

**NC COASTAL RESOURCES ADVISORY COUNCIL**  
**November 19-20, 2008**  
**Crystal Coast Civic Center**  
**Morehead City, NC**

*\*\*Per CRAC bylaws, Article XIII, Section 5, Members are reminded to refrain from voting on rules and policies for which they have a significant and unique familial or financial interest.*

**AGENDA**

**Wednesday 19<sup>th</sup>**

- |             |  |   |
|-------------|--|---|
| <b>1:00</b> | <b>Council Call to Order (TBD)</b> <ul style="list-style-type: none"><li>▪ Roll Call</li><li>▪ Approval of September 2008 minutes</li><li>▪ Announcements: November meeting format &amp; attendance</li></ul>                          | Dara Royal  |
| <b>1:10</b> | <b>Land Use Plans</b> <ul style="list-style-type: none"><li>▪ Proposed Changes to 7B Land Use Plan Amendment Guidelines</li><li>▪ Town of Carolina Beach LUP Amendment</li><li>▪ Town of Pine Knoll Shores LUP Certification</li></ul> | John Thayer<br>Mike Christenbury<br>Maureen Will      |
| <b>1:30</b> | <b>Beach Nourishment Funding Subcommittee Report</b>   | Dara Royal  |
| <b>2:00</b> | <b>Estuarine Response to Changes in Sea Level, Climate &amp; Land Use</b>  | Antonio Rodriguez<br>UNC Institute of Marine Sciences |
| <b>2:30</b> | <b>Old/New Business</b> <ul style="list-style-type: none"><li>▪ 2009 CRAC Officer elections</li><li>▪ 2009 CRAC/CRC meetings</li><li>▪ Future agenda items</li></ul>   | Dara Royal  |
| <b>2:45</b> | <b>Adjourn</b> ( <i>CRC convenes at 3 pm</i> )   |   |

**Thursday 20<sup>th</sup>**

*\*\*Meet in session with CRC, see CRC agenda\*\**

NEXT MEETING: February 11-13, 2009  
Crystal Coast Civic Center  
Morehead City, NC



*N.C. Division of Coastal Management*  
<http://www.nccoastalmanagement.net>



North Carolina Department of Environment and Natural Resources  
Division of Coastal Management

Michael F. Easley, Governor

James H. Gregson, Director

William G. Ross Jr., Secretary

November 3, 2008

**MEMORANDUM**

**TO:** Coastal Resources Advisory Council  
**FROM:** Dara Royal  
**SUBJECT:** Preparation for November Meeting

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Greetings! We have a full agenda for November, plus a shortened meeting. You should have already received notice that our meeting this time will be on Wednesday and Thursday only, so please be reminded that there will be no travel reimbursement from DCM if you stay overnight on Thursday. You may need to cancel your Thursday night room reservation if you have not already done so. We will have some discussion with the CRC and DCM about meeting frequency and format in 2009, in response to widespread budget reductions.

There is an optional field trip to the Rachel Carson National Estuarine Research Reserve in Beaufort on Wednesday morning. Anyone interested in going needs to meet at the Wildlife Resources Commission boat ramp at the Eastern end of Front Street in Beaufort, adjacent to the old menhaden factory, at 9:45 AM. Paula Gillikin will meet you there and ferry you to the Reserve. Paula will bring you back in time for you to get lunch and get to the Civic Center by 1. Please RSVP to Paula.Gillikin@ncmail.net.

We have two land use plans on our agenda. The Town of Carolina Beach has satisfied their notice requirements and has re-submitted their proposed amendment. John Thayer will brief us on proposed changes to the planning regulations to clarify the administrative requirements for plan amendments. The Town of Pine Knoll Shores is seeking certification of their updated plan.

Our funding subcommittee has done a lot of work since September and will be coming to you with ideas for raising funds for infrastructure and access at the local and regional levels. Please review the attached documents in preparation for our discussion.

Antonio Rodriguez from UNC's Institute for Marine Sciences will have a presentation for us on the effects of sea level rise in the estuaries.

The CRC nominations committee has solicited nominations from local governments and will make recommendations for the expired CRC-appointed seats on the CRAC at this meeting.

Finally, our annual officer elections are due. Nominations and voting can and should be done at this meeting, consistent with our bylaws.

I look forward to seeing you all in Morehead City. Please travel safely, and long live our beaches.

400 Commerce Avenue, Morehead City, North Carolina 28557  
Phone: 252-808-2808 \ FAX: 252-247-3330 \ Internet: [www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)

**NC COASTAL RESOURCES ADVISORY COUNCIL**

**Proposed "North Carolina Coastal Shorelines and Waterways Project Fund"**

**Potential Revenues Generated By Dedicated Tax Sources Levied on Oceanfront Counties Only**

November 4, 2008

Prepared by Frank Rush, Emerald Isle Town Manager

Proposed Eligible Expenditures:

- Beach nourishment
- Inlet stabilization projects (soft and hard)
- Estuarine shoreline stabilization projects
- Waterway navigation dredging
- Public access to ocean, sound, and river waters
- Strategic removal of structures from erosive conditions

**1. Dedicated Sales Tax**

FY 07-08 data from Article 39 sales tax report; based on point of sale (figures rounded)

**Additional % Levied**

	<u>1%</u>	<u>1/2%</u>	<u>1/4%</u>
Currituck	\$ 3,900,000	\$ 1,950,000	\$ 975,000
Dare	\$ 13,200,000	\$ 6,600,000	\$ 3,300,000
Hyde	\$ 600,000	\$ 300,000	\$ 150,000
Carteret	\$ 10,800,000	\$ 5,400,000	\$ 2,700,000
Onslow	\$ 16,400,000	\$ 8,200,000	\$ 4,100,000
Pender	\$ 3,600,000	\$ 1,800,000	\$ 900,000
New Hanover	\$ 35,400,000	\$ 17,700,000	\$ 8,850,000
Brunswick	\$ 13,400,000	\$ 6,700,000	\$ 3,350,000

<b>Total - Oceanfront Counties</b>	<b>\$ 97,300,000</b>	<b>\$ 48,650,000</b>	<b>\$ 24,325,000</b>
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Comments:

- a. Current economic climate may result in opposition to additional sales tax.
- b. Oceanfront counties with large inland populations (Onslow, New Hanover, etc.?) may oppose additional sales tax for these activities.
- c. Prior Dare County repeal of sales tax for beach nourishment.
- d. Largest revenue generator with smallest rate.
- e. "Let the visitors pay for it."

**NC Coastal Resources Advisory Council  
Sea Trail Resort, Sunset Beach, NC  
September 24-26, 2008  
Meeting Summary**

**Attendance**

<b>SEAT</b>	<b>MEMBER NAME</b>	<b>Weds.</b>	<b>Thurs.</b>	<b>Fri.</b>
<b>CAMA Counties</b>				
Beaufort	Paul Spruill			
Bertie	Traci White			
Brunswick	Bob Shupe	Y	Y	Y
Camden	William Wescott	Y	Y	Y
Carteret	Gary Mercer			
Chowan	W. Burch Perry			
Craven	Tim Tabak	Y	Y	Y
Currituck	Gary McGee			
Dare	Ray Sturza			
Gates	Randy Cahoon	Y	Y	Y
Hertford	<i>Vacant</i>			
Hyde	Eugene Ballance			
New Hanover	Dave Weaver	Y	Y	Y
Onslow	<i>Vacant</i>			
Pamlico	Christine Mele	Y	Y	Y
Pasquotank	W. H. Weatherly	Y	Y	Y
Pender	Bill Morrison	Y	Y	Y
Perquimans	Lester Simpson			
Tyrrell	Joe Beck	Y	Y	Y
Washington	Lyman Mayo			
<b>Coastal Cities</b>				
Columbia	Rhett White			
Edenton	William Gardner, Jr			
Emerald Isle	Frank Rush	Y	Y	Y
Hertford	Carlton Davenport			
Nags Head	Webb Fuller	Y	Y	Y
Oak Island	Dara Royal ( <b>Chair</b> )	Y	Y	Y
Oak Island	Harry Simmons	Y	Y	Y
Surf City	J. Michael Moore		Y	
<b>Lead Regional Planning Orgs</b>				
Albemarle Regional Commission	Bert Banks	Y	Y	Y
Cape Fear Council of Governments	Penny Tysinger ( <b>Vice Chair</b> )	Y		
Eastern Carolina Council	Judy Hills	Y	Y	
Mid-East Commission	Eddy Davis	Y	Y	Y
<b>Science &amp; Technology</b>				
Gary Greene Engineering, Raleigh	Gary Greene			
NC Sea Grant, Wilmington	Spencer Rogers	Y	Y	
Quible & Associates, Kitty Hawk	Joe Lassiter	Y	Y	
<b>State Agencies</b>				
Department of Administration	Joy Wayman	Y	Y	Y
Department of Agriculture	Maximilian Merrill	Y	Y	
Department of Commerce	Lee Padrick	Y		
Department of Cultural Resources	Renee Gledhill-Earley	Y		
DENR, Division of Marine Fisheries	Anne Deaton	Y	Y	Y
DENR, Division of Water Quality	Al Hodge	Y	Y	Y
NCDOT	Phil Harris	Y	Y	Y
NCDOT	Travis Marshall	Y	Y	Y
State Health Director (Shellfish San.)	<i>Vacant</i>			
<b>Local Health Director</b>	Don Yousey	Y	Y	Y

## Wednesday 24<sup>th</sup>

### Call to Order

Dara Royal called the meeting to order at 1 pm and the Council approved the July 2008 minutes.

### Currituck County Land Use Plan Amendment

Charlan Owens presented an amendment request from Currituck County. Currituck County wants to amend its plan to convert 40 acres from Conservation to Full Service, and as an offset, convert 80 acres from Limited Service to Conservation. The request was initiated by a developer who wants to develop the 40-acre site with an upland marina, housing, and other structures. As a condition of approving the request, the county would require the developer to provide public boating access and parking at the marina. Owens said that there was a potential for conflicts with the county's land suitability maps, and that DCM received objections to the proposed amendment. Owens said that following a discussion with the county about mitigation measures it is staff's opinion is that the amendment satisfies the 7B Guidelines and has no conflicts. Staff's recommendation was that the CRAC recommend certification, and the CRAC did so unanimously.

### Town of Carolina Beach Land Use Plan Amendment

Michael Christenbury gave an overview of the Town of Carolina Beach Land Use Plan Amendment request. On August 22, 2008, the Town of Carolina Beach amended the 2007 Carolina Beach Land Use Plan to include the following to policy statement # 30. "Hotels – appurtenances ten (10) feet or less in height shall be exempted from the height measurement."

The Carolina Beach Town Council adopted the amendment by a 3 – 1 vote at their August 22, 2008 meeting. At this hearing, three (3) individuals spoke in opposition to this amendment, and one (1) written objection was submitted to DCM.

The written objection submitted to DCM notes (among other things) that the public notice published in the July 23, 2008 edition of the Island Gazette did not meet requirements noted in 15A NCAC 07B.0801(a) Public Hearing and Local Adoption Requirements. Specifically, the public notice omitted the disclosure of the public opportunity to provide written comment following local adoption of the plan as noted per 07B.0802(b)(3). Mr. Christenbury further noted that this July 23, 2008 public notice was the only public notice that was published no less than 30 days prior to the public hearing as required in 07B.0801 and G.S. 113A-110.

It was noted that the Town did advertise additionally on July 26<sup>th</sup>, July 30<sup>th</sup>, August 6<sup>th</sup> and August 13<sup>th</sup>. All four (4) of these published notices did include the disclosure of the public opportunity to provide written comment following local adoption of the plan as noted per 07B.0802(b)(3). However, the one important notice to meet the 30-day requirement did not include the required public written comment disclosure statement.

Because the required public notice published on July 23 did include the disclosure of the public opportunity to provide written comment following local adoption of the plan as noted per 07B.0802(b)(3), DCM Staff has no choice but to recommend denial of the amendment and recommends to the Town that the Town re-notice and re-consider adoption of the amendment, and bring back to the CRAC and CRC at the next scheduled meeting for consideration.

Web Fuller raised a question as to whether or not 7B .0900 CAMA Land Use Plan Amendments require notices to include the disclosure of the public opportunity to provide written comment following local adoption of the plan as noted per 07B.0802(b)(3). Gary Ferguson, Carolina Beach Planning Director commented that 7B .0900 CAMA Land Use Plan Amendments speak clearly to the LUP amendment process, but does not specify noticing requirements. He noted that the Town relied on requirements specified in 7B .0900 for CAMA Land Use Plan Amendments and that the Town strongly feels that they have met, and exceeded all public noticing requirements.

CRAC voted 13-11 to overturn Staff recommendation and recommend Certification of the Amendment.

**Sea Level Rise Update**

Tancred Miller gave a presentation to update the Advisory Council on Sea Level Rise preparation activities in several locations, including states like Maryland and Rhode Island that have made significant progress at the state level. Miller reminded the CRAC that they and the CRC had selected sea level rise as a priority issue for 2008, and asked the Council to consider elevating it to one of their core agenda items in the coming months. The Council agreed to do so.

**Beach Nourishment Funding**

Dara Royal noted that the Advisory Council had discussed the need to develop ideas for local level funding. The Council formed an ad hoc committee to meet and develop recommendations for the November meeting. Members are: Dara Royal, Harry Simmons, Frank Rush, Bill Morrison, and Dave Weaver.

**New Business/Old Business**

With no further business the Council adjourned at 2:55 pm.

**Thursday 25<sup>th</sup> & Friday 26<sup>th</sup>**

Advisory Council met in session with CRC.

##

## MEMORANDUM (Draft)

**To:** Coastal Resources Commission & Coastal Resources Advisory Council

**From:** John Thayer Jr., AICP, Manager,  
CAMA Local Planning & Access Programs

**Date:** November 4, 2008 (CRC Meeting of 11/19/08)

**Subject:** Clarification of 7B Land Use Plan (LUP) Amendment Requirements

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*At the September CRC meeting, DCM staff promised the Commission that we would bring forth example language to both clarify and strengthen the linkages between the plan amendment section (.0900) and the LUP review and certification section (.0800) of the land use plan guidelines. This suggestion provided in Attachment 'D', would keep the rule change simple. This memo will provide first a reminder of how the issue has come up, then a brief overview of inter-related rules associated with local public hearing noticing, and finally a brief discussion of the options and issue.*

This item is for discussion purposes; no formal recommendation is requested from the CRAC at this time.

**Background:** At the September CRC meeting, The Town of Carolina Beach's request for certification of a Land Use Plan Amendment was denied, by the CRC, due to the Town's failure to provide within its first local public hearing notice the disclosure statement that the public has the opportunity to provide written comment following the local adoption of the Land Use Plan amendment prior to the next scheduled CRAC/CRC meeting.

**Overview of Rules:** The land use plan guidelines outlined in SUBCHAPTER 7B has three (3) major subheadings: SECTION .0700 - CAMA LAND USE PLANNING REQUIREMENTS, SECTION .0800 - CAMA LAND USE PLAN REVIEW AND CERTIFICATION, SECTION .0900 - CAMA LAND USE PLAN AMENDMENTS.

As with the CAMA permit rules, though they are divided into separate major sub-sections, the rules do not function as stand-alone sections. They are invariably linked not just under a common subchapter heading but also by formal cross-reference citations as well as inferred relationships. The mere absence of a specific cross-reference does not preclude linkage. Both major and minor subsections must be considered in concert when determining whether a local plan or amendment has met the state's rules for content, processing, and or public notice requirements.

Attachment 'B' provides an overview of the linkage between the CAMA Act Section 113A, and the 7B SUBCHAPTER associated with hearing and disclosure requirements for LUPs and amendments.

If the current .0900 rules are considered read only- a complete standalone, then one could argue that technically there are no specific requirements for the public notice or hearings, only the requirement for the documentation be provided as to what occurred per .0901(a)(2). (See *bottom of page #2, Attachment 'B'*)

**Discussion:** The plan amendment section .0900 must be used and linked with other sections of the LUP Guidelines. Attachment 'D' provides a simple example of how the linkage between the plan amendment section with the LUP review and certification section can be strengthened in section .0900. This example provides an approach that avoids having to extensively rewrite the section which what would be required if all the applicable text portions within .0800 were also incorporated into .0900. Note it not just hearing related but also review and presentation and CRC Certification procedures.

Having same text rules in different sections, would then also likely require having to make duplicative changes to both sections every time there was a rule amendment to .0800. The State Rules Review Commission does not support duplicative text in the state rules, where cross-referencing can accomplish the same purpose. Ideally only what is different is provided with detail.

Also suggested in Attachment 'D', is rule language that would require that a copy of the local notice be provided to DCM staff - thirty-five (35) days prior to the local public hearing. Current language calls for thirty (30) day lead time to get paperwork to DCM staff before the hearing - that corresponds to the state deadline for actually publishing the public notice in a newspaper per CAMA Act (113A-110) requirements. Adding five (5) days would ensure DCM staff has an opportunity to review the public notice prior to its publication.

At the September meeting staff also proposed to more formally develop a packet for communities to assist them with an outline of the requirements for amendments. Attachment 'A' provides two notice examples for Public Hearing notices. The first is the one that we've been providing to local communities this past year principally for LUPs. The second is another example that can be provided specific for amendments to the land use plan.

At the meeting we will also provide you with other support material examples that we have been or will be making available to communities including: check off list, amendment process timeline example, and a mock resolution for adoption.

## **ATTACHMENTS:**

- A: Public Notice Examples
- B: Linkage Between State Public Notice Rules
- C: 07B .0800 CAMA Land Use Plan Review Requirements
- D: Suggested Language for 07B .0900 CAMA Land Use Plan Amendments



## ATTACHMENT A

**Public Hearing Notice Example(s), Including Required CRC Disclosure Requirement Per .0801 and .0802(b)(3)****Notice of Public Hearing  
Update of the LOCAL GOVERNMENT CAMA Land Use Plan**

Notice is hereby given that the GOVERNING BODY of the LOCAL GOVERNMENT will conduct a public hearing on DATE AND TIME to review the update of the County/Town's Coastal Area Management Act (CAMA) Land Use Plan. The meeting will be held at LOCATION. All interested citizens are encouraged to attend.

Following the public hearing, the GOVERNING BODY will consider adoption of the Land Use Plan. Once adopted, the Plan will be submitted to the Coastal Resources Commission (CRC) for certification.

Following adoption, the public has the opportunity to submit written objections, comments, or statements of support to the DCM District Planner, Maureen Meehan Will, 400 Commerce Avenue, Morehead City, NC 28557 no less than 15 business days prior to the CRC meeting at which the land use plan is scheduled to be considered for certification. Written objections shall identify the specific plan elements that are opposed and shall be limited to the criteria for CRC certification as defined in 15A NCAC 07B.0802 (c)(3). Further information can be obtained by contacting the District Planner at 252-808-2808.

Copies of the Land Use Plan Update are available for review by the public at the LOCATION during normal office hours (and if any other places). The public is encouraged to review the document and to attend the public hearing. For additional information, please contact LOCAL CONTACT AND NUMBER

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**Publication Dates:**

**Notice of Public Hearing**  
**Amendment of the LOCAL GOVERNMENT CAMA Land Use Plan**

Notice is hereby given that the GOVERNING BODY of the LOCAL GOVERNMENT will conduct a public hearing on DATE AND TIME to review amendments to the County/Town's Coastal Area Management Act (CAMA) Land Use Plan. The meeting will be held at LOCATION. All interested citizens are encouraged to attend.

Following the public hearing, the GOVERNING BODY will consider adoption of the amendments to the Land Use Plan. Once adopted, the amendments will be submitted to the Coastal Resources Commission (CRC) for certification.

***Amendments to the plan include:***

(This area will include a description of the changes to the plan OR the exact policy changes that are proposed, whichever is most appropriate for the amendment. A description of any map amendments must be outlined and include both the characteristics of the old map classification and the characteristics of the proposed classification. Subject properties need to be identified by a street address and/or legal description. A graphic depiction of the subject property including major roads can be substituted for a legal description.)

Following adoption, the public has the opportunity to submit written objections, comments or statements of support to the DCM District Planner, Maureen Meehan Will, 400 Commerce Avenue, Morehead City, NC 28557 no less than 15 business days prior to the CRC meeting at which the land use plan amendment is scheduled to be considered for certification. Written objections shall identify the specific plan elements that are opposed and shall be limited to the criteria for CRC certification as defined in 15A NCAC 07B.0802 (c)(3). Further information can be obtained by contacting the District Planner at 252-808-2808.

Copies of the Land Use Plan Amendment(s) are available for review by the public at the LOCATION during normal office hours (and if any other places). The public is encouraged to review the changes and to attend the public hearing. For additional information, please contact LOCAL CONTACT AND NUMBER

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***Publication Dates:***

## ATTACHMENT B

**Linkages Between CAMA Related Public Notice Rules**

Regarding public notice for CAMA Land Use Plans and plan amendments, State rules must be used in conjunction with each other. The CAMA Act per G.S.113A-110 (e) below requires a notice of a local public hearing not less than 30 days before the local hearing:

**§ 113A-110. Land-use plans.**

- (e) Prior to adoption or subsequent amendment of any land-use plan, the body charged with its preparation and adoption (whether the county or the Commission or a unit delegated such responsibility) shall hold a public hearing at which public and private parties shall have the opportunity to present comments and recommendations. Notice of the hearing shall be given not less than 30 days before the date of the hearing and shall state the date, time, and place of the hearing; the subject of the hearing; the action which is proposed; and that copies of the proposed plan or amendment are available for public inspection at a designated office in the county courthouse during designated hours. Any such notice shall be published at least once in a newspaper of general circulation in the county.

Further the CRC has adopted '**15A NCAC 07B.0801 (a), PUBLIC HEARING AND LOCAL ADOPTION REQUIREMENTS**', that states:

- (a) Public Hearing Requirements. The local government shall provide documentation to DCM that it has followed the process required in G.S. 113A-110; and such notice shall include per .0802(b)(3), the disclosure of the public opportunity to provide written comment following local adoption of the Land Use Plan.

As cited 07B .0801(a) above there is a cross reference to the subsection below regarding the public disclosure requirements:

**15A NCAC 07B.0802(b)(3) PRESENTATION TO COASTAL RESOURCES COMMISSION FOR CERTIFICATION.**

- (3) The public shall have an opportunity to submit written objections, comments, or statements of support prior to action by the committee designated by the CRC. Written objections shall be received by DCM no less than 15 business days prior to the next scheduled CAMA Land Use Plan review meeting and shall be limited to the criteria for CRC certification as defined in Subparagraph (c)(3) of this Rule. Written objections shall identify the specific plan elements that are opposed. A copy of any objections shall be sent by the DCM to the local government submitting the CAMA Land Use Plan.

*(See Attachment 'C' for a complete copy of section .0800.)*

Please note that the previous section in .0802 was added to the rules effective September 1, 2006, specifically to address the CAMA Act requirement found in **G.S. 113A-110** as follows:

- (f) No land-use plan shall become finally effective until it has been approved by the Commission. The county or other unit adopting the plan shall transmit it, when adopted, to the Commission for review. The Commission shall afford interested persons an opportunity to present objections and comments regarding the plan, and shall review and consider each county land-use plan in light of such objections and comments, the State guidelines, the requirements of this Article, and any generally applicable standards of review adopted by rule of the Commission. Within 45 days after receipt of a county land-use plan the Commission shall either approve the plan or notify the county of the specific changes which must be made in order for it to be approved. Following such changes, the plan may be resubmitted in the same manner as the original plan.

**‘Section .0901(a)(2)’**, requires documentation of the hearing notice and action be provided to DCM both 30 days prior to the local hearing and 30 days prior to the CRC meeting, as follows:

- (2) The local government proposing an amendment to its CAMA Land Use Plan shall provide to the Executive Secretary of the CRC or her/his designee written notice of the public hearing, a copy of the proposed amendment (including text and maps as applicable), and the reasons for the amendment no less than 30 days prior to the public hearing. After the public hearing, the local government shall provide the Executive Secretary or her/his designee with a copy of the locally adopted amendment no earlier than 45 days and no later than 30 days prior to the next CRC meeting for CRC certification. If the local government fails to submit the requested documents as specified above to the Executive Secretary within the specified timeframe, the local government shall be able to resubmit the documents within the specified timeframe for consideration at the following CRC meeting.

## ATTACHMENT C

## SECTION .0800 – CAMA LAND USE PLAN REVIEW AND CRC CERTIFICATION

**15A NCAC 07B .0801 PUBLIC HEARING AND LOCAL ADOPTION REQUIREMENTS**

- (a) Public Hearing Requirements. The local government shall provide documentation to DCM that it has followed the process required in G.S. 113A-110; and such notice shall include per .0802(b)(3), the disclosure of the public opportunity to provide written comment following local adoption of the Land Use Plan.
- (b) Final Plan Content. The final decision on local policies and all contents of the CAMA Land Use Plan consistent with the CAMA land use planning rules shall be made by the elected body of each participating local government.
- (c) Transmittal to the CRC. The local government shall provide the Executive Secretary of the CRC with as many copies of the locally adopted land use plan as the Executive Secretary requests, and a certified statement of the local government adoption action no earlier than 45 days and no later than 30 days prior to the next CRC meeting. If the local government fails to submit the requested copies of the locally adopted land use plan and certified statement to the Executive Secretary within the specified timeframe, the local government may resubmit documents within the specified timeframe for consideration at the following CRC meeting.

*History Note:* Authority G.S. 113A-107(a); 113A-110; 113A-124;  
 Eff. August 1, 2002.  
 Amended Eff. January 1, 2007; February 1, 2006

**15A NCAC 07B .0802 PRESENTATION TO COASTAL RESOURCES COMMISSION FOR CERTIFICATION**

- (a) Re-Certification: If the CRC adopts new CAMA Land Use Plan rules, plans shall be updated within six years of the effective date of the new rules. If a scoping process is held, a summary shall be provided to the CRC along with the request for re-certification of the existing CAMA Land Use Plan.
- (b) Committee Designated by CRC to Review Local Land Use Plans:
  - (1) The appropriate DCM District Planner shall submit a written report to the committee designated by the CRC as to the type of plan being presented, highlight any unique characteristics of the plan, identify any land use conflicts with adjacent planning jurisdictions or other state/federal agencies, identify any inaccuracy or inconsistency of items in the plan, and recommend certification, conditional certification, or non-certification.
  - (2) The local government shall submit its draft Land Use Plan to the committee designated by the CRC.
  - (3) The public shall have an opportunity to submit written objections, comments, or statements of support prior to action by the committee designated by the CRC. Written objections shall be received by DCM no less than 15 business days prior to the next scheduled CAMA Land Use Plan review meeting and shall be limited to the criteria for CRC certification as defined in Subparagraph (c)(3) of this Rule. Written objections shall identify the specific plan elements that are opposed. A copy of any objections shall be sent by the DCM to the local government submitting the CAMA Land Use Plan.
  - (4) The local government may withdraw the submitted CAMA Land Use Plan from CRC consideration at any time before review.
- (c) CRC Certification:
  - (1) The CRC shall certify the CAMA Land Use Plan following the procedures and conditions specified in this Rule.
  - (2) Provided the locally adopted land use plan has been received by the Executive Secretary no earlier than 45 days and no later than 30 days prior to the next CRC meeting, the CRC shall certify, conditionally certify or not certify the plan at that meeting or mutually agreed upon date. If the CRC fails to take action as specified above the plan shall be certified.
  - (3) The CRC shall certify plans which:
    - (A) are consistent with the current federally approved North Carolina Coastal Management Program;
    - (B) are consistent with the Rules of the CRC;
    - (C) do not violate state or federal law;

- (D) contain policies that address each Management Topic. If a local government cannot meet any CAMA Land Use Plan requirement contained within Paragraphs (d) and (e) of 15A NCAC 07B .0702 the plan shall include a description of the analysis that was undertaken, explain the reason(s) the requirement could not be met, and the local government's alternative plan of action to address the CAMA Land Use Plan requirements. If such description(s) are not included in the plan, it shall not be certified; and
  - (E) contain a local resolution of adoption that includes findings which demonstrate that policy statements and the Future Land Use Plan Map (FLUP) have been evaluated, and determine that no internal inconsistencies exist.
- (d) Non- Certification: If the plan is not certified the CRC shall within 30 days inform the local government as to how the plan might be changed so certification can be granted. Until the plan is certified, the pre-existing certified CAMA Land Use Plan shall remain in effect.
  - (e) Conditional Certification: If the plan is conditionally certified, the CRC shall within 30 days provide the local government with condition(s) that shall be met for certification. Until the condition(s) is met on a conditionally certified plan, the pre-existing certified CAMA Land Use Plan shall remain in effect. When the local government complies with all conditions for a conditionally certified plan, as determined by the Executive Secretary of the CRC, plan certification is automatic with no further action needed by the CRC.

*History Note: Authority G.S. 113A-107(a); 113A-110; 113-111; 113A-124;  
Eff. August 1, 2002.  
Amended Eff. April 1, 2008; September 1, 2006.*

## ATTACHMENT D

## Proposed Language Change For LUP Amendments

(11/05/08 version)

**15A NCAC 07B .0901 CAMA LAND USE PLAN AMENDMENTS***(a) Normal Amendment Process:*

(1) *The CAMA Land Use Plan may be amended and only the amended portions submitted for CRC certification. If the local government amends half or more of the policies of the CAMA Land Use Plan, a new locally adopted plan shall be submitted to the CRC.*

**(A) Local public hearing and notice requirements shall be in the same manner as provided in 15A NCAC 07B.0801(a).**

**(B) Except for Land Use Plans that were certified prior to August 1, 2002, amendments and changes to the local Land Use Plan shall be consistent with other required elements for the local land use plan per the requirements of 07B .0702.**

(2) *The local government proposing an amendment to its CAMA Land Use Plan shall provide to the Executive Secretary of the CRC or her/his designee written notice of the public hearing, a copy of the proposed amendment (including text and maps as applicable), and the reasons for the amendment no less than ~~30~~5 days prior to the public hearing. After the public hearing, the local government shall provide the Executive Secretary or her/his designee with a copy of the locally adopted amendment no earlier than 45 days and no later than 30 days prior to the next CRC meeting for CRC certification. If the local government fails to submit the requested documents as specified above and the resolution provided in subsection (5) below, to the Executive Secretary within the specified timeframe, the local government shall be able to resubmit the documents within the specified timeframe for consideration at the following CRC meeting.*

(3) *For joint plans, originally adopted by each participating jurisdiction, each government shall retain its sole and independent authority to make amendments to the plan as it affects their jurisdiction.*

(4) *CRC review and action on CAMA Land Use Plan amendments shall be in the same manner as provided in 15A NCAC 07B .0802 (b), (c), (d) and (e), except amendments to Land Use Plans which were certified prior to August 1, 2002 are exempt from subsection .0802(c)(3)(D)*

(5) *The local resolution of adoption shall include findings which demonstrate that amendments to policy statements or to the Future Land Use Plan Map (FLUP) have been evaluated for their consistency with other existing policies.*

*(b) Delegation of CRC Certification of Amendments to the Executive Secretary:*

(1) *A local government that desires to have the Executive Secretary instead of the CRC certify a CAMA Land Use Plan amendment shall first meet the requirements in Subparagraphs (a)(1) through ~~(3)~~(5) of this Rule and the following criteria defined in Parts (b)(1)(A) through (D) of this Rule. The local government may then request the Executive Secretary to certify the amendment. The Executive Secretary shall make a determination that all criteria have been met, and mail*

- notification to the local government and CRC members, no later than two weeks after receipt of the request for certification. The CRC's delegation to the Executive Secretary of the authority to certify proposed amendments is limited to amendments that meet the following criteria:
- (A) Minor changes in policy statements or objectives for the purpose of clarification of intent; or
  - (B) Modification of any map that does not impose new land use categories in areas least suitable for development as shown on the Land Suitability Map; or
  - (C) New data compilations and associated statistical adjustments that do not suggest policy revisions; or
  - (D) More detailed identification of existing land uses or additional maps of existing or natural conditions that do not affect any policies in the CAMA Land Use Plan.
- (2) If the Executive Secretary certifies the amendment, the amendment shall become final upon certification of the Executive Secretary, and is not subject to further CRC review described in 15A NCAC 07B .0802 (Presentation to CRC for Certification).
  - (3) If the Executive Secretary denies certification of the amendment, the local government shall submit its amendment for review by the CRC in accordance with the regular plan certification process in 15A NCAC 07B .0802 (Presentation to CRC for Certification).
- (c) Any amendments to the text or maps of the CAMA Land Use Plan shall be incorporated in context in all available copies of the plan and shall be dated to indicate the dates of local adoption and CRC certification. The amended ~~P~~ CAMA Land Use Plan shall be maintained as required by G.S. 113A-110(g).
  - (d) Within 90 days after certification of a CAMA Land Use Plan amendment, the local government shall provide one copy of the amendment to each jurisdiction with which it shares a common border, and to the regional planning entity.
  - (e) A local government that receives Sustainable Community funding from the Department pursuant to 15A NCAC 07L shall formulate and submit to the CRC for certification a CAMA Land Use Plan Addendum during its first year as a Sustainable Community, and if new planning rules have been adopted by the CRC, shall update the CAMA Land Use Plan within six years of adoption of these new planning rules.

*History Note: Authority G.S. 113A-107(a); 113A-110; 113A-124;  
Eff. August 1, 2002.  
Amended Eff. February 1, 2006.*



**NC COASTAL RESOURCES ADVISORY COUNCIL**

**Proposed "North Carolina Coastal Shorelines and Waterways Project Fund"**

**Potential Revenues Generated By Dedicated Tax Sources Levied on Oceanfront Counties Only**

November 4, 2008

Prepared by Frank Rush, Emerald Isle Town Manager

**2. Dedicated Prepared Meals Tax**

FY 07-08 data from NCDOR Taxable Sales

Reports, Category 306 Only

(Paula Creech, NCDOR)

	<b>Additional % Levied</b>	
	<u>1%</u>	<u>1/2%</u>
Currituck	\$ 254,653	\$ 127,327
Dare	\$ 1,731,703	\$ 865,851
Hyde	\$ 122,786	\$ 61,393
Carteret	\$ 1,053,833	\$ 526,916
Onslow	\$ 2,267,973	\$ 1,133,987
Pender	\$ 308,879	\$ 154,439
New Hanover	\$ 4,012,440	\$ 2,006,220
Brunswick	\$ 1,177,702	\$ 588,851
<b>Total - Oceanfront Counties</b>	<b>\$ 10,929,969</b>	<b>\$ 5,464,985</b>

Comments:

- a. Category 306 includes "restaurants, cafeterias, grills, snack bars, etc".
- b. **Data is good for "ballpark" estimates only - does not include revenues from prepared meals at bars, nightclubs, grocery stores, bakeries, and others; does include sales of other items at "restaurants, cafeterias, grills, snack bars, etc." (i.e., Cracker Barrel, etc.)**
- c. Current economic climate may result in opposition to prepared meals tax.
- d. Oceanfront counties with large inland populations (Onslow, New Hanover, etc?) may oppose prepared meals tax for these activities.
- e. Dare County already has 1% prepared meals tax; other counties do not.
- f. "Let the visitors pay for it."

**3. Dedicated Room Occupancy Tax**

FY 06-07 data from NCDOR reports

(Richard Jones, NCDOR)

	<b>Additional % Levied</b>	
	<u>2%</u>	<u>1%</u>
Currituck	\$ 2,685,345	\$ 1,342,673
Dare	\$ 6,536,438	\$ 3,268,219
Hyde	\$ 264,809	\$ 132,405
Carteret	\$ 1,848,969	\$ 924,485
Onslow	\$ 891,423	\$ 445,711
Pender	\$ 388,674	\$ 194,337
New Hanover	\$ 2,576,095	\$ 1,288,048
Brunswick	\$ 2,431,752	\$ 1,215,876
<b>Total - Oceanfront Counties</b>	<b>\$ 17,623,505</b>	<b>\$ 8,811,753</b>

Comments:

- a. Most oceanfront counties would exceed quoted 6% cap when county + municipal room taxes are added to proposed new tax.
- b. State levy of additional room tax for these activities will likely not be consistent with established split of advertising vs. projects.
- c. Current economic climate may result in opposition to additional room tax.
- d. "Let the visitors pay for it."

**NC COASTAL RESOURCES ADVISORY COUNCIL**

**Proposed "North Carolina Coastal Shorelines and Waterways Project Fund"**

**Potential Revenues Generated By Dedicated Tax Sources Levied on Oceanfront Counties Only**

November 4, 2008

Prepared by Frank Rush, Emerald Isle Town Manager

**4. Dedicated Land Transfer Tax**

FY 06-07 data from NCDOR reports - Deed stamp tax

(Richard Jones, NCDOR)

		<b>Additional % Levied</b>		
	<u>1%</u>	<u>1/2%</u>	<u>1/4%</u>	
Currituck	\$ 3,260,560	\$ 1,630,280	\$ 815,140	
Dare	\$ 7,187,285	\$ 3,593,643	\$ 1,796,821	
Hyde	\$ 423,835	\$ 211,918	\$ 105,959	
Carteret	\$ 9,616,830	\$ 4,808,415	\$ 2,404,208	
Onslow	\$ 11,941,425	\$ 5,970,713	\$ 2,985,356	
Pender	\$ 6,244,190	\$ 3,122,095	\$ 1,561,048	
New Hanover	\$ 22,581,505	\$ 11,290,753	\$ 5,645,376	
Brunswick	\$ 21,864,175	\$ 10,932,088	\$ 5,466,044	
<b>Total - Oceanfront Counties</b>	<b>\$ 83,119,805</b>	<b>\$ 41,559,903</b>	<b>\$ 20,779,951</b>	

Comments:

- a. FY 06-07 data is most recent; revenues could be down now - FY 06-07 does not appear to be too far off of historical avg. prior to boom.
- b. Strong opposition to land transfer tax in NC by real estate interests; current housing market may result in opposition.
- c. Oceanfront counties with large inland populations (Onslow, New Hanover, etc.?) may oppose land transfer tax for these activities.
- d. Dare County and Currituck County already have 1% land transfer tax; other counties do not.

**5. Earmarked Annual Appropriation**

???????

Historical Appropriations to NC Division of Water Resources Capital Budget  
 Totals Below for Beach Nourishment and Waterway Navigation Dredging Projects ONLY

FY 01-02	\$ 2,345,000
FY 02-03	\$ 658,000
FY 03-04	\$ 7,856,000
FY 04-05	\$ 416,000
FY 05-06	\$ 3,608,000
FY 06-07	\$ 7,436,000
FY 07-08	\$ 4,737,000
FY 08-09	\$ 8,738,000

Comments:

- a. Totals do not include any funding appropriated for dredging of major port channels, except for delta cost for nourishment.
- b. See attached sheet for appropriations details.

**North Carolina General Assembly Appropriations  
Beach Renourishment Projects and Waterway Dredging Projects  
FY 2001/2002 through 2008/2009**

Project Name	FY 01/02	FY 02/03	FY 03/04	FY 04/05	FY 05/06	FY 06/07	FY 07/08	FY 08/09	Totals
AIWW Dredging								\$ 3,119,000	\$ 3,119,000
Beaufort Harbor Maintenance Dredging			\$ 80,000	\$ 80,000		\$ 300,000			\$ 460,000
Brunswick County Beaches Nourishment Supplement	\$ 927,000								\$ 927,000
Carolina Beach Renourishment (New Hanover Co.)			\$ 1,125,000			\$ 1,125,000			\$ 2,250,000
Far Creek Maintenance Dredging					\$ 120,000				\$ 120,000
Indian Beach-Salter Path Nourishment	\$ 900,000								\$ 900,000
Kure Beach Renourishment (New Hanover County)			\$ 1,177,000			\$ 681,000			\$ 1,858,000
Lower Lockwoods Folly Dredging				\$ 336,000	\$ 286,000				\$ 622,000
Morehead City Harbor Section 933 Nourishment			\$ 4,661,000			\$ 1,200,000			\$ 5,861,000
Ocean Isle Beach Renourishment (Brunswick Co.)			\$ 813,000			\$ 435,000			\$ 1,248,000
Silver Lake Harbor Maintenance		\$ 600,000							\$ 600,000
Southern Shores Canal Dredging Phase 2							\$ 800,000		\$ 800,000
State Dredging Contingency Fund (Inlets & AIWW)					\$ 2,500,000	\$ 2,295,000	\$ 3,937,000	\$ 3,619,000	\$ 12,351,000
Topsail Beach Emergency Nourishment						\$ 1,000,000		\$ 2,000,000	\$ 3,000,000
Walter Slough Maintenance Dredging		\$ 58,000			\$ 122,000				\$ 180,000
Waterway connecting Pamlico Sound to Beaufort Harbor						\$ 400,000			\$ 400,000
Wrightsville Beach Nourishment	\$ 518,000				\$ 580,000				\$ 1,098,000
<b>TOTAL</b>	<b>\$ 2,345,000</b>	<b>\$ 658,000</b>	<b>\$ 7,856,000</b>	<b>\$ 416,000</b>	<b>\$ 3,608,000</b>	<b>\$ 7,436,000</b>	<b>\$ 4,737,000</b>	<b>\$ 8,738,000</b>	<b>\$ 35,794,000</b>

Summary of Justification Statements in Beach Management Legislation  
Introduced in the North Carolina General Assembly since 1999

Note: **Language in bold** comes from the only legislation actually ratified in session law 2000-67/HB 1840 - part of the legislative mandate for the BIMP. Additional language is included from other bills introduced but not ratified with year/bill number.

**The General Assembly makes the following findings:**

- (1) **North Carolina has 320 miles of ocean beach, including some of the most pristine and attractive beaches in the country. 2000-67/1840**

- (2) **The balance between economic development and quality of life in North Carolina has made our coast one of the most desirable along the Atlantic Seaboard. 2000-67/1840**

A good balance between economic development and environmental quality in North Carolina has made our coastal area one of the most desirable along the Atlantic Seaboard. 2005/1542

- (3) **North Carolina's beaches are vital to the State's tourism industry. 2000-67/1840**

North Carolina's beaches and waterways are vital to the State's tourism industry, which is a dominant source of income and employment in many coastal communities. 2005/1542

- (4) **North Carolina's beaches belong to all the State's citizens and provide recreational and economic benefits to our residents statewide. 2000-67/1840**

It is the policy of the State, in accordance with Article XIV, Section 5 of the North Carolina Constitution, that the beaches of the State are to be preserved as a part of our common natural heritage. 2001/418

Therefore, in accordance with the policy and import of preserving the State's sandy beaches, the General Assembly declares that the beaches of the State, and the public's right to access the beaches, must be protected. 2001/418

The General Assembly therefore declares that, in order to preserve the public's interest in the beaches of the State, it is necessary to establish policies and programs that provide for the preservation and restoration of the State's beaches. 2001/418

- (5) **Beach erosion can threaten the economic viability of coastal communities and can significantly affect State tax revenues. 2000-67/1840**

Preservation of the beach enhances and supports the tourism industry in the State, in particular the local economies of the coastal region. 2001/418

Preservation of the beach minimizes regulatory conflicts, loss of property value and local tax base, and ensures the long-term availability of public access to the beach. 2001/418

- (6) **The Atlantic Seaboard is vulnerable to hurricanes and other storms, and it is prudent to take precautions such as beach nourishment that protect and conserve the State's beaches and reduce property damage and flooding. 2000-67/1840**

Preservation of the beach provides significant protection from storm and hurricane damage to property and infrastructure, particularly from storm surge. 2001/418

Furthermore, the General Assembly recognizes that the beaches of the State are part of a dynamic coastal system and are constantly subject to the reshaping forces of wind, waves, and sea level rise. These natural forces have caused, and will continue to cause, serious erosion of the beaches of the State resulting in a grave threat to public property, private property, public infrastructure, the regional economy, public access, and the public's health, safety, and welfare. 2001/418

The North Carolina coast is vulnerable to hurricanes and other storms. It is prudent to take precautions, such as beach nourishment, to protect and conserve the State's beaches and reduce property damage and flooding. 2005/1542

- (7) **Beach renourishment as an erosion control method provides hurricane flood protection, enhances the attractiveness of beaches to tourists, restores habitat for turtles, shorebirds, and plants, and provides additional public access to beaches. 2000-67/1840**

Beach nourishment is an erosion control method that provides hurricane flood protection, enhances the attractiveness of beaches to tourists, restores habitat for turtles, shorebirds, and plants, and ensures the long-term availability of public access to beaches. 2005/1542

- (8) **Federal policy previously favored and assisted voluntary movement of structures threatened by erosion, but this assistance is no longer available. 2000-67/1840**

- (9) **Relocation of structures threatened by erosion is sometimes the best available remedy for the property owner and is in the public interest. 2000-67/1840**

- (10) **Public parking and public access areas are needed for use by the general public to enable their enjoyment of North Carolina's beaches. 2000-67/1840**

- (11) **Acquisition of high erosion hazard property by local or State agencies can reduce risk to citizens and property, reduce costs to insurance policyholders, improve public access to beaches and waterways, and protect the environment. 2000-67/1840**

The State recognizes the need to evaluate an acquisition program for property that is subject to continuous severe erosion and where sand sources are unavailable. 2005/1542

- (12) **Beach nourishment projects such as those at Wrightsville Beach and Carolina Beach have been very successful and greatly reduced property damage during Hurricane Fran. 2000-67/1840**

Preservation of the beach provides significant protection from storm and hurricane damage to property and infrastructure, particularly from storm surge. 2001/418

Beach nourishment projects have proved successful in greatly reducing damage to property and to public infrastructure during hurricanes, thereby protecting the tax base. 2005/1542

- (13) **Because local beach communities derive the primary benefits from the presence of adequate beaches, a program of beach management and restoration should not be accomplished without a commitment of local funds to combat the problem of beach erosion. 2000-67/1840**

- (14) **The State of North Carolina prohibits seawalls and hardening the shoreline to prevent destroying the public's beaches. 2000-67/1840**

The State of North Carolina prohibits seawalls and hardening the shoreline to prevent destroying the beaches and the public's access to beaches. 2005/1542

- (15) **Beach nourishment is encouraged by both the Coastal Resources Commission and the U.S. Army Corps of Engineers as a method to control beach erosion. 2000-67/1840**

Beach nourishment is encouraged by both the Coastal Resources Commission and the U.S. Army Corps of Engineers as a desirable method to control beach erosion. 2005/1542

- (16) **The Department of Environment and Natural Resources has statutory authority to assist local governments in financing beach nourishment projects and is the sponsor of several federal navigation projects that result in dredging beach-quality sand. 2000-67/1840**

The General Assembly further finds that it is in the public interest for the State to make provision for beach preservation and restoration projects where such projects are found to be economically, environmentally, and socially justified, and when so justified, beach preservation and restoration projects constitute a public purpose. 2001/418

In particular, beach nourishment, the replacement of sand from another sand source onto the beach, has been determined by coastal geologists, coastal engineers, and coastal managers to provide a reasonable and practicable response to the degradation of the beach and the threatened loss of property, public infrastructure, and public access caused by severe erosion. 2001/418

Other measures include the disposal of beach quality sand and material from inlet management projects and navigation improvement projects on adjacent eroded beaches where such disposal may be accomplished in a cost-effective manner. 2001/418

Beach-quality sand is a critical natural resource that is in limited supply in some North Carolina coastal areas. All possible steps should be taken to make sure that beach-quality sand dredged from navigation channels is used appropriately for beach nourishment. 2005/1542

Federal funding for both the maintenance of federally authorized navigation channels and for the planning, construction, and maintenance of federally authorized beach nourishment projects is threatened because of severe federal budget pressures. 2005/1542

The Department of Environment and Natural Resources has statutory authority to assist local governments in financing beach nourishment and waterway projects and is the sponsor of several federal navigation projects. 2005/1542

- (17) It is declared to be a necessary governmental responsibility to properly manage and protect North Carolina's beaches from erosion and that good planning is needed to assure a cost-effective and equitable approach to beach management and restoration, and that as part of a comprehensive response to beach erosion, sound policies are needed to facilitate the ability of landowners to move threatened structures and to allow public acquisition of appropriate parcels of land for public beach access. 2000-67/1840**

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North Carolina benefits from an extensive network of navigation channels in our public waterways, which have been authorized by Congress and are maintained by the U.S. Army Corps of Engineers. 2005/1542

North Carolina's waterway navigation channels provide extensive economic benefits to North Carolina by making possible commercial fishing, ferry travel, industrial barge transportation, and recreational boating. 2005/1542

Without periodic maintenance dredging, waterway navigation channels will become unusable, causing serious economic problems for fishermen, ferries, industries, and the tourist industry. 2005/1542

Estimated needs for beach nourishment projects in North Carolina for FY 2010 - FY 2014

All figures in millions of dollars:

FY 2010:	Federal -- \$29.0	Non-federal -- \$36.4
FY 2011:	Federal -- \$40.0	Non-federal -- \$21.5
FY 2012:	Federal -- \$35.8	Non-federal -- \$28.6
FY 2013:	Federal -- \$46.0	Non-federal -- \$33.0
FY 2014:	Federal -- \$42.0	Non-federal -- \$22.6
Annual Average:	Federal -- \$38.6	Non-federal -- \$28.4





North Carolina Department of Environment and Natural Resources  
Division of Coastal Management

Michael F. Easley, Governor

James H. Gregson, Director

William G. Ross Jr., Secretary

**MEMORANDUM**

**CRC-08-44**

**To:** The Coastal Resources Commission & Coastal Resources Advisory Council  
**From:** Michael Christenbury, Wilmington District Planner  
**Date:** November 4, 2008  
**Subject:** Carolina Beach Land Use Plan Amendment (November 2008 CRC Mtg.)

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The Town of Carolina Beach is requesting CRC Certification of an amendment to the Town of Carolina Beach Land Use Plan's Policy #30, to permit appurtenances of up to 10 feet above the 115 feet height limits for Hotels.

**Recommendation:** That the CRAC recommend to the CRC Certification of the Town of Carolina Beach Land Use Plan Amendment.

**History:** This amendment was originally brought before the CRC for Certification at the September 2008 CRC Meeting in Sunset Beach. At that meeting, the CRC voted to deny Certification of the amendment based on the determination that the Town failed to meet the public disclosure requirements per 07B.0801(a).

**Overview:** The Town of Carolina Beach is located on Pleasure Island in southern New Hanover County, located to the north of Kure Beach and to the south of the City of Wilmington. The Town of Carolina Beach 2007 Land Use Plan was certified by the CRC on November 30, 2007.

On October 17, 2008, the Town of Carolina Beach held a duly advertised public hearing and voted by resolution to adopt the land use plan amendment. The Public Hearing was advertised on September 16<sup>th</sup>, September 17<sup>th</sup>, October 8<sup>th</sup>, and October 15, 2008. The town amended the 2007 Carolina Beach Land Use Plan to include the following to policy statement # 30 (subsection # 4 added in italics, bold and underlined) that would only be applicable to areas designated Commercial 2, on the Town's Future Land Use & Classification Map for Hotels:

**Policy # 30:** Building Height shall be defined as that distance measured from the highest appurtenance on the structure to:

1. The front street line.
2. The nearest front street line where there is not an adjacent right-of-way.
3. An average of each front street line on through lots.
4. **Hotels – appurtenances ten (10) feet or less in height shall be exempted from the height measurement.**

The Carolina Beach Town Council adopted the amendment by a unanimous vote of those present at their October 17, 2008 public hearing. At the hearing, no individuals spoke in opposition to this amendment, and one (1) written objection was submitted to the Town.

The Town of Carolina Beach reviewed the amendment and determined that it is not in conflict with other policies or sections of the 2007 Carolina Beach Land Use Plan [see exhibit (A) Letter from the Town of Carolina Beach with Attachments pages 2 - 13].

The public had the opportunity to provide written comments up to fifteen (15) business days (excluding holidays) prior to the CRAC meeting. No comments have been received as of the date of this memorandum.

**Recommendation:** DCM Staff recommends that the CRAC forward this amendment to the CRC for Certification based on the determination that this Land Use Plan amendment has met the substantive requirements outlined within the 2002 Land Use Plan Guidelines and that there are no conflicts evident with either state or federal law, or the State's Coastal Management Program.

## **ATTACHMENTS**

Exhibit (A) Letter from the Town of Carolina Beach with Attachments

Joel Macon  
Mayor

Alan Gilbert  
Councilman

Jerry Johnson  
Councilman



Dan Wilcox  
Mayor Pro Tem

Pat Efird  
Councilwoman

Timothy Owens  
Town Manager

**TOWN OF CAROLINA BEACH**  
1121 N. Lake Park Boulevard  
Carolina Beach, North Carolina 28428  
910 458 2526  
FAX 910 458 2997

October 17, 2008

Mike Christenbury  
District Planner – Wilmington Region  
NC Division of Coastal Management  
127 Cardinal Drive  
Wilmington, NC 28401

Dear Mr. Mike Christenbury,

The Carolina Beach Town Council adopted an amendment to our 2007 CAMA Land Use Plan after holding a public hearing on October 17, 2008. Public notifications were completed in accordance with the requirements of 15A NCAC 07B .0901 and 15A NCAC 07B .0801.

In closing, the Town respectfully request this amendment be heard by the Coastal Resources Commission meeting scheduled for November 19-21, 2008. If you have any questions regarding our submittal or the process that has led to the submittal, please contact me at (910) 458-2999.

Sincerely,

  
Timothy W. Owens, AICP  
Town Manager

**ATTACHMENTS**

- #1 Staff Analysis**
- #2 Advertisements and Notices Posted**
- #3 Resolution supporting the amendment**
- #4 Staff report for the September CRC**
- #5 Zoning Ordinance Amendments**
- #6 PowerPoint Presentation**

## ***ATTACHMENT #1***

### **Staff Amendment Analysis**

The Town has carefully reviewed this amendment to ensure it is consistent and no conflicts exist with the 2007 Land Use Plan (LUP). To ensure consistency staff evaluated the policy change with:

(A) All policies,

(B) Each management topic including (1) Public Access, (2) Land Use Compatibility, (3) Infrastructure Carrying Capacity, (4) Natural Hazard Areas, (5) Water Quality, and (6) Local Concerns,

(C) The Future Land Use Plan Map (FLUP), and

(D) Descriptions of existing and future development characteristics in land classification areas,

(E) Policy 32 of the 2007 Land Use Plan states *“The Town policy on height for the Commercial 2 area shall require no commercial structures to exceed 115 feet. Any structure with residential units shall not exceed a maximum height of 50 feet unless the one to one rule is applied not to exceed 60 feet. The Town will undertake a master planning effort with ample public participation in the Commercial 2 area and other areas that tie into the Commercial 2 and Boardwalk Area.”* The last statement in this policy is included due to the arbitrary nature utilized during the LUP development process to pick a specific height limit. The Central Business District Master Development Plan thoroughly examines the height issue as referenced in policy 32. The 2007 Land Use Plan amendment is consistent with the Central Business District Master Development Plan, which was created and adopted through a process designed to maximize public participation.

(F) No changes have been made to the 2007 Land Use Plan proposed amendment from when it was presented at the September CRC meeting (see attachment #4). The change was supported by Town Council at that time, although due to concerns with the advertisement process the amendment did not pass at the September CRC meeting. The Town has advertised for the November CRC meeting in accordance with DCM Staff’s recommendations.

(G) By unanimous decision, Town Council has modified our zoning ordinance to be consistent with the proposed 2007 Land Use Plan amendment (see attachment 5).

Staff’s report was presented at our scheduled public hearing held on October 17, 2008 where Town Council voted to adopt this change in our 2007 Land Use Plan.

### **Notice and Advertisement**

The Town of Carolina Beach posted notices on September 16, 2008 in the following locations:

1. Carolina Beach website: [www.carolinabeach.org](http://www.carolinabeach.org)
2. Carolina Beach Senior Center
3. Carolina Beach Parks and Recreation Center
4. Carolina Beach Town Hall (copies are also available)

5. New Hanover County Courthouse (Office of the Wilmington/Cape Fear Coast Convention and Visitors Bureau, 24 N. 3<sup>rd</sup> Street, Room 201, Wilmington, NC 28401)

Advertisements were posted in local papers of general circulation on the following dates:

1. Star News: September 16, 2008
2. Island Gazette: September 17, 2008
3. Island Gazette: October 08, 2008
4. Island Gazette: October 15, 2008

**ATTACHMENT #2**

Joel Macon  
Mayor

Alan Gilbert  
Councilman

Jerry Johnson  
Councilman



Dan Wilcox  
Mayor Pro Tem

Pat Efird  
Councilwoman

Timothy Owens  
Town Manager

**TOWN OF CAROLINA BEACH**  
1121 N. Lake Park Boulevard  
Carolina Beach, North Carolina 28428  
910 458 2526  
FAX 910 458 2997

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**NOTICE OF PUBLIC HEARING TO AMEND THE TOWN OF CAROLINA BEACH 2007  
COASTAL AREA MANAGEMENT ACT (CAMA) LAND USE PLAN**

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The Town of Carolina Beach will hold a public hearing on Friday, October 17, 2008 at 6:30p.m. or soon thereafter in the Town Administration Building at 1121 North Lake Park Blvd in Carolina Beach. The Town Council will consider the following:

**Land Use Plan Amendment** – Consider amending the 2007 CAMA Land Use Plan to modify the limitations to building height in the Commercial 2 Land Use Classification Area by specifically amending Policy #30 to add Item #4 as shown below.

Policy #30: Building Height shall be defined as that distance measured from the highest appurtenance on the structure to:

- i. The front street line.
- ii. The nearest front street line where there is not an adjacent right-of-way.
- iii. An average of each front street line on through lots.
- iv. Hotels – appurtenances ten (10) feet or less in height shall be exempted from the height measurement.

A copy of the amendment can be viewed at Town Hall (1121 N. Lake Park Blvd, Carolina Beach, NC 28428) and/or at the New Hanover County Courthouse (Office of the Wilmington/Cape Fear Coast Convention and Visitors Bureau, 24 N. 3<sup>rd</sup> Street, Room 201, Wilmington, NC 28401) during normal work hours.

The Town of Carolina Beach invites your comments to this important Land Use Plan Amendment. **Again, the Town will consider this issue on October 17, 2008 at 6:30p.m. at the Town Administration Building.**

If adopted, the amendment will be submitted to the Coastal Resources Commission (CRC) for Certification. Written objections, comments or statements of support shall be submitted to the NC Division of Coastal Management District Planner, Michael Christenbury, 127 Cardinal Drive Ext., Wilmington, NC 28405. Written comments must be received no less than 15 business days prior to the November 19<sup>th</sup>-21<sup>st</sup> CRC meeting at which time the amendment is scheduled to be considered for Certification. Copies of the amendment are available for review and may be checked out for a 24-hour period at the Carolina Beach Town Hall during normal business hours. The public is encouraged to review the amendment.

For questions or additional information on this Land Use Plan amendment, please contact Gary Ferguson, Director of Planning & Development at 1121 N. Lake Park Blvd, Carolina Beach, NC 28428, by phone at 910-458-2986, or by email at [gary.ferguson@carolinabeach.org](mailto:gary.ferguson@carolinabeach.org).

\*\*\*

**Publish In Island Gazette on: September 17, 2008; October 8, 2008 and October 15, 2008**

**Publish in the Star News on Tuesday, September 16, 2008.**

**Caption of Ad: Town of Carolina Beach Public Hearing Notice**

*(Mail Invoice and Affidavits of Publication to Attention of Lynn Prusa, Town Clerk, Town of Carolina Beach, 1121 N. Lake Park Blvd., Carolina Beach, NC 28428. Thank You!)*



**RESOLUTION IN SUPPORT OF THE AMENDMENT OF THE 2007 TOWN OF CAROLINA BEACH  
CAMA LAND USE PLAN**

**WHEREAS**, the 2007 Land Use Plan amendment is entirely consistent with the Central Business District Master Development Plan which included countless hours of work by the public, elected officials, appointed officials, volunteers, staff and others who participated in the preparation of the plan, and

**WHEREAS**, the Town Council realizes the importance of the amendment in guiding the future growth and development of the Town, and

**WHEREAS**, the Town of Carolina Beach has met the intent and requirements as set forth in the North Carolina General Statutes and the North Carolina Administrative Code, and

**WHEREAS**, the Town Council certifies that the Town has followed the process as required in GS 113A-110 and notices as referred to in 15A NCAC 07B.0802 (b)(3), and

**WHEREAS**, the Town Council hereby finds that the amended policy statement has been evaluated with other existing policies and the Future Land Use Plan Map, and it has been determined that no internal inconsistencies exist, and

**WHEREAS**, the Town Council hereby finds that the six management topics including (1) Public Access, (2) Land Use Compatibility, (3) Infrastructure Carrying Capacity, (4) Natural Hazard Areas, (5) Water Quality, and (6) Local Concerns have been evaluated and it has been determined that no internal inconsistencies exist

**NOW, THEREFORE BE IT RESOLVED, THAT** the Town Council of the Town of Carolina Beach hereby adopts this amendment as reviewed for public hearing on October 17, 2008 and hereby requests that the amendment and it's supporting documentation be sent forward to the Coastal Resources Commission for their review at the November 19-21, 2008 meeting.

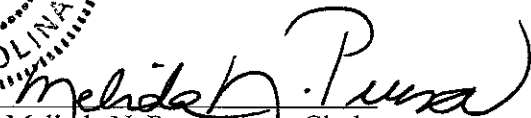
POLICY 30 AMENDED TO ADD ITEM #4 AS SHOWN BELOW:

Policy #30: Building Height shall be defined as that distance measured from the highest appurtenance on the structure to:

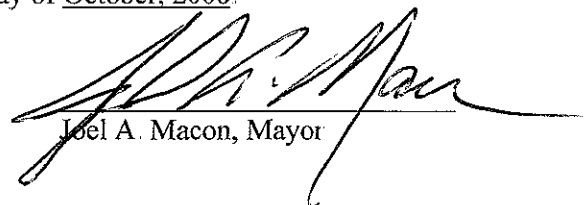
- i. The front street line.
- ii. The nearest front street line where there is not an adjacent right-of-way.
- iii. An average of each front street line on through lots.
- iv. Hotels – appurtenances ten (10) feet or less in height shall be exempted from the height measurement

Approved by a vote of 3 in favor and 0 opposed on this 17<sup>th</sup> day of October, 2008.



Attest:   
Melinda N. Prusa, Town Clerk

Signed by:

  
Joel A. Macon, Mayor



**ATTACHMENT #4**

Joel Macon  
Mayor

Alan Gilbert  
Councilman

Jerry Johnson  
Councilman



Dan Wilcox  
Mayor Pro Tem

Pat Efird  
Councilwoman

Timothy Owens  
Town Manager

**TOWN OF CAROLINA BEACH**  
1121 N Lake Park Blvd  
Carolina Beach, North Carolina 28428  
(910) 458-2978  
FAX (910) 458-2997

**Memorandum**

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TO: Honorable Mayor, Town Council  
FROM: Gary Ferguson, Planning Director  
RE: Land Use Plan Amendment  
MTG DATE: August 22, 2008

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On July 22, 2008 the Planning and Zoning Commission and Town Council had a joint meeting where Staff was directed to advertise for a public hearing to amend our 2007 Land Use Plan (LUP). The amendment addresses the C-2 Future Land Classification Area as it relates to maximum building height. In the Land Use Compatibility section of the LUP there are two policies that address building height. Policy 32 reads, "The Town policy on height for the Commercial 2 area shall require no commercial structures to exceed 115 feet. Any structure with residential units shall not exceed a maximum height of 50 feet unless the one- to -one rule is applied not to exceed 60 feet. The Town will undertake a master planning effort with ample public participation in the Commercial 2 area and other areas that tie into the Commercial 2 and Boardwalk Area." Staff is not proposing to amend this policy but instead policy #30. More specifically Staff is proposing, at the request of the Hilton, to modify Policy #30 which currently defines maximum building height to include the highest appurtenance on the structure. The Policy reads, "Building Height shall be defined as that distance measured from the highest appurtenance on the structure to:

1. The front street line.
2. The nearest front street line where there is not an adjacent right-of-way.
3. An average of each front street line on through lots."

The purpose of this amendment is to accommodate ten (10) additional feet of building height for the Hilton as well as all other future hotels in the same Land Classification and thereby raise the maximum building height from 115 feet **including** appurtenances to 115 feet **excluding** appurtenances. To accomplish this amendment request, Staff presented the following two options at the joint meeting:

**OPTION 1:** This option keeps specific regulatory language in the 2007 Land Use Plan.

- 30) Building Height:
- (A) Building height shall be defined as that distance measured from the highest point of the structure to:
    1. The front street line.

2. The nearest front street line where there is not an adjacent right-of-way.
  3. An average of each front street line on through lots.
- (B) Appurtenances such as: parapet walls, skylights, domes, flagpoles, cooling towers and structures for housing elevator equipment, stairways, tanks, fans, air conditioning or similar equipment required for the operation or maintenance of the building may be erected above the maximum height requirement if placed on the roof of the building.

32) The Town policy on height for the Commercial 2 area shall limit commercial structures to 115 feet excluding appurtenances as defined in policy 30 (B). Any structure with residential units shall not exceed a maximum height of 50 feet unless the one-to-one rule is applied not to exceed 60 feet. The Town will undertake a master planning effort with ample public participation in the Commercial 2 area and other areas that tie into the Commercial 2 and Boardwalk Area.

**OPTION 2:** This allows the 2007 Land Use Plan to be utilized as a guide for making future modification to the zoning ordinance.

30) The Town shall maintain a clear method for measuring building height in the zoning ordinance. This definition shall establish a fair method independent of individual lot grades.

32) During the 2007/2008 Central Business District master development plan process, the Town, general public, private developers, applicable development regulatory agencies, and community interest groups discussed and developed build-out scenarios that brought to the community a plan for reaching the goal of revitalization and sustainability for the Boardwalk and Central Business District. Implementation of specific heights in the zoning ordinance will be done pending the Town choosing the appropriate development scenarios. Each development concept places an emphasis on striking an appropriate balance between building massing, public space and enhancement of public access/ views to the ocean.

## ANALYSIS OF OPTIONS

It should be noted that Option 2 was not discussed at our joint meeting, and although it may be a viable and preferred option, it is significantly different and a major deviation from the current policies. Making such a change would most likely require a full review by the CRC.

In reviewing Option 1 in more detail, Staff is concerned that this allowance may open the door too wide and pave the way for any commercial or residential buildings to have a limitless height for any and all appurtenances. If Option 1 was adopted in the zoning ordinance it could have a negative aesthetic impact Town-wide. Therefore, in order to restrict this allowance for additional building height and to minimize the degree of policy change, staff is now proposing the language below to amend policy #30 only:

### **ALTERNATIVE POLICY #30**

- Building Height shall be defined as that distance measured from the highest appurtenance on the structure to:
  1. The front street line.
  2. The nearest front street line where there is not an adjacent right-of-way.
  3. An average of each front street line on through lots.
  4. Hotels – appurtenances ten (10) feet or less in height shall be exempted from the height measurement.

## **POLICY #32 – LEAVE AS IS**

With this alternative policy #30, Staff is proposing to define appurtenances in the Town zoning ordinance and not include this language as a definition in the 2007 Land Use Plan. In addition, the above language is the exact wording that has been advertised in the newspapers and posted in the Town Hall Complex. This alternative policy change would accomplish the following:

1. Maintain heated space or occupancy area to a maximum height of 115 feet.
2. Restrict the applicability of this allowance to only hotels in the C-2 Designation; and
3. Restrict the height of appurtenances to a maximum of only ten (10) feet above the permitted maximum building height of 115 feet.

It should be noted that this Land Use policy change will only effect or regulate those areas of the Town that are located within an “Area of Environmental Concern” (AEC’s) as designated by the Division of Coastal Management. Within these AEC’s CAMA has jurisdiction, and they must examine our Land Use Plan for consistency when permitting CAMA Major Development plans. For those areas outside of AEC’s but within our CBD and for commercial uses and services, and entertainment, “maximum building height shall be solely based on Conditional Use Permit Review” as prescribed in Section 3.9-1 of our zoning ordinance (see Exhibit #1). What this means is that consistency with the Land Use Plan outside of AEC’s is not a mandate and, therefore, no building height cap exists for these uses in the CBD zoning district. These projects must however obtain a CUP from the Town Council in order to exceed the maximum zoning height requirement of 50 to 60 feet.

### **Discussion**

From a Staff perspective, this proposed policy change assumes a number of value latent issues including the following:

1. The Town values the construction of high rise hotels in a portion of our CBD.
2. The Town is willing to accommodate additional building height to achieve the value noted above.
3. The 2007 Land Use Plan should be flexible enough to allow this increase in height with no appreciable negative impacts (e.g. density, parking, stormwater, etc.)
4. This amendment will not result in a significant policy change as the over arching goals and values found in the Land Use Plan will be maintained.

Some, and perhaps many, individuals may not agree with these assumptions, most notably those who were directly involved in crafting the Land Use Plan policies as members of the Public Participation Plan, Planning and Zoning Commission and Town Council. Recognizing this from a Staff perspective, the question of building height does not lend itself to a “right or wrong” or objective answer but instead to a very subjective answer about how we want our community to look. Building height does, to a large degree, define a community and as such this question is best answered by the people and their elected representatives and not the Planning Staff. Given this, there are a variety of facts that should perhaps be considered in this decision making process, which include the following:

1. The 2005 Town of Carolina Beach Vision Statement

“The Town of Carolina Beach, its citizens, property owners, and business owners, hereby strive to safeguard the standards for living, work and recreation that have made Carolina Beach a preferred residential and vacationing community. The Town shall seek to promote a family-oriented residential community with entertainment, recreation and commercial services geared toward both the town’s permanent and vacationing families. Shopping and dining at the Boardwalk, enjoying the entertainment area, and relaxing at the public beaches, waters, parks, or marinas are all

activities to be preserved and enhanced in Carolina Beach. The Town recognizes the protection of its environmental and natural characteristics as being crucial in maintaining residents' enjoyment of their surroundings and quality of life. Sustaining economic growth from tourism and recreation is also a Town goal relying on a healthy and preserved ecosystem. Therefore, the duty of the Town of Carolina Beach shall be to manage and encourage sustainable growth through its policies and regulations in the pursuit of a safe, healthy and small-scale family community."

2. Height of Existing High Rise Structures in Town: (except for the Marriott these are approximate building heights)

The Marriott – 136 feet

Pelican Watch – 120 feet

Harbor Oaks – 120 feet plus appurtenances (cell tower)

Atlantic Towers – 110 feet

Golden Sands – 75 feet

3. C-2 Land Area in Acres as shown on the Future Land Use and Classification Map along with the Map: See Exhibit 2 for the Map

Total C-2 acreage is 39.12

Total CBD acreage is 58.40

4. Master Development Plan Proposed Regulations (page 36). Below are recommended revisions to the zoning ordinance in addition to the implementation plan as outlined by Peter J. Smith.

"Require a building height restriction of +/- 130 feet on the buildings fronting Canal Drive (parallel to the beach) to minimize summer shadow impacts as shown in figure 9," which is the Shadow Study Illustration (Extent Shadows on September 1<sup>st</sup> at 4:00 p.m.)

"Require buildings to step down from setback buildings as outlined in the Plan."

"Require the preparation of shadow impact studies for all future development over 50 feet."

Below is the insert found in the MDP that illustrates the shadow effect on September 1<sup>st</sup> and which shows the "Branded Hotel" shadow at a presumed height of 115 feet. The MDP also suggests limiting the height of buildings to minimize shadow impacts. The figure below illustrates the shadow impact on September 1 at 4 p.m. Taller buildings can possibly shade out areas of the beach.



## **ADVERTISEMENTS AND NOTIFICATIONS**

### NEWSPAPER ADVERTISEMENTS

1. Island Gazette on July 23, 2008 – This ad contained: (1) a general description of the amendment; and (2) locations where the amendment could be viewed.
2. Island Gazette on July 30, 2008; August 06, 2008; August 13, 2008; and August 20, 2008 – an increase level of detail is provided in this ad that shows: (1) the specific language recommended for approval; (2) additional locations where the ad may be viewed; and (3) information on how to provide written comments to the Division of Coastal Management.
3. Star News on July 26, 2008 – same ad as described in #2.

### PUBLIC NOTIFICATIONS

1. On July 23, 2008 information on the amendment was posted in the following locations: (1) Town Hall; (2) New Hanover County Courthouse (Office of the Wilmington/Cape Fear Coast Convention and Visitors Bureau; (3) Katie B Hines Senior Center; (4) Carolina Beach Library; (5) Carolina Beach Parks and Recreation Center

### DIVISION OF COASTAL MANAGEMENT NOTIFICATIONS

A copy of the notification was provided to Mike Christenbury on July 23, 2008.

If the Town agrees to amend the 2007 Land Use Plan on August 22, 2008, then the amendment will be emailed to Mike Christenbury on the evening of August 22 in order to be heard at the September 24-26 CRC meeting.

## **RECOMMENDATION**

### **PROS:**

- The Master Development Plan supports this amendment with suggested heights +/- 130 feet.
- Currently, there is no building cap outside AEC's, therefore, zoning outside AEC's would support this.
- The Hilton's requests will add economic viability to our CBD.

### **CONS:**

- It is a change against the final decisions made during the planning process that went into the 2007 Land Use Plan adoption.
- This is another incremental increase in the building height cap without addressing the issue as a whole.

In conclusion and because this is a value driven issue, Staff is not proposing a technical recommendation for your consideration. We are of the opinion that this decision is best suited to those who recommend and decide on the future look of what we want our Town to become.

### **Planning and Zoning Commission Recommendation**

On August 14, 2008 the Planning and Zoning Commission was scheduled to hear both the Land Use Plan amendment as well as two zoning amendments and to advance their recommendation on each to Town Council. Due to an advertising oversight by the Island Gazette, the ad for August 6, 2008 was not run which invalidated the zoning text amendment public notice requirements specified in Section 21.2(e)(4) of the zoning ordinance. This prevented the Planning and Zoning Commission from hearing this request on the two proposed zoning amendments. These amendments will be addressed at a Special P&Z meeting scheduled for September 4, 2008 at 7:00pm in the Town Council Chambers.

Concerning their recommendations for the Land Use Plan amendment, the Planning and Zoning Commission voted not to advance a recommendation because of the omitted public notice advertisement. It should be noted that according to GS 113A-110 which is referenced in the CAMA Land Use Plan Review and CRC Certification requirements only the body charged with adoption or subsequent amendment shall hold a public hearing on the issue and therefore no required P&Z recommendation is necessary or required.

ORDINANCE NO. 08-757

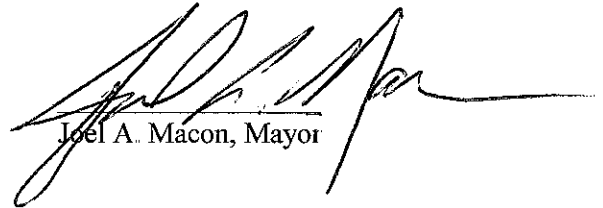
Amend Article 23 3 Definitions


**Building Height** shall be defined as that distance measured from the highest appurtenance on the structure to:

1. The front street line.
2. The nearest front street line where there is not an adjacent right-of-way.
3. An average of each front street line on through lots.
4. Hotels – appurtenances ten (10) feet or less in height shall be exempted from the height measurement.

Appurtenance(s): Items required for the operation and maintenance of a building including parapet walls, skylights, ventilation equipment, domes, flagpoles, cooling towers, housing for elevator equipment, stairways, tanks, fans, air conditioning and heating equipment and similar operational devices.

Adopted this 9th day of September 2008

  
Joel A. Macon, Mayor

Attest:   
Melinda N Prusa, Town Clerk



## Carolina Beach Land Use Plan Amendment

OCTOBER 17, 2008

### AMENDMENT

- AUGUST 22, 2008 – APPROVED BY TOWN COUNCIL
- SEPTEMBER 24, 2008 – RECOMMENDED FOR APPROVAL BY CRAC
- SEPTEMBER 25, 2008 DENIED BY CRC

## Advertising and Notification Process

Star News: 9/16/08  
Island Gazette: 9/17/08  
Island Gazette: 10/8/08  
Island Gazette: 10/15/08

### Current Policy #30

- Building height shall be defined as that distance measured from the highest appurtenance on the structure to:
  - 1 The front street line
  - 2 The nearest front street line where there is not an adjacent right-of-way
  - 3 An average of each front street line on through lots

### Current Policy #32

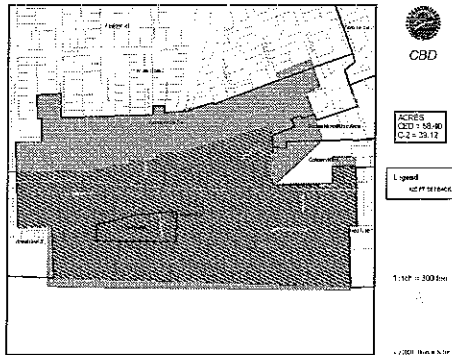
"The Town policy on height for the Commercial 2 area shall require no commercial structures to exceed 115 feet. Any structure with residential units shall not exceed a maximum height of 40 feet unless the one-to-one rule is applied not to exceed 60 feet. The Town will undertake a master planning effort with ample public participation in the Commercial 2 area and other areas that tie into the Commercial 2 and Boardwalk Area."

### Purpose of the LUP Amendment

- To accommodate 10 additional feet of building height for hotels in the C-2 Future Land Use Classification Map by raising the maximum building height from 115 feet including appurtenances to 115 feet excluding appurtenances



### C-2 Land Use Plan Classification Area



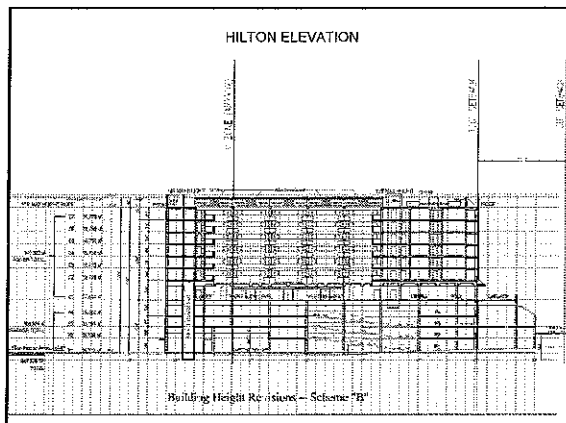
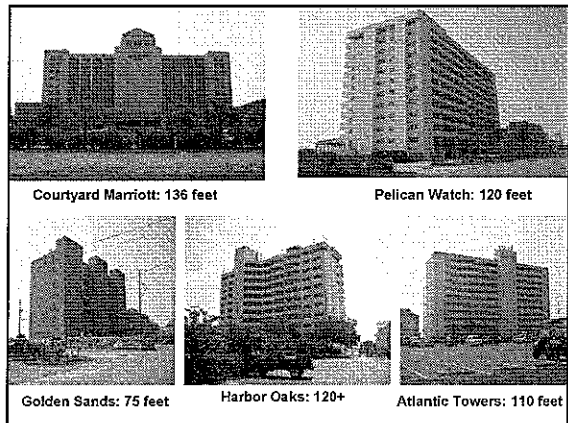
### Proposed Policy #30

Building Height shall be defined as that distance measured from the highest appurtenance on the structure to:

- The front street line.
- The nearest front street line where there is not an adjacent right-of-way.
- An average of each front street line on through lots.
- Hotels – appurtenances ten (10) feet or less in height shall be exempted from the height measurement.

### Policy Changes Will Accomplish the Following:

1. Maintain heated space or occupancy area to a maximum of 115 feet.
2. Restrict the applicability of this allowance to only hotels in the C-2 designation
3. Restrict the height of appurtenances to a maximum of only 10 feet above the permitted maximum building height of 115 feet



### SUPPORT FOR THE AMENDMENT

- 1 CONSISTENT WITH THE MDP ADOPTED BY TOWN COUNCIL ON JUNE 24, 2008. THE MDP SUGGESTED BUILDING HEIGHTS OF +/- 130 FEET.

2. CONSISTENT WITH THE 2007 LUP  
CORE GOAL TO:

"REVITALIZE THE LOCAL ECONOMY AND  
MAKE IT SUSTAINABLE" (pg. 73 1<sup>st</sup>  
Core Goal)

3. CONSISTENT WITH THE  
FOLLOWING 2007 LUP  
POLICIES

> POLICY #22 ... PROMOTE AND  
ENCOURAGE RULES THAT INSURE  
THE COMPACT PEDRESTRIAN  
ORIENTED NATURE OF THE TOWN'S  
HISTORIC CENTER – THE  
BOARDWALK...

> POLICY #26

> THE TOWN SHALL CONSIDER NEW  
ECONOMIC DEVELOPMENT AND  
REDEVELOPMENT PROJECTS THAT  
SUPPORT A RESORT-MARKET NICHE

> #4

> CONSISTENT WITH THE NEWLY AND  
UNANIMOUSLY ADOPTED ZONING  
AMENDMENTS FOR HOTELS WHICH  
EXCLUDES APPURTENANCES 10 FEET  
OR LESS IN HEIGHT FROM THE  
HEIGHT MEASUREMENT. (9/9/08)



North Carolina Department of Environment and Natural Resources  
Division of Coastal Management

Michael F. Easley, Governor

James H. Gregson, Director

William G. Ross Jr., Secretary

**CRC-08-45**

## MEMORANDUM

**To:** The Coastal Resources Commission and Coastal Resources Advisory Council  
**From:** Maureen Meehan Will, DCM Morehead City District Planner  
**Date:** November 4, 2008  
**Subject:** Town of Pine Knoll Shores Core Land Use Plan (November CRC Meeting)

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**The Town of Pine Knoll Shores is requesting certification of their 2008 Core Land Use Plan (LUP).**

### Overview

The Town of Pine Knoll Shores is located on Bogue Banks between the Towns of Atlantic Beach and Indian Beach. The town has a mixture of full time and part time residential units as well as vacation rentals. The majority of the town is zoned residential with some commercial uses mixed through town.

This small town had a permanent population of 1,524 in 2000 and has a projected total peak seasonal population of 12,654 by 2025. Pine Knoll Shores is the second fastest growing municipality in Carteret County after Emerald Isle. There are sufficient community facilities (water) to accommodate the projected population and development. The town relies on and will continue to rely on private septic systems for single-family homes and package treatment plants for multi-family developments.

As an ocean front community, beach nourishment and meeting the associated beach access requirements are regularly discussed. The town beaches received nourishment in 2007 and currently the town is working on establishing the required public beach access and parking. The plan includes policy and implementation statements supporting beach nourishment projects and public beach access requirements.

Key local issues that are illustrated in the vision statement and further outlined in the policy statements include: maintaining diverse natural areas, offering a single-family residential community, maintaining a moderate growth rate, limiting commercial uses, and providing efficient and cost-effective community services.

The following policy statements exceed State development regulations:

**Policies – Land Use Compatibility – Commercial:**

*P.19 The Town of Pine Knoll Shores prohibits the construction of any additional public or private open water or upland marina facilities. Modification of existing marinas will be permitted, assuming the geographical extent of the existing facility is not expanded. This policy exceeds guidelines established under 15 NCAC 7H. While the Town prohibits construction of new marinas, it supports maintenance and no net loss of existing marinas. (pg. 102)*

**Policies – Water Quality:**

*P.58 The Town of Pine Knoll Shores does not support the location of floating homes within its jurisdiction. This policy exceeds state requirements. (pg.112)*

The Pine Knoll Shores Board of Commissioners adopted the land use plan by resolution, on September 25, 2008, after a duly advertised public hearing. The resolution adopting the plan is attached. The public had the opportunity to provide written comments on the LUP up to fifteen (15) business days prior to the CRC meeting. No comments were received.

As a reminder, the LUP, including maps and an executive summary can be found online at [http://www.nccoastalmanagement.net/Planning/under\\_review.htm](http://www.nccoastalmanagement.net/Planning/under_review.htm). If you have any questions please do not hesitate to contact me at 252-808-2808.

**DCM Staff Recommendation:** DCM Staff recommends that the CRAC forward this Land Use Plan to the CRC for Certification based on the determination that it has met the substantive requirements outlined within the 2002 Land Use Plan Guidelines and that there are no conflicts evident with either state or federal law, or the State’s Coastal Management Program.

Attachment:  
Pine Knoll Shores Resolution of Adoption

**RECEIVED**

OCT 21 2008

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE  
TOWN OF PINE KNOLL SHORES, NORTH CAROLINA  
ADOPTING THE TOWN'S CAMA CORE LAND USE PLAN**

**Morehead City DCM**

**WHEREAS**, the Town's CAMA Core Land Use Plan was financed in part through a grant provided by the North Carolina Coastal Management Program through funds provided by the Coastal Zone Management Act of 1972, as amended, which is administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration; and

**WHEREAS**, from 2004 through 2008, the Town drafted a Land Use Plan with the assistance of its consultant T. Dale Holland, Holland Consulting Planners, and conducted a series of public workshops and meetings as part of a comprehensive public participation program under the leadership of the CAMA Land Use Plan Committee; and

**WHEREAS**, on October 9, 2007, the Planning Board recommended adoption of the draft CAMA Core land Use Plan; and

**WHEREAS**, at a duly advertised Regular Meeting of the Board of Commissioners of the Town of Pine Knoll Shores, North Carolina found the policies in the draft CAMA Core Land Use Plan to be internally consistent; and

**WHEREAS**, at the Regular Meeting on Tuesday, September 9, 2008 the Board of Commissioners of the Town of Pine Knoll Shores, North Carolina found the policies and Future Land Use Map in the draft CAMA Core Land Use Plan to be consistent with the Town's desired version for the future and unanimously approved to adopt the draft CAMA Core Land Use Plan as amended; and

**WHEREAS**, the adopted Plan will be submitted as required by state law to the Morehead City District Planner for the Division of Coastal Management under the North Carolina Department of Environmental and Natural Resources and forwarded to the Coastal Resources Commission; and

**WHEREAS**, a presentation by the Town to the Planning and Special Issues (P&SI) committee of the Coastal Resources Commission will be scheduled; and

**WHEREAS**, the P&SI committee will decide on a recommendation to the Coastal Resource Commission (CRC) at the meeting; and

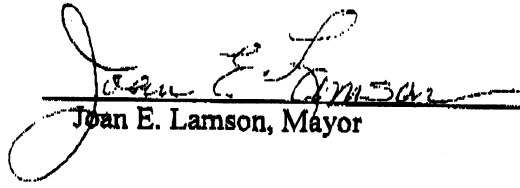
**WHEREAS**, the P&SI committee chairman will submit the recommendation to the CRC and the CRC will then vote on certification of the Town's Land Use Plan; and

**WHEREAS**, a certified Pine Knoll Shores CAMA Core Land Use Plan will be forwarded to the Office of Ocean and Coastal Resource Management (OCRM) for federal approval.

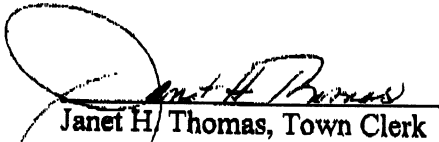
**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Commissioners of the Town of Pine Knoll Shores, North Carolina, has unanimously adopted the draft CAMA Core Land Use Plan; and

**BE IT FURTHER RESOLVED** that the Town Manager of the Town of Pine Knoll Shores is hereby authorized to submit the adopted CAMA Core Land Use Plan to the State for certification as described above.

Adopted this 25<sup>th</sup> day of September, 2008.

  
Joan E. Lamson, Mayor

Attest:

  
Janet H. Thomas, Town Clerk

