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TO: Coastal Resources Commission

FROM: Christine A. Goebel   
Assistant Attorney General

DATE: October 8, 2014 (for the October 22-23, 2014 CRC Meeting)

RE: **Variance Request by Palm Cove Owners Association, Inc. and Brunswick Land Holdings, LLC (Palm Cove) (14-09)**

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Petitioners Palm Cove Owners Association, Inc. (PCOA) and Brunswick Land Holdings, LLC (Brunswick) have interests in a 10-lot subdivision at the eastern end of Sunset Beach which have frontage on both the Atlantic Ocean and Jinks Creek. The owners of Lots 2-10 sought a CAMA Permit in order to build a 9-slip community docking facility at Lots 2 and 3 on Jinks Creek to be shared by the owners of Lots 2-10. On May 27, 2014, DCM denied Petitioners' application based on the proposal's inconsistency with the Commission's rule prohibiting docks and piers within an Inlet Hazard AEC(15A NCAC 7H .0309(f) and 7H .0310) and because the proposed facility did not meet the Commission's exception to its general rule which allows piers and docks in an Inlet Hazard AEC only if it is "small scale" and if the area "features characteristics of estuarine shorelines" per 7H .0310(c). Petitioners now seek a variance to allow the proposed 9-slip community docking facility as proposed in their application.

The following additional information is attached to this memorandum:

Attachment A: Relevant Rules  
Attachment B: Stipulated Facts  
Attachment C: Petitioners' Position and Staff's Responses to Criteria  
Attachment D: Petitioners' Variance Request Materials  
Attachment E: Stipulated Exhibits

cc: I Clark Wright, Jr., Counsel for Petitioners, electronically  
Randy Walters, Town of Sunset Beach CAMA LPO, electronically  
Mary Lucasse, CRC Counsel, electronically

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**ATTACHMENT A****RELEVANT STATUTES OR RULES****15A NCAC 07H .0301 OCEAN HAZARD CATEGORIES**

The next broad grouping is composed of those AECs that are considered natural hazard areas along the Atlantic Ocean shoreline where, because of their special vulnerability to erosion or other adverse effects of sand, wind, and water, uncontrolled or incompatible development could unreasonably endanger life or property. Ocean hazard areas include beaches, frontal dunes, inlet lands, and other areas in which geologic, vegetative and soil conditions indicate a substantial possibility of excessive erosion or flood damage.

**15A NCAC 07H .0303 MANAGEMENT OBJECTIVE OF OCEAN HAZARD AREAS**

(a) The CRC recognizes that absolute safety from the destructive forces indigenous to the Atlantic shoreline is an impossibility for development located adjacent to the coast. The loss of life and property to these forces, however, can be greatly reduced by the proper location and design of structures and by care taken in prevention of damage to natural protective features particularly primary and frontal dunes. Therefore, it is the CRC's objective to provide management policies and standards for ocean hazard areas that serve to eliminate unreasonable danger to life and property and achieve a balance between the financial, safety, and social factors that are involved in hazard area development.

(b) The purpose of these Rules shall be to further the goals set out in G.S. 113A-102(b), with particular attention to minimizing losses to life and property resulting from storms and long-term erosion, preventing encroachment of permanent structures on public beach areas, preserving the natural ecological conditions of the barrier dune and beach systems, and reducing the public costs of inappropriately sited development. Furthermore, it is the objective of the Coastal Resources Commission to protect present common-law and statutory public rights of access to and use of the lands and waters of the coastal area.

**15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS**

The ocean hazard AECs contain all of the following areas:

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(3) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets. This area extends landward from the mean low water line a distance sufficient to encompass that area within which the inlet shall migrate, based on statistical analysis, and shall consider such factors as previous inlet territory, structurally weak areas near the inlet and external influences such as jetties and channelization. The areas identified

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as suggested Inlet Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final Report and Recommendations to the Coastal Resources Commission, 1978, as amended in 1981, by Loie J. Priddy and Rick Carraway are incorporated by reference and are hereby designated as Inlet Hazard Areas except for: [exceptions don't apply to this variance]. In all cases, the Inlet Hazard Area shall be an extension of the adjacent ocean erodible areas and in no case shall the width of the inlet hazard area be less than the width of the adjacent ocean erodible area.

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

(f) In addition to the development authorized under Paragraph (d) of this Rule, **small scale, non-essential development that does not induce further growth in the Ocean Hazard Area, such as the construction of single family piers and small scale erosion control measures that do not interfere with natural oceanfront processes, shall be permitted on those nonoceanfront portions of shoreline that exhibit features characteristic of an Estuarine Shoreline. Such features include the presence of wetland vegetation, and lower wave energy and erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, small scale is defined as those projects which are eligible for authorization under 15A NCAC 07H .1100, .1200 and 07K .0203.**

**15A NCAC 07H .0310 USE STANDARDS FOR INLET HAZARD AREAS**

(a) Inlet areas as defined by Rule .0304 of this Section are subject to inlet migration, rapid and severe changes in watercourses, flooding and strong tides. Due to this extremely hazardous nature of the Inlet Hazard Areas, all development within these areas shall be permitted in accordance with the following standards:

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(c) In addition to the types of development excepted under Rule .0309 of this Section, **small scale, non-essential development that does not induce further growth in the Inlet Hazard Area, such as the construction of single-family piers and small scale erosion control measures that do not interfere with natural inlet movement, may be permitted on those portions of shoreline within a designated Inlet Hazard Area that exhibit features characteristic of Estuarine Shoreline. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, small scale is defined as those projects which are eligible for authorization under 15A NCAC 7H .1100, .1200 and 7K .0203.**

## ATTACHMENT B

## STIPULATED FACTS

1. Palm Cove is a 10-lot subdivision located at the eastern end of Sunset Beach. It was subdivided in 2004 pursuant to a subdivision plat map recorded on September 16, 2004 at Book 31, Page 40 of the Brunswick County Registry. The 10 lots are currently owned as follows: Lot 1 is owned by Thunder Road, LLC ("Thunder Road"); lots 2, 3, and 6 are owned by Brunswick Land Holdings, LLC ("Brunswick"); Lots 4 and 7 are owned by Long Leaf Pine, LLC ("Long Leaf"); Lots 5 and 8 are owned by Port City Advisors, LLC ("Port City"); Lot 9 is owned by Bobby W. Harrelson ("Harrelson"); Lot 10 is owned by Exum Family, LLC ("Exum"). A copy of the plat map with the current ownership noted is attached.
2. All 10 Palm Cove lots are riparian lots which extend from the Atlantic Ocean across the island to Jinks Creek.
3. Palm Cove Owners Association, Inc. ("PCOA") is a North Carolina non-profit corporation charged with management of common areas within the Palm Cove Subdivision. PCOA currently does not hold title to any of the real property in Palm Cove, but its operations are controlled by the terms of recorded restrictive covenants and published bylaws which contemplate that when the subdivision is in the process of build-out, the developer(s) will deed title to PCOA, title to various common areas, and have management and control authority over the use and maintenance of various common structures, including the piers, docks, walkway and gazebo at issue in this variance request proceeding. If this variance request is granted, once the structures are constructed, ownership and control thereof will thereafter be deeded by Brunswick (Petitioner and owner of Lots 2 and 3) to PCOA. A copy of the Palm Cove recorded restrictive covenants and the bylaws are attached.
4. Brunswick is the current owner of Lots 2 and 3 in the Palm Cove Subdivision. The area along the lot line dividing Lots 2 and 3 (along with the riparian area in Jinks Creek off of Lots 2 and 3) is the site of the proposed development at issue in this petition ("Site"). The Site is shown in the powerpoint presentation, a copy of which is attached.
5. Clark Wright, Jr. is counsel representing both PCOA and Brunswick, the co-applicants for the CAMA permit and the Co-petitioners in this variance request.
6. Long Leaf, Port City, Harrelson and Exum all support this variance request; written statements confirming this support are attached.
7. Currently, Lots 1-10 are largely undeveloped, with the exception of a private road which bisects the middle of each lot and extends from the end of the cul-de-sac at Lot 1 toward the east to Lot 10. Also, at the western end of the private road there is a gazebo and signage, along with a gate. Utilities along the road have also been developed pursuant to CAMA Major Permit No. 11-06. Onsite wastewater permits have been issued by Brunswick County for Lots 1-10. The existing development can be seen in the attached site photographs.

8. Pursuant to a February 5, 2007 minor modification to CAMA Major Permit No. 11-06, sand fencing was approved and installed along both the ocean-side and Jinks creeks sides of Lots 1-10. Sand fencing has since been removed from the Jinks Creek side of Lots 1-10.
9. A letter of refinement dated October 16, 2006 also allowed the installation of dune crossings on the ocean sides of Lots 1-10, though they have not been constructed to date. A copy of the letter of refinement is attached.
10. DCM issued CAMA General Permit No. 39869D on February 4, 2005 (re-issued as CAMA General Permit No. 38948D on July 26, 2005) authorizing the development of a 2-slip pier on Lot 1. This pier appears to have been constructed sometime in 2005 or 2006, and can be seen in recent aerial photographs included in the powerpoint.
11. Two Minor Development CAMA Permits (09-02 and 09-03) were issued in 2009 by the Sunset Beach Local Permitting Officer for construction of a single family residence, driveway, septic system and swimming pool, all to be located on the ocean side of Lots 2 and of 3. Copies of these permits are attached, along with letters from the LPO dated January 2, 2014, noting that legislation extended the expiration dates of these permits until September 19, 2015.
12. Beginning in January of 2014, PCOA submitted an application for major modification of Major Development CAMA Permit 11-06, seeking authorization to construct a 9-slip community boat dock to service Lots 2-10, with associated access walkway and common area gazebo. This application was deemed complete by DCM staff on February 26, 2014. The application materials and drawings are attached.
13. As part of the CAMA permit application, the owners of Lots 2-10 all agreed in writing to accept a permit condition to provide a conservation easement restriction prohibiting any further boat pier or dock construction on the Jinks Creek side of each lot, should the Commission deem same necessary in order to approve this variance request. Copies of these agreements are attached.
14. The proposed development is proposed to be located within the Inlet Hazard Area, Ocean Erodible Area, and High Hazard Flood Area, which are all sub-categories of the Ocean Hazard Area of Environmental Concern ("AECs"). The Site of the proposed development is also within the Estuarine Waters, Public Trust Waters, and Coastal Shorelines AECs.
15. The waters of Jinks Creek at the Site are classified as SA Waters by the Environmental Management Commission, are open to the harvest of shellfish, but are not classified as a Primary Nursery Area by the Marine Fisheries Commission.

16. Generally, private docks and piers are not allowed within the Ocean Erodible or Inlet Hazard AECs where 7H .0303(b) requires DCM to prevent encroachment of permanent structures on public beach areas (7H .0309(d) makes an exception for public fishing piers); However, 7H .0309(f) and 7H .0310(c) provide nearly identically worded exceptions to this rule for Ocean Erodible/High Hazard Flood and Inlet Hazard AECs, respectively, in that

small scale, non-essential development that does not induce further growth in the [Inlet Hazard and Ocean Hazard] Area, such as the construction of single-family piers and small scale erosion control measures that do not interfere with natural inlet movement, may be permitted on those portions of shoreline within a designated [Inlet Hazard and Ocean Hazard] Area that exhibit features characteristic of estuarine Shoreline. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, small scale is defined as those projects which are eligible for authorization under 15A NCAC 7H .1100, .1200 and 7K .0203.

17. For purposes of the pending Variance Request, Requestors have stipulated that the Jinks Creek riparian shoreline bordering Lots 2-10, inclusive, does not exhibit features characteristic of estuarine shorelines as defined in 15A NCAC 7H. 0309(f) and 7H.0310(c).

18. The riparian shoreline of Lots 2-10 facing Jinks Creek is approximately 900 feet in length. There are no coastal wetlands along the shoreline at the Site, or eastward of the Site.

19. A comparison of a 2006 plat submitted to DCM and the 2014 plat submitted for this permit modification shows landward movement of the erosion escarpment at the Site of approximately 28 feet during that 8-year time span.

20. A review of aerial photographs of the area from 1938 forward is contained in a publication by Dr. William Cleary and Tara P. Marden entitled "Shifting Shorelines: A Pictorial Atlas of North Carolina Inlets, 2nd Edition." ("Cleary Atlas") A copy of the section for Tubbs Inlet during the time period of the 1950s through the 1970s indicates that the current Jinks Creek shoreline (also referred to westward of the project area as the "Eastern Channel") in this area originally was created by dredging and filling activities, and that subsequently most of this shoreline located west of the Site has been bulkheaded. A review of aerial photographs over the time period from the 1980s to the present indicates that a number of piers and docks along the same shoreline and west of the Site, and also across Jinks Creek northward in the North Shore Dive area have been permitted and constructed. A copy of the relevant portion of the Cleary Atlas and aerial photographs are attached.

21. On December 11, 2003, Major Development CAMA Permit No. 179-03 was issued to Edward Gore, authorizing installation of 1,400 feet of bulkhead and shoreline stabilizing riprap, along with a street ("North Shore Drive") and waterline serving a 19-lot subdivision, located approximately a half-mile northwest of the Site, across Jinks Creek. According to the DCM Field Report for this project, the bulkhead was determined to be located in the High Hazard Flood AEC, and it appears that the Inlet Hazard AEC in this area is located just waterward of MHW. The DCM Field Report also notes the presence of coastal wetlands along the entire shoreline of the project area where the bulkhead was approved. In accordance with the terms of this CAMA Permit, the bulkhead was installed. Thereafter, a number of individual lot owners whose upland property was not located within the Inlet Hazard AEC obtained CAMA permits and constructed individual piers and docks that extend into the waters which are part of the Tubbs Inlet Hazard AEC. A copy of the field report for this permit application is attached.

22. The proposed location of the main pier serving the nine slip structure associated with the variance request currently pending before the Commission (to be located along the common side lot line between lots 2 and 3) is approximately 160 feet eastward from the eastern side of the pier currently serving Lot 1. The closest points between these structures out in the water would be approximately 100 feet, based on the drawings dated February 20, 2014. DMF staff advised DCM that they have a policy to try and keep such structures at least 100 feet apart.

23. As stated in DCM's Field Report, a copy of which is attached, "The applicant has sited the proposed docking facility the [sic] conform to the established pier head line of the adjacent docking facility and would not extend into the channel portion of the water body, which is located along the -4 feet MLW contour."

24. At the mid-point of the proposed pier structure, the width of the waterbody is approximately 292' when measured from MLW to MLW. The distance between the end of the proposed structure to the MLW of the opposite shoreline to the north is approximately 250 feet. Based on the drawing titled "Proposed 9-slip Community Facility dated February 20, 2014, the proposed structure would meet the Commission's one-quarter width rule. The distance from the end of the proposed structure to the center of the waterbody is 101 feet.

25. Water depths for the Site and the area are shown on the survey by Cape Fear Engineering from 2013, which was submitted by Petitioners with their permit application, a copy of which is attached. The water depths at the location of the proposed structure are between -1.5 and -3.5 MLW.

26. For the existing Lot 1 dock, the width of the waterbody is approximately 237 feet when measured from MLW to MLW. The distance between the end of the dock and MLW of the opposite shoreline to the north is approximately 217 feet.

27. As part of the CAMA Major Permit review process, the permit application materials and the DCM Field Report were forwarded to the state and federal review agencies for comment. Relevant responses on this project include concerns raised by Shellfish Sanitation about the proximity of the proposed 9-slip pier to the 2-slip pier at Lot 1. A copy of these responses is attached.
28. Also as part of the CAMA Major Permit review process, notice of the project was posted on-site, was sent to the adjacent riparian neighbors, and to the public generally through notice in the Wilmington Star Newspaper on March 13, 2014. Public notice of this project led to comment letters received by DCM concerning the proposed project by the following people: Paula Buis, Edwin W. James, John Corbett, Jackie Nilsson, Jean Hutchinson, Winston C. Cavin, Nina Marable, Gregory Jenson, Roselyn Woolard, Charles Nern, Noelle Kerhrberg, Carol Scott, Mark Koruda, Carolyn Rosenberg, Jon Gorney, Harvell Palmer, John Rakoci, Jo O'Keefe and John & Judy Sedden. Copies of their comment letters/emails are attached.
29. As part of the variance process, 15A NCAC 7J .0701(c)(7) requires that "(7) notice of the variance petition sent certified mail, return receipt requested to the adjacent property owners and persons who submitted written comments to the Division of Coastal Management...during the permit review process and copies of the documents which indicate that the certified mail notices were received or that deliveries were attempted;" Petitioners have provided such notice, as evidenced by the certified mail information, copies of which are attached.
30. Apparently in response to the notice of the variance as noted in Fact 28 above, DCM has received several comments related to the variance request from the following people (Copies of which are attached): Winston C. Cavin, John & Judy Shedden, Steve Thanhauser, and Preston Tribble.
31. On May 27, 2014, DCM denied Petitioner's CAMA permit application due to its proposal of developing a 9-slip docking facility within an Inlet Hazard AEC which is contrary to 15A NCAC 7H .0309(f) and 7H .0310, which make an exception only for "small scale, non-essential development that does not induce further growth in the [relevant AEC], such as the construction of single-family piers and small scale erosion control measures that do not interfere with natural inlet movement" and if the area has "features characteristic of estuarine shorelines" as that phrase is used in 7H .0310(c). Petitioner's proposal fails to meet both requirements of the exception in this rule (i.e., small scale and estuarine characteristics). A copy of the denial letter is attached.
32. On June 17, 2014, Petitioners filed this variance, seeking a variance from 15A NCAC 7H .0310 in order to build a 9-slip docking facility as proposed in their CAMA permit application.



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ATTACHMENT C**Petitioners 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.**

**Petitioners' Position: Yes.**

**Petitioners' Variance Introduction:**

Palm Cove Owners Association, Inc. ("PCOA") and Brunswick Land Holdings, LLC ("Brunswick") seek a variance from the Coastal Resources Commission ("CRC" or "Commission") to allow construction of a nine-slip community dock, with associated walkway and gazebo, in order to provide riparian access to deep water for nine of the ten lots in the Palm Cove Subdivision. In 2005, a CAMA General Permit was issued to the owner of Lot 1 authorizing construction of an individual pier with boat slips, thereby providing riparian access to deep water for that lot. Division of Coastal Management ("DCM") staff have been unable to locate a copy of this General CAMA Permit, but do have a computer record sheet and drawing in their files, a copy of which are attached. The proposed nine slip community dock pier is located approximately 163 feet from the existing Lot 1 boat pier; the closest distance between the two structures out in the water would be approximately 93 feet.

This variance request is submitted on behalf of PCOA (the prior CAMA Permit Applicant) and Brunswick, owner of Lots 2 and 3, upon which the requested community boat dock and associated structures would be constructed. Should the variance be issued, after the structures are constructed and the lots sold to individual buyers, Brunswick will transfer these assets to PCOA. PCOA is a non-profit North Carolina corporation, properly registered with the North Carolina Secretary of State's Office.

PCOA and the current developer-owners of lots 2-10 have worked hard to minimize potential impacts from this proposed work, while also making sure that the lot owners' riparian rights are preserved and respected. As mentioned above, in or about 2005, the owner of Lot 1 received CAMA approval to construct an individual boat dock and pier in this same area. A review of aerial photographs dated prior to construction of this pier and dock reveals the same type of sandy shoreline, with likely continuation of the erosion escarpment that remains present on lots 2-10. Recent photographs of the Jinks Creek shoreline of Lot 1 depict a steep, rip-rap covered shoreline, which is further indication of the prior presence of a sand escarpment on Lot 1 that was, at the time of the permitting of the boat dock for that lot, very similar to the escarpment on Lots 2 and 3.

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The purpose of this Variance Request is to provide the other nine lot owners within the Palm Cove Subdivision with the same ability to exercise their common law and statutory riparian rights, but to do so in a manner that maximizes respect for the applicable 07H.0310 estuarine shoreline use standards. When one reviews recent aerial photographs of the area (a number of which are attached and included in the powerpoint), one can see that a number of newer piers, docks and boat slips have been permitted in areas that, at least from aerial photographs, look like they did not contain estuarine shoreline characteristics.

Our reason for pointing out this information is not to contest or disparage either the permitting of those structures, or past decisions, made by permitting officials. The sole purpose of providing this information is to establish the context within which the owners and developers of Palm Cove reasonably relied on this visible information informing their reasonable, investment backed expectations that they, too, would be able to construct similar boat docks and piers on each of the Palm Cove lots, thereby protecting and exercising their riparian rights of access for each lot to deep water. When, to their surprise, DCM officials first advised them of the estuarine shoreline use standards. PCOA and the owners/developers of the subdivision began to consult with a CAMA consultant and reputable coastal engineers to devise a nine slip community dock, located as close to Lot 1 as possible, to best minimize impacts, and maximize compliance with the relevant estuarine shoreline use standards found in 15A NCAC 7H.0310. In addition, contained in the variance request package are statements of support and consent from all of the owners of lots 2 through 10 (inclusive) of Palm Cove. These statements include a specific agreement to protect this dynamic area from an additional pier or dock development by, if required for variance approval, committing to record an appropriate restriction or conservation easement limiting all nine of these lots to the nine-slip community dock facility, and no other piers or docks. We believe that this represents a win-win scenario by which compliance with the CAMA use standards is maximized in a way that still respects riparian property rights – thus treating the owners of lots 2-10 in a fashion equal to that of the owner of Lot 1 in the very same subdivision, located immediately to the west.

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**1. Unnecessary hardships would result from strict application of the development rules, standards or orders issued by the Commission:**

See Introduction above and all attachments.

Brunswick purchased Lots 2 and 3 of Palm Cove on May 6, 2005 and May 10, 2005 respectively. According to DCM records, the pier and dock permit for Lot 1 first was issued on February 4, 2005, with an expiration date of May 4, 2005. PCOA was incorporated on May 6, 2005. The covenants governing the subdivision were recorded on or about May 11, 2005. Aerial photographs indicate that a number of other piers and docks recently had been constructed within similar sandy, dynamic areas along the same shoreline, and along the southern shoreline in the North Shore Drive area just to the north. All other needed permits have been issued (including a number of CAMA approvals) allowing the subdivision to be developed. Aerial photographs confirm that Lot 1 received its permit at a time when the shoreline of Lot 1 was similar to the shoreline of Lots 2 and 3. Aerial photographs further indicate that this shoreline area was impacted by man-made activities (dredging and filling) dating back to the 1950s through the 1970s. PCOA and Brunswick have relied on the various activities taking place in this same area – including most obviously the boat dock permitting and construction then taking place immediately to the west on Lot 1 of the very same subdivision. This reliance created reasonable, investment backed expectations that the owners of Lots 2-10 would be able to exercise their riparian rights of access to deep water for each lot. The current Petitioners have worked hard to satisfy those property rights in a manner that involves the least possible impact to the estuarine shoreline in this area.

**Staff's Position: No.**

Strict application of the Commission's rules generally not allowing docks and piers in an Ocean Hazard and Inlet Hazard AEC, and that rule's exception allowing docks and piers only when the proposed development is "small-scale" and is in an area with "estuarine shoreline characteristics," does not cause Petitioners unnecessary hardships. Palm Cove is located at the eastern tip of Sunset Beach and is entirely within the Inlet Hazard AEC. The Commission's rules recognize that Inlet Hazard Areas "are especially vulnerable to erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets." Due to this vulnerability, the Commission's rules generally don't allow docks and piers to be built on shorelines which fall within the Inlet Hazard AEC or within the other Ocean Hazard AECs, as they would be inappropriately sited development. However, the Commission's rules contain an exception which allows "small scale, non-essential development that does not induce further growth in the Ocean Hazard Area, such as the construction of single family piers" only when those small-scale piers (defined by the Commission by referencing the 7H .1200 General Permit authorizing 2-slip piers) are in areas which "exhibit features characteristic of Estuarine Shoreline. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area." In this case, Petitioners' proposed development which was not "small-scale" in the nature of a 2-slip dock referenced in the Commission's exception, but is a 9-slip pier, presumably with one slip for each of the 9 lots between Lots 2-10.

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Also in this case, Petitioners' property does not exhibit characteristics of an Estuarine Shoreline. It has an erosion scarp which has retreated landward 28 feet in the eight years between 2006 and 2014 per Stipulated Fact 19. Stipulated Fact 18 notes that "[t]here are no coastal wetlands along the shoreline at the Site, or eastward of the Site." Stipulated Fact 17 notes that "[f]or purposes of the pending Variance Request, Requestors have stipulated that the Jinks Creek riparian shoreline bordering Lots 2-10, inclusive, does not exhibit features characteristic of estuarine shorelines as defined in 15A NCAC 7H. 0309(f) and 7H.0310(c)."

As this Site does not exhibit estuarine shoreline characteristics, Staff believes that it would have been unreasonable for Petitioners to have any expectations that Lots 2-10 could have piers at all based on the Commission's rules. While property that is riparian is generally understood to have riparian rights, including the right to pier out in order to reach deep water, common law has also recognized that the state can place reasonable restrictions on this right, such as the Commission's rules at issue in this case. (See e.g. *Capune v. Robbins*, 273 N.C. 581, 590 (1968) "In the absence of any special legislation on the subject, a littoral proprietor and a riparian owner, as is universally conceded, have a qualified property in the water frontage belonging, by nature, to their land, the chief advantage growing out of the appurtenant estate in the submerged land being the right of access over an extension of their water fronts to natural water, and the right to construct wharves, piers, or landings, subject to such general rules and regulations as the Legislature, in the exercise of its powers, may prescribe for the protection of the public rights in rivers or navigable waters."). In this case, Staff's concerns about allowing large-scale development to be sited inappropriately within an Inlet Hazard AEC that does not exhibit estuarine shoreline characteristics outweigh Staff's concerns about Petitioners' riparian right to pier out. Staff does not concur that strict application of the Commission's general ban on piers in the Inlet Hazard and Ocean Hazard AECs, or a strict application of the Commission's existing exception to this general ban, would cause Petitioners unnecessary hardships.

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

**Petitioners' Position: Yes.**

See introduction above; see all attachments; see #1 above. The conditions on Lots 2 and 3 were no different than those on Lot 1 at the time Lot 1 was allowed to place rip-rap and build its dock and pier. Similarly, a review of relevant aerial photographs confirms that petitioners' properties show the same kind of characteristics that many other nearby properties showed at the time such properties received permits and approvals to construct bulkheads, piers and docks.

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**Staff's Position: No.**

Staff disagrees that any hardships are caused by conditions peculiar to Petitioners' property, such as location, size and topography. Petitioners' approach to satisfying this variance criterion by comparing Lots 2 and 3 (in 2014) to Lot 1 (at the time Lot 1 was permitted to install its pier in 2005) based on aerial photography is both problematic. Staff acknowledges that the area generally around Lot 1 is a transitional area between the estuarine shoreline characteristics and the ocean shoreline characteristics in this area, and Staff has to make a call on where to draw the line when each permit application is before them. Staff's conclusions in 2005 to authorize the pier at Lot 1, which had existing rip-rap, were based on estuarine shoreline conditions at that time as determined during site visits. Staff's conclusions for the Site in 2014 were also based on site visits and not merely aerial photography. For Petitioners to conclude that the "conditions on Lots 2 and 3 were no different than those on Lot 1 at the time Lot 1 was allowed to place rip-rap and build its dock and pier" based on comparing aerial photography from 2005 and today's conditions is speculative.

Instead, Staff's position that the Site does not exhibit estuarine shoreline characteristic is supported by Stipulated Facts 17, 18, and 19 and the attached ground-level photography and field report. These exhibits show that Lots 2-10 currently have ocean shoreline characteristics, and aerial photography appears to show the presence of a sandy shoreline lacking coastal wetlands for some time. It is not unusual that the Site is located near the transition between an estuarine shoreline and an ocean shoreline, a condition that is anticipated by the Commission's rules which note that fact that having both ocean shoreline and estuarine shoreline characteristics within an Inlet Hazard AEC is likely, and at some point, the line is drawn between the two. This is not a condition of Petitioners' property which causes Petitioners' hardship as it occurs along most shorelines within an Inlet Hazard AEC on the back side of the particular inlet. Finally, photographs of other sites supplied by Petitioners are distinguishable from the Site at issue in this case, especially as most identified by Petitioners are significantly farther from Tubbs Inlet. For these reasons, Staff concludes that Petitioners' hardships are not caused by conditions peculiar to their property such as location, size and topography.

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

See introduction above; see all attachments; see responses to #1 and #2 above. Petitioners formed reasonable investment backed expectations based on the activities taking place on Lot 1, immediately adjacent to Lots 2 and 3. Lot 1 is part of the same subdivision. Petitioners reasonably believed that they would be able to construct the same type of simple boat dock and pier on the remaining lots in the Palm Cove Subdivision. Upon information and belief, the Grantor on the in-deed to Brunswick for Lot 2 was the same owner that obtained permission to construct a boat dock on Lot 1, and to riprap the sandy shoreline there.

CRC-VR-14-09

**Staff's Position: Yes.**

Staff contend that Petitioners do not have reasonable expectations with respect to pier permits on Lots 2-10 given their location adjacent to an ocean inlet, within the designated Inlet Hazard and Ocean Erodible AECs, and because the Commission's rules generally ban piers and docks in such areas unless both parts of the exception are met (estuarine characteristics and small scale).. Staff do not agree with an argument that, because Lot 1 received a pier permit and since it is in the same subdivision, the rest of the Lots in Palm Cove should also get pier permits. DCM Staff make determinations regarding estuarine shoreline characteristics solely based on conditions observed during site visits, and not based on where lots are platted or which lots are part of a larger subdivision. A better way to ensure that docking facilities would be allowed on a particular lot would have been to consult with Division staff and/or seek a CAMA permit before purchasing a lot within the Palm Cove subdivision, as DCM staff routinely interact with Realtors and prospective buyers across the coast.

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

**Petitioners' Position: Yes.**

See introduction above; see all attached documents; see responses to #1, 2 and 3 above. By proposing a nine slip community dock, and obtaining written consent statements from the owners of Lots 2-10 inclusive, Petitioners have taken substantial actions designed to maximize consistency of the proposed structure with applicable CAMA use standards, including those found in 07H.0310(c). One of the key purposes of the Commission's variance process is to balance private property rights (here, among others, the riparian right of each lot owner to have access to deep water) with protection of the coastal environment. Petitioners respectfully contend that their proposed community boat dock, coupled with written commitments to prevent any other development on the Jinks Creek shoreline portion of these lots, provides maximum consistency with the spirit, purpose and intent of the Commission's rules. This is made more evident when one reviews the list of exempt structures and activities that can take place within the ocean hazard setback, as detailed in 07H.0309 and compares that with the efforts of Petitioners here to absolutely minimize the placement of structures within the Inlet Hazard Area side of these lots.

**Conclusion**

For the reasons stated in this variance request attachment, along with all of the attached documents, Petitioners respectfully request that the Commission approve their pending variance request.

CRC-VR-14-09

**Staff's Position: No.**

Staff believes that Petitioners' request is not within the spirit, purpose and intent of the Commission's rules, standards or orders, does not protect public safety and welfare, and does not preserve substantial justice. The Commission's rules and use standards for the Inlet Hazard AEC and the Ocean Erodible AEC generally ban docks and piers within these AECs due to the dynamic shorelines present at ocean shorelines and inlets, and the safety issues that can arise from such inappropriately sited development. However, the Commission's rules and use standards make an exception when areas within these AECs both (1) exhibit estuarine shoreline characteristics and (2) when small-scale construction is proposed.

In this case, a 9-slip pier is not small-scale (defined by rule reference as a 2-slip pier). Petitioners' "limitation" of having one slip per lot for Lots 2-9 is not actually a limitation because the Commission's rules already limit Petitioners' riparian rights and prohibit Lots 2-10 from having docks and slips to access deep water, as otherwise allowed by common law when those limitations are reasonable. In this case, Staff believes that the limitations on piers in the highly dynamic Ocean Hazard Areas of Environmental Concern are reasonable restrictions on riparian rights. Petitioners' purported "limitation" comes from the incorrect assumption that Lots 2-10 could each have a 2-slip pier, and they now "only" ask for one slip each. However, the combination of the Commission's rules generally banning piers in the Inlet Hazard and Ocean Erodible AECs, along with the lack of estuarine shoreline characteristics on Lots 2-10 make this an incorrect assumption.

As noted in discussion of Variance Factor Two above, Lot 1 and its rip-rap shoreline was found to have estuarine shoreline characteristics in 2005 at the time of the pier permit, but Stipulated Facts 17-19 and the attached site photographs and field report have made no such finding for Lots 2 and 3 in 2014. Accordingly, granting a variance when the required estuarine shoreline characteristics are not present would not be within the spirit, purpose and intent of the rules, and public safety and welfare would be harmed by allowing the proposed 9-slip docking facility in the Inlet Hazard AEC in an area dominated by ocean shoreline and inlet characteristics.

Public safety and welfare may also be affected by the proposed 9-slip pier, which neighbors indicate they believe will impact navigation in this area. While Staff received a few objection letters during the permit application review and decision period, most of the objections (attached) were received in response to this variance petition.

While Staff acknowledges that Petitioners made some attempts to limit the impacts from their request by pushing it westward to Lots 2 and 3 and by agreeing to limit further pier development on Lots 2-10, this is not enough to minimize the risks from a 9-slip docking facility in an area dominated by ocean shoreline characteristics.

# ATTACHMENT D

Petitioner's Petition and Proposed Exhibits  
(without (1) proposed attachments which became stipulated  
exhibits or (2) Petitioner's initial proposed facts)



## CAMA VARIANCE REQUEST FORM

DCM FORM 11

DCM FILE No.:

14-09

PETITIONER'S NAME PALM COVE OWNERS ASSOCIATION, INC. and  
BRUNSWICK LAND HOLDINGS, LLC

COUNTY WHERE THE DEVELOPMENT IS PROPOSED Brunswick

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

**VARIANCE HEARING PROCEDURES**

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

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

**VARIANCE CRITERIA**

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

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

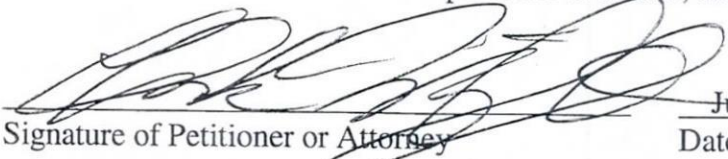
*Please make your written arguments that Petitioner meets these criteria on a separate piece of paper.*

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

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

- The name and location of the development as identified on the permit application;
- A copy of the permit decision for the development in question;
- A copy of the deed to the property on which the proposed development would be located;
- A complete description of the proposed development including a site plan;
- A stipulation that the proposed development is inconsistent with the rule at issue;
- Proof that notice was sent to adjacent owners and objectors, as required by 15A N.C.A.C. 07J .0701(c)(7);
- N/A Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.
- This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

Due to the above information and pursuant to statute, the undersigned hereby requests a variance.

  
 Signature of Petitioner or Attorney \_\_\_\_\_ June 17, 2014 \_\_\_\_\_  
 Date

I. Clark Wright, Jr., *Attorney*  
 Printed Name of Petitioner or Attorney \_\_\_\_\_ icw@dhwlegal.com \_\_\_\_\_  
 Email address of Petitioner or Attorney

209 Pollock Street \_\_\_\_\_ (252) 514-2828, Ext. 1 \_\_\_\_\_  
 Mailing Address Telephone Number of Petitioner or Attorney

New Bern, NC 28560 \_\_\_\_\_ (252) 514-9878 \_\_\_\_\_  
 City State Zip Fax Number of Petitioner or Attorney

**DELIVERY OF THIS HEARING REQUEST**

This variance petition must be **received by** the Division of Coastal Management at least six (6) weeks before the first day of the regularly scheduled Commission meeting at which it is heard. A copy of this request must also be sent to the Attorney General's Office, Environmental Division, 15A N.C.A.C. 07J .0701(e).

Contact Information for DCM:

**By mail, express mail or hand delivery:**

Director  
 Division of Coastal Management  
 400 Commerce Avenue  
 Morehead City, NC 28557

**By Fax:**  
 (252) 247-3330

**By Email:**  
 Check DCM website for the email  
 address of the current DCM Director  
**www.nccoastalmanagement.net**

Contact Information for Attorney General's Office:

**By mail:**

Environmental Division  
 9001 Mail Service Center  
 Raleigh, NC 27699-9001

**By express mail:**  
 Environmental Division  
 114 W. Edenton Street  
 Raleigh, NC 27603

**By Fax:**  
 (919) 716-6767

Attachment to Variance Request Form  
Palm Cove Owners Association, Inc.  
And  
Brunswick Land Holdings, LLC

June 17, 2014

Introduction

Palm Cove Owners Association, Inc. ("PCOA") and Brunswick Land Holdings, LLC ("Brunswick") seek a variance from the Coastal Resources Commission ("CRC" or "Commission") to allow construction of a nine-slip community dock, with associated walkway and gazebo, in order to provide riparian access to deep water for nine of the ten lots in the Palm Cove Subdivision. In 2005, a CAMA General Permit was issued to the owner of Lot 1 authorizing construction of an individual pier with boat slips, thereby providing riparian access to deep water for that lot. Division of Coastal Management ("DCM") staff have been unable to locate a copy of this General CAMA Permit, but do have a computer record sheet and drawing in their files, a copy of which are attached. The proposed nine slip community dock pier is located approximately 163 feet from the existing Lot 1 boat pier; the closest distance between the two structures out in the water would be approximately 93 feet.

This variance request is submitted on behalf of PCOA (the prior CAMA Permit Applicant) and Brunswick, owner of Lots 2 and 3, upon which the requested community boat dock and associated structures would be constructed. Should the variance be issued, after the structures are constructed and the lots sold to individual buyers, Brunswick will transfer these assets to PCOA. PCOA is a non-profit North Carolina corporation, properly registered with the North Carolina Secretary of State's Office.

PCOA and the current developer-owners of lots 2-10 have worked hard to minimize potential impacts from this proposed work, while also making sure that the lot owners' riparian rights are preserved and respected. As mentioned above, in or about 2005, the owner of Lot 1 received CAMA approval to construct an individual boat dock and pier in this same area. A review of aerial photographs dated prior to construction of this pier and dock reveals the same type of sandy shoreline, with likely continuation of the erosion escarpment that remains present on lots 2-10. Recent photographs of the Jinks Creek shoreline of Lot 1 depict a steep, rip-rap covered shoreline, which is further indication of the prior presence of a sand escarpment on Lot 1 that was, at the time of the permitting of the boat dock for that lot, very similar to the escarpment on Lots 2 and 3.

The purpose of this Variance Request is to provide the other nine lot owners within the Palm Cove Subdivision with the same ability to exercise their common law and statutory riparian rights, but to do so in a manner that maximizes respect for the applicable 07H.0310 estuarine shoreline use standards. When one reviews recent aerial photographs of the area (a number of which are attached and included in the powerpoint), one can see that a number of newer piers, docks and boat slips have been permitted in areas that, at least from aerial photographs, look like they did not contain estuarine shoreline characteristics.

Our reason for pointing this out this information is not to contest or disparage either the permitting of those structures, or past decisions made by permitting officials. The sole purpose of providing this information is to establish the context within which the owners and developers of Palm Cove reasonably relied on this visible information informing their reasonable, investment backed expectations that they, too, would be able to construct similar boat docks and piers on each of the Palm Cove lots, thereby protecting and exercising their riparian rights of access for each lot to deep water. When, to their surprise, DCM officials first advised them of the estuarine shoreline use standards, PCOA and the owners/developers of the subdivision began to consult with a CAMA consultant and reputable coastal engineers to devise a nine slip community dock, located as close to Lot 1 as possible, to best minimize impacts, and maximize compliance with the relevant estuarine shoreline use standards found in 15A NCAC 07H.0310. In addition, contained in the variance request package are statements of support and consent from all of the owners of lots 2 through 10 (inclusive) of Palm Cove. These statements include a specific agreement to protect this dynamic area from any additional pier or dock development by, if required for variance approval, committing to record an appropriate restriction or conservation easement limiting all nine of these lots to the nine-slip community dock facility, and no other piers or docks. We believe that this represents a win-win scenario by which compliance with the CAMA use standards is maximized in a way that still respects riparian property rights – thus treating the owners of lots 2-10 in a fashion equal to that of the owner of Lot 1 in the very same subdivision, located immediately to the west.

1. **Unnecessary hardships would result from strict application of the development rules, standards or orders issued by the Commission:**

See Introduction above and all attachments.

Brunswick purchased Lots 2 and 3 of Palm Cove on May 6, 2005 and May 10, 2005 respectively. According to DCM records, the pier and dock permit for Lot 1 first was issued on February 4, 2005, with an expiration date of May 4, 2005. PCOA was incorporated on May 6, 2005. The covenants governing the subdivision were recorded on or about May 11, 2005. Aerial photographs indicate that a number of other piers and docks recently had been constructed within similar sandy, dynamic areas along the same shoreline, and along the southern shoreline in the North Shore Drive area just to the north. All other needed permits have been issued (including a number of CAMA approvals) allowing the subdivision to be developed. Aerial photographs confirm that Lot 1 received its permit at a time when the shoreline of Lot 1 was similar to the shoreline of Lots 2 and 3. Aerial photographs further indicate that this shoreline area was impacted by man-made activities (dredging and filling) dating back to the 1950s through the 1970s. PCOA and Brunswick have relied on the various activities taking place in this same area - including most obviously the boat dock permitting and construction then taking place immediately to the west on Lot 1 of the very same subdivision. This reliance created reasonable, investment backed expectations that the owners of Lots 2-10 would be able to exercise their riparian rights of access to deep water for each lot. The current Petitioners have worked hard to satisfy those property rights in a manner that involves the least possible impact to the estuarine shoreline in this area.

2. **Such hardships result from conditions peculiar to the petitioners' properties such as location, size or topography:**

See Introduction above; see all attachments; see #1 above. The conditions on Lots 2 and 3 were no different than those on Lot 1 at the time Lot 1 was allowed to place rip-rap and build its dock and pier. Similarly, a review of relevant aerial photographs confirms that petitioners' properties show the same kind of characteristics that many other nearby properties showed at the time such properties received permits and approvals to construct bulkheads, piers and docks.

3. **Such hardships did not result from actions taken by the petitioner:**

See Introduction above; see all attachments; see responses to #1 and #2 above.

Petitioners formed reasonable investment backed expectations based on the activities taking place on Lot 1, immediately adjacent to Lots 2 and 3. Lot 1 is part of the same subdivision. Petitioners reasonably believed that they would be able to construct the same type of simple boat dock and pier on the remaining lots in the Palm Cove Subdivision. Upon information and belief, the Grantor on the in-deed to Brunswick for Lot 2 was the same owner that obtained permission to construct a boat dock on Lot 1, and to riprap the sandy shoreline there.

4. **The requested variance is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will serve substantial justice.**

See Introduction above; see all attached documents; see responses to #1, 2 and 3 above.

By proposing a nine slip community dock, and obtaining written consent statements from the owners of Lots 2-10 inclusive, Petitioners have taken substantial actions designed to maximize consistency of the proposed structure with applicable CAMA use standards, including those found in 07H.0310(c). One of the key purposes of the Commission's variance process is to balance private property rights (here, among others, the riparian right of each lot owner to have access to deep water) with protection of the coastal environment. Petitioners respectfully contend that their proposed community boat dock, coupled with written commitments to prevent any other development on the Jinks Creek shoreline portion of these lots, provides maximum consistency with the spirit, purpose and intent of the Commission's rules. This is made more evident when one reviews the list of exempt structures and activities that can take place within the ocean hazard setback, as detailed in 07H.0309 and compares that with the efforts of Petitioners here to absolutely minimize the placement of structures within the Inlet Hazard Area side of these lots.

**Conclusion**

For the reasons stated in this variance request attachment, along with all of the attached documents, Petitioners respectfully request that the Commission approve their pending variance request.

# GENERAL PERMIT COMPUTER FORM

APPLICANT NAME: NC State University

ADDITIONAL NAMES: \_\_\_\_\_

AEC DESIG: EW PT IH DEVELOP AREA: .01 PROJ DESC: P - 12  
 (Will only take 6) (Will only take 1)

WORK: PR 6,48 \_\_\_\_\_  
 (Will only take 4)  
TE 8,16 \_\_\_\_\_

MAINT: \_\_\_\_\_  
 (Will only take 4)  
 \_\_\_\_\_

IMP: OW 128 \_\_\_\_\_  
 (will only take 6)  
 \_\_\_\_\_

ACTION                      EXPIRATION

DREDGE & FILL REQUIRED: 2/4/05                      5/4/05

CAMA MAJOR DEVEL REQUIRED: 2/4/05                      5/4/05

SETBACK LINES

| Curve | Radius | Tangent | Length | Delta      | Chord | Chord Bear.   |
|-------|--------|---------|--------|------------|-------|---------------|
| C-1   | 40.00  | 15.72   | 29.95  | 42°54'54"  | 29.26 | N 07°20'56" E |
| C-2   | 40.00  | 181.27  | 143.04 | 204°53'13" | 78.12 | S 48°45'00" E |
| C-3   | 40.00  | 7.85    | 15.50  | 22°12'01"  | 15.40 | S 64°47'37" W |

| Course | Bearing       | Distance |
|--------|---------------|----------|
| L-32   | S 75°54'50" W | 4.19     |
| L-33   | S 76°33'08" E | 18.78    |
| L-34   | S 76°33'08" E | 39.35    |
| L-35   | S 70°11'25" E | 2.28     |

|      |               |       |
|------|---------------|-------|
| L-17 | S 84°36'27" E | 66.35 |
| L-18 | S 89°43'12" E | 39.55 |
| L-19 | S 89°43'12" E | 35.27 |
| L-20 | N 83°50'03" E | 62.24 |
| L-21 | N 85°50'03" E | 7.90  |
| L-22 | N 81°39'51" E | 85.18 |
| L-23 | N 84°01'45" E | 35.73 |
| L-24 | N 86°01'54" E | 66.72 |
| L-25 | N 87°42'12" E | 31.95 |
| L-26 | N 87°42'12" E | 45.78 |
| L-27 | N 86°50'25" E | 36.70 |
| L-28 | N 86°50'25" E | 61.38 |
| L-29 | N 82°31'51" E | 42.54 |
| L-30 | N 82°31'50" E | 40.24 |
| L-31 | N 81°11'23" E | 69.79 |

ANY AND ALL RESTRICTIVE COVENANTS RIGHTS RECORDED AND  
 BRUNSWICK COUNTY REGISTRY.  
 15-17-23 FLOOD ZONE.  
 CORNERS UNLESS OTHERWISE NOTED.  
 ZONING REQUIREMENTS OF

WAS ESTABLISHED BY LOCATION LINE AND IS SUBJECT TO CHANGE  
 102 D FIRM DATE REVISED APRIL 2, 1991

D WITHOUT BENEFIT  
 T INDICATE ALL  
 Y OR OTHER  
 RIGHT REVEAL

DENSITY ZONING  
 IATION RESERVE  
 SET BEACH.

WED FOR  
 BEEN  
 ONLY BY

DATE

SIONAL LAND SURVEYOR, CERTIFY THAT THIS  
 STATUTES ONE OR MORE OF THE FOLLOWING

ND WITHIN THE AREA OF A COUNTY  
 ORDINANCE THAT REGULATES PARCELS

PARCELS OF LAND  
 ER CATEGORY, SUCH  
 STING PARCELS, A  
 IOTHER EXCEPTION TO

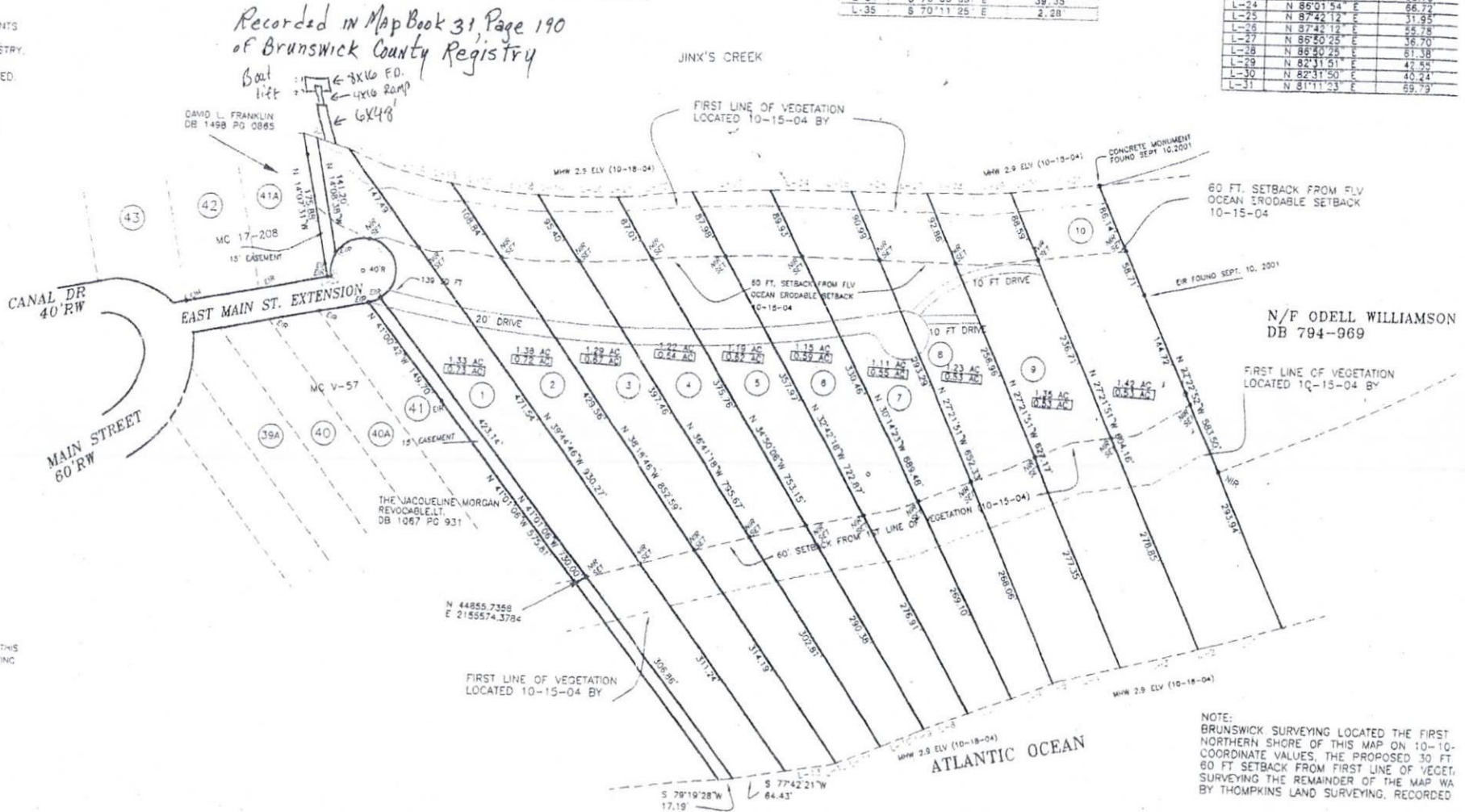
HIS MAP WAS DRAWN UNDER MY  
 MADE BY ME, DEED DESCRIPTION  
 THAT THE RATIO OF PRECISION  
 WAS DRAWN IN ACCORDANCE WITH  
 ORIGINAL HAND AND SEAL THIS



BRUNSWICK COUNTY, NORTH CAROLINA  
 I, A NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID  
 CERTIFY THAT JAMES R. TOMPKINS, A PROFESSIONAL LAND  
 SURVEYOR, PERSONALLY APPEARED BEFORE ME THIS DAY  
 AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING  
 INSTRUMENT, WITNESS MY HAND AND OFFICIAL STAMP OR  
 SEAL THIS 26 DAY OF NOV 2004



THE UNDERSIGNED, HEREBY ACKNOWLEDGES THAT THE LAND  
 SHOWN ON THIS PLAT IS WITHIN THE SUBMISSION REG-  
 IULATION OF \_\_\_\_\_ AND THAT THE  
 PLAT AND ALLOTMENT IS MY FREE ACT AND DEED.





List of Attachments – Palm Cove Variance Request

June 17, 2014

1. June 17, 2014 cover letter to Braxton Davis
2. June 17, 2014 Variance Request Form
3. June 17, 2014 Attachment to Variance Request Form (with this list and stipulated facts attached)
4. May 27, 2014 DCM denial letter
5. May 6, 2005 Deed to Brunswick Land Holdings, LLC for Lot 2
6. May 10, 2005 Deed to Brunswick Land Holdings, LLC for Lot 3
7. May 6, 2005 Articles of Incorporation of PCOA, Inc.
8. May 11, 2005 Declaration of Protective Covenants for Palm Cove (partial copy)
9. Recent aerial photograph of Palm Cove, Tubbs Inlet and surrounding area (from Palm Cove Brochure; note traced lot lines are not survey accurate)
10. October 21, 2007 revised recorded plat for Palm Cove Subdivision
11. December 30, 2013 Site Plan for proposed nine-slip community dock, walkway and gazebo
12. Overview map of site
13. June 16, 2014 Stipulation of Inconsistency with relevant provisions of 15A NCAC 07H.0310
14. June 12, 2014 certified mail notice to adjacent riparian property owner (Lot 4)
15. June 12, 2014 certified mail notice to adjacent riparian property owner (Lot 1)
16. January 9, 2014 Palm Cove Major Development CAMA Permit 11-06 – Renewal
17. February 7, 2007 Minor Modification to CAMA Permit 11-06
18. January 18, 2006 Major Development CAMA Permit 11-06, issued to Palm Cove POA
19. Statements of Consent from owners of Lots 2-10 inclusive, including statements of willingness to accept conservation easement restrictions on the Jinks Creek shoreline side of said lots.
20. DCM General CAMA Permit Computer Form documenting issuance of CAMA dock permit to owner of Lot 1 on February 4, 2005, with attached sketch map showing boat dock/slips.
21. Minor CAMA Permits issued to owner of Lot 1 authorizing construction of boat pier and dock, and showing that both "Inlet Hazard" and "Estuarine Shoreline" AECs are affected.
22. April 13, 2009 Minor CAMA Permit issued to Brunswick Land Holdings, LLC for construction of a beach home, driveway, swimming pool and septic system on the ocean side portions of Lot 2 (includes site plan and January 2, 2014 renewal letter).
23. April 13, 2009 Minor CAMA Permit issued to Brunswick Land Holdings, LLC for construction of a beach home, driveway, swimming pool and septic system on the ocean side portions of Lot 3 (includes site plan and January 2, 2014 renewal letter).
24. June 2014 ground level pictures (four total) of Lots 1-10 in Palm Cove, focusing on Lot 1 and adjacent area.
25. DCM Color Map of current and proposed dimensions of Tubbs Inlet Hazard Area
26. Engineer drawing showing distances from existing boat pier on Lot 1 to the proposed nine slip community dock structures on Lots 2 and 3.
27. October 16, 2006 DCM letter approving minor modification of CAMA Permit 11-06 to allow ten structural access walkways for each of the 10 lots in Palm Cove, thereby allowing pedestrian travel from ocean side homes to Jinks Creek side docks and other amenities.
28. Various aerial photographs, dated from 1956 to 2012 (11 pages)
29. Brunswick County GIS Map with lot lines, and aerial GIS Maps dated 2003, 2004 and 2006

05/11/2005  
\$3,400.00 26  
Real Estate  
Excise Tax

Lot 2

Brunswick County Register of Deeds  
Robert J. Robinson  
Inst #265150 Book 2142 Page 244  
05/11/2005 01:52:05pm Rec# 231593

RET MTG  
TOTAL 40 REV 300 TC# 50  
REC# CK AMT 212 CK# 9705  
CASH REF BY gwl/gh

| TS   | AUX     | CON | GR  | PCL | SPL |
|------|---------|-----|-----|-----|-----|
| U    |         | 250 | MB  | 002 |     |
| MAP  | IMP/SUF | BLK | PIN | SUF | INT |
| 1054 | 11      | 55  | 507 |     |     |

**SPECIAL WARRANTY DEED**

**NO TITLE SEARCH HAS BEEN REQUESTED AND NO SEARCH HAS BEEN PERFORMED.**

Prepared by: **MURCHISON, TAYLOR & GIBSON, PLLC**  
16 North Fifth Avenue, Wilmington, NC 28401

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

Tax Parcel Nos. \_\_\_\_\_

THIS SPECIAL WARRANTY DEED, made this 6<sup>th</sup> day of May, 2005, by and between The North Carolina Agricultural Foundation, Inc., a North Carolina corporation, (herein, whether one or more, called "Grantor"), and Brunswick Land Holdings, LLC, a North Carolina limited liability company, whose mailing address is P.O. Box 1967, Wilmington, NC 28402 (herein, whether one or more, called "Grantee"). The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by the context.

**WITNESSETH THAT:**

NOW THEREFORE, the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and for other good and valuable consideration in hand paid by the Grantee, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does hereby bargain, sell and convey unto Grantee and its successors and assigns forever, in fee simple, all that certain real property located in Brunswick County, North Carolina, described on Exhibit A, attached hereto and incorporated herein by reference, together with any real property improvements thereon.

This conveyance is made subject to (i) all easements, encumbrances, rights-of-way and restrictive covenants of record, (ii) *ad valorem* taxes for current and all subsequent years, and (iii) all governmental land use statutes, ordinances and regulations, including building and subdivision regulations.

This property is located in an inlet hazard area that is by definition a natural hazard area that is especially vulnerable to erosion, flooding and other adverse effects of sand, wind and water because of its proximity to dynamic ocean inlets. The State of North Carolina imposes special regulations affecting property located in ocean and inlet hazard areas of environmental concern including ocean setbacks, building standards and a prohibition on the use of hardened structures as a means of erosion control.

TO HAVE AND TO HOLD the above granted and described property, together with all and singular, the rights, privileges, easements, tenements and appurtenances thereto belonging, or in anywise appertaining unto the Grantee, its successors and assigns, in fee simple, forever.

Inst # 265150 Book 2142Page: 245

And the Grantor, for itself and its successors and assigns, does covenant to and with the said Grantee and its successors and assigns that Grantor has done nothing to impair such title to the property described herein as Grantor received, and Grantor will warrant and defend title to same against the lawful claims of all persons claiming by, under or through Grantor or its successors or assigns.

IN WITNESS WHEREOF, the said Grantor has hereunto set its hand as of the day and year first above written.

THE NORTH CAROLINA AGRICULTURAL FOUNDATION, INC.

By: Keith D. Oakley

NORTH CAROLINA

Wake COUNTY

I, Angela Q. Lands, a Notary Public of the State and County aforesaid, certify that Keith D. Oakley personally came before me this day and acknowledged that he is President of The North Carolina Agricultural Foundation, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President.

WITNESS my hand and official seal this 6 day of May, 2005.



Angela Q. Lands  
Notary Public

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

The foregoing (or annexed) Certificate(s) of ANGELA Q. LANDS

Notary(ies) Public is (are) Certified to be Correct. 11th Day of May 2005  
This instrument was filed for Registration on this 11th Day of May 2005  
in the Book and page shown on the First Page hereof.

Robert J. Robinson  
ROBERT J. ROBINSON, Register of Deeds

Inst # 265150 Book 2142 Page: 246

**EXHIBIT A**

BEING all that real property described as Lot 2, Proposed Subdivision Survey for Sunset Beach & Twin Lakes Inc. as shown on map thereof recorded in Map Book 31, Page 190 of the Brunswick County Registry, reference to said map is hereby made for a more particular description.

The real property is conveyed together with a nonexclusive easement and right of way for ingress, egress and utilities over and across the property shown as "East Main Street Extension" and a "Proposed 20' Shared Private Driveway" on a map entitled "Proposed Subdivision Survey for Sunset Beach & Twin Lakes Inc. of Lots 1 thru 10, 12.67 Ac Total, Located on the East End of Sunset Beach" in Map Book 31, Page 190 of the Brunswick County Registry, reference to said map is hereby made for a more particular description.

In addition, the real property is conveyed together with and subject to an Easement and Maintenance Agreement recorded in Book 2050, Page 793, of the Brunswick County Registry.

\$12,600.00 23



Real Estate Excise Tax

UNOFFICIAL

| TS   | APX | CON | GR | PCL | SPL |
|------|-----|-----|----|-----|-----|
| 1054 | 11  | 256 | MB | 005 | 0   |
| 1054 | 11  | 256 | MB | 006 | 0   |

L-5  
L-6  
101

Excise Tax:

Prepared Without Opinion of Title

Parcel Number:

Prepared by: Hewett Law Firm, Mack Hewett Jr., Attorney at Law  
632 Village Rd., Ste. 1, Charlotte, NC 28470

RET MTB  
 TOTAL 17 REV 12600 C# 50  
 REC# \_\_\_\_\_ CK AMT 232 K# 8931  
 CASH \_\_\_\_\_ REF \_\_\_\_\_ BY gw 1/4

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

### NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED, Made this the 10<sup>th</sup> day of May, 2005, by Tidal Ventures, LLC ("Grantor") to Brunswick Land Holdings, LLC ("Grantee"); whose address is PO Box 1967, Wilmington, NC 28402.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH

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

BEING ALL of Lot Three, Lot Five, and Lot Six as shown on a survey map by James R. Tompkins, P.L.S., entitled "Proposed Subdivision Survey for Sunset Beach & Twin Lakes, Inc. of Lots 1 thru 10, 12.67 AC Total, Located on the East End of Sunset Beach," and recorded in the Office of the Register of Deeds for Brunswick County, North Carolina in Map Cabinet 31, Page 190 to which map reference is made for greater certainty of description.

The real property described herein is conveyed together with and subject to the following:

1. a nonexclusive easement and right of way for ingress, egress and utilities over and across the property shown as "East Main Street Extension" and "20' Drive-Private" and "10' Ft. Drive" on a map entitled "Proposed Subdivision Survey for Sunset Beach & Twin Lakes, Inc. of Lots 1 thru 10, 12.67 AC Total, Located on the East End of Sunset Beach" recorded in Map Book 31, Page 190, Brunswick County Registry, reference to said map is hereby made for a more particular description.

2. a utility easement and right of way over and across the property shown as "15' Easement on a map entitled "Proposed Subdivision Survey for Sunset Beach & Twin Lakes Inc. of Lots 1 thru 10 12.67 AC Total, Located on the East End of Sunset Beach" recorded in Map Book 31, Page 190, Brunswick County Registry, said easement extending from the right of way of the Main Street Extension to the Atlantic Ocean as shown on said recorded map, reference to said map is hereby made for a more particular description.

In addition, the real property described herein is conveyed together with and subject to an Easement and Maintenance Agreement dated November 16, 2004 by Sunset Beach & Twin Lakes, Inc., recorded in Book 2050, Page 793, Brunswick County Registry.

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

And the Grantor covenants with Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances and the Grantor will warrant and defend the title against the claims of all persons whomsoever, other than the following exception: 1) 2005 Town of Sunset Beach and Brunswick County property taxes, 2) all governmental, zoning, and land use restrictions.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

TIDAL VENTURES, LLC  
BY: Gregory S. Gore (SEAL)  
Gregory S. Gore (manager/member)

BY: Samuel N. Varnam (SEAL)  
Samuel N. Varnam (manager/member)

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

I, the undersigned Notary Public of the County and State aforesaid, certify that Samuel N. Varnam and Gregory S. Gore personally came before me this day and acknowledged that they are manager/members of Tidal Ventures, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of such entity, they signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp on this 10<sup>th</sup> day of May, 2005.

(stamp or seal)

OFFICIAL SEAL  
Notary Public, North Carolina  
County of Brunswick  
Mack L. Hewitt, Jr.  
My Commission Expires Dec. 10, 2006  
Notary Public

My Commission Expires:

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

The Foregoing (or annexed) Certificate(s) of

MACK HEWITT JR

"FOR ILLUSTRATIVE PURPOSES ONLY"



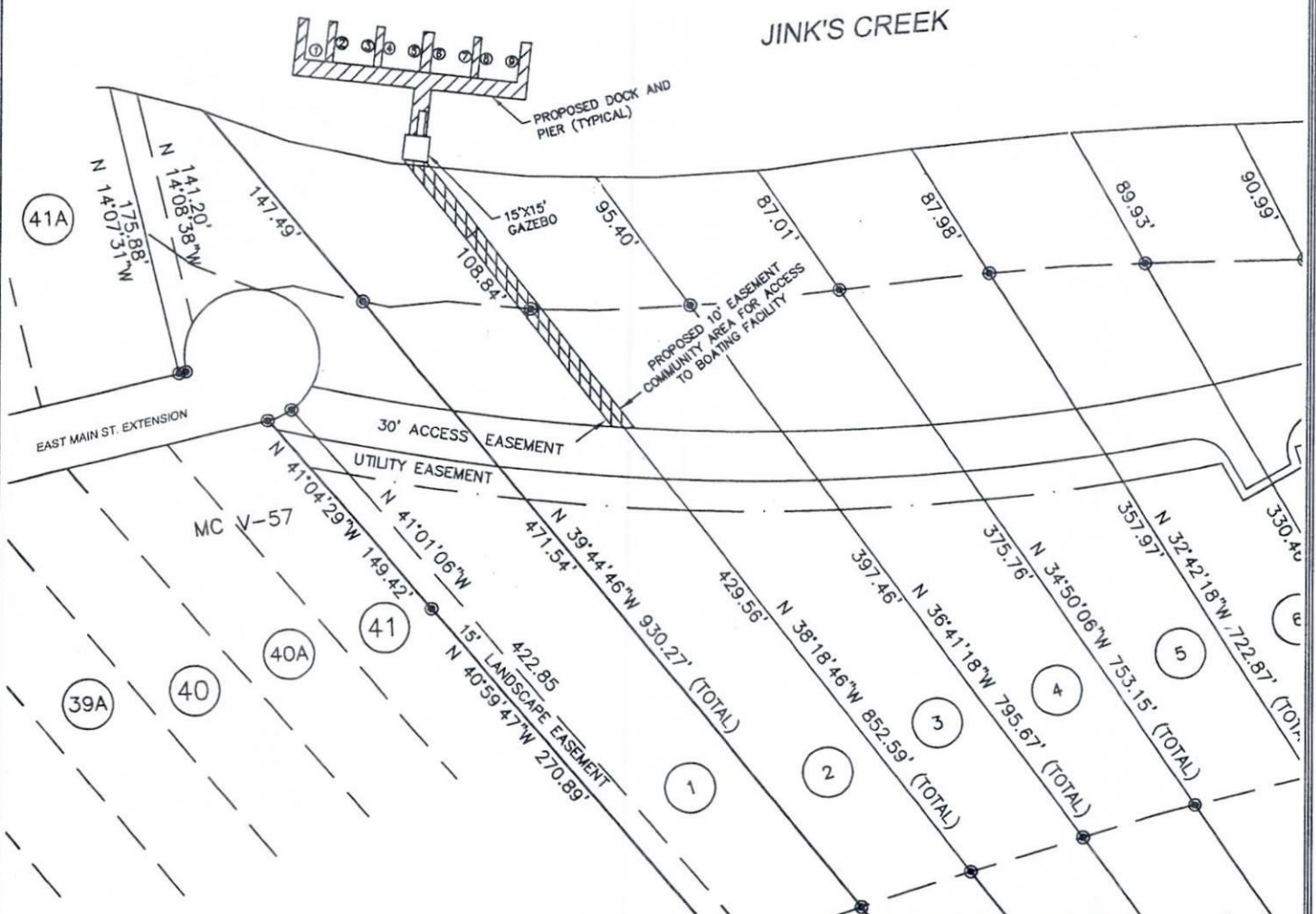
I \_\_\_\_\_ AGREE TO PROVIDE THE 10' EASEMENT AS SHOWN ACROSS LOTS 2 & 3 FOR ACCESS FOR THE COMMUNITY AREA FOR ACCESS TO THE BOATING FACILITY.

EXHIBIT MAP FOR :  
**PALM COVE**

BRUNSWICK LAND HOLDINGS, LLC      DATE \_\_\_\_\_



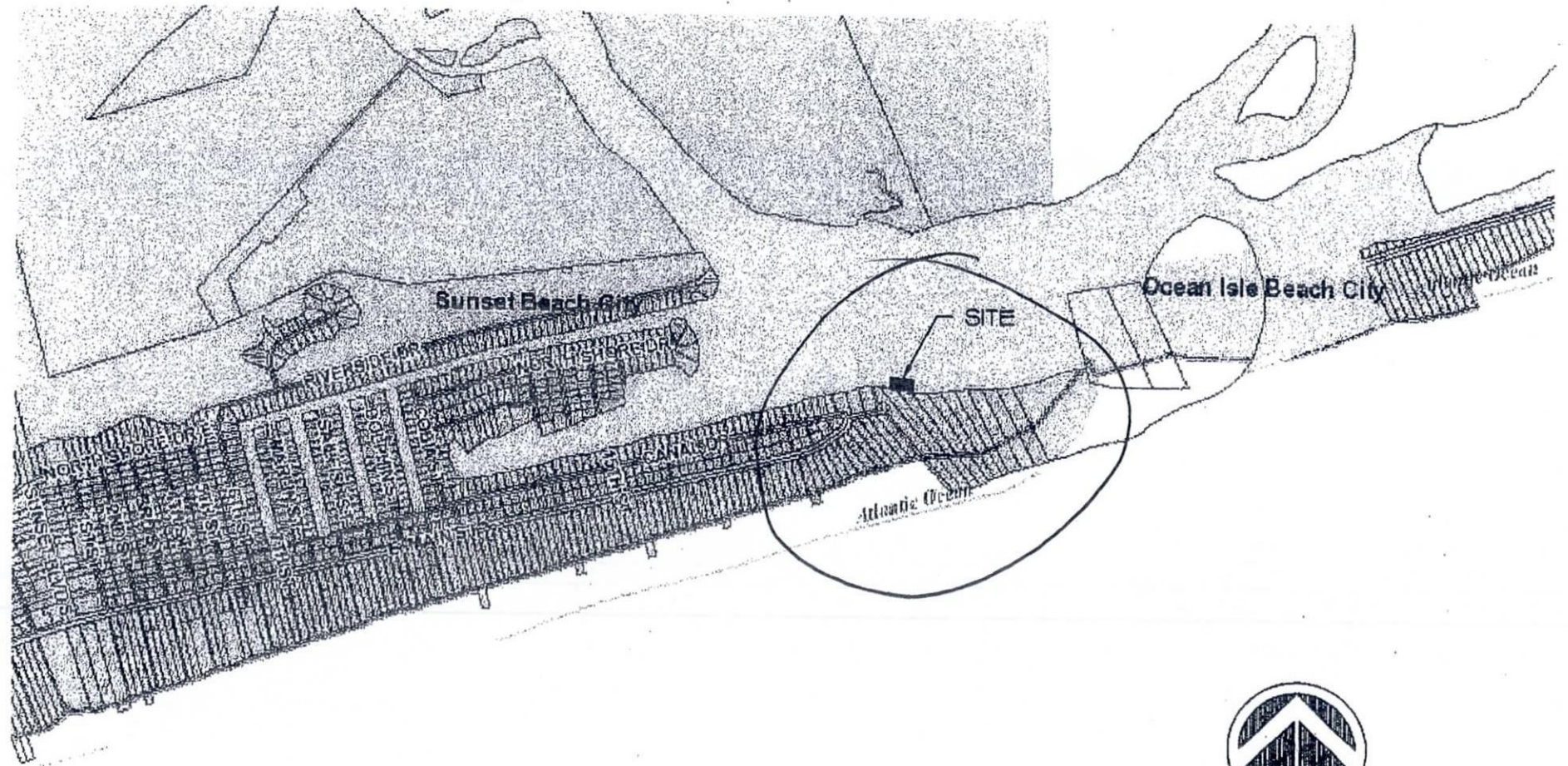
SCALE 1" = 100'



THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.

**CAPE FEAR  
ENGINEERING**

151 Poole Rd., Suite 100; Belville, NC, 28451  
TEL (910) 383-1044; FAX (910) 383-1045  
www.capefearengineering.com  
N.C. LICENSE # C-1621



N.C. GRID  
NAD 83 (2007)



SCALE: 1"=1000'

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 FEB 03 2014

| NO. | REVISIONS |
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**PROPOSED 4 - SLIP  
 COMMUNITY BOATING FACILITY  
 VICINITY MAP**  
  
**SUNSET BEACH    NORTH CAROLINA**

**CAPE FEAR  
 ENGINEERING**  
 151 Poole Rd., Suite 100; Beville, NC, 28451  
 TEL (910) 383-1044; FAX (910) 383-1045  
 www.capefearengineering.com  
 N.C. LICENSE # C-1021

Date: 01/13/14  
 Scale: 1"=1000'  
 Drawn: LMN  
 Checked:  
 Project No. 675-03

Sheet No.  
**3**  
 Of 4



**STIPULATION OF INCONSISTENCY WITH CAMA USE STANDARD**  
**FOR PURPOSES OF PENDING EXPEDITED VARIANCE REQUEST**

**PALM COVE PROPERTY OWNERS ASSOCIATION**

**BRUNSWICK LAND HOLDINGS, LLC**

JUNE 16, 2014

NOW COME Variance Requestors Palm Cove Property Owners Association and Brunswick Land Holdings, LLC, pursuant to the requirements of the Coastal Resources Commission, and hereby stipulate, for purposes of their pending variance request, that the development activities proposed in their recently denied CAMA Permit application (namely, construction of a walkway, elevated gazebo and nine slip boat dock, located between Lots 2 and 3 of the Palm Cove subdivision), are inconsistent with the provisions of 15A NCAC 07H.0310 in that the shoreline in the area of the proposed development work does not currently exhibit the characteristics of an "estuarine shoreline" within the meaning of the rule.

Permit Class  
**RENEWAL**

Permit Number  
**11-06**

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

**Permit**

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

Excavation and/or filling pursuant to NCGS 113-229

Issued to Palm Cove POA, Inc. c/o Bert Exum, PO Box 1967, Wilmington, NC 28403

Authorizing development in Brunswick County at adj. to the Atlantic Ocean & Tubbs Inlet, at the  
intersection of Canal and Main St., in Sunset Beach, as requested in the permittee's letter dated 11/25/13

This permit, issued on January 9, 2014, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

- 1) This renewal shall be attached to the original of Permit No. 11-06, which was issued on 1/18/06, the minor modification issued on 2/5/07, and copies of all documents shall be readily available on site when Division personnel inspect the project for compliance.
- 2) All conditions and stipulations of the active permit remain in force under this renewal unless specifically altered herein.

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DCM WILMINGTON, NC  
FEB 03 2014

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

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

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

All work shall cease when the permit expires on

**December 31, 2015**

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.

*Braxton C. Davis*

\_\_\_\_\_  
Braxton C. Davis, Director  
Division of Coastal Management

This permit and its conditions are hereby accepted.

\_\_\_\_\_  
Signature of Permittee

Permit Class  
**MODIFICATION/MINOR**

Permit Number  
**11-06**

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

**Permit**

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

Excavation and/or filling pursuant to NCGS 113-229

Issued to Palm Cove POA, Inc. C/o Bert Exum, PO Box 1967, Wilmington, NC 28403

Authorizing development in Brunswick County at adj. to the Atlantic Ocean & Tubbs Inlet, at the inter-  
section of Canal and Main St., in Sunset Beach as requested in the permittee's letter dated 12/1/06, including  
attached workplan drawing (1) dated 10/1/06 and the letter dated 12/1/06.

This permit, issued on February 5, 2007, 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.

Sand Fence

- 1) Unless specifically altered herein, this modification authorizes the installation of sand fencing, all as expressly and specifically set forth in the permittee's letter and depicted on the attached workplan drawing. Any additional land disturbing activities and/or construction shall be evaluated on a case-by-case basis by a representative of the Division of Coastal Management (DCM) to determine additional permit requirements. Contact a representative of the Division at (910) 796-7302 prior to the commencement of any such activity for this determination.


(See Attached Sheet for Additional Conditions)

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DCM WILMINGTON, NC  
FEB 03 2014

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.

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

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

  
Charles S. Jones, Director  
Division of Coastal Management

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

All work must cease when the permit expires on

This permit and its conditions are hereby accepted.

December 31, 2009

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

\_\_\_\_\_  
Signature of Permittee

Palm Cove POA, Inc

Permit #11-06  
Page 2 of 2Additional Conditions

- 2) The alignment of the sand fence shall adhere to the alignment depicted on the attached workplan drawing. All commitments made by the permittee in the attached letter dated 12/1/06 and workplan drawing shall be implemented.
- 3) The sand fence shall not impede existing public access to the beach, recreational use of the beach, or emergency vehicle access. The sand fence shall not be installed in a manner that impedes or restricts established common law and statutory rights of public access and use of public trust lands and waters.
- 4) The sand fence shall not be installed in a manner that impedes, traps or otherwise endangers sea turtles, sea turtle nests, or sea turtle hatchlings.
- 5) Non-functioning, damaged, or unsecured sand fencing shall be immediately removed by the permittee.
- 6) Sand fencing shall not be placed on the wet sand beach area.
- 7) This minor modification shall be attached to the original of Permit No. 11-06, which was issued on 1/18/06, and copies of both documents, including any letters of refinement, shall be readily available on site when Division personnel inspect the project for compliance.
- 8) All conditions and stipulations of the active permit remain in force under this minor modification, unless specifically altered herein.

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

NOTE: In accordance with recommendations made by the NC Wildlife Resource Commission, the permittee is encouraged to use signage placed every 50 to 100-feet discouraging entry to the dunes in place of sand fencing. This would allow access to the swales in and behind the frontal dune should sea turtles or sea birds attempt to nest there.

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DCM WILMINGTON, NC

FEB 03 2014

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

# Permit

for

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

Excavation and/or filling pursuant to NCGS 113-229

Issued to Palm Cove POA, Inc C/o Bert Exam, PO Box 1967, Wilmington, NC 28403

Authorizing development in Brunswick County at adj. to the Atlantic Ocean & Tubbs Inlet, at the inter-  
section of Canal and Main St., in Sunset Beach as requested in the permittee's application dated 11/17/05 (MP-1) &  
11/16/05 (MP-3), including attached workplan drawing (C-2) rev. 12/14/05, & AEC Hazard Notice dated 11/16/05.

This permit, issued on January 18, 2006, 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.

### Subdivision Development

- 1) Unless specifically altered herein, this permit authorizes only the land disturbing activities associated with the establishment of the Palm Cove Subdivision, as well as the construction of the access road and utilities, all as expressly and specifically set forth in the permit application and depicted on the attached work-plan drawing. Any additional land disturbing activities and/or construction shall be evaluated on a case-by-case basis by a representative of the Division of Coastal Management (DCM) to determine additional permit requirements. Contact a representative of the Division at (910) 796-7302 prior to the commencement of any such activity for this determination.

(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.

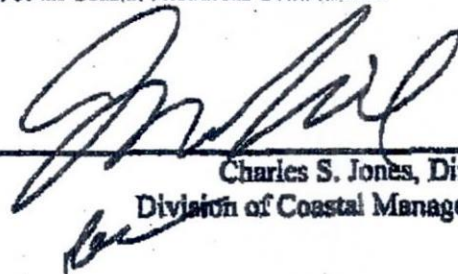
Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

December 31, 2009

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.



Charles S. Jones, Director  
Division of Coastal Management

This permit and its conditions are hereby accepted.

Signature of Permittee

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DCM WILMINGTON, NC

FEB 03 2014

**Additional Conditions**

- 2) Prior to initiation of construction within the Ocean Hazard AEC, a representative of the Division of Coastal Management shall stake the limits of the 60-foot small structure development setback, the 120-foot large structure development setback, and the landward limits of the frontal dune. This setback determination shall replace the one done at the time the permit was processed and approved and construction must begin within a period of 60 days from the date of that meeting. In the case of a major shoreline change within that period a new setback determination will be required before construction begins. Upon completion of the measurement, the permitting authority will issue a written statement to the permittee certifying the same.
- 3) All construction shall comply with building requirements of the N.C. Building Code, 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 AEC standards, the more restrictive provision shall apply.

**NOTE:** The building code, local zoning or flood damage prevention ordinances may impose additional, more restrictive requirements than the Division's standards for development in Areas of Environmental Concern (AECs). Contact the Town of Sunset Beach Inspections Department at (910) 579-6297 for local requirements and permits.

- 4) All foundations and structures shall be designed to be stable during applicable fluctuations in ground elevation and wave force 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.

**Stormwater Management**

- 5) The Division of Water Quality's approval of this project under stormwater management rules of the Environmental Management Commission is covered by way of Stormwater Permit No. SW8051025, which was issued on 12/16/05. Any violation of the permit approved by the DWQ shall be considered a violation of this CAMA permit.
- 6) No portion of the proposed stormwater system shall be located within the 30 foot Coastal Shoreline buffer. If this condition results in a modification of the Stormwater Management Permit referenced in Condition No. 6 above, the permittee shall provide a copy of the modified Stormwater Management Permit to the Division of Coastal Management, prior to the initiation of any construction activities.

**Sedimentation and Erosion Control**

- 7) Appropriate sedimentation and erosion control devices, measures or structures (e.g. silt fence, diversion swales or berms, etc.) shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and/or properties.

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DCM WILMINGTON, NC

FEB 03 2014

Palm Cove POA, Inc

Permit #11-06

Page 3 of 3

Additional ConditionsGeneral

- 8) In accordance with NCAC 15A:07H.0306(c), no public funds shall be utilized for aspects of the proposed project located within the Ocean Hazard AEC. This prohibition includes expenditures for construction and perpetual maintenance of all utilities. Costs incurred to maintain the authorized utilities shall be the responsibility of the permittee.
- 9) All structures authorized by this permit shall be relocated or dismantled when they become imminently threatened by changes in shoreline configuration. A structure(s) shall be relocated or dismantled within two (2) years of the time when it becomes imminently threatened, and in any case, upon its collapse or subsidence. However, if natural shoreline recovery or beach re-nourishment takes place within two (2) years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permittee's right to seek authorization of temporary measures allowed under CRC Rules.

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

NOTE: In accordance with 15A NCAC 7H.0308(a), no new seawall or riprap revetments shall be allowed in the future should any structure become threatened from erosion.

NOTE: The permittee is advised that any development or land disturbing activity that is considered non-water dependent is not authorized within 30 feet of the normal high water level unless specifically exempted by Coastal Resource Commission (CRC) regulations in place at the time of such development.

NOTE: The permittee should be aware that future development on the site would require individual property owners to obtain CAMA Minor Permits from the Town of Sunset Beach. To obtain any minor permits please contact the Local Permit Officer (LPO), with the Town of Sunset Beach, at 700 Sunset Blvd., Sunset Beach, NC 28468.

RECEIVED  
DCM WILMINGTON, NC  
FEB 03 2014



**NCAMA / DREDGE & FILL  
GENERAL PERMIT**

New  Modification  Complete Reissue  Partial Reissue

Previous permit # 39869  
Date previous permit issued 2-4-05

As authorized by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission in an area of environmental concern pursuant to ISA NCAC

7H.1200

Rules attached.

Applicant Name DEAN BELL  
Address C/O Varnum - Gore  
City Supply State NC ZIP 28462  
Phone # ( ) 443-424 Fax # ( )  
Authorized Agent SAMMY VARNUM

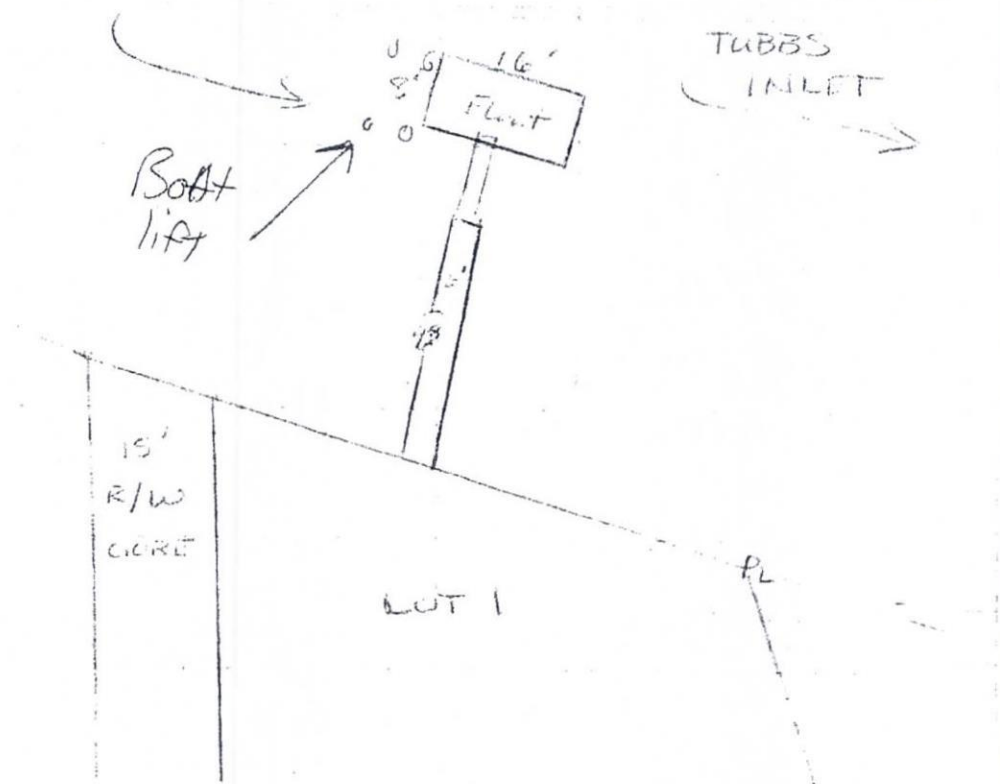
Project Location: County Brunswick  
Street Address/ State Road/ Lot #(s) Lot 1  
Gore/Varnum east end  
Subdivision  
City Sunset Beach ZIP 28468  
Phone # ( ) River Basin Lumber  
Adj. Wtr. Body TUBBS INLET (nat/man/unkn)  
Closest Maj. Wtr. Body TUBBS INLET

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

ORW: yes  no  PNA yes  no  Crit. Hab. yes / no

Type of Project/ Activity construct pier & floating dock

Pier (dock) length 6'x48' (Scale: 1" = 20')  
Platform(s)  
Finger pier(s)  
Groin length number  
Bulkhead/ Riprap length  
avg distance offshore  
max distance offshore  
Basin, channel  
cubic yards  
Boat ramp  
Boathouse/ Boatlift  
Beach Bulldozing  
Other FLOATER  
8'x16'  
Shoreline Length ~60'  
SAV: not sure yes  no   
Sandbags: not sure yes  no   
Moratorium: n/a yes  no   
Photos: yes  no   
Waiver Attached:  no



A building permit may be required by: SUNSET BEACH

See note on back regarding River Basin rules.

Notes/ Special Conditions

Sammy Varnum  
Agent or Applicant Printed Name

[Signature]  
Permit Officer's Signature  
07-26-05  
Issuing Date  
Sunset Beach  
Local Planning Jurisdiction

10-26-05  
Expiration Date  
N/A  
River File Name

Signature 100 du \*\* Please read compliance statement on back of permit \*\*

Application Fee(s)

3810  
Check # 15





CAMA /  DREDGE & FILL  
**GENERAL PERMIT**

New  Modification  Complete Reissue  Partial Reissue

Previous permit # \_\_\_\_\_  
Date previous permit issued \_\_\_\_\_

As authorized by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC 7H1200

Applicant Name NC State University Dean Belk Project Location: County Brunswick  
Address 40 Varnam - Gore Street Address/ State Road/ Lot #(s) Lot 1  
City Supply State NC ZIP 28462 Gore/Varnam East End/NCOSU  
Phone # (910) 443 4245 Fax # ( ) Subdivision \_\_\_\_\_  
Authorized Agent Sammy Varnam City Sunset Beach ZIP 28468  
Affected  CW  EW  PTA  ES  PTS Phone # ( ) River Basin Lumber  
AEC(s):  OEA  HHF  IH  UBA  N/A Adj. Wtr. Body Tubbs Inlet (nat)/man/(unkn)  
 PWS: \_\_\_\_\_  FC: \_\_\_\_\_ Closest Maj. Wtr. Body Tubbs Inlet  
ORW: yes /  no PNA yes /  no Crit. Hab. yes / no

Type of Project/ Activity Construct Pier + Dock (Scale: 1" = 20')

Pier (dock) length 48 x 6  
Platform(s) \_\_\_\_\_  
Finger pier(s) 8 x 16  
Groin length number \_\_\_\_\_  
Bulkhead/ Riprap length avg distance offshore \_\_\_\_\_ max distance offshore \_\_\_\_\_  
Basin, channel \_\_\_\_\_ cubic yards \_\_\_\_\_  
Boat ramp \_\_\_\_\_  
Boathouse/ Boatlift \_\_\_\_\_  
Beach Bulldozing \_\_\_\_\_  
Other \_\_\_\_\_  
Shoreline Length ~ 60'  
SAV: not sure yes  no   
Sandbags: not sure yes  no   
Moratorium: n/a yes  no   
Photos: yes  no   
Waiver Attached:  yes  no

A building permit may be required by: Town of Sunset Beach  See note on back regarding River Basin rules.

Notes/ Special Conditions All conditions of 7H1200 Apply. Riparian survey lines must not be interfered with and piers shall remain 15' off all riparian lines. A survey may be required prior and/or after construction.

Sammy Varnam  
Agent or Applicant Printed Name  
[Signature]  
Signature \*\* Please read compliance statement on back of permit \*\*  
\$100.00 Application Fee(s) 3551 Check #

Caroline Bellis  
Permit Officer's Signature  
2/4/05 Issuing Date 5/4/05 Expiration Date  
Sunset Beach Local Planning Jurisdiction N/A Rover File Name

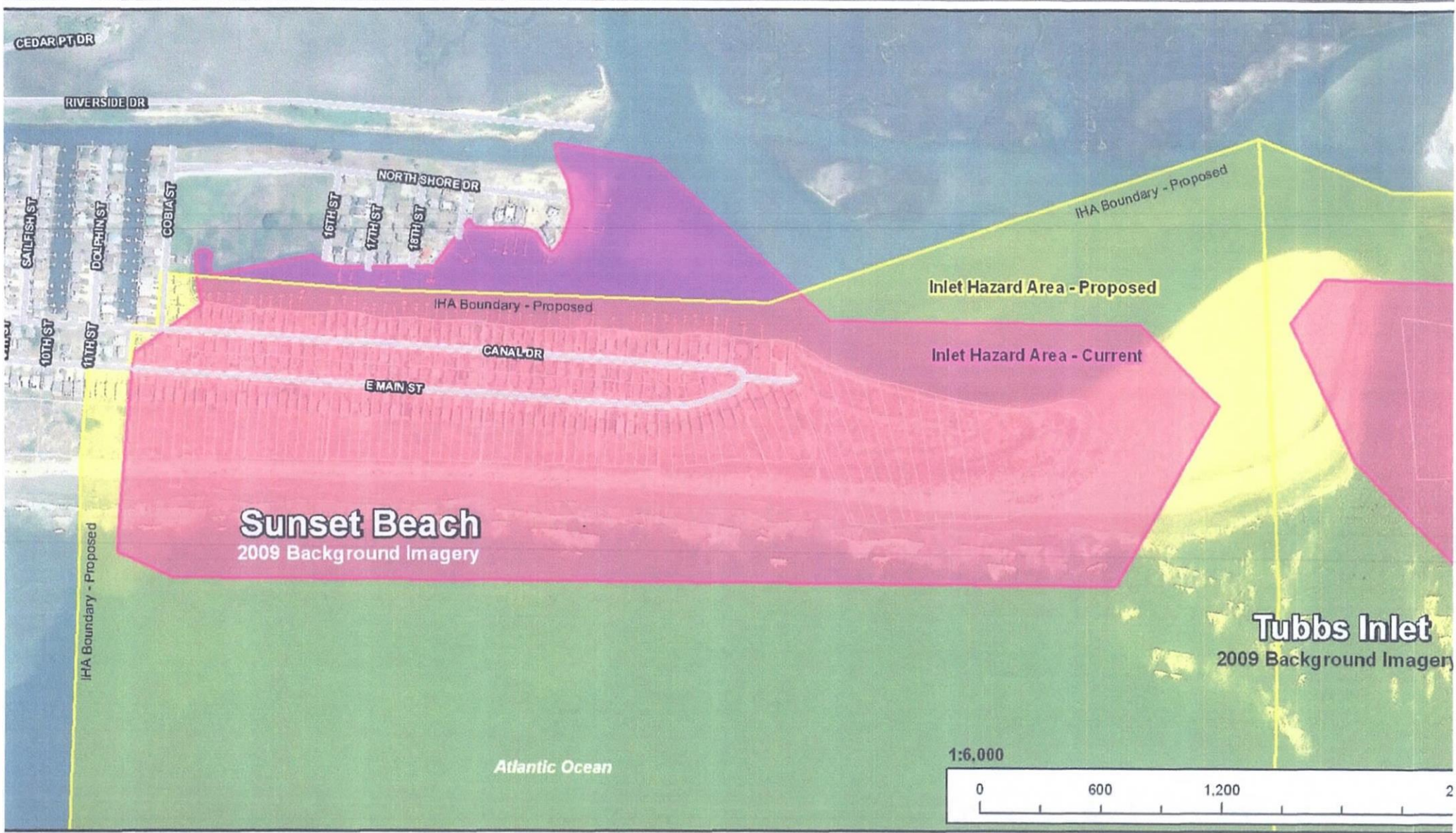


*(Taken June 2014)*









**d**  
**et Hazard Area - Current**  
**et Hazard Area - Proposed**  
**9 Background Imagery**

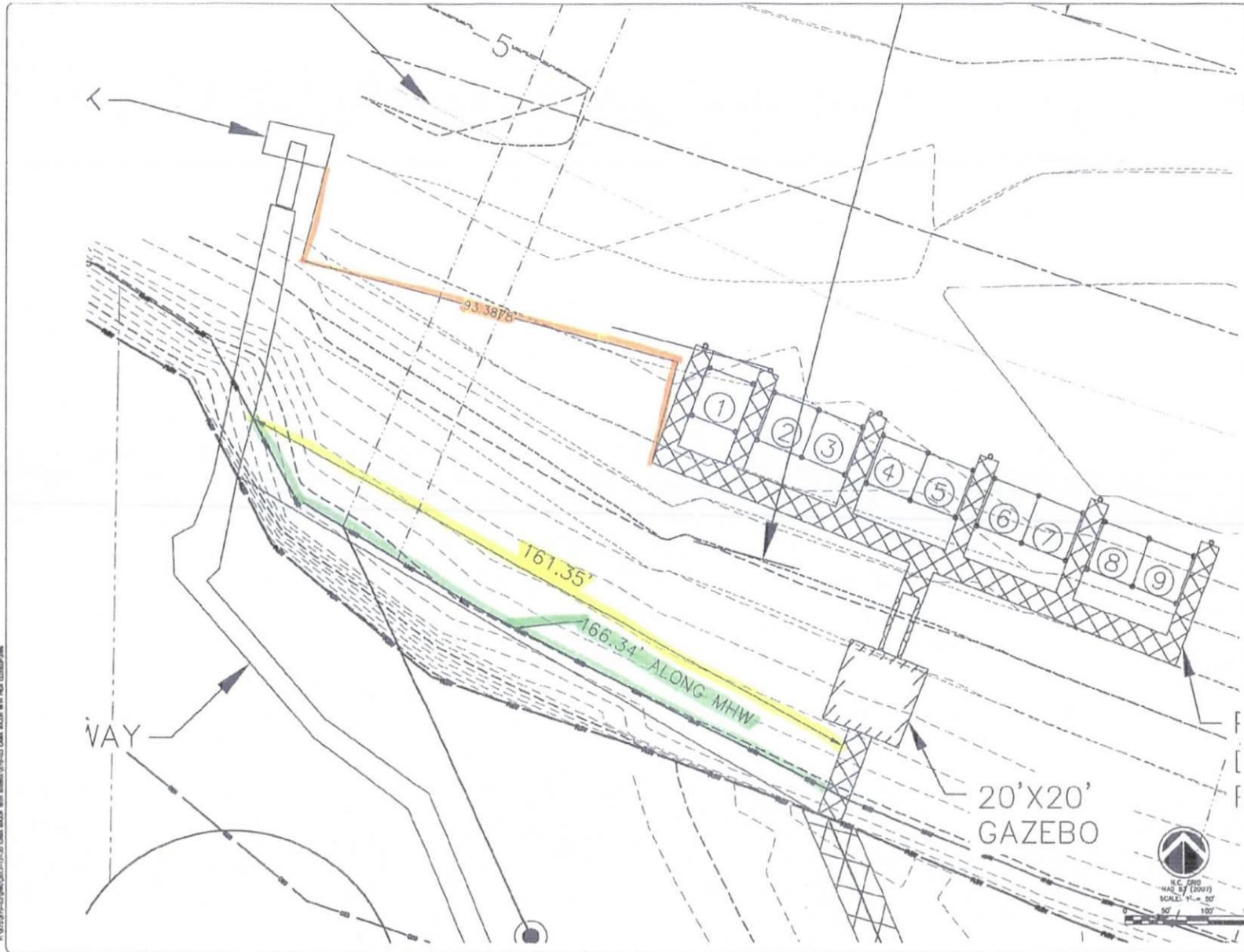
# Proposed Inlet Hazard Area

*at Tubbs Inlet - Sunset Beach*

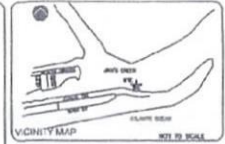
The "Proposed Inlet Hazard Area" boundaries illustrated in this map represent the conceptual representation of regions adjacent to North Carolina's developed inlets which are subject to inlet processes. These boundaries have been defined by experts\* following a detailed change analysis of historic shorelines, vegetation, beach width, and geomorphology.

\*NC's CRC Science Panel on Coastal Hazards and DCM Staff

For more information please visit: [www.nccostalman.com](http://www.nccostalman.com)



ALL NOTES AND DIMENSIONS ARE TO BE TAKEN FROM THE ORIGINAL SURVEY AND SHALL BE USED TO CORRECT ANY DISCREPANCIES.



**LEGEND:**

- BOUNDARY LINE
- - - ADJACENT LINE
- - - MAJOR CONTOUR
- - - MINOR CONTOUR
- - - ACCESS EASEMENT
- - - UTILITY EASEMENT
- - - T&E
- - - WATER LINE @ LOW-TIDE

**NOTES:**

- TOTAL LINEAR FEET OF SHORELINE ALONG LOTS 2&3 = 250' (AS MEASURED ALONG SURVEYED BOUNDARY). ALLOWABLE SQUARE FOOTAGE OF DOCK PER GAMA, 230x27 = 6210 SQ. FT. TOTAL COMMUNITY BOATING FACILITY DOCKAGE FOOTAGE WOULD BE 2592 SQ. FT.

| REV. | DESCRIPTION | REVISED BY | DATE |
|------|-------------|------------|------|
| 2    | REVISION    |            |      |

PRELIMINARY  
 ISSUED FOR REVIEW

CAPE FEAR  
ENGINEERING

101 PINEHURST DRIVE, BEAVER, NC, 28411  
 TEL: (910) 365-1044; FAX: (910) 365-1045  
[www.capefearengineering.com](http://www.capefearengineering.com)  
 N.C. LICENSE # C-1821

| DESIGNER   | PROJECT      |
|------------|--------------|
| M. SINGETT | 675-03       |
| K.A.       |              |
| CHECKED    | SCALE        |
| M. SINGETT | 1"=100'      |
| APPROVED   | DATE         |
| M. SINGETT | 05 DEC, 2013 |

PROPOSED  
 8 - SLIP  
 COMMUNITY BOATING  
 FACILITY

PALM COVE SUBDIVISION  
 LOTS 2 & 3

SUNSET BEACH                      NORTH CAROLINA  
 PROJECT NUMBER                      SHEET NUMBER  
**675-03                                      1 OF 1**



12-13-2012



Google

© 2014 Google



12/13/2012

Washburne St  
15th St  
16th St  
17th St

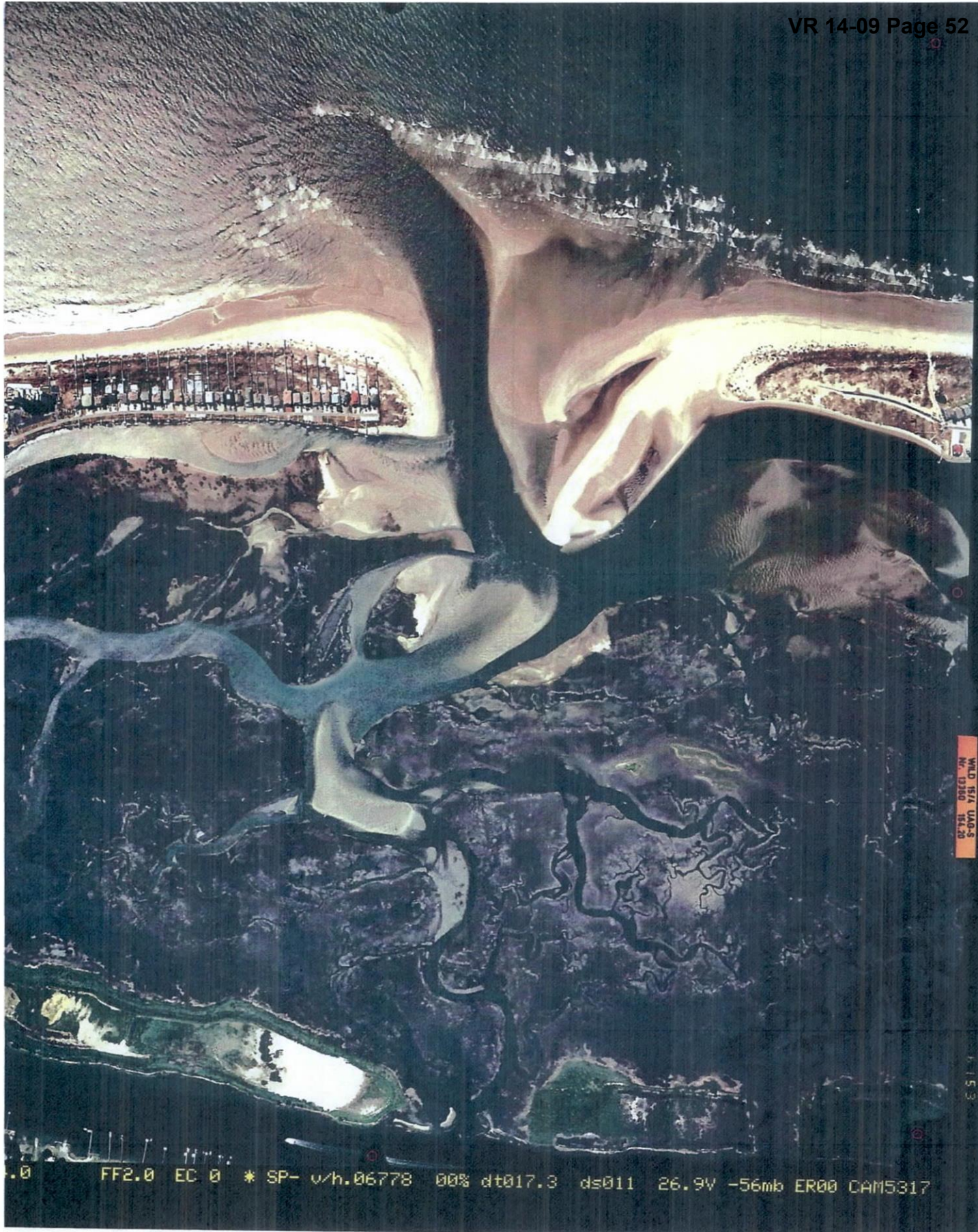
Gravelly  
New St

East St  
Cambridge





WLD 1514 UAG-S  
M. 1380 15A20



WLD 15/1 UAG-S  
N. 1280 184.20

1.153

FF2.0 EC 0 \* SP- v/h.06778 00% dt017.3 ds011 26.9V -56mb ER00 CAM5317

5-12-06

45

1: 9600

10-20-00

RC-20

NCDOT DIV

PHOTOM UNIT

1-5



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1-637

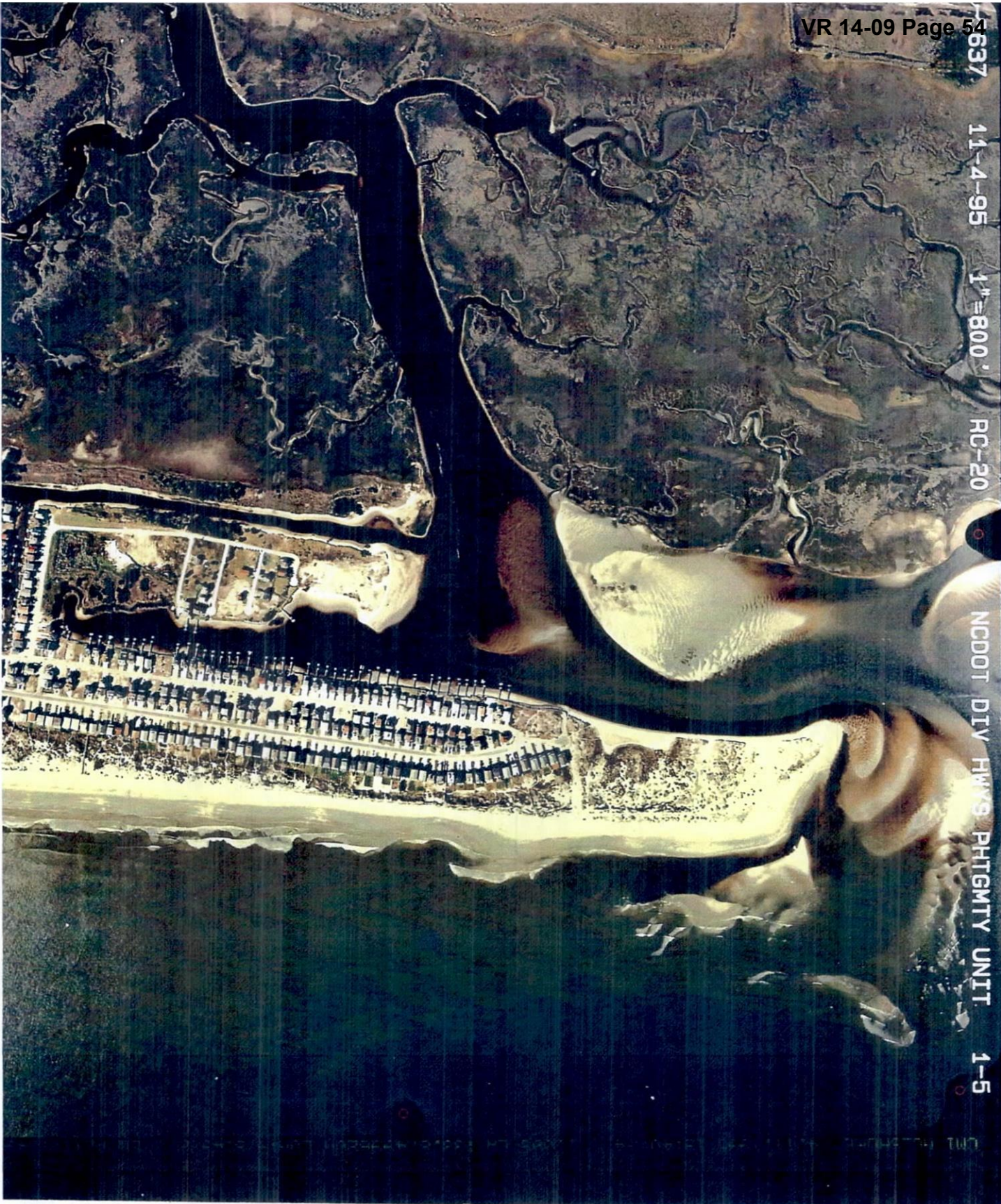
11-4-95

1"=800'

RC-20

NCDOT DIV HWY'S RHTGNTY UNIT

1-5

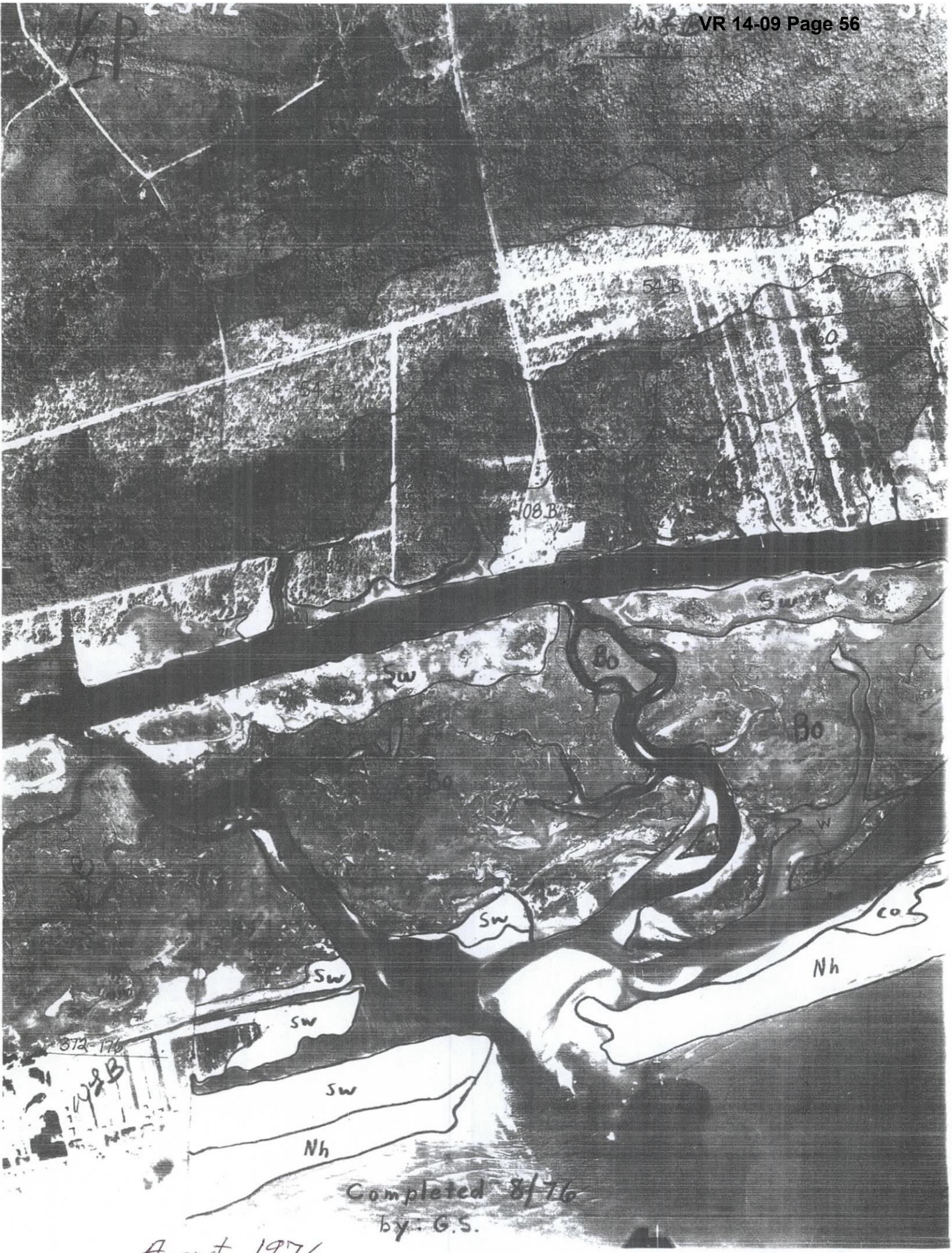


LMI HOLDINGS, INC. 10000 W. 10TH AVENUE, SUITE 100, DENVER, CO 80202

11-27-89



4 193 8



Completed 8/76  
by G.S.

August 1976



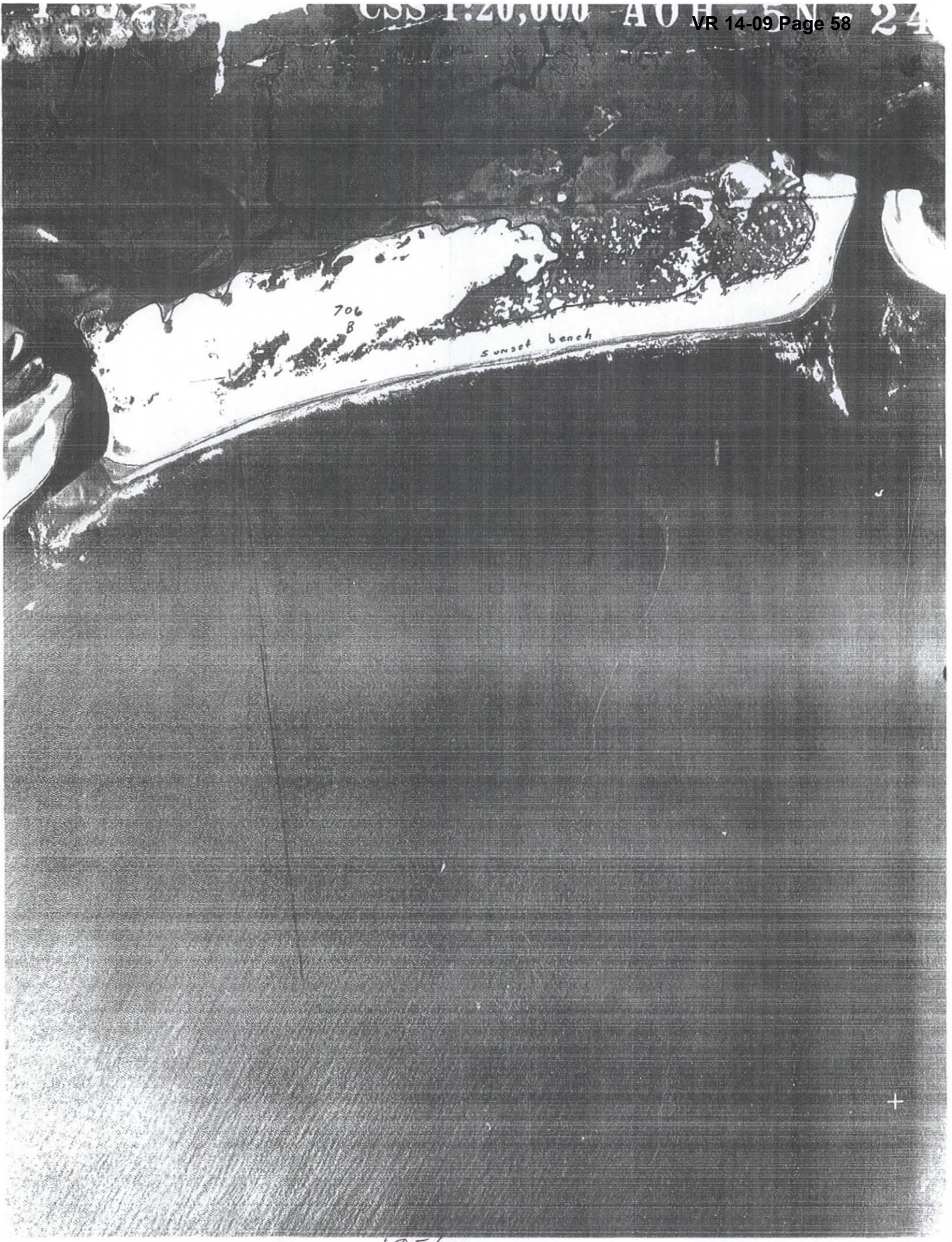
VAP 62 031 MRS  
15APR59 154.64MM

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VAP62 29



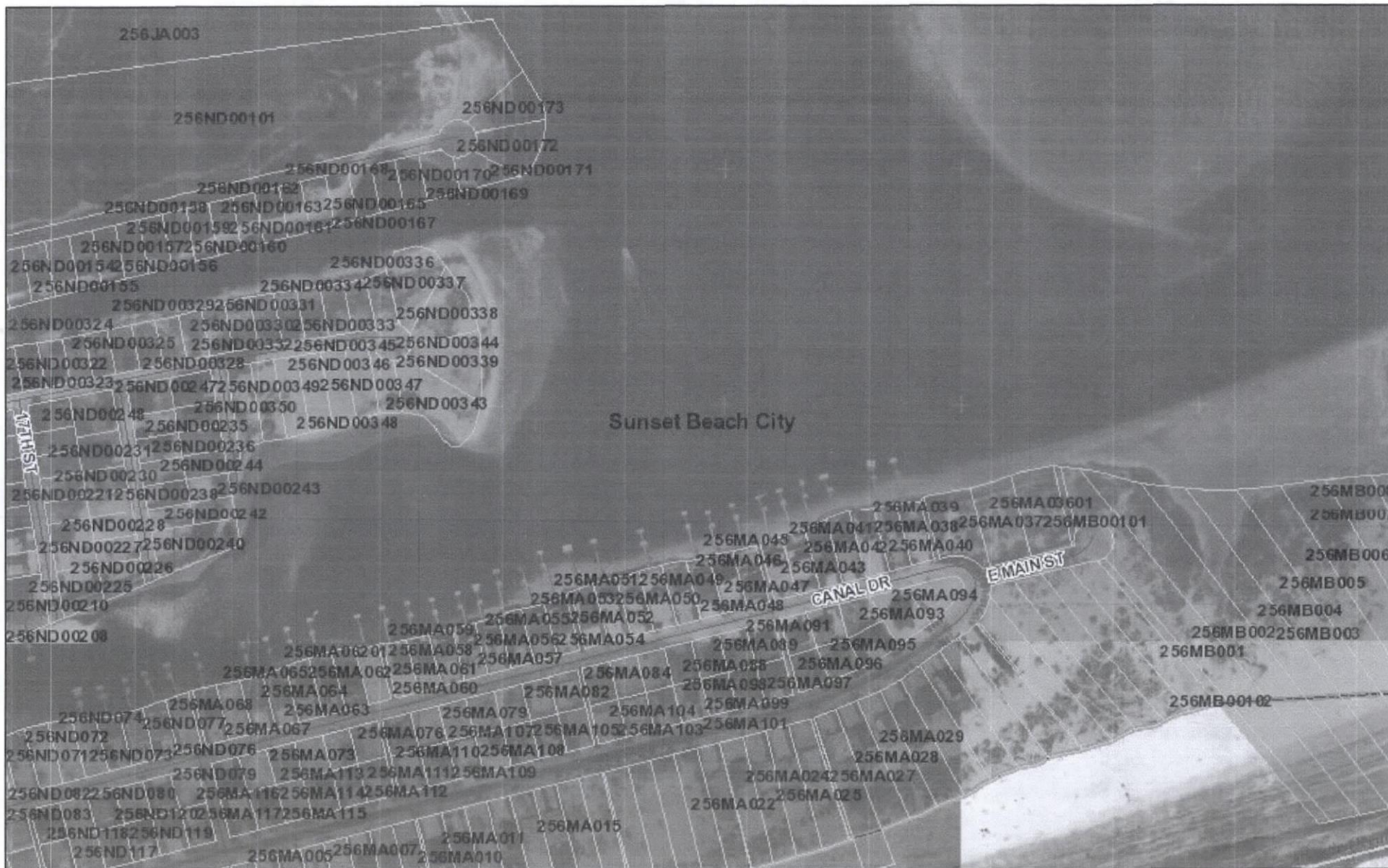
150  
L.F.L.  
284 mm  
2-14  
1962 NO  
3111  
509



1951

+

# Brunswick County NC GIS

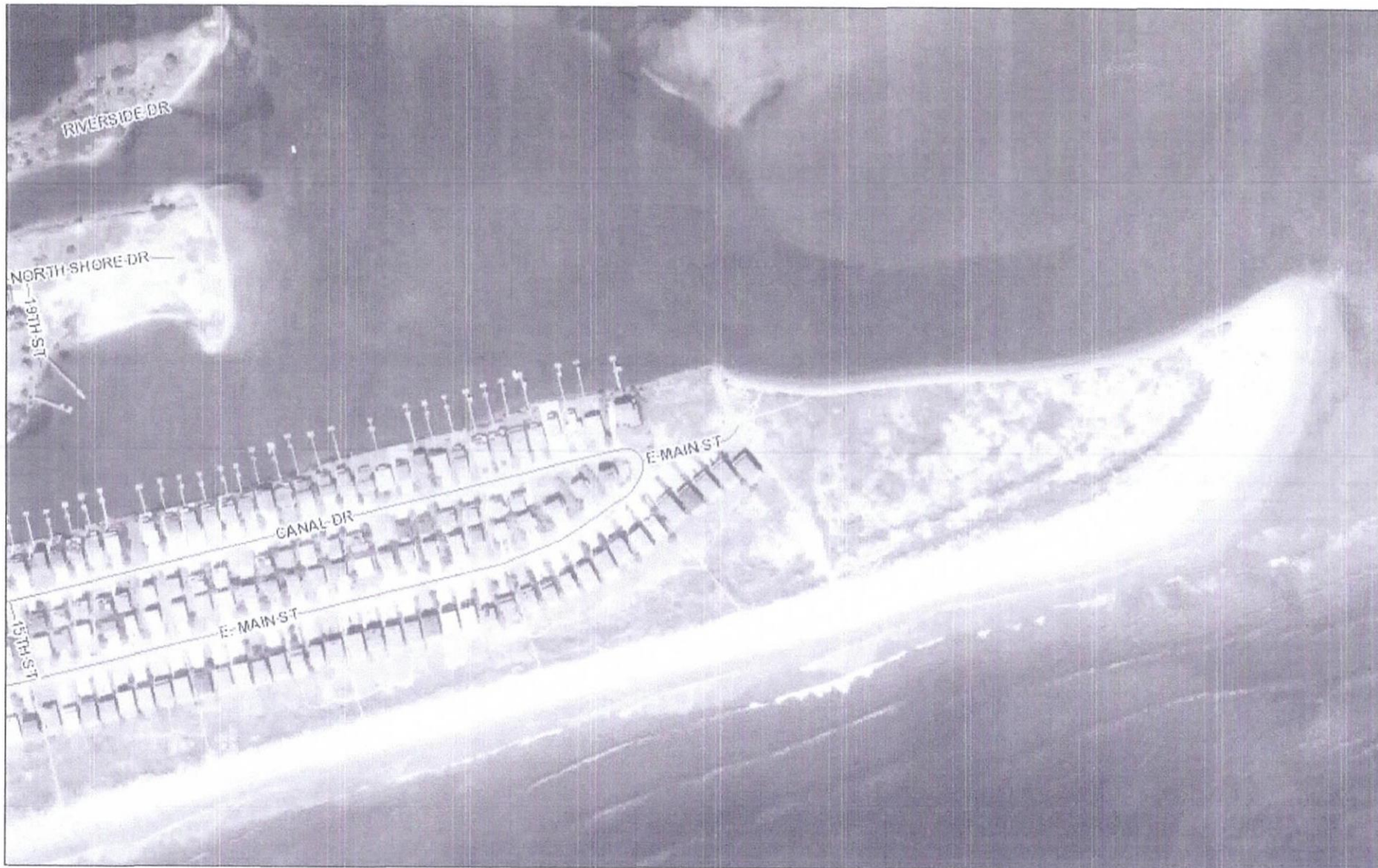


June 4, 2014

1 = 200 Feet



Brunswick County NC GIS - 2003



June 17, 2014

1 = 200 Feet



Brunswick County NC GIS - 2004



June 17, 2014

1 = 200 Feet



Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.

Brunswick County NC GIS - 2006



June 17, 2014

1 = 200 Feet



# ATTACHMENT E

## STIPULATED EXHIBITS STIPULATED TO BY PETITIONERS AND STAFF

- a. Plat Map with current ownership noted
- b. Palm Cove restrictive covenants and bylaws
- c. Written letters of support from Long Leaf, Port City, Harrelson and Exum and agreement for conservation easements for Lots 2-10
- d. October 16, 2006 letter of refinement from DCM re: dune crossings
- e. CAMA Minor Permits 09-02 and 09-03, authorizing houses on Lots 2 & 3
- f. 2014 Major Modification Application for 9-slip pier with attachments
- g. 2013 Cape Fear Engineering report with water depths at the Site
- h. Cleary Atlas, relevant portion
- i. Field Report for CAMA Major Permit 179-03
- j. Field Report for this CAMA permit application
- k. Shellfish Sanitation comments
- l. Objections received responding to permit application
- m. Objections received in anticipation of this variance hearing
- n. Denial letter, dated May 27, 2014
- o. Powerpoint Presentation





**ARTICLES OF INCORPORATION**

**OF**

**PALM COVE OWNERS ASSOCIATION, INC.**

**A NON-PROFIT CORPORATION**

In compliance with the requirements of Chapter 55A of the General Statutes of North Carolina, the undersigned being of the age of eighteen years or more, does hereby make and acknowledge these Articles of Incorporation for the purpose of forming a corporation not for profit and does hereby certify:

**ARTICLE 1.  
NAME**

The name of the corporation is Palm Cove Owners Association, Inc., hereinafter called the Corporation.

**ARTICLE 2.  
DURATION**

The period of duration of the Corporation shall be perpetual.

**ARTICLE 3.  
REGISTERED OFFICE AND AGENT, PRINCIPAL OFFICE**

The initial registered office of the Corporation and the principal office of the Corporation is located at 151 Poole Road, Suite C, Brunswick County, Belville, NC 28451; the mailing address of the registered office and of the principal office is P.O. Box 1967, Wilmington NC 28402; and the name of the initial registered agent of the Corporation at such address is Robert C. G. Exum.

**ARTICLE 4.  
PURPOSES AND POWERS**

This Corporation does not contemplate pecuniary gain or profit to the members thereof. No part of the net income of the Corporation shall inure to the benefit of any officer, director or member of the Corporation. The specific purposes for which it is formed are to provide for the maintenance, management and preservation of that certain development known as Palm Cove Subdivision ( hereafter "Development") as shown and described on the plats thereof recorded in the Office of the Register of Deeds of Brunswick County, North Carolina, and any additions thereto which may be brought within the jurisdiction of the Corporation; and to promote the health, safety and welfare of the Owners of Lots in the Development, and any additions thereto as may hereafter be brought within the jurisdiction of this Corporation.

## ARTICLE 5.

BOARD OF DIRECTORS

The number, qualifications and method of election of the Board of Directors shall be fixed by the Bylaws of the Corporation (the "Bylaws"). Until their successors are otherwise selected and qualified as set forth in the Bylaws, there shall be two (2) Directors whose names and addresses are as follows:

Robert C.G. Exum  
P. O. Box 1967  
Wilmington, NC 28402

Bobby W. Harrelson  
P.O. Box 1967  
Wilmington, NC 28402

## ARTICLE 6,

DISSOLUTION

Upon dissolution of the Corporation, other than incident to a merger or consolidation, the assets of the Corporation may be dedicated to an appropriate public agency to be used for purposes similar to those for which this Corporation was created or such assets may be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes or after all of its liabilities and obligations have been discharged or adequate provisions made therefore, or be distributed as provided for by the Non-Profit Corporation Act of the State of North Carolina or may be distributed as provided by the Planned Community Act of the State of North Carolina. Dissolution shall conform to the terms and conditions of the North Carolina Planned Community Act.

## ARTICLE 7.

TAX STATUS

Notwithstanding any other provision of these Articles, this Corporation hereby elects tax-exempt status under Section 528 of the Internal Revenue Code of 1986 or any corresponding sections or provisions of any future United States Internal Revenue Law (the "Code"). This Corporation shall not carry on any activities prohibited by a corporation electing tax-exempt status under Section 528. It is further provided that no distributions of income of the Corporation are to be made to members, directors or officers of the Corporation, except that members of the Corporation may receive a rebate of any excess dues and assessments previously paid to the extent permitted by the Code and applicable law.

ARTICLE 8.

MEMBERSHIP

The Corporation shall have members.

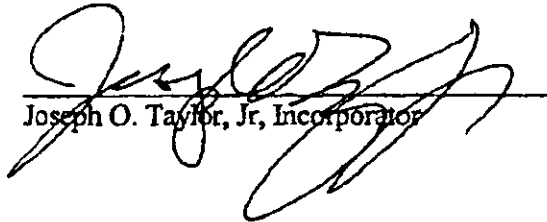
ARTICLE 9.

INCORPORATOR

The name and address of the incorporator of this Corporation is:

Joseph O. Taylor, Jr.  
16 North Fifth Avenue  
Wilmington, NC 28401

IN WITNESS WHEREOF, for the purpose of forming this Corporation under the laws of the State of North Carolina, I, the undersigned, being the incorporator of this Corporation, have executed these Articles of Incorporation this the 6th day of May, 2005.

  
Joseph O. Taylor, Jr, Incorporator

*Excerpts From Recorded Covenants*

**DECLARATION OF PROTECTIVE COVENANTS  
FOR PALM COVE SUBDIVISION**

Prepared by: Murchison, Taylor & Gibson, PLLC  
16 North Fifth Avenue, Wilmington, NC 28401

RET MTG  
TOTAL 83 REV TC# 17  
REC# CK AMT 86 CK# 8926  
CASH REF BY GW/KH

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

This Declaration of Protective Covenants for Palm Cove Subdivision (these "Protective Covenants"), made this the 11<sup>th</sup> day of May, 2005, by BRUNSWICK LAND HOLDINGS, LLC, a North Carolina limited liability company (hereinafter, the "DECLARANT"), THE NORTH CAROLINA AGRICULTURAL FOUNDATION, INC., a North Carolina corporation ("Lot 1 Owner"); LONG LEAF PINE, LLC, a North Carolina limited liability company ("Long Leaf"); and EXUM FAMILY, LLC, a North Carolina limited liability company ("Exum Family"), all join herein for the purpose of consenting to these Protective Covenants and subjecting their respective properties to the restrictions, terms and conditions provided herein.

**WITNESSETH:**

WHEREAS, DECLARANT is the owner of certain real property in Brunswick County, North Carolina, which is more particularly described as Lots 2, 3, 5 and 6 on that certain plat entitled "Proposed Subdivision of Sunset Beach & Twin Lakes Inc. of Lots 1 thru 10, 12.67 Ac Total, Located on the East End of Sunset Beach" recorded in Map Cabinet 31, Page 190 of the Brunswick County Public Registry (the "Initial Plat");

WHEREAS, Lot 1 Owner is the owner of certain real property in Brunswick County, North Carolina, which is more particularly described as Lot 1 on the Initial Plat;

WHEREAS, Long Leaf is the owner of certain real property in Brunswick County, North Carolina, which is more particularly described as Lots 4, 7, 8 and 9 on the Initial Plat;

WHEREAS, Exum Family is the owner of certain real property in Brunswick County, North Carolina, which is more particularly described as Lot 10 on the Initial Plat;

WHEREAS, DECLARANT desires to subject the above-described Lots 1 through 10 to certain protective covenants, conditions, restrictions, liens and charges as hereinafter set forth for the mutual benefit of DECLARANT, Lot 1 Owner, Long Leaf, Exum Family, and their respective successors and assigns, and DECLARANT desires that said protective covenants, conditions, restrictions, liens and charges run with the land and be binding upon DECLARANT, Lot 1 Owner, Long Leaf, Exum Family and their respective heirs, successors and assigns; and

WHEREAS, Lot 1 Owner, Long Leaf and Exum Family have all consented and agreed to subject their respective Lots (as hereinafter defined) to the protective covenants, conditions, restrictions, liens and charges as hereinafter set forth.

NOW, THEREFORE, DECLARANT, Lot 1 Owner, Long Leaf and Exum Family hereby declare that the Property (as defined herein) shall be held, sold and conveyed subject to the

protecting the value and desirability and attractiveness of said Property, and which shall run with title to the Property and shall be binding on all parties having any right, title, or interest in the described Property or any part thereof, and shall inure to the benefit of each owner thereof.

## ARTICLE 1

### Definitions

Section 1. Articles shall mean and refer to the articles of incorporation of the Association, as same may be amended from time to time.

Section 2. Association shall mean and refer to Palm Cove Owners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

Section 3. Board of Directors (or Board) means those persons elected or appointed and acting collectively as the Directors of the Association.

Section 4. Boardwalk means those certain boardwalk improvements that DECLARANT shall be entitled to construct pursuant to Article 10, Section 7 herein.

Section 5. Boat Slip shall mean any improvements or space in or above the water (including boat lifts and associated equipment) provided for the docking of a boat or vessel on any permitted Pier.

Section 6. Building shall mean and refer to a Home and associated garage constructed or erected on a Lot shown on a recorded map of the Property.

Section 7. Bylaws shall refer to the Bylaws of the Association as they now or may hereinafter exist.

Section 8. Committee shall mean the architectural review committee that may be appointed by DECLARANT or the Board of Directors as provided in Article 13 herein.

Section 9. Common Areas shall mean and refer to all land within the Property owned by or dedicated for use by the Association, along with facilities and improvements erected or constructed thereon, and subject to the easements thereon, for the use and enjoyment of the Members of the Association as shown on any map recorded by DECLARANT (or, after the DECLARANT Control Period, the Association) from time to time in the Brunswick County Registry. In addition, the Boardwalk (if constructed by DECLARANT) and all private streets, alleys, sidewalks, gates, fences, access easements and pedestrian easements (if any) are declared to be Common Areas. Said Common Areas shall be maintained by the Association in accordance with these Protective Covenants.

Section 10. Common Expenses shall mean and include:

(a) Expenses of administration, permit renewals, maintenance, repair or replacement of the Common Areas, private streets (including, without limitation, the "East Main St. Extension" and 20' private access drive shown on the Initial Plat), access gates and related landscaping, sidewalks, boardwalks, accent lighting, irrigation lines and systems for the Common Areas, and the storm water drainage system for the Property;

(b) Expenses incurred for shoreline refurbishment and renourishment as contemplated in these Protective Covenants;

(c) Expenses incurred by the Association for hurricane preparation and/or cleanup for the Property as contemplated in these Protective Covenants;

(d) Expenses declared to be common expenses by the provisions of these Protective Covenants or the Bylaws;

## ARTICLE 2

Property Rights

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to limit the number of guests of Members;
- (b) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Areas and facilities and in aid thereof to mortgage said Property, in which case the rights of such mortgagee in said properties shall be subordinate to the rights of the Owners hereunder. The Common Areas cannot be mortgaged, conveyed or encumbered without the consent of eighty percent (80%) of the Owners. During the DECLARANT Control Period, any such mortgage, conveyance or encumbrance shall also require the consent of DECLARANT.
- (c) The right of the Association to suspend the voting rights and right to use the Common Areas and the facilities (except streets) by a Member, or any person to whom he has delegated his voting right, during any period which any assessment against his Lot remains unpaid and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (d) The right of the DECLARANT and the Association to exercise their powers and authority set over the Common Areas;
- (e) The rights of the DECLARANT and the Association to formulate, publish and enforce rules and regulations for the use and enjoyment of the Common Areas and improvements thereon, which regulations may further restrict the use of the Common Areas and the right of the Association to establish penalties for any infraction thereof; and
- (f) Easements as provided in Article 10 herein.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Areas to the Members of his family, his tenants, or contract purchasers, provided, every such delegatee shall reside on the Property.

Section 3. Title to Common Area. The DECLARANT hereby covenants for itself, its successors and assigns, that, to the extent practicable, it will convey fee simple title to those Common Areas shown upon the maps referred to above including private streets, to the Association, after the conveyance of the last Lot (or prior to said conveyance if the DECLARANT desires), subject to the easements described in Article 10 and the conditions that (i) such areas as shall be designated "Common Area" and shall be for the sole and exclusive use and benefit of the Members and (ii) such areas are to be maintained in conformity with the requirements of this Declaration, the By-Laws, and the Articles at the expense of the Association.

Section 4. Parking Rights and Restrictions. Parking on the Property shall be subject to rules and regulations issued from time to time by DECLARANT (or, after the DECLARANT Control Period, the Association). Neither Owners nor their family members or tenants shall be permitted to park their automobiles, trucks, boats, trailers or other vehicles on the streets or Common Areas located on the Property. No trucks, boats, trailers or commercial vehicles shall be stored, housed or parked on the Property except within an enclosed garage.

Section 5. Control over Common Areas. The Association shall be responsible for management, operation and control of the Common Areas, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Association, through action of its Board, may acquire, hold, lease (as lessor or lessee), operate and dispose of tangible and intangible personal property and real property. The

## ARTICLE 8

Piers

No Owner shall be entitled to construct, install, maintain or use any Pier unless (i) such Pier is in full compliance with applicable federal, state and local laws, rules and regulations and (ii) the location, configuration and specifications of such Pier has been approved in advance by the Association. The pier constructed in the riparian corridor of Lot 1 is exempted from this particular requirement (ii). No Pier or Boat Slip within or connected to any portion of the Property shall be used for any commercial purpose.

## ARTICLE 9

Use Restrictions

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, amend, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Area.

Section 2. Use of Property. Each Lot, the Home and other buildings, structures and improvements thereon and Common Areas shall be for the following uses and subject to the following restrictions, and, in addition, to those set forth in the Bylaws:

(a) All Lots, Homes, Piers, Boat Slips and Common Area shall be used solely for single family residential purposes and for purposes incidental or accessory thereto.

(b) No commercial use shall be permitted on any Lot. No structure shall be erected, placed or permitted to remain on any Lot other than single family residence dwellings (not to exceed the height limits imposed by applicable zoning regulations) and such outbuildings as are usually accessory to a single family residence dwelling, including a private enclosed garage.

(c) All Lots shall be well maintained and no accumulation of rubbish or debris shall be permitted. The Owners of all unbuilt upon Lots in the Subdivision shall clear their Lots of underbrush at least one time each year. If the Owners do not clear their Lot as required by this paragraph, the Association shall have the authority to clear any such Lot of underbrush and separately assess the cost of such work against each Owner. Such charge shall be an Individual Assessment against the Owner and his Lot(s) and may be enforced in accordance with the provisions of Article 6 herein.

(d) No mobile home, trailer, tent, or temporary house, temporary garage or other temporary outbuildings shall be placed or erected on any Lot, provided, however, that the DECLARANT may grant permission for temporary structures for storage of materials during construction.

(e) During construction of improvements on any Lot, adequate portable sanitary toilets must be provided for the construction crew.

(f) Construction activity on a Lot shall be confined within the boundaries of said Lot. Each Lot Owner shall have the obligation to collect and dispose of all rubbish and trash resulting from construction on his Lot. During construction on an Owner's Lot, such Owner shall be required to have all construction waste and other trash placed in a dumpster on a daily basis.

(g) All dwellings and permitted structures erected or placed on any Lot shall be approved as required in Article 13 herein. Modular and prefabricated homes may not be erected or placed on any Lot without prior approval of the Committee or DECLARANT.

(h) Any dwelling or improvement on any Lot that is destroyed in whole or in

Section 3. Boat Restrictions. In order to help preserve the water quality of the adjoining water, all boats or vessels must comply with all governmental rules and regulations concerning operation, dockage, seaworthiness, gear and appurtenances, environmental matters and all rules and regulations established by the Association and the terms and conditions of all applicable permits issued by any department or agency of the United States, the State of North Carolina and/or the County of Brunswick.

## ARTICLE 10

### Easements

Section 1. Common Areas and Existing Easements. All of the Common Areas shall be subject to a perpetual, non-exclusive easement or easements in favor of all Owners, and their immediate families, guests, invitees, tenants or lessees, for the use and enjoyment of such Common Areas for all proper and normal purposes. Additionally, all of the Property shall be subject to perpetual, non-exclusive easements in favor of all Owners, and their immediate families, guests, invitees, tenants or lessees, for the use of, ingress to, and egress and regress from any easements for private streets, driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, and other utilities as may exist and benefit the Property or any portion thereof as of the date of these Protective Covenants.

Section 2. Reservation to Declarant. DECLARANT reserves the right to subject the Property to a contract with Brunswick Electric or another electrical service provider for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or continuing monthly payment to such provider for or by the Owner of each Lot. However, no mercury lights or dawn-to-dusk lights shall be permitted without the written consent of DECLARANT.

Section 3. Emergencies. Every Lot and Home shall be subject to an easement for entry by the Association for the purpose of correcting, repairing or alleviating any emergency condition which arises upon any Lot or within any Home and which endangers any building or portion of the Common Areas. The Association shall also have an easement of entry for the purpose of correcting or alleviating any emergency condition which endangers any of the Shared Common Areas subject to the Associations' jurisdiction.

Section 4. Utility Easements. An easement is hereby established over all Lots and Common Areas for the benefit of applicable governmental agencies for the setting, removing and reading of water, gas and electric meters, maintaining and replacing water, drainage and drainage facilities, maintaining and replacing gas and electric facilities, fire fighting, law enforcement, garbage collection and the delivering of mail.

Section 5. DECLARANT'S Access Easement. An exclusive easement is hereby established in favor of DECLARANT over all Common Areas for access to adjacent properties for the purposes of future development and the installation of streets and public utilities including phone, cable and internet service.

Section 6. Maintenance and Service Easements. Easements are hereby established in favor of the DECLARANT and the Association, their agents and assigns, over all Lots and the Common Area for the purpose of performing any or all of the following services and maintenance, as and to the extent the Association shall deem appropriate or necessary:

(a) services required or appropriate to prepare the Common Area, shorelines and other portions of the Property for a potential hurricane or other serious storm or weather occurrence (provided that in no event shall the Association be liable for any failure to make such preparations or for the adequacy of any services provided);



(c) stabilization, refurbishment, nourishment and/or renourishment of any shorelines within, upon or adjacent to the Property as the Association may determine appropriate from time to time (including, without limitation, the planting or seeding of marsh grasses, shells, clutch or other materials in shoreline areas and work in connection with CAMA permits or applications).

Section 7. Boardwalk Easement. An easement is hereby established over all Lots and Common Areas for the benefit of the DECLARANT (and, after the DECLARANT Control Period, the Association) for the installation, construction, repair and replacement of a boardwalk to be located generally between the private roadway upon the Property and the high water mark of Jinks Creek (the "Boardwalk"). Subject to the foregoing provisions, DECLARANT shall be entitled to locate the Boardwalk in any reasonable location and shall have the right to relocate such Boardwalk from time to time in DECLARANT's sole discretion. If constructed, the Boardwalk shall be deemed a Common Area hereunder and shall be available for the use and enjoyment of all Owners and their immediate families, guests, invitees, tenants or lessees as contemplated in these Protective Covenants (including, without limitation, the possibility of connecting private walkway improvements on any Lot to the Boardwalk subject to architectural approval of such proposal as provided herein); provided, however, nothing in these Protective Covenants shall be deemed to create any obligation on the part of the DECLARANT or the Association to construct the Boardwalk.

Section 8. Sewer Easements. Each of the Owners hereby grant to the DECLARANT, the Association and the other Owners a perpetual, non-exclusive right of way and easement over, across and under any portion of the Sewer Easement Area (as defined below) lying within the Property for the location, installation, operation, construction, maintenance and use of underground sewer facilities serving the various Lots and Common Area. Such easement shall include, without limitation, the right of access over and across the Lots and Common Area for the purpose of inspecting, maintaining, replacing and repairing said sewer facilities from time to time. For purposes of this Section 8, the "Sewer Easement Area" shall have the meaning provided in that certain Easement and Maintenance Agreement dated November 16, 2004, recorded in Book 2050, Page 793, in the Brunswick County Public Registry (the "Access and Sewer Easement and Maintenance Agreement").

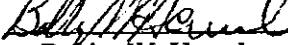
Section 9. Maintenance and Budget Responsibilities under Access and Sewer Easement and Maintenance Agreement. Each of the Owners hereby assigns, conveys and grants to the Association all of such Owner's obligations relating to maintenance of and budget relating to the "Access Easement Area" and the "Sewer Easement Area" as described in the Access and Sewer Easement and Maintenance Agreement, it being agreed that all costs relating to the maintenance of such areas shall be deemed Common Expenses hereunder. Each of such areas shall be deemed Common Area hereunder until dedicated for public maintenance by the Association (if applicable).

Section 10. Power to Grant Easements. Subject to the requirements of the Planned Community Act, the Association shall have the power and authority to grant and to establish in, over, upon and across the Common Area such further easements as are requisite for the convenient use and enjoyment of the Property.

## Consent

Lot(s) 2, 3 & 6 in the Palm Cove subdivision, located in Brunswick County, North Carolina are owned by Brunswick Land Holdings, LLC. I am a Member-Manager of said LLC and I am authorized to speak on behalf of said LLC regarding these matters. On behalf of the LLC, I write to support the variance request being filed by Palm Cove POA and Brunswick Land Holdings, LLC, seeking a variance from the Coastal Resources Commission ("CRC") allowing construction of a 9-boast slip community dock, with associated walkway and gazebo, to be located on Lots 2 and 3. If necessary to obtain variance approval from the CRC, I hereby state, on behalf of the LLC, that the LLC is willing and able to record a conservation easement on said lot(s) prohibiting construction of any other boat piers or docks on the Jinks Creek shorefront portion of said lot(s).

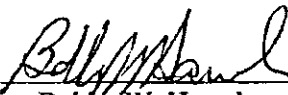
BRUNSWICK LAND HOLDINGS, LLC  
A North Carolina Limited Liability Company

By:   
Name: Bobby W. Harrelson  
Title: Member/Manager

## Consent

Lot(s) 4 & 7 in the Palm Cove subdivision, located in Brunswick County, North Carolina is owned by Long Leaf Pine, LLC. I am a Member-Manager of said LLC and I am authorized to speak on behalf of said LLC regarding these matters. On behalf of the LLC, I write to support the variance request being filed by Palm Cove POA and Long Leaf Pine, LLC, seeking a variance from the Coastal Resources Commission ("CRC") allowing construction of a 9-boast slip community dock, with associated walkway and gazebo, to be located on Lots 2 and 3. If necessary to obtain variance approval from the CRC, I hereby state, on behalf of the LLC, that the LLC is willing and able to record a conservation easement on said lot(s) prohibiting construction of any other boat piers or docks on the Jinks Creek shorefront portion of said lot(s).

LONG LEAF PINE, LLC  
A North Carolina Limited Liability Company

By:   
Name: Bobby W. Harrelson  
Title: Member/Manager

## Consent

Lot(s) 5 & 8 in the Palm Cove subdivision, located in Brunswick County, North Carolina <sup>are</sup> ~~is~~ owned by Port City Advisors, LLC. I am a Manager of said LLC and I am authorized to speak on behalf of said LLC regarding these matters. On behalf of the LLC, I write to support the variance request being filed by Palm Cove POA and Port City Advisors, LLC, seeking a variance from the Coastal Resources Commission ("CRC") allowing construction of a 9-boast slip community dock, with associated walkway and gazebo, to be located on Lots 2 and 3. If necessary to obtain variance approval from the CRC, I hereby state, on behalf of the LLC, that the LLC is willing and able to record a conservation easement on said lot(s) prohibiting construction of any other boat piers or docks on the Jinks Creek shorefront portion of said lot(s).

PORT CITY ADVISORS, LLC  
A North Carolina Limited Liability Company


By: 

Name: Ella Smith

Title: Manager

## Consent

My name is Bobby W. Harrelson I am the current owner of Lot 9 in the Palm Cove subdivision, located in Brunswick County, North Carolina. I write to support the variance request being filed by Palm Cove POA and Brunswick Land Holdings, LLC, seeking a variance from the Coastal Resources Commission ("CRC") allowing construction of a 9-boast slip community dock, with associated walkway and gazebo. If necessary to obtain variance approval from the CRC, I hereby state that I am willing and able to record a conservation easement on my lot(s) prohibiting construction of any other boat piers or docks on the Jinks Creek shorefront portion of my lot.

  
Bobby W. Harrelson

## Consent

Lot 10 in the Palm Cove subdivision, located in Brunswick County, North Carolina is owned by Exum Family, LLC. I am a Member-Manager of said LLC and I am authorized to speak on behalf of said LLC regarding these matters. On behalf of the LLC, I write to support the variance request being filed by Palm Cove POA and Exum Family, LLC, seeking a variance from the Coastal Resources Commission ("CRC") allowing construction of a 9-boast slip community dock, with associated walkway and gazebo, to be located on Lots 2 and 3. If necessary to obtain variance approval from the CRC, I hereby state, on behalf of the LLC, that the LLC is willing and able to record a conservation easement on said lot(s) prohibiting construction of any other boat piers or docks on the Jinks Creek shorefront portion of said lot(s).

EXUM FAMILY, LLC  
A North Carolina Limited Liability Company

By: Robert C. G. Exum  
Name: Robert C.G. Exum  
Title: Member/Manager



North Carolina Department of Environment and Natural Resources

Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

William G. Ross Jr., Secretary

October 16, 2006

Palm Cove POA, Inc.  
C/o Bert Exum  
PO Box 1967  
Wilmington, NC 28403

Dear Mr. Exum:

This letter is with reference to your request to modify State Permit #11-06, which was issued on 1/18/06, and expires on 12/31/2009. The action you have proposed includes the construction of ten structural access walkways (dune crossovers) along the southern property line, one located on each lot within the Palm Cove subdivision. The proposed activity would be located within the boundaries of the project area. The work would be conducted within the Ocean Erodible Area and High Hazard Flood Area of Environmental Concern (AEC).

Upon review of the proposed plan submittal, the Division of Coastal Management has determined that the proposed action is consistent with existing State rules and regulations and is in keeping with the original purpose and intent of the permit. Per your request, I hereby submit this Letter of Refinement authorizing the modification of State Permit #11-06. By copy of this letter we are also notifying the U. S. Army Corps of Engineers of our action.

Please be advised that the terminal end of the structural access walkways/dune crossovers, are not permissible oceanward of the first line of natural stable vegetation. It is strongly recommended that you contact a representative from the Division of Coastal Management, and have that representative field verify the location of the first line of natural stable vegetation prior to the initiation of any work.

If you have any questions concerning the above or if I can be of any other assistance, please advise.

Sincerely,

A handwritten signature in black ink, appearing to read "James H. Gregson".

James H. Gregson  
District Manager

cc: WIRO file, DCM  
Morehead City file, DCM

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FEB 03 2014

Town of Sunset Beach  
Local Government

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APR 27 2009



FILE COPY

09-02  
Permit Number

BY: *mj*

CAMA  
MINOR DEVELOPMENT  
PERMIT



as authorized by the State of North Carolina, Department of Environment,  
and Natural Resources and the Coastal Resources Commission for development  
in an area of environment concern pursuant to Section 113A-118 of the  
General Statutes, "Coastal Area Management"

Issued to Brunswick Land Holdings, LLC., authorizing development in the Ocean Hazard (AEC) at Lot 2 Palm Cove Subdivision; East Main Street Extension, in the Town of Sunset Beach, as requested in the permittee's application, dated February 24, 2009. This permit, issued on April 13, 2009, is subject to compliance with the application and site drawing (where consistent with the permit), all applicable regulations and special conditions and notes set forth below. Any violation of these terms may subject permittee to a fine, imprisonment or civil action, or may cause the permit to be null and void.

This permit authorizes: Single Family Residence, Pool, Driveway and waste water system.

- (1) All proposed development and associated construction must be done in accordance with the permitted work plat drawings(s) dated received on March 20, 2009.
- (2) All construction must conform to the N.C. Building Code requirements and all other local, State and Federal regulations, applicable local ordinances and FEMA Flood Regulations.
- (3) Any change or changes in the plans for development, construction, or land use activities will require a re-evaluation and modification of this permit.
- (4) A copy of this permit shall be posted or available on site. Contact this office at (910) 579-0075 for a final inspection at completion of work.

(Additional Permit Conditions on Page 2)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. From the date of an appeal, any work conducted under this permit must cease until the appeal is resolved. This permit must be on the project site and accessible to the permit officer when the project is inspected for compliance. Any maintenance work or project modification not covered under this permit, require further written permit approval. All work must cease when this permit expires on:

DECEMBER 31, 2012

In issuing this permit it is agreed that this project is consistent with the local Land Use Plan and all applicable ordinances. This permit may not be transferred to another party without the written approval of the Division of Coastal Management

*Randy Walters*  
Randy Walters  
CAMA LOCAL PERMIT OFFICIAL  
700 Sunset Boulevard, N.  
Sunset Beach, NC 28468  
*Paella M. Winstead*  
PERMITTEE



Name: Brunswick Land Holdings, LLC.

Minor Permit # 09-02

Date: April 13, 2009

Page 2

- (5) The structure must set back a minimum of 60 feet from the first line of stable natural vegetation, as determined by the DCM, the LPO, or other assigned agent of the DCM.
- (6) The permittee is required to contact the Local Permit Officer (910) 579-0075, shortly before he plans to begin construction to arrange a setback measurement that will be effective for sixty (60) days barring a major shoreline change. Construction must begin within sixty (60) days of the determination or the measurement is void and must be redone.
- (7) All buildings constructed within the ocean hazard area shall comply with the NC Building Code, including the Coastal and Flood Plain Construction Standards of the N. C. Building Code, and the Local Flood Damage Prevention Ordinance as required by the National Flood Insurance Program. If any provisions of the building code or a flood damage prevention ordinance are inconsistent with any of the following AEC standards, the more restrictive provision shall control.
- (8) All buildings must be elevated on pilings with a diameter of at least 8 inches in diameter if round, or 8 inches to a side if square; and the first floor level of the sills and joists must meet the 100-year flood level elevation.
- (9) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure.
- (10) Dune disturbances will be allowed only to the extent necessary for development and if the dune's protective value is not weakened or reduced. Disturbed dune areas will be immediately stabilized.
- (11) All unconsolidated material resulting from associated grading and landscaping shall be retained on site by effective sedimentation and erosion control measures. Disturbed areas shall be vegetatively stabilized (planted and mulched) within 14 days of construction completion.
- (12) Any structure authorized by this permit shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration. The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach renourishment takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under CRC rules.

SIGNATURE:

Paul M. Winstead DATE: 4/22/09

PERMITTEE



700 Sunset Boulevard North • Sunset Beach, NC 28468  
Telephone: 910-579-6297 • Fax: 910.579.1840  
Website: www.sunsetbeachnc.gov • Email: sunsetbeach@atmc.net

Susan Parker, Administrator

January 2, 2014

Maria Jones  
Cape Fear Engineering  
151 Poole Road  
Suite 100  
Belville, NC 28451

Dear Ms. Jones,

This letter is in reference to your request to extend Permit No. SB-09-02, which was originally issued on April 13, 2009. As you may be aware Session Law 2009-406, entitled "An Act to Extend Certain Government Approvals Affecting the Development of Real property Within the State", was enacted by the General Assembly and signed into law by Governor Perdue on August 5, 2009. The Purpose of this Act was to prevent the abandonment of approved projects and activities due to the unfavorable economic conditions by adding additional times to certain permits. Therefore, in accordance with this Act, you are hereby informed that the current expiration date for Permit No. SB-09-02 is now officially extended until September 19, 2015.

You should attach this letter to the original of Permit No. SB-09-02, as well as any copies of all documents shall be readily available on site when a Division representative monitors the project for compliance. You are also advised that this action does not eliminate the need to obtain any additional state, federal, or local permits, approvals or authorizations that may be required. Should you have any questions on this matter, please feel free to contact me at (910) 579-0068.

Sincerely,

Randy Walters  
CAMA LPO/Building Inspector  
Town of Sunset Beach

Mayor: Ron Watts • Mayor Pro-Tem: Louis DeVita  
Town Council: Terry Johnson • Carol Scott • Mike Williams • Wilson Sherrill

Town of Sunset Beach  
Local Government

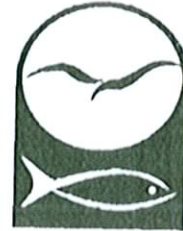
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APR 27 2009

FILE COPY

SB-09-03  
Permit Number

BY: *[Signature]*

CAMA  
MINOR DEVELOPMENT  
PERMIT



as authorized by the State of North Carolina, Department of Environment,  
and Natural Resources and the Coastal Resources Commission for development  
in an area of environment concern pursuant to Section 113A-118 of the  
General Statutes, "Coastal Area Management"

Issued to Brunswick Land Holdings, LLC., authorizing development in the Ocean Hazard (AEC) at Lot 3 Palm Cove Subdivision; East Main Streer Extension, in th Town of Sunset Beach, as requested in the permittee's application, dated February 24, 2009. This permit, issued on April 13, 2009, is subject to compliance with the application and site drawing (where consistent with the permit), all applicable regulations and special conditions and notes set forth below. Any violation of these terms may subject permittee to a fine, imprisonment or civil action, or may cause the permit to be null and void.

This permit authorizes: Single Family Residence, Pool, Driveway and waste water system.

- (1) All proposed development and associated construction must be done in accordance with the permitted work plat drawings(s) dated received on March 20, 2009.
- (2) All construction must conform to the N.C. Building Code requirements and all other local, State and Federal regulations, applicable local ordinances and FEMA Flood Regulations.
- (3) Any change or changes in the plans for development, construction, or land use activities will require a re-evaluation and modification of this permit.
- (4) A copy of this permit shall be posted or available on site. Contact this office at (910) 579-0075 for a final inspection at completion of work.

(Additional Permit Conditions on Page 2)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. From the date of an appeal, any work conducted under this permit must cease until the appeal is resolved. This permit must be on the project site and accessible to the permit officer when the project is inspected for compliance. Any maintenance work or project modification not covered under this permit, require further written permit approval. All work must cease when this permit expires on:

DECEMBER 31, 2012

In issuing this permit it is agreed that this project is consistent with the local Land Use Plan and all applicable ordinances. This permit may not be transferred to another party without the written approval of the Division of Coastal Management.

*[Signature]*  
Randy Walters

CAMA LOCAL PERMIT OFFICIAL  
700 Sunset Boulevard, N.  
Sunset Beach, NC 28468

*[Signature]*  
PERMITTEE

(Signature required if conditions above apply to permit)

Name: Brunswick Land Holdings, LLC.

Minor Permit # 09-03

Date: April 13, 2009

Page 2

- (5) The structure must set back a minimum of 60 feet from the first line of stable natural vegetation, as determined by the DCM, the LPO, or other assigned agent of the DCM.
- (6) The permittee is required to contact the Local Permit Officer (910) 579-0075, shortly before he plans to begin construction to arrange a setback measurement that will be effective for sixty (60) days barring a major shoreline change. Construction must begin within sixty (60) days of the determination or the measurement is void and must be redone.
- (7) All buildings constructed within the ocean hazard area shall comply with the NC Building Code, including the Coastal and Flood Plain Construction Standards of the N. C. Building Code, and the Local Flood Damage Prevention Ordinance as required by the National Flood Insurance Program. If any provisions of the building code or a flood damage prevention ordinance are inconsistent with any of the following AEC standards, the more restrictive provision shall control.
- (8) All buildings must be elevated on pilings with a diameter of at least 8 inches in diameter if round, or 8 inches to a side if square; and the first floor level of the sills and joists must meet the 100-year flood level elevation.
- (9) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure.
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- (12) Any structure authorized by this permit shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration. The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach renourishment takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under CRC rules.

SIGNATURE:

Paul H. Winsted DATE: 4/22/09  
PERMITTEE



700 Sunset Boulevard North • Sunset Beach, NC 28468  
Telephone: 910-579-6297 • Fax: 910.579.1840  
Website: www.sunsetbeachnc.gov • Email: sunsetbeach@atmc.net

Susan Parker, Administrator

January 2, 2014

Maria Jones  
Cape Fear Engineering  
151 Poole Road  
Suite 100  
Belville, NC 28451

Dear Ms. Jones,

This letter is in reference to your request to extend Permit No. SB-09-03, which was originally issued on April 13, 2009. As you may be aware Session Law 2009-406, entitled "An Act to Extend Certain Government Approvals Affecting the Development of Real property Within the State", was enacted by the General Assembly and signed into law by Governor Perdue on August 5, 2009. The Purpose of this Act was to prevent the abandonment of approved projects and activities due to the unfavorable economic conditions by adding additional times to certain permits. Therefore, in accordance with this Act, you are hereby informed that the current expiration date for Permit No. SB-09-03 is now officially extended until September 19, 2015.

You should attach this letter to the original of Permit No. SB-09-03, as well as any copies of all documents shall be readily available on site when a Division representative monitors the project for compliance. You are also advised that this action does not eliminate the need to obtain any additional state, federal, or local permits, approvals or authorizations that may be required. Should you have any questions on this matter, please feel free to contact me at (910) 579-0068.

Sincerely,

Randy Walters  
CAMA LPO/Building Inspector  
Town of Sunset Beach

Mayor: Ron Watts • Mayor Pro-Tem: Louis DeVita  
Town Council: Terry Johnson • Carol Scott • Mike Williams • Wilson Sherrill

# **CAMA Major Permit Modification Design Narrative**

**Subject:  
Palm Cove**

**Sunset Beach**  
Brunswick County, North Carolina

Date: February 26, 2014

Prepared by

**Cape Fear Engineering, Inc.**  
151 Poole Road, Suite 100  
Belville, North Carolina 28451  
(910) 383-1044

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## Existing Conditions

Palm Cove is an existing 10-lot subdivision located at the east end of Sunset Beach, NC and bordered to the north by Jink's Creek and to the south by the Atlantic Ocean. These lot sizes are listed in the table below:

| Lot | Size (Acres) |
|-----|--------------|
| 1   | 1.33         |
| 2   | 1.38         |
| 3   | 1.29         |
| 4   | 1.22         |
| 5   | 1.19         |
| 6   | 1.15         |
| 7   | 1.11         |
| 8   | 1.23         |
| 9   | 1.35         |
| 10  | 1.42         |

An existing CAMA Major Permit #11-06 was initially approved 1/18/2006 for the subdivision, roadway and utility improvements, and then modified on 2/5/07 to include sand fence. This permit was recently extended and expires 12/31/2015. A copy of the CAMA Major Permit is included in Appendix A.

Jink's Creek is located in the Lumber River Basin and designated as SA-HQW waters by NCDENR with a stream index #15-25-9

The subdivision is not built out with homes yet due to the down turn in the residential development economy. Lot #1 has an existing boat dock and pier. All roads and utilities are installed.

Stormwater Permit #SW8 051025 was approved for Palm Cove on December 16, 2005. Because of the low density classification and the substantially high infiltration rates of the sand there are no permitted BMP's required. A copy of the approved Stormwater Permit is included in Appendix B.

A Water Distribution Permit and Authorization to Construct (#DEH-0501612) were issued for Palm Cove on 10/11/2005.

CAMA Minor Permits for Lot 2 (SB-09-02) and Lot 3 (SB-09-03) were issued to Brunswick Land Holdings, LLC on 4/13/2009.

## Proposed Project

Palm Cove POA, Inc. is proposing the addition of community amenities to the Palm Cove subdivision (see vicinity map in Appendix C) including a wooden access walkway, gazebo and floating dock and pier with 9 boat slips. A

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modification to the existing CAMA Major permit is proposed and DCM form MP-1 is attached in Appendix D

A 10' wide access easement is proposed, centered on the lot line between Lot #2 and Lot #3. A wooden walkway is proposed along the easement from the roadway and terminating at the mean high water (MHW) line. From the MHW line a 6' wooden dock ends in a 20' x 20' gazebo. The gazebo will be constructed on wood pilings at the approximate MLW line. A ramp will connect the gazebo to the proposed floating dock.

The dock system consists of a floating dock spine located along the lot line between Lot #2 and Lot #3 which extends perpendicular from the shore attached to a floating dock spine which extends parallel to the shore (forming a "tee") to the ¼-width of the waterbody limit. The nine slips are located on the north side of the parallel dock spine accessed by floating finger docks. A hydrographic survey was completed in October, 2013 by Cape Fear Engineering, Inc. The proposed site plan and section details are included in Appendix E.

In addition, boat lifts are proposed to prevent boats from sitting on the intertidal mud flat during portions of the tidal cycle. Water depths inside the slips would be between -3' MLW and -4' MLW.

Navigation should not be affected by the boat slips as the dock and piers are within the ¼-width of the waterbody limit. The dock length meets conditions of the US Army Corps of Engineer's Section 10 General Permit 56, which specifies docks should not exceed 1/3 the width of the waterbody. DCM form MP-4 is attached (Appendix D).

Other backup documentation is attached:  
Appendix F – Agent Authorization Form  
Appendix G – Deeds and Supporting Material  
Appendix H – Easement Exhibits  
Appendix I – AEC Ocean Hazard Forms  
Appendix J - Letters to Adjoiners and Certified Mail Receipts

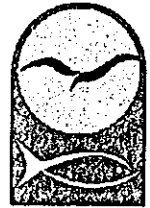
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FEB 26 2014



DCM MP-1

# APPLICATION for Major Development Permit



(last revised 12/27/06)

North Carolina DIVISION OF COASTAL MANAGEMENT

|   |                |   |                             |
|---|----------------|---|-----------------------------|
| <b>1. Primary Applicant/ Landowner Information</b>                                      |                |   |                             |
| Business Name<br>Palm Cove Poa, Inc   |                | Project Name (if applicable)<br>Palm Cove |                             |
| Applicant 1: First Name<br>Bert   | MI             | Last Name<br>Exum                         |                             |
| Applicant 2: First Name   | MI             | Last Name                                 |                             |
| <i>If additional applicants, please attach an additional page(s) with names listed.</i> |                |   |                             |
| Mailing Address   |                | PO Box<br>1967                            | City<br>Wilmington          |
|   |                | State<br>NC                               |                             |
| ZIP<br>28403  | Country<br>USA | Phone No.<br>910 - 392 - 9325 ext.        | FAX No.<br>910 - 392 - 9327 |
| Street Address (if different from above)<br>503 OLDE WATERFORD WAY, SUITE 200           |                | City<br>Leland                            | State<br>NC                 |
|   |                | ZIP<br>28451-                             |                             |
| Email<br>bertexum@aol.com   |                |   |                             |

|  |              |  |                         |
|--|--------------|--|-------------------------|
| <b>2. Agent/Contractor Information</b>       |              |  |                         |
| Business Name<br>Cape Fear Engineering, Inc. |              |  |                         |
| Agent/ Contractor 1: First Name<br>Maria     | MI           | Last Name<br>Jones                       |                         |
| Agent/ Contractor 2: First Name              | MI           | Last Name                                |                         |
| Mailing Address<br>151 Poole Road; Suite 100 |              | PO Box                                   | City<br>Belville        |
|  |              | State<br>NC                              |                         |
| ZIP<br>28451                                 |              | Phone No. 1<br>910 - 383 - 1044 ext. 134 | Phone No. 2<br>- - ext. |
| FAX No.<br>910 383 1045                      | Contractor # |  |                         |
| Street Address (if different from above)     |              | City                                     | State                   |
|  |              | ZIP                                      |                         |
| Email<br>maria.jones@capefearengineering.com |              |  |                         |

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FEB 20 2014

| <b>3. Project Location</b>   |  |             |                |
|--|--|-------------|----------------|
| County (can be multiple)<br>Brunswick  | Street Address<br>Intersection of Canal Dr. and Main St.   | State Rd. # |                |
| Subdivision Name<br>Palm Cove  | City<br>Sunset Beach   | State<br>NC | Zip<br>28468 - |
| Phone No.<br>- - ext.  | Lot No.(s) (if many, attach additional page with list)<br>2, 3, , ,  |             |                |
| a. In which NC river basin is the project located?<br>Lumber   | b. Name of body of water nearest to proposed project<br>Jink's Creek   |             |                |
| c. Is the water body identified in (b) above, natural or manmade?<br><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.<br>Atlantic Ocean                               |             |                |
| e. Is proposed work within city limits or planning jurisdiction?<br><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  | f. If applicable, list the planning jurisdiction or city limit the proposed work falls within.<br>Sunset Beach, NC |             |                |

| <b>4. Site Description</b>  |   |
|---|---|
| a. Total length of shoreline on the tract (ft.)<br>237' fronting Lots 2 & 3   | b. Size of entire tract (sq.ft.)<br>2.67 Acres for Lots 2 & 3; 12.47 Acres for total subdivision<br><i>659,498</i>  |
| c. Size of individual lot(s)<br>Lot 2 = 1.38 ac, Lot 3 = 1.29 ac,<br>(if many lot sizes, please attach additional page with a list)   | d. Approximate elevation of tract above NHW (normal high water) or<br>NWL (normal water level)<br>6.0-12.5 ft. <input type="checkbox"/> NHW or <input type="checkbox"/> NWL   |
| e. Vegetation on tract<br>Natural vegetation  |   |
| f. Man-made features and uses now on tract<br>Paved roadway and water line.   |   |
| g. Identify and describe the existing land uses <u>adjacent</u> to the proposed project site.<br>Residential  |   |
| h. How does local government zone the tract?<br>CO-R-6000   | i. Is the proposed project consistent with the applicable zoning?<br>(Attach zoning compliance certificate, if applicable)<br><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA |
| j. Is the proposed activity part of an urban waterfront redevelopment proposal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No   |   |
| k. Has a professional archaeological assessment been done for the tract? If yes, attach a copy. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA<br>If yes, by whom?                               |   |
| l. Is the proposed project located in a National Registered Historic District or does it involve a National Register listed or eligible property? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA |   |

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FEB 20 2014

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|  |   |
|--|---|
| m. (i) Are there wetlands on the site?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (ii) Are there coastal wetlands on the site?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (iii) If yes to either (i) or (ii) above, has a delineation been conducted?<br><i>(Attach documentation, if available)</i>   | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
| n. Describe existing wastewater treatment facilities.<br>None. Septic approved for lots.   |   |
| o. Describe existing drinking water supply source.<br>Municipal system   |   |
| p. Describe existing storm water management or treatment systems.<br>This is a permitted low density project. No stormwater devices will be needed. Stormwater is discharged via surface runoff to infiltrate into existing sandy soils. |   |

|  |   |
|--|---|
| <b>5. Activities and Impacts</b>   |   |
| a. Will the project be for commercial, public, or private use?   | <input type="checkbox"/> Commercial <input type="checkbox"/> Public/Government<br><input checked="" type="checkbox"/> Private/Community |
| b. Give a brief description of purpose, use, and daily operations of the project when complete.<br>The purpose of this modification is to provide an access walkway with gazebo to a community boat dock with nine individual boat slips with boat lifts for lot owners. Lot owners would use the slips for recreational purposes. |   |
| 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.<br>Standard marine construction equipment and methods, pile driver, etc.   |   |
| d. List all development activities you propose.<br>Addition of a 10' x 190' wooden walkway from the existing roadway to a 15'x15' gazebo leading to a multi-slip floating boat dock.   |   |
| 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?  | 3800 <input checked="" type="checkbox"/> Sq.Ft or <input type="checkbox"/> Acres  |
| g. Will the proposed project encroach on any public easement, public accessway or other area that the public has established use of?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA   |
| h. Describe location and type of existing and proposed discharges to waters of the state.<br>No direct discharge to waters of the state area proposed.   |   |
| i. Will wastewater or stormwater be discharged into a wetland?   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" 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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<Form continues on back>

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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 Thunder Road, LLC                                      | Phone No. |
| Address 1951 Clark Ave.; Raleigh, NC 27605                  |           |
| Name Long Leaf Pine LLC                                     | Phone No. |
| Address 503 Olde Waterford Way, Suite 200; Leland, NC 28451 |           |
| Name Brunswick Land Holding, LLC                            | Phone No. |
| Address 503 Olde Waterford Way, Suite 200; Leland, NC 28451 |           |
- 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 #11-06, Palm Cove POA; 2/5/07       | Water Distribution Permit #DEH-0501612; Public Works Director, Sunset Beach, NC; 10/11/05     |
| Stormwater Permit SW8 051025, Palm Cove POA; 12/16/05 | CAMA Minor Permits SB-09-02 (Lot 2) & SB-09-03 (Lot 3); Brunswick Land Holdings, LLC; 4/13/09 |
- 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 February 19, 2014 Print Name Bert Exum

Signature 

Please indicate application attachments pertaining to your proposed project.

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

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**Form DCM MP-4**

**STRUCTURES**

**(Construction within Public Trust Areas)**

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

**1. DOCKING FACILITY/MARINA CHARACTERISTICS**

This section not applicable

a. (i) Is the docking facility/marina:  
 Commercial  Public/Government  Private/Community

b. (i) Will the facility be open to the general public?  
 Yes  No

c. (i) Dock(s) and/or pier(s)  
 (ii) Number 2  
 (iii) Length 157' floating; 22' fixed  
 (iv) Width 6'  
 (v) Floating  Yes  No

d. (i) Are Finger Piers included?  Yes  No  
 If yes:  
 (ii) Number 6  
 (iii) Length 24'  
 (iv) Width 4.5'  
 (v) Floating  Yes  No

e. (i) Are Platforms included?  Yes  No  
 If yes:  
 (ii) Number 1  
 (iii) Length 20'  
 (iv) Width 20'  
 (v) Floating  Yes  No

f. (i) Are Boatlifts included?  Yes  No  
 If yes:  
 (ii) Number 9  
 (iii) Length 12'  
 (iv) Width 12'

Note: Roofed areas are calculated from dripline dimensions.

g. (i) Number of slips proposed  
9  
 (ii) Number of slips existing  
0

h. Check all the types of services to be provided.  
 Full service, including travel lift and/or rail, repair or maintenance service  
 Dockage, fuel, and marine supplies  
 Dockage ("wet slips") only, number of slips: 9  
 Dry storage; number of boats: \_\_\_\_\_  
 Boat ramp(s); number of boat ramps: \_\_\_\_\_  
 Other, please describe:  
 \_\_\_\_\_

i. Check the proposed type of siting:  
 Land cut and access channel  
 Open water; dredging for basin and/or channel  
 Open water; no dredging required  
 Other; please describe:  
 \_\_\_\_\_

j. Describe the typical boats to be served (e.g., open runabout, charter boats, sail boats, mixed types).  
Open runabout

k. Typical boat length: 20'-30'

l. (i) Will the facility be open to the general public?  
 Yes  No

m. (i) Will the facility have tie pilings?  
 Yes  No  
 (ii) If yes number of tie pilings?  
N/A

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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: \_\_\_\_\_; Location: \_\_\_\_\_

Showers

Boatholding tank pumpout; Give type and location: \_\_\_\_\_

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

N/A

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

Through "No overboard discharge" rule enforced by POA

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

Through "No overboard discharge" rule enforced by POA

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

None proposed. Policies enforced through POA

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

None. Pumpout is not available.

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

N/A

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

N/A

h. Give the number of channel markers and "No Wake" signs proposed. N/A

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

N/A

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

Permanent live aboards not allowed.

k. Describe design measures that promote boat basin flushing?

No basin, Docking facility is located in open water.

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

N/A

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Form DCM MP-4 (Structures, Page 3 of 4)

- m. Is the marina/docking facility proposed within a primary or secondary nursery area?  
 Yes  No
- n. Is the marina/docking facility proposed within or adjacent to any shellfish harvesting area?  
 Yes  No
- o. Is the marina/docking facility proposed within or adjacent to coastal wetlands/marsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.  
 CW \_\_\_\_\_  SAV \_\_\_\_\_  SB \_\_\_\_\_  
 WL \_\_\_\_\_  None
- p. Is the proposed marina/docking facility located within or within close proximity to any shellfish leases?  Yes  No  
If yes, give the name and address of the leaseholder(s), and give the proximity to the lease.

\_\_\_\_\_

\_\_\_\_\_

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

- a. (i) Is the boathouse structure(s):  
 Commercial  Public/Government  Private/Community
  - (ii) Number \_\_\_\_\_
  - (iii) Length \_\_\_\_\_
  - (iv) Width \_\_\_\_\_
- Note: Roofed areas are calculated from dripline dimensions.*

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

- a. (i) Number \_\_\_\_\_
- (ii) Length \_\_\_\_\_
- (iii) Width \_\_\_\_\_

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

- a. Length \_\_\_\_\_
- b. Average distance from NHW, NWL, or wetlands \_\_\_\_\_
- c. Maximum distance beyond NHW, NWL or wetlands \_\_\_\_\_

**6. MOORING PILINGS and BUOYS**  This section not applicable

- a. Is the structure(s):  
 Commercial  Public/Government  Private/Community
- b. Number \_\_\_\_\_
- c. Distance to be placed beyond shoreline \_\_\_\_\_  
*Note: This should be measured from marsh edge, if present.*
- d. Description of buoy (color, inscription, size, anchor, etc.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- e. Arc of the swing \_\_\_\_\_

**7. GENERAL**

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a. Proximity of structure(s) to adjacent riparian property lines  
31.08'

b. Proximity of structure(s) to adjacent docking facilities.  
98.18'

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

c. Width of water body  
766.1'

d. Water depth at waterward end of structure at NLW or NWL  
Between -3' & -4' NLW

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

**8. OTHER**

This section not applicable

a. Give complete description:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

February 26, 2014

Date

Palm Cove

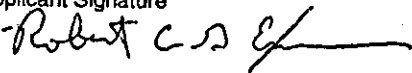
Project Name

Palm Cove POA, Inc.

Applicant Name

Bert Exum

Applicant Signature



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**Form DCM MP-3**

**UPLAND DEVELOPMENT**

**(Construction and/or land disturbing activities)**

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.

**GENERAL UPLAND DEVELOPMENT**

- |   |   |
|---|---|
| <p>a. Type and number of buildings, facilities, units or structures proposed.<br/>10' x 190' Wooden access walkway from the roadway to a 15' x 15' gazebo that leads to the dock and pier system.</p> <hr/>   | <p>b. Number of lots or parcels.<br/>N/A - existing parcels on record</p> <hr/>   |
| <p>c. Density (give the number of residential units and the units per acre).<br/>N/A</p> <hr/>  | <p>d. Size of area to be graded, filled, or disturbed including roads, ditches, etc.<br/>3800 SF</p> <hr/>  |
| <p>e. If the proposed project will disturb more than one acre of land, the Division of Land Resources must receive an erosion and sedimentation control plan at least 30 days before land-disturbing activity begins.<br/>(i) If applicable, has a sedimentation and erosion control plan been submitted to the Division of Land Resources?<br/><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA<br/>(ii) If yes, list the date submitted:</p> <hr/> | <p>f. List the materials (such as marl, paver stone, asphalt, or concrete) to be used for impervious surfaces.<br/>Cedar Shakes on Gazebo roof</p> <hr/>  |
| <p>g. Give the percentage of the tract within the coastal shoreline AEC to be covered by impervious and/or built-upon surfaces, such as pavement, building, rooftops, or to be used for vehicular driveways or parking.<br/>0%</p> <hr/>  | <p>h. Projects that require a CAMA Major Development Permit may also require a Stormwater Certification.<br/>(i) Has a site development plan been submitted to the Division of Water Quality for review?<br/><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA<br/><br/>(ii) If yes, list the date submitted: <u>2005 see attached Stormwater Permit SW8 051025</u></p> |
| <p>i. Give the percentage of the entire tract to be covered by impervious and/or built-upon surfaces, such as pavement, building, rooftops, or to be used for vehicular driveways or parking.<br/>15.8% per NCDENR Stormwater permit #SW8 051025</p> <hr/>  | <p>k. Have the facilities described in Item (i) received state or local approval?<br/><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA<br/>If yes, attach appropriate documentation.</p>   |
| <p>j. Describe proposed method of sewage disposal.<br/>Onsite Septic</p> <hr/>  | <p>m. Does the proposed project include an innovative stormwater design?<br/><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA<br/>If yes, attach appropriate documentation.</p>  |
| <p>i. Describe location and type of proposed discharges to waters of the state (e.g., surface runoff, sanitary wastewater, industrial/commercial effluent, "wash down" and residential discharges).<br/>Surface runoff - incidental runoff from proposed residential type improvements.</p> <hr/>   |   |

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m. Describe proposed drinking water supply source (e.g., well, community, public system, etc.)

Lots will be served by municipal water

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

o. When was the lot(s) platted and recorded?

November, 2004

\_\_\_\_\_  
\_\_\_\_\_

n. (i) Will water be impounded?  Yes  No  NA

(ii) If yes, how many acres? \_\_\_\_\_

p. If proposed development is a subdivision, will additional utilities be installed for this upland development?

Yes  No  NA

January 23, 2014

Date

Palm Cove

Project Name

Palm Cove POA, Inc.

Applicant Name

  
Applicant Signature

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W120

### OCEAN HAZARD AEC NOTICE

Project is in an:        Ocean Erodible Area  High Hazard Flood Area        Inlet Hazard Area

Property Owner: Brunswick Land Holdings, LLC

Property Address: Lot 2, Palm Cove Subdivision, Sunset Beach, NC

Date Lot Was Platted: November, 2004

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

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

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

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

Studies also indicate that the shoreline could move as much as 440 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 17 feet deep in this area.

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

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

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

For more information, contact:

Candy Watson

Local Permit Officer

700 Sunset Blvd North

Address

Sunset Beach NC 29468

Locality

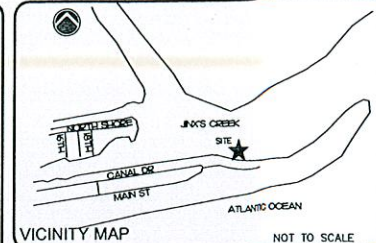
(910) 579-0068

Phone Number

Robert A. Ga 1-23-14  
Property Owner Signature Date

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**LEGEND:**

- BOUNDARY LINE
- - - ADJOINER LINE
- - - MAJOR CONTOUR
- - - MINOR CONTOUR
- ▨ ACCESS EASEMENT
- ▩ PROPOSED DOCK & PIER
- - - UTILITY EASEMENT
- MHW MEAN HIGH WATER
- - - CENTERLINE WATERBODY
- - - RIPARIAN CORRIDOR
- FLSV FLSV
- OES OCEAN ERODABLE SETBACK

- NOTES:**
- TOTAL LINEAR FEET OF SHORELINE ALONG LOTS 2&3 = 237' (AS MEASURED ALONG SURVEYED BOUNDARY). ALLOWABLE SQUARE FOOTAGE OF DOCK PER CANA, 237x27= 6399 SQ. FT. TOTAL COMMUNITY BOATING FACILITY DOCKAGE FOOTAGE WOULD BE 2592 SQ. FT.
  - WATER DEPTH CONTOURS ARE RELATIVE TO MLW BASED ON SURVEY BY CAPE FEAR ENGINEERING IN OCTOBER 2013.
  - MEAN HIGH WATER IS DEFINED AS 4.95 FEET ABOVE MLW. PROPERTY BOUNDARY IS AT APPROXIMATE MHW LINE.
  - MLW ELEVATION 0.00 FEET = NAVD88 ELEVATION OF -2.85 FEET.
  - CONTROL TIDE STATION SUNSET BEACH PIER STATION ID 8659897.
  - ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
  - PROPERTY LINE INFORMATION SHOWN IS FROM MAP RECORDED PB 36, PG 435. NO PROPERTY SURVEY OR EASEMENT SURVEY AT THIS TIME.
  - FLSV AS SHOWN IS EXISTING TOP OF BANK.

| REV. #    | DESCRIPTION | REV. BY | DATE |
|-----------|-------------|---------|------|
| REVISIONS |             |         |      |

**PRELIMINARY  
ISSUED FOR REVIEW**

**NOT FOR CONSTRUCTION.  
THIS IS NOT AN ENGINEERED DRAWING  
FOR ENVIRONMENTAL PERMITTING ONLY.**

**CAPE FEAR  
ENGINEERING**

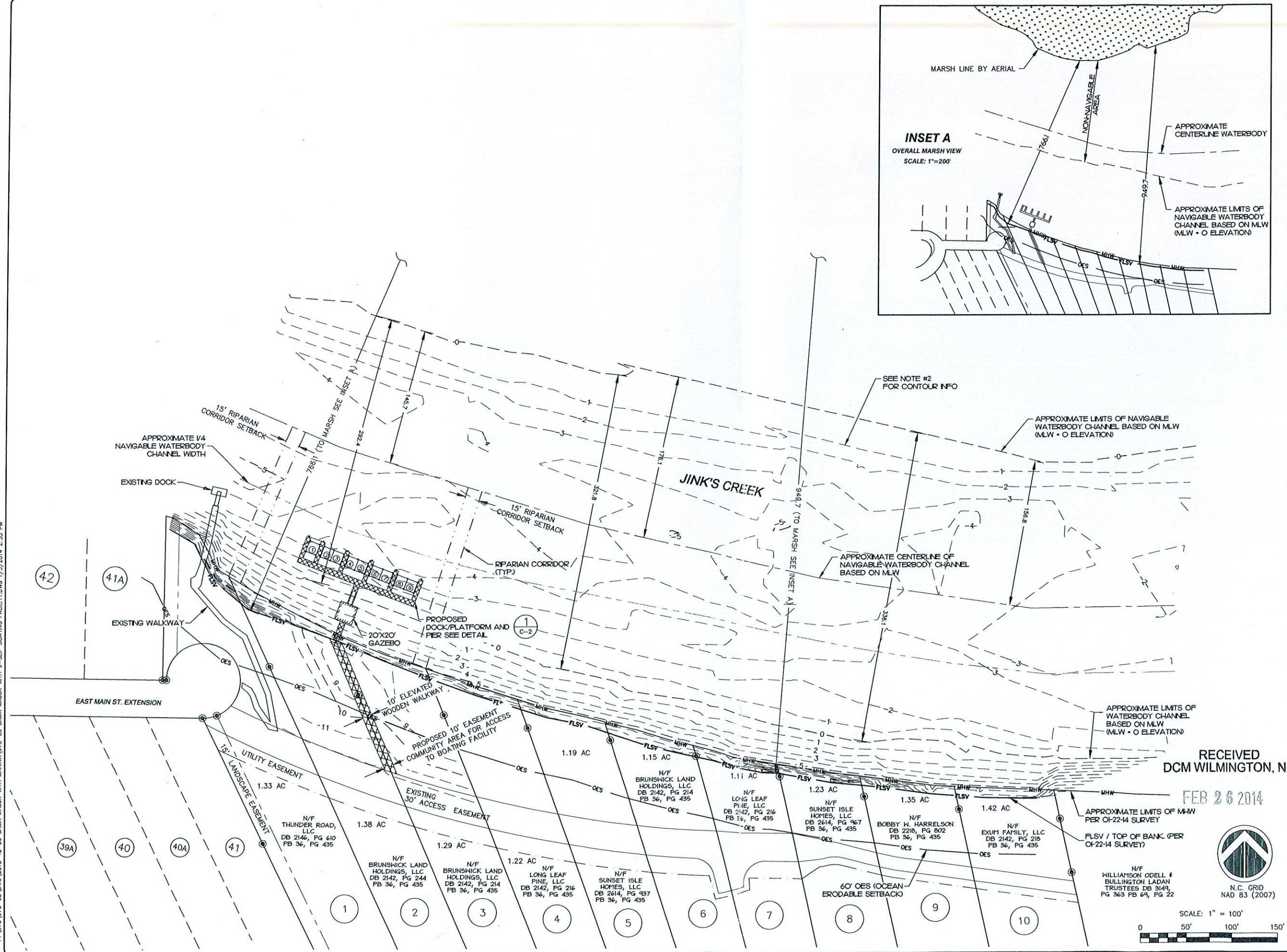
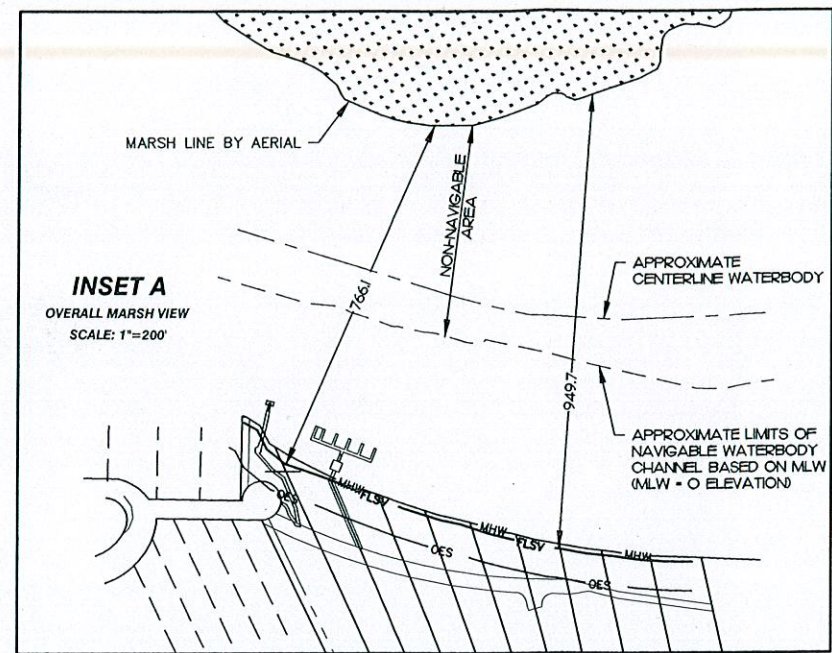
151 Poole Rd., Suite 100; Beville, NC, 28451  
TEL (910) 383-1044; FAX (910) 383-1045  
www.capefearengineering.com  
N.C. LICENSE # C-1621

|                      |                     |
|----------------------|---------------------|
| DRAWN : M.TACKETT    | PROJECT : 675-03    |
| DESIGN : N/A         | NUMBER : N/A        |
| CHECK : H.STOCKS     | SCALE : AS SHOWN    |
| APPROVED : M.TACKETT | DATE : 20 FEB. 2014 |

**PROPOSED  
9 - SLIP  
COMMUNITY BOATING  
FACILITY**

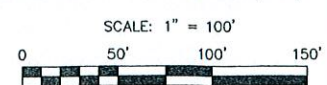
**PALM COVE SUBDIVISION  
LOTS 2 & 3**

|                                 |                               |
|---------------------------------|-------------------------------|
| SUNSET BEACH                    | NORTH CAROLINA                |
| PROJECT NUMBER<br><b>675-03</b> | SHEET NUMBER<br><b>1 OF 2</b> |

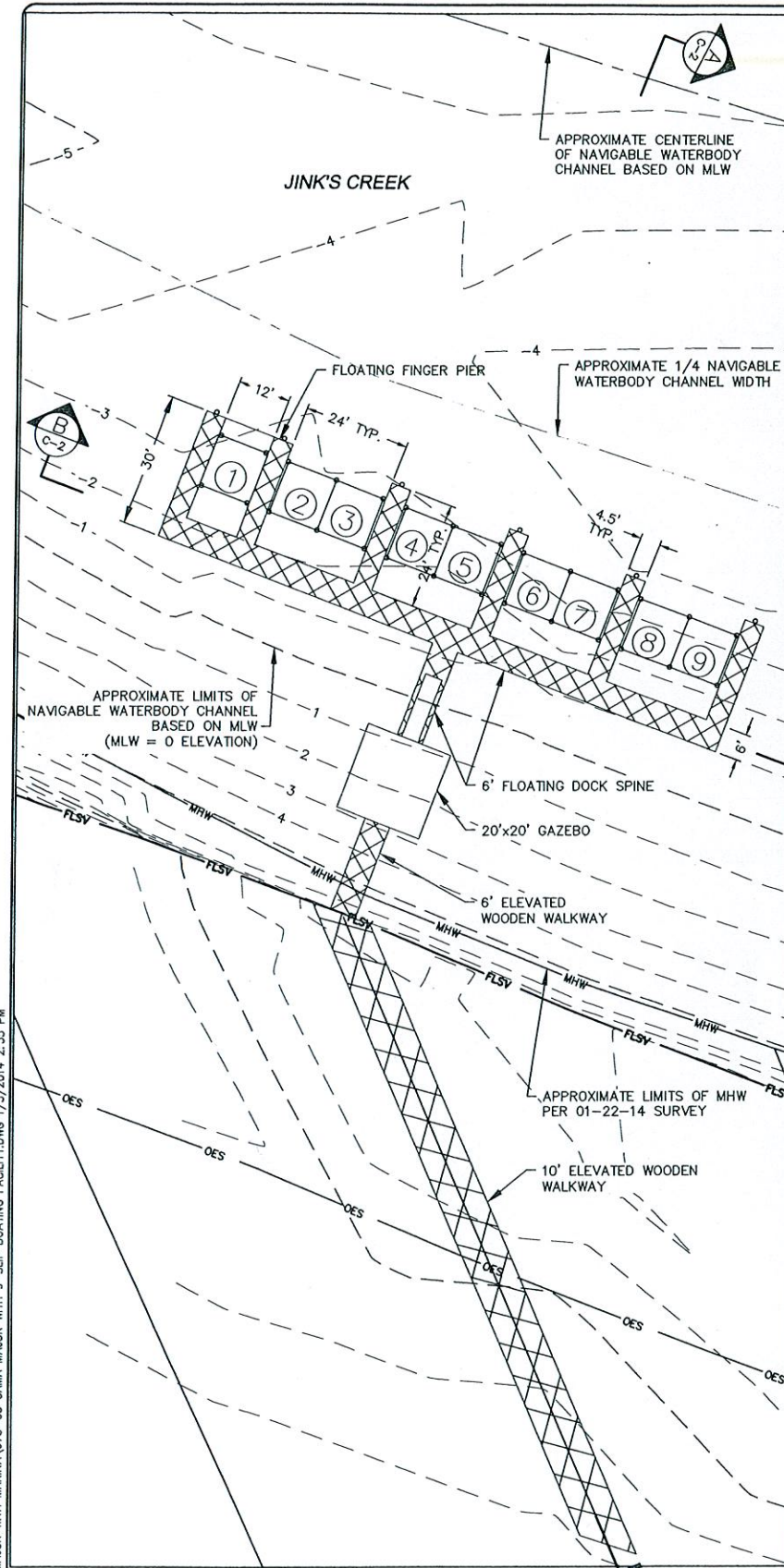


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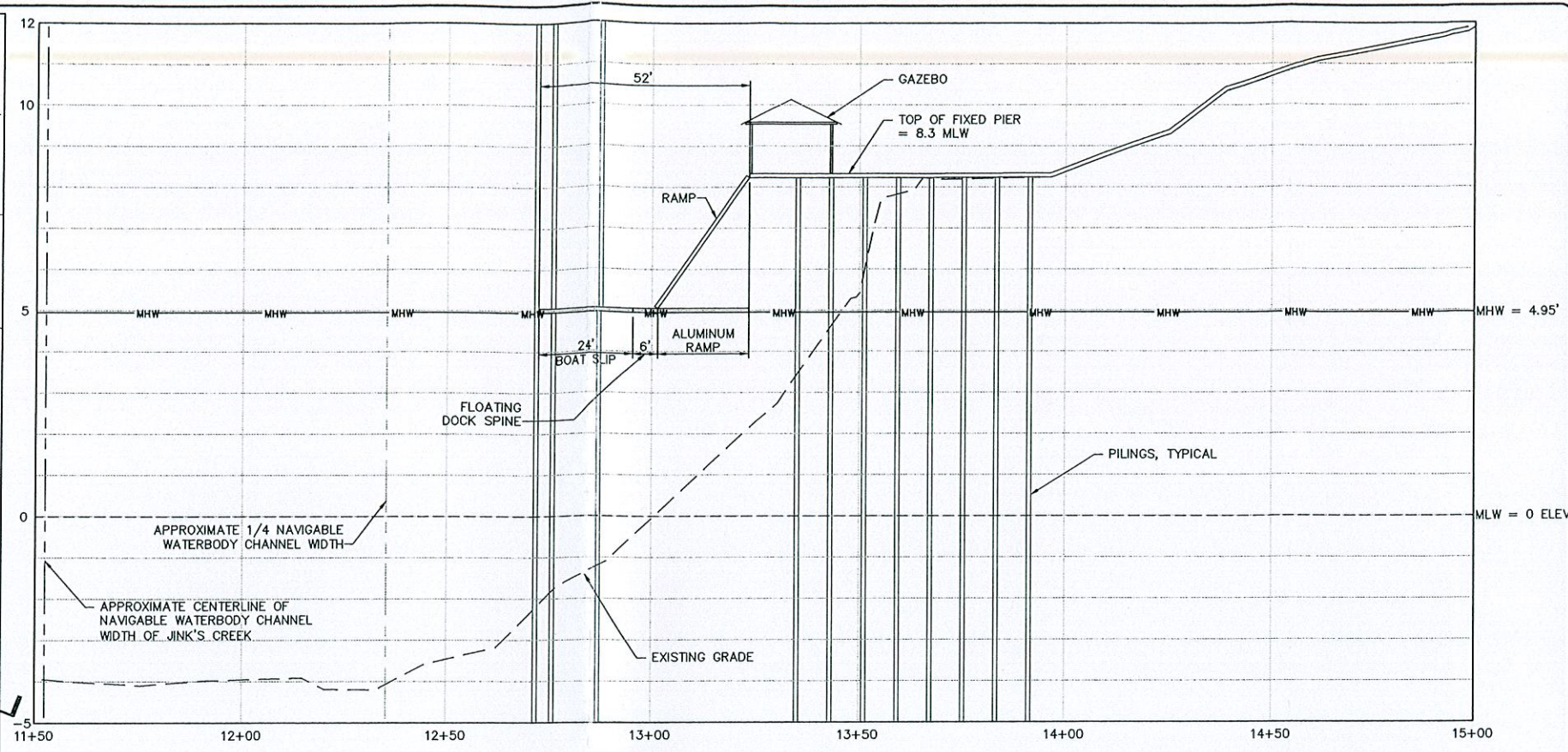
FEB 26 2014



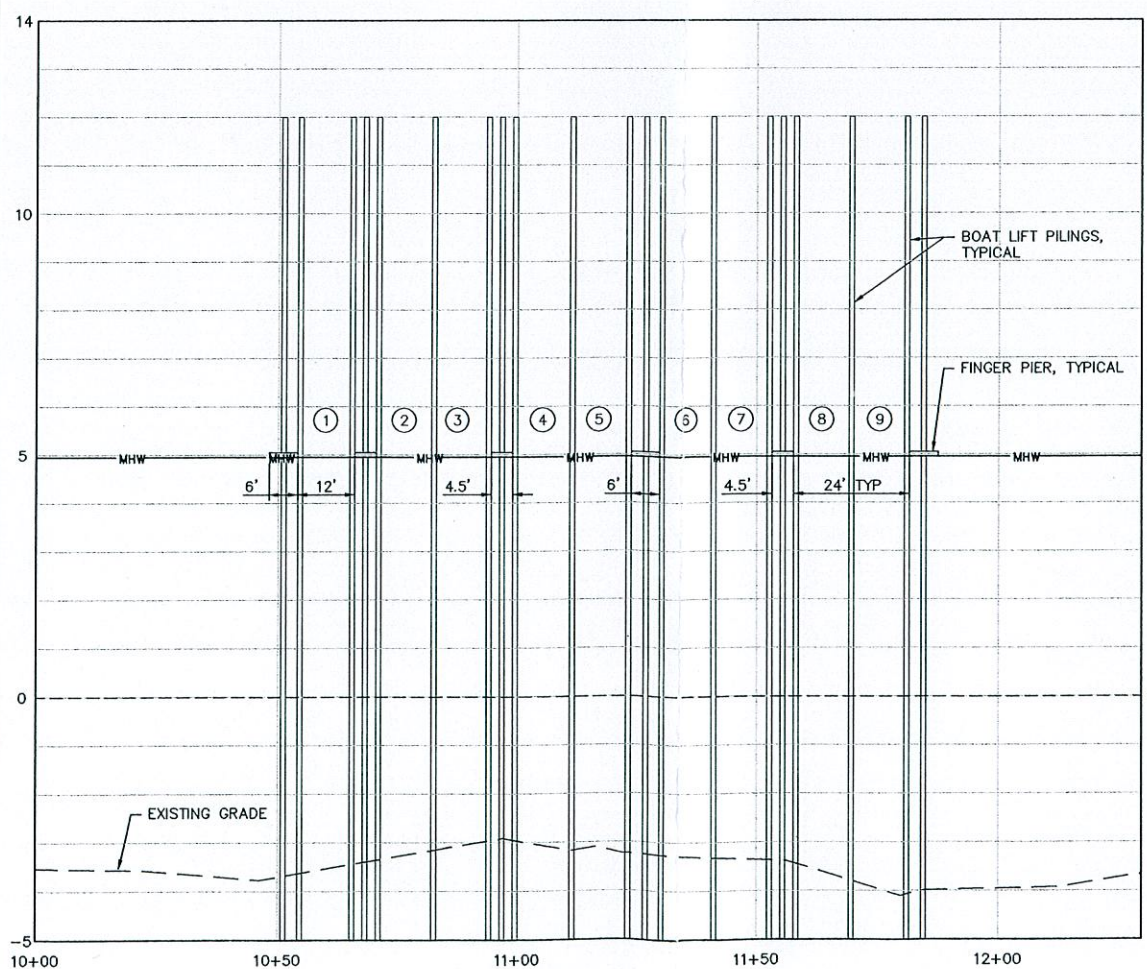
P:\16\15\16\15-02\DWG\2013-12-30 CANA MAJOR WITH MARINA\16-03 CANA MAJOR WITH 9-SLIP BOATING FACILITY.DWG 1/3/2014 2:35:35 PM



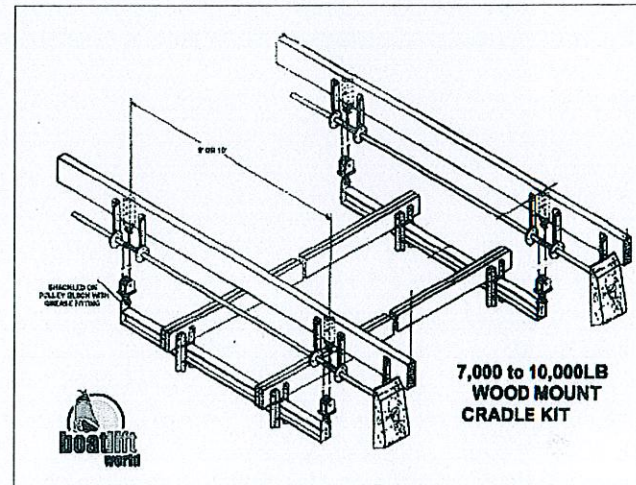
DOCK AND PIER DETAIL 1  
1" = 40'



SECTION A  
1" = 40' (HORIZ.)  
1" = 4' (VERT.)



SECTION B  
1" = 40' (HORIZ.)  
1" = 4' (VERT.)



TYPICAL BOAT LIFT DETAIL 2  
NOT TO SCALE

| REV.      | DESCRIPTION | REV. BY | DATE |
|-----------|-------------|---------|------|
| REVISIONS |             |         |      |

**PRELIMINARY  
ISSUED FOR REVIEW**

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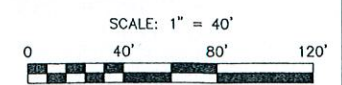
|                      |                     |
|----------------------|---------------------|
| DRAWN : M.TACKETT    | PROJECT : 675-03    |
| DESIGN : N/A         | NUMBER : 675-03     |
| CHECK : H.STOCKS     | SCALE : AS SHOWN    |
| APPROVED : M.TACKETT | DATE : 20 FEB. 2014 |

**PROPOSED  
9 - SLIP  
COMMUNITY BOATING  
FACILITY**

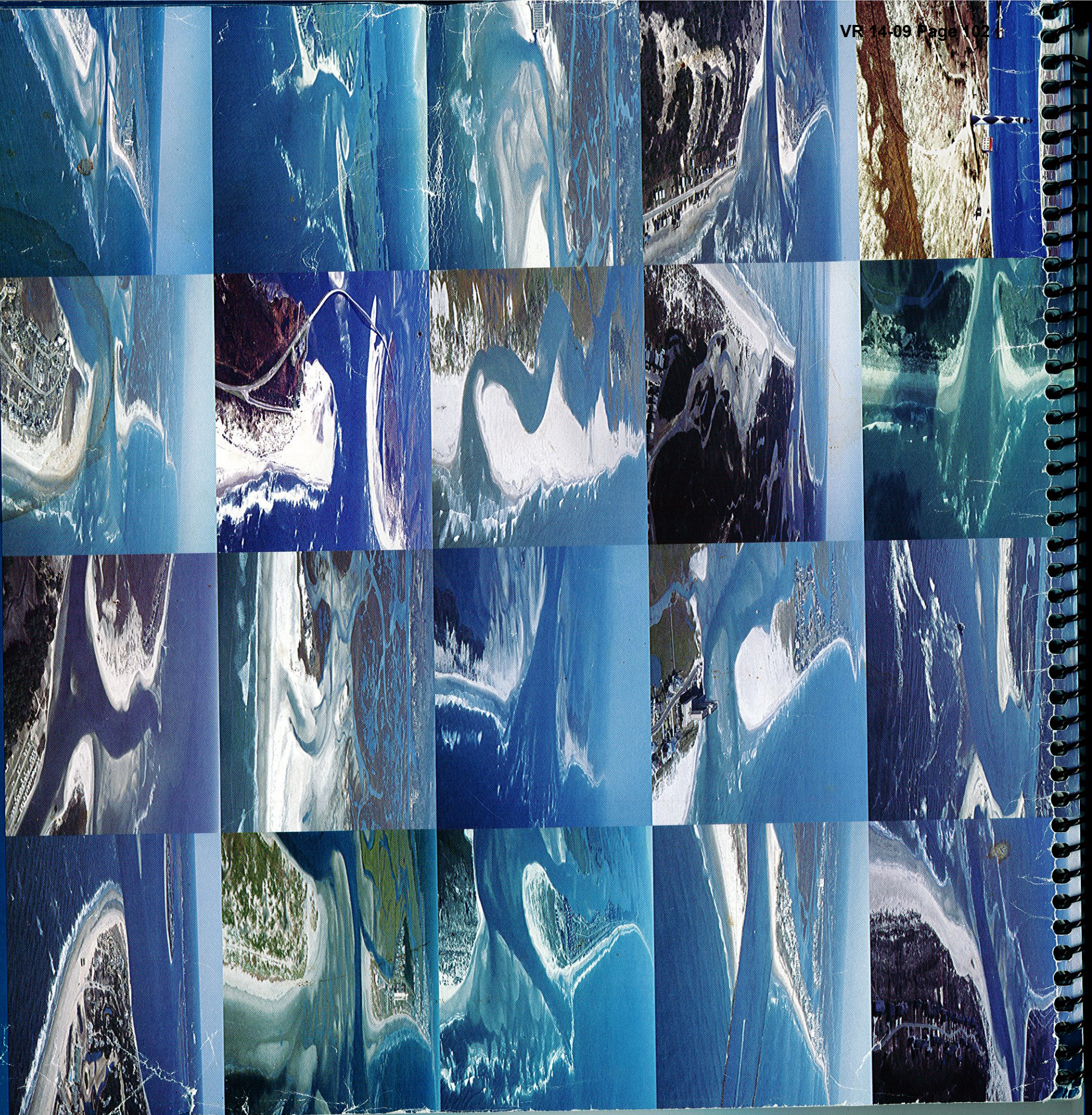
RECEIVED  
DCM WILMINGTON, NC  
FEB 26 2014

**PALM COVE SUBDIVISION  
SECTIONS & DETAILS**

|                                 |                               |
|---------------------------------|-------------------------------|
| SUNSET BEACH                    | NORTH CAROLINA                |
| PROJECT NUMBER<br><b>675-03</b> | SHEET NUMBER<br><b>2 OF 2</b> |



P:\675\675-03\DWG\2013-12-30 CAMA MAJOR WITH 9-SLIP BOATING FACILITY.DWG 1/2/2014 2:35 PM



SHIFTING SHORELINES:

# A PICTORIAL ATLAS OF NORTH CAROLINA INLETS

BY WILLIAM J. CLEARY AND TARA P. MARDEN

Second Edition

H. SNIDER

## ON THE FRONT COVER:

INLETS AS SHOWN LEFT TO RIGHT AND TOP TO BOTTOM: BARDEN, BROWN'S, CAROLINA BEACH, SHALLOTTE, LOCKWOOD FOLLY, MAD, MASON, MASONBORO, MASON, NEW, DRUM, NEW TOPSAIL, NEW RIVER, OREGON, OLD TOPSAIL, TUBBS, TUBBS, RICH, SHALLOTTE, CAPE FEAR RIVER.

## ACKNOWLEDGMENTS:

THIS REPORT WAS ASSEMBLED WITH THE ASSISTANCE OF A NUMBER OF INDIVIDUALS AND AGENCIES. WE OWE A SPECIAL DEBT OF GRATITUDE TO THE U.S. ARMY CORPS OF ENGINEERS (USACE), WASHINGTON DISTRICT OFFICE, FOR SUPPORT THROUGHOUT THE PREPARATION OF THE DOCUMENT. WE PARTICULARLY THANK TOM JARRETT OF THE COASTAL HYDROLOGY AND HYDRAULICS SECTION FOR HIS HELPFUL ADVICE AND ASSISTANCE AND FOR PROVIDING MANY DOCUMENTS AND AERIAL PHOTOGRAPHS THAT WERE USED FOR DATA AND BACKGROUND MATERIAL. WE ALSO THANK LYNN JACK AND BILL DENNIS OF THE USACE FOR THEIR ASSISTANCE WITH THE HISTORICAL AERIAL PHOTOGRAPHS ARCHIVE AND THE LOAN OF SELECTED PHOTOGRAPHS.

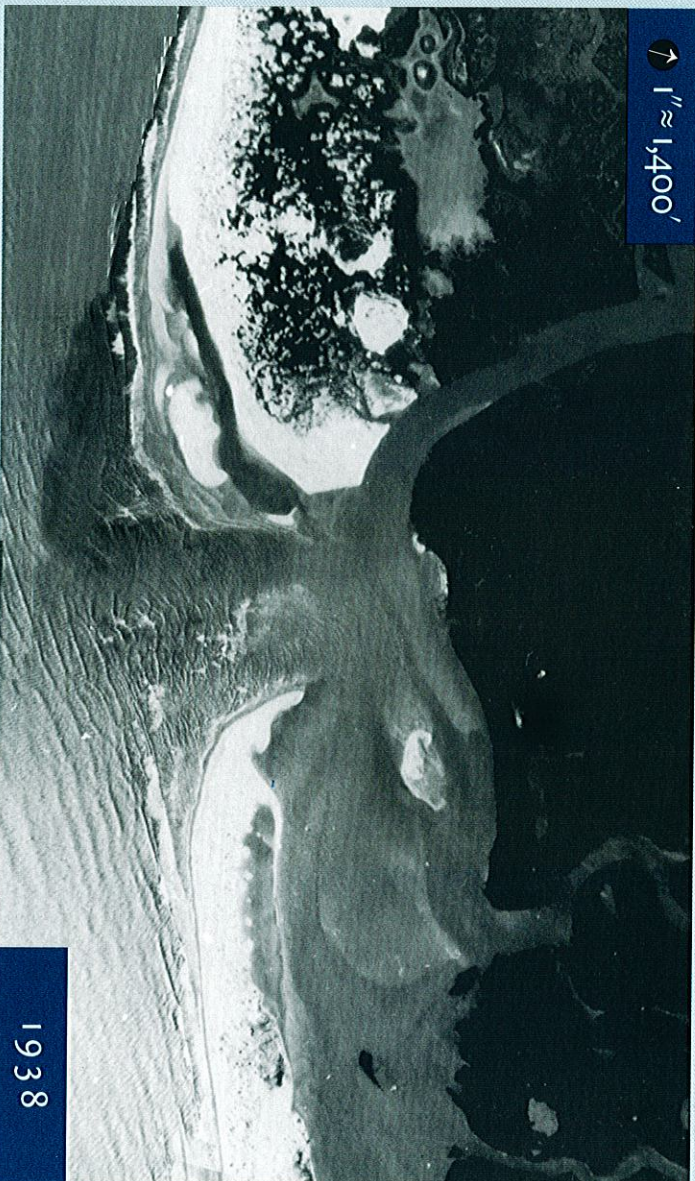
WE WOULD BE REMISS WITHOUT OFFERING SPECIAL THANKS TO THE MANY STUDENTS IN THE COASTAL GEOLOGY LAB AT THE UNIVERSITY OF NORTH CAROLINA AT WILMINGTON (UNCW) CENTER FOR MARINE SCIENCE RESEARCH. THEIR LABORATORY ASSISTANCE WAS INVALUABLE. WE RECOGNIZE COLLEEN DONATHON, CHRIS FREEMAN, CARL JOHNSON, JENNINE MILLER, MARYLEEN SAULT AND KENNETH WILSON. SPENCER ROGERS, NORTH CAROLINA SEA GRANT COASTAL ENGINEERING SPECIALIST, IS OWED A SPECIAL DEBT OF GRATITUDE FOR HIS ADVICE AND SUPPORT.

THIS WORK WAS SUPPORTED BY GRANT NA46RG0087 FROM THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'S NATIONAL SEA GRANT COLLEGE PROGRAM TO THE NORTH CAROLINA SEA GRANT COLLEGE PROGRAM (PUBLICATION UNC-SC-99-04). THIS BOOK IS CONTRIBUTION #233 FROM THE UNCW CENTER FOR MARINE SCIENCE RESEARCH.

## ON THE INSIDE:

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- INLET MORPHOLOGY DIAGRAMS • PAGE 5
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1" ≈ 1,400'



1938



1949



1958

## TUBBS INLET

Tubbs Inlet is a relatively small, migratory inlet approximately 45 kilometers west of Cape Fear. The inlet separates two developed barrier islands: Ocean Isle to the east and Sunset Beach to the west. The inlet drains a marsh-filled lagoon and is fed by two tidal channels, Jinks and Still Creeks. Jinks Creek drains the western portion of the lagoon and appears to be the main feeder channel.

The inlet has a complex migration history that includes an artificial relocation of the inlet, the shoaling of Still Creek and the dredging of Jinks Creek over the past 60 years. Since 1980, the inlet's migration may also have been influenced by the dual-jetty system of sediment-rich Little River Inlet, located approximately six kilometers to the west.

Sunset Beach, to the west of the inlet, is one of the few beaches in North Carolina to experience net shoreline accretion over the past century. The progressive buildup of this oceanfront shoreline is due in large part to the combined influences of Tubbs and Mad Inlets, which flank the short barrier island.

### INLET MIGRATION

Over the past 200 years, Tubbs Inlet has migrated westward along a 2-kilometer stretch of shoreline. Between 1856 and 1970, migration rates averaged 16 meters per year for the Ocean Isle shoulder and 20 meters per year for the Sunset Beach shoulder. The variable shoulder-migration rates were due to the changing positions of the ebb and flood channels across the ebb-tidal delta.

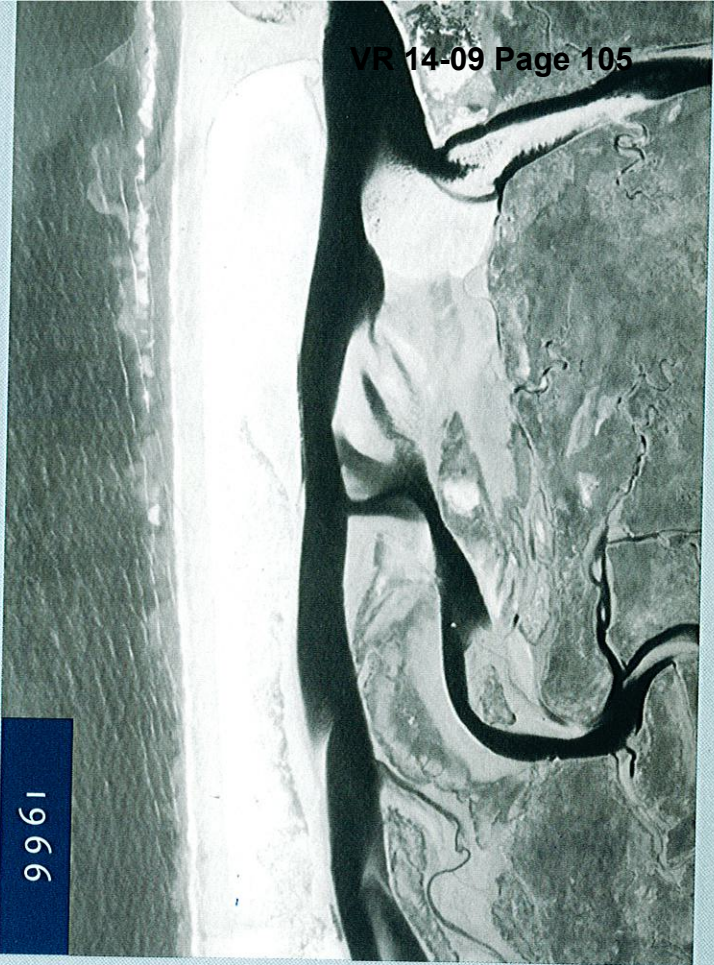
Between 1938 and 1970, when the inlet was relocated to the east, it migrated approximately 1.3 kilometers at an average rate of 40 meters per year. Between 1970 and 1996, the Ocean Isle shoulder eroded 717 meters while the Sunset Beach shoulder extended a distance of 356 meters to the east. Average migration rates for the east and west shoulders for the 26-year period were 27.6 meters per year and 13.7 meters per year, respectively.

Between 1938 and 1996, and particularly before relocation in 1970, the dominant flood channel was generally on the eastern margin of the inlet along the updrift Ocean Isle shoulder. The ebb channel periodically fluctuated between 152 degrees and 219 degrees during its westward trek, but was generally skewed toward Sunset Beach. Between 1938 and 1970, the minimum inlet width varied between 102 meters and 538 meters. Surprisingly, the inlet was relatively narrow during the stormy 1950s.

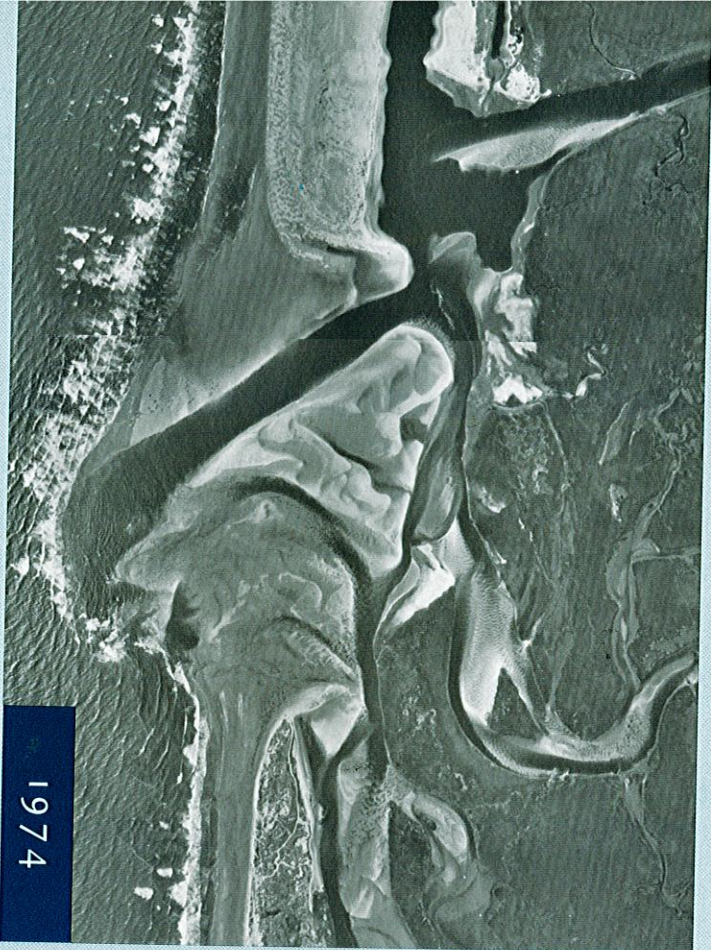
In January 1970, Tubbs Inlet was artificially relocated approximately one kilometer to the east. The new location approximated the inlet's 1938 position. After a period of adjustment, the inlet began migrating to the east, opposite to the regional net littoral drift. Presumably the dredging of the lagoon channels, principally Jinks Creek, altered the hydrodynamics of the lagoon, redirecting the ebb flow toward the Ocean Isle shoulder.

The inlet's minimum width after relocation increased from 362 meters in 1970 to 662 meters in 1979. It later narrowed to 63 meters in 1993 before widening again to 220 meters in 1996. The recent widening was due to a shift in the positions of the flood and ebb channels within the throat. Between

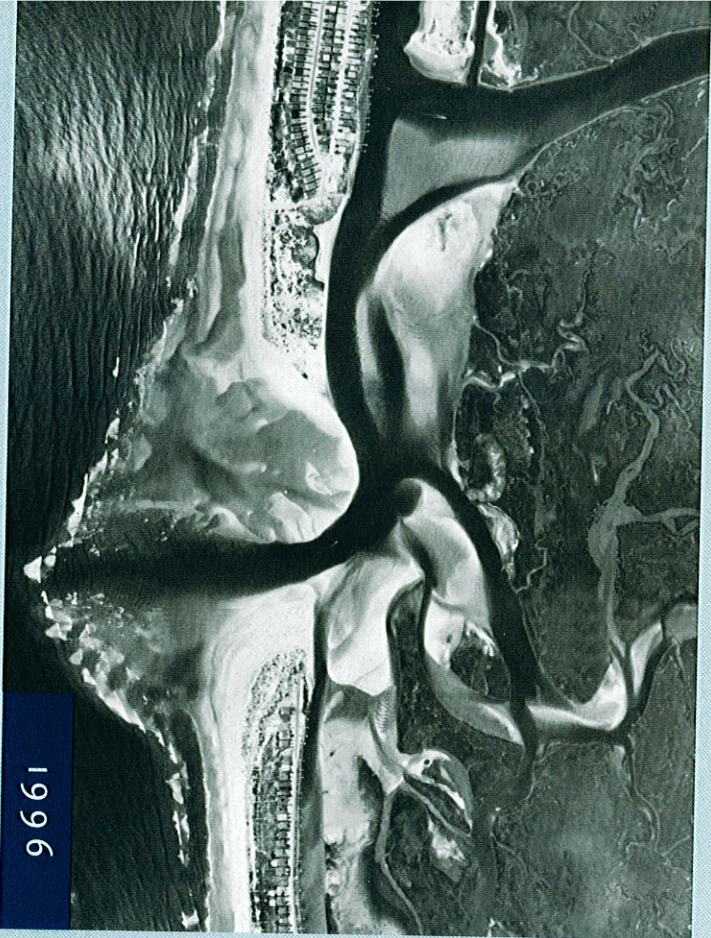




1966



1974



1996

1970 and 1996, erosion rates for the Ocean Isle shoulder averaged 28 meters per year while Sunset Beach extended eastward at an average rate of 14 meters per year.

**FUTURE TRENDS**

Since the mid-1990s, the dominant flood channel has been positioned along the Sunset Beach shoulder, while the ebb channel has been next to the Ocean Isle margin. Over time, the position of the flood channel will promote shoaling within the lagoon channels, and the resulting shrinkage of the tidal prism will prompt increased inlet migration. The extension of the western shoulder into the throat will promote further encroachment of the ebb and eastern marginal flood channels onto the Ocean Isle shoulder. If this configuration is maintained, erosion of the eastern updrift shoulder will continue and may be rapid at times. The present eastward migration trend may reverse itself if the lagoon channel network changes. If westward migration is reinitiated, the Ocean Isle oceanfront will erode.



## 9. PROJECT DESCRIPTION

The applicant's property is located at the northeast end of Sunset Beach in Brunswick County. The property is located at the end of Northshore Drive at the intersection with 19th Street. Directions from the Sunset Beach bridge are as follows: turn left immediately after crossing the bridge and causeway onto Northshore Drive; follow Northshore Drive to 6th Street; follow 6th Street to Canal Drive; turn left onto Canal Drive and proceed east to Cobia Street; turn left onto Cobia Street and continue again to Northshore Drive; turn right onto Northshore Drive and travel to the end. The tract is a peninsula of land bordered by the waters of Jinks Creek to the east, an embayment off Jinks Creek to the south, and a man-made canal to the north. Jinks Creek functions as the main hydrological connector for Tubbs Inlet and the Atlantic Intracoastal Waterway. The tract is 4.09 acres in size and is vegetated with typical maritime shrub thicket vegetation along the man-made canal, consisting of Wax Myrtle (*Merica cerifera*), Yaupon (*Ilex vomitoria*), Red Cedar (*Juniperus virginiana*), and Catbriar (*Smilax spp.*). The remainder of the high ground is vegetated with typical maritime grassland species consisting of Salt Meadow Hay (*Spartina patens*), Sea Oats (*Uniola paniculata*), Goldenrod (*Solidago sempervirens*) and Pennywort (*Hydrocotyle spp.*) The average elevation of the tract is approximately 7 feet above mean sea level.

The property has approximately 1,400 linear feet of shoreline along the three water bodies. The majority of this shoreline has no or very intermittent coastal wetland vegetation along the intertidal area. Along the southwestern side of the property, a finger of coastal marsh extends into the property along Lots 48 and 49. This area measures approximately 10-20 feet in width and extends approximately 80 feet onto Lot 49, crossing onto Lot 48 for approximately 10 feet. This wetland area is vegetated primarily with Salt Meadow Hay, Glasswort (*Salicornia spp.*), Sea Lavender (*Limonium spp.*), and sparse Smooth Cord Grass (*Spartina alterniflora*). Both Coastal and Section 404 Wetlands have been delineated and are indicated as a "joint upper coastal vegetation / 404 wetland line" on the attached plans (sheets 2 and 3 of 5). The 404 wetland survey was approved by the US Army Corps of Engineers on December 4, 2002. There are currently no existing structures on the property.

The waters of Jinks Creek, and the man-made canal are classified as SA HQW by the North Carolina Division of Water Quality. The waters of Jinks Creek are open to the harvest of shellfish. The man-made canal on the north side of the property is closed to shellfishing. Although the project site is located in close proximity to Tubbs Inlet, it is located just north and west of the Inlet Hazard Area of Tubbs Inlet, as designated by the North Carolina Coastal Resources Commission. The project is not located within a High Hazard Flood Area. As such the entire project would be located entirely outside of the Ocean Hazard Areas of Environmental Concern.

## PROPOSED PROJECT

The applicant is proposing to develop the property into a 19 lot subdivision. Development would include the initial grading and filling of the entire 4 acre tract to allow for proper drainage and road construction. Individual lots sizes will range from 5,255 sq. ft. to 19,629 sq. ft., at a density of 4.65 units/acre. Access to the lots will be provided by the extension of Northshore Drive approximately 390 feet to the east, terminating in a cul-de-sac. The access way would consist of a 30 feet right-of-way and an 18 feet paved asphalt surface. Sewage disposal for the lots will be by on-site septic systems. The existing Town of Sunset Beach public water system would be extended by the applicant as a 6 inch main along the proposed road right-of-way. The applicant is also proposing to stabilize the entire shoreline (approximately 1,466 linear feet) of the property with a timber bulkhead and rip rap toe protection. Both the bulkhead and rip rap would be positioned landward of all coastal and 404 wetlands with the exception of the wetland finger at Lots 48 and 49. The rip rap would be placed directly adjacent to and waterward of the bulkhead and would have a base width of approximately 2 feet.

At Lots 48 and 49 the applicant is proposing to fill the 404 / coastal wetland finger for an area totaling 1,143 sq. ft.. As described above, this area is primarily dominated with high marsh vegetation and is flooded during spring tides through a break in the escarpment or berm along the southern shoreline. The applicant is proposing to mitigate for this wetland impact by the creation of approximately 1,150 sq. ft. of coastal wetlands on the southeastern shoreline of the property. The mitigation plan is described in detail in the applicants attached Project Narrative. This plan includes the grading of a triangular shaped area along the southeastern point of the property at Lot 43. This area measures approximately 30 feet long by 65 feet wide (at the widest points). The waterward most or lower 20 feet of this area would be graded to create a slope beginning at the 0.0' MSL contour and ending at the +2.5 MSL contour. This area would be planted with *Spartina alterniflora*. The remaining area would be graded from the +2.5 MSL contour to +4.0 at the toe of the proposed bulkhead. This higher area would be planted with *Spartina patens*. (See attached narrative for specifics on proposed planting regime and monitoring plan.) Waterward of the proposed mitigation area the applicant is proposing to construct a timber breakwater along the existing 0.0' MSL contour. The breakwater would measure approximately 125 feet in length and would be constructed an average of 20 feet waterward of the surveyed mean high water (MHW) line. The finished top elevation of the breakwater would extend no higher than 5 feet above the final project elevation of the mitigation area, or approximately 9 feet above MSL.

#### 10. ANTICIPATED IMPACTS:

The initial grading of the property and bulkhead construction would result in the disturbance of approximately 4 acres of highground. The proposed bulkhead construction and backfill at Lots 48 and 49 would result in the filling of approximately 1,143 sq. ft. of mixed Coastal/404 Wetlands. The proposed roadway extension would result in the creation of approximately 9,000 square feet of impervious surface. No impervious surfaces are proposed within the 75' Estuarine Shoreline AEC under this application. The applicant has received a State Stormwater Permit from the Division of Water Quality (Permit No. SW8 020521). This permit, issued under the low density (25%) option, restricts the total maximum built-upon area of Lots 29-36 to 1,625 sq. ft./lot and Lots 37-47 to 2,000 sq. ft./lot. Subsequent individual lot development would create additional impervious surface area and would require individual lot owners to obtain CAMA Minor Development Permits from the Town of Sunset Beach.

Submitted by: Jim Gregson

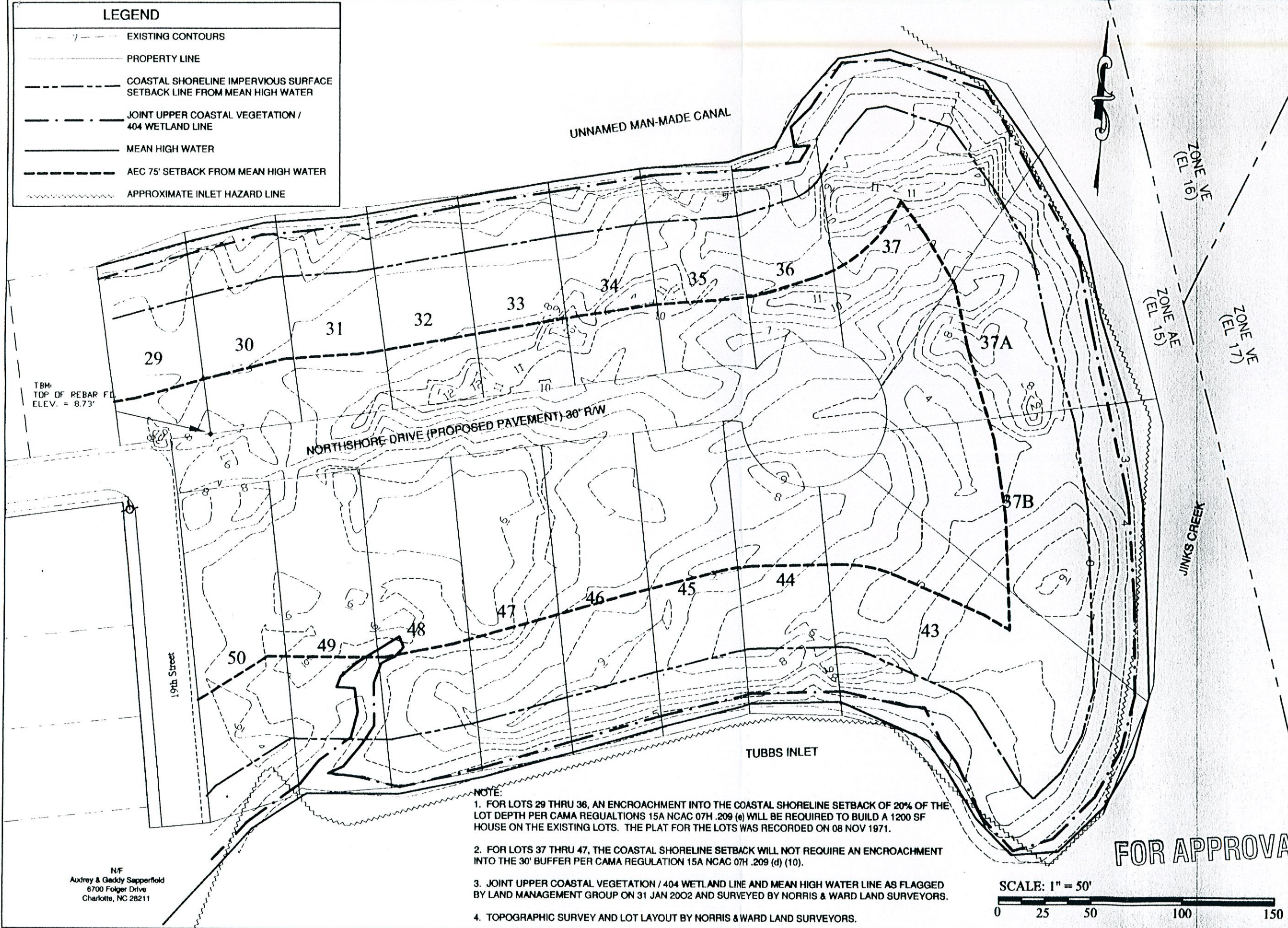
Date: September 19, 2003

Office: Wilmington

25 JUL 02 - REVISED PER DCM & DWQ  
08 JUL 03 - PER DCM, INLET HAZARD LINE  
LOCATION ADDED, & LOT #'S REVISED.  
14 JUL 03 - LOT NUMBERS REVISED  
17 SEP 03 - SETBACK LINE & NOTES REVISED.

LEGEND

- - - - - EXISTING CONTOURS
- \_\_\_\_\_ PROPERTY LINE
- COASTAL SHORELINE IMPERVIOUS SURFACE  
SETBACK LINE FROM MEAN HIGH WATER
- . - . - . JOINT UPPER COASTAL VEGETATION /  
404 WETLAND LINE
- \_\_\_\_\_ MEAN HIGH WATER
- AEC 75' SETBACK FROM MEAN HIGH WATER
- ~~~~~ APPROXIMATE INLET HAZARD LINE



TBM  
TOP OF REBAR FL  
ELEV. = 8.73'

NORTHSHORE DRIVE (PROPOSED PAVEMENT) 30' R/W

UNNAMED MAN-MADE CANAL

ZONE VE (EL 16)  
ZONE AE (EL 15)  
ZONE VE (EL 17)

JINKS CREEK

TUBBS INLET

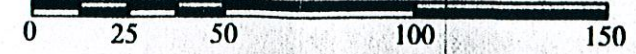
19th Street

NOTE:

1. FOR LOTS 29 THRU 36, AN ENCROACHMENT INTO THE COASTAL SHORELINE SETBACK OF 20% OF THE LOT DEPTH PER CAMA REGULATIONS 15A NCAC 07H .209 (e) WILL BE REQUIRED TO BUILD A 1200 SF HOUSE ON THE EXISTING LOTS. THE PLAT FOR THE LOTS WAS RECORDED ON 08 NOV 1971.
2. FOR LOTS 37 THRU 47, THE COASTAL SHORELINE SETBACK WILL NOT REQUIRE AN ENCROACHMENT INTO THE 30' BUFFER PER CAMA REGULATION 15A NCAC 07H .209 (d) (10).
3. JOINT UPPER COASTAL VEGETATION / 404 WETLAND LINE AND MEAN HIGH WATER LINE AS FLAGGED BY LAND MANAGEMENT GROUP ON 31 JAN 2002 AND SURVEYED BY NORRIS & WARD LAND SURVEYORS.
4. TOPOGRAPHIC SURVEY AND LOT LAYOUT BY NORRIS & WARD LAND SURVEYORS.

N/F  
Audrey & Gaddy Sapperford  
8700 Folger Drive  
Charlotte, NC 28211

SCALE: 1" = 50'



FOR APPROVAL

EXISTING CONDITIONS FOR

NORTHSHORE DRIVE  
SUNSET BEACH, NC

EAST COAST ENGINEERING  
COMPANY, P.A.

4918 Main Street - P.O. Box 2489  
Charlotte, North Carolina 28459  
910.754.8029



Date: 01 APR 02 Drawn By: HOLLIS  
Scale: 1" = 50' Checked By: ACL/DBB

RECEIVED  
SEP 17 2003  
DIVISION OF  
COASTAL MANAGEMENT

THIS PLAN IS NOT ISSUED FOR  
CONSTRUCTION WITHOUT  
EMBOSSSED CORPORATE SEAL.



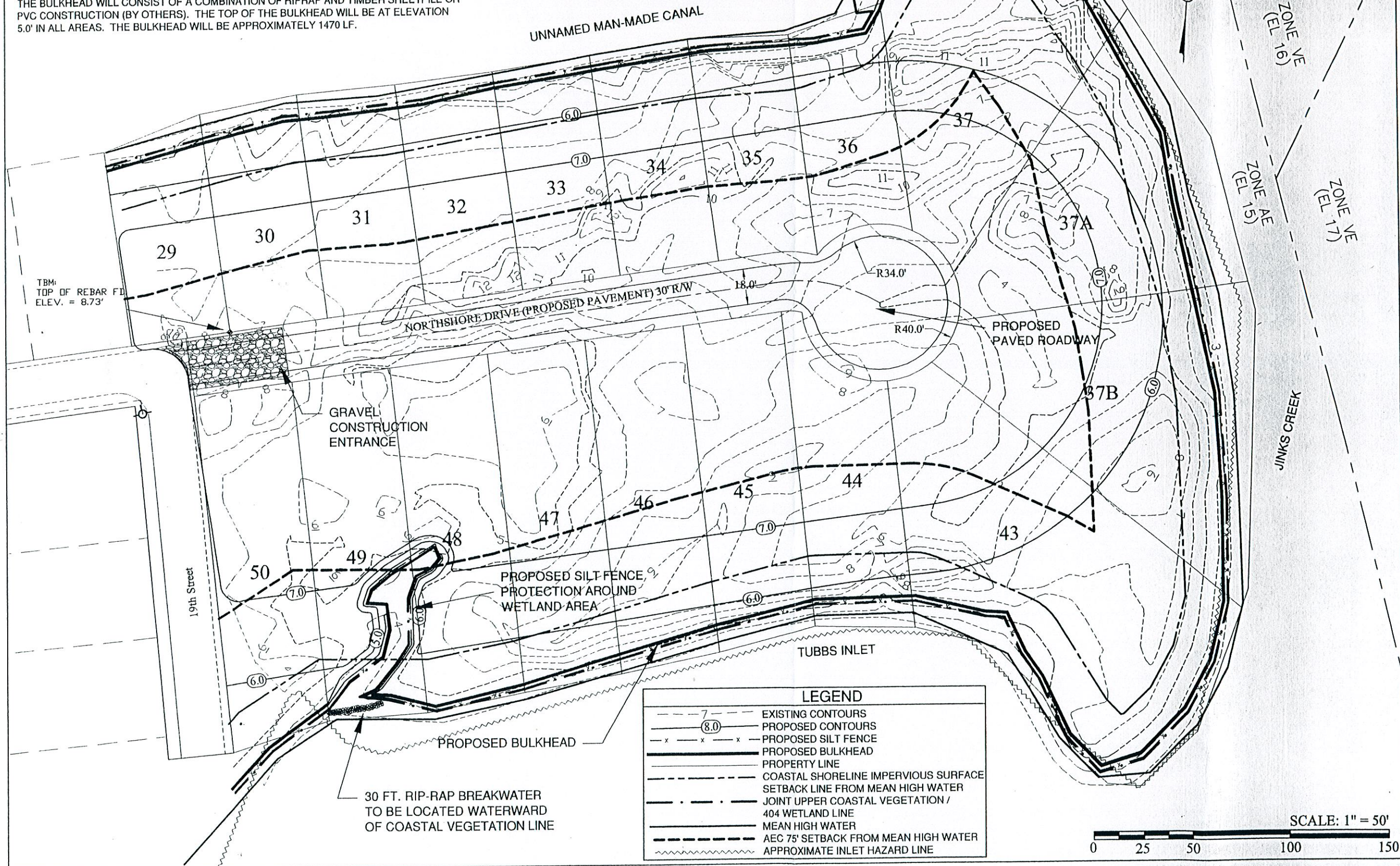
NOTE:

1. THE ENTIRE PROPERTY WILL BE GRADED. A HIGH POINT ELEVATION OF 7.5' WILL BE LOCATED AT THE CROWN OF THE CENTERLINE OF THE PAVEMENT.
2. THE STORMWATER RUNOFF WILL SHEET FLOW FROM EACH LOT TOWARD THE WATERWAY.
3. THE ROADWAY EXTENSION AND CUL-DE-SAC WILL BE PAVED.
4. A 30 FT RIPRAP BREAKWATER WILL BE LOCATED WATERWARD OF THE COASTAL VEGETATION LINE ADJACENT TO A WETLAND FINGER THAT EXTENDS INTO LOT 49 & 48.
5. A BULKHEAD WILL BE CONSTRUCTED AROUND THE REPARIAN PERIMETER OF THE PROPERTY DIRECTLY BEHIND THE UPPER COASTAL VEGETATION / 404 WETLAND LINE. THE BULKHEAD WILL CONSIST OF A COMBINATION OF RIPRAP AND TIMBER SHEETPILE OR PVC CONSTRUCTION (BY OTHERS). THE TOP OF THE BULKHEAD WILL BE AT ELEVATION 5.0' IN ALL AREAS. THE BULKHEAD WILL BE APPROXIMATELY 1470 LF.

PROJECT DATA

TOTAL PROJECT AREA = 178073 SF or 4.09 ACRES  
 TOTAL IMPERVIOUS AREA = 44515 SF or 1.02 ACRES  
 ROADWAY = 9515 SF or 0.22 ACRES  
 LOTS 29 - 36 (1625 SF EACH) = 13000 SF or 0.30 ACRES  
 LOTS 37 - 47 (2000 SF EACH) = 22000 SF or 0.51 ACRES  
 (LOTS ARE ALLOCATED IMPERVIOUS SURFACE BY DEED RESTRICTIONS FOR FUTURE HOUSES.)  
 PERCENT IMPERVIOUS FOR TOTAL PROJECT AREA = 25%

VR 14-09 Page 10  
 23 MAY 02 - CONSTRUCTION ENTRANCE  
 25 JUL 02 - REVISED PER DCM & DWQ  
 08 JULY 03 - PER DCM, INLET HAZARD LINE & BREAKWATER LOCATION ADDED, & LOT NUMBERS REVISED.  
 14 JUL 03 - LOT NUMBERS REVISED  
 17 SEP 03 - SETBACK LINE REVISED.  
 31 OCT 03 - WETLAND FILL AREA REMOVED.



TBM: TOP OF REBAR FD ELEV. = 8.73'

GRAVEL CONSTRUCTION ENTRANCE

NORTHSHORE DRIVE (PROPOSED PAVEMENT) 30' R/W

PROPOSED PAVED ROADWAY

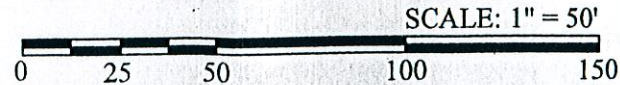
PROPOSED SILT FENCE PROTECTION AROUND WETLAND AREA

30 FT. RIP-RAP BREAKWATER TO BE LOCATED WATERWARD OF COASTAL VEGETATION LINE

TUBBS INLET

LEGEND

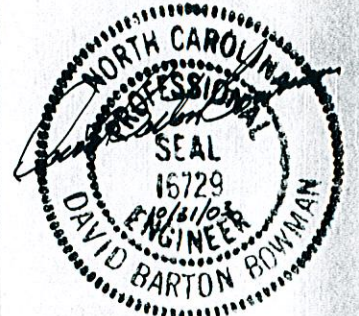
|                   |   |
|-------------------|---|
| --- 7 ---         | EXISTING CONTOURS                                 |
| --- 8.0 ---       | PROPOSED CONTOURS                                 |
| - x - x - x -     | PROPOSED SILT FENCE                               |
| — — — — —         | PROPOSED BULKHEAD                                 |
| — — — — —         | PROPERTY LINE                                     |
| — — — — —         | COASTAL SHORELINE IMPERVIOUS SURFACE              |
| — · — · — · — · — | SETBACK LINE FROM MEAN HIGH WATER                 |
| — · — · — · — · — | JOINT UPPER COASTAL VEGETATION / 404 WETLAND LINE |
| — — — — —         | MEAN HIGH WATER                                   |
| — · — · — · — · — | AEC 75' SETBACK FROM MEAN HIGH WATER              |
| ~ ~ ~ ~ ~         | APPROXIMATE INLET HAZARD LINE                     |



GRADING PLAN FOR  
**NORTHSHORE DRIVE**  
 SUNSET BEACH, NC  
**EAST COAST ENGINEERING COMPANY, P.A.**  
 4918 Main Street - P.O. Box 2469  
 Shallotte, North Carolina 28459  
 910.754.8029

Date: 01 APR 02 Drawn By: HOLLIS  
 Scale: 1" = 50' Checked By: ACL/DBB

THIS PLAN IS NOT ISSUED FOR CONSTRUCTION WITHOUT EMBOSSED CORPORATE SEAL.



**DIVISION OF COASTAL MANAGEMENT  
FIELD INVESTIGATION REPORT**

- 1. **APPLICANT'S NAME:** Palm Cove, POA, Inc. C/o Bert Exum
- 2. **LOCATION OF PROJECT SITE:** Palm Cove Subdivision at the intersection of Canal Dr. and Main St. adjacent to Tubbs Inlet and the Atlantic Ocean, in Sunset Beach, Brunswick Co.  
**Photo Index** – 2006: 1-6152 O,P-5    2000: 1-5 P-5    1998: 1-11, Q-S, 8-11  
**State Plane Coordinates - X:** 2156060    **Y:** 45214    **Rover File:** V-102510A (2006)
- 3. **INVESTIGATION TYPE:** CAMA
- 4. **INVESTIGATIVE PROCEDURE:** **Dates of Site Visit** – 02/11/14, 3/4/14  
**Was Applicant Present** – No, No
- 5. **PROCESSING PROCEDURE:** **Application Received** – Completed 02/26/14  
**Office** - Wilmington

- 6. **SITE DESCRIPTION:**
  - (A) **Local Land Use Plan** - Town of Sunset Beach  
**Land Classification From LUP** - Developed/Vacant
  - (B) **AEC(s) Involved:** ES, OH, IH
  - (C) **Water Dependent:** Yes
  - (D) **Intended Use:** Private Community
  - (E) **Wastewater Treatment:** Existing - None  
Planned - Individual Septic Systems
  - (F) **Type of Structures:** Existing – Asphalt road and utilities  
Planned - 9-slip community docking facility
  - (G) **Estimated Rate of Erosion:** 2 ft. per year  
**Source** – 2011 LTAASCR Update

7. **HABITAT DESCRIPTION:**

|  | <u>DREDGED</u> | <u>FILLED</u> | <u>OTHER</u>                  |
|--|----------------|---------------|-------------------------------|
| (A) Vegetated Wetlands<br>Coastal        |                |               |                               |
| (B) Non-Vegetated Wetlands<br>Open Water |                |               | 3,172 sq. ft.<br>Incorporated |
| (C) Other<br>Highground                  |                |               |                               |

- (D) **Total Area Disturbed:** 3,172 sq.ft. (0.07 acres)
- (E) **Primary Nursery Area:** No
- (F) **Water Classification:** SA-SB    Open: Tubbs Inlet (yes)

- 8. **PROJECT SUMMARY:** The applicant is proposing to modify CAMA Major Permit #11-06 and construct a private nine (9) slip community docking facility adjacent to Tubbs Inlet.

**Palm Cove, POA, Inc., C/o Bert Exum**  
**Page Two**

**9. PROJECT DESCRIPTION**

The applicant's property is located at the far eastern end of Sunset Beach in Brunswick County. The property is located at the intersection of Canal Drive and Main Street, along the Main Street Extension. Directions from the Sunset Beach bridge are as follows: turn left at the stop sign after crossing the bridge and causeway onto Main Street; follow Main Street until it dead ends; turn right onto Main Street extension. The project site is located on a peninsula of land bordered by the waters of Tubbs Inlet to the north, and the Atlantic Ocean to the south. The property is 12.67 acres in size and is vegetated with typical ocean front vegetation along both the northern and southern side, consisting of Sea Oats (*Uniola paniculata*), American Beachgrass (*Ammophila breviligulata*), Seashore Elder (*Iva imbricate*), Curly Leaf Yucca (*Yucca filamentosa*) and Prickly Pear Cactus (*Opuntia spp.*). The average elevation of the tract ranges from 6-12 feet above mean sea level.

The property is a gated subdivision with an access road, electrical utilities and water services provided to the ten vacant lots. Each lot within the subdivision is platted from the MHW boundary of the Atlantic Ocean to the MHW boundary of Tubbs Inlet. The access road and utilities are located in the north central section of the property, outside of the 120 feet Ocean Hazard large structure setback, but well within the Ocean Hazard Area of Environmental Concern (AEC). CAMA Major Permit #11-06 was issued on January 18, 2006 and authorized the subdivision, roadway and utility improvements. The permit was modified on February 5, 2007 to include sand fencing. This permit was due to expire on December 31, 2009. However, the permit was subject to extension by the Session Law 2009-406, and as amended by Session Law 2010-177, the Permit Extension Act. The major permit was renewed on January 9, 2014 and is now due to expire on December 31, 2015. The Town of Sunset Beach has issued minor development permits to Brunswick Land Holdings, LLC for the construction of single family residences on Lot 2 and Lot 3, although construction has not been initiated. Currently, there is one private docking facility constructed adjacent to Lot 1. This structure was authorized by CAMA general permit # 38948 issued to Dean Belk on July, 26, 2005 and authorized a private two (2) slip docking facility in accordance with 15A NCAC 07H.1200.

The property has approximately 950 linear feet of shoreline bordering Tubbs Inlet and approximately 700 linear feet bordering the Atlantic Ocean. No coastal wetland vegetation is present along the shoreline and an erosion escarpment is present along the entire northern shoreline adjacent to Tubbs Inlet, i.e. the location of the proposed pier. The erosion scarp along the northern shoreline varies in height and ranges from three to six feet. An on-site investigation and comparison of the submitted work plan drawings from this submission and the approved work plan drawings for Permit #11-06 reveal that the shoreline near the shared property boundary of Lot 2 and Lot 3 has eroded approximately 40 feet in the last ten years.

The long-term average annual erosion rate in the vicinity of the property is 2.0 feet per year. The 100-year storm recession line for this area of Sunset Beach is 320 feet creating a total Ocean Erodible Area (OEA) of 440 feet. The waters of Tubbs Inlet are classified as SA HQW by the North Carolina Division of Water Quality and are open to the harvest of shellfish and the waters of the Atlantic Ocean are classified as SB. This area of Tubbs Inlet is NOT designated as Primary Nursery Area. The entire property lies within the limits of the Inlet Hazard Area (as designated by the North Carolina Coastal Resources Commission).



**Palm Cove, POA, Inc., C/o Bert Exum**  
**Page Three**

**10. PROPOSED PROJECT**

The applicant is proposing to modify CAMA Major Permit #11-06 and construct a private nine (9) slip community docking facility. The applicant is proposing to establish a ten feet wide easement and community area for access to the proposed boating facility along the shared property boundary between Lot 2 and Lot 3. Lot 2 has approximately 132 linear feet of frontage along Tubbs Inlet and Lot 3 has approximately 105 linear feet of shoreline along Tubbs Inlet. The proposed community docking facility would originate from the high ground of the shared lot line and would extend approximately 15 feet water ward of the Mean High Water boundary (MHW). The access pier would terminate at a proposed gazebo measuring approximately 20 feet wide by 20 feet long. The gazebo would be connected via an access ramp, to a proposed main spine floating dock. The proposed main spine floating dock would measure approximately 6 feet in width and 135 feet in length. The applicant is proposing to install six (6) finger piers each measuring approximately 4 feet in width and 24 feet in length adjacent to the main spine. The finger piers would be oriented perpendicular to the proposed main spine floating dock and would define the nine (9) slips (see sheet 2 of 2). As proposed, each slip would be equipped with a boatlift measuring approximately 12 feet in width by 12 feet in length. The width of Tubbs inlet in the location of the proposed docking facility is approximately 766 feet as measured from the erosion scarp on the near shore side and the edge of coastal wetland vegetation on the opposite shoreline. As proposed, the docking facility would extend approximately 90 feet into a water body that measures approximately 766 feet in width. The applicant has sited the proposed docking facility the conform to the established pier head line of the adjacent docking facility and would not extend into the channel portion of the water body, which is located along the -4 feet MLW contour. Water depths in the location of the docking facility average -2.5 feet at MLW. The proposed docking facility would provide mooring for nine (9) vessels and would serve the residents of the private community.

**11. ANTICIPATED IMPACTS:**

As proposed the docking facility would extend approximately 90 feet into a water body that measures approximately 766 feet in width. The proposed docking facility would not extend into the channel portion of the water body and would be located along the -4 feet water depth contour of Tubbs Inlet. The proposed docking facility would incorporate approximately 4,660 square feet of Public Trust Area and Estuarine Waters Areas of Environmental Concern. The proposed docking facility would result in the shading of approximately 1,876 square feet of Public Trust Area and Estuarine Waters Areas of Environmental Concern. As proposed, the docking facility would not exceed the  $\frac{1}{4}$  of the width of the water body limitation, not exceed the established pier head line, nor encroach into the channel portion of the water body. The proposed docking facility would not encroach into either 15 foot adjacent riparian property owner setback. As proposed the docking facility would provide mooring for nine (9) vessels; however, it appears that an additional two (2) vessels could be moored on the sides of the outboard finger piers. AS proposed the docking facility would be located approximately 101 feet from the adjacent docking facility to the west. Minor increases in turbidity can be expected during construction.



North Carolina Department of Environment and Natural Resources

Division of Coastal Management

Braxton C. Davis

Director

John E. Skvarla, III

Secretary

Pat McCrory  
Governor

March 11, 2014

**MEMORANDUM:**

**TO:** Shannon Jenkins  
NH DEH  
Shellfish Sanitation Section

**FROM:** Jonathan Howell, NC DENR-DCM Assistant Major Permits Coordinator  
400 Commerce Ave., Morehead City, NC 28557 (*Courier 11-12-09*)

**SUBJECT:** CAMA Major Permit Application Review

**Applicant:** Palm Cove POA 11-06 MM c/o Bert Exum

**Project Location:** Canal Dr. & Main St., adjacent to Tubbs Inlet and the Atlantic Ocean,  
in Sunset Beach, Brunswick County

**Proposed Project:** construction of a 9-slip community docking facility

Please indicate below your agency's position or viewpoint on the proposed project and **return this form to Jonathan Howell** at the address above by **April 3, 2014**. If you have any questions regarding the proposed project, contact Holley Snider at (910) 796-7270, when appropriate, in-depth comments with supporting data is requested.

**REPLY:** \_\_\_\_\_ This agency has no objection to the project as proposed.

\_\_\_\_\_ This agency has no comment on the proposed project.

\_\_\_\_\_ This agency approves of the project only if the recommended changes are incorporated. See attached.

\_\_\_\_\_ This agency objects to the project for reasons described in the attached comments.

*\* See Attached memo*

**SIGNED** For Shannon Jenkins  
Edward J. Jackson **DATE** 3/14/2014

RECEIVED  
MAR 20 2014



North Carolina Department of Environment and Natural Resources  
 Division of Marine Fisheries  
 Dr. Louis B. Daniel III  
 Director

Pat McCrory  
 Governor

John E. Skvarla, III  
 Secretary

March 14, 2014

**TO:** Jonathan Howell, NC DENR-DCM Assistant Major Permits Coordinator  
 400 Commerce Ave., Morehead City, NC 28557 (Courier 11-12-09)

**From:** Ed Jackson  
 Shellfish Sanitation and Recreational Water Quality Section

**Through:** Shannon Jenkins  
 Shellfish Sanitation and Recreational Water Quality Section

**SUBJECT:** CAMA Major Permit Application Review

**Applicant:** *Palm Cove POA 11-06 MM c/o Bert Exum*

**Project Location:** Canal Cr. & Main St., adjacent to Tubbs Inlet and the Atlantic Ocean, in Sunset Beach, Brunswick County

**Proposed Project:** Construction of 9-Slip private dockage facility

The proposed 9-slip dockage facility will be located in waters that are open to the harvest of shellfish. In order to avoid a potential shellfish closure there, the proposed docking facility would need to remain a minimum of 100 feet from existing or future docks. This would include the existing dock adjacent to lot #1, which is a permitted 2-slip dock authorized by general permit #38948, or any future docks located on lot #4. It is unclear whether the 2-slip dock is 100 feet away from the proposed dockage facility. The "For Illustrative Purposes Only" map shows less than 100 feet distance, and the "Preliminary Issued For Review" sheet shows approximately 100 feet distance.

Although the project is proposed for 9 slips, it appears that an additional 2 vessels could be docked on the sides of the outboard finger piers. In order to avoid a potential shellfish closure, docking should only occur in the 9 designated slips. If greater than 10 vessels were to use the facility for temporary or permanent dockage, a potential shellfish closure may be necessary.

RECEIVED

MAR 20 2014

---

**From:** Paula Buis <pbuis@ladane.com>  
**Sent:** Thursday, April 03, 2014 12:19 PM  
**To:** Snider, Holley  
**Subject:** CAMA Permit - Sunset Beach - Canal Dr & Main - Docking Facility  
**Attachments:** East End Sunset Beach.pdf

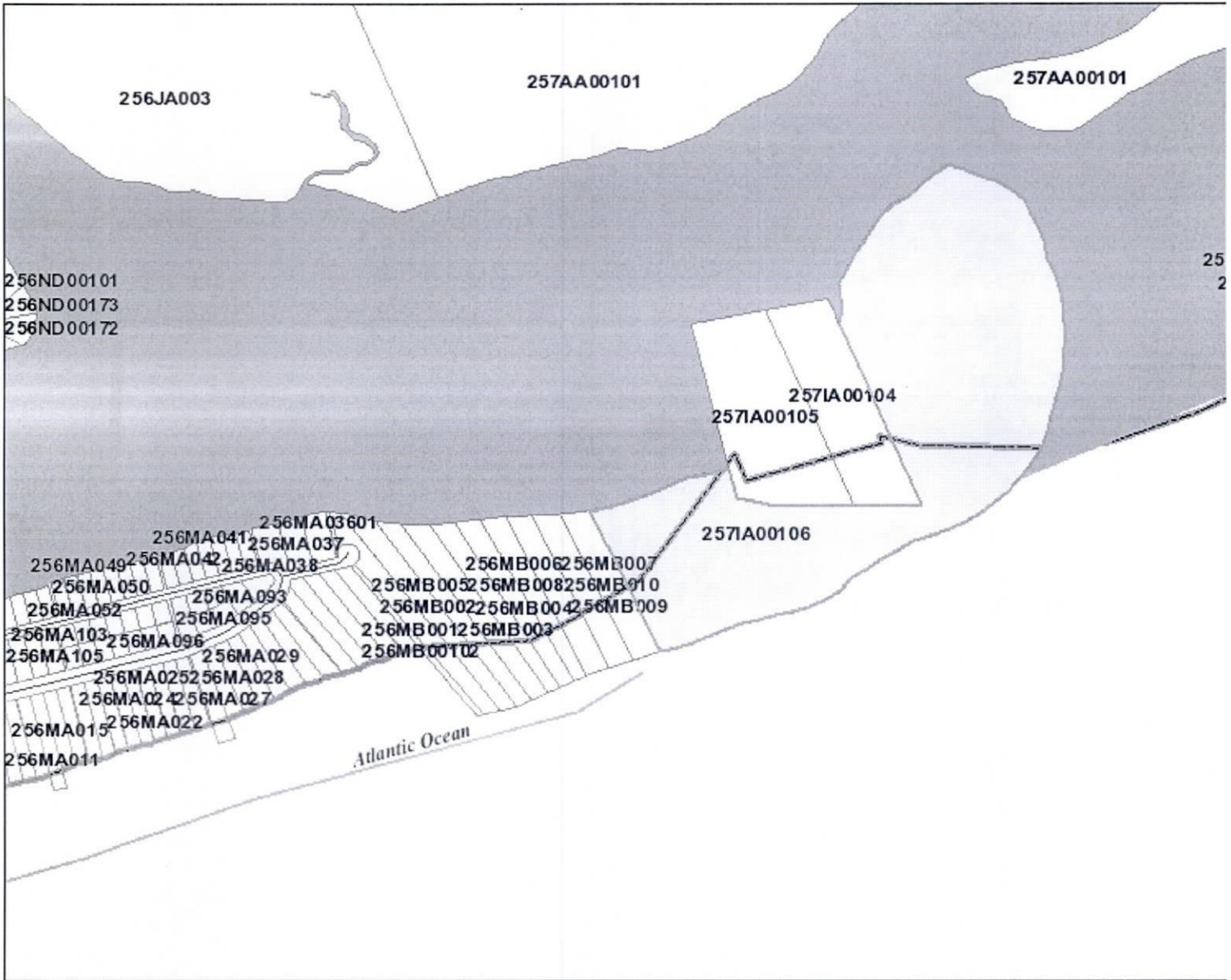
Holley,

I left you a voicemail earlier today about a proposed CAMA permit that is posted on property which is either located on the Williamson Family property or adjacent to their property. I have attached a Brunswick County map that displays the Williamson's property which is the parcel in yellow on the map. The Williamson family is concerned that this proposed dock facility is located on their property. It was brought to their attention by a Sunset Beach resident who had notified the Town of Sunset Beach.

I can be reached at 910-579-7300 as the Williamson family asked me to inquire about this. I appreciate your attention to this as the notice indicated that 4/3 is the deadline for comments.

Thank you,

Paula Buis



April 3, 2014

1 = 400 Feet



Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning.

---

**From:** Edwin W Janes <ewjanes@yahoo.com>  
**Sent:** Thursday, April 03, 2014 5:37 PM  
**To:** Snider, Holley  
**Subject:** CAMA permit East end of Sunset Beach Island

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

As a person who has walked the beaches of Sunset Island for 40 years As property owner on Sunset Beach Island for 33 years As a Life Member of the Sierra Club As a member of the Nature Conservatory As a life long birder and member of severe; bird clubs

the last thing the environment and eco system at the East end of Sunset Beach should have is 9 boat dockage on a hurricane prone coast line with all the accompanying sound, light, and environmental pollution from boating activities. This location at low tide, especially at ultra low tides is a sandbar at best not an area for boating activities.

I am against the requested permit and the future implications of granting a permit like this.

Sincerely:  
Edwin W. Janes  
403 37th Street  
Sunset Beach, NC  
910 579 3604  
410 638 1019

---

**From:** johnfcorbett <johnfcorbett@atmc.net>  
**Sent:** Wednesday, April 02, 2014 6:32 PM  
**To:** Snider, Holley  
**Subject:** Comments on Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main

Dear Ms Snider,

Below you will see an email I sent to Sunset Beach friends this evening after seeing the CAMA application referred to on the subject line. I am trying to make sure other island residents are aware and have a chance to comment, should they desire.

I have a number of concerns articulated below, based mainly on my lack of detailed information on the proposed community dock. I strongly believe that for any project such as this one affecting the fragile coastal environment on the island at Sunset Beach, there should be a well publicized public meeting where details are provided and community questions could be answered in a public interactive process. Some areas where I have questions include but may not be limited to location, size, type of construction, access, ownership, who in the community can use it, parking, electricity, water, toilets, and similar. Also, how will this affect navigation in the area?

Until those questions are resolved, I object to this community dock permit.

As a long time property owner and now resident, I appreciate the work done by CAMA and the important role in protecting our wetlands. If these issues have already been publicly addressed, then I missed it and apologize for taking up your time.

Sincerely,

John Corbett

[johnfcorbett@atmc.net](mailto:johnfcorbett@atmc.net)  
423 Sailfish Street  
Sunset Beach, NC 28468

cell: 571-251-8778  
home: 910-579-7961

Begin forwarded message:

**From:** johnfcorbett <[johnfcorbett@atmc.net](mailto:johnfcorbett@atmc.net)>

**Subject: Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main; Comment by 3 April.**

**Date:** April 2, 2014 6:09:44 PM EDT

**To:** undisclosed-recipients: ;

**Cc:** DeVita Lou <[deesatplay@atmc.net](mailto:deesatplay@atmc.net)>, Sunset Beach Town <[sunsetbeach@atmc.net](mailto:sunsetbeach@atmc.net)>, Williams Mike <[mikecwilliams@yahoo.com](mailto:mikecwilliams@yahoo.com)>, Scott Carol <[ckscott13@gmail.com](mailto:ckscott13@gmail.com)>, Sherrill Wilson <[wilsonsherrill@hotmail.com](mailto:wilsonsherrill@hotmail.com)>, Watts Ron <[rwatts@sunsetbeachnc.gov](mailto:rwatts@sunsetbeachnc.gov)>, Johnson Terry <[tjohnson@sunsetbeachnc.gov](mailto:tjohnson@sunsetbeachnc.gov)>, Wood Sandy <[srwood@atmc.net](mailto:srwood@atmc.net)>, Parker Susan <[srparker@atmc.net](mailto:srparker@atmc.net)>, [randywalters@atmc.net](mailto:randywalters@atmc.net)

Sunset Beach Friends,

I am not sure if you are aware---I was not until bicycling today---that there is a CAMA permit application posted on the broken gate at Palm Cove (see photos below).

I do not know the location other than the vague wording on the permit sign. However, what is critical is that comments for or against the construction will be accepted through tomorrow, Thursday, April 3, 2014. The wording on the permit says: "Applicant proposes to construct a 9-slip community docking facility at Canal Dr. & Main St. adjacent to Tubbs Inlet and the Atlantic Ocean in the Town of Sunset Beach, Brunswick County." No other information is provided.

I am not sure where the community dock will be located, what it will look like, whose community (my guess is Palm Cove but that is not indicated), or any other details.

I also have attached a couple of photos of Tubbs Inlet at low tide this afternoon. It does not take much imagination to see that a low tide there is not a lot of water space to place a 9 slip dock.

I am not aware if there is a planned community hearing on this but I think there should be one at a minimum. I also do not know if this would constitute a commercial use of the facility but that should be clarified. Also, I am not sure what limitations there are for parking, water, electric, toilets, or other facilities that would go with a community dock but those questions also should be answered.

I also am not aware that this community dock has been reviewed by the Sunset Beach Planning Committee or Town Council, although I may have missed that meeting.

Please send your comments and questions to Ms. Holley Snider, CAMA Field Representative, 910-796-7270, EMAIL IS: [holley.snider@ncdenr.gov](mailto:holley.snider@ncdenr.gov)

The applicant is:  
Cape Fear Engineering  
Maria Jones  
151 Poole Road, Suite 100  
Belville, NC 28451

Again, if you have concerns, I request you send comments and questions to the CAMA Field Representative and share this email with those on your island resident/owner email lists. You will note that I have also included on the CC line the members of the Sunset Beach Town Council and Staff so that they are aware, if they have not already been informed.



Thanks,

John Corbett

cell: 571-251-8778

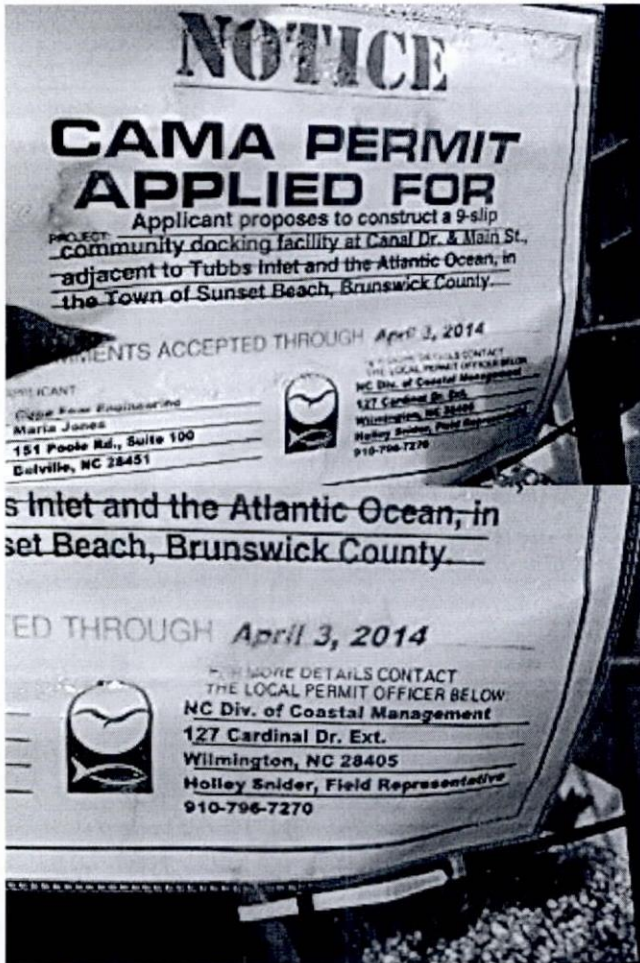


Photo taken from Tubbs Inlet side of Palm Cove, near the entryway at end of Canal and Main:



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**From:** Jackie Nilsson <jfnilsson@juno.com>  
**Sent:** Thursday, April 03, 2014 3:04 PM  
**To:** Snider, Holley  
**Subject:** Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main; Comment by 3 April.  
**Attachments:** Fwd: Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main; Comment by 3 April.

Ms. Snider - I am extremely distressed about the attached request for a 9 slip community dock on Sunset Beach island. This project has not been made public and goes against everything our quiet island stands for. It is ridiculous to think that this would be a good thing for the environment at Sunset Beach.

My husband and I own a house on 1st Street and are opposed to this project.

Thanks! Jackie Nilsson  
919-801-7868

---

**From:** jean hutchinson <jaguarjean1@gmail.com>  
**Sent:** Thursday, April 03, 2014 11:54 AM  
**Subject:** Fwd: Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main; Comment by 3 April.

----- Forwarded message -----

**From:** **johnforbett** <johnforbett@atmc.net>  
**Date:** Wed, Apr 2, 2014 at 11:22 PM  
**Subject:** Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main; Comment by 3 April.  
**To:**

Sunset Beach Friends,

I am not sure if you are aware---I was not until bicycling today---that there is a CAMA permit application posted on the broken gate at Palm Cove (see photos below).

I do not know the location other than the vague wording on the permit sign. However, what is critical is that comments for or against the construction will be accepted through tomorrow, Thursday, April 3, 2014. The wording on the permit says: "Applicant proposes to construct a 9-slip community docking facility at Canal Dr. & Main St. adjacent to Tubbs Inlet and the Atlantic Ocean in the Town of Sunset Beach, Brunswick County." No other information is provided.

I am not sure where the community dock will be located, what it will look like, whose community (my guess is Palm Cove but that is not indicated), or any other details.

I also have attached a couple of photos of Tubbs Inlet at low tide this afternoon. It does not take much imagination to see that a low tide there is not a lot of water space to place a 9 slip dock.

I am not aware if there is a planned community hearing on this but I think there should be one at a minimum. I also do not know if this would constitute a commercial use of the facility but that should be clarified. Also, I am not sure what limitations there are for parking, water, electric, toilets, or other facilities that would go with a community dock but those questions also should be answered.

I also am not aware that this community dock has been reviewed by the Sunset Beach Planning Committee or Town Council, although I may have missed that meeting.

Please send your comments and questions to Ms. Holley Snider, CAMA Field Representative, [910-796-7270](tel:910-796-7270), EMAIL IS: [holley.snider@ncdenr.gov](mailto:holley.snider@ncdenr.gov)

The applicant is:  
Cape Fear Engineering

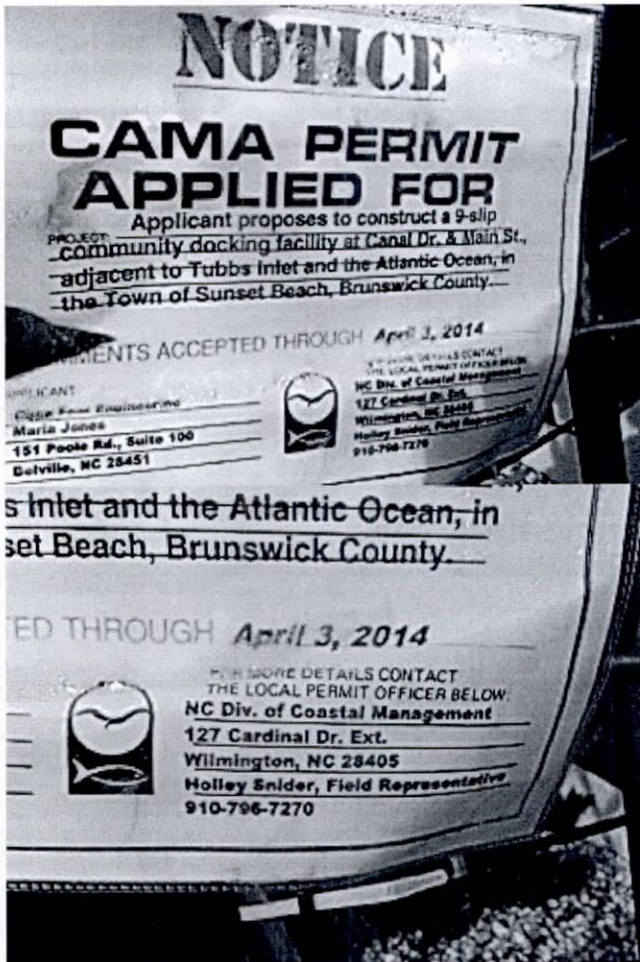
Maria Jones  
151 Poole Road, Suite 100  
Belville, NC 28451

Again, if you have concerns, I request you send comments and questions to the CAMA Field Representative and share this email with those on your island resident/owner email lists. You will note that I have also included on the CC line the members of the Sunset Beach Town Council and Staff so that they are aware, if they have not already been informed.

Thanks,

John Corbett

cell: 571-251-8778



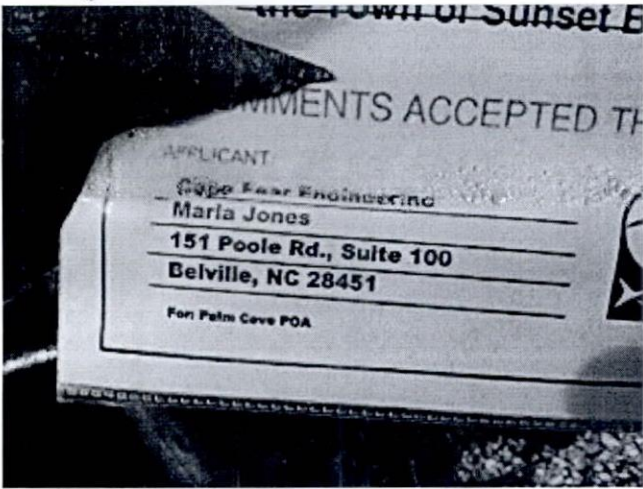


Photo taken from Tubbs Inlet side of Palm Cove, near the entryway at end of Canal and Main:



--

*Jean*

Jean Hutchinson  
436 6th Street  
Sunset Beach, NC 28468  
home: 910-579-2715  
cell: 910-880-4924  
summer: 802-524-1964

---

**From:** johnncorbett <johnncorbett@atmc.net>  
**Sent:** Thursday, April 03, 2014 4:00 PM  
**To:** Howell, Jonathan  
**Cc:** Snider, Holley  
**Subject:** Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main; Comment by 3 April.  
**Attachments:** Palm Cove app.pdf; Palm Cove drawings.pdf

Mr. Howell,

Having reviewed the permit application supplied by the Town of Sunset Beach, I am very concerned and oppose the community dock as proposed.

I notice the floating dock is 135 feet in length (west to east) and 6 feet wide, with six 25 foot spines. There is also a 20' x 20' gazebo and 22 feet of fixed dock leading to the floating dock. This means the overall facility extends 6 plus 25 plus 20 plus 22 or 73 feet into the inlet. If this is the 1/4 point of the navigable area, then there should be another 219 feet of navigable channel. The drawings support that figure but having been out there at high tide on Tuesday and Wednesday this week, I am not confident that the channel is that wide any more. During low tide it is considerably more narrow. Who, then, is responsible for verifying the measurements provided by the applicant and, more important, making sure the channel is not impeded?

Also, even though it is described as a nine slip system, the write up acknowledges that two additional boats may be tied up on the outside of the two end spines. In my mind, this should be described as a 11-slip facility, not a 9-slip facility. Does that change the nature of the permit or affect the approval considerations?

Overall, this is a large facility in a very constrained and environmentally sensitive area. Moreover, the channels have been filling in rapidly with noticeable expansion of the sand bars since last summer.

Thank you for your consideration.

John Corbett

[johnncorbett@atmc.net](mailto:johnncorbett@atmc.net)  
423 Sailfish Street  
Sunset Beach, NC 28468

cell: 571-251-8778  
home: 910-579-7961

Begin forwarded message:

**From:** "Sandy Wood" <[srwood@atmc.net](mailto:srwood@atmc.net)>

**Subject:** Fw: Palm Cove Docking Facility

**Date:** April 3, 2014 2:20:20 PM EDT

**To:** "Carol Santavicca" <[csanta@hotmail.com](mailto:csanta@hotmail.com)>, "Carol Scott" <[ckscott13@gmail.com](mailto:ckscott13@gmail.com)>, "Tom Vincenz" <[tvincenz@gmail.com](mailto:tvincenz@gmail.com)>, "Al Seibert" <[anseib@atmc.net](mailto:anseib@atmc.net)>, "ROBERT TONE" <[bobt1@atmc.net](mailto:bobt1@atmc.net)>

**Cc:** "Sybil Kesterson" <[sekesterson@atmc.net](mailto:sekesterson@atmc.net)>, <[noelle@atmc.net](mailto:noelle@atmc.net)>, "Len Steiner" <[lenpatst@atmc.net](mailto:lenpatst@atmc.net)>, <[johnfcorbett@atmc.net](mailto:johnfcorbett@atmc.net)>

**From:** [Randy Walters](mailto:Randy Walters)

**Sent:** Thursday, April 03, 2014 2:07 PM

**To:** [srwood@atmc.net](mailto:srwood@atmc.net)

**Subject:** FW: Palm Cove Docking Facility

---

**From:** Randy Walters [<mailto:randywalters@atmc.net>]

**Sent:** Thursday, April 03, 2014 10:47 AM

**To:** [langlin@atmc.net](mailto:langlin@atmc.net)

**Subject:** Palm Cove Docking Facility

Lisa,

Please forward the attached plans for the docking facility for Palm Cove to the Planning Board, Carol Scott and Mr. Corbett.

Thank you,

Randy



---

**From:** Cavin, Winston C. <cavin@email.unc.edu>  
**Sent:** Thursday, April 03, 2014 1:01 PM  
**To:** Snider, Holley  
**Cc:** pamcavin@yahoo.com; winstoncavin@yahoo.com  
**Subject:** Concerning proposed nine-slip dock at east end of Sunset Beach

Dear Holly,

As a Sunset Beach homeowner within a stone's throw of ill-fated Palm Cove, I was shocked to discover today – the deadline for comment to CAMA – the proposed nine-slip dock at Palm Cove. Specifically, it would be at the convergence of Canal Drive and Main Street.

As I'm sure you are now aware, many property owners oppose this for obvious reasons. At low tide, it's hard to imagine the feasibility of building such a dock. A dock would have a negative impact on the environment, potentially turning an island that is accreting into one that is eroding. At the very least it would be an eyesore.

The end of the island facing Tubbs Inlet is not buildable. It's a spit of sand at the end of a spit of sand. It does not stand still. It moves. This is probably why Palm Cove failed.

Please make CAMA aware that there is strong local opposition to this ridiculous idea.

Sincerely,

Winston C. Cavin  
Lecturer  
School of Journalism and Mass Communication  
University of North Carolina at Chapel Hill  
Campus Box 3365  
Carroll Hall  
Chapel Hill, N.C. 27599-3365  
919-219-2717  
[cavin@email.unc.edu](mailto:cavin@email.unc.edu)

---

**From:** johnfcorbett <johnfcorbett@atmc.net>  
**Sent:** Thursday, April 03, 2014 5:18 PM  
**To:** Snider, Holley; Howell, Jonathan  
**Subject:** Fwd: 9 slip docking facility at Palm Cove/Sunset Beach east end

Another comment.

John Corbett

[johnfcorbett@atmc.net](mailto:johnfcorbett@atmc.net)  
423 Sailfish Street  
Sunset Beach, NC 28468

cell: 571-251-8778  
home: 910-579-7961

Begin forwarded message:

**From:** "Nina" <[ninam@atmc.net](mailto:ninam@atmc.net)>  
**Subject:** 9 slip docking facility at Palm Cove/Sunset Beach east end  
**Date:** April 3, 2014 5:10:37 PM EDT  
**To:** <[jonathan.howell@ncdenr.gov](mailto:jonathan.howell@ncdenr.gov)>  
**Cc:** <[holly.snyder@ncdenr.gov](mailto:holly.snyder@ncdenr.gov)>, <[johnfcorbett@atmc.net](mailto:johnfcorbett@atmc.net)>

I walk around the entire east end peninsula often. The bay side of this peninsula is eroding rapidly. This morning, I took a picture of the escarpment (phone picture – sorry). The picture shows an escarpment over 5 feet high. The erosion of

this side of the bay would make any docking facilities impractical. The shape of the peninsula is changing



rapidly.

---

**From:** Greg <boomerjensen22@aol.com>  
**Sent:** Thursday, April 03, 2014 9:58 AM  
**To:** Snider, Holley  
**Subject:** Fwd: Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main; Comment by 3 April.

Greetings,

Hopping place, both ends of SSB have development!!!!

Sunset Beach does not allow gated communities, we were told Palm Cove was actually Ocean Isle Beach land before Tubbs Inlet shifted. Is this permit for OIB land or Sunset Beach?

As no lots have been sold in Palm Cove, I see the reason for this tact but am against this as at low tide the boats will be in the mud. Plus, will the inlet shift again?

Thank you,

Gregory Jensen  
1309 e. main street  
sunset beach, nc 28468

Sunset Beach Friends,

I am not sure if you are aware---I was not until bicycling today---that there is a CAMA permit application posted on the broken gate at Palm Cove (see photos below).

I do not know the location other than the vague wording on the permit sign. However, what is critical is that comments for or against the construction will be accepted through tomorrow, Thursday, April 3, 2014. The wording on the permit says: "Applicant proposes to construct a 9-slip community docking facility at Canal Dr. & Main St. adjacent to Tubbs Inlet and the Atlantic Ocean in the Town of Sunset Beach, Brunswick County." No other information is provided.

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I also have attached a couple of photos of Tubbs Inlet at low tide this afternoon. It does not take much imagination to see that a low tide there is not a lot of water space to place a 9 slip dock.

I am not aware if there is a planned community hearing on this but I think there should be one at a minimum. I also do not know if this would constitute a commercial use of the facility but that should be clarified. Also, I am not sure what limitations there are for parking, water, electric, toilets, or other facilities that would go with a community dock but those questions also should be answered.

I also am not aware that this community dock has been reviewed by the Sunset Beach Planning Committee or Town Council, although I may have missed that meeting.

Please send your comments and questions to Ms. Holley Snider, CAMA Field Representative, 910-796-7270, EMAIL IS: holley.snider@ncdenr.gov

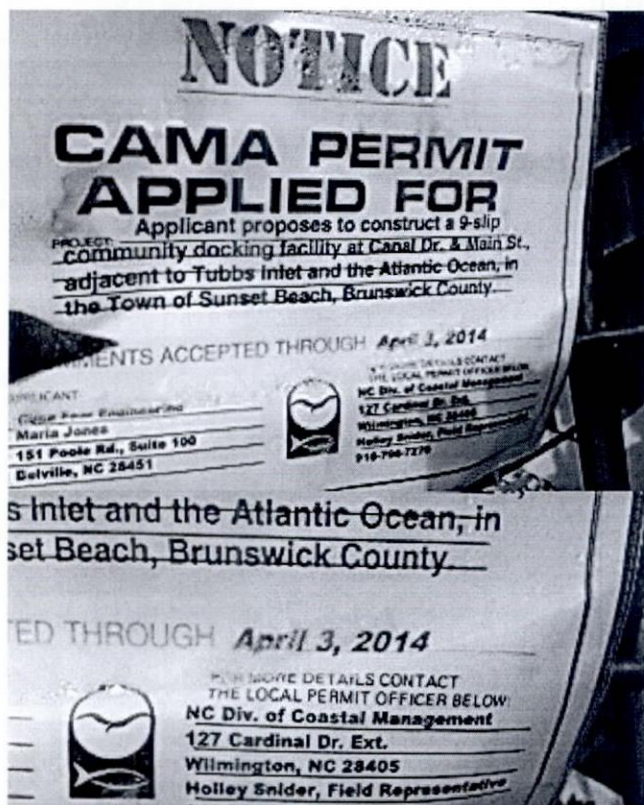
The applicant is:  
Cape Fear Engineering  
Maria Jones  
151 Poole Road, Suite 100  
Belville, NC 28451

Again, if you have concerns, I request you send comments and questions to the CAMA Field Representative and share this email with those on your island resident/owner email lists. You will note that I have also included on the CC line the members of the Sunset Beach Town Council and Staff so that they are aware, if they have not already been informed.

Thanks,

John Corbett

cell: 571-251-8778



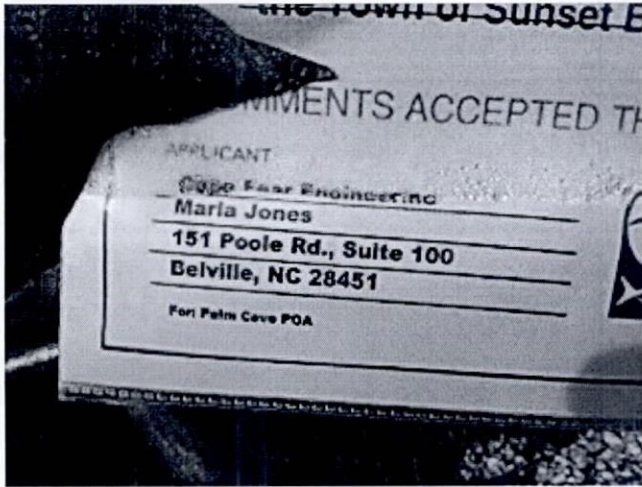


Photo taken from Tubbs Inlet side of Palm Cove, near the entryway at end of Canal and Main:



**From:** Roselyn Woolard <lynnwoolard2@gmail.com>  
**Sent:** Thursday, April 03, 2014 5:17 PM  
**To:** Snider, Holley  
**Subject:** Fwd: Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main; Comment by 3 April.

I received this email today and am VERY concerned about these docks. For the life of me I cannot imagine getting out of Jinks Creek at low tide with 9 docks in the area anywhere between the creek and Tubs inlet. The channel is very narrow and filling in all of the time. I strongly oppose any such construction on multiple levels!

Please tell me how I can formally protest this construction, and the particulars of the proposed construction.

Roselyn Woolard  
 1309 Canal Drive  
 Sunset Beach

----- Forwarded message -----

**From:** **jean hutchinson** <jaguarjean1@gmail.com>  
**Date:** Thu, Apr 3, 2014 at 11:54 AM  
**Subject:** Fwd: Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main; Comment by 3 April.  
**To:**

----- Forwarded message -----

**From:** **johnncorbett** <johnncorbett@atmc.net>  
**Date:** Wed, Apr 2, 2014 at 11:22 PM  
**Subject:** Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main; Comment by 3 April.  
**To:**

Sunset Beach Friends,

I am not sure if you are aware---I was not until bicycling today---that there is a CAMA permit application posted on the broken gate at Palm Cove (see photos below).

I do not know the location other than the vague wording on the permit sign. However, what is critical is that comments for or against the construction will be accepted through tomorrow, Thursday, April 3, 2014. The wording on the permit says: "Applicant proposes to construct a 9-slip community docking facility at Canal Dr. & Main St. adjacent to Tubbs Inlet and the Atlantic Ocean in the Town of Sunset Beach, Brunswick County." No other information is provided.

I am not sure where the community dock will be located, what it will look like, whose community (my guess is Palm Cove but that is not indicated), or any other details.

I also have attached a couple of photos of Tubbs Inlet at low tide this afternoon. It does not take much imagination to see that a low tide there is not a lot of water space to place a 9 slip dock.

I am not aware if there is a planned community hearing on this but I think there should be one at a minimum. I also do not know if this would constitute a commercial use of the facility but that should be clarified. Also, I am not sure what limitations there are for parking, water, electric, toilets, or other facilities that would go with a community dock but those questions also should be answered.

I also am not aware that this community dock has been reviewed by the Sunset Beach Planning Committee or Town Council, although I may have missed that meeting.

Please send your comments and questions to Ms. Holley Snider, CAMA Field Representative, 910-796-7270, EMAIL IS: holley.snider@ncdenr.gov

The applicant is:  
Cape Fear Engineering  
Maria Jones  
151 Poole Road, Suite 100  
Belville, NC 28451

Again, if you have concerns, I request you send comments and questions to the CAMA Field Representative and share this email with those on your island resident/owner email lists. You will note that I have also included on the CC line the members of the Sunset Beach Town Council and Staff so that they are aware, if they have not already been informed.

Thanks,

John Corbett

cell: 571-251-8778





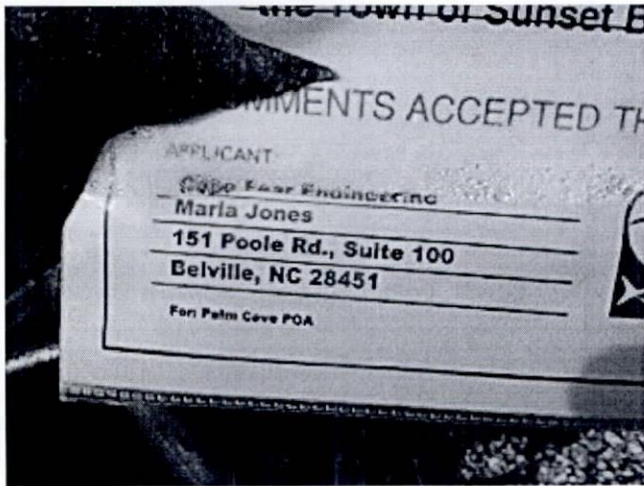
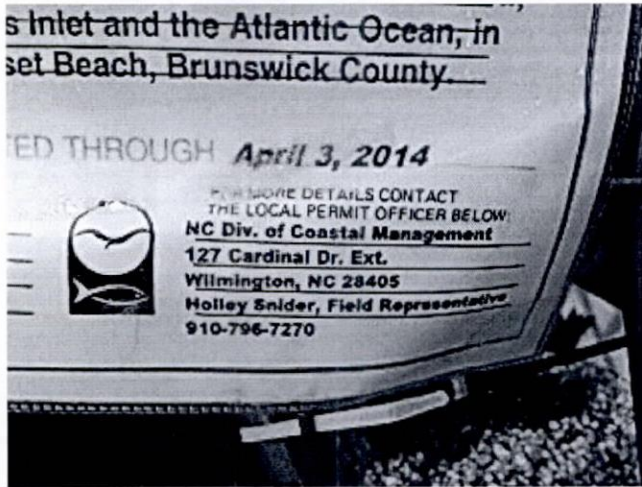


Photo taken from Tubbs Inlet side of Palm Cove, near the entryway at end of Canal and Main:



Jean Hutchinson  
436 6th Street  
Sunset Beach, NC 28468  
home: 910-579-2715  
cell: 910-880-4924  
summer: 802-524-1964

---

**From:** johnfcorbett <johnfcorbett@atmc.net>  
**Sent:** Tuesday, April 15, 2014 1:21 PM  
**To:** Snider, Holley; Howell, Jonathan  
**Subject:** Fwd: East end CAMA permit update

Dear Ms Snider and/or Mr Howell,

I just received the email below concerning the "Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main." Could you please confirm that the permit has been denied. The email below did not provide any source for the information although it sounds official.

Thank you very much.

John Corbett

[johnfcorbett@atmc.net](mailto:johnfcorbett@atmc.net)  
423 Sailfish Street  
Sunset Beach, NC 28468

cell: 571-251-8778  
home: 910-579-7961

Begin forwarded message:

**From:**  
**Subject: East end CAMA permit update**  
**Date:** April 15, 2014 10:39:53 AM EDT  
**To:**

I learned that the CAMA permit application for dockage (9 slips) was denied. The Applicant may now appeal that decision.

CAMA and the N.C. Dredge and Fill Act grant an automatic right of appeal to the permit applicant and to the secretary of the Department of Environment and Natural Resources. You must file a petition for a contested case in the Office of Administrative Hearings on an approved form within 20 days of the permit decision if you plan to appeal. No development is allowed while the appeal is being considered. The permit in question is suspended until the matter is settled.

Other directly affected people or groups may request a hearing on the permit decision. This petition for a third-party hearing must be received by the director of DCM within 20 days of the permit decision. Within 15 days of receiving the request, the chairman of the CRC will decide if a petitioner is entitled to a third-party hearing. To get a hearing, a petitioner must:

- Allege that the permit decision is contrary to a statute or rule.
- Show that the petitioner is directly affected by the permit decision.
- Demonstrate that the appeal is not frivolous.

If the CRC chairman grants a hearing, you may file a Petition for a Contested Case Hearing in the Office of Administrative Hearings. You must carefully follow detailed procedures and forms required by the state Administrative Procedure Act. Further information on filing appeals is available from the Office of Administrative Hearings or DCM. Parties to the hearing may be represented by attorneys, or may represent themselves. After the hearing, the judge issues a decision. Contested cases that commence after Jan. 1, 2012 will no longer be returned to the CRC for a final agency decision. The Administrative Law Judge's decision will be the final decision.

You may appeal the Administrative Law Judge's final decision to Superior Court within 30 days of the decision

---

**From:** Charles Nern <nern@atmc.net>  
**Sent:** Thursday, April 03, 2014 7:10 AM  
**To:** Snider, Holley  
**Subject:** Good morning Holley

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good morning Holley,

I am concerned about the CAMA permit application for a boat dock on the East end of Sunset Beach Island. I attend town council and planning meetings and have never heard anything about this proposed project. I own a home on the island and the mainland. Without further information I have to say that I am not in favor of this project.

Thank you,

Charlie Nern

Charles Nern  
[nern@atmc.net](mailto:nern@atmc.net)

---

**From:** Noelle Kehrberg <noelle@atmc.net>  
**Sent:** Thursday, April 03, 2014 2:06 PM  
**To:** Snider, Holley  
**Subject:** Palm Covee Permit

I oppose the permit application for a 9-boat slip off Palm Cove on Sunset Beach.

This area of the island has single family and duplexes. Commercial operations are not allowed. This boat slip will appear to be a small marina, out of keeping with the appearance of the rest of this area.

In addition, this area is adjacent to, or actually part of, a primary nursery area. Encouraging boating in this area will damage this environment.

Thank you.

Noelle Kehrberg  
502 Northshore Drive W  
Sunset Beach, NC 28468

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**From:** Carol Scott <ckscott13@gmail.com>  
**Sent:** Wednesday, April 02, 2014 10:11 PM  
**To:** Snider, Holley  
**Subject:** Permit request for a 9 boat dock slip in Palm Cove

Holly -- my comments on the request for a 9 boat dock in the Palm Cove area are negative. This has the look of a commercial facility in a residential community -- a 9 boat slip is way more than the surrounding area should have to deal with. I understand that the alternative would be individual docks, but this is a far better outcome than a long dock surrounded by 9 boats in, as I said previously, a residential neighborhood and residential waterway. Sincerely, Carol Scott, 1527 North Shore Drive, Sunset Beach, NC 28468.

---

**From:** Mark Koruda <gutsurg@gmail.com>  
**Sent:** Wednesday, April 02, 2014 8:24 PM  
**To:** Snider, Holley  
**Cc:** DeVita Lou; Sunset Beach Town; Williams Mike; Scott Carol; Sherrill Wilson; Watts Ron; Johnson Terry; Wood Sandy; Parker Susan; randywalters@atmc.net  
**Subject:** Re: Community Dock, 9-slip Proposed at East End of SB vic Palm Cove. near Canal and Main; Comment by 3 April.

Ms Snider

We are homeowners at Sunset Beach and would appreciate more information about the permit application and proposal for a 9 slip community dock in Tubbs Inlet.

Specifically,

1. Please define community dock. What community and who will have access.
2. What are the types and size of docks? How far into the inlet will the proposed docks extend.? Will this allow other boat access to the inlet during low tide?
3. What types and size of boats will be permitted. Are there restrictions?
4. This is very close to a Turtle nesting area. What measures are being taken to protect the nests from potential fuel contamination? Noise contamination

Without further clarification of the specifics of this proposal, we stand firmly against such construction.

Mark and Barbara Koruda  
426 Sailfish



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**From:** Gmail <cmrose217@gmail.com>  
**Sent:** Thursday, April 03, 2014 10:39 PM  
**To:** Snider, Holley  
**Subject:** Tubbs inlets - Palm Cove Dock

If anyone has ever inspected this location even once they would see that it cannot sustain such a dock. The landmass encompassing Palm Cove was completely breached and washed over by a storm less than 3 years ago and I have pictures to prove it. The proposed dock is the latest prop to try to sell property to prospects where homes, if ever built, will be destroyed by nature within a few years.

Carolyn Rosenberg  
1304 Canal Dr  
Sunset Beach, NC  
28468

Carolyn  
Sent from my iPad

---

**From:** Gorney, Jon <jon@gorneymail.com>  
**Sent:** Thursday, April 03, 2014 9:27 AM  
**To:** Snider, Holley

Good morning.

My name is Jon Gorney and we live at Sunset Beach on North Shore Drive. Our house sits on Tubbs Inlet. I understand that a permit is being pursued for a 9 slip boat dock near the end of Canal and Main Street. I have not seen a drawing but I am extremely familiar with that area of the island. Since the opening of the bridge the boat traffic has been extreme and given the water and tide patterns there is basically only one path in and out of the inlet. I do not believe that a 9 slip dock is appropriate for that area for the following reasons:

- boat traffic is extreme in this area during the summer months creating too much traffic, impact to existing docks, high speed through the area, and a limited channel; boat slips would only add to this
- water levels limit any type of dock and still allow boats to get through safely
- channel out to the ocean is dangerous and not recommended; docks would only encourage the use of this channel which could be disastrous
- impact to the natural dunes and beauty of the area
- likelihood that people would dock their boats their for an extended period including overnight

I appreciate your consideration and strongly recommend that this project not be approved. Thank you for listening.

Jon Gorney

Sent from my iPad

**From:** [PTribble@tribles.com](mailto:PTribble@tribles.com) [mailto:PTribble@tribles.com]

**Sent:** Friday, July 18, 2014 3:46 PM

**To:** Davis, Braxton C

**Cc:** Snider, Holley

**Subject:** palm cove docking facility

dear mr davis, my name is preston tribble and i live directly next door to the "palm cove subdivision" on sunset beach island nc [1823 east main st]. i contacted ms snider on 7/11/14 to let her know of my objections to the proposed 9slip docking facility that has been requested by the palm cove developers. i explained to her that being that my property is the last land on the east of the island before the palm cove lots that i have witnessed a tremendous amount of erosion in the last year on the tubbs inlet beach bordering my property. also because the channel is so narrow at that point in the inlet with docking slips jutting out into the inlet especially at low tide the many boats that use that waterway will find it very difficult to pass by each other in an extremely narrow channel pass and could very easily allow for a large increase in boating accidents. i would encourage you and anyone else who would be involved in the decision to grant permission for this docking facility to vote "no" on the application and appeal for the docking permit. thank you for your time. respectfully, preston g tribble 1823 east main st sunset beach nc.     Date:

8/15/14

Steve Thanhauser, Thunder Road, LLC  
10709 Beaver Pond Lane, Raleigh, NC 27614

To: Braxton Davis  
Director of the Division of Coastal Management  
400 Commerce Avenue, Morehead City, NC 28557

Dear Mr. Davis,

Late last month I spoke with Holley Snider and she recommended that I write a letter outlining our concerns to you.

A certified letter was sent in late July notifying us that Cape Fear Engineering was filing a Variance Petition with the Division of Coastal Management for a wooden access walkway between Lot# 2 and Lot# 3 of Palm Cove, Sunset Beach NC, with a floating 9 slip dock system.

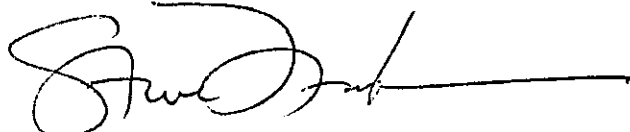
As adjacent property owners we have great concerns and highly object to this variance moving forward.

Our group is a family LLC named Thunder Road and has owned Lot# 1 at Palm Cove, Sunset Beach since it was originally developed. When we purchased the property it was our understanding from both the Division of Coastal Management and the town of Sunset Beach that docks of any type could only be permitted on Lot# 1 due to the fragile nature of the peninsula beyond that point. Lot# 1 had enough suitable rock/shell structure to be permitted to build the dock that has been on it since purchasing the property.

As Palm Cove property owners we believe that building a 9 unit dock would present significant boat traffic to a very specific area and could cause great harm to the Peninsula. It would also increase the chance for boating accidents in a very contained and fragile space. Multi slip docks in that location would hurt the environment and diminish our property value.

We are opposed to this variance moving forward. I would greatly appreciate your support in not allowing this effort to move forward. Please feel free to contact me if I can be of any help.

Very Sincerely Yours,



Steve Thanhauser  
Thunder Road, LLC

sthanhauser@angusbarn.com  
919-801-7870

RECEIVED  
AUG 21 2014  
DCM-MHD CITY



# CAPE FEAR ENGINEERING

July 29, 2014

Angus Barn  
9401 Glenwood Avenue  
Raleigh, NC 27617  
Attn: STEVE THANHAUSER

Mr. Thanhauser:

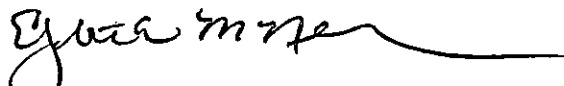
On June 12, 2014 our office sent a certified letter to you at your residence of 10709 Beaver Pond Lane, Raleigh, NC 27614. This letter was to notify you that our client has filed a Variance Petition with the Division of Coastal Management for a wooden access walkway between Lot #2 and Lot #3 of Palm Cove, with a floating multi-slip dock system. Per our telephone conversations today, you just received this correspondence, and would like information on the appropriate agency to express your concerns.

To prevent a similar time delay of the previous notification, per your request I am forwarding this information to your work address listed above, in addition to your email address of sthanhauser@angusbarn.com.

Any questions or comments regarding this Variance Petition may be directed to:

Braxton Davis, Director of the Division of Coastal Management  
Department of Environment and Natural Resources  
400 Commerce Avenue, Morehead City, NC 28557

Sincerely,



Elizabeth M. Nelson, PE

RECEIVED

AUG 21 2014

DCM-MHD CITY

-----Original Message-----

From: John Shedden [mailto:johnshedden@roadrunner.com]  
Sent: Friday, August 01, 2014 11:52 AM  
To: Davis, Braxton C  
Subject: Palm Cove (Sunset Beach Island) Variance Request

Sir;

I have been notified by Cape Fear Engineering that their client, Palm Cove POA, Inc. has applied for a variance from the denial of their Major Permit Request (CAMA #11-06) with respect to their building multiple docks within the Tubbs Inlet area.

Tubbs Inlet is essentially a large sandbar at low tides with a very narrow navigable water passage around the edge of the inlet abutting the island of Sunset Beach. My understanding of the proposed placement of the Palm Cove docks will, without a doubt, have a negative impact on the ability of boats to use this small passageway.

As an aside, last weekend while returning to the feeder canal from the Waterway as the tide was receding, I observed two boats stuck in the Inlet with the boaters from each, standing in the little water that was left, attempting to push the boats toward the narrow passageway.

In view of the above, I am requesting that the variance being sought by the Palm Cove group be denied.

Furthermore, I would suggest that if a variance is even being considered to be given, that an independent study be conducted to determine the exact location, width, and depth of the existing low tide passageway in order to understand the magnitude of the negative impact the proposed docks will have on future navigability in the Inlet.

Thank you for your consideration,

John and Judy Shedden

(429 Dolphin Street  
Sunset Beach, NC)

272 Harbor Ridge Drive  
Statesville, NC 28677

(704) 528-3889

Thursday, June 26, 2014

Braxton Davis  
Director of the Division of Coastal Management  
Department of Environment and Natural Resources  
400 Commerce Avenue  
Morehead City, N.C. 28557

Dear Mr. Davis,

This letter is to follow up on earlier correspondence **opposing** any variance to CAMA Permit No. 11-06 for Palm Cove on Sunset Beach.

As a native North Carolinian and a residential property owner on the island, I appreciate Sunset Beach's unique and fragile environment.

The spit of land (on a split of land) proposed for boat slips is unsustainable. It moves. This is one reason the lots on Palm Cove have not sold.

The channel is a sensitive nursery for birds and aquatic wildlife. Attracting boat traffic to Palm Cove will seriously increase pollution. The noise and commotion would further disrupt the nature we all appreciate on Sunset Beach.

Sunset Beach is perhaps North Carolina's most unique barrier island. Please decline this ill-considered request.

Sincerely,

*Winston C. Cavin*  
Winston C. Cavin  
Faculty, UNC-Chapel Hill  
5308 Wood Valley Drive  
Raleigh, N.C. 27613  
cavin@email.unc.edu

RECEIVED  
JUN 30 2014  
DCM-MHD CITY





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

Pat McCrory  
Governor

John E. Skvarla, III  
Secretary

May 27, 2014

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Palm Cove POA, Inc. c/o Bert Exum  
PO Box 1967  
Wilmington, NC 28403

Dear Mr. Exum:

This letter is in response to your application for a Major Permit under the Coastal Area Management Act (CAMA), in which authorization was requested to construct a 9-slip community docking facility adjacent to Tubbs Inlet in Sunset Beach, North Carolina. Processing of the application, which was received as complete by the Division of Coastal Management's Wilmington Regional Office office on February 26, 2014, is now complete. Based on the state's review, the Division of Coastal Management has made the following findings:

- 1) The proposed project is considered a Major Modification of CAMA Major Permit No. 11-06, which was issued on January 18, 2006. CAMA Major Permit No. 11-06 authorized a subdivision with associated infrastructure.
- 2) The shoreline bordering Tubbs Inlet is approximately 950 feet in length. There are no Coastal Wetlands along the shoreline, and an erosion escarpment exists along the entire shoreline.
- 3) The proposed project is located within an area designated by the Rules of the Coastal Resource Commission (CRC) as an Inlet Hazard Area in the Ocean Hazard/Ocean Erodible Area of Environmental Concern (AEC). As such, the proposed development is subject to 15A NCAC 07H.0310(c), which states that "*...small scale, non-essential development that does not induce further growth in the Inlet Hazard Area, such as the construction of single-family piers and small scale erosion control measures that do not interfere with natural inlet movement, may be permitted on those portions of shoreline within a designated Inlet Hazard Area that exhibit features characteristic of Estuarine Shoreline. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule,*

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

Palm Cove POA  
May 27, 2014  
Page 2

*small scale is defined as those projects which are eligible for authorization under 15A NCAC 7H.1100, .1200 and 7K.0203.*"

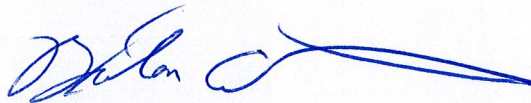
- 4) The location of the proposed project does not exhibit characteristics of an Estuarine Shoreline, as detailed in 15A NCAC 07H.0310(c).
- 5) Using the criteria set forth in 15A NCAC 07H.0310(c), the proposed docking facility is not considered "small scale".
- 6) Based upon the findings outlined above, the proposed project has been determined to be inconsistent with 15A NCAC 07H.0310(c).

Given the preceding findings, it is necessary that your request for issuance of a CAMA Major Modification 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. 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.

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



# Palm Cove Variance Request

Proposed 9-slip Community Docking  
Facility at East End of Sunset Beach

Brunswick County

October 22, 2014





# Division of Coastal Management



East end of Sunset Beach, Palm Cove Subdivision  
Photo courtesy of Google earth 1/3/2013

# Division of Coastal Management



## Shoreline looking west toward Main Street

Approximate location of proposed docking facility.  
Pier at Lot 1 in the background. Photograph taken  
on March 4, 2014.



**Shoreline looking east toward Tubbs Inlet**

Photograph taken on March 4, 2014

**Division of  
Coastal Management**



**Shoreline at Lot 6 looking west toward Lot 1**

Photograph taken by Elizabeth Nelson of Cape Fear Engineering at approximately 1:25 pm on September 1, 2014.



# Division of Coastal Management



**Palm Cove Subdivision**

**Lot 1 pier and riprap shoreline**

Photograph taken on January 7, 2014

# Division of Coastal Management



Photograph taken on January 7, 2014

**Division of  
Coastal Management**



**Approximate location of proposed  
9-slip docking facility**

Photograph taken on September 29, 2014

# Division of Coastal Management



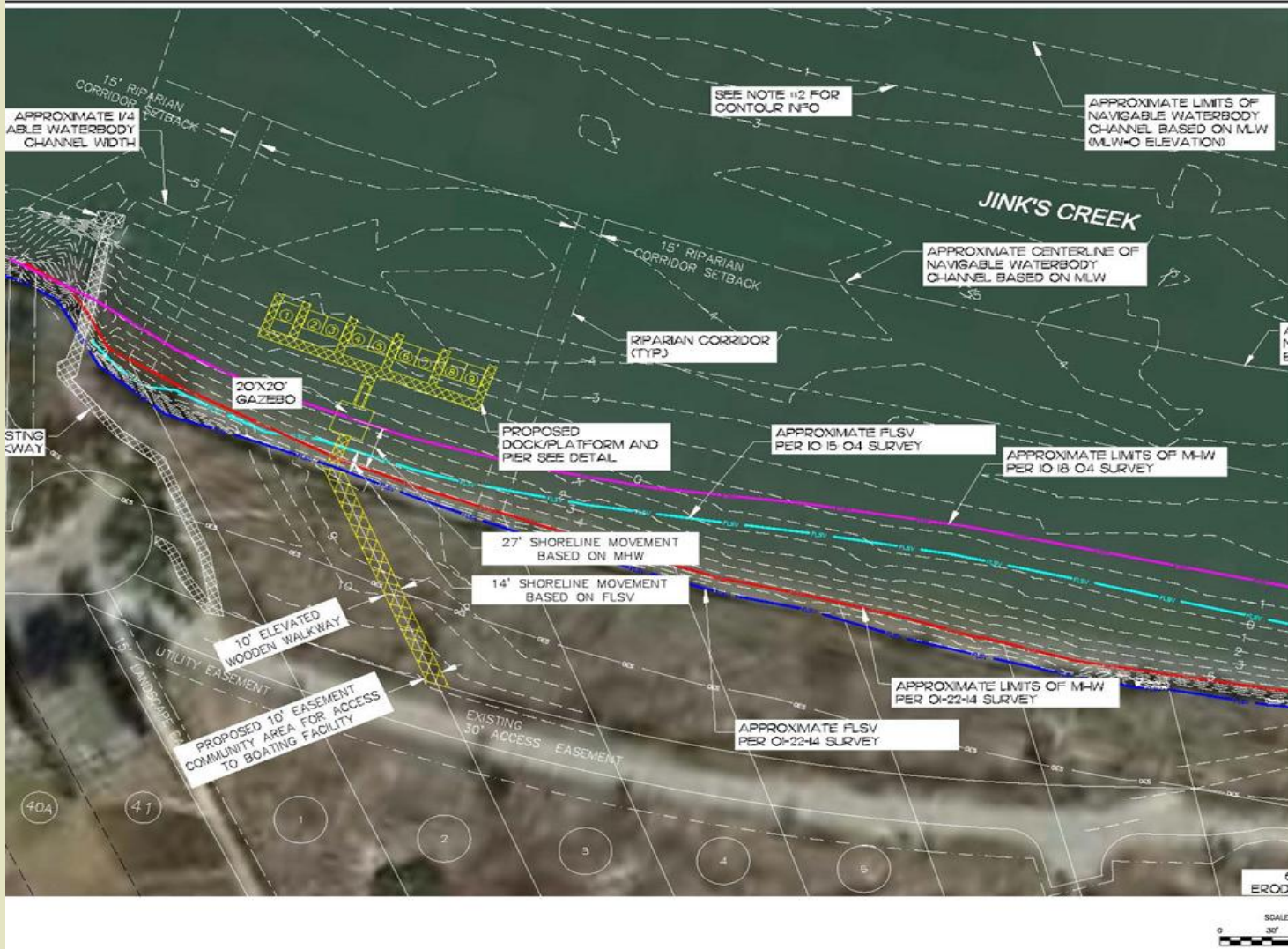
**Tubbs Inlet**

**Palm Cove S/D**

**Jinks Creek**

Photograph taken January 7, 2014

# Division of Coastal Management



**LEGEND**

|       |                     |
|-------|---------------------|
| ---   | BOUNDARY            |
| - - - | CONTOUR             |
| ---   | ACCESS EA           |
| ---   | PROPOSED            |
| ---   | UTILITY EA          |
| ---   | 2014 MEAD           |
| ---   | 2004 MEA            |
| ---   | CENTERLINE          |
| ---   | RIPARIAN I          |
| ---   | FLSV                |
| ---   | 2014 FIPS STABLE VE |
| ---   | 2004 FIPS STABLE VE |
| ---   | OCEAN BE            |

- NOTES:**
- TOTAL LINEAR FEET OF SHORELINE 337' WAS MEASURED ALONG SURVEY ALIGNMENT SQUARE FOOTAGE OF 0.242074 ACRES 90. FT. TOTAL DRAIN FACILITY DRAINAGE PERMANENT WOULD
  - WATER DEPTH CONTOURS ARE RELAY TO SURVEY BY CAPE FEAR CHANCE 2012
  - MEAN HIGH WATER IS DEFINED AS 4' BELOW PROPERTY BOUNDARY IS AT 7' ELEVATION
  - MLW ELEVATION 6.00 FEET = NAVIGABLE FLSV
  - CONTOUR, TIDE STATION SURVEY (NO SURVEY)
  - ALL DISTANCES ARE HORIZONTAL
  - PROPERTY LINE INFORMATION SHOW RECORDS PER 36, PG. 435, NO PRO EASEMENT SURVEY AT THIS TIME
  - FLSV AS SHOWN IS EXISTING TOP D

| REV. | DESCRIPTION |
|------|-------------|
| 1    | REVISIONS   |

**PRELIMINARY ISSUED FOR REVIEW**

**NOT FOR CONSTRUCTION THIS IS NOT AN ENGINEERED PLAN FOR ENVIRONMENTAL PERMITS**

**CAPE FEAR ENGINEERS**  
 151 Paces Rd., Suite 100, Beaufort, NC  
 TEL: (919) 383-1044; FAX: (919) 383-1045  
[www.capefearengineers.com](http://www.capefearengineers.com)  
 N.C. LICENSE # 02-1

| DESIGN     | PROJECT  |
|------------|----------|
| DESIGN 1   | N/A      |
| CHECK 1    | E NELSON |
| APPROVAL 1 | E NELSON |

**PROPOSED 9-SLIP COMMUNITY BOATING FACILITY**

**PALM COVE SUBDIVISION AERIAL OVERLAY**

PROJECT NUMBER: 675-03