



TO: The Coastal Resources Commission

FROM: Christine A. Goebel, DEQ Assistant General Counsel

DATE: November 1, 2023 (for the November 9, 2023 CRC Meeting)

RE: Variance Request by Brian & Susan Shugart (CRC-VR-23-05)

Petitioners Brian & Susan Shugart own property at 2206 East Yacht Drive in Oak Island. Their property is adjacent to the Atlantic Intracoastal Waterway (“AIWW”), which has a marked channel and right-of-way setback managed by the US Army Corps of Engineers (“USACE”). While the right-of-way setbacks have not changed near the property, in 2013, the USACE took steps to strictly enforce prohibiting structures within their setback area. The waters of the AIWW at the property are a designated Primary Nursery Area by the Marine Fisheries Commission.

Petitioners initially sought a pier structure similar in length to neighboring piers and received a 2021 permit for a pier and fixed observation platform landward of the USACE setback after learning about the setback and the shallow PNA. The water depths at the setback are -1.2” mlw. Petitioners then proposed a structure without driven pilings within the setback where the USACE allowed floating structures. Petitioner applied for a CAMA Major Permit for an addition to the existing platform which included two boatlifts landward of the setback with 18” stops and four fixed finger piers all landward of the setback, and a gangway to a floating platform that has 12 8” x 8” “table-top” legs on the bottom-side which will rest on the bottom (but not be driven) to support the floating pier 18” above the bottom within the setback. On August 18, 2023, DCM denied the application as being inconsistent with the Commission’s rules regarding “significant adverse impacts” to the shallow PNA as expressed by the Division of Marine Fisheries and other agencies. Petitioners now seek a variance from the Commission’s rules to develop their proposed dock expansion as proposed in their permit application.

The following additional information is attached to this memorandum:

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

cc(w/enc.): Mousa Alshanteer & Alex Elkan, Petitioners’ Co-Counsel, electronically
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically
Courtney Milliron, Oak Island CAMA LPO, electronically



RELEVANT STATUTES OR RULES**APPENDIX A****15A NCAC 07H .0201 ESTUARINE AND OCEAN SYSTEM CATEGORIES**

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

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

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

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

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

15A NCAC 07H .0206 ESTUARINE WATERS

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

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

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

cleanses the system of pollutants, controls salinity, shifts sediments, and mixes the water to create a multitude of habitats. Some important features of the estuary include mud and sand flats, eel grass beds, salt marshes, submerged vegetation flats, clam and oyster beds, and important nursery areas.

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

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

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

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

15A NCAC 07H .0207 PUBLIC TRUST AREAS

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

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

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

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

(c) Management Objective. To protect public rights for navigation and recreation and to conserve and manage the public trust areas so as to safeguard and perpetuate their biological, economic and aesthetic value.

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

15A NCAC 07H .0208 USE STANDARDS

(a) General Use Standards

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

(A) The location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and ocean System AEC (Rule .0203 of this subchapter) and shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas.

STIPULATED FACTS**ATTACHMENT B**

1. Brian and Susan Shugart (collectively, the “Shugarts” or “Petitioners”) own property at 2206 East Yacht Drive in Oak Island (the “Property”). Petitioners took title to the Property on July 20, 2018 through a General Warranty Deed recorded in the Brunswick County Register of Deeds, Book 4083, Page 721, a copy of which is attached as a stipulated exhibit.
2. The Property is shown in aerial and ground level photos contained in a powerpoint presentation, attached as a stipulated exhibit.
3. The Property is developed with an existing 75’ long access pier with 16’ x 16’ fixed platform permitted and developed in 2021, a 3,781 square foot three-story house with associated deck and driveway, and a bulkheaded shoreline. A copy of the 2023 tax card is attached as a stipulated exhibit.
4. The Property is adjacent to the Atlantic Intracoastal Waterway (“AIWW”) to the north, 2204 East Yacht Drive owned by the Rowells to the west, East Yacht Drive to the south, and NE 23rd Street and then 2302 East Yacht Drive owned by the Fitzpatrick’s to the east.
5. At this location the waters of the AIWW are classified as SA High Quality Waters by the Environmental Management Commission (“EMC”). These waters are closed to the harvest of shellfish by the Marine Fisheries Commission (“MFC”).
6. The MFC has designated these waters as a Primary Nursery Area (“PNA”), which are defined by this Commission in 15A NCAC 7H .0208(a)(4) as “those areas in the estuarine and ocean system where initial post larval development of finfish and crustaceans takes place. They are usually located in the uppermost sections of a system where populations are uniformly early juvenile stages. Primary nursery areas are designated and described by the N.C. Marine Fisheries Commission...at 15A NCAC 03R .0130. The PNA designation for this area was in 1977.
7. In 2007-2008, there was a Department of Environment & Natural Resources (Predecessor to Department of Environmental Quality) workgroup which met to discuss updates to the Docks and Piers CAMA General Permit including impacts to shallow bottom habitat and impacts to Submerged Aquatic Vegetation. This Commission, in revising the rules which were ultimately passed in 2013, included an amendment to 7H .1205(g) which allows DCM to issue permits under this general permit authority for docking facilities in areas with depths 2’ or greater without prior consultation with DMF or WRC. In areas with less than 2’ of depth, DCM will consult with the applicable sister-agency and if they raise concerns about habitat impacts, DCM requires the applicant to proceed with a CAMA major permit instead of the general permit.
8. The waters of the AIWW at the Property are Public Trust Areas and Estuarine Waters Areas of Environmental Concern (“AECs”). Along the eastern-most approximately 40’ of the Property’s 120’ shoreline there are Coastal Wetlands extending approximately 30’ from the bulkhead waterward, though no development is proposed in the Coastal Wetlands.

9. Pursuant to N.C.G.S. § 113A-118, any “development” within an AEC (Public Trust Areas and Estuarine Waters AECs) must be authorized by the issuance of a CAMA permit.
10. The Property is located adjacent to the U.S. Army Corps of Engineers (USACE) AIWW. Aerial photographs are attached as stipulated exhibits which are overlain with a USACE GIS layer showing the AIWW channel and the AIWW right-of-way setbacks in the area of the Property. In this area, the red setback lines span 250’ in width which includes both 80’ rights-of-way area and the 90’ AIWW channel in the middle. USACE staff confirmed to DCM counsel on October 19, 2023 that in the area of the Property, the setbacks have remained unchanged at 80’ each on either side of the channel.
11. On November 13, 2013 the Wilmington District of the USACE revised their Wilmington District Setback Policy. A copy of the Wilmington District’s webpage (saw.usace.army.mil/Missions/Navigation/Setbacks/) describing this policy is attached as a stipulated exhibit. This policy disallows any hardened or permanently fixed structures within the setback. The policy indicates that if existing structures within the setbacks are destroyed beyond repair, they “will only be replaced in accordance with the current Wilmington District setback policy, as well as any USACE Regulatory and DCM permit requirements.”
12. In the area of the Property, the AIWW is approximately 406’ wide. This leaves approximately 156’ of waterbody width (some on the north shoreline and some on the south shoreline including at the Property) outside the 250’ wide channel/setback areas. The quarter-width of the waterbody at the Property is approximately 102’ waterward of the bulkhead at the pier. Development proposed by Petitioners does not include any permanently fixed structures within the setback.
13. Boat traffic in the AIWW in the area of the Property is heavy and the area is not designated as a no-wake zone. Due to the presence of the AIWW, the use of the AIWW by large boats and many bulkheads along this shoreline, wave energy is high in the area of the Property.
14. Petitioner Mr. Shugart’s sworn affidavit is attached as a stipulated exhibit, and while DCM cannot determine if the statements are true, DCM acknowledges they are his sworn statements. In the affidavit, he states that shortly after purchasing the Property, Petitioners were told by the representative of the previous owners of the Property whose name he does not remember, that they would be able to install a dock similar to that of their neighbors at 2204 East Yacht Drive and 2302 East Yacht Drive.
15. Petitioners initially spoke with DCM District Manager Tara MacPherson in 2020-2021. Ms. MacPherson explained about the USACE policy limiting fixed structures to outside the setback and the General Permit rules which require consultation with Division of Marine Fisheries where pier structures would terminate in less water less than 2’ in depth when occurring over PNA, SAV or oyster reefs, and usually (but not necessarily) lead to the need for a CAMA Major Permit application.

16. On February 4, 2021, DCM issued CAMA General Permit #77634D (“2021 Permit”) to Petitioners authorizing the development of a 75’ long access (no slips) pier and 16’ x 16’ fixed, covered platform built up to and not past the USACE AIWW channel setback line. Petitioners developed this permitted structure in 2021. A copy of this permit is attached as a stipulated exhibit.
17. Following the 2021 Permit and pier construction, Petitioners sought approval through a General Permit in May 2022 for extensions with slips, but DMF continued to express concerns about water depths less than 1’. Petitioners communicated with the various agencies to try and address stated concerns and proceed with a CAMA General Permit application. On May 9, 2022, DCM Field Representative Patrick Amico emailed Petitioners’ agent that, after review, the proposed slips, lifts and finger piers would need to proceed through the CAMA Major Permit process “[d]ue to resource concerns with the shallow water depths in Primary Nursery Area in the area of proposed constructed features.” A copy of this May 9, 2022 communication is attached as a stipulated exhibit.
18. Petitioners proceeded to prepare their major permit application, again consulting with the Agencies, discussing revisions to the proposed development, and having several meetings with various agency staff. DCM staff visited the Property on September 8, 2022 (Ms. MacPherson) November 8, 2022 (Mr. Amico), and November 17, 2022 (Mr. Amico).
19. On August 23, 2022, the Shugarts, through their CAMA agent Dana Lutheran, submitted a CAMA Major Permit application to DCM for a proposed 3-slip addition to the existing access pier and platform, consisting of the installation of two 14’ x 4’ fixed finger piers for access to two proposed 14.5’ x 16’ boatlifts (with six piling each) flanking the existing fixed platform landward of the AIWW setback. Petitioners also proposed the installation of a 22’ x 8’ piling-less, floating platform accessed by a piling-less, dual hinge I-beam gangway from the existing fixed platform and supported by twelve 8 in. by 8 in. wooden stop legs (collectively, the “Dock Expansion”). A copy of the application is attached as a stipulated exhibit. Based on the site plan drawing which is part of the application, the water depths are -1.2’ MLW at the waterward end of the floating platform with wooden stop legs, and -0.2’ MLW at the boat lifts. The application was accepted as complete by DCM on November 28, 2022.
20. The Shugarts indicated in their CAMA Major Permit application that the Dock Expansion “will include permanent stops, to keep the structure from resting on the bottom, during low tide,” that “the lifts will be installed so they can only be used in water depths greater than 18 inches...by limiting the length of the cables,” and that “[t]he floating platform will be used for loading and unloading only and will not serve for overnight docking.” DCM acknowledged in its Field Investigation Report that the purpose of the piling-less, dual hinge I-beam gangway from the existing fixed platform “is to provide access to a floating dock that is past the USACE setback line (without driving pilings) and to have the proposed floating dock located in deeper water to potentially lessen resource impacts to shallow bottom habitat.”
21. As required, Petitioners provided notice of the application to the adjacent riparian owners. In this case, Petitioners gave notice to the Rowells at 2204 East Yacht Drive and to the Town of Oak Island (owner of NE 23rd Street). USPS tracking indicates that notice was delivered to the

Town on October 19, 2023 and to the Rowells on October 21, 2023. A copy of the certified mail receipts and tracking is attached as a stipulated exhibit. DCM did not receive any concerns or objections from these owners during the permit review period.

22. As required, Petitioners posted notice of the permit application on the site. Notice of the application was also published in the Wilmington Star News on December 23, 2022. DCM did not receive any comments about this project from the public.
23. As part of the CAMA Major Permit Process, DCM Field Representative Patrick Amico completed a Field Investigation Report dated December 20, 2022, a copy of which is attached as a stipulated exhibit. This report was sent with the application materials to the other permit reviewing agencies.
24. No coastal wetland or shellfish are observed in the area of the dock expansion. Additionally, Petitioners identified that, based on numerous on-site evaluations, submerged aquatic vegetation does not typically grow within the area of Dock Expansion. To ensure protection of the West Indian manatee, the Shugarts represented that the Dock Expansion would be undertaken between November 1st and May 31st and, if not, that they would adhere to the U.S. Fish and Wildlife Services' guidance on avoiding impacts to the species.
25. On January 26, 2023, the USACE issued Petitioners a permit authorizing the dock expansion, a copy of which is attached as a stipulated exhibit. The USACE indicated it did not have any comment to DCM on the Dock Expansion, so long as no pilings are installed waterward of the USACE' Navigational Channel Setback line, which Petitioners were not (and are not) proposing. The dock expansion proposed by the Petitioners does not propose the use of any driven pilings for the floating platform and gangway. Petitioners propose the use of wooden stops, installed 18" above substrate, to be affixed to the bottom of the floating platform and the use of stops on the boat lifts.. The Shugarts indicated in their application their position that "[t]hese measures ensure that the boat lifts and the floating platform will not rest on the bottom at any time, and that the lifts will not be usable when water depths are less than 18 in."
26. On January 30, 2023, DMF sent comments to DCM, wherein it raised concerns about the siting of the Dock Expansion in waters less than 1.0 ft below the normal water level and the potential impact to the shallow bottom fishery habitat and resources. A copy of these comments is attached as a stipulated exhibit. Specifically, DMF expressed concerns that the proposed boatlifts would be sited in waters ranging in depth from -0.2' to -0.3' NWL, and that the proposed floating platform would be sited in waters ranging in depth from -0.5' to -1.2' NWL. DMF also expressed concerns that these boat lifts and floating platform in shallow water result in repeated disturbance of the PNA substrate by operation of the boat propellers and the floating platform "repeatedly resting on the bottom." DMF further provided that "the large floating dock as proposed is a heavy structure" and that "the substrate at this location is muddy" and, therefore, "more susceptible to resuspension of sediment from bottom disturbance."
27. On February 21, 2023, DWR sent comments to DCM which echoed DMF's comments in its January 30, 2023 objections to the Dock Expansion with concerns about the potential impact to the shallow bottom habitat. A copy of DWR's comments is attached as a stipulated exhibit.

28. On February 21, 2023, based on the comments from DMF and DWR, DCM placed the Shugarts' Application on hold in order for Petitioners to respond to DMF and DWR's concerns regarding insufficient water depths and receive from DWR a Water Quality Certification for the Dock Expansion. A copy of DCM's hold letter/email is attached as a stipulated exhibit.
29. On February 23, 2023, Petitioners' agent responded to the Agencies' concerns about the potential impact to the shallow bottom fishery habitat and resources from the Dock Expansion, noting that Petitioners addressed their concerns regarding the boat lifts and floating platforms causing repeated disturbance of the substrate by incorporating wooden stops into the design of the Dock Expansion, to be installed 18 in. above the substrate, on both boat lifts, and affixed to the bottom of the floating platform. Petitioners also proposed to "perform annual self-inspections, supported by photos, which will be submitted to DCM" and mitigative work be done, monitoring for the lift of the facility if needed. A copy of this response is attached as a stipulated exhibit.
30. On April 18, 2023, DMF relayed to Petitioners' agent that a DEMLR engineer would review the platform with stops design "if your client is willing to work with a structural engineer to draft and sign a design, then we review it, with high probability it [the report] will be accepted." A copy of this email is attached as a stipulated exhibit.
31. On April 19, 2023, Petitioners' engineers David L. Winstead and Steven D. Kelly, P.E. at RFTS, PLLC provided the Petitioners' other engineer E. B. Pannkuk, P.E. at Stature Engineering, PLLC, with their estimation of the penetration of the proposed wooden stops supporting the proposed floating platform at the Property, saying that "[f]or the given load and sectional dimensions of the stop, our analysis indicated a predicted penetration for this load and bearing dimension of 0.5 inches." A copy of this letter is attached as a stipulated exhibit. This letter was provided to DCM (and DMF and DWR) on May 10, 2023.
32. Further, Petitioners' engineers disagreed with DMF and DWR's characterization of the substrate as "muddy" and alleged that "[t]he soils on which the stops will rest are expected to be medium dense clean fine sands."
33. Petitioners provided photographs of the substrate at the Property taken by Petitioners' agent on August 12, 2022 and March 7, 2023, which are attached with a sworn affidavit as a stipulated exhibit. Petitioners' agent states that she observed that the substrate is sandy, rather than muddy, in the area of the proposed Dock Expansion, from the existing access pier to the proposed floating platform. Specifically, she states that the substrate in the area is comprised of a layer of compacted muck, overlain by a relatively thin sand layer, with sparse shell matter.
34. Petitioner's agent further observed that a substrate of such composition is less susceptible than a muddy substrate to the resuspension of sediment from bottom disturbance.
35. On July 24, 2023, DMF submitted additional comments to DCM, a copy of which is attached as a stipulated exhibit. As part of these comments, DMF indicated "if this project is approved, DMF recommends that the proposed floating dock be required to have feet as physical stops."

36. On August 18, 2023, DCM denied the Application as inconsistent with 15A N.C. Admin. Code 07H.0208(a)(2)(A), which states, in part, “that the location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC” and “shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas.”
37. Google Earth photographs of the area around the Property overlain with the USACE’s channel and setback line layer are attached as stipulated exhibits showing the relative location of piers in the area of the Property and the setback line.
38. The property at 2302 East Yacht Drive received a permit on July 17, 2003, a copy of which is attached as a stipulated exhibit. The property at 2302 East Yacht Drive has an existing access pier, connected to a fixed platform, 20 ft. by 13ft. in size, connected by a gangway to a floating platform, 13 ft. by 13 ft. in size, and appears to extend into the USACE setback based on the Google Earth exhibit.
39. Water depths were shown on the site plan, and Mr. Amico visited the Property and confirmed water depths. Ms. Kim Harding of DMF also visited the Property and found depths similar to those in Mr. Amico’s field report.
40. The property at 2204 East Yacht Drive received a permit on May 3, 1995, a copy of which is attached as a stipulated exhibit. It appears to extend into the USACE setback based on the Google Earth exhibit.
41. The property at 2502 East Yacht Drive received CAMA General Permit #38974D in 2004, a copy of which is attached as a stipulated exhibit. It appears to extend into the USACE setback based on the Google Earth exhibit.
42. Pursuant to 15A N.C.A.C. 07J.0701(a), Petitioners would have been required to furnish to the Commission proof that a variance was sought from the local government; however, the requirement is inapplicable, since there are no local, Town of Oak Island requirements, such as lot setbacks or buffer rules, restricting the Dock Expansion.
43. Pursuant to 15A NCAC 7J. 0701(c)(6), Petitioners stipulate that the proposed project is inconsistent with the rule from which the Petitioner seeks a variance.
44. Pursuant to 15A NCAC 7J .0701(c)(7), Petitioners sent notice of this variance petition to the adjacent riparian owners. Copies of the notice and delivery information are attached. The notice to the Town of Oak Island by certified mail was received on September 28, 2023. Notice to the Rowells by certified mail arrived at their local post office and notice was given to them to claim it on pick it up on September 28, 2023. As of October 17, 2023 the letter was unclaimed and is being returned to sender. A second attempt at delivery by UPS was attempted on October 26, 2023, with an expected delivery of October 27, 2023. No comments have been

received to date, but any comments received by the time of the variance hearing will be provided to the Commission.

Stipulated Exhibits

- A. General Warranty Deed to Petitioners 4083/721 (P's A)
- B. 2023 Tax Card for the Property
- C. Copy of USACE website on Wilmington District's Setback Policy
- D. Affidavit of Brian Shugart re: seller's representative
- E. CAMA General Permit issued February 4, 2021 (P's C)
- F. May 9, 2022 email from DCM to P's agent re: major (P's Q)
- G. CAMA Major Permit Application materials
- H. Notice to adjacent riparian owners including letters, certified receipts and tracking (P's T+)
- I. DCM Field Investigation Report (P's N)
- J. January 26, 2023 USACE Permit (P's M)
- K. DMF January 30, 2023 comments (P's E)
- L. DWR February 21, 2023 comments (P's G)
- M. DCM's February 21, 2023 Hold Letter (P's F)
- N. Petitioner's February 23, 2023 letter to DCM (P's H)
- O. April 18, 2023 email from DMF to P's agent (party of P's J)
- P. April 19, 2023 letter from RFTS, PLLX with May 10, 2023 transmittal letter (P's R)
- Q. Affidavit of Dana Lutheran with associated photos
- R. July 24, 2023 DMF comments (P's I)
- S. August 18, 2023 Denial Letter (P's W)
- T. Google Earth photos with USACE setbacks overlain
- U. 2003 Permit for 2302 East Yacht Drive
- V. 1995 Permit for 2404 East Yacht Drive
- W. 2004 Permit for 2502 East Yacht Drive
- X. Tracking information for notice to adjacent riparian owners of variance petition
- Y. Powerpoint with ground and aerial site photos of the Property and surrounding area

PETITIONERS' and STAFF'S POSITIONS**ATTACHMENT C****I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? If so, the petitioner must identify the hardships.****Petitioner's Position: Yes.**

First, Brian and Susan Shugart (collectively, the "Shugarts") have the burden of convincing the N.C. Coastal Resources Commission ("CRC") that strict application of the development orders, rules, or standards issued by the CRC will cause them unnecessary hardships, and indeed it will. The Shugarts' story is one of reasonable home owners, who merely seek to use their property just as their neighbors have.

The Shugarts purchased their home at 2206 East Yacht Drive, Oak Island, North Carolina 28465 (the "Property") in 2018, having been told by the realtor that they would be able to construct a dock thereupon, just as adjacent property owners have. Looking waterward, the Shugarts would have noticed the adjacent properties, 2302 East Yacht Drive and 2204 East Yacht Drive, and other similarly-situated properties, such as at 2502 East Yacht Drive, with access piers connected to fixed platforms, further connected to boat lifts and floating platforms extending into the Intracoastal Waterway. They envisioned a similar structure for themselves, and to exercise their common law and statutory public rights of access to waters of the coastal area, for the enjoyment of their family, and close friends.

Throughout the entire process, from before construction of the structure presently at the Property to this variance petition, the Shugarts have made a good faith effort to devise a site plan in line with the existing structures of neighboring properties, to involve the relevant resource agencies, and to revise their plans so as to accommodate the agencies' concerns and to ensure consistency with management objectives, going back and forth for a period that spans three (3) years, and incurring substantial expense in the process.

The existing, 75 ft. long access pier and 16 ft. by 16 ft. fixed, covered platform on the Property were installed after the issuance by DCM to the Shugarts of a CAMA General Permit, no. 77634D, on February 4, 2021. This immediate variance petition concerns further development and expansion of the existing structure, to include the installation of four (4) fixed finger piers for access to two (2) proposed boatlifts, each 14.5 ft. by 16 ft., flanking the existing fixed platform, and the installation of a 22 ft. by 8 ft., piling-less, floating platform accessed by a piling-less, dual hinge I-beam gangway from the existing fixed platform and supported by twelve (12), 8 in. by 8 in. wooden stops (collectively, the "Dock Expansion").

The property at 2302 East Yacht Drive, one of the properties adjacent to that of the Shugarts, has an existing, access pier of similar length to the Shugarts' access pier, connected to a larger fixed platform, 20 ft. by 13ft. in size, connected by a gangway of similar length to a slightly smaller floating platform, 13 ft. by 13 ft. in size, which such structure extends into similar water depths as the Dock Expansion.

The property at 2204 East Yacht Drive, the other property adjacent to the Property, also has an existing structure that extends into similar water depths as the Dock Expansion. Indeed, the Dock Expansion is in line with, and does not extend beyond, both existing, permitted adjacent structures.

The owner of the structure at 2302 East Yacht Drive, received a permit on July 17, 2003, with no petition for a variance necessary, despite the fact that photographs of the water depths at the property taken by Brian Shugart on February 4, 2022 demonstrate that, with low tide, the landward side of floating platform thereat sits in water depths as low as 2.5 in. and the riverward side of the floating platform thereat sits in water depths as low as 7 in. Additionally, the structure was permitted despite the fact that the regulation upon which DCM based its denial of the Dock Expansion, and the management objective cited therein, existed in substantially the same form since at least May 3, 1993.

An evaluation of aerial photographs reveals that the majority of the structures built along the same section of the Intracoastal Waterway contain boat lifts and floating platforms that rest in normal water depths much lower than 2 ft., with many of them resting in little to no water whatsoever.

Understanding the need for regulatory approval of the Dock Expansion, the Shugarts had twice before unsuccessfully attempted to obtain approval for variations of the Dock Expansion through the General Permit process, first in February 2021 and, again, in May 2022, each time being met by the N.C. Division of Marine Fisheries (“DMF”) declining to sign a General Permit waiver due to concerns it had as to the siting of the Dock Expansion in waters less than 1.0 ft. below the normal water level.

Each time, the Shugarts, via their agent, Dana Lutheran (“Lutheran”), consulted with DCM, DMF, and the N.C. Division of Water Resources (“DWR” and, with DCM and DMF, the “Agencies”), and the U.S. Army Corps of Engineers, Wilmington District (the “Corps”), before and after submitting the General Permit application. For example, the Shugarts sent their site plan to DCM for its review on January 20, 2022, incorporating suggestions it thereafter received from DCM to lengthen the proposed piling-less gangway connecting the boat lifts to the floating platform. Further feedback from DCM resulted in further revisions to the site plan, reducing the size of the proposed floating platform from 22 ft. by 8 ft. to 10 ft. by 8 ft. On May 9, 2022, DCM notified the Shugarts that, despite their efforts, a Major Permit application would be necessary, “[d]ue to resource concerns with the shallow water depths in the Primary Nursing Area in the area of proposed construction features.”

Thereupon, the Shugarts, via Lutheran, proceeded to prepare their Coastal Area Management Act (CAMA) Major Permit application (the “Application”), again consulting with the Agencies before and after submitting the Application. Lutheran requested an on-site meeting at the Property with “DCM, DMF, Wildlife Resources, DWR, USACE, and any other agency that may have concerns with the proposed project.” Brian Shugart and Lutheran thereafter met with the Agencies, discussed further revisions to the site plan, and sent an initial draft of their Application to DCM for its review on August 23, 2022. *Id.* Further site visits were conducted by DCM on September 8, 2022 and November 8, 2022. Just as with its General Permit application and

accompanying site plan, the Application and its accompanying site plan underwent several iterations, wherein Lutheran and the Shugarts incorporated several rounds of suggestions from DCM. For example, Lutheran and the Shugarts indicated in the Application that the Dock Expansion “will include permanent stops, to keep the structure from resting on the bottom, during low tide,” that “the lifts will be installed so they can only be used in water depths greater than 18 inches...by limiting the length of the cables,” and that “[t]he floating platform will be used for loading and unloading only and will not serve for overnight docking.” DCM itself acknowledged in its Field Investigation Report, completed on December 20, 2022, that the purpose of the piling-less, dual hinge I-beam gangway from the existing fixed platform “is to provide access to a floating dock that is past the USACE setback line (without driving pilings) and to have the proposed floating dock located in deeper water to potentially lessen resource impacts to shallow bottom habitat.”

Further, in the Application, Lutheran and the Shugarts identified that coastal wetland species, such as smooth cordgrass, may be found under and east of the existing access pier, but not within the area of the Dock Expansion. Also, after having observed DMF’s mapping of submerged aquatic vegetation, Lutheran and the Shugarts identified that, based on numerous on-site evaluations, such vegetation does not typically grow within the area of Dock Expansion. Similarly, no shellfish were observed within the area, which is closed to shellfishing. To ensure protection of the West Indian manatee, the Application represented that the Dock Expansion would be undertaken between November 1st and May 31st and, if not, that the Shugarts would adhere to the U.S. Fish and Wildlife Service’s guidance on avoiding impacts to the species.

Despite Lutheran and the Shugarts’ efforts in gauging the opinions of the Agencies on the various iterations of the site plan, and accordingly adjusting the same, DMF raised concerns about the siting of the Dock Expansion in waters less than 1.0 ft below the normal water level and the potential impact to the shallow bottom fishery habitat and resources. Specifically, DMF commented that the proposed boatlifts would be sited in waters ranging in depth from 0.2 ft. to 0.3 ft. below normal water level, and that the proposed floating platform would be sited in waters ranging in depth from 0.5 ft. to 1.2 ft. below normal water level. DMF further commented that boat lifts and floating platforms in shallow water result in repeated disturbance of the substrate, whether by operation of the propellers on boats “continuously disturbing the sediment” or by the floating platforms “repeatedly resting on the bottom.” DMF further provided that “the large floating dock as proposed is a heavy structure” and that “the substrate at this location is muddy” and, therefore, “more susceptible to resuspension of sediment from bottom disturbance.” DWR echoed the same comments in its final objections to the Dock Expansion.

Lutheran responded to the Agencies’ concerns about the potential impact to the shallow bottom fishery habitat and resources from the Dock Expansion, noting that she and the Shugarts had already addressed the Agencies’ concerns regarding the boat lifts and floating platforms causing repeated disturbance of the substrate by incorporating wooden stops into the design of the Dock Expansion, to be installed 18 in. above the substrate, on both boat lifts, and affixed to the bottom of the floating platform. As Lutheran indicated, “[t]hese measures ensure that the boat lifts and the floating platform will not rest on the bottom at any time, and that the lifts are not usable when water depths are less than 18 in.” To further assuage the Agencies’ concerns, Lutheran indicated that “docking at the floating platform will only take place when loading and unloading.”

The Shugarts did not stop there. Lutheran informed the Agencies that the Shugarts are “willing to perform annual self-inspections, supported by photos, which will be submitted to DCM by December 31st of each year. Maintenance of the mitigative measures will be undertaken as soon as possible after discovering the need and photos of the completed work will be provided to DCM. The monitoring requirement would be in perpetuity, for the life of the docking facility, should the Agencies agree. However, should conditions change (i.e., water depths increase to greater than 18 in. at [normal low water level]), [the Shugarts] would like the opportunity to have the Agencies reevaluate the need for continuing monitoring.”

Thereafter, DMF relayed to Lutheran that, “if your client is willing to work with a structural engineer to draft and sign a design, then we review it, with high probability it will be accepted.” Via letter, dated April 19, 2023, David L. Winstead and Steven D. Kelly, P.E., professional engineers at RFTS, PLLC, provided the Shugarts, via their agent, E. B. Pannkuk, P.E. at Stature Engineering, PLLC, with their estimation of the penetration of the proposed wooden stops supporting the proposed floating platform at the Property. In their letter, which was thereafter provided to the Agencies, they write that “[f]or the given load and sectional dimensions of the stop, our analysis indicated a predicted penetration for this load and bearing dimension of 0.5 inches.”

Further, the engineers note that “[t]he soils on which the stops will rest are expected to be medium dense clean fine sands,” contrasting with DMF and DWR’s characterizations of the substrate as “muddy” and “more susceptible to resuspension of sediment from bottom disturbance.” Photographs of the substrate at the Property taken by Lutheran on August 12, 2022 and March 27, 2023 demonstrate a sandy, rather than muddy, substrate in the area of the Dock Expansion, from the existing access pier to the proposed floating platform, less susceptible than a muddy substrate to resuspension of sediment from bottom disturbance. Indeed, Lutheran, observed that “[s]ubstrate within the area of the proposed work is comprised of a layer of compacted muck, overlain by a relatively thin sand layer, with sparse shell matter.”

The Agencies were unmoved and, on August 18, 2023, DCM denied the Application as inconsistent with 15A N.C. Admin. Code 07H.0208(a)(2)(A), which states “that the location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC” and “shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas.”

Strict application of the development orders, rules, or standards issued by the CRC at 15A N.C. Admin. Code 07H.0208(a)(2)(A) will cause the Shugarts unnecessary hardships in that such application will prohibit the Shugarts from further developing, expanding, and using their dock, just as their neighbors have, into similar depths of the Intracoastal Waterway, and just as was represented as possible to them by the realtor at the time they purchased their home. The Dock Expansion is in line with, and does not extend beyond, both existing, permitted neighboring structures, which, in at least one case, was permitted after the regulation upon which DCM based its denial, and the management objective cited therein, was promulgated. In any case, the Shugarts

acted as diligent and responsible homeowners, to involve the relevant resource agencies, and to revise their plans so as to accommodate the agencies' concerns and to ensure consistency with management objectives, going back and forth for a period that spans three (3) years, and incurring substantial expense in the process. The Shugarts proposed to lengthen the proposed piling-less gangway connecting the boat lifts to the floating platform, to install permanent, wooden stops on both boat lifts, affixed to the bottom of the floating platform, to keep the structure from resting on the substrate during low tide and to prevent use in water depths less than 18 in., and to restrict their use of the floating platform for loading and unloading only, and not for overnight docking. Their engineers estimated the penetration of the proposed wooden stops supporting the floating platform at only half an inch. The Shugarts even offered to perform annual self-inspections, supported by photos, and maintenance of mitigative measures, for the life of the docking facility, assuming the same conditions remain. To ensure protection of the only coastal wetland species that may be impacted by the Docks Expansion, the West Indian manatee, the Shugarts represented that the Dock Expansion would be undertaken between November 1st and May 31st and, if not, that the Shugarts would adhere to the U.S. Fish and Wildlife Service's guidance on avoiding impacts to the species. In short, the Shugarts have undergone considerable lengths to arrive at this variance petition.

In denying the Shugarts' Application as inconsistent with 15A N.C. Admin. Code 07H.0208(a)(2)(A), which states "that the location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC," DCM seems to have overlooked that the same management objective provides that "it is the objective of the Coastal Resources Commission to protect present common-law and statutory public rights of access to the lands and waters of the coastal area." The Shugarts merely seek to develop, expand, and use their dock, just as their neighbors have, into similar depths of the Intracoastal Waterway, in order to exercise such rights, for the enjoyment of their family, and close friends.

Staff's Position: Yes.

Staff agrees that a strict application of 7H .0208(a)(2)(A) results in unnecessary hardships for the Petitioner where the proposed docking facilities are unable to extend into deeper water to avoid impacts to shallow waters designated as Primary Nursery Areas due to the USACE designated setback from the federal channel.

The Commission's rule in 7H .0208(a)(2)(A), which was the basis for denial in this case, states "that the location, design, and need for development, as well as the construction activities involved, shall be consistent with the management objective of the Estuarine and Ocean System AEC...and shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, and submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas."

This Commission has at times varied its *own* pier length limitation rules (quarter-width rule or rate of depth rule) to allow a pier to be lengthened to reach deeper waters and avoid "significant adverse impacts" to PNAs. However, this Commission cannot vary the USACE's right-of-way setback line. During its review, DMF raised concerns that "significant adverse impacts" to shallow bottom

PNA habitat will result from the proposed expansion, and their concerns were echoed by the NC Wildlife Resources Commission (WRC) and NC Division of Water Resources (DWR) (agency comments are included in the variance materials). The two lifts and the use of those lifts along with the floating dock are opportunities for permanent or repetitive impacts to shallow bottom PNA habitat, whereas the impacts from the existing pier and fixed observation platform were limited to the initial pile driving. However, DCM staff believe that the short transit of vessels between the proposed lifts to the adjacent Intracoastal Waterway (ICW) will result in very limited impacts to the designated PNA, and that the PNA along this shoreline is already impacted by a large number of piers and docking facilities.

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

Petitioner's Position: Yes.

Second, the Shugarts have the burden of convincing the CRC that the hardships to them result from conditions peculiar or unique to their Property, such as its location, size, or topography. The hardships to the Shugarts, indeed, result from conditions peculiar or unique to their Property, specifically its location and topography.

Namely, the specific area within which the Dock Expansion would be located is a relatively narrow stretch of the Atlantic Intracoastal Waterway, where boat traffic is heavy. The area is not designated as a no-wake zone, and wave action from boat traffic has caused the accumulation of sediment to take place, waterward of the existing bulkhead, resulting in reduced water depths relative to other areas along the waterway.

Again, in their Application, Lutheran and the Shugarts identified that coastal wetland species, such as smooth cordgrass, may be found under and east of the existing access pier, but not within the area of the Dock Expansion. Also, after having observed DMF's mapping of submerged aquatic vegetation, Lutheran and the Shugarts identified that, based on numerous on-site evaluations, such vegetation does not typically grow within the area of Dock Expansion. Similarly, no shellfish were observed within the area, which is closed to shellfishing. Additionally, contrasting with DMF and DWR's characterizations of the substrate as "muddy" and "more susceptible to resuspension of sediment from bottom disturbance," David L. Winstead and Steven D. Kelly, P.E., professional engineers at RFTS, PLLC, note that "[t]he soils on which the stops will rest are expected to be medium dense clean fine sands," less susceptible than a muddy substrate to resuspension of sediment from bottom disturbance. Indeed, photographs of the substrate at the Property taken by Lutheran on August 12, 2022 and March 27, 2023 demonstrate a sandy, rather than muddy, substrate in the area of the Dock Expansion, from the existing access pier to the proposed floating platform. Lutheran also observed that "[s]ubstrate within the area of the proposed work is comprised of a layer of compacted muck, overlain by a relatively thin sand layer, with sparse shell matter."

The Agencies' concerns that gave rise to the denial of the Application centered, rather, on the water depths in the area of the Dock Expansion, rendering the peculiar or unique condition of

wave action from heavy boat traffic, and the area not being designed as a no-wake zone, particularly consequential.

This notwithstanding, as described above, the adjacent properties, 2302 East Yacht Drive and 2204 East Yacht Drive, and other similarly-situated properties, such as at 2502 East Yacht Drive, include access piers connected to fixed platforms, further connected to boat lifts and floating platforms extending into similar depths of the Intracoastal Waterway. Again, an evaluation of aerial photographs reveals that the majority of the structures built along the same section of the Intracoastal Waterway contain boat lifts and floating platforms that rest in normal water depths much lower than 2 ft., with many of them resting in little to no water whatsoever.

Staff's Position: Yes.

Staff agree that a hardship to Petitioners is a result from conditions peculiar to the Petitioners' property. Numerous riparian properties on the north side of Oak Island border the AIWW where the waterway is narrow enough to limit pier lengths due to the federal channel setback, and have the same adjacent shallow water designated as PNA extending out to the setback line. However, while not unique along this particular shoreline, this combination of circumstances is relatively uncommon in comparison with waterfront properties along the coast of North Carolina.

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

Petitioner's Position: No.

Third, the Shugarts have the burden of convincing the CRC that the hardships to them do not result from actions taken by them.

Indeed, the hardships to the Shugarts do not result from actions taken by the Shugarts but, instead, are the result of strict and imbalanced application of the development orders, rules, or standards issued by the CRC, and conditions peculiar or unique to their Property, as described above.

Again, the Shugarts are reasonable home owners, who merely seek to use their Property just as their neighbors have, and to exercise their common law and statutory public rights of access to waters of the coastal area, for the enjoyment of their family, and close friends. When they purchased the Property, they were told by the realtor that they would be able to construct a dock thereupon, just as adjacent property owners have. Throughout the entire process, from before construction of the structure presently at the Property to this variance petition, the Shugarts have made a good faith effort to devise a site plan in line with the existing structures of neighboring properties, to involve the Agencies, and to revise their plans so as to accommodate the Agencies' concerns and to ensure consistency with management objectives, going back and forth for a period that spans three (3) years.

The Shugarts tried to accommodate as reasonably as they could the Agencies' concerns, proposing to lengthen the proposed piling-less gangway connecting the boat lifts to the floating platform, to install permanent, wooden stops on both boat lifts, affixed to the bottom of the floating

platform, to keep the structure from resting on the substrate during low tide and to prevent use in water depths less than 18 in., and to restrict their use of the floating platform for loading and unloading only, and not for overnight docking. The Shugarts even offered to perform annual self-inspections, supported by photos, and maintenance of mitigative measures, for the life of the docking facility, assuming the same conditions remain.

The denial of the Application by DCM is based upon concerns raised by DMF and, then, DWR as to the siting of the Dock Expansion in waters less than 1.0 ft below the normal water level, despite the fact that the similar, adjacent structure at 2302 East Yacht Drive received a permit on July 17, 2003, with no petition for a variance necessary, well after the regulation upon which DCM based its denial, and the management objective cited therein, were enacted. Again, the property at 2302 East Yacht Drive has an existing, access pier of similar length to the Shugarts' access pier, connected to a larger fixed platform, 20 ft. by 13ft. in size, connected by a gangway of similar length to a slightly smaller floating platform, 13 ft. by 13 ft. in size, which such structure extends into similar water depths as the Dock Expansion. Photographs of the property at 2302 East Yacht Drive taken by Brian Shugart on February 4, 2022 demonstrate that, with low tide, the landward side of floating platform thereat sits in water depths as low as 2.5 in. and the riverward side of the floating platform thereat sits in water depths as low as 7 in.

The property at 2204 East Yacht Drive, the other property adjacent to the Property, also has an existing structure that extends into similar water depths as the Dock Expansion. The Dock Expansion is in line with, and does not extend beyond, both existing, permitted adjacent structures. A similar structure at 2502 East Yacht Drive, Oak Island, North Carolina 28465, which includes a 98 ft. long access pier to a 12 ft. by 16 ft. fixed, covered platform, connected to a 12 ft. by 12 ft. boat lift, was permitted as recently as February 6, 2014. An evaluation of aerial photographs reveals that the majority of the structures built along the same section of the Intracoastal Waterway contain boat lifts and floating platforms that rest in normal water depths much lower than 2 ft., with many of them resting in little to no water whatsoever.

Again, the specific area within which the Dock Expansion would be located is a relatively narrow stretch of the Atlantic Intracoastal Waterway, where boat traffic is heavy. The area is not designated as a no-wake zone, and wave action from boat traffic has caused the accumulation of sediment to take place, waterward of the existing bulkhead, resulting in reduced water depths relative to other areas along the waterway.

For these reasons, the hardships to the Shugarts do not result from actions taken by the Shugarts but, instead, are the result of conditions peculiar or unique to their Property and strict and imbalanced application of the development orders, rules, or standards issued by the CRC, where the Shugarts' neighbors have been able to use, and receive permits for, similar structures that exist in similar water depths, and the Shugarts have been denied the ability to employ similar uses, as was represented to them as possible by the realtor, even after going back and forth with the Agencies for almost three (3) years and attempting as reasonably as possible to accommodate the Agencies' concerns and to ensure consistency with management objectives.

Staff's Position: No.

On balance, Staff believes that any hardships faced by Petitioners do not result from their actions. Staff acknowledge that Petitioners have designed their proposed structures to meet the USACE's setback by proposing a floating dock with "table-top" stops and no driven pilings within the setback as allowed by the USACE. These 12 8" x 8" "table legs" would still impact the bottom during the lower part of the tidal cycle, but less so than if the entire floating dock were resting on the bottom. The proposed boat lifts would include stops designed to prevent vessels and bunks from resting on the bottom at low tide.

In response to several arguments raised by the Petitions, DCM staff note that Petitioners seek to have docking facilities similar to those at other properties along the same shoreline. Riparian rights, including the right to pier out to "deep" water, are subject to reasonable regulations. In this case, Staff contend reasonable regulations would include the USACE's enforcement of its right-of-way setback so that it has enough room to dredge the AIWW as needed without interference from structures within their right-of-way setback. Staff likewise contend that reasonable regulations would include limiting adverse impacts to shallow bottom PNA habitat in order to protect fisheries resources. While Petitioners describe this as a three-year process, Staff note that Petitioners received a general permit in February of 2021 for a pier and fixed observation platform and have been able to exercise riparian rights through that pier for the last few years during this process.

Mr. Shugart's affidavit acknowledges they did not seek a CAMA permit before closing or ask the sellers to obtain a CAMA permit as a condition of closing. Such due diligence steps would have brought to light the USACE's setback enforcement policy and the shallow water PNA habitat present at the Property. He acknowledges in his affidavit that it was only after closing on the property that a representative of the sellers told him he could get a permit for a pier like neighboring piers, though it is unclear what basis or expertise this representative had to make such a claim and appears Petitioners' purchase of the property was not reliant on the guarantee of a pier with slips.

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

Petitioner's Position: Yes.

Finally, the Shugarts have the burden of convincing the CRC that the requested variance is consistent with the intent, purpose, and spirits of the CRC's development orders, rules, or standards, will secure the public safety and welfare, and will preserve substantial justice.

For the following reasons, the requested variance is consistent with the intent, purpose, and spirits of the CRC's development orders, rules, or standards, will secure the public safety and welfare, and will preserve substantial justice:

Again, DCM's denial of the Shugarts' Application is based upon 15A N.C. Admin. Code 07H.0208(a)(2)(A), which requires "that the location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC" and "shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas."

The management objective of the Estuarine and Ocean System AEC is set forth in 15A N.C. Admin. Code 07H.0203, which states, "It is the objective of the Coastal Resources Commission to conserve and manage estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines, as an interrelated group of AECs, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values and to ensure that development occurring within these AECs is compatible with natural characteristics so as to minimize the likelihood of significant loss of private property and public resources. Furthermore, it is the objective of the Coastal Resources Commission to protect present common-law and statutory public rights of access to the lands and waters of the coastal area."

The requested variance is consistent with the intent, purpose, and spirits of both 15A N.C. Admin. Code 07H.0208(a)(2)(A) and the management objective of the Estuarine and Ocean System AEC set forth in 15A N.C. Admin. Code 07H.0203.

First, a variance from these regulations, so as to allow the Dock Expansion, whether with or without reasonable conditions and safeguards as deemed appropriate by the CRC, would, with reference to 15A N.C. Admin. Code 07H.0208(a)(2)(A), "be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas."

Again, in their Application, Lutheran and the Shugarts identified that coastal wetland species, such as smooth cordgrass, may be found under and east of the existing access pier, but not within the area of the Dock Expansion. Also, after having observed DMF's mapping of submerged aquatic vegetation, Lutheran and the Shugarts identified that, based on numerous on-site evaluations, such vegetation does not typically grow within the area of Dock Expansion. Similarly, no shellfish were observed within the area which is closed to shellfishing. To ensure protection of the only coastal wetland species that may be impacted by the Docks Expansion, the West Indian manatee, the Shugarts represented that the Dock Expansion would be undertaken between November 1st and May 31st and, if not, that the Shugarts would adhere to the U.S. Fish and Wildlife Service's guidance on avoiding impacts to the species.

Additionally, contrasting with DMF and DWR's characterizations of the substrate as "muddy" and "more susceptible to resuspension of sediment from bottom disturbance," David L. Winstead and Steven D. Kelly, P.E., professional engineers at RFTS, PLLC, note that "[t]he soils on which the stops will rest are expected to be medium dense clean fine sands," less susceptible than a muddy substrate to resuspension of sediment from bottom disturbance. Indeed, photographs of the substrate at the Property taken by Lutheran on August 12, 2022 and March 27, 2023

demonstrate a sandy, rather than muddy, substrate in the area of the Dock Expansion, from the existing access pier to the proposed floating platform. Lutheran also observed that “[s]ubstrate within the area of the proposed work is comprised of a layer of compacted muck, overlain by a relatively thin sand layer, with sparse shell matter.”

Second, a variance from the foregoing regulations, so as to allow the Dock Expansion, whether with or without reasonable conditions and safeguards as deemed appropriate by the CRC, would, with reference to 15A N.C. Admin. Code 07H.0203, enable the conservation and management of “estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines,” particularly insofar as the Shugarts have offered to perform annual self-inspections, supported by photos, and maintenance of mitigative measures, for the life of the docking facility, assuming the same conditions remain. A variance would “safeguard and perpetuate [the] social, economic, and aesthetic values” of such areas, by enabling the Shugarts to make the same use of the Intracoastal Waterway as is being made by their neighbors, and in no different form. Most importantly, perhaps, is that a variance would protect the Shugarts’ “present common-law and statutory public rights of access to the lands and waters of the coastal area,” and the exercise of such rights for the enjoyment of their family, and close friends, and visitors who marvel at the beauty of the Intracoastal Waterway, which such beauty the Shugarts themselves recognize, and seek to protect.

The requested variance will secure the public safety and welfare. Again, the Dock Expansion is in keeping with the structures in the area, and will be in line with and not oceanward of the immediately adjacent structures on each side of the Property. Lutheran and the Shugarts indicated in their Application that, even more, the Dock Expansion “will include permanent stops, to keep the structure from resting on the bottom, during low tide,” that “the lifts will be installed so they can only be used in water depths greater than 18 inches...by limiting the length of the cables,” and that “[t]he floating platform will be used for loading and unloading only and will not serve for overnight docking.” DCM itself acknowledged in its Field Investigation Report, completed on December 20, 2022, that the purpose of the piling-less, dual hinge I-beam gangway from the existing fixed platform “is to provide access to a floating dock that is past the USACE setback line (without driving pilings) and to have the proposed floating dock located in deeper water to potentially lessen resource impacts to shallow bottom habitat.” The Shugarts’ engineers estimated the penetration of the proposed wooden stops supporting the floating platform at only half an inch, and, again, the Shugarts have even offered to perform annual self-inspections, supported by photos, and maintenance of mitigative measures, for the life of the docking facility, assuming the same conditions remain. What’s more, having before approved of the Dock Expansion’s encroaching beyond the Corps’ setback line, the Corps issued to the Shugarts a permit authorizing the Dock Expansion on January 26, 2023. The Corps indicated that it did not have any comment on the Dock Expansion, so long as no pilings are installed waterward of the Corps’ Navigational Channel Setback line.

Finally, the requested variance preserves substantial justice. As described above, the hardships to the Shugarts do not result from actions taken by the Shugarts but, instead, are the result of strict and imbalanced application of the development orders, rules, or standards issued by the CRC, and conditions peculiar or unique to their Property, as described above.

Again, the Shugarts are reasonable home owners, who merely seek to use their Property just as their neighbors have, and to exercise their common law and statutory public rights of access to waters of the coastal area, for the enjoyment of their family, and close friends. When they purchased the Property, they were told by the realtor that they would be able to construct a dock thereupon, just as adjacent property owners have. Throughout the entire process, from before construction of the structure presently at the Property to this variance petition, the Shugarts have made a good faith effort to devise a site plan in line with the existing structures of neighboring properties, to involve the Agencies, and to revise their plans so as to accommodate the Agencies' concerns and to ensure consistency with management objectives, going back and forth for a period that spans three (3) years, incurring substantial expense as a result.

The adjacent property at 2302 East Yacht Drive has an existing, access pier of similar length to the Shugarts' access pier, connected to a larger fixed platform, 20 ft. by 13ft. in size, connected by a gangway of similar length to a slightly smaller floating platform, 13 ft. by 13 ft. in size, which such structure extends into similar water depths as the Dock Expansion. Photographs of the property at 2302 East Yacht Drive taken by Brian Shugart on February 4, 2022 demonstrate that, with low tide, the landward side of floating platform thereat sits in water depths as low as 2.5 in. and the riverward side of the floating platform thereat sits in water depths as low as 7 in. The property at 2204 East Yacht Drive, the other property adjacent to the Property, also has an existing structure that extends into similar water depths as the Dock Expansion. The Dock Expansion is in line with, and does not extend beyond, both existing, permitted adjacent structures. An evaluation of aerial photographs reveals that the majority of the structures built along the same section of the Intracoastal Waterway contain boat lifts and floating platforms that rest in normal water depths much lower than 2 ft., with many of them resting in little to no water whatsoever.

This notwithstanding, the adjacent structure at 2302 East Yacht Drive received a permit on July 17, 2003 and a similar structure at 2502 East Yacht Drive received a permit on February 6, 2014, with no petition for a variance necessary, well after the regulation upon which DCM based its denial, and the management objective cited therein, were enacted. The Shugarts' neighbors have been able to use, and receive permits for, similar structures that exist in similar water depths, and the Shugarts have been denied the ability to employ similar uses, as was represented to them as possible by the realtor, even after going back and forth with the Agencies for almost three (3) years and attempting as reasonably as possible to accommodate the Agencies' concerns and to ensure consistency with management objectives.

The neighboring owners of the properties adjacent to the Property, including among them the Town of Oak Island, received notice of the Application on October 13, 2022, and did not raise any concerns or objections thereto. In its final objections to the Dock Expansion, DMF indicated "if this project is approved, DMF recommends that the proposed floating dock be required to have feet as physical stops." N.C. Gen. Stat. §113A-120.1(b) provides that the CRC "may impose reasonable and appropriate conditions and safeguards upon any variance it grants." The Shugarts respectfully request that the CRC ensures their equal treatment by granting their variance petition, with such reasonable conditions and safeguards as are deemed appropriate by the CRC.

Staff's Position: Yes.

Staff agrees that the requested variance is consistent with the spirit, purpose and intent of 7H .0208(a)(2)(A) and the referenced management objective of 7H .0203, which balances protection of the resources within the Public Trust Areas and Estuarine Waters AECs with Petitioners' riparian rights.

DCM agrees that some flexibility should be provided for docking facilities along this shoreline because they may eventually need to relocate outside of the USACE setback and terminate closer to shore, in shallow waters designated as PNA. DCM staff feel that the short distance between the proposed slips and the ICW should be weighed along with DMF's concerns about PNA impacts in this particular case, and that the use of "stops" on boat lifts in this specific area should be required in order to avoid having boats, bunks, platforms, or other structures resting on the bottom at low tide.

Petitioners' floating dock with "table top" stops is also important in potentially addressing the concerns expressed by DMF, WRC and DWR. DMF recommended a specific monitoring plan for the proposed floating dock in comments provided to DCM in July 2023 (attached), whereby DMF staff would "identify and measure any changes under and surrounding the floating structure." If implemented, DCM supports the request for the novel floating dock design as proposed. Additionally, Staff believe that the modified design and avoidance of the USACE setback secures public safety and welfare. Substantial justice would be preserved where Petitioners are allowed to develop a 3-slip structure similar to numerous other docking facilities along the same shoreline.

**ATTACHMENT D:
PETITIONER'S VARIANCE REQUEST MATERIALS**

CAMA VARIANCE REQUEST FORM**DCM FORM 11****DCM FILE No.:** _____

PETITIONER'S NAME

BRIAN AND SUSAN SHUGART

COUNTY WHERE THE DEVELOPMENT IS PROPOSED

BRUNSWICK

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

VARIANCE HEARING PROCEDURES

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

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

VARIANCE CRITERIA

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

- (a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.
- (b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.
- (c) Do the hardships result from actions taken by the petitioner? Explain.
- (d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

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

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

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

- X A copy of the permit decision for the development in question;
- X A copy of the deed to the property on which the proposed development would be located;
- X A complete description of the proposed development including a site plan;
- X A stipulation that the proposed development is inconsistent with the rule at issue;
- X Proof that notice was sent to adjacent owners and objectors*, as required by 15A N.C.A.C. 07J .0701(c)(7);
- X Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- X Petitioner’s written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- X 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.
- X 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.

Alexander Elkan N.C. Bar No. 31502

By: *Mousa Alshanteer* N.C. Bar No. 57805
MOUSA ALSHANTEER

9/27/2023

<hr/>			<hr/>
Signature of Petitioner or Attorney			Date
<hr/>			<hr/>
Alexander Elkan, Petitioners’ Attorney			aelkan@brookspierce.com
Printed Name of Petitioner or Attorney			Email address of Petitioner or Attorney
<hr/>			<hr/>
P.O. Box 26000			(336) 271-3134
Mailing Address			Telephone Number of Petitioner or Attorney
<hr/>			<hr/>
Greensboro, NC 27420			(336) 232-9034
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

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

**Attachments to CAMA Variance Petition
Brian and Susan Shugart**

- The name and location of the development as identified on the permit application:
 - 2206 East Yacht Drive, Oak Island, North Carolina 28465
- A copy of the permit decision for the development in question:
 - *See Attachment A.*
- A copy of the deed to the property on which the proposed development would be located:
 - *See Attachment B.*
- A complete description of the proposed development including site plan:
 - The proposed development is the expansion of an existing access pier and fixed platform on the Property, consisting of the installation of four (4) fixed finger piers for access to two (2) proposed boatlifts, each 14.5 ft. by 16 ft., flanking the existing fixed platform, and the installation of a 22 ft. by 8 ft., piling-less, floating platform accessed by a piling-less, dual hinge I-beam gangway from the existing fixed platform and supported by twelve (12), 8 in. by 8 in. wooden stops. The CAMA Major Permit Application narrative, dated October 10, 2022, and the final site plan, dated February 23, 2023, are enclosed hereto as **Attachment C.**
- A stipulation that the proposed development is inconsistent with the rule at issue:
 - *See Attachment D.*
- Proof that notice was sent to adjacent owners and objectors:
 - *See Attachment E.*
- Proof that a variance was sought from the local government, if applicable:
 - Not applicable.
- Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria:
 - *See Attachment G.*
- A draft set of proposed stipulated facts and stipulated exhibits:
 - *See Attachment F.*

**Attachment D to CAMA Variance Petition
Brian and Susan Shugart**

Stipulation

Brian and Susan Shugart, through their attorney, Alexander Elkan, hereby stipulate that the proposed development that is the subject of this variance petition is inconsistent with the regulation at issue, 15A N.C. Admin. Code 07H.0208(a)(2)(A).

ATTACHMENT E:
STIPULATED EXHIBITS INCLUDING POWERPOINT

- A. General Warranty Deed to Petitioners 4083/721
- B. 2023 Tax Card for the Property
- C. Copy of USACE website on Wilmington District's Setback Policy
- D. Affidavit of Brian Shugart re: seller's representative
- E. CAMA General Permit issued February 4, 2021
- F. May 9, 2022 email from DCM to P's agent re: major
- G. CAMA Major Permit Application materials
- H. Notice to adjacent riparian owners including letters, certified receipts and tracking
- I. DCM Field Investigation Report
- J. January 26, 2023 USACE Permit
- K. DMF January 30, 2023 comments
- L. DWR February 21, 2023 comments
- M. DCM's February 21, 2023 Hold Letter
- N. Petitioner's February 23, 2023 letter to DCM
- O. April 18, 2023 email from DMF to P's agent
- P. April 19, 2023 letter from RFTS, PLLX with May 10, 2023 transmittal letter
- Q. Affidavit of Dana Lutheran with associated photos
- R. July 24, 2023 DMF comments
- S. August 18, 2023 Denial Letter
- T. Google Earth photos with USACE setbacks overlain
- U. 2003 Permit for 2302 East Yacht Drive
- V. 1995 Permit for 2404 East Yacht Drive
- W. 2004 Permit for 2502 East Yacht Drive
- X. Tracking information for notice to adjacent riparian owners of variance petition
- Y. Powerpoint with ground and aerial site photos of the Property and surrounding area

B4083 P0721 07-20-2018
 12:43:40.000
 Brenda N. Clemmons
 Brunswick County, NC Register of Deeds page 1 of 3

Brenda N. Clemmons Register of Deeds
 07-20-2018 12:43:40.000 Brunswick County, NC
 NC REVENUE STAMP: \$1190.00 (#592770)

Return to R. Serra Type shop
 Total 30 Roy 190 Int. KA
 Ck \$ 100 Ck 300 Cash \$
 Refund _____ Cash \$ _____ Finance _____

Portions of document are illegible due to condition of original.
 Document contains seals verified by original instrument that cannot be reproduced or copied.

This instrument prepared by: Robert K. Serra, a licensed NC Attorney. Delinquent taxes, if any, to be paid by the closing attorney to the Brunswick County Tax Collector upon disbursement of closing proceeds.

P-13492
 Revenue Stamps \$1190.00

STATE OF NORTH CAROLINA :
 COUNTY OF BRUNSWICK : GENERAL WARRANTY DEED

This Deed, made this 16th day of July, 2018, by and between CARL F. MICKEY, JR., AND H. DEAN SINK, ACTING AS TRUSTEES OF THE TRUST FOR THE BENEFIT OF WAJVA M. BUCK UNDER THE WILL OF CARL F. MICKEY, SR., Grantor, and BRIAN SHUGART AND WIFE, SUSAN SHUGART, Grantee, whose mailing address is 1880 Woodstock Rd., Clemmons, NC 27012.

WITNESSETH:

That the Grantor, for valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee, in fee simple, all of that certain lot or parcel of land situated in the County of Brunswick, State of North Carolina and more particularly described as follows:

BEING Lots 1 and 2, Block 151, Section 10, Tranquil Harbour, a section of Long Beach (now known as Oak Island), NC as shown on map recorded in Book 5 of Maps, Page 122, Brunswick County Registry, said lots having the metes, bounds and location as shown on said map.

Grantor acquired title to this property by Deed recorded in Book 3006, Page 1382, Brunswick County Registry. Grantors attest that the information contained in Certification of Trust recorded in Book 3881, Page 788, Brunswick County Registry, remains the same.

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

B4083 P0722 07-20-2018
12:43:40.000
Brunswick County, NC Register of Deeds page 2 of 3
Brenda H. Clemmons PROP

And the Grantor covenants with the Grantee, that the Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the following exceptions hereinafter stated. Title to the property herein above described is subject to the following exceptions:

1. Easements for utilities and rights of way in the chain of title.
2. All governmental laws, rules, regulations and ordinances that affect the use of the property.
3. Restrictive covenants recorded in Book 278, Page 656.
4. Current year ad valorem taxes.

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

Pursuant to NCGS 105 - 317.2 the property _____ includes does not include the primary residence of grantor.

Carl Mickey (SEAL)
CARL F. MICKEY, JR., TRUSTEE
H. Dean Sink (SEAL)
H. DEAN SINK, TRUSTEE

STATE OF NC **** COUNTY OF GUILFORD

I, a Notary Public in and for the State and County aforesaid certify that CARL F. MICKEY, JR., AS TRUSTEE OF THE TRUST FOR THE BENEFIT OF WAIVA M. BUCK UNDER THE WILL OF CARL F. MICKEY, SR., personally appeared before me this day in the capacity indicated and acknowledged the execution of the foregoing instrument. Witness my hand and seal this 14th day of July, 2018.

Joseph H. Cost
(Notary Signature)

My Commission expires: 10-11-2022



B4083 P0723 07-20-2018
12:43:40.000
Brenda M. Clemmons PROP
Brunswick County, NC Register of Deeds page 3 of 3

STATE OF NC **** COUNTY OF GUILFORD

I, a Notary Public in and for the State and County aforesaid certify that H. DEAN SINK, AS TRUSTEE OF THE TRUST FOR THE BENEFIT OF WAIVA M. BUCK UNDER THE WILL OF CARL F. MICKEY, SR., personally appeared before me this day in the capacity indicated and acknowledged the execution of the foregoing instrument. Witness my hand and seal this 11th day of July, 2018.

[Signature]
(Notary Signature)

My Commission expires: 10-11-2022



SHUGART BRIAN ETUX SHUGART SUSAN

Return/Appeal Notes:

Parcel: 235GA030

2206 E. YACHT DR OAK ISLAND 28465 OAK ISLAND

PLAT: UNIQ ID
00119/00041 101812

80073888

BRUNSWICK COUNTY (100), DOSHER HOSP TAX (100), OAK ISLAND (100), OAK ISLAND FIRE (600)

ID NO: 206613148730

Reval Year: 2023 Tax Year: 2023

L-1R B-151 S-10 TRANQUIL HARBOUR PL 119/41

2.0000 LT

SRC=

Appraised by 53 on 09/14/2022 306D OAK ISLAND - EAST

TW-03

CI-14

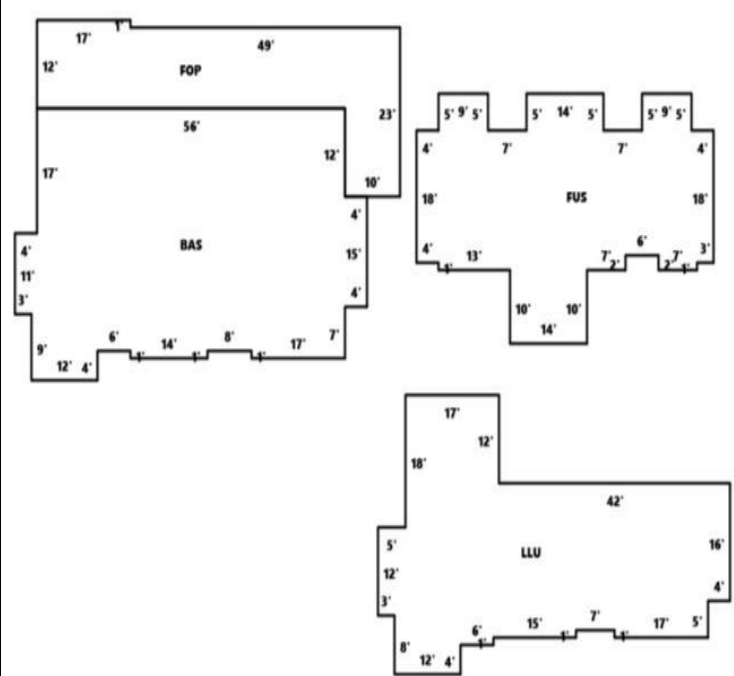
FR-08

EX-

AT-

LAST ACTION 20220914

CONSTRUCTION DETAIL		MARKET VALUE				DEPRECIATION			CORRELATION OF VALUE				
FOUNDATION	MOD	USE	MOD	Eff. Area	QUAL	BASE RATE	RCN	EYB	AYB	Standard	0.02000	CREDENCE TO MARKET	
Foundation - 3 Piers>8ft w/Con	10.00	01	01	3,781	196	235.20	889291	2020	2020	% GOOD	98.0	DEPR. BUILDING VALUE - CARD 871,510	
Sub Floor System - 4 Plywd/Ptl bd	8.00	TYPE: SINGLE FAMILY RESIDENTIAL				SFR CONSTRUCTION				DEPR. OB/XF VALUE - CARD 69,320		MARKET LAND VALUE - CARD 800,000	
Exterior Walls - 19 Hardy Plank	32.00	STYLE: 2 - 1.5 Stories								TOTAL MARKET VALUE - CARD 1,740,830		TOTAL APPRAISED VALUE - CARD 1,740,830	
Roofing Structure - 03 Gable	7.00									TOTAL APPRAISED VALUE - PARCEL 1,740,830		TOTAL PRESENT USE VALUE - PARCEL 0	
Roofing Cover - 13 Metal Standing Sea	8.00									TOTAL VALUE DEFERRED - PARCEL 0		TOTAL TAXABLE VALUE - PARCEL \$ 1,740,830	
Interior Wall Construction - 5 Drywall/Sheetrock	21.00									PERMIT			
Interior Floor Cover - 11 Ceramic Clay Tile	12.00									CODE DATE NOTE NUMBER AMOUNT			
Interior Floor Cover - 12 Hardwood	0.00									ROUT: WTRSHD:			
Heating Fuel - 04 Electric	1.00									SALES DATA			
Heating Type - 09 Heat Pump Only	4.00									OFF. RECORD DATE DEED TYPE Q/UV/I INDICATE SALES PRICE			
Air Conditioning Type - 03 Central	4.00									043140455 2 2020 CD U V 0			
Bedrooms/Bathrooms/Half-Bathrooms	17.000									040830721 7 2018 GW* Q V 595000			
Bedrooms										030061382 12 2009 WD U I 0			
BAS - 1 FUS - 3 LL - 0										009680884 2 1994 WD U V 82500			
Bathrooms										HEATED AREA 3,343			
BAS - 1 FUS - 2 LL - 0										NOTES			
Half-Bathrooms													
BAS - 1 FUS - 0 LL - 0													
Office													
BAS - 0 FUS - 0 LL - 0	0												
TOTAL POINT VALUE	124.000												
BUILDING ADJUSTMENTS													
Market/Design	21	.80	1.8000										
Quality	4	ABOVE AVERAGE	1.1000										
Size	Size	SIZE	0.8000										
TOTAL ADJUSTMENT FACTOR	1.580												
TOTAL QUALITY INDEX	196												



Click on image to enlarge

SUBAREA				CODE	DESCRIPTION	COUNT	LTH	WTH	UNITS	UNIT PRICE	ORIG % COND	BLDG#	AYB	EYB	ANN DEP RATE	% OVR	COND	OB/XF DEPR. VALUE	
BAS	2,036	100	478867	30	ELEVATOR (PASSENGER)	0.000	0	0	1	18,000.00	0	-	2020	2020	S2		94	16920	
FOP	863	030	60917	22	CONCRETE PAVING	0.000	0	0	832	4.50	0	-	2021	2021	S3		94	3519	
FUS	1,307	090	276595	72	PIER/DOCK (RESID)	0.000	0	0	400	42.00	0	-	2021	2021	S2		96	16128	
LLU	1,548	020	72912	28	DECK COVERED	0.000	0	0	192	27.00	0	-	2021	2021	S3		94	4873	
FIREPLACE	1	None		12	BULK HEAD	0.000	132	0	132	240.00	0	-	2019	2019	S3		88	27878	
SUBAREA TOTALS					TOTAL OB/XF VALUE														69,318
BUILDING DIMENSIONS				BAS=S17W4S11E3S9E12N4E6S1E14N1E8S1E17N7E4N15W4N12W56Area:2036;FOP=S23W10N12W56N12E17S1E49Area:863;FUS=S18E4S1E13S10E14N10E7N2E6S2E7N1E3N18W4N5W9S5W7N5W14S5W7N5W9S5W4Area:1307;LLU=W6S4W12N8W3N12E5N18E17S12E42S16W4S5W17N1W7S1W15S1Area:1548;T TotalArea:5754															
LAND INFORMATION																			
HIGHEST AND BEST USE	USE CODE	LOCAL ZONING	FRON TAGE	DEPTH	DEPTH / SIZE	LND MOD	COND FACT	OTHER ADJUSTMENTS AND NOTES			ROAD TYPE	LAND UNIT PRICE	TOTAL LAND UNITS	TYP	TOTAL ADJST	ADJUSTED UNIT PRICE	LAND VALUE	OVERRIDE VALUE	LAND NOTES
SFR WATERW	0104	R6	120	185	1.0000	0	1.0000				PS	400,000.00	2.000	LT	1.000	400,000.00	800000		
TOTAL MARKET LAND DATA																			
TOTAL PRESENT USE DATA																			



US Army Corps of Engineers Wilmington District Website

[Home](#) / [Missions](#) / [Navigation](#) / [Setbacks](#)

Setback Policy for all Federal Navigation Channels



*** The Wilmington District Setback Policy was revised on November 13, 2013 ***

What is a Setback?

The U.S. Army Corps of Engineers (USACE) Wilmington District establishes a setback from all Federal channels. A setback is a distance from the channel in which construction is prohibited. Setbacks are intended to serve two primary purposes: 1) they give the USACE and its contractors adequate space and maneuverability to perform dredging throughout a channel, and 2) they provide commercial and private boating traffic a safety margin when navigating Federal channels. Please be aware that most construction and maintenance activities over, under or within navigable waters, whether affecting the setback or not, require authorization from the [USACE Regulatory Program](#) and the [North Carolina Division of Coastal Management](#). You should contact these organizations directly if proposing to undertake construction in these areas.

What Type of Construction does a Setback Prohibit?

The Wilmington District does not allow construction of hardened or permanently fixed structures within the setback. It is our policy to only allow floating structures within the setback, on a case by case basis. Construction or placement of structures, whether permanent or hardened in nature, can be built up to the setback line. Floating structures must be anchored outside of the setback limit in order enable complete removal (at owners expense) of the structure during a dredging event. Whether structures are in compliance with the setback or not, we do reserve the right to seek modification or removal of any structure that is determined to be a hazard to navigation. Any Existing Docks/Piers within the setback maybe required to modify or removal of the structure if we determine that the structure was not authorized by a permit.

Where can the Setbacks be Viewed Graphically?

All Wilmington District navigation setback limits are graphically displayed via a downloadable Google Earth KMZ file. This data is freely available to the public and can also be accessed via the Wilmington District's Navigation webpage. All of the latest setback information, including coordinates, will be displayed on [Navigation Basemap for use in Google Earth](#).

How is the Setback Determined?

a. General. The following setbacks are designated to ensure that no structures encroach beyond the top edge of the navigation channel, including appropriate side slopes, and that there is sufficient clearance for dredging the navigation channel to its full width and depth, including slide slopes. Additionally, considerations are made for safe passage of commercial vessels through some Federal channels. Absent unusual circumstances, the following guidelines will apply.

Piers, docks, or waterfront structures should not extend any closer to the near bottom edge of the Federal channel than the sum of the project depth plus two (2) feet overdepth, times three (3), plus ten (10) feet, except as provided in subparagraphs (b.), (c.), and (d.) below. (Example: 6-foot project + 2-foot overdepth = 8 feet x 3 + 10 = 34-foot setback from near bottom edge of channel). This will allow for full maintenance dredging of the Federal project with allowable overdepth and appropriate side slopes (generally a 3:1 slope), and give dredging contractors adequate room to conduct operations without endangering docks and other structures. Additionally, these setbacks should allow for the safe passage of vessels appropriately sized to navigate these Federal channels.

b. Atlantic Intracoastal Waterway (AIWW). Piers, docks, or other waterfront structures should not extend any closer to the near bottom edge of the AIWW Federal channel than 80 feet. Additionally, there are four instances when the setback is more than 80 feet, as outlined below.

i. Bends in the AIWW Navigation Channel. Bends are especially dangerous for vessels, especially those pushing barges. Large vessels negotiating turns, particularly when currents are swift, require additional clearance to safely navigate through bends in shallow-draft channels. Accordingly, where the angle of deflection of the centerline of the AIWW channel from straight is 30 degrees or more, the setback will be expanded to 100 feet on

Skip to main content (Press Enter): 100 feet on the outside of the bend from the near bottom edge of the Federal channel for 1,000 feet in length of the



centerline of the channel, going both directions from the point of intersection at the channel bend. If these expanded setback ends are within 1,000 feet of one another, the two expanded lengths will be connected, using the smaller of the two setbacks for the intervening distance. All deflections are measured using the centerlines of the channel. All setbacks are measured from the near bottom edge of the channel (Figure 1). In certain cases

US Army Corps of Engineers Wilmington District Website

- a. Entire length of Cape Fear to Little River (CFR-LR Tangents 17 and 18) (Figure 2).
- b. Entire length of the west side of CFR-LR Tangent 6 (Figure 3).
- c. Along the east side of CFR-LR Tangent 6 for approximately 1,500 feet from the intersection of Tangents 6 and 7. The remaining east side of Tangent 6 reverts to an 80-foot setback (Figure 3).
- d. The widener at the intersection of CFR-LR Tangents 5 and 6 (Figure 3).
- e. Entire length of Section 5 Tangent 2 through Section 5 Tangent 4A, Snows Cut (Figure 4).
- f. Entire length of Section 2 Tangent A (Figure 5).
- g. The south side of Section 3 Tangent 3 for 1,000 feet from the intersection of Section 3 Tangents 2 and 3, but only an 80-foot setback along the north side of Section 3 Tangent 3 (Figure 6).

ii. Inlet Crossings. AIWW setbacks are expanded at inlet crossings based on the current centerline of the inlet connecting channel to the AIWW. These setbacks vary by location, to accommodate for increased traffic around inlets, faster and stronger currents, to account for the more dynamic nature of shorelines and shoal features adjacent to inlets, and to allow for maintenance dredging of approved channel widener segments adjacent to inlets. Specific AIWW Inlet Crossing setbacks are defined as follows:

- a. Shallotte Inlet Crossing – a 100-foot setback along both sides of CFR-LR Tangent 20 for 1,000 feet from the intersection of CFR-LR Tangents 19 and 20. A 200-foot setback along both sides of Tangent 19 for 2,000 feet from the intersection of Tangents 19 and 20. The remainder of Tangent 19 has a 100 foot setback along both sides to the intersection of Tangent 18 (Figure 7).
- b. Lockwoods Folly Inlet Crossing – a 200-foot setback along both sides of CFR-LR Tangent 11 for approximately 3,400 feet, centered on the intersection of Lockwoods Folly Inlet and AIWW (Figure 8).
- c. Carolina Beach Inlet Crossing – a 200-foot setback along both sides of Section 4 Tangent 1 for approximately 2,200 feet, centered on the intersection of Carolina Beach Inlet and AIWW (Figure 9).
- d. Masonboro Inlet Crossing – a 200-foot setback along both sides of Section 4 Tangent 3 for approximately 3,000 feet from the intersection of Section 4 Tangent 3 and Section 4 Tangent 4 (Figure 10).
- e. Mason's Inlet Crossing – a 100-foot setback along the west side of Section 3 Tangent 12 for approximately 2,000 feet and a 200-foot setback along the east side of Section 3 Tangent 12 for approximately 2,000 feet, centered on the intersection of Mason's Inlet and AIWW (Figure 11).
- f. Topsail Creek / Topsail Inlet Crossing – a 200-foot setback along both sides of Section 3 Tangent 8 for approximately 2,000 feet, centered on the intersection of Topsail Creek and AIWW (Figure 12).
- g. New River Inlet Crossing (Cedar Bush Cut) – a 200-foot setback along both sides of Tangent J. A 200 foot setback along both sides of Tangent I for approximately 1,500 feet from the intersection of Tangents I and J (Figure 13).
- h. Brown Inlet Crossing – a 200-foot setback along both sides of Section 2 Tangent F for approximately 7,800 feet, centered on the intersection of Brown Inlet with the AIWW (Figure 14).
- i. Saunders Creek Crossing (Bear Inlet) – a 200-foot setback along the south side of Section 2 Tangent C for approximately 2,000 feet from the intersection of Section 2 Tangents C and D. A 200-foot setback along the south side of Section 2 Tangent D for approximately 1,000 feet from the intersection of Section 2 Tangents C and D (Figure 15).
- j. Bogue Inlet Crossing – a 200-foot setback along the south side of Section 1 Tangent G. A 100-foot setback along the north side of Section 1 Tangent G (Figure 16).

iii. Channels Connecting with the AIWW. Channel connections are especially dangerous for vessels, especially those pushing barges. Additional setbacks in these areas will allow for adequate line-of-sight for vessel captains and adequate space for turning vessels and generally increased traffic. Accordingly, the setback has been expanded to 100 feet on each side of the connection. The length of the expansion will extend from the near bottom edge of each intersecting Federal channel for a distance of 750 feet along the centerline of the connecting channel from the centerline intersection. One exception is the connecting channel between the Cape Fear River and AIWW Section 5 Tangent 3. This channel has an 80 foot setback along both sides. Setbacks for some AIWW channels have been expanded where they intersect other connecting channels. The expansions are required for navigational safety and increased traffic, and are as follows:

- 1. i. Shallotte River – a 92-foot wide setback along Shallotte River for approximately 950 feet from the intersection of CFR-LR Tangent 17 and Shallotte River. An additional widener exists at the intersection of the Shallotte River and CFR-LR Tangent 17 setbacks (Figure 17.1).
- ii. Lockwoods Folly River Crossing – a 100-foot setback along the entire southern side of CFR-LR Tangent 8. A 100-foot setback along the northern side of CFR-LR Tangent 8 for approximately 2,000 feet from the intersection of Tangent 8 and Lockwoods Folly River towards Tangent 7 (Figure 17).
- iii. Nixon Channel Crossing – a 100-foot setback along the west side of Section 3 Tangent 11 for approximately 2,000 feet and a 200-foot setback along the east side of Section 3 Tangent 11 for approximately 2,000 feet, centered on the intersection of Nixon Channel and AIWW (Figure 18).
- iv. Butler Creek Crossing – a 100-foot setback along the west side of Section 3 Tangent 11 for approximately 2,000 feet and a 200-foot setback along the east side of Section 3 Tangent 11 for approximately 2,000 feet, centered on the intersection of Butler Creek and AIWW (Figure 19).
- v. Green Channel Crossing – a 200-foot setback along both sides of Section 3 Tangent 10 for approximately 2,000 feet, centered on the intersection of Green Channel and AIWW (Figure 20).



c. Inlet Navigation Projects. Many of the Federal navigation projects involving channel maintenance within ocean inlets and some side channels and river follow the deepest water at the time of maintenance, as opposed to established project limits defining a fixed Federal channel. Due to the dynamic

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US Army Corps of Engineers Wilmington District Website

d. Small Boat Harbors and Harbors of Refuge. Small harbors or basins are the terminus point of a navigation channel and do not contain any through channel, but does not include turning basins. Piers, docks, and other waterfront structures should not extend any closer than 15 feet from the near bottom edge of the Federal channel. Dredging of these areas will not include any sideslopes. The 15 foot setback applies to the following small harbors:

1. i. Manteo Harbor
- ii. Stumpy Point Basin
- iii. Rodanthe Harbor
- iv. Far Creek Basin
- v. Swanquarter Basin
- vi. Wrights Creek Basin
- vii. Avon Harbor
- viii. Hatteras Harbor
- ix. Silver Lake Harbor
- x. Oriental Harbor
- xi. Atlantic Harbor of Refuge
- xii. Atlantic Harbor
- xiii. Marshallberg Harbor
- xiv. Town Creek Harbor of Refuge
- xv. Morgan Creek basin
- xvi. Peltier Creek basin
- xvii. Swansboro basin
- xviii. Carolina Beach Harbor
- xix. Southport Boat Basin
- xx. NCSA Southport Small Boat Harbor

For channels connecting small basins or harbors to larger waterbodies, piers, docks, and other waterfront structures should not extend any closer to the near bottom edge of the Federal channel than the sum of the project depth plus two (2) feet overdepth, times three (3). (Example: 6-foot project + 2-foot overdepth = 8 feet x 3 = 24-foot setback from near bottom edge of channel).

e. Lockwoods Folly River. Downstream from the intersection of Lockwoods Folly River Tangents 13 and 14, piers, docks, or waterfront structures should not extend any closer to the near bottom edge of the Federal channel than 34 feet (the sum of the project depth (6) plus two (2) feet overdepth, times three (3), plus ten (10) feet. Due to the narrow width of Lockwoods Folly River upstream (north) of the intersection of Tangents 13 and 14, exceptions to the setback policy will be permitted on a case by case basis. Navigation Branch has approved a designated dock structure layout for this portion of the river. Minor modifications to the approved design may be considered based upon specific site conditions and variations. For a copy of the approved configuration, please contact the Wilmington District Chief of Navigation.

f. Harborlines. The setback policy will not apply to Federal projects that have established harbor and pierhead lines or where setbacks have been established by law. Harbor and pierhead lines have been established in the following areas:

- i. Cape Fear River/Wilmington Harbor
- ii. Morehead City Harbor and Waterfront
- iii. Beaufort Harbor and Waterfront
- iv. Neuse River/New Bern
- v. Pamlico River/Washington

What if my Dock is currently within the Setback?

Existing piers, docks, or other waterfront structures destroyed beyond repair by a storm, act of nature, or other sudden event, will only be replaced in accordance with the current Wilmington District setback policy, as well as any USACE Regulatory and North Carolina Division of Coastal Management permit requirements. The redevelopment or expansion of existing piers, docks, or other waterfront structures, (e.g., the conversion of commercial seafood docks to a residential marina), will be subject to current setback policy and any required regulatory permit action. The general maintenance and repair of existing piers, docks, or other waterfront structures located in the Federal channel setback may be authorized provided the work does not increase the footprint of the existing structure or results in additional encroachment into the setback. No new structures, and no reconstruction or redevelopment of existing structures, will be allowed within the authorized boundaries of any Federal channel.

What if I am Building a New Dock?



Submitting your permit application, you will need to identify where the setback line is and if you plan to cross it. If your construction plans cross the

US Army Corps of Engineers Wilmington District Website

Definitions

- Shallow Draft Navigation Channels** are Federally maintained navigation channels with project depth dimensions equal to or less than 14 feet mean low water (M.L.W.).
- Waterfront Structures** include any relatively permanent structure placed below mean high water (M.H.W.) of a waterway. This includes, but is not limited to bulkheads, seawalls, groins, revetments, rip rap, or other hardened stabilization structures, dolphins, piles, boat lifts, piers, and mooring buoys.
- Channel Intersections** are defined as the point of intersection of two or more channel centerlines.
- A Setback** is defined as the distance between a structure and a Federally-authorized and constructed channel (i.e., the distance that a structure must be "set back" from the edge of the channel). All setbacks are measured from the near bottom edge of the channel to the nearest point of the structure, whether that point is fixed or floating.
- Maintenance and Repair** is the fixing of any structure that becomes out of order or broken, as well as performing routine actions to keep its operation in a functional and serviceable capacity. Maintenance does not include any modification that changes the character, scope, size, or footprint of the original structure.
- Redevelopment** is the re-building or re-assembling of any structure that is no longer functional or serviceable in its original capacity, specifically pertaining to its framing and structural components. This would include beams, girders, joists, stringers, and/or pilings. Structures severely damaged or destroyed by natural or man-made events, including normal deterioration are considered in this category.

If you have Questions about the Setback?

If you need to discuss your particular setback issue, contact a member of the USACE Wilmington District office (call or [Email](#)):

Contact Information	
Land Use Coordinator	(910) 251-4196
Chief of Geospatial Services	(910) 251-4067
Chief of Navigation	(910) 251-4822

US Army Corps of Engineers
Attn: Land Use Coordinator
69 Darlington Ave
Wilmington, NC 28403

Or Email questions to:

SAWWEB-WILLandUse@usace.army.mil

If you have any questions, please feel free to contact any staff member listed above.

Last Revised: 03 December 2013

Our Mission

Deliver vital engineering solutions, in collaboration with our partners, to secure our Nation, energize our economy, and reduce disaster risk.

About the Wilmington District Website

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This is the official public website of the Wilmington District, U.S. Army Corps of Engineers. For website corrections, write to sawweb-



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US Army Corps of Engineers Wilmington District Website

Hosted by Defense Media Activity - WEB.mil



STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

AFFIDAVIT OF BRIAN SHUGART

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

1. I am the owner of the property at 2206 East Yacht Drive, Oak Island, North Carolina 28465 (the "Property").

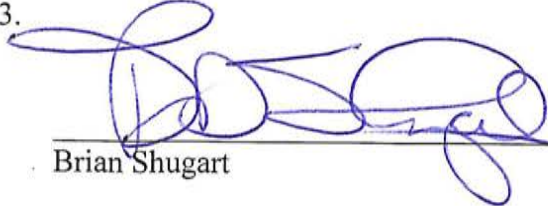
2. In late 2019, after my spouse, Susan Shugart, and I took title to the Property in July, 2018, I spoke with a representative of the previous owners of the Property, whose name I do not recall, about our ability to construct a dock thereat, similar to the neighboring properties at 2204 East Yacht Drive, Oak Island, North Carolina 28465 and 2302 East Yacht Drive, Oak Island, North Carolina 28465.

3. The representative indicated that I could have a structure on my Property similar to that of my neighbors. I did not seek a permit for the construction of any docking structure on my Property while under contract to purchase the Property, nor did I request that the sellers of the Property apply for such a permit and then transfer it to me.

Further Affiant sayeth not.

[Signature page follows.]


This the 24th day of October, 2023.



Brian Shugart

State of North Carolina
County of Brunswick

Sworn to and subscribed before me on
this 24th day of October 2023.



Notary Public

Joanne E Meisenhelder
(Typed/Printed Name of Notary Public)

My Commission Expires: 12.3.24

(NOTARIAL SEAL/STAMP)

Joanne E Meisenhelder
NOTARY PUBLIC
New Hanover County
North Carolina
My Commission Expires December 3, 2024

This is in: Already Built.

CAMA / BRIDGE & FILL
GENERAL PERMIT

NO 77634 A B C **D**

New Modification Complete Reissue Partial Reissue

Previous permit # _____
Date previous permit issued _____

As authorized by the state of North Carolina, Department of Environmental Quality and the Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC _____ **TH-1200** Rules attached.

Applicant Name Brian Shugart
Address 1880 Woodstock Rd
City Clemmons State NC ZIP 27012
Phone # 336 529-7285 E-Mail _____

Project Location: County Brunswick
Street Address/ State Road/ Lot #(s) 2200 E yacht drive

Authorized Agent _____
Affected CW NEW PTA ES PTS
AEC(s): OEA HHF IH UBA N/A

Subdivision _____
City Dak Island **5**
Phone # (____) _____ River Basin CFR
Adj. Wtr. Body ANW (nat / int / unkn)
Closest Maj. Wtr. Body ANW

ORW: yes / no PNA yes / no

Type of Project/ Activity Construct new private pier & observation platform (Scale: 1"=30')

Pier (dock) length 10' x 75'
Fixed Platform(s) 110' x 110'
Floating Platform(s) _____
Finger pier(s) _____
Groin length _____
number _____
Bulkhead/ Riprap length _____
avg distance offshore _____
max distance offshore _____
Basin, channel _____
cubic yards _____
Boat ramp _____
Boathouse/ Boatlift _____
Beach Bulldozing _____
Other _____

Shoreline Length 1/120'
SAV: not sure yes no
Moratorium: n/a yes no
Photos: yes no
Waiver Attached: yes no

A building permit may be required by: town of Oak Island See note on back regarding River Basin rules.
(Note Local Planning Jurisdiction)

Notes/ Special Conditions Structure may not encroach into 50' Federal Channel setback. No formalized boat slips are authorized

Brian D. Shugart
Agent or Applicant Printed Name
Signature [Signature]
Application Fee(s) _____ Check # 577

Jana MacPherson
Permit Officer's Printed Name
Signature [Signature]
Issuing Date 2/4/21 Expiration Date 10/4/21

From: Amico, Patrick J <Patrick.Amico@ncdenr.gov>
Sent: Monday, May 9, 2022 11:05 AM
To: dlutheran@segi.us; MacPherson, Tara <tara.macpherson@ncdenr.gov>
Subject: RE: [External] 2206 East Yacht Drive, Oak Island CAMA Permit Site Plan

Hi Dana:

DCM is in receipt of the General Permit application you submitted to our office for this location (2206 East Yacht). Due to resource concerns with the shallow water depths in Primary Nursery Area in the area of the proposed constructed features, a major permit application will be required for this proposal. Please find a checklist and associated application materials attached to this email. Please include an agent authorization form as well.

With kind regards,
Patrick

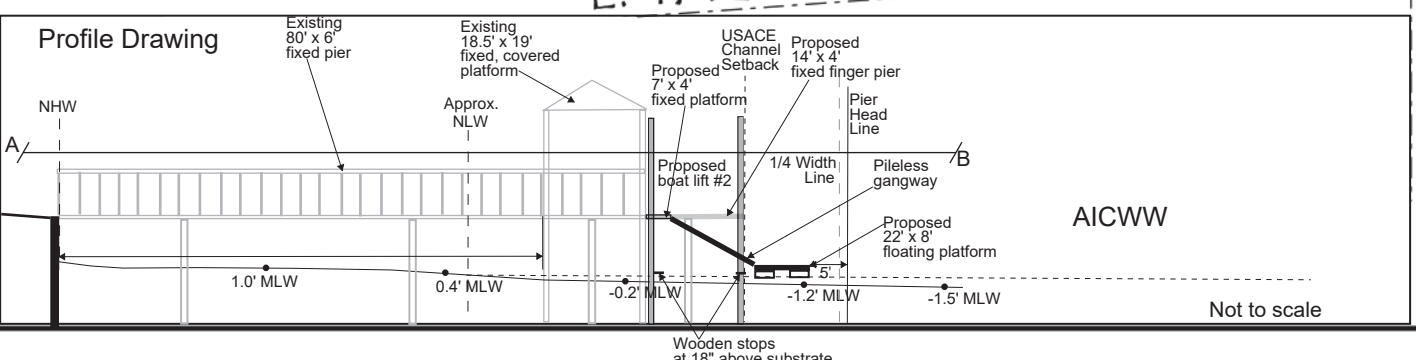
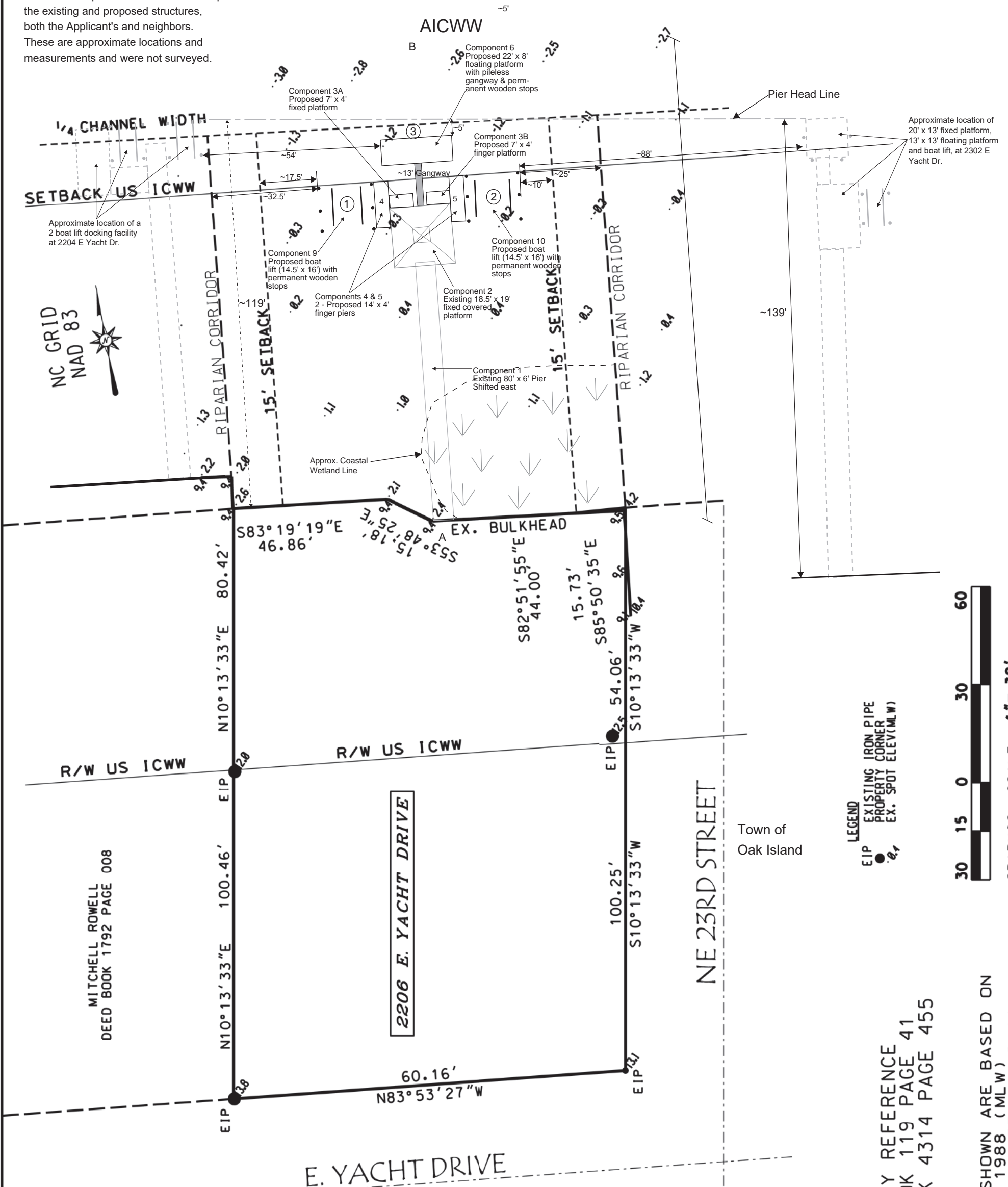
Patrick Amico
Environmental Specialist II
Division of Coastal Management
Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, NC 28405
(910)515-5792 (mobile, preferred)
(910)796-7425 office

CAMA Major Permit Dock Plan
for
Mr. Brian Shugart
2206 East Yacht Drive, Oak Island
6 October 2022
Sheet 1 of 1(v2)

Length of Shoreline: 145'
Existing Platform Area: 351.5 SF
Proposed Platform Area: 168 SF
Total Platform Area: 519.5 SF
Number of slips existing: 0
Number of slips proposed: 3

Wooden, permanent "stops" are to be placed at 18" above the substrate, on the lifts and floating platform.
The substrate is packed, mucky sand, with little or no shellfish and no SAV

Note: This map has been modified to depict the existing and proposed structures, both the Applicant's and neighbors. These are approximate locations and measurements and were not surveyed.



SURVEY REFERENCE
MAP BOOK 119 PAGE 41
DEED BOOK 4314 PAGE 455

ELEVATIONS SHOWN ARE BASED ON
NAVD 1988 (MLW)
0.00 (MLW) = 2.57 (NAVD 88)



APPLICATION for Major Development Permit

(last revised 12/27/06)

North Carolina DIVISION OF COASTAL MANAGEMENT

1. Primary Applicant/ Landowner Information			
Business Name Na		Project Name (if applicable) 2206 East Yacht Drive	
Applicant 1: First Name Brian	MI	Last Name Shugart	
Applicant 2: First Name	MI	Last Name	
<i>If additional applicants, please attach an additional page(s) with names listed.</i>			
Mailing Address 1880 Woodstock Road		PO Box	City Clemmons State NC
ZIP 27012-9780	Country US	Phone No. 336 - 529 - 7285 ext.	FAX No. - -
Street Address (if different from above) Same		City	State ZIP -
Email briandshugart@yahoo.com			

2. Agent/Contractor Information			
Business Name Southern Environmental Group, Inc. - (Segi)			
Agent/ Contractor 1: First Name Dana	MI A	Last Name Lutheran	
Agent/ Contractor 2: First Name	MI	Last Name	
Mailing Address 5315 South College Road, Suite E		PO Box	City Wilmington State NC
ZIP 28412		Phone No. 1 910 - 228 - 1841 ext.	Phone No. 2 - - ext.
FAX No.	Contractor # NA		
Street Address (if different from above) Same		City	State ZIP -
Email dlutheran@segi.us			

<Form continues on back>

3. Project Location			
County (can be multiple) Brunswick	Street Address 2206 East Yacht Dr.	State Rd. # NA	
Subdivision Name NA	City Oak Island	State NC	Zip 28465 -
Phone No. NA - - ext.	Lot No.(s) (if many, attach additional page with list) NA, , , ,		
a. In which NC river basin is the project located? Cape Fear (030300050802)	b. Name of body of water nearest to proposed project AICWW		
c. Is the water body identified in (b) above, natural or manmade? <input type="checkbox"/> Natural <input checked="" type="checkbox"/> Manmade <input type="checkbox"/> Unknown	d. Name the closest major water body to the proposed project site. AICWW		
e. Is proposed work within city limits or planning jurisdiction? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	f. If applicable, list the planning jurisdiction or city limit the proposed work falls within. Oak Island		

4. Site Description	
a. Total length of shoreline on the tract (ft.) ~107 LF	b. Size of entire tract (sq.ft.) 0.49 +/-
c. Size of individual lot(s) NA, (If many lot sizes, please attach additional page with a list)	d. Approximate elevation of tract above NHW (normal high water) or NWL (normal water level) 8' <input checked="" type="checkbox"/> NHW or <input type="checkbox"/> NWL
e. Vegetation on tract The project site is a maintained single family dwelling, with typical ornamental trees, shrubs and grasses. Beyond the existing bulkhead, Spartina alterniflora can be found on the east side of the existing dock (see attached Project Narrative, for Existing Conditions photos).	
f. Man-made features and uses now on tract Currently there is a single family dwelling, with associated driveway, a bulkhead, along the northern side of the property, 80' x 6' fixed pier, and 18.5' x 19' fixed observation platform, extends waterward of the bulkhead (see attached 2022 GE Aerial).	
g. Identify and describe the existing land uses adjacent to the proposed project site. Residential is dominant land use adjacent to the project site. However, NE 22 nd Street, which is a dead end road, is directly to the east of the project site (see attached Project Narrative for Adjacent Riparian Property Owner Map).	
h. How does local government zone the tract? Single family	i. Is the proposed project consistent with the applicable zoning? (Attach zoning compliance certificate, if applicable) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
j. Is the proposed activity part of an urban waterfront redevelopment proposal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
k. Has a professional archaeological assessment been done for the tract? If yes, attach a copy. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA If yes, by whom?	
l. Is the proposed project located in a National Registered Historic District or does it involve a National Register listed or eligible property? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA	

<Form continues on next page>

m. (i) Are there wetlands on the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(ii) Are there coastal wetlands on the site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(iii) If yes to either (i) or (ii) above, has a delineation been conducted? <i>(Attach documentation, if available)</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
n. Describe existing wastewater treatment facilities. The project does not require wastewater treatment.	
o. Describe existing drinking water supply source. The project does not require drinking water	
p. Describe existing storm water management or treatment systems. The upland development was authorized through the Town of Oak Island. The project does not propose any new built upon area.	

5. Activities and Impacts	
a. Will the project be for commercial, public, or private use?	<input type="checkbox"/> Commercial <input type="checkbox"/> Public/Government <input checked="" type="checkbox"/> Private/Community
b. Give a brief description of purpose, use, and daily operations of the project when complete. The purpose of this project is to install two boat lifts and one docking platform, in order to access and utilize Public Trust Waters, from a single family property, with dedicated riparian rights. The property owner will utilize the facility at his leisure.	
c. Describe the proposed construction methodology, types of construction equipment to be used during construction, the number of each type of equipment and where it is to be stored. The pilings will be installed by either jetting or hammering. Installation of the proposed floating structure will entail assembling the structure on dry land, floating it into position, and connecting it to the existing, 18.5' x 19', fixed platform, with the pileless gangway. A small boat and barge will used to install the pilings, which should not take more than one day. The remaining work will take place shortly thereafter. Traditional building materials will be used in the construction.	
d. List all development activities you propose. The proposed work entails the installation of pilings to support the two (2) proposed 7' x 4' uncovered, fixed platforms and two (2) 14' x 4' finger piers, as well as the installation of the six (6) pilings, to be placed 14.5', outside to outside and from bow to stern, and 16', on center and from port to starboard and on each side of the 14' x 4' finger piers (total of twelve (12) pilings), for two (2) 12 ton boat lifts, and a 22' x 8' floating platform.	
e. Are the proposed activities maintenance of an existing project, new work, or both?	New
f. What is the approximate total disturbed land area resulting from the proposed project?	NA <input type="checkbox"/> Sq.Ft or <input type="checkbox"/> Acres
g. Will the proposed project encroach on any public easement, public accessway or other area that the public has established use of?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA
h. Describe location and type of existing and proposed discharges to waters of the state. NA	
i. Will wastewater or stormwater be discharged into a wetland?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA
If yes, will this discharged water be of the same salinity as the receiving water?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
j. Is there any mitigation proposed? If yes, attach a mitigation proposal.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA

<Form continues on back>

6. Additional Information

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

- a. A project narrative.
- b. An accurate, dated work plat (including plan view and cross-sectional drawings) drawn to scale. Please give the present status of the proposed project. Is any portion already complete? If previously authorized work, clearly indicate on maps, plats, drawings to distinguish between work completed and proposed.
- c. A site or location map that is sufficiently detailed to guide agency personnel unfamiliar with the area to the site.
- d. A copy of the deed (with state application only) or other instrument under which the applicant claims title to the affected properties.
- e. The appropriate application fee. Check or money order made payable to DENR.

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

Name Rowell, Mitchell & Beverly	Phone No.
Address PO Box 237, Indian Trail, NC 28079-0237	
Name Town of Oak Island - Mr. Steve Edwards	Phone No.
Address 4601 East Oak Island Drive, Oak Island NC, 28465	
Name	Phone No.
Address	

g. A list of previous state or federal permits issued for work on the project tract. Include permit numbers, permittee, and issuing dates.
CAMA GP 77634 (see attached)

- h. Signed consultant or agent authorization form, if applicable.
- i. Wetland delineation, if necessary.
- j. A signed AEC hazard notice for projects in oceanfront and inlet areas. *(Must be signed by property owner)*
- k. A statement of compliance with the N.C. Environmental Policy Act (N.C.G.S. 113A 1-10), if necessary. If the project involves expenditure of public funds or use of public lands, attach a statement documenting compliance with the North Carolina Environmental Policy Act.

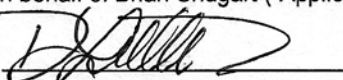
7. Certification and Permission to Enter on Land

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

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

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

Date 10/10/2022 Print Name Dana Lutheran on behalf of Brian Shugart ("Applicant")

Signature 

Please indicate application attachments pertaining to your proposed project.

- DCM MP-2 Excavation and Fill Information
- DCM MP-3 Upland Development
- DCM MP-4 Structures Information
- DCM MP-5 Bridges and Culverts

Form DCM MP-4

STRUCTURES

(Construction within Public Trust Areas)

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

1. DOCKING FACILITY/MARINA CHARACTERISTICS This section not applicable

- a. (i) Is the docking facility/marina:
 Commercial Public/Government Private/Community
- b. (i) Will the facility be open to the general public?
 Yes No
- c. (i) Dock(s) and/or pier(s)
(ii) Number 1 (Component 1)
(iii) Length 80'
(iv) Width 6'
(v) Floating Yes No
- d. (i) Are Finger Piers included? Yes No
If yes:
(ii) Number 2 (Components 4 & 5)
(iii) Length 14'
(iv) Width 4'
(v) Floating Yes No
- e. (i) Are Platforms included? Yes No
If yes:
(ii) Number 2 - Components 3A & B and 6
(iii) Length Components 3A & B - 7' / Component 6 - 22'
(iv) Width Components 3A & B - 4' / Component 6 - 8'
(v) Floating Yes No
Note: Roofed areas are calculated from dripline dimensions.
- f. (i) Are Boatlifts included? Yes No
If yes:
(ii) Number 2 (Components 9 & 10)
(iii) Length 14.5' from outside to outside
(iv) Width 16' on center
- g. (i) Number of slips proposed
3
(ii) Number of slips existing
0
- h. Check all the types of services to be provided.
 Full service, including travel lift and/or rail, repair or maintenance service
 Dockage, fuel, and marine supplies
 Dockage ("wet slips") only, number of slips: 1
 Dry storage; number of boats: 2
 Boat ramp(s); number of boat ramps: _____
 Other, please describe:

- i. Check the proposed type of siting:
 Land cut and access channel
 Open water; dredging for basin and/or channel
 Open water; no dredging required
 Other; please describe:
Open water, where dredging prohibited due to PNA designation
- j. Describe the typical boats to be served (e.g., open runabout, charter boats, sail boats, mixed types).
runabout, jet ski
- k. Typical boat length: 35
- l.

m. (i) Will the facility have tie pilings?

Yes No

(ii) If yes number of tie pilings?

0

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

Yes No

2. DOCKING FACILITY/MARINA OPERATIONS

This section not applicable

a. Check each of the following sanitary facilities that will be included in the proposed project.

Office Toilets

Toilets for patrons; Number: _____; Location: _____

Showers

Boatholding tank pumpout; Give type and location: _____

b. Describe treatment type and disposal location for all sanitary wastewater.

c. Describe the disposal of solid waste, fish offal and trash.

d. How will overboard discharge of sewage from boats be controlled?

e. (i) Give the location and number of "No Sewage Discharge" signs proposed.

(ii) Give the location and number of "Pumpout Available" signs proposed.

f. Describe the special design, if applicable, for containing industrial type pollutants, such as paint, sandblasting waste and petroleum products.

g. Where will residue from vessel maintenance be disposed of?

h. Give the number of channel markers and "No Wake" signs proposed. _____

i. Give the location of fuel-handling facilities, and describe the safety measures planned to protect area water quality.

j. What will be the marina policy on overnight and live-aboard dockage?

k. Describe design measures that promote boat basin flushing?

l. If this project is an expansion of an existing marina, what types of services are currently provided?

m. Is the marina/docking facility proposed within a primary or secondary nursery area?

Yes No

n. Is the marina/docking facility proposed within or adjacent to any shellfish harvesting area?

Yes No

o. Is the marina/docking facility proposed within or adjacent to coastal wetlands/marsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.

CW _____ SAV _____ SB _____

WL _____ None

p. Is the proposed marina/docking facility located within or within close proximity to any shellfish leases? Yes No

If yes, give the name and address of the leaseholder(s), and give the proximity to the lease.

3. BOATHOUSE (including covered lifts)

This section not applicable

a. (i) Is the boathouse structure(s):

Commercial Public/Government Private/Community

(ii) Number _____

(iii) Length _____

(iv) Width _____

Note: Roofed areas are calculated from dripline dimensions.

4. GROIN (e.g., wood, sheetpile, etc. If a rock groin, use MP-2, Excavation and Fill.)

This section not applicable

a. (i) Number _____

(ii) Length _____

(iii) Width _____

5. BREAKWATER (e.g., wood, sheetpile, etc.)

This section not applicable

a. Length _____

b. Average distance from NHW, NWL, or wetlands

c. Maximum distance beyond NHW, NWL or wetlands

6. MOORING PILINGS and BUOYS

This section not applicable

a. Is the structure(s):

Commercial Public/Government Private/Community

b. Number _____

c. Distance to be placed beyond shoreline _____

d. Description of buoy (color, inscription, size, anchor, etc.)

Note: This should be measured from marsh edge, if present.

e. Arc of the swing _____

7. GENERAL

a. Proximity of structure(s) to adjacent riparian property lines
Approximately 32.5' from the western riparian property line and 25' from the eastern riparian property line.

b. Proximity of structure(s) to adjacent docking facilities.
Approximately 54' from the western adjacent structure and 80' from the eastern adjacent structure.

Note: For buoy or mooring piling, use arc of swing including length of vessel.

c. Width of water body
Approximately 455 LF


d. Water depth at waterward end of structure at NLW or NWL
-1.2' NLW

e. (i) Will navigational aids be required as a result of the project?
 Yes No NA
(ii) If yes, explain what type and how they will be implemented.

8. OTHER

This section not applicable

a. Give complete description:
The floating platform will have permanent stops incorporated into the design and the boat lift cables will be limited to keep the lifts from being used when water depths are less than 18" and to keep the platform and bunks from resting on the bottom, at any time.

10 October 2022
Date
2206 East Yacht Drive
Project Name
Brian Shugart
Applicant Name
Dana Lutheran for Brian Shugart 
Applicant Signature



Southern Environmental Group, Inc.
5315 South College Road, Suite E
Wilmington, NC 28412

**2206 East Yacht Drive
Oak Island, Brunswick County, NC
CAMA Major Project Narrative**

Prepared for:

Mr. Brian Shugart
1880 Woodstock Road
Clemmons, NC 27012

Prepared by:

Dana Lutheran
Southern Environmental Group, Inc.
5315 South College Road, Suite E
Wilmington, NC 28412

Date:

10 October 2022

1) Project Information:

- | | |
|-----------------------------------|---|
| a) Applicant Contact Information: | Phone: (336)529-7285
Email: briandshugart@yahoo.com |
| b) Brunswick Co. Parcel ID #: | 235GA030 (see Attachment 1) |
| c) Project Location: | 2206 East Yacht Drive (see Attachment 2) |
| d) Project Size: | +/- 0.49 AC (see Attachment 1) |
| e) Waterbody: | Atlantic Intracoastal Waterway (ICWW) |
| f) Width of Waterbody: | Approximately 445 linear feet (see Attachment 3) |
| g) DWR Water Classification: | SA;HQW (see Attachment 4) |
| h) Primary Nursery (PNA): | This area is classified as PNA (see Attachment 5) |

2) Project History:

The Applicant purchased the property in 2020 and was told, by the realtor, that he could have a dock. It wasn't until the Applicant went to obtain a permit, from the Division of Coastal Management (DCM), that he became aware of the inability to secure a permit for boat lifts and/or floating structures, at this location. In order to be able to take advantage of his riparian rights, the Applicant secured a CAMA General Permit and installed a 80' x 6' fixed pier and 18.5' x 19' fixed and covered, observation platform (see Attachment 6). As part of that permit process, the Applicant enlisted Stroud Engineering, to survey the mean low water depths, at the site. The work was undertaken on 8 March 2021, using NAVD 1988 MLW Datum, where 0.00' MLW equals 2.57' NAVD 1988 (see Attachment 7). The structure was built as per the approved plan.

3) Proposed Project:

The Applicant is seeking approval to install eight (8) pilings, 14.5' x 16', for two (2) 12 ton boat lifts; one (1) 22' x 8' floating platform (i.e., taxi dock); two (2) 4' x 4' finger piers and two (2) 7' x 4' platforms, which will all be accessible by the existing dock and gazebo. A pileless gangway will be used, in place of pilings, to secure the floating platform to the existing covered, fixed platform. The floating platform will be used for loading and unloading only and will not serve for overnight docking. To ensure the proposed structures will not negatively affect the substrate, the platform will include permanent stops, to keep the structure from resting on the bottom, during low tide. Additionally, the lifts will be installed so they can only be used in water depths greater than 18". This can be achieved by limiting the length of the cables. Please see Attachment 8, for details of the proposed work.

Equipment, such as a barge and pump will be used to install the pilings. If necessary, the barge will be moored, when not in use, in an area where it will not rest on the bottom. Typical building materials will be used to construct the floating platform and finger piers.

4) Purpose and Need:

The purpose of this project is to provide access to Public Trust Waters, through the installation of two boat lifts and a floating platform, at Mr. Shugart's waterfront property, in Oak Island, North Carolina.

5) Existing conditions:

The project site is located on a relatively narrow (i.e., ~433') Atlantic ICWW, where boat traffic is very heavy, especially from March through October. The area is not a protected, No Wake Zone, and wave action has caused the accumulation of sediment to take place, waterward of the existing bulkhead. Coastal wetland species (i.e., Smooth Cordgrass (*Spartina alterniflora*)) can be found under and east of the existing pier but not within the proposed work area (see Attachment 9). Substrate within the area of the proposed work is comprised of a layer of compacted muck, overlain by a relatively thin sand layer, with sparse shell matter (see Attachment 9). According to the Division of Marine Fisheries' (DMF) Submerged Aquatic Vegetation (SAV) Overlay .kmz file, SAV has not been mapped and based on numerous on-site evaluations, do not typically grow, within the area of the proposed work (see Appendix 10). According to the Mean Low Water Depth Survey, water depths in the location of the proposed work range from -0.2' to -1.2' MLW (see Attachment 8).

There are two docks, with floating platforms and boat lifts, on the west and east sides of the project site. The western structure is approximately 120' long and approximately 37 linear feet away from proposed slip #1, while the eastern structure is approximately 110' long and, at its closest point, approximately 89 linear feet away from proposed slip #2 (see Photos 1 & 2 below). The western dock is within the 15' setback.

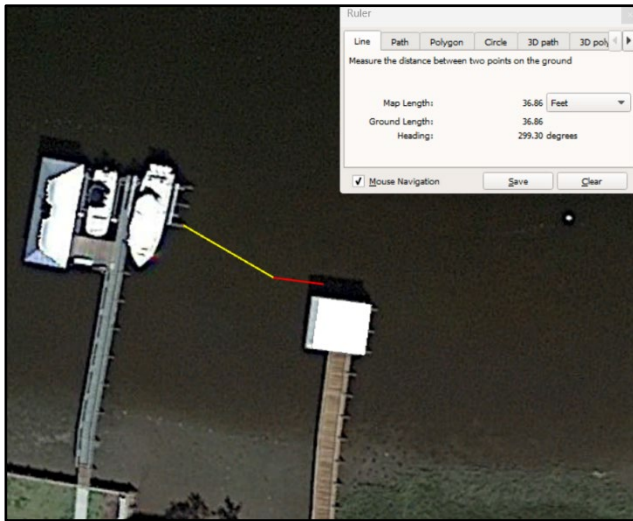


Photo 1 Distance between adjacent western and project docks

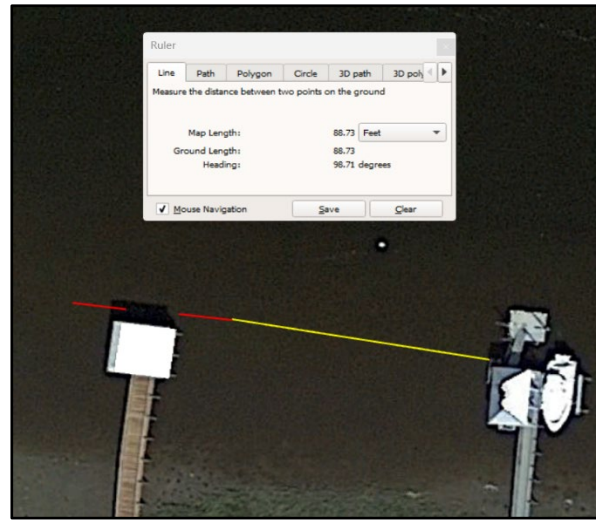


Photo 2 Distance between adjacent eastern and project docks

Since the project site abuts the Atlantic ICWW, the development is restricted by the US Army Corps of Engineers' (USACE) Navigational Channel Setback line (see Attachment 11). SEGi submitted a copy of the proposed plan to Mr. Justin Arnette, with the USACE Navigation Unit, who said the agency has no comment on the proposed project, as long as there are no pilings, waterward of the USACE's Navigational Channel Setback line (see Attachment 12).

It should be noted, an evaluation of aerial photos revealed the majority of the docks, built along this section of the ICWW, contain boat lifts and floating docks and do not have 2' of water at normal low water. In fact, a good number of them have little or no water during that time. Many of those docks, including the two adjacent docking structures, also extend beyond the USACE's Navigational Channel Setback. Please see Attachment 13

6) Threatened and Endangered Species:

To ensure protection of the West Indian manatee (*Trichechus manatus*), the work will be undertaken between November 1 and May 31. If this is not possible, the Applicant will adhere to the US Fish and Wildlife's guidance entitled "GUIDELINES FOR AVOIDING IMPACTS TO THE WEST INDIAN MANATEE, Precautionary Measures for Construction Activities in North Carolina Waters" (see Attachment 14).

7) Shellfish

The area is closed to shellfishing (see Attachment 15). During SEGi's field evaluation, which occurred on 8/10/22, no shellfish were observed within the proposed work area (see Attachment 9).

8) Adjacent Riparian Property Owner Notifications:

In accordance with 15A NCAC 07J .0204(b)(5), the adjacent riparian property owners (APO), as identified in the permit application, have been notified via certified return mail. The notification included the application and site plan, for the proposed development, as this project requires a CAMA Major Development Permit Application. According to the Brunswick County GIS, the following are the adjacent riparian property owners:

Map Number	Parcel ID	Owner	Mailing Address
1	SE 22 nd Street	Town of Oak Island	4601 East Oak Island Drive, Oak Island, NC 28465
2	235GA029	Mitchell Rowell	PO Box 237, Indian Trail, NC 28079

The ARPO have been notified. Please see Attachment 16, for copies of the certified mail receipts.

9) DWR Pre-Filing Request Requirement:

SEGi submitted a Pre-Filing Request Form to the DWR on 8/10/22 (see Attachment 17). Additionally, on or about 7 July 2022, SEGi spoke with Ms. Holley Snider, with the Wilmington Region Office DWR, who recommended the Applicant submit the CAMA Major Permit Application, for official review.

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

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

Summary:

In summary, the Mr. Brian Shugart is seeking authorization, in the form of a CAMA Major Permit, to perform new work, within Public Trust Waters, at his property, that abuts the Atlantic ICWW, at 2206 East Yacht Drive, in Oak Island, Brunswick County, North Carolina.

Attachments

	Description	Page
1	Brunswick County GIS Aerial, Deed and Parcel Information	6
2	Vicinity Map	7
3	Width of Waterbody Exhibit	8
4	Division of Water Resources Water Classification Map	9
5	Division of Marine Fisheries Primary Nursery Area Map	10
6	CAMA General Permit 77634	11
7	Stroud Engineering Mean Low Water Survey	12
8	2206 East Yacht Drive CAMA Major Site Plan	13
9	August 10, 2022 Site Photos	14
10	Division of Marine Fisheries Submerged Aquatic Vegetation Map	15
11	US Army Corps of Engineers Navigational Setback Aerial	16
12	USACE Navigation Unit Email	17
13	Aerial Photos of Oak Island Section of ICWW	18
14	“GUIDELINES FOR AVOIDING IMPACTS TO THE WEST INDIAN MANATEE, Precautionary Measures for Construction Activities in North Carolina Waters”	19
15	Division of Marine Fisheries Shellfish Closure Map	20
16	Adjacent Riparian Property Owner Certified Mail Receipts	21
17	Division of Water Resources Pre-Filing Request	22

Attachment 1

Brunswick County GIS
Aerial, Deed and Parcel Information



Return to John Belmont Type ES
 Total 26 Rev _____ Int. CC
 Check \$ 26 Ck # 351 Cash \$ _____
 Refund _____ Cash \$ _____ Finance _____

Portions of document are illegible due to condition of original.
 Document contains seals verified by original instrument that cannot be reproduced or copied.

Instrument of Combination

STATE OF NORTH CAROLINA
 COMBINATION
 COUNTY OF BRUNSWICK

INSTRUMENT OF

Prepared by: TOWN OF OAK ISLAND

This Instrument of Combination is made this the 11th day of February, 2020 by the owner **Brian & Susan Shugart** whose mailing address is **1880 Woodstock Rd. Clemmons, NC 27012**.

WITNESSETH:

WHEREAS, the maker of this Instrument of Combination presently owns tax parcel **235GA030** and tax parcel **235GA030** in the Town of Oak Island, NC (formerly known as Long Beach, NC) by virtue of deeds recorded in **Book 4083 at Page 721** and **Book 4083 at Page 721** in the Brunswick County Registry respectively; and

WHEREAS, the owner wishes to consolidate tax parcel **235GA030** and tax parcel **235GA030** into a single lot and tax parcel for compliance with Oak Island Zoning regulations, all taxation, and assessment purposes only; and

WHEREAS, this is a limited special purpose instrument for the purpose specified above and is not a conveyance and is a re-platting of the property and does not change or modify in any manner the ownership interest in the above mentioned property; and

WHEREAS, upon execution and recording of this Instrument of Combination tax parcel **235GA030** and tax parcel **235GA030**, Oak Island, NC are hereby combined into a single lot and parcel for compliance with Oak Island Zoning regulations, all taxation, and assessment purposes only. Description is as follows:

BEING all tax parcel **235GA030** and tax parcel **235GA030** of Oak Island, NC (formerly known as Long Beach, NC) as described in recorded deeds in **Book 119 at Page 41** and **Book 119 at Page 41** of the Brunswick County Registry, said lots having the metes, bounds and location as described herein.

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

[Signature] (SEAL)
[Signature] (SEAL)

STATE OF NORTH CAROLINA ***** COUNTY OF BRUNSWICK

I, Rebecca E. Benson, a Notary Public of said County and State, do hereby certify that Brian & Susan Shugart personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal or stamp, this 2-11 day of 2020.

STAMP OR SEAL:

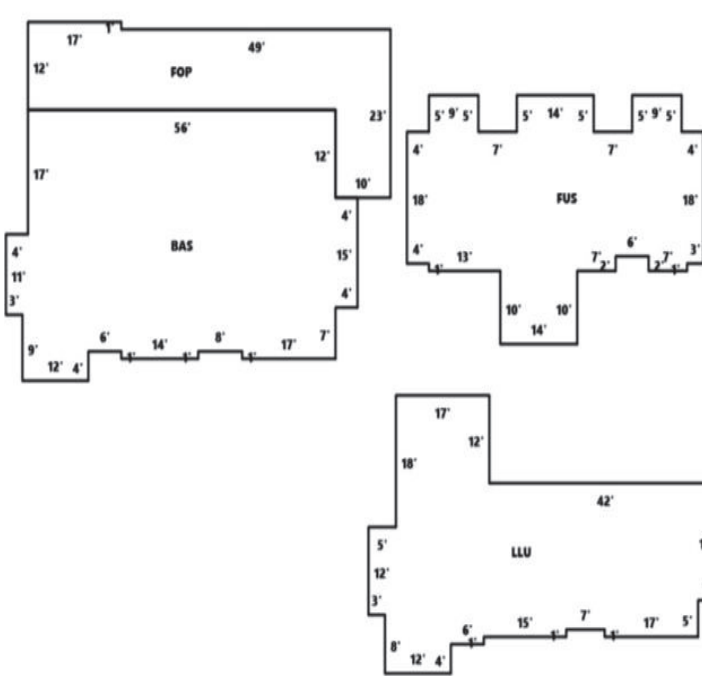
Notary Public Rebecca E. Benson
 My Commission Expires 10-16-21



BRUNSWICK COUNTY
SHUGART BRIAN ETUX SHUGART SUSAN
 2206 E. YACHT DR OAK ISLAND 28465 OAK ISLAND
 80073888
 BRUNSWICK COUNTY (100), DOSHER HOSP TAX (100), OAK ISLAND (100), OAK ISLAND FIRE (540)
 Reval Year: 2019 Tax Year: 2022 L-1R B-151 S-10 TRANQUIL HARBOUR PL 119/41
 Appraised by 81 on 07/06/2020 306D OAK ISLAND - EAST

Return/Appeal Notes:
 Parcel: 235GA030
 PLAT: 00119/00041 UNIQ ID 101812
 ID NO: 206613148730
 CARD NO. 1 of 1
 2.0000 LT SRC=
 TW-03 CI- FR- EX- AT- LAST ACTION 20210624

CONSTRUCTION DETAIL		MARKET VALUE				DEPRECIATION				CORRELATION OF VALUE							
Foundation - 3 Piers>8ft w/Con	10.00	USE	MOD	Eff. Area	QUAL	BASE RATE	RCN	EYB	AYB	Standard	0.00000	CREDENCE TO	MARKET				
Sub Floor System - 4 Plywd/Ptl bd	8.00	01	01	3,781	175	154.00	582274	2020	2020	% GOOD	100.0	DEPR. BUILDING VALUE - CARD	582,270				
Exterior Walls - 19 Hardy Plank	32.00	TYPE: SINGLE FAMILY RESIDENTIAL				SFR CONSTRUCTION						DEPR. OB/XF VALUE - CARD	64,580				
Roofing Structure - 03 Gable	7.00	STYLE: 2 - 1.5 Stories										MARKET LAND VALUE - CARD	560,000				
Roofing Cover - 13 Metal Standing Sea	8.00											TOTAL MARKET VALUE - CARD	1,206,850				
Interior Wall Construction - 5 Drywall/Sheetrock	21.00											TOTAL APPRAISED VALUE - CARD	1,206,850				
Interior Floor Cover - 11 Ceramic Clay Tile	12.00											TOTAL APPRAISED VALUE - PARCEL	1,206,850				
Interior Floor Cover - 12 Hardwood	0.00											TOTAL PRESENT USE VALUE - PARCEL	0				
Heating Fuel - 04 Electric	1.00											TOTAL VALUE DEFERRED - PARCEL	0				
Heating Type - 09 Heat Pump Only	4.00											TOTAL TAXABLE VALUE - PARCEL \$	1,206,850				
Air Conditioning Type - 03 Central	4.00											PERMIT					
Bedrooms/Bathrooms/Half-Bathrooms	17.000											CODE	DATE	NOTE	NUMBER	AMOUNT	
Bedrooms												ROUT: WTRSHD:					
BAS - 1 FUS - 3 LL - 0												SALES DATA					
Bathrooms												OFF. RECORD	DATE	DEED TYPE	Q/U/V/I	INDICATE SALES PRICE	
BAS - 1 FUS - 2 LL - 0												BOOK	PAGE	MO/YR			
Half-Bathrooms												04314	0455	2 2020	CD	U V	0
Office												04083	0721	7 2018	GW*	Q V	595000
BAS - 0 FUS - 0 LL - 0	0											03006	1382	12 2009	WD	U I	0
TOTAL POINT VALUE	124.000											00968	0884	2 1994	WD	U V	82500
BUILDING ADJUSTMENTS													HEATED AREA 3,343				
Market/Design	12	.35	1.3500														
Quality	4	ABOVE AVERAGE	1.1000														
Size	Size	Size	0.9500														
TOTAL ADJUSTMENT FACTOR	1.410																
TOTAL QUALITY INDEX	175																



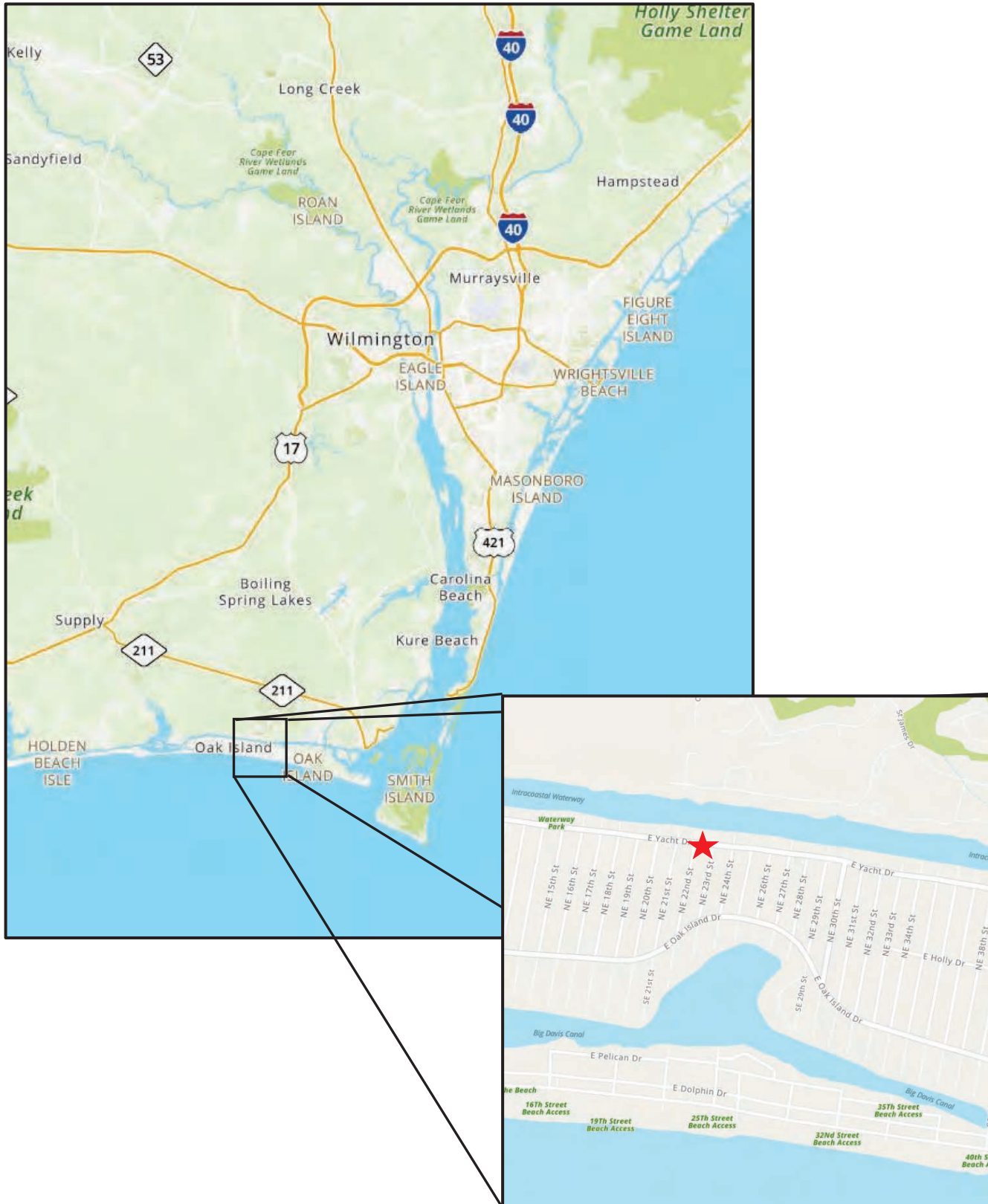
SUBAREA		CODE	DESCRIPTION	COUNT	LTH	WTH	UNITS	UNIT PRICE	ORIG % COND	BLDG#	AYB	EYB	ANN DEP RATE	OVR	% COND	OB/XF DEPR. VALUE
BAS	2,036	100	313544	0.000	0	0	1	18,000.00	0	-	2020	2020	S2		100	18000
FOP	863	030	39886	0.000	0	0	832	3.50	0	-	2021	2021	S3		100	2912
FUS	1,307	090	181104	0.000	0	0	400	35.00	0	-	2021	2021	S2		100	14000
LLU	1,548	020	47740	0.000	0	0	192	17.00	0	-	2021	2021	S3		100	3264
FIREPLACE	1 - None			0.000	132	0	132	200.00	0	-	2019	2019	S3		100	26400
TOTAL OB/XF VALUE	64,576															

BUILDING DIMENSIONS BAS=S17W4S11E3S9E12N4E6S1E14N1E8S1E17N7E4N15W4N12W56Area:2036;FOP=S23W10N12W56N12E17S1E49Area:863;FUS=S18E4S1E13S10E14N110E7N2E6S2E7N1E3N18W4N5W9S5W7N5W14S5W7N5W9S5W4Area:1307;LLU=W6S4W12N8W3N12E5N18E17S12E42S16W4S5W17N1W7S1W15S1Area:1548;T TotalArea:5754

LAND INFORMATION																					
HIGHEST AND BEST USE	USE CODE	LOCAL ZONING	FRON TAGE	DEPTH	DEPTH / SIZE	LND MOD	COND FACT	OTHER ADJUSTMENTS AND NOTES				ROAD TYPE	LAND UNIT PRICE	TOTAL LAND UNITS	UNT TYP	TOTAL ADJST	ADJUSTED UNIT PRICE	LAND VALUE	OVERRIDE VALUE	LAND NOTES	
SFR WATERW	0104	R6	120	185	1.0000	0	1.0000	RF	AC	LC	TO	OT	PS	280,000.00	2.000	LT	1.000	280,000.00	560000		
TOTAL MARKET LAND DATA																			560,000		
TOTAL PRESENT USE DATA																					

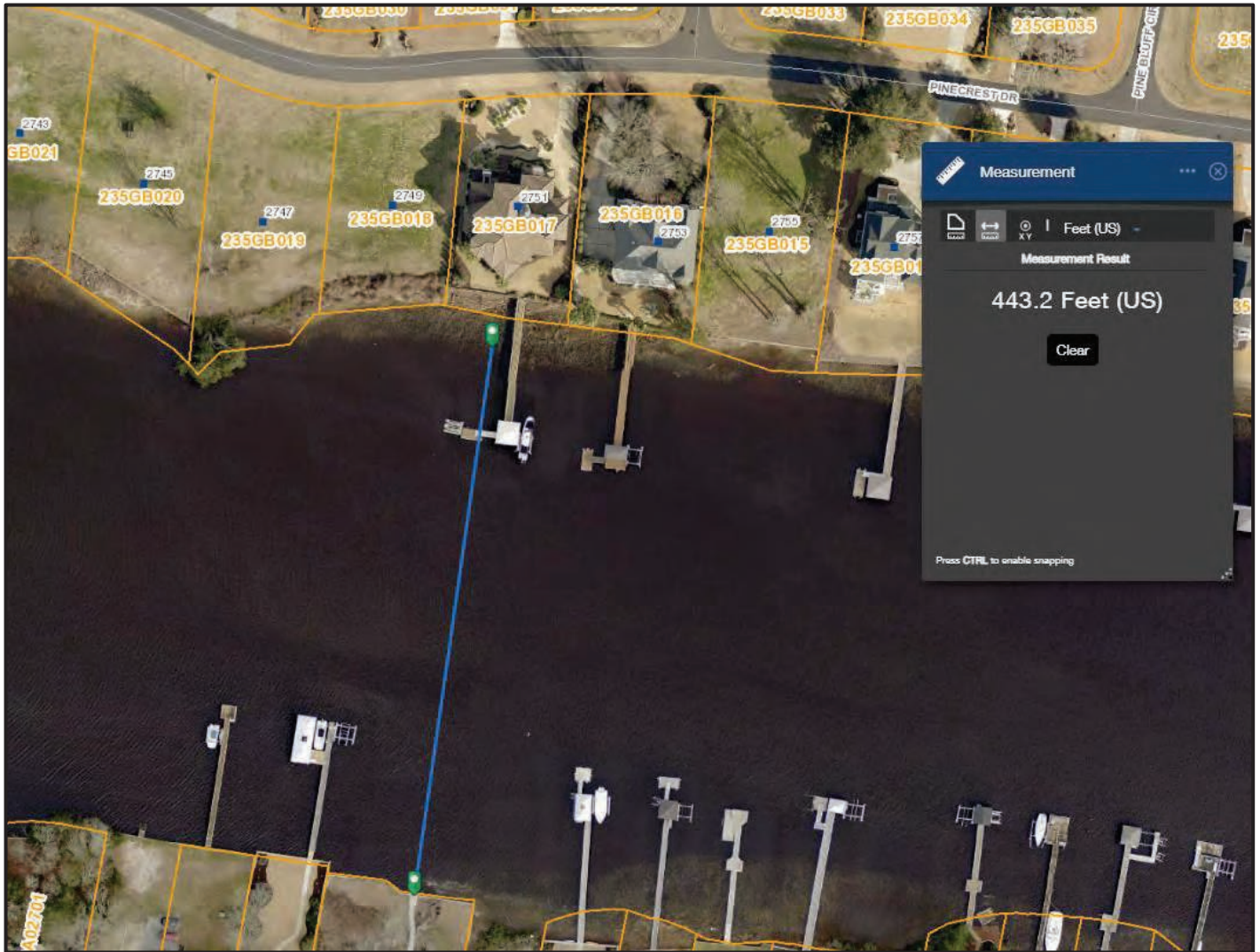
Attachment 2

Vicinity Map



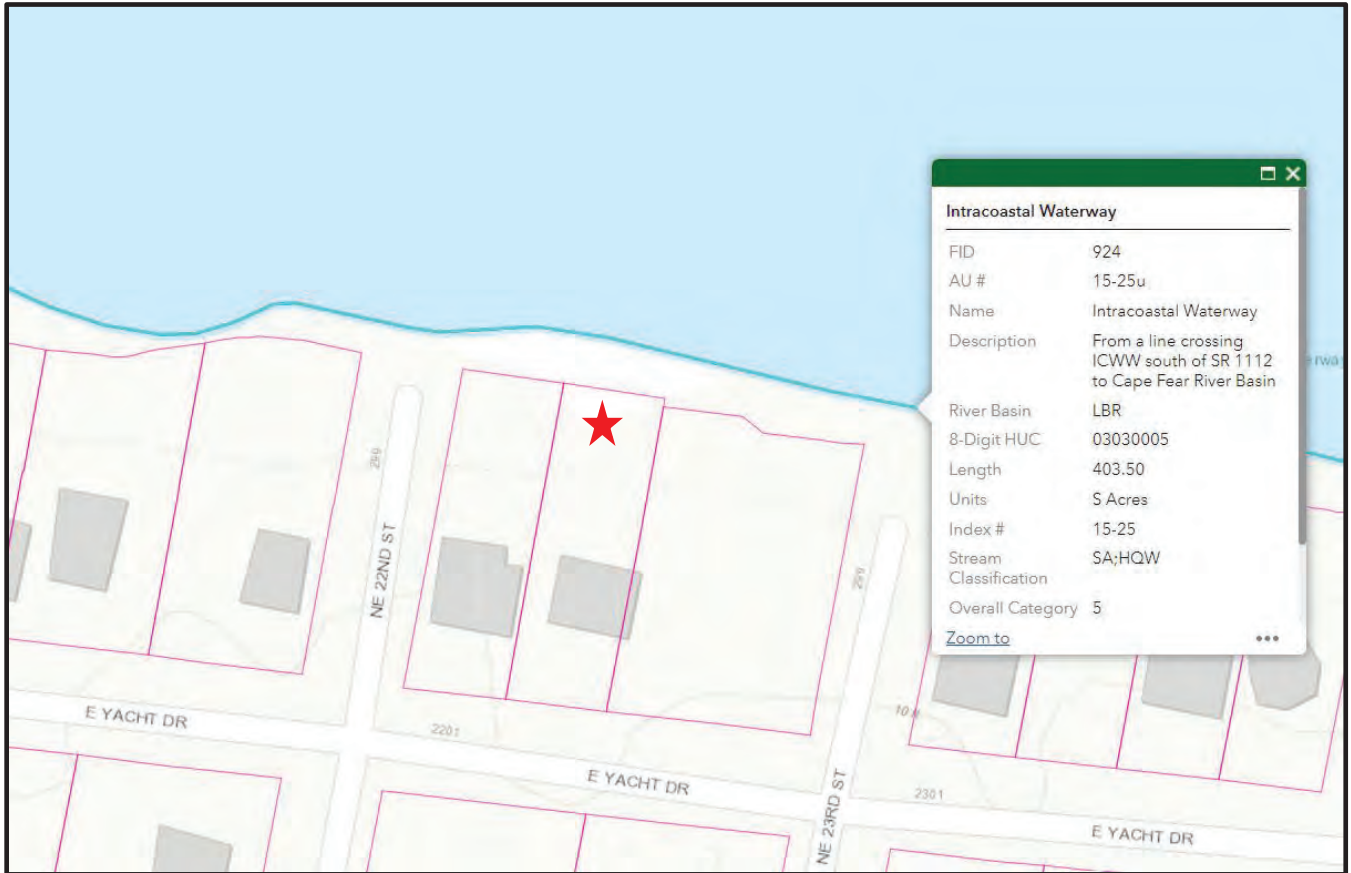
Attachment 3

Width of Waterbody Exhibit



Attachment 4

DWR Water Classification Map



Attachment 5

NC DMF Primary Nursery Area Map





CAMA / DREDGE & FILL
GENERAL PERMIT

066

No 77634

A B C **D**

Previous permit # _____

Date previous permit issued _____

As authorized by the State of North Carolina, Department of Environmental Quality and the Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC _____

7H. 1200

Rules attached.

Applicant Name Brian Shugart
 Address 1880 Woodstock Rd
 City Clemmons State NC ZIP 27012
 Phone # 336 529-7285 E-Mail _____

Project Location: County Brunswick

Street Address/ State Road/ Lot #(s) _____

2200 E Yacht Drive

Subdivision _____

City Oak Island ZIP 28465

Phone # (____) _____ River Basin CFR

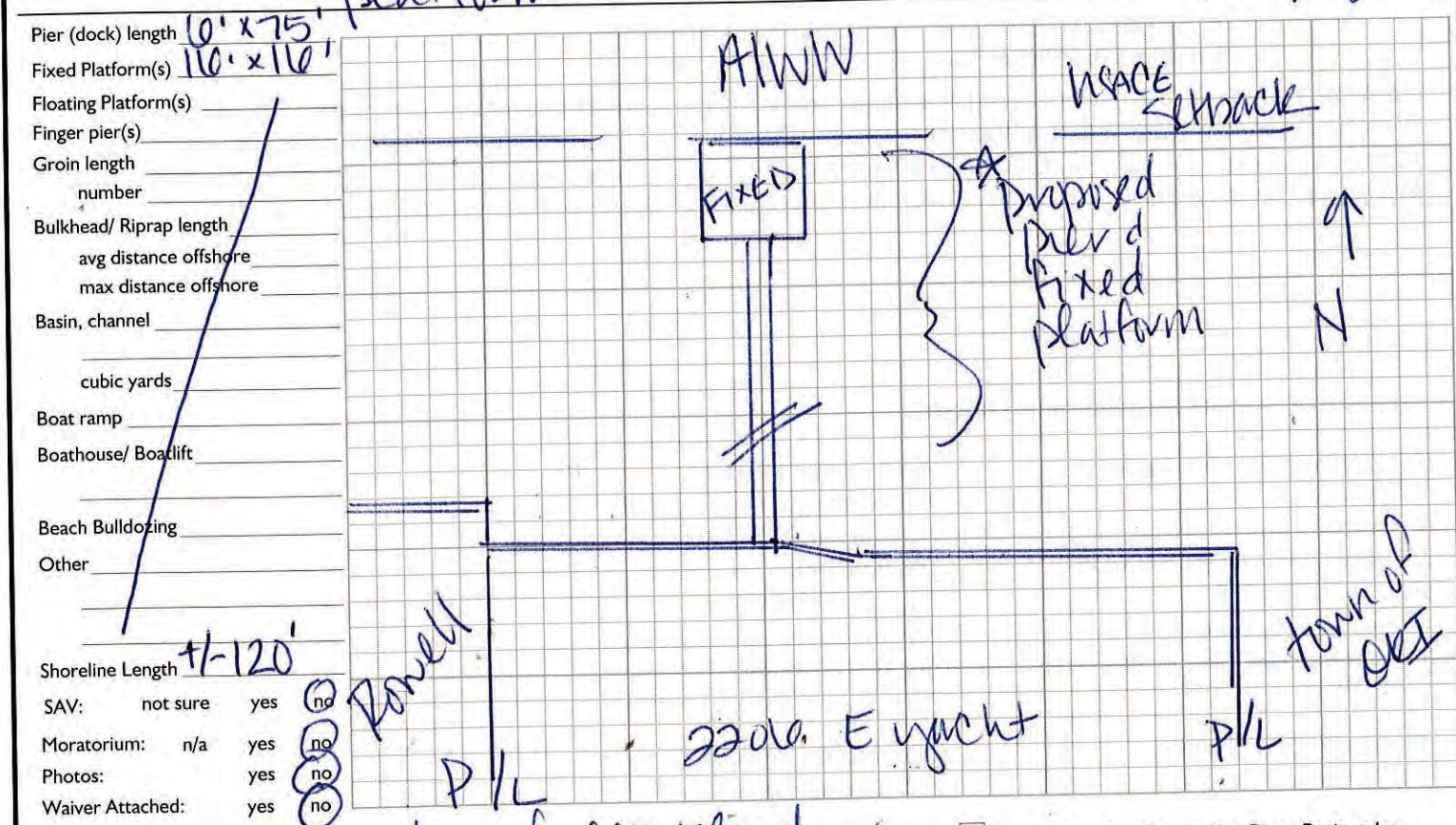
Adj. Wtr. Body AIWW (nat /man /unkn)

Closest Maj. Wtr. Body AIWW

Affected AEC(s): CW NEW PTA ES PTS
 OEA HHF IH UBA N/A
 PWS: _____

ORW: yes / no PNA yes / no

Type of Project/ Activity Construct new private pier & observation platform (Scale: 1"=30')



A building permit may be required by: town of Oak Island See note on back regarding River Basin rules.

Notes/ Special Conditions Structure may not encroach into 50' Federal Channel setback. No formalized boat slips are authorized

Agent or Applicant Printed Name _____
 Signature [Signature] ** Please read compliance statement on back of permit **
 Application Fee(s) 577 Check # _____

Permit Officer's Printed Name Tara MacGregor
 Signature [Signature]
 Issuing Date 2/4/21 Expiration Date 6/4/21

MITCHELL ROWELL
DEED BOOK 1792 PAGE 008

NC GRID
NAD 83



E. YACHT DRIVE

EIP N10°13'33"E 100.46' EIP

N10°13'33"E 80.42'

60.16'
N83°53'27"W

2206 E. YACHT DRIVE

EIP S10°13'33"W 100.25'

NE 23RD STREET

R/W US ICW

R/W US ICW

SETBACK US ICW

1/4 CHANNEL WIDTH

RIPARIAN CORRIDOR

15' SETBACK

S83°19'19"E
46.86'

S53°15'18"
E82°51'55"
44.00'

S82°51'55"E
44.00'

15.73'
S85°50'35"E

EIP S10°13'33"W 54.06'

RIPARIAN CORRIDOR

15' SETBACK

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION FROM INFORMATION SHOWN ON PLAT; THAT THE POSITIONAL ACCURACY IS _____; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56-1600).

THIS 22 DAY OF MAR, 20 21.

SEAL _____
PROFESSIONAL LAND SURVEYOR

LEGEND

- EIP ● EXISTING IRON PIPE
- PROPERTY CORNER
- EX. SPOT ELEV(MLW)

SURVEY REFERENCE
MAP BOOK 119 PAGE 41
DEED BOOK 4314 PAGE 455

ELEVATIONS SHOWN ARE BASED ON
NAVD 1988 (MLW)
0.00(MLW) = 2.57 (NAVD 88)



GRAPHIC SCALE: 1" = 30'

MAP OF SURVEY

BRIAN & SUSAN SHUGART
LOT 1R, SECTION 10, BLOCK 151
TRANQUIL HARBOUR

TOWN OF OAK ISLAND BRUNSWICK COUNTY NORTH CAROLINA

OWNER:

ADDRESS:

PHONE:

DESIGNED:

DRAWN: GAG

APPROVED: JHF

DATE: 03/22/21

SCALE: 1" = 30'

SHEET OF



STROUD ENGINEERING, P.A.

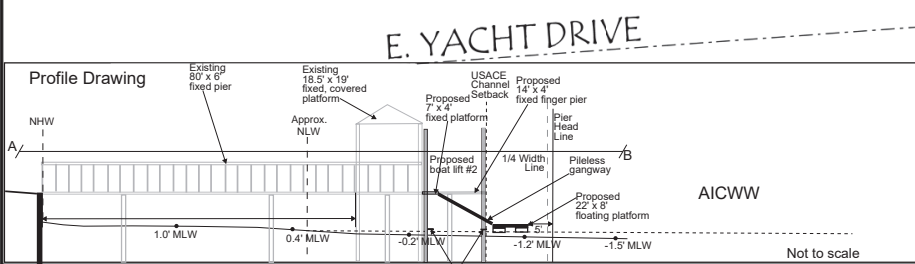
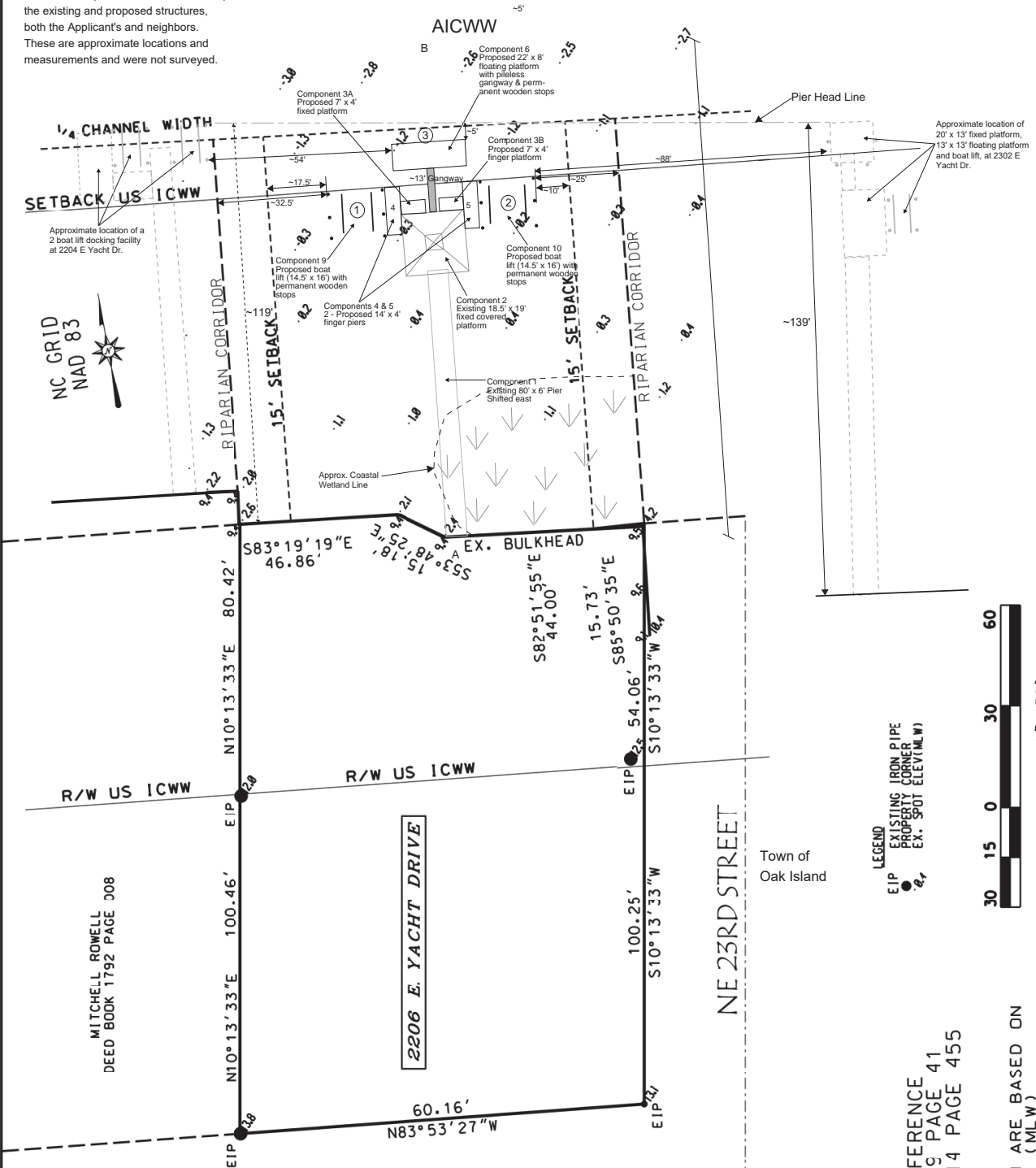
102-D CINEMA DRIVE
WILMINGTON, NORTH CAROLINA 28403
(910) 815-0775 (910) 815-0593 FAX

C-0647

Length of Shoreline: 145'
 Existing Platform Area: 351.5 SF
 Proposed Platform Area: 168 SF
 Total Platform Area: 519.5 SF
 Number of slips existing: 0
 Number of slips proposed: 3

Wooden, permanent "stops" are to be placed at 18" above the substrate, on the lifts and floating platform.
 The substrate is packed, mucky sand, with little or no shellfish and no SAV

Note: This map has been modified to depict the existing and proposed structures, both the Applicant's and neighbors. These are approximate locations and measurements and were not surveyed.

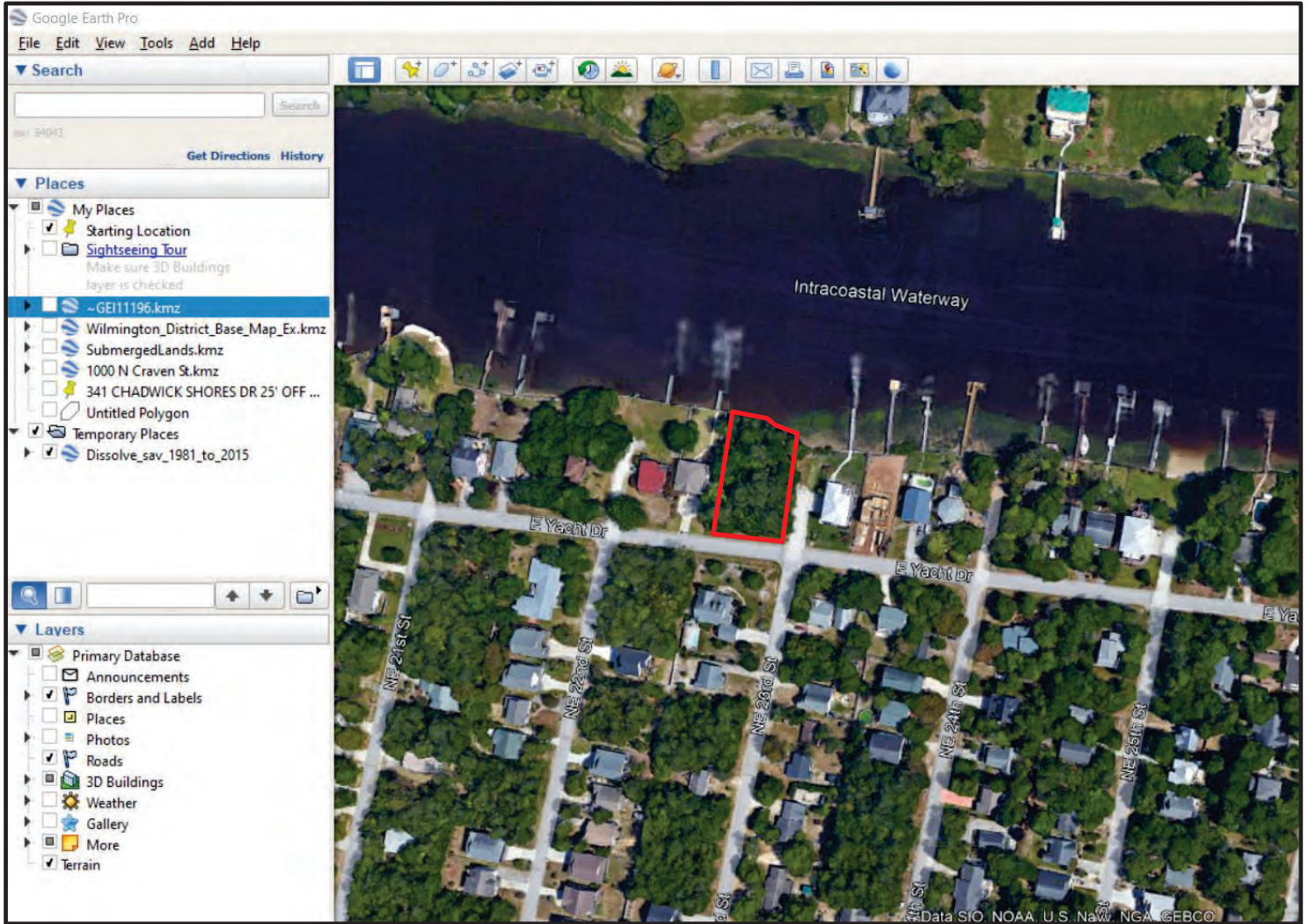


SURVEY REFERENCE
 MAP BOOK 119 PAGE 41
 DEED BOOK 4314 PAGE 455

ELEVATIONS SHOWN ARE BASED ON
 NAVD 1988 (MLW)
 0.00 (MLW) = 2.57 (NAVD 88)

Attachment 10

Google Earth with SAV Overlay



Attachment 9

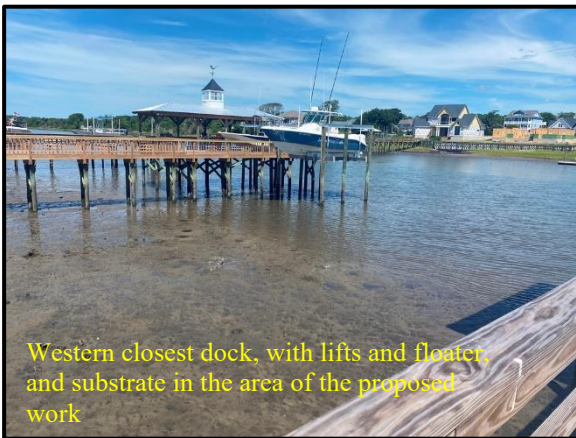
SEGi Site Evaluation Photos taken 8/10/22
(Note: Tide was very low on the day of inspection)



Coastal wetlands west of existing pier



Coastal wetlands east of existing pier



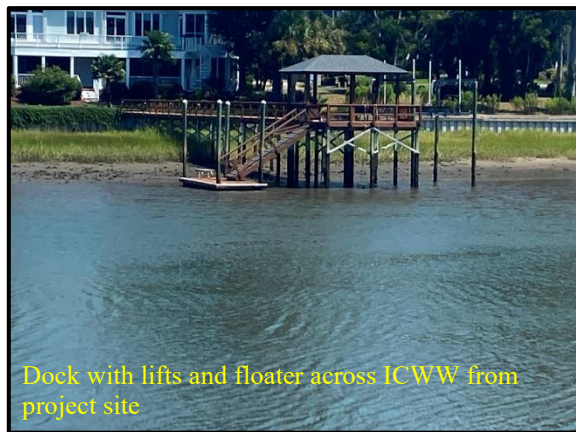
Western closest dock, with lifts and floater, and substrate in the area of the proposed work



Eastern closest dock, with lifts and floater, and substrate in the area of the proposed work



Substrate in the area of the proposed work



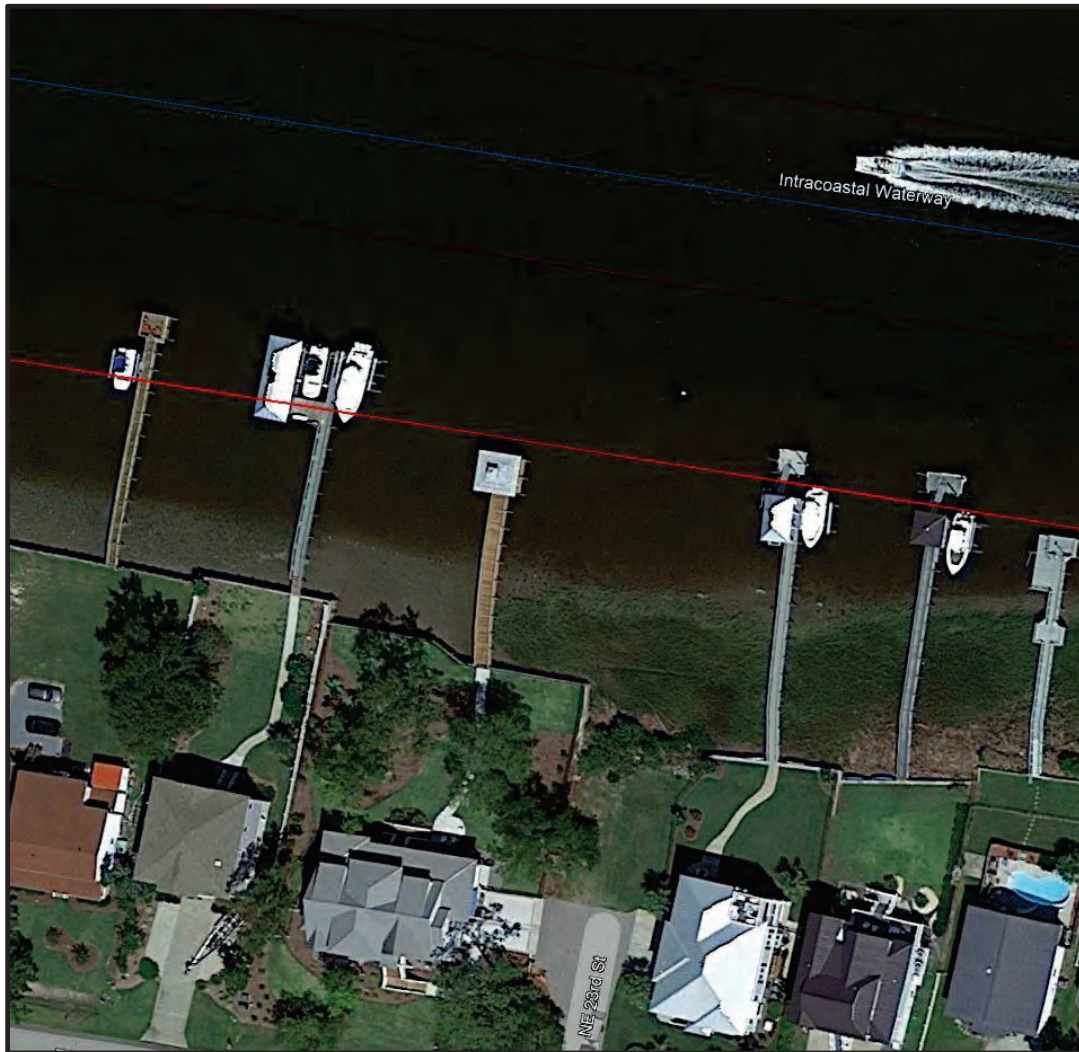
Dock with lifts and floater across ICWW from project site



Dock with lifts and floater across ICWW from project site

Attachment 11

USACE Navigation Channel Setback Aerial



From: [Arnette, Justin R CIV USARMY CESAW \(USA\)](mailto:Arnette, Justin R CIV USARMY CESAW (USA))
To: dlutheran@segi.us
Cc: 'Amico, Patrick J'
Subject: RE: [URL Verdict: Unknown][Non-DoD Source] RE: [External] 2206 East Yacht Drive, Oak Island CAMA Permit Site Plan
Date: Thursday, October 13, 2022 6:25:24 AM

Dana,
That meets what we discussed. That is an interesting change in design, I like it. Thanks.

Justin

Justin Arnette
Team Lead Cartographer
Landuse Coordinator

Wilmington District
U.S. Army Corps of Engineers
910-251-4196
justin.r.arnette@usace.army.mil

From: dlutheran@segi.us <dlutheran@segi.us>
Sent: Wednesday, October 12, 2022 1:18 PM
To: Arnette, Justin R CIV USARMY CESAW (USA) <Justin.R.Arnette@usace.army.mil>
Cc: 'Amico, Patrick J' <Patrick.Amico@ncdenr.gov>
Subject: RE: [URL Verdict: Unknown][Non-DoD Source] RE: [External] 2206 East Yacht Drive, Oak Island CAMA Permit Site Plan

Hello, Justin.

Attached is the revised plan, with the floater moved back 5'. Please feel free to call with any questions or concerns.

Dana

Southern Environmental Group, Inc.
5315 South College Road, Suite E
Wilmington, NC 28412
Phone: 910.452.2711
Mobile: 910.228.1841 (preferred)
www.segi.us

From: Arnette, Justin R CIV USARMY CESAW (USA) <Justin.R.Arnette@usace.army.mil>
Sent: Friday, September 30, 2022 9:57 AM
To: dlutheran@segi.us
Cc: 'Amico, Patrick J' <Patrick.Amico@ncdenr.gov>
Subject: RE: [URL Verdict: Unknown][Non-DoD Source] RE: [External] 2206 East Yacht Drive, Oak Island CAMA Permit Site Plan

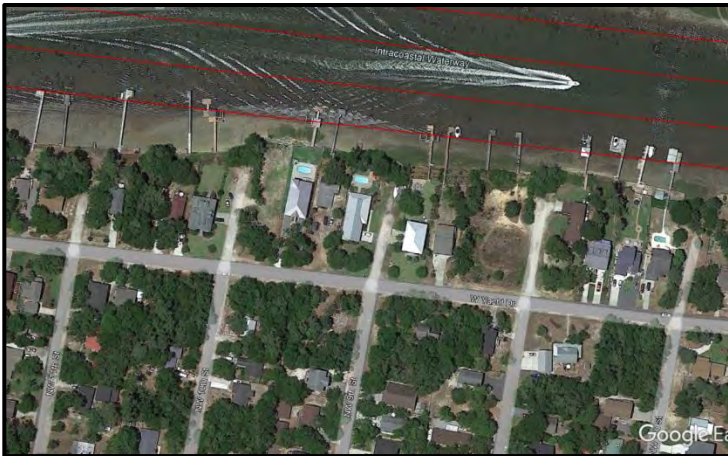
Dana,
Just to be clear, there is no pierhead line in the corps eyes. The setback line is the only line that my office looks at or takes into account. I know other agencies may look at and take a pierhead line into account but we do not as the setback is the line that restricts construction.

Thanks.

Justin

Attachment 13

Arial Photos of ICWW along Oak Island





United States Department of the Interior

FISH AND WILDLIFE SERVICE

Raleigh Field Office
Post Office Box 33726
Raleigh, North Carolina 27636-3726

GUIDELINES FOR AVOIDING IMPACTS TO THE WEST INDIAN MANATEE Precautionary Measures for Construction Activities in North Carolina Waters

The West Indian manatee (*Trichechus manatus*), also known as the Florida manatee, is a Federally-listed endangered aquatic mammal protected under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C 1461 *et seq.*). The manatee is also listed as endangered under the North Carolina Endangered Species Act of 1987 (Article 25 of Chapter 113 of the General Statutes). The U.S. Fish and Wildlife Service (Service) is the lead Federal agency responsible for the protection and recovery of the West Indian manatee under the provisions of the Endangered Species Act.

Adult manatees average 10 feet long and weigh about 2,200 pounds, although some individuals have been recorded at lengths greater than 13 feet and weighing as much as 3,500 pounds. Manatees are commonly found in fresh, brackish, or marine water habitats, including shallow coastal bays, lagoons, estuaries, and inland rivers of varying salinity extremes. Manatees spend much of their time underwater or partly submerged, making them difficult to detect even in shallow water. While the manatee's principal stronghold in the United States is Florida, the species is considered a seasonal inhabitant of North Carolina with most occurrences reported from June through October.

To protect manatees in North Carolina, the Service's Raleigh Field Office has prepared precautionary measures for general construction activities in waters used by the species. Implementation of these measure will allow in-water projects which do not require blasting to proceed without adverse impacts to manatees. In addition, inclusion of these guidelines as conservation measures in a Biological Assessment or Biological Evaluation, or as part of the determination of impacts on the manatee in an environmental document prepared pursuant to the National Environmental Policy Act, will expedite the Service's review of the document for the fulfillment of requirements under Section 7 of the Endangered Species Act. These measures include:

1. The project manager and/or contractor will inform all personnel associated with the project that manatees may be present in the project area, and the need to avoid any harm to these endangered mammals. The project manager will ensure that all construction personnel know the general appearance of the species and their habit of moving about completely or partially submerged in shallow water. All construction personnel will be informed that they are responsible for observing water-related activities for the presence of manatees.
2. The project manager and/or the contractor will advise all construction personnel that

there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act and the Endangered Species Act.

3. If a manatee is seen within 100 yards of the active construction and/or dredging operation or vessel movement, all appropriate precautions will be implemented to ensure protection of the manatee. These precautions will include the immediate shutdown of moving equipment if a manatee comes within 50 feet of the operational area of the equipment. Activities will not resume until the manatee has departed the project area on its own volition (i.e., it may not be herded or harassed from the area).

4. Any collision with and/or injury to a manatee will be reported immediately. The report must be made to the U.S. Fish and Wildlife Service (ph. 919.856.4520 ext. 16), the National Marine Fisheries Service (ph. 252.728.8762), and the North Carolina Wildlife Resources Commission (ph. 252.448.1546).

5. A sign will be posted in all vessels associated with the project where it is clearly visible to the vessel operator. The sign should state:

CAUTION: The endangered manatee may occur in these waters during the warmer months, primarily from June through October. Idle speed is required if operating this vessel in shallow water during these months. All equipment must be shut down if a manatee comes within 50 feet of the vessel or operating equipment. A collision with and/or injury to the manatee must be reported immediately to the U.S. Fish and Wildlife Service (919-856-4520 ext. 16), the National Marine Fisheries Service (252.728.8762), and the North Carolina Wildlife Resources Commission (252.448.1546).

6. The contractor will maintain a log detailing sightings, collisions, and/or injuries to manatees during project activities. Upon completion of the action, the project manager will prepare a report which summarizes all information on manatees encountered and submit the report to the Service's Raleigh Field Office.

7. All vessels associated with the construction project will operate at "no wake/idle" speeds at all times while in water where the draft of the vessel provides less than a four foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

8. If siltation barriers must be placed in shallow water, these barriers will be: (a) made of material in which manatees cannot become entangled; (b) secured in a manner that they cannot break free and entangle manatees; and, (c) regularly monitored to ensure that manatees have not become entangled. Barriers will be placed in a manner to allow manatees entry to or exit from essential habitat.

Prepared by (rev. 06/2003):
U.S. Fish and Wildlife Service
Raleigh Field Office
Post Office Box 33726
Raleigh, North Carolina 27636-3726
919/856-4520

Figure 1. The whole body of the West Indian manatee may be visible in clear water; but in the dark and muddy waters of coastal North Carolina, one normally sees only a small part of the head when the manatee raises its nose to breathe.

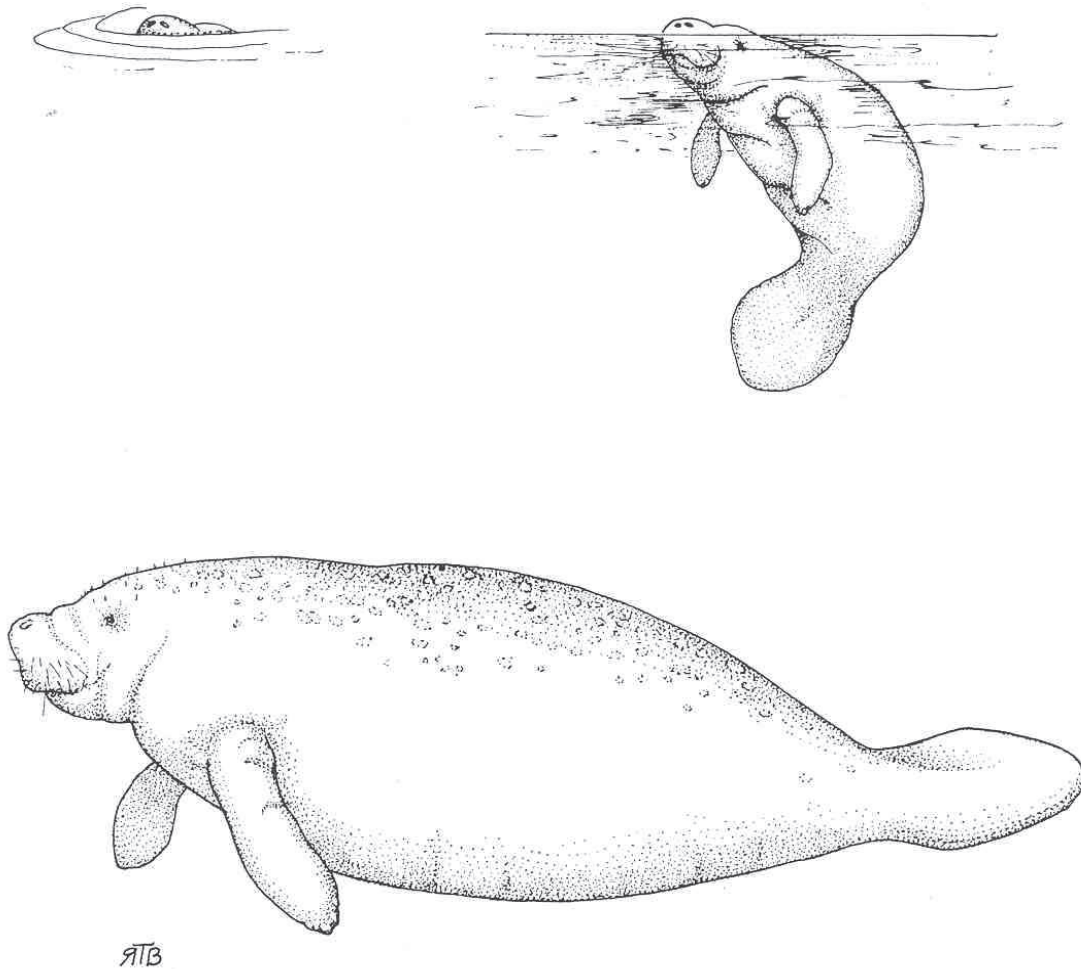
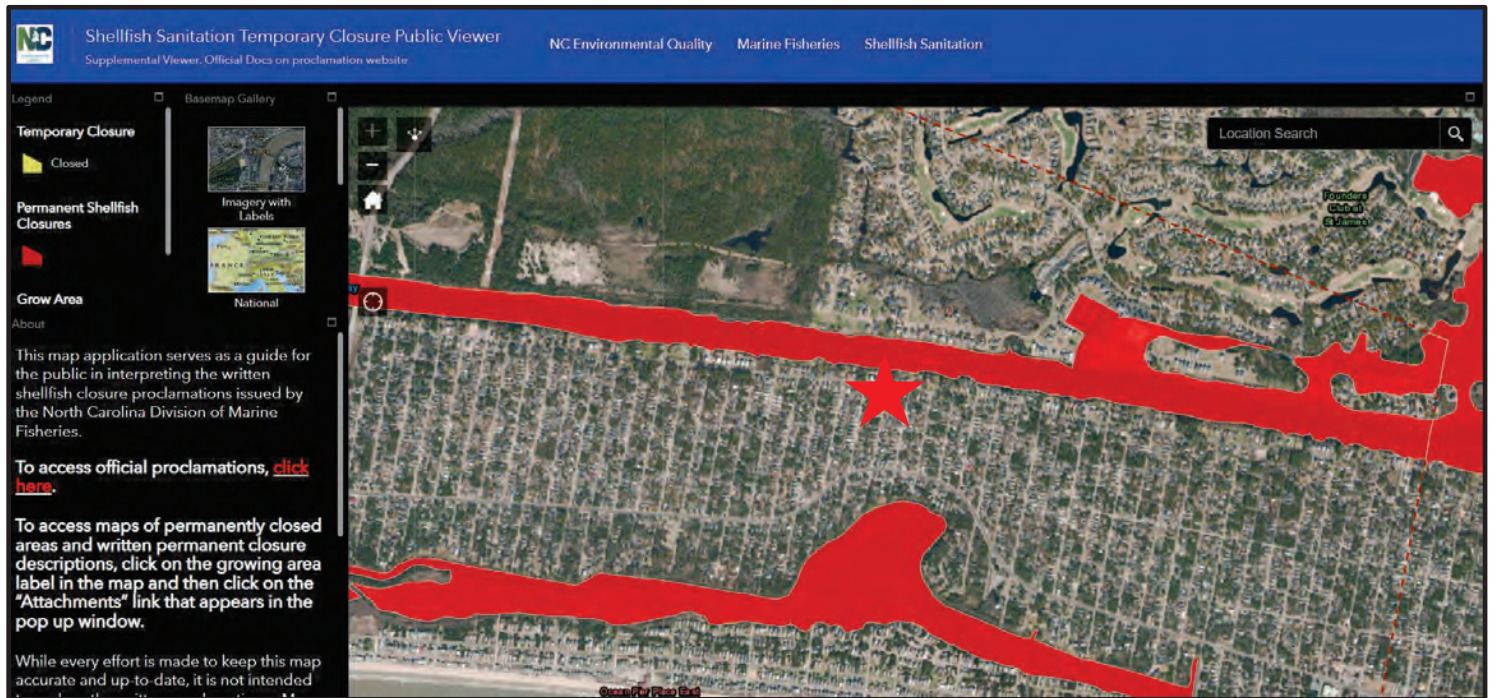


Illustration used with the permission of the North Carolina State Museum of Natural Sciences.
Source: Clark, M. K. 1987. Endangered, Threatened, and Rare Fauna of North Carolina: Part I. A re-evaluation of the mammals. Occasional Papers of the North Carolina Biological Survey 1987-3. North Carolina State Museum of Natural Sciences. Raleigh, NC. pp. 52.

Attachment 15

NC DMF Shellfish Closure Map



U.S. Postal Service™ *Shugart#2*
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Oak Island, NC 28465

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Extra Services & Fees (check box, add fee as appropriate)	\$7.25	03
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<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$1.68	Postmark Here
Total Postage and Fees	\$8.93	10/13/2022

Sent To *Town of OI - Steve Edwards*
 Street and Apt. No., or PO Box No. *4601 E Oak Isl. Dr.*
 City, State, ZIP+4® *Oak Island, NC 28465*

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

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Indian Trail, NC 28079

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Certified Mail Fee	\$4.00	0684
Extra Services & Fees (check box, add fee as appropriate)	\$7.25	03
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$1.68	Postmark Here
Total Postage and Fees	\$8.93	10/13/2022

Sent To *Rowell*
 Street and Apt. No., or PO Box No. *PO Box 273*
 City, State, ZIP+4® *Indian Trail, NC 28079*

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

dlutheran@segi.us

From: dlutheran@segi.us
Sent: Thursday, August 11, 2022 10:40 AM
To: '401PreFile@ncdenr.gov'
Subject: 2206 East Yacht Drive 401 Pre-Filing Request

Project Name: 2206 East Yacht Drive CAMA Major Permit
Applicant Name: Brian Shugart
Address: Same as project, Oak Island, Brunswick Co.
Consultant: SEGi – Dana Lutheran (910.228.1841)
Project Description: Install two boat lifts and a floating platform

Southern Environmental Group, Inc.
5315 South College Road, Suite E
Wilmington, NC 28412
Phone: 910.452.2711
Mobile: 910.228.1841 (preferred)
www.segi.us

Attachment 2

N.C. DIVISION OF COASTAL MANAGEMENT

AGENT AUTHORIZATION FORM

Date 8/12/2022

Name of Property Owner Applying for Permit:

Brian Shugart

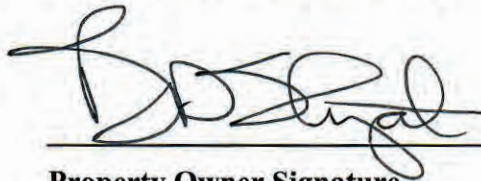
Mailing Address:

1180 Woodstock Rd.

Clemmons, NC 27012

I certify that I have authorized (agent) Southern Environmental Group, Inc. to act on my behalf, for the purpose of applying for and obtaining all CAMA Permits necessary to install or construct (activity) two boat lifts, a finger pier and floating platform, at (my property located at) 2206 East Yacht Drive, Oak Island, North Carolina.

This certification is valid thru (date) until the project is complete.



Property Owner Signature

8-18-22

Date

**Exhibit T to Attachment F to CAMA Variance Petition
Brian and Susan Shugart**

Adjacent Owners' Certified Mail Receipts of Notice of Application (October 13, 2022)

7020 0640 0000 2723 5572	U.S. Postal Service™ CERTIFIED MAIL® RECEIPT <i>Domestic Mail Only</i>		
	For delivery information, visit our website at www.usps.com		
	Oak Island, NC 28465 OFFICIAL USE		
	Certified Mail Fee \$ 4.00	0684 03 Postmark Here 10/13/2022	
	Extra Services & Fees (check box, add fee as appropriate) <input type="checkbox"/> Return Receipt (hardcopy) \$ 3.25 <input type="checkbox"/> Return Receipt (electronic) \$ 0.00 <input type="checkbox"/> Certified Mail Restricted Delivery \$ 0.00 <input type="checkbox"/> Adult Signature Required \$ 0.00 <input type="checkbox"/> Adult Signature Restricted Delivery \$ 0.00		
	Postage \$ 1.68		
	Total Postage and Fees \$ 8.93		
	Sent to Town of OI - Steve Edwards Street and Apt. No., or PO Box No. 401 E Oak Isl. Dr. City, State, ZIP+4® Oak Island, NC 28465		
	PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions		
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For delivery information, visit our website at www.usps.com			
Indian Trail, NC 28079 OFFICIAL USE			
Certified Mail Fee \$ 4.00	0684 03 Postmark Here 10/13/2022		
Extra Services & Fees (check box, add fee as appropriate) <input type="checkbox"/> Return Receipt (hardcopy) \$ 3.25 <input type="checkbox"/> Return Receipt (electronic) \$ 0.00 <input type="checkbox"/> Certified Mail Restricted Delivery \$ 0.00 <input type="checkbox"/> Adult Signature Required \$ 0.00 <input type="checkbox"/> Adult Signature Restricted Delivery \$ 0.00			
Postage \$ 1.68			
Total Postage and Fees \$ 8.93			
Sent to Rowell Street and Apt. No., or PO Box No. PO Box 273 City, State, ZIP+4® Indian Trail, NC 28079			
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions			



Southern Environmental Group, Inc.

5315 South College Road, Suite E
Wilmington, NC 28412

October 10, 2022

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Mitchell Rowell and Mrs. Beverly Rowell
P.O. Box 237
Indian Trail, North Carolina, 28079-0237

Re: Coastal Area Management Act (“CAMA”) Major Permit
Mr. Brian Shugart
Brunswick County, North Carolina

Dear Mr. and Mrs. Rowell:

You recently received notification of Mr. Brian Shugart’s plan to install water dependent structures at his property. As stated in the previous notice, the work requires a Coastal Area Management Act (“CAMA”) Major Permit, from the North Carolina Division of Coastal Management, and will take place at his property at 2206 East Yacht Drive, Oak Island, North Carolina 28465. We are sending this second notice due to changes to the site plan, which increased the building footprint.

The proposed development now includes the addition of a 16’ x 4’ uncovered platform, that will extend off the north side of the existing 16’ x 16’ covered platform; two (2) fixed finger piers, with dimensions of 14’ x 4’ and extending north from the proposed uncovered platform; one (1) floating platform, with dimensions of 22’ x 8’ and connected to the proposed fixed platform, with a pileless gangway; and the addition of two (2) boat lifts, which will be situated next to the two (2) proposed finger piers. Copies of the revised site plan and the CAMA permit application, for the proposed development, are attached. No part of the proposed development extends into the 15’ Riparian Setback, thus no action on your behalf is necessary.

As part of the permit process, I am required to notify you of my client’s proposed development. If you have any questions about my client’s proposed development, please do not hesitate to contact me at (910) 228-1841 or by e-mail, at dlutheran@segi.us. If you wish to make comments on our client’s proposed development, you may direct your comments to the North Carolina Division of Coastal Management, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.

Sincerely yours,

Dana A. Lutheran
SEGi Regulatory Specialist



Southern Environmental Group, Inc.

5315 South College Road, Suite E
Wilmington, NC 28412

October 10, 2022

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Steve Edwards or Mr. David Kelly
4601 East Oak Island
Oak Island, North Carolina 28465

Re: Coastal Area Management Act (“CAMA”) Major Permit
Mr. Brian Shugart
Brunswick County, North Carolina

Dear Mr. Edwards or Mr. Kelly:

You recently received notification of Mr. Brian Shugart’s plan to install water dependent structures at his property. As stated in the previous notice, the work requires a Coastal Area Management Act (“CAMA”) Major Permit, from the North Carolina Division of Coastal Management, and will take place at his property at 2206 East Yacht Drive, Oak Island, North Carolina 28465. We are sending this second notice due to changes to the site plan, which increased the building footprint.

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As part of the permit process, I am required to notify you of my client’s proposed development. If you have any questions about my client’s proposed development, please do not hesitate to contact me at (910) 228-1841 or by e-mail, at dlutheran@segi.us. If you wish to make comments on our client’s proposed development, you may direct your comments to the North Carolina Division of Coastal Management, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.

Sincerely yours,

Dana A. Lutheran
SEGi Regulatory Specialist

Tracking Number:

Remove X

70200640000027235572

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Your item was delivered to an individual at the address at 1:31 pm on October 19, 2022 in OAK ISLAND, NC 28465.

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Delivered

Delivered, Left with Individual

OAK ISLAND, NC 28465
October 19, 2022, 1:31 pm

Out for Delivery

OAK ISLAND, NC 28465
October 19, 2022, 9:55 am

Arrived at Post Office

SOUTHPORT, NC 28461
October 19, 2022, 9:36 am

Departed USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX
October 19, 2022, 3:54 am

In Transit to Next Facility

October 17, 2022

Arrived at USPS Regional Facility

085

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX
October 15, 2022, 9:08 am

Departed Post Office

EMERALD ISLE, NC 28594
October 13, 2022, 1:25 pm

USPS in possession of item

EMERALD ISLE, NC 28594
October 13, 2022, 12:22 pm

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FAQs

Tracking Number:

Remove X

70200640000027235565

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Latest Update

Your item was picked up at the post office at 3:39 pm on October 21, 2022 in INDIAN TRAIL, NC 28079.

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Feedback

Delivered

Delivered, Individual Picked Up at Post Office

INDIAN TRAIL, NC 28079

October 21, 2022, 3:39 pm

Reminder to pick up your item before October 29, 2022

INDIAN TRAIL, NC 28079

October 20, 2022

Available for Pickup

INDIAN TRAIL

210 POSTAGE WAY

INDIAN TRAIL NC 28079-9701

M-F 0830-1700; SAT 1100-1600

October 15, 2022, 9:38 am

Arrived at Post Office

INDIAN TRAIL, NC 28079

October 15, 2022, 9:38 am

In Transit to Next Facility

October 14, 2022

087

Departed Post Office

EMERALD ISLE, NC 28594
October 13, 2022, 1:25 pm

USPS in possession of item

EMERALD ISLE, NC 28594
October 13, 2022, 12:21 pm

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Product Information



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Contact USPS Tracking support for further assistance.

FAQs

Shugart Docking Facility
Page Two

9. PROJECT DESCRIPTION:

The project site is located at 2206 East Yacht Drive adjacent to the AIWW, near Oak Island, Brunswick County. The site is approximately 0.49 acres and is vegetated primarily with lawn grass and ornamental plants. There is an existing single family structure on the site and an existing bulkhead (authorized via CAMA General Permit 72294D in 2018) located landward of coastal wetlands. The project site has approximately 120 ft. of shoreline frontage along the AIWW. Along the eastern half of the property there is a section of Coastal Wetlands, which consists of Smooth Cordgrass (*Spartina alterniflora*), beginning east of the pier and measuring approximately 40 ft. to the property line shared with the town, and extending approximately 30' waterward from the bulkhead. There is currently a fixed pier (80' x 6') which originates in the center of the parcel and extends waterward (northerly) from the bulkhead. The fixed access pier terminates on a T-head, fixed covered platform (18.5' x 19'). The current pier was authorized via CAMA General Permit 77634D, issued in February 2021. The original general permit application for the property (2020) included a proposed boat lift and floating dock, but shallow water depths found on site (less than two feet at normal low water) were deemed not sufficient to obtain a general permit consent form from the Division of Marine Fisheries, and the floating dock and boat lift were removed from the permitted drawing. A second general permit application for this property was received by DCM in May 2022 included a proposal for 2 boat lifts and a proposed floating dock (different configuration from prior general permit application) but could not be processed as a general permit due to shallow water concerns from DMF and three proposed slips. At that time DCM informed the agent that any proposal that involved formalized slips would necessitate a CAMA Major Permit application.

The Brunswick County Land Use Plan classifies the adjacent waters as Conservation. The waters of the AIWW are classified SA by the Division of Water Resources. This area is IS designated as a **Primary Nursery Area (PNA)** by the N.C. Division of Marine Fisheries and they are **CLOSED** to the harvest of shellfish.

PROPOSED PROJECT:

The applicant proposes to expand an existing private pier, with the addition of four fixed finger piers, a piling-less dual hinge I-beam gangway and floating dock, including the construction of two boat lifts, increasing the slip count from zero existing slips to a total of three slips. According to the application materials, the property owners are proposing to extend a piling-less gangway to the north from the waterward end of the existing fixed covered platform. The piling-less gangway and its support arms would extend 13' waterward, providing access to a floating dock (8' x 22') that would be oriented parallel with the shoreline, serving as slip 3. The purpose of the piling-less I beam gangway is to provide access to a floating dock that is past the USACE setback line (without driving pilings) and to have the proposed floating dock located in deeper water to potentially lessen resource impacts to shallow bottom habitat. The USACE Navigation Section has provided prior approval for this encroachment in an email dated 10/13/22 (a copy of this email is included in the application materials). The proposed floating dock would be located in water depths ranging from -0.5' to -1.2' @ NLW (verified on site by DCM staff). The proposed boat lifts (2 @ 14.5' x 16') would be located to the east and west of the existing covered gazebo, and each boat lift would be accessed by two finger piers (one 7' x 4' and one 14' x 4') extending waterward from the northwestern and northeastern corners of the existing covered gazebo.

According to the work plan drawings, the applicant's proposal is located within their riparian corridor, and within ¼ of the width of the waterbody, which measures approximately 406' across. The proposed floating dock would extend approximately 12' past the USACE federal channel setback, without utilizing any pilings driven past the setback.

10. ANTICIPATED IMPACTS

The proposed docking facility, would result in the additional incorporation of 808 sq. ft. of Estuarine Waters and Public Trust Area. The existing facility currently incorporates 831.5 SF of Estuarine Waters and Public Trust Area. The proposed expansion extends approximately 12' past the USACE setback (without pilings) and a total of 70 ft. into the waterbody (from the edge of marsh) which measures approximately 406 ft. across. This distance conforms to the pierhead line and ¼ width. This area is designated as PNA, and the proposed floating dock would be located in water depths ranging from -0.75 to -1.2 at NLW. The piling-less design would prevent the installation of physical stops on the floating dock. The proposed boatlifts would be located in water ranging from -0.2' to -0.5' at NLW. Minor increases in turbidity should be expected during construction.

The total area of platform was calculated as follows:

Shoreline length = 120 ft. x 8 ft. = 960 SF allowable

Existing Fixed Access Pier = 80 ft. x 6 ft. = 480 SF (not counted for shading, access credit)

Existing Fixed Covered Platform = 18.5 ft. x 19 ft. = 351.5 SF,

Proposed Floating Dock = 8 ft. x 22 ft. = 176 SF

Proposed Fixed Finger Pier = 2 @ 7 ft. x 4 ft. = 56 SF

Proposed Fixed Finger Piers = 2 @ 14ft. x 4 ft. = 112 SF

Proposed Boatlifts = 2 @ 14.5 ft. x 16 ft. = 464 SF, (not counted for shading)

Total Counted sq. ft. = 695.5 SF

Submitted by: Patrick Amico **Date:** 12/20/22 **Office:** Wilmington

**U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT**

Action Id. **SAW-2022-02736** County: **Brunswick County** U.S.G.S. Quad: **Lockwoods Folly**

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Permittee: **Brian and Susan Shugart**

Address: **1880 Woodstock Rd
Clemmons, NC 27012**

Size (acres) _____ Nearest Town **Oak Island**

Nearest Waterway **Intracoastal Waterway** River Basin **Cape Fear**

USGS HUC **03030005** Coordinates Latitude: **33.924945**; Longitude: **-78.136953**

Location description: **The site is located in Waters adjacent to the AIWW at 2206 East Yacht Drive, Oak Island, Brunswick County, North Carolina.**

Description of project area and activity: **The proposal is to expand an existing private dock, with the addition of four fixed finger piers, a piling-less dual hinge I-beam gangway and floating dock, including the construction of two boat lifts, increasing the slip count from zero existing slips to a total of three slips. The property owners are proposing to extend a piling-less gangway to the north from the waterward end of the existing fixed covered platform. The piling-less gangway and its support arms will extend 13 feet waterward, providing access to a floating dock (8 feet by 22 feet) that will be oriented parallel with the shoreline, serving as slip 3. Two boat lifts (both 14.5 feet by 16 feet) will be located to the east and west of the existing covered gazebo, and each boat lift will be accessed by two finger piers (one 7 feet by 4 feet and one 14 feet by 4 feet) extending waterward from the northwestern and northeastern comers of the existing covered gazebo. The docking facility additions will cover and shade 808 square feet of Estuarine Waters of the US.**

Please note, a Coastal Area Management Act (CAMA) permit authorization must be obtained from the North Carolina Division of Coastal Management (DCM) prior to commencing any work on this project.

Applicable Law: Section 404 (Clean Water Act, 33 USC 1344);
 Section 10 (Rivers and Harbors Act, 33 USC 403)

Authorization: Regional General Permit Number: **197800056**

Special Condition: In order to further protect the endangered West Indian Manatee, Trichechus manatus, the applicant must implement the U.S. Fish and Wildlife Service's Manatee Guidelines, and strictly adhere to all requirements therein. The guidelines can be found at http://www.fws.gov/nc-es/mammal/manatee_guidelines.p

SEE ATTACHED RGP GENERAL AND SPECIAL CONDITIONS

Your work is authorized by the above referenced permit provided it is accomplished in strict accordance with the attached conditions and your submitted application and attached

information and drawings dated October 6, 2022. Any violation of the attached conditions or deviation from your submitted plans may subject the permittee to a stop work order, a restoration order, a Class I administrative penalty, and/or appropriate legal action.

This verification will remain valid until the expiration date identified below unless the nationwide and/or regional general permit authorization is modified, suspended or revoked. If, prior to the expiration date identified below, the nationwide and/or regional general permit authorization is reissued and/or modified, this verification will remain valid until the expiration date identified below, provided it complies with all requirements of the modified nationwide permit. If the nationwide and/or regional general permit authorization expires or is suspended, revoked, or is modified, such that the activity would no longer comply with the terms and conditions of the nationwide permit, activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon the nationwide and/or regional general permit, will remain authorized provided the activity is completed within twelve months of the date of the nationwide and/or regional general permit's expiration, modification or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend or revoke the authorization.

Activities subject to Section 404 (as indicated above) may also require an individual Section 401 Water Quality Certification. You should contact the NC Division of Water Resources (telephone 919-807-6300) to determine Section 401 requirements.

For activities occurring within the twenty coastal counties subject to regulation under the Coastal Area Management Act (CAMA), prior to beginning work you must contact the N.C. Division of Coastal Management in Wilmington, NC, at (910) 796-7215.

This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact **Gregory Currey at (910) 523-1151 or Gregory.E.Currey@usace.army.mil**.

Corps Regulatory Official: _____ Date: **January 26, 2023**
Expiration Date of Verification: **December 31, 2026**

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete our Customer Satisfaction Survey, located online at <https://regulatory.ops.usace.army.mil/customer-service-survey/>

Copies furnished by email:

Dana Lutheran (Southern Environmental Group, Inc)
Patrick Amico (NC DCM)
Cameron Luck (NC DCM)
Amanda Cannon (NC DCM)
Holley Snider (NC DWR)

Action ID Number: SAW-2022-02736

County: Brunswick County

Permittee: Brian and Susan Shugart

Project Name: 2206 E Yacht Dr/Oak Island/Brunswick

Date Verification Issued: January 26, 2023

Project Manager: Gregory Currey

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

**US ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT
Attn: Gregory Currey**

Please note that your permitted activity is subject to a compliance inspection by a U. S. Army Corps of Engineers representative. Failure to comply with any terms or conditions of this authorization may result in the Corps suspending, modifying or revoking the authorization and/or issuing a Class I administrative penalty, or initiating other appropriate legal action.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and condition of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
BRAXTON DAVIS
Director



December 20, 2022

MEMORANDUM:

FROM: Cameron Luck, Assistant Major Permits Coordinator
NCDEQ - Division of Coastal Management
400 Commerce Avenue, Morehead City, NC 28557
Fax: 252-247-3330 (**Courier 11-12-09**)
cameron.luck@NCDENR.gov

SUBJECT: CAMA

Applicant: Brian and Susan Shugart

Project Location: 2206 E. Yacht Drive, adj. to the AIWW, Oak Island, Brunswick County

Proposed Project: The applicant proposes to expand an existing private pier, with the addition of four fixed finger piers, a piling-less dual hinge I-beam gangway and floating dock, including the construction of two boat lifts, increasing the slip count from zero to a total of three (3) slips.

Please indicate below your agency's position or viewpoint on the proposed project and **return this form to Cameron Luck** at the address above by **January 13, 2022**. If you have any questions regarding the proposed project, contact Patrick Amico at (910) 796-7425 when appropriate, in-depth comments with supporting data is requested.

- REPLY:**
- This agency has no objection to the project as proposed.
Additional comments may be attached
 - This agency has no comment on the proposed project.
 - This agency approves of the project only if the recommended changes are incorporated. See attached.
 - This agency objects to the project for reasons described in the attached comments.

RECEIVED

PRINT NAME Kimberlee Harding _____

FEB 14 2023

AGENCY NCDMF _____

MP SECTION
DCM MHD CITY

SIGNATURE *Kimberlee Harding* _____

DATE 01/30/2023 _____



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



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

MEMORANDUM:

TO: Cameron Luck, DCM Assistant Major Permit Coordinator

FROM: Kimberlee Harding, NCDMF Fisheries Resource Specialist *KH*

SUBJECT: Brian and Susan Shugart, Brunswick County

DATE: January 30, 2023

RECEIVED

FEB 14 2023

MP SECTION
DCM MHD CITY

A North Carolina Division of Marine Fisheries (DMF) Fisheries Resource Specialist has reviewed the CAMA Permit application for proposed actions that impact fish and fish habitats, as authorized in N.C.G.S. 113-131b. The applicant is proposing to expand an existing pier and fixed platform to include two boat lifts and floating dock. The proposed project is located at 2206 East Yacht Drive adjacent to the AIWW, near Oak Island, Brunswick County. The Brunswick County Land Use Plan classifies the adjacent waters as Conservation. The waters of the AIWW are classified SA by the Division of Water Resources. This area is designated as a Primary Nursery Area (PNA) by the N.C. Division of Marine Fisheries and is closed to the harvest of shellfish. Numerous live oysters and snails are present in the substrate and coastal wetlands along the shoreline.

The existing fixed platform was authorized via CAMA General Permit (GP) 77634D, issued in February 2021. The original application proposal included one boat lift and floating dock, however, DMF declined to sign a General Permit waiver for the application as proposed based on concerns for formalized vessel slips in inadequate water depths of less than -1' NLW. The applicant resubmitted a modified GP application in May 2022 proposing an expansion of the existing fixed platform with two boatlifts and floating dock. The DMF declined to sign a GP waiver with the same concerns of formalized vessel slips and floating structure in inadequate water depths less than -1' NLW.

The applicant submitted the current major permit application which includes an expansion of the existing 80' x 6' pier and 18.5' x 19' fixed covered platform. The expansion includes four fixed finger piers, an 8' x 22' piling-less floating dock with dual hinge I-beam gangway and two 14.5' x 16' boat lifts, creating a total of three boat slips. The docking facility is proposed in a PNA with a muddy substrate. The proposed floating dock is sited in water depths of -1.2' NLW on the waterward side and -0.5 to 0.75' NLW on the landward side. The two boatlifts are sited in water depths of -0.2' to -0.3' NLW.

PNAs are estuarine waters where initial post-larval development occurs. Species within this area are early post-larval to juvenile and include finfish, crabs, and shrimp. Species

inhabit PNAs because they afford food, protection, and proper environmental conditions during vulnerable periods of their life history, thus protection of these areas are imperative.

Shallow soft bottom is an important foraging habitat for juvenile and adult fish and invertebrates, and aids in storing and cycling of sediment, nutrients, and toxins between the bottom and water column. Soft bottom habitat is used to some extent by most native coastal fish species in North Carolina. The habitat is particularly productive and, by providing refuge from predators, is an important nursery area. Species dependent on shallow soft bottom include clams, crabs, flounder, spot, Atlantic croaker, sea mullet, and rays (Deaton et al. 2010). Many benthic predators are highly associated with the shallow soft bottom habitat, including flounders, weakfish, red drum, sturgeon and coastal sharks, although almost all fish will forage on microalgae, infauna, or epifauna on the soft bottom.

The proposed project has the potential to adversely impact fishery resources and habitat. Permitted slips in shallow water can allow vessels to repeatedly contact the bottom. Propellers continuously disturbing the sediment can kill benthic invertebrates and reduce shallow bottom habitat during low tide. Locating formalized slips and boatlifts in less than 1' MLW would result in continuous impacts to the underlying habitat. Floating docks repeatedly resting on the bottom can create anoxia in the sediment which can kill benthic invertebrates and reduce the availability of shallow bottom habitat during low tide. The substrate at this location is muddy, which is generally considered more productive for benthic organisms and more susceptible to resuspension of sediment from bottom disturbance.

The large floating dock as proposed is a heavy structure, with the added weight of the two steel I-beams and gangway. The floating dock would need to be sited in water depths close to -2' NLW to prevent the structure from sitting on the bottom substrate at low tide. As proposed, the floating dock is sited in waters -0.5 to -1.2'NLW. The applicant is unable to extend the pier or any fixed structures waterward, due to the US Army Corps of Engineers setback line.

Based on the above discussion, the DMF recommends denial of the permit application for this project as proposed because it is likely to have significant adverse impacts on marine and estuarine fisheries resources, and navigation at the project site based on the information included in the application.

Thank you for consideration of our comments. Please contact Kimberlee Harding at 910-796-8426 or at kimberlee.harding@ncdenr.gov with any further questions or concerns.

RECEIVED

FEB 14 2023

MP SECTION
DCM MHD CITY

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
RICHARD E. ROGERS, JR.
Director



February 21, 2023

DWR # 20221792
Brunswick County

Brian Shugart
1880 Woodstock Road
Clemmons, NC 27012-9780
(delivered via email to briandshugart@yahoo.com)

Subject: NOTICE OF INDIVIDUAL WATER QUALITY CERTIFICATION REQUIREMENT
2206 W. Yacht Drive, Oak Island – Expansion of an Existing Access Pier and Platform

Mr. Shugart,

On December 20, 2022, the Division of Water Resources (DWR) received a Coastal Area Management Act (CAMA) major permit application from the Division of Coastal Management (DCM) requesting authorization of the expansion of an existing access pier and platform. The proposed expansion includes the installation of fixed finger piers to access two (2) boatlifts flanking the existing fixed platform and installation of a pilingless floating dock accessed by a dual hinge I-beam gangway secured with cables. The proposed expanded docking facility would be located within the waters of Atlantic Intracoastal Waterway which are classified as SA, HQW by DWR and are designated as Primary Nursery Area (PNA) by the Division of Marine Fisheries (DMF).

Per 15A NCAC 02H .0502(b) your CAMA permit application also serves as an application for a 401 certification to DWR. DWR's understanding is that the U.S. Army Corps of Engineers (USACE) has decided to review your proposed project under its Regional General Permit 197800056 for which DWR has a corresponding 401 General Certification #4497. However, DWR's 401 General Certification #4497 was not developed for docking facilities located in shallow bottom habitats designated as PNA.

Based on the information contained in the CAMA major permit application and comments received from DMF on February 14, 2023, DWR is particularly concerned about the proposed impacts to the shallow bottom habitat that is designated as PNA from expansion of the docking facility. As proposed, the boatlifts and floating dock would be sited in waters ranging in depth from -0.5 feet to -1.2 feet at NLW. DWR is concerned the proposed project has the potential to adversely impact fishery resources and habitat. Boat slips and boatlifts in shallow water, in this case as shallow as -0.5' MLW, results in repeated disturbance of the substrate and shallow bottom habitat. Propellers repeatedly disturbing the sediment can kill benthic invertebrates and reduce shallow bottom habitat during low tide. Floating docks repeatedly resting on the bottom can create anoxia in the sediment which can kill benthic invertebrates and reduce the availability of shallow bottom habitat during low tide. The substrate at this



North Carolina Department of Environmental Quality | Division of Water Resources
512 North Salisbury Street | 1611 Mail Service Center | Raleigh, North Carolina 27699-1611
919.707.9000

location is muddy, which is generally considered more productive for benthic organisms and more susceptible to resuspension of sediment from bottom disturbance.

Based on those concerns, the Director has determined that your proposed project is likely to have a significant adverse effect upon water quality and, therefore, requires review under a 401 Individual Certification rather than under the 401 General Certification #4497. The previously submitted CAMA major permit application satisfies the requirements of a complete 401 Individual Certification application. Therefore, no further action needs to be taken by you or your agent. DWR will continue review of your application for a 401 Individual Water Quality Certification and will notify you of our agency decision as required by 15A NCAC 02H .0507(a).

Please be aware that you have no authorization under Section 401 of the Clean Water Act Water and the State's related 401 Water Quality Certification Rules (15A NCAC 02H .0500) for this project and any work done within the waters of the State may be a violation of North Carolina water quality laws.

Please contact Holley Snider at 910-796-7303 or holley.snider@ncdenr.gov if you have any questions or concerns.

Sincerely,

Richard E. Rogers, Jr.

Richard E. Rogers, Jr. Director
Division of Water Resources

Electronic cc: Dana Lutheran, Southern Environmental Group, Inc
Cameron Luck, DCM
Greg Bodnar, DCM
Greg Currey, USACE Raleigh Regulatory Field Office
DWR 401 & Buffer Permitting Branch electronic file

Filename: Director Letter-Shugart_2206 W. Yacht Dr_Feb.23



North Carolina Department of Environmental Quality | Division of Water Resources
512 North Salisbury Street | 1611 Mail Service Center | Raleigh, North Carolina 27699-1611
919.707.9000



NORTH CAROLINA
Environmental Quality

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director

February 21, 2023

Dana Lutheran (dlutheran@segi.us)
Southern Environmental Group, Inc.

SUBJECT: Coastal Area Management Act (CAMA) Permit Application Submittal for Brian and Susan Shugart, in Brunswick County

All:

This letter is in response to the above referenced CAMA Major Permit application, which was accepted as complete by the Division's Wilmington office on November 28, 2022. Processing of the application is ongoing. However, it has been determined that additional information will be required prior to the Division taking final action on your application. The required item is summarized below:

- 1) Comments were received from the NC Division of Marine Fisheries (NC DMF) detailing concerns with the proposed project due to insufficient water depths and the potential impacts proposed structure will have via bottom disturbance of Primary Nursery Area. These comments have been included as attachments within this email.
- 2) In accordance with 15A NCAC 07H.0208(a)(2)(B), it is the policy of this Division that, prior to taking final action on a project of this nature, a Water Quality Certification for the proposed development must first be approved by the Division of Water Resources (DWR).

On February 17, 2023, the DWR placed the project on hold as proposed and requested additional information. I have provided the state agency comments and the DWR hold letter within this email notification for your reference.

Therefore, it is necessary that processing of your permit application be placed in abeyance until such time as the required information is accepted by the resource agencies and final comments have been provided.

If you have any questions concerning these matters, please feel free to contact me by telephone at (252) 515-5419, or by email at cameron.luck@ncdenr.gov.



North Carolina Department of Environmental Quality | Division of Coastal Management
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557
252.515.5400

Sincerely,



Cameron Luck
Division of Coastal Management
Assistant Major Permits Coordinator

CC:

DCM WiRO
Greg Currey, USACE Wilmington Regulatory Field Office
Holley Snider, DWR WiRO





Southern Environmental Group, Inc.
 5315 South College Road, Suite E • Wilmington, NC 28412
 Phone: 910.452.2711 • Fax: 910.452.2899

23 February 2023

Via Electronic Mail

NC Division of Coastal Management (DCM)

Attn: Mr. Camron Luck

400 Commerce Ave.

Morehead City, NC 28557

Cameron.Luck@ncdenr.gov

NC Division of Water Resources 401 & Buffer Unit (DWR)

c/o: Ms. Holley Snider

127 Cardinal Drive Ext.

Wilmington, NC 28405

Holley.Snider@ncdenr.gov

NC Division of Marine Fisheries (DMF)

Attn: Ms. Kimberlee Harding

3441 Arendell Street

Morehead City, NC 28557

Kimberlee.Harding@ncdenr.gov

**Re: 2206 W. Yacht Drive, Oak Island – Expansion of an Existing Access Pier and Platform
 DWR # 20221792, Brunswick County**

Dear Sir and Mesdames,

With this letter, Southern Environmental Group, Inc. (SEGi), on behalf of Mr. Brian Shugart, is responding to all three of the agencies' communications, which include DCM's February 21, 2023 letter placing the project on hold, DMF's January 30, 2023 memorandum, which recommended denial of the permit, and DWR's February 22, 2023 letter regarding the division's determination the proposed project will require an Individual Water Quality Certification (WQC). It is our hope the information found below will shed light on any misconceptions the agencies may have about the proposed project.

Within DMF's memorandum and DWR's letter, the agencies point out that the water depths are quite shallow (i.e., -0.5' MLW), where the proposed lifts and floating platform are to be positioned, and that there is concern the proposed project "has the potential to adversely impact fishery resources and habitat." Specifically, the agencies note that, "By propellers repeatedly disturbing the sediment and the floating platform resting on the substrate, benthic invertebrates can be killed and/or the availability of shallow bottom habitat reduced, during low tides.

Shugart – 2206 East Yacht Drive



To ensure that this does not happen, wooden stops have been incorporated into the design. The stops will be installed 18" above the substrate, on both boat lifts, and will be affixed to the bottom of the floating platform (see attached CAMA Major Site Plan 2-23-23). Please note, the CAMA Major Site Plan distributed to the agencies for review did not depict the floating platform stops, but they have been included in the attached revised version. These measures ensure that the boat lifts and floating platform will not rest on the bottom at any time, and that the lifts are not usable when water depths are less than 18". Additionally, due to excessive wave action along this stretch of the ICWW, especially in the summer when the docking facility would be utilized more often, docking at the floating platform will only take place when loading and unloading. Otherwise, the boat(s) will either be on a lift or in use.

To ensure compliance with the proposed avoidance and minimization effort, Mr. Shugart is willing to perform annual self-inspections, supported by photos, which will be submitted to DCM by December 31st of each year. Maintenance of the mitigative measures will be undertaken as soon as possible after discovering the need and photos of the completed work will be provided to DCM. The monitoring requirement would be in perpetuity, for the life of the docking facility, should the agencies agree. However, should conditions change (i.e., water depths increase to greater than 18" at NLW), Mr. Shugart would like the opportunity to have the agencies reevaluate the need for continued monitoring.

Again, it is our hope the information found within and attached to this correspondence demonstrates how adverse impacts to fishery resources and habitat will be avoided and minimized and the information taken into consideration, when making final decisions on the project. We strongly believe the proposed plan is the least environmentally damaging, practicable alternative.

Should you have any questions or concerns, we would be happy to speak with you. Should that be the case, please call me at (910)228.1841 or email me at dlutheran@segi.us, to schedule a call.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Lutheran".

Dana A. Lutheran
SEGi Project Manager

Electronic cc: Greg Bodnar, DCM
Greg Currey, USACE Raleigh Regulatory Field Office
Mr. Brian Shugart

Enclosures: 2206 East Yacht Drive CAMA Major Site Plan 2-23-23

From: Harding, Kimberlee k <Kimberlee.Harding@ncdenr.gov>
Sent: Tuesday, April 18, 2023 4:02 PM
To: dlutheran@segi.us; Snider, Holley <holley.snider@ncdenr.gov>; Luck, Cameron A <Cameron.Luck@ncdenr.gov>
Cc: Dunn, Maria T. <maria.dunn@ncwildlife.org>; MacPherson, Tara <tara.macpherson@ncdenr.gov>; 'Currey, Gregory E CIV USARMY CESAD (USA)' <Gregory.E.Currey@usace.army.mil>; Amico, Patrick J <Patrick.Amico@ncdenr.gov>; briandshugart@yahoo.com
Subject: RE: [External] RE: Shugart Dock Expansion (DWR#20221792)

Hi Dana.

I spoke with a DEMLR engineer about the design for stops on piling less floating docks. He advised me that it would be very difficult to verify the efficiency of this type of design. The dynamic nature of the substrate and weight from an unknown amount of people on the dock could change the performance of the stops and will be very hard to predict. However, he believes it is possible. So if your client is willing to work with a structural engineer to draft and sign a design then we review it, with high probability it will be accepted.

Thank you.
Kim

Kimberlee Harding
Habitat and Enhancement Section
NC Division of Marine Fisheries
kimberlee.harding@ncdenr.gov
910.796.7475 (Office)

From: Amico, Patrick J <Patrick.Amico@ncdenr.gov>
Sent: Monday, May 9, 2022 11:05 AM
To: dlutheran@segi.us; MacPherson, Tara <tara.macpherson@ncdenr.gov>
Subject: RE: [External] 2206 East Yacht Drive, Oak Island CAMA Permit Site Plan

Hi Dana:

DCM is in receipt of the General Permit application you submitted to our office for this location (2206 East Yacht). Due to resource concerns with the shallow water depths in Primary Nursery Area in the area of the proposed constructed features, a major permit application will be required for this proposal. Please find a checklist and associated application materials attached to this email. Please include an agent authorization form as well.

With kind regards,
Patrick

Patrick Amico
Environmental Specialist II
Division of Coastal Management
Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, NC 28405
(910)515-5792 (mobile, preferred)
(910)796-7425 office



April 19, 2023

Stature Engineering, PLLC
 Post Office Box 100
 Wallace, North Carolina

Attention: Mr. E. B. Pannkuk, P.E., SECB

Reference: Penetration of Wooden Stops
 Floating Platform
 2206 East Yacht Drive
 Oak Island, North Carolina
 RFTS Project No. 2758-23

Dear Mr. Pannkuk:

Per your request, RFTS has estimated the penetration of proposed wooden stops supporting a proposed floating platform at 2206 East Yacht Drive in Oak Island, North Carolina. We present herein our understanding of the relevant project information and the results of our analysis.

PROJECT INFORMATION

Our understanding of the relevant project information is based on our recent conversations and email communications with you, and our review of a preliminary project drawing entitled "Major Permit Dock Plan" dated October 6, 2022.

The portion of the project for which our services have been requested consists of estimating the penetration of wooden stops beneath a proposed 22-foot by 8-foot rectangular floating platform that will rest on grade during low tides. As we understand, there will be 12 such stops. Based on estimated combined live and dead loading, the platform will exert a total gravity load of 5,640 pounds on the stops at extreme low tides (470 pounds per stop). These stops will consist of 8-inch by 8-inch timbers. The soils on which the stops will rest are expected to be medium dense clean fine sands.

DESCRIPTION AND RESULTS OF ANALYSIS

Based on the given loading conditions, we would expect the penetration of the stops into the soil to be the result of shearing rather than elastic settlement. Accordingly, we analyzed the penetration as the depth at which the ultimate bearing capacity matched the

Stature Engineering
April 14, 2023
Project No. 2758-23

2

applied load. For the given load and sectional dimensions of the stop, our analysis indicated a predicted penetration for this load and bearing dimension of 0.5 inches. With an applied Factor of Safety of 1.5, the expected penetration would be 2.25 inches.

CLOSURE

These estimates were made based on a generalized characterization of the soils as relatively clean fine sands (USCS Soil Group 'SP') in a firm condition (Angle of Internal Friction of 33°) with the water table one foot below grade. Any significant departure from these conditions such as silting or disturbance of the surface should be brought to our attention so that we may revise or expand upon our conclusions.

RFTS appreciates the opportunity to be of service to you. Please do not hesitate to contact us with any questions or comments you may have after reviewing this report.

Sincerely,

RFTS, PLLC



David L. Winstead
Field Operations Manager

DLW:SDK/dlw



Steven D. Kelly, P.E.
Sr. Geotechnical Engineer
N.C. Registration No. 17638



From: dlutheran@segi.us <dlutheran@segi.us>
Sent: Wednesday, May 10, 2023 8:32 AM
To: 'Harding, Kimberlee k' <Kimberlee.Harding@ncdenr.gov>; 'Snider, Holley' <holley.snider@ncdenr.gov>; 'Luck, Cameron A' <Cameron.Luck@ncdenr.gov>
Cc: 'Dunn, Maria T.' <maria.dunn@ncwildlife.org>; 'MacPherson, Tara' <tara.macpherson@ncdenr.gov>; 'Currey, Gregory E CIV USARMY CESAD (USA)' <Gregory.E.Currey@usace.army.mil>; 'Amico, Patrick J' <Patrick.Amico@ncdenr.gov>; briandshugart@yahoo.com
Subject: RE: [External] RE: Shugart Dock Expansion (DWR#20221792)

Good morning, Kim.

As discussed, please find the engineer's compaction letter attached. As you will read and as expected, the proposed stops (8" x 8" posts) are likely not to penetrate the substrate more than 2.5", when resting on the substrate. That being said, the stops will prohibit the floaters from resting directly on the bottom, as planned.

It is my hope this information will ease the DMF's concerns regarding adverse effects to PNA. However, should you still have questions, please call me at 910.228.1841.

Dana

Southern Environmental Group, Inc.
5315 South College Road, Suite E.
Wilmington, NC 28412
Phone: 910.452.2711
Mobile: 910.228.1841 (preferred)
www.segi.us

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

AFFIDAVIT OF DANA A. LUTHERAN

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

1. I am a Project Manager and Regulatory Specialist at Southern Environmental Group, Inc. I have been employed in these positions since March 2005.
2. I am familiar with CAMA and building requirements in Brunswick County.
3. I am personally familiar with and have visited the property at 2206 East Yacht Drive, Oak Island, North Carolina 28465 (the "Property").
4. On August 12, 2022, at or around 11:30 a.m., and on March 7, 2023, at or around 1:30 p.m., I observed the composition of the substrate at the Property by taking the photographs attached hereto as Exhibit A, at the locations within the Property identified therein.
5. I observed that the substrate is sandy, rather than muddy, in the area of the proposed dock expansion, from the existing access pier to the proposed floating platform. Specifically, the substrate in the area is comprised of a layer of compacted muck, overlain by a relatively thin sand layer, with sparse shell matter.
6. In my experience, a substrate of such composition is less susceptible than a muddy substrate to the resuspension of sediment from bottom disturbance.

Further Affiant sayeth not.

[Signature page follows.]

This the 24th day of October, 2023.

Dana A. Lutheran

State of North Carolina
County of Brunswick

Sworn to and subscribed before me on
this 24th day of October 2023.

Notary Public

Joanne E Meisenhelder
(Typed/Printed Name of Notary Public)

My Commission Expires: 12-3-2024

(NOTARIAL SEAL/STAMP)

Joanne E Meisenhelder
NOTARY PUBLIC
New Hanover County
North Carolina
My Commission Expires December 3, 2024

Exhibit A

2206 East Yacht Drive Substrate Composition Photos Taken 8/12/22 and 3/7/23

Photo #1 (3/7/23)– example of substrate from the retaining wall to the USACE Navigational Setback Line.



Photo #2 (8/12/22) – photo of substrate between the retaining wall and USACE Navigational Setback line.

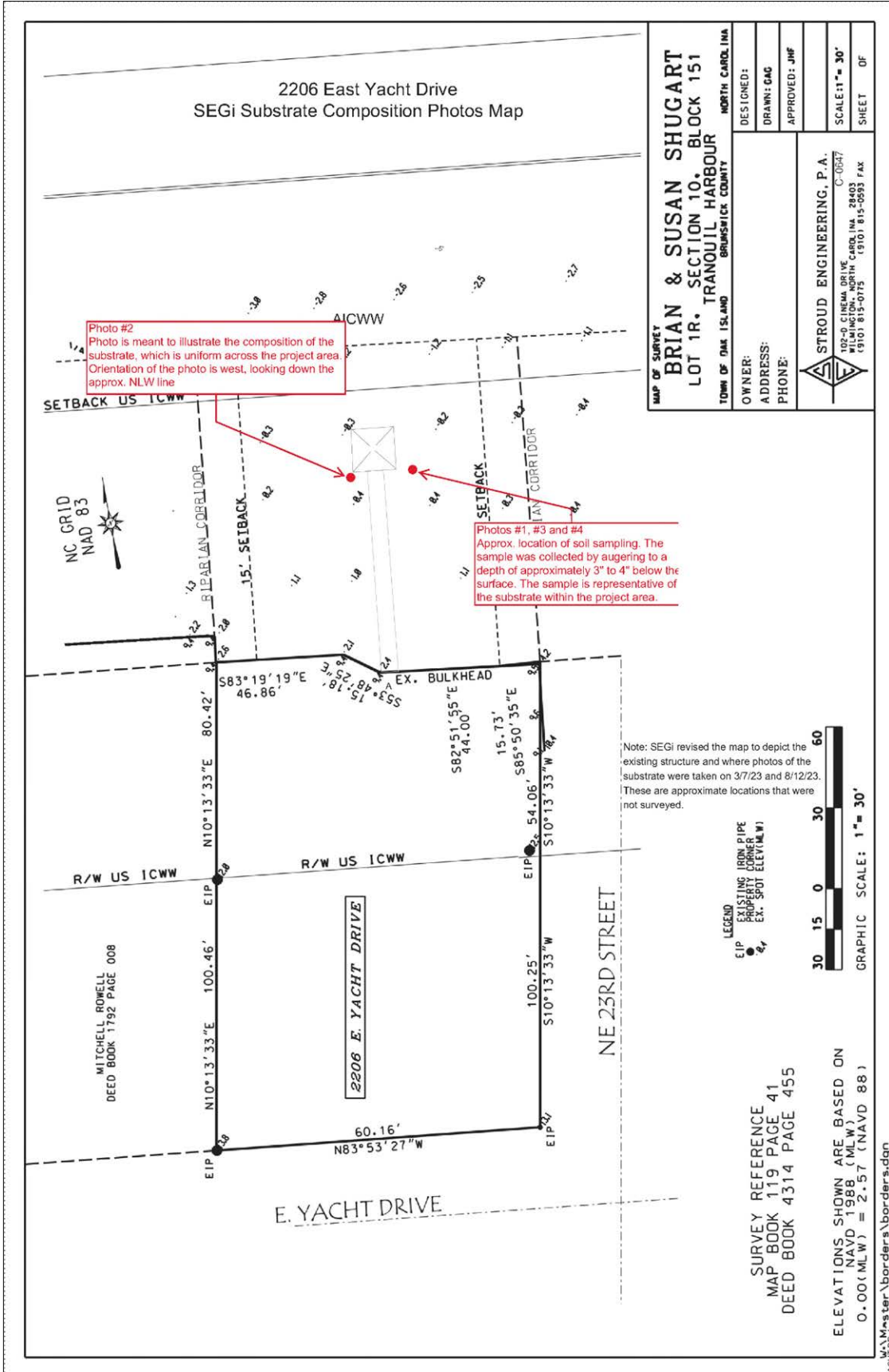


Photo #3 (3/7/23) – Core sample illustrating substrate within the area of the proposed floating platform.



Photo #4 (3/7/23) – Sand taken from the first 3" of the substrate.





ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
BRAXTON DAVIS
Director



December 20, 2022

MEMORANDUM:

FROM: Cameron Luck, Assistant Major Permits Coordinator
NCDEQ - Division of Coastal Management
400 Commerce Avenue, Morehead City, NC 28557
Fax: 252-247-3330 (*Courier 11-12-09*)
cameron.luck@NCDENR.gov

SUBJECT: CAMA

Applicant: Brian and Susan Shugart

Project Location: 2206 E. Yacht Drive, adj. to the AIWW, Oak Island, Brunswick County

Proposed Project: The applicant proposes to expand an existing private pier, with the addition of four fixed finger piers, a piling-less dual hinge I-beam gangway and floating dock, including the construction of two boat lifts, increasing the slip count from zero to a total of three (3) slips.

Please indicate below your agency's position or viewpoint on the proposed project and **return this form to Cameron Luck** at the address above by **January 13, 2022**. If you have any questions regarding the proposed project, contact Patrick Amico at (910) 796-7425 when appropriate, in-depth comments with supporting data is requested.

- REPLY:**
- This agency has no objection to the project as proposed.
Additional comments may be attached
 - This agency has no comment on the proposed project.
 - This agency approves of the project only if the recommended changes are incorporated. See attached.
 - This agency objects to the project for reasons described in the attached comments.

PRINT NAME Kimberlee Harding _____

AGENCY NCDMF _____

SIGNATURE *Kimberlee Harding* _____

DATE 7/24/2023



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



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

MEMORANDUM:

TO: Cameron Luck, DCM Assistant Major Permit Coordinator

FROM: Kimberlee Harding, NCDMF Fisheries Resource Specialist

SUBJECT: Brian and Susan Shugart, Brunswick County

DATE: July 24, 2023

A North Carolina Division of Marine Fisheries (DMF) Fisheries Resource Specialist has reviewed the CAMA Permit application for proposed actions that impact fish and fish habitats, as authorized in N.C.G.S. 113-131b. The applicant is proposing to expand an existing pier and fixed platform to include two boat lifts and floating dock. The proposed project is located at 2206 East Yacht Drive adjacent to the AIWW, near Oak Island, Brunswick County. The Brunswick County Land Use Plan classifies the adjacent waters as Conservation. The waters of the AIWW are classified SA by the Division of Water Resources. This area is designated as a Primary Nursery Area (PNA) by the N.C. Division of Marine Fisheries and is closed to the harvest of shellfish. Numerous live oysters and snails are present in the substrate and coastal wetlands along the shoreline.

The existing fixed platform was authorized via CAMA General Permit (GP) 77634D, issued in February 2021. The original application proposal included one boat lift and floating dock, however, DMF declined to sign a General Permit waiver for the application as proposed based on concerns for formalized vessel slips in inadequate water depths of less than -1' NLW. The applicant resubmitted a modified GP application in May 2022 proposing an expansion of the existing fixed platform with two boatlifts and floating dock. The DMF declined to sign a GP waiver with the same concerns of formalized vessel slips and floating structure in inadequate water depths less than -1' NLW.

The applicant submitted the current major permit application which includes an expansion of the existing 80' x 6' pier and 18.5' x 19' fixed covered platform. The expansion includes four fixed finger piers, an 8' x 22' piling-less floating dock with dual hinge I-beam gangway and two 14.5' x 16' boat lifts, creating a total of three boat slips. The docking facility is proposed in a PNA with a muddy substrate. The proposed floating dock is sited in water depths of -1.2' NLW on the waterward side and -0.5 to 0.75' NLW on the landward side. The two boatlifts are sited in water depths of -0.2' to -0.3' NLW.

PNAs are estuarine waters where initial post-larval development occurs. Species within this area are early post-larval to juvenile and include finfish, crabs, and shrimp. Species

inhabit PNAs because they afford food, protection, and proper environmental conditions during vulnerable periods of their life history, thus protection of these areas are imperative.

Shallow soft bottom is an important foraging habitat for juvenile and adult fish and invertebrates, and aids in storing and cycling of sediment, nutrients, and toxins between the bottom and water column. Soft bottom habitat is used to some extent by most native coastal fish species in North Carolina. The habitat is particularly productive and, by providing refuge from predators, is an important nursery area. Species dependent on shallow soft bottom include clams, crabs, flounder, spot, Atlantic croaker, sea mullet, and rays (Deaton et al. 2010). Many benthic predators are highly associated with the shallow soft bottom habitat, including flounders, weakfish, red drum, sturgeon and coastal sharks, although almost all fish will forage on microalgae, infauna, or epifauna on the soft bottom.

The proposed project has the potential to adversely impact fishery resources and habitat. Permitted slips in shallow water can allow vessels to repeatedly contact the bottom. Propellers continuously disturbing the sediment can kill benthic invertebrates and reduce shallow bottom habitat during low tide. The Division of Coastal Management (DCM) requires that GPs for docks located in PNAs have a minimum of -2' MLW, and that floating docks have a minimum of 18" between the bottom of the structure and the substrate to prevent bottom disturbing impacts. Locating formalized slips and boatlifts in less than -1' MLW would result in continuous impacts to the underlying habitat. Floating docks repeatedly resting on the bottom can create anoxia in the sediment which can kill benthic invertebrates and reduce the availability of shallow bottom habitat during low tide. The substrate at this location is muddy, which is generally considered more productive for benthic organisms and more susceptible to resuspension of sediment from bottom disturbance. Though the applicant proposed the addition of limit switches on the boat lifts to prevent the vessel from egress and ingress in water depths less than 18" NWL as a minimization. The Division does not accept limit switches as minimization for boat lifts in shallow water habitats, because limit switches are not permanent components and compliance site visits would be difficult. Therefore, the Division does not recommend any formalized boat slips at this project site.

The large floating dock as proposed is a heavy structure, with the added weight of the two steel I-beams and gangway. The floating dock would need to be sited in water depths close to -2' NLW to prevent the structure from sitting on the bottom substrate at low tide. As proposed, the floating dock is sited in waters -0.5 to -1.2'NLW. The applicant is unable to extend the pier or any fixed structures waterward, due to the US Army Corps of Engineers setback line. At these water depths, bottom impacts from the floating dock and vessel use is expected.

Based on the above discussion, the DMF recommends denial of the permit application for this project as proposed because it is likely to have significant adverse impacts on marine and estuarine fisheries resources, and navigation at the project site based on the information included in the application.

However, if this project is approved, DMF recommends that the proposed floating dock be required to have feet as physical stops. The division would monitor the site to observe how the novel floating dock design performs under the site-specific conditions. The Division would identify and measure any changes under and surrounding the floating structure. If the floating dock caused scouring or began to sink into the substrate, the applicant should be required to remove the floating dock.

Thank you for your consideration of our comments. Please contact Kimberlee Harding at 910-796-8426 or at kimberlee.harding@ncdenr.gov with any further questions or concerns.

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
BRAXTON DAVIS
Director



NORTH CAROLINA
Environmental Quality

August 18, 2023

CERTIFIED MAIL 7016 1370 0003 3231 9928
RETURN RECEIPT REQUESTED

DEN23-02

Electronic Delivery to: brianandshugart@yahoo.com

Brian and Susan Shugart
1880 Woodstock Road
Clemmons, NC 27012

RE: DENIAL OF CAMA MAJOR DEVELOPMENT PERMIT
DEN 23-02
2206 East Yacht Drive
Oak Island, NC 28465

Dear Mr. and Mrs. Shugart,

After reviewing your application, which was determined to be complete on November 28, 2022, the division elected to place the application on hold February 21, 2023, following a hold notification from the N.C. Division of Water Resources and an objection from the N.C. Division of Marine Fisheries (NCDMF). The division has determined that no permit may be granted for the proposed development.

You have applied to expand an existing private pier by adding (2) 7'x 4' finger piers, (2) 14'x 4' finger piers, a gangway to a proposed 8'x 22' floating dock, and the construction of two 14.5'x 16' boatlifts for a total of three formalized boat slips. Based on the state's review, the Division of Coastal Management has made the following findings:

- 1) The proposed project would involve development within the Estuarine Waters and Public Trust Areas of Environmental Concern as designated by the N.C. Coastal Resources Commission.
- 2) The AIWW in this area is designated as a Primary Nursery Area (PNA) by the N.C. Marine Fisheries Commission and the waters are classified as SA and are closed to shellfishing.



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

- 3) A General Permit was issued to you in 2021 for a fixed pier and fixed covered platform T-head. The General Permit originally proposed a floating dock and one formalized boat lift. The boatlift and floating dock were removed from the proposal and were not authorized following objections from NCDMF due to shallow water depths.
- 4) A General Permit was applied for in 2022 for a floating dock and two boat lifts but not processed due to NCDMF concerns regarding impacts to the PNA. At that time, you were advised that any additional proposals involving formalized slips would require a Major Permit review due to NCDMF's stated concerns.
- 5) The piling-less dual hinge I-beam gangway and floating dock would be located in -0.5' to -1.2' Normal Low Water (NLW) and the two boatlifts would be located in -0.2' to -0.5' NLW. You have included a design that incorporates permanent "feet" to elevate the floating dock off the bottom during low tide events and to be consistent with U.S. Army Corp of Engineers rule concerning structure within the AIWW setback.
- 6) The NCDMF objected to the proposal due to its determination that the proposal would cause significant adverse impacts to fisheries resources from the floating dock and boatlifts.
- 7) The N.C. Division of Water Resources has placed the project on hold pending the outcome of the Division of Coastal Management's final determination.
- 8) Based upon the above referenced findings, the division has determined that the proposed project is inconsistent with the following rules of the N.C. Coastal Resources Commission, in accordance with the N.C. Coastal Area Management Act:
 - a) 15A NCAC 07H.0208(a)(2)(A), which states, in part, *"that the location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC", and "shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas"*.

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



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

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 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 Braxton Davis, 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>.



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NORTH CAROLINA
Environmental Quality

August 18, 2023

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RETURN RECEIPT REQUESTED

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 Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557
 252.808.2808

Members of my staff are available should you desire assistance in the future. If you have any questions concerning this matter, please contact Mr. Cameron Luck at (252) 515-5419 or Cameron.Luck@deq.nc.gov.

Sincerely,



Braxton C. Davis
Director, NC Division of Coastal Management

cc: Greg Curry, Project Manager, U.S. Army Corps of Engineers, Wilmington, NC
Richard Rogers, Director, NC Division of Water Resources, Raleigh, NC
Stephanie Goss, 401 & Buffer Permitting Branch Supervisor, NC Division of Water Resources, Raleigh, NC
Holley Snider, Environmental Specialist, NC Division of Water Resources, NC
Kim Harding, NC Division of Marine Fisheries








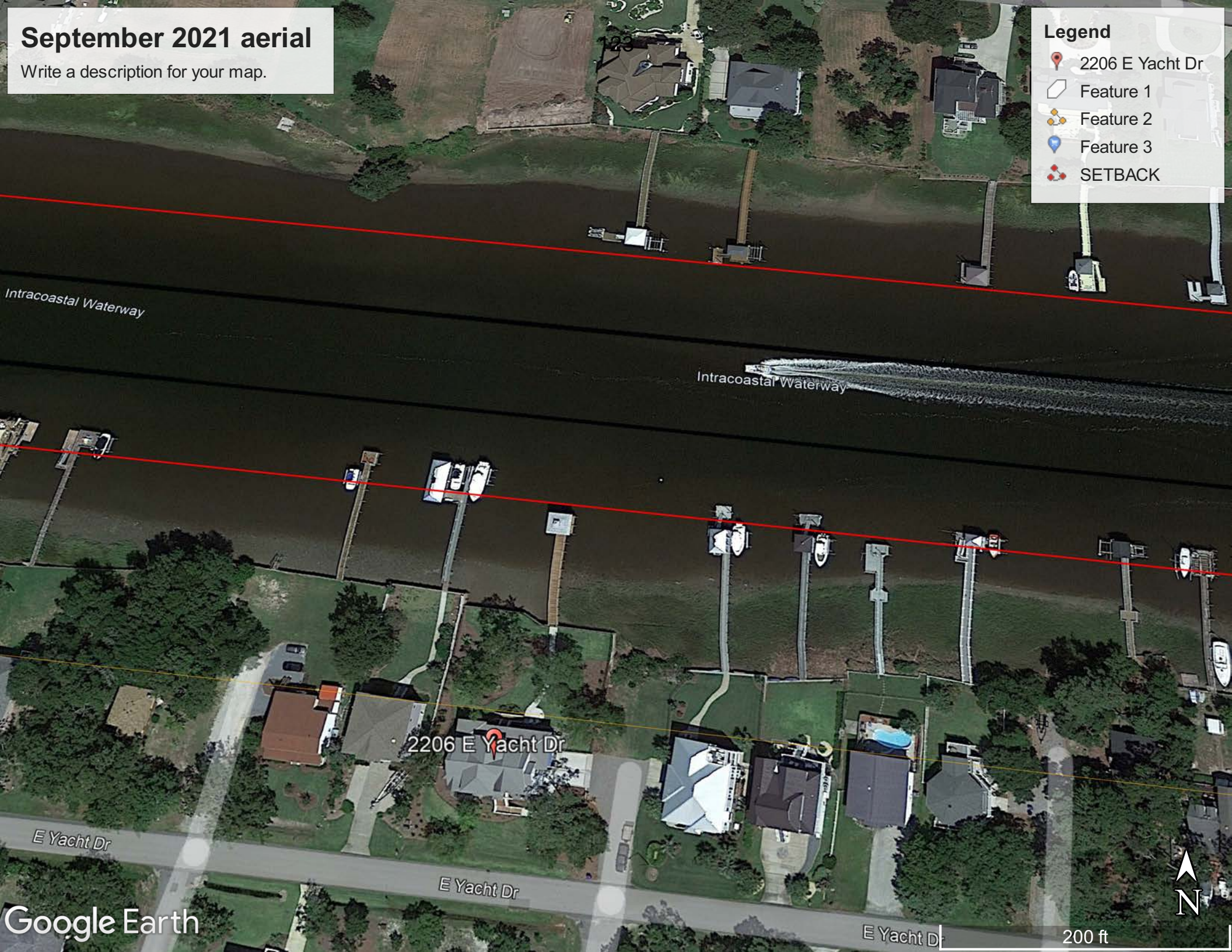
North Carolina Department of Environmental Quality | Division of Coastal Management
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557
252.808.2808

September 2021 aerial

Write a description for your map.

Legend






-  2206 E Yacht Dr
-  Feature 1
-  Feature 2
-  Feature 3
-  SETBACK



April 2023 aerial

Write a description for your map.

Legend

-  2206 E Yacht Dr
-  Feature 1
-  Feature 2
-  Feature 3
-  SETBACK

124

Intracoastal Waterway

Intracoastal Waterway

2206 E Yacht Dr

E Yacht Dr

E Yacht Dr

E Yacht Dr

Google Earth

Image © 2023 Airbus






200 ft



March 2023 aerial

Write a description for your map.

Legend






-  2206 E Yacht Dr
-  Feature 1
-  Feature 2
-  Feature 3
-  SETBACK

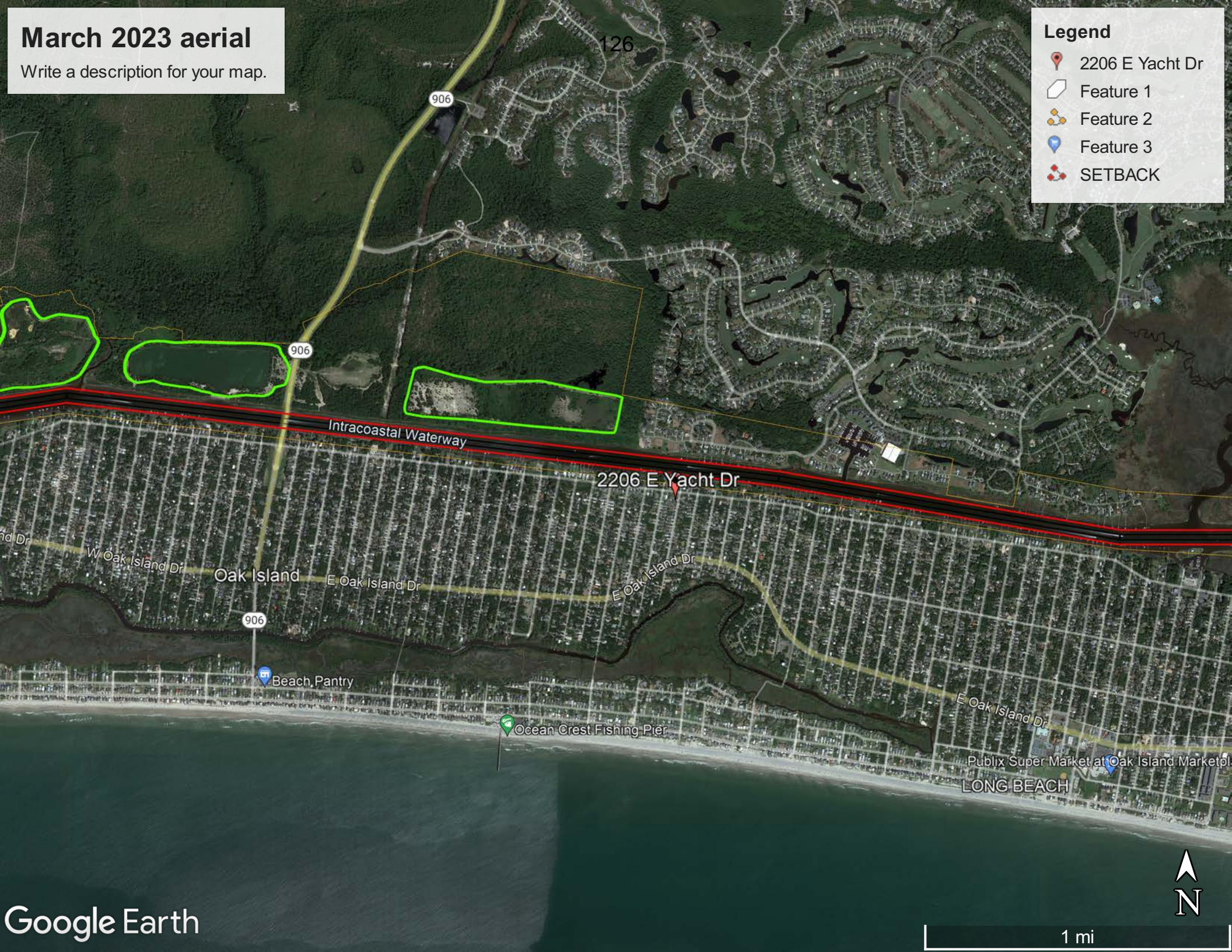


March 2023 aerial

Write a description for your map.

Legend

-  2206 E Yacht Dr
-  Feature 1
-  Feature 2
-  Feature 3
-  SETBACK



CAMA / DREDGE & FILL
GENERAL PERMIT
 New Modification Complete Reissue Partial Reissue

No 33388-D

As authorized by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC 7H.1100 & 7H.1200

Applicant Name: Milton Darr
 Address: 5622 OAK Island Drive
 City: OAK Island State: NC ZIP: 28465
 Phone # (910) 278-0999 Fax # ()

Project Location: County BRUNSWICK
 Street Address/ State Road/ Lot #(s): 2302 EAST YACHT DRIVE
 Subdivision: _____
 City: OAK ISLAND ZIP: 28465
 Phone # () _____ River Basin: LUMBER
 Adj. Wtr. Body: AIWW (nat /man /unkn)
 Closest Maj. Wtr. Body: AIWW

Authorized Agent: Greg Prevatte
 Affected CW EW PTA ES PTS
 OEA HHF IH UBA N/A
 AEC(s): PWS: _____ FC: _____
 ORW: yes / no PNA yes / no Crit. Hab. yes / no

Type of Project/ Activity: New Bulkhead @ edge of bank; New pier and dock
 (Scale: Not To)

Pier (dock) length: Approx 120'
 Platform(s): 12' x 14' Fixed
 Finger pier(s): _____
 Groin length number: _____
 Bulkhead/Riprap length: 60'
 avg distance offshore: 0'
 max distance offshore: 0'
 Basin, channel: _____
 cubic yards: _____
 Boat ramp: _____
 Boathouse/ Boatlift: _____
 Beach Bulldozing: _____
 Other: _____

Shoreline Length: 60'
 SAV: not sure yes no
 Sandbags: not sure yes no
 Moratorium: n/a yes no
 Photos: yes no
 Waiver Attached: 1 yes no

A building permit may be required by: OAK ISLAND See note on back regarding River Basin rules.

Notes/ Special Conditions: Bulkhead will be in line with adjacent wall; Dock will not be farther out than 80' AIWW setback; Structures must comply with all conditions of 7H.1100 & 1200.

Agent or Applicant Printed Name: Greg Prevatte
 Permit Officer's Signature: Janet M. Russell
 Signature: [Signature] Issuing Date: APR. 17, 2003 Expiration Date: JULY 17, 2003
 Application Fee(s): \$ 200.00 Check #: 2038 Local Planning Jurisdiction: OAK ISLAND Rover File Name: _____

Statement of Compliance and Consistency

This permit is subject to compliance with this application, site drawing and attached general and specific conditions. Any violation of these terms may subject the permittee to a fine or criminal or civil action; and may cause the permit to become null and void.

This permit must be on the project site and accessible to the permit officer when the project is inspected for compliance. The applicant certifies by signing this permit that 1) prior to undertaking any activities authorized by this permit, the applicant will confer with appropriate local authorities to confirm that this project is consistent with the local land use plan and all local ordinances, and 2) a written statement or certified mail return receipt has been obtained from the adjacent riparian landowner(s).

The State of North Carolina and the Division of Coastal Management, in issuing this permit under the best available information and belief, certify that this project is consistent with the North Carolina Coastal Management Program.

River Basin Rules Applicable To Your Project:

- Tar - Pamlico River Basin Buffer Rules Other: _____
 Neuse River Basin Buffer Rules

If indicated on front of permit, your project is subject to the Environmental Management Commission's Buffer Rules for the River Basin checked above due to its location within that River Basin. These buffer rules are enforced by the NC Division of Water Quality. Contact the Division of Water Quality at the Washington Regional Office (252-946-6481) or the Wilmington Regional Office (910-395-3900) for more information on how to comply with these buffer rules.

Division of Coastal Management Offices**Central Office**

Mailing Address:
1638 Mail Service Center
Raleigh, NC 27699-1638

Location:
Parker-Lincoln Building
2728 Capital Blvd.
Raleigh, NC 27604
919-733-2293 / 1-888-4RCOAST
Fax: 919-733-1495

Elizabeth City District

1367 U.S. 17 South
Elizabeth City, NC 27909
252-264-3901
Fax: 252-264-3723
(Serves: Camden, Chowan, Currituck,
Dare, Gates, Pasquotank and Perquimans
Counties)

Morehead City District

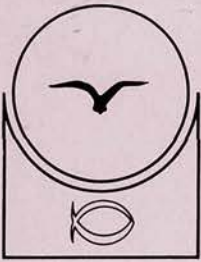
151-B Hwy. 24
Hestron Plaza II
Morehead City, NC 28557
202-808-2808
Fax: 252-247-3330
(Serves: Carteret, Craven, Onslow -above
New River Inlet- and Pamlico Counties)

Washington District

943 Washington Square Mall
Washington, NC 27889
252-946-6481
Fax: 252-948-0478
(Serves: Beaufort, Bertie, Hertford, Hyde,
Tyrrell and Washington Counties)

Wilmington District

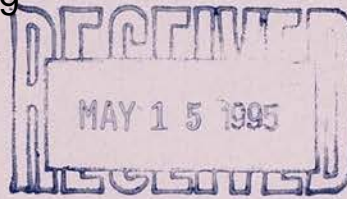
127 Cardinal Drive Ext.
Wilmington, NC 28405-3845
910-395-3900
Fax: 910-350-2004
(Serves: Brunswick, New Hanover,
Onslow -below New River Inlet- and
Pender Counties)



129

CAMA AND DREDGE AND FILL
GENERAL

PERMIT



NO 14239-D

as authorized by the State of North Carolina
Department of Environment, Health, and Natural Resources and the Coastal Resources Commission
in an area of environmental concern pursuant to 15A NCAC 7H.1200

Applicant Name JAN & KOSTA STROUZAS c/ COLOMAN DOCKWORKS Phone Number 910 278-3900
 Address 2204 EAST YACHT DR
 City Long Beach State NC Zip 28465
 Project Location (County, State Road, Water Body, etc.) SAME AS ABOVE, ADJACENT AIWW BRUNSWICK CO.
 Type of Project Activity Private pier

PROJECT DESCRIPTION

Pier (dock) length 86' x 4'

Groin length _____

number _____

Bulkhead length _____

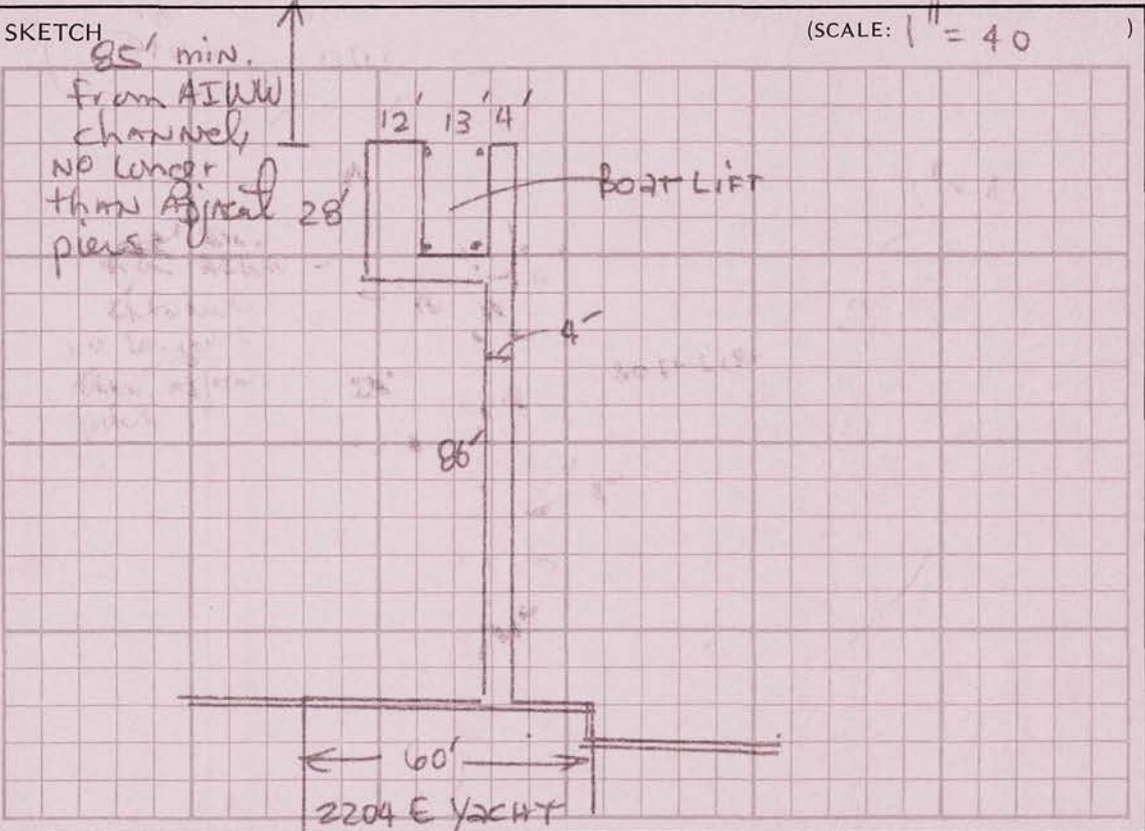
max. distance offshore _____

Basin, channel dimensions _____

cubic yards _____

Boat ramp dimensions _____

Other L-Head 28' x 12'
Boat Lift 28' x 17'



This permit is subject to compliance with this application, site drawing and attached general and specific conditions. Any violation of these terms may subject the permittee to a fine, imprisonment or civil action; and may cause the permit to become null and void.

This permit must be on the project site and accessible to the permit officer when the project is inspected for compliance. The applicant certifies by signing this permit that 1) this project is consistent with the local land use plan and all local ordinances, and 2) a written statement has been obtained from adjacent riparian landowners certifying that they have no objections to the proposed work.

In issuing this permit the State of North Carolina certifies that this project is consistent with the North Carolina Coastal Management Program.

[Signature] applicant's signature
[Signature] permit officer's signature
5/3/95 issuing date 8/3/95 expiration date

attachments 7H 1200
 application fee 50⁰⁰ CK # 4054

PB No

CAMA / DREDGE & FILL

130

GENERAL PERMIT

Previous permit # _____
Date previous permit issued _____

New Modification Complete Reissue Partial Reissue

authorized by the State of North Carolina, Department of Environment and Natural Resources
Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC 7H 1200

Rules attached.

Name Henry May
2502 E. Yacht Drive
Oak Island State NC ZIP 28465
() () Fax # ()

Project Location: County Brunswick
Street Address/ State Road/ Lot #(s) 2502
East Yacht Drive

Authorized Agent American Fish Company

Subdivision _____
City Oak Island ZIP 28465

- CW EW PTA ES PTS
- OEA HHF IH UBA N/A
- PWS: _____ FC: _____

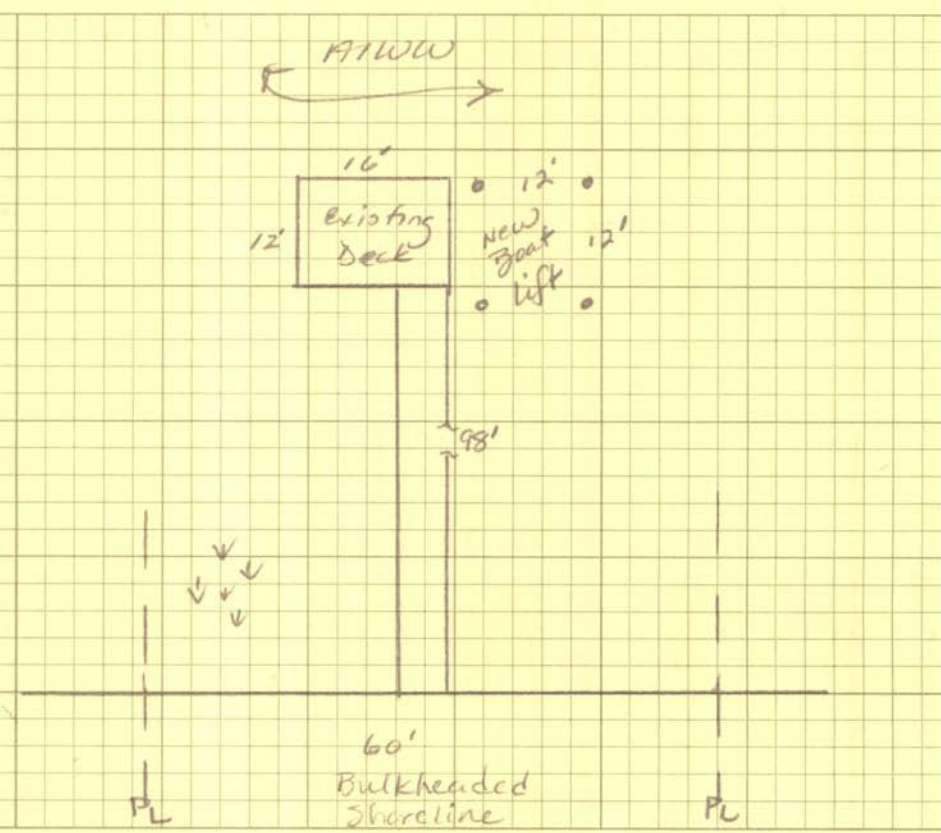
Phone # () _____ River Basin Lumber
Adj. Wtr. Body AIWW (nat. / f)
Closest Maj. Wtr. Body AIWW

yes / no PNA yes / no Crit. Hab. yes / no

Project/ Activity Install Boat Lift

(Scale: 1" = 2')

- Block length 98' existing
- Block(s) 12x16 existing
- Blocker(s) _____
- Block length _____
- Block number _____
- Block Riprap length _____
- Block distance offshore _____
- Block x distance offshore _____
- Block channel _____
- Block mic yards _____
- Block top _____
- Block use/ Boatlift 12x12
- Block bulldozing _____



- Block Length 60'
- Block not sure yes no
- Block: not sure yes no
- Block sum: n/a yes no
- Block attached: yes no

Engineering permit may be required by: Oak Island

See note on back regarding River Basin rules

GENERAL PERMIT COMPUTER FORM

131

APPLICANT NAME: Henry May

ADDITIONAL NAMES: _____

AEC DESIG: EW PT
(Will only take 6)

DEVELOP AREA: .01 PROJ DESC: P-1
(Will only take 1)

WORK: B2 12,12
(Will only take 4)

MAINT: _____
(Will only take 4)

IMP: OW 144
(will only take 6)

ACTION

EXPIRATION

DREDGE & FILL REQUIRED:

6.21.04

9.21.04

CAMA MAJOR DEVEL REQUIRED:

6.21.04

9.21.04

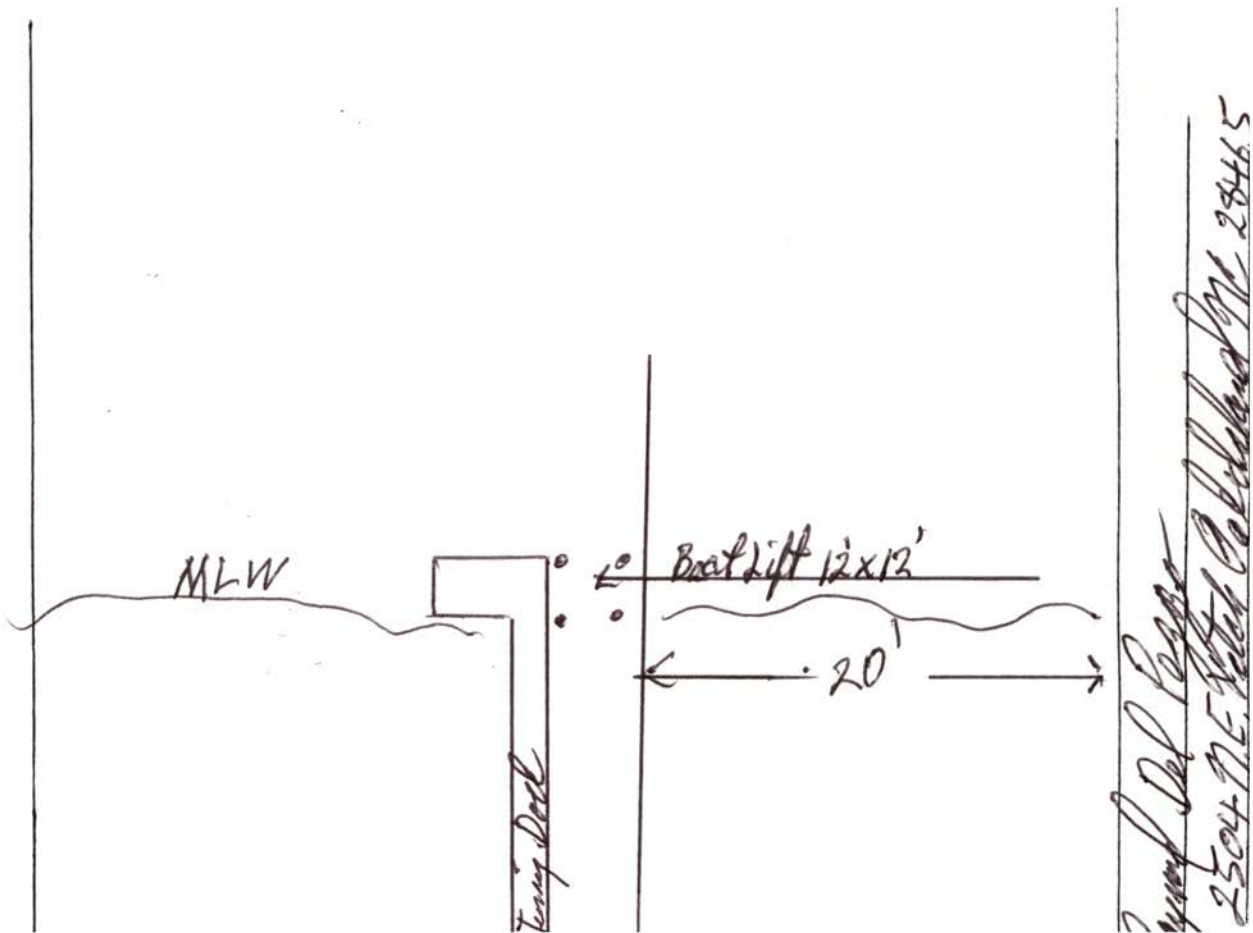
American Fish Company

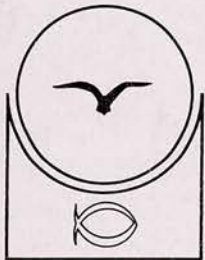


P.O. Box 11046
Southport, North Carolina 28461

910-457-1

I, C, W,





CAMA AND DREDGE AND FILL
GENERAL
PERMIT

RECEIVED
JUL 07 1993

No. 11180-D

as authorized by the State of North Carolina
Department of Environment, Health, and Natural Resources and the Coastal Resources Commission
in an area of environmental concern pursuant to 15 NCAC 7H.1200

Applicant Name Henry May Phone Number _____

Address 522 Moravian Lane

City Charlotte State NC Zip 28207

Project Location (County, State Road, Water Body, etc.) Brunswick County, 2502 East Yacht Drive, Long Beach, AIWW

Type of Project Activity 95' pier on 50' lot off of existing bulkhead. This pier will be similar in length and construction to neighboring piers.

Agent: Chris Construction, P.O. Box 208, Long Beach, NC 28465

PROJECT DESCRIPTION	SKETCH (SCALE: NOT TO SCALE)
Pier (dock) length <u>95'</u>	
Groin length _____	
number _____	
Bulkhead length _____	
max. distance offshore _____	
Basin, channel dimensions _____	
cubic yards _____	
Boat ramp dimensions _____	
Other _____	

This permit is subject to compliance with this application, site drawing and attached general and specific conditions. Any violation of these terms may subject the permittee to a fine, imprisonment or civil action; and may cause the permit to become null and void.

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In issuing this permit the State of North Carolina certifies that this project is consistent with the North Carolina Coastal Management Program.

Allen Edwards
applicant's signature

Janet M. Russell
permit officer's signature

June 24, 1993 Sept. 24, 1993
issuing date expiration date

attachments 7H.1200

application fee \$50.00 Check # 2231
UCB/ Southport



Southern Environmental Group, Inc.

5315 South College Road, Suite E
Wilmington, NC 28412

September 26, 2023

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Mitchell Rowell and Mrs. Beverly Rowell
P.O. Box 237
Indian Trail, North Carolina, 28079-0237

Re: Coastal Area Management Act (“CAMA”) Variance Petition Request
Brian and Susan Shugart
Brunswick County, North Carolina

Dear Mr. and Mrs. Rowell:

This is to notify you that my clients, Brian and Susan Shugart, are applying for a variance from the N.C. Coastal Resources Commission (“CRC”) to construct the following proposed development on their property at 2206 East Yacht Drive, Oak Island, North Carolina 28465.

The proposed development is the expansion of an existing access pier and fixed platform on the property, consisting of the installation of four (4) fixed finger piers for access to two (2) proposed boatlifts, each 14.5 ft. by 16 ft., flanking the existing fixed platform, and the installation of a 22 ft. by 8 ft., piling-less, floating platform accessed by a piling-less, dual hinge I-beam gangway from the existing fixed platform and supported by twelve (12), 8 in. by 8 in. wooden stops. Copies of the site plan and the CAMA permit application for the proposed development were previously transmitted to you by correspondence from me dated July 27, 2022. The variance is projected to be heard at the November 8-9, 2023 meeting of the CRC.

If you wish to receive further information regarding the variance, you may contact me at (910) 228-1841 or by e-mail, at dlutheran@segi.us. If you wish to make comments on the variance, you may direct your comments to the North Carolina Division of Coastal Management, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.

Sincerely yours,

Dana A. Lutheran
SEGi Regulatory Specialist



Southern Environmental Group, Inc.

5315 South College Road, Suite E
Wilmington, NC 28412

September 26, 2023

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Town of Oak Island
Attn: Mr. Steve Edwards
4601 East Oak Island
Oak Island, North Carolina 28465

Re: Coastal Area Management Act ("CAMA") Variance Petition Request
Brian and Susan Shugart
Brunswick County, North Carolina

Dear Mr. Edwards:

This is to notify you that my clients, Brian and Susan Shugart, are applying for a variance from the N.C. Coastal Resources Commission ("CRC") to construct the following proposed development on their property at 2206 East Yacht Drive, Oak Island, North Carolina 28465.

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Sincerely yours,

Dana A. Lutheran
SEGi Regulatory Specialist

7020 0640 0000 2726 6620

U.S. Postal Service™ *2206 Var*
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

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

Oak Island, NC 28465

OFFICIAL USE

Certified Mail Fee	\$4.35	0684 03
Extra Services & Fees (check box, add fee as appropriate)	\$3.55	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.66	09/26/2023
Total Postage and Fees	\$8.56	

Sent To: *Town of Oak Island - S. Edwards*
 Street and Apt. No., or PO Box No. *4601 East Oak Isl. Dr.*
 City, State, ZIP+4® *Oak Island, NC 28465*

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

7020 0640 0000 2726 6613

U.S. Postal Service™ *2206 Var*
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

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

Indian Trail, NC 28079

OFFICIAL USE

Certified Mail Fee	\$4.35	0684 03
Extra Services & Fees (check box, add fee as appropriate)	\$3.55	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.66	09/26/2023
Total Postage and Fees	\$8.56	

Sent To: *Rowell Mitchell & Beverly*
 Street and Apt. No., or PO Box No. *PO Box 237*
 City, State, ZIP+4® *Indian Trail, NC 28079*

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

Tracking Number:

Remove X

70200640000027266620

Copy

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

Latest Update

Your item was delivered to an individual at the address at 10:45 am on September 28, 2023 in OAK ISLAND, NC 28465.

Get More Out of USPS Tracking:

USPS Tracking Plus[®]

Feedback

Delivered

Delivered, Left with Individual

OAK ISLAND, NC 28465

September 28, 2023, 10:45 am

Out for Delivery

OAK ISLAND, NC 28465

September 28, 2023, 9:59 am

Arrived at Post Office

SOUTHPORT, NC 28461

September 28, 2023, 9:48 am

Departed USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX

September 28, 2023, 3:42 am

Arrived at USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX

September 27, 2023, 9:26 am

Arrived at USPS Regional Origin Facility

RALEIGH NC DISTRIBUTION CENTER
September 26, 2023, 10:52 pm

Departed Post Office

EMERALD ISLE, NC 28594
September 26, 2023, 1:19 pm

USPS in possession of item

EMERALD ISLE, NC 28594
September 26, 2023, 12:18 pm

Hide Tracking History

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

Text & Email Updates



USPS Tracking Plus®



Product Information



See Less

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

Tracking Number:

Remove X

70200640000027266613

Copy

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

Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.

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

Feedback

Moving Through Network**In Transit to Next Facility, Arriving Late**

October 27, 2023

Unclaimed/Being Returned to Sender

INDIAN TRAIL, NC 28079

October 17, 2023, 10:33 am

Available for Pickup

INDIAN TRAIL

210 POSTAGE WAY

INDIAN TRAIL NC 28079-9701

M-F 0830-1700; SAT 1100-1600

October 17, 2023, 10:33 am

Arrived at Post Office

INDIAN TRAIL, NC 28079

October 17, 2023, 10:32 am

Unclaimed/Being Returned to Sender

INDIAN TRAIL, NC 28079

Reminder to pick up your item before October 12, 2023

INDIAN TRAIL, NC 28079
October 3, 2023

Available for Pickup

INDIAN TRAIL
210 POSTAGE WAY
INDIAN TRAIL NC 28079-9701
M-F 0830-1700; SAT 1100-1600
September 28, 2023, 9:17 am

Arrived at Post Office

INDIAN TRAIL, NC 28079
September 28, 2023, 9:04 am

Arrived at USPS Regional Facility

CHARLOTTE NC DISTRIBUTION CENTER
September 27, 2023, 8:13 am

Arrived at USPS Regional Origin Facility

RALEIGH NC DISTRIBUTION CENTER
September 26, 2023, 10:52 pm

Departed Post Office

EMERALD ISLE, NC 28594
September 26, 2023, 1:19 pm

USPS in possession of item

EMERALD ISLE, NC 28594
September 26, 2023, 12:17 pm

Hide Tracking History

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

Text & Email Updates



USPS Tracking Plus®



Product Information



141
See Less ^

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number

1Z511Y310328808416

Weight

0.10 LBS

Service

UPS Ground

Shipped / Billed On

10/26/2023

Delivered On

10/27/2023 5:31 P.M.

Delivered To

MONROE, NC, US

Left At

Other

Please print for your records as photo and details are only available for a limited time.

Sincerely,

UPS

Tracking results provided by UPS: 10/30/2023 8:25 A.M. EST

Delivery Photo



Hmm, something happened.

We can't display your photo at this time.

Try again later.



**NC COASTAL RESOURCES
COMMISSION MEETING**

November 9, 2023

**Brian and Susan Shugart
(CRC-VR-23-05)**

**2206 East Yacht Drive
Oak Island, Docking Facility**



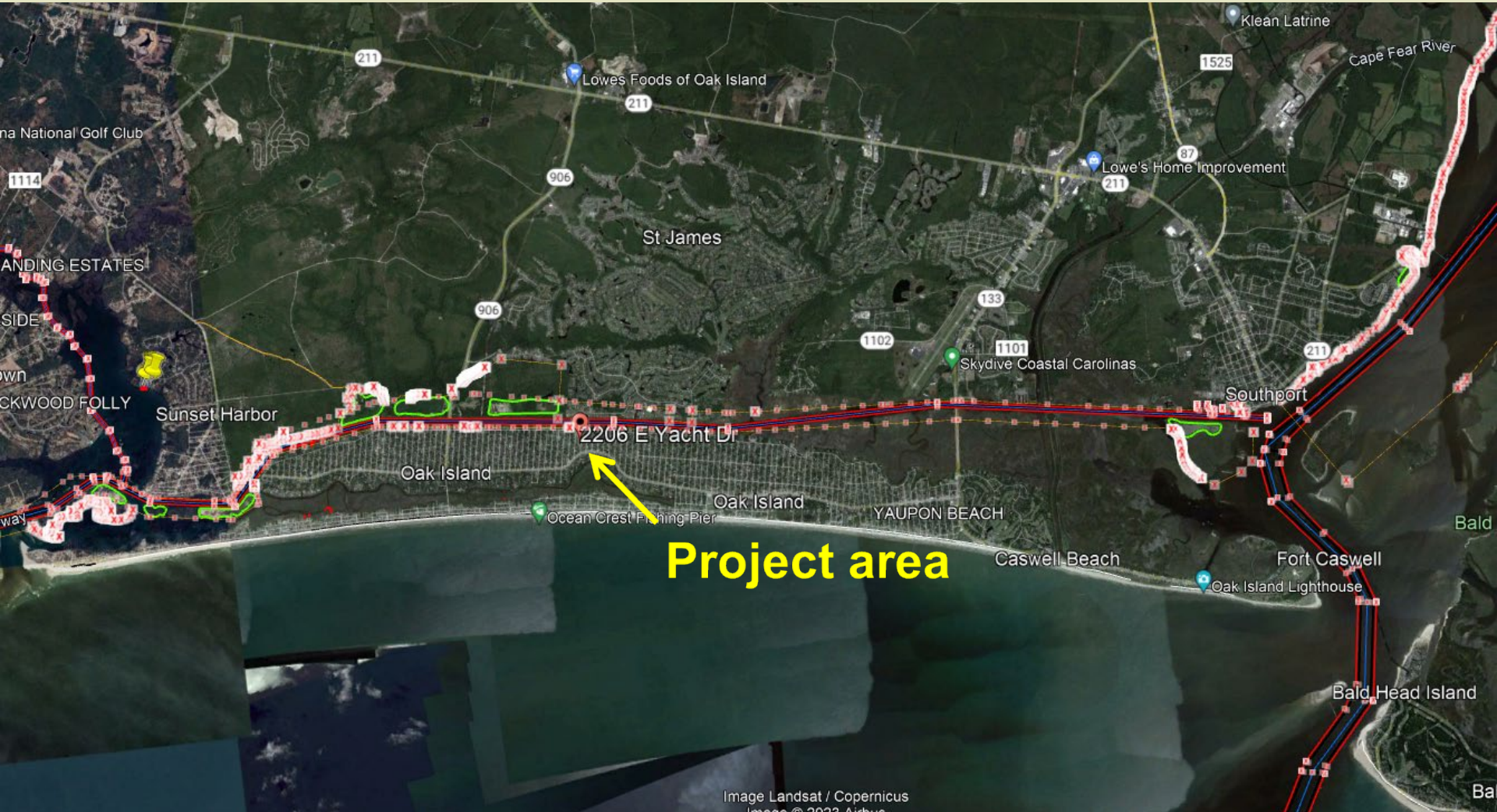


Image Source: Google Earth Imagery Date 4/17/23



Image Source: Google Earth Imagery Date 4/17/23



Pre-Development Site Photo



Image Source: Google Earth

Image Date 6/14/2019



Post-Development Site Photo





Project Site Imagery



Image taken from existing pier, looking
South Source: Town of Oak Island
10/27/23



Image taken from existing pier, looking
South Source: Town of Oak Island
10/27/23



Additional Project Site Imagery



Image taken from subject property,
showing existing pier, looking North
Source: Town of Oak Island 10/27/23



Image taken from existing pier, looking North
Source: Town of Oak Island 10/27/23



Additional Project Site Imagery



Image taken from existing pier, looking west
Source: Town of Oak Island 10/27/23



Image taken from existing pier, looking east
Source: Town of Oak Island 10/27/23



Images Depicting Coastal Wetlands on Property



Coastal Wetlands on East Side of Property, image taken facing South



Coastal Wetlands fringe on West Side of pier, image taken facing South



Images Depicting Neighboring Docking Facilities



Adjacent Neighboring Facility to West of
Property, 2204 East Yacht Drive



Adjacent Neighboring Facility to East of
Property, 2302 East Yacht Drive



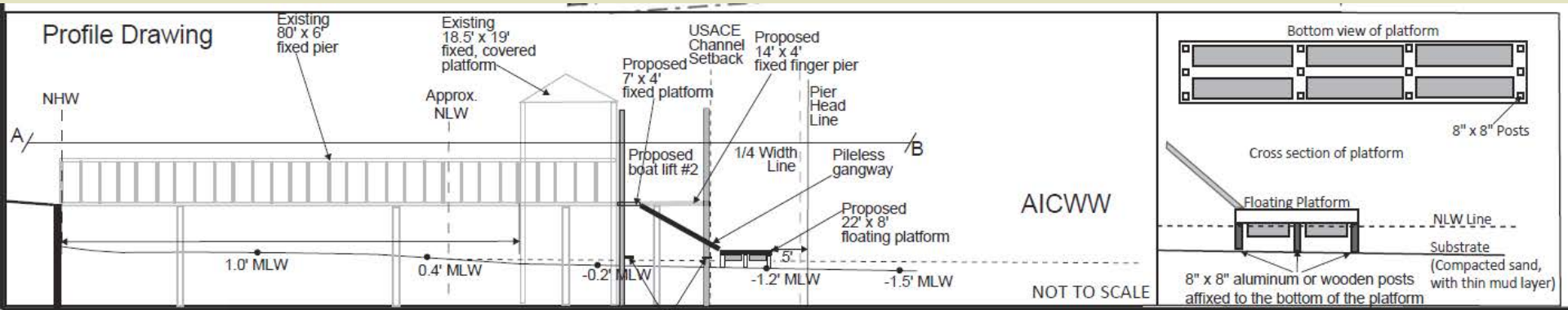
Image Depicting Substrate in Project Area



Image Source SEGI- Dana Lutheran



Cross Section Drawing from Major Permit Application dated 2/23/23





VARIANCE CRITERIA G.S. 113A-120.1

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

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

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