

ATTACHMENT E

STIPULATED EXHIBITS 1-30

1. 1963 Session Law
2. A- Aerial Photograph- 1949
B- Aerial Photograph- 1956
C- Aerial Photograph- 1966
D- Aerial Photograph- 1981
E- Aerial Photograph- 1998
F- Aerial Photograph- 2002
G- Aerial Photograph- 2006
H- Aerial Photograph- 2010
3. Affidavit of Assistant Town Manager Ed Parvin
4. Building Line Map recorded in Map Book 8, Page 53 New Hanover Co. Registry
5. N.C.G.S. 146-6
6. April 2014 Carolina Beach Static Line Exception Report
7. July 12, 2013 survey of the "actual" vegetation line
8. A- 2015 CAMA Grant Contract No: 6416 letter
B-2013 CAMA Grant Letter
9. February 2014 CRC Final Variance Order, granting in part and denying in part
10. August 3, 2015 Civil Penalty Assessment Letter from DCM to Town
11. September 15, 2015 Town response to CPA letter
12. Town's CAMA Minor Permit Application 14-03, dated May 6, 2014, with site drawings
13. June 2, 2014 CAMA Permit Denial Letter
14. Deed into Carolina Beach Hospitality, LLC [Hampton Inn Project], Book 5601, Page 421 and Book 5789, Page 1337 and Book 5789, Page 1341.
15. Deed into Cabana de Mar COA, Inc., Book 1385, Page 1594 and Book 2552, Page 586.
16. Deed into Sea Witch Motel, LLC, Book 5877, Page 1978.
17. Deed into Averette Family, Book 224, Page 362.
18. Deed into Carolina Beach Hospitalities, LLC [Surfside Motel], Book 5843, Page 1839.
19. A- Carolina Beach Hospitality May 21, 2015 letter in support by Hampton Developer
B-Hampton Inn Developer letter of support dated July 18, 2014 by Victor Mills, CEO of Blanchard & Calhoun
C- Sea Witch Motel letter in support by Kieu Loan Tang
D- Carolina Beach Hospitalities, LLC letter in support by Bill Troutman
20. Cabana de Mar Condominium Declaration recorded in Book 1273, Page 075 of the New Hanover County Register of Deeds (excerpted pages)
21. October 24, 2014 Letter from the Town confirming its withdraw of the variance petition
22. Revised drawings dated October 2, 2015 with revisions dated October 27, 2015 and November 2, 2015
23. Line of Sight diagram by SEPI Engineering and Construction, dated October 2, 2015
24. October 15, 2015 Letter from Town Manager to Cabana de Mar Owners Association detailing reductions to Town's proposed Boardwalk Extension Project.
25. A- April 21, 2014 Letter from Cabana COA to Town
B- May 7, 2014 response letter from Town to Cabana COA
26. Affidavit of Town Manager Michael Cramer
27. Order Granting A Conditional Use Permit Dated June 13, 2007
28. Aerial – "CBD Zoning Map"
29. Aerial – "Boardwalk and CBD"
30. Aerial – "Phase II"

NORTH CAROLINA GENERAL ASSEMBLY
1963 SESSION

CHAPTER 511
HOUSE BILL 612

AN ACT RELATING TO THE TITLE TO THE LAND BUILT UP AND
CONSTRUCTED IN THE TOWN OF CAROLINA BEACH IN THE COUNTY OF
NEW HANOVER AS A RESULT OF CERTAIN EROSION CONTROL WORK
IN SAID TOWN.

WHEREAS, during the course of many years in the Town of Carolina Beach, in the County of New Hanover, North Carolina, much of the land abutting and fronting on the Atlantic Ocean in said town formerly belonging to various property owners has been and is now being washed away by successive storms, tides and winds; and

WHEREAS, the said Town of Carolina Beach, with aid from the State of North Carolina, the United States Government, and with its own funds, has from time to time made available funds with which to control the erosion caused by said tides and winds and other causes, and to that end the said town has pumped sand from Myrtle Grove Sound and also pushed up sand and hauled sand, and as a result thereof there has been, is now, and will be made and constructed new land on the ocean front of said town which will change the ordinary and usual low water mark of the waters of the Atlantic Ocean along the front of said town, and when the work has been completed the question will arise as to whom title to the said new land shall belong; and

WHEREAS, it is the desire of the authorities of the Town of Carolina Beach, as well as the State of North Carolina, to fix and define the title to such new land and to fix and determine its use, and to further define the littoral rights of the property owners abutting on the ocean front which will be destroyed or taken by and through the making of such new made lands: Now, therefore,

The General Assembly of North Carolina do enact:

Section 1. All land filled in, restored, and made, and to be filled in, restored, and made, as the result of the recitals in the preamble to this Act, which will exist between the present eastern property line of the lot owners at present bordering on said ocean and the low water mark of the Atlantic Ocean after the work referred to in the preamble hereof is completed, shall be within the corporate limits of the Town of Carolina Beach and so much of said lands so filled in, restored and made which will lie West of "the building line" to be defined and determined by Section 2 of this Act, is hereby granted and conveyed in fee simple to the land owner, to the extent that his land abuts thereon, and the balance of said land lying East of said "building line" to be fixed and determined by Section 2 of this Act is hereby granted and conveyed in fee simple to

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JUN 27 2014

the Town of Carolina Beach, provided, however, that no building or structure shall be built and erected on said made and built-up land lying East of "the building line" to be defined and set out in Section 2 of this Act, and provided further that all made and constructed land lying East of "the building line" shall be at all times kept open for the purpose of street and highways for the use of the public and further for the development and uses as a public square or park, as the governing authorities of the Town of Carolina Beach by ordinance shall determine; and provided further that if any such property as is hereby granted and conveyed to the Town of Carolina Beach shall cease to be used for the purposes or in the manner prescribed in this Act, it shall revert and become the property of the State of North Carolina, and provided further that the owners of the property abutting on said newly made or constructed land, shall, in front of their said property possess and keep their rights, as if littoral owners, in the waters of the Atlantic Ocean, bordering on said newly acquired and constructed land.

Sec. 2. Within thirty (30) days from the date of the completion of said work to be carried on by the Town of Carolina Beach and referred to in the preamble hereof, the said Town of Carolina Beach shall, at its own cost, survey or have surveyed by a competent engineer a line to be known as "the building line", and which shall constitute and define "the building line" referred to in Section 1 of this Act, and which shall run the full length of the beach within the town limits, and after "the building line" shall have been surveyed and fixed and determined, the said authorities of the Town of Carolina Beach shall immediately cause to be prepared a map showing, fixing, and determining "the building line", which map so prepared shall be immediately recorded in the office of the Register of Deeds of New Hanover County in a map book kept for said purposes, after the engineer has appended an oath to the effect that said line has been truly and properly surveyed and laid out and marked on said map, and the register of deeds shall properly index and cross-index said map, and when so recorded in said map book or entered or placed therein, in lieu of inserting a transcript thereof, and indexed, the said map shall be competent and prima facie evidence of the facts thereon, without other or further proof of the making of said map, and shall conclusively fix and determine "the building line" referred to in Section 1 of this Act.

Sec. 3. Any property owner or claimant of land who is in any manner affected by the provisions of this Act, and who does not bring suit against the Town of Carolina Beach, or assert such claims by filing notice thereof with the governing body of the town, either or both, as the case may be, or any claimant thereto under the provisions of this Act, or their successor or successors in title, within six (6) months after "the building line" is surveyed and established, and the map thereof recorded, as provided for herein, shall be conclusively presumed to have acquiesced in, and to have accepted the terms and conditions hereof, and to have abandoned any claim, right, title or interest in and to the territory immediately affected by and through or as a result of the doing of act or acts or thing or things herein mentioned, and shall be forever bound from maintaining any action for redress upon such claim.

Sec. 4. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of
May, 1963.

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DCM WILMINGTON, NC
JUN 27 2014

1949, Source: USDA Orthoimagery



1956, Source: USDA Orthoimagery



03
A

706
B
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1966, Source: USDA Orthoimagery



1981, Source: USDA Orthoimagery



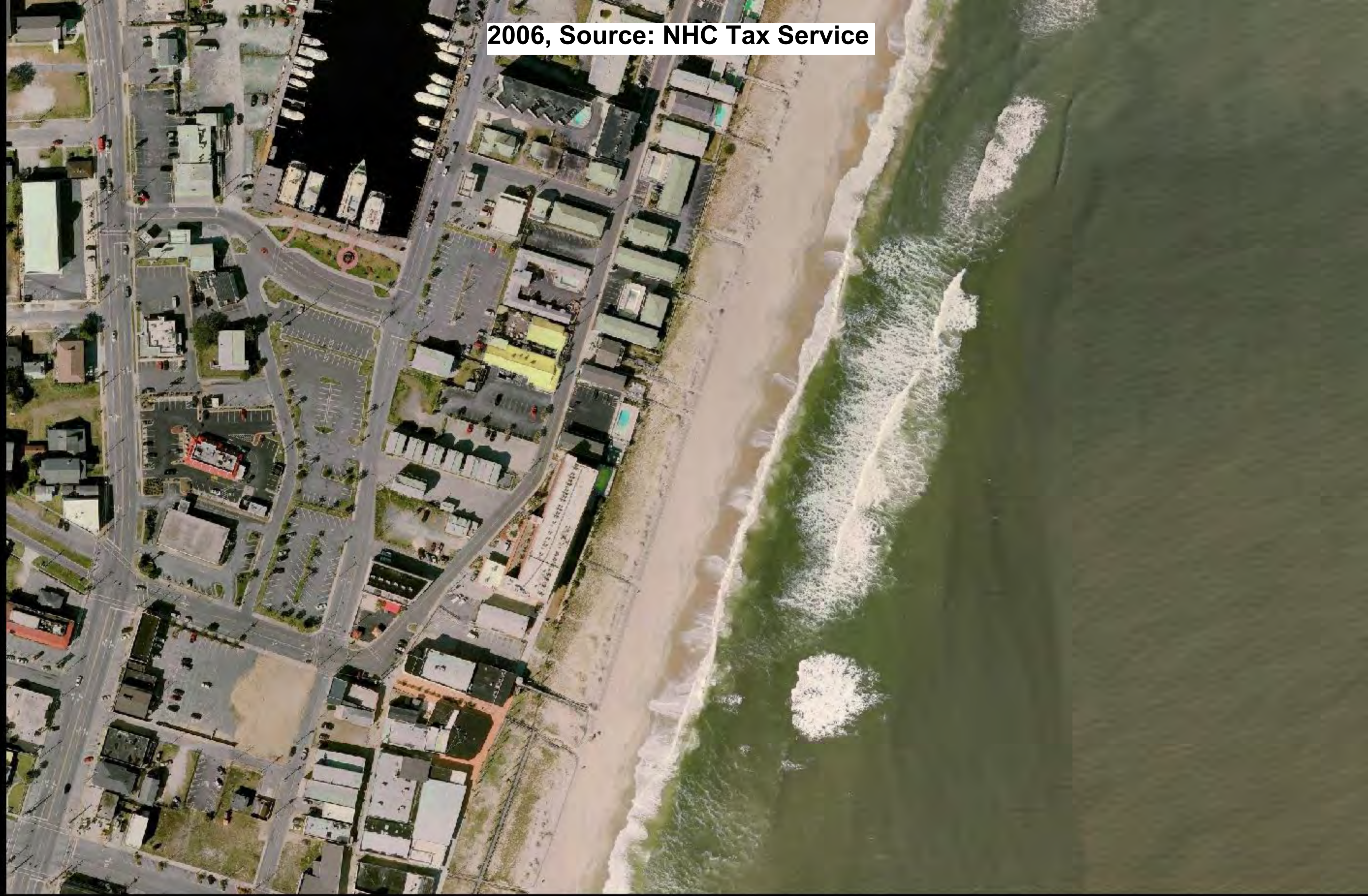
1998, Source: NHC Tax Service



2002, Source: NHC Tax Service



2006, Source: NHC Tax Service



2010, Source: NHC Tax Service



AFFIDAVIT OF ED PARVIN

1. My name is Ed Parvin. I am the Assistant Town Manager of the Town of Carolina Beach.
2. I am over the age of eighteen (18), suffer from no disability or impairment, have personal knowledge of the contents herein and am competent to testify to the matters herein.
3. I am familiar with the Town's efforts to extend the Boardwalk and the proposed plans for the Boardwalk Extension.

Town Council Meeting March 12, 1963

4. The Town Council of Carolina Beach unanimously adopted an "An Act Relative to the Title to the Land Built Upon and Constructed in the Town of Carolina Beach in the County of New Hanover as a Result of Certain Erosion Control Work in Said Town (See attached Minutes).
5. The Town Council desired to "fix and define the title to such new land and to fix and determine its use, and to further define the littoral rights of the property owners abutting on the ocean front which will be destroyed or taken by and through the making of such new made lands."

Town Council Meeting January 14, 1964 and Building Line Map

6. The Town Council of Carolina Beach adopted a map of the building line prepared by Henry Von Oesen and directed it be recorded in the New Hanover County Register of Deeds (See attached Minutes).
7. The Building Line Map was recorded in the New Hanover County Registry on May 8, 1964 in Map Book 8, Page 52.
8. No lawsuits challenging the Building Line Map were filed against the Town within Six (6) Months.

Town Council Meeting June 24, 2013

9. At its June 24, 2013 meeting, the Town Council unanimously approved funding up to \$50,000 for the Boardwalk improvements to include surveying, architectural design and structural engineering for Phases 1, 2, 3, and 4 from TDA reserve funds to include mechanical engineering (See attached minutes).
10. The Town Council unanimously adopted Resolution No. 13-2027 to support the Carolina Beach boardwalk improvement project (See attached resolution).

April 10, 2015 NCDENR Grant Contract

11. On or about April 13, 2015, the North Carolina Department of Environment and Natural Resources informed the Town of Carolina Beach that Grant Contract 6416 had been fully executed (See attached Grant letter dated 4-13-2015)
12. The grant was awarded in accordance with the NC Public Beach and Coastal Waterfront Access Program for the construction of the Boardwalk.

Adjacent Property Owners in Support

13. There are five property owners adjacent to the proposed extension of the Boardwalk.
14. Three of the five property owners adjacent to the propose extension are in support, to wit:
 - a. Carolina Beach Hospitality, LLC is constructing a multi-million dollar hotel to accommodate more than 200 guests with an outdoor covered bar providing seating for more than 50 guests. This hotel is adjacent to the Cabana Del Mar COA, Inc.
 - b. Sea Witch Motel, LLC owns a 16 room motel with an oceanfront outside pool adjacent to the Averette property.
 - c. Carolina Beach Hospitalities, LLC owns a 50 room motel adjacent to the Averette property.

Cabana Del Mar COA, Inc.

15. Cabana Del Mar COA, Inc. was constructed in or around 1984.
16. The Cabana Del Mar COA, Inc. used to advertise itself as a Motel and had signage indicating it was a Motel (See Attached Photograph).
17. Up until 2012, Cabana Del Mar COA, Inc. was listed in the Pleasure Island Visitors Guide under the "Hotels, Motels and Inns" section (See Attached 2012 Visitors Guide).
18. Occupants of First Floor Units would not have their view of the Ocean blocked by the Boardwalk (See Attached Boardwalk Schematic dated October 2, 2015)

ADA Compliant Structure

19. There is no public access between the property owned by Carolina Beach Hospitality, LLC and Pelican Lane. Each crossover on the proposed extension will be ADA Compliant in width and steepness.
20. Each of the crossovers and access points on the existing Boardwalk are ADA compliant in regards to width. Only one of the existing access points is too steep to be ADA compliant.
21. The proposed extension will operate as a pedestrian thoroughfare that provides scenic and actual beach access for town residents, town visitors and especially to handicapped individuals.

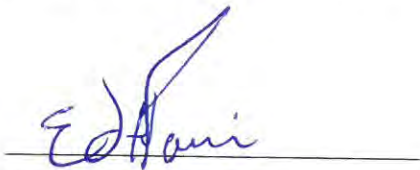
Security Cameras

22. The Town is in the process of installing security cameras on the existing Boardwalk.
23. The Town will install security cameras on the proposed extension.

Photographic Exhibit Labeled "Carolina Beach Boardwalk and Central Business District"

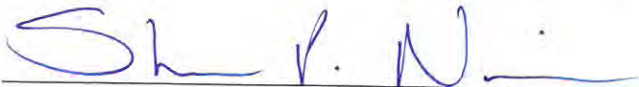
24. The Photograph used to create the Stipulated Exhibit entitled "Carolina Beach Boardwalk and Central Business District" is a Google Earth photograph dated October 20, 2014.
25. The parcel lines, building line and static line were superimposed using X and Y coordinates. Specifically, the GIS shapefiles georeferenced in X and Y coordinates were converted into the proprietary format used by Google Earth for geographic data.

Further the affiant sayeth not.



Ed Parvin

Subscribed and sworn before me this 6th day of October 2015.



Notary Public



My Commission expires: 4-13-2019

REGULAR MEETING MARCH 12, 1963

The Council of the Town of Carolina Beach, N. C. held a regular meeting in the Council Room at City Hall at 7:30 P.M. on the above date.

Present: Mayor Washburn
Mayor Pro-Tem Bame
Councilman Williams
Councilman Mansfield
Councilman Hilton
Town Manager Jack Webb
Town Attorney Addison Hewlett, Jr.

The Mayor opened the meeting and asked Rev. Childress to give the invocation. The Mayor welcomed the citizens and visitors present.

Mr. Frank K. Waters, of Cable Television Company, came before the Council and presented a T.V. Cable Franchise, for a period of ten years, to the Council. The area, consisting of Fort Fisher, Kure Beach and Carolina Beach, would be available for a minimum of four channel T.V. Motion by Councilman Mansfield seconded by Councilman Hilton that the franchise be granted upon the advise of the Town Attorney. Motion carried. The franchise is on file in the office of the Town Clerk.

Mr. James Cotroukis came before the Council in regard to the Town having certain businesses remove their outdoor signs from in front of their business. He requested that he and the others, that had removed their signs, be given permission to replace them as they originally were. Motion by Councilman Mansfield seconded by Councilman Williams that the signs only that were removed last year be re-installed in their position by the owner. Motion carried by vote of 3 to 1. Voting yes Councilman Mansfield, Councilman Williams and Mayor Washburn, voting no Councilman Hilton and not voting Mayor Pro-Tem Bame. This Board should find out the fine points of the law concerning signs, then if they see that they all must be taken down, then that should be the action of the Board.

The Mayor brought up the question of paving Cape Fear Blvd. from Lake Park Blvd to Third Street approximately 600 linear feet by 72 feet wide. The Town Manager stated that he had Henry von Oesen to make a study of this project which included curb and gutter, side walks and proper storm drainage along with the paving mentioned above, and that the cost will run approximately \$12,000.00. This work would be done on grade where it would fit in with any future paving or curb and gutter work that might be done on Lake Park Blvd. in the future. He continued by saying that approximately one hundred parking meters could be installed in this block. He stated that this block could be paved the same distance and width but less the curb and gutter and storm drainage for \$6,186.00 approximately. In response to a question of Councilman Mansfield the Town Manager stated that this could be done with Powell Bill Funds. Motion by Councilman Mansfield seconded by Mayor Pro-Tem Bame that bids be called for the above paving on Cape Fear Blvd. and also for a 16 foot strip on each side of existing paving on Harper Avenue from Lake Park Blvd. to Third Street approximately 500 linear feet. Motion carried. Bids on the above paving are to be opened on March 25, 1963 at 4:00 P.M.

The Town Manager displayed a drawing of a proposed concession building at the boat ramp. The drawing, when approved, would be the model of a building that would be built by any person that the Council might grant a lease to. Mr. Oxenfeld,

the architect, explained the drawing to the Council. The building would be built on piling and is 22 x 50 feet. All of the area is not under roof, as part of the area will be used for picnic tables and sun deck. The building itself will be where it can be completely enclosed. Mr. Oxenfeld stated that the building would cost approximately \$7,500.00 to \$8,000.00. It would be of wood construction. Motion by Councilman Hilton seconded by Mayor Pro-Tem Bame that the architect's drawing be adopted, and the Council extend it's thanks for the work that was done by Mr. Oxenfeld in this matter, and that the Town pay Mr. Oxenfeld upon receipt of his bill. Motion carried.

The Town Manager stated that Col. Harry Brown, of the Water Resources Commission, stated that he was going to recommend to the Governor that \$45,000.00 be granted by the State to be used for pumping sand on the beach, provided that the Federal Government agree to give the State credit for this amount of money on the Federal berm project. The Town Manager is to write Senator Yow and Representative Calder as to when the hearing is to be held in regard to the bill on beach erosion.

Mr. A. C. Council came before the Council in regard to his contract, which has expired, for maintenance on the water tank. Motion by Councilman Hilton that Mr. Council's contract be re-nued for five years for \$2,500.00, and also that Mr. Council submit to Mr. Webb some cost of color paint and if we should decide to use color paint that the Town pay the difference in price between white and color paint. The payments are to be \$500.00 per year. The above motion was seconded by Mayor Pro-Tem Bame. Motion carried.

In regard to the coming election Councilman Hilton made a motion that was seconded by Councilman Williams that Mrs. Louis Leiner be elected registrar for the election to be held on May 7, 1963. Motion by Councilman Mansfield seconded by Councilman Hilton that Mr. Wallace Aman and Mr. H. L. Whitt be elected Judges for the election to held on May 7, 1963. Motion carried. The Town Manager then read the following Resolution:

RESOLUTION

A resolution by the Town Council of The Town of Carolina Beach calling a regular election for the purpose of election five members of the Town Council.

Be it resolved by the Town Council of the Town of Carolina Beach that, in accordance with the general laws of the State of North Carolina, the Town Council hereby calls for an election to be held in the Town of Carolina Beach on Tuesday, May 7, 1963, the same being the first Tuesday after the first Monday in May, the date established by law for said election. Said election shall be conducted for the purpose of electing five councilmen by the voters of the Town of Carolina Beach. The two councilmen receiving the highest number of votes to hold office for a term of four years, and the next three receiving the highest number of votes shall be elected to hold office for a term of two years, and until their successors are elected and qualified.

Be it further resolved that the polling place shall be the Town Hall in Carolina Beach, N. C.

Be it further resolved that Mrs. Louis Leiner of Carolina Beach be and is hereby appointed as registrar; that Wallace Aman, and H. L. Whitt be and they are hereby appointed the judges of said election.

Be it further resolved that all persons eligible to vote in the Town of Carolina Beach, as defined by general law, shall be eligible to register and vote in the election herein called.

Be it further resolved that the registrar be and he is hereby directed to open the registration books for the purpose of recording therein the names of all persons eligible to be registered who did not register for the last preceding municipal election.

Be it further resolved that the registrar shall open said books at 9:00 A.M., on Friday, April 19, 1963, and shall keep said books open each day for seven (7) days, excluding Sunday, for the registration of any new electors entitled to register from 9:00 A.M. until 5:00 P.M., except on Saturday, April 20, when the books shall remain open until 9:00 P.M.

Be it further resolved that Saturday, April 27, 1963, shall be designated as challenge day, and that any persons desiring to challenge any name included in said registration books shall on this day advise the registrar and judges of the fact. The registrar and judges shall thereupon set a date and a time for the hearing of the challenge, but said date shall be no later than Monday, May 6, 1963.

Be it further resolved that this resolution shall be published in a newspaper having general circulation in the Town of Carolina Beach or shall be posted at the Carolina Beach Town Hall.

The foregoing resolution was unanimously adopted by The Town Council.

John W. Washburn,
Mayor

W. W. Carlyle
Clerk

(Mar. 15 - '63)

Motion by Councilman Williams seconded by Councilman Mansfield that the above resolution be adopted. Motion carried. Motion by Councilman Hilton seconded by Councilman Williams that from April 16th. until 12:00 Noon on April 27, 1963 be designated as the time that qualified citizens may file as a candidate for the elect Motion carried. Motion by Councilman Williams seconded by Councilman Hilton that Mrs. Leiner be allowed to register qualified persons at her residence at 416 Harper Avenue on Monday through Fridays, but she will be required to register qualified persons at the Town Hall on Saturdays. Motion carried.

Motion by Mayor Pro-Tem Bame seconded Councilman Mansfield that the minutes of the meeting February 12, 1963 be approved. Motion carried.

Town Attorney Hewlett read the following proposed act for the Councils' consideration:

AN ACT RELATIVE TO THE TITLE TO THE LAND BUILT
UP AND CONSTRUCTED IN THE TOWN OF CAROLINA
BEACH IN THE COUNTY OF NEW HANOVER AS A RESULT
OF CERTAIN EROSION CONTROL WORK IN SAID TOWN.

WHEREAS, during the course of many years in the Town of Carolina Beach, in the County of New Hanover, North Carolina, much of the land abutting and fronting on the Atlantic Ocean in said town formerly belonging to various property owners has been and is now being washed away by successive storms, tides and winds; and,

WHEREAS, the said Town of Carolina Beach, with aid from the State of North Carolina, the United States Government, and with its own funds, has from time to time made available funds with which to control the erosion caused by said tides

and winds and other causes, and to that end the said Town has pumped sand from Myrtle Grove Sound and also pushed up sand and hauled sand, and as a result thereof there has been, is now, and will be made and constructed new land on the ocean front of said town which will change the ordinary and usual low water mark of the waters of the Atlantic Ocean along the front of said town, and when the work under said contract has been completed the question will arise as to whom title to the said new land shall belong; and,

WHEREAS, it is the desire of the authorities of the Town of Carolina Beach, as well as the State of North Carolina, to fix and define the title to such new land and to fix and determine its use, and to further define the littoral rights of the property owners abutting on the ocean front which will be destroyed or taken by and through the making of such new made lands.

NOW, THEREFORE, THE GENERAL ASSEMBLY OF NORTH CAROLINA DO ENACT:

Section 1: That all land filled in, restored, and made, and to be filled in, restored, and made, as the result of the recitals in the preamble to this Act, which will exist between the present eastern property line of the lot owners at present bordering on said ocean and the low water mark of the Atlantic Ocean after the work referred to in the preamble hereof is completed, shall be within the corporate limits of the Town of Carolina Beach and so much of said lands so filled in, restored and made which will lie west of "the building line" to be defined and determined by Section 2 of this Act, is hereby granted and conveyed in fee simple to the land owner, to the extent that his land abuts thereon, and the balance of said land lying east of said "building line" to be fixed and determined by Section 2 of this Act is hereby granted and conveyed in fee simple to the Town of Carolina Beach, provided, however, that no building or structure shall be built and erected on said made and built-up land lying east of "the building line" to be defined and set out in Section 2 of this Act, and provided further that all made and constructed land lying east of "the building line" shall be at all times kept open for the purpose of streets and highways for the use of the public and further for the development and uses as a public square or park, as the governing authorities of the Town of Carolina Beach by ordinance shall determine; and provided further that if any such property as is hereby granted and conveyed to the Town of Carolina Beach shall cease to be used for the purposes or in the manner prescribed in this Act, it shall revert and become the property of the State of North Carolina, and provided further that the owners of the property abutting on said newly made or constructed land, shall, in front of their said property, possess and keep their rights, as if littoral owners, in the waters of the Atlantic Ocean, bordering on said newly acquired and constructed land.

Section 2: That within thirty days from the date of the completion of said work to be carried on by the Town of Carolina Beach and referred to in the preamble hereof, the said Town of Carolina Beach shall, at its own cost, survey or have surveyed by a competent engineer a line to be known as "the building line", and which shall constitute and define "the building line" referred to in Section 1 of this Act, and which shall run the full length of the beach within the town limits, and after "the building line" shall have been surveyed and fixed and determined, the said authorities of the Town of Carolina Beach shall immediately cause to be prepared a map showing, fixing, and determining "the building line", which map so prepared shall be immediately recorded in the office of the Register of Deeds of New Hanover County in a map book kept for said purposes, after the engineer has appended an affidavit to the effect that said line has been truly and properly surveyed and laid out and marked on said map, and the Register of Deeds shall properly index and cross-index said map, and when so recorded in said map book or entered or placed therein, in lieu of inserting a transcript thereof, and indexed, the said map shall be competent and

prima facie evidence of the facts thereon, without other or further proof of the making of said map, and shall conclusively fix and determine "the building line" referred to in Section 1 of this Act.

Section 3: That any property owner or claimant of land who is in any manner affected by the provisions of this Act, and who does not bring suit against the Town of Carolina Beach, or assert such claims by filing notice thereof with the governing body of the town, either or both, as the case may be, or any claimant thereto under the provisions of this Act, or their successor or successors in title within six months after "the building line" is surveyed and established, and the map thereof recorded, as provided for herein, shall be conclusively presumed to have acquiesced in, and to have accepted the terms and conditions hereof, and to have abandoned any claim, right, title or interest in and to the territory immediately affected by and through or as a result of the doing of act or acts or thing or things herein mentioned, and shall be forever bound from maintaining any action for redress upon such claim.

Section 4: That all laws and clauses of laws in conflict with the provisions of this Act, be, and the same are hereby repealed.

Section 5: That this Act shall be in force from and after its ratification

Motion by Councilman Hilton seconded by Councilman Williams that the foregoing Act be adopted by the Council and the proper persons be notified that the Council wishes that this act be presented before the Legislature for its passage. Motion carried.

The Town Attorney was instructed to check into Sam Blake's lease on Marina Property to see, whether or not, the lease has been broken, rent wise or by not keeping the building up as his agreement calls for. The Town Attorney is to write a letter to Mr. Blake in regard to the matter.

The Council reviewed the financial report as of February 28, 1963.

The Mayor stated that there is a gentleman that wishes to move a house from Kure Beach to Carolina Beach. Some of the Council have seen the house. Motion by Councilman Mansfield seconded by Councilman Williams that this house not be allowed to be moved to Carolina Beach. Motion carried.

Motion by Councilman Mansfield seconded by Councilman Williams that the Town Manager be authorized to buy a sewer pump from the Chicago Pump Co. in the amount of \$777.34. Motion carried.

Motion by Mayor Pro-Tem Bame seconded by Councilman Mansfield that the town contribute \$100.00 to the 1963 Azalea Festival. Motion carried. This money is to be charged to the advertising Fund.

Motion by Councilman Hilton seconded by Councilman Williams that Mrs. Mildred Bame be allowed to transfer her 1962 - 1963 Bingo license from one location to another on the beach. Motion carried.

The Town Manager read three applications from Mr. Carl Arthur Stolpe (1) Ports Machine Shop, (2) Shooting Gallery (Darts), (3) Game of Amusement (Hoopla). Motion by Councilman Hilton seconded by Councilman Williams that if two members of the Council would check these things out, and find that they are according to law and

Agenda 5, Regular Meeting January 14, 1964

The Town Manager stated that Mr. D. R. Meredith has resigned from the Planning Board and we need to fill this vacancy. Motion by Mayor Pro-Tem Lamb seconded by Councilman Williams that Mr. Columbus Efird be appointed to the Planning Board to replace Mr. D. R. Meredith. Motion carried.

Motion by Councilman Mansfield seconded by Councilman Williams that the Town Manager attend a seminar of the Institute of Government at Chapel Hill from Feb. 6th to Feb. 8th and Feb. 27 to Feb. 29, 1964. Motion carried.

The Town Manager explained a Capital Improvements Program that he would like to set up for the Town. It is to set up long range projects for the Town over a period of one to ten years, and appropriations are to be set up in future budgets to finance each project such as has been done in the Groin and Beach Protection project.

The Town Manager presented a berm line map, as prepared by Henry Von Oesen, to the Council. Motion by Councilman Mansfield seconded by Mayor Pro-Tem Lamb that the map of the building line of the ocean front of the Town of Carolina Beach be approved with the building line as shown thereon, and that said map be directed to be recorded in the Registry of New Hanover County in the book of maps in the said Registry. Motion carried.

A committee of two, Mayor Pro-Tem Lamb and Councilman Williams, stated that they are not in favor of releasing any advertising money to the Greater Wilmington Chamber of Commerce at the present time. The Town Manager is to so notify Mr. Camak.

The Seashore Commission will visit Carolina Beach on the afternoon of January 23rd to see first hand the erosion problem at the northend of the beach. They are to be in session on the morning of January 23rd at 10:00 A.M. in Remenway Hall in Wilmington in order that various Communities, in the area, may present their problems to the Commission.

The Town Manager is to write the N. C. State College Meter School inviting them to hold their 1964 convention at Carolina Beach in early June.

Mayor Bame read a letter from Governor Sanford inviting two Councilmen to attend a meeting at Smithfield, N. C. 2:00 P.M. to 4:00 P.M. on Thursday, January 23, 1964. The meeting is in regard to what Smithfield has done to improve their town, therefore, other towns may pick up ideas from Smithfield. Mayor Bame and Mayor Pro-Tem Lamb plan to attend this meeting.

The Council was of the opinion that the material for the sand dike, to be built in the right-of-way of Carolina Beach Avenue North, should be dredged in rather than hauled in as suggested by Henry Von Oesen.

There being no further business the meeting was adjourned.

W. W. Carlyle - Town Clerk

**MINUTES OF A SPECIAL MEETING
OF THE TOWN COUNCIL
TOWN OF CAROLINA BEACH**

June 24, 2013

Continued from June 11, 2013 Regular Meeting

The Carolina Beach Town Council met for a continuation of the June 11, 2013 regular meeting on Monday, June 24, 2013 at 3:00 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N Lake Park Blvd., Carolina Beach, North Carolina.

The following were present: Mayor Bob Lewis, Mayor Pro Tem (MPT) Steve Shuttleworth, Council Member Tom Bridges, Council Member Sarah Friede, and Council Member Jody Smith. Also present was the Interim Town Manager Bruce Shell, Interim Assistant Town Manager and Planning Director Ed Parvin, Town Clerk Lynn Prusa, Finance Director Dawn Johnson and Town Attorney Lawrence Craige.

Mayor Bob Lewis called the meeting to order at 3:00 p.m.

Gil Dubois, Project Manager, gave an update on the water meter project. The town is taking bids for the project.

Mayor Lewis made a motion to approve the engineering contract for the initial phase of the water improvement plan and secondary phase of the water improvement plan and secondary enforcement. This will cover phase 1. MOTION CARRIED UNANIMOUSLY.

Assistant Town Manager Ed Parvin reviewed the proposed streetscape design on Cape Fear Blvd. One design has parking in the center. Another option has a sidewalk, bike lane and a little more aesthetics and with a turn lane. You will go from 62 to 55 diagonal parking spaces. You will gain aesthetics and safety with the new plan. This is part of the Master Development Plan that was adopted in 2007.

The Council expressed concerns about the delivery trucks that currently park in the center lane for deliveries. Mr. Parvin said they were aware that they would need to accommodate these trucks. They would consider that when going through with the plans.

MPT Shuttleworth asked how the staff plans to communicate this plan with the businesses that will be affected by this plan. Mr. Parvin said the staff would meet with them individually.

Mr. Parvin said there is an opportunity to have sidewalks from 3rd to 5th Street. MPT Shuttleworth said he receives comments from the public that they would like to see our sidewalks in better shape.

MPT Shuttleworth suggested doing a Carolina Beach specific plan and bring it back to the public for feedback. He would like to have a public hearing.

Mayor Lewis would like to see an overlay and have a public hearing after communicating to all of the homeowners.

Mr. Parvin discussed the options for electrical. You can have overhead or underground. He had some estimates from Progress Energy but they were a couple of years old.

Council Member Friede made a motion to approve Resolution No. 13-2025 (Exhibit 1) Resolution of Necessary Findings and Resolution No. 13-2026 (Exhibit 2) for Finance and Reimbursement of the loan for the Water and Sewer Project. MPT Shuttleworth clarified that we are just approving the staff to go out and look for a loan and if we get it we can apply for reimbursement of the loan. MOTION CARRIED UNANIMOUSLY.

Jerry Haire, Grants Manager, presented the history of the boardwalk. He reviewed some of the possible designs of the new boardwalk.

Architect Greg Reynolds showed several options for the boardwalk design.

MPT Shuttleworth asked if we could fine tune these items and present them to the New Hanover County Commissioners so it could be presented as a partnership opportunity.

Tim Murphy with Parks and Recreation explained the splash pad and its features.

Jerry Haire discussed the funding requirements for the boardwalk project. They are proposing \$637,630 for the entire northern extension phase 1, all public access ways, all existing boardwalk, and east/west access ways, new showers and all viewing area access. We would have a \$250,000 water resource grant with the town matching \$250,000 and \$350,000 for a total of \$1.555 million project with \$250,000 of town funds. Surveying is in the process for Phase 1 and 2; that would be an amendment.

MPT Shuttleworth made a motion to approve funding up to \$50,000 to include surveying, architectural design and structural engineering for Phases 1, 2, 3 and 4 from TDA reserve funds to include mechanical engineering. MOTION CARRIED UNANIMOUSLY.

Mayor Lewis made a motion to approve Resolution No. 13-2027 (Exhibit 3) to support the Carolina Beach boardwalk improvement project. MOTION CARRIED UNANIMOUSLY.

Interim Town Manager Bruce Shell said he received a request to drag the infield of the baseball field. We asked them to pay \$15 a game to use the fields to go toward that. Mayor Lewis said we should be grading the fields every day. He feels that the \$15 should include the maintenance of the fields. The fields are free in Kure Beach.

Mayor Lewis made a motion to remove dragging the field out of the contract. MOTION CARRIED UNANIMOUSLY.

MPT Shuttleworth feels the new parks and recreation director should look at these things.



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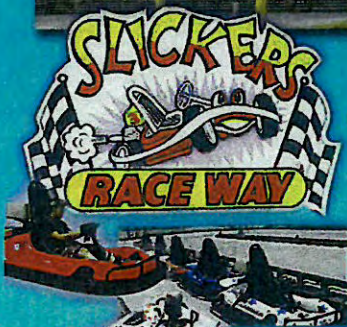
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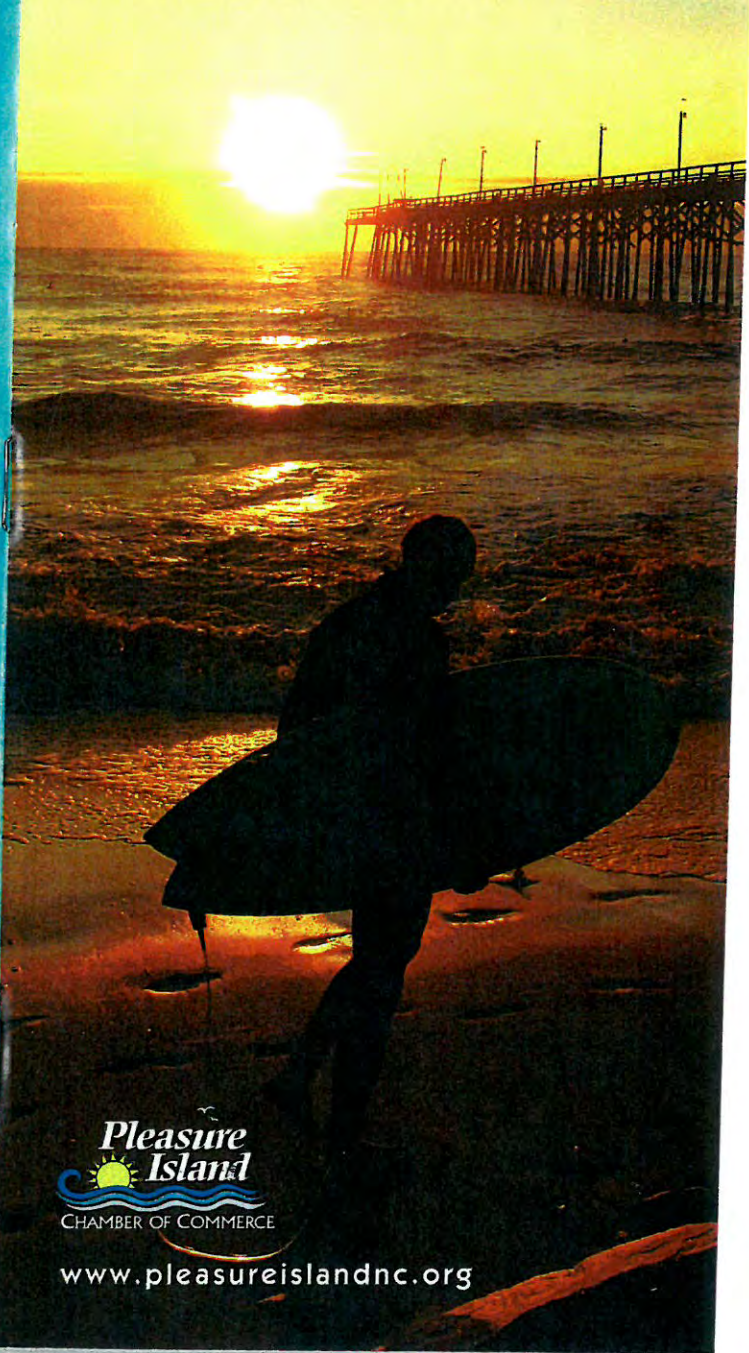
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Carolina Beach Family Campground 910-392-3322
9641 River Rd., Wilmington 28412

Carolina Beach State Park OFFICE 910-458-8206
1010 State Park Rd., Carolina Beach 28428 MARINA 910-458-7770

Winner RV Park 910-458-1098
601 N. Lake Park Blvd., Carolina Beach 28428

Hotels • Motels • Inns

Best Western PLUS Wilmington Inn 910-796-0770
5600 Carolina Beach Rd., Wilmington 28412

Atlantic Towers* 910-458-8313
1615 S. Lake Park Blvd., Carolina Beach 28428 800-232-2440
SEE AD PAGE 15

Beach House Inn & Suites* 910-458-5557
412 Carolina Beach Ave. N, Carolina Beach 28428

Beachside Inn 910-458-5598
616 S. Lake Park Blvd., Carolina Beach 28428

Beacon House Inn Bed & Breakfast 910-458-6244
715 Carolina Beach Ave. N Carolina Beach 28428 877-BEACON-6

Beau Rivage Golf & Resort 910-392-9021
649 Rivage Promenade, Wilmington 28412 800-628-7080

Blue Marlin Apartments* 910-458-5752
318 Ft. Fisher Blvd., N, Kure Beach 28449
SEE AD PAGE 41

Cabana* 910-458-4456
222 Carolina Beach Ave., N, Carolina Beach 28428

Courtyard Marriott Carolina Beach* 910-458-2030
100 Charlotte Ave., Carolina Beach 28428

Darlings By the Sea* 800-383-8111
329 Atlantic Ave., Kure Beach 28449

Dolphin Lane Motel* 910-458-5594
318 Carolina Beach Ave. N, Carolina Beach 28428 800-725-4647
SEE AD PAGE 31

Drifter's Reef Motel 910-458-5414
701 N. Lake Park Blvd., Carolina Beach 28428
SEE AD BACK COVER

Ft. Fisher Air Force Recreation Area 910-458-6549
118 Riverfront Road, Kure Beach 28449
SEE AD PAGE 22

Golden Sands Motel* 910-458-8334
1211 S. Lake Park Blvd., Carolina Beach 28428 888-458-8334
SEE AD PAGE 49

Hidden Treasure Inn 910-458-3216
113 S. 4th Ave., Kure Beach 28449
SEE AD PAGE 27

Kure Keys Motel 910-458-5277
310 Fort Fisher Blvd. N, Kure Beach 28449

Microtel Inn & Suites 910-458-1300
907 N. Lake Park Blvd., Carolina Beach 28428 800-771-7171

* Oceanfront

WHERE TO STAY Continued

North Pier Ocean Villas* 910-458-4062
1800 Canal Dr., Carolina Beach 28428 800-476-1589

Palm Air Vacation Rentals 910-458-5269
133 Fort Fisher Blvd. N, Kure Beach 28449
SEE AD PAGE 42

Pier View Cottages 910-458-5269
209 K Ave., Kure Beach 28449

Savannah Inn* 910-458-6555
316 Carolina Beach Ave. N, Carolina Beach 28428 800-334-8533
SEE AD PAGE 28

Sea & Sun Motel 910-458-7918
501 S. Lake Park Blvd., Carolina Beach 28428

Sea Ranch Motel* 910-458-8681
1123 S. Lake Park Blvd., Carolina Beach 28428 800-849-8977
SEE AD PAGE 20

SeaWitch Motel 910-707-0058
224 Carolina Beach Ave. N, Carolina Beach 28428

Seven Seas Inn* 910-458-8122
130 Ft. Fisher Blvd. N, Kure Beach 28449 866-773-2746
SEE AD PAGE 25

Vacation Home Rentals 800-710-2755
29 Water St. Ste 208 Newburyport, MA 01950

Vacation Paradise (Condo) 571-236-9123
1500 Carolina Beach Ave. N, Carolina Beach 28428

WHERE TO EAT

Restaurants • Clubs • Catering

A&G Barbecue 910-458-8620
800 S. Lake Park Blvd., Carolina Beach 28428
SEE AD PAGE 48

Beach House Burgers 910-458-8586
118 N. Fort Fisher Blvd., Kure Beach 28449

Big Daddy's Restaurant 910-458-8622
206 K Ave., Kure Beach 28449
SEE AD PAGE 31

Bowman's Seafood Restaurant 910-458-6292
911 N. Lake Park Blvd., Carolina Beach 28428
SEE AD PAGE 47

Carolina Beach Subway, Inc. 910-458-3809
700 N. Lake Park Blvd., Carolina Beach 28428

Charlie's Boardwalk Subs 910-458-5502
8 Pavillion Ave. S, Carolina Beach 28428

Chick-Fil-A at Monkey Junction 910-794-9008
5106 S. College Rd., Wilmington 28412

Deck House 910-458-1026
205 Charlotte Ave., Carolina Beach 28428

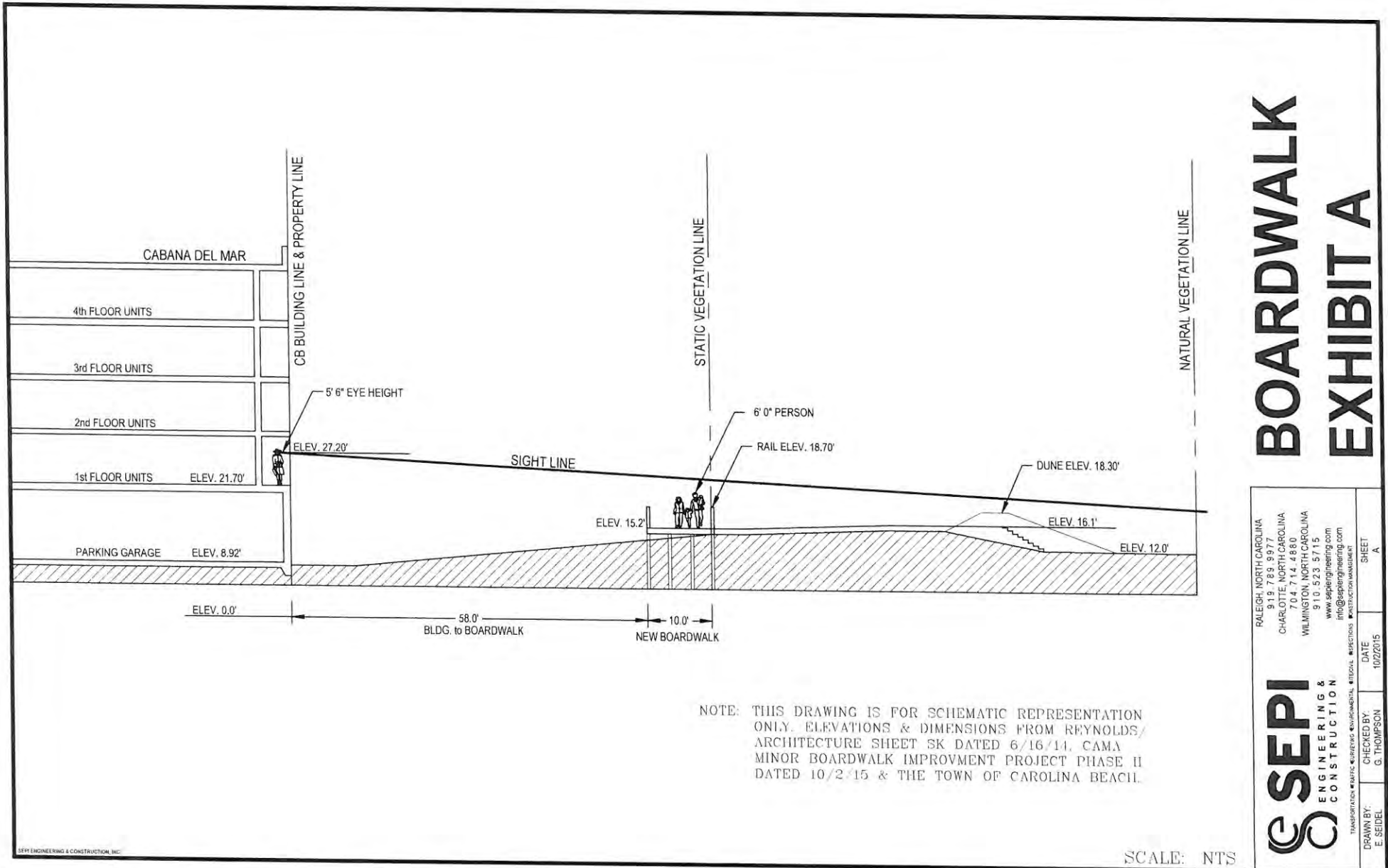
El Cazador 910-458-5226
103 N. Lake Park Blvd., Carolina Beach 28428
SEE AD PAGE 20

Fish Bites Seafood Restaurant and Fresh Market 910-791-1117
6132 Carolina Beach Rd., #11, Wilmington 28412
SEE AD PAGE 30

Flaming Amy's Burrito Shack 910-799-2919
4002 Oleander Dr., Wilmington 28403
SEE AD PAGE 23

Flounders Seafood House 252-636-1200
129 Wildwood Dr. New Bern 28560

* Oceanfront



BOARDWALK EXHIBIT A

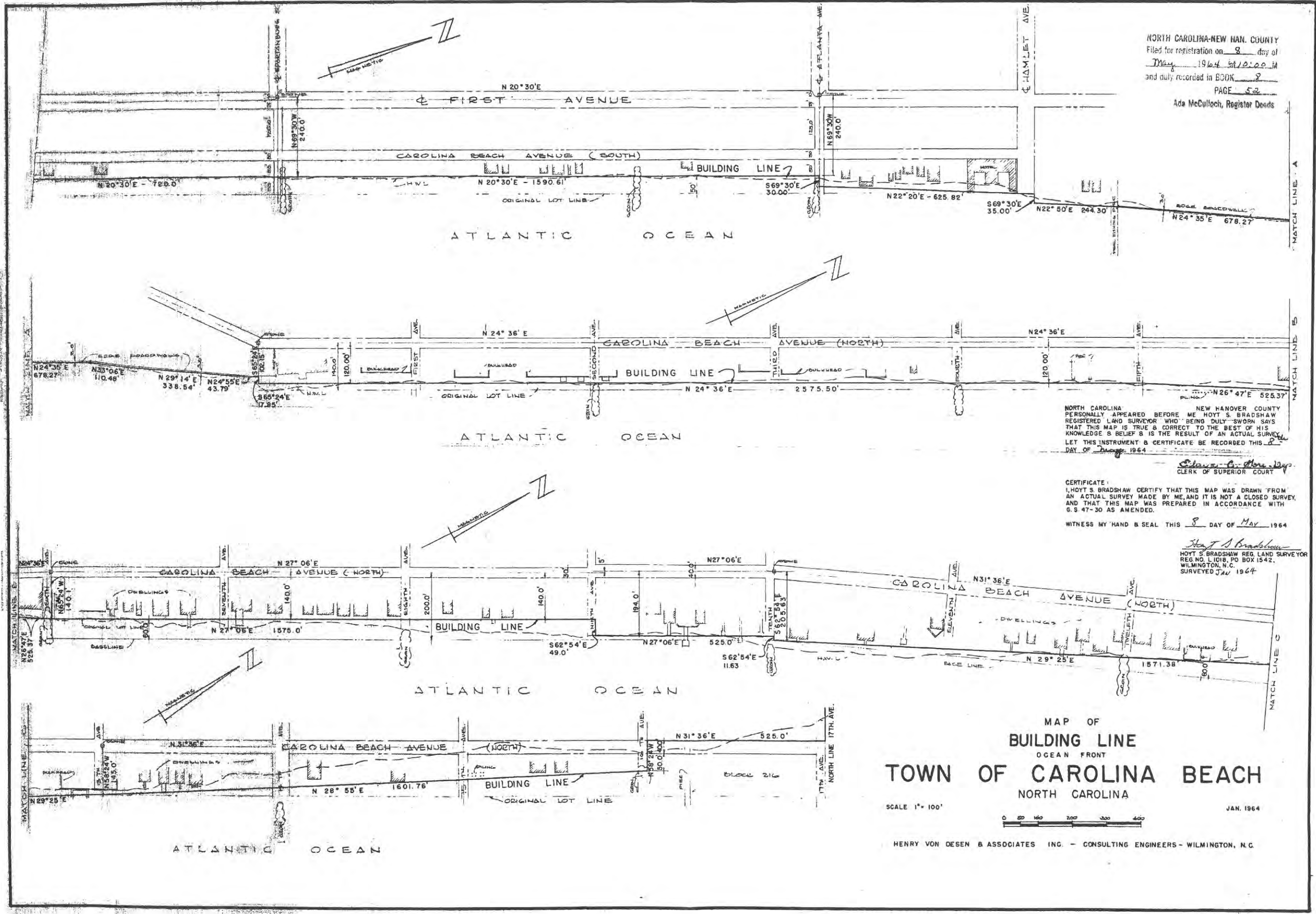
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DRAWN BY: E. SEIDEL
 CHECKED BY: G. THOMPSON
 DATE: 10/22/2015
 SHEET: A

NORTH CAROLINA-NEW HAN. COUNTY
Filed for registration on 8 day of
May 1964 at 10:00 AM
and duly recorded in BOOK 8
PAGE 52
Ada McCulloch, Register Deeds



NORTH CAROLINA-NEW HANOVER COUNTY
PERSONALLY APPEARED BEFORE ME HOYT S. BRADSHAW
REGISTERED LAND SURVEYOR WHO BEING DULY SWORN SAYS
THAT THIS MAP IS TRUE & CORRECT TO THE BEST OF HIS
KNOWLEDGE & BELIEF & IS THE RESULT OF AN ACTUAL SURVEY
LET THIS INSTRUMENT & CERTIFICATE BE RECORDED THIS 8
DAY OF May 1964

Edw. C. Moore, Jr.
CLERK OF SUPERIOR COURT

CERTIFICATE:
HOYT S. BRADSHAW CERTIFY THAT THIS MAP WAS DRAWN FROM
AN ACTUAL SURVEY MADE BY ME, AND IT IS NOT A CLOSED SURVEY,
AND THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH
G. S. 47-30 AS AMENDED.

WITNESS MY HAND & SEAL THIS 8 DAY OF May 1964

Hoyt S. Bradshaw
HOYT S. BRADSHAW REG. LAND SURVEYOR
REG. NO. L 1018, P.O. BOX 1542,
WILMINGTON, N.C.
SURVEYED JAN 1964

MAP OF
BUILDING LINE
OCEAN FRONT
TOWN OF CAROLINA BEACH
NORTH CAROLINA

SCALE 1" = 100'



JAN. 1964

HENRY VON DESEN & ASSOCIATES INC. - CONSULTING ENGINEERS - WILMINGTON, N.C.

§ 146-6 Title to land raised from navigable water.

§ 146-6. Title to land raised from navigable water.

(a) If any land is, by any process of nature or as a result of the erection of any pier, jetty or breakwater, raised above the high watermark of any navigable water, title thereto shall vest in the owner of that land which, immediately prior to the raising of the land in question, directly adjoined the navigable water. The tract, title to which is thus vested in a riparian owner, shall include only the front of his formerly riparian tract and shall be confined within extensions of his property lines, which extensions shall be perpendicular to the channel, or main watercourses.

(b) If any land is, by act of man, raised above the high watermark of any navigable water by filling, except such filling be to reclaim lands theretofore lost to the owner by natural causes or as otherwise provided under the proviso of subsection (d), title thereto shall vest in the State and the land so raised shall become a part of the vacant and unappropriated lands of the State, unless the commission of the act which caused the raising of the land in question shall have been previously approved in the manner provided in subsection (c) of this section. Title to land so raised, however, does not vest in the State if the land was raised within the bounds of a conveyance made by the State Board of Education, which included regularly flooded estuarine marshlands or lands beneath navigable waters, or if the land was raised under permits issued to private individuals pursuant to G.S. 113-229, G.S. 113A-100 through 113A-128, or both.

(c) If any owner of land adjoining any navigable water desires to fill in the area immediately in front of his land, he may apply to the Department of Administration for an easement to make such fill. The applicant shall deliver to each owner of riparian property adjoining that of the applicant, a copy of the application filed with the Department of Administration, and each such person shall have 30 days from the date of such service to file with the Department of Administration written objections to the granting of the proposed easement. If the Department of Administration finds that the purpose of the proposed fill is to reclaim lands theretofore lost to the owner by natural causes, no easement to fill shall be required. In such a case the Department shall give the applicant written permission to proceed with the project. If the purpose of the proposed fill is not to reclaim lands lost by natural causes and the Department finds that the proposed fill will not impede navigation or otherwise interfere with the use of the navigable water by the public or injure any adjoining riparian owner, it shall issue to such applicant an easement to fill and shall fix the consideration to be paid for the easement, subject to the approval of the Governor and Council of State in each instance. The granting by the State of the written permission or easement so to fill shall be deemed conclusive evidence and proof that the applicant has complied with all requisite conditions precedent to the issuance of such written permission or easement, and his right shall not thereafter be subject to challenge by reason of any alleged omission on his part. None of the provisions of this section shall relieve any riparian owner of the requirements imposed by the

applicable laws and regulations of the United States. Upon completion of such filling, the Governor and Council of State may, upon request, direct the execution of a quitclaim deed therefor to the owner to whom the easement was granted, conveying the land so raised, upon such terms as are deemed proper by the Department and approved by the Governor and Council of State.

(d) If an island is, by any process of nature or by act of man, formed in any navigable water, title to such island shall vest in the State and the island shall become a part of the vacant and unappropriated lands of the State. Provided, however, that if in any process of dredging, by either the State or federal government, for the purpose of deepening any harbor or inland waterway, or clearing out or creating the same, a deposit of the excavated material is made upon the lands of any owner, and title to which at the time is not vested in either the State or federal government, or any other person, whether such excavation be deposited with or without the approval of the owner or owners of such lands, all such additions to lands shall accrue to the use and benefit of the owner or owners of the land or lands on which such deposit shall have been made, and such owner or owners shall be deemed vested in fee simple with the title to the same.

(e) The Governor and Council of State may, upon proof satisfactory to them that any land has been raised above the high watermark of any navigable water by any process of nature or by the erection of any pier, jetty or breakwater, and that this, or any other provision of this section vests title in the riparian owner thereof, whenever it may be necessary to do so in order to establish clear title to such land in the riparian owner, direct execution of a quitclaim deed thereto, conveying to such owner all of the State's right, title, and interest in such raised land.

(f) Notwithstanding the other provisions of this section, the title to land in or immediately along the Atlantic Ocean raised above the mean high water mark by publicly financed projects which involve hydraulic dredging or other deposition of spoil materials or sand vests in the State. Title to such lands raised through projects that received no public funding vests in the adjacent littoral proprietor. All such raised lands shall remain open to the free use and enjoyment of the people of the State, consistent with the public trust rights in ocean beaches, which rights are part of the common heritage of the people of this State.

(1959, c. 683, s. 1; 1979, c. 414; 1985, c. 276.)



Town of Carolina Beach Static Line Exception Progress Report.

**Prepared By:
The Town of Carolina Beach**

April 17, 2014

TABLE OF CONTENTS

Purpose1
Project Description.....1-4
Storm Damage Reduction Project5
Interlocal Agreement5-6
Future Cost Projections6-8
Future Storm Damage Reduction Cost8-9
Carolina Beach Inlet Sediment Trap/Borrow Area.....9-10

List of Figures

Figure No.
1. Carolina Beach project limits and baseline stations2
2. Carolina Beach, NC – Beach Fill Plan3
3. Authorized beach fill cross-section (Stations 0+00 to 116+70)4
4. Rock revetment cross-section (Stations 116+70 to 140+00)4
5. Carolina Beach Gross Unit Cost of Periodic Nourishment.....7
6. Carolina Beach Sediment trap borrow area.....10

List of Tables

1. Carolina Beach Funding Scenario 18
2. Carolina Beach Funding Scenario 29

Attachments

- 1. Interlocal Agreement for Contingency Plan Beach Nourishment
- 2. Beach fill quantities for Carolina Beach

Purpose.

The federal storm damage reduction project has served the Town well over the last 50 years and continued nourishment of the project will continue to provide storm damage reduction to the Town's infrastructure and development within the Town. Also, in order to retain its Static Vegetation Line Exception granted by the NC Coastal Resources Commission (CRC) on September 9, 2009, the Town must provide a progress report to the CRC every 5 years describing the condition of the project and an update of the requirements outlined in the Static Vegetation Line Exception rule (15A NCAC 07J). The first progress report is due on September 9, 2014.

Project Description

The Carolina Beach federal storm damage reduction project was authorized by Congress in 1962 (House Document Number 418, 87th Congress, 2nd Session). The project extends along 14,000 lineal feet of ocean shoreline as shown in Figure 1. As originally authorized, the project consisted of a beach fill shaped in the form a 25-foot wide dune with a crest elevation of 12.5 feet above North American Vertical Datum (NAVD) fronted by a 50-foot wide storm berm at elevation 9.5 feet above NAVD. The project was later modified to include a 2,075-foot long rock revetment at the extreme north end of the project which is fronted by a 130-foot wide berm at elevation 5.5 feet above NAVD. The crest elevation of the revetment is at 9.5 feet NAVD. The authorization also included periodic nourishment of the project with the nourishment interval estimated to be approximately every three years. Maintenance of the rock revetment is a non-federal responsibility. The plan layout of the project is shown in Figure 2 with typical profiles of the beach fill and revetment sections shown in Figures 3 and 4, respectively. The Carolina Beach portion of the authorized project was re-evaluated in February 1993 under authority provided by Section 934 of the Water Resources Development Act of 1986 (PL 99-662) and found to be eligible for continued Federal participation in beach nourishment for the remaining economic life of the project (USACE 1993). Construction of the Carolina Beach portion of the project was initiated in 1964; therefore, federal cost-sharing for storm damage reduction is authorized to continue through the year 2014.

With federal participation in periodic nourishment set to expire in 2014, the U.S. Army Corps of Engineers - Wilmington District (USACE) is seeking authorization and funding to conduct a reevaluation of the project under authority of Section 216 of Public Law 91-611 which could lead to reauthorization of the project for another 50 years (Glenn McIntosh, USACE - Wilmington District, Per. Comm. May 20, 2009). US Congressional efforts continue supporting a reauthorization of the Carolina Beach CSDR in the current WRRDA bill negotiations. New Hanover County received State permit No.138-12, which would allow New Hanover County to move forward with the project if federal funding is not available or if the federal project is not reauthorized.

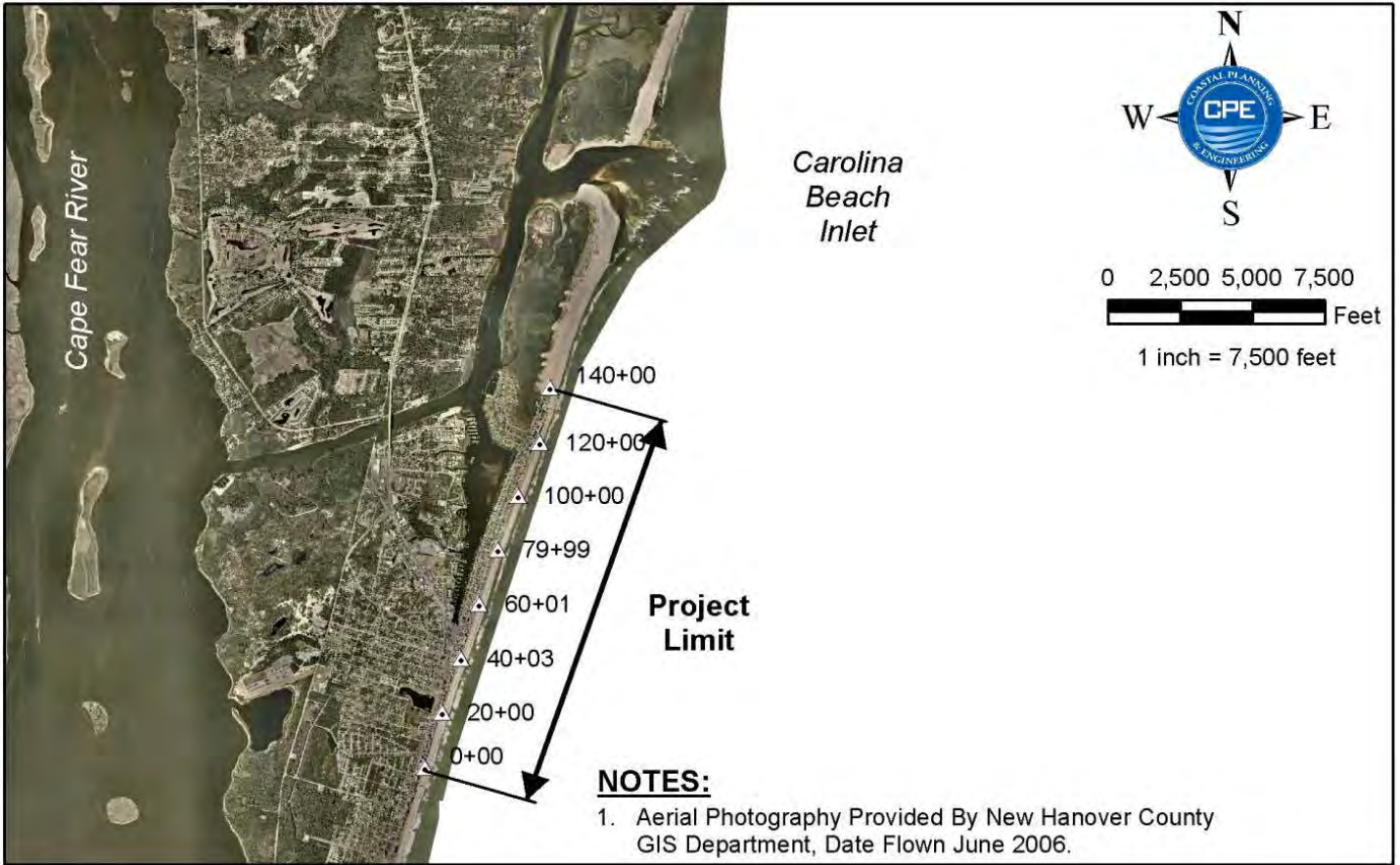


Figure 1. Carolina Beach project limits and baseline stations.

The Area South Project was also authorized by the same legislation that authorized Carolina Beach; however, construction of the Area South Project was not initiated until June 1997. As a result, and based on conditions contained in the Water Resources Development Act of 1986, the Area South Project is eligible for federal funding for a period of 50 years after initiation of construction or through June 2047.

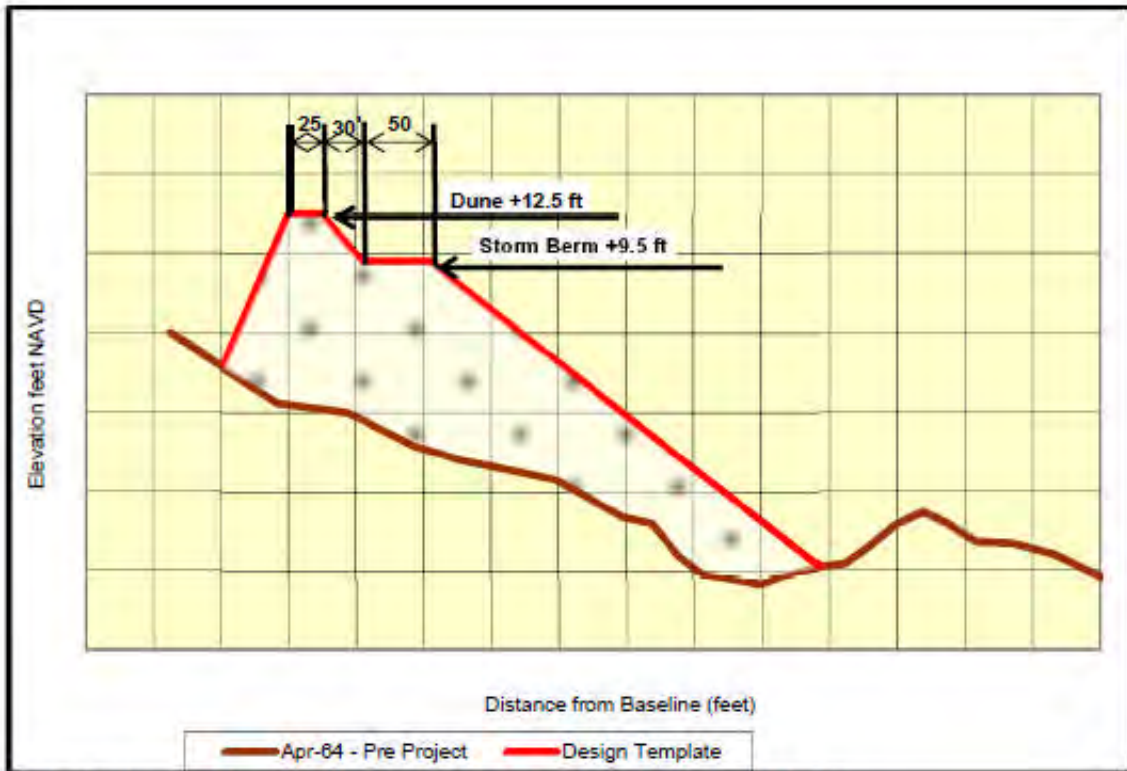


Figure 3. Authorized beach fill cross-section (stations 0+00 to 116+40).

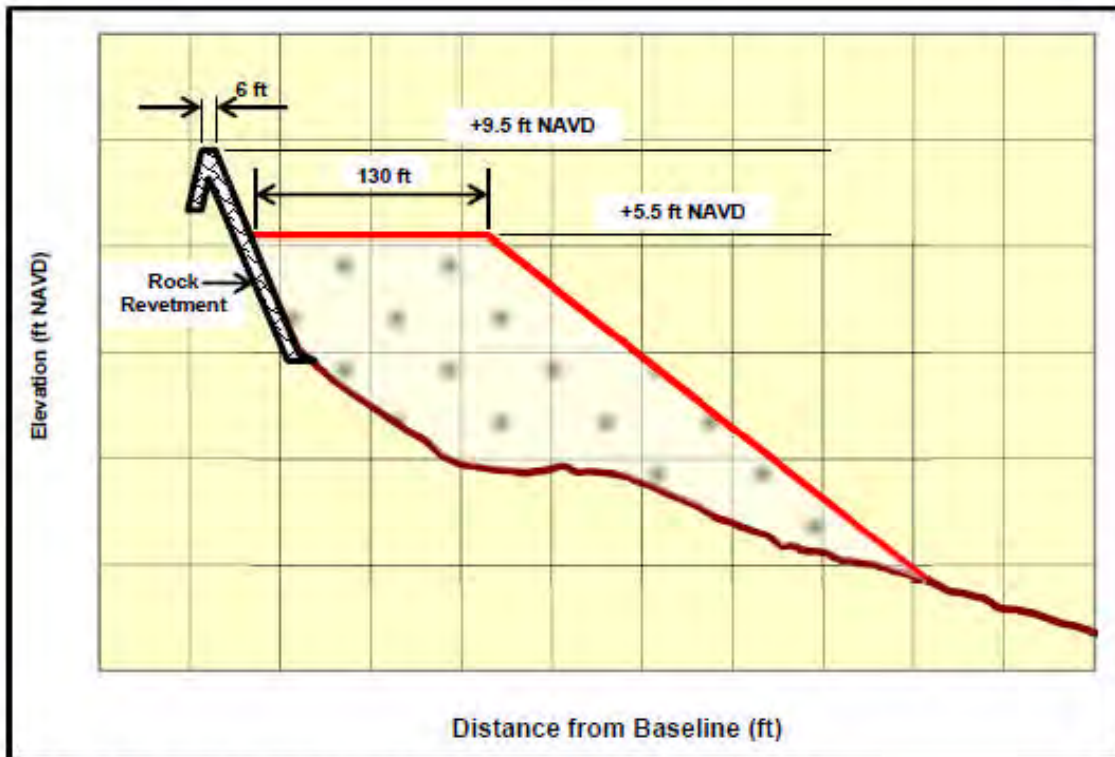


Figure 4. Rock revetment cross-section (stations 116+40 to 137+20).

Storm Damage Reduction Project

The federal projects covering Carolina Beach and Kure Beach were nourished in May 2013. The two projects were successful in repositioning federal funds in the amount of 4.2 million for Carolina Beach and \$3.9 million for the Area South Project. The State of North Carolina also appropriated \$1.18 million for the Carolina Beach project; New Hanover County provided \$2.3 million for the nourishment of the Carolina Beach project. The County also provided \$900,000 for the Area South Project. A breakdown of the nourishment volumes and cost contributions for the two projects is as follows:

2013 Nourishment

Carolina Beach Project:

Nourishment Volume = 989,200 cy

Total Cost = \$6,500,000

Federal = \$4,200,000

State = \$ 0

County = \$2,300,000

Area South Project:

Nourishment Volume = 557,702 cy

Total Cost = \$5,900,000

Federal = \$3,900,000

State = \$1,180,000

County = \$ 900,000

Attachment 2 provided by the Army Corps of Engineers is the computed end area quantities for the beach fill at Carolina Beach. This shows how the volume is distributed and the end area calculations that come to a total of 989,200 cy.

2010 Nourishment

Nourishment Volume = 440,00 cy

Total Cost = \$5,809,718

Federal: \$3776,317

State: \$1,016,701

New Hanover County: \$1,016,701

Inter-local Agreement

A key element of the New Hanover County contingency plan was the adoption of an inter-local agreement, signed by all three beach towns and New Hanover County, that specifies how funds from the New Hanover County beach nourishment fund would be used to support continued periodic nourishment of all three projects in the absence of federal and/or state funding. Under this agreement, if no federal or state funding is provided, the three beach towns would provide 17.5% of the funds needed for periodic nourishment of their respective projects and the County would contribute 82.5%. If some federal and state funding is provided but the combined amount is less than 17.5%, the towns agreed to make-up the difference. For example, if the state provided 10% of the nourishment cost, the

towns would provide 7.5%. The remaining balance of 82.5% would be covered by New Hanover County (Interlocal agreement attached).

Future Cost Projections

The past history of the Carolina Beach project was used to develop possible future cost for nourishment of the project over the next 40 years. While the storm damage reduction history for Carolina Beach dates back to 1964, only the cost experienced since 1981 were used for the projections. Prior to 1981, the nourishment frequency for Carolina Beach was sporadic as a result of issues with both state and local funding as well as issues associated with severe erosion along the north end of the project. Once the funding and erosion issues were resolved, the Carolina Beach project underwent a major rehabilitation between 1981 and 1982 which restored the project to its authorized conditions. Since that time, periodic nourishment has been routinely accomplished approximately every 3 years with material removed from a sediment trap in Carolina Beach Inlet.

A plot of the “gross” unit cost of each periodic nourishment operation for Carolina Beach since 1981 is provided in Figure 5. Gross unit cost is the total cost of the nourishment operation, which includes mobilization and demobilization of the dredge, pipeline, and ancillary equipment plus the pumping cost divided by the volume of material placed on the beach.

The gross unit cost remained fairly constant between 1981 and 1991 but began to increase significantly after 1991. Based on these past gross unit costs, two time periods were selected as possible indicators of how dredging cost could change in the future. The first time period extends from 1981 to 2013 while the second period extends from 1991 to 2013. For the 1981 to 2013 time period, the gross unit cost increased at a rate of \$0.1352 per year which represents an approximate 1.3% per year increase in dredging cost. For the 1991 to 2013 time period, the gross unit cost increased at a rate of \$0.2307 per year which is close to a 2% per year increase. Given the uncertainty of future dredging cost, both of these rates of increase in the gross unit dredging cost (1.3%/yr and 2.0%/yr) were used to develop future costs for nourishing the Carolina Beach project.

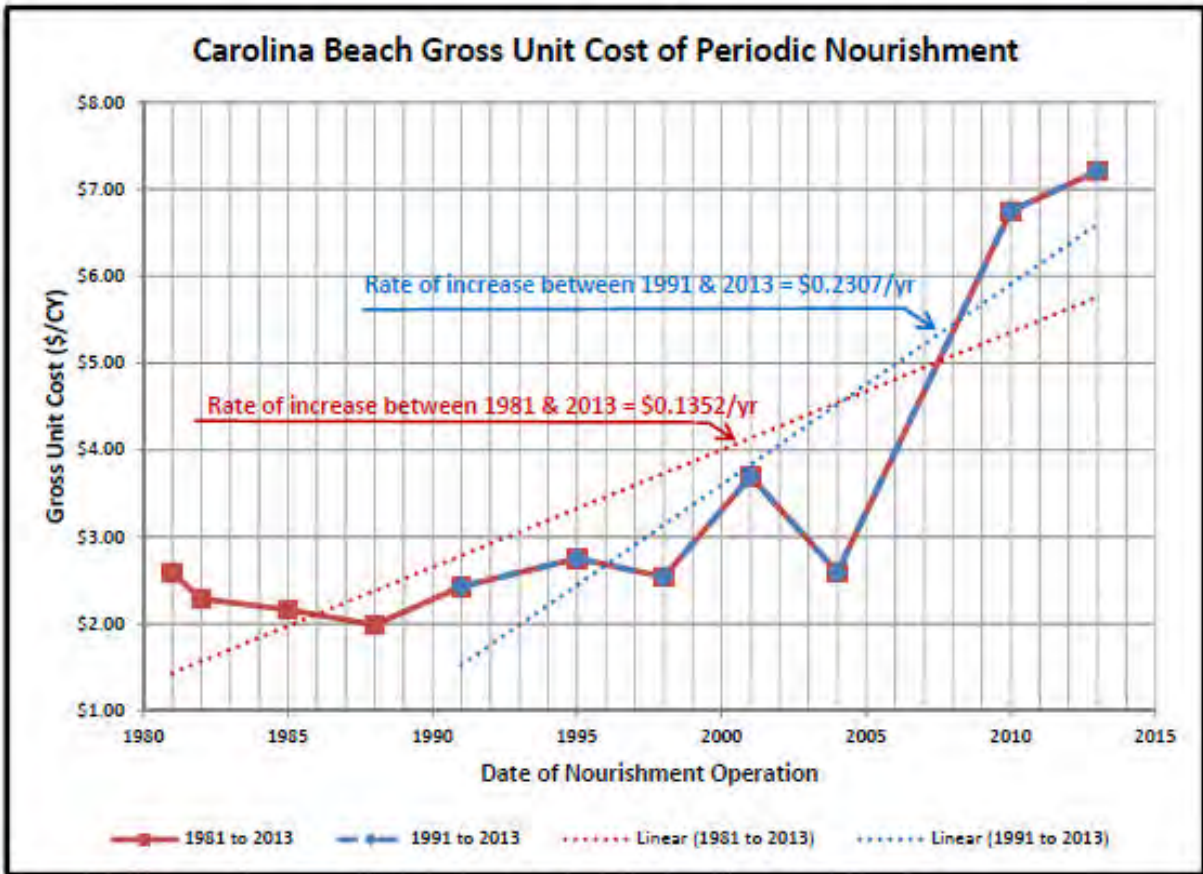


Figure 5. Changes in gross unit dredging cost for the Carolina Beach project

Periodic Nourishment Volumes. Since 1985, the Carolina Beach Project has been nourished approximately every three years with the volume placed along the shoreline during each operation averaging 858,600 cubic yards. This 3-year nourishment volume was used to develop future nourishment cost for the project.

The average 3-year periodic nourishment volume needed to maintain the Area South Project is estimated to be 649,900 cubic yards. Of this total, 36,600 cubic yards, or 5.63% of the total volume, would be placed in the northern 3,500-foot shoreline segment that is now within the Town Limits of Carolina Beach. For Funding Scenario 1 in which nourishment funds are provided by the federal government, the State, New Hanover County, and the Town of Carolina Beach would not incur any additional cost for the 3,500-foot shoreline segment. Under funding Scenario 2; however, the cost that would be assumed by the Town of Carolina Beach would depend on how nourishment of the Area South Project is accomplished.

In the case where New Hanover County and the Town of Kure Beach nourish the project using non-federal permits and accomplish the nourishment in the same manner as previous nourishment operations by the USACE, the cost of nourishing the 3,500-foot segment was based on nourishment material derived from the offshore borrow area. However, should the Town of Kure Beach elect not to nourish its project during a particular 3-year nourishment cycle, material to nourish the 3,500-segment

would come from the Carolina Beach Inlet borrow area/sediment trap. Based on past performance of the sediment trap/borrow area, the material collected in the Carolina Beach Inlet and bypassed to Carolina Beach is sufficient to satisfy nourishment needs of Carolina Beach project indefinitely. Estimates of the future cost of nourishing the 3,500-foot segment are provided for both possibilities.

Future Storm Damage Reduction Cost

Funding Scenario 1. Under Funding Scenario 1, the federal government and the State of North Carolina would continue to fund periodic nourishment of the Carolina Beach project in accordance with past cost sharing agreements. Under this scenario, all of the periodic nourishment costs would be covered by contributions from the federal government (65%), the State of North Carolina (17.5%) and New Hanover County (17.5%). This scenario carries a positive New Hanover County ROT balance beyond 2054.

Table 1. Carolina Beach Funding Scenario 1⁽¹⁾: 1.3%/year and 2.0%/year increase in dredging costs.

Year	1.3%/year Increase in Dredging Cost				2.0%/year Increase in Dredging Cost			
	Total Cost	Fed Share	State Share	County Share	Total Cost	Fed Share	State Share	County Share
2016	\$6,435,000	\$4,182,750	\$1,126,125	\$1,126,125	\$6,569,000	\$4,269,850	\$1,149,575	\$1,149,575
2019	\$6,689,000	\$4,347,850	\$1,170,575	\$1,170,575	\$6,972,000	\$4,531,800	\$1,220,100	\$1,220,100
2022	\$6,954,000	\$4,520,100	\$1,216,950	\$1,216,950	\$7,398,000	\$4,808,700	\$1,294,650	\$1,294,650
2025	\$7,228,000	\$4,698,200	\$1,264,900	\$1,264,900	\$7,851,000	\$5,103,150	\$1,373,925	\$1,373,925
2028	\$7,514,000	\$4,884,100	\$1,314,950	\$1,314,950	\$8,332,000	\$5,415,800	\$1,458,100	\$1,458,100
2031	\$7,811,000	\$5,077,150	\$1,366,925	\$1,366,925	\$8,842,000	\$5,747,300	\$1,547,350	\$1,547,350
2034	\$8,119,000	\$5,277,350	\$1,420,825	\$1,420,825	\$9,383,000	\$6,098,950	\$1,642,025	\$1,642,025
2037	\$8,440,000	\$5,486,000	\$1,477,000	\$1,477,000	\$9,957,000	\$6,472,050	\$1,742,475	\$1,742,475
2040	\$8,774,000	\$5,703,100	\$1,535,450	\$1,535,450	\$10,566,000	\$6,867,900	\$1,849,050	\$1,849,050
2043	\$9,120,000	\$5,928,000	\$1,596,000	\$1,596,000	\$11,213,000	\$7,288,450	\$1,962,275	\$1,962,275
2046	\$9,481,000	\$6,162,650	\$1,659,175	\$1,659,175	\$11,900,000	\$7,735,000	\$2,082,500	\$2,082,500
2049	\$9,855,000	\$6,405,750	\$1,724,625	\$1,724,625	\$12,628,000	\$8,208,200	\$2,209,900	\$2,209,900
2052	\$10,245,000	\$6,659,250	\$1,792,875	\$1,792,875	\$13,401,000	\$8,710,650	\$2,345,175	\$2,345,175
Totals:	\$106,665,000	\$69,332,250	\$18,666,375	\$18,666,375	\$125,012,000	\$81,257,800	\$21,877,100	\$21,877,100

⁽¹⁾ Funding by Town not required under Scenario 1.

Funding Scenario 2. Following the 2013 nourishment of Carolina Beach and the Area South Project, Funding Scenario 2 assumes federal and state funding would not be provided for future nourishment Carolina Beach operations. This represents a “worst-case” with regard to county and town funding requirements. Even without future federal funding, there is still a possibility the State of North Carolina would provide some limited funding for future nourishment operations but at this time future state funding remains an uncertainty. Under Funding Scenario 2, the Town of Carolina Beach would be responsible for 17.5% of the periodic nourishment costs with New Hanover County contributing 82.5% of the nourishment costs. This scenario continues to carry a positive New Hanover County ROT balance beyond 2054.

Table 2. Carolina Beach Funding Scenario 2 for 1.3%/year and 2.0%/year increase in dredging costs.

Year	1.3%/year Increase in Dredging Cost			2%/year Increase in Dredging Cost		
	Total Cost	County Share	Town Share	Total Cost	County Share	Town Share
2016	\$6,435,000	\$5,308,875	\$1,126,125	\$6,569,000	\$5,419,425	\$1,149,575
2019	\$6,689,000	\$5,518,425	\$1,170,575	\$6,972,000	\$5,751,900	\$1,220,100
2022	\$6,954,000	\$5,737,050	\$1,216,950	\$7,398,000	\$6,103,350	\$1,294,650
2025	\$7,228,000	\$5,963,100	\$1,264,900	\$7,851,000	\$6,477,075	\$1,373,925
2028	\$7,514,000	\$6,199,050	\$1,314,950	\$8,332,000	\$6,873,900	\$1,458,100
2031	\$7,811,000	\$6,444,075	\$1,366,925	\$8,842,000	\$7,294,650	\$1,547,350
2034	\$8,119,000	\$6,698,175	\$1,420,825	\$9,383,000	\$7,740,975	\$1,642,025
2037	\$8,440,000	\$6,963,000	\$1,477,000	\$9,957,000	\$8,214,525	\$1,742,475
2040	\$8,774,000	\$7,238,550	\$1,535,450	\$10,566,000	\$8,716,950	\$1,849,050
2043	\$9,120,000	\$7,524,000	\$1,596,000	\$11,213,000	\$9,250,725	\$1,962,275
2046	\$9,481,000	\$7,821,825	\$1,659,175	\$11,900,000	\$9,817,500	\$2,082,500
2049	\$9,855,000	\$8,130,375	\$1,724,625	\$12,628,000	\$10,418,100	\$2,209,900
2052	\$10,245,000	\$8,452,125	\$1,792,875	\$13,401,000	\$11,055,825	\$2,345,175
Totals⁽¹⁾	\$106,665,000	\$87,998,625	\$18,666,375	\$125,012,000	\$103,134,900	\$21,877,100

⁽¹⁾Totals include costs for the 2013 operation.

New Hanover County has a 3% room occupancy tax that is used to fund beach nourishment and tourism activities in the County. Sixty percent (60%) of the funds collected go toward beach nourishment. At the present time, the balance is sufficient to maintain current operations with annual collections totaling around \$3.8 million. The New Hanover County Board of County Commissioners (Board) established the New Hanover County Ports Waterways and Beach Commission (PW&B Commission) to manage the beach nourishment funds and make recommendations to the Board on the use of the funds. In addition to the Carolina Beach project, New Hanover County has two other federal storm damage reduction projects it supports; namely, Wrightsville Beach and Kure Beach. With the budget adoption in July 2013 Town Council began a new policy for setting aside funding for storm damage reduction. The policy reserves revenue that is generated from public parking and Freeman Park to fund future storm damage reduction projects. Currently \$350,000 is available from the Freeman Park revenues.

For funding Scenario 2 in which the Town of Carolina Beach and New Hanover County assume responsibility for storm damage reduction projects. New Hanover County annually allocates a portion of ROT funds to cover costs while the Town of Carolina Beach has implemented a strategy to allocate a portion of the revenue from Freeman Park to cover costs.

CAROLINA BEACH INLET SEDIMENT TRAP/BORROW AREA.

The sediment trap/borrow area located is shown in Figure 6. The volume of material collected in the Carolina Beach Inlet sediment trap/borrow area has been sufficient to maintain the Carolina Beach project over the past 25 years. For the 9 periodic nourishment operations conducted for Carolina Beach since 1985, the average volume of material removed from the sediment trap/borrow area has been approximately 886,000 cubic yards. Based on the past performance of the sediment trap/borrow area, the material collected in Carolina Beach Inlet and bypassed to Carolina Beach is sufficient to satisfy future nourishment needs of Carolina Beach.

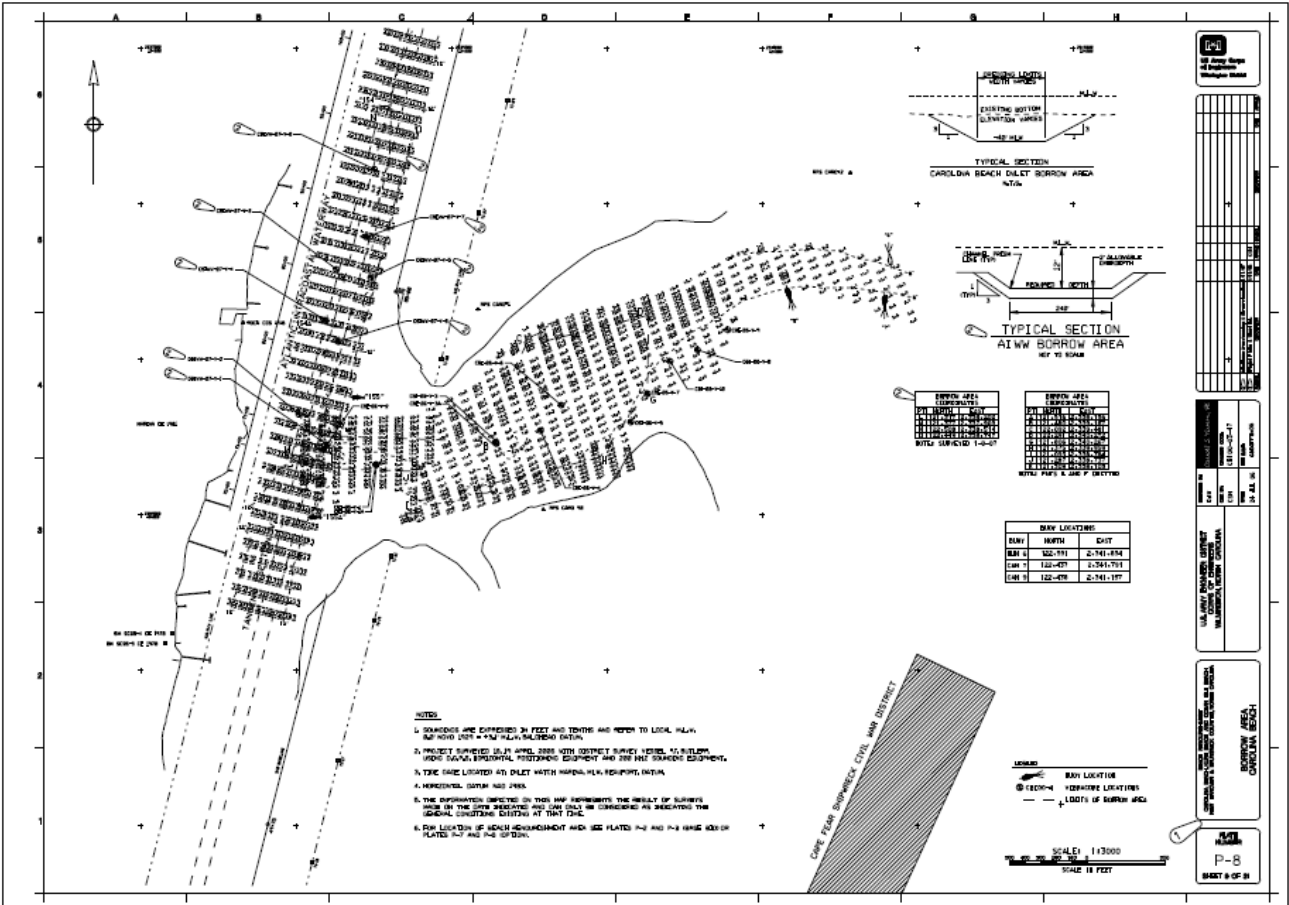


Figure 6. Carolina Beach Inlet Sediment Trap/Borrow Area

The Carolina Beach project satisfies all of the requirements for the static line exception as stipulated in 15A NCAC 07J .1201. By virtue of this updated report, the Town of Carolina Beach has demonstrated the project has been maintained for well over the 5-year minimum, it has an identified source of beach compatible borrow material that will sustain the project for more than the minimum 25 years, and funding strategies are in place continuing to support the project beyond 25 years.

New Hanover County Contract #12-0190



**STATE OF NORTH CAROLINA
NEW HANOVER COUNTY**

INTERLOCAL AGREEMENT FOR CONTINGENCY PLAN BEACH NOURISHMENT

This Interlocal Agreement ("Agreement") is made Dec 8, 2011 by and between the County of New Hanover, North Carolina, a body corporate and politic (hereinafter referred to as the "County") and the Municipalities of Wrightsville Beach, Carolina Beach, and Kure Beach, bodies politic and corporate (hereinafter referred to as the "Towns").

PURPOSE

WHEREAS, the ocean beaches located within the corporate boundaries of Wrightsville Beach, Carolina Beach and Kure Beach (herein collectively the "Town Beaches") are a valuable resource bringing economic, environmental, cultural and recreational benefits to people of the United States, including those in the State of North Carolina; and

WHEREAS, the financing and maintenance of the Town Beaches has been and remains an appropriate function of the Federal and State governments; and

WHEREAS, maintenance of the Town Beaches through United States Army Corps of Engineers nourishment projects funded primarily by the Federal and State governments has accordingly been successfully performed for many decades; and

WHEREAS, the maintenance of Town Beaches is vital to continued economic, environmental and cultural well-being of the County and Town; and

WHEREAS, critical to the Municipalities of Wrightsville Beach, Carolina Beach, and Kure Beach is demonstrating the long-term feasibility of financing plans for the maintenance of their ocean beaches, in order to preserve their status as or to establish eligibility for designation as a Static Vegetation Line Exception community under regulations promulgated by the State's Coastal Area Management Act; and

WHEREAS, the ongoing availability of Federal and State funding for Corps of Engineers managed beach nourishment projects remains uncertain; and

WHEREAS, County and Towns accordingly seek to establish contingency plans to address various scenarios wherein Federal or State monies may not be available for beach nourishment; and

WHEREAS, County and Towns also seek to provide for the potential use of sixty percent (60%) of the first three percent (3%) of the Room Occupancy Tax available for beach nourishment (subsequent references to the "use of Room Occupancy Tax" shall mean use of the portion of the Room Occupancy Tax available for beach nourishment as defined hereinabove) and local general revenues, as necessary, for funding of either a portion of Corps managed beach nourishment or County managed beach nourishment projects if Federal or State funds are unavailable or insufficient for such purposes; and

WHEREAS, County and Towns are jointly seeking approval by State and Federal Agencies of a contingent Nourishment Plan for the Town Beaches, and the State, in anticipation of such a plan, is prepared to complete/review any necessary environmental studies, and State and Federal Agencies involved in the funding have indicated that they strongly prefer and require that units of local government work on and submit one mutual plan for beach nourishment without individual towns seeking separate funding or individual beach nourishment projects except in emergencies. Provided that nothing contained in this Agreement shall be construed to limit or restrict the authority of Wrightsville Beach, Carolina Beach, and Kure Beach to continue to participate in and seek funding for their existing Corps managed beach nourishment programs; and

WHEREAS, it is within the contemplation of the Parties hereto and State agencies involved in the approval process that the U.S. Army Corps of Engineers and other Federal approval agencies will issue one permit for the Town Beaches. Use of said permit is contingent upon Federal and/or State funding being unavailable or insufficient for Corps managed projects; and

WHEREAS, County and Towns now desire to enter into an agreement that provides a planning mechanism, plan, and compact among the parties for a contingent beach nourishment program for the Town Beaches (hereinafter referred to as the "Master Nourishment Plan", "Master Plan" or "Plan"), which utilizes available funds from the County's Room Occupancy Tax together with the general revenue of the respective locality and any State and Federal funding secured for the Master Nourishment Plan; and

WHEREAS, County and Towns now desire to enter into an agreement addressing local funding sources should Federal and State monies be unavailable or insufficient to finance nourishment projects for the Town Beaches; and

WHEREAS, under this Agreement it is contemplated that the County as the lead sponsor, with the assistance of its Wilmington/New Hanover County Port, Waterway and Beach Commission, and consultants hired by the County, in consultation with the Towns, will prepare the Master Nourishment Plan for approval by the Towns. Upon written approval by all of the Towns of such Plan, the Plan will then be implemented under this Agreement with the County being the designated permittee for beach nourishment; and

WHEREAS, notwithstanding this Agreement or any provisions therein, the Parties agree to support and continue efforts to procure Federal and State funding for beach nourishment projects.

NOW THEREFORE, County and Towns pursuant to NCGS 160A-17 and Part 1 of Article 20 of Chapter 160A of the North Carolina General Statutes, hereby contract and agree as follows:

1. Purpose. This agreement seeks to address the following different potential scenarios:
 - a. Those situations in which Federal or State funding for beach nourishment for Corps managed projects for Town Beaches is reduced.
 - b. Those situations in which no Federal or State funding for beach nourishment for Town Beaches is available. In such event the County and Towns would proceed under the contingent plan and permit process set-forth herein.

County and Towns enter into this Agreement in order to prepare, approve and carry out the Master Nourishment Plan providing for acquisition of one permit for

nourishment of the Town Beaches and identification of the source of tax funds and other revenues to be used to implement such plan. The Master Nourishment Plan shall not include navigational or harbor dredging where the dredged materials is not used for beach nourishment.

2. Development of Master Nourishment Plan. The County, using available Room Occupancy Tax revenues, will over the next 18 to 36 months develop the Master Plan in consultation with State and Federal Agencies, the Towns, consulting engineers, and the Wilmington/New Hanover County Port, Waterway and Beach Commission, and submit the same to the Towns for consideration and approval by all of the Towns. Concurrently the County will submit for a State and Federal permit to carry out and complete the Plan. The Master Plan shall not be effective until approved by all of the Towns in writing. The final approved plan will contain the following principles and encompass and cover the following subjects, goals and objectives:

- a. Easements and Rights-of-Way. Each Town shall be responsible for providing the staging areas, sites or necessary lands, easements, and rights-of-way required for the development, construction, and maintenance of those elements of the Master Nourishment Plan to be implemented within the Town. No Town will be obligated to provide sites, staging areas or facilities for nourishment that will take place in another party's jurisdiction. However, the plan will provide that Towns may cooperate in providing staging areas and access to the beach for beach construction equipment regardless of where the beach construction activity is taking place when joint nourishment projects are undertaken.
- b. Public Beach Access and Parking. The Towns shall be responsible for securing, constructing, and maintaining any and all access/parking facilities stipulated as a condition of receiving State or Federal funding. All public beach accesses and parking facilities must be secured prior to issuing a notice to proceed for each construction event.
- c. Funding Contingency. Each party's participation in a nourishment project associated with the Master Nourishment Plan will be contingent on such party, in its sole discretion, being able to fund its portion of the project. Each

New Hanover County Contract #12-0190

Town is required to anticipate the need for the local funding share and to either budget for the same over a period of years, provide for and conduct elections to approve of bonds or borrowing pursuant to State law , or put in place tax districts or similar means of funding the local share. Failure to meet local funding needs by one or more Towns could result in the County passing over a project of the Town due to lack of funding.

- d. Construction Administration. The County may serve in the role as lead administrator for any nourishment event associated with the Master Nourishment Plan.

3. Cost-sharing for Corps-Managed Projects or Projects Implemented Under the Master Nourishment Plan. In the event Federal and State funding is insufficient to pay the costs of any beach nourishment project, the Room Occupancy Tax will pay any shortfall in funding for such project up to a maximum of 82.5% of the total project costs. If after payment of Room Occupancy Tax funds in an amount equal to 82.5% of the total project costs a shortfall remains, such shortfall shall be paid by the Town in which such project is located up to a maximum of 17.5% of the total project costs.

4. Ownership and Use of Nourished Beaches. The ownership and use of beaches nourished under this Agreement are subject to the State Lands Act.

5. Withdrawal, Termination, Modifications, Amendments, and Binding Effects. The commitment of each Town to provide public beach access, parking or any other lands or rights-of way, or any rules or regulations with respect to use of the same, as a party to this agreement, is expressly conditioned on Federal and State laws, regulations, or interpretations thereof, as of the date of approval of this agreement by signatories herewith. If there are amendments, changes or interpretations to Federal or State law or regulations, which are adopted after this Agreement is approved which affect a party's rights and obligations in this Agreement, any party that chooses not to meet the requirements shall have a right to withdraw from this Agreement at any time.

Once approved by the County and all of the Towns, this Agreement shall remain in effect until June 30, 2015 and be binding on the Parties regardless of changes in the composition of boards of the respective units of local government that are parties hereto. This Agreement shall automatically renew for subsequent periods of four years unless any party gives notice in writing to all other parties at least 180 days before the expiration of the then current term of its desire that the Agreement not renew at its termination. In such event, the Agreement shall terminate at the end of its then current term.

Once approved, no party may withdraw except that a Town upon twelve (12) months written notice to the County and other Towns may withdraw. Withdrawal of a party as provided in this paragraph shall not cause the Agreement to terminate. The Agreement shall only be terminated as provided in the preceding paragraph.

- 6. Any amendment or modification to this Agreement shall require the written consent of all Parties.

IN WITNESS WHEREOF, the parties have executed this Agreement.



COUNTY OF NEW HANOVER

ATTEST:

By: Ted Omia
Chairman of the Board

Shirley L. Sabut
Clerk to the Board



R. J. Jett
Mayor

ATTEST:

Sylvia J. Holliman
Town Clerk

Approved as to form/County Attorney

Kenj Myers

ORIGINAL

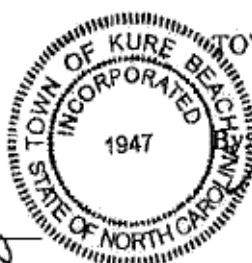


TOWN OF CAROLINA BEACH

ATTEST:

Melinda
Town Clerk

[Signature]
Mayor



TOWN OF KURE BEACH

ATTEST:

[Signature]
Town Clerk

[Signature]
Mayor

NORTH CAROLINA

NEW HANOVER COUNTY

I, **Teresa P. Elmore**, a Notary Public of the State and County aforesaid certify that Sheila L. Schult acknowledged that she is Clerk to the Board of Commissioners of New Hanover County and that by authority duly given and as the act of the Board the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal this 8 day of Dec, 2011.

Teresa P. Elmore
Notary Public

My commission expires:



NORTH CAROLINA

NEW HANOVER COUNTY

I, Virginia A. Houser, a Notary Public of the State and County aforesaid certify that Sylvia J. Holleman acknowledged that she is Clerk to the Board of Alderman of Wrightsville Beach and that by authority duly given and as the act of the Board the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal this 17th day of November, 2011.

Virginia A. Houser
Notary Public



My commission expires: 5/3/12

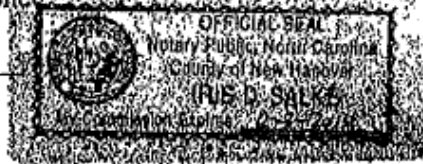
NORTH CAROLINA

NEW HANOVER COUNTY

I, Iris D. Salko, a Notary Public of the State and County aforesaid certify that Melinda N. Prusa acknowledged that she is Clerk to the Town Council of Carolina Beach and that by authority duly given and as the act of the Council the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal this 15 day of November, 2011.

Iris D. Salko
Notary Public



My commission expires: 2-3-2014

NORTH CAROLINA

NEW HANOVER COUNTY

I, Sheila L. Schult, a Notary Public of the State and County aforesaid certify that Nancy Avery acknowledged that she is Clerk to the Town Council of Kure Beach and that by authority duly given and as the act of the Council the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal this 12th day of November, 2011.

Sheila L. Schult
Notary Public



My commission expires: 3/17/2013

Attachment 2: Beach fill quantities for Carolina Beach

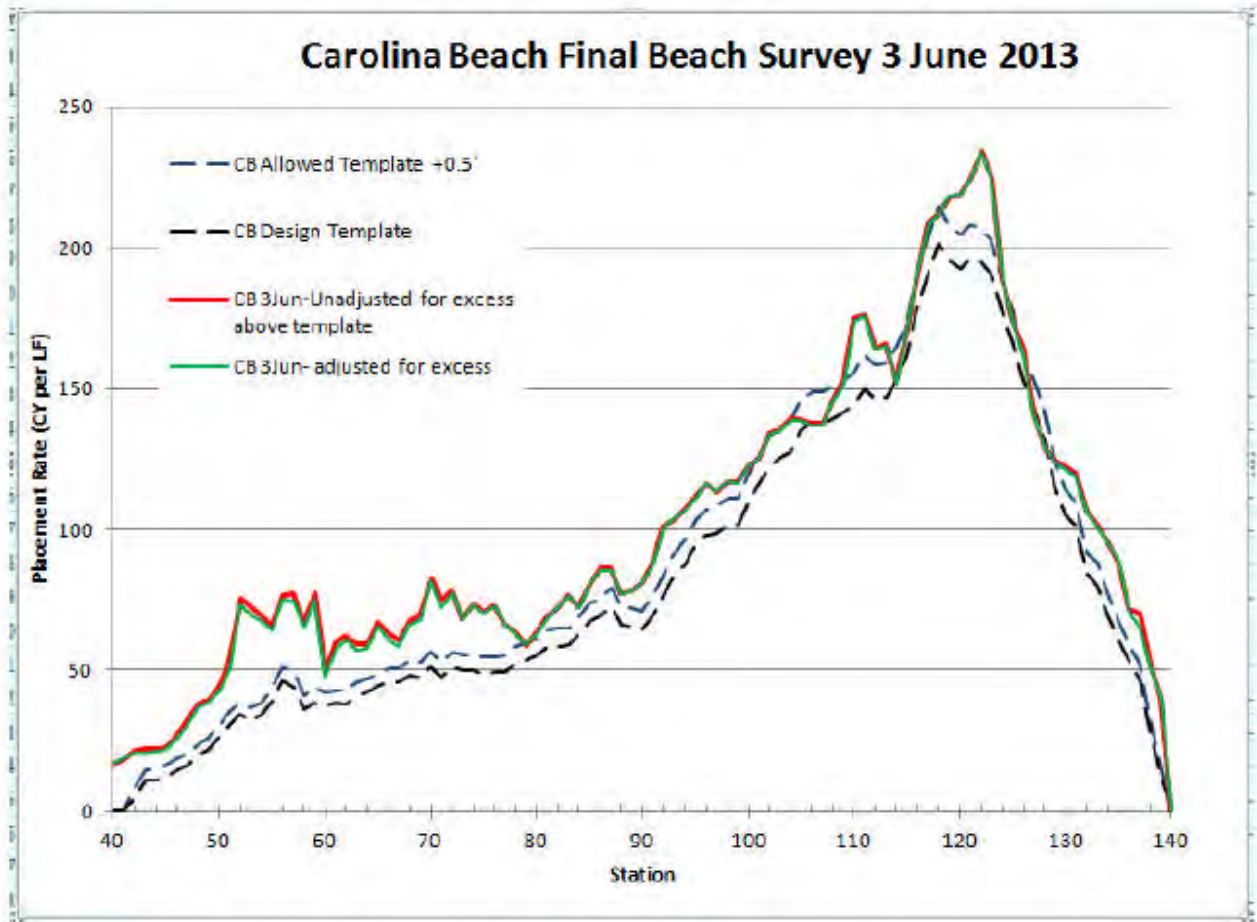


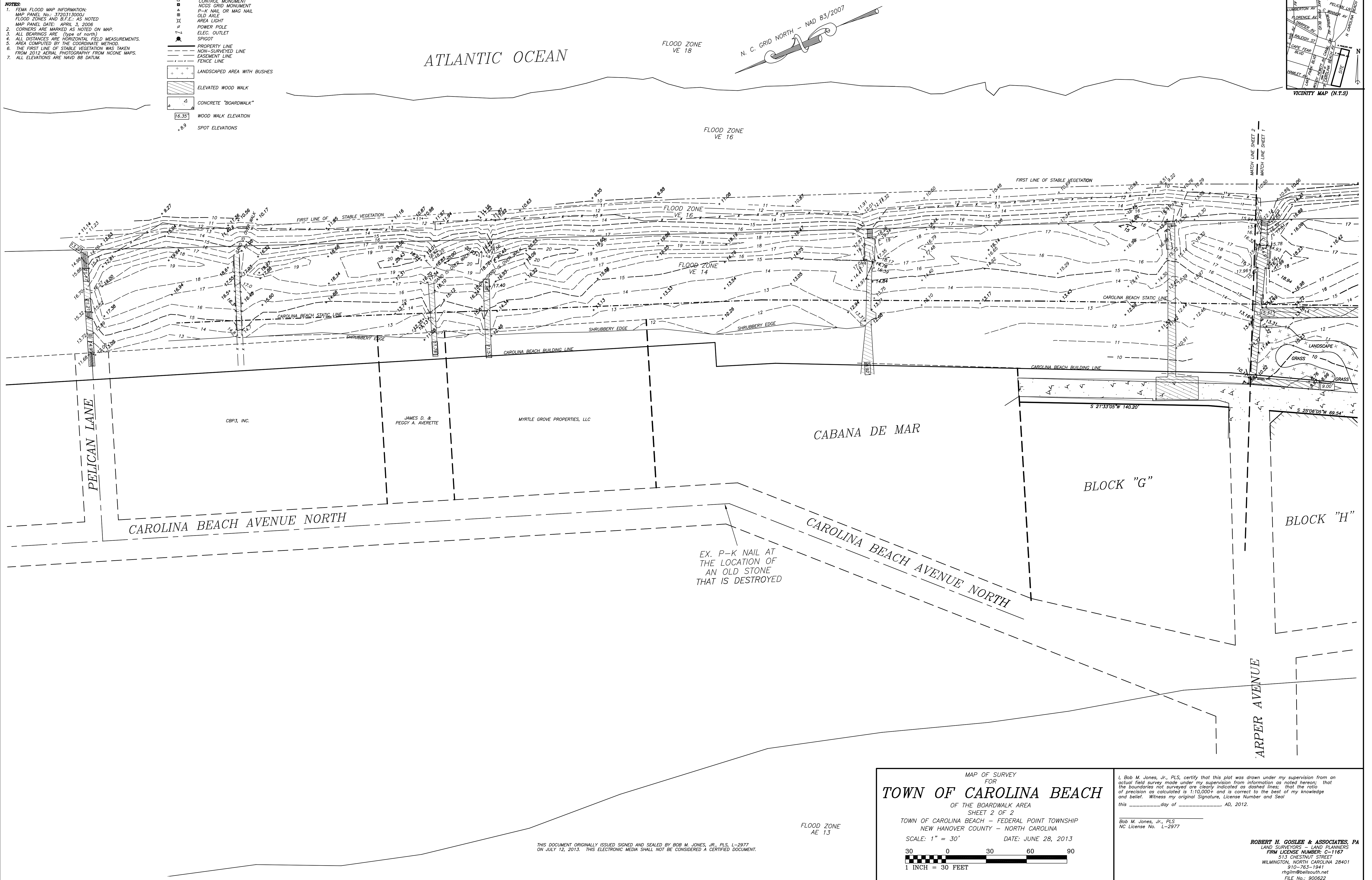
Figure 1 Distribution of beachfill by station vs. template estimates (cy/lf).

SURVEY REFERENCE:
MAP BOOK 2, PAGE 30

- NOTES:**
1. FEMA FLOOD MAP INFORMATION:
MAP PANEL No.: 37203130004
FLOOD ZONES AND B.F.E.: AS NOTED
 2. MAP PANEL DATE: APRIL 3, 2006
CORNERS ARE MARKED AS NOTED ON MAP
 3. ALL BEARINGS ARE (type of north)
 4. ALL DISTANCES ARE HORIZONTAL FIELD MEASUREMENTS.
 5. AREA COMPUTED BY THE COORDINATE METHOD.
 6. THE FIRST LINE OF STABLE VEGETATION WAS TAKEN FROM 2012 AERIAL PHOTOGRAPHY FROM NCOONE MAPS.
 7. ALL ELEVATIONS ARE NAVD 88 DATUM.

LEGEND:

- IRON PIPE (NEW OR EXISTING)
- IRON ROD (NEW OR EXISTING)
- CONTROL MONUMENT
- N.C.S. GRID MONUMENT
- P-K NAIL OR MAG NAIL
- OLD AXLE
- AREA LIGHT
- POWER POLE
- ELEC. OUTLET
- SPIGOT
- PROPERTY LINE
- NON-SURVEYED LINE
- EASEMENT LINE
- FENCE LINE
- LANDSCAPED AREA WITH BUSHES
- ELEVATED WOOD WALK
- CONCRETE "BOARDWALK"
- WOOD WALK ELEVATION
- SPOT ELEVATIONS



THIS DOCUMENT ORIGINALLY ISSUED SIGNED AND SEALED BY BOB M. JONES, JR., PLS. L-2977 ON JULY 12, 2013. THIS ELECTRONIC MEDIA SHALL NOT BE CONSIDERED A CERTIFIED DOCUMENT.

FLOOD ZONE
AE 13

MAP OF SURVEY
FOR
TOWN OF CAROLINA BEACH
OF THE BOARDWALK AREA
SHEET 2 OF 2
TOWN OF CAROLINA BEACH - FEDERAL POINT TOWNSHIP
NEW HANOVER COUNTY - NORTH CAROLINA
SCALE: 1" = 30' DATE: JUNE 28, 2013

I, Bob M. Jones, Jr., PLS, certify that this plat was drawn under my supervision from an actual field survey made under my supervision from information as noted hereon; that the boundaries not surveyed are clearly indicated as dashed lines; that the ratio of precision as calculated is 1:10,000+ and is correct to the best of my knowledge and belief. Witness my original Signature, License Number and Seal this _____ day of _____ AD, 2012.

Bob M. Jones, Jr., PLS
NC License No. L-2977

ROBERT H. GOSLEE & ASSOCIATES, PA
LAND SURVEYORS - LAND PLANNERS
FIRM LICENSE NUMBER: C-1167
513 CHESTNUT STREET
WILMINGTON, NORTH CAROLINA 28401
910-763-1941
rhgjm@bellsouth.net
FILE No.: 900922



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

April 13, 2015

Mr. Michael Cramer
Town of Carolina Beach
1121 N. Lake Park Blvd.
Carolina Beach, NC 28428

Dear Mr. Cramer:

Enclosed is a fully executed copy of Contract No. 6416 between the North Carolina Department of Environment and Natural Resources, and the **Town of Carolina Beach** for the **North Carolina Public Beach and Coastal Waterfront Access Program – Construction of Carolina Beach Boardwalk**.

Invoices or matters regarding work to be performed should be directed to the Contract Administrator Mike Christenbury, as indicated on page three (3) of the contract document.

Please include Contract No. 6416 on each invoice submitted for payment.

Should you have any questions regarding the contract, you may contact me at (919) 707-8539.

Sincerely,

Marjorie Barber
Purchasing Agent
Division of Financial Services
Purchase and Contract Section

Enclosure

cc: Mike Christenbury, DENR Division of Coastal Management
Jackie J. Moore, DENR Office of the Controller

GRANT CONTRACT NO. 6416

STATE OF NORTH CAROLINA
COUNTY OF WAKE

GRANTEE'S FEDERAL
IDENTIFICATION
NUMBER: **_***1193

This Contract is hereby made and entered into this **10th DAY OF APRIL, 2015**, by and between the **NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**, (the "Agency") and the **TOWN OF CAROLINA BEACH**, (the "Grantee") (referred to collectively as the "Parties").

1. Contract Documents: This Contract consists of the Grant Contract and its attachments, all of which are identified by name as follows:

- (1) Grant Contract No. 6416
- (2) General Terms and Conditions (Attachment A)
- (3) Grantee's Response to Agency's RFP, including line item budget and budget narrative and *if applicable*, indirect cost documentation (Attachment B)

The following documents along with the **Governor's grant award letter**, are on file and available for review at North Carolina Division of Coastal Management's (DCM) main office in Morehead City, located at 400 Commerce Avenue. The contact phone number is (252) 808-2808.

1. North Carolina Public Beach and Coastal Waterfront Access Fund 2014-2015 RFP packet - April 1, 2014.
2. Carolina Beach Application submission: Carolina Beach Boardwalk – May 30, 2014.
3. North Carolina Public Beach and Coastal Waterfront Access Fund 2014-2015 Final Application packet - July 15, 2014.
4. Carolina Beach Final Application submission: Carolina Beach Boardwalk – October 17, 2014.

These documents constitute the entire agreement between the Parties and supersede all prior oral or written statements or agreements. The Parties may enter into Contract Amendments in accordance with the General Terms and Conditions as described in Attachment A.

- 2. Precedence Among Contract Documents:** In the event of a conflict between terms of the Contract Documents, the term in the Contract Document with the highest relative precedence prevails. The order of precedence is established by the order of documents in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple Contract Amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.
- 3. Contract Period:** This Contract shall be effective on **April 10, 2015** and shall terminate on **September 30, 2016**.
- 4. Project Period:** The Grantee begins the project on **April 10, 2015**. The Grantee undertakes and completes the project in a sequence that assures expeditious completion in light of the purposes of this agreement. Grantee completes the project on **September 30, 2016**.
- 5. Grantee's Duties:** The Grantee provides the project as described in Attachment B, **North Carolina Public Beach and Coastal Waterfront Access Program–Construction of Carolina Beach Boardwalk** and in accordance with the approved budget in Attachment B.

6. **Agency's Duties:** The Agency shall pay the Grantee in the manner and in the amounts specified in the Contract Documents.

The total amount paid by the Agency to the Grantee under this Contract shall not Exceed **FIVE HUNDRED NINETY-NINE THOUSAND THREE HUNDRED SIXTY SEVEN DOLLARS (\$599,367.00)**.

This amount consists of:

Type of Funds	Funding Source	CFDA No.
Appropriations	NC General Assembly	N/A

Accounting Code Information:

Dollars	GL Company	GL Account	GL Center
\$599,367.00	1612	536993	25005A21

- a. There are no matching requirements from the Grantee.
- b. There are no matching requirements from the Grantee; however, the Grantee has committed the following match to this project:

	In-Kind	\$
	Cash	\$
	Cash and In-Kind	\$
	Cash and/or In-Kind	\$
	Other / Specify:	\$

- c. The Grantee's matching requirement is **\$228,321.00**, which shall consist of:

	In-Kind	\$
X	Cash	\$228,321.00
	Cash and In-Kind	\$
	Cash and/or In-Kind	\$
	Other / Specify:	\$

- d. The Grantee has committed to an additional \$ to complete the project as described in Attachment B.

The contributions from the Grantee shall be sourced from non-federal funds.

The total contract amount is **\$827,688.00**.

7. Reversion of Unexpended Funds

Any unexpended grant funds shall revert to the Agency upon termination of this Contract.

8. Reporting Requirements:

Any Grantee receiving at least \$15,000 but less than \$500,000 in state funds from the Agency within any fiscal year is required to file with each funding state agency a sworn accounting of receipts and expenditures of state funds in the format approved by the State Auditor. This accounting must be attested to by the Grantee fiscal officer and one other authorizing officer of the Grantee. This accounting must be filed with each funding state agency within six months after the end of the Grantee's operating year. If the Grantee receives STATE funds of \$500,000

or more during its fiscal year, it must file with the State Auditor and each funding agency its audited financial statements in accordance with the standards and formats prescribed by the State Auditor in Memorandum NGO-2 "Grantee Audit Reports." If the Grantee receives \$500,000 or more in FEDERAL awards during its fiscal year from any source, including federal funds passed through the State or other grantors, it must obtain a single audit or program-specific audit conducted in accordance with the Federal Office of Management and Budget's Circular A-133 "Audits of States, Local Government and Non-Profit Organizations." If the above amounts are not met by one single funding agency, but rather any combination of funding agencies, then the appropriate reports shall be sent to the Office of the State Auditor and to the Agency. Also, a corrective action plan for any audit findings and recommendations must be submitted along with the audit report or within the period specified by the applicable OMB Circular or Memorandum.

9. Payment Provisions:

The Agency reimburses the Grantee for actual allowable expenditures with the Agency retaining a minimum of ten percent (10%) of the Agency's funds until all required activities are completed and reports/deliverables are received and accepted by the Agency. An allowable expenditure is defined as one associated with work performed to meet the milestones that have been addressed during the specific reporting period. The Agency may withhold payment on invoices when the Grantee fails to accomplish the milestones stated in Attachment B.

10. Invoices: The Grantee submits invoices to the Agency Contract Administrator at least quarterly. The final invoice must be received by the Agency within 45 days after the end of the contract period.

Amended or corrected invoices must be received by the Agency's Office of the Controller within six months after the end of the contract period. The Agency will not pay any invoice received more than 6 months after the end of the effective period.

11. Contract Administrators: Each Party submits notices, questions and correspondence to the other Party's Contract Administrator. The name, address, telephone number, fax number, and email address of the Parties' initial Contract Administrators are set out below. Either Party may change the name, address, telephone number, fax number, or email address of its Contract Administrator or Principal Investigator or Key Personnel by giving timely written notice to the other Party.

Any changes in the scope of the contract which increase or decrease the Grantee's compensation are not effective until approved in writing by the Agency's Head or Authorized Agent.

Agency Contract Administrator:	
Mike Christenbury Division of Coastal Management 127 Cardinal Drive Ext Wilmington, NC 28405 Telephone: (910) 796-7426 Email: mike.christenbury@ncdenr.gov	

Grantee Contract Administrator:	Grantee Principal Investigator or Key Personnel
Michael Cramer, Town Manager Town of Carolina Beach 1121 N. Lake Park Blvd. Carolina Beach, NC 28428 Telephone: (910) 458-2994 Fax: (910) 458-2997 Email: michael.cramer@carolinabeach.org	Michael Cramer, Town Manager Town of Carolina Beach 1121 N. Lake Park Blvd. Carolina Beach, NC 28428 Telephone: (910) 458-2994 Fax: (910) 458-2997 Email: michael.cramer@carolinabeach.org

12. Grantee Principal Investigator or Key Personnel: The Grantee shall not substitute the Principal Investigator or key personnel assigned to the performance of this contract without prior approval by the Agency Contract Administrator.

13. Supplantation of Expenditure of Public Funds:

The Grantee assures that funds received pursuant to this Contract shall be used only to supplement, not to supplant, the total amount of federal, state and local public funds that the Grantee otherwise expends for **North Carolina Public Beach and Coastal Waterfront Access Program–Construction of Carolina Beach Boardwalk** services and related programs. Funds received under this Contract shall be used to provide additional public funding for such services; the funds shall not be used to reduce the Grantee's total expenditure of other public funds for such services.

14. Disbursements: As a condition of this Contract, Grantee acknowledges and agrees to make disbursements in accordance with the following requirements:

- a. Implement adequate internal controls over disbursements;
- b. Pre-audit all vouchers presented for payment to determine:
 - Validity and accuracy of payment
 - Payment due date
 - Adequacy of documentation supporting payment
 - Legality of disbursement
- c. Assure adequate control of signature stamps/plates;
- d. Assure adequate control of negotiable instruments; and
- e. Implement procedures to insure that account balance is solvent and reconcile the account monthly.

15. Outsourcing: The Grantee certifies that it has identified to the Agency all jobs related to the Contract that have been outsourced to other countries, if any. Grantee further agrees that it will not outsource any such jobs during the term of this Contract without providing notice to the Agency and obtaining written approval from the Agency Contract Administrator prior to outsourcing.

16. E-Verify: As required by G.S. §143-48.5 (Session Law 2013-418), the Grantee certifies that it, and each of its subcontractors for any contract awarded as a result of this solicitation, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system.

17. Assurances For Non-Federally Funded Contracts: The GRANTEE certifies that with regard to:

1. **Debarment And Suspension** - To the best of its knowledge and belief that it and its principals:
 - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local government agency;
 - (b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

GRANT CONTRACT NO. 6416

- (d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Lobbying - To the best of his or her knowledge and belief, that:

- (a) No Federal, State or local government appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal, State or local government agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body, or an employee of a member of Congress, North Carolina's General Assembly or local government body, in connection with the awarding of any Federal, State or local government contract, the making of any Federal, State or local government grant, the making of any Federal, State or local government loan, the entering into of any Federal, State or local government cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal, State or local government contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal, State or local government appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body; or an employee of a member of Congress, North Carolina's General Assembly or local government body in connection with the Federal, State or local government contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

3. Drug-Free Work Place Requirements - It will comply by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about -
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
- (d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will -
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2), above, from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), above with respect to any employee who is so convicted -

GRANT CONTRACT NO. 6416

- (1) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f), above.
- 4. Will comply with the provisions of the Equal Employment Practices Act set out in Article 49A of Chapter 143 of the North Carolina General Statutes.
 - 5. Will comply, as applicable, with the provisions of the Wage and Hour Act, Occupational Safety and Health Act of North Carolina, Controlled Substance Examination Regulation, Retaliatory Employment Discrimination, Safety and Health Programs and Committees, Workplace Violence Prevention, and other applicable provisions of Chapter 95 of the North Carolina General Statutes regarding labor standards.
 - 6. Will comply with all applicable requirements of all other federal, state and local government laws, executive orders, regulations and policies governing this program.

18. Signature Warranty:

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this agreement.

N.C.G.S. §133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you (Grantee) attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

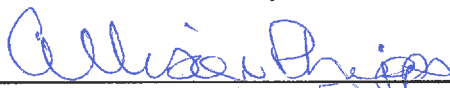
IN WITNESS WHEREOF, the Grantee and the Agency execute this agreement in two (2) originals, one (1) of which is retained by the Grantee and one (1) of which are retained by the Agency, the day and year first above written.

TOWN OF CAROLINA BEACH

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Donald R. van der Vaart, Secretary

By 
Grantee's Signature

By 
Department Head's Signature or Authorized Agent

Michael Cramer
Typed / Printed Name

Michael G. Bryant, Chief of Purchasing
Type / Printed Name and Title

Town Manager
Title

Financial Services Division/Purchasing and Contracts Section
Division/Section

ORIGINAL

DENR - FINANCIAL
SERVICES DIVISION

**General Terms and Conditions
Governmental Entities
May 1, 2011**

MAY 10 10 30 AM '11

DENR - FINANCIAL
SERVICES DIVISION

DEFINITIONS

Unless indicated otherwise from the context, the following terms shall have the following meanings in this Contract. All definitions are from 9 NCAC 3M.0102 unless otherwise noted. If the rule or statute that is the source of the definition is changed by the adopting authority, the change shall be incorporated herein.

- (1) "Agency" (as used in the context of the definitions below) means and includes every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political sub-agency of government. For other purposes in this Contract, "Agency" means the entity identified as one of the parties hereto.
- (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (3) "Certification of Compliance" means a report provided by the Agency to the Office of the State Auditor that states that the Grantee has met the reporting requirements established by this Subchapter and included a statement of certification by the Agency and copies of the submitted grantee reporting package.
- (4) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Agency within the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (5) "Contract" means a legal instrument that is used to reflect a relationship between the agency, grantee, and sub-grantee.
- (6) "Fiscal Year" means the annual operating year of the non-State entity.
- (7) "Financial Assistance" means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patient services.
- (8) "Financial Statement" means a report providing financial statistics relative to a given part of an organization's operations or status.
- (9) "Grant" means financial assistance provided by an agency, grantee, or sub-grantee to carry out activities whereby the grantor anticipates no programmatic involvement with the grantee or sub-grantee during the performance of the grant.
- (10) "Grantee" has the meaning in G.S. 143-6.2(b): a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For other purposes in this Contract, "Grantee" shall mean the entity identified as one of the parties hereto. For purposes of this contract, Grantee also includes other State agencies such as universities.
- (11) "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective.
- (12) "Non-State Entity" has the meaning in N.C.G.S. 143-6.2(a)(1): A firm, corporation, partnership, association, county, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution.
- (13) "Public Authority" has the meaning in N.C.G.S. 143-6.2(a)(3): A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation and (ii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.
- (14) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.
- (15) "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.
- (16) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are sub-granted to other organizations. Pursuant to N.C.G.S. 143-6.2(b), the terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.
- (17) "Sub-grantee" has the meaning in G.S. 143-6.2(b): a non-State entity that receives a grant of State funds from a grantee or from another sub-grantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(18) "Unit of Local Government has the meaning in G.S. 143-6.2(a)(2): A municipal corporation that has the power to levy taxes, including a consolidated city-county as defined by G.S. 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.

Relationships of the Parties

Independent Contractor: The Grantee is and shall be deemed to be an independent contractor in the performance of this Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Grantee represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Agency.

Subcontracting: To subcontract work to be performed under this contract which involves the specialized skill or expertise of the Grantee or his employees, the Grantee first obtains prior approval of the Agency Contract Administrator. In the event the Grantee subcontracts for any or all of the services or activities covered by this contract: (a) the Grantee is not relieved of any of the duties and responsibilities provided in this contract; (b) the subcontractor agrees to abide by the standards contained herein or to provide such information as to allow the Grantee to comply with these standards, and; (c) the subcontractor agrees to allow state and federal authorized representatives access to any records pertinent to its role as a subcontractor.

Sub-grantees: The Grantee has the responsibility to ensure that all sub-grantees, if any, provide all information necessary to permit the Grantee to comply with the standards set forth in this Contract.

Assignment: The Grantee may not assign the Grantee's obligations or the Grantee's right to receive payment hereunder. However, upon Grantee's written request approved by the issuing purchasing authority, the Agency may:

- (a) Forward the Grantee's payment check(s) directly to any person or entity designated by the Grantee, or
- (b) Include any person or entity designated by Grantee as a joint payee on the Grantee's payment check(s).

Such approval and action does not obligate the State to anyone other than the Grantee and the Grantee remains responsible for fulfillment of all contract obligations.

Beneficiaries: Except as herein specifically provided otherwise, this Contract insures to the benefit of and is binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, are strictly reserved to the Agency and the named Grantee. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Agency and Grantee that any

third person receiving services or benefits under this Contract is an incidental beneficiary only.

Indemnity

Indemnification: In the event of a claim against either party by a third party arising out of this contract, the party whose actions gave rise to the claim is responsible for the defense of the claim and any resulting liability, provided that a party may not waive the other party's sovereign immunity or similar defenses. The parties agree to consult with each other over the appropriate handling of a claim and, in the event they cannot agree, to consult with the Office of the Attorney General.

Default and Termination

Termination by Mutual Consent: Either party may terminate this agreement upon thirty (30) days notice in writing from the other party. In that event, all finished or unfinished documents and other materials, at the option of the Agency, shall be submitted to the Agency. If the contract is terminated as provided herein, the Grantee is paid in an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this agreement; for costs of work performed by subcontractors for the Grantee provided that such subcontracts have been approved as provided herein; or for each full day of services performed where compensation is based on each full day of services performed, less payment of compensation previously made. The Grantee repays to the Agency any compensation the Grantee has received which is in excess of the payment to which he is entitled herein.

Termination for Cause: If, through any cause, the Grantee fails to fulfill in timely and proper manner the obligations under this agreement, the Agency thereupon has the right to terminate this contract by giving written notice to the Grantee of such termination and specifying the reason thereof and the effective date thereof. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Grantee, at the option of the Agency, be submitted to the Agency, and the Grantee is entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials. The Grantee is not relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this agreement, and the Agency may withhold payment to the Grantee for the purpose of set off until such time as the exact amount of damages due the Agency from such breach can be determined.

Waiver of Default: Waiver by the Agency of any default or breach in compliance with the terms of this Contract by the Grantee is not a waiver of any subsequent default or breach and is not a modification of the terms of this Contract unless stated to be such in writing, signed by an authorized representative of the Agency and the Grantee and attached to the contract.

Availability of Funds: The parties to this Contract agree and understand that the payment of the sums specified in this Contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Agency.

Force Majeure: Neither party is in default of its obligations hereunder if and it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

Survival of Promises: All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statutes of limitation.

Intellectual Property Rights

Copyrights and Ownership of Deliverables: Any and all copyrights resulting from work under this agreement shall belong to the Grantee. The Grantee hereby grants to the North Carolina Department of Environment and Natural Resources a royalty-free, non-exclusive, paid-up license to use, publish and distribute results of work under this agreement for North Carolina State Government purposes only.

Compliance with Applicable Laws

Compliance with Laws: The Grantee understands and agrees that is subject to compliance with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

Equal Employment Opportunity: The Grantee understands and agrees that it is subject to compliance with all federal and State laws relating to equal employment opportunity.

Confidentiality

Confidentiality: As authorized by law, the Grantee keeps confidential any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Grantee under this agreement and does not divulge or make them available to any individual or organization without the prior written approval of the Agency. The Grantee acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this Contract or without the prior written approval of the Agency.

Oversight

Access to Persons and Records: The State Auditor and the using agency's internal auditors shall have access to persons

and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees or performance). The Contractor shall retain all records for a period of three years following completion of the contract or until any audits begun during this period are completed and findings resolved, whichever is later.

Record Retention: The Grantee may not destroy, purge or dispose of records without the express written consent of the Agency. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to Federal policy and regulations, record retention may be longer than five years since records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has started before expiration of the five-year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period described above, whichever is later.

Time Records: The Grantee will maintain records of the time and effort of each employee receiving compensation from this contract, in accordance with the appropriate OMB circular.

Miscellaneous

Choice of Law: The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, are governed by the laws of North Carolina. The Grantee, by signing this Contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this Contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

Amendment: This Contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Agency and the Grantee.

Severability: In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect.

Headings: The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

Time of the Essence: Time is of the essence in the performance of this Contract.

Care of Property: The Grantee agrees that it is responsible for the proper custody and care of any State owned property furnished him for use in connection with the performance of his contract and will reimburse the State for its loss or damage.

Ownership of equipment purchased under this contract rests with the Agency. Upon approval of the Agency Contract Administrator, such equipment may be retained by the Grantee for the time the Grantee continues to provide services begun under this contract.

Travel Expenses: All travel, lodging, and subsistence costs are included in the contract total and no additional payments will be made in excess of the contract amount indicated in above. Contractor must adhere to the travel, lodging and subsistence rates established in the Budget Manual for the State of North Carolina.

Sales/Use Tax Refunds: If eligible, the Grantee and all sub-grantees shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this Contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

Advertising: The Grantee may not use the award of this Contract as a part of any news release or commercial advertising.

Recycled Paper: The Grantee ensures that all publications produced as a result of this contract are printed double-sided on recycled paper.

Sovereign Immunity: The Agency does not waive its sovereign immunity by entering into this contract and fully retains all immunities and defenses provided by law with respect to any action based on this contract.

Gratuities, Kickbacks or Contingency Fee(s): The parties certify and warrant that no gratuities, kickbacks or contingency fee(s) are paid in connection with this contract, nor are any fees, commissions, gifts or other considerations made contingent upon the award of this contract.

Lobbying: The Grantee certifies that it (a) has neither used nor will use any appropriated funds for payments to lobbyist; (b) will disclose the name, address, payment details, and purpose of any agreement with lobbyists whom the Grantee or its sub-tier contractor(s) or sub-grantee(s) will pay with

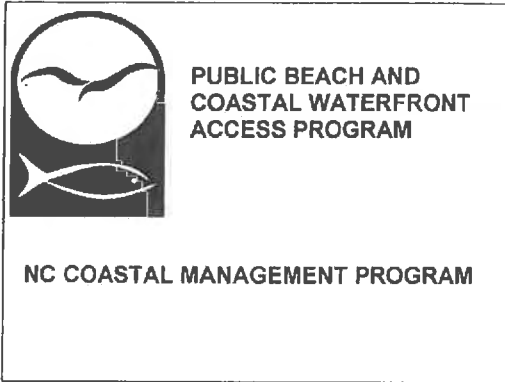
profits or non-appropriated funds on or after December 22, 1989; and (c) will file quarterly updates about the use of lobbyists if material changes occur in their use.

By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32: It is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipates bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24."



**Town of Carolina Beach
Carolina Beach Boardwalk
2014-2015 Cycle**

North Carolina Public Beach and Coastal Waterfront Access Program

Site Location/ Address: Along the beach running parallel to the Atlantic Ocean from just south of Cape Fear Boulevard, north to Pelican Lane.

Local Government: Town of Carolina Beach

Federal ID #: [REDACTED]

Local Administrator of this Project:

Michael Cramer
Town Manager
1121 N. Lake Park Blvd
Carolina Beach NC, 28428

Phone: 910-458-2994

Fax: 910-458-2997

Email: Michael.cramer@carolinabeach.org

Project Description:

Construction of a boardwalk and associated amenities running along the beach strand from just south of Cape Fear Boulevard, north to Pelican Lane.

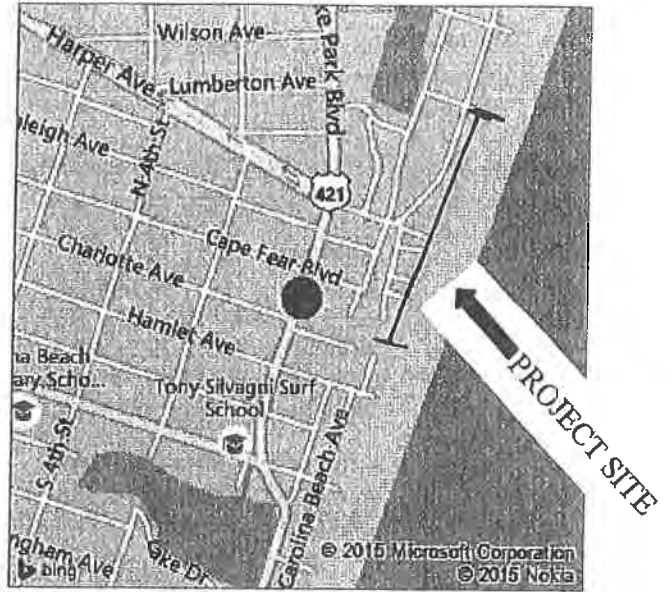
Site Description:

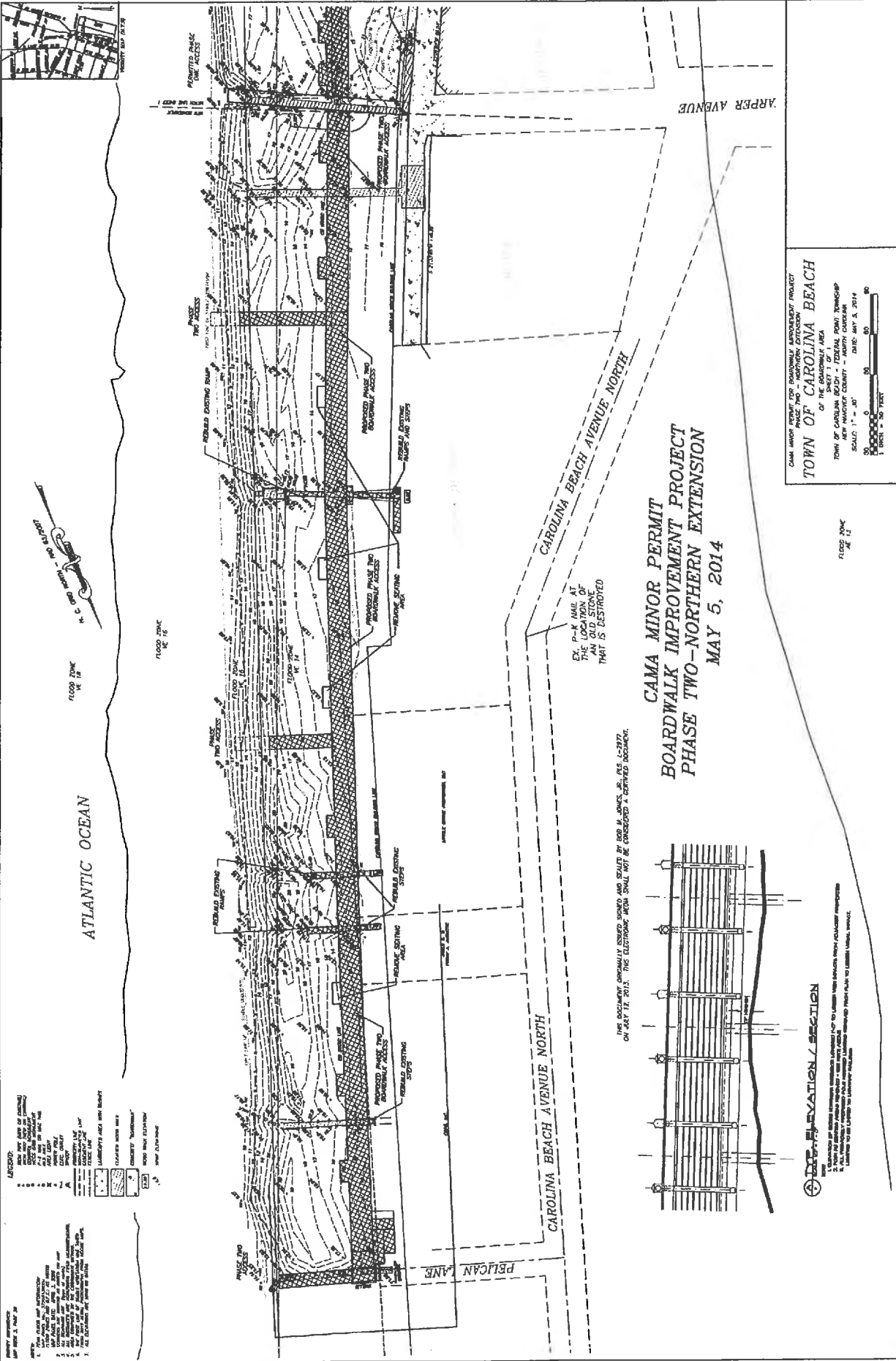
Located along the beach strand adjacent to and parallel to the Atlantic Ocean.

A. REGIONAL LOCATION AND VICINITY MAPS

Print - Maps

Carolina Beach, NC

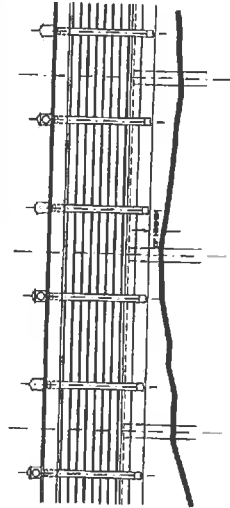




- LEGEND:**
- PROPOSED DRIVEWAY ACCESS
 - EXISTING DRIVEWAY ACCESS
 - PROPOSED SIDEWALK
 - EXISTING SIDEWALK
 - PROPOSED BOARDWALK
 - EXISTING BOARDWALK
 - PROPOSED UTILITY LINES
 - EXISTING UTILITY LINES
 - PROPOSED SIGNAGE
 - EXISTING SIGNAGE
 - PROPOSED LIGHT FIXTURES
 - EXISTING LIGHT FIXTURES
 - PROPOSED UTILITY POLES
 - EXISTING UTILITY POLES
 - PROPOSED DRIVEWAY
 - EXISTING DRIVEWAY
 - PROPOSED SIDEWALK
 - EXISTING SIDEWALK
 - PROPOSED BOARDWALK
 - EXISTING BOARDWALK
 - PROPOSED UTILITY LINES
 - EXISTING UTILITY LINES
 - PROPOSED SIGNAGE
 - EXISTING SIGNAGE
 - PROPOSED LIGHT FIXTURES
 - EXISTING LIGHT FIXTURES
 - PROPOSED UTILITY POLES
 - EXISTING UTILITY POLES

**CAMA MINOR PERMIT
BOARDWALK IMPROVEMENT PROJECT
PHASE TWO-NORTHERN EXTENSION
MAY 5, 2014**

THIS DOCUMENT ORIGINALLY DESIGNED AND SEALED BY BOB M. JONES, JR., P.E. L-2877
ON JULY 17, 2013. THIS ELECTRONIC RECORD SHALL NOT BE CONSIDERED A REPRODUCED DOCUMENT.



ELEVATION SECTION
ELEVATION SECTION OF BOARDWALK IMPROVEMENT PROJECT. ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED. THIS DOCUMENT IS THE PROPERTY OF THE ENGINEER AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER.

CAMA MINOR PERMIT FOR BOARDWALK IMPROVEMENT PROJECT
OF THE TOWN OF CAROLINA BEACH
SHEET 1 OF 1
TOWN OF CAROLINA BEACH - FEDERAL POINT TOWNSHIP
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
SCALE: 1" = 30'
DATE: MAY 5, 2014
1" = 30' FEET

FLOOD ZONE
AE 17

C. OTHER REQUIREMENTS, GUIDANCE AND CONDITIONS:

1. Costs ineligible for grant award reimbursement or local match, unless specifically included in project description:
 - a. Environmental Assessments other than preliminary work associated with site planning and wetland delineation.
 - b. Remediation Plans associated with contaminated sites. However, some costs of actual remediation or clean up may be eligible for non-cash in-kind match.
2. Other state and federal requirements:
 - a. All utility lines funded with a grant award must be placed underground unless otherwise agreed to within the contract.
 - b. All facilities funded with a grant award must comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Prior to closing out a project and receiving final payment of grant funds, the local building official will be required to provide a letter certifying compliance.
3. Project signage, retention of use, and operation and maintenance:
 - a. The community is required to install CAMA public access signs at the project site(s). The State will provide these signs at no cost to the community.
 - b. Any future improvements, modifications, or changes to the project site are required to be subject to full review and approval by DENR/DCM. This can include any changes that require permits or any modifications (reductions or additions) to recreational amenities. Unapproved changes to the project site may be or can be the cause for DENR to seek repayment of previously granted funds for site acquisition and improvements.
 - c. The community is required to allow the inspection of property and facilities acquired or in development pursuant to the grant award by DENR/DCM to ensure work progress is in accordance with the grant award, including a final inspection upon project completion.
 - d. Development plans and specifications are required to be available for review by DENR/DCM upon request. All significant deviations from the project proposal outlined in the grant award will be required to be submitted to DENR/DCM for prior approval.
 - e. The acquisition cost or fair market value of real property, including interest in donated lands, is required to be based upon the appraisal of a licensed appraiser. The reports are required to be provided for review and acceptance by DENR/DCM. Grant funds dispersed for acquisition cannot exceed the fair market value of the real property associated with the award.
 - f. Any tract or parcel of, or interest in, real property subject to being purchased under the provisions of the grant award that is determined by DENR/DCM for any reason not to be suitable can be the basis for all obligations of the State to cease with regard to the property associated with the award.
 - g. Retention of Use: Any property acquired or developed with grant assistance is required to be retained and used for public access. The community is required to agree to transfer title to any real property acquired with the grant funds to DENR if the local government uses the property for a purpose other than public access; or the local government shall reimburse the State with an equal percentage of access grant funds, at current market value.
 - h. Operation and Maintenance: The community is required to agree to operate and maintain solely at its own expense, insofar as it is legally empowered to do so, for as long as they exist, the facilities and areas covered by the grant award contract. Acquired or developed property is required to be operated and maintained as follows:

1. The property must be maintained in such a manner that DENR/DCM finds it to appear attractive and inviting to the public.
 2. Sanitation must be kept at reasonable standards for public use. Fire protection and other similar services must be maintained in accordance with applicable state and local public health standards.
 3. Properties must be kept reasonably safe for public use. The community will determine the level of maintenance and supervision necessary to maintain the facility in a safe condition.
 4. Buildings, roads, and other structures and improvements must be kept in reasonable repair throughout their estimated lifetime, so as to prevent undue deterioration and not to discourage public use.
 5. Buildings, roads, and other structures and improvements must be kept open for public use at reasonable hours and times of the year, according to the type of area or facility.
 6. Reasonable user fees may be assessed, as long as those fees are used exclusively for the operation and maintenance of the access facility and/or other public access facilities within the local jurisdiction. Local governments shall provide biannual accounting reports for fees generated by CAMA-funded access sites. Accounting reports may be included in Biannual LUP Implementation Status Reports required under 15A NCAC 7L.0511.
- i. Reasonable Use Limitations: The use of property acquired or developed with grant assistance may not be changed from that proposed and approved in the grant award, unless approval is obtained from DENR/DCM. The community may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with grant assistance when such a limitation is necessary for maintenance or preservation. All limitations will be required to be in accord with the applicable grant contract.
 - j. Use of Proceeds of Sales of assisted areas and facilities: The proceeds of sale of assisted areas and facilities will be required to be held by DENR/DCM or community and be disposed of only in accordance with a plan approved by DENR/DCM.
4. Notice of Limitations of Use and Restrictions: The community and/or owner of the real property acquired or improved with grant funds awarded is required to file in the office of the local Register of Deeds a Notice of Limitation of Use and Restrictions that sets forth the land-use restrictions outlined in the grant award contract and to provide a copy to DENR/DCM.
 5. Acquisition and Development of the Site: Following acquisition, the Grantee has five years to begin developing facilities that ensure the site is useable for public access. Prior to closeout, a 'Plan for Future Development' must be provided which describes how the public will be able to use the site for public access until facilities are provided. A conceptual site plan showing proposed facilities and a timeline for development. Failure to ensure the property is accessible for public access after five years will be the basis for meeting Section D. Condition 3 (g).

Local Government: Town of Carolina Beach
Project: Carolina Beach Boardwalk

D. BUDGET SUMMARY

	Grant Assistance Requested	Local Cash Contribution	Local In-Kind Contribution	TOTAL
<u>Land Acquisition Costs</u>				
Subtotal				
Permit and Design Fees:				
Boardwalk northern extension	\$416,500	\$130,900		\$547,400
Boardwalk southern replacement, electrical, plumbing, lighting, landscaping, install retaining wall and sail shades.	\$182,867	\$97,421		\$280,288
Subtotal	\$599,367	\$228,321		\$827,688
Site Improvement Costs:				
Materials and Labor				
Subtotal				
Local Administrative Costs: In-kind				
Subtotal				
TOTAL BUDGET	\$599,367	\$228,321		\$827,566

Below is the Project Timeline for improvements under the grant award. Progress monitoring will occur at 6-month intervals for the duration of the 18-month contract. Adjustments to the timeline will require approval by the Contract Administrator.

E. PROJECT SCHEDULE & ACTIVITIES CHART

This chart illustrates grant and local cash match amounts tied to deliverables per project period. Local funds must be spent before drawing down grant funds. Non-cash match is not illustrated or represented in this chart. However, non-cash match documentation must still be reported at the time of project closeout.

PROJECT SCHEDULE & ACTIVITIES CHART

Grant: \$ 599,367

Cash Match: \$ 228,321

Non-cash Match:

Total Project Cost: \$ 827,688

<p>% of total work to be completed 34%</p> <p>Grant funds to be spent: \$203,785</p> <p>Local funds to be spent: \$ 77,629</p>	<p>Project Period 1</p> <ul style="list-style-type: none"> • Boardwalk south replacement – install plumbing, electrical and lighting • Install retaining wall, sail shades, landscaping, sea oats and irrigation
<p>% of total work to be completed 33%</p> <p>Grant funds to be spent: \$ 197,791</p> <p>Local funds to be spent: \$ 75,346</p>	<p>Project Period 2</p> <ul style="list-style-type: none"> • Begin construction on northern boardwalk extension • Begin electrical and plumbing
<p>% of total work to be completed 33%*</p> <p>Grant funds to be spent: \$ 197,791</p> <p>Local funds to be spent: \$ 75,346</p>	<p>Project Period 3</p> <ul style="list-style-type: none"> • Complete Construction on northern boardwalk extension • Install landscaping and sea oats, and lighting • Final Inspection • Grant Close out

*The final project period includes a holdback of 10% of the grant award, which is retained until a closeout packet is received and approved by the District Planner/Contract Administrator.

F. PROJECT/CONSTRUCTION/PROCESSES/REPORTING BY THE APPLICANT

1. The project will be required to be completed consistent with 15A NCAC 7M SECTION .0303 (e), (f) and (g), as are all deliverables outlined in the "Project Schedule and Activities Chart".
2. The DENR/DCM will withhold the initial payment of grant funds until the community has documented expenditure of the local cash match sum. The in-kind services match is to be documented by the community and delivered to DCM with contract closeout materials.
3. Consistent with the "Project Schedule & Activities Chart", the community will be required to submit reports as to the status and progress of the project. The local District Planner (Contract Administrator) will provide the periodic and final closeout report form templates.
4. Grant funds will not be disbursed until a Title Opinion for the site has been submitted to and approved by the local District Planner/Contract Administrator.
5. No construction credited towards the grant is to occur prior to the receipt of all required local, state, and federal permits. Coordination with permitting agency personnel will be required to assure the least amount of impact on coastal resources.
6. If the community subcontracts with a company engaged in another project(s) for the locality, all accounting and reporting specific to the project associated with the grant award will be required to be wholly separate from that of the other project(s).

Reimbursement of project cost:

7. Actual payments of the award will be based on the local District Planner/Contract Administrator's approval of a monitoring report. Final requisitions and invoices for payment will be required to be received by DCM within 30 days after the end of the grant contract period. Upon approval of the closeout packet, the State will release the final 10% as provided for in the contract.
8. The community is required to maintain and make available to DENR/DCM upon request all bid documents and accurate records of all expenditures for costs applicable to the grant award, and to submit properly certified billings for such costs on forms as may be prescribed by DENR/DCM. The community will need to keep complete accounting records, including original invoices, payrolls, contracts, or other documents clearly showing the nature and property of all costs incurred under the grant award for a period of three years following project completion, or until an audit has been completed, whichever is later. All accounting records and supporting documents must clearly display the project's contract number assigned by the State.
9. Community will be required to agree to refund to DENR/DCM, subsequent to an audit of the project financial records by DENR/DCM, any funds not expended in compliance with the grant contract.

10. Cash and Non-Cash In-kind Contributions (General): Cash and in-kind contributions may be claimed as part of the local government's match when such contributions meet all of the following criteria:
- a. Are provided for in the project budget approved by DCM;
 - b. Are verifiable from the local government's records;
 - c. Are necessary and reasonable for proper and efficient completion of the project;
 - d. Are not included as contributions for matching any other state or federally assisted projects or program, except where authorized by state or federal statute;
 - e. Use of other state or federal funds for local cash match must be identified to ensure that double matching does not occur;
 - f. Do not include N.C. state sales tax; and
 - g. Conform to other provisions of these guidelines, as applicable.

In general, in-kind contributions are derived from resources already on hand or from donations, whereas, cash contributions will be utilized to purchase new services or equipment necessary for proper completion of the access project.

11. Cash Contributions: Local cash contributions may be claimed for the following accountable items: planning and project design fees, permit fees, land acquisition (including survey and appraisal), labor (other than local government salaried employees), materials, construction equipment rental, amenities, and infrastructure. These costs must be incurred during the contract period.
12. Site Amenities: The cost of other amenities purchased by the local government during the contract period may be included as part of the cash contribution if it is an integral part of the access facility or its construction. Examples include park benches, bike racks, water fountains, trashcans and lights.
13. Rental of Construction Equipment: If the local government must rent construction equipment to complete the proposed project, such as front loaders, graders or dump trucks, rental costs may be included as cash contribution. The purchase of tools, maintenance equipment, office equipment and indoor furniture are not eligible for reimbursement with grant funds. (Also see 17b below)
14. State and Federal Funds: State and federal funds may be counted as cash match, provided the funds are not being used as a match for other programs. Such funds must be identified within the project budget chart. Local government employee salaries do not qualify as cash match, but may be counted toward non-cash in-kind match.
15. In-kind Contributions: Local in-kind non-cash contributions may be claimed for the following accountable items: project design fees, permit fees, land acquisition (including survey and appraisal), labor (including local government salaried employees), materials, construction equipment rental, amenities, and infrastructure. These costs must be incurred during the contract period, except as specifically indicated below.
- a. Site Assessments: Title opinions, property appraisals, boundary surveys, and wetland delineations associated with land acquisitions and site improvements may be counted toward in-kind match, provided the costs are incurred within three (3) years of the grant award date. Please note the District Planner/Contract Administrator can require a more current appraisal.
 - b. Donations of Property and Services: Land/Structures - If the local government has land that has recently been donated or that will be donated, or structures for an access facility, and the

donation is allowed by DCM to be counted as local contribution, the value of the donation for purposes of in-kind contributions shall be established by an independent licensed appraiser. The donor of the land must be a private or non-profit organization, or individual. The community must provide a five-year history of conveyance for the property. Land that is transferred to the community due to a statute or rule is not considered a donation. If a landowner is proposing to sell land to the community for less than the appraised value, the amount of the donation is the difference between the appraised value and the amount paid by the applicant. Donation to, or acquisition of, the property/structure by the local government must have occurred within five (5) years of the grant award. A long-term easement (more than 25 years from the date of the grant award) of land may also be considered under this guideline.

- c. Property Lease: Lease arrangements must be for the life of the project (generally 25 years). When property is leased to the local government for an annual fee, the first year's lease payment may be considered as in-kind contribution.
 - d. Professional Fees: If the usual fees of a licensed professional, such as architects and engineers, are waived or donated to the local government for work associated with the access project, the fees may be claimed as in-kind contributions. Rates shall be consistent with local pay scales. Partial contribution of a fee (for example, the balance of a discount rate) will not be considered as in-kind match. All volunteer services must be documented by invoice showing the billing rate for the service and the number of hours, and that the charges are forgiven.
 - e. Construction Equipment: The use of privately-owned construction equipment (graders, loaders, dump trucks, etc.) donated for construction of the access facility may be claimed as in-kind contribution. The use value of the rented equipment shall not exceed its fair rental value.
 - f. Building Materials, Site Amenities and Landscaping Materials: Building materials (lumber, hardware, marl, etc.), site amenities (benches, bike racks, water fountains, etc.) and landscaping materials (plants, soil, timbers) donated to the project may be claimed as in-kind contribution. The value of any of these goods shall not exceed fair market value at the time of donation. To be eligible as in-kind contributions, the building material, amenities or landscape materials must be an integral part of the original access project as presented in the Final Application submitted to DCM and specified in the contract.
16. FEMA Buyout Properties: Property that was part of a FEMA buyout or other similar mitigation program is eligible for this grant program, provided the original conditions for the buyout is not in conflict with the proposed improvements. Use of recent buyout property's value as non-cash in-kind match may be considered similarly as previously purchased or donated property.
17. Volunteer Services: The eligibility of volunteer services as in-kind contribution is limited to professional engineering and architectural services when those services are not found in the local government. Paid fringe benefits that are reasonable, allowable and allocable may be included in the valuation, if approved by DCM. When an employer other than the local government furnishes the services of an employee, or when an individual contractor volunteers, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits, as described above), provided these services employ the same technical skill for which the employee is normally paid. All volunteer services must be documented by signed invoice showing the billing rate for the service, number of hours, and a statement that the charges are forgiven.
- a. Excluded from volunteer services are prison labor, court-required community service and other work programs, and volunteer civic groups.
 - b. In those instances in which the required skills are not found in the local government, or for other activities specifically approved by DCM, rates shall be consistent with those paid for

similar work in the labor market in which the local government competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

18. Site Control: The applicant must own or have at least a 25-year lease or easement on the property where improvements or renovated facilities would be located. The community must submit copies of the deed or of the signed lease or easement, as well as the opinion by the community's attorney, regarding site control as part of the Final Application submittal. *Proposals that include the leasing or acquisition of easements as part of the total project cost must include them in both the project description and budget chart.* Leases and easements shall be recorded in a similar manner as Section D., Condition 4.
19. Joint-Use Agreement: Where property is owned or controlled by another governmental entity or agency, a joint-use agreement may suffice, subject to approval of DENR. (Also see Section G., Condition 18)
20. When to Take Title to Land/Leases/Easements: All communities must sign a contract with the State *before* accepting title/lease/easement to land that will be accomplished using grant funds, unless otherwise approved by DCM. This also applies to property that is donated to the local government. The exception is when the intent is to use it toward non-cash match.



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

August 12, 2013

The Honorable Bob Lewis
Mayor, Town of Carolina Beach
1121 N. Lake Park Boulevard
Carolina Beach, N.C. 28428

Dear Mayor Lewis:

I am pleased to announce that the Town of Carolina Beach has been awarded a public access grant of \$602,900 through the North Carolina Beach and Waterfront Access Program.

The Division of Coastal Management will be administering this grant. If you have any questions concerning this grant, please contact John Thayer in our Morehead City office at (252)808-2808 Ext. 204.

Congratulations on being selected for this grant. I hope these funds will help you as you work to provide better public access to our beautiful coastal beaches and waterways.

Sincerely,

John E. Skvarla, III
NCDENR Secretary

cc: Joseph Harwood, DENR Ombudsman
Braxton C. Davis, Director, DENR Division of Coastal Management

1601 Mail Service Center, Raleigh, North Carolina 27699-1601
Phone: 919-707-8600 | Internet: www.ncdenr.gov

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STATE OF NORTH CAROLINA)	BEFORE THE NORTH CAROLINA
)	COASTAL RESOURCES COMMISSION
COUNTY OF NEW HANOVER)	CRC-VR-14-02
)	
)	
IN THE MATTER OF:)	FINAL AGENCY DECISION
PETITION FOR VARIANCE)	GRANTING IN PART AND DENYING
BY)	IN PART PETITION FOR VARIANCE
TOWN OF CAROLINA BEACH)	

This matter was heard on oral arguments and stipulated facts at the regularly scheduled meeting of the North Carolina Coastal Resources Commission (hereinafter Commission) on February 26, 2014 in Nags Head, North Carolina pursuant to N.C. Gen. Stat. § 113A-120.1 and 15A NCAC 7J .0700, *et seq.* Assistant Attorney General Elizabeth Jill Weese, Esq. appeared for the Department of Environment and Natural Resources, Division of Coastal Management (DCM). Charlotte Noel Fox, Town Attorney appeared on behalf of Petitioner Town of Carolina Beach.

Upon consideration of the record documents and the arguments of the parties, the Commission adopts the following:

STIPULATED FACTS

1. The Town of Carolina Beach ("Petitioner" or "Town") is a North Carolina municipal body politic organized and existing in Carolina Beach, New Hanover County, North Carolina.
2. The Carolina Beach Building Line Act was passed in 1963 which granted the Town title to the land between the building line and the low water mark of the Atlantic Ocean subject to the public trust rights. (Session Law 1963, Chapter 511)
3. The Public Beach (land from the high water mark westward to any land raised by

a publicly financed beach renourishment project) is owned by the State of North Carolina in accordance with N.C.G.S. §146-6(f) and the Public Trust Doctrine.

4. In accordance with 15A NCAC 7J .1200 et seq. the Town of Carolina Beach was granted a static vegetation line exception by the Commission on August 27, 2009. A draft five year progress report was submitted by the Town to the DCM in July 2013 for comment. In order for the Town to keep the static line exception, the Commission must approve the Town's 5-year updated progress report by August 27, 2014.

5. The Carolina Beach Boardwalk project is within the limits of the delineated static vegetation line. On-site review and the survey dated November 25, 2013 ("survey") indicate that the actual vegetation line is approximately 90' oceanward of the static vegetation line. See survey and power point photographs which were provided to the Commission by the parties.

6. In August of 2013, DCM notified the Town that it was awarding the Town a Public Beach and Coastal Waterfront Access grant. The total grant amount was \$602,900, with a local match of \$247,560 and local in-kind contribution of \$202,760. The grant is for the project proposed in this variance, including the replacement and extension of the existing boardwalk, nine beach access ramps, a gazebo, lighting, bike racks, trash bins and benches. The grant contract has not yet been signed, pending the approval of a CAMA permit and variance. If granted, the contract award date will determine the expiration date of the grant. A letter dated August 12, 2013 acknowledging this grant was provided to the Commission by the parties.

7. The Town has also received a \$500,000 grant from New Hanover County to support the proposed project. Additionally, in 2010 the Town received a grant from DENR Water Resources for \$250,000 to facilitate land acquisition for a pier; however, other funding for

the proposed pier was not available. Therefore, in 2013 DENR/Water Resources approved the Town's request to transfer the funding to the proposed Boardwalk project.

8. On November 18, 2013, the Petitioner applied for a CAMA minor development permit (Permit Application Number- CB13-12) requesting approval of the Carolina Beach Boardwalk Improvement Project – Phase 2. While the Town has an implementation and enforcement program which authorizes the designated local official to issue CAMA minor permits, because the Town is the applicant in this case, the minor permit must be considered and determined by the DCM pursuant to the requirements of N.C.G.S. § 113A-121(b).

9. The Petitioner proposes to replace and expand the existing boardwalk which runs parallel to the oceanfront central business district of the Town. The existing boardwalk is 8 feet wide and 750 feet long.

10. Under the proposed plan, the Town would increase the width of the boardwalk to sixteen feet and would extend the boardwalk by approximately 875' north to Pelican Lane. Following the expansion, the total length of the board walk would be approximately 1730 feet.

11. The extension also includes adding three new 10-foot wide public beach access walkways and nine new 100 square foot bump-outs for seating areas, resulting in a total of eight public beach access ways and 25 bump-out seating areas. The proposed development has been divided into two phases. Five of these beach accesses were recently authorized under a CAMA Minor Permit (Permit No. CB13-10) issued for Phase I of the proposed development. Development in Phase II of the proposed development includes covering the existing uncovered platform with a roof measuring approximately 40 feet by eighteen feet and constructing three covered gazebos, each measuring approximately 12' in length by 24' in width.

12. Upland development along the landward side of the new beach accesses and within the Ocean Hazard 60 foot small structure setback includes a splash pad/water park with approximately 2,500 sq. ft. of concrete within an existing landscaped cove area just south of the existing public access located at Harper Ave.

13. No objections to the CAMA permit application were received by the Wilmington Regional office. However, on or about January 28, 2014 an attorney representing Mr. A.D. Averette forwarded a letter outlining Mr. Averette's concerns about the proposed project to the Director of the Division of Coastal Management. A copy of Mr. Averette's deed was included with the letter and both were provided to the Commission.

14. On or about December 6, 2013, Mr. Averette communicated with a town council member about the boardwalk project. The Town's responses to Mr. Averette were provided to the Commission.

15. On December 20, 2013 the DCM denied the Permit Application pursuant to N.C.G.S. § 113A-130(a)(8) which requires that projects inconsistent with State guidelines for Areas of Environmental Concern (AEC's) be denied.

16. Rule 15A NCAC 07H .0306(a)(2) states that no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance, with the exception of those types of development defined in 15A NCAC 07H .0309.

17. The proposed replacement/expansion of the Carolina Beach Boardwalk is inconsistent with the strict application of 15A NCAC 07H .0306(a)(2) in that the entire structure is located oceanward of the Ocean Hazard 60' setback and portions of the new structure will extend oceanward of the static vegetation line. The boardwalk replacement/expansion does not

conform to any of the exceptions set forth in 15A NCAC 07H .0309.

18. The existing concrete portion of the Carolina Beach Boardwalk along the central business district has been in existence in some form since approximately 1890.

19. The elevated timber portion of the existing Carolina Beach Boardwalk was permitted in May 1989 and was deemed consistent with rules in effect at that time.

20. The Carolina Beach Boardwalk provides access to the public beach areas for the general public. The proposed replacement/expansion of the Carolina Beach Boardwalk will increase access to the public beach areas for handicapped individuals who use wheelchairs or other assistive devices for mobility. Expanding the width of the boardwalk will also facilitate the flow of traffic for pedestrians by easing overcrowding.

21. The structure will be elevated above the existing dune system, so it should have only temporary minimum impact during the installation of pilings.

STIPULATED EXHIBITS

Included with the Staff Recommendation for the Commission's review were the Stipulated Exhibits listed below.

1. August 12, 2013 Letter to Mayor Bob Lewis from John E. Skvarla, III announcing award of public access grant of \$602,900 through the NC Beach and Waterfront Access Program;
2. December 20, 2013 letter to Town of Carolina Beach from Robb Mairs, Acting LPO denying Permit;
3. January 15, 2014 Letter to Braxton Davis from Charlotte Noel Fox forwarding variance request and attachments;
4. CAMA Variance Request Form 14-02 dated January 15, 2014;
5. January 14, 2014 Project Description - Boardwalk Improvement Project Phase 2.

6. January 14, 2014 Letter to Adjacent Property Owner from the Town Attorney stating that The Town of Carolina Beach is applying for a variance from the Commission to construct and expand the Carolina Beach Boardwalk on Public Trust Lands adjacent to the adjacent property owner's property, that the variance request will be heard at the Commission next meeting scheduled for February 26 and 27 at Jennette's Pier in Nags Head, NC, and instructing that comments or objections may be submitted to Braxton Davis, DCM
7. January 28, 2014 Letter to Braxton Davis from Ned M. Barnes, Esq. regarding Mr. Averette's concerns regarding the requested variance and enclosed Deed;
8. December 6, 2013 letter to James Averette from Carolina Beach Town Councilmember Steve Shuttleworth;
9. December 6, 2013 letter to James Averette from Carolina Beach Town Attorney regarding public trust and enclosed drawings (3);
10. Color Concept Plan of Existing Boardwalk Phase 2;
11. Site Plan Sheets 1 and 2;
12. Preliminary Structural Drawings;
13. Four photographs showing the existing Carolina Beach Boardwalk – 2013;
14. PowerPoint showing site and actual vegetation line and static vegetation line;
15. Aerial Photo of Averette Property;

In addition, the Commission considered a letter sent February 18, 2014 to Braxton Davis, DCM Director from James Donald Averette opposing the north extension of the proposed boardwalk expansion. Some of the individual Commission members received similar letters from Mr. Averette prior to the February 26, 2014 Commission meeting. In his letters, Mr. Averette referenced the letter previously forwarded to DCM by his attorney, Mr. Ned Barnes, and

expressed concern that if the walkway is built as proposed, there would be an increase in noise, unauthorized access, a loss of privacy and vandalism. In his letter, Mr. Averette stated that he supports improvements to the boardwalk but does "not understand why the boardwalk has to be extended all the way down the beach in front of individually/personally owned properties."

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter.
2. All notices for the proceeding were adequate and proper.
3. Petitioner has requested a variance in order to complete the work described in its application for CAMA Minor Permit Boardwalk Improvement Project Phase Two – November 25, 2013 which includes the following development:

- a. Demolition of the entire 750 foot existing eight foot wide Boardwalk and four existing six foot wide cross over public beach accesses and the construction of a new sixteen foot wide Boardwalk structure parallel to the shoreline and five new ten foot wide crossover public beach accesses. The new Boardwalk would be located in the existing structure footprint widened four feet on each side. The Boardwalk is proposed to include four 200 square feet of covered gazebos, and sixteen 96 square feet "bump outs" for benches and swings, and four non-covered wooden lattice trellises. The new accesses would also be located in existing footprints widened two feet on either side. The fifth new access from the Boardwalk to the beach will be located second access from south as shown on the drawings provided to the Commission. All structures will be elevated above the dunes. The structure and piling depths will be in accordance with Building Code requirements. The structure is an engineered "heavy timber" type design in accordance with Building Code requirements for commercial structures. The design is also required to comply with Carolina Beach Fire District requirements.
- b. New extension of the Boardwalk approximately 875 feet north to the Pelican Lane Public Access. The design of the extension will be identical to that proposed for the replacement of the existing structure. The Boardwalk extension would include three new ten-foot wide public accesses, three re-built existing private accesses, and nine 96 square feet bump outs for benches and swings. A lattice trellis is proposed at the Pelican Lane Access.
- c. Addition of a wood framed roof to the existing 700 square foot viewing platform.

- d. New showers at the Harper Ave. access.
- e. A splash pad/water park facility approximately 2,500 square feet in size is proposed in the landscaped cove just south of Harper Ave. While the final design has not been completed, the pad would be a pervious pavement area with a variety of water fountains, arches, spray and misting fixtures for recreational use. In addition, the landscaped coves between the Boardwalk and sidewalk will be redesigned to also include public art, historical and environmental educational kiosks, seating and picnic facilities and open space for music, art and other cultural events and passive recreation use.

(Hereinafter, the proposed development described in section 3(b) above will be referred to as the "northern extension.") The Commission determined that Petitioner has met each of the requirements set forth in Statute § 113A-120.1(a) and 15 NCAC 07J .0703(f) for those portion of the proposed Phase 2 development described above in sections 3(a), (c), (d), and (e). However, the Commission determined that Petitioner failed to demonstrate that the proposed development considered in its entirety, including the proposed northern extension of the Boardwalk, is consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission, will secure the public safety and welfare, and will preserve substantial justice. Therefore, the Commission grants the request for a variance in part and denies the request in part as set forth in more detail below.

- a. **Petitioner has demonstrated that strict application of 15A NCAC 07H .0306 and .0309(a) will cause unnecessary hardships.**

The Commission affirmatively finds that Town has demonstrated that a strict application of the rule prohibiting development oceanward of the ocean hazard setback distance will cause Petitioner unnecessary hardships by prohibiting the replacement and extension of the existing Boardwalk.

In creating the Coastal Area Management Act (CAMA), the legislature recognized the

importance of preserving and protecting the public's opportunity to enjoy the physical, aesthetic, cultural and recreational opportunities provided by the shorelines of the State. Included among the stated goals of CAMA are (1) insuring the orderly and balanced use and preservation of coastal resources on behalf of the people of North Carolina and the nation and (2) the establishment of policies, guidelines, and standards for economic development, recreation and tourist facilities, preservation and enhancement of the historic and cultural aspects of the coastal area. See N.C.G.S. § 113A1-2(a) and (b). The Commission's rules also recognize the need to balance protection of the coastal lands and waters of the State with common law and statutory rights of access to public trust areas.

Rule 15a NCAC 07H .0306(a)(2) provides that no development including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance with the exception of those types of development defined in 15A NCAC 07H .0309. The Town holds title to the land between the building line and the low water mark of the Atlantic Ocean subject to public trust rights. (SF 2) Land from the high water mark westward to any land raised by a publically financed beach nourishment project is owned by the State of North Carolina. (SF 3) The Town was granted a static vegetation line exception by the Commission in 2009. (SF 4) The proposed development is within the limits of the delineated static vegetation line. (SF 5) The static line, which is based on a pre-nourished vegetation line, is significantly landward of the actual vegetation line's location on this nourished beach. A recent survey establishes that the actual vegetation line is approximately 90 feet oceanward of the static vegetation line. (SF 5) The proposed replacement/expansion of the Carolina beach boardwalk called for in Phrase 2 is inconsistent with the strict application of these rules in that the entire structure is located

oceanward of the Ocean Hazard sixty-foot setback and portions of the new structure will extend oceanward of the static vegetation line. (SF 17) Moreover, the proposed development does not conform to any of the exceptions set forth in 15A NCAC 07H .0309. (SF 17)

However, the Carolina Beach Boardwalk has been in place in some form since the 1890's. It is a unique historic structure and a focal point for the community which provides beach access from the central business district for hundreds of thousands of visitors each year. The existing elevated portion of the Boardwalk was deemed consistent with rules in effect at the time it was permitted. Not only has the existing boardwalk been in existence for many years, but Carolina beach has been nourished through a U.S. Army Corps of Engineers project for the last 50 years and this part of the beach is under the static line exception designation. Strict application of the oceanfront erosion setback to prevent replacement and extension of the existing Boardwalk would cause the Town unnecessary hardships since the static line, which is based on a pre-nourished vegetation line, is significantly landward of the location of the actual vegetation line on this nourished beach.

In addition, Petitioner has established that it would be an unnecessary hardship to strictly apply the rules in this case, where there is an existing permitted Boardwalk and the replacement and extension of this public project as contemplated by the proposed Phase 2 development of the project will aid access to the beach by the public and will not significantly adversely impact the dune system in doing so. Thus, the Commission affirmatively finds that Petitioner has met the first factor as required by N.C.G.S. § 113A-120.1(a)(1).

- b. Petitioner has demonstrated that the hardship results from conditions peculiar to Petitioner's property.**

The Commission affirmatively finds that Petitioner has demonstrated that any hardship

results from conditions peculiar to the property. In this case, the proposed development would take place on publically owned property subject to a historic static line on a beach nourished for the last 50 years. The actual vegetation line is significantly waterward of the static line. If the proposed development were a house, the proposed development could be allowed under the static line exception. However, replacement of a boardwalk parallel to the shoreline is not included as a static line exception in the rules. Thus, the application of the rule to the conditions peculiar to Petitioner's property results in hardship. For this reason, the Commission affirmatively finds that Petitioner has established the second factor required by N.C.G.S. §113A-120.1(a)(2).

c. Petitioner has demonstrated that the hardship does not result from actions taken by Petitioner.

The Petitioner has demonstrated that any hardship does not result from actions taken by Petitioner. Specifically, the Carolina Beach Boardwalk has been in existence for many years. The proposed development will repair and widen the existing boardwalk, add public access within the ocean hazard setback, and provide other improvements. Petitioner did not cause any of the hardships which may result from a strict application of the rules since the present location of the existing Boardwalk is already in place and the existing Boardwalk, when permitted and built, was deemed in compliance with applicable rules. Given that the proposed development is for the replacement and enlargement of an existing facility, and not the development of a new facility, the Commission finds that any hardships resulting from strict compliance with these rules are not caused by actions taken by the Petitioner and Petitioner has met the third criteria required by N.C.G.S. §113A-120.1(a)(3).

- d. **Petitioner has demonstrated that the requested variance is consistent with the spirit, purpose and intent of the Commission's rules, will secure public safety and welfare, and will preserve substantial justice.**

The Commission affirmatively finds that Petitioner's request for a variance to complete the replacement of the existing Boardwalk and other improvements, with the exception of the proposed northern extension of the Boardwalk approximately 875 feet north to the Pelican Lane Public Access, is consistent with the spirit, purpose and intent of the Commission's rules, will secure public safety and welfare, and will preserve substantial justice.

Specifically, the spirit, purpose and intent of the rules is to permit development as long as it does not involve alteration or removal of primary or frontal dunes and does not compromise the integrity of the dune as a protective landform or the dune vegetation. 15A NCAC 7H .0309(a). This rule further provides that over walks should be used to protect existing dunes. In this case, the replacement structure will be elevated above the existing dune system. Therefore, it should have minimum impact on the existing dune system except for a temporary impact during installation of pilings. (SF 21)

In this case, Petitioner is attempting to "manage the public trust areas so as to safeguard and perpetuate their biological, economic and aesthetic value. The proposed project, excluding the proposed northern extension, will improve the biological value of the public trust lands by protecting the dune ecosystem and providing limited access in a manner that is protective of the dune ecosystem. Moreover, the combination of the width of the beach and the location of the actual vegetation line results in the proposed development landward of the actual vegetation line. Here, the beach is not in a natural state due to the years of beach nourishment by the US Army Corps of Engineers and the historical presence of the Boardwalk. Replacing the existing

Boardwalk and in this way providing increased access for visitors, including visitors with disabilities, would meet the spirit, purpose and intent of the rules, with minimal adverse impacts to the dune system. Moreover, by funneling visitors to the beach by means of a raised Boardwalk and a limited number of accessways, the proposed replacement of the existing Boardwalk protects the dune ecosystem.

In addition, the requested variance to replace and repair the existing Boardwalk and related improvements, except for the proposed northern extension, would secure the public safety and welfare and preserve substantial justice. The existing structure is now antiquated and in need of repair and/or replacement. As explained by the Town in the project description, replacement of the narrow existing Boardwalk and accessways with newer wider structures will provide a safer pedestrian walkway and is designed to increase access to the public beach. And, by widening the existing Boardwalk, the Town will ease congestion on the boardwalk and thereby improve the public welfare. In addition, the Town's commitment to improving access for visitors with disabilities is also in keeping with the Commission's rules and will provide substantial justice for disabled members of the public as well as other visitors.

Finally, the proposed replacement and expansion of the existing Boardwalk, excluding the proposed north extension, will enhance the Town economically which is an importance aspect of the Commission's role in balancing development with the protection and preservation of the coastal area of North Carolina.

For these reasons, the Commission has found that Petitioner has shown that the requested variance, with the exception of the northern extension, is consistent with the spirit, purpose and intent of the Commission's rules, will secure public safety and welfare and will preserve

substantial justice. Therefore, for this portion of the proposed development, excluding the northern extension, Petitioner has met the fourth factor in N.C.G.S. §113A-120.1(a)(2).

However, the Commission affirmatively found that the proposed new construction extending the existing Boardwalk approximately 875 feet north to the Pelican Lane Public Access is not consistent with the spirit, purpose and intent of the Commission's rules, will not secure public safety and welfare, and will not preserve substantial justice. Specifically, the area which would be impacted by the proposed northern extension of the existing boardwalk does not presently have an existing structure and it would be is not consistent with the spirit, purpose, and intent of the Commission's rules to allow development of a 16-foot wide and approximately 875-foot long structure parallel to the public trust area in the ocean hazard setback. Such a large wooden structure would impede access to the public trust area and act as a barrier between the Town of Carolina Beach and the beach public trust area.

Furthermore, by adding the northern extension to the existing Boardwalk, the public safety and welfare would be put at risk. The addition of a big wooden structure on the oceanfront may create a hazard during a big storm that could impact adjacent inland property owners. Furthermore, by extending the existing Boardwalk, and thereby increasing pedestrian traffic in front of the adjacent property, the proposed development would expose the adjacent landowners to increased noise, invasion of privacy, vandalism and/or other crimes. At the hearing, the Town expressed its intention to address these concerns by insuring the structure and by providing security to the adjacent commercial and residential adjacent property owners. However, these measures only serve to emphasis the increased risks to public safety and welfare related to construction of the proposed development.

Finally, the proposed development of the 875-foot long northern extension of the existing Boardwalk would not create substantial justice since it would privilege the interests of the general public over the long term interest of the Averette family who has owned a beachfront cottage at Carolina Beach since 1935. The Town has attempted to balance the interests of the public with the interest of the Averette family. To that end, the Town has sent Mr. Averette three options for providing private access with secure, locked gates to the Boardwalk adjacent to his property which would provide access to the public trust beach. In addition, the Town has modified its plans in order to move the location of the Boardwalk away from the Averette property line, remove benches from in front of the property, and change the lighting adjacent to the Averette property. However, to date, the proposals have not allayed Mr. Averette's expressed concerns regarding the impact the northern extension to the Boardwalk would have on access to the public trust area from his adjacent property and other safety concerns which follow from adding a walkway in front of his property with corresponding increased public access. In short, instead of the existing dune vegetation adjacent to his property, the Averette property will be exposed to a stream of pedestrians on a 16-foot wide elevated sidewalk adjacent to their property. Such a monumental addition will significantly impact the quality of life of the adjacent property owners. Thus, the Commission affirmatively finds that Petitioner has not met its burden of showing that the proposed development will preserve substantial justice.

Accordingly, for the reasons set forth above, the Commission affirmatively finds that Petitioner has failed to demonstrate that it can meet the fourth factor required by N.C.G.S. §113A-120.1(a)(2) as it relates to the proposed development of the northern extension.

ORDER

THEREFORE, the variance from 15A NCAC 7H .0306 and 15A NCAC 7H .0309(a) is granted in part and denied in part. Specifically, the request for a variance is **GRANTED** as to the following portions of the proposed development:

- a. Demolition of the entire 750 foot existing eight foot wide Boardwalk and four existing six foot wide cross over public beach accesses and the construction of a new sixteen foot wide Boardwalk structure parallel to the shoreline and five new ten foot wide crossover public beach accesses. The new Boardwalk would be located in the existing structure footprint widened four feet on each side. The Boardwalk is proposed to include four 200 square feet of covered gazebos, and sixteen 96 square feet "bump outs" for benches and swings, and four non-covered wooden lattice trellises. The new accesses would also be located in existing footprints widened two feet on either side. The fifth new access from the Boardwalk to the beach will be located second access from south as shown on the drawings provided to the Commission. All structures will be elevated above the dunes. The structure and piling depths will be in accordance with Building Code requirements. The structure is an engineered "heavy timber" type design in accordance with Building Code requirements for commercial structures. The design is also required to comply with Carolina Beach Fire District requirements.
- c. Addition of a wood framed roof to the existing 700 square foot viewing platform.
- d. New showers at the Harper Ave. access.
- e. A splash pad/water park facility approximately 2,500 square feet in size is proposed in the landscaped cove just south of Harper Ave. While the final design has not been completed, the pad would be a pervious pavement area with a variety of water fountains, arches, spray and misting fixtures for recreational use. In addition, the landscaped coves between the Boardwalk and sidewalk will be redesigned to also include public art, historical and environmental educational kiosks, seating and picnic facilities and open space for music, art and other cultural events and passive recreation use.

The Request is **DENIED** as to the following portions of the proposed development:

- b. New extension of the Boardwalk approximately 875 feet north to the Pelican Lane Public Access. The design of the extension will be identical to that proposed for the replacement of the existing structure. The Boardwalk extension would include three new ten-foot wide public accesses, three re-built existing private accesses, and nine 96 square feet bump outs for benches and swings. A lattice trellis is proposed at the Pelican Lane Access.

This variance does not relieve Petitioner of the responsibility for obtaining any other required permits from the proper permitting authority.

This variance is based upon the Stipulated Facts set forth above and the comments received from the adjacent landowner. The Commission reserves the right to reconsider this variance and to take any appropriate action should it be shown that any of the above Stipulated Facts is not true or that there are additional stipulated facts that are substantially different from those considered as part of this variance request which might impact this decision.

This the 24th day of March, 2014.

Frank D. Gorham III

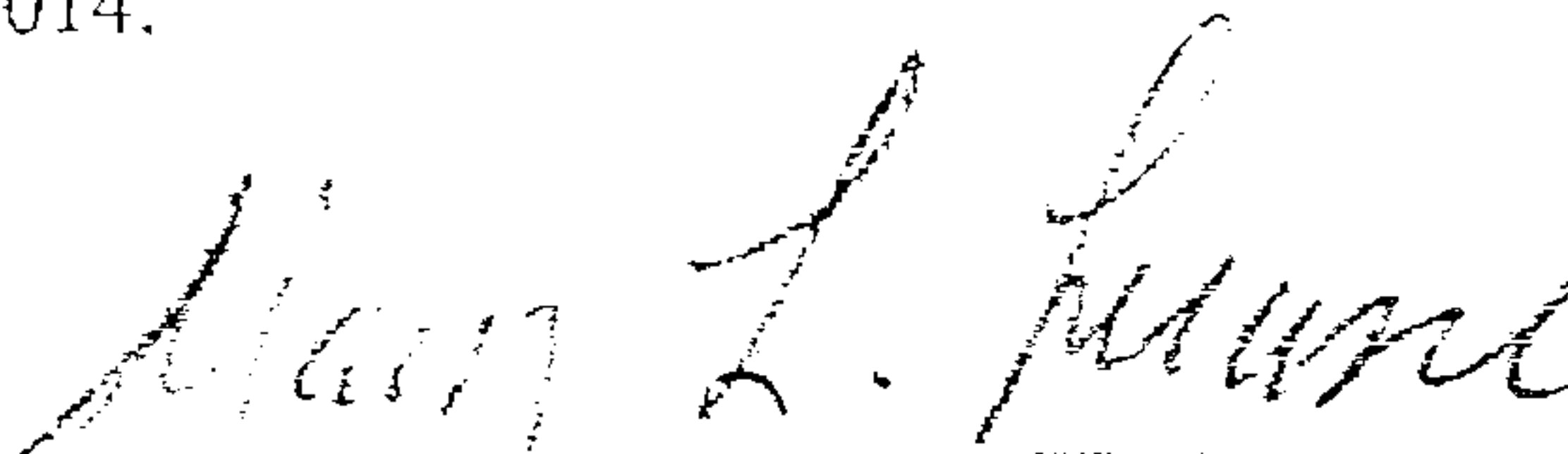
Frank D. Gorham, III, Chairman
Coastal Resources Commission

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing FINAL ORDER upon the parties by the methods indicated below:

Bob Lewis, Mayor Town of Carolina Beach 1121 N. Lake Park Boulevard Carolina Beach, NC 28428	<u>Certified Mail/ Return Receipt Requested</u>
Charlotte Noel Fox Craig and Fox 701 Market Street Wilmington, NC 28402	<u>U.S. Mail and Electronically at</u> cnfox@craigeandfox.com
Jerry Haire, Project Manager Town of Carolina Beach 1121 N. Lake Park Boulevard Carolina Beach, NC 28428	<u>U.S. Mail</u>
Elizabeth Jill Weese, Esq. Assistant Attorney General N.C. Department of Justice P.O. Box 629 Raleigh, NC 27603	<u>Electronically at</u> jweese@ncdoj.gov
Braxton C. Davis Angela Willis Division of Coastal Management 400 Commerce Avenue Morehead City, NC 28557	<u>Electronically at</u> braxton.davis@ncdenr.gov and angela.willis@ncdenr.gov

This the 24th day of March, 2014.



Mary L. Lucasse
Special Deputy Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, N. C. 27602
Commission Counsel



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

August 3, 2015

CERTIFIED MAIL 7011 2000 0002 2767 9118
RETURN RECEIPT REQUESTED

Town of Carolina Beach
c/o Mr. Ed Parvin, Assistant Town Manager
1121 N. Lake Park Boulevard
Carolina Beach, NC 28428

RE: CAMA VIOLATION #15-12D

Dear Mr. Parvin:

This letter is in reference to the Notice of Violation dated July 21, 2015 that I, issued to the Town of Carolina Beach for construction of a 17 ft. wide boardwalk, in violation of permit conditions of CAMA Minor Development Permit No. **CB 13-12** and the CRC Variance Final Order No. **CRC-VR-14-02**, adjacent to the Atlantic Ocean in Carolina Beach, New Hanover County, North Carolina. The violation involved the Ocean Hazard AEC, which is an Area of Environmental Concern designated by the Coastal Resources Commission.

The Coastal Area Management Act provides that a civil assessment of up to \$1,000 plus investigative costs may be assessed for any violation. It is the policy of the Coastal Resources Commission to assess a civil penalty for all violations in order to recover some of the costs of investigating violations and/or to compensate the public for any damage to its natural resources.

Under the rules of the Coastal Resources Commission, a proposed civil penalty in the amount of \$375 is appropriate for this violation. You may expeditiously resolve this matter prior to the assessment of a formal civil penalty by accepting responsibility for the violation and paying the amount proposed above. In order to do this, you must: (1) sign one of the attached copies of an "Agreement to Pay Civil Assessment;" (2) attach a check or money order for \$375 made payable to the North Carolina Department of Environment and Natural Resources (NCDENR); and, (3) return the signed agreement and payment to this office in the enclosed, self-addressed envelope within ten (10) days of receipt of this letter. Upon deposit of a check in the Department's account, the Town of Carolina Beach will receive a Notice of Compliance officially closing this enforcement action.

If you do not send a signed agreement and payment to this office within ten (10) days, the Director of the Division of Coastal Management will formally assess a civil penalty against the Town of Carolina Beach. The Town will then have the opportunity to request a hearing on the penalty or request settlement of the penalty.

Town of Carolina Beach
c/o Mr. Ed Parvin
August 3, 2015
Page 2

Thank you for your time and cooperation in resolving this important matter. If you have any questions, please do not hesitate to contact me at (910) 796-7215.

Sincerely,



Debra Wilson
District Manager

Tm/Dw

Enclosures

cc: Braxton Davis, Director, DCM
Roy Brownlow, Compliance Coordinator, DCM
Christy Goebel, Assistant Attorney General
WiRO File

Dan Wilcox
Mayor

Sarah Friede
Council Member

Steve Shuttleworth
Council Member



LeAnn Pierce
Mayor Pro Tem

Gary Doetsch
Council Member

Michael Cramer
Town Manager

September 15, 2015

Debra D. Wilson, District Manager
DCM Wilmington District Office
127 Cardinal Drive Ext.
Wilmington, NC 28405

Re: CAMA Violation #1512D

Dear Ms. Wilson:

We are in receipt of your letters dated July 21 and August 3, 2015 regarding a CAMA Permit violation and subsequent proposed civil penalty for the 17 foot Boardwalk width. In order to bring this matter to resolution, we have enclosed a check in the amount of \$375 for the proposed assessment and a signed "Agreement to Pay Proposed Civil Assessment". We do so, however, under protest.

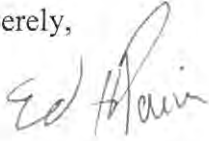
Our protest is based on the following:

- Although the conceptual site plans noted the boardwalk width as 16 feet, the more specific structural construction drawings showed the actual finish width at 17 feet. This dimension never changed from the initial concept design to the final construction drawings.
- Architectural plans clearly depicting the 17 foot design width were provided to DCM at our initial review meeting at DCM in August, 2013.
- Structural drawings clearly depicting the 17 foot width were submitted with our CAMA Permit application in November 2013, and included in the Variance application packet for CRC review in January, 2014.
- At the Feb. 26, 2014 CRC meeting in Nags Head the southern Boardwalk was approved as submitted. The structural drawings are part of the record of approval.
- The construction drawings were available for review at the pre-construction meeting at Town Hall in September 2014.
- DCM staff conducted a number of site visits during the 7 month construction period from October 2014 to April 2015. There was no mention of the width as an issue until the final inspection in April.

Given that the drawings depicting the 17 foot width were part of the CAMA Permit and Variance record, it is the Town's position that the Boardwalk was constructed in accordance with approved plans. We believe this issue could have been avoided by better communication by both parties.

Your department's ongoing support and guidance as the Town's continues to develop is very much appreciated. Please let me know if you'd like to discuss this issue further, or if I can be of assistance at anytime.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Parvin". The signature is written in a cursive style with a large, looping initial "E".

Ed Parvin
Assistant Town Manager

APPLICATION FOR
**CAMA MINOR
 DEVELOPMENT
 PERMIT**



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

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

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

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

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

Coastal Resources Commission
 Division of Coastal Management

RECEIVED

MAY 06 2014

DCM Form EB1952-2010 Revised April 2010

SITE DRAWING/APPLICATION CHECKLIST

Please make sure your site drawing includes the following information required for a CAMA minor development permit. The Local Permit Officer will help you, if requested.

PHYSICAL DIMENSIONS

- Label roads
- Label highways right-of-ways
- Label local setback lines
- Label any and all structures and driveways currently existing on property
- Label adjacent waterbody

PHYSICAL CHARACTERISTICS

- Draw and label normal high water line (contact LPO for assistance)
- Draw location of on-site wastewater system
- If you will be working in the ocean hazard area:
 - Draw and label dune ridges (include spot elevations)
 - Draw and label toe of dunes
 - Identify and locate first line of stable vegetation (contact LPO for assistance)
 - Draw and label erosion setback line (contact LPO for assistance)
 - Draw and label topographical features (optional)

If you will be working in a coastal shoreline area:

- Show the roof overhang as a dotted line around the structure
- Draw and label landward limit of AEC
- Draw and label all wetland lines (contact LPO for assistance)
- Draw and label the 30-foot buffer line

DEVELOPMENT PLANS

- Draw and label all proposed structures
- Draw and label areas that will be disturbed and/or landscaped
- Note size of piling and depth to be placed in ground
- Draw and label all areas to be paved or graveled
- Show all areas to be disturbed
- Show landscaping

NOTE TO APPLICANT

- Have you:
- completed all blanks and/or indicated if not applicable?
 - notified and listed adjacent property owners?
 - included your site drawing?
 - signed and dated the application?
 - enclosed the \$100.00 fee?
 - completed an AEC Hazard Notice, if necessary? (Must be signed by the property owner)

FOR STAFF USE

Site Notice Posted _____ Final Inspection _____ Fee Received _____
 Site Inspections _____
 Date of Action: Issued _____ Exempted _____ Denied _____ Appeal Deadline (20 days from permit action) _____

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

GENERAL INFORMATION

LAND OWNER

Name Town of Carolina Beach
Address 1121 N. Lake Park Blvd.
City Carolina Beach State NC Zip 28428 Phone 910-458-2528
Email ed.parvin@carolinabeach.org

AUTHORIZED AGENT

Name Ed Parvin, Assistant Town Manager
Address same
City _____ State _____ Zip _____ Phone 910-458-2526
Email ed.parvin@carolinabeach.org

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) Dunes and beachfront between Harper Ave. and Pelican Lane Beach Access

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) See attached project description
SIZE OF LOT/PARCEL: 28,000 square feet _____ acres

PROPOSED USE: Residential (Single-family Multi-family Commercial/Industrial Other
COMPLETE EITHER (1) OR (2) BELOW (Contact your Local Permit Officer if you are not sure which AEC applies to your property):

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

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

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality?
YES NO

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

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

STATEMENT OF OWNERSHIP:

I, the undersigned, an applicant for a CAMA minor development permit, being either the owner of property in an AEC or a person authorized to act as an agent for purposes of applying for a CAMA minor development permit, certify that the person listed as landowner on this application has a significant interest in the real property described therein. This interest can be described as: (check one)
 an owner or record title, Title is vested in _____, see Deed Book _____ page _____ in the _____ County Registry of Deeds.
 an owner by virtue of inheritance. Applicant is an heir to the estate of _____; probate was in _____ County.

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

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

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

- (1) See attached (Name) (Address)
- (2) _____
- (3) _____
- (4) _____

ACKNOWLEDGEMENTS:

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

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

This the 01 day of MAY, 2014
Ed Parvin ASSISTANT TOWN MANAGER
Landowner or person authorized to act as his/her agent for purpose of filing a CAMA permit application

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

AEC HAZARD NOTICE

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

Property Owner: Town of Carolina Beach, N.C.

Property Address: Oceanfront dunes + beach area between Harper Ave. + Pelican Lane

Date Lot Was Platted: NA

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

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

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

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

Studies also indicate that the shoreline could move as much as 420 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 12-15 feet deep in this area.

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

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

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

For more information, contact:

Jeremy Hardison
Local Permit Officer

Town of Carolina Beach
1121 N Lake Park Blvd
Address Carolina Beach, NC 28428

Locality _____

458-2991
Phone Number _____

E. Rami
Applicant Signature

01 MAY 2014
Date

**Receipts for
Certified Mail**
(staple here)

May 6, 2014
(Date)

Dear Adjacent Property Owner:

This letter is to inform you that I, The Town of Carolina Beach have applied for a CAMA Minor Permit on the property at Carolina Beach Boardwalk beginning at Harper Ave. extending north to the Pelican Lane Public beach Access, in New Hanover County. As required by CAMA regulations, I have enclosed a copy of my permit application and project drawing(s) as notification of my proposed project. No action is required from you or you may sign and return the enclosed no objection form. If you have any questions or comments about my proposed project, please contact me at 910-458-2991, or by mail at the address listed below. If you wish to file written comments or objections with the Division of Coastal Management CAMA Minor Permit Program, you may submit them to:

Robb Mairs
Field Officer
127 Cardinal Drive Ext.
Wilmington, NC 28405-3845

Sincerely,

Town of Carolina Beach
(Property Owner)

1121 N Lake Park Blvd
(Mailing Address)

Carolina Beach NC 28428
(City, State, Zip Code)

Town of Carolina Beach – CAMA Minor Development Permit

Boardwalk Improvement Project Phase 2 Northern Extension

Project Description – April 30, 2014

The Boardwalk Improvement Project consists of demolition and replacement of the existing 750 foot boardwalk, beach access crossovers, and extension of the boardwalk 875 feet north from Harper Ave. to Pelican Lane. The new wider structures will provide safer, more functional and handicapped accessible facilities for beach access and enjoyment of the dune ecosystem. Phase 1 for the project was approved under CAMA Minor Development Permit #CB13-10 in September, 2013. Phase 1 was focused on the existing Boardwalk and included replacement of crossover beach accesses, viewing platform improvements, and excavation of non-dune landscaped coves westward of the Boardwalk and redistribution of the sand from these areas to enhance dune low spots eastward of the Boardwalk. Phase 2 of the project involves the development of the remainder of the existing structure and amenities as well as the new northern extension. The design for the northern extension is identical to that proposed for the existing structure – 16' wide with 3 new 10 foot wide public accesses, 3 re-built existing private accesses, and five 96 sf bump outs for benches and swings. A lattice trellis is proposed at the Pelican Lane Access.

On February 26, 2014 the Coastal Resources Commission approved part of the Town's variance request for Phase 2 including the entire existing Boardwalk redevelopment as proposed. The northern extension was not approved due to concerns over potential impacts to an adjacent residential property. Impacts noted included views, noise, trespassing, and potential hazards from structural debris during major storms.

To address these concerns the Town has made substantial modifications to the project plans. The elevation of the entire 875 foot northern extension has been lowered one foot (see plans). Previously the elevation averaged 2-3 feet above the ground and slightly below the frontal dune elevation. Lowering the structure to 1-2 feet above grade and over a foot below the frontal dune will substantially lessen view impacts from adjacent properties. In addition, a total of 4 seating area "bump outs" have been removed from in front of the 2 residential properties adjacent to the northern extension (see plans). Removing these seating areas will substantially reduce potential noise impacts from Boardwalk users congregating in these areas.

To address trespassing, the Town has previously committed to providing security gates at the private beach accesses from adjacent residential properties to and through the Boardwalk. Currently these property accesses are unsecured wooden or sand walkways.

To address storm hazards, the Boardwalk has been structurally engineered as a "heavy timber" type construction with a 139 mph windspeed design and pilings driven to a minimum 16 feet below grade.

Reference attached drawings "CAMA Minor Permit Boardwalk Improvement Project Phase Two Northern Extension – May 5, 2014, and Sheet A2-1.

Justification/Considerations:

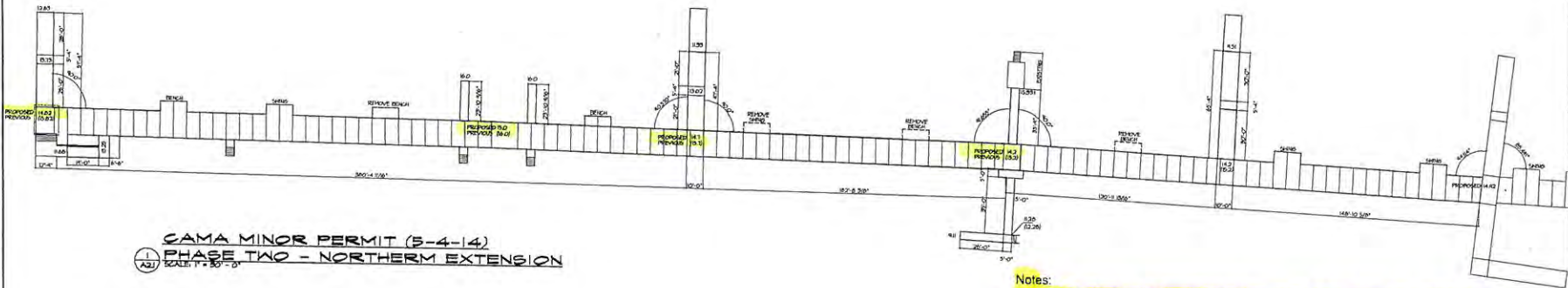
- The northern extension enhances public beach access from Harper Avenue north to Pelican Lane by providing 2 new wider access ramps and 1 reconstructed wider ramp at Pelican Lane. At present this entire 875' stretch in the downtown area is privately owned with no public access points.
- Boardwalk has been in place in some form or fashion since the 1890's; is recognized as a historic icon and focal point for the community in providing beach access for the central business district and the hundreds of thousands of visitors each year.
- Federal /state funds were used in the 1930's to construct boardwalk.
- 1989 Permit cited that boardwalk construction would result in some trampling and minor short term loss of dune vegetation, but "On the other hand the structure would control public access to the beach and prevent the development of multiple paths across dune vegetation by beachgoers and tourists. (Note that with 18 adjacent properties the potential exists for 18 accesses in this area. This project will allow a total of 8 public accesses and 3 rebuilt private accesses.) The project should also enhance handicapped and elderly access and use"
- While the cross over accesses provide direct access to the beach, the Boardwalk it self also provides an ideal facility for enjoying the coastal dune ecosystem, similar in function to boardwalks built through marsh areas for observation It should be noted that the variety of vegetation in the man-made dune system along the Boardwalk now includes red cedar, one of the first indicators of maritime forest development.
- In accordance with 15A NCAC 07J, the Town has had a Static Line Exception in place for 5 years. The Boardwalk project is within the limits of the Static Line Exception. The required progress report has been submitted and is under review. The latest beach maintenance event occurred earlier this year.
- Project includes enhancement of existing dunes using sand from enlarged landscaped coves between the crossover accesses.
- Existing boardwalk functions as sand fence – obvious dune growth as sand piles along the structure.
- The Town was awarded a \$603,000 CAMA Public Beach Access Grant for the project in August of this year. The project is fully funded and ready to proceed

with a \$250,000 NC DENR Water Resources Grant, a \$500,000 grant from New Hanover County, and \$250,000 in Tourism Development Authority funding.

Statement of Ownership

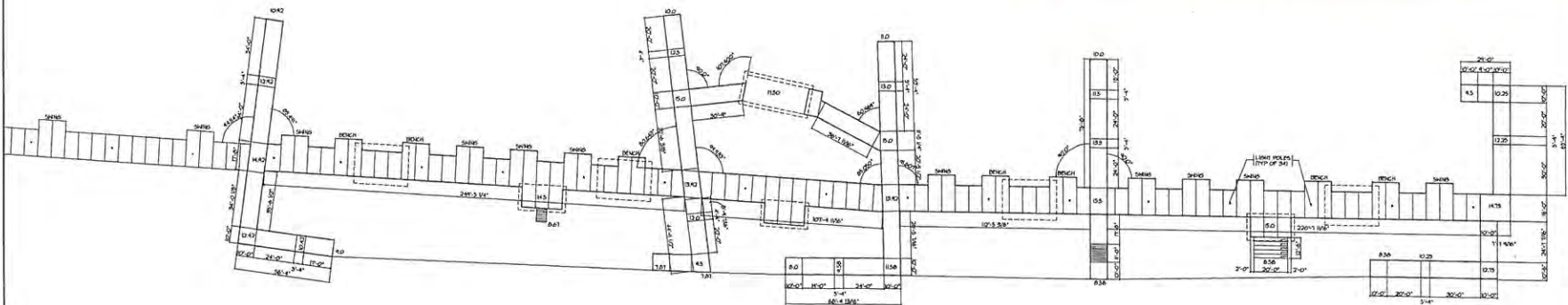
Title to all lands east of the established "building line" was conveyed to the Town of Carolina Beach in the 1963 NC General Assembly House Bill 612, Chapter 511.

Public Trust

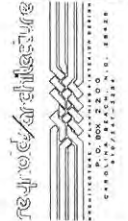


1
ASJ
CAMA MINOR PERMIT (B-4-14)
PHASE TWO - NORTHERN EXTENSION
SCALE: 1" = 30'-0"

- Notes:
1. Elevation of entire northern extension lowered 1'-0" to lessen view impacts from adjacent properties.
 2. Four (4) seating areas removed - see notes above.
 3. All previously proposed pole mounted lighting removed from plan to lessen visual impact. Lighting to be limited to lightway railings.



2
ASJ
EXISTING BOARDWALK IMPROVEMENT
SCALE: 1" = 30'-0"
NOTE: THIS PORTION HAS PREVIOUSLY BEEN PERMITTED



NO.	DATE	DESCRIPTION
1	01/14/14	ISSUED FOR PERMIT
2	02/10/14	REVISED PER PLAN CHANGES
3	02/10/14	REVISED PER PLAN CHANGES
4	02/10/14	REVISED PER PLAN CHANGES
5	02/10/14	REVISED PER PLAN CHANGES
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10	02/10/14	REVISED PER PLAN CHANGES

CAMA MINOR PERMIT - NORTHERN EXTENSION
PROPOSED FACILITY FOR THE
BOARDWALK IMPROVEMENT PROJECT
CAROLINA BEACH, NORTH CAROLINA



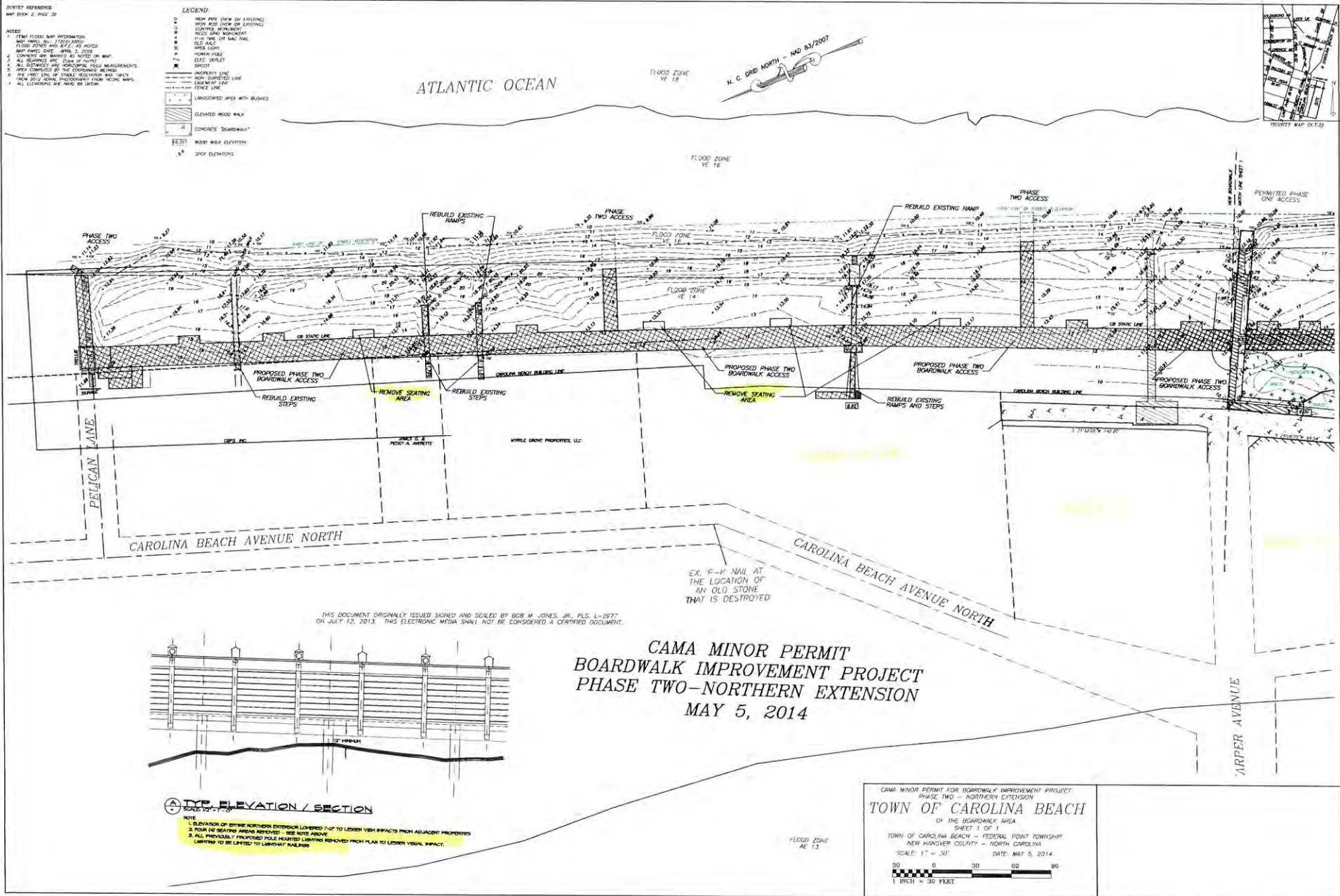
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OR THESE DIMENSIONS ARE CONSIDERED FINAL
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OF THE PARTICULAR SYSTEM.

THIS DRAWING IS THE PROPERTY
OF REYNOLDS ARCHITECTURE, INC.
IT IS TO BE USED ONLY FOR THE
PROJECT AND SITE SPECIFICALLY
IDENTIFIED HEREON. IT IS NOT TO
BE REPRODUCED OR TRANSMITTED
IN ANY FORM OR BY ANY MEANS
ELECTRONIC OR MECHANICAL,
INCLUDING PHOTOCOPYING, RECORDING,
OR BY ANY INFORMATION STORAGE
AND RETRIEVAL SYSTEM, WITHOUT
THE WRITTEN PERMISSION OF
REYNOLDS ARCHITECTURE, INC.
SHEET NUMBER
A2-1
REVISED PER PLAN CHANGES

SEE SHEET REFERENCE
 SHEET BOOK # 2 PAGE 20

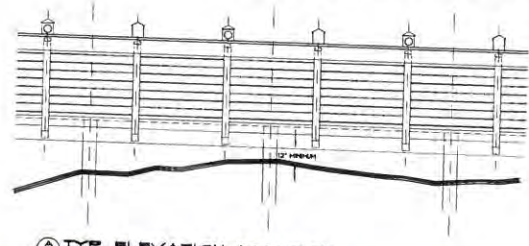
- NOTES:**
1. VERIFY FLOOD MAP INFORMATION.
 2. VERIFY ALL DISTANCES AND HORIZONTAL/VERTICAL MEASUREMENTS ARE CORRECTED BY THE CONTRACTOR BEFORE CONSTRUCTION.
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- LEGEND:**
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 - 100. HIGH PILE (NEW OR EXISTING)



THIS DOCUMENT ORIGINALLY ISSUED SIGNED AND SEALED BY BOB M. JONES, JR., PLS. L-2977 ON JULY 12, 2013. THIS ELECTRONIC MEDIA SHALL NOT BE CONSIDERED A CERTIFIED DOCUMENT.

**CAMA MINOR PERMIT
 BOARDWALK IMPROVEMENT PROJECT
 PHASE TWO - NORTHERN EXTENSION
 MAY 5, 2014**



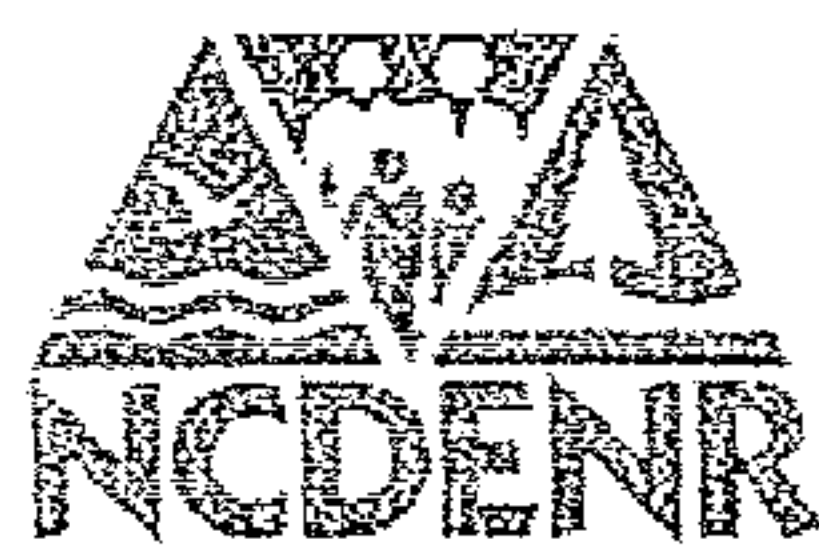
TYPE ELEVATION / SECTION
 SCALE: 1" = 10'

NOTE:
 1. ELEVATION OF EXISTING NORTHERN OUTDOOR LOWERED 1'-0" TO LESSEN VIBRA IMPACT FROM ADJACENT PROPERTIES.
 2. FLOOR (AT SEATING AREAS REMOVED) - SEE NOTE ABOVE.
 3. ALL PROPOSED PROPOSED POLE MOUNTED LIGHTING REMOVED FROM PLAN TO LESSEN VISUAL IMPACT. LIGHTING TO BE LIMITED TO UNDERCAY LIGHTING.

CAMA MINOR PERMIT FOR BOARDWALK IMPROVEMENT PROJECT
 PHASE TWO - NORTHERN EXTENSION
TOWN OF CAROLINA BEACH
 OF THE BOARDWALK AREA
 SHEET 1 OF 1
 TOWN OF CAROLINA BEACH - FEDERAL POINT TOWNSHIP
 NEW HANOVER COUNTY - NORTH CAROLINA
 SCALE: 1" = 30' DATE: MAY 5, 2014

1" = 30 FEET

FLOOD ZONE
 VE 13



North Carolina Department of Environment and Natural Resources

Pat McCrory,
Governor

John E. Skvarla, III
Secretary

June 2, 2014

CERTIFIED MAIL – 7011 0110 0000 3789 2648

RETURN RECEIPT REQUESTED

Town of Carolina Beach
c/o Mr. Ed Parvin, Assistant Town Manager
1121 N. Lake Park Boulevard
Carolina Beach, N.C. 28428

**RE: DENIAL OF CAMA MINOR DEVELOPMENT
PERMIT APPLICATION NUMBER- CB14-03**

PROJECT ADDRESS- Town of Carolina Beach property located within dunes and beachfront between Harper Avenue and Pelican Lane (Public Boardwalk), Carolina Beach, New Hanover County, N.C.

Dear Mr. Parvin:

After reviewing your application in conjunction with the development standards required by the Coastal Area Management Act (CAMA), it is my determination that no permit shall be granted for the project which you have proposed.

This decision is based on my findings that your request violates NCGS 113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines. Specifically, the development for which you applied consists of an approximately 875 feet expansion towards the north of the existing public beachfront boardwalk, proposed within the minimum setback (measured 60 feet from the First Line of Stable Natural Vegetation (FLSNV), or 30 times the shoreline erosion rate of 2 feet/year).

Your proposal is inconsistent with **15 NCAC 07H .0306(a)(2) GENERAL USE STANDARDS OF OCEAN HAZARD AREAS**, which states: "*With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance*"; and **15 NCAC 07H .0309(a) USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS**, which states: "*The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of the Subchapter if all other provisions of this Subchapter and other state and local regulations are met: (1) campsites; (2) driveways and parking areas with clay, packed sand or gravel; (3) elevated decks not exceeding a footprint of 500 square feet; (4) beach accessways consistent with Rule .0308(c) of this Subchapter; (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less; (6) uninhabitable, single-story storage sheds with a foundation of floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less; (7) temporary amusement stands; (8) sand fences; and (9) swimming pools*".

127 Cardinal Drive Ext., Wilmington, NC 28405
Phone: 910-796-7215 \ FAX: 910-395-3964 Internet: www.nccoastalmanagement.net

An Equal Opportunity / Affirmative Action Employer

Exhibit 5

Town of Carolina Beach CB14-03

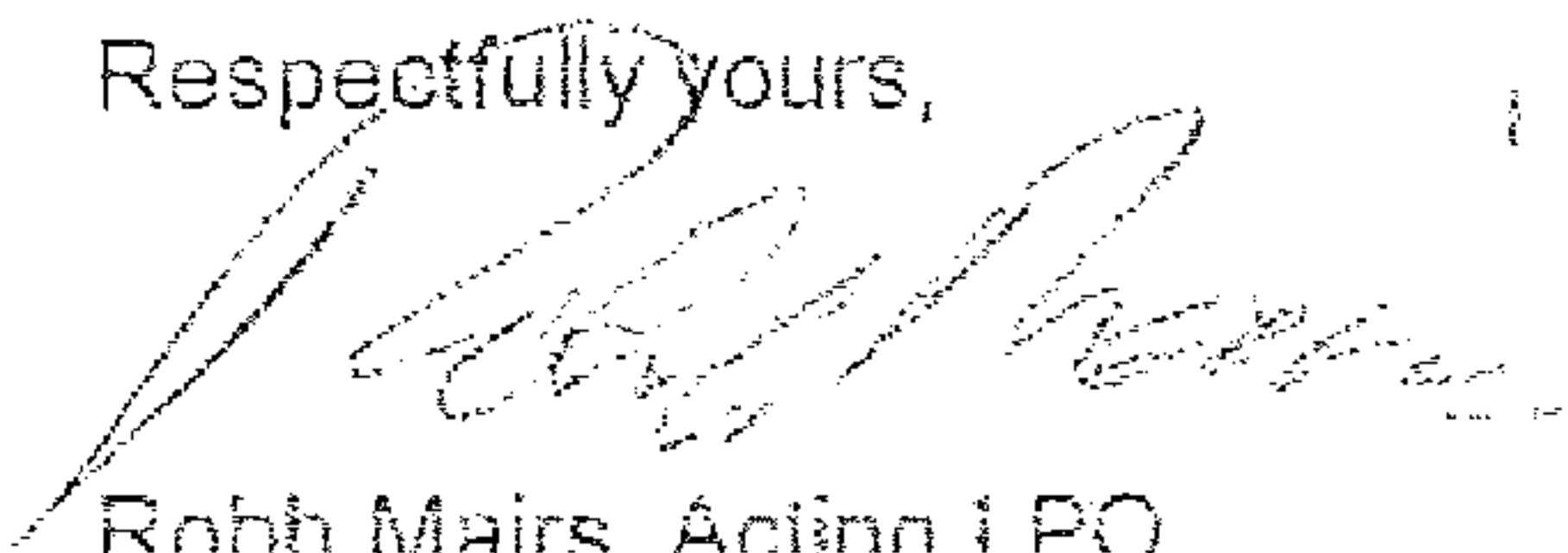
June 2, 2014

Page Two

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 Resource Commission (CRC). Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of General Statutes of North Carolina, and must be filed with the Office of Administrative Hearings, 5714 Mail Service Center, Raleigh, N.C. 27699-6714, within twenty (20) days from this date of this letter. Please contact me so I can provide you with the proper forms and any other information you may require.

However, you may also petition for a variance from the CRC by means of the procedures described in 15A NCAC 07J .0700. I have enclosed a copy of the current rules as well as the CAMA Variance Request Form (DCM Form 11).

Respectfully yours,



Robb Mairs, Acting LPO
127 Cardinal Drive Extension
Wilmington, NC 28405

cc: Braxton Davis, NCDCCM-Morehead City
Jerry Haire, Project Manager, Town of Carolina Beach
Wilmington Files

③
20
\$250.00



FOR REGISTRATION REGISTER OF DEEDS
TAMMY THEUSCH BEASLEY
NEW HANOVER COUNTY, NC
2013 DEC 20 11 50 42 AM
BK 5789 PG 1337-1340 FEE \$26 00
NC REV STAMP \$250 00
INSTRUMENT # 2013043775

*
Prepared by Jonathan E Friesen, Oliver & Friesen, PLLC, PO Box 1548, New Bern, NC 28560
Return to Robbie B Parker, Lee Law Firm, PLLC, PO Box 4548, Wilmington, NC 28403
No title search requested or performed

Revenue Stamps
\$250 00

New Hanover County Tax Parcel Number
Parcel # R09006-006-016-000

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made and entered into this the 19th day of December, 2013, by and between

**RUSSELL M. MAYNARD and wife,
DEBORAH M. SHOEMAKER
PO Box 1144
Wilmington, NC 28402
(hereinafter "Grantor")**

and

**CAROLINA BEACH HOSPITALITY, LLC
A North Carolina Limited Liability Company
2743 Perimeter Pkwy
Building 100, Ste 370
August, GA 30909
(hereinafter "Grantee")**

(All references to Grantor and Grantee as used herein shall include the parties as well as their heirs, successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by context),

WITNESSETH

That Grantor, in consideration of the sum of Ten and No/100 Dollars (\$10 00) and other good and valuable consideration paid to Grantor by Grantee, the receipt and sufficiency of which hereby is acknowledged, has bargained and sold and by these presents does bargain, sell, and convey unto Grantee, said Grantee's heirs and assigns, the following described property

All of that certain tract or parcel of land lying and being situate in New Hanover County, North Carolina, and being more particularly described as follows

Being all of that real property known and designated as "TRACT TWO" on that map recorded in Map Book 52, Page 77 in the office of the Register of Deeds of New Hanover County, North Carolina, said Tract Two being located adjacent to and eastward of Lots 28, 29 and 30 in Block G of the Town of Carolina Beach according to a map recorded in Book 268, Page 561, in the office of the Register of Deeds of New Hanover County, North Carolina

The property described herein is not the primary residence of Grantor

TO HAVE AND TO HOLD said property and all privileges and appurtenances thereunto belonging to Grantee, said Grantee's heirs and assigns forever And Grantor hereby warrants that Grantor has done nothing to impair the title as received by Grantor and that Grantor will forever warrant and defend the title against the lawful claims of all persons claiming by, through or under Grantor

IN TESTIMONY WHEREOF, Grantor has caused this instrument to be executed under seal and in such form as to be binding, this the day and year first above written

GRANTOR:



RUSSELL M. MAYNARD (Seal)



DEBORAH M. SHOEMAKER (Seal)

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document RUSSELL M MAYNARD and DEBORAH M SHOEMAKER

Date Dec 19, 2013

Audrey Madeleine Huerkens-Roman
~~Audrey Madeleine Huerkens-Roman~~ Notary Public
(Print or type name of notary)

(Official Seal)

My commission expires 12/16/2017





TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration: 12/20/2013 11:50:42 AM

Book: RE 5789 Page: 1337-1340

Document No.: 2013043775

4 PGS \$26 00

NC REAL ESTATE EXCISE TAX: \$250 00

Recorder: HUGHLEY, CAROL

State of North Carolina, County of New Hanover

PLEASE RETAIN YELLOW TRAILER PAGE WITH ORIGINAL DOCUMENT.

2013043775

2013043775

3
MRS



FOR REGISTRATION REGISTER OF DEEDS
TAMMY THEUSCH BEASLEY
NEW HANOVER COUNTY, NC
2013 DEC 20 11 50 42 AM
BK 5789 PG 1341-1344 FEE \$26 00

INSTRUMENT # 2013043776

Prepared by ^{*}Jonathan E Friesen, Oliver & Friesen, PLLC, PO Box 1548, New Bern, NC 28560
Return to Robbie B Parker, Lee Law Firm, PLLC, PO Box 4548, Wilmington, NC 28403
No title search requested or performed

Revenue Stamps
\$0 00

New Hanover County Tax Parcel Number
Parcel # ~~1209006-006-012-000~~

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

QUIT CLAIM DEED

THIS QUIT CLAIM DEED, made and entered into this the 19th day of December, 2013, by and between

**RUSSELL M. MAYNARD, and wife
DEBORAH M. SHOEMAKER
PO Box 1144
Wilmington, NC 28402**

and

**SEAVIEW PROPERTIES, LLC,
14 Jacksonville Street
Wilmington, NC 27411
(hereinafter "Grantor")**

and

**CAROLINA BEACH HOSPITALITY, LLC
2743 Perimeter Pkwy
Building 100, Ste 370
August, GA 30909
(hereinafter "Grantee")**

(All references to Grantor and Grantee as used herein shall include the parties as well as their heirs, successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by context),

WITNESSETH

That Grantor, in consideration of the sum of Ten and No/100 Dollars (\$10 00) and other good and valuable consideration paid to Grantor by Grantee, the receipt and sufficiency of which hereby is acknowledged, has bargained and sold and by these presents does bargain, sell, and convey unto Grantee, said Grantee's heirs and assigns, the following described property

All that certain tract or parcel of land lying and being in situate in New Hanover County, North Carolina, and being more particularly described as follows


Being all of that certain tract of land described as "Area 1 0 Acre 43569 S F" on that certain map or plat entitled "Lot Recombination & Right of Way Dedication of Ocean Plaza Building" recorded in Map Book 52, at Page 77, in the office of the Register of Deeds of New Hanover County, North Carolina, reference to said map being hereby made for a more particular description of the aforesaid tract of land

The real property described herein is not the primary residence of Grantor

TO HAVE AND TO HOLD said property and all privileges and appurtenances thereunto belonging to Grantee, said Grantee's heirs and assigns forever, free and discharged from all right, title claim or interest of Grantor or anyone claiming by, through, or under Grantor

IN TESTIMONY WHEREOF, Grantor has caused this instrument to be executed under seal and in such form as to be binding, this the day and year first above written

GRANTOR:

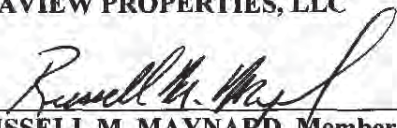


RUSSELL M. MAYNARD (Seal)



DEBORAH M. SHOEMAKER (Seal)

SEAVIEW PROPERTIES, LLC



RUSSELL M. MAYNARD, Member and Manager (SEAL)

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document RUSSELL M MAYNARD and DEBORAH M SHOEMAKER

Date Dec. 19, 2013

Audrey Madeleine Huerkens-Roman
Audrey Madeleine Huerkens-Roman Public
(Print or type name of notary)

(Official Seal)

My commission expires 12/16/2017



STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

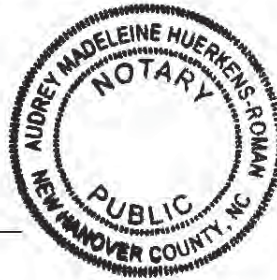
I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document RUSSELL M MAYNARD, Member and Manager of Seaview Properties, LLC

Date Dec 19, 2013

Audrey Madeleine Huerkens-Roman
Audrey Madeleine Huerkens-Roman, Notary Public
(Print or type name of notary)

(Official Seal)

My commission expires 12/16/2013





TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration: 12/20/2013 11:50:42 AM
Book: RE 5789 Page 1341-1344
Document No . 2013043776
4 PGS \$26.00
Recorder: HUGHLEY, CAROL

State of North Carolina, County of New Hanover

PLEASE RETAIN YELLOW TRAILER PAGE WITH ORIGINAL DOCUMENT.

2013043776

2013043776

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226
5000-RS



FOR REGISTRATION REGISTER OF DEED
JENNIFER H MACNEISH
NEW HANOVER COUNTY, NC
2011 NOV 29 01 36 39 PM
BK 5601 PG 421-427 FEE \$26 00
NC REV STAMP \$5,000.00
INSTRUMENT # 2011032545

STATE OF NORTH CAROLINA

TRUSTEE'S DEED

COUNTY OF NEW HANOVER

TAX PARCEL NO R09006-006-012-000

REVENUE STAMPS \$5000 00

THIS DEED, made this 23rd day of November, 2011, by and between H KENNETH STEPHENS, II, Substitute Trustee, Grantor, whose address is P O Box 2237, Wilmington, North Carolina, 28402, and CAROLINA BEACH HOSPITALITY, LLC, Grantee, a North Carolina Limited Liability Company, whose address is P O Drawer 2088, Wilmington, North Carolina, 28402

WITNESSETH

WHEREAS, SEAVIEW PROPERTIES LLC , heretofore executed a Deed of Trust dated May 2, 2006 to BB&T Collateral Service Corporation, Trustee for Branch Banking and Trust Company, recorded in Book 5016, at Page 1896 and amended in Book 5035 at Page 196, of the New Hanover County Registry conveying the hereinafter described property (the "Deed of Trust"), and,

WHEREAS, H Kenneth Stephens, II, was substituted as Trustee under the Deed of Trust by that instrument recorded in Book 5550, at Page 7 of the New Hanover County Registry, and,

* PREPARED BY AND RETURNED TO
H KENNETH STEPHENS, II
ATTORNEY AT LAW
POST OFFICE BOX 2237
WILMINGTON, NC 28402

WHEREAS, default having occurred in the payment of the indebtedness secured by the Deed of Trust and in the performance of the stipulations and conditions therein contained, due demand was made upon Grantor, as Trustee, by Carolina Beach Hospitality, LLC to foreclose the Deed of Trust and sell the property described therein, and,

WHEREAS, under and by virtue of the power and authority vested in him by the Deed of Trust, and upon Order entered by the Clerk of Superior Court of New Hanover County in Special Proceeding 11-SP-430, Grantor did expose the property hereinafter described and conveyed to sale at public auction at the New Hanover County Courthouse door, in the City of Wilmington, when and where Carolina Beach Hospitality, LLC became the last and highest bidder at said public auction by making a credit bid for the property hereinafter described and conveyed in the amount of \$2,500,000 00, and,

WHEREAS, Grantor duly reported said sale to the Clerk of Superior Court of New Hanover County, and thereafter said sale remained open ten days and no upset bid was placed thereon within the time allowed by law, and,

NOW, THEREFORE, in consideration of the premises and the payment of the purchase price by the Grantee, the receipt of which is hereby acknowledged, and pursuant to the authority vested in him by the terms of the Deed of Trust, Grantor does hereby bargain, sell, grant and convey unto the Grantee, its successors and assigns, all that certain lot or parcel of land lying and being in the County of New Hanover, State of North Carolina, and being more particularly described as follows

SEE EXHIBIT "A" Attached and made a part hereof

Pursuant to N C G S Section 105-317 2, the grantor states that the real property conveyed herein does not include its primary residence,

TO HAVE AND TO HOLD said land, together with all privileges and appurtenances thereunto belonging unto the Grantee, its successors and assigns, forever, in as full and ample manner as the Grantor as Substitute Trustee is authorized and empowered to convey the same

The contents of Special Proceeding File 11-SP-430 are incorporated by reference herein
Grantor makes no warranties as to the status of title to the property described herein or regarding
the effect of the foreclosure proceeding on other liens, encumbrances or interests, recorded or
unrecorded

IN WITNESS WHEREOF, the Grantor as Substitute Trustee in the aforesaid Deed of
Trust has hereunto set his hand and affixed his seal, the day and year first above written


(SEAL)
H KENNETH STEPHENS, II
SUBSTITUTE TRUSTEE

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, Anne Meier Hoy, Notary Public of the County and State aforesaid, certify that H
KENNETH STEPHENS, II, SUBSTITUTE TRUSTEE, personally appeared before me this day
and acknowledged the due execution of the foregoing instrument

Witness my hand and official seal, this the 23rd day of November, 2011



Anne Meier Hoy, NOTARY PUBLIC
My Commission Expires 09/19/2015



EXHIBIT A

PROPERTY KNOWN AS 100 HARPER AVENUE

TRACT ONE

Commence at a point in the centerline of Carolina Beach Avenue North at its intersection with the northeast right of way line of Sixth Avenue (now known as Oyster Shell Lane), thence South 24 degrees 36 minutes 00 seconds West a distance of 3100 05 feet to the point, thence South 65 degrees 24 minutes 00 seconds East a distance of 102 15 feet to a point in the Town of Carolina Beach Building Line (Map Book 8 Page 52), thence along and with the Town of Carolina Beach Building Line South 24 degrees 55 minutes 00 seconds West a distance of 43 79 feet to a point, thence along and with the Town of Carolina Beach Building Line South 29 degrees 14 minutes 00 seconds West a distance of 280 21 feet to a point, thence North 65 degrees 09 minutes 07 seconds West a distance of 25 83 feet to the POINT OF BEGINNING, thence South 28 degrees 37 minutes 00 seconds West a distance of 40 20 feet to a point, thence South 34 degrees 37 minutes 59 seconds West a distance of 15 28 feet to a point in the north right of way line of Harper Avenue Extension, thence along and with the north right of way line of Harper Avenue Extension North 63 degrees 38 minutes 35 seconds West a distance of 58 30 feet to a point, thence North 26 degrees 20 minutes 17 seconds East a distance of 53 65 feet to a point, thence South 65 degrees 09 minutes 07 seconds East a distance of 62 12 feet to the POINT OF BEGINNING, containing 0 076 acre, more or less, and being all of Lots 25,26 & 27, Block G, The Plan of Carolina Beach as the same is shown in Book 268 Page 561 of the New Hanover County Registry

PROPERTY KNOWN AS 206 CAROLINA BEACH AVENUE NORTH

TRACT TWO

Being all of Lots 17, 18, 19, 28, 29 and 30 in Block G of the Town of Carolina Beach, according to a map recorded in Book 268 at Page 561 in the New Hanover County Registry, and being the same lands described in instrument recorded in Book 1254 at Page 63 in said Registry

PROPERTY KNOWN AS 200 CAROLINA BEACH AVENUE

TRACT THREE All of Lots 15, 22, 23, and 24, in Block "G", according to the map of the Subdivision of Block F-G-H, Carolina Beach, which said map is duly recorded in Book 268, at Page 561, in the Office of the Register of Deeds of New Hanover County

Beginning at the southeastern corner of Lot 16, in Block "G" according to the map hereinafter mentioned, and running thence northwardly along the eastern line of said Lot 16, 20 feet to the northeastern corner of said Lot 16, thence westwardly along the northern line of said Lot 16, 25 feet, thence southwardly and parallel with the first call hereof 20 feet to the northern line of Lot 15 in said Block, thence eastwardly along the northern line of Lot 15, 25 feet to the point of Beginning, the same being the extreme eastern 25 feet of Lot 16, in Block "G", according to the map of the Subdivision of

Blocks F-G-H, Carolina Beach, which said map is duly recorded in Book 268 at Page 561, in the office of the Register of Deeds of New Hanover County

The same being all of that property described in a deed from E J Durham and wife, to Roger Page, Jr, recorded in Book 598 at Page 148 of the New Hanover County Registry, and also being all of that tract described in a deed for one-half interest from Roger Page, Jr and wife, Doris B Page, to A H Disher, et al, recorded in Book 631, Page 136, New Hanover County Registry

PROPERTY KNOWN AS 210 CAROLINA BEACH AVENUE

TRACT FOUR BEGINNING at an iron stake on the east side of Carolina Beach Avenue (North), the northwest corner of Lot No 19, thence Northwardly along east side on Carolina Beach Avenue (North) 41 6 feet to an iron stake, thence eastwardly 146 feet to an iron stake, thence southwardly 40 feet to an iron stake, the northeast corner of Lot No 30, thence westwardly along the north line of Lots Nos 30 and 19, 154 7 feet to an iron stake, the point of Beginning, the same being known and designated as Lots Nos 20, 21, 31, 32 in Block G on the map of Subdivision of Blocks F, G, H Carolina Beach, recorded in Book 268 at Page 561 (This map supersedes part of map recorded in Book 3, Page 23, New Hanover County Registry), and being the identical property conveyed to Burlington Homes, Inc by W F Shaffner (Widower), et al, by deed dated September 22, 1938 and recorded in New Hanover County Registry in Book 272 at Page 156

Being the same property conveyed by deed recorded February 28, 1980 in Book 1165 at Page 247 of the New Hanover County Registry

BEGINNING at a point in the Easternmost corner of Lot 32 as shown on that map of Carolina Beach recorded in Book 1181 at Page 1429 of the New Hanover County Registry, said beginning point also being located South 65 degrees 24 minutes East 146 0 feet, and North 40 degrees 49 minutes East 155 46 feet from the intersection of the southern right-of-way line of Carolina Beach Avenue North (right-of-way varies) with the Northern right-of-way line of Harper Avenue Extension (a 30-foot right-of-way) Running thence from said beginning point South 65 degrees 24 minutes East 26 73 feet to a point in the Carolina Beach Building Line as shown on that map of the Carolina Beach Building Line recorded in Map Book 8, Page 52, of said Registry, thence, along said Building Line, South 29 degrees 14 minutes West 40 08 feet to a point, thence, North 65 degrees 24 minutes West 26 41 feet to a point, thence, North 28 degrees 46 minutes 39 seconds East 40 05 feet to the point of beginning

Containing 0 02 acres more or less and being those lands located between Lots 31 and 32 (as shown on said map of Carolina Beach) and the Carolina Beach Building Line as recorded in Map Book 8, Page 52 of said Registry

KNOWN AS 202 CAROLINA BEACH AVENUE NORTH

TRACT FIVE

BEGINNING at an iron stake in the East line of Carolina Beach Avenue, North, the Southwest corner of Lot 17, running thence Eastwardly along the Northern line of Lot 16, 20 8 feet to a point, thence Southwardly and parallel with the West line of Lot 22, 20 feet

to a point in the Northern line of Lot 15, thence Westwardly along the Southern line of Lot 16, 25 9 feet to a point in the Eastern line of Carolina Beach Avenue, North, thence Northeastwardly with the Eastern line of Carolina Beach Avenue, North, approximately 20 8 feet to an iron stake, the point of Beginning, same being a portion of Block G on the map of Subdivision of Carolina Beach, recorded in Book 268 at Page 561 on the New Hanover County Registry

KNOWN AS 203 CAROLINA BEACH AVENUE NORTH
TRACT SIX

BEGINNING at a point in the western line of Carolina Avenue North where the same is intersected by the dividing line between Lots 7 and 8 in Block F of a portion of Carolina Beach as shown on map recorded in Book 285 at Page 600 in the New Hanover County North Carolina Registry, and running thence westwardly with said dividing line between Lots 7 and 8, and a prolongation thereof, 131 feet more or less to the eastern line of Canal Drive, thence southwardly with and along the eastern line of Canal Drive 179 2 feet more or less to the point where said eastern line of Canal Drive intersects the northern line of Harper Avenue, thence eastwardly along said northern line of Harper Avenue 10 5 feet more or less to its intersection with the western line of Carolina Avenue North, thence northwardly along said western line of Carolina Avenue North to the point of beginning the same being all of Lots 1, 2, 3, 4, 5, 6 and 7 in Block F of the Town of Carolina Beach as the same are shown on map recorded in Book 285, Page 600 in the New Hanover County Registry together with any lands lying between the western line of any of said lots and the eastern line of Canal Drive as shown on said map

EXCEPTING, HOWEVER, the southern end of Lot 1 and a strip 5 feet in width along the western line of Lots 1, 2, 3 and 4, all as described in Deed from Ada Lillian Watson to the Board of Alderman of the Town of Carolina Beach recorded in Book 375 at Page 555 in the New Hanover County Registry

The lands herein described and conveyed are also more particularly described in Deeds recorded in Book 1146 at Page 1786 and Book 1161 at Page 1527, both in the New Hanover County North Carolina Registry, reference to which is hereby specifically made



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

WILMINGTON, NC 28401

Filed For Registration. 11/29/2011 01:36:39 PM

Book. RE 5601 Page 421-427

Document No.: 2011032545

7 PGS \$26.00

NC REAL ESTATE EXCISE TAX \$5,000.00

Recorder. JOHNSON, CAROLYN

State of North Carolina, County of New Hanover

PLEASE RETAIN YELLOW TRAILER PAGE WITH ORIGINAL DOCUMENT.

2011032545

2011032545

STATE OF NORTH CAROLINA :
COUNTY OF NEW HANOVER :

THIS DEED/Y
REGISTERED
NEW HANOVER CO., N.C.

THIS INDENTURE, Made this 17th day of November, 1971,
by and between WILLIAM L. FARMER AND WIFE, KATHERINE S. FARMER,
parties of the first part, and C & B. LAND DEVELOPMENT COMPANY,
a corporation organized and existing under and by virtue of the
laws of the State of Virginia, party of the second part;

W I T N E S S E T H :

That the said parties of the first part, for and in con-
sideration of the sum of TEN (\$10.00) DOLLARS and other valuable
considerations to them in hand paid by the said party of the second
part, the receipt whereof is hereby acknowledged, have given, granted,
bargained and sold, aliened, conveyed and confirmed, and by these
presents do give, grant, bargain and sell, alien, convey and confirm
unto the said party of the second part, and its successors and
assigns, forever, that certain tract, piece, parcel of lot of land,
situate, lying and being in the County of New Hanover, State of
North Carolina, and bounded and described as follows:

TAX SUPERVISORS OFFICE
RECEIVED: 11-23-71
BY: Barbara White

BEGINNING at a point in the Eastern line of Carolina
Beach Avenue North, said point being the Southwest
corner of Lot 6 in Block G, running thence Eastwardly
147.2 feet, more or less, to the Western edge of the
Atlantic Ocean at low tide; thence Northwardly along
the meanders of the said Atlantic Ocean to a point
on said edge of said Atlantic Ocean, which said point
would intersect a line 10 7/8 feet South of Lot 10
in Block G if the same were extended; thence running
Westwardly and along the Southern line of a lot owned
by Ruth Parsons (now Ruth P. West) 109.4 feet, more
or less, to the Eastern line of Carolina Beach Avenue;
thence in a Southerly direction along the Eastern
line of Carolina Beach Avenue, North, to the point
of beginning, being 100 feet, more or less, the same
being all of Lots 6, 7, and 8, and part of Lot 9,
in Block G according to the map of the Pavilion Section
of Carolina Beach, prepared by J. L. Becton, C. E.,
dated May 6-10, 1929, and revised February 1-2, 1934,
and recorded in Map Book 3, at Page 23, of the records
of the Register of Deeds of New Hanover County. Being
all of the lands owned by parties of the first part in
Block G of Pavilion Section of Carolina Beach.

Together with all and singular the tenements, easements,
hereditaments and appurtenances unto the same belonging, or in any-
wise appertaining.

NEW HANOVER COUNTY 049450 STATE OF NORTH CAROLINA NOV 22 '71 P.B. 19728 Real Estate Excise Tax 70.00

TO HAVE AND TO HOLD the above granted and described premises, with the appurtenances, unto the said party of the second part, its successors or assigns, to its own proper use and behoof, FOREVER;

And the said parties of the first part, for themselves, their heirs and assigns, do covenant promise and agree to and with the said party of the second part, its successors and assigns, that they are lawfully seized in fee of the above granted and described premises; that they have good right to sell and convey the same in fee simple; that the same are free and clear of all liens and encumbrances of every kind, except those noted above; and that they will and their heirs and executors or administrators shall warrant and defend the same against the lawful claims and demands of any and all persons whomsoever.

IN TESTIMONY WHEREOF, the parties of the first part have hereunto set their hands and seals the day and year first above written.

William L. Farmer (SEAL)

Katherine S. Farmer (SEAL)

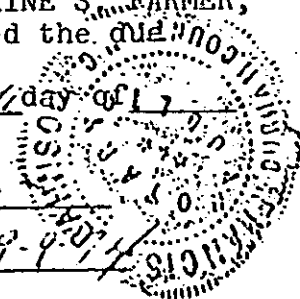
STATE OF NORTH CAROLINA :
COUNTY OF DURHAM :

I, Francis H. Bahnson, a Notary Public in and for the State of North Carolina, County of DURHAM, hereby certify that WILLIAM L. FARMER AND WIFE, KATHERINE S. FARMER, personally appeared before me this day and acknowledged the due execution of the foregoing and annexed instrument.

Witness my hand and notarial seal, this 19th day of November, 1971.

Francis H. Bahnson
NOTARY PUBLIC

My Commission expires: 9-9-74



STATE OF NORTH CAROLINA :
COUNTY OF NEW HANOVER :

The foregoing certificate of Francis H. Bahnson, Notary Public of County of Durham, State of North Carolina, is certified to be correct. This 23 day of November, 1971.

LOIS C. LERAY, REGISTER OF DEEDS,
NEW HANOVER COUNTY, NORTH CAROLINA
By Cathy L. Skipton, Deputy

DRAWN BY CARR & SWAILS.

Received and Recorded
November 23, 1971 at 11:35 AM

Lois C. Leray
Register of Deeds

ADMITTED TO RECORD
BOOK _____ PAGE _____
FILE _____

Nov 23 11 35 AM '71

LOUIS CLERAY
REGISTRAR
NEW HANOVER CO., N.C.

BOOK 923 PAGE 376

STATE OF NORTH CAROLINA :
COUNTY OF NEW HANOVER :

THIS INDENTURE, Made this 17th day of November, 1971,
by and between RUTH P. WEST AND HUSBAND, OSCAR L. WEST, parties
of the first part, and C & B. LAND DEVELOPMENT COMPANY, a corporation
organized and existing under and by virtue of the laws of the
State of Virginia, party of the second part;

W I T N E S S E T H :

That the said parties of the first part, for and in
consideration of the sum of TEN (\$10.00) DOLLARS and other valuable
considerations to them in hand paid by the said party of the
second part, the receipt whereof is hereby acknowledged, have
given, granted, bargained and sold, aliened, conveyed and confirmed,
and by these presents do give, grant, bargain and sell, alien,
convey and confirm unto the said party of the second part, and
its successors and assigns, forever, that certain tract, piece,
parcel of lot of land, situate, lying and being in the County
of New Hanover, State of North Carolina, and bounded and described
as follows:

BEGINNING at a point in the eastern line of Carolina
Beach Avenue where said line is intersected by the
Northern line of Lot 1 in Block 1, according to a
map of the Northern Section of Carolina Beach duly
recorded in Map Book 3, at Page 50, in the office
of the Register of Deeds of New Hanover County, running
thence from said point of beginning in an easterly
direction and with and along the northern line of
Lot 1, in Block 1, 63 feet, more or less, to the build-
ing line of the Town of Carolina Beach as said building
line is set forth and described on a map recorded
in the office of the Register of Deeds of New Hanover
County in Map Book 8, at Page 52; running thence in
a Southwardly direction and with and along said building
line of the Town of Carolina Beach to a point which,
if measured at right angles to the northern line of
Lot 1, in Block 1, is 137 feet distant therefrom;
thence in a Westerly direction along the Northern line
of a lot owned by W. L. Farmer and parallel to the
northern line of said Lot 1, in Block 1, according
to said map of Town of Carolina Beach, and being also
parallel to the dividing line between Lots 9 and 10
in Block G, according to a map of the Pavilion Section
of Carolina Beach as said map is recorded in Map Book
3, Page 23, in the office of the Register of Deeds
of New Hanover County, to the Easterly line of Carolina
Beach Avenue; thence in a northeastwardly direction
and following the Easterly line of Carolina Beach
Avenue to the point of beginning. Same being all

TAX SUPERVISORS OFFICE
RECEIVED: 11-25-71
BY: Barbara White

of Lots 1, 1A, and 10, as said lots are shown on a map of the Pavilion Section of Carolina Beach, together with the Northerly 10.78 feet of Lot 9 as shown on said map of Carolina Beach.

Together with all and singular the tenements, easements, hereditaments and appurtenances unto the same belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the above granted and described premises, with the appurtenances, unto the said party of the second part, its successors and assigns, to its own proper use and behoof, FOREVER;

And the said parties of the first part, for themselves, their heirs and assigns, do covenant, promise and agree to and with the said party of the second part, its successors and assigns, that they are lawfully seized in fee of the above granted and described premises; that they have good right to sell and convey the same in fee simple; that the same are free and clear of all liens and encumbrances of every kind, except those noted above; and that they will and their heirs and executors or administrators shall warrant and defend the title herein conveyed against the lawful claims and demands of any and all persons whomsoever.

IN TESTIMONY WHEREOF, the parties of the first part have hereunto set their hands and seals, the day and year first above written.

Rueck P. West (SEAL)

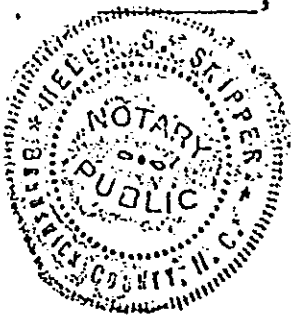
Oscar J. West (SEAL)



STATE OF NORTH CAROLINA :
COUNTY OF NEW HANOVER :

I, Helen S. Skipper, a Notary Public in and for the State of North Carolina, County of Brunswick, hereby certify that RUTH P. WEST AND HUSBAND, OSCAR L. WEST, personally appeared before me this day and acknowledged the due execution of the foregoing and annexed instrument.

Witness my hand and notarial seal, this 23 day of November, 1971.



Helen S. Skipper
Notary Public

My Commission expires: Oct. 28, 1974

STATE OF NORTH CAROLINA :
COUNTY OF NEW HANOVER :

The foregoing certificate of Helen S. Skipper, Notary Public of Brunswick County, North Carolina, is certified to be correct. This 23 day of November, 1971.

LOIS C. LERAY, REGISTER OF DEEDS,
NEW HANOVER COUNTY, NORTH CAROLINA

By Cathy L. Skipton, Dep.

DRAWN BY CARR AND SWAILS.

Received and Recorded
November 23, 1971 at 11:35 AM

Lois C. Leray
Register of Deeds g.

3
26
2300 RS



2015008537

SFOR REGISTRATION REGISTER OF DEED
TAMMY THEUSCH BEASLEY
NEW HANOVER COUNTY, NC
2015 MAR 30 02 23 31 PM
BK 5877 PG 1978-1981 FEE \$26 00
NC REV STAMP \$2,300 00
INSTRUMENT # 2015008537

**NORTH CAROLINA
GENERAL WARRANTY DEED**

Excise Tax \$ 2,300 00

Recording Time, Book and Page

Tax Map No

Parcel Identifier No R09006-006-004-000

Mail after recording to _____

This instrument prepared By Alan M. Solana, a licensed NC Attorney
1650 Military Cutoff Rd., #200 Wilmington, NC 28403

RETURNED TO

THIS DEED made this 26th day of March, 2015, by and between

GRANTOR

Myrtle Grove Properties, LLC
A North Carolina limited liability company

Address: 1140-C North Lake Park Blvd
Carolina Beach, NC 28428

GRANTEE

Sea Witch Motel, LLC
A North Carolina limited liability company

Address:

*224 Carolina Beach Avenue north
Carolina Beach NC 28428*

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

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land and more particularly described as follows

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AS IF FULLY HEREIN SET OUT.

All or a portion of the property hereinabove described was acquired by Grantor by instrument recorded in Book 2552, Page 0586 New Hanover County Registry

A map showing the above described property is recorded in Map Book 3, Page 50 and Map Book 8, Page 52 referenced within this instrument

The above described property _____ does x does not include the primary residence of the Grantor

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

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

Title to the property hereinabove described is subject to the following exceptions

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officer(s), the day and year first above written.

Myrtle Grove Properties, LLC
a North Carolina limited liability company _____ (SEAL)
(ENTITY NAME)

By Ladd Nelson _____ (SEAL)
Ladd Nelson
Title Member/Manager

By Jean Nelson _____ (SEAL)
Jean Nelson
Title Member/Manager

_____ (SEAL)

STATE OF NORTH CAROLINA , COUNTY OF NEW HANOVER

I Kippi S. Clark, a Notary Public for said State and County, do hereby certify that Ladd Nelson and Jean Nelson, Member/Managers of Myrtle Grove Properties, LLC, personally appeared before me and acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and official stamp or seal, this the 26th day of March, 2015

My Commission Expires 16 November 2019

Kippi S. Clark
Notary Public

Print Notary Name Kippi S. Clark

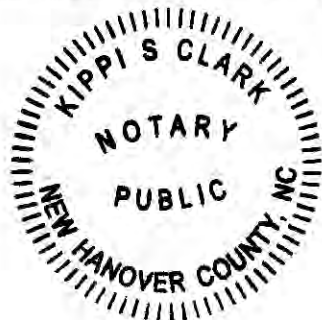


EXHIBIT "A-1"

Legal description for Myrtle Grove Properties, LLC, Town of Carolina Beach, New Hanover County, North Carolina.

BEGINNING at an existing iron pipe in the eastern right of way line of Carolina Beach Avenue North (30.0' right of way) that is located South 24 degrees 36 minutes 00 seconds West 250.00', as measured along said right of way line, from the point of intersection of said right of way line with the southern right of way line of Pelican Lane (formerly First Avenue). Running thence from said point of beginning South 65 degrees 24 minutes 00 seconds East 125.00' to a point, passing through an existing in line iron pipe at 105 00'; thence South 24 degrees 36 minutes 00 seconds West 150.00' to a point; thence North 65 degrees 24 minutes 00 seconds West 125.00' to an existing iron pipe in the eastern right of way line of Carolina Beach Avenue North, passing through an in line existing iron pipe at 20.00'; thence with the eastern right of way line of Carolina Beach Avenue North, North 24 degrees 36 minutes 00 seconds East 150.00' to the point of beginning. The above description describes all of Lots 3, 4 and 5 of Block 1 as shown on a map of the northern section of Carolina Beach recorded in Map Book 3 at Page 50 of the New Hanover County Registry. The above described lot being subject to restrictions of record and also the Carolina Beach Building Line as shown on a map recorded in Map Book 8 at Page 52 of the New Hanover County Registry and represents those lots described in Deed Book 1385 at Page 1594 of the New Hanover County Registry.

SUBJECT TO a five (5) foot easement along, with and over the southern boundary of Lot 3 for the purposes of ingress and egress only.



TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration. 03/30/2015 02:23.31 PM

Book: RE 5877 Page. 1978-1981

Document No.: 2015008537

4 PGS \$26.00

NC REAL ESTATE EXCISE TAX \$2,300.00

Recorder: JOHNSON, CAROLYN

State of North Carolina, County of New Hanover

PLEASE RETAIN YELLOW TRAILER PAGE WITH ORIGINAL DOCUMENT.

2015008537

2015008537

Book 224

State of North Carolina, }
New Hanover COUNTY.

S. S.-WARRANTY DEED

THIS INDENTURE, Made this 2nd day of May A.D. 1933 by and between
Margaret Caldwell Bolles and husband, Charles P. Bolles
of Wilmington County of New Hanover
and State of North Carolina, of the first part, and A.D. Averette and wife, Minnie Lee Averette
of Wake County of North Carolina of the second part

WITNESSETH, That the said part 100 of the first part, for and in consideration of the sum of One hundred Dollars, and other valuable considerations to them in hand paid by the said part 100 of the second part; the receipt whereof is hereby acknowledged, has been given, granted, bargained and sold, aliened and conveyed, and by these presents do hereby give, grant, bargain and sell, alien, convey and confirm unto the said part 100 of the second part and to their heirs and assigns forever, all that certain lot of land, situated, lying and being in County of New Hanover and State of North Carolina, bounded and described as follows, to wit:

BEGINNING in the eastern line of Carolina Beach Avenue North, 200 feet southwardly from the point where the eastern line of Carolina Beach Avenue North is intersected by the southern line of First Avenue North; runs thence eastwardly and parallel with the said First Avenue North, 125 feet; thence southwardly and parallel with Carolina Beach Avenue North, fifty (50) feet; thence westwardly and parallel with First Avenue North, one hundred and twenty-five (125) feet to the southern line of Carolina Beach Avenue North, thence northwardly fifty (50) feet to the point of beginning; being otherwise designated as Lot #6 in Block #1 according to the revised map of Carolina Beach as plotted by J.L. Beaton, C.E. September 1913, and being the same tract of land conveyed to the said Margaret Caldwell Bolles by deed dated July 8th, 1932 and recorded in Book 230 at page 528.

It is understood and agreed by and between the parties hereto that this deed is made subject to the unpaid taxes for the tax year commencing April 1st, 1933, which said taxes the parties of the second part hereby agree to assume and pay off.

together with all and singular, the lands, tenements, easements and appurtenances thereto belonging, or in anywise appertaining.
TO HAVE AND TO HOLD the above granted and described premises, together with all and singular, the rights, privileges, easements, tenements and appurtenances thereunto belonging, or in anywise appertaining unto the said part 100 of the second part their heirs and assigns, in fee simple, FOREVER.
And the said part 100 of the first part, for themselves, their heirs, executors and administrators do covenant to and with the said part 100 of the second part their heirs and assigns, that they are seized in fee of the above granted and described premises, and that they have good right to sell and convey the same in fee simple; that the same are free and clear from any and all encumbrances, and that they will and their heirs, executors and administrators shall WARRANT and DEFEND the title to the same against the lawful claims and demands of any and all persons whomsoever.

IN TESTIMONY WHEREOF, the said part 100 of the first part has hereunto set their hand and affixed their seal the day and year above written.

WITNESS:
Margaret Caldwell Bolles (SEAL)
Charles P. Bolles (SEAL)

State of North Carolina, }
New Hanover COUNTY.

I, Meares HARRISS, a Notary Public in and for the State and County aforesaid, do hereby certify that Chas. P. Bolles and Margaret Caldwell Bolles his wife, personally appeared before me this day and acknowledged the due execution of the annexed instrument, and the said Margaret Caldwell Bolles wife of Chas. P. Bolles being by me privately examined, separate and apart from her said husband touching her voluntary execution of the same, doth state that she signed the same freely and voluntarily, without fear or compulsion of her said husband, or any other person, and that she doth still voluntarily assent thereto.

Witness my hand and seal, this 2nd day of May, 1933.
Meares HARRISS Notary Public.
(Notarial Seal) My commission expires 14 day of March, 1935.

State of North Carolina, }
COUNTY.

I, a Notary Public in and for the State and County aforesaid, do hereby certify that personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Let the said instrument and this certificate be registered. Witness my hand and official seal this day of 1933.
(Notarial Seal) Notary Public
My Commission expires day of 1933.
Clerk Superior Court

State of North Carolina, }
NEW HANOVER COUNTY.

The foregoing Certificate of Meares HARRISS, a Notary Public of New Hanover County, is adjudged to be correct. Let the instrument with the Certificate be recorded. This 3 day of May 1933.
Received and Recorded, this 3rd day of May 1933.
at 11-20 A.M. M. S. HARRISS Dy Clerk Superior Court.
Register of Deeds.

Tammy Theusch Beasley
Register of Deeds
New Hanover County, NC
Electronically Recorded
2014 Oct 06 04:04 PM RE Excise Tax:\$4,200.00
Book: 5843 Page: 1839 Fee: \$26.00
Instrument Number:2014026706
Non-Standard Fee: \$0.00

Prepared by: Craige & Fox, PLLC
701 Market Street
Wilmington, NC 28401

Revenue Stamps: \$4,200.00
Tax Parcels: R09006-006-001-000
R08818-017-001-000
R08818-018-001-000
R08818-019-001-000
R08818-019-002-000
R09006-005-020-000

Return to:
Hinson Faulk, P.A.
309 Post Office Drive
Indian Trail, NC 28079
File No. 2014084196

All or a portion of the property herein conveyed does not include the primary residence of a Grantor.

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

SPECIAL WARRANTY DEED

THIS DEED, made as of the 2nd day of October, 2014, by and between **CBP3, Inc.**, a North Carolina non-profit corporation, whose address is 1121 N. Lake Park Blvd, Carolina Beach, NC 28428, hereinafter called Grantor, and **Carolina Beach Hospitalities, LLC**, a North Carolina limited liability company, hereinafter called Grantee, whose mailing address is 231 Post Office Drive, Unit B8, Indian Trail, NC 28079.

WITNESSETH:

WITNESSETH, Grantor for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to it in hand paid by Grantee, the receipt of which is hereby acknowledged, has given, granted, bargained, sold and conveyed by these presents, does give, grant, bargain, sell convey and confirm unto Grantee, its successors and assigns, in fee simple, the following described property located in New Hanover County, North Carolina:

SEE ATTACHED EXHIBIT A

submitted electronically by "Hinson Faulk, P.A."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the New Hanover County Register of Deeds.

2014026706


This conveyance is made subject to easements, rights of way and restrictive covenants of record, if any, and to ad valorem taxes for the current year.

The above described property was acquired by CBP3, Inc. by Deed recorded in Book 5457, Page 2657 of the New Hanover County Registry.

TO HAVE AND TO HOLD the above described premises, with all appurtenances thereunto belonging unto Grantee, its successors and assigns in fee simple.

Grantor, does covenant that the said party has not placed or suffered to be placed any presently existing lien or encumbrance on said property, and that said party will warrant and defend title to the same against the lawful claims of all persons claiming by, through, under or on account of Grantor and no further.

IN WITNESS WHEREOF, Grantor has hereunto set his hand and seal, the day and year first above written.

CBP3, Inc.
By:  (SEAL)
Steve Shuttleworth, President

**STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER**

I, Kimberlee Ward, a Notary Public do hereby certify that Steve Shuttleworth, President of CBP3, Inc. personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and official seal this 3rd day of March, 2014.

Kimberlee Ward
Notary Public
My Commission expires: March 3, 2015

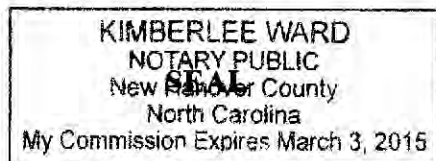


EXHIBIT A

Situated in the Town of Carolina Beach, State of North Carolina, and being more particularly described as follows, to-wit:

PARCEL NO. 1: 234, 236 and 302 Carolina Beach Avenue North (*formerly erroneously described as 234, 236 and 300 Lake Park Boulevard South in that deed from Surfside Properties, LLC, to Arcadius Development, LLC, recorded in Book 4972, at page 2530*)
Parcel Nos. 09006-006-001-000; R08818-017-001-000 and
R08818-018-001-000

ALL of Lots 7, 8, 9 and 10 in Block 1 and all of Lots 1 and 2 in Block 3 of the Town of Carolina Beach as the same are shown on map recorded in Map Book 3 at Page 67 in the New Hanover County Registry.

PARCEL NO. 2: 237 Carolina Beach Avenue North
Parcel No. R08818-019-001-000

BEGINNING at the point where the western line of Carolina Beach Avenue, North, is intersected by the dividing line between Lots 9 and 10 in Block 2 of said Town, as shown on map recorded in Map Book 3 at Page 67 in the New Hanover County Registry; running thence Westwardly along said dividing line and perpendicular to Carolina Beach Avenue North, 125 feet; thence Southwardly and parallel with Carolina Beach Avenue North, 50 feet; thence Eastwardly and perpendicular to Carolina Beach Avenue North, 125 feet to the western line of Carolina Beach Avenue North; thence Northwardly along said western line of said Avenue 50 feet to the point of Beginning, the same being all of the Lot 9 and the eastern portion of Lot 19 in Block 2 of the Town of Carolina Beach as shown on the above mentioned map.

PARCEL NO. 3: 239 Carolina Beach Avenue North
Parcel No. R08818-019-002-000

BEGINNING at the Southwest corner of the intersection of Carolina Beach Avenue North and First Avenue; running thence Westwardly in the Southern line of First Avenue, 90 feet to the former high water mark of Myrtle Grove Sound, thence Southwardly along said former high water mark about 50 feet, thence Eastwardly and parallel with First Avenue, 96 feet to the western line of Carolina Beach Avenue North, thence Northwardly in the western line of Carolina Beach Avenue North, 50 feet to the point of Beginning, being all of Lot 10, in Block 2, according to the map of the Northern Section of Carolina Beach prepared by M. H. Lander, C.E., dated June 1, 1939, and recorded in Map Book 3 at Page 67 in the New Hanover County Registry.

PARCEL NO. 4: 235 Carolina Beach Avenue North
Parcel No. R09006-005-020-000

Tract A:

BEGINNING at a point in the western line of Carolina Beach Avenue one hundred and fifty (150) feet southwardly from where the southern line of First Avenue intersects Carolina Beach Avenue, and running thence westwardly and parallel with First Avenue sixty five (65) feet; thence in a southwestwardly direction to a point in the boundary line between Lot 7 and Lot 6 in Block 2 of Carolina Beach, which said point is located one hundred and seven (107) feet westwardly from the western boundary of Carolina Beach Avenue; running thence eastwardly and parallel with First Avenue one hundred and seven (107) feet to the western boundary of Carolina Beach Avenue, and running thence northwardly along the western line of Carolina Beach Avenue fifty (50) feet to the Point of Beginning, same being a portion of Lot 7 in Block 2 according to the official plan of Carolina Beach.

Tract B:

BEGINNING at a point in the western line of Carolina Beach Avenue one hundred (100) feet southwardly from where the southern line of First Avenue intersects Carolina Beach Avenue and running thence westwardly and parallel with First Avenue, seventy seven (77) feet; thence in a southwardly direction to a point in the boundary line between Lot 7 and Lot 8 in Block 2 of Carolina Beach, which said point is located sixty five (65) feet westwardly from the western boundary of Carolina Beach Avenue; running thence eastwardly and parallel with First Avenue sixty-five (65) feet to the western boundary of Carolina Beach Avenue, and running thence northwardly along the western boundary of Carolina Beach Avenue fifty (50) feet to the Point of Beginning; the same being a portion of Lot 8 in Block 2 according to the official plan of Carolina Beach.

The two above mentioned tracts of land are shown on a map prepared by J. L. Becton, C.E. and recorded in Book 72 at Pages 32 and 33 and later, January, 1939; checked by M. H. Lander, C.E., and recorded in the Office of the Register of Deeds of New Hanover County in Map Book 3, Page 67.

Tract C:

BEGINNING at a point in the dividing line between Lots 18 and 19 in Block 2 according to map of portion of Carolina Beach, recorded in Map Book 3, Page 67 of the New Hanover County Registry, 125 feet eastwardly from the intersection of said dividing line with the eastern line of Canal Drive; running thence eastwardly along said dividing line, 48 feet, more or less, to the western line of Lot No. 8 in said Block 2, as appears on said map; thence southwardly along said western line of said Lot 8 in said Block 2, to the dividing line between Lots 17 and 18 in said Block, at a point 185 feet eastwardly from the intersection of said dividing line with the eastern line of Canal Drive; thence westwardly 60 feet to a point in said dividing line 125 feet eastwardly from the eastern line of Canal Drive, measured along said dividing line; thence northwardly parallel with Canal Drive 50 feet to the Point of Beginning, the same being the

eastern part of Lot #18 in said Block 2, or that part of said Lot 18 which was not sold to E. E. Page and wife by deed recorded in Book 300, Page 264 of the New Hanover County Registry.

Tract D:

BEGINNING at a point in the dividing line between Lots 17 and 18 in Block 2, according to map recorded in Map Book 3, Page 67 of the New Hanover County Registry, 125 feet eastwardly measured along said dividing line from where it intersects the eastern line of Canal Drive; running thence eastwardly along said dividing line, 60 feet to the western line of Lot 7 in said Block; thence southwardly along the western line of said Lot 7 to the dividing line between Lots 16 and 17 in said block; thence westwardly along said dividing line in said Block 2, 18 feet to a point; 125 feet eastwardly from where said dividing line intersects the eastern line of Canal Drive; thence northwardly parallel with Canal Drive 50 feet to the Point of Beginning; the same being all of Lot 17, in said Block 2, not sold to E. F. Risley and wife, by deed recorded in Book 290, Page 484 of the New Hanover County Registry.

Together with all and singular lands, tenements, easements and appurtenances thereto belonging or in anywise appertaining.

Subject to any easement of right of way in favor of the Town of Carolina Beach, the County of New Hanover, the State of North Carolina, or the United States of America, for berm and dune purposes, and for beach protection or beach erosion purposes.



May 21, 2015

Mr. Braxton Davis
Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28577

Dear Mr. Davis,

I am pleased to inform you that construction is progressing on our new Hampton Inn Suites at Carolina Beach. We began constructions in January of this year and hope to open our hotel in the spring of 2016. A very important component to the future of our hotel is the construction of an outdoor venue that extends from our hotel towards the ocean. There is strong demand for event venues, particularly weddings and business meetings with an ocean exposure. Our outdoor venue is designed to accommodate more than 200 guests with an outdoor covered bar providing seating for more than 50 guests. We also have an oversize pool and large deck area for events.

Our plans have always included extending access to our facility to tie into the proposed boardwalk extension that has been planned by Carolina Beach and New Hanover County. It has been our understanding that the proposed boardwalk will extend behind our hotel.

This correspondence is to voice our strong support for continuing the development of the boardwalk and its extension behind our facility. The success of our development will be of substantial economic benefit to the Town of Carolina Beach and New Hanover County. We will offer businesses and local residents a wonderful venue for events and recreation. The extension of the significant boardwalk improvements recently constructed extending behind our facility is important to our long term success.

Thank you in advance for your consideration. Please feel free to call me personally to discuss any items in detail. We welcome any opportunity to meet with you and representatives of the NCCRC.

Sincerely,

Victor J Mills
CEO
(706)854-6711



July 18, 2014

Mr. Frank Gorham
Chairman, NC CRC

Re: Boardwalk extension – Carolina Beach, NC

Dear Mr. Gorham,

Over the next several months, our company plans to begin construction of a new “Class A” Hotel facility at Carolina Beach. Our hotel will operate under a Hampton Inn & Suites Hilton franchise. The facility will include the construction of a major outdoor venue, extending from our hotel towards the ocean. In addition to the normal vacation market, a major portion of our business will be events such as weddings, business meetings, etc. We are constructing an outdoor venue to accommodate more than 200 guests with an outdoor covered bar, pool, and large reception area. Our plans include extending our facility to tie in to the proposed Boardwalk extension that is currently planned by Carolina Beach and New Hanover County. We believe that, when complete, our event venue coupled with the direct access to the Boardwalk extension and the ocean, will provide an exceptional location for weddings, business meetings, conferences, and other events that are extremely important to the Town of Carolina Beach, New Hanover County and our Hotel.

Several months ago, we completed a Market Impact Study which demonstrated that our new facility will provide contributions from property taxes, sales taxes, ext. of more than \$10 million accruing to the town, county and state. We believe that the extension of the Boardwalk is an important ingredient for us to meet the goals that we have worked with the town to establish.

Please accept this correspondence as our strong recommendation in support of extending the existing Boardwalk pursuant to the current construction and development plans. We understand that, as always, there are a few private property owners objecting to these improvements. We hope that your judgment as to what best serves the citizens of New Hanover County, Carolina Beach, and visitors from all over NC and the Southeast will show the wisdom of allowing this important project to progress.

Thank you in advance for your consideration. Please feel free to call me personally to discuss in items in greater deal, or if we can provide additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Victor J Mills", is written over a light blue horizontal line.

Victor J Mills
CEO

June 1, 2015

Braxton Davis, Director
NC Division of Coastal Management
400 Commerce Ave.
Morehead City, NC 28557

Re: Carolina Beach Variance Request - Boardwalk Northern Extension

Dear Mr. Davis,

I am writing to voice my strong support for the Town of Carolina Beach's Variance request for the Boardwalk Northern Extension that will be heard by the Coastal Resources Commission at their upcoming meeting.

I recently purchased the Sea Witch Hotel located at 224 Carolina Beach Ave. North and was excited to hear of the Town's plans to extend the Boardwalk along the dunes in front of my property. We are located between the Cabana Del Mar to the south and the Averette's property to the north. I believe the new addition will be a huge benefit to my guests and the general public in providing much needed new handicapped accessible beach access and enjoyment of the dunes.

I understand the Town has received grant funds from CAMA, New Hanover County and the Division of Water Resources to support this innovative project. The recently completed southern section of the Boardwalk has become the focal point of the community with incredible public support. The new Boardwalk will compliment and enhance my plans to provide a new rooftop viewing deck and other improvements.

Please pass along this letter to the CRC requesting the Board approve the Town's Variance request.

Thank you for your consideration. Please feel free to call me personally to discuss in items in greater deal, or if we can provide additional information.

Sincerely,



Kieu Loan T. Tang, Owner
SeaWitch Motel
224 Carolina beach Ave. North
Carolina Beach, NC 28428
Ph. 910-707-0058



July 6, 2015

North Carolina Department of Environment and Natural Resources
Coastal Resource Commission
400 Commerce Ave.
Morehead City, NC 28557

Mr. Frank Gorham, Chairman
Mr. Neal Andrew
Mr. Larry Baldwin
Ms. Renee Cahoon
Ms Suzanne Dorsey
Mr. Bob Emory
Mr. Marc Hairston
Mr. Greg Lewis
Mr. Bill Naumann
Mr. Ben Simmons
Mr. Harry Simmons
Mr. John Snipes
Mr. Lee Wynns

Mr. Gorham and members of the North Carolina Coastal Resource Commission,

I am the owner of the Surfside Lodge Carolina Beach, NC. The Surfside Lodge is located in the middle of the proposed boardwalk extension. Our property reflects 55 oceanfront rooms with five total buildings. My letter is to reference my support of the new boardwalk extension.

The extension will be extremely beneficial for our guests and create a safe and scenic pathway to the center of the boardwalk district. We are extremely pleased with the layout of the extension and look forward to adding another upgraded amenity for the guests and the residents of Carolina Beach to enjoy.

I strongly encourage you to support and vote in favor of the variance requested. The Town of Carolina Beach has been diligent in its efforts to work with me and the other property owners to see this project through. As hospitality professionals, tourism revenue is what sustains our business and helps to create and maintain jobs at our hotel. We see the new extension as a positive sign the Town of Carolina Beach is finding ways to ensure tourism continues to thrive in our area.

I appreciate your consideration and look forward to the permit variance being approved.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Troutman", written over a horizontal line.

Bill Troutman

10450
1100

BOOK PAGE
1273 0757

RECORDED AND VERIFIED
REBECCA P. TUCKER
REGISTER OF DEEDS
NEW HANOVER CO. NC

Cabana de Mar Condominium

Dec 7 1 03 PM '84

INDEX TO
DECLARATION

		PAGE NO.
1.	DEFINITIONS.	1
2.	DESCRIPTION OF PROPERTY	3
3.	DESCRIPTION OF BUILDING	3
4.	PLAN OF DEVELOPMENT AND SCOPE OF DECLARATION	4-7
5.	UNIT DESIGNATION AND DESCRIPTION	7
6.	COMMON AREAS AND FACILITIES	8-9
7.	LIMITED COMMON AREAS AND FACILITIES	9-10
8.	USE	10
9.	RESTAURANT AND STORE DEFINED AS ADDITIONAL UNITS !!	
10.	PROCESS AGENT	11
11.	MAINTENANCE	12
12.	EASEMENTS	13-14
13.	PARTITIONING	14
14.	COMMON EXPENSES, COMMON PROFITS	14-15
15.	TAXES	15
16.	LIENS	15-16
17.	NATURE OF INTEREST IN UNIT	15
18.	INSURANCE	16-17
19.	DISTRIBUTION OF INSURANCE PROCEEDS	17
20.	DAMAGE AND DESTRUCTION	17-18
21.	RECOMMENDATION OF RENTAL AGENTS	18-19
22.	MANAGEMENT AGENT	19-20
23.	WORKING CAPITAL	20
24.	UNITS SUBJECT TO CONDOMINIUM DOCUMENTS	20
25.	AMENDMENT OF DECLARATION	25-26
26.	INCORPORATION OF ASSOCIATION	21
27.	INVALIDITY	21
28.	WAIVER	21
29.	LAW CONTROLLING	21
30.	WARRANTIES	21

33

RETURNED TO
Julia McCrory

026677

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DECLARATION OF CONDOMINIUM
CABANA de MAR

Boardwalk Development Company, Incorporated, a North Carolina Corporation, hereinafter called "DECLARANT" being the owner in fee simple of the property hereinafter described, hereby submits said property to condominium ownership pursuant to Chapter 47A of the General Statutes of North Carolina as amended, known as the "Unit Ownership Act", and to that end does hereby publish and declare that all of the said property to be known as Cabana de Mar, is and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to the following conditions, covenants, restrictions, uses, limitations and obligations, all of which shall be deemed to run with the land and shall be a burden and benefit to DECLARANT, its successors and assigns, and any person acquiring or owning an interest in the property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. DEFINITIONS. Unless it is plainly evident from the context that a different meaning is intended, as used herein:

A. "Act" or "Unit Ownership Act" means the statutory provisions set forth in Chapter 47A of the North Carolina General Statutes under which the condominium is established.

B. "Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner by the Association.

C. "Association" means the entity responsible for the operation of the condominium pursuant to the Act, which entity includes all of the unit owners acting as a group in accordance with the By-Laws and Declaration.

D. "Board of Directors" or "Board" means the Board of Directors of the Association and "Director" means a member of the Board.

E. "By-Laws" means the by-laws for the government of the condominium as they exist from time to time.

F. "Common Areas and Facilities" means the portion of the condominium property owned, in undivided interest, by all of the owners, as more specifically set forth herein.

G. "Common Expenses" include the expenses of administration, maintenance, operation, repair and replacement (including a capital reserve for repair maintenance and replacement), of the common area and facilities and other expenses declared by the Association to be common expenses, as further defined in the Act.

H. "Common Profits" means the balance of all revenue of the Association remaining after deduction of common expenses.

I. "Condominium Documents" means this Declaration, the By-Laws, the Rules and Regulations, and all other Exhibits attached hereto and all other documents, and regulations promulgated pursuant to the authority created herein and in the Act, and as such documents shall be amended from time to time.

J. "Declaration" means this instrument as it may be from time to time amended or supplemented.

K. "Limited Common Areas and Facilities" means and includes those common areas and facilities which are reserved for the use of a certain unit or units to the exclusion of other units, as more specifically defined herein.

L. "Management Firm" shall mean the company or firm responsible for the management of the condominium under a Management Agreement with the Association. The terms "Managing Agent" and "Management Agent", as used herein, shall be synonymous with the term "Management Firm" as herein defined.

M. "Property" means and includes the land described in Exhibit "A", attached hereto and incorporated herein by reference, together with any buildings and improvements located thereon, and such other land, together with any buildings and improvements as may be subjected to this Declaration pursuant to the provisions hereinafter set forth.

N. "Unit" or "Condominium Unit" means a part of the property which is to be subject to private ownership, as designated on the exhibits attached to this Declaration and as further defined in the Act.

O. "Unit Owner" or "owner" means a person or entity, or any combination thereof, who owns a unit.

P. "Restaurant" means the area designated as such on the fourth (4th) floor which shall include Meeting Rooms and facilities and

allow for the serving of food items as shown on the "Unit Locator" attached hereto, marked and identified as Exhibit C and incorporated herein by reference.

Q. "Store" means the premises adjacent to the Lobby located on ground level and which shall include a Snack Bar. The words "store" or "Snack Bar" if used herein are synonymous.

2. DESCRIPTION OF PROPERTY. All that certain tract or parcel of land with the buildings and improvements thereon erected or to be erected, situate, lying and being in Carolina Beach Township, County of New Hanover, State of North Carolina, and more particularly described in Exhibit "A" attached hereto and by reference made a party hereof.

3. DESCRIPTION OF BUILDING. The DECLARANT has constructed or will construct, upon the property described in Exhibit "A" attached hereto, one multi-unit building with condominium units to be used for residential/and lodging accommodation purposes. A Plat and site plan by Junius M. Andrews, Jr. A.I.A. showing the location of said building is attached hereto and made a part hereto as Exhibit "B". The building is more particularly described in the plans thereof, a copy of which plans is attached hereto as Exhibit "D" and made a part hereof, showing all particulars of the building as required by law. The ground floor has parking facilities, a lobby, elevator lobby, registration desk, rest rooms, office space for the Association and Managing Agent, and a snack bar-store with on and off premises food and general inventory sales.

The first floor consists of seven (7) one (1) bedroom condominium units facing west or bayside; nine (9) one (1) bedroom condominium units facing east or oceanside; and seven (7) two (2) bedroom condominium units facing east or oceanside. The second floor consists of seven (7) one (1) bedroom condominium units facing west or bayside; nine (9) one (1) bedroom condominium units facing east or oceanside; and seven (7) two (2) bedroom condominium units facing east or oceanside. The third floor consists of one (1) one (1) bedroom condominium unit facing east or oceanside and fifteen (15) two (2) bedroom condominium units facing east or oceanside. The fourth floor consists of twelve (12) two (2) bedroom condominium units facing east or oceanside and a Restaurant and Meeting Rooms. The layout of the first, second, third and fourth floors are shown including individual unit numbers on the attached item labeled "Unit Locator" marked and identified as Exhibit C and incorporated

1273 0767

F. The limited common areas and facilities which are appurtenant to any unit(s) shall not be separated therefrom and shall pass with title to any unit(s), whether or not separately described.

8. USE. The building and each of the units shall be used for residential and lodging accommodation purposes, which shall include the rental of individual units on a daily basis by the owner(s) thereof for lodging accommodations using the same methods as in a motel, and other uses reasonably incidental thereto, including meetings by persons owning or occupying such units, and offices for the sale or rental of units and their furnishings. All guests for rooms rented must sign in at a registration desk located in the main office where daily rentals and billings will be handled. There shall be no obstruction of the common area. Nothing shall be stored in the common area without the prior consent of the managing agent or Board of Directors. Nothing shall be done or kept in any unit or in the common area which will increase the rate of insurance on the common area, without the prior written consent of the Management Firm or Board of Directors. No sign of any kind shall be displayed to the public view on or from any unit or the common area without the prior consent of the Management Firm or Board of Directors. No animals, livestock or poultry of any kind shall be raised, bred or kept in any unit or in the common area except as may be permitted by the rules and regulations adopted by the Association. No noxious or offensive activity shall be carried on in any unit or in the common area, nor shall anything be done therein which may be or become an annoyance to the other owners. There shall be no violation of the rules for the use of the common area adopted by the Board of Directors. So long as the Declarant shall retain ownership of any units, it may utilize any such unit or units for sales or rentals offices, models or other usage for the purpose of selling or renting units within said project. The Declarant may assign this limited commercial usage right to any other person or entities as it may choose; provided, however, that when all units have been sold, this right of commercial usage by the Declarant, its successors and assigns shall immediately cease. Co-ownership of units shall not be prohibited.

In addition the restaurant and store premises and their use are permitted in accordance with the definition for each as contained herein.

Beginning at an old iron pipe, set in concrete, in the eastern right-of-way line of Carolina Beach Ave. (North) (30 foot right-of-way). Said beginning pipe being South 24 degrees 36 minutes West 400.00 feet from the intersection of said eastern line of Carolina Beach Ave. (North) with the southern right-of-way line of First Ave. (North) (25 foot right-of-way). Running thence from said beginning point South 65 degrees 24 minutes East 105.00 feet to an iron pipe in the town of Carolina Beach, N.C. building line as shown on a map recorded in Map Book 8 at Page 52 of the New Hanover County Register of Deeds; thence South 24 degrees 36 minutes West 50.00 feet along said building line to an old iron rod; thence North 65 degrees 24 minutes West 17.85 feet along said building line to an old iron rod; thence South 24 degrees 55 minutes West 43.79 feet along said building line to an old iron pipe; thence South 29 degrees 14 minutes West 31.36 feet along said building line to an old iron pipe; thence North 65 degrees 24 minutes West 116.07 feet to an old iron pipe in the eastern right-of-way line of said Carolina Beach Ave. (North); thence North 49 degrees 29 minutes East 75.33 feet along said eastern right-of-way line of Carolina Beach Ave. (North) to a point; thence North 24 degrees 36 minutes East 56.70 feet along said eastern right-of-way line of Carolina Beach Ave. (North) to the point of beginning.

The same being all of Tract 1 conveyed to Ronald Chupka and wife, Sandi Chupka, by O. K. Merchant and wife, Roxie P. Merchant according to a deed recorded in Book 1216 at Page 1697 of said Registry, and all of that tract conveyed to Ronald Chupka and wife, Sandi Chupka by Charles H. Vowell and wife, Clairra H. Vowell according to a deed recorded in Book 1176 at Page 1101 of said Registry. The above Tract contains 12,821 feet square (0.294 acres).

CRAIGE & FOX PLLC

ATTORNEYS & COUNSELORS AT LAW

701 Market Street / Wilmington, North Carolina 28401

Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

LAWRENCE S. CRAIGE*
CHARLOTTE NOEL FOX

*Board Certified Specialist in Elder Law

*Certified Elder Law Attorney by ABA Accredited National Elder Law Foundation

ASHLEY MICHAEL
BONNIE M. BRAUDWAY
JENNIFER N. MARSHALL

October 24, 2014

Braxton Davis
NC Division of Coastal Management
Director
400 Commerce Ave.
Morehead City, NC 28557
Via email and US Mail

Re: Variance Request by Town of Carolina Beach (CRC-VR-14-10)

Dear Mr. Davis,

I hope this letter finds you doing well.

The purpose of this letter is to confirm that the Town of Carolina Beach withdrew, entirely and fully, its Variance Request dated June 18, 2014 (CRC-VR-14-10) on October 22, 2014.

I will follow up with you in the near future to discuss this matter.

Sincerely,

CRAIGE & FOX, PLLC

By: 

Charlotte Noel Fox

Cc: Mary Lucasse via email (MLucasse@ncdoj.gov)

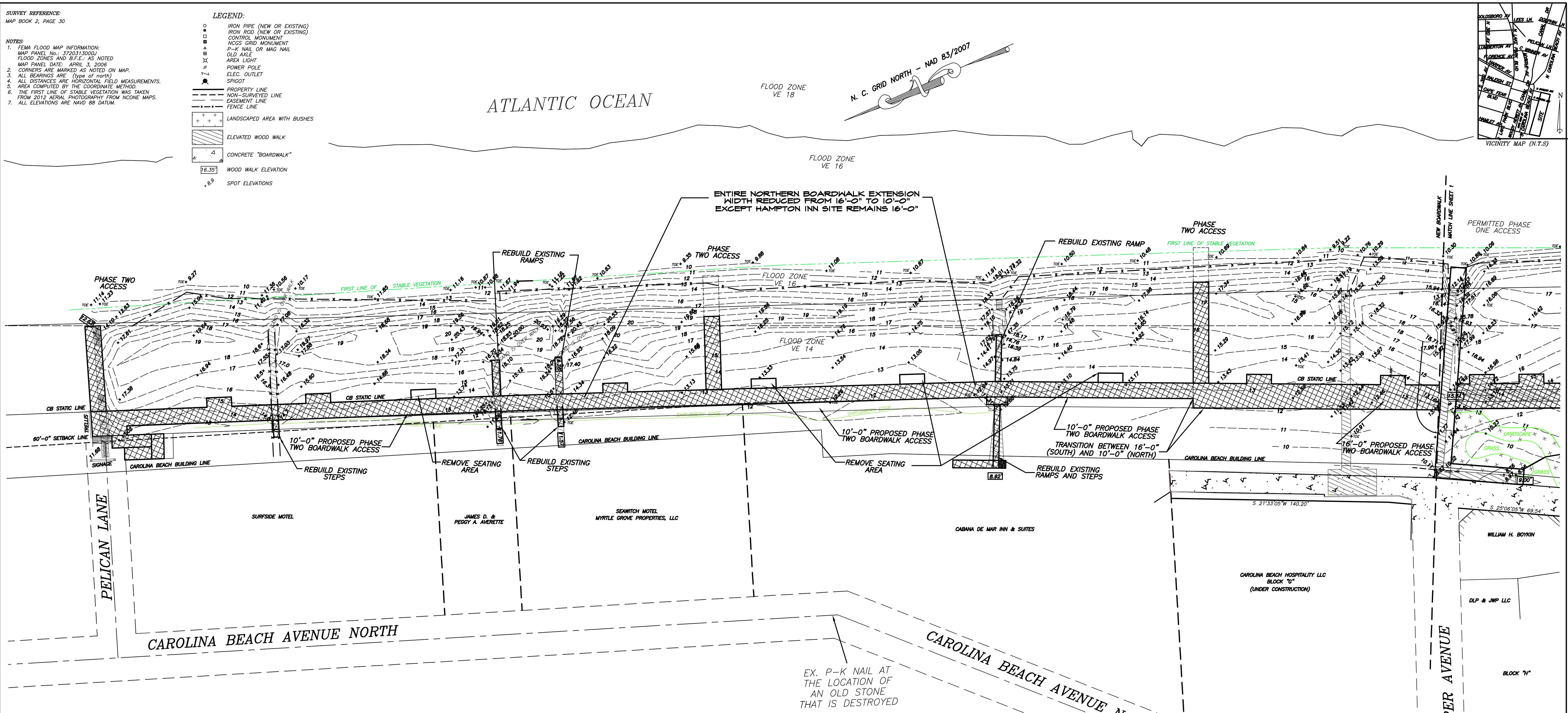
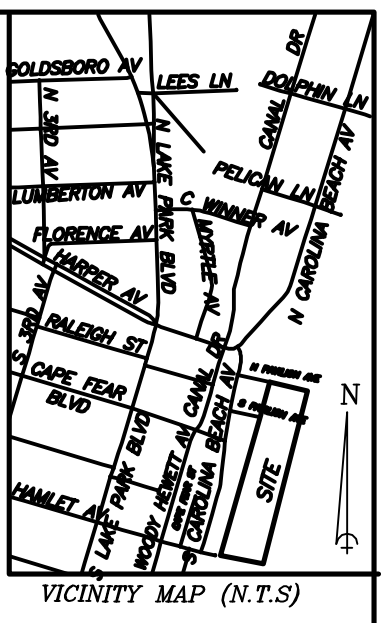
PRACTICE AREAS

Civil Litigation / Business Law / Estate Administration / Estate Planning / Guardianship
Elder Law / Real Property Law / Community Association Law / Family Law / Juvenile Law

- NOTES:
1. FEMA FLOOD MAP INFORMATION:
MAP PANEL No.: 37203130004
FLOOD ZONES AND B.F.E.: AS NOTED
MAP PANEL DATE: APRIL 3, 2006
CORNERS ARE MARKED AS NOTED ON MAP.
 2. CORNERS ARE MARKED AS NOTED ON MAP.
 3. ALL BEARINGS ARE (Type of north).
 4. ALL DISTANCES ARE HORIZONTAL FIELD MEASUREMENTS.
 5. AREA COMPUTED BY THE COORDINATE METHOD.
 6. THE FIRST LINE OF STABLE VEGETATION WAS TAKEN FROM 2012 AERIAL PHOTOGRAPHY FROM NCOE MAPS.
 7. ALL ELEVATIONS ARE NAVD 88 DATUM.

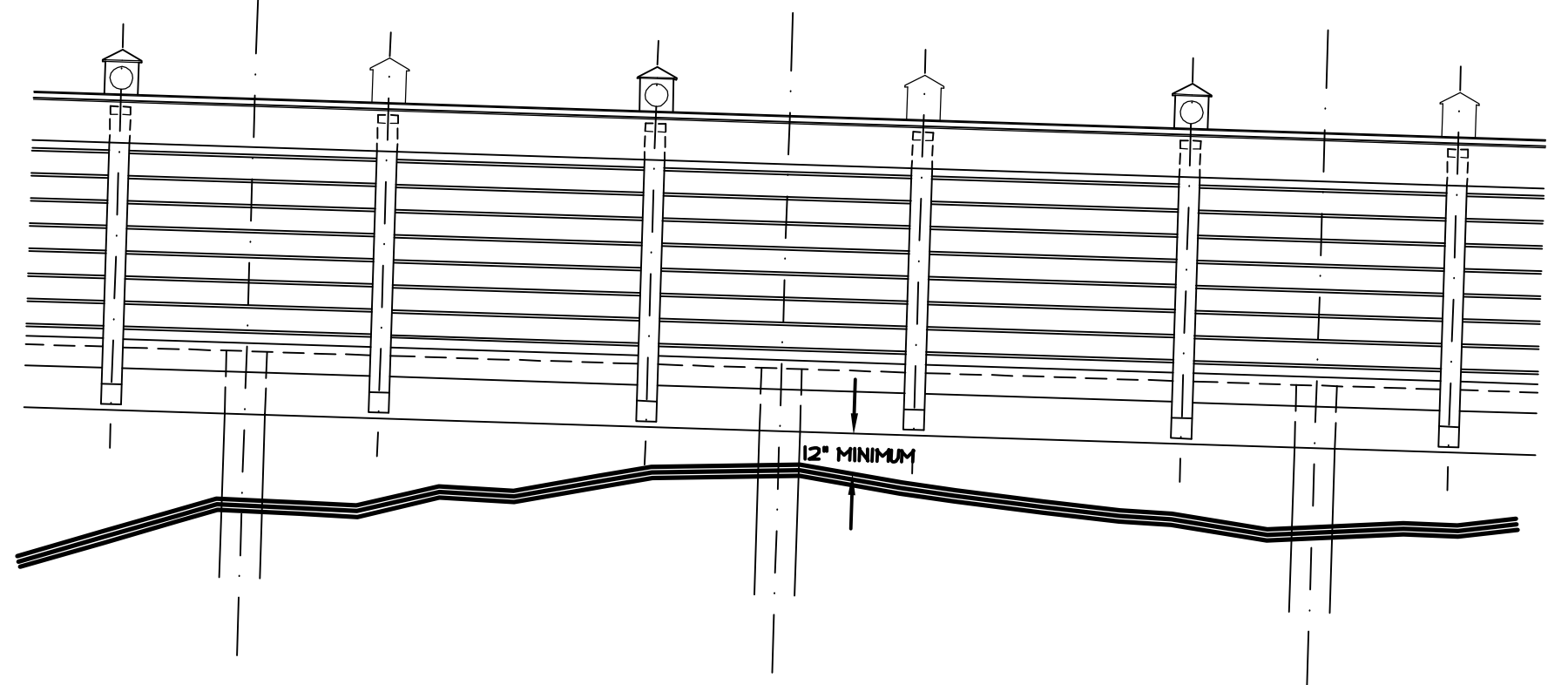
LEGEND:

- IRON PIPE (NEW OR EXISTING)
- IRON ROD (NEW OR EXISTING)
- CONTROL MONUMENT
- NCOE GRID MONUMENT
- P-K NAIL OR MAG NAIL
- OLD AXLE
- AREA LIGHT
- POWER POLE
- ELEC. OUTLET
- SPICOT
- PROPERTY LINE
- NON-SURVEYED LINE
- EASEMENT LINE
- FENCE LINE
- LANDSCAPED AREA WITH BUSHES
- ELEVATED WOOD WALK
- CONCRETE "BOARDWALK"
- WOOD WALK ELEVATION
- SPOT ELEVATIONS



THIS DOCUMENT ORIGINALLY ISSUED SIGNED AND SEALED BY BOB M. JONES, JR., PLS, L-2977 ON JULY 12, 2013. THIS ELECTRONIC MEDIA SHALL NOT BE CONSIDERED A CERTIFIED DOCUMENT.

**CAMA MINOR PERMIT
BOARDWALK IMPROVEMENT PROJECT
PHASE TWO-NORTHERN EXTENSION
10'-0" (NORTH) AND
16'-0" (SOUTH-HAMPTON) REVISION
OCTOBER 2, 2015**



TYP. ELEVATION / SECTION
SCALE: 1/2" = 1'-0"

NOTE

1. FOUR (4) SEATING AREAS REMOVED - SEE NOTE ABOVE
2. ALL PREVIOUSLY PROPOSED POLE MOUNTED LIGHTING REMOVED FROM PLAN TO LESSEN VISUAL IMPACT. LIGHTING TO BE LIMITED TO LIGHTRAY RAILINGS

CAMA MINOR PERMIT FOR BOARDWALK IMPROVEMENT PROJECT
PHASE TWO - NORTHERN EXTENSION - 10'-0"/16'-0" ALTERNATIVE

TOWN OF CAROLINA BEACH
OF THE BOARDWALK AREA
SHEET 1 OF 1

TOWN OF CAROLINA BEACH - FEDERAL POINT TOWNSHIP
NEW HANOVER COUNTY - NORTH CAROLINA

SCALE: 1" = 30' DATE: OCTOBER 2, 2015

1 INCH = 30 FEET

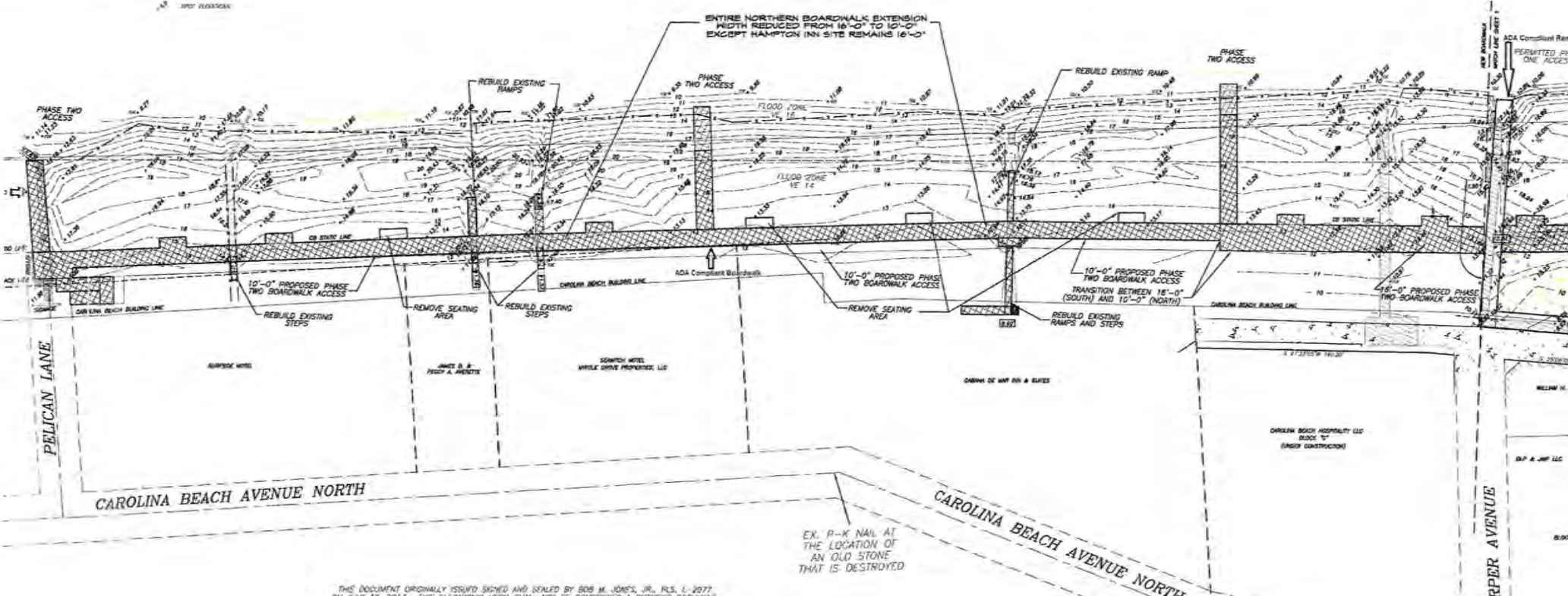
FLOOD ZONE
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- LEGEND:**
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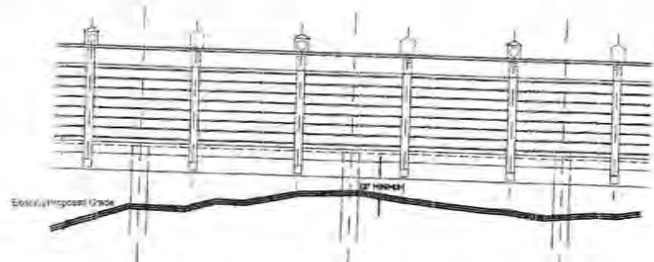


FLOOD ZONE
VE 18



THIS DOCUMENT ORIGINALLY SIGNED AND SEALED BY BOB M. DAVIS, JR., P.E., L. 2077, ON JULY 12, 2013. THIS ELECTRONIC MEDIA SHALL NOT BE CONSIDERED A CERTIFIED DOCUMENT.

**CAMA MINOR PERMIT
BOARDWALK IMPROVEMENT PROJECT
PHASE TWO-NORTHERN EXTENSION
10'-0" (NORTH) AND
16'-0" (SOUTH-HAMPTON) REVISION
OCTOBER 2, 2015
REVISED NOVEMBER 2, 2015**



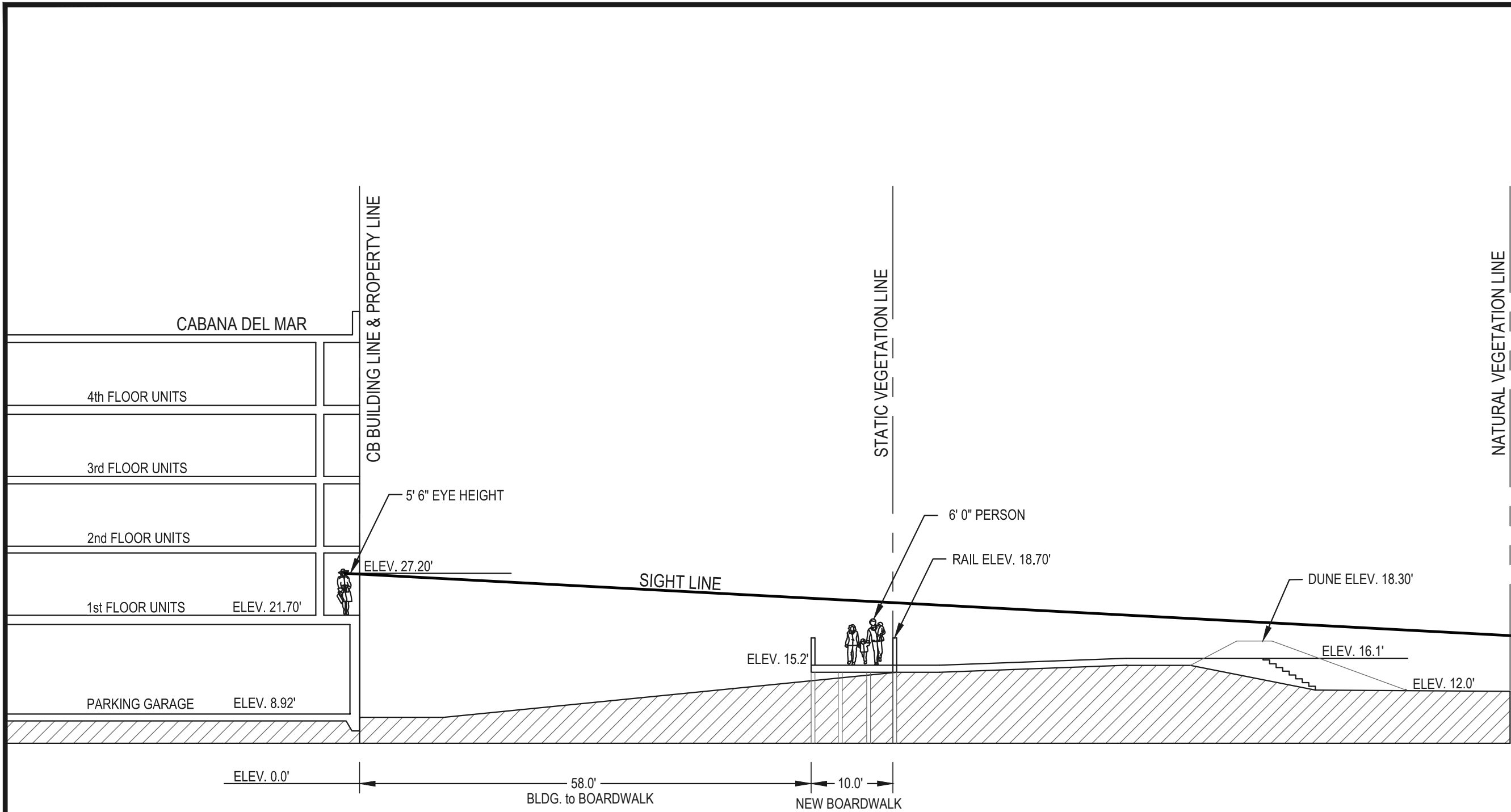
TYP. ELEVATION / SECTION

- NOTE**
1. FOUR (4) SEATING AREAS REMOVED - SEE NOTE ABOVE
 2. ALL PREVIOUSLY PROPOSED POLE MOUNTED LIGHTS REMOVED FROM PLAN TO LESSEN VISUAL IMPACT. LIGHTING TO BE LIMITED TO LIGHTRAY BALBONS.

CAMA MINOR PERMIT FOR BOARDWALK IMPROVEMENT PROJECT
PHASE TWO - NORTHERN EXTENSION - 10'-0"/16'-0" ALTERNATIVE
TOWN OF CAROLINA BEACH
OF THE BOARDWALK AREA
SHEET 1 OF 1
TOWN OF CAROLINA BEACH - FEDERAL POINT TOWNSHIP
NEW HANOVER COUNTY - NORTH CAROLINA
SCALE: 1" = 30'
DATE: OCTOBER 2, 2015

1 INCH = 30 FEET

FLOOD ZONE
VE 18



NOTE: THIS DRAWING IS FOR SCHEMATIC REPRESENTATION ONLY. ELEVATIONS & DIMENSIONS FROM REYNOLDS/ARCHITECTURE SHEET SK DATED 6/16/14, CAMA MINOR BOARDWALK IMPROVMENT PROJECT PHASE II DATED 10/2/15 & THE TOWN OF CAROLINA BEACH.

BOARDWALK EXHIBIT A

<p>SEPI ENGINEERING & CONSTRUCTION</p> <p>TRANSPORTATION ■ TRAFFIC ■ SURVEYING ■ ENVIRONMENTAL ■ SITE/CIVIL ■ INSPECTIONS ■ CONSTRUCTION MANAGEMENT</p>	<p>RALEIGH, NORTH CAROLINA 919.789.9977</p> <p>CHARLOTTE, NORTH CAROLINA 704.714.4880</p> <p>WILMINGTON, NORTH CAROLINA 910.523.5715</p> <p>www.sepiengineering.com info@sepiengineering.com</p>	<p>DATE 10/2/2015</p>	<p>SHEET A</p>
	<p>DRAWN BY: E. SEIDEL</p>	<p>CHECKED BY: G. THOMPSON</p>	<p>CONSTRUCTION MANAGEMENT</p>

Dan Wilcox
Mayor

Sarah Friede
Council Member

Steve Shuttleworth
Council Member



LeAnn Pierce
Mayor Pro Tem

Gary Doetsch
Council Member

Michael Cramer
Town Manager

TOWN OF CAROLINA BEACH
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428
910 458 2996
FAX 910 458 2997

October 15, 2015

Greg Mears,
Cabana Homeowners Association Board
222 Carolina Beach Ave. N.
Carolina Beach, N.C. 28428

Re: Boardwalk Extension Update - Points of Understanding

Dear Mr. Mears:

I hope this letter finds you doing well. I wanted to update you and the Board on the Town's current activities on the Boardwalk Northern Extension, and re-affirm our positions and commitments on the project.

On October 6 we re-submitted our Variance Request to the Division of Coastal Management (DCM) to extend the Boardwalk from Harper Ave. to Pelican Lane. We expect the request to be heard by the Coastal Resources Commission (CRC) at their upcoming meeting in Atlantic Beach November 17-18. The full Variance application and information about the CRC review process may be viewed at the DCM website @ <http://portal.ncdenr.org/web/cm/nov-2015-agenda>. The following is a summary of the status of our points of understanding from our meeting and correspondence in April-May, 2014:

1. **Elevation:** Attached is a cross section view of the boardwalk elevation compared with the first floor elevation of the Cabana. The handrail elevation of 18.7 is 3 feet lower than the first floor elevation of 21.7. As the drawing depicts, the sight line of a person standing on the first floor balcony looking at the ocean would be several feet above pedestrians on the Boardwalk and the frontal dune.
2. **Width:** The attached site plan depicts our current proposal to extend the boardwalk at 16 feet in width from Harper Ave. along the new Hampton Inn property, then narrow the walkway to 10 feet along the Cabana frontage and the rest of the way to Pelican Lane.

3. **Crowds and noise:** The 3 proposed seating bumpouts along the Cabana's 300 feet of frontage were removed in our previous plans in response to your concerns and this remains unchanged.
4. **Security:** The fencing and gates the Town would provide as described in previous correspondence remains unchanged. In addition, the Town will install 24 hour security cameras along the entire northern extension.
5. **Public Beach Access:** The access originally planned in front of the Cabana was moved north to the Sea Witch frontage and this remains unchanged.
6. **Showers:** The Town will replace the showers at your preferred location.
7. **ADA:** The Town will construct the new private beach access from the Cabana to the Boardwalk and from the Boardwalk down to the beach to meet Building Code and ADA standards.
8. **Lighting:** We have already removed all pole mounted lighting for the northern extension. The walkway "puck" style lighting will be mounted to the railing. We have selected a lower voltage fixture for the extension.
9. **Storm damage:** The structure is engineer designed to be "heavy timber" type construction. This design includes 139 mph windspeed per the Building Code with pilings driven to a minimum 16 feet below grade.
10. **Pre-approval of construction design and materials:** We agree that the Cabana Board should pre-approve all design and materials connecting with the property.
11. **Construction period:** If approved by the CRC in November, construction would not commence until fall of 2016. We anticipate a 5 month construction time frame for the extension with completion by late March-early April 2017. Actual construction in front of the Cabana should be less than 90 days.
12. **Stormwater:** It is my understanding that our Public Works Director is continuing to work on this issue.

We remain open to further discussion of other design options you or the Board may deem appropriate. As always I can be reached at 458-2994, or email michael.cramer@carolinabeach.org if you have additional comments or concerns.

Sincerely,



Michael Cramer
Town Manager

April 21, 2014

The Honorable Mayor and Council
Town of Carolina Beach Town Council
Town Hall
1121 North Lake Boulevard
Carolina Beach, NC 28428

Reference: Points of Understanding with Cabana Home Owners Association and Town of Carolina Beach--Reference Carolina Beach Boardwalk Extension.

Mayor Wilcox and Council Members,

The purpose of this letter is to voice concerns that were outlined in a meeting held in November of 2013 with officials of the Town of Carolina Beach and in January 2014 with members of the Cabana Home Owners Association. The purpose of these prior meetings was to identify, recognize and discuss the impact of a future Carolina Beach Boardwalk extension on security, privacy and property value at Cabana. In no way should this letter be construed as an expression of support or opposition of any potential Boardwalk extension by the Cabana Board of Directors or the Cabana Home Owners Association.

The following items were identified as concerns expressed by Cabana Homeowners with a north extension of the current boardwalk:

1. Elevation. The elevation of the Boardwalk that extends between the ocean and the Cabana must be at the level of the dune so as not to block the 1st floor Cabana view of the beach.
2. Width of Structure. The proposed width of 16 feet would have a significant impact on traffic, noise and obstruct the ocean view of Cabana home owners.
3. Crowds and Noise- Seating areas or benches located on the Boardwalk area in front of the Cabana are undesirable.
4. Security – Concerns has been expressed by homeowners that the proposed Boardwalk will increase vandalism and property trespassing. Security must be maintained at the Cabana, consistent with the existing Cabana fencing and property access:
 - Two lockable gates will be required for homeowners to access Cabana's private beach access walkway. This creates a cumbersome situation for homeowners and guests to navigate across the proposed boardwalk.
 - Locked access gates, with Cabana approved hardware, between the Boardwalk and the Cabana and between the boardwalk and Cabana's private beach access must be included to maintain the existing security level of the Cabana.
 - Screened fencing surrounding the Cabana pool would be required to assure privacy and security. The Boardwalk will extend alongside the Cabana pool.

Homeowners on the first floor level have expressed concerns their ocean view will be blocked by this type of screen.

5. The new boardwalk's proposed public beach access (as currently designed in the middle of the Cabana) must be moved to one end of the Cabana's property line or the other so that it is not in direct view of the Cabana homeowners.
6. Shower Placement- The showers and foot washes would be required to move closer to the Cabana, as they are currently where the proposed boardwalk would be installed.
7. Appropriate ADA compliant wheelchair access between Cabana and the Boardwalk Extension would be required.
8. Any Boardwalk extension lighting in front of the Cabana would have to be installed at the level of the boardwalk floor to minimize any "spotlight" effect, brightness, and negative viewing conditions for Cabana owners and guests.
9. Storm and Hurricane Damage- Cabana homeowners have raised concerns about the debris damage that a large horizontal structure will inflict on our building when a major storm occurs.

The Cabana Board of Directors have the right to pre-approve the design including the choice of hardware and materials associated with any construction connecting with Cabana property, if the boardwalk extension is extended northward.

- No construction of the Boardwalk Extension between the ocean and Cabana should occur between Memorial Day and Labor Day.
- Construction of the Boardwalk Extension between the Ocean and Cabana (including all construction on Cabana property) needs to be completed within 90 days of start.

There is also another issue outside of the proposed boardwalk that was brought to the attention of Town officials during the November 2013 meeting. A storm water drain line was severed by Carolina Beach city workers several years ago. The damaged drain is located on the street side of the Cabana and has been rendered useless. As a result, and at considerable expense to Cabana homeowners, a pump system for drain water overflow had to be installed to guard against further erosion of soil underneath the building concrete parking area and the building's foundation and footings. We are still waiting for the City to rectify this issue that has been forced upon us.

The Cabana Board of Directors looks forward to further dialogue regarding any potential implementation issues surrounding the proposed project and the above listed concerns. As stated above, this letter should not be construed as an expression of support or opposition of the proposed project. Our purpose is to communicate the issues that homeowners have voiced about a project of this magnitude and the potential impact it brings upon the Cabana property. The support or opposition of the Cabana Homeowners will be determined through this dialogue with a better understanding of how these issues will be resolved.

The Cabana Home Owners Association would like to express our appreciation to the

Carolina Beach Town Management for their willingness to continue this dialogue.

Sincerely,

Cabana Homeowners Association Board

Cc: Mayor- Dan Wilcox
Mayor Pro Tem-LeAnn Pierce
Council Member-Sarah Friede
Gary Doetsch-Council Member
Steve Shuttleworth-Council Member
Michael Cramer-Town Manager
Ed Parvin-Assistant Town Manager

Dan Wilcox
Mayor

Sarah Friede
Council Member

Steve Shuttleworth
Council Member



LeAnn Pierce
Mayor Pro Tem

Gary Doetsch
Council Member

Michael Cramer
Town Manager

TOWN OF CAROLINA BEACH
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428
910 458 2996
FAX 910 458 2997

May 7, 2014

Eddie Buchanan, President
Cabana Homeowners Association Board
222 Carolina Beach Ave. N.
Carolina Beach, N.C. 28428

Re: Boardwalk Extension Points of Understanding

Dear Mr. Buchanan:

On behalf of the Town, thank you for your April 21, 2014 letter regarding our Boardwalk project. We appreciate your diligence in working with our staff and designers in identifying concerns and solutions. Please accept the following as our response and status of the items as presented in your letter:

1. **Elevation:** Originally the boardwalk handrail was a little over 3 feet below the Cabana first floor elevation and equal to the frontal dune elevation. We have since lowered the entire northern extension 1 foot, so the new handrail elevation of 17.7 is just shy of 4 feet lower than the first floor elevation of 21.6. and .3 feet lower than the frontal dune at 18 feet.
2. **Width:** The intent of widening the Boardwalk from 8 to 16 feet is to improve circulation, safety and handicapped accessibility. While we understand the concern, it is our feeling that narrowing the width would have little if any impact on number of users, noise or views.
3. **Crowds and noise:** There are 3 proposed seating bumpouts along the Cabana's 300 feet of frontage – one at your northern and southern property boundaries and one in the middle. In response to your concern we are removing all three of these areas.
4. **Security:** The fencing and gates as described is consistent with what was agreed to at our meetings. Staff will meet with their maintenance supervisor to further review pool screening options.

5. **Public Beach Access:** As discussed at the January HOA meeting, the access originally planned in front of the Cabana has been moved north to the Sea Witch frontage.
6. **Showers:** The Town will replace the showers at your preferred location.
7. **ADA:** The Town will construct the new private beach access from the Cabana to the Boardwalk and from the Boardwalk down to the beach to meet Building Code and ADA standards.
8. **Lighting:** We have already removed all pole mounted lighting for the northern extension. The walkway “puck” style lighting will be mounted to the railing. We have selected a lower voltage fixture for the extension.
9. **Storm damage:** The structure is engineer designed to be “heavy timber” type construction. This design includes 139 mph windspeed per the Building Code with pilings driven to a minimum 16 feet below grade.
10. **Pre-approval of construction design and materials:** We certainly agree that the Cabana Board should pre-approve all design and materials connecting with the property.
11. **Construction period:** Construction will begin after Labor Day and is projected to be completed within a 5-6 month time frame for the existing Boardwalk and the extension so actual construction in front of the Cabana should be much less than 90 days.
12. **Stormwater:** It is my understanding that our Public Works Director is working with the Cabana staff on this issue.

We look forward to continuing to work with you as the project continues. Hopefully we have addressed the bulk of your concerns satisfactorily. Please call at 458-2994, or email at michael.cramer@carolinabeach.org if you have additional comments or concerns.

Sincerely,

Michael Cramer
Town Manager

AFFIDAVIT OF MICHAEL CRAMER

1. My name is Michael Cramer. I am the Town Manager of the Town of Carolina Beach.
2. I am over the age of eighteen (18), suffer from no disability or impairment, have personal knowledge of the contents herein and am competent to testify to the matters herein.
3. In connection with the Town's efforts to work with the property owners adjacent to the proposed northern extension of the Boardwalk who have expressed concern about the extension, I have met with Mr. James Averette and met and corresponded with the Board of Directors for Cabana de Mar Association, Inc.

Averette Property

I met with Mr. Averette and his two daughters ("Averette Daughters") at Mr. Averette's house on March 29, 2014. The meeting was attended by Noel Fox (Town Attorney), Jerry Haire (Project Manager), Ed Parvin (Assistant Town Manager), Ned Barnes (Former Attorney for Mr. Averette)

4. Previous to the meeting, with the permission of Mr. Averette's attorney, the location of the 1963 building line and the proposed location of the boardwalk were staked out in the dunes to provide a visual of the height and width of the proposed northern extension.
5. At the beginning of the meeting, those in attendance stepped out onto to the porch to observe the location of the 1963 building line and the proposed location of the boardwalk.
6. Mr. Averette and the Averette Daughters were unaware of the location of the 1963 building line in relation to the existing decking attached to Mr. Averette's residence.
7. During the meeting, Mr. Averette, the Averette Daughters and Mr. Averette's attorney, Ned Barnes, were given an opportunity to ask questions and express their concerns about the design, location and security of the proposed northern extension of the Boardwalk.
8. The plans previously sent to Mr. Averette detailing several options to connect his existing access to the Boardwalk were placed on the kitchen counter in front of Mr. Averette, Mr. Barnes, and the Averette Daughters. During the meeting, the Averette Daughters indicated that they had not previously reviewed the plans and were not interested in reviewing the plans.
9. In addition to aforementioned plans, the project manager reviewed with those in attendance the significant modifications to the design of the Boardwalk which were made after the February Coastal Resource Commission meeting and in response to the concerns expressed by Mr. Averette.
10. Much of the discussion between those in attendance centered on the longstanding issues Mr. Averette has experienced with trespassing and vandalism as a result of the commercial establishments that surround his property.

11. According to the Averette Daughters, as a result of an unsecured gate, the general public cuts through Mr. Averette's property to access the beach. Often times, those individuals litter or vandalize Mr. Averette's property.
12. The Averette Daughters indicated that they were concerned, if the northern extension of the Boardwalk was constructed, that the trespassing on Mr. Averette's property would increase.
13. In my capacity as Town Manager, I assured Mr. Averette and the Averette Daughters of the Town's commitment to ensure that the Boardwalk would not result in additional trespassing on Mr. Averette's property. Additionally, I indicated that the Town would be willing to assist with installing and maintaining locks on the existing street side gate to reduce the longstanding trespass issues.
14. During the meeting, the Averette Daughters informed those in attendance that the lower floor of Mr. Averette's property was rented out to families and that Mr. Averette used the separate residence on the second floor.
15. The Averette Daughters expressed concern that the families that rented Mr. Averette's property would disapprove of the Boardwalk.
16. It is not possible to view the ocean from the lower deck of the Averette cottage.
17. It is possible to view the ocean from the upper deck of the Averette cottage.
18. I assured Mr. Averette and the Averette Daughters that, in the event the northern extension of the Boardwalk was approved, the Town would work with Mr. Averette to lessen any impacts and to address the ongoing trespassing issue.

Cabana de Mar Association, Inc.

1. I attended a meeting with the Cabana De Mar Association, Inc. Board of Directors ("Condominium Board") on November 8, 2013 to discuss the proposed northern extension of the Boardwalk and to hear and address any concerns of the Association.
2. During that meeting, I communicated to the Condominium Board that the Town was prepared to address the concerns they expressed.
3. On or about April 21, 2014, I received correspondence from the Cabana De Mar Association, Inc. Board of Directors ("Condominium Board") which itemized concerns expressed by owners of units at Cabana de Mar ("Cabana") and suggested courses of action for the Town to take to address the concerns.
4. In response to the April 21, 2014 correspondence and other feedback received from Mr. Averette, the Town modified the plans to:
 - a. Lower the elevation of the structure which resulted in a handrail elevation on the Boardwalk nearly 4 feet lower than the first floor elevation of Cabana De Mar.
 - b. Remove all proposed seating bumpouts in front along Cabana.
 - c. Agreed to install fencing, security gates and screening along the Boardwalk.
 - d. Moved a proposed beach access north of Cabana.
 - e. Agreed to replace the Cabana's showers to a location selected by Cabana.

- f. Removed all pole mounted lighting for the northern extension and lowered the voltage fixture.
 - g. Agreed the Condominium Board could pre-approve all design and materials connecting the Boardwalk to Cabana.
 - h. Agreed to construct an ADA accessible private beach access from Cabana to the Boardwalk and from the Boardwalk to the beach.
5. Over the course of several months, the Town continued to work with the Condominium Board to address each of the concerns related to the proposed northern extension of the Boardwalk.
 6. On June 19, 2014, I attended a meeting with members of the Condominium Board, and Noel Fox (Town Attorney), Jerry Haire (Project Manager).
 7. During the meeting, those in attendance reviewed the structural plans, discussed the implementation of the previously agreed upon items (see above) and walked around the property to better understand the concerns of individual Unit Owners at Cabana.
 8. One area of concern of the Condominium Board was the design of the structure and its ability to withstand damage from storms. The structure is designed to tolerate a windspeed tolerance of 139 miles per hour and all pilings will be driven to depth of 16 feet below grade and in accordance with building code.
 9. Upon information and belief, more than fifty (50) percent of the units at Cabana are rented by the week.
 10. Due to the Condominium Board's concerns about disruption to the rental season, the Town agreed that no construction would occur between Memorial Day and Labor Day and that the construction would be complete within ninety (90) days of start.
 11. The Town is committed to work with the Condominium Board to reduce any impact related to the proposed northern extension of the Boardwalk.

Further the affiant sayeth not.

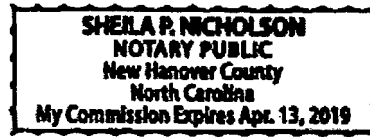


Michael Cramer

Subscribed and sworn before me this 22 day of September 2014.

Sheila P. Nicholson

Notary Public



My Commission expires: April 13, 2019

Bill Clark
Mayor

Joel Macon
Councilman

Jerry Johnson
Councilman



Alan Gilbert
Mayor Pro Tem

Pat Eford
Councilwoman

Timothy Owens
Town Manager

TOWN OF CAROLINA BEACH
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428
910 458 2526
FAX 910 458 2997
ed.parvin@carolinabeach.org

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ORDER GRANTING A CONDITIONAL USE PERMIT

Location:

Address	200 CBAN	210 CBAN	21 CBAN	202 CBAN	203 CBAN	206 CBAN
PIN	313011557316000	313011558405000	313011556544000	313011556369000	313011556530000	313011556530000

Address	200 Canal	100 Harper
PIN	313011556416000	313011557394000

Applicant: Centrepont Architecture

The Town Council of the Town of Carolina Beach, having held a public hearing on June 13, 2007 and having heard all the evidence and arguments presented at the hearing, makes the following findings of fact and draws the following conclusions:

1. The applicant is requesting a Conditional Use Permit to construct a branded resort hotel. Currently on the site is 170' of right of way for Carolina Beach Avenue North, Kings Beachwear, and Sea Side Inn Motel.

ANALYSIS:

Levels	Units	Bedrooms	Parking
1	0	0	70
2	0	0	85
3	0	0	55
4	40	40	0
5	40	40	0
6	31	31	0
7	20	20	0
8	20	20	0
9	20	20	0
10	20	20	0
TOTALS	191	191	210

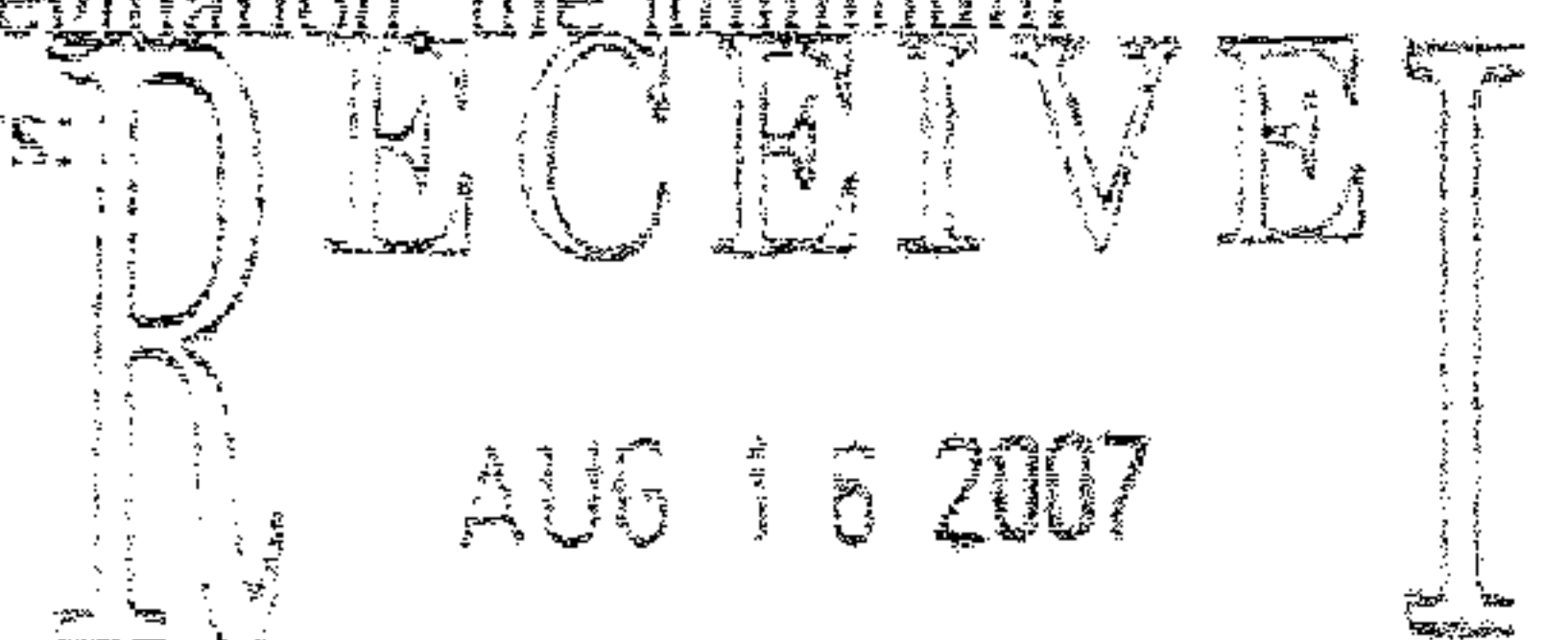
2. The building site property total square footage is approximately 40,000 square feet or .93 acres located in the CBD. Building Height: The distance measured from the highest appurtenance on the structure to: 1. The front street line; 2. The nearest front street line where there is not an adjacent right-of-way; 3. An average of each front street line on through lots.

Zoning Setbacks	Front	Rear	East Side	North Side
CBD required	0	IAW CAMA permit	0	0
provided	0	IAW CAMA permit	0	0

Lot Coverage	Density (no maximum in CBD)
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CBD maximum provided	100%		191 units/ .93 acres	205units/acre
<i>Traffic</i>				
<i>Right of way widths</i>	<i>Canal</i>		<i>Carolina Beach Avenue North</i>	
	<i>Existing: 20 feet</i>	<i>Proposed: 45 feet</i>	<i>Existing: narrows from 40 to 30 feet from south to north</i>	<i>Proposed: 40' (closing and rerouting)</i>
<i>Street widths</i>	<i>Canal</i>		<i>Carolina Beach Avenue North</i>	
	<i>Existing: varies (see attached map)</i>	<i>Proposed: 35 feet</i>	<i>Existing: varies (see attached map)</i>	<i>Proposed: 35 (closing and rerouting)</i>

3. Parking required for this project is 191 for the hotel. The applicant is providing 210 spaces. The applicant will be incorporating 9 public parking spaces to replace the nine metered spaces along CBAN and Harper.
4. A Type E bufferyard is required. The applicant is providing a "Type E" landscape buffer yard on all sidewalks surrounding the property. Curb, gutter and 5' sidewalks shall be provided on all sides of the hotel facing Carolina Beach Avenue North and Canal Drive.
5. The applicant plans to maintain as much storm water on-site as possible with the remaining going into the Town's system. Existing water and sewer lines shall be upgraded in accordance with Operations Department requirements.
6. An indoor pool will be located on the fourth floor, and the hotel café and Ocean Plaza Museum will be located on the second floor adjacent to the boardwalk. The hotel café will sit alongside the future elevated boardwalk and will be directly accessible from the boardwalk. The hotel outside pool will be at the same level as the elevated boardwalk. The hotel will have direct access to the boardwalk to promote the use of boardwalk facilities and entertainment.
7. The proposal is in general conformity with the Town Land Use Plan 9.49 **The Boardwalk Area and Central Business District**. The policy emphasis of this plan is to achieve two objectives: (1) Reestablish the family-oriented market niche of the Boardwalk Area, and (2) Create a common architectural theme and sense of unity to the Boardwalk Area and surrounding business areas, including especially, the Marina. Consistent with both of the above objectives, and in an effort to revitalize the Boardwalk and Central Business District the Town shall consider new economic development and redevelopment projects that support a resort-market niche, family-oriented businesses and year-round residency. New economic development and redevelopment of the Boardwalk shall seek to preserve the rich heritage so much enjoyed by visitors and residents of the Town of Carolina Beach. The Town shall promote development that secures the pedestrian nature of this area and promotes family-oriented businesses, entertainment and amusements. **Resort Market Niche:** Any activity that supports or generates tourism and provides for a vacation destination for visitors to the Town of Carolina Beach. Such activities include: fishing, surfing, all family-oriented businesses, and enjoyment of our natural resources. **Family-Oriented Business:** Any proposed activity or use for a development site that promotes entertainment, amusements, and/or services for all age groups. The land use plan policy on building height states: **8.3.0 B Building Height** The Town shall support and implement a maximum building height of fifty (50) feet in all residential districts. Building Height in the Central Business District shall be solely based on Conditional Use Permit Review. New economic development and redevelopment proposals in the Central Business District will have distinct and separate standards (height, density, open space, setbacks, etc.) Setbacks shall be increased as a condition of approval for structures exceeding maximum height requirements in non-residential zoning districts. Where structures are designed to exceed the 50 feet maximum height regulation, the minimum required yard shall be increased by one foot for each one foot in height as follows:
 - a. Front yard setback- one foot for each foot over 50'
 - b. Side yard setback- one foot total divided equally for each foot over 50'


 AUG 16 2007
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- c. Maximum height shall not exceed 60 feet, excluding the Central Business District.
- d. Proposed building height that exceeds the maximum height of 50' in the Central Business District shall be reviewed by CUP.

APR 16 2007
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Building Height shall be defined as the vertical distance from the mean elevation of the ground along the front of the building, or from the established grade where the building is within ten (10) feet of the street line, to the highest point of the structure, including all appurtenances.

BASED ON THE FOREGOING FINDINGS OF FACT, the Town Council makes the following conclusion as required by Article 14.9 of the Zoning Ordinance of the Town of Carolina Beach:

1. It is the Town Council's conclusion that the proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted and approved by the issuance of the conditional use permit.
2. It is the Town Council's conclusion that the use meets all required conditions and specifications.
3. It is the Town Council's conclusion that the use will not substantially injure the value of adjoining or abutting property.
4. It is the Town Council's conclusion that the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and policies.

THEREFORE, because the Town Council concludes that all general and specific conditions precedent to issuance of a Conditional Use Permit have been satisfied, It is ordered that the application for the issuance of a Conditional Use Permit by Centrepoint Architecture be granted, subject to the following conditions:

1. The storm water plan must be submitted prior to issuance of a building permit. The storm water system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
2. Drainage plan must be submitted and approved prior to issuance of a building permit. The drainage system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
3. A driveway permit and construction authorization permit from the Town of Carolina Beach will be required before issuance of Building Permit.
4. Copies of all federal and state approvals shall be submitted to the Town prior to the issuance of a building permit.
5. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint. The footprint of the structure shall not exceed 40,000 square feet. All setbacks shall be maintained as presented. Any increase in building footprints shall constitute a major modification.
6. Flood Certification must be presented in accordance with the flood damage prevention ordinance.
7. Prior to Certificate of Occupancy, an architect or engineer must confirm the structure's height is consistent with the conditional use permit.
8. Final project must be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance. Final project must be designed to provide no less than 191 parking spaces for the hotel and 9 public parking spaces.
9. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
10. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
11. Refuse collection agency that will be used must be included on final site plan. Before the issuance of a building permit, a letter of approval from the refuse collection agency stating the waste removal plan is adequate for this site
12. All structures must be designed to meet NFPA approved Fire Sprinkler systems and meet minimum NC Fire Prevention Code. Approval letter must be submitted prior to Certificate of Occupancy.
13. A sign permit must be obtained for any new signs located on the property.

14. Maintenance of permanent open space parking, streets, drainage systems, utilities, and other such facilities-
All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
 - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
 - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the mixed use development for the purpose of ensuring maintenance of common facilities.
 - c. Retention of ownership, control, and maintenance of common facilities by the developer or Hotel
15. Certification shall be provided that all improvements, including but not limited to paving, drainage, stormwater, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
16. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
17. Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.
18. Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in Article 14 of the zoning ordinance.
19. Water meters must be located in accordance with specifications of the Operations Department.
20. A scaled site plan must be submitted prior to issuance of a building permit. All drawings shall be prepared at a scale of 1" equals 50' or larger showing the site and all land within 150' of the site.
21. Prior to issuance of a building permit a subdivision plat shall be signed recorded in accordance with Town Code. All easements shall be included on the plat. All easements shall be reviewed by TRC before being deeded to the Town. One full size copy of the map shall be submitted to the Department of Planning and Development that includes the map book and page number where the map was recorded at New Hanover County.
22. Sidewalks curb and gutter shall be installed in accordance with Article 8 of the zoning ordinance and shall be ADA compliant.
23. TRC shall review all traffic study recommendations to ensure they are incorporated into the final site plan for construction.
24. Building height shall be determined as the distance measured from the highest appurtenance on the structure to the street line on Canal Drive. Building height shall be limited to 115 feet total. Height to the parapet wall shall not to exceed 105 feet. The elevator/mechanical rooms shall not to exceed 115 feet.
25. Parking for 25 spaces is waived to accommodate a 75 seat café.
26. The hotel shall have direct access to the boardwalk and future elevated boardwalk to promote the use of boardwalk facilities and entertainment.
27. The Conditional Use Permit shall be contingent upon the Town of Carolina Beach approving the relocation and closure of a portion of Carolina Beach Avenue North (CBAN) and the relocation of utilities and infrastructure located in the existing CBAN right-of-way. The road improvements and utility relocation must be approved and accepted by the Town Council at a regularly scheduled Town Council meeting prior to the issuance of a building permit for a branded hotel. This condition does not imply that the portion of CBAN will be closed as requested. The process to close a portion will follow NCGS 160A-299.
28. As a minor modification the final water feature design shall be reviewed by staff before implementation.
29. Lighting installation requirements.
 - 1) Outdoor artificial lighting fixtures shall be designed and positioned so that:
 - a) The point source of light or any reflective surface from a light fixture is not directly visible from the beach.

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- b) Areas seaward of the frontal dune are not directly or indirectly illuminated and
- c) Areas seaward of the frontal dune are not cumulatively illuminated.
- 2) All types of wall pack fixtures mounted on a vertical structure shall be full cutoff or fully shielded.
- 3) Outdoor fixtures mounted on a building structure within direct line-of-sight of the beach are considered appropriately designed if they are completely shielded down light only fixtures or are recessed fixtures having low wattage (i.e. 50 watts or less) "bug" type bulbs and non-reflective interior surfaces. Other fixtures that have appropriate shields, louvers, or full-cutoff features may also be used if they are in compliance with subsections (1)(a), (b) and (c) above.
- 4) All glass shall be tinted that is installed in all windows and doors of single or multi-story structures within line-of-sight of the beach.
- 5) Outdoor artificial lighting from motorized vehicles shall be operated in a parked position so that the point source of light or any reflective surface from this light is not directly visible from the beach.

Appeals, permit avoidance, and modifications shall be subject article 14 of the zoning ordinance.

Ordered this 13th day of June, 2007

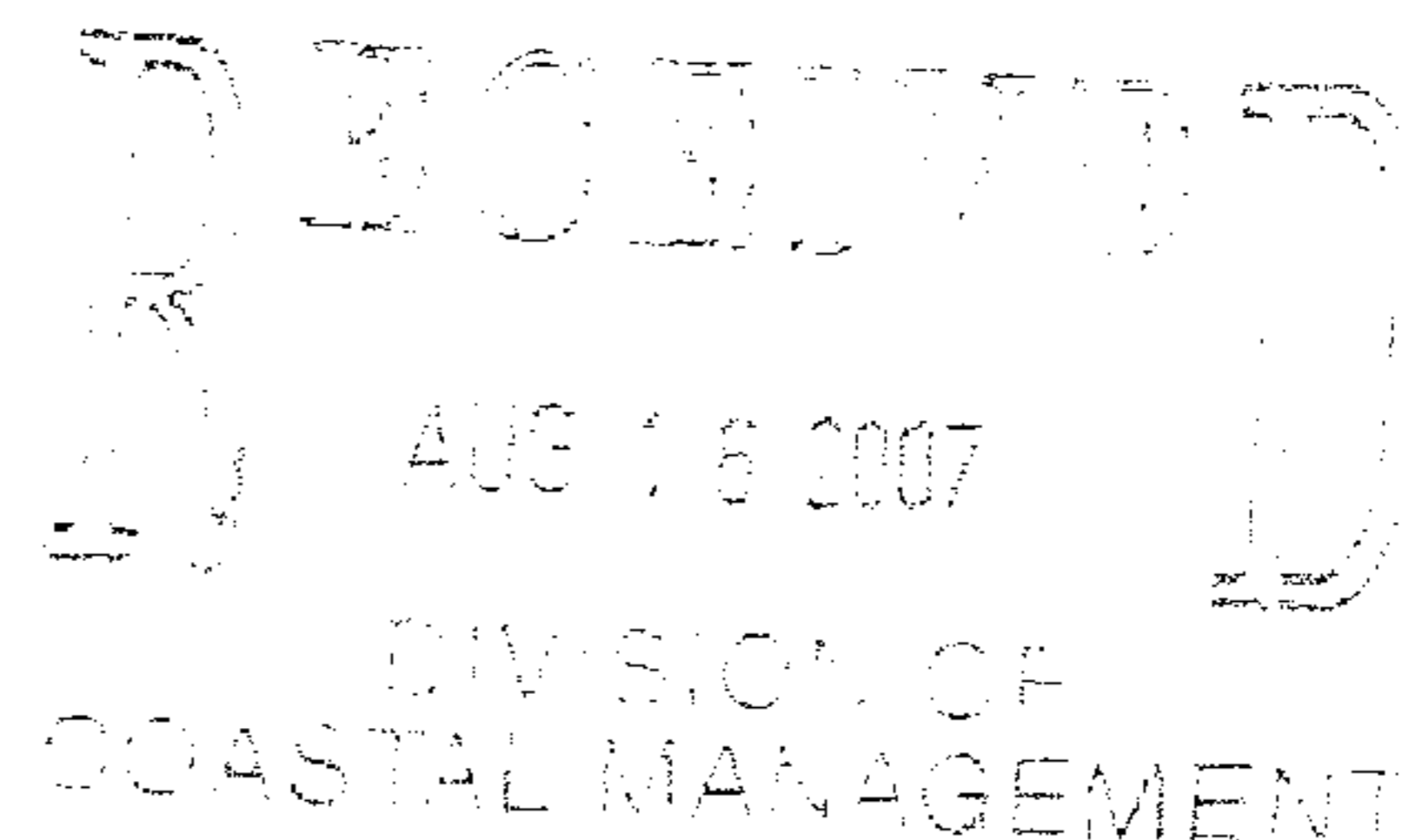
Bill Clark, Mayor

Date

ATTEND:

Lynn Prusa, Town Clerk

Date




CBD Zoning Map



CENTRAL BUSINESS DISTRICT



Legend

 Central Business District

1 inch equals 300 feet



Carolina Beach Boardwalk & Central Business District



— Carolina Beach Building Line

— Static Line

Renourished Beach



Phase II

