CRC-VR-10-07

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

ROY COOPER
ATTORNEY GENERAL

P.O. BOX 629
RALEIGH, NC 27602

REPLY TO: CHRISTINE A. GOEBEL
ENVIRONMENTAL DIVISION
TEL: (919) 716-6600
FAX: (919) 716-6767
cgoebel@ncdoj.gov

TO: The Coastal Resources Commission

FROM: Christine A. Goebel, Assistant Attorney General

DATE: November 3, 2010 (for the November 17-18, 2010 CRC Meeting)

RE: **Variance Request by Town of Edenton (10-07)**

Petitioner is a municipal corporation located in Chowan County, North Carolina, and owns Colonial Park, located adjacent to the Chowan River. In July of 2010, Petitioner applied for a CAMA major permit to move the 1886 Roanoke River Lighthouse ("the Lighthouse"), from its current site on the park's upland onto pilings in the Petitioner's boat-basin within the Chowan River, adjacent to the Petitioner's waterfront Colonial Park. The Commission's rules limit non-water-dependant structures, such as the Lighthouse, from being placed over public trust and estuarine waters. While this area is an Urban Waterfront as defined by 7H.0209(g), the Lighthouse does fit within the Commission's rules for allowable structures. Accordingly, DCM denied Petitioner's permit application, and Petitioner now seeks a variance to allow the placement of the Lighthouse within the Town's boat-basin area off from Colonial Park as proposed.

The following additional information is attached to this memorandum:

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

cc: Hood Ellis, Counsel for Petitioner, electronically
Anne-Marie Knighton, Edenton Town Manager, electronically
Paul E. Waff, Jr., Town's Contractor, electronically
Holly Colombo, CAMA LPO, Chowan County, electronically
Jennie W. Hauser, CRC Counsel, electronically

ATTACHMENT A

RELEVANT STATUTES OR RULES

15A NCAC 7H.0208 USE STANDARDS

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(a) General Use Standards

(1) Uses which are not water dependant shall not be permitted in coastal wetlands, estuarine waters, and public trust areas. Restaurants, residences, apartments, motels, hotels, trailer parks, private roads, factories, and parking lots are examples of uses that are not water dependant. Uses that are water dependant include utility crossings, docks, wharves, boat ramps, dredging, bridges and bridge approaches, revetments, bulkheads, culverts, groins, navigational aids, mooring pilings, navigational channels, access channels and drainage ditches.

15A NCAC 7H.0209 COASTAL SHORELINES

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(g) Urban Waterfronts

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(4) Use Standards

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(B) Non-water dependant uses over estuarine waters, public trust waters and coastal wetlands may be allowed only within Urban Waterfronts as set out below.

(i) Existing structures over coastal wetlands, estuarine waters or public trust areas may be used for commercial non-water dependant purposes provided that the structure promotes, fosters, enhances or accommodates public bonfire. Commercial, non-water dependent uses shall be limited to restaurants and retail services. Residential uses, lodging and new parking areas shall be prohibited.

(ii) For the purposes of this Rule, existing enclosed structures may be replaced and or expanded vertically provided that vertical expansion does not exceed the original footprint of the structure, is limited to one additional story over the life of the structure and is consistent with local requirements or limitations.

(iii) New structures built for non-water dependant purposes are limited to pile-supported, single-story, unenclosed decks and boardwalks, and shall meet the following criteria:

(I) The proposed development shall provide for enhanced public access to the shoreline;
(II) Structures may be roofed but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind and shall be limited to a single story;
(III) Structures shall be pile supported and require no filling of coastal wetlands, estuarine waters or public trust areas;
(IV) Structures shall not extend more than 20 feet waterward of the normal high water level or normal water level;
(V) Structures shall be elevated at least three feet over the wetland substrate as measured from the bottom of the decking;
(VI) Structures shall have no more than six feet of any dimension extending over coastal wetlands;
(VII) Structures shall not interfere with access to any riparian property and shall have a minimum setback of 15 feet between any part of the structure and the adjacent property owners' areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the structure commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development;
(VIII) Structures shall be consistent with the US Army Corps of Engineers setbacks along federally authorized waterways;
(IX) Structures shall have no significant adverse impacts on fishery resources, water quality or adjacent wetlands and there must be no reasonable alternative that would avoid wetlands. Significant adverse impacts include the development that would directly or indirectly impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water level, or cause degradation of shellfish beds;
(X) Structures shall not degrade waters classified as SA or High Quality Waters or Outstanding Resource Waters as defined by the NC Environmental Management Commission;
(XI) Structures shall not degrade Critical Habitat Areas or Primary Nursery Areas as defined by the NC Marine Fisheries Commission; and
(XII) Structures shall not pose a threat to navigation.

ATTACHMENT B

STIPULATED FACTS

1. Petitioner is the Town of Edenton, a political subdivision and municipal corporation duly existing pursuant to Chapter 160A of the North Carolina General Statutes.

2. The 1886 Roanoke River Lighthouse (the "Lighthouse") was originally constructed as a navigational aid at the mouth of the Roanoke River in the Albemarle Sound. Crews and supplies were ferried to and from the Lighthouse by boat. It remained in operation until the mid-1900's until it was abandoned by the US Coast Guard and lay vacant until the federal government caused all the remaining inland North Carolina lights to be removed or destroyed.

3. Elijah Tate bought three of the lights from the federal government, but two were accidentally demolished during relocation. This Lighthouse was sold to Emmitt Wiggins, a WWII Navy Engineer, Captain and underwater salvager in 1955. Wiggins moved it by barge near his property where it remained until Wiggins' heirs transferred ownership of the Lighthouse and it was moved in 2007 to Colonial Park in preparation for restoration.

4. In 2007, the North Carolina General Assembly appropriated funds, through the Department of Cultural Resources, to allow the Edenton Historical Commission to preserve and protect the Lighthouse.

5. The Town plans to nominate the Lighthouse to the Natural Register of Historic Places.

6. The Lighthouse is the last remaining of the fifteen screw pile light stations on in North Carolina.

7. The Department of Cultural Resources, the Town, and the Edenton Historic Commission developed a plan ("Lighthouse Plan") to repair, restore, and operate for interpretive purposes on the Town's waterfront, the last remaining square pegged screw pile lighthouse believed to be in the U.S. Screw-pile lighthouses are those where the piles were screwed into sandy or muddy sea- or river-bottoms. An operating agreement between the three partners was executed in 2008, where the Town agreed to lease waterfront property for the Lighthouse, and the Department agreed to follow the Restoration Plan in compliance with the Secretary of Interior's Standards for Rehabilitation, and to make the Lighthouse available for daily operations of Historic Edenton for the purpose of interpretation, public tours and site events.

8. In 1997, the Town of Edenton received a planning grant from NC Division of Coastal Management to develop a Waterfront Master Plan. Extensive public participation lead to the community formulating a plan for the Town's waterfront. The plan was formally adopted by the Town Council in 1998 and continues to serve as the guiding framework for the redevelopment of Edenton's historic waterfront. Acquiring, restoring and relocating the Lighthouse to Edenton's waterfront became centerpiece of the plan. However, the Plan allows for the Lighthouse to be placed either on the upland of Colonial Park, or over the waters adjacent to the Park.

9. As part of the Lighthouse Plan, the Edenton Historic Commission transferred ownership of the Lighthouse to the Department of Cultural Resources on June 20, 2008.

10. Also pursuant to the Lighthouse Plan and to N.C.G.S. 160A-272, the Town of Edenton leased an unrestricted area in the Town's waterfront Colonial Park to the Department of Cultural Resources on April 21, 2009, for the purpose of establishing and operating a State Historic Site.

11. After the lease was agreed to, it was determined that the initial site proposed for the Lighthouse was contaminated by petroleum from the site's earlier use as an oil jobber. Town officials were concerned that removal of the contaminated soil will jeopardize the stability of the existing bulkhead, which could result then result in contaminated soil entering the waters of Edenton Bay. The parties involved began to look at alternative sites for the Lighthouse, following the discovery of the contamination.

12. By application received as complete by DCM on July 27, 2010, Petitioner applied for a CAMA Major Permit to locate the Lighthouse at a new site on pilings over the open water within the Town's marina basin, adjacent to Colonial Park. A copy of the site plan is attached and incorporated.

13. The site for the Lighthouse is located approximately eight feet from the Town's Colonial Park bulkhead and behind the Town's breakwater structure, which was constructed in 2001, pursuant to CAMA Major Permit #112-00. The breakwater is constructed of concrete and steel at an elevation of 5 feet NWL and was designed and constructed to resist damage from storms, including hurricanes.

14. The Lighthouse foundation is proposed to be constructed with round timber piles up to approximately 2 feet above the NWL. The 8-9 foot space between the top of the piles and the underside of the Lighthouse will consist of braced hollow steel pipe columns to mimic the original cast-iron construction. In order to minimize damage from waves and floodwaters, the Lighthouse is proposed to be elevated 11 feet above NWL.

15. The Lighthouse has been restored to withstand 110 mph wind loads per the N.C. State Building Code (a category 3 Hurricane). The foundation system will be designed to resist the wind and storm surge associated with a storm producing 100 mph wind loads in open waters.

16. The site for the Lighthouse is within the Public Trust Areas and Estuarine Waters Areas of Environmental Concern (AECs), and so development of the piling base for the Lighthouse within this AEC requires a CAMA permit per N.C.G.S. 113A-118.

17. The waters at the site are classified SB waters by the Environmental Management Commission and are closed to the harvest of shellfish. The waters are not classified as a Primary Nursery Area.

18. During the CAMA Major Permit review process, there were no objections to the project. DWQ also issued a 401 Stormwater Certification, and DMF noted there were no SAV currently in the proposed site. DMF did comment that the pile-driving should be timed to avoid the February 15-September 30 moratorium period. A copy of DMF's comments is attached.

19. During the review process, DCM received no comments from the public objecting to the project. Additionally, both adjacent riparian neighbors informed DCM they had no objections to the project.

20. Division of Coastal Management staff determined that this lighthouse is not a water-dependant structure, as that term is defined by the Commission at 15A NCAC 7H.0208(a)(1), primarily because this structure is not proposed to be used for navigation purposes.

21. Division of Coastal Management staff determined that the proposed site for the Lighthouse foundation is within an Urban Waterfront, as that term is defined by the Commission at 15A NCAC 7H.0209(g).

22. On October 4, 2010, DCM denied Petitioner's application for a Major CAMA Permit. A copy of the denial letter is attached.

23. Petitioner is seeking a variance from the CRC's rules which are noted in DCM's permit denial letter, in order to construct the Lighthouse foundation over the Public Trust Area and Estuarine Waters AECs as proposed.

Petitioner and Staff Positions

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

Petitioner's Position: Yes.

The NC Department of Culture Resources received American Recovery & Reinvestment Act (stimulus) grant from the NC Department of Transportation to refurbish the exterior of the 1886 Historic Roanoke River Lighthouse and install it on a permanent foundation on waterfront property owned by the Town of Edenton. A condition of the grant is that all work specified in Phase I of the project be completed by June 8, 2011 or lose funding.

Upon excavation for the lighthouse foundation it was discovered that the soil was contaminated with fuel from the previous owner, an oil company. Further excavation was halted until the extent of contamination could be determined. Based on results of an initial site assessment, a possible solution to clean up may be through natural attenuation. The contamination of the soil is not in danger of entering the waters of Edenton Bay thanks to the existing steel sheet pile bulkhead along the waterfront. Mass excavation of the contaminated soil would pose a high risk of destroying the tieback system that secures the integrity of the bulkhead. Failure of the tie back system would result in a catastrophic failure of the bulkhead and thereby risk release of the contamination into the public trust waters of Edenton Bay. Unfortunately, to keep from losing the ARRA grant funds, it is necessary to complete the Phase I of the project and permanently locate the Lighthouse on pilings. Returning this historic maritime structure over water, resting securely on pilings is its rightful place. Showcasing what is believed to be the last extant example in the United States of a rectangular frame building built for screw pile base anywhere other than on the town waterfront would be a disgrace to this magnificent structure. Locating the lighthouse anywhere between the water and the Edenton waterfront would be like displaying the Hope Diamond in the maintenance garage of a museum.

Staff's Position: Yes.

Staff agrees that a strict interpretation of the Commission's rules causes Petitioner unnecessary hardships. Although many lighthouses are water-dependent structures, the use of this particular lighthouse is not for navigational purposes, and so it is difficult to say it is a water-dependent structure. Since the Commission's rules allow non-water dependent structures over Public Trust Areas and Estuarine Waters AECs in some instances in designated Urban Waterfronts, this particular structure and its proposed use does not strictly meet those requirements. Specifically, the placement of this historic structure is a proposed "new" structure over the water, although it is

reestablishing a historic use. See 7H.0209(g)(4)(B)(iii). Therefore, Staff agrees that not allowing the structure over the water causes Petitioner an unnecessary hardship. In addition, not meeting the timing requirement of the stimulus grant by June 8, 2011 could result in the loss of grant funding and will conflict the Edenton Historical Commission's plan. This hardship in not allowing the lighthouse over the water in order to meet the grant deadline would also cause hardships to other entities involved in the 2008 restoration agreement between Petitioner, the Department of Cultural Resources and the Edenton Historic Commission. Accordingly, the strict application of the Commission's rules causes Petitioner unnecessary hardships.

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

Petitioner's Position: Yes.

The topography of this site is such that it is the only location along the Town's waterfront that a structure can be located. All of the remaining property was purchased with federal grants that restrict any structures from occupying the park lands, see attachments A and B. The location originally planned, where the contamination was discovered, was the only slice of land not under the restrictions of the federal grant. The contamination of the soil at the original proposed lighthouse location prevents us from locating the structure there. Mass excavation of the soil would cause failure of the existing bulkhead tieback system.

Staff's Position: No.

Staff disagrees that Petitioner's hardships result from conditions peculiar to the property. Although this site may be the only location reasonable available to accommodate the grant deadline, it is Staff's opinion that this condition isn't peculiar to the property. It's the Petitioner's choice to put it over the water and not adjacent to the shoreline in order to meet the grant deadline while hoping for a variance from the Commission's rules. Staff disagrees that the current site where the lighthouse sits can't be remediated without endangering the existing bulkhead. Instead, it is simply that the project can't be completed in time to meet the tight stimulus grant deadline. Petitioner argues that the contamination of the soils prevents locating the structure on behind the bulkhead, but staff believes this merely causes complications, but is not a physical peculiarity of the site, as required by the CAMA statutory factor. The current site on the Colonial Park upland, however, could meet the Commission's Urban Waterfront rules, and could be constructed on the upland adjacent to the bulkhead. Therefore, Staff disagrees that the hardships result from conditions peculiar to the property.

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

Petitioner's Position: No.

The Town of Edenton purchased the property from Conger Oil Company over 30 years ago. Various oil products were delivered and shipped to the site by barge and highway tankers for over 50 years. These oil products were stored in on site tanks until distribution throughout the area by truck. Since acquiring the property, the Town developed it into and continues to use it as a beautiful waterfront park. See attachment C.

Staff's Position: Yes.

It appears the hardship is in application of the grant and its deadline for completion. The Petitioner's decision to propose the over-water location instead of pursuing an upland location immediately adjacent to the bulkhead causes the hardship. Staff believes the contaminated soil could be removed in such a way as to not undermine the existing bulkhead. Staff also believes that upon completion of remediation, the lighthouse could be placed on the upland area adjacent to the bulkhead since there is no buffer in the Commission's Urban Waterfront rules. A Phase I assessment completed before the placement of the lighthouse in this area in 2007 should have identified possible contamination issues, and could have avoided the timing problems now faced by the Town. Therefore, staff disagrees that Petitioner's hardships are not a result of their own actions.

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

Petitioners's Position: Yes.

We realize that when the CRC adopted its rules and regulations it was to prevent mass building projects over the water. When these rules and regulations were adopted we do not believe that anyone in their wildest imagination could have contemplated the potential for locating the last remaining square screw pile lighthouse in the country over the water. Countless dollars are spent by local, state and federal agencies to develop sites that promote and enhance our public waterfronts and waterways. These sites are used for recreation as well as teaching aids for future generations as to the life of those who came generations before them. It is our understanding from talking with the various agencies the three reasons for this regulation were: 1. Protect water quality; 2. Prevent potential obstruction to navigation; and 3. Anticipate that in future lack of maintenance would lead to the demise of these structures. To address these concerns we provide the following information for review:

a. The Town has received a letter from The Division of Water Quality stating there would be no adverse effect on the water quality if the structure was permitted in its proposed location. See Attachment D.

b. Locating the lighthouse inside Edenton Harbor would not be a hazard to navigation because it would be located behind a bulkheaded point of land at the entrance to the Town's safe harbor. This location is landward of and further protected by a concrete pier and breakwater that parallels the Edenton waterfront at Edenton Bay. During Hurricane Isabel this breakwater protected the Town's waterfront from damages to any structure inside the safe harbor basin. The walkway lights as well as the handrails on the pier and breakwater were not damaged. The 1886 Historic Roanoke River Lighthouse would not only be behind this breakwater, it would be a minimum of 4' higher than the deck of the existing pier and breakwater, thereby ensuring its protection from hurricanes and storms. At its location in 1886 at the mouth of the Roanoke River the lighthouse stood for over 69 years and was subjected to 60 miles of open water from the easterly direction in 8' of water. At its proposed location there are only eight miles of open water from the southerly direction at a water depth from two to six feet. This presents a much more stable situation to stand the test of time.

c. The Historic Lighthouse is owned by the State of North Carolina and is assigned to the NC Department of Cultural Resources. In addition to being one of many historic treasures in Edenton owned by the State of North Carolina and various nonprofit groups, the Historic Lighthouse has already become a tourist attraction and is expected to greatly enhance heritage tourism in Northeastern North Carolina. Lighthouses attract visitors from all over the world and many will spend their money throughout North Carolina on their way to Edenton thereby helping the State's economy. The State of North Carolina and the NC Department of Cultural Resources have outstanding tract records of taking care of our state's historic structures. There is much support and affection for the Historic Lighthouse locally too. This treasure will be treasured.

Staff's Position: Yes.

Staff agrees that the proposed project meets the spirit, purpose and intent of the Commission's rules. The Commission's rules generally prohibit non-water dependant structures, like this proposed lighthouse being used for educational purposes and not navigation purposes, from being developed within the Public Trust Areas and Estuarine Waters AECs. However, the Commission's primary exception to this general rule is for Urban Waterfronts, which the Commission has found to be significant "as having cultural, historical and economic significance for many coastal municipalities." 15A NCAC 7H.0209(g)(2). The Commission's Management Objective for Urban Waterfronts is:

> To provide for the continued cultural, historical, aesthetic and economic benefits of urban waterfronts. Activities such as in-fill development, reuse and redevelopment facilitate efficient use of already urbanized areas and reduce development pressure on surrounding areas, in an effort to minimize the adverse cumulative environmental effects on estuarine and ocean systems. 15A NCAC 7H.0209(g)(3).

The Commission's Use Standards for Urban Waterfront development limit *new* structures to unenclosed single-story decks and boardwalks. The Lighthouse is two-stories and is enclosed, so unfortunately does not meet the rule. However, Staff agrees that the Lighthouse does meet the spirit of the Urban Waterfront rules and the Management Objective because of its cultural, historic, and economic significance to the Town of Edenton and the citizens of the State. The Lighthouse will be run as a State Historic Site, and will be open to the public, and will include public access. On balance, these benefits to the public outweigh the minimal impacts to the resources identified during the CAMA major permit review process.

Granting the variance will protect public safety and welfare and preserve substantial justice because the structure will not decrease, and will likely increase the public's access to this portion of the public's resources, though changing it from water access to walking access in and around the Lighthouse. Additionally, there are negligible navigational issues as the Lighthouse will sit behind a breakwater in a protected harbor.

DCM FORM 11
(revised 6/26/06)

CAMA VARIANCE REQUEST

DCM FILE NO.

Petitioner supplies the following information:

RECEIVED
OCT 6 2010
Morehead City DCM
AW 10/7/10

Town of Edenton
PO Box 300
Edenton, NC 27932
Anne-Marie Knighton – Town Manager
Ofc: (252) 482-7352
Fax: (252) 482-73771

RECEIVED
OCT 7 2010
Morehead City DCM

Name of Agent
Paul E. Waff, Jr.
PO Box 237
Edenton, NC 27932
Ofc: (252) 482-7071
Fax: (252) 482-4816

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.)

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

What did you seek a permit to do?

To put the only original remaining screw pile river lighthouse back over the water, located inside of the Town of Edenton's Safe Harbor Marine Basin

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

15A NCAC 07H.0208(a)(1)
15A NCAC 07H.0209(g)(4)(B)

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.

Proposed lighthouse location was found to be on land contaminated from old oil company use. Remaining Town property on the waterfront was purchased with Federal grant money for specific purpose of use that will not allow the structure to be located on it.

Can you obtain a permit for a portion of what you wish to do? _NO__ If so, please state what the permit would allow.

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

Town will not be allowed to put a pile supported two story closed in historic lighthouse structure over the water.

RESPOND TO THE FOUR STATUTORY VARIANCE CRITERIA:

Please see attached variance response, 3 pages
Attachments to response: Attachment A, 3 pages
Attachment B, 2 pages
Attachment C, 2 pages
Attachment D, 4 pages

Please see attached copies of the following:

1. Denial document, 3 pages
2. Permit Application with site and structure drawings, 29 pages

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

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 6 day of October, 2010

Paul E Waff
Signature of Petitioner or Attorney

agree upon. Those documents will be the only documents that the Commission will consider in determining whether to grant your variance request.]

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

Date: October 6, 2010 Signature: _____
Paul E. Waff, Jr., Agent

This variance request must be filed with the Director, Division of Coastal Management, and the Attorney General's Office, Environmental Division, at the addresses shown on the attached Certificate of Service form.

I. The NC Department of Culture Resources received American Recovery & Reinvestment Act (stimulus) grant from the NC Department of Transportation to refurbish the exterior of the 1886 Historic Roanoke River Lighthouse and install it on a permanent foundation on waterfront property owned by the Town of Edenton.. A condition of the grant is that all work specified in Phase I of the project be completed by June 8, 2011 or lose funding.

Upon excavation for the lighthouse foundation it was discovered that the soil was contaminated with fuel from the previous owner, an oil company. Further excavation was halted until the extent of contamination could be determined. Based on results of an initial site assessment, a possible solution to clean up may be through natural attenuation. The contamination of the soil is not in danger of entering the waters of Edenton Bay thanks to the existing steel sheet pile bulkhead along the waterfront. Mass excavation of the contaminated soil would pose a high risk of destroying the tieback system that secures the integrity of the bulkhead. Failure of the tie back system would result in a catastrophic failure of the bulkhead and thereby risk release of the contamination into the public trust waters of Edenton Bay. Unfortunately, to keep from losing the ARRA grant funds, it is necessary to complete the Phase I of the project and permanently locate the Lighthouse on pilings. Returning this historic maritime structure over water, resting securely on pilings is its rightful place. Showcasing what is believed to be the last extant example in the United States of a rectangular frame building built for a screw pile base anywhere other than on the town waterfront would be a disgrace to this magnificent structure. Locating the lighthouse anywhere between the water and the Edenton waterfront would be like displaying the Hope Diamond in the maintenance garage of a museum.

II. The topography of this site is such that it is the only location along the Town's waterfront that a structure can be located. All of the remaining property was purchased with federal grants that restrict any structures from occupying the park lands, see attachment s A and B. The location originally planned, where the contamination was discovered, was the only slice of land not under the restrictions of the federal grant. The contamination of the soil at the original proposed lighthouse location prevents us from locating the structure there. Mass excavation of the soil would cause failure of the existing bulkhead tieback system.

III. The Town of Edenton purchased the property from Conger Oil Company over 30 years ago. Various oil products were delivered and shipped to the site by barge and highway tankers for over 50 years. These oil products were stored in on site tanks until distribution throughout the area by truck. Since acquiring the property, the Town developed it into and continues to use it as a beautiful waterfront park. See attachment C.

IV. We realize that when the CRC adopted its rules and regulations it was to prevent mass building projects over the water. When these rules and regulations were adopted we do not believe that anyone in their wildest imagination could have contemplated the potential for locating the last remaining square screw pile lighthouse in the country over the water. Countless dollars are spent by local, state and federal agencies to develop sites that promote and enhance our public waterfronts and waterways. These sites are used for recreation as well as teaching aids for future generations as to the life of those who came generations before them. It is our understanding from talking with the various agencies the three reasons for this regulation were: 1. protect water quality; 2. prevent potential obstruction to navigation; and 3. anticipate that in future lack of maintenance would lead to the demise of these structures. To address these concerns we provide the following information for review:

a. The Town has received a letter from The Division of Water Quality stating there would be no adverse effect on the water quality if the structure was permitted in its proposed location. See attachment D.

b. Locating the lighthouse inside Edenton Harbor would not be a hazard to navigation because it would be located behind a bulkheaded point of land at the entrance to the Town's safe harbor. This location is landward of and further protected by a concrete pier and breakwater that parallels the Edenton waterfront at Edenton Bay. During Hurricane Isabel this breakwater protected the Town's waterfront from damages to any structures inside the safe harbor basin. The walkway lights as well as the handrails on the pier and breakwater were not damaged. The 1886 Historic Roanoke River Lighthouse would not only be behind this breakwater, it would be a minimum of 4' higher than the deck of the

existing pier and breakwater, thereby ensuring its protection from hurricanes and storms. At its location in 1886 at the mouth of the Roanoke River the lighthouse stood for over 69 years and was subjected to 60 miles of open water from the easterly direction in 8' of water. At its proposed location there are only eight miles of open water from the southerly direction at a water depth from two to six feet. This presents a much more stable situation to stand the test of time.

c. The Historic Lighthouse is owned by the State of North Carolina and is assigned to the NC Department of Cultural Resources. In addition to being one of many historic treasures in Edenton owned by the State of North Carolina and various nonprofit groups, the Historic Lighthouse has already become a tourist attraction and is expected to greatly enhance heritage tourism in Northeastern North Carolina. Lighthouses attract visitors from all over the world and many will spend their money throughout North Carolina on their way to Edenton thereby helping the State's economy. The State of North Carolina and the NC Department of Cultural Resources have outstanding tract records of taking care of our state's historic structures. There is much support and affection for the Historic Lighthouse locally too. This treasure will be treasured.

Town of Edenton

April 24, 2007

John C. Poole, Community Development Specialist
NC Division of Parks and Recreation
1615 Mail Service Center
Raleigh, NC 27699-1615

Re: *LWCFA funded area – Edenton, NC*
1886 Roanoke River Lighthouse Relocation

Dear John:

As previously recommended by Dallis Tucker in his e-mail of December 13, 2006, I am enclosing a title opinion from the Town Attorney of Edenton. This opinion concludes that the land upon which the Edenton Historical Commission with consent of the Town of Edenton proposes to relocate the 1886 Roanoke River Lighthouse is within the former right of way of Dock Street. As related by the Town Attorney, Dock Street was conveyed to the Town and is not subject to any encumbrances of record.

A review of the official State file containing documents on the original park acquisition funding discloses a map which is attached. This State document clearly delineates the project area acquired for Edenton's Colonial Park through the Land and Water Conservation Fund as authorized by Section 6 of the Land and Water Conservation Fund Act of 1965 [PL 88-578; 16 USC 460*l*-8]. Note those areas delineated on this file map as being "acquired with project proposal." While Dock Street is shown as bisecting the project area, it is not shown as part of the project area.

Accordingly, the Town of Edenton is officially informing the State that the Town of Edenton intends to make use of a portion of the former right of way of Dock Street as the site for the historic 1886 Roanoke River Lighthouse. Upon such relocation, the structure will be mounted on steel pilings and will provide a shelter area below it which will still be used for outdoor passive recreation within the park. The structure will be restored according to the US Department of Interior's *Standards for the Treatment of Historic Properties* and will be operated as a house museum open to the public as a park amenity. Actual operation will be pursuant to a cooperative agreement between the NC Department of Cultural Resources, the Town of Edenton, and the Edenton Historical Commission. The Town believes this use will be very compatible with Colonial Park and

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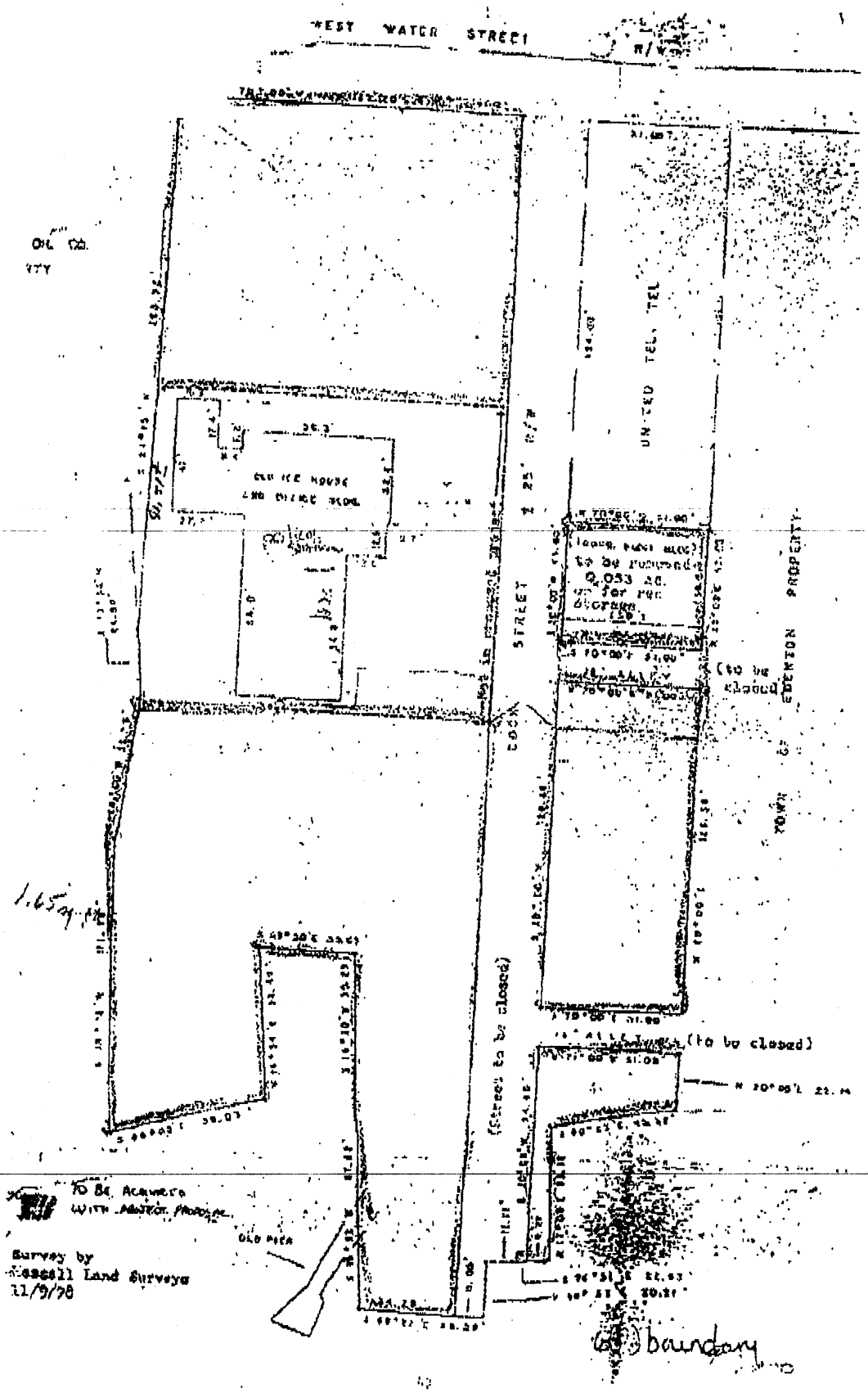
(252) 482-7377 - FAX

in no way will its operation infringe on the public's enjoyment of any adjacent properties subject to the LWCFA's Section 6 project boundary.

We anticipate commencing the relocation work within the next sixty days. Please let me know if you have any further questions or concerns. Thank you for all the interest the N.C. Division of Parks and Recreation has given the Town of Edenton.

Sincerely,

Anne-Marie Knighton
Town Manager



Attachment A-3

HORNTHAL, RILEY, ELLIS & MALAND, L.L.P.
ATTORNEYS AT LAW
POST OFFICE BOX 220
ELIZABETH CITY, NORTH CAROLINA 27907-0220

CLAYTON W. CHERK
M. H. HOOD ELLIS
DAVID C. GADD
BENJAMIN M. GALLOP
ROBERT R. HOBBS, JR.
L. P. HORNTHAL, JR.
L. PHILLIP HORNTHAL, III
JOHN D. LEIDY
MARK M. MALAND
DONALD I. MCREE, JR.
W. BROCK MITCHELL
CHARLES W. OGLETREE
DONALD C. PRENTISS
J. FRED RILEY*
MICHAEL P. SANDERS
THOMAS L. WHITE, JR.*

*OF COUNSEL

OFFICES:
301 E. MAIN STREET
ELIZABETH CITY, NC
TELEPHONE (252) 335-0871
TELEFAX (252) 335-4223

INTERNET: www.hrem.com

OFFICES ALSO IN
NAGS HEAD, NC
AND
COLUMBIA, NC

April 26, 2007

Ms. Anne-Marie Knighton, Town Manger
Town of Edenton
P.O. Box 300
Edenton, N.C. 27932

Re: Town of Edenton
Relocation of Roanoke River Lighthouse to Dock Street

Dear Ms. Knighton:

As Town Attorney for the Town of Edenton, you have advised us that the Edenton Historical Commission has a State grant to purchase and relocate the Roanoke River Lighthouse to property formerly constituting a portion of the right-of-way of Dock Street. The Lighthouse will then be restored through a State grant and thereafter included as one of the State historic properties operated as a house museum pursuant to a cooperative agreement between the N.C. Department of Cultural Resources, Edenton Historical Commission and the Town of Edenton.

The Town has asked this office for a title opinion regarding the ownership of that portion of Dock Street upon which the Commission proposes to relocate the Lighthouse. Based on our examination of the public records of Chowan County, Dock Street was conveyed to the Town of Edenton by deed from J. H. Conger & Son, Inc. dated October 20, 1978 of record in Book 123, Page 131 of the Chowan County Public Registry (copy enclosed). Our examination did not reveal any encumbrances or restrictions of record on Dock Street.

Since Dock Street bisects property which the Town acquired in 1978 with LWCF Funds previously designated as Waterfront Park and now designated as Colonial Park, the Town has also requested an opinion on whether the relocation and use of Dock Street requires the consent or approval of the National Park Service and the N.C. Division of Parks and Recreation. Based on our research, it is our opinion that the Town does not need the permission or approval of the National Park Service or the N.C. Division of Parks and Recreation. This opinion is based on the following reasons:

1. Dock Street was conveyed to the Town as indicated above.

2. If a municipality has been conveyed fee simple title to the land underneath the street, then the municipality can change the use of the property at its discretion. *David M. Lawrence, Local Government Property Transactions in North Carolina*, § 402 (2nd Edition, 2000); see also, N.C. Gen. Stat. §160A-265 (2006).

3. The LWCF Site plans of the Waterfront/Colonial Park project do not include Dock Street within the project boundaries.

4. If Dock Street was not part of the LWCF project area and no specific agreements were made with regard to the use of Dock Street in the LWCF grant or restrictions applicable thereto, no approval from the National Park Service or the N.C. Division of Parks and Recreation would be required on account of the LWCF project.

If we may be of further assistance, please advise. I am

Sincerely yours,

M. H. Hood Ellis

MHHE/lss
Enclosures
knighton.ltr.wpd

NCDENR

North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue, Governor

Division of Waste Management
UST Section

Dee Freeman, Secretary
Dexter R. Matthews, Director

September 22, 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0080 0000 5654 9900

J. H. Conger and Son, Incorporated
Attn: Mr. Terry M. Phillips, Registered Agent
P.O. Box 53
Edenton, NC 27932

Re: Notice of Violation
G.S. 143-215.75 et seq. Oil Pollution and Hazardous Substance Control Act of 1978
Unlawful Petroleum Release

J. H. Conger and Son, Incorporated Bulk Plant (Former)
South of 119 West Water St., Edenton, NC
Chowan County
Incident Number: 93082
Ranking: Undetermined

Dear Mr. Phillips:

Information received by this office in a report on April 20, 2010, confirms a release or discharge of petroleum as a result of a release from a former AST system. This office has determined that you are responsible for the release. The release has resulted in specific violation(s) of North Carolina General Statute 143-215.75 et seq., Oil Pollution and Hazardous Substances Control Act. This letter explains the violations and the associated corrective actions that you must take to bring the site into compliance. The Division of Waste Management, UST Section administers the required responses for petroleum releases in accordance with the General Statute 143.215.75 et seq., the Oil Pollution and Hazardous Substances Control Act, and with Title 15A NCAC Subchapter2L, Groundwater Classifications and Standards.

The specific violations of General Statute 143-215.75 et seq., are as follows:

1) G.S. 143-215.83 (a) Unlawful Discharges:
It shall be unlawful for any person to discharge oil or other hazardous substances into or upon any waters or land within the state:

2) G.S. 143-215.84 (a) Removal of Prohibited Discharges:
Any person having control over oil or other hazardous substances discharged in violation of this article shall immediately undertake to collect and remove the discharge and to restore the area affected by the discharge as nearly as may be to the condition existing prior to the discharge:

Attachment C-1

To correct the violations, the following actions are required in order to bring the site into compliance:

1) You must cease discharging all "oil" or other hazardous substances into or upon the waters or land of the state;
2) You must contain and remove free product;
3) You must remove and properly dispose of all contaminated soil exceeding the TPH action levels or the soil-to-groundwater maximum contaminant concentrations(MSCCs); and
4) You must perform soil assessment to confirm removal of contaminated soil using the procedures and analytical methods specified in the appropriate sections of the *UST Section Guidelines for the Investigation and Remediation of Contamination from Non-UST Petroleum Releases*.

Within 30 days of the receipt of this notice, you must complete these corrective actions and submit an **Initial Assessment Report**, prepared in accordance with the most recent version of the *UST Section Guidelines for the Investigation and Remediation of Contamination from Non-UST Petroleum Releases*, which indicates the nature and the extent of the release and describes initial response and abatement actions, including removal of free product and removal of contaminated soil and subsequent soil sampling to confirm cleanup to the Washington Regional Office of the UST Section.

Penalties may be assessed for the violation(s) described within this Notice of Violation. Your prompt attention to the items described herein is required. Failure to comply with the State's rules, in the manner and time specified, may result in the assessment of additional civil penalties and/or the use of other enforcement mechanisms available to the State. Each day that a violation continues may be considered a separate violation.

If you have any questions regarding the actions that must be taken or the rules mentioned in this letter, please contact me at the address or telephone number listed below.

Sincerely,

Scott Bullock, L.G.
Regional Supervisor
Washington Regional Office

cc: Chowan County Health Department
Terry M Phillips, 1500 W. Queen St., Edenton, NC 27932-9207
Anne-Marie Knighton, Town of Edenton, P.O. Box 300, Edenton, NC 27932
AMEC Earth & Environmental, Inc., 2200 Gateway Centre Blvd., Morrisville, NC 27560

UST Regional Offices

Asheville (ARO) – 2090 US Highway 70, Swannanoa, NC 28778 (828) 296-4500

Fayetteville (FAY) – 225 Green Street, Suite 714, Systel Building, Fayetteville, NC 28301 (910) 433-3300

Mooresville (MOR) – 610 East Center Avenue, Suite 301, Mooresville, NC 28115 (704) 663-1699

Raleigh (RRO) – 1628 Mail Service Center, Raleigh, NC 27699 (919) 791-4200

Washington (WAS) – 943 Washington Square Mall, Washington, NC 27889 (252) 946-6481

Wilmington (WIL) – 127 Cardinal Drive Extension, Wilmington, NC 28405 (910) 796-7215

Winston-Salem (WS) – 585 Waughtown Street, Winston-Salem, NC 27107 (336) 771-5000

Guilford County Environmental Health, 400 West Market Street, Suite 300, Greensboro, NC 27401, (336) 641-3771

FTP: OPUSCA NOV0210.doi

NCDENR

North Carolina Department of Environment and Natural Resources
Division of Water Quality

Beverly Eaves Perdue
Governor

Coleen H. Sullins
Director

Dee Freeman
Secretary

September 16, 2010

Ms. Anne-Marie Knighton, Town Manager
Town of Edenton
PO Box 300
Edenton, NC 27932

Subject: **EXEMPTION** from Stormwater Management Permit Regulations
CAMA Major – Relocation of Roanoke River Lighthouse into Edenton Bay
Stormwater Project No. SW7100813
Chowan County

Dear Ms. Knighton:

The Washington Regional Office received a copy of your CAMA Major application for the proposed relocation of the Roanoke River Lighthouse project on August 20, 2010. Staff review of the plans and specifications has determined that the project, as proposed, consists of activities that will not pose surface water quality threats from stormwater runoff since no significant new impervious area is proposed in the project.

The Director has determined that projects that are reviewed and approved by the Division as not posing water quality threats from stormwater runoff should not be subject to the stormwater management permitting requirements of 15A NCAC 2H.1000 nor SL 2008-211. For this reason, we are informing you by way of this letter that your project will not require a stormwater management permit at this time.

The stormwater rules require the Division to permit the common plan of development, therefore, any future development on the property, regardless of whether a CAMA Major permit is also required, will require a Stormwater Management Permit application and permit issuance from the Division of Water Quality prior to any construction. Any construction on the subject site, prior to receipt of the required permit, will constitute a violation of 15A NCAC 2H.1000 and may result in appropriate enforcement action by this Office.

Please keep in mind that this determination does not affect your legal requirements to obtain other permits which may be required by the Division of Water Quality, the Division of Land Resources, Coastal Area Management Act or any other Federal, State or Local Government.

Please reference the Stormwater Project Number above on all correspondence. If you have any questions or need additional information concerning this matter, please contact Scott Vinson at (252) 948-3848.

Sincerely,

Al Hodge
Regional Supervisor – Surface Water Protection Section
Washington Regional Office

K:\SAV\K-STORMWATER\EXEMPT\SW7100813
cc: Doug Huggett, DCM
Washington Regional Office
Central Files

North Carolina Division of Water Quality
943 Washington Square Mall
Washington, NC 27889
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Internet: www.nowaterquality.org
Phone: 252-946-6481 \ FAX: 252-948-9215
FAX: 252-946-9215

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Attachment D-1

NCDENR

North Carolina Department of Environment and Natural Resources
Division of Water Quality

Beverly Eaves Perdue	Coleen H. Sullins	Dee Freeman
Governor	Director	Secretary

September 16, 2010

DWQ Project # 10-0685
Chowan County

Town of Edenton
Mrs. Anne M. Knighton
Post Office Box 300
Edenton, NC 27932

Subject Property: Roanoke River Lighthouse Placement in Edenton Bay
Chowan River Basin, Edenton Bay (CH004, 26-1; NSW, C)

Approval of 401 Water Quality Certification with Additional Conditions

Dear Mrs. Knighton:

You have our approval, in accordance with the attached conditions and those listed below to impact 0.08 acres of open waters bottom by shading and disturbance of bottom for the purpose of placement of Roanoke River Lighthouse on pilings. Impacts are as described within your application dated July 27, 2010 and received by the N.C. Division of Water Quality (DWQ) on August 20, 2010. After reviewing your application we have decided that the impacts are covered by General Water Quality Certification Number(s) 3642 (GC3642). The Certification(s) is issued in conjunction with your CAMA Major Permit and General Permit(s) 198000291 issued by the US Army Corps of Engineers (USACE). In addition, you should obtain or otherwise comply with any other required federal, state or local permits before you go ahead with your project including (but not limited to) Erosion and Sediment Control, and Non-discharge regulations. **Also, this approval to proceed with your proposed impacts or to conduct impacts to waters as depicted in your application shall expire upon expiration of the 404 or CAMA Permit.**

This approval is for the purpose and design that you described in your application. If you change your project, you must notify us and you may be required to send us a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter and is thereby responsible for complying with all conditions. If total fills for this project (now or in the future) exceed one acre of wetland or 150 linear feet of stream, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h). This approval requires you to follow the conditions listed in the attached certification and any additional conditions listed below.

The Additional Conditions of the Certification are:

1. Impacts Approved

The following impacts are hereby approved as long as all of the other specific and general conditions of this Certification (or Isolated Wetland Permit) are met. No other impacts are approved including incidental impacts:

North Carolina Division of Water Quality
943 Washington Square Mall
Washington, NC 27889

Internet: www.ncwaterquality.org
Phone: 252-946-6481
FAX 252-946-9215

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	Amount Approved (Units)	Plan Location or Reference
Stream	(feet)	
404/CAMA Wetlands		
Open Waters	0.08 (acres)	Site Plan AD-100, 2 of 7
Buffers	(square ft.)	

2. Erosion & Sediment Control Practices

Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards:

a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.

3. No Waste, Spoil, Solids, or Fill of Any Kind

No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the footprint of the impacts depicted in the Pre-Construction Notification. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices, shall be performed so that no violations of state water quality standards, statutes, or rules occur.

4. No Sediment & Erosion Control Measures w/n Wetlands or Waters

Sediment and erosion control measures shall not be placed in wetlands or waters to the maximum extent practicable. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, they shall be removed and the natural grade restored within six months of the date that the Division of Land Resources has released the project.

5. Certificate of Completion

Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, the applicant is required to return the attached certificate of completion to the 401 Oversight/Express Review Permitting Unit, North Carolina Division of Water Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650.

6. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of waters from fuels, lubricants, hydraulic fluids, or other toxic materials.

7. The permittee shall adhere to all appropriate in-water work moratoriums (including the use of pile driving or vibration techniques) prescribed by the NC Wildlife Resources Commission, the US Fish and Wildlife Service, and National Marine Fisheries Service.

8. The applicant/permittee and their authorized agents shall conduct all activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act), and any other appropriate requirements of State and Federal Law. If the Division determines that such standards or laws are not being met, including failure to sustain a designated or achieved use, or that State or Federal law is being violated, or that further conditions are necessary to assure compliance, then the Division may reevaluate and modify this General Water Quality Certification.

Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. The authorization to proceed with your proposed impacts or to conduct impacts to waters as depicted in your application and as authorized by this Certification shall expire upon expiration of the 404 or CAMA Permit.

If you do not accept any of the conditions of this Certification (associated with the approved wetland or stream impacts), you may ask for an adjudicatory hearing. You must act within 60 days of the date that you receive this letter. To ask for a hearing, send a written petition, which conforms to Chapter 150B of the North Carolina General Statutes to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714. This certification and its conditions are final and binding unless you ask for a hearing.

This letter completes the review of the Division of Water Quality under Section 401 of the Clean Water Act. If you have any questions, please telephone Roberto Scheller of the Washington Regional Office at 252-948-3940 or Ian McMillan of the 401 Oversight/Express Unit at 919-715-4631.

Sincerely,

For Coleen H. Sullins

Enclosures: Certificate of Completion
OC 3642

cc: Paul Waff, Waff Contractors, Inc.
401Oversight/Express Permitting Unit
Raleigh Bland, USACE, Washington Regulatory Field Office
Doug Huggett, CAMA, Morehead City
Kelly Russell, CAMA, Morehead City
File Copy

NCDENR

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

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

October 4, 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Town of Edenton
P.O. Box 300
Edenton, NC 27932

Dear Sirs:

This letter is in regards to your application request under the Coastal Area Management Act (CAMA) to construct a pile-supported foundation to support the construction of a historic lighthouse within the waters of Edenton Bay on the Albemarle Sound adjacent to the Town of Edenton's town park located at Dock Street, Chowan County. Processing of the application, which was received by the Division of Coastal Management's Elizabeth City Office on August 17, 2010, is now complete. Based on the state's review, the Division of Coastal Management has made the following findings:

1) The proposed project would relocate an existing 33 foot by 42 foot historic two-story lighthouse, currently located on a temporary high ground location, to a site waterward of a bulkheaded shoreline at the Town of Edenton's town park located along Dock Street. Access to the structure would be provided by way of a 42-foot long by 16-foot wide access ramp, as well as a 24 foot by 4.5 foot set of steps with a landing.

2) According to the permit application, the stated purpose of the lighthouse will be to teach the public about the life of lighthouse keepers in the 1800's. The lighthouse will also include a small gift shop. No overnight accommodations or restroom facilities are proposed.

3) The proposed permanent site for the lighthouse will be within an area currently enclosed by a breakwater structure. The area enclosed by the breakwater also contains 10 boat slips.

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Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

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4) The public trust waters of the Albemarle Sound at the project location have not been designated by the Marine Fisheries Commission as a Primary Nursery Area (PNA). The waters are also closed to the taking of shellfish. There is no submerged aquatic vegetation (SAV) at the project site.

5) In accordance with the requirements of 15A NCAC 07H.0209(g), the waterfront area adjacent to the proposed lighthouse relocation site is considered an Urban Waterfront.

6) Comments received as a part of the joint State and Federal review of the permit application were general favorable.

7) Based on the proposed uses of the lighthouse facility, the Division has determined that the proposed project is not considered a water dependent structure.

8) Based upon the above referenced findings, the Division has determined that the proposed project is inconsistent with the following rules of the Coastal Resources Commission:

   a. 15A NCAC 07H.0208(a)(1), which states "Uses which are not water dependent shall not be permitted in coastal wetlands, estuarine waters, and public trust areas."

   b. 15A NCAC 07H.0209(g)(4)(B), which states "New structures built for non-water dependent purposes are limited to pile-supported, single-story, unenclosed decks and boardwalks, and shall meet the following criteria:
      (II) Structures may be roofed but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind and shall be limited to a single story; * * *
      (IV) Structures shall not extend more than 20 feet waterward of the normal high water level or normal water level;"

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

If you wish to appeal this denial, you are entitled to a hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties and then makes a recommendation to the Coastal Resources Commission. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the office of Administrative Hearings,

6714 Mail Service Center, Raleigh, NC 27699-6714, (919) 733-2698, within twenty (20) days from the date of this letter. A copy of this petition should also be filed with this office. If you have any questions concerning this matter, please contact Mr. Doug Huggett at (252) 808-2808.

Sincerely,

James H. Gregson

cc: Colonel Jefferson Ryscavage – U.S. Army Corps of Engineers, Wilmington, NC
David Kennedy, Director – OCRM/NOAA, Silver Spring, MD
DCM – Elizabeth City
DCM Central Files

COPY

July 9, 2010

Mrs. Kelly Russell
NCDENR - Division of Coastal Management
1367 US 17 South
Elizabeth City, NC 27909.

Re: River Lighthouse
Edenton, NC

Dear Mrs. Russell:

The North Carolina Department of Cultural Resources, with funding from the NC Department of Transportation, is in the process of renovating the Historic 1886 Roanoke River Lighthouse at the Edenton waterfront. As you can see from the additional enclosed information this lighthouse is one of the original Roanoke River Lighthouses which provided navigational aid during the 1800's. Unfortunately the approved location is an area formerly occupied by the storage tanks of an oil company. The site is contaminated and unfortunately remediation may take a considerable amount of time. The good news is that an existing steel sheet pile bulkhead formed a barrier between the contamination and the adjacent waters of Edenton Bay eliminating any impacts to the bay or Albemarle Sound. Due to this situation, the Town has employed me to obtain the necessary permits to relocate the Lighthouse over the waters of Edenton Bay next to the Town's pier and breakwater. This would eliminate any possibility of disturbing the contaminants at the original site.

Based on the following information, we feel that the required permit would qualify for an express permit:

1. Location: Downtown Edenton, urban waterfront, part of the registered historic district

2. Structure: Originally a working Roanoke River lighthouse circa 1887 and will be used as a navigation beacon, water dependent usage

3. Uses: Instill, enhance and accommodate the public benefit in teaching about the 1800's life of lighthouse keepers. A portion of available floor space will be used for a small gift shop for the purchase of lighthouse memorabilia. No overnight accommodations or working bathroom facilities will be provided or offered. The Town of Edenton has full bathroom facilities at the adjacent waterfront park.

4. Foundation: Pile supported structure will require 24 piling driven into the bay bottom with diagonal bracing provided by tie-rods. This will conform visually to period bracing originally used when the lighthouse was located in the Albemarle Sound at the mouth of the Roanoke River.

5. Temporary: Foundation — We will need to drive 20 temporary H Piles for support while the permanent foundation is being installed. Two 5'x60' steel mats will be used to roll the lighthouse over the water,

6. General:

First floor will be a minimum of 8' above normal water level	
Depth of water is 1'- 6'	
Proposed new square footage, covered area:	2068 s.f.
Existing square footage over the water:	8,389 s.f.
Total:	10,457 s.f.
Allowable @ 4 s.f. X 2,770 l.f. of shoreline:	11,080 s.f.

The Town and the NC Department of Cultural Resources would like to locate the lighthouse over the water as shown on the attached drawing. The location would position the lighthouse inside the breakwater pier adjacent to a landside bulkhead. This area would make the lighthouse more accessible and make it easier to maintain. Locating the lighthouse inside the breakwater will protect it from storms and hurricanes. The deck of the breakwater is at elevation +5. The top of the handrail is at elevation +8.5. During Hurricane Isabel, a 500 year flood event, there was not any damage to the breakwater or handrails. Therefore, we feel confident there would not be any damage in the future from storms if we locate the lighthouse behind the breakwater at elevation 8 or above. Locating the lighthouse on other Town waterfront land other than the original permitted location is not possible due to restrictive requirements imposed by the federal funding grants.

I think we should all appreciate the fact that we have a rare opportunity to give the public an insight to what a lighthouse keeper's life was like in the 1800's with the lighthouse once again located over the water serving its intended purpose as a an aid to navigation.

Thank you for your review of this information, please call with any comments or questions you may have.

Sincerely,
Waff Contracting, Inc.

Paul E. Waff, Jr.

1886 ROANOKE RIVER LIGHTHOUSE

Past

Present

A Rendering after Restoration

History:

The building was completed in 1887, as the second lighthouse building at a location that had already been marked by a light for many years near the mouth of the Roanoke River. The screw-pile design of its original support system, unfortunately destroyed in 1955, was a typical technique used for smaller lighthouses built in the second half of the nineteenth century over inland waterways. Although once a common lighthouse type, there are almost no other surviving examples. **This is believed to be the last extant example in the United States of a rectangular frame building built for a screw-pile base.** While the pilings are long gone, the cottage style frame house and tower are typical of the upper portions of lighthouses constructed in this era. The lighthouse was in commission from 1887 until 1941. In 1955, it was moved by a private individual, off of its screw-pile base, to an on-land location for use as a private residence. Although a modest example of Stick style architecture, it has several of the distinguishing features of this important American architectural style.

The need for a lighthouse at this building's original location was recognized at least as early as 1835, when a three-masted ship was anchored at the location and converted to a light station. The retrofitted ship apparently remained in place, where the Roanoke River meets Albemarle Sound, until it was scuttled during the Civil War in an attempt to make the waters more difficult to navigate for blockade runners. In 1866, to reinstate the light, a screw-pile lighthouse was erected at the Roanoke River Light station. However, that structure was destroyed by fire in 1885. An effort to rebuild it immediately, in 1885, ended when the new construction was struck y ice during a storm and collapsed into the water. The present cottage-style building was erected on a screw-pile base at the location 1887. The tower was fitted out with a 4° (or "fourth order") Fresnel lens. The lens is no longer in the building, though a similar lens has been mounted in the lantern room since 1970. It rests on a deteriorated table made of twentieth-century plywood, which apparently replaced the original base designed to hold the light and facilitate its rotation. (The current lens, on loan from the Town of Edenton, was made by E. Barbier and Co. of Paris; although the fittings around the lens have been changed, rollers at the base of the 1888 brass framework indicate that it originally rotated on a similar table-like surface). Both the Coast Guard and the National Park Service list the Roanoke River Light as having been first lit in 1903, but this apparently refers to a change in lenses or some other alteration at that time. The lighthouse was in service until 1941, when it was decommissioned. The building was moved in 1955 by Emmett Wiggins who lived there for about 50 years.

In May, 2007, the Edenton Historical Commission bought the Roanoke River Lighthouse for $225,000 and paid $75,000 to move it to Colonial Park in Edenton. The Lighthouse bell, cast in 1901, by the McShane Foundry in Baltimore, sits in the Town of Edenton's Queen Anne Park. The NC Department of Cultural Resources has agreed to restore the Lighthouse. The Edenton Historical Commission is raising funds to help open the Lighthouse for public interpretation.

Edenton Historical Commission at the Barker House (white house on the water) gratefully accepts tax-deductible donations to restore and open the Roanoke River Lighthouse. Make checks payable to the Commission and mail to 505 S. Broad Street, Edenton, NC 27932 – ph # 252-482-7800; barkerhouse@inteliport.com

DCM MP-1

APPLICATION for Major Development Permit

(last revised 12/27/06)

North Carolina DIVISION OF COASTAL MANAGEMENT

1. Primary Applicant/ Landowner Information

Business Name: Town Of Edenton		Project Name (if applicable): Roanoke River Lighthouse		
Applicant 1: First Name: Anne	MI: M	Last Name: Knighton		
Applicant 2: First Name:	MI:	Last Name:		
If additional applicants, please attach an additional page(s) with names listed.				
Mailing Address: PO Box 300		PO Box: 300	City: Edenton	State: NC
ZIP: 27932	Country: US	Phone No.: 252 - 482 - 7352 ext.		FAX No.: 252 - 482 - 7377
Street Address *(if different from above)*: 400 South Broad Street		City: Edenton	State: NC	ZIP: 27932-
Email: anne-marie.knighton@ncmail.net				

2. Agent/Contractor Information

Business Name: Waff Contracting, Inc.				
Agent/ Contractor 1: First Name: Paul	MI: E	Last Name: Waff		
Agent/ Contractor 2: First Name:	MI:	Last Name:		
Mailing Address: PO Box 237		PO Box: 237	City: Edenton	State: NC
ZIP: 27932		Phone No. 1: 252 - 482 - 7071 ext.		Phone No. 2: 252 - 337 - 4418 ext.
FAX No.: 252 482 4816		Contractor #: 12049		
Street Address *(if different from above)*: 2127 West Queen Street		City: Edenton	State: NC	ZIP: 27932 -
Email: paul@wharflandingedenton.com				

3. Project Location

County (can be multiple)	Street Address		State Rd. #
Chowan			
Subdivision Name	**City**	**State**	**Zip**
	Edenton	NC	27932 -

Phone No. - - ext.	Lot No.(s) *(if many, attach additional page with list)* , , , ,
a. In which NC river basin is the project located? Chowan	b. Name of body of water nearest to proposed project Chowan River
c. Is the water body identified in (b) above, natural or manmade? ☐Natural ☐Manmade ☐Unknown	d. Name the closest major water body to the proposed project site. Chowan River/ Albemarle Sound
e. Is proposed work within city limits or planning jurisdiction? ☒Yes ☐No	f. If applicable, list the planning jurisdiction or city limit the proposed work falls within. Edenton

4. Site Description

a. Total length of shoreline on the tract (ft.) 1,590'	b. Size of entire tract (sq.ft.) 5.1 acres
c. Size of individual lot(s) N/A, , , *(if many lot sizes, please attach additional page with a list)*	d. Approximate elevation of tract above NHW *(normal high water)* or NWL *(normal water level)* 3' ☐NHW or ☒NWL

e. Vegetation on tract
shade trees and mowed grass

f. Man-made features and uses now on tract
Historic visitors center, asphalt parking and brick walks.
Waterfront park with concrete walks, picnic tables, facilities and playground equipment all maintained by the Town
Large boat basin with protective concrete breakwater & concrete pier with 10 slips and timber access pier.
Smaller boat basin for kayaks and canoes

g. Identify and describe the existing land uses adjacent to the proposed project site.
Residential lots: Leary on west side and Inglis on east side.
Commercial Downtown Development: Nixon lot and Barnes lot located on north central side of project site and remainder is adjacent to Water Street.

h. How does local government zone the tract? C/D	i. Is the proposed project consistent with the applicable zoning? (Attach zoning compliance certificate, if applicable) ☒Yes ☐No ☐NA

j. Is the proposed activity part of an urban waterfront redevelopment proposal? ☐Yes ☒No

k. Has a professional archaeological assessment been done for the tract? If yes, attach a copy. ☐Yes ☒No ☐NA

If yes, by whom?

l. Is the proposed project located in a National Registered Historic District or does it involve a National Register listed or eligible property? ☒Yes ☐No ☐NA

<Form continues on next page>

m. (i) Are there wetlands on the site?	☐Yes ☒No
(ii) Are there coastal wetlands on the site?	☐Yes ☒No
(iii) If yes to either (i) or (ii) above, has a delineation been conducted? *(Attach documentation, if available)*	☐Yes ☐No
n. Describe existing wastewater treatment facilities. City Sewer	
o. Describe existing drinking water supply source. Town Water System	
p. Describe existing storm water management or treatment systems. Grass swales to drop inlets to river	

5. Activities and Impacts

a. Will the project be for commercial, public, or private use?	☐Commercial ☒Public/Government ☐Private/Community
b. Give a brief description of purpose, use, and daily operations of the project when complete. Purpose: To show how lighthouse keepers in the 1800s lived Use: Tours for the general public/sales to support lighthouse foundation Daily operation: Daylight hours, 7 days a week	
c. Describe the proposed construction methodology, types of construction equipment to be used during construction, the number of each type of equipment and where it is to be stored. Drive 24 timber piles to support lighthouse with vertical, horizontal and diagonal steel pipes and rods for bracing. Equipment: Barge with crane and pilehammer inside marina basin	
d. List all development activities you propose. Move the lighthouse from land approximately 110 feet to pile supported foundation. Temporary timber mats will be set for land crossing and temporary piles-with steel beam/matt runway will be installed for transition to water location.	
e. Are the proposed activities maintenance of an existing project, new work, or both?	New Work
f. What is the approximate total disturbed land area resulting from the proposed project?	None ☐Sq.Ft or ☐Acres
g. Will the proposed project encroach on any public easement, public accessway or other area that the public has established use of?	☒Yes ☐No ☐NA
h. Describe location and type of existing and proposed discharges to waters of the state. None	
i. Will wastewater or stormwater be discharged into a wetland?	☐Yes ☒No ☐NA
If yes, will this discharged water be of the same salinity as the receiving water?	☐Yes ☐No ☐NA
j. Is there any mitigation proposed? If yes, attach a mitigation proposal.	☐Yes ☒No ☐NA

<Form continues on back>

m. (i) Are there wetlands on the site? ☐Yes ☒No

(ii) Are there coastal wetlands on the site? ☐Yes ☒No

(iii) If yes to either (i) or (ii) above, has a delineation been conducted? ☐Yes ☐No
(Attach documentation, if available)

n. Describe existing wastewater treatment facilities.
City Sewer

o. Describe existing drinking water supply source.
Town Water System

p. Describe existing storm water management or treatment systems.
Grass swales to drop inlets to river

5. Activities and Impacts

a. Will the project be for commercial, public, or private use? ☐Commercial ☒Public/Government ☐Private/Community

b. Give a brief description of purpose, use, and daily operations of the project when complete.
Purpose: To show how lighthouse keepers in the 1800s lived
Use: Tours for the general public/sales to support lighthouse foundation
Daily Operation: Daylight hours, 7 days a week

c. Describe the proposed construction methodology, types of construction equipment to be used during construction, the number of each type of equipment and where it is to be stored.

Drive 24 timber piles to support lighthouse with vertical, horizontal and diagonal steel pipes and rods for bracing.
Equipment: Barge with crane and pilehammer inside marina basin

d. List all development activities you propose.
Move lighthouse from land appproximately 200 feet to pile supported foundation by way of temporary piles and steel mat runway approximately 40 feet over water

e. Are the proposed activities maintenance of an existing project, new work, or both? New Work

f. What is the approximate total disturbed land area resulting from the proposed project? None ☐Sq.Ft or ☐Acres

g. Will the proposed project encroach on any public easement, public accessway or other area that the public has established use of? ☒Yes ☐No ☐NA

h. Describe location and type of existing and proposed discharges to waters of the state.
None

i. Will wastewater or stormwater be discharged into a wetland? ☐Yes ☒No ☐NA

If yes, will this discharged water be of the same salinity as the receiving water? ☐Yes ☐No ☐NA

j. Is there any mitigation proposed? ☐Yes ☒No ☐NA
If yes, attach a mitigation proposal.

<Form continues on back>

APPLICATION for
Major Development Permit

6. Additional Information

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

a. A project narrative.

b. An accurate, dated work plat (including plan view and cross-sectional drawings) drawn to scale. Please give the present status of the proposed project. Is any portion already complete? If previously authorized work, clearly indicate on maps, plats, drawings to distinguish between work completed and proposed.

c. A site or location map that is sufficiently detailed to guide agency personnel unfamiliar with the area to the site.

d. A copy of the deed (with state application only) or other instrument under which the applicant claims title to the affected properties.

e. The appropriate application fee. Check or money order made payable to DENR.

f. A list of the names and complete addresses of the adjacent waterfront (riparian) landowners and signed return receipts as proof that such owners have received a copy of the application and plats by certified mail. Such landowners must be advised that they have 30 days in which to submit comments on the proposed project to the Division of Coastal Management.

Name Steve Leary — Phone No. 252-333-5822
Address 121 West Water St. Edenton, NC 27932

Name Frances Inglis — Phone No. 252-482-4193
Address 101 East Water St. Edenton, NC 27932

Name — Phone No.
Address

g. A list of previous state or federal permits issued for work on the project tract. Include permit numbers, permittee, and issuing dates.

h. Signed consultant or agent authorization form, if applicable.

i. Wetland delineation, if necessary.

j. A signed AEC hazard notice for projects in oceanfront and inlet areas. *(Must be signed by property owner)*

k. A statement of compliance with the N.C. Environmental Policy Act (N.C.G.S. 113A 1-10), if necessary. If the project involves expenditure of public funds or use of public lands, attach a statement documenting compliance with the North Carolina Environmental Policy Act.

7. Certification and Permission to Enter on Land

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

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

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

Date 7/27/2010 Print Name Paul Waff

Signature Paul E Waff

Please indicate application attachments pertaining to your proposed project.

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

Other

Form DCM MP-4

STRUCTURES

(Construction within Public Trust Areas)

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

1. DOCKING FACILITY/MARINA CHARACTERISTICS

☒ *This section not applicable*

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

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

c. (i) Dock(s) and/or pier(s)
(ii) Number _____
(iii) Length _____
(iv) Width _____
(v) Floating ☐ Yes ☐ No

d. (i) Are Finger Piers included? ☐ Yes ☐ No
If yes:
(ii) Number _____
(iii) Length _____
(iv) Width _____
(v) Floating ☐ Yes ☐ No

e. (i) Are Platforms included? ☐ Yes ☐ No
If yes:
(ii) Number _____
(iii) Length _____
(iv) Width _____
(v) Floating ☐ Yes ☐ No
Note: Roofed areas are calculated from dripline dimensions.

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

g. (i) Number of slips proposed
_____
(ii) Number of slips existing
_____

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

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

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

k. Typical boat length: _____

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

m. (i) Will the facility have tie pilings?
☐ Yes ☐ No
(ii) If yes number of tie pilings?
_____

2. DOCKING FACILITY/MARINA OPERATIONS

☒ This section not applicable

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

☐ Office Toilets

☐ Toilets for patrons; Number: _____; Location: _____

☐ Showers

☐ Boatholding tank pumpout; Give type and location: _____

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

_____

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

_____

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

_____

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

_____

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

_____

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

_____

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

_____

h. Give the number of channel markers and "No Wake" signs proposed. _____

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

_____

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

_____

k. Describe design measures that promote boat basin flushing?

_____

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

_____

Is the marina/docking facility proposed within a primary or secondary nursery area?

☐ Yes ☐ No

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

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

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

_____

_____

3. BOATHOUSE *(including covered lifts)*

☒*This section not applicable*

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

4. GROIN *(e.g., wood, sheetpile, etc. If a rock groin, use MP-2, Excavation and Fill.)*

☒*This section not applicable*

a. (i) Number _____
(ii) Length _____
(iii) Width _____

5. BREAKWATER *(e.g., wood, sheetpile, etc.)*

☒*This section not applicable*

a. Length _____

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

c. Maximum distance beyond NHW, NWL or wetlands
_____

6. MOORING PILINGS and BUOYS

☒*This section not applicable*

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

b. Number _____

c. Distance to be placed beyond shoreline _____
Note: This should be measured from marsh edge, if present.

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

_____

_____

_____

_____

e. Arc of the swing _____

7. GENERAL

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

As shown on attached plan, proposed structure is approximately 400' to east and 300' to west riparian property lines

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

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

As shown on attached plan, proposed structure is located within permitted breakwater boat basin approximately 150' from town docks.

c. Width of water body

Boat basin width at structure is approximately 175'

d. Water depth at waterward end of structure at NLW or NWL

Approximately 6'

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

☐Yes ☒No ☐NA

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

8. OTHER

☐*This section not applicable*

a. Give complete description;

Permit request covers relocating a historical Roanoke River Lighthouse to a new pile foundation within an existing breakwater protected basin on the Edenton waterfront. The historical structure will be located immediately adjacent to existing bulkheads on two sides with ramp access.

When completed, the pile supported structure will be representative of turn of the century aid to mariners that were located in the Roanoke River and Albemarle Sound. The light house structure will house artifacts and displays to give historical perspective to the lighthouses and will not include or provide for any overnight accomodations or bathroom facilities.

8/18/2010

Date

Roanoke River Lighthouse

Project Name

Town of Edenton - Anne-Marie Knighton, Town Manager

Applicant Name

Paul E. Waff, Jr., Agent

Applicant Signature

July 15, 2010

Agent Authorization

Paul Waff has my permission to act in my behalf as my agent with regards to obtaining the permits necessary for the Roanoke River Lighthouse in Edenton, NC.

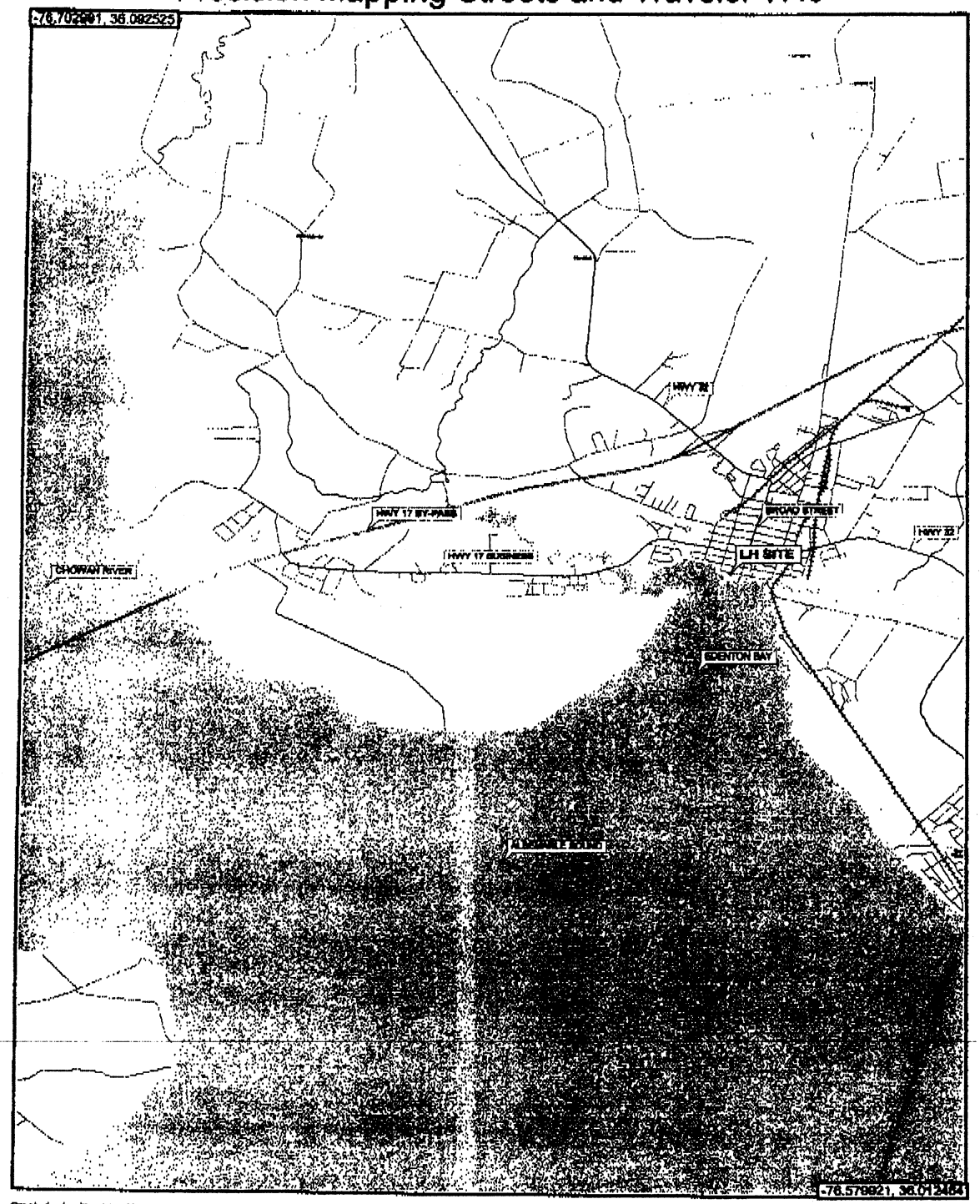
Anne Marie Knighton

Anne-Marie Knighton
Town of Edenton Town Manager

7-15-10

Date

Precision Mapping Streets and Traveler v7.0

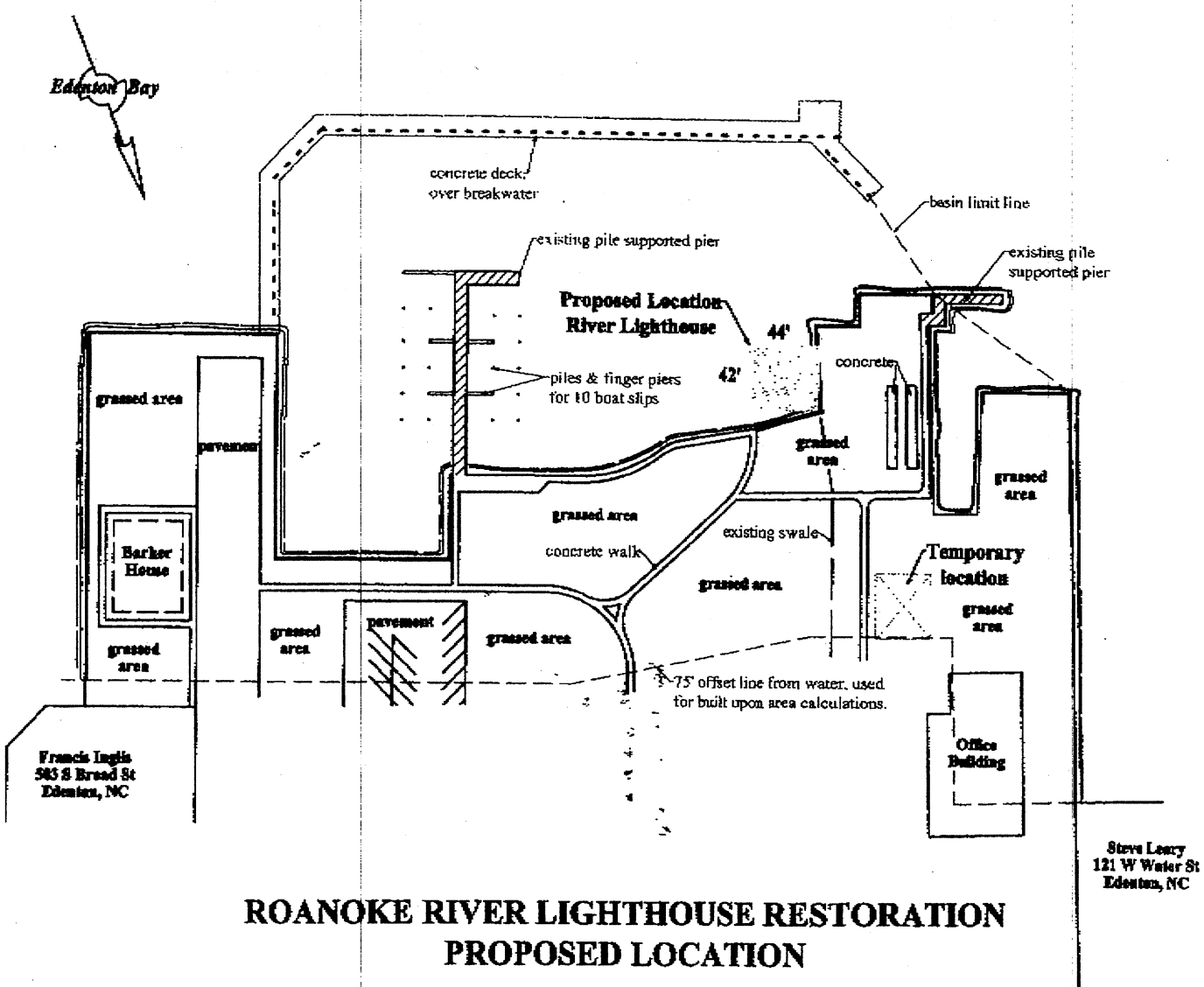


Created using Precision Mapping Streets and Traveler v7.0

p.1

(c) 2004 GDT, Copyright 2004, Under/Tow Software, Inc.
Created on 8/18/2010 12:04:01 PM

ROANOKE RIVER LIGHTHOUSE - LOCATION MAP
EDENTON, NC



Built Upon Area
(within 75' of water)

Concrete Walks	5,175 s.f.
Brick Walks	1,135 s.f.
Buildings	5,830 s.f.
Streets & Parking	11,590 s.f.
Total	23,730 s.f.
Total Tract	95,160 s.f.
Built Upon Percentage	24.7 %

Pier Coverage

Main Pier	6,539 s.f.
L Pier & Finger Piers	1,568 s.f.
Small Pier	442 s.f.
Total Coverage	8,549 s.f.
Total Basin Area	74,830 s.f.

Edenton Waterfront = 1,598'
Cannons & Colonial = 1,180'
TOTAL Waterfront = 2,778'

Lt House = 42X44 = 1,848 s.f.
Total Piers = 8,549 s.f.
Total Coverage = 10,397 s.f.

ROANOKE RIVER LIGHTHOUSE RESTORATION
PROPOSED LOCATION

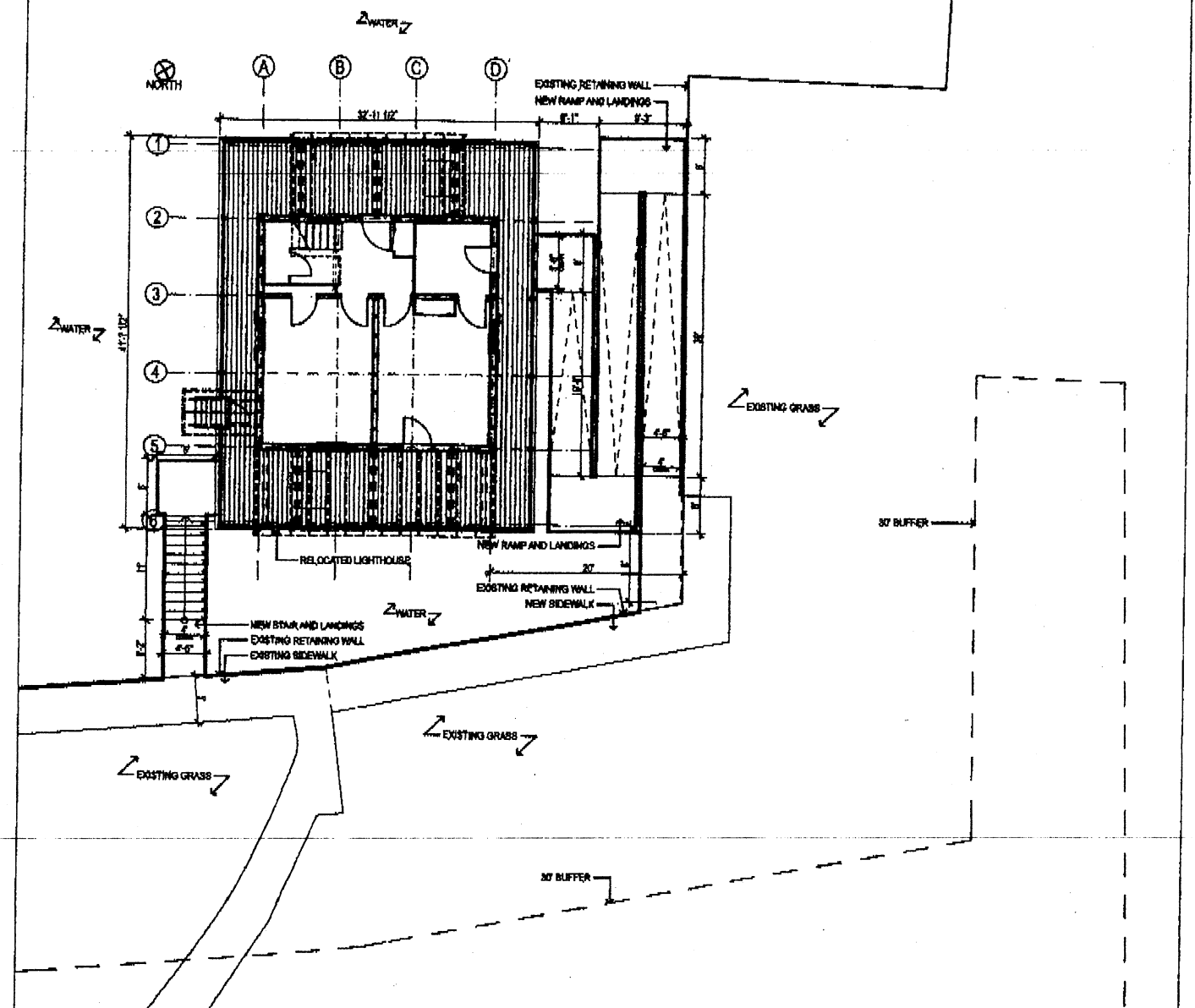
SCALE: 1" = 100'

EDENTON, NORTH CAROLINA

DRWG #1 OF 7

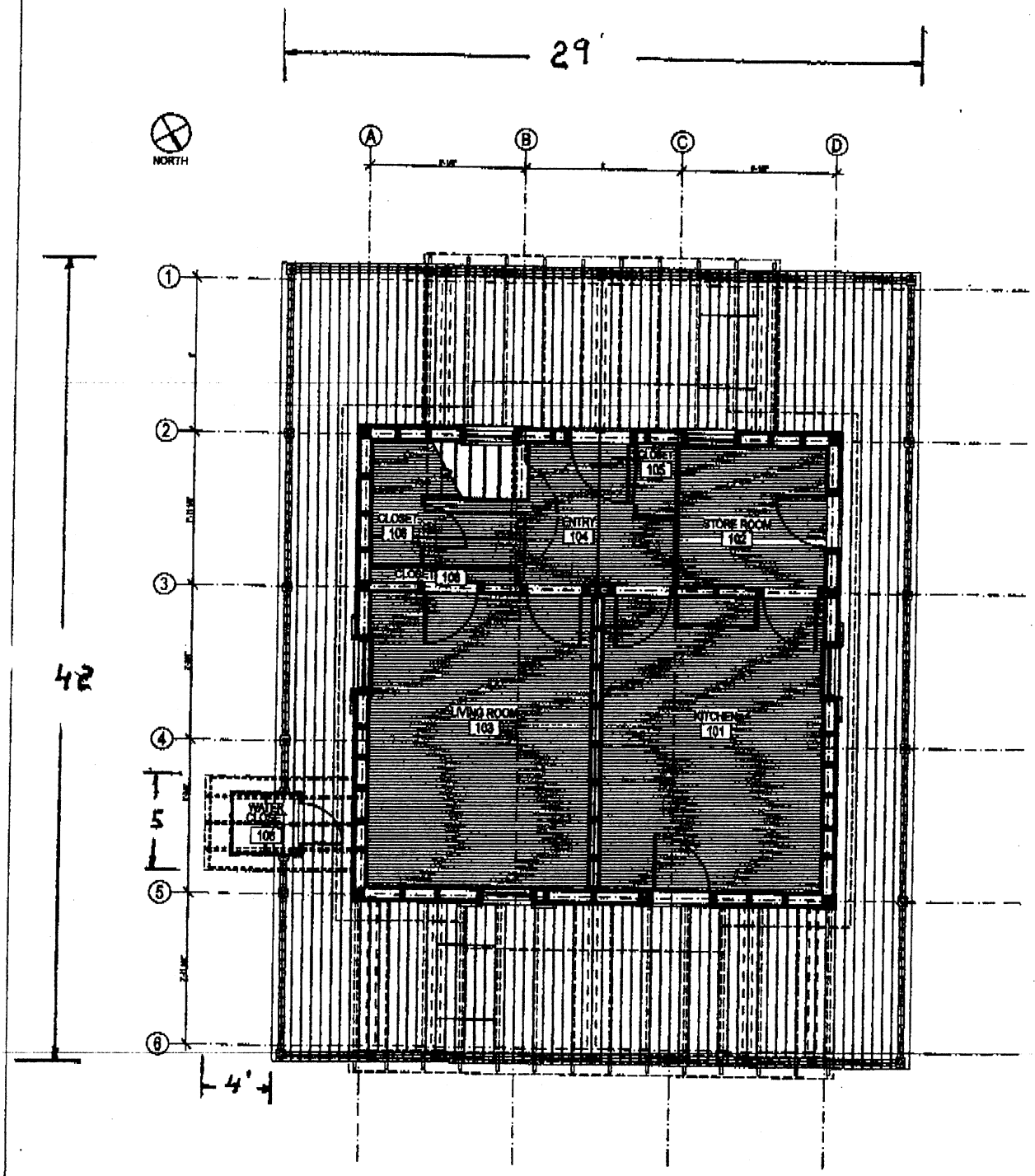
AREA OVER WATER:
LIGHTHOUSE 1,372 SF
RAMP & STAIRS 696 SF

AREA ON LAND:
SIDEWALK 256 SF



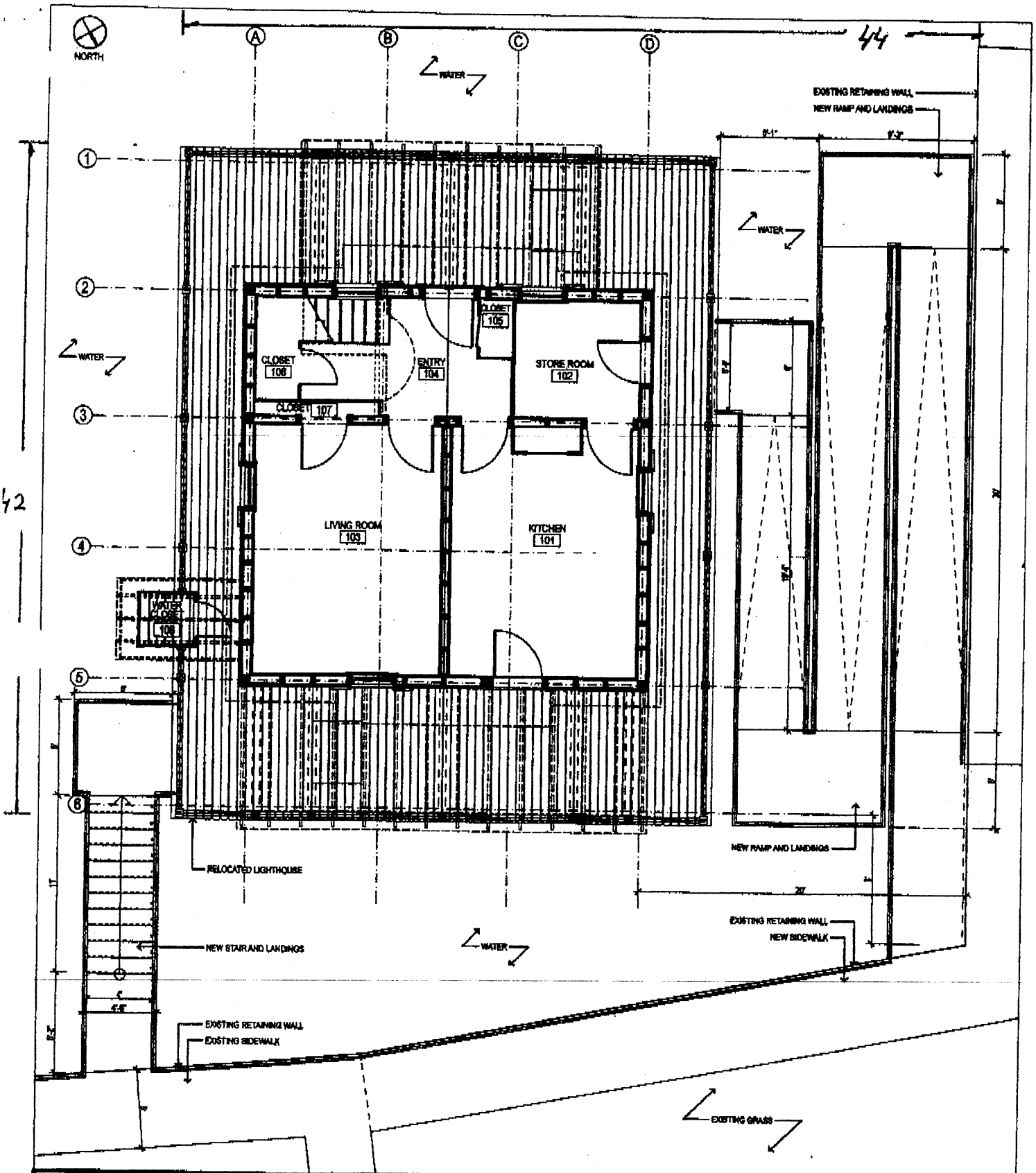
ROANOKE RIVER LIGHTHOUSE RESTORATION - PHASE 1 7 DOCK STREET, EDENTON, NORTH CAROLINA 27932		WILLIARD FERM ARCHITECTS, PA 122 COX AVENUE RALEIGH, NC 27605 TEL: 919 834-0620 FAX: 919 834-2149	AD-100 SITE PLAN SCALE 1/16" = 1'
OWNER: NC DEPARTMENT OF CULTURAL RESOURCES	NC-SCO FILE #: 090765101A		16 JULY 2010

DRWG #2 OF 7



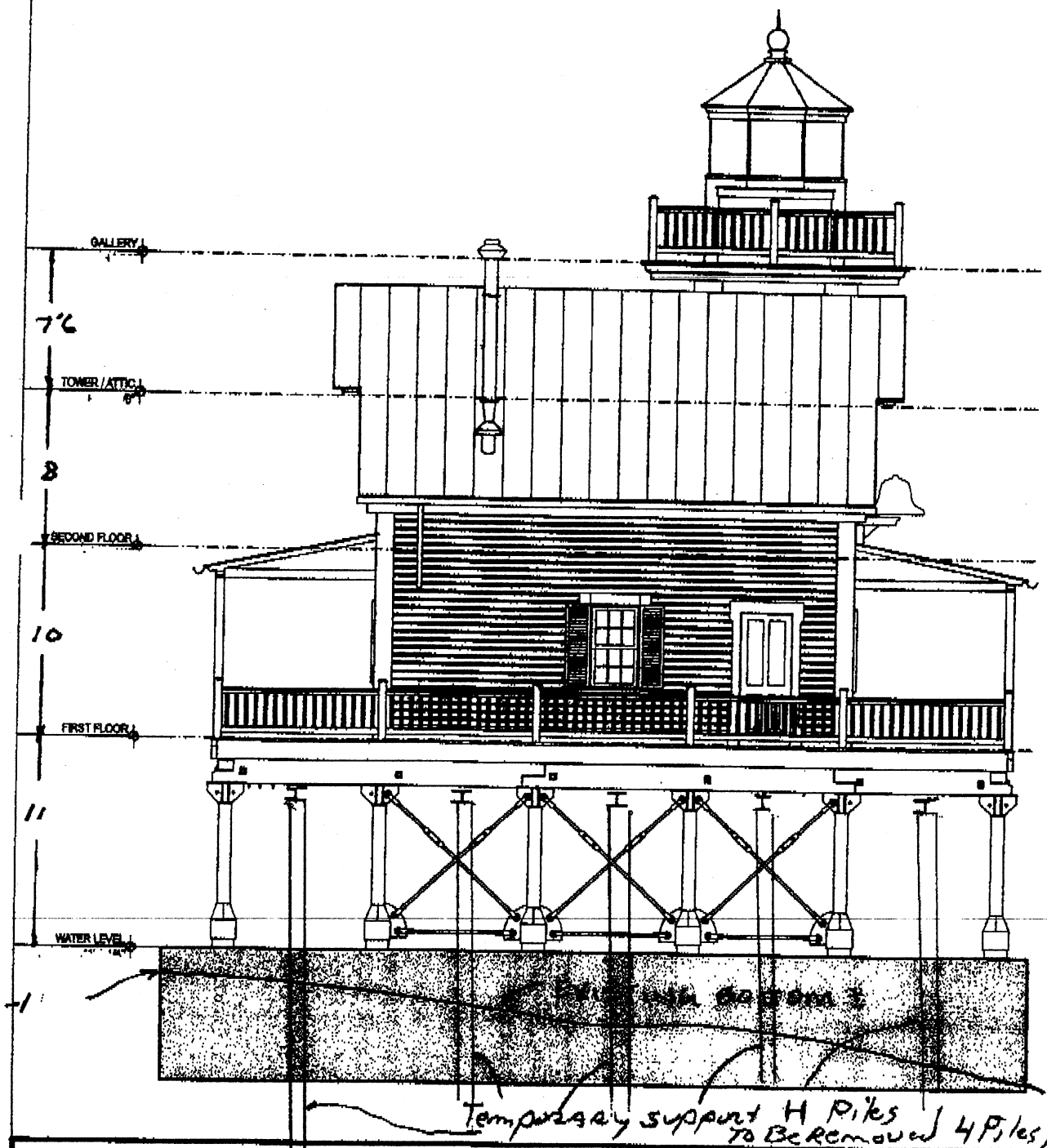
ROANOKE RIVER LIGHTHOUSE RESTORATION - PHASE 1 7 DOCK STREET, EDENTON, NORTH CAROLINA 27932		WILLIARD FERM ARCHITECTS, PA 122 COX AVENUE RALEIGH, NC 27605 TEL: 919 834-0620 FAX: 919 834-2149	**AD-101** FIRST FLOOR PLAN SCALE: 1/8" = 1'
OWNER: NC DEPARTMENT OF CULTURAL RESOURCES	NC-SCO FILE #: 090765101A		16 JULY 2010

DRWG #3 OF 7



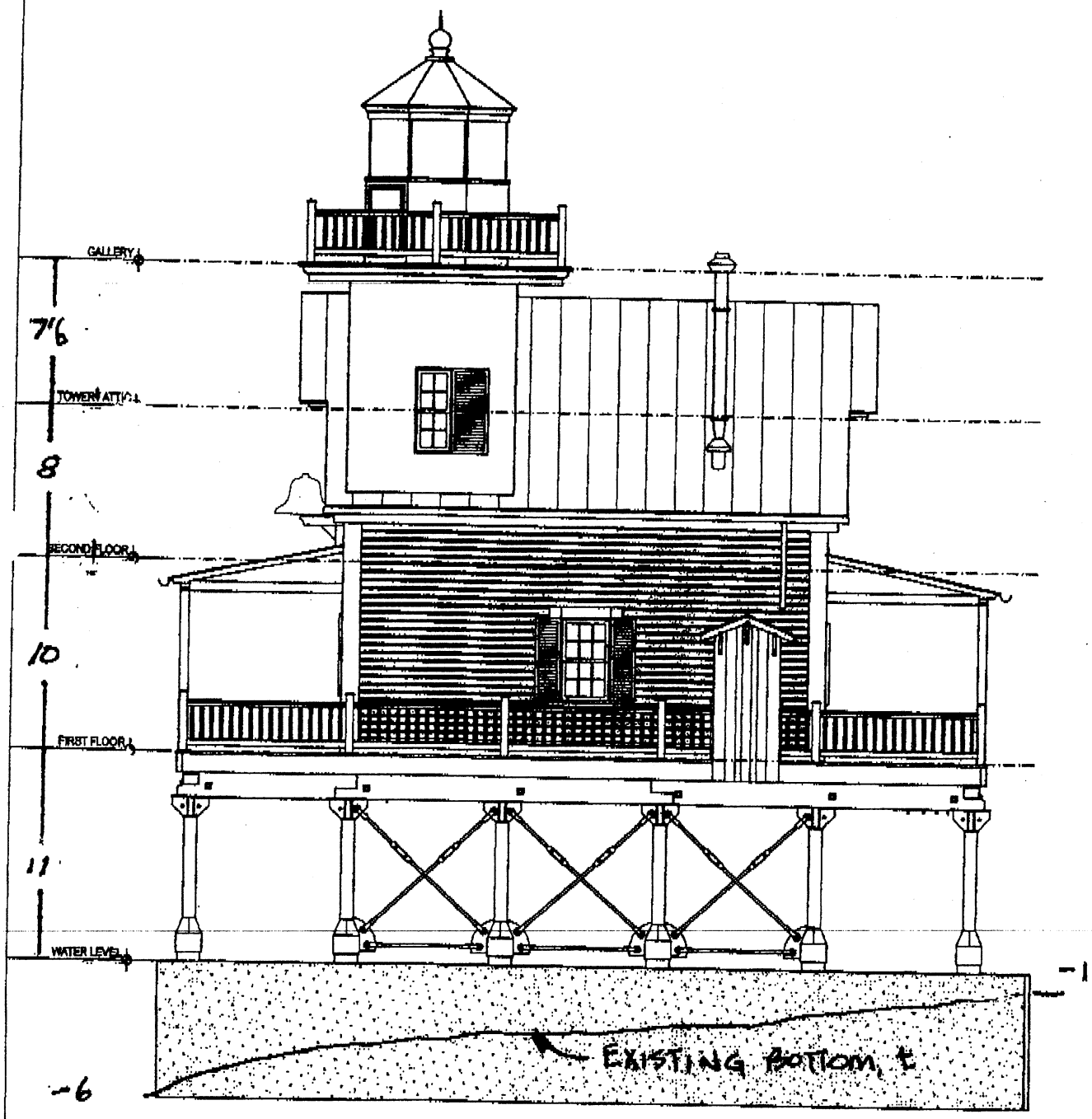
ROANOKE RIVER LIGHTHOUSE RESTORATION - PHASE 1 7 DOCK STREET, EDENTON, NORTH CAROLINA 27932		WILLIARD FERM ARCHITECTS, PA 122 COX AVENUE RALEIGH, NC 27605 TEL: 919 834-0620 FAX: 919 834-2149	**AD-101** FIRST FLOOR PLAN SCALE: 1/8" = 1'
OWNER: NC DEPARTMENT OF CULTURAL RESOURCES	NC-SCO FILE #: 090765101A		16 JULY 2010

DRWG #4 OF 7



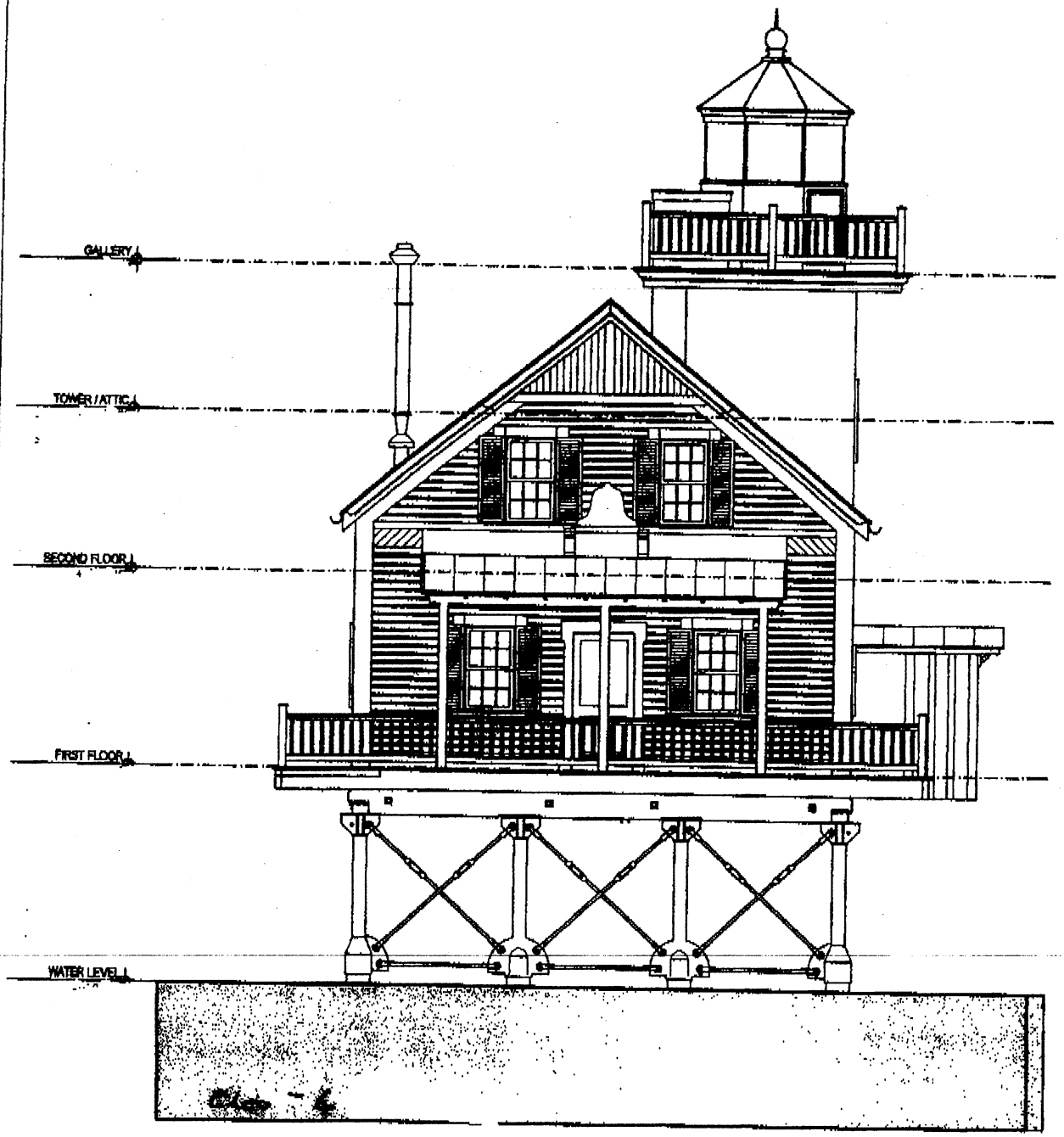
ROANOKE RIVER LIGHTHOUSE RESTORATION - PHASE 1 DOCK STREET, EDENTON, NORTH CAROLINA 27932		WILLIARD FERM ARCHITECTS, PA 122 COX AVENUE RALEIGH, NC 27605 TEL: 919 834-0620 FAX: 919 834-2149	AD-204 WEST ELEVATION SCALE: 1/8" = 1'
OWNER: NC DEPARTMENT OF CULTURAL RESOURCES	NC-SCO FILE #: 090765101A		16 JULY 2010

DRWG #5 OF 7



ROANOKE RIVER LIGHTHOUSE RESTORATION - PHASE 1 DOCK STREET, EDENTON, NORTH CAROLINA 27932	WILLIARD FERM ARCHITECTS, PA 122 COX AVENUE RALEIGH, NC 27605 TEL: 919 834-0620 FAX: 919 834-2149	AD-202 EAST ELEVATION SCALE: 1/8" = 1'
OWNER: NC DEPARTMENT OF CULTURAL RESOURCES NC-SCO FILE #: 090765101A		16 JULY 2010

DRWG #6 OF 7



ROANOKE RIVER LIGHTHOUSE RESTORATION - PHASE 1 DOCK STREET, EDENTON, NORTH CAROLINA 27932	WILLIARD FERM ARCHITECTS, PA 122 COX AVENUE RALEIGH, NC 27605 TEL: 919 834-0620 FAX: 919 834-2149	**AD-203** SOUTH ELEVATION SCALE: 1/8" = 1'
OWNER: NC DEPARTMENT OF CULTURAL RESOURCES NC-SCO FILE #: 090765101A		16 JULY 2010

DRWG #7 OF 7

Pin# 7804-07-67-184

BOOK 105 PAGE 056

NORTH CAROLINA

CHOWAN COUNTY

QUITCLAIM DEED

THIS DEED, made and entered into this 3rd day of April, 1975, by and between WAFF BROS., INCORPORATED, a North Carolina corporation with offices in Edenton, NC, party of the first part; and the TOWN OF EDENTON, a municipal corporation of North Carolina, party of the second part;

W I T N E S S E T H:

THAT the said party of the first part, for and in consideration of the sum of TEN ($10.00) DOLLARS and other valuable considerations to it in hand paid, the receipt of which is hereby acknowledged, has remised and released, and by these presents does remise, release and forever quitclaim unto the said party of the second part, its successors and assigns, all right, title, claim and interest of the said party of the first part in and to a certain tract or parcel of land lying and being in the Town of Edenton, First Township, Chowan County, North Carolina, and bounded and described as follows:

> Those two (2) certain areas known as Franklin Street and Commerce Street, 30 feet in width and extending from Water Street Southwardly approximately 299.5 feet to the property now or formerly known as the Edenton Bay Packing Company property.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land and all privileges thereunto belonging to it, the said party of the second part, its successors and assigns, free and discharged from all right, title, claim or interest of said party of the first part, or anyone claiming by, through or under it.

IN TESTIMONY WHEREOF, the party of the first part has caused this instrument to be executed in its name by its President, attested by its Secretary, and its Corporate Seal affixed hereto, the day and year first above written.

WAFF BROS., INCORPORATED

By: John E. Waff, Jr.
John E. Waff, Jr., President

(CORP. SEAL)

ATTEST:

Ida R. Waff
Ida R. Waff, Secretary-Treasurer

NORTH CAROLINA

CHOWAN COUNTY

I, the undersigned Notary Public of the above County and State, do hereby certify that IDA R. WAFF personally came before me this day and acknowledged

BOOK 105 PAGE 057

-2-

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 herself as its Secretary-Treasurer.

Witness my hand and Notarial Seal this 3rd day of April, 1975.

LAURA S. EVANS NOTARY PUBLIC CHOWAN COUNTY, N. C.

Laura S. Evans
Notary Public

My Commission Expires: 10-06-77

STATE OF NORTH CAROLINA:

COUNTY OF CHOWAN :

The foregoing certificate of Laura S. Evans, a Notary Public of Chowan County, State of North Carolina, attested by her Notarial Seal, is adjudged to be correct. Let the instrument, with the certificates, be registered.

WITNESS my hand, this 4th day of April, 1975 at 4:40 o'clock P.M.

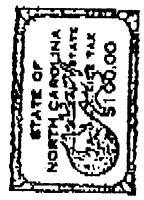
Bertha B. Burnette
Register of Deeds

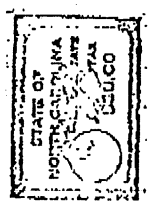
Prepared By: EARNHARDT & BUSBY, P. A.

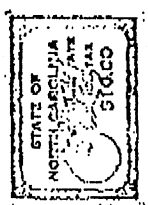
Recorded and Verified: and Filed, April 4th 1975 at 4:40 P.M.
The Above Deed Stamped: No stamps.

ATTACHMENT E

BOOK 123 PAGE 128







NORTH CAROLINA

CHOWAN COUNTY

WARRANTY DEED

THIS DEED, made this 20th day of October, 1978, by J. H. CONGER AND SON, INCORPORATED, a North Carolina corporation with offices in Edenton, GRANTOR to TOWN OF EDENTON, a municipal corporation of the State of North Carolina, GRANTEE;

W I T N E S S E T H:

THAT the Grantor, in consideration of Ten Dollars and other valuable considerations to it paid by the Grantee, receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell and convey unto Grantee, its successors and assigns, the parcels of land in First Township, Chowan County, North Carolina, more particularly described as follows:

Tract #1: In First Township, BEGINNING at the Southwest corner of the intersection of Water Street and Dock Street; thence Northwardly 71° West 127.2 feet along the South side of Water Street to an iron pipe at the corner of the land of the Standard Oil Company; thence along the line of the Standard Oil Company South 20° 15' West 416 feet to the Southwest corner of a wharf; thence the same course continued 50 feet more or less to the Port Warden's line of Edenton Bay; thence along the said Port Warden's line Southeastwardly to a point in the projection of the Western boundary of the Texas Company; thence along said line and Western line of the lands of the Texas Company North 20° 15' East 198 feet to the Northwest corner of the land of the Texas Company; thence along the line of the said Texas Company South 71° East 40 feet to Dock Street; thence along the Western side of Dock Street North 20° 15' East 336 feet to Water Street, the beginning.

Tract #2: In First Township, BEGINNING on the Eastern side of Dock Street at a point 154 feet from Water Street, being the Southwest corner of the E. I. Warren land and running thence along the Eastern side of Dock Street South 20° 15' West 45 feet to an alley; thence Eastwardly along the North side of said alley 51 feet to Franklin Street; thence along the Western side of Franklin Street North 20° 15' East 45 feet to the Southeastern corner of the E. I. Warren land; thence Westwardly along the line of Warren's land 51 feet to the beginning.

Tract #3: In First Township, BEGINNING on the East side of Dock Street 15 feet from the Southwest corner of the second tract of land above described, said point being also 214 feet from Water Street and being also the South side of the alley mentioned in the description of the second tract above mentioned; thence Southwardly along the East side of Dock Street 170.5 feet to the edge of Water Street; thence along the same course to the Port Warden's line of Edenton Bay; thence Eastwardly along said Port Warden's line to a point in the projection of the West side of Franklin Street; thence along said line North 20° 15' East 150 feet, more or less, to the land; thence along the West side of Franklin Street North 20° 15' East 170.5 feet to the said alley, said point being 15 feet from the Southeast corner of the second tract of land above described and thence along the said alley West 51 feet to the beginning.

LESS AND EXCEPT from Tract #3 the real estate bounded and described as follows:

BEGINNING on the Northern shore line of Edenton Bay at a wharf log

EARNHARDT & BUSH P.A.
ATTORNEYS AT LAW
EDENTON, NORTH CAROLINA

ATTACHMENT E

and at the boundary line between the property of the Edenton Ice Company and J. M. Jones' "Edenton Bay Packing Company" property, which boundary line is an extension of the Western boundary line of Franklin Street from the Southern end of said street to Edenton Bay, thence Northwardly along said boundary line seven (7) feet; thence Westwardly at right angles from said boundary line five (5) feet; thence Southwardly parallel with said boundary line to the Northern shore line of Edenton Bay; thence Eastwardly along said shore line to to the beginning, together with the riparian rights to the Edenton Port Warden line and all other riparian rights pertaining to said land hereby conveyed, and being a part of the Third Tract described in a deed from E. C. Conger and wife to the Edenton Ice Company, dated August 1, 1931 and recorded in Book R#4, page 340, in the Public Registry of Chowan County, North Carolina. And being the same property conveyed to J. M. Jones by deed dated September 22, 1945 and recorded in Book 5, page 531 of the Chowan County Registry.

Tract #4: Beginning at a point on the Western side of Dock Street or Dock Street Extended South 22° 28' West 330.8 feet from the Southwest corner of Dock Street and West Water Street, thence North 67° 16' West 49 feet to the water of Edenton Bay, where it runs into a slip, thence Southwardly and Eastwardly along Edenton Bay to the point where said Edenton Bay intersects with the Western side of Dock Street or Dock Street Extended, thence North 22° 28' East along the Western side of Dock Street, or Dock Street Extended, 125.4 feet to the place of beginning, bounded North by the property of the Edenton Ice & Cold Storage Company, East by Dock Street or Dock Street Extended, South and West by Edenton Bay and being a part of the land conveyed by J. A. Woodard and wife to the Edenton Ice & Cold Storage Company by deed dated February 8, 1901 registered in Book C, page 70 in the office of the Register of Deeds of Chowan County.

Tract #5: Situated on Edenton Bay and beginning at an iron stake located at the Northwest corner of the property owned by the Texas Company and running thence Westwardly 110 feet to the outer bulkhead or wharf timber of the property described at Edenton Bay; thence along said outer bulkhead or wharf timber along the Edenton Bay Southwardly 141 feet to a corner, the outer bulkhead or wharf timber of the Southern end of the property herein described; thence Eastwardly along the outer bulkhead or wharf timber 65 feet to a corner the outer bulkhead or wharf timber on the Eastern side of the property herein described; thence along the outer bulkhead or wharf timber Northwardly 90 feet to a corner; thence Eastwardly 45 feet to the property of the Texas Company; thence Northwardly along the Western line of the property of the Texas Company 51 feet to an iron stake, the point of beginning.

Tract #6: Beginning at a point on the East side of Dock Street at a spike driven in a tree the South line of an alley and running thence Eastwardly along the South line of said alley 55 feet to Franklin Street; thence along Franklin Street Southwardly 126 feet 7 inches; thence Westwardly 55 feet to Dock Street; thence along Dock Street Northwardly 126 feet 7 inches to the point of beginning.

By this conveyance, it is the grantor's intention to grant and convey unto the Town of Edenton all of the property in the Town of Edenton bounded on the North by Water Street, on the East by the Town of Edenton, on the South by Edenton Bay, and on the West by the Standard Oil Company, EXCEPTING THEREFROM so much land as belongs to the Norfolk & Carolina Telephone Company and TOGETHER WITH all riparian rights to Edenton Bay.

TO HAVE AND TO HOLD the aforesaid parcel of land and all privileges and appurtenances thereunto belonging to the said Grantee, its successors and assigns, in fee simple, FOREVER.

And the said Grantor for itself, its successors and assigns, covenants

NORTH CAROLINA
CHOWAN COUNTY

QUITCLAIM DEED

THIS DEED, made and entered into this 23rd day of October 1975, by and between J. H. CONGER & SON, INCORPORATED, a North Carolina corporation with offices in Edenton, North Carolina, GRANTOR; and the TOWN OF EDENTON, a municipal corporation of the State of North Carolina, GRANTEE:

W I T N E S S E T H:

THAT the said Grantor for and in consideration of the sum of Ten ($10.00) Dollars and other valuable considerations to it in hand paid, the receipt of which is hereby acknowledged, has remised and released, and by these presents does remise, release and forever quitclaim unto the said grantee, its successors and assigns, all right, title, claim and interest of the said Grantor in and to a certain tract or parcel of land lying and being in First Township, Chowan County, North Carolina, and bounded and described as follows:

All that certain area now or formerly known as Dock Street, together with all streets and alley-ways within that certain area now or formerly belonging to the grantor, bounded on the North by Water Street and property of the Norfolk & Carolina Telephone Company, on the East by property of the Town of Edenton, on the South by Edenton Bay and on the West by the Standard Oil Company (now Exxon).

TO HAVE AND TO HOLD the aforesaid tract or parcel of land and all privileges and appurtenances thereunto belonging to it, the said grantee, its successors and assigns, free and discharged from all right, title, claim or interest of said grantor, or anyone claiming by, through or under it.

IN TESTIMONY WHEREOF, the grantor has caused this instrument to be executed in its name by its President, attested by its Secretary, and its Corporate Seal affixed hereto, the day and year first above written.

J. H. CONGER & SON, INCORPORATED

By: J. H. Conger, Jr.
President

(CORPORATE SEAL)

ATTEST:

Terry M. Phillips
Secretary

STATE OF North Carolina
COUNTY OF Chowan

I, a Notary Public for the County and State aforesaid, do hereby certify that TERRY M. PHILLIPS personally came before me this day and acknowledged that he is the Secretary of J. H. CONNER & SON, INCORPORATED, a 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 himself as its Secretary.

WITNESS my hand and Notarial Seal this 16th day of October, 1978.

LAURA S. EVANS NOTARY PUBLIC CHOWAN COUNTY, N.C.

My Commission Expires: [illegible]

Laura S. Evans
Notary Public

NORTH CAROLINA
CHOWAN COUNTY

The foregoing certificate of Laura S. Evans, Notary Public of Chowan County, North Carolina. This instrument was presented for registration this day and hour and duly recorded in the office of Register of Deeds of Chowan County, North Carolina. This 23rd day of October, 1978, at 10:57 o'clock A.M.

Anne K. Spruill, Register of Deeds

By: Marjorie T. Allen
Assistant Register of Deeds

Filed, verified & recorded:
October 23, 1978
No Stamps
Prepared by: Earnhardt & Busby, PA

EARNHARDT & BUSBY, P.A.
ATTORNEYS AT LAW
EDENTON, NORTH CAROLINA

Pin# 7804-07-67-184

BOOK 105 PAGE 056

NORTH CAROLINA

CHOWAN COUNTY

QUITCLAIM DEED

THIS DEED, made and entered into this 3rd day of April, 1975, by and between WAFF BROS., INCORPORATED, a North Carolina corporation with offices in Edenton, NC, party of the first part; and the TOWN OF EDENTON, a municipal corporation of North Carolina, party of the second part;

W I T N E S S E T H:

THAT the said party of the first part, for and in consideration of the sum of TEN ($10.00) DOLLARS and other valuable considerations to it in hand paid, the receipt of which is hereby acknowledged, has remised and released, and by these presents does remise, release and forever quitclaim unto the said party of the second part, its successors and assigns, all right, title, claim and interest of the said party of the first part in and to a certain tract or parcel of land lying and being in the Town of Edenton, First Township, Chowan County, North Carolina, and bounded and described as follows:

Those two (2) certain areas known as Franklin Street and Commerce Street, 30 feet in width and extending from Water Street Southwardly approximately 299.5 feet to the property now or formerly known as the Edenton Bay Packing Company property.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land and all privileges thereunto belonging to it, the said party of the second part, its successors and assigns, free and discharged from all right, title, claim or interest of said party of the first part, or anyone claiming by, through or under it.

IN TESTIMONY WHEREOF, the party of the first part has caused this instrument to be executed in its name by its President, attested by its Secretary, and its Corporate Seal affixed hereto, the day and year first above written.

WAFF BROS., INCORPORATED

(CORP. SEAL)

By: John E. Waff
John E. Waff, Jr., President

ATTEST:

Ida R. Waff
Ida R. Waff, Secretary-Treasurer

NORTH CAROLINA

CHOWAN COUNTY

I, the undersigned Notary Public of the above County and State, do hereby certify that IDA R. WAFF personally came before me this day and acknowledged

EARNHARDT & BERRY, P.A.

BOOK 105 PAGE 057

-2-

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 herself as its Secretary-Treasurer.

Witness my hand and Notarial Seal this 3rd day of April, 1975.

LAURA S. EVANS NOTARY PUBLIC CHOWAN COUNTY, N.C.

Laura S. Evans
Notary Public

My Commission Expires: 10-04-77

STATE OF NORTH CAROLINA:

COUNTY OF CHOWAN :

The foregoing certificate of Laura S. Evans, a Notary Public of Chowan County, State of North Carolina, attested by her Notarial Seal, is adjudged to be correct. Let the instrument, with the certificates, be registered.

WITNESS my hand, this 4th day of April, 1975 at 4:40 o'clock P.M.

Bertha B. Bunch
Register of Deeds

Prepared By: EARNHARDT & BUSBY, P. A.

Recorded and Verified: and Filed, April 4th 1975 at 4:40 P.M.
The Above Deed Stamped: No stamps.

EARNHARDT & BUSBY, P.A.
ATTORNEYS AT LAW

Variance Request by the Town of Edenton for the Roanoke River lighthouse project

Attachments to the Staff's Recommendation

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

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

October 4, 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Town of Edenton
P.O. Box 300
Edenton, NC 27932

Dear Sirs:

This letter is in regards to your application request under the Coastal Area Management Act (CAMA) to construct a pile-supported foundation to support the construction of a historic lighthouse within the waters of Edenton Bay on the Albemarle Sound adjacent to the Town of Edenton's town park located at Dock Street, Chowan County. Processing of the application, which was received by the Division of Coastal Management's Elizabeth City Office on August 17, 2010, is now complete. Based on the state's review, the Division of Coastal Management has made the following findings:

1) The proposed project would relocate an existing 33 foot by 42 foot historic two-story lighthouse, currently located on a temporary high ground location, to a site waterward of a bulkheaded shoreline at the Town of Edenton's town park located along Dock Street. Access to the structure would be provided by way of a 42-foot long by 16-foot wide access ramp, as well as a 24 foot by 4.5 foot set of steps with a landing.

2) According to the permit application, the stated purpose of the lighthouse will be to teach the public about the life of lighthouse keepers in the 1800's. The lighthouse will also include a small gift shop. No overnight accommodations or restroom facilities are proposed.

3) The proposed permanent site for the lighthouse will be within an area currently enclosed by a breakwater structure. The area enclosed by the breakwater also contains 10 boat slips.

400 Commerce Ave., Morehead City, NC 28557
Phone: 252-808-2808 \ FAX: 252-247-3330 Internet: www.nccoastalmanagement.net

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4) The public trust waters of the Albemarle Sound at the project location have not been designated by the Marine Fisheries Commission as a Primary Nursery Area (PNA). The waters are also closed to the taking of shellfish. There is no submerged aquatic vegetation (SAV) at the project site.

5) In accordance with the requirements of 15A NCAC 07H.0209(g), the waterfront area adjacent to the proposed lighthouse relocation site is considered an Urban Waterfront.

6) Comments received as a part of the joint State and Federal review of the permit application were general favorable.

7) Based on the proposed uses of the lighthouse facility, the Division has determined that the proposed project is not considered a water dependent structure.

8) Based upon the above referenced findings, the Division has determined that the proposed project is inconsistent with the following rules of the Coastal Resources Commission:

   a. 15A NCAC 07H.0208(a)(1), which states "Uses which are not water dependent shall not be permitted in coastal wetlands, estuarine waters, and public trust areas."

   b. 15A NCAC 07H.0209(g)(4)(B), which states "New structures built for non-water dependent purposes are limited to pile-supported, single-story, unenclosed decks and boardwalks, and shall meet the following criteria:
      (II) Structures may be roofed but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind and shall be limited to a single story;
      (IV) Structures shall not extend more than 20 feet waterward of the normal high water level or normal water level;"

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

If you wish to appeal this denial, you are entitled to a hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties and then makes a recommendation to the Coastal Resources Commission. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the office of Administrative Hearings,

6714 Mail Service Center, Raleigh, NC 27699-6714, (919) 733-2698, within twenty (20) days from the date of this letter. A copy of this petition should also be filed with this office. If you have any questions concerning this matter, please contact Mr. Doug Huggett at (252) 808-2808.

Sincerely,

James H. Gregson

cc: Colonel Jefferson Ryscavage – U.S. Army Corps of Engineers, Wilmington, NC
David Kennedy, Director – OCRM/NOAA, Silver Spring, MD
DCM – Elizabeth City
DCM Central Files

NCDENR

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

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

RECEIVED SEP 10 2010 DMF - HABITAT PROTECTION

August 19, 2010

RECEIVED SEP 14 2010 Morehead City DCM

RECEIVED SEP 13 2010 DMF - HABITAT PROTECTION

MEMORANDUM

TO: Kevin Hart
NC Division of Marine Fisheries, WaRO

FROM: Doug Huggett
Major Permits Processing Coordinator

SUBJECT: CAMA/DREDGE & FILL Permit Application Review

Applicant: **Town of Edenton**

Project Location: **Dock Street, off W. Water Street, downtown Edenton**

Proposed Project: **Relocation of Roanoke River Lighthouse into Edenton Bay**

Please indicate below your agency's position or viewpoint on the proposed project and return this form by [redacted]. If you have any questions regarding the proposed project, please contact Kelly Russell at (252) 264-3901. When appropriate, in-depth comments with supporting data are requested.

REPLY:

____ This agency has no objection to the project as proposed.

____ This agency has no comment on the proposed project.

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

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

SIGNED Kevin Hart **DATE** 9/7/2010
Anne Deaton 9/13/10

1367 US 17 South, Elizabeth City, NC 27909
Phone: 252-264-3901 \ FAX: 252-264-3723 ; Internet: www.nccoastalmanagement.net

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NCDENR
North Carolina Department of Environment and Natural Resources
Division of Marine Fisheries

Beverly Eaves Perdue
Governor

Dr. Louis B. Daniel III
Director

Dee Freeman
Secretary

TO: Doug Huggett
THROUGH: Anne Deaton AD
FROM: Kevin Hart
DATE: August 23, 2010 KH
SUBJECT: CAMA Dredge/Fill Permit Application for Relocation of Roanoke River Lighthouse into Edenton Bay (SB, AFSA)

The following comments by the North Carolina Division of Marine Fisheries (NCDMF) on the subject project are offered pursuant to G.S. 113-131. The subject project is proposing to relocate a historic lighthouse from land into Edenton Bay behind the breakwater. The lighthouse will be supported by 24 permanent pilings and 20 temporary pilings. The pilings will be installed using a pilehammer. The applicant also proposes to install a handicap ramp to give access to the lighthouse. Together the lighthouse and ramp will shade 1,998 square feet of public trust bottom. Although the depths are available (-1ft to -6ft NWL), there is no SAV located in the proposed site. The structure will be approximately 8ft above NWL. Edenton Bay is an Anadromous Fish Spawning Area and used by various anadromous species (i.e. river herring and American Shad).

Pile driving activities have been known to elevate noise and turbidity levels when installed using a pilehammer. These elevated noise and turbidity levels have been known to have significant adverse impacts to anadromous fish spawning migrations (Street et al. 2005). In order to minimize these impacts the NCDMF requests that the in water work for the subject project be performed outside of the February 15 to September 30.

The NCDMF also requests information on how the 20 temporary pilings will be removed. Removal of these pilings may increase turbidity levels that may adversely impact anadromous fish spawning migrations. The NCDMF requests that these pilings are removed outside of the moratorium period or turbidity curtains are used to minimize the effects of the elevated turbidity levels.

The NCDMF appreciates the opportunity to review and comment on this project. If you have any comments or questions, please call me at (252) 948-3878 or email me at Kevin.Hart@ncdenr.gov .

Street, M.W., A.S. Deaton, W.S. Chappell, and P.D. Mooreside. 2005. North Carolina Coastal Habitat Protection Plan. North Carolina Department of Environment and Natural Resources, Division of Marine Fisheries, Morehead City, NC. 656 pp.

943 Washington Square Mall, Washington, NC 27889
Phone: 252-945-6481 \ FAX: 252-975-3716 \ Internet: www.ncdmf.net

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DIVISION OF COASTAL MANAGEMENT
FIELD INVESTIGATION REPORT

1. APPLICANT'S NAME: Town of Edenton

2. LOCATION OF PROJECT SITE: Dock St. off of W. Water St., Edenton, Chowan County, Edenton Bay
   Photo Index – 2006: 152-6777 (C,15) 2000: 235-1830 (L,9) 1995: 152-1580 (C,2)
   State Plane Coordinates - X: 2705,000 Y: 847,000
   GPS: 071611A
3. INVESTIGATION TYPE: CAMA

4. INVESTIGATIVE PROCEDURE: Dates of Site Visit – July 16, 2010
   Was Applicant Present - yes

RECEIVED
AUG 20 2010
Morehead City DCM

5. PROCESSING PROCEDURE: Application Received Complete - August 18, 2010
   Office - Elizabeth City
6. SITE DESCRIPTION:
   (A) Local Land Use Plan - Edenton
   Land Classification From LUP - commercial
   (B) AEC(s) Involved: Public Trust Area, Estuarine Waters, Estuarine Shoreline
   (C) Water Dependent: no
   (D) Intended Use: public
   (E) Wastewater Treatment: Existing – central sewer system
   Planned - none
   (F) Type of Structures: Existing – visitors center buiding, park with concrete walks and playground, boat basin with concrete breakwater and concrete pier 10 boatslips, wooden pier.
   Planned - relocate historic lighthouse
   (G) Estimated Annual Rate of Erosion: n/a
   Source - applicant

7. HABITAT DESCRIPTION:

	DISTURBED	[AREA] FILLED	SHADED
(A) Estuarine Shoreline/Public Trust Shoreline	1540 sq. ft		
(B) Estuarine Waters/Public Trust Area			1998 sq. ft

   (D) Total Area Disturbed: 3538 sq. ft. (0.08 acres)
   (E) Primary Nursery Area: no
   (F) Water Classification: SB Open: no

8. PROJECT SUMMARY: The applicant proposes to relocate a historical lighthouse from its temporary location on land to a permanent location in the Edenton Bay. The lighthouse would be set on a pile supported foundation approximately 8 ft above normal water level.

Project Setting

The proposed project site is located at Dock St. off of W. Water St., in the town of Edenton in Chowan County and adjacent to Edenton Bay/ Albemarle Sound. The project site is part of a town owned tract that is approximately 5.1 acres and is used as a town park. Current structures on the tract include a historic visitors center, a public park area with concrete walks, playground area, and restroom facility building, a large boat basin with a concrete pier/breakwater, a wooden pier and 10 boatslips. Vegetation on the tract consists of deciduous trees and indigenous lawn grasses and the tract has an elevation of + 3 ft above normal water level (NWL). Previously a major permit (#112-00) was issued to the town for the construction of the boat basin and the concrete pier and wooden pier and boatslips. There are two known archaeological sites associated with the property CO 3 & 9.

The tract has approximately 1,590 ft. of shoreline that is stabilized with bulkhead. The adjacent property shorelines are also stabilized with bulkhead. The properties to the east and west are residential lots with single family homes. The water depths at the location of the proposed development range from -1 ft. to -6 ft. and the water depths in the boat basin area range up to -15 ft. The waters of Edenton Bay are classified as SB and are designated as Public Trust Area and Estuarine Waters. This area is closed to shellfish harvesting. No submerged aquatic vegetation was observed in the project area.

Development Proposal

The applicant proposes to relocate a historical lighthouse over the waters of Edenton Bay adjacent to the town owned property and within an existing basin area. The historic Roanoke River Lighthouse is temporarily located on the town owned property approximately 40 ft from NWL. The development proposes that the lighthouse would be set on a pile supported foundation using approximately 24 pilings with diagonal cross bracing. Twenty additional temporary pilings would be driven to support the structure while the permanent foundation is being constructed. The applicant also proposes to construct a 42 ft. by 16 ft. access ramp up to the lighthouse to provide handicap accessibility and a 24 ft. by 4.5 ft. step and landing accessway to the lighthouse. The proposed lighthouse location would be just offshore adjacent to the existing bulkhead and within the existing breakwater area to protect the structure during storms. The deck of the lighthouse is proposed at an elevation of approximately 8 ft. above NWL. The proposed location of the lighthouse is more than 400 ft. from riparian property lines. The proposed location is also approximately 150 ft. from existing boatslips therefore would not create a hazard to navigation.

Anticipated Impacts

The proposed project will cause temporary disturbance to approximately 1,540 square feet of the Estuarine Shoreline Area of Environmental Concern during the moving of the structure from its current location to the permanent one offshore. Temporary disturbance will occur in the Public Trust Area and Estuarine Waters Area of Environmental Concern due to the driving in of approximately 24 permanent pilings and 20 temporary pilings for the structure foundation. The structure, ramp, and accessway will shade 1,998 square feet of Public Trust and Estuarine Waters Areas of Environmental Concern .

Submitted by: Kelly Russell
Date: August 18, 2010

1886 ROANOKE RIVER LIGHTHOUSE

Past

Present

A Rendering after Restoration

RECEIVED
AUG 20 2010
Morehead City DCM

History:

The building was completed in 1887, as the second lighthouse building at a location that had already been marked by a light for many years near the mouth of the Roanoke River. The screw-pile design of its original support system, unfortunately destroyed in 1955, was a typical technique used for smaller lighthouses built in the second half of the nineteenth century over inland waterways. Although once a common lighthouse type, there are almost no other surviving examples. **This is believed to be the last extant example in the United States of a rectangular frame building built for a screw-pile base.** While the pilings are long gone, the cottage style frame house and tower are typical of the upper portions of lighthouses constructed in this era. The lighthouse was in commission from 1887 until 1941. In 1955, it was moved by a private individual, off of its screw-pile base, to an on-land location for use as a private residence. Although a modest example of Stick style architecture, it has several of the distinguishing features of this important American architectural style.

The need for a lighthouse at this building's original location was recognized at least as early as 1835, when a three-masted ship was anchored at the location and converted to a light station. The retrofitted ship apparently remained in place, where the Roanoke River meets Albemarle Sound, until it was scuttled during the Civil War in an attempt to make the waters more difficult to navigate for blockade runners. In 1866, to reinstate the light, a screw-pile lighthouse was erected at the Roanoke River Light station. However, that structure was destroyed by fire in 1885. An effort to rebuild it immediately, in 1885, ended when the new construction was struck by ice during a storm and collapsed into the water. The present cottage-style building was erected on a screw-pile base at the location in 1887. The tower was fitted out with a 4° (or "fourth order") Fresnel lens. The lens is no longer in the building, though a similar lens has been mounted in the lantern room since 1970. It rests on a deteriorated table made of twentieth-century plywood, which apparently replaced the original base designed to hold the light and facilitate its rotation. (The current lens, on loan from the Town of Edenton, was made by E. Barbier and Co. of Paris; although the fittings around the lens have been changed, rollers at the base of the 1888 brass framework indicate that it originally rotated on a similar table-like surface). Both the Coast Guard and the National Park Service list the Roanoke River Light as having been first lit in 1903, but this apparently refers to a change in lenses or some other alteration at that time. The lighthouse was in service until 1941, when it was decommissioned. The building was moved in 1955 by Emmett Wiggins who lived there for about 50 years.

In May, 2007, the Edenton Historical Commission bought the Roanoke River Lighthouse for $225,000 and paid $75,000 to move it to Colonial Park in Edenton. The Lighthouse bell, cast in 1901, by the McShane Foundry in Baltimore, sits in the Town of Edenton's Queen Anne Park. The NC Department of Cultural Resources has agreed to restore the Lighthouse. The Edenton Historical Commission is raising funds to help open the Lighthouse for public interpretation.

Edenton Historical Commission at the Barker House (white house on the water) gratefully accepts tax-deductible donations to restore and open the Roanoke River Lighthouse. Make checks payable to the Commission and mail to 505 S. Broad Street, Edenton, NC 27932 – ph # 252-482-7800; barkerhouse@inteliport.com

RECEIVED
AUG 17 2010
COASTAL MANAGEMENT
ELIZABETH CITY

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

SESSION LAW 2005-276
SENATE BILL 622

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

SECTION 1.1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget in accordance with the Executive Budget Act. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and the savings shall revert to the appropriate fund at the end of each fiscal year, except as otherwise provided by law.

TITLE OF ACT

SECTION 1.2. This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2005."

PART XLVI. MISCELLANEOUS PROVISIONS

EXECUTIVE BUDGET ACT APPLIES

SECTION 46.1. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

COMMITTEE REPORT

SECTION 46.2.(a) The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated August 8, 2005, which was distributed in the House of Representatives and the Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 46.2.(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2005-2007 fiscal biennium is a line-item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The Director of the Budget submitted the itemized budget requests to the General Assembly on February 23, 2005, in the documents "North Carolina State Budget 2005-2007, Summary of Recommendations" and "State of North Carolina 2005-2007 Recommended Continuation Budget" volumes one through six. The beginning appropriation for the 2005-2006 fiscal year and the 2006-2007 fiscal year for the various departments, institutions, and other spending agencies of the State is referenced in Tables 12 and 13 of the Summary of Recommendations document as the recommended continuation budget.

The General Assembly adjusted the recommended continuation budget to incorporate all nonrecurring adjustments enacted by the 2003 General Assembly as required in S.L. 2004-124 and S.L. 2003-284. These adjustments affect the Division of Medical Assistance, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the Clean Water Management Trust Fund, the Department of Crime Control and Public Safety, the Judicial Department, the General Assembly, the Department of Revenue, the Office of State Budget and Management, the Community Colleges System Office, The University of North Carolina – Board of Governors, the Department of Transportation, the Reserve for Death Benefit Trust, and the Reserve for Disability Income Plan. These adjustments to the recommended continuation budget are set out in the Joint Conference Committee Report on the Continuation, Expansion and

Capital Budgets, dated August 8, 2005. The recommended continuation budget submitted by the Director of the Budget, as adjusted by the General Assembly, is referred to as the adjusted continuation budget and represents the starting point for further legislative revisions.

The General Assembly revised the adjusted continuation budget for the 2005-2006 fiscal year and the 2006-2007 fiscal year in accordance with the steps that follow, and the line-item detail in the budget enacted by the General Assembly may be derived accordingly:

(1) The adjusted continuation budget was revised in accordance with reductions and additions that were set out in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated August 8, 2005, together with any accompanying correction sheets.

(2) Transfers of funds supporting programs were made in accordance with the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated August 8, 2005, together with any accompanying correction sheets.

SECTION 46.2.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

MOST TEXT APPLIES ONLY TO THE 2005-2007 FISCAL BIENNIUM

SECTION 46.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2005-2007 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2005-2007 fiscal biennium.

EFFECT OF HEADINGS

SECTION 46.4. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

SEVERABILITY CLAUSE

SECTION 46.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 46.6. Except as otherwise provided, this act becomes effective July 1, 2005.

In the General Assembly read three times and ratified this the 11th day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

THE JOINT CONFERENCE COMMITTEE REPORT ON THE CONTINUATION, EXPANSION AND CAPITAL BUDGETS

August 8, 2005

Senate Bill 622

North Carolina General Assembly
2005 Session

	FY 05-06		FY 06-07	
28 The Murfreesboro Historical Association, Inc.				
Provides a grant-in-aid in FY 2005-06 for operational and program support ($50,000). Additionally, provides funding for renovations and the installation of an elevator at the Jeffcoat Museum in Murfreesboro and other improvements at the historic site ($92,000).	$142,000	NR		
1241 State Historic Sites				
29 Increase Operating Budget	$500,000	R	$500,000	R
Provides additional funds for maintenance of historic sites statewide.				
30 Roanoke River Lighthouse Restoration Funds				
Provides funds for the Edenton Historical Commission to acquire, relocate, and restore the lighthouse.	$300,000	NR		
31 Historic Bandon Building Restoration Funds				
Appropriates funding to acquire, move, and restore the 1827 kitchen building of the former Bandon Plantation for location to the State Historic Site in Edenton.	$250,000	NR		
32 Historic Oak Grove School Funds				
Provides a grant-in-aid for FY 2005-06 to Washington Town Community Assn., Inc. to retire the debt for renovations of the school.	$50,000	NR		
33 Historic Salisbury Foundation, Inc.				
Provides a grant-in-aid in FY 2005-06 for renovating Hall House.	$25,000	NR		
34 Historic Burwell School Repair Funds				
Provides a grant-in-aid in FY 2005-06 to the Historic Hillsborough Commission for repairs to the school. (HB 1656)	$5,000	NR		
35 Historic Hillsborough District Commission Funds				
Provides a grant-in-aid in FY 2005-06 to assist the Commission catalog, promote, and preserve the historic site. (HB 1658)	$5,000	NR		
36 Town of Hope Mills				
Provides a grant-in-aid in FY 2005-06 for the historic preservation of the town.	$14,000	NR		
37 New Bern's 300th Anniversary Funds				
Provides a grant-in-aid in FY 2005-06 to the Swiss Bear Downtown Development Corporation to aid the City of New Bern in preparing for its Tercentenary Anniversary. (HB 1588)	$50,000	NR		
38 CSS Neuse Restoration Committee, Inc.				
Provides funds for the relocation and preservation of the Civil War CSS Neuse gunboat. (SB 1084)	$30,000	NR		

FILED in CHOWAN County, NC
on 06/20/08 at 04:38pm
By: SUSAN S ROUNTREE
REGISTER OF DEEDS
BOOK 397 PAGE 866

NORTH CAROLINA

Real Property Excise Stamp Tax

—0—

7804-LH-67-1849 BV

After recording mail to:
NC Department of Administration
c/o State Property Office
116 West Jones Street – MSC 1321
Raleigh, NC 27699- 1321

Drafted by:
Peter Rascoe,
Chowan County Attorney

State of North Carolina

Chowan County

DEED OF GIFT
(STRUCTURE-ONLY)

THIS **DEED OF GIFT (STRUCTURE-ONLY)**, made and entered into this 20th day of JUNE, 2008, by and between the Edenton Historical Commission, a nonprofit organization commissioned by the General Assembly of the State of North Carolina pursuant to North Carolina General Statute §143B-95, herein referred to as "Grantor", and the State of North Carolina, a body politic and corporate, herein referred to as "Grantee";

W I T N E S S E T H:

That the said Grantor, in consideration of mutual covenants made between the parties, does by gift, hereby convey, quitclaim, remise, release, and forever deed unto said Grantee and its successors and assigns, all right, title, and interest of Grantor in a structure-only, severed from underlying land, and known as the 1886 Roanoke River Lighthouse and located in the Town of Edenton, Chowan County, State of North Carolina, in First Township, and more particularly described as follows:

> That certain structure-only known as the 1886 Roanoke River Lighthouse now temporarily erected on house-moving rollers and cribbing situated on a tract of land in the Town of Edenton, First Township, Chowan County, NC, at the southern terminus of Dock Street; and being the same structure heretofore conveyed to Grantor by Deed of Structure-Only recorded in Deed Book 377, page 822 of the Chowan County Public Registry. For further identification purposes, this is the same structure constructed in 1886-1887 for the United States Department of Treasury, Lighthouse Service, and operated by such agency and its successor agency United States Coast Guard in the western Albemarle Sound until 1941. It was thereafter acquired in 1955 from the United States of America by Elijah W. Tate and

280284

thereafter from Tate by Emmett Hofler Wiggins and moved to Edenton, NC the same year. The structure was thereafter acquired from holders of the Estate of Emmett Hofler Wiggins (deceased in 1995) by Jerry H. Calhoun.

This conveyance of title shall extend only to the afore-described structure-only as it is to be severed from underlying land, and shall not extend to the land upon which the same is located and from which the same is to be severed.

TO HAVE AND TO HOLD the said structure-only 1886 Roanoke River Lighthouse and all privileges, fixtures, and appurtenances thereunto belonging, unto the Grantee and its successors and assigns, free and discharged from any and all right, title, claim or interest of the Grantor or anyone claiming by, through, or under them by lien, adverse title, or any encumbrance whatsoever; and Grantor does warrant that title ownership to said structure-only is free, clear, and unencumbered and that Grantor has the right to convey such title to Grantee, and that Grantor warrants that it will defend, indemnify, and hold Grantee harmless from the claims of any other persons or entities along with the related costs thereto.

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

Aalin T. Dowd (SEAL)
Edenton Historical Commission
By: Chairman

SEAL

T. Bunbury H. Wood Jr. (SEAL)
Attest:
By: Secretary

STATE OF NORTH CAROLINA
COUNTY OF CHOWAN

I, Susanne Stallings, Notary Public, do hereby certify that T. Bunbury H. Wood Jr. personally came before me this day and acknowledged that he or she is Secretary of the Edenton Historical Commission, a nonprofit organization commissioned by the General Assembly of the State of North Carolina pursuant to North Carolina General Statute §143B-95, and that by authority duly given and as the act of the Commission, the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal, and attested by himself or herself as its Secretary.

Witness my hand and notarial seal, this the 20th day of June, 2008.

Susanne Stallings
Notary Public

My commission expires: May 10, 2011

Print: Susanne Stallings

SUSANNE STALLINGS NOTARY PUBLIC GATES COUNTY, NORTH CAROLINA

COPY

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF CHOWAN

This LEASE AGREEMENT ("Agreement") is made and entered as of the last date set forth in the notary acknowledgements below, by and between the TOWN OF EDENTON, a municipal corporation, hereinafter designated as "Lessor," and the STATE OF NORTH CAROLINA, a body politic and corporate, hereinafter designated as "Lessee."

WITNESSETH:

THAT WHEREAS, Lessor is the owner of that certain parcel or tract of land known as Colonial Waterfront Park located in the Town of Edenton, Chowan County, North Carolina (Parcel Identification Number 7804-07-67-1849 and more particularly described in Book P, Page 77 of the Chowan County Registry) that is bisected along the west end by Dock Street which exists in part along the north end thereof, but which is a paper street along the south end thereof; and

WHEREAS, Dock Street is owned by Lessor pursuant to the deed from J.H. Conger & Son, Inc. dated October 20, 1978 of record in Book 123, Page 131 of the Chowan County Registry and Lessor is willing to lease to Lessee a certain area of the unopened portion of the Dock Street right of way measuring 35'x 35', containing 1225 square feet, more or less, and being more particularly shown upon the plat or sketch attached as Exhibit A hereto and incorporated by reference (the "Property"); and

WHEREAS, this Agreement is made and entered into for the purpose of providing land on which to locate that certain historic structure known as the 1886 Roanoke River Lighthouse (the "Lighthouse"); and

WHEREAS, the Lighthouse is owned by Lessee pursuant to a deed of gift from the Edenton Historical Commission, a nonprofit organization commissioned by the General Assembly of the State of North Carolina pursuant to North Carolina General Statute §143B-95, dated April 21, 2009; and

WHEREAS, the North Carolina Department of Cultural Resources, has requested and approved the execution of this instrument for the purposes herein specified; and,

WHEREAS, the execution of this Agreement for and on behalf of the State of North Carolina has been duly approved by the Governor and Council of State at a meeting held in the City of Raleigh, North Carolina, on the 11th day of September, 2007.

NOW, THEREFORE, in consideration of ONE DOLLAR ($1.00), and the further mutual terms, covenants and conditions set forth herein, Lessor and Lessee agree as follows:

1. **Lease of Property**. The Lessor hereby leases and demises unto Lessee, and Lessee hereby takes and leases from Lessor, the Property and all rights-of-way, tenements, hereditaments, appurtenances and easements now or hereafter belonging or pertaining thereto.

2. **Use of Property**. The Lessee intends to locate the Lighthouse on the Property and cause such repair, renovation and improvement of the Lighthouse and the Property (collectively the "Premises") as to make the Premises available for touring by the public to the extent and for the purposes as determined by Lessee in its sole and absolute discretion.

3. **Term**. The term of this Agreement shall be for a period of ninety-nine (99) years, commencing on the 1st day of April, 2009 and terminating on the 31st day of January, 2108 (the "Term"), if not sooner terminated as provided herein.

4. **Fixtures / Improvements**. The Lessee shall have the right during the Term to make alterations, attach fixtures and equipment, and make improvements in or upon the Premises. Such fixtures and improvements, including, the Lighthouse, so placed in or upon the Premises under this Agreement or any renewal hereof shall be and remain the property of Lessee and shall not attach to or be deemed a part of, or fixture to, the Property.

5. **Maintenance / Repair**. Lessee, at its sole cost and expense, shall be responsible for the upkeep, maintenance, repair and operation of the Premises. Lessee, in its sole discretion, may enter into agreements with independent contractors, non-profit corporations or community organizations for the repair and maintenance or operation of the Premises.

6. **Zoning / Utilities**. Lessor warrants that there are no zoning or other local governmental regulations that would interfere or otherwise prohibit Lessee's intended use of the Property. Lessor further warrants that water, sewer and other utility services are available to the Property and upon request from Lessee, Lessor will assist Lessee in securing necessary utility connections to the Property. During the Term, Lessee shall be responsible for all applicable fees and utility charges incurred by Lessee in its use of the Premises.

7. **Operating Agreement**. Lessor and Lessee, acting by and through the Department of Cultural Resources, shall, contemporaneous with the execution of this Agreement, enter into a mutually acceptable agreement concerning the operation of the Premises (the "Operating Agreement"), the terms of which Operating Agreement shall not be inconsistent with the provisions herein.

8. **Access to Premises**. Lessee, its agents, assigns and invitees, shall at all times have the right of ingress to and egress from the Premises over the lands owned by Lessor adjacent to the Premises and lying between public or private roads and the Premises. The location of the means of ingress and egress over Lessor's lands shall be designated by Lessor, but shall be adequate to allow for the repair, renovation, maintenance and operation of the Premises, which shall include opening the Premises to the general public at hours and dates determined by Lessee in its sole discretion.

9. **Destruction of the Lighthouse**:

(a) Partial Destruction. If the Lighthouse is partially destroyed by any cause, Lessee, at its option, may terminate this Agreement and neither party shall have any further obligation under this Agreement one to the other. If Lessee determines in its sole judgment that the Lighthouse can be repaired or restored to its prior condition, this Agreement shall continue in full force and effect. The Lessee shall notify Lessor of its decision within one hundred twenty (120) calendar days of such partial destruction and shall then commence restoration of the Lighthouse to the same condition as when built, reasonable wear and tear excepted. Restoration of the Lighthouse shall be accomplished by Lessee as soon as reasonably practical.

(b) Total Destruction. In the event the Lighthouse is substantially destroyed by any cause, Lessee may elect to either rebuild the Lighthouse and restore it to its substantially equivalent condition prior to its destruction or terminate this Agreement. Such election shall be exercised by giving notice to Lessor within one hundred twenty (120) calendar days of the destruction. If Lessee elects to rebuild, Lessee shall accomplish such rebuilding within a reasonable time after Lessee's election.

If this Agreement is terminated under this Paragraph9, the Lessee shall remove any debris and any of its fixtures from the Property and, to the extent reasonably practicable, restore the Property to its unimproved condition. Upon such termination, neither party shall have any further obligation under this Agreement one to the other.

10. **Removal of Lighthouse**. This Agreement shall terminate automatically if the Lighthouse is removed from the Property or relocated to another site, for any reason, by Lessee.

11. **Termination**. Upon termination of this Agreement, Lessee will peaceably surrender the Property in as good order and condition as when received, reasonable use and wear and damage by fire, war, riots, insurrection, public calamity, by the elements, by act of God, or by circumstances over which Lessee had no control or for which Lessor is responsible pursuant to this Agreement, excepted. At the expiration of the Term or the earlier termination of this Agreement, excluding the termination of this Agreement due to the removal of Lighthouse by Lessee as provided in Paragraph 10 hereof, Lessee shall cause the Lighthouse to be removed from the Property or shall cooperate with Lessor to develop an alternate plan for the disposition of the Lighthouse.

12. **Lessor Covenants**. The Lessor agrees that Lessee, upon keeping and performing the covenants and agreements herein contained, shall at all times during the Term peaceably and quietly have, hold, and enjoy the Property free from the adverse claims of any person.

13. **Holdover**. Any holding over after the expiration of the Term or any extension thereof, shall be construed to be a tenancy from month to month, and shall otherwise be on the terms and conditions herein specified, so far as applicable; however, either party shall give not less than sixty (60) days written notice to terminate the tenancy.

14. **Assignment / Sublease**. Lessee shall not assign this Agreement without the written consent of Lessor, which shall not be unreasonably withheld, but shall have the right to sublet the Property.

15. **Availability of Funds**. The parties to this Agreement understand that the continuation of this Agreement for the Term, or any extension or renewal thereof, is dependent upon and subject to the appropriation, allocation or availability of funds for this purpose to the designated agency of Lessee. The parties to this Agreement also agree that, in the event that the agency of Lessee or that body responsible for the appropriations of said funds, in its sole discretion, determines, in view of its total local operations, that available funding is insufficient to continue operations on the Premises, it may choose to terminate this Agreement by giving Lessor written notice of said termination, and this Agreement shall terminate immediately without any further liability to either party. In the event of such termination, the parties hereto shall cooperate in developing a plan for the continued operation, maintenance and repair of the Lighthouse.

16. **Notices**. All notices herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and delivered by personal service or deposited in the United States mail, certified and postage prepaid and addressed as follows:

To Lessor: Town of Edenton
Attn: Town Manager
PO Box 300
Edenton, NC 27932

To Lessee: Department of Cultural Resources
Division of State Historic Sites
4620 Mail Service Center
Raleigh, NC 27699-4620

w/ Copy to: Department of Administration
State Property Office
1321 Mail Service Center
Raleigh, NC 27699-1321

The address to which notices shall be mailed as aforesaid to either party may be changed by written notice.

17. **Effect of Waiver / Amendment**. The failure of either party to insist in any instance upon strict performance of any of the terms and conditions herein set forth shall not be construed as a waiver of the same in any other instance. No modification of any provision hereof and no cancellation or surrender hereof shall be valid unless in writing and signed and agreed to by both parties.

18. **Binding Effect**. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

19. **Miscellaneous Provisions**:

(a) The use of headings, captions and numbers in this Agreement is solely for the convenience of identifying and indexing the various provisions in this Agreement and shall in no event be considered otherwise in construing or interpreting any provision in this Agreement.

(b) Capitalized terms used in this Agreement shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.

(c) This Agreement and all contracts related to improvements described herein, shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of North Carolina.

(d) No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party's having or being deemed to have prepared or imposed such provision.

(e) This Agreement and the Operating Agreement incident hereto contains the entire contract between the parties regarding the subject matter hereof and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein.

(f) In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

(g) At the request of either party, Lessor and Lessee shall execute a memorandum of this Agreement for recording in the public records. The memorandum of Agreement shall describe the parties, set forth a description of the Premises, specify the Term and incorporate this Agreement by reference.

[signature pages follow]

IN TESTIMONY WHEREOF, this Agreement has been executed by the parties hereto, in duplicate originals, as of the last date set forth in the notary acknowledgments below.

LESSOR:

TOWN OF EDENTON

By: _____
Roland H. Vaughan, Mayor

ATTEST:

By: _____
Clerk, Edenton Town Council

STATE OF NORTH CAROLINA

COUNTY OF Chowan

I, Tammy B. Woodley, a Notary Public in and for the County and State aforesaid, do hereby certify that Anne Marie Knight this day appeared before me and acknowledged the he/she is Clerk to the Edenton Town Council and that pursuant to a resolution duly adopted by said Council, and as an act of the Town of Edenton, the forgoing instrument was signed in its name by Roland H. Vaughan, Mayor of the Town of Edenton, and attested by himself/herself as Clerk of the Edenton Town Council.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the 1 day of Oct., 2009.

_____
Notary Public
Print Name: Tammy B. Woodley

My Commission Expires: 9/26/11

LESSEE:

STATE OF NORTH CAROLINA

By: _____
Governor

ATTEST:

By: _____
Secretary of State

APPROVED AS TO FORM:

ROY COOPER
Attorney General

By: _____
Assistant Attorney General

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Jennell Baughman, a Notary Public in and for the County of Johnston and State of North Carolina, do hereby certify that ELAINE F. MARSHALL, Secretary of State of North Carolina, personally came before me this day and acknowledged that she is Secretary of State of North Carolina, and that by authority duly given and as the act of the State, the foregoing instrument was signed in its name by BEVERLY EAVES PERDUE, Governor of the State of North Carolina, sealed with the Great Seal of the State of North Carolina, and attested by herself as Secretary of State of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the 21st day of April, 2009.

JENNELL BAUGHMAN
Notary Public
Johnston County
State of North Carolina
My Commission Expires Nov 21, 2011

Jennell Baughman
Notary Public
Print Name: Jennell Baughman

My Commission Expires: 11-21-2011

amec

October 20, 2010

Ms. Anne-Marie Knighton
Town Manager
Town of Edenton
PO Box 300
Edenton, North Carolina 27932

Re: **REMEDATION CONCERNS**
FUTURE LIGHTHOUSE LOCATION - COLONIAL WATER FRONT PARK
SOUTH OF 119 WEST WATER STREET
EDENTON, NORTH CAROLINA

Dear Ms. Knighton:

AMEC Earth & Environmental, Inc. (AMEC) completed an initial subsurface assessment of the above-referenced site (site) and summarized the results in the May 18, 2010 letter report. During the assessment, groundwater was encountered approximately three feet below ground surface (bgs). From ground surface to two feet bgs non-native soil (fill material) was observed. From two feet to seven feet bgs fill material including wood, concrete, and coal was identified. Native or residual soil was observed approximately seven feet below surface. Field screening observations and laboratory results indicate petroleum impact is present in the fill material from approximately two to seven feet bgs throughout the area of the proposed lighthouse construction.

At many sites where subsurface material is impacted with petroleum either above or below the water table, a cost effective, proven method of cleanup is excavation with offsite disposal. For this site, using this method would involve the excavation of impacted material below the groundwater table. However, remediation at this site is complicated by the presence of engineered structures (bulkheads) surrounding the area of contamination that were presumably put in place to stabilize the land with respect to the adjacent Edenton Bay. Furthermore, metal tie backs used to stabilize the bulkheads are seated within the area of contamination. These issues are of concern because depending on how the excavation is performed, it may affect the ability of the tie backs to support the bulkheads. In addition, removal of impacted material could risk the integrity of the bulkhead system that is ultimately stabilizing the land and preventing the migration of the petroleum contamination from entering Edenton Bay.

I hope this provides an adequate summary of the concerns associated with performing remediation at this site. Should you have any questions or need additional information, please contact the undersigned at (919) 447-2750.

Sincerely,
AMEC Earth & Environmental, Inc.

Harold M. Thurston, L.G.
Senior Project Manager

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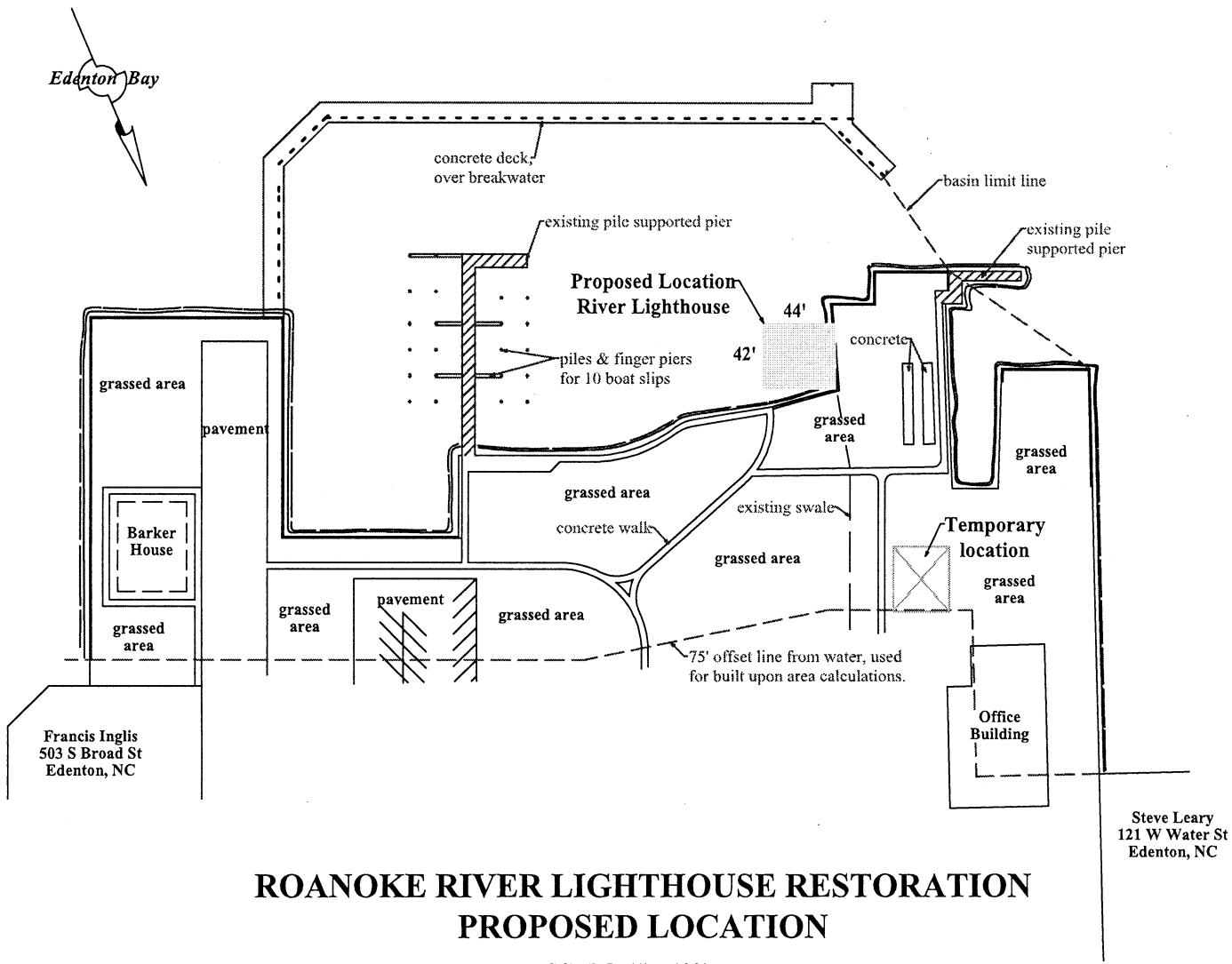


Built Upon Area
(within 75' of water)

Concrete Walks	5,175 s.f.
Brick Walks	1,135 s.f.
Buildings	5,830 s.f.
Streets & Parking	11,590 s.f.
Total	23,730 s.f.
Total Tract	95,160 s.f.
Built Upon Percentage	24.7 %

Pier Coverage

Main Pier	6,539 s.f.
L Pier & Finger Piers	1,568 s.f.
Small Pier	442 s.f.
Total Coverage	8,549 s.f.
Total Basin Area	74,830 s.f.

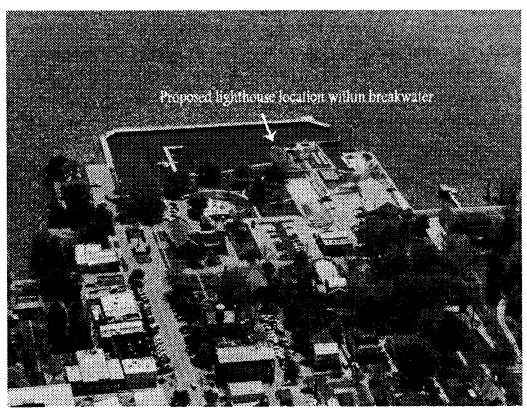
Edenton Waterfront = 1,590'
Cannons & Colonial = 1,180'
TOTAL Waterfront = 2,770'

Lt House = 42X44 = 1,848 s.f.
Total Piers = 8,549 s.f.
Total Coverage = 10,397 s.f.

ROANOKE RIVER LIGHTHOUSE RESTORATION
PROPOSED LOCATION

SCALE: 1" = 100'

EDENTON, NORTH CAROLINA


Proposed lighthouse location within breakwater