



STATE OF NORTH CAROLINA  
DEPARTMENT OF JUSTICE

ROY COOPER  
ATTORNEY GENERAL

P.O. Box 629  
RALEIGH, NC 27602

REPLY TO:  
BRENDA MENARD  
ENVIRONMENTAL DIVISION  
TEL: (919) 716-6600  
FAX: (919) 716-6767  
bmenard@ncdoj.gov

TO: The Coastal Resources Commission

FROM: Brenda Menard, Special Deputy Attorney General

CC: James and Page Hysong  
Mary Lucasse, Coastal Resources Commission Counsel  
Donna Coleman, Town of Oak Island CAMA LPO

DATE: December 3, 2014

RE: Variance Request by James and Page Hysong (14-14), to be heard at the  
December 17, 2014 CRC meeting

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Petitioners have owned an oceanfront lot on Oak Island in Brunswick County, North Carolina since 1997. In March of 2002, the U.S. Army Corps of Engineers completed a large-scale beach nourishment project, resulting in the implementation of a static line, based on the Commission’s rules. On or around August 6, 2014, Petitioners applied for a CAMA minor permit proposing to build a residential structure of 2,500 square feet that would not meet the 60-foot setback from the static line. Said permit application was denied on September 8, 2014 due to its inconsistency with the applicable setback. On September 15, 2014, Petitioners submitted this Variance Petition seeking a variance from the oceanfront erosion setback as measured from the static line, in order to build the residential structure as proposed in their CAMA permit application.

The following additional information is attached to this memorandum:

- Attachment A: Relevant Rules
- Attachment B: Stipulated Facts
- Attachment C: Petitioners’ and Staff’s Positions
- Attachment D: Petitioners’ Variance Request Materials, excluding documents already separately included as exhibits in Attachment E
- Attachment E: Stipulated Exhibits including PowerPoint

**RELEVANT RULES**

**15A NCAC 07H .0301 OCEAN HAZARD CATEGORIES**

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

**15A NCAC 07H .0302 SIGNIFICANCE OF THE OCEAN HAZARD CATEGORY**

(a) The primary causes of the hazards peculiar to the Atlantic shoreline are the constant forces exerted by waves, winds, and currents upon the unstable sands that form the shore. During storms, these forces are intensified and can cause significant changes in the bordering landforms and to structures located on them. Ocean hazard area property is in the ownership of a large number of private individuals as well as several public agencies and is used by a vast number of visitors to the coast. Ocean hazard areas are critical, therefore, because of both the severity of the hazards and the intensity of interest in the areas.

(b) The location and form of the various hazard area landforms, in particular the beaches, dunes, and inlets, are in a permanent state of flux, responding to meteorologically induced changes in the wave climate. For this reason, the appropriate location of structures on and near these landforms must be reviewed carefully in order to avoid their loss or damage. As a whole, the same flexible nature of these landforms which presents hazards to development situated immediately on them offers protection to the land, water, and structures located landward of them. The value of each landform lies in the particular role it plays in affording protection to life and property. (The role of each landform is described in detail in Technical Appendix 2 in terms of the physical processes most important to each.) Overall, however, the energy dissipation and sand storage capacities of the landforms are most essential for the maintenance of the landforms' protective function.

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

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

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



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

The ocean hazard AECs contain all of the following areas:

- (1) Ocean Erodible Area. This is the area in which there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The oceanward boundary of this area is the mean low water line. The landward extent of this area is determined as follows:
  - (a) a distance landward from the first line of stable and natural vegetation as defined in 15A NCAC 07H .0305(a)(5) to the recession line that would be established by multiplying the long-term annual erosion rate times 60, provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates are the long-term average based on available historical data. The current long-term average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled "2011 Long-Term Average Annual Shoreline Rate Update" and approved by the Coastal Resources Commission on May 5, 2011 (except as such rates may be varied in individual contested cases, declaratory or interpretive rulings). In all cases, the rate of shoreline change shall be no less than two feet of erosion per year. The maps are available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at <http://www.nccoastalmanagement.net>; and
  - (b) a distance landward from the recession line established in Sub-Item (1)(a) of this Rule to the recession line that would be generated by a storm having a one percent chance of being equaled or exceeded in any given year.
- (2) The High Hazard Flood Area. This is the area subject to high velocity waters (including hurricane wave wash) in a storm having a one percent chance of being equaled or exceeded in any given year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance Administration, U.S. Department of Housing and Urban Development.

**15A NCAC 07H .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.
  - ...
  - (5) Vegetation Line. The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. The Division of Coastal Management or Local Permit Officer shall determine the location of the stable and

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

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

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

...

**15A NCAC 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 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).

(i) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. By granting permits, the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.

...

(k) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under 15A NCAC 07H .0308(a)(2).

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

(a) Ocean Shoreline Erosion Control Activities:

...  
(2) Temporary Erosion Control Structures:

...  
(B) Temporary erosion control structures as defined in Part (2)(A) of this Subparagraph shall be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.

...  
(E) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet seaward of the structure to be protected or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at an increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or their designee in accordance with Part (2)(A) of this Subparagraph.

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

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

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

In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable; involves no alteration or removal of primary or

frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback requirements of this Subchapter.

...

**15A NCAC 07M .0201    DECLARATION OF GENERAL POLICY**

It is hereby declared that the general welfare and public interest require that development along the ocean and estuarine shorelines be conducted in a manner that avoids loss of life, property and amenities. It is also declared that protection of the recreational use of the shorelines of the state is in the public interest. In order to accomplish these public purposes, the planning of future land uses, reasonable rules and public expenditures should be created or accomplished in a coordinated manner so as to minimize the likelihood of damage to private and public resources resulting from recognized coastal hazards.

**STIPULATED FACTS**

**Property Description**

1. The Petitioners are James Hysong and Page Hysong (“Petitioners”). The Petitioners own an undeveloped oceanfront lot (“Lot”) at 3613 West Beach Drive, between 36th and 39th Streets in the Town of Oak Island (“Town”), Brunswick County, North Carolina.
2. The Petitioners purchased the Lot on August 28, 1997 as evidenced by a deed recorded at Book 1167, Page 1188 of the Brunswick County Registry, a copy of which is attached as a stipulated exhibit.
3. The dimensions of the Lot as platted are 50 feet wide by 150 feet deep, for a total of 7,500 square feet, as shown on a survey dated May 19, 2003, prepared by VCS, Inc., a copy of which is attached as a stipulated exhibit.
4. The elevation of the Lot is approximately 19 feet on the landward side of the proposed residence, and approximately 14 feet at the waterward edge of the proposed residence, as shown in the survey submitted as part of Petitioners’ August 20, 2014 application materials, attached as a stipulated exhibit.
5. The Lot is located in a mostly developed area along the oceanfront. The area of the Lot is shown on aerial photographs attached as stipulated exhibits.
6. The Lot is located within the Ocean Erodible and High Hazard Flood Areas of Environmental Concern (“AECs”), both of which are subcategories of the Ocean Hazard AEC designated by the Coastal Resources Commission (“CRC”) in 15A NCAC 7H .0304.

**Permit Application**

7. In a permit application received August 6, 2014, Petitioners applied to the Town’s CAMA Local Permit Officer (“LPO”) for a CAMA minor development permit to construct a single family residence on the Lot. By letter dated August 15, 2014, Petitioners were informed that their application was incomplete. Petitioners submitted a revised application dated August 20, 2014 and received on August 25, 2014 addressing the earlier deficiencies. A copy of the application materials is attached as a stipulated exhibit.
8. As required, Petitioners sent notice of the application to their two adjacent riparian neighbors, and to the public through onsite posting. DCM and the LPO received no comments related to Petitioner’s application.
9. The proposed residence is a two story, five-bedroom residence with a footprint of approximately 1,258 square feet and total floor area of 2,500 square feet, as seen in the site plans and minor permit application attached as stipulated exhibits.

10. As shown in the site plans attached as stipulated exhibits, the Hysongs propose to align the oceanward side of the proposed residence along the “average line of construction,” which is the approximate line formed by the oceanward sides of the residences which already are constructed on lots to the east and west of the Lot. However, the covered gazebo and uncovered decks proposed to abut the house extend waterward of the alignment of the adjacent dwellings.
11. The LPO denied the permit application by letter dated September 8, 2014, due to the application of the 60-foot Erosion Setback to the Lot (further explained below). The LPO also indicated that the proposed residence did not comply with the local land use plan. By letter sent August 14, 2014, the LPO corrected the denial letter, rescinding the language regarding non-compliance with the local land use plan. A copy of the two letters from the LPO are attached as stipulated exhibits.

### **Beach Nourishment**

12. In the winter of 2001-2002, the U.S. Army Corps of Engineers began a “Section 933” spoil deposition project on the oceanfront at Oak Island (the “933 Project”).
13. In March of 2002, the 933 Project was completed.
14. Since completion of the 933 Project, the beach in the vicinity of the Lot has remained stable.

### **Applicable Setback under CAMA**

15. The CRC has adopted an erosion setback requirement that applies to structures along the oceanfront. 15A NCAC 7H .0306(a).
16. Generally, CAMA regulations provide that structures of less than 5,000 square feet must be set back at a distance of 30 times the long-term annual erosion rate affecting the Lot from the first line of stable natural vegetation on the beach in front of the Lot. 15A NCAC 07H .0306(a).
17. In areas where the long-term annual erosion rate is less than 2 feet per year, the minimum distance permitted by the rules for the erosion setback is 60 feet. 15A NCAC 7H .0306(a)(2)(A).
18. Based on the average annual erosion rate for the Lot of 2 feet per year, the erosion setback applicable to the Lot is 60 feet (30 years x 2 feet) for the size of house proposed by Petitioners as measured from the applicable measurement line (“Erosion Setback”).
19. The Erosion Setback generally is measured from the first line of stable natural vegetation. “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 more stable upland areas. It is generally located at or immediately oceanward of the seaward toe of the frontal dune or



erosion escarpment.” 15A NCAC 7H .0305(a)(5). However, “[i]n 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 . . . used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line.” 15A NCAC 7H .0305(a)(6); see also 15A NCAC 7H .0306(a)(8).

20. Because the 933 Project, a large scale beach nourishment project, was completed in March of 2002, the first line of stable natural vegetation that existed prior to the 933 Project (“Static Line”) is used to measure the Erosion Setback pursuant to 15A NCAC 7H .0305(a)(6).
21. “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.” 15A NCAC 7H .0305(a)(6).
22. The Static Line is identified on the Hysongs’ site plan as “1998 static vegetation line.”

#### **Actual First Line of Stable Natural Vegetation**

23. The *actual* first line of stable natural vegetation was staked by LPO Donna Coleman on July 16, 2014, and is depicted on the Hysong’s current site plan as “current line of vegetation.” The July 16, 2014 vegetation line is located approximately 50 feet seaward of the Static Line.
24. The relatively stable location of the *actual* first line of natural stable vegetation since the completion of the 933 Project is likely due to the relative lack of damaging hurricanes affecting Oaks Island since 2002.

#### **Setback Exception**

25. In 15A NCAC 7H .0306(a)(8), the CRC has acknowledged that when a beach fill project allows the first line of stable natural vegetation to become established seaward of the Static Line, that vegetation line “may be more vulnerable to natural hazards along the oceanfront.” Furthermore, “[a] development setback measured from the vegetation line provides less protection from ocean hazards.” 15A NCAC 7H .0306(a)(8).
26. A local government may petition the CRC pursuant to 15A NCAC 7H .0306(a)(8) for a “static line exception” for properties within “the boundaries of a large-scale beach fill project.”

27. The Town has not applied for a setback exception pursuant to 15A NCAC 7H .0306(a)(8). There has not been a beach nourishment project in the vicinity of the Lot since the 933 Project.
28. Pursuant to 15A NCAC 7H .0306(k), all new construction on the oceanfront must be removed if it becomes imminently threatened.

**Variance Petition**

29. Written notification that the Petitioners are seeking a variance to allow the proposed development was provided to the adjacent property owners. A copy of each notice is attached as a stipulated exhibit. Both adjacent property owners have signed statements indicating that they have no objections to the proposed development.
30. On September 15, 2014, the Hysongs' petition for a variance was received.
31. On February 11, 2014 the Town Council approved an ordinance amendment reducing the front yard setback for all oceanfront lots from 20 feet to 15 feet. As a result, approximately 51 lots were able to meet the minimum building depth required by the Town to classify the lot as buildable. A number of lot owners requested a greater reduction of the 15-foot front yard setback, the Town believed that such a reduction would make it difficult for lot owners to provide the required parking, i.e., one 9 foot by 18 foot parking space per bedroom. A copy of an email from the Town's Planning and Zoning Administrator describing this process and the anticipated result is attached as a stipulated exhibit.
32. The Hysongs have not sought relief from the Town's front yard setback as required by 15A NCAC 7J .0701(a). However, the Division of Coastal Management agrees that doing so would likely be futile. The Staff believe that in this case, Petitioners' actions combined with the Town's recent actions satisfy the requirements of 15A NCAC 7J .0701(a).
33. Without a variance from the CRC, the Hysongs would be limited to an available building envelope approximately 34 feet by 25 feet, allowing a house with a footprint of 855.5 square feet, or a maximum total floor area of 1,711 square feet for a two-story structure.

**Stipulated Exhibits:**

1. Deed to Petitioners' lot
2. First CAMA minor permit application dated August 5, 2014
3. Letter noting incomplete application dated August 15, 2014
4. Second CAMA minor permit application August 20, 2014
5. Denial of permit application dated September 8, 2014
6. Letter from Town regarding denial of permit sent August 14, 2014
7. E-mail dated November 14, 2014 from Town of Oak Island regarding front yard setback
8. Historical hurricane and tropical storm information as reported by Southport Times

**ATTACHMENT B**  
**CRC-VR-14-14**

9. Aerial and ground-level photographs of the Lot and surrounding area, in PowerPoint format

**PETITIONERS' AND STAFF'S POSITIONS**

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

**Petitioners' Position: Yes.**

1. Does not allow us to build a large enough house that is consistent with excellent lot elevation and established current vegetation line of the lot. This is one of the most stable sections of beach on Oak Island.
2. The current allowed footprint would place our home out of line and out of character with other houses in both directions for some distance.
3. Inadequate parking space available for planned 5-bedroom house.
4. It would be it very difficult, if not totally impractical, to build a house adequate to accommodate an elevator as well as handicap accesses. A smaller house would not be able to generate the rentals necessary to justify the cost of construction, or be adequate as a family retreat.
5. We have owned, paid taxes/assessments, and maintained this lot since 1997. The other homes along this stretch have been there without undue endangerment since the 1970's or before. If a Thirty Year Renourishment Plan were in effect on Oak Island, this process would not be necessary. The stability of this well elevated and established portion of the beach for at least the past 40 or 50 years should indicate that it has withstood the renourishment criteria.

**Staff's Position: No**

Application of the oceanfront setback using the static line pursuant to 15A NCAC 7H .0305(a)(6) would allow Petitioners, without a variance, a building envelope of 855.5 square feet, or a total of 1,711 square feet of maximum total floor area for a two-story building. While Petitioners understandably may prefer a larger building envelope to accommodate additional bedrooms and parking, they could make reasonable use of their property without a variance by building a 1,711 square foot home. Therefore, in addition to reasons cited below, it is Staff's position that Petitioners have failed to meet their burden to demonstrate that application of the oceanfront setback using the static line will cause an unnecessary hardship.

Petitioners also assert that, without a variance, they would have "[i]nadequate parking space available for planned 5-bedroom house." Pursuant to 15A NCAC 7H .0309(a)(2), "parking areas with clay, packed sand or gravel" are permitted seaward of the oceanfront setback. Petitioners have not demonstrated that they must locate the parking spaces on the street side of the lot due to a local ordinance or other requirements. Further, Petitioners could build a smaller house requiring less

parking. Therefore, it is Staff's position that Petitioners have also failed to show that application of the oceanfront setback using the static line will cause an unnecessary hardship due to Petitioners' preference to use street-front parking for their preferred number of bedrooms.

Petitioners' assertions regarding the lack of a local beach renourishment plan are addressed under factor number four below.

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

**Petitioners' Position: Yes.**

As stated previously, the elevation of this lot is one of the highest on the entire island for oceanfront properties. It is 18-19' above sea level in its current state. Our plan is to build the concrete slab underneath at approximately the 18' level. The renourishment of the entire oceanfront beach that took place in 2001 has not only held, but has actually become higher and wider. The original rope line stakes have virtually been buried. New rope line and pilings have been recently installed. The well established line of vegetation on the waterward toe of this frontal dune is approximately 113' from our requested variance building line. We may have to provide some filler after leveling and reallocating existing sand on the lot to form the proper base for the concrete slab underneath. No filler beyond that point is planned or deemed necessary. There will be no disturbance to the dunes or vegetation beyond that point except that resulting from the decks and walkways. (See side view rendering of proposed house)

**Staff's Position:**

The static line represents the location of the first line of stable natural vegetation in 1998. Oak Island has not experienced major impacts from hurricanes since the time of the nourishment project's completion in 2002. While there is a significant distance between the present line of stable natural vegetation and the static line at this property, this condition may be temporary, as noted in the Commission's rules in 15A NCAC 7H .0306(a)(8):

[B]each fill . . . 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.

The Town of Oak Island has not demonstrated that it has a long-term nourishment plan in place. Therefore, Staff's position is that the favorable location of the present-day vegetation line is

insufficient to support a finding that any alleged hardships faced by Petitioners are due to conditions peculiar to their property.

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

**Petitioners' Position: No.**

Our lot has not been touched by machinery or any excavation efforts since we bought it in 1997. The only thing that we have done is post "No Trespassing" signs and maintain a sand fence across the lot to keep people from taking a short-cut to the beach and harming the dunes and vegetation on our lot. We also have planted sea grass and plants to stabilize the slope of the dune.

**Staff's Position: Yes.**

It is Staff's position that any hardship alleged by Petitioners is caused by Petitioners' preferred design and use for their property. Petitioners wish to increase their building envelope and the resulting total floor area of their proposed house. The property was purchased in 1997, prior to implementation of the beach nourishment project and the resulting use of the static line for CAMA permitting purposes. However, even measuring the applicable setback from the static line affords Petitioners a buildable lot, without a variance, using a 1,711 square foot, two-story home. Petitioners have caused their own hardship by choosing a building size and design requiring a larger building envelope than that allowed under the existing oceanfront setback rules.

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

**Petitioners' Position: Yes.**

It is our desire and intended purpose to be good and responsible neighbors to those home owners along this established section of Oak Island. By having more space for parking (taking into consideration the additional underneath space) we will alleviate any potential nuisance or safety problems for neighbors and traffic along W. Beach Drive. We intend to comply fully with all CRC rules and building code requirements in the construction of our home and unattached decks, walkways and gazebo. We plan to add indigenous plants close to and around the oceanfront decks for landscaping and to maintain dune stability. We also will install PVC storm water pits at each corner of the house to protect our dunes and vegetation, as well as those of our neighbors on either side.

We built (and still own) an oceanfront home in King's Lynne (far west end of OI) in 2000, and owned the home next door to our vacant lot at 3611 West Beach Drive prior to that. So, we have been home owners on Oak Island for about 17 years and value Oak Island and the importance of neighbors and being a good neighbor.

**ATTACHMENT C**  
**CRC-VR-14-14**

We think that our request for this variance is reasonable and represents no risk to ourselves, our neighbors or to the general well being of Oak Island. In fact, by granting our request, we think that our proposed home will not only be more compatible and consistent with this section of oceanfront properties, but will enhance it by a more visually appealing presence than what the current allowable footprint would afford.

**Staff's Position: No.**

Staff does not agree that the proposed residence is consistent with the spirit, purpose, and intent of the rules. As noted above, 15A NCAC 7H .0306(a)(8) provides that:

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.

Staff recognizes that this part of Oak Island has remained stable since the completion of the "Section 933" project in 2002. However, the static line exception provided for in 15A NCAC 7H .0306(a)(8) allows a local government to petition the Commission for the ability to allow development seaward of the static line. Such an exception would allow development similar to that proposed in this variance petition. The local government must meet the requirements of 15A NCAC 7J .1200, including, among other things, a plan for maintenance to allow the beach nourishment already performed to last for at least 25 years, and identification of funding for such maintenance. 15A NCAC 7J .1201(d).

The Town of Oak Island has not applied for such an exception, and does not currently have a long-term nourishment plan in place. The 933 Project was a one-time project and not part of an established long-term nourishment plan, which is a prerequisite for a local government to receive static line exception status and corresponding relaxation of the oceanfront erosion setback. Furthermore, the Commission's concerns as articulated in 15A NCAC 7H .0306(a)(8) are not otherwise addressed by the location of the proposed development. Therefore, a variance would not be in keeping with the Commission's rules.

While acknowledging that the Town does not have a long-term renourishment plan, Petitioners argue in their position on factor number one that "[t]he stability of this well[-]elevated and established portion of the beach for at least the past 40 or 50 years should indicate that it has withstood the renourishment criteria." As noted above, without an approved static line exception from the Commission, including a long-term renourishment plan, Petitioners' observations on the recent stability of this area do not adequately address the concerns expressed in the Commission's rules. Furthermore, Staff notes that significant portions of the vegetation line at Oak Island moved landward in 1999, as acknowledged in 15A NCAC 7H .0305(a)(6), due to Hurricane Floyd. This movement of the vegetation line landward indicates that the area is not entirely stable, as is to be

**ATTACHMENT C**  
**CRC-VR-14-14**

expected. In addition, Oak Island has not experienced major impacts from hurricanes since completion of the 933 Project in 2002. Therefore, while the area has enjoyed some relative stability since 2002, it is entirely possible that a hurricane could cause further landward movement of the vegetation line in the future, of the very kind predicted by the Commission in 15A NCAC 7H .0306(a)(8).

It is Staff's position that 15A NCAC 7H .0306(a)(8) appears to indicate that in the absence of an approved setback exception, including a properly funded, long-term nourishment plan, an exception from the oceanfront static line setback for the proposed project is not in keeping with the Commission's rules.



**ATTACHMENT D**

Petitioners' Variance Request Materials  
excluding Petitioners' first draft of proposed facts and any exhibits  
already included as stipulated exhibits in Attachment E

Jim and Page Hysong  
391 Hysong Lane  
Hendersonville, NC 28791  
September 11, 2014

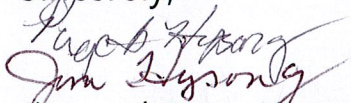
Director  
Division of Coastal Management  
400 commerce Avenue  
Morehead City, NC 28557

Dear Mr. Davis,

Please find enclosed our CAMA Variance Request with supporting documents. We have complied with all information requested to the best of our understanding and wish to express our thanks to Donna Coleman, LPO Oak Island and Heather Coats of DCM, Wilmington. Angela Willis has also been a big help in putting our request together.

We look forward to working together to review our request and arriving at a decision that will be correct and mutually agreeable.

Sincerely,

  
Jim and Page Hysong

cc: Attorney General's Office





CAMA VARIANCE REQUEST FORM

DCM FORM 11

DCM FILE No.:

14-14

PETITIONER'S NAME JIM & PAGE HILSONG

COUNTY WHERE THE DEVELOPMENT IS PROPOSED BRUNSWICK

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

**VARIANCE HEARING PROCEDURES**

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

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.*

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

James B. Hysong  
Signature of Petitioner or Attorney

SEPTEMBER 10, 2014  
Date

JAMES B. HYSONG  
Printed Name of Petitioner or Attorney

jhsong@bellsouth.net  
Email address of Petitioner or Attorney

391 HYSONG LANE  
Mailing Address

(828) 891-2102  
Telephone Number of Petitioner or Attorney

HENDERSONVILLE NC 28791  
City State Zip

( ) N/A  
Fax Number of Petitioner or Attorney

**DELIVERY OF THIS HEARING REQUEST**

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

Contact Information for DCM:

Contact Information for Attorney General's Office:

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

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

**By mail:**

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

**By Fax:**

(252) 247-3330

**By express mail:**

Environmental Division  
114 W. Edenton Street  
Raleigh, NC 27603

**By Email:**

Check DCM website for the email address of the current DCM Director  
[www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)

**By Fax:**

(919) 716-6767

(919) 716-6400

*Braxton Davis@ncdcmr.gov*  
Revised: February 2011

*Email: ncago@ncdoj.gov*





Petitioner supplies the following information:

Your Name *Jim and Page Hysong*  
Address *391 Hysong Lane, Hendersonville, NC 28791*  
Telephone *(828) 891-2102*  
Fax and/or Email *jhysong@bellsouth.net*

Name of Your Attorney (if applicable) *N/A*  
Address  
Telephone  
Fax and/or Email

*Reference: Property at 3613 West Beach Drive, Oak Island, NC 28465*

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

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

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

What did you seek a permit to do?

*To expand permissible building footprint by an additional ten feet (approximately) forward toward the ocean and in line with the home at 3611 West Beach Drive, and 7 or 8' behind the neighboring home at 3615 W. Beach Drive.*

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

*The use of the 1998 Static Line of Vegetation as the determining criteria in establishing the building footprint.*

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*Also relevant is the absence of a Thirty Year Renourishment Plan for Oak Island.*

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

*The currently allowable footprint does not provide ample space for parking or to build a rental property (and secondary residence) that would be a) consistent with what this lot calls for (great*



elevation and extended line of established vegetation), and b) sufficient for elevator and handicap accesses in a five-bedroom house, and c) complement and be consistent with neighboring beach houses.

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

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

*We are not permitted to build a large enough house that is in line with and consistent with other homes along this stretch of the beach. Additionally, we are left with inadequate parking space based on the 15' MBL.*

#### RESPOND TO THE FOUR STATUTORY VARIANCE CRITERIA:

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

*1- Does not allow us to build a large enough house that is consistent with excellent lot elevation and established current vegetation line of the lot. This is one of the most stable sections of beach on Oak Island.*

*2- The current allowed footprint would place our home out of line and out of character with other houses in both directions for some distance.*

*3- Inadequate parking space available for planned 5-bedroom house.*

*4- It would be it very difficult, if not totally impractical, to build a house adequate to accommodate an elevator as well as handicap accesses. A smaller house would not be able to generate the rentals necessary to justify the cost of construction, or be adequate as a family retreat,*

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5- We have owned, paid taxes/ assessments, and maintained this lot since 1997. The other homes along this stretch have been there without undue endangerment since the 1970's or before. If a Thirty Year Renourishment Plan were in effect on Oak Island, this process would not be necessary. The stability of this well elevated and established portion of the beach for at least the past 40 or 50 years should indicate that it has withstood the renourishment criteria.

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

*As stated previously, the elevation of this lot is one of the highest on the entire island for ocean-front properties. It is 18-19' above sea level in its current state. Our plan is to build the concrete slab underneath at approximately the 18' level. The renourishment of the entire oceanfront beach that took place in 2001 has not only held, but has actually become higher and wider. The original rope line stakes have virtually been buried. New rope line and pilings have been recently installed. The well established line of vegetation on the waterward toe of this frontal dune is approximately 113' from our requested variance building line. We may have to provide some filler after leveling and reallocating existing sand on the lot to form the proper base for the concrete slab underneath. No filler beyond that point is planned or deemed necessary. There will be no disturbance to the dunes or vegetation beyond that point except that resulting from the decks and walkways. (See side view rendering of proposed house)*

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

*Our lot has not been touched by machinery or any excavation efforts since we bought it in 1997. The only thing that we have done is post "No Trespassing" signs and maintain a sand fence across the lot to keep people from taking a short-cut to the beach and harming the dunes and vegetation on our lot. We also have planted sea grass and plants to stabilize the slope of the dune.*

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

*It is our desire and intended purpose to be good and responsible neighbors to those home owners along this established section of Oak Island. By having more space for parking (taking into consideration the additional underneath space) we will alleviate any potential nuisance or*



*safety problems for neighbors and traffic along W. Beach Drive. We intend to comply fully with all CRC rules and building code requirements in the construction of our home and unattached decks, walkways and gazebo. We plan to add indigenous plants close to and around the oceanfront decks for landscaping and to maintain dune stability. We also will install PVC storm water pits at each corner of the house to protect our dunes and vegetation, as well as those of our neighbors on either side.*

*We built (and still own) an oceanfront home in King's Lynne (far west end of OI) in 2000, and owned the home next door to our vacant lot at 3611 West Beach Drive prior to that. So, we have been home owners on Oak Island for about 17 years and value Oak Island and the importance of neighbors and being a good neighbor.*

*We think that our request for this variance is reasonable and represents no risk to ourselves, our neighbors or to the general well being of Oak Island. In fact, by granting our request, we think that our proposed home will not only be more compatible and consistent with this section of oceanfront properties, but will enhance it by a more visually appealing presence than what the current allowable footprint would afford.*

Please attach copies of the following:

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

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

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

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





**CERTIFICATE OF SERVICE**

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

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

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

This the 10<sup>th</sup> day of September, 2014.

*Page B. Hyson*  
*James B. Hyson*  
\_\_\_\_\_  
Signature of Petitioner or Attorney

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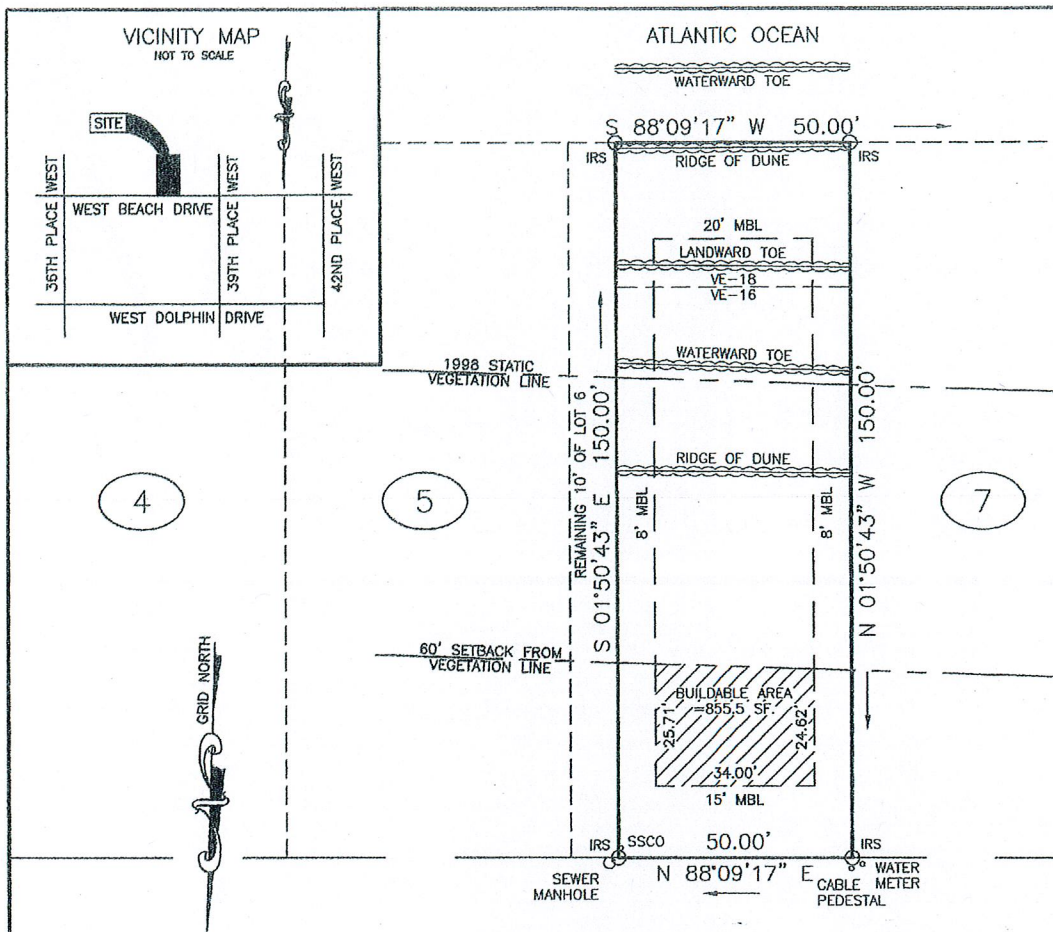
## Description of Proposed Development

*Our CAMA Variance Request is for new construction on an oceanfront lot on Oak Island, NC. The current allowable footprint is based on the 1998 Static Line of Vegetation. We are asking for recognition of the current line of vegetation resulting from the 2001 Oak Island Renourishment Project as the point of reference for measuring the Oceanside setback. Specifically, we would like to build our 5 bedroom, 4 ½ bath oceanfront house in a direct line with the home at 3611 West Beach Drive. This would involve moving the front of our construction about 12 or 13 feet forward from the current allowable footprint. The elevation of 18+ feet for the lot lends further margin of safety in moving our home closer to the beach and more in line with other homes to either side of us.*

*A site plan drawing is provided to show all pertinent facts and measurements.*

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# 3613 WEST BEACH DRIVE

60' PUBLIC RIGHT-OF-WAY

NOTE: THIS PROPERTY LIES WITHIN THE C.A.M.A. OCEAN ERODIBLE AREA OF ENVIRONMENTAL CONCERN

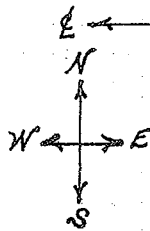
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	<b>LEGEND (IF USED)</b> IRF=IRON ROD OR REBAR FOUND PF=PIPE FOUND MBL=MINIMUM BUILDING LINE IRS=IRON REBAR SET CMF=CONCRETE MONUMENT FOUND CP=CALCULATED POINT PDE=PUBLIC DRAINAGE EASEMENT FFE=FINISHED FLOOR ELEVATION BFE=BASE FLOOD ELEVATION CAMA=COASTAL AREA MANAGEMENT AGENCY PP=POWER POLE OHU=OVERHEAD UTILITIES F.E.M.A.=FEDERAL EMERGENCY MANAGEMENT AGENCY F.I.R.M.= FEDERAL INSURANCE RATE MAP SSCO=SANITARY SEWER CLEAN OUT	<b>OAK ISLAND ZONING</b> OK-R-7 <b>SETBACKS</b> BEACH FRONT= 15' SIDE= 8' REAR= 20'	<b>GRAPHIC SCALE</b>  1 INCH = 30 FEET
	TAX PARCEL # 234PE03101		

DCM/MHD CITY

<b>FLOOD CERTIFICATION:</b> 1. THIS PROPERTY LIES WITHIN F.E.M.A. SPECIAL FLOOD HAZARD AREA VE-16 & VE 18, AS SHOWN ON F.I.R.M. 372020-4800-J, DATED 6/2/08. <b>GENERAL NOTES:</b> 1. MEASUREMENTS ON THIS MAP ARE IN FEET AND DECIMALS THEREOF. 2. ALL SET CORNERS ARE 1/2" IRON REBAR UNLESS OTHERWISE NOTED. 3. THIS PROPERTY MAY BE SUBJECT TO ADDITIONAL EASEMENTS, RIGHTS OF WAYS AND RESTRICTIONS NOT DISCERNIBLE BY OBSERVATION AT THE TIME OF SURVEY OR THAT MAY BE OF RECORD. NO TITLE SEARCH BY THOMAS D. VON CANON. <b>REFERENCES:</b> 1. PLAN OF BLOCKS NO. 101A, 102, 103, & 104, RECORDED IN MAP CABINET 5, PAGE 50 ON JULY 14TH, 1958 IN THE BRUNSWICK COUNTY, NORTH CAROLINA REGISTER OF DEEDS. 2. DEED BOOK 1167, PAGE 1188, RECORDED IN THE BRUNSWICK COUNTY, NORTH CAROLINA, REGISTER OF DEEDS. THIS IS TO CERTIFY THAT ON MAY 21ST, 2014, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS, IF ANY, ARE SHOWN HEREON. THE AREA OF THIS PROPERTY IS 0.172 ACRES AS CALCULATED BY COORDINATE COMPUTATION METHOD AND THAT THE ERROR OF CLOSURE IS 1:10,000. SIGNED  THOMAS D. VON CANON L-3586	<b>LOT SURVEY</b> FOR: PACULA CONSTRUCTION EASTERN 50' OF LOT 6 BLOCK 104 WEST LONG BEACH OAK ISLAND, SMITHVILLE TOWNSHIP BRUNSWICK COUNTY, NORTH CAROLINA  VCS & CO., INC. C-2160 1 YAUPON WAY OAK ISLAND, NC TELE. (704) 361-1557 FAX. (910) 278-4827 MAILING ADDRESS: 700 PINE FOREST ROAD, CHARLOTTE, N.C. 28214
---	---

Z:\VCSBRUNSCO\PACULA CONSTRUCTION\OAK ISLAND\LOT SURVEY\3613 WEST BEACH DRIVE 2004



PROPOSED LOT DEVELOPMENT

W. BEACH DRIVE

LOT 6, BLOCK 104

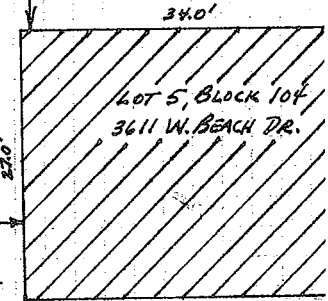
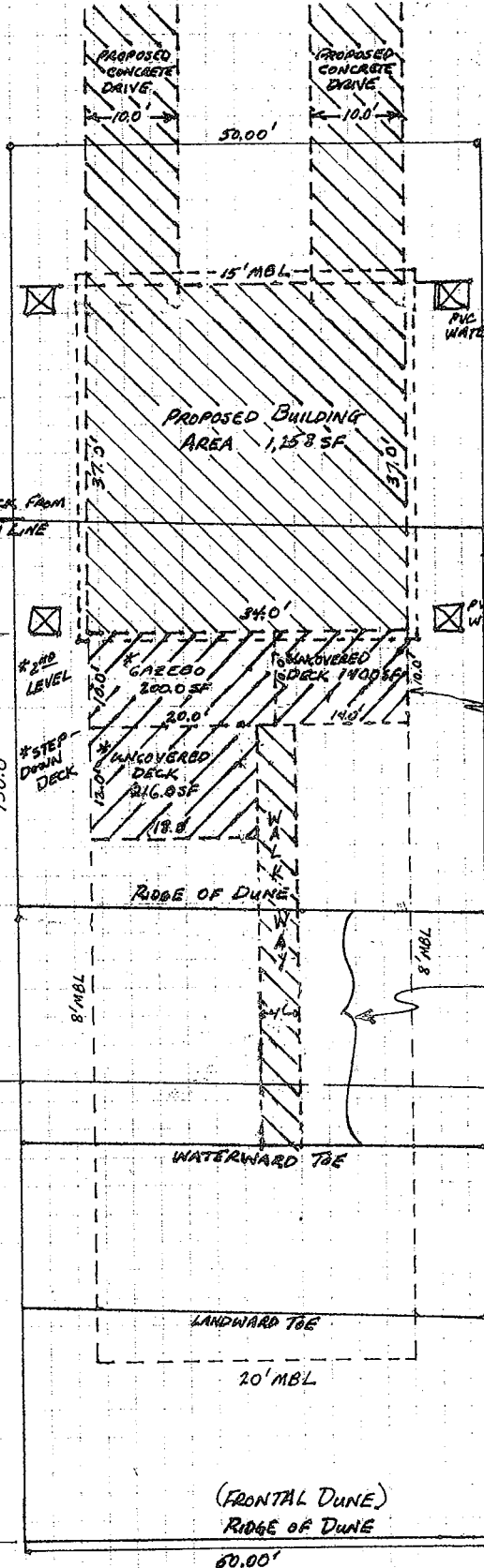
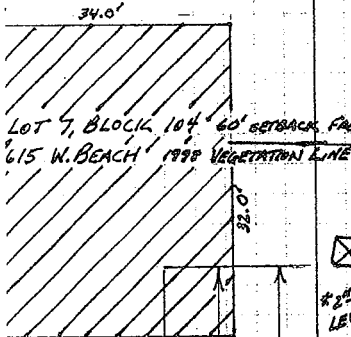
3613 WEST BEACH DR.

THOMAS H. WHITLEY ETLS  
183 FAIRMONT CIRCLE  
DANVILLE, VA 24541

LOT 7, BLOCK 104

3615 W. BEACH DR.  
OAK ISLAND, NC

WILLIAM T. & LEE ANN  
PICKERING  
208 N. 28<sup>TH</sup> ST.  
RICHMOND, VA. 23223



\* DOUBLE DECK - 10' x 14' ON  
1<sup>ST</sup> AND 2<sup>ND</sup> LEVEL.

GAZEBO: 200 SF  
UNCOVERED DECK: 496 SF.

\* LOWEST ELEVATION ON DUNE  
CLOSEST TO HOUSE IS 13.0'. LOCATION  
WOULD BE SOMEWHERE BETWEEN THE  
RIDGE OF DUNE AND WATERWARD TOE.

1998 STATIC LINE  
OF VEGETATION

JIM & PAGE HYSONG  
891 HYSONG LANE  
HENDERSONVILLE, NC 28791  
SCALE: 1" = 15.0 FT  
(1 SQ. = 3.0 SQ.)

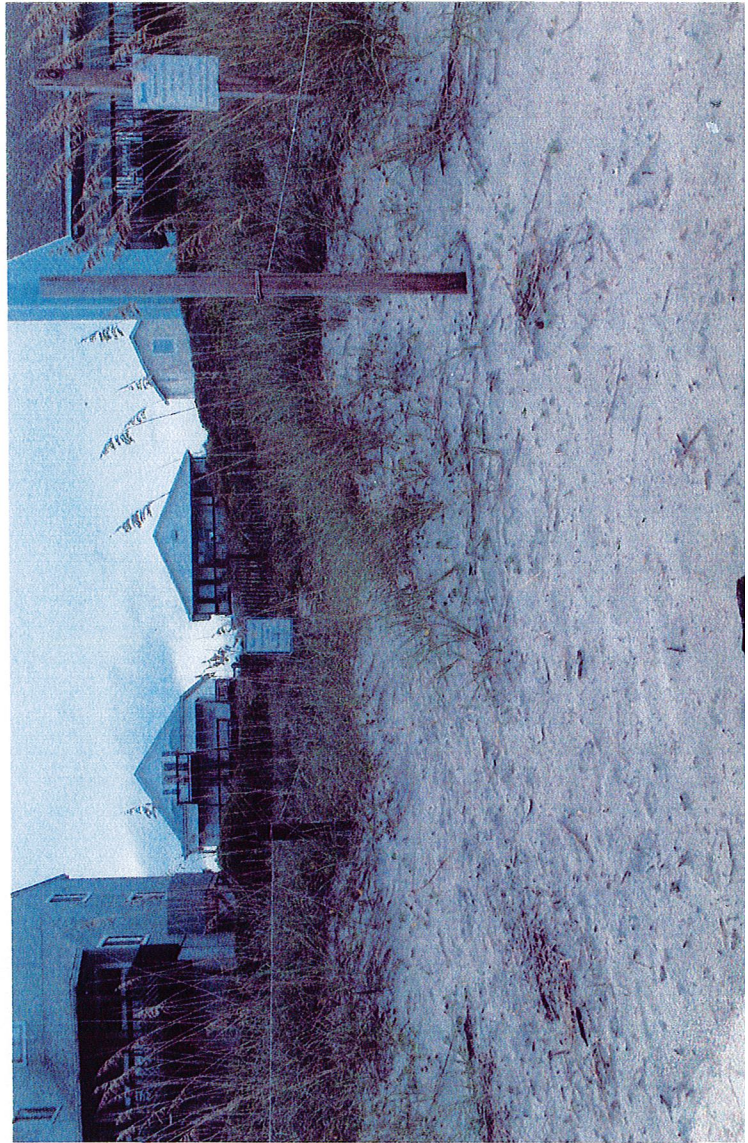
WATERWARD TOE  
30  
ATLANTIC OCEAN  
CURRENT ESTABLISHED LINE  
OF VEGETATION



VIEW of Lot from East of Lot  
3611 in foreground, recent 3613 Lot,  
w/ 3615 in back.



View of 3613 lot from beach.  
Note recently installed stakes for rope line.



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View of lot and frontal dune from deck of 3615 W. BEACH DRIVE.  
(Note expansion of renourishment dune from 2001 and barely visible tips of original rope line stakes)



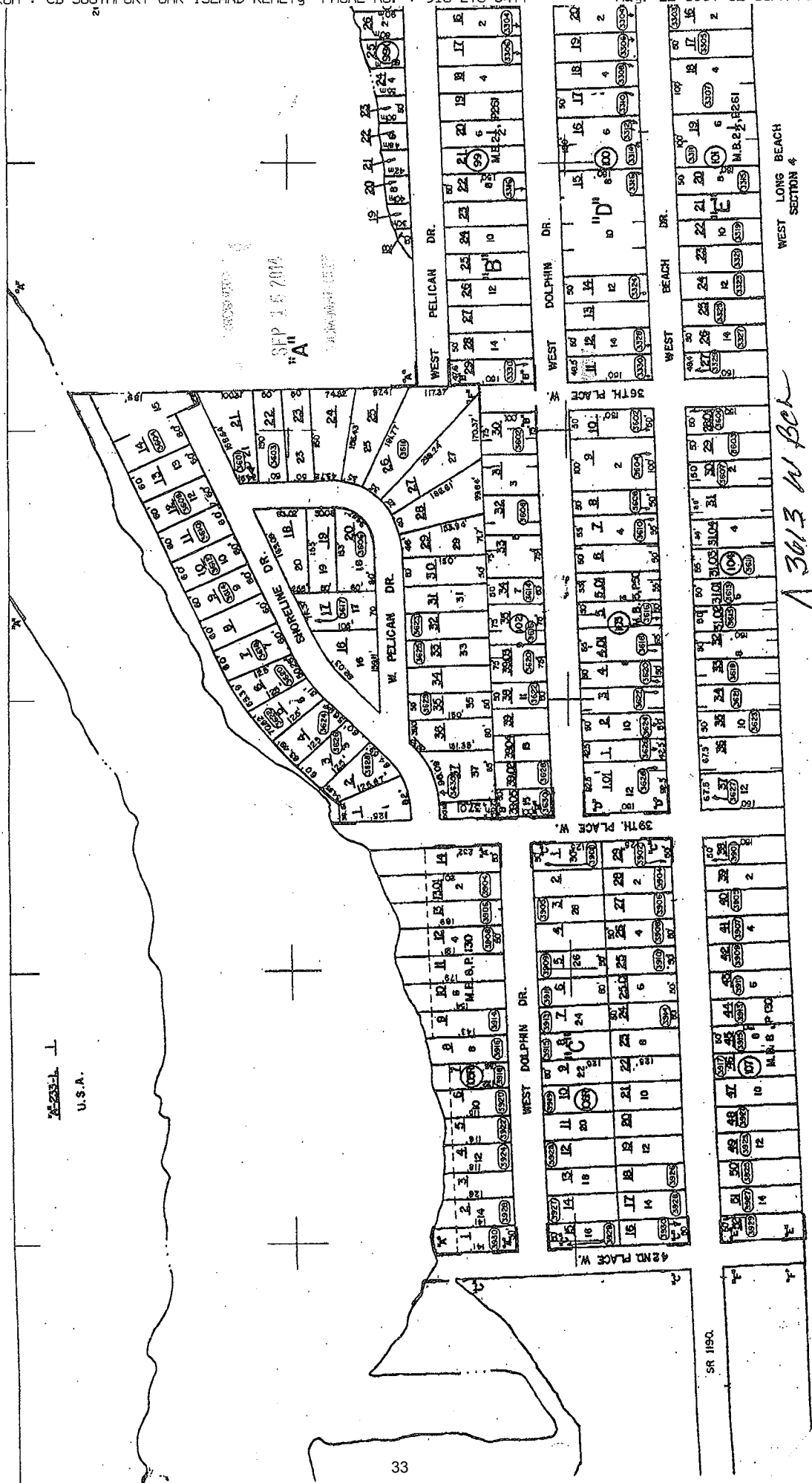
View of lot from deck @ 3615 W. BEACH DR.  
(Partial view of 3611 in back)

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U.S.A.

SEP 15 2012  
"A"

A 3013 W Beck  
Subject



# Brunswick County NC GIS



May 14, 2014

1 = 40 Feet



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



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

**GENERAL INFORMATION**

LAND OWNER  
 Name JAMES & PAGE HYSONG  
 Address 391 HYSONG LANE  
 City HENDERSONVILLE NC Zip 28791 Phone (828) 891-2102  
 Email j\_hysong@bellsouth.net  
 AUTHORIZED AGENT

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_  
 Email \_\_\_\_\_

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody) 3613 W. BEACH DRIVE, OAK ISLAND, NC 28765

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance) BUILD RESIDENCE ON OCEANFRONT LOT

SIZE OF LOT/PARCEL: 7,500 square feet .172 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: 2,500 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: 1,884 square feet.

Home FOOTPRINT (34x37)  
 1,258 ft<sup>2</sup>

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)

an owner or record title. Title is vested in JAMES & PAGE HYSONG, see Deed Book 1167 page 1188 in the BENNSWICK 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.

- (1) WILLIAM T. & LEE ANN PACKER (Name) 308 N. 28<sup>TH</sup> ST. RICHMOND, VA 23223 (Address)
- (2) THOMAS H. WHITNEY, ETX 183 FAIRMONT GABLE, DANVILLE, VA 24041
- (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.

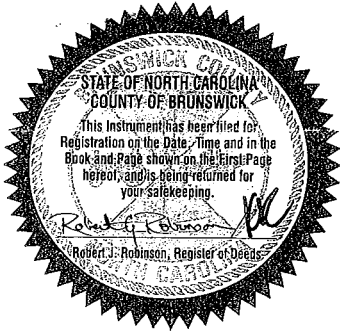
I furthermore certify that I am authorized to grant, and do in fact grant, permission to Division of Coastal Management staff, the Local Permit Officer and their agents to enter on the aforementioned lands in connection with evaluating information related to this permit application.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

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.





Presenter James Hysong Ret: mail  
 Total \_\_\_\_\_ Rev \_\_\_\_\_ Int \_\_\_\_\_  
 Ck \$ \_\_\_\_\_ Ck # \_\_\_\_\_ Cash \$ \_\_\_\_\_  
 Refund: \_\_\_\_\_ Cash \$ \_\_\_\_\_ Finance \_\_\_\_\_  
 Portions of document are illegible due to condition of original.  
 Document contains seals verified by original instrument that cannot be reproduced or copied.

**SATISFACTION OF SECURITY INSTRUMENT**

BRANCH BANKING & TRUST CO. #.000006109216664 "HYSONG" Lender ID:005/001/6109216664 Brunswick, North Carolina  
 PIF: 09/05/2007

THE UNDERSIGNED corporation certifies that it is the owner of the indebtedness secured by the hereafter described Deed of Trust and that the debt or other obligation in the original amount of \$40,000.00 secured by the Deed of Trust executed by JAMES B HYSONG AND PAGE B HYSONG, Grantors, to MICHAEL C GERALD, Trustee, for COASTAL FEDERAL SAVINGS BANK, Beneficiary, and Recorded in Brunswick County, State of North Carolina on 08/29/1997 in Book/Reel/Liber: 1167 Page/Folio: 1192 as Instrument No.: N/A, was satisfied on 09/05/2007.

Property Address: 3613W BCH DR, LONG BEACH, NC 28465-7842

The undersigned corporation requests that this certificate of satisfaction be recorded and the above-referenced security instrument be cancelled of record.

BRANCH BANKING AND TRUST COMPANY  
 On September 28th, 2007

By: Marcia L Pridgeon  
 MARCIA L PRIDGEON, Assistant  
 Vice-President

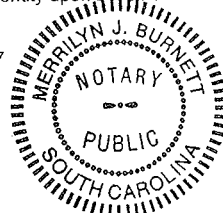


STATE OF South Carolina  
 COUNTY OF Greenville

On September 28th, 2007, before me, MERRILYN J BURNETT, a Notary Public in and for Greenville in the State of South Carolina, personally appeared MARCIA L PRIDGEON, Assistant Vice-President being by me duly sworn and duly executed of BRANCH BANKING AND TRUST COMPANY, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal on September 28th, 2007

Merrilyn J Burnett  
 MERRILYN J BURNETT  
 Notary Expires: 12/21/2014



(This area for notarial seal)

Prepared By: Merrilyn Burnett, BRANCH BANKING & TRUST CO. PO BOX 2127, GREENVILLE, SC 29602-2127  
 800-295-5744  
 Recording Requested By: BRANCH BANKING & TRUST CO.  
 When Recorded Return To: JAMES B HYSONG, 391 HYSONG LANE, HENDERSONVILLE, NC 28791

SEP 10 2007



Jim and Page Hysong  
391 Hysong Lane  
Hendersonville, NC 28791

September 11, 2014

Mrs. Thomas H. Whitley  
183 Fairmont Circle  
Danville, VA 24541

Dear Denise,

The purpose of this letter is to update you on the status of our effort to expand the permissible footprint for the construction of our beach house next door to you at 3613 West Beach Drive on Oak Island.

As we told you when we saw you back in late June or early July, we had applied for a CAMA Minor Permit that would allow us to build in line with the Pickering's house at 3611 West Beach Drive and back about 6 or 7 feet from yours at 3615 W. Beach Drive. As we explained, the process would involve our permit application being denied and then moving on to appearing before the DCM (Division of Coastal Management) Commission to present our CAMA Variance Request.

This is to let you know that our CAMA Minor Permit has been officially denied, and we are in the process of taking the next step of meeting with the DCM Commission, hopefully on October 22<sup>nd</sup> in Wilmington.

We will keep you apprised of our progress and appreciate your cooperation in our efforts. If you have any questions or wish to contact us for any reason, please call us at (828) 891-2102 or email at [jhysong@bellsouth.net](mailto:jhysong@bellsouth.net).

Sincerely,

Jim and Page Hysong

RECEIVED  
SEP 15 2014  
DCM-MHD CITY

7014 0150 0000 8168 3624

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)		
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a> ®		
OFFICIAL USE		
Postage	\$ 0.49	0739
Certified Fee	\$3.30	08
Return Receipt Fee (Endorsement Required)	\$2.70	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 6.49	09/12/2014

Sent To: MRS. THOMAS H. WHITLEY  
Street, Apt. No.; or PO Box No.: 183 FAIRMONT CIRCLE  
City, State, ZIP+4: DANVILLE, VA. 24541

PS Form 3800, August 2006 See Reverse for Instructions



Jim and Page Hysong  
391 Hysong Lane  
Hendersonville, NC 28791

September 11, 2014

Mr. and Mrs. William T. Pickering  
208 N. 28<sup>th</sup> Street  
Richmond, VA 23223

Dear Bill and Lee Ann,

The purpose of this letter is to update you on the status of our effort to expand the permissible footprint for the construction of our beach house next door to you at 3613 West Beach Drive on Oak Island.

As we told you when we saw you back in late June or early July, we had applied for a CAMA Minor Permit that would allow us to build in line with your house next door at 3611 West Beach Drive. As we explained, the process would involve our permit application being denied and then moving on to appearing before the DCM (Division of Coastal Management) Commission to present our CAMA Variance Request.

This is to let you know that our CAMA Minor Permit has been officially denied, and we are in the process of taking the next step of meeting with the DCM Commission, hopefully on October 22<sup>nd</sup> in Wilmington.

We will keep you apprised of our progress and appreciate your cooperation in our efforts. If you have any questions or wish to contact us for any reason, please call us at (828) 891-2102 or email at [jhysong@bellsouth.net](mailto:jhysong@bellsouth.net).

Sincerely,

Jim and Page Hysong

RECEIVED  
SEP 15 2014  
DCM-MHD CITY

7014 0150 0000 8168 3617

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)		
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>		
<b>OFFICIAL USE</b>		
Postage	\$ 0.49	0739
Certified Fee	\$3.30	08
Return Receipt Fee (Endorsement Required)	\$2.70	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 6.49	09/12/2014

Sent To *MR + MRS BILL PICKERING*  
Street, Apt. No.,  
or PO Box No. *208 N. 28<sup>TH</sup> ST.*  
City, State, ZIP+4 *RICHMOND, VA. 23223*

PS Form 3800, August 2006 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

MRS. THOMAS H. WHITLEY  
183 FAIRMONT CIRCLE  
DANVILLE, VA. 24541

2. Article Number

(Transfer from service label)

7014 0153 0000 8168 3624

PS Form 3811, July 2013

Domestic Return Receipt

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *Thomas H. Whitley*

Agent

Addressee

B. Received by (Printed Name)

Jennifer Whitley

C. Date of Delivery

9/18

D. Is delivery address different from item 1?

Yes

If YES, enter delivery address below:

No

3. Service Type

Certified Mail®

Priority Mail Express™

Registered

Return Receipt for Merchandise

Insured Mail

Collect on Delivery

4. Restricted Delivery? (Extra Fee)

Yes

**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

Mrs. & Mrs. BILL PICKERING  
208 N. 28<sup>TH</sup> ST.  
RICHMOND, VA. 23223

2. Article Number

(Transfer from service label)

7014 0150 0003 8168 3617

PS Form 3811, July 2013

Domestic Return Receipt

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *Lee Ann Pickering*

Agent

Addressee

B. Received by (Printed Name)

Lee Ann Pickering

C. Date of Delivery

9-15-14

D. Is delivery address different from item 1?

Yes

If YES, enter delivery address below:

No

3. Service Type

Certified Mail®

Priority Mail Express™

Registered

Return Receipt for Merchandise

Insured Mail

Collect on Delivery

4. Restricted Delivery? (Extra Fee)

Yes

**ATTACHMENT E**

**Stipulated Exhibits**

1. Deed to Petitioners' lot
2. First CAMA minor permit application dated August 5, 2014
3. Letter noting incomplete application dated August 15, 2014
4. Second CAMA minor permit application August 20, 2014
5. Denial of permit application dated September 8, 2014
6. Letter from Town regarding denial of permit sent August 14, 2014
7. E-mail dated November 14, 2014 from Town of Oak Island regarding front yard setback
8. Historical hurricane and tropical storm information as reported by Southport Times
9. Aerial and ground-level photographs of the Lot and surrounding area, in PowerPoint format

ML

BK 1167 PG 1188

PAID FOR REGISTRATION  
BOOK 1167 PAGE 1188  
97 AUG 29 PM 5:07

BRUNSWICK COUNTY NC 08/29/97  
\$570.00  
STATE OF NORTH CAROLINA  
Real Estate Excise Tax

REGISTER OF DEEDS  
BRUNSWICK COUNTY, N.C.

Excise Tax 570.<sup>00</sup>

Recording Time, Book and Page

Tax Lot No. Parcel Identifier No.  
Verified by County on the day of 19  
by

Mail after recording to

This instrument was prepared by Kenneth R. Campbell, 601 N. Howe Street, Southport, NC 28461

Brief description for the Index  
E. 50' Lot 6 & W. 55' Lot 5,  
Block 104, Long Beach, NC

### NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 28th day of August, 1997, by and between

**GRANTOR**  
SUE W. RIVENBARK (Widow)  
MICHAEL D. SAMUEL and wife,  
SUSAN R. SAMUEL  
MICHAEL E. CARR and wife,  
JILL R. CARR

**GRANTEE**  
JAMES B. HYSONG and wife,  
PAGE B. HYSONG  
  
1711 Windsong Drive  
Conyers, GA 30208

000153

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

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

WITNESSETH, that the 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 unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Long Beach, Smithville Township, Brunswick County, North Carolina and more particularly described as follows:

SEE SCHEDULE "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

TR	PLK	CD	CR	PL	SP	BY
3	0	234P	E	031	0100	SKR
3	0	234P	E	031	0300	

RET 4P DC 10250  
TOTAL 14.<sup>00</sup> REV 105 TC# 50  
REC# CK AMT 30 CK# 6445  
CASH REF 10.<sup>00</sup> BY CR

The property hereinabove described was acquired by Grantor by instrument recorded in Book 540, Page 13 and Book 441, Page 808, Brunswick County Registry.

A map showing the above described property is recorded in Plat Book 5 page 50.

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

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

Restrictions as recorded within the chain of title.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

..... (Corporate Name)	USE BLACK INK ONLY	<i>Sue W. Rivensbark</i> ..... (SEAL) SUE W. RIVENBARK
By: .....		<i>Michael D. Samuel</i> ..... (SEAL) MICHAEL D. SAMUEL
..... President		<i>Susan R. Samuel</i> ..... (SEAL) SUSAN R. SAMUEL
ATTEST:		<i>Michael E. Carr</i> ..... (SEAL) MICHAEL E. CARR
..... Secretary (Corporate Seal)		<i>Jill R. Carr</i> ..... (SEAL) JILL R. CARR
..... (Corporate Name)	USE BLACK INK ONLY	..... (SEAL)
By: .....		..... (SEAL)
..... President		..... (SEAL)
ATTEST:		..... (SEAL)
..... Secretary (Corporate Seal)		..... (SEAL)



SEAL - STAMP

NORTH CAROLINA, Brunswick County.

I, a Notary Public of the County and State aforesaid, certify that SUE W. RIVENBARK

personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 27 day of AUGUST, 1997.

My commission expires: 12-28-99 Virginia Lee Holmes Notary Public

SEAL - STAMP

NORTH CAROLINA, Brunswick County.

I, a Notary Public of the County and State aforesaid, certify that MICHAEL D. SAMUEL and wife, SUSAN R. SAMUEL

personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 27 day of AUGUST, 1997.

My commission expires: 12-28-99 Virginia Lee Holmes Notary Public

SEAL - STAMP

NORTH CAROLINA, Brunswick County.

I, a Notary Public of the County and State aforesaid, certify that MICHAEL E. CARR and wife, JILL R. CARR

personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 29 day of AUGUST, 1997.

My commission expires: 12-28-99 Virginia Lee Holmes Notary Public

SEAL - STAMP

NORTH CAROLINA, \_\_\_\_\_ County.

I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_

personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My commission expires: \_\_\_\_\_ Notary Public

SEAL - STAMP

NORTH CAROLINA, \_\_\_\_\_ County.

I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_

personally came before me this day and acknowledged that \_\_\_\_\_ he is \_\_\_\_\_ Secretary of \_\_\_\_\_ a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal and attested by \_\_\_\_\_ as its \_\_\_\_\_ Secretary. Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My commission expires: \_\_\_\_\_ Notary Public

SEAL - STAMP

NORTH CAROLINA, \_\_\_\_\_ County.

I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_

personally came before me this day and acknowledged that \_\_\_\_\_ he is \_\_\_\_\_ Secretary of \_\_\_\_\_ a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal and attested by \_\_\_\_\_ as its \_\_\_\_\_ Secretary. Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My commission expires: \_\_\_\_\_ Notary Public

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

The Forgoing (or annexed) Certificate(s) of Virginia Lee Holmes on the \_\_\_\_\_

Notary(ies) Public is (are) Certified to be Correct. This Instrument was filed for Registration on this 29 Day of August 1997 in the Book and Page shown on the First Page hercof. \_\_\_\_\_ UNTY

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

BK 1167 PG 1191

SCHEDULE "A"

TRACT ONE:

BEGINNING at a stake located in the southern line of Ocean Drive, Thomas H. Whitley et al's northeast corner; stake being south 88 degrees 30 minutes east 385 feet as measured along the southern line of Ocean Drive from its intersection with the eastern line of Ash Street; from said beginning point runs thence south 88 degrees 30 minutes east 50 feet to a point; runs thence south 01 degree 30 minutes west and parallel with Ash Street approximately 150 feet to the high water mark of the Atlantic Ocean; runs thence with the high water mark of the Atlantic Ocean approximately north 88 degrees 30 minutes west 50 feet to a point; runs thence north 01 degree 30 minutes east and parallel with Ash Street approximately 150 feet to the southern line of Ocean Drive, the place and point of BEGINNING, the same being the eastern fifty (50) feet of Lot 6, Block 104, according to a map of same recorded in Map Book 5 at Page 50 of the Brunswick County Registry.

TRACT TWO:

BEGINNING at a stake in the southern edge of Ocean Drive, said stake being located south 88 degrees 30 minutes east 435 feet as measured along the southern line of Ocean Drive from its intersection with the eastern line of Ash Street; from said beginning point runs thence south 88 degrees 30 minutes east 55 feet to a point; runs thence south 01 degree 30 minutes west and parallel with Ash Street approximately 150 feet to the high water mark of the Atlantic Ocean; runs thence with the high water mark of the Atlantic Ocean approximately north 88 degrees 30 minutes west 55 feet to a point; runs thence north 01 degree 30 minutes east and parallel with Ash Street approximately 150 feet to the southern line of Ocean Drive to the place and point of BEGINNING; same being the western 55 feet of Lot 5, Block 104, according to a map of same duly recorded in Map Book 5 at Page 50, Brunswick County Registry.

Locality Oak Island Permit Number DI 14-47  
Ocean Hazard  Estuarine Shoreline \_\_\_\_\_ ORW Shoreline \_\_\_\_\_ Public Trust Shoreline \_\_\_\_\_ Other HH  
(For official use only)

**GENERAL INFORMATION**

**LAND OWNER**

Name JAMES & PAGE HYSONG  
Address 391 HYSONG LANE  
City HENDERSONVILLE State NC Zip 28791 Phone (828) 891-2102  
Email jhysong@bellsouth.net

**AUTHORIZED AGENT**

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_  
Email \_\_\_\_\_

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 3613 W. BEACH DRIVE, OAK ISLAND, NC 28465

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) BUILD RESIDENCE ON OCEANFRONT LOT

SIZE OF LOT/PARCEL: 7,500 square feet .172 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: 2500 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: 1,884 square feet.

HOME FOOTPRINT (34x37)

**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)

an owner or record title, Title is vested in JAMES & PAGE HYSONG, see Deed Book 1167 page 1188 in the BRUNSWICK County Registry of Deeds.

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

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

**NOTIFICATION OF ADJACENT PROPERTY OWNERS:**

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

- | (Name)  | (Address)  |
|---|--|
| (1) <u>WILLIAM T. &amp; LEE ANN PICKERING</u> | <u>208 N. 28<sup>th</sup> ST. RICHMOND, VA 23223</u> |
| (2) <u>THOMAS H. WHITLEY, ETLS</u>            | <u>183 FAIRMONT CIRCLE, DANVILLE, VA 24541</u>       |
| (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.

James B Hysong  
Page A Hysong  
This the 5<sup>th</sup> day of Aug, 20 14  
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.*



# AEC HAZARD NOTICE

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

Property Owner: JAMES B. & PAGE B. HYSOY

Property Address: 3613 W. BEACH DRIVE, OAK ISLAND, NC 28465

Date Lot Was Platted: JULY 14, 1958

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

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

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

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

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

The flood waters in a major storm are predicted to be about 18 feet deep in this area.

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

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

James B. Hysong  
Page B. Hysong

Applicant Signature

8/5/2014  
Date

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

*For more information, contact:*

DONNA F. COLEMAN  
Local Permit Officer  
4601 E. Oak Island Dr  
Address  
Oak Island, NC 28465  
Locality  
(910) 201-8047  
Phone Number  
dcoleman@ci.oak-island.nc.us

EXHIBIT 2

Revised 8/09

# ADJACENT RIPARIAN PROPERTY OWNER STATEMENT FOR CAMA MINOR PERMITS

---

I hereby certify that I own property adjacent to JIM & PAGE HYSONG's  
(Name of Property Owner)  
property located at 3613 W. BEACH DRIVE, OAK ISLAND, NC (LOT #6, BLOCK 104)  
Address, Lot, Block, Road, etc.)  
on ATLANTIC OCEAN, in DAK ISLAND, N.C., N.C.  
(Waterbody) (Town and/or County)

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)

Jennifer W Whitley  
Signature  
Jennifer W Whitley  
Print or Type Name  
434 250 2788  
Telephone Number  
8.4.14  
Date

# ADJACENT RIPARIAN PROPERTY OWNER STATEMENT FOR CAMA MINOR PERMITS

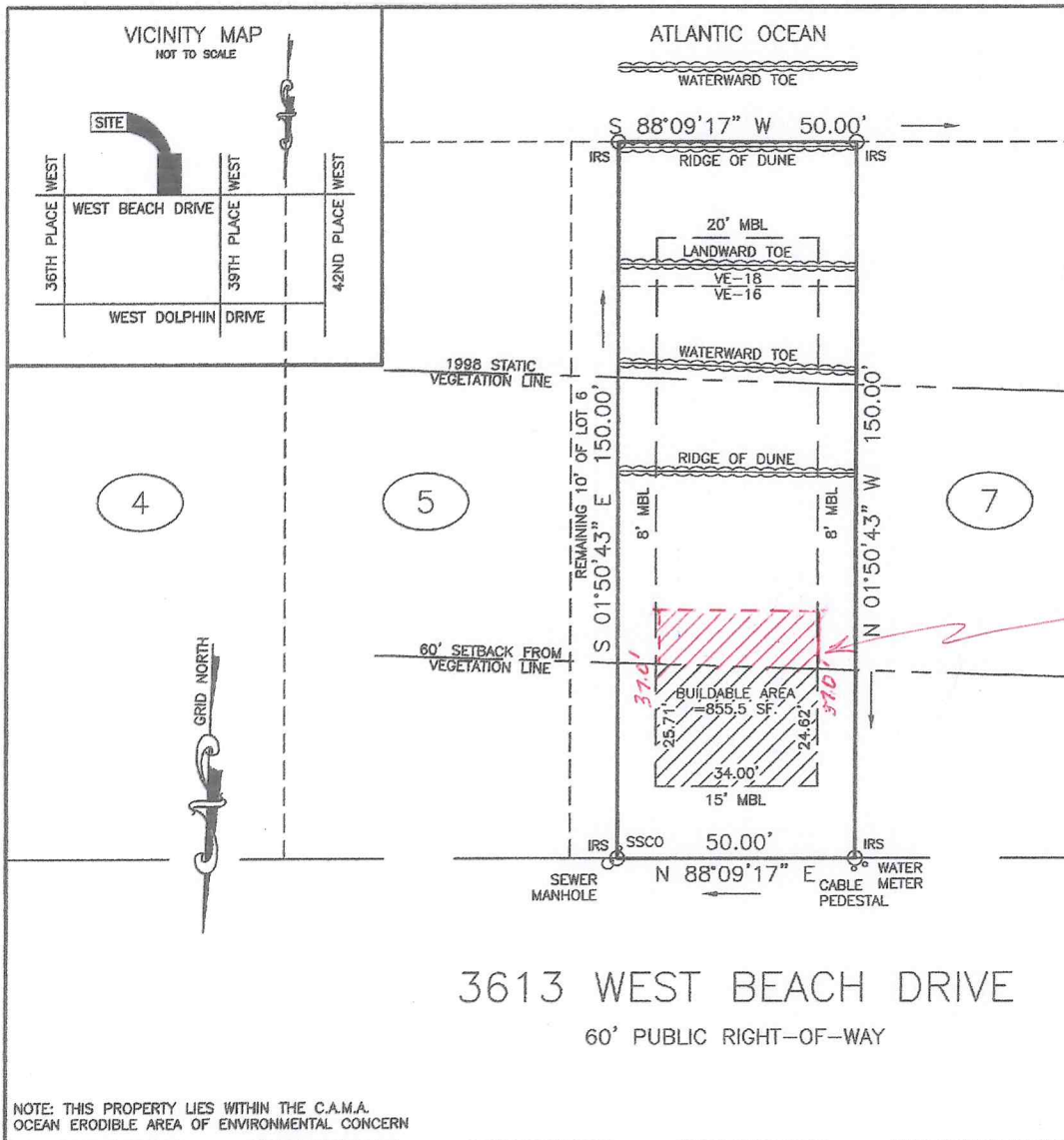
I hereby certify that I own property adjacent to JIM & PAGE HYSONG's  
(Name of Property Owner)  
property located at 3613 W. BEACH DRIVE - LOT #6, BLOCK 104,  
Address, Lot, Block, Road, etc.)  
on ATLANTIC OCEAN, in OAK ISLAND, N.C.  
(Waterbody) (Town and/or County)

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)

William T. Pickering  
Signature  
William T. Pickering  
Print or Type Name  
804-643-1025  
Telephone Number  
8/15/2014  
Date



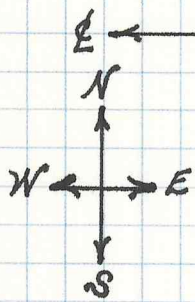


*REQUESTED VARIANCE*

	<b>LEGEND (IF USED)</b> IRF=IRON ROD OR REBAR FOUND PF=PIPE FOUND MBL=MINIMUM BUILDING LINE IRS=IRON REBAR SET CMF=CONCRETE MONUMENT FOUND CP=CALCULATED POINT PDE=PUBLIC DRAINAGE EASEMENT FFE=FINISHED FLOOR ELEVATION BFE=BASE FLOOD ELEVATION CAMA=COASTAL AREA MANAGEMENT AGENCY PP=POWER POLE OHU=OVERHEAD UTILITIES F.E.M.A.=FEDERAL EMERGENCY MANAGEMENT AGENCY F.I.R.M.=FEDERAL INSURANCE RATE MAP SSCO=SANITARY SEWER CLEAN OUT	<b>OAK ISLAND ZONING</b> OK-R-7 <b>SETBACKS</b> BEACH FRONT= 15' SIDE= 8' REAR= 20'	<b>GRAPHIC SCALE</b>  1 INCH = 30 FEET
	<b>TAX PARCEL # 234PE03101</b>		
<b>FLOOD CERTIFICATION:</b> 1. THIS PROPERTY LIES WITHIN F.E.M.A. SPECIAL FLOOD HAZARD AREA VE-16 & VE 18, AS SHOWN ON F.I.R.M. 372020-4800-J, DATED 6/2/06. <b>GENERAL NOTES:</b> 1. MEASUREMENTS ON THIS MAP ARE IN FEET AND DECIMALS THEREOF. 2. ALL SET CORNERS ARE 1/2" IRON REBAR UNLESS OTHERWISE NOTED. 3. THIS PROPERTY MAY BE SUBJECT TO ADDITIONAL EASEMENTS, RIGHTS OF WAYS AND RESTRICTIONS NOT DISCERNIBLE BY OBSERVATION AT THE TIME OF SURVEY OR THAT MAY BE OF RECORD. NO TITLE SEARCH BY THOMAS D. VON CANON. <b>REFERENCES:</b> 1. PLAN OF BLOCKS NO. 101A, 102, 103, & 104, RECORDED IN MAP CABINET 5, PAGE 50 ON JULY 14TH, 1958 IN THE BRUNSWICK COUNTY, NORTH CAROLINA REGISTER OF DEEDS. 2. DEED BOOK 1167, PAGE 1188, RECORDED IN THE BRUNSWICK COUNTY, NORTH CAROLINA, REGISTER OF DEEDS. THIS IS TO CERTIFY THAT ON MAY 21ST, 2014, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS, IF ANY, ARE SHOWN HEREON. THE AREA OF THIS PROPERTY IS 0.172 ACRES AS CALCULATED BY COORDINATE COMPUTATION METHOD AND THAT THE ERROR OF CLOSURE IS 1:110,000. SIGNED  THOMAS D. VON CANON L-3586		<b>LOT SURVEY</b> FOR: PACULA CONSTRUCTION EASTERN 50' OF LOT 6 BLOCK 104 WEST LONG BEACH OAK ISLAND, SMITHVILLE TOWNSHIP BRUNSWICK COUNTY, NORTH CAROLINA  VCS & CO., INC. C-2160 1 YAUPON WAY OAK ISLAND, NC TELE. (704) 361-1557 FAX. (910) 278-4827 MAILING ADDRESS: 700 PINE FOREST ROAD, CHARLOTTE, N.C. 28214	

Z:\VCSBRUNSCO\PACULA CONSTRUCTION\OAK ISLAND\LOT SURVEY\3613 WEST BEACH DRIVE 2004





W. BEACH DRIVE

LOT 6, BLOCK 104

3613 WEST BEACH DR.

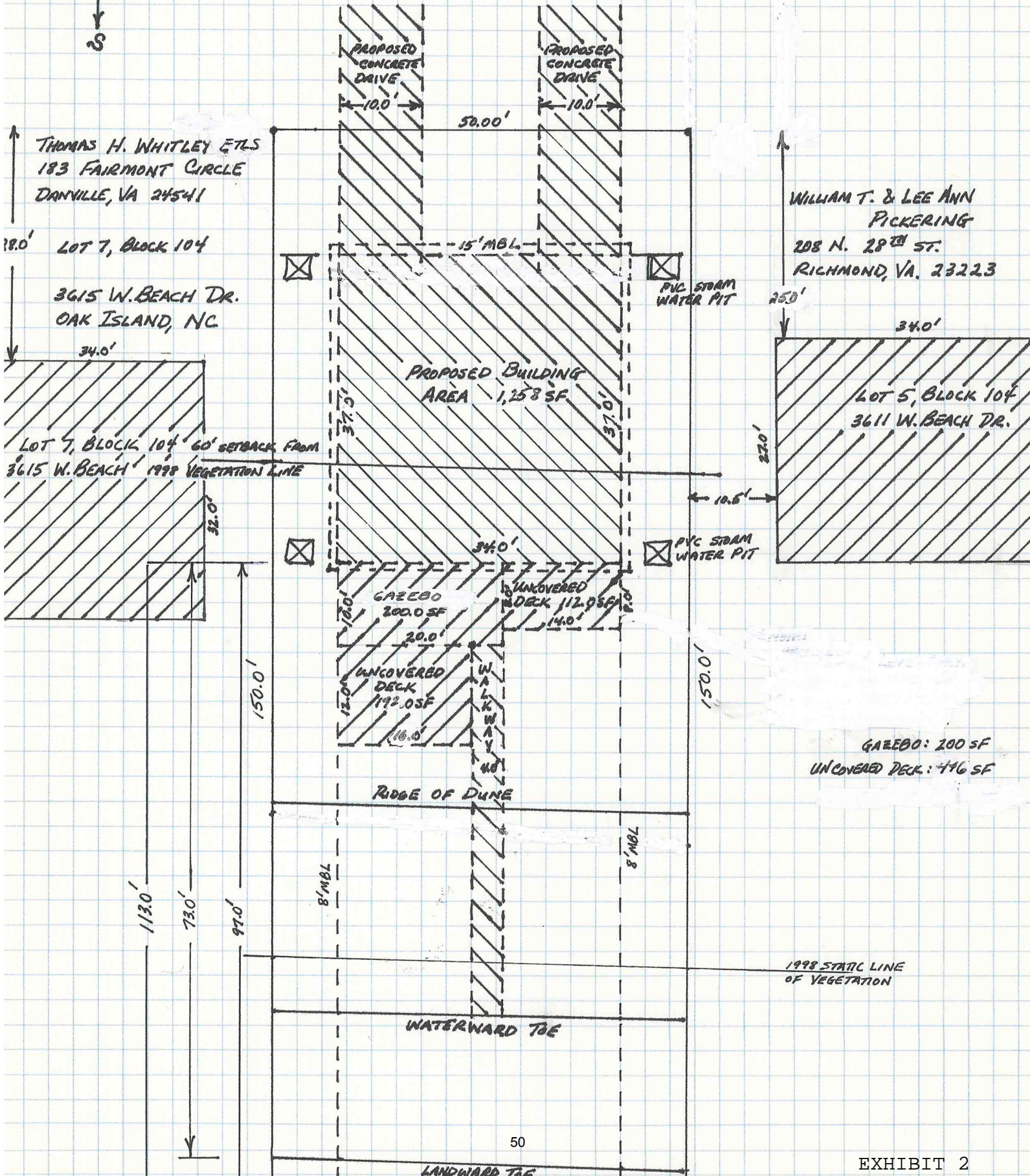
THOMAS H. WHITLEY ETLS  
183 FAIRMONT CIRCLE  
DANVILLE, VA 24541

18.0' LOT 7, BLOCK 104  
3615 W. BEACH DR.  
OAK ISLAND, NC

WILLIAM T. & LEE ANN  
PICKERING  
208 N. 28<sup>TH</sup> ST.  
RICHMOND, VA. 23223

LOT 7, BLOCK 104  
3615 W. BEACH  
60' SETBACK FROM  
1998 VEGETATION LINE

LOT 5, BLOCK 104  
3611 W. BEACH DR.



GAZEBO: 200 SF  
UNCOVERED DECK: 116 SF



(WEST)  
RIGHT SIDE VIEW

3613 W BEACH DRIVE  
OAK ISLAND, NC

JIM & PAGE HYSONG #1.0'  
391 HYSONG LANE  
HENDERSONVILLE, NC 28791

SHINGLE VALLEY  
BETWEEN ROOF LINES  
OF HOUSE AND GARAGE

HIP ROOF

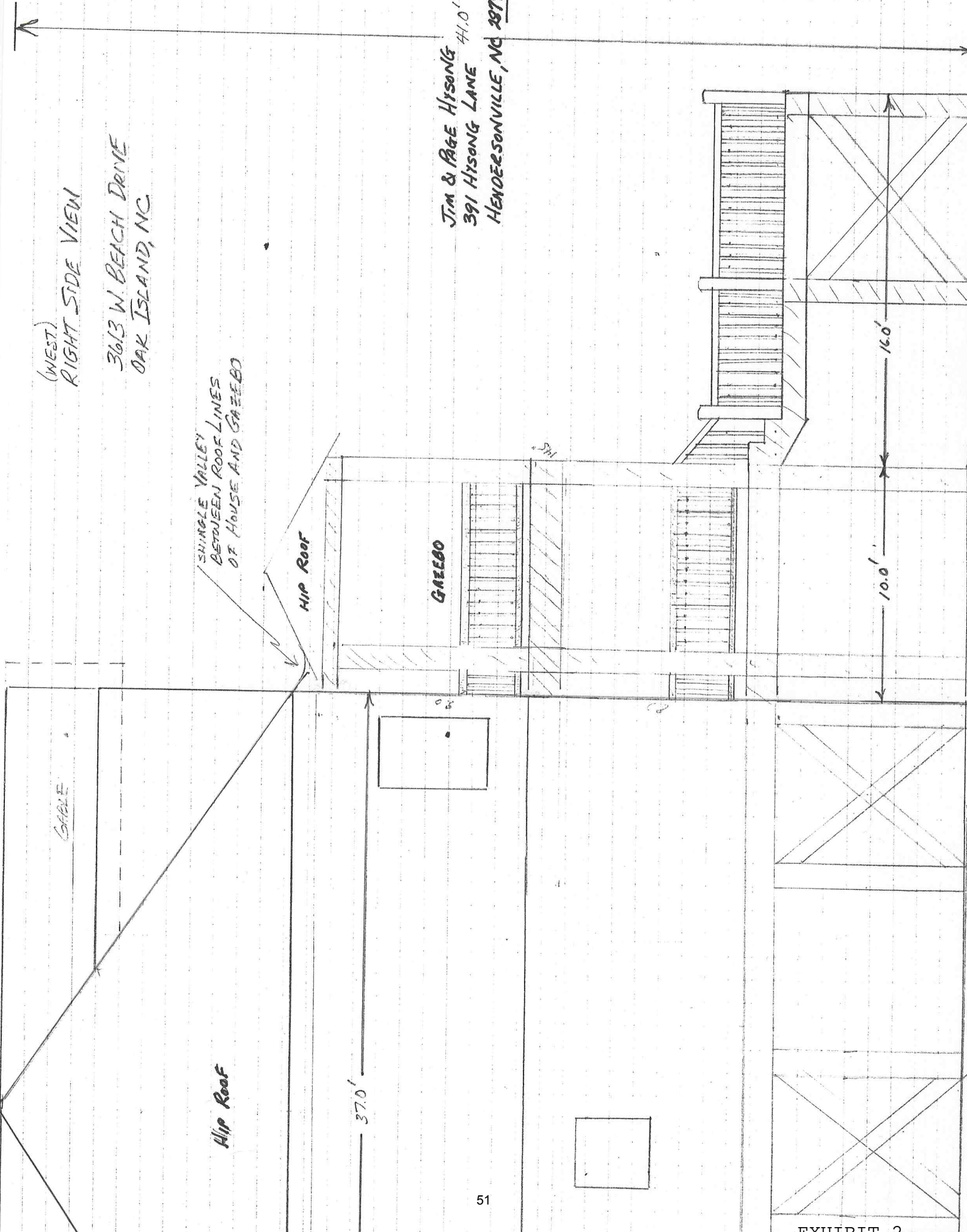
GARAGE

Hip Roof

37.0'

10.0'

16.0'





8/15/2014

James & Page Hysong  
391 Hysong Lane  
Hendersonville, NC 28791

**RE: INCOMPLETE APPLICATION ADDITIONAL INFORMATION REQUIRED**  
**APPLICATION NUMBER- OI 14-47**  
**PROJECT ADDRESS- 3613 W. Beach Dr.**

Dear Mr. & Mrs. Hysong:

We originally accepted your application under the impression that it was complete. On subsequent review, I have discovered that additional information is needed to complete the review process. Accordingly, I am requesting that you submit the following additional information to this office:

1. Need to provide information on the survey as to where the actual vegetation in on the property.
2. Re-draw the side view rendering to show actual ground elevation of dune under the proposed deck.
3. Correct length of covered deck and open deck span on side view rendering to match site plan.
4. Label frontal dune.
5. Show landward dune toes and or depression in center of lot.

In accordance with the Department of Environment and Natural Resources regulations, we note that a certain time has passed while the application has remained in our office. Upon resubmission of a complete application, a local decision will be made in 16 days, provided this period is not extended as provided by law.

Please contact me at (910)278-5024 if you have any questions.

Respectfully yours,

Donna F. Coleman, LPO  
Town of Oak Island

cc: Heather Coats DCM-Wilmington

7014 0150 0002 1641 3114

U.S. Postal Service™	
<b>CERTIFIED MAIL™ RECEIPT</b>	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage	\$ .48
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.48

OAK ISLAND NC 28469  
AUG 15 2014  
Postmark Here

Sent To	
James & Page Hysong	
Street, Apt. No.; or PO Box No. 391 Hysong Ln	
City, State, ZIP+4 Hendersonville, NC 28791	

PS Form 3800, August 2006 See Reverse for Instructions

4601 E. Oak Island Drive • Oak Island, North Carolina 28465

Phone: (910) 278-5024 • Fax: (910) 278-21811 • Website: [www.oakislandnc.com](http://www.oakislandnc.com)

**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

James + Page Hysong  
391 Hysong Ln  
Hendersonville, NC  
28791

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *James B. Hysong*  Agent  
 Addressee

B. Received by (Printed Name)

JAMES B. HYSONG

C. Date of Delivery

8/19/2014

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:  No

3. Service Type

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

4. Restricted Delivery? (Extra Fee)

Yes

2. Article Number

(Transfer from service label)

7014 0150 0002 1641 3119

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540



Jim and Page Hysong  
391 Hysong Lane  
Hendersonville, NC 28791

8/20/2014

Donna F. Coleman  
Town of Oak Island  
4601 E. Oak Island Drive  
Oak Island, NC 28465

Ref: App #OI 14-47 for 3613 W. Beach Drive

Dear Donna,

Please find enclosed revised lot drawing and side view rendering of our proposed plans. All points requested in your letter of 8/15 (copy enclosed) have been answered and hopefully satisfactorily!

I would like to reiterate that we do not intend to use any fill beyond the ocean side wall of the proposed house footprint. We will level the upper portion of the lot and redistribute the available sand to attain 18 foot above sea level for the slab. We think that minimum fill will be required to complete the process for the slab prep. We will plant shrubs on the ocean side of the house and will not be disturbing the vegetation or dunes beyond that point.

Thank you again for all your help in guiding us through this process.

Regards,



Jim and Page Hysong

Encl: 1) Side view rendering of proposed house and decks.  
2) Drawing of lot and positioning of proposed site.  
3) Your letter of 8/15/2014

cc: Heather Coats, DCM-Wilmington



Rec'd  
8/25/14  
Missing Info  
Reply by 9/10/14

8/15/2014

James & Page Hysong  
391 Hysong Lane  
Hendersonville, NC 28791

**RE: INCOMPLETE APPLICATION ADDITIONAL INFORMATION REQUIRED**  
**APPLICATION NUMBER- OI 14-47**  
**PROJECT ADDRESS- 3613 W. Beach Dr.**

Dear Mr. & Mrs. Hysong:

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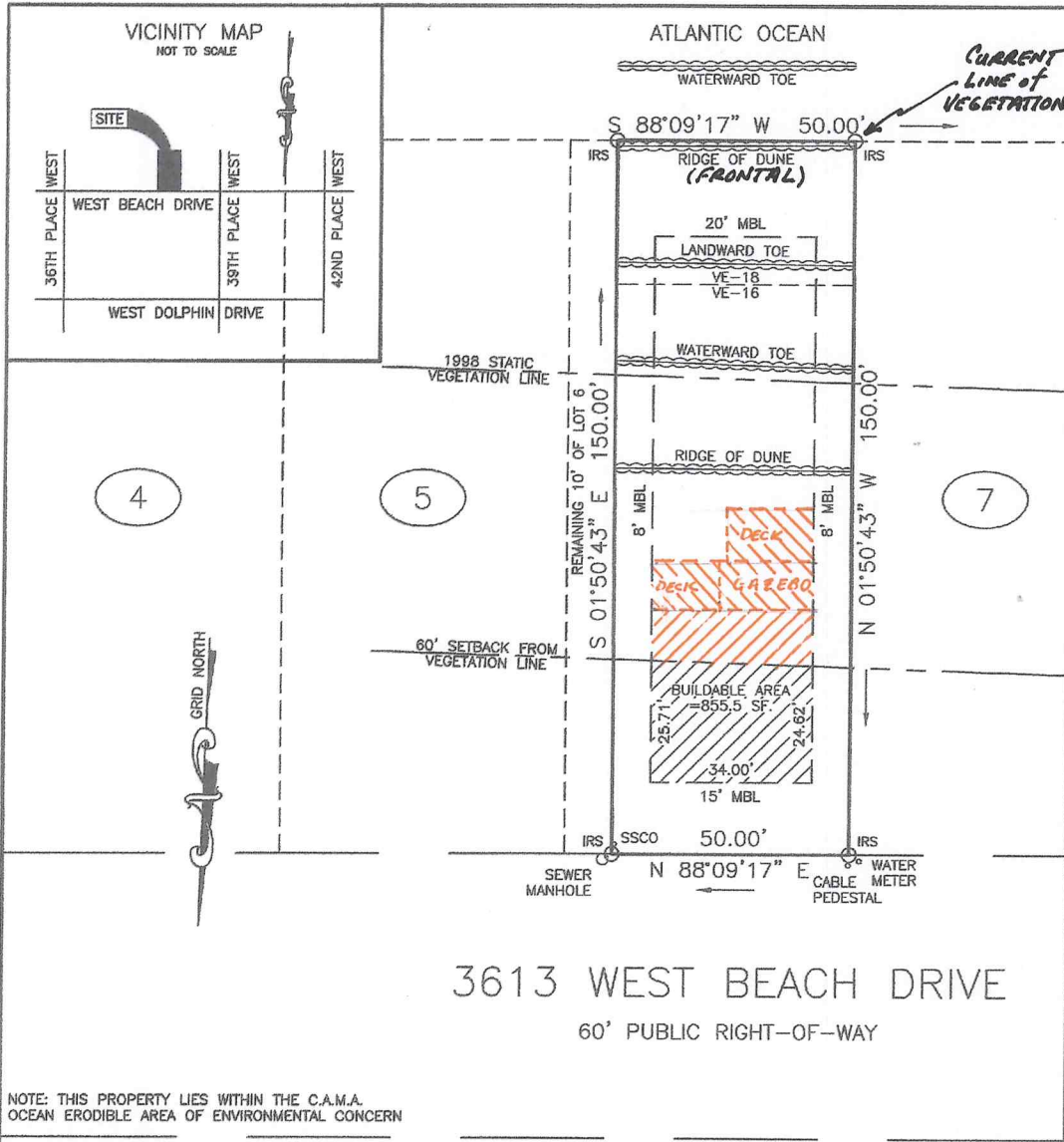
Please contact me at (910)278-5024 if you have any questions.

Respectfully yours,

Donna F. Coleman, LPO  
Town of Oak Island

cc: Heather Coats DCM-Wilmington

REVISED  
8/20/2014



3613 WEST BEACH DRIVE  
60' PUBLIC RIGHT-OF-WAY

NOTE: THIS PROPERTY LIES WITHIN THE C.A.M.A. OCEAN ERODIBLE AREA OF ENVIRONMENTAL CONCERN

	<b>LEGEND (IF USED)</b> IRF=IRON ROD OR REBAR FOUND PF=PIPE FOUND MBL=MINIMUM BUILDING LINE IRS=IRON REBAR SET CMF=CONCRETE MONUMENT FOUND CP=CALCULATED POINT PDE=PUBLIC DRAINAGE EASEMENT FFE=FINISHED FLOOR ELEVATION BFE=BASE FLOOD ELEVATION CAMA=COASTAL AREA MANAGEMENT AGENCY PP=POWER POLE OHU=OVERHEAD UTILITIES F.E.M.A.=FEDERAL EMERGENCY MANAGEMENT AGENCY F.I.R.M.= FEDERAL INSURANCE RATE MAP SSCO=SANITARY SEWER CLEAN OUT	<b>OAK ISLAND ZONING</b> OK-R-7 <b>SETBACKS</b> BEACH FRONT= 15' SIDE= 8' REAR= 20'	<b>GRAPHIC SCALE</b>  1 INCH = 30 FEET
	<b>TAX PARCEL # 234PE03101</b>		

**FLOOD CERTIFICATION:**  
 1. THIS PROPERTY LIES WITHIN F.E.M.A. SPECIAL FLOOD HAZARD AREA VE-16 & VE 18, AS SHOWN ON F.I.R.M. 372020-4600-J, DATED 6/2/06.

**GENERAL NOTES:**  
 1. MEASUREMENTS ON THIS MAP ARE IN FEET AND DECIMALS THEREOF.  
 2. ALL SET CORNERS ARE 1/2" IRON REBAR UNLESS OTHERWISE NOTED.  
 3. THIS PROPERTY MAY BE SUBJECT TO ADDITIONAL EASEMENTS, RIGHTS OF WAYS AND RESTRICTIONS NOT DISCERNIBLE BY OBSERVATION AT THE TIME OF SURVEY OR THAT MAY BE OF RECORD. NO TITLE SEARCH BY THOMAS D. VON CANON.

**REFERENCES:**  
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 2. DEED BOOK 1167, PAGE 1188, RECORDED IN THE BRUNSWICK COUNTY, NORTH CAROLINA, REGISTER OF DEEDS.

THIS IS TO CERTIFY THAT ON MAY 21ST, 2014, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS, IF ANY, ARE SHOWN HEREON. THE AREA OF THIS PROPERTY IS 0.172 ACRES AS CALCULATED BY COORDINATE COMPUTATION METHOD AND THAT THE ERROR OF CLOSURE IS 1:10,000.

SIGNED   
 THOMAS D. VON CANON L-3586

**LOT SURVEY**

FOR: PACULA CONSTRUCTION

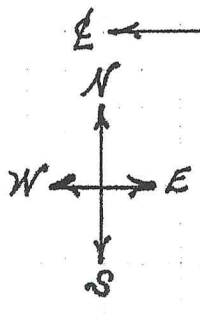
EASTERN 50' OF LOT 6  
 BLOCK 104  
 WEST LONG BEACH  
 OAK ISLAND, SMITHVILLE TOWNSHIP  
 BRUNSWICK COUNTY, NORTH CAROLINA

VCS & CO., INC. C-2160  
 1 YAUPON WAY  
 OAK ISLAND, NC  
 TELE. (704) 361-1557  
 FAX. (910) 278-4827

MAILING ADDRESS: 700 PINE FOREST ROAD, CHARLOTTE, N.C. 28214

Z:\VCSBRUNSCO\PACULA CONSTRUCTION\OAK ISLAND\LOT SURVEY\3613 WEST BEACH DRIVE 2004



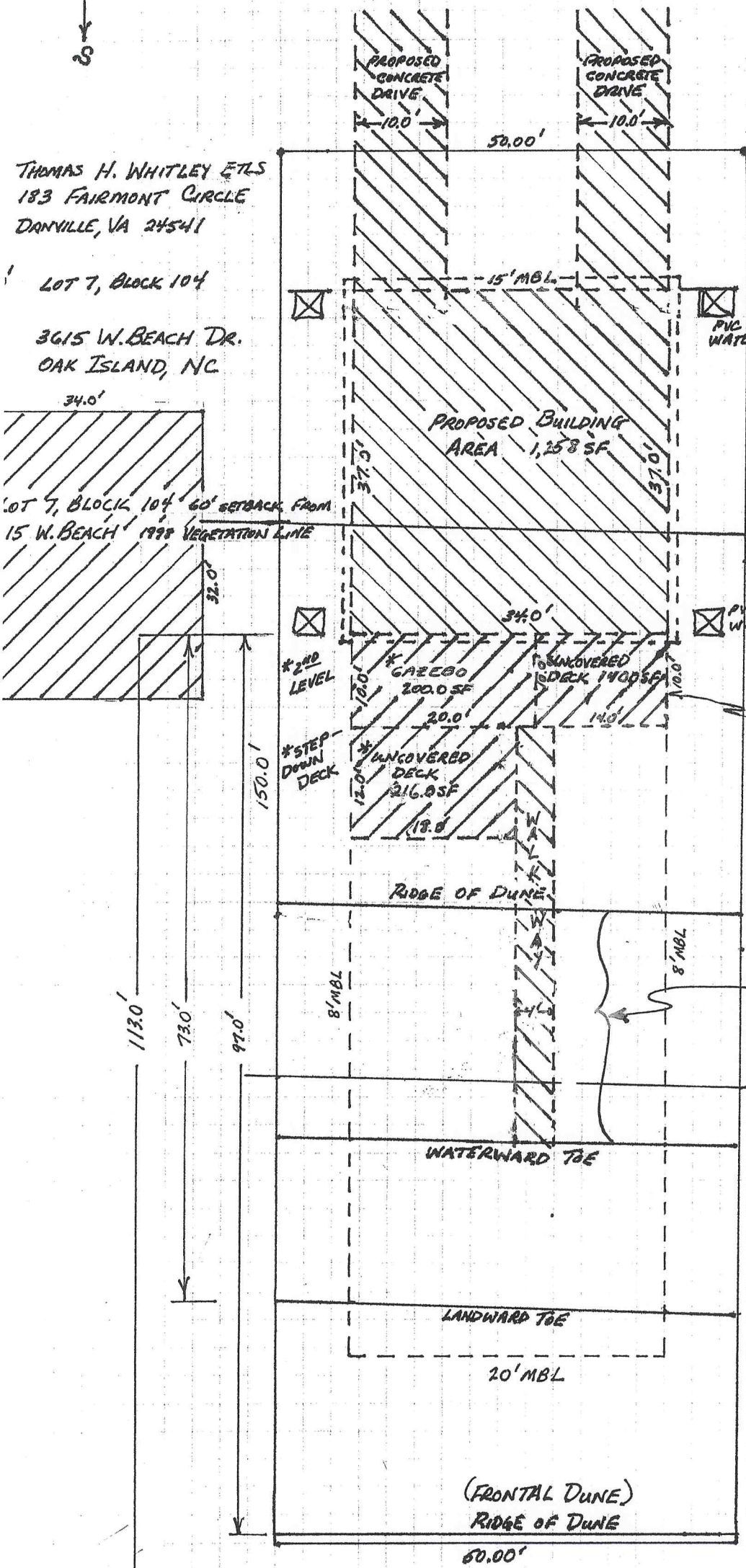
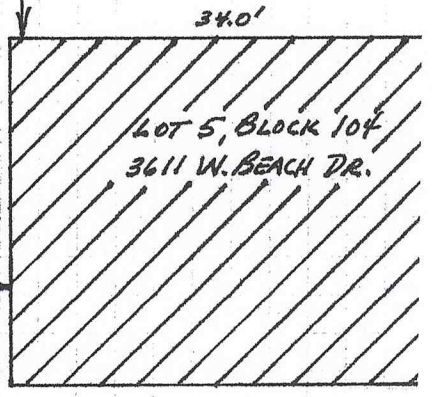
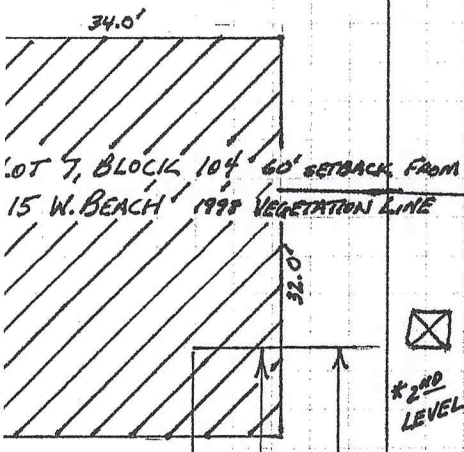


W. BEACH DRIVE  
LOT 6, BLOCK 104  
3613 WEST BEACH DR.

THOMAS H. WHITLEY ETLS  
183 FAIRMONT CIRCLE  
DANVILLE, VA 24541

LOT 7, BLOCK 104  
3615 W. BEACH DR.  
OAK ISLAND, NC

WILLIAM T. & LEE ANN  
PICKERING  
208 N. 28<sup>TH</sup> ST.  
RICHMOND, VA. 23223



\* DOUBLE DECK - 18' x 14' ON  
1<sup>ST</sup> AND 2<sup>ND</sup> LEVEL.

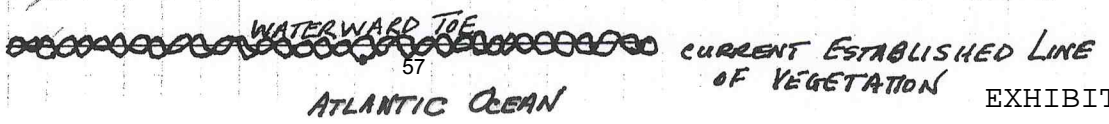
GAZEBO: 200 SF  
UNCOVERED DECK: 496 SF

\* LOWEST ELEVATION ON DUNE  
CLOSEST TO HOUSE IS 13.0'. LOCATION  
WOULD BE SOMEWHERE BETWEEN THE  
RIDGE OF DUNE AND WATERWARD TOE.

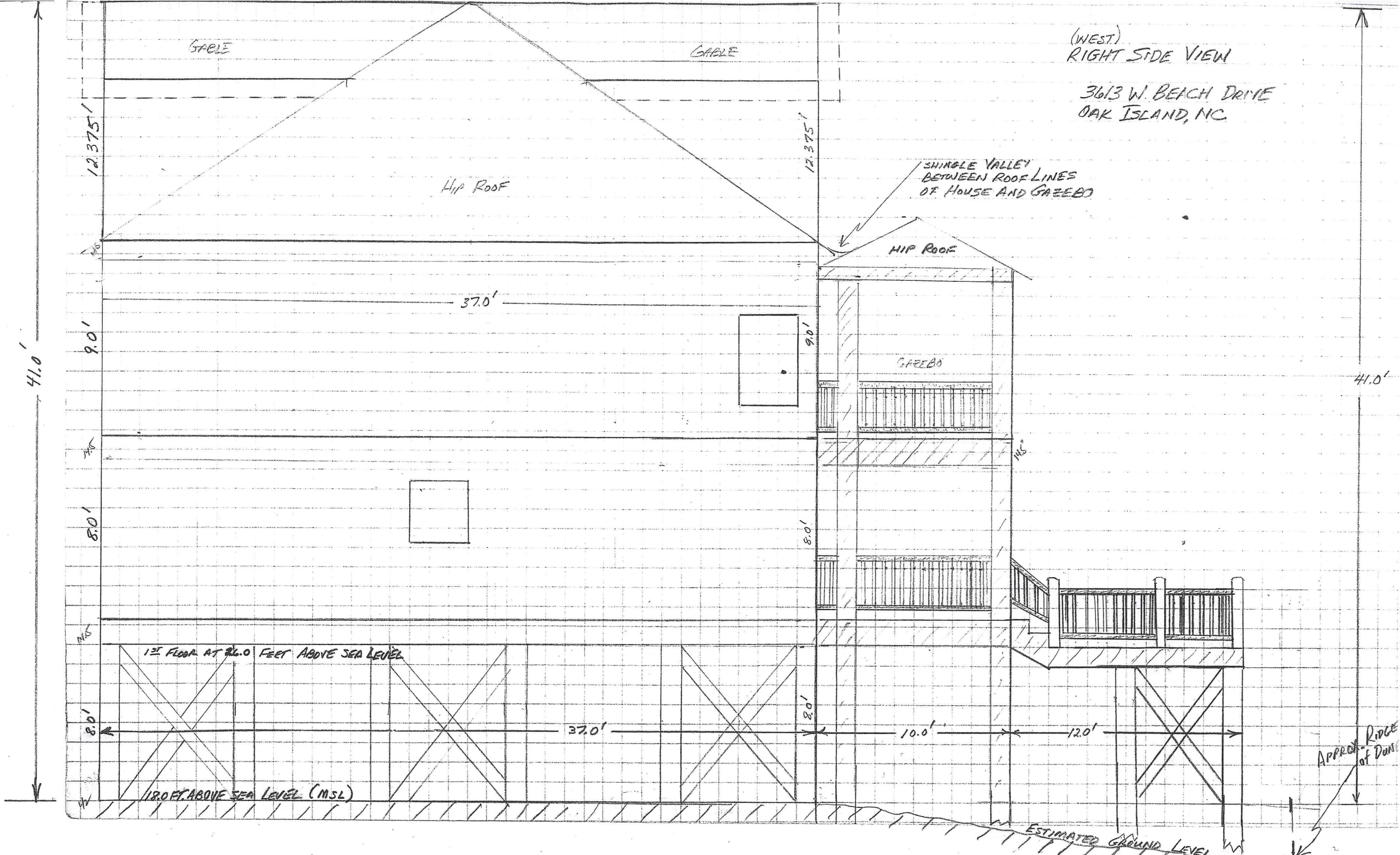
1998 STATIC LINE  
OF VEGETATION

JIM & PAGE HYSONG  
391 HYSONG LANE  
HENDERSONVILLE, NC 28791

SCALE: 1" = 15.0 FT  
(1 SQ. = 3.0 FT)







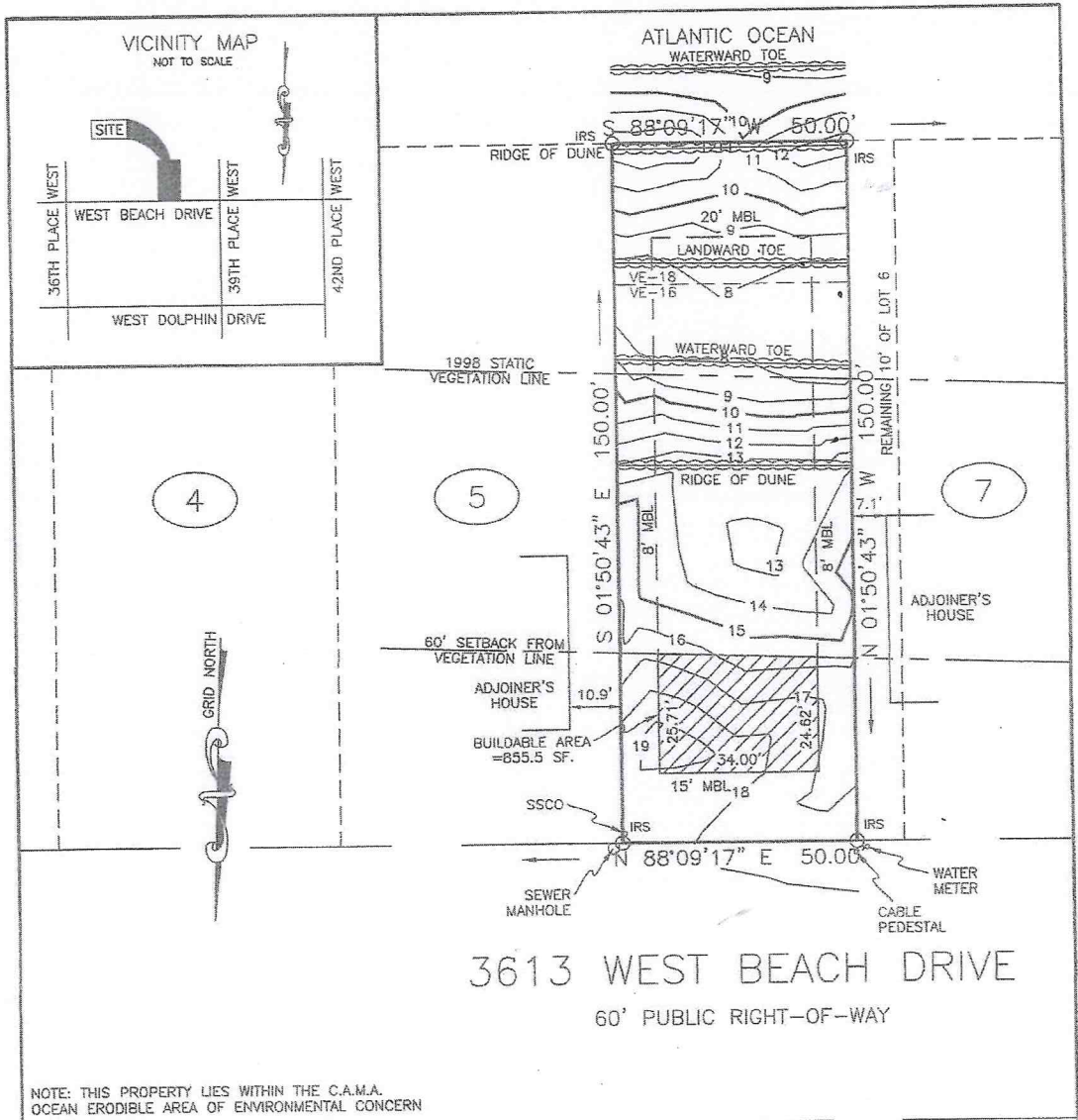
(WEST)  
RIGHT SIDE VIEW  
3613 W. BEACH DRIVE  
OAK ISLAND, NC

REVISED: 8/20/2014

(LANDWARD TOE?)  
LOWEST ELEVATION ON DUNE  
CLOSEST TO PROPOSED HOUSE IS  
13.0'. NOT SURE OF PRECISE  
LOCATION BUT ESTIMATE IT  
IS BETWEEN THE RIDGE DUNE  
AND WATERWARD TOE (SEE LOT  
DRAWING), (BEYOND THE PROPOS



received by  
e-mailed  
8/22/14  
DFC



3613 WEST BEACH DRIVE  
60' PUBLIC RIGHT-OF-WAY

NOTE: THIS PROPERTY LIES WITHIN THE C.A.M.A. OCEAN ERODIBLE AREA OF ENVIRONMENTAL CONCERN

	<b>LEGEND (IF USED)</b> IRF=IRON ROD OR REBAR FOUND PF=PIPE FOUND MBL=MINIMUM BUILDING LINE IRS=IRON REBAR SET CMF=CONCRETE MONUMENT FOUND CP=CALCULATED POINT PDE=PUBLIC DRAINAGE EASEMENT FFE=FINISHED FLOOR ELEVATION BFE=BASE FLOOD ELEVATION CAMA=COASTAL AREA MANAGEMENT AGENCY PP=POWER POLE OHU=OVERHEAD UTILITIES F.E.M.A.=FEDERAL EMERGENCY MANAGEMENT AGENCY F.I.R.M.=FEDERAL INSURANCE RATE MAP SSCO=SANITARY SEWER CLEAN OUT	<b>OAK ISLAND ZONING</b> OK-R-7 <b>SETBACKS</b> BEACH FRONT= 15' SIDE= 8' REAR= 20'	<b>GRAPHIC SCALE</b>  1 INCH = 30 FEET
	<b>TAX PARCEL # 234PE03101</b>		
<b>FLOOD CERTIFICATION:</b> 1. THIS PROPERTY LIES WITHIN F.E.M.A. SPECIAL FLOOD HAZARD AREA VE-16 & VE-18, AS SHOWN ON F.I.R.M. 372020-4600-J, DATED 6/2/06. <b>GENERAL NOTES:</b> 1. MEASUREMENTS ON THIS MAP ARE IN FEET AND DECIMALS THEREOF. 2. ALL SET CORNERS ARE 1/2" IRON REBAR UNLESS OTHERWISE NOTED. 3. THIS PROPERTY MAY BE SUBJECT TO ADDITIONAL EASEMENTS, RIGHTS OF WAY AND RESTRICTIONS NOT DISCERNIBLE BY OBSERVATION AT THE TIME OF SURVEY OR THAT MAY BE OF RECORD. NO TITLE SEARCH BY THOMAS D. VON CANON. <b>REFERENCES:</b> 1. PLAN OF BLOCKS NO. 101A, 102, 103, & 104, DATED JULY 14TH, 1958, RECORDED IN MAP CABINET 5, PAGE 50, BRUNSWICK COUNTY, NORTH CAROLINA, REGISTER OF DEEDS. 2. DEED BOOK 1167, PAGE 1188, RECORDED IN BRUNSWICK COUNTY, NORTH CAROLINA, REGISTER OF DEEDS. THIS IS TO CERTIFY THAT ON JULY 21ST, 2014, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS, IF ANY, ARE SHOWN HEREON. THE AREA OF THIS PROPERTY IS 0.172 ACRES AS CALCULATED BY COORDINATE COMPUTATION METHOD AND THAT THE ERROR OF CLOSURE IS 1:10,000. SIGNED  THOMAS D. VON CANON L-3586			
<b>LOT SURVEY</b> FOR: PACULA CONSTRUCTION EASTERN 50' OF LOT 6 BLOCK 104, SECTION 4 WEST LONG BEACH OAK ISLAND, SMITHVILLE TOWNSHIP BRUNSWICK COUNTY, NORTH CAROLINA		 VCS & CO., INC. C-2160 1 YAUPON WAY OAK ISLAND, NC TELE. (704) 361-1557 FAX. (910) 278-4827 MAILING ADDRESS: 700 PINE FOREST ROAD, CHARLOTTE, N.C. 28214	

Z:\VCSBRUNSCO\PACULA CONSTRUCTION\OAK ISLAND\PRELIMINARY SITE PLAN\3613 WEST BEACH DRIVE 2004





September 8, 2014

**CERTIFIED MAIL - # 7014 0150 0002 1641 3164**  
**RETURN RECEIPT REQUESTED**

Jim & Page Hysong  
391 Hysong Lane  
Hendersonville, NC 28791

**RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT**  
**APPLICATION NUMBER- OI 14-47**  
**PROJECT ADDRESS- 3613 W. Beach Dr.**

Dear Mr & Mrs Hysong:

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

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

**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 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...”

In your case, the long-term erosion rate is 2'/year and the setback for structures less than 5,000 square feet in total floor area is measured 60' landward of the static vegetation line. Your application is also inconsistent with our Local Land Use Plan. On page 45 of the Land Use Plan, you will find that the plan states: "The majority of beachfront lots within the oceanfront area are built out. The total number of oceanfront lots that are unbuildable according to Oak Island's Community Development Department is 475 lots. These remain undeveloped lots and are unstable due primarily to erosion". Also on page 64 the statement under:

**Planning and Community Development Department**

The Planning and Community Development Department is responsible for all aspects of the development activity that occurs inside the Town's jurisdiction. The Department reviews plans for development, issues building permits, enforces all Town ordinances and codes and creates and reviews all planning and development documents. The Planning and Development Services Department is a one-stop for all residents and developers interested in building projects in Oak Island. The department provides services such as construction consultations and an on-staff arborist available for the public at no cost. As with all plans adopted by the Town, the Community Development Department will monitor the progress of the Hazard Mitigation Plan to ensure the activities carried out under this plan are consistent with the CAMA Land Use Plan.

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

Respectfully yours,



Donna F. Coleman, LPO  
Town of Oak Island

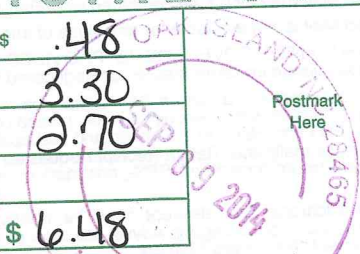
cc: Heather Coats DCM-Wilmington

7014 0150 0002 1641 3164

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Sent To: Jim + Page Hysong  
 Street, Apt. No., or PO Box No.: 391 Hysong Ln  
 City, State, ZIP+4: Hendersonville, NC 28791

PS Form 3800, August 2006 See Reverse for Instructions



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 X *John Hysong*  Agent  Addressee

B. Received by (Printed Name) John Hysong C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
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4. Restricted Delivery? (Extra Fee)  Yes



Division of Coastal Management  
Mike Christenbury  
127 Cardinal Ext. N  
Wilmington, NC

REF: Hysong, CAMA Minor Permit # OI 14-47

Mike,

After further review of the Hysong CAMA Minor Permit application the Town would like to correct a Portion of the denial letter sent to the applicant. It is our request to rescind our determination that the Information submitted is in conflict with our Land Use Plan and just in conflict with the static vegetation line.

Sincerely,

A handwritten signature in black ink that reads "Donna F. Coleman". The signature is written in a cursive style.

Donna F. Coleman  
CAMA-LPO  
Town of Oak Island



**From:** crook, Josh <jcrook@ci.oak-island.nc.us>  
**To:** Coleman, Donna  
**Subject:** RE: Hysongs - variance from town  
**Date:** 11/14/2014 4:31:53 PM

Heather,

On February 11, 2014 the Town Council approved an ordinance amendment reducing our front yard setback for all oceanfront lots from 20 feet to 15 feet. This action was taken to allow approximately 51 lots the ability to have the minimum building depth required by the Town to classify the lot as buildable. The minimum depth is 20 feet between the front yard setback and the 60 static line buffer. While many lot owners requested a greater reduction of the front yard setback, staff believed that it would render the owner's no ability to provide the required parking spaces of one 9 x 18 space per bedroom. The Hysong's do have the option of petitioning the Board of Adjustments for a variance on the front yard setback, but it's most certainly going to be denied due to the fact that the Council has already granted the same relief as the other lot owners and they would also have the burden of proving all of the following criteria from Sec. 18-334 of the Town's code of ordinances.

- a. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as circumstances that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship.
- d. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Please do not hesitate to contact me if you require further information.

Regards,

Joshua N. Crook

Planning & Zoning Administrator  
Town of Oak Island  
(910) 201-8054

**From:** Coleman, Donna  
**Sent:** Friday, November 14, 2014 3:18 PM  
**To:** crook, Josh  
**Subject:**

FW: Hysongs - variance from town

Hey Josh,

Can you send me an e-mail addressing the problem as to why the front street setback could not be reduced any further. (see below)

Thanks,

Donna

**From:** Coats, Heather [<mailto:heather.coats@ncdenr.gov>]

**Sent:** Friday, November 14, 2014 10:50 AM

**To:** Coleman, Donna

**Subject:**

FW: Hysongs - variance from town

Donna,

Did the Hysong's request relief from the front street setback from the Town prior to applying for the

permit? If not, they need to try that before applying for the variance- even if you know the answer will be no.

Thanks,  
Heather

Heather Coats, Field Representative  
[NC Division of Coastal Management](#)  
127 Cardinal Drive Extension  
Wilmington, NC 28405-3845  
(910) 796-7424 Fax (910) 395-3964  
E-mail: [heather.coats@ncdenr.gov](mailto:heather.coats@ncdenr.gov)

**Please visit [www.nccoastalmanagement.net](http://www.nccoastalmanagement.net) to subscribe to**  
Coastal Management's quarterly newsletter, the CAMAgram.

\* E-mail correspondence to and from this address may be subject to the  
North Carolina Public Records Law and may be disclosed to third parties.

From: Menard, Brenda [<mailto:BMenard@ncdoj.gov>]

**Sent:** Friday, November 14, 2014 10:44 AM

**To:** Coats, Heather; Wilson, Debra

**Subject:**

Hysongs - variance from town

ATTORNEY-CLIENT COMMUNICATION; PRIVILEGED; CONFIDENTIAL; NOT A PUBLIC  
RECORD

Deb & Heather,

You are checking on whether there has been any request for a variance from the Town (regarding the setback from the road), right? Could you please let me know what you find out by close of business today? I had hoped to get the stipulated facts to the Hysongs later today or Monday morning at the latest, and if they need to go to the Town for a variance first, that will save them the step of reviewing the stipulated facts at this point.

Thanks,  
Brenda

Brenda Menard  
Special Deputy Attorney General  
North Carolina Department of Justice  
P. O. Box 629  
Raleigh, NC 27602-0629  
(919) 716-6600 Phone  
(919) 716-6767 Fax  
[bmenard@ncdoj.gov](mailto:bmenard@ncdoj.gov)

# Hurricanes and Tropical Storms - Southport, NC Area - 1950 to Present

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Tuesday, November 25, 2014

**Wesley Greene**  
 856 Swenden Creek Road Ste E, Asheville, NC, 28803  
 828-277-5877

**State Farm**  
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[Home](#) > Hurricane Archive

## Hurricanes and Tropical Storms - Southport, NC

Below, please find the names, dates and intensity of all hurricanes and tropical storms that have impacted the Southport, North Carolina area since 1950. Data includes direct hits and indirect hits for Southport, Oak Island and Bald Head Island.

Name	Date	Wind Speeds (MPH)	Category
Irene	8/27/2011	68	TS
Hanna	9/16/2008	77	1
Cristobal	7/20/2008	45	TS
Ernesto	8/31/2006	70	TS
Cynthia	9/13/2005	84	1
Charley	8/14/2004	74	1
Kyle	10/11/2002	35	TS
Irene	10/11/1999	80	1
Floyd	9/16/1999	90	2
Bonnie	8/26/1998	100	3
Fran	9/5/1996	100	3
Bertha	7/12/1996	90	2
Arthur	6/19/1996	40	TS
Kate	11/22/1985	45	TS
Diana	9/11/1984	115	4
Dennis	8/19/1981	50	TS
Hattie	10/26/1975	45	TS
Ginger	10/11/1971	60	TS
Doria	8/27/1971	50	TS
Gladys	10/20/1968	75	1
Alma	6/11/1966	40	TS
Dora	9/13/1964	45	TS
Unnamed	6/7/1964	35	TS
Ginny	10/26/1963	85	2
Alma	8/28/1962	45	TS
Unnamed	9/14/1961	35	TS
Donna	9/11/1960	95	2
Brenda	7/29/1960	50	TS
Helene	9/27/1958	115	4
Unnamed	6/9/1957	45	TS
Diane	8/17/1955	75	1
Hazel	10/15/1954	110	3

Source: NOAA.gov

Latest Updates From The Southport Times:

- Event: "Jazz At The Cape Fear" - The Event of the Season!

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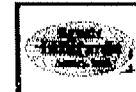
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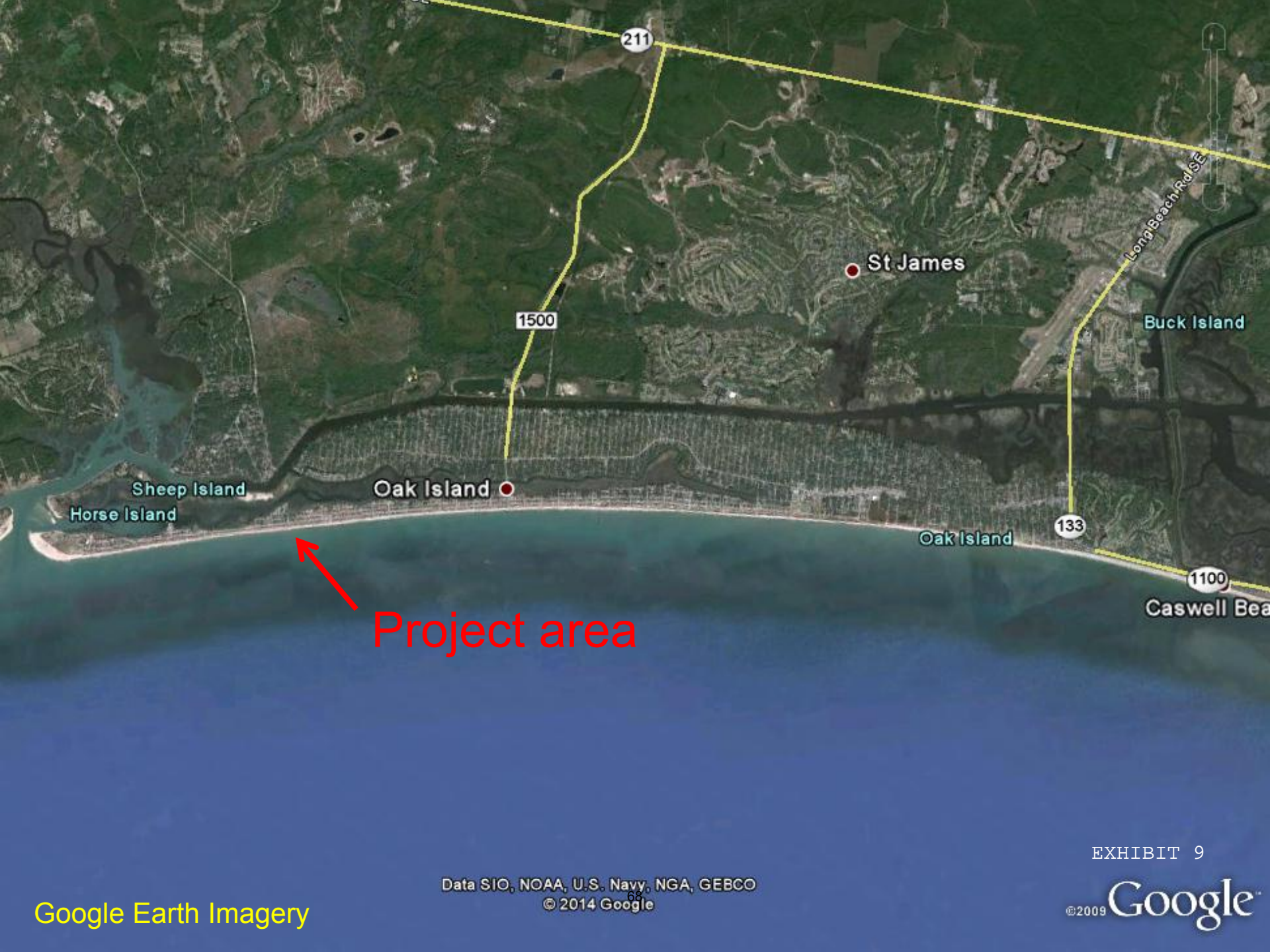
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Wine Shop & Gallery  
Uncorked by the Sea





# Hysong VARIANCE REQUEST

Oak Island  
Brunswick County  
December 17, 2014



Project area



Google Earth imagery  
2013





Google Earth imagery  
2013

60' setback

Static line



Project area





Hysong property facing south  
Photo taken Nov 18, 2014





Hysong property facing south  
Photo taken Nov 18, 2014





Hysong property facing east  
Photo taken Nov 18, 2014





Hysong property facing west  
Photo taken Nov 18, 2014





Hysong property facing north  
Photo taken Nov 18, 2014





Frontal dune and actual first line of stable, natural vegetation  
Facing east- Photo taken Nov 18, 2014





Frontal dune and actual first line of stable, natural vegetation  
Facing west- Photo taken Nov 18, 2014





## **VARIANCE CRITERIA**

### **15A NCAC 07J.0703(f)**

**To grant a variance, the Commission must affirmatively find each of the four factors listed in G.S. 113A-120.1(a).**

- (1) that unnecessary hardships would result from strict application of the development rules, standards, or orders issued by the Commission;**
- (2) that such hardships result from conditions peculiar to the petitioner's property such as location, size, or topography;**
- (3) that such hardships did not result from actions taken by the petitioner; and**
- (4) that the requested variance is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will preserve substantial justice.**