

Property Address: 236 Beach Rd. N.

Date Lot Was Platted: \_\_\_\_\_

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

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

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

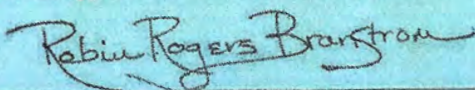
The rate was established by careful analysis of aerial photographs of the coastline taken over the past 50 years.

Studies also indicate that the shoreline could move as much as 385' feet landward in a major storm.

The flood waters in a major storm are predicted to be about 17' 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.



Property Owner's Signature

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

*For more information, contact:*

Christine R. Bouffard

*Local Permit Officer*

230 Government Center Dr. Wilmington NC 28403

*Address*

New Hanover County

*Locality*

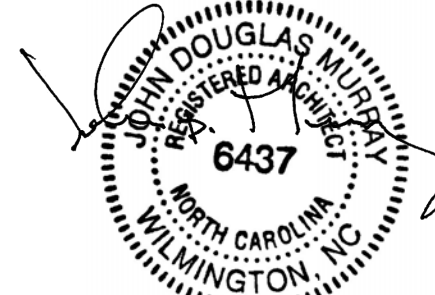
910.798.7074

*Phone Number*



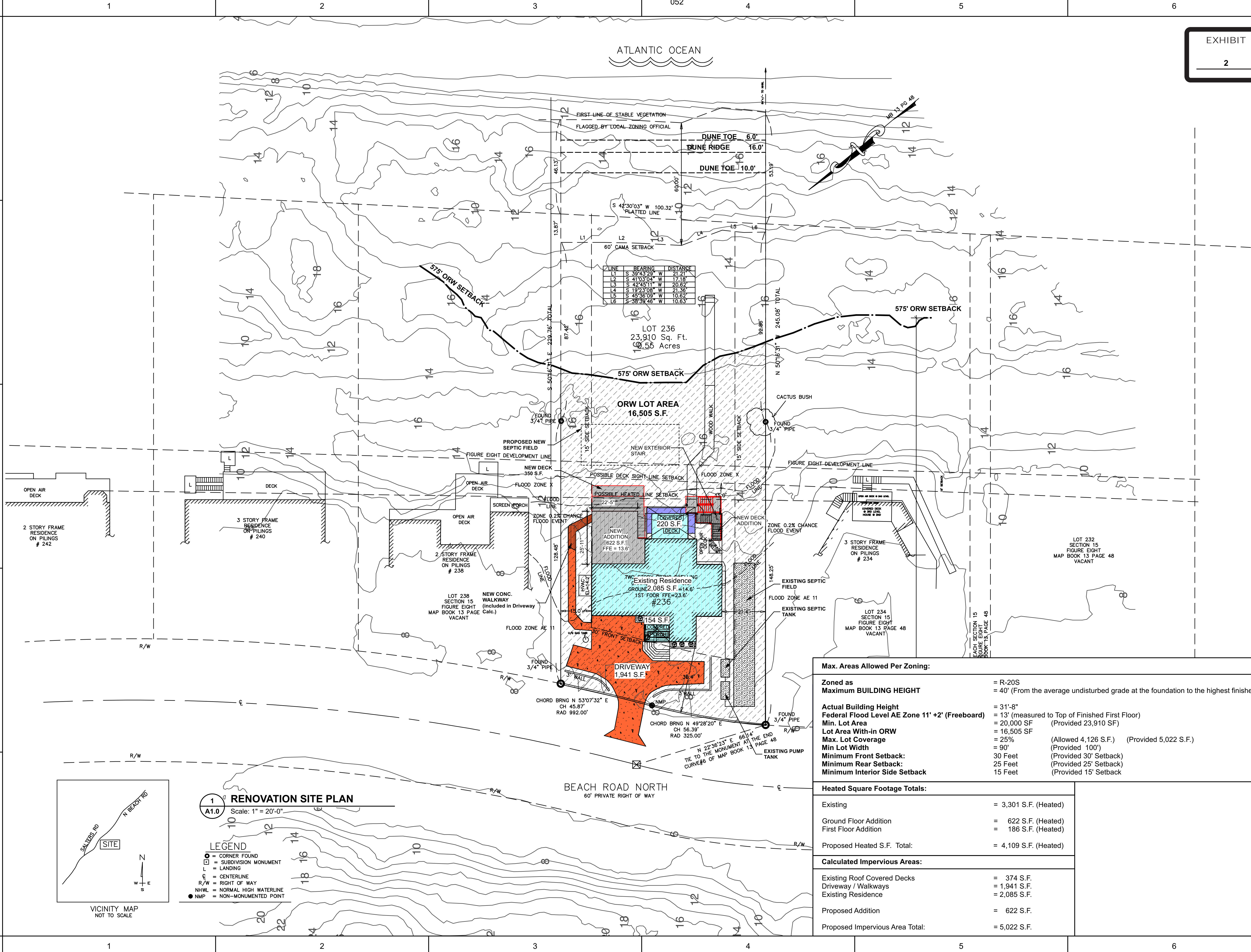


**BOWMAN  
MURRAY  
HEMINGWAY**  
ARCHITECTS  
514 Market Street  
Wilmington, NC 28401  
Tel - (910) 762-2621



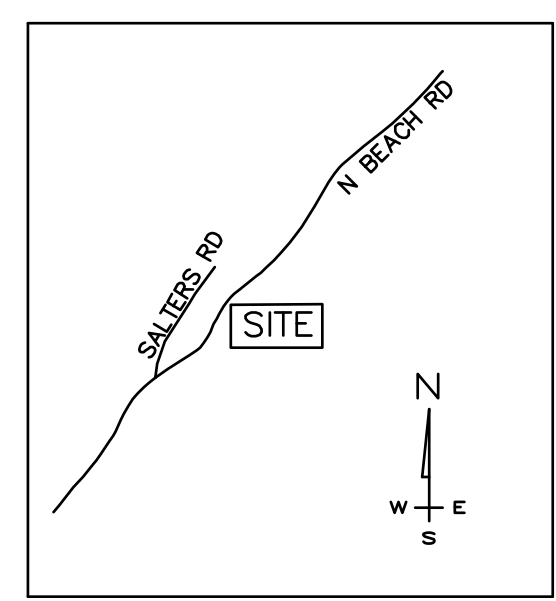
8-22-2024

**Branstrom Residence**  
236 Beach Road North  
Figure Eight Island, North Carolina



LINE	BEARING	DISTANCE
L1	S 39°43'29" W	21.21
L2	S 41°03'04" W	17.18
L3	S 42°45'11" W	20.62
L4	S 19°23'08" W	21.56
L5	S 45°36'09" W	10.62
L6	S 38°39'46" W	10.63

Max. Areas Allowed Per Zoning:	
<b>Zoned as</b>	= R-20S
<b>Maximum BUILDING HEIGHT</b>	= 40' (From the average undisturbed grade at the foundation to the highest finished roof)
<b>Actual Building Height</b>	= 31'-8"
<b>Federal Flood Level AE Zone 11' +2' (Freeboard)</b>	= 13' (measured to Top of Finished First Floor)
<b>Min. Lot Area</b>	= 20,000 SF (Provided 23,910 SF)
<b>Lot Area With-in ORW</b>	= 16,505 SF
<b>Max. Lot Coverage</b>	= 25% (Allowed 4,126 S.F.) (Provided 5,022 S.F.)
<b>Min Lot Width</b>	= 90' (Provided 100')
<b>Minimum Front Setback:</b>	30 Feet (Provided 30' Setback)
<b>Minimum Rear Setback:</b>	25 Feet (Provided 25' Setback)
<b>Minimum Interior Side Setback</b>	15 Feet (Provided 15' Setback)
Heated Square Footage Totals:	
Existing	= 3,301 S.F. (Heated)
Ground Floor Addition	= 622 S.F. (Heated)
First Floor Addition	= 186 S.F. (Heated)
<b>Proposed Heated S.F. Total:</b>	<b>= 4,109 S.F. (Heated)</b>
Calculated Impervious Areas:	
Existing Roof Covered Decks	= 374 S.F.
Driveway / Walkways	= 1,941 S.F.
Existing Residence	= 2,085 S.F.
Proposed Addition	= 622 S.F.
<b>Proposed Impervious Area Total:</b>	<b>= 5,022 S.F.</b>



**1**  
**A1.0 RENOVATION SITE PLAN**  
Scale: 1" = 20'-0"

**LEGEND**

- = CORNER FOUND
- = SUBDIVISION MONUMENT
- = LANDING
- L = LANDING
- ⊕ = CENTERLINE
- R/W = RIGHT OF WAY
- NHWL = NORMAL HIGH WATERLINE
- = NON-MONUMENTED POINT

REV.	DATE	DESCRIPTION
NO.	DATE	ISSUE NOTE

Project Manager	Drawn By
Date	Reviewed By
8.09.24	
Project ID	
Sheet Title	
Sheet No.	

**SITE PLAN**

**A1.0**



1

2

3

053

4

5

6

A

B

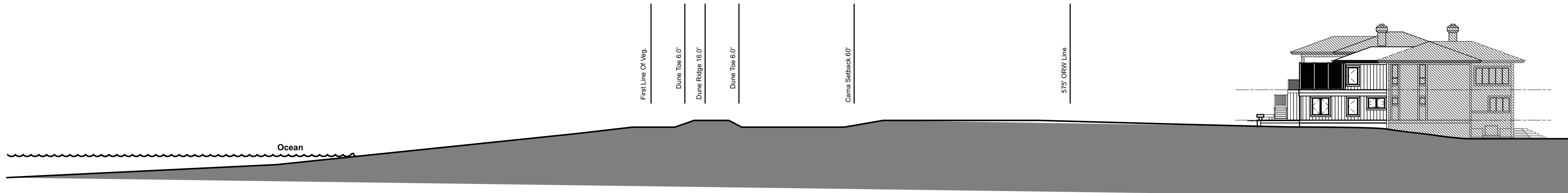
C

D

E



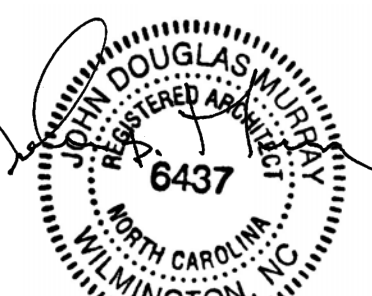
**1 OVERALL SITE PLAN**  
 Scale: 1" = 30'-0"



**2 SITE SECTION VIEW**  
 Scale: 1/16" = 1'-0"



**BOWMAN  
MURRAY  
HEMINGWAY**  
 ARCHITECTS  
 514 Market Street  
 Wilmington, NC 28401  
 Tel - (910) 762-2621



8-22-2024

**Branstrom Residence**  
 236 Beach Road North  
 Figure Eight Island, North Carolina

REV.	DATE	DESCRIPTION

NO.	DATE	ISSUE NOTE

Project Manager Drawn By

Date 8.09.24 Reviewed By

Project ID

Sheet Title

**Site Plan Overall**

Sheet No.

**A1.0a**



4  
23  
3,550.00 R/S

054



FOR REGISTRATION REGISTER OF DEEDS  
REBECCA T. CHRISTIAN  
NEW HANOVER COUNTY, NC  
2003 JUN 10 02:35 34 PM  
BK-3832 PG.566-570 FEE \$23.00  
NC REV STAMP \$3,550.00  
INSTRUMENT # 2003036077

**NORTH CAROLINA GENERAL WARRANTY DEED**

Prepared by: W. A. Raney, Jr., Attorney, P.O. Box 1049, Wilmington, NC 28402. Unless shown by his signed certificate, the preparer has not examined the title to the property described hereinbelow.

Return to: W. A. Raney, Jr., Attorney at Law

Parcel #R04606-001-009-000

**NORTH CAROLINA  
NEW HANOVER COUNTY**

**DATE:** June 10, 2003

**GRANTOR:** THOMAS B. MOBLEY and wife, SUE D. MOBLEY

**GRANTEE:** WILLIAM R. CULP, JR., Trustee for the Branstrom Residence Trust U.A.D., May 27, 2003

**ADDRESS:** Suite 1500 Carillon Building  
227 W. Trade Street  
Charlotte, NC 28202

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural,

EXHIBIT

3

masculine, feminine or neuter as required by context.

**W I T N E S S E T H:**

**THAT** the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is acknowledged, has and by these presents does hereby grant, bargain, sell and convey unto the Grantee in fee simple all of that certain lot or parcel of land lying and being in Harnett Township, New Hanover County, North Carolina, and being more particularly described as follows:

Being all of Lot 236, Section 15, of the property of The Figure Eight Island Company, as shown by map thereof recorded in Map Book 13, Page 48, of the New Hanover County Registry.

Subject to the terms and conditions contained in Restrictive Covenants recorded by The Figure Eight Island Company in Book 933, Page 286, of the New Hanover County Registry, reference to which as well as the map hereinabove referred to is hereby made. In accordance with Restriction #5 of the Restrictions hereinabove referred to, the minimum square foot requirement of any house constructed on the tract shall be 1400 square feet. Together with a right of way in common with others, over, through, or upon streets and walks shown on the above referenced map, and any and all existing streets and walks providing access to this tract.

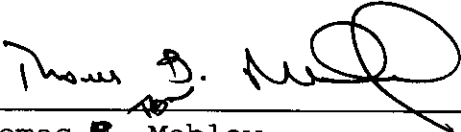
The property hereinabove described was acquired by Grantor by instrument recorded in Book 2488 at Page 24, New Hanover County Registry.


**TO HAVE AND TO HOLD** the above-described lot or parcel of land, together with all privileges and appurtenances thereunto belonging, unto the Grantee, his heirs and assigns, in fee simple forever, subject to the following: the lien of New Hanover County ad valorem taxes for 2003 and subsequent years; easements and

restrictive covenants of record; and all applicable zoning and land use ordinances, statutes and regulations; and any public rights to use of the dry sand area of the ocean beach.

**AND** the Grantor, for himself, his heirs and assigns, covenants with the Grantee, his heirs and assigns, that the Grantor is seized of the premises in fee and has the right to convey the same in fee simple; that the same is free and clear from all encumbrances, except as set forth herein; and that the Grantor does hereby and will forever **WARRANT AND DEFEND** the title to the same against the lawful claims of all persons whomsoever, **except that the Grantor does not warrant any portion of the property lying below the mean high water line of tidal waters.**

**IN WITNESS WHEREOF**, the Grantor has hereunto set his hand and seal the day and year first above written.

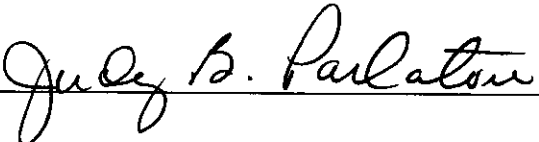
  
\_\_\_\_\_  
Thomas **B.** Mobley (SEAL)

  
\_\_\_\_\_  
Sue D. Mobley (SEAL)

NORTH CAROLINA  
NEW HANCOVER COUNTY

I, Judy B. Parlatore, a Notary Public, do hereby certify that THOMAS **B.** MOBLEY and SUE D. MOBLEY personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal, this the 10<sup>th</sup> day of June, 2003.

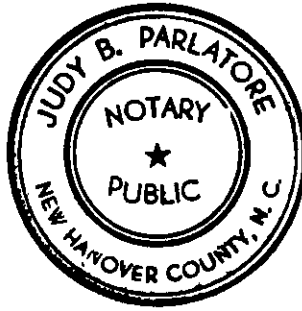
  
\_\_\_\_\_

Notary Public

My commission expires:

7/05/04

(SEAL)



*Judy B. Parlato*

WAR\Real\R03-112-001



REBECCA T CHRISTIAN  
REGISTER OF DEEDS, NEW HANOVER  
216 NORTH SECOND STREET

WILMINGTON, NC 28401

\*\*\*\*\*

Filed For Registration: 06/10/2003 02.35 34 PM  
Book RE 3832 Page. 566-570  
Document No.: 2003036077  
DEED 5 PGS \$23.00  
NC REAL ESTATE EXCISE TAX: \$3,550.00  
Recorder LIESEL WARD

\*\*\*\*\*

State of North Carolina, County of New Hanover

The foregoing certificate of JUDY B PARLATORE Notary is certified to be correct. This 10TH of June 2003  
REBECCA T. CHRISTIAN , REGISTER OF DEEDS

By: Liesel Ward  
Deputy/Assistant Register of Deeds

\*\*\*\*\*

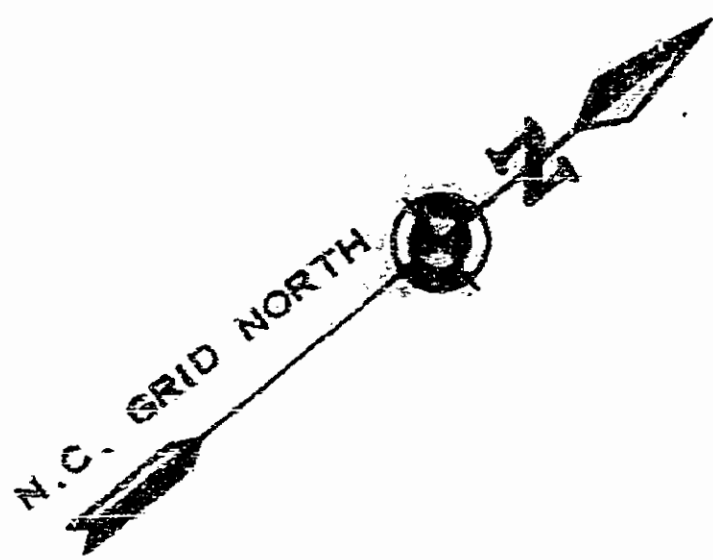
YELLOW PROBATE SHEET IS A VITAL PART OF YOUR RECORDED DOCUMENT.  
PLEASE RETAIN WITH ORIGINAL DOCUMENT AND SUBMIT FOR RE-RECORDING.

**\*2003036077\***

2003036077



NO	DELTA	RADIUS	TANGENT	ARC	CHORD
1	25°11'51"	447.42	100.00	196.77	195.18
2	13°33'55"	2389.65	284.22	565.77	564.45
3	17°37'23"	645.10	100.00	198.42	197.64
4	35°19'41"	353.66	112.62	218.07	214.63
5	37°02'18"	238.93	80.00	154.39	151.72
6	34°03'31"	355.00	108.73	211.02	207.93
7	27°31'00"	962.00	235.55	462.01	457.58
8	35°28'31"	234.47	75.00	145.18	142.87



CERTIFICATE OF APPROVAL BY BOARD OF COUNTY COMMISSIONERS

APPROVED BY THE NEW HANOVER COUNTY BOARD OF COMMISSIONERS PROVIDED THAT THE PLAT IS RECORDED WITHIN NINETY (90) DAYS OF FINAL APPROVAL  
 CHAIRMAN Memo Harris DATE 10-16-72

CERTIFICATE OF APPROVAL BY THE PLANNING COMMISSION

THE WILMINGTON-NEW HANOVER PLANNING COMMISSION HEREBY APPROVES THE FINAL PLAT OF SECTION FIFTEEN FOR THE FIGURE EIGHT ISLAND SUBDIVISION.  
 DATE 10-12-1972 CHAIRMAN J. John Tunga  
 PLANNING COMMISSION

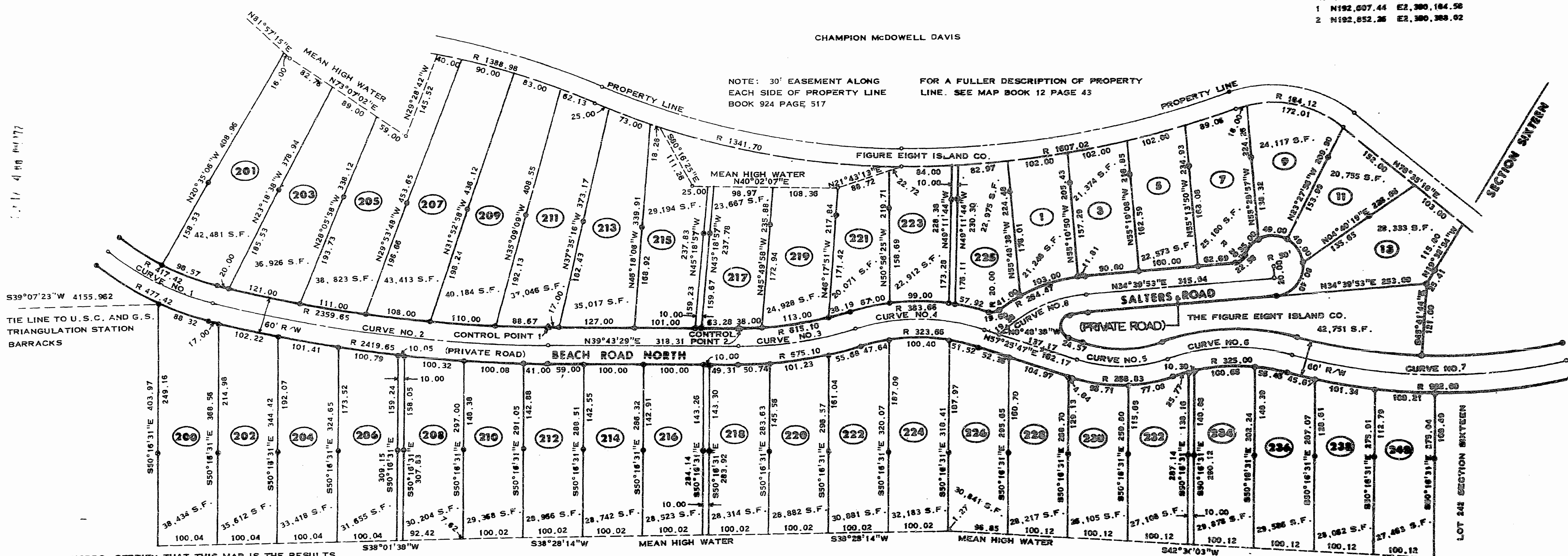
WE CERTIFY THAT THE LAND SHOWN ON THIS PLAT FALLS WITHIN THE SUBDIVISION JURISDICTION OF NEW HANOVER COUNTY  
 DATE 11 OCT. 1972  
 BY: Joseph S. Smith, Jr.  
 OWNER - PRESIDENT

See letter in file 175A  
 Re Drainage & Sewage

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON.  
 DATE 11 OCT. 1972  
 BY: Joseph S. Smith, Jr.  
 OWNER

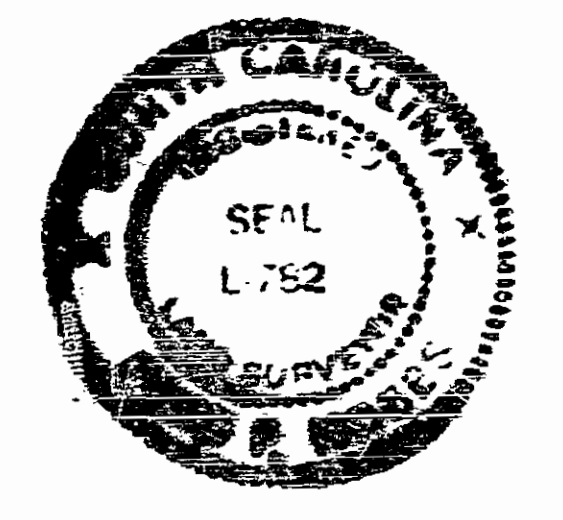
NOTE:  
 ALL LOTS ARE SUBJECT TO A 25 FT. MINIMUM SETBACK LINE AT THE STREET AND AN 8 FT. MINIMUM SIDE YARD SETBACK.

N.C. GRID COORDINATES OF CONTROL POINTS  
 1 N192,637.44 E2,300,164.56  
 2 N192,652.26 E2,300,389.82



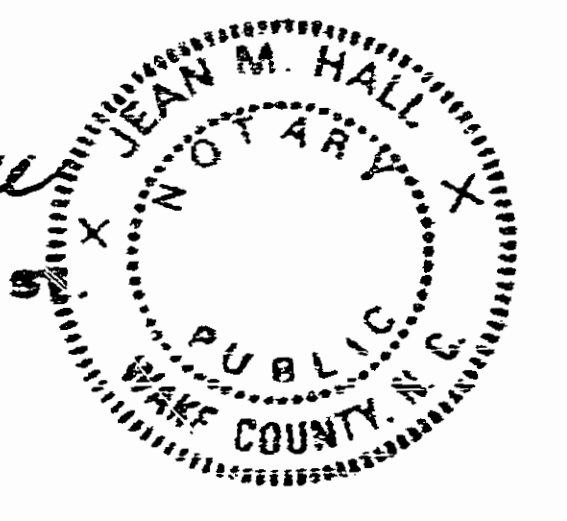
I, FERD F. HOBBS, CERTIFY THAT THIS MAP IS THE RESULTS OF AN ACTUAL SURVEY MADE BY ME. THAT THE ERROR OF CLOSURE AS CALCULATED BY COMPUTER IS 1 IN 7,500 AND IS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY HAND AND SEAL THIS 11th DAY OF OCT 1972

SURVEY COMPLETED ON 21 SEPT. 1972  
 FERD F. HOBBS R.L.S.  
 REG. NO. L782  
 6001 GLENWOOD AVE.  
 RALEIGH, N.C. 27612



NORTH CAROLINA WAKE COUNTY PERSONALLY APPEARED BEFORE ME, FERD F. HOBBS, WHO BEING DULY SWORN SAYS THAT THE CERTIFICATE SHOWN IS TRUE AND CORRECT THIS 11th DAY OF OCTOBER 1972 MY COMMISSION EXPIRES MARCH 23, 1976

THE FOREGOING CERTIFICATE OF JEAN M. HALL NOTARY PUBLIC OF WAKE COUNTY IS CERTIFIED TO BE CORRECT THIS 17 DAY OF OCT 1972



FILED FOR REGISTRATION THIS 17 DAY OF OCT 1972 IN MAP BOOK 13 PAGE NO. 48

ATLANTIC OCEAN

SECTION FIFTEEN

# FIGURE EIGHT ISLAND

NEW HANOVER COUNTY HARNETT TOWNSHIP NORTH CAROLINA

OWNER AND DEVELOPER  
**THE FIGURE EIGHT ISLAND COMPANY, INC.**  
 RALEIGH, N.C.  
 SCALE - 1" = 100'

SURVEY BY  
**PRECISE CONTROL, INC.**  
 RALEIGH, N.C.



- WOODEN STAKE
- IRON PIPE
- CONCRETE MON.

EXHIBIT  
 4

1972



Received and Recorded October 19, 1972 at  
David E. DeRuy  
 Register of Deeds



BK: RB 6322

PG: 1846-2259

RECORDED:  
06-18-2020

01:24:34 PM

BY: ANGELA ENGLISH  
DEPUTY



2020022524

NEW HANOVER COUNTY, NC

TAMMY THEUSCH BEASLEY

REGISTER OF DEEDS

NC FEE \$2818.00

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR FIGURE EIGHT ISLAND

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE  
FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH  
CAROLINA. THE DISPLAY OF FLAGS IS REGULATED BY SECTION 12.8  
OF THIS DECLARATION.**

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF  
POLITICAL SIGNS. POLITICAL SIGNS OF ANY KIND ARE PROHIBITED  
ON ANY LOT.**

Prepared by Ward and Smith, P.A., University Corporate Center, 127 Racine Drive,  
Wilmington, NC 28403

Please return to Ward and Smith, P.A., University Corporate Center, 127 Racine  
Drive, Wilmington, NC 28403

EXHIBIT

5



2.10 "Cast a ballot": This phrase shall mean voting for or against the proposed action or for or against a candidate or slate of candidates. It does not include any abstention or the presentation of any empty ballot or ballot marked to reflect an abstention.

2.11 "Common Elements": All real and personal property in which the Association now or hereafter owns, leases or otherwise holds possessory or use rights for the common use and enjoyment of the Owners, including easements held by the Association for those purposes. The term shall include, without limitation, signage and/or landscape easements as the same may be depicted on recorded maps of the Property, other easement rights held by the Association, landscape medians, roads, bridges, cul-de-sac, streams, walks, Beach Access tracts, boat ramp property and improvements, submerged lands, bottom lands, swamps, marshlands, wetlands and preservation areas. The term shall also include any and all permits and other such intangible property. Common Elements shall not include (i) any Lot owned by the Association; and (ii) any tract or parcel of real property, other than a Lot, that the Association acquires or holds an ownership interest in, when the Association, or the grantor deeding such real property or interest therein to the Association, expressly provides in a recorded instrument with the New Hanover County Register of Deeds shall not be a part of the Common Element; PROVIDED, HOWEVER, that the Association, by action of the Board of Directors, may designate or declare a Lot or any tract or parcel of real property to be Common Element at any time upon recording a written instrument with the New Hanover County Register of Deeds making such designation or declaration as Common Element. The tract of real property owned by the Association bearing New Hanover County PIN R04500-005-001-001 and consisting of 858.12 acres, more or less, is not Common Element and shall not be part of the Common Elements unless the Association subsequently records a written instrument as described above.

2.12 "Common Expenses": Any and all expenditures made by or financial liabilities and obligations of the Association, together with any allocations to reserves.

2.13 "Community-Wide Standard": The standard of conduct, upkeep, or other activity generally prevailing throughout the Property or as otherwise established by the Board of Directors or Architectural Review Committee, with the determination of the Board or ARC having precedence over what may be generally prevailing. The standard shall be determined by the Board of Directors and the Architectural Review Committee (as defined in Section 11.2(a)). The standard may contain both objective and subjective elements, and may evolve and change as development progresses and as the needs and desires within the Property change. No other writing is required for the establishment of this Community-Wide Standard, as it is determined based on the Association Documents and determinations of the Board of Directors and the Architectural Review Committee.

2.14 "Contiguous Property": Any property of which a portion adjoins or borders the Property or which is separated from the Property only by roads, rights-of-way, waterways, or natural boundaries.

2.15 "Declaration": This Declaration, any Supplemental Declaration as may be applicable to separate portions of the Property, any exhibit, schedule or amendment thereto, all as may be amended, restated and revised from time to time.

2.16 "Design Guidelines": The architectural, design, development, and other guidelines, practices, standards, controls, and procedures, including, but not limited to, application and review procedures adopted pursuant to Article 11 and applicable to the Property. The Design Guidelines are part of the Rules and Regulations of the Association, and they also may be titled or known as "ARC Guidelines."

2.17 "Dwelling Unit": Any building or structure or portion of a building or structure situated upon a Lot which is intended for use and occupancy as an attached or detached residence for a single family.

2.18 "Immediate Family Member": A Person related to a Member or Owner as identified in the Rules and Regulations.

2.19 "Island Administrator": The chief executive officer of the Association who is hired as an employee of the Association by the Board.

2.20 "Landscaping": Living plants, shrubs, trees, vegetation, ground coverings (including grass and sod) and appurtenant live/growing vegetative materials, straw, mulches, composting materials, pools (other than swimming pools), ornamental ponds, ornamental structures, hardscape materials, and any other living or non-living material or structure reasonably constituting a part of any or all of the foregoing installed upon a Lot.

2.21 "Limited Common Elements": A portion of the Common Elements allocated by this Declaration or by operation of law for the exclusive use of one (1) or more but fewer than all of the Lots. Limited Common Elements may also be shown on any map of the Project recorded in the Register of Deeds. At the time of recording of this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Figure Eight Island, no Limited Common Elements exist on the Property.

2.22 "Lot": A portion of the Property, whether improved or unimproved, other than Common Elements and property dedicated to the public, which may be independently owned and conveyed and which is separately identified on a map of all or any portion of the Property recorded in the Register of Deeds. The term shall refer to the land, if any, which is part of the Lot as well as any improvements thereon, including, but not limited to, the Dwelling Unit.

2.33 "Upkeep": Care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

2.34 "Use Restrictions": The rules and use restrictions more fully defined as set forth in Article 12.

2.35 "Utility Company": A public or private company, such as the private company, Figure "8" Island Utility Company; an entity duly licensed and authorized by the North Carolina Utilities Commission to provide utility services within a specified franchise area; or any entity providing utility services on behalf of a body politic, municipality or other governmental body or entity.

### **Article 3. Property Rights.**

3.1 Common Elements. Every Owner shall have a right and nonexclusive easement, in common with all other Owners, of use, access, and enjoyment in and to the Common Elements, subject to:

- (a) The Association Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying any portion of the Property to the Association;
- (c) The right of the Board to adopt rules, regulations or policies regulating the use and enjoyment of the Common Elements, including, but not limited to, rules restricting use of the Common Elements to Owners, their families, lessees and guests; rules limiting the number of occupants and guests who may use the Common Elements; rules restricting how many Owners or Members affiliated with a Lot may utilize the call-in service provided by the Association for guests to be called onto the Island without being accompanied by the Owner or Member; and rules restricting the number of guests who may be called onto the Island without being accompanied by the Owner or Member;
- (d) The right of the Board to adopt rules, regulations or policies establishing design guidelines for Dwelling Units and other improvements;
- (e) The right of the Board to adopt rules, regulations or policies regulating activity and conduct on Lots;
- (f) The right of the Association to grant easements or to dedicate or transfer all or any part of the Common Elements to governmental entities pursuant to Section 5.3;

(g) The right of the Board to impose reasonable requirements and charge reasonable admission, or other fees for the use of any recreational facility or other improvements situated upon the Common Elements;

(h) The right of the Board to permit use of the Common Elements by Figure "8" Island Utility Company;

(i) The right of the Association to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred by the Association;

(j) The right of the Association to convey or encumber portions of the Common Elements with the approval of the Owners of sixty-seven percent (67%) of the Lots or as otherwise set forth in Section 5.9 of this Declaration;

(k) The right of the Board to suspend the privilege of an Owner or Member to use recreational facilities within the Common Elements, the right of the Board to suspend a Member's privileges associated with vehicle decal usage (such as allowing additional parking rights or allowing expedited gate access), and the right of the Board to suspend any Member privileges in Section 4.4 or other provisions of this Declaration;

(l) The right of the Board to suspend any and all privileges of Special Members, individually or as an entire class;

(m) The right of the Association to rent or lease portions of the Common Elements to Figure "8" Island Utility Company or Figure Eight Island Yacht Club, Inc.; and

(n) The right of the Association to change, alter, or re-designate portions of the Common Elements or any other real property owned by the Association.

#### **Article 4. Association Function, Membership and Voting Rights.**

4.1 Function of Association. The Association shall be the entity responsible for management, Upkeep, operation and control of the Common Elements. The Association shall be the primary entity responsible for enforcement of the Association Documents. The Association shall perform its functions in accordance with the Association Documents and applicable North Carolina law. The Association shall have all powers reasonably necessary to perform its functions and obligations described in the Association Documents, including, but not limited to, all powers set forth in Chapter 55A of the North Carolina General Statutes.

4.2 Membership in Association. A Person eligible to be a Member must apply to the Board for membership in the Association. Eligibility is determined by this Section 4.2 and the terms of the Bylaws. The Board determines

Declaration. Members will vote on all issues pertaining to the Association given to Owners and Members, except for amendments to this Declaration that require Owner signatures as provided in Section 15.2 of this Declaration and as otherwise set forth in this Declaration. Special Members have no right to vote on any issue. In the event of any conflict between the Bylaws and this Declaration as to voting by Members, the terms of the Bylaws will control to eliminate any such conflict.

**Article 5. Association Rights, Obligations and Services.**

5.1 Personal Property and Real Property. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property.

5.2 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by the Association Documents or which may be reasonably implied from, or reasonably necessary to effectuate, any such right or privilege. Except as otherwise specifically provided in the Association Documents or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership or a vote of the Owners.

5.3 Dedication of Common Elements. The Association may dedicate or grant easements over portions of the Common Elements to any local, state, or federal governmental entity or to any Utility Company.

5.4 Disclaimer of Liability. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to promote the health, safety and welfare of Owners and occupants of any Lot.

(a) Notwithstanding anything contained herein or in the Association Documents, neither the Association, the Board, nor the Island Administrator or any employee of the Association shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or occupant of any Lot or any tenant, guest or invitee of any Owner or occupant or for any property of any such Persons. Each Owner and occupant of a Lot and each tenant, guest and invitee of any Owner or occupant shall assume all risks associated with the use and enjoyment of the Property.

(b) Neither the Association, the Board, nor the Island Administrator or any employee of the Association shall be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence or malfunction of utility lines or utility sub-stations adjacent to, near, over, or on the Property. Each Owner and occupant of a Lot and each family member, tenant, guest, and invitee of any Owner or occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of utility lines or utility sub-stations and further acknowledges that the Association, the Board, the Island Administrator, and the employees of the Association have made no representations

connectivity services, security, caretaker, fire protection, utilities, and similar services and facilities. The Board, without the consent of the Members of the Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein can be relied upon as a representation as to what services and facilities, if any, will be provided by the Association. This paragraph shall be specifically construed to allow the Association to enter into a contract for the overall management of the Association with any individual or corporation. The Association or its managing agent shall also be permitted to provide services to any Owners where it deems it to be in the interest of the Association to do so.

5.7 Change of Use of Common Elements. Upon adoption of a resolution by the Board stating that, in the Board's opinion, a service provided by the Association pursuant to Section 5.6 or the then present use of a designated part of the Common Elements is no longer in the best interest of the Owners or is no longer necessary or appropriate for the purposes intended, the Board shall have the power and right to terminate such service or change the use of any Common Elements (and, in connection therewith, construct, reconstruct, alter, or change the buildings, structures, and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided that any such new use (i) shall be for the benefit of the Owners or Members, (ii) shall be consistent with any deed restrictions and zoning regulations restricting or limiting the use of the Common Elements, and (iii) shall be approved unanimously by all directors on the Board at the time of the change of use.

5.8 View Impairment. The Association does not guarantee or represent that any view over and across any property, including any Lot, from adjacent Lots will be preserved without impairment. All Owners understand and acknowledge that architectural review determinations by the Architectural Review Committee or the Board may result in view impairment for another Owner, and Owners expressly waive and release the Association from any liability whatsoever from any such determination on the basis of view impairment. The Association shall have no obligation to prune or thin Landscaping except as set forth in Article 6. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

5.9 Shifting of Beach Access. Upon action duly taken by the Board, and without any membership vote, the Association may convey all or any portion of a Beach Access to any Owner who owns an adjoining Lot to the Beach Access being conveyed, only so long as the Association contemporaneously receives a portion of the Owner's Lot that is of equal or greater acreage to the Beach Access conveyed away by the Association and that is capable of being used by Owners to access the beach. This action by the Association is not subject to the provisions of Section 5.7, except as provided in the next sentence. Any such tract received by the Association from the preceding process of shifting the beach access shall be transferred to the Association by General Warranty Deed, free and clear of all encumbrances of record



except for this Declaration, and such tract shall become a Beach Access immediately upon acquisition by the Association, unless the Board takes action pursuant to Section 5.7 herein.

**Article 6. Maintenance.**

6.1 Association's Responsibility. The Association shall provide Upkeep for the Common Elements, which shall include, but need not be limited to:

- (a) all Common Elements and all improvements upon the Common Elements;
- (b) all Landscaping, signage, and improvements, including any courts, structures, beach paths, bike or pedestrian pathways, and trails, situated upon the Common Elements;
- (c) all private streets, including any asphalt repairs thereto, situated upon the Common Elements and the bridge and all associated bridge systems related thereto; and
- (d) any additional property included within the Common Elements as may be dictated by this Declaration, any Supplemental Declaration, any Covenant to Share Costs, any plat of any portion of the Property, or any contract or agreement for maintenance thereof entered into by the Association.

The Association also may maintain and improve other property which it does not own, including, without limitation, property dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and if otherwise permitted by applicable law.

Except as otherwise specifically provided herein, all costs for Upkeep of the Common Elements shall be a Common Expense allocated among all Lots as part of the annual Assessment or some other form of assessment allowed in this Declaration, without prejudice to the right of the Association to seek reimbursement from the Persons responsible for such work pursuant to this Declaration, other recorded covenants, or agreements with such Persons.

6.2 Owner's Responsibility. Each Owner shall provide for the Upkeep of his or her Lot and Dwelling Unit, and all other structures, parking areas, Landscaping, and other improvements upon the Lot in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such responsibility for Upkeep is otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Lot.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her Upkeep responsibility, the Association may perform such work

**Article 8. No Partition.**

Except as permitted in this Declaration, the Common Elements shall remain undivided, and no Person shall bring any action for partition of the whole or any part thereof without the written consent of all Owners and Mortgagees.

**Article 9. Annexation of Property.** The Association may subject any property to the provisions of this Declaration with the consent of the owner of such property and the affirmative vote of Members representing sixty-seven percent (67%) of the votes allocated to the Lots for membership vote. Such annexation shall be accomplished by recording a Supplemental Declaration in the Register of Deeds describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Any such Supplemental Declaration shall be signed by the President of the Association, and by the owner of the annexed property. Any such annexation shall be effective upon the recording unless otherwise provided therein. Any property annexed into the Association by the provisions of this Declaration shall be subject to all conditions and privileges of the Association, and Owners of any such annexed property may apply to be members of the Association consistent with the requirements in Article 4 and the Bylaws.

**Article 10. Assessments.****10.1 Creation of Assessments.**

(a) The Association shall levy assessments against each Lot for Common Expenses as the Board may specifically authorize from time to time. There shall be four (4) types of assessments for Association expenses:

(a) Assessments to fund Common Expenses for the general benefit of all Lots; (b) Benefited Assessments as described in Section 10.3; (c) Special Assessments as described in Section 10.4; and (d) Emergency Assessments as described in Section 10.5. Except as otherwise provided to the contrary in this Article 10, any funds received from any category or type of assessment identified in the preceding sentence may be used to pay any Common Expense, to fund any capital improvement to improve, repair, or maintain any Common Element, to fund any real property acquisition by the Association or Figure 8 Beach Utility Company, to acquire any easement for the benefit of the Project, or for any purpose set forth in Section 10.2. Each Owner, by accepting a deed or entering into a recorded contract of sale for any Lot within any portion of the Property, is deemed to covenant and agree to pay these assessments.

(b) All assessments, together with interest from the due date of such assessment at a rate determined by the Association (not to exceed the highest rate allowed by North Carolina law), late charges, costs, including lien fees and administrative costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Lot against which the assessment is levied until paid, as more particularly provided in Section 10.7. Each such assessment, together with



actual threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance. No Owner shall be permitted to raise, breed or keep mammals, birds, fish, or reptiles of any kind for commercial purposes. Only Owners shall be permitted to keep household pets on the Property. Tenants, invitees of tenants, and invitees of Owners (such as contractors) shall not be allowed to bring any animals onto the Property.

(v) Signs on Lots are prohibited with the exception of signs required by a governmental agency, property identification signs that comply with the Design Guidelines, and signs approved by the ARC.

(w) Distribution of advertisements and door-to-door solicitation is prohibited.

(x) Beach vitex (*vitexrotundifolia*) is prohibited and may not be planted or maintained on any portion of the Property.

(y) Irrigation.

i. Moisture sensors must be included on all automated irrigation systems.

ii. Irrigation is prohibited between the hours of 6:00 a.m. and 9:00 a.m. and 6:00 p.m. and 9:00 p.m. every day, unless another schedule or restriction is set by the Board from time-to-time.

iii. Owners may irrigate their Lots only three times a week in accordance with the following schedule:

i. Lots with even number addresses may irrigate on only Monday, Wednesday, and Friday.

ii. Lots with odd number addresses may irrigate on only Tuesday, Thursday, and Saturday.

iii. Irrigation is prohibited on Sunday

iv. The Association may impose additional water conservation measures in an emergency or for the protection of any Utility Company system or infrastructure, and Owners must abide by these water conservation measures. This may include, but not be limited to, a prohibition against all irrigation for a period of time determined by the Association.

**12.5 Restricted Activities.** The following activities are prohibited within the Property unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

sole discretion of the Board. Leasing of a Dwelling Unit shall not be considered Business and Trade;

(j) Any activities which materially disturb or destroy the vegetation, dunes, beach, wildlife, wetlands, or air quality within the Property or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(k) Vehicles, including without limitation, automobiles, trucks, boats, trailers, motorcycles, low-speed vehicles, dune buggies, campers, vans, golf carts, motorized bicycles, motorized scooters, ATVs, and recreational vehicles, shall only be permitted on the Property in accordance with Rules and Regulations adopted by the Board, and the Board may prohibit the use of certain vehicles on the Property through the Rules and Regulations;

(l) Any construction, erection, placement, or modification of anything, permanently or temporarily, upon a Lot or on the outside portions of the Dwelling Unit, whether such portion is improved or unimproved, except as specifically authorized by the ARC in writing, and otherwise in strict compliance with the provisions of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; swimming pools; docks, piers and similar structures; and hedges, walls, dog runs, animal pens, storage sheds, or fences of any kind;

(m) Any construction, erection, or placement of a marina upon a Lot;

(n) Removal, alteration, damage or change to any of the lands where stormwater management facilities or drainage easements exist; and

(o) Placing or permitting to remain garbage or trash on any Lot, except in covered containers of a type, size and style which are approved in accordance with Article 11 and as otherwise required by the Association or any vendor retained by the Association for trash collection.

12.6 Prohibited Uses. In addition to uses which are inconsistent with applicable zoning or are prohibited or restricted by other recorded covenants, conditions, restrictions or easements, the following uses are prohibited within the Property:

(a) trailer courts, mobile home parks, and recreation vehicle campgrounds;

(b) oil, gas or mineral exploration; drilling, boring, excavation, development, refining, quarrying, or mining operations, and all construction and equipment incident thereto; and oil or gas wells or related equipment or facilities;

13.2 Easements for Utilities, Etc. The Association reserves for itself perpetual easements for the purpose of access and Upkeep upon, across, over, and under all of the Property (including without limitation ten (10) feet along the rear and side Lot lines of each Lot and as depicted on recorded plats of the Property) to the extent reasonably necessary to install and provide Upkeep for cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, beach paths, trails, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity. Additionally, the Association reserves for itself perpetual easements for the purpose of access and Upkeep upon, across, over, and under all of the Property for the purpose of dredging or otherwise engaging in excavation with the purpose of gathering bottom sediments and disposing of them at a different location and for the purpose of working to keep waterways and canals navigable as determined by the Association. All of the easements described herein include the right to cut any trees, bushes, or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation, to dredge or to access dredging areas, and to maintain reasonable standards of health, safety, and appearance. The Association further reserves the right to locate wells, pumping stations, and tanks within Common Elements or Lots now or subsequently designated for such use or to locate the same upon a Lot with the permission of the Lot Owner. The Association may assign these easements and rights to any Utility Company providing a service or utility to Figure Eight Island subject to the limitations herein.

This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing Dwelling Unit on a Lot, and any damage to a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

Utility Companies shall have easements across the Property for ingress, egress, installation, reading, and providing Upkeep of meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the Dwelling Unit on any Lot, nor shall any utilities be installed or relocated on the Property, except as approved by the Board.

13.3 Easements for Cross-Drainage. Every Lot and the Common Elements shall be burdened with easements for natural drainage of stormwater runoff from other portions of the Property; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of stormwater onto adjacent portions of the Property without the consent of the Owner(s) of the affected property and the Association. To the extent the Association, by and through the Board or the ARC, approves an application for construction or improvement

installation of pipes or hoses, protection of bird nesting areas, and other related actions that are designed to preserve the ecology and overall beauty of the beach areas or that are necessary to maintain and preserve the beach area, as determined by the Board in the Board's sole discretion. This easement does not authorize entry into any Dwelling Unit without permission of the Owner.

**13.7 Rights to Stormwater Runoff and Water Reclamation.** The Association hereby reserves for itself and its designees all rights to ground water, surface water, water within ponds, streams, marsh, channels, and wetlands located within the Property, and stormwater runoff located or produced within the Property, and each Owner agrees, by acceptance of this Declaration, that the Association shall retain all such rights. Such right shall include perpetual easements over the Property for access, and for installation and maintenance of facilities and equipment to capture and transport such water and runoff.

#### **Article 14. Compliance and Enforcement.**

14.1 **General Remedies.** Every Owner and occupant of any Lot shall comply with the Association Documents. Failure to comply shall be grounds for an action by the Association to recover sums due, for damages, injunctive relief or any other remedy available at law and equity.

14.2 **Enforcement/Sanctions.** The Board, or such other Association agent with the Board's approval, may impose sanctions for violations of Association Documents after notice and a hearing in accordance with the procedures set forth in the Declaration. Such sanctions may include, without limitation:

- (a) Imposing reasonable monetary fines which shall constitute a lien upon the Lot of the violator;
- (b) Suspending a Member's right to vote or an Owner's right to vote;
- (c) Suspending any Person's right to use any recreational facilities within the Common Elements; provided, however, nothing herein shall authorize the Board to prohibit ingress or egress to or from the Lot by any Owner;
- (d) Suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than sixty (60) days delinquent in paying any assessment or other charge owed to the Association; and
- (e) Levying Benefited Assessments to cover costs incurred in bringing a Lot into compliance in accordance with Section 10.3(c).

14.3 **Self-Help Remedies.** The Board or such other Association agent with the Board's approval, may elect to enforce any provision of the Association Documents by self-help (specifically including, but not limited to, the towing of



September 18, 2024

TO: Branstrom Residence Trust  
Bill and Robin Branstrom  
1111 metropolitan Ave, Suite 700  
Charlotte, NC 28204

CC: Steve Coggins

Soil and Site Evaluation for 236 Beach Road North, Figure Eight Island, Wilmington, New Hanover County, NC. Parcel #R04606-001-009-000.

Mr. and Mrs. Branstrom,

In August of 2024, Davey Resource Group, Inc. (DRG), conducted an evaluation of your property located at 236 Beach Road North, on Figure Eight Island, New Hanover County, NC. Per that evaluation assisted in guidance on permitting of a new wastewater system associated with the proposed building addition to the existing residential home. During that evaluation DRG made observations of the soil strata in the upper 4 to 8 feet of the soil surface in areas in the front section and rear section of the property area. DRG was requested by your representatives to provide information about the soil on this site and its estimated ability to absorb rainfall and runoff from the existing and proposed impervious surfaces. Accordingly, I offer the following guidance.

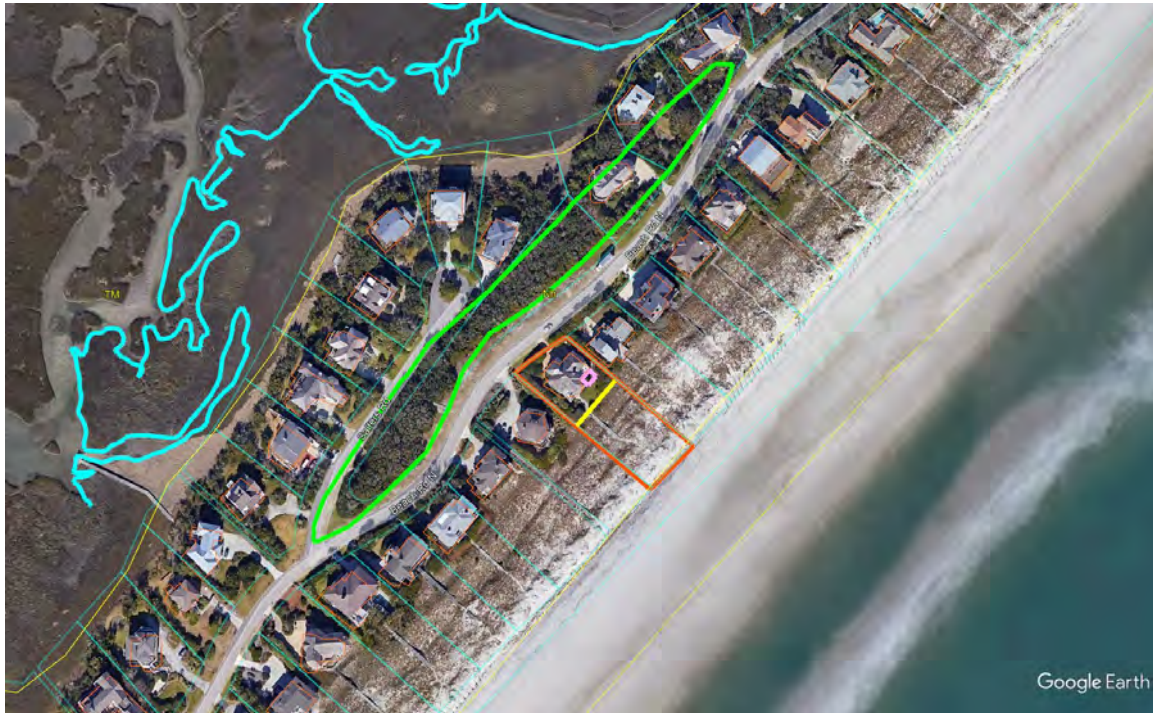
236 Beach Road North is located on Figure Eight Island, Wilmington, New Hanover County North Carolina (Red outline Figure 1, Page 2). Figure Eight Island is a barrier island south of Lea-Hutaff Island and north of Wrightsville Beach. Figure Eight Island is abutted by the Atlantic Ocean to the southeast and to the northwest by estuarine waters and marsh of Banks Channel with the Atlantic Intracoastal Waterway further to the northwest.

**daveyresourcegroup.com/carolinas • Phone: 910.452.0001 • Fax: 910.452.0060  
3805 Wrightsville Ave., Suite 15, Wilmington, NC 28403**



Located on the Property is a residence on which the owner wishes to construct an additional bedroom that would add 622 sf of Built-Up-Area (BUP) impervious surface (approximate area shown by pink outline Figure 1). The property is oceanfront. Access is gained to the Property by way of Beach Road North (BRN), which the Property abuts along its western frontage. BRN runs northeast-southwest along the northern half of Figure 8 island.

Figure 1. 236 Beach Road North Comprehensive Overview Image



Google Earth Aerial Imagery, Parlay Parcel Boundary with DRG Site Testing Overlay.

The Property is about 410 ft to 550 ft from the waters of Banks Channel (Approximate extent shown by the blue line in Figure 1), depending on particular location of the Channel and or Normal High-Water Mark, as the shoreline curves in and out at that general location. Located between the Property and Banks Channel shoreline (from east to west) are a commons area (green outline, Figure 1) acting as a stormwater and vegetative buffer, Salters Road, and sound front residences on Salters Road.

The common area immediately across BRN to the west of the Property is a substantial, thick, maritime forest vegetative area that is approximately 45000 square feet, about 80 feet wide and 700 feet long. The elevation of the common area gently lowers toward the northeastern end and surface flow would traverse through the properties to the northern side of BRN, these properties act as additional vegetated and soil buffer for Banks

Channel. The elevation of the forested area quickly rises to a high vegetated dunal system. Any surface water that does not immediately drain down through the sandy soils of the commons area is not expected cross the much higher elevation point between it and the ORW waters to the northwest via a surface flow. Any stormwaters that initially pond at the low point of the commons area are expected to infiltrate into the soil system and would not be expected to experience runoff due to the rapid permeable nature of the native dunal sediment.

The soil on the Branstrom property and within the common area is mapped as the Newhan Soil series in the New Hanover County Soil Survey (USDA/NRCS 1971). The Newhan soil series can be generally described as aeolian fine sandy sediment located in dunal systems on the barrier islands along the coast of North Carolina with excessively well drained hydrology and very rapid infiltration capacity.

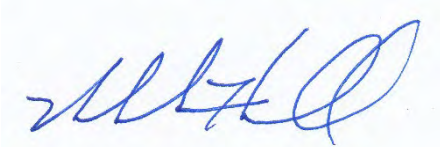
Multiple shallow auger borings were observed within the boundaries of the Branstrom property. The soils encountered within the areas of the front and rear of the property were evaluated during the evaluation for a potential septic system repair. The shallowest seasonal high-water table was encountered in the front of the property (western and northwestern portion of the property) at its lowest point at an approximate 70 inches below ground surface. Soil profiles indicated a disturbed dunal sand in the upper 24 inches underlain by unconsolidated native aeolian sediment. No evidence of perching or slow water movement was noted, this evaluation was conducted on the 8<sup>th</sup> of August during a Tropical Rain event. The remainder of rear of the property observed were native dunal sands that were relatively undisturbed with the exception of light surficial grading and grassed area. No evidence of scour marks or erosion from high water events were noted.

The topography of the lot breaks in the rear of the property (yellow line, Figure 1). To the northwest of the line the water would shed toward the front of the lot and to the southeast it would shed toward the Atlantic Ocean. Surface water is not expected to accumulate in either direction due to the rapid permeability of the native dunal system. The area where the additional proposed BUA is proposed is to the northwest of the topographic break line and water shed from the roof of the additional proposed area would be expected to shed to the main body of the lot and infiltrate into the grassed yard and side yards. It is not expected that significant amounts of runoff would occur from the proposed addition and that any runoff that occurs from the Branstorm property is

expected to flow into the right-of-way of BRN and into the common area where it would be expected captured and absorbed with very low chance of any runoff from the surface into the Banks Channel estuarine marsh system.

In summary, DRG is providing a report of our observations of the sediment and topography of the Branstrom property located at 236 Beach Road North, Figure Eight Island, Wilmington, NC. The findings listed in this report are based upon our field analysis, available records and our best professional judgement. The findings in this report are based upon current site conditions, with estimated data for soil seasonal high-water table and infiltration rates from a previous site evaluation of the project property. Agencies may require measured rates to be conducted, so DRG can provide an estimate should additional service be required. If you have any questions about this report or need any additional services, I may be reached at 910-452-0001, 910-471-0505 or at [nhowell@imgroup.net](mailto:nhowell@imgroup.net).

Sincerely,



Nicholas "Nick" P. Howell  
NC Licensed Soil Scientist #1294  
SSA CPSS#328892

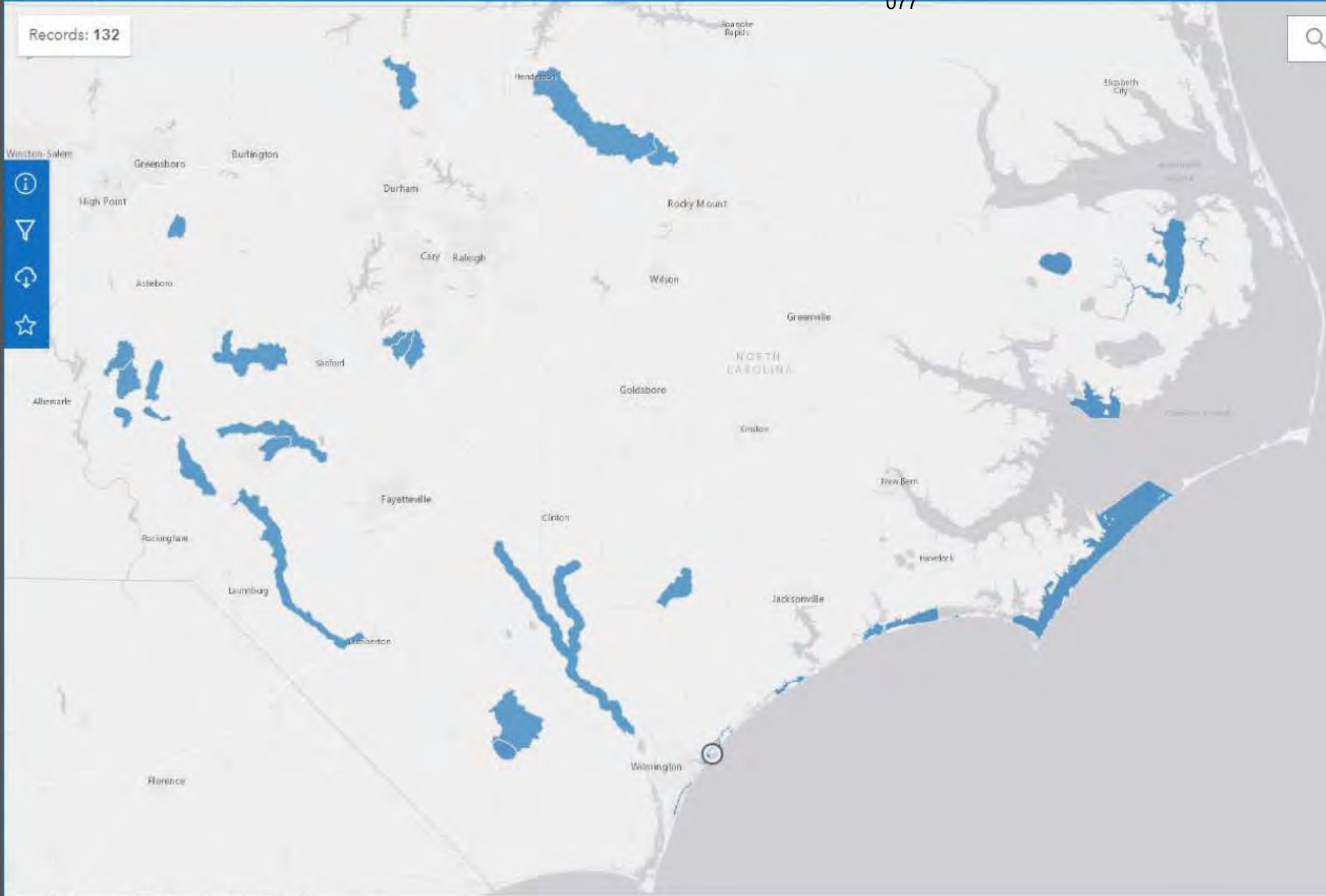




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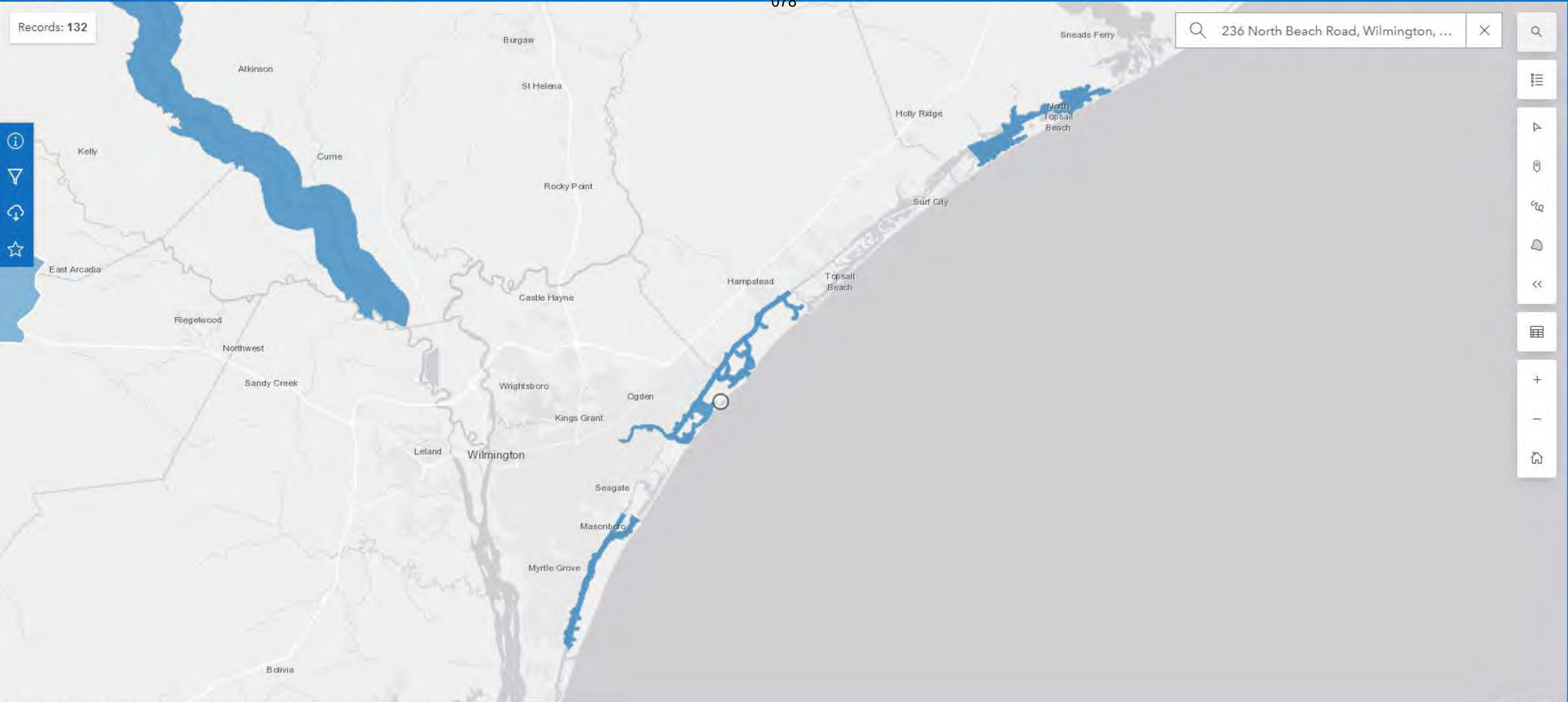
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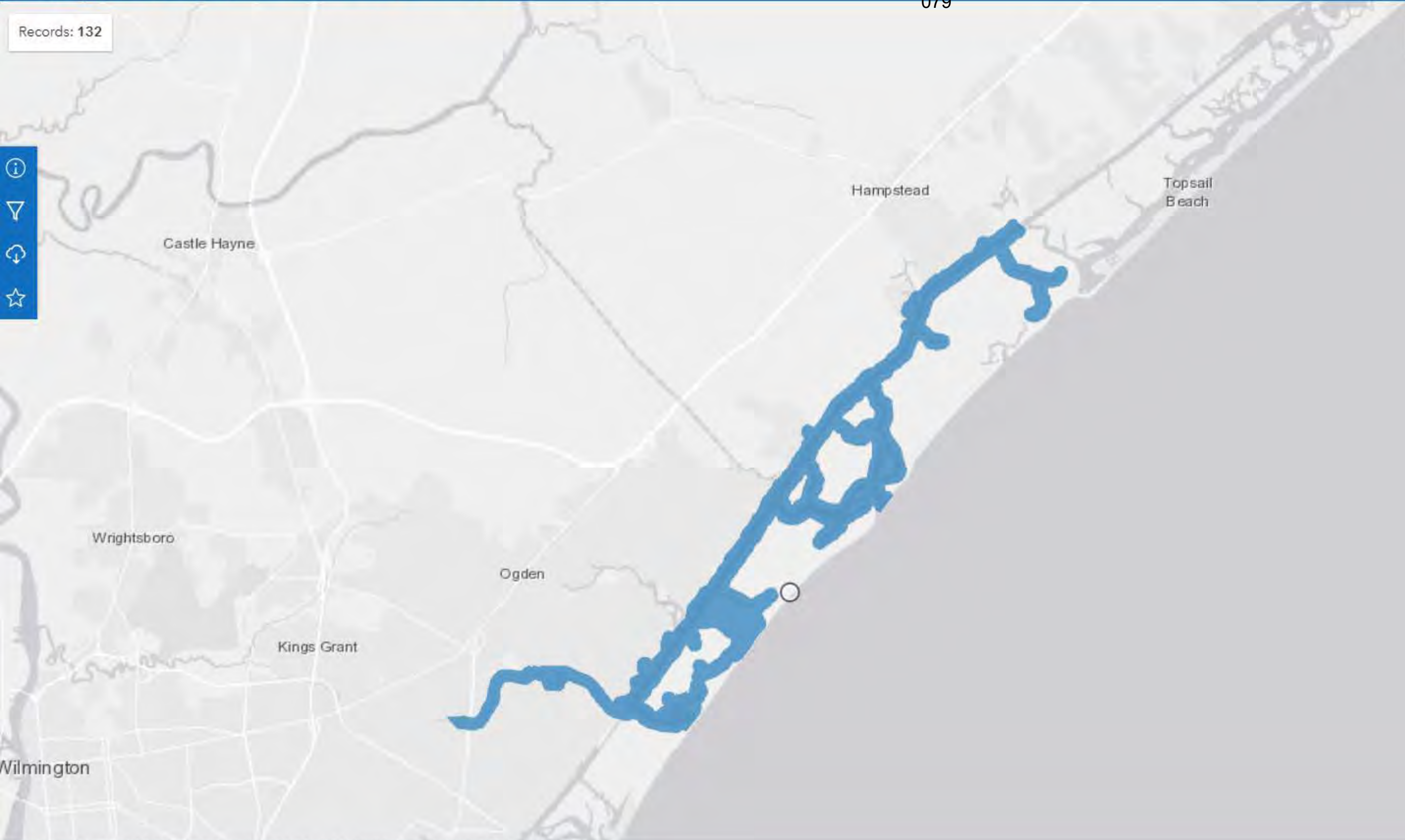


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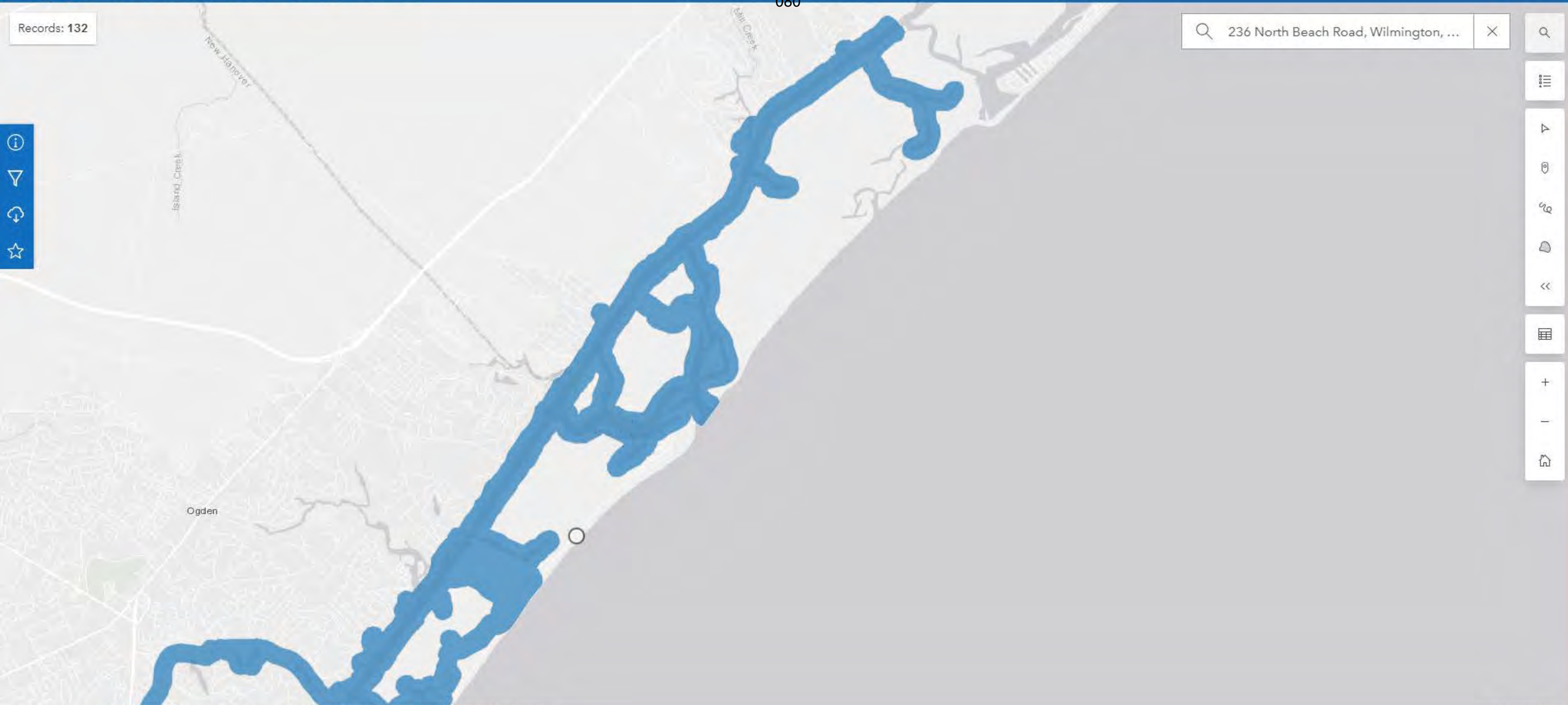
- Search icon
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- Home icon



080

Records: 132

236 North Beach Road, Wilmington, ...



STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

AFFIDAVIT OF STEPHEN D. COGGINS

Stephen D. Coggins, being duly sworn, states as follows:

On September 16, 2024, at approximately 5:45 p.m. during the height of the severe Subtropical Storm Eight, I took a series of nine (9) photographs of 236 Beach Road North, Wilmington, New Hanover County, North Carolina (the "Property") and its immediate environs that includes natural and landscaped features that handle stormwater. Those photographs and a brief description of what is depicted appear below. The full-size photos appear in **Attachment A**.

1. Photo 1: View of Property looking east. Note heavy rain.



2. Photo 2: Viewing property looking Southeastern down Beach Rd N toward view of the Property driveway. Note substantial downpour.





3. **Photo 3: View looking Northwest. Note surface stormwater draining across Beach Rd N. toward the northeast corner of a heavily vegetated commons Area. This vegetated area lies to the west of the Property and Beach Rd N. The area also quickly rises in elevation, from 4 ft to about 22 ft. On the western side of the commons area is Salters Rd, where there are single family homes. To the west of those homes is the ORW Banks Channel.**



4. **Photo 4: Looking west from Property across Beach Road North toward heavily vegetated common area (in the direction of Banks Channel). The commons area rises high in elevation. On the other side is Salters Road.**



5. Photo 5: Looking Northwest in the direction toward the northeast corner of the heavily vegetated common area across the street from the Property. Storm water drains toward the northeast corner.



6. Photo 6: Close-up looking west at the beginning of the tree line of the commons area located to the west of Property across Beach Rd N. which is to where stormwater drains. The elevation of the commons area steeply rises from this point from about 4 ft to 22 ft.



7. Photo 7: Looking northwest toward the northeastern corner of heavily vegetated portion of the commons area that quickly rises in elevation behind the tree line. Water drains down to that corner.



8. Photo 8: Looking west toward the northeastern corner of heavily vegetated portion of the commons area that quickly rises in elevation behind the tree line. Water drains down to that corner.





9. **Photo 9:** Looking south along the western side (the “Salters Road” side) of the heavily vegetated and elevated commons area. This area is east of the ORW waters of Banks Channel. This area is directly across from and to the west of the northeastern corner of the commons area to which water drains from Beach Road N. Note the absence of standing water during the height of Subtropical Storm Eight.



10. **Attachment B** is the climatological report from the National Weather Service in Wilmington, NC, for September 16, 2024, the date the photos were taken. I retrieved the report from the National Weather Service website on September 17, 2024.

**[SIGNATURE PAGE TO FOLLOW]**

FURTHER AFFIANT SAYETH NAUGHT.

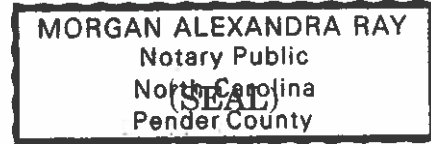
Date: October 31, 2024

*Stephen D. Coggins*  
Stephen D. Coggins, Affiant

Sworn to and subscribed before me this  
the 31st day of October 2024.

*Morgan Alexandra Ray*  
Notary Public

My commission expires: 06/01/2026



















MAGUIRE



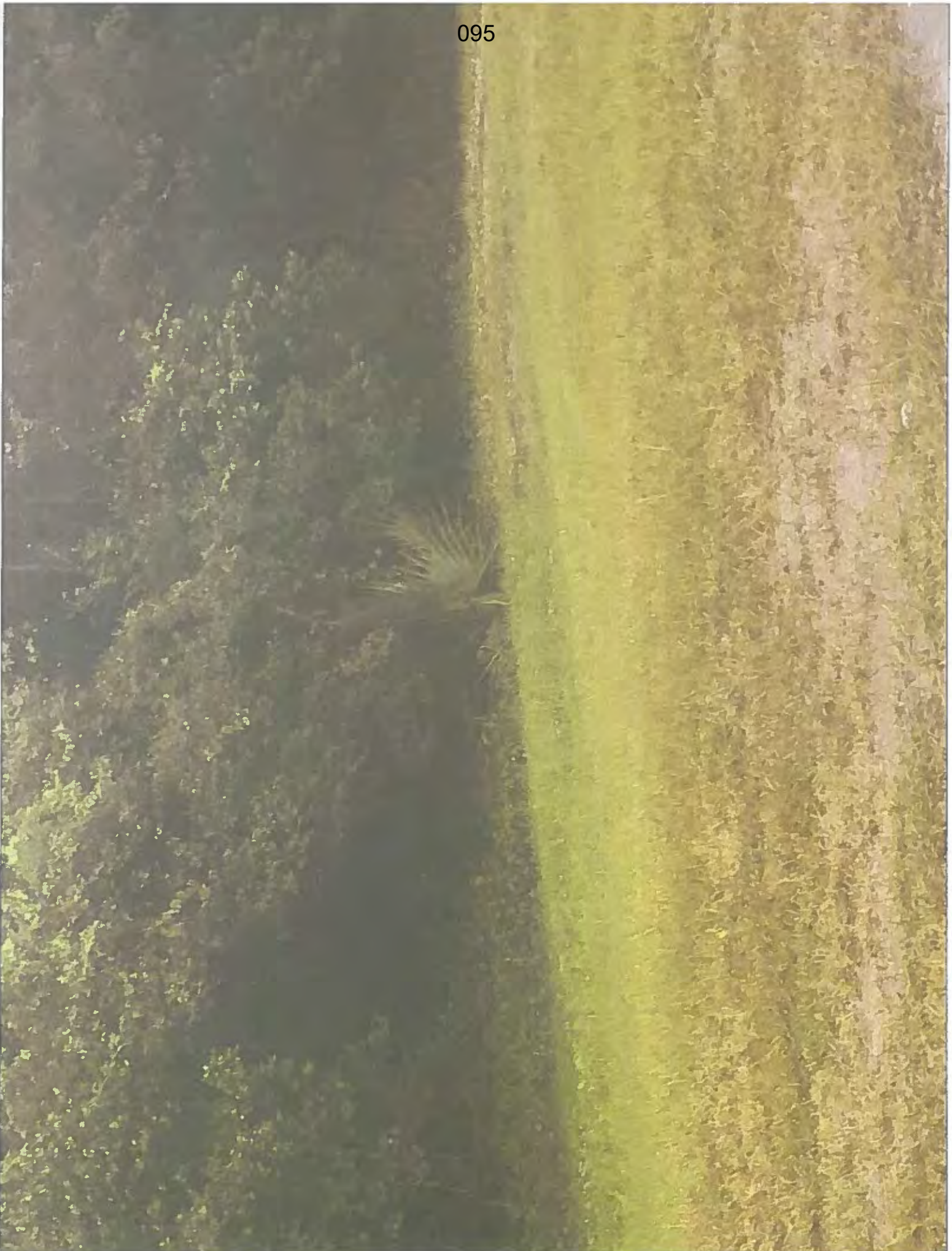


















## Climatological Report (Daily)

Issued by NWS Wilmington, NC

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281  
 COUS42 KILM 170830  
 CLIILM

CLIMATE REPORT  
 NATIONAL WEATHER SERVICE WILMINGTON NC  
 430 AM EDT TUE SEP 17 2024

...THE WILMINGTON NORTH CAROLINA CLIMATE SUMMARY FOR SEPTEMBER 16 2024...

CLIMATE NORMAL PERIOD 1991 TO 2020  
 CLIMATE RECORD PERIOD 1871 TO 2024

WEATHER ITEM	OBSERVED TIME VALUE	RECORD YEAR (LST) VALUE	NORMAL VALUE	DEPARTURE FROM NORMAL	LAST YEAR
--------------	---------------------	-------------------------	--------------	-----------------------	-----------

TEMPERATURE (F)

YESTERDAY					
MAXIMUM	80	248 PM 95	1956 84	-4	84
MINIMUM	69	729 AM 53	2023 67	2	53
AVERAGE	75		75	0	69

PRECIPITATION (IN)

YESTERDAY	4.06	4.50 2018	0.29	3.77	0.00
MONTH TO DATE	6.13		4.85	1.28	0.61
SINCE SEP 1	6.13		4.85	1.28	0.61
SINCE JAN 1	47.03		44.40	2.63	43.02

DEGREE DAYS

HEATING					
YESTERDAY	0		0	0	0
MONTH TO DATE	0		0	0	0
SINCE SEP 1	0		0	0	0
SINCE JUL 1	0		0	0	0

COOLING

YESTERDAY	10		10	0	4
MONTH TO DATE	155		191	-36	216
SINCE SEP 1	155		191	-36	216
SINCE JAN 1	2015		1876	139	2053

WIND (MPH)

RESULTANT WIND SPEED	12	RESULTANT WIND DIRECTION	NE (50)
HIGHEST WIND SPEED	41	HIGHEST WIND DIRECTION	NE (30)
HIGHEST GUST SPEED	59	HIGHEST GUST DIRECTION	NE (40)
AVERAGE WIND SPEED	16.4		

SKY COVER

AVERAGE SKY COVER 0.9

WEATHER CONDITIONS

THE FOLLOWING WEATHER WAS RECORDED YESTERDAY.

- THUNDERSTORM
- HEAVY RAIN
- RAIN
- LIGHT RAIN
- FOG

RELATIVE HUMIDITY (PERCENT)

HIGHEST	97	800 AM
LOWEST	84	1000 PM
AVERAGE	91	

THE WILMINGTON NORTH CAROLINA CLIMATE NORMALS FOR TODAY

	NORMAL	RECORD	YEAR
MAXIMUM TEMPERATURE (F)	84	95	1931

MINIMUM TEMPERATURE (F) 67 53 1961  
2001

099

SUNRISE AND SUNSET

SEPTEMBER 17 2024.....SUNRISE 657 AM EDT SUNSET 715 PM EDT  
SEPTEMBER 18 2024.....SUNRISE 657 AM EDT SUNSET 713 PM EDT

- INDICATES NEGATIVE NUMBERS.  
R INDICATES RECORD WAS SET OR TIED.  
MM INDICATES DATA IS MISSING.  
T INDICATES TRACE AMOUNT.

\$\$





**NEW HANOVER COUNTY**  
**PLANNING & LAND USE**

230 Government Center Drive, Suite 110, Wilmington, NC 28403

P: (910) 798-7165 | F: (910) 798-7053 | NHCgov.com

**Rebekah Roth**, Interim Director

September 11, 2024

CERTIFIED MAIL 7021 0950 0000 1400 8731  
 RETURN RECEIPT REQUESTED

Electronic Delivery to: [murray@bmharch.com](mailto:murray@bmharch.com)

John D. Murray, 514 Market St. Wilmington, NC 28401

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT  
 APPLICATION NUMBER: 37-24 NHC  
 PROJECT ADDRESS: 236 Beach Road N., Wilmington, NC 28411

Dear Mr. Murray,

After reviewing your application, which was determined to be complete on August 23, 2024, the New Hanover County LPO has determined that no permit may be granted for the proposed development.

You have applied to construct a 622 square feet addition on the ground floor level and a second addition of 186 square feet on the first-floor level to an existing residence located at 236 Beach Road North on Figure Eight Island. The proposed additions would increase the total amount of impervious coverage within the 575 ft. Outstanding Resource Waters (ORW) Coastal Shoreline Area of Environmental Concern (AEC) beyond 25 percent to a total of 5,022 square feet, which over the total allowed amount of 4,126 square feet for this property. This is inconsistent with the following rules of the N.C. Coastal Resources Commission, and/or the following provisions of the N.C. Coastal Area Management Act or N.C. Dredge and Fill Act:

**15 NCAC 07H.0209 (f) (1) Specific Use Standards for ORW Coastal Shorelines** which states:

“Within the AEC for estuarine and public trust shorelines contiguous to waters classified as ORW by EMC, all development projects, proposals, and designs shall limit the built upon area in the AEC to no more than 25 percent or any lower site specific percentage as adopted by the EMC as necessary to protect the exceptional water quality and outstanding resource values of the ORW”.

EXHIBIT

12

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,

*Christine R. Bouffard*

Christine R. Bouffard, LPO, New Hanover County

Cc: Robb Mairs, CAMA LPO Minor Permit Coordinator  
Tara MacPherson, District Manager  
Kelsey Beachman, Field Representative

**15A NCAC 07H .0209 COASTAL SHORELINES**

(a) Description. The Coastal Shorelines category includes estuarine shorelines and public trust shorelines.

- (1) Estuarine shorelines AEC are those non-ocean shorelines extending from the normal high water level or normal water level along the estuarine waters, estuaries, sounds, bays, fresh and brackish waters, and public trust areas as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environmental Quality [described in Rule .0206(a) of this Section] for a distance of 75 feet landward. For those estuarine shorelines immediately contiguous to waters classified as Outstanding Resource Waters (ORW) by the Environmental Management Commission (EMC), the estuarine shoreline AEC shall extend to 575 feet landward from the normal high water level or normal water level, unless the Coastal Resources Commission establishes the boundary at a greater or lesser extent following required public hearing(s) within the affected county or counties.
- (2) Public trust shorelines AEC are those non-ocean shorelines immediately contiguous to public trust areas, as defined in Rule 07H .0207(a) of this Section, located inland of the dividing line between coastal fishing waters and inland fishing waters as set forth in that agreement and extending 30 feet landward of the normal high water level or normal water level.

(b) Significance. Development within coastal shorelines influences the quality of estuarine and ocean life and is subject to the damaging processes of shore front erosion and flooding. The coastal shorelines and wetlands contained within them serve as barriers against flood damage and control erosion between the estuary and the uplands. Coastal shorelines are the intersection of the upland and aquatic elements of the estuarine and ocean system, often integrating influences from both the land and the sea in wetland areas. Some of these wetlands are among the most productive natural environments of North Carolina and they support the functions of and habitat for many valuable commercial and sport fisheries of the coastal area. Many land-based activities influence the quality and productivity of estuarine waters. Some important features of the coastal shoreline include wetlands, flood plains, bluff shorelines, mud and sand flats, forested shorelines and other important habitat areas for fish and wildlife.

(c) Management Objective. All shoreline development shall be compatible with the dynamic nature of coastal shorelines as well as the values and the management objectives of the estuarine and ocean system. Other objectives are to conserve and manage the important natural features of the estuarine and ocean system so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing these shorelines so as to maximize their benefits to the estuarine and ocean system and the people of North Carolina.

(d) Use Standards. Acceptable uses shall be those consistent with the management objectives in Paragraph (c) of this Rule. These uses shall be limited to those types of development activities that will not be detrimental to the public trust rights and the biological and physical functions of the estuarine and ocean system. Every effort shall be made by the permit applicant to avoid or minimize adverse impacts of development to estuarine and coastal systems through the planning and design of the development project. Development shall comply with the following standards:

- (1) All development projects, proposals, and designs shall preserve natural barriers to erosion, including peat marshland, resistant clay shorelines, and cypress-gum protective fringe areas adjacent to vulnerable shorelines.
- (2) All development projects, proposals, and designs shall limit the construction of impervious surfaces and areas not allowing natural drainage to only so much as is necessary to service the primary purpose or use for which the lot is to be developed. Impervious surfaces shall not exceed 30 percent of the AEC area of the lot, unless the applicant can demonstrate, through innovative design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. Redevelopment of areas exceeding the 30 percent impervious surface limitation shall be permitted if impervious areas are not increased and the applicant designs the project to comply with the rule to the maximum extent feasible.
- (3) All development projects, proposals, and designs shall comply with the following mandatory standards of the North Carolina Sedimentation Pollution Control Act of 1973:
  - (A) All development projects, proposals, and designs shall provide for a buffer zone along the margin of the estuarine water that is sufficient to confine visible siltation within 25

- percent of the buffer zone nearest the land disturbing development.
- (B) No development project proposal or design shall propose an angle for graded slopes or fill that is greater than an angle that can be retained by vegetative cover or other erosion-control devices or structures.
- (C) All development projects, proposals, and designs that involve uncovering more than one acre of land shall plant a ground cover sufficient to restrain erosion within 30 working days of completion of the grading; unless the project involves clearing land for the purpose of forming a reservoir later to be inundated.
- (4) Development shall not have a significant adverse impact on estuarine and ocean resources. Significant adverse impacts include development that would directly or indirectly impair water quality increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water, or cause degradation of shellfish beds.
- (5) Development shall not interfere with existing public rights of access to, or use of, navigable waters or public resources.
- (6) No public facility shall be permitted if such a facility is likely to require public expenditures for maintenance and continued use, unless it can be shown that the public purpose served by the facility outweighs the required public expenditures for construction, maintenance, and continued use.
- (7) Development shall not cause irreversible damage to valuable, historic architectural or archaeological resources as documented by the local historic commission or the North Carolina Department of Natural and Cultural Resources.
- (8) Established common-law and statutory public rights of access to the public trust lands and waters in estuarine areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the use of the accessways.
- (9) Within the AECs for shorelines contiguous to waters classified as ORW by the EMC, no CAMA permit shall be approved for any project that would be inconsistent with rules adopted by the CRC, EMC or MFC for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the activity would, based on site-specific information, degrade the water quality or outstanding resource values.
- (10) Within the Coastal Shorelines category (estuarine and public trust shoreline AECs), new development shall be located a distance of 30 feet landward of the normal water level or normal high water level, with the exception of the following:
- (A) Water-dependent uses as described in Rule 07H .0208(a)(1) of this Section;
- (B) Pile-supported signs (in accordance with local regulations);
- (C) Post- or pile-supported fences;
- (D) Elevated, slatted, wooden boardwalks exclusively for pedestrian use and six feet in width or less. The boardwalk may be greater than six feet in width if it is to serve a public use or need;
- (E) Crab Shedders, if uncovered with elevated trays and no associated impervious surfaces except those necessary to protect the pump;
- (F) Decks/Observation Decks limited to slatted, wooden, elevated and unroofed decks that shall not singularly or collectively exceed 200 square feet;
- (G) Grading, excavation and landscaping with no wetland fill except when required by a permitted shoreline stabilization project. Projects shall not increase stormwater runoff to adjacent estuarine and public trust waters;
- (H) Development over existing impervious surfaces, provided that the existing impervious surface is not increased;
- (I) Where application of the buffer requirement would preclude placement of a residential structure with a footprint of 1,200 square feet or less on lots, parcels and tracts platted prior to June 1, 1999, development shall be permitted within the buffer as required in Subparagraph (d)(10) of this Rule, providing the following criteria are met:



- (i) Development shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities, such as water and sewer; and
  - (ii) The residential structure development shall be located a distance landward of the normal high water or normal water level equal to 20 percent of the greatest depth of the lot. Existing structures that encroach into the applicable buffer area may be replaced or repaired consistent with the criteria set out in 15A NCAC 07J .0201 and .0211; and
- (J) Where application of the buffer requirement set out in Subparagraph (d)(10) of this Rule would preclude placement of a residential structure on an undeveloped lot platted prior to June 1, 1999 that are 5,000 square feet or less that does not require an on-site septic system, or on an undeveloped lot that is 7,500 square feet or less that requires an on-site septic system, development shall be permitted within the buffer if all the following criteria are met:
- (i) The lot on which the proposed residential structure is to be located, is located between:
    - (I) Two existing waterfront residential structures, both of which are within 100 feet of the center of the lot and at least one of which encroaches into the buffer; or
    - (II) An existing waterfront residential structure that encroaches into the buffer and a road, canal, or other open body of water, both of which are within 100 feet of the center of the lot;
  - (ii) Development of the lot shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities;
  - (iii) Placement of the residential structure and pervious decking shall be aligned no further into the buffer than the existing residential structures and existing pervious decking on adjoining lots;
  - (iv) The first one and one-half inches of rainfall from all impervious surfaces on the lot shall be collected and contained on-site in accordance with the design standards for stormwater management for coastal counties as specified in 15A NCAC 02H .1005. The stormwater management system shall be designed by an individual who meets applicable State occupational licensing requirements for the type of system proposed and approved during the permit application process. If the residential structure encroaches into the buffer, then no other impervious surfaces shall be allowed within the buffer; and
  - (v) The lots shall not be adjacent to waters designated as approved or conditionally approved shellfish waters by the Shellfish Sanitation Section of the Division of Marine Fisheries of the Department of Environmental Quality.
- (e) The buffer requirements in Paragraph (d) of this Rule shall not apply to Coastal Shorelines where the EMC has adopted rules that contain buffer standards.
- (f) Specific Use Standards for ORW Coastal Shorelines.
- (1) Within the AEC for estuarine and public trust shorelines contiguous to waters classified as ORW by the EMC, all development projects, proposals, and designs shall limit the built upon area in the AEC to no more than 25 percent or any lower site specific percentage as adopted by the EMC as necessary to protect the exceptional water quality and outstanding resource values of the ORW, and shall:
    - (A) provide a buffer zone of at least 30 feet from the normal high water line or normal water line; and
    - (B) otherwise be consistent with the use standards set out in Paragraph (d) of this Rule.

- (2) Single-family residential lots that would not be buildable under the low-density standards defined in Subparagraph (f)(1) of this Rule may be developed for single-family residential purposes so long as the development complies with those standards to the maximum extent possible.

(g) Urban Waterfronts.

- (1) Definition. Urban Waterfronts are waterfront areas, not adjacent to ORW, in the Coastal Shorelines category that lie within the corporate limits of any municipality duly chartered within the 20 coastal counties of the state. In determining whether an area is an urban waterfront, the following criteria shall be met:

- (A) the area lies wholly within the corporate limits of a municipality; and  
 (B) the area has a central business district or similar commercial zoning classification where there are mixed land uses, and urban level services, such as water, sewer, streets, solid waste management, roads, police and fire protection, or in an area with an industrial or similar zoning classification adjacent to a central business district.

- (2) Significance. Urban waterfronts are recognized as having cultural, historical and economic significance for many coastal municipalities. Maritime traditions and longstanding development patterns make these areas suitable for maintaining or promoting dense development along the shore. With proper planning and stormwater management, these areas may continue to preserve local historical and aesthetic values while enhancing the economy.

- (3) Management Objectives. To provide for the continued cultural, historical, aesthetic and economic benefits of urban waterfronts. Activities such as in-fill development, reuse and redevelopment facilitate efficient use of already urbanized areas and reduce development pressure on surrounding areas, in an effort to minimize the adverse cumulative environmental effects on estuarine and ocean systems. While recognizing that opportunities to preserve buffers are limited in highly developed urban areas, they are encouraged where practical.

- (4) Use Standards:

- (A) The buffer requirement pursuant to Subparagraph (d)(10) of this Rule shall not apply to development within Urban Waterfronts that meets the following standards:

- (i) The development shall be consistent with the locally adopted land use plan;  
 (ii) Impervious surfaces shall not exceed 30 percent of the AEC area of the lot. Impervious surfaces may exceed 30 percent if the applicant can demonstrate, through a stormwater management system design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. The stormwater management system shall be designed by an individual who meets any North Carolina occupational licensing requirements for the type of system proposed and approved during the permit application process. Redevelopment of areas exceeding the 30 percent impervious surface limitation shall be permitted if impervious areas are not increased and the applicant designs the project to comply with the intent of the rule to the maximum extent feasible; and  
 (iii) The development shall meet all state stormwater management requirements as required by the EMC;

- (B) Non-water dependent uses over estuarine waters, public trust waters and coastal wetlands shall be allowed only within Urban Waterfronts as set out below.

- (i) Existing structures over coastal wetlands, estuarine waters or public trust areas may be used for commercial non-water dependent purposes. Commercial, non-water dependent uses shall be limited to restaurants and retail services. Residential uses, lodging and new parking areas shall be prohibited.  
 (ii) For the purposes of this Rule, existing enclosed structures may be replaced or expanded vertically provided that vertical expansion does not exceed the original footprint of the structure, is limited to one additional story over the life of the structure, and is consistent with local requirements or limitations.

- (iii) New structures built for non-water dependent purposes are limited to pile-supported, single-story, unenclosed decks and boardwalks, and shall meet the following criteria:
- (I) shall provide for enhanced public access to the shoreline;
  - (II) may be roofed, but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind;
  - (III) shall require no filling of coastal wetlands, estuarine waters or public trust areas;
  - (IV) shall not extend more than 20 feet waterward of the normal high water level or normal water level;
  - (V) shall be elevated at least three feet over the wetland substrate as measured from the bottom of the decking;
  - (VI) shall have no more than six feet of any dimension extending over coastal wetlands;
  - (VII) shall not interfere with access to any riparian property and shall have a minimum setback of 15 feet between any part of the structure and the adjacent property owners' areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the structure commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development;
  - (VIII) shall be consistent with the US Army Corps of Engineers setbacks along federally authorized waterways;
  - (IX) shall have no significant adverse impacts on fishery resources, water quality or adjacent wetlands and there shall be no alternative that would avoid wetlands. Significant adverse impacts include the development that would impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water level, or cause degradation of shellfish beds;
  - (X) shall not degrade waters classified as SA or High Quality Waters or ORW as defined by the EMC;
  - (XI) shall not degrade Critical Habitat Areas or Primary Nursery Areas as defined by the NC Marine Fisheries Commission; and
  - (XII) shall not pose a threat to navigation.

*History Note:* Authority G.S. 113A-107(b); 113A-108; 113A-113(b); 113A-124;  
 Eff. September 1, 1977;  
 Amended Eff. April 1, 2001; August 1, 2000; August 3, 1992; December 1, 1991; May 1, 1990;  
 October 1, 1989;  
 Temporary Amendment Eff. October 15, 2001 (exempt from 270 day requirement-S.L. 2000-142);  
 Temporary Amendment Eff. February 15, 2002 (exempt from 270 day requirement-S.L. 2001-494);  
 Amended Eff. April 1, 2019; March 1, 2010; April 1, 2008; August 1, 2002;  
 Readopted Eff. July 1, 2020.



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



September 23, 2024

Date

Harold Godwin

Name of Adjacent Riparian Property Owner

1813 Lakeshore Drive

Address

Fayetteville, NC 28305

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 seek a Variance to allow adding a 622 square feet impervious surface for an additional bedroom

on my property at 236 Beach Road South, Wilmington, NC 28411,

in New Hanover County 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,

Branstom Residence Trust c/o Bill & Robin Branstrom

704-578-3110

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 23, 2024

Date

W. Harden and Mary D. Blackwell

Name of Adjacent Riparian Property Owner

3520 Wildflower Drive #8203

Address

Greensboro, NC 27410

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 seek a Variance to allow adding a 622 square feet impervious surface for an additional bedroom

on my property at 236 Beach Road South, Wilmington, NC 28411,

in New Hanover County 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.

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Sincerely,

Branstom Residence Trust c/o Bill & Robin Branstrom

Property Owner's Name

704-578-3110

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

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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.

7022 0410 0002 1904 9375

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**OFFICIAL USE**

Certified Mail Fee \$ 4.00

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

<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$ <u>4.00</u>
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

Postage \$ 3.71

Total Postage and Fees \$ 17.66

Sent To **Harold Godwin**

Street and Apt. No., or PO Box # 1813 Lakeshore Drive

City, State, ZIP+4® Fayetteville, NC 28306

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

SEP 23 2024

7022 0410 0000 1904 9382

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**OFFICIAL USE**

Certified Mail Fee \$ 4.00

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

<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$ <u>4.00</u>
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

Postage \$ 3.71

Total Postage and Fees \$ 12.66

Sent To **W. Harden and Mary D. Blackwell**

Street and Apt. No., or PO Box # 8520 Wildflower Drive #8203

City, State, ZIP+4® Greensboro, NC 27410

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

SEP 23 2024

PARID: R04606-001-009-000  
BRANSTROM RESIDENCE TRUST

236 BEACH RD N

Parcel

Alt ID	318913.13.2407.000
Address	236 N BEACH RD
Unit	
City	WILMINGTON
Zip Code	-
Neighborhood	E3001
Class	RES-Residential
Land Use Code	10-Single Family Residential
Living Units	1
Acres	
Zoning	R-20S-RESIDENTIAL DISTRICT

Legal

Legal Description	LT 236 SEC 15 FIG 8 ISL
Tax District	FD

Owners (On January1st)

Owner	BRANSTROM RESIDENCE TRUST
City	CHARLOTTE
State	NC
Country	
Zip	28204

THE DATA IS FROM 2024

Residential

Card	1
Stories	2 - 2 ST
Class	-
Physical Condition	-
Grade	A-EXCELLENT QUALITY
CDU	GD-GOOD
Exterior Wall	01-WOOD
Style	EC-EXTREME CUSTOM
Year Built	1981
Effective Year Built	
Remodeled Year	
Living Area	3,450
Total Rooms	
Bedrooms	4
Family Rooms	
Attic	
Basement	NONE
Full Baths	4
Half Baths	1
Additional Fixtures	2
Total Fixtures	18
Heat	CENTRAL WITH A/C
Heating System	Heat Pump
Heating Fuel Type	Electric
Pre Fab Fireplace	2
Masonry Fireplaces	

Additions

Card	Addition Number	Description	Area
------	-----------------	-------------	------



115

1	0		1,132
1	15	BAS BAS	169
1	16	POR	156
1	17	WDK	72
1	18	GAR BAS CC+	676
1	19	WDK WDK	378
1	20	POR POR	216
1	21	WDK WDK	268
1	22	BAS CC+	156
1	23	FOH	16

Addition Details 1 of 10

Card	1
Addition Number	0
Lower	-
First	-
Second	-
Third	-
Year Built	
Area	1,132
Grade	
CDU	

THE DATA IS FROM 2024

Misc. Improvements

Card	Desc	Year Built	Grade	Width	Length	Area
1	DW-DW	2023	E	5	123	615

THE DATA IS FROM 2024

Permits

Permit #	Permit Date	Flag	Purpose	Amount
33868	01-AUG-1990	C		\$9,500.00
1	01-JAN-1997	C		\$1.00
65762	01-JAN-1997	C		\$45,000.00
1094	27-JAN-2007	C	REPAIR	\$12,000.00
11542	20-AUG-2007	C	REMOD	\$20,000.00
18-2613	26-JAN-2018	C	PLBG	\$1,000.00
23-002332	22-FEB-2023	C	ADDN	\$44,116.00

Land 1 of 2

Line Number	1
Land Type	S-SQUARE FOOT
Land Code	RES
Square Feet	16250
Acres	

THE DATA IS FROM 2024

PARID: R04606-002-001-000  
FIG 8 BCH HOMEOWNERS ASSOC

243 BEACH RD N

Parcel

Alt ID	318913.13.1734.000
Address	243 N BEACH RD
Unit	
City	WILMINGTON
Zip Code	-
Neighborhood	E3001
Class	HOA-Homeowners Common Area
Land Use Code	958-Unused Land
Living Units	
Acres	
Zoning	R-20S-RESIDENTIAL DISTRICT

Legal

Legal Description	( 1.00 ACRES) SEC 15 FIG 8 ISL
Tax District	FD

Owners (On January 1st)

Owner	FIG 8 BCH HOMEOWNERS ASSOC
City	WILMINGTON
State	NC
Country	
Zip	28411

THE DATA IS FROM 2024



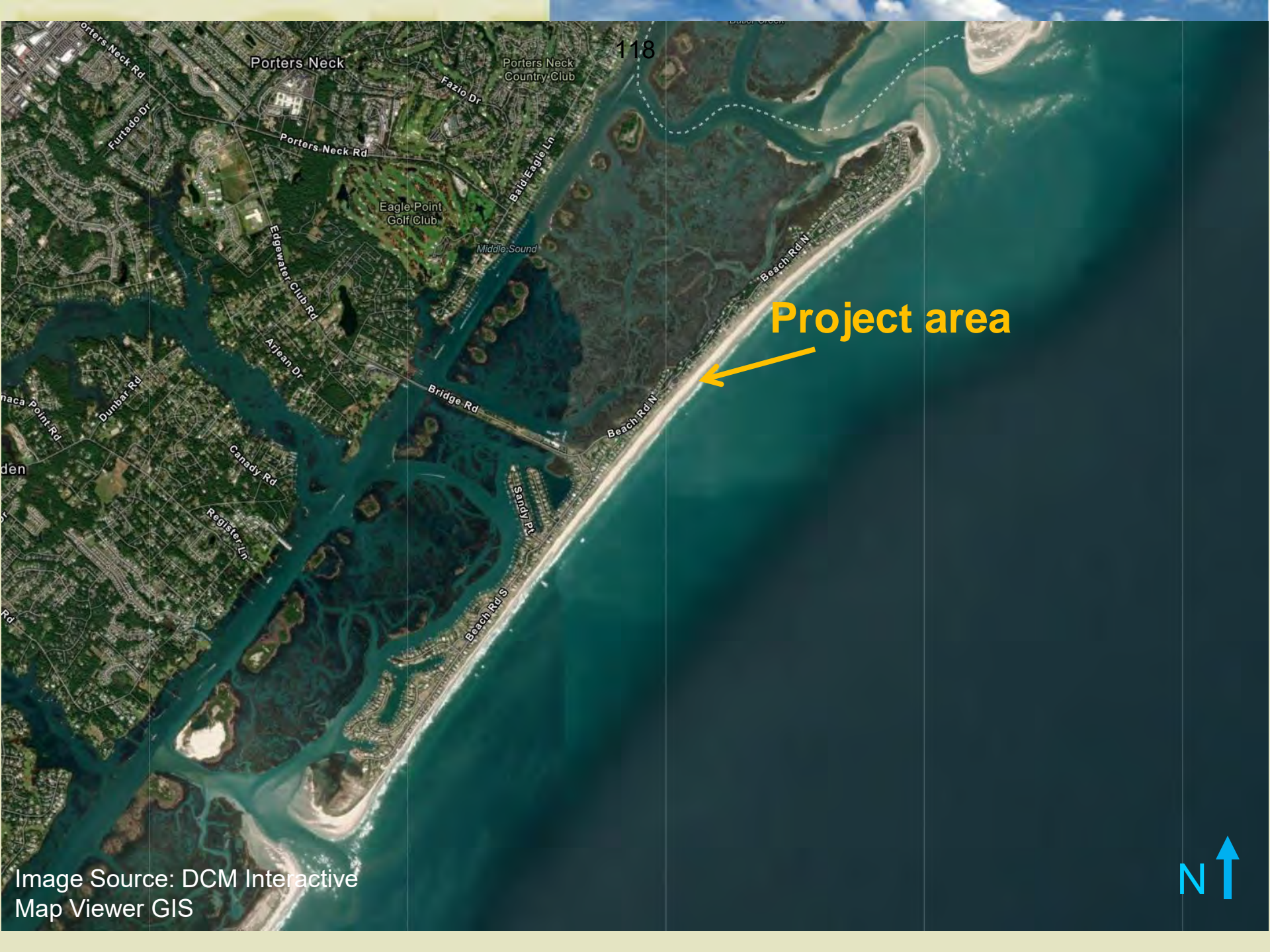
# **NC COASTAL RESOURCES COMMISSION MEETING**

**November 14, 2024**

**Branstrom Residence Trust  
(CRC-VR-24-10)**

**Figure Eight, Wilmington  
ORW AEC Impervious Surface Limits**





Porters Neck

Porters Neck Country Club

118

**Project area**

Image Source: DCM Interactive Map Viewer GIS







119

**Project Site**  
**128 S. Water St.**



Image Source: DCM  
Interactive Map Viewer GIS



**Project Site**  
**128 S. Water St.**



120

BEACH



101.3 ft

233

275.9 ft

102.1 ft

236

287.1 ft

100.7 ft

234

302.2 ft

102.9 ft

232

290.1 ft

287.1 ft

Image Source: New Hanover County  
GIS 2023 Aerial



121



**View of existing residence from Beach Rd N facing southeast toward ocean**

Image source: DCM 9/30/2024



122



**View from existing driveway facing northwest**

Image source: DCM 9/30/2024



123



**View of existing residence from ocean side facing northwest**

Image source: DCM 9/30/2024



124



**View of existing residence from ocean side facing north**

Image source: DCM 4/5/2023



125

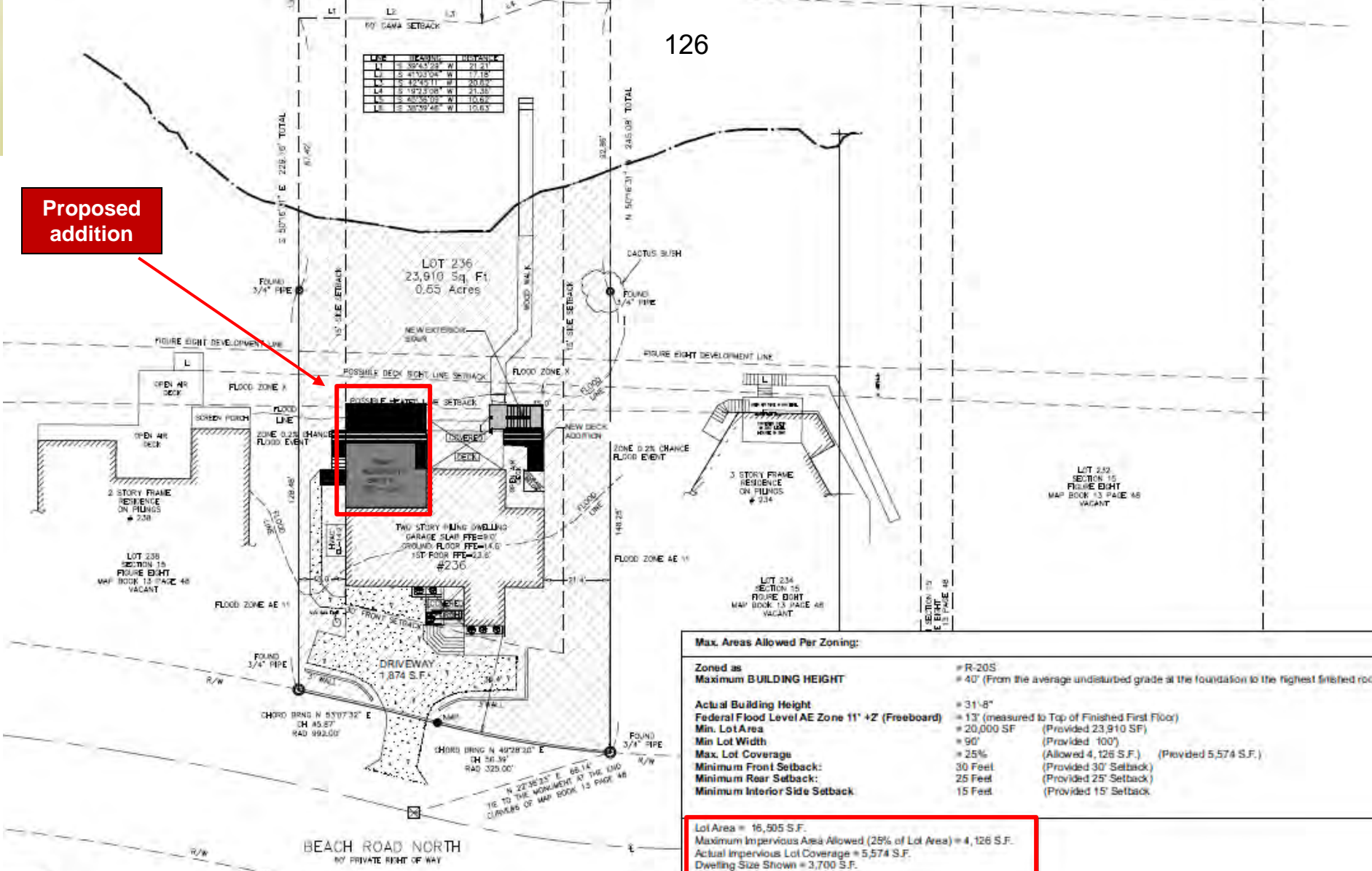


**View of existing residence from ocean side facing west**

Image source: DCM 9/30/2024



Proposed addition



<b>Max. Areas Allowed Per Zoning:</b>	
Zoned as	# R-205
Maximum BUILDING HEIGHT	# 40' (From the average undisturbed grade at the foundation to the highest finished roof)
Actual Building Height	# 31'-8"
Federal Flood Level AE Zone 11' +2 (Freeboard)	# 13' (measured to Top of Finished First Floor)
Min. Lot Area	# 20,000 SF (Provided 23,910 SF)
Min Lot Width	# 90' (Provided 100')
Max. Lot Coverage	# 25% (Allowed 4, 126 S.F.) (Provided 5,574 S.F.)
Minimum Front Setback:	30 Feet (Provided 30' Setback)
Minimum Rear Setback:	25 Feet (Provided 25' Setback)
Minimum Interior Side Setback:	15 Feet (Provided 15' Setback)
<b>Lot Area = 16,505 S.F.</b>	
<b>Maximum Impervious Area Allowed (25% of Lot Area) = 4, 126 S.F.</b>	
<b>Actual Impervious Lot Coverage = 5,574 S.F.</b>	
<b>Dwelling Size Shown = 3,700 S.F.</b>	
<b>Floor Plan Square Footage Areas:</b>	
Existing Living Area	# 2,940 S.F.
Ground Floor Addition	# 854 S.F.
Covered Rear Deck	# 296 S.F.

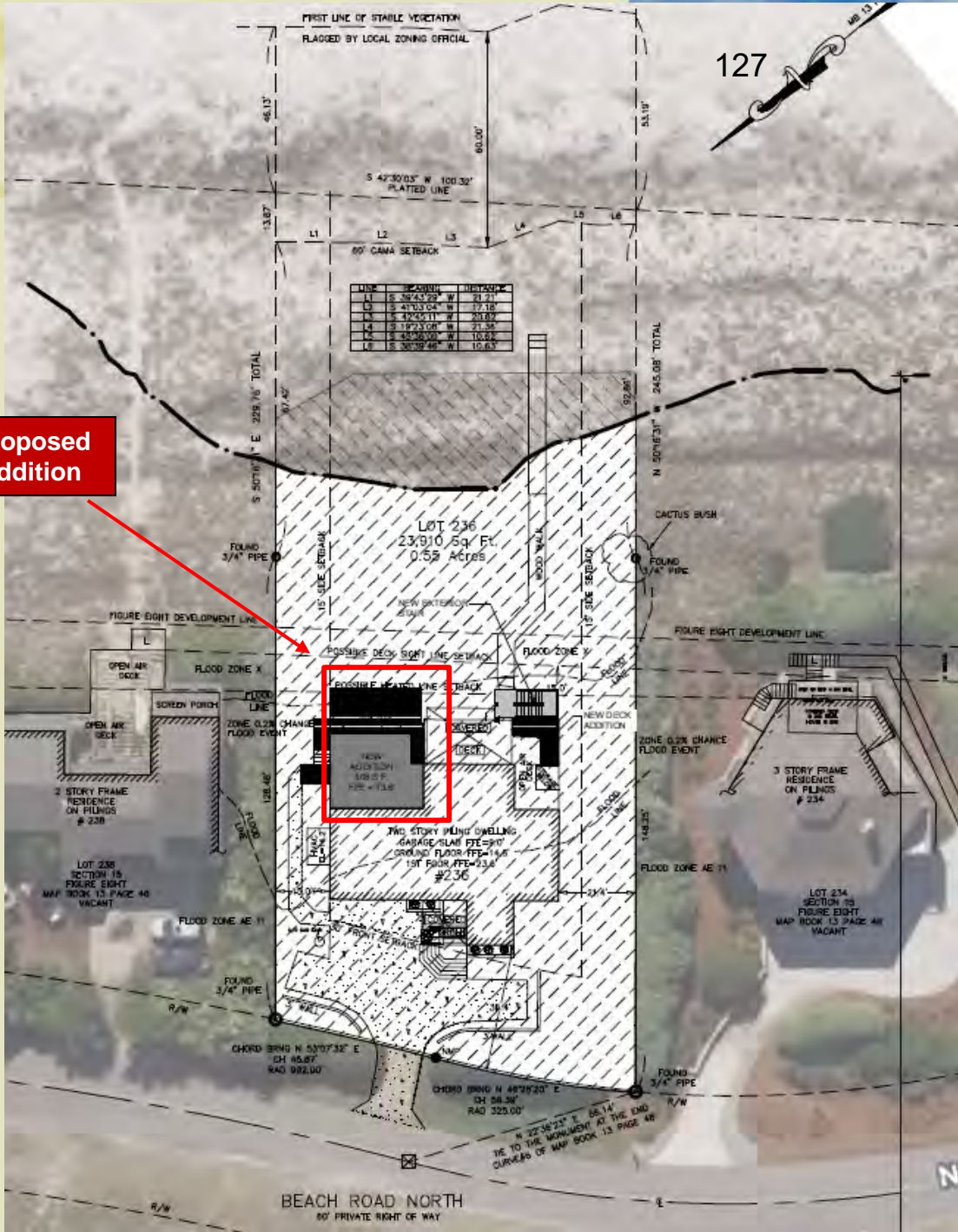
Overview drawing from submitted application (Aug. 2024)



127



**Proposed addition**



Overview drawing from submitted application (Aug. 2024)



128

Approximate mean high water of ORW

Probable infiltration area during heavy rain event.

236 Beach Road North

Topographic Map provided to DCM by Bowman Murray Hemingway Architects (Feb. 2024)





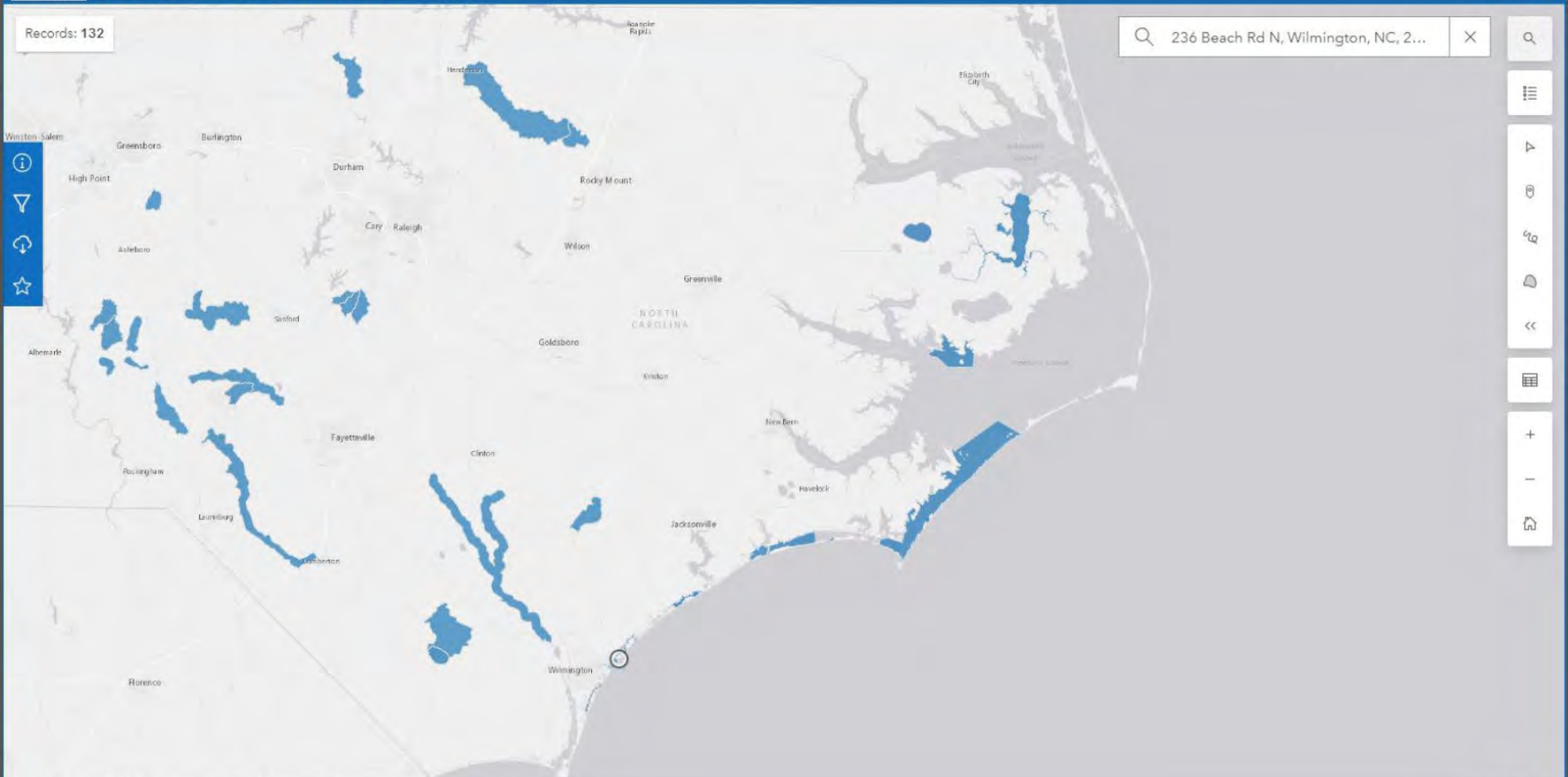
# Division of Coastal Management

129



Records: 132

236 Beach Rd N, Wilmington, NC, 2...





# Division of Coastal Management

130



DEQ NC Dept. of Environmental Quality Online GIS Sign In

Records: 132

236 North Beach Road, Wilmington, ...

State of North Carolina DOT, Esri, HERE, Garmin, USGS, EPA, NPS | State of North Carolina DOT, Esri, HERE, NPS Powered by Esri

# Division of Coastal Management

131



Records: 132

236 North Beach Road, Wilmington, ...

Atlantic Ocean

State of North Carolina DOT, Esri, HERE, Garmin, USGS, EPA, NPS | State of North Carolina DOT, Esri, HERE, NPS

Powered by Esri

# Division of Coastal Management

132



DEQ NC Dept. of Environmental Quality Online GIS Sign In

Records: 132

236 North Beach Road, Wilmington, ...





**G.S. 113A-120.1**

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

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

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



## Petitioner's Photos





136



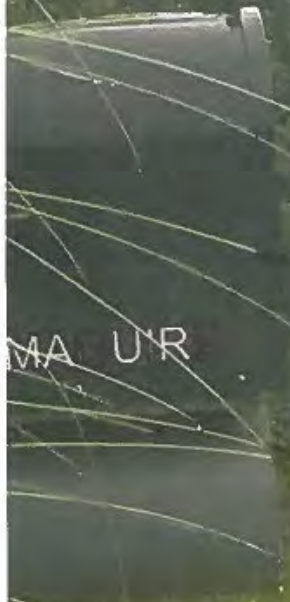
137











MA UR







141













144





145





146





