

NC COASTAL RESOURCES COMMISSION

October 29-30, 2009

Sheraton

Atlantic Beach, NC

The State Government Ethics Act (Chapter 138A of the General Statutes) mandates that the Chair (1) remind members of their duty to avoid conflicts of interest or appearances of conflict, and (2) inquire as to whether any member knows of any known conflict of interest or appearance of conflict with respect to matters before the Commission. If any member knows of a conflict of interest or appearance of conflict, please so state when requested by the Chairman.

Thursday, October 29th

9:00 EXECUTIVE COMMITTEE MEETING

Bob Emory, Chair

10:00 COMMISSION CALL TO ORDER (Ballroom)

Bob Emory, Chair

- Roll Call
- Approval of August 27, 2009 Meeting Minutes
- Executive Secretary's Report
- Chairman's Comments

Jim Gregson
Bob Emory

10:30 PRESENTATIONS

- CRC Study of the Use of Terminal Groins - Update
- Town of River Bend Implementation & Enforcement Plan (*CRC-09-31*)
- Discussion of Amendments to 15A NCAC 70 .0202 Reserve Use Requirements (*CRC-09-33*)

Jim Gregson/Paul Tschirky
Ed Brooks
Rebecca Ellin

12:00 PUBLIC INPUT AND COMMENT

12:15 LUNCH

1:30 PRESENTATIONS

- Ocean Policy/Beach Summit Recommendation Implementation

Joan Weld
Scott Geis

VARIANCES

- Town of Caswell Beach - (*CRC-VR-09-04*), Sewer line in oceanfront setback

Christine Goebel

CONTESTED CASES

- Taylor et al. v. DCM and TP Inc. (*08 EHR 1765*)

Jill Weese

5:00 PUBLIC HEARING

- CRC Study of the Feasibility and Advisability of the Use of Terminal Groins

6:00 RECESS

Friday, October 30th

8:30 COMMISSION CALL TO ORDER (Ballroom)

Bob Emory, Chair

PRESENTATIONS

- DCM Sea Level Rise Initiative – Preliminary Survey Report
- Wind Turbines and Water Dependent Structure Issues (*CRC-09-34*)
- Wind Energy Facility Amendments to 15A NCAC 7M .0400 Coastal Energy Policies; 15A NCAC 7H .0208 Use Standards and 15A NCAC 7H .0106 General Definitions (*CRC-09-35*)

Mike Lopazanski
Doug Huggett
Mike Lopazanski
Scott Geis

ACTION ITEMS

Land Use Plan Certifications and Amendments

Bob Emory, Chair
John Thayer

- Brunswick County LUP Amendments (*CRC-09-36*)
- Town of Swansboro LUP Certification (*CRC-09-37*)
- City of Havelock LUP Certification (*CRC-09-38*)
- Craven County LUP Certification (*CRC-09-40*)

OLD/NEW BUSINESS

Bob Emory, Chair

- Future Meetings and Agenda Items

12:00 ADJOURN

Next Meeting
January 13-15, 2010
CRC Meeting followed by NC DENR Sea Level Rise Science Forum
Hilton North Raleigh
Raleigh, NC



N.C. Division of Coastal Management
www.nccoastalmanagement.net

NC COASTAL RESOURCES COMMISSION (CRC)

August 27, 2009

NOAA/NCNERR Administration Building
Beaufort, NC

Present CRC Members

Bob Emory, Chairman

James Leutze

Chuck Bissette

Ed Mitchell

Charles Elam (present at 10:15)

Melvin Shepard

Lee Wynns

Veronica Carter

Bill Peele

Wayland Sermons

Bob Wilson

Present Attorney General's Office Members

Jennie Hauser

Christine Goebel

CALL TO ORDER/ROLL CALL

Chairman Emory called the meeting to order and reminded Commissioners of the need to state any conflicts due to Executive Order Number One and also the State Government Ethics Act.

Angela Willis called the roll. Jim Leutze stated he has a possible conflict with the variance on the agenda and will recuse himself. Joan Weld, Renee Cahoon, Jerry Old and David Webster were absent. Based upon this roll call, Chairman Emory declared a quorum.

MINUTES

Jim Leutze made a motion to approve the minutes of the June 2009 Coastal Resources Commission meeting. Veronica Carter seconded the motion. **The motion passed unanimously (Leutze, Bissette, Peele, Sermons, Shepard, Mitchell, Wilson, Wynns, Carter) (Elam absent for vote).**

EXECUTIVE SECRETARY'S REPORT

DCM Director Jim Gregson gave the following report.

Legislative Update/Sandbag Update

HB 709: Implemented to Address Erosion Control Issues - This bill imposes a moratorium until September 1, 2010, on sandbag enforcement, prohibiting the CRC from ordering the removal of sandbag structures in communities actively pursuing beach nourishment or inlet relocation projects. Although the bill does not direct the CRC to consider permitting terminal groins at this time, it does direct the CRC, in consultation with DCM, the Division of Land Resources, and the Coastal Resources Advisory Council, to conduct a study of the feasibility and advisability of the use of terminal groins as an erosion control device. The final report must be presented to the Environmental Review Commission and the General Assembly by April 1, 2010.

SB 202: Appropriations - This year's budget bill included \$300,000 for the design and operation of up to three demonstration wind turbines in the sounds or off the NC coast. There is language in the bill that would exempt a pilot project from any required CAMA permits and other permits, but would not exempt it from Dredge and Fill permits.

SB 831: Extend Certain Development Approvals - This bill will effectively extend the expiration dates of all Coastal Area Management Act permits (and several other environmental permits) effective between January 1, 2008 and December 31, 2010. The problem for DCM is, based on past permit renewals, it would reduce receipts about \$30,000 - \$35,000 over the two year period.

HB 1378: Clean Marinas/Pumpout Stations - Requires full service marinas (with 10 or more slips) in communities seeking a "no discharge zone" designation to install a pumpout facility by July 1, 2010. Prohibits discharge into coastal waters and requires vessel operators to keep pumpout logs. Directs DCM to establish a pilot program in New Hanover County to begin phasing in the requirements of this act.

Setbacks/Static Line Rules in Effect

Amendments to the Coastal Resources Commission's rules governing setbacks for oceanfront structures and static lines for communities with large-scale beach nourishment projects became effective this month. Changes to 7H .0306 General Use Standards for Ocean Hazard Areas were adopted by the CRC in Sept. 2008, but were subject to legislative review. No bills affecting the rules were acted upon during this year's legislative session, which means the rules became effective at the end of the session.

Town of River Bend enforcement Plan

On August 6, the Town of River Bend submitted their letter of intent to adopt a local implementation and enforcement plan, which will allow the Town to administer CAMA minor development permits. The Town plans to hold a public hearing regarding the plan at the September meeting of the Town Council, and will present their proposed plan to the Commission for review at the October meeting.

BIMP Update

DCM received the second draft of the Beach and Inlet Management Plan from Moffatt and Nichol On Friday August 21. The final due date for the BIMP is September 30. In order to ensure the BIMP initiative continues to progress through this new fiscal year, DCM will have Steve Underwood continue to be the BIMP coordinator and the main point of contact for the BIMP. DWR has also agreed to utilize existing staff in moving forward on potential long-term funding mechanisms.

Reserves Management Plan

NOAA and DCM are currently accepting public comment on the N.C. National Estuarine Research Reserves revised Management Plan. The revised management plan outlines the administrative structure; the education, stewardship, and research goals of the reserve; and plans for future land acquisition and facility development to support reserve operations. This management plan describes how the strengths of the reserve will focus on several areas relevant to coastal North Carolina: coastal population increase, altered land use, stormwater runoff, invasive species, tropical and coastal storm impacts and sea level rise. To view a copy of the plan, visit the reserve's Web site.

National Estuaries Day

Saturday, September 26th is National Estuaries Day, which promotes the importance of estuaries and the need to protect them. September 26th is also National Public Lands Day which is the nation's largest hands-on volunteer effort to improve and enhance public lands. The National Estuarine Research Reserve System has partnered with the National Environmental Education Foundation to celebrate both with several events, including: an education tent with hands-on activities in front of the Maritime Museum in Beaufort; free, public field trips to the Rachel Carson Reserve throughout the day; participating in the Town of Kitty Hawk's Heritage Day Festival; and holding Reserve clean-ups at the Rachel Carson, Masonboro Island and Zeke's Island sites.

Reserve Workshops

The Reserves will be holding a number of workshops over the next few months:

- Getting to Know Wetlands workshop, Sept. 23 in Beaufort
- Grant writing workshop, Oct. 27-28 at the NOAA/NERRS building in Beaufort.
- Southeast Regional Diamond Terrapin Workshop, Dec. 3 at the Fort Fisher Aquarium.
- Two hunter workshops for the Reserve's Northern Sites, in partnership with the North Carolina Wildlife Resources Commission. Workshops are scheduled for the following dates:
 - For the Buxton Woods Coastal Reserve and WRC Game Lands: 6 p.m., Wed. Sept. 9, at the Fessenden Center in Buxton
 - For the Kitty Hawk Woods and Currituck Banks Reserves: 6 p.m., Thurs., Sept. 10 at the Town of Kitty Hawk Fire Department

KWH Nature Hikes

The Kitty Hawk Woods Coastal Reserve will host naturalist-guided nature hikes on Sundays in September. The hikes will be from 9-10 a.m., Sept. 13, 20 and 27.

Certifications

Dr. Jill Fegley, Reserve Education Coordinator, and Lori Davis, Reserve Education Specialist, recently became certified North Carolina Environmental Educators. In order to become a certified Environmental Educator, candidates must attend 70 hours of instructional workshops, spend 50 hours in outdoor field experiences, attend seminars, conferences, museums, or other environmental education centers for a minimum of 30 hours, have at least 30 hours of teaching experience with hands-on, interactive activities, and carry out an "action partnership" which demonstrates the effect of the participant's environmental education through leadership, partnership, stewardship, and community action.

Masonboro Island

Once again, the Masonboro Island coastal reserve was a popular party spot on July 4th, and unfortunately the people who visited the reserve that day again left piles of beer cans and other trash behind. Volunteers collected numerous bags of trash along a quarter-mile of the island following the holiday. The division is considering many options for addressing this issue and we intend to incorporate public input into our decision-making process. While DCM does not want to restrict access to one of the only remaining pristine barrier islands in North Carolina, we may be forced to take further action if Masonboro continues to be misused by large numbers of visitors with no respect for its value. A public meeting to discuss options for addressing usage of Masonboro Island will be held at 6 p.m., Oct. 8, at the UNCW Center for Marine Science.

Staff News

David Moye, express permits coordinator in the Washington office, will be the interim district manager in Washington following Terry Moore's retirement. Daniel Govoni, assistant major permits coordinator in the Morehead City office, and his wife Beth, welcomed a son, John Thomas, on July 7. Kim Hedrick, compliance and enforcement representative in the Washington office, and her husband, Ryan, welcomed a daughter, Hayden Lilly, on July 29. Debbie Savage, GIS analyst in the Raleigh office, has a new granddaughter, Keira Lyn, born April 30. DCM's former attorney, Merrie Jo Alcock, and her husband Tom, welcomed a new daughter, Josephine Weaver, on August 19.

CHAIRMAN'S COMMENTS

Bob Emory stated the setback rules went into effect when the Legislature left Raleigh. These rules have been in the works for about three years. Today, we will receive an update from the subcommittee looking at the Ocean Policy Task Force and Beach Summit recommendations. The subcommittee is prioritizing the recommendations. We will also discuss how we will proceed on the Legislature's directions to look at the feasibility and advisability of the use of terminal groins. Chairman Emory stated that he was at the CHPP steering committee meeting a few weeks ago and was pleased with the presentation on the estuarine shoreline brochure presented by the Division. This brochure was developed by Bonnie Bendell and the Coastal Reserve education staff. This will be a tool to be put into the hands of landowners who are considering stabilizing their shorelines. It will be a tool to help them make the best decision and take into account the type of shoreline and options to consider other than vertical structures. There will be a new procedure on the agenda today. We will hear the first static line exception requests. We will also hear about a sea level rise initiative that will occur at the beginning of 2010. Chairman Emory stated he neglected to bring the economic interest statement conclusions from the ethics commission, but will take care of them at the next meeting. One of our Commissioners has been elevated to a lofty position and Chairman Emory stated he would like to recognize Wayland Sermons.

Wayland Sermons stated that he will resign from the CRC as he has been appointed to Superior Court Judge for the second judicial district. Chairman Emory stated that Wayland has been a valuable member of the Commission and presented Commissioner Sermons with a certificate of appreciation from the Coastal Resources Commission and Division of Coastal Management.

VARIANCE REQUEST

Herman Bretton Blizzard, CRC-VR 09-03
Wrightsville Beach, Riparian Setback

***Dr. Leutze recused himself from discussion and voting on this variance request.*

Christine Goebel of the Attorney General's office represented Staff. Ms. Goebel stated the Petitioner will be represented by Ken Shanklin and Cynthia Baldwin. Ms. Goebel stated the Petitioner is owner of property located at 12 West Salisbury Street in Wrightsville Beach in an area known as Sunset Lagoon. The lot is located in a bend in the curved shoreline of Banks Channel. The Petitioner is requesting to construct a freestanding mooring piling in his riparian corridor, but cannot meet the 15-foot setbacks required from the adjacent property owners' areas of riparian access. Neither of the two riparian neighbors agreed to waive the setbacks. Petitioner seeks a variance from the general permit conditions in 15A NCAC 07H .2205 and the specific use standards of 15A NCAC 07H .0208. Ms. Goebel reviewed the stipulated facts and four statutory criteria required to be met in order to grant the variance.

Cynthia Baldwin of Shanklin & Nichols, LLP represented Petitioner. Ms. Baldwin stated that without the neighbors' objections, the Petitioner would not be before the Commission requesting a variance. Ms. Baldwin discussed the stipulated facts that Petitioner contends supports the granting of the variance. The Petitioner wants a single tie piling which meets the Town of Wrightsville Beach's town ordinances. This property was purchased before CAMA was enacted and there has been a piling in the same location in the past.

Melvin Shepard made a motion that strict application of the applicable development rules, standards, or orders issued by the Commission creates a necessary hardship. Veronica Carter seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Elam, Wilson, Sermons).

Melvin Shepard made a motion that hardships result from conditions peculiar to the petitioner's property. Veronica Carter seconded the motion. The motion passed with eight votes (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Elam, Sermons) and one opposed (Wilson).

Veronica Carter made a motion that hardships do not result from actions taken by the Petitioner. Charles Elam seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Elam, Wilson, Sermons).

Bill Peele made a motion that the variance request is not consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; will not secure public safety and welfare; and will not preserve substantial justice. Bob Wilson seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Elam, Wilson, Sermons).

This variance was denied.

STATIC VEGETATION LINE EXCEPTION REQUEST

Christine Goebel of the Attorney General's Office presented the Staff's recommendation and review of reports submitted by both the Town of Carolina Beach and Town of Wrightsville Beach. If this exception request is granted, the result will be that instead of a static vegetation line, this will allow a post project vegetation line with limitations. Both Towns hired the consulting firm of CP&E to prepare the reports. The first factor addresses the history of nourishment. Both beaches have longstanding histories of beach nourishment projects and have had regular nourishment. Both reports talk about the nourishment, including the two jetties at Wrightsville Beach and the 2,500 foot rock revetment at Carolina Beach. Factor two requires details about schematics of the projects and are addressed adequately in the reports as these are long standing projects. The third and fourth factors are more difficult as you have to look into the future. Staff looked at the information provided and makes a best guess about what will happen in the future based on the information provided. The Towns have to come back before the CRC every five years and there are safeguards put on the development which include the 2,500 square foot maximum building size limitation. The reports have plenty of detail on the third factor of sand resources. While both projects used different sources initially, they have used the same sources consistently for about twenty years and there are no compatibility problems. The fourth factor is about funding sources. The primary funding source has come from a hotel occupancy tax. Both of these beaches are located within New Hanover County. This tax is administered by the County. Based upon the study in the reports, there appears to be sufficient funding to fund these projects for the life of the projects.

Dr. Jeff Warren stated that the static line does not evaporate with the granting of the static line exception. There are two facets of this rule that happen with the granting of the exception. The first is the small-scale, limited development that is allowable. It is measured from the actual stable line of vegetation. It cannot be further oceanward than the landward most adjacent building and is limited to 2,500 square feet. The other variable that can occur is that the maximum setback for large structures (greater than 5,000 square feet) is capped at 60 times the erosion rate. The static line exception addresses both small scale development and redevelopment and also addresses the large scale development.

Town of Carolina Beach Static Vegetation Line Exception Request (CRC 09-23)

Steve Coggins, counsel for the Town of Carolina Beach, stated that the Town joins in the recommendation of the Staff for approval of the static line exception. Mr. Coggins stated that he would like the affidavit of Tom Jarrett introduced into the record. *(Mr. Jarrett's affidavit was accepted by the CRC).*

At this time, Chairman Emory asked for comments from the public on the Town of Carolina Beach static vegetation line exception request. No members of the public signed up or spoke on this issue.

Jim Leutze made a motion to accept and approve the summary of all beach fill projects in the area as submitted by the Town of Carolina Beach. Lee Wynns seconded the motion. The motion passed unanimously (Mitchell, Bissette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson, Sermons).

Melvin Shepard made a motion that the plans and related materials submitted by the Town of Carolina Beach are adequate as required. Veronica Carter seconded the motion. The motion passed unanimously (Mitchell, Bissette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson, Sermons).

Melvin Shepard made a motion that documentation to delineate the planned location and volume of compatible sediment necessary to construct and maintain the large-scale fill project over its design life is complete as submitted by the Town of Carolina Beach. Jim Leutze seconded the motion. The motion passed unanimously (Mitchell, Bissette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson, Sermons).

Jim Leutze made a motion that the financial resources necessary to fund the large-scale beach fill project over its design life is adequate as submitted by the Town of Carolina Beach. Charles Elam seconded the motion. The motion passed unanimously (Mitchell, Bissette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson, Sermons).

The static line exception request was approved for the Town of Carolina Beach.

Town of Wrightsville Beach Static Vegetation Line Exception Request (CRC 09-24)

Bill Raney, counsel for the Town of Wrightsville Beach, stated the Town has submitted an affidavit from Tom Jarrett and would like it submitted into the record. *(The CRC accepted the affidavit of Mr. Jarrett).*

At this time, Chairman Emory asked for comments from the public on the Town of Wrightsville Beach static vegetation line exception request. No members of the public signed up or spoke on this issue.

Melvin Shepard made a motion to accept and approve the summary of all beach fill projects in the area as submitted by the Town of Wrightsville Beach. Jim Leutze seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson, Sermons).

Melvin Shepard made a motion that the plans and related materials submitted by the Town of Wrightsville Beach are adequate as required. Chuck Bisette seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson, Sermons).

Bill Peele made a motion that documentation to delineate the planned location and volume of compatible sediment necessary to construct and maintain the large-scale fill project over its design life is complete as submitted by the Town of Wrightsville Beach. Charles Elam seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson, Sermons).

Jim Leutze made a motion that the financial resources necessary to fund the large-scale beach fill project over its design life is adequate as submitted by the Town of Wrightsville Beach. Veronica Carter seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson, Sermons).

The static line exception request was approved for the Town of Wrightsville Beach.

PRESENTATIONS

Update on Ocean Policy/Beach Summit Recommendation Implementation Scott Geis

Scott Geis stated the CRC subcommittee looked at the recommendations of the OPSC and the Beach Summit and prioritized them. The subcommittee came up with 11 priorities. The first recommendation was a review of the CRC's 7M energy policies for their application in siting alternative energy facilities in State waters and determining any inefficiencies of current rule language. The second recommendation is to examine CRC policies on non-water dependent structures and their pertinence to the siting of alternative energy facilities. The CRC should discuss if marine based alternative energy facilities are water dependent structures and examine the benefits and drawbacks of designating these facilities as water-dependent. The third recommendation is to develop a sea-level rise component to CAMA land use plans. The CRC should examine how a sea-level rise component could be added to CAMA LUPs in an effort to develop proactive planning efforts that address a shifting coastal environment with focus on sea level rise evaluation, hazard mitigation, and post disaster planning. The fourth recommendation is to craft a resolution encouraging the beneficial use of dredged material. The resolution would call for and support efforts between the State and the USACE that work towards the beneficial use of dredged material. The fifth recommendation is a resolution supporting efforts to make the donation of unbuildable or threatened lots more appealing through the conservation tax credit program. A resolution could be drafted to the NC General Assembly supporting efforts to strengthen the conservation tax credit program facilitated by the NC Nature Conservancy. The sixth recommendation is to instruct the Science Panel to identify potential inlet sites along the coast in an effort to understand the vulnerability of coastal areas to intense storm activity. The seventh recommendation is to discuss the underlying issues presented in "disclosure of natural hazards" bills that have come through the General Assembly. The eighth recommendation is to

re-examine rules regarding dredging around hard bottom areas. The CRC should examine rules regarding dredging activities around hard bottom areas for their affect on dredging activities related to state and federal nourishment projects. This would be a review of both the benefit and drawbacks of the rule. The ninth recommendation is an update of North Carolina's coastal ocean resources maps. The CRC should establish a subcommittee to evaluate how coastal projects and datasets, such as the BIMP and the UNC wind study, can be used to begin an exercise in marine spatial planning. The tenth recommendation is to look at permits for stormwater management structures rather than variances. The CRC should examine the creation of a general permit for stormwater management structures rather than allowing them through the variance process. This would be done in an effort to encourage stormwater management practices along the Outer Banks. The last recommendation is the CRC should establish a committee advocating beach friendly development practices. The committee should advocate for beach friendly development practices, but allow individual municipalities to have a guiding hand in their own approach to this rather than a one size fits all model. This represents the beginning of a lobbying effort that would be used in the future to advocate beach friendly development practices to the NC General Assembly and US Congress.

Jim Leutze asked if the CRC could lobby. Jennie Hauser, CRC counsel, stated that she would look into the CRC's ability to lobby. Chairman Emory and Commissioner Leutze agreed that "advocate for" or "educate" would be better than the use of "lobby".

Melvin Shepard stated when beach renourishment occurs we should do a better job of retaining large sediments from coming from the hard bottom and making it onto the beach. He further stated that he has been monitoring turtle nests recently and the higher, heavier shell content is making it to the top of the sand. The shell fragments are coming into the turtle nests. The sediments may be as small as possible, but the shell doesn't pack and runs into the turtle holes. Chairman Emory stated that this is something the CRC could look into in the future.

Feasibility of Wind Turbines in the Pamlico and Albemarle Sounds and in Ocean Waters off the NC Coast – Environmental Impacts, Synergies and Use Conflicts
Dr. Pete Peterson, UNC Institute of Marine Sciences

Dr. Pete Peterson stated the General Assembly requested this study from the University of North Carolina at Chapel Hill. We were asked to study the Pamlico and Albemarle Sounds and the offshore waters of North Carolina to address issues of feasibility of development of offshore wind farms. The wind resource evaluation compared existing wind power estimates from AWS Truewind with available low-level wind observations. The first thing to do was to extrapolate low level winds to height. Then, we collected new observations with sodar wind profiler. Extrapolation was used to estimate winds at turbine height. We had to account for varying roughness of lower boundaries due to friction. Log layer and power law fits were the techniques used. The true wind model data showed the winds were higher offshore. There are wind powered classes created by the industry. Power generation is dependent on the generator that is used. We were aware that the greatest risk of turbines biologically is to birds and bats. Commercial fishing and recreation create use conflicts. There are absolute conflicts with military space. There are also cultural conflicts. We talked to many of the people who are experts on the science and use sides. The risk assessment to birds and bats depends on abundance and behavior. Birds at risk include nocturnal songbirds, large-bodies and low flying slow fliers, and pelagic seabirds. There are measures that can be taken to reduce the risk to birds and bats including not using continuous lighting, reducing or eliminating perches, and avoiding white colors. Pilot studies and impact studies after installation and operation of the first wind farm will demonstrate whether other mitigation procedures are needed. There are conflicts with

critical fish habitats and fishing uses including primary and secondary nurseries, migration paths, strategic habitats, submerged aquatic vegetation, shell bottom, oyster reefs and live reefs. Migration corridors could be affected and interference with intense fishing uses like trawling and long hauling could occur. Transportation corridors, cultural resources including shipwrecks, and reef habitats would not be compatible locations for wind farms. Sea turtles and marine mammals are protected. Their biggest risk would be during installation when noise and injury from bottom disturbance can occur. The risk to sea turtles and mammals during operation is unknown and is an area of current research interest. Military conflicts include airspace, training routes, radar and firing ranges. The Marine Corps, Navy and Army all have concerns about use conflicts. Some of the positive interactions that could occur with the establishment of wind farms could be that they would be an excellent foundation for oyster reefs and their ecosystem services. There have been some concerns about hurricanes. Wind turbines and foundations are engineered to withstand category 3 hurricanes and below. Hurricane risk is high in North Carolina; however landfalls and tracks of large hurricanes show that the ocean well north of Cape Hatteras represents a region that receives some protection from the projecting cape to the south. There are many means to reduce uncertainty about environmental impacts and use conflicts, however a lot more could be done.

There are two foundation alternatives. The first is called a monopole which looks like a nail drilled into the bottom and needs sandy sediment. The second is a gravity-based structure which sits on a hard bottom and is more expensive and is the less desirable of the two. These wind mills are so huge that they need a massive barge to install them that draws at least 12 feet of water. This becomes a huge limitation if we are thinking of putting these in the sounds as the waters are too shallow. Where are the types of bottoms that are suitable for these foundations? South of Beaufort there is rock hard bottom. North of Beaufort there are more sandy sediments which would be good for the monopole foundations. These structures have to be hooked up to land and we need to look at the utility transmission infrastructure and where there might be receiving points. If we look to the big utility companies and the points where we could make contact and deliver power that could be delivered on utility lines that already exist, we have three. Dominion Power's transmission system is not designed to accommodate significant offshore wind without a system upgrade. Progress Energy's transmission (specifically Morehead City's) could accommodate quite a bit without major upgrades. There are utility related issues relative to development of this industry. There are state and federal statutory and regulatory barriers. There are few outright regulatory barriers, but the regulatory incentives for wind energy are not as great as for other forms of alternative energy. There is a production tax credit that is expiring and needs to be extended beyond 2009 and independent power producers need to be ensured of efficient access to markets. There are legal and policy issues. There are many federal laws and regulations that affect wind management. The Minerals Management Service has a regulatory program to lease federal waters along the outer continental shelf for alternative energy projects. Wind energy projects in federal waters would be subject to the consistency provision of the Coastal Zone Management Act, which would allow North Carolina to protect its interests in the event such a project would affect its coast. The federal project would need to be "consistent to the maximum extent practicable" with the enforceable policies of NC's coastal management plan. But, where are our state policies? North Carolina must have in place laws and regulations that govern the development of wind energy in state coastal and ocean waters to receive the maximum benefits under the federal CZMA. These state laws and regulations are needed to provide the framework for federal consistency. The state must review all its laws applicable to such projects to assure that wind energy development in coastal and ocean waters will be done in a manner consistent with state interests and fill any existing gaps. Water based turbines and transmission lines are subject to CAMA and the CRC unless they fall within the exception created by statute. The Utilities Commission defers to the CRC for projects located in AEC's.

The EMC was given authority to develop a procedure for evaluating renewable energy technologies that are, or are proposed to be, employed as part of an alternative energy facility. The EMC can also establish an environmental regulatory program where there is not one. Where the EMC will go is unclear. H.B. 809 was filed this legislative session and is a reaffirmation of the Ridge Law. This sets environmental standards for permitting wind energy facilities. It divides the authority over wind energy permitting between the CRC in coastal counties and DENR for the rest of the state. There are issues with water dependency. The answer is yes that these structures are water dependent. The wind resource is offshore in North Carolina. A preliminary economic analysis was done. We looked at a small facility with 30 turbines in the sound and then looked at offshore and how it compares with other types of other renewable or alternative energy. The first is cost. The cost for wind energy is from half to forty percent less than the cost of solar power. Yet, the current laws at the federal level provide incentives for solar power. When all the information is integrated into a geographic information system it shows what areas remain viable for wind power development. The result shows the eastern half of Pamlico Sound appears to be the only area feasible for further consideration and the offshore where more than 2,800 square miles of potential development area where high quality wind is available. There are legislative recommendations which come from this study. A comprehensive submerged lands leasing statute should be enacted as well as a single comprehensive environmental permitting process. Regulatory changes would include amending the CRC's coastal energy policies as appropriate and encourage the NC congressional delegation to support an extension of the Production Tax Credit. There are no wind based pilot projects ongoing in the US at this time.

Amendments to 15A NCAC 07H .0104

Development Initiated Prior to Adoption by the CRC (CRC 09-25)

Jeff Warren

Dr. Warren stated that June 1, 1979 is the date in the current rule (7H .0104) that deals with pre-CAMA lots and construction initiated prior to the setback rules. As part of a comprehensive review of the setback policy, we need to discuss 7H .0104 which is a grandfather provision for lots that existed during prior erosion rate updates. The last erosion rate data was a 1998 study and became effective in 2004. As this rule currently stands, if we put a new erosion rate in place today, only lots platted after today would 100% rely on the new data. All lots platted prior to today would use a combination of the most recent data and the erosion rates in place at the time the lots were platted. As the rule stands today, if the erosion rate decreases a developer cannot take advantage of the lower rate. The other option is that the erosion rate increases. If the rate increases, lots platted after the new effective rate would have to follow this setback, however lots platted prior to the new rate would only have to use the higher rate to the maximum extent feasible. DCM would suggest three changes to this rule. The first change would be the title. Initially this rule was to grandfather lots that were in existence prior to erosion rates. As erosion rate updates became more common place this rule became an evolving way to deal with the updates. As time progressed, we have had a lot of rates through time. The second change would be that you could make the primary consideration to use the current erosion rate, but could also use the rate that was in place when the lot was platted. When the rate decreases you should be able to take advantage of this rate regardless of the reason that the rate went down. If the rate increases, the third recommendation would make the development look at the current rate and have the option of using the rate at the time when the lot was platted. If you use a grandfather rate because you can't make the current rate then there would be additional criteria. The additional criteria would include using the current erosion rate to the maximum extent practicable, go as far back on the lot as you can without violating local zoning standards, move

no further oceanward than the landward most adjacent structure, and the building can be no larger than 2,000 square feet.

Jim Leutze made a motion to send staff recommendations to 7H .0104 to public hearing. Lee Wynns seconded the motion. The motion passed unanimously (Bissette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson) (Mitchell, Sermons absent for vote).

**Amendments to 15 NCAC 07H .2300
Existing Bridge Replacement GP (CRC 09-26)
Doug Huggett**

Doug Huggett stated the State DOT has acknowledged that there are a large number of substandard bridges in North Carolina that need to be replaced. An effort was recently undertaken to come up with a methodology to identify some of these bridges as low impact bridges that could be replaced on a quicker basis. There are several procedural changes that need to take place within the DOT as well as the environmental permitting arena. One of the recommendations was to look at the existing GP for bridge replacement to see if we can do modifications to make it more applicable to a higher number of DOT projects and see if there are other efficiencies during the application process that could be gained and all the while acknowledging that the environmental protection that is necessary under our program be maintained. There are a couple of changes to 7H .2302 which basically are modifications to what information is necessary for the DOT to apply for a general permit. The other change increases the expiration date from one year to two years. It also includes reference to legislation that states that any permit issued for a DOT project identified in the Transportation Improvement Program does not expire. 7H .2303 adds language that allows inter-departmental fund transfer as payment from another state agency. All of the changes made to 7H .2304 are editorial in nature. The majority of the substantial changes take place in 7H .2305. The current rule states that the general permit is applicable to bridge replacement projects spanning no more than 250 feet of estuarine water, public trust area and coastal wetland AECs. We would propose changing this to 400 feet. The next change provides an exception for expanding existing roadway deck width to create two lanes from an existing one lane bridge. The prohibition of increasing the vertical clearance has been removed. The requirement that measures sufficient to restrain sedimentation and erosion be coordinated through the North Carolina Division of Land Resources has been removed. The biggest change that has been made to .2305 is raising the coastal wetland limit able to be excavated or filled to 750 square feet. The last change is a clarification that states that pipes and culvert inverts shall be buried at least one foot below normal bed elevation to allow for passage of water and aquatic life when they are placed within public trust and/or estuarine waters AECs and clarifies that culverts placed in wetlands are not subject to this requirement.

Jim Leutze made a motion to send staff recommendations to 7H .2300 to public hearing. Bill Peele seconded the motion. The motion passed unanimously (Mitchell, Bissette, Carter, Wynns, Peele, Shepard, Leutze, Elam) (Wilson abstained) (Sermons absent for vote).

**DCM Sea Level Rise Initiative Update (CRC 09-27)
Tancred Miller**

Tancred Miller stated the framework and roadmap for the sea level rise science forum was laid out in June before the CRC. DCM has met with the Secretary's office and they were receptive. There are a couple of things to keep in mind including making sure that we are not duplicating other efforts being undertaken by Emergency Management and other DENR agencies. We have since added a member of Emergency Management on the planning committee so it will be well

coordinated. We have launched the scoping survey online and are pleased with the amount of responses. The survey ends on August 31. We will have a preliminary report available in October. The next focus is the science forum which will take place January 14-15. One of the major things that has happened is we have met with the science panel and the estuarine biological and physical processes group. They had a substantive recommendation as to how to get to the goal of the summit. DCM supports their recommendation and it will cause some changes to the timeline. The science panel thinks that instead of trying to have scientists present data and come to a consensus on a rate of sea level rise in a public forum we should have the science panel do the research and review the literature and present it to the CRC to determine rates, ranges and time scales. In January the science panel will present the report. The science panel should look for a relative rate accounting for regional differences and underlying geology. They should look at time slices which will make it more relatable for the public, planners and local governments. They should decide on either a single number rate or a range. The panel should look at either a planning rate or a predicted rate. They should look at actual rate of sea level rise or a projected rate of sea level rise. The confidence level should be conveyed to the CRC in the report. The science panel should be asked to look at recommendations on how to monitor future sea level rise and what needs to be done at the state level to increase the monitoring.

PUBLIC COMMENT

Charles Baldwin, representing the Village of Bald Head Island, stated he wants to bring to the Commission's attention an issue that has recently arisen in the Village of Bald Head. (Slides were shown of aerial photos of August 25). Mr. Baldwin stated that these photos outline a recent breach of the sandbag wall that was built by the Village in 2004. There was overwash due to hurricane Bill last weekend. We had severe overwash which closed Sandpiper Trail. The Village is here today to talk about putting 20 bags in the hole to avoid a worse situation. We lost the road last weekend and we have an emergency situation. Tropical storm Danny is approaching and it is very important to note that the sandbags were exposed as a result of the Corps of Engineers dredging. If it is the Commission's wish, I would urge the CRC to discuss House Bill 709 which gives the CRC authority to grant the limited repair.

ACTION ITEMS

Extension of Taylor v. DCM (08 EHR 1765) Decision

Jennie Hauser, CRC counsel, stated that the Taylor contested case was received at the end of July. There was not enough space on the agenda or enough time to reproduce the 21 volumes of transcript for CRC review. The CRC can extend the time for a for a final agency decision.

Bill Peele made a motion to extend the time to make the final agency decision in Taylor v. DCM and TP Inc. 08 EHR 1765 for good cause shown for the entire 120 day period allowed by G.S. 150B-44. Jim Leutze seconded the motion. The motion passed unanimously (Mitchell, Bissette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson) (Sermons absent for vote).

Town of North Topsail Beach Land Use Plan Certification (CRC 09-29)

Town of Windsor Land Use Plan Certification (CRC 09-30)

John Thayer stated the Staff has reviewed the plans and found that both meet the substantive requirements outlined within the 7B Land Use Plan guidelines and that there are no conflicts

evident with either state or federal law or the State's Coastal Management Program. Staff recommends certification of both plans.

Charles Elam made a motion to certify the Town of North Topsail Beach's Land Use Plan. Melvin Shepard seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson) (Sermons absent for vote).

Jim Leutze made a motion to certify the Town of Windsor's Land Use Plan. Lee Wynns seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson) (Sermons absent for vote).

Adopt 15A NCAC 07B .0901 CAMA Land Use Plan Amendments

Melvin Shepard made a motion to adopt 15A NCAC 07B .0901. Bob Wilson seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson) (Sermons absent for vote).

Adopt 15A NCAC 07H .0205 Coastal Wetlands

Bill Peele made a motion to adopt 15A NCAC 07H .0205. Veronica Carter seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson) (Sermons absent for vote).

Approval of CHPP Annual Report (CRC 09-28)

Jimmy Johnson

Jimmy Johnson stated there has been a change since the CRC received their copy of the annual report.. On page 8, Goal 4, the wording has been changed to read, "CRC has adopted changes to dock and piers rules which give property owners flexibility in docking facilities and includes an 18 inch minimum distance requirement between the bottom of the floating structure and the substrate at normal water level or normal low water". Another change needed is to add the Wildlife Resources Commission to the front page.

Melvin Shepard made a motion to accept the CHPP Annual Report with corrections noted. Veronica Carter seconded the motion. The motion passed unanimously (Mitchell, Bisette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson) (Sermons absent for vote).

OLD/NEW BUSINESS

CRC Study of the Feasibility and Advisability of the Use of Terminal Groins

Jim Gregson

Jim Gregson stated House Bill 709 was signed by the Governor yesterday (8/26/09). This is a two part Bill. Section 1B establishes a moratorium on certain actions of the Coastal Resources Commission related to temporary erosion control structures (sandbags). The Commission shall not order the removal of a temporary erosion control structure that has been permitted under Article 7 of Chapter 113A of the General Statutes in a community that is actively pursuing a beach nourishment project or an inlet relocation project. This moratorium expires September 1, 2010. This will affect all sandbags in the State with the exception of a few in Corolla. The second part of the bill directs the CRC in consultation with DCM, the Division of Land Resources and the CRAC to conduct a study on the feasibility and advisability of the use of a terminal groin as an erosion control device at the end of a littoral cell or the side of an inlet to limit or control sediment passage into the inlet channel. For the purpose of this study, a littoral

cell is defined as any section of coastline that has its own sediment source and is isolated from adjacent coastal reaches in terms of sediment movement. There are six specific items which must be included in the study. There is also a requirement in the bill that the Commission hold at least three public hearings prior to April. No later than April 1, 2010, the CRC shall report its findings and recommendations to the Environmental Review Commission and the General Assembly.

Bob Emory stated that DCM staff should not conduct this study for several reasons. The timeframe involved, the disciplines required for this study, the permitting decisions that will need to be made and the public perception of DCM bias make the staff not ideal to conduct the study. Mr. Gregson stated that he would prefer if DCM staff not be involved in this study. It would put the staff in an awkward position when it comes time to make a permit decision on these structures. We could put this contract out for an RFP, however to make it through the state contract system would take about four months. The other option is to look at the current BIMP contract with Moffatt and Nichol. This contract is still active and could be extended. An initial proposal has been received from Moffatt and Nichol and we have the money to cover the cost of the study. We would like to have a kickoff meeting with Moffatt and Nichol, CRC, CRAC and Division of Land Resources to discuss the scope of work. The CRC and CRAC could guide the firm and select the sites that would be studied. It is not only Moffatt and Nichol doing this study, it would be done completely in conjunction with the CRC and CRAC and the Science Panel could be used as peer review. Moffatt and Nichol has proposed to subcontract the biological assessment and the economic analysis.

After discussion, Bob Emory stated a terminal groin subcommittee needs to be set up to attend the scoping meeting and stay engaged throughout the process. The subcommittee will consist of Commissioners Shepard, Carter, Leutze, Elam, and Emory and CRAC Chair Royal. Dara Royal will submit names of other CRAC members to be on the subcommittee.

Veronica Carter made a motion to involve the CRC and CRAC by creating a subcommittee. The subcommittee will meet with the contractor following the signing of the contract. The CRC will stay engaged throughout the process with progress reports and public comment sessions at each Commission meeting prior to the April 1, 2010 deadline. Melvin Shepard seconded the motion. The motion passed unanimously (Mitchell, Bissette, Carter, Wynns, Peele, Shepard, Leutze, Elam, Wilson) (Sermons absent for vote).

Chairman Emory stated that there had been a request from Bald Head Island during the public comment session to consider a situation there. DCM has asked for some guidance about sandbag repair. Jim Gregson stated House Bill 709 placed the moratorium on the removal of sandbags, however it does not specify whether repair is limited to structures with an active permit or if it allows for repair to sandbags that have expired permits and are subject to the moratorium. The Bald Head sandbags were due to come out May 1, 2008 or five years after the permit was issued. The permit has expired. They can now stay until September 1, 2010. The question is can they do anything to the sandbags? Any bags that were uncovered were subject to removal prior to the signing of this bill. There is a statutory provision for maintenance and repair. This would not require a permit if the repair is less than 50 percent of the physical value of the structure. Charles Baldwin stated that the Village only needs to add 20 sandbags to fix the problem. Mr. Baldwin stated that the General Assembly is clear. Bob Wilson stated the General Assembly's focus is not on the sandbags, but is on protecting the property. The General Assembly has told the CRC to allow repair if that is what it takes to protect the structure. Charles Elam stated that Bald Head has a project in place for renourishment and repair must be allowed with a hurricane sitting off of North Carolina's coast.

Bill Peele made a motion to consider this situation is a special case and the CRC should help Bald Head Island in this project only. The CRC should grant Bald Head Island permission to repair 20 sandbags based on the General Assembly's moratorium. Lee Wynns seconded the motion.

Jim Gregson asked, does the CRC want to allow maintenance and repair of sandbags whose permits have expired with the statutory exemption? Does the CRC want to allow DCM to issue permits for complete replacement of sandbags within their original dimensions for sandbags that have to be removed in September 2010? Jim Leutze stated that even if the Bill language is ambiguous about repair or replacement, you have to give the benefit of the doubt to the permit owner.

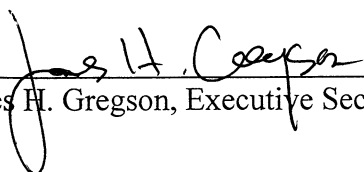
Melvin Shepard offered an amendment to the motion that this is an emergency situation at Bald Head Village. Due to Hurricane Bill and the proximity of Hurricane Danny, the CRC should grant permission to replace 20 sandbags without a variance request and consider this repair to a structure that has an expired permit. Bill Peele accepted the amendment.

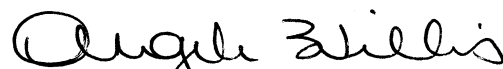
Jim Gregson stated these sandbags can take advantage of the statutory exemption for repair which does not require a permit. Ted Tyndall asked if staff should treat the rest of the sandbags that are required to be removed, however will now stay in place because of the moratorium, the same way? If the repair is less than 50 percent of the structure and the permit is expired, do we allow them to repair them under the statutory exemption? Melvin Shepard stated this action is a special case and only pertains to the situation at Bald Head Village in an emergency situation. Jennie Hauser, CRC counsel, stated that the CRC cannot act arbitrary and capricious in decision making. If another property owner presents substantially similar facts and requested a similar approval you wouldn't want to treat them differently. Charles Elam stated that anyone else that needs to do repair that is less than 50 percent can repair bags until the moratorium is over. Bob Wilson stated the intent of the Legislature was to keep the structure in place that is protecting the residence even if it doesn't have a current permit. If there is a similar situation at Nags Head then they can repair their structure even if they are going to have to take them out a year from now. Jim Leutze asked if the Attorney General's office could provide an opinion on the intent of the legislature. Veronica Carter stated that this would be a good idea as the law was just signed yesterday. We could grant this one based on the ambiguity and then ask for clarification. The CRC determined that the current statutory exemption already addresses repair less than 50 percent and no action is required.

**Melvin Shepard withdrew his amendment.
Bill Peele withdrew his motion.**

With no further business, the CRC adjourned.

Respectfully submitted,


James H. Gregson, Executive Secretary


Angela Willis, Recording Secretary



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

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

CRC-09-31

October 15, 2009

MEMORANDUM

TO: Coastal Resources Commission
FROM: Ed Brooks, Minor Permit Program Coordinator
SUBJECT: Implementation and Enforcement Plan for the Town of River Bend

The Town of River Bend has expressed interest in assuming the responsibilities for the administration of the CAMA Minor Development Permit Program within their jurisdictional boundaries. Permit processing and enforcement for CAMA Minor Permits is currently provided by the Division of Coastal Management. Pursuant to 15A NCAC 7I .0503, the Town of River Bend submitted to the Commission at their August 2009 meeting, a Letter of Intent to adopt an Implementation and Enforcement Plan to administer their own CAMA Minor Development Permit Program.

The Town of River Bend was incorporated in 1980 and is located adjacent to the Trent River, just southwest of New Bern, NC. The Town Council of River Bend met on September 17, 2009 and approved and adopted the Town of River Bend Implementation and Enforcement Plan to act as the local permit-letting authority for activities related to minor development within Areas of Environmental Concern. The Town has reviewed the proposed I & E Plan for consistency with their Zoning and Subdivision ordinances. Copies of the Implementation and Enforcement Plan and the minutes transcribed from the public hearing are attached.

Following a review of the submitted materials, staff believes that the submitted Implementation and Enforcement Plan complies with the guidelines and requirements of GS 113A-117 and 15A NCAC 7I .0500 – 7I .0700 and recommends acceptance of the Town of River Bend Implementation and Enforcement Plan and the delegation of authority to the Town of River Bend to administer the CAMA Minor Development Permit Program for activities related to minor development in Areas of Environmental Concern within their jurisdictional boundaries. As required by 15A NCAC 7I .0511, the Town of River Bend has indicated their commitment to adopt the approved Implementation and Enforcement Plan into ordinance within three months of acceptance by the Commission.

TOWN OF RIVER BEND
IMPLEMENTATION AND
ENFORCEMENT PLAN

A LOCAL MANAGEMENT PROGRAM FOR THE
IMPLEMENTATION AND ENFORCEMENT OF MINOR
DEVELOPMENT PERMITS IN AREAS OF ENVIRONMENTAL
CONCERN AND THE POLICIES AND REQUIREMENTS OF THE
ADOPTED LAND USE PLAN

DATE: September 17, 2009

ARTICLE I: GENERAL PROVISIONS

SECTION 1. STATUTORY AUTHORIZATIONS

Pursuant to North Carolina Legislature G.S. 113A-117-124, the Coastal Area Management Act (CAMA) authorizes a city, county or joint city/county to adopt an Implementation and Enforcement Program to act as the local permit-letting authority for activities related to minor development within areas of environmental concern. This Implementation and Enforcement Plan is hereby adopted as of September 17, 2009, by the Town Council for the Town of River Bend, North Carolina.

SECTION 2. PURPOSES

(A) Intent:

The purposes of the Implementation and Enforcement Plan are to establish:

1. Procedures to be allowed in issuing minor development permits in Areas of Environmental Concern (AEC) within the Town of River Bend's jurisdictional limits, including methods of coordinating with other local permits.
2. Scope and coverage of the program including the geographic extent of jurisdiction of the local management program.
3. Responsibilities and capabilities of permit-letting agencies; including a description of the criteria to be used in choosing the Local Permit Officer (LPO).

4. Methods of identifying and taking into account projects and impacts of regional, state, and national concern where applicable.
5. Procedures to insure that the program is consistent with the adopted Land Use Plan for the entire jurisdiction.
6. Relates other governmental action in regards to the adopted Land Use Plan and provides procedures for assuring consistency of action.

SECTION 3. GEOGRAPHIC EXTENT OF JURISDICTION

(A) TOWN OF RIVER BEND JURISDICTION

The issuance of Minor Development Permits as required by the Coastal Area Management Act (CAMA) shall be administered and enforced in this AECs (or parts of those AECs), which are located within the jurisdictional boundaries of the Town of River Bend.

SECTION 4. DEFINITIONS:

- (A) Development: “Development means any activity in a duly designated Area of Environmental Concern involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal.”
- (B) Major Development: Major Development means any development, which requires permission, licensing, approval, certification, or authority in any form from the N.C. Environmental Management Commission, the N.C. Departments of Human Resources, the N.C. Department of Environment and Natural Resources, the N.C. Department of Administration, the N.C. Mining Commission, the N.C. Pesticides Board, the N.C. Sedimentation Control Commission, or any Federal agency or authority; or development which occupies a land or water area in excess of 20 acres; includes a structure or structures in excess of a ground area of 60,000 square feet on a single parcel; or which contemplates drilling for or excavating natural resources on land or under water.
- (C) Minor Development: Minor Development means any development other than major development.
- (D) Adopted Land Use Plan: refers to the Town of River Bend’s Land Use Plan prepared and adopted by the Town of River Bend and approved by the Coastal

Resources Commission (CRC) pursuant to Part 2 of the Coastal Area Management Act (CAMA).

- (E) Local Permit Officer (LPO): refers to the locally designated official(s) which will administer and enforce the Minor Development Permit Program in AECs and the policy requirements of the Land Use Plan over the entire planning area of the Town of River Bend.
- (F) Coastal Area Management Act (CAMA): The law that relates to the management program for orderly growth in the coastal area of North Carolina as adopted by the General Assembly in 1974.
- (G) Coastal Resources Commission (CRC): The Coastal Area Management Act established the Coastal Resource Commission within the Department of Environment and Natural Resources.
- (H) Areas of Environmental Concern (AECs): refer to areas designated by the CRC, in which development shall require a minor or major development permit.
- (I) Implementation and Enforcement Plan: refers to the Local Management Program for the implementation and enforcement of Minor Permit requirements within AECs and the policies of the adopted Land Use Plan within the Town of River Bend.

ARTICLE II: ADMINISTRATION

SECTION 1. DESIGNATED LOCAL PERMIT OFFICER

- (A) Creation of Position:
The Town of River Bend shall designate one or more employee(s) to hold the position of LPO.
- (B) Qualifications:
Any designated LPO shall be required to complete an initial training course from the Division of Coastal Management (DCM), within twelve (12) months of appointment. The LPO(s) shall attend all regional work sessions held by the DCM to inform and coordinate the activities of the LPOs in each region. In addition, the LPO shall be knowledgeable of other local, state, or federal permit or regulatory requirements.
- (C) Appointments:
The Town of River Bend shall notify the Commission of the name(s) of all designated LPO(s). In order to continue to process permits in a timely fashion and to avoid the issuance of passive grants, the Town of River Bend shall immediately notify the DCM and the CRC in writing when the LPO resigns or is for any reason unable to perform his or her duties. This notice shall indicate the

method or methods by which the locality will continue to process permits in a thorough and timely fashion. Such methods can include, but are not limited to, the following:

1. The appointment of a temporary LPO until such time as a permanent replacement is selected.
2. The appointment of one or more LPO(s).
3. Evidence that an agreement exists between the locality and another appropriate agency for the assumption of the permit program.
4. A formal request that the Secretary/DCM assume all permit functions for the locality.

SECTION 2. DUTIES OF THE LOCAL PERMIT OFFICER

(A) General Enforcement:

The LPO shall administer and enforce in duly designated AECs; the Minor Development Permit process as herein established, as well as all applicable local ordinances, and all other guidelines and standards established by the CRC and the Town of River Bend pursuant to the CAMA. In addition the LPO shall:

1. Be familiar with existing state and federal permits required in this jurisdiction so as to provide aid to potential developers in determining when a major development permit rather than a minor development permit is required, and to aid the developers in applying to the CRC when a major development permit is required, and in general, aid applicants in regard to the other state or federal permit requirements.
2. Assist in identifying and assessing projects of greater than local concern and bring them to the attention of the CRC. (Such projects of regional, state, or national concern are almost certain to require some other state permit and, therefore, require a major development permit from the Commission. Therefore, they will usually be brought to the attention of the Commission through the major development permit application.)
3. Be responsible for implementing any procedures agreed on by the Town Council for which this Plan applies for the purpose of coordinating the CAMA Minor Development Permits with other locally required permits. Such locally required permits include, but are not limited to, plumbing permits, electrical permits, building permits, septic tank permits, or floodplain, and certifications of compliance with zoning and subdivision regulations.

4. Be responsible for implementing and enforcement procedures, actions or standards that the Town Council may wish to enforce in regards to the adopted Land Use Plan or revision thereof.
5. Assist in coordinating permit-letting activities with other local jurisdictions as necessary.

(B) Records:

The LPO shall maintain a log of all permit applications and their dispositions. The log shall be available, upon request, to the Town Council for the Town of River Bend, to the CRC and to the Secretary of the North Carolina Department of Environmental and Natural Resources (NCDENR). Correct and comprehensive records of all transactions related to minor development permit requests (applications, grants, denials, other dispositions) shall be maintained by the LPO, and such records shall be kept so long as any part of the structure or entity to which it relates remains in existence; or, in the case of denials or other instances, for a period of ten (10) years. Within five (5) working days from the date of receipt and acceptance of any application and/or permit decision, the LPO must submit copies of same to the Division Field Representative/District Office of the Division of Coastal Management (DCM). The LPO shall submit to their respective District DCM Office a quarterly report of all CAMA permitting and enforcement activity.

(C) Location:

The LPO shall be located in the River Bend Town Hall located at 45 Shoreline Drive, River Bend, NC 28562, and can be reached at (252) 638-3870 ext. 216. The Commission shall be notified immediately of any change in the location of the LPO.

ARTICLE III: MINOR DEVELOPMENT PERMITS

SECTION 1. MINOR DEVELOPMENT PERMIT REQUIRED

(A) Designation of AECs Requiring Minor Development Permits:

The following permit-letting requirements and information in regards to AECs shall be available for review and inspection in the Town of River Bend Zoning and Floodplain Management Department:

1. Description of all AECs within the Town of River Bend Zoning and Floodplain Management Jurisdiction that is sufficiently clear to provide notice to all property owners within those AECs that a permit must be secured before any development may proceed on that property.

2. A copy of the standards for development adopted by the CRC for each type of AEC found in the jurisdiction and the statutory grounds on which a permit application may be denied or conditioned.
3. The statutory definition of development, as provided in the CAMA [G.S. 113A-103(5a)].
4. A copy of the approved permit application form for both major and minor development in the AECs.
5. The name and officer(s) address of the LPO(s).
6. A copy of this plan.

SECTION 2. MINOR PERMIT PROCESS

(A) Application:

An application for a permit for minor development shall consist of a completed application using the applicable form adopted and approved by DCM and a check or money order made payable to the Town of River Bend in the amount of \$100.00, or as amended in 15A NCAC 07J .0204(b)(6)(B). Monies so collected shall only be used in the administration of the permit program, specifically including the cost of required public notices and hearings.

(B) Application Review Period:

Disposition of the application by the LPO shall take place within 25 days of receipt of a complete application, unless the LPO gives written notice by registered mail of an additional 25-day extension as necessary for proper evaluation of the application.

(C) General Procedure for Processing an Application:

The LPO shall return incomplete, insufficient, or unauthorized applications within a reasonable time. The 25-day period for consideration of the application shall begin to run upon receipt of a complete application. The time period will continue to run in the case of an incomplete or insufficient application until the LPO returns it, with reasons for the rejection in writing, to the applicant for correction of the deficiencies. The time period will begin to run again when a correct application is returned to the LPO. Any application received requesting a permit for an activity that constitutes major development shall be returned by the LPO with appropriate instructions for submitting the Major Permit application to the DCM. The LPO shall determine from the application what other permits are required for the development. The LPO shall inform the applicant of these other permit requirements and aid him/her in properly applying for such permits. The LPO shall ordinarily make final decisions concerning the Minor Development Permit only after he/she has determined

that any other required local permits will be issued, the applicant is consistent with the applicable criteria set forth in G.S. 113A-120, the standards for development set forth in 15A NCAC, Subchapters 7H and 7M, and any other applicable rules adopted by the CRC. When an evaluation results in none of the above findings, and unconditional approval shall be granted by the LPO. Otherwise, the LPO shall deny or conditionally approve a properly completed minor development permit application.

(D) Proper Procedural Requirements for Disposition:

The procedures and requirements of processing applications shall be conducted in a manner consistent with the expeditious and reasonable evaluation, as well as rational disposition of Minor Development Permits, as set forth and required by the CAMA. The following general procedures shall be followed in reference to application disposition:

1. Unconditional Approval:

A Minor Development Permit shall be granted only if consideration of the applicants results in no inappropriate findings, as set forth in Article III, Section 2 (C) above.

2. Denial:

Where the LPO denies a Minor Development Permit or an application is returned to the applicant for reasons as set forth in Article III, Section 2 (C) above, statutory grounds upon which the denial is based or the reasons the LPO returns an application shall be set forth in writing.

3. Conditional Approval:

The approval of a Minor Development Permit may be conditioned upon the applicant's amending his/her proposal to take whatever measures are reasonably necessary to protect the public interest with respect to the findings enumerated in Article III, Section 2 (C) above. Conditional approval shall be granted upon the acceptance by the applicant of certain reasonable conditions as set out by the LPO for public interest protection with respect to appropriate findings listed in G.S. 113A-120. The applicant must sign the conditional grant of approval as an acceptance of the permit conditions before the permit shall become effective. Statutory grounds upon which a conditional approval is granted shall be set out in writing.

4. Passive Approval:

Failure to approve, conditionally approve or deny a properly completed and filed application, or for the LPO to not give notice of an extension beyond the initial 25 day disposition period shall result in passive approval. A passive approval shall have the full force and effect of an unconditional approval.

(E) Property Owner Requirements:

The property owner shall display a properly granted Minor Development Permit in full view on the site of the development. This requirement shall apply to every permit no matter how it is granted. It is therefore necessary that the property owner acquire a permit received by passive approval for the purposes of posting on the site before proceeding with the development.

(F) Record Keeping Requirements:

Permit applications shall be numbered serially using a five-digit numbering system. The first two digits will indicate the year in which the application is made, and the last three digits will run serially in the order in which the applications are received. These numbers shall include the letter prefix RB to designate the Town of River Bend. (For example, RB-09-001 for the first permit, RB-09-002 for the second permit, and so on.) Along with the applications, the LPO shall maintain a record of all evidence and all matters relevant to each Minor Development Application. Such relevant information shall include, but not be limited to, applications, correspondence, public notices, responses to public notices, and a copy of the final disposition. In cases involving denial or conditional approval, the LPO shall send a copy of a conditional approval or denial disposition record to the applicant, either in person or by registered mail. One copy shall be maintained by the LPO.

ARTICLE IV: APPEALS, INJUNCTIVE RELIEF AND PENALTIES

SECTION 1. APPEALS

(A) Appeal to the Coastal Resources Commission

Any person directly affected by the local decision of the LPO including the Secretary of the NCDENR may, within twenty (20) days of the LPO's disposition, request an appeal hearing by filing a Petition with the Office of the Administrative Hearings. The hearing shall be a quasi-judicial hearing conducted by an administrative law judge in accordance with the requirements of the CAMA and any other state laws applicable to such procedures. Final decision in the appeal will be made by the CRC based on evidence presented in the hearing.

(B) Appeal to Superior Court:

Any person directly affected by any final decision or order of the CRC may appeal to the Superior Court.

(C) Appeal Pending:

No action for which a Minor Development Permit is required shall be taken while appeal of the LPO's disposition of that permit request is pending.

SECTION 2. INJUNCTIVE RELIEF AND PENALTIES

(A) Injunctive Relief:

Upon violation of the provisions adopted by the Town of River Bend pursuant to the CAMA relating to the issuance of Minor Development Permits, the LPO may, either before or after the institution of proceedings for the collection of any penalty imposed by the CAMA for such violation, institute a civil action in the General Court of Justice in the name of the Town upon the relation of the LPO for injunctive relief to restrain the violation and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any part to such proceedings from any penalty prescribed by the CAMA for any violation of the same.

(B) Penalties:

Any person adjudged guilty of knowingly and willfully under-taking any development requiring a minor development permit without acquiring such a permit, or of conduct exceeding the authority of a permit or of failure to observe the agreed modifications of a conditioned grant, or of violation of any other applicable regulations adopted by the Town of River Bend or the Commission pursuant to the CAMA shall be guilty of a misdemeanor, and for each violation shall be liable for a penalty of not less than One Hundred and no/100ths Dollars (\$100.00) nor more than One Thousand and no/100ths Dollars, or shall be imprisoned for not more than 60 days, or both. In addition, if any person continues or further commits any of the above violations after written notice from the LPO, the court may determine that each day during which the violation continues or is repeated constitutes a separate violation subject to the foregoing penalties.

(C) Notice:

The LPO shall notify the Secretary of any civil action undertaken by or against such officer under the CAMA.

ARTICLE V: AMENDMENTS OF THE IMPLEMENTATION AND ENFORCEMENT PLAN AND COMPLAINT PROCEDURE

SECTION 1. AMENDMENT TO THE IMPLEMENTATION AND ENFORCEMENT PROGRAM

(A) Notice of Public Hearing:

Amendments to this Implementation and Enforcement Plan shall be in accordance with the notice and public hearing requirements set forth in the CAMA and the CRC's "Criteria for Local Implementation and Enforcement Plans" pertaining to the adoption of the original plan. In addition the following shall be required:

1. Prior to this Plan being amended, a public hearing shall be held by the Town Council concerning the proposed amendment. It shall be open to comment from any interested persons, agencies, or groups.
2. Notice of such public hearing shall go out at least fifteen (15) days prior to the date of the hearing; shall state the time, place and subject matter of the hearing and shall indicate the nature of the proposed action; shall state that copies of the proposed amendment are available for public inspection at the River Bend Town Hall; and shall appear at least once no less than fifteen (15) days prior to the hearing in at least one newspaper of general circulation in the affected area.
3. A complete record of the public hearing and comments shall be compiled and maintained. The record of the public hearing, written comment, and any documentation filed with the LPO as to the proposed amendment must:
 - a. Consist of a written account from the minutes or transcribed from an electronic recording, and all written documents.
 - b. Remain open for fifteen (15) days after the hearing.
 - c. Be available to the Commission upon request.

(B) Procedure to Amend:

Requests for amendment of this plan shall be referred to the Planning Board. If the amendment is recommended by the majority of the Board, that recommendation shall then be conveyed to the Town Council for final approval.

(C) Request to Waive Formal Amendment Requirements:

Whenever a proposed amendment is deemed by the Planning Board and the Town Council to be of little interest to the Public, a petition may be sent to the CRC for a waiver of the formal hearing and notice requirements. Such a petition shall include the proposed amendment and state why the Planning Board and the Town Council concluded that the rights or convenience of the public is not substantially affected by it.

(D) Commission Approval:

Upon local acceptance of any amendment requiring notice and hearing, the amendment shall be submitted to the Commission for approval. Upon CRC's approval, the amendment shall be adopted as part of the ordinance(s) implementing this plan.

SECTION 2. PROCEDURES FOR RESPONDING TO COMPLAINT THAT THIS PLAN IS NOT PROPERLY ENFORCED AND ADMINISTERED

(A) Citizen Complaints:

Upon receiving complaints from local citizens that the Implementation and Enforcement Plan is not being properly administered and enforced, the Town Council will investigate the situation and respond to the alleged deficiencies. If the person making the complaint is not satisfied, then he/she will be advised that he/she may take their complaint either in writing or in person to the CRC.

(B) Response to the CRC:

Upon notification from the CRC concerning deficiencies in administration and enforcement of the plan, the Town Council will investigate the alleged problem and prepare a response for the CRC. If the allegation of deficiencies is found to be valid, the Town Council will, within thirty (30) days of the original notifications from the CRC, inform the CRC of its willingness and ability to correct the deficiency and prevent similar problems in the future. If the Town Council finds the CRC's allegations of deficiencies invalid, they will so inform the CRC. If the CRC disagrees with that finding, the Town Council may request a hearing before the CRC or in some other manner attempt to reach a mutually acceptable agreement with the CRC within a ninety (90) day period after receipt of the CRC's original notification of the ninety (90) day period, then the authority to issue permits for minor development pursuant to this plan shall be automatically relinquished until such a time as the CRC is convinced that the Program will be properly enforced.



RIVER BEND TOWN COUNCIL AGENDA
Regular Meeting
September 17, 2009 - 7:30 p.m.
River Bend Town Hall

Invocation: Reverend Steve Simpson

Pledge: Councilman Garvey

1. CALL TO ORDER (Mayor Kirkland Presiding)
2. INVOCATION AND PLEDGE OF ALLEGIANCE
3. RECOGNITION OF NEW RESIDENTS
4. ADDITIONS/DELETIONS TO AGENDA
5. ADDRESSES TO THE COUNCIL

Akilah R. Ensley, Partnership Specialist, US Census Bureau

6. PUBLIC HEARINGS
 - A. 09-C-14 – Amend Town Code, Title 7 “Traffic Code” – Seymour
 - B. 09-C-22 – River Bend Town Code, Chapter 13 General Offenses, Section 13.01.006 Regulation of Solicitors - Seymour
 - C. 09-C-21 - River Bend Town Code, Chapter 3, Administration, Sections 3.01.044 Appointment and Term of Other Officers and Employees, 3.01.075 Appointment of Town Manager, 3.01.076 Appointment of Town Clerk, 3.01.078 Appointment of Zoning Administrator; 3.01.090 Appointment of Budget Officer, 3.02.002 Appointment of Police Chief, and 3.02.003 Supervision and Control of Department – Van Slyke
 - D. 09-C-20 - River Bend Town Code, Chapter 15.02, Zoning, Section 15.02.171, Records and Invalidation - Seymour
 - E. 09-C-23 – River Bend Town Code, Chapter 15 Zoning, Section 15.02.165 Zoning Administrator -Seymour
 - F. CAMA Local Permit Officer Implementation Plan – Seymour
7. CONSENT AGENDA

All items listed under this section are considered routine by the Council and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- A. Approve:
 - Minutes of the August 4, 2009 Retreat*
 - Minutes of the August 4, 2009 Closed Session*
 - Minutes of August 13, 2009 Works Session*
 - Minutes of the August 20, 2009 Regular Meeting*

8. TOWN MANAGER'S REPORT – Drew Havens

Activity Reports

- A. **Monthly Police Report** by Chief Pratt
- B. **Monthly Water Resources Report** by Superintendent Massengill
- C. **Monthly Work Order Report** by Superintendent Massengill
- D. **Monthly Zoning Report** by Assistant Zoning Administrator Santos

ADMINISTRATIVE REPORTS:

- 9. Environment/Waterways – Councilman Bert Linkonis
 - A. EWAB Report
 - B. CERT Report
- 10. Parks & Recreation/CAC – Councilman Brenda Garvey
 - A. Parks and Rec Report
 - B. CAC Report
- 11. Public Works and Water Resources – Mayor John Kirkland
 - A. PWAB Report
 - B. **Vote** – Census Bureau Proclamation
 - C. Report – NCLM Green Challenge Resolution
 - D. Report – Amendment to Purchasing Policy
 - E. Report – Contract for Springdale Water System Purchase Study
 - F. **Vote** – Appoint Bill Henderson to the Public Works Advisory Board for a term beginning September 17, 2009 and ending on June 30, 2011
- 12. Finance – Councilman Irving Van Slyke, Jr.
 - A. Executive Financial Report - Finance Administrator
 - B. **Vote** – 2009 Debt Setoff Participation Renewal
- 13. Community Planning - Councilman Phil Seymour for Councilman Charles Sharpe
 - A. Planning Board Report
- 14. Public Safety –Councilman Phil Seymour
 - A. Police Report

MAYOR'S REPORT – Mayor Kirkland

OPEN DISCUSSION

ADJOURNMENT

**River Bend Town Council
Regular Meeting Minutes
September 17, 2009**

Present Council Members:	Mayor John Kirkland Bert Linkonis Phil Seymour Irving Van Slyke
Absent Council Members	Brenda Garvey Charles Sharpe
Town Clerk:	Ann Katsuyoshi
Police:	Duke Pratt
Public Works Superintendent:	Chris Massengill
Finance Administrator:	Margaret Marshburn
Town Attorney:	Aaron Arnett

CALL TO ORDER

The meeting was called to order by Mayor Kirkland at 7:30 p.m. on Thursday, September 17, 2009 in the River Bend Town Hall meeting room with a quorum present.

PRESENTATION TO THE COUNCIL

Ms. Akilah Ensley, Partnership Specialist for the U.S. Census Bureau, addressed the Council on the importance of the Census to local governments. She reminded Council members that many funding mechanisms, such as the Powell Bill, use the Census numbers in their calculations. Ms. Ensley said that the majority of residents will receive a one-page form to complete for the census. A small sample of residents will receive a more detailed questionnaire. She asked the Council to encourage citizens to complete and return their Census forms.

Mayor Kirkland thanked Ms. Ensley and said that the Council does support the goal of the Census Bureau to obtain an accurate count of the citizens. He reminded the Council that an error in the 2000 Census contained an error that resulted in our official Census being low for the last 10 years.

PUBLIC HEARINGS

09-C-14 – Amend Town Code, Title 7 “Traffic Code”

Councilman Seymour **moved to go into Public Hearing to discuss 09-C-14 – Amend Town Code, Title 7 “Traffic Code.”** The motion carried unanimously.

Mr. Seymour said this Amendment would allow the use of golf carts on Town roads. HB 121, signed into law on August 7, 2009 and effective October 1, 2009, allows all localities in North Carolina to regulate the use of golf carts on local roads. This ordinance, following the requirements of the law, will regulate their use on roads in River Bend.

The Council may, if it so desires, conduct its public hearing and vote to amend the Town Code with an effective date any time after October 1, 2009. He suggested a January 1, 2010 effective

date in order to give staff the time to put procedures and documents in place to implement and enforce the ordinance. Such permission would require residents to meet specific standards of golf cart safety, have an inspection by the River Bend Police Department and purchase a town sticker for \$10.00 per year. Residents who do not comply with the regulations will continue to be prohibited from driving golf carts on the Town's roads.

Councilman Seymour further stated that permission can only be granted for roads with a speed limit of 35 mph or less. The Town cannot grant permission for residents to drive on or cross U.S. Highway 17. U.S. Highway 17 is owned by the state, not the Town and the speed limit exceeds the maximum of 35 mph.

Councilman Seymour asked that any resident who had questions regarding this Amendment step to the podium and be heard.

Lou Call, 307 North Carolina Drive, said that he did not see any place in the Amendment that required golf cart operators to have liability insurance. He also said that he believed that the inspection stickers should be placed on the lower left windshield instead of the left front bumper. Mr. Call also asked who was going to be doing the inspections.

Councilman Seymour said that the Amendment does require that operators provide proof of liability insurance at the time of inspection. Chief Pratt will be doing the inspections and stickers will have to be renewed every year.

After brief discussion with Chief Pratt, it was the consensus of the Council that the registration stickers will be placed on the lower left windshield.

With no one else stepping forward, Councilman Seymour **moved to closed the Public Hearing.** The motion carried unanimously. He then **moved to approve 09-C-14 – Amend Town Code, Title 7 “Traffic Code” as amended.** The motion carried unanimously.

The Amendment reads as follows:

09-C-14

*An Ordinance to Amend
The Town of River Bend Town Code*

BE IT ORDAINED, by the Town Council of the Town of River Bend that Town Code, Title 7 “Traffic Code,” be amended by adding the following:

**CHAPTER 7.03:
OPERATION OF GOLF CARTS ON PUBLIC STREETS AND ROADS**

§ 7.03.001 AUTHORITY TO REGULATE.

Pursuant to House Bill 121, as enacted by the North Carolina General Assembly and made effective October 1, 2009, the Town is authorized, by ordinance, to require the registration of, and regulate the operation of golf carts upon any public street or road within the town.

§ 7.03.002 DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Golf cart means an electric or gas powered golf cart.

Operate means to drive, or be in physical control of a golf cart that is moving or has its key inserted and in the on position.

Public streets and roads are those roads owned and maintained by the Town.

§ 7.03.003 OPERATION ON PUBLIC STREETS AND ROADS.

It is unlawful to operate a golf cart on a public street or road within the Town unless the following requirements are met:

- (A) *The golf cart must display a valid registration sticker as provided in Section 7.03.004.*
- (B) *The golf cart may only be operated on streets and roads with a posted speed limited of 35 MPH or less. In no instance is it permissible to cross or travel upon any road, or right-of-way thereof, with a speed limit greater than 35 MPH (ie. Route 17).*
- (C) *No person may operate a golf cart unless that person is licensed to drive upon the streets and highways of North Carolina and then, only in accordance with such driver's license. An operator of golf cart must be at least 16 years of age, with the exception that operators under the age of 16 years may operate golf carts if they possess a valid learner's permit issued by the state of North Carolina and are accompanied by a licensed driver as required by state law.*
- (D) *Only the number of people the golf cart is designed to seat may ride on a golf cart and all passengers must be properly seated. Specifically, passengers shall not be carried on the part of a golf cart designed to carry golf bags.*
- (E) *Children must be properly seated while cart is in motion and may not be transported in a negligent manner.*
- (F) *No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions, and in no instance at a speed greater than 20 miles per hour.*
- (G) *No golf cart may be operated in a careless or reckless manner.*
- (H) *Golf carts must be operated in accordance with all applicable state and local laws and ordinances, including all laws, regulations and ordinances pertaining to the possession and use of alcoholic beverages.*
- (I) *Golf carts must be operated to the extreme right of the roadway and must yield to all vehicular and pedestrian traffic.*
- (J) *Golf carts may be operated in bicycle lanes on the streets and roads provided they do not impede bicycle traffic.*
- (K) *Carts are not allowed to be driven on any sidewalks in Town.*
- (L) *Carts are only allowed to park in handicapped parking spaces if the driver or at least one passenger has a valid handicap parking sticker.*
- (M) *Golf carts must be equipped with a rear vision mirror and rear reflectors.*
- (N) *Golf carts must have the basic equipment supplied by the manufacturer, including a vehicle identification number. ~~Such equipment must include all safety devices as installed by said manufacturer and shall include reflectors.~~*
- (O) *No cart may be operated on Town roadways between one half hour after sunset and one half hour before sunrise unless equipped with two operating headlights (one on each side of the front of the golf cart) and two operating tail lights with brake lights (one on each side of the rear of the cart) which are visible from a distance of 500 Feet.*

- (P) *The operator must possess proof of liability insurance in an amount not less than required by North Carolina law for motor vehicles operated on a public highway in the State of North Carolina.*
- (Q) *The Chief of Police, or his designee, may prohibit the operation of golf carts on any street or road if the Chief determines that the prohibition is necessary in the interest of safety.*

§ 7.03.004 REGISTRATION REQUIRED.

- (A) *No golf cart may be driven on any street or road, or street or road right-of-way, within the Town of River Bend, other than on the golf course, or at properly designated cart crossings, without a permit being acquired from the River Bend Police Department and attached to said golf cart in a conspicuous place on the lower left windshield.*
- (B) *An annual fee of ten dollars (\$10.00) per cart will be charged by the River Bend Police Department for this permit sticker and to cover the costs of implementing and maintaining this Ordinance. The River Bend Police Chief retains the right to refuse to issue and/or revoke any permit sticker from any cart at any time for any reason that he/she feels is appropriate to ensure the safety and well being of the citizens of the Town of River Bend.*

§ 7.03.005 ENFORCEMENT AND PENALTY.

- (A) *Any act constituting a violation, except as provided in 7.03.005(B), of this Ordinance or failure to comply with any of its requirements shall subject the offenders to civil penalty of twenty-five dollars (\$25.00), plus the court costs and attorney fees incurred by the Town.*
- (B) *Operating a golf cart under the influence of an impairing substance (i.e., alcohol or drugs) on a public road or highway is not a violation of this ordinance, but a violation of state law, and is punishable as provided therein.*
- (C) *If the offenders fail to pay the penalty within ten (10) days of receiving final written notice of violation, the penalty may be recovered by the Town in a civil action in the nature of debt. Repeat offenders may have the privileges granted by this Ordinance revoked by the River Bend Police Chief and/or the Town Manager.*

§ 7.03.006 LIABILITY DISCLAIMER.

This article is adopted to address the interest of public safety. Golf carts are not designed or manufactured to be used on the public streets, and the town in no way advocates or endorses their operation on public streets or roads. The town, by regulating such operation is merely trying to address obvious safety issues, and adoption of this article is not to be relied upon as a determination that operation on public streets is safe or advisable if done in accordance with this article. All persons who operate or ride upon golf carts on public streets or roads do so at their own risk and peril, and must be observant of, and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and pedestrians. The town has no liability under any theory of liability and the town assumes no liability, for permitting golf carts to be operated on the public streets and roads under the special legislation granted by the state's legislature. Any person who operates a golf cart is responsible for procuring liability insurance sufficient to cover the risk involved in using a golf cart on the public streets and roads.

Adopted this 17th day of September, 2009.

09-C-22 – River Bend Town Code, Chapter 13 General Offenses, Section 13.01.006 Regulation of Solicitors

Councilman Seymour moved to go into Public Hearing to discuss 09-C-22 – River Bend Town Code, Chapter 13 General Offenses, Section 13.01.006 Regulation of Solicitors.
The motion carried unanimously.

He said Councilman Seymour said that our current ordinance regarding door to door solicitation may be contrary to constitutional rights and has been challenged by a company wishing to

solicit in Town. Mr. Hicks suggested changes to the language of the ordinance that would essentially create a River Bend version of the federal "Do Not Call" registry. Ours, however, would be a "Do Call" registry, with the default being that residents do not want solicitors at their homes. Residents may opt out of the default position, and be placed on a list of those who welcome solicitors. This list would, upon request, be provided to those wishing to solicit in River Bend.

Councilman Seymour asked that any resident who had questions regarding this Amendment step to the podium and be heard. With no resident stepping forward, Councilman Seymour **moved to close the Public Hearing.** The motion carried unanimously. He then **moved to approve 09-C-22 – River Bend Town Code, Chapter 13 General Offenses, Section 13.01.006 Regulation of Solicitors as presented.** The motion carried unanimously.

The Amendment reads as follows”

09-C-22
AN ORDINANCE TO AMEND THE TOWN CODE
OF THE TOWN OF RIVER BEND

BE IT ORDAINED by the Town Council of the Town of River Bend that the Town Code Chapter 13.01, General Offenses, be amended as follows:

Section 13.01.006 REGULATION OF SOLICITORS.

(A) *Except as otherwise provided herein, the practice of going in and upon private residences in the Town of River Bend, North Carolina, by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited to do so by an owner or occupant of said private residence for the purpose of soliciting orders for the sale of goods, wares and merchandise or disposing of or peddling or hawking the same is prohibited declared to be a nuisance and punishable as a misdemeanor, and shall be a violation punishable in accordance with Section 1.01.999.*

(B) *The Town shall establish and maintain a registration list of private residences where an owner or occupant thereof has consented to allow solicitations otherwise prohibited by Paragraph (A) above. Further the Town shall endeavor to update this list at least annually. The prohibitions contained in Paragraph (A) above shall not apply to private residences which have been registered hereunder. It shall be conclusively presumed that a private residence which has not been registered hereunder does not consent to the solicitations prohibited by Paragraph (A) above.*

~~(C)~~(B) *The prohibitions contained in Paragraph (A) above shall not apply to solicitations conducted on behalf of religious, charitable or civic endeavors.*

Adopted this the 17th day of September, 2009.

09-C-21 - River Bend Town Code, Chapter 3, Administration, Sections 3.01.044 Appointment and Term of Other Officers and Employees, 3.01.075 Appointment of Town Manager, 3.01.076 Appointment of Town Clerk, 3.01.078 Appointment of Zoning Administrator; 3.01.090 Appointment of Budget Officer, 3.02.002 Appointment of Police Chief, and 3.02.003 Supervision and Control of Department

Councilman Van Slyke **moved to go into Public Hearing to discuss 09-C-21 - River Bend Town Code, Chapter 3, Administration, Sections 3.01.044 Appointment and Term of Other Officers and Employees, 3.01.075 Appointment of Town Manager, 3.01.076 Appointment of Town Clerk, 3.01.078 Appointment of Zoning Administrator; 3.01.090 Appointment of Budget Officer, 3.02.002 Appointment of Police Chief, and 3.02.003 Supervision and Control of Department.** The motion carried unanimously.

Mr. Van Slyke said that we are currently in our eighth year under the Council - Manager form of government. Several Ordinance changes were made to effect the change to this form of government. As part of our ongoing operational review it appears that some minor changes were overlooked. The changes under consideration in these amendments reflect the original intent of the Town as it transitioned to the Council - Manager form of government.

Councilman Van Slyke asked that any resident who had questions regarding this Amendment step to the podium and be heard. With no resident stepping forward, Councilman Van Slyke **moved to close the Public Hearing.** The motion carried unanimously. He then **moved to approve 09-C-21 - River Bend Town Code, Chapter 3, Administration, Sections 3.01.044 Appointment and Term of Other Officers and Employees, 3.01.075 Appointment of Town Manager, 3.01.076 Appointment of Town Clerk, 3.01.078 Appointment of Zoning Administrator; 3.01.090 Appointment of Budget Officer, 3.02.002 Appointment of Police Chief, and 3.02.003 Supervision and Control of Department as presented.** The motion carried unanimously.

09-C-21
AN ORDINANCE TO AMEND THE TOWN CODE
OF THE TOWN OF RIVER BEND

BE IT ORDAINED by the Town Council of the Town of River Bend that the Town Code Chapter 3.01 and 3.02, Administration, be amended as follows:

§ 3.01.004 APPOINTMENT AND TERM OF OTHER OFFICERS AND EMPLOYEES.

(A) (1) *Unless otherwise provided by statute or ordinance, officers and employees other than the Mayor and Town Council that are deemed necessary shall be appointed by the Town Council at the first meeting following the installation of the Town Council for a period of 2 years.*

(2) *All officers and employees shall serve at the pleasure of the Council.*

(B) (1) *The term OFFICERS shall include those persons designated as appointed officers by the General Statutes, this chapter or any other town ordinance. Persons holding the position of an appointed officer shall include, but not necessarily be limited to, the Finance Officer, Budget Officer, ~~Town Clerk~~, Tax Collector, ~~Chief of Police~~, ~~Zoning Administrator~~ and members of the Board of Adjustment.*

(2) *Any other person specifically designated as an officer by statute or town ordinance shall also be included.*

(C) *No member of a town advisory board, commission, committee or ad hoc committee shall be designated as an officer of the Town of River Bend unless otherwise provided by statute or town ordinance. (Prior Code, Ch. 2, Art. 1)*

§ 3.01.075 APPOINTMENT OF TOWN MANAGER.

(A) *In accordance with North Carolina General Statute 160A-147, the Council shall appoint a Town Manager to serve at its pleasure. Such appointment is to be made solely on the basis of the manager's executive and administrative experience. ~~The Town Council shall appoint a Town Manager who~~ Manager shall perform the duties outlined in G.S. § 160A-148 which are also described in § 3.01.003.*

(B) *The following non-exclusive list of department heads may be appointed by, removed by, and shall be administratively supervised by, the Town Manager:*

- (1) *Chief of Police*
- (2) *Finance Administrator*
- (3) *Town Clerk*
- (4) *Zoning Administrator*

(5) Water Resources / Public Works Superintendent
§ 3.01.076 APPOINTMENT OF TOWN CLERK.

The ~~Council~~ **Manager** shall appoint a town clerk who shall perform the duties outlined in G.S. § 160A-171 and as assigned by the Council.

(Prior Code, Ch. 2, Art. IV)

Cross reference:

Appointment and term of other officers and employees, see § 3.01.004

§ 3.01.078 APPOINTMENT OF ZONING ADMINISTRATOR.

The Town ~~Council~~ **Manager** may appoint a Zoning Administrator who shall perform the duties that are specified by town ordinances and as assigned by the Town Council. **Absent an appointment of an individual to this position, the Town Manager shall be the Zoning Administrator.**

(Prior Code, Ch. 2, Art. IV)

Cross reference:

Appointment and term of other officers and employees, see § 3.01.004

§ 3.01.090 APPOINTMENT OF BUDGET OFFICER.

The Council shall appoint the **Town Manager** as a Budget Officer who shall perform the duties outlined in G.S. § 159-9 to 12 and related provisions of the General Statutes.

(Prior Code, Ch. 2, Art. V)

Cross reference:

Appointment and term of other officers and employees, see § 3.01.004

§ 3.02.002 APPOINTMENT OF POLICE CHIEF.

The Town ~~Council~~ **Manager** shall appoint a Chief of Police who shall perform those duties that are specified in § 3.02.004 and as ~~otherwise assigned by the Town Council.~~

(Prior Code, Ch. 3, § 2)

Cross reference:

Appointment and term of other officers and employees, see § 3.01.004

§ 3.02.003 SUPERVISION AND CONTROL OF DEPARTMENT.

(A) Generally. The Chief of Police shall have immediate direction and control over the Police Department under the supervision of the Town ~~Council~~ **Manager**.

(B) Reports to Town Council. The Chief of Police shall keep the Town ~~Council~~ **Manager** informed of the Department's activities and make the reports to the Town Council as ~~directed it may request.~~

(C) Suspension or dismissal of members. The dismissal of members of the Police Department shall be in accordance with the town's personnel policies and police procedures. The Chief of Police, at any time, may suspend from employment any member of the Police Department. The Chief of Police shall report in writing within 24 hours to the ~~Manager Council~~ any suspension.

(Prior Code, Ch. 3, § 3) Penalty, see § 1.01.999

Adopted this the 17th day of September, 2009.

09-C-20 - River Bend Town Code, Chapter 15.02, Zoning, Section 15.02.171, Records and Invalidation

Councilman Seymour moved to go into Public Hearing to discuss 09-C-20 - River Bend Town Code, Chapter 15.02, Zoning, Section 15.02.171, Records and Invalidation. The motion carried unanimously.

He said that these changes are meant to clarify length of time permits are valid and to give recourse for extension of time should the project take more than the allotted one year. This will allow the Town to have more enforceability on projects that are not getting done in a timely manner, but have not been "suspended or abandoned.

Councilman Seymour asked that any resident who had questions regarding this Amendment step to the podium and be heard. With no resident stepping forward, Councilman Seymour **moved to close the Public Hearing.** The motion carried unanimously. He then **moved to approve 09-C-20 - River Bend Town Code, Chapter 15.02, Zoning, Section 15.02.171, Records and Invalidation as presented.** The motion carried unanimously.

09-C-20
AN ORDINANCE TO AMEND THE TOWN CODE
OF THE TOWN OF RIVER BEND

BE IT ORDAINED by the Town Council of the Town of River Bend that the Town Code Chapter 15.02, Zoning be amended as follows:

§ 15.02.171 RECORDS AND INVALIDATION.

(B) *Any permit issued shall become invalid if the work authorized by it has not been commenced within 6 months of the date of issuance, or if the work authorized by it is ~~suspended or abandoned~~ for not completed within a period of 1 year from the date of issuance. Should the work authorized not be completed within the allotted time, permit holder may submit a request to the Zoning Administrator, in writing, for an extension of his original permit. Any extension will be for a period not to exceed six months, by which time all work (including applicable site restoration) will be complete.*

Adopted this the 17th day of September, 2009.

09-C-23 – River Bend Town Code, Chapter 15 Zoning, Section 15.02.165 Zoning Administrator

Councilman Seymour **moved to go into Public Hearing to discuss 09-C-23 – River Bend Town Code, Chapter 15 Zoning, Section 15.02.165 Zoning Administrator.** The motion carried unanimously.

Councilman Seymour said that in an effort to update our Code to reflect the Council's intent regarding the transition to the Council/Manager form of government, this one change in the zoning portion of the ordinance is necessary. This change simply refers to the section of the Town Code wherein all appointments are enabled rather than having appointment authority in more than one location in the Code.

Councilman Seymour asked that any resident who had questions regarding this Amendment step to the podium and be heard. With no resident stepping forward, Councilman Seymour **moved to close the Public Hearing.** The motion carried unanimously. He then **moved to approve 09-C-23 – River Bend Town Code, Chapter 15 Zoning, Section 15.02.165 Zoning Administrator as presented.** The motion carried unanimously.

The Amendment reads as follows:

09-C-23
AN ORDINANCE TO AMEND THE TOWN CODE
OF THE TOWN OF RIVER BEND

BE IT ORDAINED by the Town Council of the Town of River Bend that the Town Code Chapter 15.02, Zoning be amended as follows:

§ 15.02.165 ZONING ADMINISTRATOR.

~~The Town Council shall designate a Zoning Administrator~~ **A Zoning Administrator shall be appointed in accordance with § 3.01.078 of this Ordinance**, to administer and enforce this chapter. He may be provided with the assistance of other persons as the Town Council may approve. If he finds that any of the provisions of this chapter are being violated, he shall notify in writing the person or persons responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it. In reviewing a permit, the Zoning Administrator shall consult a registered professional engineer, licensed to practice in North Carolina, when necessary.

Adopted this the 17th day of September, 2009.

CAMA Local Permit Officer Implementation Plan

Councilman Seymour **moved to go into Public Hearing to discuss the CAMA Local Permit Officer Implementation Plan.** The motion carried unanimously.

Councilman Seymour told the Council that the purpose of this Implementation and Enforcement Plan is to allow certain staff members to become Limited Permit Officers (LPO) with CAMA. This will allow us to issue minor permits to our residents, rather than have the residents drive to Morehead City, and will make it easier for the staff to follow what permits have been issued from CAMA. By issuing minor permits in-house, we will also reduce the "wait time" by residents for permit issuance.

Councilman Seymour asked that any resident who had questions regarding this Amendment step to the podium and be heard. With no resident stepping forward, Councilman Seymour **moved to close the Public Hearing.** The motion carried unanimously. He then **moved to approve the CAMA Local Permit Implementation as presented.** The motion carried unanimously.

The CAMA Local Permit Implementation reads as follows:

TOWN OF RIVER BEND
IMPLEMENTATION AND
ENFORCEMENT PLAN

A LOCAL MANAGEMENT PROGRAM FOR THE IMPLEMENTATION AND ENFORCEMENT OF MINOR
DEVELOPMENT PERMITS IN AREAS OF ENVIRONMENTAL
CONCERN AND THE POLICIES AND REQUIREMENTS OF THE
ADOPTED LAND USE PLAN

DATE: September 17, 2009

ARTICLE I: GENERAL PROVISIONS

SECTION 1. STATUTORY AUTHORIZATIONS

Pursuant to North Carolina Legislature G.S. 113A-117-124, the Coastal Area Management Act (CAMA) authorizes a city, county or joint city/county to adopt an Implementation and Enforcement Program to act as the local permit-letting

authority for activities related to minor development within areas of environmental concern. This Implementation and Enforcement Plan is hereby adopted as of September 17, 2009, by the Town Council for the Town of River Bend, North Carolina.

SECTION 2. PURPOSES

(A) Intent:

The purposes of the Implementation and Enforcement Plan are to establish:

1. Procedures to be allowed in issuing minor development permits in Areas of Environmental Concern (AEC) within the Town of River Bend's jurisdictional limits, including methods of coordinating with other local permits.
2. Scope and coverage of the program including the geographic extent of jurisdiction of the local management program.
3. Responsibilities and capabilities of permit-letting agencies; including a description of the criteria to be used in choosing the Local Permit Officer (LPO).
4. Methods of identifying and taking into account projects and impacts of regional, state, and national concern where applicable.
5. Procedures to insure that the program is consistent with the adopted Land Use Plan for the entire jurisdiction.
6. Relates other governmental action in regards to the adopted Land Use Plan and provides procedures for assuring consistency of action.

SECTION 3. GEOGRAPHIC EXTENT OF JURISDICTION

(A) TOWN OF RIVER BEND JURISDICTION

The issuance of Minor Development Permits as required by the Coastal Area Management Act (CAMA) shall be administered and enforced in this AECs (or parts of those AECs), which are located within the

SECTION 4. DEFINITIONS:

- (A) Development: "Development means any activity in a duly designated Area of Environmental Concern involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal."
- (B) Major Development: Major Development means any development, which requires permission, licensing, approval, certification, or authority in any form from the N.C. Environmental Management Commission, the N.C. Departments of Human Resources, the N.C. Department of Environment and Natural Resources, the N.C. Department of Administration, the N.C. Mining Commission, the N.C. Pesticides Board, the N.C. Sedimentation Control Commission, or any Federal agency or authority; or development which occupies a land or water area in excess of 20 acres; includes a structure or structures in excess of a ground area of 60,000 square feet on a single parcel; or which contemplates drilling for or excavating natural resources on land or under water.
- (C) Minor Development: Minor Development means any development other than major development.
- (D) Adopted Land Use Plan: refers to the Town of River Bend's Land Use Plan prepared and adopted by the Town of River Bend and approved by the Coastal Resources Commission (CRC) pursuant to Part 2 of the Coastal Area Management Act (CAMA).

- (E) Local Permit Officer (LPO): refers to the locally designated official(s) which will administer and enforce the Minor Development Permit Program in AECs and the policy requirements of the Land Use Plan over the entire planning area of the Town of River Bend.
- (F) Coastal Area Management Act (CAMA): The law that relates to the management program for orderly growth in the coastal area of North Carolina as adopted by the General Assembly in 1974.
- (G) Coastal Resources Commission (CRC): The Coastal Area Management Act established the Coastal Resource Commission within the Department of Environment and Natural Resources.
- (H) Areas of Environmental Concern (AECs): refer to areas designated by the CRC, in which development shall require a minor or major development permit.
- (I) Implementation and Enforcement Plan: refers to the Local Management Program for the implementation and enforcement of Minor Permit requirements within AECs and the policies of the adopted Land Use Plan within the Town of River Bend.

ARTICLE II: ADMINISTRATION

SECTION 1. DESIGNATED LOCAL PERMIT OFFICER

- (A) Creation of Position:
The Town of River Bend shall designate one or more employee(s) to hold the position of LPO.
- (B) Qualifications:
Any designated LPO shall be required to complete an initial training course from the Division of Coastal Management (DCM), within twelve (12) months of appointment. The LPO(s) shall attend all regional work sessions held by the DCM to inform and coordinate the activities of the LPOs in each region. In addition, the LPO shall be knowledgeable of other local, state, or federal permit or regulatory requirements.
- (C) Appointments:
The Town of River Bend shall notify the Commission of the name(s) of all designated LPO(s). In order to continue to process permits in a timely fashion and to avoid the issuance of passive grants, the Town of River Bend shall immediately notify the DCM and the CRC in writing when the LPO resigns or is for any reason unable to perform his or her duties. This notice shall indicate the method or methods by which the locality will continue to process permits in a thorough and timely fashion. Such methods can include, but are not limited to, the following:
 1. The appointment of a temporary LPO until such time as a permanent replacement is selected.
 2. The appointment of one or more LPO(s).
 3. Evidence that an agreement exists between the locality and another appropriate agency for the assumption of the permit program.
 4. A formal request that the Secretary/DCM assume all permit functions for the locality.

SECTION 2. DUTIES OF THE LOCAL PERMIT OFFICER

- (A) General Enforcement:
The LPO shall administer and enforce in duly designated AECs; the Minor Development Permit process as herein established, as well as all applicable local ordinances, and all other guidelines and standards established by the CRC and the Town of River Bend pursuant to the CAMA. In addition the LPO shall:
 1. Be familiar with existing state and federal permits required in this jurisdiction so as to provide aid to potential developers in determining when a major development permit rather than a minor development permit is required, and to aid the developers in applying to the CRC when a major development permit is required, and in general, aid applicants in regard to the other state or federal permit requirements.

2. Assist in identifying and assessing projects of greater than local concern and bring them to the attention of the CRC. (Such projects of regional, state, or national concern are almost certain to require some other state permit and, therefore, require a major development permit from the Commission. Therefore, they will usually be brought to the attention of the Commission through the major development permit application.)
3. Be responsible for implementing any procedures agreed on by the Town Council for which this Plan applies for the purpose of coordinating the CAMA Minor Development Permits with other locally required permits. Such locally required permits include, but are not limited to, plumbing permits, electrical permits, building permits, septic tank permits, or floodplain, and certifications of compliance with zoning and subdivision regulations.
4. Be responsible for implementing and enforcement procedures, actions or standards that the Town Council may wish to enforce in regards to the adopted Land Use Plan or revision thereof.
5. Assist in coordinating permit-letting activities with other local jurisdictions as necessary.

(B) Records:

The LPO shall maintain a log of all permit applications and their dispositions. The log shall be available, upon request, to the Town Council for the Town of River Bend, to the CRC and to the Secretary of the North Carolina Department of Environmental and Natural Resources (NCDENR). Correct and comprehensive records of all transactions related to minor development permit requests (applications, grants, denials, other dispositions) shall be maintained by the LPO, and such records shall be kept so long as any part of the structure or entity to which it relates remains in existence; or, in the case of denials or other instances, for a period of ten (10) years. Within five (5) working days from the date of receipt and acceptance of any application and/or permit decision, the LPO must submit copies of same to the Division Field Representative/District Office of the Division of Coastal Management (DCM). The LPO shall submit to their respective District DCM Office a quarterly report of all CAMA permitting and enforcement activity.

(C) Location:

The LPO shall be located in the River Bend Town Hall located at 45 Shoreline Drive, River Bend, NC 28562, and can be reached at (252) 638-3870 ext. 216. The Commission shall be notified immediately of any change in the location of the LPO.

ARTICLE III: MINOR DEVELOPMENT PERMITS

SECTION 1. MINOR DEVELOPMENT PERMIT REQUIRED

(A) Designation of AECs Requiring Minor Development Permits:

The following permit-letting requirements and information in regards to AECs shall be available for review and inspection in the Town of River Bend Zoning and Floodplain Management Department:

1. Description of all AECs within the Town of River Bend Zoning and Floodplain Management Jurisdiction that is sufficiently clear to provide notice to all property owners within those AECs that a permit must be secured before any development may proceed on that property.
2. A copy of the standards for development adopted by the CRC for each type of AEC found in the jurisdiction and the statutory grounds on which a permit application may be denied or conditioned.
3. The statutory definition of development, as provided in the CAMA [G.S. 113A-103(5a)].
4. A copy of the approved permit application form for both major and minor development in the AECs.
5. The name and officer(s) address of the LPO(s).
6. A copy of this plan.

SECTION 2. MINOR PERMIT PROCESS

- (A) Application:
An application for a permit for minor development shall consist of a completed application using the applicable form adopted and approved by DCM and a check or money order made payable to the Town of River Bend in the amount of \$100.00, or as amended in 15A NCAC 07J .0204(b)(6)(B). Monies so collected shall only be used in the administration of the permit program, specifically including the cost of required public notices and hearings.
- (B) Application Review Period:
Disposition of the application by the LPO shall take place within 25 days of receipt of a complete application, unless the LPO gives written notice by registered mail of an additional 25-day extension as necessary for proper evaluation of the application.
- (C) General Procedure for Processing an Application:
The LPO shall return incomplete, insufficient, or unauthorized applications within a reasonable time. The 25-day period for consideration of the application shall begin to run upon receipt of a complete application. The time period will continue to run in the case of an incomplete or insufficient application until the LPO returns it, with reasons for the rejection in writing, to the applicant for correction of the deficiencies. The time period will begin to run again when a correct application is returned to the LPO. Any application received requesting a permit for an activity that constitutes major development shall be returned by the LPO with appropriate instructions for submitting the Major Permit application to the DCM. The LPO shall determine from the application what other permits are required for the development. The LPO shall inform the applicant of these other permit requirements and aid him/her in properly applying for such permits. The LPO shall ordinarily make final decisions concerning the Minor Development Permit only after he/she has determined that any other required local permits will be issued, the applicant is consistent with the applicable criteria set forth in G.S. 113A-120, the standards for development set forth in 15A NCAC, Subchapters 7H and 7M, and any other applicable rules adopted by the CRC. When an evaluation results in none of the above findings, and unconditional approval shall be granted by the LPO. Otherwise, the LPO shall deny or conditionally approve a properly completed minor development permit application.
- (D) Proper Procedural Requirements for Disposition:
The procedures and requirements of processing applications shall be conducted in a manner consistent with the expeditious and reasonable evaluation, as well as rational disposition of Minor Development Permits, as set forth and required by the CAMA. The following general procedures shall be followed in reference to application disposition:
1. Unconditional Approval:
A Minor Development Permit shall be granted only if consideration of the applicants results in no inappropriate findings, as set forth in Article III, Section 2 (C) above.
 2. Denial:
Where the LPO denies a Minor Development Permit or an application is returned to the applicant for reasons as set forth in Article III, Section 2 (C) above, statutory grounds upon which the denial is based or the reasons the LPO returns an application shall be set forth in writing.
 3. Conditional Approval:
The approval of a Minor Development Permit may be conditioned upon the applicant's amending his/her proposal to take whatever measures are reasonably necessary to protect the public interest with respect to the findings enumerated in Article III, Section 2 (C) above. Conditional approval shall be granted upon the acceptance by the applicant of certain reasonable conditions as set out by the LPO for public interest protection with respect to appropriate findings listed in G.S. 113A-120. The applicant must sign the conditional grant of approval as an acceptance of the permit conditions before the permit shall become effective. Statutory grounds upon which a conditional approval is granted shall be set out in writing.
 4. Passive Approval:
Failure to approve, conditionally approve or deny a properly completed and filed application, or for the LPO to not give notice of an extension beyond the initial 25 day disposition period shall

result in passive approval. A passive approval shall have the full force and effect of an unconditional approval.

(E) Property Owner Requirements:

The property owner shall display a properly granted Minor Development Permit in full view on the site of the development. This requirement shall apply to every permit no matter how it is granted. It is therefore necessary that the property owner acquire a permit received by passive approval for the purposes of posting on the site before proceeding with the development.

(F) Record Keeping Requirements:

Permit applications shall be numbered serially using a five-digit numbering system. The first two digits will indicate the year in which the application is made, and the last three digits will run serially in the order in which the applications are received. These numbers shall include the letter prefix RB to designate the Town of River Bend. (For example, RB-09-001 for the first permit, RB-09-002 for the second permit, and so on.) Along with the applications, the LPO shall maintain a record of all evidence and all matters relevant to each Minor Development Application. Such relevant information shall include, but not be limited to, applications, correspondence, public notices, responses to public notices, and a copy of the final disposition. In cases involving denial or conditional approval, the LPO shall send a copy of a conditional approval or denial disposition record to the applicant, either in person or by registered mail. One copy shall be maintained by the LPO.

ARTICLE IV: APPEALS, INJUNCTIVE RELIEF AND PENALTIES

SECTION 1. APPEALS

(A) Appeal to the Coastal Resources Commission

Any person directly affected by the local decision of the LPO including the Secretary of the NCDENR may, within twenty (20) days of the LPO's disposition, request an appeal hearing by filing a Petition with the Office of the Administrative Hearings. The hearing shall be a quasi-judicial hearing conducted by an administrative law judge in accordance with the requirements of the CAMA and any other state laws applicable to such procedures. Final decision in the appeal will be made by the CRC based on evidence presented in the hearing.

(B) Appeal to Superior Court:

Any person directly affected by any final decision or order of the CRC may appeal to the Superior Court.

(C) Appeal Pending:

No action for which a Minor Development Permit is required shall be taken while appeal of the LPO's disposition of that permit request is pending.

SECTION 2. INJUNCTIVE RELIEF AND PENALTIES

(A) Injunctive Relief:

Upon violation of the provisions adopted by the Town of River Bend pursuant to the CAMA relating to the issuance of Minor Development Permits, the LPO may, either before or after the institution of proceedings for the collection of any penalty imposed by the CAMA for such violation, institute a civil action in the General Court of Justice in the name of the Town upon the relation of the LPO for injunctive relief to restrain the violation and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any part to such proceedings from any penalty prescribed by the CAMA for any violation of the same.

(B) Penalties:

Any person adjudged guilty of knowingly and willfully under-taking any development requiring a minor development permit without acquiring such a permit, or of conduct exceeding the authority of a permit or of failure to observe the agreed modifications of a conditioned grant, or of violation of any other applicable regulations adopted by the Town of River Bend or the Commission pursuant to the CAMA shall be guilty of a misdemeanor, and for each violation shall be liable for a penalty of not less than One Hundred and no/100ths Dollars (\$100.00) nor more than One Thousand and no/100ths Dollars, or shall be imprisoned for not more than 60 days, or both. In addition, if any person continues or further commits any of the above violations after written notice from the LPO, the court may determine that

each day during which the violation continues or is repeated constitutes a separate violation subject to the foregoing penalties.

(C) Notice:

The LPO shall notify the Secretary of any civil action undertaken by or against such officer under the CAMA.

ARTICLE V: AMENDMENTS OF THE IMPLEMENTATION AND ENFORCEMENT PLAN AND COMPLAINT PROCEDURE

SECTION 1. AMENDMENT TO THE IMPLEMENTATION AND ENFORCEMENT PROGRAM

(A) Notice of Public Hearing:

Amendments to this Implementation and Enforcement Plan shall be in accordance with the notice and public hearing requirements set forth in the CAMA and the CRC's "Criteria for Local Implementation and Enforcement Plans" pertaining to the adoption of the original plan. In addition the following shall be required:

1. Prior to this Plan being amended, a public hearing shall be held by the Town Council concerning the proposed amendment. It shall be open to comment from any interested persons, agencies, or groups.
2. Notice of such public hearing shall go out at least fifteen (15) days prior to the date of the hearing; shall state the time, place and subject matter of the hearing and shall indicate the nature of the proposed action; shall state that copies of the proposed amendment are available for public inspection at the River Bend Town Hall; and shall appear at least once no less than fifteen (15) days prior to the hearing in at least one newspaper of general circulation in the affected area.
3. A complete record of the public hearing and comments shall be compiled and maintained. The record of the public hearing, written comment, and any documentation filed with the LPO as to the proposed amendment must:
 - a. Consist of a written account from the minutes or transcribed from an electronic recording, and all written documents.
 - b. Remain open for fifteen (15) days after the hearing.
 - c. Be available to the Commission upon request.

(B) Procedure to Amend:

Requests for amendment of this plan shall be referred to the Planning Board. If the amendment is recommended by the majority of the Board, that recommendation shall then be conveyed to the Town Council for final approval.

(C) Request to Waive Formal Amendment Requirements:

Whenever a proposed amendment is deemed by the Planning Board and the Town Council to be of little interest to the Public, a petition may be sent to the CRC for a waiver of the formal hearing and notice requirements. Such a petition shall include the proposed amendment and state why the Planning Board and the Town Council concluded that the rights or convenience of the public is not substantially affected by it.

(D) Commission Approval:

Upon local acceptance of any amendment requiring notice and hearing, the amendment shall be submitted to the Commission for approval. Upon CRC's approval, the amendment shall be adopted as part of the ordinance(s) implementing this plan.

SECTION 2. PROCEDURES FOR RESPONDING TO COMPLAINT THAT THIS PLAN IS NOT PROPERLY ENFORCED AND ADMINISTERED

(A) Citizen Complaints:

Upon receiving complaints from local citizens that the Implementation and Enforcement Plan is not being properly administered and enforced, the Town Council will investigate the situation and respond to the alleged deficiencies. If the person making the complaint is not satisfied, then he/she will be advised that he/she may take their complaint either in writing or in person to the CRC.

(B) Response to the CRC:

Upon notification from the CRC concerning deficiencies in administration and enforcement of the plan, the Town Council will investigate the alleged problem and prepare a response for the CRC. If the allegation of deficiencies is found to be valid, the Town Council will, within thirty (30) days of the original notifications from the CRC, inform the CRC of its willingness and ability to correct the deficiency and prevent similar problems in the future. If the Town Council finds the CRC's allegations of deficiencies invalid, they will so inform the CRC. If the CRC disagrees with that finding, the Town Council may request a hearing before the CRC or in some other manner attempt to reach a mutually acceptable agreement with the CRC within a ninety (90) day period after receipt of the CRC's original notification of the ninety (90) day period, then the authority to issue permits for minor development pursuant to this plan shall be automatically relinquished until such a time as the CRC is convinced that the Program will be properly enforced.

CONSENT AGENDA

The Mayor presented the Council with the Consent Agenda. Councilman Seymour **moved to approve the Consent Agenda as presented.** The motion carried unanimously. Within this motion the following items were approved:

A. Approve:

*Minutes of the August 4, 2009 Retreat
Minutes of the August 4, 2009 Closed Session
Minutes of August 13, 2009 Works Session
Minutes of the August 20, 2009 Regular Meeting*

TOWN MANAGER'S REPORT

I am pleased to report that we mailed the first water billing using our new radio read meter system. Included in the bill was a notice to our customers warning that their bills might look a bit different for this cycle. For some customers there are two meter readings, one for their old meter and one for the new meter. For all customers this was a longer reading cycle. We extended the cycle by two weeks in order to give the meter vendor and their contractors sufficient time to get all meters installed and transmitting properly to our office. This notice also reminded all our water customers to be sure the top of their meter box is not covered with grass, mulch, shrubbery, other decorative items, vehicles or other equipment.

We have the bid documents in hand for our FY 2009-10 roadway maintenance. Once we received definitive word from the state regarding the amount of Powell Bill funding we will receive, we will put out a request for proposals for this work. This year we plan to pave Plantation Drive from Gull Pointe to Shoreline Drive (north lane), and repaint some centerlines on other roads.

As I mentioned in the budget presentation this year, we continue to work throughout the fiscal year on the budget process. As we continue our work to implement the current budget, department heads and other staff members are working on background information for next year's budget, and Margaret Marshburn is working with our auditors to complete the audit of our fiscal year 2008-09 financial statements. We expect draft results of the audit this month and the formal presentation by the auditor at the regular Town Council meeting in October. This unending cycle of development, preparation, implementation, and evaluation is critical to meet the ever-changing needs of the community we serve.

A normal part of managing any organization is the evaluation of current operations as a way to seek increased efficiencies and/or ways to improve service. As part of this process, and after a discussion with the Town Council, we decided to bring the management of the Wildwood Storage facilities "in-house". These enclosed and outdoor storage

units have been managed by two different firms since the Town took ownership of them. With increases in efficiency due to our municipal management information system, and the willingness of some volunteer assistance, we are able to make this transition. Effective November 1, 2009, the Town will begin to manage this facility. Anyone interested in learning more about Wildwood Storage or knowing what is available for rent, is encouraged to contact the Town Hall.

Mathematician turned philosopher Alfred North Whitehead wrote, "The art of progress is to preserve order amid change and to preserve change amid order". It is clear that, in our effort to manage the operations of the Town, change is constant and welcome, even if it upsets the order we know. We are cognizant of the fact that changes we make impact how we serve the residents of this community. Your professional staff will continue to work with the elected officials and appointed advisory boards to follow a path that leads us all through positive change to a promising future for the Town of River Bend.

ADMINISTRATIVE REPORTS

ENVIRONMENT/WATERWAYS – COUNCILMAN BERT LINKONIS

Environment and Waterways Advisory Board – Councilman Linkonis reported that the EWAB met on Wednesday, September 9th. Members reviewed the proposed publications on bulkhead repair and maintenance and waterway responsibilities. They also continue their update of the Canal Maintenance Plan. Mr. Linkonis also reported that the new canal markers are in.

CERT – Councilman Linkonis said that CERT members met on September 2nd. Members worked with their new radios and completed several emergency exercises. The next meeting will be Monday, September 28th.

PARKS & RECREATION/CAC – COUNCILMAN BRENDA GARVEY

Councilman Garvey was unable to attend the Council meeting. She said that she will report on Parks and Rec and CAC activities in August at the October Council Meeting.

PUBLIC WORKS AND WATER RESOURCES – MAYOR JOHN KIRKLAND

PWAB Report - Mayor Kirkland said that the Board met on Tuesday 1 September. The reports of the Public Works and Water Resources Superintendent and the Town Manager's reports were reviewed. Also the Board reviewed the financial performance report for the Water and Wastewater utilities. The financial report shows both utilities performing as expected. The budgeted capital projects for public works and the enterprise funds are moving forward with a number of those projects already completed.

The Council will be asked to vote this evening to confirm Mr. Bill Henderson as a new board member. Board Chairman Fetrow and I interviewed Mr. Henderson and we believe that he will be a strong participant in Board activities.

Vote – Census Bureau Proclamation – Mayor Kirkland told the Council that the Census Bureau has asked municipalities to sign a Proclamation stating their support and willingness to participate in the 2010 Census. Councilman Seymour **moved to approve the Census Bureau Proclamation as presented.** The motion carried unanimously.

Report – NCLM Green Challenge Resolution – Mayor Kirkland said that last year the Town received recognition from the North Carolina League of Municipalities (NCLM) for achieving the first level of their Green Challenge. Our work toward this entry level recognition included the

Council adopting a Resolution on the Conservation of Energy and Other Resources, enrolling in the Energy Star program and developing a Strategic Energy Plan.

The NCLM has now released the criteria for the next two levels of recognition. There is a list of 21 criteria that allow localities to document their efforts at being environmental responsible. Some of these criteria are beyond our reach, but others appear simple to achieve.

The first was to adopt a Resolution appoint the Town Manager as the Energy Manager. The second was to approve an addition to the Purchasing Policy that would require future purchases to consider environmental impact. The Council took both of these actions at its September 10th Work Session.

In addition, staff are working to formally document measures that have been in practice for some time such as paper recycling.

Report – Amendment to Purchasing Policy – As mentioned above, the Council amended the Town's Purchasing Policy at its September Work Session to encourage the purchase and use of environmentally friendly products by Town staff and Advisory Board members.

Report – Contract for Springdale Water System Purchase Study – The Mayor reported that, at its September Work Session, the Council approved a contract with Stephen Swartz Engineering to conduct a study of the feasibility of the Town taking over water services in the Springdale subdivision. He pointed out that these residents are currently paying out of town rates to the City of New Bern.

Vote – Appoint Bill Henderson to the Public Works Advisory Board for a term beginning September 17, 2009 and ending on June 30, 2011 – The Mayor said that Mr. Henderson has been attending the PWAB meetings and will make a valuable addition to the Board. Councilman Seymour **moved to appoint Bill Henderson to the Public Works Advisory Board for a term beginning September 17, 2009 and ending on June 30, 2011.** The motion carried unanimously.

FINANCE – COUNCILMAN IRVING VAN SLYKE

Executive Financial Report – Finance Administrator Margaret Marshburn told the Council that the Town's total cash and investments at the end of August, 2009 was \$1,341,480. Ad valorem taxes were at \$673.

Vote – 2009 Debt Setoff Participation Renewal – Councilman Van Slyke told the Council that the Town has participated in the Debt Setoff program for several years and it has proved very helpful in collected old debts owed to the Town. The state requires that municipalities renew their participation each year. He, therefore, **moved that participation in the 2009 Debt Setoff program be approved as presented.** The motion carried unanimously.

COMMUNITY PLANNING – COUNCILMAN PHIL SEYMOUR COUNCILMAN CHARLES SHARPE

Planning Board Report – Councilman Seymour reported that the Planning Board continues to work on several Ordinance Amendments that will be submitted to the Council for consideration at a future date.

PUBLIC SAFETY – COUNCILMAN PHILIP SEYMOUR

Police Report – Police Chief Duke Pratt told the Council that the Town will, once again, be hosting an AARP Driver Safety course. The date is set for October 22nd. Addition information on signing up for this course will be provided in a few days.

Councilman Seymour also asked residents to watch out for deer crossing Town streets.

MAYOR'S REPORT

Candidates Night - Mayor Kirkland said that we are in the process leading up to the election of 2009 that will seat three members of the Council in December. There will be a Candidate's Night Forum on the evening of October 6. This forum is an opportunity for candidates to introduce themselves to citizens in attendance and to those who will view the Forum on channel 10. The September issue of the River Bender carried a front page notice of this Forum and the format that will be used again this year. The Forum is an opportunity to hear a candidate's view of Town government and his/her vision of the Town's future. It is not a format for debate and the Moderator will not permit the evening to be dragged into that style of a meeting. The River Bender and the Sun Journal will cover the Forum and will provide questions to the Moderator.

The Town is well served by a Council that understands they act to serve all the citizens and plan effectively to position the Town as it faces emerging issues and problems. The future will present challenges that have not been experienced in the past but with the dedication of the Council and Staff challenges will be met and an even more robust Town will be the result. I encourage everyone to exercise your vote and to follow the activities of the governing body as it works in your behalf.

Ban on Plastic Bottles in Landfills - The General Assembly in the recently completed session has passed a Bill that bans the disposal of all plastic bottles in landfills such as the one operated by the Coastal Partnership at Tuscarora. This prohibition follows a similar prohibition on the disposal of aluminum containers in landfills. The very nature of landfill operations makes it nearly impossible to meet these restrictions.

The General Assembly needs to give serious consideration to passing a "bottle deposit Bill" as an effective way to almost eliminate the land filling of these banned containers. Such legislation would have another immediate benefit that being the elimination of containers littering the roadside. The truth of this statement can be seen in travel through states that currently have such a deposit requirement.

There is and will be very robust lobbying against any effort to enact a bottle deposit bill. Members of the Legislature need to hear from citizens that they support such action. I will author a letter to our Delegates asking their sponsoring or supporting such legislation. I will share a draft of this letter with the members of the Council for their input.

ADJOURNMENT/RECESS

There being no further business, Councilman Seymour moved to adjourn. The meeting adjourned at 8:50 p.m.

Ann H. Katsuyoshi
Town Clerk

NOTICES

**TOWN OF RIVER BEND
NOTICE OF PUBLIC HEARINGS**

The Town Council of the Town of River Bend will hold public hearings on the following at their regular meeting on Thursday, September 17, 2009 beginning at 7:30 p.m., or as soon thereafter as the matters can be reached.

09-C-14 – Amend Town Code, Title 7 “Traffic Code”

This Ordinance Amendment would allow the use of golf carts on Town roads. HB 121, signed into law on August 7, 2009 and effective October 1, 2009, allows all localities in North Carolina to regulate the use of golf carts on local roads. This ordinance, following the requirements of the law, will regulate their use on roads in River Bend.

09-C-20 - River Bend Town Code, Chapter 15.02, Zoning, Section 15.02.171 Records and Invalidation

This Ordinance Amendment would clarify the length of time permits are valid and to give recourse for extension of time should the project take more than the allotted one year. This will allow the Town to have more enforceability on projects that are not getting done in a timely manner, but have not been suspended or abandoned.

09-C-21 - River Bend Town Code, Chapter 3, Administration, Sections 3.01.044 Appointment and Term of Other Officers and Employees, 3.01.075 Appointment of Town Manager, 3.01.076 Appointment of Town Clerk, 3.01.078 Appointment of Zoning Administrator, 3.01.090 Appointment of Budget Officer, 3.02.002 Appointment of Police Chief, and 3.02.003 Supervision and Control of Department

River Bend moved to the Council-Manager form of government eight years ago. Several Ordinance changes were made to effect the change to this form of government. As part of our ongoing operational review it appears that some minor changes were overlooked. The changes under consideration in these amendments reflect the original intent of the Town as it transitioned to the Council-Manager form of government.

09-C-22 – River Bend Town Code, Chapter 13 General Offenses, Section 13.01.006 Regulation of Solicitors”

This Amendment to the Town's solicitation Ordinance creates a registry for residents who do wish to allow solicitors to come to their homes. Resident who are not on the registry will be considered to not want solicitors to come to their homes.

09-C-23 – River Bend Town Code, Chapter 15 Zoning, Section 15.02.165 Zoning Administrator

Like 09-C-21, this Ordinance Amendment is a housekeeping matter to bring all of the Town's Ordinance into compliance with the Council-Manager form of government.

CAMA Local Permit Officer Implementation Plan

The purpose of this Implementation and Enforcement Plan is to allow certain staff members to become Limited Permit Officers (LPO) with CAMA. This will allow the Town to issue minor permits to residents.

All residents are invited to attend.

September 7, 14, 2009 (adv)

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TOWN OF RIVER BEND

*45 Shoreline Drive, River Bend, NC 28562-8970
Phone (252)638-3870 Fax (252)638-2580*

*mail@riverbendnc.org
www.riverbendnc.org*

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Ann H. Katsuyoshi
Town Clerk
September 2, 2009



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

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

CRC-09-33

MEMORANDUM

TO: Coastal Resources Commission

FROM: Rebecca Ellin, Coastal Reserve Program Manager

DATE: October 15, 2009

RE: Amendment to 15A NCAC 7O .0202 Reserve Use Requirements

The N.C. Division of Coastal Management is considering an amendment to its N.C. Coastal Reserve Use Requirements (15A NCAC 7O .0202) to prohibit possession and consumption of alcoholic beverages and controlled substances while on the Reserve. Such a rule will clarify the Division's position to the public and law enforcement regarding alcohol and controlled substances, providing a tool for law enforcement to address problems as needed. The draft rule language is attached and will apply to all ten sites within the Reserve.

The Division must maintain the essential natural character of its ten Reserve sites for the primary purposes of research, education, and compatible traditional recreational uses such as walking, fishing, birding, and kayaking. The Division seeks to promote a clean, safe, family-oriented atmosphere for those engaging in compatible recreation at the Reserve. Recent evidence of alcohol use has caused the Division to consider a rule prohibiting alcohol and controlled substances on the Reserve sites for the following reasons:

- Alcohol use and recreation based on the consumption of alcohol do not support the mission and purpose of the Reserve and do not constitute compatible traditional use.
- Many of the Reserve sites are remote and difficult to access easily. Prohibiting alcohol will help ensure the safety of visitors as it may be difficult for help to arrive quickly should a medical problem or altercation arise.
- Prohibiting alcohol on the Reserve will help limit the liability of the State of North Carolina should an incident arise.
- Small and large groups gather at Reserve sites and consume alcohol. Staff and volunteers often have to clean up significant quantities of alcohol-related trash (i.e., bottles and cans) as a result of such gatherings.
- Consumption of alcohol may also contribute to the vandalism that has occurred recently at Reserve sites (e.g., spray painting at Buxton Woods, boardwalk defacement at Rachel Carson).

- Prohibiting alcohol will align the Reserve with the rules of other publically-held lands such as N.C. State Parks and Forests and many local municipalities.

Enforcement of the proposed rule will be accomplished by State and local law enforcement officers. Enforcement will not change significantly except on an as needed basis. Law enforcement has asked for more specific rules to help them when patrolling Reserve sites and the proposed rule will accomplish this for alcohol and controlled substances.

The proposed rule will proactively address misuse at the Reserve sites by providing a tool for law enforcement, preserve public access to the sites, and allow the Division to safely and more appropriately implement the Reserve's purposes of research, education, and compatible recreation into the future. This is especially important as coastal population continues to rise and visitation to the Reserve increases.

Staff sought input from the Reserve site Local Advisory Committees regarding the proposed rule and received input from the public on the prohibition of alcohol during a public meeting held for the Masonboro Island site October 8, 2009. Staff is seeking input from the Commission regarding this proposed change to 15A NCAC 7O .0202 Reserve Use Requirements.

15A NCAC 070 .0202 RESERVE USE REQUIREMENTS

The following use requirements shall apply to all of the components of the Reserve:

- (1) The essential natural character of the Reserve shall be maintained.
- (2) Traditional recreational uses within each component shall be allowed to continue as long as the activities do not disrupt the natural integrity of the Reserve or any research or educational projects. Incompatible traditional uses shall include:
 - (a) fishing, hunting, or trapping activities not allowed by state rules;
 - (b) target shooting;
 - (c) hydraulic clam dredging within Reserve boundaries;
 - (d) use of vehicles off designated corridors at components where vehicles are allowed for upland transportation according to the management plan; and
 - (e) production of noise disruptive to local wildlife and the aesthetic enjoyment of the Reserve as a natural area.
- (3) No user shall disturb a research project or research equipment in place at the Reserve.
- (4) Camping or any form of habitation, whether on the uplands, wetlands, or waters within Reserve boundaries, shall not be allowed unless written permission is posted by the Division of Coastal Management.
- (5) Personal property not authorized by the management agency may not be placed within the boundaries of the Reserve for more than two consecutive days.
- ~~(6)~~ (a) Possession or consumption of any alcoholic beverage as defined in NCGS §18B-101, any controlled substance as defined in NCGS § 90-87, or any other intoxicating substance shall not be allowed within the Reserve.
 - (b) Persons shall not be or become intoxicated while within the Reserve.
- ~~(6)~~ (7) Users of the Reserve shall not disturb or remove any live animals, except those allowed by local or state hunting and fishing rules as they apply to the Reserve, or vegetation within the Reserve unless such action is part of a research or educational project approved by the management agency.
- ~~(6)~~ (8) Persons wishing to engage in scientific research or collection of natural materials within the Reserve shall first secure written permission from the management agency.
- ~~(6)~~ (9) No activity shall be allowed which might pollute any stream or body of water in the Reserve. Acts of pollution shall include:
 - (a) Deposition of solid materials not indigenous to the local coastal ecosystem; and
 - (b) Discharge of liquids other than uncontaminated estuarine water.
- ~~(6)~~ (10) No other acts or uses which are detrimental to the maintenance of the property in its natural condition shall be allowed including, but not limited to, disturbances of the soil, mining, commercial or industrial uses, timber harvesting, ditching and draining, deposition of waste materials.

*History Note: Authority G.S. 143B-10;
Eff. July 1, 1986;
Amended Eff. April 1, 1999; December 1, 1991; April 1, 1988.*




CRC-VR-09-04

State of North Carolina

Department of Justice
PO Box 629
Raleigh, North Carolina
27602

ROY COOPER
ATTORNEY GENERAL

TO: Coastal Resources Commission
FROM: Christine A. Goebel 
Assistant Attorney General
DATE: October 9, 2009 (for the October 29-30, 2009 CRC Meeting)
RE: **Variance Request by the Town of Caswell Beach (09-04)**

Petitioner is the Town of Caswell Beach, North Carolina. Petitioner plans to develop a sewer system that will connect to the Town of Oak Island’s new sewer system, and will ultimately treat wastewater from both towns at a treatment plant on the mainland owned by Brunswick County and the Town of Oak Island. Petitioner was issued CAMA Major Development Permit No. 71-09 on May 29, 2009 for development of the proposed sewer lines and related infrastructure. Petitioner now seeks a variance from the permit condition (No. 3) which requires compliance with the ocean erosion setbacks in the area near the Progress Energy cooling water outfall canal. This portion of the proposed project does not meet the “large structure setback” under the “old” setback rules in effect at the time of permit issuance (and not all of the proposed lines meet the “new” setbacks in effect since August 12, 2009, which require linear development like this to meet a 30x setback instead of the 60x “large structure setback”).

The following additional information is attached to this memorandum:

- Attachment A: Relevant Rules
- Attachment B: Stipulated Facts
- Attachment C: Petitioner’s and Staff’s Responses to Variance Criteria
- Attachment D: Petitioner’s Variance Request Materials
- Attachment E: Stipulated Exhibits & Powerpoint presentation

cc: William A. Raney, Jr., Attorney for Petitioner, electronically
Jennie W. Hauser, CRC Counsel, electronically
DCM Staff, through mail-out

RELEVANT STATUTES OR RULES:

15A NCAC 7H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(The “old” setback rule in effect at the time of permit issuance)

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in these Rules shall be located according to whichever of the following rules is applicable.

- (4) Because large structures located immediately along the Atlantic Ocean present increased risk of loss of life and property, increased potential for eventual loss or damage to the public beach area and other important natural features along the oceanfront, increased potential for higher public costs for federal flood insurance, erosion control, storm protection, disaster relief and provision of public services such as water and sewer, and increased difficulty and expense of relocation in the event of future shoreline loss, a greater oceanfront setback is required for these structures than is the case with small structures. Therefore, in addition to meeting the criteria in this Rule for setback landward of the primary or frontal dune or both the primary and frontal dunes, for . . . any non-residential structure with a total area of more than 5,000 square feet, the erosion setback line shall be twice the erosion setback as established in Subparagraph (a)(1) of this Rule, provided that in no case shall this distance be less than 120 feet.

(The “new” setback rule in effect since August 12, 2009)

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the CRC's Rules shall be located according to whichever of the following is applicable:

- (2) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback is established based on the following criteria:
 - (1) Infrastructure that is linear in nature such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;

ATTACHMENT B

STIPULATED FACTS

1. The Petitioner, Town of Caswell Beach (Town), is a North Carolina municipal corporation located in Brunswick County.
2. The Town is bounded by the Intracoastal Waterway, the Cape Fear River and associated coastal wetlands on the north; by the North Carolina Baptist Assembly property at the mouth of the Cape Fear River on the east; by the Atlantic Ocean on the south; and by the Town of Oak Island corporate boundary on the west.
3. Historic Fort Caswell at the mouth of the Cape Fear River is located to the east of Caswell Beach and is now owned and operated by the North Carolina Baptist Assembly as a church retreat and conference center (Baptist Assembly). This area is part of unincorporated Brunswick County.
4. The Town secured Coastal Area Management Act (CAMA) Major Development Permit No. 71-09 on May 29, 2009, to construct a wastewater collection system to serve the Town and the Baptist Assembly.
5. The wastewater collection system will collect and transport wastewater from the Town to a force main owned and operated by the Town of Oak Island which transports the wastewater to a wastewater treatment plant operated by Brunswick County and the Town of Oak Island. The proposed project will also include a re-use distribution system for treated wastewater to be returned for use in irrigation.
6. The project for Caswell Beach consists of 17,970 linear feet of pipe trench varying in width from 15 to 20 feet, two submersible-type pump stations, one vacuum pump station, 16 simplex grinder pump stations, and 134 vacuum valve pits. The system would extend along approximately 14,000 linear feet of ocean front in the Town that is within several Ocean Hazard Area AECs, including the Ocean Erodible AEC and the High Hazard Flood AEC.
7. The proposed project would eliminate two private package wastewater treatment plants (Ocean Greens and Caswell Dunes), the North Carolina Baptist Assembly wastewater infiltration system, and 210 plus septic tanks. As designed, the project would consolidate the existing private collection systems into one publicly owned and operated collection system.

8. The elimination of the package treatment plants and septic tanks will reduce the potential for fecal and nutrient contamination by direct and indirect discharges into the Elizabeth River, Piney Point Creek, and adjoining creeks, and the Intracoastal Waterway. Such contamination has been known to occur during storm events when such facilities have been flooded, as documented in the Town's Clean Water Management Trust Fund grant materials, attached.
9. Details concerning the project and the Town are set forth in the "Project Narrative" attached hereto.
10. A map showing the general location and extent of the project is attached hereto.
11. All of the pipelines where the variance is requested will be located on the north side (or landward side) of Caswell Beach Road (SR 1100) which runs parallel to the shoreline of the Atlantic Ocean for the entire length of Caswell Beach.
12. Where the variance is requested, the pipeline route is located in the High Hazard Flood Area of Environmental Concern and the Ocean Erodible Area of Environmental Concern.
13. CAMA Major Development Permit No. 71-09 contains a condition (Condition No. 3) which specifies that "[a]ll structures shall be located entirely landward of the appropriate small and/or large structure development setback lines."
14. At the time of permit issuance, the Division of Coastal Management considered the large structure setback to be applicable to all parts of the project due to the size of the overall project. However, on August 12, 2009, the Commission's new setback rules went into effect. The new rules provide that, "Infrastructure that is linear in nature such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;" 15A NCAC 7H.0306(a)(2)(I) These "new" rules were not applicable at the time of the permit decision.
15. A variance is still required because even if the "new" setback rules were applied, there is a section of line approximately 675-feet in length which does not meet either the large structure or small structure setback. All of the proposed development of the sewer lines is behind the static vegetation line established in the winter and spring of 2009.
16. A large scale beach fill project occurred along the ocean beach adjacent to the project in the winter and spring of 2009 thereby establishing a static vegetation line under 15A NCAC 7H.0305(g) from which setbacks are measured. This line is depicted on a slide in staff's power point presentation that will be shown to the Commission.

CRC-VR-09-04

17. The upland area from the Baptist Assembly on the east to a point just east of the Progress Energy cooling water outfall canal for the Brunswick Nuclear Plant on the west is very narrow with one row of marsh-front lots on the north side of Caswell Beach Road and one row of oceanfront lots on the south side of Caswell Beach Road.
18. The long-term annual erosion rate from the Baptist Assembly to the pump station at the cooling water outfall canal is two (2) feet.
19. At the pump station and cooling water outfall canal proceeding westerly, the long-term annual erosion rate changes from 2 feet to 3.5 feet and the large structure setback from the vegetation line increases from 120 feet to 210 feet.
20. The location of the setback line and the location of the proposed pipelines are displayed on Sheet C1A by W. K. Dickson Engineers, attached.
21. An aerial photograph showing the general vicinity of the Progress Energy cooling water outfall is attached.
22. Where the setback changes from 120' to 210', the pipelines are proposed to be located seaward of setback line for a distance of approximately 830 feet along Caswell Beach Road (based on the "old" setback rules using the large structure setback).
23. The presence of the Progress Energy cooling water outfall canal, the pump house, and related improvements limit and constrain the location of the proposed lines.
24. The proposed lines turn in a northerly direction as soon as they pass the Progress Energy property and are thereafter located landward of the setback line.
25. The stretch of Caswell Beach Road where the variance is requested was protected by sandbags in early 2000 as a result of erosion from Hurricane Floyd that threatened the road at that time. These bags have been covered with sand and stable and natural vegetation since 2001.
26. The pipelines where the variance is requested would not be impacted by ocean erosion unless Caswell Beach Road were eroded away thereby eliminating the only land access to property being served by the pipelines.
27. No objections to this project were received during DCM's permit review.

ATTACHMENT C

Petitioner's and Staff's Positions

- I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? If so, the petitioner must identify the hardships.**

Petitioners' Position: Yes.

Strict application of the erosion setback rules found in 15A NCAC 7H.0305 and .0306 prevent the Town from making reasonable use of available utility easement rights to construct a wastewater collection system and wastewater re-use distribution system. Without a variance, the Town will be unable to serve much of its service area, including the North Carolina Baptist Assembly and the US Coast Guard Station, thereby leaving significant areas of the Town in reliance on undesirable septic tank systems for sewage disposal. The project has been approved for funding by the U.S. government as a stimulus project. Stimulus funding may be lost if the approved project is not promptly constructed.

Staff's Position: Yes.

Staff agrees that the strict application of the large structure setback rules as measured from the pre-nourishment static vegetation line causes the Petitioner unnecessary hardships to install the town-wide wastewater system as proposed. This is a town-wide project attempts to alleviate problems to water quality associated with septic system failure. The sewer line infrastructure was designed to be placed in the street right-of-ways, with the location of the lines being dictated by many factors including other regulations, as well as the location of the Progress Energy cooling water canal. The canal's location creates a very narrow portion of land in the middle of the Town, and leaves little to no room outside of the setback where the lines could be placed and still reach the eastern end of the island. Petitioner has attempted to meet the applicable setbacks while keeping the sewer lines in the Town-owned street right-of-ways along the north side of Caswell Beach Road.

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

Petitioners' Position: Yes.

In the area where the sewer lines are designed to be located seaward of the setback line, the island is very narrow. In addition, this is the location of the Brunswick Nuclear Plant cooling water outfall canal, pump station and related improvements, thereby precluding the sewer lines from being moved further from the ocean. Just west of this point the island widens and the sewer lines are moved further from the ocean in compliance with the setback.

Staff's Position: Yes.

Staff agrees that the unnecessary hardship is caused by conditions peculiar to the property, specifically the size, shape, and configuration of the oceanfront in front of the Progress Energy property. There is a constriction of the high ground created by the excavation for the cooling water outfall canal during construction of the Brunswick Nuclear Plant which runs from the mainland through the island to the ocean and is located in the middle of the Town. Such conditions eliminate a large portion of the east end of the island from being included in this wastewater system without a variance.

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

Petitioners' Position: No.

It is the physical shape and width of the island, the location of the road right-of-way and the pre-existing development such as the Brunswick Nuclear Plant cooling water outfall that led to the hardship. The Petitioner has done anything to create the hardship.

Staff's Position: No.

On balance, Staff agrees that the Town has not contributed to their hardship because the project was designed to minimize the size of the structures in the setback by choosing a vacuum system which utilizes smaller lines than other systems, and minimizes disturbance of existing structures by locating the lines in the town's existing right-of-way along Caswell Beach Road. Also, the lines are designed to comply with the setback as much as possible by turning away from the oceanfront once the lines pass through the narrow canal area where the setback is not met.

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

Petitioners' Position: Yes.

The management objective of the Ocean Hazard AEC is set forth in the rules as follows: "It is the CRC's objective to provide management policies and standards for Ocean Hazard Areas that serve to eliminate unreasonable danger to life and property and achieve a balance between the financial, safety, and social factors that are involved in hazard area development." 1 5A NCAC 7H.0303(a).

The Petitioner has designed the project to locate the much needed and environmentally desirable wastewater system the maximum feasible distance from the ocean. The sewer lines will be protected by a North Carolina Secondary Road that is the only road serving as access to the property lying beyond the point where the small section of line cannot feasibly be located in

compliance with the setbacks. All of the proposed project meets the setbacks except for this small section where the increase in the erosion rate, the narrowness of the land, and the existence of the Brunswick Nuclear Plant cooling water outfall canal prevent compliance. The area where compliance is not feasible is only 830 feet of approximately 14,000 linear feet of Ocean Hazard Area in which the line is located.

The system will meet the purposes of CAMA and enhance the public safety and welfare by eliminating undesirable septic tanks and replacing them with a modern, reliable wastewater system that will better protect water quality. This will be accomplished without encouraging new development in hazard areas because the Town is essentially already fully developed in and beyond the area where the setback standard cannot be met.

Justice will be preserved by providing an opportunity for the citizens of the eastern part of Caswell Beach to enjoy the same sewer service as is provided in the western portion of the Town where the setbacks can be met. In fact, the setbacks can be met in most of the eastern portion of the Town, but there is no way to provide service to the eastern portion without going through this small stretch where the setbacks cannot be met.

Staff's Position: Yes.

Staff proposes that the variance request does meet the spirit, purpose, and intent of the rules in that the Petitioner designed a vacuum wastewater system for the Town-wide project and places the sewer lines within the Town's existing right-of-way on the north, or landward side of Caswell Beach Road. Petitioners have minimized the amount of linear footage within the setback by turning the lines away from the oceanfront once the project passes through the narrow constriction adjacent the Brunswick Nuclear Plant cooling water outfall canal.

Granting the variance for encroachment into the setback along the landward side of the road, which is protected by sandbags that are covered with sand and natural vegetation, would help secure the public safety and welfare because of the benefits such a wastewater system has over existing individual septic systems.

Allowing the sewer lines to encroach into the setback along this stretch of road right-of-way to access all Town properties would preserve substantial justice by including all of the properties in the wastewater system and not excluding those on the eastern end of the island.

ATTACHMENT D

Petitioner's Variance Request Materials

RECEIVED

SEP 16 2009

WESSELL & RANEY, L.L.P.
ATTORNEYS AT LAW
POST OFFICE BOX 1049
WILMINGTON, NORTH CAROLINA 28402-1049 **Morehead City DCM**

JOHN C. WESSELL, III
WESSELL@BELLSOUTH.NET

WILLIAM A. RANEY, JR.
WARANEY@BELLSOUTH.NET

STREET ADDRESS:
107-B NORTH 2ND STREET
WILMINGTON, NC 28401

TELEPHONE: 910-762-7475
FACSIMILE: 910-762-7557

September 16, 2009

VIA FAX AND U.S. MAIL

(252-350-2004)
247-3330

Mr. Jim Gregson, Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

Re: **Variance Request Town of Caswell Beach Permit #71-09**

Dear Mr. Gregson:

Enclosed is a CAMA Variance Request filed on behalf of the Town of Caswell Beach. This request is being sent to you by facsimile transmission also.

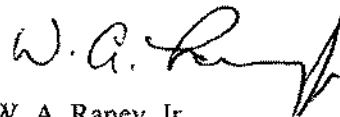
Please schedule the hearing on this variance request for the October meeting of the Coastal Resources Commission.

Exhibit B is a reduced non-color version of the original Exhibit. Full scale color versions of this Exhibit will be produced and provided for the staff and the Commission as soon as possible. I will forward a pdf file with this Exhibit today.

Thank you for your attention to this matter.

Sincerely,

WESSELL & RANEY, L.L.P.



W. A. Raney, Jr.

WAR:ktw

Enclosures

WAR\ENVIRON\R09-125-C01

cc: Ms. Christine Goebel
Mr. Harry Simmons

DCM FORM 11
(revised 6/26/06)

CAMA VARIANCE REQUEST

DCM FILE NO.

09-04

Petitioner supplies the following information:

Your Name Town of Caswell Beach
Address 1100 Caswell Beach Road, Southport, NC 28465-8437
Telephone 910-278-5471
Fax and/or Email

Name of Your Attorney (if applicable) W. A. Raney, Jr.
Address P.O. Box 1049, Wilmington, NC 28402
Telephone 910-762-7475
Fax and/or Email 910-762-7557; waraney@bellsouth.net

Have you received a decision from the Division of Coastal Management (DCM) or a Local Permit Officer denying your application for a CAMA permit?

_____ no (You are not entitled to request a variance until your permit application has been denied.)

 X yes (You may proceed with a request for a variance.)

What did you seek a permit to do?

Install a wastewater collection system and a wastewater re-use return system and related equipment.

What Coastal Resources Commission rule(s) prohibit this type of development?

15A NCAC 7H.0305(g) and .0306(a)

Can you redesign your proposed development to comply with this rule? No . If your answer is no, explain why you cannot redesign to comply with the rule.

The sewer lines and related structures and the easements in which they are to be located are as far landward as feasible in view of existing development such as the Progress Energy cooling water outfall canal and pumping station.

Can you obtain a permit for a portion of what you wish to do? Yes . If so, please state what the permit would allow.

A permit was issued for the project, but contains a provision requiring that all structures shall be located entirely landward of the appropriate...large structure development setback lines. A small portion of the project cannot meet this setback requirement. Elimination of this small portion would eliminate most of the project.

State with specificity what you are NOT allowed to do as a result of the denial of your permit application. It will be assumed that you can make full use of your property, except for the uses that are prohibited as a result of the denial of your permit application.

The permit as granted will preclude the construction of the portion of the project serving the eastern 10,000 feet plus of Caswell Beach. This represents about 5/7th of the total linear extent of the project.

RESPOND TO THE FOUR STATUTORY VARIANCE CRITERIA:

- I. Identify the hardship(s) you will experience if you are not granted a variance and explain why you contend that the application of this rule to your property constitutes an unnecessary hardship. [The North Carolina Court of Appeals has ruled that this factor depends upon the unique nature of the property rather than the personal situation of the landowner. It has also ruled that financial impact alone is not sufficient to establish unnecessary hardship, although it is a factor to be considered. The most important consideration is whether you can make reasonable use of your property if the variance is not granted. [*Williams v. NCDENR, DCM, and CRC*, 144 N.C. App. 479, 548 S.E.2d 793 (2001).]

See attached Exhibit.

- II. Describe the conditions that are peculiar to your property (such as location, size, and topography), and cause your hardship.

See attached Exhibit.

- III. Explain why your hardship does not result from actions that you have taken.

See attached Exhibit.

- IV. Explain why the granting of the variance you seek will be consistent with the spirit, purpose, and intent of the CRC's rules, standards, or orders; preserve substantial justice; and secure public safety.

See attached Exhibit.

Please attach copies of the following:

- Permit Application and Denial documents
- Site Drawing with Survey and Topographical Information

Any letters filed with DCM or the LPO commenting on or objecting to your project

Provide a numbered list of all true facts that you are relying upon in your explanation as to why you meet the four criteria for a variance. Please list the variance criterion, ex. unnecessary hardship, and then list the relevant facts under each criterion. [The DCM attorney will also propose facts and will attempt to verify your proposed facts. Together you will arrive at a set of facts that both parties agree upon. Those facts will be the only facts that the Commission will consider in determining whether to grant your variance request.]

Attach all documents you wish the Commission to consider in ruling upon your variance request. [The DCM attorney will also propose documents and discuss with you whether he or she agrees with the documents you propose. Together you will arrive at a set of documents that both parties agree upon. Those documents will be the only documents that the Commission will consider in determining whether to grant your variance request.]

Pursuant to N.C.G.S. 113A-120.1 and 15A NCAC 7J .0700, the undersigned hereby requests a variance.

Date: 9-16-09

Signature: *W. A. Ramsey Jr.* attorney
Town of Caswell Beach

This variance request must be filed with the Director, Division of Coastal Management, and the Attorney General's Office, Environmental Division, at the addresses shown on the attached Certificate of Service form.

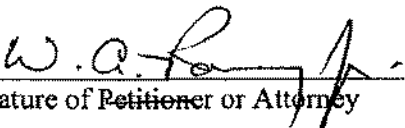
CERTIFICATE OF SERVICE

I hereby certify that this Variance Request has been served on the State agencies named below by United States Mail or by personal delivery to the following:

Original served on: Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

copy: Attorney General's Office
Environmental Division
9001 Mail Service Center
Raleigh, NC 27699-9001

This the 16th day of September, 2009



Signature of Petitioner or Attorney

PETITIONER TOWN OF CASWELL BEACH
RESPONSE TO THE FOUR STATUTORY VARIANCE CRITERIA

- I. Will unnecessary hardships result from strict application of the development rules, standards, or orders issued by the Commission?

Yes. Strict application of the erosion setback rules found in 15A NCAC 7H.0305 and .0306 prevent the Town from making reasonable use of available utility easement rights to construct a wastewater collection system and wastewater re-use distribution system. Without a variance, the Town will be unable to serve much of its service area, including the North Carolina Baptist Assembly and the US Coast Guard Station, thereby leaving significant areas of the Town in reliance on undesirable septic tank systems for sewage disposal. The project has been approved for funding by the U.S. government as a stimulus project. Stimulus funding may be lost if the approved project is not promptly constructed.

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

Yes. In the area where the sewer lines are designed to be located seaward of the setback line, the island is very narrow. In addition, this is the location of the Brunswick Nuclear Plant cooling water outfall canal, pump station and related improvements, thereby precluding the sewer lines from being moved further from the ocean. Just west of this point the island widens and the sewer lines are moved further from the ocean in compliance with the setback rules.

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

No. It is the physical shape and width of the island, the location of the road right-of-way and the pre-existing development such as the Brunswick Nuclear Plant cooling water outfall that led to the hardship. The Petitioner has not done anything to create the hardship.

- IV. Is the requested variance consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will the variance secure the public safety and welfare; and will the variance preserve substantial justice?

Yes.

The management objective of the Ocean Hazard AEC is set forth in the rules as follows: "It is the CRC's objective to provide management policies and standards for Ocean Hazard Areas that serve to eliminate unreasonable danger to life and property and achieve a balance between the financial, safety, and social factors that are involved in hazard area development." 15A NCAC 7H.0303(a).

The Petitioner has designed the project to locate the much needed and environmentally desirable wastewater system the maximum feasible distance from the ocean. The sewer lines will be protected by a North Carolina Secondary Road that is the only road serving as access to the property lying beyond the point where the small section of line cannot feasibly be located in compliance with the setbacks. All of the proposed project meets the setbacks except for this small section where the increase in the erosion rate, the narrowness of the land, and the existence of the Brunswick Nuclear Plant cooling water outfall canal prevent compliance. The area where compliance is not feasible is only 830 feet of approximately 14,000 linear feet of Ocean Hazard Area in which the line is located.

The system will meet the purposes of CAMA and enhance the public safety and welfare by eliminating undesirable septic tanks and replacing them with a modern, reliable wastewater system that will better protect water quality. This will be accomplished without encouraging new development in hazard areas because the Town is essentially already fully developed in and beyond the area where the setback standard cannot be met.

Justice will be preserved by providing an opportunity for the citizens of the eastern part of Caswell Beach to enjoy the same sewer service as is provided in the western portion of the Town where the setbacks can be met. In fact, the setbacks can be met in most of the eastern portion of the Town, but there is no way to provide service to the eastern portion without going through this small stretch where the setbacks cannot be met.

WAR\ENVIRON\09-125-002

KTW

STIMULUS FUNDING PROJECT

PROJECT NARRATIVE

A. PROPOSED PROJECT DESCRIPTION

The Town of Caswell Beach, on the eastern end of Oak Island in southeastern Brunswick County, aims to transfer wastewater outside of the Town for treatment to discontinue flood-prone package wastewater treatment plants (WWTPs) and septic tanks. The proposed project is a sanitary wastewater collection system that will convey wastewater to the Town of Oak Island for treatment. The system is comprised of a central vacuum pump; two gravity collection system pump stations; approximately 3,140 linear feet (LF) 8-inch PVC vacuum sewer line; 3,250 LF 6-inch PVC vacuum sewer line; 1,625 LF 4-inch PVC vacuum sewer line; 14,500 LF 6-inch PVC force main; and 10,380 LF 4-inch PVC force main (Figure 1).

The proposed project is to upgrade the existing Ocean Greens Pump Station, and construct a new pump station at the Caswell Dunes WWTP and a new Vacuum Pump Station to convey wastewater to the existing Oak Island force main system and away from the existing Caswell Dunes and Ocean Greens Package WWTP.

The proposed project will provide public wastewater collection to all of the Town of Caswell Beach residents, the North Carolina Baptist Assembly (NCBA) (including Fort Caswell), and the U.S. Coast Guard (USCG) station at Caswell Beach. The project is designed to accommodate an average daily flow of 0.25 million gallons per day (MGD).

The Vacuum Pump Station will be located on a subdivided parcel being acquired from Progress Energy on their discharge canal pump station property. The proposed sewer force main and vacuum sewer line east of the Progress Energy discharge canal will be located on the north side of Caswell Beach Road. West of the canal the proposed force main and reuse line will be routed north along Foxfire Trace, then follow Pinehurst Drive. At this point the alignment leaves the roadside and follows along the southern edge of the golf course property before crossing across the clubhouse parking lot and turning north to follow Yaupon Way to end at the existing Oak Island pump station. Additionally, a 4-inch force main will run near Ocean Greens Lane from the Ocean Greens Pump Station. The proposed force main west of the Vacuum Station will connect to Oak Island's existing pump station and force main system.

B. PURPOSE AND NEED

The Town of Caswell Beach is bounded by coastal wetlands and estuarine waters to the north and east, the Atlantic Ocean to the south, and the jurisdiction of the Town of Oak Island to the west. Much of the Town's approximately 2,600 acre jurisdiction consists of undevelopable and environmentally sensitive coastal wetlands and estuarine waters (1,425 acres), spoil islands and unvegetated beach (815 acres) (Town of Caswell Beach 2007). The remaining 360 acres of "land area" in the jurisdiction is above the mean high water line and generally developable.

STIMULUS FUNDING PROJECT

The population in the Town of Caswell Beach has grown from 175 in 1990 to an estimated 461 in 2005, an increase of 163% (Town of Caswell Beach 2007). The growth rate between the years 2000 and 2005 was 25%, which ranked 3rd highest when compared with all 20 municipalities with a beach strand in North Carolina for the same time period. However, as the Town has reached near build-out, and intends to prohibit redevelopment at higher densities, the Town population is expected to remain steady over the next ten years (Town of Caswell Beach 2007).

Much of the inland portion of Caswell Beach was developed between 1990 and today, which has accounted for most of the population growth in Town. The majority of the "inland" development is occupied by permanent year-round residences. Many beachfront single-family dwellings, as well as some beachfront and inland multifamily dwellings, continue to be primarily used as housing for the seasonal population.

The Land Use Plan (LUP) for the Town of Caswell Beach projects build out of the Town by the year 2020. The 2005 year-round population estimated by the 2000 Census was 461 with a seasonal population estimate of 2,221 (Town of Caswell Beach 2007).

The LUP defines the seasonal peak population as 4.5 people per seasonal housing unit, and the 2000 Census estimates 1.97 persons per permanent housing unit. The 2005 peak seasonal population represents approximately 3.35 people per total housing units in the peak season. The number of total housing units in the LUP is based on the 2000 Census value of 571 units, plus an additional 122 residences, for a total of 693 existing residential water customers.

Land use in Caswell Beach is nearly entirely residential, with the exception of approximately 25% of the developable jurisdiction being used as a golf course commercial-recreation use. There are no traditional commercial businesses located in the Town of Caswell Beach.

The NCBA, USCG, and many residences in Caswell Beach, currently use on-site individual or shared septic systems. As mentioned above, Caswell Beach is predominantly a vacation home community, with a seasonally variable population. Fluctuating wastewater flow is a major factor affecting the performance of septic systems as septic bacterial populations need time to rebound each summer after a prolonged period of low nutrient inputs during the off-season. The NCBA in particular has large groups of conference attendees for short periods, producing intermittent wastewater peaks which are difficult for the fluctuating septic microbial community to efficiently process.

The Caswell Dunes development has its own private package WWTP, which utilizes a nitrification field subsurface discharge; seven of the condominium units still rely on on-site septic systems. The Ocean Greens and Arboretum communities and Oak Island Golf Course share another private package WWTP, which disposes of treated effluent via two rotary distributors. Both WWTPs lack advanced tertiary treatment and are subject to flooding. Following Hurricane Ophelia and Tropical Storm Tammy in 2005, these treatment systems were inoperable, and untreated wastewater and stormwater were discharged directly into the tributary of Piney Point Creek and into the ocean (Town of Caswell Beach CWMTF grant application).

STIMULUS FUNDING PROJECT

This proposed project will eliminate two private package wastewater treatment plants (Ocean Greens and Caswell Dunes WWTPs), the NCBA at Fort Caswell wastewater infiltration system, and 210+ septic tanks, and consolidate the existing private collection systems into one publicly owned and operated collection system. The proposed project will also include a reuse distribution system for treated wastewater from Oak Island to be used for irrigation, thereby reducing the amount of potable water needed for irrigation. The elimination of the package treatment plants and septic tanks will reduce the fecal and nutrient contamination by direct and indirect discharges into the Elizabeth River, Piney Point Creek, adjoining creeks, and the Intracoastal Waterway, and will thus improve water quality and shellfish habitat.

C. PERMITTING

This project will be reviewed by NCDENR Division of Coastal Management, Division of Water Quality, and Land Quality Sections for approvals.

The Town of Oak Island has an agreement with the Town of Caswell Beach to treat 250,000 GPD of Caswell Beach's wastewater. The 250,000 GPD is based on the existing water records and existing WWTP flows for the Town of Caswell Beach. The pump stations and vacuum sewer system has been sized based on 15A NCAC .02T .0114 Wastewater Design Flow Rates. The submitted flows for the Ocean Greens and Caswell Dunes pump stations totals 118,560 GPD and the Vacuum Sewer totals 136,752 GPD for a combined total of 255,312 GPD.

The permit application for the vacuum sewer portion of the project, including the vacuum mains, valve pits, buffer tank, vacuum station, and 6-inch discharge force main have been submitted to NCDENR Division of Water Quality Construction Grants and Loans section through their pressure sewer process.

The remaining pump stations at Ocean Greens and Caswell Dunes and respective force mains have been sent to the Wilmington Regional NCDENR Division of Water Quality through the Fast Track process. A 4-inch force main from the Baptist assembly will be permitted as a Town Facility. A pump station and subsequent flow will be permitted by the Baptist Assembly.

The NCDENR Erosion & Sediment Control and Stormwater permits will include the entire project under each permit.



WK DICKSON
community infrastructure consultants

909 MARKET STREET
WILMINGTON, NC 28401
(910) 782-4200

Office Locations:
North Carolina
South Carolina
Georgia
Florida

DATE: 2-19-09
SCALE: 1"=2000'
DRAWN: JRM
CHK: TCH
PROJ. NO: 70008.00.WL

CASWELL BEACH
VACUUM SEWER AND FORCE MAIN
INSTALLATION
USGS 7.5' SOUTHPORT QUAD SHEET

EXHIBIT A PAGE 4 OF 4

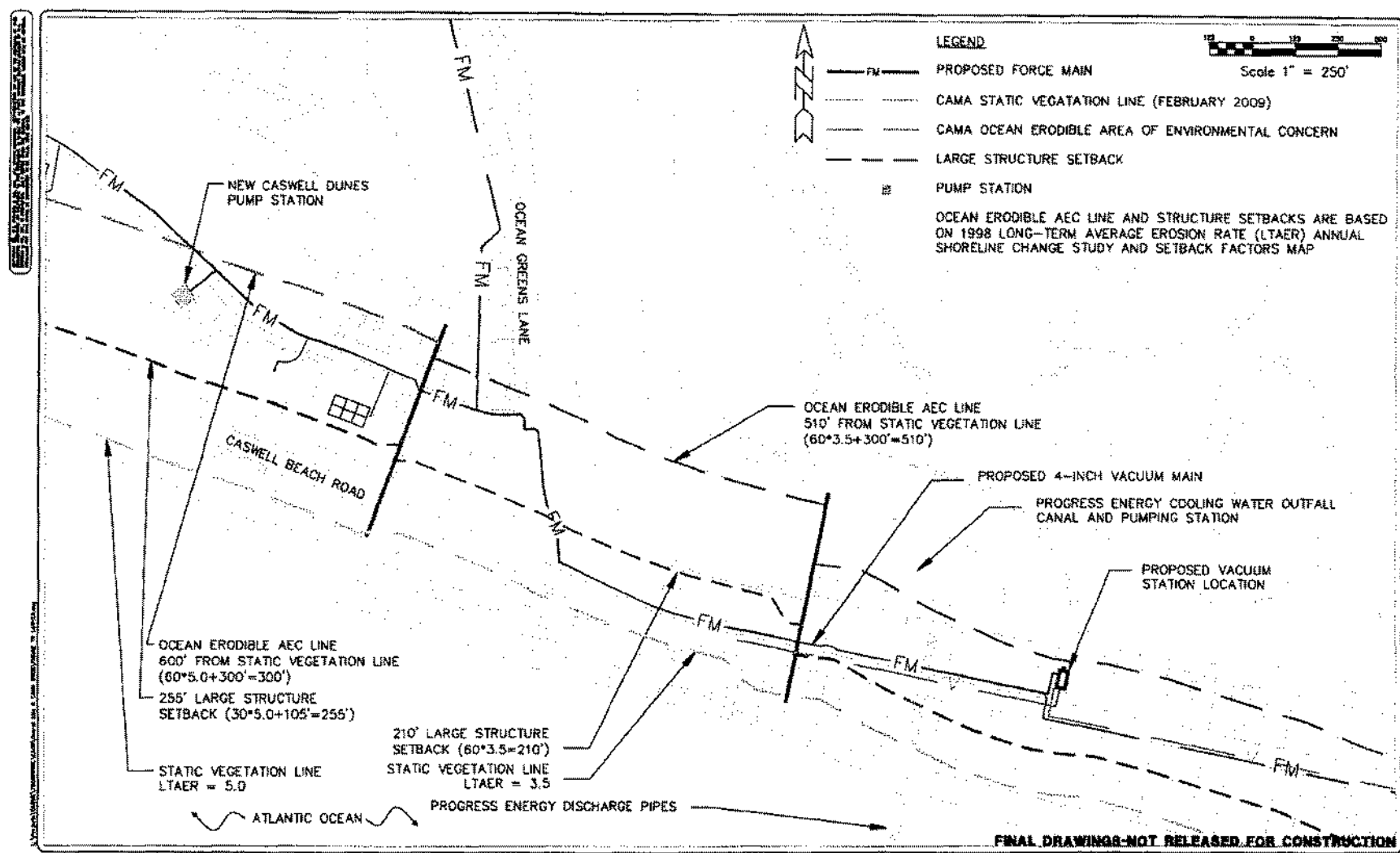


EXHIBIT B PAGE 1 OF 1

DATE	DESCRIPTION

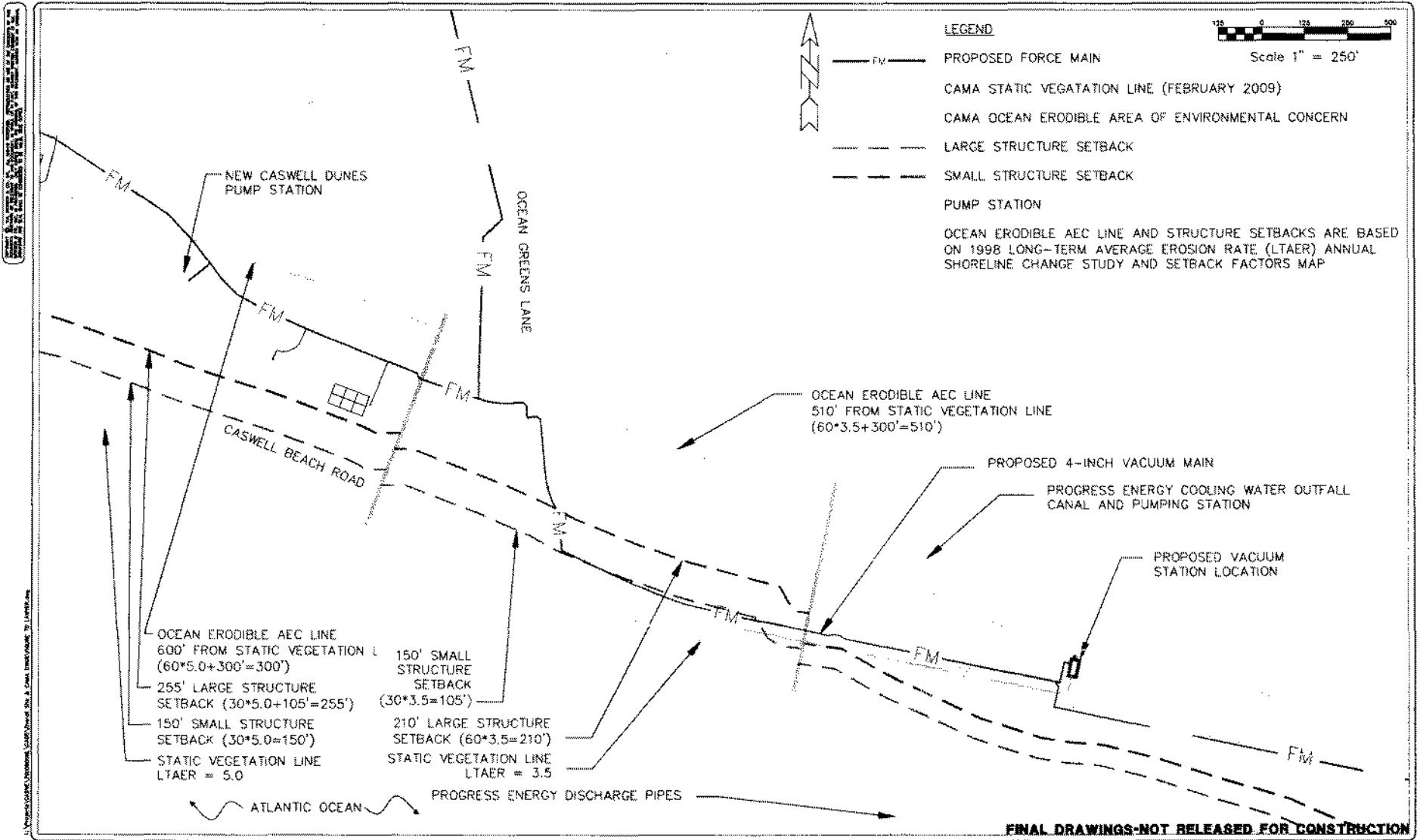
DICKSON
INCORPORATED
 1000 W. BROADWAY, SUITE 1000
 CHARLOTTE, NORTH CAROLINA 28202
 PHONE: 704.375.1234
 FAX: 704.375.1235
 WWW.DICKSONINC.COM

ORIGINAL CONSTRUCTION
 DRAWING SEALED ON
 MAY 22, 2008

TOWN OF CASWELL BEACH
 WASTEWATER COLLECTION, TRANSMISSION
 AND OAK ISLAND RECLAIMED WATER
 DISTRIBUTION SYSTEM
 BRANNOCK DISTRICT, SOUTH CAROLINA

PROJECT LAYOUT
 VACUUM SEWER AND FORCE MAIN
 INSTALLATION

FIG.
 1



DATE	DESCRIPTION	BY	CHECKED

DATE	DESCRIPTION

WK DICKSON
SPECIALTY ENGINEERING CONSULTANTS

200 MARKET STREET
WILMINGTON, NC 28401
(910) 791-1300

PROJECT NO. 08000000
DATE 5/21/08

PROJECT NAME
SOUTH GEORGIA
COUNTY

PROJECT NO. 7-4274

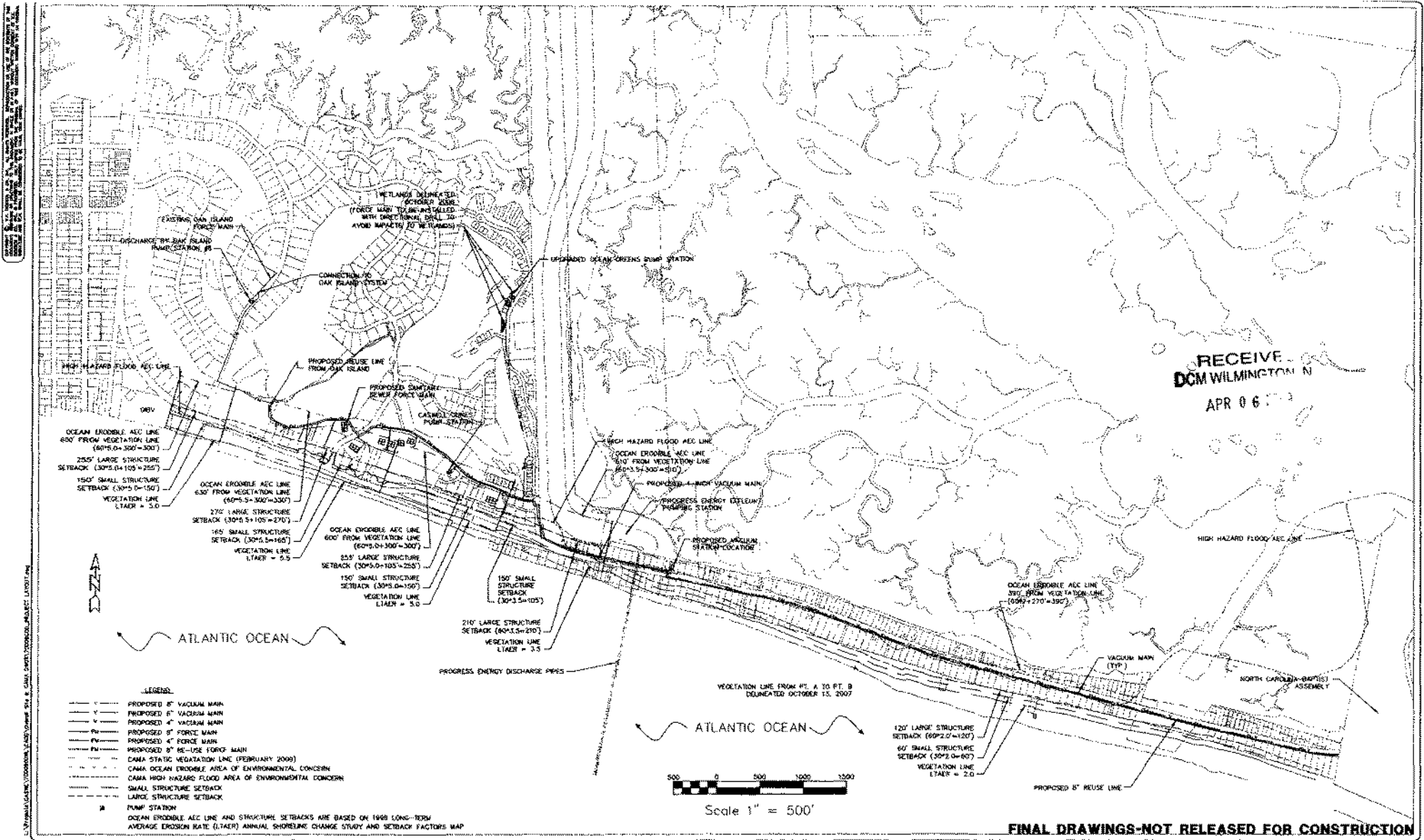
DESIGNED FOR	DATE
APPROVED	
BOOK	
CONTRACTOR	
RECORD DATE	

ORIGINAL CONSTRUCTION
DRAWING SEALED ON
MAY 22, 2008

TOWN OF CASWELL BEACH
WASTEWATER COLLECTION, TRANSMISSION,
AND OAK ISLAND RECLAIMED WATER
DISTRIBUTION SYSTEM
WILMINECK COUNTY, NORTH CAROLINA

PROJECT LAYOUT
VACUUM SEWER AND FORCE MAIN
INSTALLATION

FIG. 1



- LEGEND**
- V — PROPOSED 8" VACUUM MAIN
 - V — PROPOSED 8" VACUUM MAIN
 - V — PROPOSED 4" VACUUM MAIN
 - FM — PROPOSED 8" FORCE MAIN
 - FM — PROPOSED 4" FORCE MAIN
 - FM — PROPOSED 8" RE-USE FORCE MAIN
 - V — CANA STATIC VEGETATION LINE (FEBRUARY 2009)
 - V — CANA OCEAN ERODIBLE AREA OF ENVIRONMENTAL CONCERN
 - V — CANA HIGH HAZARD FLOOD AREA OF ENVIRONMENTAL CONCERN
 - V — SMALL STRUCTURE SETBACK
 - V — LARGE STRUCTURE SETBACK
 - V — PUMP STATION
 - V — OCEAN ERODIBLE AEC LINE AND STRUCTURE SETBACKS ARE BASED ON 1988 LONG-TERM AVERAGE EROSION RATE (L7AER) ANNUAL SHORELINE CHANGE STUDY AND SETBACK FACTORS MAP

PROJECT NUMBER	PROJECT NAME	DATE
00000000000000000000	OCEAN ERODIBLE AEC LINE AND STRUCTURE SETBACKS	12/15/06

<p>WK DICKSON community infrastructure solutions</p>	<p>400 SHAWNEE TERRY WILMINGTON, NC 28403 (910) 762-4700</p> <p>Office Locations: North Carolina Georgia Florida</p>	<p>APPROVED FOR</p> <p>APPROVED BY</p> <p>DATE</p>
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CASWELL BEACH
VACUUM SEWER AND FORCE MAIN INSTALLATION
WILMINGTON COUNTY, NORTH CAROLINA

PROJECT LAYOUT
VACUUM SEWER AND FORCE MAIN
INSTALLATION

CIA

ATTACHMENT E

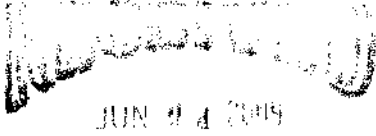
Additional Stipulated Exhibits & Powerpoint Presentation

Note: Two diagrams from the Petitioner in PDF file form and the powerpoint presentation that will be shown to the CRC at the hearing on this variance will be included in the CRC meeting materials found online and mailed in electronic form to the CRC.

Permit Class
NEW

Permit Number
71-09

STATE OF NORTH CAROLINA
Department of Environment and Natural Resources
and
Coastal Resources Commission



Permit

COPY

for

Morehead City DCM Major Development in an Area of Environmental Concern
pursuant to NCGS 113A-118

Excavation and/or filling pursuant to NCGS 113-229

Issued to Town of Caswell Beach, 1100 Caswell Beach rd., Caswell Beach, NC 28465

Authorizing development in Brunswick County at adj. Atlantic Ocean within Town limits,

, as requested in the permittee's application dated 3/3/09 (MP-1) and 3/6/09

(MP-3), including the workplan drawings (50), as referenced in condition No. 1 of this permit.

This permit, issued on May 29, 2009, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

- 1) Unless specifically altered herein, all development shall be carried out in compliance with the following list of workplan drawings: sheets 1, C3-C9, C19, and C22-24, all dated 3/5/09, sheets C1A dated revised 4/3/09, sheets C2, C20-C21, and C25-C26 dated 3/6/09, sheets C10-C15, c18, and M1, all dated received 4/6/09, sheet C16 dated 3/16/09, sheet C17 dated 3/3/09, sheets S1-S10, AE1-AE8, and E1-E6 all dated 3/9/09, and the attached AEC Hazard Notice dated 3/3/09.

(See attached sheets for Additional Conditions)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit shall be accessible on-site to Department personnel when the project is inspected for compliance.

Any maintenance work or project modification not covered hereunder requires further Division approval.

All work shall cease when the permit expires on

December 31, 2011

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

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.

James H. Gregson, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.

Harry Q. Simmons, Jr., Mayor
Signature of Permittee

ADDITIONAL CONDITIONS**Ocean Hazard Area Development**

- 2) Prior to the initiation of construction within the Ocean Hazard AEC, the permittee shall stake, and a Division representative shall approve, the first line of stable, natural vegetation and the corresponding small and large structure setbacks. In this case, the first line of stable natural vegetation is defined as the vegetation line that existed prior to the onset of the most recent large-scale beach renourishment project. These setback determinations shall replace those done at the time the permit application was processed and approved. Construction shall begin within sixty days of this determination or the measurement is void and shall be re-established. In the case of a major shoreline change within that period, a new setback determination shall be required before construction begins.
- 3) All structures shall be located entirely landward of the appropriate small and/or large structure development setback lines.
- 4) All structures authorized by this permit shall be relocated or dismantled when they become imminently threatened by changes in shoreline configuration. A structure(s) shall be relocated or dismantled within two (2) years of the time when it becomes imminently threatened, and in any case, upon its collapse or subsidence. However, if natural shoreline recovery or beach re-nourishment takes place within two (2) years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permittee's right to seek authorization of temporary measures allowed under CRC rules.

Upland Development

- 5) Unless specifically altered herein, this permit authorizes the grading and other land disturbing activities associated with the development of the above referenced project, including but not limited to all the development of the Town of Caswell Beach Vacuum Sewer system, unless specifically altered herein by conditions of this permit. Any additional land disturbing activities and/or construction may require a modification of this permit. Contact a Division of Coastal Management representative at (910) 796-7215 for this determination.

Sedimentation and Erosion Control

NOTE: An Erosion and Sedimentation Control Plan shall be required for this project. This plan shall be filed at least thirty (30) days prior to the beginning of any land disturbing activity. Submit this plan to the Department of Environment and Natural Resources, Land Quality Section, 127 Cardinal Drive Extension, Wilmington, NC 28405.

- 6) In order to protect water quality, runoff from construction shall not visibly increase the amount of suspended sediments in adjacent waters.
- 7) Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, etc.).

ADDITIONAL CONDITIONS**Stormwater Management**

- 8) The N.C. Division of Water Quality approved this project under stormwater management rules of the Environmental Management Commission under Stormwater Permit No. SW8090342, which was issued on 4/8/09. Any violation of the permit approved by the DWQ shall be considered a violation of this CAMA permit.

General

- 9) The permittee understands and agrees that, if future operations by the United States requires the removal, relocation, or other alteration of the structure or work authorized by this permit, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to free navigation of the navigable waters, the permittee shall be required, upon due notice from the Corps of Engineers, to remove, relocate or alter the structural work or obstructions caused thereby, without expense to the United States or the state of North Carolina. No claim shall be made against the United States or the state of North Carolina on account of any such removal or alteration.
- 10) No Coastal Wetlands, or open water areas shall be excavated or filled, even temporarily.
- 11) This permit shall not be not be assigned, transferred, sold, or otherwise disposed of to a third party without the written approval of the Division of Coastal Management.
- 12) All new or modified sewer lines or force mains located in close proximity to water lines shall comply with the separation requirements as stated in the Public Water Supply Section Rules, Section 0906 (Relation of Water Mains to Sewers). Contact the Public Water Supply Section at (910) 796-7215 for more information.
- 13) In the event of a sewer overflow, the Division of Environmental Health, Shellfish Sanitation Section shall be immediately notified so that appropriate shellfish closures and precautionary swimming advisories may be issued.

NOTE: Bored sewer lines that lie beneath waterbodies present special concerns regarding water quality. There is potential for adverse impacts to public health from the consumption of contaminated shellfish, as well as swimming in contaminated waters. The permittee is encouraged to implement all appropriate safeguards to minimize the likelihood of a breach within the collection system.

NOTE: This permit does not eliminate the need to obtain any additional state, federal or local permits, approvals or authorizations that may be required, including but not limited to any access permits from the NC DOT.

NOTE: Future development of the permittee's property may require a modification of this permit. Contact a representative of the Division at (910) 796-7215 prior to the commencement of any such activity for this determination. The permittee is further advised that many non-water dependent activities are not authorized within 30 feet of the normal high water level.

ADDITIONAL CONDITIONS

NOTE:

The U.S. Army Corps of Engineers has authorized the proposed project under Nationwide Permit No. 12 (COE Action Id. No. SAW-2009-959).



cleanwater

MANAGEMENT TRUST FUND

received
7/24/09

Richard Rogers
Executive Director

CWMTF TRUSTEES

July 21, 2009

Mr. David Hewett *JIM CARTER*
Town of Caswell Beach
1100 Caswell Beach Rd
Caswell Beach, NC 28465

Chair, Philip A. Baddour, Jr.
GOLDSBORO

Ron Beane
LENOIR

Yevonne S. Brannon
RALEIGH

Norman C. Camp, III
RALEIGH

Rick Coteman
TABOR CITY

Karen Cragnolin
ASHEVILLE

John Crumpler
RALEIGH

Rance Henderson
MORGANTON

Joseph M. Hester, Jr.
ROCKY MOUNT

William Hollar
WINSTON SALEM

Robert Howard
SOUTHPORT

Charles Johnson
GREENVILLE

Kevin Markham
CARY

Chuck McGrady
HENDERSONVILLE

Dickson McLean, Jr.
WILMINGTON

John McMillan
RALEIGH

Peter Rascoe
EDENTON

Stan Vaughan
CHARLOTTE

Claudette Weston
WINSTON SALEM

Jerry Wright
JARVISBURG

Re: Extension of CWMTF No. 2006A-602
New Expiration Date: January 31, 2011

Dear Mr. Hewett: *CARTER*

The subject contract with the Clean Water Management Trust Fund (CWMTF) has been extended to the new date shown above. Your copy of the amendment is enclosed.

Please note that written status reports are required to be submitted to us every three months.

Please be aware that it is your responsibility to ensure that the project is completed by the expiration date and to ensure that any final requests for reimbursement are received by CWMTF by the deadline specified in the grant agreement. Once the contract has expired, any funds remaining in the contract will no longer be available to you.

Please also be aware that the CWMTF will not be able to notify you that the contract expiration date is approaching and it is, therefore, critical that you remain aware of the expiration date.

Thank you.

Sincerely,

Christopher Fipps
Administrative Officer

Enclosure

**AMENDMENT NO. 1
 TO CLEAN WATER MANAGEMENT TRUST FUND GRANT AGREEMENT
 DENR Contract No. (GA or not GA for newer grants) 000646
 CWMTF Project No. 2006A-602**

WHEREAS, THE NORTH CAROLINA CLEAN WATER MANAGEMENT TRUST FUND (the "Fund") has entered into a GRANT AGREEMENT (the "Grant Agreement") with the TOWN OF CASWELL BEACH (the "Grantee"), to construct wastewater collection lines; a pumping station and a force main to transport wastewater to the existing Town of Oak Island wastewater treatment plant for treatment; and a force main to transport reuse quality effluent, and

WHEREAS, GRANTEE desires to extend the deadline for completion of the services specified in the Grant Agreement.

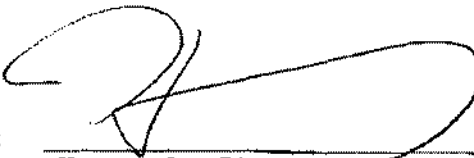
NOW, THEREFORE, the parties mutually agree and said Grant Agreement is amended accordingly:

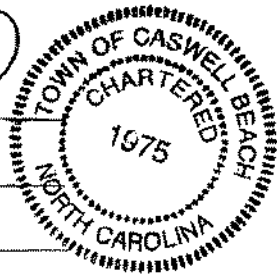
Grant Disbursement Period: The Fund's commitment to disburse Grant funds under this Grant Agreement shall cease on January 31, 2011.

It is the intent of this Amendment to address only the provision listed above, and in no way should this Amendment be construed to further modify this Grant Agreement.

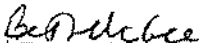
Please return four (4) original signed amendments to: Beth McGee, Deputy Director, Clean Water Management Trust Fund, 1651 Mail Service Center, Raleigh, NC 27699-1651.

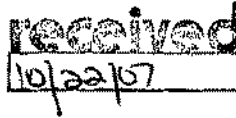
GRANTEE:

By: 
 Title: Mayor
 Date: 06/18/2009



FOR THE TRUSTEES OF THE NORTH CAROLINA CLEAN WATER MANAGEMENT TRUST FUND:

By: 
 Beth McGee, Deputy Director
 Date: 7/7/09



Richard Rogers
Executive Director

CWMTF TRUSTEES

cleanwater
MANAGEMENT TRUST FUND

October 19, 2007

Mr. David Hewett
Town of Caswell Beach
1100 Caswell Beach Rd
Caswell Beach, NC 28465

RE: CWMTF No. 2006A-602

Dear Mr. Hewett:

We are pleased to enclose an original executed copy of the above grant contract. **Please note that this contract will expire on September 30, 2009. Please note, however, the Schedule as listed in Exhibit A of the contract. The project is to be complete by August 1, 2009, final report and final invoice are to be submitted to CWMTF by August 31, 2009, and CWMTF's commitment to disburse funds ceases on September 30, 2009.**

Note that before any funds can be disbursed for this project, you must provide the Clean Water Management Trust Fund with all documentation that is required in Exhibit C. Please also refer to the Conditions under Exhibit A for further funds disbursement criteria.

We also call your attention to the conditions contained in Exhibit F. A detailed narrative status report (Exhibit D of the contract) must be submitted with each request for payment, and must also be submitted every 3 months whether or not funds are being requested. The invoice form, provided in Exhibit E of the contract, must be completed and signed with supporting documents/invoices attached for reimbursement. Requests for payment cannot be processed without the invoice form, back up invoices and narrative status report attached to each request for payment. If you would like an electronic copy of the invoice form, please email me at Larry.Horton@ncmail.net.

Please be aware that a detailed final report is required, as defined in Exhibit F of the contract.

We would also like you to be aware of the CWMTF policy regarding contract expiration, as defined in Item 5 of the contract. It is critical that you understand and follow these requirements.

We look forward to a successful project!

Sincerely,

Larry Horton, P.E.
Wastewater Infrastructure Project Manager

- Chair, Phillip A. Baddour, Jr.
GOLDSBORO
- Ron Beane
LENOIR
- Yevonne S. Brannon
RALEIGH
- Norman C. Camp, III
RALEIGH
- Rick Coleman
TABOR CITY
- Karen Cragnolin
ASHEVILLE
- John Crumpler
RALEIGH
- Lloyd V. Hackley
CHAPEL HILL
- Rance Henderson
MORGANTON
- Joseph M. Hester, Jr.
ROCKY MOUNT
- William Hollan
WINSTON SALEM
- Robert Howard
SOUTHPORT
- Charles Johnson
GREENVILLE
- Kevin Markham
CARY
- Chuck McGrady
HENDERSONVILLE
- Dickson McLean, Jr.
WILMINGTON
- John McMillan
RALEIGH
- Peter Rascoe
EDENTON
- Stan Vaughan
CHARLOTTE
- Claudette Weston
WINSTON SALEM
- Jerry Wright
JARVISBURG



STATE OF NORTH CAROLINA
CLEAN WATER MANAGEMENT TRUST FUND
GRANT AGREEMENT
(WASTEWATER INFRASTRUCTURE)

CWMTF PROJECT NUMBER: 2006A-602

GRANTOR: NC CLEAN WATER MANAGEMENT TRUST FUND ("Fund" or "CWMTF"), an independent agency of the State of North Carolina ("State") acting through its Board of Trustees solely in its official capacity pursuant to Article 18, Chapter 113A, of the North Carolina General Statutes ("NCGS")

CONTRACT ADMINISTRATOR: Larry Horton
1651 Mail Service Center
Raleigh, NC 27699-1651
Phone: 919.715.4172; Fax: 919.733.6374
Email: larry.horton@ncmail.net

GRANT RECIPIENT: Town of Caswell Beach, a North Carolina municipal corporation ("Grant Recipient")

CONTRACT ADMINISTRATOR: David Hewett, Town Administrator
Town of Caswell Beach
1100 Caswell Beach Road
Caswell Beach, North Carolina
Phone: 910.278.5471; Fax: 910.278.5490
Email: dhewett@caswellbeach.org

FEDERAL I.D. NUMBER: 56-1115702

FISCAL YEAR END DATE: June 30

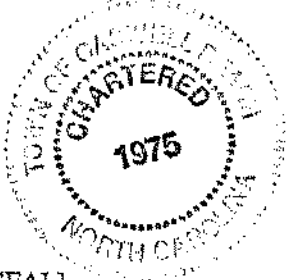
CONTRACT EFFECTIVE DATE: 10-17-07 (the "Effective Date")

CONTRACT EXPIRATION DATE: September 30, 2009 (the "Expiration Date")

GRANT AMOUNT: up to \$2,500,000 (the "Grant")

APPROVAL DATE: November 13, 2006 (the "Approval Date")

IN WITNESS WHEREOF, the Grant Recipient and the Fund have executed this Grant Agreement in four (4) originals as of the Effective Date. One (1) original shall be retained by each Party and two (2) shall be maintained on file in the offices of the North Carolina Department of Environment and Natural Resources. If there is any controversy among the documents, the document on file in the Fund's office shall control.



GRANT RECIPIENT:

By: [Signature]
Name: Harry O. Simmons, Jr.
Title: Mayor

[SEAL]

ATTEST:

By: [Signature]
Name: Linda C. Bethune, CMC
Title: Town Clerk

APPROVED AS TO FORM:

[Signature]
Town/City/County Attorney
Elva L. Jess

FUND:

By: [Signature] (SEAL)
Name: Philip A. Baddour, Jr.
Title: Chairman, Board of Trustees

AND

- 4. Will comply with the provisions of the Equal Employment Practices Act set out in Article 49A of Chapter 143 of the North Carolina General Statutes.
- 5. Will comply, as applicable, with the provisions of the Wage and Hour Act, Occupational Safety and Health Act of North Carolina, Controlled Substance Examination Regulation, Retaliatory Employment Discrimination, Safety and Health Programs and Committees, Workplace Violence Prevention, and other applicable provisions of Chapter 95 of the North Carolina General Statutes regarding labor standards.
- 6. Will comply with all applicable requirements of all other state laws, executive orders, regulations and policies governing the Fund.

As the duly authorized representative of the Grant Recipient, I hereby certify that the Grant Recipient will comply with the above certifications (Items 1 through 6):

1. Grant Recipient Name & Address:

Town of Caswell Beach

1100 Caswell Beach Road

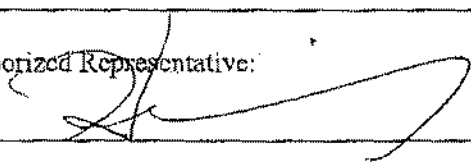
Caswell Beach, NC 28465

2. Typed Name & Title of Authorized Representative:

Harry Q. Simmons, Jr.

Mayor

3. Signature of Authorized Representative:



4. Date:

09/13/07

**STATE OF NORTH CAROLINA
CLEAN WATER MANAGEMENT TRUST FUND
GRANT AGREEMENT
(WASTEWATER INFRASTRUCTURE)**

CWMTF PROJECT NUMBER: 2006A-602

GRANTOR: NC CLEAN WATER MANAGEMENT TRUST FUND (“Fund” or “CWMTF”), an independent agency of the State of North Carolina (“State”) acting through its Board of Trustees solely in its official capacity pursuant to Article 18, Chapter 113A, of the North Carolina General Statutes (“NCGS”)

CONTRACT ADMINISTRATOR: Larry Horton
1651 Mail Service Center
Raleigh, NC 27699-1651
Phone: 919.715.4172; Fax: 919.733.6374
Email: larry.horton@ncmail.net

GRANT RECIPIENT: Town of Caswell Beach, a North Carolina municipal corporation (“Grant Recipient”)

CONTRACT ADMINISTRATOR: David Hewett, Town Administrator
Town of Caswell Beach
1100 Caswell Beach Road
Caswell Beach, North Carolina
Phone: 910.278.5471; Fax: 910.278.5490
Email: dhewett@caswellbeach.org

FEDERAL I.D. NUMBER: 56-1115702

FISCAL YEAR END DATE: June 30

CONTRACT EFFECTIVE DATE: _____ (the “Effective Date”)

CONTRACT EXPIRATION DATE: September 30, 2009 (the “Expiration Date”)

GRANT AMOUNT: up to \$2,500,000 (the “Grant”)

APPROVAL DATE: November 13, 2006 (the “Approval Date”)

THIS AGREEMENT ("Agreement", "Grant Agreement", or "Contract"), is made and entered into as of the Effective Date by and between the Fund and the Grant Recipient, both sometimes hereinafter referred to individually as a "Party" or collectively as the "Parties".

WITNESSETH:

WHEREAS, Grant Recipient has submitted to the Fund an application requesting a grant of monies (hereinafter the "Grant Application") to engage in constructing wastewater facilities to eliminate failing on site disposal systems, eliminate failing septic systems, and facilitate regionalization and reuse of effluent as more particularly described on Exhibit A (the "Project").

WHEREAS, the Fund is authorized by NCGS Chapter 113A, Article 18 to acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses; to acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water supplies; to coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality; to restore previously degraded lands to reestablish their ability to protect water quality; to repair failing wastewater collection systems and wastewater treatment works if the repair is a reasonable remedy for resolving an existing waste treatment problem and the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community; to repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand a wastewater collection system or wastewater treatment works if the expansion eliminates failing septic tank systems or illegal drainage connections; to finance stormwater quality projects; and to facilitate planning that targets reductions in surface water pollution.

WHEREAS, the Grant Recipient is a qualified applicant as that term is defined in NCGS §113A-254(a).

WHEREAS, the Project shall be carried out for the purposes and according to the schedule set out on Exhibit A, and pursuant to the budget set forth on Exhibit B.

WHEREAS, the Fund approved the Grant Recipient's application at its meeting on the Approval Date and is willing to make the Grant to the Grant Recipient pursuant to the terms and conditions set forth in this Grant Agreement.

WHEREAS, the Parties desire to enter into this Grant Agreement and intend to be bound by its terms.

NOW, THEREFORE, for and in consideration of the Grant, the mutual promises each to the other made, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

1. **Grant Documents.** The documents described below are hereinafter collectively referred to as the "Grant Documents." In the case of conflict between any of these documents, each shall

have priority over all others in the order listed below. Upon execution and delivery of this Agreement, it and the other Grant Documents and items required hereunder will constitute a valid and binding agreement ("Grant Agreement" or "Contract") between the Parties, enforceable in accordance with the terms thereof. The Grant Agreement constitutes the entire agreement between the Parties, superseding all prior oral and written statements or agreements. Only changes deemed non-material in type at the discretion of the Fund's Executive Director may be made to the Grant Agreement without the consent of the Fund's Board of Trustees.

The Grant Documents consist of:

- a. This Agreement
- b. Exhibit A – Project description, water quality benefits, scope of work, conditions, and schedule
- c. Exhibit B – Project Budget
- d. Exhibit C – Pre-Funds Disbursement Checklist
- e. Exhibit C.1 – *Not Applicable*
- f. Exhibit C.2 – Assurances for Non-Federally Funded Contracts
- g. Exhibit D – Progress/Final Report form
- h. Exhibit E – Invoice
- i. Exhibit F – Reporting Requirements
- j. Exhibit G – Definitions, and
- k. Exhibit H – General Terms and Conditions.

2. **Purpose.** The purpose of the Grant is for constructing wastewater facilities to eliminate failing on site disposal systems, eliminate failing septic systems, and facilitate regionalization and reuse of effluent for the protection of water quality. The Grant will be used for a portion of the construction costs (the "Project"). Grant funds may not be used for the purchase of improvements or debris on any property, or for the removal of improvements or debris on any property, or for any other purpose not set forth herein. **Further, Grant funds may not be used for any eminent domain litigation or any action or expenditure related to eminent domain, unless approved by the Fund's Board of Trustees in writing prior to the action. The Board of Trustees shall review requests to use Grant funds for eminent domain action on a case-by-case basis. The Grant Recipient shall submit such requests in writing.**

3. **Fund's Duties.** Subject to the appropriation, allocation, and availability to CWMTF of funds for the Project, CWMTF hereby agrees to pay the Grant funds to the Grant Recipient in accordance with the payment procedures set forth herein.

4. **Grant Recipient's Duties.** The Grant Recipient shall carry out the Project pursuant to the terms of this Contract.

5. **Contract Period.** The Fund's commitment to disburse Grant funds under this Grant Agreement shall cease on the Expiration Date and in accordance with the schedule shown on Exhibit A. It is the responsibility of the Grant Recipient to ensure that the Project is completed by the Expiration Date. After the Expiration Date, any Grant monies remaining under this Grant Agreement will no longer be available to the Grant Recipient. **The burden is on the Grant**

Recipient to request an extension of the Contract if the Grant Recipient anticipates that the Project will not be completed by the Expiration Date. The request for an extension must be a formal one made in a writing addressed to the Fund's Executive Director, giving complete details of the reasons why an extension is needed, and proposing a new expiration date for the Contract. This written request must reach the Fund's office at least **60 days** prior to the Expiration Date. The Fund may or may not approve the extension, based upon Project performance and other factors. **The Fund will not send reminders or other notification of an approaching Expiration Date.**

6. **Pre-Fund Disbursement Requirements.** Prior to the disbursement of **any** Grant monies under this Grant Agreement, the Grant Recipient shall deliver to the Fund all of the documentation described on Exhibits C, C.1 and C.2.

7. **Project Site.** The Grant Recipient shall deliver to the Fund evidence satisfactory to the Fund that Grant Recipient has or will have an interest in and/or appropriate agreements covering the site of the Project and all other real property of Grant Recipient essential to the Project, including necessary easements and rights of way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the Project, and that such property is satisfactory to the Fund for the Project and is as warranted in paragraphs B.4 and B.5 on Exhibit H.

8. **Disbursement of Grant Funds.**

a. Application for Reimbursement. Disbursement of Grant funds for the Project shall be made by quarterly reimbursement of Grant Recipient's expenditures on the Project as set forth in Exhibits A and B. To obtain reimbursement, the Grant Recipient shall submit to the Fund's Contract Administrator the following documentation:

(i) A detailed narrative progress report describing the work accomplished on the Project and progress toward meeting the Project objectives, using the form shown on Exhibit D.

(ii) A completed and signed invoice form, as provided by the Fund and as shown in Exhibit E, accompanied by appropriate itemized documentation supporting all expenses claimed and that clearly identifies each expenditure for which reimbursement is claimed. The supporting documentation must be organized in a manner that clearly relates the expenses shown in the supporting documentation to the line items shown on Exhibit E. Any application for reimbursement that does not clearly identify each expenditure and relate each expenditure to the line items shown on Exhibit E will not be processed, and will be returned to the Grant Recipient for correction and re-submittal. **Grant Recipient shall identify any sales tax for which reimbursement has been or will be obtained from the State Department of Revenue, and such monies shall not be reimbursed.**

b. Limited Grant Fund Disbursement in January, June, July and December. Funds will not be disbursed during the first week of January, the last three weeks of June, the first week of July, and the last two weeks of December.

c. Certification by Engineer. At the option of the Fund, reimbursements may be made only on the certificate and seal of an appropriately qualified registered Professional

Engineer, that the improvements for which the reimbursement is requested have been completed in accordance with approved plans and specifications, to which certificate shall be attached an estimate by the construction contractor setting forth items to be paid out of the proceeds of each such reimbursement. The Fund, at its option, may further require a certificate from such appropriately qualified registered Professional Engineer that the portion of the Project completed as of the date of the request for reimbursement has been completed according to schedule and otherwise as approved by the Fund and according to applicable engineering standards and requirements. However, the Fund may, at its discretion, make reimbursements without requiring such certificates or construction contractor's estimate, in which event the Grant Recipient shall furnish the Fund a list of and the amounts of items to be paid out of the reimbursement, or such other evidence as the Fund may require.

d. Reimbursement Based on Progress. The Grant Recipient agrees to proceed with diligence to accomplish the Project according to the schedule set out in Exhibit A and shall show appropriate progress prior to each reimbursement. Reimbursement may be withheld or delayed if Grant Recipient fails to make progress on the Project satisfactory to the Fund. Amounts withheld shall be reimbursed with subsequent reimbursements in the event that Grant Recipient is able to demonstrate an ability to resume satisfactory progress toward completion of the Project.

e. Proof of Payment. The Grant Recipient agrees to pay, as the work progresses, all bills for labor and materials going into the accomplishment of the Project, and agrees to submit to the Fund all such receipts, affidavits, canceled checks, or other evidences of payment as may be requested from time to time and, when and if requested by the Fund, furnish adequate proof of payment of all indebtedness incurred in the development of the Project.

f. Payment of Construction Contingency Funds. Construction contingency funds will not be disbursed until the Grant Recipient has demonstrated that it has expended 100% of local matching funds and at least 90% of all other matching funds including matching grant and/or loan funds.

g. CWMTF Retaining Portion of Funds Until Project Completion. The Fund will withhold payment from the Grant Recipient in the amount of \$200,000 of the Grant until the Grant Recipient has satisfactorily submitted its Final Report.

h. No Excess Costs. The Fund agrees to reimburse the Grant Recipient only for costs actually incurred by the Grant Recipient that do not exceed the funds budgeted for the Project shown on Exhibit B.

9. **Grant Withdrawal.** Pursuant to NCGS §113A-254(f), this Grant award shall be withdrawn if the Grant Recipient fails to enter into a construction contract for the Project within one year after the Effective Date, unless the CWMTF Board of Trustees find that Grant Recipient has good cause for the failure. If the Trustees find good cause for Grant Recipient's failure, the Trustees must set a date by which Grant Recipient must take action or forfeit the grant.

10. **Refunds and Reversion of Unexpended Funds.** The Grant Recipient shall repay to the Fund any compensation it has received that is in excess of the payment to which it is entitled

herein, including any interest earned on funds granted pursuant to this Grant Agreement. Any unexpended Grant monies shall revert to the Fund upon termination of this Contract.

11. **Reporting Requirements.** Reporting requirements are set forth on Exhibit F. Reports shall be made on the form set forth on Exhibit D.

12. **Notice; Contract Administrators.** All notices, requests or other communications permitted or required to be made under this Grant Agreement or the other Grant Documents shall be given to the respective Contract Administrator. Notice shall be in writing, signed by the party giving such notice. Notice shall be deemed given three (3) business days following the date when deposited in the mail, postage prepaid, registered or certified mail, return receipt requested.

13. **Signature Warranty.** Each individual signing below warrants that he or she is duly authorized to sign this Contract for the respective party, and to bind said party to the terms and conditions of this Grant Agreement.

(The remainder of this page is intentionally left blank)

IN WITNESS WHEREOF, the Grant Recipient and the Fund have executed this Grant Agreement in four (4) originals as of the Effective Date. One (1) original shall be retained by each Party and two (2) shall be maintained on file in the offices of the North Carolina Department of Environment and Natural Resources. If there is any controversy among the documents, the document on file in the Fund's office shall control.

GRANT RECIPIENT:

By: _____
Name: _____
Title: _____

[SEAL]

ATTEST:

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

Town/City/County Attorney

FUND:

By: _____ (SEAL)
Name: Philip A. Baddour, Jr.
Title: Chairman, Board of Trustees

EXHIBIT A
CWMTF Project No. 2006A-602

Project Description: The Town of Caswell Beach requested \$2,982,400 of a \$3,728,000 effort to construct 17,180 linear feet (l.f.) of collection lines; a pumping station and 19,700 l.f. of force main to transport wastewater to the existing Town of Oak Island wastewater treatment plant (WWTP); and 15,000 l.f. of reuse force main. The Town is planning to use a vacuum sewer collection system. The reuse force mains will transport treated effluent to the Oak Island Golf Club, neighborhood common areas, Town property, residential landscaping, and the N.C. Baptist Assembly's property. The project will eliminate the Caswell Dunes 0.050 MGD WWTP, which uses a low pressure nitrification field for effluent disposal; the Caswell Sewer Service 0.075 MGD WWTP that uses rotary distributors and high rate infiltration for effluent disposal; the N.C. Baptist Assembly's 0.038 MGD septic tanks and nitrification field system; and 207 septic systems. The Town of Oak Island's 0.4 MGD East Oak Island WWTP disposes reuse quality effluent by land disposal in Brunswick County in the Cape Fear River basin. Clean Water Management Trust Fund funds will be used for construction of a portion of the sewer collection system, force main system and reuse force main. The Board of Trustees approved a reduced grant of up to \$2,500,000 for this project at its meeting on November 13, 2006. The Town plans to obtain loan funding from the N.C. Construction Grants and Loans Section of the Division of Water Quality to pay for the remainder of the project.

Water Quality Benefits:

1. The project will facilitate regionalization and eliminate the existing wastewater treatment facilities that utilize on site disposal and 207 residential septic systems. The on site disposal systems and residential septic systems have had operational issues that resulted in waste fecal and nutrient contamination impacts to surface waters of the Intracoastal Waterway [SA, HQW, S3 spp.], Elizabeth River, Atlantic Ocean, and a tributary to Piney Point Creek.
2. As a result of this project, the Town's wastewater will be treated at the Oak Island tertiary wastewater treatment facility, which provides better treatment than the current facilities that will be eliminated. The beneficial reuse of the treated effluent will reduce the withdrawal of groundwater for water supply.
3. The Town has adopted a stormwater control ordinance for new development.

Scope of Work:

1. The project will consist of 17,180 linear feet (l.f.) of collection lines; a pumping station and 19,700 l.f. of force main to transport wastewater to the existing Town of Oak Island WWTP; 15,000 l.f. of reuse force main; and decommissioning two WWTP's. CWMTF will fund a portion of the construction costs.
2. The Town plans to obtain additional matching funds from the N.C. Construction Grants and Loans Section of the Division of Water Quality. Matching funds will be used to pay for project design and permitting, land surveying costs, construction, construction administration/observation, legal costs and the Town's administrative costs.

Conditions:

1. As indicated in Exhibit C, item 2, prior to the release of any CWMTF funds, the Grant Recipient shall submit proof of availability of matching funds to CWMTF.
2. Prior to the release of any CWMTF funds, the Grant Recipient shall certify in writing to the CWMTF that this project is designed to treat the current wastewater flow and is not designed to accommodate wastewater from future growth.
3. CWMTF grant funds may not be used for infrastructure to accommodate future growth.
4. All appropriate permits shall be secured prior to project implementation and copies of the permits shall be provided to CWMTF.
5. Construction funds shall be released by CWMTF only after the appropriate permits have been secured and copies provided to the CWMTF.
6. Prior to the release of any CWMTF grant funds, documentation that an inter-local agreement with the Town of Oak Island is currently in place or that the Town is planning to complete an agreement must be provided. The agreement must include the amount of wastewater that the Town of Oak Island has agreed to accept from the Town of Caswell Beach. This information in the form of a final agreement must be provided to CWMTF prior to the release of CWMTF grant funds for final payment.
7. Prior to the release of any Clean Water Management Trust Fund funds, the Grant Recipient shall provide a letter certifying that mandatory hook up to the central sanitary sewer system within the Town's service area is required and stating how the Recipient will ensure that all hook ups have taken place.
8. The Grant Recipient shall request that the NC Division of Water Quality rescind its existing permit for the Caswell Dunes 0.050 MGD WWTP with low pressure nitrification field and the Caswell Sewer Service 0.075 MGD WWTP with high rate infiltration effluent disposal; and request that the NC Division of Environmental Health rescind its existing permit for the N.C. Baptist Assembly's nitrification field system upon completion of this project. Prior to the release of any grant funds, the Grant Recipient shall provide letters to the NC Division of Water Quality and the NC Division of Environmental Health describing the planned elimination of the permitted flow and shall copy the CWMTF with these letters.
9. The Grant Recipient shall also submit annual reports to the Fund for two years following construction completion that detail and summarize groundwater monitoring well data for the land application site, for parameters as detailed in the permit for land application.
10. The Town shall provide data to the North Carolina Rural Economic Development Center's Water Resources Inventory and Data Management Project, if requested, and to the NC Geographic Information Coordinating Council's NC One Map Project, if requested.
11. Matching funds shall be comprised of:
 - NC Construction Grants and Loans – Loan (Unsecured) \$1,228,000

Schedule:

1. Complete Project construction by August 1, 2009.
2. **Submit items specified in Exhibit F, item 2 no later than August 31, 2009.**
3. **The Fund's commitment to disburse funds under this agreement shall cease on September 30, 2009 (the Contract Expiration Date).**

EXHIBIT B
CWMTF Project No. 2006A-602

Project Budget

Item	CWMTF Grant Amount	Matching Funds (*)	Total Project Cost
1. Project Design & Permitting	\$0	\$180,000	\$180,000
2. Land Surveying Costs	\$0	\$50,000	\$50,000
<i>Construction</i>			
3. Pump Station	\$358,000	\$101,000	\$459,000
4. Sewer Collection System, approx. 17,180 l.f.	\$1,050,000	\$282,000	\$1,332,000
5. Force Main System, approx. 19,700 l.f.	\$454,000	\$100,000	\$554,000
6. Reuse Force Main, approx. 15,000 l.f.	\$638,000	\$237,000	\$875,000
7. Decommission Existing Treatment Systems	\$0	\$58,000	\$58,000
8. Construction Admin/Observation	\$0	\$200,000	\$200,000
9. Legal Costs (**)	\$0	\$15,000	\$15,000
10. Grant Recipient's Administrative Costs (**)	\$0	\$5,000	\$5,000
Totals	\$2,500,000	\$1,228,000	\$3,728,000

(*) Matching funds comprised of:

- NC Construction Grants and Loans – Loan (Unsecured) \$1,228,000

(**) To obtain reimbursement, the Grant Recipient **must** submit itemized documentation substantiating these direct costs incurred in the implementation of this project.

EXHIBIT C
CWMTF Project No. 2006A-602

Pre Fund Disbursement Checklist

Documents to Be Submitted to CWMTF Before any Funds can be Disbursed under the Grant

- _____ 1. **Authorization Documents.** As a local government or other political subdivision of the State of North Carolina, or a combination of such entities, the Grant Recipient shall provide the Fund written authorization from the governing board or other appropriate authority stating that it or they agree to perform the functions and obligations of Grant Recipient set out in this Grant Agreement.

- _____ 2. **Matching Funds.** Proof of availability of matching funds, if required by the Grant Agreement.

- _____ 3. **Design Certification.** The Grant Recipient shall certify in writing to the Fund that the Project is designed to transport and/or treat the current wastewater flow and is not designed to accommodate wastewater from future growth.

- _____ 4. **Authorization to Construct or Permit(s) for Construction.** For those projects for which grant funds will be provided for Project construction, prior to requesting reimbursement for construction costs, provide a copy of the Authorization to Construct for the Project or a copy of the permit(s) issued for construction, or written documentation from the appropriate State agency that construction of the Project does not require an Authorization to Construct or permit(s) for construction.

- _____ 5. **Project Site.** Written documentation satisfactory to the Fund that Grant Recipient has or will have an interest in and/or appropriate agreements covering the site of the Project and all other real property of Grant Recipient essential to the Project, including necessary easements and rights of way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the Project, and that such property is satisfactory to the Fund for the Project and is as warranted in paragraphs B.4 and B.5 on Exhibit H.

- _____ 6. **Compliance with Laws.** Written documentation satisfactory to the Fund that the Project and the Property and its intended uses are, and will continue to be, in compliance with all applicable laws, regulations and ordinances, including without limitation, land use, health and environmental protection laws, and zoning laws.

- _____ 7. **Compliance with Prior Grant Award Requirements.** The Fund shall be satisfied that the Grant Recipient properly completed and filed all documents, reports and requests associated with any prior Fund awards.

- _____ 8. **Assurances for Non-Federally Funded Contracts.** (Exhibit C.2)

_____ 9. All Documents as Detailed in Exhibit A “Conditions” listed as Required Prior to the release of any Clean Water Management Trust Fund Grant Funds

_____ 10. Other Documentation (list below)

Note: Some of these items may have been supplied with your Grant application and/or may be on file with CWMTF. Please indicate on this checklist those items that have been previously supplied to CWMTF and the date they were supplied to CWMTF.

EXHIBIT C.1

Not Applicable

EXHIBIT C.2
ASSURANCES FOR NON-FEDERALLY FUNDED CONTRACTS

The Grant Recipient certifies that with regard to:

1. **DEBARMENT AND SUSPENSION** - To the best of its knowledge and belief that it and its principals:
 - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local government agency;
 - (b) have not within a 3-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) have not within a 3-year period preceding this Agreement had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. **LOBBYING** - To the best of his or her knowledge and belief, that:
 - (a) No Federal, State or local government appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal, State or local government agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body, or an employee of a member of Congress, North Carolina's General Assembly or local government body, in connection with the awarding of any Federal, State or local government contract, the making of any Federal, State or local government grant, the making of any Federal, State or local government loan, the entering into of any Federal, State or local government cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal, State or local government contract, grant, loan, or cooperative agreement.
 - (b) If any funds other than Federal, State or local government appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body; or an employee of a member of Congress, North Carolina's General Assembly or local government body in connection with the Federal, State or local government

contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

3. **DRUG-FREE WORK PLACE REQUIREMENTS** - It will comply by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grant Recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing a drug-free awareness program to inform employees about -
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Grant Recipient's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
 - (d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will -
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
 - (e) Notifying the Fund within ten days after receiving notice under subparagraph (d)(2), above, from an employee or otherwise receiving actual notice of such conviction;
 - (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), above with respect to any employee who is so convicted -
 - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f), above.

AND

4. Will comply with the provisions of the Equal Employment Practices Act set out in Article 49A of Chapter 143 of the North Carolina General Statutes.
5. Will comply, as applicable, with the provisions of the Wage and Hour Act, Occupational Safety and Health Act of North Carolina, Controlled Substance Examination Regulation, Retaliatory Employment Discrimination, Safety and Health Programs and Committees, Workplace Violence Prevention, and other applicable provisions of Chapter 95 of the North Carolina General Statutes regarding labor standards.
6. Will comply with all applicable requirements of all other state laws, executive orders, regulations and policies governing the Fund.

As the duly authorized representative of the Grant Recipient, I hereby certify that the Grant Recipient will comply with the above certifications (Items 1 through 6):

1. Grant Recipient Name & Address:

2. Typed Name & Title of Authorized Representative:

3. Signature of Authorized Representative:

4. Date:

EXHIBIT D

CWMTF PROGRESS/FINAL REPORT FORM (see next page)



North Carolina Clean Water Management Trust Fund

Quarterly Progress Report Form and Final Report Cover Sheet

Report Period: _____ to _____ **(to be filed every three months from the effective date of the contract as well as with every request for reimbursement)**

Date Submitted: _____

CWMTF Project Number: _____

Grant Recipient: _____

Primary Contact: _____

Address: _____

Phone: _____

E-mail: _____

Brief Project Description: _____

Effective Date of Contract: _____ Expiration Date of Contract: _____

Anticipated Completion Date: _____

Check One:

Progress Report

Final Report – In addition to this report form, the final report **MUST** include all information as outlined in the Final Report requirements section of the grant agreement. Please refer to that information for full details on preparing a final report.

Project Status (Check one under each category below):

- | <u>Project Schedule</u> | | <u>Project Cost Status</u> | |
|-------------------------|---------------------|----------------------------|----------------|
| (1) _____ | Project on schedule | (1) _____ | Cost unchanged |
| (2) _____ | Project delayed | (2) _____ | Cost overrun |
| (3) _____ | Project canceled | (3) _____ | Cost underrun |
| (4) _____ | Project complete | | |

Narrative Progress Report. (Please provide a complete and detailed narrative status report on the project for the current reporting period. Include all progress made, problems encountered, resolution to those problems, as well as an update on the next steps for the project. Also address anticipated problems or concerns. Attach additional sheets as necessary. Attach any relevant photographs, charts or other documentation that helps demonstrate the status of the project.)

Signature – Authorized Signer _____

Date: _____

EXHIBIT E

CWMTF INVOICE FORM (see next page)

EXHIBIT F

REPORTING AND AUDIT REQUIREMENTS

1. Status Reports. Grant Recipient shall submit a written detailed narrative progress report describing the work accomplished on the Project and progress toward meeting the Project objectives to the Contract Administrator of the Fund, **quarterly beginning three (3) months from the Effective Date in the format set forth on Exhibit D.**

2. Final Report. Grant Recipient shall submit to the Contract Administrator a final report within **30 days** of the completion of the Project and in accordance with the schedule shown on Exhibit A. At the discretion of the Fund, the Grant Recipient may be required to submit the report to the Fund's designated Field Representative also. The final report shall parallel the scope and conditions of the Grant Agreement as defined in Exhibit A. The required format for this report is set forth on Exhibit D, and the report shall include:

- a. A narrative statement evaluating and summarizing the completed Project including a concise statement of the originally proposed scope of work, a detailed description of the objectives the Grant Recipient hoped to accomplish with the Project and a comparison of original objectives with what was actually accomplished.
- b. A narrative description and evaluation of the water quality improvements that have been achieved or are expected to be achieved as a result of this Project, including the benefits provided by the Project in the context of other water quality improvement efforts in the drainage basin.
- c. Changes made to the original scope of work and budget, and reasons for the changes.
- d. Degree that local partners participated in the Project, with respect to both dollars and effort or time.
- e. A description of things the Grant Recipient would have done differently on this Project, based on "lessons learned" by the Grant Recipient in completing the Project.
- f. Copy of Engineer's Certification of Completion, if applicable.
- g. Any other documents, reports or other evidence, including photographs necessary to verify that the Project has been concluded in compliance with this Grant Agreement.
- h. A full financial report on the Project.
- i. A final invoice for all Project related expenditures, if not submitted previously.

The final report for Sewer Rehabilitation Projects shall include items (j) through (n) in addition to items (a) through (i):

- j. A summary of the linear feet and size of sewer line repaired or replaced or rehabilitated.
- k. A summary of the number and sizes of manholes repaired or replaced or rehabilitated.
- l. The cost per linear foot of sewer line repaired or replaced or rehabilitated.
- m. The estimated gallons per day of infiltration/inflow/exfiltration eliminated.
- n. An 11 x 17-inch map showing the locations of sewer lines and manholes that were repaired or replaced or rehabilitated.

The final report for Wastewater Treatment Plant Repair Projects shall include items (o) through (p) in addition to items (a) through (i):

- o. A description of the improved level of wastewater treatment achieved as a result of this Project.
- p. The project cost expressed in cost per gallon of wastewater treated.

The final report for Decommissioning of Wastewater Treatment Plant Projects shall include items (q) through (s) in addition to items (a) through (i):

- q. Documentation of the plant abandonment.
- r. A copy of the written request from the Grant Recipient to the NC Division of Water Quality NPDES Unit requesting that the NPDES permit for the wastewater treatment plant be rescinded, and a copy of the response from the NPDES Unit.
- s. For projects in which wastewater flows are routed to another wastewater treatment plant, the Grant Recipient shall submit documentation of the agreement between the jurisdictions to accept the rerouted wastewater and estimate of cost per gallon.

The final report for Non-Discharge (Land Application of Wastewater) Projects shall include item (t) in addition to items (a) through (i):

- t. The project cost expressed as cost per gallon of wastewater land applied.

The final report for Reuse Projects shall include item (u) in addition to items (a) through (i):

- u. The project cost expressed as cost per gallon.

The final report for Failing Septic Tank/Straight Pipe Elimination Projects shall include items (v) through (x) in addition to items (a) through (i):

- v. Documentation from the County Health Department detailing the number of failing or illegal systems that were anticipated being repaired or hooked up to a sewer system and the number or repairs or hookups actually completed.
- w. The project construction cost expressed as cost per gallon and cost per system.
- x. The administrative costs of the project expressed as cost per gallon and cost per system.

If the final report is not acceptable to CWMTF, it shall be returned to the Grant Recipient for correction. Final payment will not be made until the final report is acceptable to CWMTF.

3. Annual Reports for Sewer Rehabilitation Projects. The Grant Recipient shall submit annual reports in addition to the Status Reports and Final Report to the Fund's Contract Administrator for Sewer Rehabilitation Projects for two years following construction completion of the Project. The annual reports shall detail and summarize flow into the wastewater treatment plant, spill volumes, and spill incidences **for one year before and two years after construction of the Project.** These annual reports shall specifically document the number and volume of any wastewater overflows or spills occurring from the repaired or replaced segment of sewer line within that year, and documenting the cause of those overflows/spills and steps taken by the Grant Recipient to prevent future overflows/spills.

4. Annual Reports for Wastewater Treatment Plant Repair Projects. The Grant Recipient shall submit annual reports in addition to the Status Reports and Final Report to the Fund's Contract Administrator for Wastewater Treatment Plant Repair Projects for two years following construction completion of the Project. The annual reports shall detail and summarize effluent flows and pollutant loadings from the wastewater treatment plant for parameters of interest. The reporting period shall include **one year prior to construction and two years after construction of the Project is completed.**

5. Annual Reports for Non-Discharge (Land Application of Wastewater) Projects. The Grant Recipient shall submit annual reports in addition to the Status Reports and Final Report to the Fund's Contract Administrator for Non-Discharge Projects for two years following construction completion of the Project. The annual reports shall detail and summarize groundwater monitoring well data for the land application site, for parameters as detailed in the permit for land application.

6. Project Audits. Grant Recipient agrees that the Fund and the State have the right to audit the books and records of the Grant Recipient pertaining to this Grant Agreement both during performance and for five (5) years after the completion or termination of this Grant Agreement or until all audit exceptions, if any, have been resolved, whichever is longer. The Grant Recipient shall retain complete accounting records, including original invoices, payrolls, contracts, or other documents clearly showing the nature of all costs incurred under this Grant Agreement, for that same period of time. The Grant Recipient agrees to make available at all reasonable times to the Fund all bid documents, and accurate books and records of all expenditures for costs applicable to this Grant Agreement which will facilitate the audit of the Grant Recipient's records.

7. Other Required Reporting. In addition to the reporting requirements contained herein, NCGS §143-6.2 and 09 North Carolina Administrative Code 03M may place certain reporting requirements on local governments or other political subdivisions of the State of North Carolina, or a combination of such entities, which receive State funds through the disbursement of special appropriations. All such required reports shall be filed in the format required by the Office of the State Auditor, and shall be forwarded as follows:

- One copy to: North Carolina Office of the State Auditor, 20601 Mail Service Center, Raleigh, NC 27699-0601
- One copy to: DENR/Office of the Controller, 1606 Mail Service Center, Raleigh, NC 27699-1606.

EXHIBIT G

DEFINITIONS

Unless indicated otherwise from the context, the following terms shall have as their meanings in this Grant Agreement the definitions set forth below. All definitions are from 09 North Carolina Administrative Code ("NCAC") 03M.0102 unless otherwise noted. Any change to the rule or statute adopted by the authority that is the source of the definition shall be automatically incorporated herein.

- (1) "Agency" (as used in the context of the definitions below) shall mean and include every public office, public officer, or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political sub-agency of government. For purposes of this Contract, agency shall mean and refer to North Carolina Clean Water Management Trust Fund.
- (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (3) "Certification of Compliance" means a report provided by the agency to the Office of the State Auditor ("OSA") that states that the Grant Recipient has met the reporting requirements established by 09 NCAC 03M and includes a statement of certification by the agency and copies of the Grant Recipient's reporting package.
- (4) "Compliance Supplement" refers to the North Carolina State Compliance Supplement maintained by the State and Local Government Finance Agency within the North Carolina Department of the Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (5) "Contract" means a legal instrument that is used to reflect a relationship between the grantor, Grant Recipient, and sub-grant recipient, and is used interchangeably herein with the term "Grant Agreement."
- (6) "Fiscal Year" means the annual operating year of the non-State entity.
- (7) "Financial Assistance" means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patient services.
- (8) "Financial Statement" means a report providing financial statistics relative to a given part of an organization's operations or status.
- (9) "Grant" means financial assistance provided by Clean Water Management Trust Fund to a Grant Recipient to carry out activities described in this Grant Agreement.
- (10) "Grant Recipient" shall have the meaning accorded to "Grantee" in NCGS §143-6.2(b): a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For purposes of this Contract, Grant Recipient shall mean one of the entities identified as a party to this

Contract. Likewise, Grantee shall mean a party to a deed or other instrument of conveyance that is vested with a real property interest by said instrument.

- (11) "Grantor" means, depending on the context, either an entity such as Clean Water Management Trust Fund that provides resources, generally financial, to another entity in order to achieve a specified goal or objective, or an entity that conveys a real property interest to a grantee.
- (12) "Non-State Entity" has the meaning in NCGS §143-6.2(a)(1): A firm corporation, partnership, county or unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department or institution.
- (13) "Public Authority" has the meaning in NCGS §§159-7(10) and 143-6.2(a)(3): A municipal corporation that is not a unit of local government, or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation and (ii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.
- (14) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.
- (15) "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.
- (16) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity, as they are sub-granted to other organizations. Pursuant to NCGS 143-6.2(b), the terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.
- (17) "Sub-grant recipient" has the meaning in NCGS §143-6.2(b): a non-State entity that receives a grant of State funds from a grant recipient or from another sub-grant recipient, but does not include does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.
- (18) "Unit of Local Government" has the meaning in NCGS §§ 159-7(15) and 143-6.2(a)(2): A municipal corporation that has the power to levy taxes, including a consolidated city-county as defined by NCGS §160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.

EXHIBIT H

GENERAL TERMS AND CONDITIONS

A. Affirmative Covenants

1. Compliance with Laws. Grant Recipient agrees to perform and maintain the Project in compliance with all federal, state and local laws and regulations, including, without limitation, environmental, zoning and other land use laws and regulations. The Grant Recipient agrees to take reasonable steps to advise Project participants that they shall comply in the same manner.
2. Insurance. The Grant Recipient agrees to keep structures or improvements of any sort constituting the Project fully insured at all times during construction and to keep fully insured all building materials at any time located on the Project. Grant Recipient will ensure that all contractors furnish adequate payment and performance bonds.
3. No Liens. The Grant Recipient shall take such action, including, without limitation, obtaining lien waivers, as shall be reasonably necessary to avoid liens against the Property in any way related to the Project.
4. No Mitigation. Grant Recipient shall not use the Property or any portion thereof to satisfy compensation mitigation requirements under 33 U.S.C. § 1344 or N.C.G.S. 143-214.11.
5. No Pollution Credits. If the Project enables the Grant Recipient to reduce the discharge of phosphorus, nitrogen, or any other nutrient or pollutant below, or further below, applicable regulatory limits ("Pollution Credits"), Grant Recipient shall not sell, trade or give to another person or entity that percentage of any resulting credits achieved by the Project corresponding to the percentage of the Project costs provided by the Fund.
6. Right of Entry and Inspections. The Grant Recipient shall permit representatives of the Fund to visit the Property and any other premises of the Grant Recipient to examine any Property purchased with the Grant funds and to review the activities of the Grant Recipient pursuant to the Grant, including books and records in any way related to the Grant or the Project.
7. Retention, Operation, Maintenance and Use.
 - (a) Grant Recipient agrees to complete the Project as approved by the Fund. The descriptions, purpose, schedules, scope of work and budgets set out in Exhibits A and B, and accompanying or related plans, specifications, estimates, procedures and maps submitted to the Fund by the Grant Recipient are the foundation of this Grant Agreement. Only changes deemed non-material in type at the discretion of the Executive Director may be made without the consent of the Clean Water Management Trust Fund Board of Trustees.
 - (b) For a period of ten (10) years after Project completion, Grant Recipient agrees to maintain and manage, at maximum functional utility, the end product of the Project. The Grant Recipient shall inspect the Project on a routine basis, with additional inspections following major

storm events and shall make all necessary repairs to return the infrastructure to its full function within 2 weeks or as soon as possible thereafter.

(c) Property acquired, developed or improved with grant assistance from the Fund shall be retained and used for the purposes identified in Exhibit A and Grant Recipient hereby agrees to file or record such restrictions as may be required to assure such continued use and such restrictions shall be in form and substance satisfactory to the Fund.

(d) If at some future date, the Fund and the Grant Recipient agree that the Project should no longer continue on the Property, then Grant Recipient will abandon the Project and allow the Property to return to its natural state.

8. Material Modifications. Any proposed material modification of the Project shall be subject to approval by the Fund.

9. Conservation Easement or Other Land Use Restrictions. Grant Recipient shall obtain permanent Conservation Easements or other perpetual land use restrictions for this Project satisfactory to the Fund in its sole discretion.

10. Signage. Grant Recipient agrees to post visible signs, which will be provided by the Fund, near the Project boundaries to acknowledge participation of the Fund in the Project.

11. Publicity. To the extent possible, the Grant Recipient will use its best efforts to appropriately publicize the Project's water quality benefits to the general public, local government and state representatives, including the role of the Fund in the funding and development of the Project. **At least ten (10) days prior to any planned event involving the Project, the Grant Recipient shall notify the Fund's Public Information Officer of the event (919.733.6375).**

12. Compliance with Reporting Requirements. Grant Recipient shall comply with the reporting requirements contained herein and in NCGS §143-6.2 and 09 NCAC Subchapter 03M – Uniform Administration of State Grants, if applicable.

13. Conflicts of Interest. Grant Recipient, as a local government entity, shall comply with all conflicts of interest laws, rules and regulations applicable to it in the State.

14. Additional Requirements. Grant Recipient shall comply with all legal requirements applicable to the use of the Grant.

B. Representations and Warranties

In order to induce the Fund to enter into this Grant Agreement and to make the Grant as herein provided, the Grant Recipient after reasonable inquiry makes the following representations, warranties and covenants, which shall remain in effect after the execution and delivery of this Grant Agreement and any other documents required hereunder, any inspection or examinations at any time made by or on behalf of the Fund, and the completion of the Project by the Grant Recipient:

1. No Actions. There are no actions, suits, or proceedings pending, or to the knowledge of the Grant Recipient, threatened, against or affecting the Grant Recipient before any court, arbitrator, or governmental or administrative body or agency which might affect the Grant Recipient's ability to observe and perform its obligations under this Grant Agreement.
2. Validity of Grant Documents. Upon execution and delivery of items required hereunder, this Grant Agreement and the other grant documents and items required hereunder will be valid and binding agreements, enforceable in accordance with the terms thereof.
3. No Untrue Statements. Neither this Grant Agreement nor any information, certificate, statement, or other document furnished by Grant Recipient in connection with the Grant, contains any untrue statement of a material fact or omits disclosure of a material fact which affects the Property, the Conservation Easement or the ability of the Grant Recipient to perform this Grant Agreement.
4. Environmental Condition of Property. The Grant Recipient warrants, represents and covenants to the Fund that to the best of its knowledge after appropriate inquiry and investigation: (a) the Property is and at all times hereafter will continue to be in full compliance with all federal, state and local environmental laws and regulations, and (b) as of the date hereof there are no hazardous materials, substances, wastes or other environmentally regulated substances (including, without limitation, any materials containing asbestos) located on, in or under the Property or used in connection therewith, and that there is no environmental condition existing on the Property that may prohibit or impede use of the Property for the purposes set forth in this Grant Agreement, and the Grant Recipient will not allow such uses or conditions.
5. Title. The Grant Recipient is the sole owner and is seized of the Property in fee simple or the Grant Recipient has or will have an interest in and/or appropriate agreements covering the site of the Project and all other real property of Grant Recipient essential to the Project, including necessary easements and rights of way; that there is legal access to the Property; that the Property is free and clear of any and all encumbrances, except easements of record, none of which would nullify, adversely affect or limit in any way the terms or effect of the Project; Grant Recipient shall defend its title against the claims of all persons whomsoever, and Fund covenants that the Fund and the State shall have the use and enjoy all of the benefits derived from and arising out of the aforesaid Property.
6. Additional Requirements. Grant Recipient shall comply with all legal requirements applicable to the use of the Grant funds.
7. Books and Records. The Grant Recipient agrees to maintain and make available to the Fund at all reasonable times all documents, books, and records of all expenditures for costs applicable to this Grant Agreement, and to submit properly certified billings for such costs on forms prescribed by the Fund and supported by detailed data sheets which will facilitate the audit of the Grant Recipient's records.

C. Termination by Mutual Consent

The Parties may terminate this Contract by mutual written consent with 60 days prior written notice to the Contract Administrators, or as otherwise provided by law.

D. Termination for Cause; Events of Default

1. Events of Default. The happening of any of the following, after the expiration of any applicable cure period without the cure thereof, shall constitute an event of default ("Event(s) of Default") by the Grant Recipient of its obligations to the Fund, and shall entitle the Fund to exercise all rights and remedies under this Grant Agreement and as otherwise available at law or equity:

(a) Property Unsuitable. A determination by the Fund, prior to the disbursement of the Grant funds that the Property is unsuitable for the purposes of the Grant Agreement.

(b) Unsuitable Use. The Property is used in a manner materially inconsistent with the purposes of this Grant Agreement or the Project.

(c) Default in Performance. The default by the Grant Recipient in the observance or performance of any of the terms, conditions or covenants of this Grant Agreement; provided, however, that no such default shall occur until the Grant Recipient has been given written notice of the default and 30 days to cure have elapsed.

(d) Misrepresentation. If any representation or warranty made by the Grant Recipient in connection with the Grant or any information, certificate, statement or report heretofore or hereafter made shall be untrue or misleading in any material respect at the time made.

(e) Eligibility of Grant Recipient. If Grant Recipient ceases to be qualified to receive Grant funds or is dissolved or otherwise ceases to exist.

(f) Abandonment of the Project. If Grant Recipient abandons or otherwise ceases to continue to make reasonable progress towards completion of the Project.

E. Fund's Rights and Remedies

If an Event of Default shall occur, the Fund shall have the following rights and remedies, all of which are exercisable at the Fund's sole discretion, and are cumulative, concurrent and independent rights:

1. Project Termination. If an Event of Default occurs, the Fund may, at its discretion suspend and/or terminate all obligations of the Fund hereunder. If, in the judgment of the Fund, such failure was due to no fault of the Grant Recipient, amounts required to resolve at minimum costs any irrevocable obligations properly incurred by Grant Recipient shall, in the discretion of the Fund, be eligible for assistance under this Grant Agreement.

2. Additional Remedies. If an Event of Default occurs, the Fund shall have the power and authority, consistent with its statutory authority: (a) to prevent any impairment of the Project by any acts which may be unlawful or in violation of this Grant Agreement or any other item or document required hereunder, (b) to obtain title to or otherwise preserve or protect its interest in the Project and any Property acquired with Grant funds, (c) to compel specific performance of any of Grant Recipient's obligations under this Grant Agreement, (d) to obtain return of all Grant Funds, including equipment if applicable and/or (e) to seek damages from any appropriate person or entity. The Fund, or its designee, may also, at the Fund's sole discretion, continue to complete the Project, or any portion thereof deemed appropriate by the Fund, and the Grant Recipient shall cooperate in the completion of the Project. The Fund shall be under no obligation to complete the Project.

3. Nonwaiver. No delay, forbearance, waiver, or omission of the Fund to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power and remedy given to the Fund may be exercised from time to time and as often as may be deemed expedient by the Fund.

F. Miscellaneous

1. Modification. This Grant Agreement may be rescinded, modified or amended only by written agreement executed by all parties hereto.

2. Benefit. This Grant Agreement is made and entered into for the sole protection and benefit of the Fund, the State and the Grant Recipient, and their respective successors and assigns, subject always to the provisions of paragraph F.8 of this Exhibit H. Except for the State, there shall be no third party beneficiaries to this Grant Agreement.

3. Further Assurance. In connection with and after the disbursement of Grant funds under this Grant Agreement, upon the reasonable request of the Fund, the Grant Recipient shall execute, acknowledge and deliver or cause to be delivered all such further documents and assurances, and comply with any other requests as may be reasonably required by the Fund or otherwise appropriate to carry out and effectuate the Grant as contemplated by this Grant Agreement and the purposes of the Conservation Easement.

4. Compliance by Others. The Grant Recipient shall be responsible for compliance with the terms of this Grant Agreement by any sub-grant recipient, including but not limited to, a political subdivision, public agency, or qualified non-profit organization to which funds or obligations are transferred, delegated or assigned pursuant to this Grant Agreement. Delegation by the Grant Recipient to a sub-grant recipient of any duty or obligation hereunder does not relieve the Grant Recipient of any duty or obligation created hereunder. Failure by such sub-grant recipient to comply with the terms of this Grant Agreement shall be deemed failure by the Grant Recipient to comply with the terms of this Grant Agreement. Any such delegation of duties or obligations shall be in writing, signed by the Grant Recipient and sub-grant recipient, and shall contain an affirmative covenant by the sub-grant recipient that it shall abide by the rules set forth in Title 09, Subchapter 03M of the North Carolina Administrative Code.

5. Independent Status of the Parties. The Parties are independent entities and neither this Grant Agreement nor any provision of it or any of the Grant Documents shall be deemed to create a partnership or joint venture between the Parties. Further, neither the Grant Agreement nor any of the Grant Documents shall in any way be interpreted or construed as making the Grant Recipient, its agents or employees, agents or representatives of the Fund. The Grant Recipient is and shall be an independent contractor in the performance of this Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. In no event shall the Fund be liable for debts or claims accruing or arising against the Grant Recipient. The Grant Recipient represents that it has, or shall secure at its own expense, all personnel required in the performance of this Contract. Such employees shall not be employees of, nor have any individual contractual relationship with, the Fund.

6. Indemnity. The Grant Recipient agrees, to the fullest extent permitted by law, to release, defend, protect, indemnify and hold harmless the State, the Fund, its Trustees, employees and agents against claims, losses, liabilities, damages, and costs, including reasonable attorney fees, which result from or arise out of: (a) damages or injuries to persons or property caused by the negligent acts or omissions of Grant Recipient, its employees, or agents in use or management of the Project or Property; or (b) use or presence of any hazardous substance, waste or other regulated material in, under or on the Property. The obligations under this paragraph are independent of all other rights or obligations set forth herein. This indemnity shall survive the disbursement of the Grant funds, as well as any termination of this Grant Agreement.

7. No Discrimination. The Grant Recipient shall assure that no person will be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity covered by this Grant Agreement solely on the grounds of race, color, age, religion, sex or national origin.

8. Binding Effect, Contract Assignable. The terms hereof shall be binding upon and inure to the benefit of the successors, assigns, and personal representatives of the parties hereto; provided, however, that the Grant Recipient may not assign this Grant Agreement or any of its rights, interests, duties or obligations hereunder or any Grant proceeds or other moneys to be advanced hereunder in whole or in part without the prior written consent of the Fund, which may be withheld for any reason and that any such assignment (whether voluntary or by operation of law) without said consent shall be void.

9. Governing Law, Construction and Jurisdiction. This Grant Agreement and the other Grant documents and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of North Carolina, notwithstanding the principles of conflicts of law. The headings and section numbers contained herein are for reference purposes only. The terms of this Grant Agreement shall be construed according to their plain meaning, and not strictly construed for or against either party hereto. The Grant Recipient hereby submits to the jurisdiction of the state and Federal courts located in North Carolina and agree that the Fund may, at its option, enforce its rights under the Grant Documents in such courts. The parties hereto intend this document to be an instrument executed under seal. The Fund and any party that is an individual, partnership or limited liability company hereby

adopts the word "SEAL" following his/her signature and the name of the Fund or partnership or limited liability company as his/her/its legal seal.

10. Savings Clause. Invalidation of any one or more of the provisions of this Grant Agreement, or portion thereof, shall in no way affect any of the other provisions hereof and portions thereof which shall remain in full force and effect.

11. Additional Remedies. Except as otherwise specifically set forth herein, the rights and remedies provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available in connection with this Grant Agreement.

12. Survival. Where any representations, warranties, covenants, indemnities or other provisions contained in this Grant Agreement by its context or otherwise, evidences the intent of the parties that such provisions should survive the termination of this Grant Agreement or any Closing, the provisions shall survive any termination or Closing. Without limiting the generality of the foregoing, the parties specifically acknowledge and agree that the provisions of Exhibit H and the conditions shown on Exhibit A shall survive any termination of this Grant Agreement as well as any Closing.

13. Incorporation of Exhibits. All exhibits attached to this Contract are fully incorporated as if set forth herein.

14. Entire Agreement. This Grant Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. All recitals, exhibits, schedules and other attachments hereto are incorporated herein by reference.

15. Headings. The headings of the various sections of this Grant Agreement have been inserted for convenience only and shall not modify, define, limit or expand the express provisions of this Grant Agreement.

16. Time of the Essence. Time is of the essence in the performance of this Agreement.

November 29, 2005

Mr. Bill Holman
Executive Director
Clean Water Management Trust Fund
1651 Mail Service Center
Raleigh, NC 27699-1651

Re: Town of Caswell Beach
Septic Tank and Package Plant Elimination by
Wastewater Interceptor
CWMTF Grant Application

Dear Mr. Holman:

Enclosed please find three copies of an application for grant funds from the Clean Water Management Trust Fund. The Board of Commissioners of the Town of Caswell Beach has taken action in an open public meeting authorizing the submission of the application and authorizing its implementation according to CWMTF conditions in any subsequent grant agreement.

The Town of Caswell Beach is at a critical point where aging septic tanks and package treatment plants are failing to provide adequate treatment and protection of the environment. Failures have occurred that resulted in discharge to shell fish waters and other waters of the State. To eliminate the aging septic tanks and package treatment plants, the Town is working diligently toward establishing a wastewater interceptor system to collect and transfer wastewater to a water reclamation facility on the mainland.

The project proposed in the grant application includes multiple approaches and public benefits. The project involves elimination of individual septic tanks and community package plants using a centralized wastewater interceptor system. Additionally, a reuse system would be installed so that treated wastewater effluent could be used reused for irrigation purposes. This combined approach to the problem results in environmental benefits and water quality improvement in that:

- Malfunctioning septic tanks and package treatment plants are eliminated
- A source of pollution of shell fish waters is eliminated
- Wastewater is taken to the mainland and out of the island environment
- One hundred percent (100%) of community wastewater is treated to a reuse standard and subsequently reused for beneficial purposes
- An aggressive stormwater management program is in place.

The proposed project is regional in scope in that:

- The treatment provider is the Town of Oak Island, a neighboring local government with a permitted water reclamation facility on the mainland and a planned scalping plant on the island.
- Caswell Beach wastewater may also be treated in the Brunswick County West Water Reclamation Facility through the Oak Island municipal system.
- Wastewater from various neighborhoods and the North Carolina Baptist Assembly will be carried to the mainland for treatment and reuse.
- Interceptor and pumping station sizing of the project is sized to minimum specifications to meet current wastewater volumes (facilities are not growth inducing).

The proposed project is innovative in scope in that:

- New and least cost technology is employed (vacuum interceptor system)
- Existing facilities are utilized where available (pumping station sites, water reclamation facilities, waterway crossing)
- Reuse system will be installed providing opportunities for beneficial reuse of treated wastewater effluent
- One hundred percent (100%) of wastewater will be treated to reuse standards and used beneficially.

The proposed project and the Town's effort is above and beyond minimally required approaches to solving the problem in that:

- The Town has adopted and is carrying out a stormwater management program although not legally required to do so
- The Town is proposing installation of reuse facilities though not required to do so
- The Town has taken a collaborative approach to the problem by working with other entities for a solution
- The Town has carefully thought out the best solution to the wastewater problem and has taken proactive steps to put the best solution in place.

We therefore respectfully request your earnest consideration and that of the CWMTF Board of Trustees of our application for funds to meet this critical need in our community. If you have any questions or need additional information please feel free to let me know.

Sincerely,

Harry Q. Simmons, Jr.
Mayor

**TOWN OF CASWELL BEACH – CWMTF GRANT APPLICATION
NARRATIVE PROPOSAL**

The Town of Caswell Beach (Town) respectfully requests the consideration of the Clean Water Management Trust fund (CWMTF) for funding assistance for infrastructure to eliminate two package treatment plants (Caswell Sewer Service and Caswell Dunes Wastewater Treatment Plant), the North Carolina Baptist Assembly (NCBA) at Fort Caswell wastewater infiltration system, and 207 septic tanks. The Town, located at the mouth of the Cape Fear River, has a pristine maritime forest along the dunes, ocean beach to the south, the Cape Fear River to the east, is bounded by shellfish waters of the Elizabeth River to the north, and Oak Island to the west. The proposed project will enable all of the Town wastewater to be conveyed off the island to the East Oak Island Water Reclamation facility (WRF) for treatment and reuse. Additionally, the Town will construct a reuse distribution system to utilize reuse water for irrigation of the Oak Island Golf Club, neighborhood common areas, Town property, residential landscaping, and NCBA property. The private aging package treatment plants in Caswell Beach have experienced violations of effluent limits and are inoperable in severe weather events. Also, many of the aging septic tanks have experienced failure and are also inoperable during moderate rainfall events. Following the Hurricane Ophelia and Tropical Storm Tammy storm events in September and October of this year, the treatment systems were inoperable, and untreated wastewater and stormwater were discharged directly into the tributary of Piney Point Creek and into the ocean. The amount of CWMTF funding requested to eliminate the package treatment plants and septic tanks in this project is \$2,982,400 of the \$3,728,000 total project (20 percent match).

DESCRIPTION OF THE PROJECT

The Town of Caswell Beach is working with the Town of Oak Island and Brunswick County on a regional wastewater treatment and reuse solution. The Town seeks a regional

wastewater solution to eliminate the failures of the private wastewater treatment systems and to eliminate septic tanks on the island that are impacting the sensitive coastal waters of the Cape Fear estuary. The soils in the project area are generally well drained but the combination of high groundwater, low ground elevation, and even typical rainfall limit the effectiveness of the infiltration systems. The septic tanks and infiltration systems are in close proximity to surface waters. Sampling and analysis by the Brunswick County Health Department (see report in Appendix) show that during failure the waste fecal and nutrient contamination impacts the surface waters.

The Town plans to construct an interceptor system to transfer up to 280,300 gallons per day of wastewater off the island to the East Oak Island WRF on Fish Factory Road (see map in Appendix). The Caswell Beach Interceptor will provide wastewater conveyance for the residents of Caswell Beach as well as the Coast Guard Facility and NCBA. The regional wastewater approach will assist the communities with improved system management and a unified wastewater system for the entire community.

The major project components include the following:

- ◆ central pump station (approximately 490 gallons per minute),
- ◆ 17,180 linear feet of collection mains
- ◆ 19,700 linear feet of force main,
- ◆ 15,000 linear feet of reuse force mains, and
- ◆ decommission two package treatment facilities.

Flows will be routed to the Oak Island by way of a Town of Caswell Beach interceptor that will combine flow with Oak Island at the town limits and utilize the existing force main across the Intracoastal Waterway (ICW). Treated effluent from the East Oak Island WRF will be sprayed at the Oak Island Reuse Park on Fish Factory Road. The Reuse Park, funded by the

North Carolina Parks and Recreation Fund, will utilize the irrigation on two softball fields, two little league fields, two soccer fields, a greenhouse, and a putting green.

The project will include a reuse distribution system in Caswell Beach for treated wastewater from Oak Island. As an alternative to treating wastewater off the island and then pumping long distances back to users on the island, Oak Island is utilizing a satellite wastewater treatment facility on the island. The satellite wastewater treatment facility will use innovative technology to treat a side stream of Oak Island wastewater from the sewer trunk line sending wastewater to the Brunswick County regional facility. The satellite facility will treat a portion of the flow to reuse standards and discharge the treatment by products back into the sewer trunk main. The reuse water will be used for irrigation in Oak Island, the Oak Island Golf Club, and Caswell Beach. The effective use of reclaimed water will reduce the amount of potable water used for irrigation.

In addition to the infrastructure planned in this project, Town plans to dedicate a conservation easement along the edge of the coastal marsh. Town of Caswell Beach has also adopted and is implementing an aggressive stormwater discharge control regulatory ordinance.

WATER QUALITY OBJECTIVES

The elimination of the package treatment plants and septic tanks will reduce the waste fecal and nutrient contamination discharge from the systems into the groundwater and the direct discharges into the Piney Point Creek (SA) shellfish waters. The repeated ineffectiveness of the septic systems and package treatment plants to remove contaminants from the wastewater affect the sensitive coastal waters. By transferring the wastewater to a regional treatment facility, the water quality in the shellfish areas of the Elizabeth River, Piney Point Creek, adjoining creeks, and the Intracoastal Waterway will be improved.

TOTAL FUNDS REQUIRED FOR THE PROJECT

The total project costs for the Town of Caswell Beach infrastructure in this project are estimated to be \$3,728,000 (see cost breakdown in the Appendix).

ECONOMIC AND ENVIRONMENTAL NEED AND ABILITY TO PAY

The Town of Caswell Beach, located in Brunswick County at the eastern end of Oak Island, has limited resources for funding large capital projects as the customers are residential and there is no commercial or industrial component. The Town consists entirely of residential development with the exception of the Oak Island Golf Club. Caswell Beach has a small permanent population of approximately 443 persons, but the influx of seasonal residents and guests during the summer season increases the population to nearly 3,000.

Brunswick County was formerly a Tier 3 economically distressed county as late as 1998, but due to growth surges in other areas of the county it moved to a Tier 4 in 1999 and to a Tier 5 as of the last economic indicator tier rating. Unlike other areas of the county, Caswell Beach has not experienced significant growth over the last decade. The residential community is more or less built out with approximately 600 dwelling units. No additional development that could be utilized for funding is anticipated as a result of this regional wastewater solution. The costs of undertaking a program of this scope without outside grant funding could be potentially crippling from a financial standpoint.

Calculation and comparison of the state's High Unit Cost criteria concludes that Caswell Beach water and sewer rates will be above the relevant high unit cost threshold (\$67.00 per month vs. \$44.86 per month for Brunswick County). Additional debt service incurred as a result of this program of work will further strain the water and sewer rate structures established by the Town.

OTHER FUNDING SOURCES

The Town is pursuing a loan from Construction Grants and Loans State Revolving Loan and STAG programs and will contribute local cash match for the additional \$745,600 to fund the project.

NEED FOR THE PROJECT

The project meets a critical environmental public health need by eliminating flow to package treatment plants that have experienced periodic violations of effluent limitations and discharge into the coastal marsh at Piney Point Creek. The majority of the dwellings in the Caswell Dunes, Ocean Green, and Arboretum neighborhoods send wastewater generated to the two package treatment plants while the remaining dwellings use septic tanks. The Caswell Dunes privately owned package plant is a 0.050 million gallon per day (MGD) tertiary plant with low pressure nitrification fields. The Caswell Sewer Service (CSS) facility is a 0.075 MGD facility high rate infiltration system that utilizes rotary distributors for effluent disposal. The CSS facility has received repeated notice of violations (NOV) for exceeding permit limitations (see list of violations in the Appendix). The NCBA at Fort Caswell uses septic tanks and nitrification fields for disposal of approximately 0.038 MGD. The remaining residents use septic systems for wastewater treatment. Since 2001, 24 of 207 septic systems have been replaced or repaired due to failures. In this sensitive setting with groundwater limiting infiltration, none of the current treatment methods can generally be considered a viable wastewater solution.

The Town of Caswell Beach's lack of effective wastewater treatment and disposal was exhibited following Hurricane Ophelia and Tropical Storm Tammy when the package plants and septic systems were not functional until the areas of infiltration were pumped out and drained. Brunswick County Health Department personnel conducted sampling and analysis of the ponded areas. Results of the sampling indicated high levels of fecal coliform (see report in the Appendix). Due to the severe flooding of residences and backups in residences, the ponded

areas were pumped down and discharged to the tributary of Piney Creek and onto the ocean front beach. The Town notified the NC Division of Environment and Natural Resources (NCDENR) and the Division of Coastal Management prior to discharge of the waters. These conditions (neighborhood flooding) occur during periods of moderate rainfall and will continue to occur until the interceptor system is completed.

The aging systems are susceptible to increased failures and could result in additional discharge of untreated wastewater to the sensitive coastal marsh, shellfish areas, and beaches. Accordingly, the Town has explored various alternatives and has developed a plan to eliminate the package plants and septic tanks by this proposed wastewater interceptor project.

CONCLUSION

The Town is seeking to partner with the CWMTF as it moves forward with this ambitious capital improvement project. The costs are significant for a small residential based Town but immediate benefit to the coastal waters will be realized. The Town of Caswell Beach prides itself on being a conscientious steward of the environment and will proceed with the program to the best of its capabilities regardless of whether supplemental funding sources can be secured. However, the Town respectfully requests the consideration of the CWMTF for assistance with grant funds to assist with the project costs.

Respectfully submitted,

Jerry A. Walters
Town Administrator
Town of Caswell Beach

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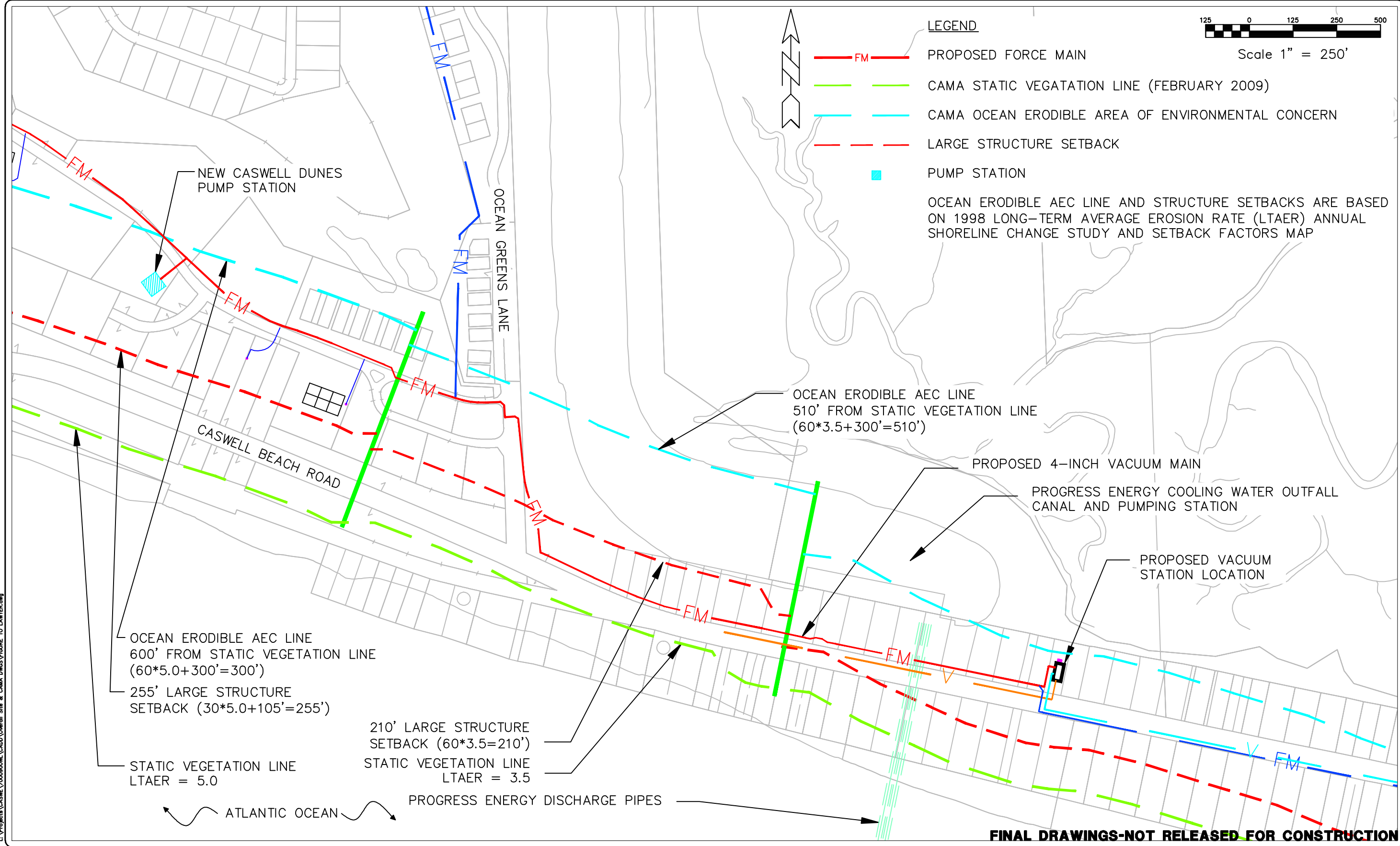


Scale 1" = 250'

LEGEND

- FM PROPOSED FORCE MAIN
- CAMA STATIC VEGETATION LINE (FEBRUARY 2009)
- CAMA OCEAN ERODIBLE AREA OF ENVIRONMENTAL CONCERN
- - - - - LARGE STRUCTURE SETBACK
- PUMP STATION

OCEAN ERODIBLE AEC LINE AND STRUCTURE SETBACKS ARE BASED ON 1998 LONG-TERM AVERAGE EROSION RATE (LTAER) ANNUAL SHORELINE CHANGE STUDY AND SETBACK FACTORS MAP



OCEAN ERODIBLE AEC LINE
600' FROM STATIC VEGETATION LINE
(60*5.0+300'=300')

255' LARGE STRUCTURE
SETBACK (30*5.0+105'=255')

STATIC VEGETATION LINE
LTAER = 5.0

210' LARGE STRUCTURE
SETBACK (60*3.5=210')

STATIC VEGETATION LINE
LTAER = 3.5

OCEAN ERODIBLE AEC LINE
510' FROM STATIC VEGETATION LINE
(60*3.5+300'=510')

PROPOSED 4-INCH VACUUM MAIN

PROGRESS ENERGY COOLING WATER OUTFALL
CANAL AND PUMPING STATION

PROPOSED VACUUM
STATION LOCATION

ATLANTIC OCEAN

PROGRESS ENERGY DISCHARGE PIPES

FINAL DRAWINGS-NOT RELEASED FOR CONSTRUCTION

REV. NO.	DESCRIPTION	DATE
1	PS PERMIT DELINEATION PER NCDENR.	4/17/09
REVISIONS		

PROJECT MANAGER TCH	DRAWING SCALE 1"=500'
DRAWN BY JM/VAR	PROJECT DATE MARCH 2009
APPROVED BY TCH	PROJECT NUMBER 7000900WL
FILE NAME	POST DATE 9/16/09



909 MARKET STREET
WILMINGTON, NC 28401
(910) 762-4200

Office Locations: North Carolina
South Carolina
Georgia
NC LICENSE NO. F-0374

RELEASED FOR	DATE
APPROVALS	
BIDDING	
CONSTRUCTION	
RECORD DWG.	

**ORIGINAL CONSTRUCTION
DRAWING SEALED ON
MAY 22, 2009**

**TOWN OF CASWELL BEACH
WASTEWATER COLLECTION, TRANSMISSION,
AND OAK ISLAND RECLAIMED WATER
DISTRIBUTION SYSTEM
BRUNSWICK COUNTY, NORTH CAROLINA**

**PROJECT LAYOUT
VACUUM SEWER AND FORCE MAIN
INSTALLATION**

FIG. 1

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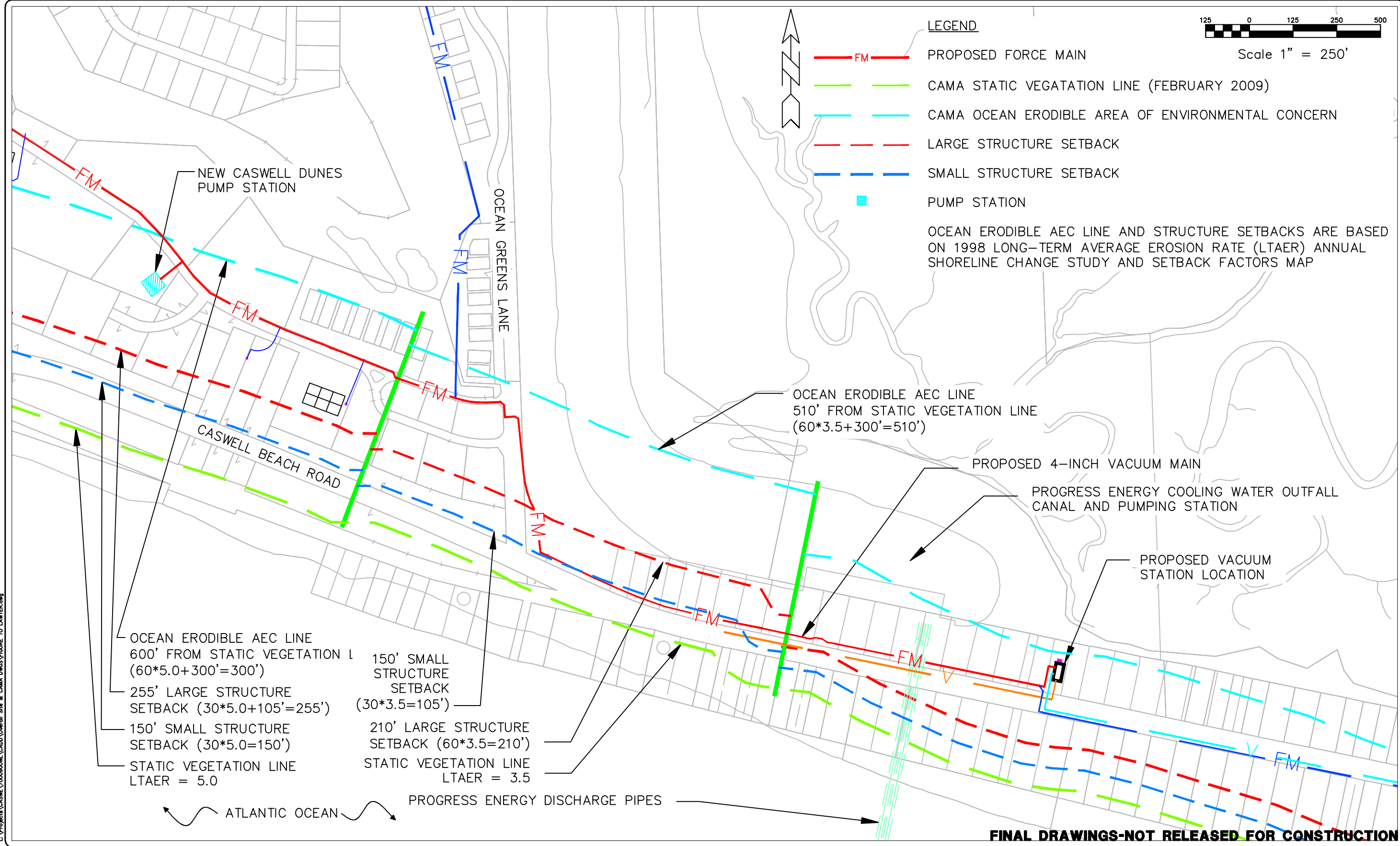


Scale 1" = 250'

LEGEND

- FM PROPOSED FORCE MAIN
- CAMA STATIC VEGETATION LINE (FEBRUARY 2009)
- CAMA OCEAN ERODIBLE AREA OF ENVIRONMENTAL CONCERN
- - - - - LARGE STRUCTURE SETBACK
- - - - - SMALL STRUCTURE SETBACK
- PUMP STATION

OCEAN ERODIBLE AEC LINE AND STRUCTURE SETBACKS ARE BASED ON 1998 LONG-TERM AVERAGE EROSION RATE (LTAER) ANNUAL SHORELINE CHANGE STUDY AND SETBACK FACTORS MAP



OCEAN ERODIBLE AEC LINE
 600' FROM STATIC VEGETATION LINE
 $(60 \times 5.0 + 300' = 300')$
 255' LARGE STRUCTURE SETBACK
 $(30 \times 5.0 + 105' = 255')$
 150' SMALL STRUCTURE SETBACK
 $(30 \times 5.0 = 150')$
 STATIC VEGETATION LINE
 LTAER = 5.0

150' SMALL STRUCTURE SETBACK
 $(30 \times 3.5 = 105')$
 210' LARGE STRUCTURE SETBACK
 $(60 \times 3.5 = 210')$
 STATIC VEGETATION LINE
 LTAER = 3.5

OCEAN ERODIBLE AEC LINE
 510' FROM STATIC VEGETATION LINE
 $(60 \times 3.5 + 300' = 510')$

PROPOSED 4-INCH VACUUM MAIN

PROGRESS ENERGY COOLING WATER OUTFALL CANAL AND PUMPING STATION

PROPOSED VACUUM STATION LOCATION

FINAL DRAWINGS-NOT RELEASED FOR CONSTRUCTION

REV. NO.	DESCRIPTION	DATE
1	PS PERMIT DELINEATION PER NCDENR.	4/17/09
REVISIONS		

PROJECT MANAGER TCH	DRAWING SCALE 1"=500'
DRAWN BY JM/VAR	PROJECT DATE MARCH 2009
APPROVED BY TCH	PROJECT NUMBER 7000900WL
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909 MARKET STREET
 WILMINGTON, NC 28401
 (910) 762-4200
 Office Locations: North Carolina
 South Carolina
 Georgia
 NC LICENSE NO. F-0374

RELEASED FOR	DATE
APPROVALS	
BIDDING	
CONSTRUCTION	
RECORD DWG.	

**ORIGINAL CONSTRUCTION
 DRAWING SEALED ON
 MAY 22, 2009**

**TOWN OF CASWELL BEACH
 WASTEWATER COLLECTION, TRANSMISSION,
 AND OAK ISLAND RECLAIMED WATER
 DISTRIBUTION SYSTEM
 BRUNSWICK COUNTY, NORTH CAROLINA**

**PROJECT LAYOUT
 VACUUM SEWER AND FORCE MAIN
 INSTALLATION**

FIG. 1

Town of Caswell Beach
VARIANCE REQUEST

Caswell Beach
Brunswick County
October 29, 2009



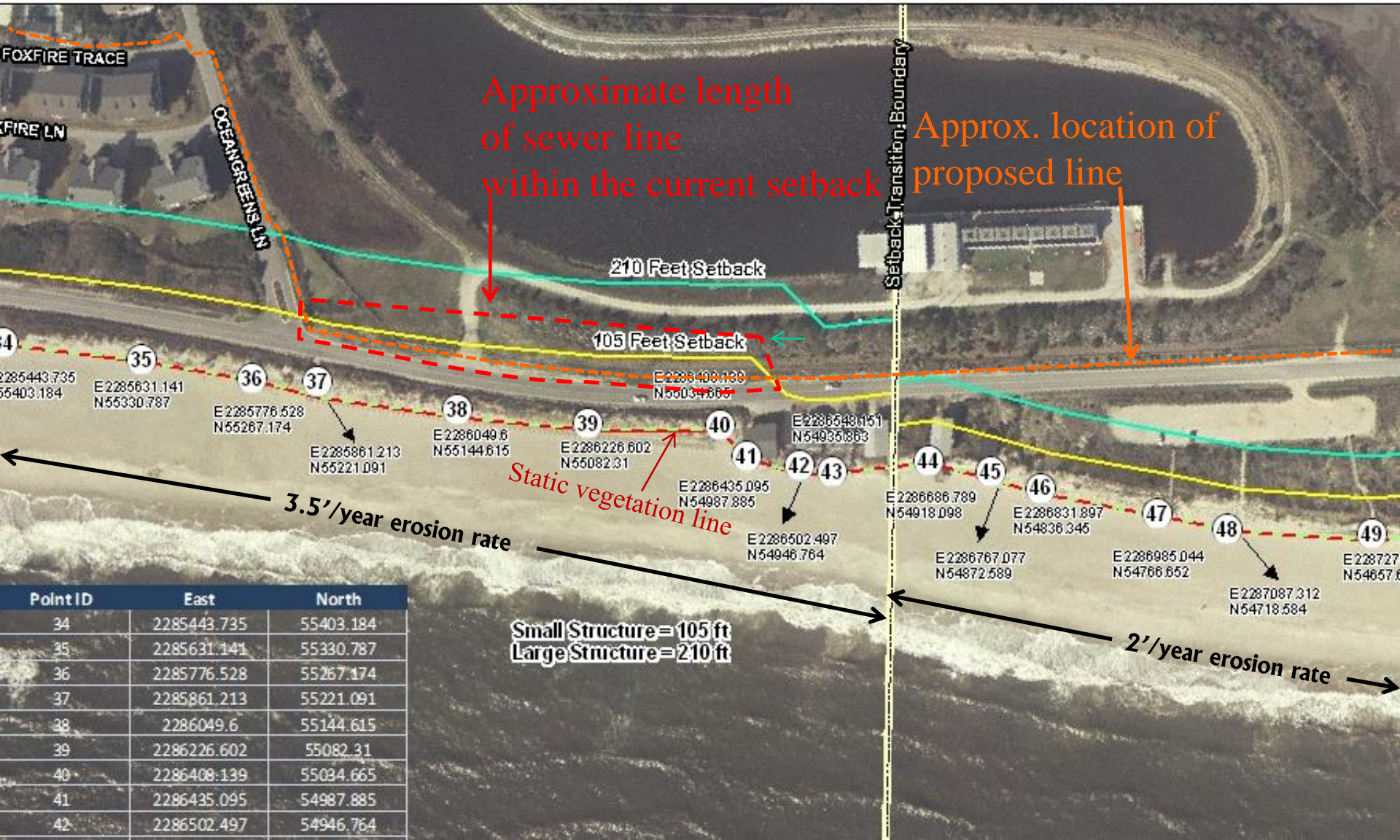
Oak Island

Baptist Assembly
(Brunswick County)

Progress Energy canal
Caswell Beach, NC

Site of variance request

Approximate boundary
Between Caswell Beach
and Oak Island



Caswell Beach proposed sewer line

Project area near Progress Energy outfall canal looking east



Project area near canal looking west



Project area near the canal looking northwest





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

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

CRC-09-34

October 16, 2009

MEMORANDUM

TO: Coastal Resources Commission

FROM: Doug Huggett

SUBJECT: Wind Turbines and Water Dependent Structure Issues

At the June 2005 meeting of the Coastal Resources Commission (CRC), the Planning and Special Issues (P&SI) Committee discussed wind energy facilities and whether or not they should be considered "water dependent structures" under the CRC's rules. The Commission's rules prohibit non-water dependent structures in estuarine and public trust waters, limiting uses to activities such as utility easements, docks, wharfs, boat ramps, dredging, bridges and bridge approaches, revetments, bulkheads, culverts, groins, navigational aids, mooring pilings, navigational channels, simple access channels and drainage ditches. The discussion was prompted by various conversations with different development groups that had been exploring large-scale wind farms. At the time, the P&SI Committee believed that given the speculative nature of these types of projects, it would be preferable to address these situations through the CRC's variance process. The matter was subsequently dropped and no action was taken by the Commission.

Over the last two years, the Commission has heard multiple presentations on the development of coastal wind energy resources. Several common themes appeared to arise during these presentations. Industry assessments and more recently a University of North Carolina study indicate that in considering engineering and environmental concerns, as well as the location of utility-scale wind resources, the only likely feasible location for utility-grade wind facilities in coastal North Carolina would be in either our sounds or off the State's coast. As the State and nation move forward in pursuit of alternative energy sources, it has become clear that the development of utility-scale wind energy facilities in coastal North Carolina has both legislative and public policy support. In addition, staff has also been contacted numerous times in recent

months from individuals or groups interested in pursuing off shore wind energy development in coastal North Carolina. Therefore, staff believes that it is prudent to revisit this water dependency issue at this time.

The Rules of the Coastal Resources Commission currently state the following in regards to water dependency:

15A NCAC 07H .0208 USE STANDARDS

(a) General Use Standards

(1) Uses which are not water dependent shall not be permitted in coastal wetlands, estuarine waters, and public trust areas. Restaurants, residences, apartments, motels, hotels, trailer parks, private roads, factories, and parking lots are examples of uses that are not water dependent. Uses that are water dependent may include: utility easements; docks; wharfs; boat ramps; dredging; bridges and bridge approaches; revetments, bulkheads; culverts; groins; navigational aids; mooring pilings; navigational channels; simple access channels and drainage ditches.

As utility-scale wind energy facilities were not anticipated when this rule was developed, they do not fit any of the categories of water dependent uses. Given the information presented above, staff recommends that the Commission consider the issuance of an interpretive ruling that would give guidance that utility-grade wind energy facilities are and should be considered water dependent. Should such a ruling be issued, staff will then be able to proceed with formal rule making efforts to develop standards for these facilities. Such an interpretive ruling would also allow the Division to be better equipped to handle any permit requests for wind energy facilities that may be submitted before the formal rule making effort can be completed.



North Carolina Department of Environment and Natural Resources

Division of Coastal Management

James H. Gregson

Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

CRC-09-35

October 15, 2009

MEMORANDUM

TO: Coastal Resources Commission

FROM: Mike Lopazanski
Scott Geis

SUBJECT: Wind Energy Facility Amendments

As the State increases its efforts to pursue alternative energy sources, wind power has moved to the forefront as a technology that is readily available and has the public and political support to become a reality in the near term. It has also become clear through several studies and assessments that the coastal area of North Carolina is the focus for siting a utility-scale wind energy generating facility. Over the past year, the Coastal Resources Commission (CRC) has heard several presentations on the potential for development, limitations and possible impacts of wind energy facilities.

Recommendations have been made by the Environmental Management Commission that included giving the CRC authority to permit the siting of these facilities. This recommendation was reiterated by the Division's Ocean Policy Steering Committee and was further expressed in a draft bill (S1068) before the State Legislature this past session.

The Commission has also taken steps toward the siting and permitting of such facilities by approving for public hearing, an amendment to 15A NCAC 7H .0309(g) which would allow transmission lines from a wind energy facility to cross the ocean beach. In addition, the CRC Ocean Policy/Beach Summit Recommendations Implementation Subcommittee has made development of use standards and changes to the Commission's Coastal Energy Policies a priority action for the CRC.

Given that a wind energy demonstration project has been proposed for siting in State waters, staff is recommending that the Commission move ahead with incorporation of the siting and operation of wind facilities into its administrative rules. Attached are proposed amendments to 15A NCAC 7H .0106 General Definitions, 15A NCAC 7H

.0208 Use Standards and 15A NCAC 7M .0400 Coastal Energy Policies. It is important to note that the amendments to 7H .0208 include changes to development considered water-dependent which will be necessary to site a utility-scale wind energy facility in State waters.

In developing the amendments, staff has used the recommendations of the Environmental Management Commission and draft bill S1068 as a guide. While the definition of a wind energy facility for the purposes of these rules is limited to facilities of three mega watts or greater, that is considered a starting point for discussion and is what was included in the draft legislation. While many of the amendments are similar to those for other types of development activities in public trust areas, others address specific concerns related to wind facilities. It is Staff's intention that once the Commission has reviewed the proposed amendments, they will be shared with other DENR agencies as well as a group of scientists familiar with the issues to ensure the amendment's adequacy in addressing relevant concerns. Staff would then bring any further amendments to the Commission in January 2010 for further consideration and appropriate action.

We look forward to discussing these amendments at the upcoming meeting in Atlantic Beach.

15A NCAC 07H .0106 GENERAL DEFINITIONS

The following definitions apply whenever these terms are used in this Chapter:

- (1) "Normal High Water" is the ordinary extent of high tide based on site conditions such as presence and location of vegetation, which has its distribution influenced by tidal action, and the location of the apparent high tide line.
- (2) "Normal Water Level" is the level of water bodies with less than six inches of lunar tide during periods of little or no wind. It can be determined by the presence of such physical and biological indicators as erosion escarpments, trash lines, water lines, marsh grasses and barnacles.
- (3) Unless specifically limited, the term structures includes, but is not limited to, buildings, bridges, roads, piers wharves and docks (supported on piles), bulkheads, breakwaters, jetties, mooring pilings and buoys, pile clusters (dolphins), navigational aids and elevated boat ramps.
- (4) "Mining" is defined as:
 - (a) The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of mineral, ores, or other solid matter.
 - (b) Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location.
 - (c) The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.
- (5) "Wind Energy Facility" means the turbines, accessory buildings, transmission facilities, and any other equipment necessary for the operation of the facility that cumulatively, with any other wind energy facility whose turbines are located within one-half mile of one another, have a rated capacity of three megawatts or more of energy.

This definition applies regardless of whether the mining activity is for a commercial or noncommercial purpose, and regardless of the size of the affected area. Activities such as vibracoring, box coring, surface grab sampling, and other drilling and sampling for geotechnical testing, mineral resource investigations, or geological research are not considered mining. Excavation of mineral resources associated with the construction or maintenance of an approved navigation project in accordance with 15A NCAC 7B .0200 of this Chapter is not considered mining.

History Note: Authority G.S. 113A-102; 113A-107;

Eff. June 1, 1995;

Amended Eff. August 1, 1998; October 1, 1996.

1 SUBCHAPTER 7H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

2 15A NCAC 07H .0208 USE STANDARDS

3 (a) General Use Standards

4 (1) Uses which are not water dependent shall not be permitted in coastal wetlands, estuarine waters, and public trust
5 areas. Restaurants, residences, apartments, motels, hotels, trailer parks, private roads, factories, and parking lots are
6 examples of uses that are not water dependent. Uses that are water dependent ~~may include: utility easements; docks;~~
7 ~~wharfs; boat ramps; dredging; bridges and bridge approaches; revetments, bulkheads; culverts; groins; navigational~~
8 ~~aids; mooring pilings; navigational channels; simple access channels and drainage ditches. crossings, wind energy~~
9 ~~facilities, docks, wharves, boat ramps, dredging, bridges and bridge approaches, revetments, bulkheads, culverts,~~
10 ~~groins, navigational aids, mooring pilings, navigational channels, access channels and drainage ditches.~~

11 (2) Before being granted a ~~permit by permit,~~ the CRC or local permitting ~~authority; authority there shall be a~~
12 ~~finding find~~ that the applicant has complied with the following standards:

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

18 (B) ~~Before receiving approval for location of a use or development within these AECs, the~~
19 ~~permit letting authority shall find that no suitable alternative site or location outside of the AEC~~
20 ~~exists for the use or development and, further, that the applicant has selected a combination of~~
21 ~~sites and design that will have a minimum adverse impact upon the productivity and biologic~~
22 ~~integrity of coastal marshland, shellfish beds, beds of submerged aquatic vegetation, spawning~~
23 ~~and nursery areas, important nesting and wintering sites for waterfowl and wildlife, and important~~
24 ~~natural erosion barriers (cypress fringes, marshes, clay soils).~~

25 (C)(B) Development shall ~~not violate~~ comply with state and federal water and air quality standards.

26 (D)(C) Development shall not cause ~~major or irreversible damage to valuable~~ documented archaeological
27 or historic ~~resources. resources as identified by the N.C. Department of Cultural Resources.~~

28 (E)(D) Development shall not ~~measurably~~ increase siltation.

29 (F)(E) Development shall not create stagnant water bodies.

30 (G)(F) Development shall be timed to ~~have minimum adverse significant affect~~ avoid significant adverse
31 impacts on life cycles of estuarine and ocean resources.

32 (H)(G) Development shall not ~~impede jeopardize the capability~~ use of the waters to be used for
33 navigation or for other public trust rights ~~create undue interference with access to, or use of, in~~
34 public trust areas or estuarine waters.

35 (3) When the proposed development is in conflict with the general or specific use standards set forth in this Rule,
36 the CRC may approve the development if the applicant can demonstrate that the activity associated with the
37 proposed project will have public benefits as identified in the findings and goals of the Coastal Area Management
38 Act, that the public benefits clearly outweigh the long range adverse effects of the project, that there is no reasonable
39 ~~and prudent~~ alternate site available for the project, and that all reasonable means and measures to mitigate adverse
40 impacts of the project have been incorporated into the project design and ~~will shall~~ be implemented at the applicant's
41 expense. ~~These measures~~ Measures taken to mitigate or minimize adverse impacts ~~may shall~~ include actions that
42 will:

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

44 (B) restore the affected environment; or

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

46 (4) Primary nursery areas are those areas in the estuarine and ocean system where initial post larval development of
47 finfish and crustaceans takes place. They are usually located in the uppermost sections of a system where
48 populations are uniformly early juvenile stages. They are ~~officially~~ designated and described by the N.C. Marine
49 Fisheries Commission (MFC) ~~in 15A NCAC 3B .1405~~ and by the N.C. Wildlife Resources Commission (WRC). ~~in~~
50 ~~15A NCAC 10C .0110.~~

51 (5) Outstanding Resource Waters are those estuarine waters and public trust areas classified by the N.C.
52 Environmental Management Commission (EMC), ~~pursuant to Title 15A, Subchapter 2B .0216 of the N.C.~~
53 ~~Administrative Code as Outstanding Resource Waters (ORW) upon finding that such waters are of exceptional state~~
54 ~~or national recreational or ecological significance.~~ In those estuarine waters and public trust areas classified as ORW
55 by the ~~Environmental Management Commission (EMC); (EMC)~~ no permit required by the Coastal Area
56 Management Act shall be approved for any project which would be inconsistent with applicable use standards
57 adopted by the CRC, EMC, or ~~Marine Fisheries Commission (MFC)~~ for estuarine waters, public trust areas, or
58 coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the
59 activity would, based on site specific information, ~~materially~~ degrade the water quality or outstanding resource
60 values. values unless such degradation is temporary.

- (E) Public Benefits Exception. Projects that conflict with these standards, but provide a public benefit, may be approved pursuant to the standards set out in Subparagraph (a)(3) of this Rule.

(13) "Wind Energy Facilities"

- (A) An applicant for the development and operation of a wind energy facility shall provide:
- (i) an evaluation of the proposed noise impacts of the turbines to be associated with the proposed facility, unless the turbines are located in sound or offshore waters at least 0.60 miles from a shoreline;
 - (ii) an evaluation of shadow flicker impacts for the turbines to be associated with the proposed facility, unless the turbines will be located in sound or offshore waters at least 1.6 miles from a shoreline;
 - (iii) an evaluation of avian and bat impacts of the proposed facility;
 - (iv) an evaluation of viewshed impacts of the proposed facility;
 - (v) an evaluation of potential user conflicts associated with development in the proposed project area.
 - (vi) a plan regarding the action to be taken upon decommissioning and removal of the wind energy facility. The plan shall include estimates of monetary costs and the proposed site condition after decommissioning.
- (B) Development Standards. Development of wind energy facilities shall meet the following standards in addition to adhering to the requirements outlined in this subparagraph (a)(13)(A).
- (i) Natural reefs, coral outcrops, artificial reefs, seaweed communities, and significant benthic communities identified by the Division of Marine Fisheries or the WRC shall be avoided;
 - (ii) Development shall not be sited on or within 500 meters of significant biological communities identified by the Division of Marine Fisheries or the WRC; such as high relief hard bottom areas. High relief is defined for this standard as relief greater than or equal to one-half meter per five meters of horizontal distance;
 - (iii) Development shall not cause irreversible damage to documented archaeological resources including shipwrecks identified by the Department of Cultural Resources; and unique geological features that require protection from uncontrolled or incompatible development as identified by the Division of Land Resources pursuant to G.S. 113A-113(b)(4)(g);
 - (iv) Development activities shall be timed to avoid significant adverse impacts on the life cycles of estuarine or ocean resources, or wildlife;
 - (v) Development or operation of a wind energy facility shall not jeopardize the use of the surrounding waters for navigation or for other public trust rights in public trust areas or estuarine waters;
 - (vi) Development or operation of a wind energy facility shall not interfere with air navigation routes, air traffic control areas, military training routes or special use airspace and shall comply with standards adopted by the Federal Aviation Administration and codified under 14 CFR Part 77.13;
- (C) Permit Conditions. Permits for wind energy facilities may be conditioned on the applicant amending the proposal to include measures necessary to insure compliance with the provisions guidelines for development set out in this Subchapter. Permit conditions may include monitoring to ensure compliance with all applicable development standards.
- (D) Public Benefits Exception. Projects that conflict with these standards, but provide a public benefit, may be approved pursuant to the standards set out in Subparagraph (a)(3) of this Rule.

History Note: Authority G.S. 113A-107(b); 113A-108; 113A-113(b); 113A-124; Eff. September 9, 1977; Amended Eff. February 1, 1996; April 1, 1993; February 1, 1993; November 30, 1992; RRC Objection due to ambiguity Eff. March 21, 1996; Amended Eff. August 1, 1998; May 1, 1996.

SECTION .0400 – COASTAL ENERGY POLICIES
15A NCAC 07M .0401 DECLARATION OF GENERAL POLICY

(a) It is hereby declared that the general welfare and public interest require that reliable sources of energy be made available to the citizens of North Carolina. It is further declared that the development of energy facilities and energy resources within the state and in offshore waters can serve important regional and national interests. However, unwise development of energy facilities or energy resources can conflict with the recognized and equally important public interest that rests in conserving and protecting the valuable land and water resources of the state and nation, particularly coastal lands and waters. Therefore, in order to balance the public benefits ~~attached to~~ of necessary energy development ~~against with~~ the need ~~to~~: 1) protect valuable coastal resources, and 2) preserve access to and utilization of public trust resources, the planning of future ~~land uses, uses affecting both land and public trust~~ resources, the exercise of regulatory authority, and determinations of consistency with the North Carolina Coastal Management Program shall assure that the development of energy facilities and energy resources shall avoid significant adverse impact upon vital coastal resources or uses, public trust areas and public access rights.

(b) Exploration for the development of offshore and Outer Continental Shelf (OCS) energy resources has the potential to affect coastal resources. The Federal Coastal Zone Management Act of 1972, as amended, requires that ~~federal oil and gas~~ leasing actions of the ~~federal government US Department of the Interior~~ be consistent to the maximum extent practicable with the enforceable policies of the federally approved North Carolina Coastal Management Program, and that exploration, development and production activities associated with such leases comply with those enforceable policies. Enforceable policies applicable to OCS activities include all the provisions and policies of this Rule, as well as any other applicable federally approved components of the North Carolina Coastal Management Program. All permit applications, plans and assessments related to exploration or development of OCS resources and other relevant energy facilities ~~must shall~~ contain sufficient information to allow ~~adequate~~ analysis of the consistency of all proposed activities with these Rules and policies.

*History Note: Authority G.S. 113A-102(b); 113A-107; 113A-124;
Eff. March 1, 1979;
Amended Eff. November 3, 1997 pursuant to E.O. 121, James B. Hunt Jr., 1997;
Temporary Amendment Eff. July 8, 1999; December 22, 1998;
Amended Eff. August 1, 2000.*

15A NCAC 07M .0402 DEFINITIONS

(a) "Impact Assessment" is an analysis which fully discusses the potential environmental, economic and social consequences, including cumulative and secondary impacts, of a proposed project. At a minimum, the assessment shall include the following and for each of the following shall discuss and assess any effects ~~on any land or water use or natural resource of the coastal area, the project will have on the use of public trust waters, adjacent lands and on the coastal resources of the coastal area,~~ including the effects ~~within the coastal area~~ caused by activities outside the coastal area:

- (1) a full discussion of the preferred sites for those elements of the project affecting ~~any land or water use or natural resource the use of public trust waters, adjacent lands and the coastal resources of~~ the coastal area:
 - (A) In all cases where the preferred site is located within an area of environmental concern (AEC) or on a barrier island, the applicant shall identify alternative sites considered and present a full discussion [in terms of Subparagraphs (a)(2) through (9) of this Rule] of the reasons why the chosen location was deemed more suitable than another feasible alternate site;
 - (B) If the preferred site is not located within an AEC or on a barrier island, the applicant shall present ~~reasonable evidence~~ to support the proposed location over a feasible alternate site;
 - (C) In those cases where an applicant chooses a site previously identified by the state as suitable for such development and the site is outside an AEC or not on a barrier island, alternative site considerations shall not be required as part of this assessment procedure;
- (2) a full discussion of the economic impacts, both positive and negative, of the proposed project. This discussion shall focus on economic impacts to the public, not on matters that are purely internal to the corporate operation of the applicant. No proprietary or confidential economic data

shall be required. This discussion shall include analysis of likely adverse impacts upon the ability of any governmental unit to furnish necessary services or facilities as well as other secondary impacts of significance;

- (3) a full discussion of potential adverse impacts on coastal resources, including marine and estuarine resources and wildlife resources, as defined in G.S. 113-129;
- (4) a full discussion of potential adverse impacts on existing industry and potential limitations on the availability of natural coastal resources, particularly including beach compatible sand and water, for future industrial use or development;
- (5) a full discussion of potential significant adverse impacts on recreational uses and scenic, archaeological and historic resources;
- (6) a full discussion of potential risks of danger to human life or property;
- (7) a full discussion of the impacts on the human environment including noise, vibration and visual impacts;
- ~~(7)~~(8) a full discussion of the procedures and time needed to secure an energy facility in the event of severe weather conditions, such as extreme wind, currents and waves due to northeasters and hurricanes;
- ~~(8)~~(9) other specific data necessary for the various state and federal agencies and commissions with jurisdiction to evaluate the consistency of the proposed project with relevant standards and guidelines;
- (10) a plan regarding the action to be taken upon the decommissioning and removal of the facility and related structures. The plan shall include an estimate of the cost to decommission and remove the energy facility. The plan shall also include a proposed description of the condition of the site once the energy facility has been decommissioned and removed. The plan shall include a bond, guarantee, insurance, or other financial instrument to provide for the decommissioning and the removal of the structures that comprise the energy facility.

- ~~(10)~~(11) a specific demonstration that the proposed project is consistent with relevant local land use plans and with guidelines governing land uses in AECs. Any impact assessment for a proposal for oil or gas energy exploration or development activities shall include a full discussion of the items described in Subparagraphs (a)(1) through ~~(9)~~ (10) of this Rule for the associated energy exploration or development activity, including all reasonably-foreseeable assessments of resource potential, including the gathering of scientific data, exploration wells wells, and any delineation activities that are reasonably likely to follow a discovery of oil or gas development, production, maintenance and decommissioning.

(b) "Major energy facilities" are those energy facilities which because of their size, magnitude or scope of impacts, have the potential to affect any land or water use or natural coastal resource of the coastal area. For purposes of this definition, major energy facilities shall include, but are not necessarily limited to, the following:

- (1) Any facility capable of refining petroleum products oil;
- (2) Any terminals (and associated facilities) capable of handling, processing, or storing liquid propane gas, liquid natural gas, petroleum products or synthetic natural gas;
- (3) Any oil or gas-petroleum storage facility that is capable of storing 15 million gallons or more on a single site;
- (4) Gas, coal, oil or nuclear electric Electric generating facilities 300 MGW or larger;
- (5) Wind energy facilities, including turbines accessory buildings, transmission facilities and other equipment necessary for the operation of a wind generating facility that cumulatively, with any other wind energy facility whose turbines area located within one-half mile of one another, capable of generating three (3) MGW or larger;
- (6) Thermal energy generation;
- (7) Major pipelines 12 inches or more in diameter that carry crude petroleum products, natural gas, liquid natural gas, liquid propane gas, or synthetic gas;
- (8) Structures, including drillships and floating platforms and structures relocated from other states or countries, located in offshore waters for the purposes of energy exploration, exploration for, or development or production, production of, oil or natural gas; and
- (8) Onshore support or staging facilities related to offshore energy exploration, exploration for, or development or production of, oil or natural gas.

(c) "Offshore waters" are those waters seaward of the state's three-mile offshore jurisdictional boundary in which development activities may impact any land or water use or natural resource of the state's coastal area.

*History Note: Authority G.S. 113A-102(b); 113A-107; 113A-124;
Eff. March 1, 1979;
Amended Eff. October 1, 1988;
Amended Eff. November 3, 1997 pursuant to E.O. 121, James B. Hunt Jr., 1997.
Temporary Amendment Eff. July 8, 1999; December 22, 1998;
Amended Eff. August 1, 2000.*

15A NCAC 07M .0403 POLICY STATEMENTS

(a) The placement and operations of major energy facilities in or affecting any land or water use or **coastal natural** resource of the North Carolina coastal area shall be done in a manner that allows for protection of the environment and local and regional socio-economic goals as set forth in the local land-use plan(s) and State guidelines in 15A NCAC 7H and 7M. The placement and operation of such facilities shall be consistent with state rules and statutory standards and shall comply with local land use plans and with **rules for land uses in use standards for development within AECs, AECs, as set forth in 15A NCAC 07H.**

(b) Proposals, plans and permit applications for major energy facilities to be located in or affecting any land or water use or **natural coastal** resource of the North Carolina coastal area shall include a full disclosure of all costs and benefits associated with the project. This disclosure shall be prepared at the earliest feasible stage in planning for the project and shall be in the form of an impact assessment prepared by the applicant as defined in 15A NCAC 7M .0402. If appropriate environmental documents are prepared and reviewed under the provisions of the National Environmental Policy Act (NEPA) or the North Carolina Environmental Policy Act (NCEPA), this review will satisfy the definition of "impact assessment" if all issues listed in this Rule are addressed and these documents are submitted in sufficient time to be used to review state permit applications for the project or subsequent consistency determinations.

(c) Local governments shall not unreasonably restrict the development of necessary energy facilities; however, they may develop siting measures that will minimize impacts to local resources and to identify potential sites suitable for energy facilities. **This section shall not limit the ability of a city or county to plan for and regulate the siting of a wind energy facility in accordance with land-use regulations authorized under Chapter 160A and Chapter 153A of the General Statutes. Wind energy facilities constructed within the planning jurisdiction of a city or county shall demonstrate compliance with any local ordinance concern land use and any applicable permitting process.**(d) Energy facilities that do not require shorefront access shall be sited inland of the shoreline areas. In instances when shoreline portions of the coastal zone area are necessary locations, shoreline siting shall be acceptable only if it can be demonstrated that **there are no significant adverse impacts** to coastal resources, **and public trust waters, will be protected and** the public's right to access and passage will not be unreasonably restricted, and all reasonable mitigating measures have been taken to minimize impacts to AECs. Whether restrictions or mitigating measures are reasonable shall be determined after consideration of, as appropriate, economics, technical feasibility, **areal-aerial** extent of impacts, uniqueness of impacted area, and other relevant factors.

(e) The scenic and visual qualities of coastal areas shall be considered and protected as important public resources. Energy development shall be sited and designed to provide maximum protection of views to and along the ocean, sounds and scenic coastal areas, and to minimize the alteration of natural landforms.

(f) All energy facilities in or affecting **the use of public trust waters and adjacent lands any land or water use or natural-coastal** resource of the coastal area shall be sited and operated so as to comply with the following criteria:

- (1) Activities that could result in **significant** adverse impacts on resources of the coastal area, including marine and estuarine resources and wildlife resources, as defined in G.S. 113-129, and **significant** adverse impacts on **land or water uses the use of public trust waters and adjacent lands** in the coastal area shall be avoided unless site specific information demonstrates that each such activity will result in no **significant** adverse impacts on **the use of public trust waters and adjacent lands land or water uses** or **natural coastal** resources of the coastal area.
- (2) **For petroleum facilities, necessary Necessary** data and information required by the state for state permits and federal consistency reviews, pursuant to 15 CFR part 930, shall completely assess the risks of **oil petroleum release or** spills, evaluate possible trajectories, and enumerate response and mitigation measures employing the best available technology to be followed in the event of a **release or** spill. The information must demonstrate that the potential for **oil-petroleum release or** spills and ensuing damage to coastal resources has been minimized and shall factor environmental

conditions, currents, winds, and inclement events such as northeasters and hurricanes, in trajectory scenarios. For facilities requiring an Oil Spill Response Plan, this information shall be included in such a plan.

- (3) Dredging, spoil disposal and construction of related structures that are **reasonably** likely to **have significant adverse impacts on affect the use of public trust waters and adjacent lands any land or water use or natural coastal** resource of the coastal area shall be minimized, and any unavoidable actions of this sort shall minimize damage to the marine environment.
- (4) Damage to or interference with existing or traditional uses, such as fishing, navigation and access to public trust areas, and areas with high biological or recreational value, such as those listed in Subparagraphs (f)(10)(A) and (H) of this Rule, shall be avoided to the extent that such damage or interference is **reasonably** likely to **have significant adverse impacts on affect any land or water use or natural resourcee the use of public trust waters and adjacent lands** of the coastal area.
- (5) Placement of structures in geologically unstable areas, such as unstable sediments and active faults, shall be avoided to the extent that damage to such structures resulting from geological phenomena is **reasonably** likely to **have significant adverse impacts onany land or water use or natural resourcee the use of public trust waters, adjacent lands and natural resources** of the coastal area.
- (6) Procedures necessary to secure an energy facility in the event of severe weather conditions, such as extreme wind, currents and waves due to northeasters and hurricanes, shall be initiated sufficiently in advance of the commencement of severe weather to ensure that **significant** adverse impacts on **the use of public trust waters, adjacent lands and natural resources** of the coastal area shall be avoided.
- (7) **Adverse Significant adverse** impacts on **federally listed species identified as** threatened or endangered **species on Federal or State lists** shall be avoided.
- (8) Major energy facilities are not appropriate uses in fragile or historic areas, and other areas containing environmental or natural resources of more than local significance, as defined in G.S. 113A-113(b)(4), such as parks, recreation areas, wildlife refuges, and historic sites.
- (9) No energy facilities shall be sited in areas where they pose a threat to the integrity of the facility and surrounding areas, such as ocean front areas with high erosion rates, areas having a history of overwash or inlet formation, and areas in the vicinity of existing inlets.
- (10) In the siting of energy facilities and related structures, significant adverse impacts to the following areas shall be avoided:
 - (A) **areas of high biological significance, including offshore reefs, rock outcrops and hard bottom areas , sea turtle nesting beaches, freshwater and saltwater wetlands, primary or secondary nursery areas and essential fish habitat habitat, areas of particular concern as designated by the appropriate fisheries management agency, submerged aquatic vegetation beds, shellfish beds, anadromous fish spawning and nursery areas, and colonial bird nesting colonies;**
areas of high biological significance, including offshore reefs, rock outcrops, hard bottom areas, sea turtle nesting beaches, coastal wetlands, primary or secondary nursery areas or spawning areas and essential fish habitat areas of particular concern as designated by the appropriate fisheries management agency, oyster sanctuaries, submerge aquatic vegetation as defined by the Marine Fisheries Commission, colonial bird nesting areas,
 - (B) **Tracts** of maritime forest in excess of 12 contiguous acres and areas identified as eligible for registration or dedication by the North Carolina Natural Heritage Program;
 - (C) crossings of streams, rivers, and lakes except for existing readily-accessible corridors;
 - (D) anchorage areas and **engested** port areas;
 - (E) artificial reefs, shipwrecks, and submerged archaeological resources;
 - (F) dump sites;
 - (G) primary dunes and frontal dunes;
 - (H) established recreation **or wilderness** areas, such as federal, state and local parks, **forests, wildlife refuges** and other areas used in a like manner;
 - (I) **military air space, target areas and transit lanes.**
 - (J) **cultural or historic sites of more than local significance;**
 - (K) **segments of Wild and Scenic River System;**

- (L) strategic habitat areas habitat pursuant to the North Carolina Coastal Habitat Protection Plan.
- (11) Construction of energy facilities shall occur only during periods of lowest biological vulnerability. Nesting and spawning periods shall be avoided.
- (12) If facilities located in the coastal area are abandoned, habitat of equal value to or greater than that existing prior to construction shall be restored as soon as practicable following abandonment. For abandoned facilities outside the coastal area, habitat in the areas shall be restored to its preconstruction state and functions as soon as practicable if the abandonment of the structure is reasonably likely to affect any land or water use or natural resource of the coastal area.

~~(g) As used in this Section, an event that is "reasonable likely" to occur if credible evidence supports the conclusion that the event will likely occur.~~

*History Note: Authority G.S. 113A-102(b); 113A-107; 113A-124;
Eff. March 1, 1979;
Amended Eff. April 1, 1992;
Amended Eff. November 3, 1997 pursuant to E.O. 121, James B. Hunt Jr., 1997;
Temporary Amendment Eff. July 8, 1999; December 22, 1998;
Amended Eff. August 1, 2000.*



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

Beverly Eaves Perdue, Governor

James H. Gregson, Director

Dee Freeman, Secretary

MEMORANDUM

CRC-09-36

To: The Coastal Resources Commission

From: Michael Christenbury, Wilmington District Planner

Date: October 14, 2009

Subject: Requested Certification of Amendment #2 of the 2007 Brunswick County Core Land Use Plan

Staff Recommendation: Certification of the Brunswick County Core LUP Amendment(s) based on the determination that the amendment(s) have met the substantive requirements outlined within the 2002 7B Land Use Plan Guidelines and that there are no conflicts evident with either state or federal law or the State's Coastal Management Program.

Overview:

This is the second (2nd) amendment to the 2007 Brunswick County Core Land Use Plan (LUP), certified by the Coastal Resources Commission (CRC) on November 30, 2007, as amended June 24, 2009. The purpose of these changes is to insure and address compatibility between the plan and local ordinances.

Specifically, these amendments have three (3) components; (1) Changes to the Brunswick County Land Use Plan that applies only to the Town of St. James; (2) Land Use Plan Text Changes; and (3) Future Land Use Map adjustments.

Component 1:

The first component of this amendment to the Brunswick County LUP comes at the request of the Town of St. James, and applies only to the Town. The Town of St. James participated in the development of the Brunswick County LUP and relies on the County LUP for permitting and planning purposes. The Town seeks these changes in order for the LUP to be more compatible with the goals and policies of the Town, and to allow for improved utilization of the Plan by the Town in the daily implementation of its planning programs.

The St. James amendments include text changes within the document, as well as the addition of 14 new Policies and Implementation Actions. This component also includes adjustments to the St. James Existing Land Use Map and the St. James Future Land Use Map. Both Brunswick County and the Town of St. James adopted these amendments by resolution. See Exhibit A.

Component 2:

The second component pertains to other areas of the county. This component includes non-policy text changes to the Land Use Plan, as well as minor map adjustments. First is a minor text change to Section 5.V.A of the plan, and to Table 60 – as illustrated in Exhibit B.

Brunswick County is also seeking Certification of a minor amendment to Table 64 – ‘Future Land Use Acreages’, as well as text amendment under Section 6.V.D.e and f of the plan: ‘Plan for the Future; Future Land Use Plan; Locational Aspects of Land Use’; ‘Residential’ and ‘ED Economic Development’ (section 6, pages 83 – 85). These changes are to the ‘Residential’ Future Land Use Map policy description. See Exhibit C.

The County is also making changes to Table 70 of the plan: ‘Future Land Use Plan Compatibility Matrix: Brunswick County and St. James’ (section 6 page 75) - See Exhibit D.

Component 3:

The third component of this amendment is Certification of 24 minor map adjustments to the Brunswick County Future Land Use Map – Map 26 of the LUP. See Exhibit E.

Brunswick County carefully reviewed the text, policy and map changes to ensure that they are compatible and not in conflict with the 2007 Brunswick County CAMA Land Use Plan, as amendment June 24, 2009, as well as all other adopted plan(s) and ordinance(s).

The Brunswick County Board of Commissioners held a duly advertised public hearing on September 8, 2009 and unanimously adopted the amendments by resolution.

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

Exhibit A: St. James Text Amendments

Exhibit B and Exhibit C: Brunswick County Text Amendments

Exhibit D: Amendments to Table 70

Exhibit E: Brunswick County Future Land Use Plan Map adjustments and descriptions

To view the full 2007 Brunswick County Core Land Use Plan, go to the following link and scroll down to Brunswick County LUP:

http://www.nccoastalmanagement.net/Planning/under_review.htm

EXHIBIT A

**TOWN OF ST. JAMES
ADDENDUM TO THE BRUNSWICK COUNTY
MULTI-JURISDICTIONAL CAMA CORE LAND USE PLAN**

ADDENDUM TO THE BRUNSWICK COUNTY CAMA CORE LAND USE PLAN

CERTIFIED BY THE NORTH CAROLINA COASTAL RESOURCES COMMISSION, NOVEMBER 30, 2007

Introduction

This addendum to the 2007 Brunswick County CAMA Core Land Use Plan has been adopted to make the plan more compatible with the goals and policies of the Town of St. James. This will allow for improved utilization of the plan by the Town of St. James in the daily implementation of its planning program. The Town of St. James Town Council endorsed the addendum on April 7, 2009, for submittal to the Brunswick County Planning Board and Board of Commissioners for approval. The Brunswick County Board of Commissioners conducted a public hearing and adopted this addendum on _____, 2009. The addendum was certified by the North Carolina Coastal Resources Commission on _____, 2009.

Plan Revisions

1. Add the following to Section 5, page 58:

(viii) Use of Oysters in Estuarine Erosion Control

The Town of St. James has actively supported the UNCW Center for Marine Science Program for Oyster Shell Recycling. In the Spring of 2007, the Town purchased twenty-one (21) cubic yards of oyster shells for placement in the Intracoastal Waterway. In addition, the Town donated \$10,000 to the UNCW Department of Biology and Marine Biology in support of one to two interns to work with the Town of St. James during the summer of 2008. Future donations for this program will be considered in the town's budget process. The Town's donation was to support:

- Assistance with assessing and potentially enhancing habitat in estuarine systems around St. James. Potential projects could include oyster reef plantings, assessment of habitats (Beaver Dam Creek) that are utilized by juvenile blue crabs, assessment of condition index for critical estuarine species, as well as assistance with other projects benefitting from the intern's educational background and experience.
- Assistance with identification and design of potential conservation projects that may help preserve some of the critical ecosystems that have attracted many St. James residents. (St. James may contract for project implementation at a later time.)
- Monitoring estuarine biotic factors, such as oyster, fish, crab, etc.
- Preparation and presentation of a report on the state of the erosion control project using recycled oyster shells.
- Preparation and presentation of a report on the biota utilizing the estuarine and waterway areas around St. James.
- Assistance with the Town's desire to develop a "Wetland Park" through interactions with local and state agencies and conservation organizations and by developing a list of contacts to assist the Town in establishment of the park.
- Provision of educational opportunities for Town residents through seminars and meetings.

2. Replace Map 18, Section 5, page 90, with Map 18A.



Brunswick County Land Use Plan St. James Existing Land Use

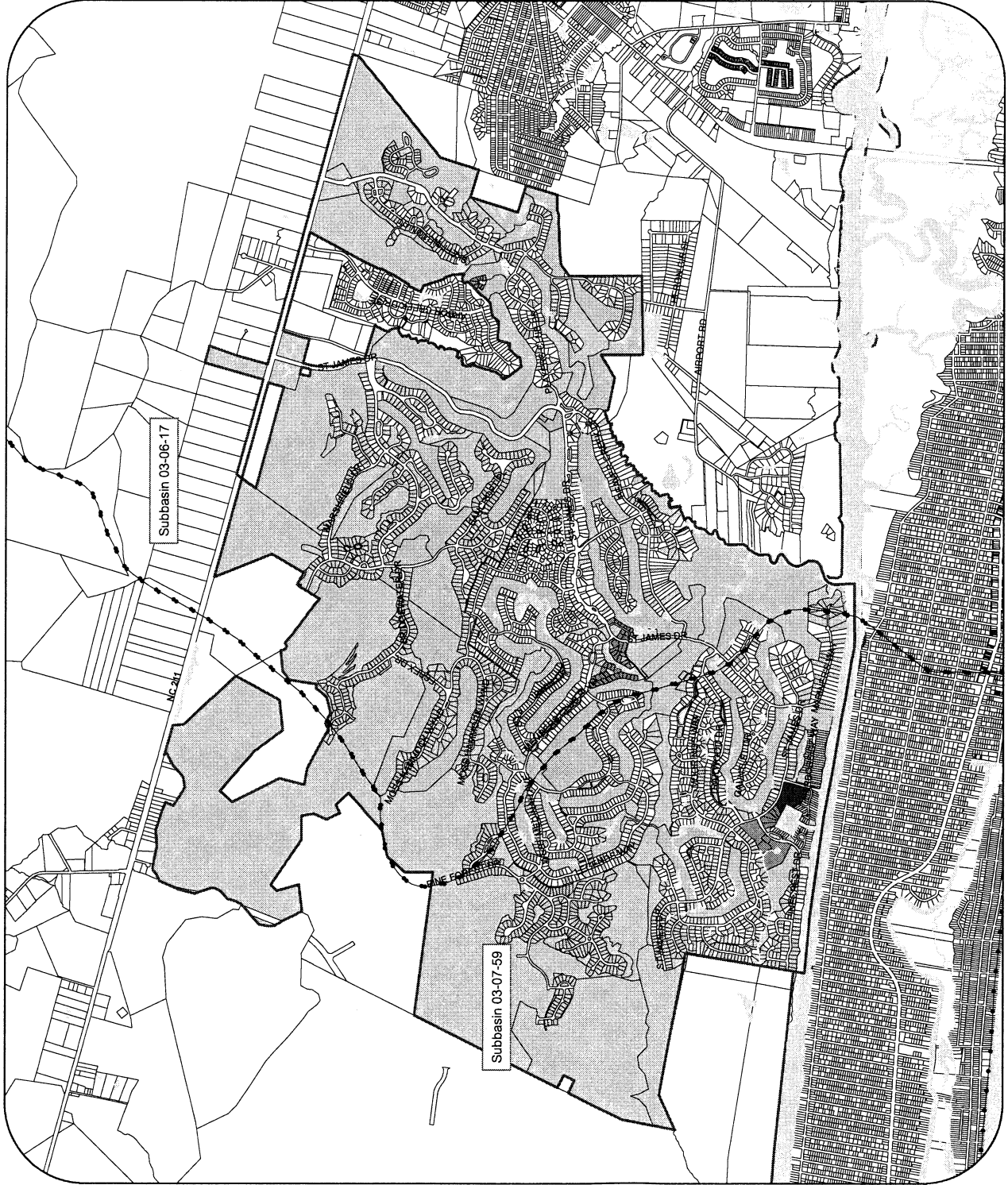
Legend

- Subbasins
- Hydrology
- St. James Corporate Limits
- Existing Land Use**
 - Commercial
 - Office & Institutional
 - Multi-Family Residential
 - Single-Family Residential
 - Recreation
 - Vacant

1 inch = 2,000 feet



The preparation of this map 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.



3. Replace Table 48, Section 5, page 100, with Table 48A as follows:

Table 48A.
Participating Municipalities – Existing Land Use

Land Use ++	St. James		Beville		Boiling Spring Lakes		Carolina Shores						Northwest	
							Town Limits		ETJ		Total			
	Acres	% of Total	Acres	% of Total	Acres	% of Total	Acres	% of Total	Acres	% of Total	Acres	% of Total	Acres	% of Total
COM	8.26	0.2%	11.12	1.9%	37.86	0.3%	36.48	3.1%	15.55	0.8%	52.03	1.7%	37.44	1.0%
IND	0.00	0.0%	12.81	2.2%	0.00	0.0%	0.00	0.0%	22.11	1.2%	22.11	0.7%	0.09	0.0%
MFR*	35.20	0.7%	2.22	0.4%	0.00	0.0%	2.71	0.2%	8.09	0.4%	10.80	0.4%	0.00	0.0%
MH	0.00	0.0%	0.00	0.0%	0.00	0.0%	0.00	0.0%	0.30	0.0%	0.30	0.0%	0.00	0.0%
O&I	4.37	0.1%	41.60	7.3%	87.20	0.6%	22.74	1.9%	25.94	1.4%	48.68	1.6%	3.77	0.1%
RA**	0.00	0.0%	57.52	10.0%	148.69	1.1%	36.89	3.2%	235.45	12.4%	272.34	8.9%	931.81	24.2%
REC	826.44	15.5%	0.00	0.0%	157.11	1.1%	0.003	0.0%	163.65	8.6%	163.65	5.3%	0.00	0.0%
SFR***	668.90	12.6%	87.79	15.3%	591.33	4.2%	419.81	35.9%	162.19	8.5%	582.00	19.0%	131.34	3.4%
Vacant	3,289.45	61.8%	359.32	62.8%	12,551.06	88.3%	492.99	42.2%	1,086.14	57.1%	1,579.13	51.4%	2,654.20	69.0%
Water	0.00	0.0%	0.00	0.0%	639.05	4.5%	0.00	0.0%	0.00	0.0%	0.00	0.0%	0.00	0.0%
TOTAL	4,832.62	90.9%	572.37	100.0%	14,212.30	100.0%	1,011.61	86.5%	1,719.42	90.4%	2,731.04	89.0%	3,749.65	97.5%
ROW	486.76	9.1%	0.00	0.00	0.00	0.00	157.29	13.5%	181.69	9.6%	338.97	11.0%	95.83	2.5%
TOTAL	5,319.38	100.0%	572.37	100.0%	14,212.30	100.0%	1,168.90	10.0%	1,910.12	100.0%	3,070.01	100.0%	3,845.48	100.0%

*There is no assumption of density. This category includes parcels where there are more than one dwelling unit per parcel.

**Low density residential includes areas where residential density is primarily 1.5 acres per dwelling unit or greater.

***Residential includes areas where residential density is primarily less than 1.5 acres per dwelling unit.

Source: Holland Consulting Planners, Inc. and Brunswick County GIS.

4. Add the following to Section 5, page 126:

7. St. James Stormwater Management

In February 2006, the Town of St. James established the Town of St. James Stormwater Management Committee for effective management of stormwater issues, including meeting regulations. Specifically, the responsibilities of the Committee include the following:

“The Town of St. James Stormwater Management Committee (SWMC) will become knowledgeable on stormwater regulations so that effective communications can be maintained with Brunswick County, who has the responsibility for stormwater management compliance for the Town of St. James. (Brunswick County will continue to provide all necessary licensing and permitting.) The Committee is to network with other stormwater management organizations in Brunswick County and the region, as well as appropriate state agencies, to better understand the issues and regulations. The Committee will advise the Town Council on stormwater issues as appropriate or as requested. The SWMC will participate with Brunswick County, if requested by the Town of St. James, in the review of the Developer’s SWM Plan submitted to the State of North Carolina. The SWMC can advise on whether further technical review is warranted by a Consultant. The Committee will create liaison with Property Owners’ Association (POA) Architectural and Landscaping Committees on stormwater issues. The SWMC will institute educational measures for St. James residents and property owners on stormwater management which is part of the EPA and state mandates, and will become a focal point for stormwater-related information on items such as ponds, clean water, habitat, and pollution.”

5. Revise Section 6, page 11 to add the following to M. Fire/EMS:

The Town of St. James volunteer fire department is adding three additional bays to the existing station. Ambulance transport service was granted by the State and implemented in 2008.

6. Revise Section 6, page 12 to add the following **highlighted wording to **III. Policies/Implementing Actions**:**

A. Introduction

It is intended that the policies in this plan are consistent with the goals of CAMA. This plan will address the CRC management topics for land use plans and comply with all state and federal rules and regulations. The following will serve as a guideline to assist in assuring that this land use plan will guide the development and use of land in a manner that is consistent with the management goal(s), planning objective(s), and land use plan requirements of this plan. These policies/implementing actions will apply in the County as a whole and the participating municipalities, **unless a municipality is specifically exempted from the application of a policy or implementing action. Some policies and implementing actions are specific to a particular participating municipality.** **All policies/implementing actions shall be used for consistency review by appropriate state and federal agencies.**

7. Revise Section 6, page 22 to add the following highlighted wording to IV. Land Use Plan Management Topics.

A. Introduction

The purposes of the Coastal Resources Commission (CRC) management topics are to ensure that CAMA Land Use Plans support the goals of CAMA, to define the CRC's expectations for the land use planning process, and to give the CRC a substantive basis for review and certification of CAMA Land Use Plans. Each of the following management topics (Public Access, Land Use Compatibility, Infrastructure Carrying Capacity, Transportation, Natural Hazard Areas, Water Quality, and Local Areas of Concern) include three components: a management goal, a statement of the CRC's planning objective, and requirements for the CAMA Land Use Plan. These policies apply to the entire County and the participating municipalities, **unless a municipality is specifically exempted from the application of a policy or implementing action. Some policies and implementing actions are specific to a particular participating municipality.** Most of the policies and implementing actions are continuing activities. In most situations, specific timelines are not applicable. Refer to page 7-4 for a list of those policies/implementing actions which have a specific schedule. The policies and implementing actions frequently utilize the following words: should, continue, encourage, enhance, identify, implement, maintain, prevent, promote, protect, provide, strengthen, support, work. The intent of these words is defined in Appendix VIII. Please note: Policies and Implementing Actions are number consecutively throughout this document with the letter "P" denoting a policy and the letter "I" denoting an implementing action.

8. The Town of St. James supports most County-wide policies and implementing actions. However, the following policies and implementing actions are not applicable to the Town of St. James or should be modified/added to support St. James' goals and implementing actions.

B. Public Access

Add the following to Section 6, page 23, a. Management Goal:

The Town of St. James does not support public shoreline access within the "gated" portions of the Town.

Policies - Public Access:

The following Conservation policy specific to the Town of St. James should be added:

P.5a The Town of St. James supports the public access policies outside of the "gated" areas of the Town.

Implementing Actions - Public Access

The following Residential implementing actions specific to the Town of St. James should be added:

- I.5a The Town of St. James supports the public access implementing actions outside of the "gated" areas of the Town.

C. Land Use Compatibility

Policies – Residential:

The following Residential policy does not currently have an impact within the Town's jurisdiction:

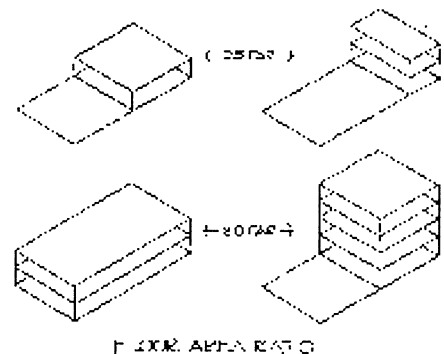
- P.11 Brunswick County and its participating municipalities will support redevelopment/revitalization in areas that have substandard housing conditions.

Implementing Actions – Residential

The following Residential implementing actions do not currently have an impact within the Town's jurisdiction:

- I.7 Brunswick County will explore different approaches to creating an ample workforce/affordable housing stock within the County. ***Schedule: Continuing Activity.***
- I.10 Brunswick County will review its UDO and its participating municipalities will review their UDO and zoning and subdivision ordinances and will consider establishing floor area ratio requirements to ensure that development is consistent with the density and intensity requirements of this plan. ***Schedule: Fiscal Year 2008-2009.***

Comment. Floor area ratio (FAR) is determined by dividing the gross floor area of all buildings on a lot by the area of that lot. The floor area ratio (FAR) was developed as a more refined and adaptable measure of intensity than building coverage. It expresses in one measure, instead of several, the mathematical relation between volume of building and unit of land. However, FAR cannot replace more traditional bulk controls entirely. Often, it is not a sufficient height control nor does it regulate the placement of the building on the site.



The following Residential implementing actions specific to the Town of St. James should be added:

- I.6a The Town of St. James will enforce/support its Unified Development Ordinance (UDO), adopted November 1, 2007, and as subsequently amended. **Schedule: Continuing Activity.**

- I.11a The Town of St. James, in conjunction with Brunswick County, will support development of a detailed Land Use Plan along the NC 211 corridor. Based on the plan, appropriate revisions will be made to the St. James UDO to support implementation of the plan. **Schedule: FY2009-2010.**

Policies – Commercial

The following Commercial policy does not currently have an impact within the Town’s jurisdiction:

- P.19 Brunswick County and its participating municipalities support utilization of office and institutional zoning/transitional overlay as a buffer between residential and commercial development.

Implementing Actions – Commercial

The following Commercial implementing action does not currently have an impact within the Town’s jurisdiction:

- I.20 Brunswick County will support commercial forestry activities, provided significant adverse impacts on natural resource systems are fully mitigated. Such activities should be considered in accordance with the standards and recommendations of the US Forest Service. The County also advocates the voluntary participation of commercial forestry interests in the State of North Carolina’s best management practice program for forestry management. **Schedule: Continuing Activity.**

The following Commercial implementing action specific to the Town of St. James should be added:

- I.20a The Town of St. James will enforce the tree preservation, protection and reforestation provisions of its UDO to regulate clear cutting within the Town’s planning jurisdiction. **Schedule: Continuing Activity.**

Policies – Industrial

The following Industrial policy does not currently have an impact within the Town’s jurisdiction:

- P.23 Brunswick County will support properly permitted mining activities within its borders.

Implementing Actions – Industrial

The following Industrial implementing actions do not currently have an impact within the Town's jurisdiction:

I.21 Brunswick County will undertake the following actions to educate and train its work force to support diverse industries:

- (1) Increase and enhance apprentice programs to target/improve the link between educational and vocational opportunities.
- (2) Cultivate relationships with the NC Employment Security Commission, Brunswick Community College, and other institutions to underwrite job training programs.
- (3) Seek industry/business support for apprenticeship programs.
- (4) Provide transportation for job training for those who need it.
- (5) Support existing apprenticeship and job sharing programs in Brunswick County schools.
- (6) Develop work training programs to better train work force.

Schedule: Continuing Activity.

I.23 Brunswick County and its participating municipalities allow industrial development within fragile areas and areas with low land suitability acceptable, only if the following conditions are met:

- (1) CAMA minor or major permits can be obtained (compliance with 15A NCAC 7H).
- (2) Applicable zoning ordinance provisions are met.
- (3) No industrial use will be permitted within coastal wetlands, estuarine waters, and public trust waters, unless such use is water-related and fully complies with 15A NCAC 7H.

This policy applies to both new industrial development and to expansion of existing industrial facilities. ***Schedule: Continuing Activity.***

I.26 In order to expand employment opportunities, Brunswick County will undertake the following:

- (1) Formulate and expand local incentives to attract industry.
 - Inventory unused business facilities.
 - Support County water and sewer systems and other infrastructure.
 - Support and enhance incubator program for startup businesses.
 - Identify and recruit industries that are compatible with and complement Brunswick County's geography, culture, and climate.
 - Create awareness of incentives for the employment of the elderly.

- (2) Encourage clean industry to locate in Brunswick County to promote a healthy environment.
 - Support businesses involved with computer software business, medical technology, and telecommunications.
 - Promote awareness of service industries catering to tourists' opportunities.

Schedule: Continuing Activity.

Policies – Conservation

The following Conservation policies do not currently have an impact within the Town's jurisdiction:

- P.33 Commercial forestry activities shall be supported in Brunswick County, provided significant adverse impacts on natural resource systems are fully mitigated.
- P.34 Mining activities that would jeopardize the short- or long-term viability of valuable natural resources or create hazardous conditions in the County shall not be permitted.

The following Conservation policy specific to the Town of St. James should be added:

- P.25a The Town of St. James will support the County's conservation policies/implementing actions and pursue independent local actions to protect wetlands and water quality, including educational programs.

Implementing Actions – Conservation

The following Conservation implementing actions do not currently have an impact within the Town's jurisdiction:

- I.29 Brunswick County will coordinate all housing code enforcement/redevelopment/public works projects with the NC Division of Archives and History to ensure preservation and identification of significant historic structures and archaeological sites. Significant heritage sites are identified on page 5-99 of this plan. ***Schedule: Continuing Activity.***
- I.39 Continue volunteer efforts through the NC Cooperative Extension Services to plant beach grass after beach replenishment. ***Schedule: Continuing Activity.***
- I.44 Brunswick County will continue to support the actions taken by Boiling Spring Lakes to respond to the Red Cockaded Woodpecker concern(s) and amend this plan as necessary in coordination with Boiling Spring Lakes to reflect actions to be taken by the Town to respond to the Red Cockaded Woodpecker infestation. ***Schedule: Continuing Activity.***

Implementing Actions – Stormwater Control

The following Stormwater Control implementing action specific to the Town of St. James should be added:

- I.49a The Town of St. James, through its Stormwater Management Committee, will continue to educate its residents about the importance of stormwater management. ***Schedule: Continuing Activity.***

D. Infrastructure Carrying Capacity

Implementing Actions - Infrastructure

The following Infrastructure implementing action does not currently have an impact within the Town's jurisdiction:

- I.66 Brunswick County will coordinate the development of recreational facilities with the school system. ***Schedule: Continuing Activity.***

E. Transportation

Implementing Actions - Transportation

The following Transportation implementing action should be added:

- I.79a The Town of St. James will continue to regulate reverse frontage lots through Article 14.7.3.D of its UDO. ***Schedule: Continuing Activity.***

F. Natural Hazard Areas

Implementing Actions - Natural Hazard Areas

The following Natural Hazard Areas implementing actions do not currently have an impact within the Town's jurisdiction:

- I.89 Brunswick County will revise and maintain local ordinances to oppose mooring fields. ***Schedule: Continuing Activity.***
- I.91 Brunswick County will consider mineral production and mining activities on a case by case review of economic benefits and environmental and land use impacts. ***Schedule: Continuing Activity.***

The following Natural Hazard Areas implementing action specific to the Town of St. James should be added:

- I.57a The Town of St. James will develop a specific wastewater strategy to continuously provide adequate capacity, quality, and efficiency for the Town. **Schedule: FY2009-2010 and continuing.**

G. Water Quality

Implementing Actions – Water Quality

The following Water Quality implementing action should be added for the Town of St. James:

- I.92a The Town of St. James will continue to support the Oyster Shell Recycling Program and the research/support activities of the UNCW Department of Biology and Marine Biology programs intended to support coastal water quality.

H. Areas of Local Concern

Policies - Cultural, Historical and Scenic Areas

The following Cultural, Historical and Scenic Areas policies do not currently have an impact within the Town's jurisdiction:

- P.102 Brunswick County supports preservation of historic sites, buildings, written records, and oral history.
- P.104 Brunswick County supports protection and preservation of the Green Swamp, which has both historic and environmental significance.
- P.105 The County supports local, state, and federal efforts to protect historic properties within its borders and to perpetuate its cultural heritage. Sites of historic significance are identified on page 5-99.

Policies - Economic Development

The following Economic Development policies do not currently have an impact within the Town's jurisdiction:

- P.109 Brunswick County will continue to encourage the development of a high quality tourism trade as a primary element of the County's economic future.
- P.111 Brunswick County will expand employment opportunities in all areas of the County.

P.114 Brunswick County supports the Town of Belville’s dedicated efforts to redevelop the Central Business District, as well as to codify its current zoning and subdivision ordinances and efforts to enhance the overall quality of life as it relates to land use planning for the citizens of Belville.

The following Economic Development policy specific to the Town of St. James should be added:

P.114a The Town of St. James will thoroughly assess and consider potential annexations, considering the impact of the potential annexation on the Town and the area to be annexed.

Implementing Actions - Economic Development

The following Economic Development implementing actions do not currently have an impact within the Town’s jurisdiction:

I.107 Brunswick County will continue to implement the following activities to support ecotourism:

- Promote ecotourism to enhance traditional tourism.
 - Develop brochures to publicize existing ecotourism/tourism attractions.
 - Publicize through multimedia to make ecotourism data available to the general public.
 - Form a relationship with local tourist development agencies to utilize their contacts and advertising media.
 - Identify and publicize ecotourism/agri-tourism attractions that could be successful in Brunswick County.
 - Work with NC Cooperative Extension to set up a task force to support the training of individuals in eco/agri-tourism.
- Promote new farm crops to develop alternate farming methods and make effective use of farmlands.
 - Encourage local restaurants to utilize local crops for their businesses.
 - Support a Farmers’ Market and Heritage Tourism.
 - Support NC Cooperative Extension’s efforts in development and implementation of alternative crops.
- Explore the potential of a County agricultural fair at multipurpose complex (a joint venture of Brunswick County and Brunswick Community College).
- Encourage private sector to develop adventure sports.
 - Promote adventure sport competitions.
- Explore opportunities to make commercial fishing more profitable.

Schedule: Continuing Activities.

I.110 Brunswick County will continue to support the activities of the North Carolina Division of Travel and Tourism; specifically, the monitoring of tourism-related

industry, efforts to promote tourism-related commercial activity, and efforts to enhance and provide shoreline resources. **Schedule: Continuing Activity.**

I.111 The County will support projects that will increase public access to shoreline areas. **Schedule: Continuing Activity.**

I.114 Brunswick County supports the following implementing actions for the Town of Belville:

- Incorporate the recommended Town of Belville Master Plan prepared by the Lawrence Group, to be approved in 2007 by the Belville Board of Commissioners. **Schedule: FY2007-2008.**
- Implement approved Belville Master Plan to the greatest extent that it is economically feasible for the citizens of the Town of Belville. **Schedule: Continuing Activity.**
- Re-codify the current zoning and subdivision ordinances, using the approved Town of Belville Master Plan as a guidance tool. **Schedule: Continuing Activity.**
- Incorporate smart growth and new urbanism land use principles as appropriate during the codification of the zoning and subdivision ordinances. **Schedule: Continuing Activity.**

The following Economic Development implementing action should be added for the Town of St. James:

I.114a The Town of St. James will explore the establishment of an extraterritorial jurisdiction following the 12/31/2009 expiration of Housing Bill 328. **Schedule: Continuing Activity.**

Implementing Actions - General Health and Human Service Needs

The following General Health and Human Service Needs implementing actions do not currently have an impact within the Town's jurisdiction:

- I.118 Brunswick County will improve the distribution of information on County programs through the following actions:
- Support a community relations office with staff.
 - Identify existing outlets that are accessible to all citizens to distribute information about County-wide services.
 - County government
 - Municipal governments

- Nonprofit and other civic organizations
- Create new outlets to distribute information on County-wide services.
 - Information center at the County government complex.
 - “How to/Where to” guide for County residents.
 - Create new outlets to distribute information on County-wide services.
 - Towns and County help each other in distribution of printed information and brochures.
 - Create a “County Corner” at public libraries where information is available to citizens.

Schedule: Continuing Activities.

- I.121 To effectively manage Brunswick County’s investment in existing and proposed community facilities and services, the County will:
- Develop a specific capital improvements plan (CIP) with emphasis placed on services and facilities which affect growth and development. ***Schedule: FY2009-2010.***
 - Provide the Brunswick County Board of Education with locational information on all residential development. ***Schedule: Continuing Activity.***

The following General Health and Human Service Needs implementing actions should be added:

- I.116a The Town of St. James supports the establishment of independent and assisted living facilities in the vicinity of the Town. ***Schedule: Continuing Activity.***
- I.121a The Town of St. James will support the development and operation of a community center. ***Schedule: Continuing Activity.***

Policies - Redevelopment

The following Redevelopment policy does not currently have an impact within the Town’s jurisdiction:

- P.129 Brunswick County supports repair and reconstruction of privately owned dwelling units through private funds and/or grants.

The following Redevelopment implementing action does not currently have an impact within the Town’s jurisdiction:

- I.122 Brunswick County will seek state and federal financial aid and technical assistance for community improvements. The County will apply for Community Development Block Grants and NC Housing Finance Agency grants for the rehabilitation of areas of substandard housing after identifying same. ***Schedule: Continuing Activity.***

9. Replace Table 68, Section 6, C. Future Land Use Acreages, page 74, with Table 68A as follows:

**Table 68A.
Town of St. James Future Land Use Acreages**

	Acres	% of Total
Commercial	74.67	1.4%
Low-Density Residential	3,287.80	61.8%
Medium-Density Residential	148.30	2.8%
Recreational/Open Space	1,321.88	24.9%
Total Acres in Parcels	4,832.65	90.8%
ROW, Non-Contiguous land, etc.	486.76	9.2%
Total Acres in Corp Limit	5,319.41	100.0%

*The acreages in this table assume total build-out of the attached future land use map.
Source: Holland Consulting Planners, Inc.

10. Replace Map 30, Section 6, page 79, with Map 30A.



Brunswick County Land Use Plan

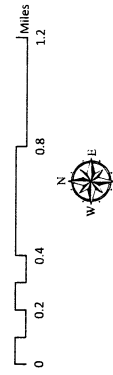
St. James

Future Land Use

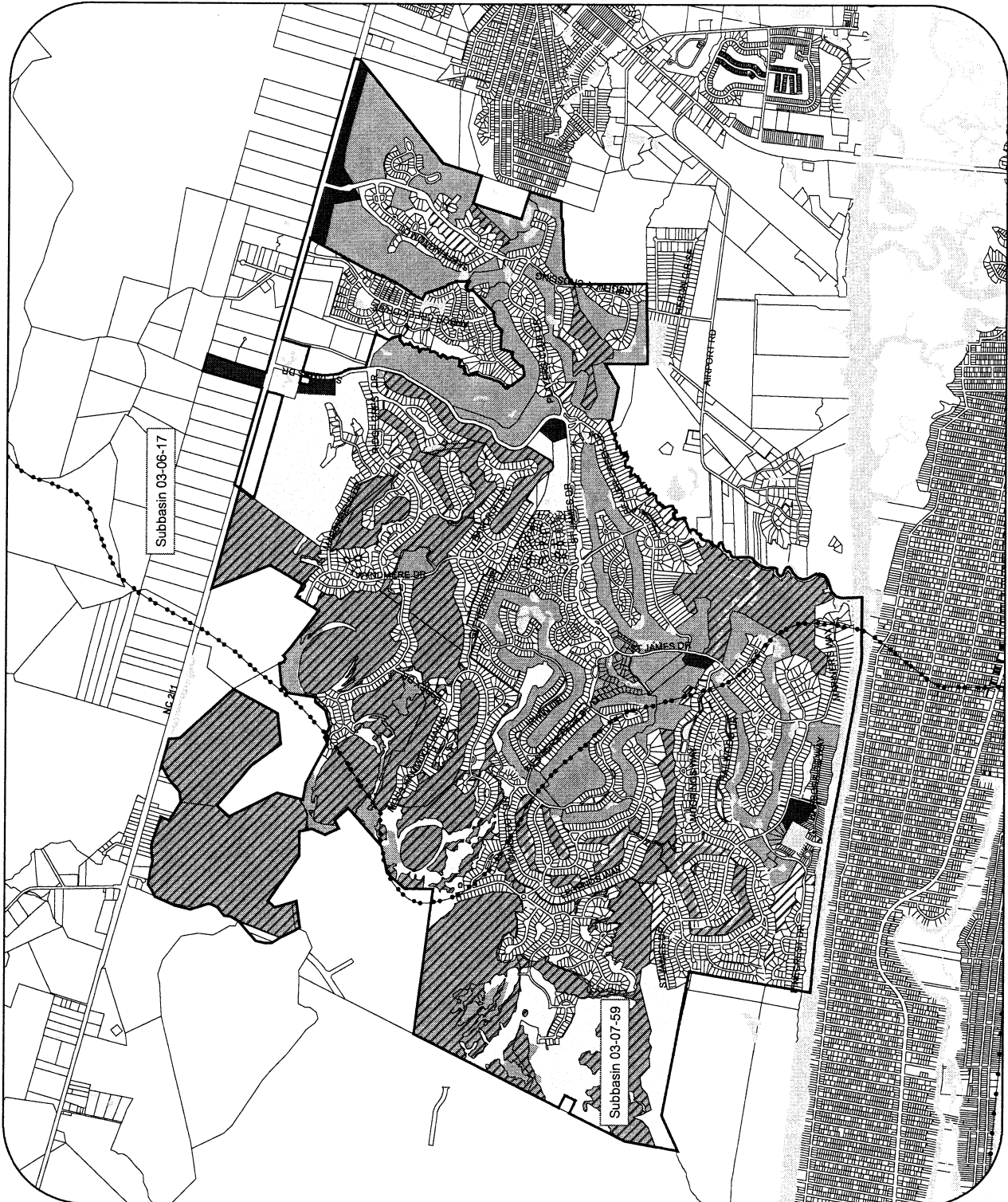
Legend

- Subbasins
- Hydrology
- St. James Corporate Limits
- Future Land Use**
- Commercial
- Recreation/Open Space
- LDR
- HDR
- Conservation/Preservation Easements Overlay

1 inch = 2,000 feet



The preparation of this map 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.



11. Replace Section 6, D. Locational Aspects of Land Use, 5. Town of St. James, pages 90 to 92, with the following:

5. Town of St. James

On November 1, 2007, the Town of St. James adopted a Unified Development Ordinance (UDO). In addition, on August 7, 2007 the Town established the St. James Planning Board which is responsible for making recommendations on zoning ordinance actions to the Town of St. James Town Council.

a. Commercial

The commercial land use in St. James is concentrated in the following locations: the entrances to St. James Harborside Village and Marina, west of St. James Drive near the main entrance, Regency Park entrance and NC 211, west of St. James Drive near Beaver Creek Drive intersection, the St. James Fire Station, and the town's property north of NC 211. Within the existing corporate limits, it is anticipated that future commercial land use will occur as the town extends its corporate boundaries.

Corresponding zoning districts: Commercial Low Density (CLD)
Commercial Neighborhood (CN)

Appropriate uses: Commercial uses appropriate for service to residential/neighborhood areas.

Inappropriate uses: High intensity commercial uses which generate large volumes of vehicular traffic and non-commercial uses.

Allowable densities: N/A

Maximum height: 40 feet.

Minimum lot size: 15,000 s.f.

b. Industrial

There is currently no industrial development within the Town of St. James. The Town of St. James UDO does not include an industrial zoning district.

c. Recreational/Open Space

Recreational land uses consist of golf courses and will be located in the same areas in the future. Open space, including some wetlands, are scattered in the recreational areas with concentrations occurring along creek and shoreline areas. Walking trails are provided throughout the community.

Corresponding zoning districts: Sports Club Overlay (SCO)
Existing Planned Unit Development (EPUD)

Appropriate uses: This is an open space category in which intensive building development is not allowed.

Inappropriate uses: Any intensive development.

Allowable densities: N/A

Maximum height: N/A

Minimum lot size: N/A

d. Residential

High Density Residential (HDR)

High density residential development is located in three locations within the Town: in the Center of Town largely south of the St. James Drive - Members Club Drive intersection, the marina area, and scattered sites in the western undivided areas of the Town.

Corresponding zoning districts: Multi-Family Residential (MR and MR-CD)

Appropriate uses: Land for high density residential uses.

Inappropriate uses: Non-high density residential uses.

Allowable densities: Up to 10 dwelling units/gross acre.

Maximum height: 40 feet.

Minimum lot size: 5 acres.

Low Density Residential (LDR)

Low density development is the predominant land use within St. James and is scattered throughout the Town.

Corresponding zoning district: Existing Planned Unit Development (EPUD)

Appropriate uses: Single-family residential.

Inappropriate uses: All non single-family residential.

Allowable densities: Approximately 5 dwelling units/acre

Maximum height: 40 feet detached single-family, 30 feet single-family attached and zero lot line.

Minimum lot size: 7,500 s.f.

NOTE: The St. James Future Land Use Map includes a conservation/preservation overlay. This overlay delineates areas which are controlled by easements and/or deed restrictions which permanently prohibit development of the property. Easements shown on the map include 1,666.47 acres. The agreements have been imposed in concert with a number of various agencies/organizations such as the St. James Property Owners Association, the North American Land Trust, the US Army Corps of Engineers, and the North Carolina Department of Transportation.

12. Section 6, page 95, delete 'St. James' from the title of Table 70.

13. Section 6, page 97, add Table 74A as follows:

Table 74A. Future Land Use Plan Compatibility Matrix - Town of St. James
Consistency Review of Future Land Use Map Designations and Existing Zoning Districts

Zoning Districts	EPUD	MR	MR-CD	CLD	CN	SCO
Min. Lot Size (SF)	7,500 s.f.	5 acres	5 acres	15,000 s.f.	15,000 s.f.	N/A
Max. Bldg. Height (ft.)	40	40	40	40	40	N/A
Designations - Average Density (du per acre)						
Commercial - 0	x	x	x	g	g	x
Low Density Residential - 5	g	x	x	x	x	x
High Density Residential - up to 10	x	g	g	x	x	x
Recreation/Open Space - 0	g	g	g	g	g	g

g = generally consistent; c = conditionally consistent; x = inconsistent

Note 1: 8,000 s.f. per dwelling unit for the first two dwelling units and 5,000 s.f. for each additional dwelling unit.

14. Section 7, page 7, add Table 85A as follows:

Table 85A. Town of St. James Policy Analysis Matrix - Land Use Plan Management Topics

Management Topics	Policy Benchmarks – Indicate whether the policy is beneficial (B), neutral (N), or detrimental (D)					
	Public Access	Land Use Compatibility	Infrastructure Carrying Capacity	Natural Hazards	Water Quality	Local Concerns
<p>Land Use and Development Policies</p> <ul style="list-style-type: none"> • more planned access locations • upgrades to existing access locations • increase pedestrian access • comply with state access standards to enhance opportunities for state funding 	<ul style="list-style-type: none"> • reduction in habitat loss and fragmentation related to impacts of land use and development • reduction of water resource and water quality degradation • balance growth demands with protection of the environment 	<ul style="list-style-type: none"> • water, sewer, and other key community facilities and services being available in required locations at adequate capacities to support planned community growth and development patterns • during construction of infrastructure systems, AECs and other fragile areas should be protected • transportation improvements should support the efficiency of traffic flow and pedestrian safety 	<ul style="list-style-type: none"> • land uses and development patterns that reduce vulnerability to natural hazards • land uses and development patterns that take into account the existing and planned capacity of evacuation infrastructure • minimize development in floodplains, AECs, wetlands, and other fragile areas 	<ul style="list-style-type: none"> • land use and development criteria and measures that abate impacts that degrade water quality • coordinate water quality efforts with Brunswick County 	<ul style="list-style-type: none"> • preservation of cultural, historic, and scenic areas • support of economic development • development of human resources • preservation of the County's rural character • decrease residential density within County 	
Public Access: P.5a	N	N	N	N	N	N
Land Use Compatibility: P.25a	N	B	B	B	B	B
Local Concerns: P.114a	N	B	B	B	B	B

EXHIBIT B

- **SECTION 5.V.A:**

- A. **Brunswick County Unified Development Ordinance**

As stated above, the Brunswick County Unified Development Ordinance (UDO) became effective on May 1, 2007. It contains the criteria for use of all land throughout Brunswick County along with requirements for zoning districts, design and performance standards, landscaping and buffering, subdivision standards, flood damage prevention, and signs. The County has a central permitting office and planning department to oversee the enforcement of the UDO.

Table 60 and Map 24 provide the location and acreage figures of all zoning districts within Brunswick County. The two largest zoning districts within the County are Rural **Low Density** Residential and R-7500 Residential. These two districts account for 73.9% of the County's land that is not included within a municipality's corporate limits or extraterritorial jurisdiction. For a detailed explanation regarding what uses and densities are permitted in each of the districts identified below, please refer to the Brunswick County Unified Development Ordinance, which can be viewed on the web at <http://www.brunsko.net>.

Table 60.
Brunswick County - Zoning

<u>Districts</u>	<u>Acres</u>	<u>% of Total</u>
Commercial Intensive	6,809.6	1.4%
Neighborhood Commercial	583.6	0.1%
Commercial Low Density	10,645.2	2.3%
Conservation and Protection	59,436.8	12.6%
Industrial - General	11,832.0	2.5%
Military Installation	11,776.2	2.5%
MR-3200 High Density Residential Multifamily	685.5	0.1%
R-6000 Residential	13,722.1	2.9%
R-7500 Residential	73,792.8	15.7%
Rural Residential	273,451.2	58.2%
SBR-6000 Residential	7,406.9	1.6%
<i>Total</i>	<i>470,141.9</i>	<i>100.0%</i>

EXHIBIT C

▪ **SECTION 6.V.C (TABLE 64):**

C. FUTURE LAND USE ACREAGES

The following tables summarize the future land use acreages for Brunswick County and its participating municipalities. The future land use plan maps (pages 6-75 to 6-80) depict areas for development which are generally consistent with the land suitability analysis (Map 20, page 5-103). No known conflicts exist between the future land use map and the land suitability analysis map. Transitional buffers are encouraged between areas of conflicting land use. All future land use acreages are based on suitability of land for development and not forecast market demand for future acreages. The land uses in each of these areas have been coordinated with each local governments' zoning classifications. The zoning classifications specify allowable uses for each land use category. Refer to each local governments' tool for guiding land development for a specific listing of allowable uses in each district. A complete list of the land use categories utilized on the future land use map, the zoning classifications that should be included in each category, and the assumed development patterns that are to occur in the County and each participating municipalities are provided in Section 6.V.D. These categories are intrinsically tied to the policy section of the plan.

Table 64.
Brunswick County Future Land Use Acreages

	Acres	% of Total
Commercial	11,459.86	2.4%
Community Commercial	4,823.95	1.0%
Conservation	185,899.60	39.4%
High-Density Residential	931.02	0.2%
Industrial	16,422.05	3.9%
Low-Density Residential	193,462.00	41.0%
Medium-Density Residential	27,057.11	5.7%
Military	5,147.20	1.3%
Mixed Use	5,713.14	1.2%
Protected Lands	13,731.36	2.9%
Recreation	672.02	0.1%
TOTAL	471,329.35	100.0%

* The acreages in this table assume total build-out of the attached future land use map.
 NCTE: The acreages included only the unincorporated areas of the County.
 Source: Holland Consulting Planners, Inc.

▪ **SECTION 6.V.D:**

D. LOCATIONAL ASPECTS OF LAND USE

1. **Brunswick County...**

a. through d. [No Change]

e. Residential

Residential land uses have been divided into three separate land use categories based on associated variable residential densities. These categories include high, medium, and low density residential. The location of residential land uses by density was based on existing residential development patterns and constraints to development (i.e. floodplains and wetlands).

High Density Residential - Multifamily Residential

Corresponding zoning districts: MR-3200, Multifamily Residential.

Appropriate uses: Multifamily, cottage developments, parks, places of worship, and government buildings.

Inappropriate uses: Commercial and industrial uses.

**Allowable densities: MR-3200 6.2 units/acre (without water/wastewater)
13.6 units/acre (with water/wastewater)**

Maximum height: 50 feet.

**Minimum lot size: MR-3200 7,000 s.f. per duplex (without
water/wastewater)**

**6,400 s.f. per duplex (with
water/wastewater)**

**3,200 s.f per dwelling unit for all other Multifamily
structures (with water/wastewater)**

High Density Residential - Single Family Residential

Corresponding zoning districts: MR-3200, Multifamily Residential.

R-6000, High Density Residential

SBR-6000, High Density Site Built Residential

Appropriate uses: Residential uses other than single-family, high intensity single-family, multifamily, cottage developments, parks, places of worship, government buildings and in R-6000, High Density Residential, single-wide and double-wide manufactured homes.

Inappropriate uses: Commercial and industrial uses.

**Allowable densities: MR-3200 6.2 units/acre (without water/wastewater)
13.6 units/acre (with water/wastewater)**

**R-6000 4.4 units/acre (without water/wastewater)
7.3 units/acre (with water/wastewater)**

**SBR-6000 4.4 units/acre (without water/wastewater)
7.3 units/acre (with water/wastewater)**

Maximum height: 50 40 feet.

Minimum lot size: ~~MR-3200 7,000 s.f. per dwelling unit (without water/wastewater)~~
~~3,200 s.f. per dwelling unit (with water/wastewater)~~
~~9,000s.f. per dwelling unit (duplex with water/wastewater)~~
R-6000 10,000 s.f. (without water/wastewater)
6,000 s.f. (with water/wastewater)
SBR-6000 10,000 s.f. (without water/wastewater)
6,000 s.f. (with water/wastewater)

Medium Density Residential

Corresponding zoning districts: ~~R-6000, Medium Density Residential SBR-6000, Medium Density Site Built Residential~~ R-7500, Medium Density Residential

Appropriate uses: Emergency shelters, places of worship, parks, single-family residences, multifamily residences in some instances, and **double-wide** manufactured homes. ~~Please note that not every use listed above is permitted in both districts.~~

Inappropriate uses: Commercial uses and industrial operations.

Allowable densities: ~~4.4 2.9~~ units/acre (without water/wastewater)
~~7.3 5.8~~ units/acre (with water/wastewater)

Maximum height: 40 feet.

Minimum lot size: ~~10,000 15,000~~ s.f. (without water/wastewater)
~~6,000 7,500~~ s.f. (with water/wastewater)

Low Density Residential

Corresponding zoning district: RR, Rural Low Density Residential
~~R-7500, Low Density Residential~~

Appropriate uses: Agricultural uses, single-family residences, multi-family residences in certain cases, **single-wide and double-wide manufactured homes**, emergency shelters, parks, and places of worship.

Inappropriate uses: Commercial uses and industrial operations.

Allowable densities: RR 2.2 units/ acre (without water/wastewater)
2.9 units/acre (with water/wastewater)
R-7500 2.9 units/ acre (without water/wastewater)
5.8 units/acre (with water/wastewater)

Maximum height: 40 feet.

Minimum lot size: RR 20,000 s.f. (without water/wastewater)
15,000 s.f. (with water/wastewater)
22,500 s.f. (duplex with water/wastewater)
~~R-7500 15,000 s.f. (without water/wastewater)~~
~~7,500 s.f. (with water/wastewater)~~

f. Military

The intent of this designation is to recognize military installations within Brunswick County. As federal property, these areas are not subject to local development requirements. However, upon certification of the Land Use Plan and acceptance by OCRM, local policy becomes state policy that can influence federal licensing and other federally funded activities including those associated with the military. Such activities are usually required to go through the federal consistency process which includes state review that would include consulting the local Land Use Plan.

In addition to the zoning classifications identified above, the County utilizes six overlay districts. An explanation of the use of those districts is provided below.

ED Economic Development: This district is intended to provide locations for a wide range of agricultural industry, light and heavy manufacturing, office, institutional and research uses with no adverse impacts beyond the space occupied by the use. The Economic Development Overlay District shall only be applied to lands in close association with those Major Thoroughfares identified in the Major Thoroughfare Plan, and over lands in the **RU** **RR** - Rural **Low Density Residential** Zoning District. This district is designed to support specific public policy objectives stated in the Coastal Area Management Act Land Use Plan.

EXHIBIT D

▪ **TABLE 70:**

**Table 70. Future Land Use Plan Compatibility Matrix - Brunswick County and St. James
Consistency Review of Future Land Use Map Designations and Existing Zoning Districts**

Zoning Districts	CLD	NC	CI	I-RU	IG	MR-3200	R-6000	SBR-6000	RR	R-7500	CP
Minimum Lot Size	Note 1	15,000	Note 2	100 acres	1 acre	Note 3	Note 4	Note 4	Note 5	Note 6	5 acres
Max. Bldg. Height	40	40	40	40	40	50	40	40	40	40	40
Designations - Average Density (du per acre)											
Commercial/Community Commercial/Service - 3-5	g	g	g	x	x	c	c	c	x	g	x
Industrial - 1	x	x	x	g	g	x	x	x	x	x	x
Mixed Use - 2-8	c	c	c	x	x	g c	g	g	x	g	x
High Density Residential Multifamily - Max. 13	x	x	x	x	x	g	c	c	c	c	x
High Density Residential Single Family - 6-13	c	c	c	x	x	g c	e g	e g	x	c	x
Med. Density Residential - 4-7	x	x	x	x	x	c	g c	g c	x	* g	x
Low Density Residential	x	x	x	x	x	x	x	x	g	* c	x
Conservation/Protected Lands - 1/5	x	x	x	x	x	x	x	x	* c	x	g
Military	x	x	x	x	x	x	x	x	x	x	x

g = generally consistent; c = conditionally consistent; x = inconsistent

Note 1: 15,000 s.f. without water/wastewater; 7,500 s.f. with water/wastewater.

Note 2: 20,000 s.f. without water/wastewater; 10,000 s.f. with water/wastewater.

Note 3: 7,000 s.f. without water/wastewater; 3,200 s.f. with water/wastewater; 9,900 s.f. duplex with water/wastewater.

Note 4: 7,000 s.f. per duplex (without water/wastewater); 6,400 s.f. per duplex (with water/wastewater); 3,200 s.f. per dwelling unit for all other Multifamily structures (with water/wastewater).

Note 5: 10,000 s.f. without water/wastewater; 6,000 s.f. with water/wastewater.

Note 6: 20,000 s.f. without water/wastewater; 15,000 s.f. with water/wastewater; 22,500 s.f. duplex with water/wastewater.

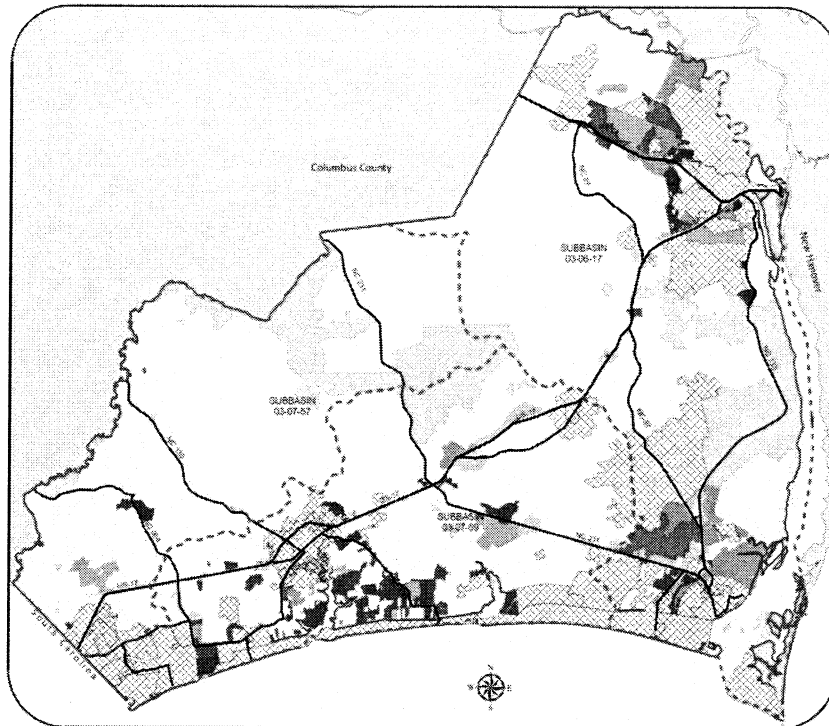
Note 7: 15,000 s.f. without water/wastewater; 7,500 s.f. with water/wastewater

BRUNSWICK COUNTY CAMA CORE LAND USE PLAN MAP AMENDMENTS

- **LAND USE PLAN MAP AMENDMENT (LUM-597) FOR REZONING CASE Z-597:**
Request to amend the Official Brunswick County Land Use Plan Map from CC (Community Commercial) to Commercial for Tax Parcel 0380002301 located on Blackwell Rd (SR 1551) near Leland, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-598) FOR REZONING CASE Z-598:**
Request to amend the Official Brunswick County Land Use Plan Map from LDR (Low Density Residential) to Commercial for a portion of Tax Parcels 08400028 and 08400064 located on Ocean Highway (US 17).
- **LAND USE PLAN MAP AMENDMENT (LUM-602) FOR REZONING CASE Z-602:**
Request to amend the Official Brunswick County Land Use Plan Map from Conservation to Industrial for Tax Parcels 01400008 and 0140000801 located off Andrew Jackson Hwy (US 74/76) near Leland NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-603) FOR REZONING CASE Z-603:**
Request to amend the Official Brunswick County Land Use Plan Map from MDR (Medium Density Residential) to Commercial for Tax Parcels 1850001611 and 1850001649 located at 960 Southport-Supply Road (NC 211) near Supply, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-604) FOR REZONING CASE Z-604:**
Request to amend the Official Brunswick County Land Use Plan Map from MDR (Medium Density Residential) to Commercial for Tax Parcels 1680011201, 1680011002, & 16800112 located near Supply, NC.
- **LAND USE PLAN AMENDMENT (LUM-607) FOR REZONING CASE Z-607:** Request to amend the Official Brunswick County Land Use Plan Map from MDR (Medium Density Residential) to Commercial for Tax Parcels 243IB073 & 243IB07201 located near Ocean Isle Beach, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-609) FOR REZONING CASE Z-609:**
Request to amend the Official Brunswick County Land Use Plan Map from Industrial to Commercial for a portion of Tax Parcel 04700039 located on Ocean Highway (US 17).
- **LAND USE PLAN MAP AMENDMENT (LUM-610) FOR REZONING CASE Z-610:**
Request to amend the Official Brunswick County Land Use Plan Map from MDR (Medium Density Residential) to Commercial for a portion of Tax Parcel 1860000103 located at 1575 Clemson Rd (SR 1505) and off Southport-Supply Road (NC 211) near Supply, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-613) FOR REZONING CASE Z-613:**
Request to amend the Official Brunswick County Land Use Plan Map from MDR (Medium Density Residential) to Commercial for Tax Parcels 1990000501 and 1990019206 located on Holden Beach Road (NC 130) near Shallotte, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-614) FOR REZONING CASE Z-614:**
Request to amend the Official Brunswick County Land Use Plan Map from LDR (Low Density Residential), MDR (Medium Density Residential), and Commercial to Mixed-Use for Tax Parcels a portion of 1690001301, 1690001302, 18500015, a portion of 18500016, 1850001501, 1850001502, 1850001506, 1850001507, 1850001601, 1850001602, 1850001605, 1850001606, 1850001607, 1850001608, 1850001609, 1850001610, 1850001611, 1850001628, 1850001629, 1850001648, 1850001649, and 1850001650 located off Southport-Supply Road (NC 211), Old Lennon Road (SR 1504), and Hewettown Road (SR 1178) near Supply, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-615) FOR REZONING CASE Z-615:**
Request to amend the Official Brunswick County Land Use Plan Map from MDR (Medium Density Residential) to Community Commercial Tax Parcels 0470002010 and 0470002013, located at 8311 Clay Road, off Lanvale Road (SR 1438) near Leland, NC

- **LAND USE PLAN MAP AMENDMENT (LUM-619) FOR REZONING CASE Z-619:**
Request to amend the Official Brunswick County Land Use Plan Map from LDR (Low Density Residential) to Commercial for Tax Parcel 1850001001 located at 1597 Southport-Supply Road (NC 211) near Deer Trot Road near Supply, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-620) FOR REZONING CASE Z-620:**
Request to amend the Official Brunswick County Land Use Plan Map from LDR (Low Density Residential) to MDR (Medium Density Residential) Tax Parcel 1680001906, located on Stone Chimney Road (SR 1115) near Supply, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-621) FOR REZONING CASE Z-621:**
Request to amend the Official Brunswick County Land Use Plan Map from MDR (Medium Density Residential) to LDR (Low Density Residential) Tax Parcels 13900059, 1390005901, and 1390005903, located on Old Ocean Highway (Old US 17) near Bolivia, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-622) FOR REZONING CASE Z-622:**
Request to amend the Official Brunswick County Land Use Plan Map from LDR (Low Density Residential) to Commercial for a portion of Tax Parcel 24400007 located Beach Drive (NC 179) near Ocean Isle Beach, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-625) FOR REZONING CASE Z-625:**
Request to amend the Official Brunswick County Land Use Plan Map from LDR (Low Density Residential) to Industrial, for a portion of Tax Parcel 18200092, located at 197 Barnhill Road off Ocean Highway (US 17) near Shallotte, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-626) FOR REZONING CASE Z-626:**
Request to amend the Official Brunswick County Land Use Plan Map from LDR (Low Density Residential) to Industrial, for Tax Parcels 18200091 and 1820009303, located at 180 Barnhill Road off Ocean Highway (US 17) near Shallotte, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-627) FOR REZONING CASE Z-627:**
Request to amend the Official Brunswick County Land Use Plan Map from LDR (Low Density Residential) to Commercial for Tax Parcels 2250002913 and 22500028, located on Hickman Road (SR 1303) and Green Pastures Lane near Carolina Shores, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-630) FOR REZONING CASE Z-630:**
Request to amend the Official Brunswick County Land Use Plan Map from MDR (Medium Density Residential) to Commercial, Tax Parcel 221HE045, located at 4876 Coastal Drive off Long Beach Road (NC 133) near Southport, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-632) FOR REZONING CASE Z-632:**
Request to amend the Official Brunswick County Land Use Plan Map from LDR (Low Density Residential) to CC (Community Commercial) for Tax Parcels 2430000602, 2430000610, 2430000611, and 2430000612, located at 1681 Buck Thorpe Road, off Beach Drive (NC 179) near Ocean Isle Beach, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-634) FOR REZONING CASE Z-634:**
Request to amend the Official Brunswick County Land Use Plan Map from Industrial to Commercial for Tax Parcels 02200024 and 0280000101 located on Andrew Jackson Highway (US 74/76) near Leland, NC.
- **LAND USE PLAN MAP AMENDMENT (LUM-635) FOR REZONING CASE Z-635:**
Request to amend the Official Brunswick County Land Use Plan Map from LDR (Low Density Residential) to Commercial Tax Parcel 2260000102 located on Thomasboro Road (SR 1165) near Carolina Shores, NC.
- **LAND USE PLAN MAP AMENDMENT LUM-33:** Request to amend the Official Brunswick County Land Use Plan Map from Industrial to LDR (Low Density Residential) for a portion of 02200022, 0220002202, 0220002203, a portion of 0220002204, a portion of 0220002208, a portion of 0220002214, 022JA001, 022JA00101, 022JA002, 022JA003, 022JA004, 022JA005, 022JA006, a portion of 022JA007, a portion of 022JA020, 022JA021, 022JA022, 022JA023, 022JA024, 022JA025, 022JA026, a portion of 022JB014, a portion of 022JB015, a portion of 022JB016, a portion of 022JB017, a portion of 022JB018, a portion of 022JB019, a portion of 022JB020, and a portion of 022JB021 located on Compass Pointe East Wynd off Andrew Jackson Highway (US 74/76) near Leland, NC.

- **LAND USE PLAN MAP AMENDMENT (LUM-636) FOR REZONING CASE Z-636:**
Request to amend the Official Brunswick County Land Use Plan Map from LDR (Low Density Residential) to Commercial for a portion of Tax Parcel 24400007, located on Beach Drive (NC 179) near Ocean Isle Beach, NC.
- **ZONING MAP (MAP 24):**



160P-24

**Brunswick County
Land Use Plan**

Zoning

Legend

- Brunswick County
- NC County Boundaries
- Unincorporated Areas
- Railroads
- NC EXZP Primary Roads

Zoning Classification

- Commercial-Interchange
- Neighborhood Commercial
- Commercial-Low Density
- Industrial-General
- Military-Installation
- R-6000
- R-7500
- MA-1200
- SBP-6000
- Rural Low Density Residential
- Conservation and Protection

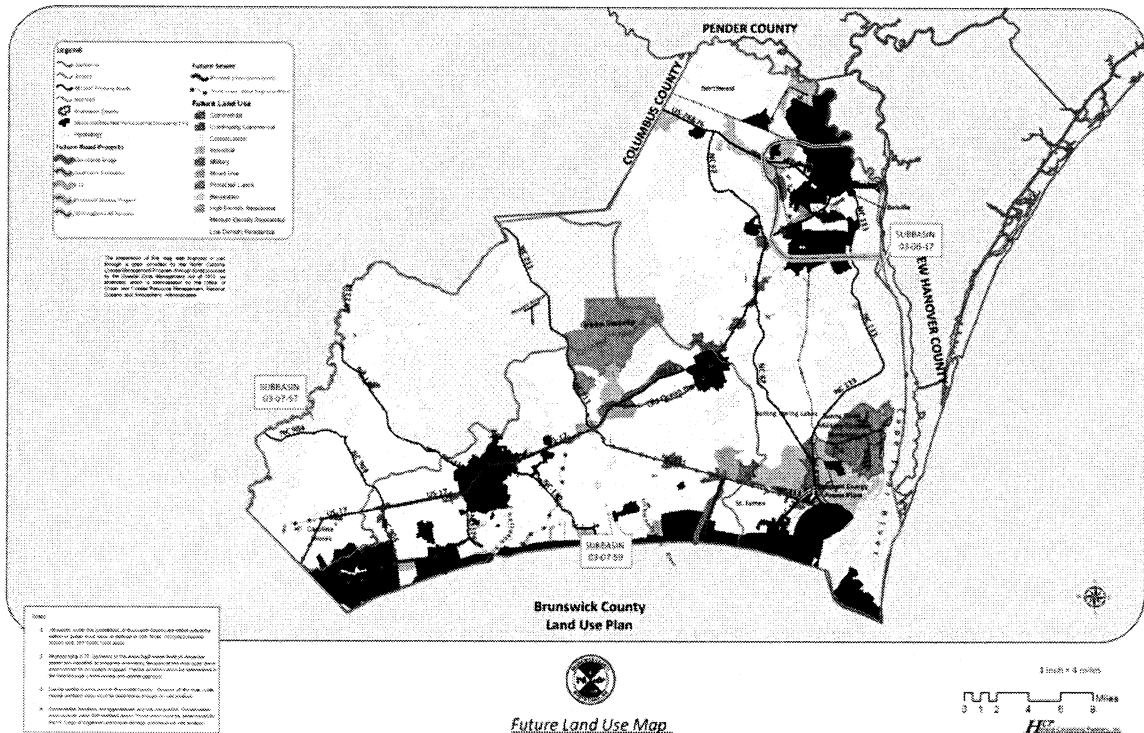
1 inch = 15,500 feet

The preparation of this map 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.

HCP
Herring Consulting Partners, Inc.

Section 9, Page 226

- **FUTURE LAND USE MAP (MAP 26):**



NOTE:

1. Although used for the purposes of Brunswick County, this future land use map is not intended to be used for any other purpose.
2. The future land use map is not intended to be used for any other purpose.
3. The future land use map is not intended to be used for any other purpose.
4. The future land use map is not intended to be used for any other purpose.

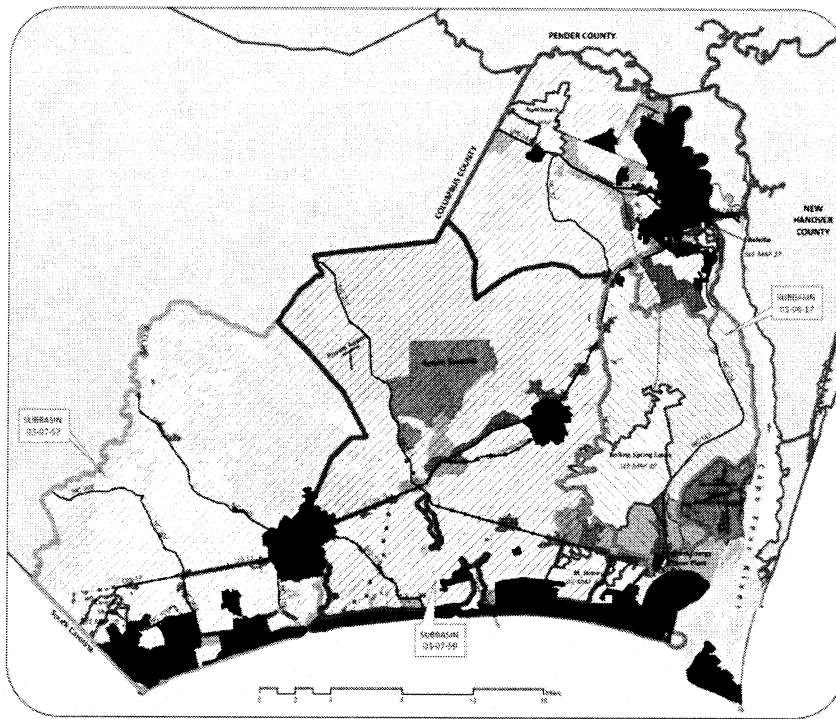
**Brunswick County
Land Use Plan**

Future Land Use Map


1 inch = 4 miles

HCP
Herring Consulting Partners, Inc.

▪ **COMPREHENSIVE WASTEWATER SERVICE AREA MAP (MAP 32):**



MAP 32



**Brunswick County
Land Use Plan
(Future Land Use)
Comprehensive Wastewater
Service Area**

Legend

	Region		Future Land Use
	Processing, Manufacture		Residential
	Heavy Industrial, Air Pollution Control, etc.		Medium Density Residential
	Air Pollution Control		General Use
	Airport		Industrial
	Airport		Office
	Airport		Open Space
	Airport		Recreation
	Airport		High Density Residential
	Airport		Medium Density Residential
	Airport		Low Density Residential
	Airport		Future Sewer
	Airport		Sewer Collection and Distribution
	Airport		Sewer Treatment Plant

N
E
S
W

The preparation of this map 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.

1 inch = 20,125 feet

HC
Harris Consulting Engineers, Inc.

Section 6, Page 104



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

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

MEMORANDUM

CRC-09-37

To: The Coastal Resources Commission
From: Maureen Meehan Will, Morehead City District Planner
Date: October 15, 2009
Subject: Certification of the Town of Swansboro Core Land Use Plan (October 30, 2009 CRC Meeting)

Staff Recommendation: Certification of the Town of Swansboro Core LUP based on the determination that the document has met the substantive requirements outlined within the 2002 7B Land Use Plan Guidelines and that there are no conflicts evident with either state or federal law or the State's Coastal Management Program.

A copy of the plan and executive summary can be found on the Division of Coastal Management's website at the following link:
http://www.nccoastalmanagement.net/Planning/under_review.htm

Overview

The Town of Swansboro is located in Onslow County and is adjacent to the White Oak River. Swansboro is in close proximity to both Camp Lejeune, in Jacksonville and the barrier islands of Carteret County. Highway 24 runs through the town and is the main east-west corridor through the coastal area.

The historic downtown is located on the White Oak River with lower density residential and agricultural uses within the outer limits of the town. Commercial development is located in the downtown and along the Highway 24 corridor. There are recreational amenities throughout the town with several public water accesses along the river.

The town's vision focuses on maintaining a waterfront historic village with moderate, environmentally sound, and economically feasible growth. The policy statements and future land use map will guide development in an orderly pattern where public facilities are available.

The following policy statements exceed the minimum State (CRC) permitting rules:

Policy 78, page 134 - *"Swansboro opposes the location of floating homes within its jurisdiction."*

Policy 94, page 136 - *"Swansboro opposes the location of marinas in primary nursery areas."*

The following policy statements do not exceed the State permitting rules, but are of significance to the town:

Policy 42, page 127 - *“Swansboro will discourage major extension of water and sewer services in a manner that could result in scattered development and/or costly extension of municipal services.”*

Policy 88, page 135 - *“Swansboro opposes the construction of package treatment plants within the Town’s incorporated areas.”*

The Town of Swansboro Board of Commissioners adopted the land use plan by resolution, on September 15, 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.

If there are any questions about the plan please feel free to contact me by phone at 252-808-2808 or email at maureen.will@ncdenr.gov.

MATRIX OF REQUIRED ELEMENTS

CAMA CORE LAND USE ELEMENT	ELEMENT DISCUSSED
(a) Organization of the Plan	page i and 1
(b) Community Concerns and Aspirations (1) Significant Existing and Emerging Conditions	page 5-9
(2) Key Issues	page 5-9
(3) A Community Vision	page 10
(c) Analysis of Existing and Emerging Conditions (1) Population, Housing, and Economy (A) Population: (i) Permanent population growth trends using data from the two most recent decennial Censuses; (ii) Current permanent and seasonal population estimates; (iii) Key population characteristics; (iv) Age; and (v) Income	pages 11-15 page 11 pages 12-14 page 13-14 page 21
(B) Housing Stock: (i) Estimate of current housing stock, including permanent and seasonal units, tenure, and types of units (single-family, multi-family, and manufactured); and (ii) Building permits issued for single-family, multi-family, and manufactured homes since last plan update	pages 16-20 page 18
(C) Local Economy	pages 21-25
(D) Projections	page 25
(2) Natural Systems Analysis (A) Mapping and Analysis of Natural Features (i) Areas of Environmental Concern (AECs); (ii) Soil characteristics, including limitations for septic tanks, erodibility, and other factors related to development; (iii) Environmental Management Commission water quality classifications and related use support designations, and Division of Environmental Health shellfish growing areas and water quality conditions; (iv) Flood and other natural hazard areas; (v) Storm surge areas; (vi) Non-coastal wetlands including forested wetlands, shrub-scrub wetlands, and freshwater marshes; (vii) Water supply watersheds or wellhead protection areas; (viii) Primary nursery areas, where mapped; (ix) Environmentally fragile areas; and (x) Additional natural features or conditions identified by the local government.	pages 26-51 pages 35-40 pages 32-34 pages 41-44 pages 27-28 pages 29-31 pages 37-38 page 35 page 35 page 38

CAMA CORE LAND USE ELEMENT	ELEMENT DISCUSSED
(B) Composite Map of Environmental Conditions: <ul style="list-style-type: none"> (i) Class I (ii) Class II (iii) Class III 	pages 44-46
(C) Environmental Conditions <ul style="list-style-type: none"> (i) Water Quality: <ul style="list-style-type: none"> (I) Status and changes of surface water quality, including impaired streams from the most recent NC Division of water Quality Basinwide Water Quality Plans, 303(d) List and other comparable data; (II) Current situation and trends on permanent and temporary closures of shellfishing waters as determined by the Report of Sanitary Survey by the Shellfish Sanitation Section of the NC Division of Environmental Health; (III) Areas experiencing chronic wastewater treatment system malfunctions; and (IV) Areas with water quality or public health problems related to non-point source pollution (ii) Natural Hazards: <ul style="list-style-type: none"> (I) Areas subject to storm hazards such as recurrent flooding, storm surges, and high winds; (II) Areas experiencing significant shoreline erosion as evidenced by the presence of threatened structures or public facilities; and (III) Where data is available, estimates of public and private damage resulting from floods and wind that has occurred since the last plan update (iii) Natural Resources: <ul style="list-style-type: none"> (I) Environmentally fragile areas or areas where resource functions may be impacted as a result of development; and (II) Areas containing potentially valuable natural resources 	pages 47-51
(3) Analysis of Land Use and Development	pages 51-58
(A) A map of land including the following: residential, commercial, industrial, institutional, public, dedicated open space, agriculture, forestry, confined animal feeding operations, and undeveloped;	page 53
(B) The land use analysis shall including the following: <ul style="list-style-type: none"> (i) Table that shows estimates of the land area allocated to each land use; (ii) Description of any land use conflicts; (iii) Description of any land use-water quality conflicts; 	page 54 pages 54-55 pages 56-58

CAMA CORE LAND USE ELEMENT	ELEMENT DISCUSSED
<ul style="list-style-type: none"> (iv) Description of development trends using indicators; and (v) Location of areas expected to experience development during the five years following plan certification by the CRC and a description of any potential conflicts with Class II or Class III land identified in the natural systems analysis 	<p>page 55 page 55</p>
<ul style="list-style-type: none"> (C) Historic, cultural, and scenic areas designated by a state or federal agency or by local government 	<p>page 56</p>
<ul style="list-style-type: none"> (D) Projections of future land needs 	<p>pages 55, 82</p>
<ul style="list-style-type: none"> (4) Analysis of Community Facilities 	
<ul style="list-style-type: none"> <ul style="list-style-type: none"> (A) Public and Private Water Supply and Wastewater Systems 	<p>page 64-67</p>
<ul style="list-style-type: none"> <ul style="list-style-type: none"> (B) Transportation Systems 	<p>page 59 and Appendix V</p>
<ul style="list-style-type: none"> <ul style="list-style-type: none"> (C) Stormwater Systems 	<p>pages 70-73</p>
<ul style="list-style-type: none"> <ul style="list-style-type: none"> (D) Other Facilities 	<p>pages 59-73</p>
<ul style="list-style-type: none"> (5) Land Suitability Analysis <ul style="list-style-type: none"> (A) Water quality; (B) Land Classes I, II, and III summary environmental analysis; (C) Proximity to existing developed areas and compatibility with existing land uses; (D) Potential impacts of development on areas and sites designated by local historic commission or the NC Department of Cultural Resources as historic, culturally significant, or scenic; (E) Land use and development requirements of local development regulations, CAMA Use Standards and other applicable state regulations, and applicable federal regulations; and (F) Availability of community facilities, including water, sewer, stormwater, and transportation 	<p>pages 74-77</p>
<ul style="list-style-type: none"> (6) Review of Current CAMA Land Use Plan <ul style="list-style-type: none"> (A) Consistency of existing land use and development ordinances with current CAMA Land Use Plan policies; (B) Adoption of the land use plan's implementation measures by the governing body; and (C) Efficacy of current policies in creating desired land use patterns and protecting natural systems 	<p>pages 77-81</p>
<ul style="list-style-type: none"> (d) Plan for the Future <ul style="list-style-type: none"> (1) Land Use and Development Goals: <ul style="list-style-type: none"> (A) Community concerns and aspirations identified at the beginning of the planning process; (B) Needs and opportunities identified in the analysis of existing and emerging conditions 	<p>pages 5-9 pages 82-103</p>

CAMA CORE LAND USE ELEMENT	ELEMENT DISCUSSED
<p>(2) Policies:</p> <p>(A) Shall be consistent with the goals of the CAMA, shall address the CRC management topics for land use plans, and comply with all state and federal rules;</p> <p>(B) Shall contain a description of the type and extent of analysis completed to determine the impact of CAMA Land Use Plan policies on the management topics, a description of both positive and negative impacts of the land use plan policies on the management topics, and a description of the policies, methods, programs, and processes to mitigate any negative impacts on applicable management topics;</p> <p>(C) Shall contain a clear statement that the governing body either accepts state and federal law regarding land uses and development in AECs or, that the local government's policies exceed the requirements of state and federal agencies.</p>	pages 108-113
<p>(3) Land Use Plan Management Topics.</p>	pages 113-115
<p>(A) Public Access</p>	pages 115-117
<p>(B) Land Use Compatibility</p>	pages 117-126
<p>(C) Infrastructure Carrying Capacity</p>	pages 126-131
<p>(D) Natural Hazard Areas</p>	pages 131-133
<p>(E) Water Quality</p>	pages 134-138
<p>(F) Local Areas of Concern</p>	pages 138-143
<p>(4) Future Land Use Map</p> <p>(A) 14-digit hydrological units encompassed by the planning area;</p> <p>(B) Areas and locations planned for conservation or open space and a description of compatible land use and activities;</p> <p>(C) Areas and locations planned for future growth and development with descriptions of the following characteristics:</p> <p>(i) Predominant and supporting land uses that are encouraged in each area;</p> <p>(ii) Overall density and development intensity planned for each area;</p> <p>(iii) Infrastructure required to support planned development in each area</p> <p>(D) Areas in existing developed areas for infill, preservation, and redevelopment;</p> <p>(E) Existing and planned infrastructure, including major roads, water, and sewer</p> <p>In addition, the plan shall include an estimate of the cost of any community facilities or services that shall be extended or developed. The amount of land allocated to various uses shall be</p>	<p>pages 143-155</p> <p>pages 153-155</p>

CAMA CORE LAND USE ELEMENT	ELEMENT DISCUSSED
<p>calculated and compared to the projection of land needs. The amount of land area thus allocated to various uses may not exceed projected needs as delineated in Part (c)(3)(A)(iv) - Projection of Future Land Needs.</p>	
<p>(e) Tools for Managing Development</p> <ul style="list-style-type: none"> (1) Guide for Land Use Decision-Making (2) Existing Development Program (3) Additional Tools. <ul style="list-style-type: none"> (A) Ordinances: <ul style="list-style-type: none"> (i) Amendments or adjustments in existing development codes required for consistency with the plan; (ii) New ordinances or codes to be developed (B) Capital Improvements Program (C) Acquisition Program (D) Specific Projects to Reach Goals (4) Action Plan/Schedule 	<p>pages 156-169</p> <p>page 156</p> <p>page 156</p> <p>page 156</p> <p>page 158</p>

**TOWN OF SWANSBORO NORTH CAROLINA
RESOLUTION 2009-26 ADOPTING THE CAMA LAND USE PLAN**

WHEREAS, from June 2006 through August 2009, the Town drafted a Land Use Plan 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 August 5th, 2009, the Planning Board recommended adoption of the draft CAMA Core Land Use Plan; and

WHEREAS, at a duly advertised Regular Meeting on September 15, 2009 the Board of Commissioners held a public hearing on the draft CAMA Land Use Plan; and

WHEREAS, at the Regular Meeting on September 15, 2009 the Board of Commissioners of Swansboro North Carolina found the policies in the draft CAMA Land Use Plan to be internally consistent; and

WHEREAS, at the Regular Meeting on September 15, 2009 the Board of Commissioners of Swansboro North Carolina found the policies and Future Land Use Map in the draft CAMA Future Land Use Plan to be consistent with the Town's desired vision for the future and unanimously approved to adopt the draft CAMA Land Use Plan as amended; and

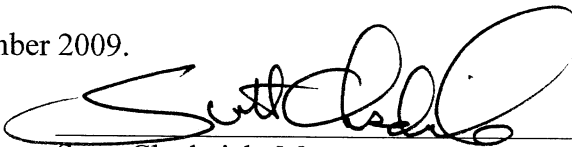
WHEREAS, the adopted Plan will be submitted as required by state law to the Morehead City District Planner for the Division of Coastal Management under the North Carolina Department of Environmental and Natural Resources and forwarded to the Coastal Resources Commission; and

WHEREAS, a certified Swansboro CAMA 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 Swansboro North Carolina, has unanimously adopted the draft CAMA Land Use Plan; and

BE IT FURTHER RESOLVED that the Town Manger of Swansboro is hereby authorized to submit the adopted CAMA Land Use Plan to the State for certification as described above.

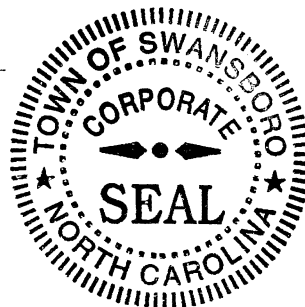
Adopted this 15th day of September 2009.



Scott Chadwick, Mayor

Attest:


Paula Webb, Town Clerk





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

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

MEMORANDUM

CRC-09-38

To: The Coastal Resources Commission
From: Maureen Meehan Will, Morehead City District Planner
Date: October 15, 2009
Subject: Certification of the City of Havelock Core Land Use Plan (October 30, 2009 CRC Meeting)

Staff Recommendation: Certification of the City of Havelock Core LUP based on the determination that the document has met the substantive requirements outlined within the 2002 7B Land Use Plan Guidelines and that there are no conflicts evident with either state or federal law or the State's Coastal Management Program.

A copy of the plan and executive summary can be found on the Division of Coastal Management's website at the following link:
http://www.nccoastalmanagement.net/Planning/under_review.htm

Overview

The City of Havelock is located in Craven County and is bordered by the Neuse River and Croatan National Forest. The city is home to Marine Corps Air Station Cherry Point. Planning issues identified during the plan process include but are not limited to increased commercial development (retail and dining specifically), diverse housing options, and transportation mobility. Further the city is planning for a proposed US 70 Havelock Bypass and increased military squadrons.

The city's vision statement focuses on sustainable development which balances environmental stewardship and necessary growth for residential, commercial, and military needs. In recent history development patterns have been shaped by low density residential construction. This trend is starting to transform into multi-family oriented development due to the decrease in available vacant land and the increase in military forces on the horizon.

Policy within the plan focuses on infill development and redevelopment of under-utilized property to fulfill population projections. Surplus lands may be available once the proposed Havelock bypass is constructed. Commercial development is anticipated along the bypass interchanges and corridor into the city.

The proposed bypass also provides redevelopment opportunities within the city. The current US 70 corridor will become Havelock's main street. Transportation upgrades, including landscaping, pedestrian and bicycle routes, and civic redevelopment overall have been

considered. The plan includes a section of redevelopment possibilities for a City Center with mixed uses.

The City did not organize the plan as outlined in the 7B guidelines. Appendix F provides a plan consistency review matrix, where each section of the rules can be found within the plan. Further, policy statements are not arranged by management topic, but Appendix D provides a plan consistency matrix, which outlines which management topic corresponds with each policy statement. (Appendix D & F have been attached for your convenience) There are no policy statements that exceed State and federal permitting rules. Notable policy statements include:

Policy 4.2.1, pg. 6-11 - *“A traffic impact study shall be required for any development or redevelopment project expected to generate 500 vehicles or more (entering/exiting combined) in a 24-hour period or 100 vehicles pr more (entering/exiting combined) during either the adjacent road’s peak hour(s) or the development’s peak hour(s).”*

Policy 10.1.5, pg. 6-18 - *“All plans for development or redevelopment of land with park resources or recreation facilities shall incorporate creative concepts of urban design and landscape compatible with unique natural features of the site. The design shall provide a circulation system to minimize conflict between pedestrians and vehicles and adequate landscape and screening to protect the integrity of established residential areas while enhancing community appearance.”*

Policy 12.1.3, pg. 6-22 - *“Residential and non-residential development adjacent to public trust waters shall include at least one public access point to the water body, unless demonstrated to be detrimental to nearby environmentally-sensitive lands or impractical because of other goals and policies stated in the Comprehensive Plan.”*

The City of Havelock Board of Commissioners adopted the land use plan by resolution, on July 27, 2009, 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.

If there are any questions about the plan please feel free to contact me by phone at 252-808-2808 or email at maureen.will@ncdenr.gov.

**CITY OF HAVELOCK
RESOLUTION 09-R-26**

**RESOLUTION OF THE CITY OF HAVELOCK, NORTH CAROLINA,
ADOPTING THE CITY'S CAMA CORE LAND USE PLAN**

WHEREAS, the City of Havelock'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 June 20, 2006 through July 27, 2009, the City drafted a Land Use Plan with the assistance of its consultant Kimley Horne & Associates, 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 June 25, 2008, the Citizen Advisory Committee recommended adoption of the draft CAMA Core Land Use Plan; and

WHEREAS, at a duly advertised Regular Meeting on July 27, 2009 the Board of Commissioners held a public hearing on the draft CAMA Core Land Use Plan; and

WHEREAS, at the Regular Meeting on July 27, 2009 the Board of Commissioners of the City of Havelock, North Carolina found the policies in the draft CAMA Core Land Use Plan to be internally consistent; and

WHEREAS, at the Regular Meeting on July 27, 2009 the Board of Commissioners of the City of Havelock, North Carolina found the policies and Future Land Use Map in the draft CAMA Core Land Use Plan to be consistent with the County's desired vision 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 for certification; and

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

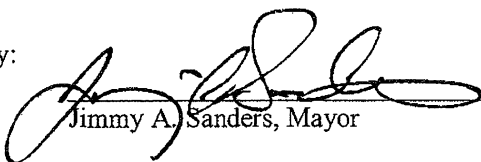
NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners of the City of Havelock, North Carolina, has unanimously adopted the draft CAMA Core Land Use Plan; and

BE IT FURTHER RESOLVED that the City Manager of the City of Havelock is hereby authorized to submit the adopted CAMA Core Land Use Plan to the State for certification as described above.

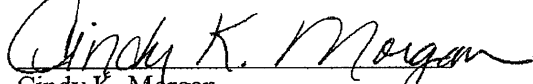
Adopted this 27th day of July 2009.

CITY OF HAVELOCK

By:


Jimmy A. Sanders, Mayor

ATTEST:


Cindy K. Morgan
City Clerk

Appendix D

Plan Consistency Matrix

Plan Consistency Matrix

CAVA Management Topics

Policy #	Policy	Management Topic	Impact	Mitigation Strategy (for detrimental impacts only)
1.1.1	The following future land use categories depicted on the City's Future Land Use Map are identified, and the use and development standards for each defined, below: [description of future land use categories]	Land Use Compatibility	neutral	
1.1.2	Development potential for parcels within the City of Havelock shall be determined in conformance with the City of Havelock Land Use Regulations. Consistent with these regulations, development potential for land uses depicted on the future land use map shall be enumerated based on the net number of acres available for development; assuming removal of environmentally-sensitive lands, water bodies, rights-of-way, etc. (see City's Zoning Ordinance for detailed rules and procedures).	Land Use Compatibility	neutral	
1.1.3	Houses of worship or other permitted non-residential uses continue to be allowed in all residential categories on the FLUM; however, if located in or near neighborhoods, adverse impacts to the tranquility of the residents around the allowed use and in the surrounding neighborhood must be minimized to the maximum extent possible. Therefore, in residential land use areas, houses of workshop and other permitted non-residential uses are allowed on a conditional basis.	Land Use Compatibility	neutral	
1.1.4	Small-scale public facilities and utilities intended to serve the immediate needs of the community continue to be allowed in all future land use categories subject to adequate design and buffering requirements determined by the City.	Land Use Compatibility	neutral	
1.1.5	Home occupations may be approved in all residential land use categories provided that the activity is secondary and incidental to the primary residential use, maintains a residential appearance, does not adversely impact the surrounding neighborhood, and complies with all other applicable criteria contained in the City Land Use Regulations.	Land Use Compatibility	neutral	
1.1.6	No amendments to the City's Future Land Use Map shall be approved that increase densities or intensities beyond those already indicated for the parcel without proper analysis to determine impacts to supporting public facilities and services.	Land Use Compatibility	beneficial	

1.2.1	Encourage infill development and redevelopment within city limits to accommodate a significant portion of population growth anticipated through 2030.	Land Use Compatibility	beneficial	
1.2.2	Consider only purposeful expansion of development into the extraterritorial planning jurisdiction, managed by the size and timing of capital improvements proposed for the area.	Land Use Compatibility	beneficial	
1.2.3	Encourage low impact development (a.k.a. conservation-based design or cluster development) in areas of the planning jurisdiction characterized by environmentally-sensitive lands, pristine natural areas, or near lakes and streams.	Land Use Compatibility	beneficial	
1.2.4	New development should not be approved that adversely strains existing or committed community facilities and services.	Land Use Compatibility	beneficial	
1.3.1	The Board of Commissioners shall prepare and adopt a new Unified Development Ordinance (combines current zoning and subdivision ordinances) for the City that is consistent with the future land use map and goals, objectives, and policies of this comprehensive plan. This document will provide business owners, residents, and developers with a clear and concise set of zoning and subdivision regulations for implementing Havelock's future vision.	Land Use Compatibility	beneficial	
1.3.2	The City of Havelock will continue to coordinate with Craven County, the North Carolina Department of Transportation, and other government agencies for regulations related to the subdivision of property within the planning jurisdiction.	Land Use Compatibility	neutral	
1.3.3	Implement recommendations from the East Coast Joint Land Use Study for limiting critical encroachment issues created by development pressures within Accident Potential Zones (APZs) and Air Installation Compatible Use Zones (AICUZs) designated for Marine Corps Air Station Cherry Point, including: [list of recommendations]	Land Use Compatibility	beneficial	
1.4.1	Expand the extraterritorial jurisdiction (ETJ) for the City to the extents depicted in Exhibit A, and enforce all powers within the area granted under Section 160A-360, N.C.G.S. – including zoning, subdivision regulations, enforcement of state building codes, acquisition of open space, and minimum housing codes.	Land Use Compatibility	beneficial	

1.4.2	The City Manager or his designee shall routinely coordinate and cooperate with the representatives for Marine Corps Air Station – Cherry Point on matters related to the mission footprint of the base, and potential encroachment issues related to existing development, new development, or potential redevelopment in the area.	Land Use Compatibility	neutral	
2.1.1	Encourage low impact development (a.k.a. conservation-based design or cluster development) in areas of the planning jurisdiction characterized by environmentally-sensitive lands, pristine natural areas, or near lakes and streams.	Local Areas of Concern	beneficial	
2.1.2	Redevelop portions of the City so they include central gathering places for medium-sized community events (e.g., movies in the park, small concerts, etc.)	Local Areas of Concern	beneficial	
2.1.3	Civic projects should set the example for quality development in the City by constructing new buildings, or refurbishing existing buildings, with an iconic architecture style.	Local Areas of Concern	neutral	
2.1.4	Provide public streetscape improvements and strongly encourage private property improvements to maintain and improve the attractiveness of the City.	Local Areas of Concern	beneficial	
2.1.5	Continue to improve the image of Havelock by encouraging property owners to improve and maintain landscaping and, as a City, plant trees and maintain landscaping in public rights-of-way.	Local Areas of Concern	beneficial	
2.1.6	Develop an image and branding strategy for the City that reinforces the pride of the community and expectations for visitors when they arrive. Recommendations from a image and branding study should be applied to a new City logo, government website, gateway signage, wayfinding signage and banners, and print materials among other applications.	Local Areas of Concern	beneficial	
2.2.1	Encourage residential and non-residential property owners to maintain their properties through proactive enforcement of regulations, neighborhood clean-up campaigns, and recycling events.	Local Areas of Concern	beneficial	
2.2.2	Commission a study of the built environment that results in a set of general design priorities and core design principles in a design guidelines manual that can be adapted to individual circumstances of site and subdivision layout.	Local Areas of Concern	beneficial	
3.1.1	Continue to provide land use designations in the future land use map and zoning designations in the official zoning map to ensure a variety of housing types (e.g., single family, duplex, and multi-family housing units) are allowed within the City.	Local Areas of Concern	neutral	

3.1.2	Preserve the integrity of established single-family residential neighborhoods with public investments that reinforce community character and maintain high-quality infrastructure.	Local Areas of Concern	beneficial	
3.1.3	Support continued multi-family development initiatives in the planning jurisdiction on a case-by-case basis to increase and improve housing choice.	Local Areas of Concern	beneficial	
3.1.4	Coordinate with officials for Marine Corps Air Station – Cherry Point to ensure adequate variety and housing stock is available to meet the needs of military families.	Local Areas of Concern	beneficial	
3.2.1	Minimize potential blight of existing residential neighborhoods through the use of good land use planning, urban design, landscaping in the development review, and pro-active code enforcement.	Local Areas of Concern	beneficial	
3.2.2	Preserve existing housing stock and enhance existing neighborhoods by identifying unsafe or substandard structures, advising property owners of available rehabilitation programs and pursuing prompt, corrective action.	Local Areas of Concern	beneficial	
3.2.3	Ensure that housing stock within the City of Havelock meets minimum criteria set forth in the Standard Building Code adopted by the State of North Carolina (1994 Edition).	Local Areas of Concern	beneficial	
3.2.4	Support the utilization of county, state, and federal housing programs to provide home repair and/or home purchase opportunities for current and future residents.	Local Areas of Concern	beneficial	
3.3.1	Assist not-for-profit entities that seek to promote and provide affordable housing opportunities in the City of Havelock.	Local Areas of Concern	beneficial	
3.3.2	The City should consider funding and work with a committee of architects, engineers, landscape architects, and other housing professionals to develop a design manual for building and promoting more attractive and cost-efficient affordable housing in the City of Havelock.	Local Areas of Concern	neutral	
4.1.1	Continue to work with officials for the North Carolina Department of Transportation to promote the inclusion of projects in mutually accepted plans, programs, and policies that adequately provide future capacity for moving people safely and efficiently through the City of Havelock. Candidate projects may include those recommended in the City of Havelock Draft Comprehensive Transportation / Land Use Plan.	Infrastructure Carrying Capacity	beneficial	
4.1.2	The City of Havelock strongly supports construction of the US 70 Bypass to relieve congestion along existing US 70.	Infrastructure Carrying Capacity	beneficial	

4.1.3	The City should strive to maintain and update annually a Five Year Capital Improvements Plan (CIP) for the City of Havelock that includes a component for transportation. This section of the CIP should be based on data, standards, and projects recommended in the City of Havelock Comprehensive Transportation / Land Use Plan completed in 2007.	Infrastructure Carrying Capacity	beneficial	
4.1.4	Pursue "spot safety funds" from the North Carolina Department of Transportation to address the most severe crash locations in the City, including Fontana Boulevard at Roosevelt Boulevard, Slocum Road at US 70, Fontana Boulevard at Cunningham Drive, Greenfield Heights Boulevard at Catawba Road, and the intersection of Lake Road/Miller Road/Church Road.	Infrastructure Carrying Capacity	beneficial	
4.1.5	The City of Havelock should continue to be an active member of the US 70 Corridor Commission and support reasonable conclusions and recommendations for the long-term, mutual interest of the Commission and the Board of Commissioners to retrofit the US 70 corridor as North Carolina's next major access managed highway.	Infrastructure Carrying Capacity	beneficial	
4.1.6	The City should support reasonable conclusions and recommendations from the model access management ordinance included in the US 70 Corridor Access Management Handbook that was developed to administer and enforce consistent access management standards along the entire highway between Johnston and Carteret Counties.	Infrastructure Carrying Capacity	beneficial	
4.2.1	A traffic impact study shall be required for any development or redevelopment project expected to generate 500 vehicles or more (entering/exiting combined) in a 24-hour period or 100 vehicles or more (entering/exiting combined) during either the adjacent road's peak hour(s) or the development's peak hour(s).	Infrastructure Carrying Capacity	beneficial	
4.2.2	Preserve and protect the character of neighborhoods from the avoidable intrusion of "cut through" traffic with implementation of appropriate traffic calming measures. Traffic calming will be installed, where warranted, after proper review of citizen requests measures, completion of a formal traffic calming study, and confirmation that funds are available to construct the needed improvements.	Infrastructure Carrying Capacity	beneficial	
4.2.3	The City of Havelock should support locating driveways on municipal streets in compliance with the Driveway Manual published by the North Carolina Department of Transportation, as amended.	Infrastructure Carrying Capacity	neutral	

4.2.4	To the maximum extent possible, the number of driveways or curb cuts serving a property shall be minimized and shared-use driveways should be encouraged on major roads, including US 70, NC 101, and Miller Boulevard.	Infrastructure Carrying Capacity	beneficial	
4.2.5	Develop supplemental engineering design and construction standards for providing minimum acceptable standards and specifications for implementing desired complete street design principles.	Infrastructure Carrying Capacity	beneficial	
4.3.1	Bicycle parking should be considered for all new development. Incentives should be written into land use regulations that provide for bicycle facilities (i.e. one vehicular parking space may be exchanged for bicycle facilities).	Infrastructure Carrying Capacity	beneficial	
4.3.2	Sidewalks or greenways should be constructed to optimize pedestrian movements between buildings in a non-residential development, and connect with existing pedestrian sidewalks or greenways adjacent to the site where they currently exist.	Infrastructure Carrying Capacity	beneficial	
4.3.3	Safe and convenient crossings shall be provided across all public and private roads internal to a non-residential development, and at all driveways leading to the site.	Infrastructure Carrying Capacity	beneficial	
4.3.4	All existing railroad and utility corridors in the City should be studied for their potential to become future multi-use trails.	Infrastructure Carrying Capacity	beneficial	
4.3.5	The City of Havelock should consider funding and seek grant monies from the North Carolina Department of Transportation to complete pedestrian and bicycle projects recommended in the City of Havelock Comprehensive Parks and Recreation Master Plan and the City of Havelock Comprehensive Transportation / Land Use Plan.	Infrastructure Carrying Capacity	beneficial	
4.3.6	The City of Havelock is committed to provide safe routes to school for local schools in the community. Upon formal request by the citizenry and determination of adequate funding, the City will contact the Craven County School Board and work cooperatively to evaluate existing walking conditions around the school consistent with guidance from the Manual on Uniform Traffic Control Devices (MUTCD) Chapter 7A for preparing individual school traffic control plans. The City will act upon the reasonable conclusions and recommendations from the study and program appropriate improvements in the City's Capital Improvements Plan to ensure safe walking conditions are maintained for students.	Infrastructure Carrying Capacity	beneficial	
4.3.7	City officials should participate in pedestrian and bicycle planning programs for the North Carolina Department of Transportation.	Infrastructure Carrying Capacity	beneficial	

4.3.8	Coordinate with the North Carolina Department of Transportation to satisfy the needs of non-motorized transportation modes as a part of major road improvement projects.	Infrastructure Carrying Capacity	beneficial	
4.4.1	Develop a small area plan for the interchange proposed at Lakeview Road on the US 70 Bypass, intended to manage access and reduce congestion around the interchange.	Infrastructure Carrying Capacity	beneficial	
4.4.2	City officials should limit the number of cul-de-sacs in areas where topography, environment, or existing development make other street connections prohibitive.	Infrastructure Carrying Capacity	beneficial	
4.4.3	City officials should encourage more efficient travel between complementary land uses by promoting development patterns that favor higher densities and intensities, a mix of land uses, and an environment that accommodates bicycles and pedestrians.	Infrastructure Carrying Capacity	beneficial	
4.4.4	Evaluate the appropriateness of adopting a street connectivity ordinance to support local efforts to increase street, sidewalk, and greenway connections within and between developments.	Infrastructure Carrying Capacity	beneficial	
5.1.1	The City of Havelock should pursue an interlocal agreement with the City of New Bern to ensure adequate capacity is reserved to serve the magnitude and timing of anticipated development in the FLUM through the short-term planning horizon (2013).	Infrastructure Carrying Capacity	beneficial	
5.1.2	Where deemed fiscally prudent, maintain corrective measures that minimize storm water inflow and infiltration for the City's waste water collection system.	Infrastructure Carrying Capacity	beneficial	
5.1.3	Seek all available federal, state, and local funding sources deemed fiscally prudent for use by the City to correct existing deficiencies in the sanitary sewer system.	Infrastructure Carrying Capacity	beneficial	
5.1.4	Where deemed fiscally prudent, allocate funds in the City's Capital Improvement Plan on an annual basis to implement projects that improve the City's sanitary sewer system	Infrastructure Carrying Capacity	beneficial	
5.2.1	Strive to implement corrective measures at the City's waste water treatment plant consistent with recommendations in the Havelock Wastewater Treatment Plant Process Evaluation Report, and coordinate with partners in the region to ensure adequate capacity is reserved to serve the magnitude and timing of anticipated development in the FLUM through the long-term planning horizon (2030).	Infrastructure Carrying Capacity	beneficial	

5.2.2	Encourage future development and redevelopment in portions of the urban service area already served, or programmed to be served, by the City's sewer system.	Infrastructure Carrying Capacity	beneficial	
5.2.3	Continue to reduce the number of residents relying on private septic systems in close proximity to existing, or programmed, sewer service. Priority should be given to those areas designated by the Craven County Health Department as "problem areas" with failing septic tanks.	Water Quality	beneficial	
5.2.4	Begin the formal process to request a new discharge permit from the North Carolina Division of Water Quality (DWQ) for the City's waste water treatment plant. The new discharge permit will move the current discharge point at Slocum Creek to the Neuse River.	Infrastructure Carrying Capacity	beneficial	
5.3.1	Monitor annually the amount of waste water reaching the City's waste water treatment plant, and prepare a process evaluation plan when 80% of plant capacity is reached and an implementation strategy (i.e., construction documents, funding plan, and interlocal agreements) when 90% of plant capacity is reached.	Infrastructure Carrying Capacity	beneficial	
5.3.2	Continue to reduce the number and severity of annual sanitary sewer overflows reported to the North Carolina Division of Water Quality.	Water Quality	beneficial	
6.1.1	Continue efforts to replace dead-end distribution lines in the City's water system with an interconnected distribution system that efficiently moves water throughout the city.	Infrastructure Carrying Capacity	beneficial	
6.1.2	Consider construction of a 12-inch water main and an elevated water tank in the western extremes of the city to improve capacity and increase water pressure.	Infrastructure Carrying Capacity	beneficial	
6.1.3	Evaluate the feasibility of installing treated re-use (grey) water lines throughout the City for irrigation of landscaping.	Infrastructure Carrying Capacity	beneficial	
6.1.4	Develop a long range strategic plan for system maintenance and expansion through 2030.	Infrastructure Carrying Capacity	beneficial	
6.1.5	Encourage future development and redevelopment in portions of the urban service area already served, or programmed to be served, by the City's water system.	Infrastructure Carrying Capacity	beneficial	
6.1.6	Where deemed fiscally prudent, allocate funds in the City's Capital Improvements Plan on an annual basis to implement projects that improve the City's potable water system.	Infrastructure Carrying Capacity	beneficial	
7.1.1	Evaluate the City's current solid waste collection system (i.e., sticker system) and determine if changes are necessary to improve system efficiency or equity.	Infrastructure Carrying Capacity	beneficial	

7.1.2	Encourage private waste haulers serving non-residential and multi-family development inside city limits to implement a recycling program.	Infrastructure Carrying Capacity	beneficial	
7.1.3	Implement strategies and incentives to increase compliance with the City's existing recycling program.	Infrastructure Carrying Capacity	beneficial	
7.2.1	Coordinate with representatives for the Tuscaroora Landfill to ensure adequate capacity is reserved to serve the magnitude and timing of anticipated development in the Future Land Use Map.	Infrastructure Carrying Capacity	beneficial	
7.2.2	Promote programs in partnership with other solid waste haulers in the region that minimize the amount of solid waste reaching the multi-county landfill.	Infrastructure Carrying Capacity	beneficial	
8.1.1	Implement and enforce state regulations related to storm water quantity and quality, especially in relation to special provisions adopted for the Neuse River Basin.	Water Quality	neutral	
8.1.2	Continue to participate in the National Flood Insurance Program and enforce the minimum rules and requirements set forth in the Flood Damage Prevention Ordinance.	Natural Hazard Areas	beneficial	
8.1.3	Continue to coordinate with the North Carolina Division of Water Quality (DWQ) regarding state storm water regulations and permits required during the development review process.	Water Quality	neutral	
8.1.4	Evaluate new cost-effective programs for minimizing flood damage, including modification of construction setback requirements and other site design techniques.	Natural Hazard Areas	beneficial	
8.2.1	Prepare a storm water master plan (SWMP) that identifies and prioritizes storm water problem areas and targets capital improvements to mitigate them. The content and format of the SWMP shall exceed the minimum rules and requirements set forth under the National Pollution Discharge Elimination System (NPDES) for a Phase 1 Permit and the Neuse River Nutrient Sensitive Waters Management Strategy.	Water Quality	beneficial	
8.2.2	Provide an annual report to the Board of Commissioners and the North Carolina Division of Water Quality on updates and changes to the SWMP since approval of the NPDES permit.	Water Quality	beneficial	
8.2.3	Where deemed fiscally prudent, allocate funds in the City's Capital Improvements Plan on an annual basis to implement recommendations from the local Storm Water Management Plan (SWMP).	Water Quality	beneficial	
9.1.1	Consider construction of a new police and fire substation on US 70, north of Catawba Road, to improve service delivery in western portions of the City.	Infrastructure Carrying Capacity	beneficial	

9.1.2	Coordinate with representatives for Craven County to ensure inmate capacity at the county jail is sufficient to handle average daily arrests in the region.	Infrastructure Carrying Capacity	beneficial	
9.1.3	Institute new programs and policies that increase the presence of police in areas of the city prone to violent, non-violent, and property crimes.	Infrastructure Carrying Capacity	beneficial	
9.1.4	Consider additional resources in neighborhood watch programs.	Infrastructure Carrying Capacity	beneficial	
9.1.5	Where deemed fiscally prudent, allocate funds in the City's Capital Improvements Plan on an annual basis to implement projects that improve the City's police protection.	Infrastructure Carrying Capacity	beneficial	
9.2.1	Improve the ISO rating for the city, especially related to programming a new fire station on US 70, north of Catawba Road, in the western portion of the City.	Infrastructure Carrying Capacity	beneficial	
9.2.2	Maintain a mutual-aid agreement with Craven County to ensure quality response to all locations in the fire service area.	Infrastructure Carrying Capacity	beneficial	
9.2.3	Where deemed fiscally prudent, allocate funds in the City's Capital Improvements Plan on an annual basis to implement projects that improve the City's fire service protection.	Infrastructure Carrying Capacity	beneficial	
9.3.1	Where deemed fiscally prudent, allocate funds in the City's Capital Improvements Plan on an annual basis to implement projects that improve the City's provision of emergency medical services.	Infrastructure Carrying Capacity	beneficial	
9.3.2	Strive to maintain an interlocal agreement with Craven County to provide City EMS service to unincorporated areas of the county.	Infrastructure Carrying Capacity	beneficial	
10.1.1	Strive to implement recommendations from the City of Havelock Comprehensive Parks and Recreation Master Plan for new park locations, services, and amenities desired by local residents.	Local Areas of Concern	beneficial	
10.1.2	The City should strive to maintain and update annually a Five Year Capital Improvements Plan (CIP) for the City of Havelock that considers a component for parks, recreation facilities, and permanent open space. This section of the CIP should be based on data, standards, and projects recommended in the City of Havelock Comprehensive Parks and Recreation Master Plan.	Infrastructure Carrying Capacity/Local Areas of Concern	beneficial	
10.1.3	Maintain a balance of active parks, passive parks, and natural open space to meet the needs and expectations of City residents, and seek opportunities to increase the number of parks and natural areas throughout the City.	Infrastructure Carrying Capacity/Local Areas of Concern	beneficial	

10.1.4	Ensure recreation facilities are well-managed and well-maintained, and that quality recreation programs are available to all residents. This shall be partially achieved by keeping up-to-date the inventory of park facilities and sites and re-administering the parks and recreation needs survey completed for the City of Havelock Parks and Recreation Master Plan.	Infrastructure Carrying Capacity/Local Areas of Concern	beneficial	
10.1.5	All plans for development or redevelopment of land with park resources or recreation facilities shall incorporate creative concepts of urban design and landscape compatible with unique natural features of the site. The design shall provide a circulation system to minimize conflict between pedestrians and vehicles and adequate landscape and screening to protect the integrity of established residential areas while enhancing community appearance.	Infrastructure Carrying Capacity/Local Areas of Concern	beneficial	
10.1.6	Continue to coordinate with county, state, and federal agencies and private landowners to protect and enhance natural areas and environmentally-sensitive land within the City.	Local Areas of Concern	beneficial	
10.1.7	Maximize grant funding for all future City park and recreation projects.	Infrastructure Carrying Capacity/Local Areas of Concern	beneficial	
10.2.1	Public parks and recreation facilities shall be designed and constructed compatible with the character and quality of on-site natural resources.	Local Areas of Concern	beneficial	
10.2.2	Develop a schedule for providing parking spaces for automobiles and bicycles at parks and recreational facilities where they are now lacking or inadequate.	Infrastructure Carrying Capacity/Local Areas of Concern	beneficial	
11.1.1	All federal, state, and county water quality standards shall continue to be enforced in the City of Havelock.	Water Quality	neutral	
11.1.2	Consider revisions to the City of Havelock Land Use Regulations to preserve and enhance the functions of natural groundwater aquifer recharge and natural drainage features and to protect water quality.	Water Quality	beneficial	
11.1.3	Ensure that water conservation booklets and brochures are readily available at City Hall and other public facilities for review by local residents and business owners.	Infrastructure Carrying Capacity	beneficial	
11.2.1	Manage environmentally sensitive natural systems in the City, including, but not limited to, water resources, wetlands, and native habitats of flora and fauna through prudent land use planning and land development regulations.	Natural Hazard Areas/Local Areas of Concern/Water Quality	beneficial	

11.2.2	Enforce state and federal laws and policies regarding land uses and development for Areas of Environmental Concern identified in the City.	Local Areas of Concern	neutral	
11.2.3	Support reasonable initiatives of the Neuse River Foundation to protect the integrity of the river for future generations, including participation in the annual Neuse River Cleanup Campaign.	Water Quality	beneficial	
11.2.4	Continue to coordinate with federal, state, and county agencies concerned with managing natural resources that protect the values and functions of these systems.	Local Areas of Concern	neutral	
11.2.5	Increase public awareness of critical wildlife areas and natural preserves by distributing public education materials, allowing appropriate access, and reporting violations of the rules and regulations to appropriate agencies.	Local Areas of Concern	beneficial	
11.2.6	Any new project or development shall demonstrate that it does not create substantial adverse impact to the environment.	Local Areas of Concern	beneficial	
11.3.1	Wetlands suitable for protection will be identified based on the type, function, size, condition, location, and overall resource value. These wetlands shall be used for purposes compatible with their natural values and functions, and land development regulations shall be adopted to provide these areas with the maximum feasible protection, using tools such as compensatory wetland mitigation and dedication of conservation easements for preserving open space. Activities in wetland areas may be warranted provided all applicable federal, state, and county environmental agency permits have been obtained and one of the following standards is satisfied: [description of standards]	Water Quality/Local Areas of Concern	neutral	
11.3.2	Consideration should be given for buffers that protect the presence and function of pristine wetlands on a development site.	Water Quality	beneficial	
11.4.1	Cooperate with county, state, and federal agencies in protecting wildlife and plant species listed as endangered, threatened, rare, or of special concern, and support their efforts to protect and conserve the habitats in which they reside.	Local Areas of Concern	neutral	
11.4.2	Revise the City's Land Use Regulations to protect wildlife and vegetative habitats that are endangered, threatened, or species of special concern. The City shall further protect these habitats by promoting public acquisition and the dedication of conservation easements or reservations.	Local Areas of Concern	beneficial	

11.4.3	Development plans shall be conditioned to require that all required state and federal permits pertaining to listed flora and fauna species be obtained and filed with the City prior to clearing and grading or building activities on the site.	Local Areas of Concern	beneficial	
11.4.4	Increase public appreciation and awareness of native flora and fauna in and around the community through newspaper articles, brochures, presentations, workshops, and other means of education, and how residents can help enhance those habitats.	Local Areas of Concern	beneficial	
11.5.1	Develop and refine nitrogen reduction strategies for point and non-point source polluters/pollution.	Water Quality	beneficial	
11.5.2	Evaluate the potential for implementation of appropriate best management practices (BMPs) to reduce nutrient and sediment loading in the watershed.	Water Quality	beneficial	
11.5.3	Provide educational workshops on local water quality issues.	Water Quality	beneficial	
11.5.4	Support the Division of Water Quality's (DWQ) efforts to determine a safe way to remove and dispose of hazardous waste stored at MCAS – Cherry Point.	Water Quality	beneficial	
12.1.1	Coordinate with public, quasi-public, private, and non-profit groups to increase the quantity and quality of access points to public trust waters in the city, including consideration for access easements or fee simple purchase of strategic locations.	Public Access	beneficial	
12.1.2	Seek all available federal, state, and local funding sources deemed fiscally prudent for use by the City to promote local access to public trust waters.	Public Access	beneficial	
12.1.3	Residential and non-residential development adjacent to public trust waters shall include at least one public access point to the water body, unless demonstrated to be detrimental to nearby environmentally-sensitive lands or impractical because of other goals and policies stated in the Comprehensive Plan.	Public Access	beneficial	
13.1.1	Review adequacy of zoning, subdivision, and flood damage prevention ordinances for control of flooding hazards.	Natural Hazard Areas	neutral	

13.1.2	Actively support full participation in the County's Special Needs Registry.	Natural Hazard Areas	neutral	
13.1.3	Update the Parks and Recreation Master Plan to incorporate purchase and development of flood-prone lands for recreational activities as a priority.	Natural Hazard Areas	neutral	
13.1.4	Work with NCDOT Division Four Highway Operations unit and convene a working group to develop solutions to localized drainage issues caused (in part or in whole) by NCDOT maintained drainage facilities.	Natural Hazard Areas	neutral	
13.1.5	Review "Firewise" zoning and subdivision standards and report on their appropriateness for incorporation into zoning and subdivision ordinances.	Natural Hazard Areas	neutral	
13.1.6	Continue to undertake public education efforts designed to help inform the public of their exposure to natural hazards and to inform them of actions they can take to mitigate the damages to their health and property from natural hazards.	Natural Hazard Areas	neutral	
13.1.7	Work with Craven County to convene a working group with electric service providers to produce a report that addresses the issues of disaster preparedness techniques and communication with County officials during and immediately after a natural hazard event that results in loss of electrical power.	Natural Hazard Areas	neutral	
13.1.8	Apply for funding from HMGP or other Federal/State funding for at least two of the top priority ANHRE identified in Section III of the Hazard Mitigation Plan IF they are eligible and in a project category identified by the State of North Carolina as being of high priority.	Natural Hazard Areas	neutral	
13.1.9	Ensure that elevation certificate data, data related to mitigation measures implemented, and floodplain data are available through the Internet on the County's GIS website.	Natural Hazard Areas	neutral	

13.1.10	Encourage surveyors, local government officials, engineers, and land planners to become familiar with the NFIP land use and building standards by attending annual workshops presented by the NC Division of Emergency Management (DCM).	Natural Hazard Areas	neutral	
13.1.11	Continue to participate in the Community Rating System (CRS) program of the National Flood Insurance Program (NFIP).	Natural Hazard Areas	neutral	
13.1.12	Designate a representative (member and alternate) to a County-wide Mitigation Advisory Committee and ensure those representatives complete the tasks detailed in the Hazard Mitigation Plan.	Natural Hazard Areas	neutral	
14.1.1	Encourage protection of all identified, and yet to be identified, historical and archeological structures and sites within the City through appropriate land development regulations, comprehensive review of development applications, public acquisition decisions, and historic designations. Initial sites should include the historic Havelock Railroad Station and African-American School House.	Local Areas of Concern	beneficial	
14.1.2	Actively support all public efforts to purchase additional historically- and environmentally-sensitive parcels of land for preservation, passive recreation, or public access. The City should investigate and sponsor grant applications for this purpose, whenever feasible.	Local Areas of Concern	beneficial	
14.2.1	Coordinate with state and federal government agencies in developing programs for identifying, preserving, and enhancing sites of historical and archaeological significance.	Local Areas of Concern	neutral	
14.2.2	Development activities shall include provisions necessary to prevent adverse impacts to historic or archaeological sites of significance.	Local Areas of Concern	beneficial	
15.1.1	Treat land supportive of retail, dining, and employment centers as a critical and limited resource, and protect this resource through capital investment and rules and requirements in the local zoning and subdivision ordinances.	Local Areas of Concern	beneficial	
15.1.2	Identify and prioritize keys areas in city limits for infill development or redevelopment as new retail, dining, or employment centers.	Local Areas of Concern	beneficial	

15.2.1	Foster a positive entrepreneurial environment for business start-up and expansion and support retention of existing businesses.	Local Areas of Concern	beneficial	
15.2.2	Support regulatory reform in the City that strikes a balance between the financial impact of regulation on business and developers, and maintaining the appropriate level of safeguards for furthering the vision of the community toward sustainable growth and development.	Local Areas of Concern	beneficial	
15.2.3	Consider ways to achieve greater predictability and efficiency in the review of development permit applications, consistent with goals and policies of this plan and implementing zoning and subdivision ordinances.	Local Areas of Concern	beneficial	
15.2.4	Recognize the importance of maintaining and enhancing the City's tax base, including property taxes, sales taxes, and business and occupation taxes, to provide funds for capital facilities and city services necessary for existing and future populations.	Local Areas of Concern	beneficial	
15.2.5	Enhance the City's ability to recruit new business and industry and work cooperatively with the Havelock Chamber of Commerce, Craven County Economic Development Commission, and other local economic development partners on actions such as maintaining a database of available sites and buildings, identification of target industries and potential economic clusters, and consistent and effective marketing efforts.	Local Areas of Concern	beneficial	
15.2.6	Support efforts to attract military-based business and industry that support the needs of Marine Corps Air Station Cherry Point.	Local Areas of Concern	beneficial	
15.2.7	Assess the effects of City policy regarding taxes, fees, or utility rates on economic development goals at least every five years, considering the balance between economic development, financial health of city government, cumulative debt, tax burden on local residents and businesses, and the goals and policies of this Comprehensive Plan.	Local Areas of Concern	beneficial	
15.3.1	The City will coordinate with the Havelock Chamber of Commerce and the Craven County Economic Development Commission on their efforts to assure that the local work force is trained in fields that meet demand for local businesses.	Local Areas of Concern	beneficial	
15.3.2	The City will partner with businesses, labor, and educational institutions to develop competency-based education and training programs for Havelock citizens that meet the needs of business, including vocational training programs, apprenticeship programs, entrepreneurial skills training, and technical and vocational preparatory programs in local high schools.	Local Areas of Concern	beneficial	

15.3.3	Seek all available federal, state, and local funding sources deemed fiscally prudent for use by the City to promote local economic development initiatives.	Local Areas of Concern	beneficial	
15.3.4	Encourage a variety of businesses to locate in Havelock that improve job opportunities for a wide spectrum of the community.	Local Areas of Concern	beneficial	
15.4.1	Recognize Havelock's cultural resources, including institutions, traditions, historic sites, and creative people as important contributors to the City's economic vitality.	Local Areas of Concern	beneficial	
15.4.2	Work with the Havelock Chamber of Commerce and Craven County Economic Development Commission to target new tourist attractions appropriate for the community.	Local Areas of Concern	beneficial	
15.4.3	The City should support and encourage "high-profile" local festivals and events that bring attention to the city.	Local Areas of Concern	beneficial	
15.4.4	The City will be a partner in supporting the initiatives of the Havelock Tourist and Event Center for attracting new visitors to the area.	Local Areas of Concern	beneficial	
15.4.5	Partner with the Havelock Chamber of Commerce, Craven County Economic Development, and Marine Corps Air Station Cherry Point to promote the City as a tourism destination within the region.	Local Areas of Concern	beneficial	
16.1.1	Prepare and adopt a Five Year Capital Improvements Plan (CIP) and a One Year Capital Budget as part of the City's annual budgeting process.	Local Areas of Concern	beneficial	
16.1.2	Ensure that all public capital revenue and/or secured developer commitments are in place to provide public facilities and services necessitated by development.	Local Areas of Concern	beneficial	
16.1.3	Seek viable grant monies and private development contributions whenever possible to provide additional capital revenues for implementation of the City's Five Year Capital Improvements Plan.	Local Areas of Concern	beneficial	
16.1.4	Assess all funding mechanisms and revenue sources available under North Carolina General Statute to bear a proportion of the costs for providing public facilities and services necessitated by existing development, redevelopment, and new development anticipated for the planning jurisdiction.	Infrastructure Carrying Capacity	beneficial	
16.2.1	All City decisions regarding land use and development patterns should ensure availability of public facilities and services necessary to support such development prior to approval by the Board of Commissioners by means of the City's Zoning and Subdivision Ordinances.	Infrastructure Carrying Capacity	beneficial	

16.2.2	Coordinate with road, utility, and school providers in the area to ensure necessary capital projects are scheduled concurrent with anticipated growth patterns.	Infrastructure Carrying Capacity	beneficial	
16.2.3	Continue to encourage expedited installation of sewer infrastructure improvements necessary to increase the capacity of the City's current system.	Infrastructure Carrying Capacity	beneficial	
16.2.4	Repair and upgrade public facilities and services managed by the City according to generally accepted engineering principles and guidelines, and ensure that facilities and service providers operating in the City are held to the standard.	Infrastructure Carrying Capacity	beneficial	
16.3.1	Incur debt within generally accepted municipal finance principles and guidelines, and only in relation to the City's ability to pay for new capital assets or to significantly extend the life expectancy of a capital asset.	Local Areas of Concern	beneficial	
16.3.2	Any increase to operating costs for a new or enhanced capital project shall be considered when evaluating debt incurred for a new public facility or service.	Local Areas of Concern	beneficial	
16.3.3	The City shall not provide a public facility or service, nor accept ownership from others, if it cannot pay for the subsequent annual operation and maintenance costs of the facility or service.	Local Areas of Concern	beneficial	
16.3.4	The City's net general obligation debt as defined in G.S. 159-55, is statutorily limited to eight percent (8%) of the assessed valuation of the taxable property within the City. The City will utilize a self-imposed ceiling of 3%.	Local Areas of Concern	beneficial	

Appendix F

Plan Consistency Review Matrix

City of Havelock Comprehensive Plan
Plan Consistency Review Matrix with Rule 15A NCAC 07B .0702

Required Elements of CAMA Core Land Use Plan	15A NCAC 07B .0702 Reference	Document Reference
Detailed Table of Contents	15A NCAC 07B .0702(a)	Table of Contents, pgs. i-vii
Plan Consistency Matrix	15A NCAC 07B .0702(a)	Appendix F
Description of Dominant Growth Issues	15A NCAC 07B .0702(b)(1)	Chapter 1, Introduction
Identify Key Planning Issues for the Planning Area	15A NCAC 07B .0702(b)(2)	Chapter 1, Introduction, Community Concern and Aspirations, pgs. 8-9
Establish Community Vision for the Planning Area	15A NCAC 07B .0702(b)(3)	Chapter 1, Introduction, Havelock's 2030 Land Use Vision, pg. 9
Population, Housing, and Economy	15A NCAC 07B .0702(c)	Chapter 2, Demographic Profile
Permanent Population Growth Trends	15A NCAC 07B .0702(c)(1)(A)	Chapter 2, Population, pgs. 8-15
Permanent and Seasonal Population Estimates	15A NCAC 07B .0702(c)(1)(A)(i)	Chapter 2, Population, pgs. 8-12
Key Population Characteristics (Age / Income)	15A NCAC 07B .0702(c)(1)(A)(ii-v)	Chapter 2, Population, pg. 7, 11
Housing Stock	15A NCAC 07B .0702(c)(1)(B)	Chapter 2, Housing Units, pgs. 2-7
Estimate of Current Housing Stock	15A NCAC 07B .0702(c)(1)(B)(i)	Chapter 2, Housing Units, pgs. 6-7
Building Permit History	15A NCAC 07B .0702(c)(1)(B)(ii)	Chapter 2, Housing Units, pgs. 2-3
Local Economy	15A NCAC 07B .0702(c)(1)(C)	Chapter 2, Employment, pgs. 16-17
Identify Employment by Major Sector	15A NCAC 07B .0702(c)(1)(C)	Chapter 2, Employment, pg. 16
Description of Community Economic Activity	15A NCAC 07B .0702(c)(1)(C)	Chapter 2, Employment, pgs. 16-17
Short-Term and Long-Term Population Projections	15A NCAC 07B .0702(c)(1)(D)	Chapter 2, Population, pg. 15
Natural Systems Analysis	15A NCAC 07B .0702(c)(2)	Chapter 3, Havelock Today, Natural Resources, pgs. 34-55
Mapping and Analysis of Natural Features	15A NCAC 07B .0702(c)(2)(A)	Chapter 3, Havelock Today, Figure 3-11 through Figure 3-22
Areas of Environmental Concern	15A NCAC 07B .0702(c)(2)(A)(i)	Chapter 3, Havelock Today, Figures 3-11 & 3-12
Soil Characteristics	15A NCAC 07B .0702(c)(2)(A)(ii)	Chapter 3, Havelock Today, Figure 3-17
EMC Water Quality Classifications	15A NCAC 07B .0702(c)(2)(A)(iii)	Chapter 3, Havelock Today, Table 3-18
Flood and Other Natural Hazard Areas	15A NCAC 07B .0702(c)(2)(A)(iv)	Chapter 3, Havelock Today, Figure 3-13
Storm Surge Areas	15A NCAC 07B .0702(c)(2)(A)(v)	Chapter 3, Havelock Today, Figure 3-14
Non-Coastal Wetlands	15A NCAC 07B .0702(c)(2)(A)(vi)	Chapter 3, Havelock Today, Figures 3-15 & 3-16
Water Supply Watersheds	15A NCAC 07B .0702(c)(2)(A)(vii)	Chapter 3, Havelock Today, pg. 16
Primary Nursery Areas	15A NCAC 07B .0702(c)(2)(A)(viii)	Chapter 3, Havelock Today, pg. 36
Environmental Fragile Areas (Wetlands)	15A NCAC 07B .0702(c)(2)(A)(ix)	Chapter 3, Havelock Today, pgs. 41-44
Environmental Fragile Areas (Natural Heritage Areas)	15A NCAC 07B .0702(c)(2)(A)(x)	Chapter 3, Havelock Today, pg. 38
Environmental Fragile Areas (Endangered Species Habitat)	15A NCAC 07B .0702(c)(2)(A)(xi)	Chapter 3, Havelock Today, Areas of Environmental Concern, pgs. 34-36
Environmental Fragile Areas (Prime Wildlife Habitat)	15A NCAC 07B .0702(c)(2)(A)(xi)	Chapter 3, Havelock Today, Areas of Environmental Concern, pgs. 34-36
Additional Natural Features Identified by the Local Government	N/A	N/A
Composite Map of Environmental Conditions	15A NCAC 07B .0702(c)(2)(A)(x)	Chapter 3, Havelock Today, pgs. 53-55
Present Environmental Composite Map	15A NCAC 07B .0702(c)(2)(B)	Chapter 3, Havelock Today, Figure 3-22
List Physical Features Included in Class I, II, & III Categories	15A NCAC 07B .0702(c)(2)(B)(i)	Chapter 3, Environmental Composite Map, pgs. 53-54
Environmental Conditions	15A NCAC 07B .0702(c)(2)(C)	Chapter 3, Havelock Today, Natural Resources, pgs. 34-55
Water Quality	15A NCAC 07B .0702(c)(2)(C)(i)	Chapter 3, Havelock Today, Other Environmental & Natural Resources, pgs. 36-54
Status and Changes of Surface Water Quality	15A NCAC 07B .0702(c)(2)(C)(ii)	Chapter 3, Havelock Today, Other Environmental & Natural Resources, pgs. 51-53
Current Situation and Trends on Permanent/Temporary Shellfishing Waters	15A NCAC 07B .0702(c)(2)(C)(iii)	Chapter 3, Havelock Today, Community Facilities - Infrastructure, pgs. 9-17
Areas Experiencing Chronic Wastewater Treatment Malfunctions	15A NCAC 07B .0702(c)(2)(C)(iii)	Chapter 3, Havelock Today, Community Facilities - Infrastructure, pgs. 9-17
Areas with Water Quality Issues/Public Health Problems Related to Non-Point Source Pollution	15A NCAC 07B .0702(c)(2)(C)(iv)	Chapter 3, Havelock Today, Natural Resources, pgs. 34-38
Natural Hazards	15A NCAC 07B .0702(c)(2)(C)(iv)	Chapter 3, Havelock Today, Natural Resources, pgs. 38-40
Areas Subject to Storm Hazards (Recurrent Flooding, Storm Surges, & Highwinds)	15A NCAC 07B .0702(c)(2)(C)(v)	N/A
Areas Experiencing Significant Shoreline Erosion	15A NCAC 07B .0702(c)(2)(C)(vi)	N/A
Estimates for Public & Private Damage Resulting from Floods & Wind	15A NCAC 07B .0702(c)(2)(C)(vii)	Chapter 3, Havelock Today, Natural Resources, pgs. 34-55
Natural Resources	15A NCAC 07B .0702(c)(2)(C)(viii)	Chapter 3, Havelock Today, Areas of Environmental Concern, pgs. 34-40
Environmentally Fragile Areas	15A NCAC 07B .0702(c)(2)(C)(ix)	Chapter 3, Havelock Today, Areas of Environmental Concern, pgs. 34-40
Areas Containing Potentially Valuable Natural Resources	15A NCAC 07B .0702(c)(2)(C)(ix)	Chapter 5, Havelock Tomorrow, pgs. 2-26
Analysis of Land Use and Development	15A NCAC 07B .0702(c)(3)	Chapter 3, Havelock Today, Land Use, pg. 4
Existing Land Use Map	15A NCAC 07B .0702(c)(3)(A)	Chapter 3, Havelock Today, Land Use, pgs. 5-9
Existing Land Use Analysis	15A NCAC 07B .0702(c)(3)(B)	Chapter 3, Havelock Today, Table 3-1
Existing Land Use Profile	15A NCAC 07B .0702(c)(3)(B)(i)	Chapter 5, Havelock Tomorrow, Land Use Compatibility, pgs. 3-4
Description of Any Land Use Conflicts	15A NCAC 07B .0702(c)(3)(B)(ii)	Chapter 5, Havelock Tomorrow, Land Use Compatibility, pgs. 3-4
Description of Any Land Use / Water Quality Conflicts	15A NCAC 07B .0702(c)(3)(B)(iii)	Chapter 5, Havelock Tomorrow, Land Use Compatibility, pgs. 2-3
Description of Development Trends Using Indicators	15A NCAC 07B .0702(c)(3)(B)(iv)	Chapter 5, Havelock Tomorrow, Desirable Localities for Future Development & Redevelopment Opportunities, pgs. 10-15
Location of Areas Expected to Experience Development During the 5 Years Following CRC Certification	15A NCAC 07B .0702(c)(3)(B)(v)	Chapter 3, Havelock Today, Historic Resources, pg. 9
Historic, Cultural, and Scenic Areas Designated by the State or Federal Government	15A NCAC 07B .0702(c)(3)(C)	Chapter 5, Havelock Tomorrow, Land Use Demand Forecasts, pgs. 5-11
Projection of Future Land Use Needs	15A NCAC 07B .0702(c)(3)(D)	Chapter 3, Havelock Today, Community Facilities - Infrastructure & Services, pgs. 9-33
Analysis of Community Facilities	15A NCAC 07B .0702(c)(4)	Chapter 3, Havelock Today, Community Facilities - Infrastructure & Services, pgs. 10-13
Public & Private Water Supply and Wastewater Treatment Systems	15A NCAC 07B .0702(c)(4)(A)	Chapter 3, Havelock Today, Community Facilities - Infrastructure, pgs. 17-25
Transportation Systems	15A NCAC 07B .0702(c)(4)(B)	Chapter 3, Havelock Today, Community Facilities - Infrastructure, pg. 15-17
Stormwater Systems	15A NCAC 07B .0702(c)(4)(C)	Chapter 3, Havelock Today, Community Facilities - Services, pgs. 25-33
Other Facilities	15A NCAC 07B .0702(c)(4)(D)	Chapter 3, Havelock Today, Community Facilities - Services, pgs. 25-33

City of Havelock Comprehensive Plan

Plan Consistency Review Matrix with Rule 15A NCAC 07B .0702

Land Suitability Analysis	15A NCAC 07B .0702(C)(5)	Chapter 4, Land Suitability Analysis, pgs. 2-5
Review of Current CAMA Land Use Plan	15A NCAC 07B .0702(C)(6)	Chapter 7, pg. 8, Appendix B
Consistency of Existing Land Use and Development Ordinances with Current CAMA Land Use Policies	15A NCAC 07B .0702(C)(6)(A)	Appendix B
Adoption of the Land Use Plan's Implementation Measures by the Governing Body	15A NCAC 07B .0702(C)(6)(B)	Chapter 7, Inviting Success, pg. 42
Efficacy of Current Policies in Creating Desired Land Use Patterns & Protecting Natural Systems	15A NCAC 07B .0702(C)(6)(C)	Appendix B



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

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

MEMORANDUM

CRC-09-40

To: The Coastal Resources Commission
From: Maureen Meehan Will, Morehead City District Planner
Date: October 15, 2009
Subject: Certification of the Craven County Core Land Use Plan (October 30, 2009 CRC Meeting)

Staff Recommendation: Certification of the Craven County Core LUP based on the determination that the document has met the substantive requirements outlined within the 2002 7B Land Use Plan Guidelines and that there are no conflicts evident with either state or federal law or the State's Coastal Management Program.

A copy of the plan and executive summary can be found on the Division of Coastal Management's website at the following link:
http://www.nccoastalmanagement.net/Planning/under_review.htm

Overview

Craven County is located in the central coastal plain and adjacent to Beaufort, Carteret, Jones, Lenoir, Pamlico, and Pitt Counties. The Neuse and Trent Rivers are the two largest water bodies within the County and converge in the City of New Bern. The Towns of Cove City, Dover, and Vanceboro are included in the plan. There are separate future land use maps for each community, but the policy and implementation statements are applicable to all jurisdictions.

Due to the physical geography and geology, of the county, there are several different planning issues that are addressed in the plan. Further, expansion of public facilities, protection of the regional airport, preservation of prime farmlands, and expansion of recreational facilities are just a few of the key issues that were identified during the public information meeting.

The plan's vision was derived from the key issues and focuses on economic development for all sectors including MCAS Cherry Point while protecting existing residential neighborhoods, farmlands, and natural resources. Policy and implementation statements support this vision and provide a foundation for future development.

The following statement exceeds the State (CRC) permitting rules:

Implementation Action I.67, pg. 156 – *“Craven County will enforce the following subdivision regulations for subdivisions located adjacent to primary nursery areas (NOTE – these requirements should be used for local, state, and federal consistency review):*

- *A permanent conservation zone of seventy five (75) feet shall be established in which all land disturbing activities will be prohibited, except for shoreline stabilization activities allowed under CAMA permitting requirements.*
- *All structures shall maintain a minimum setback of one hundred (100) feet from the mean low water line.*
- *All parking areas shall be located as far away as possible from water, wetlands, and shoreline areas adjacent to the subdivision.*
- *Only strip paving will be allowed. Curb and gutter shall be prohibited.*
- *Channeling storm water runoff shall be routed through swales and other systems designed to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle, and remove pollutants.*

The Craven County Board of Commissioners adopted the land use plan by resolution, on August 3, 2009, 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.

If there are any questions about the plan please feel free to contact me by phone at 252-808-2808 or email at maureen.will@ncdenr.gov.

MATRIX OF REQUIRED ELEMENTS

CAMA CORE LAND USE ELEMENT	ELEMENT DISCUSSED
(a) Organization of the Plan	i and 1
(b) Community Concerns and Aspirations	
(1) Significant Existing and Emerging Conditions	6
(2) Key Issues	6
(3) A Community Vision	7
(c) Analysis of Existing and Emerging Conditions	
(1) Population, Housing, and Economy	
(A) Population:	
(i) Permanent population growth trends using data from the two most recent decennial Censuses;	8-11
(ii) Current permanent and seasonal population estimates;	15-16
(iii) Key population characteristics;	12-14
(iv) Age; and	12-13
(v) Income	26
(B) Housing Stock:	
(i) Estimate of current housing stock, including permanent and seasonal units, tenure, and types of units (single-family, multi-family, and manufactured); and	16-23
(ii) Building permits issued for single-family, multi-family, and manufactured homes since last plan update	19
(C) Local Economy	23-33
(D) Projections	16
(2) Natural Systems Analysis	
(A) Mapping and Analysis of Natural Features	
(i) Areas of Environmental Concern (AECs);	51-54
(ii) Soil characteristics, including limitations for septic tanks, erodibility, and other factors related to development;	42-50
(iii) Environmental Management Commission water quality classifications and related use support designations, and Division of Environmental Health shellfish growing areas and water quality conditions;	61-63
(iv) Flood and other natural hazard areas;	35-37
(v) Storm surge areas;	37-41
(vi) Non-coastal wetlands including forested wetlands, shrub-scrub wetlands, and freshwater marshes;	52-54
(vii) Water supply watersheds or wellhead protection areas;	100
(viii) Primary nursery areas, where mapped;	62-63
(ix) Environmentally fragile areas; and	56-61
(x) Additional natural features or conditions identified by the local government.	33-35, 41-42

CAMA CORE LAND USE ELEMENT	ELEMENT DISCUSSED
(B) Composite Map of Environmental Conditions: <ul style="list-style-type: none"> (i) Class I (ii) Class II (iii) Class III 	64-66
(C) Environmental Conditions <ul style="list-style-type: none"> (i) Water Quality: <ul style="list-style-type: none"> (I) Status and changes of surface water quality, including impaired streams from the most recent NC Division of water Quality Basinwide Water Quality Plans, 303(d) List and other comparable data; (II) Current situation and trends on permanent and temporary closures of shellfishing waters as determined by the Report of Sanitary Survey by the Shellfish Sanitation Section of the NC Division of Environmental Health; (III) Areas experiencing chronic wastewater treatment system malfunctions; and (IV) Areas with water quality or public health problems related to non-point source pollution (ii) Natural Hazards: <ul style="list-style-type: none"> (I) Areas subject to storm hazards such as recurrent flooding, storm surges, and high winds; (II) Areas experiencing significant shoreline erosion as evidenced by the presence of threatened structures or public facilities; and (III) Where data is available, estimates of public and private damage resulting from floods and wind that has occurred since the last plan update (iii) Natural Resources: <ul style="list-style-type: none"> (I) Environmentally fragile areas or areas where resource functions may be impacted as a result of development; and (II) Areas containing potentially valuable natural resources 	67-80
(3) Analysis of Land Use and Development <ul style="list-style-type: none"> (A) A map of land including the following: residential, commercial, industrial, institutional, public, dedicated open space, agriculture, forestry, confined animal feeding operations, and undeveloped; 	83, 87, 89, 91

CAMA CORE LAND USE ELEMENT	ELEMENT DISCUSSED
(B) The land use analysis shall including the following: <ul style="list-style-type: none"> (i) Table that shows estimates of the land area allocated to each land use; (ii) Description of any land use conflicts; (iii) Description of any land use-water quality conflicts; (iv) Description of development trends using indicators; and (v) Location of areas expected to experience development during the five years following plan certification by the CRC and a description of any potential conflicts with Class II or Class III land identified in the natural systems analysis 	82-90
(C) Historic, cultural, and scenic areas designated by a state or federal agency or by local government	92-93
(D) Projections of future land needs	183
(4) Analysis of Community Facilities	
(A) Public and Private Water Supply and Wastewater Systems	100-101
(B) Transportation Systems	93-96
(C) Stormwater Systems	106-109
(D) Other Facilities	96-105
(5) Land Suitability Analysis <ul style="list-style-type: none"> (A) Water quality; (B) Land Classes I, II, and III summary environmental analysis; (C) Proximity to existing developed areas and compatibility with existing land uses; (D) Potential impacts of development on areas and sites designated by local historic commission or the NC Department of Cultural Resources as historic, culturally significant, or scenic; (E) Land use and development requirements of local development regulations, CAMA Use Standards and other applicable state regulations, and applicable federal regulations; and (F) Availability of community facilities, including water, sewer, stormwater, and transportation 	110-113
(6) Review of Current CAMA Land Use Plan	113-118
<ul style="list-style-type: none"> (A) Consistency of existing land use and development ordinances with current CAMA Land Use Plan policies; (B) Adoption of the land use plan's implementation measures by the governing body; and (C) Efficacy of current policies in creating desired land use patterns and protecting natural systems 	
(d) Plan for the Future	
(1) Land Use and Development Goals:	
(A) Community concerns and aspirations identified at the beginning of the planning process;	6-7
(B) Needs and opportunities identified in the analysis of existing and emerging conditions	110-131

CAMA CORE LAND USE ELEMENT	ELEMENT DISCUSSED
<p>(2) Policies:</p> <p>(A) Shall be consistent with the goals of the CAMA, shall address the CRC management topics for land use plans, and comply with all state and federal rules;</p> <p>(B) Shall contain a description of the type and extent of analysis completed to determine the impact of CAMA Land Use Plan policies on the management topics, a description of both positive and negative impacts of the land use plan policies on the management topics, and a description of the policies, methods, programs, and processes to mitigate any negative impacts on applicable management topics;</p> <p>(C) Shall contain a clear statement that the governing body either accepts state and federal law regarding land uses and development in AECs or, that the local government's policies exceed the requirements of state and federal agencies.</p>	131-137
<p>(3) Land Use Plan Management Topics.</p>	
<p>(A) Public Access</p>	137-138
<p>(B) Land Use Compatibility</p>	138-148
<p>(C) Infrastructure Carrying Capacity</p>	148-153
<p>(D) Natural Hazard Areas</p>	153-155
<p>(E) Water Quality</p>	155-158
<p>(F) Local Areas of Concern</p>	158-168
<p>(4) Future Land Use Map</p> <p>(A) 14-digit hydrological units encompassed by the planning area;</p> <p>(B) Areas and locations planned for conservation or open space and a description of compatible land use and activities;</p> <p>(C) Areas and locations planned for future growth and development with descriptions of the following characteristics:</p> <p>(i) Predominant and supporting land uses that are encouraged in each area;</p> <p>(ii) Overall density and development intensity planned for each area;</p> <p>(iii) Infrastructure required to support planned development in each area</p> <p>(D) Areas in existing developed areas for infill, preservation, and redevelopment;</p> <p>(E) Existing and planned infrastructure, including major roads, water, and sewer</p> <p>In addition, the plan shall include an estimate of the cost of any community facilities or services that shall be extended or developed. The amount of land allocated to various uses shall be calculated and compared to the projection of land needs. The amount of land area thus allocated to various uses may not exceed projected needs as delineated in Part (c)(3)(A)(iv) - Projection of Future Land Needs.</p>	<p>169-182</p> <p>182-184</p>

CAMA CORE LAND USE ELEMENT	ELEMENT DISCUSSED
(e) Tools for Managing Development	185-198
(1) Guide for Land Use Decision-Making	185
(2) Existing Development Program	185
(3) Additional Tools.	185
(A) Ordinances:	
(i) Amendments or adjustments in existing development codes required for consistency with the plan;	186
(ii) New ordinances or codes to be developed	
(B) Capital Improvements Program	
(C) Acquisition Program	
(D) Specific Projects to Reach Goals	
(4) Action Plan/Schedule	187-188

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF
CRAVEN COUNTY, NORTH CAROLINA, ADOPTING THE
COUNTY'S CAMA CORE LAND USE PLAN**

WHEREAS, the County'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 January, 2007, through July, 2009, the County drafted a Land Use Plan with the assistance of its consultant, Holland Consulting Planners, Inc., and conducted a series of public workshops and meetings as part of a comprehensive public participation program under the leadership of the Planning Board; and

WHEREAS, on May 28, 2009, the Planning Board recommended adoption of the draft CAMA Core Land Use Plan; and

WHEREAS, at a duly advertised Regular Meeting on July 20, 2009, the Board of Commissioners held a public hearing on the draft CAMA Core Land Use Plan; and

WHEREAS, at the Regular Meeting on July 20, 2009, the Board of Commissioners of Craven County, North Carolina found the policies in the draft CAMA Core Land Use Plan to be internally consistent; and

WHEREAS, at the Regular Meeting on July 20, 2009, the Board of Commissioners of Craven County, North Carolina found the policies and Future Land Use Map in the draft CAMA Core Land Use Plan to be consistent with the County's desired vision for the future and unanimously approved to adopt the draft CAMA Core Land Use Plan as amended; and

WHEREAS, at the Regular Meeting on July 20, 2009, the Board of Commissioners of Craven County, North Carolina found that policy statements and the Future Land Use Map have been evaluated, and determined that no internal inconsistencies exist; 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 County 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

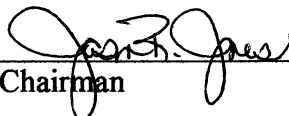
WHEREAS, the P&SI Committee chairman will submit the recommendation to the CRC and the CRC will then vote on certification of the County's Land Use Plan; and


WHEREAS, a certified Craven County 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 Craven County, North Carolina, has unanimously adopted the draft CAMA Core Land Use Plan; and

BE IT FURTHER RESOLVED that the Planning Director of Craven County is hereby authorized to submit the adopted CAMA Core Land Use Plan to the State for certification as described above.

Adopted this ^{3rd} ~~20th~~ day of ^{August} ~~July~~, 2009. *DMB*


Chairman


Clerk to the Board



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

Beverly Eaves Perdue, Governor

James H. Gregson, Director

Dee Freeman, Secretary

October 14, 2009

MEMORANDUM

TO: CRC & Interested Parties
FROM: Tancred Miller
SUBJECT: Rulemaking Update

Along with this memo is a spreadsheet that contains all of the Commission's rules that are currently in the rulemaking process—from those being proposed for initial action to those reviewed by the N.C. Rules Review Commission (RRC) since the last CRC meeting. Listed below is a description and recent history of the CRC's action on each rule. Complete drafts of rules scheduled for public hearing at this meeting will be available on the DCM website.

RULE DESCRIPTIONS

1. 15A NCAC 7B.0901 CAMA Land Use Plan Amendments
Status: Scheduled for RRC review on 10/15/09.
 This rule is being amended to clarify that the public noticing and hearing requirements for land use plan amendments. Anticipated effective date is November 1, 2009.
2. 15A NCAC 7H.0104 Development Initiated Prior to Effective Date of Revisions
Status: Going to public hearing.
 The proposed amendments are to clarify how erosion rate setback factors for oceanfront development are to be applied. The amendments also establish limitations for new development that cannot meet the current setback, but could meet the setback based on the rate in effect when the lot was created. Public hearing anticipated at the January 2010 meeting.
3. 15A NCAC 7H.0205 Coastal Wetlands (Marsh Alteration)
Status: Scheduled for RRC review on 10/15/09.
 The proposed amendments are for the Commission to begin regulating marsh mowing. CRC approved draft rule language in March. The rule has been through two public hearings and was adopted at the August meeting. Anticipated effective date is November 1, 2009.
4. 15A NCAC 7H.0208 Estuarine System Use Standards (Docks & Piers provisions)
Status: Comment period open.
 This rule is being amended to make conforming changes to the CRC's shoreline stabilization and docks & piers rules, and to make other clarifying and administrative changes to other sections of the rule. The public hearing was held in Morehead City on September 21st, with no comments received. Eligible for adoption at the January 2010 meeting, with a possible effective date of March 1st, 2010.

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

5. 15A NCAC 7H.0309 Use Standards for Ocean Hazard Areas: Exceptions

Status: Comment period open.

This rule underwent one round of public comment to make the development limitations conform with changes to 7H.0306, and changes to the pier house section that allow construction and expansion of pier houses oceanward of the setback. Another round of public comment was necessary to incorporate additional changes related to allowing electrical transmission lines oceanward of the development setback. The public hearing was held in Morehead City on September 21st, with no comments received. Eligible for adoption at the January 2010 meeting, with a possible effective date of March 1st, 2010.

6. 15A NCAC 7H.0310 Use Standards for Inlet Hazard Areas

Status: Under Science Panel review.

The CRC has seen the new inlet hazard area delineations prepared by its Science Panel on Coastal Hazards and had further discussion in July and November 2008. The CRC Science Panel and DCM staff continue to work on recommendations to bring to the CRC at a later meeting.

7. 15A NCAC 7H.1103 GP for Construction of Bulkheads & Placement of Riprap (fee increase)

Status: Effective October 5, 2009.

The changes to this rule result from the CHPP recommendation that the CRC encourage alternatives to vertical stabilization structures on estuarine shorelines. 7H.1103 increases the application fee for this general permit, and thus is subject to review by the Joint Legislative Commission on Governmental Operations (Gov Ops). Gov Ops did not meet within the allotted time to review the fee increase, therefore the rule became effective on October 5th.

8. 15A NCAC 7H.1704-5 GP for Emergency Work Requiring a CAMA and/or Dredge & Fill Permit

Status: Comment period open.

Changes are being made to this rule to conform with newly-effective changes to 7H.0308, Use Standards for Ocean Hazard Areas. The changes primarily address general and specific use standards related to temporary erosion control structures. The public hearing was held in Morehead City on September 21st, with no comments received. Eligible for adoption at the January 2010 meeting, with a possible effective date of March 1st, 2010.

9. 15A NCAC 7H.2300 GP for Replacement of Existing Bridges

Status: Going to public hearing.

These amendments are intended to streamline the process under which the Department of Transportation (DOT) replaces two-lane bridges on secondary roads. The changes will expand the applicability of the GP and shorten the project delivery time for bridge replacements. Public hearing anticipated at the January 2010 meeting.

COASTAL RESOURCES COMMISSION RULEMAKING STATUS - OCTOBER 2009

Item #	Rule Citation	Rule Title	October '09 Status	October Action Required?	Next Steps
1	15A NCAC 7B.0901	CAMA Land Use Plan Amendments	At RRC	No	RRC review in October, can become effective November 1st.
2	15A NCAC 7H.0104	Development Initiated Prior to Effective Date of Revisions	Going to public hearing	No	Public hearing anticipated at January 2010 meeting.
3	15A NCAC 7H.0205	Coastal Wetlands	At RRC	No	RRC review in October, can become effective November 1st.
4	15A NCAC 7H.0208	Estuarine System Use Standards	Comment period open	No	Public hearing held in September. Eligible for adoption at January 2010 meeting.
5	15A NCAC 7H.0309	Use Standards for Ocean Hazard Areas: Exceptions	Comment period open	No	Re-published for changes related to electrical transmission lines oceanward of the setba hearing held in September. Possible effective date is March 1st, 2010.
6	15A NCAC 7H.0310	Use Standards for Inlet Hazard Areas	Under Science Panel review	No	DCM and Science Panel continue to work on recommendations to CRC.
7	15A NCAC 7H.1103	GP, Constr. of Bulkheads & Placement of Riprap	Effective October 5, 2009	No	Was subject to GovOps review because of the fee increase. Became effective on Octot
8	15A NCAC 7H.1704 & 1705	GP for Temporary Erosion Control Structures	Comment period open	No	Public hearing held in September. Eligible for adoption at January 2010 meeting.