



Coastal Management  
ENVIRONMENTAL QUALITY

ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

BRAXTON DAVIS  
*Director*

April 11, 2017

**MEMORANDUM**

**CRC-17-13**

**TO:** Coastal Resources Commission  
**FROM:** Ken Richardson, *Shoreline Management Specialist*  
**SUBJECT:** Figure Eight Island Development Line Approval Request

On April 1, 2016, the Commission's rules were amended to allow oceanfront communities with large-scale beach nourishment or inlet relocation projects to establish a "development line" as an alternative to the static vegetation line exception. You will recall that a static vegetation line represents the vegetation line that existed just prior to a large-scale (300,000 cubic yards) beach nourishment project, and must be established and used for measuring construction setbacks. The development line is established by a local government or a qualified owner's association to represent the seaward-most allowable location of oceanfront development, provided the development can meet the setback measured from the first line of stable and natural vegetation rather than the static vegetation line. Under your development line rule, buildings and accessory structures could move seaward up to the approved development line as long as minimum setbacks are met. Petitioners are required to request approval for a development line from the Commission according to the procedures outlined in 15A NCAC 7J. 1300.

In order to receive the CRC's approval for a Development Line, the petitioner shall establish the Development Line using on-ground observation and survey, or aerial imagery along the oceanfront jurisdiction or legal boundary. The proposed development line must be applied to the entire large-scale beach nourishment project area (length of static vegetation line) and can extend beyond the boundaries of the large-scale project to include the entire oceanfront jurisdiction or legal boundary of the petitioner. In establishing the Development Line, an adjacent neighbor sight-line approach is to be utilized, resulting in an average line of structures. In areas where the seaward edge of existing development is not linear, the Development Line may be determined by average line of construction on a case-by-case basis. In no case shall the development line be established seaward of the most seaward structure within the petitioner's oceanfront jurisdiction. In addition, a Development Line must not be sited on state owned lands, or oceanward of the mean high water line or perpetual property easement line, whichever is more restrictive.

Once adopted, the petitioner shall then submit the following to the Director of the Division Coastal Management in accordance with CRC's rules (15A NCAC 07J. 1300):

1. A detailed survey of the development line; to also include the static vegetation line.
2. Copy of local regulations/ordinances associated with the development line.
3. Record of local adoption of the development line by the petitioner.

On March 1, 2017, the Figure Eight Island Beach Homeowner's Association adopted the HOA's development line into their Architectural Review Guidelines, and is now requesting the Coastal Resources Commission's (CRC) approval. Staff have reviewed the information submitted by the petitioner, and have determined that all required supporting documentation has been submitted and attached for the Commission's consideration at the upcoming meeting in Manteo. In reviewing the documentation, Commissioners should note that Figure Eight Island currently does not have a Static Vegetation Line.

**Attachment A:** Figure Eight Island Beach Homeowner's Association letter requesting the CRC's approval of Development Line

**Attachment B:** Figure Eight Island Beach Homeowner's Association Consent to Action by the Board of Directors of the Association adopting a regulation requiring structures to be located landward of the Development Line.

**Attachment C:** Figure Eight Island Beach Homeowner's Association Consent to Action by the Board of Directors of the Association adopting the Development Line

**Attachment D:** Figure Eight Island Beach Homeowner's Association Architectural Review Guidelines dated January 1, 2001 with amendments adopted May, 2007 to March 1, 2017. The provisions regarding setbacks are found on page 6 of the 2001 Guidelines.

**Attachment E:** Figure Eight Island Beach Homeowner's Association Architectural Review Amended and Restated Declaration of Restrictive Covenants Figure Eight Island recorded in Book 5012, Page 74 of the New Hanover County Register of Deeds. Paragraphs 4 and 5 of the restrictions address the approval of improvements on residential lots by the Association.

**Attachment F:** Figure Eight Island Beach Homeowner's Association Development Line Maps

**Attachment A: Figure Eight Island Beach Homeowner's Association letter requesting the CRC's approval of Development Line**

**WESSELL & RANEY, L.L.P.**  
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March 13, 2017

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

Re: **Request by Figure "8" Beach Homeowners' Association, Inc. for Approval of a Development Line Pursuant to 15A NCAC 7J.1300**

Dear Mr. Davis:

I represent Figure "8" Beach Homeowners' Association, Inc. ("Association"). On behalf of the Association, I request approval of a Development Line for the ocean beach at Figure Eight Island pursuant to 15A NCAC 7J.1300. In support of this request, I have enclosed the following documents:

1. Aerial imagery in printed form showing the proposed "Development Line," the existing structures, and the approximate normal high water line for the entire ocean beach and a portion of the Rich Inlet shoreline at Figure Eight Island. (There is no "static line" established for Figure Eight Island.) This imagery has also been provided in electronic form to Ken Richardson, who I understand is the DCM staff person in charge of the technical aspects of this submittal.
2. A copy of a Consent to Action by the Board of Directors of the Association adopting a regulation requiring structures to be located landward of the Development Line.
3. A copy of a Consent to Action by the Board of Directors of the Association adopting the proposed Development Line.
4. A copy of the Architectural Review Guidelines dated January, 2001 along with amendments adopted May, 2007, August, 2008, September, 2008, December, 2009 and March 1, 2017. The provisions regarding setbacks are found on page 6 of the 2001 Guidelines.
5. A copy of the Amended and Restated Declaration of Restrictive Covenants Figure Eight Island recorded in Book 5012, Page 74 of the New Hanover County Register of Deeds. Paragraphs 4 and 5 of the restrictions address the approval of improvements on residential lots by the Association.

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**Attachment B: Figure Eight Island Beach Homeowner's Association Consent to Action by the Board of Directors of the Association adopting a regulation requiring structures to be located landward of the Development Line.**

**CONSENT TO ACTION  
BY DIRECTORS WITHOUT A MEETING**

The directors of The Figure "8" Beach Homeowners Association, Inc. (Association) adopt the following resolution by unanimous consent given in electronic form pursuant to G.S. 55A-7-04(a).

RESOLVED, the Board adopts an amendment to the Architectural Review Guidelines which constitute rules and regulations of the Association pursuant to the authority granted in Article VIII, Section 3, of the By-Laws and pursuant to the authority granted in N.C.G.S. 47F-3-102.

The Architectural Review Guidelines, revised January, 2001, as amended, are amended by adding a new paragraph on page 1 to the section entitled "SETBACKS" as follows:

*Structures subject to oceanfront setbacks pursuant to Ocean Hazard Area Rule 15A NCAC 7H, Section 300, shall comply with any "Development Line" as defined in 15A NCAC 7H.0305(a)(10) and approved by the North Carolina Coastal Resources Commission pursuant to 15A NCAC 7J.1300.*

Approved by unanimous consent of directors by electronic means on or before the 2<sup>nd</sup> day of February, 2017, copies of which are recorded with the records of the Association.

*March*

  
\_\_\_\_\_  
David Kellam, Island Administrator

WARCORP02-120-305  
ICTW

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**Attachment C: Figure Eight Island Beach Homeowner's Association Consent to Action by the Board of Directors of the Association adopting the Development Line**

**CONSENT TO ACTION  
BY DIRECTORS WITHOUT A MEETING**

The directors of The Figure "8" Beach Homeowners Association, Inc. (Association) by unanimous consent given in electronic form pursuant to G.S. 55A-7-04(a) hereby approve a proposed "Development Line" prepared by Patrick Bristow, RLS, and depicted on a series of fifteen aerial photographs submitted to the Board at a meeting of the Board on February 3, 2017; and authorize the Island Administrator to put the proposed lines in an appropriate form to be submitted to the North Carolina Coastal Resources Commission for approval pursuant to 15A NCAC 7J.1300.

Approved by unanimous consent of directors by electronic means on or before the 2<sup>nd</sup> day of February, 2017, copies of which are recorded with the records of the Association. March

  
\_\_\_\_\_  
David Kellam, Island Administrator

WARICORP02-120-306  
KTW

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**Attachment D:** Figure Eight Island Beach Homeowner's Association Architectural Review Guidelines dated January 1, 2001 with amendments adopted May, 2007 to March 1, 2017. The provisions regarding setbacks are found on page 6 of the 2001 Guidelines.

*<separate document>* name: DVL\_F8\_attach\_D\_architectural\_guidelines.pdf

**Attachment E:** Figure Eight Island Beach Homeowner's Association Architectural Review Amended and Restated Declaration of Restrictive Covenants Figure Eight Island recorded in Book 5012, Page 74 of the New Hanover County Register of Deeds. Paragraphs 4 and 5 of the restrictions address the approval of improvements on residential lots by the Association.

*<separate document>* name: DVL\_F8\_attach\_E\_covenants.pdf

**Attachment F:** Figure Eight Island Beach Homeowner's Association Development Line Maps

*<separate document>* name: DVL\_F8\_attach\_F\_maps.pdf



**Figure "8" Beach Homeowners' Association, Inc.**  
15 Bridge Road ♦ Wilmington, North Carolina 28411  
Telephone: (910) 686-0635 ♦ Fax: (910) 686-1558  
[www.figure8homeowners.com](http://www.figure8homeowners.com)

# **Figure "8" Beach Homeowners' Association, Inc.**

## **Architectural Review Guidelines**

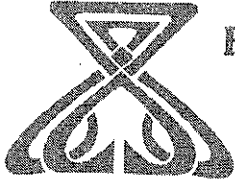
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**Revised January, 2001**

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**Amended May 2007, August 2008, September 2008, And  
December 2009**



**Figure "8" Beach Homeowners' Association, Inc.**

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**Figure "8" Beach Homeowners' Association, Inc.  
Amendment to the Architectural Review Guidelines  
March 1, 2017**

The Figure "8" Beach Homeowners' Association Board of Directors unanimously consented on March 1, 2017 to adopt an amendment to the Figure Eight Architectural Review Guidelines revised January, 2001, as amended, by adding a new paragraph on page 1 to the section entitled "SETBACKS" as follows:

**SETBACKS.**

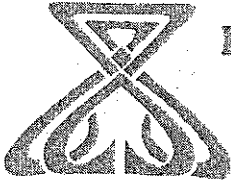
*"Structures subject to oceanfront setbacks pursuant to Ocean Hazard Area Rule 15A NCAC 7H, Section 300, shall comply with any "Development Line" as defined in 15A NCAC 7H.0305(a)(10) and approved by the North Carolina Coastal Resources Commission pursuant to 15A NCAC 7J.1300."*

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## Figure "8" Beach Homeowners' Association, Inc.

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Figure "8" Beach Homeowners' Association, Inc.  
Amendment to the Architectural Review Guidelines  
December 12, 2009

The Figure "8" Beach Homeowners' Association Board of Directors voted on December 12, 2009 to amend the Figure "8" Architectural Review Guidelines 2001 amended, as follows:

### CONSTRUCTION AND SERVICES SCHEDULE.

By inserting the following sentence in the Contractor Regulations:

"From the Friday before Memorial Day through the Friday before Labor Day, construction activities for projects subject to ARC approval must cease on Fridays by 11:30 a.m. and workers must leave the Island by 12:00 noon. This does not apply to Fridays on which all work is prohibited in accordance with an annual schedule determined by the Administrator."

### PIERS.

By rewriting the first sentence of MARINE IMPROVEMENTS, Piers as follows:

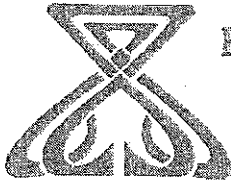
"Piers can extend no more than 200 feet from the landward-most portion of the following features on the lot:

- a. A bulkhead.
- b. The normal high water line.
- c. The landward edge of coastal wetlands as defined in the North Carolina Coastal Area Management Act."

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## Figure "8" Beach Homeowners' Association, Inc.

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### Figure "8" Beach Homeowners' Association, Inc. Amendment to the Architectural Review Guidelines

September 26, 2008

The Figure "8" Beach Homeowners' Association, Inc. Board of Directors voted unanimously to amend the Figure "8" Architectural Review Guidelines, revised 2001, amended May 2007 and August 2008, by inserting the following new section to General Policy found on page 2 of the Guidelines.

#### Real estate sales signs.

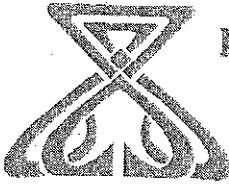
"No sign of any character shall be displayed except signs required by a governmental authority, or a real estate sales sign to identify the property and which complies with the following standards:

- Real estate sales signs shall be installed entirely on the lot, and must not obscure the view of oncoming traffic. Real estate sales signs are limited to one per lot.
- *Dimensions:* Signs may not exceed 15 inches high by 20 inches wide and must be rectangular in shape. The height of the top of sign may be no more than 4 feet above the existing grade.
- *Materials* for the sign - Wood or heavy duty synthetic. The sign post may be a 2x4 or a 4x4 wooden post. Fasteners- stainless steel.
- *Color and Finish* of the sign and post: Painted in medium sand or gray color, in matte finish.
- *Text* is limited to the lot's street number, one contact telephone number, and if desired, either, but not both, the word "Broker" or the word "Owner". If used, the location of either the word "Broker" or "Owner" on the sign shall centered at the bottom of the sign. No company logos, drawings, or other illustrations are permitted. *Text size* for the street number may not exceed 4.5 inches tall, the size of the telephone number may not exceed 3.25 inches tall and the size of the word "Broker" or "Owner" may not exceed 1 inch tall.
- The *color* of the sign's lettering must be black or brown."

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**Figure "8" Beach Homeowners' Association, Inc.**

**Amendment to the Architectural Review Guidelines.**

**August 15, 2008**

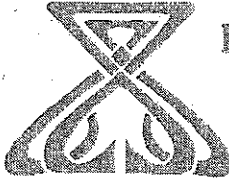
The Figure "8" Beach Homeowners' Association, Inc. Board of Directors voted unanimously to amend the Figure "8" Architectural Review Guidelines, revised 2001, by inserting the following changes. The changes to Marine Improvements found on page 7 of the 2001 Guidelines are underlined for reference purposes.

**MARINE IMPROVEMENTS: The number of piers or other marine structures installed on or adjacent to a residential lot is limited to one per lot.** Plans must be submitted for bulkheads, piers, docks and boat lifts. A plat must be included showing the lot riparian corridor lines, and must also show piers, docks and bulkheads at adjacent property. Approval is subject to all state and federal permits and regulations. A copy of the CAMA permit or exemption certificate is required. Lighting fixtures must conform and be shown on the plan. A cut sheet illustrating all light fixtures must be attached. Erosion control bulkhead or seawall and associated return projects are subject to guidelines regulating location, height, backfill and grading. Plans must clearly illustrate existing lot and street elevations and height of the proposed structure, and the depth of fill (see FEES.)

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**FIGURE "8" BEACH HOMEOWNERS' ASSOCIATION, INC.**

**Amendment to the Architectural Review Guidelines**

**May 11, 2007**

The Figure "8" Beach Homeowners' Association, Inc. Board of Directors voted unanimously to amend the Figure "8" Beach Homeowners' Association, Inc. Architectural Review Guidelines, revised 2001, by inserting the following changes. The changes to SETBACKS found on page 6 of the 2001 Guidelines are underlined for reference purposes.

**SETBACKS:** County codes require a 15 ft. setback on the sides of the lot, 25 ft. setback from the rear of the lot and 30 ft. from the front (street) side. The county setbacks are the minimum required setbacks. Shoreline CAMA setbacks also apply. Wetland areas, including those which may appear small, are likely to be subject to special permits and setbacks. Developer's setback lines are platted across certain lots, and must be honored. All setback lines must be clearly shown on plans. Variances generally will not be allowed for new construction, including modifications or renovations, that result in new or greater encroachment into required setbacks, even if the footprint of the structure is not increased. Grade and fill activities are regulated within setback areas (See GRADE AND FILL.)

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Figure "8" Beach Homeowners'  
Association, Inc.

Architectural Review  
Guidelines

January, 2001

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# FIGURE "8" BEACH HOMEOWNERS' ASSOCIATION, INC.

15 Bridge Road • Wilmington, North Carolina 28411 • Telephone (910) 686-0635  
FAX (910) 686-1558

## ARCHITECTURAL REVIEW GUIDELINES

January 2001 Edition

The Restrictive Covenants, ByLaws, Rules and Regulations, and Architectural Review Guidelines of the Figure "8" Beach Homeowners' Association, Inc. provide the Board of Directors with the framework to govern all improvements and construction at residential lots on Figure Eight Island. The Board of Directors appoints an Architectural Review Committee (ARC) to assist them in developing and instituting policies, and to see that they are properly applied.

The Architectural Review Committee of the Figure "8" Beach Homeowners' Association, Inc., does not review plans or inspect construction to insure compliance with the North Carolina building code or with any other governmental rules, codes or standards. It is the responsibility solely of the owner and the owner's architects and contractors to assure that structures, improvements and activities meet all applicable rules, codes and standards and that they do not violate any legal standards governing the effect of the construction, improvements and activities on other property or other property owners.

The Association requires a Notice and Indemnity Agreement in which the property owner(s) indemnify and hold harmless the Figure "8" Beach Homeowners' Association, Inc., its officers, directors and employees, and the Architectural Review Committee of the Association and its members from any claims, demands and liability (including all costs, expenses and reasonable attorney's fees) that arise out of the approval of the owner's plans for construction, improvement or activities on the owner's lot at Figure Eight Island.

In an effort to maintain efficiency, the Architectural Review Committee periodically recommends revisions of the Guidelines to the Board of Directors for approval. Supplemental guidelines to the March 1998 edition of the Architectural Review Guidelines were unanimously approved at the October 28, 2000 meeting of the Figure "8" Beach Homeowners Association, Inc. Board of Directors. The Committee presented a fully revised edition of the Guidelines to the Board of Directors for approval at their January 20, 2001 meeting. This edition, dated January 2001, was adopted and now supercedes previous guidelines to govern all island projects. Modifications chiefly address a new ARC meeting schedule, a plan submission deadline, all lot fill and grade activities, and all seawall or bulkhead activities. New plan submission checklists have been developed to assist architects, marine contractors, and landscape designers. A schedule of projected ARC meeting dates for the year 2001 is included, and the text contains various modifications designed to assist Association members through the approval process. Requests for clarification or assistance should be directed to the Association office at (910) 686-0635.

Forms attached to this booklet include: a projected schedule for 2001 ARC meetings; Architectural Review Checklists for use when submitting plans for approval; a Contractor's Agreement, Property Owner's Statement, and the Indemnity Agreement; and a copy of the Contractor Regulations. Additional copies of the Guidelines and attachments are available upon request.

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## GENERAL POLICY

All lot improvements and construction activities must be from plans that have been submitted for review and approved in writing by the Architectural Review Committee. Plans are approved for one year only. Plans must be resubmitted to the committee for approval after one year, and are subject to the regulations in force at that time.

In addition to new construction projects, proposals for all exterior improvements or modifications to existing structures, including painting, must be submitted for review and approval. For reference, activities requiring approval include, but are not limited to: new construction, additions, remodeling, replacement of siding material or roofing, exterior painting, installation of exterior lighting fixtures, fencing, landscape, grade or fill, piers, docks, boat lifts, bulkheads, and lot stabilizing or erosion control structures.

Strict coastal regulations apply to all island projects. Therefore, appropriate permits must be obtained prior to seeking ARC approval. In general, one should assume all projects modifying land or the exterior of a structure are subject to certain coastal regulations. Copies of the CAMA Permit or Exemption Certificate, and the New Hanover County Health Department Improvement Permit are required before any building plans are reviewed by the Committee.

House plans must be drawn and sealed by a licensed architect. The Committee recommends using architects, builders, and landscape designers who are thoroughly familiar with the special techniques and ever-changing rules involved in designs for coastal areas. Construction must follow Windstorm Resistant Construction of the North Carolina building code. Special North Carolina and FEMA rules apply to various construction practices, for example, depth of pilings. Emphasis should be placed on house designs that are in harmony with a barrier island setting and are compatible with existing homes in both character and quality. Building materials should be capable of withstanding harsh weather conditions (see EXTERIOR MATERIALS AND COLORS.) Building above flood elevations on pilings frequently makes the house appear too tall and "perched" on its lot. To compensate, the architect must employ various devices to lessen the appearance of height such as the use of tall shrubs at the base, fencing to provide a transition to a sharp increase in height, and imaginative treatment of yards, courts and drives to draw attention to ground level. Structural screening and planting is required to conceal exposed pilings under the house. Structural screening includes lattice, louvers or other systems which provide at least 50% open area.

Landscape plans must take into consideration proper stewardship of the island's water supply, and must not impact the roadside right of way. All lot grading and fill activities, including that for landscape, bulkheads or seawalls, must meet certain standards to protect neighboring property and road areas (See ~~GRADE AND HDL.~~)

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Pile driving must be approved and follow proper procedures (see SITE DEVELOPMENT.) If the island's water supply is used to jet pilings, the date and time must be coordinated with the office. A separate fee is charged for this water use (See FEES.)

The contractor is to stake out the corners of the house and decks and run a string along the side lot lines for the site inspection. Prior to construction, the contractor must meet with the Administrator to review island policies and furnish the Association with a site phone number for emergency use. Fees are payable upon approval of plans, but may be paid by the contractor at this meeting (See FEES.)

A Contractor's Agreement to abide by the Association Rules and the Architectural Guidelines is required. Island speed limits are enforced with the use of radar; violators are cited with a \$50 fine. If a cited subcontractor or employee does not pay a fine to the Association office within 10 days, the uncollected fee will be charged to the contractor. Violation of island rules may result in denial of access to the island for individuals or may result in suspension of construction. Contractor regulations are included in the guideline booklet. It is the contractor's responsibility to furnish the most recent regulations to subcontractors and employees.

It is the contractor's responsibility to maintain a clean, orderly job site. Dumpsters are required at all sites and must be located at least 10 feet from the paved road. If visible, they must be screened. For small projects, a closed trash container area may be approved. Free standing port-a-johns must be out of sight and attractively screened with lattice. It is acceptable to screen the port-a-john within the same structure as the dumpster. Sites must be policed daily and dumpsters emptied on a regular schedule, and especially for weekends and holidays.

Access to the construction site is from the owner's frontage on the hard surface road. Vehicles should be parked on the site, but if absolutely necessary, may be parked along the roadway, completely off the pavement in a manner that does not impede traffic.

Start of construction or site clearing without approval can result in suspension of work and denial of island access to the contractor. The Committee reserves the right to require changes during construction or upon final inspection to bring a project into compliance with the regulations.

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## THE REVIEW PROCESS

**ARCHITECTURAL REVIEW MEETINGS:** ARC meetings are projected for the first and third Monday of each month, subject to the enclosed schedule, availability of a quorum, and receipt of plans that conform to the Committee's requirements. It is recommended the meeting date be confirmed by calling the office at (910) 686-0635. To qualify for review, all required information must be submitted. Plans will not be reviewed without proper documentation. All items presented to the Architectural Review Committee must be submitted to the Association office for processing in a timely manner. Current policy is that the complete submission packet shall be received no later than fourteen days prior to a scheduled review meeting. In cases of submission of plans which include any lot fill, grading, or bulkhead activity, adjacent property owners will be notified by the Association to assure an opportunity to comment. The Committee encourages the architect to attend the initial meeting, and reserves the right to require an architect, engineer, or builder to attend a meeting to explain plans and specifications before they are approved.

Conceptual reviews may be granted. However, no approval is issued for conceptual or preliminary plans. It is highly recommended that the architect or builder be present for conceptual reviews.

**CHECKLISTS AND FORMS:** In order to facilitate proper submission of plans Architectural Review Checklists are attached to the Guideline booklet. The appropriate checklist must be completed and attached to the plans when submitted. An incomplete checklist will delay or cancel a requested review. Before approval of any plan is given, the property owner and the contractor must sign standard statements that they have read and understand these guidelines and will completely abide by them. An indemnity agreement is also required.

**BUILDING PLAN SUBMISSION REQUIREMENTS:** Detailed plans are required showing the following to scale: Site plan to include lot boundaries; all setback lines including the developer's setback if applicable; road right of way; existing lot elevation and proposed grade and fill; elevation at street; house and deck outline; adjacent house lines; driveway and parking; paths and detached decks; septic system; and trash receptacle, HVAC, and propane tank enclosures.

Color and material samples are required. Building height with reference to the basis of this measurement must be illustrated on the elevation showing the street side of the structure. Square footage and elevations of all sides of a building or other structure, including beach paths, must be illustrated. A landscape plan keyed to show quantity and size of plants selected is required. Presence of an irrigation system, if any, and the type of moisture sensing cutoff must be clearly noted. All exterior lighting locations must be shown and keyed to cut sheets illustrating the exterior fixtures.

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Detached workshops, storage buildings and garages are allowed, provided they are not placed closer toward the water than the house or deck, are not within setbacks, and are structurally compatible with the house. These structures are subject to the same submission requirements and guideline regulations as other construction projects.

Plans for renovations and additions must clearly show all exterior changes to the existing structure. A highlighter or a different colored ink must be used to illustrate proposed modifications on all elevations. The checklist must address the pertinent items and accompany the plans. All activity makes an existing house subject to the guidelines currently in force. Therefore, non-conforming items must be brought into compliance during the project.

**MARINE PLAN SUBMISSION REQUIREMENTS:** All proposed marine improvements such as bulkheads, piers, docks and boat lifts must be submitted for approval. Erosion control bulkhead or seawall and associated return projects are subject to guidelines regulating location, height, backfill and grading (See MARINE IMPROVEMENTS.)

**LANDSCAPE PLAN SUBMISSION REQUIREMENTS:** Plans for landscaping lots or renovating existing landscaping must be approved by the Committee. Emphasis must be placed on proper stewardship of the island water supply when developing the landscape design. All grade and fill activities are regulated (See GRADE AND FILL.) Plans must note the road right of way is free of encroachment, and must indicate the presence of an irrigation system. A moisture sensing cut-off is required for all irrigation systems, the type is to be indicated on the plan. All landscape lighting must be approved. Light fixture locations must be clearly shown on the plans, and must be keyed to a cutsheet. In certain cases, the Committee may require a sample of the fixture (See LANDSCAPE.)

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## CONSTRUCTION GUIDELINES

**SITE DEVELOPMENT:** Site clearing may not begin without approval. Prior to delivery of fill material or the start of any grading, the lot's original and proposed grades must be shown on a site plan and submitted to the committee for review (See **GRADE AND FILL.**)

In addition to the island's guidelines regarding fill and grade activities, strict coastal regulations are enforced by CAMA officers. The site should be disturbed as little as possible with special effort to protect dunes and vegetation. Provide ground cover for bare areas and disturbed soil around the house, drive and road during and after construction. Excavated material may not be placed on other property and must not be placed within ten feet of the roadside. Grade or fill activities must not bury or obstruct the Utility Company's water meters.

Pile driving procedures must be followed. If the island's water supply is used, the date and time must be coordinated with the office, and a fee is payable prior to installing the pilings (See **FEES.**) A cutoff must be supplied at the hydrant and piling locations. A proper hydrant wrench is required to prevent damage to the hydrant. If a hose crosses the street, it must be placed at a right angle and have wooden 2 x 6 planks on each side of the hose.

**SETBACKS:** County codes require a 15 ft. setback on the sides of the lot, 25 ft. setback from the rear of the lot and 30 ft. from the front (street) side. Shoreline CAMA setbacks also apply. Wetland areas, including those which may appear small, are likely to be subject to special permits and setbacks. Developer's setback lines are platted across certain lots, and must be honored. All setback lines must be clearly shown on plans. Grade and fill activities are regulated within setback areas (See **GRADE AND FILL.**)

In all cases no house can be closer to the water than the house closest to the water of any of the three adjoining houses in both directions. The same is required of the deck and stair lines. The Committee strongly suggests if there are questions about this requirement that these setback lines be staked and approved before finished plans are submitted.

The Association owns a 60 foot wide right of way for roads on the island. Landscaping, irrigation systems and installation of berms or other barriers within 30 feet of the center of the roadway must be approved by the Committee. The use of sod capable of withstanding parking within the 10 foot area adjacent to the road is required. Utility Companies have easement in this area for service lines, and this area must be available for roadside parking. Care should be taken to consider that future projects to widen the roads will affect this area. Grade and fill activities are regulated within this area (See **GRADE AND FILL.**)

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**GRADE AND FILL ACTIVITIES:** All grade and fill activities are regulated for the

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purpose of reducing the impact of continued development and weather events on common property and private lots at Figure Eight Island. Height of a house is impacted by grade and fill activities (See DIMENSIONS.)

Lot Grading within 15 foot side setback for marsh and sound front lots: Lot grading within the 15 foot side setback for marsh front and sound front lots is permitted only for purposes of assuring drainage towards the water or marsh and only in accordance with the minimum slope standards established in the provisions for *Bulkhead Height Within the Side Setback Area* (See Marine Improvements.) The provision states that within the area between the side setback line and the property line, height will not exceed the height of the lot's natural contour at the location of the bulkhead. Exceptions occur when the height of the natural contour does not exceed the elevation of the centerline of the road adjacent to the lot's 15 foot setback road frontage, minus .005 times the lot's depth minus 1 foot.

Grading, filling or landscaping within the Road Right-of-Way: Any grading, filling or landscaping within the road right-of-way must be done so as to provide drainage and water retention on the road's shoulder. The road shoulder must be graded to provide a slope of 1 inch per foot for a minimum of 12 feet from the edge of the road. This graded and sloped area may be left in a natural state or landscaped with grass.

Any improved parking area on the road's shoulder must be engineered to allow storm water infiltration equal to or better than lawn grass.

Lot fill within 15 foot side setback for marsh front or sound front lots: The natural elevation of the area of a lot which is between the side setback line and property line on marsh front or sound front lots may not be increased above the height resulting from the following formula:

$$\text{Centerline road elevation} - (.005 \times \text{lot depth}) - 1 \text{ foot}$$

Lot fill for all other lots - other than 15 foot side setback area of marsh or sound front lots: In general, no fill may be placed on a lot which results in a final elevation which is in excess of the existing elevation of adjacent streets or property. An exemption for fill contrary to this limitation may be requested from the ARC upon providing a detailed proposal for the installation of a professionally engineered and sealed storm water control system. With its approval, the ARC assumes no responsibility for the satisfactory performance of such systems, and the individual property owners requesting exemption from the fill limitations stated above will remain liable for the performance of their systems. The elevation of the area not included within the 15 foot side setback areas for marsh front and sound front lots may not be increased by filling above 9.5 feet mean sea level.

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MARINE IMPROVEMENTS: Plans must be submitted for bulkheads, piers, docks and boat lifts. A plat must be included showing the lot riparian corridor lines, and must also show piers, docks and bulkheads at adjacent property. Approval is subject to all state and federal permits and regulations. A copy of the CAMA permit or exemption certificate is required. Lighting fixtures must conform and be shown on the plan. A cut sheet illustrating all light fixtures must be attached. Erosion control bulkhead or seawall and associated return projects are subject to guidelines

regulating location, height, backfill and grading. Plans must clearly illustrate existing lot and street elevations and height of the proposed structure, and the depth of fill (see FEES.)

**Bulkheads and Return - Location:** Installation of a bulkhead is permitted only along a lot's waterfront or marsh front. Bulkhead returns may not exceed 16 feet in length. No retaining wall or bulkhead is permitted beyond the bulkhead return.

**Bulkhead Height:** Bulkhead height across the area between the side setback line and the property line will not exceed the height of the lot's natural contour at the location of the bulkhead; except that a bulkhead may be built above the natural contour if the height does not exceed the elevation of the centerline of the road adjacent to the lot's 15 foot setback road frontage, minus .005 times the lot's depth minus 1 foot.

Bulkhead height = Centerline road elevation - (.005 x lot depth) - 1 foot

**Bulkhead Height Between the 15 Foot Setback Areas:** Bulkhead height across the area of the lot that is between the 15 foot side setbacks may not exceed 9.5 feet mean sea level.

**Piers** may not cross more than 200 feet of marsh and water and may not extend beyond those of near neighbors. Piers along curving shore lines must not interfere with the potential use of a pier on adjacent lots. Piers, docks and lifts may not have overhead cover, and may not have any flood or high intensity lights. Lighting of any kind is discouraged, but if it is absolutely necessary, must be low wattage and shielded so the bulb or lens are not visible. Lighting design should take into consideration that outdoor lights should not be left on all night. Type of fixture and its location must be clearly shown on the plan and keyed to a cutsheet. The committee may require that samples of fixtures be submitted for approval. If a pier is installed across a beach used for walking, stairs must be installed on both sides of the pier to allow uninterrupted access to the walking beach.

**DIMENSIONS:** Houses on the island must have at least 2,000 sq. ft. of heated space. The maximum height of the peak of a roof may not exceed 44 feet as measured from the highest of the following:

- a. Natural mean ground elevation at the front of the house prior to grading or filling.
- b. Ground elevation after allowable fill (See GRADE AND FILL.)

Plans must plainly indicate the heated square feet. Height must be illustrated on the street side elevation, with a reference to the basis for the measurement. The committee reserves the right to request measurements during construction.

**EXTERIOR MATERIAL AND COLORS:** Color, material, and manufacturer of siding and roofing must be noted on the checklist. Treated pine may not be used as siding. All siding must be painted or treated with a transparent bleaching or weathering stain to ensure uniformity of wear. Treated lumber must be painted or stained to match the exterior of the house.

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Man-made siding materials must be addressed in the submission packet, and must be specifically approved by the committee prior to installation. If approved, installation of vinyl siding requires use of stainless steel nails, and vinyl soffits must be reinforced.

Exterior paint or stain color must be clearly identified, small samples are required. No pastel or bright colors will be approved. Only white and neutral tones are approved for exterior finish and trim.

Exterior stairs must be carefully designed to be an integral part of the house and blend with its design, to avoid the appearance of an add-on structure. They must be painted or stained. Risers are required between treads. Metal chimneys must be boxed in, preferably with the same material as the siding. No roof-top platform, or exterior access to same, that appears to be attached to the exterior of a house rather than integrated into the design of the building will be approved.

Gas storage tanks are suitable if approved for installation by the appropriate agencies. Gas tanks may be buried. In all cases the area must be entirely concealed with housing and plants. Plans must show location and details of the tank area housing, whether installed above or below ground.

Trash receptacle areas must be screened and should be under the house or near it. Plans must clearly indicate the area's location and materials of the housing. This area must be as "animal proof" as possible to prevent access to household refuse by raccoons, rodents, and other animals. Care must be taken to provide a location that does not impede access by the garbage collectors, for example, the receptacle area may not be housed inside a garage.

HVAC areas must be screened. Plan elevations must clearly show the location and materials of the housing. Use of wood or vinyl lattice may be approved.

Arbors, trellises, etc. must be clearly illustrated on a plan. Location, dimensions, materials, and color must be approved. This type of structure must be painted or stained.

Proposals for installation of all satellite dishes must be submitted for approval. The type and size of such dishes must be noted in accompanying details, and the proposed location is to be clearly shown on a sketch of the house.

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**OUTDOOR LIGHTING:** Floodlights and "Harris" type lights on houses, piers and landscape are prohibited. New construction or landscape projects make all existing exterior light fixtures subject to the regulations in the most recent edition of the guidelines. Therefore, all nonconforming fixtures must be removed. Exterior lighting of any kind is discouraged. If such lighting is absolutely necessary, it must be of low wattage and shielded so that the bulb and lens are not visible. Light must not shine directly out, but should wash up and down from the fixture. Selection of the proposed fixtures must also take into consideration factors such as the impact the installed height of the fixture will have on adjacent dwellings. Illumination of stairs, drives and parking areas, or landscape must be by subdued, recessed lighting

mounted as low as practical. Lighting design should take into consideration that outdoor lights are not to be left on all night. Houses on the ocean must not use lighting which may disturb nesting sea turtles.

Exterior lighting of all types must be clearly shown on an electrical plan which is keyed to cut sheets illustrating the fixtures. The committee may require that samples of fixtures be submitted for approval.

**LANDSCAPE:** All landscape plans should take into consideration proper stewardship of the island's water supply. Consider "Xeriscape" landscape techniques and other water conserving measures. All irrigation systems for new construction and landscape renovations must include sensors to control the system during rain or high moisture situations. Timers must be set to avoid sprinkling during peak demand hours, 6:00 a.m. to 9:00 a.m. and 6:00 p.m. to 9:00 p.m.

Landscape plans for new house construction and for renovations to existing landscape must be from approved plans (See **LANDSCAPE PLAN SUBMISSION REQUIREMENTS.**) Submission of plans for renovations subject a lot to the regulations included in the most current edition of the guidelines; therefore, any non-conforming items must be removed or replaced. All grade and fill activities are regulated (See **GRADE AND FILL.**) Installation of berms and other barriers, irrigation systems, and landscaping other than sod in the area within 30 feet of the center of the roadway require special treatment (see **SETBACKS.**)

Landscape plans must be detailed and plants keyed to a boxed table on the plan listing the name of each species to be planted, their total number and their size. Plans must include sufficient plants to screen and break up the house foundation and screen driveways and parking areas adjacent to the property line. Provide ground cover for bare areas around the house, drive and road. If sod is not used in bare areas, topsoil must be placed over the ground and then planted with a ground cover. The minimum ground cover is Bermuda grass. Screening shrubbery requires planting with maximum four foot centers. Plants installed along the house must be types capable of growing eight feet or more. Quality plants are needed to survive the initial acclimation period. Minimum sizes are three gallon containers or six feet tall, balled and burlaped plants. Ground cover plants like Shore Juniper can be in smaller containers. Landscaping should be installed within 90 days of completion of construction. Landscape lighting must be shown on the plan and a cut sheet illustrating all fixtures included for approval (See **OUTDOOR LIGHTING.**)

**DRIVEWAY:** Drives must be hard surfaced, or if soft surfaced with materials such as marl or loose stone, must be edged, use a concrete apron of at least 6 feet at the road junction, and have a top coating of gravel. Hard surface drives require drainage to handle a heavy downpour. Drives along a lateral property line, especially if they run to the rear of the house, must be screened by shrubs. A buffer of at least two feet is required between the driveway pavement and the property line.

**PARKING:** In addition to parking provided by any garage or carport, each house is required to provide off-street parking spaces for at least three cars. These areas are subject to the same requirements as driveways.

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**FENCES:** Installation of fencing must be approved. Location, height, materials and colors must be clearly shown on plans. Fencing may be used as a wind break, for planting, and to lower the appearance of a house. Fences that run the entire length of the property line and are intended as property delineators are not permitted. Fencing systems should be of a type which leaves 40-50% open space to allow air passage. Such systems cannot exceed 6 feet in height.

**DETACHED DECKS:** Detailed plans must be submitted for approval. Decks that are not an integral part of a house cannot be more than 18 inches above the ground or have overhead cover. Benches or other additions may not be more than 36 inches above the ground line. Railings must meet state code. Lighting of any kind is discouraged, but if absolutely necessary, must be low wattage and shielded so the bulb or lens are not visible. Final location must be approved. This type of deck is expressly prohibited on any dunes.

**BEACH PATHS:** Oceanfront homes should provide a walkway over the frontal dune which follows grade and is raised no more than 18 inches above the ground line. If there is an adjacent public beach path, a private path may tie into it. Overhead cover is not allowed. Railings must follow state code. Seating may not be installed without approval by the Committee.

**PRIVATE WELLS:** The only sources for drinking water on the island are the Utility Company wells, and any interference or contamination would be disastrous. Therefore, the construction of private wells, air to water heat pumps, or any other non-authorized access to the island's fresh water lens is prohibited by the restrictive covenants.

**WATER METERS:** Meters are the property of the Utility Company and may not be tampered with, or used to control water supply to houses. Figure Eight Island Utility Company requires installation of a cut-off valve with a bleeder between the meter and a structure or irrigation system. Meter valves are not designed to withstand frequent use for purposes such as winterizing or preparing the dwelling for long vacancies. Water meters may not be buried or obstructed. The Utility Company is not responsible for water lines beyond the water meter.

**SEPTIC SYSTEMS:** Septic systems must comply with state and county health department regulations. All above ground equipment used with septic systems must be screened from the view of the road or adjacent lots with plants or fencing. A copy of the improvement permit must be included with all building plans submitted for approval.

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## FEES AND SERVICES

The large number of trucks and contractor vehicles involved at a construction site causes considerable damage to the right of way. An Impact Fee in the amount of \$1,500 is payable to Figure "8" Beach Homeowners' Association, Inc., for new construction to compensate for this expense. The fee is payable upon approval of the plans. In the event construction is not completed within 18 months after the site inspection approval, an additional impact fee of \$1,500 will be charged.

Quantity of fill for all projects must be indicated on the checklist. Lot fill is subject to a 720 yard maximum of material such as dirt, sand, rocks, gravel or concrete. An additional fee of \$3 per yard is charged for fill in excess of 720 yards, and is payable in advance to the Figure "8" Beach Homeowners' Association, Inc.

The Figure Eight Island Utility Company charges \$1500 for connection to the water system. Once installed, a meter fee of \$25 is included in the bi-monthly water bill. This fee does not include water use. The cost of consumption is calculated using the current water rates. A fee of \$8 per piling is charged by the Utility Company if the island's water is used to jet pilings. Both of these fees are payable upon approval of plans and in advance of construction.

A fee of \$100 is charged for new mailbox materials and installation. The cost of trash collection is prorated through fiscal year-end, based on the current year's Annual Assessment. These fees are payable to the Figure "8" Beach Homeowners' Association, Inc.

**SERVICES:** The builder or owner must notify the Association office upon the completion of a construction project. Services including trash collection and installation of a mailbox may be ordered at that time. Please indicate the preferred mailbox location, allowing one to two weeks for installation (See FEES.)

*Please note that all fees are subject to change. For additional information or clarification of these guidelines, call the Association Administrator at (910) 686-0635.*

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**FIGURE "8" BEACH HOMEOWNERS' ASSOCIATION, INC.**

15 Bridge Road • Wilmington, North Carolina 28411 • Telephone (910) 686-0635  
FAX (910) 686-1558

**Architectural Review Committee  
Projected Meeting Schedule - 2001**

**Architectural Review Meetings are subject to the availability of a quorum and the proper receipt of suitable plans. Effective February 19, 2001, the Committee is scheduled to meet at 9:30 a.m. on the first and third Monday of each month at the Association office. Please note that certain holidays\* cause an adjustment to the meeting schedule. The Committee or Association Administration reserves the right to change the schedule without notice if deemed necessary. It is highly recommended the meeting date be confirmed by calling the Association office at (910) 686-0635. Plans and all supporting documentation must be submitted to the office no later than 14 days prior to a scheduled meeting to qualify for review.**

**Projected Schedule 2001:**

**January 4 and 18**

**February 1 and 19**

**March 5 and 19**

**April 2 and 23\***

**May 7 and 21**

**June 4 and 18**

**July 2 and 16**

**August 6 and 20**

**September 4\* and 17**

**October 1 and 15**

**November 5 and 19**

**December 3 and 17**

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FIGURE "8" BEACH HOMEOWNERS' ASSOCIATION, INC.

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ARCHITECTURAL REVIEW CHECKLIST

FOR CONSTRUCTION PROJECTS

January 2001 Edition.

Please attach to plans for review of construction projects including:  
A new house, an addition, or any other exterior changes to an existing structure.

DATE SUBMITTED: \_\_\_\_\_

OWNER'S NAME \_\_\_\_\_

ARCHITECT'S NAME \_\_\_\_\_

PROPERTY ADDRESS \_\_\_\_\_

ARCHITECT'S PHONE \_\_\_\_\_

PROJECT DESCRIPTION \_\_\_\_\_

REQUIRED:

- |  |     |    |
|--|-----|----|
| 1. Architect's seal on drawings  | Yes | No |
| 2. Final site plan includes:<br>original and proposed topography,<br>lot boundaries, setback lines, road right of way,<br>house and deck outline, adjacent house lines,<br>driveway, parking, paths, detached decks, septic system,<br>trash receptacle, HVAC, and gas tank enclosures | Yes | No |
| 3. Fill in excess of 720 cubic yards: _____<br>(Additional fee required)   |     |    |
| 4. Landscape Project checklist and plan attached<br>(Required for review of new house plans)   | Yes | No |

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ARC checklist - Construction projects  
Continued

- |     |  |            |          |
|-----|--|------------|----------|
| 5.  | Concealed garbage receptacle area illustrated on elevation<br>Material and color _____   | Yes        | No       |
|     | Concealed HVAC area illustrated on elevation<br>Material and color _____   | Yes        | No       |
|     | Concealed gas tank area illustrated on elevation<br>Material and color _____   | Yes        | No       |
| 6.  | Electrical plan locating all exterior light fixtures<br>Cutsheets illustrating all exterior fixtures keyed to plan                 | Yes        | No       |
| 7.  | Siding material _____<br>Color samples for siding and trim included  | Yes        | No       |
|     | Roofing material _____<br>Color sample included  | Yes        | No       |
|     | Driveway material _____  |            |          |
| 8.  | Maximum height of roof peak _____<br>Height illustrated on street side elevation<br>With notation referencing basis of measurement | Yes        | No       |
| 9.  | Heated Square footage _____<br>Deck Square footage _____   |            |          |
| 10. | Piling depth _____<br>Number of Pilings _____<br>(Fee required)  |            |          |
| 11. | CAMA Permit or Exemption Certificate Attached  | Yes        | No       |
| 12. | Copy of current Improvement (Septic) Permit enclosed<br>Number of bedrooms approved on septic permit _____                         | Yes        | No       |
| 13. | Property Owner's Statement Attached<br>Indemnity Agreement Attached  | Yes<br>Yes | No<br>No |
| 14. | Contractor's Name, Address, Phone Number Attached<br>Contractor's Agreement Attached   | Yes<br>Yes | No<br>No |
| 15. | House, deck and side-lot lines staked<br>for site inspection   | Yes        | No       |

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ARCHITECTURAL REVIEW CHECKLIST

FOR LANDSCAPE PROJECTS

January 2001 Edition

Please attach to plans for review of all landscape projects.

Note: Landscape plans are required for review of plans for new house construction.

Date submitted: \_\_\_\_\_

PROPERTY OWNER: \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_

CONTRACTOR NAME: \_\_\_\_\_

PHONE: \_\_\_\_\_

Project Description: \_\_\_\_\_

Landscape site plan illustrates:

Property lines, setbacks, road right of way. Yes No

Original and proposed grade Yes No

Quantity of fill \_\_\_\_\_

Plant type and size keyed to boxed table. Yes No

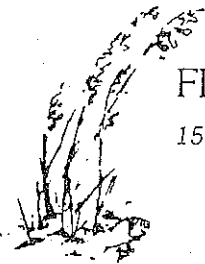
Electrical plan locating all landscape lighting  
keyed to cutsheet illustrating all fixtures. Yes No

Irrigation system in use Yes No  
If yes, moisture sensing cutoff device  
manufacturer and model \_\_\_\_\_

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**FIGURE "8" BEACH HOMEOWNERS' ASSOCIATION, INC.**

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**ARCHITECTURAL REVIEW CHECKLIST**

**FOR MARINE IMPROVEMENTS**

January 2001 Edition

Please attach to plans when submitting for approval.

Date submitted: \_\_\_\_\_

OWNER'S NAME: \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_

MARINE CONTRACTOR NAME: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_

- |    |   |     |    |
|----|---|-----|----|
| 1. | CAMA or Exemption Certificate attached  | Yes | No |
| 2. | Bulkhead / seawall:<br>Site plan including existing elevations<br>at road, bulkhead and setback areas;<br>height of bulkhead; height and length of return.<br><br>Quantity of fill _____.   | Yes | No |
| 3. | Piers / docks / boatlifts / etc.:<br>Site plan including lot boundaries, riparian corridors<br>marine improvements at adjacent properties,<br>location of all lighting shown and keyed to<br>cutsheets illustrating all light fixtures. | Yes | No |

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## FIGURE "8" BEACH HOMEOWNERS' ASSOCIATION, INC.

15 Bridge Road • Wilmington, North Carolina 28411 • Telephone (910) 686-0635  
FAX (910) 686-1558

### NOTICE AND INDEMNITY AGREEMENT

The Architectural Review Committee of the Figure "8" Beach Homeowners' Association, Inc. does not review plans or inspect construction to insure compliance with the North Carolina building code or with any other governmental rules, codes or standards. It is the responsibility solely of the owner and the owner's architects and contractors to assure that structures, improvements and activities meet all applicable rules, codes and standards and that the structure, improvements and activities do not violate any legal standards governing the effect of the construction, improvements and activities on other property or other property owners.

The Owner (s) hereby indemnifies and holds harmless the Figure "8" Beach Homeowners' Association, Inc., its officers, directors and employees, and the Architectural Review Committee of the Association and its members from any claims, demands and liability (including all costs, expenses and reasonable attorneys' fees) that arise out of the approval of the owners plans for construction, improvement or activities on the Owner's lot at Figure Eight Island.

\_\_\_\_\_  
Property Owner's Signature

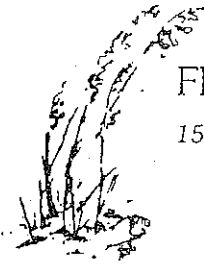
\_\_\_\_\_  
Property Address

\_\_\_\_\_  
Date

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# FIGURE "8" BEACH HOMEOWNERS' ASSOCIATION, INC.

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## PROPERTY OWNER'S STATEMENT

I have read the Architectural Review Guidelines which, by the authority of the Association's Restrictive Covenants, By Laws and Board of Directors, govern all construction and improvement activities on residential lots on Figure Eight Island. I understand these guidelines and I, the architect or project's designer, and the contractor or subcontractors for my project will abide by all island rules, regulations and guidelines.

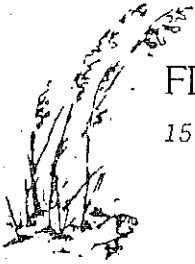
\_\_\_\_\_  
Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Project Address

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**FIGURE "8" BEACH HOMEOWNERS' ASSOCIATION, INC.**

15 Bridge Road • Wilmington, North Carolina 28411 • Telephone (910) 686-0635  
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**CONTRACTOR AGREEMENT**

I have read and understand the Architectural Review Guidelines which govern all construction and improvement activities on Figure Eight Island. I agree to abide by all island rules, regulations and guidelines and understand that failure to do so may result in denial of island access or the suspension of my right to continue working on Figure Eight Island.

\_\_\_\_\_  
Contractor's Signature

\_\_\_\_\_  
Date

Project Address: \_\_\_\_\_

Project Type: \_\_\_\_\_

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**CONTRACTOR REGULATIONS**

January 2001

1. **CONSTRUCTION HOURS.** Construction activities are allowed from 7:00 A.M. to 6:00 P.M. Monday thru Friday. Workers may not enter the island before 6:30 A.M. and may not start work before 7:00 A.M. Workers must leave the island each evening by 6:30 P.M. unless approved by the office. Exceptions are granted solely at the discretion of the Administrator.
2. **ACCESS TO ISLAND.** Workers must use the left lane at the gate and must be logged in before proceeding onto the island. All vehicles are issued a contractor's pass which must be displayed in the vehicle at all times while on the island. This pass must be turned in upon leaving the island for the day. A box at the exit side of the gate house is provided for returning daily passes. Visitors are not permitted at construction sites. Island facilities such as the beach are off limits. Workers are permitted to travel to and from the authorized work site only. Pets may not be brought onto the island by any workers.
3. **APPROVED PLANS.** All building, renovation, painting and landscaping activities must be approved by the Architectural Review Committee before construction. Significant changes during construction must be submitted for approval. **NO WORK INCLUDING PAINTING MAY BEGIN WITHOUT APPROVAL.** Contractors in violation of this rule risk revocation of island privileges.
4. **SITE PREPARATION.** Site clearing or grading may not begin without ARC approval. Existing dunes, vegetation, and neighboring property must be protected during construction. Excavated or fill material may not be stored on other property and must be at least 10 feet in from the edge of the road.
5. **ACCESS TO CONSTRUCTION SITE.** Access to the site is only from the owner's frontage on the hard surface road. Do not cross over adjacent lots or public land. Do not store materials or equipment on adjacent lots. Vehicles should be parked on the site only. If it is necessary to park along the road, **VEHICLES MUST PARK COMPLETELY OFF THE PAVEMENT.** Parked vehicles must not obscure the view of oncoming traffic.
6. **HEAVY EQUIPMENT** may not be left on the roadside without permission from the office. Equipment left overnight must have a visible note inside with a name and phone number for emergency contact.
7. **TRAFFIC SAFETY.** Speed limit on Bridge is 15 m.p.h. -- for trucks with a heavy load, 5 m.p.h. The island speed limit is 25 m.p.h. or as posted. **REDUCE SPEED IN CONGESTED AREAS.** Do not stop vehicles or otherwise block traffic on island roads, if necessary to stop, vehicles must be entirely off pavement. Tailgates or covers are required for loose cargo.
7. **SIGNS.** No signs of any kind are permitted at any time. Advertising and soliciting is prohibited.
8. **FACILITIES.** Port-a-Johns are required, must be out of sight, and attractively screened with a minimum of lattice. No exceptions will be made.
9. **TRASH.** Dumpsters are required and must be set a minimum of 10 feet from the paved roadway. If the dumpster is visible, screening is required. Site must be kept clean and policed daily, especially before leaving on Friday. Dumpsters must be emptied prior to weekends and holidays.
10. **TELEPHONE.** A site phone or emergency phone number must be registered with the office. A pay phone is located in the parking lot next to the gate for your convenience.
11. **RADIOS.** Radios, tape players and the like are not permitted on job sites. Commercial 2-way radio volume must be set at minimum while on the island.
12. **FIRES.** No open fires of any kind, even in a metal barrel.
13. **FIREARMS.** Firearms are strictly prohibited on Figure Eight.

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Call the Administrator, Art Poineau with questions (910) 686-0635. Your cooperation is appreciated. Serious violations of the rules can result in denial of access to the island for individuals or suspension of construction.



FOR REGISTRATION REGISTER OF DEEDS  
REBECCA P. SMITH  
NEW HANOVER COUNTY, NC  
2006 APR 26 09:21:37 AM  
BK:5012 PG:74-704 FEE:\$1,901.00

INSTRUMENT # 2006023131

**AMENDED AND RESTATED  
DECLARATION OF RESTRICTIVE COVENANTS  
FIGURE EIGHT ISLAND**

Prepared by: W. A. Raney, Jr., Attorney at Law, P.O. Box 1049, Wilmington, NC 28402.

Return to: Wessell & Raney, L.L.P.

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

KNOW ALL MEN BY THESE PRESENTS

The undersigned owners of lots on Figure Eight Island, on behalf of themselves and all lot owners on Figure Eight Island, and their successors, personal representatives, heirs and assigns, do hereby amend the restrictive covenants applicable to all lots on Figure Eight Island as stated hereinafter and approve the Amended and Restated Restrictive Covenants set forth herein.

WITNESSETH:

That the residential lot development known as Figure Eight Island began with the recording of a set of restrictive covenants in 1966, recorded in Book 789, Page 358, New Hanover County Registry, and lots were sold by the developers subject to these restrictions.

That the restrictions have been amended by successive developers on several occasions with the restrictions being completely rewritten in 1972 and 1978 and consolidated in 1993 by the action of the lot owners.

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The history of restrictions on lots is as follows:

1966	Book 789, Page 358	First Complete Set of Restrictions
1966	Book 796, Page 388	Amendment of Paragraph 9 of Restrictions in Book 789, Page 358
1968	Book 839, Page 607	Amendment of Paragraph 31 of Restrictions in Book 789, Page 358
1972	Book 933, Page 286	Amendment to Completely Re-Write Restrictions in Book 789, Page 358
1978	Book 1135, Page 954	Amendment to Completely Re-Write Restrictions in Book 789, Page 358, Book 839, Page 607 and Book 933, Page 286
1980	Book 1162, Page 1883	Amendment of Paragraph 1(a) of Restrictions in Book 1135, Page 954
1993	Book 1657, Page 317	Amendment to adopt 1978 Restrictions for all lots and to amend Paragraph 8

That the current Restrictions provide that the restrictions may be changed or amended when an instrument signed by a majority of the lot owners has been recorded, agreeing to change said covenants in whole or in part.

That under the 1993 Amended Restrictions the Figure "8" Beach Homeowners' Association, Inc. or Association was substituted for Continental Illinois Realty or CIR where appropriate.

That at a duly called meeting of the Board of Directors of Figure "8" Beach Homeowners' Association held on the 26th day of March, 2005, the Board of Directors adopted a Resolution recommending to the membership that certain amendments be made to the existing Restrictions and that the Restrictions incorporating the amendments approved by the membership be restated and recorded in the New Hanover County Registry.

That the undersigned lot owners on Figure Eight Island, being a majority of the owners of lots on Figure Eight Island, by signing these Amended and Restated Restrictive Covenants, Figure Eight Island, do adopt the following as covenants applicable to Figure Eight Island and the

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residential lots on Figure Eight Island.

1. Definitions. As used in this Declaration of Restrictive Covenants, the following terms shall mean:

- (a) (Deleted by Amendment).
- (b) "Record or Recording" refers to record or recording with the Register of Deeds for New Hanover County or Pender County, North Carolina.
- (c) "Property" generally means the lands known as Figure Eight Island, New Hanover County, North Carolina. Said lands are also known as Figure "8" Beach.
- (d) "Residential lots" or "lots" means those portions of the property specifically allocated, platted and/or recorded as lots for sale and/or use as single family residences.
- (e) "Association" shall mean the Figure "8" Beach Homeowners' Association, Inc., its successors and assigns.
- (f) "Restrictions" shall mean this Amended and Restated Declaration of Restrictive Covenants.
- (g) "Island Administrator" shall mean the chief executive officer of the Association.

2. Applicability. These Restriction shall apply to all residential lots on Figure Eight Island and, where the context requires, to the common areas and other areas owned by the Association.

3. Reservations. The Association reserves the right absolutely to change, alter or redesignate the allocated, planned, platted or recorded use or designation of any property on any of the lands known as Figure Eight Island including, but not limited to, the right to change, alter or redesignate roads, utility and drainage facilities, and to change, alter or redesignate such other present and proposed amenities or facilities as may, in the sole judgment of the Association, be necessary or desirable.

4. Building and Site Improvements. No building, fence, wall, bulkheading or other structure shall be erected, placed or altered on any residential lot, nor shall the grade or elevation or

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physical characteristics, including, but not limited to, dunes and ridges, of any such lot, or portion thereof, be altered in any way whatsoever, until the proposed building plans, specifications, exterior colors and finishes, site and grading plans (showing the proposed location of such building or structure, drives, parking areas and proposed alterations to the grade, elevation or physical characteristics of the site), and construction schedule shall have been approved in writing by the Association. Refusal of approval of any such plans, location or specifications may be based by the Association upon any ground, including environmental considerations, that in the sole and uncontrolled discretion of the Association shall seem sufficient. Without the prior written consent of the Association, no changes or deviations in or from such plans or specifications as approved shall be made. No alterations in the exterior appearance of any building or structure, or in the grade, elevation, or physical characteristics of any lot shall be made without like approval by the Association. One (1) copy of all plans and related data shall be furnished to the Association for its records. The Association shall not be responsible for any structural or other defects in plans or specifications submitted to it or in any structure erected according to such plans and specifications.

5. Approval of Plans.

(a) No house plans will be approved unless prepared by an architect and bear an architect's seal, and unless the proposed house has the minimum required square footage of enclosed dwelling area. Such minimum requirements for each lot may be specified in each deed. The term "enclosed dwelling area" as used in these minimum size requirements shall mean the total enclosed area within a dwelling; provided, however, that such term does not include garages, boat sheds, terraces, decks, open porches, and like areas; provided further, that shed-type porches, even though attached to the house, are specifically excluded from the definition of the aforesaid term "enclosed dwelling area". If for any reason any deed recorded might not specify the minimum required square footage of enclosed dwelling area, the minimum for said house will be 2,000 square feet. However, if the minimum square footage in the deed specifies otherwise, such amount shall be controlling.

(b) Since the establishment of standard inflexible building setback lines for location of houses on lots tends to force construction of houses both directly behind and directly to the side of other homes with detrimental effects on privacy, view of the ocean, preservation of dunes, important trees and other vegetation, ecological and related considerations, no specific setback lines

are established by these Restrictions. In order to assure, however, that the foregoing considerations are given maximum effect, the Association reserves the right to control and approve absolutely the site and location of any house or dwelling or other structure upon any lot. The Association may grant variances from property line setback restrictions set forth on recorded subdivision maps for Figure Eight Island upon a finding of unnecessary hardship and a finding that the variance is consistent with the spirit, purpose and intent of the Restrictive Covenants.

(c) All houses and other structures must be completed within eighteen (18) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities.

(d) Each lot owner shall provide receptacles for garbage, in a screened area not generally visible from the road, or provide underground garbage receptacles or similar facility in accordance with reasonable standards established by the Association.

(e) Each lot owner shall provide space for parking three automobiles off the street prior to the occupancy of any dwelling constructed on said lot in accordance with reasonable standards established by the Association.

(f) No trees, bushes, shrubs, beach or marsh grasses or other vegetation whatsoever may be removed, planted or installed from or on any lot without prior written approval of the Association, based upon a site plan, landscaping plan or planting plan submitted to the Association.

(g) No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any lot other than a detached single family dwelling not to exceed two (2) stories in height, unless the Association approves in writing a structure of more than two stories pursuant to paragraphs 4(a) and 5(a) hereof, and one or more small accessory buildings (which may include a detached private garage, cabana, servants' quarters, or guest facilities) provided the use of such dwelling or accessory buildings does not in the opinion of the Association overcrowd the site, and provided further, that such buildings are not used for any activity normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building.

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6. Residential Use.

(a) All lots shall be used for residential purposes exclusively.

(b) No trailer, tent or other structure of a temporary character shall be placed upon any lot at any time, provided, however, that this prohibition shall not apply to shelters used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the lot after completion of construction, and provided further that tents to provide shelter for social events may be erected on a lot for a period not to exceed five (5) days. Small tents, cabanas and similar structures may be placed on a lot or on the ocean beach for daily use, but must be removed at the end of each day.

(c) No fuel tanks or similar storage receptacles may be exposed to view. Any such receptacles may be installed only within the main dwelling house, within an accessory building, within a screened area, or buried underground; provided, however, that nothing contained herein shall prevent the Association or a utility company owned by the Association from erecting, maintaining, placing or permitting the placing of tanks, or other apparatus, on the property for uses related to the provisions of utility or other service.

(d) A guest suite or like facility may be included as a part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling, and provided, however, that such guest suite would not result in overcrowding the site.

(e) Prior to the occupancy of a residence on any lot, proper and suitable provision shall be made for the disposal of sewage by means of a septic tank or other method, provided that any such method must be approved by the Association and the appropriate State or County health authorities.

7. Maintenance, Noise.

(a) It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on such lot which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

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(b) No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the neighborhood. There shall not be maintained any plants or animals, or device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof.

(c) The following restrictions on noise apply to all lots and piers:

- (i) At all times noise levels from any lot or pier, other than the normal operation of customary construction, maintenance and landscaping equipment must not exceed the level that unreasonably interferes with normal conversation on the open areas of adjacent lots.
- (ii) In addition to (i) above, the Association may adopt rules and regulations regarding control of noise.
- (iii) Notwithstanding the provisions of 7(c)(i) and (ii), the Association may approve the use of amplified speech, music or other noise under such conditions as the Association determines will not unreasonably disturb other lot owners. The Association may require notification of other owners within a certain distance of the proposed noise producing activity prior to granting or denying approval herein. The Association may delegate authority to grant or deny approvals hereunder to the Island Administrator under standards and policies established by the Board of Directors of the Association.

8. Assessments.

(a) The owner of each residential lot shall, by the acceptance of a deed or other conveyance for such lot, be deemed obligated to pay to the Association an annual assessment or charge to be fixed, established and collected on a lot by lot basis as hereinafter provided. Said annual assessment or charge shall be due on the day established by the Association for the year for which it is assessed, provided that the Association may make provision for payment thereof in installments. Each annual assessment or charge (or installment thereof) shall, when due, become a

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lien against the lot against which such assessment or charge is made. Upon demand, the Association shall furnish to any owner or mortgagee a certificate showing the assessments or charges due, or installments thereof, as of any given date. Each lot subject to these restrictions is hereby made subject to a continuing lien to secure the payment of each assessment or charge (or installment thereof) when due.

(b) Such assessment or charge shall be in an amount to be fixed from year to year by the Association, which may establish different rates from year to year as it may deem necessary and may establish different rates for various general classifications of lots according to the use or location of said lots. The Association may levy additional assessments if necessary to meet the needs of the entire Island or portion thereof. Such additional assessments or changes shall be in amounts to be fixed by the Association which may establish different assessments or changes for different classifications of lots according to the location of the lot, the benefit to be obtained from the project by the lot owners, the ad valorem tax valuation of the lot (to include or not include dwelling) as established by the New Hanover County Tax Assessor, and any other factors or criteria deemed sufficient by the Association.

(c) The funds arising from said assessment or charge or additional assessment may be used for any or all of the following purposes: Maintaining, operating, improving and replacing the bridges; protection of the property from erosion; channel dredging; beach nourishment; collecting and disposing of garbage, ashes, rubbish and the like; maintenance, improvement and lighting of the streets, roads, drives, rights of way, community land and facilities, tennis courts, marsh and waterways; employing watchmen; enforcing these restrictions; paying taxes, indebtedness of the Association, insurance premiums, governmental charges of all kinds and descriptions and, in addition, doing any other things necessary or desirable in the opinion of the Association to keep the property in neat and good order and to provide for the health, welfare and safety of owners and residents of Figure Eight Island.

(d) Upon the failure of the owner of any lot to pay any such assessment or charge, additional assessment, or installment thereof when due, the Association shall have the right to collect the amount thereof by an action at law against the owners as for a debt, and may bring and maintain such other suits and proceedings at law or at equity as may be available. Such rights and powers

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shall continue in the Association and the lien of such charge shall be deemed to run with the land and the successive owners of each lot, by the acceptance of deeds therefor, shall be deemed personally to assume and agree to pay all unpaid assessments or charges or additional assessments which have been previously levied against the property, and all assessments or charges or additional assessments as shall become a lien thereon during their ownership. Unpaid assessments or charges, additional assessments, or installments thereof, shall bear interest at the rate of one and one-half (1½%) percent per month, or at the maximum legal rate, whichever is less, from the due date thereof, until paid. All costs and reasonable attorney's fees incurred in collection of delinquent assessments together with accrued interest shall become a lien against the lot.

(e) The monies collected by virtue of the assessments or charges or additional assessments, or the lien provided by this section, shall be paid to the Association to be used in such manner and to the extent as the Association may determine, in accordance with paragraph 8(c) hereof, for the benefit of the residents of Figure Eight Island. The judgment of the Association in the making of assessments or charges or additional assessments and the expenditure of funds shall be final.

(f) The Association shall not be obligated to spend in any one calendar year all of the sums collected during said year by way of assessments or charges or additional assessments and may carry forward to surplus any balance remaining. The Association shall not be obliged to apply any such surplus to the reduction of charges in the succeeding year.

(g) The Association shall have authority, in its discretion, to borrow money to expend for the purposes set forth in paragraph 8(c) hereof upon such terms and security and for such periods as it may determine, and to repay said borrowings and the interest thereon from the assessments or charges or additional assessments provided for in this paragraph 8.

9. Entry. The Association, its successors and assigns, and its agents are granted the right to enter upon any residential lot, such entry to be made by personnel with suitable devices and equipment, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, repairing or maintaining exteriors of structures, or for the purpose of building or repairing dunes or other earthwork, which in the opinion of the Association detracts from or is necessary to maintain the overall beauty, ecology, setting and safety of the property. Such

entrance shall not be deemed a trespass. The Association and its agents may likewise enter upon any lot to remove any trash which has collected without such entrance and removal being deemed a trespass. The Association is authorized to make reasonable charges to the owner for such services, which shall become a lien upon the lot. The provisions of this paragraph shall not be construed as an obligation on the part of the Association to undertake any of the foregoing.

10. (Deleted by Amendment).

11. (Deleted by Amendment).

12. Signs. No sign of any character shall be displayed except signs required by governmental authority and a property identification sign that complies with the Architectural Guidelines or other rules adopted by the Association. The Association may erect signs on Association property which it deems appropriate to conducting the business of the Association.

13. Miscellaneous Easements. The Association reserves unto itself, its successors and assigns, a perpetual, alienable, assignable and releasable easement and right on, over and under the ground with men and equipment to erect, maintain, inspect, repair and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in or over the rear ten (10) feet of each lot and ten (10) feet along one (1) side of each lot and such other areas as are shown on the applicable plat; provided further, that the Association may cut drainways for surface water whenever action may appear to the Association to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. It further reserves the right to locate wells, pumping stations, and tanks within residential areas on any walkway, or on any residential lot now or subsequently designated for such use or to locate same upon any lot with the permission of the owner of such lot. Such rights may be exercised by any licensee of the Association, but this reservation shall not be considered an obligation of the Association to provide or maintain any such utility or service.

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14. Wells. No private water wells may be drilled or maintained on any residential lot without the prior written consent of the Association.

15. Subdividing.

(a) No lot shall be subdivided, or its boundary lines changed, except with the prior written consent of the Association.

(b) No lot shall be increased in size by filling in the waters on which it abuts without the prior written approval of the Association and state and federal agencies.

16. Docks, etc.

(a) No private docks, piers, moorings, boat houses, slips or similar structure may be erected on, placed on or connected to any lot, unless specifically approved by the Association. All piers and docks constructed in compliance with applicable governmental standards prior to January 1, 2005 shall be deemed approved by the Association. In the event of such approval, the following terms and conditions must be complied with:

- (i) Complete plans and specifications including site, material, color and finish must be submitted to the Association in writing;
- (ii) Written approval by the Association of such plans and specifications must be secured, the Association being granted the right in its uncontrolled discretion to disapprove such plans and specifications on any grounds;
- (iii) Any alterations of the plans and specifications or of the completed structure must also be submitted to the Association in writing, and the Association's approval in writing must be similarly secured prior to construction, the Association having the same rights to disapprove alterations as it has for disapproving the original structures;
- (iv) The Association shall not be responsible for any structural or other defects in plans or specifications submitted to it or in any structure erected according to such plans or specifications.
- (v) Pier length is in the discretion of the Association. In no case shall a pier exceed 200' in length from the normal high water line on any lot

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or the bulkhead on any lot, whichever is farther landward.

(b) All lot owners who construct or cause to be constructed private docks, piers, moorings, boat houses, slips or similar structure pursuant to paragraph 16(a) hereof must maintain said structures in good repair and keep the same clean and orderly in appearance at all times, and further agree to paint or otherwise treat with preservatives all wood or metal located above the high water mark, exclusive of pilings, and to maintain such paint or preservatives in an attractive manner. The Association shall be the judge as to whether such structures are clean, orderly in appearance, and properly painted or preserved in accordance with reasonable standards, and where the Association notifies the particular lot owner in writing that such structures fail to meet acceptable standards, said lot owner shall thereupon remedy such condition within thirty (30) days to the satisfaction of the Association, and that failing to so remedy such conditions, the lot owners hereby covenant and agree that the Association may make the necessary repairs, but is not obligated to make such repairs or take such action as will bring such structures up to acceptable standards, all such repairs and actions to be at the expense, solely, of the lot owner in question, and same shall become a lien upon the lot.

17. Approval.

(a) Prior to purchasing any lot, the purchaser must be approved as a member of the Association and by the recording of the deed to the lot purchased becomes and agrees to continue to be a member of the Association and agrees to abide by, and be subject to, the charter and by-laws of the Association and these Restrictions. Any purchaser, his heirs or assigns, who purchases residential property on Figure Eight Island at a sale held pursuant to foreclosure of, or sale under a power of sale contained in, a deed of trust or mortgage executed to secure an indebtedness to a bank, savings and loan association or insurance company, shall be automatically approved as a member of the Association.

(b) For lots owned by other than natural persons, the Association may, by rule, establish a limit on the number of individual persons who are entitled to exercise the owner's membership rights and to usage of common areas such as the bridge and roads which are owned by the Association.

(c) For lots owned jointly by natural persons, the Association may, by rule, establish a limit on the number of owners who are entitled to membership rights and to usage of

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common areas such as the bridge and roads owned by the Association; except that no limitations on access to lots will be placed on owners of lots which are owned entirely by persons who are related by blood, legal adoption or marriage.

(d) Interval ownership, also known as time share ownership, is not permitted. No owner may lease, deed, sell, convey or otherwise transfer ownership of a lot under any time sharing or interval ownership arrangement or subject a lot to a time share instrument as defined in G.S. 93A-41.

(e) The Association may adopt rules requiring the owner(s) of lots to designate the person or persons authorized to receive official notices of the Association and authorized to cast votes for the lot on behalf of the owner(s) in matters involving a vote of members.

18. Covenants Run with the Land. All covenants, restrictions, and affirmative obligations set forth in these Restrictions shall run with the land and shall be binding on all parties and persons claiming under them to specifically include, but not be limited to, the successors and assigns, if any, of the Association, for a period of ten (10) years from the date hereof after which time all said covenants shall be automatically extended for successive periods of ten years, unless an instrument signed by a majority of the then owners of lots has been recorded, agreeing to change said covenants in whole or in part.

19. Violations. In the event of a violation or breach of any of the Restrictions by any lot owner, or agent of such owner, the Association or owners of any other property on Figure Eight Island, or any of them jointly or severally shall have the right to proceed at law or equity to compel a compliance to the terms hereof or to prevent the violation or breach. The Association shall have the right to proceed at law or equity to compel compliance with the By-Laws or rules and regulations of the Association or to prevent their violation or breach. In addition to the foregoing, the Association shall have the right, whenever there shall have been built on any lot any structure which is in violation of these Restrictions, to enter upon such property where such violation exists, and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservations, restrictions, or condition contained in these Restrictions, however long continued, shall not be deemed a waiver

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of the right to do so hereafter as to the same breach, or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

19.1 Fines. The Association may levy fines against any lot owner or any family member, guest, employee, tenant, contractor, trustee, beneficiary, member, shareholder or director of a lot owner for violations of the Declaration, By-Laws or rules and regulations of the Association. Any lot owner against whom a fine is levied is entitled to notice of the alleged violation and the proposed fine and to a hearing before the fine shall become final. A fine not to exceed the maximum allowed under the North Carolina Planned Communities Act, as it may be amended from time to time, may be imposed for each violation and, without further hearing, for each day the violation continued after the decision that a violation occurs. Persons who are not members of the Association against whom a fine is levied are not entitled to a hearing unless such person is a person authorized to exercise membership rights on behalf of a lot owner that is not a natural person.

19.2 Suspension of privileges and services. The Association may suspend privileges or services for a reasonable time to any lot owner or any family member, guest, employee, contractor, trustee, beneficiary, member, shareholder, director of a lot owner for a violation of the Declaration, By-Laws or rules and regulations of the Association. Before privileges or services are suspended to a lot owner or to a person authorized to exercise membership rights for a lot owner that is not a natural person, the owner or person is entitled to notice of the alleged violation and proposed suspension and to a hearing before the suspension is final. Suspension of privileges or services to persons other than lot owners or persons authorized to exercise membership rights for a lot owner that is not a natural person may be imposed by the Association without a hearing.

19.3 Adjudicatory panel. The Board of Directors of the Association may appoint an adjudicatory panel to hold hearings under paragraph 19.1 and 19.2 above. In the absence of such a panel the hearing shall be held by the Board of Directors.

20. Invalidation. The invalidation by any Court, agency or legislation of any provision of these Restrictions shall in no way affect any of the other provisions of these Restrictions, but they shall remain in full force and effect.

21. (Deleted by Amendment).

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22. Dedication to Public Use. Nothing in these Restrictions, nor in the recording of any plat or deed pursuant hereto, shall dedicate (or be deemed to dedicate) to public use any of the streets, bridges, common lands or other grounds within Figure Eight Island.

23. Easements of Access and Open Space.

(a) Each and every lot owner is hereby granted an easement to pass over, use and enjoy open spaces now or subsequently designated on recorded plats as community open space, and all roads, bridges, and rights of way, provided, however, that the Association, its successors or assigns shall, in its sole discretion, retain the right to establish rules and regulations for the use and enjoyment of all such property.

(b) The Association reserves the right to erect and maintain utilities, drainways and other public conveniences in common lands, including the right to cut any trees, bushes or shrubbery, make any gradings of the soil, build buildings or take any similar action reasonably necessary or desirable to provide economical and safe installation and service, to establish reasonable fees, and to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by a licensee of the Association.

(c) (Deleted by Amendment).

(d) (Deleted by Amendment).

(e) It is expressly understood and agreed that the granting of these easements in no way places a burden of affirmative action on the Association.

24. Miscellaneous.

(a) Where the Association is permitted by these covenants to correct, repair, clean, preserve, clear out or do any action on the restricted property, entering the property and taking such action shall not be deemed a breach of these covenants.

(b) Hunting on the property shall not be allowed.

(c) No change of condition or circumstances shall operate to extinguish, terminate or modify any of the provisions of these restrictions, but they shall be extinguished, terminated or modified only by their action and in the manner provided in this Declaration.

(d) In all cases the restrictions set forth or provided for in these restrictions shall be construed together and shall be given that interpretation or construction which will best tend

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toward their strict enforcement, and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective.

(e) (Deleted by Amendment).

IN WITNESS WHEREOF, the Figure "8" Beach Homeowners' Association, Inc. has caused this instrument to be signed in its name by the authority of its Board of Directors and the approval of this instrument is given by a majority of the lot owners as indicated by the signatures attached hereto.

FIGURE "8" BEACH HOMEOWNERS  
ASSOCIATION, INC.

By: *Earl Johnson Jr*  
Earl Johnson, Jr., President

NORTH CAROLINA  
WAKE COUNTY

I, TERRE A. EDWARDS, a Notary Public, certify that EARL JOHNSON, JR., President of FIGURE "8" BEACH HOMEOWNERS' ASSOCIATION, INC., a North Carolina corporation, personally came before me this day and acknowledged that he is President of FIGURE "8" BEACH HOMEOWNERS' ASSOCIATION, INC., and that he, as President, and being authorized to do so, executed the foregoing on behalf of the Corporation.

WITNESS my hand and notarial seal this 31<sup>ST</sup> day of MARCH, 2006.

*Terri A. Edwards*

TERRE A. EDWARDS, Notary Public  
(Printed Name of Notary Public)

My commission expires:

2-28-2011



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Development Line

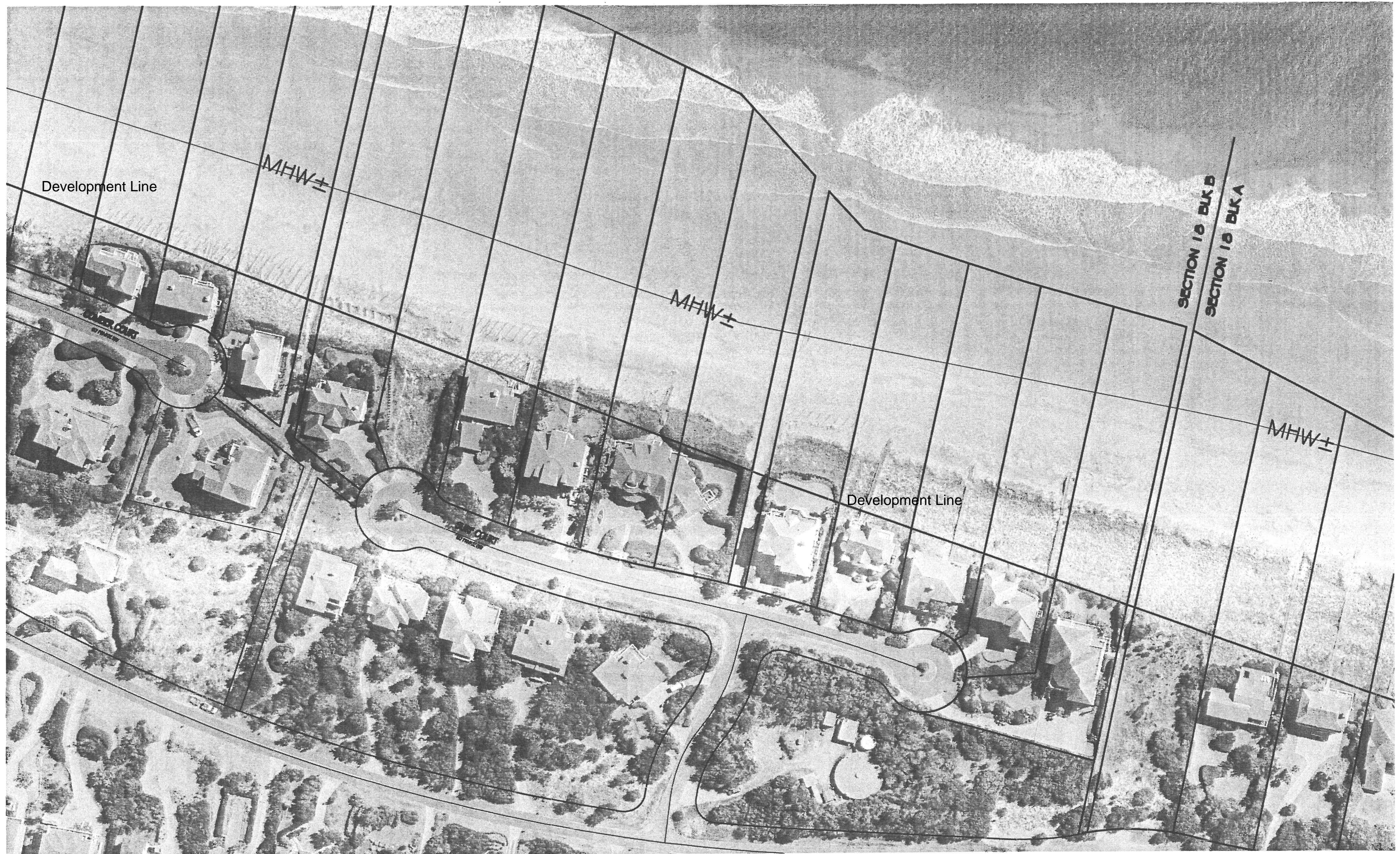
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INLET HOOK  
60' PRIVATE RW

COMBER ROAD  
60' PRIVATE RW

OYSTER CATCHER ROAD  
60' PRIVATE RW

BEACH ROAD NORTH  
60' PRIVATE RW



Development Line

MHW±

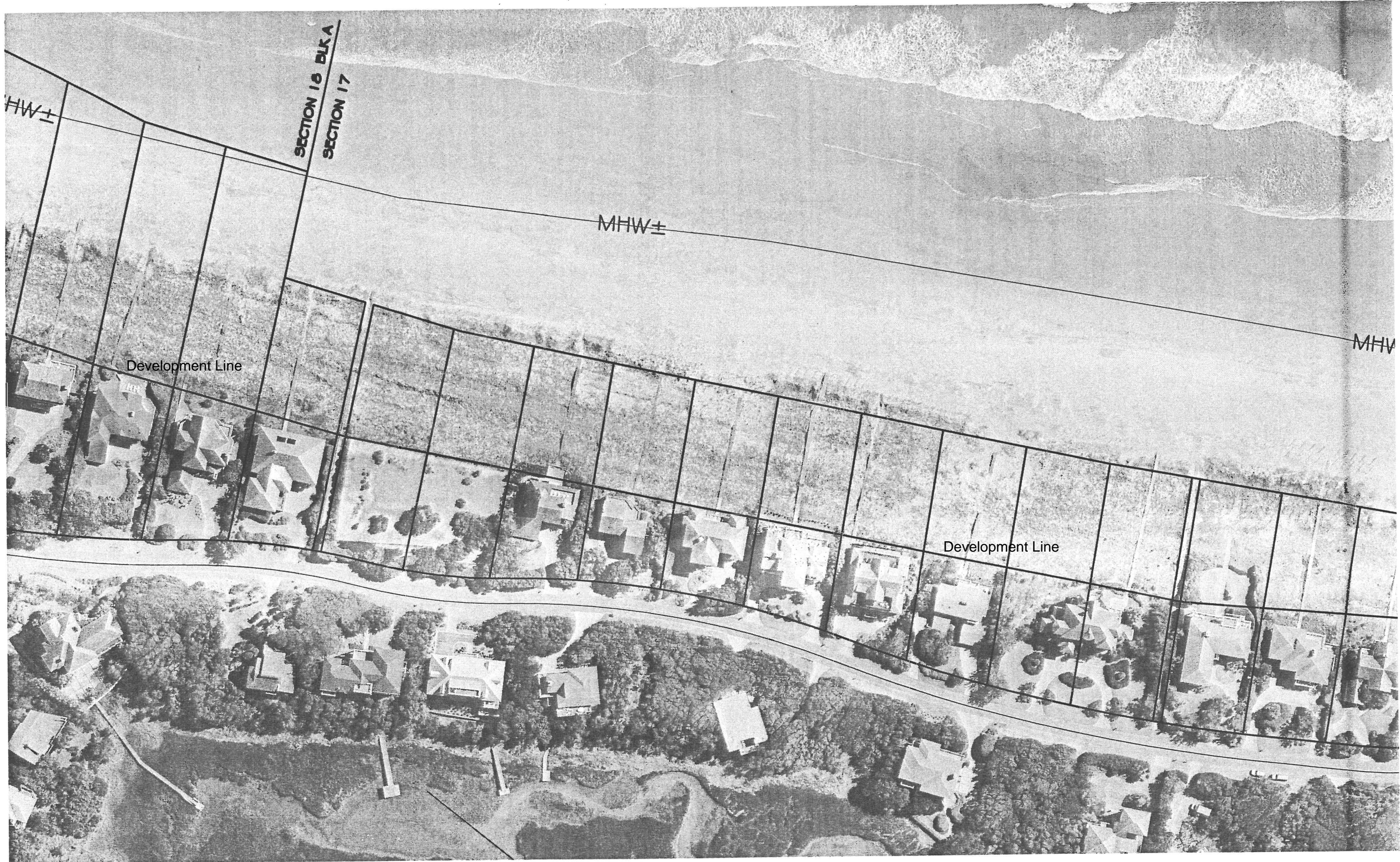
MHW±

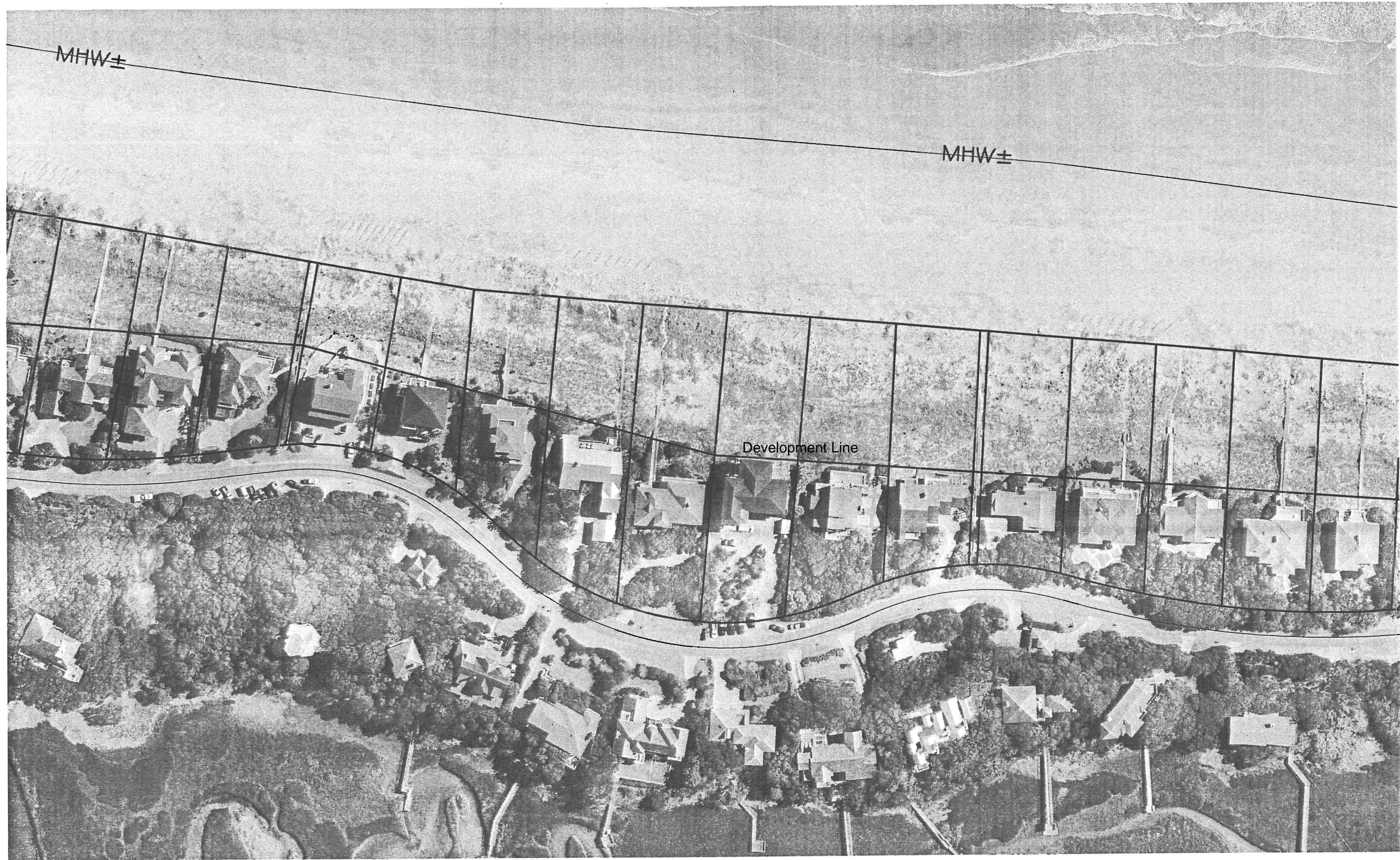
SECTION 16 BLK B

SECTION 16 BLK A

MHW±

Development Line





MHW±

MHW±

Development Line

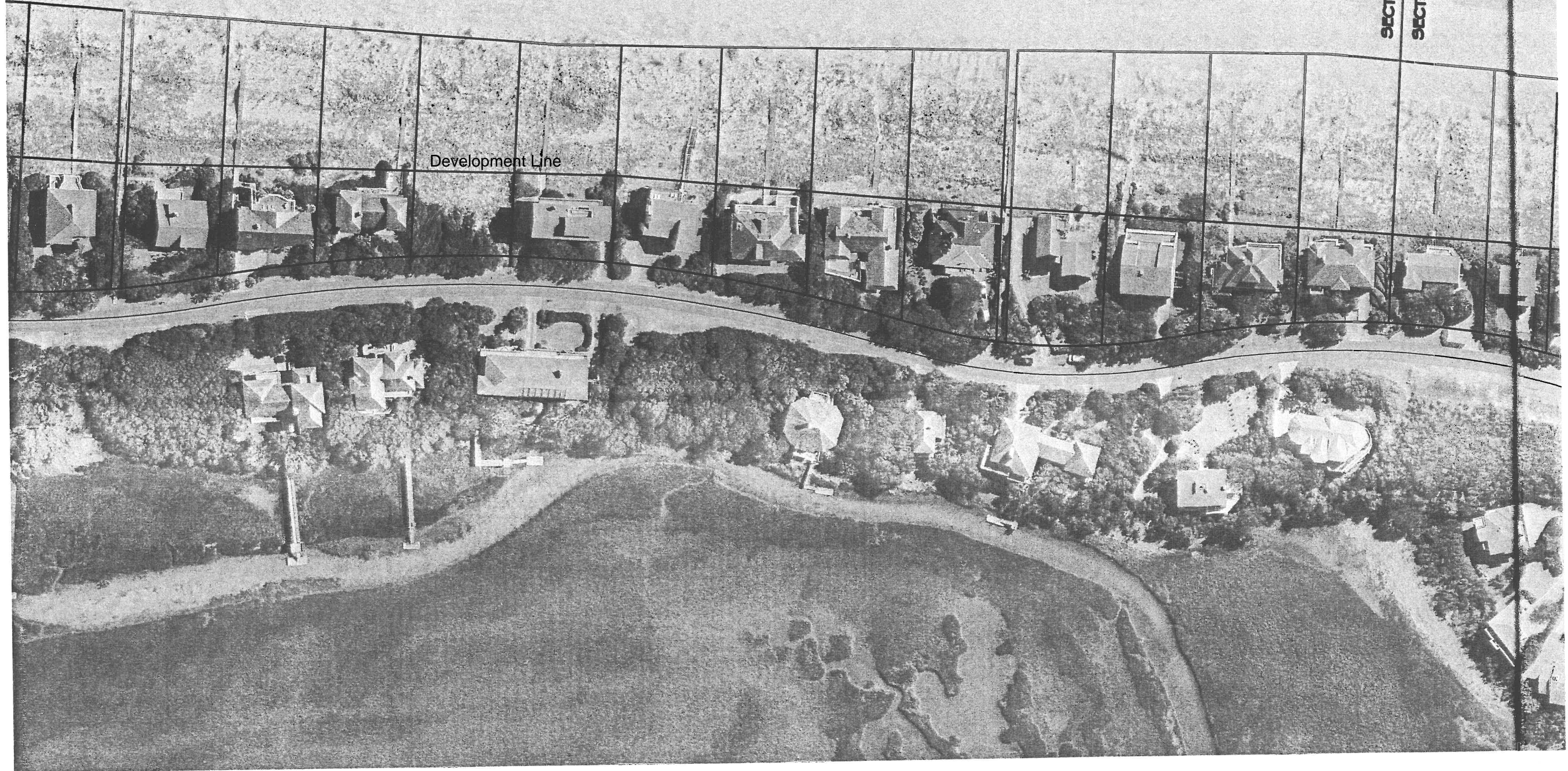
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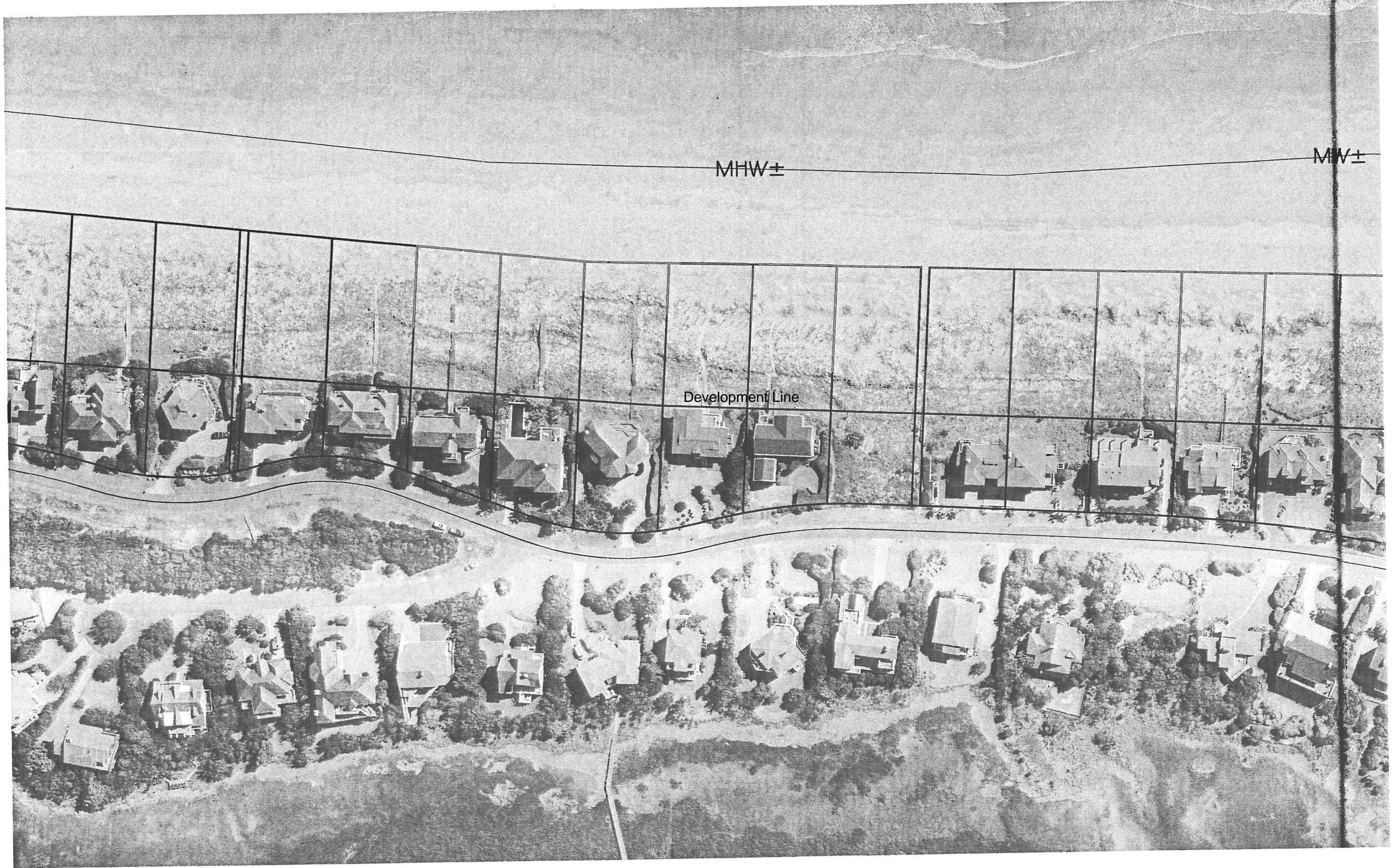
MHW±

SECTION 16

SECTION 15

Development Line





MHW ±

MHW ±

Development Line



MHW±

MHW±

SECTION 19

SECTION 19

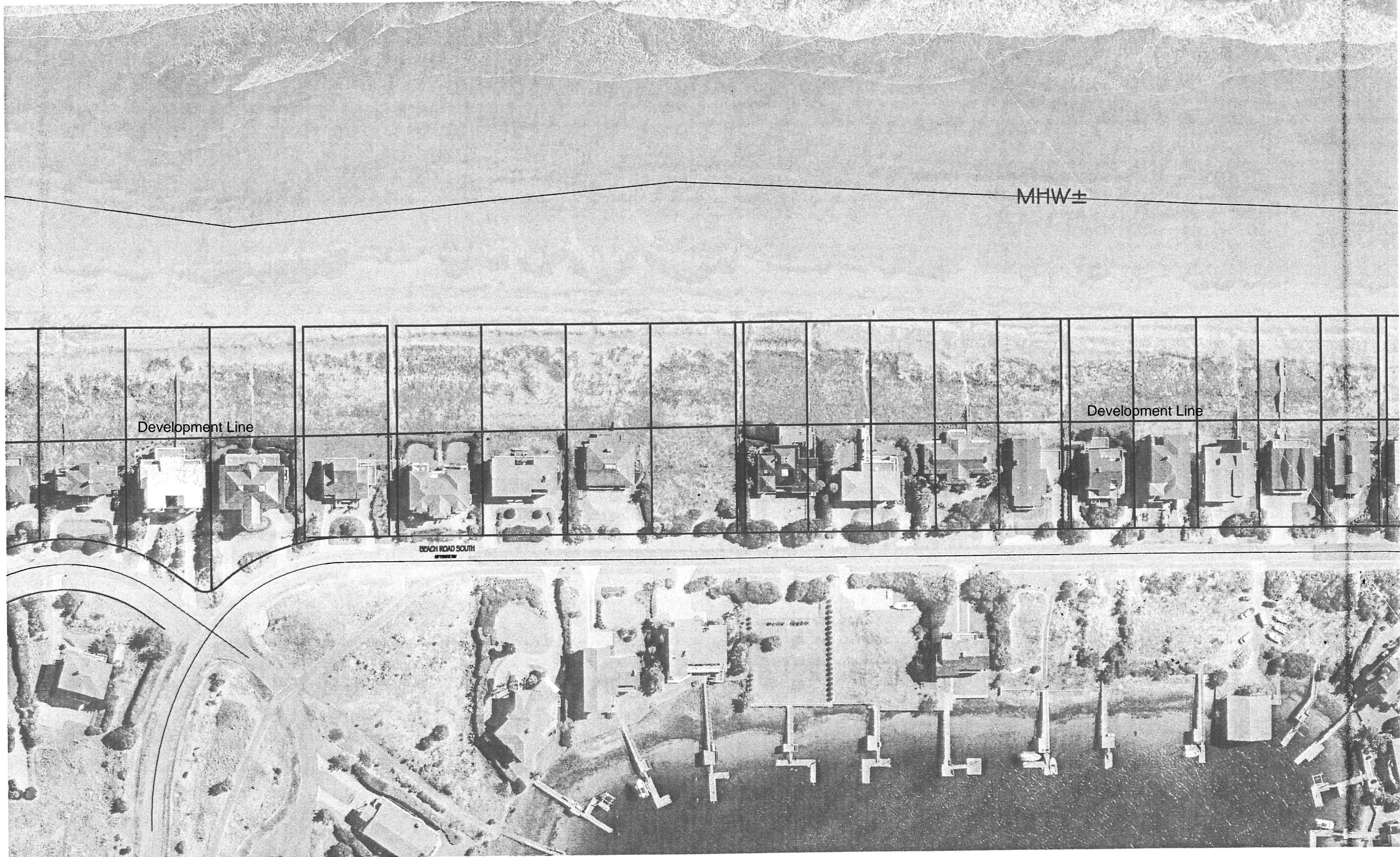
Development Line

Development Line

BEACH ROAD NORTH

CHERRY FLAGE

EAST BEACH BAY LANE

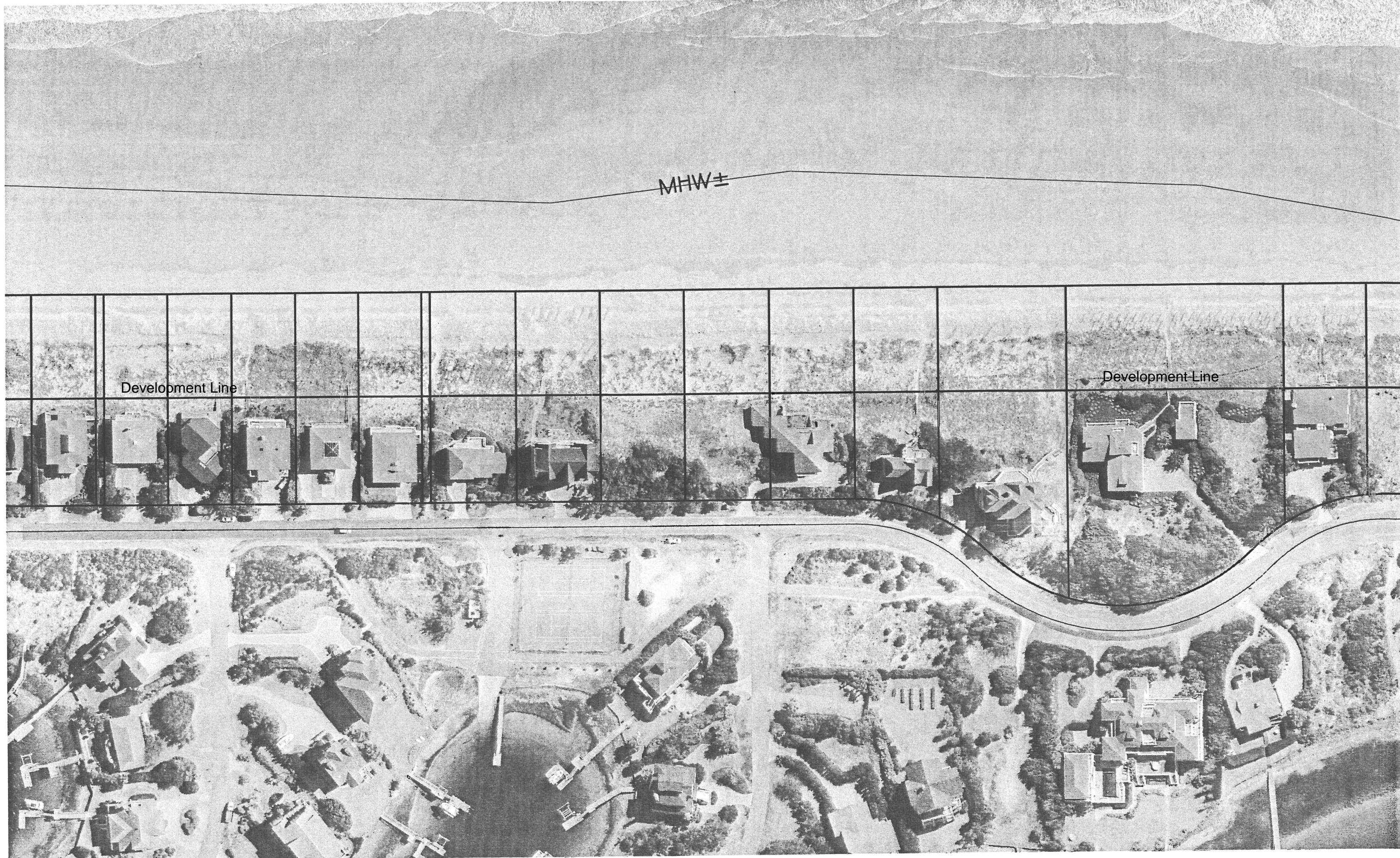


MHW ±

Development Line

Development Line

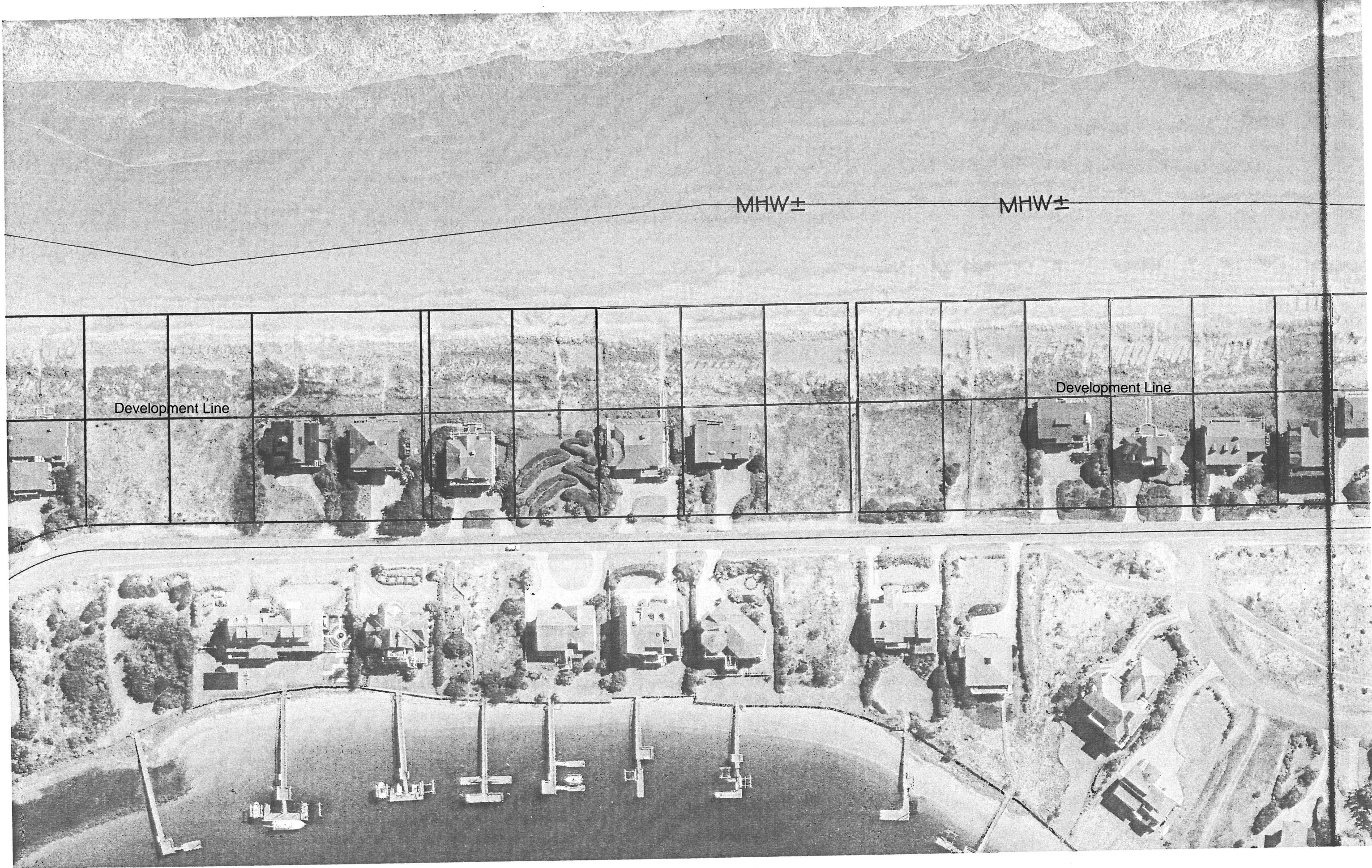
BEACH ROAD SOUTH

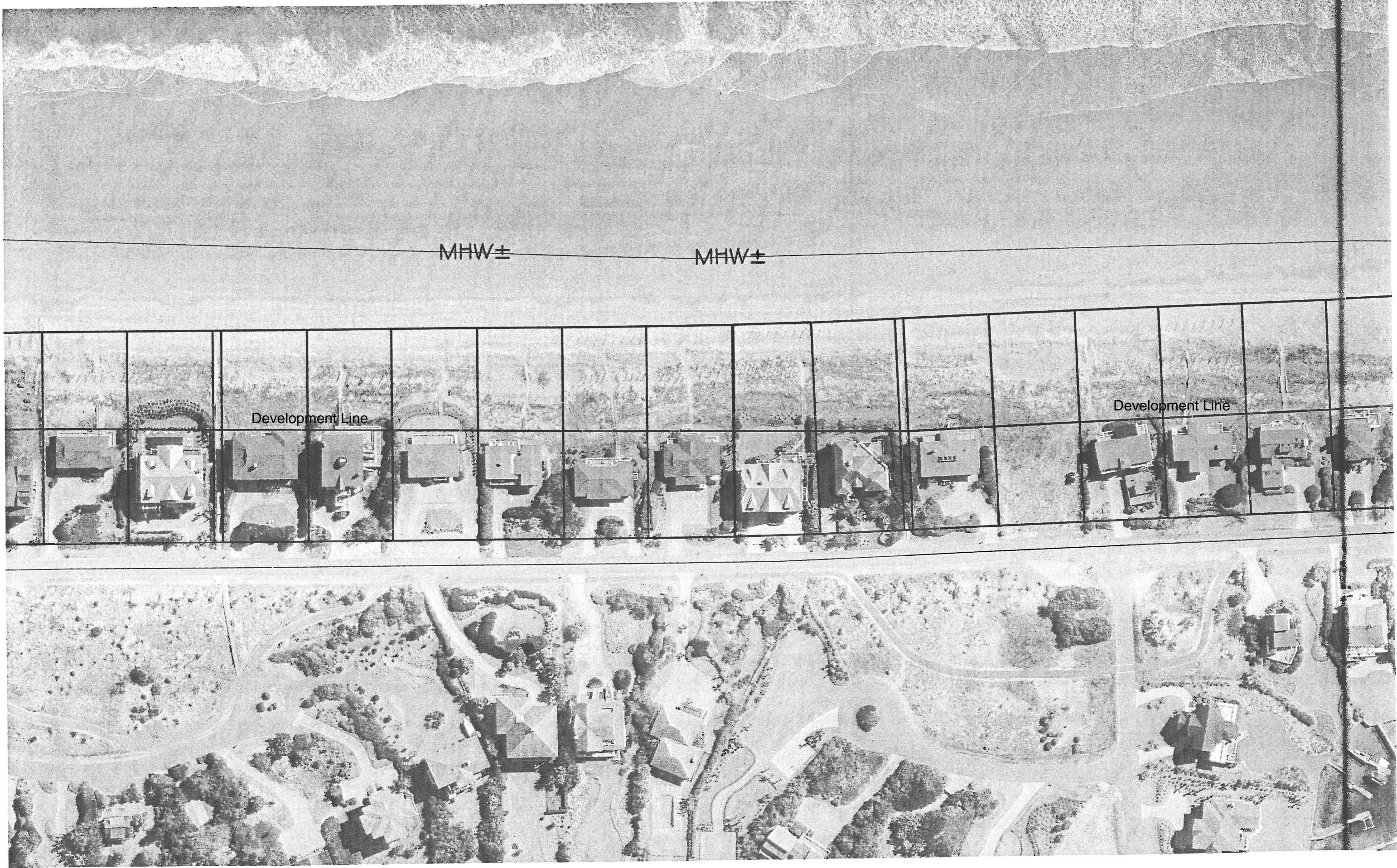


MHW±

Development Line

Development Line



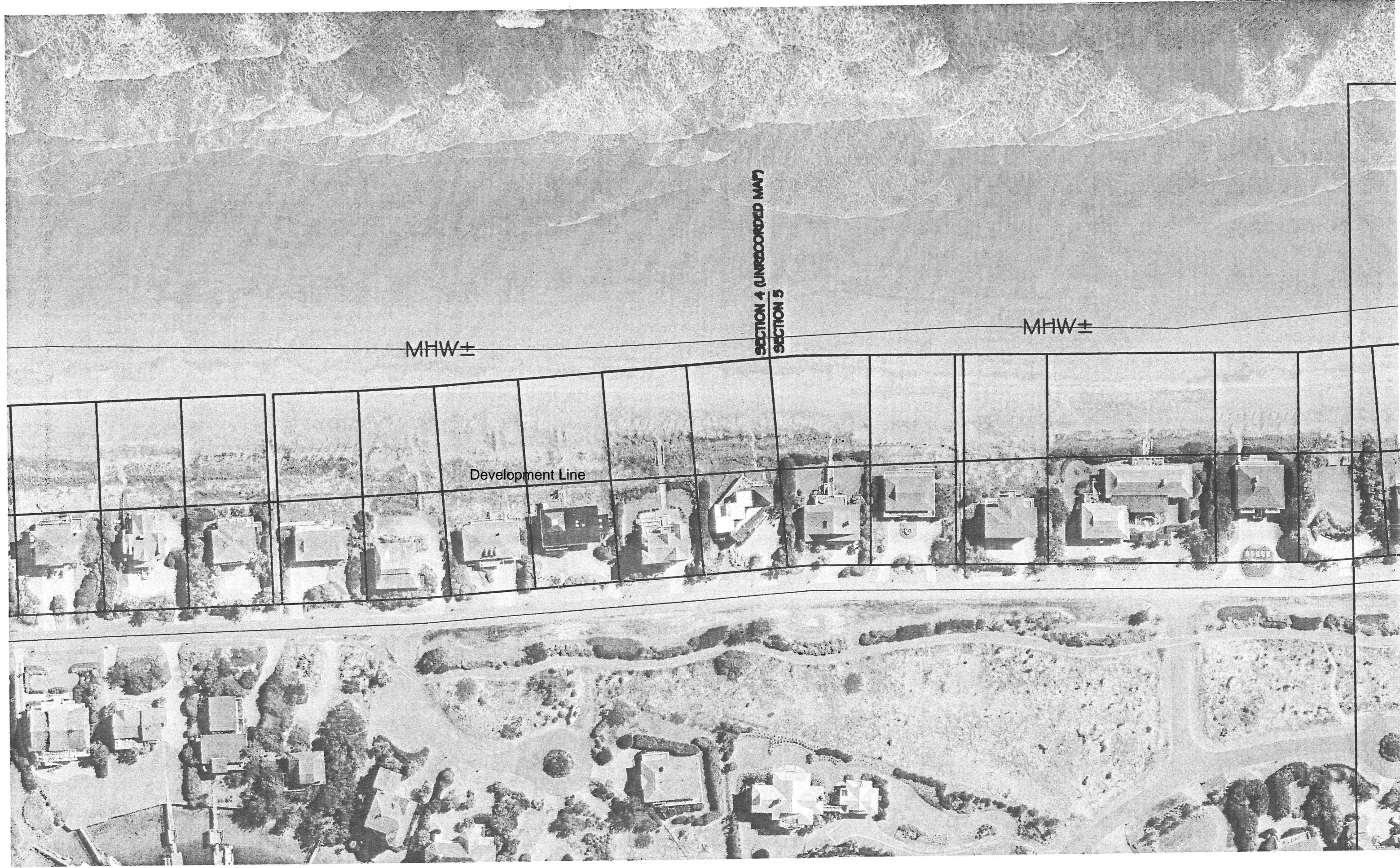


MHW±

MHW±

Development Line

Development Line

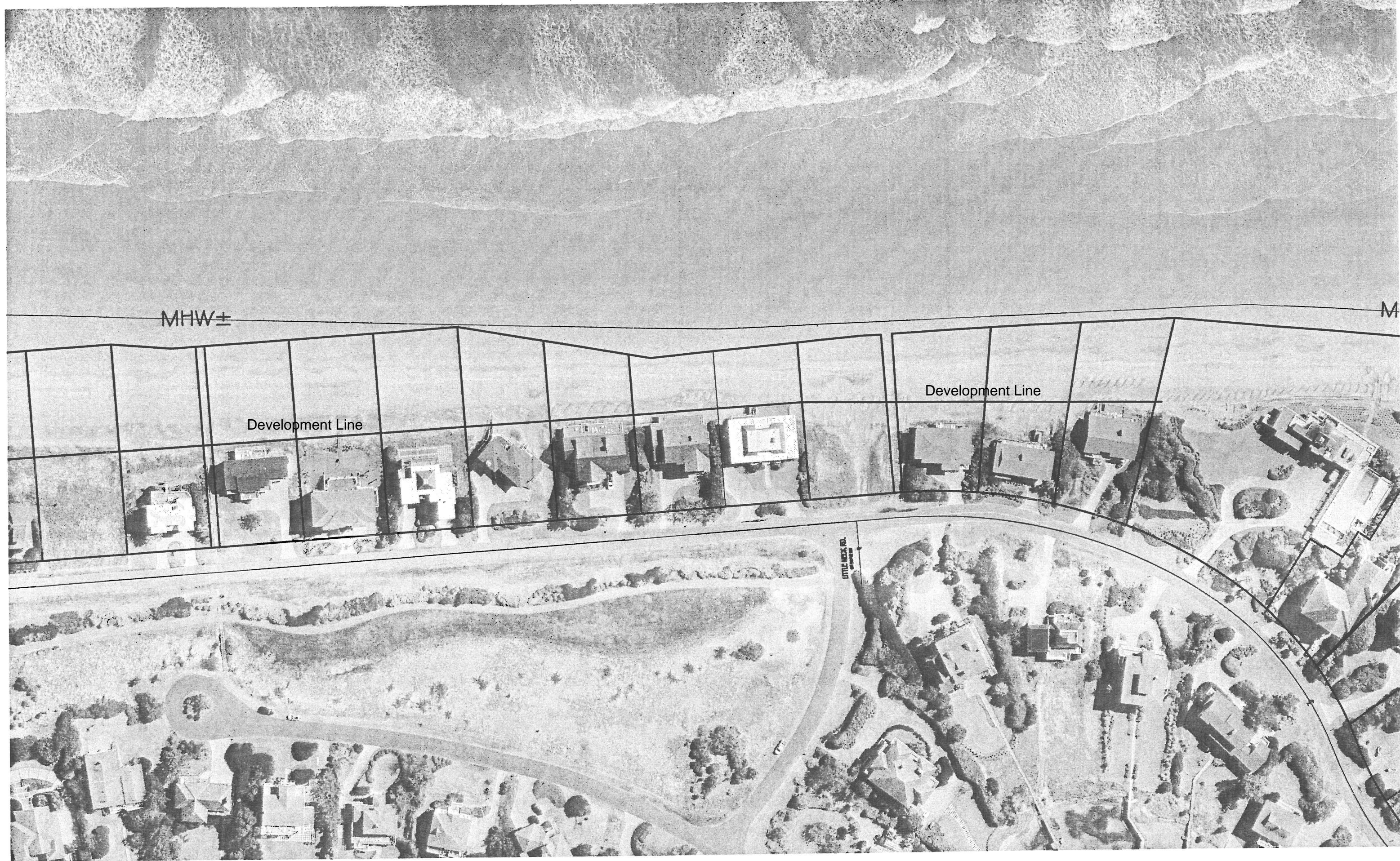


MHW ±

SECTION 4 (UNRECORDED MAP)  
SECTION 5

MHW ±

Development Line



MHW±

Development Line

Development Line

LITTLE ROCK RD.  
PROPERTY