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Department of Justice

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TO: Coastal Resources Commission

FROM : Elizabeth Jill Weese EJW
Assistant Attorney General

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

RE: **Variance Request by John E. Bugg (CRC-VR-14-12)**

Petitioner John Bugg and his wife own an existing house and property located at 125 Hoffman Beach Road, Salter Path, N.C. within the Hoffman Beach Subdivision. Petitioner desires to build three additions to the existing 1682 square foot house. The proposed development includes two full baths, a front entry/foyer, and an enlarged kitchen, which would add 428 square feet to the existing total floor area as defined by 15A NCAC 7H .0306(a)(1), for a total proposed floor area of 2110 square feet.

Petitioner applied to the Carteret County Planning and Development Office for a Minor CAMA Permit to build the additions described in paragraph 3 above. The Carteret County Local Permit Officer denied the Petitioner's application pursuant to 15A NCAC 07H. 0306(a)(1) and 07H.0306(a)(2) which establish the ocean hazard setback for development in the Ocean Hazard AECs. The rule requires that "[a] building or structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever, is greater." Rule 15A NCAC 7H .0306(a)(2)(A).

The portion of Bogue Banks where the Property is located is within the bounds of a Corps of Engineers large-scale beach nourishment project, the latest cycle of which was just completed during the spring-summer of 2013. Therefore, based on 15A NCAC 7H .0305(a)(6) and (9) and 7H .0306(a), the static vegetation line is the applicable line from which to measure the setback on the Property. However, in this case, the static vegetation line intersects the Petitioner's existing house and the entire structure is located within the 60' setback from the static vegetation line.

Petitioner's proposed development meets all of the conditions set forth in Rule 15A NCAC 7H .0306(a)(8) --"the static line exception"-- except for subsection (D) which requires that "[n]o

portion of a building or structure . . . extends oceanward of the landward-most adjacent building or structure. While the static vegetation line is the applicable measurement line for the setback on the Property, the current vegetation line on the property is located approximately 80-feet waterward of the existing house.

Petitioner seeks a variance allowing him to use the exception to the static line in order to make the additions proposed in his permit application. For the reasons stated in Attachment C, Staff believes Petitioner has met all four variance criteria.

The following additional information is attached to this memorandum:

Attachment A:	Relevant Rules
Attachment B:	Stipulated Facts
Attachment C:	Petitioner's Positions and Staff's Response to Criteria
Attachment D:	Stipulated Exhibits
Attachment E:	Petitioner's Variance Request Materials

cc: John E. Bugg, Esq. Petitioner
Braxton Davis, DCM Director, electronically
Roy Brownlow, DCM District Manager, electronically
Tracy Barnes, Carteret County LPO, electronically
Mary L. Lucasse, Special Deputy Attorney General, Counsel to CRC, electronically

RELEVANT RULES **ATTACHMENT A**

.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.

.0305 GENERAL IDENTIFICATION AND DESCRIPTION OF LANDFORMS

(a) This Section describes natural and man-made features that are found within the ocean hazard area of environmental concern.

(1) Ocean Beaches. Ocean beaches are lands consisting of unconsolidated soil materials that extend from the mean low water line landward to a point where either:

(A) the growth of vegetation occurs, or

(B) a distinct change in slope or elevation alters the configuration of the landform, whichever is farther landward.

(2) Nearshore. The nearshore is the portion of the beach seaward of mean low water that is characterized by dynamic changes both in space and time as a result of storms.

(3) Primary Dunes. Primary dunes are the first mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. The primary dune extends landward to the lowest elevation in the depression behind that same mound of sand (commonly referred to as the dune trough).

(4) Frontal Dunes. The frontal dune is deemed to be the first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity and configuration to offer protective value.

(5) Vegetation Line. The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately

oceanward of the seaward toe of the frontal dune or erosion escarpment. The Division of Coastal Management or Local Permit Officer shall determine the location of the stable and natural vegetation line based on visual observations of plant composition and density. If the vegetation has been planted, it may be considered stable when the majority of the plant stems are from continuous rhizomes rather than planted individual rooted sets. The vegetation may be considered natural when the majority of the plants are mature and additional species native to the region have been recruited, providing stem and rhizome densities that are similar to adjacent areas that are naturally occurring. In areas where there is no stable natural vegetation present, this line may be established by interpolation between the nearest adjacent stable natural vegetation by on ground observations or by aerial photographic interpretation.

(6) Static Vegetation Line. In areas within the boundaries of a large-scale beach fill project, the vegetation line that existed within one year prior to the onset of initial project construction shall be defined as the static vegetation line. A static vegetation line shall be established in coordination with the Division of Coastal Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo a large-scale beach fill project. Once a static vegetation line is established, and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line. In all locations where the vegetation line as defined in this Rule is landward of the static vegetation line, the vegetation line shall be used as the reference point for measuring oceanfront setbacks. A static vegetation line shall not be established where a static vegetation line is already in place, including those established by the Division of Coastal Management prior to the effective date of this Rule. A record of all static vegetation lines, including those established by the Division of Coastal Management prior to the effective date of this Rule, shall be maintained by the Division of Coastal Management for determining development standards as set forth in Rule .0306 of this Section. Because the impact of Hurricane Floyd (September 1999) caused significant portions of the vegetation line in the Town of Oak Island and the Town of Ocean Isle Beach to be relocated landward of its pre-storm position, the static line for areas landward of the beach fill construction in the Town of Oak Island and the Town of Ocean Isle Beach, the onset of which occurred in 2000, shall be defined by the general trend of the vegetation line established by the Division of Coastal Management from June 1998 aerial orthophotography.

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

(8) Erosion Escarpment. The normal vertical drop in the beach profile caused from high tide or storm tide erosion.

(9) Measurement Line. The line from which the ocean hazard setback as described in Rule .0306(a) of this Section is measured in the unvegetated beach area of environmental concern as described in Rule .0304(4) of this Section. Procedures for determining the measurement line in areas designated pursuant to Rule .0304(4)(a) of this Section shall be adopted by the Commission for each area where such a line is

designated pursuant to the provisions of G.S. 150B. These procedures shall be available from any local permit officer or the Division of Coastal Management. In areas designated pursuant to Rule .0304(4)(b) of this Section, the Division of Coastal Management shall establish a measurement line that approximates the location at which the vegetation line is expected to reestablish by:

(A) determining the distance the vegetation line receded at the closest vegetated site to the proposed development site; and

(B) locating the line of stable natural vegetation on the most current pre-storm aerial photography of the proposed development site and moving this line landward the distance determined in Subparagraph (g)(1) of this Rule.

The measurement line established pursuant to this process shall in every case be located landward of the average width of the beach as determined from the most current pre-storm aerial photography.

.0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

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

(1) The ocean hazard setback for development is measured in a landward direction from the vegetation line, the static vegetation line or the measurement line, whichever is applicable. The setback distance is determined by both the size of development and the shoreline erosion rate as defined in 15A NCAC 07H .0304. Development size is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:

(A) The total square footage of heated or air-conditioned living space;

(B) The total square footage of parking elevated above ground level; and

(C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.

Decks, roof-covered porches and walkways are not included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

(2) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback is established based on the following criteria:

(A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;

. . .

(8) Beach fill as defined in this Section represents a temporary response to coastal erosion, and compatible beach fill as defined in 15A NCAC 07H .0312 can be expected to erode at least as fast as, if not faster than, the pre-project beach. Furthermore, there is no assurance of future funding or beach-compatible sediment for continued beach fill projects and project maintenance. A vegetation line that becomes established oceanward of the pre-project vegetation line in an area that has received beach fill may be more vulnerable to natural hazards along the oceanfront. A development setback measured from the vegetation line provides less protection from ocean hazards. Therefore, development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the static vegetation line as defined in this Section. However, in order to allow for development landward of the large-scale beach fill project that is less than 2,500 square feet and cannot meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line set forth in Subparagraphs (1) and (2)(A) of this Paragraph, a local government or community may petition the Coastal Resources Commission for a "static line exception" in accordance with 15A NCAC 07J .1200. The static line exception applies to development of property that lies both within the jurisdictional boundary of the petitioner and the boundaries of the large-scale beach fill project. This static line exception shall also allow development greater than 5,000 square feet to use the setback provisions defined in Part (a)(2)(K) of this Rule in areas that lie within the jurisdictional boundary of the petitioner as well as the boundaries of the large-scale beach fill project. The procedures for a static line exception request are defined in 15A NCAC 07J .1200. If the request is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the static vegetation line under the following conditions:

(A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(2)(A) of this Rule;

(B) Total floor area of a building is no greater than 2,500 square feet;

(C) Development setbacks are calculated from the shoreline erosion rate in place at the time of permit issuance;

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

(E) With the exception of swimming pools, the development defined in 15A NCAC 07H .0309(a) is allowed oceanward of the static vegetation line; and

(F) Development is not eligible for the exception defined in 15A NCAC 07H .0309(b).

. . .

.0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

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

(1) campsites;

(2) driveways and parking areas with clay, packed sand or gravel;

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

(4) beach accessways consistent with Rule .0308(c) of this Subchapter;

(5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;

(6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;

(7) temporary amusement stands;

(8) sand fences; and

(9) swimming pools.

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

. . .

ATTACHMENT B

Stipulated Facts

1. Petitioner John Bugg and his wife own an existing house and property located at 125 Hoffman Beach Road, Salter Path, N.C. within the Hoffman Beach Subdivision (Lot 5, Section B, Plat Book 3, at page 15, Carteret County Registry). The house and over eighty percent of this ¾ acre lot are presently located in Flood Zone VE 12 as shown on the site survey accompanying the Petition. The house was built in 1952 and consists of 1682 square feet of heated residential space and a 660 square foot unfinished garage. See Exhibits 1 and 2 attached.

2. The Property is located within the Ocean Hazard Area, specifically the Ocean Erodible and High Hazard Flood Areas of Environmental Concern ("AECs"). Pursuant to N.C.G.S. § 113A-118 a CAMA permit must be obtained before any development takes place in an AEC.

3. Petitioner desires to build three additions to the existing 1682 square foot house. The proposed development includes two full baths, a front entry/foyer, and an enlarged kitchen, which would add 428 square feet to the existing total floor area as defined by 15A NCAC 7H .0306(a)(1), for a total proposed floor area of 2110 square feet. See Exhibit 3 attached.

4. On April 5, 2010, the Coastal Resources Commission ("CRC") granted the unincorporated community of Salter Path, under the jurisdiction of Carteret County, a "static vegetation line exception." The static vegetation line exception is authorized through March 2015, at which time the county can reapply for such a designation.

5. On August 19, 2014, Petitioner applied to the Carteret County Planning and Development Office for a Minor CAMA Permit to build the additions described in paragraph 3 above.

6. In accordance with the CAMA Minor Permit Application Process, written notification of the proposed development was provided to the adjacent riparian owners. Neither owner objected. See Exhibit 4 attached.

7. On September 9, 2014, the Carteret County Local Permit Officer denied the Petitioner's application pursuant to 15A NCAC 07H. 0306(a)(1) and 07H.0306(a)(2) which establish the ocean hazard setback for development in the Ocean Hazard AECs. The rule requires that "[a] building or structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever, is greater." Rule 15A NCAC 7H .0306(a)(2)(A). A copy of the denial notice is attached. See Exhibit 5 attached.

8. The proposed development is consistent with the Carteret County Local Land Use Plan, contrary to what was stated in the denial letter.

9. The property currently has an annual long-term erosion rate of 2 feet so the required erosion setback is 60 feet.

10. The portion of Bogue Banks where the Property is located is within the bounds of a Corps of Engineers large-scale beach nourishment project, the latest cycle of which was just

completed during the spring-summer of 2013. Therefore, based on 15A NCAC 7H .0305(a)(6) and (9) and 7H .0306(a), the static vegetation line is the applicable line from which to measure the setback on the Property. However, in this case, the static vegetation line intersects the Petitioner's existing house and the entire structure is located within the 60' setback from the static vegetation line. Therefore, the proposed additions to the existing house would also be within the 60' setback from the static vegetation line. See Exhibit 6 attached.

11. Petitioner's proposed development meets all of the conditions set forth in Rule 15A NCAC 7H .0306(a)(8) --"the static line exception"-- except for subsection (D) which requires that "[n]o portion of a building or structure . . . extends oceanward of the landward-most adjacent building or structure. In this case the landward-most adjacent structure is a house located on Lot 4, immediately east of Petitioner's property. See Exhibits 6 and 7 attached.

12. While the static vegetation line is the applicable measurement line for the setback on the Property, the current vegetation line on the property is located approximately 80-feet waterward of the existing house. See Exhibit 7 attached.

13. On September 5, 2014, Petitioner filed this variance petition, a copy of which is attached, seeking a variance of the Commission's oceanfront setback rules, specifically Rule 15A NCAC 7H .0306(a)(8)(D), in order to add 428 square feet of total floor area onto his existing house. The proposed additions would all be on the landward side (north elevation) of the existing house. See Exhibits 3, 6, and 7 attached.

Petitioner and Staff Positions on Variance Criteria

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

Petitioner's Position: Yes.

Petitioner is over 70 years of age and finally retiring from his professional career. As a result, he and his wife for more than 45 years (without disclosing her age) intend to live for more extended stays year around in his beach cottage than they had previously been able to do given his full time professional employment. Because Petitioner's existing beach house was built as a "summer cottage" by Petitioner's parents in 1952, there have never existed any indoor conditioned baths or showers. Rather, there has always existed only a "girls" and a "boys" shower in the non-conditioned unfinished garage with one-half baths (sink and toilet) in the interior conditioned house. Indeed, the only major change that has ever been made to this "summer cottage" was twenty-five to thirty years ago when a central HVAC system was installed. Given the advanced age of Petitioner and his wife, they and their overnight guests appropriately need indoor conditioned baths and showers.

Also, the "half kitchen" as built for this summer cottage is completely outdated and woefully too small – especially for the extended year around use as planned. Thus, a 134 sf addition is proposed to accommodate the more modern day amenities such as a dishwasher, a cook top with two wall ovens, considerably more cabinet and counter space, etc.

Last but also admittedly the least, Petitioner needs a "front entry foyer" which can feasibly be used by guests rather than the existing garage entry into the house which has historically been exclusively used by all guests as well as Petitioner. Thus, a 30 sf front entry/foyer is proposed.

Staff's Position: Yes.

Staff agrees that strict application of 15A NCAC 7H .0306(a)(8) -- the "static line exception"-- will cause the Petitioner unnecessary hardship. Petitioner's proposed development meets all of the conditions set forth in the rule, except one: the proposed development extends oceanward of the landward-most adjacent building, which in this case is the house located on Lot 4, immediately east of Petitioner's property. See 15A NCAC 7H .0306(a)(8)(D).

While the static vegetation line is the applicable measurement line for the setback on the Property, the current vegetation line on the property is located approximately 80 feet waterward of the existing house. At this location, Petitioner can reasonably use the static line

exception and still be in significant compliance because the proposed development meets the other five provisions of 15A NCAC 7H .0306(a)(8). In addition, all of the proposed development will be on the landward side of the existing house. Also, the adjacent house on Lot 4 is an anomaly in that, because it is located where the road bends, it is located farther landward than any of the other houses in the subdivision. For these reasons, Staff believes strict application of the "static line exception" creates an unnecessary hardship in this case.

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

Petitioner's Position: Yes

As explained above, this house was originally built as a "summer cottage" more than 60 years ago and direly needs to be upgraded to accommodate more extended year around use by Petitioner, his wife, and their guests who would likely be advanced in age as are Petitioner and his wife.

Also, the "landward-most adjacent structure" along the eastern side was built approximately 30 to 35 years after Petitioner's summer cottage was built and well after all other ocean front houses were built in our subdivision. At the time it was built, the old 60' setback rule from the last line of vegetation oceanward (not the post-Floyd static vegetation line) existed. As a result, this house was built as far landward as it could fit given street setback requirements. In addition, since the road also turns landward around this lot, the location of the house likewise follows this landward road turn. Given all this, the location of this particular landward-most house is an anomaly in that it was built even more landward than any of the other nine ocean front houses in the entire subdivision. Said otherwise, Petitioner's proposed additions would not be oceanward of any other oceanfront house in the entire subdivision.

As referenced above, the house immediately adjacent to our western boundary was originally built within three or four years of when our house was built, and it extends almost as oceanward as our house. Moreover, this s/o/g house was completely replaced four or five years ago with a new addition, and then the entire old structure was razed and a new structure built in its s/o/g footprint. And, it is now the nicest house in our neighborhood – indeed, a real showcase or what some would refer to as "Wallstreet Journal Magazine House". Also, these owners to the west are retired, permanent residents. Finally, as you can see, the owners of both adjacent houses agree to the proposed development.

Staff's Position: Yes.

Staff believes that Petitioner's hardship is caused by conditions peculiar to Petitioner's property. The static vegetation line is the applicable measurement line for the setback on the Property, however, the current static vegetation line runs through, or intersects, Petitioner's

house. The curve of the road also made it possible for the landward most adjacent building to be constructed further landward than other buildings in the community. In addition, the current vegetation line on the property is located approximately 80-feet waterward of the existing house. Accordingly, Staff agrees that Petitioner meets this variance criterion.

III. Do the hardships result from action taken by the petitioner. Explain.

Petitioner's Position: No.

The hardships result from the lack of appropriate living amenities inherent in a sixty plus year old "summer cottage" which is intended to become a year around abode for an elderly couple and guests in need of more modern amenities to afford them minimum comfort, safety and well-being.

Staff's Position: No.

Staff agrees that the hardship in this case is not due to actions taken by the Petitioner. Petitioner's house was constructed pre-CAMA, well before the current static vegetation line was designated.

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 justice? Explain.

Petitioner's Position: Yes.

As referenced above, the … "landward-most adjacent structure", as applicable in this case, is an anomaly given the history and the location of all the other oceanfront houses in the subdivision. Indeed, hypothetically speaking, even if Petitioner's house did not now exist and Petitioner were proposing to build an entirely new structure on this lot, given the location of this landward-most adjacent structure, nothing could be built on this .75 acre lot as a result of this rule, and Petitioner's lot would have to remain vacant. This would clearly be inconsistent with the intent of the "static line exception" adopted several years ago to allow improvements on otherwise "nonconforming" lots in situations such as the one at hand.

Last but not least, the proposed additions are so diminis given the existing relatively small summer cottage on this ¾ acre lot, almost certainly the spirit, intent and purpose of this "landward-most adjacent structure" exception was not intended to thwart such a proposed development – especially given the historical criteria of this entire subdivision development as well as the consent of the adjacent landowners.

The underlying purpose of these additions is to accommodate the safety and welfare needs of Petitioner and his wife taking into consideration their advanced age and intended extended use of this "summer cottage" to a year around basis. Likewise, this proposed

development would not compromise the security of the safety and welfare of others residing in the neighborhood.

Insofar as preserving substantial justice, the proposed development is appropriate and in being with the neighborhood, innocuous insofar as surrounding properties, and to disallow the requested variance would seemingly serve only to promote form over substance and cause an unintended but real injustice.

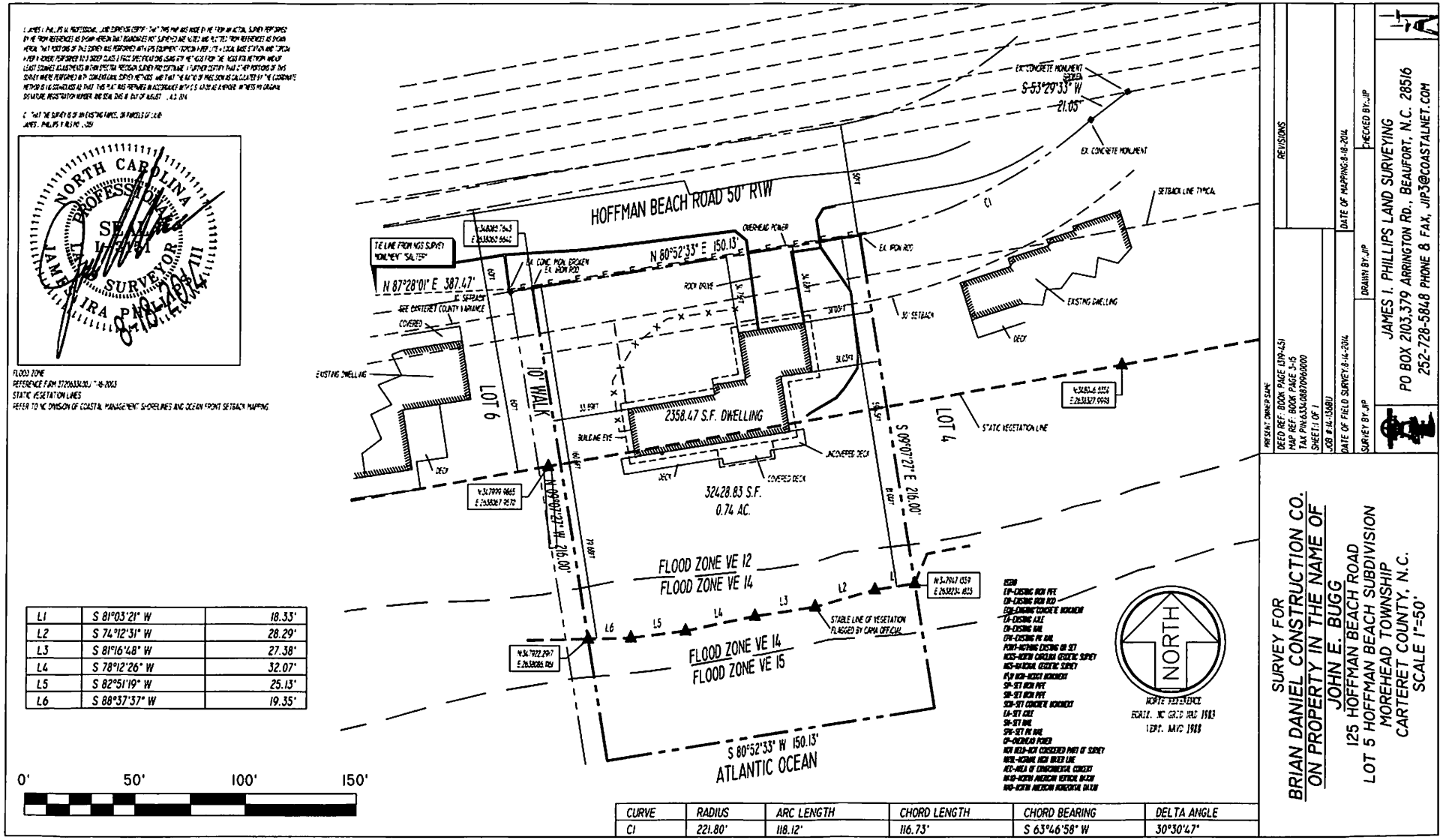
Staff's Position: Yes.

Staff agrees that granting the requested variance would be consistent with the spirit, purpose and intent of the Ocean Hazard rules. In managing Ocean Hazard AECs, the Commission recognizes that development along the coast will never be without risk; however, the loss of life and property can be reduced by the proper location and design of structures. Pursuant to 15A NCAC 7H .0303(a), the Commission's objective is 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. One way to achieve this balance is by allowing exceptions to the oceanfront setback in appropriate circumstances. The Commission created the static line exception "to allow for development landward of the large-scale beach fill project that is less than 2,500 square feet and cannot meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line…." See 15A NCAC 7H .0306(a)(8). Staff believes that the combination of factors present here, including the fact that the current vegetation line on the property is located approximately 80-feet waterward of the existing house, the fact that all three existing houses (Petitioner's and the houses of both of the adjacent property owners) are non-conforming because they are already located within the 60' setback, the fact that the proposed development would be on the landward side of the existing house and is less than 2500 square feet are in keeping with the spirit, purpose and intent of these rules.

Staff also agrees that granting the requested variance would secure the public safety and welfare, and preserve substantial justice. Both adjacent property owners provided letters in support of Petitioner's proposed development and public safety and welfare will be maintained because the proposed development does not extend any further oceanward than the existing house. Staff believes the proposed development, the addition of 400+ square feet, is a reasonable request to improve Petitioner's existing structure.

STIPULATED EXIBIT LIST

1. Site Survey
2. Carteret County Property Data Sheet
3. Floor Plan of Proposed Additions
4. Letters from Adjacent Property Owners
5. Denial Letter
6. Drawing showing Static Vegetation Line Setback
7. Drawing showing Vegetation Line Setback



I, JAMES I. PHILLIPS, PLS, A PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS PLAT WAS DRAWN BY ME FROM AN ACTUAL SURVEY PERFORMED BY ME FROM REFERENCES AS SHOWN HEREON. DIMENSIONS AND BEARINGS NOT SURVEYED ARE NOTED AND PLOTTED FROM REFERENCES AS SHOWN HEREON. THAT THE RATIO OF PRECISION AS CALCULATED BY THE COORDINATE METHOD IS 1:10,000 UNLESS NOTED OTHERWISE. THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER, AND SEAL THIS 18 DAY OF AUGUST, A.D. 2014.

I, JAMES I. PHILLIPS, PLS, CERTIFY THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND.

JAMES I. PHILLIPS, PLS NO. L-3591

NORTH CAROLINA PROFESSIONAL SEAL L-3591 SURVEYOR JAMES IRA PHILLIPS III 08/18/2014

FLOOD ZONE
REFERENCE FIRM 3720633L3DU - 16-2003
STATIC VEGETATION LINES
REFER TO NC DIVISION OF COASTAL MANAGEMENT SHORELINES AND OCEAN FRONT SETBACK MAPPING

L1	S 81°03'21" W	18.33'
L2	S 74°12'31" W	28.29'
L3	S 81°16'48" W	27.38'
L4	S 78°12'26" W	32.07'
L5	S 82°51'19" W	25.13'
L6	S 88°37'37" W	19.35'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	221.80'	118.12'	116.73'	S 63°46'58" W	30°30'47"

LEGEND
EP-EXISTING IRON PIPE
EB-EXISTING IRON ROD
ECM-EXISTING CONCRETE MONUMENT
EA-EXISTING AXLE
EN-EXISTING NAIL
EPK-EXISTING PK NAIL
POINT MARKING EXISTING OR SET
NGS-NORTH CAROLINA GEODETIC SURVEY
NGS-NATIONAL GEODETIC SURVEY
PK# NON-NGS# MONUMENT
SP-SET IRON PIPE
SR-SET IRON PIPE
SCM-SET CONCRETE MONUMENT
LA-SET LEAD
SN-SET NAIL
SPK-SET PK NAIL
OP-OVERHEAD POWER
NON FIELD-NOT CROSSED PART OF SURVEY
NEW-NORMAL HIGH WATER LINE
ACC-AREA OF CONSPICUOUS CONCERN
NAD-NORTH AMERICAN VERTICAL DATUM
NAD-NORTH AMERICAN HORIZONTAL DATUM

SURVEY FOR
BRIAN DANIEL CONSTRUCTION CO.
ON PROPERTY IN THE NAME OF
JOHN E. BUGG
125 HOFFMAN BEACH ROAD
LOT 5 HOFFMAN BEACH SUBDIVISION
MOREHEAD TOWNSHIP
CARTERET COUNTY, N.C.
SCALE 1"=50'

REVISIONS
PRESENT OWNER SAME
DEED REF: BOOK PAGE 1319-451
MAP REF: BOOK PAGE 3-15
TAX PIN 6534.08070960000
SHEET 1 OF 1
JOB # 14-1568U
DATE OF FIELD SURVEY: 8-14-2014
DATE OF MAPPING: 8-18-2014
SURVEY BY: JIP
DRAWN BY: JIP
CHECKED BY: JIP

JAMES I. PHILLIPS LAND SURVEYING
PO BOX 2103, 379 ARRINGTON RD., BEAUFORT, N.C. 28516
252-728-5848 PHONE & FAX, JIP3@COASTALNET.COM

Exhibit 1

Carteret County

Property Data

Parcel Number: 633408870960000
Inquiry Date: 9/24/2014

DISCLAIMER: For confirmation of the number of buildings on each parcel, please contact the Carteret County Tax Office.

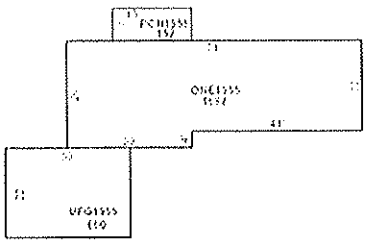
Owner/Property Info

Parcel Number: 633408870960000
Owner: BUGG,JOHN E ETAL
Physical Address 0000125 HOFFMAN BEACH RD
SALTER PATH NC
Mailing Address: 5118 PINEY CREEK LANE
DURHAM NC 27705
Legal Description: L5 BB HOFFMAN BEACH SALTER PATH
Deed Book: 1319
Deed Page: 451
Sale Date: 20090901
Sale Price: 134500
Acreage: 0.754
Land Value: $562,590.00
Building Value: $100,406.00
Extra Feature Value: $3,667.00
Parcel Value: $666,663.00

Building Info

Baths: 1.5
Bedrooms: 4
Condition: N/A
Exterior Walls 1: VINYL
Exterior Walls 2: N/A
Floor Finish 1: FNSHCONCRT
Floor Finish 2: CORKVINYL
Foundation 1:
Foundation 2:
Heat: HEATPUMP
Roof Cover 1: COMP SHNGL
Roof Cover 2: COMP SHNGL
Roof Structure: HIP
Square Footage: 1682
Year Built: 1952
Click Here for Advanced Cards

Sketches



Photos

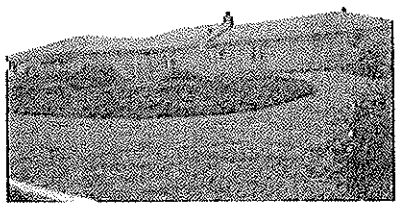
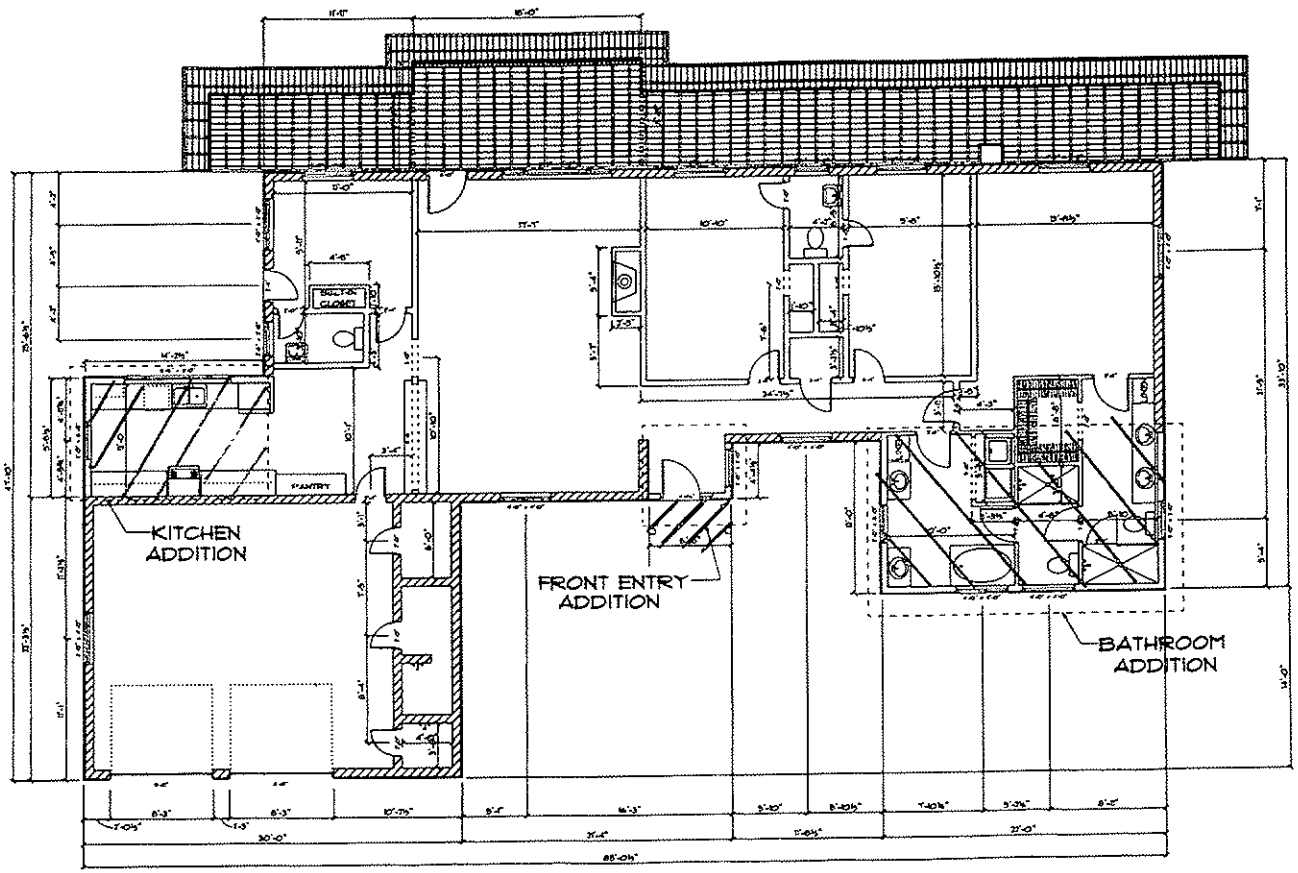


Exhibit 2



PLAN #2

JOHN & SALLY BUGG
RESIDENCE
PRELIMINARY
BRIAN DANIEL CONSTRUCTION INC.

Exhibit 3

ADJACENT RIPARIAN PROPERTY OWNER STATEMENT FOR CAMA MINOR PERMITS

I hereby certify that I own property adjacent to JOHN & SALLY BIGG 's
(Name of Property Owner)

property located at 125 HOFFMAN BEACH ROAD ,
Address, Lot, Block, Road, etc.)

on ATLANTIC OCEAN (Waterbody), in SALTER PATH, CARTERET CO. (Town and/or County), N.C.

He has described to me as shown in the attached application and project drawing(s), the development he is proposing at that location, and, I have no objections to his proposal.

(APPLICATION AND DRAWING OF PROPOSED DEVELOPMENT ATTACHED)

Signature

MICHAEL & BUFFA HARGETT
Print or Type Name

(252) 269-9973
Telephone Number

AUGUST 20, 2014
Date

Exhibit 4

Re: CAMA Minor Permit Application
By John E. Bugg for
125 Hoffman Beach Road
Salter Path, N.C.

Tracy Barnes
Local Permit Officer
Carteret County Western Office
701 Cedar Point Blvd.
Cedar Point, NC 28584

Dear Ms. Barnes:

This is to confirm that I received notice of Mr. Bugg's proposed project and application for a CAMA Project. I consent to the additions he has proposed.

Sincerely,

Lois S. Narron

Lois S. Narron

Exhibit 4

PLANNING AND DEVELOPMENT

Eugene Foxworth
Director

Western Office
Phone: 252-222-5833
Fax: 252-393-3205

09/05/14

CERTIFIED MAIL - 70121010000136719959
RETURN RECEIPT REQUESTED

Mr. John E. Bugg
5118 Piney Creek Lane
Durham, NC 27705

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
APPLICATION NUMBER- WO-16-14
PROJECT ADDRESS- 125 Hoffman Beach Road, Salter Path, NC

Dear Mr. Bugg:

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

This decision is based on my findings that your request violates NCGS 113A-120(a) (8) which requires that all applications be denied which are inconsistent with CAMA guidelines and Local Land Use Plans. You have applied to construct kitchen, bathroom and entry foyer additions on an existing single-family dwelling totaling 428 square feet which is inconsistent with 15 NCAC 7H .0306 (a) (1) and (a) (2) (a), which states that: "...all development not otherwise specifically exempted or allowed by law or elsewhere in the CRC's Rules shall be located according to whichever of the following is applicable: The ocean hazard setback for development is measured in a landward direction from the vegetation line, the static vegetation line or the measurement line, whichever is applicable. A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the erosion rate, whichever is greater." (Attached). Your application is also inconsistent with our Local Land Use Plan. On page 70 of the Carteret County Land Use Plan, you will find that Carteret County Policy 2.0, Land Use Compatibility, supports the Coastal Resource Commission's development regulations for Areas of Environmental Concerns (AEC), in this case the Ocean Hazard AEC." Because your proposed development does not meet the required setback, I have no choice but to deny your permit request.

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

Respectfully yours,

Tracy Barnes

Tracy Barnes, LPO
Carteret County Western Office

cc: Roy Brownlow, DCM District Manager, Morehead City District Office
Brian Daniel, General Contractor
Eugene Foxworth, Carteret County Director of Planning and Development

(9) Measurement Line. The line from which the ocean hazard setback as described in Rule .0306(a) of this Section is measured in the unvegetated beach area of environmental concern as described in Rule .0304(4) of this Section. Procedures for determining the measurement line in areas designated pursuant to Rule .0304(4)(a) of this Section shall be adopted by the Commission for each area where such a line is designated pursuant to the provisions of G.S. 150B. These procedures shall be available from any local permit officer or the Division of Coastal Management. In areas designated pursuant to Rule .0304(4)(b) of this Section, the Division of Coastal Management shall establish a measurement line that approximates the location at which the vegetation line is expected to reestablish by:

(A) determining the distance the vegetation line receded at the closest vegetated site to the proposed development site; and

(B) locating the line of stable natural vegetation on the most current pre-storm aerial photography of the proposed development site and moving this line landward the distance determined in Subparagraph (g)(1) of this Rule.

The measurement line established pursuant to this process shall in every case be located landward of the average width of the beach as determined from the most current pre-storm aerial photography.

(b) For the purpose of public and administrative notice and convenience, each designated minor development permit-letting agency with ocean hazard areas may designate, subject to CRC approval in accordance with the local implementation and enforcement plan as defined 15A NCAC 07I .0500, a readily identifiable land area within which the ocean hazard areas occur. This designated notice area must include all of the land areas defined in Rule .0304 of this Section. Natural or man-made landmarks may be considered in delineating this area.

History Note: *Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*
Eff. September 9, 1977;
Amended Eff. December 1, 1992; September 1, 1986; December 1, 1985; February 2, 1981;
Temporary Amendment Eff. October 10, 1996;
Amended Eff. January 1, 1997;
Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;
Temporary Amendment Eff. October 22, 1997;
Amended Eff. April 1, 2008; August 1, 2002; August 1, 1998.

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

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

(1) The ocean hazard setback for development is measured in a landward direction from the vegetation line, the static vegetation line or the measurement line, whichever is applicable. The setback distance is determined by both the size of development and the shoreline erosion rate as defined in 15A NCAC 07H .0304. Development size is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:

(A) The total square footage of heated or air-conditioned living space;

(B) The total square footage of parking elevated above ground level; and

(C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load bearing;

Decks, roof-covered porches and walkways are not included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

(2) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback is established based on the following criteria:

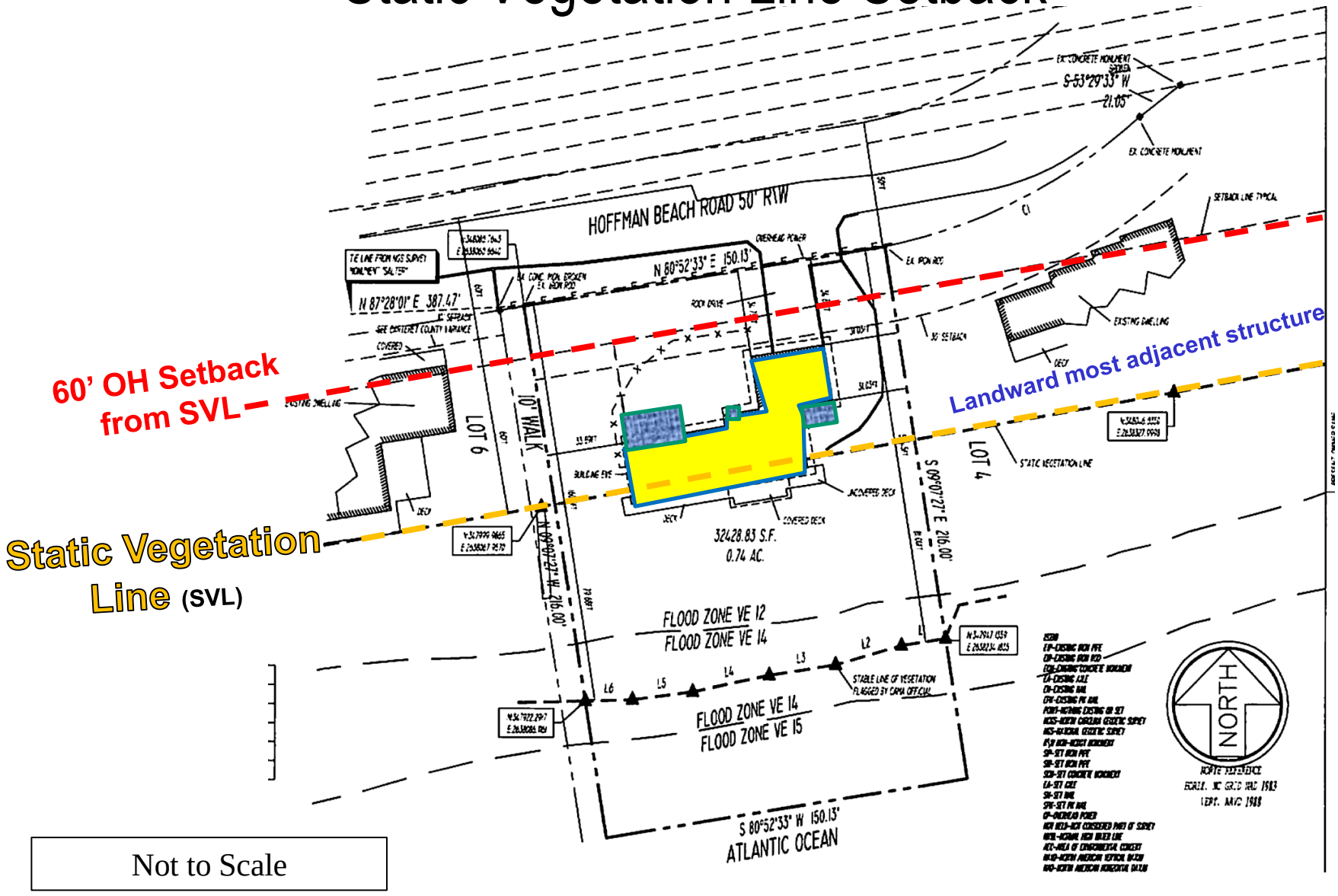
(A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;

(B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;

(C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;

(D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;

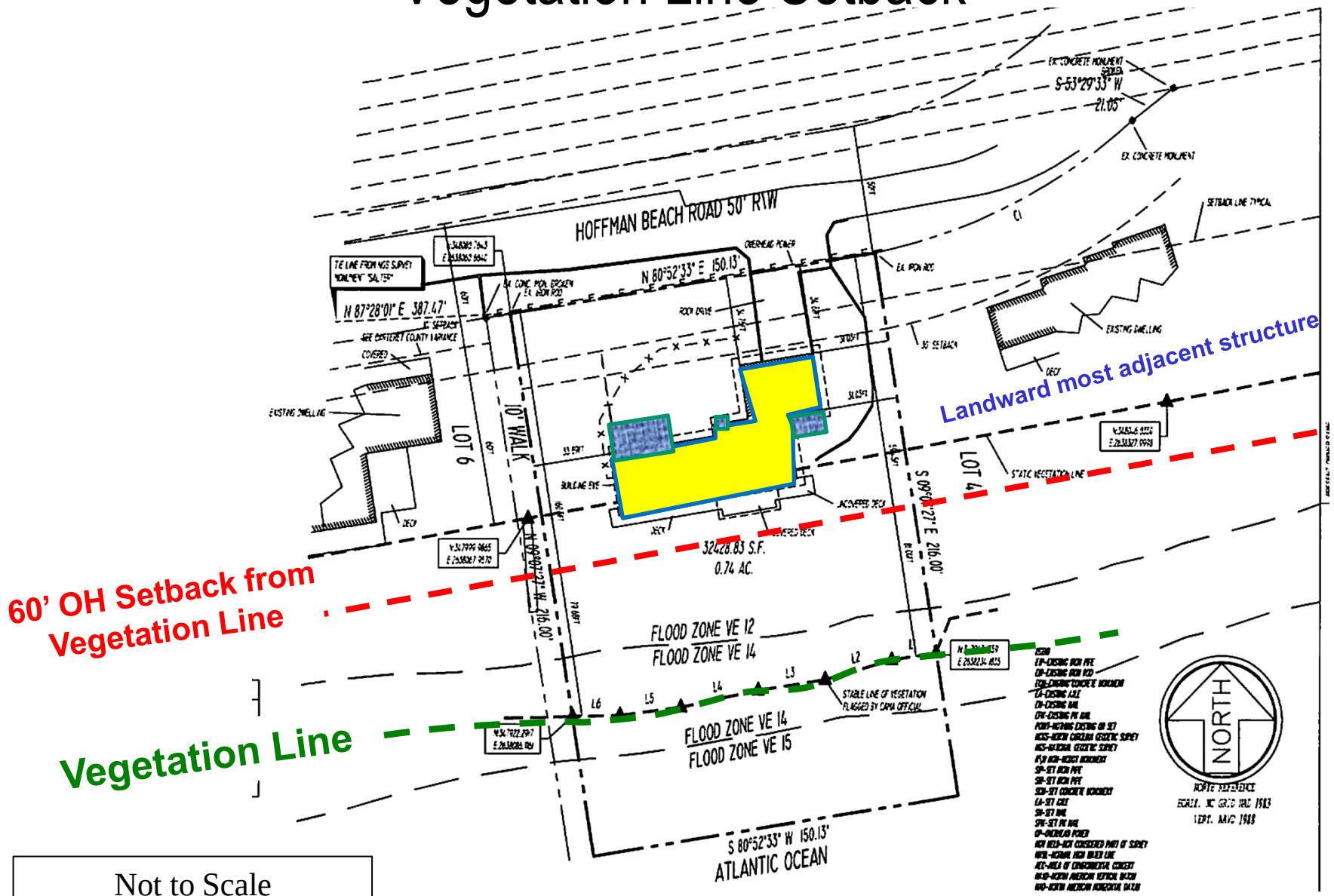
125 Hoffman Beach Rd
Static Vegetation Line Setback



Not to Scale

Exhibit 6

125 Hoffman Beach Rd
Vegetation Line Setback



Not to Scale

Exhibit 7

ATTACHMENT E:

PETITIONER'S VARIANCE REQUEST MATERIALS

CAMA VARIANCE REQUEST FORM

DCM FORM 11
DCM FILE No.: CRC-VR-14-12

PETITIONER'S NAME John E. Bugg
COUNTY WHERE THE DEVELOPMENT IS PROPOSED Carteret

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

VARIANCE HEARING PROCEDURES

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

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

VARIANCE CRITERIA

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

(a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.

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

(c) Do the hardships result from actions taken by the petitioner? Explain.

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

Please make your written arguments that Petitioner meets these criteria on a separate piece of paper.
The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as a variance hearing before the Commission.

These opinions note that the practice of professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written or oral argument, may be considered the practice of law. Before you proceed with this variance request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.

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

A.__ The name and location of the development as identified on the permit application;

B.__ A copy of the permit decision for the development in question;

C.__ A copy of the deed to the property on which the proposed development would be located;

D.__ A complete description of the proposed development including a site plan;

E.__ A stipulation that the proposed development is inconsistent with the rule at issue;

F.__ 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;

G.__ Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;

H.__ 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.

Yes This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

**Please contact DCM or the local permit officer for a full list of comments received on your permit application. Please note, for CAMA Major Permits, the complete permit file is kept in the DCM Morehead City Office.*

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

John E Bugg
Signature of Petitioner or Attorney

September 5, 2014
Date

John E. Bugg
Printed Name of Petitioner or Attorney

bugg@buggwolf.com
Email address of Petitioner or Attorney

411 Andrews Rd, Suite 170, University Office Park
Mailing Address

(919) 383-9431
Telephone Number of Petitioner or Attorney

Durham, NC 27705
City State Zip

(919)383-9771
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

Revised: July 2014

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing instrument was served on each party to this action by email and/or by depositing the same in a U.S. Post Office mail box, first class postage prepaid, addressed to each party at their last known address:

Roy Brownlow
NC Division of Coastal Management
District Manager
400 Commerce Avenue
Morehead City, NC 28557
roy.brownlow@ncdenr.gov

Braxton Davis
Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557
Braxton.Davis@NCDENR.Gov

Ms. Christine Goebel, Esquire
Environmental Division
9001 Mail Service Center
Raleigh, NC 27699-9001
cgoebel@ncdoj.gov

Tracy Barnes
Local Permit Officer
Carteret County Western Office
701 Cedar Point Blvd.
Cedar Point, NC 28584
tracyb@carteretcountync.gov

This the 5 day of September, 2014.

John E. Bugg

Z:\WP\JEB\COTTAGE\2014 Construction\CERTIFICATE OF SERVICE.docx

A. **Beach House Owner/Developer**: John E. Bugg, 125 Hoffman Beach Rd., Salter Path, N.C. (Lot 5, Section B., Hoffman Beach Subdivision, Plat Book 3, Page 15, Carteret County Registry.

B. **Permit Decision**: See Attachment B.

C. **Deed**: See Attachment C.

D. **Description of Proposed Development**: See Attachment D which includes a site survey with a floor plan showing the proposed additions to the existing beach house. They consist of the following:

(1) A 264 sf bathrooms slab on grade ("s/o/g") addition to the western landward end/side of the house. The closest structure is located on Lot 6, and that structure extends oceanward on approximately the same plane with the static vegetation line as does the existing structure.

(2) A 134 sf kitchen s/o/g expansion which extends eastward of the existing kitchen along the back of the existing unfinished, non-conditioned garage which is s/o/g as is all the heated space of the existing house.

(3) A 30 sf s/o/g front entry/foyer.

Thus, there is proposed 428 sf of additional conditioned living space to an existing 2358 sf of conditioned and non-conditioned space, all being s/o/g.

E. **Stipulation**: This development would meet all the requirements to allow these proposed additions to the existing house pursuant to the "static line exception" in accordance with 15A NCAC 07J.1200 except that it would otherwise be prohibited by 15A NCAC 07H.0306(a)(8)(D) in that portions of the proposed additions would extend oceanward of the landward-most adjacent building or structure. This is to say that, as shown on the site survey (Attachment D), since the house located on Lot 4 to the east of the existing structure is considered to be the "landward-most adjacent structure", and portions of the proposed development would be located oceanward of it. Thus, this proposed development would be inconsistent with the "landward-most adjacent structure" rule.

F. **Notice**: See Attachment F. Lois S. Narron is the Owner of the adjacent Lot 4 immediately east of Petitioner's house and Mike/Buffa Hargett are the Owners of lot 6 immediately west. All have filed statements indicating no objections and/or their respective consents to the proposed development.

G. **Variance Criteria**: Petitioner applied for a Minor Development Permit pursuant to the "static line exception" to allow Petitioner to build his proposed additions. It was and is Petitioner's understanding that the underlying purpose of the "static line exception" adopted by the CRC several years ago was to avoid otherwise undue hardships for ocean front property owners such as Petitioner in "ocean hazard areas" by allowing limited development of their property when (1) the property is also located in the area of a large scale beach fill project; and, (2) the improvement would be located more than 60' back from new/existing vegetation line that would be oceanward of the static vegetation line.

Petitioner's property would qualify for this static line exception except for the "exception to the exception" prohibiting Petitioner's improvement from being located oceanward of "the landward-most adjacent property." Petitioner is requesting that this "exception to the exception" be waived because it would impose an inappropriate, unnecessary and thus undue hardship in this particular case for the reasons addressed below.

(a) **Strict Application of the Applicable Development Rules Issued By The Commission Will Cause Petitioner Unnecessary Hardships.** Petitioner is over 70 years of age and finally retiring from his professional career. As a result, he and his wife for more than 45 years (without disclosing her age)intend to live for more extended stays year around in his beach cottage than they had previously been able to do given his full time professional employment. Because Petitioner's existing beach house was built as a "summer cottage" by Petitioner's parents in 1952, there have never existed any indoor conditioned baths or showers. Rather, there has always existed only a "girls" and a "boys" shower in the non-conditioned unfinished garage with one-half baths (sink and toilet) in the interior conditioned house. Indeed, the only major change that has ever been made to this "summer cottage" was twenty-five to thirty years ago when a central HVAC system was installed. Given the advanced age of Petitioner and his wife, they and their overnight guests appropriately need indoor conditioned baths and showers.

Also, the "half kitchen" as built for this summer cottage is completely outdated and woefully too small - especially for the extended year around use as planned. Thus, a 134 sf addition is proposed to accommodate the more modern day amenities such as a dishwasher, a cook top with two wall ovens, considerably more cabinet and counter space, etc.

Last but also admittedly the least, Petitioner needs a "front entry foyer" which can feasibly be used by guests rather than the existing garage entry into the house which has historically been exclusively used by all guests as well as Petitioner. Thus, a 30 sf front entry/foyer is proposed.

(b) **The Hardships Which Are Being Addressed With The Proposed Additions Do Result From Conditions Peculiar To The Petitioner's Property.** As explained above, this house was originally built as a "summer cottage" more than 60 years ago and direly needs to be

upgraded to accommodate more extended year around use by Petitioner, his wife, and their guests who would likely be advanced in age as are Petitioner and his wife.

Also, the "landward-most adjacent structure" along the eastern side was built approximately 30 to 35 years after Petitioner's summer cottage was built and well after all other ocean front houses were built in our subdivision. At the time it was built, the old 60' setback rule from the last line of vegetation oceanward (not the post-Floyd static vegetation line) existed. As a result, this house was built as far landward as it could fit given street setback requirements. In addition, since the road also turns landward around this lot, the location of the house likewise follows this landward road turn. Given all this, the location of this particular landward-most house is an anomaly in that it was built even more landward than any of the other nine ocean front houses in the entire subdivision. Said otherwise, Petitioner's proposed additions would not be oceanward of any other oceanfront house in the entire subdivision.

As referenced above, the house immediately adjacent to our western boundary was originally build within three or four years of when our house was built, and it extends almost as oceanward as our house. Moreover, this s/o/g house was completely replaced four or five years ago with a new addition, and then the entire old structure was razed and a new structure built in its s/o/g footprint. And, it is now the nicest house in our neighborhood - indeed, a real showcase or what some would refer to as "Wallstreet Journal Magazine House". Also, these owners to the west are retired, permanent residents. Finally, as you can see, the owners of both adjacent houses agree to the proposed development.

(c) **As Can Be Seen From The Above, The Hardships Do Not Result From Actions Taken By Petitioner**. The hardships result from the lack of appropriate living amenities inherent in a sixty plus year old "summer cottage" which is intended to become a year around abode for an elderly couple and guests in need of more modern amenities to afford them minimum comfort, safety and well-being.

(d) **The Variance Requested By The Petitioner (1) will be consistent with the Spirit, purpose and intent of the rules and standards or orders issued by the Commission; (2) will secure the public safety and welfare; and, (3) preserve substantial justice.** As referenced above, the ...."landward-most adjacent structure", as applicable in this case, is an anomaly given the history and the location of all the other oceanfront houses in the subdivision. Indeed, hypothetically speaking, even if Petitioner's house did not now exist and Petitioner were proposing to build an entirely new structure on this lot, given the location of this landward-most adjacent structure, nothing could be built on this .75 acre lot as a result of this rule, and Petitioner's lot would have to remain vacant. This would clearly be inconsistent with the intent of the "static line exception" adopted several years ago to allow improvements on otherwise "nonconforming" lots in situations such as the one at hand.

Last but not least, the proposed additions are so diminis given the existing relatively small summer cottage on this 3/4 acre lot, almost certainly the spirit, intent and purpose of this "landward-most adjacent structure" exception was not intended to thwart such a proposed development - especially given the historical criteria of this entire subdivision development as well as the consent of the adjacent landowners.

The underlying purpose of these additions is to accommodate the safety and welfare needs of Petitioner and his wife taking into consideration their advanced age and intended extended use of this "summer cottage" to a year around basis. Likewise, this proposed development would not compromise the security of the safety and welfare of others residing in the neighborhood.

Insofar as preserving substantial justice, the proposed development is appropriate and in being with the neighborhood, innocuous insofar as surrounding properties, and to disallow the requested variance would seemingly serve only to promote form over substance and cause an unintended but real injustice.

H. <u>Proposed Stipulated Facts and Exhibits</u>:

(1) Petitioner's existing house and property is located at 125 Hoffman Beach Road, Salter Path, N.C. within the Hoffman Beach Subdivision (Lot 5, Section B, Plat Book 3, at page 15, Carteret County Registry). The subdivision and Petitioner's house ("summer cottage") was developed/built approximately sixty years ago which was one year prior to Hurricane Hazel. This summer cottage and over eighty percent of this 3/4 acre lot are presently located in Flood Zone VE 14 as shown on site survey accompanying the Petition.

(2) Petitioner applied to the Carteret County Planning and Development Office for a Minor CAMA Permit to build three small slab on grade ("s/o/g") additions to Petitioner's existing s/o/g summer cottage. The proposed development includes two full baths, a front entry/foyer, and an enlarged kitchen area, all of which combined would add 428 sf to his existing 2358 sf of conditioned and unconditioned enclosed structure. Petitioner applied for this CAMA Minor Development Permit pursuant to the "static line exception" provided in 15A NCAC 07J.1200. Issuance of the Minor CAMA Permit was denied, however, pursuant to 15A NCAC 07H.0306(a)(8)(D) because Petitioner's proposed development would be considered oceanward of the landward-most adjacent structure, namely, a house located on Lot 4, immediately east of Petitioner's property.

It appears that this adjacent house, also located on the northeasterly turn of Hoffman Beach Road, was built 30 or so years after Petitioner's house was built and, pursuant to the then existing CAMA regulations, was required to be set back 60 feet from the then most oceanward

vegetation line. This set back, along with the landward turn of the road, appear to have caused this house to be not only the landward most structure adjacent to Petitioner's proposed development but, indeed, the landward most ocean front house in the entire subdivision.

(3) Petitioner's proposed development, however, would not be oceanward of the house located on/adjacent to Lot 6 immediately west of Petitioner's property and also not oceanward of any of the other eight oceanfront houses in the subdivision.

(4) Petitioner is over 70 years of age and retired. He and his wife of over 45 years intend to use this "summer cottage" on a year around basis, spending considerably more time in residence there. To accommodate this year around extended use as well as their advanced years, it is necessary and appropriate that they and their guests should have the beneficial use of the proposed additions for their safety, security and general welfare. Also, there is no reason that these proposed additions would detrimentally affect the security of the public safety and welfare. Indeed, both property owners on either side of Petitioner have no objection to and/or have consented to Petitioner's development.

(5) Petitioner's "summer cottage" was built without any interior conditioned bath(s) or shower(s) and with minimal kitchen space. Rather, there exist two showers in the non-conditioned unfinished garage and what would be referred to as a half kitchen. There is no "front entry", as such, and the entry used by Petitioner as well as guests has traditionally been through Petitioner's unfinished garage into the "half kitchen". Given Petitioner's intended increased year around use of his summer cottage as a result of his retirement, these improvements would be necessary and appropriate to avoid an undue hardship to Petitioner, his wife and his guests.

(6) It would appear that a standard application of the "landward-most adjacent structure" rule in this instance would effectively deny Petitioner the reasonable use of his property and cause unnecessary hardships. Given that this "summer cottage" was built over 60 years ago without conditioned air and strictly for summer rather than year around use, the absence of interior baths and showers would not have been considered peculiar at that time. But now, sixty years later, this is a different matter, especially given more intense year around, rather than just summertime use, is intended.

(7) In this case, strict application of the applicable development rules imposed by the Commission would clearly cause the Petitioner an undue hardship if not waived by the Commission.

(8) The hardships would result from conditions peculiar to Petitioner's property and the entire subdivision given that the location of the Petitioner's summer cottage is consistent with

the location of all other oceanfront homes in the subdivision except for the landward most house located immediately east of Petitioner's house.

(9) The hardships which would result are in no way related to actions taken by the Petitioner but, rather, appear to have resulted from the anomalous circumstances referenced.

(10) The variance requested by Petitioner would be consistent with the spirit, purpose and intent of the rules of the Commission; the public safety and welfare would not be affected; and, the variance would promote and preserve substantial justice.

(11) Exhibits: A. Application for CAMA Minor Permit and attachments; B. Permit Decision; C. Deeds to the Property; D. Floor plan including proposed additions; site plan; and, subdivision plat; F. Proof of Notice to Adjacent Owners and "No objections" and/or "Consents" filed by adjacent property owners.

APPLICATION FOR

CAMA MINOR DEVELOPMENT PERMIT

In 1974, the North Carolina General Assembly passed the Coastal Area Management Act (CAMA) and set the stage for guiding development in fragile and productive areas that border the state's sounds and oceanfront. Along with requiring special care by those who build and develop, the General Assembly directed the Coastal Resources Commission (CRC) to implement clear regulations that minimize the burden on the applicant.

This application for a minor development permit under CAMA is part of the Commission's effort to meet the spirit and intent of the General Assembly. It has been designed to be straightforward and require no more time or effort than necessary from the applicant. Please go over this folder with the Local Permit Officer (LPO) for the locality in which you plan to build to be certain that you understand what information he or she needs before you apply.

Under CAMA regulations, the minor permit is to be issued within 25 days once a complete application is in hand. Often less time is needed if the project is simple. The process generally takes about 18 days. You can speed the approval process by making certain that your application is complete and signed, that your drawing meets the specifications given inside and that your application fee is attached.

Other permits are sometimes required for development in the coastal area. While these are not CAMA-related, we urge you to check with the Local Permit Officer to determine which of these you may need. A list is included on page two of this folder.

We appreciate your cooperation with the North Carolina Coastal Management Program and your willingness to build in a way that protects the resources of our beautiful and productive coast.

Coastal Resources Commission
Division of Coastal Management

APPLICATION: _____

LOCALITY: _____

PERMIT ISSUED USING STATIC LINE EXCEPTION?
YES ☐ NO ☐

DCM Form EB1952-2010/Revised April 2010

Locality _____ Permit Number _____

Ocean Hazard _____ Estuarine Shoreline _____ ORW Shoreline _____ Public Trust Shoreline _____ Other _____

(For official use only)

GENERAL INFORMATION

LAND OWNER

Name JOHN E. BUGG

Address 5118 PINEY CREEK LANE

City DURHAM State NC Zip 27705 Phone 919-383-9431

Email bugg@buggwolf.com

AUTHORIZED AGENT

Name BRIAN DANIEL CONSTRUCTION, INC.

Address 224 FLORIDA PARK Rd.

City NEWPORT State NC Zip 28570 Phone 252-622-4760

Email bdci@ec.rr.com

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 125 HOFFMAN BEACH Rd., SALTER PATH, NC

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) _____

SIZE OF LOT/PARCEL: 32,844 square feet 0.754 acres

PROPOSED USE: Residential ☒ (Single-family ☐ Multi-family ☐) Commercial/Industrial ☐ Other ☐

COMPLETE EITHER (1) OR (2) BELOW (*Contact your Local Permit Officer if you are not sure which AEC applies to your property*):

(1) OCEAN HAZARD AECs: TOTAL FLOOR AREA OF PROPOSED STRUCTURE: 428 square feet (includes air conditioned living space, parking elevated above ground level, non-conditioned space elevated above ground level but excluding non-load-bearing attic space)

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

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality?

YES ☐ NO ☒

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

OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit, including, but not limited to: Drinking Water Well, Septic Tank (or other sanitary waste treatment system), Building, Electrical, Plumbing, Heating and Air Conditioning, Insulation and Energy Conservation, FIA Certification, Sand Dune, Sediment Control, Subdivision Approval, Mobile Home Park Approval, Highway Connection, and others. Check with your Local Permit Officer for more information.

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

[X] an owner or record title, Title is vested in CARTERET COUNTY, see Deed Book 1319 page 451 in the CARTERET County Registry of Deeds.

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

[ ] If other interest, such as written contract or lease, explain below or use a separate sheet & attach to this application.

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

	(Name)	(Address)
(1)	MICHAEL & BUFFA HARGETT	139 HEFFMAN BEACH Rd. SALTER PATH, NC 28512
(2)	LOIS S. NARRON	4507 BOB WHITE TRAIL, WILSON, NC 27896
(3)		
(4)		

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

I furthermore certify that I am authorized to grant, and do in fact grant, permission to Division of Coastal Management staff, the Local Permit Officer and their agents to enter on the aforementioned lands in connection with evaluating information related to this permit application.

This the 19th day of AUGUST, 2014

[signature] FOR BRIAN DANIEL CONSTRUCTION, INC.
Landowner or person authorized to act as his/her agent for purpose of filing a CAMA permit application

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

PLANNING AND DEVELOPMENT

Eugene Foxworth
Director

Western Office
Phone: 252-222-5833
Fax: 252-393-3205

09/05/14

CERTIFIED MAIL - 70121010000136719959
RETURN RECEIPT REQUESTED

Mr. John E. Bugg
5118 Piney Creek Lane
Durham, NC 27705

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
APPLICATION NUMBER- WO-16-14
PROJECT ADDRESS- 125 Hoffman Beach Road, Salter Path, NC

Dear Mr. Bugg:

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

This decision is based on my findings that your request violates NCGS 113A-120(a) (8) which requires that all applications be denied which are inconsistent with CAMA guidelines and Local Land Use Plans. You have applied to construct kitchen, bathroom and entry foyer additions on an existing single-family dwelling totaling 428 square feet which is inconsistent with 15 NCAC 7H .0306 (a) (1) and (a) (2) (a), which states that: "...all development not otherwise specifically exempted or allowed by law or elsewhere in the CRC's Rules shall be located according to whichever of the following is applicable: The ocean hazard setback for development is measured in a landward direction from the vegetation line, the static vegetation line or the measurement line, whichever is applicable. A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the erosion rate, whichever is greater." (Attached). Your application is also inconsistent with our Local Land Use Plan. On page 70 of the Carteret County Land Use Plan, you will find that Carteret County Policy 2.0, Land Use Compatibility, supports the Coastal Resource Commission's development regulations for Areas of Environmental Concerns (AEC), in this case the Ocean Hazard AEC." Because your proposed development does not meet the required setback, I have no choice but to deny your permit request.

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

Respectfully yours,

Tracy Barnes

Tracy Barnes, LPO
Carteret County Western Office

cc: Roy Brownlow, DCM District Manager, Morehead City District Office
Brian Daniel, General Contractor
Eugene Foxworth, Carteret County Director of Planning and Development

(9) Measurement Line. The line from which the ocean hazard setback as described in Rule .0306(a) of this Section is measured in the unvegetated beach area of environmental concern as described in Rule .0304(4) of this Section. Procedures for determining the measurement line in areas designated pursuant to Rule .0304(4)(a) of this Section shall be adopted by the Commission for each area where such a line is designated pursuant to the provisions of G.S. 150B. These procedures shall be available from any local permit officer or the Division of Coastal Management. In areas designated pursuant to Rule .0304(4)(b) of this Section, the Division of Coastal Management shall establish a measurement line that approximates the location at which the vegetation line is expected to reestablish by:

(A) determining the distance the vegetation line receded at the closest vegetated site to the proposed development site; and

(B) locating the line of stable natural vegetation on the most current pre-storm aerial photography of the proposed development site and moving this line landward the distance determined in Subparagraph (g)(1) of this Rule.

The measurement line established pursuant to this process shall in every case be located landward of the average width of the beach as determined from the most current pre-storm aerial photography.

(b) For the purpose of public and administrative notice and convenience, each designated minor development permit-letting agency with ocean hazard areas may designate, subject to CRC approval in accordance with the local implementation and enforcement plan as defined 15A NCAC 07I .0500, a readily identifiable land area within which the ocean hazard areas occur. This designated notice area must include all of the land areas defined in Rule .0304 of this Section. Natural or man-made landmarks may be considered in delineating this area.

History Note: *Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*
Eff. September 9, 1977;
Amended Eff. December 1, 1992; September 1, 1986; December 1, 1985; February 2, 1981;
Temporary Amendment Eff. October 10, 1996;
Amended Eff. January 1, 1997;
Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;
Temporary Amendment Eff. October 22, 1997;
Amended Eff. April 1, 2008; August 1, 2002; August 1, 1998.

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

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

(1) The ocean hazard setback for development is measured in a landward direction from the vegetation line, the static vegetation line or the measurement line, whichever is applicable. The setback distance is determined by both the size of development and the shoreline erosion rate as defined in 15A NCAC 07H .0304. Development size is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:

(A) The total square footage of heated or air-conditioned living space;

(B) The total square footage of parking elevated above ground level; and

(C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load bearing;

Decks, roof-covered porches and walkways are not included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

(2) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback is established based on the following criteria:

(A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;

(B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;

(C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;

(D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;

✓ R. Wheatly

Joy Lawrence 2P
CARTERET COUNTY
JL Date 09/01/2009 Time 10:23:00
GR 1319451 Page 1 of 2

NORTH CAROLINA, CARTERET COUNTY
This instrument and this certificate are duly filed at the date and time and in the Book and Page shown on the first page hereof.

Joy Lawrence, Register of Deeds
By: Asst. Deputy, Register of Deeds

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

Stamps - $0
U334.08.87.0960

NORTH CAROLINA NON-WARRANTY DEED

THIS DEED made this 18 day of August, 2009, by and between ANNIE LAURIE BUGG COMPTON (formerly Annie Laurie Bugg Bromhal), Single, Grantor and JOHN E. BUGG, Grantee, whose address is 411 Andrews Road, Suite 170, University Office Park, Durham, N.C. 27705.

WITNESSETH:

THAT the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey to the Grantee her one-fifth undivided fee simple interest in that certain Property located at 125 Hoffman Beach Road, Salter Path, Carteret County, North Carolina, and more particularly described as Lot No. 5, Section B, Plat Book 3, Page 15, Carteret County Registry, as prepared by Henry L. and Thomas W. Rivers. See also Book 138, Page 505, Carteret County Registry.

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

The Grantor makes no warranty, express or implied, as to the title to the property hereinabove described.

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.

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

Annie Laurie Bugg Compton (SEAL)
ANNIE LAURIE BUGG COMPTON
(Formerly Annie Laurie Bugg Bromhal)

BOOK 1319 PAGE 451 (2)

STATE OF NORTH CAROLINA
COUNTY OF Wake

I, Annemarie Loftus, Notary Public for said County and State, hereby certify that ANNIE LAURIE BUGG COMPTON (formerly Annie Laurie Bugg Bromhal) personally appeared before me and acknowledged the due execution of the foregoing Non-Warranty Deed for the purposes stated therein.

Witness my hand and notarial seal, this the 18th day of August, 2009.

My Commission Expires:
10/28/2013

Notary Public

ANNEMARIE LOFTUS NOTARY PUBLIC WAKE COUNTY, N.C.

090287-00001-001
ND: 4849-4177-8180, v. 1

BOOK 1319 PAGE 457

ATTACHMENT C

NORTH CAROLINA

CARTERET COUNTY

THIS DEED made this the 11th day of August, 1952, by and between Cornelius Van Schaak Roosevelt, unmarried, Frances Webb Roosevelt, widow of Quentin Roosevelt, both of said parties being residents of Oyster Bay, Long Island, New York, Grace Roosevelt McMillan and husband, William McMillan, residents of Glendon, Maryland, Theodore Roosevelt, III and wife, Ann Roosevelt, Theodore Roosevelt, III, Trustee, of the Town of Villanova, State of Pennsylvania, as parties of the first part and Everett I. Bugg, Jr. and wife, Annie Laurie N. Bugg, of Durham County, North Carolina, as parties of the second part;

W I T N E S S E T H:

That the parties of the first part in consideration of TWENTY-TWO HUNDRED FIFTY (2250) DOLLARS to them in hand paid by the parties of the second part, the receipt of which is hereby acknowledged, have bargained and sold and by these presents do bargain, sell and convey unto the parties of the second part, their heirs and assigns, the following described tract or parcel of land, to-wit:

Located on Bogue Banks in Carteret County near the village of Salter Path and being part of the property which is shown by a map prepared by Henry L. and Thomas W. Rivers dated June, 1952, and being a portion of that property immediately adjacent to the eastern boundary of the village of Salter Path and lying between a road maintained by the State Highway and Public Works Commission and the Atlantic Ocean.

The said lot or parcel of land is bounded on the south by the high water mark of the Atlantic Ocean; on the west by a ten-foot walkway which separates this lot from Lot No. 6, Section B; on the north by a street; on the east by Lot No. 4, Section B, which is now owned by John R. Warren and wife, Ruth Spargo Warren; said lot is particularly described as follows:

BEGINNING at a concrete marker which is on the southern property line of the street shown on the map of Hoffman Beach

FRANK M. WOOTEN
ATTORNEY AT LAW
GREENVILLE, N. C.

hereinbefore referred to and which is also the northwest corner of Lot No. 4 which is owned by John R. Warren and wife, Ruth Spargo Warren, and runs thence with the western property line of said Lot No. 4, which is the Warren line, South 3-30 East 216 feet and the necessary continuation thereof which will extend to the high water mark of the Atlantic Ocean; thence with the high water mark of the Atlantic Ocean South 86-30 West 150 feet to a corner of what would be the southern extension of the eastern boundary of a ten-foot walkway which separates this lot from Lot No. 6; thence with the southern extension of the said eastern boundary line North 3-30 West to a point which is approximately the top of the sand dune nearest the ocean and continuing North 3-30 West and with the eastern line of the said walkway approximately 30 feet to a concrete marker which is on the eastern boundary line of the said ten-foot walkway and continuing with the eastern line of the said walkway North 3-30 West 186 feet to a concrete marker on the southern property line of the said street and which is the point the eastern line of the said ten-foot walkway intersects the southern property line of the said street (the western line as described in this clause extends from the southern line of the said street South 3-30 East 216 feet with the necessary additions thereto to reach the high water mark of the Atlantic Ocean); thence with the southern property line of the said street North 86-30 East 150 feet to the point of BEGINNING.

The said lot is particularly described on a map prepared by Henry L. and Thomas W. Rivers dated June, 1952, and the said lot is designated as Lot No. 5 of Section B on said map.

There is conveyed by this deed the right to use all streets, alleys, walkways and beaches as shown on the map of the Hoffman property hereinbefore referred to and this right is limited to the parties of the second part, their heirs and assigns, and all persons who are there by the invitation of the parties of the second part, their heirs and assigns.

RESTRICTIONS

The lot or parcel of land herein conveyed is subject to certain restrictions as to the use thereof which are for the purpose of maintaining and enhancing the value of the property herein described as Hoffman Beach and which is specifically limited to the area of land shown by map prepared by Henry L. and Thomas W. Rivers, dated June, 1952. These restrictions may be altered or modified by the grantors. The restrictions run with the land by whomsoever owned until January 1, 1975. The said restrictions are expressly assented to by the parties of the second part for themselves and thdr heirs and assigns.

FRANK M. WOOTEN
ATTORNEY AT LAW
GREENVILLE, N. C.

ATTACHMENT II

in accepting this deed, and they are as follows:

1. No building shall be erected or allowed to remain on said land which is located nearer to the boundary lines of the said land or lot than is shown by the building set-back lines shown on the map of this subdivision.

2. Said lot shall be used for residential purposes only and not for business, manufacturing, commercial or apartment house purposes.

3. Only one residence and such outbuildings as are appurtenant thereto shall be erected or allowed to remain on any one lot.

4. No fence or wall shall be erected or allowed to remain on any lot which is higher than five feet above the general level of the ground.

5. No residence shall be erected on any lot shown on the plat of this property which has less than 1,000 square feet of space within the living area of said residence.

6. No sign or billboard of any kind shall be erected or allowed to remain on any lot other than a "for sale" or "for rent" sign not larger than one foot by two feet.

7. The parties of the first part reserve the easement of a right-of-way, which they at any time in the future may use themselves or grant to others, for the purposes of rights-of-way for water and sewer pipes and telephone and electric light poles, wires, cables and all equipment necessary for the installation, use and maintenance of utilities, including water, electricity and telephone. The said easement and right-of-way across and upon said lots shall be confined to a distance of not more than five feet from the street property line.

8. There is reserved by the grantors all rights of commercial fishing upon the beaches of this property.

9. The property conveyed by this instrument cannot be sold or transferred in any smaller unit or area than that described in this deed.

If the parties of the second part, their heirs or assigns, shall violate or attempt to violate any of the restrictive covenants hereinbefore set out, it shall be lawful for the grantors herein or any other person or persons owning any real property situated in said development or subdivision,

FRANK M. WOOTEN
ATTORNEY AT LAW
GREENVILLE, N. C.

known as Hoffman Beach, identified by map hereinbefore referred to, to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such restrictive covenants and either to prevent him or them from so doing it or to recover damages or other dues for such violations.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereunto belonging unto the said parties of the second part, their heirs and assigns, in fee simple forever, subject to the restrictions hereinbefore set out.

And the parties of the first part do covenant with the parties of the second part, their heirs and assigns, that they are seized in fee of the said premises and have the right to convey the same in fee simple; that the same is free and clear of all encumbrances; and that they will warrant and defend the title to the same against the lawful claims of any and all persons whomsoever.

That Cornelius Van Schaak Roosevelt, Frances Webb Roosevelt, Grace Roosevelt McMillan, William McMillan and Ann Roosevelt have duly constituted and appointed Theodore Roosevelt, III as their attorney in fact to execute in their name and stead a deed conveying the property hereinbefore described. The said power of attorney is dated the 13th day of June, 1951, and is recorded in the office of the Register of Deeds of Carteret County in Book 136 at page 103. Theodore Roosevelt, III, Trustee, joins in this conveyance for the purpose of releasing said property from the trusts which are recorded in Book 91 at page 244 and Book 105 at page 166, he having been appointed as substitute trustee by proceedings of record in the office of the Clerk of Superior Court of Carteret County.

IK M. WOOTEN
RNEY AT LAW
NVILLE, N. C.

IN TESTIMONY WHEREOF the said parties of the first part do hereunto set their hands and seals on this the day and year first above written.

Cornelius Van Schaak Roosevelt (SEAL)

Frances Webb Roosevelt (SEAL)

Grace Roosevelt McMillan (SEAL)

William McMillan (SEAL)

Ann Roosevelt (SEAL)

BY:

Theodore Roosevelt III (SEAL)
Theodore Roosevelt, III
Attorney in Fact

Theodore Roosevelt III (SEAL)
Theodore Roosevelt, III
Individually

Theodore Roosevelt III (SEAL)
Theodore Roosevelt, III
Trustee

FRANK M. WOOTEN
ATTORNEY AT LAW
GREENVILLE, N. C.

PENNSYLVANIA

PHILADELPHIA COUNTY

I, Ruth P. Empfield, a Notary Public for the aforesaid County and State, do hereby certify that Theodore Roosevelt, III as attorney in fact for Cornelius Van Schaak Roosevelt, Frances Webb Roosevelt, Grace Roosevelt McMillan, William McMillan and Ann Roosevelt; Theodore Roosevelt; III, Individually and Theodore Roosevelt, III, Trustee, personally appeared before me this day and acknowledged the due execution of the foregoing and annexed deed of conveyance.

Witness my hand and notarial seal this the 25 day of August, 1952.

Ruth P. Empfield
NOTARY PUBLIC

My commission expires

Mar. 8 1953

NORTH CAROLINA

CARTERET COUNTY

The foregoing certificate of Ruth P. Empfield, a Notary Public for the County of Philadelphia, State of Pennsylvania, is adjudged to be correct. Let the instrument with the certificates be registered.

This the 20th day of ~~August~~ Sept, 1952.

Thelma D. Pittman
Asst. CLERK OF THE SUPERIOR COURT

FRANK M. WOOTEN
ATTORNEY AT LAW
GREENVILLE, N. C.

APPROVED FOR RECORDING
1952

JOHN & SALLY BUGG
RESIDENCE
05 NORMAN BEACH ROAD
SALTER PATH, N.C.

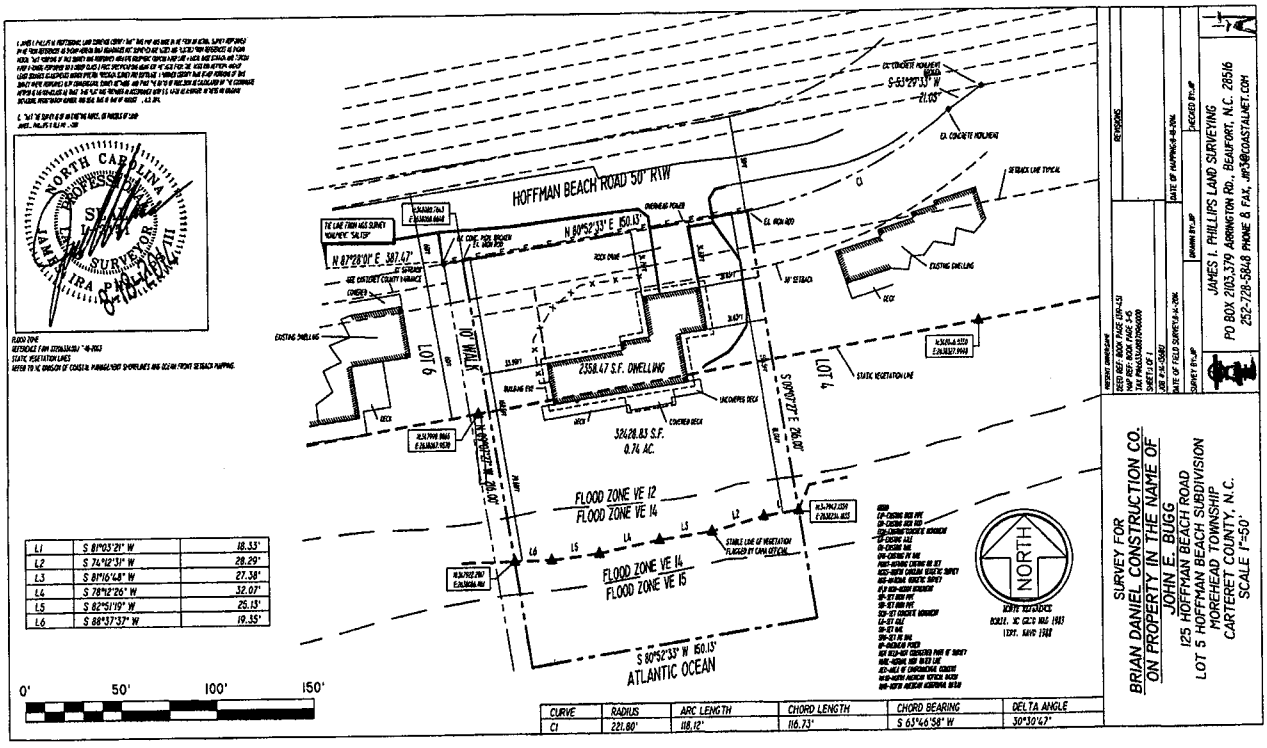
PRELIMINARY

BRIAN DANIEL CONSTRUCTION INC.
34 FLORIDA FAVRE RD.
SWANSBORO, N.C. 28584
(252) 622-4760
BDCONSTRUCTION@EMBARQMAIL.COM

SCALE: 1/4" = 1'-0"
DRAWN BY: Beth Williams
DATE: 4/20/16

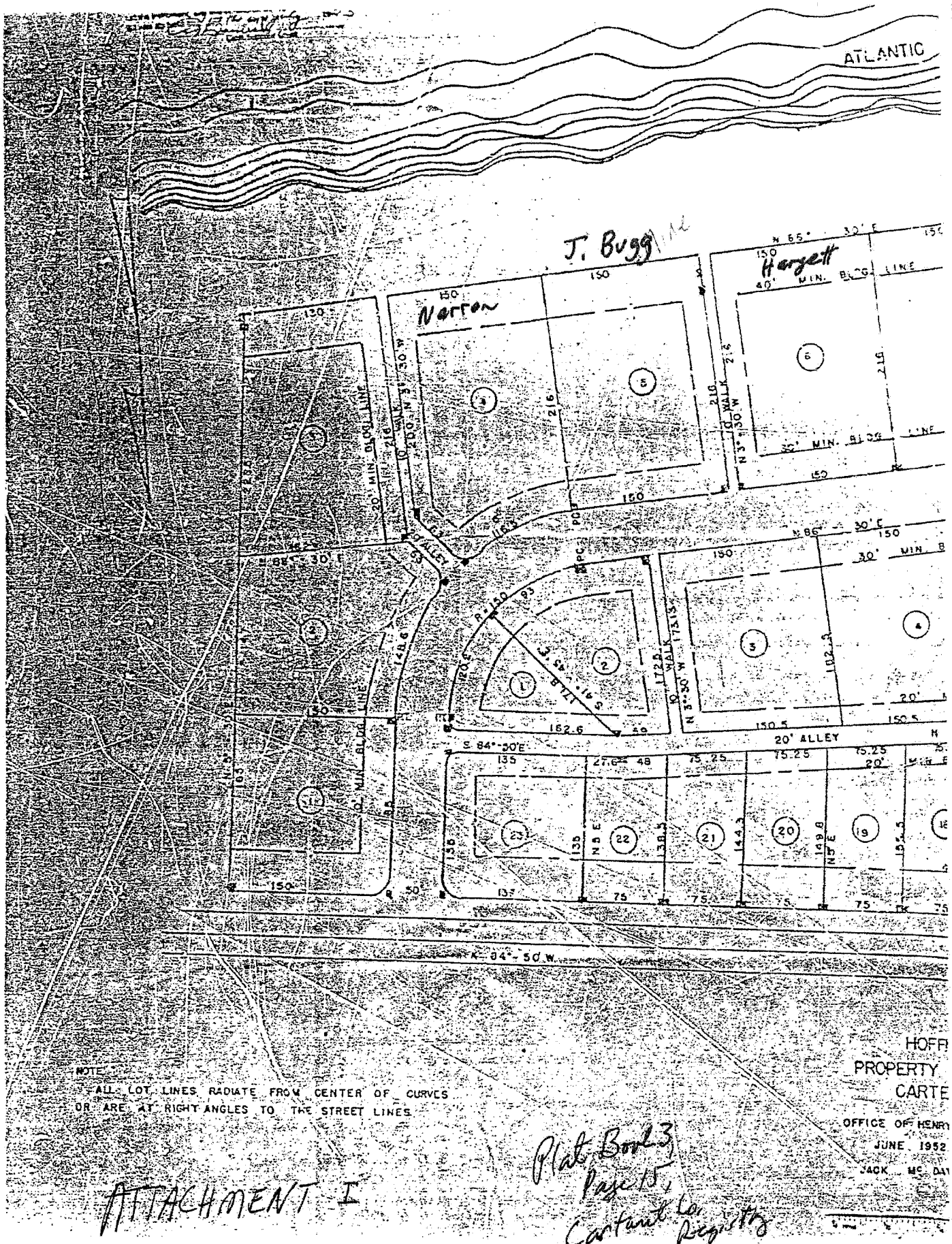
CHECKED BY:

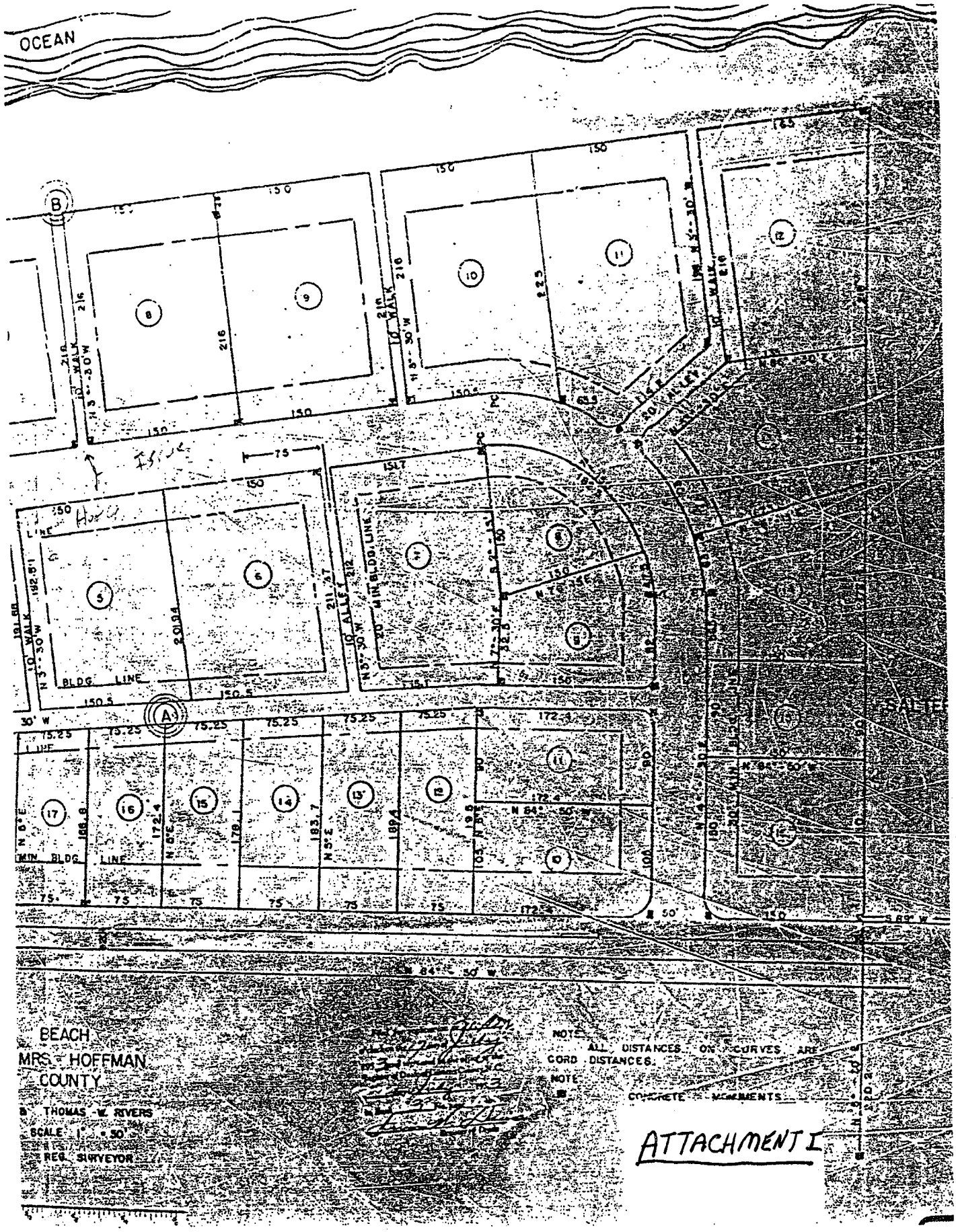
PAGE: 1



L1	S 81°03'21" W	18.33'
L2	S 74°42'31" W	28.29'
L3	S 81°16'48" W	27.38'
L4	S 78°42'26" W	32.07'
L5	S 82°51'19" W	25.13'
L6	S 88°37'37" W	19.35'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	221.80'	118.12'	116.73'	S 63°46'58" W	30°30'47"


ATLANTIC
J. Bugg
Norton
Hargett
20' ALLEY
S. 84°-50'E
N. 84°-50 W.
NOTE
ALL LOT LINES RADIATE FROM CENTER OF CURVES
OR ARE AT RIGHT ANGLES TO THE STREET LINES
PROPERTY
CARTE
OFFICE OF HENRY
JUNE 1952
JACK MC DA
ATTACHMENT I
Plat Book 3
Page 15,
Carteret Co. Registry


OCEAN
BEACH
MRS. HOFFMAN
COUNTY
THOMAS W. RIVERS
REG. SURVEYOR
SCALE 1" = 50'
NOTE ALL DISTANCES ON CURVES ARE CORD DISTANCES.
NOTE
CONCRETE MONUMENTS
ATTACHMENT I

John E. Bugg *(CRC- VR-14-12)* Static Vegetation Line Exception Variance Request

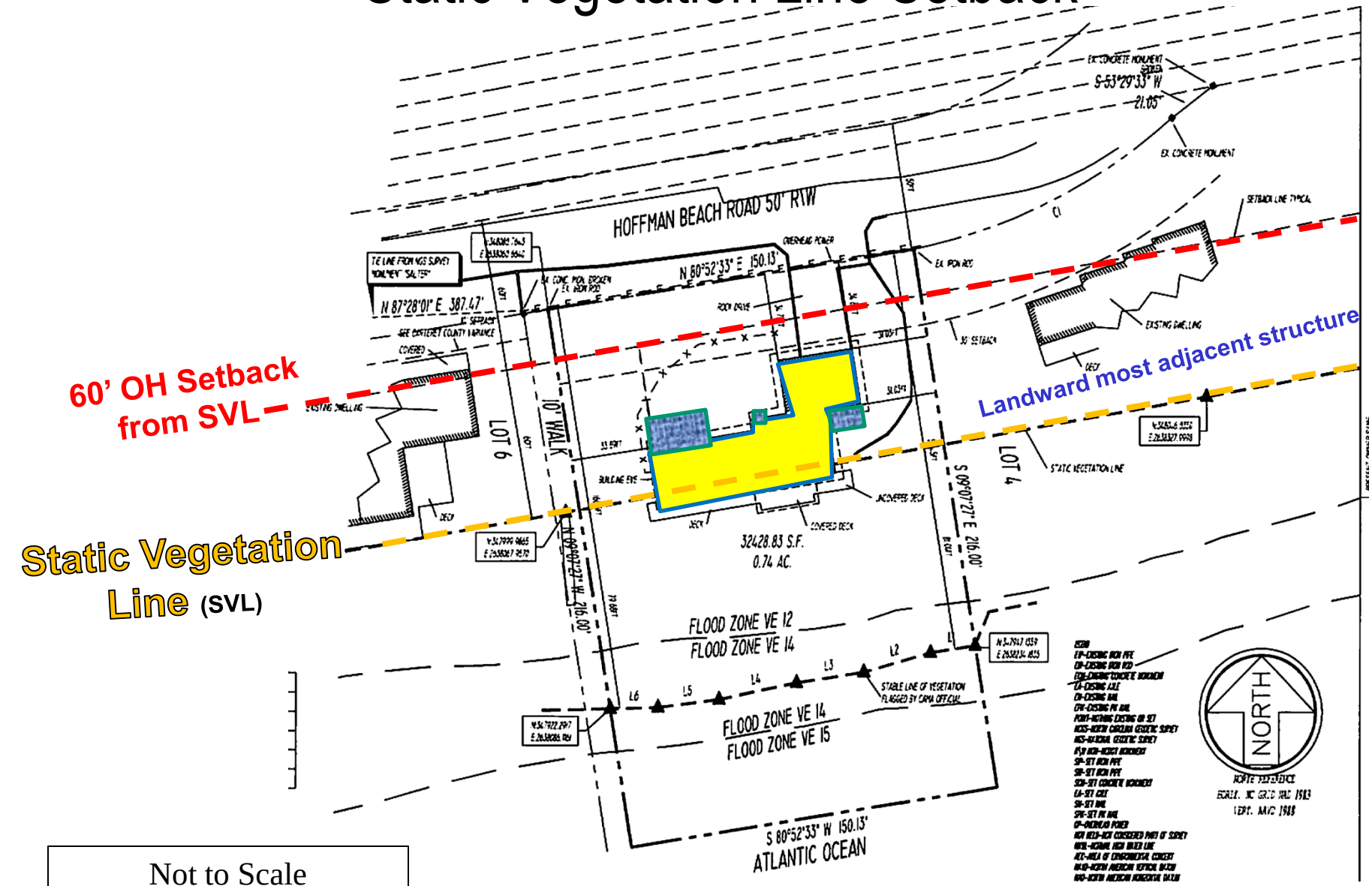
Salter Path

Carteret County

October 22, 2014

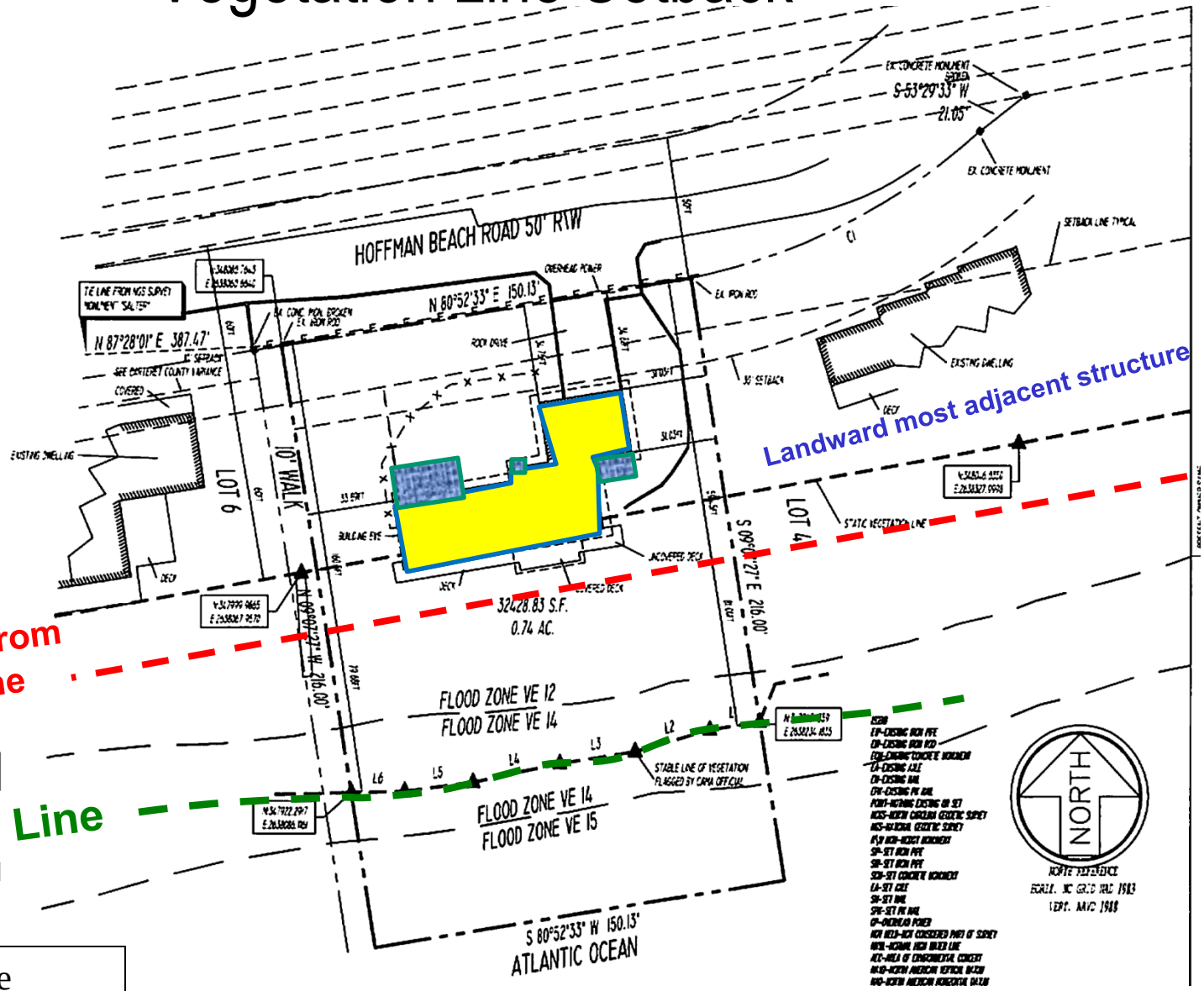
125 Hoffman Beach Rd, Salter Path, Carteret County

125 Hoffman Beach Rd
Static Vegetation Line Setback



Not to Scale

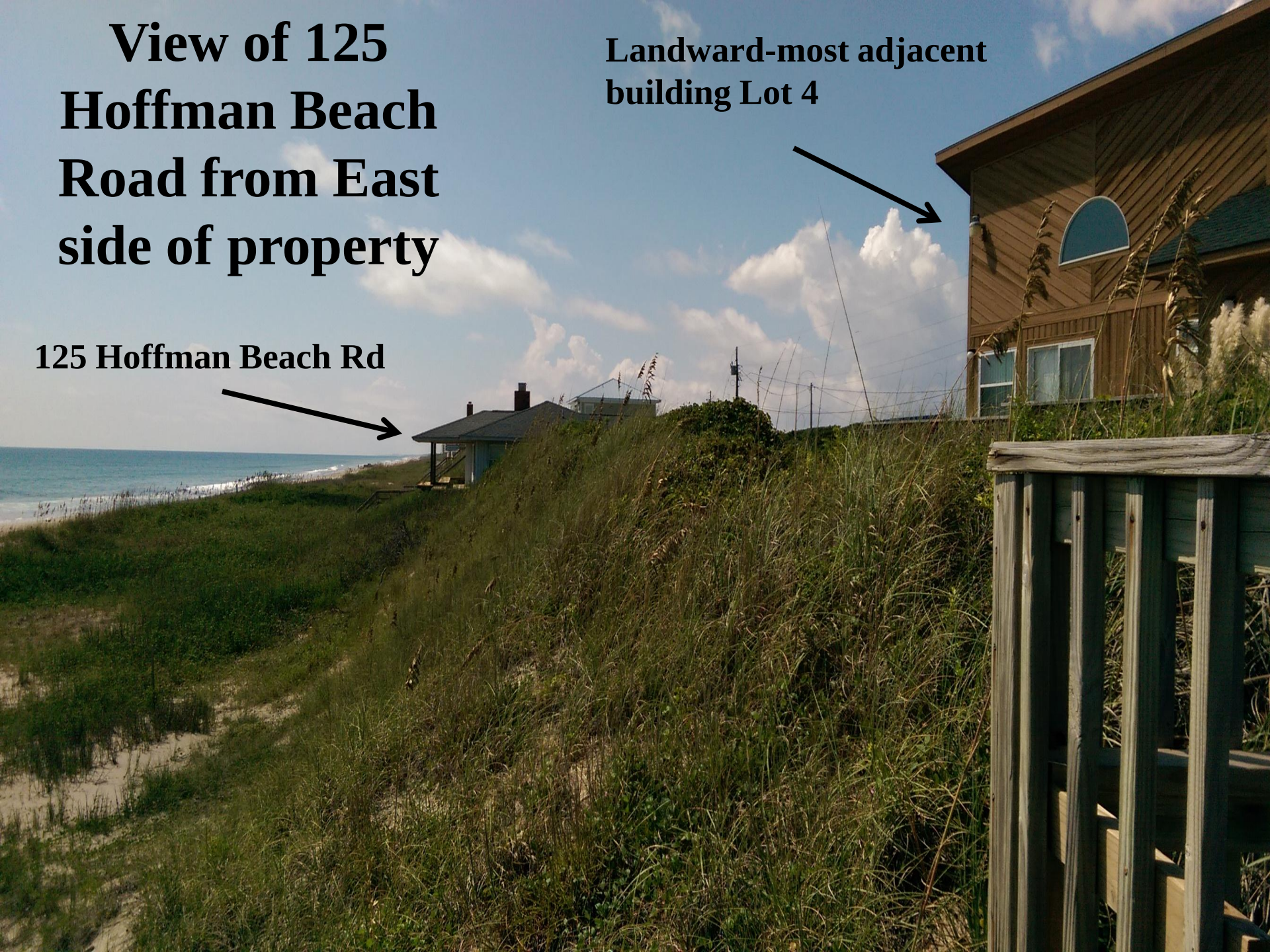
125 Hoffman Beach Rd
Vegetation Line Setback



Not to Scale

View of 125 Hoffman Beach Road from North side of property

View of 125 Hoffman Beach Road from South side of property


View of 125 Hoffman Beach Road from East side of property
Landward-most adjacent building Lot 4
125 Hoffman Beach Rd

View of 125 Hoffman Beach Road from the West