

NC COASTAL RESOURCES COMMISSION (CRC)

September 21, 2023

Riverfront Convention Center, New Bern

Present CRC Members

Renee Cahoon, Chair

Neal Andrew

Larry Baldwin

Teresa Batts

D.R. Bryan

Bob Emory

Robert High

Sheila Holman

Lauren Salter

Earl Smith

Angie Willis

Present from the Office of the Attorney General

Mary Lucasse

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

Christine Goebel

CALL TO ORDER/ROLL CALL

CRC Chair Renee Cahoon called the meeting to order at 10:00 a.m. on September 21, 2023, reminding the Commissioners of the need to state any conflicts due to Executive Order Number 34 and the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of a conflict of interest or potential conflict with respect to matters to come before the Commission. Chair Cahoon requested that if any member knows of a conflict of interest or a potential conflict of interest, they so state when the roll is called. Teresa Batts, Mayor of Surf City, gave the Oath of Office to Commissioner Larry Baldwin. As a new member to the Commission, Commissioner Teresa Batts read her Statement of Economic Interest Evaluation letter into the record, which indicated no actual conflicts. Commissioners Steve Shuttleworth and Dick Tunnell were absent. No conflicts were reported. Based upon this roll call Chair Cahoon declared a quorum.

MINUTES

Bob Emory made a motion to approve the minutes of the June 15, 2023, Coastal Resources Commission meeting. Angie Willis seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, High, Salter, Smith, Willis). Commissioners Andrew, Batts, and Holman abstained.

CHAIR COMMENTS

Chair Cahoon thanked Commissioner Emory for leading the Commission in her absence at the last meeting and thanked Mike Lopazanski, DCM Deputy Director, for filling in for Braxton

Davis as he had a schedule conflict for today's meeting. Chair Cahoon presented a certificate of appreciation to former CRC member Doug Medlin on behalf of the NC Coastal Resources Commission and NC Division of Coastal Management. Chair Cahoon asked Commissioners to state any known schedule conflicts with the proposed dates for 2024 CRC meetings that have been circulated. By consensus, the Commission approved the following schedule: February 21-22, April 24-25, June 26-27, August 28-29, and November 20-21, 2024. Lastly, the Chair noted the recent Local Permit Officer (LPO) problems with adjacent owner notification and the third party hearing requests that have been received as a result of the lack of notification. There have been too many instances of this and there is a need for LPO training. This is a valuable program to the citizens of North Carolina.

EXECUTIVE SECRETARY'S REPORT

In the absence of DCM Director Braxton Davis, Deputy Director Mike Lopazanski gave the following report:

Braxton is attending the Coastal States Organization meeting in Minnesota, and I will be sitting in for him at today's meeting. Thank you all for making time for this specially called meeting to consider a variance submitted to the Commission as well as several public hearings. We initially had two variances scheduled but were able to resolve one following submission of the variance request.

On the regulatory side of DCM, overall, permitting numbers since our fiscal year began on July 1 remain high, but not quite as high as last year. Overall, we are seeing about a 25% decline in fees in comparison to this time last year, which is on par with pre-pandemic levels, but we continue to see more and more complex projects that keep us as busy as ever on the regulatory side. DCM issued a permit to The Town of Morehead City for the protection of Sugarloaf Island. The engineered design consisted of a breakwater comprised of individual prefabricated concrete structures, smaller oyster sills, the dredging of the federal channel along the north end of the island, and coastal wetland and submerged aquatic vegetation restoration. Coordination with our state and federal resource agencies resulted in reducing the distance offshore of the breakwater to reduce Public Trust loss. Recently the US Army Corps of Engineers completed the federal review of the permit application and provided authorization to the Town. The Town now has all the required permitting to begin construction of the shoreline protection.

On the Policy & Planning side, there were three land use plans certified by the Division since the June 15th meeting. City of Havelock, Town of Surf City, Currituck County and Town of Morehead City. There were also two land use plan amendment certified, Beaufort County and the Town of Oriental. Both communities made amendments to their land use plans for compliance with NC General Statute 160D. We have also officially changed the service areas for our land use planning program. Local governments have been notified that Rachel Love-Adrick will be handling Beaufort, Carteret, Craven, Currituck, Dare, Hyde and Pamlico counties, while Mike Christenbury will be the planning contact for Bertie, Brunswick, Camden, Chowan, Gates, Hertford, New Hanover, Onslow, Pasquotank, Pender, Perquimans, Tyrell and Washington counties.

Beach Access

At your last meeting it was mentioned that the final applications for Public Beach and Coastal Waterfront Access grants were due on August 28. We received 13 applications from 9 communities totaling \$2.6M. We expect to make funding announcements next month. As always, additional information is available on our website or through either of our district planners Rachel Love-Adrick and Mike Christenbury.

Science Panel

Your Science Panel is scheduled to meet on October 2nd at the New Bern Convention Center, from 11:45 – 2:45. Their agenda includes a 2023 sea level rise update and reviewing oceanfront and inlet hazard area erosion methods and analysis. This meeting is open to the public and we are also working on a virtual option. You will recall that the Science Panel's Scope of Work was approved at the April meeting, for the 5-year re-evaluation of IHA methods, boundaries, and beachfront erosion rates. Ken Richardson has completed an initial data and alternatives analysis for the Panel to discuss.

Resilient Coastal Communities Program

Phases 1 and 2 of the Resilient Coastal Communities Program are underway. DCM awarded grants to 15 coastal communities for technical assistance in risk assessment and resilience planning work. DCM is contracting with nine 3rd party contractors to provide direct technical assistance services to the localities. They are expected to complete Phases 1 and 2 next May. A total of 18 communities have completed Phase 3 (Engineering & Design) of the RCCP and now have engineered site plans that are ready for project implementation. DCM awarded \$1.17 million in grants to 5 communities (Belhaven, New Bern, Pine Knoll Shores, Vandemere, and Washington) for Phase 4 of the RCCP. The primary objective of Phase 4 of the RCCP is to provide funding to assist communities with the implementation and construction of a prioritized project. These projects are expected to reach completion next Fall. The RCCP Planning Handbook was also recently updated to provide communities with more information on resilience planning and now includes a Technical Appendix detailing relevant data sources and examples on completing Phases 1 and 2. DCM held the first training for contractors participating in Phases 1 and 2 of the RCCP on September 7th. The training topics included equitable community engagement, risk and vulnerability assessments, and nature-based solutions.

Staff News

In Staff news, Mackenzie Todd has been promoted to the position of Coastal Resilience Coordinator. Mackenzie has proven herself to be invaluable to the division's Resilient Coastal Communities Program over the past three years, and we are thrilled that she has agreed to take on this increased responsibility. The RCCP has been doing great things in our coastal communities and is building a solid track record of success. In her new role Mackenzie will assume greater oversight over the RCCP and continue to elevate the program within the state and nationally. DCM also welcomes Jonathan Lucas as the new field representative in Morehead City. Jonathan graduated from Bryan College in Dayton, TN with a Bachelor's degree in Biology and obtained a master's degree in Marine Science from the University of North Carolina at Chapel Hill. He is a member of the Marine Corps Reserve at Camp Lejeune and comes to us from the North Carolina State University Center for Marine Science and Technology. Abby Williams is joining the Division on Monday, September 25 as the Coastal Reserve's Resilience

Specialist. Abby will develop resilience plans, secure funding for, and implement projects on the ground at the national reserve sites to increase habitat resilience to ensure the sites continue to provide ecological services and protective services to the communities where they are located. Abby comes to us from the Division of Marine Fisheries where she serves as the Cultch Planting Biologist and will be working at our Beaufort office. This is a new time-limited position that is funded by capacity building funding provided by NOAA to the Reserve through the Bipartisan Infrastructure Law.

VARIANCES

North Pier Holdings, LLC (CRC-VR-23-04), Caolina Beach, Oceanfront setback Bryan Hall, Christine Goebel, Esq./Todd Roessler, Esq.

Bryan Hall gave an overview of the site. Christine Goebel represented staff and stated Petitioner is represented by Todd Roessler. Petitioner purchased a two building condominium complex located at 1800 Canal Drive in Carolina Beach. After Petitioner began work adding total floor area to the existing building without a CAMA permit, Petitioner applied for a Minor Permit with the Town's Local Permit Officer to undertake some maintenance/repair and some new development on the two buildings. A portion of Building 1 is waterward of the 180-foot setback as measured from the pre-project vegetation line (static line). On June 28, 2023, the Town issued CAMA Minor Permit 12-23CB authorizing proposed development on Building 2, landward of the 180-foot setback but conditioned out development at Building 1 which was waterward of the setback line. This included enclosing three decks, adding three new decks outside the footprint, enclosing the laundry area, adding a 4th story penthouse unit, and a proposed paver pool area. The Petitioner is seeking a variance to develop Building 1 as proposed in their permit application. Ms. Goebel reviewed the stipulated facts of the request and stated Staff support the small-scale enclosure of the three existing decks and laundry rooms, can be supportive of the pool deck as it is smaller than the originally existing pool deck area, but disagree with any new decks, penthouse additions, and paver parking. Todd Roessler, representing Petitioner, reviewed the stipulated facts which he contends supports the granting of the variance request in its entirety.

Neal Andrew made a motion that strict application of the applicable development rules will not be an unnecessary hardship in relation to the new decks, penthouse units, and impervious paver parking; however, enclosure of the existing decks, enclosure of the laundry areas, and the smaller pool deck will cause an unnecessary hardship and should be allowed. Sheila Holman seconded the motion. The motion passed unanimously (Bryan, Wills, Holman, Emory, Andrew, Baldwin, Cahoon, Batts, Salter, High, Smith).

Neal Andrew made a motion that Petitioner has demonstrated that any hardships result from conditions peculiar to petitioner's property. Larry Baldwin seconded the motion. The motion passed unanimously (Bryan, Wills, Holman, Emory, Andrew, Baldwin, Cahoon, Batts, Salter, High, Smith).

Neal Andrew made a motion that Petitioner has shown that any hardship relating to the enclosure of the existing decks, laundry area, and construction of a smaller pool deck does not result from its actions, however any new development including any new decks, penthouse units, and impervious parking result from petitioner's actions. Larry Baldwin

seconded the motion. The motion passed unanimously (Bryan, Wills, Holman, Emory, Andrew, Baldwin, Cahoon, Batts, Salter, High, Smith).

Neal Andrew made a motion that authorizing the enclosure of the three existing decks, laundry area, and the smaller pool deck are consistent with the spirit, purpose, and intent of the Commission's rules, standards, or orders; will secure the public safety and welfare; and preserve substantial justice. The addition of three new decks, new penthouse units, and impervious parking area do not meet these criteria. Angie Wills seconded the motion. The motion passed unanimously (Bryan, Wills, Holman, Emory, Andrew, Baldwin, Cahoon, Batts, Salter, High, Smith).

This variance request was partially granted.

LEGAL UPDATES

Update on Litigation of Interest to the Commission

Mary Lucasse updated the CRC on active litigation and any actions since the Commission received their memo in the meeting materials.

PUBLIC INPUT AND COMMENT

No public comments were received.

PUBLIC HEARINGS

15A NCAC 07H .0305 Minimum Growing Season for Vegetation

Mike Lopazanski

Mike Lopazanski stated the CRC is proposing to amend its administrative rules in order to require a minimum of two growing seasons before planted vegetation can be used for oceanfront setback determinations which will increase consistency in making these determinations for property owners and agency staff.

No comments were received.

15A NCAC 07H .1102, .1202, .1302, .1402, .1502, .2002, .2102, .2202, .2302, .2402, .2702

General Permit Time Extension

Jonathan Howell

Jonathan Howell stated the proposed amendments extend the General Permit expiration date to 180 days for those permits that have an expiration date of less than 180 days and adds a substantial development clause allowing applicants to complete work begun prior to permit expiration. Additionally, the Commission inadvertently shortened the active permit period from two years to 120 days in 15A NCAC 07H .2302 and has proposed an amendment to correct the error.

No comments were received.

15A NCAC 07H .0309 Exceptions for lots Platted Post-1979

Ken Richardson

Ken Richardson stated the Commission proposes these amendments to current rules to allow an Ocean Hazard Area Exception to apply to all property owners and not just property platted prior to June 1, 1979.

No comments were received.

15A NCAC 07H .1103, .1203, .1303, .1403, .1503, .1903, .2003, .2103, .2203, .2403, .2503, .2703, 15A NCAC 07J .0204, .0404, .0405, .0406 Permit Fee Increases

Mike Lopazanski

Mike Lopazanski stated the proposed amendments increase fees for most Coastal Area Management permit actions, including increasing fees for all General Permits.

No comments were received.


OLD/NEW BUSINESS


Larry Baldwin stated he and Commissioner Emory had attended the joint meeting with the Environmental Management Commission and Marine Fisheries Commission coordinated by the NC Coastal Federation. The boat tour to see living shorelines, water quality issues, and work towards coastal resiliency was outstanding. Commissioner Emory stated it was very informative with good discussion and a great opportunity to collaborate with EMC and MFC commissioners.

Chair Cahoon stated North Carolina is now participating in the Virginia King Tide Program which is a citizen participation program to show flooding in North Carolina. There will be a Science Panel meeting in New Bern on October 2 for those that can attend. November 8-9 is the next scheduled meeting of the CRC and will take place in Beaufort.

With no further business, the CRC adjourned.

Respectfully submitted,


Braxton Davis, Executive Secretary


Angela Willis, Recording Secretary