

NC COASTAL RESOURCES COMMISSION

July 30-31, 2014

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, July 30th

1:00 COASTAL RESOURCES ADVISORY COUNCIL MEETING (Auditorium)

3:00 COMMISSION CALL TO ORDER* (Auditorium)

Frank Gorham, Chair

- Roll Call
- Chairman's Comments

Frank Gorham, Chair

3:15 VARIANCES

- CXA – 10 Corp. - (*CRC-VR-14-05 Remand*) New Hanover County, ¼ width rule

Robb Mairs, Christine Goebel

4:00 Land Use Planning

- Regulatory Reform & Review/Expiration of Existing Rules(*CRC-14-18*)
- Overview of CAMA Land Use Planning Program(*CRC-14-24*)
- CAMA Land Use Planning Workshop Summary(*CRC-14-25*)
- Recommendations / Future Directions

Mike Lopazanski
Charlan Owens
Mike Christenbury
Braxton Davis

5:00 RECESS

5:15 CRC EXECUTIVE COMMITTEE MEETING (Auditorium)

Thursday, July 31st

9:00 COMMISSION CALL TO ORDER* (Auditorium)

Frank Gorham, Chair

- Approval of May14-15, 2014 Meeting Minutes
- Executive Secretary's Report
- Chairman's Comments
- Legislative Update
- CRAC Report
- CRAC Vacancies

Frank Gorham, Chair
Braxton Davis
Frank Gorham, Chair
Braxton Davis
Debbie Smith, CRAC Chair
Frank Gorham, Chair

9:45 Sea Level Rise Study Update

- Science Panel Nominations&Study Process (*CRC-14-19*)
- Initial SciencePanel Meeting – IHAs & Sea-level Rise Study
- Commission Discussion

Tancred Miller
Dr. Margery Overton,
Science Panel Chair

10:45 ACTION ITEMS

CRC Rule Development

- Adopt 15A NCAC 7H .2600 General Permit for Mitigation & In Lieu Fee Projects
- Repeal of the High Hazard Flood AEC 15A NCAC 7H .0304(2)(*CRC-14-20*)

Mike Lopazanski
Mike Lopazanski

Land Use Planning

- Town of Leland Land Use Plan Certification (*CRC-14-21*)
- Onslow County Land Use Plan Amendment (*CRC-14-22*)

Mike Christenbury
Mike Christenbury

11:30 PUBLIC INPUT AND COMMENT

11:45 LUNCH

1:00 Inlet Management

- Dredging Window Study Overview/Update
- Commission Discussion
- Inlet Management Study Draft Priorities and Implementation (*CRC-14-23*)
- Commission Discussion

Ken Willson, CB&I
Brad Rosov, CB&I
Harry Simmons
Mike Lopazanski

3:30 2016 – 2020 Coastal Program Assessment & Strategy

- CZMA Requirements and Overview (*CRC-14-26*)

Tancred Miller

3:45 OLD/NEW BUSINESS

Frank Gorham, Chair

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.

** Times indicated are only for guidance. The Commission will proceed through the agenda until completed.*



N.C. Division of Coastal Management

www.nccoastalmanagement.net

Next Meeting: October 22-23, 2014; Wilmington



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TO: Coastal Resources Commission

FROM: Christine A. Goebel
Assistant Attorney General

DATE: July 16, 2014 (for the July 30-31, 2014 CRC Meeting)

RE: **Variance Request by CXA-10 Corporation (Watermark Marina)
(14-05 on REMAND from the May 2014 Meeting for a new depth survey)**

Petitioner owns an existing marina in New Hanover County, along River Road south of the City of Wilmington on the Cape Fear River that was originally constructed by a prior owner in 2005-06, pursuant to CAMA Major Permit No. 66-01. In June 2013, Petitioner sought a major modification of its CAMA major permit seeking to extend to the existing forklift pier to the - 6' MLW depth. On December 2, 2013, DCM denied Petitioner's application based on the proposal's inconsistency with the Commission's 1/4 width rule at 7H.0208(b)(6)(G)(iii) and the "rate to deep water" rule at 7H.0208(b)(H). Petitioner sought a variance at the Commission's May 2014 meeting for the pier as proposed in the application. The Commission remanded the request pursuant to 15A NCAC 7J .0703(d) in order for Petitioner to obtain a new depth survey and to find the current location of -5' MLW at the Site. Petitioner now seeks a variance to allow the proposed pier extension and would accept a condition terminating the pier extension at the - 5' MLW contour as it is shown on the 2014 Survey.

The following additional information is attached to this memorandum:

Attachment A: Relevant Rules
Attachment B: Stipulated Facts, including new Stipulated Facts
Attachment C: Petitioner's Position and Staff's Updated Responses to Criteria
Attachment D: Petitioner's Variance Request Materials
Attachment E: Stipulated Exhibits, including new Stipulated Exhibits

cc: William A. Raney, Jr., Counsel for Petitioner, electronically
Ken Vafier, CAMA LPO, New Hanover County, electronically
Mary Lucasse, CRC Counsel, electronically

ATTACHMENT A

RELEVANT STATUTES OR RULES

15A NCAC 7H.0203 Management Objective of the Estuarine and Ocean System

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

15A NCAC 7H .0208 Coastal Shorelines

- (b) Specific Use Standards

- (G) Pier and docking facility length shall be limited by:
 - (i) not extending beyond the established pier or docking facility length along the same shoreline for similar use; (This restriction does not apply to piers 100 feet or less in length unless necessary to avoid unreasonable interference with navigation or other uses of the waters by the public);
 - (ii) not extending into the channel portion of the water body; and
 - (iii) not extending more than one-fourth the width of a natural water body, or human made canal or basin. Measurements to determine widths of the water body, canals or basins shall be made from the waterward edge of any coastal wetland vegetation that borders the water body. The one-fourth length limitation does not apply in areas where the U.S. Army Corps of Engineers, or a local government in consultation with the Corps of Engineers, has established an official pier-head line. The one-fourth length limitation shall not apply when the proposed pier is located between longer piers or docking facilities within 200 feet of the applicant's property. However, the proposed pier or docking facility shall not be longer than the pier head line established by the adjacent piers or docking facilities, nor longer than one-third the width of the water body.

- (H) Piers or docking facilities longer than 400 feet shall be permitted only if the proposed length gives **access to deeper water at a rate of at least 1 foot each 100 foot increment of length longer than 400 feet**, or, if the additional length is necessary to span some obstruction to navigation. Measurements to determine lengths shall be made from the waterward edge of any coastal wetland vegetation that borders the water body;

ATTACHMENT B

STIPULATED FACTS

1. The Petitioner, CXA-10 Corporation, is a Texas corporation authorized to do business in North Carolina.
2. The Petitioner is the owner of property located at 4114 River Road, Wilmington, North Carolina (the Site). The Site is located about 4.7 miles south of the Cape Fear Memorial Bridge at Wilmington. It was purchased at a foreclosure sale, as shown on a Trustee's Deed recorded May 7, 2010.
3. The property consists of 12.14 acres of upland and 20.47 acres of marsh on the east bank of the Cape Fear River. At the Site, the waters of the Cape Fear River are designated as a Primary Nursery Area (PNA) and as SC waters by the Environmental Management Commission, and are closed to the harvest of shellfish.
4. The property is the location of an existing dry storage marina, a yacht club building, trailer and vehicle sheds, and a pier for launching boats by means of a forklift (launch pier).
5. A CAMA Major Permit Application was submitted on June 2, 2000 by Barnards Creek, LLC for a clubhouse, dry stack storage facility, a launch pier, floating docks and related on-shore development.
6. After the filing of the original application in June, 2000, it was determined that the proposed end of the launch pier and the floating docks were located in water that was too shallow to launch and operate boats during most of the tidal cycle.
7. A hydrographic survey was performed by Hanover Design Services, P.A., a registered land surveyor, in 2000 in an attempt to identify a location for the launch pier that had adequate water depth. A copy of this survey is attached.
8. Prior to the issuance of Permit 66-01 the plans for the pier were changed to relocate and extend the pier so that the depth at the end of the launch pier would be 3.46' at mean low water according to the Hanover Design Services hydrographic survey.
9. Prior to the issuance of Permit 66-01, then-DCM Assistant Director Charles Jones visited the site by boat to inspect the water depth at the new proposed location for the launch pier.
10. CAMA Major Permit 66-01 was issued on May 29, 2001 for the facility with a revision to the original plans that changed the location, length and orientation of the launch pier and the floating docks.

11. Permit 66-01 contained a condition stating "In accordance with commitments made by the permittee, if water depths at the launch dock is of insufficient depth to allow for launch and/or recovery operations to take place without disturbing the adjacent shallow bottom habitat, launch and recovery operations shall be suspended until such time as the water depth increases to an adequate level."
12. The Permit was renewed on December 3, 2004. On June 30, 2005, the property was purchased by Watermark Marina of Wilmington, LLC and the Permit was transferred to Watermark in July 2005 following the change in ownership.
13. Most of the development authorized by Permit 66-01 was constructed in late 2005 and early 2006, including the launch pier, floating docks and upland development.
14. A survey by a registered land surveyor from McKim & Creed in 2010, a copy of which is attached, showed the floating docks being located between 0' and -1' mean low water.
15. The Marina has never become a fully operational dry storage marina facility. In the major modification narrative, the Petitioner noted that at that time, only 20 of 430 dry storage spaces were in use. Petitioner contends that this is due to shallow water at the launch pier, launching and retrieving is limited to two hours on either side of high tide.
16. The Permit was again renewed by Watermark Marina of Wilmington, LLC on March 28, 2007.
17. On May 4, 2010, CXA-5 Corporation purchased the Site and Marina through a foreclosure sale, after Watermark Marina of Wilmington, LLC's deed of trust was foreclosed on.
18. Effective July 2, 2012, the Texas Corporations CXA-1 Corporation and CXA-5 Corporation merged to become CXA-10 Corporation. Accordingly, the Marina changed ownership from CXA-5 Corporation to CXA-10 Corporation (Petitioner). On October 16, 2012, the Permit was transferred to CXA-10 Corporation.
19. On June 13, 2013, a scoping meeting was held for the proposed major modification to Permit 66-01.
20. On August 20, 2013, the Petitioner applied for a major modification to Permit 66-01 to add an extension on to the existing launch pier. The proposed modification included development of additional forklift launch and retrieval pier approximately 1,031 feet by 23.5 feet, development of an irregularly-shaped platform area and transient floating docks.

21. The development proposed in the major modification application is within the Public Trust and Estuarine Waters Areas of Environmental Concern (AECs). A CAMA permit (or major modification) is required by 113A-118 for the development proposed within these AECs.
22. The proposed pier extension would add 51,973 square feet (1.19 acres) of public trust area usurpation to the 7,180 square feet of the public trust area usurpation from the existing forklift pier, for a total of approximately 59,153 square feet (1.36 acres) of public trust area usurpation.
23. As part of the CAMA major permit review process, notice was given to the public through on-site posting and notice in the local newspaper. Notice was also sent to the adjacent riparian owners. DCM received no comments or objections in response.
24. Also as part of the CAMA major permit review process, copies of the major modification application and the Field Report were sent to federal and state review agencies. DCM's fisheries resource staff, DEH's (now DMF's) Shellfish Sanitation Section, and the Wildlife Resources Commission each had no comment on this project. The federal agencies had no objection but proposed conditions. A copy of the Field Report and the federal response are attached.
25. On December 2, 2013, DCM denied Petitioner's major modification application, as the proposed development would be inconsistent with the Commission's Rules at 15A NCAC 7H .2028(b)(6)(G)(iii) (the ¼ Width Rule) and .0208(b)(H) (rate to deeper water rule). Staff's denial letter stated that "8) The proposed forklift launch pier and pedestrian pier extension longer than 400 feet would gain deeper water at a rate of less than .5 feet per 100 foot increment." A copy of the denial letter is attached.
26. CRC Rule 15A NCAC 7H.0208(b)(6)(G)(iii) provides that pier length shall be limited by "not extending more than 1/4th the width of a natural water body... measurements to determine widths of the water body, canals or basins shall be made from the waterward edge of any coastal wetland vegetation which borders the water body...".
27. CRC Rule 15A NCAC 7H.0208(b)(6)(H) states the pier length shall be limited by: "Piers or docking facilities longer than 400' shall be permitted only if the proposed length gives access to deeper water at a rate of at least 1' each 100' increment of length longer than 400', or, if the additional length is necessary to span some obstruction to navigation. Measurements to determine lengths shall be made from the waterward edge of any coastal wetland vegetation that borders the water body;".
28. The application seeks to extend the pier to the -6' mean low water depth so that the existing pier and the proposed pier will extend a total distance of 1,424' into the body of water.

29. The distance across the water body at the location of the proposed launch pier is 2,686' from marsh to marsh.
30. The federally maintained Cape Fear River channel is over 4,000' west of the site. The proposed modification would not encroach into the US Army Corps of Engineers navigation channel setback. One large undeveloped spoil disposal island directly across from the site is known as Island 13, which was used as a mitigation site for impacts to PNA by the Wilmington Harbor Deepening Project.
31. The presence of Island 13 creates a back channel, on which the permitted development is sited, separated from the main navigation channel, the Cape Fear River, by Island 13. In the absence of Island 13, the width of the water body (Cape Fear River) at the project location is approximately 6,750'.
32. The proposed launch pier would extend about 53% across the width of the back channel.
33. The back channel has extensive shallow water mud flats extending from the east shoreline of the River and a less extensive mud flat on the western shoreline of Island 13. A copy of the 2010 McKim & Creed survey is attached.
34. The deepest water within the back channel is about 7-8' deep at mean low water and, in the vicinity of the proposed launch pier, is about 230-350' wide. The outer end of the proposed launch pier would be about 60' landward of the channel portion of the back channel. A copy of the 2010 McKim & Creed survey is attached.
35. At the project location the distance from the marsh at the Petitioner's property to the edge of the 7-8' channel is approximately 1,504'. The distance from the marsh at Island 13 to the edge of the 7-8' channel is approximately 900'. The 7-8' channel is approximately 280' wide at this location. A copy of the 2010 McKim & Creed survey is attached.
36. Extending the launch pier into deeper water will decrease the likelihood that the bottom of the water body will be disturbed by boat hulls and propellers.
37. The closest pier to the north of the project is an industrial off-loading conveyor system for bulk gypsum coming by ship. The conveyor pier extends approximately 1,565' beyond the edge of the marsh at a location where the width of the River from marsh to marsh is approximately 3,048'. The conveyor pier was built before the 1/4 Width rule was in effect.

38. Barnards Creek divides the applicant's property from the next property to the south which is owned by NNP IV, Cape Fear River LLC (NNP). NNP is in the process of developing a 1,375 acre tract with 15,132' of shoreline on the Cape Fear River, which was permitted for 112 wet slips and 84 dry stack slips. NNP has been issued a CAMA Permit and a variance from the 1/4th Width Rule allowing NNP to construct a wet-slip marina and forklift launch pier that extends 540' of the 1800' back channel which is 30% of the width of the back channel, and the wet-slip marina at 450' of the 1500' back channel which is also 30% of the width of the back channel. The NNP piers and docks would extend to about the -5 - -6' depth at mean low water.
39. The width of the back channel from the waterward edges of the Coastal Wetlands (as rule 7H. 0208(b)(6)(G)(iii) requires for water-body measurement) at the NNP marina site is approximately 1,500-1,800'. The water width at the Watermark proposed pier site, from marsh to marsh, is approximately 2,686'. The difference in width between the Watermark site and the NNP site is due to the indentation in the east bank of the Cape Fear River at the Watermark site.

THE FOLLOWING FACTS ARE NEW FACTS AGREED TO BY THE PETITIONER AND STAFF AFTER REVIEW OF THE 2014 SURVEY

40. On June 17, 2014, McKim & Creed, RLS, conducted a bathymetric survey (2014 Survey) of the area of the proposed pier extension, based on the May 14, 2014 request of the Commission. A map of the survey was prepared with overlays of proposed piers and is included as a stipulated exhibit.
41. According to the 2014 Survey, the -5' mean low water (MLW) depth at the proposed pier is approximately 118' landward from the location of the extended pier as depicted in the Application submitted by the Petitioner.
42. Limiting the pier length to the -5' MLW contour as shown on the 2014 Survey would result in a total pier length of 1306' rather than the total length of 1424' as proposed in the application submitted by the Petitioner.
43. If the pier were extended only to the -5' MLW contour as depicted on the 2014 Survey, the pier would extend 49 % across the back channel rather than 53% as requested in the Variance Petition.
44. A hydrographic survey performed by McKim & Creed in 2005 was located by DCM staff since the last variance hearing, a copy of which is attached.

45. Based on a pier which would extend to the -5' MLW contour as shown on the 2014 Survey, such a pier extension would gain deeper water at a rate less than 0.5 feet per 100 foot increment, which does not meet the "rate to deep water" standard of 15A NCAC 7H .0208(b)(6)(H).
46. Based on a pier which would extend of the -5' MLW contour as shown on the 2014 survey, such a pier extension would add approximately 47,194 square feet (1.08 acres) of public trust area usurpation to the 7,180 square feet of the public trust area usurpation from the existing forklift pier, for a total of approximately 54,374 square feet (1.24 acres) of public trust area usurpation. The Commission can contrast this fact with fact #22, which makes this calculation for a pier extension to the 6' contour as proposed.
47. The Petitioner agrees to a condition on any variance that would require the pier length as proposed in the permit modification application to be reduced by terminating the pier and at the -5' MLW contour rather than the -6' MLW contour, as that -5' MLW contour is shown on the 2014 Survey.

Petitioner and Staff Positions

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

Petitioner's Position: Yes.

The restriction on pier length imposed by CAMA Rules causes an unnecessary hardship to the Petitioner because it prevents the Petitioner from launching and retrieving boats at its dry storage marina facility for much of the tidal cycle. The hardship is unnecessary because the lengthening of the pier will not result in unreasonably restricting navigation or interfering with other public uses of the public trust waters. The body of water in which the extended pier is proposed to be located has physical constraints that limit its use for navigation and other public uses. The shoreline ownership, use, zoning and configuration all join to limit a proliferation of structures in the back channel thereby effectively leaving most of the water body open for public use. In addition, the area within the 1/4th distance from the shoreline is classified as primary nursery area (PNA) so that the Petitioner does not have the option of dredging to solve the water depth problem.

Staff's Position: No.

Strict application of the Commission's "1/4 width rule" and the "rate to deep water" rule will not cause Petitioner unnecessary hardships. The purpose of these rules is to limit pier length, to limit the public trust area usurped by such structures, and to protect the safe navigation of public trust waters. Petitioner seeks to extend the forklift pier beyond the 1/4 width limit imposed by the Commission's rules, and beyond the 1/3 width imposed in special circumstances by the Commission's rules. Petitioner seeks to build to a length 53% across the waterbody in order to reach a depth of -6 feet NLWL. As proposed, the forklift pier will usurp approximately 59,153 square feet of this public trust waterbody. Additionally, at this site, the bottom slope and proposed design of the extension fail to meet the 1' of depth per 100' length standard within the Commission's rules. Staff believes that since this site was always marginal for a marina due to its location in a PNA where new dredging is prohibited and the existing shallow depths, combined with the likely siltation that has occurred since development of the existing structure, any hardships which may result from the strict application of the Commission's rules limiting pier length are not unnecessary.

(CONTINUED ON THE NEXT PAGE)

Staff's additional position statements following the new survey: No.

Staff continues to take the position noted above, and believes that a strict application of the 1/4 width rule and the rate to deep water rule will not cause Petitioner unnecessary hardships. The reduction of the length of the pier from the -6' contour to the -5' contour did not significantly reduce the overall length and size of the pier proposed, only reducing it from 53% of the waterbody to 49% of the waterbody and removing only 118' of the large overall length. This small reduction in the overall size, indicative of the marginal nature of this site for a marina, does not alleviate Staff's concerns about the amount of usurpation the overall structure will have over the public trust waters which are designated as a PNA.

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

The Petitioner's property lies along an indented portion of the shoreline of the Cape Fear River. The shoreline of the Cape Fear River for a considerable distance north and south of the Petitioner's property is sparsely developed with piers and docks. The water within the indented portion of the shoreline is all very shallow. The property lies along a back channel of the Cape Fear River that is separated from the shipping channel of the River by a spoil island controlled by the Corps of Engineers known as Island 13. Island 13 was created from material dredged from the ship channel and has been mostly converted from upland area to wetlands by the Corps of Engineers to mitigate for the adverse environmental effects of the expansion of the ship channel. The deepest water in the back channel lies near Island 13. To reach water deep enough at all tidal cycles to launch and retrieve boats at this dry storage facility is necessary to build the launch and retrieve pier long enough to reach the deeper water near the Island 13 side of the back channel. There is unlikely to be any development on Island 13. The proposed extension of the pier extends about 53% of the way across the back channel but the deepest part of the back channel is still located well beyond the end of the proposed extended pier. The total width of the Cape Fear River at this location is approximately 6,755' measured from marsh to marsh. Without the artificial spoil island the proposed pier would extend only about 21% of the distance across the River.

Staff's Position: Yes.

Staff agrees that certain conditions exist that are peculiar to the Petitioner's property and which may cause Petitioner's hardships. Specifically, Staff agrees that the site's location across from Island 13, which is used by the U.S. Army Corps of Engineers for spoil deposition, makes it unlikely that there will be future pier development that would further impact navigation. Staff believes the Site's location across from Island 13 makes future navigation problems less likely because of the unlikely chance of development on Island 13, and so Staff agrees that any hardships which might exist, result from the location of Petitioner's property.

In making this recommendation, Staff notes that other conditions of this property noted by the Petitioner are not peculiar, including the "very shallow water", the possible siltation at the site after initial construction, and the indentation along this shoreline.

Staff's additional position statements following the new survey: Yes.

Staff's position remains the same as above, as any hardship continues to result, at least in part, from the peculiar condition of the existence and nature of Island 13 across from the site as noted above.

III. Do the hardships result from the actions taken by the Petitioner? Explain.**Petitioner's Position: No.**

The hardships are due to the location of the property on a shoreline with an indentation. The area of indentation consists of very shallow water. The shallow water extends beyond 1/4th the width of the entire body of water. The Petitioner is not the original owner who developed the property for a dry storage marina. The original developer and its successors had information from a professional land surveyor showing water depths at the end of the existing launch pier being at about 3.46' at mean low water. That depth would be marginally adequate for most types of boats at all stages of the tidal cycle. A CAMA permit was issued based on this information. It was only after the launch pier was constructed that the pier owner realized that the area at the end of the launch pier and beyond had either quickly become shallower by deposition of sediment or that the original water depth information was inaccurate. The hardship of inadequate water depth was not the result of actions taken by the Petitioner.

Staff's Position: Yes.

The shallow site conditions, the likely siltation after development, and the designation of the area as a PNA and associated regulatory limitations on dredging were all known in 2001 at the time of permitting, in 2005-06 at the time of construction, in 2010 when Petitioner's sister-company purchased the site through a foreclosure sale, and continue today. In purchasing the property in 2010 through the foreclosure process, and during the process of transferring the CAMA permit into the applicant's name, the limitations of this site and of the Commission's long-standing limits on pier length were or should have been known to the Petitioner and its sister company. As such, Staff believes that any hardships now faced by Petitioner are a result of its proposal to extend the pier well beyond the 1/4 width limitation in order to try and overcome these long-standing site conditions, and to go as far as -6' depth in order to now utilize the forklift launch during all portions of the tidal cycle. While Petitioner is seeking to resolve the problem of possible siltation and shallow water by reaching deep water in order to limit possible PNA damage, the fact that it must extend over half the width of the waterbody to do so is excessive and creates any hardship faced by Petitioner.

Staff's additional position statements following the new survey: Yes.

Staff's position on this factor has not changed from that stated above after considering the added information from the 2014 Survey and Petitioner's agreement to reduce the pier length by terminating the pier to the -5' depth contour. While the pier would now reach 49% across the width of the waterbody instead of 53% across, Staff still believes this is excessive and is the cause of any hardship faced by Petitioner.

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.

Petitioner's Position: Yes.

Consistent with spirit, purpose and intent of rules.

The purpose of the Pier ¼ Width Rule, 7H.0208(b)(6)(G)(iii) is to protect public water for use by the public by limiting the area of water that is occupied by private structures to 1/4th of the width of the body of water thereby leaving the middle ½ of a body of water unobstructed. The purpose of Rule 7H.0208(b)(6)(H) is to avoid extremely long piers in wide bodies of water when the water depth increases very slowly. Piers along such shorelines and across wide areas of shallow waters could remove substantial public trust areas from public use. The Petitioners proposed launch pier will serve a need for public access to the waters along this stretch of the River. The current shallow depth of the water in the location of Petitioner's property reduces its usefulness for public uses such as navigation or fishing. The variance will help protect the viability of the primary nursery area by avoiding disturbance of shallow water that would inevitably result if the current pier were to be used for launching boats. Even though the depth gained by the extension of the pier is less than 1' per 100' of extra length, the number of people gaining access to the waters of the River by use of the proposed facility justifies the unusually long pier. The unusually long pier in this location will not create a significant encumbrance of the public trust waters from possible cumulative effects of multiple piers because the extensive shorelines both north and south of the proposed pier are committed to industrial or commercial uses rather than a proliferation of private piers.

Secure the public safety and welfare.

The extension of the pier will avoid navigation hazards that would exist with the use of the existing shorter pier that ends in shallow water. Users of the existing facility could become stranded if they tried to return to the facility when the tidal cycle resulted in water depth that was too shallow to reach the pier. This could result in strandings for extended periods of time. The extended pier would also alert mariners unfamiliar with this area to the existence of a large expanse of shallow water adjacent to the east bank of the River in this location.

Preserve substantial justice.

Granting the variance will allow the Petitioner to utilize a significant existing onshore facility for its intended purpose. Honest mistakes by both the developers of the property and the Division of Coastal Management resulted in permitting a substantial dry storage marina that is of little practical use. Granting the variance will also help protect primary nursery area from adverse impacts resulting from utilization of the pier in its current location.

Staff's Position: No.

Petitioner's proposed pier extension will not be consistent with the spirit, purpose and intent of the rules, standards and orders issued by the Commission. The rules which Petitioner seeks a variance from are the $\frac{1}{4}$ width rule and the "rate to deep water" rule. That is the spirit of the rules staff evaluates these criteria on. The Commission amended its pier length rule in 1998 to change the one-third standard to a one-fourth width requirement with certain exceptions (none of which apply in this case) to preserve traditional navigation by assuring that the middle one-half of any water body remained available for public use, and to limit overall pier size any one pier can inhabit within a public trust waterbody such as the Cape Fear River. In this case, an exception to the $\frac{1}{4}$ width rule may be within the spirit of the rules to some degree in order to reduce the likelihood of impacts to shallow water PNA and allow more use by Petitioner. However, Petitioners propose expanding their pier to reach a depth to -6' in order to use the facility for the whole tidal cycle. The extra distance needed to reach -6' requires extending the pier to 53% of the width of the waterbody (2,686) and results in the usurpation of approximately 59,153 square feet of pier area within the public trust area of the Cape Fear River. Staff feels that both rules from which Petitioner is seeking a variance are reasonable regulations of riparian rights, and to grant such significant variances to them would not be within the spirit, purpose and intent of the Commission's rules regulating pier length.

Staff further contends that public safety and welfare will be preserved by not allowing such a large amount of the public trust area of the Cape Fear River be taken up by a large pier extension proposal and specifically, allowing it to extend 53% of the waterbody width.

Staff further contends that the granting of this variance by the Commission would not preserve substantial justice. Petitioner knew or should have known the limitations on its property in 2010 at the time the marina was purchased through foreclosure. To allow Petitioner to extend out 53% across this waterbody where others are held to $\frac{1}{4}$ or $\frac{1}{3}$ widths, and to depths of six feet when the original applicant believed that depths of 3.46 were adequate for operation of a drystack marina, would not preserve substantial justice, as there is no fairness in changing the rules later in the game for one marina but not all marinas located in PNAs along this river and along the coast.

Staff's additional position statements following the new survey: No.

Staff's position remains the same as listed above. Staff believes that Petitioner's proposed extension to the -5' contour still fails to meet the spirit, purpose and intent of the $\frac{1}{4}$ width rule and the rate to deep water rule, though Staff acknowledges that this proposal is some improvement over the -6' depth contour proposal. Staff continues to have concerns that public safety and welfare will be impacted by the large amount of public trust area taken up by the still-large structure. Staff continues to believe that substantial justice will not be preserved in granting this Petitioner a variance for a pier length 49% across the waterbody when the Commission's rules only provide for piers 25% or 33% across for permit applicants.

ATTACHMENT D

Petitioner's Petition
(without proposed attachments which are also included in
the stipulated exhibits or draft facts)

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

RECEIVED

MAR 18 2014

N.C. ATTORNEY GENERAL
Environmental Division

JOHN C. WESSELL, III
WESSELL@BELLSOUTH.NET

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

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

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

March 12, 2014

VIA U.S. MAIL

Mr. Braxton C. Davis, Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

VIA E-MAIL

Braxton.Davis@ncdenr.gov

Re: **Variance Petition – CXA-10 Corporation, New Hanover County**

Dear Mr. Davis:

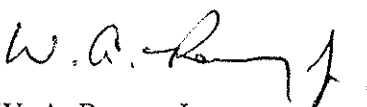
Enclosed is a CAMA Variance Request Form regarding the above-referenced project. Please schedule this variance for the May, 2014 meeting of the Coastal Resources Commission.

I am enclosing copies of documents to support some of the proposed stipulated facts. These need not be included in the materials provided to the CRC.

Thank you for your attention to this matter.

Sincerely,

WESSELL & RANEY, L.L.P.


W. A. Raney, Jr.

WAR:ktw (Enc.)

WAR\ENVIRON\R06-125-C04

cc: Ms. Christy Goebel (via U.S. mail and e-mail)

CAMA VARIANCE REQUEST FORM

DCM FORM 11
DCM FILE No.: 14-05

PETITIONER'S NAME CXA-10 Corporation

COUNTY WHERE THE DEVELOPMENT IS PROPOSED New Hanover

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 A copy of the permit decision for the development in question;
- B A copy of the deed to the property on which the proposed development would be located;
- C-1&2 A complete description of the proposed development including a site plan;
- D A stipulation that the proposed development is inconsistent with the rule at issue;
- E 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;
- F Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- G 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.

W. A. Raney, Jr.
Signature of Petitioner or Attorney

3-12-14
Date

W. A. Raney, Jr.
Printed Name of Petitioner or Attorney

waraney@bellsouth.net
Email address of Petitioner or Attorney

PO Box 1049

(910) 762-7475
Telephone Number of Petitioner or Attorney

Wilmington, NC 28402-1049
Mailing Address

(910) 762-7557
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:

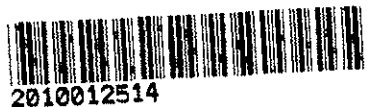
Check DCM website for the email address of the current DCM Director
www.nccoastalmanagement.net

By Fax:

(919) 716-6767

Revised: February 2011

5531
12400 R/S



FOR REGISTRATION REGISTER OF DEEDS
JENNIFER H. MACNEISH
NEW HANOVER COUNTY, NC
2010 MAY 07 11:02:07 AM
BK: 5484 PG: 1734-1739 FEE: \$31.00
NC REV STAMP: \$12,400.00
INSTRUMENT # 2010012514

Prepared by and Return to:
Ward and Smith, P.A.
Attn: Michael P. Flanagan
PO Box 8088
Greenville, NC 27835

Tax Parcel No. R0700-002-005-000 and R0700-002-009-000
Revenue stamps: \$12,400.00

The Property Conveyed By This Deed Is Not the Grantor's Primary Residence

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

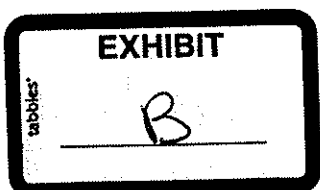
TRUSTEE'S DEED

THIS DEED, made and entered into this the 4th day of May, 2010 by and between WASLAW, LLC, acting as Substitute Trustee as hereinafter stated, of Post Office Box 867, New Bern, Craven County, North Carolina 28563, party of the first part; and CXA-5 CORPORATION, a North Carolina corporation, party of the second part (whether one or more), whose address is 6000 Legacy Drive, Plano, Texas 75024;

WITNESSETH:

WHEREAS, Watermark Marina of Wilmington LLC executed to The Title Company of North Carolina, Trustee for Beal Bank Nevada (Successor to Bankfirst), upon the lands hereinafter described, a Deed of Trust dated June 23, 2006 and recorded in Book 5049, at Page 2058, in the office of the Register of Deeds of the above-captioned county; and,

WHEREAS, by instrument dated August 12, 2008, recorded in Book 5340, at Page 2124, in the office of the Register of Deeds of the above-captioned county, the party of the first part was substituted as Trustee of said Deed of Trust in the place and stead of the original Trustee; and,



WHEREAS, the indebtedness secured by said Deed of Trust being overdue and unpaid and the Holder of said indebtedness having called upon said Substitute Trustee to foreclose said Deed of Trust; and,

WHEREAS, said Substitute Trustee having given notice of the commencement of foreclosure of said Deed of Trust to those persons entitled to same according to the provisions of Article 2A of Chapter 45 of the General Statutes of the State of North Carolina, and a hearing having been held before the Clerk of Superior Court of the above-captioned county, and said Clerk having authorized, ordered, and directed that said Substitute Trustee could proceed under said Deed of Trust to give notice of and to conduct a foreclosure sale, all of which appears of record in File No. 08-SP-1066 in the office of the Clerk of Superior Court of the above-captioned county, North Carolina; and,

WHEREAS, the said Substitute Trustee after due advertisement as required by law and the terms of said Deed of Trust offered said land and premises for sale at the Courthouse door in Wilmington in the above-captioned county, North Carolina, to the highest bidder for cash on March 22, 2010, when and where Beal Bank Nevada became the last and highest bidder for said premises at the price of Six Million Two Hundred Thousand and No/100 Dollars (\$6,200,000.00); and,

WHEREAS, a report of said sale was duly made to the Court and the same has not been raised, upset, or increased as provided by law and said purchase price has been paid as in said Deed of Trust prescribed.

WHEREAS, Beal Bank Nevada assigned its bid to CXA-5 CORPORATION by Assignment of Bid dated April 27, 2010, which Assignment of Bid was filed in the office of the Clerk of Superior Court of the above-captioned county.

NOW, THEREFORE, for and in consideration of the premises and the sum of Six Million Two Hundred Thousand and No/100 Dollars (\$6,200,000.00), the party of the first part has bargained and sold and by these presents does bargain, sell, and convey unto the said party of the second part, said party's successors and assigns, the following premises, to wit:

That certain tract of land being in New Hanover County, North Carolina, and being more fully described as follows:

Being all of a 40.45 acre tract as shown on a map of recombination for Watermark Marina of Wilmington as shown on plat recorded in Map Book 48, Page 331, New Hanover County Registry.

This conveyance is made together with all easements benefiting the aforesaid property, including, but not being limited to, the "60' Access Easement" located north of the northern line of Tract C as said line is extended westwardly 60 feet, depicted on the map entitled "Map of Recombination Watermark Marina of Wilmington", said map being recorded in Map Book 48, Page 331 in the office of the Register of Deeds of New Hanover County.

This conveyance is made subject to the rights of others in and to the non-exclusive use of the "60' Access Easement" located north of the northern line of Tract C, as said line is extended westwardly 60 feet, depicted on the map entitled "Map of Recombination of Watermark Marina of Wilmington" recorded in Map Book 48, Page 331 in the office of the Register of Deeds of New Hanover County, including, but not being limited to the non-exclusive easement rights of Watermark Marina of Wilmington, LLC in said non-exclusive easement (and including only that portion of said easement which is located north of the northern line of Tract C as said line is extended westwardly 60 feet) appurtenant to the property described by the deed recorded in Book 4929, Page 1235 in the office of the Register of Deeds of New Hanover County, which easement rights are and shall be non-exclusive and shall be used in common with all of the owners of other property benefited

by said easement including, but not being limited to, the property depicted as "40.45 AC +/-" shown on the map entitled "Map of Recombination Watermark Marina of Wilmington" recorded in Map Book 48, Page 331 in the office of the Register of Deeds of New Hanover County.

Together with all additional rights, title, and interest of Grantor conveyed and described in the Deed of Trust recorded in Book 5049 at Page 2058 in the office of the Register of Deeds of New Hanover County.

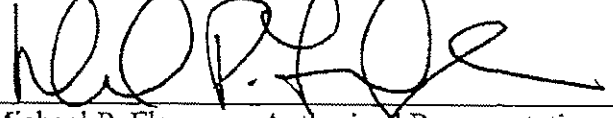
The above-described property is conveyed subject to all taxes, special and homeowners' association assessments, any liens or encumbrances of record against the above described property, and unrecorded mechanics' and materialmen's liens, which are prior to the Deed of Trust recorded in Book 5049, at Page 2058, and any recorded releases from the Deed of Trust recorded in Book 5049, at Page 2058 in the office of the Register of Deeds.

The above-described property is conveyed "AS IS, WHERE IS, AND WITH ALL FAULTS." No representations or warranties relating to the title or any physical, environmental, health or safety conditions existing in, on, at or relating to the above-described property are made and any and all responsibilities and liabilities arising out of or in any way relating to any such condition expressly are disclaimed.

TO HAVE AND TO HOLD, the said premises, together with all privileges and appurtenances thereunto belonging unto the said party of the second part, said party's successors and assigns, in as full and ample a manner as the party of the first part is empowered to convey the same.

IN WITNESS WHEREOF, the said party of the first part caused this instrument to be executed in such form so as to be binding this the day and year first above written.

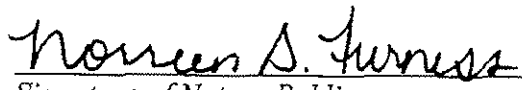
WASLAW, LLC, Substitute Trustee

By 
Michael P. Flanagan, Authorized Representative

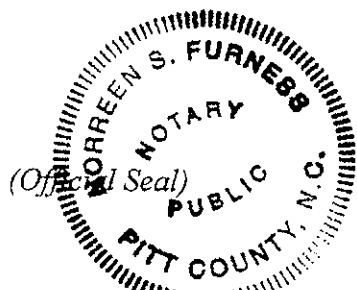
STATE OF NORTH CAROLINA
COUNTY OF PITT

I certify that the following person personally appeared before me this day, acknowledging to me that he/she signed the foregoing document for the purpose stated therein, in the capacity indicated therein: Michael P. Flanagan, Authorized Representative.

Date 5/4/10


Norreen S. Furness
Signature of Notary Public
Norreen S. Furness
Notary's Printed or Typed Name

My commission expires: August 23, 2013



080576-00001
ND: 4829-6670-4390, v. 1



JENNIFER H. MACNEISH
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration: 05/07/2010 11:02:07 AM

Book: RE 5484 Page: 1734-1739

Document No.: 2010012514

6 PGS \$31.00

NC REAL ESTATE EXCISE TAX: \$12,400.00

Recorder: CRESWELL, ANDREA

State of North Carolina, County of New Hanover

PLEASE RETAIN YELLOW TRAILER PAGE WITH ORIGINAL DOCUMENT.

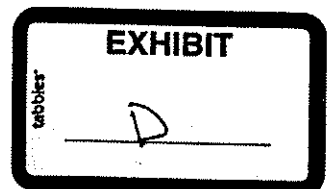
2010012514

2010012514

CAMA VARIANCE PETITION
CXA-10 CORPORATION
STIPULATION

Petitioner, CXA-10 Corporation, through its attorney, W. A. Raney, Jr., stipulates that the proposed development that is the subject of the variance petition is inconsistent with Coastal Resources Commission Rules 15A NCAC 7H.0208(b)(6)(G)(iii) and 15 NCAC 7H.0208(b)(6)(H).

WAR\ENVIRON\R06-125-102



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

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

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

JOHN C. WESSELL, III
WESSELL@BELLSOUTH.NET

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

March 12, 2014

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

7012 2210 0001 2435 4082

Emmitt C. Stovall Irrevocable Trust
c/o Coleman Commercial PR
1508 Military Cutoff Road, 304
Wilmington, NC 28403

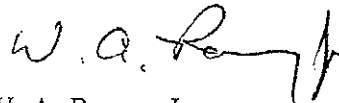
Dear Property Owner:

This is to notify you that CXA-10 Corporation is applying for a variance from the North Carolina Coastal Resources Commission for extension of the existing launch pier at Watermark Marina for an additional 1,424 feet into the Cape Fear River. A copy of the site plan depicting the extension is enclosed. The variance is projected to be heard at the May 14-15, 2014 meeting of the Coastal Resources Commission.

If you wish to receive further information regarding the variance you may contact me. If you wish to make comments on the variance you may direct your comments to the North Carolina Division of Coastal Management, 127 Cardinal Drive Ext., Wilmington, North Carolina 28405. You may also contact CAMA Field Representative Robb Mairs directly at (910) 796-7215.

Sincerely,

WESSELL & RANEY, L.L.P.

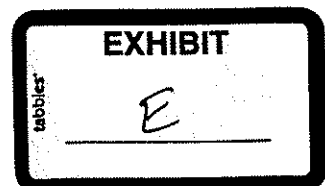


W. A. Raney, Jr.

WAR:dc

Enclosure

WAR\ENVIRON\R06-125-C01



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

JOHN C. WESSELL, III
WESSELL@BELLSOUTH.NET

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

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

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

March 12, 2014

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

7012 0470 0001 6116 0185

City of Wilmington
c/o Engineering Division
PO Box 1810
Wilmington, NC 28402

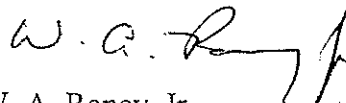
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Sincerely,

WESSELL & RANEY, L.L.P.



W. A. Raney, Jr.

WAR:dc

Enclosure

WAR\ENVIRON\W06-125-C02

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

JOHN C. WESSELL, III
WESSELL@BELLSOUTH.NET

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

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

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

March 12, 2014

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

7009 1680 0000 3437 8356

NNP IV Cape Fear River, LLC
13777 Ballantyne Corporate Place, Suite 550
Charlotte, NC 28277

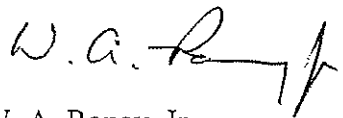
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Sincerely,

WESSELL & RANEY, L.L.P.



W. A. Raney, Jr.

WAR:dc

Enclosure

WAR\ENVIRONR06-125-C03

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:

Emmitt C. Stovall Irrevocable
Trust
c/o Coleman Commercial PR
1508 Military Cutoff Road, 304
Wilmington, NC 28403

2. Article Number

(Transfer from service label)

7012 2210 0001 2435 4082

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

 Agent AddresseeB. Received by (*Printed Name*)

C. Date of Delivery

D. Is delivery address different from item 1? YesIf 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**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:

NNP IV Cape Fear River, LLC
13777 Ballantyne Corporate
Place, Suite 550
Charlotte, NC 28277

2. Article Number

(Transfer from service label)

7009 1680 0000 3437 8356

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

 Agent AddresseeB. Received by (*Printed Name*)

C. Date of Delivery

D. Is delivery address different from item 1? YesIf 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**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:

City of Wilmington
c/o Engineering Division
P.O. Box 1810
Wilmington, NC 28402

2. Article Number

(Transfer from service label)

7012 0470 0001 6116 0185

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

 Agent AddresseeB. Received by (*Printed Name*)

C. Date of Delivery

D. Is delivery address different from item 1? YesIf 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

ATTACHMENT E

STIPULATED EXHIBITS:

- a. 2000 hydrological survey
- b. CAMA Major Permit No. 66-01 issued 5/29/01
- c. 2010 McKim & Creed Survey
- d. August 2013 major modification application with drawings
- e. DCM's field report for the 2013 modification request
- f. Response from the federal review agencies
- g. 12/2/13 denial letter
- h. UPDATED powerpoint of site photographs

Additional Stipulated Exhibits following Remand:

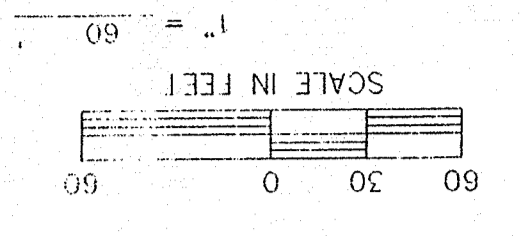
- i. 2014 Survey
- j. 2005 Survey

HANOVER DESIGN SERVICES, P.A.
 LAND SURVEYORS, ENGINEERS & LAND PLANNERS
 433 MARKET STREET
 WILMINGTON, NORTH CAROLINA 28402
 PHONE: (910) 241-9002

Barnards Creek, LLC
 P.O. Box 1083
 Wilmington, North Carolina 28402

Project No. 070908-111-01
 Date: 11/11/07
 Drawn by: J.J.
 Check by: W.P.S.
 Title: **River Road Boat Storage**
 Plan: **Preliminary**
 Sheet: **1 of 2**

Masonboro Township, New Hanover County, North Carolina



SITE DATA

AREA IN TRACT 11.9 ACRES (ABOVE HIGH WATER LINE)
 PROPOSED DISTURBED AREA = 10.6 ACRES
 AREA BELOW WETLANDS = 1.3 ACRES
 SANITARY SEWER BY INDIVIDUAL SEPTIC SYSTEM
 PROPERTY IS ZONED I-2
 WATER BY INDIVIDUAL WELL
 SANITARY SEWER BY INDIVIDUAL WELL
 PROPERTY ZONED I-2

SITE DATA	
TOTAL AREA IN TRACT	11.9 AC
AREA TO BE DISTURBED	10.6 AC
AREA BELOW WETLANDS TO BE UNDISTURBED	1.3 AC
WATER BY INDIVIDUAL WELL	
SANITARY SEWER BY INDIVIDUAL WELL	

NOTES

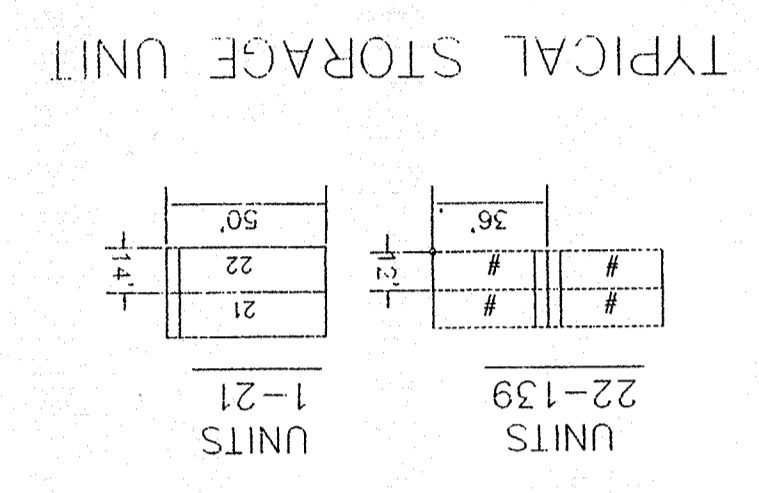
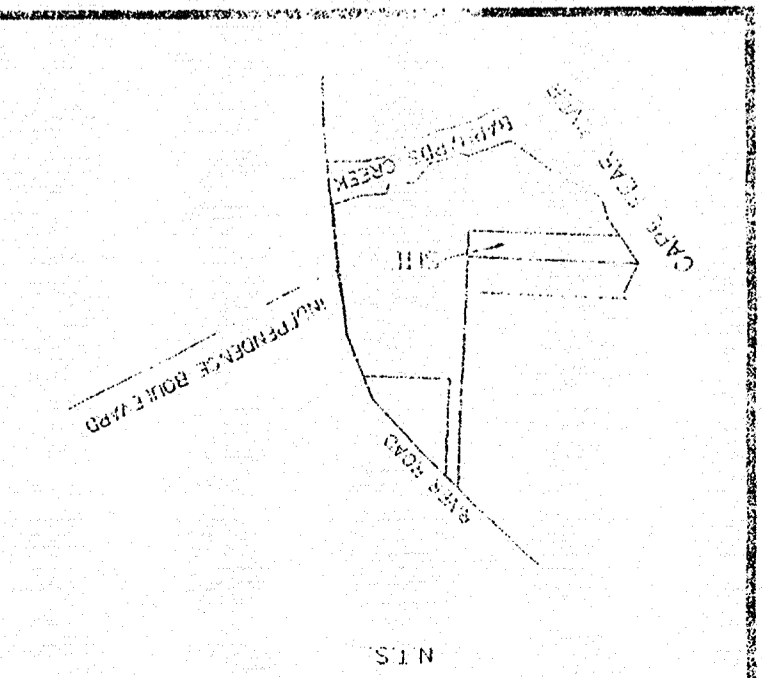
PROPERTY SURVEYED BY HANOVER DESIGN SERVICES
 THIS PROPERTY SOUTHERN LINE IS TO THE LOW WATER LINE
 OF THE CAPE FEAR RIVER.
 THE HIGH WATER LINE WAS SURVEYED FOR THE PURPOSE OF DEVELOPING
 WETLAND DELINEATION BY COORDINATE METHOD.
 AREA IS COMPUTED BY COORDINATE METHOD.
 WETLAND DELINEATION BY LAND MANAGEMENT GROUP
 TOPOGRAPHIC INFORMATION BY HANOVER DESIGN SERVICES.
 CDD LINE ESTABLISHED BY NEW HANOVER COUNTY PLANNING DEPARTMENT.

CURVE	DELTA	RADIUS	ARC CHORD	TANGENT CHORD BRG
1	90.28°	93.00	156.40	78.26 N 70.15.6"E
2	92.00°	1043.00	169.90	85.14 N 70.24.32"E

RECEIVED
 MAY 02 2001
 DIVISION OF
 COASTAL MANAGEMENT

Independence Blvd.
 S.R. 1188 (100 Feet R/W)

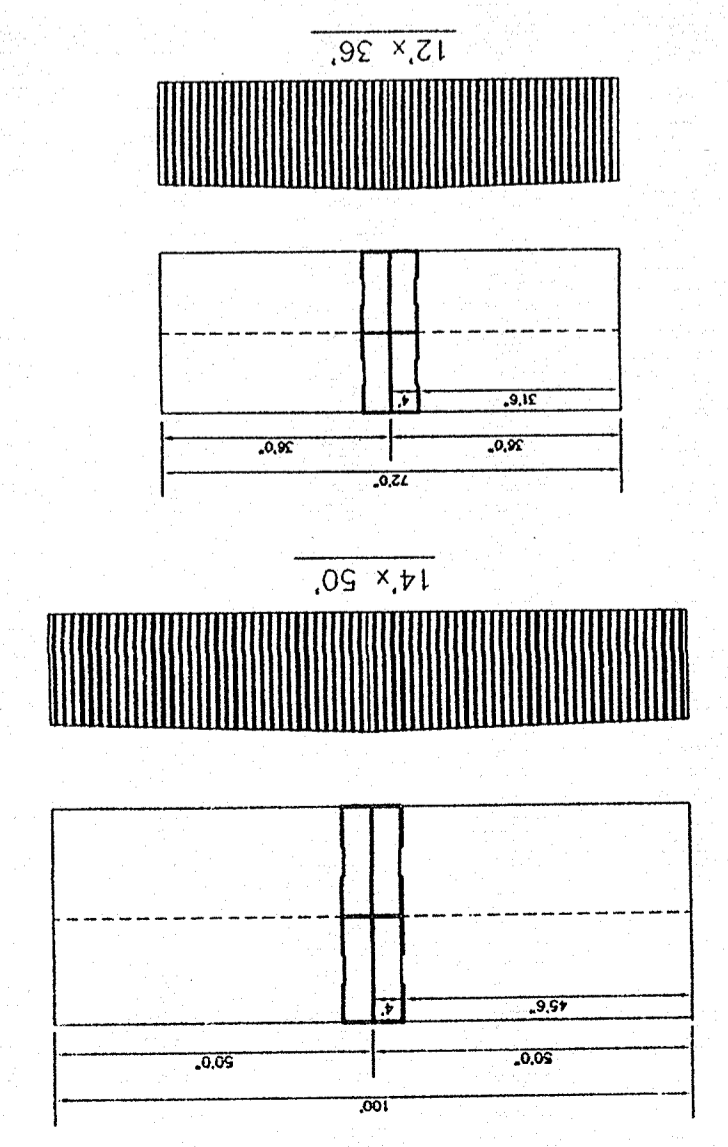
River Road / S.R. 1100
 S.R. 109 (100 Feet R/W)



RHONDA B. THOMPSON
 D.B. 2343 PG. 769
 S & R Paving
 & Crating
 n/a

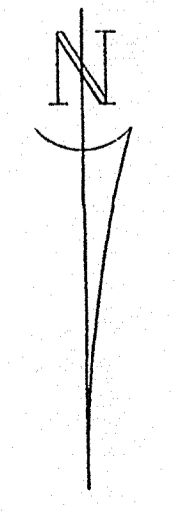
TRACT 3 EASEMENT
 D.B. 140 PG. 112

LINE	BEARING	DISTANCE
70	S 24.15.28"E	10.37
71	S 09.43.00"E	10.00
72	S 09.43.00"E	10.00
73	N 40.54.37"W	7.32
74	N 39.48.07"W	4.35



SEE PIER/DOCK INSET

LINE	BEARING	DISTANCE
1	N 61.98.22"E	14.62
2	N 40.16.03"E	33.51
3	N 22.02.30"W	33.51
4	N 61.70.27"E	29.11
5	S 67.26.15"E	22.60
6	S 67.26.15"E	16.10
7	S 79.58.41"E	35.21
8	S 68.00.25"E	20.96
9	S 64.28.53"E	36.19
10	N 07.33.52"W	44.79
11	N 07.33.52"W	42.22
12	N 00.18.03"W	33.28
13	N 15.18.52"W	33.10
14	N 01.08.05"E	33.92
15	N 02.43.20"E	11.99
16	N 71.38.29"E	9.69
17	S 23.03.37"E	11.13
18	N 62.57.08"E	13.27
19	S 27.47.39"E	13.26
20	N 76.02.50"E	27.55
21	N 89.46.41"E	38.52
22	N 80.48.42"E	39.75
23	S 89.09.03"E	9.07
24	N 50.31.77"E	9.99
25	N 77.99.28"E	21.30

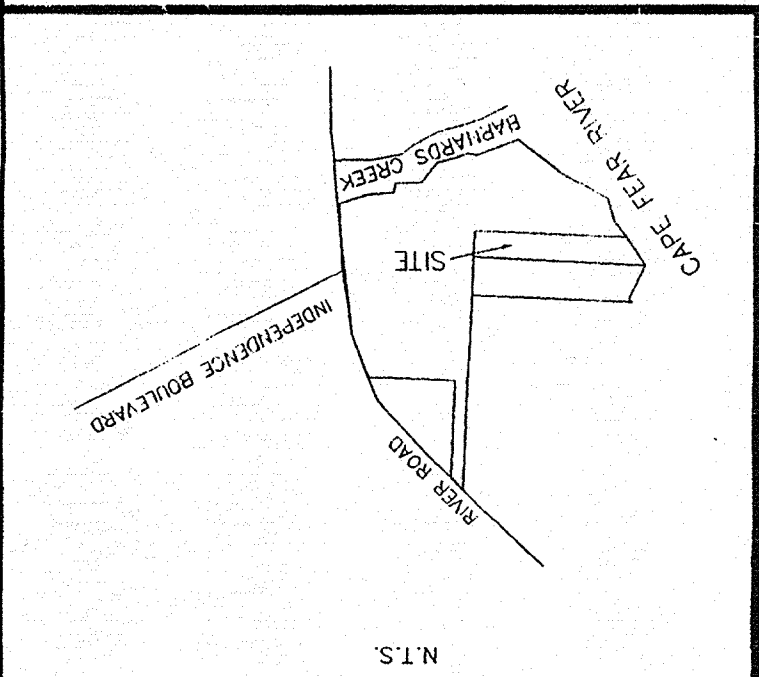
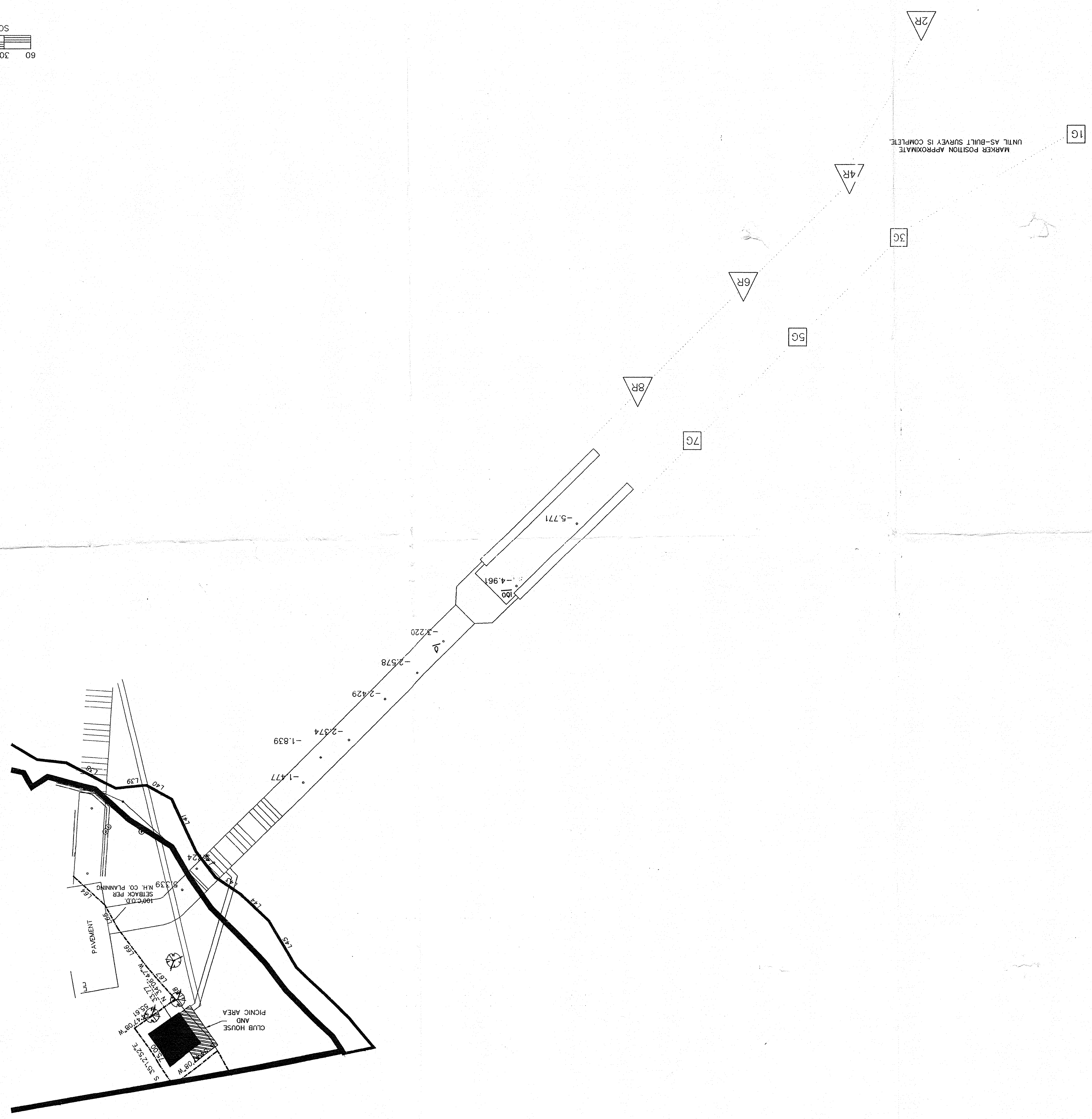
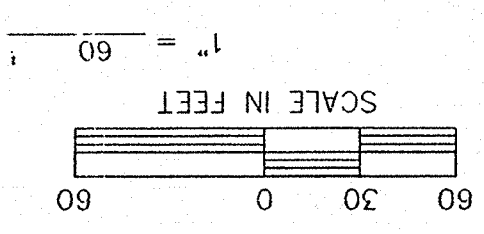


River Road Boat Storage
 Masonboro Township, New Hanover County, North Carolina

Design By:	H.D.S.
Drawn By:	J.J.
Scale:	1" = 60'
Sheet:	PIER/DOCK INSET
Project No.:	6759PHEB.DWG. JJ

Designer: Barnards Creek, LLC
 P.O. Box 1083
 Wilmington, North Carolina 28402

HANOVER DESIGN SERVICES, P.A.
 LAND SURVEYORS, ENGINEERS & LAND PLANNERS
 318 WALTON STREET
 WILMINGTON, N.C. 28401
 PHONE: (910) 343-8002



Permit Class
NEW

Permit Number:
66-01

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

Permit

COPY

for

X Major Development in an Area of Environmental Concern
pursuant to NCGS 113A-118

 Excavation and/or filling pursuant to NCGS 113-229

Issued to Barnards Creek, LLC, PO Box 1083, Wilmington, NC 28402

Authorizing development in New Hanover County at Barnards Creek and Cape Fear River, off SR 1100, as requested in the permittee's application dated 5/31/00, including attached workplan drawings, 2 dated received 4/25/01 and 2 dated May, 2000.

This permit, issued on May 29, 2001, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

Dry Stack Marina Facility

- 1) Prior to the occupancy of any new slips authorized under this permit, a marine pumpout sewage disposal facility will be installed and operable, and maintained for the life of the authorized facility.
- 2) The facility will display a sign showing the location of the on-site pumpout facility, including other appropriate waste disposal information, at the entrance and exit from the main pier.
- 3) No sewage, whether treated or untreated, shall be discharged at any time from any boats using the dry stack marina facility. Any sewage discharge at the dry stack marina facility shall be considered a violation of this permit for which the permittee is responsible. This prohibition shall be applied and enforced throughout the entire existence of the permitted facility.

(See attached sheets for Additional Conditions)

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

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

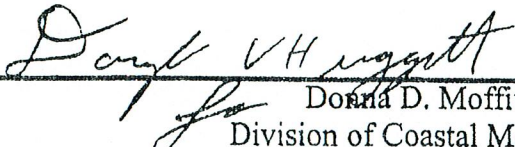
Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

December 31, 2004

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

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


Donna D. Moffitt, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.

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DCM-WILMINGTON, NC

AUG 11 2006

Signature of Permittee

ADDITIONAL CONDITIONS

- 4) In accordance with commitments made by the permittee, if the water depth at the launch dock is of insufficient depth to allow for launch and/or recovery operations to take place without disturbing the adjacent shallow bottom habitat, launch and recovery operations shall be suspended until such time as the water depth increases to an adequate level.
- 5) The authorized project is located within a primary nursery area (PNA). Therefore, in accordance with T15A:07H.0208 of the Rules of the Coastal Resources Commission, no new dredging or excavation within the PNA shall be permitted. Dredging in any manner, including "kicking" with boat propellers, is strictly prohibited. This prohibition shall be applied and enforced throughout the entire existence of the permitted structure.
- 6) This permit authorizes only the docks, piers, and other structures and uses located in or over the water that are expressly and specifically set forth in the permit application. No other structure, whether floating or stationary, may become a permanent part of this dry stack marina facility without permit modification. No non-water dependent uses of structures may be conducted on, in or over public trust waters without permit modification.
- 7) The over-night occupancy of any vessels at the authorized facility is not authorized.
- 8) No attempt will be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work.
- 9) The authorized structure and associated activity must not cause an unacceptable interference with navigation.
- 10) The permittee will maintain the authorized work in good condition and in conformance with the terms and conditions of this permit. The permittee is not relieved of this requirement if he abandons the permitted activity without having it transferred to a third party.
- 11) This permit does not authorize the interference with any existing or proposed Federal project, and the permittee will not be entitled to compensation for damage to the authorized structure or work, or injury which may be caused from existing or future operations undertaken by the United States in the public interest.
- 12) The permittee understands and agrees that, if future operations by the United States requires the removal, relocation, or other alteration of the structure or work authorized by this permit, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove relocate or alter the structural work or obstructions caused thereby, without expense to the United States or the state of North Carolina. No claim shall be made against the United States or the state of North Carolina on account of any such removal or alteration.

It is possible that the authorized structure may be damaged by wavewash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the permitted structure and the safety of moored boats. The permittee shall not hold the United States liable for any such damage.

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ADDITIONAL CONDITIONS

- 13) The permittee must install and maintain at his expense any signal lights or signals prescribed by the U.S. Coast Guard, through regulation or otherwise, on the authorized facilities. At a minimum, permanent reflectors should be attached to the structure in order to make it more visible during hours of darkness or inclement weather.
- 14) The facility has been designed and permitted as a dry-stack facility. This permit does not authorize any tie pilings or permanent open-water moorings.

NOTE:

It is strongly recommended that the permittee exercise all available precautions in the day-to-day operation of the facility to prevent facility waste from entering the adjacent waters. Such discharge, either directly or indirectly, to adjacent waters could contravene state water quality standards, thereby violating state law.

Easement

- 15) Prior to construction of any new boat slips or other docking facilities under this permit, the permittee must apply for and receive an **Easement** from the Department of Administration's State Property Office as required under N.C.G.S. 146-12(e).

Cultural Resource Protection

- 16) If the permittee discovers any previously unknown historic or archaeological remains while accomplishing the authorized work, he will immediately notify the District Engineer, Wilmington Branch, U.S. Army Corps of Engineers at (910) 251-4511, who will initiate the required State and Federal coordination.

Stormwater Management

- 17) The Division of Water Quality approved this project under stormwater management rules of the Environmental Management Commission on 4/4/00 (Permit No. SW8 000408). Any violation of the permit approved by the DWQ will be considered a violation of this CAMA permit.

Sedimentation and Erosion Control**NOTE:**

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

- 18) All disturbed areas will be properly graded and provided a ground cover sufficient to restrain erosion within 30 working days of project completion.

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ADDITIONAL CONDITIONS**General**

- 19) The authorized channel markers must be marked and installed in accordance with all requirements of the U.S. Coast Guard and/or N.C. Wildlife Resources Commission.
- 20) In keeping with NCAC 7H.0209(d)(3), no non-water dependent development may take place within 30 feet of the mean high water line. The authorized docks, the outflow pipe structure and the emergency spillway structure are all considered water dependent, and as such may be constructed within the buffer area. However, the stormwater retention pond is not considered water dependent. Therefore, no portion of the stormwater retention pond, or any land disturbing activities associated with its construction, may be located closer than 30 feet from the mean high water line at the time of construction. The permittee shall provide the Division of Coastal Management with modified plats depicting the revised stormwater pond location and design.
- 21) Should the requirements of Condition No. 17 of this Permit necessitate a revision of the Stormwater Management Permit previously authorized by the Division of Water Quality, the revised stormwater permit must be received and a copy provided to the Division of Coastal Management prior to the initiation of any land disturbing activities.
- 22) In accordance with commitments made by the permittee in the permit application, the permittee shall mitigate the impacts to all wetlands filled as a result of construction of this project by purchasing credits from the NC Wetlands Restoration Program. The mitigation effort must equal a minimum mitigation to impact ration of 2:1.
- 23) No excavated or fill material will be placed at any time in any vegetated wetlands, marsh or surrounding waters outside of the alignment of the fill area indicated on the workplan drawing(s).

NOTE: This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.

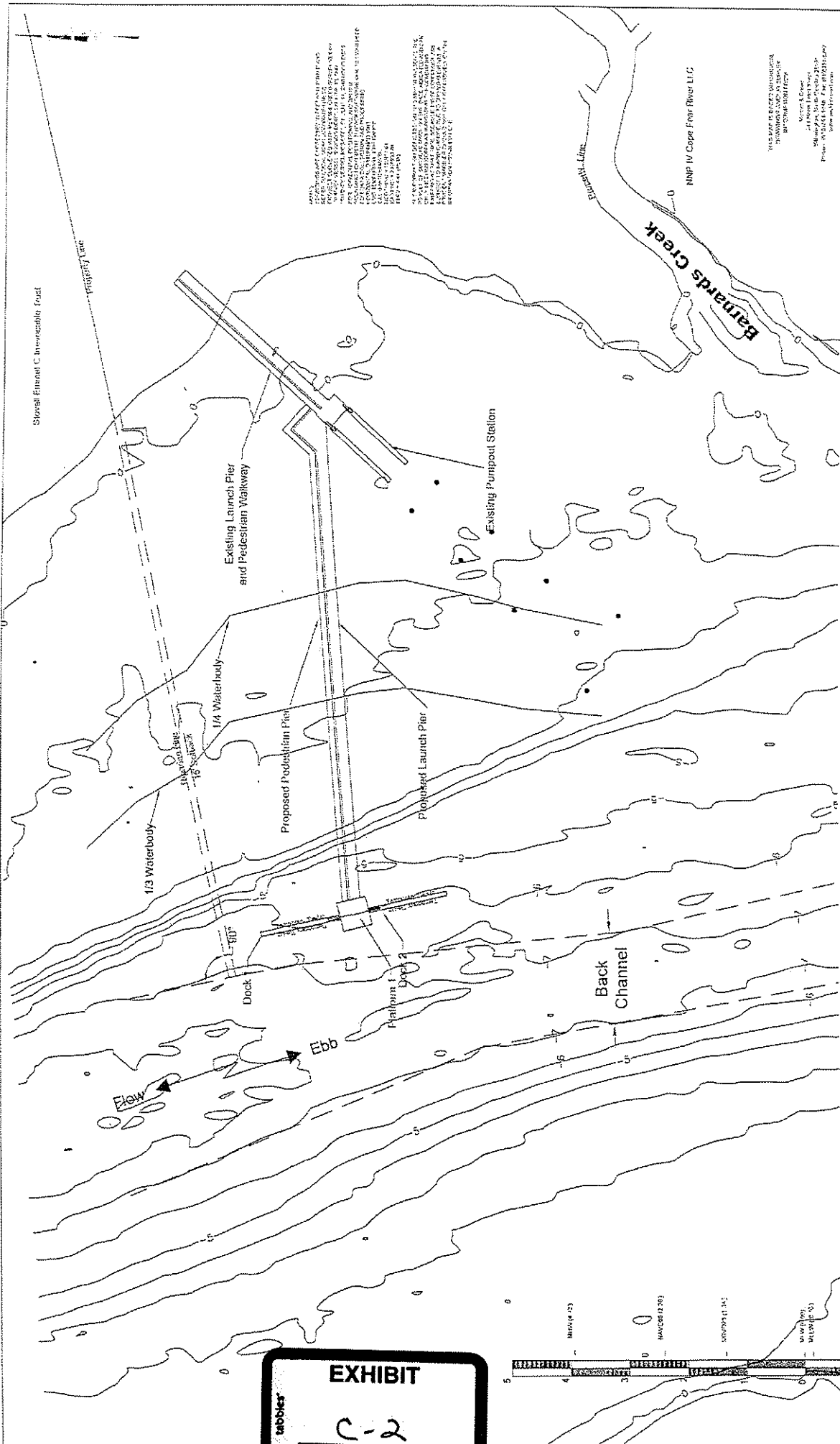
NOTE: The permittee and/or his contractor is urged to meet with a representative of the Division prior to project initiation.

NOTE: The N.C. Division of Water Quality has authorized the proposed project under General Water Quality Certification No. 3274 (DWQ Project No. 001055), which was issued on 9/15/00.

NOTE: The U.S. Army Corps of Engineers has assigned the proposed project COE Action Id. No. 200001574.

NOTE: The permittee is encouraged to contact the New Hanover County Mosquito Control Office at (910) 252-2505 to discuss mosquito control measures.

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AUG 11 2006



Storage Canal

Proposed Pedestrian Pier

Existing Launch Pier and Pedestrian Walkway

Proposed Launch Pier

Proposed Pedestrian Pier

Existing Pumpout Station

Back Channel

Barnards Creek

INRP IV Cape Fear River LLC

Flow

1/3 Waterbody

1/4 Waterbody

Dock

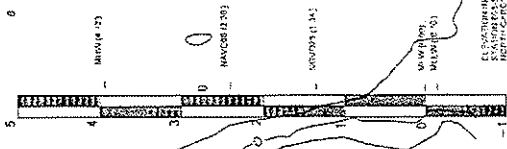
Pathway 1

Depth 2

Ebb

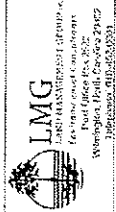
EXHIBIT

C-2



ELEVATIONS SHOWN ON THIS DRAWING ARE IN FEET RELATIVE TO MEAN LOW WATER (MLW) UNLESS OTHERWISE NOTED. ELEVATIONS ARE BASED ON THE DATUM RELATIONS SHOWN ON THIS DRAWING.

VERTICAL DATUM RELATIONS (IPS RELATIVE TO MLW (MEAN LOW WATER))



NOTE: Not an Engineer or Survey Drawing FOR ENVIRONMENTAL PERMITTING ONLY



Watermark: Barnard
Cape Fear River LLC
Project: 032424-0001 - Cape Fear River LLC
Date: 08/20/13
Scale: 1"=200'
Sheet: 7 of 7

Project: 032424-0001 - Cape Fear River LLC
Date: 08/20/13
Scale: 1"=200'
Sheet: 7 of 7

THIS DRAWING IS THE PROPERTY OF LMG AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF LMG. ANY UNAUTHORIZED USE OF THIS DRAWING IS PROHIBITED AND WILL BE PROSECUTED TO THE FULL EXTENT OF THE LAW.



LMG
LAND MANAGEMENT GROUP INC.
Environmental Consultants

August 20, 2013

Robb Mairs
Division of Coastal Management
127 Cardinal Drive Extension
Wilmington, N.C. 28405-3845

Re: Watermark Marina, New Hanover County
Major Modification to CAMA Permit #66-01

Robb,

On behalf of CXA-10 Corporation please find the enclosed application and supporting materials for a Major Modification request to CAMA Major Permit #66-01. This Major Modification is proposed to extend the existing launch and retrieval pier at Watermark Marina in order to provide for adequate water depths for operations throughout the tidal range. For purposes of review and permit processing, please find the attached information:

1. Project Narrative
2. Form DCM MP-1
3. Form DCM MP-4
4. Permit drawings, Sheets 1-7
5. Permit Fee check in the amount of \$400.00
6. Signed Agent Authorization
7. Adjacent Riparian Notification Letters (Copy)
8. Deed and Merger Agreement between CXA-5 Corporation and CXA-10 Corporation (Copy)

We have mailed adjacent riparian notification letters via certified mail. The certified mail receipts will be forwarded to you as soon as we receive them. Thank you for your assistance with this project, please contact me if you have any questions or would like to schedule an on-site meeting at any point during the review process.

Sincerely,

Jenny Sheridan
Environmental Scientist

RECEIVED

SEP 05 2013

DCM-MRD CITY

Enclosures

CC: Lewis Zwick, CXA-10 Corporation

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AUG 21 2013

Project Narrative
Major Modification to CAMA Permit # 66-01
Watermark Marina
New Hanover County, North Carolina
CXA-10 Corporation, Applicant
August 20, 2013

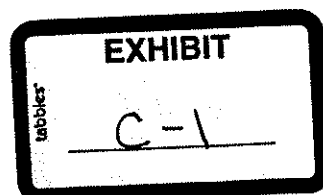
Introduction

This Major Modification is proposed to extend the existing launch and retrieval pier at Watermark Marina in order to provide for adequate water depths for operations throughout the tidal range. Watermark Marina features a dry storage facility for boaters with forklift transport to and from the Cape Fear River. Currently, water depths are inadequate for navigation at the end of the launching pier during a significant portion of the tidal cycle. This condition limits boating access to the river to higher tide stages and produces a major inconvenience to dry storage space holders and day customers arriving with trailered boats for launch. This impact to operations severely limits the ability to market the dry slips and to reach the marina's full potential in serving as an access point to the river.

Existing Conditions

Waters of the Cape Fear River in the vicinity of Watermark Marina are classified as SC by the NC Division of Water Quality (DWQ). SC waters are tidal salt waters with "best usage" described as "aquatic life propagation and survival, fishing, wildlife and secondary recreation". The NC Division of Marine Fisheries (DMF) has classified the marshes and bottom areas in this location as Primary Nursery Area (PNA). DMF defines Primary Nursery Areas as "those areas in the estuarine system where initial post-larval development takes place. These areas are usually located in the uppermost sections of a system where populations are uniformly very early juveniles."

The federally maintained Cape Fear River channel is approximately 4790 feet southwest of the outer edge of the marsh at the existing launch pier. Several small islands created from dredge disposal activities associated with river channel maintenance exist between the federally maintained navigation channel and the Watermark Marina shoreline. The primary island known as Island 13 was used as a mitigation site for impacts to PNA by the Wilmington Harbor deepening project. Approximately 30 upland acres of the dredged material disposal site were excavated and graded to wetland and tidal elevations then planted with marsh plant species. The presence of these small islands creates an "inner" or back channel, offshore of the marina launch pier, separated from the main navigation channel of the Cape Fear River by the disposal islands. The ~540' marina launch pier is located within a 1025 foot deep shoreline indentation representing a peculiar topographic disadvantage in accessing this back channel in light of existing pier length rules. Water



depths within this shoreline indentation are very shallow. The latest hydrographic survey indicates water depths of less than 1' mlw at the end of the existing launching pier.

Proposed Project

In order to provide adequate water depths for the launch and retrieval of clientele boats at lower stages of the tidal cycle, the applicant proposes to construct an extension of the existing launch pier in a northwesterly direction out to the -6' mlw contour of the subject back channel. The outer edge of the structure will be ~1,424' from the outer edge of the marsh. While remaining out of the deeper portion of the channel for purposes of navigation safety, the position of the extended pier will facilitate a continuous ability to serve the boating public accessing the river while minimizing any potential for disturbance of sensitive PNA bottom. The end of the proposed pier extension will feature two floating docks in a "T" alignment extending parallel to the channel in opposite directions. This orientation along the channel minimizes the broadside exposure of the single file floating dock pilings to the ebb and flow currents and aids boat maneuvering while docking. The floating docks will be used as temporary tie-up locations for boaters leaving and returning to the facility. Hinged ramps will provide access from the elevated pier to the floating docks. No additional fueling dispensers will be installed. The divided pedestrian/cart boardwalk will also be extended to the end of the launch pier for safe separation from the forklift travel lane.

There is a 10,000 gallon above ground fuel storage tank located on uplands adjacent to the forklift pier. A fuel dispenser with an emergency shut-off valve is located on the existing forklift platform. The fuel dispenser and tank are currently not operational. It is the marina's policy to allow no overboard discharge of waste. There is a holding tank pumpout station currently located on the southern-most temporary tie-up dock which will continue to service the marina facility.

Navigation

As stated, the existing launch pier is sited on a back channel of the river separated by small islands from the main channel of the river. The back channel joins the main run of the river approximately 4,000' southwest and 5,500' northwest of the pier site. The next significant structure in the water to the north is beyond the point where the back channel joins the main river channel. This structure is an industrial offloading conveyor system for bulk gypsum arriving by ship. The structure extends approximately 1,565' beyond the outer edge of the marsh, or over half the width of the river which is approximately 3,048' wide in that location.

Virtually all of the river traffic between Wilmington and the Atlantic Intracoastal Waterway and the mouth of the Cape Fear at the Atlantic Ocean utilizes the main shipping channel. The primary navigation usage of the subject back channel is associated with boat launching and retrieval from Watermark Marina and an unknown amount of occasional fishermen and pleasure boaters that have local knowledge of navigable areas outside of the shipping channel. The navigation aid pilings at Watermark Marina serve to guide launched boats to the deeper water of the back channel over 1,100' offshore before turning north or south. As discussed, the outer limit of the proposed launch pier extension

is 1,424' offshore. The total width of the water body at this location (marsh to marsh) is 2,686'.

In general, the current Division of Coastal Management (DCM) rules limit the length of docks and piers such that they not extend beyond any established pier length, not extend into the channel portion of the water body and not extend more than $\frac{1}{4}$ the width of the water body.

There is no established pier length for this area of shoreline on the river. The nearest pier to the south is approximately 3.13 miles from the subject launch pier site. The nearest pier to the north is the 1,565'-long conveyor system structure approximately 1.1 miles from the marina site.

The "channel" portion of the water body is interpreted as the deepest (most navigable) part of the water body cross section. Water depths across the back channel near the launch pier site reach to more than -8' MLW. If the -7' MLW contour is used to define the channel portion of the water body, the edge will be located more than 60' beyond the end of the extended launch pier. The total width of the -7' MLW or deeper channel portion of the water body ranges from approximately 230' to 350' wide in this location.

One of the primary justifications for the $\frac{1}{4}$ width of the water body pier and dock limitation is to preserve a significant portion of the water body for public navigation purposes. The $\frac{1}{4}$ rule assumes piers could extend to the full $\frac{1}{4}$ distance from opposite shorelines. However, in this instance, the opposite shoreline as described above is made up of small islands having been created and controlled by the Corps of Engineers and not subject to development. Therefore, there is no likelihood that a pier will ever extend from the opposing shoreline. The total width of the water body (outer marsh edge to outer marsh edge) in this location is 2,686'. With the proposed launch pier extension, a 1,262' width of open water containing the deepest section of the water body will remain for navigation. The applicant will install reflectors on the pilings of the floating docks and fixed pier for increased visibility during low light conditions and adhere to any additional navigational requirements as may be imposed by the Coast Guard.

Project History

CAMA Major Permit #66-01 was issued to Barnards Creek, LLC in 2001 for the construction of an elevated pier, walkway and two finger docks. The permit was renewed on December 3, 2004. The permit was transferred to Watermark Marina of Wilmington, LLC on July 12, 2005. A Minor Modification to CAMA Major Permit #66-01 was issued on August 22, 2005 and October 23, 2006. The permit was renewed on March 28, 2007 and transferred to CXA-5 Corporation on August 9, 2010. On October 16, 2012 the permit was transferred from CXA-5 Corporation to CXA-10 Corporation (current applicant).

The waterward limit of the existing structure falls short of the $\frac{1}{4}$ waterbody limit of the subject back channel. Watermark Marina has transferred ownership/management a number of times since the initial construction of the existing forklift pier and floating

docks. While there is no definitive answer, it is assumed that the original applicant/owner did not maximize the full extent of the ¼ waterbody distance at the time of permitting due to the costs associated with construction of the heavy-plank wharf pier which may have represented a financial limitation.

The existing dry storage facility has a total capacity of 430 dry slips. There are currently 20 dry slips being utilized on the property. The low percentage of dry slips currently in use in comparison to the maximum capacity of the facility reflects the limited potential of the facility and results in an economic hardship for the current owner.

A scoping meeting was held on June 13, 2013 to discuss the project modifications. The project as proposed is consistent with the local zoning. A Special Use Permit will not be required for the proposed modification. A 112 slip community residential marina and commercial dry storage facility with a capacity of 80 dry slips were permitted to the south of Watermark Marina in 2007.

As previously mentioned, the applicant proposes to construct an extension of the existing launch pier in a northwesterly direction out to the -6' mlw contour of the subject back channel. Staff from LMG completed a NCDENR-WiRO file review of six dry storage facilities in New Hanover and Brunswick County on June 27, 2013 as a means of comparison of permitted water depths for similar facilities. Water depth information obtained during file review includes the following;

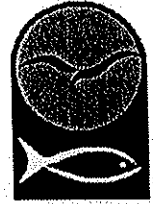
<u>Marina</u>	<u>Permitted Water Depth</u>	<u>County</u>
Masonboro Yacht Club and Marina	-6' to -8' MLW	New Hanover
Inlet Watch	-5' to -8' MLW	New Hanover
Bradley Creek Marina	-5' MLW	New Hanover
Atlantic Marine	-6' MLW	New Hanover
Wilmington Marine Center	-8' MLW	New Hanover
Southport Marina	-6' MLW	Brunswick

A review of the files for these dry storage facilities indicates that a requested depth of -6' mlw for boat forklift launch and retrieval operations is consistent with the permitted facilities in this region.

APPLICATION for Major Development Permit

SEP 05 2013

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(last revised 12/27/06)

North Carolina DIVISION OF COASTAL MANAGEMENT

1. Primary Applicant/ Landowner Information			
Business Name CXA-10 Corporation		Project Name (if applicable) Watermark Marina <i>66-01 mm</i>	
Applicant 1: First Name Lewis	MI	Last Name Zwick	
Applicant 2: First Name NA	MI	Last Name	
<i>If additional applicants, please attach an additional page(s) with names listed.</i>			
Mailing Address 6000 Legacy Drive		PO Box NA	City Plano
State TX	ZIP 75024	Country USA	Phone No. - - ext.
FAX No. - -		Street Address (if different from above) NA	City -
State -		State -	ZIP -
Email			

2. Agent/Contractor Information			
Business Name Land Management Group, Inc			
Agent/ Contractor 1: First Name Steve	MI	Last Name Morrison	
Agent/ Contractor 2: First Name	MI	Last Name	
Mailing Address 3805 Wrightsville Avenue, Suite 15		PO Box NA	City Wilmington
State NC	ZIP 28403	Phone No. 1 910 - 452 - 0001 ext.	Phone No. 2 NA - - ext.
FAX No. 910 452 0060	Contractor # NA		
Street Address (if different from above) NA		City -	State -
State -		State -	ZIP -
Email smorrison@lmgroup.net			

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3. Project Location

County (can be multiple) New Hanover	Street Address 4114 River Road	DCM-MID CITY	State Rd. # 1100
Subdivision Name NA	City Wilmington	State NC	Zip 28412 -
Phone No. NA - - ext.	Lot No.(s) (if many, attach additional page with list) NA, , ,		
a. In which NC river basin is the project located? Cape Fear	b. Name of body of water nearest to proposed project Cape Fear River		
c. Is the water body identified in (b) above, natural or manmade? <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Manmade <input type="checkbox"/> Unknown	d. Name the closest major water body to the proposed project site. Cape Fear River		
e. Is proposed work within city limits or planning jurisdiction? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	f. If applicable, list the planning jurisdiction or city limit the proposed work falls within. City of Wilmington		

4. Site Description

a. Total length of shoreline on the tract (ft.) 4,093 linear ft	b. Size of entire tract (sq.ft.) 1,760,252.56
c. Size of individual lot(s) NA, (If many lot sizes, please attach additional page with a list)	d. Approximate elevation of tract above NHW (normal high water) or NWL (normal water level) 0' - 10' <input checked="" type="checkbox"/> NHW or <input type="checkbox"/> NWL
e. Vegetation on tract Salt marsh vegetation, native trees and shrubs, ornamental landscaping.	
f. Man-made features and uses now on tract Watermark Marina presently features a dry storage facility for boat and vehicular storage, forklift and pedestrian access piers, temporary floating docks and a clubhouse with a swimming pool. There is a 10,000 gallon above-ground, double walled fuel tank located on uplands adjacent to the forklift pier and a fuel dispenser located on the existing forklift landing, however, fuel service is currently not operational.	
g. Identify and describe the existing land uses <u>adjacent</u> to the proposed project site. Barnards Creek is located to the south of Watermark Marina, commercial/industrial properties are located to the north and properties to the east of River Road are residential.	
h. How does local government zone the tract? I-2 Industrial District	i. Is the proposed project consistent with the applicable zoning? (Attach zoning compliance certificate, if applicable) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
j. Is the proposed activity part of an urban waterfront redevelopment proposal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
k. Has a professional archaeological assessment been done for the tract? If yes, attach a copy. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA If yes, by whom? Brockington and Associates, Inc	
l. Is the proposed project located in a National Registered Historic District or does it involve a National Register listed or eligible property? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA	

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m. (i) Are there wetlands on the site?	SEP 05 2013	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(ii) Are there coastal wetlands on the site?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(iii) If yes to either (i) or (ii) above, has a delineation been conducted? (Attach documentation, if available)	DCM WILM CITY	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
n. Describe existing wastewater treatment facilities. Cape Fear Public Utility Authority		
o. Describe existing drinking water supply source. Cape Fear Public Utility Authority		
p. Describe existing storm water management or treatment systems. Existing Stormwater Retention Basin		

5. Activities and Impacts		
a. Will the project be for commercial, public, or private use?		<input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Public/Government <input type="checkbox"/> Private/Community
b. Give a brief description of purpose, use, and daily operations of the project when complete.	The purpose of the proposed project is to extend the existing forklift/pedestrian pier out to deeper water depths and add additional temporary side-to dockage.	
c. Describe the proposed construction methodology, types of construction equipment to be used during construction, the number of each type of equipment and where it is to be stored.	Standard marine construction methods and equipment will be used for the construction of the forklift pier, pedestrian access pier and floating docks.	
d. List all development activities you propose.	Extension of a previously permitted forklift pier and pedestrian access pier, construction of associated temporary side-to dockage.	
e. Are the proposed activities maintenance of an existing project, new work, or both?	new work	
f. What is the approximate total disturbed land area resulting from the proposed project?	The modification request proposes no change to the disturbed land area. <input type="checkbox"/> Sq.Ft or <input type="checkbox"/> Acres	
g. Will the proposed project encroach on any public easement, public accessway or other area that the public has established use of?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA	
h. Describe location and type of existing and proposed discharges to waters of the state. No new discharges are proposed with this application.		
i. Will wastewater or stormwater be discharged into a wetland?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA	
If yes, will this discharged water be of the same salinity as the receiving water?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA	
j. Is there any mitigation proposed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA	
If yes, attach a mitigation proposal.		

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6. Additional Information

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

- a. A project narrative.
- b. An accurate, dated work plat (including plan view and cross-sectional drawings) drawn to scale. Please give the present status of the proposed project. Is any portion already complete? If previously authorized work, clearly indicate on maps, plats, drawings to distinguish between work completed and proposed.
- c. A site or location map that is sufficiently detailed to guide agency personnel unfamiliar with the area to the site.
- d. A copy of the deed (with state application only) or other instrument under which the applicant claims title to the affected properties.
- e. The appropriate application fee. Check or money order made payable to DENR.
- f. A list of the names and complete addresses of the adjacent waterfront (riparian) landowners and signed return receipts as proof that such owners have received a copy of the application and plats by certified mail. Such landowners must be advised that they have 30 days in which to submit comments on the proposed project to the Division of Coastal Management.
- | | |
|---|--------------|
| Name Stovall Emmet C Irrevocable Trust c/o Coleman Commercial PR | Phone No. NA |
| Address 1508 Military Cutoff Road 304 Wilmington, NC 28403 | |
| Name City Of Wilmington c/o Engineering Division | Phone No. NA |
| Address PO Box 1810 Wilmington, NC 28402 | |
| Name NNP IV Cape Fear River LLC | Phone No. NA |
| Address 13777 Ballantyne Corporate Place Suite 550, Charlotte, NC 28277 | |
- g. A list of previous state or federal permits issued for work on the project tract. Include permit numbers, permittee, and issuing dates.
- | |
|--------------------------|
| CAMA Major Permit #66-01 |
| SW8000408 |
- h. Signed consultant or agent authorization form, if applicable.
- i. Wetland delineation, if necessary.
- j. A signed AEC hazard notice for projects in oceanfront and inlet areas. (Must be signed by property owner)
- k. A statement of compliance with the N.C. Environmental Policy Act (N.C.G.S. 113A 1-10), if necessary. If the project involves expenditure of public funds or use of public lands, attach a statement documenting compliance with the North Carolina Environmental Policy Act.

7. Certification and Permission to Enter on Land

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

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

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

Date 8/20/13

Print Name STEVE MORRISON (AGENT)

Signature 

Please indicate application attachments pertaining to your proposed project.

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

DCM MP-5 Bridges and Culverts

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Form DCM MP-4

STRUCTURES

(Construction within Public Trust Areas)

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

1. DOCKING FACILITY/MARINA CHARACTERISTICS This section not applicable

- a. (i) Is the docking facility/marina:
 Commercial Public/Government Private/Community
- b. (i) Will the facility be open to the general public?
 Yes No
- c. (i) Dock(s) and/or pier(s)
(ii) Number 4
(iii) Length see MP-4 attachment
(iv) Width see MP-4 attachment
(v) Floating Yes No
- d. (i) Are Finger Piers included? Yes No
If yes:
(ii) Number _____
(iii) Length _____
(iv) Width _____
(v) Floating Yes No
- e. (i) Are Platforms included? Yes No
If yes:
(ii) Number 2
(iii) Length see MP-4 attachment
(iv) Width see MP-4 attachment
(v) Floating Yes No
Note: Roofed areas are calculated from dripline dimensions.
- f. (i) Are Boatlifts included? Yes No
If yes:
(ii) Number _____
(iii) Length _____
(iv) Width _____
- g. (i) Number of slips proposed
720 linear ft side-to temporary dockage
(ii) Number of slips existing
720 linear ft side-to temporary dockage
- h. Check all the types of services to be provided.
 Full service, including travel lift and/or rail, repair or maintenance service
 Dockage, fuel, and marine supplies
 Dockage ("wet slips") only, number of slips: 720 if temporary
 Dry storage; number of boats: no change proposed to existing permit
 Boat ramp(s); number of boat ramps: _____
 Other, please describe:
720 linear ft temp dockage existing
- i. Check the proposed type of siting:
 Land cut and access channel
 Open water; dredging for basin and/or channel
 Open water; no dredging required
 Other; please describe:

- j. Describe the typical boats to be served (e.g., open runabout, charter boats, sail boats, mixed types).
mixed types
- k. Typical boat length: up to 40'
- l. (i) Will the facility be open to the general public?

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

Yes No

Yes No

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(ii) If yes number of tie pilings?

NA

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2. DOCKING FACILITY/MARINA OPERATIONS

This section not applicable

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

Office Toilets

Toilets for patrons; Number: >2; Location: clubhouse - existing

Showers

Boatholding tank pumpout; Give type and location: located on existing floating docks - authorized in CAMA Major Permit 66-01

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

community sewer

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

trash bins and dumpsters at various locations

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

no overboard discharge policy

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

1 - on proposed pedestrian pier

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

1 - on proposed pedestrian pier

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

no maintenance activities, emergency shut-off valve for fuel on forklift platform

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

no maintenance activities

h. Give the number of channel markers and "No Wake" signs proposed. 8 channel markers existing, no additional proposed

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

Above-ground storage tank adjacent to forklift pier, fuel dispenser on existing forklift platform with emergency shut-off valve

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

no overnight and no live-aboard allowed

k. Describe design measures that promote boat basin flushing?

NA

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l. If this project is an expansion of an existing marina, what types of services are currently provided?
Existing services are fueling, holding tank pumpout and dry stack launch and retrieval

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m. Is the marina/docking facility proposed within a primary or secondary nursery area?
 Yes No

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n. Is the marina/docking facility proposed within or adjacent to any shellfish harvesting area?
 Yes No

o. Is the marina/docking facility proposed within or adjacent to coastal wetlands/marsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.
 CW _____ SAV _____ SB _____
 WL _____ None

p. Is the proposed marina/docking facility located within or within close proximity to any shellfish leases? Yes No
If yes, give the name and address of the leaseholder(s), and give the proximity to the lease.

3. BOATHOUSE (including covered lifts) This section not applicable

a. (i) Is the boathouse structure(s):
 Commercial Public/Government Private/Community

(ii) Number _____

(iii) Length _____

(iv) Width _____

Note: Roofed areas are calculated from dripline dimensions.

4. GROIN (e.g., wood, sheetpile, etc. If a rock groin, use MP-2, Excavation and Fill.) This section not applicable

a. (i) Number _____

(ii) Length _____

(iii) Width _____

5. BREAKWATER (e.g., wood, sheetpile, etc.) This section not applicable

a. Length _____

b. Average distance from NHW, NWL, or wetlands _____

c. Maximum distance beyond NHW, NWL or wetlands _____

6. MOORING PILINGS and BUOYS This section not applicable

a. Is the structure(s):
 Commercial Public/Government Private/Community

b. Number _____

c. Distance to be placed beyond shoreline _____

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

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

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e. Arc of the swing _____

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7. GENERAL

a. Proximity of structure(s) to adjacent riparian property lines greater than 15'

b. Proximity of structure(s) to adjacent docking facilities. greater than 5000' to National Gypsum Conveyor Pier

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

c. Width of water body ~2,686'

d. Water depth at waterward end of structure at NLW or NWL -6' MLW

e. (i) Will navigational aids be required as a result of the project?

Yes No NA

(ii) If yes, explain what type and how they will be implemented.

Voluntary - Reflectors on floating dock pilings

8. OTHER

This section not applicable

a. Give complete description:

8/20/13

Date

Watermark Marina

Project Name

CXA-10 Corporation

Applicant Name

 (ASAT)
Applicant Signature

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Watermark Marina
MP-4 Attachment

1. Docking Facility/Marina Characteristics

c. Dock(s) and/or Pier(s)

	Length (ft)	Width (ft)	
Pier 1	1,186	13	fixed pedestrian pier
Pier 2	1,031	23.5	fixed forklift pier
Dock 1	180	10	floating
Dock 2	180	10	floating

e. Platforms

	Length (ft)	Width (ft)	
Platform 1	66	66	
Platform 2	71.3 to 44.1	35.5 to 61.3	irregular shape

See Sheet 2 for labeling.

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**DIVISION OF COASTAL MANAGEMENT
FIELD INVESTIGATION REPORT**

1. **APPLICANT'S NAME:** CXA-10 Corporation c/o Lewis Zwick
PROJECT NAME: Watermark Marina Major Modification State Permit No. 66-01
2. **LOCATION OF PROJECT SITE:** 4114 River Road, adjacent to the Cape Fear River, Wilmington, in New Hanover County.
Photo Index - 2006: 204-6653: K-P, 8-9 **2000:** 204-206: K-P, 7-8 **1995:** 14-147: D-J, 17-18
State Plane Coordinates - X: 2319995 **Y:** 151025 **Rover File -** O-082613A
Lat: 34°09'37.04149"N **Long:** 77°56'32.14349"W
3. **INVESTIGATION TYPE:** CAMA
4. **INVESTIGATIVE PROCEDURE:** **Dates of Site Visit -** 08/26/2013
Was Applicant Present - No
5. **PROCESSING PROCEDURE:** **Application Received -** 08/22/2013 (completed)
Office - Wilmington

6. **SITE DESCRIPTION:**

- (A) **Local Land Use Plan -** Wilmington/New Hanover County RECEIVED
Land Classification From LUP - Conservation, Limited Transition
- (B) **AEC(s) Involved:** PT, EW SEP 05 2013
- (C) **Water Dependent:** Yes
- (D) **Intended Use:** Commercial
- (E) **Wastewater Treatment: Existing -** Municipal (CFPUA) DCM-MED CITY
Planned - N/A
- (F) **Type of Structures: Existing -** Dry-stack building, storage buildings, timber-bridge, clubhouse, parking areas, stormwater pond, above ground storage fuel tank, forklift pier, pedestrian access pier, platform, floating docks and channel markers.
Planned - Proposed new forklift pier, platform and transient floating docks
- (G) **Estimated Annual Rate of Erosion:** N/A
Source - N/A

7. **HABITAT DESCRIPTION:**

	[AREA]		
	DREDGED	FILLED	OTHER
(A) Vegetated Wetlands -			
(B) Non-Vegetated Wetlands - Open Water			51,973 sq. ft. (incorporated)
(C) Other - High Ground			

- (D) **Total Area Disturbed:** 51,973 sq. ft. (1.19 acres)
- (E) **Primary Nursery Area:** Yes
- (F) **Water Classification:** SC **Open:** Closed

8. **PROJECT SUMMARY:** The applicant proposes to construct an extension of an existing forklift launch and retrieval pier with transient floating docks associated with an existing dry-stack marina facility into deeper water of the Cape Fear River.

**CXA-10 Corporation c/o Lewis Zwick (Watermark Marina)
Page Three**

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The original application of State Permit No. 66-01 in April 2001 indicated existing water depth of -3.112' @ "low water" in the location of the proposed forklift launch area. Based on historical aerial photography review, the 2000 aerial photograph depicts shallow water depths in the project area. This application indicates that based on the latest hydrographic survey conducted in 2010 the existing water depth in the location of the existing launch and retrieval pier is <-1.0' relative to mean low water (MLW). The federally maintained Cape Fear River channel in the vicinity of the existing launch and retrieval pier is approximately 4,790' southwest of the outer edge of marsh at the existing launch and retrieval pier (See Sheet 1, 2, 5, 6 and 7 of 7 and Project Narrative).

PROPOSED PROJECT:

The applicant proposes to construct an extension of an existing forklift launch and retrieval pier with transient floating docks associated with an existing dry-stack marina facility into deeper water of the Cape Fear River. A new irregular shaped fixed platform with dimensions ranging from approximately 44' to 77' in length by 36' to 61' in width would be constructed and located on the northern side of the existing forklift launch and retrieval platform. A new forklift pier, measuring approximately 1,031' in length by 23.5' in width along with a new pedestrian access pier, measuring approximately 1,186' in length by 13' in width would extend side-by-side to each other towards the west into the Cape Fear River. These piers would terminate onto a fixed platform, measuring approximately 66' in length by 66' in width. Access ramps would lead onto two (2) floating docks, each measuring approximately 180' in length by 10' in width, which would extend towards the northern and southern side of the fixed platform. These floating docks would run parallel to the channel and shoreline creating a "T-head" configuration. According to the application package, the proposed extension would locate the terminal end of the new fixed forklift launch and retrieval pier and floating docks to the -6' @ MLW contour in the back channel between Island 13 and the existing launch and retrieval pier. Approximately 720 linear feet (potentially 29 wet slips) of side-to dockage would be associated with proposed forklift marina facility, which the application states would be for temporary tie up only. The floating docks associated with the existing launch and retrieval pier currently could potentially provide up to 29 side-to dockage. The application states that the proposed new extension would provide adequate water depths for the launch and retrieval of clientele vessels at lower stages of the tidal cycle, which is currently not practical at the existing facility. The application also states that only 20 of the 430 slips within the dry-stack marina building are currently being utilized (See Sheets 1 through 7 of 7 and Project Narrative).

The application does not propose additional high ground development in this modification request to State Permit No. 66-01. Please find below, a list of previous authorizations received to date includes: NC Division of Water Resources – Stormwater Permit #SW8000408 US Army Corp of Engineers – Action ID SAW-2000-01574.

10. ANTICIPATED IMPACTS:

The proposed extension of the existing launch and retrieval pier would incorporate an additional approximately 51,973 sq. ft. of Estuarine Waters and Public Trust Areas. The structures would not encroach into the adjacent 15' riparian corridor setback requirement. The proposed facility would extend approximately 1,424' into a waterbody measuring approximately 2,686' across. The proposed structures would extend approximately 1/2 the distance of the adjacent waterbody, exceeding the 1/4 distance rule of the waterbody. Based on provided water depths the extension would only gain -6' @ MLW for the proposed total distance of 1,424' into the adjacent waterbody. The proposed structures would not encroach into the USACE navigation channel setback. Minor turbidity increases should be expected during the construction process.

Submitted by: Robb L. Mairs

Date: 09/03/2013

Office: Wilmington

SEP 05 2013

9. SITE DESCRIPTION:

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The project is located on the east bank of the Cape Fear River, on the west side of River Road (SR 1100), approximately 2 miles south of the N.C. State Ports Authority (NCSPA), in Wilmington, New Hanover County. To locate the project location, travel west on Shipyard Blvd. until you reach the entrance to the NCSPA. Turn left onto River Road and travel approximately 2.3 miles south until you reach the property of interest, which will be located on the right hand side. The property is bounded by Barnards Creek to the south, and the Cape Fear River to the west. The property is locally zoned *Industry* and is bordered to the north by this type of existing land-use. The 11.9 acre tract is roughly triangular, with approximately 1,000' of frontage on the river. Its eastern property line is approximately 200' off River Road, but includes an easement, 200' in length by 50' in width to provide access from River Road. The property varies in depth from 600' (south side) to 1,200' (north side). The property ranges in elevation from 0' to +10' above normal high water (NHW). Historically, the tract had been used as a sand borrow pit, removing much of the natural elevation of the site. After exhausting the sand in the upper layers of the soil, the property was apparently used as a dump site and was littered with old tires and other refuse.

Existing structures on the property currently consists of a full service 430 slip dry-stack marina building, storage units, timber bridge, marina clubhouse, parking areas, stormwater pond, 10,000 gallons above ground storage fuel tank with fuel dispensers, forklift pier with a pedestrian access pier, fixed platform, floating docks, a marine pump-out facility and channel markers. State Permit No. 66-01 was originally issued to a previous property owner (Barnards Creek, LLC) on May 29, 2001 for the commercial dry-stack marina facility on the property. State Permit No. 66-01 was transferred to Watermark Marina of Wilmington on July 12, 2005 and was modified on August 22, 2005 and again on October 23, 2006. State Permit No. 66-01 was renewed on March 28, 2007 and was due to expire on December 31, 2008. State Permit No. 66-01 was then transferred to CXA-5 Corporation on August 9, 2010. State Permit No. 66-01 was then transferred to CXA-10 Corporation (current owner and applicant) on October 16, 2012. State Permit No. 66-01 is due to expire on December 31, 2013, which was subject to extension by the Session Law 2009-406, and as amended by Session Law 2010-177, the Permit Extension Act.

High ground vegetation at the site consists of Live Oak, Laurel Oak, Magnolia, Pine, Cypress and Cedar trees. Understory vegetation consists of Red Cedar, Wax Myrtle and Marsh Elder. The tract exhibits borders of coastal wetlands along the river (west) and the adjacent Barnards Creek (south). These tidal wetlands are predominantly Giant Cordgrass (*Spartina cynocoroides*), Smooth Cordgrass (*Spartina alterniflora*), Sawgrass (*Cladium*, spp.), Cat-tail (*Typha*, spp) and Bulrush (*Scirpus*, spp.). Non-tidal wetlands on the site appear to be §404 type wetlands regulated by the U.S. Army Corps of Engineers (USACE). These areas include a narrow hardwood wetland drain which appears to run through an access easement on the east side of the property and connects to Barnards Creek.

The waters of the Cape Fear River (in the vicinity of the project) are classified SC, by the N.C. Division of Water Resources. The area is designated as a **Primary Nursery Area (PNA)**, by the N.C. Division of Marine Fisheries and these waters are **CLOSED** to the harvesting of shellfish. The Wilmington-New Hanover County Land Use Plan 2006 Update classifies the area as Conservation.

It should be noted that the island directly across from the project site is known as Island 13, which was used as a mitigation site for impacts to PNA by the Wilmington Harbor deepening project. The distance between the project site and Island 13 is approximately 2,686' across. The waterward limits of the authorized facility under State Permit No. 66-01 were limited to the ¼ distance rule, which is approximately 672'. However, the application indicates that the existing facility currently extends only approximately 540' into the waterbody, which is approximately 132' landward of the ¼ distance rule.



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
69 DARLINGTON AVENUE
WILMINGTON, NORTH CAROLINA 28403-1343

November 21, 2013

Regulatory Division

Action ID No. SAW-2000-01574

Mr. Doug Huggett
Division of Coastal Management
North Carolina Department of
Environment and Natural Resources
400 Commerce Avenue
Morehead City, North Carolina 28557-3421

Dear Mr. Huggett:

Reference the application of CXA-10 Corporation to construct an extension of an existing forklift launch and retrieval pier with transient floating docks, adjacent to the Cape Fear River, at Watermark Marina located at 4114 River Road, in Wilmington, New Hanover County, North Carolina.

The Federal agencies have completed review of the proposal as presented by the application and your field investigation report.

We recommend that the following conditions be included in the State authorization:

1. All work authorized by this permit must be performed in strict compliance with the attached plans, which are a part of this permit. Any modification to these plans must be approved by the US Army Corps of Engineers (USACE) prior to implementation.
2. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal, relocation, or alteration. The permittee shall notify NOAA/NATIONAL OCEAN SERVICE Chief Source Data Unit N CS261, 1315 E West HWY- RM 7316, Silver Spring, MD 20910-3282 at least two weeks prior to beginning work and upon completion of work.

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3. Approval of the structure is based on determinations that there would be no obstruction to navigation. The structure may be damaged by wave wash from passing vessels. Issuance of this permit should not be construed, as relieving the permittee of taking proper steps to insure the structure and moored boats will not be damaged by wave wash.

4. Except as specified in the plans attached to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, in such a manner as to impair normal flows and circulation patterns within waters or wetlands or to reduce the reach of waters or wetlands.

5. Except as authorized by this permit or any USACE approved modification to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, within waters or wetlands. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. This prohibition applies to all borrow and fill activities connected with this project.

6. Unless otherwise authorized by this permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used.

7. All mechanized equipment will be regularly inspected and maintained to prevent contamination of waters and wetlands from fuels, lubricants, hydraulic fluids, or other toxic materials. In the event of a spill of petroleum products or any other hazardous waste, the permittee shall immediately report it to the N.C. Division of Water Quality at (919) 733-5083, Ext. 526 or (800) 662-7956 and provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act will be followed.

8. The authorized structure and associated activity must not interfere with the public's right to free navigation on all navigable waters of the United States. No attempt will be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work for reason other than safety.

9. The permittee must install and maintain, at his expense, any signal lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on authorized facilities. For further information, the permittee should contact the U.S. Coast Guard Marine Safety Office at (910) 772-2191.

10. If the permittee discovers any previously unknown historic or archeological remains while accomplishing the authorized work, he will immediately notify the Wilmington District Engineer who will initiate the required coordination procedures.

11. The permittee shall advise the Corps in writing at least two weeks prior to beginning the work authorized by this permit and again upon completion of the work authorized by this permit.

12. Approval of the structure was based on determinations that there would be no obstruction to navigation. Under conditions existing in the Atlantic Intracoastal Waterway (AIWW), a possibility exists that the structure may be damaged by wave wash from passing vessels. Unreasonable slowing down of vessel traffic cannot be required because it would tend to nullify the navigational benefits on which the AIWW was justified. Issuance of this permit should not be construed, as relieving the permittee of taking proper steps to insure the structure and moored boats will not be damaged by wave wash normally to be expected in the AIWW.

13. The permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit. A copy of this permit, including all conditions, shall be available at the project site during construction and maintenance of this project.

14. The permittee shall employ all sedimentation and erosion control measures necessary to prevent an increase in sedimentation or turbidity within waters and wetlands outside the permit area. This shall include, but is not limited to, the immediate installation of silt fencing or similar appropriate devices around all areas subject to soil disturbance or the movement of earthen fill, and the immediate stabilization of all disturbed areas. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).

15. The activity will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the waterbody is 50 NTU's or less in all rivers not designated as trout waters by the North Carolina Division of Environmental Management (NCDDEM), 25 NTU's or less in all saltwater classes and in all lakes and reservoirs, and 10 NTU's or less in trout waters, are not considered significant.

16. The permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the work will, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the water or wetland to its pre-project condition.

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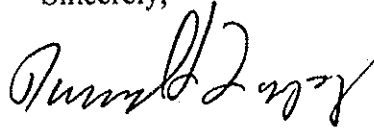
NOV 26 2013

17. Violations of these conditions or violations of Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act must be reported in writing to the Wilmington District U.S. Army Corps of Engineers within 24 hours of the permittee's discovery of the violation.

18. No portion of any structure will be located within 80 feet of the near bottom edge federally maintained navigation channel or federal setback to the channel. An as built survey of the authorized structure will be provided to our office for review of navigation concerns.

Questions or comments may be addressed to Mr. Dave Timpy, Wilmington Field Office, Regulatory Division, telephone (910) 251-4634.

Sincerely,



David L. Timpy, Project Manager
Wilmington Regulatory Field Office

Copies Furnished (w/o enclosure):

Ms. Karen Higgins
Division of Water Quality
North Carolina Department of
Environment and Natural Resources
1650 Mail Service Center
Raleigh, North Carolina 27699-1650

Mr. Pete Benjamin
U.S. Fish and Wildlife Service
Fish and Wildlife Enhancement
Post Office Box 33726
Raleigh, North Carolina 27636-3726

Mr. Fritz Rhode
National Marine Fisheries Service
Habitat Conservation Service
Pivers Island
Beaufort, North Carolina 28516

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NOV 26 2013



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

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

December 2, 2013

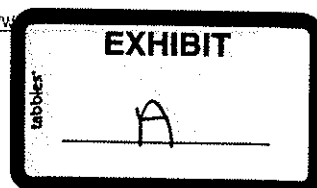
**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

CXA-10 Corporation
c/o Lewis Zwick
6000 Legacy Drive
Plano, TX 75024

Dear Mr. Zwick:

This letter is in response to your application for a Major Modification to Permit No. 66-01 under the Coastal Area Management Act (CAMA), in which authorization was requested to construct an extension of an existing forklift launch and retrieval pier adjacent to the Cape Fear River, in New Hanover County. Processing of the application, which was received as complete by the Division of Coastal Management's Wilmington Office on August 22, 2013 is now complete. Based on the state's review, the Division of Coastal Management has made the following findings:

- 1) The proposed project is a Major Modification to CAMA Major Permit No. 66-01. Permit No. 66-01 was originally issued on May 29, 2001 and has undergone several transfers, modifications and renewals. The permit was transferred to the current owner CXA-10 Corporation on October 16, 2012. The permit authorized the construction of the commercial dry-stack marina facility with an associated forklift launch pier and pedestrian pier. The original piers were permitted to extend to one-fourth the width of the waterbody.
- 2) The application indicates, that based on the latest hydrographic survey conducted in 2010, the water depth in the location of the existing forklift launch and retrieval pier is -1.0' mean low water.
- 3) The subject property is located adjacent to the Cape Fear River and is located within a Primary Nursery Area (PNA), as designated by the North Carolina Marine Fisheries Commission.
- 4) Although the applicant did not propose any excavation, 15A NCAC07H.0208(b)(1) of the Coastal Resources Commission rules require excavation of new navigation channels, canals, and boat basins to be aligned or located so as to avoid Primary Nursery Areas.
- 5) The proposed project would extend the previously authorized forklift launch pier and pedestrian pier to a total distance of approximately 1,450 feet into the Cape Fear River.



- 6) The proposed forklift launch pier and pedestrian pier would locate the terminal end of the facility in -6.0' mean low water.
- 7) The proposed forklift launch pier and pedestrian pier would exceed the one-quarter width of the natural waterbody by approximately 775 feet.
- 8) The proposed forklift launch pier and pedestrian pier extension longer than 400 feet would gain deeper water at a rate of less than .5 feet per 100 foot increment.
- 9) Based upon the above referenced findings, the Division has determined that the proposed project is inconsistent with the following Rule of the Coastal Resources Commission:
 - a) 15A NCAC 07H.0208(b)(6)(G)(iii), which states that pier length shall be limited by: "not extending more than one-fourth the width of a natural water body, or human-made canal or basin. Measurements to determine widths of the water body, canals or basins shall be made from the waterward edge of any coastal wetland vegetation which borders the water body..."
 - b) 15ANCAC 07H.0208(b)(H), which state the pier length shall be limited by: "Piers or docking facilities longer than 400 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least 1 foot each 100 foot increment of length longer than 400 feet, or, if the additional length is necessary to span some obstruction to navigation. Measurements to determine lengths shall be made from the waterward edge of any coastal wetland vegetation that borders the water body;"

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


If you wish to appeal this denial, you are entitled to a hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties before making a final decision on the appeal. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within twenty (20) days from the date of this letter. A copy of this petition should be filed with this office.

CXA-10 Corporation
c/o Lewis Zwick
xxxx, 2013
Page 3

Also, you are advised that as long as this state permit denial stands, your project must be deemed inconsistent with the N.C. Coastal Management Program, thereby precluding the issuance of federal permits for this project. The Federal Coastal Zone Management Act (CZMA) gives you the right to appeal this finding to the U.S. Secretary of Commerce within thirty days of receipt of this letter. Your appeal must be on the grounds that the proposed activity is (1) consistent with the objectives or purposes of the CZMA, or (2) is necessary in the interest of national security, and thus, may be federally approved.

Members of my staff are available to assist you should you desire to modify your proposal in the future. If you have any questions concerning this matter, please contact Mr. Doug Huggett at (252) 808-2808, extension 212.

Sincerely,



Braxton C. Davis
Director

cc: Colonel Steven A. Baker – U.S. Army Corps of Engineers, Wilmington, NC
David Kennedy, Director – OCRM/NOAA, Silver Spring, MD

CXA-10 CORPORATION

**Watermark Marina
4114 River Road, Wilmington
New Hanover County**

**Variance Request
July 30, 2014**



Wilmington District

- Right-of-Way Vertices
- Right-of-Way Monuments
- Harborline Points
- Navigation Channel Points
- Setback Points
- Right-of-Way
- Harborlines
- Disposal Areas
- Navigation Channels
- Setbacks

Last Update: 19 Aug 2011

**CXA-10 Corporation
Watermark Marina Property
4114 River Road, Wilmington,
New Hanover County, N.C.**

Island 13

Cape Fear River Channel

Back Channel of the Cape Fear River

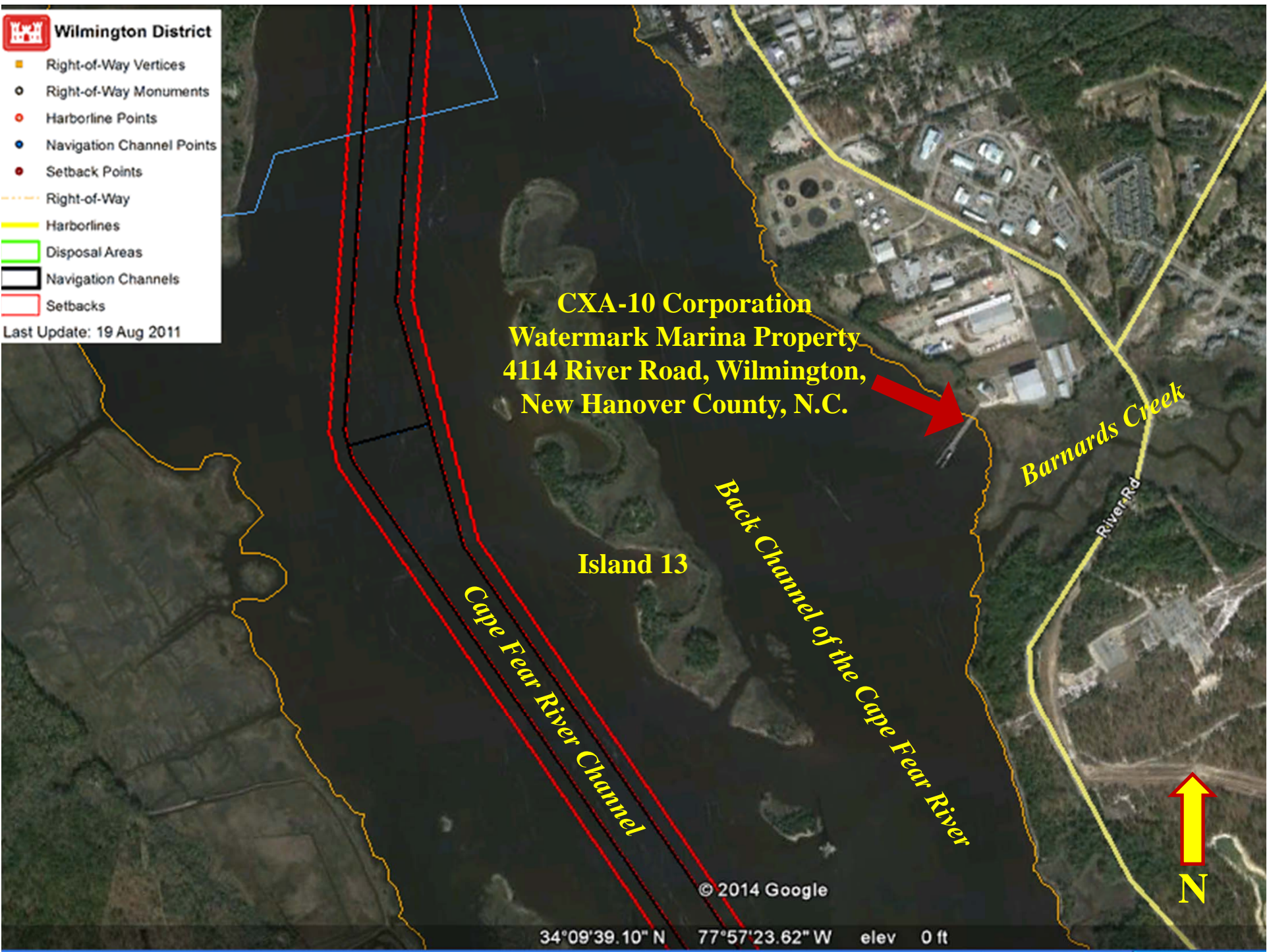
Barnards Creek

River Rd



© 2014 Google

34°09'39.10" N 77°57'23.62" W elev 0 ft







Island 13

Back Channel of the Cape Fear River

**CXA-10 Corporation
Watermark Marina Property**

Barnards Creek

**View of Project Site Facing West
Photo: NC DCM Aerial
Photography dated 11.20.2013**

View of Project Site Facing East
Photo: NC DCM On-Site
Photography Dated 6.12.2014



2011

Back Channel of the Cape Fear River

Approximate -5.0' @ MLW Contour
Based on 6.12.14 Hydrographic Survey

Island 13

2,686 feet across

1/2 distance

1,306 feet across

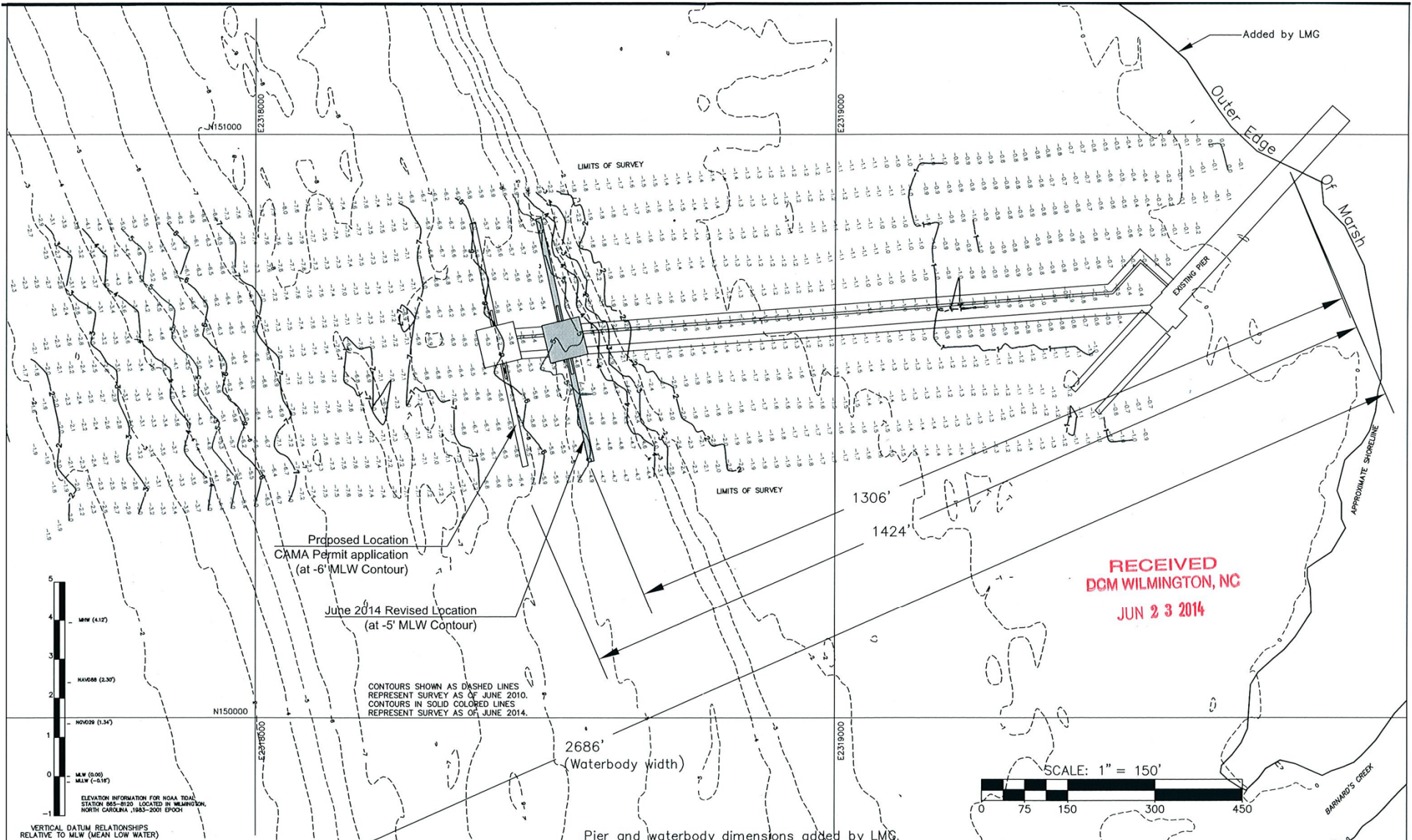
1/3 distance

1/4 distance

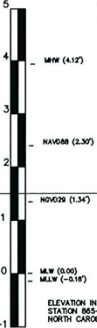
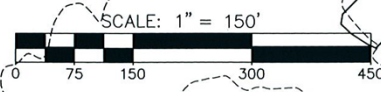
Barnards Creek



River Rd



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DCM WILMINGTON, NC
JUN 23 2014



Proposed Location
CAMA Permit application
(at -6' MLW Contour)

June 2014 Revised Location
(at -5' MLW Contour)

CONTOURS SHOWN AS DASHED LINES
REPRESENT SURVEY AS OF JUNE 2010.
CONTOURS IN SOLID COLORED LINES
REPRESENT SURVEY AS OF JUNE 2014.

2686'
(Waterbody width)

Pier and waterbody dimensions added by LMG.

THE INFORMATION DEPICTED ON THIS MAP REPRESENTS THE RESULT OF SURVEYS MADE ON THE DATE INDICATED AND CAN ONLY BE CONSIDERED AS INDICATING THE CONDITIONS EXISTING AT THAT TIME. BECAUSE THESE CONDITIONS ARE SUBJECT TO RAPID CHANGE DUE TO SHOALING EVENTS, A PRUDENT MARINER SHOULD NOT RELY EXCLUSIVELY ON THE INFORMATION PROVIDED HERE.

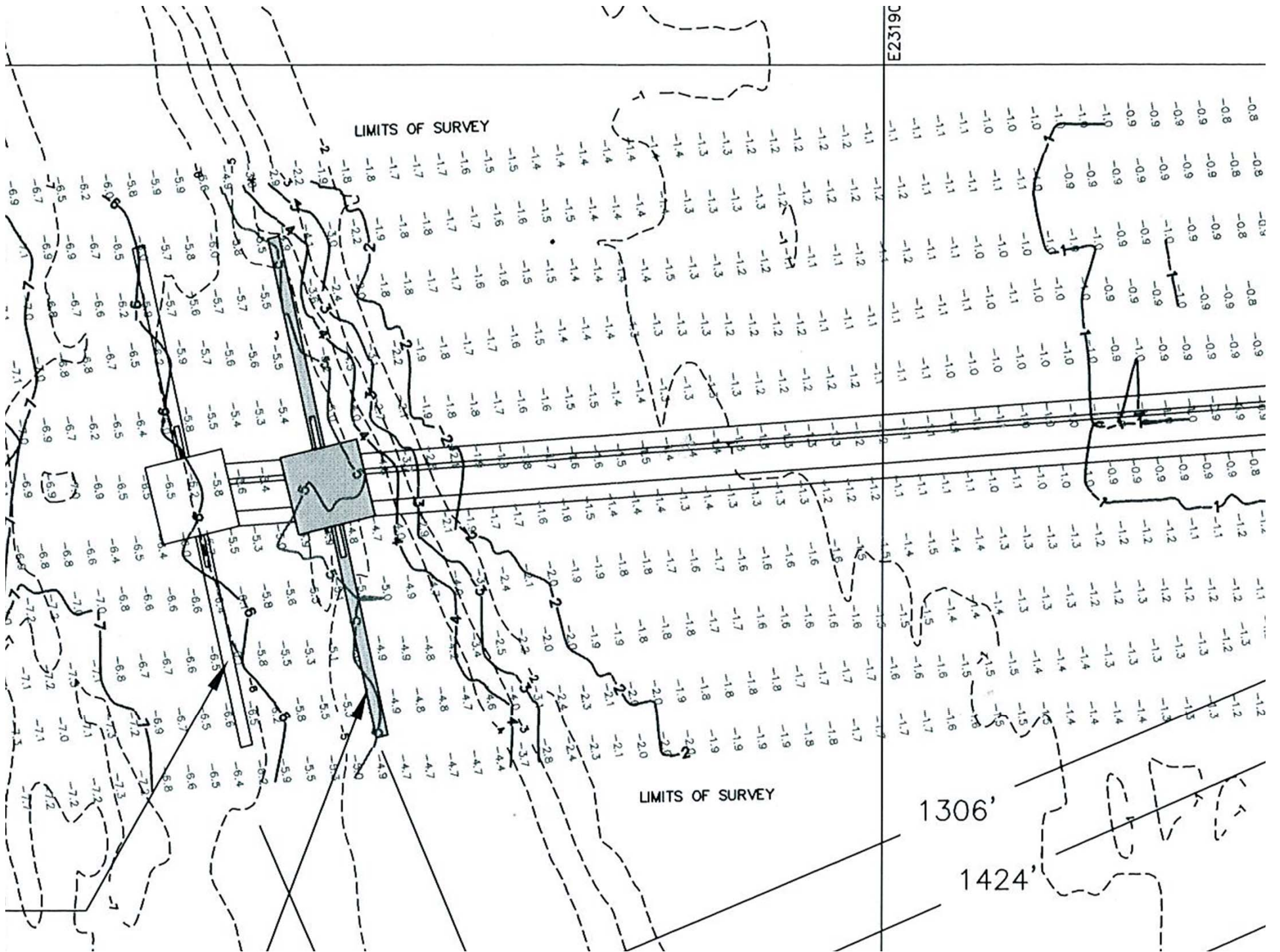
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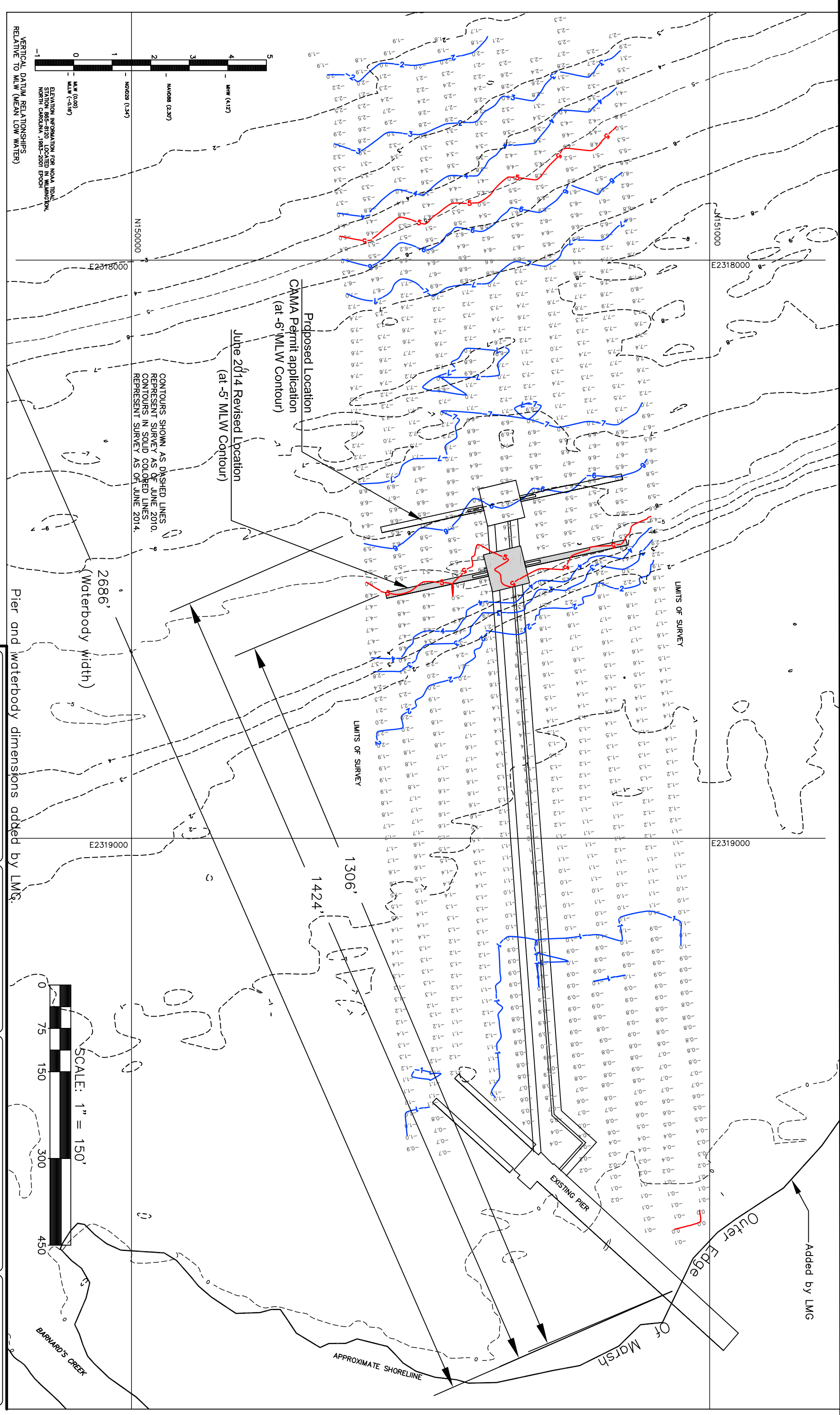
OVERLAY COMPARISON MAP

MCKIM & CREED
243 NORTH FRONT STREET
WILMINGTON, NORTH CAROLINA 28401
TELEPHONE: (910) 343-1048
FAX: (910) 251-8282
NORTH CAROLINA STATE LICENSE NO. 21137

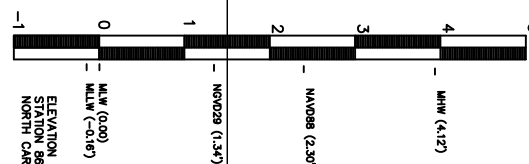
BATHYMETRIC SURVEY
FOR
WATERMARK MARINA
MARINA PIER EXTENSION
OF MARINA PARTNERS, LLC
CITY OF WILMINGTON, NEW HANOVER COUNTY, NORTH CAROLINA

JOB NUMBER:	02141-001
SCALE:	1" = 150'
CAD NUMBER:	W10100271001.WXDRAWING.DWG
FILE:	MLW
PARTY CHECK:	MLW
CAD CHECK:	MLW
FIELD BOOK/FOLDER:	W10100271001
DRAWING NUMBER:	02141-001





VERTICAL DATUM RELATIONSHIPS
RELATIVE TO MLW (MEAN LOW WATER)



THE INFORMATION DEPICTED ON THIS MAP REPRESENTS THE RESULT OF SURVEYS MADE ON THE DATE INDICATED AND CAN ONLY BE CONSIDERED AS INDICATING THE CONDITIONS AS EXISTING AT THAT TIME. BECAUSE THESE CONDITIONS ARE SUBJECT TO RAPID CHANGE DUE TO SHOALING EVENTS, A PRUDENT MARINER SHOULD NOT RELY EXCLUSIVELY ON THE INFORMATION PROVIDED HERE.

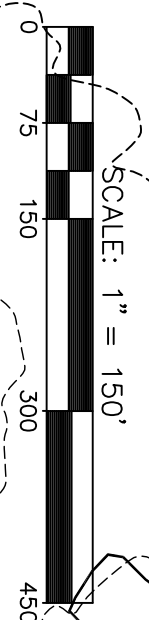
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CONTOURS SHOWN AS DASHED LINES REPRESENT SURVEY AS OF JUNE 2010. CONTOURS IN SOLID COLORED LINES REPRESENT SURVEY AS OF JUNE 2014.

June 2014 Revised Location
(at -5' MLW Contour)

Proposed Location
CAMA Permit application
(at -6' MLW Contour)

2686'
(Waterbody width)
Pier and waterbody dimensions added by LMG.



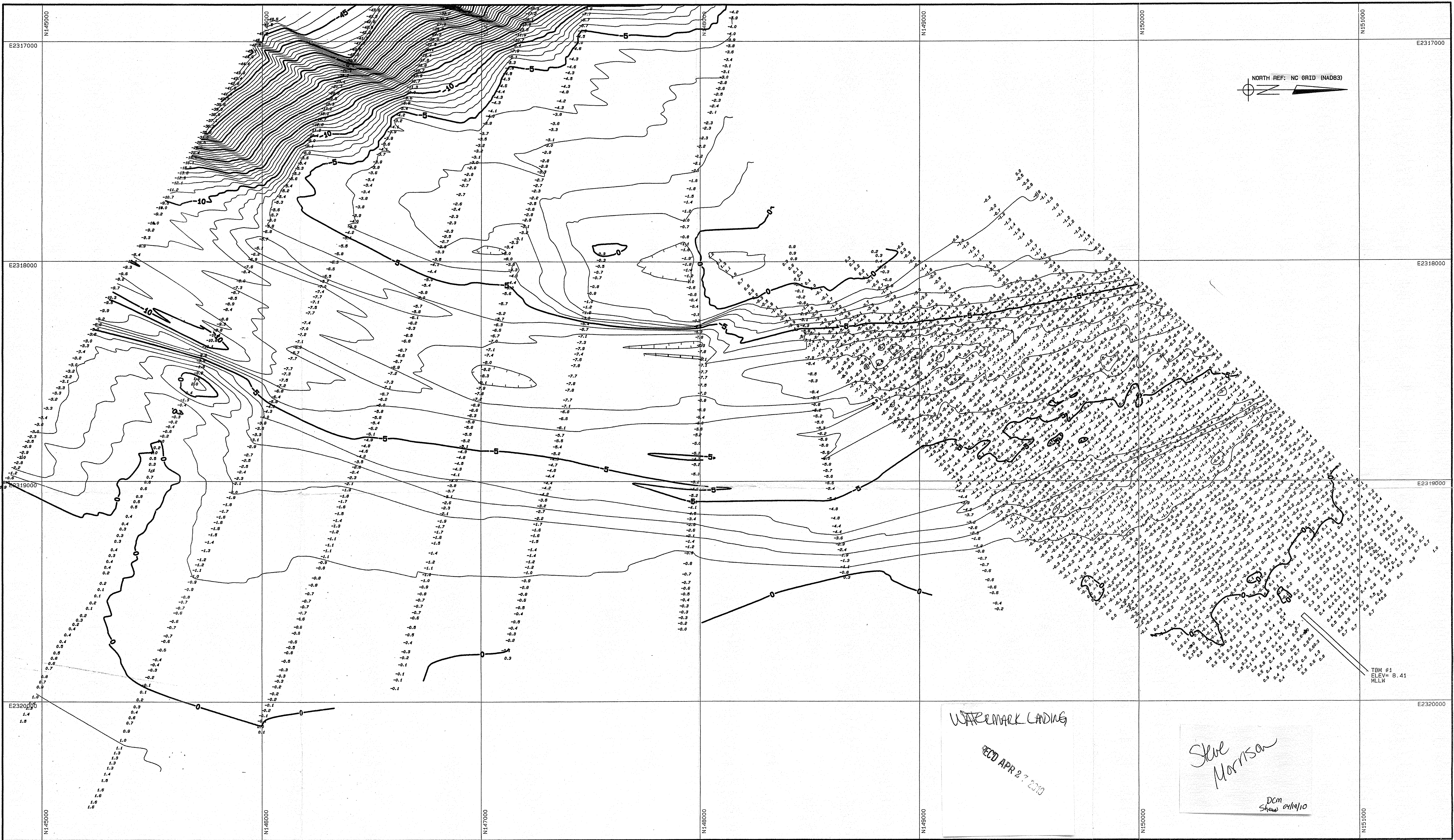
OVERLAY COMPARISON MAP

243 NORTH FRONT STREET
WILMINGTON, NORTH CAROLINA 28401
TELEPHONE: (910) 251-8282
FAX: (910) 251-8282
NORTH CAROLINA FIRM LICENSE NUMBER: F-1222

BATHYMETRIC SURVEY
FOR
WATERMARK MARINA
MARINA PIER EXTENSION
OF MARINA PARTNERS, LLC
CITY OF WILMINGTON, NEW HANOVER COUNTY, NORTH CAROLINA
JUNE 17, 2014

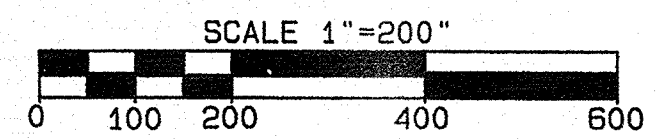
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FIELD BOOK/PAGE:	W1510/1-45
DRAWING NUMBER:	2014-02

Added by LMG



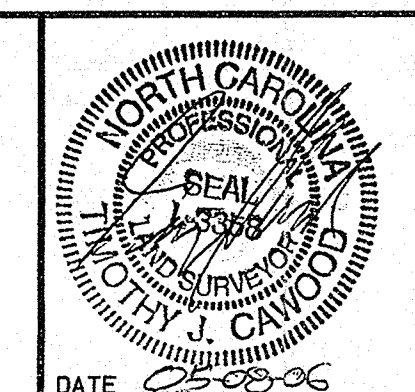
NOTES:
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 STAFF GAGE LOCATED ON SH BRIDGE FENDER.
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 HORIZONTAL DATUM NAD 1983.

THE INFORMATION DEPICTED ON THIS MAP REPRESENTS THE RESULT OF SURVEYS MADE ON THE DATE INDICATED AND CAN ONLY BE CONSIDERED AS INDICATING THE CONDITIONS EXISTING AT THAT TIME, BECAUSE THESE CONDITIONS ARE SUBJECT TO RAPID CHANGE DUE TO SHOALING EVENTS. A PRUDENT MARINER SHOULD NOT RELY EXCLUSIVELY ON THE INFORMATION PROVIDED HERE.



DATE:	REVISION:	INT.:
10/07/05	CHANGED TITLE FROM 28Khz TO 200Khz	TJC
10/07/05	ADDED TBM	TJC

MCKIM&CREED
 243 NORTH FRONT STREET
 WILMINGTON, NORTH CAROLINA 28401
 (910) 343-1048
 INTERNET SITE <http://www.mckimcreed.com>



EXISTING CONDITIONS SURVEY
 CAPE FEAR RIVER near BARNARD'S CREEK
 for Watermark Marinas
 200 KHz
 September 29, 2005
 Prepared for:
 Watermark Marinas
 Southfork Development Group
 5110 Hillsdale Circle, Suite 300
 El Dorado Hills, CA 95762

PROJECT #: 04073-0003
 PROJ. SVR: TJC
 DRAWN BY: TJC
 FIELD BK.:
 COMP. FILE: vh_040730003
 SHEET #: 1 of 2

RECEIVED
 APR 27 2010
 DCM WILMINGTON, NC

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 DCM WILMINGTON, NC
 MAY 16 2006



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

CRC-14-18

July 14, 2014

MEMORANDUM

TO: Coastal Resources Commission

FROM: Mike Lopazanski

SUBJECT: Periodic Review and Expiration of Existing Rules

Rulemaking by the Coastal Resources Commission and other state agencies is governed by the NC Administrative Procedure Act (APA), which outlines the procedure for the adoption of administrative rules. State agencies are required to follow these procedures for conducting public hearings, adopting proposed rules, and filing the adopted rules for inclusion in the NC Administrative Code. When the Commission proposes amendments to a rule, the public is notified of proposed rulemaking through a notice published in the North Carolina Register. After adoption, the fiscal analysis is reviewed by the Office of State Budget and Management and the proposed rules are also reviewed by the state Rules Review Commission. The rule is then filed for codification in the North Carolina Administrative Code, at which point it becomes effective. From start to finish, rulemaking generally takes at least eight months, and longer if changes are made during the process.

In 2013, the General Assembly enacted Session Law 2013-413 which added a “Periodic Review and Expiration of Existing Rules” section to the APA (G.S. § 150B-21.3A). This statute requires agencies to review all of their rules every 10 years under a process and schedule established by the Rules Review Commission. If an agency does not conduct the review, its rules will expire and be removed from the Administrative Code, unless the rule is required to implement or conform to federal law. Prior to 2013, rules did not expire.

10-Year Review Process

The new process requires agencies to review their existing rules and classify them as:

- Necessary with substantive public interest - the agency has received public comment within the last two years; it affects property interests; or a person might object to the rule.
- Necessary without substantive public interest – the agency has not received public comment within the last two years; or rules that merely identify information that is readily available to the public.
- Unnecessary - the agency has determined the rule is obsolete, redundant or otherwise no longer needed.

These classifications must be posted on the Office of Administrative Hearings(OAH) and Rules Review Commission (RRC) web sites. Public comments are to be accepted for a period of at least 60 days and agencies are required to respond to each public comment when there is an objection to a rule. After the comment period, agencies amend the final classifications, and send a final report and public comments received to the RRC.

The RRC will review the final report and public comments to determine if it agrees with the agency classification of its rules. The RRC may change a classification of a rule to “necessary with substantive public interest” but does not have the authority to declare a rule as “unnecessary.”The RRC sends a final assessment to the Joint Legislative Administrative Procedure Oversight Committee (APOC) for further review. The final determination on an agency’s rules becomes effective when the APOC reviews the report or on the 61st day after having received the report from the RRC if the APOC does not meet. The APOC may disagree with the Commission’s determination and recommend to the General Assembly that the agency conduct a review of the rule the following year.

Effect of Final Determination

Rules designated as “necessary without substantive public interest” will remain in the NC Administrative Code and rules designated as “unnecessary” will be removed. Rules designated as “necessary with substantive public interest” must be re-adopted as if they were new rules following the usual rulemaking procedures.If the rules are not re-adopted, they will be removed from the AdministrativeCode.

Schedule for Review of CRC Rules

The Rules Review Commission has developed a schedule for the review of agency rules. The majority of the CRC rules are due for review by January 2018. However, the rules associated with the Land Use Planning Program (15A NCAC 7B CAMA Land Use Planning Requirements) are due for review by December 2015.

In order to meet this schedule, the Division of Coastal Management will need to complete the categorization of the rules and gain CRC approval for submission of the report to the RRC by **May 2015**. The remainder of the schedule is as follows:

June 1, 2015: The report for 15A NCAC 7B is submitted to the Office of Administrative Hearings and the RRC.

June 1 – August 7, 2015: Public comment period.

October 2015: Public comments reviewed and responses provided for all objections. Final categorization of the rules completed and CRC approval of final report to be submitted to OAH and RRC.

November 15, 2015: Report on characterization of 15A NCAC 7B, public comments and responses to public comments filed with OAH.

December 2015: RRC reviews CRC Report.

January 2016: RRC submits findings to Joint Legislative Administrative Procedure Oversight Committee.

Staff is beginning revisions to the planning program and associated rules based on implementation experience over the past several years, as well as in response to feedback from local governments. This initiative is expected to run concurrently with the legislatively mandated review process.



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

July 16, 2014

MEMORANDUM

CRC 14-24

TO: Coastal Resources Commission
FROM: Charlan Owens, AICP, DCM Elizabeth City District Planner
SUBJECT: Overview of CAMA Land Use Planning Program

Background

The Coastal Area Management Act (CAMA) established a cooperative program of coastal area management between local and State governments, where local governments have the initiative for planning with the State acting primarily in a supportive, standard-setting, and review capacity; with permitting and enforcement as concurrent State and local responsibilities. Under CAMA, each coastal county is required to develop and adopt a land use plan. Municipalities within the 20-county jurisdiction are not required to have a land use plan; however, they may be delegated planning authority if they are currently enforcing a zoning ordinance, subdivision regulations, and the State Building Code. Otherwise, they are considered to be part of the county land use plan.

The State's coastal program employs a two-tiered approach to managing coastal resources. Critical resource areas, designated as Areas of Environmental Concern (AECs), comprise the first tier. The Division of Coastal Management (DCM) regulates activities in these areas through CAMA permits. CAMA permits are required to be consistent with an approved local CAMA land use plan. The second tier comprises non-AEC areas. These areas are managed through a coordinated effort of other state laws, local land use plans, and the requirement for State agency actions to be consistent with local land use plans. Plans are also used in the review of federal actions and federal permits.

Local land use plans require approval of the CRC to become effective. Plans are reviewed for consistency with the CRC's planning guidelines and requirements of CAMA. The CRC has the authority to prepare and adopt a county land use plan if a county chooses not to exercise its planning initiative.

History of State Coastal Planning Initiatives

The CAMA jurisdiction covers 14,000 square miles across 20 coastal counties which are currently made up of 118 local governments. These entities range from county, city and town governments to incorporated developed areas and crossroads communities.

In 1970, the jurisdiction had a permanent population of 509,457 persons. According to U. S. Census Data (2013) estimates, the permanent population is now over 1 million (1,019,349) persons. This

population growth is not evenly distributed among the counties (some inland counties have experienced little change) and the population figure does not include seasonal populations, which can be quite high for counties with a strong tourism economy.

Prior to the adoption of CAMA, most of the rural counties and small towns had no comprehensive plans, land use plans, or regulations. Many local governments were opposed to planning, as the regulation of private property was unpopular. Still, land use planning was seen as a key component of North Carolina's coastal program. And, while the regulatory program could be effective in protecting critical coastal resources (first tier areas), local land use planning was seen as the best way to address long-term and general development issues, with decisions being made at the local level.

In the development of land use planning rules, the CRC adopted standards and procedures, public participation requirements, analyses, and minimum issues to be addressed. Local governments were responsible for developing policies to address the minimum issues as well as those dealing with community character and traditional land use concerns. The initial planning rules came into effect in 1975 and were amended through the 1990s. The current planning rules came into effect in 2002.

Up until the early 2000s, the planning program focused on providing grant funds for planning and management projects, with the highest priority being land use plans and their updates. In addition to land use plans, funded projects included: waterfront access and revitalization plans; zoning, subdivision and development ordinances; population and housing studies; capital facilities plans; transportation corridor studies; hurricane evacuation plans; flood plain ordinances, hazard mitigation plans; watershed protection and management plans, and; drainage master plans. After 2002, all available grant monies were allocated to assist local governments in completing land use plans consistent with the revised planning rules. Grant monies for land use plans and management projects have not been available since that time.

Land Use Planning Rules

The CRC's land use planning rules are commonly referred to as the "7B" and "7L" rules, or CAMA Planning Guidelines (attached):

7L LOCAL PLANNING AND MANAGEMENT GRANTS rules address land use plan requirements for communities that receive grant funds to prepare a land use plan. Requirements include: a scoping meeting with DCM staff to determine planning needs; development and implementation of a citizen participation plan, intergovernmental coordination, increased public hearing notice, and submittal of implementation status reports. Land use plan updates are not required. 7L rules also outline DCM technical assistance to be provided. In addition to the scoping meeting, DCM is required to: provide opportunities to educate local officials about land use planning rules; provide maps and data to assist with development of plans; review plans for technical accuracy and consistency with CRC requirements, and; provide notice to the CRC and other state and federal agencies that the plan is available for review and comment.

7B CAMA LAND USE PLANNING REQUIREMENTS provides the general direction for plan development, including: identification of community concerns and aspirations, an analysis of existing and emerging conditions, a plan for the future, and identification of the tools to be used for managing development. 7B also addresses the public hearing requirements for local adoption, requirements for submittal of the adopted plan for state certification, and the process for amending the plan, either through CRC review and action or, in limited cases, through certification of the Executive Secretary by delegated authority.

The CRC's primary role in land use planning is the certification of land use plans and plan amendments as outlined in 7B. The CRC certifies plans and amendments that are: consistent with the CRC's rules; do not violate State or federal law; contain policies that address each Land Use Plan Management Topic, and; are found by the local government to be internally consistent. In addition to certification of a land use plan, the CRC can also take "non-certification" or "conditional certification" actions. Under non-certification, the local government is notified within 30 days as to how the plan might be changed so certification can be granted. Under conditional certification, the 30-day window also applies, but the Executive Secretary determines compliance with no further action required by the CRC. The CRC also reviews minor amendments that have been denied by the Executive Secretary under his delegated authority. And, as reiterated from the CAMA, the CRC may prepare and adopt a county land use plan if a county chooses not to prepare and adopt a plan that meets the planning requirements.

Land use plans are required to address Land Use Plan Management Topics - 15A NCAC 7B .0702(d)(3) - to ensure that they support the goals of CAMA, meet the CRC's expectations for the land use planning process, and give the CRC a substantive basis for review and certification of the plans. Below are each of the Management Topics and their associated Management Goal:

Public Access

- Maximize public access to the beaches and public trust waters of the coastal region.

Land Use Compatibility

- Ensure that development and use of resources or preservation of land, minimizes direct and secondary environmental impacts, avoids risk to the public health, safety, and welfare, and is consistent with the capabilities of the land.

Infrastructure Carrying Capacity

- Ensure that public infrastructure systems are appropriately sized, located and managed so that the quality and productivity of AECs and other fragile areas are protected or restored.

Natural Hazard Areas

- Conserve and maintain barrier dunes, beaches, floodplains and other coastal features for their natural storm protection functions and their natural resources giving recognition to public health, safety, and welfare issues.

Water Quality

- Maintain, protect, and where possible enhance water quality in all coastal wetlands, rivers, streams and estuaries.

Local Areas of Concern

- Integrate local concerns with the overall goals of CAMA in the context of land use planning.

Incorporating the Management Topics into local land use plans ensures that the State's coastal management goals are factored into local decision-making in both the critical resource areas and in the non-AEC jurisdictional area of the coast.

To date, there are approximately 60 locally adopted and state certified land use plans in the coastal area. These plans are periodically amended or updated as necessary by the local government.

SUBCHAPTER 7L - LOCAL PLANNING AND MANAGEMENT GRANTS

SECTION .0100 – PURPOSE AND AUTHORITY

15A NCAC 07L .0101 AUTHORITY

The rules in this Subchapter are promulgated pursuant to G.S. 113A-112 and G.S. 113A-124 by the Secretary of the Department of Environment and Natural Resources (DENR) in the Secretary's capacity as executive head of the state agency designated by the Governor to administer state funds and to receive and administer federal funds granted by the National Oceanic and Atmospheric Administration under the Federal Coastal Zone Management Act.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. September 1, 1978;
Amended Eff. August 1, 2002; October 1, 1991.*

15A NCAC 07L .0102 PURPOSE

The purpose of the Rules in this Subchapter is to establish the criteria and procedures for funding the DENR program of grants for local Coastal Area Management Act (CAMA) land use plans and coastal planning and management projects within North Carolina's coastal area. These funds are made available to assist local governments in developing and implementing CAMA land use plans and management strategies for their coastal resources, as mandated and encouraged by the CAMA. Funds are to be used in refining and carrying out local land use planning and management programs by local governments within the 20 counties defined by the CAMA.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. September 1, 1978;
Amended Eff. August 1, 2002; June 1, 1980.*

SECTION .0200 – GENERAL STANDARDS

- 15A NCAC 07L .0201 ELIGIBLE APPLICANTS**
- 15A NCAC 07L .0202 PRIORITIES FOR FUNDING**
- 15A NCAC 07L .0203 ELIGIBLE PROJECTS**
- 15A NCAC 07L .0204 PROJECT DURATION**
- 15A NCAC 07L .0205 CONSISTENCY WITH PLANS AND GUIDELINES**
- 15A NCAC 07L .0206 RELATION TO OTHER FUNDING**

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. September 1, 1978;
Amended Eff. November 1, 1984; June 1, 1982; March 13, 1981; June 1, 1980;
Repealed August 1, 2002.*

SECTION .0300 – APPLICATION PROCESS

- 15A NCAC 07L .0301 APPLICATION FORM**
- 15A NCAC 07L .0302 SUBMITTAL**
- 15A NCAC 07L .0303 PROCEDURE FOR PRELIMINARY APPROVAL OR DISAPPROVAL**
- 15A NCAC 07L .0304 ASSISTANCE IN COMPLETING APPLICATIONS**

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. September 1, 1978;
Amended Eff. October 1, 1991; May 1, 1990; November 1, 1984; June 1, 1982; March 13, 1981;
June 1, 1980;
Repealed August 1, 2002.*

SECTION .0400 – GRANT ADMINISTRATION

15A NCAC 07L .0401	CONTRACT AGREEMENT
15A NCAC 07L .0402	ACCOUNTABILITY
15A NCAC 07L .0403	PAYMENT
15A NCAC 07L .0404	PROGRESS REPORTS AND GRANT MONITORING
15A NCAC 07L .0405	PROJECT COMPLETION REPORT

History Note: Authority G.S. 113A-112; 113A-124;
Eff. September 1, 1978;
Amended Eff. March 13, 1981; June 1, 1980; September 1, 1978;
Repealed August 1, 2002.

SECTION .0500 - GENERAL STANDARDS

15A NCAC 07L .0501 ELIGIBLE APPLICANTS

- (a) Applications for grants for local planning and management funds may be made by the following:
- (1) Coastal Counties as defined in CAMA; and
 - (2) Municipalities within coastal counties.
- (b) Two or more eligible applicants may submit a joint application for funds to carry out jointly sponsored or regional projects.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.*

15A NCAC 07L .0502 CONSISTENCY WITH PLANS AND RULES

All proposed projects must be consistent with, CAMA, state rules and standards implementing CAMA, local CAMA land use plans certified by the Coastal Resources Commission (CRC), and the state's federally approved coastal management program.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.*

15A NCAC 07L .0503 PRIORITIES FOR FUNDING CAMA LAND USE PLANS AND IMPLEMENTATION PROJECTS

(a) In funding local planning and management grants, DENR shall follow the general priorities set out in 15A NCAC 07L .0503(b). Examples of the types of eligible projects are listed and have been placed in the appropriate priority category. Any applications for project funding not specifically identified and placed in a priority category shall be assigned the appropriate priority category by DENR upon receipt of the application. Funding priorities and eligibility for the Sustainable Communities Component of the planning program are described in 15A NCAC 07L .0512.

- (b) General priority categories for local planning and management grants are as follows:
- (1) The highest priority includes projects directly mandated by statute, including initial and updated CAMA land use plans, local participation in projects initiated by DENR, and projects DENR indicates urgently need local attention in order to meet CRC management topics. In general, grants for projects in this priority category, except CAMA Workbook land use plans, shall be funded for no more than 85 percent of the total project cost, although lower funding percentages may be awarded. The type of CAMA land use plan to be funded and the corresponding percentage of funding shall be based on community characteristics as determined during the scoping process described in 15A NCAC 07L .0505 to be held prior to project application.
 - (2) The second priority includes projects directly related to carrying out the explicit goals of CAMA, for which DENR indicates there is a high priority for local actions or projects which are coastally dependent (water-related) or projects to implement the CAMA land use plan such as public facilities planning or land use regulations preparation. Grants for projects in this category shall be for no more than 65 percent of the total project cost, although lower funding percentages may be awarded.
 - (3) The third priority includes projects related to improving local coastal management and land use management capabilities. Grants for projects in this priority category shall be for no more than 50 percent of the total project cost, although lower funding percentages may be awarded.
- (c) In addition, DENR shall take into consideration the following factors listed in order of importance to establish priorities for individual projects within the general priority categories:
- (1) project's contribution towards meeting CRC management topics;
 - (2) the extent to which the project includes measures of environmental protection beyond Areas of Environmental Concern (AEC) standards;
 - (3) applicant's urgency of need;
 - (4) past history of applicant's implementation of CAMA planning and management activities;
 - (5) feasibility of successful completion of project by the applicant;
 - (6) past experience with this program as well as present management and administrative capabilities;
 - (7) potential applicability of the project to other coastal area municipalities and counties; and
 - (8) geographic distribution of applicants.

(d) In priority categories two and three, the proportion of the grant award to total project costs shall be the same for all similar projects. For example, if one waterfront access plan is funded at a 60 percent level, all waterfront access plans shall be funded at a 60 percent level. The only exception to this involves multi-year projects which may receive a lower level of funding within a given priority category after the initial year.

(e) Generally, available funds shall first be allocated to projects in priority category one; then, if there are funds remaining, grants shall be made to projects in priority category two; and then, if there are funds remaining, grants may be made to projects in priority category three. However, the factors listed in Paragraph (c) of this Rule shall also be considered in funding decisions. Sustainable Communities projects shall be funded as described in 15A NCAC 07L .0512.

(f) Any local government whose CAMA land use plan is not certified by the CRC due to failure to meet the criteria listed in 15A NCAC 07B .0803 shall not receive further funding under this program until these inconsistencies are corrected.

(g) Any local government that is not implementing its certified CAMA land use plan shall not receive additional funding under this program. CAMA land use plan implementation shall be documented through periodic Implementation Status Reports provided to the Division of Coastal Management (DCM), as described in 15A NCAC 07L .0511 (Required Periodic Implementation Status Reports). A local government that is deemed by the DCM Planner to not have implemented its current CAMA land use plan may seek a review by the Director of the DCM to determine if the current CAMA land use plan implementation is acceptable to receive future funding.

(h) All funding decisions shall be based on availability and amount of state and federal appropriations.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.*

15A NCAC 07L .0504 ELIGIBLE PROJECTS

(a) The lists in Paragraph (b) of this Rule constitute types of projects that will be considered for funding. Each type of project listed has been assigned to one of the priority categories described in 15A NCAC 07L .0503 (Priorities For Funding CAMA Land Use Plans and Implementation Projects.) These lists are not intended to be exhaustive or restrictive. Local governments may apply for funds for any related projects that will improve local planning and management capabilities.

(b) Examples of eligible projects and their associated priority category include:

- (1) Priority Category-Type 1
 - (A) Those activities specifically designated by DENR on an annual basis, following consultation with the CRC and local governments, to be necessary to bring local plans into compliance with state rules for land use planning;
 - (B) Adopting, amending, or updating CAMA land use plans to reflect changed conditions (these may include, but are not limited to: necessary data collection, public participation, policy development).
- (2) Priority Category-Type 2
 - (A) Adopting or amending ordinances to further secure compliance with state rules in AECs;
 - (B) Beach access plans and studies (these may include, but are not limited to: inventory and identification of sites, design of access improvements, acquisition plans and studies, legal studies necessary to determine the extent of public use rights);
 - (C) Erosion control plans and studies (these may include, but are not limited to: mapping, erosion rate measurement, design of protection strategies for public lands, cost-benefit analysis, relocation plans and strategies);
 - (D) Studies and planning leading to the nomination of new AECs as described in 15A NCAC 07H .0503, or locally significant environmental areas;
 - (E) Waterfront redevelopment and renewal plans and studies including feasibility studies, site design studies, and plans and studies for improving or enhancing water-front parks and public areas (these may include, but are not limited to: site design, use studies, cost analysis);
 - (F) Preparing, adopting, or amending ordinances necessary to carry out certified CAMA land use plans, state rules, and the state coastal zone management plan (including but not limited to regulations on or for zoning, subdivision, stormwater management, dune protection beyond AEC standards, sanitation, building, mobile homes, historic preservation, signs, natural area protection, environmental impact statements);

- (G) Hazard mitigation plans.
- (3) Priority Category-Type 3
 - (A) Initial water and sewer plans and studies;
 - (B) Land use related capital facilities programming;
 - (C) Base mapping as a management tool;
 - (D) Other planning, studies, and data acquisition supportive of coastal planning and management including but not limited to public education or involvement on coastal issues; solid waste planning; port planning; sport and commercial fishing studies;
 - (E) Enforcement of ordinances adopted to carry out certified CAMA land use plans;
 - (F) Coordination of local coastal management activities with other local management activities (these may include, but are not limited to: internal coordination, city-county coordination);
 - (G) Other coastally related management projects.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.*

15A NCAC 07L .0505 SCOPING OF PLANNING NEEDS

- (a) If a local government intends to request funding from DENR for the development or update of a CAMA land use plan a scoping meeting shall occur between the local government and the DCM. This meeting shall occur prior to the submission of a grant application. The scoping meeting shall determine the extent of planning needs and the type of plan to be produced and funded.
- (b) The discussion and recommendations from the scoping meeting shall be presented at a regular meeting of the local governing board where action shall be taken to accept or modify the recommendations. Standard public meeting notification procedures common to the local government in question are sufficient public notice for these purposes, provided the notification specifically states that the scoping recommendations shall be discussed and acted upon. In addition, notification of the public meeting shall be provided to the DCM District Planner. Public input shall be accepted and considered at this meeting.
- (c) Assuming federal and state appropriations remain at or close to the 2001-02 fiscal year appropriations, DENR intends to provide funds for local governments to update their CAMA land use plans every six years. In the case of existing plans, the scoping process shall take place during the fourth year after the last certification. The local government may request scoping before the fourth year if special circumstances are identified in the Implementation Status Report described in 15A NCAC 07L .0511 -Required Periodic Implementation Status Reports.
- (d) The community characteristics to be discussed during the scoping process to help determine the type of plan to be prepared shall include:
 - (1) The capacity of the local government to administer the planning process;
 - (2) Population growth rate as projected by the State Planning Office;
 - (3) Development trends, such as number and type of building permits issued, number of lots subdivided, number of CAMA permits issued since certification of the current CAMA land use plan, and new and proposed industry;
 - (4) Extent of AECs;
 - (5) Water quality considerations including: Division of Water Quality (DWQ) classifications (outstanding resource waters, high quality waters) and current conditions (as per Basinwide Water Quality Plans, Use Support Designations.); and Division of Marine Fisheries (DMF) primary nursery areas and current conditions (as per Coastal Habitat Protection Plans); and shellfishing waters and their current conditions;
 - (6) Natural and manmade hazards and other issues affecting land use; and
 - (7) Natural and environmental constraints (these may include, but are not limited to: hydric soils and well head protection areas) which affect land use.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.*

15A NCAC 07L .0506 PUBLIC PARTICIPATION

- (a) Local Governments receiving DENR funding for CAMA land use plan preparation shall be responsible for the development and implementation of a Citizen Participation Plan. Local governments shall employ a variety of

educational efforts and participation techniques to assure that all socioeconomic segments of the community and non-resident property owners have opportunities to participate during plan development.

(b) Extent of Required Effort. Prior to the start of CAMA land use plan development, the local governing board shall develop and adopt a Citizen Participation Plan. Interested citizens shall have an opportunity to participate in the development of the CAMA land use plan through oral and written comments as provided for in the Citizen Participation Plan. Copies of informational CAMA land use plan materials shall be provided at all meetings of the planning group. The Citizen Participation Plan shall be available to the public throughout the planning process. At a minimum, the Citizen Participation Plan shall include the following:

- (1) Designation of the principal local board, agency, department or appointed group that shall take the lead role in preparing or updating the CAMA land use plan, including a contact name, address, and telephone number.
 - (2) A specific date and time for an initial public information meeting or series of meetings.
 - (A) During the meeting(s) a local government updating its plan shall discuss the statements of local policy in the current CAMA land use plan, the effect of those policies on the community, and the ways the plan has been used to guide development during the past planning period. The local government shall explain the process by which it will report to the public and solicit the views of a wide cross-section of citizens in the development of updated policy statements.
 - (B) Written notice of the public information meeting(s) shall be published in a newspaper of general circulation in the planning jurisdiction twice prior to the public information meeting(s). The first notice shall appear not less than 30 days prior to the public information meeting(s). The second notice shall appear not less than 10 days prior to the meeting. Notice of the meeting shall also be conveyed to local Coastal Resources Advisory Council (CRAC) member(s) and to the appropriate DCM District Planner.
 - (C) The local government shall offer an opportunity for public comment during the public information meeting(s).
 - (D) The tools to be used to report planning progress to the public during CAMA land use plan development, such as newspaper reports, local government newsletters, radio or television announcements or other reporting methods shall be described at the initial public meeting. More than one means is required.
 - (3) A description of the methods and techniques that shall be used to solicit public participation and input, such as citizen surveys, questionnaires, informational brochures, community outreach, town meetings or other pro-active methods. The Citizen Participation Plan shall describe the results that are expected from the methods and techniques that are used. More than one means is required and at least one effort shall be made to solicit input from non-resident landowners.
 - (4) A general outline of the meeting schedule for the group developing the CAMA land use plan, as designated in Subparagraph (b)(1) of this Rule.
- (c) All regular meetings of the designated planning group where the CAMA land use plan is discussed shall offer time on the agenda for public comment. A list of the names of speakers offering public comment and a copy of any written comments provided shall be kept on file by the local government and provided to the DCM staff for use in the CAMA land use plan review process.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.*

15A NCAC 07L .0507 MINIMUM CAMA LAND USE PLANNING AND FUNDING REQUIREMENTS

- (a) Each year DCM shall develop a list of local governments with whom DCM shall initiate a scoping process during the upcoming five years and the year in which DENR expects to have funds available for each local government desiring to seek DENR funding.
- (b) To receive funding from DENR, counties shall, at a minimum, prepare a CAMA Core land use plan, as described in 15A NCAC 07B.
- (c) To receive funding under this grant program for CAMA Core land use plan development, municipalities must have AECs within their jurisdiction and meet the population and growth rate thresholds as shown in Figure 1. To receive funding under this grant program, municipalities with Ocean Hazard AECs must, at a minimum, prepare a CAMA Core land use plan. Additionally, municipalities with non-Ocean Hazard AECs shall at a minimum prepare a CAMA Core




land use plan if they meet the population and growth rate thresholds as shown in Figure 1. Municipalities with only non-Ocean Hazard AECs that are at or below the population and growth rate thresholds shown in Figure 1 may prepare a CAMA Core land use plan or a Workbook Plan as described in 15A NCAC 07B. In addition, community characteristics other than those listed in Figure 1, such as extent of growth and resource protection issues (such as water quality concerns) being addressed by the municipality, shall be considered during the scoping process described in 15A NCAC 07L .0505 when determining the final planning option to be funded.

(d) Municipalities that do not meet the minimum plan-making authority of G.S. 113A-110(c) or those with no AECs within their planning jurisdiction shall not be funded for individual plans except under special circumstances and if funds are available. Examples of special circumstances include: the existence of non-AEC fragile areas (such as federally regulated wetlands, historic and cultural resources, critical wildlife habitats and scenic areas), land use compatibility problems or unexpected growth pressures, such as the relocation of major industry to the area.

(e) Figure 1 illustrates the criteria DENR shall use to determine the minimum types of plans that shall be expected and funded for municipalities.

Figure 1: PRESUMED MINIMUM FUNDING FOR MUNICIPAL CAMA LAND USE PLANS

		AREAS OF ENVIRONMENTAL CONCERN (AECs)		
POPULATION	GROWTH RATE*	OCEAN HAZARD AREAS	NON-OCEAN HAZARD AREAS**	AECs NOT PRESENT OR DO NOT MEET 113A-110 (c)***
≥ 5,000	N/A	Core Plan	Core Plan	No Funding
≥ 2,500	HIGH	Core Plan	Core Plan	No Funding
>1,000 and < 2,500	HIGH	Core Plan	Core Plan	No Funding
<1,000	HIGH	Core Plan	Core or Workbook plan- to be determined in the scoping process	No Funding
≥ 2,500	MODERATE	Core Plan	Core or Workbook plan- to be determined in the scoping process	No Funding
< 2,500	MODERATE	Core Plan	Core or Workbook plan- to be determined in the scoping process	No Funding
≥ 2,500	LOW	Core Plan	Core or Workbook plan- to be determined in the scoping process	No Funding
< 2,500	LOW	Core Plan	Core or Workbook plan- to be determined in the scoping process	No Funding

 Core Plan
  Core or Workbook plan- to be determined in the scoping process
  No Funding

(f) CAMA Land Use Plans shall be funded as follows:

- (1) The North Carolina Department of Commerce's Tier designations, as outlined by the Lee Act (G.S. 105-129.3), shall be used to determine the economic status of counties. Counties designated as Tier 1 and Tier 2 shall be considered economically distressed. Economically distressed counties that prepare a CAMA Core land use plan shall be funded at no more than 75 percent of the project costs, although lower percentages of funding may be provided. Counties that prepare a CAMA Core land use plan and do not have a Tier 1 or Tier 2 designation shall be funded at no more than 65 percent of the project cost, although lower percentages of funding may be provided.
- (2) Municipalities preparing CAMA Core land use plans shall be funded at no more than 60 percent of the project cost, although lower percentages of funding may be provided.
- (3) Counties and municipalities preparing CAMA Advanced Core land use plans, as described in 15A NCAC 07B, shall be funded at no more than 75 percent, except for Tier 1 and Tier 2 designated counties preparing CAMA Advanced Core land use plans. If so designated, these County plans shall

be funded at no more than 85 percent, although lower funding percentages may be provided. Eligibility for funding to prepare a CAMA Advanced Core land use plan shall be determined during the scoping process and shall be based on the level of planning proposed by the local government. To be considered for funding to prepare a CAMA Advanced Core land use plan, the proposal must demonstrably maintain or improve local environmental conditions and advance the local government towards implementation of its currently certified CAMA land use plan.

- (4) Municipalities preparing CAMA Workbook land use plans may receive no more than three thousand dollars (\$3,000.00) for map preparation only.
- (5) Local governments that choose to combine individual plans into joint or regional plans shall be eligible for funding not to exceed the amount that would have been provided for individual plans.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.

15A NCAC 07L .0508 STATE TECHNICAL ASSISTANCE, REVIEW AND COMMENT ON PRELIMINARY DRAFT PLAN

- (a) Educating Local Officials: At the beginning of the planning process, DCM shall provide opportunities for educating local officials about the CAMA land use planning rules, through such means as workshops and training videos.
- (b) Maps and Data: DCM shall provide maps and data to assist with developing the CAMA land use plan. This data may include population, natural resources, water quality, economic activity and transportation infrastructure for counties, and where available, for municipalities. Local governments may supplement this data with additional, or more recent, data from federal, state, local, and other sources.
- (c) Procedures for Agency Review and Comment: DCM shall review all draft CAMA land use plans for technical accuracy and consistency with the CRC's requirements for CAMA land use plans and shall provide notice to the CRC and other State and Federal Agencies that the plan is available for review and comment.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.

15A NCAC 07L .0509 INTERGOVERNMENTAL COORDINATION

- (a) Notification of Adjacent Jurisdictions (including non-CAMA areas, and if applicable, out of state areas): Each local government receiving funding for CAMA land use planning from DENR shall solicit comments on its preliminary draft CAMA land use plan or updates submitted for state review from adjacent jurisdictions and applicable regional planning entities. Solicitation shall be made in writing and a copy of the draft CAMA land use plan shall accompany the request. The review period shall be, at a minimum, 45 calendar days. After the review period ends, any comments from the adjacent planning jurisdictions and regional planning entities shall be provided to the local governing body and to the applicable DCM District Planner. Additionally, within 90 days after CRC certification of a CAMA land use plan, the local government shall provide one copy of its plan to each jurisdiction with which it shares a common border and with the regional planning entity.
- (b) Coordination of Policies: Where watershed(s) that contain an AEC fall within more than one planning jurisdiction, the jurisdictions shall coordinate the development of land use policies affecting shared AECs to the greatest extent practical.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.

15A NCAC 07L .0510 PUBLIC HEARING AND LOCAL ADOPTION REQUIREMENTS

- (a) Public Hearing Requirements For Local Governments Receiving Funding From DENR For Land Use Planning. Local adoption of the CAMA land use plan requires a public hearing. Notice of the hearing shall state the date, time, place, proposed action, and that copies of the document may be reviewed at a particular office in the county courthouse, county office building, or town hall during designated hours. Any other public facility where the document can be reviewed such as a library or community center shall be designated in the notice. The notice must appear at least twice in a newspaper of general circulation in the planning jurisdiction. The first notice must appear not less than 30 days prior to the hearing. The second notice must appear not less than 10 days prior to the hearing. Written notice of the public hearing shall be posted on the local government's principal bulletin board 30 days prior to the hearing or, if there is no

such bulletin board, at the door of the governing body's usual meeting room. If possible, an electronic hearing notice shall be provided on the World Wide Web at the time of the original notice.

(b) 30-Day Local Review Period. Copies of the proposed CAMA land use plan or update (final draft) shall be available for public review at the time the first notice is provided and in the place(s) listed in the notice. At least one copy of the draft plan shall be available for checkout for a 24-hour period by residents and property owners of the planning jurisdiction.

(c) Minor editorial changes after the public hearing are acceptable without re-advertising the notice. Substantive changes such as re-wordings that alter the basic intent of policy statements or changes in timelines for actions in the original notice shall require a new public hearing. This notice shall be advertised in the same manner as the original.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.*

15A NCAC 07L .0511 REQUIRED PERIODIC IMPLEMENTATION STATUS REPORTS

(a) To be eligible for future funding each local government engaged in CAMA land use planning shall complete a CAMA land use plan Implementation Status Report every two years as long as the current plan remains in effect. DCM shall provide a standard implementation report form to local governments. This report shall be based on the action plan and schedule provided in 15A NCAC 07B -Tools for Managing Development.

(b) The Implementation Status Report shall identify:

- (1) All local, state, federal, and joint actions that have been undertaken successfully to implement its certified CAMA land use plan;
- (2) Any actions that have been delayed and the reasons for the delays;
- (3) Any unforeseen land use issues that have arisen since certification of the CAMA land use plan;
- (4) Consistency of existing land use and development ordinances with current CAMA land use plan policies; and
- (5) Current policies that create desired land use patterns and protection of natural systems.

(c) Results shall be made available to the public and shall be forwarded to DCM.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.*

15A NCAC 07L .0512 SUSTAINABLE COMMUNITIES COMPONENT OF THE PLANNING PROGRAM

(a) Sustainable Communities Component: Under conditions outlined in this rule, DENR may provide additional financial support for plans that exceed the minimum requirements of 15A NCAC 07B. This Rule establishes a Sustainable Communities Component of the planning program, which provides funds to selected communities to support actions to implement the CRC-certified CAMA land use plans of selected local governments.

(b) The Sustainable Communities Component brings current techniques in coastal management and sustainability to the North Carolina coast. Local governments designated as Sustainable Communities shall execute multi-year, land/water projects that are consistent with CRC management topics and the CRC-certified CAMA local land use plan. Examples of sustainable projects include but are not limited to, oyster re-seeding projects, establishment of greenway systems, and eco-tourism projects.

(c) The CRC may identify priority issue areas and goals on which Sustainable Communities projects shall focus. These focus areas shall be provided in the Notice of Availability of Funds and Request for Proposals.

(d) The following factors shall be considered by DENR in the selection of Sustainable Communities: merit of proposal and its relevance to CRC management topics; proposed education and public participation throughout the life of the project; financial and administrative capacity of the local government to implement the project; and past history of CAMA land use plan implementation by that local government.

(e) DENR shall accept applications for the Sustainable Communities Component once every three years from counties and municipalities whose CAMA land use plans have been certified within the past three years. During the first year the Sustainable Communities Component is offered, local governments with CAMA land use plans older than three years will be eligible to apply. DENR shall make final selections of no more than four communities per funding cycle, based on recommendations of the CRC and the CRAC. Every effort shall be made to select local governments on an equitable geographic distribution throughout the coastal area.

(f) Selected communities shall document their methodology and progress throughout the length of the planning program and provide yearly progress reports to DENR.

(g) Sustainable Communities shall receive the following assistance: planning grant funds for the initial phase of the project and a local CAMA land use plan addendum for up to 80 percent of the project costs, not to exceed forty thousand dollars (\$40,000); priority funding consideration for Planning and Management Grant Funds for related projects for two of the following three years, provided funds are available for priority two and priority three projects, for a maximum of twenty thousand dollars (\$20,000) for each grant, and DCM support for all grant applications to other agencies for project funding.

(h) DCM will catalog, advertise and distribute summary reports on projects funded under this program to other local governments in the coastal area.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.*

15A NCAC 07L .0513 PROJECT DURATION

(a) CAMA Core and Advanced Core land use plans may be funded over a two-year period. Funding during the first year will be to prepare background material, with second year funding primarily used for policy development.

(b) Other planning and management projects may be approved for up to three years. However, individual grants will usually be for a period of one year. Where the project exceeds one year, the annual grant application shall set forth annual objectives, products and budgetary requirements. If a project requires more than one year to complete, and is funded for its first year, this action does not commit DENR to subsequent funding throughout the estimated duration of the project, except that multi-year CAMA land use plans will be given priority funding for Phase II.

(c) In the event that any local planning and management funds remain or become available after the initial disbursement of funds, DENR may provide additional grants to local governments to supplement existing projects or to initiate new projects based on need and ability of the local government to initiate a new project. All previous unfunded applications will be considered for available supplemental funding. In addition, applications for supplemental funding may be submitted by local governments at specified times during the year.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.*

15A NCAC 07L .0514 RELATION TO OTHER FUNDING

Applicants may combine these funds with other local, state, and federal funds to finance appropriate projects. However, these funds may not be used as "local matching funds" for other state or federal grants, except that Sustainable Community funds may be used for match if allowed by other state or federal programs.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.*

SECTION .0600 - APPLICATION PROCESS

15A NCAC 07L .0601 APPLICATION FORM

- (a) At least 30 days prior to each new land use planning and management grant period, DENR shall distribute to each eligible applicant a grant application form and notice of availability of funds.
- (b) The grant application form shall request a project description, project objectives, project deliverables, project budget, consistency of the proposed project with the certified CAMA land use plan (if applicable), and other information as deemed necessary by DENR. A project narrative that more completely describes the proposed project may supplement the form. Incomplete, vague or inadequate applications may not be processed.
- (c) The grant application form shall be signed by a person who has been authorized by the local government to enter into contracts relating to the implementation of CAMA.
- (d) A separate application form shall be completed for each proposed project.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.

15A NCAC 07L .0602 ASSISTANCE IN COMPLETING APPLICATIONS AND SUBMITTAL

Local governments may contact the DCM offices for further assistance and information in completing grant applications. Completed applications shall be submitted to the appropriate office as described in the Notice of Availability of Funds and Request for Proposals.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.

15A NCAC 07L .0603 PROCEDURE FOR APPROVAL OR DISAPPROVAL

- (a) DENR shall, within 90 days after the deadline for receiving applications, notify all applicants as to the status of the application. If deemed necessary, DENR may request the applicant to submit additional information or agree to a revised project proposal or project budget.
- (b) No approval of a grant application shall be deemed to be final prior to execution of the contract agreement required by 15A NCAC 07L .0701.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.

SECTION .0700 - GRANT ADMINISTRATION

15A NCAC 07L .0701 CONTRACT AGREEMENT

- (a) Prior to the disbursement of funds, the local government and DENR will become parties to the contract.
- (b) DENR shall prepare the contract and submit it to the local government, following tentative approval of the grant application. The contract shall specify the amount of the grant, the work to be performed under the grant, and all terms and conditions of the grant. The contract must be executed by a person who is authorized by the local government to enter into contracts, and then returned to DENR. The contract is effective, and approval of the grant application final, when signed by the Secretary of DENR or the Secretary's designee.
- (c) Subcontracts shall be reviewed and approved by DENR prior to execution by the local government. Past work history with DENR of the proposed subcontractor will be considered in reviewing the subcontract. No subcontracts may be made without the written approval of DENR.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.

15A NCAC 07L .0702 PROGRESS REPORTS AND GRANT MONITORING

- (a) Specific requirements for progress reports will be set out in each contract with grantees.
- (b) A progress report will be required of all grantees prior to the distribution of funds.
- (c) DENR shall make such site visits and consultations as deemed necessary.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.

15A NCAC 07L .0703 PAYMENT

- (a) Payment by DENR will be made periodically as specified in the contract upon the submittal of a requisition for payment and DCM certification that reasonable and satisfactory progress is being made on the project. Payments will be proportional to the work demonstrated by the grantee to have been completed.
- (b) DENR may withhold payment at any time if the grantee is in violation of the terms of the contract or cannot demonstrate satisfactory progress towards completion of the project.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.

15A NCAC 07L .0704 PROJECT COMPLETION REPORT

- (a) A project completion report shall be required for all projects. DENR shall transmit information concerning the content and format of this report to all grantees at least 60 days prior to the due date for the report.
- (b) A draft project completion report shall be submitted to DENR with or prior to submission of the final requisition for payment. This report shall include an assessment by the local government of the consistency of the project with the certified CAMA land use plan and the rules of the CRC. If the project is found to be inconsistent by DENR, the local government shall include a satisfactory plan for creating consistency, including timelines for implementation. Final payment will not be made to the local government until this information is provided.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.

15A NCAC 07L .0705 ACCOUNTABILITY

Grantees will be subject to accounting techniques and procedures similar to those applicable to DENR as grantee of federal funds administered by the National Oceanic and Atmospheric Administration. The requirements of the General Statutes, OMB Circular A-102 and the National Oceanic and Atmospheric Administration's administrative grants standards shall be followed.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002.

SUBCHAPTER 7B – CAMA LAND USE PLANNING

SECTION .0100 - INTRODUCTION TO LAND USE PLANNING

15A NCAC 07B .0101 PURPOSE

*History Note: Authority G.S. 113A-110; 113A-124;
Eff. February 1, 1976;
Amended Eff. November 1, 1984; July 1, 1984; September 1, 1979;
RRC Objection due to lack of necessity Eff. December 21, 1995;
Amended Eff. February 1, 1996;
Repealed August 1, 2002.*

15A NCAC 07B .0102 OBJECTIVES

15A NCAC 07B .0103 POLICIES

15A NCAC 07B .0104 STANDARDS

*History Note: Authority G.S. 113A-107(a);
Eff. February 1, 1976;
Amended Eff. April 1, 1979;
Repealed Eff. September 1, 1979.*

SECTION .0200 - LAND USE PLAN

15A NCAC 07B .0201 CONTENTS OF THE LAND USE PLAN

History Note: Authority G.S. 113A-107(a); 113A-124;
Eff. February 1, 1976;
Amended Eff. November 1, 1989; July 1, 1984; September 1, 1979;
RRC Objection due to ambiguity Eff. December 21, 1995;
Amended Eff. February 1, 1996;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0202 EXECUTIVE SUMMARY

15A NCAC 07B .0203 INTRODUCTION

History Note: Authority G.S. 113A-107(a); 113A-124;
Eff. January 1, 1996;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0204 GOALS AND OBJECTIVES

History Note: Authority G.S. 113A-107(a); 113A-124;
RRC Objection due to ambiguity and lack of necessity Eff. December 21, 1995;
Eff. February 1, 1996;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0205 RELATIONSHIP OF POLICIES AND LAND CLASSIFICATION

History Note: Authority G.S. 113A-107(a); 113A-124;
Eff. September 1, 1979;
Amended Eff. July 1, 1984;
Repealed Eff. January 1, 1996.

15A NCAC 07B .0206 DATA COLLECTION AND ANALYSIS

History Note: Authority G.S. 113A-107(a); 113A-124;
Eff. February 1, 1976;
Amended Eff. December 1, 1991; May 1, 1990; November 1, 1989; July 1, 1984;
RRC Objection due to ambiguity and lack of necessity Eff. December 21, 1995;
Recodified from 15A NCAC 7B .0202 Eff. January 1, 1996;
Amended Eff. February 1, 1996;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0207 PRESENT CONDITIONS

History Note: Authority G.S. 113A-107(a); 113A-124;
RRC Objection due to ambiguity and lack of necessity Eff. December 21, 1995;
Eff. February 1, 1996;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0208 CONTENTS OF LAND USE PLAN

History Note: Authority G.S. 113A-110; 113A-124;
Eff. November 1, 1984;
Repealed Eff. January 1, 1996.

15A NCAC 07B .0209 CONTENTS OF THE EXECUTIVE SUMMARY

History Note: Authority G.S. 113A-110; 113A-124;
Eff. November 1, 1984;
Repealed Eff. January 1, 1996.

15A NCAC 07B .0210 CONSTRAINTS
15A NCAC 07B .0211 ESTIMATED DEMANDS

History Note: Authority G.S. 113A-107(a); 113A-124;
RRC Objection due to ambiguity and lack of necessity Eff. December 21, 1995;
Eff. February 1, 1996;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0212 POLICY STATEMENTS

History Note: Authority G.S. 113A-107(a); 113A-124;
Eff. February 1, 1976;
Amended Eff. December 1, 1991; November 1, 1989; March 1, 1988; March 1, 1985;
RRC Objection due to lack of statutory authority, ambiguity and lack of necessity
Eff. December 15, 1995;
Recodified from 15A NCAC 7B .0203 Eff. January 1, 1996;
Amended Eff. February 1, 1996;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0213 LAND CLASSIFICATION

History Note: Authority G.S. 113A-107(a); 113A-124;
Eff. February 1, 1976;
Amended Eff. November 1, 1989; July 1, 1984; September 1, 1979;
RRC Objection due to ambiguity and lack of necessity Eff. December 21, 1995;
Recodified from 15A NCAC 7B .0204 Eff. January 1, 1996;
Amended Eff. February 1, 1996;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0214 INTERGOVERNMENTAL COORDINATION AND IMPLEMENTATION

History Note: Authority G.S. 113A-107(a); 113A-124;
Eff. February 1, 1976;
Amended Eff. July 1, 1984;
Recodified from 15A NCAC 7B .0206 Eff. January 1, 1996;
Amended Eff. January 1, 1996;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0215 PUBLIC PARTICIPATION

History Note: Authority G.S. 113A-107(a); 113A-124;
Eff. February 1, 1976;
Amended Eff. November 1, 1989; July 1, 1984;
RRC Objection due to lack of statutory authority, ambiguity and lack of necessity
Eff. December 21, 1995;
Recodified from 15A NCAC 7B .0207 Eff. January 1, 1996;
Amended Eff. February 1, 1996;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0216 PLAN REVIEW AND APPROVAL

History Note: Authority G.S. 113A-110; 113A-124;
Eff. November 1, 1984;
Recodified from 15A NCAC 7B .0210 Eff. January 1, 1996;
Amended Eff. January 1, 1996;
Repealed Eff. August 1, 2002.

SECTION .0300 - GUIDELINES FOR PROPOSED AREAS OF ENVIRONMENTAL CONCERN

15A NCAC 07B .0301	INTRODUCTION
15A NCAC 07B .0302	COASTAL WETLANDS: GENERAL
15A NCAC 07B .0303	COASTAL WETLANDS: LOW TIDAL MARSHLAND
15A NCAC 07B .0304	COASTAL WETLANDS: OTHER COASTAL MARSHLAND
15A NCAC 07B .0305	ESTUARINE WATERS
15A NCAC 07B .0306	RENEWABLE RESOURCE AREAS: WATERSHEDS OR AQUIFERS: GENERAL
15A NCAC 07B .0307	WATERSHEDS OR AQUIFERS: SMALL SURFACE WATER SUPPLIES
15A NCAC 07B .0308	SPECIAL AQUIFER AREAS: OUTER BANKS AND BARRIER ISLANDS
15A NCAC 07B .0309	FRAGILE: HISTORIC OR NATURAL RESOURCES AREAS: GENERAL
15A NCAC 07B .0310	EXISTING NATIONAL OR STATE PARKS
15A NCAC 07B .0311	COMPLEX NATURAL AREAS
15A NCAC 07B .0312	AREAS THAT SUSTAIN REMNANT SPECIES
15A NCAC 07B .0313	AREAS CONTAINING UNIQUE GEOLOGICAL FORMATIONS
15A NCAC 07B .0314	HISTORIC PLACES
15A NCAC 07B .0315	REGISTERED NATURAL LANDMARKS
15A NCAC 07B .0316	AREAS SUBJECT TO PUBLIC RIGHTS: GENERAL
15A NCAC 07B .0317	AREAS SUBJECT TO PUBLIC RIGHTS: CERTAIN PUBLIC TRUST AREAS
15A NCAC 07B .0318	NATURAL HAZARD AREAS: GENERAL
15A NCAC 07B .0319	SAND DUNES ALONG THE OUTER BANKS
15A NCAC 07B .0320	OCEAN BEACHES AND SHORELINES (ON THE OUTER BANKS)
15A NCAC 07B .0321	COASTAL FLOODPLAINS
15A NCAC 07B .0322	EXCESSIVE EROSION AREAS: GENERAL
15A NCAC 07B .0323	EXCESSIVE EROSION AREAS: COASTAL INLET LANDS
15A NCAC 07B .0324	EXCESSIVE EROSION AREAS: OCEAN ERODIBLE AREAS
15A NCAC 07B .0325	EXCESSIVE EROSION AREAS: ESTUARINE AND RIVER ERODIBLE AREAS
15A NCAC 07B .0326	DEVELOPMENT STANDARDS APPLICABLE TO ALL AECS

History Note: Authority G.S. 113A-107(a);
Eff. February 1, 1976;
Amended Eff. April 23, 1979; April 1, 1979;
Repealed Eff. September 1, 1979.

SECTION .0400 - LAND USE PLAN AMENDMENT PROCESS

15A NCAC 07B .0401	LAND USE PLAN AMENDMENT
15A NCAC 07B .0402	PUBLIC HEARING REQUIRED
15A NCAC 07B .0403	NOTICE TO COASTAL RESOURCES COMMISSION
15A NCAC 07B .0404	WAIVER OF FORMAL REVIEW BY THE CRC
15A NCAC 07B .0405	CONSISTENCY AND ADOPTION
15A NCAC 07B .0406	STANDARDS FOR WAIVER OF FORMAL REVIEW

History Note: Authority G.S. 113A-110; 113A-124;
Eff. May 10, 1978;
Amended Eff. July 1, 1984;
RRC Objection due to lack of statutory authority and necessity Eff. December 21, 1995;
Amended Eff. February 1, 1996; January 1, 1996; November 1, 1989; September 1, 1988; July 1, 1984;
Repealed Eff. August 1, 2002.

SECTION .0500 - LAND USE PLAN UPDATE PROCESS

- 15A NCAC 07B .0501 UPDATE REQUIRED**
- 15A NCAC 07B .0502 PURPOSE OF UPDATE**
- 15A NCAC 07B .0503 DATA COLLECTION AND ANALYSIS**
- 15A NCAC 07B .0504 AMENDMENTS TO MAPS**
- 15A NCAC 07B .0505 FORMAT OF PLAN UPDATE**

History Note: Authority G.S. 113A-107(a); 113A-124;
Eff. September 1, 1979;
RRC Objection due to lack of statutory authority and ambiguity Eff. December 21, 1995;
Amended Eff. February 1, 1996; January 1, 1996; July 1, 1984;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0506 REVIEW AND APPROVAL

History Note: Authority G.S. 113A-107(a); 113A-124;
Eff. January 1, 1996;
Repealed Eff. August 1, 2002.

15A NCAC 07B .0507 OFFICIAL COPY OF PLAN

History Note: Authority G.S. 113A-107(a); 113A-124;
Eff. September 1, 1979;
Amended Eff. November 1, 1989;
Recodified from 15A NCAC 7B .0506 Eff. January 1, 1996;
Amended Eff. January 1, 1996;
Repealed Eff. August 1, 2002.

SECTION .0600 - INTRODUCTION

15A NCAC 07B .0601 AUTHORITY

This Subchapter establishes the rules that local governments shall follow in developing and adopting a Coastal Area Management Act (CAMA) Land Use Plan.

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

15A NCAC 07B .0602 EXAMPLES

Examples included in this Rule are for illustrative purposes and neither represents a prioritization nor a limitation of issues.

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

SECTION .0700 – CAMA LAND USE PLANNING REQUIREMENTS

15A NCAC 07B .0701 PLANNING OPTIONS

(a) Each county within the coastal area may prepare and adopt a CAMA Land Use Plan that meets the planning requirements adopted by the Coastal Resources Commission (CRC). The CRC shall prepare and adopt a CAMA Land Use Plan for each county that chooses not to prepare and adopt a CAMA Land Use Plan. Municipalities may develop individual CAMA Land Use Plans if:


- (1) the County delegates this authority to the municipality; or
- (2) the CRC grants this authority upon application from a municipality that is currently enforcing its zoning ordinance, its subdivision regulations and the State Building Code within its jurisdiction.


(b) The minimum types of plans presumed for municipalities, based on population, growth rates and the presence of Areas of Environmental Concern (AECs) are illustrated in Figure 1. In addition, community characteristics other than those listed in Figure 1, such as extent of growth and resource protection issues (e.g., water quality concerns), shall be considered when determining the type of plan to be prepared.

Figure 1: TYPES OF CAMA PLANS PRESUMED FOR MUNICIPALITIES

POPULATION	GROWTH RATE*	AREAS OF ENVIRONMENTAL CONCERN (AECs)		DO NOT MEET STATUTORY THRESHOLD IN §113A-110 (c) ***
		OCEAN HAZARD AREAS	NON-OCEAN HAZARD AREAS**	
≥ 5,000	N/A	Minimum Core Plan Presumed	Minimum Core Plan Presumed	Fold into County CAMA Land Use Plan
≥ 2,500	HIGH	Minimum Core Plan Presumed	Minimum Core Plan Presumed	Fold into County CAMA Land Use Plan
>1,000 and < 2,500	HIGH	Minimum Core Plan Presumed	Minimum Core Plan Presumed	Fold into County CAMA Land Use Plan
<1,000	HIGH	Minimum Core Plan Presumed	Core or Workbook plan	Fold into County CAMA Land Use Plan
≥ 2,500	MODERATE	Minimum Core Plan Presumed	Core or Workbook plan	Fold into County CAMA Land Use Plan
< 2,500	MODERATE	Minimum Core Plan Presumed	Core or Workbook plan	Fold into County CAMA Land Use Plan
≥ 2,500	LOW	Minimum Core Plan Presumed	Core or Workbook plan	Fold into County CAMA Land Use Plan
< 2,500	LOW	Minimum Core Plan Presumed	Core or Workbook plan	Fold into County CAMA Land Use Plan

 *Minimum Core Plan Presumed*

 *Core or Workbook plan*

 *Fold into County CAMA Land Use Plan*

* *GROWTH RATE (Source: Office of State Planning)*

High ≥ 18.4%

Moderate > 9.2% and < 18.4%

Low ≤ 9.2%

** *Estuarine Waters, Coastal Shorelines, Public Trust Areas, and Coastal Wetlands*

*** *113A-110 (c) provides that municipalities may develop individual plans if (1) the County delegates this authority to the municipality or (2) the CRC grants this authority upon application from a municipality that is currently enforcing its zoning ordinance, its subdivision regulations and the State Building Code within its jurisdiction.*

(c) Types of Plans

- (1) Workbook plan: This is a simplified CAMA Land Use Plan that addresses the following elements:
 - (A) statement of community concerns, aspirations and vision;
 - (B) existing land use map;
 - (C) land suitability analysis;
 - (D) local growth and development policies addressing each Management Topic and applicable Areas of Environmental Concern; and
 - (E) future land use map.

The Division of Coastal Management (DCM) shall provide a workbook plan template to municipalities preparing this type of plan containing all required data and examples of policy alternatives.

- (2) Core plan: This plan addresses all of the plan elements in Rule .0702 of this Section (Elements of CAMA Core and Advanced Core Land Use Plans) in a complete and thorough manner. This type of plan is the standard CAMA Land Use Plan required for all 20 coastal counties.
- (3) Advanced core plan: The plan prepared by local governments that, due to consideration of specific local conditions, elect to exceed the core plan requirements in two or more areas. This plan also may be used to help meet the requirements of other planning programs, such as the Environmental Protection Agency's (EPA) Phase II Stormwater requirements or hazard mitigation plans, that address the CAMA goals, or to address issues of local concern, (i.e. location of a new industry or redevelopment after storm events.)

(d) Counties preparing a CAMA Land Use Plan shall prepare a core plan at a minimum.

(e) Municipalities that contain AECs may prepare a Workbook Plan, Core Plan, or Advanced Core Plan, depending on the presumptive type of plan shown in Figure 1. However, the type of plan to be prepared may change depending on needs that are identified in the scoping process described in 15A NCAC 07L. Municipalities with Ocean Hazard AECs that choose to plan shall prepare a minimum of a Core Plan. Municipalities with only Non-Ocean Hazard AECs that choose to plan shall prepare a Core Plan if they meet the population and growth rate thresholds as shown in Figure 1. Municipalities with only Non-Ocean Hazard AECs that choose to plan and are at or below the population and growth rate thresholds shown in Figure 1 may prepare a Core Plan or a Workbook Plan.

(f) A County shall accept a municipality's locally adopted policies for inclusion in the County CAMA Land Use Plan for the municipality's jurisdiction if requested to do so by any municipality not preparing an individual CAMA Land Use Plan. Inclusion of a municipality's adopted policies shall occur either at the time of County CAMA Land Use Plan preparation or a subsequent County CAMA Land Use Plan amendment. The municipality's policies are limited to its jurisdiction and may differ from the County's policies.

(g) Municipalities may seek CRC certification for these plans if all requirements found in 15A NCAC 07B and G.S. 113A-110 are met.

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

15A NCAC 07B .0702 ELEMENTS OF CAMA CORE AND ADVANCED CORE LAND USE PLANS

(a) Organization of the Plan. The elements in this Rule provide general direction for development of the CAMA Core and Advanced Core Land Use Plans. A detailed Table of Contents shall be included and if the local government does not follow the outline described in this Rule, a matrix shall be included that shows the exact location of the following required elements.

(b) Community Concerns and Aspirations:

- (1) Significant existing and emerging conditions: The plan shall include a description of the dominant growth-related conditions that influence land use, development, water quality, and other environmental concerns in the planning area.
- (2) Key issues: The plan shall include a description of the land use and development topics most important to the future of the planning area. At a minimum, this description shall include public access, land use compatibility, infrastructure carrying capacity, natural hazard areas, water quality, and local areas of concern as described in Subparagraph (d)(3) (Land Use Plan Management Topics) of this Rule.
- (3) A community vision: This shall consist of a description of the general physical appearance and form that represents the local government's plan for the future. The community vision shall include statements of general objectives to be achieved by the plan. These objectives shall serve as the foundation for more specific objectives and policies stated elsewhere in the CAMA Land Use Plan. The objectives shall include changes that the local government feels are needed to achieve the planning vision.

(c) Analysis of Existing and Emerging Conditions within the planning jurisdiction. The purpose of this element is to provide a sound factual and analytical base that is necessary to support the land use and development policies included in the plan. The analysis shall be based upon the best available data or mapping information from state, federal and local sources. This element shall describe the following:

- (1) Population, Housing, and Economy. The plan shall include an analysis and discussion of the following data and trends:
 - (A) Population:
 - (i) Permanent population growth trends using data from the two most recent decennial Censuses;
 - (ii) Current permanent and seasonal population estimates;
 - (iii) Key population characteristics;
 - (iv) Age; and
 - (v) Income.
 - (B) Housing stock:
 - (i) Estimate of current housing stock, including permanent and seasonal units, tenure, and types of units (single-family, multifamily, and manufactured); and
 - (ii) Building permits issued for single-family, multifamily, and manufactured homes since last plan update.
 - (C) Local economy: Employment by major sectors and description of community economic activity.
 - (D) Projections. Short-term (five and ten year) and long-term (20-year) projections of permanent and seasonal population.
- (2) Natural systems analysis. The purpose of the natural systems analysis is to describe and analyze the natural features and environmental conditions of the planning jurisdiction, and to assess their capabilities and limitations for development. This analysis shall include:
 - (A) Mapping and analysis of natural features. The 14-digit hydrological units delineated by the Natural Resources Conservation Service shall be used as the basic unit of analysis of natural features. Maps of the following natural features shall be developed with data provided by DCM or other state agencies for analysis and plan development. These maps may be reproduced and included in the CAMA Land Use Plan at the option of the local government. If the maps are not included in the plan, they shall be made available to the public:
 - (i) Areas of Environmental Concern (AECs);
 - (ii) Soil characteristics, including limitations for septic tanks, erodibility, and other factors related to development;
 - (iii) Environmental Management Commission (EMC) water quality classifications (SC, SB, SA, HQW, and ORW) and related use support designations, and Division of Environmental Health (DEH) shellfish growing areas and water quality conditions;
 - (iv) Flood and other natural hazard areas;
 - (v) Storm surge areas;
 - (vi) Non-coastal wetlands including forested wetlands, shrub-scrub wetlands and freshwater marshes;
 - (vii) Water supply watersheds or wellhead protection areas;
 - (viii) Primary nursery areas, where mapped;
 - (ix) Environmentally fragile areas, such as, but not limited to wetlands, natural heritage areas, areas containing endangered species, prime wildlife habitats, or maritime forests; and
 - (x) Additional natural features or conditions identified by the local government.
 - (B) Composite map of environmental conditions:
 - (i) Composite map of environmental conditions: The plan shall include a map that shows the extent and overlap of natural features listed in Part (c)(2)(A) of this Rule and, based on the local government's determination of the capabilities and limitations of these features and conditions for development, shows the location of the following three categories of land:
 - (I) Class I – land containing only minimal hazards and limitations that may be addressed by commonly accepted land planning and development practices;
 - (II) Class II – land containing development hazards and limitations that may be addressed by methods such as restrictions on types of land uses; special site planning; or the provision of public services; and
 - (III) Class III – land containing serious hazards for development or lands where the impact of development may cause serious damage to the functions of natural systems.
 - (ii) The CAMA Land Use Plan shall describe or list the features or conditions selected by the local government for inclusion in each class.
 - (C) Environmental conditions. The plan shall provide an assessment of the following environmental conditions and features and discuss their limitations or opportunities for development:

- (i) Water quality:
 - (I) Status and changes of surface water quality, including impaired streams from the most recent N.C. Division of Water Quality Basinwide Water Quality Plans, 303(d) List and other comparable data;
 - (II) Current situation and trends on permanent and temporary closures of shellfishing waters as determined by the Report of Sanitary Survey by the Shellfish Sanitation Section of the N.C. Division of Environmental Health;
 - (III) Areas experiencing chronic wastewater treatment system malfunctions; and
 - (IV) Areas with water quality or public health problems related to non-point source pollution.
 - (ii) Natural hazards:
 - (I) Areas subject to storm hazards such as recurrent flooding, storm surges and high winds;
 - (II) Areas experiencing significant shoreline erosion as evidenced by the presence of threatened structures or public facilities; and
 - (III) Where data is available, estimates of public and private damage resulting from floods and wind that has occurred since the last plan update.
 - (iii) Natural resources:
 - (I) Environmentally fragile areas (as defined in Part (c)(2)(A)(ix) of this Rule) or areas where resource functions may be impacted as a result of development; and
 - (II) Areas containing potentially valuable natural resources. These may include, but are not limited to the following: beach quality sand deposits, protected open space, and agricultural land, that may be impacted or lost as a result of incompatible development.
- (3) Analysis of Land Use and Development. The purpose of the analysis of land use and development is to describe and quantify existing patterns of land uses, identify potential land use and land use/water use conflicts, determine future development trends, and project future land needs. The plan shall include the following mapping and analysis of existing land use:
- (A) A map of land including the following: Residential, commercial, industrial, institutional, public, dedicated open space, agriculture, forestry, confined animal feeding operations, and undeveloped;
 - (B) The land use analysis shall include the following:
 - (i) Table that shows estimates of the land area allocated to each land use;
 - (ii) Description of any land use conflicts;
 - (iii) Description of any land use – water quality conflicts;
 - (iv) Description of development trends using indicators. These development trends may include, but are not limited to the following: building permits and platted but un-built lots; and
 - (v) Location of areas expected to experience development during the five years following plan certification by the CRC and a description of any potential conflicts with Class II or Class III land identified in the natural systems analysis.
 - (C) Historic, cultural, and scenic areas designated by a state or federal agency or by local government. These areas and sites shall be located on either the existing land use map or a separate map; and
 - (D) Projections of future land needs. The analysis shall include short term (five and ten year) and long term (20-year) projections of residential land area needed to accommodate the planning jurisdiction's projected future permanent and seasonal population (population projections as defined in Part (c)(1)(D) of this Rule (Analysis of Existing and Emerging Conditions). The projections of land needs may be increased up to 50% to allow for unanticipated growth and to provide market flexibility. For local governments experiencing low or no growth (as shown in Figure 1 in 15A NCAC 07B .0701), the projections of land needs may consider economic strategies in the final calculations.
- (4) Analysis of Community Facilities. The purpose of the analysis of community facilities is to evaluate existing and planned capacity, location, and adequacy of key community facilities that serve the community's existing and planned population and economic base; that protect important environmental factors such as water quality; and that guide land development in the coastal area. This analysis shall include:
- (A) Public and private water supply and wastewater systems. The analysis of water and sewer systems shall include a description and map(s) of existing public and private systems, including existing condition and capacity; location of pipelines, documentation of any overflows, bypasses, or other problems that may degrade water quality or constitute a threat

- to public health; existing and planned service areas; and future needs based on population projections. If any required information is not available for private systems, the local government shall so state in the plan and this factor may be eliminated from the analysis.
- (B) Transportation systems. The analysis of the transportation system shall include a map showing: the existing highway system; any segments deemed by the North Carolina Department of Transportation (NCDOT) as having unacceptable service levels; highway facilities on the current thoroughfare plan; and facilities on the current transportation improvement program. The analysis shall also assess the impact of planned highway or other transportation facilities on growth levels and development patterns.
 - (C) Stormwater systems. The analysis of public and permitted private stormwater systems shall include identification of existing drainage problems in the planning area; identification of water quality issues related to point-source discharges of stormwater runoff; and an overview of potential stormwater system requirements for local governments subject to the EPA's Storm Water Phase II Final Rules.
 - (D) Other facilities. The local government may include additional facilities and services such as solid waste and health and safety in the analysis.
- (5) Land Suitability Analysis. The purpose of the land suitability analysis is to determine the planning area's supply of land suited for development based on the following considerations: natural system constraints, compatibility with existing land uses and development patterns, the existing land use and development criteria of local, state, and federal agencies and the availability and capacity of water, sewer, stormwater management facilities, and transportation systems. The analysis shall include a land suitability map showing vacant or under-utilized land that is suitable for development. The following factors shall be considered to assess land suitability:
- (A) Water quality;
 - (B) Land Classes I, II, and III summary environmental analysis;
 - (C) Proximity to existing developed areas and compatibility with existing land uses;
 - (D) Potential impact of development on areas and sites designated by local historic commissions or the North Carolina Department of Cultural Resources as historic, culturally significant, or scenic;
 - (E) Land use and development requirements of local development regulations, CAMA Use Standards and other applicable state regulations, and applicable federal regulations; and
 - (F) Availability of community facilities, including water, sewer, stormwater and transportation.
- (6) Review of Current CAMA Land Use Plan. The purpose of the review of the current CAMA Land Use Plan is for the local governing body to review its success in implementing the policies and programs adopted in the plan and the effectiveness of those policies in achieving the goals of the plan. The review shall include consideration of the following factors:
- (A) Consistency of existing land use and development ordinances with current CAMA Land Use Plan policies;
 - (B) Adoption of the land use plan's implementation measures by the governing body; and
 - (C) Efficacy of current policies in creating desired land use patterns and protecting natural systems.
- (d) Plan for the Future. This element of the plan is intended to guide the development and use of land in the planning jurisdiction in a manner that achieves its goals for the community and CAMA. Policies affecting AECs shall also be used in making CAMA permit decisions. The plan for the future includes the local government's goals, land use and development policies, and future land use map:
- (1) Land use and development goals. The following shall be considered in the development of the plan's goals:
 - (A) Community concerns and aspirations identified at the beginning of the planning process; and
 - (B) Needs and opportunities identified in the analysis of existing and emerging conditions.
 - (2) Policies:
 - (A) Policies included in the land use plan shall be consistent with the goals of the CAMA, shall address the CRC management topics for land use plans, and comply with all state and federal rules. The CAMA Land Use Plan shall demonstrate how the land use and development goals, policies and future land use map, as required in Subparagraph (d)(4) of this Rule, will guide the development and use of land in the planning jurisdiction in a manner that is consistent with the specific management goal(s), planning objective(s) and land use plan requirements of each Management Topic.
 - (B) The plan shall contain a description of the type and extent of analysis completed to determine the impact of CAMA Land Use Plan policies on the management topics; a description of both positive and negative impacts of the land use plan policies on the management topics; and a description of the policies, methods, programs and processes to mitigate any negative impacts on applicable management topics.

- (C) The plan shall contain a statement that the governing body either accepts state and federal law regarding land uses and development in AECs or, that the local government's policies exceed the requirements of state and federal agencies. If local policies exceed the State and Federal requirements, the CAMA Land Use Plan shall identify which policies exceed these requirements and to what extent. If the governing body intends to rely on Federal and State laws and regulations it shall reference these in the plan.
- (3) Land Use Plan Management Topics. The purposes of the CRC management topics are to insure that CAMA Land Use Plans support the goals of CAMA, to define the CRC's expectations for the land use planning process, and to give the CRC a substantive basis for review and certification of CAMA Land Use Plans. Each of the following management topics (Public Access, Land Use Compatibility, Infrastructure Carrying Capacity, Natural Hazard Areas, Water Quality, and Local Areas of Concern) include three components: a management goal, a statement of the CRC's planning objective, and requirements for the CAMA Land Use Plans:
- (A) Public Access:
- (i) Management Goal: Maximize public access to the beaches and the public trust waters of the coastal region.
 - (ii) Planning Objective: Develop comprehensive policies that provide beach and public trust water access opportunities for the public along the shoreline within the planning jurisdiction. Policies shall address access needs and opportunities, include strategies to develop public access, and identify feasible funding options.
 - (iii) Land Use Plan Requirements: Land use plan policies on ocean and public waterfront access shall establish local criteria for frequency and type of access facilities. These policies shall contain provisions for public access for all segments of the community, including persons with disabilities, and shall establish access criteria for beach areas targeted for nourishment.
- (B) Land Use Compatibility:
- (i) Management Goal: Ensure that development and use of resources or preservation of land minimizes direct and secondary environmental impacts, avoids risks to public health, safety and welfare and is consistent with the capability of the land based on considerations of interactions of natural and manmade features.
 - (ii) Planning Objective:
 - (I) Adopt and apply local development policies that balance protection of natural resources and fragile areas with economic development.
 - (II) Policies shall provide direction to assist local decision making and consistency for zoning, divisions of land, and public and private projects.
 - (iii) Land Use Plan Requirements:
 - (I) Establish building intensity and density criteria, such as floor area ratio and units per acre, consistent with the land suitability analysis for each land use designation on the Future Land Use Map.
 - (II) Establish local mitigation criteria and concepts. These may include, but are not limited to the following: cluster subdivision design, enacting local buffers, impervious surface limits, and innovative stormwater management alternatives.
- (C) Infrastructure Carrying Capacity:
- (i) Management Goal: Ensure that public infrastructure systems are appropriately sized, located and managed so the quality and productivity of AECs and other fragile areas are protected or restored.
 - (ii) Planning Objective: Establish level of service policies and criteria for infrastructure consistent with Part (c)(3)(D) (Projections of Future Land Needs) of this Rule.
 - (iii) Land Use Plan Requirements:
 - (I) Identify/establish service area boundaries for existing and future infrastructure.
 - (II) Correlate future land use map categories with existing and planned infrastructure such as wastewater, water infrastructure and transportation.
- (D) Natural Hazard Areas:
- (i) Management Goal: Conserve and maintain barrier dunes, beaches, flood plains, and other coastal features for their natural storm protection functions and their natural resources giving recognition to public health, safety, and welfare issues.
 - (ii) Planning Objective: Develop policies that minimize threats to life, property, and natural resources resulting from development located in or adjacent to hazard areas, such as those subject to erosion, high winds, storm surge, flooding, or sea level rise.
 - (iii) Land Use Plan Requirements:

- (I) Develop location, density, and intensity criteria for new, existing development and redevelopment including public facilities and infrastructure so that they can better avoid or withstand natural hazards.
 - (II) Correlate existing and planned development with existing and planned evacuation infrastructure.
- (E) Water Quality:
- (i) Management Goal: Maintain, protect and where possible enhance water quality in all coastal wetlands, rivers, streams and estuaries.
 - (ii) Planning Objective: Adopt policies for coastal waters within the planning jurisdiction to help ensure that water quality is maintained if not impaired and improved if impaired.
 - (iii) Land Use Plan Requirements:
 - (I) Devise policies that help prevent or control nonpoint source discharges (sewage and storm water) such as, but not limited to the following: impervious surface limits, vegetated riparian buffers, natural areas, natural area buffers, and wetland protection.
 - (II) Establish policies and land use categories aimed at protecting open shellfishing waters and restoring closed or conditionally closed shellfishing waters.
- (F) Local Areas of Concern:
- (i) Management Goal: Integrate local concerns with the overall goals of CAMA in the context of land use planning.
 - (ii) Planning Objective: Identify and address local concerns and issues, such as cultural and historic areas, scenic areas, economic development, downtown revitalization or general health and human services needs.
 - (iii) Land Use Plan Requirements: Evaluate local concerns and issues for the development of goals, policies and implementation strategies. These may include timelines and identification of funding options.
- (4) Future land use map. This map depicts application of the policies for growth and development, and the desired future patterns of land use and land development with consideration given to natural system constraints and infrastructure policies. The local government shall include such categories and descriptions of land uses and development as are required to accurately illustrate the application of its policies. At a minimum, the map shall show the following:
- (A) 14-digit hydrological units encompassed by the planning area;
 - (B) areas and locations planned for conservation or open space and a description of compatible land uses and activities;
 - (C) areas and locations planned for future growth and development with descriptions of the following characteristics:
 - (i) predominant and supporting land uses that are encouraged in each area;
 - (ii) overall density and development intensity planned for each area; and
 - (iii) infrastructure required to support planned development in each area.
 - (D) areas in existing developed areas for infill, preservation, and redevelopment;
 - (E) existing and planned infrastructure, including major roads, water, and sewer.

The local government may use additional or more detailed categories if required to depict its land use policies. If the future land use map shows development patterns or land uses that are not consistent with the natural systems analysis, or the land suitability analysis, then the plan shall include a description of the steps that the local government shall take to mitigate the impacts. In addition, the plan shall include an estimate of the cost of any community facilities or services that shall be extended or developed. The amount of land allocated to various uses shall be calculated and compared to the projection of land needs. The amount of land area thus allocated to various uses may not exceed projected needs as delineated in Part (c)(3)(D) of this Rule (Projections of Future Land Needs).

(e) Tools for Managing Development. This element of the plan provides a description of the management tools that the local government selects and the actions to be taken to implement the CAMA Land Use Plan. It also includes a five-year schedule for implementation. This element shall include:

- (1) Guide for land use decision-making. Describe the specific role and the status of the land use plan policies and future land use plan map in local decisions regarding land use and development.
- (2) Existing development program. Describe the community's existing development management program, including local ordinances, codes, and policies, state and federal laws and regulations, and the role that the existing management program plays in implementing the plan. This description shall also include the community's approach to coordinating these codes and rules to implement the land use and development policies.
- (3) Additional tools. Describe any of the following additional tools selected by the local government to implement the CAMA land use plan policies:
 - (A) Ordinances:

- (i) Amendments or adjustments in existing development codes required for consistency with the plan;
 - (ii) New ordinances or codes to be developed;
 - (B) Capital improvements program. New, upgraded or expanded community facilities, such as but not limited to the following: water, sewer, stormwater, transportation, and other facilities, and policies regarding connections to and extensions of community facilities;
 - (C) Acquisition program. Planned acquisition of property, easements, or rights-of-way; and
 - (D) Specific projects to reach goals.
- (4) Action plan/schedule. Describe the priority actions that will be taken by the local government to implement the CAMA Land Use Plan and specify the fiscal year(s) in which each action is anticipated to start and finish. The document shall contain a description of the specific steps that the local government plans to take to involve the public in monitoring implementation of the CAMA Land Use Plan, including the adoption of local ordinances that affect AECs. The action plan shall be used to prepare the implementation status report for the CAMA Land Use Plan.

History Note: Authority G.S. 113A-102; 113A-107(a); 113A-110, 113A-111, 113A-124; Eff. August 1, 2002; Amended Eff. April 1, 2003.

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

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

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

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

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

- (a) Re-Certification: If the CRC adopts new CAMA Land Use Plan rules, plans shall be updated within six years of the effective date of the new rules. If a scoping process is held, a summary shall be provided to the CRC along with the request for re-certification of the existing CAMA Land Use Plan.
- (b) Committee Designated by CRC to Review Local Land Use Plans:
- (1) The appropriate DCM District Planner shall submit a written report to the committee designated by the CRC as to the type of plan being presented, highlight any unique characteristics of the plan, identify any land use conflicts with adjacent planning jurisdictions or other state/federal agencies, identify any inaccuracy or inconsistency of items in the plan, and recommend certification, conditional certification, or non-certification.
 - (2) The local government shall submit its draft Land Use Plan to the committee designated by the CRC.
 - (3) The public shall have an opportunity to submit written objections, comments, or statements of support prior to action by the committee designated by the CRC. Written objections shall be received by DCM no less than 15 business days prior to the next scheduled CAMA Land Use Plan review meeting and shall be limited to the criteria for CRC certification as defined in Subparagraph (c)(3) of this Rule. Written objections shall identify the specific plan elements that are opposed. A copy of any objections shall be sent by the DCM to the local government submitting the CAMA Land Use Plan.
 - (4) The local government may withdraw the submitted CAMA Land Use Plan from CRC consideration at any time before review.
- (c) CRC Certification:
- (1) The CRC shall certify the CAMA Land Use Plan following the procedures and conditions specified in this Rule.
 - (2) Provided the locally adopted land use plan has been received by the Executive Secretary no earlier than 45 days and no later than 30 days prior to the next CRC meeting, the CRC shall certify, conditionally certify or not certify the plan at that meeting or mutually agreed upon date. If the CRC fails to take action as specified above the plan shall be certified.
 - (3) The CRC shall certify plans which:
 - (A) are consistent with the current federally approved North Carolina Coastal Management Program;
 - (B) are consistent with the Rules of the CRC;
 - (C) do not violate state or federal law;
 - (D) contain policies that address each Management Topic. If a local government cannot meet any CAMA Land Use Plan requirement contained within Paragraphs (d) and (e) of 15A NCAC 07B .0702 the plan shall include a description of the analysis that was undertaken, explain the reason(s) the requirement could not be met, and the local government's alternative plan of action to address the CAMA Land Use Plan requirements. If such description(s) are not included in the plan, it shall not be certified; and

(E) contain a local resolution of adoption that includes findings which demonstrate that policy statements and the Future Land Use Plan Map (FLUP) have been evaluated, and determine that no internal inconsistencies exist.

(d) Non- Certification: If the plan is not certified the CRC shall within 30 days inform the local government as to how the plan might be changed so certification can be granted. Until the plan is certified, the pre-existing certified CAMA Land Use Plan shall remain in effect.

(e) Conditional Certification: If the plan is conditionally certified, the CRC shall within 30 days provide the local government with condition(s) that shall be met for certification. Until the condition(s) is met on a conditionally certified plan, the pre-existing certified CAMA Land Use Plan shall remain in effect. When the local government complies with all conditions for a conditionally certified plan, as determined by the Executive Secretary of the CRC, plan certification is automatic with no further action needed by the CRC.

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

SECTION .0900 – CAMA LAND USE PLAN AMENDMENTS

15A NCAC 07B .0901 CAMA LAND USE PLAN AMENDMENTS

(a) Normal Amendment Process:

- (1) The CAMA Land Use Plan may be amended and only the amended portions submitted for CRC certification. If the local government amends half or more of the policies of the CAMA Land Use Plan, a new locally adopted plan shall be submitted to the CRC. Local public hearing and notice requirements shall be in the same manner as provided in 15A NCAC 07B .0801(a). Except for Land Use Plans that were certified prior to August 1, 2002, amendments and changes to the Local Land Use Plan shall be consistent with other required elements for the local land use plan per the requirements of Rule .0702 of this Subchapter.
- (2) The local government proposing an amendment to its CAMA Land Use Plan shall provide to the Executive Secretary of the CRC or her/his designee written notice of the public hearing, a copy of the proposed amendment (including text and maps as applicable), and the reasons for the amendment no less than five business days prior to publication of the public hearing notice. After the public hearing, the local government shall provide the Executive Secretary or her/his designee with a copy of the locally adopted amendment no earlier than 45 days and no later than 30 days prior to the next CRC meeting for CRC certification. If the local government fails to submit the requested documents as specified above and the resolution provided in Subparagraph (5) of this Paragraph, to the Executive Secretary within the specified timeframe, the local government may resubmit the documents within the specified timeframe for consideration at the following CRC meeting.
- (3) For joint plans, originally adopted by each participating jurisdiction, each government retains its sole and independent authority to make amendments to the plan as it affects its jurisdiction.
- (4) CRC review and action on CAMA Land Use Plan amendments shall be in the same manner as provided in 15A NCAC 07B .0802 (b), (c), (d) and (e), except amendments to Land Use Plans which were certified prior to August 1, 2002 are exempt from part .0802(c)(3)(D).
- (5) The local resolution of adoption shall include findings which demonstrate that amendments to policy statements or to the Future Land Use Plan Map (FLUP) have been evaluated for their consistency with other existing policies.

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

- (1) A local government that desires to have the Executive Secretary instead of the CRC certify a CAMA Land Use Plan amendment shall first meet the requirements in Subparagraphs (a)(1) through (5) of this Rule and the following criteria defined in Parts (b)(1)(A) through (D) of this Rule. The local government may then request the Executive Secretary to certify the amendment. The Executive Secretary shall make a determination that all criteria have been met, and mail notification to the local government and CRC members, no later than two weeks after receipt of the request for certification. The CRC's delegation to the Executive Secretary of the authority to certify proposed amendments is limited to amendments that meet the following criteria:
 - (A) Minor changes in policy statements or objectives for the purpose of clarification of intent;
 - (B) Modification of any map that does not impose new land use categories in areas least suitable for development as shown on the Land Suitability Map;
 - (C) New data compilations and associated statistical adjustments that do not suggest policy revisions; or
 - (D) More detailed identification of existing land uses or additional maps of existing or natural conditions that do not affect any policies in the CAMA Land Use Plan.
- (2) If the Executive Secretary certifies the amendment, the amendment becomes final upon certification of the Executive Secretary, and is not subject to further CRC review described in 15A NCAC 07B .0802 (Presentation to CRC for Certification).
- (3) If the Executive Secretary denies certification of the amendment, the local government shall submit its amendment for review by the CRC in accordance with the regular plan certification process in 15A NCAC 07B .0802 (Presentation to CRC for Certification).

(c) Any amendments to the text or maps of the CAMA Land Use Plan shall be incorporated in context in all available copies of the plan and shall be dated to indicate the dates of local adoption and CRC certification. The amended CAMA Land Use Plan shall be maintained as required by G.S. 113A-110(g).

(d) Within 90 days after certification of a CAMA Land Use Plan amendment, the local government shall provide one copy of the amendment to each jurisdiction with which it shares a common border, and to the regional planning entity.

(e) A local government that receives Sustainable Community funding from the Department pursuant to 15A NCAC 07L shall formulate and submit to the CRC for certification a CAMA Land Use Plan Amendment during its first year as a Sustainable Community.

*History Note: Authority G.S. 113A-107(a); 113A-110; 113A-124;
Eff. August 1, 2002.
Amended Eff. November 1, 2009; February 1, 2006.*



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

MEMORANDUM

CRC – 14 - 25

To: Coastal Resources Commission
From: Michael Christenbury, Wilmington District Planner
Date: July 11, 2014
Subject: CAMA Land Use Plan Regional Workshops Summary

The Division of Coastal Management, in partnership with the Albemarle-Pamlico National Estuary Partnership (APNEP), the Business Alliance for a Sound Economy (BASE), and the North Carolina Coastal Federation (NCCF), hosted two regional land use planning workshops on October 23, 2013 in Wilmington and May 22, 2014 in Plymouth. The purpose of the workshops was to seek input from local elected officials and planning staff on their experiences with the CAMA Land Use Planning Program, implementation of the 15A NCAC 7B Land Use Planning Guidelines, and to discuss possible new directions for the planning program. In addition, workshop participants discussed new opportunities for increased technical assistance, streamlined plan reviews, and reduced local planning burdens through improved coordination with other planning requirements and activities.

The workshop format included an overview and history of the planning program, including how the plans are used at the State level, what types of technical outreach DCM is considering, an opportunity for participation in a panel discussion, and small group facilitated discussions.

Small group discussion provided the division with feedback based on four topic areas:

Local Government Technical Assistance Needed – Attendees were asked what types of current local government needs could be provided by the CAMA Land Use Planning Program as well as what resources and special topics of interest would be most beneficial to local government planning efforts.

- Two topics that were brought up most frequently were data and training. Data needs include physical data layers as well as GIS mapping assistance. With regard to training, participants expressed an interest in specific opportunities to learn more about the CAMA Land Use Planning process (amendments, updates, public participation, CRC certification etc.) and topics of interest to DCM and the CRC and coastal issues that may influence local government development decisions. Other needed training opportunities discussed included land use plan policy development and plan formatting. Participants suggested that assistance could be provided by DCM through specific workshops and webinars.
- The DCM Technical Manual was discussed as a resource for local governments. The manual needs to be amended to provide up to date information for updating land use plans.

What's Useful and What's Not – Participants were asked to provide information on aspects of the CAMA Land Use Planning Program that have been most effective and useful to local governments and what issues need to be considered for addition or deletion from the program.

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- Overall, participants described various aspects of CAMA Land Use Plans as useful however, the amount of data and background information required, the length of time associated with the various CAMA planning processes, and the one size fits all aspect of the rules were seen as hindrances associated with the Program. It is also believed that the plans are too analysis driven and while this can be useful in some cases, it is too technical for most communities.
- The timing of the planning process, both writing the plan and completing the State review, was a common criticism. It was recognized that in many cases unforeseen circumstances contributed to a prolonged planning process. While the planning process is not necessarily an issue with the rules, it is an issue that needs to be addressed for future plan development.

Plan Amendment and Update Process – As there is no mandate for local governments to update their land use plans, participants were asked to provide their input on when and how local plans could be kept current.

- There was no consensus on the specifics of when or how a plan should be updated, but many participants believed that the plans are good tools and should be kept updated. In order to facilitate updates, a streamlined amendment/certification process was suggested.
- Participants felt that with the changing planning needs of communities, it was necessary to have a mechanism for allowing comprehensive plans to meet CAMA rules. There were different options considered including a CAMA element within a comprehensive plan or meeting the rules without following the exact process outlined in the rules.
- There were several discussions revolving around voluntary vs. required land use planning updates. Some of the considerations for updates included:
 - Timing of updates related to State requirements or status reporting
 - Locally driven updates that are triggered by development and/or changing conditions
 - Census or other data driven updates

Coordination with Other Agencies and Planning Mandates – Local governments are required to undergo numerous planning exercises which can lead to redundancy in overlapping plans. Participants were asked to provide information on opportunities as well as the types of planning coordination that could be most beneficial from a staff, monetary, and timing perspective.

- There was a consistent desire to have State level coordination of programs that could allow one plan to meet multiple sets of requirements. Communities that complete comprehensive plans should be able to meet CAMA land use planning requirements through those efforts.
- It was requested that there be better data resources available. One option was that the DCM could be a clearinghouse for data needed from other agencies so that local governments didn't have to search multiple sites for up to date information.

NC COASTAL RESOURCES COMMISSION (CRC)

May 14-15, 2014

**Hilton DoubleTree
Atlantic Beach, NC**

Present CRC Members

Frank Gorham, Chair

Renee Cahoon, Vice-Chair

Neal Andrew

Larry Baldwin

Suzanne Dorsey

Bob Emory

Greg Lewis

Bill Naumann

Harry Simmons

John Snipes

Lee Wynns

Present CRAC Members

Jordan Hughes

Kris Noble

Bobby Outten

Spence Rogers

Debbie Smith

Ray Sturza

Dave Weaver

Rudi Rudolph

Present Attorney General's Office Members

Mary Lucasse

Christine Goebel

Amanda Little

CALL TO ORDER/ROLL CALL

Frank Gorham called the meeting to order reminding the Commissioners of the need to state any conflicts due to Executive Order Number One and also the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of 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 a potential conflict of interest, please state so when the roll is called.

Angela Willis called the roll. Jamin Simmons and Marc Hairston were absent. The Chairman stated Bill Raney, attorney representing Petitioners in variance requests today, is a personal friend and also represents Figure Eight HOA but they have not discussed any of the variance requests on the agenda. Neal Andrew stated he had a potential conflict with the CXA-10 Corporation variance request. Larry Baldwin stated he has a conflict with the CXA-10 Corporation variance request. Based upon this roll call Chairman Gorham declared a quorum.

Chairman Gorham stated Charles Jones, former director the Division of Coastal Management, passed away since the last meeting and opened the floor for the Commissioners to make personal comments about Charles Jones. After tributes and remembrances were shared, a moment of silence was held honoring Charles Jones.

VARIANCE REQUESTS

CXA-10 Corporation (CRC VR 14-05) – New Hanover County, ¼ width rule

Christine Goebel

***Commissioners Baldwin and Andrew recused themselves from participation in this variance request.*

Christy Goebel of the Attorney General's Office represented staff in this variance request and stated CXA-10 Corporation (dba Watermark Marina) is represented by Bill Raney who is present today. Petitioner owns an existing marina in New Hanover County along River Road south of Wilmington on the Cape Fear River that was originally constructed by a prior owner in 2005-06 pursuant to CAMA Major Permit #66-01. In June 2013, Petitioner sought a major modification of its CAMA major permit seeking to extend the existing forklift pier which would add approximately 1,031 feet to the pier length. On December 2, 2013, DCM denied Petitioner's application based on the proposal's inconsistency with the CRC's ¼ width and rate to deep water rules in 7H .0208. Petitioner seeks relief from 7H .0208 to allow the proposed pier extension. Ms. Goebel reviewed the stipulated facts and stated that Petitioner and Staff agree on one of the four factors which must be met in order to grant the variance request. Ms. Goebel argued that strict application of the development rules will not cause Petitioner an unnecessary hardship. The purpose of the rule is to limit pier length and to avoid having the public trust area usurped by such structures. If this request were granted, the pier would extend across 53% of the waterbody. On the second factor, Staff and Petitioner agree that any existing hardships result from conditions peculiar to the petitioner's property. On the third factor, Staff contends that hardships result from actions taken by the Petitioner. And finally, Ms. Goebel argued that granting this request is not be consistent with the spirit, purpose or intent of the rules. The CRC amended its rule to preserve traditional navigation by assuring that the middle half of any one waterbody remain available for public use. The public safety and welfare would be preserved by not allowing the request which if granted would impact a large amount of the public trust area of the Cape Fear River. The granting of this variance request would not preserve substantial justice by allowing Petitioner to extend out 53% across the waterbody where others are limited to impacts of a quarter widths.

Bill Raney of Wessell & Raney represented Petitioner and reviewed the facts which he contends supports the granting of the variance request. Mr. Raney stated there is either a mistake about water depth or a rapid siltation that has resulted permitting a large dry stack marina facility that is now not commercially viable. Petitioner is seeking to extend the pier to be used to launch boats to reach a suitable water depth. Dredging is not feasible because the waters are classified as PNA. A variance to two CRC rules is necessary to extend the pier. Petitioner contends that the proposal meets the four criteria for granting the variance. The strict application of these two rules causes an unnecessary hardship. The large dry stack sits mostly empty because boats can only be launched and retrieved for four out of every 12 hours. The extended pier will not prevent fishing and will have minimal effects on navigation. Petitioner contends the hardship results from the lack of water depth. This variance request will preserve substantial justice, will secure the public safety and welfare and will be consistent with the spirit, purpose and intent of the rules.

The Commission asked questions focused on the water depth. Mr. Raney directed the Commission to two exhibits in the packet that show the five foot contour and stated, that if the pier were limited to the five foot water depth it would cut off about 150-200 feet from the end of the pier (resulting in approximately 46% of the width of the waterbody). Mr. Raney stated the Petitioner would agree to accept a condition of limiting the pier to the five foot contour and stated the most recent survey was

done in 2010. Concern was expressed that the staff should have time to review any new proposals based on extending the pier to the five foot contour.

Bob Emory made a motion to bring the variance request back to the CRC, as allowed by 15A NCAC 7J .0703(d), after a new survey has been completed and any new stipulated facts are drafted. John Snipes seconded the motion. The motion passed unanimously (Dorsey, Snipes, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

The variance request was not granted but was remanded for additional stipulated facts.

**Grier (CRC VR 14-07) Kure Beach, Oceanfront Setback
Amanda Little**

Amanda Little of the Attorney General's Office represented staff in this variance request. Ms. Little stated Bill Raney is present and will represent Petitioners. Ms. Little stated Petitioners own an oceanfront residence located at 430 North Fort Fisher Boulevard in Kure Beach. Petitioners propose to enclose their existing 195 square foot covered porch to convert it into interior heated space. On March 11, 2014 the Town of Kure Beach's LPO denied Petitioner's CAMA Minor Permit application for the proposed development because the addition of 195 square feet of total floor area is inconsistent with the CRC's rules in that a portion of it is proposed oceanward of the applicable 60-foot setback and it adds heated space to a non-conforming structure. Petitioners seek relief from the CRC's ocean hazard setback rules. Ms. Little reviewed the stipulated facts of this variance request and stated that staff and Petitioner agree on two of the four variance criteria which must be met in order to grant the variance. However, Staff states that Petitioner's property is not unique along the coast of North Carolina as there are numerous houses with covered porches that have a static vegetation line running through the house. Staff also disagrees with Petitioners' claim that they did not cause the hardships. Specifically, Petitioners purchased this property in 2011 with a non-conforming structure on the property. The current rules were in effect long before this purchase date.

Bill Raney of Wessell & Raney represented Petitioners and stated if the actual vegetation line were used then there would be no problem with this request, but because there is a static vegetation line established in this area a variance is necessary. Stipulated Fact #17 states that 64 square feet of the 195 square feet extends beyond the setback line. Petitioners contend that the peculiarity is the house. This house has a very small living area for a five bedroom house.

Renee Cahoon made a motion to support Staff's position that strict application of the applicable development rules, standards or orders issued by the Commission will cause the Petitioner an unnecessary hardship. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

Renee Cahoon made a motion to support Petitioner's position that hardships result from conditions peculiar to the Petitioner's property. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Naumann).

Renee Cahoon made a motion to support Petitioner's position that hardships do not result from actions taken by the Petitioner. Harry Simmons seconded the motion. The motion passed

unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Naumann).

Renee Cahoon made a motion to support Staff's position that the variance request will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; will secure the public safety and welfare; and preserve substantial justice. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Naumann).

This variance request was granted.

**Edwards (CRC VR 14-08) Onslow County, 30-foot Buffer
Christine Goebel**

Christine Goebel of the Attorney General's Office represented staff in this variance request and stated that Bill Raney is present and will represent Petitioners. Ms. Goebel reviewed the stipulated facts of this variance request and stated that Petitioners own property adjacent to a man-made canal and the Atlantic Intracoastal Waterway near Sneads Ferry. In February 2014, Petitioners applied for a CAMA Minor Permit with the Onslow County LPO to construct a single family residence on this undeveloped lot. On March 10, 2014, the LPO denied Petitioner's CAMA application as part of the proposed development as located within the CRC's 30-foot buffer. Petitioner has not yet sought a variance from the County's setbacks as required by the CRC's rules. Petitioner seeks a variance from the 30-foot buffer rule to allow the impervious surfaces within the buffer area as proposed in its site plan. Staff and Petitioners agree on all four variance criteria which must be met in order to grant the variance request. Staff suggest that an engineered stormwater management plan be required to safeguard the public welfare if this variance request is granted.

Bill Raney of Wessell & Raney represented Petitioners and stated Staff and Petitioners agree on the variance criteria. Staff has suggested that a condition should be imposed relating to an engineered stormwater system for this house. The Petitioners would rather not hire an engineer to comply with this, but would abide by the current stormwater regulations.

Harry Simmons made a motion that based on Stipulated Facts #20 and #21 the CRC should waive the prerequisite requiring the exhaustion of local (County) remedies since to do so would be futile. Bill Naumann seconded the motion. The motion passed unanimously (Gorham, Andrew, Baldwin, Cahoon, Dorsey, Emory, Lewis, Naumann, H. Simmons, Snipes, Wynns).

Bill Naumann made a motion to support Staff's position that strict application of the development rules, standards or orders issued by the Commission cause the Petitioner an unnecessary hardship. Renee Cahoon seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

Bill Naumann made a motion to support Staff's position that hardships result from conditions peculiar to the property. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

Bill Naumann made a motion to support Staff's position that hardships do not result from action taken by the Petitioner. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

Bill Naumann made a motion to support Staff's position that the variance request will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; will secure the public safety and welfare; and preserve substantial justice. Conditions should be added to the permit to require stormwater management. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

This variance request was granted.

MINUTES

Bill Naumann made a motion to approve the minutes of the February 2014 Coastal Resources Commission meeting. Lee Wynns seconded the motion. The motion passed unanimously (Gorham, Andrew, Baldwin, Dorsey, Lewis, Naumann, Snipes, Wynns)(Cahoon absent for vote)(Emory and H. Simmons abstained).

EXECUTIVE SECRETARY'S REPORT

Braxton Davis, DCM Director, gave the following report:

It is good to see all of you again. You should have before you a DCM Update Memo that covers the Division of Coastal Management's recent permitting, enforcement, rule development, planning and Coastal Reserve activities. We hope that these memos will be useful, especially for new commissioners who would like to learn more about the coastal program.

As you'll see from this update, our permit numbers in the first quarter of 2014 were down in comparison with the same period in 2013. We believe this is partly due to the winter weather conditions we experienced, and partly because we were still issuing Hurricane Sandy emergency permits in early 2013. We are now starting to see things pick up with the warmer weather. Our average issuance time continues to improve for CAMA Major Permits, and I believe we can attribute that trend to a number of procedural changes we've implemented over the past two years that are continuing to pay dividends in terms of reduced permit processing times— we are now at an average of 75 days for major permits, which is down from about an 86-day average in 2011. While overall permit numbers were relatively low in the first quarter, our staff are still out in the field every day meeting with homeowners, Realtors, consultants and others to evaluate potential development sites and to help ensure that projects already underway are in compliance with the rules in order to reduce potential enforcement issues.

One quick follow-up – you may recall the variance petition from your last meeting for Mr. Taylor who was seeking to rebuild a dock and boatlift in Atlantic Beach but was unable to get a signed waiver from adjacent property owners. I am happy to report that, in working with staff in our Morehead City office, we were able to find a design that worked for him and his neighbors, and we issued a General Permit to Mr. Taylor on April 4, so I think the process worked very well from end-to-end.

DCM's Policy and Planning Section has been busy in carrying out your inlet management study, including a series of public meetings across the coast, carrying through with various rule changes

that are underway, implementing the NC Beach and Inlet Management Plan through a pilot study with Bogue Banks, and administering the Public Beach and Coastal Waterfront Access grants program. Later this month, we will also have our 2nd Regional CAMA Land Use Planning forum in partnership with the Business Alliance for a Sound Economy, the Coastal Federation and the Albemarle Pamlico National Estuary Program – on May 22 in Plymouth at the Vernon James Center – to continue our comprehensive review of the CAMA planning program. This is something that we've been working on for over a year now and I hope to have a set of recommendations for changes to that program for your review this summer.

I also wanted to mention that Tancred Miller will be heading up our 5-year strategic planning effort – which we commonly refer to as our 309 Assessment and Strategy – and which makes us eligible for program enhancement grants from our federal partner, NOAA. The 309 program provides the state with approximately \$350,000 per year for staffing and special projects to pursue improvements in coastal management. As part of the strategic planning process, we will be assessing which of NOAA's nine enhancement areas (wetlands, coastal hazards, public access, marine debris, cumulative and secondary impacts, special area management plans, ocean/Great Lakes resources, energy and government facility siting, and aquaculture) the coastal program should focus on for the next five years, and what strategic investments to make in those areas. We will be inviting CRC and CRAC input at the July meeting, followed by an opportunity for public input.

Also this year, the Coastal Reserve Program will begin its 5-year Management Plan Update for the 4 sites that make up the NC National Estuarine Research Reserve. We'll keep you posted as that process develops.

We worked with the Executive Committee to develop today's agenda, which covers a number of important topics including static line exceptions, inlet management, and sea level rise studies. We would also like to keep the rule changes from last year progressing, and tomorrow we are asking the Commission to adopt three rule changes intended to reduce regulatory burdens that were first brought to the Commission in January 2013. We have a public hearing scheduled for the fourth rule change from 2013 today. We will also ask you to consider sending two additional rule changes to public hearing that resulted from our 2014 staff rules review process.

As many of you are aware, a number of our Commissioners' appointments are coming up on their expiration date of June 30, 2014. Commissioners serve a 4-year term and the initial terms were staggered – the list for this year includes Commissioners Greg Lewis, Neal Andrew, Renee Cahoon, Lee Wynns, Bob Emory, John Snipes, and Marc Hairston. Appointees are asked to serve until reappointed or a new appointment is made. The Governor's office is hoping to have new appointments or reappointments announced later this summer.

I also wanted to mention that we have several special guests in attendance from our federal partner agency, NOAA, including Bill O'Beirne, who serves as the Southeast and Caribbean lead at NOAA's new Office for Coastal Management; Melissa Rada, who serves as the Program Specialist that oversees our coastal zone management cooperative agreement; and Stephanie Robinson who is out with field staff today, oversees our National Estuarine Research Reserves Coop. Agreement, all of whom are based in Charleston SC.

Finally, we are planning for the next Commission meeting to be held at Pivers Island in the NOAA Auditorium in Beaufort on July 30-31. With that I'd be happy to answer any initial questions the Commission may have.

CRC BUSINESS

Amendments to CRC Internal Operating Procedures (CRC 14-13)

Mary Lucasse

Mary Lucasse stated that a Section V has been added to the internal operating procedures of the CRC. Some Commissions have spelled out how they handle public comments and the CRC has not had that provision. The one thing I will point out is there may be a situation in which an issue is before the Commission in a quasi-judicial role then under these conditions we would not allow public comment on a pending matter. Renee Cahoon has brought to my attention under Article 13 that there is ambiguous language that should be changed in the CRAC appointment solicitation process.

Renee Cahoon made a motion to approve the recommended changes to the Internal Operating Procedures to include the change in Article 13 to “may”. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

ACTION ITEMS

Static Line Exceptions Process

Mary Lucasse

Mary Lucasse stated the review of the Static Line Exception is covered under 15A NCAC 07J .1204. Today two progress reports have been submitted for a five year review. After the progress report is submitted addressing the criteria in the rule, staff reviews the progress report and provides a recommendation to the CRC. The CRC reviews the progress report and the staff recommendation and considers oral comments by DCM and the Petitioner. The CRC can revoke the Static Line Exception, expire the Exception, or reauthorize it.

Matt Slagel stated the static line represents the pre-project vegetation line. The purpose of this policy is that following a beach nourishment it prevents development from using a new post-project vegetation line as the measurement line for setbacks. There is a five year waiting period following a large-scale project to request a static line exception. With this exception, the minimum setback of 60-feet applies, but it can be measured from the vegetation line instead of the static line as long as any new proposed development is 2,500 square feet or smaller. This development must be in line with adjacent structures and no swimming pools are allowed oceanward of the static line. For structures that are greater than 2,500 square feet in an area applying for the exception, the setback is measured from the most landward line. If the structure is greater than 2,500 square feet but smaller than 5,000 square feet then the setback is 60-feet or 30 times the erosion rate, whichever is greater. If the structure is over 5,000 square feet then the setback is 120-feet or 60 times the erosion rate, whichever is greater. To apply for the exception, the applicant must show that the project has greater than a 30-year design life, proof of compatible sediment for the life of the project, financial resources must exist to pay for the life of the project, and the Town petitions for the exception and the CRC decides. Every five years the Town submits a progress report and the CRC re-evaluates it. The CRC reviews a summary of beachfill projects that have taken place since the exception was granted, an evaluation of the project design and performance, compatible sediment, and financial resources.

Town of Wrightsville Beach Static Line Exception Reauthorization (CRC 14-11)

Matt Slagel

The static line extends approximately 2.3 miles. The erosion rate setback factor is 2 for the area with the static line. There are 14 vacant residentially zoned oceanfront lots and two vacant commercially zoned oceanfront lots in the area with the exception. Since September 9, 2009, no permits have been applied for or issued under the static line exception. Initial construction of the large-scale beach fill project at Wrightsville Beach began in 1965. The project was reauthorized in 1986 with the first work under new authorization in 1991. The 50-year authorization of this project is from 1991-2041. Since 1986, projects have occurred approximately every four years. New Hanover County intends to apply for a local permit using the existing federal Army Corps of Engineers' design. If they were to receive this permit it would allow the County and Town to continue to implement this project even if federal funding isn't available. High quality beach sand with little silt content has been proven to be available and volumes have been large enough to satisfy past fill projects. The Corps has begun looking at alternative sources offshore should the current source of sand prove to be insufficient in the future. The Federal Coastal Storm Damage Reduction project is authorized through 2041. There is also contributing authority which allows a non-federal sponsor to augment federal funding shortfalls. This contributing authority was approved in 2012. New Hanover County has a room occupancy tax and 60% of the first 3% of this tax goes towards beach nourishment. There is currently about 36 million dollars and annual collections total about 3.8 million dollars. There is also a New Hanover County interlocal agreement. If there is no federal or state funding then the Towns would contribute 17.5% of project costs and the County would contribute 82.5%. There is sufficient funding well beyond the 25 year time window that is required. The Town of Wrightsville Beach also has a capital improvement fund of \$324,000.

Christy Goebel stated that based on the materials provided to the Commission, the Staff and Town agree that the Static Line Exception should be reauthorized for the Town of Wrightsville Beach. Bill Raney, representing the Town of Wrightsville Beach, stated one procedural matter is that this is a quasi-judicial hearing and we had a prior agreement with the Staff that the written materials that were provided to the CRC would be considered as evidence in making this decision without the need for oral comments.

Harry Simmons made a motion to reauthorize the Static Line Exception for the Town of Wrightsville Beach. Larry Baldwin seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

Town of Carolina Beach Static Line Exception Reauthorization (CRC 14-12)

Matt Slagel

The static line at Carolina Beach extends approximately 3.3 miles. The erosion rate setback factor is 2 for most of the area with the static line and 3 at the northern end of Town near Freeman Park. There are 13 vacant oceanfront lots. Since September 9, 2009, two single-family oceanfront houses were permitted under the static line exception. These houses measured their setbacks from the existing first line of stable and natural vegetation instead of the static line. These two houses would have been limited to less than 2,500 square feet. Initial construction of the project began in 1964. The federal project was reevaluated in 1993 and reauthorized for the remaining portion of the 50-year project. Water Resources Reform and Development Act Bill negotiations are ongoing in Congress. Since 1982 projects have occurred approximately every three years. The Corps has some residual funding that they are providing for another nourishment project in the fall of 2014. New

Hanover County recently agreed to help fund this project as well. New Hanover County received State permit #138-12 to move forward with this project if it is not reauthorized. Carolina Beach Inlet was artificially opened in 1952 and since 1985 the borrow area has been the throat of Carolina Beach Inlet. High quality beach sand with little silt content has been produced from the borrow area. Volumes have been large enough to satisfy fill projects over the past 30 years. The Federal Coastal Storm Damage Reduction Project is expiring at the end of 2014. There is a New Hanover County room occupancy tax. Sixty percent of the first 3% goes towards beach nourishment. There is currently 36 million dollars in that fund and annual collections of about 3.8 million dollars. Even though this project is expiring, New Hanover County has the interlocal agreement so if there is no federal or state funding then the Town of Carolina Beach would contribute 17.5% of project costs and New Hanover County would contribute 82.5%. There are sufficient room occupancy tax funds available to cover this project for the next 25 years. The Town of Carolina Beach nourishment fund from public parking totals \$350,000 and will continue to grow.

Christy Goebel stated Staff's recommendation is to reauthorize the static line exception for the Town of Carolina Beach. This is based on the written materials before the CRC. Noel Fox is representing the Town of Carolina Beach if there are any questions. Ms. Fox echoed the comments of Mr. Raney to allow as evidence the written comments submitted.

Harry Simmons made a motion to reauthorize the Static Line Exception for the Town of Carolina Beach. Bill Naumann seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

Inlet Management Study

Summary of Regional Inlet Management Meetings (CRC 14-10)

Matt Slagel

Matt Slagel stated the inlet management study was kicked off with an expert panel of dredging experts. Since then we have had four regional meetings. Written comments were also accepted through April 15, 2014. Today we will discuss the comments that have been received from the panel, regional meetings and the written comments. At the CRC's July meeting, we will take the priority list from this meeting and come back to the CRC in July with some draft recommendations on how to implement the ideas. In September we would submit proposed rule changes for public comment. The goal is to provide a final report to the Governor and General Assembly by the end of the year.

The first topic is the beneficial use of dredged materials. There were 15 comments received on this topic. From the comments we received we heard that beach compatible sand dredged from inlet should be placed back on adjacent beaches and should never be disposed offshore. The distribution of dredged sand that is pumped onto adjacent beaches should be guided by analytically derived sediment budgets. The second topic was dredging depths and sediment criteria. Comments stated that dredging projects should evaluate the optimal depth of a channel not just the authorized depth. Authorized depths should be increased. It is difficult for the federal agencies to alter authorized channel dimensions but obtaining permits at the local level may allow for more flexibility. The sediment criteria rules should be reevaluated. If the sand came from the beach then it should be allowed to be placed back on the beach. Increasing the depth of shallow draft inlets can increase the tidal prism, change the flood shoal and ebb shoal geometry and orientations, and can result in increased erosion on adjacent shorelines. The third topic was erosion rate calculations for inlet hazard areas. Comments mentioned that the CRC should task the Science Panel to complete the

development of methods to define revised inlet hazard areas and potential inlet and near-inlet setback lines for CRC review. The inlet hazard areas should be eliminated and incorporated into the Ocean Erodible Area while applying the same development standards currently utilized in the OEA. The current adjacent erosion rate rule for IHAs doesn't make sense. Every inlet is different and erosion rates are dramatically different. Good erosion rate information is needed for setbacks to be valid. The concept of a deep draft IHA and shallow water IHA should be explored and the boundaries should extend into the water where issues related to dredging can be codified and enforced in policy. The next topic was dredge plants and scheduling. Shallow draft hopper dredges can place material closer to the shore and be used more frequently as a first option instead of sidecast dredges. Sidecast dredges are only good for clearing a channel enough for a hopper dredge to follow behind it. One benefit of sidecast dredging is that they keep the sediment in the system. USACE dredge plants are stretched thin and scheduled well into the future, so quick responses aren't always possible. Consistency is needed for dredging for ferries in Dare and Hyde counties. Dredging is needed not just for getting in and out of inlets, but also traveling between islands through the sounds. The next topic was terminal groins and sand bypassing. Comments included that the legislative cap of four terminal groins should be removed. Monitoring of downdrift impacts and financial aspects of mitigation need to be sufficient to safeguard adjacent properties and communities that could be negatively impacted by terminal groins. Migrating inlets are not good candidates for terminal groins. The next topic receiving comments was the approach to inlet management in general. Inlets should be managed proactively instead of reactively. Beach and inlet management is related- what happens to one impacts the other. The goal of inlet management should be to reconnect sediment pathways to minimize dredging impacts. Each inlet is diverse and unique, so one management scheme cannot be applied to all inlets. The next topic was funding sources and partnerships. With decreasing federal funds, inlet management is increasingly a shared partnership between local and state government. A stable source of funding for beach and inlet projects is needed at the state level. The 50% state matching fund for inlet dredging is a good start, but if one locality wants to undertake a major project and applies for the state matching funds, it could wipe out the funds for the rest of the state. Congressional funding is an issue for federal projects. A project may be authorized and permitted, but if it is never funded, it does no good. On the topic of emergency permitting of bulldozing and sandbags, comments were received that said new dunes should be allowed to be created in Inlet Hazard Areas, sandbags in IHAs should have a different set of standards (permitted sooner and allowed to remain on beach longer), and more efficient and timely procedures for emergency permitting are needed. On the topic of dredging windows and moratoria comments indicated that the dredge windows should be extended under stipulated conditions to increase competition, increase the number of bids on projects, reduce costs and provide more flexibility for completing the work. On the topic of economic value of inlets and beaches comments suggested that the economic value of inlets should consider tourism, culture, recreation, jobs, and storm damage reduction; not just commercial tonnage. Safe and navigable inlets are vitally important to the local and state economy. On the issue of channel realignment projects comments were received that the Bogue Inlet and Mason Inlet channel realignment projects were successful, so the CRC should make sure that the permitting process is quicker and easier and that monitoring requirements are reduced for future similar projects. These types of projects should be designed to accommodate the same volume of water (tidal prism) that the pre-existing ebb channel possessed. On the topic of the permitting process in general, comments stated that permitting needs to be proactive. There is a need to be able to react quickly, be adaptive, and look longer term versus authorizing single events. DCM Major Permit lifecycles should be increased for inlet management or Coastal Storm Damage Reduction projects. The next topic was development standards/setbacks. Inlets are a primary ocean hazard in North Carolina. Development standards adjacent to inlets should be different from development standards along the oceanfront. Existing

rules for new development adjacent to inlets should not be relaxed. There is no need for IHA specific development standards. On the topic of monitoring conditions comments stated that monitoring requirements should not be onerous as to prohibit what has otherwise been authorized. The amount of monitoring on projects should be reasonable and consistent with CAMA objectives. Monitoring conditions should focus on physical monitoring and less on biological monitoring. On the topic of erosion control structures other than terminal groins comments stated that rock groins, breakwaters, jetties, sandbags, beach bulldozing, and beach nourishment should all be allowed to mitigate channel-induced erosion. The topic of volumetric triggers for static lines received comments that indicated that the “300,000 cubic yard rule” for establishing a static vegetation line should be reevaluated. The Ocean Reef Condominiums in Emerald Isle cannot meet the setback from the static vegetation line, and they are over 2,500 sq. ft. so they would not be able to rebuild from the first line of stable and natural vegetation (under the static line exception rule). Property owners request the CRC to consider allowing an exception for building back on the original footprint, even though the buildings are more than 2,500 sq. ft. On the topic of stockpiling of sand comments were received that the stockpiling of sand dredged from inlets and stored for future placement on beaches should be allowed. The next topic was the federal impacts of dredging. The federal engineered channel locations at Beaufort Inlet and Cape Fear Inlet result in episodic maintenance dredging, high erosion rates, and shifting shorelines adjacent to these inlets. Dredging of Oregon Inlet has exacerbated erosion of Hatteras Island. The next topic was new inlet breaches. Comments stated that a new type of AEC is needed where an inlet used to exist, has closed, but could re-open again in the future. If a new inlet is breached, it should be filled in instead of bridged. The next topic was the dredging of inlet shoals. Since the orientation of ebb shoals is a primary driver of erosion on adjacent shorelines, any dredging of shoals should only proceed after modeling and studies indicate no adverse impacts will occur to the adjacent shorelines. Priorities identified by individual CRC members included year-round dredging, place all dredged beach compatible sand on adjacent beaches; stockpile for future use, eliminate the static line policy, simplify permitting of multi-year projects and reduce the review for any interim projects, monitoring requirements of approved projects beyond the second year would have to be justified, improve inter-agency coordination and improve inefficient funding mechanisms, structural inlet stabilization, inlets are unique “one size fits all” management doesn’t work, more local discretion when locally funded, FEMA reimbursement after dune damage, more frequent and thorough inlet morphology and erosion monitoring, the Jones Act and its effect on available dredge plants, and update and better quantify the economic benefits of inlets.

After discussion, the Commission prioritized the inlet management topics and directed staff to look at the following inlet management priorities:

Short Term Priorities

- Dredging Depths and Sediment Criteria Rules
- Erosion Rate Calculations for Inlet Hazard Areas
- Emergency Permitting/Beach Bulldozing
- Static Vegetation Lines
- Stockpiling of Sand

Long Term Priorities

- Beneficial Use of Dredged Material
- Inlet Management Plans
- Funding Sources and Partnerships
- Dredging Windows/Moratoria
- Monitoring Conditions

PUBLIC HEARING

15A NCAC 7H .2600 General Permit for Mitigation & In Lieu Fee Projects

Mike Lopazanski stated this General Permit is for the construction of wetland stream buffer mitigation sites. This rule was enacted by the CRC to streamline the permitting process for mitigation projects that were undertaken by the EEP. The EPA has implemented new guidance on compensatory mitigation banks and in lieu fee projects. This new guidance requires all projects, private as well as those undertaken by EEP, to undergo significant upfront agency coordination prior to obtaining final approvals. Because of this new EPA guidance we want to open this General Permit to private mitigation banks and in lieu fee projects. The eligible activities have also been broadened to incorporate new ideas and techniques associated with compensatory mitigation and expanded the timeframe from six months to one year to incorporate the growing season for wetland plantings. The public comment period closes June 16th.

15A NCAC 7H .2601 - Purpose

No public comments were received.

15A NCAC 7H .2602 – Approval Procedures

No public comments were received.

15A NCAC 7H .2604 – General Conditions

No public comments were received.

15A NCAC 7H .2605 – Specific Conditions

No public comments were received.

PUBLIC INPUT AND COMMENT

Bill Price stated I saw the pictures of the houses in New Hanover County that were in peril and that is regrettable. It appeared most of them had been built according to CAMA rules as far as setbacks are concerned. It is a shame that is happening. I guess most of those folks would like to have five or six feet of sand a couple hundred feet wide in front of their house right now. It is also unfortunate in the late 1990s the Carteret County Beach Preservation Task Force had some comments from the Corps of Engineers indicating that they had removed from Beaufort Inlet on the order of 40-50 million cubic yards of sand. They found later that they had erred in the predominant sand bypass for Beaufort Inlet as their computer model had told them. As a part of all those considerations we have found that the distance from Beaufort Inlet to Bald Head Island is about 100 miles and if you take that 40-50 cubic yards and divide it by 100 miles then it would be five or six feet deep by 200-300 feet wide. There is some suspicion that the erosion along the face of Onslow Bay is a result of dredging of this inlet. Regrettably we don't really have any empirical evidence of long shore sand transport to determine whether or not the current is going that way and whether it is carrying material. We don't know the net direction. This is to hope that with the considerations and studies that this group is doing that they would do something to find out or to get some evidence of what is actually happening with the long shore transport system of our coast. Also important is to whether you have any information on sand transfer pipes. Sand transfer pipes have been discussed for some period of time. They are used in Florida. They have indicated that it is reducing their dredging costs by 40, 50 or 60%. It saves a lot of money and is more environmentally responsible. I don't know whether it is a part of your consideration, but I would hope that some part of the process of considering inlet management the sand transfer pipe device would be considered as a tool to be used to reduce costs, make it better, and save property. I see that migrating inlets are not a good

candidate for groins. I would ask if an inlet is not going to migrate then you don't need a groin. It seems that just the fact that the inlet is migrating is an indication that a groin is an important tool to consider.

Michael Murdoch stated I am the Chair of the Croatan group of the Sierra Club and my concern is about the sea level rise study that is going to be done. We are part of the National Sierra Club with over two million members dedicated to enjoying and protecting our earth's natural resources. I am a native of Carteret County and grew up in Wildwood, a small community between Morehead City and Newport. I also own a house and operate a small farm on Bogue Sound. Global warming is real. Sea level rise is real. Man has played a significant factor in the accelerated rise in global temperatures and sea level primarily due to deforestation and burning of fossil fuels. The evidence is clear and compelling. The point of denying these facts has past and it is time to move on. So what do we do now? The only logical step is to turn to credible, peer-reviewed science to provide accurate information with regards to sea level estimates, what changes we can expect in the future, and the best way to protect the coastal resources we all love. We are asking the CRC to appoint the best scientists that are available to a panel that would determine expected sea level rise. This panel should not be laden with members that have political or non-scientific agendas. We are depending on you to put special interests aside and work on behalf of all citizens of North Carolina.

***At this time Bob Emory, on behalf of the CRC, gave the Eure Gardner Award to former Coastal Resources Commissioner Melvin Shepard for his contribution to the coast of North Carolina.*

CHAIRMAN'S COMMENTS

Chairman Gorham stated that the Governor's Office has been in contact with him and I am recommending the reappointment of all of our Commissioners. Lee Wynns has sabotaged that and has asked to not be reappointed to the Coastal Resources Commission. When the Governor was considering me for Chair of the CRC, Lee drove down to meet me and volunteered to help. Chairman Gorham and Braxton Davis presented Lee Wynns with a plaque on behalf of the CRC and DCM Staff.

CRAC Report

Debbie Smith, CRAC Chair, stated the CRAC met for the first time yesterday and elected the Chair and co-Vice Chairs Rudi Rudolph and Spencer Rogers. We appointed Ray Sturza, former CRAC Chair, to our Executive Committee. This gives the CRAC great regional representation. The CRAC made a few modifications to its bylaws. These amendments should be adopted at the next meeting. We look forward to serving the CRC as an Advisory Council and will try to bring a lot of insight from our respective communities and regions.

CRC SCIENCE PANEL

Role, Studies and Vacancies (CRC 14-14)

Mike Lopazanski

Mike Lopazanski stated there are two things that are before the CRC for discussion. The first is the Charge to the Science Panel. The Chairman has come up with some proposed amendments. The second thing is to address the vacancies and the need to fill some of them, particularly the ad hoc members that will be working on the Sea Level Rise Update. In February we discussed that in the late 1990's there was a series of natural disasters. Governor Hunt formed a disaster recovery task force. Among the recommendations that came of that was the need for the CRC to review their hazard mitigation rules focusing on the Ocean Hazard AEC. The CRC was asked to look at the delineation methods used in the Ocean Hazard Area, Inlet Hazard Area, and High Hazard Flood

Area. The CRC initiated a review of the Ocean Hazard Area AEC and formed a panel of scientists and the DCM Director to talk about erosion rates and setbacks and the methodologies used for determining them. Their recommendation was to form a Barrier Island Erosion Task Force. There was also discussion about the need to have regular involvement of scientists with the CRC. The CRC recognized the need to incorporate scientific knowledge in the development of rules and policies. The original Science Panel was assembled by DCM Staff and was comprised of geologists and engineers. The Charge was developed by the Panel and CRC members. The Panel was given the specific task to develop near-term and long-term recommendations. The CRC asked them to look at what studies would be needed to describe coastal processes, specific changes to methodologies to calculating erosion rates, and identifying new hazard identification methodologies that should be applied in the coastal area. They met for a year to come up with recommendations. During the intervening years the Panel has been given a number of assignments, specifically by the CRC to work on including sediment criteria, innovative erosion control structures, inlet hazard area analysis, looked at terminal groins, and provided advice to DCM on how adverse impacts could be addressed, the Sea Level Rise Assessment, and have reviewed the erosion rate studies and recently assessed Mad Inlet. Recently, there has been a lot of focus on the Charge which was updated in 2013. Changes included the addition of two additional slots, ad hoc members, a more formal public appointment process, applied staggered terms, member qualifications, CRC report review, use of consensus as a means of developing recommendations for the CRC, and provisions for providing minority reports if no consensus could be reached. The Science Panel currently has coastal engineers, coastal geologists and one marine biologist. Vacancies have traditionally been filled by nominations from DCM and the Science Panel and have been appointed at the discretion of the CRC Chair.

The draft Charge before the CRC changes the focus to coastal processes as opposed to coastal hazards, and looks at appointments based on credentials based on coastal science and engineering as a way of assessing membership qualifications. The Chairman stated the emphasis was too much on the word hazard as opposed to all coastal issues. Harry Simmons stated the current membership knows about coastal hazards and may not be any good at other coastal issues and it may cause the need to reconfigure the membership if the intent is to be broader or keep the current members and add ad hoc members. Suzanne Dorsey stated that as we go through inlet management one area that is not represented would be a physical oceanographer.

Bill Naumann made a motion to approve the amendments to the Charge to the Science Panel. Renee Cahoon seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

Chairman Gorham stated the CRC directed the Science Panel to complete their erosion rate study, but we will have to be careful when we give them the Sea Level Rise Update and will need to prioritize what is more important since there is such a short timeframe on the Sea Level Rise Update. Mike Lopazanski stated there is a quick turn around on the inlet study as well. Mike Lopazanski stated currently there are four vacancies on the Panel. There is a need to assemble an ad hoc committee to augment the current membership for the Sea Level Rise Assessment. In 2013, we issued a call for Science Panel nominations from the CRC, CRAC and the current Science Panel. We asked for nominations for two engineers and two geologists as well as nominees for the Sea Level Rise Study. We received 12 for the Panel and 8 nominations for the SLR ad hoc group. Several individuals were nominated for both groups. The draft SLR Report is due March 2015. We would like to get the ad hoc members named and meet with the Science Panel in June. The Chairman has asked that the CRC and CRAC consider the individuals that have already been

nominated during the previous call for nominations and nominate additional names if they want them considered in time to be added before the June Science Panel meeting. Additional nominations would need to be in by June 6. The CRC Executive Committee can then look them over and supporting documentation and make recommendations to the CRC Chairman. The CRC Chairman will make his announcement sometime in mid-June so DCM can begin its work.

Chairman Gorham stated he is going to recommend that for the SLR Study that we include the full Science Panel plus some experts that we bring on. Big groups do not come to decisions easily so we are going to keep this group small. We have eleven. We may or may not fill the remaining spots right away. The SLR additions will be announced by June 15. If there is a large disagreement amongst the Executive Committee then we may call the full CRC to get input. The goal is to not pick agenda science. This is the most politically sensitive issue that we have dealt with in a long time. We need to agree on a process on how to do it and add ad hoc members before we begin this Study. Mike Lopazanski stated there are currently 11 members on the Science Panel. Margery Overton is the current Chair of the Science Panel. Included in your packets is the current list of nominations. If you are considering additional names then you should contact your nominee and make sure they are interested in serving and please provide supporting documentation with their nomination so the Executive Committee can use it to evaluate them against the criteria in the Charge for consideration as an addition for the Sea Level Rise Study. Nominations should be sent to Braxton Davis.

SEA LEVEL RISE STUDY UPDATE

H819 Requirements, Science Panel Involvement, Timeframe (CRC 14-15)

Tancred Miller

Tancred Miller stated in March 2010 the original Assessment Report was completed by the Science Panel and given to the CRC. This was the first SLR Assessment Report that has been done for North Carolina. It was done at the request of the CRC. The Science Panel and other experts, selected by DCM Staff, completed the Assessment Report. This time the CRC is more involved in the selection of ad hoc members. Following the release of the Report, Staff proceeded to develop a draft policy statement which was meant to be non-regulatory and presented it to the CRC. The CRC had some concerns and made changes in early 2010 and directed Staff to start meeting with local governments to get input on where the State should be heading on Sea Level Rise. We did that for a year and half. We brought the comments back the CRC and several changes were made to the draft policy trying to make it as non-regulatory as possible. It was meant to focus on research and education. In the course the meetings, several questions arose about the original Report asking for more information about the Science. In late 2011, the CRC asked the Science Panel again to answer four specific questions that came out of the meetings with local governments. In 2012, the Science Panel produced an addendum to the original Report attempting to answer the questions and fill in gaps and analyze additional studies that were published on Sea Level Rise and help us understand what the Science was telling us at that time. Later in 2012, the CRC met after going through an extensive period of revisions on the draft policy and in August 2012 approved the draft policy for rulemaking process. At that same time, HB819 became effective without the Governor's signature. In October 2012, following some discussions within the Department about the policy and the nature of the policy, the Department made the decision to withdraw the policy from the rulemaking process. In the summer of 2013 there was a turnover of the CRC and at the same time HB819 directed the CRC to direct the Science Panel to produce a new Sea Level Rise Assessment by March 2015. The CRC went through the process of inviting nominations for ad hoc members.

Today we have a draft Charge before the CRC, the list of current nominees, as well as an invitation for additional names.

In the 2010 Report the Science Panel said the NC Tide Gauges reveal a significant difference in the rate of sea level rise from the south portion of our coast up to the north. The Panel presented the CRC with a graph with a range of anticipated sea level rise using the tide data from Duck as a baseline. From the 2010 through 2100, the minimum of that range is about 15 inches and based upon a review of the published literature, the maximum was 1.4 meters. There was also a request for a planning benchmark. The Panel analyzed the studies and came to the consensus that one meter was probably the best planning benchmark.

Chairman Gorham asked what we can do about the data gap credibility problem. Mr. Miller stated that it is a funding problem. NOAA is looking for partners to place tide gauges and fill the gaps, but the data can't be used for another thirty years once they are placed. There won't be data on the interior for a long time. Greg Lewis mentioned placing gauges at the Ferry landings to fill part of the gaps. Dorsey stated alternatives to tide gauges should be considered as an option. Renee Cahoon stated FEMA and NC Division of Emergency Management are working on new flood maps and could be good partners. Larry Baldwin stated one of the problems with sea level rise is we need long-term data. Data collection should start now in these areas.

Mr. Miller displayed the Chairman's proposed Charge to the Science Panel for the Sea Level Rise Assessment Update. Chairman Gorham stated this is the most important study the CRC will do. There are a lot of people on the far extreme of both sides. Both extremes have added to the problem. I deal with science a lot and deal with probability a lot. One of the things that bother me about the first report is the date 2100. No one in this room knows what it will be in 2100. There is a lot more certainty in a shorter time period. The CRC uses a thirty year time frame for a lot of policies. We could add credibility to this study if we limit the time frame that we are asking the Panel to look at to 30 years. This would be a rolling 30 years and we would ask the Science Panel to update it every five years and they would come out with a new report. There is agreement in the first 30 years. Our job is to make policy. A rolling 30 years seems like a sound business way to address this issue. Bob Emory stated I believe a 30-year rolling average can be an informative benchmark and it is something that should be included and could be a good piece of information for policy development. I advocate for a longer time horizon for our study. I don't advocate that the study with a longer timeframe should drive policy development. There is no reason that we can't do both. We could have a study that is more similar to other studies that are done in the Country and around the world as far as timeframe goes, but we can include within that context the 30-year rolling average. Having experienced all of the previous Study and the history of this I think I know how we can significantly improve it this time around. The previous report focused on a planning benchmark by 2100 and the CRC asked for that. The Science Panel didn't really want to do that, but it seemed reasonable. That drew an awful lot of fire from the critics. We shouldn't ask for that again. We could ask the Science Panel to look the literature and there may be significant new literature that has been published in the last five years and talk in terms of scenarios or some other way to talking about sea level rise other than a specific rate by a specific year. It gives us the opportunity to incorporate the segment of the scientific community that doesn't support accelerated sea level rise. This perspective can be represented in the study and the study can respond to that. Even though the Science Panel did highlight the uncertainty the first time around, it got lost in the discussion. A comprehensive report would be the opportunity to make it clear that this is an area of great uncertainty especially if you try to predict certain rates by a certain time. We can make it clear that

based on 85 or 100 year forecasts we are not calling for regulation. We would be providing this information to local governments and the general public for information and education. Renee Cahoon stated Duck was used and was the highest in the State. We should report regional ranges. What happens in the south is not indicative of what is being projected for the northern end of the State. Mr. Miller stated the legislation directs us to use five regions of the coast. Bill Naumann stated when you look at any graph that projects 100 years it reflects the difficulty in trying to forecast something beyond 40 or 50 years. Unfortunately, with this kind of diversion it fosters controversy, division, and difference of opinion which paralyzes policy making. If there is a way to tighten up the focus in an area where we don't have as much disagreement and controversy then it will facilitate policy making. Clearly 100 years does not do us justice. Harry Simmons stated I am a Mayor of a beach town and have been through the process of planning. I can assure you we are not thinking any further out than 30 years. It is a good and reasonable number that people will pay attention to instead of completely ignoring it. Suzanne Dorsey stated the only thing I want to raise is that I advocate eyes-wide-open decision making at all levels. From that perspective there may be some value in risk assessment associated with long-term sea level rise. Retreat will happen and how do we work with the public so that is a real conversation that we can have? Put risk assessment as part of the conversation. Larry Baldwin stated as far as policy and rules go then 30 years is probably about the best we can do. Lee Wynns stated whatever we do it has to have credibility. Therefore, thirty years is a good place to start. Bob Emory stated that there has been a lot of talk about not regulating based upon these forecasts and I agree. Using a time horizon similar to that used by others is our opportunity to show what it means to North Carolina. Larry Baldwin stated when a Commission starts projecting out long periods then there are unintended consequences.

Renee Cahoon made a motion to approve the proposed Charge to the Science Panel on the Sea Level Rise Study Update. Bill Naumann seconded the motion. The motion passed with nine votes in favor (Baldwin, Snipes, Andrew, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis) and one opposed (Emory)(Dorsey abstained).

PUBLIC INPUT AND COMMENT

Mark Richard stated I am in opposition to the extended boardwalk at Carolina Beach. I am an owner of unit #132 at the Cabana Condominiums at Carolina Beach. Our facility has 76 privately owned units. I think Carolina Beach Town Council has forgotten that we have that many privately owned units. We are two plots away from the existing boardwalk. The first lot is the location of the new Hampton Inn. I am here because I do not support the boardwalk extension north at Carolina Beach. However, we do support updating the existing boardwalk. The boardwalk extension will completely alter the landscape, view, and natural habitat in the dunes in front of the Cabana and all the way down to Pelican Lane. There has been a lot of misinformation on many issues pertaining to the boardwalk extension. One example is that it's been stated that there were only 17 plots of land affected this leaves out a very important issue that our one plot has 76 privately owned units. It was also mentioned that only one family, the Averettes, had opposed the extension. Well there are many others, one being the homeowners association south of the existing boardwalk and the other multiple owners at the Cabana. I felt it was necessary to poll the Cabana homeowners to determine if they are for or against the boardwalk extension. We are still gathering information and it takes time. Right now it stands with 28 units opposed and 2 units for (a handout was provided to the CRC). The next time Robb or Braxton get the information from me I am sure those totals will increase. Here are our concerns in reference to the boardwalk extension north. Will our littoral rights be compromised? We have a problem with a large horizontal structure causing damage during a major storm or hurricane as Sandy did in New Jersey. Will insurance cover any of the

damages from either water or wind driven debris? A major concern is the increased foot traffic in direct proximity to our pool and condos. This increased foot traffic means increased noise levels, increased littering and lack of privacy. We are a gated community. There are many issues pertaining to security, vandalism, and trespassing. It will be easy for people on the boardwalk to hop the fence and have complete access to our facility. However, it makes it more difficult for homeowners to access the beach because of two locked gates required as it criss crosses the boardwalk. There will be obstructed ocean views. Will the elevation of the boardwalk between the ocean and the Cabana be higher than the highest point of our dunes, blocking first floor view of the ocean? A pool privacy fence will have to be installed to protect the privacy of the sunbathers and to eliminate people accessing the pool from the boardwalk. This tall fence will also obstruct and provide an unpleasant view of the ocean. The plans include lamp posts and decorative flags; again obstructing views and providing a spotlight effect or glare as we look into the ocean. Will property be devalued? Is this all for the new Hampton Inn? Will the approval of the boardwalk extension set precedence for other coastal communities wanting the same thing? How many public accesses do we really need in that area? I believe there will be a total of eight in an 875 foot area. We bought here for the serenity of the unobstructed views of the ocean as it is today. Please don't take that away.

Bill Price stated I was planning to present some other information but will shift gears completely. I received an email from Kirk Bell, senior legislative assistant for Representative Howard Coble. The email is from Jerald Johnson, he is the FEMA congressional affairs director. This email is a response to our comments on the sea level planning requirements. *(Mr. Price read the following email) Prior to the Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12), FEMA did not have a mandate from Congress to incorporate projected sea level rise considerations in mapping, managing, and insuring flood hazards through the National Flood Insurance Program (NFIP). Now, however, section 100216 of BW-12 authorizes FEMA to incorporate future conditions into a new flood mapping program that will be established in coordination with the Technical Mapping Advisory Committee (TMAC). The TMAC, which is mandated in another section, will consist of members of federal, state and local governments as well as representatives from various organizations and associations. The TMAC will be launched this spring and will be charged, in part, with preparing a "Future Conditions and Risk Modeling Report". This report will include recommendations to FEMA on how to ensure that Flood Insurance Rate Maps incorporate future conditions, including climate change (for example, sea level rise, changes in precipitation patterns, and hurricanes) and future development, into Flood Insurance Rate Maps (FIRMs). The report will be due to FEMA one year after the TMAC is commenced.* Mr. Price stated that for a year now when Biggert-Waters was written we have been asking about the impact of the TMAC and what was going to happen with that program. We have been told by all of the talking heads not to worry that it would not happen. Here it is. What you all have done today on the 30-year planning makes a lot of sense. I hope you can have some influence on this program that is going to become mandated by the federal government through FEMA and NFIP. TMAC says they have to deal with the best science. What is the best science? You have the CRC Science Panel indicating that from Duck tide gauge of 15-16 inches of sea level rise currently. That is the baseline that they are using. We have just now had a report from the North Carolina Crime and Public Safety flood mapping division that indicates that 22,000 residences or structures in Dare County will be removed from the flood zones. 18,479 of those will actually be removed because of falling sea level. We also have information from DCM that indicates that accretion is increasing and erosion is decreasing. So what is the best science? Is it the Science Panel? They should all be based on the same USGS base datum. We appreciate what the CRC has done today and think that this 30-year rolling planning is a good move and hope that you can have some influence on the FEMA folks to adopt the same thing.

Renee Lewis stated I am here with my sister, Susan, my brother, Donny, and our father Donald Averette. I would like to thank you for allowing us to speak to you today. We, as the Averette family, would like to go on record that we are opposed to the Carolina Beach boardwalk extension. At your last meeting in February you asked the Town of Carolina Beach to meet with us and see if we could come to an agreement on this project. We did meet with the Town Manager, Assistant Town Manager, the Town's attorney, and the architect. We discussed with them in great detail the project and our concerns. No agreement was made between our family and the Town. May I also say that the Town of Carolina Beach only met with us after your denial of the variance. Our father initially found out about this project by reading about it in the local newspaper. We were also told at this meeting by the Town's attorney that they did not have to get approval for this project from the CRC that they could get it approved by a judge. The Town has stated that the Averette family is the only property owner opposing this project. On the day we met with the Town they told us that they had met with the Cabana and addressed their concerns and the Cabana was in agreement with this project. Since then we know that this is not correct. By now you have received multiple letters from property owners at the Cabana that oppose this project as well. There are many reasons why we oppose this project. First, if a hurricane, no when a hurricane comes can you imagine the damage that this massive 16-foot wooden structure would cause? This 16-foot wooden structure is wider than a lane of traffic. Secondly, the extension would create an unnecessary hardship to us and our property. There would be a loss of oceanfront view, major safety and crime concerns, and greater difficulty accessing the beach from our property. We would have to go through a locked gate to and from the beach. The lock would need to be replaced several times a year due to harsh conditions. There would be increased noise and lights, increased trespassing, loss of privacy and the list goes on. You all have received our letter that we sent to you on April 10. In this letter we state many legal concerns with this project as well. We know the Town has to been four requirements to obtain the variance and we question the legal aspects of these requirements getting approved. We ask that you read our letter carefully concerning these requirements into a designated ocean setback area. The Town claims that the Carolina Beach Building Line Act of 1963 gave the Town ownership of the beach between our home and ocean. Even if this Act gave ownership of the beach to the Town, the Act does not allow any building or structure to be built in the area lying east of the established building line. This Act in and of itself, therefore, prohibits the Town from extending the boardwalk in front of our home. The Town's attorney has indicated that the State of North Carolina now owns the beach between our home and the ocean. If this were true, then the Town's application, which provides that it is the owner of the land, is inaccurate. I also question the Town's authority to obtain a variance so that it can extend the boardwalk onto land that it does not own without following the proper statutory procedures established by the State Lands Act for selling or leasing land owned by the State. I would also ask you to please consider the precedent this variance would set for other coastal communities if this is approved. This extension would be built on the natural berm of a North Carolina beach. Doesn't the coastline need to be protected? What would the environmental impact be? Finally, I want to be clear that the proposed enhancements to the existing boardwalk would be a wonderful improvement to the downtown area. Our strong opposition is only with the proposed extension of the boardwalk in front of our home. It seems that the justifications for the extension project of the existing boardwalk do not exist. My family and I are grateful for your service to the coastal communities and your concern for coastal property owners. We ask that you please consider all of our concerns before you approve this project. Thank you for your time and have a blessed day.

Mark Hooper stated I am with Carteret County Crossroads and in April of 2012 we came before the CRC to present a simple, common sense plan to address a future rise in sea levels. We called this a generational plan and the plan called for the planning of a one foot rise in average sea level for next

33 years. I think it is interesting that you are looking at a 30 year time frame so we are in great agreement on this point. My question is what number are you going to be looking at? This may be a question for the Science Panel and there will be a regional approach, but at some point a number is going to have to be associated with it. It would seem like the expertise of the Science Panel and the CRC might be involved in putting that number forward. Our original plan had a three component measurement with tide gauges, mapping, and metrics. Through a mapping process we could identify what we called critical points that would be low points in infrastructure. If sea level is rising and we had a critical point that is flooded five times in 2012, 20 years from now we would expect more flooding at those points. These critical points are roadways which are going to be problematic in high water events. We are in agreement and that is good. As a homeowner I live downeast when we looked at the charts of sea level and there was a constant line and a large magnitude of variation. The high points are what we have to deal with as homeowners. In planning I have to deal with two feet which is a northeaster and one is five feet which is a hurricane. I have to account for that. As a service to the State we need to plan for rising sea levels. In a lot of ways we are through storm events, but what would it look like if we adopt a one foot rise for planning? In policy development it is great that we are getting past the point of arguing whether sea level is rising or not. It is going to be a very interesting exercise to see how we move forward. We look forward to the results from the Science Panel and look forward to policy development. This State has led the way in the Nation in terms of coastal policy. We didn't allow hardened shorelines on the ocean as other states did and that is good. We have habitat protection plans in the state. We also have a house on the beach in Rodanthe and we don't want that to happen again. I commend you and thank you and look forward to your response.

ACTION ITEMS

15A NCAC 7K .0208 Single Family Residence Exemption – Adjacent Property Owner Notification (CRC 14-16)

David Moye

David Moye stated the changes we talked about in February were to the time frame, the requirement for signed statements of no objection, and the allowance of access to the water. Mr. Moye reviewed the amendments to the rule language.

Harry Simmons made a motion to send the amendment to 15A NCAC 7K .0208 to public hearing. Bill Naumann seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

15A NCAC 7H .1500 GP for Excavation of Upland Basins – Excavation and Bulkheads (CRC 14-17)

David Moye

David Moye stated at the February meeting we talked about amendments to General Permit .1500 to allow maintenance excavation off of manmade canal systems and new basin excavation of the same systems. New basins can be 50x50 feet. The basins are dug out of high ground and there is a need to stabilize it. Currently the rules require a permit for the digging and a permit for bulkheading. This amendment would allow the bulkheading under the same permit for the excavation and would reduce the costs to the applicant by \$400. Mr. Moye reviewed the amendments to the rule language.

Bill Naumann made a motion to send the amendments to 15A NCAC 7H .1500 to public hearing. Neal Andrew seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

15A NCAC 7H .0312 Technical Standards for Beach Fill Projects

Matt Slagel

Matt Slagel stated these rules are intended to ensure that sand used for beach nourishment closely matches the sand on the existing beach. The rule requires that the sediment intended for use as well as the sand on the existing beach be analyzed for grain size and composition and that they be within defined ranges of similarity before the project can begin. The proposed rule change would reduce the number of required samples in smaller borrow sites and all slightly more coarse sand to be placed on the beach while continuing to limit fine sediment and gravel material. A public hearing on this proposed rule change was held on February 26, 2014 at the CRC meeting in Nags Head. No comments were received. The effective date of this rule change would be August 1, 2014. Staff recommends that the CRC adopt this amendment.

Renee Cahoon made a motion to adopt the amendment to 15A NCAC 7H .0312. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

15A NCAC 7H .1204 & .1205 General Permit for the Construction of Piers and Docking Facilities in Estuarine and Public Trust Waters and Ocean Hazard Areas

Mike Lopazanski

Mike Lopazanski stated the General Permit allows for docking spaces for two boats. We have seen an increased use in personal watercraft stored on boating platforms which results in property owners being penalized in terms of the number of slips allowed in that a boat or jet ski stored on the platform counts as a slip. This amendment creates an exception for the storage of boats on platforms and clarifies that the two slip limit excludes boats stored on platforms. A public hearing was held on February 26, 2014 and no comments were received. The proposed effective date of this amendment would be August 1, 2014.

Renee Cahoon made a motion to adopt the amendment to 15A NCAC 7H .1204 and 7H .1205. Bill Naumann seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

15A NCAC 7H .1305 General Permit to Construct Boat Ramps Along Estuarine and Public Trust Shorelines and into Estuarine and Public Trust Waters

Tancred Miller

Tancred Miller stated this amendment will streamline, simplify and reduce costs to the public for the permitting on non-commercial boat ramps under the CRC's General Permit. DCM has observed that it has become common practice to construct a launch access dock and protective groins in conjunction with a new boat ramp. The CRC has determined that it is unnecessary to require three separate permit applications and three application fees for what is essentially a single project. The public comment period was open from January 15-March 17, 2014 and a public hearing was held on February 26. No comments were received. Staff recommends adoption of this amendment. The effective date of this amendment would be August 1, 2014.

Bill Naumann made a motion to adopt the amendment to 15A NCAC 7H .1305. Lee Wynns seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

OLD/NEW BUSINESS

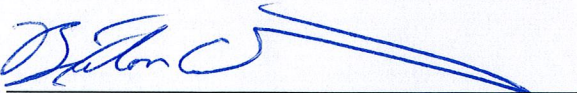
Economic Value of the Coast

Renee Cahoon stated the Chairman tasked a group of CRC members to do an economic value analysis of the coast. The twenty coastal counties under the jurisdiction of the Coastal Area Management Act are indicative of the diversity in all the counties of North Carolina. The twenty counties are an ecosystem unto themselves as some of them are oceanfront, some border the largest lagoon on the east coastal in the Pamlico Sound and all contain estuaries. They are recipients of inland rivers reaching the coast. Each coastal county contributes to North Carolina in different ways. Therefore, it is impossible in a short report to communicate the impact that each has on our state. This will be a snapshot of economic highlights. Coastal statistics indicate that coastal regions generated 45% of the gross domestic product in 2010. Coastal communities support \$19.5 billion in saltwater recreational fishing. Coastal communities provide \$291 billion in leisure and hospitality wages. By 2025, 75% of all Americans will live within 50 miles of the coast. In 2010, 39% of the U.S. population lived in counties directly along coastlines. Eighty-five percent of all tourism revenue in the U.S. is generated in coastal states and for every one dollar spent on beach nourishment, the return of investment is \$570 in taxes. According to North Carolina statistics, tourism generates \$970.4 million in state tax revenue and \$579.4 million in local tax revenue. Out of the 100 counties in the state, in terms of travel expenditures, three of the top 10 counties in 2012 are coastal counties (Dare, New Hanover, and Brunswick). Dare County alone provides 5% of North Carolina's travel income. 17.7% of overnight visitors reported the beach as their leading activity during their stay with only visiting family and shopping at higher percentages. The fastest growing county in terms of population is Onslow County with four coastal counties in the top ten fastest growing (Onslow, Brunswick, Pender, New Hanover). Coastal counties have populations lower than urban areas due to much of the property being owned by out of town, out of state, or out of country owners. These owners pay the same tax rate as local property owners, but do not use many of the services year round and do not use the school system. The 20 coastal counties produced 32% of the entire state's occupancy tax in 2011-2012. Of the top five occupancy tax-grossing counties, two (Dare and Currituck) produced 31% of the occupancy tax in 2011-2012. The National Marine Fisheries Service reported fish landings in 2012 in North Carolina to be worth \$72,905,625 to the economy. Harry Simmons, Suzanne Dorsey, Larry Baldwin, Greg Lewis and Renee Cahoon were on the subcommittee to work on this report, but the subcommittee would like to also thank CRAC Chair Debbie Smith, Roberta Thuman at the Town of Nags Head, and DCM Director Braxton Davis.

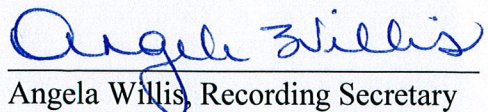
Renee Cahoon made a motion to go into closed session to consult with our attorney under the provision of the North Carolina Open Meetings Law NCGS 143-318.7(a)(3). We plan to discuss the case of DENR v. Pharr 9CVS11. Bill Naumann seconded the motion. The motion passed unanimously (Baldwin, Dorsey, Snipes, Andrew, Emory, Gorham, Cahoon, H. Simmons, Naumann, Wynns, Lewis).

After ending the closed session and returning to open session and with no further business, the CRC adjourned.

Respectfully submitted,



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

MEMORANDUM

CRC-14-19

TO: Coastal Resources Commission
FROM: Tancred Miller
DATE: July 15, 2014
SUBJECT: Science Panel Nominations and Sea-Level Rise Study Process

On June 11th Chairman Gorham sent letters to the CRC and to the Science Panel explaining what the CRC's Executive Committee had decided concerning Science Panel appointments and the overall process for the sea-level rise study. As you know from that communication, Greg "Rudi" Rudolph was the only new member appointed to the Science Panel, and no other new members will be appointed until the sea-level rise study is complete. On July 1st Antonio Rodriguez sent an email to the Science Panel and staff announcing his resignation from the panel. There are now 11 members and 4 vacancies on the panel. Chairman Gorham has indicated that he intends to fill Dr. Rodriguez's seat at the same time as the other vacancies. The Science Panel has a meeting scheduled for July 21st to discuss the sea-level rise and inlet hazard area studies, and you will hear a report from that meeting at your meeting in Beaufort on July 31st.

You will also have seen in Chairman Gorham's memo that the Science Panel has been tasked to complete their initial draft by December 31st of this year so that it can be forwarded through the CRC to Drs. Robert Dean and James Houston. Drs. Dean and Houston will be serving as technical peer reviewers, and their comments on the draft report and the Science Panel's response to their comments will become a part of the draft that is released for public comment after March 31st, 2015.

All members of the public and interested parties will have an extended period to comment on the draft report, and the CRC may, at its discretion, ask the Science Panel to address any of the comments received. All public comments will be included in the final report.

Chairman Gorham's June 11th letter to the Science Panel, which includes his letter to the CRC, is attached for your reference.

North Carolina Coastal Resources Commission



PAT McCRORY
GOVERNOR

FRANK D. GORHAM, III
CHAIRMAN

NEAL W. ANDREW

LARRY BALDWIN

RENEE CAHOON

SUZANNE E. DORSEY

ROBERT R. EMORY, JR.

J. MARC HAIRSTON

J. GREG LEWIS

BILL C. NAUMANN

BENJAMIN SIMMONS

HARRY Q. SIMMONS, JR.

JOHN D. SNIPES, II

LEE WYNNS

BRAXTON C. DAVIS
EXECUTIVE SECRETARY



To: CRC Science Panel
From: Frank Gorham
Date: June 11, 2014
Re: 2015 Sea-Level Rise Assessment Report

Thank you all for continuing to serve on the CRC's Science Panel. The time has come to update the 2010 N.C. Sea-Level Rise Assessment Report as recommended in the 2010 report, and as required by the General Assembly under S.L. 2010-202 (HB819). The purpose of this letter is to communicate the decisions that the CRC has made concerning Science Panel appointments and key elements of the process for completing the report.

Science Panel Membership

The CRC will fill one of the four vacancies on the Science Panel; we will appoint Greg "Rudi" Rudolph (résumé attached) to fill one of the coastal geologist seats. We do not intend to fill any of the remaining seats until after the SLR report is complete.

Ad hoc additions to the Science Panel

I have very carefully considered the nominations for ad hoc members to work with the Science Panel on the SLR report, and have decided that no ad hoc members will be appointed to work on the report. This was a difficult decision that I hope conveys my respect for the expertise that currently exists on the Panel, as well as my desire to avoid any appointments that might be construed as agenda-based.

Technical peer review

You all are surely aware that S.L. 2012-202 directs us to consider the full range of sea-level change data and hypotheses in the peer-reviewed scientific literature. I believe that it is important to adopt a proactive approach to addressing these two issues, and to that end I have obtained Drs. Robert Dean's and James Houston's consent to serve as technical peer reviewers for the draft report. The attached letter from me to the CRC includes a timeline and process for the review by Drs. Dean and Houston.

Study charge

CHARGE TO THE SCIENCE PANEL

The CRC has determined that the issue of potential sea-level rise is of extreme importance to the State, its policy makers and the citizens of NC. It is further noted that periodic updates of current data are vital to help formulate future policy.

The CRC therefore charges the Science Panel to conduct a comprehensive review of scientific literature and available North Carolina data that addresses the full range of global, regional and North Carolina specific sea-level change.

The CRC further determines that the scope and time period of the study and report regarding sea-level rise shall be limited to a "Rolling 30-Year Time Table". It is the intent of the CRC that this rolling 30-year time table will be updated every five years.

Division of Coastal Management
Department of Environment and Natural Resources
400 Commerce Ave., Morehead City, N.C. 28557
Phone 252-808-2808 Fax 252-247-3330

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Timeline

S.L. 2012-202 requires the Science Panel to deliver your report to the CRC no later than March 31, 2015. This will be the version that will be made available for public comment, and we would like this version to include the review and responses as described in the technical peer review process. In order to complete the technical peer review process we are asking you to deliver your initial draft to us by **December 31, 2014**. The technical peer review timeline is as follows:

1. CRC sends the initial draft report for Drs. Dean and Houston's review on January 1, 2015.
2. Drs. Dean and Houston write a brief review with comments and suggestions as appropriate, and forwards to the Science Panel through CRC by January 21, 2015.
3. Science Panel submits a response to Drs. Dean and Houston's comments by February 15, 2015.
4. Drs. Dean and Houston respond in writing as to whether the Science Panel has adequately addressed their comments, by February 28, 2015.

All four written documents will be publicly disseminated together without change.

Following the March 31, 2015 public release of the draft report, there will be an extended public comment period through December 31, 2015, as well as the preparation of an economic and environmental cost-benefit study. The Science Panel will not be asked to prepare the cost-benefit study. The CRC will ask the Science Panel to finalize the report in early 2016, following the close of the public comment period.

Considering the time available to prepare the draft, staff will be in touch with you to set up a meeting. It is my hope that the Panel can meet before the end of July, and I intend to be there to respond to any questions in person. As usual, staff will support the Science Panel in your work.

I have attached a letter that I sent to the CRC that may provide you with more information about the rationale behind the appointments and study process. I have also attached the CRC's general charge to the Science Panel that we revised slightly at our May meeting, and a copy of the relevant section of S.L. 2012-202 for your reference.

Thank you again for your continuing service to the CRC and the state. You all have my strongest support, respect and gratitude.

Sincerely,

Frank D. Gorham, III
Chair, Coastal Resources Commission

Attachments: 1. Frank Gorham letter to CRC, dated June 11, 2014
2. Charge to the CRC Science Panel
3. S.L. 2012-202, Section 2.(c)
4. Greg "Rudi" Rudolph résumé

ATTACHMENT 1. Frank Gorham letter to CRC, dated June 11, 2014

To: Coastal Resources Commission
From: Frank Gorham
Date: June 11, 2014
Re: 2015 Sea-Level Rise Assessment Report

Dear Fellow Commissioner:

Recall at our last CRC meeting, we agreed on a rolling 30-year time frame with five-year updates for the Sea-Level Rise Study (SLRS). The study process was to begin after I made final appointments to the Science Panel (SP) and decided whether to create an Ad Hoc Sea-Level Rise panel. I have completed my review of all the nominations and consulted with the Executive Committee; they support the following process.

Before I discuss the process I want to restate the obvious. The issue of Sea-Level Rise is extremely sensitive to a lot of people on both sides. Our decision on the 30-year time frame was generally supported but both sides think the bigger battle will be who we appoint to do the study. Both sides are adamantly pushing their "sides'" nominations. Many anti "big sea-level rise" proponents are pushing me to appoint critics of the last report from the SP. On the other side, many sea-level rise proponents are convinced that I will stack the deck with the new appointments against any sea-level rise sentiment. Politics, special interest groups on both sides and the press seems determined to make this controversial. Our job is to ignore the politics and do what we believe is the right thing.

I have been spending a lot of time trying to determine the best process for appointing new members both to the Science Panel and possibly any ad hoc members. Like you, I want to adopt both a credible process and people. We do not want to be a part of "Agenda Science".

The first thing I did was to look at the qualifications and expertise of the current Science Panel members. Regardless of your opinion of the last report, the panel members themselves have a lot of knowledge. Maybe some display a clear agenda but they are a known approved factor in the general public and scientific community.

The next thing was to review all the nominations. Quite frankly, the vast majority of all nominations are clearly in one camp or another. If you pick one of these, are you trying to stack the deck or play politics from the other side's viewpoint? Secondly, I inquired as to what new skill sets were really needed on the current SP to do the SLRS. In my opinion, none of the nominations clearly brought any new skill set that was needed for the SLRS.

One of my first steps when appointed to the CRC was to contact a member of the Science Panel who is nationally known for strongly supporting sea-level rise. I asked him about the future process and who would be nationally respected to provide a peer review and possible alternative view. He said the two most respected peer reviewers of sea-level rise were Dr. Bob Dean and Dr. James Houston. See their backgrounds below.

If you ask scientists/professors about national reputations regarding coastal issues and sea-level rise, Bob Dean and James Houston are highly respected by BOTH sides. They have national reputations for good science. They may question accelerated sea rise but their technical reasons and support are respected by the other side.

After taking all this into consideration, the following process and appointments have been adopted to meet our legislative requirement on the SLRS.

SUMMARY

1. Appoint Rudi Rudolph (résumé attached) to SP—means 12 of the 15 slots would be filled
2. No other appointments will be made to SP until after the SLRS is complete
3. No Ad Hoc Sea-Level Rise panel will be appointed
4. The SP will do the SLRS
5. Create a Technical Peer Review Group (TPRG) for external review of the SP report
6. Appoint nationally respected Dr. Bob Dean and Dr. James Houston to be the TPRG. Both have agreed to be part of this review process as the TPRG.
7. No other members will be added to TPRG
8. Announce a firm schedule & review process to meet the March 2015 legislative deadline:
 - SP report to CRC 1/1/15
 - TPRG comments on SP report by 1/21/15
 - SP response to TPRG comments by 2/15/15
 - TPRG comments to SP comments by 2/28/15
9. All four written documents will be published and disseminated together without change: (a) SP report; (b) TPRG comments on SP report; (c) SP comments on TPRG comments and (d) TPRG comments on SP comments. Drs. Dean and Houston have agreed to this process and timeline. I also believe this process is fair, objective and reduces political games. This is also an established peer review process. (see below for Terms for External Review)
10. We will use our existing SP (including Rudi) to submit a 30-year report knowing they will be reviewed by a nationally-known and respected group. This will either act as a balancing force or provide a credible alternative viewpoint
11. We will not start the process of the Economic Report "of developing, or not developing, sea-level regulations and policies" until after the SLRS.
12. The additional available SP slots (3) can be filled after the SLRS to meet any technical needs required for future SP issues beyond the SLRS

This above process is: (a) simple; (b) objective; (c) respects the previous SP credentials; (d) provides national credibility to balance the SP and if necessary an alternative opinion; and (e) avoids political games by not stacking the SP or AD HOC group with AGENDA appointments.

Will this be supported by all? NO. Some will oppose because their nominations were not picked. Some will oppose because the same SP members will be making the SLRS decision. Some SP will oppose because Dean and Houston are nationally known to challenge accelerated sea-level rise predictions and that no other TPRG will be added. On the other hand, you respected the SP integrity/credibility, didn't dilute the panel and you have added a respected peer review process of experts even they respect. Both extreme sides of this issue will probably object but that may mean it is a good process. I believe this will get the job done in a credible and timely manner. This also imposes the least intrusion on staff's time. Then we can all move on to our more urgent and needed policy review.

Please find attached a copy of the transmittal letter sent to members of the SP. I thank you in advance for your support throughout this process.

Below are bios of Drs. Dean and Houston as well as the agreed upon TPRG procedure.

Dr. Robert G. Dean Bio

Bob Dean is Professor Emeritus in the Coastal and Oceanographic Engineering Program, Civil and Coastal Engineering Department, University of Florida, Gainesville, Florida. He received his BS (Civil Engineering) from the University of California, an MS (Physical Oceanography) from Texas A&M University, and a PhD (Civil Engineering) from the Massachusetts Institute of Technology. He has researched and taught subjects relating to waves and wave forces and beach systems for the last 47 years. During that period he has held professorships at MIT, University of Washington, University of Delaware and the University of Florida. From 1985 to 1987, he was appointed Director of the Division of Beaches and Shores, Florida Department of Natural Resources, Tallahassee, Florida, responsible for the State of Florida beach program encompassing some 800 miles of sandy beaches. Bob has co-authored two books with Tony Dalrymple: “Water Wave Mechanics for Engineers and Scientists”, and “Coastal Processes With Engineering Applications” and has authored a book “Beach Nourishment: Theory and Practice” (recently published in Chinese) and has authored or co-authored over 200 technical publications and consulted with approximately 100 firms and governmental agencies in the general area of coastal and ocean engineering. He was elected to the National Academy of Engineering in 1980.

James R. Houston Bio

Dr. Houston is Director Emeritus of the U.S. Army Engineer Research and Development Center, the R&D laboratories of the Corps of Engineers. He served as the first Director of ERDC from 2000 to 2010 and simultaneously served as Chief Scientist and Director of R&D of the Corps from 2006 to 2010. He received his BA degree (Physics) from the University of California (Berkeley), an MS Degree (Physics) from the University of Chicago, an MS Degree in Coastal and Oceanographic Engineering from the University of Florida, and a PhD in Engineering Mechanics from the University of Florida. He has authored or co-authored over 130 publications. He has received many awards including the Morrrough P. O’Brien Award from ASBPA, the National Beach Advocacy Award, and three Presidential Rank Awards.

Terms of Agreement for External Review of the CRC Sea-Level Rise Assessment Report

Review By
Jim Houston and Bob Dean

1. We receive the final Sea-Level Rise report for our review on January 1, 2015. We write a brief review with comments and suggestions as appropriate. This will be forwarded by January 21 to the Science Panel through CRC so the Science Panel can submit a response to our comments by February 15. Finally, we will address in writing by February 28 whether the Science Panel has adequately addressed our comments.

In summary, all four written documents will be published and disseminated together without change: (a) The Science Panel report, (b) Our review of the report, (c) The Science Panel's response to our review, and (d) Our reply to the Science Panel's response.

2. The CRC may wish to present the rationale and process of the entire effort as an overall cover letter.

ATTACHMENT 2. Charge to the CRC' Science Panel

Charge to the Coastal Resources Commission's Science Panel

Charge

The purpose of the Science Panel (Panel) is to provide the Coastal Resources Commission (CRC) scientific data and recommendations regarding coastal processes including erosion, accretion, sand transport and the interactions of wind, waves and currents with the shoreline. At the specific request of the CRC, the Panel is charged with the following: 1) reviewing the current state of knowledge of coastal processes and ecological functions of coastal North Carolina; 2) assessing the current methodologies being used by North Carolina and others to define and identify areas subject to adverse impacts of coastal processes associated with development in public trust areas of North Carolina; 3) reviewing the scientific basis of the CRC's rules as applied by the Division of Coastal Management (DCM) to development in the coastal area; and 4) developing recommendations for the CRC on topics that include the following:

1. Opportunities to incorporate current scientific information on North Carolina coastal processes in the CRC rules for Estuarine and Ocean Areas;
2. New coastal engineering technologies or methods;
3. Specific projects as assigned by the CRC or requested by the Panel. When the CRC assigns a project, it should provide the Panel with specific questions it needs answered and any necessary timelines. The Panel should maintain the flexibility to propose projects and scopes of work to the CRC for approval.

Membership and Officers

The membership of the Panel should be no more than 15 individuals having professional expertise in coastal science or engineering, but additional members may be added on an ad hoc basis to expand the expertise of the Panel for specific studies if deemed necessary by the CRC Chair in consultation with the Panel. Nominations for new members and ad hoc members may be made by CRC members, current Science Panel members, DCM staff, or the Coastal Resources Advisory Council at any public meeting of the CRC. New members and ad hoc members will be appointed by the CRC Chair based on a review of the nominee's relevant expertise and credentials with respect to coastal science or engineering. New and replacement members will be appointed as needed. Panel members should serve staggered terms of four years to ensure continuity. New member terms should be for four years, with re-appointments for additional four-year terms when mutually agreed upon by the Panel member and CRC Chair. Regular attendance or participation by other means is important, and a Panel member may be asked to step down after prolonged non-participation, or at the discretion of the CRC Chair.

The officers of the Panel are the Chair and Vice-Chair. Officer terms are for two years, and the Chair and Vice-Chair should be elected biennially by the Panel. The Chair should work with staff to establish meeting agendas, preside over Panel meetings, and appoint subcommittees and subcommittee chairs as necessary to carry out the Panel's business. The Vice-Chair should preside over Panel meetings in the absence of the Chair and assume the duties of the Chair if the Chair is unable to complete their term until another Chair is selected by the Panel.

Panel Meeting Agendas

Meetings of the Panel will be open to the public and each meeting should include an opportunity for public comments for the Panel to consider. Meeting notes and other records of all Panel meetings will be kept by the Division of Coastal Management. Draft notes will be distributed to Panel members for review, and final notes will be posted on the DCM webpage.

The Chair, Vice-Chair, and DCM staff should work together to prepare meeting agendas, which will be provided to members and to the public at least seven days prior to a scheduled meeting.

Consensus Building

Final Panel reports should be developed by consensus whereby (preferably) all Panel members support the general findings and recommendations, and clearly articulate any differences of opinion related to specific findings. In the absence of consensus, a minority opinion section should be included with each recommendation or report, if applicable.

The outline below is a general guideline for larger reports, but not all communications between the Panel and the CRC need to follow this format. Some recommendations, such as those pertaining to new coastal engineering technologies or methods, may be in memo form from the Panel to the CRC.

Larger Panel reports should follow a common outline so the CRC and stakeholders know what to expect in terms of format and content. The goal of Panel reports is to use the best available data to identify common ground and areas of disagreement to help set the context for CRC policy deliberations. To help reach consensus, it is essential for Panel members to participate in discussions, weigh in on draft recommendations, and review final reports. The outline should include, at a minimum, the following sections:

- General Issue
- Specific Question(s) to be Answered
- Options Explored by Panel
- Best Available Science
- Key Assumptions, Uncertainties, and/or Data Limitations Associated with Each Option
- Consensus Findings and Recommendations
- Minority Opinions and/or Specific Areas of Disagreement

Dissemination of Information

Draft findings and recommendations for which the Commission intends to incorporate public input should only be released for public comment following preliminary review and approval by the Coastal Resources Commission. Division of Coastal Management staff will coordinate the public review process.

Final recommendations of the Panel adopted pursuant to the consensus building and public review procedures described above should be reported in writing to the Division Director and the Chair of the Coastal Resources Commission. Presentations of Panel recommendations to the CRC should be made by the Panel Chair or their designee.

ATTACHMENT 3. S.L. 2012-202, Section 2.(c)

Session law 2012-202,SECTION 2.(c)

The Coastal Resources Commission shall direct its Science Panel to deliver its five-year updated assessment to its March 2010 report entitled "North Carolina Sea Level Rise Assessment Report" to the Commission no later than March 31, 2015.

The Commission shall direct the Science Panel to include in its five-year updated assessment a comprehensive review and summary of peer-reviewed scientific literature that address the full range of global, regional, and North Carolina-specific sea-level change data and hypotheses, including sea-level fall, no movement in sea level, deceleration of sea-level rise, and acceleration of sea-level rise.

When summarizing research dealing with sea level, the Commission and the Science Panel shall define the assumptions and limitations of predictive modeling used to predict future sea-level scenarios.

The Commission shall make this report available to the general public and allow for submittal of public comments including a public hearing at the first regularly scheduled meeting after March 31, 2015.

Prior to and upon receipt of this report, the Commission shall study the economic and environmental costs and benefits to the North Carolina coastal region of developing, or not developing, sea-level regulations and policies.

The Commission shall also compare the determination of sea level based on historical calculations versus predictive models.

The Commission shall also address the consideration of oceanfront and estuarine shorelines for dealing with sea-level assessment and not use one single sea-level rate for the entire coast. For oceanfront shorelines, the Commission shall use no fewer than the four regions defined in the April 2011 report entitled "North Carolina Beach and Inlet Management Plan" published by the Department of Environment and Natural Resources. In regions that may lack statistically significant data, rates from adjacent regions may be considered and modified using generally accepted scientific and statistical techniques to account for relevant geologic and hydrologic processes.

The Commission shall present a draft of this report, which shall also include the Commission's Science Panel five-year assessment update, to the general public and receive comments from interested parties no later than December 31, 2015, and present these reports, including public comments and any policies the Commission has adopted or may be considering that address sea-level policies, to the General Assembly Environmental Review Commission no later than March 1, 2016.

ATTACHMENT 4. Greg “Rudi” Rudolph résumé

GREG L. RUDOLPH

grudolph@carteretcountync.gov

EDUCATION:

East Carolina University, Greenville, North Carolina **1996-99**
M.S. in Coastal Geology (4.0 GPA)
Thesis – *Holocene Evolution of a Drowned Tributary Estuary, Croatan Sound, N.C.*

East Carolina University, Greenville, North Carolina **1996-97**
B.S. in Geology (4.0 GPA)

UNC - Charlotte, Charlotte, North Carolina **1988-92**
B.A. in Biology

PROFESSIONAL EXPERIENCE:

Shore Protection Manager **2001-present**
Carteret County, Beaufort, North Carolina

- (1) Serves as main point-of-contact and coordinator for all shore protection & beach nourishment activities in Carteret County, and lead liaison/representative with the U.S. Army Corps of Engineers, N.C. State Ports Authority, N.C. Division of Water Resources, N.C. Division of Coastal Management, other resources agencies and stakeholders.
- (2) Oversees and coordinates County lobbying efforts and communications with Federal and State elected and appointed officials; serves as liaison with other groups sponsoring lobbying efforts.
- (3) Prepares RFPs, project oversight, and accounting verification for all shore protection/beach nourishment engineers retained by the County.
- (4) Collects, maintains, and analyzes financial data relative to the impact of the beaches and other shorelines to the Carteret County tourism economy, and performance data regarding shore protection and beach nourishment efforts in Carteret County and other coastal communities.
- (5) Prepares and distributes public education and awareness materials for shore protection and beach nourishment activities; serves as a public information clearinghouse/coordinator.

Hydrogeologist I **1999-2001**
Division of Water Resources - NC Department of Environment & Natural Resources, New Bern, North Carolina

- (1) Provide technical guidance in developing an aquifer framework model, rule development and a water management plan for the regulation of the Central Coastal Plain Capacity Use Area. Duties included aquifer test, hydrograph and geophysical log (e-log and gamma ray) analyses.
- (2) Field supervisor for pilot/final well borehole drilling, geophysical and downhole camera analyses.
- (3) Technical review of State mining permits regarding potential effects upon groundwater supply and quality.

Project Scientist **1993-96**
Shield Environmental Associates, Inc., Charlotte, North Carolina

- (1) Responsible for project proposals, budgets, and report preparation for 23 chlorinated solvent and petroleum hydrocarbon impacted sites including Phase I environmental audits, monitoring reports, comprehensive site assessments and corrective action plans. Clients - Dow Corning (Mi.), Petroleum World, Inc. (N.C.), Estes Trucking (S.C.) and NationsBank (N.C.).
- (2) Field Supervisor of subsurface investigations using mud-rotary, hollow stem auger, air compression hammer and geoprobe drilling techniques.
- (3) Coordinate and conduct and evaluate air-sparge, soil vent and aquifer pilot studies.

PROFESSIONAL SOCIETIES AND HONORS:

American Shore and Beach Preservation Association – Board of Directors
Coastal Elevations & Sea Level Advisory Committee – U.S. EPA Appointment
N.C. Coastal Resources Law, Planning, and Policy Center – Board of Advisors
North Carolina Sea Grant – Outreach Advisory Board
N.C. Marine Science Education Partnership
Eastern Carolina Council 2006 Regional Leadership Award
N.C. Beach, Inlet, & Waterway Association
Phi Kappa Phi – national academic honor society
Sigma Gamma Epsilon – geological honor society (president 1997-98)
CQ Brown Scholarship Recipient – East Carolina University Departmental Award



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

CRC-14-20

July 9, 2014

MEMORANDUM

TO: Coastal Resources Commission

FROM: Mike Lopazanski

SUBJECT: Repeal of High Hazard Flood AEC

The Coastal Area Management Act (CAMA; G.S.113A) requires permits for development in Areas of Environmental Concern (AEC) as designated by the CRC. AECs are the foundation of the CRC's permitting program for coastal development and are defined in CAMA (G.S. 113A-113) as areas of natural importance that may be susceptible to erosion or flooding; or may have environmental, social, economic, or aesthetic values that make it valuable to the state. The CRC classifies areas as AECs to protect them from incompatible development that may cause irreversible damage to property, public health, or the environment. AECs cover almost all coastal waters and about three percent of the land in the 20 coastal counties.

The CRC has established four broad categories of AECs:

- The Estuarine and Ocean System;
- The Ocean Hazard System;
- Public Water Supplies; and
- Natural and Cultural Resource Areas.

The Ocean Hazard System is comprised of oceanfront lands and the inlets that connect the ocean to the sounds. The CRC has designated three subcategories within the ocean hazard AEC:

1. **The Ocean Erodeable AEC** (15A NCAC 7H .0304(1)) covers North Carolina's beaches and any other oceanfront lands that are subject to long-term erosion and significant shoreline changes. The seaward boundary of this AEC is the mean low waterline. The landward limit of the AEC is measured from the first line of stable natural vegetation and is determined by adding a distance equal to 60 times the long-term, average annual erosion rate for that stretch of shoreline, to the distance of erosion expected during a major storm (100-year storm) which varies from 25 - 330 feet.

2. **The High Hazard Flood AEC** (15A NCAC 7H .0304(2)) covers lands subject to flooding, high waves, and heavy water currents during a major storm. These are the lands identified as coastal flood with velocity hazard, or "V zones," on flood insurance rate maps prepared by FEMA. The high hazard flood AEC often overlaps with the ocean erodible and inlet hazard AECs.

3. **The Inlet Hazard AEC** (15A NCAC 7H .0304(3)) covers the lands next to ocean inlets. Each area is mapped based on a statistical analysis of inlet migration, previous inlet locations, narrow or low lands near the inlet, and the influence of man-made features, such as jetties and channel dredging projects.

The High Hazard Flood (HHF) AEC was not one of the original AECs adopted by the CRC in 1977. The HHF AEC was established by the Commission in 1979 after reviewing implementation of existing AECs, with the intent of providing consistency in construction standards with those of the National Flood Insurance Program (NFIP). Since that time, the CRC has required all residential and commercial structures within the Ocean Hazard AEC (which includes the HHF AEC) to comply with the NC Building Code, including the Coastal and Flood Plain Construction Standards and local flood damage prevention ordinances required by the NFIP, and to be supported by pilings. The specific construction standards are found in 15A NCAC 7H .0308(d) and are attached. The intent of the rule was to allow for foundation stability during major storm events when the ocean shoreline could move significantly inland for a period of time. During these periods, scour could cause concrete slab or block foundation supported buildings to collapse. In some areas, these requirements were more stringent than the NC Building Code.

After the hurricanes of the 1990's, FEMA updated the Flood Insurance Rate Maps (FIRM) for many coastal barrier island communities. This update resulted in expansion of the velocity zones, and in doing so, expanded the permitting jurisdiction of the CRC since the HHF AEC is identified as the V-Zones on the FIRM. The NC Building Code sets standards (attached) for piling-supported buildings within Coastal High Hazard Flood Areas (NFIP V-Zones), Ocean Hazard Areas (CRC AEC) and Flood Plain Areas (US Army Corps of Engineers). Typical single family structures must comply with the NC Building Code and local flood damage prevention ordinances in these areas as required by the NFIP.

Single-family residences located in the HHF AEC are currently exempted from CAMA permit requirements (15A NCAC 7K .0213 - attached) provided that they are not within the Ocean Erodeable or Inlet Hazard AECs, are constructed on pilings and comply with the NC Building Code and local flood damage prevention ordinances as required by the NFIP. No other HHF AEC-specific development standards are required, however, the property owner must sign an AEC "hazard notice" acknowledging that special risks and

conditions associated with development in this area. A \$50 fee for the issuance of an exemption letter is usually paid to the local permitting authority or to DCM if there is not a local CAMA permitting program in the jurisdiction.

Since the Commission rules defer to the NC Building Code and require adherence to NFIP and local flood prevention standards, staff is recommending that the Commission consider repealing the High Hazard Flood AEC. This would remove approximately 15,000 properties from CRC permitting jurisdiction under the HHF AEC. It should be noted that since the V-Zones can extend to the soundside of some areas, not all properties would be completely removed from all CAMA permitting jurisdiction as the Coastal Shorelines AEC and its associated development standards would still apply in these areas. A repeal of the HHF AEC would also not affect the permitting jurisdiction of the remaining Ocean Hazard AECs (Ocean Erodible & Inlet Hazard) and would not affect the setback requirements associated with oceanfront development.

Staff will provide additional information on the scope of this proposed change at the upcoming meeting in Beaufort.

15A NCAC 07H .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

(d) Building Construction Standards. New building construction and any construction identified in .0306(a)(5) and 07J .0210 shall comply with the following standards:

- (1) In order to avoid danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a 100-year storm. Any building constructed within the ocean hazard area shall comply with relevant sections of the North Carolina Building Code including the Coastal and Flood Plain Construction Standards and the local flood damage prevention ordinance as required by the National Flood Insurance Program. If any provision of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards, the more restrictive provision shall control.
- (2) All building in the ocean hazard area shall be on pilings not less than eight inches in diameter if round or eight inches to a side if square.
- (3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure. For those structures so located on or seaward of the primary dune, the pilings shall extend to five feet below mean sea level.
- (4) All foundations shall be adequately designed to be stable during applicable fluctuations in ground elevation and wave forces during a 100-year storm. Cantilevered decks and walkways shall meet this standard or shall be designed to break-away without structural damage to the main structure.

15A NCAC 07K .0213 SINGLE FAMILY RESIDENCES EXEMPTED FROM THE CAMA PERMIT REQUIREMENTS WITHIN THE HIGH HAZARD FLOOD AREA OF ENVIRONMENTAL CONCERN

(a) All single family residences, including associated infrastructure, accessory structures or structural additions to an existing single family structure, constructed within the High Hazard Flood Area of Environmental Concern are exempt from the CAMA permit requirements provided that the development is consistent with all other applicable CAMA permit standards and local land use plans and/or rules in effect at the time the exemption is granted including the following conditions and limitations:

- (1) The development shall not be located within the Ocean Erodible or Inlet Hazard Areas of Environmental Concern.
- (2) Any building shall be on pilings and comply with the North Carolina Building Code and the local flood damage prevention ordinance as required by the National Flood Insurance Program.
- (3) The development does not require any permission, licensing, approval, certification or authorization, licensing or approval from any state or federal agency.

(b) Prior to commencing any work under this exemption, the Department of Environment and Natural Resources (DENR) representative or local CAMA permitting officer must be notified of the proposed activity to allow on-site review. Notification shall be given in person or in writing. Notification must include:

- (1) the name, address and telephone number of the landowner and the location of the work, including the county, nearest community and water body closest to the development;
- (2) the dimensions of the proposed house, driveway, landscaping or other accessory developments proposed on the property; and
- (3) a signed AEC hazard notice indicating the property owner is aware of the special risks and conditions associated with development in this area. The DENR representative or local CAMA permitting officer shall provide the applicable notice form to the landowner.

(c) The applicant for a permit exemption must submit with the request a check or money order payable to the Department of Environment and Natural Resources (DENR) or local permitting authority in the sum of fifty dollars (\$50.00).

**Applicable Sections of NC Building Code
2012 Residential Code
CHAPTER 46 - COASTAL AND FLOOD PLANE CONSTRUCTION STANDARDS**

SECTION R4601

PURPOSE, APPLICATION AND SCOPE

R4601.1. The requirements set forth in this section shall apply to all construction located within areas identified by governmental agency (state and federal) as coastal high hazard areas, ocean hazard areas, the regulatory flood plain areas, and all areas designated as 130 mph (57 m/s) wind zone. See Table R301.2(1).

SECTION R4602

DEFINITIONS BASE FLOOD ELEVATION. The peak water elevation in relation to MSL expected to be reached during a design flood which is established by the North Carolina Building Code Council as a flood having a 1 percent chance of being equaled or exceeded in any given year.

COASTAL HIGH HAZARD AREA. An area subject to coastal flooding and high velocity waters including storm wave wash, as shown by Federal Emergency Management Agency Maps and subject to the approval of the Building Code Council.

FLOOD PLAIN. Land below base flood elevation, which of record has in the past been flooded by stormwater surface runoffs, or tidal influx, and as defined by the Corps of Engineers' maps, the Federal Emergency Management Agency maps or as approved by the Building Code Council.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor: provided

1. That the walls are substantially impermeable to the passage of water and the structural components have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, or
2. Construction shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of flood waters.
- 3.

MSL. Mean Sea Level as defined by National Geodetic Vertical Datum.

OCEAN HAZARD AREA. An area, as identified by the North Carolina Coastal Resources Commission, and subject to approval by the Building Code Council, near the shoreline of the Atlantic Ocean which has been identified as subject to at least one of the following hazards: (A) Historical or predicted future trends of long-term erosion, (B) erosion expected to occur during a coastal storm reaching the base flood elevation, or (C) shoreline fluctuations due to tidal inlets.

SECTION R4603

PILING STANDARDS

R4603.1. All one- and two-family dwellings in areas identified as coastal high hazard areas or ocean hazard areas shall be constructed on a pile foundation of wood or concrete.

R4603.2 Concrete piles. Concrete piles may be used if made and installed in accordance with the *North Carolina Building Code*, Chapter 18.

R4603.3 Size of wood piles. Round timber piles shall not be less than 8 inches (203 mm) in diameter at building level and have a minimum tip diameter of 6 inches (152 mm). Square timber piles shall not be less than 8 inches square (0.005 m²), nominal. Piles supporting uncovered stairs, uncovered walkways and uncovered decks shall be 6 inches × 6 inches (153 mm × 153 mm) minimum, or if round, have a minimum tip diameter of 6 inches (153 mm). Piles supporting uncovered stairs, uncovered walkways and uncovered decks less than 5 feet (1524 mm) above grade may be 4 inches × 4 inches (102 mm × 102 mm) minimum.

R4603.4 Required depth of piles. Pile tip shall extend to a depth of not less than 8 feet (2438 mm) below the natural grade or finished grade of the lot, whichever is lower. All pilings within the Ocean Hazard Area shall have a tip penetration of at least 5 feet (1524 mm) below mean sea level or 16 feet (4877 mm) below average original grade, whichever is least. Structures within Ocean Hazard Areas which are placed upon the site behind a line 60 times the annual erosion rate away from the most seaward line of stable natural vegetation are exempt from this additional tip penetration requirement.



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

MEMORANDUM

CRC- 14 - 21

To: Coastal Resources Commission
From: Michael Christenbury, Wilmington District Planner
Date: July 11, 2014
Subject: Certification of the Town of Leland CAMA Land Use Plan

Recommendation:

Certification of the Town of Leland Land Use Plan with the determination that the Town has met the substantive requirements outlined in the 15 NCAC 7B Land Use Plan Guidelines and that there are no conflicts with either state or federal law or the State's Coastal Management Program.

Overview

The Town of Leland is requesting Certification of the Leland CAMA Land Use Plan. The Town is located in northeastern Brunswick County, to the west of downtown Wilmington on the west side of the Cape Fear and Brunswick Rivers.

The creation of the Leland Land Use Plan was part of a broader comprehensive planning process that was completed while the CAMA Land Use Plan was being developed. Many of the guiding principles and policies within the Land Use Plan were built upon recommendations from the comprehensive Master Plan.

The Land Use Plan covers only the area included within Leland's municipal boundaries. Public participation and input, along with data and trend analysis provided the bases for identifying key community concerns and aspirations during the comprehensive planning process.

To gain the views of the citizens that live and work in Leland, the Town organized two (2) major public participation processes. The first included public meetings held at the outset of the Land Use Plan update. The second was a "charrette" held as part of the development of the comprehensive Master Plan. The "charrette" included a general public workshop, followed by a weeklong series of small-group workshops with dozens of citizen and business stakeholder groups.

The Town of Leland held a duly advertised public hearing and voted by resolution to adopt the CAMA Land Use Plan. DCM Staff reviewed the Plan and has determined that the Town has met the substantive requirements outlined in the 15A NCAC 7B Land Use Plan Guidelines and that there are no conflicts with either state or federal law or the State's Coastal Management Program. Staff recommends Certification of the Leland CAMA Land Use Plan.

The Leland Land Use Plan may be viewed at:

http://www.nccoastalmanagement.net/c/document_library/get_file?uuid=9ba33dad-efe4-4ef7-8f35-5766209105ca&groupId=38319

NC Division of Coastal Management
127 Cardinal Drive Ext., Wilmington, NC 28405
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North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

MEMORANDUM

CRC- 14 - 22

To: Coastal Resources Commission
From: Michael Christenbury, Wilmington District Planner
Date: July 11, 2014
Subject: Certification of Amendments to the Onslow County Comprehensive CAMA Land Use Plan

Recommendation:

Certification of Amendments to the Onslow County Comprehensive CAMA Land Use Plan (previously certified by the CRC on January 13, 2010) with the determination that the County has met the substantive requirements outlined in the 15 NCAC 7B Land Use Plan Guidelines and that there are no conflicts with either state or federal law or the State's Coastal Management Program.

Overview

Onslow County is seeking certification of amendments to the Onslow County Comprehensive CAMA Land Use Plan, previously certified by the CRC on January 13, 2010. The County amended the Land Use Plan (LUP) to improve clarity and internal consistency within the plan, to reflect changes in Onslow County's Zoning Ordinance, and to illustrate changes in the boundaries of the County's planning jurisdiction on the Future Land Use Maps.

Onslow County utilizes the LUP during the evaluation of development and zoning proposals, as well as proposed amendments to county's ordinances. In the process of applying the plan to specific questions, county staff identified parts of the plan that needed improvements to correct oversights and to address changes in development patterns, infrastructure, zoning, and jurisdictional boundaries. Accordingly, this amendment has two components; text changes (Attachment 1) and updates to the Future Land Use Maps (Attachment 2).

Onslow County held a duly advertised public hearing and voted unanimously by resolution to adopt the Land Use Plan Amendments. DCM Staff reviewed the amendments and has determined that the County has met the substantive requirements outlined in the 15A NCAC 7B Land Use Plan Guidelines and that there are no conflicts with either state or federal law or the State's Coastal Management Program. Staff recommends Certification of the amendments to the Onslow County Comprehensive CAMA Land Use Plan.

Attachment 1: Text Amendments

Attachment 2: Amendments to the Future Land Use Maps

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ONslow COUNTY
COMPREHENSIVE PLAN
(CAMA Core Land Use Plan)

Adopted by the Onslow County Board of Commissioners: October 19, 2009
Certified by the Coastal Resources Commission: January 13, 2010

Prepared by:
Holland Consulting Planners, Inc.
Wilmington, North Carolina

The preparation of this document was financed in part through a grant provided by the North Carolina Coastal Management Program, through funds provided by the Coastal Zone Management Act of 1972, as amended, which is administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

AMENDED JUNE 2014

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Amendment

The Onslow County Board of Commissioners amended the Onslow County Comprehensive Plan/CAMA Core Land Use Plan on [DATE], and the amended plan was certified by the Coastal Resources Commission on [DATE]. The amended Onslow County future land use map and the amended Holly Ridge future land use map replace the original maps in this document as Map 22 in Appendix II and Map I-2 in Appendix VI respectively. The adopted text is found in Appendix XVII of this document and is referenced by page number. Throughout this document, text that is superseded is indicated with strikethrough font, ~~in this manner~~, and is accompanied with a note on the same page referring to Appendix XVII, where the superseding text is found. Locations in the document where text is inserted have a similar note. The amendments are incorporated in this manner in order to maintain the original pagination and formatting of the document and to highlight the changes. The table below lists pages where text is superseded or where text is inserted and the corresponding page in Appendix XVII where the replacement text or the inserted text can be found.

Page(s) Containing Superseded Text or Inserted Text	Page Number(s) in Appendix XVII of Replacement Text or Text to be Inserted
2 to 3	1
107	1
232-235	1-2
236	2
237	2
239	2
240	2-4
241	4
242	4
243	4-5
244	6
Page I-12, Appendix VI	6

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- (2) To ensure that the development or preservation of the land and water resources of the coastal area proceeds in a manner consistent with the capability of the land and water for development, use, or preservation based on ecological considerations;
- (3) To ensure the orderly and balanced use and preservation of our coastal resources on behalf of the people of North Carolina and the nation;
- (4) To establish policies, guidelines, and standards for:
 - (a) Protection, preservation, and conservation of natural resources including but not limited to water use, scenic vistas, and fish and wildlife; and management of transitional or intensely developed areas and areas especially suited to intensive use or development, as well as areas of significant natural value;
 - (b) The economic development of the coastal area, including but not limited to construction, location and design of industries, port facilities, commercial establishments, and other developments;
 - (c) Recreation and tourist facilities and parklands;
 - (d) Transportation and circulation patterns for the coastal area including major thoroughfares, transportation routes, navigation channels and harbors, and other public utilities and facilities;
 - (e) Preservation and enhancement of the historic, cultural, and scientific aspects of the coastal area;
 - (f) Protection of present common-law and statutory public rights in the lands and waters of the coastal area (Source: N.C.G.S. 113A-102).

(See page 1 of Appendix XVII for superseding text)

~~The data, analysis, goals, objectives, and implementing actions developed to complete the CAMA Land Use Plan (CAMA LUP) will be used to implement those policies formulated through the county's Citizen's Comprehensive Plan adopted in 2003. This document, together with the Comprehensive Plan, will provide consistent and comprehensive guidance for the physical development of the County.~~

Specifically, the CAMA LUP will be used by the North Carolina Coastal Resources Commission (CRC) to determine whether any given development proposal subject to a major CAMA permit is consistent with the County's goals for its future development and for environmental protection (see text box for a description of the CAMA permit system). No CAMA permits shall be issued for any proposal which is inconsistent with any of the policies contained within this plan. The CLUP will be used by the County's Planning Board and Board of Commissioners to determine the appropriateness of zoning classifications at specific sites and other land use decisions. Together, these planning documents will help guide the future land use within Onslow County and its participating municipalities. The policies and implementing actions which are included in this plan apply to the County and its participating municipalities. Demographic and natural systems profiles for the towns of Holly Ridge and Richlands are provided in Appendix VI.

What is the CAMA Permit System?

The CAMA permit system is divided into major and minor permits, based on the size and possible impacts of a project. Major permits are required for activities that require other state or federal permits, for projects that cover more than 20 acres, or for construction covering more than 60,000 square feet. Applications for major permits are reviewed by ten state and four federal agencies before a decision is made, and this process is coordinated by the CRC. General permits are an expedited form of major permit used for routine projects that usually pose little or no threat to the environment. Minor permits are required for projects, such as single-family houses, that do not require major permits or general permits. They are reviewed, issued, and administered to CRC standards by the Onslow County under contract with the Division of Coastal Management (Source: Association of National Estuary Programs).

B. HISTORY OF PLANNING IN ONSLOW COUNTY

Onslow County conducted its initial land use planning document in 1975. Since that time, the County has undergone several land use planning efforts in an attempt to manage growth that has occurred as a result of varying factors. During the 1980s, the Camp Lejeune Marine Base experienced substantial personnel expansion. This shift had a significant impact on the County's economy and land use trends. The County completed a basic land use planning document in 1981, which laid out a basic framework for how the County should develop in light of the mounting development pressures.

In 1991, the County adopted a CAMA Land Use Plan that, to some extent, expanded upon the efforts of the 1981 Land Use Plan. At this point, CAMA land use plans had a primary focus on the protection of Areas of Environmental Concern (AECs), but land use trends and policies related to land use and infrastructure concerns were addressed.

The County's initial comprehensive planning document, "Agenda for Change: Operation Onslow," was adopted by the Onslow County Board of Commissioners in July, 1995. This plan cited specific strategic policies, and assigned implementation tasks for each policy outlined in the document. The

- Airport Commission - 7 members
- Planning Board - 7 members
- Parks and Recreation Advisory Committee - 7 members
- Zoning Board of Adjustment - 5 members and 2 alternates

The following provides a summary of the County's land use-related instruments.

1. Zoning

The purpose of the Onslow County Zoning Ordinance is to "provide for the public health, safety and general welfare, encourage orderly development, protect the quality of the environment, and regulate the location and use of structures and land for commerce, industry and residences in accordance with a Comprehensive Land Use Plan". To accomplish this, the ordinance provides information on the procedures and/or regulations for amendments, appeals, variances, interpretations, zoning and special use permits, enforcement, signs, group developments, and parking. The ordinance also establishes the official "Zoning Map of Onslow County, North Carolina" and zoning districts for the county. Specific requirements are set forth for permitted uses in each district as well as the minimum lot sizes, yard setbacks, and building heights.

Map 17 (see Appendix II) and Table 47 provide the locations and acreage figures for all zoning districts within Onslow County. The largest zoning district within Onslow County is the RA-Rural Agriculture District. This district accounts for almost 70% of the county's jurisdiction. Over 80% of the county's land is zoned for residential purposes, 1.3% is zoned for commercial purposes, 0.2% is zoned for heavy industry, and 17.2% is zoned conservation. At this time, all of Onslow County's planning jurisdiction has been zoned.

(See page 1 of Appendix XVII for superseding text)

Table 47: Onslow County
Zoning Classifications

Districts	Acres	% of Total
RA	235,950	69.9%
R-90	164	0.05%
R-30M	5,735	1.7%
R-30	232	0.1%
R-20	2,974	0.9%
R-15	13,591	4.0%
R-10	3,594	1.1%
R-8M	9,502	2.8%
R-5	880	0.3%
HB	4,218	1.2%

c. Residential

Residential land uses have been divided into four separate land use categories based on associated variable residential densities and mixture of residential/non-residential land uses. These categories include rural residential, medium-density residential, high-density residential, and community growth areas. The location of residential land uses by density was based on existing residential development patterns and constraints to development: floodplains and wetlands, availability of water and sewer services, availability of municipal/urban services, and deterrents, such as location in aircraft flight paths.

(1) Rural Residential

The purpose of the rural residential district is to preserve undeveloped or sparsely developed lands not classified as Agriculture/Forestry that significantly contribute to the recognition or impression of rural character (being "in the country"), or that provide separation of, or well-defined edges or gateways to, high-density areas. In areas classified as rural residential, the County will:

- Promote the retention or development of agriculture, forestry, parks, outdoor recreational, and other predominantly open space land uses;
- Strictly limit new development unrelated to predominantly open space land uses to scattered residential development at low to medium intensities (conforming to those typical of rural areas), and in which open space is the dominant feature;
- Encourage such development to be clustered, or otherwise sited and designed, so as to maximize the amount of open space on the site and maintain the impression of the site as predominantly open space;
- Support/encourage development which will preserve the district's rural character to passers-by – that is, ensure that roads, utilities, and new structures are sited and designed so as to avoid substantial modification to topography, significant vegetation, and other natural features; and
- Ensure that development unrelated to predominantly open space land uses retains and incorporates existing features that define the area's rural character (such as barns, silos, tree lines, farm roads, stream crossings, significant vegetation).

It should be noted that this category includes extensive freshwater wetlands which may impact local development decisions (see Map 7). This land use category primarily includes areas which do not have central sewer service. However, some low-density residential areas may have access to central sewer service. Such areas will be considered traditional and may be reclassified to medium-density residential as development occurs.

Corresponding zoning districts: RA - Agricultural, R-90 - Residential, R-30M - Residential, R-20 - Residential, and R-15 - Residential with central sewer service.

Appropriate uses: Agricultural and forestry preservation/production activities, uses supportive of agricultural/forestry production, low density residential, scattered clustered local commercial activity centers including convenience and service establishments intended to serve the immediate surrounding area. Within the Airport Overlay, uses which directly support the airport.

Inappropriate Uses: Medium to high intensity residential development, uses detrimental to rural residential development, industrial development, large commercial development serving more than the immediate surrounding area, uses detrimental to agricultural/forestry production.

Allowable densities: Without sewer - 2.2 dwelling units per acre; with sewer - 2.9 dwelling units per acre.

Minimum lot size: Without sewer - 20,000 square feet; with sewer - 15,000 square feet.

(2) Medium-Density Residential

The purpose of the medium-density residential land use category is to provide for stable predominantly single-family residential areas which may also accommodate planned multi-family developments and some limited commercial service nodes. Medium-density residential areas should have access to central water and sewer services, be located in areas with moderate or high suitability for development, commercial service nodes, and proximity to community facilities.

Corresponding zoning district: R-15 - Residential and R-10 - Residential

Appropriate uses: Medium density residential, multi-family residential, local commercial activity centers including convenience and service establishments, and public facilities/activities.

Inappropriate uses: Industrial development, large commercial development serving more than the immediate surrounding area, and uses detrimental to medium density residential and multi-family development.

Allowable densities: Single-family - 4 dwelling units per acre; Multi-family - 10 dwelling units per acre.

(3) High-Density Residential

The purpose of the high-density residential land use category is to accommodate high density single-family residential areas and multi-family development. High density residential areas should have access to central water and sewer services, be located in areas with moderate or high suitability for development, be located in proximity to municipal services, commercial service nodes, and proximity to community facilities. All high-density multi-family development should be planned development.

Corresponding zoning district: R-8 - Residential and R-5 - Residential

Appropriate uses: High density residential, multi-family residential, and public facilities/activities.

Inappropriate uses: Industrial development, large commercial development serving more than the immediate surrounding area, and uses detrimental to high density residential and multi-family development.

Allowable densities: 10 dwelling units per acre.

Minimum lot size: 5,000 square feet.

(See pages 1-2 of Appendix XVII for superseding text)

(4) Community Growth Areas

~~Residential use/development will be the principal use of a community growth area. However, these areas will be blended with other land use categories, such as high density residential, to accomplish a "mixing" of uses. Neighborhood activity centers will be an integral part of each community growth area (neighborhood activity centers are discussed as a separate commercial land use category). The primary land use is the community growth area, interspersed with high density residential and neighborhood activity centers. Community growth areas should be developed as pedestrian-oriented, identifiable, and cohesive residential areas that surround, and focus on, Community or Neighborhood Activity Center(s). Each community growth area encompasses land surrounding a~~

Neighborhood Activity Center(s). The community growth areas are delineated on the future land use map (Map 22) with a "boundary" line which may include multiple land uses. In areas classified as Community Growth Areas, the County will:

- Promote the pedestrian-oriented development of a cohesive residential neighborhood surrounding, oriented to, and integrated with Neighborhood Activity Center(s), and containing the following:
 - Low-to-moderate density housing that provides and integrates a variety of housing densities, ownership opportunities, prices, and building types.
 - Public recreation-oriented uses that serve surrounding residents (such as parks, recreation facilities, and community centers), with small (1 to 4 acre) parks distributed throughout the community growth area and mid-sized (5 to 10 acre) neighborhood parks with large playing fields located near the Neighborhood Activity Center(s) and/or in conjunction with schools.
 - Schools and community parks, if needed to meet neighborhood and community needs, located adjacent to the edge of the Activity Center(s) where they are within convenient walking distance of, and with easy non-arterial access from, the Center's core commercial area(s) and transit stop(s).
 - Day care facilities located in conjunction with neighborhood or community parks and schools.
- Encourage the location of moderate-density residential development (4 to 10 du/ac) adjacent to the Neighborhood Activity Center, with developments of decreasing density as distance from the Activity Center increases.
- Ensure that the Community Growth Area is served by a formalized and easily recognizable local street system that:
 - Provides multiple, direct, and interconnected routes converging to the Center's core commercial area (as well as to the area's schools and neighborhood parks), avoiding complex and circuitous routes.

- Allows autos, bicycles, and pedestrians to travel to any location in the Neighborhood area and Center along small local streets, with a minimal of arterial crossings.
 - Does not provide a through-route alternative to arterials.
 - Is designed to provide adequate access for automobiles and service vehicles, yet be pedestrian friendly - that is, streets have sidewalks and travel and parking lanes sufficiently narrow to slow traffic and allow street trees to form a pleasing canopy over the street.
 - Provides the interconnections necessary to foster a sense of neighborhood, avoiding long cul-de-sacs and isolated areas.
- Ensure that development is sited and designed to be functionally and visually compatible with, or provide an orderly transition from, adjacent development.

In yet-to-be-developed areas classified as Community Growth Areas, the County will strictly limit land uses and development design that might preclude the future development of the area into a viable Neighborhood area.

The Community Growth Areas are expected to have a great demand for intensive or high impact development. Detailed analysis of land use at a parcel by parcel scale is desirable. Such "micro" planning should be undertaken with the involvement of the "stakeholders" in each community growth area. While a specific schedule for area plan development is not provided, such plan development should begin immediately following the development of the Onslow County UDO (see I.8, page 174). A specific priority is not recommended for which community growth area plan should be prepared first. That decision will be somewhat subjective but should consider: impacted environmentally sensitive areas, rate of subdivision approvals, rate of rezoning requests, rate of building permits for new construction, and proposed public facilities projects which will impact/stimulate growth. Fiscal and staff constraints will not permit simultaneous preparation of all the area plans.

Corresponding zoning districts: ~~R-15 - Residential, R-10 - Residential, R-8 - Residential, R-5 - Residential, CB - Community Business, and HB - Highway Business when proposed along corridors designated as highways or thoroughfares.~~

Appropriate uses: ~~Medium density residential, high density residential, community services, recreation, conservation, and small-scale, widely-scattered limited convenience commercial services which support adjacent residential development.~~

Inappropriate uses: ~~Large-scale, non-local commercial and professional services, light and heavy industrial development, military activities, and, in general, any use detrimental to residential growth and stability.~~

Allowable densities: ~~2 to 10 dwelling units per acre.~~

Minimum lot size: ~~5,000 square feet to 20,000 square feet. See Table 58, Future Land Use Plan Compatibility Matrix.~~

d. *Commercial*

(1) Community Growth Activity Center

Community Growth Activity Centers are intended to be pedestrian-oriented, transit supportive, and act as a focal point for activity. They differ from automobile dependent Local and Area-Wide Community Activity Centers in that they involve a reduced retail and service trade area and scale (community-wide rather than area-wide, convenience shopping rather than comparison shopping), a mix of uses emphasizing residential uses, and thus a reduced intensity of development and activity. In areas classified as Community Growth Activity Center, the County will:

- Promote the pedestrian-oriented development of a core commercial area making up 10-40% of the Community Growth Area's land area, and containing:
 - Moderate-intensity retail and service development that principally serves the convenience retail and service needs of workers and residents of the Center and the surrounding Community Growth Center (such as convenience retail and services, retail shops, supermarkets, drugstores, professional offices, restaurants, and cinemas, health clubs, and other entertainment uses).

- Small-scale, employment-intensive, office/service development (that is, development involving a high employee per acre ratio).
- Moderately high-density residential development (≥ 10 du/ac) that is principally located on the upper floors of buildings housing lower floor commercial uses.
- Public greens and plazas, and civic and community service facilities and uses serving workers and residents of the Center and surrounding Community Growth Areas (such as community centers, clinics, post offices, libraries, governmental offices, police and fire stations, day care facilities, schools, and churches), that are centrally located and designed to serve as a focal point for community activities and add a strong sense of identity to the Center and the surrounding neighborhood.
- Public recreation-oriented uses that serve surrounding residents (such as parks, recreation facilities, and community centers), with small (1 to 4 acre) parks distributed throughout the residential area and mid-sized (5 to 10 acre) neighborhood parks with large playing fields located on the edge of the Center and/or in conjunction with schools.
- Day care facilities located adjacent to the core commercial area, recreation facilities, and schools.

(See page 2 of Appendix XVII for superseding text)

~~Corresponding zoning districts: R-10 - Residential, R-15 - Residential, R-5 - Residential, R-8 - Residential, CB - Community Business District, and HB - Highway Business when proposed along corridors designated as highways or thoroughfares.~~

Appropriate uses: Medium to high density residential, mix uses (i.e., residential over commercial), services, offices, commercial, public-semi-public, recreational, and other uses limited to the service of the surrounding Community Growth Center.

Inappropriate uses: Low-density residential, land uses that rely extensively on autos or trucks (such as auto sales and repair, free-standing car washes, mini-storage facilities, motels, distribution centers), industrial uses, and any other land uses that might preclude development of high-intensity land uses (such as low-density residential uses).

Allowable densities: Up to 10 dwelling units per acre.

Minimum lot size: None.

(2) Local Commercial Activity Center

Local commercial activity centers are located where adequate auto access from an arterial exists or is planned, and so as to maximize accessibility within the Center and from the surrounding areas and minimize the need to use arterials. Centers are generally dispersed to avoid overlapping market areas for basic retail goods.

A local commercial activity center must be big enough to accommodate the basic mix of uses necessary to serve as a focal point for local community activities and retail trade. But it must be small enough so that all parts of the Center are internally connected by pedestrian and auto access, without requiring use of an arterial road. Local commercial activity centers incorporate existing development that is, or can be redeveloped to become, consistent with the Center's compact and pedestrian-oriented design. In areas classified as Local Commercial Activity Centers, the County will:

- Promote the pedestrian-oriented and transit-supportive development of a core commercial area.
- Ensure that buildings are sited and designed to create a pedestrian-friendly environment – that is, have primary entrances oriented toward streets and public greens or plazas (rather than parking areas).
- Ensure that economically viable existing developments incorporated in the Center are integrated into the form and function of the Center (by providing for enhancement of their intensity, pedestrian orientation, and interconnections with surrounding areas while respecting their on-going operations, basic access requirements, and existing building design).
- Provides multiple, direct, and interconnected routes converging to the transit stop and core commercial area (as well as to the Center's schools and neighborhood parks).
- Surround the commercial core with residential development which decreases in density as it moves away from the core.

(See page 2 of Appendix XVII for superseding text)

Corresponding zoning districts: ~~R-5 Residential, R-8 Residential, CB Community Business District, and HB - Highway Business when proposed along corridors designated as highways or thoroughfares. NOTE: The existing Onslow County zoning districts do not lend themselves to support of the local commercial activity center.~~

Appropriate uses: High-intensity retail and service development that serves the retail and service needs of workers and residents of the Center and nearby neighborhoods (such as convenience retail and services, retail shops, major supermarkets, department stores, professional offices, restaurants, small hotels, and cinemas, health clubs, and other entertainment uses); employment-intensive office and light industrial development; high-density residential development that is principally located on the upper floors of buildings housing lower floor commercial uses; public greens and plazas, and civic and community service facilities; and uses serving workers and residents of the Center and nearby neighborhoods (such as community centers, hospitals and clinics, post offices, libraries, governmental offices, police and fire stations, day care facilities, schools, and churches), that are centrally located and designed to serve as a focal point for community activities and add a strong sense of identity to the Center and the surrounding neighborhood areas.

Inappropriate uses: Uses that rely extensively on autos or trucks (such as auto sales and repair, free-standing car washes, mini-storage facilities, motels, distribution centers), industrial uses with very low employment intensities (i.e., involving a low employee per acre ratio), any other land uses that might preclude development of the Center as a concentration of high-intensity land uses (such as low-density residential uses), and heavy industrial uses.

Allowable densities: Up to 10 dwelling units per acre.

Minimum lot size: None.

(3) Area-Wide Commercial Activity Center

The Area-Wide Commercial Activity Center includes areas that are developed, or are highly suitable to being developed, for those land uses that are auto-oriented. Such uses include: those generally travel-commercial land uses that rely substantially on auto travel to generate business; those generally light industrial, warehousing, and distribution land uses that almost exclusively rely on direct access to major inner-city arterials or rail lines to ship supplies and products; and those generally industrial uses that have a very low employees-per-acre ratio.

Area-Wide Commercial Activity Centers are principally located on major inter-city arterials, or on major arterials near their intersection with a major inter-city arterial. Highway-oriented centers are sufficiently spaced from Community and Local Activity Centers to limit competing commercial uses and traffic impacts that might be incompatible to the viability and compact character of Activity Centers. In Area-Wide Commercial Activity Centers, the County will:

- Ensure that development is sited and designed to avoid or minimize direct access to adjacent major arterials, and otherwise to minimize conflict points, congestion, and other potential threats to traffic safety on major arterials.

- Be buffered from medium and low density residential development.

(See page 2 of Appendix XVII for superseding text)

Corresponding zoning districts: ~~HB Highway Business District.~~

Appropriate uses: Commercial land uses related to the sales and service of motor vehicles (such as auto sales and repair, gas stations, car washes, auto parts stores), commercial land uses related to retail or wholesale trade and storage services that generally involve expansive storage of consumer goods or property and their frequent pickup and shipping by motor vehicle (such as lumber yards, building supply stores, mini-storage facilities), industrial land uses related to major manufacturing, distribution, and storage facilities that rely substantially on vehicular access to major highways for frequent shipping and temporary storage of supplies and products, light industrial uses, and travel-commercial uses whose business predominantly caters to, and relies substantially on, customers traveling in automobiles (such as motels, drive-thru restaurants).

Inappropriate uses: Residential use, any uses which may preclude the effective development of an area-wide commercial activity center, heavy industrial uses, and any uses disruptive to effective vehicular transportation.

Allowable densities: None.

Minimum lot size: None.

e. *Industrial*

Industrial areas will be located in scattered locations which encourage industrial park design. Future industrial development should be primarily located: along major transportation routes, adjacent to water and sewer services, in areas environmentally suitable for development, and near municipalities. Industrial land uses that are adjacent to residential land uses should be buffered with conservation/open space land uses. Buffering has been provided to help prevent land use conflicts between industrial development and neighboring land uses. The width of the buffer should be based on the type of industry and its potential to create compatibility problems. It is not the County's intention to acquire land to be utilized as buffer areas, but rather to encourage industries to incorporate adequate buffers into their development plans.

Corresponding zoning district: L-IN, Light Industrial and H-IN, Heavy Industrial

Appropriate uses: Industrial uses which are not detrimental to Onslow County's health, safety, or welfare.

Inappropriate uses: Non-industrial land uses and all industrial uses which will be detrimental to Onslow County's health, safety, or welfare.

Allowable density: None

Maximum height: None.

Minimum lot size: None.

f. *Military*

The Military land use district includes military installations under federal authority within the County's planning jurisdiction. Onslow County will limit activities/land uses to those which are conducted by the military. If property is sold/abandoned by the military, the land use plan will be amended to consider private or non-military public use of the property.

Corresponding zoning district: MR, Military Reservation

Appropriate uses: As determined by the military.

Inappropriate uses: As determined by the military.

Allowable density: As determined by the military.

Maximum height: As determined by the military.

Minimum lot size: As determined by the military.

(See pages 2-4 of Appendix XVII for inserted text)

(See page 4 of Appendix XVII for superseding text)
~~g.~~ *Urban Fringe*

The Urban Fringe boundary delineates an area that is anticipated to primarily become a part of the continuous City of Jacksonville urban area during the planning period. This is an area delineation and not a separate land use category. The urban fringe area includes lands that will not be considered rural, are near the City of Jacksonville corporate limits and entry corridors, and include the following:

- Lands containing existing residential, commercial, industrial, office and institutional uses that are served by the type and density of public facilities and the levels of public services generally supporting urban development (public or community water supply and sewerage, urban roads, transit, urban stormwater management, door-to-door solid waste collection, police stations, etc.), or that are likely to be so served within the planning period;
- Undeveloped lands, underdeveloped lands, or sparsely developed lands having physical, locational, and other characteristics that make them likely to be served within the planning period by the type and density of public facilities and levels of public services generally supporting urban development, and that otherwise make them highly suitable for development of urban land uses at urban intensities.

Within the Urban Fringe boundary, the County will:

- Promote in-fill development;
- Ensure that development occurs at locations where, and times when, it can be efficiently served by those public facilities and services appropriate to urban development – that is, where and when such facilities and services can be provided to the development site concurrent with the development, and can serve the development without overloading or adversely impacting the capacity of the facility or service system to serve existing development;
- Ensure that development is designed and constructed to meet appropriate urban standards so it can be efficiently incorporated into the adjacent municipality;
- Ensure that development is sited and designed to maximize its compatibility with, and minimize its potential adverse impacts on, adjacent development;

- Promote development that is sited and designed to accommodate transit service, to orient buildings and activity areas to nearby transit routes, to encourage pedestrian access and mobility, and otherwise to maximize use of existing or potential transit facilities by its occupants and users.

- Ensure the close coordination with and support of policies P.8 and P.73, and implementing actions I.48, I.52, I.53, I.54, I.55, I.56, I.67, I.68, and I.118 by all land use related decisions and land uses located within the urban fringe area.

(See page 4 of Appendix XVII for superseding text)

h. Land Use Compatibility Matrix

Each of the land use categories is supported by zoning districts contained in the County's existing Zoning Ordinance. Table 58 provides a comparison of the land use categories and the County's existing zoning districts. The reader is cautioned that this is an "overview" and detailed analysis must be based on careful review of the County's Zoning Ordinance. *Refer to Appendix VI for land use compatibility matrices for the participating municipalities of Holly Ridge and Richlands.*

Section VI. Plan for the Future

(See pages 4-5 of Appendix XVII for superseding Table 58)

Table 58. Future Land Use Plan Compatibility Matrix – Onslow County
Consistency Review of Future Land Use Map Designations and Existing Zoning Districts

Zoning Districts	RA	R-90	R-30M	R-30	R-20	R-15	R-10	R-8M	R-5	HB	CB	H-IN	L-IN	MR	COM	
Min.-Lot-Size (SF)	Note-1	Note-1	Note-1	Note-1	Note-1	Note-1	Note-1	5000	5000	None	None	None	None	Note-2	Note-3	
Designations																
Area-wide Commercial Activity-Center/Commercial	x	x	x	x	x	x	x	x	x	g	x	x	x	x		x
Community-Growth Activity Center	c	c	c	c	c	c	c	x	x	x	g	x	x	x		x
Local-Commercial-Activity Center	c	c	c	c	c	c	c	c	c	x	g	x	x	x		x
Community-Growth Area	x	x	x	x	x	x	x	c	c	x	c	x	x	x		c
Industrial	x	x	x	x	x	x	x	x	x	x	x	x	g	g		x
Military	x	x	x	x	x	x	x	x	x	x	x	x	x	g		x
Low-Density-Residential	g	g	g	g	g	c	x	x	x	x	x	x	x	x		c
Medium-Density-Residential	x	x	x	x	x	g	g	x	x	x	x	x	x	x		c
High-Density-Residential	x	x	x	x	x	x	x	g	g	x	x	x	x	x		x
Conservation	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x

g = generally consistent; c = conditionally consistent; x = inconsistent

Note 1: Without sewer - 20,000 square feet; with sewer - 15,000 square feet.

Note 2: As determined by the military.

Note 3: To be determined by special-use permit.

3. Future Land Use Acreages

The following table summarizes the future land use acreages by ONWASA sewer service area for Onslow County (see Appendix VI for future land use tables for the participating municipalities of Holly Ridge and Richlands). The future land use plan map depicts areas for development which are generally consistent with the land suitability analysis (Maps 16 and 23). The future land use map is based on the existing and future land suitability analysis maps and no known conflicts exist between the future land use map and the land suitability analysis maps. Transitional buffers are encouraged between areas of conflicting land use. All future land use acreages are based on suitability of land for development and not forecast market demand for future acreages. The land uses in each of these areas have been coordinated with the County's zoning classifications. The zoning classifications specify allowable uses for each land use category. A complete list of the land use categories utilized on the future land use map, the zoning classifications that should be included in each category, and the assumed development patterns that are to occur in the County are provided in Section VI.E.2. These categories are intrinsically tied to the policy section of the plan.

(See page 6 of Appendix XVII for inserted text)

G. FUTURE LAND USE

The future land use is depicted on Map I-2. The following table provides approximate future land use acreages for the entire planning jurisdiction of Holly Ridge. Refer to Section VI.E of this plan for discussion of future land use.

(See page 6 of Appendix XVII for inserted text)

Table I-17. Town of Holly Ridge
Future Land Use Acreages

Land Use	Town Limits		ETJ		Total	
	Acres	% of Total	Acres	% of Total	Acres	% of Total
Commercial	119.5	6.3%	176.1	4.9%	295.6	5.4%
Conservation	96.9	5.1%	644.0	17.8%	740.9	13.4%
High-Density Residential	146.4	7.7%	0.2	0.0%	146.6	2.7%
Low-Density Residential	0.4	0.0%	854.0	23.6%	854.3	15.5%
Medium-Density Residential	1,298.0	68.5%	1,559.5	43.1%	2,857.4	51.8%
Industrial	218.4	11.5%	354.4	9.8%	572.8	10.4%
Office and Institutional	15.5	0.8%	32.1	0.9%	47.7	0.9%
Total	1,895.1	100.0%	3,620.2	100.0%	5,515.3	100.0%

Source: Holland Consulting Planners, Inc.

H. FUTURE LAND USE COMPATIBILITY MATRIX

Each of the land use categories is supported by zoning districts contained in the Town's existing Zoning Ordinance. Table I-18 provides a comparison of the land use categories and the Town's existing zoning districts. The reader is cautioned that this is an "overview" and detailed analysis must be based on careful review of the Town's Zoning Ordinance.

Appendix XVII

Text adopted on [DATE] by the Onslow County Board of Commissioners and certified by the Coastal Resources Commission on [DATE] to replace text shown in strikethrough font or to be inserted on the pages indicated.

Pages 2-3

The data, analysis, goals, objectives, and implementing actions developed to complete the CAMA Land Use Plan (CAMA LUP) will be used to implement those policies formulated through the county's Citizen's Comprehensive Plan adopted in 2003. The CAMA LUP will provide consistent and comprehensive guidance for the physical development of the County.

Specifically, the CAMA LUP will be used by the North Carolina Coastal Resources Commission (CRC) to determine whether any given development proposal subject to a major CAMA permit is consistent with the County's goals for its future development and for environmental protection (see text box for a description of the CAMA permit system). No CAMA permits shall be issued for any proposal which is inconsistent with any of the policies contained within this plan. At the same time, the CAMA LUP will be used by the County's Planning Board and Board of Commissioners to determine the appropriateness of zoning classifications at specific sites and other land use decisions. The CAMA LUP, as a comprehensive planning document, will help guide the future land use within Onslow County and its participating municipalities. The policies and implementing actions which are included in this plan apply to the County and its participating municipalities. Demographic and natural systems profiles for the towns of Holly Ridge and Richlands are provided in Appendix VI.

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R-30M 5,967 1.8

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4) Community Growth

The purpose of the community growth land use category is to accommodate low-to-medium density housing that is integrated into other residential areas that surround and focus on one or more Community Growth Activity Centers. Areas in the community growth category are located entirely within the Community Growth Boundary and are generally peripheral to other residential areas. Consistent with growth area plans to be prepared for each area circumscribed by the Community Growth Boundary, areas in the community growth category should generally follow a pattern of decreasing residential density as distance from the Community Growth Activity Center increases; however, areas that are particularly well-connected to the pedestrian and bicycle transportation network may be developed at higher densities.

Corresponding zoning districts: R-20 - Residential, R-15 - Residential, R-10 - Residential when well-connected to pedestrian and bicycle transportation network.

Appropriate uses: Low-to-medium density residential, community services, recreation, conservation, and small-scale, widely-scattered limited convenience commercial services which support adjacent residential development.

Inappropriate uses: Large-scale, non-local commercial and professional services, light and heavy industrial development, military activities, and, in general, any use detrimental to residential growth and stability.

Allowable densities: 2 to 4 dwelling units per acre.

Minimum lot size: 10,000 square feet to 20,000 square feet.

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Corresponding zoning districts: R-10 - Residential, R-15 - Residential, R-5 - Residential, R-8M - Residential, CB - Community Business District, HB - Highway Business when proposed along corridors designated as highways or thoroughfares, and O-I Office and Institutional.

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Corresponding zoning districts: R-5 Residential, R-8M Residential, CB Community Business District, HB - Highway Business when proposed along corridors designated as highways or thoroughfares, and O-I Office and Institutional. NOTE: The existing Onslow County zoning districts do not lend themselves to support of the local commercial activity center.

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Corresponding zoning districts: HB Highway Business, O-I Office and Institutional when part of a campus or corporate park.

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g) Community Growth Area Boundary

The Community Growth Area Boundary delineates areas that will consist principally of residential use/development but will also be blended with other types of land use to accomplish a "mixing" of uses. This is an area delineation and not a separate land use category. Each area that is circumscribed by the Community Growth Boundary, as shown on the future land use map (Map 22), is referred to in this section as a "community growth area".

Community Growth Activity Centers, which are discussed as a separate commercial land use category, will be an integral part of community growth areas. Community growth areas should be developed having pedestrian-oriented, identifiable, and cohesive residential areas that surround and focus on one or more Community Growth Activity Centers. Within the Community Growth Area Boundary, the County will:

- Promote the pedestrian-oriented development of a cohesive residential neighborhood surrounding, oriented to, and integrated with Community Growth Activity Center(s), and containing the following:
 - Low-to-moderate density housing that provides and integrates a variety of housing densities, ownership opportunities, prices, and building types.
 - Public recreation-oriented uses that serve surrounding residents (such as parks, recreation facilities, and community centers), with small (1 to 4 acre) parks distributed throughout the community growth area and mid-sized (5 to 10 acre) neighborhood parks with large playing fields located near the Community Growth Activity Center(s) and/or in conjunction with schools.
 - Schools and community parks, if needed to meet neighborhood and community needs, located adjacent to the edge of the Community Growth Activity Center(s) where they are within convenient walking distance of, and with easy non-arterial access from, the Center's core commercial area(s) and transit stop(s).
 - Day care facilities located in conjunction with neighborhood or community parks and schools.
- Encourage the location of moderate-density residential development (4 to 10 du/ac) adjacent to the Neighborhood Activity Center, with developments of decreasing density as distance from the Activity Center increases.
- Ensure that the community growth area is served by a formalized and easily recognizable local street system that:
 - Provides multiple, direct, and interconnected routes converging to the Center's core commercial area (as well as to the area's schools and neighborhood parks), avoiding complex and circuitous routes.
 - Allows autos, bicycles, and pedestrians to travel to any location in the Neighborhood area and Center along small local streets, with a minimal of arterial crossings.
 - Does not provide a through-route alternative to arterials.
 - Is designed to provide adequate access for automobiles and service vehicles, yet be pedestrian friendly - that is, streets have sidewalks and travel and parking lanes sufficiently narrow to slow traffic and allow street trees to form a pleasing canopy over the street.
 - Provides the interconnections necessary to foster a sense of neighborhood, avoiding long cul-de-sacs and isolated areas.
- Ensure that development is sited and designed to be functionally and visually compatible with, or provide an orderly transition from, adjacent development.

In yet-to-be-developed areas within the Community Growth Area Boundary, the County will strictly limit land uses and development design that might preclude the future development of the area into a viable Neighborhood area.

Community growth areas are expected to have a great demand for intensive or high impact development. Detailed analysis of land use at a parcel by parcel scale is desirable. Such "micro" planning should be undertaken with the involvement of the "stakeholders" in each community growth area. While a specific schedule for area plan development is not provided, such plan development should begin immediately following the development of the Onslow County UDO (see I.8, page 174). A specific priority is not recommended for which community growth area plan should be prepared first. That decision will be somewhat subjective but should consider: impacted environmentally sensitive areas, rate of subdivision approvals, rate of rezoning requests, rate of building permits for new construction, and proposed public facilities projects which will impact/stimulate growth. Fiscal and staff constraints will not permit simultaneous preparation of all the area plans.

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- h. Urban Fringe

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- i. Land Use Compatibility Matrix

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See table on the following page

Land Use Category	Zoning District														
	RA	R-90	R-30M	R-20	R-15	R-10	R-8M	R-5	HB	CB	O-I	H-IN	L-IN	MR	CON
Area-wide Commercial Activity Center	x	x	x	x	x	x	x	x	g	x	c	x	x	x	x
Community Growth Activity Center	x	x	x	x	g	g	g	g	c	g	g	x	x	x	x
Local Commercial Activity Center	x	x	x	x	x	x	g	g	c	g	g	x	x	x	x
Community Growth	x	x	x	g	g	c	x	x	x	x	x	x	x	x	c
Industrial	x	x	x	x	x	x	x	x	x	x	x	g	g	x	x
Military	x	x	x	x	x	x	x	x	x	x	x	x	x	g	x
Low-Density Residential	g	g	g	g	c	x	x	x	x	x	x	x	x	x	c
Medium-Density Residential	x	x	x	x	g	g	x	x	x	x	x	x	x	x	c
High-Density Residential	x	x	x	x	x	x	g	g	x	x	x	x	x	x	x
Conservation	x	x	x	x	x	x	x	x	x	x	x	x	x	x	g
Agriculture/Forestry	g	g	x	x	x	x	x	x	x	x	x	x	x	x	c

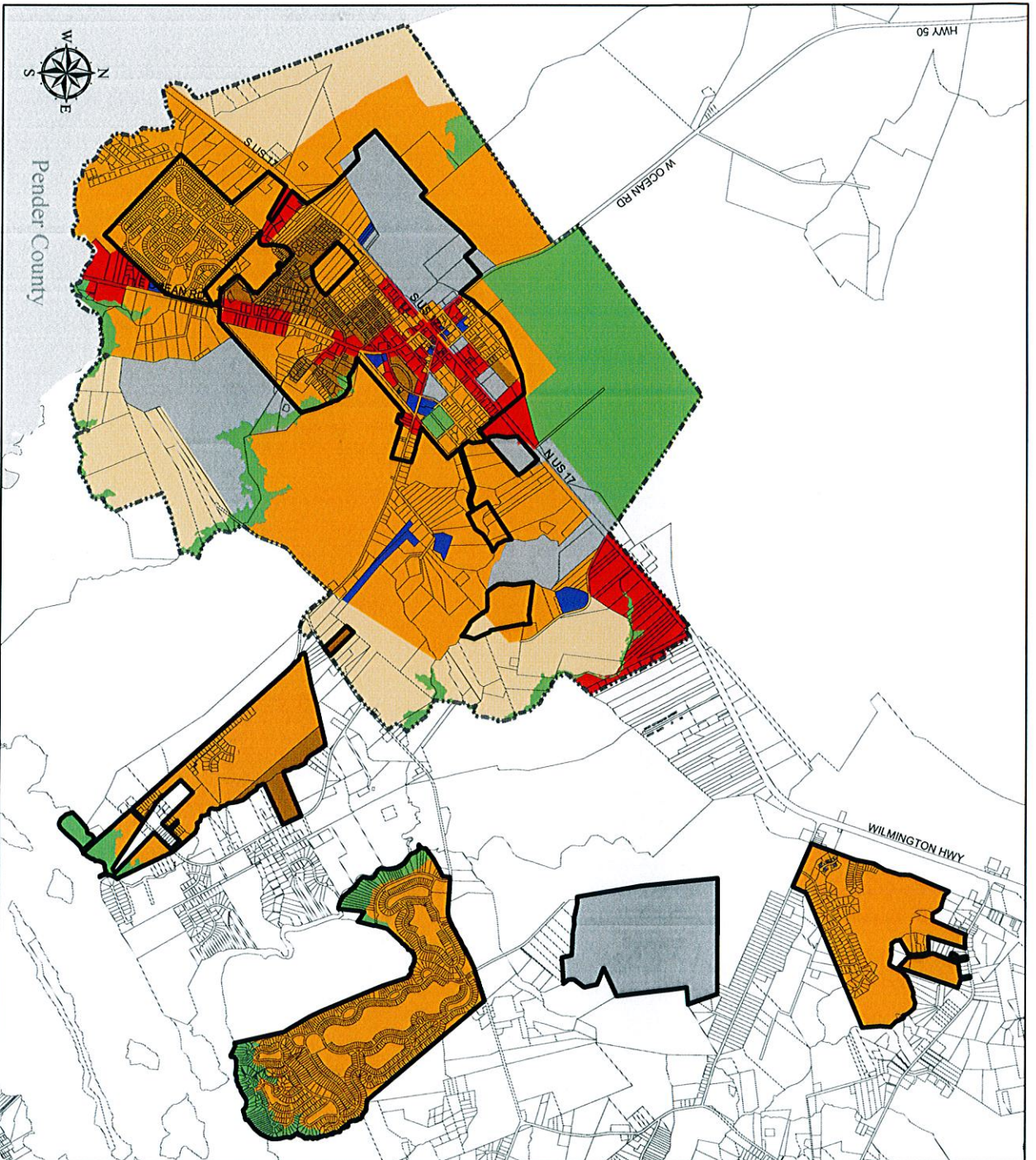
g = generally consistent; c = conditionally consistent; x = inconsistent

Page 244

Table 59 does not reflect amendments to the future land use map.

Page I-2, Appendix VI

Table I-17 does not reflect amendments to the future land use map.



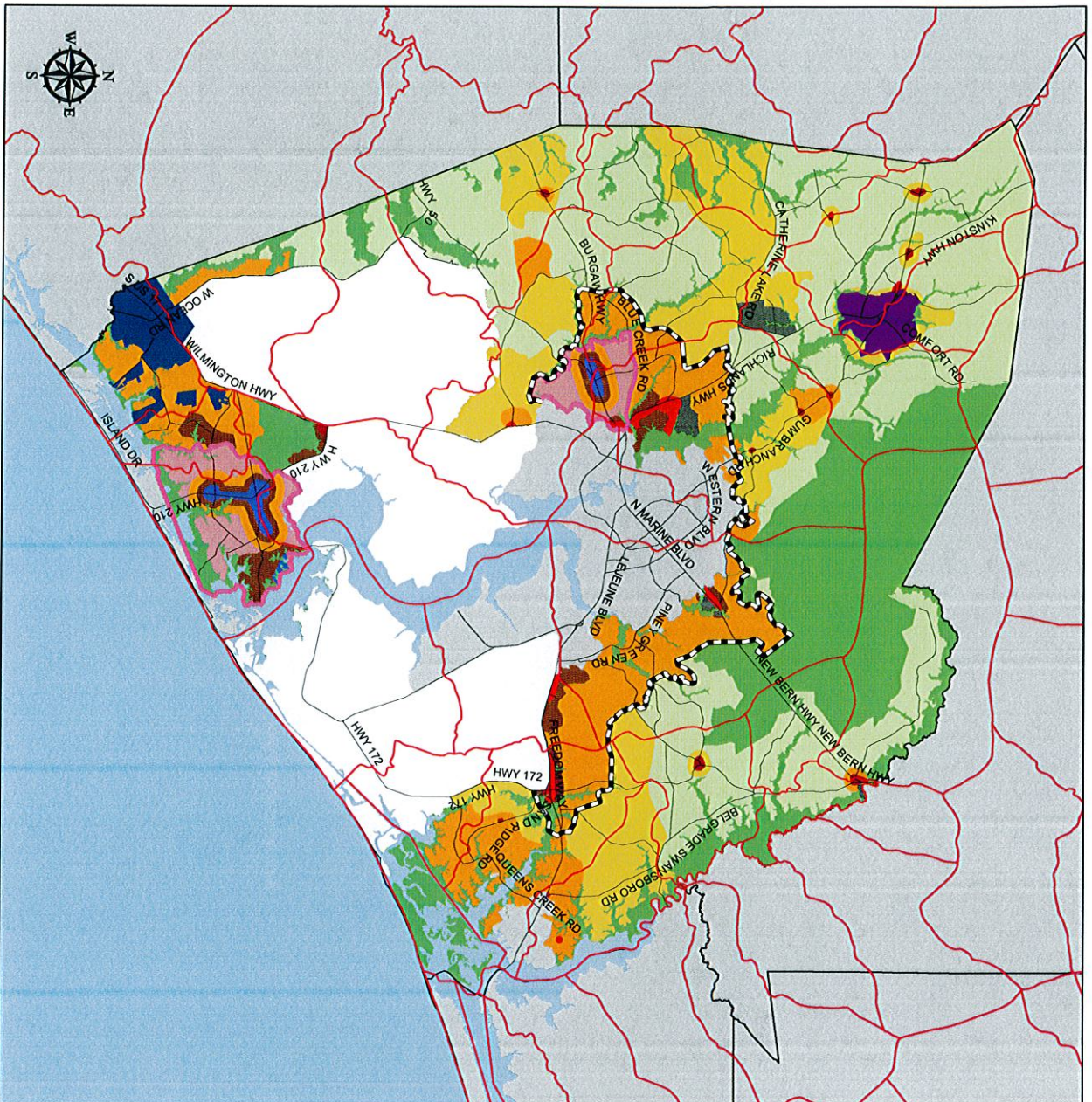
MAP I-2
**Onslow County
 Land Use Plan**
Holly Ridge Future Land Use

- Legend**
- Holly Ridge Town Limits
 - Parcel Boundaries
 - Future Land Use Category
 - Commercial
 - Industrial
 - Office & Institutional
 - Conservation
 - Low Density Residential
 - Medium Density Residential
 - High Density Residential

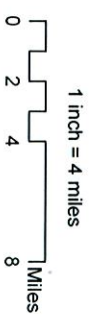


This map incorporates amendments adopted by the Onslow County Board of Commissioners on June 16, 2014. The original map, which was adopted by the Onslow County Board of Commissioners on October 19, 2009, was prepared by Holland Consulting Planners, Inc. and was financed in part through a grant provided by the North Carolina Coastal Management Program through funds provided by the Coastal Zone Management Act of 1972, as amended, which is administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

MAP 22 Onslow County Future Land Use Map



- Legend**
- 14 Digit Hydrologic Units
 - Urban Fringe
 - Community Growth Area Boundary
 - Hydrology
- Future Land Use Category**
- Agriculture/Forestry
 - Area-Wide Commercial Activity Center
 - Community Growth Activity Center
 - Conservation
 - High-Density Residential
 - Community Growth
 - Holly Ridge (See Map 1-2)
 - Industrial
 - Local Commercial Activity Center
 - Medium-Density Residential
 - Military
 - Non Participating Jurisdiction
 - Richlands (See Map 11-2)
 - Rural Residential



This map incorporates amendments adopted by the Onslow County Board of Commissioners on June 16, 2014. The original map, which was adopted by the Onslow County Board of Commissioners on October 19, 2009, was prepared by Holland Consulting Planners, Inc. and was financed in part through a grant provided by the North Carolina Coastal Management Program, through funds provided by the Coastal Zone Management Act of 1972, as amended, which is administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

CRC-14-23

July 15, 2014

MEMORANDUM

TO: Coastal Resources Commission

FROM: Mike Lopazanski

SUBJECT: Inlet Management Study Draft Priorities and Implementation

The CRC began its inlet management strategy discussions while considering the creation of a Cape Fear River AEC in December 2013 in accordance with Session Law 2012-202. At the conclusion of that study, the Commission determined that local governments adjacent to other inlets may have to contend with similar issues. The Commission decided to undertake a comprehensive review of inlet-related issues to more proactively address the issues confronted in these dynamic areas.

This initiative has centered on soliciting stakeholder input, beginning with a panel discussion where several regional beach project managers, engineers, dredging industry representatives, the US Army Corps of Engineers and environmental advocates provided their views and concerns regarding inlet management, including in-water issues (dredging), erosion control alternatives, and development standards on adjacent lands. DCM also arranged a series of regional forums to elicit from stakeholders a range of management options and regulatory reforms related to inlet management. At these regional meetings, local governments and other entities adjacent to inlets were invited to present their specific concerns related to the inlet(s) within their jurisdiction. Written comments were also accepted from the general public.

Stakeholder input was summarized and categorized at the May 2014 CRC meeting. After discussion, the Commission prioritized inlet management topics and directed staff to consider the following inlet management priorities:

Short Term Priorities

Dredging Depths and Sediment Criteria Rules
Erosion Rate Calculations for Inlet Hazard Areas
Emergency Permitting/Beach Bulldozing
Static Vegetation Lines
Stockpiling of Sand

Long Term Priorities

Beneficial Use of Dredged Material
Inlet Management Plans
Funding Sources and Partnerships
Dredging Windows/Moratoria
Monitoring Conditions

Staff has further summarized the inlet management topics within the short and long-term categories in the attached document, providing the relevant rules or laws associated with each issue, as well as possible implementation actions for CRC consideration. This document will serve as the final draft DCM findings and recommendations according your Inlet Management Study schedule. The next step will be further prioritization of actions the Commission can take in the near-term and direction for DCM staff. According to the Study schedule, proposed actions will be distributed for public comment and a final report will be submitted to the Governor and Legislature by the end of the year.

At the upcoming meeting in Beaufort, DCM staff will discuss initial steps and recommendations for addressing the priorities identified in the draft report. These initial actions include:

- Completing the Science Panel technical study of Inlet Hazard Areas.
- Establishing a Deep Draft/Port/Navigation-Based Inlet Management Area of Environmental Concern.
- Meeting with the US Army Corps of Engineers regarding beach bulldozing permitting procedures.
- Amending the definition of “imminently threatened” and its application in CRC rules.
- Developing policy alternatives to the existing static vegetation line and static line exception rules.

Staff looks forward to discussing these recommendations and other policy alternatives at our upcoming meeting in Beaufort.

N.C. Coastal Resources Commission Inlet Management Study Preliminary Findings and Policy Options

At its meeting on May 14, 2014 in Atlantic Beach, the N.C. Coastal Resources Commission (CRC) heard a summary of stakeholder concerns related to inlet management. From the issues presented, the CRC developed a list of short-term priorities and long-term priorities to explore. The list of priorities is below, and specific public comments, discussion, implementation, and relevant laws or rules follow for each topic. For the specific public comments that are listed, (F) indicates Federal authority, (S) indicates State authority, and (F/S) indicates both Federal and State authority.

Short-Term Priorities

- Dredging Depths and Sediment Criteria Rules
- Erosion Rate Calculations for Inlet Hazard Areas
- Emergency Permitting
- Static Vegetation Lines
- Stockpiling of Sand
- Extend Permit Expiration Period for Long-Term Beach and Inlet Projects

Long-Term Priorities

- Beneficial Use of Dredged Materials
- Inlet Management Plans
- Funding Sources and Partnerships
- Dredging Windows / Moratoria
- Monitoring Conditions

DCM Proposed Priority Action Items:

- Complete Science Panel technical study of Inlet Hazard Areas.
- Establish Deep Draft, Port or Navigation Inlet Hazard Areas with associated use standards.
- Meet with US Army Corps of Engineers regarding beach bulldozing practices.
- Amend definition of “imminently threatened” and its application in CRC rules.
- Develop alternative approaches to static vegetation line and static line exception rules.

Short-Term Priorities

Topic: Dredging Depths and Sediment Criteria Rules

Summary of Public Comments:

- Dredging projects should evaluate the optimal depth of a channel, not just the “authorized depth.” Authorized depths should be increased. **(F)**
- It’s difficult for the federal agencies to alter authorized channel dimensions, but obtaining permits at the local level may allow for more flexibility. **(F/S)**
- Increasing the depth of shallow-draft inlets would increase the tidal prism, change the flood shoal and ebb shoal geometry and orientations, and likely result in increased erosion on adjacent shorelines. **(F/S)**
- The sediment criteria rules should be reevaluated. If the sand came from the beach, it should be allowed to be placed back on the beach. **(S)**

Discussion:

Congress authorizes federal navigation channels by specific depth and width, so any proposed changes in dimensions to a federal channel would require an act of Congress. For non-federal channels, if an applicant wanted to dredge to a depth deeper than the previously permitted depth, he could apply for permits from the N.C. Division of Coastal Management (DCM) and the U.S. Army Corps of Engineers (USACE) to do so. As noted above, obtaining permits at the local level may allow for more flexibility in dredging depths.

Characterization of the recipient beach is not required for the placement of sediment directly from and completely confined to a maintained navigation channel or associated sediment basins within the active nearshore, beach, or inlet shoal system. Sediment dredged from these areas is considered beach compatible if the average percentage by weight of fine-grained sediment is less than 10%. Revisions to the sediment criteria rules in 2013 and 2014 have further reduced the burden on project applicants for sampling and analysis. Costs for applicants have been reduced while maintaining adequate sampling to ensure that only beach-compatible sediment is placed on the beach. In 2013, a rule change was implemented to allow two sets of sampling data, with one dredging event in between, from maintained navigation channels, sediment deposition basins within the active nearshore, beach, or inlet shoal system, or Offshore Dredged Material Disposal Sites (ODMDS) to be used to characterize material for subsequent nourishment events from those areas if the sampling results were found to be beach-compatible. Another rule change, which will become effective on August 1, 2014, will require fewer vibracores to be collected in small offshore borrow areas and allow for slightly more granular (coarse sand) sediment to be placed on the beach. The 2014 rule change will also remove 15A NCAC 07H.0312(4)(a), which states that the “sediment excavation depth from a maintained navigation channel shall not exceed the permitted dredge depth of the channel.”

Dredging depths cannot exceed the maximum depth of recovered core samples if the dredged material is going to be placed on the beach (15A NCAC 07H.0312(4)(b)). For example, if sediment cores are recovered that reach 8 feet below the bottom of the inlet, the inlet cannot be

dredged to 12 feet deep. The purpose of this rule is to ensure that non-beach-compatible sediment is not placed on the beach. If the core sample does not reach the proposed dredge depth, there is no assurance that the sediment will be beach-compatible. The sediment sample needs to be physically recovered to a depth meeting or exceeding the dredge depth so the sediment can be analyzed. Some have argued that it is not always easy to get deep enough cores in inlets due to tides, currents, waves, shoals, and well-sorted sands on the bottom. DCM maintains that without getting cores as deep as the proposed dredge depth, the dredged material below the cores cannot be placed on the beach because its characteristics are undefined.

CRC Policy Options

Proposed inlet dredging depths should continue to be evaluated and permitted on a project-by-project basis. For federal navigation channels, any changes in dimensions would require an act of Congress. For non-federal channels, applicants may dredge deeper than the previously permitted depth if they receive permits from DCM and USACE. Projects should consider how deeper dredging may affect erosion on adjacent shorelines.

There is inherent imprecision in dredging processes which vary with the physical conditions, the dredged material characteristics, the channel design, and the type of dredging equipment. Due to these variables, the USACE recognizes that dredging below the Congressionally-authorized project dimensions for federal navigation channels will occur and is necessary to assure the required depth and width and least cost. For federal projects, the USACE incorporates an allowable overdepth of the authorized channel depth +2 feet. For non-federal projects, DCM allows the dredging depth to reach only the depth that was permitted. The CRC could consider adding 2 feet of overdepth to CAMA permits for non-federal projects to be consistent with how the USACE implements federal projects. If an applicant wants to dredge deeper, or at least have the flexibility to do so, they should obtain sediment cores as deep as the proposed dredge depth to make sure the dredged material is beach-compatible.

Relevant Laws or Rules:

NCGS §113-229; 15A NCAC 07H.0312

Topic: Erosion Rate Calculations for Inlet Hazard Areas

Summary of Public Comments:

- The CRC should task the Science Panel to complete the development of methods to define revised Inlet Hazard Areas and potential inlet and near-inlet setback lines for CRC review. (S)
- The Inlet Hazard Areas should be eliminated and incorporated into the Ocean Erodible Area (OEA) while applying the same development standards currently utilized in the OEA. (S)
- The current “adjacent erosion rate” rule for IHAs doesn’t make sense. Every inlet is different and erosion rates are dramatically different. Good erosion rate information is needed for setbacks to be valid. (S)
- The concept of a Deep-Draft IHA and Shallow-Water IHA should be explored, and the boundaries should extend in the water, where issues related to dredging can be codified and enforced in policy. (S)

Discussion:

The purpose of the Inlet Hazard Areas is to define areas that are subject to coastal processes associated with inlet dynamics (tidal currents, influence of ebb shoals on erosion patterns, etc.). A 1978 report defined the original Inlet Hazard Area boundaries, and minor amendments were made in the early 1980’s. Since the boundaries are outdated, there are many cases where the inlet has completely migrated out of the hazard area. Currently, the setbacks for the IHAs are based on the erosion rates calculated for the adjacent Ocean Erodible Areas (OEAs). Erosion rates should be calculated for the inlet shorelines instead of extending the adjacent OEA erosion rates into the IHAs.

CRC Policy Options

At its meeting on May 14, 2014 in Atlantic Beach, the CRC tasked the Science Panel with completing its Inlet Hazard Areas study. The Science Panel will focus on developing a methodology for calculating erosion rates adjacent to inlets. To respond to the requirements of House Bill 819 (S.L. 2012-202), DCM staff will also include a feasibility analysis of whether the Inlet Hazard Area of Environmental Concern can be eliminated. HB 819 requires the CRC to report its findings and proposed actions to the Secretary of the Department of Environment and Natural Resources (DENR), the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Environmental Review Commission by January 31, 2015. Upon the completion of the Science Panel’s study, DCM staff will present potential options to the CRC for consideration. As discussed later in this document, DCM staff will also explore the development of individual Inlet Management Plans for each inlet in the state.

Some believe that the term “Inlet Hazard Area” has a negative connotation, reduces property values within those areas, and discourages prospective buyers from purchasing real estate in those areas. An alternative term, such as “Inlet Management Area” could be codified in the rule language to indicate that inlet processes are influencing the shoreline and that additional management

approaches may be necessary. However, by replacing the word “hazard” with “management,” prospective buyers may be less aware of the additional risks of purchasing property near an inlet.

Relevant Laws or Rules:

15A NCAC 07H.0304(3); 15A NCAC 07H.0308(b)(5); 15A NCAC 07H.0310

DRAFT

Topic: Emergency Permitting

Summary of Public Comments:

- New dunes should be allowed to be created in Inlet Hazard Areas. **(S)**
- Sandbags in IHAs should have a different set of standards (permitted sooner and allowed to remain on beach longer). **(S)**
- More efficient and timely procedures for emergency permitting are needed. **(F/S)**

Discussion:

The DCM General Permit for beach bulldozing (15A NCAC 07H.1800) allows bulldozing landward of the Mean High Water Line (MHWL) in the OEA, but it does not apply to IHAs. Bulldozing of material from seaward of the Mean Low Water Line (MLWL) is also allowed but requires a CAMA Major Permit and State Dredge and Fill Permit, according to 15A NCAC 07H.0308(a)(4)(C). Bulldozing and new dune building are both currently prohibited in IHAs, but the rebuilding of existing dunes is allowed. Bulldozing is allowed to protect vacant lots if the lots are not located in an IHA. DCM staff believe dune construction was originally prohibited in IHAs to prevent an artificial vegetation line from being established for setbacks. DCM agrees that new dune construction should be allowed in IHAs, but such created dunes should not be used as the reference point for measuring oceanfront setbacks.

Sandbags are intended to be used as temporary protection for threatened structures. They previously were allowed one time only, regardless of ownership, for a period of two to five years. In 2009, the CRC changed the rule to allow sandbags in the IHA to remain in place for up to eight years for properties within a community pursuing an inlet relocation project. That rule change also allows those sandbags to remain an additional eight years if the structure becomes threatened again and if the community is still seeking an inlet relocation project. The CRC then updated the rule again in 2013 to remove the one time per property limit for communities also seeking a beach renourishment or stabilization project. Sandbags can only be used to protect houses, septic systems, and roads. They currently cannot be used to protect swimming pools, decks, gazebos, vacant lots, or natural features such as dunes.

At its meeting on May 14, 2014 in Atlantic Beach, the CRC expressed interest in allowing beach bulldozing seaward of the MLWL with a General Permit instead of a CAMA Major Permit and State Dredge and Fill Permit. The Commission is also interested in reviewing how “imminently threatened” is defined:

“A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure” (15A NCAC 07H.0308(a)(2)(B)).

CRC Policy Options

The Commission could consider developing draft rule language that would allow bulldozing and new dune construction in Inlet Hazard Areas without those dunes being used as the reference point for measuring oceanfront setbacks. Allowing bulldozing seaward of the MLWL would also require authorization by the USACE, triggering additional federal agency reviews. DCM could approach the USACE about developing a new Regional General Permit that could apply in emergencies and allow DCM to authorize beach bulldozing seaward of the MLWL under certain conditions. The USACE has regulatory jurisdiction seaward of the MLWL, and it is uncertain if they would grant DCM this authority.

The Commission could consider amending the definition of “imminently threatened” including an increase from 20 feet to a larger distance, at which point sandbags would be allowed. The definition of “imminently threatened” could also be expanded to apply to natural features such as dunes in addition to structures. Since sandbag time limits were recently extended, and the one time per property limit was recently removed, property owners have additional flexibility to keep sandbags protecting their property in emergency situations.

Relevant Laws or Rules:

NCGS §113-229; 15A NCAC 07H.0308(a)(2); 15A NCAC 07H.0308(a)(4); 15A NCAC 07H.0308(b); 15A NCAC 07H.1700; 15A NCAC 07H.1800

Topic: Static Vegetation Lines

Summary of Public Comments:

- The “300,000 cubic yard rule” for establishing a static vegetation line should be reevaluated. (S)
- Some communities have intentionally avoided having a static vegetation line established by keeping any nourishment projects under 300,000 cubic yards. In those cases, this results in more frequent dredging projects, which results in greater environmental impacts and greater costs.

Discussion:

A large-scale beach fill project is defined as any volume of sediment greater than 300,000 cubic yards or any storm protection project constructed by the USACE (15A NCAC 07H.0305(a)(7)). In areas that have received a large-scale beach fill project, the building setback is measured from the vegetation line in existence within one year prior to the onset of the project. This is the “Static Vegetation Line,” and once a static vegetation line is established, it is used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line. In some communities with a demonstrated, long-term commitment to beach fill, proposed development on many lots could meet the required setback from the natural vegetation line, but could not be permitted because it could not meet the setback from the static vegetation line. The CRC created the static line exception (15A NCAC 07H.0306(a)(8)) as a mechanism to allow setbacks for small-scale development to be measured from either the natural vegetation line or the static line, making more lots developable. Any local government or permit holder of a large-scale beach fill project that is subject to a static vegetation line may petition the CRC for an exception to the static line.

At its meeting on May 14, 2014 in Atlantic Beach, the CRC Chairman proposed the following changes to replace the existing static vegetation line rules:

- Eliminate static line and 300,000 cy rule.
- No new development allowed seaward of existing development line.
- Local communities determine development line, DCM reviews.
- Use vegetation line for measurement of setbacks in the absence of a development line.
- Use graduated setbacks based on structure size and local erosion rate.
- New or replacement buildings sited based on the graduated setback from the vegetation line, or the development line, whichever is further landward.
- Apply this concept statewide, not just in IHAs

CRC Policy Options

The proposed changes above would eliminate the static vegetation line in areas where a static line has been established, and a static line exception would no longer be required to use the vegetation line for measuring setbacks. Setbacks based on square footage would be measured from the first line of stable and natural vegetation, and any new buildings could only be built as far seaward as the existing development line. The Commission could develop rule language to replace 15A NCAC 07H.0305(a)(6) and the references to static lines and static line exceptions in 15A NCAC 07H.0306(a). Since static line exceptions would no longer be needed, the procedures for applying for and renewing the exception would be eliminated (15A NCAC 07J.1200).

Alternatively, the static vegetation line and static line exception rules could be retained, but the 2,500 square foot maximum building size limit could be repealed (15A NCAC 07H.0306(a)(8)(B)). Graduated setbacks would be measured from either the static line or first line of stable and natural vegetation (in areas with a static line exception). For beaches with a static line exception, structures that measure their setback from the first line of stable and natural vegetation are currently limited to a maximum size of 2,500 square feet. If this size restriction were removed, structures that measure their setback from the first line of stable and natural vegetation would need to meet the graduated setback based on structure size and be located no further oceanward than the landward-most adjacent structure, but they could be larger than 2,500 square feet.

The Commission could also amend the definition of “large-scale beach fill project”, increasing it from 300,000 cubic yards to a larger number. If the volume trigger were increased, communities could continue to avoid having a static vegetation line established but build larger and potentially less-frequent beach nourishment projects.

Relevant Laws or Rules:

15A NCAC 07H.0305(a)(6-7); 15A NCAC 07H.0306(a); 15A NCAC 07J.1200

Topic: Stockpiling of Sand

Summary of Public Comments:

- Stockpiling of sand dredged from inlets and stored for future placement on beaches should be allowed. Stockpiled dredged sand should not be required to be sampled a second time if it was already found to be beach-compatible. **(F/S)**

Discussion:

The Coastal Area Management Act, State Dredge and Fill Law, and administrative rules do not prohibit the stockpiling of dredged sand for future placement on beaches, but all dredged material must be confined landward of regularly and irregularly flooded coastal wetlands and stabilized to prevent entry of sediments into the adjacent water bodies or coastal wetlands (15A NCAC 07H.0208(b)(1)(B)).

For ongoing projects that have been reviewed and permitted under the National Environmental Policy Act (NEPA), stockpiling may not have been considered under the original NEPA review. In these cases, disposal of the dredged materials via stockpiling would likely require additional review as a new alternative disposal option. Adding another disposal alternative could also alter existing USACE dredging contracts.

CRC Policy Options

If dredged material is sampled and determined to meet the state sediment criteria rules for beach compatibility before it is stockpiled on high ground, then the stockpiled sediment should not need to be sampled a second time before it is placed on the beach. If the dredged material is stockpiled in the water for future placement on the beach, it may be necessary to sample a second time to ensure that the material has not been covered by finer, non-beach-compatible material.

Relevant Laws or Rules:

15A NCAC 07H.0208(b); 15A NCAC 07H.0312

Long-Term Priorities

Topic: Beneficial Use of Dredged Materials

Summary of Public Comments:

- Beach-compatible sand dredged from inlets should be placed back on adjacent beaches; it should never be disposed offshore. (F/S)
- The distribution of dredged sand that is pumped onto adjacent beaches should be guided by analytically derived sediment budgets. (F/S)

Discussion:

The state has an enforceable beneficial use policy that has been approved by the National Oceanic and Atmospheric Administration (NOAA) for the purposes of federal consistency. Under the Federal Coastal Zone Management Act of 1972 (CZMA), federal consistency means that federal projects are reviewed by Coastal Program staff (like DCM) to ensure that they are consistent with the state's approved enforceable policies. NOAA reviews any enforceable policy language that a state proposes to be used for the purposes of federal consistency. The enforceable beneficial use policy language in North Carolina is as follows:

“Clean, beach quality material dredged from navigation channels within the active nearshore, beach, or inlet shoal systems must not be removed permanently from the active nearshore, beach, or inlet shoal system unless no practicable alternative exists. Preferably, this dredged material will be disposed of on the ocean beach or shallow active nearshore area where environmentally acceptable and compatible with other uses of the beach” (15A NCAC 07M.1102(a)).

The state also adopted legislation (NC Dredge and Fill Act (NCGS §113-229)) that was not accepted by NOAA for purposes of federal consistency but that does apply to state, local, and private sector projects:

“Except as provided in subsection (h2) of this section, all construction and maintenance dredgings of beach-quality sand may be placed on the affected downdrift ocean beaches or, if placed elsewhere, an equivalent quality and quantity of sand from another location shall be placed on the downdrift ocean beaches. Clean, beach quality material dredged from navigational channels within the active nearshore, beach, or inlet shoal systems shall not be removed permanently from the active nearshore, beach, or inlet shoal system. This dredged material shall be disposed of on the ocean beach or shallow active nearshore area where it is environmentally acceptable and compatible with other uses of the beach” (NCGS §113-229(h1-h2)).

CRC Policy Options

At the CRC meeting on May 14, 2014 in Atlantic Beach, the CRC Chairman proposed replacing the existing beneficial use policies in the administrative rules (15A NCAC 07M.1100) and the State Dredge and Fill Act (NCGS §113-229(h1-h2)) with the following language:

“With respect to all beach-compatible sand, as defined by the Coastal Resources Commission through its rules and policies as set forth in 15A NCAC 07H.0312, resulting from the dredging of navigation channels within tidal inlets, harbors, and rivers, such sand shall be placed directly on adjacent beaches in a manner that

minimizes shoaling and replicates the natural littoral system to the maximum extent practicable.”

Instead of replacing the existing language in its entirety, the CRC could clarify what “no practicable alternative” means in 15A NCAC 07M.1102(a). Specific financial and logistical constraints could be defined, which would dictate whether beach-compatible dredged material could be disposed of anywhere besides the adjacent beaches.

Any proposed changes to the current enforceable policy would require review and approval from NOAA through the CZMA Program Change process. If changes in the policy are not approved by NOAA, they would only apply to local (not federal) projects. In this case, the burden of placing all beach-compatible dredged material onto adjacent beaches would fall solely on local governments.

Relevant Laws or Rules:

U.S. Coastal Zone Management Act of 1972; NCGS §113-229(h1-h2); 15A NCAC 07H.0312;15A NCAC 07M.1100

DRAFT

Topic: Inlet Management Plans

Summary of Public Comments:

- Inlets should be managed proactively instead of reactively. (F/S)
- Beach and inlet management is related- what happens to one impacts the other. The goal of inlet management should be to reconnect sediment pathways to minimize dredging impacts. (F/S)
- Each inlet is diverse and unique, so one management scheme cannot be applied to all inlets. (F/S)

Discussion:

This topic was recognized by the CRC as a general inlet management philosophy. Since each inlet in the state is unique, individual inlet management plans could be developed to guide future management actions at each inlet. Some aspects of inlet management plans already exist to a certain extent at a few of North Carolina's inlets. For example, as part of federal 50-year Coastal Storm Damage Reduction Projects, Masonboro Inlet is dredged every four years, and Carolina Beach Inlet is dredged every three years, with the dredged material placed on Wrightsville Beach and/or Masonboro Island and Carolina Beach and/or Kure Beach, respectively. Similarly, the two deep-draft inlets in the state, Beaufort Inlet and Cape Fear River Inlet, have 20-year Dredged Material Management Plans (DMMPs) which guide the frequency and distribution of dredged material disposal. Inlet management plans could also include sediment budgets, relevant research and studies, delineated areas of inlet influence, and appropriate development standards adjacent to inlets. This type of effort would require separate plans than the dredging plans that currently exist.

CRC Policy Options

The N.C. Beach and Inlet Management Plan (BIMP) divides the state into regions and sub-regions and provides historical geomorphology information, dredging volumes, and economic valuation for each inlet: <http://portal.ncdenr.org/web/cm/bimp-final-report1>. The BIMP is the first statewide compilation of data and issues related to beach and inlet management, and it was developed in response to House Bill 1840 (Session Law 2000-67), which passed in 2000. The Bill required the N.C. Department of Environment and Natural Resources (DENR) to develop a state beach management and restoration strategy that could also be used for local government planning purposes. The information in the BIMP (2011) could serve as a starting point for developing inlet management plans for each inlet.

The idea of separate deep-draft Inlet Hazard Areas and shallow-draft Inlet Hazard areas has also been mentioned by some stakeholders. This concept would result in Beaufort Inlet and Cape Fear River Inlet having different development standards than the other inlets in the state.

The Florida Department of Environmental Protection has developed inlet-specific management plans for 17 of the 56 inlets in the state: <http://www.dep.state.fl.us/beaches/publications/>. The Florida plans are focused on sediment management and bypassing, but they do not include development standards adjacent to the inlets. DCM staff will review the Florida examples and determine if a similar approach could be applicable in North Carolina. If the CRC wants to pursue the development of inlet management plans and related studies, (to determine sediment budgets,

for instance), it may be possible to use funds from the Shallow Draft Navigation Channel and Lake Dredging Fund (NCGS §143-215.73F).

Relevant Laws or Rules:

NCGS §143-215.73F

DRAFT

Topic: Funding Sources and Partnerships

Summary of Public Comments:

- With decreasing federal funds, inlet management is increasingly a shared partnership between local and state government. A stable source of funding for beach and inlet projects is needed at the state level. **(S)**
- The 50% state matching fund for inlet dredging is a good start, but if one locality wants to undertake a major project and applies for the state matching funds, it could wipe out the funds for the rest of the state. **(S)**
- Congressional funding is an issue for federal projects. A project may be authorized and permitted, but if it is never funded, it does no good. **(F)**

Discussion:

Due to reductions in federal funds during the last several years, the state's shallow-draft navigation channels have not been maintained to authorized depths and dimensions. The N.C. General Assembly created the Shallow Draft Navigation Channel and Lake Dredging Fund during the 2013 session (NCGS §143-215.73F). Money from this fund will be used to provide 50% of the cost for dredging projects, and local governments will be responsible for providing the remaining 50% of the cost for a project they wish to sponsor. It is expected that the fund will raise approximately \$4 million each year in state funds, and after local match funds are added, the total amount available for dredging would be approximately \$8 million per year. Funds appropriated by the state for dredging or contributed by the Shallow Draft Navigation Channel and Lake Dredging Fund are administered by the Division of Water Resources (DWR). In addition to the state fund, a memorandum of agreement between USACE and DENR was finalized in November 2013 and runs through September 2017. The agreement allows state and local funds to be used to maintain federally authorized shallow-draft inlets when federal funds are not available.

CRC Policy Options

Some stakeholders have expressed concern that even if state funds are available, many local communities are unable to contribute the required 50% match. Others are concerned that one or two larger dredging projects using the state fund can wipe out the fund for projects in the rest of the state. The CRC could request the General Assembly to reduce the local match requirement or to increase the total fund. The CRC could also work with local governments to find ways to raise additional funds to be used as match for the state dredging funds. Since DWR administers the state funds, they would need to be involved in the process. DCM could also assist with generating consistent information and outreach materials to highlight the economic, natural resources, and recreational values of North Carolina's inlets.

Relevant Laws or Rules:

NCGS §143-215.73F

Topic: Dredging Windows / Moratoria

Summary of Public Comments:

- The dredging windows should be extended under stipulated conditions to increase competition, increase the number of bids on projects, reduce costs, and provide more flexibility for completing the work. **(F/S)**

Discussion:

Dredging projects are considered major development and require other state or federal agency permits, including from the USACE. When the USACE reviews project applications, it coordinates with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) to determine impacts to natural resources. DCM relies on federal and state resource agencies during the CAMA Major Permit process to advise on how to comply with 15A NCAC 07H.0308(a)(1)(F), which states that “project construction shall be timed to minimize adverse effects on biological activity.”

CRC Policy Options

Representatives from Coastal Planning and Engineering, Moffatt and Nichol, Dial Cordy and Associates, and other consultants in North Carolina are working together on a study to evaluate the feasibility of expanding the dredging windows. They are taking a statewide approach on dredging and are evaluating the number of projects that will likely be done statewide now and in the future. They are creating a fact sheet on summer dredging, protocols to mitigate impacts, and an evaluation of the impacts. They intend to circulate the document to the resource agencies, with the goal of receiving approval to extend the dredging windows. Once the study is completed and released, the CRC could appoint an ad hoc technical committee to review it and provide comments or recommendations back to the CRC. In the meantime, the CRC will invite the consultants who are working on the study to give a presentation at the July Commission meeting.

At the CRC meeting on May 14, 2014 in Atlantic Beach, one Commissioner noted that many communities would likely willingly accept additional monitoring requirements in exchange for expanded dredging windows. Similarly, another Commissioner questioned if it could be reasonable to extend the dredging windows in areas with approved sea turtle monitoring programs.

Relevant Laws or Rules:

U.S. Endangered Species Act of 1973; U.S. Migratory Bird Treaty Act of 1918; U.S. Magnuson-Stevens Fishery Conservation and Management Act of 1976; 15A NCAC 07H.0308(a)(1)(F)

Topic: Monitoring Conditions

Summary of Public Comments:

- Monitoring requirements should not be so onerous as to prohibit what has otherwise been authorized. The amount of monitoring on projects should be reasonable and consistent with CAMA objectives. (F/S)
- Monitoring conditions should focus more on physical monitoring and less on biological monitoring. (F/S)

Discussion:

Similar to the dredging windows and moratoria topic, monitoring conditions for CAMA Major Permits are coordinated with other state and federal agencies that are responsible for ensuring that impacts to natural resources are minimized. For larger inlet management projects such as channel realignment projects or terminal groins, some level of monitoring is justified. In the case of terminal groins, the N.C. Coastal Area Management Act (CAMA) specifies what is required to monitor the impacts of the structure (NCGS §113A-115.1).

Some local communities voluntarily monitor the physical aspects of their beaches (beach profiles, volumes, slopes, widths, etc.) because they want to stay informed about how beach nourishment projects are holding up and when another project may be necessary. However, many local communities view biological monitoring of invertebrates, shorebirds, and nearshore fish as less relevant and would prefer to not be required to monitor the impacts to these species. Local volunteer groups throughout the state monitor for nesting and hatching sea turtles.

CRC Policy Options

For some types of projects that have been performed frequently over the course of decades, such as inlet dredging with beach disposal of compatible sediment, comprehensive biological monitoring may not be necessary. Studies have shown that the impacts to invertebrates, shorebirds, and nearshore fish are temporary, and these species tend to recover within 2 or 3 years after the project. Additionally, monitoring protocols do not often allow for cross-project comparisons, so the utility of the results are sometimes limited. However, impacts to offshore borrow sites are still not well understood. More information on the long-term impacts to fisheries and the sedimentation rate and quality of sediment that fills in offshore borrow sites would be useful.

For inlet channel realignment projects or terminal groins, DCM Staff believe that additional monitoring is warranted, and they should continue to consult with other state and federal agencies in developing monitoring conditions.

With additional resources, DCM could lead a study to review monitoring conditions placed on past permits and monitoring reports to look for ways to make results more meaningful and applicable to other projects.

Relevant Laws or Rules:

NCGS §113A-115.1



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

MEMORANDUM

CRC-14-26

TO: Coastal Resources Commission
FROM: Tancred Miller
DATE: July 15, 2014
SUBJECT: 2016-2020 Coastal Program Assessment and Strategy

Like other states with federally-approved coastal management programs, North Carolina applies for and receives federal funding under Section 309 of the federal Coastal Zone Management Act. This funding is known as Coastal Zone Enhancement Grants, or more commonly referred to as 309 funding. The 309 grant program is voluntary; states decide whether they want to apply. 309 funding complements the federal operational funding that the state receives under other sections of the CZMA. 309 funding does not require state match, and North Carolina generally receives between \$380,000 and \$425,000 per year to cover staffing and project implementation costs. A few DCM staff are fully or partially funded under 309, and much of the Division's work with the CRC is made possible through 309 funding.

In order to receive 309 funding, a state must conduct a self-assessment of its coastal program's activities and opportunities for improvement, and prepare a formal strategy for making tangible improvements to the program over a five-year period. DCM is beginning the process of preparing our Assessment and Strategy for 2016-2020, and is seeking the CRC's guidance for inviting key stakeholder engagement. The Office of Ocean and Coastal Resource Management (OCRM) published new guidance in June 2014 that describes how states should complete the Assessment and Strategy development process, including stakeholder engagement (<http://coastalmanagement.noaa.gov/backmatter/media/guidancefy14309.pdf>). The guidance pertaining to stakeholder engagement is copied below.

Assessment and Strategy Development Process

The Assessment and Strategy development process takes about a year to complete. DCM staff takes the lead in developing the Assessment and Strategy, engaging key stakeholders, inviting public input, and coordinating with OCRM. Now that the new guidance is available, DCM is beginning the process and must adhere to the following federal timetable.

July 1, 2014	Begin development; engage key stakeholders; work with OCRM to fine tune priority enhancement objectives and develop draft 5-year Assessment & Strategy
February 1, 2015	Draft Assessment & Strategy due to OCRM; invite public comments on draft
April 1, 2015	OCRM comments on draft due back to DCM; edit based on OCRM & public comments
June 1, 2015	Final Assessment & Strategy due to OCRM
July 1, 2016	2016-2020 Assessment & Strategy implementation begins

Program Enhancement

State funding proposals must relate to one of nine federally-defined “coastal zone enhancement objectives” in order to be eligible, and must be used to carry out activities that result in, or lead towards, a program change. The term “program change” is defined in the Code of Federal Regulations, and can include rule changes, coastal zone boundary changes, new or revised special area management plans, or any of several other actions. The enhancement objectives are:

- (1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.
- (2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.
- (3) Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.
- (4) Reducing marine debris entering the Nation's coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.
- (5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.
- (6) Preparing and implementing special area management plans for important coastal areas.
- (7) Planning for the use of ocean resources.
- (8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.
- (9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.

As a part of the Assessment process, the state must analyze its activities under all nine enhancement objectives, and categorize each one as high or low priority for the state. Program enhancement strategies are only expected to address high priority objectives. States generally select two to four enhancement objectives as high priorities for each strategy period; North Carolina identified coastal hazards and ocean resources as our high priority areas for 2010-2015. Specific tasks that are being undertaken during this period include: 1) implementation of the Beach & Inlet Management Plan; 2) mapping the state's entire estuarine shoreline; 3) development of an estuarine shoreline strategy; 3) development of the 2016 sea-level rise assessment report; 4) supporting the development of the NC Coastal Atlas; and 5) 309 program administration.

DCM would like to discuss the CRC's desired role in the identification and engagement of key stakeholders. The CRC and DCM have broad latitude to determine who the key stakeholders are that we would like to engage at a detailed level; the public will be given the opportunity to comment on the draft when it is sent to OCRM in February. One possible approach would be to appoint a small subcommittee to work with staff. We look forward to a discussion on the 31st and your direction for a path forward.

**Coastal Zone Management Act Section 309 Program Guidance: 2016 to 2020 Enhancement Cycle
Office of Ocean and Coastal Resource Management – June 2014**

Stakeholder Engagement

At the beginning of the assessment and strategy development process, the CMP should identify a few key stakeholder groups to engage. The stakeholders should provide feedback on what they feel are the high priority enhancement areas for the state's or territory's coastal zone, the critical problems related to those priority areas, and the greatest opportunities for the CMP to strengthen and enhance its program to more effectively address those problems. This would ensure that the priorities and needs proposed in the assessment and strategy reflect more than just CMP staff opinions. The CMP knows its stakeholder groups best and how to effectively engage them in the assessment and strategy development process, so CMPs have great latitude in how they would like to engage key stakeholders and who those key stakeholders should be. Stakeholder engagement could be done informally through individual conversations or meetings or more formally through a specific questionnaire the CMP sends to stakeholder groups. For example, the CMP could piggy-back onto existing meetings with different stakeholder groups to ask partners about coastal management priorities and needs.

Regardless of how the stakeholder input is captured, the CMP must document the groups or individuals they engaged and briefly summarize the relevant feedback received that is useful for informing the development of the assessment and strategy. For example, a brief one-page summary of stakeholder input would be appropriate noting which stakeholder groups the CMP engaged, how the program engaged them, and any common (or perhaps some divergent) ideas and priorities that emerged. The CMP can then use the stakeholder feedback to support assessment conclusions, why or why not a particular enhancement area should (or should not) be a priority for the state, and why a particular strategy is needed. It is likely that feedback from different stakeholder groups may conflict with one another or with the CMP's final identification of priority needs and enhancement areas. That is okay. As the assessment templates note, the CMP should simply include an explanation as to why the enhancement area received the priority ranking it did and why the CMP chose (or did not choose) to develop a strategy for any high priority enhancement areas. (See "Summary of Stakeholder and Public Comment" in Section 8 and assessment templates in Appendixes A and B for additional discussion of how stakeholder feedback should be captured in the assessment document.) Appendix F provides examples of some questions the CMP may wish to ask stakeholders.