

NC COASTAL RESOURCES COMMISSION

February 23-24, 2011

NOAA/NCNERR Administration Building

Beaufort, NC

The State Government Ethics Act mandates that at the beginning of any meeting the Chair remind all the members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or potential conflict, please state so at this time.

Wednesday, February 23rd

3:00 COMMISSION CALL TO ORDER (Auditorium)

Bob Emory, Chair

- Roll Call

VARIANCES

- Walton O'Neal – (CRC-VR-11-01) Emerald Isle, Static Line Exception
- Wayland - (CRC-VR-11-02) Oak Island, Oceanfront Setback

Ward Zimmerman

Ward Zimmerman

PRESENTATIONS

- Sandbag Stakeholders Meeting Summary
- Hazard Mitigation Grant Program

Mike Lopazanski

Chris Crew, NCDEM

5:00 EXECUTIVE COMMITTEE MEETING (TBA)

Bob Emory, Chair

RECESS

Thursday, February 24th

8:30 COMMISSION CALL TO ORDER (Auditorium)

Bob Emory, Chair

- Roll Call
- Approval of November 17-18, 2010 Meeting Minutes
- Executive Secretary's Report
- Chairman's Comments
- CRAC Report

Jim Gregson

Bob Emory

Ray Sturza

PRESENTATIONS

- CRC Offshore Energy Exploration Recommendations (CRC-11-01)
- Marine Spatial Planning and Efforts to Streamline OCS Wind Energy Development (CRC-11-08)
- Draft Subcommittee Description/Structure/Assignments (CRC-11-02)
- UNC Coastal Studies Institute

Mike Lopazanski

Scott Geis

Mike Lopazanski

Dr. Andy Keeler

11:45 PUBLIC INPUT AND COMMENT

12:00 LUNCH

1:00 PRESENTATIONS

- Sea Level Rise and Marsh Migration – *Spartina* Marshes
- Climate Change Ecosystem Assessment
- Swan Quarter Dike Project
- Progress on Sea Level Rise Policy Development (CRC-11-03)

Dr. Carolyn Currin

Laura Gadd, NC Natural

Heritage Program

Rob Williams, USDA – NRCS

Tancred Miller

ACTION ITEMS

Land Use Plan Certifications and Amendments

John Thayer

- Dare County LUP Certification (*CRC-11-04*)
- Hertford County LUP Certification (*CRC-11-05*)
- Town of Nags Head LUP Certification (*CRC-11-06*)
- New Bern, Trent Woods, River Bend Joint LUP Certification (*CRC-11-07*)

OLD/NEW BUSINESS

Bob Emory, Chair

- Future Meetings and Agenda Items

4:00 ADJOURN

Executive Order 34 mandates that in transacting Commission business, each person appointed by the governor shall act always in the best interest of the public without regard for his or her financial interests. To this end, each appointee must recuse himself or herself from voting on any matter on which the appointee has a financial interest. Commissioners having a question about a conflict of interest or potential conflict should consult with the Chairman or legal counsel.



N.C. Division of Coastal Management

www.nccoastalmanagement.net

Next Meeting:

May 4 - 5, 2011

NOAA/NCNERR Administration Building

Beaufort, NC



STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

ROY COOPER
ATTORNEY GENERAL

REPLY TO:
WARD ZIMMERMAN
wzimmerman@ncdoj.gov

MEMORANDUM

TO: Coastal Resources Commission
FROM: Ward Zimmerman, Assistant Attorney General
DATE: February 9, 2011 (for the February 2010 CRC Meeting)
RE: **Variance Request # 11-01 by Walton and Helene O'Neal**

Petitioners own a vacant oceanfront lot in Emerald Isle, Carteret County, North Carolina. They propose to construct a new single-family residence. Petitioners' proposed development does not meet the oceanfront erosion setback requirements set forth in 15A NCAC 7H.0306(a)(8)(D), which states, in applicable part, that "No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure." Petitioners seek a variance from the CRC's oceanfront setback rules.

The following additional information is attached to this memorandum:

- Attachment A: Relevant Statutes and Rules
- Attachment B: Stipulated Facts
- Attachment C: Petitioners' Position and Staff's Response to Criteria
- Attachment D: Petitioners' Proposed Development
- Attachment E: Adjacent Riparian Property Owner Statement
- Attachment F: Carteret Co. Health Dept. Permit #3453 & Letter from the Town of Emerald Isle
- Attachment G: LPO Denial Letter of CAMA Minor Development Permit
- Attachment H: Petitioners' Variance Request & Other Exhibits

cc: Walton and Helene O'Neal, Petitioners
Kevin B. Reed, Director of Planning and Inspections, Town of Emerald Isle
James W. Taylor, Jr., LPO, Town of Emerald Isle
DCM Staff
Jennie Hauser, Special Deputy Attorney General and CRC Counsel

ATTACHMENT A
(Relevant Statutes and Rules)

N.C. Gen. Stat. § 113A-120. Grant or Denial of Permits.

- (a): The responsible official or body shall deny an application for a permit upon finding:
 - (8): In any case, that the development is inconsistent with the State guidelines or the local land-use plans.

15A NCAC 7H.0305. General Identification and Description of Landforms.

- (a): This Section describes natural and man-made features that are found within the ocean hazard area of environmental concern.
 - (6): **Static Vegetation Line.** In areas within the boundaries of a large-scale beach fill project, the vegetation line that existed within one year prior to the onset of initial project construction shall be defined as the static vegetation line. A static vegetation line shall be established in coordination with the Division of Coastal Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo a large-scale beach fill project. Once a static vegetation line is established, and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line. In all locations where the vegetation line as defined in this Rule is landward of the static vegetation line, the vegetation line shall be used as the reference point for measuring oceanfront setbacks. A static vegetation line shall not be established where a static vegetation line is already in place, including those established by the Division of Coastal Management prior to the effective date of this Rule. A record of all static vegetation lines, including those established by the Division of Coastal Management prior to the effective date of this Rule, shall be maintained by the Division of Coastal Management for determining development standards as set forth in Rule .0306 of this Section.

15A NCAC 7H.0306. General Use Standards for Ocean Hazard Areas.

- (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:

- (A): A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- (8): . . . [D]evelopment setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H.0305 shall be measured landward from the *static vegetation line* as defined in this Section. However, in order to allow for development landward of the large-scale beach fill project that is less than 2,500 square feet and cannot meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line set forth in Subparagraph (1) and (2)(A) of this Paragraph a local government or community may petition the Coastal Resources Commission for a “static line exception” in accordance with 15A NCAC 07J .1200 to allow development of property that lies both within the jurisdictional boundary of the petitioner as well as the boundaries of the large-scale beach fill project. . . . If the request is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the static vegetation line under the following conditions:
 - (A): Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(2)(A) of this Rule;
 - (B): Total floor area of a building is no greater than 2,500 square feet;
 - (C): Development setbacks are calculated from the shoreline erosion rate in place at the time of permit issuance;
 - (D): **No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure.** When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater; No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise

extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater; (emphasis added)

ATTACHMENT B
(Stipulated Facts)

1. The North Carolina Division of Coastal Management (“DCM”) is charged with administering of the Coastal Area Management Act (“CAMA”), N.C. Gen. Stat. § 113A-100 *et seq.*, the controlling statutes and regulations promulgated thereunder, and the rules of the Coastal Resources Commission (“CRC”) implementing CAMA, primarily found in Title 15A, Subchapter 7H of the North Carolina Administrative Code. Among DCM’s administrative responsibilities is oversight of the State’s coastal development permitting.
2. Walton O’Neal, III, and Helene O’Neal, (collectively, “Petitioners”), own an oceanfront vacant lot at 513 Ocean Drive in Emerald Isle, Carteret County, North Carolina, (the “Property”).
3. Petitioners purchased this Property in May 2010.
4. Petitioners’ property is located within the Ocean Hazard Area of Environmental Concern (“AEC”), as designated by the Coastal Resources Commission (“CRC”) in Rule 15A NCAC 7H.0304.
5. The Management Objective for the Ocean Hazard AEC states that “[t]he purpose of these Rules shall be to further the goals set out in G.S. 113A-102(b), with particular attention to minimizing losses to life and property resulting from storms and long-term erosion, preventing encroachment of permanent structures on public beach areas, preserving the natural ecological conditions of the barrier dune and beach systems, and reducing the public costs of inappropriately sited development.” Rule 15A NCAC 7H.0303(b).
6. In 1979, the CRC adopted an erosion setback requirement that applies to structures along the oceanfront. The current iteration of this requirement is set forth in Rule 15A NCAC 7H.0306.
7. The general rule is that “[a] building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater.” Rule 15A NCAC 7H.0306(a)(2)(A).
8. Petitioners’ property has an annual long-term erosion rate of 2 feet. Thus, the erosion setback requirement on the lot is 60 feet, regardless of whether the 60-foot minimum or the 30 times the shoreline erosion rate (30 times 2 feet equals 60 feet) is used.
9. The static line erosion setback rule became effective in 1997. Static vegetation line is identified and defined in Rule 15A NCAC 7H.0305(a)(6).
10. Effective August 2009, the CRC adopted an exception to its general static line erosion setback requirements for “areas that have received large-scale beach fill.” Rule 15A NCAC 7H.0306(a)(8) states that “development setbacks in areas that have received large-

scale beach fill as defined in 15A NCAC 07H.0305 shall be measured landward from the *static vegetation line* as defined in this Section.” (emphasis added).

11. The static line was determined by DCM staff through staking the vegetation line and subsequently surveying the line in November 2002. The static line is shown on a series of maps dated December 4, 2002. The Town of Emerald Isle received “large-scale beach fill” in early 2003.
12. Additional sand was added in this area in September 2003 after Hurricane Isabel and again in September 2005 after Hurricane Ophelia.
13. Rule 15A NCAC 7H.0306(a)(8) further states that “a local government or community may petition the Coastal Resources Commission for a ‘static line exception’ in accordance with 15A NCAC 07J.1200 to allow development of property that lies both within the jurisdictional boundary of the petitioner as well as the boundaries of the large-scale beach fill project.”
14. At its March 24, 2010, meeting, the CRC granted the Town of Emerald Isle a “static line exception.”
15. On November 4, 2010, Petitioners submitted to the Town of Emerald Isle’s Local CAMA Permit Officer (the “LPO”) an application for a Minor Development Permit to build an approximate 1,929 square foot single family dwelling (Minor CAMA Permit #2010-40). *See Attachment D.*
16. In accordance with the CAMA minor permit application process, written notification of the proposed development was provided to the adjacent property owners. No objections were made. *See Attachment E.*
17. The exception to the “static line exception” set forth in Rule 15A NCAC 7H.0306(a)(8), states, in applicable part, that “the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the static vegetation line under the following conditions:
 - (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(2)(A) of this Rule;
 - (B) Total floor area of a building is no greater than 2,500 square feet;
 - (C) Development setbacks are calculated from the shoreline erosion rate in place at the time of permit issuance;
 - (D) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure.”

18. Petitioners' proposed development meets all of the conditions set forth in Rule 15A NCAC 7H.0306(a)(8), except for subsection (D): "No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure."
19. A Town of Emerald Isle's United Development Ordinance requires any development to be set back 10 feet from the side property lines and 20 feet (revised in 2010 from 30 feet) from the street-side property line and requires a home to have two off street parking spaces on the property.
20. Petitioners' adjacent neighbor at 515 Ocean Drive owns a residence, the most landward structure, that was built in 1989 with a 20-foot front setback in lieu of the required 30-foot front setback in place prior to the adoption of 15A NCAC 07H .0306(a)(8)(D). A variance was granted by the Emerald Isle Board of Adjustment on October 12, 1988 to reduce the front yard setback from 30 feet to 20 feet.
21. Of the 11 neighboring houses built along Ocean Drive between 1959 and 1989, only one other house within 375 feet each way of the Petitioners' lot was built with a nonconforming front setback. All other houses were built in compliance with the 30-foot front setback and sit ocean-ward of Petitioners' adjacent neighbor at 515 Ocean Drive.
22. The Carteret County Environmental Health Department requires the septic field for new construction to be placed on the landward side of the house, set in from the property lines by 10 feet, be separated from any water line by 10 feet, and be set no closer than 5 feet to any structure. It restricts any parking on the septic field.
23. Based upon Petitioners' adjacent neighbor's structure at 515 Ocean Drive, Rule 15A NCAC 7H.0306(a)(8)(D), and current Carteret County Health Department setback requirements for septic fields, Petitioners' development is limited to a building footprint of 30 feet wide by 7.2 feet deep (216 square feet, per floor).
24. Rule 15A NCAC 7J.0701(a) states, in applicable part: "Before filing a petition for a variance from a rule of the Commission, the person must seek relief from local requirements restricting use of the property...."
25. Petitioners sought relief from the Town of Emerald Isle and Carteret County. To gain relief from the Carteret County Health Department, Petitioners agreed to reduce the size of the home from three bedrooms to two bedrooms. On September 21, 2010, the County agreed to reduce the size of the septic field and required property line setbacks to 5 feet. The revised Carteret County septic permit requires the home to be located a minimum of 23 feet from the front property line. Since this requirement moves the home beyond the 20 feet required by the Town of Emerald Isle, no relief can be granted from Emerald Isle. *See Attachment F.*

26. Even with relief from the Carteret County Health Department, the Petitioners are restricted to a 636 square foot building footprint.

Ocean-ward setback of the landward most adjacent structure:	44.2'
Required Health Department setback for 2 bedroom home:	<u>-23.0'</u>
Allowable depth for development:	21.2'

21.2' (depth) x 30' (width) = 636 square foot footprint

27. The Petitioners have exhausted all relief opportunities from local development requirements. *See* Attachment F.

28. On December 9, 2010, the Town of Emerald Isle CAMA Local Permitting Officer (LPO) denied Petitioners' development application because Petitioners' proposed development violates N.C. Gen. Stat. § 113A-120 and Rule 15A NCAC 7H.0306(a)(8)(D), in that it "extends oceanward of the landward-most adjacent building or structure." *See* Attachment G.

29. On January 7, 2011, Petitioners filed this variance request asking the CRC to set aside its erosion setback requirement in Rule 15A NCAC 7H.0306(a)(8)(D) and to build an additional 7.3 feet. *See* Attachment H. This will allow the Petitioner to build a single family home with an 855 square foot footprint.

Ocean-ward setback of the landward most adjacent structure:	44.2'
7.3' relief from Paragraph (a) (8) (D):	+7.3'
Required Health Department setback for 2 bedroom home:	<u>-23.0'</u>
Allowable depth for development:	28.5'

28.5' (depth) x 30' (width) = 855 square foot footprint

30. The footprint of the proposed home would be located landward of the frontal dune and 2.5 feet landward of the 60-foot Ocean Hazard setback line.

31. The proposed development is located landward of 9 of 11 neighboring houses in this area. *See attached* 501 through 607 Ocean Drive Setback Analysis compiled from Carteret County GIS maps. Additionally, the proposed development would sit 24 feet landward of Petitioners' neighbor to the east.

ATTACHMENT C

(Petitioner's Position and Staff's Response to Criteria)

- 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 CAMA development standards will result in an unnecessary hardship by prohibiting us from building a home on our lot. It is impractical to build a home on such a small footprint of 630 s.f. We cannot make reasonable use of our property if the 7.3’ variance is not granted.

This hardship results from conditions specific to this property, caused by the location of the most landward adjacent home being permitted in 1989 in non-compliance of the Town’s 30’ front setback ordinance. Most other existing houses along Ocean Drive were built in compliance with the 30’ front setback and are situated significantly farther ocean-ward than our most landward adjacent neighbor. See the attached “Ocean Drive Setback Analysis” and supporting photos. This analysis was prepared from the Carteret County GIS updated 12/01/10.

15A NCAC 07H .0306 Paragraph (a) (8) (D) allows an exception to the rule for irregular shaped lots.

When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater.

Although our lot does not qualify for this exception because it is a standard rectangular lot we would have no problem building our proposed home if the DCM could consider the average setback between our neighbors. Our most ocean-ward neighbor and 9 out of 11 neighboring homes along Ocean Drive sit significantly more toward the ocean. The neighboring house to the east (the adjacent most ocean-ward house) was built with the required 30’ front setback and extends 24’ further ocean-ward beyond where we are proposing to build. A 7.3’ variance to *15A NCAC 07H .0306 General Use Standards For Ocean Hazard Areas, Paragraph (a) (8) (D)* will not adversely affect our neighbors and will not block the views of either neighbor.”

Staff's Position: Yes.

Staff agrees that strict application of the development rules, standards, or orders issued by the Commission cause the Petitioners unnecessary hardships because of the extreme location of a neighboring residence and the limited nature of Petitioners’ variance proposal.

First, Petitioners' adjacent neighbor to the west, at 515 Ocean Drive, owns a residence that was built in 1989 with a 20-foot front setback, as opposed to the standard requisite 30-foot front setback, due to a variance that was granted by the Emerald Isle Board of Adjustment. As such, this neighbor's house is the only residence, within the surrounding 11 neighboring houses along Ocean Drive (within 375 feet east or west of the Petitioners' lot), that encroaches within a 30-foot street setback. For sake of comparison, Petitioners' neighbor to the west extends approximately 31 feet oceanward of this abnormally-placed residence at 515 Ocean Drive. This puts an artificial burden on the development of Petitioners' property that Staff believes was not intended by the exception to the "static line exception" set forth in Rule 15A NCAC 7H.0306(a)(8).

Second, Petitioners are only asking to build 7.3 feet seaward of their neighbor's house to the west. Allowing Petitioners' development to extend this additional distance oceanward will have a negligible impact on meeting the Management Objectives of the Ocean Hazard AEC, which is "minimizing losses to life and property" as set forth in 15A NCAC 7H.0303(b). Minimal additional protection, at best, is gained by limiting Petitioners' development to the oceanward edge of their neighbor's house to the west. Even with the additional 7.3 feet of development space, Petitioner's proposed home will still sit well behind the frontal dune and 2.5 feet landward of the 60-foot Ocean Hazard setback line. Moreover, this minimum exception would increase Petitioners' building footprint from 21.2 feet deep by 30 feet wide (for a total of 636 square feet) to 28.5 feet deep by 30 feet wide (for a total of 855 square feet). Petitioners' proposed two-bedroom house would be moderately sized in comparison to the residences of their neighbors and would be located landward of 9 of 11 neighboring houses in this area.

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.

"Our lot is a small 50' wide ocean front lot with the unfortunate circumstance of being located adjacent to a house built in non-compliance with the Town of Emerald Isle *Zoning Code*. The location of this house is restricting reasonable development of a home on our lot. There are no other 50' wide vacant lots on the ocean in the east end of Emerald Isle and our lot is the only vacant lot adjacent to an existing structure built with a reduced front setback.

Our proposed home will not adversely impact our neighbors or the beach in any way. Up and down the beach there is only one other house built with a reduced front setback within 375' each way from our lot. See the attached "Ocean Front Setback Analysis". Our lot is one of only five remaining vacant lots out of 172 in the entire east end of Emerald Isle that has not been developed. Granting a 7.3' variance to will not set a precedent for development on 50' lots along Ocean Drive as there are no others."

Staff's Position: Yes.

As noted above in the first section, Staff believes that Petitioners' hardships result from conditions peculiar to their property because of the extreme location of the adjacent residence to the west. The placement of this neighboring residence so close to the street is an aberration among the properties along this stretch of Emerald Isle. If this neighboring house was built in-line with the surrounding properties, Petitioners would have had no need to now apply for this variance to build an additional 7.3 feet oceanward. This is because Petitioner's proposed home would still sit landward of the 60-foot Ocean Hazard setback line. Hence, it is only because of the peculiar situation of the location of one of their neighbors that Petitioners now face their hardships.

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

Petitioners' Position: No.

"The hardship did not result from actions taken by us but is a direct result of the most adjacent landward home being built in 1989 with a reduced front setback in lieu of the required setback. Because this house, and most others along Ocean Drive, is on a larger lot, it easily met the other Emerald Isle and Carteret County standards at that time. If given the same standards for development when the adjacent houses were built, we would have no problem building a reasonably size home. Building to the current setback required by *15A NCAC 07H .0306 General Use Standards for Ocean Hazard Areas, Paragraph (a) (8) (D)* does not allow reasonable use of our property."

Staff's Position: No.

Staff agrees with Petitioners that their experienced hardships are due to the extreme location of the neighboring residence to the west at 515 Ocean Drive. As discussed above, this house was built in 1989 with a 20-foot front setback, as opposed to the standard requisite 30-foot front setback, due to a variance that was granted by the Emerald Isle Board of Adjustment. As such, this neighbor's house sits closer to the street than the surrounding 11 neighboring houses along Ocean Drive. This abnormal placement was in no way influenced by Petitioners or by the previous property owners.

Additionally, Petitioners have taken actions to mitigate their hardships. They sought relief from the Town of Emerald Isle and Carteret County. To gain relief from the Carteret County Health Department, Petitioners agreed to reduce the size of the home from three bedrooms to two bedrooms. This reduced structure size led the County to, in turn, agree to reduce the size of the septic field and required property line setbacks.

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 requested variance is consistent with the spirit, purpose and intent of the CRC's development standards. Our proposed home will meet the intent of the CRC's development standards by being build behind the frontal dune and Ocean Hazard Setback line in compliance with CAMA's development standards to preserve and nourish the beach.

Allowing us to build a home will preserve substantial justice. Our proposed home will not detrimentally impact the adjacent beach, our neighbors or our community. The location of our home will protect the view of our neighbors. We have met with our adjacent neighbors and received their support in our request for the variance. (see attached *Adjacent Riparian Property Owner Statement*)

The footprint of our proposed home will be only 825 s.f. To secure public safety, our home will be built out of harms way and will meet all state and local regulations for development in the Ocean Hazard ACE.”

Staff's Position: Yes.

The spirit, purpose, and intent of Rule 15A NCAC 7H.0306(a) is “to protect life and property.” This is the underlying reason for the CRC adopting erosion setback requirements, including the static line requirements in Ocean Hazard AECs. The spirit, purpose, and intent of the “static line exception,” as set forth in subsection (8) of that Rule, is to allow property owners to build in previously unbuildable areas (so long as certain conditions are met) to protect the aesthetic and environmental value of our state's coastal resources. In Staff's opinion, Petitioners' request to build oceanward 7.3 feet past their neighbor to the west complies with the spirit, purpose, and intent underpinning the CRC's exception to the “static line exception.” As noted above, minimal protection is gained by limiting Petitioners' development to the oceanward edge of their neighbor's house to the west. Even with the additional 7.3 feet of development space, Petitioner's proposed home will still sit well landward of the stable frontal dune and 2.5 feet landward of the 60-foot Ocean Hazard setback line. Importantly, there appears to be no immediate threat of encroachment on public trust areas. Moreover, this 7.3-foot exception would increase their building footprint from 636 square feet to only 855 square feet. Petitioners' proposed 1,929-square-foot two-bedroom house would be moderately sized in comparison to the residences of their neighbors, would be considerably smaller than the 2,500-square-foot house that the static line exception rule allows for, and would sit behind 9 of 11 neighboring houses in this area.

Staff also believes that granting a variance in this instance will secure public safety and welfare, and will preserve substantial justice. As Petitioners have pointed out, there are no other 50-foot wide vacant lots on the ocean in the east end of Emerald Isle; and their lot is the only

vacant lot adjacent to an existing structure built with a reduced front setback. Petitioners' lot is one of only five remaining vacant lots out of 172 in the entire east end of Emerald Isle. Public safety and welfare, as well as substantial justice, are preserved by allowing this vacant lot to be developed under the moderate plans now asked for by Petitioners.

The CRC implemented the variance process to allow for development in instances of unnecessary hardships that results from a condition peculiar to a piece of property, in which owners did not bring upon themselves the hardships, and that would protect public safety and welfare, and substantial justice. It is Staff's position that this variance petition meets these four criteria; and, thus, recommends that this variance be granted.

ATTACHMENT D
(Petitioners' Proposed Development)

Locality _____ Permit Number _____
Ocean Hazard _____ Estuarine Shoreline _____ ORW Shoreline _____ Public Trust Shoreline _____ Other _____
(For official use only)

GENERAL INFORMATION

RECEIVED

LAND OWNER

JAN 18 2011

Morehead City DCM

Name: **Walton O'Neal**
Address: **116 Dowery Creek East**
City: **Belhaven** State: **NC** Zip: **27810** Phone: **252-943-1913**
E-Mail: **wponeal@yahoo.com**

AUTHORIZED AGENT

Name: _____
Address: _____
City: _____ State: _____ Zip: _____ Phone: _____

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) **513 Ocean Drive, Emerald Isle By The Sea, Lots 17 & 18, Block 3**

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) **Single family residence w/ below house parking, storage & access, open elevated decks & stairs, on grade landscape steps, driveway, landscaping, air conditioning platform, beach access structure, buried propane tank, septic tank & drain field.**

SIZE OF LOT/PARCEL: 7496 square feet, 0.172084 acres

PROPOSED USE: Residential Single-family Multi-family Commercial/Industrial Other

TOTAL ENCLOSED FLOOR AREA OF A BUILDING IN THE OCEAN HAZARD AREA OF ENVIRONMENTAL CONCERN (AEC): 1929 square feet (includes all heated/air conditioned living space)

Level 1 825 sf
Level 2 825 sf
Level 3 279 sf
1929 sf

SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT-UPON SURFACES IN THE COASTAL SHORELINE AREA OF ENVIRONMENTAL CONCERN (AEC): N/A

CHOOSE THE AEC AREA THAT APPLIES TO YOUR PROPERTY: N/A

- (1) within 75 feet of Normal High Water for the Estuarine Shoreline AEC
 - (2) within 575 feet of Normal High Water for the Estuarine Shoreline AEC, adjacent to Outstanding Resource Waters
 - (3) within 30 feet of the Public Trust Shoreline AEC
- (Contact your Local Permit Officer if you are not sure which AEC applies to your property.)

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality? YES NO

If yes, list the total built upon area/impervious surface allowed for your lot or parcel. _____ square feet.

OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit. As a service we have compiled a listing of the kinds of permits that might be required. We suggest you check over the list with your LPO to determine if any of these apply to your project. Zoning, Drinking Water Well, Septic Tank (or other sanitary waste treatment system), Building, Electrical, Plumbing, Heating and Air Conditioning, Insulation and Energy Conservation, FIA Certification, Sand Dune, Sediment Control, Subdivision Approval, Mobile Home Park Approval, Highway Connection, and others.

RECEIVED

JAN 18 2011

Wilmington, NC

STATEMENT OF OWNERSHIP:

I, the undersigned, an applicant for a CAMA minor development permit, being either the owner of property in an AEC or a person authorized to act as an agent for purposes of applying for a CAMA minor development permit, certify that the person listed as landowner on this application has a significant interest in the real property described therein. This interest can be described as: (check one)

an owner or record title, Title is vested in **Walton & Helene O'Neal**, see Deed Book **3** page **57** in the **Carteret** County Registry of Deeds.

an owner by virtue of inheritance. Applicant is an heir to the estate of _____; probate was in _____ County.

if other interest, such as written contract or lease, explain below or use a separate sheet and attach to this application.

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

I furthermore certify that the following persons are owners of properties adjoining this property. I affirm that I have given **ACTUAL NOTICE** to each of them concerning my intent to develop this property and to apply for a CAMA permit.
(Name) (Address)

(1) **George & Carolyn Hall** 2551 Albemarle Avenue Raleigh, NC 27610

(2) **David Stewart** P.O. Box 25127 Raleigh, NC 27611

FOR DEVELOPERS IN OCEAN HAZARD AND ESTUARINE HAZARD AREAS:

I acknowledge that the land owner is aware that the proposed development is planned for an area which may be susceptible to erosion and/or flooding. I acknowledge that the local permit officer has explained to me the particular hazard problems associated with this lot. This explanation was accompanied by recommendations concerning stabilization and floodproofing techniques.

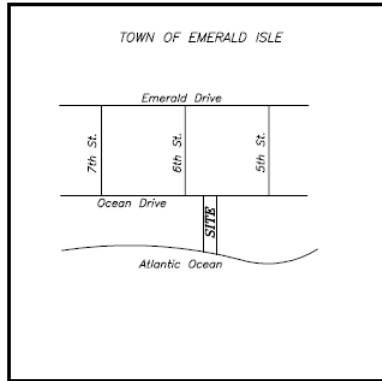
PERMISSION TO ENTER ON LAND:

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

This application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the AEC hazard notice where necessary, a check for \$100.00 made payable to the locality, and any information as may be provided orally by the applicant. The details of the application as described by these sources are incorporated without reference in any permit which may be issued. Deviation from these details will constitute a violation of any permit. Any person developing in an AEC without permit is subject to civil, criminal and administrative action.

This the _____ day of _____, 20____

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



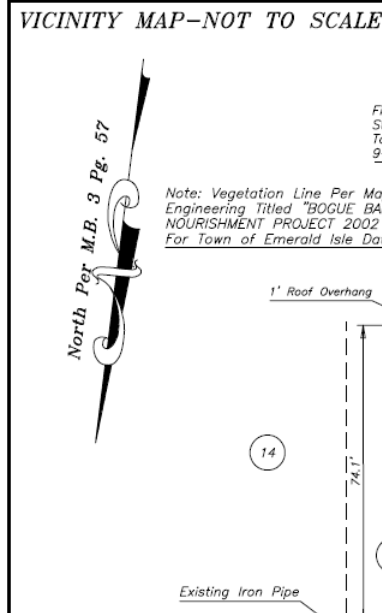
TOTAL LOT AREA

7,496 Sq. Ft.
(Coord. Method)

NOTE: Elevations (Contours) Shown Are Mean Sea Level (NAVD 1988)

LEGEND

- C/L - Centerline
- OHP - Overhead Power Line
- R/W - Right of Way
- + 14.6' - Spot Elevation



Note: Vegetation Line Per Map By Stroud Engineering Titled "BOGUE BANKS BEACH NOURISHMENT PROJECT 2002 PHASE II" For Town of Emerald Isle Dated 12-04-02

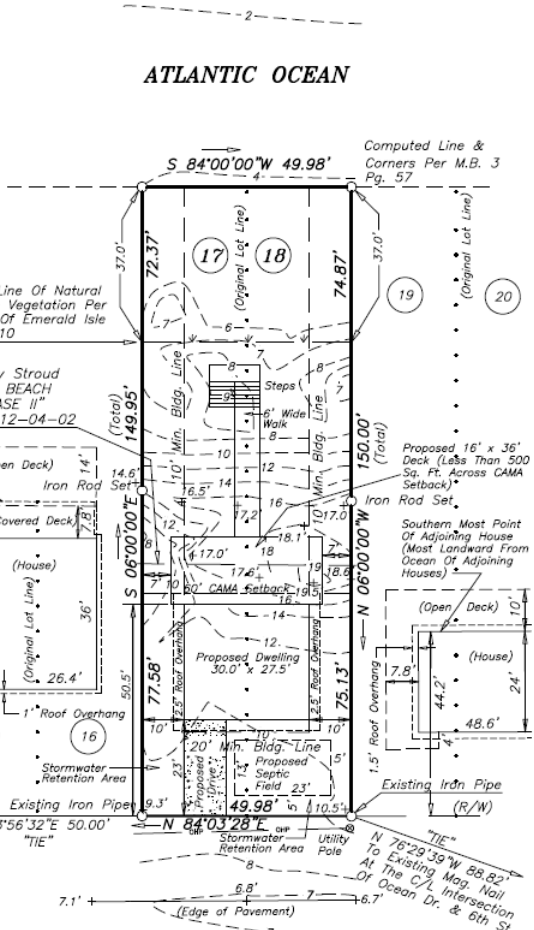
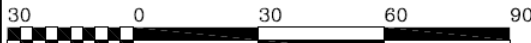
First Line Of Natural Stable Vegetation Per Town Of Emerald Isle 9-9-10

REFERENCE:

Lots 17 & 18 Blk. 3
"EMERALD ISLE BY THE SEA"
Map Book 3 Page 57
Carteret County Registry

NOT FOR RECORDING

PIN: 6324.11 55 4439
FLOOD ZONE: VE (14.0')
PER Firm 370047 6324 J
Date: 07-16-03
SUBD. REC.: 1954



OCEAN DRIVE
(60' Public R/W)

- Revised 8-30-10 (Topo Survey)
- Revised 8-30-10 (Show Adjoining Houses) (R/W)
- Revised 9-9-10 (Show New Vegetation Line)
- Revised 9-21-10 (Show Adjoining Roof Overhangs)
- Revised 9-29-10 (Preliminary Plot Plan)
- Revised 10-11-10 (Remove Gazebo)

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK _____ PAGE _____ OR OTHER REFERENCE SOURCE _____ M.B. 3 Pg. 57); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BOOK _____ PAGE _____ OR OTHER REFERENCE SOURCE _____; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1/10000±; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 96.1600). THIS 11th DAY OF October, 2010.



PRELIMINARY

DATE	4-29-10
DRAWN	PDP
REVISION	10-11-10
SCALE	1" = 30'
PROJ. NO.	10399
CODE	10399

Preliminary Plot Plan
WALTON O'NEAL

Morehead Township
Carteret County, North Carolina

Bell & Phillips Surveying, PLLC
604E CEDAR POINT BLVD.
CEDAR POINT, N.C. 28584
TELE.: (252)-393-6101, LIC. No.: P-0391
EMAIL: abellsurveying@tcp2.com

ATTACHMENT E
(Adjacent Riparian Property Owner Statement)

RECEIVED
JAN 18 2011
Morehead City DCW

ADJACENT RIPARIAN PROPERTY OWNER STATEMENT

I hereby certify that I own property adjacent to:

Walton & Helene O'Neal
513 Ocean Drive Emerald Isle, NC
Lots 17 & 18, Block 3, Emerald Isle By The Sea,
Atlantic Ocean, on Emerald Isle, Carteret County, North Carolina

Applicant's Mailing address & phone number:

Walton O'Neal
~~116 Shoreline Drive~~ 2922 E Main St
Belhaven, North Carolina 27810
252-943-1913

He has described to me, as shown on the attached plan, the development he is proposing at that location, and, I have no objections to his proposal.

Property owner:

David Stewart
515 Ocean Drive Emerald Isle, NC
Lots 19, 20 & 21 Block 3, Emerald Isle By The Sea,

Property owner's mailing Address & phone number:

P.O. Box 25127 Raleigh, NC 27611
919-424-7005

David W. Stewart
Signature
DAVID W. STEWART
Print or Type Name
10-30-10
Date

My Home &
Business Contact is:

(H) (919) 851-1558

(B) (919) 834-3705

Address: 1113 Kent Road
Raleigh, N.C. 27606

ADJACENT RIPARIAN PROPERTY OWNER STATEMENT

RECEIVED
JAN 28 2011
Wilmington, NC

I hereby certify that I own property adjacent to:

Walton & Helene O'Neal
513 Ocean Drive Emerald Isle, NC
Lots 17 & 18, Block 3, Emerald Isle By The Sea,
Atlantic Ocean, on Emerald Isle, Carteret County, North Carolina

Applicant's Mailing address & phone number:

Walton O'Neal
~~116 Shoreline Drive~~ 292 E Main St
Belhaven, North Carolina 27810
252-943-1913


He has described to me, as shown on the attached plan, the development he is proposing at that location, and, I have no objections to his proposal.

Property owner:

George & Carolyn Hall
511 Ocean Drive Emerald Isle, NC
Lots 15 & 16 Block 3, Emerald Isle By The Sea,

Property owner's mailing Address & phone number:

2551 Albemarle Avenue Raleigh, NC 27610
919-231-4164


Signature _____
GEORGE R. HALL, JR.
CAROLYN Y. HALL
Print or Type Name _____

OCTOBER 18, 2010
Date _____

ATTACHMENT F

(Carteret Co. Health Dept. Permit #3453 & Letter from the Town of Emerald Isle)



CARTERET COUNTY HEALTH DEPARTMENT

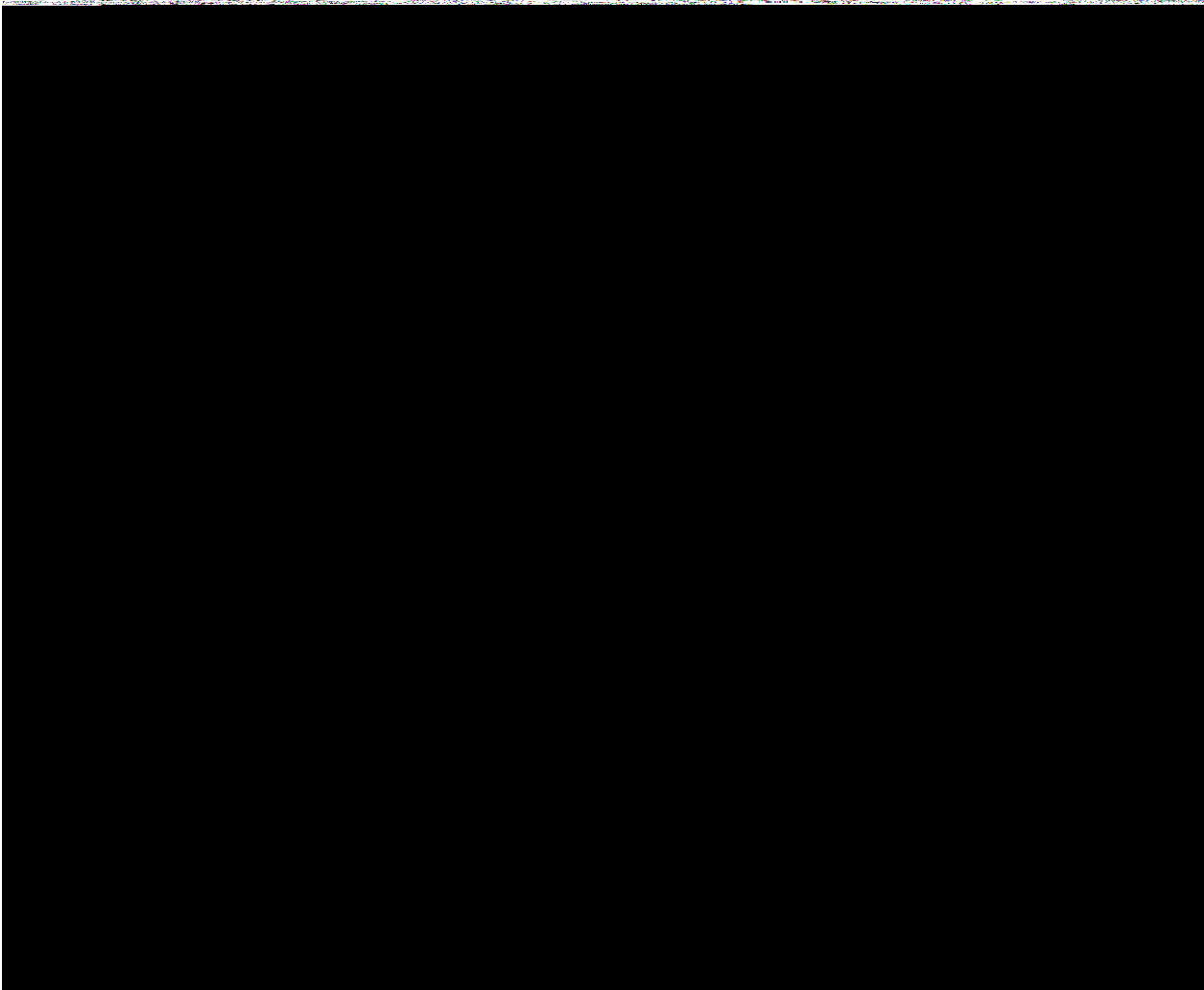
Environmental Health Division
3820 Bridges Street, Suite A, Morehead City NC 28557

AUTHORIZATION FOR WASTEWATER SYSTEM CONSTRUCTION

CA #: 3453

*No certificate of occupancy shall be issued until operation has been issued.

*No operation permit shall be issued system until installation is completed and approved and all



TRI-PARTY AGREEMENT REQUIRED - No EASEMENT RECORDED:
PRE-CONSTRUCTION CONFERENCE REQUIRED TO BE ATTENDED BY:
PRETREATMENT INNOVATIVE APPROVAL: -

COMMENTS: THIS PERMIT DOES NOT CONSTITUTE CAMA APPROVAL. CAMA APPROVAL MUST BE OBTAINED PRIOR TO ANY SITE DISTURBANCE.

1. The wastewater contractor (installer) shall be currently certified by the NC On-Site Wastewater Contractor and Inspectors Certification Board at the level specified for the permitted system. The installer shall be currently registered with the Carteret County Health Department.
2. The installer shall be responsible for notification of the engineer and the CCHD for system inspection in stages as required and prior to backfilling any portion of the system. No portion of the system shall be backfilled or placed into use without prior approval of the CCHD.
3. The system shall be installed in accordance with the APPROVED set of plans and specifications (if applicable). Any deviation in site modifications, plans, specification, layout, materials or other system components shall be approved by the designer and the CCHD prior to installation of the system. Failure to do so may result in delay or refusal of final approval of the system, and may render the Permit null and void.
4. Wastewater system shall not be installed in wet conditions.
5. Wastewater systems shall be installed in accordance with the laws (Article 11 of Chapter 130A for the General Statutes of North Carolina) and rules (North Carolina Administrative Code T15A. 18A .1900) for sewage treatment and disposal systems, and the conditions specified in the Improvement permit and construction authorization.
6. Structure shall be placed so that gravity flow is achieved or pump system shall be required.
7. Do not park, pave, drive, or build over any part of septic system or repair area.
8. Maintain a minimum of five (5) feet between any foundation and any part of septic system or reserve area.
9. Do not install well until well site has been permitted by CCHD.
10. The system shall be installed in a timely manner and staged so as to avoid unnecessary exposure to weather.

NOTICE: Construction must comply with all state and local regulations.

NOTICE: Beware much property in Carteret County is subject to Wetland Regulations and properties containing wetlands should receive approval from U.S. Army Corp. of Engineers prior to development.


Environmental Health Specialist

9/21/10
Date

Accepted systems* may be substituted for conventional systems with gravel media if the accepted system can be placed in the permitted/authorized trench footprint and the installation is in accordance with the accepted system approval, without unauthorized product alteration. Permit modification, prior approval of the health department or separated owner sign-off is not required as long as no changes are necessary in the location of each nitrification line (except reduction in line length), trench depth, or effluent distribution method. There shall be no reductions in trench length for trenches installed in new or existing fill, or for bed systems.

*** Accepted systems include:**

EZflow Drainage systems:

EZ1203H

Infiltrator chambered sewage effluent subsurface disposal systems:

Standard and Standard SideWinder (polyethylene) with 12 inch cover

High Capacity (polyethylene) with 12 inch cover

Quick 4 Standard-W, Standard SC, and Standard Sidewinder (polypropylene) models with 6 inch cover

Contour Wedge

Standard Contour Swivel



CARTERET COUNTY HEALTH DEPARTMENT

ENVIRONMENTAL HEALTH DIVISION
3820 Bridges Street, Suite A, Morehead City NC 28557
J.T. Garrett, Ed. D., M.P.H.

Improvement Permit 3453

Construction Authorization 3453

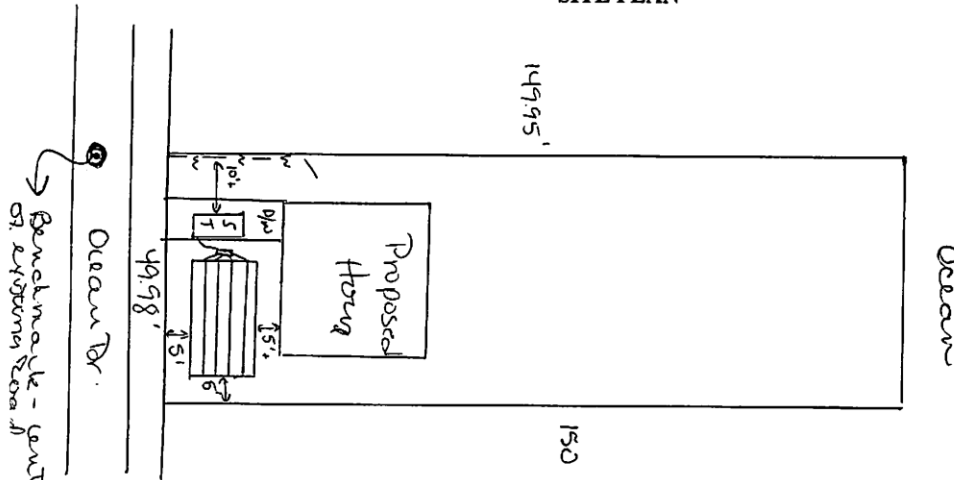
Expiration Date: 12/31/2015

OWNER: WALTON ONEAL

APPLICANT: WALTON ONEAL

PROPERTY LOCATION:
513 OCEAN DRIVE Carteret County NC, 28594, EMERALD ISLE, NC 28594, Lot 0.172
PARCEL ID: 632411554439000

SITE PLAN



* Septic tank must be traffic-rated.

* Locate & properly abandon existing septic tank.

Ann M. Meekins R.E.T.
Environmental Health Specialist

9/21/10
Date

Page 1 of 1

Improvement Permit 3453

Construction Authorization 3453

Town of Emerald Isle

RECEIVED

JAN 18 2011

Worshiped City DC

Department of Planning and
Inspections
Kevin B. Reed, AICP, Director
kreed@emeraldisle-nc.org



7500 Emerald Drive
Emerald Isle, NC 28594
Voice 252-354-3338
Fax 252-354-5387

December 9, 2010

Mr. Walton O'Neal, III
116 Dowry Creek East
Belhaven, NC 27810

RE: Minor CAMA Permit Application 2010-40 – 513 Ocean Drive, Emerald Isle, NC

Dear Mr. O'Neal:

This letter is in regards to your recent request for a Minor CAMA Permit for the development of a single-family residence at 513 Ocean Drive. As you know, the Town of Emerald Isle issued a denial of the permit request because it was inconsistent with the regulations of the Coastal Area Management Act (CAMA). It is my understanding that you wish to pursue a variance from the Coastal Resources Commission (CRC). One pre-requisite for seeking a variance from the CRC is that you have exhausted all local relief efforts.

Following the approval of changes to the CAMA regulations approved by the CRC pertaining to development in an area subject to a static vegetation line, the Town of Emerald Isle amended its local development regulations in order to reduce the required front yard setback. Your property is now subject to a 20-foot front yard setback rather than the previously required 30-foot setback. This change was made by the Board of Commissioners in order to allow for more properties to seek approval for development under the static line exception. Typically, local relief in this situation would be for you to seek a variance to this 20-foot setback from the Town's Board of Adjustment; however, that is not possible. Your proposed development was intended to meet the required 20-foot setback with no "room to spare". In addition, the location of the septic drain field in the front of the proposed dwelling does not allow for you to request a variance from the Town since there is no other suitable location for the drain field. Based on these facts, there are no local regulations for which you can seek a variance and all of your local efforts have been exhausted. Please let me know if you have any questions or concerns regarding the foregoing information.

Sincerely,

A handwritten signature in black ink that reads 'Kevin B. Reed'. The signature is written in a cursive, flowing style.

Kevin B. Reed, AICP, CFM, CZO
Director of Planning and Inspections

ATTACHMENT G
(LPO Denial Letter of CAMA Minor Development Permit)

Town of Emerald Isle

RECEIVED
JAN 18 2011
Morehead City, NC

Department of Planning and
Inspections
Kevin B. Reed, AICP, Director
kreed@emeraldisle-nc.org



7500 Emerald Drive
Emerald Isle, NC 28594
Voice 252-354-3338
Fax 252-354-5387

December 9, 2010

Mr. Walton O'Neal, III
116 Dowry Creek East
Belhaven, NC 27810

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
APPLICATION NUMBER 2010-40
PROJECT ADDRESS - 513 OCEAN DRIVE, EMERALD ISLE, NC 28594

Dear Mr. O'Neal:

After reviewing your application in conjunction with the development standards required by the Coastal Area Management Act (CAMA) and our locally adopted Land Use Plan and Ordinances, it is my determination that no permit may be granted for the project which you have proposed.

This decision is based on my findings that your request violates NCGS 113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines and Local Land Use Plans. You have applied for a MINOR CAMA PERMIT #2010-40 with the proposed development of a single family dwelling with a total floor area of 1,929 square feet to be located seaward of the most landward adjacent building which is inconsistent with 15 NCAC 7H .0306 (a)(8)(D), which states that: "No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine and ocean hazard setback that is landward of the vegetation line, a distant no less than 30 times the shoreline erosion rate of 60 feet, whichever is greater."

Should you wish to appeal my decision to the Coastal Resource Commission or request a variance from that group, please contact me so I can provide you with the proper forms and any other information you may require. The Division of Coastal Management central office in

Morehead City must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours,



James W. Taylor, Jr., LPO
Town of Emerald Isle
7500 Emerald Dr
Emerald Isle, NC 28594

cc: Barry Guthrie, DCM

ATTACHMENT H
(Petitioners' Variance Request & Other Exhibits)

JAN 11 2011

Morehead City DCM

DCM FORM 11
(revised 6/26/06)

CAMA VARIANCE REQUEST

DCM FILE NO.

Petitioner supplies the following information:

Your Name **Walton O'Neal**
Address **116 Dowery Creek East**
 Belhaven, NC 27810

Telephone **252-943-1913**
Fax and/or Email **wponeal@yahoo.com**

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

Yes

What did you seek a permit to do?

We would like to build a single-family home on our 50' wide ocean front lot 7.3 feet beyond the most landward adjacent house. The home would be located behind the frontal dune and the Ocean Hazard Setback (60' setback from the stable vegetation line).

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

***15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS
Paragraph (a) (8) (D)***

(D) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure.

The Town of Emerald Isle petitioned, and was granted an Exception to the Static Vegetation Line in accordance with 15A NCAC 07J .1200. As a result of that exception, development of ocean front properties are now subject to the above rule. The adjacent most landward house was built in 1989 in non-compliance with the 30' front setback requirement of the Town of Emerald Isle. When the Town of Emerald Isle granted a variance to the 30' setback and issued building a permit for the adjacent house with a reduced 20' front setback, it unknowingly compromised the development of a reasonable size home on our lot today. Had the adjacent house been built in compliance with the 30' required front setback, there would be no problem building a home on our lot that would comply with the current CAMA guidelines. When the adjacent house was permitted, the previous owners had no knowledge the future restrictions enacted by 15A NCAC 07H .0306 General Use Standards For Ocean Hazard Areas, Paragraph (a) (8) (D) and thus, no reason to voice objection to the location of the adjacent home.

JAN 11 2011

Morshend City DCM

Can you redesign your proposed development to comply with this rule?

No, as the resulting home would not be practical because of a small building footprint.

If your answer is no, explain why you cannot redesign to comply with the rule.

The guidelines of the Carteret County Environmental Health Division governing the placement and location of septic fields are very strict. A septic field for a three bedroom home would require the home to be set back from the front property line by 37'. The resulting space would allow only 7.2' in which to locate the home.

Ocean-ward side of the landward most adjacent house:	44.2'
Health Department setback for septic field:	<u>-37.0'</u>
Allowable depth for development:	7.2'
7.2' x 30' building width = 216 s.f. footprint	

In seeking relief from the Carteret County Health Department, we agreed to reduce the size of our home to two bedrooms. With this reduction, the County agreed to reduce the front setback to 23'. (See attached Carteret County septic permits.) Even with this relief the resulting footprint of only 21' x 30' (630 s.f.) is still too small to make practical use of the lot.

Most landward adjacent house setback:	46.5' (including roof overhang)
Required setback for septic field:	-23.0'
Oceanside setback for roof overhang:	<u>-2.5'</u>
Allowable footprint for home:	21' x 30' = 630 s.f. allowable footprint

We have exhausted all resources with Carteret County and the Town of Emerald Isle (see attached letter). We cannot move or resize the septic field as we would not meet the Town's requirement for two off street parking spaces on our lot.

Can you obtain a permit for a portion of what you wish to do?

No, as the lot is too small.

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.

We cannot make partial use of the property without relief to this rule. Strict compliance with 15A NCAC 07H .0306 Paragraph (a) (8) (D), will not allow us to build a reasonably configured home for our family because of the strict setback restrictions of the rule.

JAN 11 2011

Worshiped City DCM

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).]

Strict application of the CAMA development standards will result in an unnecessary hardship by prohibiting us from building a home on our lot. It is impractical to build a home on such a small footprint of 630 s.f. We cannot make reasonable use of our property if the 7.3' variance is not granted.

This hardship results from conditions specific to this property, caused by the location of the most landward adjacent home being permitted in 1989 in non-compliance of the Town's 30' front setback ordinance. Most other existing houses along Ocean Drive were built in compliance with the 30' front setback and are situated significantly farther ocean-ward than our most landward adjacent neighbor. See the attached "Ocean Drive Setback Analysis" and supporting photos. This analysis was prepared from the Carteret County GIS updated 12/01/10.

15A NCAC 07H .0306 Paragraph (a) (8) (D) allows an exception to the rule for irregular shaped lots.

When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater.

Although our lot does not qualify for this exception because it is a standard rectangular lot, we would have no problem building our proposed home if the DCM could consider the average setback between our neighbors. Our most ocean-ward neighbor and 9 out of 11 neighboring homes along Ocean Drive sit significantly more toward the ocean. The neighboring house to the east (the adjacent most ocean-ward house) was built with the required 30' front setback and extends 24' further ocean-ward beyond where we are proposing to build. A 7.3' variance to 15A NCAC 07H .0306 General Use Standards For Ocean Hazard Areas, Paragraph (a) (8) (D) will not adversely affect our neighbors and will not block the views of either neighbor.

RECEIVED

JAN 11 2011

Morehead City, NC

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

Our lot is a small 50' wide ocean front lot with the unfortunate circumstance of being located adjacent to a house built in non-compliance with the Town of Emerald Isle *Zoning Code*. The location of this house is restricting reasonable development of a home on our lot. There are no other 50' wide vacant lots on the ocean in the east end of Emerald Isle and our lot is the only vacant lot adjacent to an existing structure built with a reduced front setback.

Our proposed home will not adversely impact our neighbors or the beach in any way. Up and down the beach there is only one other house built with a reduced front setback within 375' each way from our lot. See the attached "Ocean Front Setback Analysis". Our lot is one of only five remaining vacant ocean front lots out of 172 total lots in the entire east end of Emerald Isle that has not been developed. Granting a 7.3' variance to will not set a precedent for development of 50' lots along Ocean Drive as there are no others.

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

The hardship did not result from actions taken by us but is a direct result of the most adjacent landward home being built in 1989 with a reduced front setback in lieu of the required front setback. Because this house, and most others along Ocean Drive, is on a larger lot, it easily met the other Emerald Isle and Carteret County standards at that time. If given the same standards for development when the adjacent houses were built, we would have no problem building a reasonably size home. Building to the current setback required by *15A NCAC 07H .0306 General Use Standards For Ocean Hazard Areas, Paragraph (a) (8) (D)* does not allow reasonable use of our property.

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.

The requested variance is consistent with the spirit, purpose and intent of the CRC's development standards. Our proposed home will meet the intent of the CRC's development standards by being built behind the frontal dune and Ocean Hazard Setback line in compliance with CAMA's development standards to preserve and nourish the beach.

Allowing us to build a home will preserve substantial justice. Our proposed home will not detrimentally impact the adjacent beach, our neighbors or our community. The location of our home will protect the view of our neighbors. We have met with our adjacent neighbors and received their support in our request for the variance. (see attached *Adjacent Riparian Property Owner Statement*)

The footprint of our proposed home will be only 825 s.f. To secure public safety, our home will be built out of harms way and will meet all state and local regulations for development in the Ocean Hazard ACE.

RECEIVED
JAN 11 2011
Morehead City, DCW

1)

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: 1-7-11

Signature: *Walter O'Neal*

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.

Stipulated Facts

I. Strict application of the CAMA development standards will result in an unnecessary hardship by prohibiting the petitioners from building a home on their lot.

- 1) The petitioners, Mr. & Mrs. Walton O'Neal purchased the vacant lot at 513 Ocean Drive in Emerald Isle in May of 2010.
- 2) Development of the home is subject to the rules and regulations of the Town of Emerald Isle, Carteret County, and the Coastal Area Management Act of the state of North Carolina.
- 3) These rules and regulations limit the size and location of all structures on the lot.
- 4) The Emerald Isle Zoning Ordinance requires any structure to be set in 10' from the side property lines and 20' (revised in 2010 from 30') from the front property line and requires a home to have two off street parking spaces on the property.
- 5) Carteret County Environmental Health Department requires the septic field for new construction be placed on the landward side of the house, set in from the property lines by 10', be separated from any water line by 10' and be set no closer than 5' to any structure. It restricts any parking on the septic field.
- 6) *North Carolina Administrative Code 15A NCAC 07H .0306 General Use Standards For Ocean Hazard Areas Paragraph (a) (2) (A):* Establishes a minimum setback from the first line of stable vegetation of 60 feet or 30 times the shoreline erosion rate, whichever is greater.
- 7) The Town of Emerald Isle petitioned, and was granted an Exception to the Static Vegetation Line in accordance with 15A NCAC 07J .1200. As a result of that exception, development of ocean front properties are now subject to *15A NCAC 07H .0306 General Use Standards For Ocean Hazard Areas, Paragraph (a) (8) (D):*

(D) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure.
- 8) The combined effect of current Carteret County Health Department and CAMA setback requirements limit the building footprint on the petitioner's lot to 216 s.f.

Ocean-ward side of the landward most adjacent house:	44.2'
Health Department setback for septic field:	<u>-37.0'</u>
Allowable depth for development:	7.2'
7.2' x 30' building width = 216 s.f. footprint	

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- 9) To seek relief from the Carteret County Health Department the petitioner agreed to reduce the size of the home from three bedrooms to two bedrooms. Thus, the County agreed to reduce the size of the septic field and the required property line setbacks to 5'. See attached permits from the Carteret County Health Department.

Since the County's front setbacks are more restrictive than the Town of Emerald Isle, no relief could be granted from Emerald Isle. See attached letter from the Town of Emerald Isle.

- 10) Even with relief from Carteret County Health Department the petitioner is restricted to a 630 s.f. building footprint.

Ocean-ward side of the landward most adjacent house:	44.2'
Health Department setback for septic field:	<u>-23.0'</u>
Allowable depth for development:	21.2'
21.2 x 30' building width = 630 s.f. footprint	

- 11) The petitioner has exhausted all resources with the local governing authorities to allow for reasonable development of a home on this lot.

II. The conditions of development on the lot are peculiar to this specific property:

- 12) The hardship created by *15A NCAC 07H .0306 Paragraph (a) (8) (D)* is specific to this property as there are no other vacant 50' wide ocean front lots in the east end of Emerald Isle.

III. The conditions of this hardship were not caused by the petitioner:

- 13) The landward most adjacent structure at 515 Ocean Drive was built in 1989 with a 20' non-conforming front setback in lieu of the required 30' front setback. Because of the location of this house, strict compliance to *15A NCAC 07H .0306 Paragraph (a) (8) (D)*, requires the petitioner's proposed home to be set no farther seaward than the house at 515 Ocean Drive. Had this house been built to the then current zoning setbacks, the petitioner would have 31' in which to build their home.

- 14) Of the 11 neighboring houses built along Ocean Drive between 1959 and 1989, only 1 other house within 375' each way of the petitioners lot was built with a non-conforming front setback. All other houses were built in compliance with the 30' front setback and sit significantly ocean-ward. See attached *Ocean Drive Setback Analysis*.

15) The restrictions established by 15A NCAC 07H .0306 Paragraph (a) (8) (D) were not adopted until after the adjacent house had been built. The previous property owners no knowledge of this condition and thus, no reason to voice objection to the location of the adjacent home.

IV. Granting the variance to 15A NCAC 07H .0306 Paragraph (a) (8) (D) is consistent with the spirit, purpose, and intent of the CRC's rules, standards, or orders; preserve substantial justice; and secure public safety.

16) Granting a variance to 15A NCAC 07H .0306 Paragraph (a) (8) (D) of 7.3 feet will allow the petitioner to build a single family home with an 825 s.f. footprint.

17) The footprint of the proposed home will set 2.5' behind the Ocean Hazard Setback line and the frontal dune preserving the dune and the existing beach vegetation.

18) The proposed home will set off the beach and well behind 9 of 11 neighboring houses in this area. It will not block the view of any neighboring properties as most other houses sit closer to the ocean. With this variance, the existing easterly house would still sit 24' ocean-ward of the petitioner's proposed home.

19) The petitioner has met with the adjacent neighbors and received their support for this variance request. (see attached *Adjacent Riparian Property Owner Statement*)

Locality _____

Permit Number _____

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

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Worshhead City/DCM

GENERAL INFORMATION

LAND OWNER

Name: **Walton O'Neal**
Address: **116 Dowery Creek East**
City: **Belhaven** State: **NC** Zip: **27810** Phone: **252-943-1913**
E-Mail: **wponeal@yahoo.com**

AUTHORIZED AGENT

Name: _____
Address: _____
City: _____ State: _____ Zip: _____ Phone: _____

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) **513 Ocean Drive, Emerald Isle By The Sea, Lots 17 & 18, Block 3**

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) **Single family residence w/ below house parking, storage & access, open elevated decks & stairs, on grade landscape steps, driveway, landscaping, air conditioning platform, beach access structure, buried propane tank, septic tank & drain field.**

SIZE OF LOT/PARCEL: 7496 square feet, 0.172084 acres

PROPOSED USE: Residential Single-family Multi-family Commercial/Industrial Other

TOTAL ENCLOSED FLOOR AREA OF A BUILDING IN THE OCEAN HAZARD AREA OF ENVIRONMENTAL CONCERN (AEC): 1929 square feet (includes all heated/air conditioned living space)

Level 1 825 sf
Level 2 825 sf
Level 3 279 sf
1929 sf

SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT-UPON SURFACES IN THE COASTAL SHORELINE AREA OF ENVIRONMENTAL CONCERN (AEC): N/A

CHOOSE THE AEC AREA THAT APPLIES TO YOUR PROPERTY: N/A

- (1) within 75 feet of Normal High Water for the Estuarine Shoreline AEC
 - (2) within 575 feet of Normal High Water for the Estuarine Shoreline AEC, adjacent to Outstanding Resource Waters
 - (3) within 30 feet of the Public Trust Shoreline AEC
- (Contact your Local Permit Officer if you are not sure which AEC applies to your property.)

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality? YES NO

If yes, list the total built upon area/impervious surface allowed for your lot or parcel. _____ square feet.

OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit. As a service we have compiled a listing of the kinds of permits that might be required. We suggest you check over the list with your LPO to determine if any of these apply to your project. Zoning, Drinking Water Well, Septic Tank (or other sanitary waste treatment system), Building, Electrical, Plumbing, Heating and Air Conditioning, Insulation and Energy Conservation, FIA Certification, Sand Dune, Sediment Control, Subdivision Approval, Mobile Home Park Approval, Highway Connection, and others.

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STATEMENT OF OWNERSHIP:

I, the undersigned, an applicant for a CAMA minor development permit, being either the owner of property or a person authorized to act as an agent for purposes of applying for a CAMA minor development permit, certify that the person listed as landowner on this application has a significant interest in the real property described therein. This interest can be described as: (check one)

an owner or record title, Title is vested in **Walton & Helene O'Neal**, see Deed Book 3 page 57 in the **Carteret** County Registry of Deeds.

an owner by virtue of inheritance. Applicant is an heir to the estate of _____; probate was in _____ County.

if other interest, such as written contract or lease, explain below or use a separate sheet and attach to this application.

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

I furthermore certify that the following persons are owners of properties adjoining this property. I affirm that I have given **ACTUAL NOTICE** to each of them concerning my intent to develop this property and to apply for a CAMA permit.

- | | |
|--------------------------------------|--|
| (1) George & Carolyn Hall | 2551 Albemarle Avenue Raleigh, NC 27610 |
| (2) David Stewart | P.O. Box 25127 Raleigh, NC 27611 |

FOR DEVELOPERS IN OCEAN HAZARD AND ESTUARINE HAZARD AREAS:

I acknowledge that the land owner is aware that the proposed development is planned for an area which may be susceptible to erosion and/or flooding. I acknowledge that the local permit officer has explained to me the particular hazard problems associated with this lot. This explanation was accompanied by recommendations concerning stabilization and floodproofing techniques.

PERMISSION TO ENTER ON LAND:

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

This application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the AEC hazard notice where necessary, a check for \$100.00 made payable to the locality, and any information as may be provided orally by the applicant. The details of the application as described by these sources are incorporated without reference in any permit which may be issued. Deviation from these details will constitute a violation of any permit. Any person developing in an AEC without permit is subject to civil, criminal and administrative action.

This the _____ day of _____, 20____

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

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Morehead City DCM

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 7 day of Jan, 2011.


Signature of Petitioner or Attorney

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Morehead City, NC



CARTERET COUNTY HEALTH DEPARTMENT

Environmental Health Division
3820 Bridges Street, Suite A, Morehead City NC 28557

AUTHORIZATION FOR WASTEWATER SYSTEM CONSTRUCTION

CA #: 3190

- *No certificate of occupancy shall be issued until operation has been issued.
- *No operation permit shall be issued system until installation is completed and approved and all pertinent legal documents have been approved and recorded with the Carteret County Register of Deeds.

G.S. 130A-336: This permit expires 5 years (60) months from date of Improvement Permit issuance. If expiration occurs the client shall comply with all changes in applicable regulation, laws, technical aspects, etc, that may be effective at that time. This may require additional preparation, more complex wastewater systems, operation and maintenance requirements, pre-treatment, etc. This could result in less area for the home, parking, lower water usage and further development limitations.

OWNER: WALTON ONEAL
ADDRESS: 116 EAST DOWRY CREEK
BELHAVEN NC, 27810
PHONE #: (252) 943-1913

APPLICANT: WALTON ONEAL
ADDRESS: 116 EAST DOWRY CREEK
BELHAVEN NC, 27810
PHONE #: (252) 943-1913

PARCEL ID: 632411554439000
PROPERTY LOCATION: 513 OCEAN DRIVE Carteret County NC, 28594 , Lot 0.172

A/C ISSUANCE DATE: 06/18/2010
TYPE: New System

A/C EXPIRATION DATE: 12/31/2015
BUILDING TYPE: 0 *house*

DESIGN FLOW: 360 (gpd)
SYSTEM TYPE: Conventional/Modified
SYSTEM CLASSIFICATION: Type IIa
WATER SUPPLY: Municipal

BEDROOMS: 3
OCCUPANTS: 6

SEPTIC TANK: 1000 (gal)
DOSING TANK: (gal)
GREASE TRAP: (gal)

RECIRCULATION TANK: (gal)
FILTER DOSING TANK: (gal)

* TRENCH BOTTOM DEPTH: 12 Below Naturally Occuring Surface = 13" below elevation of centerline of existing road @ NE property corner

TRENCH WIDTH: (in)
TOTAL TRENCH LENGTH: (ft)
LINE LENGTH: (ft)
ABSORPTION AREA: 450 (sq. ft)
DEPTH OF MEDIA: 12 (in)
MINIMUM INSTALLER CERTIFICATION LEVEL REQUIRED: I

BED LENGTH: 30 (ft)
BED WIDTH: 15 (ft)
OF LINES: 5 @ 3'oc

GARBAGE GRINDER: NO
DRAINAGE REQUIREMENTS:

DISTANCE TO ANY WELL: 50 (ft)
6 INCH TOPSOIL COVER REQ: N/A

TRI-PARTY AGREEMENT REQUIRED - No EASEMENT RECORDED:
PRE-CONSTRUCTION CONFERENCE REQUIRED TO BE ATTENDED BY:
PRETREATMENT INNOVATIVE APPROVAL: -

RECEIVED

JAN 11 2011

COMMENTS: *This permit does not constitute CMAA approval. Approval must be obtained prior to any site disturbance.*

1. The wastewater contractor (installer) shall be currently certified by the NC On-Site Wastewater Contractor and Inspectors Certification Board at the level specified for the permitted system. The installer shall be currently registered with the Carteret County Health Department.
2. The installer shall be responsible for notification of the engineer and the CCHD for system inspection in stages as required and prior to backfilling any portion of the system. No portion of the system shall be backfilled or placed into use without prior approval of the CCHD.
3. The system shall be installed in accordance with the APPROVED set of plans and specifications (if applicable). Any deviation in site modifications, plans, specification, layout, materials or other system components shall be approved by the designer and the CCHD prior to installation of the system. Failure to do so may result in delay or refusal of final approval of the system, and may render the Permit null and void.
4. Wastewater system shall not be installed in wet conditions.
5. Wastewater systems shall be installed in accordance with the laws (Article 11 of Chapter 130A for the General Statutes of North Carolina) and rules (North Carolina Administrative Code T15A. 18A .1900) for sewage treatment and disposal systems, and the conditions specified in the Improvement permit and construction authorization.
6. Structure shall be placed so that gravity flow is achieved or pump system shall be required.
7. Do not park, pave, drive, or build over any part of septic system or repair area.
8. Maintain a minimum of five (5) feet between any foundation and any part of septic system or reserve area.
9. Do not install well until well site has been permitted by CCHD.
10. The system shall be installed in a timely manner and staged so as to avoid unnecessary exposure to weather.

NOTICE: Construction must comply with all state and local regulations.

NOTICE: Beware much property in Carteret County is subject to Wetland Regulations and properties containing wetlands should receive approval from U.S. Army Corp. of Engineers prior to development.

Amal K. Suthu
Environmental Health Specialist

6/18/10
Date

Accepted systems* may be substituted for conventional systems with gravel media if the accepted system can be placed in the permitted/authorized trench footprint and the installation is in accordance with the accepted system approval, without unauthorized product alteration. Permit modification, prior approval of the health department or separated owner sign-off is not required as long as no changes are necessary in the location of each nitrification line (except reduction in line length), trench depth, or effluent distribution method. There shall be no reductions in trench length for trenches installed in new or existing fill, or for bed systems.

*** Accepted systems include:**

EZflow Drainage systems:

EZ1203H

Infiltrator chambered sewage effluent subsurface disposal systems:

Standard and Standard SideWinder (polyethylene) with 12 inch cover

High Capacity (polyethylene) with 12 inch cover

Quick 4 Standard-W, Standard SC, and Standard Sidewinder (polypropylene) models with 6 inch cover

Contour Wedge

Standard Contour Swivel



CARTERET COUNTY HEALTH DEPARTMENT

ENVIRONMENTAL HEALTH DIVISION
3820 Bridges Street, Suite A, Morehead City NC 28557
J.T. Garrett, Ed. D., M.P.H.

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Improvement Permit 3190

Construction Authorization 3190

Expiration Date: 12/31/2015

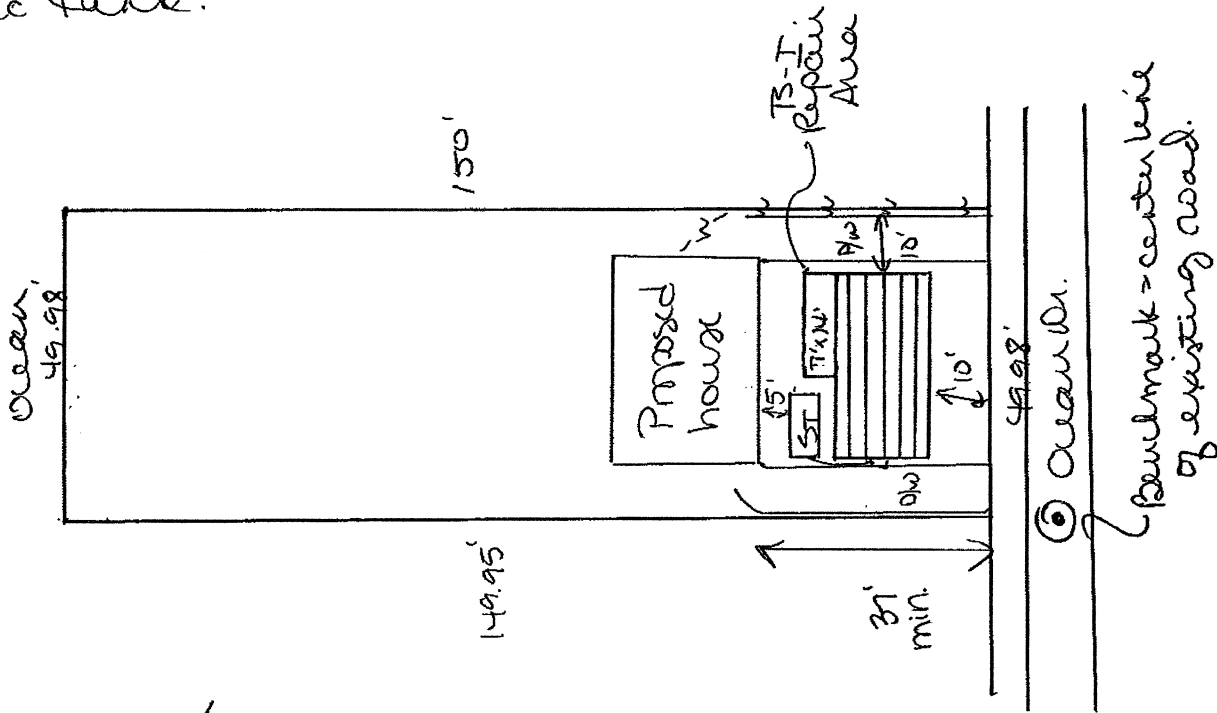
OWNER: WALTON ONEAL

APPLICANT: WALTON ONEAL

PROPERTY LOCATION: 513 OCEAN DRIVE Carteret County NC, 28594
PARCEL ID: 632411554439000

SITE PLAN

* Locate & properly
abandon existing
septic tank.



Amy M. Guthrie R.E.H.S.
Environmental Health Specialist

6/18/10
Date

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Morehead City, NC

TRI-PARTY AGREEMENT REQUIRED - No EASEMENT RECORDED:
PRE-CONSTRUCTION CONFERENCE REQUIRED TO BE ATTENDED BY:
PRETREATMENT INNOVATIVE APPROVAL: -

COMMENTS: THIS PERMIT DOES NOT CONSTITUTE CAMA APPROVAL. CAMA APPROVAL MUST BE OBTAINED PRIOR TO ANY SITE DISTURBANCE.

1. The wastewater contractor (installer) shall be currently certified by the NC On-Site Wastewater Contractor and Inspectors Certification Board at the level specified for the permitted system. The installer shall be currently registered with the Carteret County Health Department.
2. The installer shall be responsible for notification of the engineer and the CCHD for system inspection in stages as required and prior to backfilling any portion of the system. No portion of the system shall be backfilled or placed into use without prior approval of the CCHD.
3. The system shall be installed in accordance with the APPROVED set of plans and specifications (if applicable). Any deviation in site modifications, plans, specification, layout, materials or other system components shall be approved by the designer and the CCHD prior to installation of the system. Failure to do so may result in delay or refusal of final approval of the system, and may render the Permit null and void.
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NOTICE: Beware much property in Carteret County is subject to Wetland Regulations and properties containing wetlands should receive approval from U.S. Army Corp. of Engineers prior to development.

Ann M. Guthrie R.E.H.
Environmental Health Specialist

9/21/10
Date

Accepted systems* may be substituted for conventional systems with gravel media if the accepted system can be placed in the permitted/authorized trench footprint and the installation is in accordance with the accepted system approval, without unauthorized product alteration. Permit modification, prior approval of the health department or separated owner sign-off is not required as long as no changes are necessary in the location of each nitrification line (except reduction in line length), trench depth, or effluent distribution method. There shall be no reductions in trench length for trenches installed in new or existing fill, or for bed systems.

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EZflow Drainage systems:

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Infiltrator chambered sewage effluent subsurface disposal systems:

Standard and Standard SideWinder (polyethylene) with 12 inch cover

High Capacity (polyethylene) with 12 inch cover

Quick 4 Standard-W, Standard SC, and Standard Sidevinder (polypropylene) models with 6 inch cover

Contour Wedge

Standard Contour Swivel

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CARTERET COUNTY HEALTH DEPARTMENT

ENVIRONMENTAL HEALTH DIVISION
3820 Bridges Street, Suite A, Morehead City NC 28557
J.T. Garrett, Ed. D., M.P.H.

Improvement Permit 3453

Construction Authorization 3453

Expiration Date: 12/31/2015

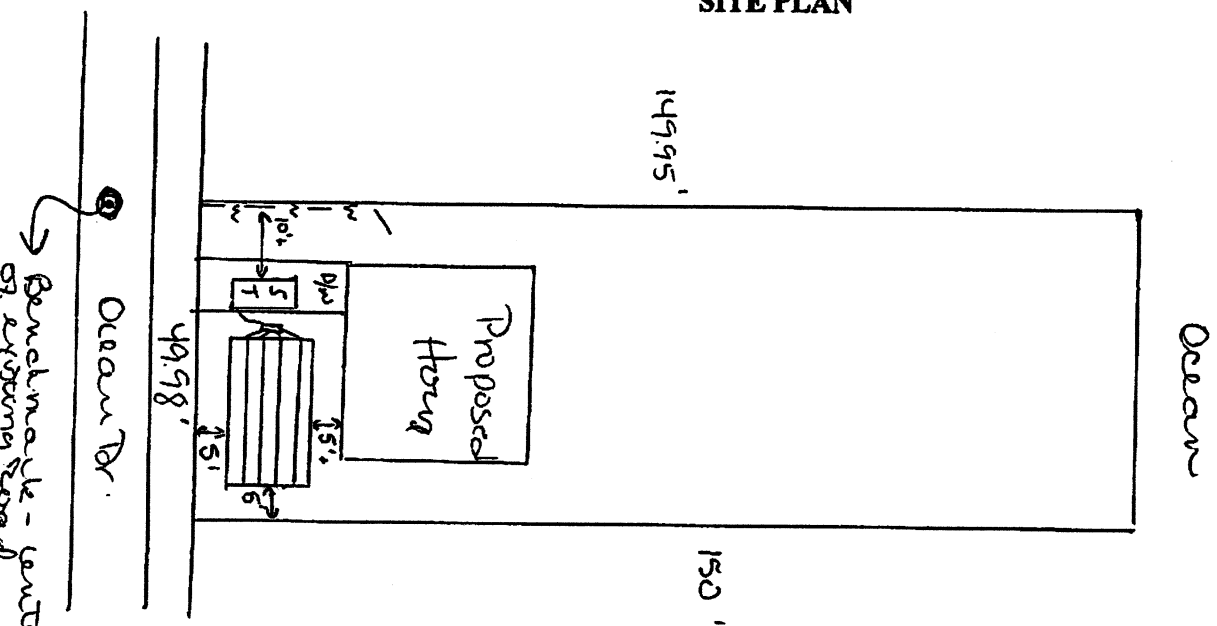
OWNER: WALTON ONEAL

APPLICANT: WALTON ONEAL

PROPERTY LOCATION:

513 OCEAN DRIVE Carteret County NC, 28594, EMERALD ISLE, NC 28594, Lot 0.172
PARCEL ID: 632411554439000

SITE PLAN



* Septic tank must be traffic-rated.

* Locate & properly abandon existing septic tank.

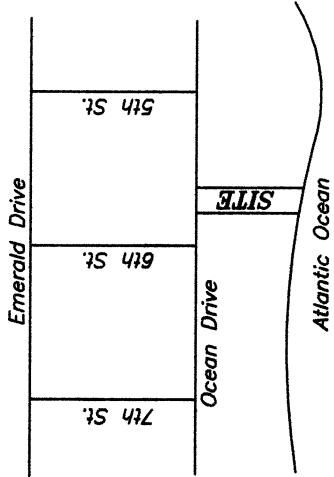
Ann H. Meekins R.E.T.S.
Environmental Health Specialist

9/21/10
Date

Improvement Permit 3453

Construction Authorization 3453

TOWN OF EMERALD ISLE



TOTAL LOT AREA

7,496 Sq. Ft.

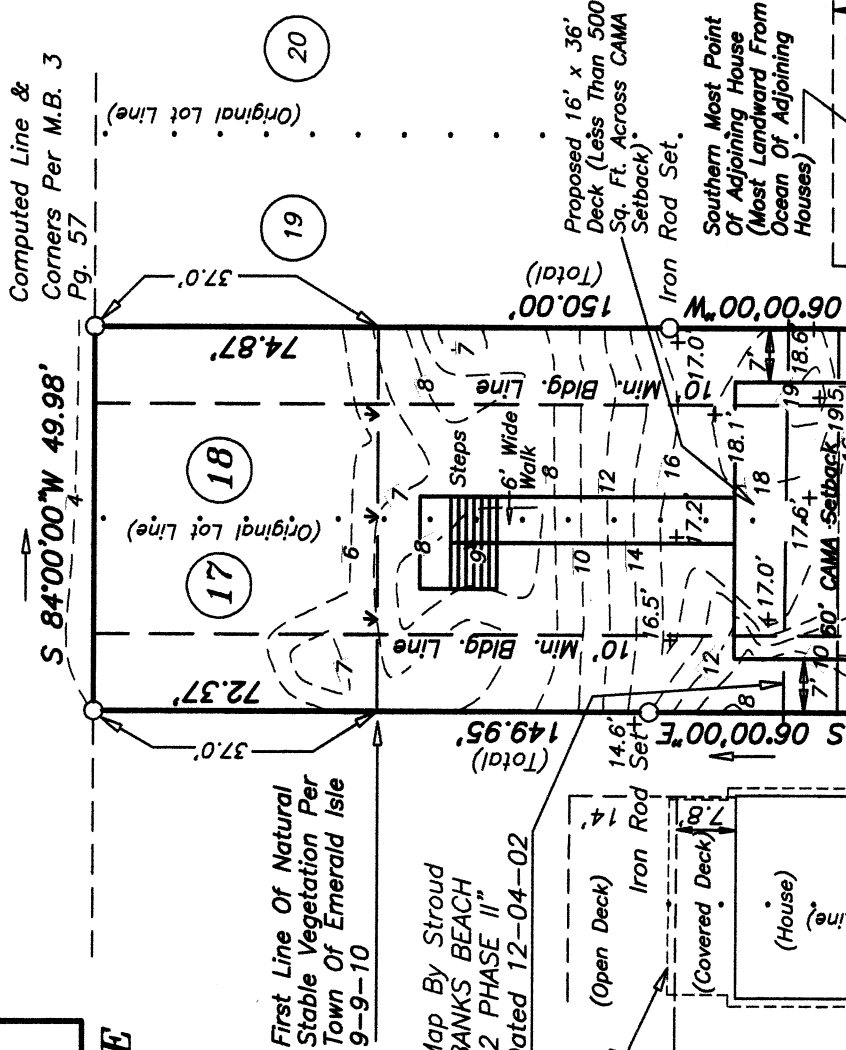
(Coord. Method)

NOTE: Elevations (Contours)
Shown Are Mean Sea Level
(NAVD 1988)

LEGEND

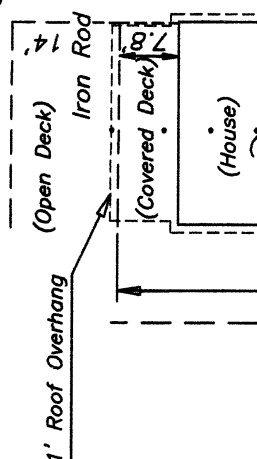
- C/L - Centerline
- OHP - Overhead Power Line
- R/W - Right of Way
- + 14.6' - Spot Elevation

ATLANTIC OCEAN



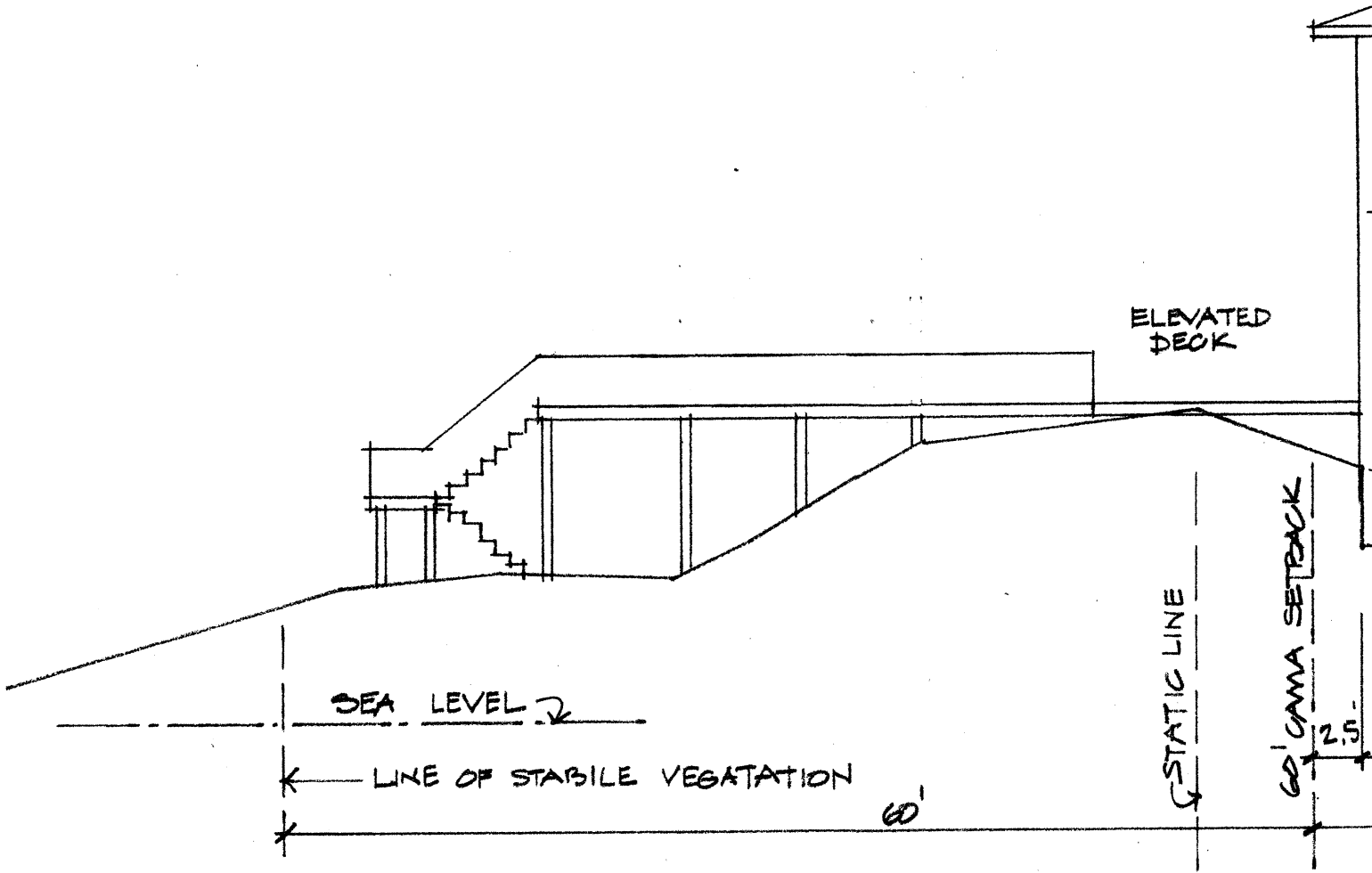
First Line Of Natural Stable Vegetation Per Town Of Emerald Isle 9-9-10

Note: Vegetation Line Per Map By Stroud Engineering Titled "BOGUE BANKS BEACH NOURISHMENT PROJECT 2002 PHASE II" For Town of Emerald Isle Dated 12-04-02



VICINITY MAP - NOT TO SCALE

North Per M.B. 3 Pg. 57

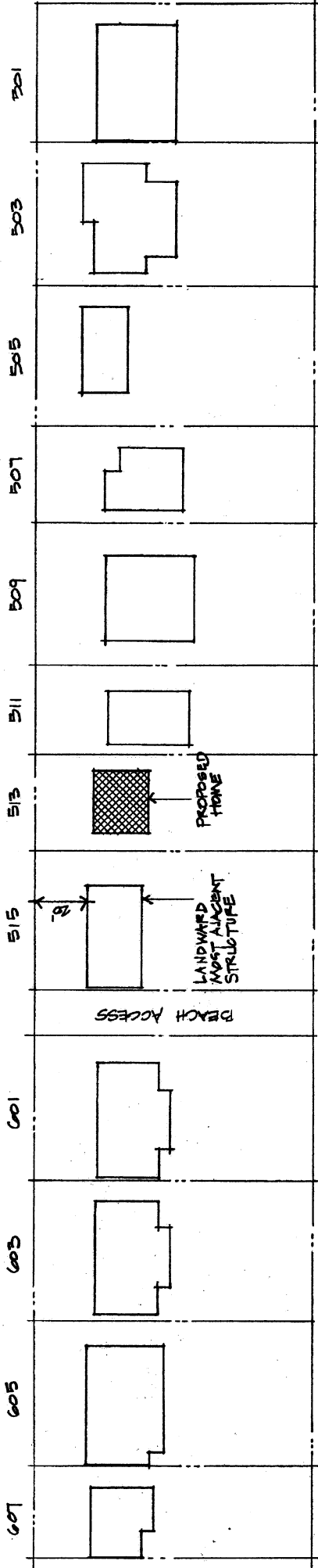


SITE SECTION

1" = 10'-0"

6TH STREET

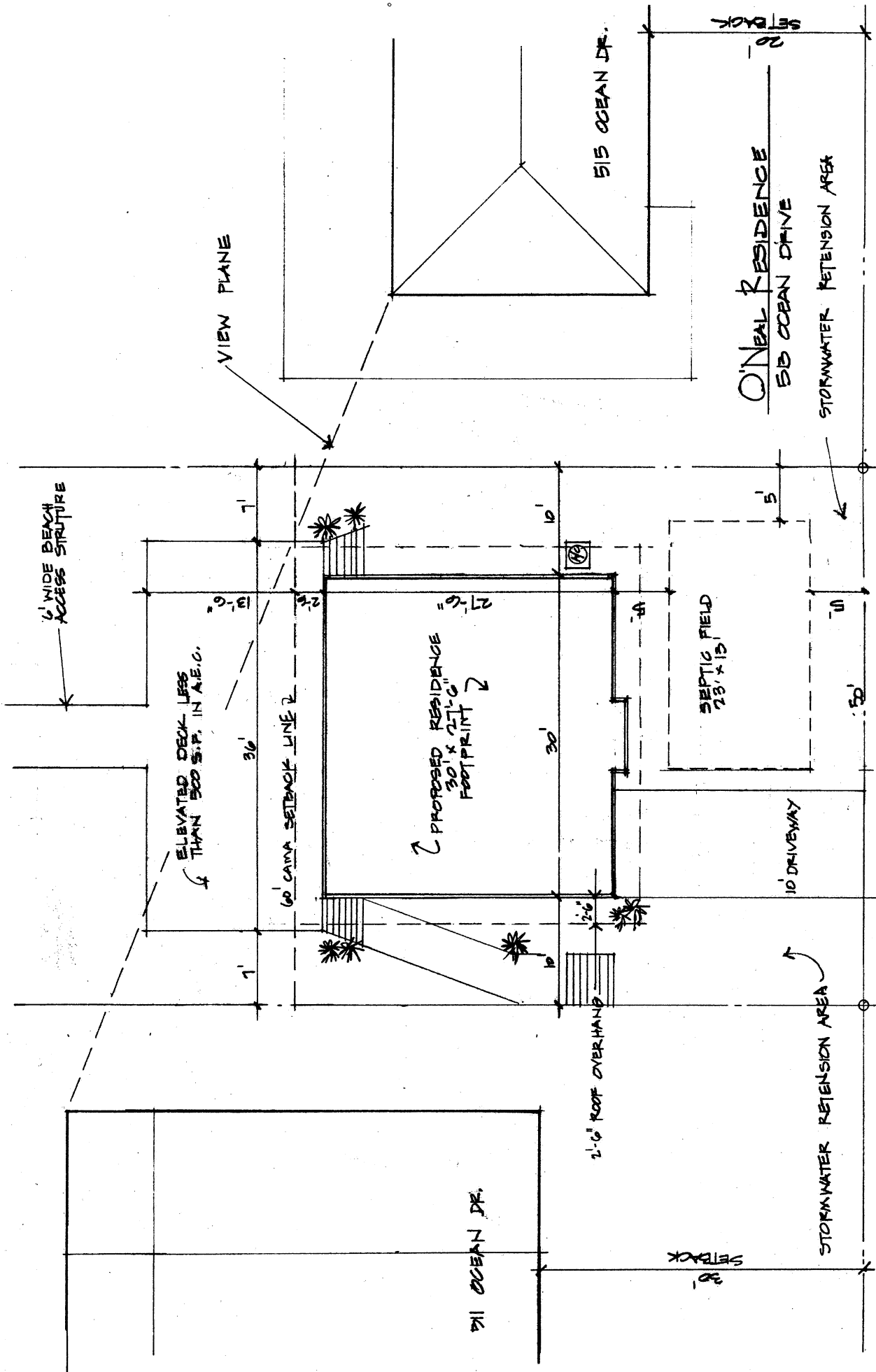
OCEAN DRIVE (60 F.O.W.)



ATLANTIC OCEAN

501 THRU 607 OCEAN DRIVE SETBACK ANALYSIS

O'NEAL RESIDENCE
513 OCEAN DR.



6' WIDE BEACH ACCESS STRUCTURE

ELEVATED DECK LESS THAN 500 S.F. IN A.E.C.

60' CANVA SETBACK LINE

PROPOSED RESIDENCE 30' x 27'-6" FOOTPRINT

2'-6" ROOF OVERHANG

SEPTIC FIELD 23' x 13'

10' DRIVEWAY

STORMWATER RETENTION AREA

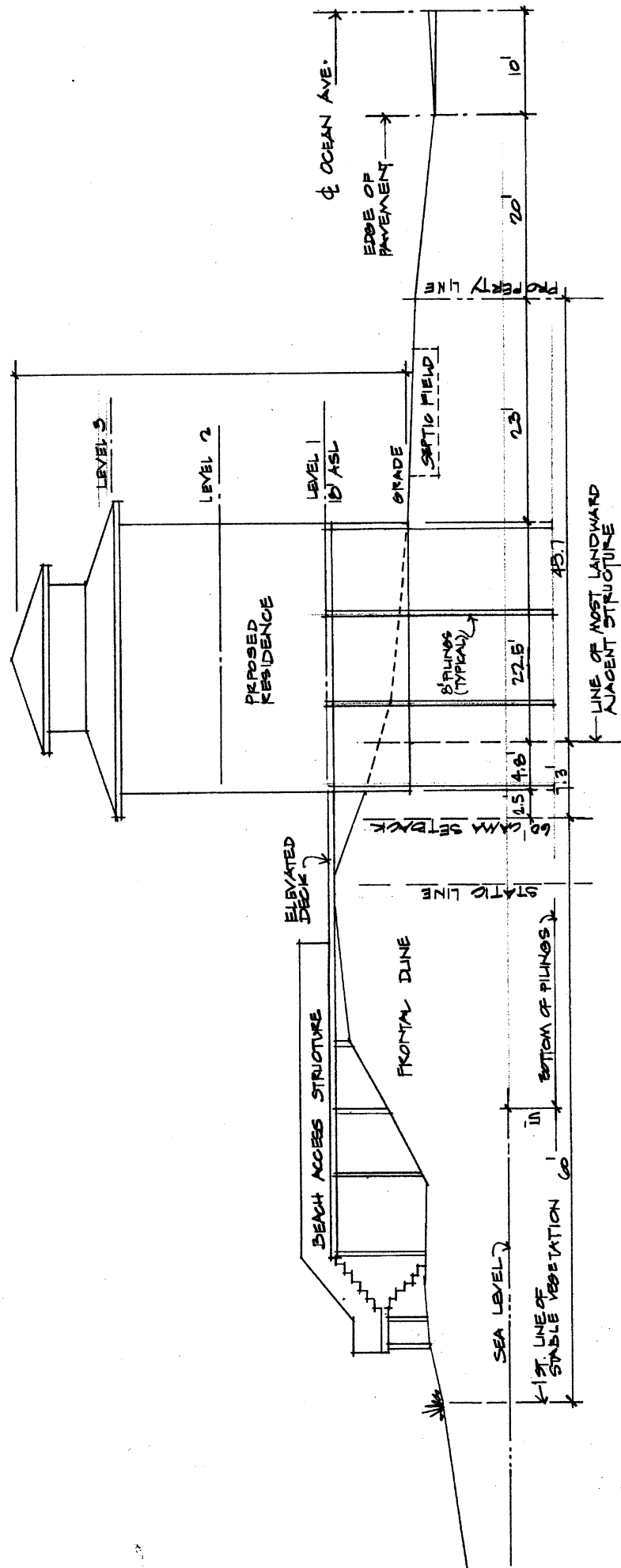
VIEW PLANE

515 OCEAN DR.

O'NEAL RESIDENCE 515 OCEAN DRIVE

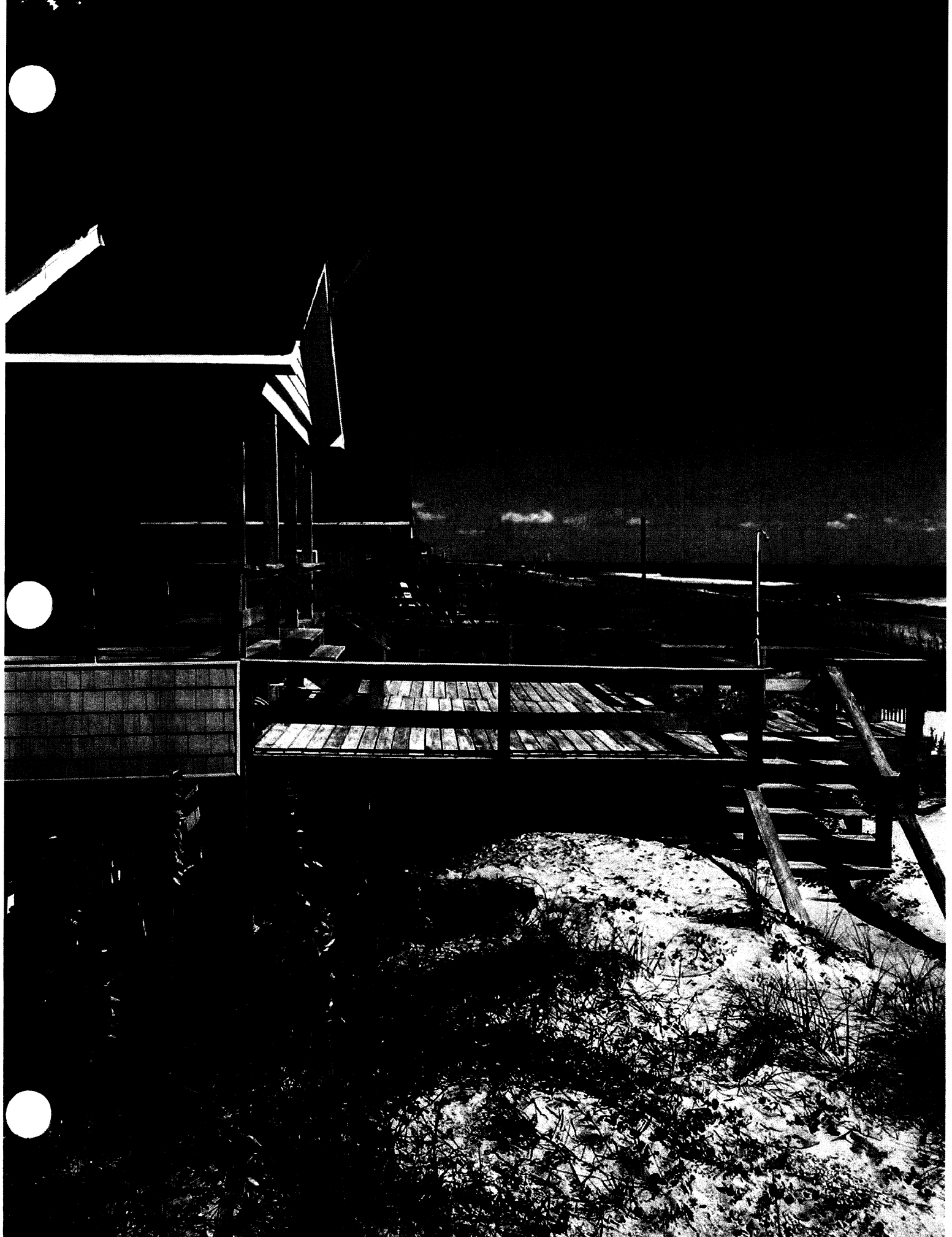
STORMWATER RETENTION AREA

511 OCEAN DR.



O'NEAL RESIDENCE
 513 OCEAN DR. EMERALD ISLE

SITE SECTION
 11-10-00







STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

ROY COOPER
ATTORNEY GENERAL

REPLY TO:
WARD ZIMMERMAN
wzimmerman@ncdoj.gov

MEMORANDUM

TO: Coastal Resources Commission
FROM: Ward Zimmerman, Assistant Attorney General
DATE: February 9, 2011 (for the February 2011 CRC Meeting)
RE: **Variance Request # 11-01 by Kenneth and Marilyn Wayland**

Petitioners own a single-family residence on an oceanfront lot in Oak Island, Brunswick County, North Carolina. They propose to replace the residence's current roughly 29 square-foot deck with a new roughly 300 square-foot deck. Petitioners' proposed development does not meet the ocean hazard setback requirements set forth in 15A NCAC 7H rules .0306(a)(2) and .0309(a); and, therefore, is inconsistent with N.C. Gen. Stat. § 113A-120(a)(8), which requires that all applications be denied that do not comport with CAMA guidelines and Local Land Use Plans. Petitioners seek a variance from these rules.

The following additional information is attached to this memorandum:

Attachment A: Relevant Statutes and Rules
Attachment B: Stipulated Facts
Attachment C: Petitioners' Position and Staff's Response to Criteria
Attachment D: Petitioners' Existing Property
Attachment E: Petitioners' Variance Request Part 1
Attachment F: Petitioners' Variance Request Part 2
Attachment G: Petitioners' Variance Request Part 3

cc: Mack A. Paul, IV, Esq., Attorney for Petitioners Kenneth and Marilyn Wayland
Donna F. Coleman, LPO, Town of Oak Island
DCM Staff
Jennie Hauser, Special Deputy Attorney General and CRC Counsel

ATTACHMENT A
(Relevant Statutes and Rules)

N.C. Gen. Stat. § 113A-120. Grant or Denial of Permits.

- (a): The responsible official or body shall deny an application for a permit upon finding:
 - (8): In any case, that the development is inconsistent with the State guidelines or the local land-use plans.

15A NCAC 7H.0305. General Identification and Description of Landforms.

- (a): This Section describes natural and man-made features that are found within the ocean hazard area of environmental concern.
 - (5): **Vegetation Line.** The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. The Division of Coastal Management or Local Permit Officer shall determine the location of the stable and natural vegetation line based on visual observations of plant composition and density. If the vegetation has been planted, it may be considered stable when the majority of the plant stems are from continuous rhizomes rather than planted individual rooted sets. The vegetation may be considered natural when the majority of the plants are mature and additional species native to the region have been recruited, providing stem and rhizome densities that are similar to adjacent areas that are naturally occurring. In areas where there is no stable natural vegetation present, this line may be established by interpolation between the nearest adjacent stable natural vegetation by on ground observations or by aerial photographic interpretation.
 - (6): **Static Vegetation Line.** In areas within the boundaries of a large-scale beach fill project, the vegetation line that existed within one year prior to the onset of initial project construction shall be defined as the static vegetation line. A static vegetation line shall be established in coordination with the Division of Coastal Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo a large-scale beach fill project. Once a static vegetation line is established, and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line. In all locations

where the vegetation line as defined in this Rule is landward of the static vegetation line, the vegetation line shall be used as the reference point for measuring oceanfront setbacks. A static vegetation line shall not be established where a static vegetation line is already in place, including those established by the Division of Coastal Management prior to the effective date of this Rule. A record of all static vegetation lines, including those established by the Division of Coastal Management prior to the effective date of this Rule, shall be maintained by the Division of Coastal Management for determining development standards as set forth in Rule .0306 of this Section. Because the impact of Hurricane Floyd (September 1999) caused significant portions of the vegetation line in the Town of Oak Island and the Town of Ocean Isle Beach to be relocated landward of its pre-storm position, the static line for areas landward of the beach fill construction in the Town of Oak Island and the Town of Ocean Isle Beach, the onset of which occurred in 2000, shall be defined by the general trend of the vegetation line established by the Division of Coastal Management from June 1998 aerial orthophotography.

- (7): Beach Fill. Beach fill refers to the placement of sediment along the oceanfront shoreline. Sediment used solely to establish or strengthen dunes shall not be considered a beach fill project under this Rule. A large-scale beach fill project shall be defined as any volume of sediment greater than 300,000 cubic yards or any storm protection project constructed by the U.S. Army Corps of Engineers. The onset of construction shall be defined as the date sediment placement begins with the exception of projects completed prior to the effective date of this Rule, in which case the award of contract date will be considered the onset of construction.

15A NCAC 7H.0306. General Use Standards for Ocean Hazard Areas.

- (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.

15A NCAC 7H.0309. Use Standards for Ocean Hazard Areas: Exceptions.

- (a): The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of the Subchapter if all other provisions of this Subchapter and other state and local regulations are met:

(3): elevated decks not exceeding a footprint of 500 square feet;

In all cases, **this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable**; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback requirements of this Subchapter. (emphasis added)

ATTACHMENT B
(Stipulated Facts)

1. The North Carolina Division of Coastal Management (“DCM”) is charged with enforcement of the Coastal Area Management Act (“CAMA”), N.C. Gen. Stat. § 113A-100 *et seq.*, the controlling statutes and regulations promulgated thereunder, and the rules of the Coastal Resources Commission (“CRC”) implementing CAMA, primarily found in Title 15A, Subchapter 7H of the North Carolina Administrative Code. Among DCM’s administrative responsibilities is oversight of the State’s coastal development permitting.
2. Marilyn O. Wayland and Kenneth B. Wayland, II (collectively, “Petitioners”), own that real property located at 3201 East Beach Drive in Oak Island, North Carolina, Brunswick County Parcel Identification No. 249CB038 (the “Property”). *See* Attachment D.
3. The Property is described in Book 2201, Page 818 of the Brunswick County Register of Deeds as Lot 1, Block 26, Section 2, Oak Island, NC. The Property was platted on March 18, 1939, as shown in Map Book 1, Page 98 of the Brunswick County Register of Deeds. The dimensions of the lot as platted are 50 feet wide by 150 feet deep. Petitioners purchased the Property in 2005.
4. The Town of Oak Island (the “Town”) is located in Brunswick County, North Carolina, on a barrier island between the Atlantic Ocean and the Intracoastal Waterway.
5. The Property is located in a developed area along the oceanfront in the R-7 zoning district. A public parking lot with four spaces is located immediately to the west of the Property.
6. Petitioners’ Property is located within the Ocean Erodible and High Hazard Flood Areas of Environmental Concern (“AECs”), both of which are subcategories of the Ocean Hazard AEC designated by the Coastal Resources Commission (“CRC”) in 15A NCAC 07H .0304.
7. On November 10, 2010, petitioners submitted to the Town of Oak Island’s Local CAMA Permit Officer (the “LPO”) an application for a Minor Development Permit to build an approximate 300 square foot deck (Application No. OI 10-46). *See* Attachment E: Petitioners’ Variance Request Part 1.
8. In accordance with the CAMA minor permit application process, written notification of the proposed development was provided to the adjacent property owners. *See* Attachment F: Petitioners’ Variance Request Part 2.
9. The LPO denied the permit application by letter dated December 9, 2010. The denial was based on the deck being inconsistent with N.C. Gen. Stat. § 113A-120 and 15A NCAC 07H rules .0306(a)(2) and .0309(a). *See* Attachment E.
10. Petitioners are filing this variance request seeking relief from the static vegetation line established by 15A NCAC 07H .0305(a)(6) and/or the deck exception requirement of

- 15A NCAC 07H .0309(a), as Petitioners' proposed deck would be landward of a vegetated dune and seaward of the static line. *See* Attachment E.
11. The assessed value of the Property for tax purposes increased from \$116,180 in 2006 to \$480,780 in 2007 and \$481,540 in 2010.
 12. Petitioners seek to construct an ocean-facing deck. The proposed deck would be roughly 300 square feet in area.
 13. The current deck on the property is approximately 29 square feet in size.
 14. Regulations promulgated by the CRC require that development in ocean hazard areas conform to an erosion setback requirement described in 15A NCAC 07H .0306(a).
 15. 15A NCAC 07H .0306(a)(2) prohibits any "development, including any portion of a building or structure...oceanward of the ocean hazard setback distance."
 16. An exception from the erosion setback line is provided for elevated decks not exceeding a footprint of 500 square feet. 15A NCAC 07H .0309(a)(3). However, the exception only applies where the deck is landward of the static vegetation line. Because a portion of the house is seaward of the static vegetation line, Petitioners are unable to build a deck of any size on the ocean-facing side of the house.
 17. 15A NCAC 07H .0305(a)(5) reads: "The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks."
 18. 15A NCAC 07H .0305(a)(6) reads: "In areas within the boundaries of a large-scale beach fill project, the vegetation line that existed within one year prior to the onset of initial project construction shall be defined as the static vegetation line." Additionally, this section provides that "the static line for areas landward of the beach fill construction in the Town of Oak Island...shall be defined by the general trend of the vegetation line established by the Division of Coastal Management from June 1998 aerial orthophotography."
 19. 15A NCAC 07H .0305(a)(7) defines a "large-scale beach fill project" to include "any volume of sediment greater than 300,000 cubic yards."
 20. In early 2001, the U.S. Army Corps of Engineers, Wilmington District ("USACE") executed a beach restoration project to restore degraded sea turtle nesting habitat (the "Turtle Project"). This project affected the area in which the Property is located, and involved a total of 2,514,000 cubic yards of sand.
 21. The 1998 static line described in 15A NCAC 07H .0305(a)(6) passes through Petitioners' house, as shown on a survey prepared for the Waylands by Boney Land Surveyors, Inc. which was amended to show the 1998 static line by the LPO.

22. Existing single-family residences, most of which have ocean-facing decks, are located along the beach to the east and to the west of the Property. *See* Attachment G: Petitioners' Variance Request Part 3.
23. There is a broad stretch of vegetation and a stable dune in front of the Property.
24. Local governments and permit holders are permitted, by 15A NCAC 07J.1200, to request an exception from the static line requirement five years after the completion of a large-scale beach fill project.
25. The Turtle Project was completed in 2001, and thus is nearly ten years old.
26. In order to be eligible for a static line exception, 15A NCAC 07J.1200 requires that an applicant for a static line exception demonstrate a plan for maintenance providing no less than 25 years of shore protection, describe a source of the compatible sediment needed to supply the maintenance operation, and identify a funding source for maintenance.
27. The Town of Oak Island has identified a sand resource, with assistance from the U.S. Army Corps of Engineers, and a funding resource for beach maintenance, but has not yet finalized a long-term maintenance plan.
28. The Turtle Project included a new frontal dune 8,900 feet long, having a base 80 feet wide and a crest 20 feet wide at an elevation of 11 feet National Geodetic Vertical Datum (NGVD), together with a beach berm having a width of 70 feet at an elevation of 8 feet NGVD.
29. Community volunteers and Town employees planted sea oat seedlings to stabilize the entire frontal dune of the project during May and June 2001. The sea oat seedlings were grown in the Town's greenhouse from local seed stock.
30. A post and rope fence is located landward of the dune created by the Turtle Project and a turtle fence lies seaward of the dune created by the Turtle Project.
31. Thus, the proposed deck would be located seaward of the static line, but would be landward of the frontal dune. *See* Attachments E & G.
32. The 1998 static line described in 15A NCAC 07H .0305(a)(6) is located approximately 15 feet landward of the south (ocean-facing) wall of Petitioners' house, as shown on a survey prepared for the Waylands by Boney Land Surveyors, Inc. which was amended by the LPO to show the 1998 static line.

ATTACHMENT C

(Petitioner's Position and Staff's Response to Criteria)

- 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.

1. A majority of ocean-facing homes along Beach Drive, including neighboring properties, have decking sufficient for a small gathering of people.
2. The oceanfront landing on Petitioners' property is roughly 29 square feet in area, barely large enough for a single chair.
3. A significant element of Petitioners' enjoyment of their property comes from being able to enjoy the view and the sound of the ocean.
4. Without a place in which to sit together and enjoy the sight and sound of the ocean, Petitioners lack a significant benefit of oceanfront property ownership.
5. Rental guests at the Property likewise are not able to experience the connection to the sea that guests and residents experience at neighboring properties.
6. The lack of an oceanfront deck on Petitioners' property, particularly when adjoining properties have oceanfront decks, thus reduces the value of guests' experience at the beach and the concomitant rental value of the property.
7. The value of the property, as assessed by Brunswick County, quadrupled from 2006 to 2007, and has remained at that higher valuation ever since. Thus, at the same time that the lack of an oceanfront deck reduces the rental value of the property, the amount of taxes that must be paid to the County has increased significantly.
8. Without the requested variance, rental guests' enjoyment of the house and the beach will remain limited, and visitors will be less likely to use the Property. Consequently, Petitioners may suffer depressed rental income at a time when the tax value of the Property has increased dramatically.
9. As a consequence of the limited ability to rent the Property, the Property's contribution to the local tax base could be substantially less than it would be if it had an ocean-facing deck.

Staff's Position: No.

To show unnecessary hardship, a petitioner must show that he has been denied the ability to make any "reasonable and significant use" of his property. *Williams v. N.C. Department of Environment and Natural Resources*, 144 N.C. App. 470, 548 S.E.2d 193 (2001). Financial loss,

standing alone, cannot approach the hardship necessary to justify the granting of a variance, but it is a factor or an element to be taken into consideration. *Williams, supra.*

Staff does not agree that strict application of the rules would create unnecessary hardship, as the Petitioners are already making reasonable use of the property, and have done so for the last six years. While Petitioners want a larger deck, this does not create an “unnecessary hardship” that would warrant granting a variance. As noted by *Williams*, financial impact alone is not sufficient to establish unnecessary hardship. However, financial impact, specifically in lower rental income, is the only measurable factor Petitioners have cited as a potential hardship.

Moreover, Petitioners purchased the property in 2005, as is, with the current deck. They were aware of the property’s rental potential at the time of purchase. To the extent that Petitioners bought the property with any expectation of future development to increase the experience or monetary value to either owner or renter, such expectation was purely speculative and does not merit setting aside our coastal laws and rules, which are intended to protect life and property from the hazards of poorly-located coastal development. Petitioners have been able to make “reasonable and significant use” of their property for six years; and, therefore, Petitioners have failed to show that “unnecessary hardship” has resulted.

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.

1. Seaward of the Property lies the dune created by the Turtle Project, which is covered with vegetation and has been in place since the Turtle Project was completed in 2001.
2. The ocean beach as defined by N.C. Gen. Stat. § 77-20 lies seaward of the dune created by the Turtle Project.
3. The Town of Oak Island is currently in the process of developing a maintenance plan for the beach in front of the Property. However, the maintenance plan is being developed with the U.S. Army Corps of Engineers, and will likely not be in place for some years.
4. Were such a plan in place, the Town would qualify for an exception to the static vegetation line. Until the plan is developed and approved at some uncertain future date, the Town is not eligible for a static line exception.
5. Thus, unlike circumstances in some areas with static lines, the Property sits landward of a wide stretch of vegetated beach and landward of a stable frontal dune.
6. Still, the 1998 static line and the limitation to the deck exception prevent this particular property from having a deck that is comparable to those found on most surrounding properties.

Staff's Position: No.

Staff does not agree that any hardship experienced by Petitioners results from conditions peculiar to their property. This property is rectangular in shape and measures 50 feet wide and 150 feet deep, in a manner common to Oak Island and other areas up and down the North Carolina coast. The mere facts that there are (1) a vegetated dune seaward of the property and (2) that the municipality in which the property is located has not completed application for an exception to the static vegetation line, do not make this property "peculiar" enough to meet the bar required by this variance criteria. If meeting the "peculiar" criteria simply depended upon these two facts, then all of the other nonconforming lots in Oak Island would be considered "peculiar;" thus, eliminating any chance of being "peculiar" as set forth by the rules. Therefore, Petitioners have failed to show that hardships result from conditions peculiar to the Petitioners' property.

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

Petitioners' Position: No.

1. Petitioners did not own the Property at a time when the construction of an ocean-facing deck was permitted.
2. At some time prior to the establishment of the static line, oceanfront property owners were presumably permitted to construct ocean-facing decks under circumstances similar to those Petitioners face at the Property (i.e., sitting landward of the first line of stable and natural vegetation).
3. Although the Turtle Project has lengthened the beach seaward of the Property, it was the actions of the Town and of the U.S. Army Corps of Engineers that gave rise to the establishment of a static vegetation line on the Property.
4. The area which the Property is located would be eligible for a static line exception under 15A NCAC 07J .1201(b), but for the fact that there is no ongoing maintenance plan in place.
5. The Town of Oak Island is currently in the process of developing a maintenance plan for the beach in front of the Property. However, the maintenance plan is being developed with the U.S. Army Corps of Engineers, and will likely not be in place for some years.
6. Were such a plan in place, the Town would qualify for an exception to the static vegetation line. Until the plan is developed and approved at some uncertain future date, the Town is not eligible for a static line exception.

Staff's Position: Yes.

Petitioners bought the property with the current deck in 2005 after the static vegetation line had been established. By their purchase of this property, with its existing residence and 29

square foot deck, under the same regulatory scheme now in place, Petitioners have contributed to their now-alleged hardship.

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.

1. Several other rules have allowed similar decks to be constructed on neighboring properties.
2. The exceptions of 15A NCAC 07H .0309(a) allow certain small structures or portions of structures, including decks, to be built seaward of the ocean hazard setback line, but landward of the ocean beach. Here, the Property lies substantially landward of the ocean beach and the proposed deck is less than two-thirds of the maximum size that would be allowable under the deck exception.
3. A static line exception is provided by 15A NCAC 07J .1200 for areas where a large-scale beach fill project occurred more than five years before the application and a local government has identified a sand resource, identified a funding resource, and developed a 25-year maintenance plan. Here, the Turtle Project occurred more than ten years ago, the Town has identified sand and funding resources, and the Town is in the process of developing a plan in concert with the U.S. Army Corps of Engineers, which process generally takes several years.
4. Although this deck would be seaward of the static line, it is seaward of the static line by less than 15 feet.
5. The deck is landward of a vegetated dune, so the deck will not encroach on the public's right to access and enjoy the beach and will not interfere with sea turtle habitat or with other natural processes.
6. The impact of the deck would be minimal, as the sand and other protection provided by the Turtle Project helps to protect life and property on Petitioners' property and on neighboring property, and allows plenty of space for public access to the beach seaward of the house and deck.
7. With a deck on the Property, Petitioners and their guests would be able to enjoy the view, smell, and sound of the ocean in a way that is currently limited or not possible. Thus, permitting the deck to be constructed would further the CAMA policy goals of providing recreation and tourist facilities (N.C. Gen. Stat. § 113A-102(4)(c)) and improving enjoyment of the beach.
8. By making the house more appealing to guests, the proposed deck preserves the viability of a 1700-square-foot 1954 beach cottage, furthering the CAMA policy goal of

preservation of property (N.C. Gen. Stat. § 113A-102(4)(b)) without increasing the intensity of use.

9. Making the house more appealing to guests also allows it to draw increased demand, furthering the CAMA policy goal of encouraging economic development along the coast (N.C. Gen. Stat. § 113A-102(4)(b)).

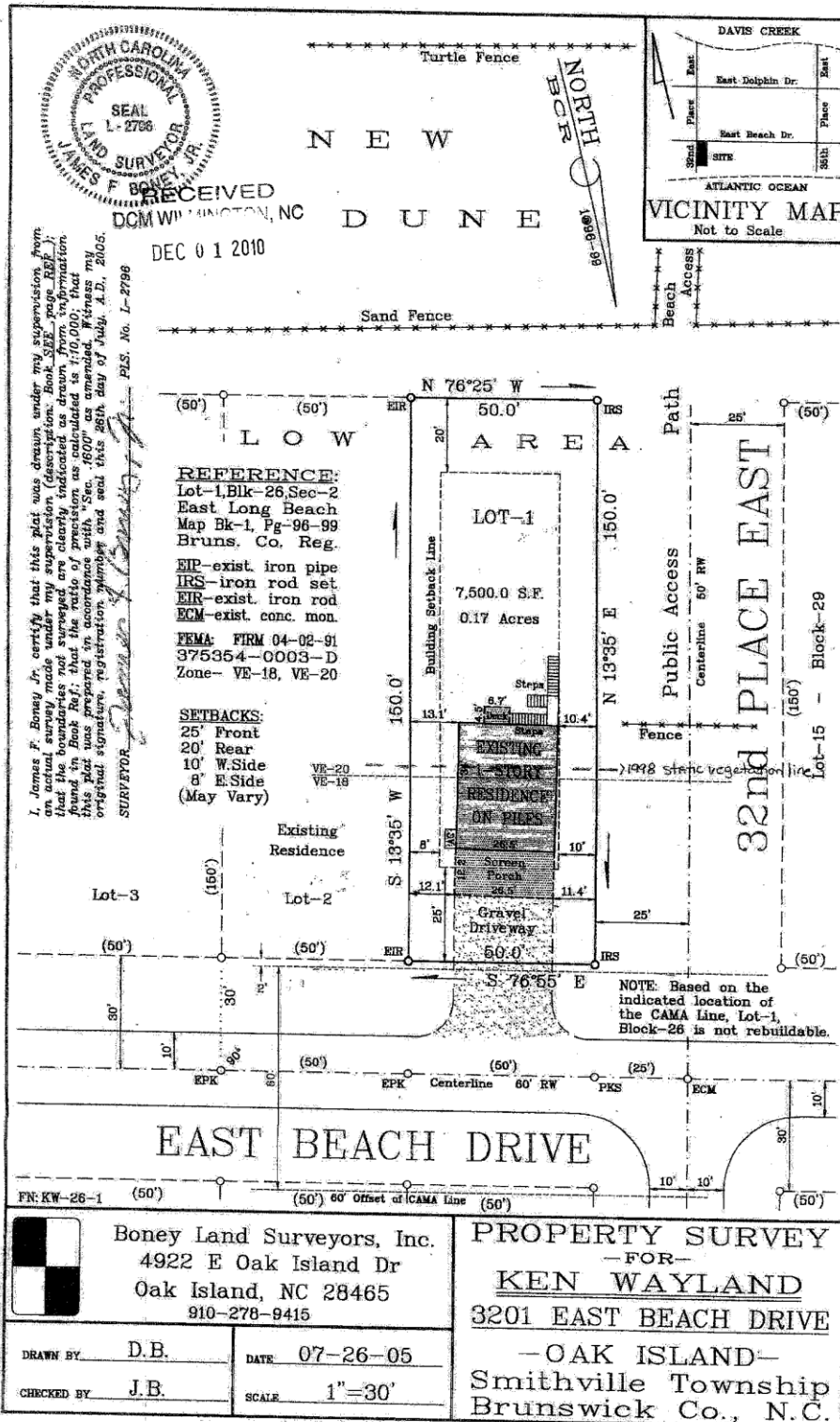
Staff's Position: No.

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). Following this objective, the CRC adopted ocean erosion setback requirements, including the static line requirements in Ocean Hazard AECs. By choosing to not comply with the conditions set forth by the ocean erosion setback requirements, Petitioners are choosing to ignore the spirit, purpose, and intent of this Rule. Therefore, Petitioners' variance request to construct a larger deck oceanward of the static vegetation line contravenes the CRC's spirit, purpose, and intent in creating the ocean erosion setback rules.

Additionally, Staff believes that granting a variance in this instance will neither secure public safety and welfare, nor will it preserve substantial justice. Petitioners already have a residence with a deck on the lot. They are merely seeking a CAMA development permit to build a newer, bigger deck. However, the CRC implemented these rules for the specific purposes enumerated above. Because Petitioners have not demonstrated that they have an unnecessary hardship that results from a condition peculiar to the lot that they did not bring upon themselves, neither public safety and welfare nor substantial justice requires that this variance be granted.

ATTACHMENT D

(Petitioners' Existing Property)



JAN 13 2011

Morehead City DCM

January 12, 2011

Mack A. Paul IV
D 919.743.7326
F 919.516.2126
mack.paul@klgates.com

By Overnight Delivery

Jim Gregson
Director
Division of Coastal Management
Department of Environment and Natural
Resources
400 Commerce Avenue
Morehead City, NC 28557

Re: Petition for Variance from Coastal Area Management Act ("CAMA") Regulations

Dear Mr. Gregson:

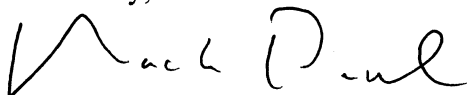
Enclosed please find a petition for a CAMA variance on behalf of Kenneth B. Wayland, II and Marilyn O. Wayland to build an oceanfront deck on their property at 3201 East Beach Drive in Oak Island.

In addition to the variance request form, the following are also enclosed:

- A numbered list of proposed facts;
- A permit application and denial letter for the project;
- A site survey and construction drawings for the proposed deck;
- Copies of notice provided to adjoining property owners, with evidence of receipt;
- Documentation of the emergency general permit for post-Hurricane Floyd reconstruction; and
- Photos of the site taken in December 2010.

Please let me know if you have any questions or concerns.

Sincerely,



Mack A. Paul IV

Enclosures

11-02

RECEIVED
JAN 13 2011
Morehead City DCM

Petitioner supplies the following information:

Kenneth B. Wayland, II and Marilyn O. Wayland
10124 W. Broad Street, Suite N
Glen Allen, Virginia 23060

Attorney:

Mack A. Paul, IV
K&L Gates LLP
4350 Lassiter at North Hills Avenue
Suite 300
Raleigh, NC 27609
Direct Dial: 919.743.7326
Direct Fax: 919.516.2126
Email: mack.paul@klgates.com

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

What did you seek a permit to do?

Construct a roughly 300 square foot detached deck on the oceanfront side of a house at 3201 East Beach Drive, Oak Island.

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

- N.C. Gen. Stat. § 113A-120(a)(8) (permit application must be denied if the development is not consistent with the state guidelines);
- 15A NCAC 07H .0306(a)(2) (development must be landward of ocean hazard setback line);
- 15A NCAC 07H .0305(a)(6) (static vegetation line for "large scale" beach nourishment projects)
- 15A NCAC 07J .1201 (procedure for obtaining an exception from the static vegetation line)
- 15A NCAC 07H .0309(a) (deck of less than 500 square feet may be built seaward of the erosion setback, but only if landward of the static line).

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 seaward wall of the house is roughly ten feet seaward of the applicable vegetation line. Thus, any oceanfront deck similar to those attached to the majority of oceanfront houses in the area would be out of compliance with CAMA rules. A deck on any other side of the house would not serve the same purpose, as it would not face the ocean. Further, there is not sufficient room on the lot to move the house so as to make possible the building of the deck within CAMA rules.

Can you obtain a permit for a portion of what you wish to do? NO If so, please state what the permit would allow.

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.

Guests staying at the house do not have adequate space to gather on the deck and thus can not enjoy the ocean view from the house. This also impedes Petitioners' ability to rent out the house, thereby reducing the rental income Petitioners receive and the tax revenue available to the State of North Carolina and the Town of Oak Island.

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).]*
1. A majority of ocean-facing homes along Beach Drive have decking sufficient for a small gathering of people, including neighboring properties.
 2. The lack of an oceanfront deck on Petitioners' property, particularly when adjoining properties have oceanfront decks, reduces the value of guests' experience at the beach and the concomitant rental value of the property.
 3. The value of the property, as assessed by Brunswick County, quadrupled from 2006 to 2007. Thus, at the same time that the lack of an oceanfront deck reduces the rental value

of the property, the amount of taxes that must be paid to the County has increased significantly.

4. Without the requested variance, rental guests' enjoyment of the house and the beach will remain limited, and visitors will be less likely to use the Property. Consequently, Petitioners will continue suffer depressed rental income at a time when the tax value of the Property has increased dramatically.
5. As a consequence of the limited ability to rent the Property, the Property's contribution to the local tax base would be depressed.

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

1. The original deck attached to Petitioners' house was destroyed by Hurricane Floyd.
2. Following Hurricane Floyd, property owners along the stretch of Oak Island where the Property is located were given an exemption from CAMA requirements for certain repairs, including the rebuilding of deck structures.
3. Pursuant to the post-Floyd rules, other property owners in similar locations were allowed to rebuild without seeking a variance, and most nearby beach houses now have oceanfront decks.
4. Petitioners purchased the Property after these repair and rebuilding rules had expired. As a result, Petitioners did not have the same opportunity as neighboring landowners did to build a deck without a variance.
5. The Property lies landward of the ocean beach as defined by N.C. Gen. Stat. § 77-20, as well as a vegetated dune that has been in place for nearly a decade.
6. The Town of Oak Island is currently in the process of developing a maintenance plan for the beach in front of the Property. However, the maintenance plan is being developed with the U.S. Army Corps of Engineers, and will likely not be in place for some years.
7. Were such a plan in place, the Town would qualify for an exception to the static vegetation line. Until the plan is developed and approved at some uncertain future date, the Town is not eligible for a static line exception.

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

1. The earlier deck on the Property was destroyed by Hurricane Floyd.

2. During the period in which the deck could have been rebuilt without a variance, Petitioners did not own the property and thus were not able to avail themselves of any post-hurricane rebuilding rules.
3. Petitioners did not own the Property at the time the Turtle Project was undertaken and thus had no say in or control over the large scale beach fill project that gave rise to the imposition of the static vegetation line.
4. The area which the Property is located would be eligible for a static line exception under 15A NCAC 07J .1201(b), but for the fact that there is no ongoing maintenance plan in place.
5. The Town of Oak Island is currently in the process of developing a maintenance plan for the beach in front of the Property. However, the maintenance plan is being developed with the U.S. Army Corps of Engineers, and will likely not be in place for some years.
6. Were such a plan in place, the Town would qualify for an exception to the static vegetation line. Until the plan is developed and approved at some uncertain future date, the Town is not eligible for a static line exception.

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.*

1. Several other rules have allowed similar decks to be constructed on neighboring properties, including the post-Floyd rebuilding guidelines.
2. CAMA rules allow for decks of under 500 square feet to be built seaward of the hazard setback line.
3. Although this deck would be seaward of the static line, it is only seaward of the static line by less than 30 feet.
4. The deck is also landward of a vegetated dune and an additional sand fence, so the deck will not encroach on the public's right to access and enjoy the beach and will not interfere with sea turtle habitat or with other natural processes.
5. Because the Property lies landward of the current line of natural vegetation, allowing this variance would be similar to applying the deck exception. It would also achieve the same result as a static line exception, which will take years to obtain.
6. The impact of the deck would be minimal, as the sand and other protection provided by the Turtle Project helps to protect life and property on Petitioners' property and on neighboring property, and allows plenty of space for public access to the beach seaward of the house and deck.

7. Guests at the home will be able to view the ocean. Thus, the CAMA policy goals of providing recreation and tourist facilities (N.C. Gen. Stat. § 113A-102(4)(c)) and improving enjoyment of the beach is furthered by this project.
8. The deck would make the house more appealing to renters. Thus, CAMA policy goals favoring preservation of property and economic development (N.C. Gen. Stat. § 113A-102(4)(b)) are furthered by this project.

Attached please find the following:

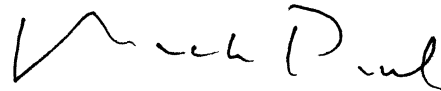
- Attachment A: Numbered list of facts relied upon
- Attachment B: Permit Application and Denial documents
- Attachment C: Site Survey and Construction Drawings
- Attachment D: Copies of notice provided to adjoining property owners and proof of delivery
- Attachment E: Documentation of the emergency general permit for post-Hurricane Floyd reconstruction
- Attachment F: Photos of the site taken in December 2010

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

Date:

1.12.11

Signature:



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 overnight delivery to the following:

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

copy: Attorney General's Office
Environmental Division
114 West Edenton Street
Raleigh, NC 27603

This the 12th day of January 2011.

A handwritten signature in black ink that reads "Mack Paul". The signature is written in a cursive style with a large initial "M" and "P".

Mack A. Paul, IV
James L. Joyce
Attorneys for Petitioner

ATTACHMENT A

ATTACHMENT A

FACTS

A. Background

1. Marilyn O. Wayland and Kenneth B. Wayland, II (collectively, "Petitioners"), own that real property located at 3201 East Beach Drive in Oak Island, North Carolina, Brunswick County Parcel Identification No. 249CB038 (the "Property").
2. The Property is described in Book 2201, Page 818 of the Brunswick County Register of Deeds as Lot 1, Block 26, Section 2, Oak Island, NC. The Property was platted on March 18, 1939, as shown in Map Book 1, Page 98 of the Brunswick County Register of Deeds. The dimensions of the lot as platted are 50 feet wide by 150 feet deep.
3. The Town of Oak Island (the "Town") is located in Brunswick County, North Carolina on a barrier island between the Atlantic Ocean and the Intracoastal Waterway.
4. The Property is located in a developed area along the oceanfront in the R-7 zoning district. A public parking lot is located immediately to the east of the Property.
5. On November 10, 2010, petitioners submitted to the Town of Oak Island's Local CAMA Permit Officer (the "LPO") an application for a Minor Development Permit to build a 300 square foot deck (Application No. OI 10-46).
6. In accordance with the CAMA minor permit application process, written notification of the proposed development was provided to the adjacent property owners. No objections to the proposed development were filed.
7. The LPO denied the permit application by letter dated December 9, 2010. The denial was based on the deck being inconsistent with 15A NCAC 07H rules .0306(a)(2) and .0309(a).
8. Petitioners are filing this variance request seeking relief from the static vegetation line established by 15A NCAC 07H .0305(a)(6) and/or the deck exception requirement of 15A NCAC 07H .0309(a), as Petitioners' proposed deck would be landward of a decade-old vegetated dune and just seaward of the static line.

B. Unnecessary hardships would result from strict application of the CAMA development rules

9. The assessed value of the Property for tax purposes increased from \$116,180 in 2006 to \$480,780 in 2007. *See* attached property tax assessments.
10. Petitioners spent \$17,021.48 for interior improvements to the Property in 2007 and an additional \$2500 was spent in 2008 on similar improvements.

11. The purpose of the above improvements was to make the Property more welcoming and appealing to renters.
12. As a continuation of that effort, Petitioners seek to construct an ocean-facing deck suitable for use by renters of the house. The proposed deck would be roughly 306 square feet in area.
13. The current deck on the property is approximately 29 square feet, barely large enough for a single small chair.
14. Petitioners' Property is located within the Ocean Erodible and High Hazard Flood Areas of Environmental Concern ("AECs"), both of which are subcategories of the Ocean Hazard AEC designated by the Coastal Resources Commission ("CRC") in 15A NCAC 07H .0304.
15. Regulations promulgated by the CRC and the Department of Environment and Natural Resources, Division of Coastal Management ("DCM") require that development in ocean hazard areas conform to an erosion setback requirement described in 15A NCAC 07H .0306(a).
16. 15A NCAC 07H .0306(a)(2) prohibits any "development, including any portion of a building or structure...oceanward of the ocean hazard setback distance."
17. Normally, the ocean hazard setback distance is measured from the first line of stable and natural vegetation. *See* 15A NCAC 07H .0305(a)(5).
18. However, a "static vegetation line" applies to "areas within the boundaries of a large-scale beach fill project." 15A NCAC 07H .0305(a)(6).
19. 15A NCAC 07H .0305(a)(7) defines a "large-scale beach fill project" to include "any volume of sediment greater than 300,000 cubic yards."
20. In early 2001, the U.S. Army Corps of Engineers, Wilmington District ("USACE") executed a beach restoration project to restore degraded sea turtle nesting habitat (the "Turtle Project"). This project affected the area in which the Property is located, and involved a total of 2,514,000 cubic yards of sand.
21. 15A NCAC 07H .0305(a)(6) provides that "the static line for areas landward of the beach fill construction in the Town of Oak Island...shall be defined by the general trend of the vegetation line established by the Division of Coastal Management from June 1998 aerial orthophotography."
22. Petitioners' house projects slightly beyond the 1998 static line described in 15A NCAC 07H .0305(a)(6), as shown on a survey prepared for the Waylands by Boney Land Surveyors, Inc. which was amended to show the 1998 static line by the LPO.

23. An exception from the erosion setback line is provided for elevated decks not exceeding a footprint of 500 square feet. 15A NCAC 07H .0309(a)(3). However, the exception only applies where the deck is landward of the static vegetation line.
24. Because a portion of the house is seaward of the static vegetation line, Petitioners are unable to build a deck of any size on the ocean-facing side of the house.

C. Hardships result from conditions peculiar to Petitioners' Property

25. Existing single-family residences, most of which have ocean-facing decks, are located along the beach to the east and to the west of the Property. A majority of nearby ocean-facing homes have decking sufficient to provide space for a small gathering of people. *See* attached photographs.
26. A deck similar to those on neighboring houses was originally part of the house.
27. In 1999, that deck was substantially destroyed by Hurricane Floyd.
28. In the aftermath of Hurricane Floyd, the CRC issued an Emergency General Permit (temporary rule 15A 07H .2500). This permit allowed homeowners to rebuild property that had been destroyed or significantly damaged by 1999 hurricanes. *See* attached Emergency Permit and CRC Meeting Minutes.
29. The then-owner of the Property was financially unable to rebuild the deck under the temporary rebuilding guidelines as they existed at the time.
30. Owners of the vast majority of other houses in the area were able to rebuild any decks that were damaged or destroyed in Hurricane Floyd.
31. The 1998 static line described in 15A NCAC 07H .0305(a)(6) is located roughly 10 feet landward of the south (ocean-side) wall of Petitioners' house, as shown on a survey prepared for the Waylands by Boney Land Surveyors, Inc. which was amended by the LPO to show the 1998 static line.
32. 15A NCAC 07H .0309(a)(3) allows elevated decks not exceeding a footprint of 500 square feet to be built seaward of the erosion setback line, but only if the development is landward of the static vegetation line.
33. Because a portion of the house is seaward of the static vegetation line, Petitioners are unable to build a deck of any size on the ocean-facing side of the house.
34. Further, because Petitioners purchased the Property after the post-Floyd emergency permit expired, they did not have the same opportunity to rebuild their hurricane-damaged deck as other property owners did.
35. Despite the imposition of the static vegetation line, there has been a broad stretch of vegetation and a stable dune in front of the Property for nearly a decade.

D. Hardships do not result from actions taken by petitioners

36. A deck similar to those on neighboring houses was originally part of the house.
37. In 1999, that deck was substantially destroyed by Hurricane Floyd, and the then-owner of the Property was financially unable to rebuild the deck under CAMA guidelines as they existed at the time.
38. The rules allowing for post-hurricane reconstruction expired in October of 2000. Petitioners purchased the Property in 2005, and thus had no opportunity to avail themselves of the post-hurricane reconstruction guidelines.
39. Local governments are permitted, by 15A NCAC 07J .0201(b), to request an exception from the static line requirement five years after the completion of a large-scale beach fill project. The only other party that may request a static line exception is a permit holder of a large-scale beach fill project.
40. The Turtle Project was completed in 2001, and thus is nearly ten years old.
41. In order to be eligible for a static line exception, 15A NCAC 07J .0201(d) requires that an applicant for a static line exception demonstrate a plan for maintenance providing no less than 25 years of shore protection, describe a source of the compatible sediment needed to supply the maintenance operation, and identify a funding source for maintenance.
42. The Town of Oak Island has identified a sand resource and a funding resource for beach maintenance, but has not yet developed a long-term maintenance plan.
43. The Town is currently in the process of working with the U.S. Army Corps of Engineers to develop a maintenance plan for the area covered by the Turtle Project. However, this process is likely to take a number of years before final approval might be obtained.

E. The requested variance is consistent with the spirit, purpose, and intent of the Commission's rules, will secure the public safety and welfare, and will preserve substantial justice.

44. The Turtle Project included a new frontal dune 8900 feet long, having a base 80 feet wide and a crest 20 feet wide at an elevation of 11 feet NGVD, together with a beach berm having a width of 70 feet at an elevation of 8 feet NGVD.
45. Community volunteers and Town employees planted sea oat seedlings to stabilize the entire frontal dune of the project during May and June 2001. The sea oat seedlings were grown in the Town's greenhouse from local seed stock.
46. A sand fence is located landward of the dune created by the Turtle Project and a turtle fence lies seaward of the dune created by the Turtle Project.

47. Thus, the proposed deck would be located seaward of the static line, but would be separated from the ocean by a turtle fence, a dune covered with vegetation, and a sand fence. *See* attached survey and photographs.
48. Petitioners' proposed deck would be similar to decks on adjacent properties and would greatly increase the opportunity for the Property to generate revenue that contributes to the local occupancy tax base.
49. The 1998 static line described in 15A NCAC 07H .0305(a)(6) is located only 15 feet landward of the south (ocean-facing) wall of Petitioners' house, as shown on a survey prepared for the Waylands by Boney Land Surveyors, Inc. which was amended by the LPO to show the 1998 static line.
50. 15A NCAC 07H .0309(a)(3) allows elevated decks not exceeding a footprint of 500 square feet to be built seaward of the erosion setback line, presumably because of the limited impact they have on the beach environment.
51. Thus, Petitioners' proposed deck would be constructed within the limits of the deck exception, behind a vegetated dune that has been in place for ten years, in a form similar to decks on the oceanfront side of nearby houses.
52. Further, the deck would be located in an area that meets all but one of the criteria for the static line exception. Although the Town is working toward meeting the last criterion, namely a maintenance plan, development of the plan could take several years.
53. Petitioners' deck would improve guests' enjoyment of the beach, add revenue to the local community, and would have a minimal impact at most.

ATTACHMENT B

November 10, 2010

James L. Joyce
D 919.743.7336
F 919.743.7358
jim.joyce@klgates.com

Certified Mail/Return Receipt Requested

Donna F. Coleman
CAMA Permit Officer
Town of Oak Island
4601 East Oak Island Drive
Oak Island, NC 28465

Re: Application of Kenneth B. Wayland, II and Marilyn O. Wayland for CAMA Minor Development Permit

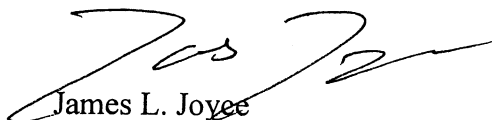
Dear Ms. Coleman:

Enclosed please find a completed application packet for the Waylands' proposed deck. The enclosed items include the following:

- A check in the amount of \$100.00 made payable to the Town of Oak Island
- A completed, signed application form
- A signed AEC Hazard Notice form
- A copy of the engineer's drawings for the deck
- A copy of a survey of the site
- The certified mail receipt showing that a notification letter has been sent to the adjoining property owner.
- A copy of the notification letter, with all of the attachments thereto

Please let me know if you have any questions or if you require any further documentation.

Respectfully,


James L. Joyce

Enclosures

K&L GATES LLP
GENERAL ACCOUNT
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA. 15222

BNY MELLON BANK

BNY Mellon Bank, N.A.
Pittsburgh, PA

1128965

60-160
433

BY
ORDER OF

DATE
11/10/2010

\$ 100.00*****

DOLLARS

Town of Oak Island

ONE HUNDRED AND 00/100

NOT VALID AFTER 180 DAYS

Town of Oak Island
4601 E. Oak Island Dr
Oak Island, NC 28465

Two Signatures Required If Over \$10,000


AUTHORIZED SIGNATURE MP

⑈ 1128965⑈ ⑆043301601⑆ 126 8682⑈

Locality _____ Permit Number _____
Ocean Hazard _____ Estuarine Shoreline _____ ORW Shoreline _____ Public Trust Shoreline _____ Other _____
(For official use only)

GENERAL INFORMATION

LAND OWNER

Name: Kenneth B. Wayland, II and Marilyn O. Wayland

Address: 10124 W. Broad Street, Suite N

City: Glen Allen State: VA Zip: 23060 Phone: _____

AUTHORIZED AGENT

Name: Mack A. Paul, IV

Address: 4350 Lassiter at North Hills Avenue, Suite 300

City: Raleigh State: NC Zip: 27609 Phone: (919) 743-7326

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 3201 East Beach Drive, Oak Island, NC 28465

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) 12' x 25'5" detached deck

SIZE OF LOT/PARCEL: 7500 square feet 0.17 acres

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

TOTAL ENCLOSED FLOOR AREA OF A BUILDING IN THE OCEAN HAZARD AREA OF ENVIRONMENTAL CONCERN (AEC): 1007 square feet (includes all floors and roof covered decks)

SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT-UPON SURFACES IN THE COASTAL SHORELINE AREA OF ENVIRONMENTAL CONCERN (AEC): _____ square feet (Calculations includes the area of the roof/drip line of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC.)(Attach your calculations with the project drawing .)

Choose the AEC area that applies to your property:

- (1) within 75 feet of Normal High Water for the Estuarine Shoreline AEC
 - (2) within 575 feet of Normal High Water for the Estuarine Shoreline AEC, adjacent to Outstanding Resource Waters
 - (3) within 30 feet of the Public Trust Shoreline AEC
- (Contact your Local Permit Officer if you are not sure which AEC applies to your property.)

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality? YES NO

If yes, list the total built upon area/impervious surface allowed for your lot or parcel. _____ square feet.

OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit. As a service we have compiled a listing of the kinds of permits that might be required. We suggest you check over the list with your LPO to determine if any of these apply to your project. Zoning, Drinking Water Well, Septic Tank (or other sanitary waste treatment system), Building, Electrical, Plumbing, Heating and Air Conditioning, Insulation and Energy Conservation, FIA Certification, Sand Dune, Sediment Control, Subdivision Approval, Mobile Home Park Approval, Highway Connection, and others.

STATEMENT OF OWNERSHIP:

I, the undersigned, an applicant for a CAMA minor development permit, being either the owner of property in an AEC or a person authorized to act as an agent for purposes of applying for a CAMA minor development permit, certify that the person listed as landowner on this application has a significant interest in the real property described therein. This interest can be described as: (check one)

an owner or record title, Title is vested in Kenneth B. Wayland, II and wife, Marilyn O. Wayland, see Deed Book 2201 page 818 in the Brunswick County Registry of Deeds.

an owner by virtue of inheritance. Applicant is an heir to the estate of _____; probate was in C ounty.

if other interest, such as written contract or lease, explain below or use a separate sheet and attach to this application.

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

I furthermore certify that the following persons are owners of properties adjoining this property. I affirm that I have given **ACTUAL NOTICE** to each of them concerning my intent to develop this property and to apply for a CAMA permit.

(Name)	(Address)
(1) <u>Erik Bliss</u>	<u>7605 Overlook Hills Lane, Cincinnati, OH 45244</u>
(2) <u>Town of Oak Island</u>	<u>4601 East Oak Island Drive, Oak Island, NC 28465</u>
(3) _____	_____
(4) _____	_____

FOR DEVELOPERS IN OCEAN HAZARD AND ESTUARINE HAZARD AREAS:

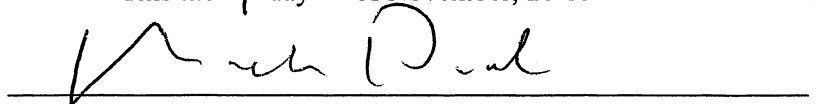
I acknowledge that the land owner is aware that the proposed development is planned for an area which may be susceptible to erosion and/or flooding. I acknowledge that the local permit officer has explained to me the particular hazard problems associated with this lot. This explanation was accompanied by recommendations concerning stabilization and floodproofing techniques.

PERMISSION TO ENTER ON LAND:

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

This application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the AEC hazard notice where necessary, a check for \$100.00 made payable to the locality, and any information as may be provided orally by the applicant. The details of the application as described by these sources are incorporated without reference in any permit which may be issued. Deviation from these details will constitute a violation of any permit. Any person developing in an AEC without permit is subject to civil, criminal and administrative action.

This the 9 day of November, 20 10



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

SITE DRAWING/APPLICATION CHECKLIST

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

PHYSICAL DIMENSIONS

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

PHYSICAL CHARACTERISTICS

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

If you will be working in the ocean hazard area:

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

If you will be working in an estuarine shoreline area:

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

DEVELOPMENT PLANS

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

NOTE TO APPLICANT

Have you:

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

FOR STAFF USE

Site Notice Posted _____ Final Inspection _____ Fee Received _____

Site Inspections

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

AEC HAZARD NOTICE

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

Property Owner: Kenneth B. Wayland and Marilyn D. Wayland

Property Address: 3201 E Beach Drive

Date Lot Was Platted: _____

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

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

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

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

Studies also indicate that the shoreline could move as much as 325 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 19 feet deep in this area.

Preferred oceanfront protection measures are beach nourishment and relocation of threatened structures. Hard erosion control structures such as bulkheads, seawalls, revetments, groins, jetties and breakwaters are prohibited. Temporary sand bags may be authorized under certain conditions.

The applicant must acknowledge this information and requirements by signing this notice in the space below. Without the proper signature, the application will not be complete.

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

For more information, contact:

Donna F. Coleman
Local Permit Officer

4601 E. Oak Island Dr
Address

Oak Island, NC 28465
Locality

(910) 278-5024
Phone Number

Marilyn Wayland 11/08/10
Applicant Signature Date
K. Wayland 11/08/10

BEFORE YOU BUILD

Setting Back for Safety: A Guide to Wise Development Along the Oceanfront

When you build along the oceanfront, you take a calculated risk. Natural forces of water and wind collide with tons of force, even on calm days.

Man-made structures cannot be guaranteed to survive the force of a hurricane. Long-term erosion (or barrier island migration) may take from two to ten feet of the beach each year, and, sooner or later, will threaten oceanfront structures. These are the facts of life for oceanfront property owners.

The Coastal Resources Commission (CRC) has adopted rules for building along the oceanfront. The rules are intended to avoid an unreasonable risk to life and property, and to limit public and private losses from storm and long-term erosion. These rules lessen but do not eliminate the element of risk in oceanfront development.

As you consider building along the oceanfront, the CRC wants you to understand the rules and the risks. With this knowledge, you can make a more informed decision about where and how to build in the coastal area.

The Rules

When you build along the oceanfront, coastal management rules require that the structure be sited to fit safely into the beach environment.

Structures along the oceanfront, less than 5,000 square feet in size, must be behind the frontal dune, landward of the crest of the primary dune, and set back from the first line of stable natural vegetation a distance equal to 30 times the annual erosion rate (a minimum of 60 feet). The setback calculation increases as the size of the structure increases [15A NCAC 7H.0306(a)(2)]. For example: A structure between 5,000 and 10,000 square feet would require a setback from the first line of stable, natural vegetation to a distance equal to 60 times the annual erosion rate (a minimum of 120 feet). The graduated setback continues to increase through structure sizes greater than 100,000 square feet.

The Reasons

The beachfront is an ever-changing landform. The beach and the dunes are natural "shock absorbers," taking the beating of the wind and waves and protecting the inland areas. By incorporating building setbacks into the regulations, you have a good chance of enjoying the full life of the structure. At first, it seems very inviting to build your dream house as close to the beach as possible, but in five years you could find the dream has become a nightmare as high tides and storm tides threaten your investment.

The Exception

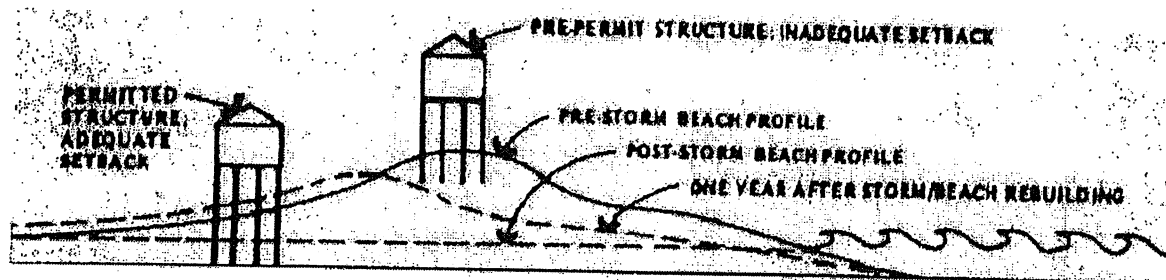
The Coastal Resources Commission recognized that these rules, initially passed in June 1979, might prove a hardship for some property owners. Therefore, they established an exception for lots that cannot meet the setback requirement. The exception allows buildings in front of the current setback, if the following conditions apply:

- (1) the lot must have been platted as of June 1, 1979, and is not capable of being enlarged by combining with adjoining land under the same ownership;
- (2) development must be constructed as far back on the property as possible and in no case less than 60 feet landward of the vegetation line;
- (3) no development can take place on the frontal dune;
- (4) special construction standards on piling depth and square footage must be met; and
- (5) all other CAMA, state and local regulations must be met.

The exception is not available in the Inlet Hazard Area.

To determine eligibility for the exception the Local Permit Officer will make these measurements and observations:

- _____ required setback from vegetation line
- _____ exception setback (maximum feasible)
- _____ rear property line setback
- _____ max. allowable square footage on lowest floor
- _____ piling length needed to extend 4 feet below MSL



After the storm, the house on the dune will be gone. The other house has a much better chance of survival.

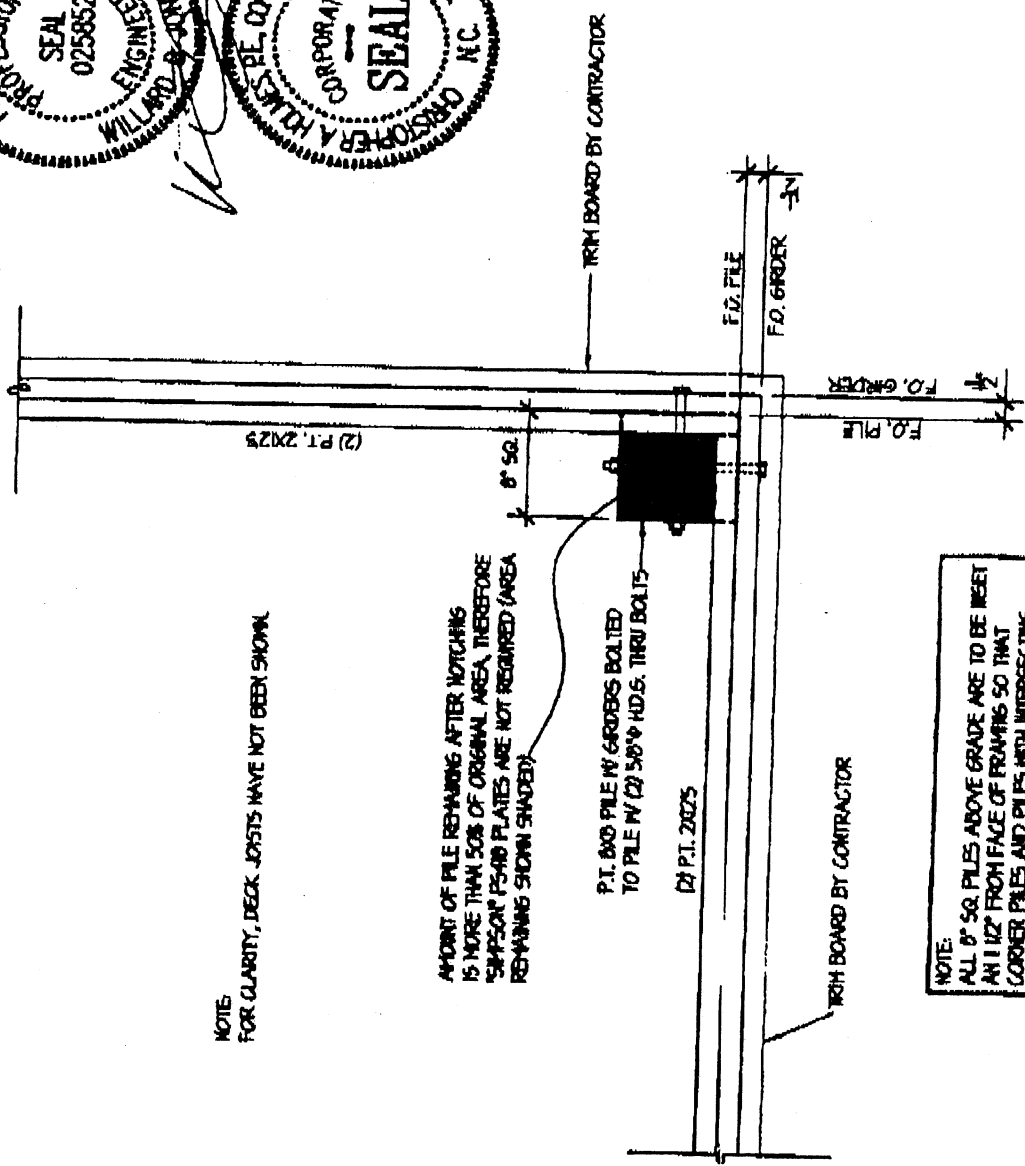
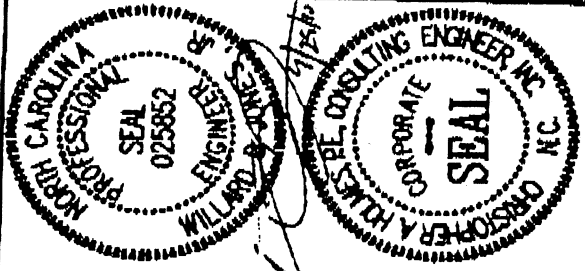
Wayland Residence
 3201 East Beeson Drive
 Oak Ridge, North Carolina

Project: The Main Deck
 Date: 08.21.10
 Scale: 1/4" = 1'-0"

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.

5726 Overland Drive (Overland Oaks) - Suite P-4 - Wilmington - N.C. 28403
 Phone (910) 796.8888 Fax (910) 796.8899 holmes@cah-engineer.com

STRU
 4
 5



NOTE:
 FOR CLARITY, DECK JOISTS HAVE NOT BEEN SHOWN

AMOUNT OF PILE REMAINING AFTER NOTCHING IS MORE THAN 50% OF ORIGINAL AREA THEREFORE 'SIMPSON' PS-40 PLATES ARE NOT REQUIRED (AREA REMAINING SHOWN SHADDED)

P.T. 6x6 PILE IN GIRDERS BOLTED TO PILE IN (2) 50x6 HD.S. THRU BOLTS (2) P.T. 2x12'S

NOTE:
 ALL 6" SQ. PILES ABOVE GRADE ARE TO BE MET AT 1/2" FROM FACE OF FRAMING SO THAT CORNER PILES AND PILES WITH INTERSECTING GIRDERS WILL NOT BE NOTCHED MORE THAN 50% AND REQUIRE 'SIMPSON' PS-40 PLATES.

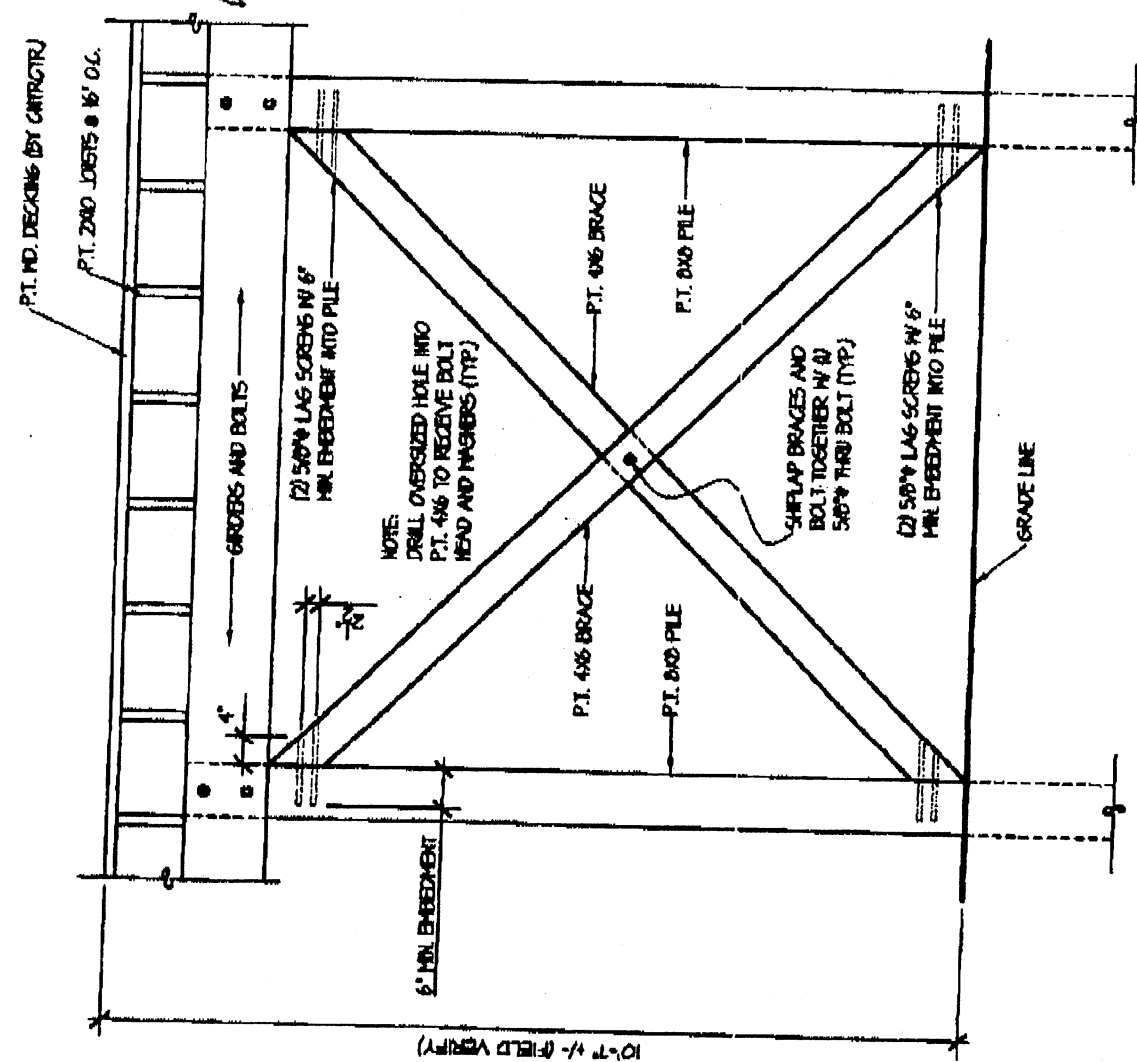
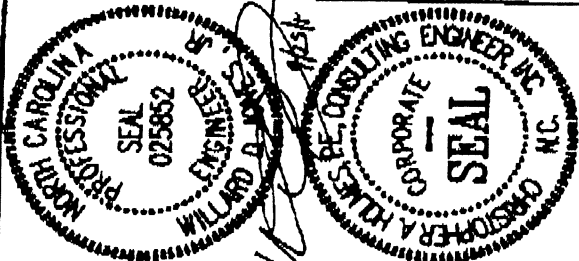
D PLAN VIEW OF DECK PILE NOTCH
 STRU 4
 SCALE: 1"=1'-0"

Wayland Residence
 3591 Wood Beach Drive
 Oak Island, North Carolina
 28506

DATE: 08.28.10
 DRAWN BY: M.S.L.

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
 5725 Oleander Drive (Oleander Oaks) - Suite P-4 - Wilmington - N.C. 28403
 Phone: (910) 778-8800 Fax: (910) 778-8810 info@cah-engineering.com

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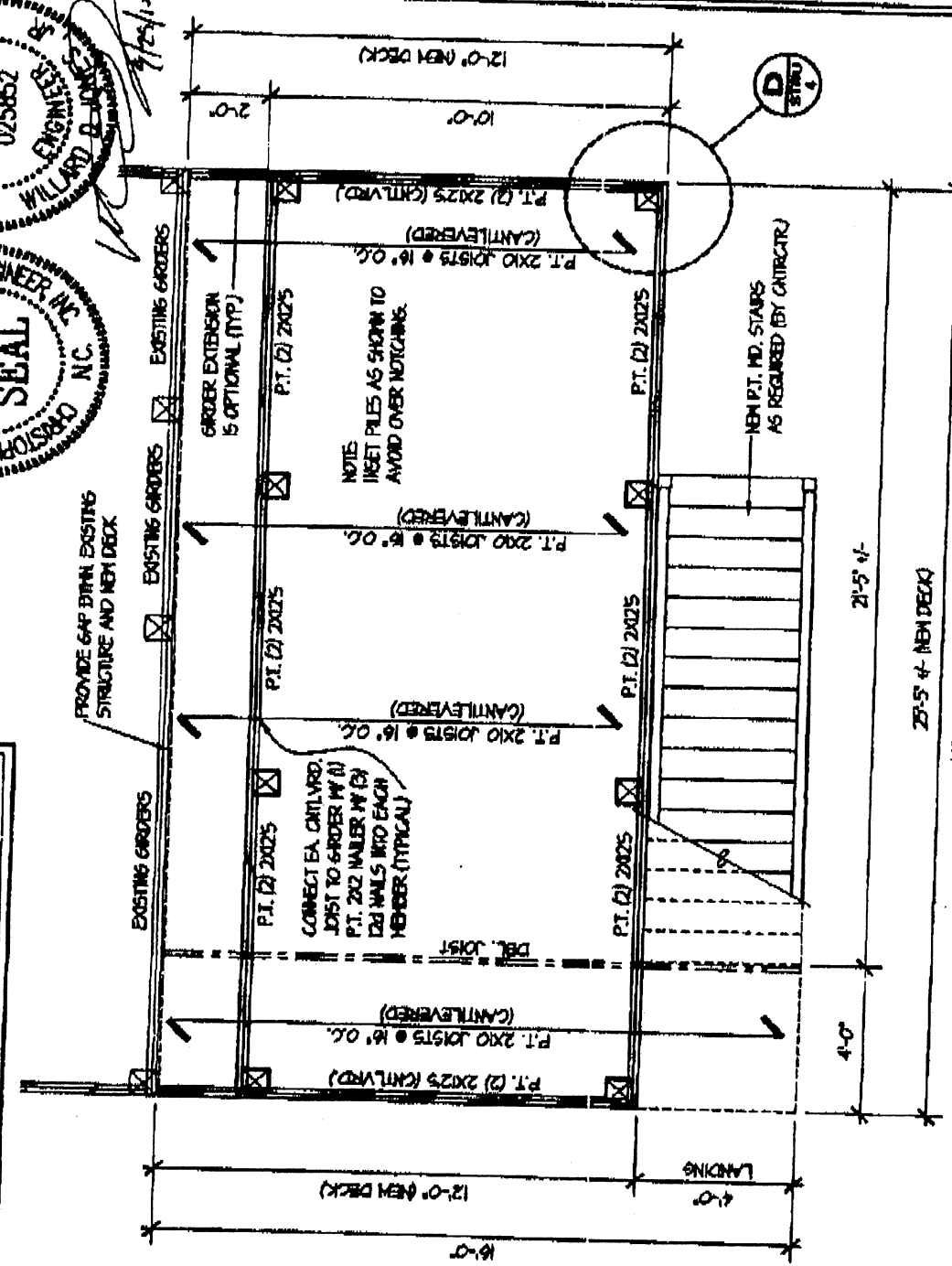
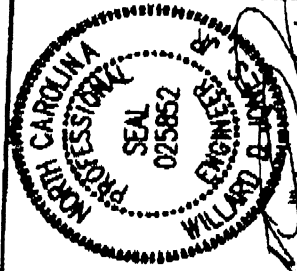


C TYPICAL P.T. 4x6 X-BRACE DETAIL
 STRU 3
 SCALE: 1/2"=1'-0"

Wayland Residence
 2301 East Beach Drive
 Oak Island, North Carolina

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
 2705 Oceanview Drive (Oceanfront Overlook) - Suite F-4 - Wilmington, N.C. 28403
 Phone (910) 794-9904 Fax (910) 794-9915 info@christophera.com

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ENGINEER RESPONSIBLE FOR ALL STRUCTURAL COMPONENTS ON THIS DRAWING. ALL DIMENSIONS AND DETAILS MAY NOT BE SHOWN AND ARE THE RESPONSIBILITY OF THE OWNER AND CONTRACTOR. CONTRACTOR IS TO VERIFY WITH ENGINEER ANY ADDITIONAL DETAILS REQUIRED FOR CONSTRUCTION.

B NEW DETACHED DECK FRAMING PLAN
 STRU 2
 MATCH EXISTING HOUSE WIDTH
 21'-5" ± NEW DECK
 SCALE: 1/4"=1'-0"

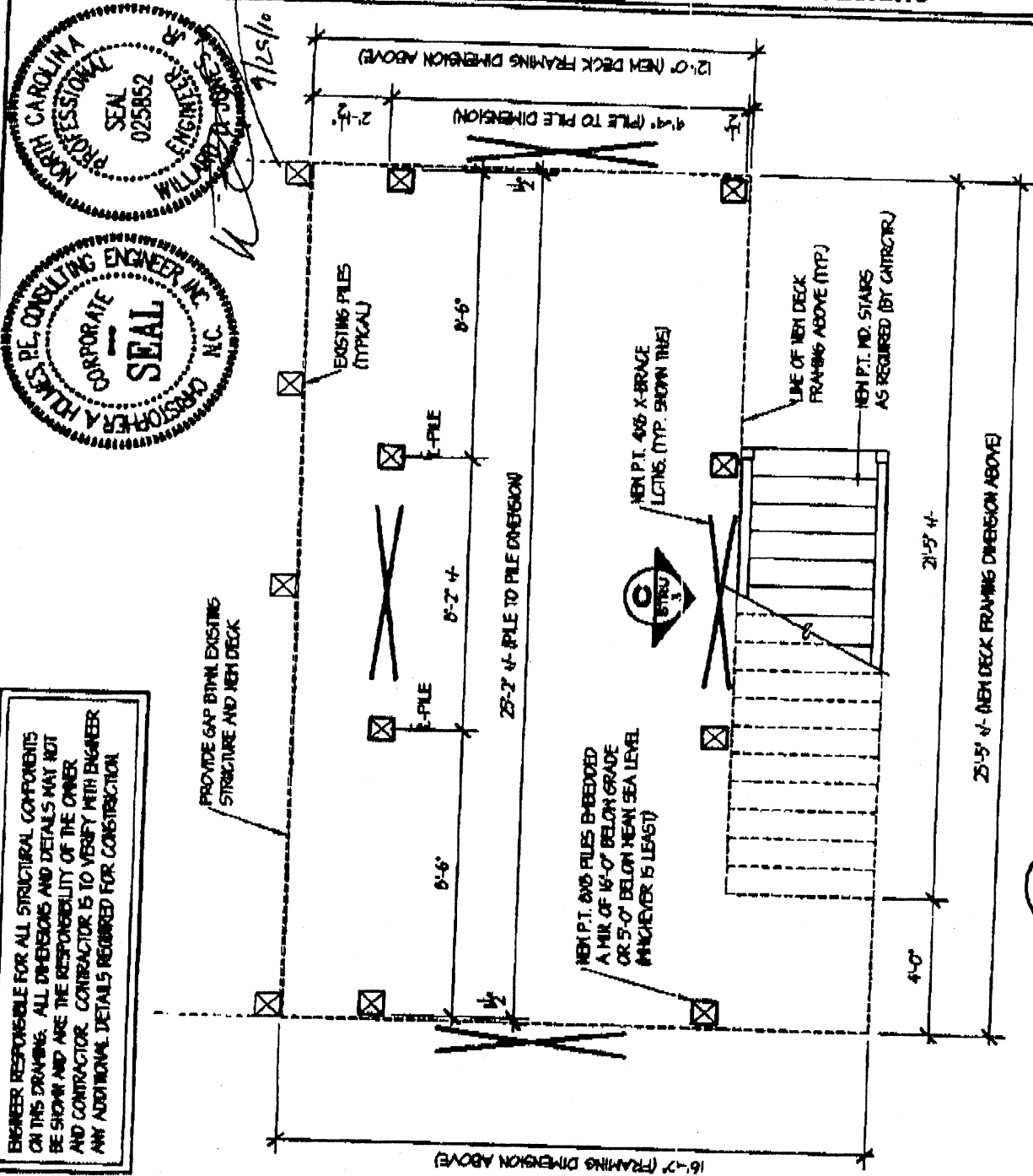
Wayland Residence
 3201 Moss Beach Drive
 Oak Island, North Carolina

Project No. 10000
 Date: 08/28/10
 C.A.S.

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.

5728 Quamby Drive (Quamby Oaks) - Suite P-1 - Wilmington - N.C. 28403
 Phone (910) 796-0000 Fax (910) 796-0019 holmes@cah-engineer.com

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Professional Engineer Seal
 NORTH CAROLINA
 SEAL
 025852
 CHRISTOPHER A. HOLMES, P.E.
 1/25/10

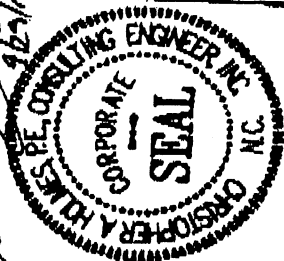
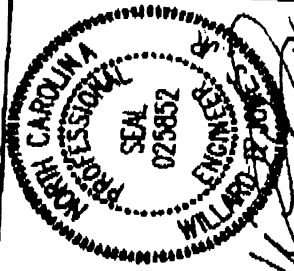
Professional Engineer Seal
 SEAL
 CHRISTOPHER A. HOLMES, P.E., CONSULTING ENGINEER, INC. N.C.

A NEW DETACHED DECK PILE PLAN
 SCALE: 1/4"=1'-0"

WYLAND RESIDENCE
3201 KENT NORTH CAROLINA
DICK J. WYLAND, P.E.
Professional Engineer
No. 025852

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
1728 OLIVER DRIVE (RIVERVIEW DRIVE) - SUITE 114 - WASHINGTON, N.C. 27888
Phone: (919) 744-0000 Fax: (919) 744-0000
christopher@holmes-engineering.com

STRU
5



GENERAL NOTES:

DESIGN CRITERIA:

- FLOOR LIVE LOAD = 40 PSF
- GROUND SNOW LOAD = 0 PSF
- WIND LOAD = 150 MPH

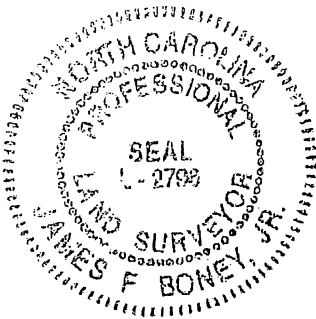
- 1) DESIGN CRITERIA:
 - FLOOR LIVE LOAD = 40 PSF
 - GROUND SNOW LOAD = 0 PSF
 - WIND LOAD = 150 MPH
- 2) CONTRACTOR TO VERIFY ALL DIMENSIONS AND DETAILS ON DRAWINGS PRIOR TO CONSTRUCTION.
- 3) UNDO. = UNLESS NOTED OTHERWISE
- 4) ALL WORK MUST COMPLY WITH THE LATEST EDITION OF THE NORTH CAROLINA RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS (N.C.R.C.)
- 5) STRUCTURAL FRAME TO BE SHORED AND BRACED UNTIL ERECTION IS COMPLETED.
- 6) LATERAL RESISTANCE IS PROVIDED BY X-BRACES.
- 7) N.C.R.C. = NORTH CAROLINA RESIDENTIAL CODE = NORTH CAROLINA RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS.

PILE FOUNDATION NOTES (V ZONE):

- 1) DRIVE ALL P.T. AND PILES TO 16' BELOW GRADE OR 5' BELOW H.S.L. WHICHEVER IS LEAST) USING AN APPROVED DROP HAMMER OR POWER HAMMERS AS PER SECTION 1009 OF THE NORTH CAROLINA BUILDING CODE. THE MINIMUM EMBEDMENT WILL BE AS REQUIRED TO MEET THE MINIMUM REQUIREMENTS OF CHAPTER 45 OF THE N.C.R.C. AND TO ACHIEVE THE CAPACITY LISTED ON THE PLANS.
- 2) ALL TIMBER PILES TO BE SOUTHERN YELLOW PINE AND PRESERVE TREATED WITH CHROMIATED COPPER ASBESTATE TO 0.00 LBS/SQ FT NET RETENTION - EQUAL ALTERNATIVE PRESERVATIVES ARE ALLOWED, IN ACCORDANCE WITH ANPA 141.
- 3) ALL WOOD MATERIAL BELOW THE BASE FLOOD ELEVATION MUST BE PRESERVE TREATED AND ALL STEEL HARDWARE MUST BE NOT DIPPED GALVANIZED OR STAINLESS STEEL. REFER TO CHAPTER 45 OF THE N.C.R.C. FOR MORE INFORMATION.
- 4) PILES SHALL MEET ANPA STANDARD C1, C2, & C24 FOR SAWN TIMBER PILES.
- 5) PROVIDE SIMPSON PS-40 BR PLATES ON EACH SIDE OF PILE WITH MORE THAN 50% OF PILE IN WORKED CONDITIONS, BUT THE FOUNDATION IS DESIGNED TO SUPPORT THE GRADE BEAMS UNDER NORMAL WHILE THE GRADE BEAM PROVIDES BRACING STRENGTH.
- 6) THE BOTTOM OF THE LOWEST STRUCTURAL MEMBER MUST BE ABOVE THE BASE FLOOD ELEVATION WHEN HEIGHT OF ORDER IS GREATER THAN 12'-0" ABOVE GRADE OR CONCRETE SLAB, NOTIFY ENGINEER FOR ADDITIONAL X-BRACE REQUIREMENTS.

STRUCTURAL TIMBER & HARDWARE NOTES:

- 1) LUMBER SHALL BE AS FOLLOWS: (2) KD SOUTHERN YELLOW PINE (OR BETTER) FOR PLATES, MEMBERS, JOISTS, AND RAFTERS. STUDS MAY BE SPRUCE PINE FIR (2) KD (OR BETTER). IF OTHER SPECIES OF WOOD ARE USED, THEN HURKANE CLIPS AND WAGERS MAY NEED TO BE INCREASED IN SIZE.
- 2) ALL NAIL SIZES AND NUMBER REQUIRED MAY NOT BE SHOWN. SUFFICIENT NAILING SHALL BE REQUIRED TO DEVELOP JOINT STRENGTH.
- 3) ALL HARDWARE SHALL BE HOT-DIPPED GALVANIZED IN ACCORDANCE WITH ASTM A653 AS APPLICABLE. IN CONSULT REVISIONS COMPLY WITH TABLE A605.1 AND ALL JOIST HANGERS IN CONTACT WITH PRESERVE TREATED WOOD SHALL BE SIMPSON Z-MAX GALVANIZED.
- 4) LUMBER LESS THAN 18" ABOVE GROUND AND LUMBER EXPOSED TO WEATHER SHALL BE PRESERVE TREATED CCA OR ACC 0.25 LBS/SQ FT NET RETENTION (LUMBER IN CONTACT WITH GRADE SHALL BE PRESERVE TREATED CCA OR ACC 0.4 LBS/SQ FT NET RETENTION).
- 5) USE ASTM A307 BOLTS WITH NUTS AND WAGERS FOR ALL TIMBER CONNECTIONS.

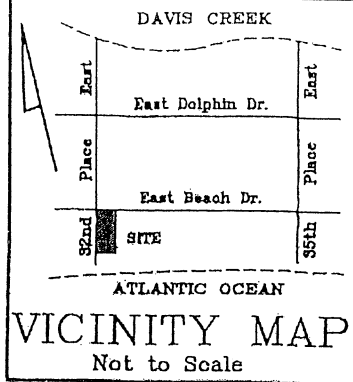


Turtle Fence

N E W

D U N E

NORTH
BCR
1986



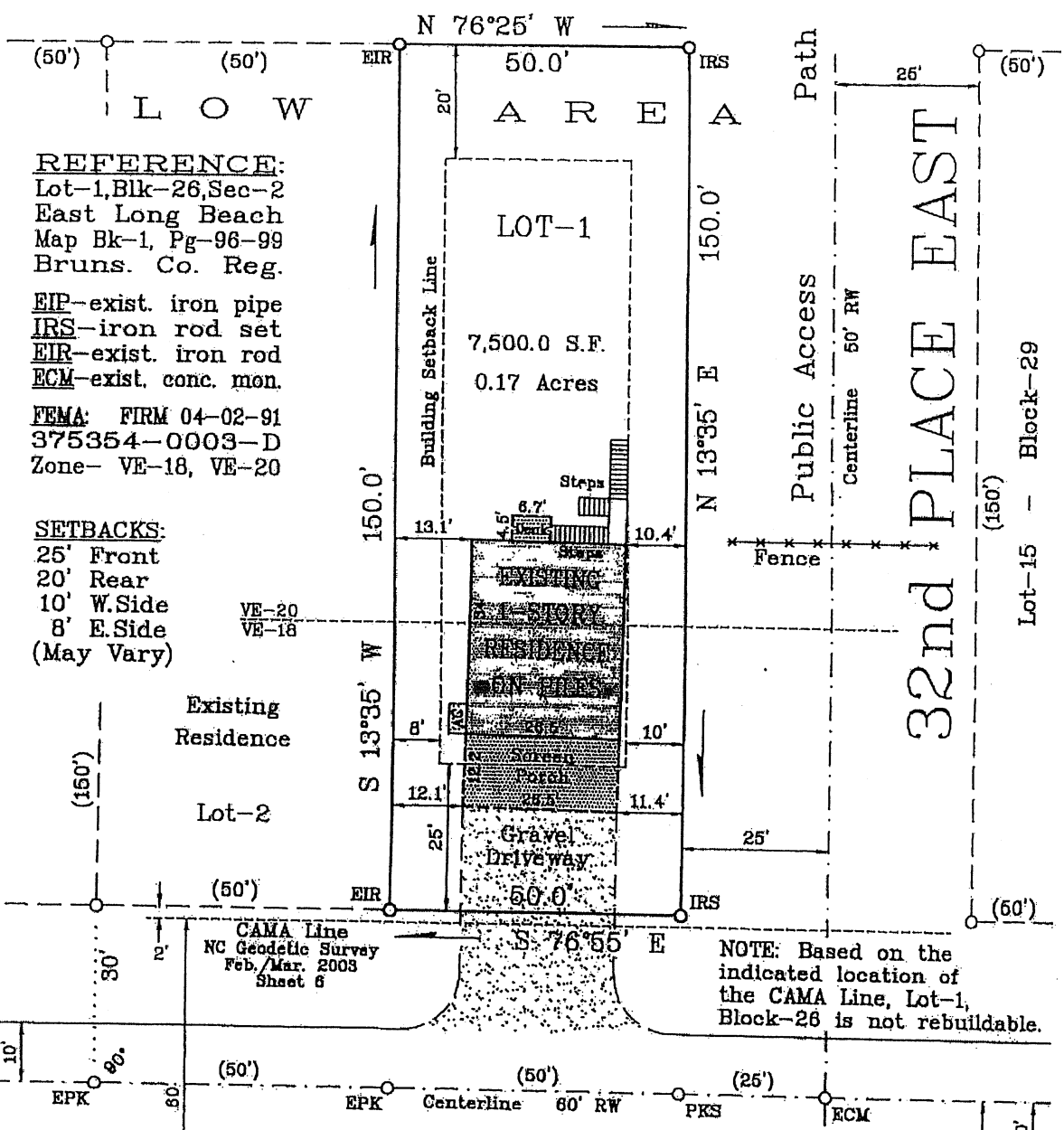
I, James F. Boney, Jr. certify that this plat was drawn under my supervision from an actual survey made under my supervision (description: Book SEE, page REF.); that the boundaries not surveyed are clearly indicated as drawn from information found in Book Ref.; that the ratio of precision as calculated is 1:10,000; that this plat was prepared in accordance with "Sec. 1600" as amended. Witness my original signature, registration number and seal this 26th day of July, A.D., 2005.

SURVEYOR

PLS. No. L-2796

Sand Fence

Beach
Access



FACT BEACH DRIVE

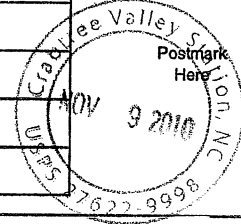
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OFFICIAL USE

Postage	\$	
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	5.71



Sent To
 Street, Apt. No., or PO Box No. Erik Bliss
 7605 Overlook Hills Lane
 City, State, ZIP+4 Cincinnati, OH 45244

M. Paul
2932770
001

November 9, 2010

Mack A. Paul IV
D 919.743.7326
F 919.516.2126
mack.paul@klgates.com

Erik Bliss
7605 Overlook Hills Lane
Cincinnati, OH 45244

Re: Property adjoining "Atlantic Dream" on East Beach Drive, Oak Island, NC

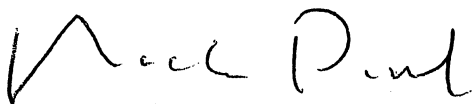
Dear Mr. Bliss:

This letter is to inform you that Kenneth B. Wayland, II and Marilyn O. Wayland have applied for a CAMA Minor Development Permit to construct a deck on their property at 3201 East Beach Drive, Oak Island, NC, in Brunswick County. As required by CAMA regulations, a copy of the permit application, as well as a copy of the project drawings, are enclosed as notification of the proposed project.

No action is required from you. If you so choose, you may sign and return the enclosed no objection form. If you have any questions or comments about the proposed project, please contact me using the information below. If you wish to file written comments or objections with the Town of Oak Island CAMA Minor Permit Program, you may submit them to:

Donna F. Coleman
Local Permit Officer for the Town of Oak Island
4601 E. Oak Island Dr.
Oak Island, NC 28465

Very truly yours,



Mack A. Paul IV

cc: Donna Coleman

ADJACENT RIPARIAN PROPERTY OWNER STATEMENT FOR CAMA MINOR PERMITS

I hereby certify that I own property adjacent to the property of Kenneth B. Wayland, II and Marilyn O. Wayland located at 3201 East Beach Drive, Oak Island, NC.

The Waylands have described to me, as shown in the attached application and project drawings, the development they are proposing at that location, and, I have no objections to their proposal.

(APPLICATION AND DRAWING OF PROPOSED DEVELOPMENT ATTACHED)

Signature

Print or Type Name

Telephone Number

Date

Locality _____

Permit Number _____

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

GENERAL INFORMATION

LAND OWNER

Name: Kenneth B. Wayland, II and Marilyn O. Wayland

Address: 10124 W. Broad Street, Suite N

City: Glen Allen

State: VA

Zip: 23060

Phone: _____

AUTHORIZED AGENT

Name: Mack A. Paul, IV

Address: 4350 Lassiter at North Hills Avenue, Suite 300

City: Raleigh

State: NC

Zip: 27609

Phone: (919) 743-7326

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 3201 East Beach Drive, Oak Island, NC 28465

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) 12' x 25'5" detached deck

SIZE OF LOT/PARCEL: 7500 square feet 0.17 acres

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

TOTAL ENCLOSED FLOOR AREA OF A BUILDING IN THE OCEAN HAZARD AREA OF ENVIRONMENTAL CONCERN (AEC): 1007 square feet (includes all floors and roof covered decks)

SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT-UPON SURFACES IN THE COASTAL SHORELINE AREA OF ENVIRONMENTAL CONCERN (AEC): _____ square feet (Calculations includes the area of the roof/drip line of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC.)(Attach your calculations with the project drawing .)

Choose the AEC area that applies to your property:

- (1) within 75 feet of Normal High Water for the Estuarine Shoreline AEC
 - (2) within 575 feet of Normal High Water for the Estuarine Shoreline AEC, adjacent to Outstanding Resource Waters
 - (3) within 30 feet of the Public Trust Shoreline AEC
- (Contact your Local Permit Officer if you are not sure which AEC applies to your property.)

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality? YES NO

If yes, list the total built upon area/impervious surface allowed for your lot or parcel. _____sq uare feet.

OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit. As a service we have compiled a listing of the kinds of permits that might be required. We suggest you check over the list with your LPO to determine if any of these apply to your project. Zoning, Drinking Water Well, Septic Tank (or other sanitary waste treatment system), Building, Electrical, Plumbing, Heating and Air Conditioning, Insulation and Energy Conservation, FIA Certification, Sand Dune, Sediment Control, Subdivision Approval, Mobile Home Park Approval, Highway Connection, and others.

STATEMENT OF OWNERSHIP:

I, the undersigned, an applicant for a CAMA minor development permit, being either the owner of property in an AEC or a person authorized to act as an agent for purposes of applying for a CAMA minor development permit, certify that the person listed as landowner on this application has a significant interest in the real property described therein. This interest can be described as: (check one)

an owner or record title, Title is vested in Kenneth B. Wayland, II and wife, Marilyn O. Wayland, see Deed Book 2201 page 818 in the Brunswick County Registry of Deeds.

an owner by virtue of inheritance. Applicant is an heir to the estate of _____; probate was in C county.

if other interest, such as written contract or lease, explain below or use a separate sheet and attach to this application.

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

I furthermore certify that the following persons are owners of properties adjoining this property. I affirm that I have given **ACTUAL NOTICE** to each of them concerning my intent to develop this property and to apply for a CAMA permit.

(Name)	(Address)
(1) <u>Erik Bliss</u>	<u>7605 Overlook Hills Lane, Cincinnati, OH 45244</u>
(2) <u>Town of Oak Island</u>	<u>4601 East Oak Island Drive, Oak Island, NC 28465</u>
(3) _____	_____
(4) _____	_____

FOR DEVELOPERS IN OCEAN HAZARD AND ESTUARINE HAZARD AREAS:

I acknowledge that the land owner is aware that the proposed development is planned for an area which may be susceptible to erosion and/or flooding. I acknowledge that the local permit officer has explained to me the particular hazard problems associated with this lot. This explanation was accompanied by recommendations concerning stabilization and floodproofing techniques.

PERMISSION TO ENTER ON LAND:

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

This application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the AEC hazard notice where necessary, a check for \$100.00 made payable to the locality, and any information as may be provided orally by the applicant. The details of the application as described by these sources are incorporated without reference in any permit which may be issued. Deviation from these details will constitute a violation of any permit. Any person developing in an AEC without permit is subject to civil, criminal and administrative action.

This the 9 day of November, 20 10



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

SITE DRAWING/APPLICATION CHECKLIST

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

PHYSICAL DIMENSIONS

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

PHYSICAL CHARACTERISTICS

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

If you will be working in the ocean hazard area:

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

If you will be working in an estuarine shoreline area:

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

DEVELOPMENT PLANS

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

NOTE TO APPLICANT

Have you:

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

FOR STAFF USE

Site Notice Posted _____ Final Inspection _____ Fee Received _____

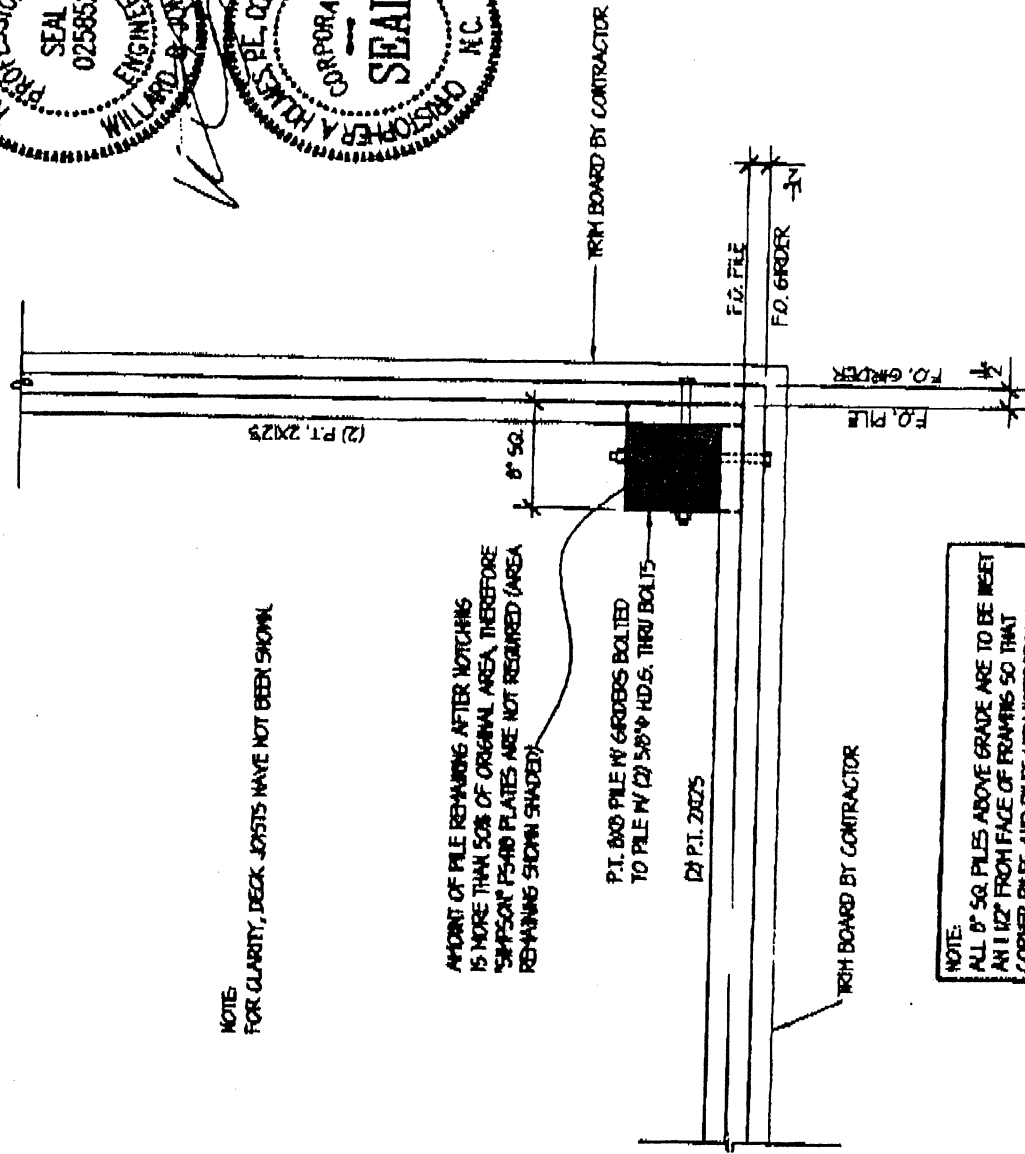
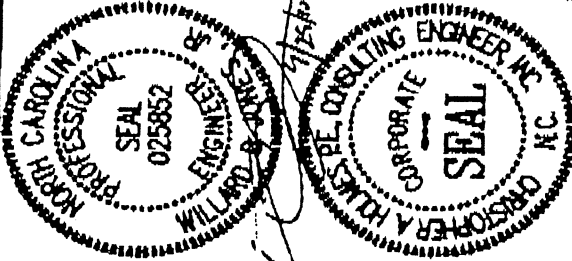
Site Inspections

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

Wayland Residence
3201 East Beeson Drive
Oak Island, North Carolina
Phone: (910) 794-8888
Fax: (910) 794-8888
www.christopheraholmes.com

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
7736 Overland Drive (Overland Oaks) - Suite F-4 - Wilmington - N.C. 28403
Phone: (910) 794-8888 Fax: (910) 794-8888
christopheraholmes.com

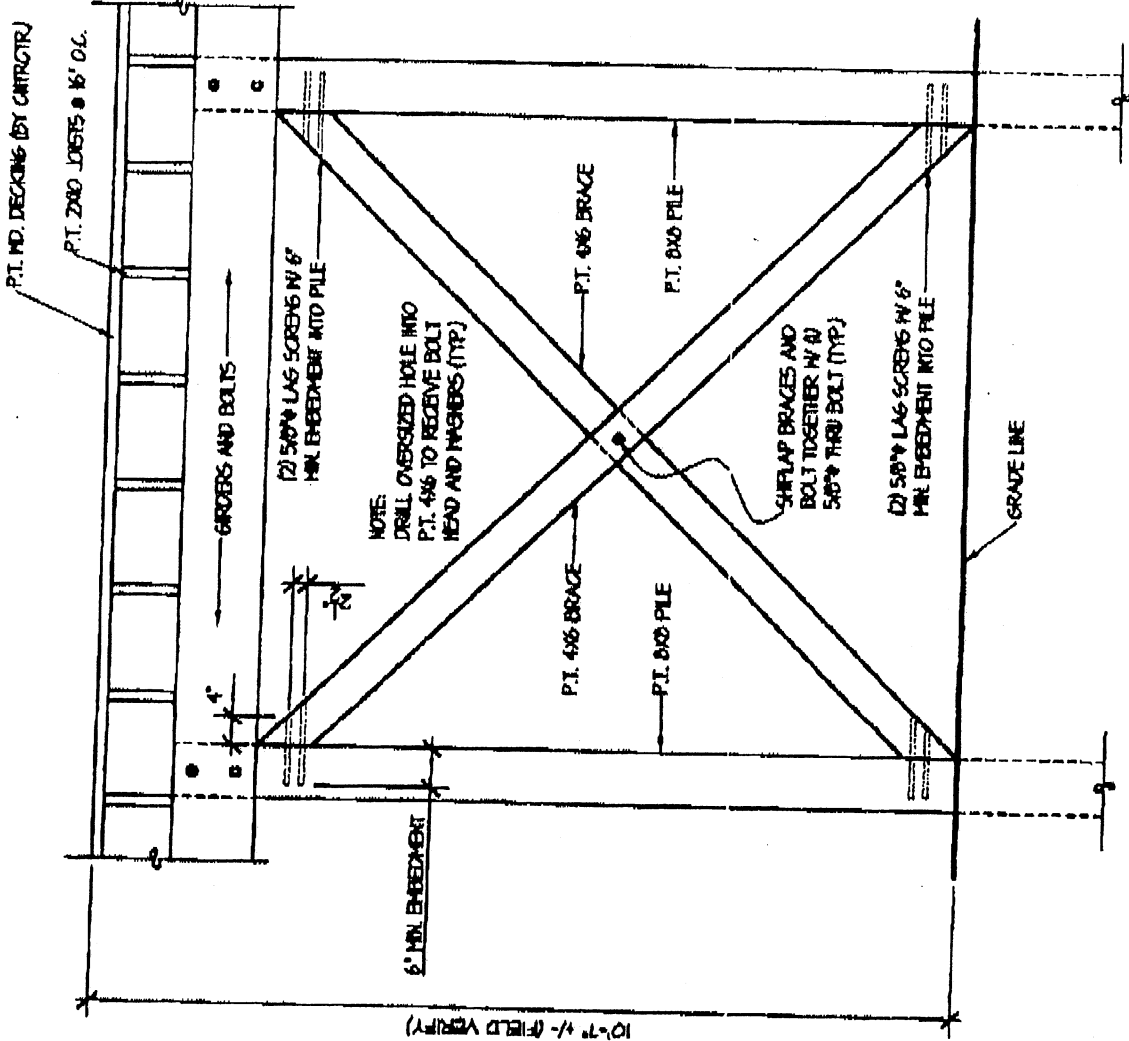
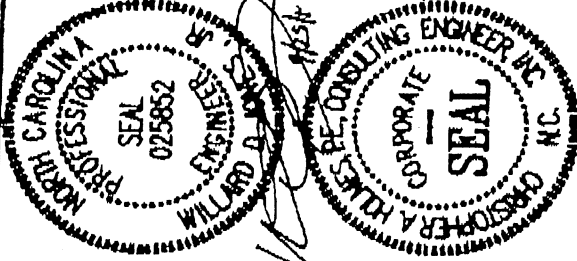
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NOTE:
ALL 6" SQ. PILES ABOVE GRADE ARE TO BE INSET
AT 1/2" FROM FACE OF FRAMING SO THAT
CORNER PILES AND PILES WITH INTERSECTING
GROVERS WILL NOT BE NOTCHED MORE THAN 50%
AND REQUIRE SIMPSON PS-410 PLATES.

D PLAN VIEW OF DECK PILE NOTCH
STRU
4
SCALE: 1"=1'-0"

<p>Wayland Residence 3301 Blue Beach Drive Oak Island, North Carolina</p>	<p>CHRISTOPHER A. HOLMES, P.E. CONSULTING ENGINEER, INC. 7735 Oleander Drive (Oleander Oaks) - Suite F-4 - Wilmington, N.C. 28403 Phone: (910) 778-9900 Fax: (910) 778-9910 info@christophera.com</p>	<p>STRU 3</p>
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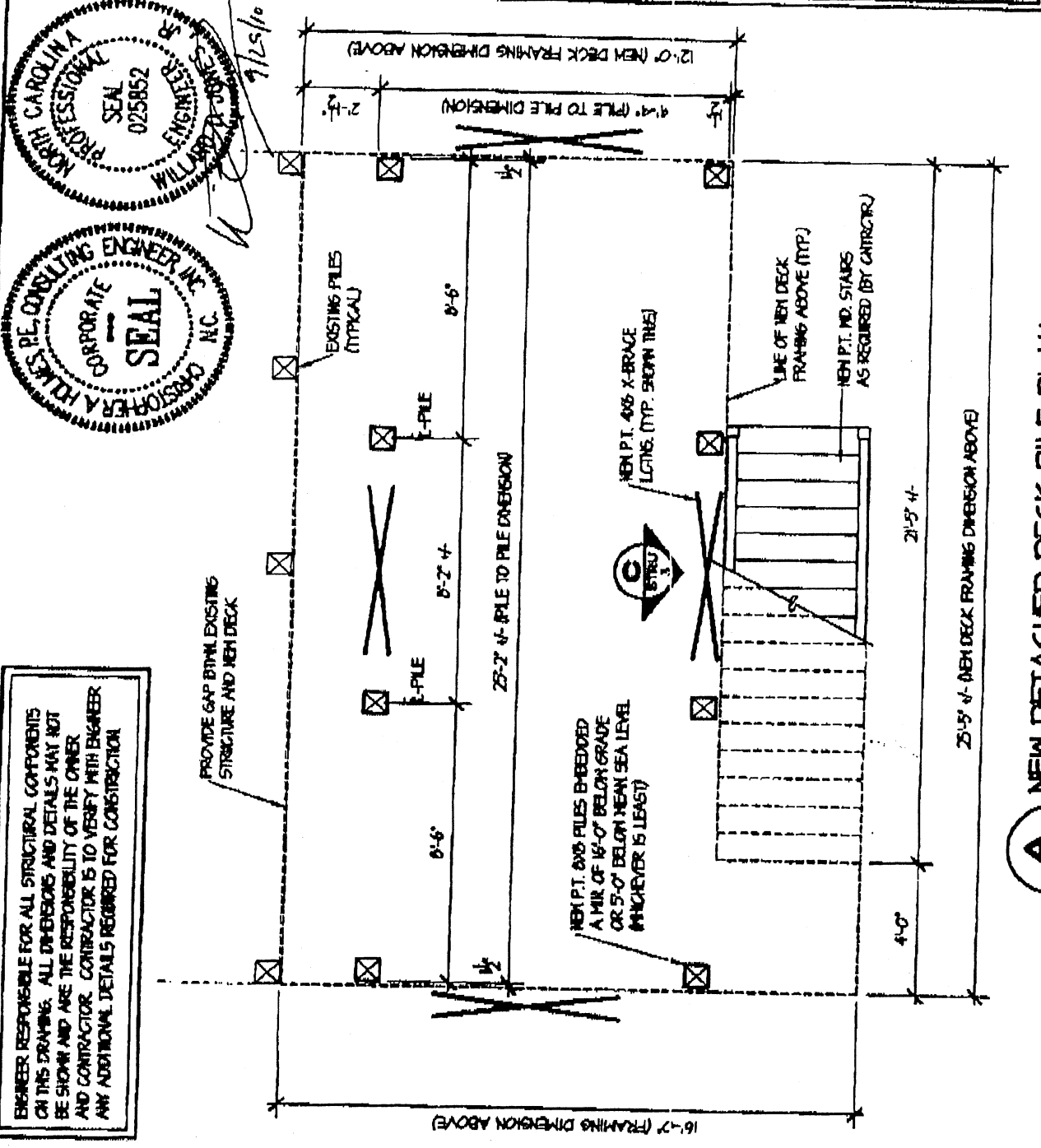
C TYPICAL P.T. 4X6 X-BRACE DETAIL
STRU 3
SCALE: 1/2"=1'-0"

10'-7 1/2" (FIELD VERIFY)

Wayland Residence
 3201 West Beach Drive
 Oak Island, North Carolina
 New Pile Plan
 08/25/10
 C.H.L.
 18000

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
 5728 Chandler Drive (Chandler Oaks) - Suite P-4 - Wilmington - N.C. 28403
 Phone (910) 794-8888 Fax (910) 794-8819 homepage@cah-engineer.com

STRU
 1



9/25/10
 WILLIAM J. CONNORS, P.E.
 NORTH CAROLINA PROFESSIONAL ENGINEER
 SEAL 025882

CHRISTOPHER A. HOLMES, P.E. CONSULTING ENGINEER, INC.
 CORPORATE SEAL
 N.C.

ENGINEER RESPONSIBLE FOR ALL STRUCTURAL COMPONENTS ON THIS DRAWING. ALL DIMENSIONS AND DETAILS THAT NOT BE SHOWN ARE THE RESPONSIBILITY OF THE OWNER AND CONTRACTOR. CONTRACTOR IS TO VERIFY WITH ENGINEER ANY ADDITIONAL DETAILS REQUIRED FOR CONSTRUCTION.

PROVIDE GAP BETWEEN EXISTING STRUCTURE AND NEW DECK

25'-7" PILE TO PILE DIMENSION

NEW P.T. AND PILES BEDDED A MIN. OF 18" BELOW GRADE OR 5'-0" BELOW MEAN SEA LEVEL (WHICHEVER IS LEAST)

NEW P.T. AND X-BRACE (TYP. SHOWN THREE)

LINE OF NEW DECK FRAMING ABOVE (TYP.)

NEW P.T. AND STANDS AS REQUIRED (BY CONTRACTOR)

25'-5" NEW DECK FRAMING DIMENSION ABOVE

A NEW DETACHED DECK PILE PLAN
 STRU 1
 SCALE: 1/4"=1'-0"

Wayland Residence
3001 East Beach Drive
Oak Island, North Carolina

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
1778 Overlook Drive (Blanchard Oaks) - Suite 1 - Wilmington, N.C. 28403
Phone: (910) 794-0000 Fax: (910) 794-0000 holmes@christophera.com



GENERAL NOTES:

- 1) DESIGN CRITERIA:
 FLOOR LIVE LOAD = 40 PSF
 GROUND SNOW LOAD = 0 PSF
 WIND LOAD = 150 MPH
 WIND DESIGN BASED ON N.C.R.C., CHAPTERS 3 & 4 - EXPOSURE CATEGORY C
 SEISMIC FORCES DO NOT CONTROL LATERAL FORCE DESIGN AND DETAILS ON DRAWINGS PRIOR TO CONSTRUCTION
 CONTRACTOR TO VERIFY ALL DIMENSIONS AND DETAILS ON DRAWINGS PRIOR TO CONSTRUCTION
 ALL WORK MUST COMPLY WITH THE LATEST EDITION OF THE NORTH CAROLINA RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS (N.C.R.C.)
 STRUCTURAL FRAME TO BE SHORED AND BRACED UNTIL ERECTION IS COMPLETED.
 LATERAL RESISTANCE IS PROVIDED BY X-BRACES
 N.C.R.C. = NORTH CAROLINA RESIDENTIAL CODE = NORTH CAROLINA RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS.

PILE FOUNDATION NOTES (V ZONE):

- 1) DRIVE ALL P.T. AND PILES TO 16' BELOW GRADE OR 5' BELOW HSL (WHICHEVER IS LEAST) USING AN APPROVED DROP HAMMER OR POWER HAMMERS AS PER SECTION 800B OF THE NORTH CAROLINA BUILDING CODE. THE MINIMUM EMBEDMENT WILL BE AS REQUIRED TO MEET THE MINIMUM REQUIREMENTS OF CHAPTER 45 OF THE N.C.R.C. AND TO ACHIEVE THE CAPACITY LISTED ON THE PLANS.
- 2) ALL TIMBER PILES TO BE SOUTHERN YELLOW PINE AND PRESURE TREATED WITH CHROMIATED COPPER AZENATE TO 0.80 LBS/SQ FT RETENTION - EQUAL ALTERNATIVE PRESERVATIVES ARE ALLOWED. (ANPA C3 FOR ROUND PILES OR ANPA C24 FOR SAWN TIMBER PILES) PILE CUTOFFS SHALL BE TREATED IN ACCORDANCE WITH ANPA M4.
- 3) ALL WOOD MATERIAL BELOW THE BASE FLOOD ELEVATION MUST BE PRESURE TREATED AND ALL STEEL HARDWARE MUST BE NOT DIPPED GALVANIZED OR STAINLESS STEEL. REFER TO CHAPTER 45 OF THE N.C.R.C. FOR MORE INFORMATION.
- 4) PILES SHALL MEET ANPA STANDARD C1, C2, & C24 FOR SAWN TIMBER PILES.
- 5) PROVIDE SIMPSON PS40 PLATES ON EACH SIDE OF PILE WHEN MORE THAN 50% OF PILE IS NOTIFIED.
- 6) GRADE BEAMS ARE DESIGNED BASED ON ALLOWABLE SOIL CAPACITY OF 1500 PSF UNDER NORMAL CONDITIONS, BUT THE FOUNDATION IS DESIGNED TO SUPPORT THE GRADE BEAM UNDER SCOUR EVENTS WHILE THE GRADE BEAM PROVIDES BRACING STRENGTH.
- 7) THE BOTTOM OF THE LOWEST STRUCTURAL GIRDER MUST BE ABOVE THE BASE FLOOD ELEVATION. WHEN HEIGHT OF GIRDER IS GREATER THAN 12'-0" ABOVE GRADE OR CONCRETE SLAB, NOTIFY ENGINEER FOR ADDITIONAL X-BRACE REQUIREMENTS.

STRUCTURAL TIMBER & HARDWARE NOTES:

- 1) LUMBER SHALL BE AS FOLLOWS: 12 KD SOUTHERN YELLOW PINE (OR BETTER) FOR PLATES, HEADERS, JOISTS, AND RAFTERS. STUDS MAY BE SPRUCE PINE FIR 12 KD (OR BETTER). IF OTHER SPECIES OF WOOD ARE USED, THEN HORIZONTAL GLEFS AND NAILS MAY NEED TO BE INCREASED IN SIZE.
- 2) ALL NAIL SIZES AND NUMBER REQUIRED MAY NOT BE SHOWN. SUFFICIENT NAILING SHALL BE REQUIRED TO DEVELOP JOINT STRENGTH.
- 3) ALL HARDWARE SHALL BE NOT-DIPPED GALVANIZED IN ACCORDANCE WITH ASTM A653 AS APPLICABLE. (IN CONSULTING REVISIONS COMPLY WITH TABLE A653) AND ALL JOIST HANGERS IN CONTACT WITH PRESURE TREATED WOOD SHALL BE SIMPSON Z-MAX GALVANIZED.
- 4) LUMBER LESS THAN 10' ABOVE GROUND AND LUMBER EXPOSED TO WEATHER SHALL BE PRESURE TREATED CCA OR ACQ 0.25 LBS/SQ FT RETENTION (LUMBER IN CONTACT WITH GRADE SHALL BE PRESURE TREATED CCA OR ACQ 0.4 LBS/SQ FT RETENTION).
- 5) USE ASTM A307 BOLTS WITH NUTS AND WASHERS FOR ALL TIMBER CONNECTORS.

STRU
5
3



12/09/2010

CERTIFIED MAIL – 7006 3450 0002 9199 5998
RETURN RECEIPT REQUESTED

Kenneth B. Wayland II and Marilyn O. Wayland
10124 W. Broad Street, Suite N
Glen Allen, VA 23060

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
APPLICATION NUMBER- OI 10-46
PROJECT ADDRESS- 3201 E. Beach Dr.

Dear Mr. & Mrs. Wayland:

After reviewing your application in conjunction with the development standards required by the Coastal Area Management Act (CAMA) and our locally adopted Land Use Plan and Ordinances, it is my determination that no permit may be granted for the project which you have proposed.

This decision is based on my findings that your request violates NCGS 113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines and Local Land Use Plans. You have applied to construct a 306 square foot Oceanside detached deck which is inconsistent with 15 NCAC 7H .0306(a)(2), which states that:

(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.

and 15 NCAC 7H .309(a), which states that:

15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule

.0306(a) of the Subchapter if all other provisions of this Subchapter and other state and local regulations are met.

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet;
- (4) beach accessways consistent with Rule .0308(c) of this Subchapter;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands;

(8) sand fences; and

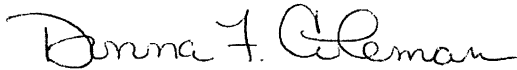
(9) swimming pools.

In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback requirements of this Subchapter.

Your application is also inconsistent with our Local Land Use Plan. On page 87 of the Land Use Plan, you will find that Policy 2.A.17 states: The Town supports State policies that do not conflict with the Town's development regulations, for ocean hazard areas as set forth in Chapter 15NCAC subchapter 7H of the State CAMA regulations.

Should you wish to appeal my decision to the Coastal Resource Commission or request a variance from that group, please contact me so I can provide you with the proper forms and any other information you may require. The Division of Coastal Management central office in Morehead City must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

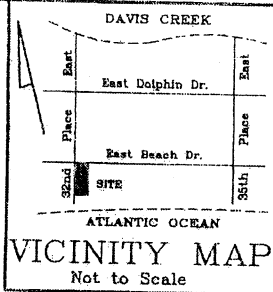
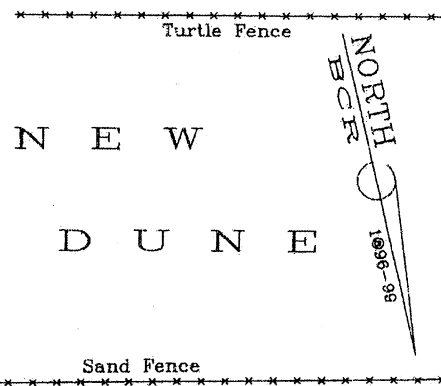
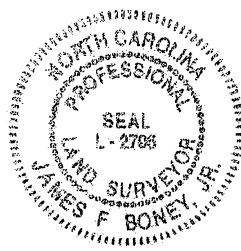
Respectfully yours,



Donna F. Coleman, LPO
Town of Oak Island

cc: Heather Coats DCM-Wilmington
Mack A. Paul, IV - Agent

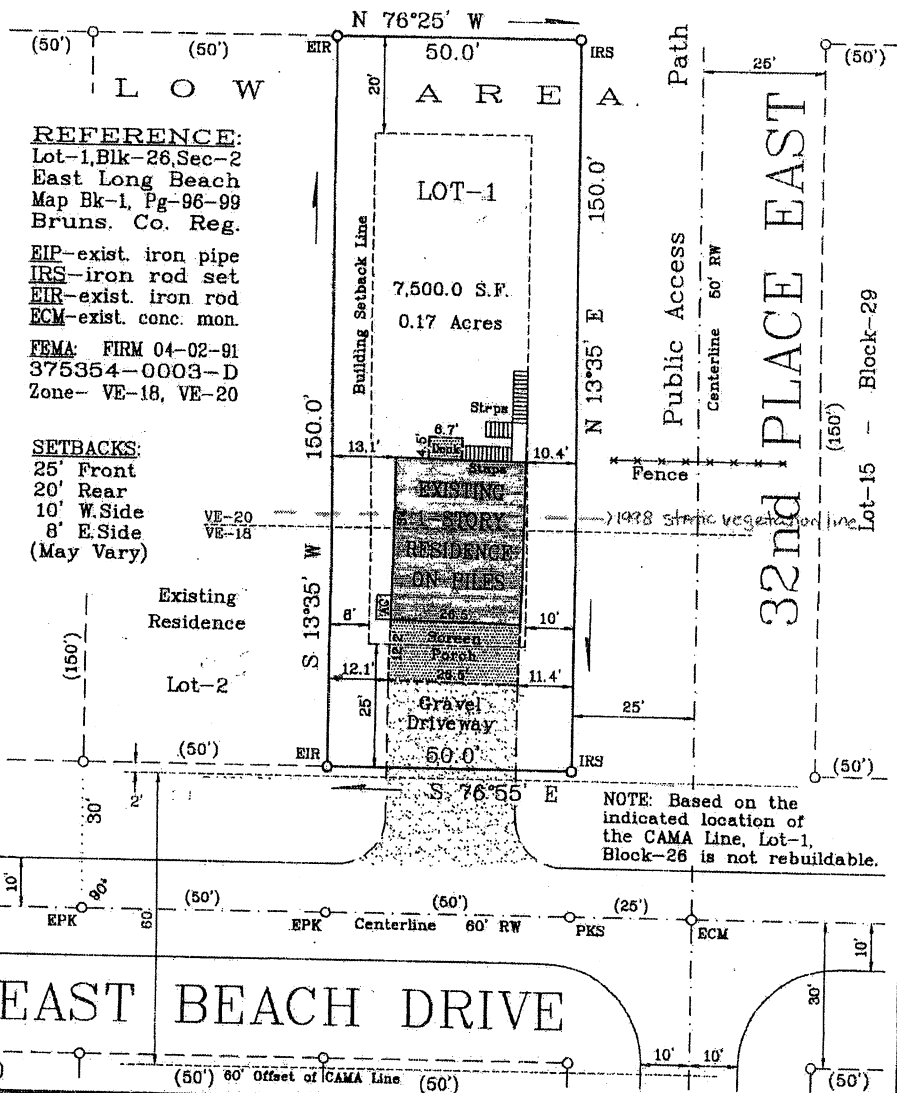
ATTACHMENT C



I, James F. Boney, Jr. certify that this plat was drawn under my supervision from an actual survey made under my supervision. (description: Book SEE, page REF.); that the boundaries not surveyed are clearly indicated as drawn from information found in Book Ref.; that the ratio of precision as calculated is 1:10,000; that this plat was prepared in accordance with "Sec. 1600 as amended. Witness my original signature, registration number and seal this 26th day of July, A.D., 2005.

PLS. No. L-2796

SURVEYOR *James F. Boney, Jr.*



REFERENCE:
 Lot-1, Blk-26, Sec-2
 East Long Beach
 Map Bk-1, Pg-96-99
 Bruns. Co. Reg.

EIP-exist. iron pipe
 IRS-iron rod set
 EIR-exist. iron rod
 ECM-exist. conc. mon.

FEMA: FIRM 04-02-91
 375354-0003-D
 Zone- VE-18, VE-20

SETBACKS:
 25' Front
 20' Rear
 10' W.Side
 8' E.Side
 (May Vary)

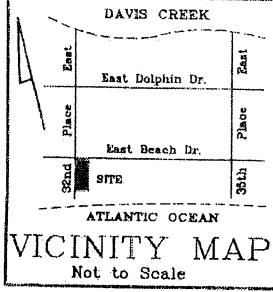
Boney Land Surveyors, Inc.
 4922 E Oak Island Dr
 Oak Island, NC 28465
 910-278-9415

PROPERTY SURVEY
 -FOR-
KEN WAYLAND
 3201 EAST BEACH DRIVE
 -OAK ISLAND-
 Smithville Township
 Brunswick Co., N.C.

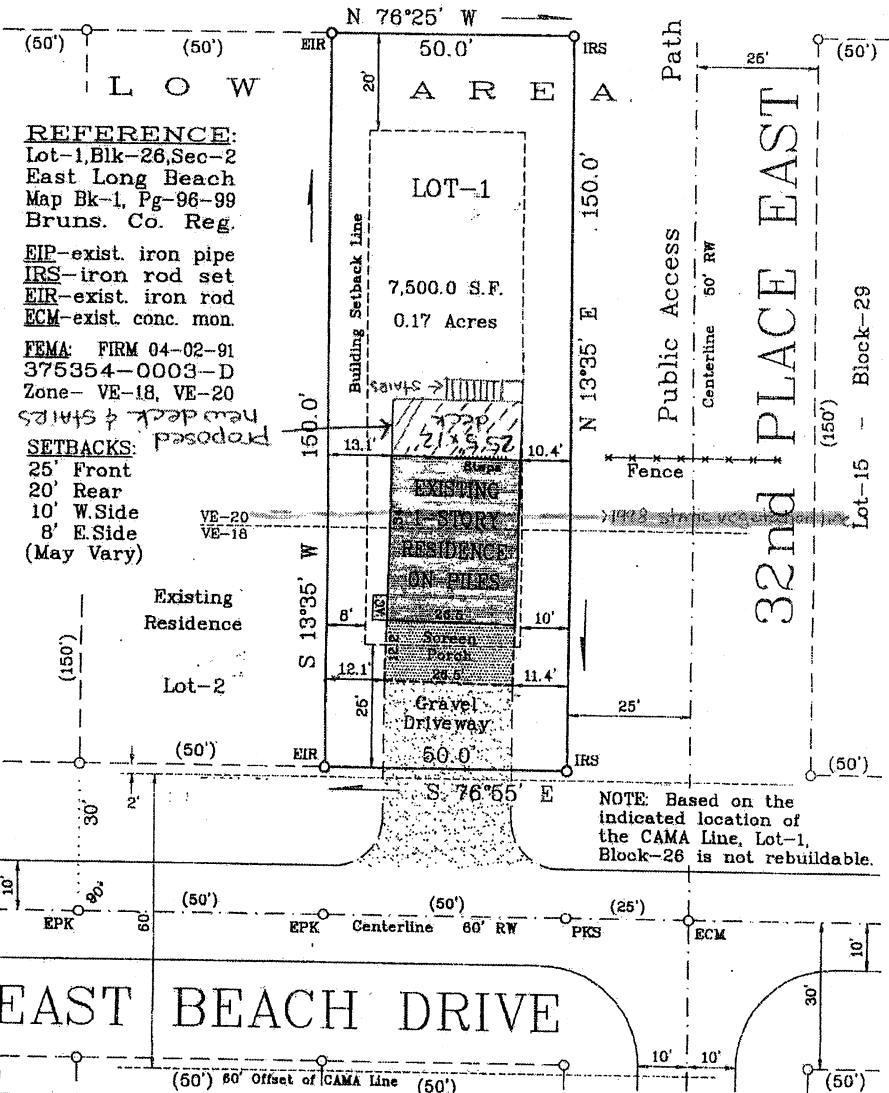
DRAWN BY D.B. DATE 07-26-05
 CHECKED BY J.B. SCALE 1"=30'




N E W
D U N E



I, James F. Boney Jr. certify that this plat was drawn under my supervision from an actual survey made under my supervision (description: Book SEE, page REF.); that the boundaries not surveyed are clearly indicated as drawn from information found in Book Ref.; that the ratio of precision as calculated is 1:10,000; that this plat was prepared in accordance with "Sec. 1600" as amended. Witness my original signature, registration number and seal this 26th day of July, A.D., 2005.
 SURVEYOR *[Signature]* PLS. No. L-2796




 Boney Land Surveyors, Inc.
 4922 E Oak Island Dr
 Oak Island, NC 28465
 910-278-9415

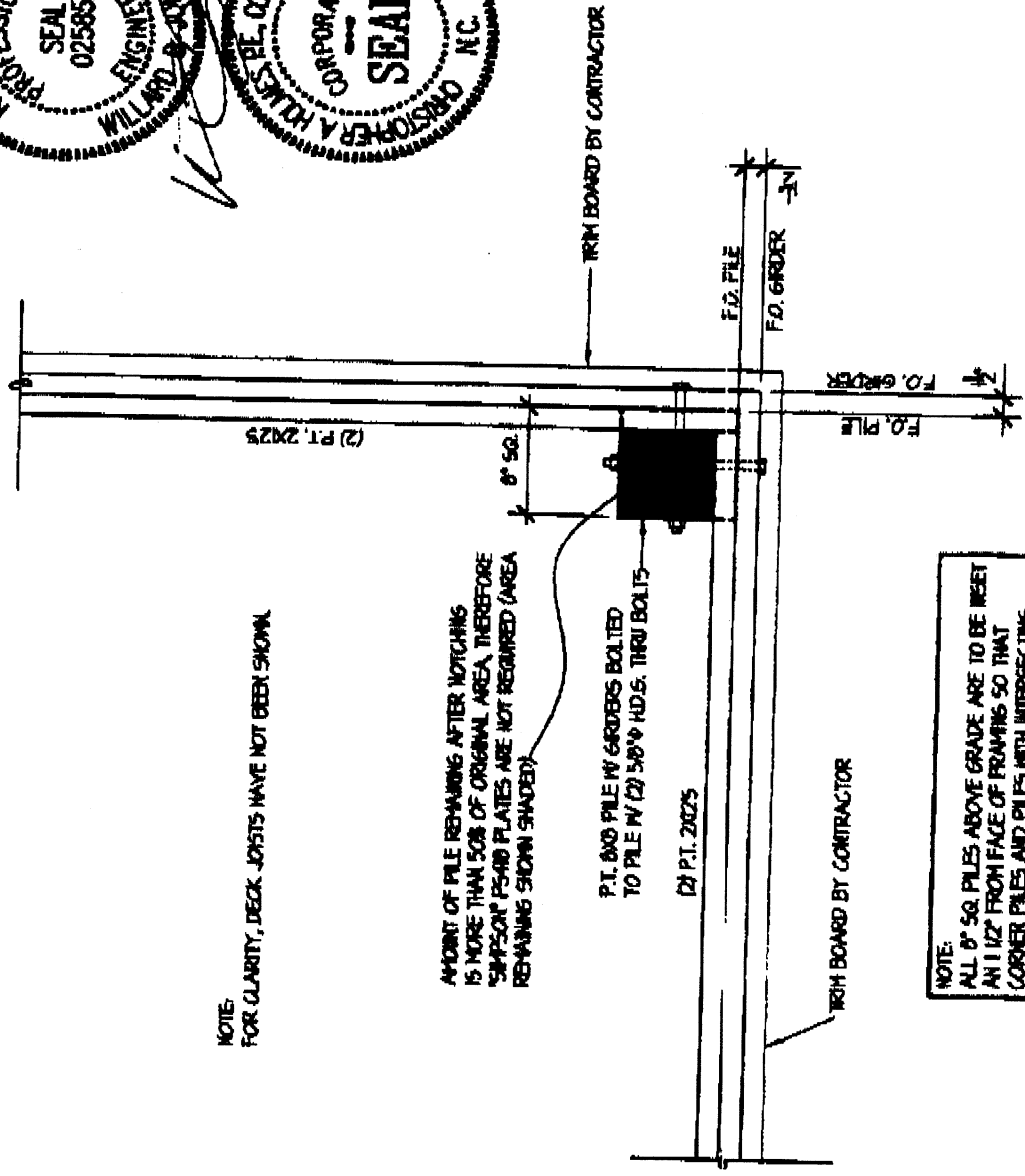
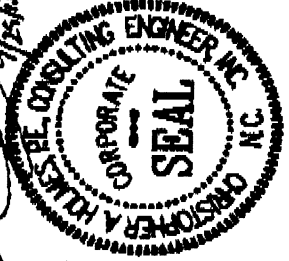
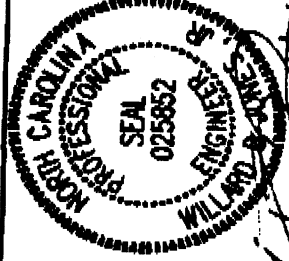
PROPERTY SURVEY
 -FOR-
KEN WAYLAND
 3201 EAST BEACH DRIVE
 -OAK ISLAND-
 Smithville Township
 Brunswick Co., N.C.

DRAWN BY <u>D.B.</u>	DATE <u>07-26-05</u>
CHECKED BY <u>J.B.</u>	SCALE <u>1"=30'</u>

Wayland Residence
 3201 East Beaver Drive
 Oak Island, North Carolina
 28551
 Phone: (910) 794-5830
 Fax: (910) 794-5830
 Email: info@christopheraholmes.com

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
 5728 Chandler Drive (Chandler Oaks) - Suite F-4 - Wilmington, N.C. 28403
 Phone: (910) 794-5830 Fax: (910) 794-5830
 Email: info@christopheraholmes.com

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NOTE:
 FOR CLARITY, DECK JOISTS HAVE NOT BEEN SHOWN

AMOUNT OF PILE REMAINING AFTER NOTCHING
 IS MORE THAN 50% OF ORIGINAL AREA, THEREFORE
 'SIMPSON' PLATE PLATES ARE NOT REQUIRED (AREA
 REMAINING SHOWN SHADDED)

P.T. AND PILE W/ GIRDERS BOLTED
 TO PILE W/ (2) 5/8" HD.S. THRU BOLTS
 (2) P.T. 2025

NOTE:
 ALL 8" SQ. PILES ABOVE GRADE ARE TO BE MEET
 AN 1 1/2" FROM FACE OF FRAMING SO THAT
 CORNER PILES AND PILES WITH INTERSECTING
 GIRDERS WILL NOT BE NOTCHED MORE THAN 50%
 AND REQUIRE 'SIMPSON' PLATE PLATES.

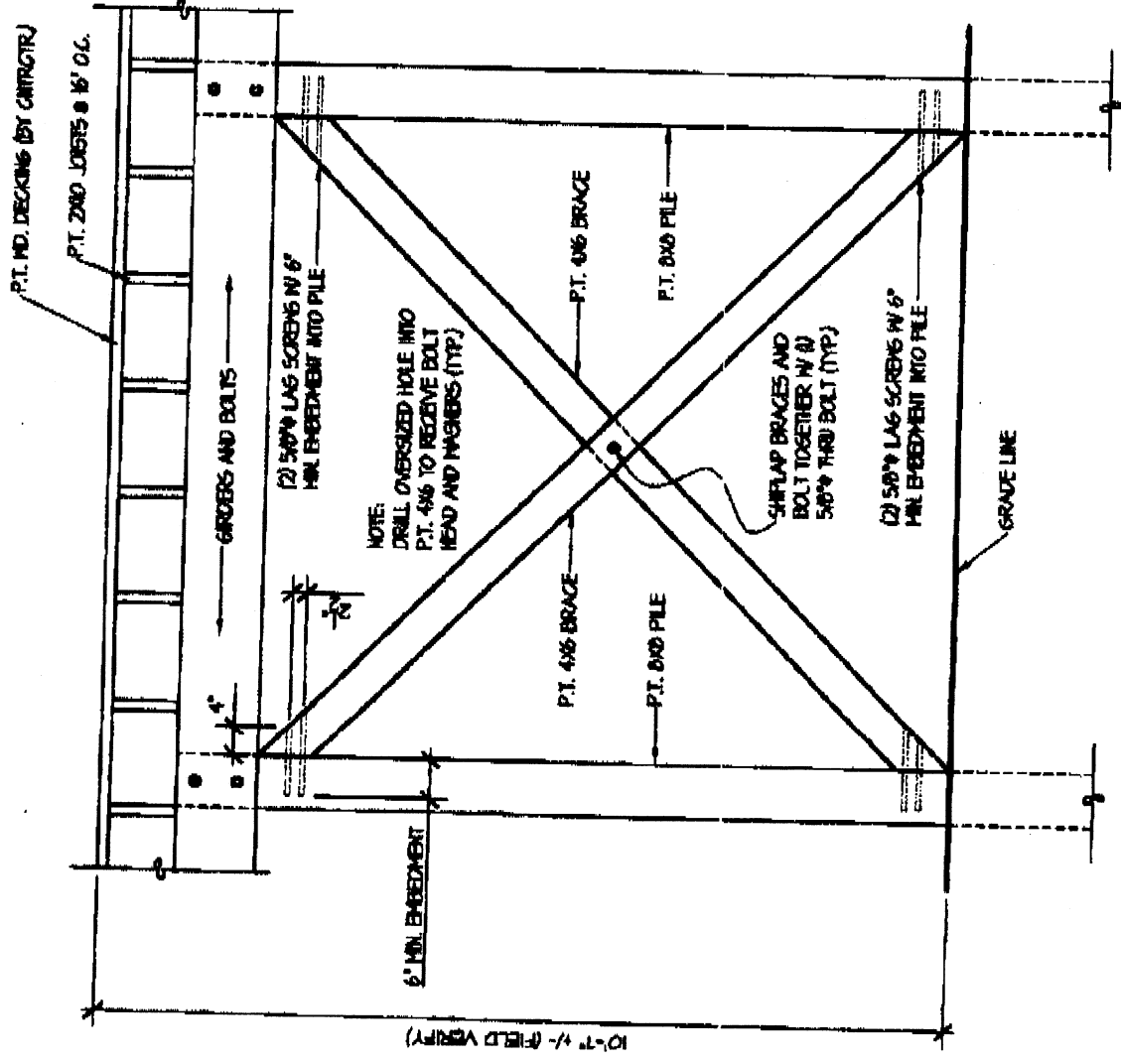
D PLAN VIEW OF DECK PILE NOTCH
 STRU
 4
 SCALE: 1"=1'-0"

Wayland Residence
 2291 East Beach Drive
 Oak Island, North Carolina

Project: KINGS BRIDGE
 Date: 08.25.10
 Scale: 1/8"=1'-0"

CHRISTOPHER A. HOLMES, P.E.
 CONSULTING ENGINEER, INC.
 5738 Chandler Drive (Chandler Oaks) - Suite P-4 - Wilmington - N.C. 28403
 Phone: (910) 798-8000 Fax: (910) 798-8010 www.christopherholmes.com

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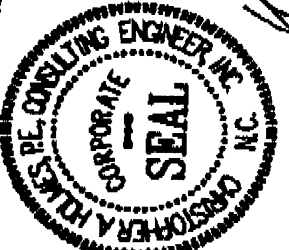
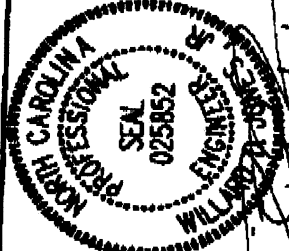
C TYPICAL P.T. 4X6 X-BRACE DETAIL
 STRU 3
 SCALE: 1/2"=1'-0"

Wayland Residence
 3301 West Beach Drive
 Oak Island, North Carolina

Project No: 1000
 Date: 08/25/10
 Drawn By: C.H.S.
 Checked By: M.B.T.

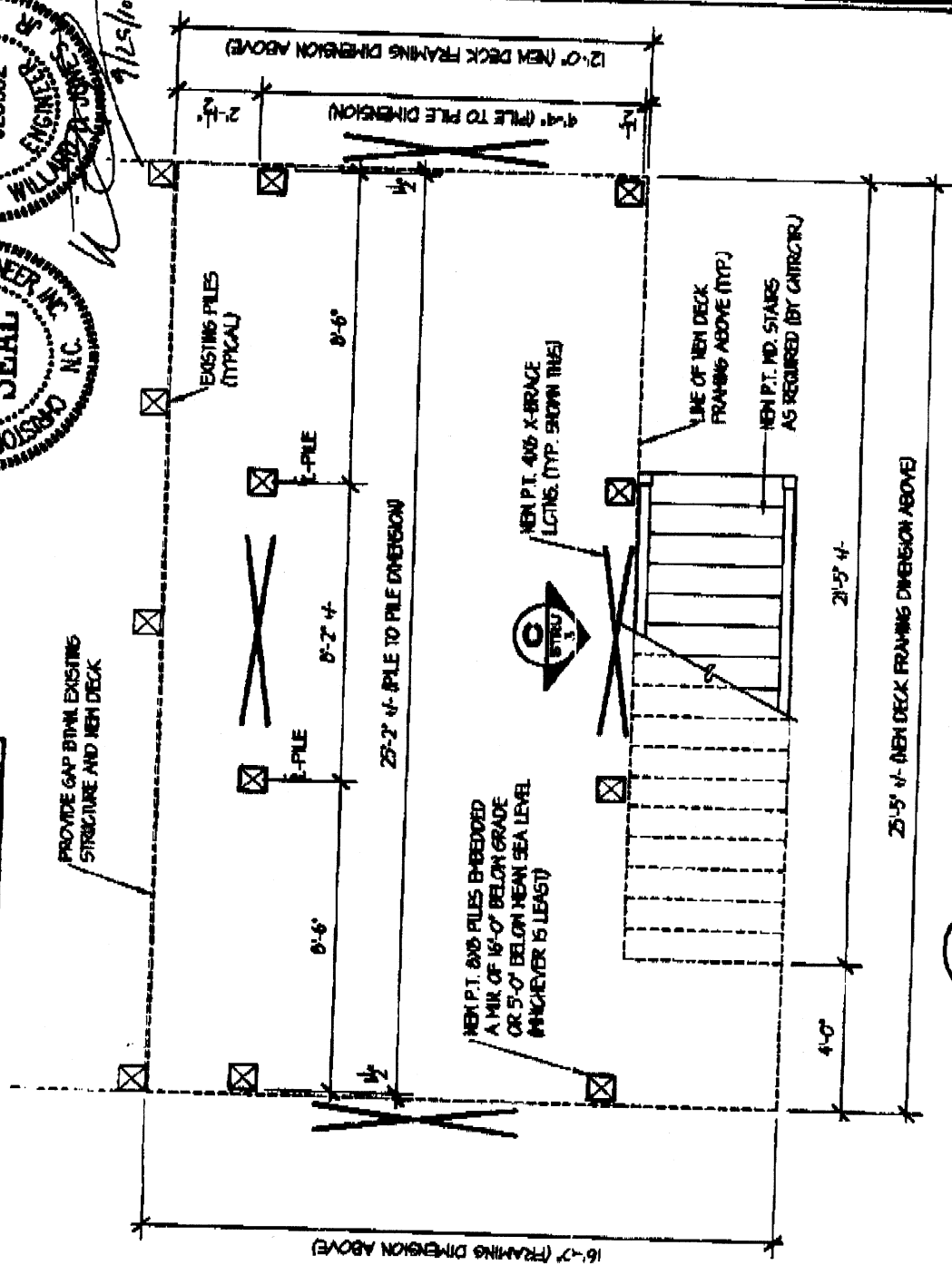
CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
 5728 Quail Drive (Overseer Court) - Suite F-4 - Wilmington, N.C. 28403
 Phone (919) 766-0000 Fax (919) 766-0010 www.cholmesinc.com

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7/25/10

ENGINEER RESPONSIBLE FOR ALL STRUCTURAL COMPONENTS ON THIS DRAWING. ALL DIMENSIONS AND DETAILS MAY NOT BE SHOWN AND ARE THE RESPONSIBILITY OF THE OWNER AND CONTRACTOR. CONTRACTOR IS TO VERIFY WITH ENGINEER ANY ADDITIONAL DETAILS REQUIRED FOR CONSTRUCTION.

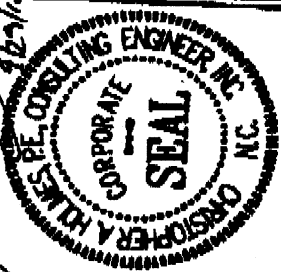
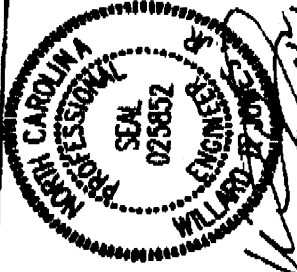


A NEW DETACHED DECK PILE PLAN
 STRU 1
 SCALE: 1/4"=1'-0"

Wayland Residence
 3801 West Beach Drive
 Oak Island, North Carolina

CHRISTOPHER A. HOLMES, P.E.
 CONSULTING ENGINEER, INC.
 8755 Chandler Drive (Chandler Oaks) - Suite 100 - Wilmington, N.C. 28405
 Phone: (910) 798-8888 Fax: (910) 798-8888 www.christopheraholmes.com

STRU
 5



GENERAL NOTES:

1) DESIGN CRITERIA:

- FLOOR LIVE LOAD = 40 PSF
- GROUND SNOW LOAD = 10 PSF
- WIND LOAD = 50 MPH

DESIGN BASED ON N.C.R.C., CHAPTERS 9 & 14 - EXPOSURE CATEGORY C
 SEISMIC FORCES DO NOT CONTROL LATERAL FORCE DESIGN AND FORCES CONTROL DESIGN

- 2) CONTRACTOR TO VERIFY ALL DIMENSIONS AND DETAILS ON DRAWINGS PRIOR TO CONSTRUCTION
- 3) UNCL. = UNLESS NOTED OTHERWISE
- 4) ALL WORK MUST COMPLY WITH THE LATEST EDITION OF THE NORTH CAROLINA RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS (N.C.R.C.)
- 5) STRUCTURAL FRAME TO BE SHORED AND BRACED UNTIL ERECTION IS COMPLETED.
- 6) LATERAL RESISTANCE IS PROVIDED BY X-BRACES.
- 7) N.C.R.C. = NORTH CAROLINA RESIDENTIAL CODE = NORTH CAROLINA RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS.

PILE FOUNDATION NOTES (V ZONE):

- 1) DRIVE ALL P.T. AND PILES TO 1' BELOW GRADE OR 5' BELOW HSL (WHICHEVER IS LEAST) USING AN APPROVED DROP HAMMER OR POWER HAMMERS AS PER SECTION 800B OF THE NORTH CAROLINA BUILDING CODE. THE MINIMUM EMBEDMENT WILL BE AS REQUIRED TO MEET THE MINIMUM REQUIREMENTS OF CHAPTER 45 OF THE N.C.R.C. AND TO ACHIEVE THE CAPACITY LISTED ON THE PLANS.
- 2) ALL TIMBER PILES TO BE SOUTHERN YELLOW PINE AND PRESURE TREATED WITH CHROMIATED COPPER ARSENITE TO ODO RESISTANCE (NET RETENTION - EQUAL ALTERNATIVE PRESERVATIVES ARE ALLOWED). (ANPA C3 FOR ROUND PILES OR ANPA C24 FOR SAWN TIMBER PILES) PILE CAPTOPS SHALL BE TREATED IN ACCORDANCE WITH ANPA M4.
- 3) ALL WOOD MATERIAL BELOW THE BASE FLOOD ELEVATION MUST BE PRESURE TREATED AND ALL STEEL HARDWARE MUST BE HOT DIPPED GALVANIZED OR STAINLESS STEEL. REFER TO CHAPTER 45 OF THE N.C.R.C. FOR MORE INFORMATION.
- 4) PILES SHALL MEET ANPA STANDARD C1, C2, & C24 FOR SAWN TIMBER PILES.
- 5) PROVIDE SIMPSON PS-85 PLATES ON EACH SIDE OF PILE WHEN MORE THAN 50% OF PILE IS IN WIPED. GRADE BEAMS ARE DESIGNED BASED ON ALLOWABLE SOIL CAPACITY OF 500 PSF UNDER NORMAL CONDITIONS, BUT THE FOUNDATION IS DESIGNED TO SUPPORT THE GRADE BEAMS UNDER SCOUR EVENTS WHILE THE GRADE BEAM PROVIDES BRACING STRENGTH.
- 6) THE BOTTOM OF THE LOWEST STRUCTURAL GIRDER MUST BE ABOVE THE BASE FLOOD ELEVATION. WHEN HEIGHT OF GIRDER IS GREATER THAN 12'-0" ABOVE GRADE OR CONCRETE SLAB, NOTIFY ENGINEER FOR ADDITIONAL X-BRACE REQUIREMENTS.

STRUCTURAL TIMBER & HARDWARE NOTES:

- 1) LUMBER SHALL BE AS FOLLOWS: 12 KD SOUTHERN YELLOW PINE (OR BETTER) FOR PLATES, MEMBERS, JOISTS, AND RAFTERS. STUDS MAY BE SPRUCE PINE FIR #2 KD (OR BETTER). IF OTHER SPECIES OF WOOD ARE USED, THEN NAILCLIPS AND NAILERS MAY NEED TO BE INCREASED IN SIZE.
- 2) ALL NAIL SIZES AND NUMBER REQUIRED MAY NOT BE SUFFICIENT NAILING SHALL BE REQUIRED TO DEVELOP JOINT STRENGTH.
- 3) ALL HARDWARE SHALL BE HOT-DIPPED GALVANIZED IN ACCORDANCE WITH ASTM A653 AS APPLICABLE IN CORRELATION WITH TABLE A653.5 AND ALL JOIST HANGERS IN CONTACT WITH PRESURE TREATED WOOD SHALL BE SIMPSON Z-MAX GALVANIZED.
- 4) LUMBER LESS THAN 12" ABOVE GROUND AND LUMBER EXPOSED TO WEATHER SHALL BE PRESURE TREATED CCA OR ACG 0.25 LB/CF NET RETENTION LUMBER IN CONTACT WITH GRADE SHALL BE PRESURE TREATED CCA OR ACG 0.4 LB/CF NET RETENTION.
- 5) USE ASTM A307 BOLTS WITH NUTS AND WASHERS FOR ALL TIMBER CONNECTIONS.

ATTACHMENT D



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[Track & Confirm](#)

[FAQs](#)

Track & Confirm

Search Results

Label/Receipt Number: 7008 1830 0004 8332 9637
 Expected Delivery Date: December 31, 2010
 Class: First-Class Mail®
 Service(s): Certified Mail™
 Return Receipt
 Status: Delivered

Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

Your item was delivered at 1:11 pm on December 30, 2010 in OAK ISLAND, NC 28465.

Detailed Results:

- Delivered, December 30, 2010, 1:11 pm, OAK ISLAND, NC 28465
- Arrival at Unit, December 30, 2010, 10:04 am, SOUTHPORT, NC 28461
- Acceptance, December 29, 2010, 4:44 pm, RALEIGH, NC 27601

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. [Go >](#)

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U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)		
For delivery information visit our website at www.usps.com		
OFFICIAL USE		
Postage	\$ 11.56	0192 POST OFFICE RALEIGH, NC 27601 DEC 29 2010 12/29/2010
Certified Fee	\$ 2.80	
Return Receipt Fee (Endorsement Required)	\$ 2.30	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 6.66	
Sent To: Town of Oak Island Street, Apt. No., or PO Box No.: 4621 E. Oak Island Drive City, State, ZIP+4: Oak Island, NC 28465		M. Paul 2933777 001
PS Form 3800, August 2006		See Reverse for Instructions

7008 1830 0004 8332 9637

December 29, 2010

Mack A. Paul IV
D 919.743.7326
F 919.516.2126
mack.paul@klgates.com

Certified Mail/Return Receipt Requested

Town of Oak Island
4621 E. Oak Island Drive
Oak Island, NC 28465

Re: Variance request for property adjoining Town-owned land on East Beach Drive, Oak Island, NC

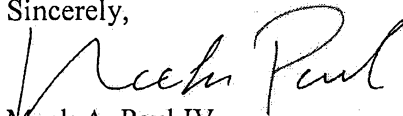
Dear Town:

This letter is to inform you that Kenneth B. Wayland, II and Marilyn O. Wayland have applied for a Variance from North Carolina Coastal Area Management Act ("CAMA") regulations, to be heard at the next meeting of the North Carolina Coastal Resources Commission on February 24, 2011, in order to construct a deck on their property at 3201 East Beach Drive, Oak Island, in Brunswick County, NC. For your reference, a copy of the initial application for a CAMA Minor Development Permit and a copy of the permit denial letter from the Town of Oak Island's local CAMA permit officer are enclosed as notification of the proposed project.

No action is required from you. If you have any questions or comments about the proposed project, please contact me using the information above. If you wish to file written comments or objections with the North Carolina Division of Coastal Management, you may submit them to:

Jim Gregson, Director
Division of Coastal Management
North Carolina Department of Environment and Natural Resources
400 Commerce Avenue
Morehead City, NC 28557

Sincerely,



Mack A. Paul IV

cc: Jim Gregson, Director, Division of Coastal Management
Air & Natural Resources Section, Environmental Division, Attorney General's Office

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Erik Bliss
7606 Overlook Hills Lane
Cincinnati, OH 45244

2. Article Number

(Transfer from service label)

7006 3450 0001 0482 0844


PS Form 3811, February 2004

Domestic Return Receipt

10259500-11/1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X 

- Agent
- Addressee

B. Received by (Printed Name)

Erik Bliss

C. Date of Delivery

1-3-11

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

**U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)**

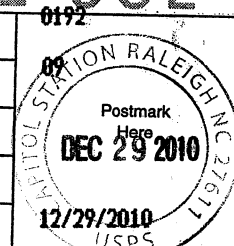
For delivery information visit our website at www.usps.com

CINCINNATI OH 45244

OFFICIAL USE

7006 3450 0001 0482 0844

Postage	\$ 1.73
Certified Fee	\$ 2.80
Return Receipt Fee (Endorsement Required)	\$ 2.30
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 6.83



Sent To

Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

Erik Bliss
7605 Overlook Hills Lane
Cincinnati, OH 45244

M. Paul

PS Form 3800, August 2006

See Reverse for Instructions

December 29, 2010

Mack A. Paul IV
D 919.743.7326
F 919.516.2126
mack.paul@klgates.com

Certified Mail/Return Receipt Requested

Erik Bliss
7605 Overlook Hills Lane
Cincinnati, OH 45244

Re: Property adjoining "Atlantic Dream" on East Beach Drive, Oak Island, NC


Dear Mr. Bliss:

This letter is to inform you that Kenneth B. Wayland, II and Marilyn O. Wayland have applied for a Variance from North Carolina Coastal Area Management Act ("CAMA") regulations, to be heard at the next meeting of the North Carolina Coastal Resources Commission on February 24, 2011, in order to construct a deck on their property at 3201 East Beach Drive, Oak Island, in Brunswick County, NC. For your reference, a copy of the initial application for a CAMA Minor Development Permit and a copy of the permit denial letter from the Town of Oak Island's local CAMA permit officer are enclosed as notification of the proposed project.

No action is required from you. If you have any questions or comments about the proposed project, please contact me using the information above. If you wish to file written comments or objections with the North Carolina Division of Coastal Management, you may submit them to:

Jim Gregson, Director
Division of Coastal Management
North Carolina Department of Environment and Natural Resources
400 Commerce Avenue
Morehead City, NC 28557

Sincerely,


Mack A. Paul IV

cc: Jim Gregson, Director, Division of Coastal Management
Air & Natural Resources Section, Environmental Division, Attorney General's Office



12/09/2010

CERTIFIED MAIL – 7006 3450 0002 9199 5998
RETURN RECEIPT REQUESTED

Kenneth B. Wayland II and Marilyn O. Wayland
10124 W. Broad Street, Suite N
Glen Allen, VA 23060

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
APPLICATION NUMBER- OI 10-46
PROJECT ADDRESS- 3201 E. Beach Dr.

Dear Mr. & Mrs. Wayland:

After reviewing your application in conjunction with the development standards required by the Coastal Area Management Act (CAMA) and our locally adopted Land Use Plan and Ordinances, it is my determination that no permit may be granted for the project which you have proposed.

This decision is based on my findings that your request violates NCGS 113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines and Local Land Use Plans. You have applied to construct a 306 square foot Oceanside detached deck which is inconsistent with 15 NCAC 7H .0306(a)(2), which states that:

(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.

and 15 NCAC 7H .309(a), which states that:

15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule

:0306(a) of the Subchapter if all other provisions of this Subchapter and other state and local regulations are met.

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet;
- (4) beach accessways consistent with Rule .0308(c) of this Subchapter;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands;

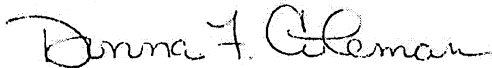
- (8) sand fences; and
- (9) swimming pools.

In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback requirements of this Subchapter.

Your application is also inconsistent with our Local Land Use Plan. On page 87 of the Land Use Plan, you will find that Policy 2.A.17 states: The Town supports State policies that do not conflict with the Town's development regulations, for ocean hazard areas as set forth in Chapter 15NCAC subchapter 7H of the State CAMA regulations.

Should you wish to appeal my decision to the Coastal Resource Commission or request a variance from that group, please contact me so I can provide you with the proper forms and any other information you may require. The Division of Coastal Management central office in Morehead City must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours,



Donna F. Coleman, LPO
Town of Oak Island

cc: Heather Coats DCM-Wilmington
Mack A. Paul, IV - Agent

November 10, 2010

James L. Joyce
D 919.743.7336
F 919.743.7358
jim.joyce@klgates.com

Certified Mail/Return Receipt Requested

Donna F. Coleman
CAMA Permit Officer
Town of Oak Island
4601 East Oak Island Drive
Oak Island, NC 28465

Re: Application of Kenneth B. Wayland, II and Marilyn O. Wayland for CAMA Minor
Development Permit

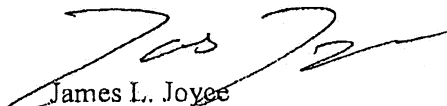
Dear Ms. Coleman:

Enclosed please find a completed application packet for the Waylands' proposed deck. The enclosed items include the following:

- A check in the amount of \$100.00 made payable to the Town of Oak Island
- A completed, signed application form
- A signed AEC Hazard Notice form
- A copy of the engineer's drawings for the deck
- A copy of a survey of the site
- The certified mail receipt showing that a notification letter has been sent to the adjoining property owner.
- A copy of the notification letter, with all of the attachments thereto

Please let me know if you have any questions or if you require any further documentation.

Respectfully,



James L. Joyce

Enclosures

K&L GATES LLP
GENERAL ACCOUNT
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA. 15222

BNY MELLON BANK

BNY Mellon Bank, N.A.
Pittsburgh, PA

1128965

60-160
403

DATE

11/10/2010

\$ 100.00*****

DOLLARS

Town of Oak Island

ONE HUNDRED AND 00/100

NOT VALID AFTER 180 DAYS

Town of Oak Island
4601 E. Oak Island Dr
Oak Island, NC 28465

Two Signatures Required If Over \$10,000

AUTHORIZED SIGNATURE

⑈ 1128965⑈ ⑆043301601⑆ 126 8682⑈

Locality _____ Permit Number _____
Ocean Hazard _____ Estuarine Shoreline _____ ORW Shoreline _____ Public Trust Shoreline _____ Other _____
(For official use only)

GENERAL INFORMATION

LAND OWNER

Name: Kenneth B. Wayland, II and Marilyn O. Wayland

Address: 10124 W. Broad Street, Suite N

City: Glen Allen State: VA Zip: 23060 Phone: _____

AUTHORIZED AGENT

Name: Mack A. Paul, IV

Address: 4350 Lassiter at North Hills Avenue, Suite 300

City: Raleigh State: NC Zip: 27609 Phone: (919) 743-7326

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 3201 East Beach Drive, Oak Island, NC 28465

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) 12' x 25'5" detached deck

SIZE OF LOT/PARCEL: 7500 square feet 0.17 acres

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

TOTAL ENCLOSED FLOOR AREA OF A BUILDING IN THE OCEAN HAZARD AREA OF ENVIRONMENTAL CONCERN (AEC): 1007 square feet (includes all floors and roof covered decks)

SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT-UPON SURFACES IN THE COASTAL SHORELINE AREA OF ENVIRONMENTAL CONCERN (AEC): _____ square feet (Calculations includes the area of the roof/drip line of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC.)(Attach your calculations with the project drawing .)

Choose the AEC area that applies to your property:

- (1) within 75 feet of Normal High Water for the Estuarine Shoreline AEC
 - (2) within 575 feet of Normal High Water for the Estuarine Shoreline AEC, adjacent to Outstanding Resource Waters
 - (3) within 30 feet of the Public Trust Shoreline AEC
- (Contact your Local Permit Officer if you are not sure which AEC applies to your property.)

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality? YES NO

If yes, list the total built upon area/impervious surface allowed for your lot or parcel. _____ square feet.

OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit. As a service we have compiled a listing of the kinds of permits that might be required. We suggest you check over the list with your LPO to determine if any of these apply to your project. Zoning, Drinking Water Well, Septic Tank (or other sanitary waste treatment system), Building, Electrical, Plumbing, Heating and Air Conditioning, Insulation and Energy Conservation, FIA Certification, Sand Dune, Sediment Control, Subdivision Approval, Mobile Home Park Approval, Highway Connection, and others.

STATEMENT OF OWNERSHIP:

I, the undersigned, an applicant for a CAMA minor development permit, being either the owner of property in an AEC or a person authorized to act as an agent for purposes of applying for a CAMA minor development permit, certify that the person listed as landowner on this application has a significant interest in the real property described therein. This interest can be described as: (check one)

an owner or record title, Title is vested in Kenneth B. Wayland, II and wife, Marilyn O. Wayland, see Deed Book 2201 page 818 in the Brunswick County Registry of Deeds.

an owner by virtue of inheritance. Applicant is an heir to the estate of _____; probate was in C county.

if other interest, such as written contract or lease, explain below or use a separate sheet and attach to this application.

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

I furthermore certify that the following persons are owners of properties adjoining this property. I affirm that I have given **ACTUAL NOTICE** to each of them concerning my intent to develop this property and to apply for a CAMA permit.

(Name)	(Address)
(1) <u>Erik Bliss</u>	<u>7605 Overlook Hills Lane, Cincinnati, OH 45244</u>
(2) <u>Town of Oak Island</u>	<u>4601 East Oak Island Drive, Oak Island, NC 28465</u>
(3) _____	_____
(4) _____	_____

FOR DEVELOPERS IN OCEAN HAZARD AND ESTUARINE HAZARD AREAS:

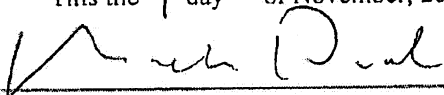
I acknowledge that the land owner is aware that the proposed development is planned for an area which may be susceptible to erosion and/or flooding. I acknowledge that the local permit officer has explained to me the particular hazard problems associated with this lot. This explanation was accompanied by recommendations concerning stabilization and floodproofing techniques.

PERMISSION TO ENTER ON LAND:

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

This application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the AEC hazard notice where necessary, a check for \$100.00 made payable to the locality, and any information as may be provided orally by the applicant. The details of the application as described by these sources are incorporated without reference in any permit which may be issued. Deviation from these details will constitute a violation of any permit. Any person developing in an AEC without permit is subject to civil, criminal and administrative action.

This the 9 day of November, 20 10



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

SITE DRAWING/APPLICATION CHECKLIST

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

PHYSICAL DIMENSIONS

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

PHYSICAL CHARACTERISTICS

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

If you will be working in the ocean hazard area:

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

If you will be working in an estuarine shoreline area:

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

DEVELOPMENT PLANS

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

NOTE TO APPLICANT

Have you:

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

FOR STAFF USE

Site Notice Posted _____ Final Inspection _____ Fee Received _____

Site Inspections

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

AEC HAZARD NOTICE

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

Property Owner: Kenneth B. Wayland and Marilyn D. Wayland

Property Address: 3201 E Beach Drive

Date Lot Was Platted: _____

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

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

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

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

Studies also indicate that the shoreline could move as much as 325 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 19 feet deep in this area.

Preferred oceanfront protection measures are beach nourishment and relocation of threatened structures. Hard erosion control structures such as bulkheads, seawalls, revetments, groins, jetties and breakwaters are prohibited. Temporary sand bags may be authorized under certain conditions.

The applicant must acknowledge this information and requirements by signing this notice in the space below. Without the proper signature, the application will not be complete.

Marilyn Wayland 11/08/10
Applicant Signature Date
K B Wayland 11/08/10

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

For more information, contact:

Donna F. Coleman
Local Permit Officer
4601 E. Oak Island Dr.
Address
Oak Island, NC 28465
Locality
(910) 298-5024
Phone Number

Revised 8/09

BEFORE YOU BUILD

Setting Back for Safety: A Guide to Wise Development Along the Oceanfront

When you build along the oceanfront, you take a calculated risk. Natural forces of water and wind collide with tons of force, even on calm days.

Man-made structures cannot be guaranteed to survive the force of a hurricane. Long-term erosion (or barrier island migration) may take from two to ten feet of the beach each year, and, sooner or later, will threaten oceanfront structures. These are the facts of life for oceanfront property owners.

The Coastal Resources Commission (CRC) has adopted rules for building along the oceanfront. The rules are intended to avoid an unreasonable risk to life and property, and to limit public and private losses from storm and long-term erosion. These rules lessen but do not eliminate the element of risk in oceanfront development.

As you consider building along the oceanfront, the CRC wants you to understand the rules and the risks. With this knowledge, you can make a more informed decision about where and how to build in the coastal area.

The Rules

When you build along the oceanfront, coastal management rules require that the structure be sited to fit safely into the beach environment.

Structures along the oceanfront, less than 5,000 square feet in size, must be behind the frontal dune, landward of the crest of the primary dune, and set back from the first line of stable natural vegetation a distance equal to 30 times the annual erosion rate (a minimum of 60 feet). The setback calculation increases as the size of the structure increases [15A NCAC 7H.0306(a)(2)]. For example: A structure between 5,000 and 10,000 square feet would require a setback from the first line of stable, natural vegetation to a distance equal to 60 times the annual erosion rate (a minimum of 120 feet). The graduated setback continues to increase through structure sizes greater than 100,000 square feet.

The Reasons

The beachfront is an ever-changing landform. The beach and the dunes are natural "shock absorbers," taking the beating of the wind and waves and protecting the inland areas. By incorporating building setbacks into the regulations, you have a good chance of enjoying the full life of the structure. At first, it seems very inviting to build your dream house as close to the beach as possible, but in five years you could find the dream has become a nightmare as high tides and storm tides threaten your investment.

The Exception

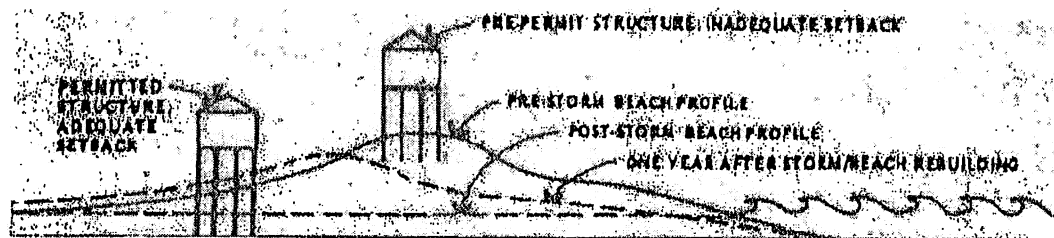
The Coastal Resources Commission recognized that these rules, initially passed in June 1979, might prove a hardship for some property owners. Therefore, they established an exception for lots that cannot meet the setback requirement. The exception allows buildings in front of the current setback, if the following conditions apply:

- (1) the lot must have been platted as of June 1, 1979, and is not capable of being enlarged by combining with adjoining land under the same ownership;
- (2) development must be constructed as far back on the property as possible and in no case less than 60 feet landward of the vegetation line;
- (3) no development can take place on the frontal dune;
- (4) special construction standards on piling depth and square footage must be met; and
- (5) all other CAMA, state and local regulations must be met.

The exception is not available in the Inlet Hazard Area.

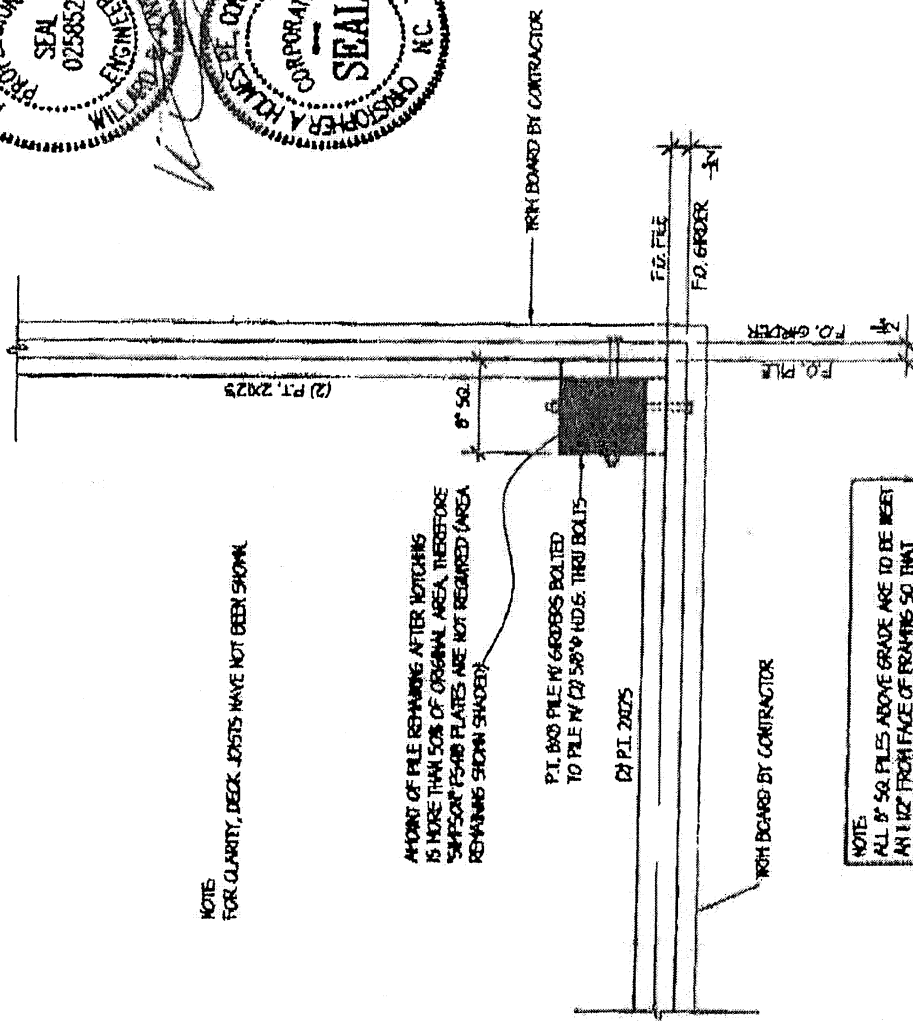
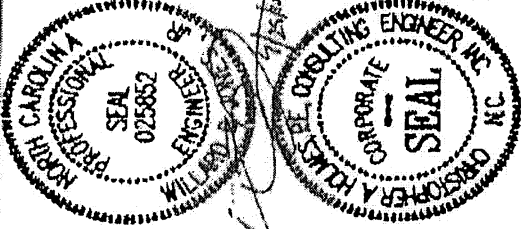
To determine eligibility for the exception the Local Permit Officer will make these measurements and observations:

- _____ required setback from vegetation line
- _____ exception setback (maximum feasible)
- _____ rear property line setback
- _____ max. allowable square footage on lowest floor
- _____ piling length needed to extend 4 feet below MSL



After the storm, the house on the dune will be gone. The other house has a much better chance of survival.

5 N.E. 2022 10 14899	CHRISTOPHER A. HOLMES, P.E. CONSULTING ENGINEER, INC. 1728 Orchard Drive (Chapel Hill) - Suite P-1 - Wilmington - N.C. 28403 Phone: (910) 794-8988 Fax: (910) 794-8989 holmes@christophera.com	STRU 4	
Wayland Residence 5301 East Beach Drive Oak Island, North Carolina			



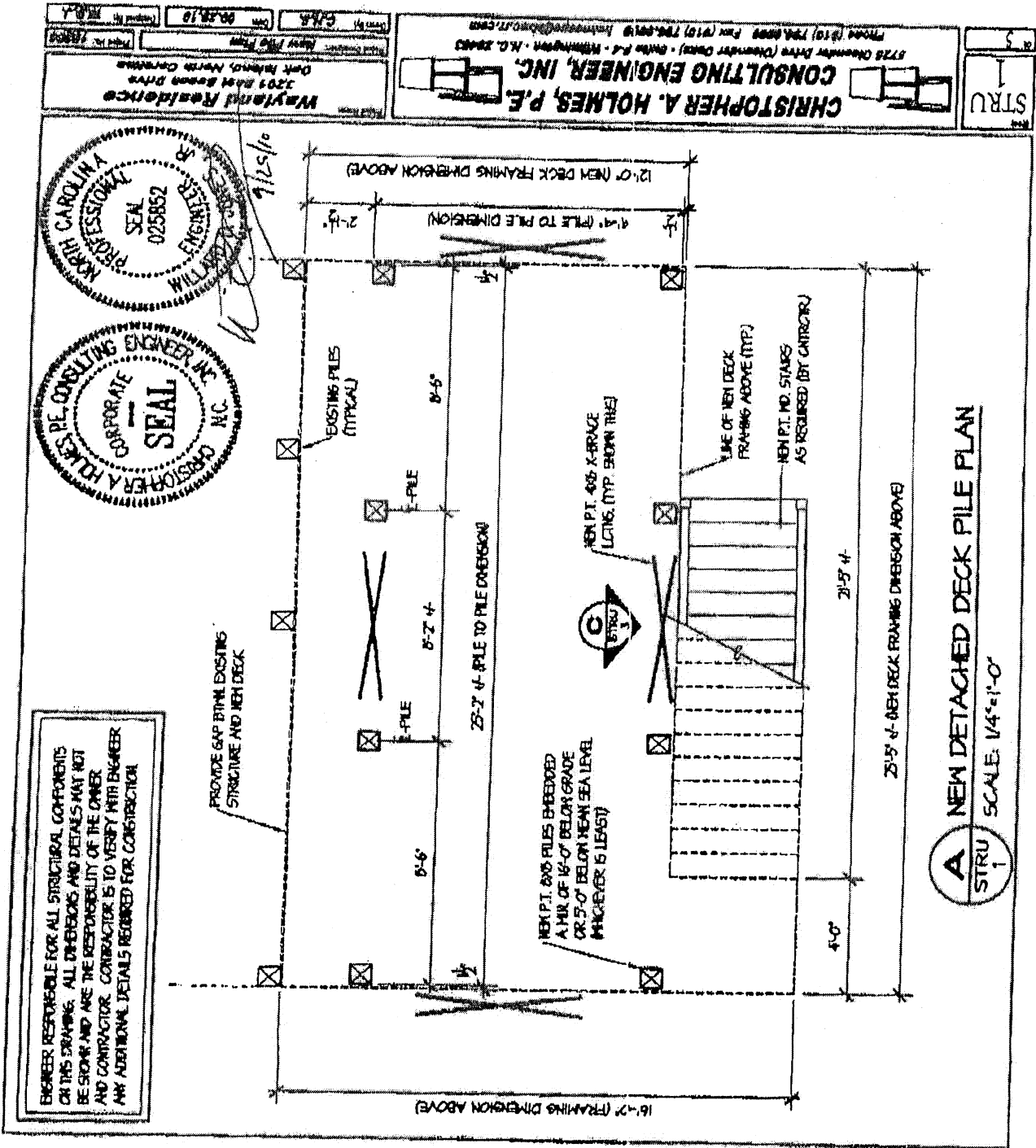
NOTE
FOR CLARITY, DECK JOISTS HAVE NOT BEEN SHOWN

AMOUNT OF PILE REMAINING AFTER NOTCHING IS MORE THAN 50% OF ORIGINAL AREA, THEREFORE "SHEARSON" PLATES ARE NOT REQUIRED (AREA REMAINING SHOWN SHADDED)

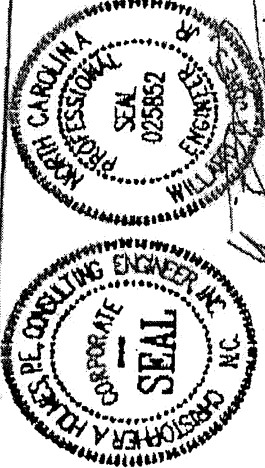
P1, P2 PILES ABOVE GRADE ARE TO BE NOTCHED TO PILE W/ (2) 5/8" HDGS. THRU BOLTS (2) P1, 2X2S

NOTE:
ALL 6" SQ. PILES ABOVE GRADE ARE TO BE NOTCHED 1/2" FROM FACE OF FRAMING SO THAT CORNER PILES AND PILES WITH INTERSECTING GIRDERS WILL NOT BE NOTCHED MORE THAN 50% AND REQUIRE "SHEARSON" PLATES.

D PLAN VIEW OF DECK PILE NOTCH
SCALE: 1"=1'-0"



ENGINEER RESPONSIBLE FOR ALL STRUCTURAL COMPONENTS ON THIS DRAWING. ALL DIMENSIONS AND DETAILS MAY NOT BE SHOWN AND ARE THE RESPONSIBILITY OF THE OWNER AND CONTRACTOR. CONTRACTOR IS TO VERIFY WITH ENGINEER ANY ADDITIONAL DETAILS REQUIRED FOR CONSTRUCTION.



Wayland Residence
3201 East Beach Drive
Oak Bluffs, North Carolina

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
5775 Channing Drive (Overnight Drive) - Suite P-4 - Wilmington, N.C. 28403
Phone (910) 794-8888 Fax (910) 794-8818 Internet: holmes@christopherpe.com

Project No. 09-28-10
Date: 09-28-10
Drawn By: CHA
Checked By: CHA
Title: New Deck Plan
Scale: 1/4" = 1'-0"

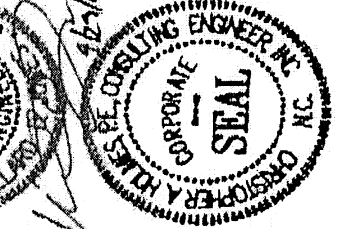
STRU 1

A NEW DETACHED DECK PILE PLAN
SCALE: 1/4" = 1'-0"

Wayland Residence
 501 First Beach Drive
 Oak Island, North Carolina

CHRISTOPHER A. HOLMES, P.E.
 CONSULTING ENGINEER, INC.
 8728 Charlotte Drive (Newberry Oaks) - Suite 1-4 - Wilmington, N.C. 28403
 Phone (910) 798-8888 Fax (910) 798-8888
 chaholmes@holmesarr.com

STR. 5



GENERAL NOTES:

- 1) DESIGN CRITERIA:
 FLOOR LIVE LOAD = 40 PSF
 GROUND SNOW LOAD = 10 PSF
 WIND LOAD = 50 MPH
 WIND DESIGN BASED ON N.C.R.C. CHAPTERS 3 & 4 - EXPOSURE CATEGORY C
 SEISMIC FORCES TO VERIFY CONTROL LATERAL FORCE DESIGN AND FORCES CONTROL DESIGN
 2) CONTRACTOR TO VERIFY ALL DIMENSIONS AND DETAILS ON DRAWINGS PRIOR TO CONSTRUCTION
 3) U.L.C.O. = UNLESS NOTED OTHERWISE
 4) ALL WORK MUST COMPLY WITH THE LATEST EDITION OF THE NORTH CAROLINA RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS N.C.R.C.1
 5) STRUCTURAL FRAME TO BE SHORED AND BRACED UNTIL ERECTION IS COMPLETED.
 6) LATERAL RESISTANCE IS PROVIDED BY X-BRACES
 7) N.C.R.C. = NORTH CAROLINA RESIDENTIAL CODE - NORTH CAROLINA RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS.

PILE FOUNDATION NOTES IN ZONE

- 1) DRIVE ALL PILES TO 18" BELOW GRADE OR 5' BELOW H.S.L. WHICHEVER IS LEAST USING AN APPROVED DRIP WANNER OR POWER WANNERS AS PER SECTION 800.0 OF THE NORTH CAROLINA BUILDING CODE. THE WANNER EMBEDMENT WILL BE AS REQUIRED TO MEET THE MINIMUM REQUIREMENTS OF CHAPTER 45 OF THE N.C.R.C. AND TO ACHIEVE THE CAPACITY LISTED ON THE PLANS.
- 2) ALL TIMBER PILES TO BE SOUTHERN YELLOW PINE AND PRESERVE TREATED WITH CHROMIATED COPPER ARSENATE TO 0.50 LB/CF NET RETENTION - EQUAL ALTERNATIVE PRESERVATIVES ARE ALLOWED IN ACCORDANCE WITH AREA 14.
- 3) ALL WOOD MATERIAL BELOW THE BASE FLOOD ELEVATION MUST BE PRESERVE TREATED AND ALL STEEL HARDWARE MUST BE NOT DIPPED GALVANIZED OR STAINLESS STEEL REFER TO CHAPTER 45 OF THE N.C.R.C. FOR MORE INFORMATION.
- 4) PILES SHALL MEET AREA STANDARD C1, C2, & C34 FOR SAWN TIMBER PILES.
- 5) PROVIDE SIMPSON PS-40 PLATES ON EACH SIDE OF PILE WHEN MORE THAN 50% OF PILE IS NOTCHED.
- 6) GRADE BEAMS ARE DESIGNED BASED ON ALLOWABLE SOIL CAPACITY OF 1500 PSF UNDER NORMAL CONDITIONS BUT THE FOUNDATION IS DESIGNED TO SUPPORT THE GRADE BEAMS UNDER SCOUR EVENTS WHILE THE GRADE BEAM PROVIDES BRACING STRENGTH.
- 7) THE BOTTOM OF THE LOWEST STRUCTURAL GIRDER MUST BE ABOVE THE BASE FLOOD ELEVATION. WHEN HEIGHT OF GIRDER IS GREATER THAN 12" ABOVE GRADE OR CONCRETE FLAG, NOTIFY ENGINEER FOR ADDITIONAL X-BRACE REQUIREMENTS.

STRUCTURAL TIMBER & HARDWARE NOTES

- 1) LUMBER SHALL BE AS FOLLOWS: 2" X 6" SOUTHERN YELLOW PINE FOR BEETIES FOR PLATES, WANNERS, JOISTS, AND RAFTERS. STUDS MAY BE SPRUCE PINE FIR 2" X 6" OR BETTER. IF OTHER SPECIES OF WOOD ARE USED, THEN HURDLE KLE CLEPS AND WANNERS MAY NEED TO BE INCREASED IN SIZE.
- 2) ALL WALL SIZES AND NUMBER REQUIRED MAY NOT BE SUFFICIENT WALLING SHALL BE REQUIRED TO DEVELOP JOINT STRENGTH.
- 3) ALL HARDWARE SHALL BE HOT-DIPPED GALVANIZED IN ACCORDANCE WITH ASTM A653 AS APPLICABLE. IN CONCRETE REGIONS CORRECT IV TABLE 450.03 AND ALL JOIST WANNERS IN CONTACT WITH PRESERVE TREATED WOOD SHALL BE SIMPSON Z-MAX GALVANIZED.
- 4) LUMBER LESS THAN 12" ABOVE GROUND AND LUMBER EXPOSED TO WEATHER SHALL BE PRESERVE TREATED CCA OR ACG 0.25 LB/CF NET RETENTION LUMBER IN CONTACT WITH GRADE SHALL BE PRESERVE TREATED CCA OR ACG 0.4 LB/CF NET RETENTION.
- 5) USE ASTM A307 BOLTS WITH NUTS AND WANNERS FOR ALL TIMBER CONNECTIONS.

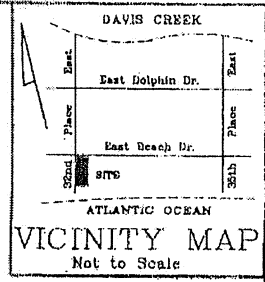


Turtle Fence

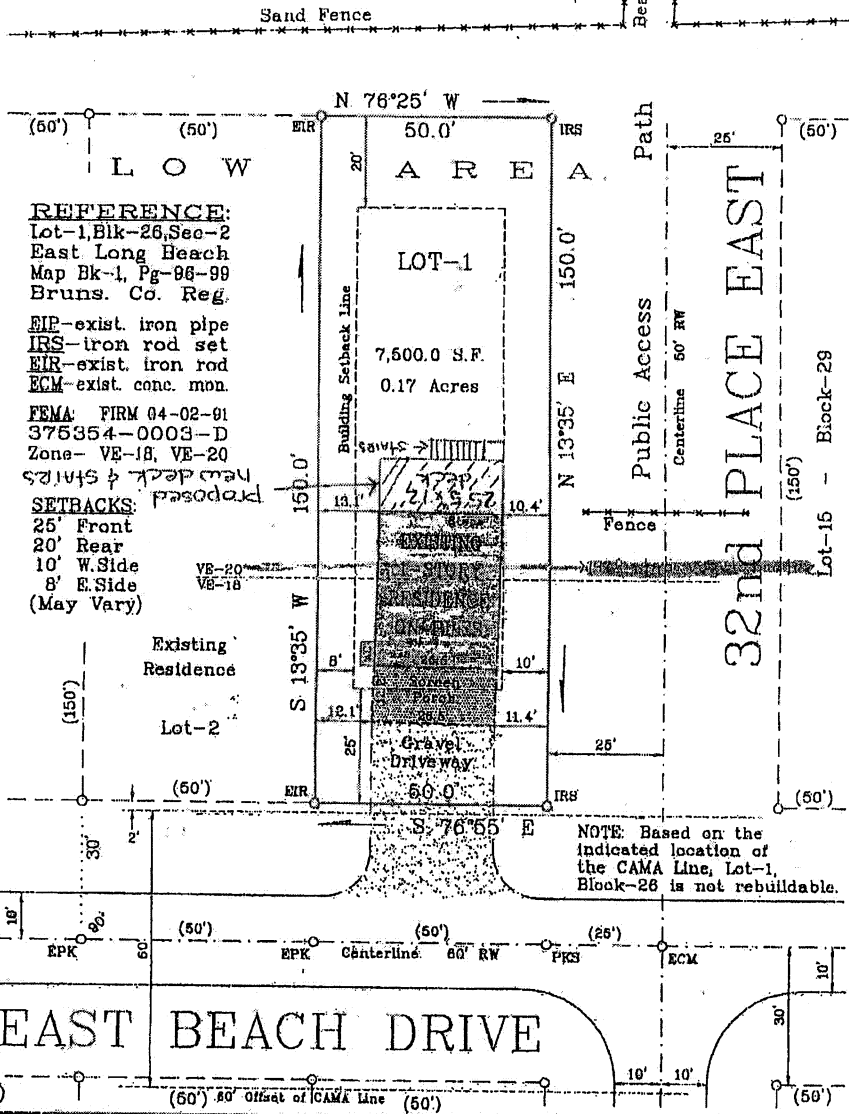
N E W

D U N E

NORTH
B C F
1996-98



I, James F. Boney, Jr., certify that this plat was drawn under my supervision from an actual survey made under my supervision (description: Book SEE page REF); that the boundaries not surveyed are clearly indicated as drawn from information found in Book Ref; that the ratio of precision as calculated is 1:10,000; that this plat was prepared in accordance with Sec. 1600 as amended; Witness my original signature, registration number and seal this 26th day of July, A.D., 2005.
 SURVEYOR *[Signature]* PLS. No. L-2798



Boney Land Surveyors, Inc.
 4922 E Oak Island Dr
 Oak Island, NC 28465
 910-278-9416

PROPERTY SURVEY
 -FOR-
KEN WAYLAND
 3201 EAST BEACH DRIVE

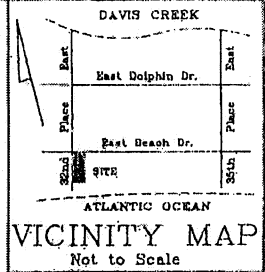
DRAWN BY D.B. DATE 07-26-05
 CHECKED BY J.B. SCALE 1"=30'

-OAK ISLAND-
 Smithville Township
 Brunswick Co., N.C.



Turtle Fence

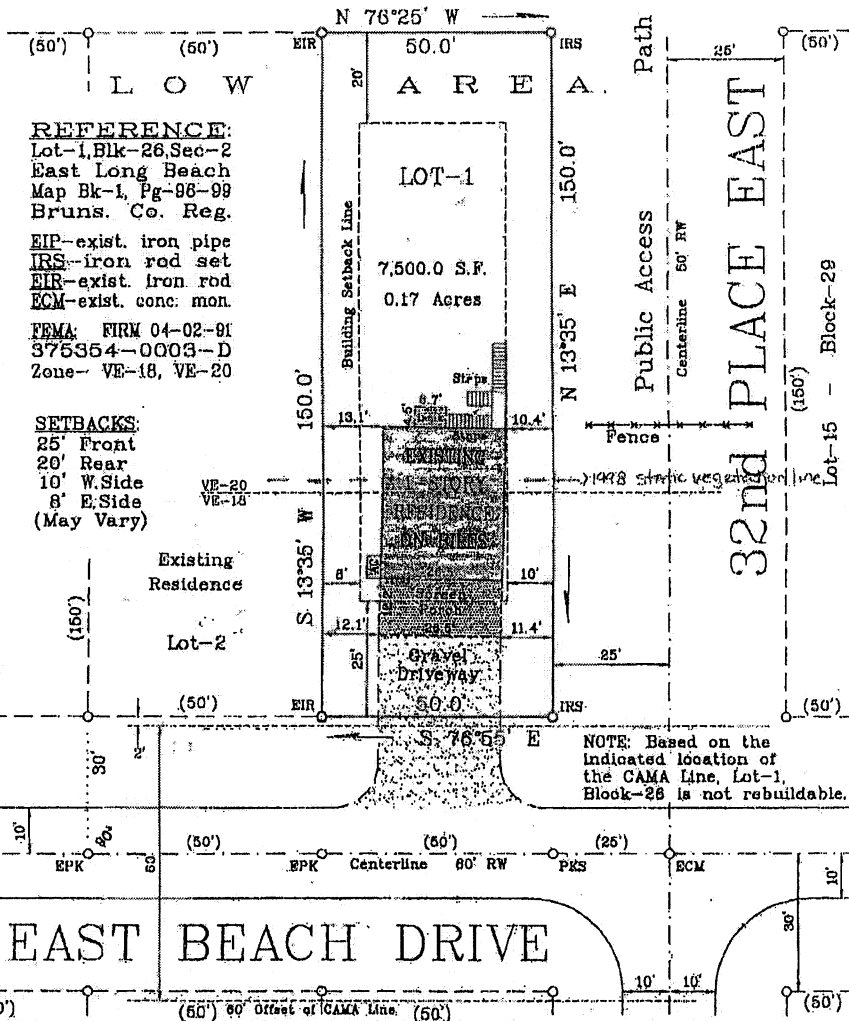
N E W
D U N E



Sand Fence

I, James F. Boney Jr. certify that this plat was drawn under my supervision from an actual survey made under my supervision (Description: Book 355, page 287); that the boundaries not surveyed are clearly indicated as drawn from information found in Book No. 1; that the ratio of precision as calculated is 1:10,000; that this plat was prepared in accordance with "Sec. 1600" as amended. Witness my original signature, registration stamp and seal this 25th day of July, A.D., 2005.

SURVEYOR PLS. No. L-2796



Boney Land Surveyors, Inc.
 4922 E Oak Island Dr
 Oak Island, NC 28465
 910-278-8415

PROPERTY SURVEY
 -FOR-
KEN WAYLAND
 3201 EAST BEACH DRIVE

DRAWN BY D.B. **DATE** 07-26-05
CHECKED BY J.B. **SCALE** 1"=30'

-OAK ISLAND-
 Smithville Township
 Brunswick Co., N.C.

13

K&L | GATES

K&L Gates LLP
4350 Lassiter at North Hills Avenue, Suite 300
Post Office Box 17047
Raleigh, NC 27619-7047
r 919.743.7300 www.klgates.com

November 9, 2010

Mack A. Paul IV
D 919.743.7326
F 919.516.2126
mack.paul@klgates.com

Erik Bliss
7605 Overlook Hills Lane
Cincinnati, OH 45244

Re: Property adjoining "Atlantic Dream" on East Beach Drive, Oak Island, NC

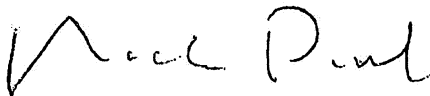
Dear Mr. Bliss:

This letter is to inform you that Kenneth B. Wayland, II and Marilyn O. Wayland have applied for a CAMA Minor Development Permit to construct a deck on their property at 3201 East Beach Drive, Oak Island, NC, in Brunswick County. As required by CAMA regulations, a copy of the permit application, as well as a copy of the project drawings, are enclosed as notification of the proposed project.

No action is required from you. If you so choose, you may sign and return the enclosed no objection form. If you have any questions or comments about the proposed project, please contact me using the information below. If you wish to file written comments or objections with the Town of Oak Island CAMA Minor Permit Program, you may submit them to:

Donna F. Coleman
Local Permit Officer for the Town of Oak Island
4601 E. Oak Island Dr.
Oak Island, NC 28465

Very truly yours,



Mack A. Paul IV

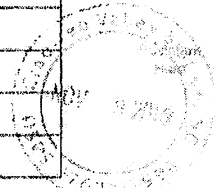
cc: Donna Coleman

7006 3450 0001 0482 0974

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.71



Sent To	Erik Bliss	<i>M. Paul</i>
Street, Apt. No., or PO Box No.	7605 Overlook Hills Lane	
City, State, ZIP+4	Cincinnati, OH 45244	051

**ADJACENT RIPARIAN PROPERTY OWNER
STATEMENT FOR CAMA MINOR PERMITS**

I hereby certify that I own property adjacent to the property of Kenneth B. Wayland, II and Marilyn O. Wayland located at 3201 East Beach Drive, Oak Island, NC.

The Waylands have described to me, as shown in the attached application and project drawings, the development they are proposing at that location, and, I have no objections to their proposal.

(APPLICATION AND DRAWING OF PROPOSED DEVELOPMENT ATTACHED)

Signature

Print or Type Name

Telephone Number

Date

Locality _____ Permit Number _____
Ocean Hazard _____ Estuarine Shoreline _____ ORW Shoreline _____ Public Trust Shoreline _____ Other _____
(For official use only)

GENERAL INFORMATION

LAND OWNER

Name: Kenneth B. Wayland, II and Marilyn O. Wayland

Address: 10124 W. Broad Street, Suite N

City: Glen Allen State: VA Zip: 23060 Phone: _____

AUTHORIZED AGENT

Name: Mack A. Paul, IV

Address: 4350 Lassiter at North Hills Avenue, Suite 300

City: Raleigh State: NC Zip: 27609 Phone: (919) 743-7326

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 3201 East Beach Drive, Oak Island, NC 28465

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) 12' x 25'5" detached deck

SIZE OF LOT/PARCEL: 7500 square feet 0.17 acres

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

TOTAL ENCLOSED FLOOR AREA OF A BUILDING IN THE OCEAN HAZARD AREA OF ENVIRONMENTAL CONCERN (AEC): 1007 square feet (includes all floors and roof covered decks)

SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT-UPON SURFACES IN THE COASTAL SHORELINE AREA OF ENVIRONMENTAL CONCERN (AEC): _____ square feet (Calculations includes the area of the roof/drip line of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC.)(Attach your calculations with the project drawing .)

- Choose the AEC area that applies to your property:**
- (1) within 75 feet of Normal High Water for the Estuarine Shoreline AEC
 - (2) within 575 feet of Normal High Water for the Estuarine Shoreline AEC, adjacent to Outstanding Resource Waters
 - (3) within 30 feet of the Public Trust Shoreline AEC
- (Contact your Local Permit Officer if you are not sure which AEC applies to your property.)

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality? YES NO

If yes, list the total built upon area/impervious surface allowed for your lot or parcel. _____ square feet.

OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit. As a service we have compiled a listing of the kinds of permits that might be required. We suggest you check over the list with your LPO to determine if any of these apply to your project. Zoning, Drinking Water Well, Septic Tank (or other sanitary waste treatment system), Building, Electrical, Plumbing, Heating and Air Conditioning, Insulation and Energy Conservation, FIA Certification, Sand Dune, Sediment Control, Subdivision Approval, Mobile Home Park Approval, Highway Connection, and others.

STATEMENT OF OWNERSHIP:

I, the undersigned, an applicant for a CAMA minor development permit, being either the owner of property in an AEC or a person authorized to act as an agent for purposes of applying for a CAMA minor development permit, certify that the person listed as landowner on this application has a significant interest in the real property described therein. This interest can be described as: (check one)

an owner or record title, Title is vested in Kenneth B. Wayland, II and wife, Marilyn O. Wayland, see Deed Book 2201 page 818 in the Brunswick County Registry of Deeds.

an owner by virtue of inheritance. Applicant is an heir to the estate of _____; probate was in _____ County.

if other interest, such as written contract or lease, explain below or use a separate sheet and attach to this application.

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

I furthermore certify that the following persons are owners of properties adjoining this property. I affirm that I have given **ACTUAL NOTICE** to each of them concerning my intent to develop this property and to apply for a CAMA permit.

(Name)	(Address)
(1) <u>Erik Bliss</u>	<u>7605 Overlook Hills Lane, Cincinnati, OH 45244</u>
(2) <u>Town of Oak Island</u>	<u>4601 East Oak Island Drive, Oak Island, NC 28465</u>
(3) _____	_____
(4) _____	_____

FOR DEVELOPERS IN OCEAN HAZARD AND ESTUARINE HAZARD AREAS:

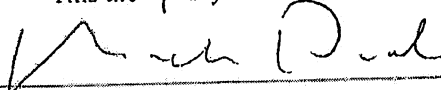
I acknowledge that the land owner is aware that the proposed development is planned for an area which may be susceptible to erosion and/or flooding. I acknowledge that the local permit officer has explained to me the particular hazard problems associated with this lot. This explanation was accompanied by recommendations concerning stabilization and floodproofing techniques.

PERMISSION TO ENTER ON LAND:

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

This application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the AEC hazard notice where necessary, a check for \$100.00 made payable to the locality, and any information as may be provided orally by the applicant. The details of the application as described by these sources are incorporated without reference in any permit which may be issued. Deviation from these details will constitute a violation of any permit. Any person developing in an AEC without permit is subject to civil, criminal and administrative action.

This the 9 day of November, 20 10



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

SITE DRAWING/APPLICATION CHECKLIST

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

PHYSICAL DIMENSIONS

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

PHYSICAL CHARACTERISTICS

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

If you will be working in the ocean hazard area:

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

If you will be working in an estuarine shoreline area:

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

DEVELOPMENT PLANS

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

NOTE TO APPLICANT

Have you:

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

FOR STAFF USE

Site Notice Posted _____ Final Inspection _____ Fee Received _____

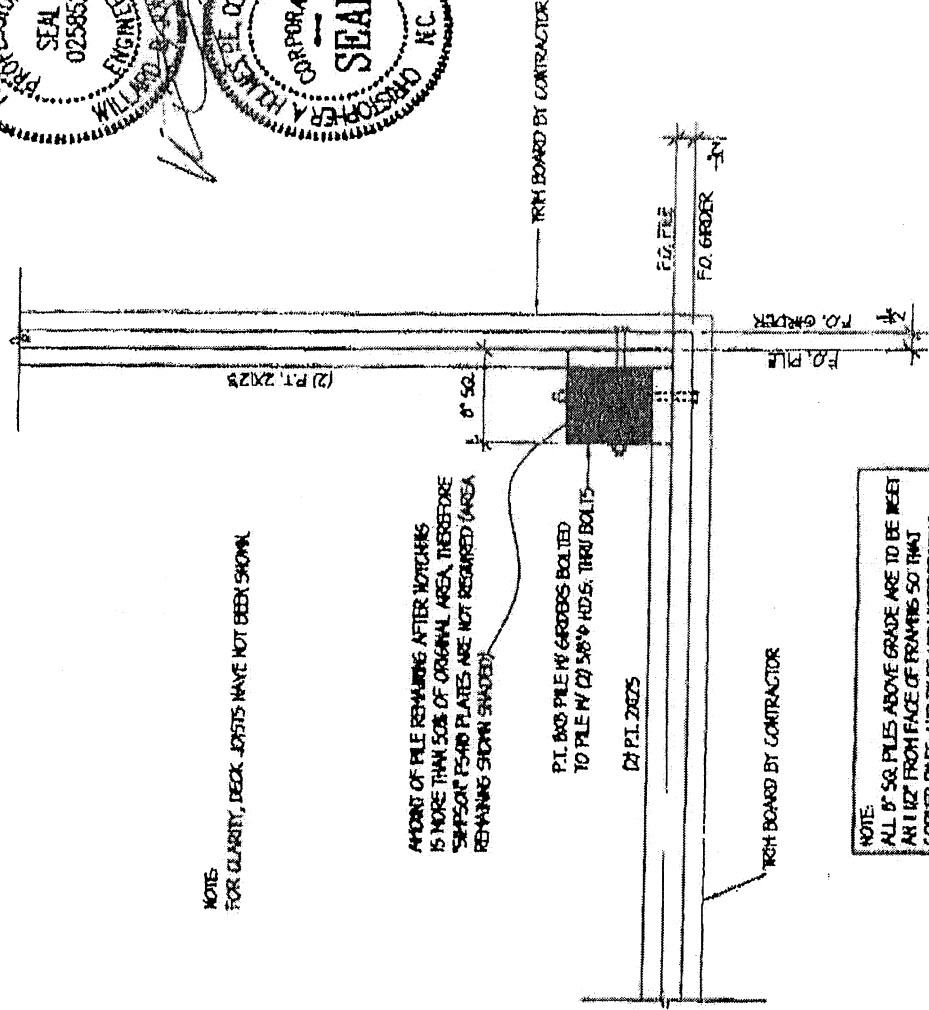
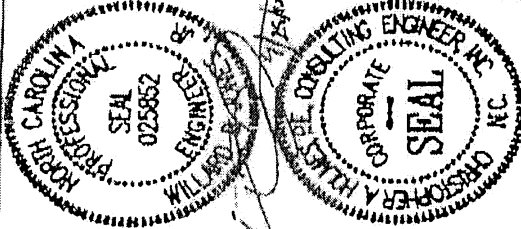
Site Inspections

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

Wayland Residence
3201 East Beach Drive
Opa Lodge, North Carolina

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
1720 Overland Drive (Overland Oaks) - Suite P-4 - Wilmington - N.C. 28403
Phone (910) 794-8988 Fax (910) 794-8989

STRU 4



NOTE:
FOR CLARITY, DECK JOISTS HAVE NOT BEEN SHOWN

AMOUNT OF PILE REMAINING AFTER NOTCHES IS MORE THAN SIZE OF ORIGINAL AREA, THEREFORE SUPPORT PLATES ARE NOT REQUIRED (AREA REMAINING SHOWN SHADDED)

P1. 6X6 PILE W/ GIRDERS BOLTED TO PILE W/ (2) 5/8" HDG. THRU BOLTS
D1 P1.2025

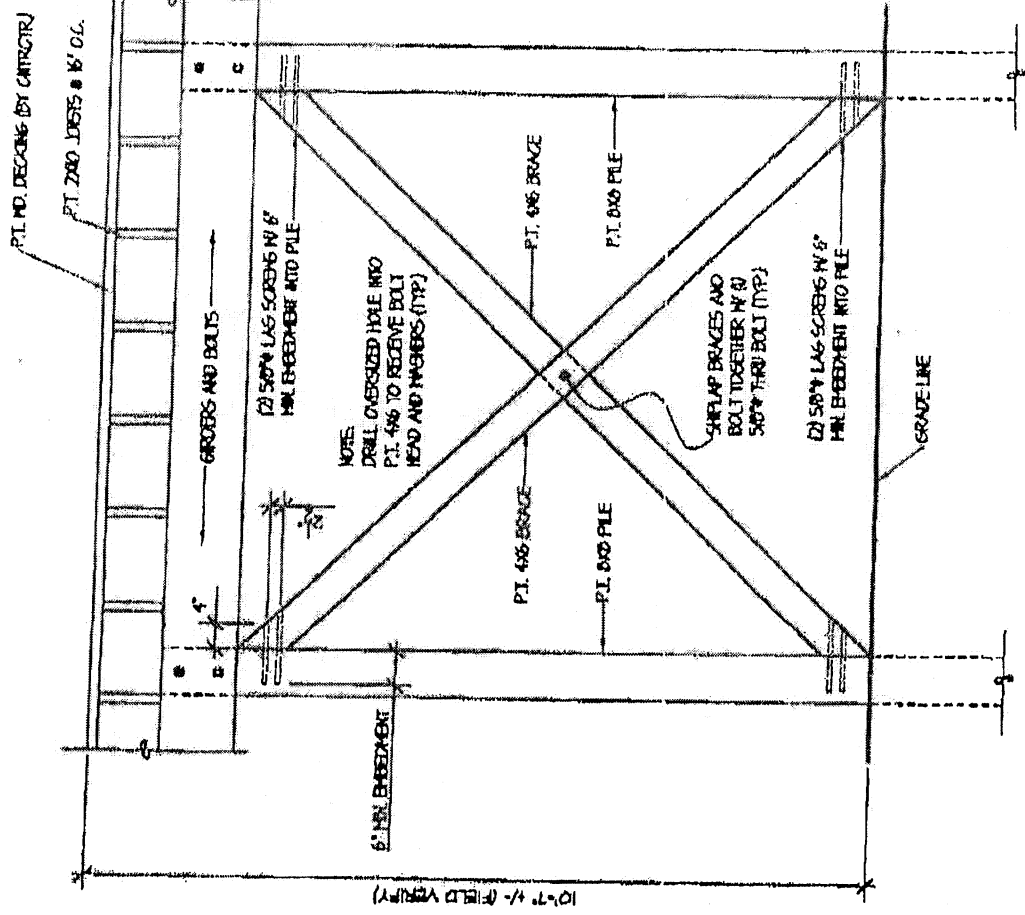
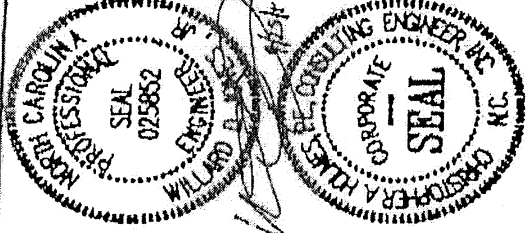
NOTE:
ALL 6" SQ PILES ABOVE GRADE ARE TO BE MET AT 1/2" FROM FACE OF FRAMING SO THAT CORNER PILES AND PILES WITH INTERSECTING GIRDERS WILL NOT BE NOTCHED MORE THAN 50% AND REQUIRE SUPPORT PLATES.

D PLAN VIEW OF DECK PILE NOTCH
STRU 4
SCALE: 1"=1'-0"

Weyland Rockledge
 3281 Rock Beach Drive
 Oak Island, North Carolina
 910.454.7168
 FAX 910.454.7168

CHRISTOPHER A. HOLMES, P.E.
 CONSULTING ENGINEER, INC.
 7735 Oleander Drive (Oleander Oaks) - Suite F-1 - Wilmington, N.C. 28403
 Phone (910) 798-8908 Fax (910) 798-8910

STRU
 3

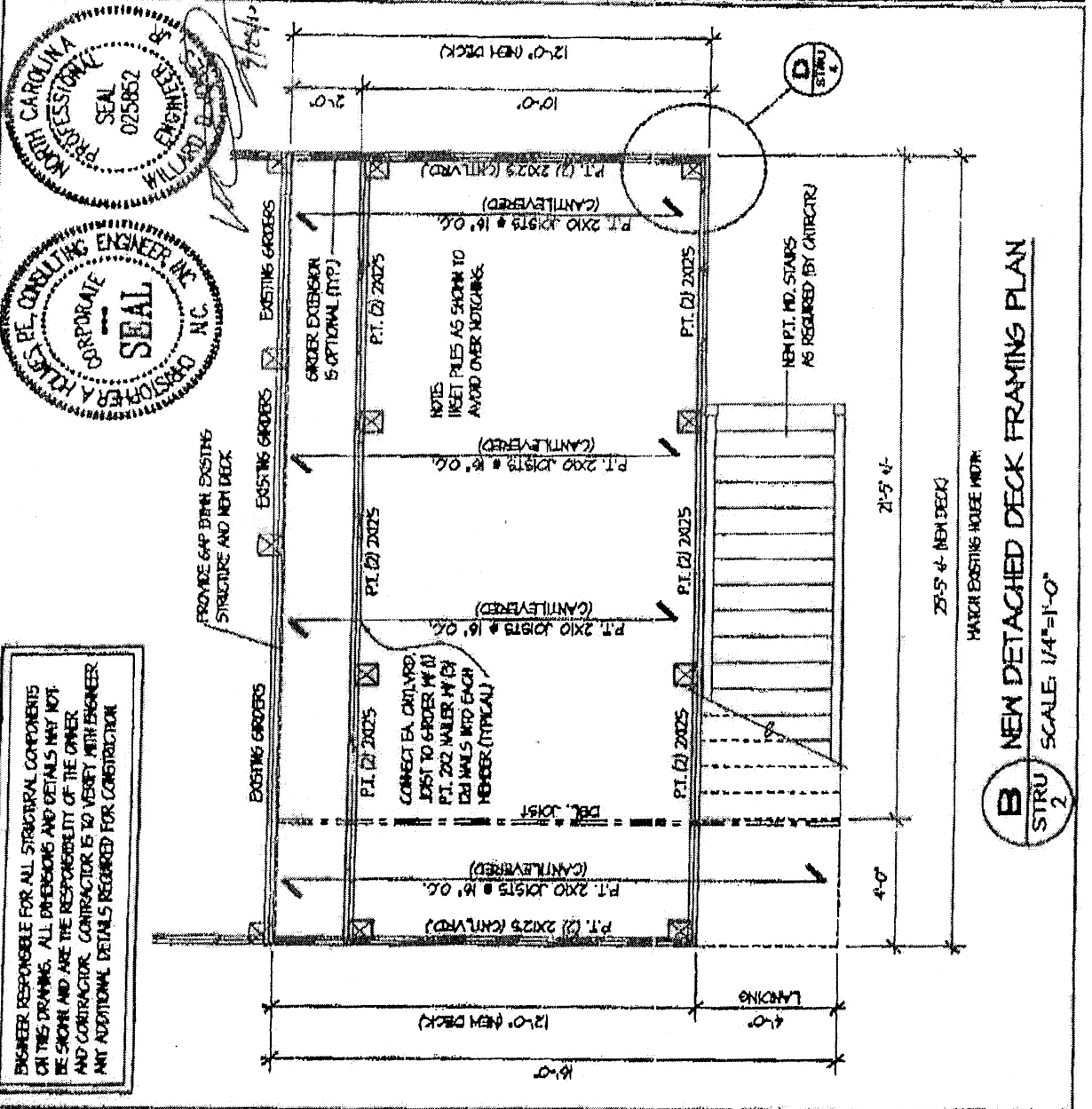


C TYPICAL P.T. 4X6 X-BRACE DETAIL
 STRU 3
 SCALE: 1/2"=1'-0"

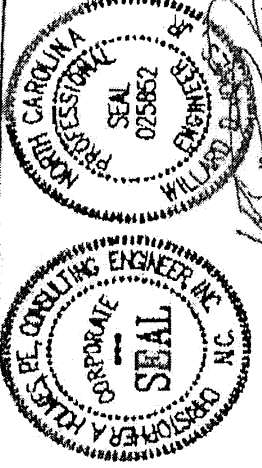
Wayland Residence
3501 East Beach Drive
Oak Island, North Carolina

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
3735 Chandler Drive (Chandler Oaks) - Suite 104 - Wilmington, N.C. 28403
Phone (910) 794-9944 Fax (910) 794-9918 www.christophera.com

STRU 2



ENGINEER RESPONSIBLE FOR ALL STRUCTURAL COMPONENTS ON THIS DRAWING. ALL DIMENSIONS AND DETAILS MAY NOT BE SHOWN AND ARE THE RESPONSIBILITY OF THE OWNER AND CONTRACTOR. CONTRACTOR IS TO VERIFY WITH ENGINEER ANY ADDITIONAL DETAILS REQUIRED FOR CONSTRUCTION.

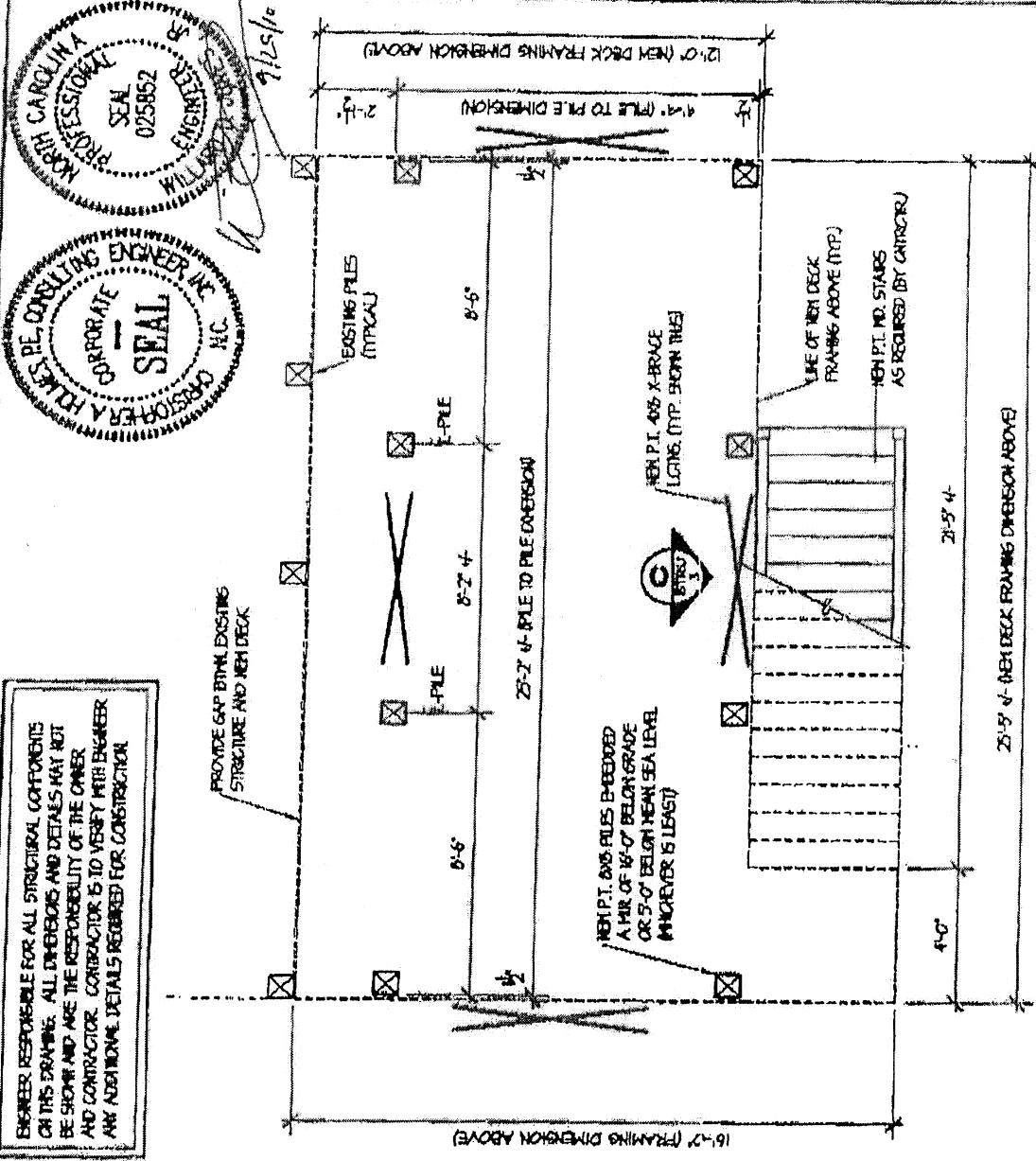


B NEW DETACHED DECK FRAMING PLAN
STRU 2
SCALE: 1/4"=1'-0"
MATCH EXISTING HOUSE WIDTH

Wayland Residence
3201 Main Street Drive
Oak Bluffs, North Carolina

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
5778 Ochsener Drive (Ochsener Court) - Suite P-4 - Wilmington, N.C. 28403
Phone (910) 794-0000 Fax (910) 794-0019 christopher@caeinc.com

Professional Engineer
New No. 1000
08/25/10
08/25/10



PROVIDE GAP BETWEEN EXISTING STRUCTURE AND NEW DECK

9/15/10

SEAL
CORPORATE
CHRISTOPHER A. HOLMES, P.E., CONSULTING ENGINEER, INC. N.C.

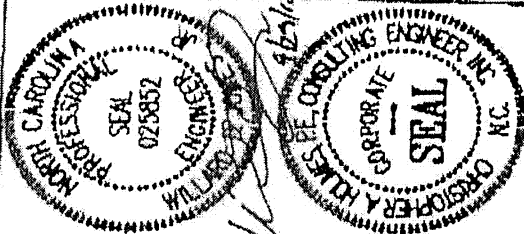
SEAL
PROFESSIONAL
KATH CAROLINA
025862
ENGINEER

A NEW DETACHED DECK PILE PLAN
STRU I
SCALE: 1/4"=1'-0"

Wayland Residence
3201 East Beach Drive
Dan Patch, North Carolina

CHRISTOPHER A. HOLMES, P.E.
CONSULTING ENGINEER, INC.
1728 Charlotte Drive (Charlotte Office) - Suite 1-4 - Wilmington, N.C. 28403
Phone (910) 794-6666 Fax (910) 794-6666 info@christophera.com

STRU 5



GENERAL NOTES:

1) DESIGN CRITERIA:

- FLOOR LIVE LOAD = 40 PSF
- GROUND SNOW LOAD = 10 PSF
- WIND LOAD = 50 MPH
- AND DESIGN BASED ON IBC, I.R.C. CHAPTERS 3.1.44 - EXPOSED CATEGORY C

SEISMIC FORCES DO NOT CONTROL LATERAL FORCE DESIGN AND FORCES CONTROL DESIGN UNLESS NOTED OTHERWISE

2) CONTRACTOR TO VERIFY ALL DIMENSIONS AND DETAILS ON DRAWINGS PRIOR TO CONSTRUCTION

3) ALL WORK MUST COMPLY WITH THE LATEST EDITION OF THE NORTH CAROLINA RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS (N.C.R.C.)

4) LATERAL RESISTANCE IS PROVIDED BY X-BRACES

5) N.C.R.C. = NORTH CAROLINA RESIDENTIAL CODE = NORTH CAROLINA RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS

PILE FOUNDATION NOTES (V ZONE):

1) DRIVE ALL PILES TO 15' BELOW GRADE OR 5' BELOW HSL. WHICHEVER IS LEAST USING AN APPROVED DROP HAMMER OR POWER HAMMERS AS PER SECTION 1000 OF THE NORTH CAROLINA BUILDING CODE. THE MINIMUM SETTLEMENT SHALL BE AS REQUIRED TO MEET THE MINIMUM REQUIREMENTS OF CHAPTER 45 OF THE N.C.R.C. AND TO ACHIEVE THE CAPACITY LISTED ON THE PLANS.

2) ALL TIMBER PILES TO BE SOUTHERN YELLOW PINE AND PRESERVE TREATED WITH CHROMIUM COPPER ARSENATE TO ODO RESISTANCE PER RETENTION - EQUAL ALTERNATIVE PRESERVATIVES ARE ALLOWED (NAPA C3 FOR ROUND PILES OR NAPA C24 FOR SAWN TIMBER PILES) PILE CUTOFFS SHALL BE TREATED IN ACCORDANCE WITH NAPA P4.

3) ALL WOOD MATERIAL BELOW THE BASE FLOOD ELEVATION MUST BE PRESERVE TREATED AND ALL STEEL WORKMARE MUST BE NOT DIPPED GALVANIZED OR STAINLESS STEEL. REFER TO CHAPTER 45 OF THE N.C.R.C. FOR MORE INFORMATION.

4) PILES SHALL MEET NAPA STANDARD C1, C2, & C24 FOR SAWN TIMBER PILES.

5) PROVIDE SIMPSON PS-40 AND PLATES ON EACH SIDE OF PILE WHEN MORE THAN 50% OF PILE IS NOTIFIED. GRADE BEAMS ARE DESIGNED BASED ON ALLOWABLE SOIL CAPACITY OF 6000 PSF UNDER NORMAL CONDITIONS, BUT THE FOUNDATION IS DESIGNED TO SUPPORT THE GRADE BEAMS UNDER SCOUR EVENTS WHILE THE GRADE BEAM PROVIDES BRACING STRENGTH.

6) THE BOTTOM OF THE LOWEST STRUCTURAL MEMBER MUST BE ABOVE THE BASE FLOOD ELEVATION. WHEN HEIGHT OF MEMBER IS GREATER THAN 10'-0" ABOVE GRADE OR CONCRETE SLAB, NOTIFY ENGINEER FOR ADDITIONAL X-BRACE REQUIREMENTS.

STRUCTURAL TIMBER & HARDWARE NOTES:

1) LUMBER SHALL BE AS FOLLOWS: 2) NO SOUTHERN YELLOW PINE (OR BETTER) FOR PLATES, HEADERS, JOISTS, AND RAFTERS. STUDS MAY BE SPRUCE PINE FIR #2 (OR BETTER) IF OTHER SPECIES OF WOOD ARE USED, THEN HURRICANE CLIPS AND NAILS MAY NEED TO BE INCREASED IN SIZE. 3) ALL NAIL SIZES AND NUMBER REQUIRED MAY NOT BE SUFFICIENT. WALKING SHALL BE REQUIRED TO DEVELOP JOINT STRENGTH.

4) ALL HARDWARE SHALL BE NOT-DIPPED GALVANIZED IN ACCORDANCE WITH ASTM A653 AS APPLICABLE (IN CONSULT RESIONS COMPLY WITH TABLE A653.5) AND ALL JOIST HANGERS IN CONTACT WITH PRESERVE TREATED WOOD SHALL BE "SIMPSON 7-HAY GALVANIZED".

5) LUMBER LESS THAN 12" ABOVE GROUND AND LUMBER EXPOSED TO WEATHER SHALL BE PRESERVE TREATED CCA OR ACC 0.25 LBS/CF NET RETENTION ALUMBER IN CONTACT WITH GRADE SHALL BE PRESERVE TREATED CCA OR ACC 0.4 LBS/CF NET RETENTION.

6) USE ASTM A307 BOLTS WITH NUTS AND WASHERS FOR ALL TIMBER CONNECTIONS.

ATTACHMENT E

COASTAL RESOURCES COMMISSION

September 22, 1999

Parker Lincoln Building, Raleigh, NC

(919) 733-2490

AGENDA

Executive Order No. 127 mandates that the Chairman (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

4:00 pm	COMMISSION CALL TO ORDER	Gene Tomlinson, Chair
	Roll Call	Mary Beth Brown
	Other Callers Identify Themselves	
	Statement of No Conflict of Interest	
	Executive Secretary's Report	Donna Moffitt
	- <i>Summary of damage from DCM district offices</i>	
4:15 pm	Proposed General Permit for Replacement of Structures and Reconstruction of Primary or Frontal Dune Systems Damaged or Destroyed by 1999 Hurricanes (7H .2500)	Doug Huggett
	Other Business	
	- <i>October 6 I&S Committee Meeting (New Bern Courthouse @ 10:30 am)</i>	
5:00 pm	ADJOURN	

**COASTAL RESOURCES COMMISSION CREATES
EMERGENCY PERMIT FOR HURRICANE VICTIMS**

RALEIGH — In an emergency meeting Wednesday, the N.C. Coastal Resources Commission (CRC) voted to create an emergency general permit for rebuilding property damaged or destroyed by Floyd or any other 1999 hurricane or tropical storm.

The temporary measure will, in most cases, expedite permit issuance, defer permit fees for hurricane repair work and waive the requirement that property owners notify adjacent property owners before rebuilding. A permit is needed when the damage to a structure is greater than 50 percent of the structure's value.

The permit applies to the replacement of structures, reconstruction of primary or frontal dune systems and maintenance excavation of existing canals, basins, channels or ditches damaged or destroyed by 1999 hurricanes or tropical storms. All replacement, reconstruction and maintenance excavation activities must conform to current standards under the Coastal Area Management Act (CAMA).

Property owners still must obtain authorization from the Division of Coastal Management before starting replacement work. Projects authorized under the permit must be completed by Oct. 1, 2000.

The emergency general permit will apply to damaged property in coastal estuarine areas. It will not apply to damaged oceanfront structures. Such structures require a greater assessment than a general permit can accommodate, said Donna D. Moffitt, director of Coastal Management.

One of the criteria for the general permit is that a structure can be rebuilt essentially in its original location and to its original dimensions. It is likely that storm damage to dune systems rendered some oceanfront lots unbuildable, and that is one reason this general permit is not appropriate for oceanfront property, Moffitt said.

(MORE MORE MORE)

(Coastal Resources Commission Creates Emergency Permit / page 2)

CRC policies allow structures to remain in place as they intrude onto a public beach through gradual erosion, but require that new setbacks be applied after storms or other events that cause severe damage to structures. A setback is the distance from the first line of stable, natural vegetation that a structure may be built. On the oceanfront, the setback is a minimum of 60 feet.

The CRC has specific rules governing post-hurricane establishment of a setback line, and the Coastal Management staff currently is gathering information for creating that line, Moffitt said. "Given our experience with five hurricanes in the past three years, we expect there to be some unbuildable lots," she told the commission.

Commission members concurred with Moffitt's assessment.

Coastal property owners with questions about permits needed for replacing damaged structures may call Coastal Management toll-free at 1-888-4RCOAST (1-888-472-6278). Property owners with questions about property damage should contact the emergency management office in the county where their property is located.

#####

SECTION .2500 - EMERGENCY GENERAL PERMIT FOR REPLACEMENT OF STRUCTURES, THE RECONSTRUCTION OF PRIMARY OR FRONTAL DUNE SYSTEMS, AND THE MAINTENANCE EXCAVATION OF EXISTING CANALS, BASINS, CHANNELS, OR DITCHES, DAMAGED, DESTROYED, OR FILLED IN BY 1999 HURRICANES OR TROPICAL STORMS, PROVIDED ALL REPLACEMENT, RECONSTRUCTION AND MAINTENANCE EXCAVATION ACTIVITIES CONFORM TO ALL CURRENT STANDARDS

.2501 PURPOSE

This permit shall allow for A) the replacement of structures that were located within the estuarine system and/or public trust Areas of Environmental Concern and that were destroyed or damaged beyond 50 percent of the structure's value as a result of any 1999 hurricane or tropical storm; B) a one time per property fee deferment for the reconstruction or repair by beach bulldozing of hurricane or tropical storm damaged frontal or primary dune systems; and C) a one time per property fee deferment for maintenance dredging activities within existing basins, canals, channels, and ditches. Structure replacement, dune reconstruction, and maintenance excavation activities authorized by this permit shall conform with all current use standards and regulations. The structural replacement component of this general permit shall only be applicable where the structure was in place and serving its intended function as of September 4, 1999, and shall not apply within the Ocean Hazard System of Areas of Environmental Concern (AEC) or waters adjacent to these AECs with the exception of those portions of shoreline that feature characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area.

.2502 APPROVAL PROCEDURES

(a) The applicant must contact the Division of Coastal Management and request approval for structural replacement, dune reconstruction, or maintenance excavation. The applicant shall provide information on site location, dimensions of the project area, and his or her name and address.

(b) The applicant must provide:

- (1) Description of the extent of repair, replacement, reconstruction, or maintenance excavation needed, including dimensions and shoreline length;
- (2) In the case of structural replacements, any additional documentation confirming the existence of the structure prior to the hurricane or tropical storm, such as surveys, previous permits, photographs or videos.

(c) For projects involving the excavation or filling of any area of estuarine water, the applicant must provide confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 days of receipt of the notice, and, indicate that no response shall be interpreted as no objection. DCM staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by this General Permit. If DCM staff finds that the comments are worthy of more in-depth review, the applicant shall be notified that he or she must submit an application for a major development permit.

(d) No work shall begin until a meeting is held with the applicant and appropriate Division of Coastal Management representative. Written authorization to proceed with the proposed development may be issued during this meeting.

(e) Replacement, reconstruction or maintenance excavation activities must be completed on or before October 1, 2000.

(f) Authorizations under this General Permit shall not be issued after October 1, 2000.

History Note: Statutory Authority G.S. 113A-107; 113A-118.1;

.2503 PERMIT FEE

The standard permit fee of fifty dollars (\$50.00) has been deferred for this General Permit.

History Note: Statutory Authority G.S. 113A-107; 113A-118.1;

.2504 GENERAL CONDITIONS

(a) This permit authorizes only the replacement of damaged or destroyed structures, the reconstruction of frontal or primary dunes, and maintenance excavation activities conforming to the standards described in this section.

(b) This permit does not authorize the replacement of any structure within any Ocean Hazard Area of Environmental Concern, with the exception of those portions of shoreline within the Ocean Hazard AEC that feature characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area.

(c) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed in this section.

(d) This general permit shall not be applicable to proposed construction when the Department determines after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation, or recreational values.

(e) This general permit shall not be applicable to proposed construction where the Department determines that authorization may be warranted, but that the proposed activity might significantly affect the quality of the human environment, or unnecessarily endanger adjoining properties. In those cases, it shall be necessary to review the proposed project under the established CAMA Major or Minor Development Permit review procedures.

(f) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.

(g) This permit does not preclude an individual from applying for other authorizations for structure replacement that may be available under the Coastal Area Management Act and the Rules of the Coastal Resources Commission. However, permit fees for any such authorization shall not be waived or deferred.

History Note: Statutory Authority G.S. 113A-107; 113A-118.1;

.2505 SPECIFIC CONDITIONS

(a) The replacement of a damaged or destroyed structure shall take place within the footprint and dimensions that existed immediately prior to the damaging hurricane or tropical storm. No structural enlargement or additions shall be allowed.

(b) Structure replacement, dune reconstruction, and maintenance excavation authorized by this permit shall conform to the existing use standards and regulations for exemptions, minor development permits and major development permits, including general permits. These use standards include, but are not limited to:

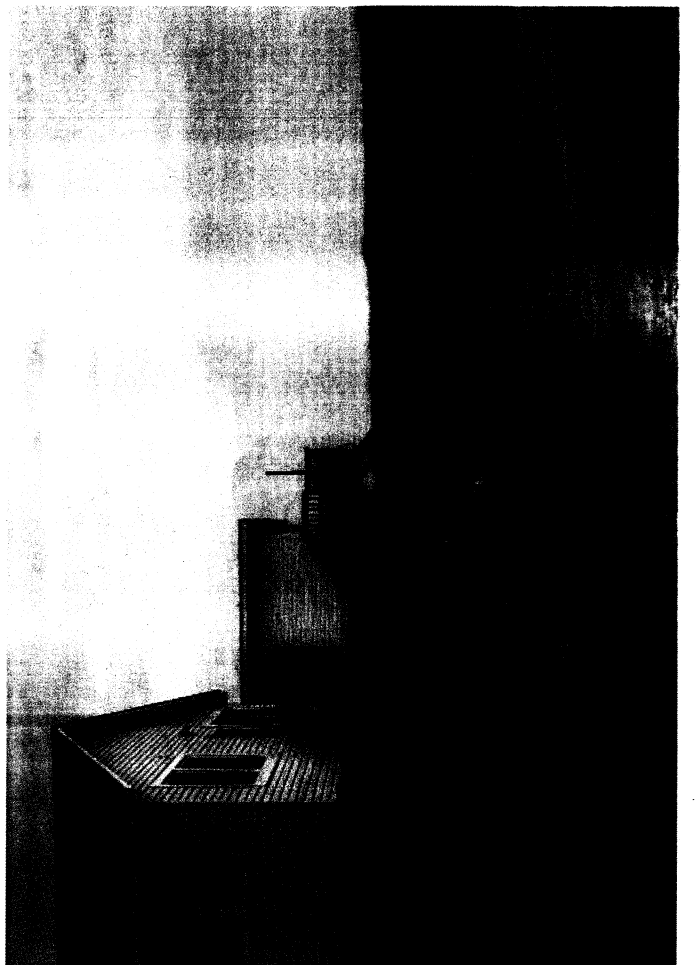
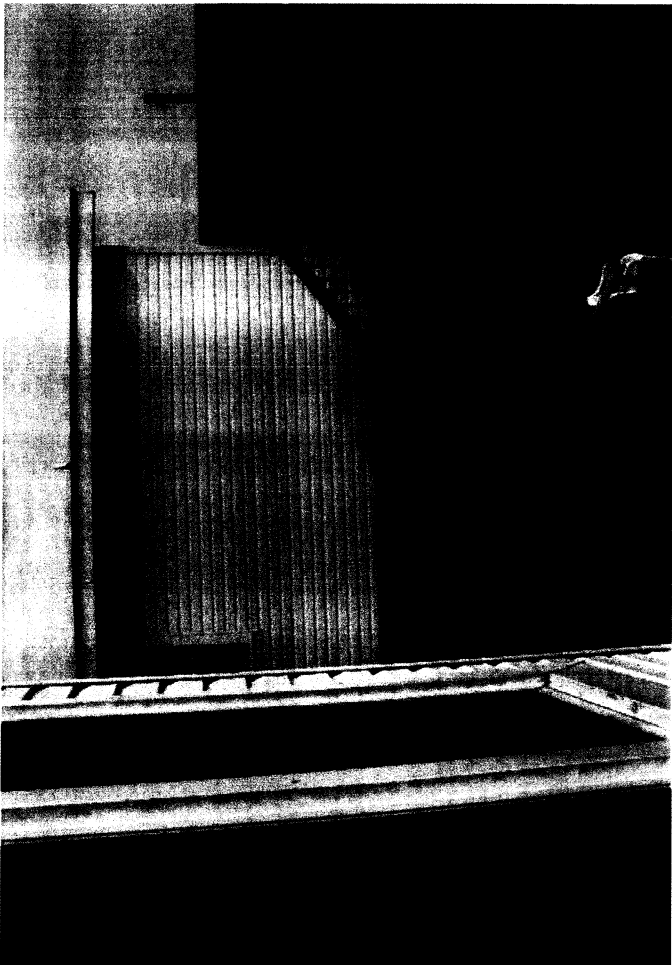
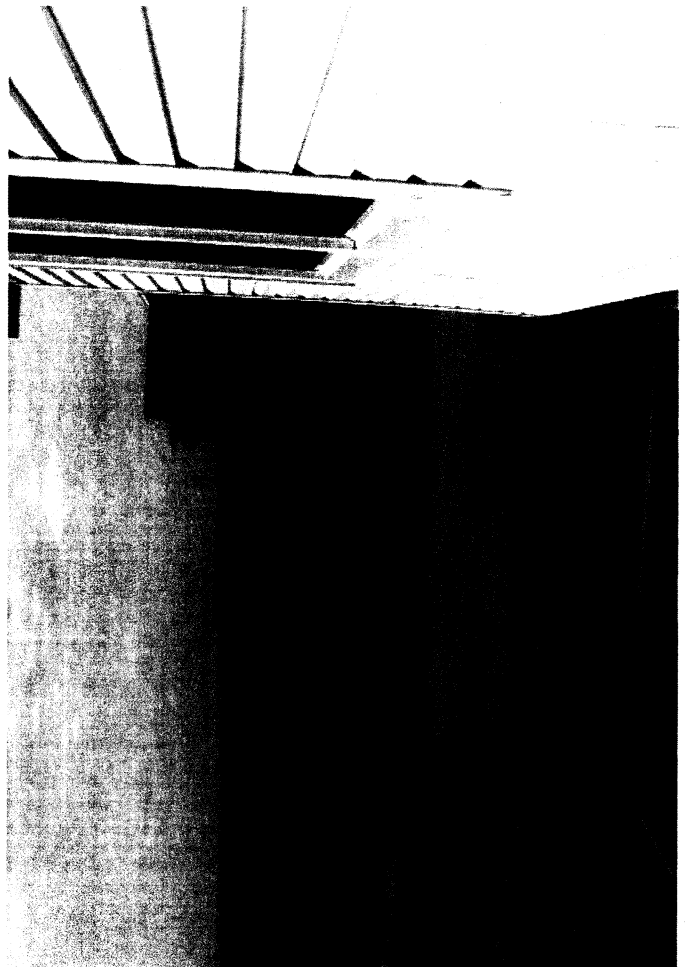
- (1) NCAC T15A:07H.0208(b)(6) for the replacement of docks and piers
- (2) NCAC T15A:07H.0208(b)(7) for the replacement of bulkheads and shoreline stabilization measures
- (3) NCAC T15A:07H.0208(b)(9) for the replacement of wooden and riprap groins
- (4) NCAC T15A:07H.1500 for maintenance excavation activities
- (5) NCAC T15A:07H.1800 for beach bulldozing landward of the mean high water mark

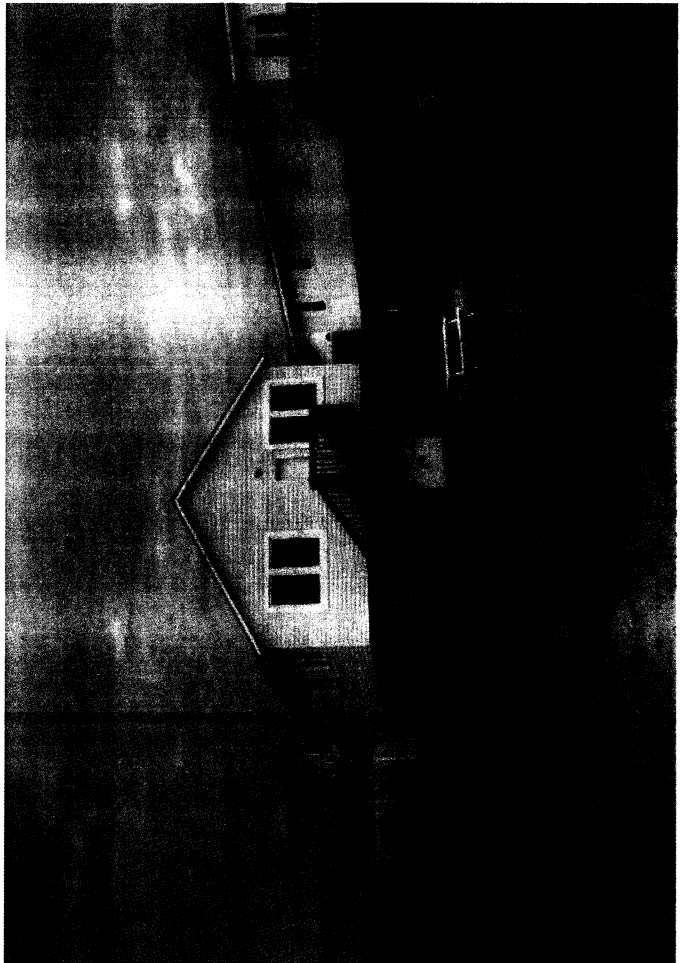
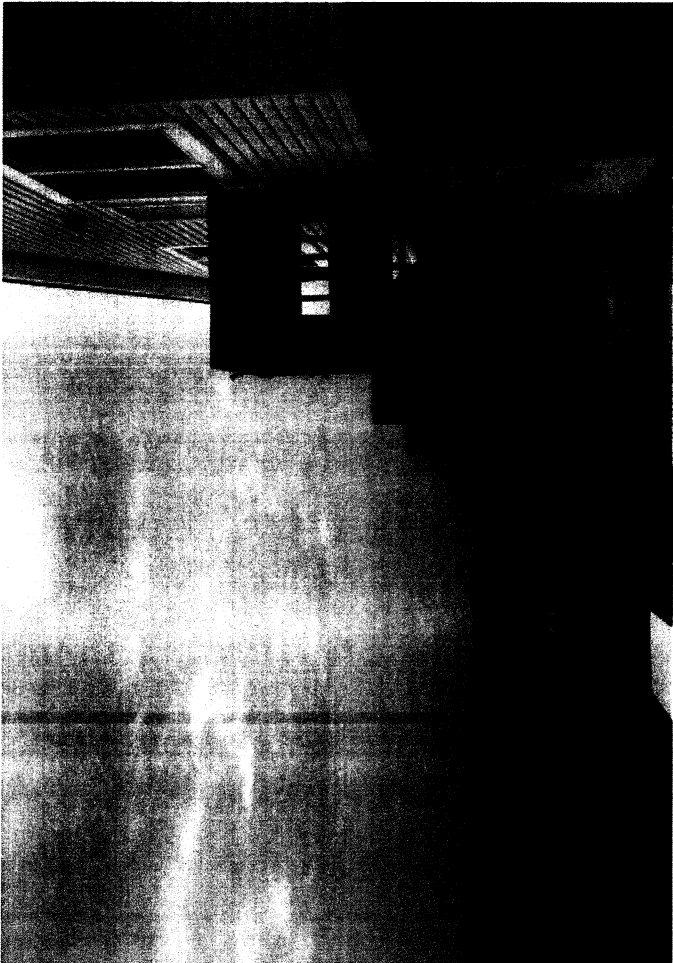
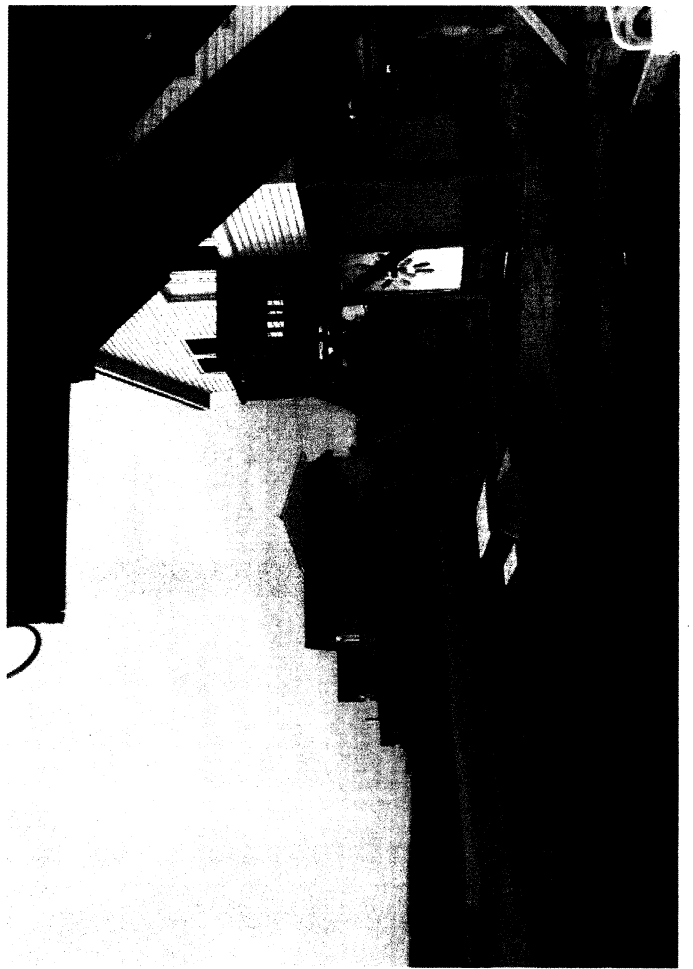
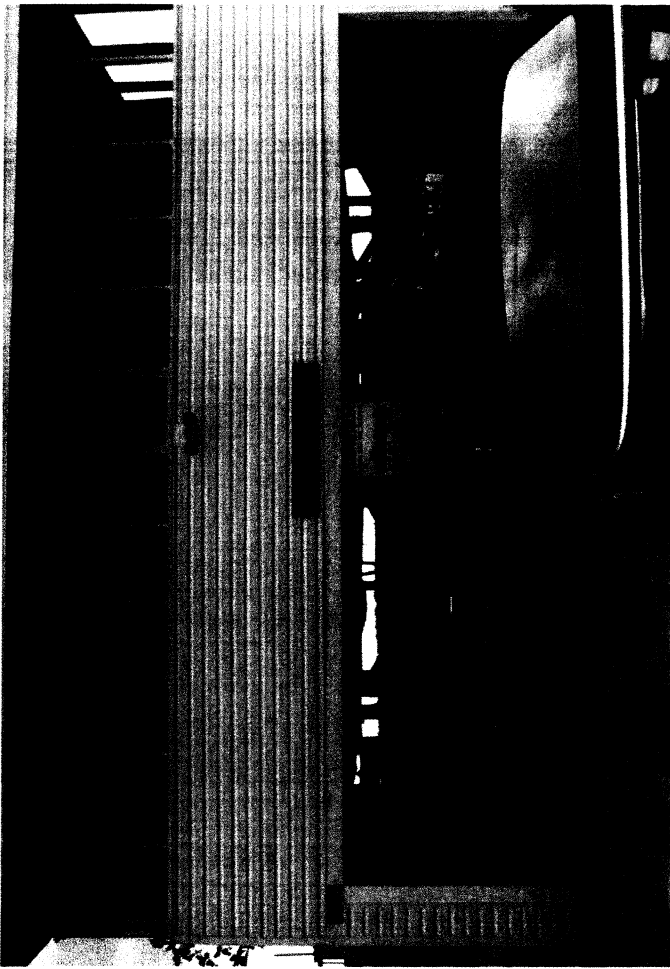
(c) The replacement of an existing dock or pier facility, including associated structures, marsh enhancement breakwaters or groins shall be set back 15 feet from the adjoining property lines and the riparian access dividing line. The line of division of riparian access shall be established by drawing a line along the channel or deep water in front of the property, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. Application of this Rule may be aided by reference to the approved diagram in NCAC T15A:07H.1205(q), illustrating the rule as applied to various shoreline configurations. Copies of the diagram may be obtained from the Division of

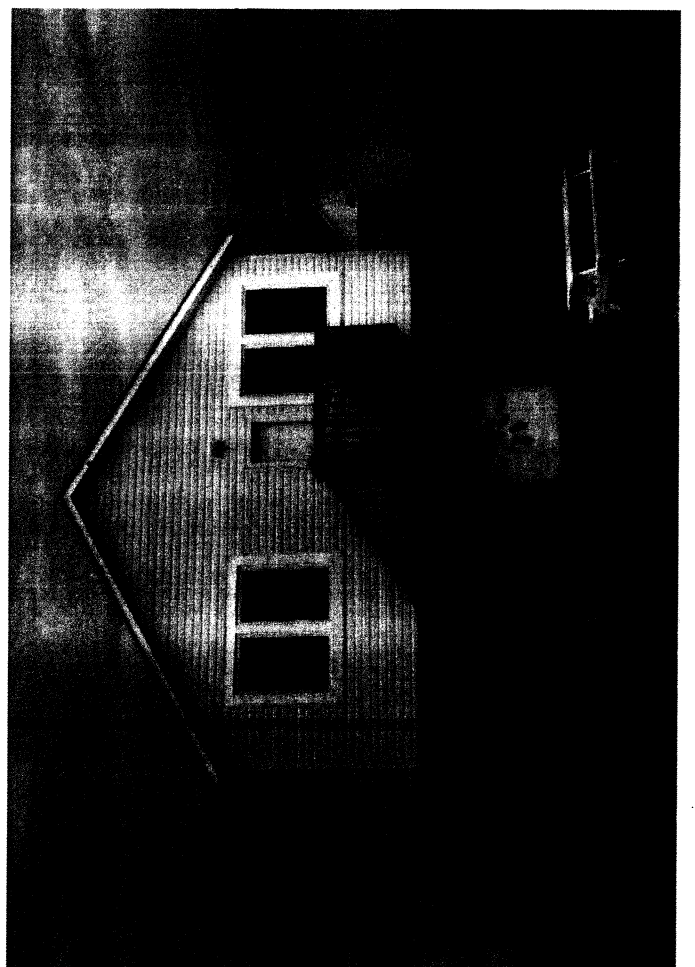
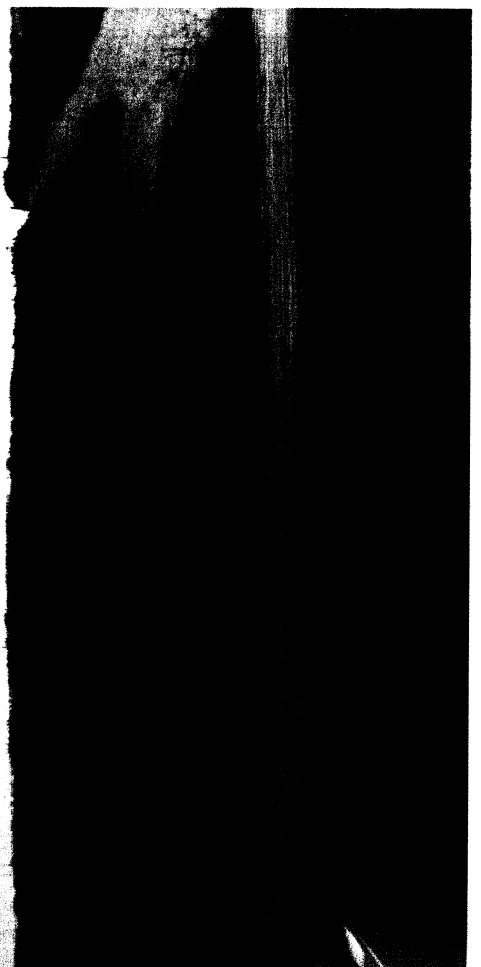
Coastal Management. When shoreline configuration is such that a perpendicular alignment can not be achieved, the pier shall be aligned to meet the intent of this Rule to the maximum extent practicable. The setback may be waived by written agreement of the adjacent riparian owner(s) or when the two adjoining riparian owners are co-applicants. Should the adjacent property be sold before replacement of the structure begins, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the Division of Coastal Management prior to initiating any construction of the structure.

History Note: Statutory Authority G.S. 113A-107; 113A-118.1;

ATTACHMENT F







NC COASTAL RESOURCES COMMISSION (CRC)
November 17-18, 2010
NOAA/NCNERR Auditorium
Beaufort, NC

Present CRC Members

Bob Emory, Chairman
Joan Weld, Vice-Chair

Chuck Bissette
Renee Cahoon
Charles Elam
Bill Peele
Veronica Carter

Ed Mitchell
Lee Wynns
Benjamin Simmons (absent 11/17/10)
Patrick Joyce

Present CRAC Members

Dara Royal, Chair
Frank Rush (Co-Chair)

Bob Shupe
Charles Jones
Tim Tabak
Ray Sturza
Richard Newman
Dave Weaver
Christine Mele
Bill Morrison

Wayne Howell
Webb Fuller
J. Michael Moore
Debbie Smith
Spencer Rogers
Joe Lassiter
Michelle Duval (for Anne Deaton)
Joe Beck

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. Commissioner Joyce read the Evaluation of his Statement of Economic Interest as required by the State Ethics Commission.

Angela Willis called the roll. David Webster, Jerry Old, James Leutze and Melvin Shepard were absent. Bob Emory stated he was familiar with the Mayor of Edenton. Renee Cahoon stated she is an acquaintance with the attorney representing the Petitioner in the variance request. Lee Wynns stated he is also familiar with the attorney representing the Petitioner in the variance request. Each Commissioner reported no conflict of interest nor an appearance of conflict based on the matters before them. Based upon this roll call, Chairman Emory declared a quorum.

MINUTES

Lee Wynns made a motion to approve the minutes of the September 2010 Coastal Resources Commission meeting. Chuck Bissette seconded the motion. The motion passed unanimously (Weld, Bissette, Cahoon, Elam, Peele, Carter, Wynns, Joyce) (Mitchell absent for vote).

EXECUTIVE SECRETARY'S REPORT

DCM Director Jim Gregson gave the following report.

NOAA Meeting

Last week North Carolina hosted the NOAA Southeastern Regional Meeting here on Pivers Island. Participants included coastal program managers and National Estuarine Research Reserve staff from North Carolina, South Carolina, Georgia and Florida, plus officials from NOAA and Sea Grant. There were 41 participants at the meeting and 10 who participated online. During the meeting we discussed overviews of the coastal management program and NERR program from each state, strategies for sea level rise planning, using the NERR sites as platforms for monitoring invasive species and sea level rise, an update on the Governor's South Atlantic Alliance (all four states were present), and ideas for promoting more collaboration among the southeast coastal programs and Reserves.

Reserves LAC Meetings

The Local Advisory Committees for seven National Estuarine Reserve and Coastal Reserve sites met earlier this month to discuss management of the reserve sites. The committees of local residents, partners and leaders provide DCM staff with guidance and feedback regarding reserve management. At each meeting Rebecca Ellin presented updates on Reserve operations, state and federal budget, and rules and policy review; and a review of the 2005-2009 NCNERR 312 accomplishments and program suggestions. Each committee also reviewed the LAC draft operating procedures in detail and received comments from members. The document will become effective in 2011. Each site manager gave an update on the activities at their site, and members were invited to share their thoughts, questions, and concerns.

Clean Marina

Three additional coastal marinas have been certified as North Carolina Clean Marinas, a designation given to marinas that go beyond the state's environmental regulations. The Joyner Marina in Carolina Beach, River Dunes Marina in Oriental, and Manteo Waterfront Marina earned the status as North Carolina Clean Marinas. In addition to the three newcomers, 14 coastal marinas have been recertified as North Carolina Clean Marinas in 2010. Pat Durrett, our Clean Marina Program Coordinator, will be here tomorrow to discuss this program.

Staff News

Scott Kucera joined the division on October 11 as the reserve education coordinator in the Beaufort reserve office. Scott has a strong background in public education development, implementation and administration. He worked with Carolina Ocean Studies and the N.C. Maritime Museum developing and leading estuarine programs. Scott comes to us from the Ocean Isle Foundation, Inc. where he served as executive director of the Museum of Coastal Carolina and Ingram Planetarium handling the administrative duties of running facilities and staff and

supervising educational activities. Washington field representative Kelly Spivey and his wife, Jennifer, welcomed twin boys, Graham and Layton, on October 5. DCM's attorney Ward Zimmerman and his wife Sara welcomed their second son, Grey Alexander Zimmerman on November 15.

Finally, many of you know Patti Fowler, acting section chief of Environmental Health's Shellfish Sanitation and Recreational Water Quality Section. Patti suffered a major heart attack last week while she was in Biloxi, MS for a conference. She is currently in ICU at Gulfport Memorial Hospital. I'm told that she is improving, and it is hoped she will move out of intensive care sometime this week.

CHAIRMAN'S COMMENTS

Chairman Emory stated that Robin Smith, DENR Assistant Secretary for Environment, is present today.

Robin Smith stated the Governor has issued Executive Order #70 which has to do with Rulemaking. The Governor has heard a number of complaints from citizens around the state about rules that are unnecessary, outdated or burdensome. This Executive Order addresses the review of existing rules and applying new principles to rule amendments. The process creates an opportunity for citizen suggestions on existing rules. OSBM is the lead agency and will screen the citizen comments. OSBM will then ask the agencies to address the comments. In our Department we have a large body of rules that are developed by Commissions. The agency head for these rules will be the Chairman of each Commission. The Chairman will certify that the CRC rules meet the Executive Order. Ms. Smith also stated this will be a difficult budget year, which begins on July 1.

Chairman Emory stated this was the third year to speak at the Shape of the Coast. After each one of these conferences someone comes up to tell me how impressed they are with the scope and complexity of what the Commission is dealing with. There was also a good stakeholder meeting held on sandbags prior to the beginning of the CRC meeting. The sandbag stakeholder group will meet again prior to the February meeting.

VARIANCES

Town of Edenton (CRC-VR-10-07) Non-water dependent use
Christine Goebel

Christine Goebel of the Attorney General's office represented Staff. Ms. Goebel stated Hood Ellis, Counsel for Petitioner is present and will represent Petitioner. Ms. Goebel stated the Petitioner is a municipal corporation located in Chowan County and owns Colonial Park adjacent to the Chowan River. In July 2010, the Petitioner applied for a CAMA Major permit to move the 1886 Roanoke River Lighthouse from its current location on the park's upland onto pilings in the Petitioner's boat basin within the Chowan River. The Commission's rules limit non-water dependent structures from being placed over public trust and estuarine waters. This area is an Urban Waterfront as defined by 7H .0209(g); however the lighthouse does not fit within the Commission's rules for allowable structures. Ms Goebel reviewed the stipulated facts of this variance request. Ms. Goebel further stated that Staff and Petitioners agree on two of the four

statutory criteria which must be met in order to grant the variance request. We agree on the first factor that strict application of the rules would cause the Petitioner unnecessary hardship. We do not agree on the second criteria of peculiarity. It is the Petitioner's choice to put the lighthouse over the water and not adjacent to the shoreline in order to meet the tight stimulus grant deadline. The current site on the Colonial Park upland could meet the Commission's Urban Waterfront rules. Staff believes the hardships result from actions taken by the Petitioner. It is the grant deadline and the Petitioner's decision to propose the over-water location instead of pursuing an upland location that causes the hardship. Both parties agree on the fourth factor that the variance request will be consistent with the spirit, purpose and intent of the rules; will secure public safety and welfare; and will preserve substantial justice.

Hood Ellis represented the Petitioner and stated Anne-Marie Knighton, Edenton Town Manager, and Paul Waff, the Town's contractor are also present to answer any questions the Commission might have. Mr. Ellis showed a photo of the site and a model of the lighthouse. Mr. Ellis stated that he is before the Commission to request that the Commission join the State and the Town to grant a variance that would permit the realization of putting the last remaining screw pile lighthouse in the United States back in service as an interactive historical setting for generations to enjoy. Mr. Ellis reviewed the stipulated facts which he contends supports the granting of this variance request. Petitioners do agree with Staff on the first and fourth criteria. On the second criteria, we disagree with Staff as our engineers say that we will jeopardize the bulkhead. On the third criteria Staff focuses on the land site and does not focus on the water site. There is contamination on the site and our engineers do not believe it can be remediated. We want to put the lighthouse on the water because the Town and the State want to restore the lighthouse. The lighthouse will be a historic site and will be open to the public. The benefits of the public outweigh the minimal impacts to the resources as outlined in the CAMA permitting process.

Renee Cahoon made a motion that strict application of the development rules, standards, or orders issued by the Commission will cause the Petitioner unnecessary hardships. Chuck Bisette seconded the motion. The motion passed unanimously (Mitchell, Joyce, Wynns, Peele, Weld, Carter, Bisette, Cahoon, Elam).

Renee Cahoon made a motion that hardships result from conditions peculiar to the petitioner's property. Joan Weld seconded the motion. The motion passed unanimously (Mitchell, Joyce, Wynns, Peele, Weld, Carter, Bisette, Cahoon, Elam).

Renee Cahoon made a motion that hardships do not result from actions taken by the Petitioner. Ed Mitchell seconded the motion. The motion passed unanimously (Mitchell, Joyce, Wynns, Peele, Weld, Carter, Bisette, Cahoon, Elam).

Renee Cahoon made a motion that the variance requested by the petitioner will be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; will secure public safety and welfare; and will preserve substantial justice. The motion passed unanimously (Mitchell, Joyce, Wynns, Peele, Weld, Carter, Bisette, Cahoon, Elam).

This variance request was granted.

PRESENTATIONS

CRC Priorities and Direction

Bob Emory

Chairman Emory stated we must take a deliberate look at rule making. With the budget, we don't know how much time we will have to work on things, but I would like to see the Commission get back to looking at shoreline stabilization.

Draft Program Assessment & Five Year Strategy 2011-2015 (CRC 10-33)

Guy Stefanski

Guy Stefanski stated this will be the fifth strategic plan developed. Section 309 of the Coastal Zone Management Act provides non-matching federal funds for program enhancements. States conduct a detailed program assessment and develop a five year enhancement strategy. There are nine program enhancement areas, as determined by NOAA, and these include wetlands, coastal hazards, public access, marine debris, cumulative/secondary impacts, special area management plans, ocean resources, energy/government facility siting, and aquaculture. Coastal hazards and ocean resources will form the basis of our next plan. The first program change in the coastal hazards strategy calls for the implementation of a statewide, regional-based beach and inlet management plan for North Carolina. The first year of the strategy will focus on Science Panel discussions on six categories of relevant variables to determine coastal hazards that are applicable to coastal planning. The Science Panel and stakeholder will assist in identifying coastal processes and strategies for implementing the BIMP. Data included in the BIMP will be provided to state and local communities to assist in developing future land use and hazard mitigation strategies, environmental review and permitting of mitigation strategies, non-beachfill mitigation strategies, economic and social considerations for cost-benefit studies, identification of funding sources, types of coastal mitigation projects to be considered and prioritization of coastal mitigation projects. At the end of the five years there will be statewide implementation of the BIMP per the four management regions, revised CRC rules, a set of policies addressing project funding, objective criteria for prioritization of projects based on public funding limitations, and education and outreach efforts and materials. The second program change in coastal hazards is the development of new and revised estuarine shoreline management rules. We will continue to develop new and revised estuarine shoreline management rules and policies. This will utilize the following four major initiatives: NCNERR Bulkhead Study; UNC Living Shorelines Study; DCM Marsh Sills Evaluation Project; and DCM's Estuarine Shoreline Mapping Program. The final outcomes of this program change will be analysis and utility of estuarine shoreline mapping data, modified General Permit for marsh sills, new and/or revised estuarine shoreline management rules/strategies, and public education and outreach. The third program change under the coastal hazards strategy is the development of a sea level rise policy, land use planning guidelines, and updated assessment report. The North Carolina Sea Level Rise Assessment Report prepared by the CRC's Science Panel on coastal hazards recommends the CRC adopt a rise of one meter by 2100 as a planning tool. This report will be updated every five years as necessary. The outcomes of this program change will be updates to subchapter 7M policies on sea level rise. This policy will be adopted as the enabling mechanism for changes to the regulatory program. Another outcome is updating the 7B land use planning guidelines to

require local governments to begin planning for sea level rise. The program change in the ocean resources strategy is the development of a coastal and marine spatial planning Memorandum of Agreement and recommendations report to better manage North Carolina's coastal and marine resources. The states are developing coastal and marine spatial planning as a decision making tool. This is a public process of analyzing and allocating special and temporal distribution of human activities in marine areas. It will outline and characterize the marine resources available and show where they are located as well as be a spatial comparison of current and proposed activities highlighting potential user conflicts. Final outcomes of this program change will be a Memorandum of Agreement, the CMSP recommendations report, and changes to ocean resource regulations. The strategy relates to several CRC priorities including the BIMP, estuarine shoreline stabilization, planning for sea level rise, land use planning, management of ocean resources, and planning for wind energy facilities. This strategy will begin on July 1, 2011.

7B Land Use Planning Guidelines Review – Update Frank Rush

Frank Rush stated this is a brief update from the 7B LUP review subcommittee. We have been working on these issues for the past three to four months with DCM staff. There was a major revision to the land use plan guidelines in 2002. This is more of a review. We have had three subcommittee meetings so far. The first meeting was a review of the rules. The second meeting was minor additions and clarifications to the existing rules. The most significant issue the committee has addressed so far is the issue of sea level rise. After discussing it at our October meeting, our subcommittee is recommending option one outlined in the CRC packets which is to require an assessment to recognize public infrastructure and facilities that could be vulnerable to sea level rise. This will require more discussion by the subcommittee since this is such a big issue.

CRAC UPDATE

Dara Royal stated the CRAC would like to welcome Commissioner Joyce. There were two items on the CRAC agenda. The first was a brainstorming discussion for ways in which our coastal program can incentivize the provision of public access in conjunction with project permitting. There were several worthwhile ideas that the CRAC and staff can work together to develop. Some of the ideas generated include increasing coordination with permit commenting agencies to identify mutual priorities and standards for encouraging public access; prioritizing DCM public access money to acquire and preserve traditional access sites; and pursuing expanded public-private partnerships under the conservation tax credit program. Steve Underwood presented some long anticipated highlights from the Beach and Inlet Management Plan and we now await the final document. Members of the Council are of the opinion that now is the right time to pursue a dedicated State funding source for beach and inlet management. Having this plan, plus a dedicated state funding source would put North Carolina in a strong competitive position relative to other states to make the case for continued federal cost share. After three years, this is the last time I will be appearing before the CRC as the Chair of the Advisory Council. At the February meeting Kill Devil Hills Mayor Ray Sturza will take over with Frank Rush remaining in his role as Vice Chair. I would like to thank the entire Commission for your interest in and ongoing support of the Advisory Council.

PRESENTATIONS

Sandbag Stakeholders Meeting Summary (CRC 10-34)

Mike Lopazanski

Mike Lopazanski stated the first sandbag stakeholder meeting was an overview of the issue and there was discussion of specific issues such as removal of sandbags prior to beachfill, the covered and vegetated requirements, and the use of other criteria in permitting and community management of sandbags. At the second stakeholder meeting in October the group discussed how the houses on the beach are the core issue. There was discussion that something similar to the Upton-Jones amendment to the federal flood insurance program was needed to remove structures from the beach before they are destroyed. The group discussed FEMA national flood insurance program involvement and methods of dealing with structures that are condemned frequently such as considering piling depths, permit conditions for removal and a repetitive loss trigger. Mack Paul offered to develop some ideas for a community sandbag management strategy and Sam Pearsall suggested an idea for a strategy that involved a conservation tax credit in exchange for advance agreement on removal of the structure. At the most recent stakeholder meeting Sam Pearsall discussed the tax credit and how it may reduce the level of development in inundations areas, protect the tax payers, provide an opportunity for property owners to plan ahead, and provide compensation to property owners. Mack Paul discussed his ideas on community management which consisted of focusing on areas where this a realistic solution to erosion, an umbrella permit to communities for sandbags, requiring criteria similar to the static line exception, limiting the ability to repair, or the requirement of positing a bond. The group discussed the number of bags not meeting the CRC's rules, the effect of the lack of maintenance on removing the bags, FEMA involvement and the situation in Nags Head. Mayor Oakes told the group that there are 26 structures declared a nuisance and half have been removed. The threat of daily fines motivated the property owners. DCM has reassessed the structures and discussed enforcement procedures. The group discussed a hazard mitigation program may the avenue to take or the possibility of Water Resource Act funds to assist local governments. Another sandbag stakeholder meeting will be scheduled prior to the February CRC meeting.

Re-assessment of Sandbag Removal Priorities (CRC 10-45)

Ted Tyndall

Ted Tyndall stated an intensive inventory process took place in early 2008 that allowed staff to prioritize which sandbag structures should be given the highest priority for removal through enforcement action. Session Law 2009-479 established a moratorium on certain action of the CRC that included preventing sandbag removal based solely on time limits. This moratorium expired September 1, 2010. Staff received clear guidance at the September CRC meeting to continue enforcement of the sandbag rules, including enforcing time limits. Field staff has been directed to revisit the sandbag structures in their area and to assess their condition relative to the assessment that had been conducted in 2008. The reassessment was completed in October and revealed that those structures that ranked the highest back in 2008 remained the highest priorities with the exception of the five structures that have been demolished. Staff has taken into consideration municipalities that have issued condemnation orders or have declared such structures nuisances as part of this reassessment. The Town of Nags Head, where the most egregious sandbag structures are located, has taken an active role in the removal of threatened

houses along its beaches and has provided staff with a list of such structures and their locations. Staff is currently researching the ownership of approximately 12 properties that remain the most egregious from 2008 and another four that are on top of the list based on current conditions. Formal enforcement procedures will begin as soon as ownership verification is complete.

Draft Inlet Hazard Area Rules Stakeholder Meetings Summary (CRC 10-36) Jeff Warren

Jeff Warren stated at the September meeting a draft set of inlet hazard area policies was presented. These draft policies were presented to local communities with inlets. The CRC directed staff to take the draft policy to each community containing an IHA to receive comments and input on the proposed inlet hazard area changes and potential inlet development policies. Direct meetings have taken place in each community. We have received several written comments for consideration. Ocean Isle Beach recommended that the proposed inlet hazard areas and associated rules be tabled until further information is gathered on the proposed setback factors. They requested a reduction in size of the proposed inlet hazard area for Shallotte Inlet and requested that the setback reference to landward most adjacent structure be deleted. The Town of Holden Beach would like for the CRC to verify the data and formula used to determine the proposed IHA relocation and stated that it appears to be capricious and arbitrary. The Town requested clarification of the data used to determine the setback line and whether it should be moved beyond any known erosion data. In a resolution from the Town of Holden Beach the Town said that the modification and expansion of the inlet hazard area has significant potential to negatively impact properties in the Town. The Town of Oak Island did not support the proposed inlet hazard area boundary update and revised development rules and stated that a one size fits all approach may not be the most effective way to manage inlet hazard areas. The Town stated that there are too many unknown variables that could impact properties taken into new inlet hazard areas. The Village of Bald Head Island commented that Bald Head may not be properly categorized as an inlet hazard area. Bald Head suggested that a new classification be developed for Bald Head Island or that the rules and boundaries for Bald Head not be developed until after the study of the Cape Fear River entrance is complete. Bald Head also suggested changing the name of inlet hazard area to channel influence area or inlet proximity area. The Town of Carolina Beach was concerned about how the inlet hazard area boundary change would affect insurance and loans. The existing IHA contains no buildings or structures, but the new boxes would include 109 buildings. They also wanted to wait until the erosion rates were complete before expanding the inlet hazard area zone. The Town of Wrightsville Beach was concerned about adding 28 additional properties in a restrictive area and requested that the CRC not update the boundaries of the inlet hazard area. The Town of Topsail Beach stated in their comments that they do not recommend the adoption of the inlet hazard boundary update. The Town was concerned about the designation having a substantial impact on the development controls and flood insurance costs for property owners and opposed any expansion of the IHA in the Topsail Beach inlet area. The Town of North Topsail Beach commented that there is not a verifiable need for an expansion and that the negative economic impacts to the Town and private property owners outweigh any perceived benefits of the expansion. The Business Alliance for a Sound Economy "BASE" sent written comments as well which stated that they have concerns with both the expanded boundaries and the potential changes to the development rules. They are

concerned that the primary reason for making the changes is because the inlet hazard areas have not been updated since 1979.

Joan Weld made a motion to direct DCM Staff to suspend the inlet hazard area boundary changes until the erosion rates are completed for the entire oceanfront including inlets. Lee Wynns seconded the motion. The motion passed unanimously (Simmons, Mitchell, Joyce, Wynns, Peele, Weld, Carter, Bissette, Cahoon, Elam).

CRC/CRAC Meeting Format Subcommittee Report (CRC 10-37)
Bob Emory

Bob Emory stated at the September CRC meeting a subcommittee was appointed to examine the format of CRC and CRAC meetings. There were concerns that the CRC and CRAC were not working as efficiently as they could be and their interaction could be better. The subcommittee has come up with several recommendations. The first recommendation would be to establish two new committees. The first committee would focus on estuarine and ocean systems and the second committee would focus on issues in the ocean hazard areas. Issues in an AEC for which there is not a standing committee can be handled by an ad hoc committee or assigned to a standing committee. The CRC chair will assign issues to the committees and can assign cross-cutting issues to either committee based on an assessment of workload and member's expertise. The Commission would not act on committee items at the same meeting that the committee reports out to the Commission. This will ensure that CRC members have an opportunity to review the information and deliberate on discussion. CRC and CRAC members will be asked to indicate their preference for committee assignment and the Executive Committee will make the final assignments. The two committees would not meet concurrently so anyone wanting to sit in on both committees could do so. All CRC and CRAC members will have the right to participate in committee discussions, but committee chairs may limit participation to committee members only. Committee members should sit at the front of the room to help identify who is on the committee. Committee chairs should begin each meeting by going over the ground rules. CRAC members will wear nametags provided by DCM to identify them. The CRAC would not meet if there are committee meetings scheduled. Land use plan certifications will be kept as consent items on the CRC's agenda unless there are specific issues that would be better discussed in committee. Both committees would have the option of sending the issue to the CRAC for further discussion. Committee reports would need to be clear and detailed to give the full CRC a complete picture of the committee's discussion.

Charles Elam made a motion to accept and implement the Meeting Format Subcommittee's recommendations. Lee Wynns seconded the motion. The motion passed unanimously (Simmons, Mitchell, Joyce, Wynns, Peele, Weld, Carter, Bissette, Cahoon, Elam).

15A NCAC 07K .0214 Installation and Maintenance of Regulatory Signs Exempted
Jim Gregson

Jim Gregson stated the Division is having an issue with the installation of regulatory signs and trail markers. There have been inconsistencies in how these structures have been treated over the

years with respect to the size and type of sign and whether they required a permit or not. In 7H .0209(d)(1) there is a clear indication that the Commission considers the installation of signs to be development. Staff recognizes that there are certain types of signs, such as commercial advertisements that should be subject to the CAMA permitting process when located within an AEC as they are a private use in a public trust area. There are other types of signs that because of their regulatory or informational nature that may be appropriate in an AEC. Staff's position is that the use of regulatory or information signs used by state, federal and local government agencies is an activity that occurs on a regular an customary basis and has little or no resource impact and should be exempted by rule from the CAMA permitting requirements. This will be similar to the approach the CRC has taken on sand fencing. Rule language has been proposed that would prevent signs and markers from installation in areas or in a manner that would impact public trust rights, emergency vehicle access or navigation.

Veronica Carter made a motion to send 15A NCAC 07K .0214 to public hearing. Pat Joyce seconded the motion. The motion passed unanimously (Simmons, Mitchell, Joyce, Wynns, Peele, Weld, Carter, Bisette, Cahoon, Elam).

Review of Existing Statutes and Rules to Address Offshore Energy Exploration (CRC 10-39)
Mike Lopazanski

Mike Lopazanski stated in response to the BP Deepwater Horizon explosion and resulting oil spill, the General Assembly took some specific action to address the possibility of there being some affect on the State. Session Law 2010-179 addresses the liability for damages caused by the discharge of oil into State coastal waters or offshore waters, added information requirements for State consistency review, directed the CRC to,review existing laws and regulations pertaining to offshore energy regulation and production, directed the Department of Crime Control and Public Safety to review the State oil spill contingency plan, and directed DENR to review the limitations on recovery of damages to public resources or the cost of oil or other hazardous substance cleanup pursuant to the Oil Pollution and Hazardous Substance Control Act. The North Carolina coastal program consists of the administrative rules and policies of the CRC as well as local land use plans. The actions of other North Carolina state agencies are also to be consistent with the N.C. coastal program. This is in accordance with Executive Order number 15 issued by Governor Hunt. Not only can consistency be used for local permit decisions but also allows the state to comment on a federal action or permit under the federal consistency provisions. Federal activities must be consistent to the maximum extent practicable. After a coordinated state review, DCM issues either a consistency concurrence or denial. DCM denials can be appealed to the U.S. Secretary of Commerce. Consistency reviews are conducted for projects such as offshore oil and gas drilling and Army Corps of Engineer's dredging and beach nourishment projects. The CAMA amendments specifically speak to the consistency review of an offshore project and incorporates definitions associated with the Commission's 7M .0400 coastal energy policies, the Oil Pollution and Hazardous Substance Control Act as well as the federal requirements for oil spill response plans. The Oil Pollution and Hazardous Substance Control Act compliments the federal Water Pollution Control Act and establishes liability for oil spills. The Act contains reporting requirements, requires corrective actions, restitution to State and local governments for cleanup costs and imposes civil penalties in the case of intentional releases or those caused by negligence. The amendments to the Oil Pollution and Hazardous

Substance Control Act removes any cap on the liability associated with spills occurring in state waters. The current federal cap is 75 million dollars. Additionally, the General Assembly has expanded the liability provisions to include spills associated with exploration activities as well as from the use of chemical dispersants. Other amendments, such as expanding the definition of offshore waters to include the Gulf of Mexico are reflective of the uncertainty of how the Gulf spill might affect coastal North Carolina. The amendments associated with the uncertainty surrounding the broader impacts of the BP spill incorporate into law the federal requirements for spills and other discharges, assessment of alternatives, and an analysis of a spill causing violation of state or federal water quality standards. Under federal requirements, all offshore activities must include an assessment of spills and other discharges that address bonds, blowout scenarios and a plan for how spills including worst case scenarios would be handled. This type of information is provided to the state for review as part of the consistency determination. The 7M coastal energy policies echo some of these same requirements as well as referencing the federal requirements. At the federal level, the BOEM has promulgated new regulations that focus on workplace safety. While there was intense focus on the environmental impacts of the BP spill, we need to keep in mind that 11 people died in that explosion. There are new rules addressing well design and construction with a focus on blowout preventers that includes third party inspections. The safety rules are also intended to address all phases of activity from construction to decommissioning. The BOEM expects additional drilling safety measures to be proposed in the near future. Since the discussion and subsequent lifting of east coast drilling moratoriums there has been renewed interest in studying offshore energy exploration in North Carolina. Prior to these discussions DCM initiated its own ocean policy study resulting in recommendations that, together with the EMC, resulted in proposed rule changes to address the development of wind facilities as well as a broadening of the Commission's coastal energy policies to be more including of all ocean-based energy development. While the CRC is the latest group tasked with a review of the issues, the Governor's scientific advisory panel is still active and nearing completion of its work. A draft report is being prepared and public meetings to be held in coastal areas are scheduled for the new year. Given the likelihood of additional changes at the federal level and pending recommendations of the Governor's scientific advisory committee, staff is not recommending any action at this time. It is expected that we will have additional information available at the February meeting and we are coordinating with the Department of Commerce for a presentation of their recommendation. In the meantime, the amendments to 7H .0106, 7H .0208, and 7M .0400 allow the siting of wind energy facilities in state waters as well as broaden the coastal energy policies to incorporate all manner of ocean-based energy development as an action item on the Commission's agenda. Staff will be recommending adoption of these rule changes.

Draft Sea Level Rise Policy – Stakeholder Meeting Summary (CRC 10-40)

Tancred Miller

Tancred Miller stated the draft sea level rise policy was taken out for stakeholder input in Raleigh and Morehead City. Feedback from both stakeholder meetings was constructive. A revised draft is before the CRC based on comments received during the two stakeholder meetings. The only action staff is requesting from the Commission is to review the revised draft and make any changes the CRC feels are necessary. Staff will continue to circulate the draft sea level rise policy to gather input.

After reviewing the draft policy, the CRC directed staff to take the draft policy out to local governments to receive input.

Beach and Inlet Management Plan Executive Summary and Recommendations (CRC 10-41) Steve Underwood

Steve Underwood stated the final complete BIMP will be out by the end of this year. The framework for the BIMP is the culmination of past efforts, legislative actions, studies and recommendations. The first one was HB 1840 which was the genesis of the BIMP. We have included more details in the BIMP than the list of items in HB 1840. These seem to be based around one predominate idea of sand management. The Bill was a good start, but the plan needed more. The BIMP recommendations were derived from numerous summits and meetings with a large cross-section of stakeholder groups. The BIMP advisory committee was composed of representatives from federal and state agencies, local governments, academic institutions, and non-profit organizations. The technical work group was comprised of DENR Division representatives. The identification and collection of pertinent data is critical in the understanding of any natural system. These also helped us when we divided the coast into regions. The development of a Beach and Inlet Management Plan was a key recommendation of the Coastal Habitat Protection Plan. The BIMP relies heavily on the CHPP as a data source pertaining to these critical habitat types. The combination of these two high level documents will help in many ways. North Carolina beaches and inlets have tremendous economic importance to the state, providing billions of dollars in economic value through business and tourism, residential and commercial property value, water access for commercial and recreational fisherman, and the marina and boat building industries. The relationship of the economics to the environment is crucial and both need each other. We are offering the BIMP as the state's new tool for our toolbox. Our coast is not only enjoyed by those that live here, but many others that choose to spend their vacations along our coast. Another thing that can make this environment very unique and challenging is the hurricanes and nor'easters we can experience here in North Carolina. This is all the more reason for our coastal program to have a long-term plan for sustainability along our coast. A regional approach was developed so the entire coastal environment could be taken into account, including natural processes as well as the effect of human activities. Planning projects on a regional scale balances environmental and economic needs while facilitating collaboration and pooling local resources. For projects in the same region there is the potential to save time and reduce costs if the environmental, geotechnical and monitoring studies for similar projects are combined. The BIMP divides the North Carolina coast into four main beach and inlet management regions and five sub-regions. First the coast was divided into four main primary regions. The coast was then further divided into localized regions. The State should establish a dedicated Beach and Inlet Management Fund administered by the Department of Environment and Natural Resources. The CRC has recommended that the fund could be used to support beach nourishment, relocation of structures encroaching on the beach, inlet channel realignment, dredging of navigation channels, inlets and waterways, and public beach, inlet and waterway access. State cost shares need to be established. There are 112 miles of developed shoreline that have received monies for either past beach fill projects, are currently part of a long-term USACE beach fill project or are actively involved in a USACE sponsored investigation to study the viability of a long-term beach fill project. Public and private entities

that benefit from the affected resource should contribute to its restoration and maintenance. State revenues pledged to the dedicated fund should be derived from the economic activity in the eight oceanfront counties where tourism and economic activity can be directly attributed to the beaches and inlets. These coastal resources should earn their keep. In the past, the political will to act in response to shoreline erosion or inlet problems was reached only in the immediate aftermath of storm damage or some similar crisis. Active management based on planning and a secure financial foundation would be more effective than management by crisis. North Carolina should continue to aggressively seek federal shore protection projects and other federal financial support to meet its beach and inlet project needs as well as support for federal navigation projects. A stable source of funding for coastal communities could help to facilitate long-term planning and establish a predictable local match. Establishing project priorities should be vested at the local level, and coastal communities should have the flexibility to provide the required match in a manner best suited to local needs and priorities. The state should develop a funding strategy that takes into consideration numerous options to ensure a balanced approach to current and future changes along the coast. The state should initiate an economic cost-benefit analysis to determine the potential costs of a project by project alternative or for selecting another management alternative. The idea is a 100% beneficial use of dredged material. In this way, sediment lost during a federally declared disaster could be replaced at no cost to the local sponsor. The state and USACE have already recognized the importance of a cooperative relationship for successful implementation of the NCBIMP and regional sediment management. The state should promote and support development of innovative dredging technologies for the shallow-draft inlets as opposed to using side-cast dredges which do not place the dredged material onto the beach shoreline. With greater financial predictability from the state, innovative dredge designs and disposal techniques may be embraced by private industry. We will pursue data collection and monitoring in our five year strategy where we will be conducting workshops in all the regions. This data could also be the foundation of centralized datasets from each of the BIMP regions. Such datasets would be a necessary step in reducing local government costs in the development of programmatic regional environmental impact statements and would ensure this information is readily available for planning and emergency needs. Forward thinking policy is required to realize the full benefits of the plan. Support from North Carolina citizens including the Legislature, especially coastal citizens, is critical for BIMP success and implementation. This is what the CRC and CRAC have been doing. Without a forward thinking mindset our coast would look very different than it does now.

Clean Coastal Waters and Vessels Act Implementation (CRC 10-42)
Steve Dellies and Pat Durrett

Pat Durrett stated in 1990 the Coastal Zone Reauthorization Act required management measures to address nonpoint pollution. The Clean Marina initiative was designed to satisfy the requirements of the Coastal Nonpoint Pollution Control Program which is jointly administered by the EPA and NOAA. North Carolina formed the Clean Marina program in 2000, which is administered by the Division of Coastal Management, and receives funding from the coastal nonpoint source program. The NCSERRS coastal training program, NC Sea Grant, NC Big Sweep, Albemarle-Pamlico national estuarine program and the Coast Guard auxiliary are all partners of the NC Clean Marina Program. The NC Clean Marina program is a voluntary initiative designed to show that marina operators can help safeguard the environment by using

specific best management practices and operations techniques. Some of the program incentives include attracting responsible boaters, generation of new sources of revenue, free publicity and recognition, and reducing environmental cleanup and disposal costs. A self evaluation begins the certification process followed by following Clean Marina guidelines and implementing best management practices. Once a completed application is received by the Division and a score of 80% or higher is achieved a Clean Marina representative will visit the site and ensure regulatory compliance. Some of the program benefits include a Clean Marina logo, flag and certificate, media exposure, website link, discounts and cruising guides and maps. Clean Marinas provide environmentally responsible boating education to customers.

The Clean Coastal Water and Vessel Act (SL 2009-345) addresses the discharge of sewage from a vessel into certain coastal waters and requires large vessel marinas to provide for pumpouts or install and maintain pumpout facilities. This Act requires vessel owners and operators of marinas in EPA designated no discharge zones (NDZ) to maintain records of pumpouts from marine sanitation devices. A designated no discharge zone is an area of a water body or an entire water body into which the discharge of sewage, whether treated or untreated, from all vessels is completely prohibited. The Clean Marina program has been coordinating implementation of the requirements with the Division of Water Quality and New Hanover County, specifically Wrightsville Beach.

Steve Dellies, Wrightsville Beach Stormwater Manager, stated one reason New Hanover County requested to establish a no discharge zone was due to the increase in swimming advisories and alerts being issued by DENR. There were no advisories in 2002, two in 2004, seven in 2005, and eleven in 2010. The second reason was due to the impaired nature of the waters in nearly all of New Hanover County which caused shellfishing restrictions. The UNCW Center for Marine Science was contracted by Wrightsville Beach to source track the bacteria. The goal was to attempt to identify the source of the bacteria in Banks Channel. There were eight sites tested from August 2007 through December 2009. The results were frequent human fecal contamination signals. Locations near marinas, yacht clubs, boat ramps and public docks averaged 40 percent. Researchers suspected boat-borne fecal sources since five of the eight sites had significant marine activity. Any interested party, group or local government can present their case to DWQ for a determination of a no discharge zone. The State submits an application to the EPA Regional Administrator for designation. New Hanover County's process began with contacting Coleen Sullins, DWQ Director. Ms. Sullins then assigned a point of contact that helped with working with the municipal and county representatives and helped assemble the draft application. There are three ways to establish a no discharge zone. The area can be an area of particular environmental importance when adequate pumpout facilities are available. The State determines protection and enhancement of waters require greater environmental protection than current Federal regulations and the EPA determines adequate facilities for the safe and sanitary removal or treatment of sewage are reasonably available. In areas of particular environmental importance the states does not have to show adequate and reasonably available pump-out stations. The areas can be of particular environmental importance if it protects human health, sensitive habitats and aquatic organisms, and other animals from adverse impacts. The third way to establish a no discharge zone is if the water is in a drinking water intake zone. Information required for the application includes a description of the water body and surrounding resources, pumpout data, vessel population and usage of subject waters, education and outreach

programs, and enforcement strategies. The UNCW report was completed in July 2008 and the New Hanover County no discharge zone was signed in January 2010. The NDZ includes all New Hanover creeks and unnamed tributaries and tidal creeks and extends out three nautical miles. Some of the current challenges include enforcement, education and evaluation. The U.S. Coast Guard, Wildlife, Marine Fisheries inspectors and local law enforcement can enforce the no discharge zone.

NC Coastal Reserves Rules and Policy Review Rebecca Ellin

Rebecca Ellin stated the North Carolina National Estuarine Research Reserve was designated in 1985 and 1991. The Coastal Reserve was created in 1989 per an amendment to the Coastal Area Management Act. CAMA stipulates that the coastal reserve shall be carried out in coordination with the NERRS. The NC Administrative Code includes the NCNERR within the Coastal Reserve. The Reserves are also State Nature Preserves. The CZMA established the National Estuarine Research Reserve System. CAMA formally establishes the NC Coastal Reserve. The Coastal Reserve rules define the purpose and functions of the program and also define user requirements. The State Nature Preserves Act defines the dedication of outstanding state lands as nature preserves and specifies the uses and management of the Reserve. The purposes of the Reserve are to protect representative coastal North Carolina ecosystems, conduct relevant research to inform sound management of coastal resources, increase understanding of coastal ecosystems and the effects humans have on them, and to accommodate compatible, traditional recreational uses. The rules and policy directives of the Reserve come from state law, the NC Administrative Code, State Nature Preserve dedication letters, management plan policies and local ordinances. However, there are several issues that are not addressed. With the issue of fireworks the Administrative Code, dedication letters and management plan policies do not have any language to address them. The result is permission is not granted based on incompatibility with purposes, maintenance and natural character as well as concerns about noise, pollution, fire and safety. We need to protect the Reserve resources, provide clarity to the public, and enhance enforcement capability. Campfires is another activity that the Administrative Code does not address, the dedication letters allow them by permit for research or management activities, and the management plan policies do not allow them unless they are for research or management activities. We learn about campfires on the Reserves after the fact and the dedication letters and management plan objectives are not enforceable. Another challenge is organized events. The Administrative Code, the dedication letters, and the management plan objectives do not address organized events and we need to be able to asses requests based on compatibility with the purposes of the Reserve, detrimental impacts, access, and safety. There is a lack of consistency among the directives across many topics and Reserve sites. There are unclear terms in the Administrative Code such as essential natural character, natural integrity, compatible, traditional, recreational, and detrimental that need to be clarified. The current rule and policy language is difficult to enforce and there is limited protection of the Reserve sites. There is no clear and consistent guidance for the public. We plan to examine and update the reserve use requirements found in the Administrative Code for managing activities at Reserves sites to promote effective management of the sites for defined purposes. We want to provide clear and consistent rules for the public. We also need to get the support of enforcement by the appropriate agencies. In 2009,

rule signs were installed at the Reserve sites. There is ongoing education through the publication of new site brochures and installation of new welcome and informational signs at all sites, and we are developing general public education programs to build an understanding of the purpose of the program and the need for stewardship.

2010 CHPP Annual Report (CRC 10-43)

Jimmy Johnson, DENR

Jimmy Johnson stated the overarching goal of the CHPP is the long-term enhancement of coastal fisheries associated with each coastal habitat. The 2010 CHPP updates information regarding the ecological functions, conditions, and threats to our coastal fish habitats. The CHPP has been circulated through the Marine Fisheries Commission, the Wildlife Resources Commission, and Environmental Management Commission. Once approved by the Coastal Resources Commission the 2010 CHPP will be sent to the Joint Legislative Commission on Seafood and Aquaculture for their review.

Charles Elam made a motion to approve the CHPP and send to the General Assembly. Veronica Carter seconded the motion. The motion passed unanimously (Mitchell, Joyce, Peele, Weld, Carter, Elam) (Wynns abstained) (Simmons, Bissette, Cahoon absent for vote).

PUBLIC INPUT AND COMMENT

There was no public comment.

ACTION ITEMS

Rule Adoptions

Mike Lopazanski introduced the proposed rule amendments eligible for adoption.

15A NCAC 07H .0106 General Definitions

Lee Wynns made a motion to adopt 15A NCAC 07H .0106. Charles Elam seconded the motion. The motion passed unanimously (Mitchell, Joyce, Wynns, Peele, Weld, Carter, Elam) (Simmons, Bissette, Cahoon absent for vote).

15A NCAC 07H .0208 Use Standards

Bill Peele made a motion to adopt 15A NCAC 07H .0208. Veronica Carter seconded the motion. The motion passed unanimously (Mitchell, Joyce, Wynns, Peele, Weld, Carter, Elam) (Simmons, Bissette, Cahoon absent for vote).

15A NCAC 07M .0400 Coastal Energy Policies

Veronica Carter made a motion to adopt 15A NCAC 07M .0400. Joan Weld seconded the motion. The motion passed unanimously (Mitchell, Joyce, Wynns, Peele, Weld, Carter, Elam) (Simmons, Bissette, Cahoon absent for vote).

Land Use Plan Certifications and Amendments

Mike Christenbury stated Staff recommends certification of the Oak Island Core Land Use Plan Amendment based on the determination that the amendment 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.

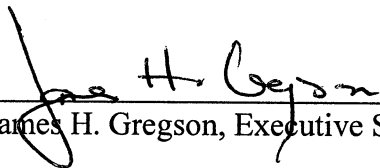
Veronica Carter made a motion to certify the Oak Island FLUP amendment. Bill Peele seconded the motion. The motion passed unanimously (Mitchell, Joyce, Peele, Weld, Carter, Elam, Wynns) (Simmons, Bissette, Cahoon absent for vote).

OLD/NEW Business

Chairman Emory stated the next CRC meeting is scheduled for February 24, 2011.

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-11-01)

January 11, 2011

MEMORANDUM

TO: Coastal Resources Commission

FROM: Mike Lopazanski

SUBJECT: Review of Existing Statutes and Rules to Address
Offshore Energy Exploration – CRC Recommendations

At the November 2010 CRC meeting, the Commission received an update on Outer Continental Shelf (OCS) issues and a review of existing laws and regulations that pertain to offshore energy regulation and production. This review was in response to SL 2010-179 passed by the General Assembly in reaction to the BP Deepwater Horizon explosion and resulting oil spill. This review included an outline of N.C.G.S. 143-215.75 et seq. known as the Oil Pollution and Hazardous Substances Control Act, federal requirements addressing “unauthorized discharges”, in OCS exploration and development plans, and details of the amendments to CAMA creating a new section (113A-119.2 Review of Offshore Fossil Fuel Facilities) that incorporate some provisions of the Commission’s 15A NCAC 7M .0400 Coastal Energy Policies.

Since the last meeting, the US Dept of the Interior has announced a new oil and gas leasing strategy that continues to focus on worker safety, oversight and environmental safeguards. You may recall that the Bureau of Ocean Energy Management (BOEM) began the process of developing a Programmatic EIS for geological and geophysical (G&G) studies in the Mid and South Atlantic Regions in 2010. BOEM will continue to move forward with the G&G studies as they are seen as being critical to future development of oil and gas, wind energy as well as non-energy mineral resources such as sand and gravel. The Programmatic EIS is expected to be completed in 2012. However, the Mid and South Atlantic Regions are no longer being considered for potential development in the 2012-2017 5-Year Lease Program. BOEM’s intention is to focus resources on areas that currently have active leases. The public comment period for the 2012-2017 5-Year Lease Program ends on March 31, 2011.

In an effort to facilitate wind energy development, the Department of Interior has created a framework utilizing state task force involvement in granting leases, easements and right-of-ways for renewable energy development activities. North Carolina requested the formation of a task force in response to an unsolicited application for an offshore wind energy lease. The first meeting of this task force was on January 19, 2011 in Wilmington. The intention of the task force process is to assist the state in the leasing process and procedures for specific actions necessary for the development of offshore

renewable energy. More information on the task force and other issues related to offshore renewable energy development will be provided at the upcoming CRC meeting.

The Department of the Interior has also continued to reorganize its internal structure for managing the nation's offshore resources in the wake of Deepwater Horizon accident. The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) has been further split into the Bureau of Ocean energy Management (BOEM), which will be responsible for leasing, plan administration, environmental studies, NEPA analysis, resource evaluation and the Renewable Energy Program; and the new Bureau of Safety and Environmental Enforcement (BSEE) which will administer safety and environmental regulation functions.

As outlined by DCM staff at the last meeting, the CRC has been charged with reviewing the rules and statutes related to offshore energy exploration with recommendations due to the General Assembly by April 1, 2011. Also outlined at the last meeting, there have been, and currently still are ongoing similar efforts, namely the Governor's Scientific Advisory Panel on Offshore Energy. The Governor's Scientific Advisory Panel has not drafted recommendations regarding the feasibility of tapping offshore energy sources and identifying the benefits and areas of concern. The Panel is in the process of gathering public comment on the issue and has held its first public hearing on January 19, 2011 in conjunction with the NC Offshore Renewable Energy Task Force.

Given that the Commission has acted upon recommendations from Division's Ocean Policy Study Committee to incorporate the siting of wind facilities in the CRC's Use Standards and the Coastal Energy Policies, as well as a broadening of language to cover all ocean-based energy development, Staff suggests that the report to the General Assembly recommend awaiting completion of the Governor's Scientific Advisory Panel's work. The fact that the North Carolina OCS area is not included in the 2012-2017 5-Year Lease Program gives the State time to thoughtfully consider actions of the General Assembly as well as the forthcoming recommendations and actions of other state entities working on the issue. Attached is a draft report that chronicles the recent actions on the part CRC as they relate to OCS energy development. I look forward to discussing the issue further at the upcoming meeting.

DRAFT

NC COASTAL RESOURCES COMMISSION REVIEW OF EXISTING LAWS AND REGULATIONS PERTAINING TO OFFSHORE ENERGY EXPLORATION AND PRODUCTION

REPORT AND RECOMMENDATIONS APRIL 1, 2011

In response to the BP Deepwater Horizon explosion and resulting oil spill, the General Assembly passed S836 (SL 2010-179) to address the possibility of such an event occurring in, or having some affect on North Carolina. Specifically, the General Assembly (1) clarified the liability for damages caused by the discharge of oil, gas or drilling wastes into State coastal fishing waters or offshore waters; (2) provided for the review of information required for a proposed offshore fossil fuel facility in order to determine consistency with State guidelines for the coastal area; (3) directs the Coastal Resources Commission (CRC) to review existing laws and regulations that pertain to offshore energy regulation and production; (4) directs the Department of Crime Control and Public Safety to review the State Oil Spill Contingency Plan; and (5) directs the Department of Environment and Natural Resources to review limitations on recovery of damages to public resources or the cost of oil or other hazardous substance cleanup pursuant to the Oil Pollution and Hazardous Substance Control Act.

In addition to directing the CRC to review existing statutes and rules, the General Assembly amended the Coastal Area Management Act (CAMA), creating a new section (113A-119.2 Review of Offshore Fossil Fuel Facilities) that incorporate some provisions of the Commission's existing 15A NCAC 7M .0400 Coastal Energy Policies. Specifically, the CAMA amendment incorporates some elements from 15A NCAC 7M .0403 Definitions, the NC Oil Pollution and Hazardous Substance Control Act as well as elements of federal definitions.

While the CRC has been recently charged with reviewing the rules and statutes related to offshore energy exploration, there have been, and currently still are ongoing similar efforts. The Commission has considered and acted upon recommendations from Division's Ocean Policy Study Committee to incorporate the siting of wind facilities in the CRC's Use Standards and the Coastal Energy Policies. The amendments to the Coastal Energy Policies also include a broadening of language to cover all ocean-based energy development and not exclusively oil and gas development. The Commission has also heard from the Legislative Research Commission Advisory Subcommittee on Offshore Energy Exploration although those recommendations were couched in light of BP Deepwater Horizon accident in the Gulf of Mexico. The Governor's Scientific Advisory Panel on Offshore Energy is currently charged with analyzing the feasibility of tapping offshore energy sources and identifying the benefits and areas of concern related to energy resources. The group is also studying current laws, rules, processes and procedures that affect the use of offshore energy resources, such as federal leasing programs, state and federal permitting programs, and local zoning and ordinances.

More recently, North Carolina has requested the formation of a task force in response to an unsolicited application for an offshore wind energy lease. In an effort to facilitate

wind energy development, the Department of Interior has created a framework utilizing state task force involvement in granting leases, easements and right-of-ways for renewable energy development activities. The purpose of the task force process is to assist the state in the leasing process and procedures for specific actions necessary for the development of offshore renewable energy.

In reviewing both State and federal regulation, the Commission has found that a great deal of change has occurred and continues to be proposed for offshore energy exploration both for conventional sources as well as renewable forms. At the federal level, the Bureau of Ocean Energy, Management Regulation and Enforcement (BOEMRE) has recently announced revised drilling and workplace safety regulations. The revised drilling rules address new standards for well design, casing and cementing and well control equipment, such as blowout preventers. Operators are now required to obtain independent third-party inspection and certification of each stage of the proposed drilling process. The safety rules include development of a comprehensive safety and environmental management program that identify the potential hazards and risk-reduction strategies for all phases of activity - well design and construction, operation and maintenance, and decommissioning of platforms. According to BOEMRE, additional safety measures, as well as more stringent requirements for blowout preventers, is expected in the near future.

In addition, The Department of the Interior has reorganized its internal structure for managing the nation's offshore resources in the wake of BP Deepwater Horizon accident. The Bureau of Ocean Energy Management, Regulation and Enforcement has been further split into the Bureau of Ocean Energy Management (BOEM), which will be responsible for leasing, plan administration, environmental studies, National Environmental Policy Act analysis, resource evaluation and the Renewable Energy Program; and the new Bureau of Safety and Environmental Enforcement (BSEE) which will administer safety and environmental regulation functions.

In the course of its review, the CRC has learned that the US Department of the Interior has announced a new oil and gas leasing strategy that continues to focus on worker safety, oversight and environmental safeguards. The BOEM is continuing the process of developing a Programmatic Environmental Impact Statement for geological and geophysical (G&G) studies in the Mid and South Atlantic Regions. The G&G studies are seen as being critical to future development of oil and gas, wind energy as well as non-energy mineral resources such as sand and gravel. The Programmatic EIS is expected to be completed in 2012. However, the Mid and South Atlantic Regions are no longer being considered for potential development in the 2012-2017 5-Year Lease Program. BOEM's intention is to focus resources on areas that currently have active leases.

Given that the Commission has acted upon recommendations from Division's Ocean Policy Study Committee to incorporate the siting of wind facilities in the CRC's Use Standards and Coastal Energy Policies, and has broadened the language to cover all ocean-based energy development, the Coastal Resources Commission recommends allowing the Governor's Scientific Advisory Panel's to complete their work and recommendations. The fact that the North Carolina OCS area is not included in the 2012-2017 5-Year Lease Program gives the State time to thoughtfully consider actions

of the General Assembly as well as the forthcoming recommendations and actions of other state entities working on the issue.



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

Beverly Eaves Perdue, Governor

James H. Gregson, Director

Dee Freeman, Secretary

February 9, 2011

CRC-11-08

MEMORANDUM

TO: The N.C. Coastal Resources Commission

FROM: Scott Geis
Ocean and Coastal Policy Analyst

SUBJECT: Coastal and Marine Spatial Planning, and Efforts to Streamline OCS Wind Energy Development

Coastal and Marine Spatial Planning

Competing uses, sensitive and valuable marine resources, and overlapping jurisdictions complicate management decisions in the marine environment. As a result, federal and state agencies are developing Coastal and Marine Spatial Planning (CMSP) capacities to help make better resource management decisions, particularly as demand for ocean space and resources continues to grow. This growth can be attributed to the emergence of new human uses (renewable energy and aquaculture) converging with traditional human development and harvesting of ocean and coastal resources (commercial fishing and commerce). Although CMSP has been underway internationally for nearly 30 years, many efforts in the U.S. are relatively recent.

CMSP is a public process of analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives that are usually specified through a political process.¹ Potential state benefits from implementing the MSP process include identifying and resolving ocean use conflicts, opportunities to streamline permitting processes, and increased certainty for offshore development projects.

Interest in CMSP has increased noticeably over the last year, motivated by President Obama's charge to the White House Council on Environmental Quality's Interagency Ocean Policy Task Force (OPTF), to prepare a national framework for marine spatial planning. President Obama signed an Executive Order establishing a National Policy for the Stewardship of the Ocean, Coasts, and Great Lakes on July 19, 2010. The Executive Order strengthens ocean governance and coordination, establishes guiding principles for ocean management, and adopts a flexible framework for effective coastal and marine spatial planning to address conservation, economic activity, user conflict, and sustainable use of the ocean, our coasts and the Great Lakes.

¹ Ehler and Douvère 2009

Streamlining OCS Wind Energy Development

One of the charges placed on the OPTF through the Executive Order was the establishment of a national policy for the stewardship of the oceans, coasts, and great lakes and the creation of a National Ocean Council (NOC) to strengthen ocean governance and coordination. The final recommendations of the OPTF prioritize actions for the NOC to pursue, among which is the development on a National Information Management System (NIMS) and a NIMS portal for data development and delivery. Incorporated in NIMS are data acquisition and the identification of ocean resources, as well as areas for resource development. Of particular interest is the collection of information related to wind energy resources, the incorporation of this data into NIMS, and the utilization of this data to streamline permitting requirements for offshore developers.

In November 2010, Secretary of the Interior Ken Salazar launched a ‘Smart from the Start’ wind energy initiative for the Atlantic Outer Continental Shelf (OCS) to facilitate siting, leasing and construction of new projects, spurring the rapid and responsible development of wind resources. The anticipated effect of the program is that the initiative will allow for the identification of priority Wind Energy Areas (WEA) for potential development, improve coordination with local, state, and federal partners, and accelerate the leasing process. WEAs are offshore locations that appear most suitable for wind energy development. To address the need for transmission infrastructure to bring this offshore power ashore, the U.S. Bureau of Ocean Energy Management (BOEM) will move forward aggressively, on a parallel track, to process applications to build offshore transmission lines. The identification of WEAs should assist the siting and feasibility reviews associated with potential offshore transmission lines.

The accelerated leasing process will also focus on the development of regional Environmental Impact Statements (EIS) related to wind energy development on the OCS (i.e. North Atlantic, Mid Atlantic and South Atlantic regions). Regional EIS will be developed to satisfy the initial NEPA requirements for determining lease block suitability for wind energy development, and will remove this requirement from potential developers. Additional environmental documentation will still be required from developers for site specific development plans.

To summarize the process, BOEM has established regional task forces to begin work on the development of regional EIS for wind energy development. The North and Mid-Atlantic regions will be the first to move forward with the designation of WEAs, and a report for Secretary Salazar on these designations is expected within days. The simplification of OCS lease blocks to WEA locations is being facilitated through a regulatory change, enabling OCS leases to be issued in 2011 and 2012.

I look forward to discussing these initiatives further at our upcoming meeting.



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

Beverly Eaves Perdue, Governor

James H. Gregson, Director

Dee Freeman, Secretary

February 1, 2011

MEMORANDUM

TO: Coastal Resources Commissions and Coastal Resources Advisory Council
FROM: Mike Lopazanski
SUBJECT: Draft Subcommittee Description/Structure/Assignments

The Commission decided at their November 2010 meeting to return to a business committee structure, utilizing two newly-defined committees instead of the former standing committees (Implementation & Standards, and Planning & Special Issues). The November 2010 memo CRC-10-37 (attached) outlined the general structure and procedures for the new committees. The Commission stated its intent to make committee assignments at the February 2011 meeting.

The CRAC will indicate their assignment preferences at their meeting on the 23rd and report to the Commission on the 24th. Commission members will be asked to indicate their assignment preferences as well. The two committees, along with examples of the types of issues those committees will discuss, are presented below. Some subjects will be overlapping and may be assigned to either committee, an ad hoc committee, or discussed in the committee-of-the-whole format. In all cases, the items discussed in committee will be brought before the full Commission for official action.

Estuarine & Ocean Systems Committee (EOS)

EOS committee will deal primarily with issues related to AECs within that category: coastal wetlands, estuarine waters, public trust areas, and coastal shorelines.

Examples of the types of topics that this committee is likely to face include: development standards along estuarine shorelines, buffers, stormwater, docks and piers, marinas, shoreline stabilization (non-oceanfront), and urban waterfronts.

Ocean Hazard Areas Committee (OHA)

OHA committee will deal primarily with issues related to AECs in that category: ocean erodible area, high hazard flood area, inlet hazard area, and unvegetated beach area.

Examples of the types of topics that this committee is likely to face include: oceanfront erosion rates and setbacks, inlet hazard areas, static lines, sandbags and other oceanfront erosion control structures, and beach nourishment.

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

Beverly Eaves Perdue, Governor

James H. Gregson, Director

Dee Freeman, Secretary

November 3, 2010

MEMORANDUM

TO: Coastal Resources Commission & Coastal Resources Advisory Council

FROM: Tancred Miller

SUBJECT: CRC/CRAC Meeting Format Subcommittee Report

At your September meeting Chairman Emory appointed a subcommittee to examine the format of CRC and CRAC meetings and come up with recommendations to improve the efficiency and interaction. The subcommittee held two conference calls and came up with a number of ideas that Chairman Emory will discuss in more detail at the meeting. The following are the key recommendations.

1. Establish two new committees along the lines of CRC's AECs, 1. Estuarine & Ocean System (EOS) committee, and 2. Ocean Hazard Areas (OHA) committee.
 - EOS committee will deal primarily with issues related to AECs within that category: coastal wetlands, estuarine waters, public trust areas, and coastal shorelines.
 - OHA committee will deal primarily with issues related to AECs in that category: ocean erodible area, high hazard flood area, inlet hazard area, unvegetated beach area.
2. Issues related to issues in an AEC for which there is not a standing committee can be handled by an ad hoc committee or assigned to a standing committee.
3. CRC chair will have the latitude to assign cross-cutting issues to either committee based on an assessment of workload and member expertise.
4. The CRC would not act on committee discussion items at the same meeting that the committee reports out, unless there are extenuating circumstances, e.g. the item is time-sensitive, or is straightforward and non-controversial.
5. CRC and CRAC members will be asked to indicate their preference for committee assignment. The executive committee will make final assignments.
6. The committees would not meet simultaneously, so that all members would not have to miss discussions.
7. All CRC and CRAC members will have the right to participate in committee discussions, but committee chairs at their discretion may limit participation to committee members only.

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8. Committee members should sit at the front of the room to help make it clear who is on the committee and should be participating.
9. Committee chairs should begin each meeting by going over ground rules.
10. CRAC members should wear nametags that DCM will provide.
11. The CRAC would generally not meet if the committees are meeting.
12. Land use plan certifications will be kept as a consent item on the CRC's agenda unless there are specific issues that would be better discussed in committee.
13. In rare cases a committee may reach a point on an issue where they think the issue should be sent to the CRAC for further discussion. This should be an option.
14. Committee reports need to be clear and detailed, including strikethrough/underline rule language if applicable, to give the full CRC a complete picture of the committee's discussion.
15. CRC has been praised for having open meetings and giving the CRAC and public the opportunity to be heard. It is important to keep the sense that there are opportunities for everyone to be a part of the process. Committees may consider setting aside some time for public input.



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

Beverly Eaves Perdue, Governor

James H. Gregson, Director

Dee Freeman, Secretary

February 10, 2011

MEMORANDUM

TO: Coastal Resources Commission
FROM: Tancred Miller
SUBJECT: Progress on Sea-Level Rise Policy Development

At the Commission's direction, staff has been having additional stakeholder meetings with local governments to present the draft sea-level rise policy and solicit feedback. Staff met with Carteret County elected officials and staff on January 12th, and with the Town of Nags Head's Planning Board and staff on January 18th. At both meetings, local officials and staff had significant and similar concerns with the draft policy. A letter from Carteret County's Board of Commissioners outlining their concerns is attached, along with a memorandum from the Carteret County Shore Protection Office to the Board critiquing the draft policy. The letter and memorandum were distributed to all coastal county commission chairs and several other recipients. Also attached is a response letter from Chairman Emory to the Carteret County Board and recipients of the County's letter.

Staff agrees to some extent with some of the concerns expressed by Carteret County and the Town of Nags Head's Planning Board, and is drafting amendments to the draft policy for the CRC's consideration. The amended language will be presented for discussion at the February meeting.

Staff continues to schedule additional meetings with local governments to discuss the draft. The next meeting scheduled is:

Pender County Board of Commissioners
February 21st, 4 pm, 804 South Walker St., Burgaw.

We are tentatively scheduled to meet with Onslow County on March 3rd and Dare County on April 6th. We will schedule additional meetings following the February CRC meeting and any changes that are made to the draft.



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-11-04

To: The Coastal Resources Commission
From: Charlan Owens, AICP, Elizabeth City District Planner
Date: February 10, 2011
Subject: Certification of the Dare County Land Use Plan (February 24, 2011) CRC Meeting

Staff Recommendation: Certification of the Dare County Core LUP based on the determination that the document has met the substantive requirements outlined in 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

Dare County is located in the northeastern part of the state and is bounded by Currituck County to the north, the Atlantic Ocean to the east, Hyde County to the south, and Tyrrell County to the west. The County is geographically divided into four (4) areas: the Outer Banks beaches along the Atlantic Ocean and the Albemarle, Roanoke, and Pamlico Sounds; Colington Island between Colington Creek and the Albemarle Sound, Roanoke Island between the Roanoke and Croatan Sounds, and; the Mainland, between the Pamlico Sound and the Alligator and Long Shoal Rivers.

The jurisdiction of the Land Use Plan is specific to unincorporated Dare County, and includes the Outer Banks communities/villages of Martin's Point, Rodanthe, Waves, Salvo, Avon, Buxton, Frisco, and Hatteras; the Colington Island community and areas outside of the Town of Kill Devil Hills; the Roanoke Island community of Wanchese and areas outside of the Town of Manteo, and; the Mainland communities of Mashoes, Manns Harbor, East Lake, and Stumpy Point. The following incorporated towns are not included in the Land Use Plan: Duck, Southern Shores, Kitty Hawk, Kill Devil Hills, Nags Head, and Manteo.

The 2005 population estimates for Dare County indicate a permanent population of 34,576 persons. Including seasonal estimates, the peak population for Dare County may be as high as 268,294 persons, a 6.5 to 1 ratio of visitor to year-round resident. A total of 49% of the permanent population (16,977 persons) resides in unincorporated Dare County. Unincorporated portions of Dare County are anticipated to accommodate 30% of the visitor population. By 2030, the permanent population for unincorporated Dare County is expected to reach 24,907 persons and the peak population may be as high as 99,120 persons.

While unincorporated Dare County consists of approximately 212,876 acres, over 80% of the land is in public ownership. For the remaining 20%, the county intends to manage growth and

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development in a manner that preserves the historical, cultural, and natural resources that make it a desirable place to live, work, and visit. The goal is to shape growth in the villages so that they retain their historical character. Unincorporated areas should retain the characteristics typical of the entire County before the incorporated municipalities experience urban-style growth.

Some notable policies and recommended actions in the plan include the following:

Working Waterfronts

Policy PA#6

Dare County supports efforts by the State of North Carolina to protect working waterfronts and harbors to ensure their continued viability as working waterfronts and access to public trust waters. Dare County will work with the State and private property owners to identify waterfront sites for acquisition as part of the WAMI (Waterfront Access and Marine Industry Fund) in order to maintain their integral relationship with the commercial fishing industry and for recreational boating access.

Implementation Strategy:

1. Develop a comprehensive inventory of working waterfronts and other waterfront access areas in unincorporated Dare County. (2010)

Maritime Forests

Policy LUC #17

Dare County advocates a combination of managed development guided by the Dare County SED-1 zoning ordinance, and the Limited Conservation classification on the future land use map and a continued program of acquisition of privately-owned lands by the State for the Buxton Woods Coastal Preserve.

Implementation Strategy:

1. Administration of the SED-1 zoning ordinance. (2010-2015)

Water Quality

Policy WQ #3

Protection of groundwater resources and public water supply resources is essential for a safe drinking water supply. Protection measures, such as the designation of wellfield areas as CAMA Areas of Environmental Concern are appropriate when nominated by the applicable local government. Development in existing public water supply AECs shall be in accordance with CAMA regulations and any local zoning regulations that may apply, such as increased minimum lot size standards and limited vegetation removal regulations of as the Buxton Woods SED-1

zoning regulations. These zoning regulations are designed to reduce the threat of potential negative impacts and pollutants from affecting the surficial aquifer underneath the Buxton Woods maritime forest.

Implementation Strategy:

1. Implementation and enforcement of CAMA use standards for Buxton Woods wellfield AEC and Buxton SED-1 zoning regulations. (2010-2015)

There are no policy statements more stringent than the State's CAMA rules "Minimum Use Standards".

The Dare County Board of Commissioners conducted a duly advertised public hearing on the land use plan on November 15, 2010 and adopted the land use plan at the December 6, 2010 regular meeting. The plan was prepared utilizing workshops, an on-line questionnaire, and work sessions conducted by the Planning Board. The goals and policies in the plan are a result of the discussion and analysis of key issues identified.

The public had the opportunity to provide written comments up to fifteen (15) business days prior to the CRC meeting (February 24, 2011). February 3rd was the deadline date. No comments were received.

To view a hard copy of the Dare County Core Land Use Plan, go to the link below and scroll down to Dare County LUP.

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



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-11-05

To: Coastal Resources Commission
From: John A. Thayer, AICP, Manager, Planning & Access Programs
Date: February 10, 2011
Subject: Certification of the Hertford County Land Use Plan (February 24, 2011 CRC Meeting)

Staff Recommendation: Certification of the Hertford County Core LUP based on the determination that the document has met the substantive requirements of 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: Hertford County is located along the west side of the Chowan River, just north of Bertie County, sharing a northern boundary with the state of Virginia. NC 158 and NC 13 are the major state highways that bisect the County intersecting adjacent the Town of Winton and the only bridge connection to Gates County. The County's six (6) municipalities Ahoskie, Cofield, Como, Harrellsville, Murfreesboro, and the County seat Winton, all are included in and part of the plan.

The County is a very low slow growth county. The permanent population for 2009 was 24,248, with less than 38% of the population residing within municipalities. Several large employers are located in Hertford County, including a privately run federal prison, Chowan University, a Nucor steel mill, several Perdue poultry processing facilities, an aluminum extrusion facility.

There are no policy statements more stringent than the State's CAMA rules "Minimum Use Standards".

The Hertford County Board of Commissioners conducted a duly advertised public hearing on the land use plan at a regular meeting on January 18, 2011 after which the LUP was adopted.

The public had the opportunity to provide written comments up to fifteen (15) business days prior to the CRC meeting (February 24, 2011). February 3rd was the deadline date. No comments were received.

To view a hard copy of the Hertford County Land Use Plan, go to the link below and scroll down to Hertford County LUP. http://www.nccoastalmanagement.net/Planning/under_review.htm

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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-11-06

To: The Coastal Resources Commission
From: Charlan Owens, AICP, Elizabeth City District Planner
Date: February 10, 2011
Subject: Certification of the Town of Nags Head Land Use Plan (February 24, 2011) CRC Meeting

Staff Recommendation: Certification of the Town of Nags Head Core LUP based on the determination that the document has met the substantive requirements outlined in 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

The Town of Nags Head is located on the Outer Banks of Dare County and is bounded by the Town of Kill Devil Hills to the north, the Atlantic Ocean to the east, the Cape Hatteras National Seashore and Roanoke Sound to the south, and the Albemarle and Roanoke Sounds to the west.

The 2005 population estimates for Nags Head indicate a permanent population of 3,125 persons. Including seasonal estimates, the peak population for Nags Head may be as high as 23,437 persons. By 2030, the permanent population for Nags Head is expected to reach 4,353 persons and the peak population may be as high as 32,647 persons.

Nags Head consists of approximately 4,300 acres and, as of March 2005, is 83.5 percent developed. Approximately 610 acres remain undeveloped. The Town intends to maintain existing density and intensity thresholds and anticipates reaching build out in the next few years. The Town is working to build a community with an economy based on family vacation tourism, the foundation of which is a high quality beach experience. Elements identified as important in the development and maintenance of the economy include but are not limited to: low-density development and open spaces, a diverse supply of housing accommodations, clean water, a healthy oceanfront beach, a built environment that reflects the heritage of "Old Nags Head", and a well-organized pattern of land uses that promote an active and accessible community.

Some notable policies and recommended actions in the plan include the following:

Natural Hazard Areas

Policy #2

The Town recognizes beach nourishment/renourishment as our preferred alternative for addressing the impacts from barrier island migration and ocean erosion. However, the Town also supports a variety of methods to abate the impacts to ocean erosion, these include, but are not limited to acquisition of threatened structures, relocation of threatened structures and the establishment of innovative technology or designs which may be considered experimental, which can be evaluated by the CRC to determine consistency with 15A NCAC 7M.0200 and the other general and specific use standards with the CAMA rules. The Town, however, is opposed to and will not permit hard structures such as sea walls and bulkheads on the oceanfront regardless of federal or state policies. The Town fully supports the protection of North Carolina's shorelines and the construction of terminal groin and jetty pilot projects along the entire coast of North Carolina as proposed in Senate Bill 599 Session 2007. The proposed bill is currently not consistent with State rules.

Planning Objective:

- A. The Town encourages studies designed to determine the financial contribution the beach makes to the Outer Banks and the region. (High priority)
- B. The Town may acquire oceanfront property when the opportunity arises. (High priority)
- C. The Town will investigate mitigation programs and grants to assist the property owner in the relocation of threatened structures. (High priority)

Water Quality

Proper placement and maintenance of septic systems located in close proximity to drainage ditches or located near the ocean or sound are essential for maintaining high water quality standards. When septic systems fail, effluent can enter these waters and lead to health concerns and closures. If needed, the Town will support research to determine sources of pollution and consider or lobby for additional regulations or enforcement of existing regulations to prevent further degradation and shall seek measures to enhance water quality where needed.

Planning Objective:

- A. The Town shall apply for grant funds for projects that are designed to improve or prevent further degradation of water quality of our ocean and sound system. (High Priority)
- B. The Town will fund or assist in funding a water quality-testing program. (High Priority)

C. The Town shall seek funding and shall support water quality testing of the ocean and sound waters to determine the extent, if any of non-point sources of pollution. (High Priority)

D. The Town shall consider impervious surface limits, vegetated riparian buffers, natural areas and natural buffers in the event that non-point sources of pollution are discovered. (High Priority)

E. The Town shall seek strict enforcement of existing laws and regulations and shall consider new regulations, if needed, to protect estuarine and ocean water quality. (High Priority)

F. The Town shall monitor the implementation plan of the CHPP's program. One purpose of the Coastal Habitat Protection Plan (CHPP's) was to document the role of aquatic habitats, provide their status, describe threats, develop management needs and develop management's options for coastal habitats. (High Priority)

Local Areas of Concern

Policy #7

The Town recognizes that damaged homes and structures on the oceanfront represent a nuisance eyesore and visual blight and the Town may take appropriate measures to abate this nuisance and will seek changes in NFIP regulations to establish regulations for declaration of destroyed structures.

Planning Objective:

A. The Town will take a more proactive approach to condemning these structures and taking prompt action including the issuance of civil citations to abate the nuisance. (Highest Priority)

B. The Town will petition FEMA through our state and regional FIP representatives to consider adopting regulations regarding the determination of destroyed structures.(Highest Priority).

There are three (3) planning policy or objective/implementation statements intended to be more stringent than State and Federal Rules: Land Use Compatibility Policy #4, Objective C. concerning fossil and nuclear energy production facilities; Natural Hazard Areas Policy #2 concerning hardening of the oceanfront shoreline, and; Local Areas of Concern Policy #1, Objective B. concerning the anchoring of fuel tanks.

The Town of Nags Head Board of Commissioners conducted a duly advertised public hearing on the land use plan on October 6, 2010. After a follow-up meeting with the Planning Board on November 22, 2010, the Board of Commissioners adopted the land use plan at the December 1, 2010 regular meeting. The plan was prepared utilizing a citizen survey and public workshops and meetings conducted under the leadership of a CAMA Land Use Plan Committee representing over thirty (30) identified stakeholder groups. The goals and policies in the plan are a result of the discussion and analysis of key issues identified.

The public had the opportunity to provide written comments up to fifteen (15) business days prior to the CRC meeting (February 24, 2011). February 3rd was the deadline date. No comments were received.

To view a hard copy of the Town of Nags Head Core Land Use Plan, go to the link below and scroll down to Town of Nags Head LUP.

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



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-11-07

To: The Coastal Resources Commission
From: Maureen Meehan Will, Morehead City District Planner
Date: February 10, 2011
Subject: Certification of the New Bern Regional LUP (February 24, 2010 CRC Meeting)

Staff Recommendation: Certification of the City of New Bern Regional Land Use Plan 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.

Overview

The City of New Bern is located in Craven County, adjacent to the Trent and Neuse Rivers. Trent Woods and River Bend are primarily residential communities adjacent west of New Bern along the Trent River. US 70 and Hwy 17 are the main transportation routes serving the municipalities.

All of the communities' economies are reliant upon services, wholesale and retail trade, manufacturing, finance/insurance/real estate/ and public administration. In addition, the military installations in Jacksonville and Havelock have a significant impact on the region including the three municipalities. Tourism, while not one of the largest, is another important sector of the economy. There are historic and natural resources, as well as key events that bring visitors to the region throughout the year.

The Future Land Use Plan Map depicts the major land use and development goals and policies of the region. The classification system is broken down into five different classes from conservation, which only allows limited development to developed, which allows the most intensive development, up to 12 units/acre and in commercial overlay areas up to 6 stories high. The map also directs industrial and agricultural uses to the most appropriate areas using soil suitability, adjacent land uses, and water quality considerations.

All policies in the plan are to be used by each jurisdiction, unless noted specifically for a jurisdiction, within the policy section. There are no specific notable policies, but The City of New Bern and Trent Woods do not allow floating homes within their jurisdictions. These policies are more restrictive than the CAMA 7H development use standards.

While the plan is not a formal joint land use plan, the City of New Bern, and Towns of River Bend and Trent Woods all held duly advertised public hearings and voted by resolutions to adopt

the regional land use plan. New Bern's hearing was held on January 11, 2011, Trent Woods' hearing was held on October 7, 2010, and River Bend's hearing was held on October 21, 2010. The plan was prepared through a facilitated process utilizing workshops with citizens, elected officials, and the Land Use Planning Committee. The goals and policies in the plan are a result of detailed analysis and discussion of key issues identified in the workshops.

The public had the opportunity to provide written comments up to fifteen (15) business days prior to the CRC meeting (February 24, 2011). February 3rd was the deadline date. No comments were received, written or otherwise.

To view a copy of the New Bern Regional Land Use Plan, go to the link below and scroll down to New Bern LUP.

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




STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

ROY COOPER
ATTORNEY GENERAL

P.O. Box 629
RALEIGH, NC 27602

REPLY TO: CHRISTINE A. GOEBEL
ENVIRONMENTAL DIVISION
TEL: (919) 716-6600
FAX: (919) 716-6767
cgoebel@ncdoj.gov

TO: The Coastal Resources Commission

FROM: Christine A. Goebel, Assistant Attorney General 

DATE: February 7, 2011 (for the February 23-24, 2011 CRC Meeting)

RE: Third Party and Variance Form Updates

The purpose of this item is to inform the Commission about the recent update of the forms used by Petitioners in Third Party Hearing Requests and Variance cases. Copies of the updated forms are attached, and the primary changes made to the forms are listed below.

Third Party Hearing Request Form:

- Last updated June 2005
- Added spaces for Petitioner's email address in addition to mailing address
- Added additional addresses/means of delivery to DCM and AG's Office
- Removed incorrect Certificate of Service
- Added cautionary note about non-attorney representation in this quasi-judicial proceeding

Variance Request Form:

- Last updated June 2006
- Added correct deadlines based on "new" variance rules effective March 2009
- Removed non-statutory questions
- Added additional addresses/means of delivery to DCM and AG's Office
- Removed incorrect Certificate of Service
- Added cautionary note about non-attorney representation in this quasi-judicial proceeding
- Added complete application check list for clarity which includes requirements provided for by the "new" variance rules effective March 2009

**CAMA THIRD PARTY
HEARING REQUEST FORM**

**DCM FORM 5
DCM FILE No: _____**

PETITIONER'S NAME _____

COUNTY WHERE THE DEVELOPMENT IS PROPOSED _____

PLEASE TAKE NOTE that the undersigned, a person affected by the decision of (check one):

_____ a Local Permit Officer acting on a CAMA Minor Development Permit application; or

_____ the Division of Coastal Management acting on a CAMA Permit application

hereby requests permission from the Coastal Resources Commission (CRC) to file an appeal pursuant to N.C.G.S. § 113A-121.1(b) and 15A N.C.A.C. 07J .0301. *(Please attach a copy of the permit. If you cannot obtain a copy of the permit, please provide the name of the permittee, the project location, and the permit number.)* Requests are reviewed and determined by the chairman of the CRC to determine whether a hearing should be granted. 15A N.C.A.C. 07J .0301(b). Approval of a Third Party Hearing Request allows a petitioner to file a contested case petition with the Office of Administrative Hearings within twenty (20) days of receipt of the CRC's Order. N.C.G.S. § 113A-121.1(b). Denial of a Third Party Hearing Request is a final agency decision which may be appealed to Superior Court under N.C.G.S. § 113A-121.1(b) and Chapter 150B, Article 4.

For this application to be complete, the Petitioner must address each of the three factors listed below. The CRC's chairman's decision to grant a hearing will be based on whether the Petitioner:

- (1) **Has alleged that the decision is contrary to a statute or rule** [N.C.G.S. § 113A-121.1(b)(1)]; *(Please cite the statute or regulation allegedly violated by the permit decision.)*
- (2) **Is directly affected by the decision** [N.C.G.S. § 113A-121.1(b)(2)]; and *(Please describe how you are directly affected by the permit decision. Persons directly affected by a decision often include, but are not limited to, owners of real property in the vicinity of the proposed development who can show that it is likely to have a significant adverse effect on the value and enjoyment of their property, or persons who can demonstrate a history of substantial use of public resources in the area directly affected by the development.)*
- (3) **Has alleged facts or made legal arguments that demonstrate that the request for the hearing is not frivolous** [N.C.G.S. § 113A-121.1(b)(3)]. *(Summarize the evidence and arguments you would present at a hearing in support of your appeal explaining why the permit was improperly issued.)*

Please answer these questions on a separate piece of paper and attach it to this form.

The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as this Third Party Hearing Request before the Commission. These opinions note that the practice of non-lawyer professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written argument may be considered the practice of law. Before you proceed with this hearing request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.

DELIVERY OF THIS HEARING REQUEST

This request must be **received** by the Division of Coastal Management (DCM) within twenty (20) days of the date of the disputed permit decision. N.C.G.S. § 113A-121.1(b). Failure to do so constitutes waiver of the right to request a hearing. A copy of this request must also be sent to the Attorney General's Office, Environmental Division. 15A N.C.A.C. 07J .0301(b).

Contact Information for DCM:

By mail, express mail or hand delivery:

Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

By Fax:

(252) 247-3330

By Email:

Check DCM website for the email address of the current DCM Director
www.nccoastalmanagement.net

Contact Information for Attorney General's Office:

By U.S. mail:

Environmental Division
9001 Mail Service Center
Raleigh, NC 27699-9001

By express mail:

Environmental Division
114 W. Edenton Street
Raleigh, NC 27603

By Fax:

(919) 716-6767

Based on the attached responses to the above factors, the undersigned hereby requests a third party hearing.

Signature of Petitioner or Attorney

Date

Printed Name of Petitioner or Attorney

Email address of Petitioner or Attorney

Mailing Address

(_____)_____
Telephone number of Petitioner or Attorney

City State Zip

(_____)_____
Fax number of Petitioner or Attorney

CAMA VARIANCE REQUEST FORM

DCM FORM 11
DCM FILE No.: _____

PETITIONER'S NAME _____

COUNTY WHERE THE DEVELOPMENT IS PROPOSED _____

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

VARIANCE HEARING PROCEDURES

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

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

VARIANCE CRITERIA

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

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

Please make your written arguments that Petitioner meets these criteria on a separate piece of paper.

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

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

- _____ The name and location of the development as identified on the permit application;
- _____ A copy of the permit decision for the development in question;
- _____ A copy of the deed to the property on which the proposed development would be located;
- _____ A complete description of the proposed development including a site plan;
- _____ A stipulation that the proposed development is inconsistent with the rule at issue;
- _____ Proof that notice was sent to adjacent owners and objectors, as required by 15A N.C.A.C. 07J .0701(c)(7);
- _____ Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- _____ Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- _____ A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.
- _____ This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

Due to the above information and pursuant to statute, the undersigned hereby requests a variance.

Signature of Petitioner or Attorney

Date

Printed Name of Petitioner or Attorney

Email address of Petitioner or Attorney

Mailing Address

(_____)_____
Telephone Number of Petitioner or Attorney

City

State

Zip

(_____)_____
Fax Number of Petitioner or Attorney

DELIVERY OF THIS HEARING REQUEST

This variance petition must be **received** by the Division of Coastal Management at least six (6) weeks before the first day of the regularly scheduled Commission meeting at which it is heard. A copy of this request must also be sent to the Attorney General's Office, Environmental Division, 15A N.C.A.C. 07J .0701(e).

Contact Information for DCM:

Contact Information for Attorney General's Office:

By mail, express mail or hand delivery:

Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

By mail:

Environmental Division
9001 Mail Service Center
Raleigh, NC 27699-9001

By Fax:

(252) 247-3330

By express mail:

Environmental Division
114 W. Edenton Street
Raleigh, NC 27603

By Email:

Check DCM website for the email
address of the current DCM Director
www.nccoastalmanagement.net

By Fax:

(919) 716-6767

Revised: February 2011



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

Beverly Eaves Perdue, Governor

James H. Gregson, Director

Dee Freeman, Secretary

February 10, 2010

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 7H.0106 General Definitions (Wind Energy)
Status: Effective February 1, 2011.
 The proposed amendment creates a definition for wind energy facilities.
2. 15A NCAC 7H.0208 Estuarine System Use Standards (Wind energy)
Status: Effective February 1, 2011.
 This amendment established use standards for wind energy facilities.
3. 15A NCAC 7H.0304 AECs Within Ocean Hazard Areas
Status: Going to public hearing.
 The proposed amendment changes the formula used to calculate the Ocean Erodeable AEC to make it consistent with the CRC's new oceanfront setbacks. The amendment would also remove the "unvegetated beach" designation for Hatteras Island that was adopted in 2004.
4. 15A NCAC 7H.0310 Use Standards for Inlet Hazard Areas
Status: On hold.
 The CRC directed staff to put further rule development on hold until after the oceanfront erosion rate update is complete.
5. 15A NCAC 7H.0214 Installation and Maintenance of Regulatory Signs Exempted
Status: Approved for public hearing.
 The proposed amendment would exempt certain regulatory signs from permitting requirements.
6. 15A NCAC 7M.0400
Status: Effective February 1, 2011.

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

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Amendments proposed in January to define policies for wind energy facilities were approved for public hearing, which was held in September 2010.

7. 15A NCAC 7M.1300

Status: In discussion/development.

A draft policy on sea-level rise is under development and will be on the Commission's February 2011 agenda as a discussion item. Staff is continuing to present the draft to local governments and soliciting their feedback.

COASTAL RESOURCES COMMISSION RULEMAKING STATUS - FEBRUARY 2011

Item #	Rule Citation	Rule Title	February '11 Status	February Action Required?	Next Steps
1	15A NCAC7H.0106	General Definitions	Effective February 1st	No	None.
2	15A NCAC 7H.0208	Estuarine System Use Standards	Effective February 1st	No	None.
3	15A NCAC 7H.0304	AECs Within Ocean Hazard Areas	Going to public hearing	No	Public hearings being scheduled.
4	15A NCAC 7H.0310	Use Standards for Inlet Hazard Areas	On hold	No	On hold until oceanfront erosion rates update is completed.
5	15A NCAC 7K.0214	Installation & Maintenance of Regulatory Signs Exempted	Approved for public hearing	No	Public hearing to be scheduled.
6	15A NCAC 7M.0400	Coastal Energy Policies	Effective February 1st	No	None.
7	15A NCAC 7M.1300	Sea-Level Rise Policy	In discussion	Discussion item	Review local government input received to date, consider revisions, continue local gover

CHPP Steering Committee Meeting
March 17, 2010
Pitt County Agricultural Extension Auditorium
Greenville, NC

Meeting Attendees: BJ Copeland (MFC), Pete Peterson (EMC), Tom Ellis (EMC), Bobby Purcell (WRC), Ray White (WRC), David Knight (DENR), Scott Chappell (DMF), Anne Deaton (DMF), Katy West (DMF), Kevin Hart (DMF), Jessi O'Neal (DMF), Jeanne Hardy (DMF), Jim Gregson (DCM), Mike Lopazanski (DCM), Ted Tyndall (DCM), Scott Geiss (DCM), Bill Diuguid (DWQ), Matt Matthews (DWQ), Jason Green (DWQ), Patti Fowler (DEH), Jimmy Johnson (DENR), Bill Swartley (DFR), Rob Breeding (EEP), Kristin Miguez (EEP), Marc Recktenwald (EEP), Chad Thomas (WRC), Lauern Kolodij (NCCF)

Call to Order and Introductions:

Pete Peterson called the meeting to order at 10:10am. Pete welcomed David Knight, Assistant Secretary for Natural Resources, to his first meeting of the CHPP Steering Committee. Introductions of all other attendees took place. The agenda was reviewed and one additional item was added to the agenda – review of a beach nourishment permit in Dare County.

A motion to accept the minutes was made by BJ Copeland and a second was provided by Tom Ellis. Pete had one spelling correction and Ted Tyndal asked that the second paragraph on page two be reworded for accuracy and clarity. The motion passed, with Pete's correction and Ted's revised wording, without dissent.

It was noted that there was no CRC representation. Bob Emory had a previous commitment and he only recently appointed Joan Weld to replace Waylon Sermons on the CSC. Joan was unable to attend on such short notice. Ray White asked for clarification of the role of the WRC on the steering committee.

It was noted from the minutes of the meeting from 3-17-2009 that DCM used 2 feet for the minimum depth requirement in their revised Dock and Pier Rules. The steering committee had recommended 2½ feet. Discussion followed regarding this difference.

Low Impact Development Presentation – Lauren Kolodij, North Carolina Coastal Federation

Lauren Kolodij gave a presentation regarding the need for Low Impact Development (LID) in coastal North Carolina. LID's help to prevent new sources of stormwater run-off by keeping water on site before the run-off can become a problem. She also noted that run-off is a significant problem in eastern North Carolina and that there is a need to retrofit existing areas into LID's. Lauren noted that recommendation 4.5d of the 2007-2009 Implementation Plan specifies the need to "increase incentives for LID." She suggested a sub-committee of the CSC work together on a resolution of support for LID's which could be taken to each of the 4 commissions for their agreement. It was decided that this would be considered after the 2010 CHPP has been rewritten and adopted.

Tom suggested that Lauren give her presentation to the EMC's Water Quality Committee.

2010 “Draft” CHPP Chapter Review – Anne Deaton

Prior to discussion of the proposed chapters, there was discussion about the need to produce hard copies of the final document and if so, how many need to be produced. APNEP has agreed to help fund part of the printing. There was also discussion about the need to strengthen the summary portion of each of the chapters and that the final chapter, once again, should be “Recommendations.”

SAV Chapter

Anne stated that comments on this chapter had been received from DWQ, DMF, DCM, DOT and NOAA. The comments have been incorporated into the new chapter. Also included in the revised chapter is the new definition of SAV habitat, new research on modeling of suitable and potential SAV habitat, the value of ecosystems services provided by SAV and the potential effects on SAV from sea level rise.

Tom provided information on the EPA’s upcoming Pesticide and Herbicide Rules which will go into effect sometime after June of 2011. Pete provided Scott with several comments regarding the SAV chapter.

Soft Bottom Chapter

Comments were received from DCM and the USACOE regarding this chapter. Pete provided additional comments regarding bathymetric studies done in the New River and stated that terminal groins may increase the need for beach nourishment. BJ noted the need for additional research as to the relationship between depth and productivity in estuarine ecosystems and how that relates to sea level rise.

Water Column Chapter

Anne noted that this chapter had been reviewed by, and comments were received from, DEH-SS, DWQ, DCM, USGS, NCSU, ECU, UNC-IMS, UNC-W, Duke, and comments are expected from DFR and EEP. Pete noted that at the May EMC Water Quality Committee meeting, a presentation will be given pertaining to the dewatering of mines and rapid infiltration wastewater systems. The chapter includes updated information regarding an increase in Notice of Violations for effluent measurements at wastewater discharge locations. Also included are numbers regarding an overall increase in enforcement from DWQ which have resulted in additional increases in Notice of Violations.

Jim Gregson noted that DCM has just hired and Clean Marina Coordinator with the position being funded through non-point source grant funds. He noted the need to make this position permanent through the use of state funding. Discussion followed regarding this issue.

Ecosystem Management/SHA Chapter – Scott Chappell

Scott noted that no comments had been received regarding this chapter from state or federal agencies. Comments were received from The Nature Conservancy.

BJ asked for a summary of recommendations before the next meeting.

CHPP Implementation Updates

CRC/DCM – Mike Lopazanski

DCM is moving along with regards to its Dock and Pier Rules through the Rules review Commission. They have completed a guide for Alternative Shoreline Stabilization Techniques which are based on shoreline types. A study of the permitted marsh sills is still being considered in conjunction with Dr. Peterson's Coastal Recreation Fishing License Grant which he was awarded. The Beach and Inlet Management Plan (BIMP) is still under review at the departmental level.

Jim Gregson gave an update on the Terminal Groin Study and HB 709. The final draft of the study was received by DCM on March 1st. The subcommittee will meet tomorrow, 3/18, to discuss the final draft. All recommendations have been left up to the subcommittee. There are no recommendations in the study. The CRC will vote on the recommendations at its next meeting on March 25th. All the information received to date is on line and available to the public.

Pete and Anne read a resolution they had written on behalf of the steering committee regarding the Terminal Groin Study. This resolution will be sent to the CRC as part of the commenting process. A significant amount of discussion followed and it was decided to discuss this issue at the end of the meeting today.

EMC/DWQ – Matt Matthews

Matt noted that Pete Caldwell, DWQ representative on the CHPP Team, had accepted a position with the US Forestry Service.

Bill Diuguid informed the committee of new Phase II designations in the Neuse and Pasquotank River Basins. Twelve communities have been designated for Phase II Stormwater Rules. There will be a re-evaluation in 18 months to see if additional communities should be added to the stormwater rules.

Jason Green from DWQ was introduced as their new representative on the SAV Partnership. It was noted that there is a need for some serious coastal monitoring of SAV given EPA's new coastal assessment.

Matt noted that DWQ's Mitigation Policy for Intermittent Streams went into effect in October of 2009. DWQ is currently developing a consolidated mitigation policy for wetlands. Some potential mitigation areas include; coastal headwater streams, streams not on maps and stormwater BMP's. Matt noted that DWQ was running out of areas to do mitigation.

Matt also reported that DWQ was currently involved in the Triennial Review of Water Quality Standards. He noted that the science and ecological impacts portions of the review were up to date. They are currently working on updating water quality standards for specific metals. A public hearing with these new standards will be held as soon as the fiscal note has been prepared.

DMF/MFC – Anne Deaton

Anne reported that work is about to begin regarding Strategic Habitat Area 2 (SHA2). This area includes the Pamlico and Neuse Rivers and the Pamlico Sound. A Sea Grant Fellow will help the committee and DMF work on this identification process. The science group has been named for

the SHA2 and they hope to have a completed product by the end of the year. The MFC's Habitat and Water Quality Committee are reviewing the Habitat Section to the Speckled Trout Fishery Management Plan.

WRC – Chad Thomas

Chad reported that the WRC was currently working on determining proper flows in inland rivers in order to promote maximum fish passage. He also noted that the Army Corps of Engineers has received funding to construct a fish passageway around lock and dam #1 on the Cape Fear River. WRC staff is currently working with DMF on the Striped Bass FMP update. The RFP for Coastal Recreation Fishing Grants is out and the requests are due by July 1.

Pete asked this question, "With all the talk about alternative energy, will people start talking about adding new dams rather than removing old ones?" Discussion followed.

EEP – Rob Breeding

The EEP finalized the chapter on Compensatory Mitigation in the White Oak River Watershed in November of 2009. The information is available on the EEP website under the White Oak River Plan tab. Rob reported that the EEP is looking at dam removal as a possible mitigation action. He noted this would be primarily targeted at smaller dams. Removal of larger ones would not be cost effective. Rob said that the EEP is working with American Rivers in Wake and Johnston Counties to study the removal, or modification, of the Milburnie Dam on the Neuse River along with the Atkinson Mill Dam on the Little River. This would open up new Striped Bass Spawning Areas.

Rob also noted that the EEP was using the Strategic Habitat Areas identified in the Albemarle Sound in their River Basin Restoration Process. The SHA designations were being used to judge impacts for potential projects.

DEH-SS – Patti Fowler

Patti noted that the "Draft" Interagency Inspection Task Force Document was now available. She said she would like to have the steering committee and staff review the document and provide comments back to her regarding the draft document. Patti reviewed the program goals as well as the suggested components for the new program.

DFR – Bill Swartley

Bill reported on DFR's new Bridge Mat Loan Program. This program offers loggers the use of bridge mats in the 20 coastal counties. They are currently looking for a funding source to try and cost share this program. As part of a mitigation driven project, DFR is now partnering with Albemarle Pamlico National Estuary Program (APNEP) and doing water quality monitoring in the APNEP region.

DFR is currently conducting a BMP Implementation Survey. The report being generated by this study is due later this summer. The division is currently working on a Statewide Assessment of Forest Resources. This assessment is part of the five-year work plan and is due by May of 2010. It will be available on line on the DFR website.

Resolution Discussion – From earlier in the meeting

Ray expressed his discomfort with the resolution because he is in favor of beach nourishment, if it can be mitigated for. He questioned the need for the resolution. After some discussion, it was brought up that the real question was why change a thirty year policy on hardened shoreline structures that is working. Tom Ellis moved acceptance of the resolution. BJ added a second to the motion. The motion on the resolution passed unanimously.

The next meeting will be in mid-April and a call in number will be provided for those who will not be able to attend in person.

The meeting adjourned at 4:30pm.

DRAFT

CHPP Steering Committee Meeting
April 21, 2010
DMF Central District Office
Morehead City, NC

Meeting Attendees: Anna Beckwith (MFC), BJ Copeland (MFC), Pete Peterson (EMC), Tom Ellis (EMC), Joan Weld (CRC), Ray White – via phone (WRC), Scott Chappell (DMF), Anne Deaton (DMF), Katy West (DMF), Kevin Hart (DMF), Jessi O’Neal (DMF), Jeanne Hardy (DMF), Jim Gregson (DCM), Mike Lopazanski (DCM), Ted Tyndall (DCM), Tancred Miller (DCM, Bill Diuguid (DWQ), Matt Matthews (DWQ), Shannon Jenkins (DEH), Jimmy Johnson (DENR), Rob Breeding – via phone (EEP), Kristin Miguez – via phone (EEP), Lauern Kolodij (NCCF)

Chairman Pete Peterson called the meeting to order at 10:00am. Introductions were made. Three members were able to call in. Minutes from the 3/17/10 meeting will be provided at the next meeting. The agenda consists of reviewing the recommendation to be included in the 2010 CHPP revision.

Pete began the meeting by noting the accomplishments of the CHPP document and reiterated its usefulness in bringing the different agencies and the resulting discussions together. He went on to list several major accomplishments brought about as a result of the CHPP. Among the accomplishments mentioned were: Oyster rehabilitation efforts, the Coastal Stormwater Rules, Strategic Habitat Area designations and the work done regarding shoreline protection and alternative stabilization methods. Pete also implored the group to be sure and look to the future and continually ask ourselves if we are anticipating well enough.

As the steering committee began discussion around the ninth chapter of the 2010 Coastal Habitat Protection Plan, Anne explained the process of the CHPP. She looked at how the Department and its agencies moves from the plan to the recommendations and then to the implementation plans for each division and agency. BJ provided additional comments. He noted that we have come a long way and he congratulated the working group for a job well done.

Ray had questions regarding funding for those recommendations included in the CHPP. He specifically had questions about Recommendation 9.3 and funding through the Coastal Recreation Fishing License Fund CRFL). Discussion followed in reference to his question and also included discussion about other possible funding sources for the necessary work to carry out the CHPP’s recommendations.

Anne went through the recommendations found in Table 9.2 and discussed the changes that have been made in this new document. Pete stated his realization that the ACOE needs to be included in many of the discussions around the recommendations included in the CHPP. We need to reach out to them, and other federal agencies, and include them in the process.

Pete suggested the addition of an Aquaculture/Mariculture Recommendation. One was crafted and added as Recommendation 4.9.

It was decided that there would be 3 public hearings to receive input on the CHPP revision. They will be held during the month of June in Wilmington, Morehead City and Manteo. There was some discussion regarding presentations to the commissions and who would be responsible for them.

The meeting adjourned at 1:10pm.

Board of Commissioners

Douglas W. Harris, Chair
John Gregory Lewis, Vice-Chair
Robin Comer
William Holt Faircloth
Patrick "Pat" Joyce
Jonathan Robinson
Bill Smith



County Manager

Duncan R. Ballantyne
Office: (252) 728-8450
Fax: (252) 728-2092
duncanb@carteretcountygov.org
www.carteretcountygov.org

Clerk to the Board
Jeanette S. Deese, CMC, NCCCC

January 31, 2011

Jerry Langley, Chairman
Beaufort County Board of Commissioners
101 Avenue Road
Washington, NC 27889

Re: Proposed State Sea-Level Rise Policy

Dear Chairman Langley:

As you may be aware, the N.C. Division of Coastal Management (NCDCM) has recently developed sea-level rise policy language, which if subsequently approved by the governor-appointed Coastal Resources Commission (CRC), would add a new section to the State's Administrative Code governing coastal management within our 20 CAMA (Coastal Area Management Act) counties, and furthermore would be used as a springboard for future regulations. The implications of this proposal in terms of its geographic scope and potentially detrimental economic impact are enormous. This is perhaps the most important and pervasive piece of policy the CRC has considered in a very long time, and I'm respectfully requesting your attention to this matter, and ultimately for your support in repudiating the proposal altogether.

The draft sea-level rise policy is attached for your review, and your comments can be submitted in written form and/or can be articulated directly to the CRC when they meet on February 23rd and 24th and again on May 4th and 5th, at the NOAA-NERR Auditorium located on Pivers Island, Beaufort, N.C. I'm also attaching a technical memo prepared by our Shore Protection Office that provides a succinct summary and historical perspective of the State's approach concerning sea level and the development of the policy.

Most importantly, the draft policy formally adopts the prediction of a **1 meter sea-level rise** (to 2100) for all the 20 CAMA Counties as the official state benchmark. As disclosed in our conversations with NCDCM, North Carolina is the first state along the East Coast to propose a future sea-level rise rate and would be the first to develop a policy based upon this future rate. Beyond this, there are three main items in the policy that you and your staff may wish to pay particularly close attention to (see Policy Statements 15A NCAC 07M .1303 (b), (g), and (h).

- (1) The 1 meter rise benchmark is mandated to be used in **Land Use Plans**.
- (2) **Private development** will need to be designed and constructed to avoid sea-level rise impacts (1 meter) for the structure's design life.
- (3) **Public infrastructure** will need to be designed and constructed to avoid sea-level rise impacts (1 meter) for the structure's design life.

We have identified several flaws in the manner the data is presented and with overall policy that are listed below.

(a) Validity of 1 meter prediction – The justification for the 1 meter prediction is contained in a 2010 Science Panel report, which was first requested by the CRC and subsequently utilized exclusively for developing the sea-level rise policy. The Science Panel Report further states that various models and observations indicate accelerated rates of sea-level rise are “likely”, and subsequently cites one study that uses a proportional relationship between near-surface air temperature and mean sea level. That’s really the extent of the analyses. A 1 meter sea-level rise (3.28 ft. or 39 inches) is almost 3 times the existing rate and will cover square miles upon square miles of tax base, infrastructure, and natural resources in just about every CAMA County. Again, we believe codifying this prediction is cavalier with very little thought to how it will impact the livelihoods of citizens and the economic fortunes of the coast - development, tourism, taxbases, infrastructure, military operations, and more.

(b) No Maps – Similarly, it has been hard to quantify the impacts of a 1 meter rise in sea level because there have been no maps presented by NCDCM representing the square acres or miles of the lands that will be underwater. We have produced our own “bathtub line” analysis by shading all lands within Carteret County that are less than 1 meter in elevation. The results have been staggering and will likely be so as well in your County.

(c) Economic considerations/consequences – The rather speculative rationale that was used to generate the 1 meter solution also did not take into consideration the economic impacts of the policy in the least. There have been no discussions concerning the policy mandates to incorporate the 1 meter sea-level rise into Land Use Plans and private and public infrastructure. What will these costs be to provider and consumer? How do local governments account for the land drowned by a 1 meter sea-level rise? What impacts does a 1 meter sea-level rise have to our citizen’s ability to secure insurance? What impacts does a 1 meter sea-level rise have to one’s ability to secure financing? What will happen to our favorite tourism destinations (probably water dependent)? These are just a few examples of the economic impacts that need to be thoroughly vetted. Let alone are these discussions even prudent to have based on a “prediction” of 1 meter.

(d) Existing tide gauge data – The following table is from the Science Panel report, and as mentioned in the attached technical memo, the Science Panel developed three sea-level rise scenarios – (1) the “current rate” extrapolated to 2100, (2) the “1 meter solution” adopted by the CRC, and (3) the “worse case” (1.4 meters). As gleaned from the table below, the highest current relative sea-level rise rate reported is for Duck – however, that gauge has been out of service for almost a decade. Thus just for the “current rate” the CRC is using; (1) a gauge that doesn’t exist, (2) is located in the area of the coast that is sinking the most (see attached technical memo), and (3) is the worst case scenario for the State. An average or some other metric would have been much more appropriate. The Duck measurement is more than double some of the other rates in the State.

Station Number	Station Name	Rel. Sea-Level Trend (mm/yr)	Rel. Sea-Level Trend (inches/century)	Period of Data
8651370	Duck	4.27 +/- 0.74	16.8 +/- 2.9	1978-2002
8652587	Oregon Inlet Marina	2.55 +/- 1.21	10.1 +/- 4.8	1977-1980, 1994-2002
8654400	Cape Hatteras	3.46 +/- 0.75	13.6 +/- 3	1978-2002
8656483	Beaufort	3.20 +/- 0.54	12.6 +/- 2.2	1973-2002
8656590	Atlantic Beach	2.48 +/- 1.99	9.7 +/- 7.8	1977-1983, 1998-2000
8658120	Wilmington	2.12 +/- 0.23	8.4 +/- 0.8	1935-2002
8659084	Southport	2.04 +/- 0.25	8 +/- 1	1933-1954, 1976-1988
8659182	Yaupon Beach	2.92 +/- 0.77	11.5 +/- 3	1977-1978, 1996-1997

Moreover, the dataset utilized in the Science Panel Report is current through 2002. That's completely unacceptable – if sea level is rising at a purported increased rate, then we should be privy to the last decade's worth of data and that data should be incorporated into the report. NOAA's own website at http://tidesandcurrents.noaa.gov/sltrends/sltrends_states.shtml?region=nc has more recent data and in fact their rates of sea-level rise are different than those reported in the Science Panel Report. Southport = 2.08 +/-0.46 mm/yr, Wilmington = 2.07 +/-0.40 mm/yr, Beaufort = 2.57 +/- 0.44 mm/yr, and Oregon Inlet = 2.82 +/- 1.76 mm/yr.

(e) **Tide gauge monitoring** – By no means are we denying sea level is rising as this fact is nicely evidenced in the tide gauge data. It's the leap of faith of going from a near foot rise in sea level to 2100 (approximately the current rate) to over three feet (1 meter) that is problematic. The draft sea-level rise policy dictates that the planning benchmark of 1 meter should be revisited every 5 years using the best available data. We support a 5-year review, but not the 1 meter or any other planning benchmark. As the years pass, and only if the data indicates a significant spike in sea-level rise is taking shape, then a new rate of sea-level rise can be considered. Until that time, establishing a 1 meter planning benchmark is entirely premature.

In closing, I very much appreciate your time and consideration of this correspondence. The more our Board and staff began to examine the policy, the more concerned we became about its real-world impacts to local governments. As mentioned in this correspondence, North Carolina would be the first State to adopt a sea-level rise policy – there is no reason for the 20 CAMA counties to be the guinea pigs for this policy experiment. It sends the wrong type of message and would surely stymie the economic recovery and growth our region needs and strives for. Please don't hesitate to contact me or our County Manager, Duncan Ballantyne if you have any questions, comments, or require additional information.

Sincerely,



Douglas W. Harris, Chairman
Carteret County Board of Commissioners

cc: Governor Beverly Perdue
Senator Jean Preston
Representative Pat McElraft
All Carteret County Municipalities
Myles Stempin, Director, Carteret County EDC
Mike Wagoner, President, Carteret County Chamber of Commerce
Carol Lohr, Executive Director, Tourism Development Authority (TDA)
Paul Spruill, Beaufort County Manager

DRAFT

15A NCAC 07M .1301 DECLARATION OF GENERAL POLICY

The Coastal Resources Commission (hereafter referred to as the "Commission") is charged under the Coastal Area Management Act (CAMA) with the protection, preservation, orderly development, and management of the coastal area of North Carolina. To that end, the Commission is specifically charged with the protection of certain rights and values, which include ensuring the protection of public trust resources and access to those resources, preserving the quality and optimum use of water resources, managing land use and development to minimize environmental damage, and preserving private property rights.

The Commission recognizes that global sea level rise is occurring as a natural hazard, and is predicted to continue and possibly accelerate during the next century. Sea level rise will intensify the challenges that the Commission faces in preserving and managing the natural ecological conditions of the estuarine system, barrier dune system and beaches, while perpetuating their natural productivity as well biological, economic and aesthetic values.

Sea level rise is a coastal threat that magnifies other coastal hazards such as flooding, storm surge, shoreline erosion, and shoreline recession. Sea level rise is also a threat to the use of and access to public trust resources, water resources and quality, private property and development, and public property and infrastructure.

The Commission recognizes that sea level rise is a pervasive and persistent hazard that must be incorporated into all aspects of the coastal program. Incorporation is necessary in order to address the implications of the expected continuing rise in water levels, along with the resulting magnification of hazards, disruption and losses that such increases will bring.

The goal of this policy is to establish a framework for planned adaptation to rising sea levels. Planned adaptation will help to minimize economic, property and natural resource losses, minimize social disruption and losses to public trust areas and access, and minimize disaster recovery spending.

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15A NCAC 07M .1302 DEFINITIONS

As used in this Section:

1. "Accommodate" means designing development and property uses such that their function is not eliminated as sea level rises.
2. "Conservation measures" are non-regulatory tools that can include easements, land acquisition, low impact development, and similar measures.
2. "Planned adaptation" means taking a proactive and deliberate approach to designing and implementing measures to either live with, or retreat from, rising seas.
3. "Planning benchmark" means a scientifically-based amount of sea level rise that is expected to occur by a specified time.
4. "Relative sea level rise" means an increase in the average surface height of the oceans over a long period of time that may be caused by an absolute increase in the water level, by sinking of the land at the water's edge, or by a combination of the two.
5. "Sea level rise" means an increase in the average surface height of the oceans over a 19-year tidal epoch.
6. "Shoreline erosion" refers to the chronic or episodic landward migration of a shoreline caused by the loss or displacement of sediment.
7. "Shoreline recession" means the long-term landward migration of the average position of a shoreline.

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15A NCAC 07M .1303 POLICY STATEMENTS

(a) The Commission will promote public education of the impacts associated with rising sea levels and measures to cope with changing shorelines.

(b) The Commission shall adopt planning benchmarks pursuant to the best available scientific information, recognizing that there is a measure of uncertainty involved in any projection of future conditions. The Commission's Science Panel on Coastal Hazards prepared a North Carolina Sea-Level Rise Assessment Report (March 2010) which projects a relative sea level rise range of 0.38 meters (15 inches) to 1.4 meters (55 inches) above present levels by the year 2100. This report, and any future updates, will be available from the Division of Coastal Management and posted on its website. Consistent with this report, the Commission adopts a planning benchmark of one meter (39 inches) of relative sea level rise above present by 2100, for the twenty coastal counties. The benchmark will be used for land use planning, and to assist in designing development and conservation projects. The planning benchmark shall be reviewed at least every five years, and adjusted if necessary.

(c) Relative sea level rise is not uniform across the State's coastal zone, and the differences are amplified by topographical variations. As a result, specific adaptation measures might not be appropriate for all communities in the coastal zone, or at the same time. Pursuant to available scientific data and justification, the Commission may apply regional benchmarks and adaptation measures as appropriate for different parts of the coast.

(d) CAMA directs the Coastal Resources Commission to protect coastal resources and their productivity. Sea level rise is altering the physical and chemical aspects of the coastal area, and increasing the susceptibility of upland areas to inundation, storm surge, and accelerated erosion. Intertidal areas are being flooded at greater frequency and to greater depths, spurring landward migration of coastal habitats. In order to maintain their ecological function, fisheries habitats such as nursery areas may need to migrate landward, keeping pace with rising waters. The Commission may consider appropriate conservation and regulatory measures that can enable resources and habitats to migrate and persevere.

(e) The Commission has the responsibility to assist local governments with land use planning guidance and support. Due to the technical nature of sea level rise science and the need for a coordinated adaptation strategy, the Commission shall, to the best of its

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ability, provide local governments with scientific data and technical assistance with regard to adaptation planning and specific adaptation measures. Specific guidance and planning requirements will be incorporated into the Commission's Subchapter 7B Land Use Planning Guidelines. The Commission may provide financial assistance for local adaptation planning and implementation as available.

(f) It is in the State's interest to invest in long-term sea level rise research and monitoring, as such investments will contribute to lowered future economic losses and disruption. The Commission will actively support efforts by the State to fund data collection, research, and monitoring.

(g) In order to minimize the magnification of hazards, disruption and losses associated with water levels, private development should be designed and constructed to avoid sea level rise impacts within the structure's design life to the maximum extent practicable, except in instances where the structure is built to serve an adaptation purpose. Water dependent structures should be designed to accommodate projected sea level rise within their design life. The Commission may require additional development standards for new and replacement structures built within areas subject to sea level rise impacts.

(h) In order to minimize the magnification of hazards, disruption and losses associated with water levels, public infrastructure should be designed and constructed to avoid sea level rise impacts within the infrastructure's design life to the maximum extent practicable, except in instances where the infrastructure is built to serve an adaptation purpose. Water dependent structures should be designed to accommodate projected sea level rise within their design life. The Commission may require additional development standards for new and replacement structures built within areas subject to sea level rise impacts.

(i) The Commission shall, on an ongoing basis, review and revise its Subchapter 7H State Guidelines for Areas of Environmental Concern to ensure that these rules account for the additive effects of sea level rise. The Commission shall also ensure that Procedures for Handling Major Development Permits; Variance Requests; Appeals from Minor Development Permit Decisions; and Declaratory Rulings account for the exacerbating effects of sea level rise.

Shore Protection Manager

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Memorandum

To: Duncan Ballantyne, County Manager
From: Greg "rudi" Rudolph
Date: January 12, 2011
Re: **Proposed Sea-Level Rise State Policy - addition to the N.C. Administrative Code**

The N.C. Division of Coastal Management (NCDCM) has generated sea-level rise rule language, which if subsequently approved by the governor-appointed Coastal Resources Commission (CRC), would add a new section to the State's Administrative Code governing coastal management within the 20 CAMA (Coastal Area Management Act) counties. The purpose of this memorandum is to; **(I)** review the sea-level rise issue as a whole, **(II)** the State's approach concerning sea level in the 20 CAMA counties, and **(III)** summarize the key elements of the proposed rule language.

(I) Causes of Sea-Level Movement/Rise

The mechanisms governing "global warming" or "global cooling" are complex and multifaceted, however the root cause is often correlated to greenhouse gases that allow the sun's radiation to penetrate the Earth's atmosphere but trap this same radiation near the Earth's surface. The higher the concentrations of greenhouse gases in the atmosphere – the warmer the climate; and vice-versa (i.e.; less greenhouse gases – the cooler the climate). The extremes of cool and warm phases are signified by periods of glaciation and interglaciation, respectively with the last interglacial cresting at roughly 125,000 years ago and the last glacial episode climaxing at roughly 18,000 year ago. Thus the Earth has been warming since this 18,000 year ago glacial peak. Sea level has been rising as well since this time because of two main factors; **(1)** increasing atmospheric temperature causes the melting of continental ice packs (or glaciers) and thereby contribute "new" water to the world's oceans, and **(2)** the water itself expands (i.e., thermal expansion). Scientists estimate the average air temperature and sea level has increased by approximately 7° Celsius (13° Fahrenheit) and 400 feet; respectively in the past 18,000 years. There was rapid warming and sea-level rise that occurred at first, which stabilized (relatively speaking) at roughly 10,000 years ago, which marks the beginning of the Holocene Epoch – this is the time frame and interglacial we are currently living within.

Recent emissions of greenhouse gases such as carbon dioxide from industrial processes, fossil fuel combustion, and changes in land use have been cited as exacerbating the "greenhouse effect". However, although greenhouse gases are considered as the main vehicle behind warming climate and sea-level rise, the forces shaping climate and sea-level oscillations can be many and are complexly related. Factors such as dust from volcanic eruptions and air pollution, oceanic currents, solar activity, water evaporation from oceans, tectonic activity, land subsidence, isostatic rebound of land, and a host of other variables can impact climate and/or sea-level response.

This leads us to two important terms regarding sea level – relative vs. glacio-eustatic. **Glacio-eustatic sea level** is the portion of sea level movement (rise or fall) only attributable to the melting or uptake of water in the world's glaciers. **Relative Sea Level**

on the other hand, is the measurement of the sea surface incorporating glacial melt/uptake and other dynamics such as land movements and sediment supply. So for instance, in an area where mountain building is occurring, the land may be rising at a rate close to that of glacio-eustatic sea level. Thus the relative sea-level surface is balanced and the rate of movement is close to zero. Conversely, in areas where land is subsiding (sinking), sea level may be considered "rising" at an enhanced rate because glacio-eustatic sea level is rising **and** the land is sinking – New Orleans is a good example.

The relative sea-level rise topic is nicely evidenced in the North Carolina tide gauge data presented below (Table 1). In general, the rate of relative sea-level rise increases north to south because the land is subsiding in the northern province of the State. The reason for this is two-fold and briefly; (1) There are more unconsolidated sediments underlying the barrier islands, estuaries, and mainland compartments north of Cape Lookout. Accordingly there is a greater tendency for these sediments to compact and subside/sink. And (2), there are land movements that continue to transpire related to the retreat of the glacier that once blanketed the northern U.S., which also has caused the land in northern North Carolina to sink (known as forebuldge collapse).

Station Number	Station Name	Rel. Sea-Level Trend (mm/yr)	Rel. Sea-Level Trend (inches/century)	Period of Data
8651370	Duck	4.27 +/- 0.74	16.8 +/- 2.9	1978-2002
8652587	Oregon Inlet Marina	2.55 +/- 1.21	10.1 +/- 4.8	1977-1980, 1994-2002
8654400	Cape Hatteras	3.46 +/- 0.75	13.6 +/- 3	1978-2002
8656483	Beaufort	3.20 +/- 0.54	12.6 +/- 2.2	1973-2002
8656590	Atlantic Beach	2.48 +/- 1.99	9.7 +/- 7.8	1977-1983, 1998-2000
8658120	Wilmington	2.12 +/- 0.23	8.4 +/- 0.8	1935-2002
8659084	Southport	2.04 +/- 0.25	8 +/- 1	1933-1954, 1976-1988
8659182	Yaupon Beach	2.92 +/- 0.77	11.5 +/- 3	1977-1978, 1996-1997

Table 1 – Relative sea-level trends for N.C. water-level stations (adapted from Zervas, 2004).

We introduced these aforementioned technical terms and data for the main purpose;

- (1) To underscore the proposed rules being considered by the CRC **only** pertain to sea-level rise – they do not address climate change, carbon dioxide emissions, the causes of sea-level rise, etc. While indeed many of these climate factors are incorporated by *de facto* into the sea-level subject, the proposed rules truly constitute a sea-level rise policy. Controversial issues such as carbon credits, emission reductions, etc. are not directly part of the proposed rules.
- (2) To also highlight the CRC is operating under the premise that sea level is going to continue to rise throughout the remainder of this century. Moreover, because there are no expected reductions in greenhouse gases to occur, the rate of sea-level rise could increase as more and more glacial meltwater is donated to the ocean.
- (3) To de-mystify the issues associated with relative sea-level rise. Questions to the effect of "Why are there different sea-level rise numbers?" are often the first to surface when discussing sea level, and a fundamental understanding of this subject provides a basis to understand and comment coherently on the proposed rules.

(II) The CRC Approach to Sea-Level Rise (The Science Panel Report)

The CRC and the entire N.C. Department of Environment & Natural Resources (NCDENR) for that matter has been under pressure to do "something" about sea level. For

the CRC, this has been predicated by two factors in my opinion; (1) Inherently, sea-level rise is an important phenomenon impacting the gentle-sloping southeast coastal plains of the U.S., such as those that exist in North Carolina. A "small" rise in sea level can cover potentially huge areas (square miles) of land bordering estuaries and barrier islands. As the rule-making organization charged with protection, preservation, development, and management within the 20 CAMA Counties, the CRC feels obligated and believes it's primary function is to address coastal hazards such as sea-level rise – again operating under the premise that sea-level will continue to rise. (2) Reports from International and National Organizations including the U.N.'s Intergovernmental Panel on Climate Change (IPCC) and the U.S. Global Change Research Program have developed a host of climate models and sea-level rise scenarios, and furthermore have suggested and discussed the impacts of sea-level rise at rates greater than those we have experienced the past several decades/century. With most of the scientific community in consensus agreement, the CRC again has felt obligated to do "something".

In the mid 1990s the CRC developed the Science Panel on Coastal Hazards, a group populated by geology, engineering, and biology researchers and practitioners that has provided guidance and recommendations when tasked. Issues pertaining to beach nourishment sediment criteria, scientific analysis of inlet hazard zones boundaries, and other more science-intense topics have been under the purview of the Science Panel in the past. Usually the CRC will take the Science Panel's information to help create policy via their administrative wing, NCDCM. In January of 2010, NCDENR hosted a Science Forum on Sea-Level Rise in North Carolina showcasing a series of expert climate and sea-level scientists, and more importantly for this discussion, the forum was used as a platform to release a report prepared by the Science Panel concerning current and projected rates of sea-level rise in North Carolina. Most notably, the report projected sea-level rise ranges in 25-year intervals through 2100 that were envisioned to provide a foundation for future policy development and adaptation planning.

Specifically, the 16-page report includes three sea-level rise scenarios based on the best available science;

- (1) 0.38 m (1.26 ft. or 15 inches) by 2100, or a rate of 4.27 mm/year ("low")
- (2) 1.00 m (3.28 ft. or 39 inches) by 2100, or a rate of 11 mm/year ("middle")
- (3) 1.4 m (4.59 ft. or 55 inches) by 2100, or a rate of 15 mm/year ("high")

However, the blanket rate is 4.27 mm/year (the "low" range) until the year 2030 when the scenarios begin to diverge – i.e., the rate of sea-level rise in each scenario is the same until 2030. This concept is neatly presented in the accompanying graphic (Figure 1). Note the "low" range scenario simply takes the highest historical rate in North Carolina (Duck) and extrapolates the line to 2100. The "low", "middle", and "high" range scenarios were presented because as mentioned above, key indicators such as the volume of greenhouse gases in the atmosphere and physical evidence such as increases in the acidification of sea water, increasing rates of glacial melt, etc. indicate the rate of sea-level rise we can expect to see for the remainder of this century should increase from its present universal rate of roughly 3 mm/year. How much more of an increase is the big question, hence why there are three scenarios.

The Science Panel recommended that a rise of 1 meter (39 inches/3.28 ft.) be adopted as the amount of anticipated rise by 2100 for policy development and planning purposes. This constitutes the "middle" range scenario. The Science Panel also recommended a more robust tidal gauge network and a reassessment of sea-level rise predictions on a five-year basis. All of these recommendations were incorporated into the proposed rule language.

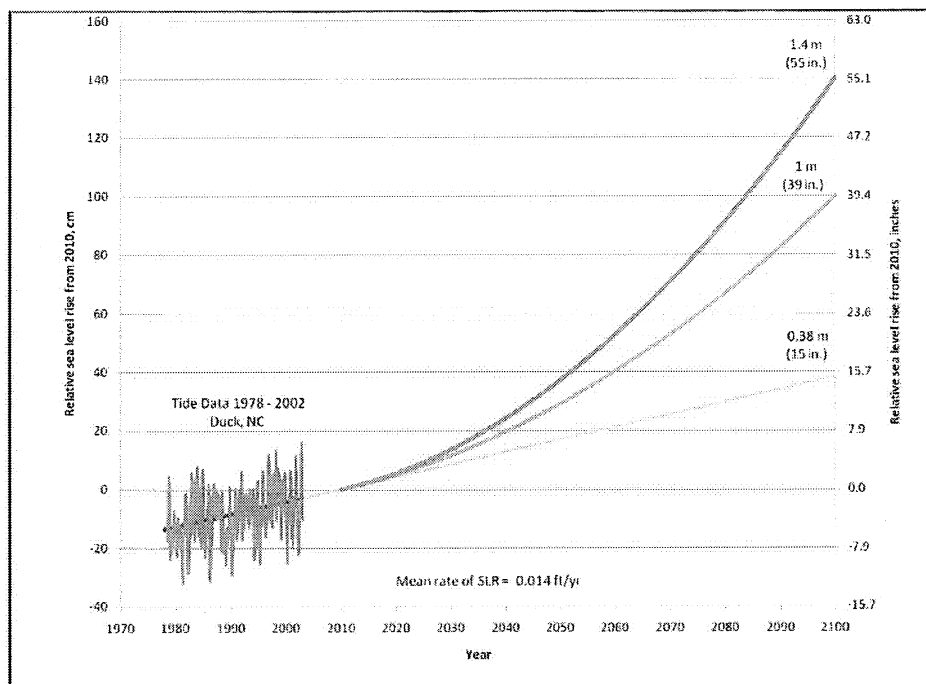


Fig.1 – Graphic depiction of the Science Panel’s three sea-level rise scenarios presented in their 2010 report. The CRC adopted the “1 meter solution” as their planning benchmark (blue line).

(III) Proposed Rule

Attached is a draft of the proposed rule that would be added to the State’s Administrative Code governing Coastal Management. It has been marked up by the Shore Protection Office. The CRC has reviewed the language twice in September and November 2010, and NCDCM has held two small stakeholder meetings as well. The CRC recently directed NCDCM to solicit more local government input and it wouldn’t be surprising to see a new version of the rules submitted to the CRC in April 2011 in an effort to gain approval to officially initiate the rule-making process. Thus the County is recommended to submit formal written comments as soon as possible. The rules have three sections summarized with commentary below.

Declaration of General Policy (15A NCAC 07M .1301) – this section articulates the role of the CRC, recognizes sea-level rise is occurring and will likely accelerate, identifies the coastal resources at risk, and the threats to those resources. The section concludes by summarizing the need for the policy (establish a need for planned adaptation to sea level).

Commentary – If the Planning Commission and/or County Board of Commissioners (CBOC) have any misgivings concerning the general premise that sea level is rising and will continue to rise at possibly an increased rate, then this section would be the proper place to levy these types of arguments. The Shore Protection Office does not recommend this however – NCDENR is very entrenched with this thinking and there are other elements of the rules that bear attention and have a higher likelihood of being modified.

Definitions (15A NCAC 07M .1302) – This section is self explanatory as it defines terms such as “planning benchmark”, “relative sea-level rise”, and other vocabulary that are used in the following section.

Commentary – None, except a small technical suggestion that is highlighted in the attached. Otherwise a hyphen is used throughout this memorandum when referring to “sea-level rise” and should be used in the proposed rules because sea level is describing something as a compound adjective (in this case “rise”). If we say sea level is rising, then the hyphen should not be used.

Policy Statements (15A NCAC 07M .1303) – This is the most important section of the proposed rules as it articulates what is expected of local governments. There are nine components (a – i). Component **(b)** formally adopts the Science Panel recommendation for a planning benchmark of a 1 meter (39 inches) by 2100, and states this benchmark will be used in land use planning. Many of the other components essentially reserve the right of the CRC to develop future rules that pertain to possibly implementing regional benchmarks, allow habitats to migrate, and incorporate specific guidance and planning requirements into Land Use Plans. However components **(g)** and **(h)** mandate that private development and public infrastructure should be designed and constructed to avoid sea-level rise impacts for the structure’s design life.

Commentary – The impacts of a 39 inch sea-level rise to Carteret County (component **(b)** in the rules) could be very dramatic for health and human safety concerns, let alone for building requirements and possibly even flood insurance participation, especially “Down East”. Moreover, there is no certainty pertaining to the benchmark - the rate of rise in the three Science Panel scenarios don’t diverge until 2030 (i.e., they are the same until 2030), so it would be prudent to not pick any single rate until the data indicates one scenario is indeed coming to fruition. The current rate (the “low” scenario) can be used until 2030 for planning purposes and this benchmark can be changed to 1 meter once the data start reflecting this (either before or after 2030). As mentioned previously, the “low” scenario is actually the highest current rate of sea-level rise in the State (Duck). Sea-level rise rates are lower *per se* here in Carteret County, so an argument can be made that even the “low” rate of 4.27 mm/yr is conservative compared to the Carteret County rates (see Table 1 – Beaufort and Atlantic Beach).

Components **(g)** and **(h)** of the proposed rules are also problematic, perhaps because they lack specificity. If private property and public infrastructure need to be designed to avoid sea-level rise impacts and the planning benchmark is 1 meter, then the impacts could be far reaching. If this needs to be codified in the County’s next Land Use Plan (LUP), then as mentioned above, there will be huge impacts. Moreover, will there be someone in State government who will determine whether or not LUPs specifically or the County in general are adequately addressing sea-level rise in terms of private development and public infrastructure? If this is the case, then the level of subjectivity that can be utilized for these decisions is probably unacceptable.

In closing and to reiterate, it is recommended the County submit formal written comments subsequent to gaining input from the Planning Commission and CBOC. It would be advantageous to address some of the items highlighted above in the “Policy Statement” section of the rule only. Possible alternative language could include a LUP provision for local governments to identify the most vulnerable areas within their jurisdiction. Obviously this is just a suggestion and it would be advantageous for the Planning Commission and the CBOC to take a close look at the other components of the Policy Statement that were not highlighted above.

Cc: Jim Jennings, Director, County Planning and Development

20 Coastal Counties

1	Beaufort	County Manager Paul Spruill 121 W. 3rd Street Washington NC 27889 paul.spruill@beaufort.nc.gov	Chairman of the Board Jerry Langley 101 Avenue Road Washington NC 27889 langleyspeak@embarqmail.com
2	Bertie	County Manager Zee Lamb PO Box 530 Windsor NC 27983 zee.lamb@ncmail.net	Chairman of the Board Lewis C. Hoggard PO Box 516 Lewiston-Woodville NC 27849 commissioners@bertie.nc.gov
3	Brunswick	County Manager Marty Lawing PO Box 249 Bolivia NC 28422 mlawing@brunsco.net	Chairman of the Board William M Sue 9124 Sue Circle NE Leland NC 28451 bidgie@ec.rr.com
4	Camden	County Manager Randell Woodruff PO Box 190 Camden NC 27921 rwoodruff@camdencountync.gov	Chairman of the Board Sandra Duckwall PO Box 190 Camden NC 27921 sduckwall@camdencountync.gov
5	Carteret	County Manager Duncan Ballantyne 302 Courthouse Square Beaufort NC 28516 duncanb@carteretcountygov.org	Chairman of the Board Doug Harris PO Box 3006 Atlantic Beach NC 28512 dough@ec.rr.com
6	Chowan	County Manager Paul B Parker PO Box 1030 Edenton NC 27932 paulparker@chowannc.gov	Chairman of the Board Edward C. Goodwin 1015 Macedonia Road Edenton NC 27932 edward.goodwin@ncmail.net

20 Coastal Counties

7 Craven	County Manager Harold Blizzard 406 Craven Street New Bern NC 28560 hblizzard@cravencountync.gov	Chairman of the Board Steve Tyson 406 Craven Street New Bern NC 28560 styson@cravencountync.gov
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12 Hyde	County Manager until Feb 1, 2011 David Smitherman after Feb 1, 2011 Mazie Smith PO Box 188 Swan Quarter NC 27885 dsmitherman@hydecountync.gov msmith@hydecountync.gov	Chairman of the Board Sharon Spencer PO Box 188 Swan Quarter NC 27885 sharonps21@earthlink.net

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16 Pasquotank	County Manager Randy Keaton PO Box 39 Elizabeth City NC 27907 keatonr@co.pasquotank.nc.us	Chairman of the Board Lloyd Griffin III 751 Riverside Avenue Elizabeth City NC 27909 lgriffin111@yahoo.com
17 Pender	County Manager Rick Benton PO Box 5 Burgaw NC 28425 rbenton@pendercountync.gov	Chairman of the Board George Brown PO Box 5 Burgaw NC 28425 gbrown@pendercountync.gov
18 Perquimans	County Manager Bobby Darden PO Box 45 Hertford NC 27944 bdarden@perquimanscountync.gov	Chairman of the Board Benjamin Hobbs 948 Pender Road Hertford NC 27944 bhobbs@hobbsfurniture.com

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North Carolina
Coastal Resources Commission

February 7, 2011



Douglas W. Harris, Chairman
Carteret County Board of Commissioners
P.O. Box 3006
Atlantic Beach, NC 28512

Dear Mr. Harris:

It has come to my attention that the Carteret County Commissioners have some concerns with the sea-level rise policy being developed by the Coastal Resources Commission (CRC) and how that policy may affect land use planning and possibly further rule development by the CRC.

The general purpose of policy development is to establish management objectives to provide guidance for CRC decisions. Policy statements are typically a short declaration of general policy accompanied by definitions and a series of objectives. This is not something the CRC has done often in the recent past and there can be some confusion over the implications. Use of policy statements allows the Commission to address issues in a cohesive manner, serving as a foundation for future actions.

The draft policy presented at your meeting is the result of recognition that sea-level rise, like erosion and storms, is a natural hazard indigenous to the shoreline. The Commission's objective for managing coastal hazards is to minimize unreasonable danger to life and property and to achieve a balance between the financial, safety and social factors that are involved with development in the coastal area.

The Division of Coastal Management developed the draft sea-level policy at the direction of, and with input of the CRC. As with past efforts, the Commission believes stakeholder input to be a crucial factor in shaping what is ultimately adopted as a policy or rule. You may recall that the CRC includes a public input session at every meeting and includes the Coastal Resources Advisory Council (our standing stakeholder group) in the development of rule language. After substantial input and discussion by the CRC over its last two meetings, we have directed staff to seek input from local government so that we may further refine this policy at subsequent meetings. No rule-making process has been initiated and the Commission is in no way committed to specific language at this point. The input of stakeholders, particularly local governments is an important consideration for the Commission. In fact, local government input was significant in our decision to reassess rule language being developed for Inlet Hazard Areas.

BEVERLY EAVES PERDUE
GOVERNOR

ROBERT R. EMORY, JR.
CHAIRMAN

CHARLES B. BISSETTE JR.

RENEE CAHOON

VERONICA CARTER

CHARLES M. ELAM

PATRICK JOYCE

OS R. LEUTZE

JAMES "ED" MITCHELL

JERRY L. OLD

WILLIAM R. PEELE, III

MELVIN M. SHEPARD, JR.

BENJAMIN SIMMONS

DAVID WEBSTER

JOAN L. WELD

LEE WYNNIS

JAMES H. GREGSON
EXECUTIVE SECRETARY



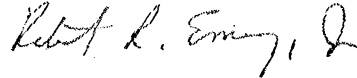
Division of Coastal Management
Department of Environment and Natural Resources
400 Commerce Ave., Morehead City, N.C. 28557
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The draft language being presented to local governments does not carry with it any specific mandates. With regard to the land use planning program, the Commission does develop guidelines as to what topics are to be addressed in land use plans; however, it is the local government's decision as to what policies are ultimately adopted.

The Commission is committed to incorporating the concerns of local government into the development of a sea-level rise policy that reflects the seriousness of the issue as well as any economic effects that may be associated with its adoption. I would encourage you to continue to involve your fellow commissioners and county staff in providing input to the CRC as we continue to address this important issue.

Sincerely,



Robert R. Emory, Jr.

CC:

Jerry Langley, Chairman
Beaufort County Board of Commissioners

Lewis C. Hoggard, III, Chairman
Bertie County Board of Commissioners

William M. Sue, Chairman
Brunswick County Board of Commissioners

Andra Duckwall, Chairman
Camden County Board of Commissioners

Edward C. Goodwin, Chairman
Chowan County Board of Commissioners

Steve Tyson, Chairman
Craven County Board of Commissioners

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Graham L. Twine, Chairman
Gates County Board of Commissioners

Johnnie R. Farmer, Chairman
Hertford County Board of Commissioners

Sharon P. Spencer, Chairman
Hyde County Board of Commissioners

Jonathan Barfield, Jr., Chairman
New Hanover County Board of Commissioners

W.C. Jarman, Chairman
Onslow County Board of Commissioners

Paul Delamar, III, Chairman
Pamlico County Board of Commissioners

Lloyd Griffin, III, Chairman
Pasquotank County Board of Commissioners

George Brown, Chairman
Pender County Board of Commissioners

Benjamin Hobbs, Chairman
Perquimans County Board of Commissioners

Anthony Sawyer, Chairman
Tyrrell County Board of Commissioners

Tracey A. Johnson, Chair
Washington County Board of Commissioners

Myles Michael Stempin
Executive Director
Carteret Economic Development Council

NC COASTAL RESOURCES ADVISORY COUNCIL
February 23-24, 2011
NOAA/NCNERR Administration Building
Beaufort, NC

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

AGENDA

Wednesday, February 23rd

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| 12:30 Council Call to Order (Auditorium) | Ray Sturza |
| ▪ Roll Call | |
| ▪ Approval of November 2011 Minutes | |
| ▪ Announcements and Updates | |
| 12:45 CRAC Coastal Regional Issues | Ray Sturza |
| ▪ County & municipal issues | |
| ▪ Agency & scientific issues | |
| 1:45 CRC/CRAC Committee Structure & Assignments | DCM Staff |
| 2:00 Subdivision Stormwater Systems | Cyndi Karoly |
| 2:30 Old/New Business | Dara Royal |
| ▪ Future agenda items | |
| Adjourn; join CRC Meeting in Auditorium | |

Thursday 24th

Meet in session with CRC.

NEXT MEETING: May 4-5, 2011
NOAA/NCNERR Administration Building
Beaufort, NC



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



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

Beverly Eaves Perdue, Governor

James H. Gregson, Director

Dee Freeman, Secretary

February 1, 2011

MEMORANDUM

TO: Coastal Resources Advisory Council

FROM: Ray Sturza

SUBJECT: February 23rd, 2011 Meeting

As you probably already know, on Wednesday February 23, 2011 the CRAC is scheduled to meet in Beaufort in what may be one of the few opportunities we will have to meet as a group in the next few months.

I would like to encourage as many of you as possible to attend that meeting and to participate in an open discussion of coastal issues throughout the 20 county CAMA region. I will provide each Advisory Council Member present to bring to the discussion any relevant issue from your respective jurisdiction. This may be a land development issue, a pending or deferred transportation improvement, a permit issue, or all of the above. My goal is to find out just what is the state of coastal North Carolina as of 2011, and to then condense and report that information to the Coastal Resources Commission.

The result of this inventory may or may not be information that the Commission finds actionable, but to my knowledge it has not been compiled in this fashion for some time. So it is important that we get participation from as many of you as possible whether you represent a local government or a state agency, the sum of the information gathered will make our inventory of the coastal region that much more accurate.

Equally important is the budget dilemma facing the State and the issue of whether or not the CRAC will continue to meet independently on any regular basis. Each agency in the list of over 400 currently operational in our State is being examined for its value to the State and whether or not it can or should be eliminated as a cost saving measure. I feel the CRAC has been and can continue to be a valuable asset to our State's coastal management program. However, I also see room for improvement and would like to raise the Advisory Council's profile with this regional inventory and use this meeting as a link to integrate the Council's membership to better facilitate a region-wide view of the coast. I truly believe that was the intention of the General Assembly when the CRAC was included in the original CAMA Act back in 1974.

North Carolina is at a crossroad in many respects as the budgetary limitations force the re-evaluation of many valuable programs. I hope you will join me in an effort to see that the CRAC remains a valuable asset to our coastal management program.

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**NC Coastal Resources Advisory Council
November 17-18, 2010
NOAA/NCNERR Administration Building, Beaufort, NC
Meeting Summary**

Attendance

SEAT	MEMBER NAME	17th	18th	
CAMA Counties				
Beaufort	Paul Spruill			
Bertie	Traci White			
Brunswick	Bob Shupe	Y	Y	
Camden	William Wescott			
Carteret	Charles Jones	Y	Y	
Chowan	W. Burch Perry			
Craven	Tim Tabak	Y	Y	
Currituck	Gary McGee			
Dare	Ray Sturza	Y	Y	
Gates	<i>Vacant</i>			
Hertford	<i>Vacant</i>			
Hyde	Richard Newman	Y	Y	
New Hanover	Dave Weaver	Y	Y	
Onslow	<i>Vacant</i>			
Pamlico	Christine Mele		Y	
Pasquotank	W. H. Weatherly			
Pender	Bill Morrison	Y	Y	
Perquimans	Lester Simpson			
Tyrrell	Joe Beck	Y	Y	
Washington	Wayne Howell	Y	Y	
Coastal Cities				
Columbia	Rhett White			
Edenton	William Gardner, Jr			
Emerald Isle	Frank Rush (Vice Chair)	Y	Y	
Hertford	Carlton Davenport			
Nags Head	Webb Fuller	Y	Y	
Oak Island	Dara Royal (Chair)	Y	Y	
Caswell Beach	Harry Simmons			
Surf City	J. Michael Moore	Y	Y	
Lead Regional Planning Orgs				
Albemarle Regional Commission	Bert Banks			
Cape Fear Council of Governments	Debbie Smith	Y	Y	
Eastern Carolina Council	Judy Hills			
Mid-East Commission	(Tim Ware)			
Science & Technology				
NC Coastal Federation	Tracy Skrabal			
NC Sea Grant, Wilmington	Spencer Rogers	Y	Y	
Quible & Associates, Kitty Hawk	Joe Lassiter	Y	Y	
State Agencies				
Department of Administration	Joy Wayman			
Department of Agriculture	Maximilian Merrill			
Department of Commerce	Lee Padrick			
Department of Cultural Resources	Renee Gledhill-Earley			
DENR, Division of Marine Fisheries	Anne Deaton (Michelle Duval)	Y	Y	
DENR, Division of Water Quality	Cyndi Karoly			
NCDOT	Phil Harris			
NCDOT	Travis Marshall			
State Health Director (Shellfish San.)	<i>Vacant</i>			
Local Health Director	Jerry Parks			

Wednesday 17th

Call to Order

Dara Royal called the meeting to order at 1:00 pm and the Council approved the September 2010 minutes without amendment.

Public Access through CAMA Permitting

Ted Tyndall said that DCM relies on several State and Federal commenting agencies before making a final determination on a major permit application. Tyndall said that since decisions are made on a case-by-case basis, with consideration of overriding public benefit, it is difficult to establish a single set of standards that would apply in all cases. Tyndall said that DCM will need to open up a dialogue with the other agencies to try to establish a set of criteria that addresses the challenge of balancing tradeoffs with public trust and usage. Tyndall said that he can bring it up in a DENR multi-agency meeting to see what can be negotiated, and will report back to the CRAC.

John Thayer said that CAMA Access Grants can be used to acquire traditional access sites, and that DCM would want local governments to identify potential sites ahead of time so that DCM can prioritize funding.

Mike Lopazanski said that the NC Conservation Tax Credit Program could be another funding source for access, and asked how local governments felt about managing a public access facility inside of a private development. Dara Royal said that Oak Island is already doing this and it is working well.

Michael Moore said that the Town of Surf City has had two property donations that they have not yet decided how to use. Moore said that the town is looking into acquiring five oceanfront tracts to provide parking for 10 cars each, to satisfy USACE access requirements, but that adjacent property owners are generally not supportive of public access next to their property.

Steve Underwood said that access is one of NOAA's performance measures. Underwood said that he would speak with NOAA about what other states do and report back to the CRAC.

CRAC Office Elections

The nominating committee comprised of Harry Simmons, Bill Morrison, and Webb Fuller nominated Ray Sturza and Frank Rush to serve as CRAC Chair and Vice Chair, respectively. The nominations were unanimously approved, and terms will begin in January 2011. Dara Royal reminded the members that a two consecutive one-year terms has become the convention for CRAC officers.

NC Beach & Inlet Management Plan (BIMP) Recommendations

Steve Underwood said that the BIMP is complete and almost ready to be released to the public. Underwood reviewed the process and content of the document.

Calvin Peck said that the Executive Summary notes that the BIMP is seen as a way to help protect natural habitats from the effects of engineering projects, and this is disturbing. Underwood agreed and said that it might be possible to rephrase that passage.

Frank Rush said that now is the time to be seeking a dedicated funding source for beach engineering projects. Rush said that a \$7.7 million annual budget seems low, and we should be seeking three to four times that amount, in a dedicated account, to serve as the State's cost-share. Dara Royal agreed, adding that there is a lot of uncertainty around Federal funding. Royal said that a dedicated State fund would put NC in a strong position relative to other states, and would improve our competitiveness for whatever Federal funding is available. Rush said that the State should use the BIMP to gain credibility, influence and legitimacy with regulatory agencies.

Dave Weaver said that the BIMP is a good short-medium term strategy, but falls short in the long term because it doesn't incorporate more planning for sea-level rise. Weaver said that beach nourishment is not the answer for all situations for all time. Underwood said that the BIMP promotes other strategies as well, including some of DCM's ongoing work. Underwood said that cost estimates increase all the time, but the level of certainty about the increases does not allow the BIMP to be very predictive. Underwood said that the BIMP should make clear that the State recognizes there will be increased costs due to sea-level rise, and the State will try to help by increasing its cost-share.

Old/New Business

Wayne Howell said that low-lying counties require a 50-foot forested buffer for agricultural land, but the buffer needs to be wider. Howell explained that trees often blow over in strong winds, and that a larger buffer would be more wind resistant. Alternatively, the forested buffer should be eliminated. Ted Tyndall questioned whether Cyndi Karoly (DWQ) could speak to that at a subsequent meeting.

Webb Fuller said that since 2005 many large developments have been required to install engineered stormwater control systems. Fuller said that management responsibility for the systems was intended to rest with the homeowner associations, but that some HOAs have refused responsibility. Fuller said that some of the developers are now prepared or forced to walk away, and wondered how the State and/or local governments will respond. Joe Lassiter said that DWQ is inspecting the systems and requiring that they meet applicable standards. Tim Tabak said that one problem is that few people understand the regulations and requirements, and some people do not wish to understand. Tabak said that education is necessary. Cyndi Karoly said that she would be happy to address the issue at the February 2011 CRAC meeting.

Adjourn

With no further business the Council adjourned at 3:00 pm.

Thursday 18th

Advisory Council met in session with the CRC.

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