

# NC COASTAL RESOURCES COMMISSION

February 8-9, 2012

Jennette's Pier

Nags Head, NC

The State Government Ethics Act mandates that at the beginning of any meeting the Chair remind all the members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or potential conflict, please state so at this time.

## Wednesday, February 8<sup>th</sup>

### **3:00 COMMISSION CALL TO ORDER (Oceanview Hall)**

Bob Emory, Chair

- Roll Call

#### **VARIANCES**

- Patrikios (*CRC-VR-11-11*) Dare County, buffer
- Atlantic Telephone Membership Corp. (*CRC-VR-11-12*)  
Caswell Beach, oceanfront setback
- Gardner (*CRC-VR-11-13*) Emerald Isle, oceanfront setback

Amanda Little

Amanda Little

Amanda Little

### **6:00 EXECUTIVE COMMITTEE MEETING (Oceanview Hall)**

Bob Emory, Chair

#### **RECESS**

## Thursday, February 9<sup>th</sup>

### **8:30 COMMISSION CALL TO ORDER (Oceanview Hall)**

Bob Emory, Chair

- Roll Call
- Approval of October 26-27, 2011 Meeting Minutes
- Executive Secretary's Report
- Chairman's Comments
- CRAC Report

Braxton Davis

Bob Emory

Ray Sturza

#### **PRESENTATIONS**

- Governor's Scientific Advisory Panel on Offshore Energy –  
Recommendations (*CRC-12-06*)
- Science Panel Guidance for Assessing Terminal Groin (*CRC-12-01*)  
Adverse Impacts
- Re-Assessment of Sandbag Enforcement Priorities (*CRC-12-02*)
- NC Coastal Reserve – Issues Update & Sea-Level Rise Activities

Gary Perry, Mayor Pro Tem  
Town of Kitty Hawk

Doug Huggett

Ted Tyndall

Rebecca Ellin

### **11:45 PUBLIC INPUT AND COMMENT**

Bob Emory, Chair

### **12:00 LUNCH**

### **1:15 PRESENTATIONS**

- NC Sea-Level Rise Impact Study
- Science Panel Response to Sea-Level Rise Study Comments (*CRC-12-03*)
- 15A NCAC 7M .1300 Sea-Level Rise Policy  
– Draft for Public Hearing (*CRC-12-04*)
- Docks and Deep Water Access in PNAs (*CRC-12-05*)
- LUP Implementation Reports (Duck, Kitty Hawk, Camden Co.,  
Chowan Co. and Edenton) (*CRC-12-10*)

John Dorman, DEM

Dr. Margery Overton

Tancred Miller

David Moye

John Thayer

## **ACTION ITEMS**

- Pasquotank County/Elizabeth City Joint LUP Certification (*CRC-12-07*) John Thayer
- Fiscal Analysis Approval – 15A NCAC 7H .0304(1)(a) AEC Within Ocean Hazard Areas (Erosion Rates) (*CRC-12-08*) Ken Richardson
- Fiscal Analysis Approval - 15A NCAC 7M .1300 Sea-Level Rise Policy (*CRC-12-09*) Tancred Miller

## **OLD/NEW BUSINESS**

Bob Emory, Chair

## **5:00 ADJOURN**

Executive Order 34 mandates that in transacting Commission business, each person appointed by the governor shall act always in the best interest of the public without regard for his or her financial interests. To this end, each appointee must recuse himself or herself from voting on any matter on which the appointee has a financial interest. Commissioners having a question about a conflict of interest or potential conflict should consult with the Chairman or legal counsel.



N.C. Division of Coastal Management

[www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)

Next Meeting:  
April 18-19, 2012



STATE OF NORTH CAROLINA  
DEPARTMENT OF JUSTICE

ROY COOPER  
ATTORNEY GENERAL

400 COMMERCE AVENUE  
MOREHEAD CITY, NC 28557

REPLY TO: AMANDA P. LITTLE  
ENVIRONMENTAL DIVISION  
TEL: (252) 808-2808  
FAX: (252) 247-3330  
amanda.little@ncdenr.gov

TO: The Coastal Resources Commission  
FROM: Amanda P. Little, Assistant Attorney General *APL*  
DATE: January 25, 2012 (for the February 8-9, 2012 CRC Meeting)  
RE: **Variance Request by Robert A. Patrikios**

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Petitioner proposes to construct a roof over an existing 12 foot by 14.75 foot open deck located on his property in Avon, North Carolina. Petitioner proposes to enclose the deck for a physical therapy room equipped with a hot tub. On December 20, 2011, the Dare County Local Permit Officer (LPO) denied Petitioner's application based on the proposed development being inconsistent with 15A NCAC 7H .0209(d)(10). Petitioner seeks a variance from this rule, specifically to allow construction of a roof over the portion of the existing open deck (103 square feet) which lies within the 30-foot buffer of the Coastal Shoreline Area of Environmental Concern.

The following additional information is attached to this memorandum:

- Attachment A: Relevant Rule (15A NCAC 7H .0209(d)(10))
- Attachment B: Stipulated Facts
- Attachment C: Petitioner's Position and Staff's Responses to Criteria
- Attachment D: Stipulated Exhibits
- Attachment E: Petitioner's Variance Request Materials

cc: Robert A. Patrikios, Petitioner  
Armelle Minton, Dare County LPO, electronically  
Frank Jennings, DCM Elizabeth City District Manager, electronically  
Kelly Russell, DCM Field Representative, electronically  
Mary Lucasse, CRC Counsel, electronically

ATTACHMENT A

RELEVANT STATUTES OR RULES

15A NCAC 7H .0209 Coastal Shorelines

(d) Use Standards

\*\*\*

- (10) Within the Coastal Shorelines category (estuarine and public trust shoreline AECs), new development shall be located a distance of 30 feet landward of the normal water level or normal high water level, with the exception of the following:
- (A) Water-dependent uses as described in Rule 7H .0208(a)(1) of this Section;
  - (B) Pile-supported signs (in accordance with local regulations);
  - (C) Post-or pile-supported fences;
  - (D) Elevated, slatted, wooden boardwalks exclusively for pedestrian use and six feet in width or less. The boardwalk may be greater than six feet in width if it is to serve a public use or need;
  - (E) Crab shedders, if uncovered with elevated trays and no associated impervious surfaces except those necessary to protect the pump;
  - (F) Decks/Observation Decks limited to slatted, wooden, elevated and unroofed decks that shall not singularly or collectively exceed 200 square feet;
  - (G) Grading, excavation and landscaping with no wetland fill except when required by a permitted shoreline stabilization project. Projects shall not increase stormwater runoff to adjacent estuarine and public trust waters and,
  - (H) Development over existing impervious surfaces, provided that the existing impervious surface is not increased and the applicant designs the project to comply with the intent of the rules to the maximum extent feasible.
  - (I) Where application of the buffer requirement would preclude placement of a residential structure with a footprint of 1,200 square feet or less on lots, parcels and tracts platted prior to June 1, 1999, development may be permitted within the buffer as required in Subparagraph (d)(10) of this Rule, providing the following criteria are met:
    - (I) Development shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities such as water and sewer; and

- (ii) The residential structure development shall be located a distance landward of the normal high water or normal water level equal to 20 percent of the greatest depth of the lot. Existing structures that encroach into the applicable buffer area may be replaced or repaired consistent with the criteria set out in Rules .0201 and .0211 in Subchapter 07J of this Chapter; and
- (J) Where application of the buffer requirement set out in 15A NCAC 07H .0209(d)(10) would preclude placement of a residential structure on an undeveloped lot platted prior to June 1, 1999 that are 5,000 square feet or less that does not require an on-site septic system, or on an undeveloped lot that is 7,500 square feet or less that requires an on-site septic system, development may be permitted within the buffer if all the following criteria are met:
  - (I) The lot on which the proposed residential structure is to be located, is located between:
    - (I) Two existing waterfront residential structures, both of which are within 100 feet of the center of the lot and at least one of which encroaches into the buffer; or
    - (II) An existing waterfront residential structure that encroaches into the buffer and a road, canal, or other open body of water, both of which are within 100 feet of the center of the lot;
  - (ii) Development of the lot shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities;
  - (iii) Placement of the residential structure and pervious decking may be aligned no further into the buffer than the existing residential structures and existing pervious decking on adjoining lots;
  - (iv) The first one and one-half inches of rainfall from all impervious surfaces on the lot shall be collected and contained on-site in accordance with the design standards for stormwater management for coastal counties as specified in 15A NCAC 02H .1005. The stormwater management system shall be designed by an individual who meets applicable State occupational licensing requirements for the type of system proposed and approved during the permit application process. If the residential structure encroaches into the buffer, then no other impervious surfaces will be allowed within the buffer; and
  - (v) The lots must not be adjacent to waters designated as approved or conditionally approved shellfish waters by the Shellfish Sanitation Section of the Division of Environmental Health of the Department of Environment and Natural Resources.

**STIPULATED FACTS****ATTACHMENT B**

1. Petitioner, Robert A. Patrikios, owns property located at 39199 Seashore Blvd. in Avon, Dare County, North Carolina.
2. Petitioner has owned this .25-acre lot (10,820 square feet) since 2005, and constructed a 2,436 square-foot single-family residence with an on-site septic system on the lot in 2006.
3. The entire lot is bulkheaded and is an irregular shape including approximately 22 feet of frontage along a man-made canal off the Pamlico Sound. The waters of this canal are classified as SA waters, closed to the harvest of shellfish.
4. The property lies within the Coastal Shoreline Area of Environmental Concern (AEC), as described in 15A NCAC 7H .0209(a), which extends 75 feet landward of the normal water level.
5. New development within the Coastal Shoreline Area of Environmental Concern (AEC) shall be located a distance of 30 feet landward of the normal water level ("30-foot buffer") unless it meets an exception listed in 15A NCAC 7H .0209(d)(10)(A)-(J).
6. On August 26, 2005, Petitioner was issued CAMA Minor Permit No. 2005-92 for construction of a single family residence on the property. On December 18, 2006, Petitioner was issued a Notice of Violation (CAMA Violation #06-44A) by former Dare County LPO, Jim Meads, now deceased, for the unauthorized construction of a roofed enclosure within the 30-foot buffer, in violation of his permit. Mr. Meads instructed Petitioner to remove the roof of the enclosure in order to come back into compliance with the terms and conditions of his permit. On June 27, 2007, Petitioner's violation case was closed after he completed the requested restoration by removing the roof and paid a civil penalty assessment of \$100.00 in full. *See* Attachment D.
7. 15A NCAC 7H .0209(d)(10)(F) provides only a slatted, wooden, elevated and *unroofed* deck, not to exceed 200 feet (singularly or collectively), can be built within the 30-foot buffer of the Coastal Shoreline AEC. (emphasis added)
8. On October 20, 2011, Petitioner applied for a CAMA minor permit to construct the proposed development, which consists of constructing a roof over an existing 12 foot by 14.75 foot open deck. Petitioner proposes to enclose the deck for a physical therapy room equipped with a hot tub.
9. About 58% of this proposed addition, approximately 103 square feet, encroaches approximately 9 feet into the 30-foot buffer. *See* Attachment D and E, site diagram dated 10/19/11.

10. The two existing residences adjacent to Petitioner's property to the east are closer than 30 feet to the canal and the existing residence adjacent to Petitioner's property to the north is also closer than 30 feet to the canal.
11. Petitioner has an existing stormwater management design consisting of a roof gutter system which captures the residence's stormwater run-off into a holding tank. Although the proposed development has a projected total impervious coverage of 32%, which exceeds the allowable 30% impervious coverage, the Dare County LPO has determined that Petitioner's existing gutter system will provide protection equal to or exceeding the 30% limitation.
12. Notice was given to the adjacent owners and to the general public of the proposed development. No objections to the proposed development were received.
13. On November 15, 2011, the Dare County Local Permitting Officer (LPO) denied Petitioner's application based on the proposed development being inconsistent with 15A NCAC 7H .0209(d)(10). Specifically, the LPO cited 15A NCAC 7H .0209(d)(10)(F) in that decks within the 30-foot buffer are limited to slatted, wooden, elevated and unroofed decks not exceeding 200 square feet in size. *See* attached LPO's denial letter (Attachment E).
14. The proposed development is inconsistent with 30-foot buffer requirements set forth in 15A NCAC 7H .0209(d)(10).
15. On December 20, 2011, Petitioner submitted his variance request to construct the proposed development to the Division of Coastal Management (DCM). As part of his variance petition, Petitioner provided two letters from the Department of Veterans Affairs, dated February 28, 2003 and June 5, 2009, stating that "you are receiving disability compensation at the 100% rate" and "you do have peripheral neuropathy in the legs that is under treatment", respectively. *See* Attachment E.
16. Petitioner is seeking a variance to construct the 103 square foot portion of the proposed development which lies within the 30-foot buffer.

## ATTACHMENT C

**Petitioner and Staff Positions**

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

**Petitioners' Position: Yes.**

Strict application of the applicable development rules, standards, or orders issued by the Commission will cause me unnecessary hardship. My hardship is that I am 100% disabled and need to construct the conditioned physical therapy room described in my CAMA Minor Development Application to address my physical disabilities and disease. I have been diagnosed with peripheral neuropathy and degenerative disk. I am in constant pain and need to take medication daily to address these conditions and also need this room with equipment (hot tub) added to my home to help in treatment of my disabilities and disease on a daily basis. This method of physical treatment is prescribed by my doctor. (Letter attached)

**Staff's Position: No.**

Staff disagrees with Petitioner that the strict application of the 30-foot buffer within the Coastal Shoreline AEC causes Petitioner an unnecessary hardship because Petitioner has other alternatives available which would not be inconsistent with the rule. Petitioner could move the proposed development to the northwest portion of his deck and it would be outside the buffer. Staff recognizes this relocation would probably change Petitioner's desired ingress and egress to the proposed physical therapy room from an existing bathroom to another location; however, this would be a matter of convenience, not an unnecessary hardship. Furthermore, Petitioner could also keep the hot tub in its current placement and still have use of it without the roof or enclosed walls. Unfortunately, these alternatives might not be as convenient as Petitioner's proposed development; but they are viable and reasonable alternatives to allow Petitioner's proposed development without being inconsistent with the 30-foot buffer rule. Therefore, Staff believes that Petitioner does not suffer an unnecessary hardship from strict application of the 30-buffer rule.

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

**Petitioners' Position: Yes.**

The hardship results as a combination of the peculiar manner in which the canal line crosses my property; the irregular lot lines; and the position of my house in relation to those features. In addition the floor plan of the house and practical location, use and function of the proposed new room dictate that it be located as proposed. This causes half of the proposed room to be located in the 30' buffer (103 sq ft).



**Staff's Position: No.**

Although Staff agrees that Petitioner's property is irregularly shaped, staff disagrees that Petitioner's hardship is caused by conditions peculiar to this property. Petitioner's property is actually situated adjacent to the canal in such a way that only a small portion, approximately 22 feet along the the northeast corner, of the lot is impacted by the 30-foot buffer. Petitioner states that given his house's floor plan, the most convenient location to access his proposed development is as proposed, but other alternatives are available. The proposed development and its access point could feasibly be relocated outside the buffer albeit at possible additional expense. Therefore, relocation of the proposed physical therapy room outside the buffer or leaving it as is are alternatives which would be in compliance with the rule.

**III. Do the hardships result from the actions taken by the Petitioner? Explain.****Petitioners' Position: No.**

The hardship does not result from my actions.

**Staff's Position: Yes.**

In 2005, Petitioner applied for and received a CAMA Minor Permit to construct a single family residence on his property. At that time the 30-foot buffer rule was in effect, yet he began construction of the proposed development, in violation of the terms and conditions of his CAMA permit. In 2007, Petitioner's violation case was closed after he completed the required restoration (removed roof) and paid the civil penalty assessed. Staff notes that Petitioner could relocate his proposed development to the other side of his deck, which would be outside the buffer or Petitioner could leave the hot tub where it is currently located inside the buffer, but unroofed, which complies with the buffer exceptions.

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

Because of my unique physical disabling conditions and that there are no other practical alternatives to provide this required feature to my existing home, that will provide me the facilities to have the care that I need to live in my home. I believe that the variance request will be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; secure the public safety and welfare; and preserve substantial justice. In fact the approval of this request will do much to provide for my own safety and welfare.

**Staff's Position: Yes.**

Staff agrees that the variance requested by Petitioner would be consistent with the spirit, purpose and intent of the rules; secure the public safety and welfare; and preserve substantial justice. One of the management objectives for the Coastal Shorelines AEC is to conserve and manage the important natural features of the estuarine and ocean system so as to safeguard and perpetuate their biological, social, aesthetic, and economic value. Consistent with that management objective, all development proposals shall limit the construction of impervious surfaces and areas not allowing natural drainage to only so much as is necessary to adequately service the major purposed or use for which the lot is to be developed. Petitioner's existing stormwater collection system, consisting of gutters and a cistern, complies with the spirit, intent and purpose of the buffer within the AEC as well as public safety and welfare by reducing runoff pollution into the marine environment. Substantial justice also is preserved by allowing Petitioner to construct the proposed development because there were no objections received from his neighbors, who are similarly situated within the buffer.

# **Attachment D**

Stipulated Exhibits



# COUNTY OF DARE

Planning Department  
P.O. Box 1000, Manteo, North Carolina 27954

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

LPO/NOV  
FSA  
**RECEIVED**

DEC 20 2006

COASTAL MANAGEMENT  
ELIZABETH CITY  
Manteo: (252) 475-5870  
KDH Satellite: (252) 475-5871  
Buxton: (252) 475-5878

## NOTICE OF VIOLATION

December 18, 2006

Robert Allen Patrikios  
PO Box 1036  
Avon, NC 27915

**RE: NOTICE OF VIOLATION AND REQUEST TO CEASE UNAUTHORIZED DEVELOPMENT  
CAMA MINOR DEVELOPMENT PERMIT NO.2005-92, CAMA VIOLATION CASE NO.06-44A**

Dear Mr. Patrikios:

This letter confirms that on December 14, 2006, I was onsite at your property located at 39199 Seashore Blvd. adjacent to a canal located in Hatteras Colony, Avon, Dare County, North Carolina. The purpose of the visit was to monitor the permitted development of a single family residence within the Area of Environmental Concern.

Information gathered by me shows that you have violated the terms or conditions of CAMA Minor Permit No. 2005-92 which was issued to your by Dare County CAMA. I hereby request that you immediately **CEASE AND DESIST** such violations and comply with the terms and conditions of the above permit.

On August 26, 2005, CAMA Minor Permit No. 2005-92 was issued to Robert A. Patrikios for construction of a single family residence within ES on property located, 39199 Seashore Blvd., Avon, Dare County, North Carolina. This permit was issued for a CAMA Minor Development in an Area of Environmental Concern, in accordance with North Carolina General Statutes (N.C.G.S.) 113A-118. This permit included the following terms and conditions:

- (1) All proposed development and associated construction must be done in accordance with the permitted work plat drawings(s) dated received 8-26-05.
- (2) All construction must conform to the N.C. Building Code requirements and all other local, State and Federal regulations, applicable local ordinances and FEMA Flood Regulations.
- (3) Any change or changes in the plans for development, construction, or land use activities will require a re-evaluation and modification of this permit.
- (4) The amount of impervious surface areas shall not exceed 30% of the lot area within the 75ft. Area of Environmental Concern.
- (5) The 30ft. buffer rule must be adhered to: reference 15A NCAC 7H.0209.
- (6) The permit does not authorize development in wetlands.

For the following reasons, you are in violation of the above terms and conditions of your permit:

- (1) Construction of a roofed enclosure within the 30' buffer.

If the terms and conditions of a permit are not complied with, the permit is null and void from the date of its issuance. To comply with the terms and conditions of the permit you must:

- (1) Remove roofed enclosure.


If you intend to cooperate with my request, please sign the attached Restoration Agreement and return it to me in the enclosed, self-addressed envelope within ten (10) days of receipt of this letter. Failure to comply with this request or respond back to this office prior to the requested deadline with an acceptable schedule for compliance will be interpreted as a refusal to cooperate and will result in a Notice of Continuing Violation, as well as a court injunction being sought ordering compliance.

A civil penalty of up to Two-Hundred Fifty Dollars (\$250.00) may be assessed, or an injunction or criminal penalty may be sought against any person who violates a CAMA Minor Development permit. It is the policy of the Coastal Resources Commission to assess a minimum civil penalty of Fifty Dollars (\$50.00) against all violations. This is done to recoup some of the costs of investigating violations and/or compensate the public for any damage to its natural resources. Whether a higher amount will be assessed will depend on several factors, including the nature and area of the resources that were affected and the extent of the damage to them. If restoration of the affected resources is requested but is not undertaken or completed satisfactorily, a substantially higher civil penalty will be assessed and a court injunction will be sought ordering restoration (N.C.G.S. 113A-126).

The relevant statutes and regulations are available from this office, and I am willing to assist you in complying with the requirements of these laws. A site inspection will be made in the near future to determine whether this REQUEST TO CEASE AND DESIST has been complied with. I request that you contact me immediately.

Thank you for your time and cooperation in resolving this important matter. Upon completion of the restoration as requested in the Restoration Plan Agreement to the satisfaction of the Local Permit Officer, you will be notified by the Division of Coastal Management as to the amount of the civil assessment for failure to act in accordance with the terms, conditions, or requirements of such permit.

Sincerely,



Jim Meads  
Local Permit Officer

Cc: Frank Jennings, District Manager, DCM  
John Cece, Coastal Management Representative

ENCLOSURE

**RESTORATION PLAN**

For

Robert A. Patrikios

CAMA Minor Violation #06-44A

Property located at 39199 Seashore Blvd., Avon, Dare County

**REMOVE ROOFED ENCLOSURE.**

I, Robert A. Patrikios, agree to complete this restoration to the satisfaction of the Local Permit Officer, Jim Meads, by January 30, 2007, or provide an explanation for non-compliance and a reasonable request for time extension. When corrective actions are complete, I will notify Mr. Meads so the work can be inspected.

SIGNATURE: \_\_\_\_\_

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

It is the policy of the Coastal Resources Commission to levy a minimum civil assessment of \$50.00 and higher against all violations of this type depending upon the damage to the resources. If restoration is not undertaken or satisfactorily completed, a substantially higher civil assessment will be levied and an injunction sought to require restoration.

LAND OF BEGINNINGS

PRINTED ON RECYCLED PAPER



lsb  
X tb  
rb  
rb  
mtt

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

Michael F. Easley, Governor

James H. Gregson, Director

William G. Ross Jr., Secretary

June 11, 2007

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Mr. Robert Allen Patrikios  
P.O. Box 1036  
Avon, NC 27915

**RE: CAMA MINOR VIOLATION #06-44A**

Dear Mr. Patrikios:

This letter is in reference to the Notice of Violation dated December 18, 2006 that Local Permit Officer Mr. Jim Meads, County of Dare, issued to you for the unauthorized construction of a roofed enclosure within the 30-foot buffer at 39199 Seashore Boulevard, adjacent to a canal located in Hatteras Colony, Avon, Dare County. The violation involved the Estuarine Shoreline, which is an Area of Environmental Concern designated by the Coastal Resources Commission. Based upon the site visit conducted on May 10, 2007 by Mr. Meads, the restoration requested is complete.

The Coastal Area Management Act provides that a civil assessment of up to \$250 may be assessed for any minor violation. It is the policy of the Coastal Resources Commission to assess a civil penalty for all violations in order to recover some of the costs of investigating violations and/or to compensate the public for any damage to its natural resources.

Under the rules of the Coastal Resources Commission, a proposed civil penalty in the amount of \$100 is appropriate for this violation. You may expeditiously resolve this matter prior to the assessment of a formal civil penalty by accepting responsibility for the violation and paying the amount proposed above. In order to do this, you must: (1) sign one of the attached copies of an "Agreement to Pay Civil Assessment;" (2) attach a check or money order for \$100 made payable to the North Carolina Department of Environment and Natural Resources (NCDENR); and, (3) return the signed agreement and payment to this office in the enclosed, self-addressed envelope within ten (10) days of your receipt of this letter. Upon deposit of your check in the Department's account, you will receive a Notice of Compliance officially closing this enforcement action.

1367 U.S. 17 South, Elizabeth City, North Carolina 27909  
Phone: 252-264-3901 \ FAX: 252-264-3723 \ Internet: [www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)

Mr. Robert Allen Patrikios  
June 11, 2007  
Page 2 of 3

According to 15A NCAC 07J.0409(f)(5)(B)(i), "civil penalties for development, which could not have been permitted...shall be restored to the fullest extent practicable...shall be assessed as follows: (i)Development which has been brought into compliance with provisions of the local land use plan, the Act, and the Commission's rules shall be subject to the minimum civil penalty of one hundred dollars (\$100)." Therefore, we are returning check #2308, for the amount of \$50, dated January 15, 2007 and endorsed by Charlene Esposito.

If you do not send a signed agreement and payment of \$100 to this office within ten (10) days, the Director of the Division of Coastal Management will formally assess a civil penalty against you. You will then have the opportunity to request a hearing on the penalty or request remission of the penalty.

Thank you for your time and cooperation in resolving this important matter. If you have any questions, please do not hesitate to contact me at (252) 264-3901, ext. 235.

Sincerely,



Frank A. Jennings, III  
District Manager, Northeast District

FAJ/ybc

Enclosures: (1) Agreement to Pay Civil Assessment  
(2) Self-addressed envelope  
(3) Check #2308

cc: M. Ted Tyndall, Assistant Director, DCM, Morehead City  
Roy Brownlow, Compliance Coordinator, DCM, Morehead City  
John Cece, LPO Coordinator, DCM, Elizabeth City  
Jim Meads, County of Dare LPO, Manteo





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

Michael F. Easley, Governor

James H. Gregson, Director

William G. Ross Jr., Secretary

RECEIVED  
JUN 29 2007  
Morehead City DCM

June 27, 2007

Robert Patrikios  
P.O. Box 1036  
Avon, NC 27915

**RE: Payment of Proposed Penalty for Violations of the Coastal Area Management Act,  
Dare County, CAMA Violation #06-44A**

Dear Mr. Patrikios:

This letter will acknowledge receipt of your Check #2322 in the amount of \$100, and dated 06/21/2007. Once the amount of the check is credited to the Department of Environment and Natural Resources' account, this matter will be fully and completely closed.

If you have any further questions concerning this matter, please contact me at my Elizabeth City office at 252-264-3901.

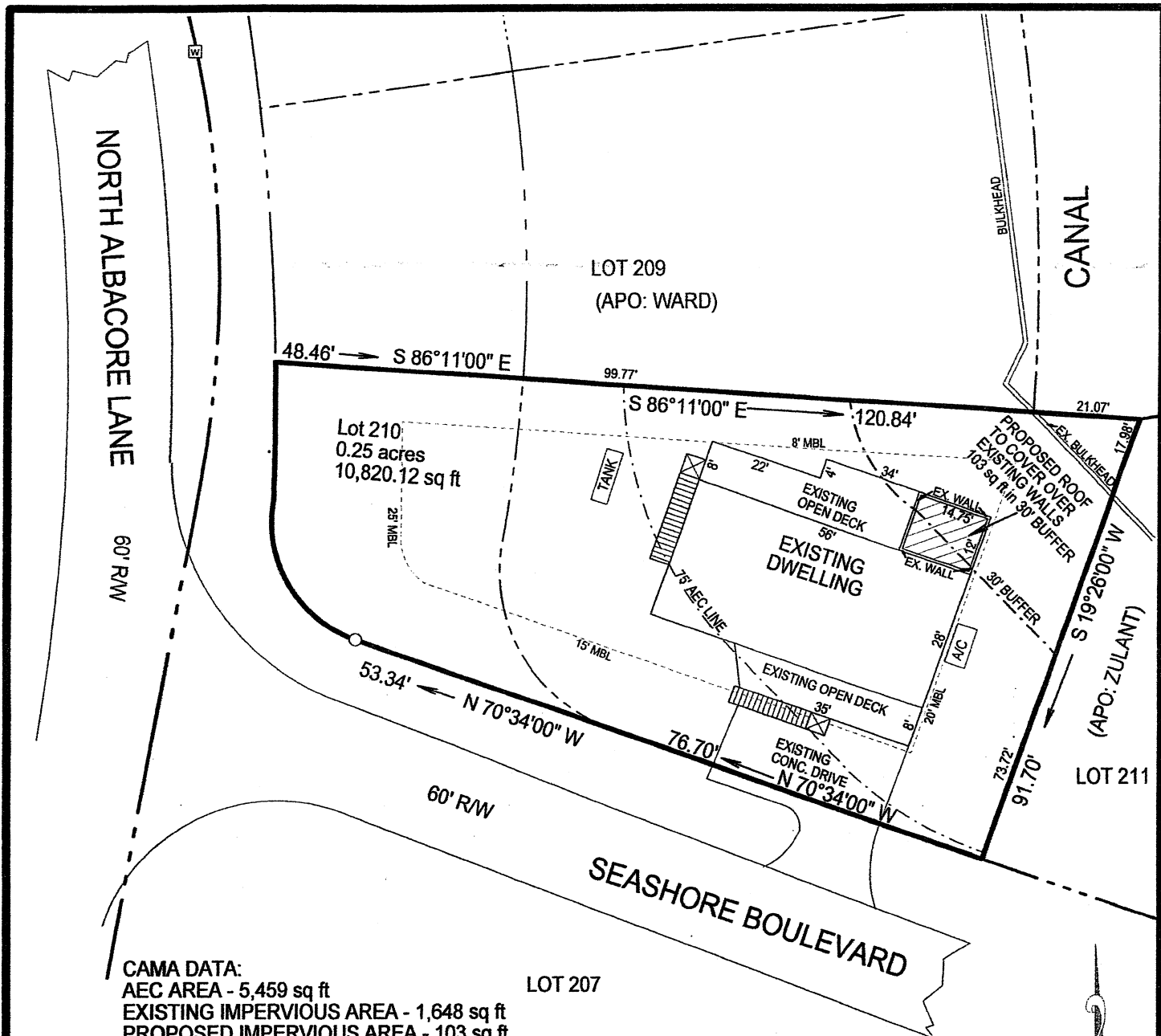
Sincerely,

Frank A. Jennings, III  
District Manager, Northeast District

FAJ/ybc

cc: M. Ted Tyndall, Assistant Director, DCM, Morehead City  
Roy Brownlow, Compliance Coordinator, DCM, Morehead City  
John Cece, Coastal Management Rep., DCM, Elizabeth City  
Jim Meads, County of Dare LPO, Manteo

1367 U.S. 17 South, Elizabeth City, North Carolina 27909  
Phone: 252-264-3901 \ FAX: 252-264-3723 \ Internet: [www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)

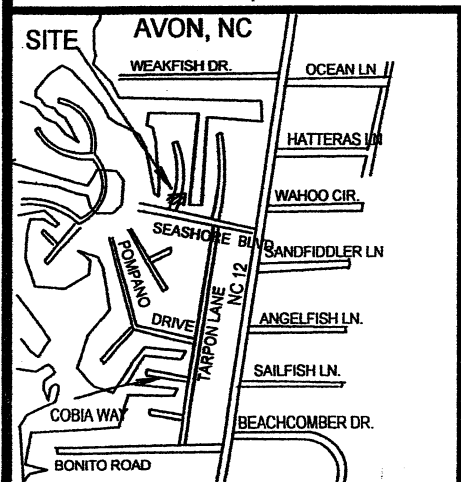


**CAMA DATA:**  
 AEC AREA - 5,459 sq ft  
 EXISTING IMPERVIOUS AREA - 1,648 sq ft  
 PROPOSED IMPERVIOUS AREA - 103 sq ft  
 TOTAL IMPERVIOUS AREA - 1,751 sq ft  
 TOTAL IMPERVIOUS COVERAGE - 32%

LOT 207

Note: Existing roof gutter system around all sides of house and existing uncovered walled deck area, draining away from canal into container.

LOCATION SKETCH, NOT TO SCALE

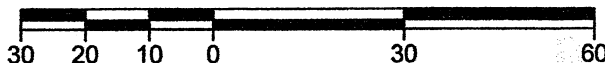


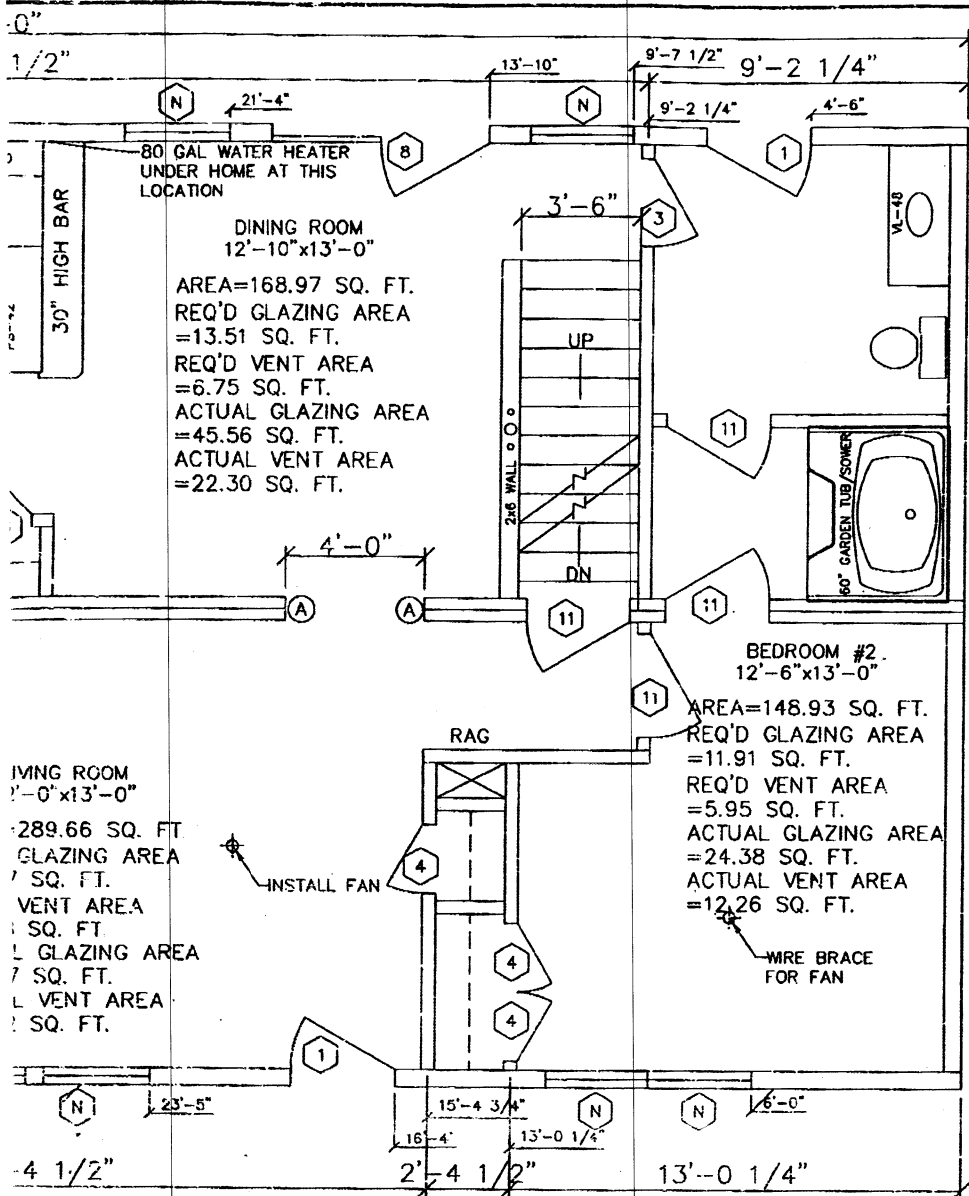
CAMA PLAN FOR:  
**ROBERT A. PATRIKIOS**  
 LOT 210, SECTION FOUR,  
**HATTERAS COLONY**

39199 SEASHORE BLVD. AVON, NC

Date: 10/19/11

Scale: 1" = 30'





NOTE:  
(2) HOLES 8" O.C.  
UNDER SINK FOR WATER LINES

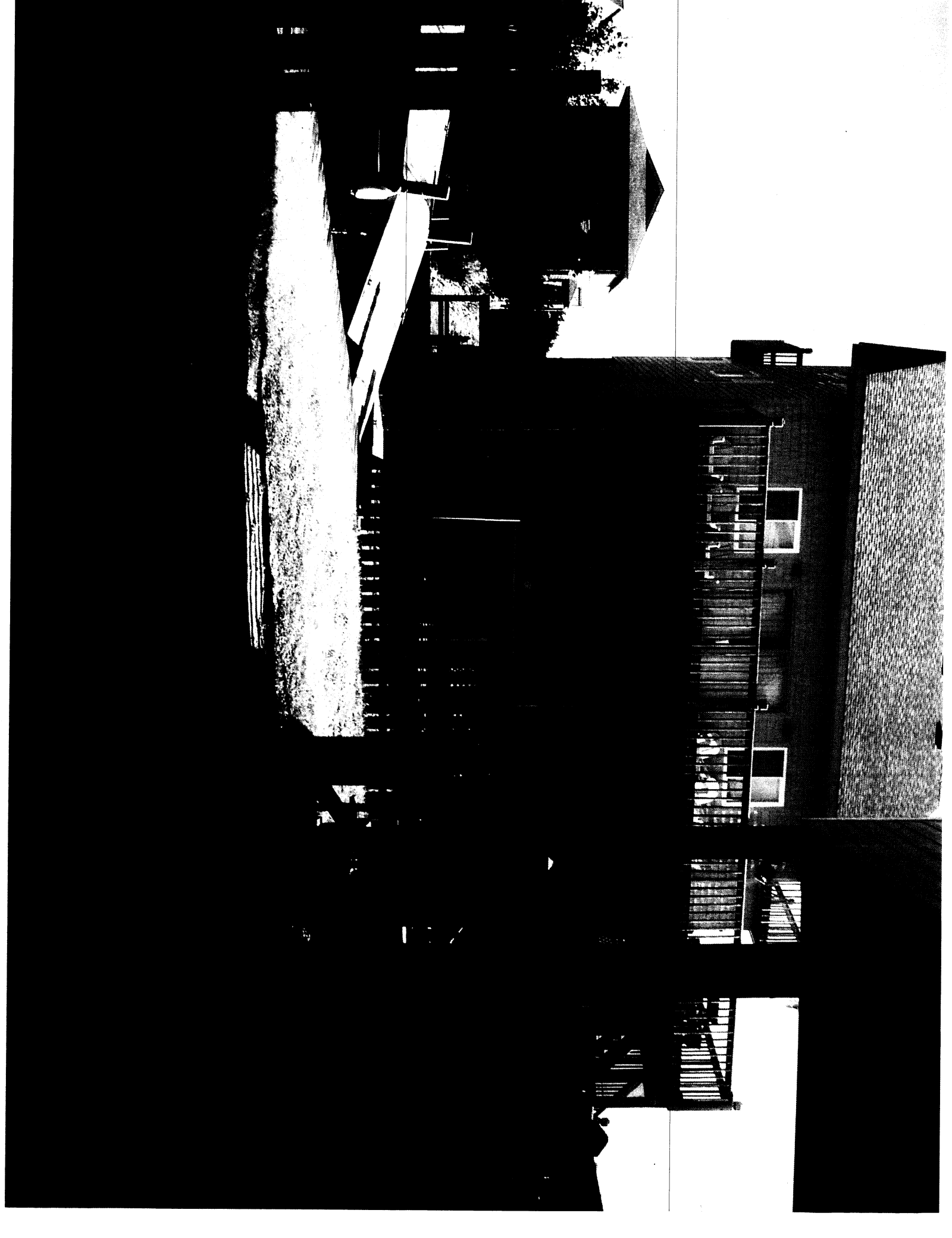
	R.O.	WINDOW SCHEDULE (FOR GLAZING SEE 11)	R.O.	COLUMN SUPPORT	AREA
	38"x82 3/8"	A 30"x60" EGRESS	30 1/4"x60 1/4"	(A) 2-2x4'S (B) 3-2x4'S (C) 4-2x4'S	1st FLOOR
	34"x82 3/8"	B 46"x60" EGRESS	46 1/4"x60 1/4"		1549 SQ. FT.
	32"x82 3/8"	C 30"x36	30 1/4"x36 1/4"		2nd FLOOR
	26"x82 3/8"	D 30"x40"	30 1/4"x40 1/4"		774 SQ. FT.
DOOR	74"x82 3/8"	E 42"x34" BLOCK SAFETY GLAZED	42 1/4"x34 1/4"		
	50"x82 3/8"	F 20"x20" OCTAGON	20 1/4"x20 1/4"		
	62"x82 3/8"	G 30"x60" SAFETY GLAZED	30 1/4"x60 1/4"		
DOOR	74"x82 3/8"	H 46"x60" SAFETY GLAZED	46 1/4"x60 1/4"		
	34"x82 3/8"	I 14"x68" SAFETY GLAZED	14 1/4"x68 1/4"		
	22"x82 3/8"	J 36"x60" EGRESS	36 1/4"x60 1/4"		
	36"x82 3/8"	K 36"x64" EGRESS	36 1/4"x64 1/4"		
	74"x82 3/8"	L 30"x54" DORMER	30 1/4"x54 1/4"		
		M 36"x68" EGRESS	36 1/4"x68 1/4"		
		N 36"x66" EGRESS	36 1/4"x66 1/4"		
		O 36"x36"	36 1/4"x36 1/4"		
		P 32"x54" DORMER	32 1/4"x54 1/4"		
		Q 24"x66" BAY	24 1/4"x66 1/4"		

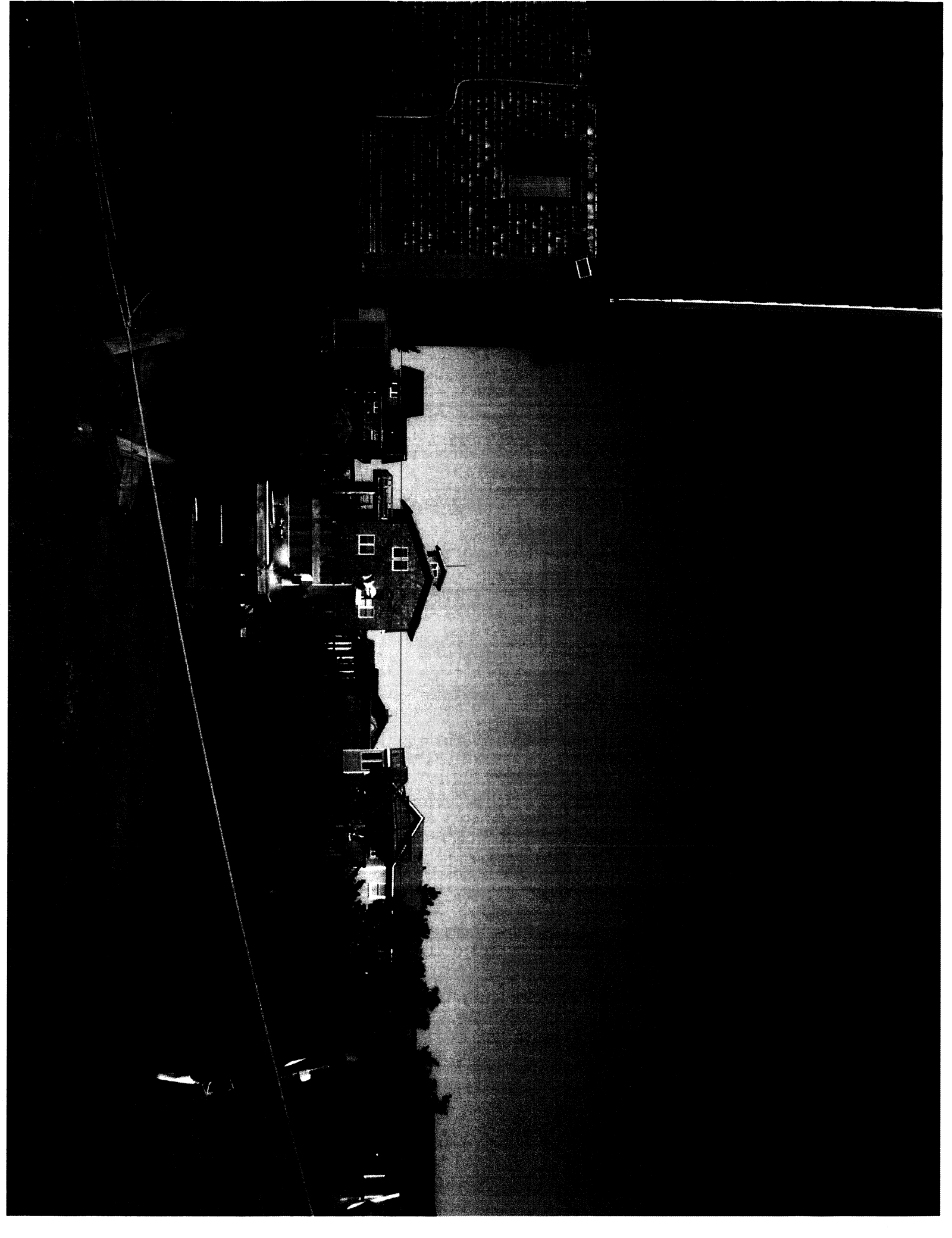
SYSTEMS, LLC

TITLE: FLOOR PLAN	PROJECT NO:
MODEL: DIXON & PETTRICIO	DRAWING NO: MP-5.0



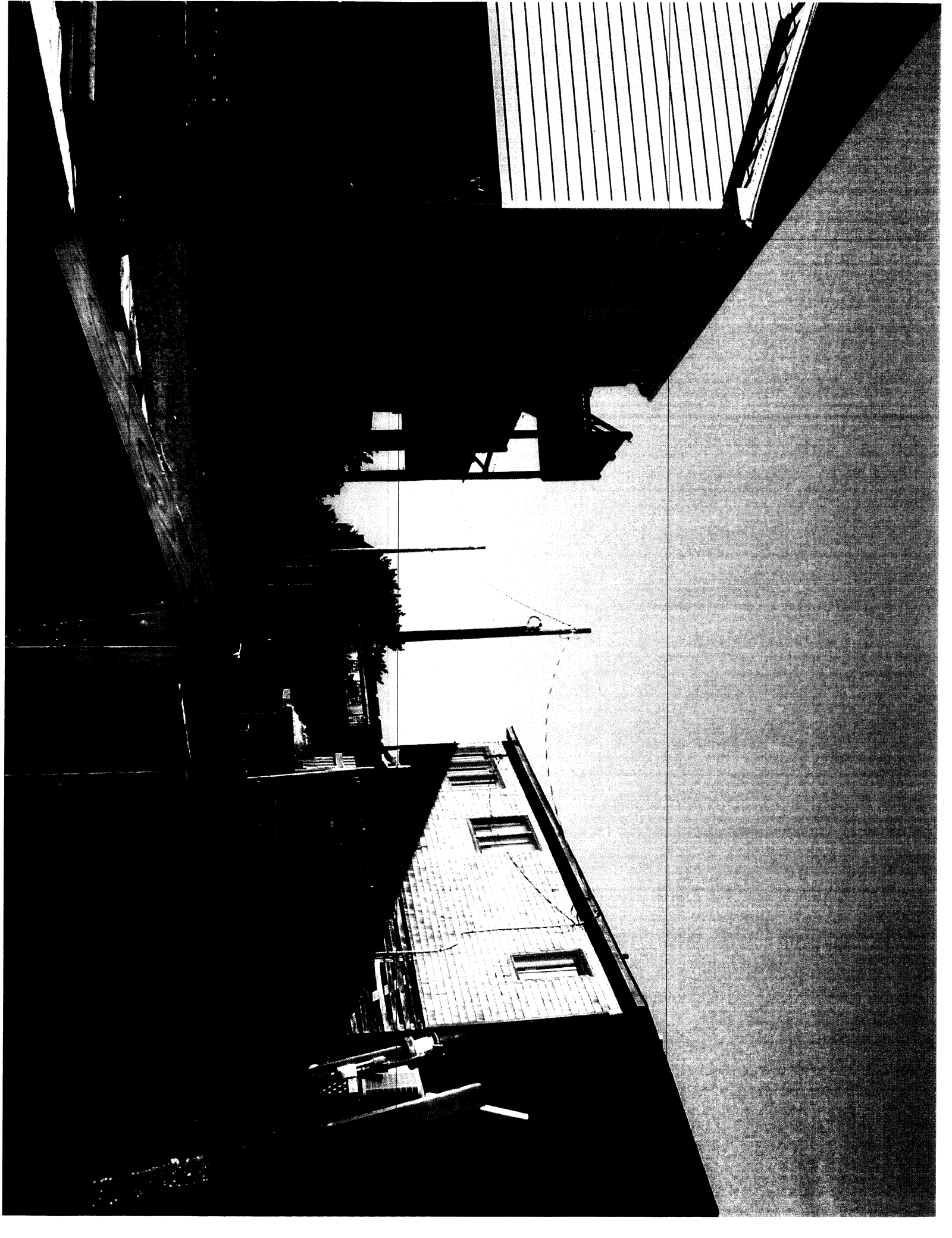


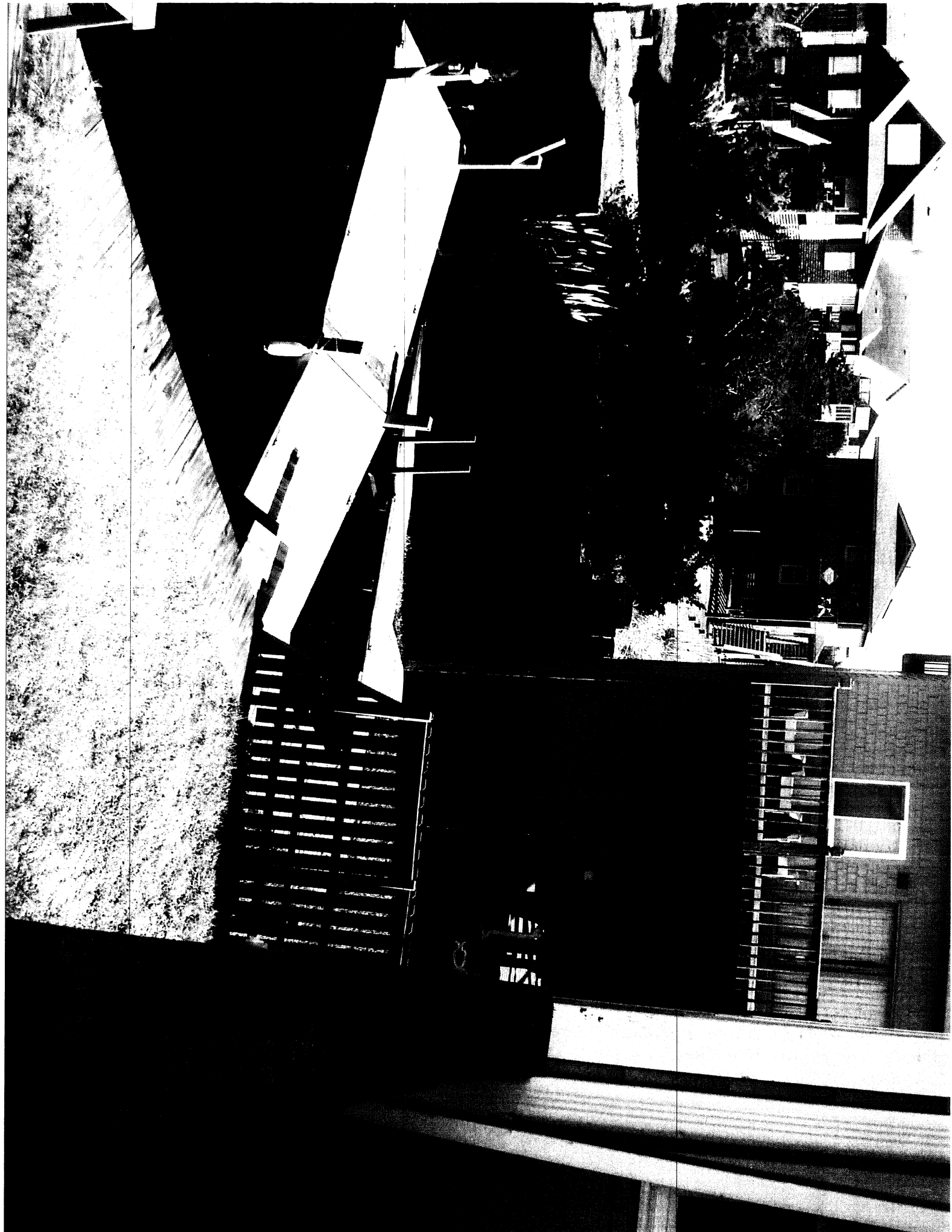


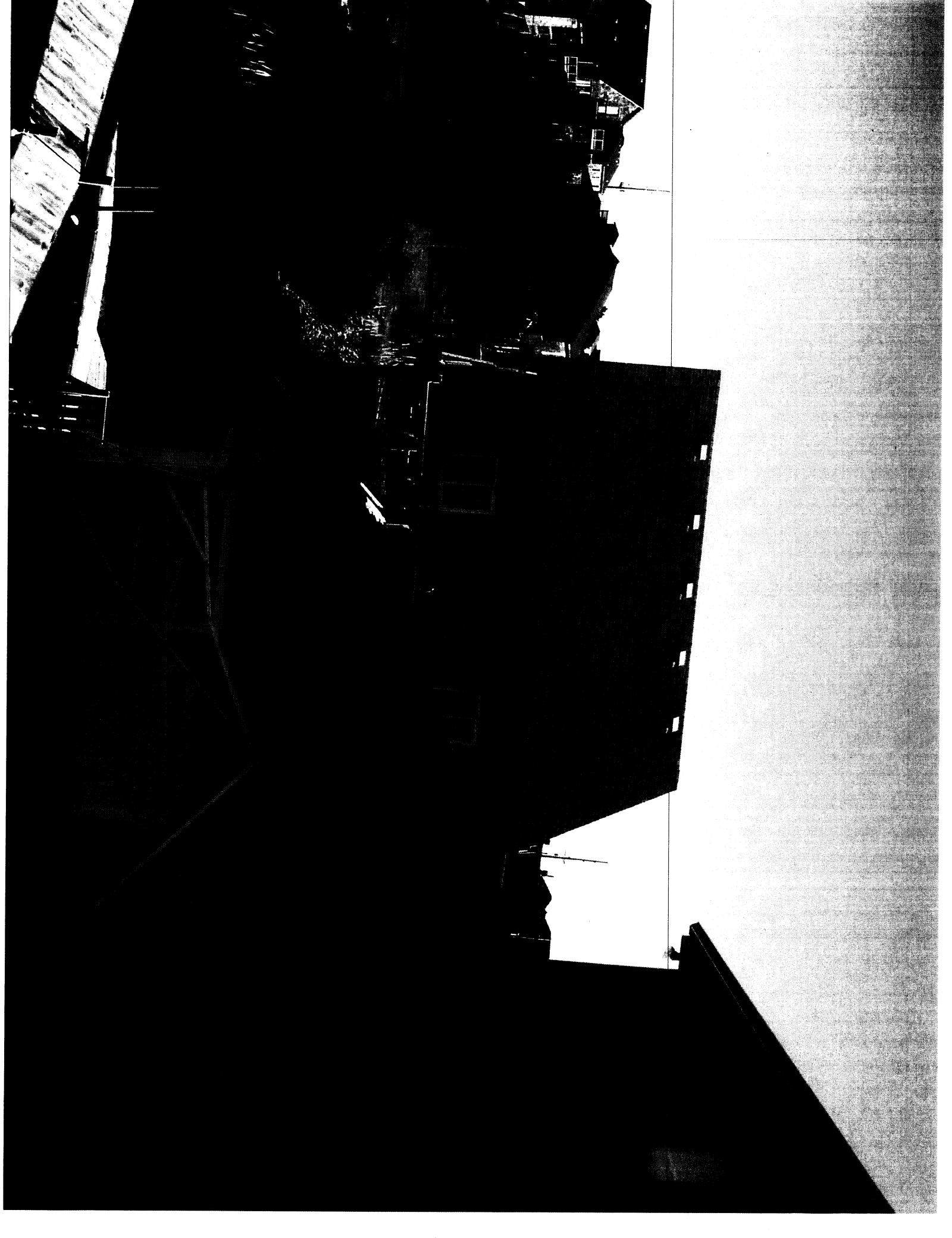
















# **Attachment E**

Petitioners' Variance Request Petition and Attachments

**CAMA VARIANCE REQUEST FORM**

**DCM FORM 11**

**DCM FILE No.:** \_\_\_\_\_

PETITIONER'S NAME ROBERT A. PATRIKIDS

COUNTY WHERE THE DEVELOPMENT IS PROPOSED DARE

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

**VARIANCE HEARING PROCEDURES**

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

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

**VARIANCE CRITERIA**

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

- (a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.
- (b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.
- (c) Do the hardships result from actions taken by the petitioner? Explain.
- (d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

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

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

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

- The name and location of the development as identified on the permit application;
- A copy of the permit decision for the development in question;
- A copy of the deed to the property on which the proposed development would be located;
- A complete description of the proposed development including a site plan;
- A stipulation that the proposed development is inconsistent with the rule at issue;
- Proof that notice was sent to adjacent owners and objectors, as required by 15A N.C.A.C. 07J .0701(c)(7);
- N/A* Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.
- This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.





December 12, 2011

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

**RE: Variance Petition Request for CAMA Minor Development Application  
#2011-42; Project Address - 39199 Seashore Blvd., Avon, NC, 27915**

**Dear Director Davis,**

This letter is to advise you of the following in regard to the referenced request:

(a) Strict application of the applicable development rules, standards, or orders issued by the Commission will cause me unnecessary hardship. My hardship is that I am 100% disabled and need to construct the conditioned physical therapy room described in my CAMA Minor Development Application to address my physical disabilities and disease. I have been diagnosed with peripheral neuropathy and degenerative disk. I am in constant pain and need to take medication daily to address these conditions and also need this room with equipment (hot tub) added to my home to help in treatment of my disabilities and disease on a daily bases. This method of physical treatment is prescribed by my doctor. (Letter attached)

(b) The hardship results as a combination of the peculiar manner in which the canal line crosses my property; the irregular lot lines; and the position of my house in relation to these features. In addition the floor plan of the house and practical location, use and function of the proposed new room dictate that it be located as proposed. This causes half of the proposed room to be located in the 30' buffer (103 sq ft).

(c) The hardship does not result from my actions.

(d) Because of my unique physical disabling conditions and that there are no other practical alternatives to provide this required feature to my existing home, that will provide me the facilities to have the care that I need to live in my home. I believe that the variance request will be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; secure the public safety and welfare; and preserve substantial justice. In fact the approval of this request will do much to provide for my own safety and welfare.

Thank You,



Robert A. Patrikios

December 12, 2011

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

RE: Variance Petition Request for CAMA Minor Development Application  
#2011-42; Project Address - 39199 Seashore Blvd., Avon, NC, 27915

**Dear Director Davis,**

The following information is being provided in support of the referenced variance petition request.

**Name and location of development: Robert A. Patrikios, 39199 Seashore Blvd., Avon, NC, 27915, in a man-made canal off the Pamlico Sound.**

**A copy of the permit decision: Attached**

**A copy of the deed: Attached**

**A complete description of proposed development: Construct a 12' x 14.75' conditioned physical therapy room with hot tub on an existing deck with walls, only half of which encroaches into the 30' Buffer, approximately 103 sq ft.**

**Stipulation: The proposed development is inconsistent with the 30' Buffer rule, 15 NCAC 07H .0209 (d) (10).**

**Proof that notices was sent to adjacent owners: Attached**

**Proof that a variance was sought from local government: N/A**

**Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria: Attached**

**A draft set of proposed stipulated facts and stipulated exhibits: Attached**

**CAMA Variance Request Form completed, dated, and signed by Petitioner: Attached**

Thank for your attention to this request.



Robert A. Patrikios



# COUNTY OF DARE

Planning Department  
P.O. Box 1000, Manteo, North Carolina 27954

November 15, 2011

Manteo: (252) 475-5870  
KDH Satellite: (252) 475-5871  
Buxton: (252) 475-5878

**CERTIFIED MAIL - #7006 0100 0006 9198 7026**  
**RETURN RECEIPT REQUESTED**

Robert A. Patrikios  
PO Box 1036  
Avon, NC 27915

**RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT**  
**APPLICATION NUMBER- 2011-42**  
**PROJECT ADDRESS- 39199 Seashore Blvd., Avon, NC 27915**

Dear Mr. Patrikios:

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

This decision is based on my findings that your request violates NCGS 113A-120(a) (8) which requires that all applications be denied which are inconsistent with CAMA guidelines and Local Land Use Plans. You have applied to construct a roof over an existing open deck in the 30' buffer which is inconsistent with 15 NCAC 07H .0209 (d) (10) which states that: "Within the Coastal Shorelines category (estuarine and public trust shoreline AEC's), new development shall be located a distance of 30 feet landward of the normal water level or normal water level, with the exception of the following:  
(F) Decks/Observation Deck limited to slatted, wooden, elevated and unroofed decks that shall not singularly or collectively exceed 200 square feet".

Your application is also inconsistent with our Local Land Use Plan. On page 179 of the Land Use Plan, you will find that Policy NH #1, states: "Internal to the 75-foot AEC is the overlay of a 30-foot wide buffer activity established by the CAMA regulations. Only water-dependant uses, as defined in the CAMA standards, can be located in the buffer area also."

Should you wish to appeal my decision to the Coastal Resources Commission or request a Variance from that group, you must complete the enclosed DCM Form 11, CAMA Variance Request, and submit your request to the Division of Coastal Management office in Morehead City. Appeal notices must be received within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours,

*Armelle D. Minton*  
Armelle D. Minton, LPO  
County of Dare  
PO Box 1000  
Manteo, NC 27954

*Copy*

**FAXED**  
11-15-11  
*RM*

cc: Division of Coastal Management  
Frank Jennings

*995-4783*

Locality \_\_\_\_\_ Permit Number \_\_\_\_\_

Ocean Hazard \_\_\_\_\_ Estuarine Shoreline \_\_\_\_\_ ORW Shoreline \_\_\_\_\_ Public Trust Shoreline \_\_\_\_\_ Other \_\_\_\_\_

(For official use only)

**GENERAL INFORMATION**

**LAND OWNER**

Name ROBERT A. PATRICKS

Address RD. BOX 1036

City AVON State NC Zip 27915 Phone 919-271-7081

Email \_\_\_\_\_

**AUTHORIZED AGENT**

Name GARY PRICE

Address RD. BOX 591

City AVON State NC Zip 27915 Phone 305-6347

Email \_\_\_\_\_

**LOCATION OF PROJECT:** (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) CANAL OFF PAMLICO SOUND

**DESCRIPTION OF PROJECT:** (List all proposed construction and land disturbance.) CONSTRUCT ROOF OVER DECK IN 30' BUFFER

**SIZE OF LOT/PARCEL:** 10,820.17 square feet 0.25 acres

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

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

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

(2) **COASTAL SHORELINE AECs:** SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT UPON SURFACES: 1751 square feet (includes the area of the roof/drip line of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC. Attach your calculations with the project drawing.)

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

YES \_\_\_\_\_ NO

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

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

**STATEMENT OF OWNERSHIP:**

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

an owner or record title, Title is vested in ROBERT A. PATRIKIOS, see Deed Book 1518 page 453 in the DARE County Registry of Deeds.

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

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

**NOTIFICATION OF ADJACENT PROPERTY OWNERS:**

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

- | (Name)   | (Address)                      |
|--|--------------------------------|
| (1) <u>ROBERT E. ZULANDT, 114 E. PARK ST.</u>  | <u>CHARDON, OH, 44024</u>      |
| (2) _____                                      | _____                          |
| (3) <u>RICHARD N. WARD, 1400 WHITTLE ROAD,</u> | <u>MARTINSVILLE, VA, 24112</u> |
| (4) _____                                      | _____                          |

**ACKNOWLEDGEMENTS:**

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

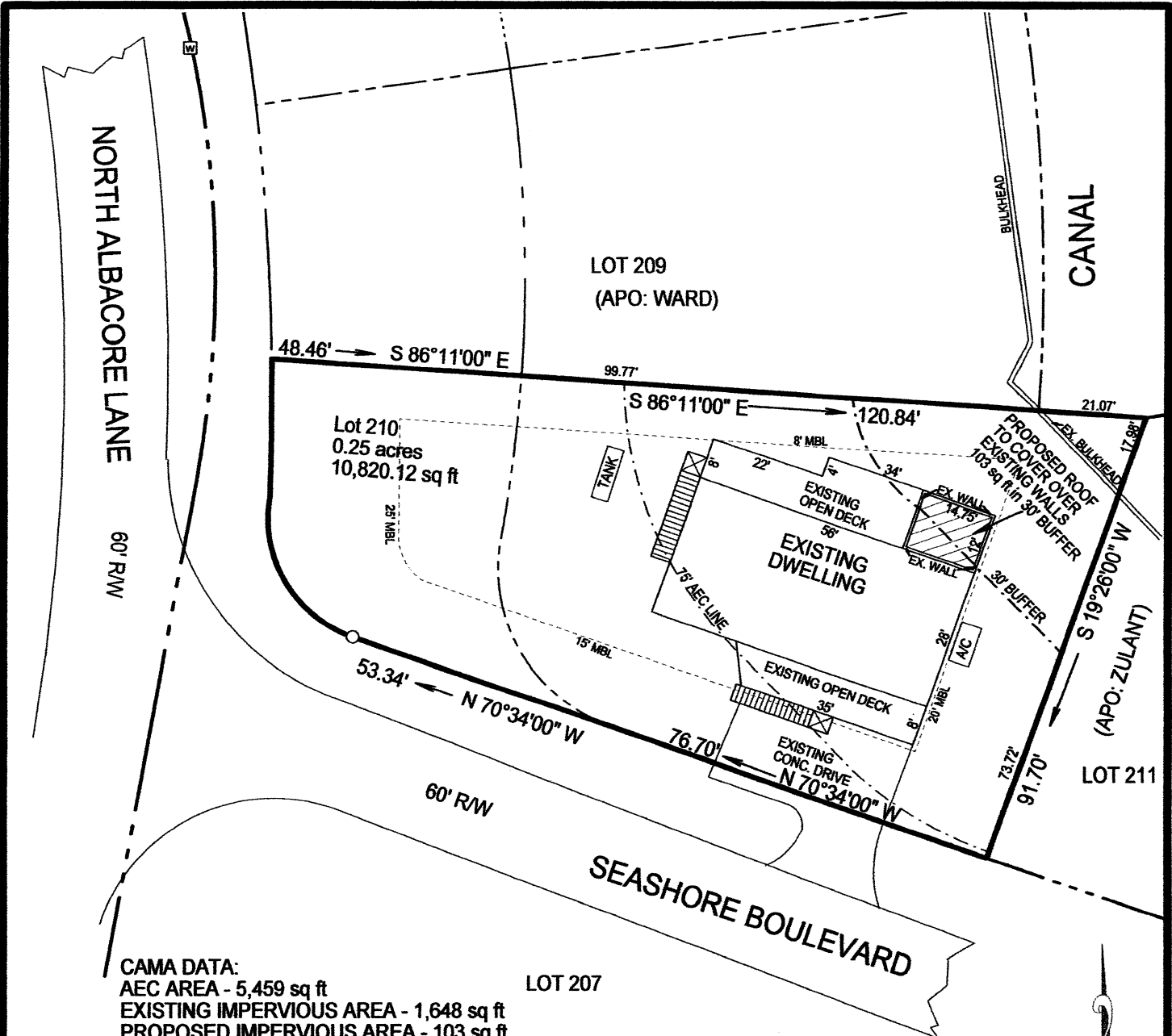
I furthermore certify that I am authorized to grant, and do in fact grant, permission to Division of Coastal Management staff, the Local Permit Officer and their agents to enter on the aforementioned lands in connection with evaluating information related to this permit application.

This the 20<sup>TH</sup> day of OCT, 2011

*Gary Price for*

Landowner or person authorized to act as his/her agent for purpose of filing a CAMA permit application

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

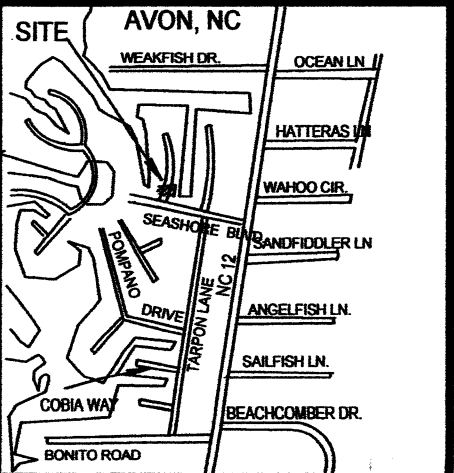


**CAMA DATA:**  
 AEC AREA - 5,459 sq ft  
 EXISTING IMPERVIOUS AREA - 1,648 sq ft  
 PROPOSED IMPERVIOUS AREA - 103 sq ft  
 TOTAL IMPERVIOUS AREA - 1,751 sq ft  
 TOTAL IMPERVIOUS COVERAGE - 32%

LOT 207

Note: Existing roof gutter system around all sides of house and existing uncovered walled deck area, draining away from canal into container.

LOCATION SKETCH, NOT TO SCALE



CAMA PLAN FOR:  
**ROBERT A. PATRIKIOS**  
 LOT 210, SECTION FOUR,  
**HATTERAS COLONY**

39199 SEASHORE BLVD. AVON, NC

Date: 10/19/11 Scale: 1" = 30'





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[FAQs](#)

## Track & Confirm

### Search Results

**Label/Receipt Number: 7009 2820 0002 4745 2822**

**Expected Delivery Date: October 26, 2011**

**Class: First-Class Mail®**

**Service(s): Certified Mail™**

**Status: Delivered**

Enter Label/Receipt Number.

Your item was delivered at 10:16 am on October 27, 2011 in CHARDON, OH 44024.

#### Detailed Results:

- **Delivered, October 27, 2011, 10:16 am, CHARDON, OH 44024**
- **Arrival at Unit, October 27, 2011, 7:24 am, CHARDON, OH 44024**
- **Processed through USPS Sort Facility, October 26, 2011, 11:59 pm, CLEVELAND, OH 44101**
- **Dispatched to Sort Facility, October 24, 2011, 2:46 pm, BUXTON, NC 27920**
- **Acceptance, October 24, 2011, 9:28 am, BUXTON, NC 27920**

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[Gov't Services](#)

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No FEAR Act EEO Data

FOIA





# ADJACENT RIPARIAN PROPERTY OWNER STATEMENT

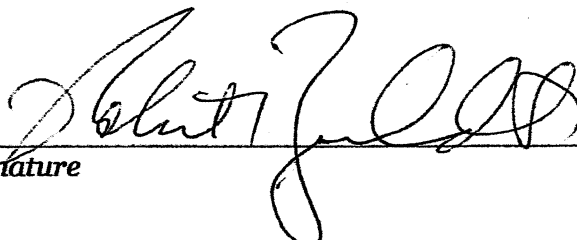
I hereby certify that I own property adjacent to Robert A. Patrikios

Property located at 39199 Seashore Blvd.

on canal off Pamlico Sound in Avon, N.C.

He has described to me as shown on the attached plan, the development he is proposing at that location and I have no objection to his proposal.

***If you have objections to what is being proposed, please write the Division of Coastal Management, 1367 US 17 South, Elizabeth City, North Carolina, 27909, or call (252) 264-3901 within 10 days of this notice. No response is considered the same as no objection, if you have been notified by Certified Mail.***

  
\_\_\_\_\_  
Signature

Robert E Zulandt  
\_\_\_\_\_  
Print Name

640-286-6177  
\_\_\_\_\_  
Telephone

10-27-11  
\_\_\_\_\_  
Date



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## Track & Confirm

### Search Results

Label/Receipt Number: **7009 2820 0002 4745 2273**  
Expected Delivery Date: **October 26, 2011**  
Class: **First-Class Mail®**  
Service(s): **Certified Mail™**  
Status: **Delivered**

[Track & Confirm](#)

Enter Label/Receipt Number.

[Go >](#)

Your item was delivered at 8:59 am on October 27, 2011 in MARTINSVILLE, VA 24112.

#### Detailed Results:

- **Delivered, October 27, 2011, 8:59 am, MARTINSVILLE, VA 24112**
- **Notice Left, October 26, 2011, 1:29 pm, MARTINSVILLE, VA 24112**
- **Arrival at Unit, October 26, 2011, 8:40 am, MARTINSVILLE, VA 24112**
- **Processed through USPS Sort Facility, October 26, 2011, 4:01 am, ROANOKE, VA 24022**
- **Processed through USPS Sort Facility, October 25, 2011, 11:31 pm, ROANOKE, VA 24022**
- **Dispatched to Sort Facility, October 24, 2011, 2:46 pm, BUXTON, NC 27920**
- **Acceptance, October 24, 2011, 9:29 am, BUXTON, NC 27920**

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No FEAR Act EEO Data

FOIA



**ADJACENT RIPARIAN PROPERTY OWNER STATEMENT**

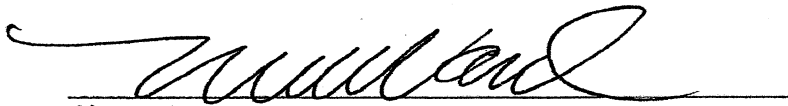
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Property located at 39199 Seashore Blvd.

on canal off Pamlico Sound in Avon, N.C.

He has described to me as shown on the attached plan, the development he is proposing at that location and I have no objection to his proposal.

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Signature

RICHARD N. WARD

Print Name

(276) 252-1002

Telephone

10/27/2011

Date



**Veterans Affairs**

251 N MAIN ST  
WINSTON-SAL NC 27155

February 28, 2003

ROBERT A PATRIKIOS  
1639 CONE AVE  
APEX NC 27502

28 715 066  
R A PATRI

You are receiving disability compensation at the 100% rate because the evidence shows that you are unable to work due to your service-connected disabilities.

You must notify VA immediately if you begin working or if you become self-employed. This might result in a decrease in your rate of service-connected disability compensation. Here is what you must tell us:

1. Your VA claim number
2. Your name
3. The name and address of your employer
4. The date you began work
5. The number of hours per week that you work
6. The amount of pay you expect to receive over the coming year

You may call us at 1-800-827-1000 or write to the VA regional office.

VA conducts a computer match each year with the Internal Revenue Service and the Social Security Administration. One of the purposes of this match is to identify individuals who receive compensation at the 100% rate based on evidence showing their inability to work but who have wages or income from self-employment.

Sincerely yours,

L. W. HENDERSON

Adjudication Officer

*Spoke to Perry at 9/1/02.  
on Sept 1, 06  
call again in 2-3 weeks if  
not notified*

Department of Veteran Affairs Medical Center  
508 Fulton Street  
Durham, North Carolina 27705

JUN 05, 2009

PATRIKIOS, ROBERT A  
PO Box 1036  
AVON, NORTH CAROLINA 27915

I wish to provide you with the results from your recent exam. You do have peripheral neuropathy primarily in the legs that is under treatment. Warm water therapy can help and staying warm helps. During winter use of moist heat like an indoor pool if there is one in the area and an indoor spa at home would also be helpful with your medication.

For follow-up, I recommend:

Please be sure to keep all scheduled appointments, or call in for appointments as instructed by your clinic. If you cannot keep an appointment, please call at least 24 hours in advance to let us know so we can serve another veteran.

Future Appointments -

JUL 24, 2009@08:00 DENTAL- ORAL SURG-B1014  
AUG 21, 2009@09:30 DERM GIFFORD RALEIGH CBOC

Sincerely,

ERNEST G DANIELS



**DEPARTMENT OF VETERANS AFFAIRS**

Regional Office  
6437 Garners Ferry Rd  
Columbia, SC 29209

April 22, 2010

In Reply Refer To: 319/NCC/TMH  
C 28 715 066  
PATRIKIOS R

ROBERT PATRIKIOS  
PO BOX 1036  
AVON NC 27915

Dear Robert Patrikios:

We are giving you this certificate so you may receive commissary store and exchange privileges from the Armed Forces.

This is to certify that Robert Patrikios is an honorably discharged Veteran of the Marines and receives benefits at the 100% rate. The Veteran has not been scheduled for future examinations.

**Do You Have Questions Or Need Assistance?**

If you have any questions, you may contact us by telephone, e-mail, or letter.

<b>If you</b>	<b>Here is what to do.</b>
Telephone	Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the number is 1-800-829-4833.
Use the Internet	Send electronic inquiries through the Internet at <a href="https://iris.va.gov">https://iris.va.gov</a> .
Write	Put your full name and VA file number on the letter. Please send all correspondence to the address below:  VA Regional Office Federal Building 251 N Main Street Winston-Salem, NC 27155

Sincerely yours,

*Wayne R Oswald*

Wayne R Oswald  
National Call Center Manager



6162287  
Page: 1 of 2  
03/11/2005 04:06P

EXEMPT  
DARE COUNTY TAX  
COLLECTOR

NO. 2060-05

**NORTH CAROLINA GENERAL WARRANTY DEED**

This instrument should be mailed to: Calder & McWilliam, 216 Highway 70, Garner, NC 27529  
Prepared by Calder & McWilliam

This is a Deed of Gift.

Tax ID#: 013888000

Brief description:

Lot 210, Hatteras Colony

Excise Tax: \$0.00

No title certification.

THIS WARRANTY DEED is made March 10, 2005 by and between:

Robert William Patrikios, UNMARRIED

(hereinafter referred to in the neuter singular as "the Grantor") and

Robert A. Patrikios  
single  
39199 Seashore Blvd.  
Avon, NC 27915

(hereinafter referred to in the neuter singular as "the Grantee"):

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does hereby give, grant, bargain, sell and convey unto the Grantee, its heirs, successors, administrators and assigns, all of that certain piece, parcel or tract of land, which was acquired by the Grantor by deed recorded in Book , Page , situated in township, Dare County, and more particularly described as follows:

Tract 1:

Being all of Lot 210, Section 4, Hatteras Colony subdivision, as depicted in Map Book 2, Page 251.

Tract 2:

Beginning at an iron in the right of way of Seashore Boulevard at the corner of the Lot 210 described above; thence running with the right of way of Seashore Blvd, North 70 degrees 34 minutes West 53.34 feet to an iron; thence running with said right of way as it merges into the right of way of North Albacore Lane along a curve having a radius 24.65 feet an arc distance of 34.79 feet (North 30°08' West 31.97 feet) to an iron; thence continuing with said right of way along a curve having a radius of 510.39' an arc length of 26.83 feet (North 00°34' East 26.83 feet) to an iron; thence leaving the right of way and running South 86°11' East 48.46 feet to an iron in the corner of said Lot 210; thence running along the line of Lot 210 along a curve having a radius of 285 feet an arc length of 32.0 feet (North 7°02' East 31.98) to an iron; thence continuing with the line of Lot 210 along a curve having a radius of 33.24 feet an arc length of 46.89 feet (North 30°09' West 43.09 feet) to the beginning.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple. And the Grantor covenants with the Grantee that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the following exceptions:

1. Public Utility Easements for Local Service.
2. Restrictive covenants

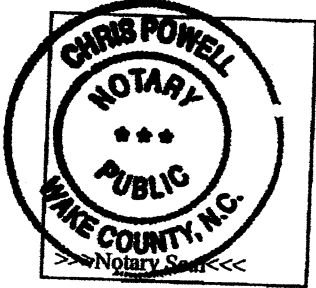
NORTH CAROLINA - DARE COUNTY  
I CERTIFY THE FOREGOING INSTRUMENT TO  
BE A TRUE COPY AS COMPARED WITH THE  
ORIGINAL ON FILE IN THIS OFFICE.  
THIS 31<sup>ST</sup> DAY OF May, 2011  
VANZOLLA McMURRAN

REGISTER OF DEEDS OF DARE COUNTY  
BY: [Signature]  
DEPUTY/ASSISTANT REGISTER OF DEEDS



IN WITNESS WHEREOF, the Grantor has set its hand and seal and does adopt the printed word "SEAL" as its lawful seal.

[Signature] (Seal)  
Robert William Patrikios



State of North Carolina, Wake County  
I, a Notary Public of the County and State aforesaid, certify that Robert William Patrikios, Grantors, personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official stamp or seal, this the 10 day of MARCH, 2005.

[Signature]  
Notary public

My commission expires: May 10, 2005

State of North Carolina  
County of Dare County

The foregoing certificate of Chris Powell  
A Notary Public is certified to be correct. This instrument and this certificate are duly registered at the Date and Time in the Book and Page shown on the first page hereof.

Barbara M. Gray, Register of Deeds  
By: [Signature] Deputy Register of Deeds



**NOTICE OF VARIANCE TO  
ADJACENT RIPARIAN PROPERTY OWNER**

I hereby certify that I own property adjacent to Robert A. Patrikios

Property located at 39199 Seashore Blvd.

on canal off Pamlico Sound in Avon, N.C.

and that he has sent me notice of his petition for a variance to make improvements as shown on his CAMA Plan dated 10/19/11 a copy of which was previously provided me by certified mail.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Telephone*

\_\_\_\_\_  
*Date*



STATE OF NORTH CAROLINA  
DEPARTMENT OF JUSTICE

ROY COOPER  
ATTORNEY GENERAL

P.O. BOX 629  
RALEIGH, NC 27602

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

TO: The Coastal Resources Commission

FROM: Christine A. Goebel, Assistant Attorney General

DATE: January 20, 2012 (for the February 8-9, 2012 CRC Meeting)

RE: **Variance Request by Atlantic Telephone Membership Corporation, Inc. or  
ATMC (11-12)**

---

Petitioner is a telephone company which services the Town of Caswell Beach and the Village of Bald Head Island in Brunswick County, North Carolina. Petitioner proposes to install a new buried fiber optic cable line within the right-of-way of Caswell Beach Road (SR 1100) from eastern Oak Island to the eastern end of Caswell Beach, where it would connect to an existing line under the Cape Fear River to Bald Head Island. On December 20, 2011, DCM denied Petitioner's CAMA minor permit application for the proposed work based on portions of the cable being inconsistent with the Commission's oceanfront erosion setbacks found at 15A NCAC 7H.0306(a)(2)(i). On December 22, 2011, Petitioner, through counsel, filed this variance petition to allow the installation of the cable in this portion of the project area as proposed in its permit application.

The following additional information is attached to this memorandum:

- Attachment A: Relevant Rules
- Attachment B: Stipulated Facts & List of Stipulated Exhibits
- Attachment C: Petitioner's Positions and Staff's Responses to Criteria
- Attachment D: Petitioner's Variance Request Materials
- Attachment E: Stipulated Exhibits

cc(w/attachments): William A. Raney, Jr., Counsel for Petitioner, electronically  
Mary L. Lucasse, CRC Counsel, electronically

**RELEVANT STATUTES OR RULES**

**ATTACHMENT A**

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

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

- (2) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback is established based on the following criteria:
  - (I) Infrastructure that is linear in nature such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;

**STIPULATED FACTS****ATTACHMENT B**

1. The Petitioner, Atlantic Telephone Membership Corporation (ATMC or Company) is a telephone membership corporation providing telephone, internet, cable and wireless communication services to Brunswick County, North Carolina.
2. The Company currently provides telephone and related services to Bald Head Island by wireless transmissions.
3. On or about December 1, 2011, Petitioner applied to DCM for a CAMA minor permit for the placement of a fiber optic cable connection from existing ATMC facilities on Oak Island to Bald Head Island to provide a land line and to increase the reliability, quality and capacity of services to Bald Head which is now dependent on microwave and satellite technology. A copy of the permit application is attached.
4. DCM staff act as the permit processing agent in the Town of Caswell Beach (Town), as Caswell Beach has no LPO program. While a small portion of the project is in Oak Island, most of the project, and all of the section needing a variance, is located within Caswell Beach.
5. The CAMA permit requested by the Company is to authorize the installation of an underground fiber optic cable from a substation on Oak Island to a Progress Energy splice cabinet at the Baptist Assembly property at Fort Caswell on the west bank of the mouth of the Cape Fear River and to connect this cable to a fiber optic already installed in a conduit by Progress Energy that goes under the Cape Fear River to a splice cabinet on Bald Head Island. Most of the cable is proposed to be placed in the right-of-way of Caswell Beach Road (SR 1100).
6. The underground cable will be installed over a distance of 22,128 linear feet.
7. The portion of Caswell Beach Road that is the subject of this variance request is in the Ocean Erodible Area AEC as defined in CRC Rule 15A NCAC 7H .0304.
8. There are two segments of the project, one of 1,170 linear feet and one of 1,800 linear feet, where the cable is proposed to be located within the Ocean Hazard setback as defined in 15A NCAC 7H .0306(a). However, all of the proposed cable installation and related development activity will be landward of the applicable vegetation line or measurement line.
9. On December 20, 2011, DCM denied Petitioner's CAMA permit application due to portions of the project not meeting the applicable ocean erosion setbacks of 15A NCAC 7H .0306(a)(2)(i). A copy of the permit denial letter is attached.
10. The portion of the cable in the Town of Caswell Beach will be within the right-of-way of Caswell Beach Road which runs parallel to the ocean shoreline for the entire length of Caswell Beach.

11. Petitioner has obtained an easement from DOT to place the cable in the right-of-way of Caswell Beach Road, a copy of which is attached.
12. All of the cable that will be located within the Ocean Hazard setback is located on the landward side of Caswell Beach Road, except for about 170 linear feet which crosses to the ocean side of the road in the vicinity of the pump station for the Progress Energy cooling water canal.
13. The applicant prefers for this 170 linear feet of fiber optic cable to cross from the north side of the road to the south side in the vicinity of the Progress Energy pump station to avoid other utility lines on the north side of the road, but the applicant is willing to continue the lines on the north side of the road for the necessary distance to avoid encroachment into the setback for this portion of the project requiring a variance.
14. At the point where the proposed cable crosses to the ocean side of Caswell Beach Road there are residential structures located on the south side of Caswell Beach Road.
15. The current Ocean Hazard setback for the project area measured from the vegetation line or static vegetation line varies in width from 60-feet to 165-feet depending on the long-term annual erosion rate applicable to various segments of the shoreline.
16. For the portion of the cable needing a variance, the applicable average annual erosion rates currently range from 3.5-feet per year to 5.5-feet per year.
17. DCM has completed an update of the long-term average annual erosion rate for the North Carolina coast which, for Caswell Beach, reduces the long-term annual erosion rate to 2-feet per year for the entire project area, including the variance area. While this new rate has not yet been adopted by the CRC or used for permitting purposes, it was presented to the CRC at its May 2011 meeting, and was then sent out for fiscal analysis and public hearing. The fiscal analysis is still ongoing, so no public hearings have been held to date. A copy of the map showing the current and proposed new erosion rates for Caswell Beach are attached.
18. If the new erosion rate is adopted, the entire project area will be subject to a 60-foot setback based on a 2-feet per year average annual erosion rate, and the entire project proposed by the applicant will comply with the ocean hazard setback.
19. Details of the installation of the cable are contained in the Project Narrative attached.
20. Approximately 500-feet of the 1,170-foot segment will be installed in an existing conduit.
21. No objections to this project were received during DCM's permit review.
22. The Power-Point presentation, attached, includes site photographs and maps submitted with the permit application showing the overall project, and the specific areas where the variance is requested.
23. Petitioner requests this variance to develop the project as proposed in its application materials.

STIPULATED EXHIBITS

- A. Minor Permit Application form with Ocean Hazard Disclosures form (In Attachment E)
- B. Project Narrative (Attached as Exhibit C of the Variance Petition)
- C. Petitioner's easement from DOT (Attached as Exhibit B of the Variance Petition)
- D. DCM's Denial Letter (Attached as Exhibit A of the Variance Petition)
- E. Power-point with site photos, Petitioner's over-view and relevant smaller area maps (Maps 5-9), and a copy of the proposed (but not adopted) new erosion rates for Caswell Beach

**Petitioner and Staff Positions****ATTACHMENT C**

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

**Petitioner's Position: Yes.**

The applicant is proposing to enhance its telephone and wireless services to Bald Head Island by installation of a fiber optic cable to connect Bald Head to the company's facilities on the mainland. The service enhancement involves connecting an existing substation on Oak Island with an existing fiber optic cable under the Cape Fear River at Fort Caswell on the west bank of the mouth of the Cape Fear River. To make the connection it is necessary to lay underground fiber optic cable from the substation to a splice box at the North Carolina Baptist Assembly property at Fort Caswell. The logical and practical location for laying such a line in a fully developed area such as Caswell Beach is by using the right-of-way of existing roads where utility lines are generally located. The strict application of the ocean hazard setback causes an unnecessary hardship on the applicant by effectively preventing the applicant from installing the fiber optic line in the most practical and feasible location.

**Staff's Position: Yes.**

Staff agrees that the strict application of the ocean erosion setback rules as measured using the existing average annual erosion rates causes the Petitioner unnecessary hardships to install the fiber optic cable as proposed. This project was designed to be placed in the street right-of-way, with the location of the lines being dictated by several factors including the location of the Progress Energy cooling water canal creating a bottle-neck area in the middle of the Town for infrastructure projects such as this to reach the eastern end of the island. This leaves little to no room outside of the oceanfront setback where the lines could be placed. Finally, the applicable setbacks, which were based on data through 1998, don't reflect the most current data available to DCM. As seen in the new erosion rate maps approved for public hearing but not yet adopted, the data through 2009 shows the Town's long-term average rate has decreased to 2-feet per year in the area of the variance. Based on the resulting 60-foot setback using this updated 2-foot rate, the project could have been permitted. If the Commission ultimately adopts these rate-updates, no variance would be necessary for this proposed project. Staff agrees that Petitioner has attempted to meet the applicable setbacks while keeping the cables in the street right-of-way easement along the landward side of Caswell Beach Road.

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

**Petitioner's Position: Yes.**

The project is located within the right-of-way of Caswell Beach Road which is the only state maintained highway providing a route for the cable to Fort Caswell. The entire width of the right-of-way is within the ocean hazard area setback for most of the area where the variance is sought. While the location of a single public highway along a barrier island is not unique to Caswell Beach, it is a peculiar circumstance that requires special consideration in providing much needed utility services to persons in existing communities.

**Staff's Position: Yes.**

Staff agrees that the unnecessary hardship is caused by conditions peculiar to the property, specifically the size, shape, and configuration of the oceanfront in front of the Progress Energy property. There is a constriction of the high ground located in the middle of the Town as a result of the excavation for the Brunswick Nuclear Plant cooling water outfall canal, which runs from the mainland, across the island and then is pumped through pipes into the ocean. Additionally, the cable is proposed to be placed in Petitioner's easement area in the right-of-way for Caswell Beach Road. This is the only road traversing the island, and so the proposed cable has to pass through this bottle-neck formed by the canal and the location of the ocean shoreline. Such conditions are peculiar to Petitioner's easement property and result in a hardship to make the connection at the east end of the island without a variance.

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

**Petitioner's Position: No.**

The hardship resulted from the fact that the state highway is within the setback area. The highway was built well before CAMA was enacted and the applicant has no control over the erosion rate or the location of the road. Other routes would be problematic due to the inability to use existing conduit, the difficulty in acquiring easements from multiple owners, the need to avoid the highly secured and regulated area around the cooling water outfall canal for the Progress Energy Brunswick Nuclear Plant and the need to avoid other utility lines.



**Staff's Position: No.**

On balance, Staff agrees that the Petitioner has not contributed to its hardship because the project was designed to minimize the disturbance of existing structures by locating the lines in the existing right-of-way along the landward side of Caswell Beach Road.

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

**Petitioners's Position: Yes.**

1. Spirit, Purpose and Intent. The intent of the rule is to prevent development which will likely be lost or damage due to erosion within a short period of time. The area where the cable encroaches into the ocean hazard setback is an area where current long-term erosion rates have changed but the change has not yet been incorporated in the CRC rules. Once the new erosion rates are officially adopted the proposed cable will not be located in the setback based on the current vegetation line. The road along which the cable will be placed serves as the only access to areas of significant development including a US Coast Guard station, the North Carolina Baptist Assembly at Fort Caswell and over 150 single family dwellings. It is likely that all reasonable efforts will be made to maintain and protect this vital road and the other utility services already located within the right-of-way. The addition of the fiber optic line will not increase the risk or expense in protecting this existing right-of-way.

2. Secure Public Safety and Welfare. Fiber optic service to Bald Head will provide a significant benefit to EMS and public safety officials on Bald Head and the mainland by enabling them to maintain more secure and reliable communications. This is particularly important for emergency medical services, severe weather situations and law enforcement activities. The municipal government of Bald Head will benefit by improved and more reliable wireless data services and better wireless communication on the island and with the mainland.

3. Preserve Substantial Justice. Justice is preserved by allowing a public utility service provider to provide quality service to all of its customers and by allowing all residents of existing residential communities to have access to high quality utility services.

**Staff's Position: Yes.**

Staff agrees that the variance request does meet the spirit, purpose, and intent of the rules in that the Petitioner designed a project with minimal impact to be placed within the DOT's existing right-of-way on the north, or landward side of Caswell Beach Road. Petitioner rightly points out that this is the public road connecting the east-end of the Town to the mainland to the west, and accordingly the road and the existing infrastructure within the right-of-way will likely be protected and repaired in case of damage. Staff also agrees that this request meets the spirit, purpose, and intent of the rules where the updated but not yet adopted setback rates, based on an updated data set, would alleviate the need for

this variance. Granting the variance for this improved service connecting Bald Head Island to the mainland would help secure the public safety and welfare because of the improved emergency communications. Substantial justice would be preserved by allowing the Petitioner to benefit from the a setback based on the more complete and updated data set.

**WESSELL & RANEY, L.L.P.**  
ATTORNEYS AT LAW  
POST OFFICE BOX 1049  
WILMINGTON, NORTH CAROLINA 28402-1049

JOHN C. WESSELL, III  
WESSELL@BELLSOUTH.NET

WILLIAM A. RANEY, JR.  
WARANEY@BELLSOUTH.NET

STREET ADDRESS:  
107-B NORTH 2<sup>ND</sup> STREET  
WILMINGTON, NC 28401

TELEPHONE: 910-762-7475  
FACSIMILE: 910-762-7557

December 22, 2011

**VIA EMAIL AND US MAIL**

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

Re: Variance Petition  
Atlantic Telephone Membership Corporation  
Brunswick County

Dear Mr. Davis:

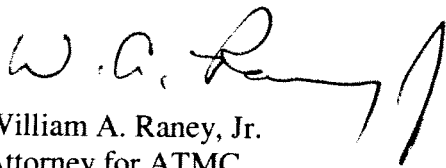
Enclosed is a Variance Petition filed on behalf of Atlantic Telephone Membership Corporation in connection with CAMA Minor Development Permit Application No. Cas 11-05. The site plans for this project are rather voluminous and most of the site plans are not relevant to the variance. The petitioner will work with you and other staff members to provide relevant site plans as part of the stipulated facts or as a separate submission once the DCM staff has reviewed these materials.

A copy of the Petition is being sent to the Environmental Division of the North Carolina Attorney General's Office via fax.

The petitioner is very anxious to have this matter heard at the February meeting of the Coastal Resources Commission. Thank you for your consideration of this matter.

Sincerely,

WESSELL & RANEY, L.L.P.

  
William A. Raney, Jr.  
Attorney for ATMC

WAR:dc

Enclosures

cc: Attorney General's Office – Environmental Division via fax (919) 716-6767

WAR\environ\AR11-038-C04

## CAMA VARIANCE REQUEST FORM

DCM FORM 11

DCM FILE No.: \_\_\_\_\_

PETITIONER'S NAME Atlantic Telephone Membership Corporation (ATMC)  
COUNTY WHERE THE DEVELOPMENT IS PROPOSED Brunswick

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

### VARIANCE HEARING PROCEDURES

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

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

### VARIANCE CRITERIA

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

- (a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.
- (b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.
- (c) Do the hardships result from actions taken by the petitioner? Explain.
- (d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

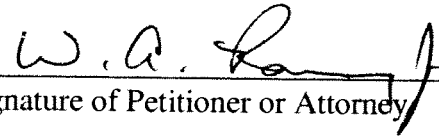
***Please make your written arguments that Petitioner meets these criteria on a separate piece of paper. The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as a variance hearing before the Commission. These opinions note that the practice of professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written or oral argument, may be***

*considered the practice of law. Before you proceed with this variance request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.*

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

- The name and location of the development as identified on the permit application;
- A copy of the permit decision for the development in question;  
**See Exhibit A**
- A copy of the deed to the property on which the proposed development would be located;  
**See Exhibit B**
- A complete description of the proposed development including a site plan;  
**See Exhibit C**
- A stipulation that the proposed development is inconsistent with the rule at issue;  
**See Exhibit D**
- Proof that notice was sent to adjacent owners and objectors, as required by 15A N.C.A.C. 07J .0701(c)(7);  
**See Exhibit E**
- NA** Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;  
**See Exhibit F**
- A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.  
**See Exhibit G**
- This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

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

  
Signature of Petitioner or Attorney

12-22-11  
Date

W. A. Raney, Jr.  
Printed Name of Petitioner or Attorney

waraney@bellsouth.net  
Email address of Petitioner or Attorney

PO Box 1049  
Mailing Address

(910) 762-7475  
Telephone Number of Petitioner or Attorney

Wilmington, NC 28402  
City State Zip

(910) 762-7557  
Fax Number of Petitioner or Attorney

**DELIVERY OF THIS HEARING REQUEST**

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

Contact Information for DCM:

Contact Information for Attorney General's Office:

**By mail, express mail or hand delivery:**  
Director  
Division of Coastal Management  
400 Commerce Avenue  
Morehead City, NC 28557

**By mail:**  
Environmental Division  
9001 Mail Service Center  
Raleigh, NC 27699-9001

**By Fax:**  
(252) 247-3330

**By express mail:**  
Environmental Division  
114 W. Edenton Street  
Raleigh, NC 27603

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

**By Fax:**  
(919) 716-6767



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

Beverly Eaves Perdue  
Governor

Braxton C. Davis  
Director

Dee Freeman  
Secretary

December 20, 2011

ATMC  
c/o Mr. Scott Dutton  
PO Box 3198  
Shallotte, NC 28459  
sdutton@atmc.coop

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT  
APPLICATION NUMBER- Cas 11-05

PROJECT ADDRESS- Elizabeth Dr.- County Club Dr.-Caswell Beach Road-Ft. Caswell

Dear Mr. Dutton:

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

This decision is based on my findings that your request violates NCGS 113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines. You have applied to install a fiber optic cable line within the right-of-way from Elizabeth Drive east to Country Club Drive to Caswell Beach Rd east to Fort Caswell which is inconsistent with 15 NCAC 7H .0306(a)(2)(i), which states that: "Infrastructure that is linear in nature such as [...] utilities providing for the transmission of electricity, water, telephone, cable television, data, stormwater and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater".

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

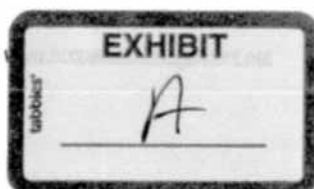
Respectfully yours,

Heather Coats  
Field Representative

cc: Wilmington Files  
Ted Tyndall, DCM

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

An Equal Opportunity \ Affirmative Action Employer



One  
North Carolina  
*Naturally*



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE  
GOVERNOR

DIVISION OF HIGHWAYS

EUGENE A. CONTI, JR.  
SECRETARY

November 30, 2011

Atlantic Telephone Membership Corporation (ATMC)  
Attention: Jerry Barefoot  
P.O. Box 3198  
Shallotte, N.C. 28459

Dear Mr. Jerry Barefoot:

SUBJECT: Encroachment Agreement on SR 1100 in Brunswick  
County. (E-010-11-005 R1)

Attached for your files is a copy of Right of Way Encroachment contract properly  
executed. This contract covers the following:

Request to install approximately 3,618 LF of 2 – 1.25" SDR-11 (PE) conduit for future  
communications along SR 1100. This request is necessary due to ATMC not being able  
to acquire the necessary easements to install this conduit along a non-system route.

This approval is subject to this work being done in accordance with the attached plan  
sheets and previous special provisions.

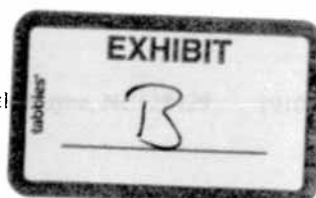
Very truly yours,

H. A. Pope, P.E.  
Division Engineer

HAP/ARE

Attachments

Cc: Anthony Law w/attas  
Town of Caswell Beach Administrator James E. Carter, w/attas





DEPARTMENT OF TRANSPORTATION CO160-11 RIGHT OF WAY ENCROACHMENT AGREEMENT  
AND- ATTAC# DISTRICT 3 PRIMARY AND SECONDARY HIGHWAYS  
Atlantic Telephone Membership Corporation  
PO Box 3198  
Shallotte, NC 28469  
910-754-4311 (BLA)  
MAR 07 2011 E-010-11-005  
RECEIVED

THIS AGREEMENT, made and entered into this the 1<sup>st</sup> day of APRIL 20 11 by and between the Department of Transportation, party of the first part; and \_\_\_\_\_ party of the second part,

WITNESSETH  ORIGINAL

THAT WHEREAS, the party of the second part desires to encroach on the right of way of the public road designated as Route(s) HWY133 & SR1100, located 520' N INT. SR1100 on HWY133 to Pinehurst Dr. And beginning again at the INT. of SR1100 & Ocean Greens Lane to the entrance of the Baptist Assembly on SR1100. with the construction and/or erection of: SDR-11 (PE) PIPE for future communications. 2x1.25" There will be numerous Dry Bores made on this job to pass beneath HWY133, non-system roads, asphalt entrances, driveways, and SR1100. FOR FUTURE SERVICE (BLA)  
DRY BORE TOTAL 392 LF 1 TOTAL 14841' (BLA)

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part in the exercise of authority conferred upon it by statute, is willing to permit the encroachment within the limits of the right of way as indicated, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to make this encroachment as shown on attached plan sheet(s), specifications and special provisions which are made a part hereof upon the following conditions, to wit:

That the installation, operation, and maintenance of the above described facility will be accomplished in accordance with the party of the first part's latest POLICIES AND PROCEDURES FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHTS-OF-WAY, and such revisions and amendments thereto as may be in effect at the date of this agreement. Information as to these policies and procedures may be obtained from the Division Engineer or State Utility Agent of the party of the first part.

That the said party of the second part binds and obligates himself to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said highway, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the cost incurred for any repairs or maintenance to its roadways and structures necessary due to the installation and existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the said facilities, that the said party of the second part binds himself, his successors and assigns, to promptly remove or alter the said facilities, in order to conform to the said requirement, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the Division Engineer of the party of the first part.

That the party of the second part hereby agrees to indemnify and save harmless the party of the first part from all damages and claims for damage that may arise by reason of the installation and maintenance of this encroachment.

That the party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the Division Engineer of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; siltng or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air. There shall be compliance with applicable rules and regulations of the North Carolina Division of Environmental Management, North Carolina Sedimentation Control Commission, and with ordinances and regulations of various counties, municipalities and other official agencies relating to pollution prevention and control. When any installation or maintenance operation disturbs the ground surface and existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the Division Engineer of the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the Division Engineer of the party of the first part.

That the party of the second part agrees to have available at the construction site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work contained in this agreement is being performed on a completed highway open to traffic; the party of the second part agrees to give written notice to the Division Engineer of the party of the first part when all work contained herein has been completed. Unless specifically requested by the party of the first part, written notice of completion of work on highway projects under construction will not be required.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization by the party of the first part unless written waiver is secured by the party of the second part from the party of the first part.

During the performance of this contract, the second party, for itself, its assigns and successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

- a. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U. S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

- b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to,
- (1) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (2) cancellation, termination or suspension of the contract, in whole or in part.
- f. Incorporation of Provisions: The contractor shall include the provisions of paragraphs "a" through "f" in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

RW (161) : Party of the Second Part certifies that this agreement is true and accurate copy of the form RW (161) Incorporating all revisions to date.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed the day and year first above written.

ATTEST OR WITNESS:

W. Scott Dutton  
W. Scott Dutton - Manager, Engineering

ATMC

PO Box 3198 Shallotte, NC 28459 910-754-4311

DEPARTMENT OF TRANSPORTATION

BY: H. L. Pope / A. E.  
DIVISION ENGINEER

Jerry Barefoot  
Jerry Barefoot - Senior Project Engineer

ATMC

PO Box 3198 Shallotte, NC 28459 910-754-4311  
Second Party

#### INSTRUCTIONS

When the applicant is a corporation or a municipality, this agreement must have the corporate seal and be attested by the corporation secretary or by the empowered city official, unless a waiver of corporate seal and attestation by the secretary or by the empowered City official is on file in the Raleigh office of the Manager of Right of Way. In the space provided in this agreement for execution, the name of the corporation or municipality shall be typed above the name, and title of all persons signing the agreement should be typed directly below their signature.

When the applicant is not a corporation, then his signature must be witnessed by one person. The address should be included in this agreement and the names of all persons signing the agreement should be typed directly below their signature.

This agreement must be accompanied, in the form of an attachment, by plans or drawings showing the following applicable information:

1. All roadways and ramps.
2. Right of way lines and where applicable, the control of access lines.
3. Location of the existing and/or proposed encroachment.
4. Length, size and type of encroachment.
5. Method of installation.
6. Dimensions showing the distance from the encroachment to edge of pavement, shoulders, etc.
7. Location by highway survey station number. If station number cannot be obtained, location should be shown by distance from some identifiable point, such as a bridge, road, intersection, etc. (To assist in preparation of the encroachment plan, the Department's roadway plans may be seen at the various Highway Division Offices, or at the Raleigh office.)
8. Drainage structures or bridges if affected by encroachment (show vertical and horizontal dimensions from encroachment to nearest part of structure).
9. Method of attachment to drainage structures or bridges.
10. Manhole design.
11. On underground utilities, the depth of bury under all traveled lanes, shoulders, ditches, sidewalks, etc.
12. Length, size and type of encasement where required.
13. On underground crossings, notation as to method of crossing - boring and jacking, open cut, etc.
14. Location of vents.

#### GENERAL REQUIREMENTS

1. Any attachment to a bridge or other drainage structure must be approved by the Head of Structure Design in Raleigh prior to submission of encroachment agreement to the Division Engineer.
2. All crossings should be as near as possible normal to the centerline of the highway.
3. Minimum vertical clearances of overhead wires and cables above all roadways must conform to clearances set out in the National Electric Safety Code.
4. Encasements shall extend from ditch line to ditch line in cut sections and 5' beyond toe of slopes in fill sections.
5. All vents should be extended to the right of way line or as otherwise required by the Department.
6. All pipe encasements as to material and strength shall meet the standards and specifications of the Department.

(retain three inch margin for recording)  
STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

EASEMENT

THIS DEED OF EASEMENT made this 27<sup>th</sup> day of July, 2011, by and between BAPTIST STATE CONVENTION OF NORTH CAROLINA, INC., a North Carolina nonprofit corporation (herein "GRANTOR") and ATLANTIC TELEPHONE MEMBERSHIP CORPORATION, a rural utilities services telephone cooperative, organized as a corporation under the laws of the State of North Carolina (herein "ATMC"); the designation Grantor and ATMC as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context:

WITNESSETH:

THAT WHEREAS Grantor is the owner of certain lands which are situated in Smithville Township, Brunswick County, North Carolina described in Deed Book 97 at Page 633, Deed Book 152 at Page 572, and Deed Book 152 at Page 574 of the Brunswick County Register of Deeds (herein "PROJECT");

NOW, I HEREOF, Grantor in consideration of the extension by ATMC of such communications and CATV services to the PROJECT as it presently is in the business of furnishing to its members, and other valuable consideration, the receipt of which is hereby acknowledged, has and by these presents does, grant, bargain, sell and convey unto ATMC, its successors, assigns a permanent and perpetual right-of-way and easement in, upon, under, over and through the property specifically described below, together with the right to erect, replace, construct by digging trenching and by other reasonable means, operate, remove, maintain and use facilities with all necessary and proper equipment, and other appliances, fixtures and signs for use in connection therewith, to suspend therefrom and use such facilities as ATMC may from time to time deem necessary for the transmission and distribution of a communications system, fiber optic, electronics, and enhanced technological replacement devices, CATV

services and other necessary apparatus for purposes of ATMC on the property specifically described below. The Grantors also grants unto ATMC the non-exclusive right to enter upon all streets, roads or highways located on the PROJECT for the purpose of inspecting the facilities of ATMC and to make necessary repairs and alterations thereof as ATMC deems advisable and expedient.

GRANTOR hereby conveys to ATMC herein the above referenced easement in the following specific real property:

Fifteen (15) feet in width and immediately adjacent to and contiguous with the Northern boundary of the easement GRANTOR conveyed to Carolina Power & Light Company in Deed Book 455 at Page 386 of the Brunswick County Register of Deeds as reflected on that survey surveyed and mapped by Gerrit C. Greer, N.C. Registration No. L-813, on December 17, 1979 at Smithville Township Brunswick County, N.C. entitled Traverse of Centerline of Underground Cable at Fort Caswell, extending from County Road # 1100

To have and to hold said right and easement to ATMC and its successors in title.

GRANTOR covenants that it is the owner of said premises in fee simple and that the same are free and clear of all encumbrances except: acquisition and development financing, subdivision restrictive covenants and easements of public record.

IN WITNESS WHEREOF, GRANTOR executes this instrument in such manner as by law provided the day and year first above written

BAPTIST STATE CONVENTION OF NORTH CAROLINA, INC.  
a North Carolina Corporation

By:  (SEAL)  
JOHN BUTLER  
Executive Leader for Business Services

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

I, Norma Jean Johnson certify that JOHN BUTLER personally appeared before me this day, and (I have personal knowledge of the identity of the principal) ~~(I have seen satisfactory evidence of the principal's identity, by current state or federal identification with the principal's photograph in the form of \_\_\_\_\_) (a credible witness has sworn to the identity of the principal) [strike through the inapplicable];~~ acknowledging to me that he/she is Executive Leader for Business Services of THE BAPTIST STATE CONVENTION OF NORTH CAROLINA, INC, a North Carolina Corporation, and by authority duly given and as an act of the Entity, has voluntarily signed the foregoing document in its name and on its behalf as its act and deed for the purpose stated therein and in the capacity indicated.

Sworn to and subscribed before this 27 day of July, 2011.

Norma Jean Johnson  
Norma Jean Johnson Notary Public  
Printed Name

My commission expires: \_\_\_\_\_

**Expiration Date**  
**March 25, 2012**

**SUBJECT**  
ATLANTIC TELEPHONE  
MEMBERSHIP CORPORATION  
OF

**15' EASEMENT GRANTED FROM  
THE NORTH CAROLINA BAPTIST ASSEMBLY**

DELRAND COUNTY, N.C.  
NOVEMBER 4, 2011  
SMITHVILLE, TN  
SCALE 1" = 100'



ROSE, REGINA  
DB 1376-495  
DB 950-221

PORT CASWELL  
AC 11-23

PORT CASWELL  
AC 11-23

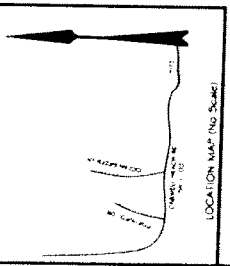
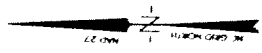
CORNELL BEACH RD  
58-1100  
50' R/W

NORTH CAROLINA  
BAPTIST ASSEMBLY  
NO DEED FOUND

NORTH CAROLINA  
BAPTIST ASSEMBLY  
NO DEED FOUND

NORTH CAROLINA  
BAPTIST ASSEMBLY  
NO DEED FOUND

NORTH CAROLINA  
BAPTIST ASSEMBLY  
NO DEED FOUND



- LEGEND**
- 1/4" DIA. IRON NAIL
  - 1/2" DIA. IRON NAIL
  - 3/4" DIA. IRON NAIL
  - 1" DIA. IRON NAIL
  - 1 1/2" DIA. IRON NAIL
  - 2" DIA. IRON NAIL
  - 3" DIA. IRON NAIL
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  - 48" DIA. IRON NAIL
  - 54" DIA. IRON NAIL
  - 60" DIA. IRON NAIL
  - 72" DIA. IRON NAIL
  - 84" DIA. IRON NAIL
  - 96" DIA. IRON NAIL
  - 108" DIA. IRON NAIL
  - 120" DIA. IRON NAIL
  - 132" DIA. IRON NAIL
  - 144" DIA. IRON NAIL
  - 156" DIA. IRON NAIL
  - 168" DIA. IRON NAIL
  - 180" DIA. IRON NAIL
  - 192" DIA. IRON NAIL
  - 204" DIA. IRON NAIL
  - 216" DIA. IRON NAIL
  - 228" DIA. IRON NAIL
  - 240" DIA. IRON NAIL
  - 252" DIA. IRON NAIL
  - 264" DIA. IRON NAIL
  - 276" DIA. IRON NAIL
  - 288" DIA. IRON NAIL
  - 300" DIA. IRON NAIL

**NOTES:**

1. THE SURVEYOR HAS BEEN ADVISED THAT THE PROPERTY IS SUBJECT TO AN EASEMENT GRANTED TO THE ATLANTIC TELEPHONE MEMBERSHIP CORPORATION BY THE NORTH CAROLINA BAPTIST ASSEMBLY.
2. THE SURVEYOR HAS BEEN ADVISED THAT THE PROPERTY IS SUBJECT TO AN EASEMENT GRANTED TO THE ATLANTIC TELEPHONE MEMBERSHIP CORPORATION BY THE NORTH CAROLINA BAPTIST ASSEMBLY.
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THIS SURVEY REQUIRES THE INSTALLATION OF LAND MARKERS AND THE SURVEYOR HAS BEEN ADVISED THAT THE PROPERTY IS SUBJECT TO AN EASEMENT GRANTED TO THE ATLANTIC TELEPHONE MEMBERSHIP CORPORATION BY THE NORTH CAROLINA BAPTIST ASSEMBLY.

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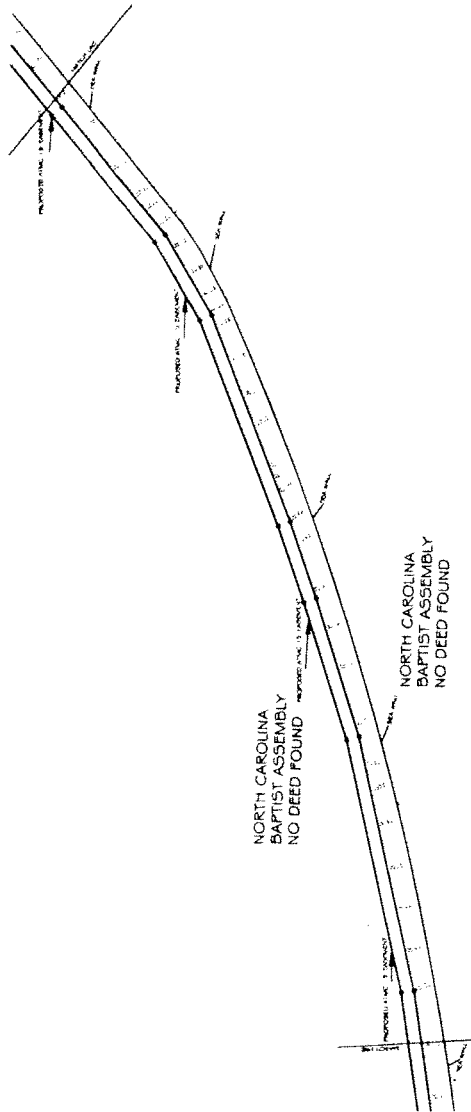
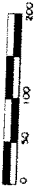
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**MEMBERSHIP CORPORATION**  
of  
**ATLANTIC TELEPHONE**

**15' EASEMENT GRANTED FROM**  
**THE NORTH CAROLINA BAPTIST ASSEMBLY**  
SALISBURY, NC  
SCALE 1" = 100'  
NOVEMBER 4, 2011



NORTH CAROLINA  
BAPTIST ASSEMBLY  
NO DEED FOUND

NORTH CAROLINA  
BAPTIST ASSEMBLY  
NO DEED FOUND

NORTH CAROLINA  
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NORTH CAROLINA  
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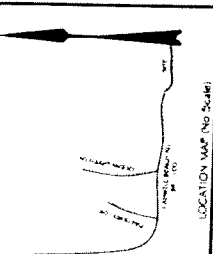
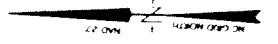
County	Reference	Distance
1	S. 2722.07' E	50.00
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3	S. 2722.07' E	50.00
4	S. 2722.07' E	50.00
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48	S. 2722.07' E	50.00
49	S. 2722.07' E	50.00
50	S. 2722.07' E	50.00

NEED MONUMENT  
AND 27 COORDINATES  
S. 2722.07' E  
W. 50.00' N  
S. 2722.07' E  
W. 50.00' N

County	Reference	Distance
1	S. 2722.07' E	50.00
2	S. 2722.07' E	50.00
3	S. 2722.07' E	50.00
4	S. 2722.07' E	50.00
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27	S. 2722.07' E	50.00
28	S. 2722.07' E	50.00
29	S. 2722.07' E	50.00
30	S. 2722.07' E	50.00
31	S. 2722.07' E	50.00
32	S. 2722.07' E	50.00
33	S. 2722.07' E	50.00
34	S. 2722.07' E	50.00
35	S. 2722.07' E	50.00
36	S. 2722.07' E	50.00
37	S. 2722.07' E	50.00
38	S. 2722.07' E	50.00
39	S. 2722.07' E	50.00
40	S. 2722.07' E	50.00
41	S. 2722.07' E	50.00
42	S. 2722.07' E	50.00
43	S. 2722.07' E	50.00
44	S. 2722.07' E	50.00
45	S. 2722.07' E	50.00
46	S. 2722.07' E	50.00
47	S. 2722.07' E	50.00
48	S. 2722.07' E	50.00
49	S. 2722.07' E	50.00
50	S. 2722.07' E	50.00

THE PROPERTY SHOWN AND DESCRIBED HEREON WAS FIRST  
CONVEYED TO THE STATE OF NORTH CAROLINA BY DEED  
DATED AND RECORDED AS ABOVE. THE DEED WAS  
RECORDED IN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_ OF  
PLAT \_\_\_\_\_ OF THE ANNUAL BUILDING LOTS AND DEEDS  
AND PLATS OF THE STATE OF NORTH CAROLINA.  
THE STATE OF NORTH CAROLINA HAS NOTED THAT THE  
SUBDIVISION REGULATION JURISDICTION OF SALISBURY COUNTY

DATE  
DRAWN  
FIELD BOOK  
COMPTON FILE  
REVISIONS



NOTES BY COORDINATOR:  
1. PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.  
2. THIS SURVEY WAS CONDUCTED IN SALISBURY COUNTY, N.C.  
3. PROPERTY IS LOCATED IN A FLOOD PLAIN ZONE.  
4. PROPERTY SUBJECT TO ALL ZONING ORDINANCES NOTED  
ON PLAT \_\_\_\_\_ OF THE ANNUAL BUILDING LOTS AND DEEDS OF  
SALISBURY COUNTY, N.C.

THIS SURVEY REFLECTS THE RESULTS OF A GPS  
SURVEY CONDUCTED BY THE SURVEYOR AND HIS PARTY.  
IT IS THE POLICY OF THIS FIRM TO OBTAIN THE MOST  
ACCURATE DATA OF RECORD.

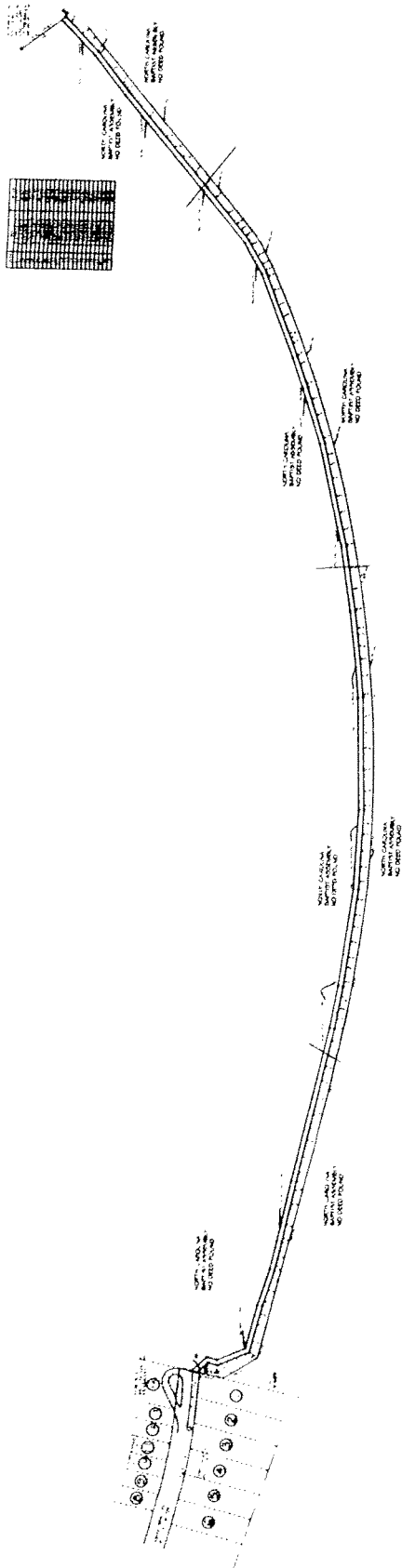
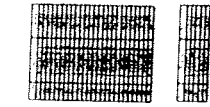
THIS SURVEY HAS BEEN PREPARED WITHOUT REGARD  
TO THE PRESENCE OR ABSENCE OF ANY EASEMENTS,  
RIGHTS OF WAY, OR OTHER INTERESTS IN THE  
PROPERTY. THE SURVEYOR HAS BEEN ADVISED OF THE  
MATTERS THAT SUCH A NOTOR SHOULD REVEAL.

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ A REVIEW OFFICER OF SALISBURY COUNTY  
CERTIFY THAT THE MAP OR PLAT WITH THIS CERTIFICATION IS ACCURATE  
AND CORRECT FOR RECORDING  
DATE \_\_\_\_\_  
REVIEW OFFICER \_\_\_\_\_

THE SURVEYOR HAS BEEN ADVISED OF THE  
MATTERS THAT SUCH A NOTOR SHOULD REVEAL.  
DATE \_\_\_\_\_  
REVIEW OFFICER \_\_\_\_\_

THE SURVEYOR HAS BEEN ADVISED OF THE  
MATTERS THAT SUCH A NOTOR SHOULD REVEAL.  
DATE \_\_\_\_\_  
REVIEW OFFICER \_\_\_\_\_

THE SURVEYOR HAS BEEN ADVISED OF THE  
MATTERS THAT SUCH A NOTOR SHOULD REVEAL.  
DATE \_\_\_\_\_  
REVIEW OFFICER \_\_\_\_\_





# ATMC Project Narrative

## Caswell Beach Route

The Atlantic Telephone Membership Corporation ("ATMC") proposes to install 22,128 linear feet of fiber optic conduit in the road base of existing, maintained road right-of-way in the City of Caswell Beach, Brunswick County. An encroachment agreement has been made with the North Carolina Department of Transportation that is attached to this application.

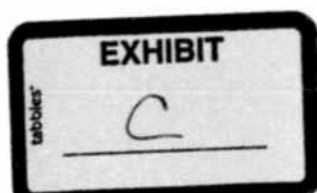
Three methods of construction are proposed: install fiber in existing conduit, static plow slit trenching, and directional bore. There is approximately 1484 feet of existing conduit in Caswell Beach where new fiber will be pulled through the conduit. This area is shown on the project drawings.

During typical plowing operation, the plow blade on the static plow disturbs an area of approximately 3-4 inches in width. Our calculations for surface disturbance used a plow blade/disturbance width of 8 inches as a safety factor. The plow is also set up as an all-in-one operation in that the blade opens a slit trench, places the conduit and then closes and compacts the trench all in one operation. In most cases it is nearly impossible to tell the plow has been through an area, especially if it is within an existing road right-of-way.

The disturbance associated with properly operated small directional drilling rigs is almost imperceptible once the drill finishes a bore. An average 2' x 2' disturbance area for each entry and exit site associated with the small drill rig set-up is typical. The rig entry hole is very small (diameter of the drill stem) and has no pit and the exit area is much the same. In some instances, a small pit might be created. For the purpose of estimating disturbance, we have used a standardized area of disturbance equal to a 2' x 2' area for each set-up site (entry & exit). Even though the process is very costly, significantly more boring is being incorporated than originally estimated at the outset of this project in order to reduce disturbance impacts and also to clear existing buried utilities.

During directional bore operations, a 2' x 3' handhole is dug approximately every 2,200 feet. These small, temporary areas of disturbance will be backfilled with segregated soils and stabilized in accordance with approved best management practices including but not limited to mulch, erosion control blankets or sod.

The project is not anticipated to produce any impact to native geology or special soils, critical farmlands, biological resources, wetlands and/or threatened and endangered species. Evaluation of the proposed project indicates no anticipated impact to land use, zoning issues, coastal resources, air quality, noise, traffic patterns, public health and safety. There are no known cumulative or secondary impacts associated with the proposed project.



The proposed construction will not alter existing ground elevations. The route alignments are designed to make use of existing and maintained transportation and utility corridors, thus eliminating the need to clear new right-of-way or disturb natural habitat. No clearing or removal of vegetation is proposed for purposes of stockpiling equipment or materials. Rather, equipment will be parked overnight at existing ATMC locations in Caswell. Materials such as conduit will be on a double axle trailer, which will move with the mobile work unit.

During initial pre-application teleconferences with CAMA District LPO Coordinator Heather Coats, it was discovered that approximately 500 linear feet of shoreline on Caswell Beach and all of Ft. Caswell did not have established static vegetation lines. Subsequently, Ms. Coats determined the appropriate location of the lines and staked both areas in the field. ATMC surveyors located the stakes and submitted the latitude/longitude data to Phoenix. Those newly-established lines are shown on the attached exhibits.

The setback lines are calculated using the CAMA "A" line, where the setback factor of a given area is multiplied by 30 to determine the setback from the static vegetation line. This information is shown on the exhibits so it is apparent how the cable line relates to the setbacks. Based on this information, it appears the new cable will be waterward of the setback line in two areas on Caswell Beach. The western area is approximately 1170 feet in length, and the eastern area is approximately 1800 feet in length. We understand that, if this is the case, a variance may need to be requested for those areas.

In summary, total disturbance for the Caswell Beach/ Fort Caswell project is 3,986 square feet spread out over the 4.19 miles of route alignment. Fort Caswell is 2,687 sq ft of disturbance and Caswell Beach is 1,299 sq ft of disturbance.

Based on the techniques described, ATMC anticipates very minimal disturbance. The majority of the alignment is located approximately six feet from the edge of pavement, except in the area near the Lady Bird Canal outflow where the offset from edge of pavement will be closer to eight feet off the edge.

This project entails a significant public interest component as EMS / first responder communication upgrades are part of the network enhancement.

Details of the project disturbance and assumptions used are found below:

**CASWELL BEACH:**

Total construction length 17,691 linear feet

Length of existing conduit: 1484 linear feet

Length bored: 14,438 linear feet

Handhole spacing every 2,200 feet = 7 handholes  
 Handhole disturbance 6 sf. X 7 handholes = **42 square feet**  
 Entry/exit point spacing 750 feet between handholes = 3 entry/exit points per  
 2,200 ft. segment  
 Entry/exit point disturbance 4 sq. ft X 3 per segment. = 12 sq. ft. per segment  
 Number of 2,200 ft. segments = 6  
 Entry/exit point disturbance 6 segments X 12 sq. ft. per segment = **72 square feet**

Length static plow: 1,769 linear feet

Width plow disturbance 0.67 ft. (8")  
 Plow disturbance 0.67 ft. X 1769 ft. = **1,185 square feet**

**TOTAL CASWELL BEACH LAND DISTURBANCE**

<b>Handholes</b>	<b>42 sq. ft</b>
<b>Entry/exit points</b>	<b>72 sq. ft.</b>
<b>Plow</b>	<b>1,185 sq. ft.</b>

**GRAND TOTAL      1,299 SQ. FT. = 0.029 AC.**  
**Spread out over the 17,691 feet of the installation**

This equates to 388 square feet of disturbance per mile (3.35 miles of route).

**FORT CASWELL**

Total project length: 4,437 linear feet

Length bored 444 linear feet

Handhole at each end = 2 handholes  
 Handhole disturbance 6 sq. ft. X 2 handholes = **12 square feet**

Length static plow: 3,993 ft.

Width plow disturbance 0.67ft. (8")  
 Plow disturbance 0.67 ft. X 3993 ft. = **2,675 square feet**

**FORT CASWELL LAND DISTURBANCE**

<b>Handholes</b>	<b>12 sq. ft.</b>
<b>Plow</b>	<b>2,675 sq. ft.</b>
<b>GRAND TOTAL</b>	<b>2,687 SQ. FT. = 0.062 acres</b>

**Spread out over the 4,437 feet of the installation**

This equates to 3199 square feet of disturbance per mile (0.84 miles of route).

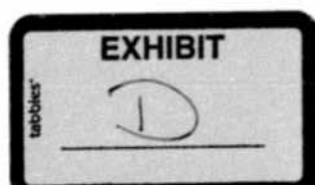
CAMA VARIANCE PETITION  
ATLANTIC TELEPHONE MEMBERSHIP CORPORATION  
CASWELL BEACH

Petitioner, Atlantic Telephone Membership Corporation, through its attorney, W. A. Raney, Jr., stipulates that the proposed development that is subject to the variance petition is inconsistent with Coastal Resources Commission Rule 15A NCAC 07H.0306.

WESSELL & RANEY, L.L.P.

By: W. A. Raney, Jr.  
W. A. Raney, Jr.  
107-B N. 2<sup>nd</sup> Street  
PO Box 1049  
Wilmington, NC 28402-1049  
(910) 762-7475  
NC Bar No. 5805

WAR\environ\R11-038-001



**WESSELL & RANEY, L.L.P.**  
ATTORNEYS AT LAW  
POST OFFICE BOX 1049  
WILMINGTON, NORTH CAROLINA 28402-1049

JOHN C. WESSELL, III  
WESSELL@BELLSOUTH.NET

WILLIAM A. RANEY, JR.  
WARANEY@BELLSOUTH.NET

STREET ADDRESS:  
107-B NORTH 2<sup>ND</sup> STREET  
WILMINGTON, NC 28401

TELEPHONE: 910-762-7475  
FACSIMILE: 910-762-7557

December 20, 2011

**VIA CERTIFIED MAIL 7009 1680 0000 3437 8622**

Mr. H. A. Pope, Division Engineer  
NC DOT  
5501 Barbados Blvd.  
Castle Hayne, NC 28429

Re: CAMA Variance Request by ATMC  
Installation of Fiber Optic Cable Along Caswell Beach Road

Dear Property Owner:

This is to notify you that Atlantic Telephone Membership Corporation (ATMC) is applying for a variance from the North Carolina Coastal Resources Commission to enable it to install a portion of a fiber optic cable within the ocean hazard setback area established under the Coastal Area Management Act. The variance is projected to be heard at the February 9-10, 2012 meeting of the Coastal Resources Commission. If you wish to receive further information concerning the variance you may contact me. If you wish to make comments on the variance you may direct your comments to the North Carolina Division of Coastal Management, 127 Cardinal Drive Ext., Wilmington, North Carolina 28405-3845. You may also contact a Division of Coastal Management representative at (910) 796-7215.

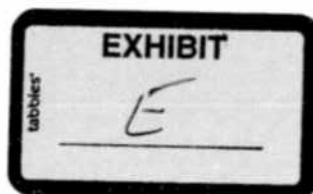
Sincerely,

WESSELL & RANEY, L.L.P.

William A. Raney, Jr.  
Attorney for ATMC

WAR:dc

WAR\enviro\VR11-038-C03



**WESSELL & RANEY, L.L.P.**  
ATTORNEYS AT LAW  
POST OFFICE BOX 1049  
WILMINGTON, NORTH CAROLINA 28402-1049

JOHN C. WESSELL, III  
WESSELL@BELLSOUTH.NET

WILLIAM A. RANEY, JR.  
WARANEY@BELLSOUTH.NET

STREET ADDRESS:  
107-B NORTH 2<sup>ND</sup> STREET  
WILMINGTON, NC 28401

TELEPHONE: 910-788-7475  
FACSIMILE: 910-788-7567

December 20, 2011

**VIA CERTIFIED MAIL 7009 1680 0000 3437 8615**

Mr. Jim Carter, Town Administrator  
Town of Caswell Beach  
1100 Caswell Beach Road  
Caswell Beach, NC 28465

Re: CAMA Variance Request by ATMC  
Installation of Fiber Optic Cable Along Caswell Beach Road

Dear Property Owner:

This is to notify you that Atlantic Telephone Membership Corporation (ATMC) is applying for a variance from the North Carolina Coastal Resources Commission to enable it to install a portion of a fiber optic cable within the ocean hazard setback area established under the Coastal Area Management Act. The variance is projected to be heard at the February 9-10, 2012 meeting of the Coastal Resources Commission. If you wish to receive further information concerning the variance you may contact me. If you wish to make comments on the variance you may direct your comments to the North Carolina Division of Coastal Management, 127 Cardinal Drive Ext., Wilmington, North Carolina 28405-3845. You may also contact a Division of Coastal Management representative at (910) 796-7215.

Sincerely,

WESSELL & RANEY, L.L.P.

William A. Raney, Jr.  
Attorney for ATMC

WAR:dc

WAR\enviro\RI11-038-C02

**WESSELL & RANEY, L.L.P.**  
ATTORNEYS AT LAW  
POST OFFICE BOX 1049  
WILMINGTON, NORTH CAROLINA 28402-1049

JOHN C. WESSELL, III  
WESSELL@BELLSOUTH.NET

WILLIAM A. RANEY, JR.  
WARANEY@BELLSOUTH.NET

STREET ADDRESS:  
107-B NORTH 2<sup>ND</sup> STREET  
WILMINGTON, NC 28401

TELEPHONE: 910-792-7475  
FACSIMILE: 910-792-7557

December 20, 2011

**VIA CERTIFIED MAIL 7009 1680 0000 3437 8608**

Mr. Rick Holbrook, Director  
NC Baptist Assembly  
100 Caswell Beach Road  
Oak Island, NC 28465

Re: CAMA Variance Request by ATMC  
Installation of Fiber Optic Cable Along Caswell Beach Road

Dear Property Owner:

This is to notify you that Atlantic Telephone Membership Corporation (ATMC) is applying for a variance from the North Carolina Coastal Resources Commission to enable it to install a portion of a fiber optic cable within the ocean hazard setback area established under the Coastal Area Management Act. The variance is projected to be heard at the February 9-10, 2012 meeting of the Coastal Resources Commission. If you wish to receive further information concerning the variance you may contact me. If you wish to make comments on the variance you may direct your comments to the North Carolina Division of Coastal Management, 127 Cardinal Drive Ext., Wilmington, North Carolina 28405-3845. You may also contact a Division of Coastal Management representative at (910) 796-7215.

Sincerely,

WESSELL & RANEY, L.L.P.

William A. Raney, Jr.  
Attorney for ATMC

WAR:dc

WAR\enviro\RI11-038-C01

PETITIONER TOWN OF CASWELL BEACH  
RESPONSE TO THE FOUR STATUTORY VARIANCE CRITERIA

- a. Will unnecessary hardships result from strict application of the development rules, standards, or orders issued by the Commission?

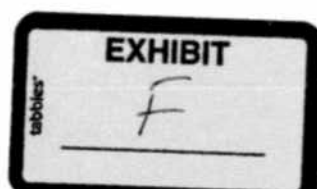
**Yes.** The applicant is proposing to enhance its telephone and wireless services to Bald Head Island by installation of a fiber optic cable to connect Bald Head to the company's facilities on the mainland. The service enhancement involves connecting an existing substation on Oak Island with an existing fiber optic cable under the Cape Fear River at Fort Caswell on the west bank of the mouth of the Cape Fear River. To make the connection it is necessary to lay underground fiber optic cable from the substation to a splice box at the North Carolina Baptist Assembly property at Fort Caswell. The logical and practical location for laying such a line in a fully developed area such as Caswell Beach is by using the right-of-way of existing roads where utility lines are generally located. The strict application of the ocean hazard setback causes an unnecessary hardship on the applicant by effectively preventing the applicant from installing the fiber optic line in the most practical and feasible location.

- b. Do the hardships result from conditions peculiar to the Petitioner's property such as the location, size, or topography of the property?

**Yes.** The project is located within the right-of-way of Caswell Beach Road which is the only state maintained highway providing a route for the cable to Fort Caswell. The entire width of the right-of-way is within the ocean hazard area setback for most of the area where the variance is sought. While the location of a single public highway along a barrier island is not unique to Caswell Beach, it is a peculiar circumstance that requires special consideration in providing much needed utility services to persons in existing communities.

- c. Do the hardships result from actions taken by the Petitioner?

**No.** The hardship resulted from the fact that the state highway is within the setback area. The highway was built well before CAMA was enacted and the applicant has no control over the erosion rate or the location of the road. Other routes would be problematic due to the inability to use existing conduit, the difficulty in acquiring easements from multiple owners, the need to avoid the highly secured and regulated area around the cooling water outfall canal for the Progress Energy Brunswick Nuclear Plant and the need to avoid other utility lines.





- d. Is the requested variance consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will the variance secure the public safety and welfare; and will the variance preserve substantial justice?

Yes.

1. Spirit, Purpose and Intent. The intent of the rule is to prevent development which will likely be lost or damaged due to erosion within a short period of time. The area where the cable encroaches into the ocean hazard setback is an area where current long-term erosion rates have changed but the change has not yet been incorporated into the CRC rules. Once the new erosion rates are officially adopted the proposed cable will not be located in the setback based on the current vegetation line. The road along which the cable will be placed serves as the only access to areas of significant development including a US Coast Guard station, the North Carolina Baptist Assembly at Fort Caswell and over 150 single family dwellings. It is likely that all reasonable efforts will be made to maintain and protect this vital road and the other utility services already located within the right-of-way. The addition of the fiber optic line will not increase the risk or expense in protecting this existing right-of-way.

2. Secure Public Safety and Welfare. Fiber optic cable service to Bald Head will provide a significant benefit to EMS and public safety officials on Bald Head and the mainland by enabling them to maintain more secure and reliable communications. This is particularly important for emergency medical services, severe weather situations and law enforcement activities. The municipal government of Bald Head will benefit by improved and more reliable wireless data services and better wireless communication on the island and with the mainland.

3. Preserve Substantial Justice. Justice is preserved by allowing a public utility service provider to provide quality service to all of its customers and by allowing all residents of existing residential communities to have access to high quality utility services.

Caswell Beach

Caswell Beach

Locality Caswell Beach Permit Number CasB11-06  
Ocean Hazard Estuarine Shoreline ORW Shoreline Public Trust Shoreline Other Other  
(For official use only)

**GENERAL INFORMATION**

LAND OWNER  
Name Atlantic Telephons Membership Corporation (ATMC)  
Address P.O. Box 3198  
City Shelton State NC Zip 28459 Phone 910-755-1701  
Email sdutton@atmc.coop  
AUTHORIZED AGENT  
Name Mark Friedemann, The Phoenix Environmental Group, Inc.  
Address 2916 E. Park Avenue  
City Tallahassee State FL Zip 32301 Phone 850-878-3331  
Email mark@lpegi.org

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not occamfront, what is the name of the adjacent waterbody.) Caswell Beach and Ft. Caswell

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

SIZE OF LOT/PARCEL: \_\_\_\_\_ square feet .079 acres  
PROPOSED USE: Residential  (Single-family  Multi-family  Commercial/Industrial  Other   
COMPLI, FTE EITHER (1) OR (2) BELOW (Contact your Local Permit Officer if you are not sure which AEC applies to your property):

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

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

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality?  
YES  NO   
If yes, list the total built upon area/impervious surface allowed for your lot or parcel: \_\_\_\_\_ square feet.

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

**STATEMENT OF OWNERSHIP:**

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

- an owner or record title, Title is vested in \_\_\_\_\_, see Deed Book \_\_\_\_\_ page \_\_\_\_\_ in the \_\_\_\_\_ County Registry of Deeds.
- an owner by virtue of inheritance. Applicant is an heir to the estate of \_\_\_\_\_ probate was in \_\_\_\_\_ County.
- if other interest, such as written contract or lease, explain below or use a separate sheet & attach to this application.

**NOTIFICATION OF ADJACENT PROPERTY OWNERS:**

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

- (1) North Carolina Baptist Assembly - Ft. Caswell; 100 Caswell Beach Rd., Oak Island, NC 28465 (Name) (Address)
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
- (4) \_\_\_\_\_

**ACKNOWLEDGEMENTS:**

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

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

This the 1st day of Dec., 2011  
W. Scott Dutton Manager OSP Engineering  
Landowner or person authorized to act as his/her agent for purpose of filing a CAMA permit application

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

RECEIVED

DCM WILMINGTON, NC

DEC 01 2011

# OCEAN HAZARD AEC NOTICE

Project is in an:  Ocean Erodlble Area  High Hazard Flood Area  Inlet Hazard Area

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

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

Date Lot Was Platted: \_\_\_\_\_

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

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

The best available information, as accepted by the Coastal Resources Commission, indicates that the annual long-term average ocean erosion rate for the area where your property is located is 2.55 feet per year.

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

Studies also indicate that the shoreline could move as much as 270-300 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 4-10 feet deep in this area.

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

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

W. Scott Dutton  
Manager OSP Engineering ATMC 5-9-2011  
Property Owner Signature Date

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

For more information, contact:

Heather Coats  
Local Permit Officer

127 Cardinal Dr. Ext. Wilmington, NC  
Address 28405

for Caswell Beach  
Locality

910-796-7424  
Phone Number

RECEIVED  
DCM WILMINGTON, NC

DEC 01 2011



STATE OF NORTH CAROLINA  
DEPARTMENT OF JUSTICE

ROY COOPER  
ATTORNEY GENERAL

400 COMMERCE AVENUE  
MOREHEAD CITY, NC 28557

REPLY TO: AMANDA P. LITTLE  
ENVIRONMENTAL DIVISION  
TEL: (252) 808-2808  
FAX: (252) 247-3330  
amanda.little@ncdenr.gov

TO: The Coastal Resources Commission

FROM: Amanda P. Little, Assistant Attorney General *APL*

DATE: January 25, 2012 (for the February 8-9, 2012 CRC Meeting)

RE: **Variance Request by Kenneth M. and Marian B. Gardner**

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Petitioner proposes to construct additions to his existing house located at 2311 Ocean Drive in Emerald Isle, North Carolina. On December 20, 2011, the Town of Emerald Isle Local Permit Officer (LPO) denied Petitioner's application based on the proposed development being inconsistent with 15A NCAC 7H .0306(a)(8)(D), which states in pertinent part, "No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered knee braced or otherwise extended beyond the support of pilings or footing, extends oceanward of the landward-most adjacent building or structure. Petitioner seeks a variance from this provision to construct his additions to his existing house as proposed in his permit application.

The following additional information is attached to this memorandum:

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

cc: Kenneth M. and Marian B. Gardner, Petitioners  
Kevin B. Reed, Director of Planning and Inspections, Town of Emerald Isle, electronically  
James W. Taylor, Jr., Town of Emerald Isle LPO, electronically  
Roy Brownlow, DCM Morehead City District Manager, electronically  
Barry Guthrie, DCM Field Representative, electronically  
Mary Lucasse, CRC Counsel, electronically

ATTACHMENT A

**RELEVANT RULES**

**15A NCAC 7H.0305 General Identification and Description of Landforms.**

- (a): This Section describes natural and man-made features that are found within the ocean hazard area of environmental concern.
  
- (6): **Static Vegetation Line.** In areas within the boundaries of a large-scale beach fill project, the vegetation line that existed within one year prior to the onset of initial project construction shall be defined as the static vegetation line. A static vegetation line shall be established in coordination with the Division of Coastal Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo a large-scale beach fill project. Once a static vegetation line is established, and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line. In all locations where the vegetation line as defined in this Rule is landward of the static vegetation line, the vegetation line shall be used as the reference point for measuring oceanfront setbacks. A static vegetation line shall not be established where a static vegetation line is already in place, including those established by the Division of Coastal Management prior to the effective date of this Rule. A record of all static vegetation lines, including those established by the Division of Coastal Management prior to the effective date of this Rule, shall be maintained by the Division of Coastal Management for determining development standards as set forth in Rule .0306 of this Section.

**15A NCAC 7H.0306 General Use Standards for Ocean Hazard Areas.**

- (a): In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the CRC's Rules shall be located according to whichever of the following is applicable:
  - (2): With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback is established based on the following criteria:

- (A): A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- (8): . . . [D]evelopment setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H.0305 shall be measured landward from the *static vegetation line* as defined in this Section. However, in order to allow for development landward of the large-scale beach fill project that is less than 2,500 square feet and cannot meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line set forth in Subparagraph (1) and (2)(A) of this Paragraph a local government or community may petition the Coastal Resources Commission for a “static line exception” in accordance with 15A NCAC 07J .1200 to allow development of property that lies both within the jurisdictional boundary of the petitioner as well as the boundaries of the large-scale beach fill project. . . . If the request is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the static vegetation line under the following conditions:
- (A): Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(2)(A) of this Rule;
- (B): Total floor area of a building is no greater than 2,500 square feet;
- (C): Development setbacks are calculated from the shoreline erosion rate in place at the time of permit issuance;
- (D): **No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure.** When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater; No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, extends

oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater; (emphasis added)

**STIPULATED FACTS****ATTACHMENT B**

1. Kenneth M. Gardner and Marian B. Gardner (“Petitioners”) own a .25-acre oceanfront lot at 2311 Ocean Drive in Emerald Isle, Carteret County, North Carolina (the “property”).
2. The property is located in the western end of the Eastern End Oceanfront Overlay District of Emerald Isle. This area includes approximately 172 properties located on the oceanfront between Indian Beach town line and Ocean Reef condominiums (roughly between 1<sup>st</sup> Street and 25<sup>th</sup> Street).
3. Petitioners purchased the property in January of 2002.
4. The property is located within the Ocean Hazard Area of Environmental Concern (“AEC”), as described in 15A NCAC 7H.0304.
5. In 1979, the CRC adopted an erosion setback requirement that applies to structures along the oceanfront set forth in 15A NCAC 7H.0306.
6. The general rule is that “[a] building or structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater.” Rule 15A NCAC 7H . 0306(a)(2)(A).
7. The property currently has an annual long-term erosion rate of two feet, therefore the required erosion setback for the structure on this property, which is less than 5,000 square feet, is 60 feet.
8. In 1997, the CRC established the static vegetation line rule, 15A NCAC 7H .0305(a)(6), for areas within the boundaries of a large-scale beach nourishment project as the reference point for measuring oceanfront setbacks in all locations where the static line is landward of the vegetation line.
9. 15A NCAC 7H .0306(a)(8) provides “a local government or community may petition the Coastal Resources Commission for a ‘static line exception’ in accordance with 15A NCAC 07J .1200 to allow development of property that lies both within the jurisdictional boundary of the petitioner as well as the boundaries of the large-scale beach fill project.”
10. In November 2002, the static vegetation line for the Town of Emerald Isle was determined by DCM staff through staking the vegetation line and subsequently surveying the line. The static vegetation line is shown on a series of maps dated December 4, 2002. The Town of Emerald Isle later received “large-scale beach fill” in early 2003.
11. At its March 24, 2010, meeting, the CRC granted the Town of Emerald Isle a “static line exception”.



12. On December 8, 2011, Petitioners submitted to the Town of Emerald Isle's Local CAMA Permit Officer (the "LPO") an application for a Minor Development Permit to build an approximately 820 square foot addition to a existing single family residence (Minor CAMA Permit # 2011-66). The proposed addition would include a new 3<sup>rd</sup> floor including bedrooms and bathrooms over the existing structure, a new entry, an elevator, new interior stairs, covering of an oceanfront deck, an exterior 3-story egress stair, a new septic system and a new driveway. *See Attachments D and E.*
13. In accordance with the CAMA minor permit application process, written notification of the proposed development was provided to the adjacent riparian property owners. No objections were received.
14. On December 20, 2011, the Town of Emerald Isle CAMA LPO denied Petitioners development application because Petitioners' proposed development violates N.C. Gen. Stat. 113A-120 and Rule 15A NCAC 07H .0306(a)(8)(D), in that it involves expansion of an existing structure that " extends oceanward of the landward-most adjacent building or structure." *See Attachments D and E.*
15. 15A NCAC 7H .0306(a)(8), effective August 12, 2009, provided in applicable part, that "the Coastal Resources Commission shall allow development setbacks to be measured from the vegetation line that is oceanward of the static vegetation line under the following conditions:
  - A. Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(2)(A) of this Rule;
  - B. Total floor area of the building is not greater than 2,500 square feet;
  - C. Development setbacks are calculated from the shoreline erosion rate in place at the time of permit issuance;
  - D. No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure. . . ."
16. Petitioners' proposed development meets all of the conditions set forth in Rule 15A NCAC 7H .0306(a)(8), except for subsection (D): "No portion of the building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the land-most adjacent building or structure."
17. The Town of Emerald Isle's United Development Ordinance requires any development to be set back 10 feet from the side property lines and 20 feet (revised in 2010 from 30 feet) from the street-side property line and requires a home to have two street parking spaces on the property.

18. There are 4 neighboring properties (3 to the east, 1 to the west) that do not meet the Town of Emerald Isle front yard setbacks; however, one neighboring property located to the east at 2305 Ocean Drive is in compliance with the local front yard setback and sits oceanward of Petitioners and their adjacent neighbors.
19. The residence on the property was originally built in 1992. It was located approximately in line with all other structures seaward face built at that time. On March 15, 2000, CAMA Minor Development Permit No. 00-465 was issued to the previous property owner (William Hannah) authorizing the residence to be moved approximately 40 feet landward toward the street. *See Attachment D, CAMA Minor Development Permit No. 00-465.*
20. The Petitioner has approval from Carteret County Environmental Health Department for a six bedroom septic system, dated November 17, 2011.
21. The existing residence on the property is 20.4 feet deep.
22. The proposed development would increase the existing footprint from 840 square feet to a new total of approximately 2,500 square feet.
23. Petitioners have sought and exhausted all remedies from local development requirements restricting the use of their property.
24. The footprint of the proposed development would be located landward of the frontal dune, static vegetation line and the 60-foot Ocean Hazard setback line.
25. On December 28, 2011, Petitioner's filed this variance request asking the CRC to set aside its erosion setback requirement in 15A NCAC 7H .0306(a)(8)(D), in prohibiting proposed development that "extends oceanward of the landward-most adjacent building or structure."

## ATTACHMENT C

**Petitioner and Staff Positions**

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

**Petitioners' Position: Yes.**

We would like to expand our home to accommodate a growing family and see it as an opportunity to correct some current and future problems.

The addition addresses a number of concerns. Our entry is currently hidden from street view, making vandalism and illegal entry a real concern. In 2005 our home was broken into. We stumbled upon the burglary in progress. We called the police and held the individuals until they arrived. This addition would rework our stairs and entry to provide a clear and visible view from the street.

We currently have 80 year old parents that are having difficulty enjoying the house due to access issues. As we grow older we realize we will have many of the same issues and an elevator will enhance the accessibility and enjoyment for our family.

As part of the Addition we seek the opportunity to resolve one of the biggest maintenance issues of the property. We have experienced wind driven rain damage due to a number of storms. By covering our deck as most of our neighbors have done, would help minimize or avoid the damage we have had. With a south facing structure, a covered deck would also provide shading that would lower our utility costs.

By using the existing structure to expand vertically, allowing us to minimize the building footprint and the building impervious surface. Through careful siting of the Addition, we are able to comply with all Town setbacks without need of a variance and maintain our off-street parking.

**Staff's Position: Yes.**

Staff agrees that strict application of the "static line exception" rule, 15A NCAC 7H .0306(a)(8), will cause the Petitioners unnecessary hardship because Petitioners meet all of the specified conditions set forth in rule except that their proposed development extends oceanward of the landward-most adjacent building, located at 2313 Ocean Drive, which is a non-conforming structure. Using a non-conforming structure as a basis for denial places an undue burden on the development of Petitioners' property. Staff believes this result was not intended by the "static line exception" rule. One of the management objectives of the Ocean Hazard AEC provided in 15A NCAC 7H .0303(b) is "minimizing losses to life and property". Although Petitioners couch their hardship in terms of comfort and convenience, Staff believes allowing Petitioners' development to extend oceanward of the landward-most adjacent building will have a negligible impact on the objective of protecting life and property along the oceanfront. Petitioner's proposed additions would be located well behind the frontal dune, static vegetation line and the 60-foot Ocean Hazard erosion setback line.

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

**Petitioners' Position: Yes.**

Of the approximately 163 Emerald Isle structures located between 11 through 2413 Ocean Drive, our property would appear to be a model for the community, one that is well below the community average seaward face and building footprint. By any analysis, it is not a property that would be a natural intended target of local or CAMA regulations, except when tied to adjacent properties violating local setbacks as required by Rule 15A NCAC 7H.0306(a)(8)(D).

When constructed in 1991, our structure was in line with other structures built in the 2111-2411 Ocean Drive Community during the period. As originally located, our structure had a seaward face of 85' and was among the 20 most properties in the Eastern Region. It was certainly a property that was among the most at risk from ocean erosion and would have been a natural target of the Rule.

In 2001 the home voluntarily relocated landward over 30' to its present location. In so doing, it met all CAMA and local setbacks in effect at the time

With one of the narrowest building depths, our Property became the 146<sup>th</sup> furthest from the ocean and smallest seaward face in the Community to meet both CAMA and Local setbacks. The relocation also placed the structure 20' landward of the Community Average Seaward Face.

To date, it is the only structure that has been relocated, voluntarily or otherwise. We believe these actions more than meet the spirit and intent of the law. Further action would appear punitive.

**Staff's Position: Yes.**

Staff believes that Petitioners' hardships result from conditions peculiar to their property because of the non-conforming adjacent residence to the west. Staff agrees that Petitioners are being penalized due to the placement of their neighboring house that is situated extremely close to the street while Petitioner's house, which was moved landward in 2000, meets the local front yard setback. It is only because of the peculiar situation of the location of one of their neighbors that Petitioners now faces their hardship.

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

**Petitioners' Position: No.**

By any reasonable measure, our Property, at 2311 Ocean Drive, is an example of a model oceanfront property. One that is well under the Eastern End averages and CAMA intended outcomes to protect property from ocean erosion. Using Data assemblies by the Town as part of its Eastern End Front Yard Setback Analysis and Data found on the Carteret County Tax Records, I offer the following observations (*See* Attachment E for the remainder of Petitioner's position for criteria III., but please note that Staff did not stipulate to the analysis conducted by Petitioner).

**Staff's Position: No.**

Staff agrees with Petitioners their hardship is not due to actions taken by the Petitioners, but due to the extreme landward location of their neighboring residence to the west at 2313 Ocean Drive. Petitioners tried to mitigate their hardship by seeking relief from the Town of Emerald Isle, but were not allowed to encroach further landward than proposed. Petitioners have exhausted all local relief efforts.

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

**Petitioners' Position: Yes.****AEC RULE PURPOSE**

The Management Objective for the Ocean Hazard AEC states that, "the purpose of these Rules shall be to further the goals set out in G.S. 113a 102(b), with particular attention to **minimizing losses to life and property resulting from storms and long term erosion**, preventing encroachment of permanent structures on public beach areas, preserving the natural ecological conditions of the barrier dune and beach systems, and reducing the public costs of inappropriately sited development." Rule 15A NCAC 7H .0303(b).

The founding principal is based on protecting property from ocean erosion and creating a policy requiring the most seaward properties to move landward, creating a more uniform community seaward face. The Rule is clearly focused on creating a management zone between that seaward face and the ocean, to more uniformly manage and protect the public beach, dune structure and ecology.

Moving the most seaward structures landward, accomplishes that regulatory goal.

We believe that applying Rule 15A NCAC 7H .0306(a)(8)(D) to an inappropriately sited development located too close to roads and right-of-ways, is an unintended consequence that runs counter to local jurisdiction and regulatory efforts – and counter to the stated intent of the AEC. To apply the Rule in an area that is regulated by Local Ordinance, impacts a Town's ability to manage the public right-of-way, zoning and public safety as they deem important.

**OBSERVATION**

The CAMA rule accomplishes its objective, when applied to the most seaward facing structures, but does not adequately protect home owners against adjacent inappropriately sited structures that encroach on local setbacks.

This is evident when evaluating the impact on the most seaward properties, verses the much more significant impact the rule has on our Property due to the adjacent inappropriately sited development.

**(2) Secure the public safety and welfare;  
LOCAL PUBLIC SAFETY & WELFARE**

One of the Town's major concerns when re-evaluating their local front yard setback ordinance was the impact it would have on public safety. Properties located too close to the street lack adequate off-street parking. This is clearly the case at 2313, which must extend its paved parking 16' beyond its property line, into the public right-of-way.

By forcing adjacent properties to meet the seaward face of a structure that is inappropriately sited violating local front yard setback requirements, the CRC is at odds with local public safety and welfare efforts and policies.

**(3) Preserve substantial justice?**

When a rule couples an otherwise conforming property to one that inappropriately sited development that violates local setbacks, it establishes an artificially small setback that is inconsistent, unequal and unjust. The more severe the violation, the more punishing is the effect.

This rule imposes such a hardship. We contend that the Rule was intended to bring the most seaward properties closer to the Community Average. A community benefit that also creates a State management zone protecting the public assets.

But when applied to a structure that is among the smallest seaward faces of the approximately 163 Eastern End Properties is forced even further landward, it goes well beyond the spirit or intent that established the Rule. Especially when that property took voluntary actions that moved the structure 30' landward prior to establishment of Rule 15A NCAC 7H .0306(a)(8)(D), and for the purpose the Rule was enacted to create.

If Rule 15A NCAC 7H .0306(a)(8)(D) is to be applied to the most landward structures, then those structures would also meet the minimum local setbacks that were in place at the time of the regulation, or be excluded from the Rule due to their being inappropriately sited development.

**Staff's Position: Yes.**

The spirit, purpose, and intent of Rule 15A NCAC 7H.0306(a) is "to protect life and property." This is the underlying reason for the CRC adopting erosion setback requirements, including the static line requirements in Ocean Hazard AECs. The spirit, purpose, and intent of the "static line exception," as set forth in subsection (8) of that Rule, is to allow property owners to build in previously unbuildable areas, as long as the specified conditions are met, to both protect the aesthetic and environmental value of our state's coastal resources while preventing encroachment of permanent structures on to the public beaches. Staff feels that the intent of this rule was not to prohibit such development as proposed by Petitioners due to a non-conforming neighboring house. Staff believes that Petitioners' proposed addition to their existing home complies with the spirit, purpose, and intent of this rule primarily because the proposed development more than meets the minimum distance setback requirements from the vegetation line. If this variance is granted, Petitioner's proposed additions will still sit well landward of the stable frontal dune, the static vegetation line and the 60-foot Ocean Hazard erosion setback line.

Staff agrees with Petitioners that granting a variance in this instance will also secure public safety and welfare, and preserve substantial justice. Petitioners tried to seek local relief, but the Town of Emerald Isle has already amended its local development regulations reducing the required front yard setback, from a 30-foot setback to a 20-foot setback in 2010, essentially leaving "no room to spare" along the street side. Therefore, public safety and welfare will be maintained in allowing Petitioners to expand their existing footprint vertically and not encroach into the street thoroughfare. Substantial justice will also be preserved because Petitioners' proposed additions will be located landward of most of the neighboring houses in the surrounding area.

# **Attachment D**

Stipulated Exhibits



# APPLICATION FOR CAMA MINOR DEVELOPMENT PERMIT

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

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

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

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

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

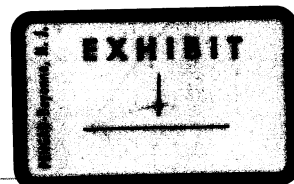
Coastal Resources Commission  
Division of Coastal Management

APPLICATION: Gardner, Kenneth

LOCALITY: 2311 Ocean Dr

PERMIT ISSUED USING  
STATIC LINE EXCEPTION?  
YES  NO

11-66





Locality Town of Emerald Isle Permit Number 11-66

Ocean Hazard  Estuarine Shoreline \_\_\_\_\_ ORW Shoreline \_\_\_\_\_ Public Trust Shoreline \_\_\_\_\_ Other \_\_\_\_\_

(For official use only)

**GENERAL INFORMATION**

**LAND OWNER**

Name Kenneth M. & Mariah B. Gardner

Address 5417 Hunter Hollow Drive

City Raleigh State NC Zip 27606 Phone 919 859-6929

Email isoscelesdesign@earthlink.net

**AUTHORIZED AGENT**

Name Kenneth M & Mariah B. Gardner

Address (same as above)

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

Email \_\_\_\_\_

**LOCATION OF PROJECT:** (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 2311 OCEAN DR., EMERALD ISLE, NC

**DESCRIPTION OF PROJECT:** (List all proposed construction and land disturbance.) Home Addition

**SIZE OF LOT/PARCEL:** 11,250 square feet .258 acres

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

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

(1) **OCEAN HAZARD AECs: TOTAL FLOOR AREA OF PROPOSED STRUCTURE:** 810 square feet (includes air conditioned living space, parking elevated above ground level, non-conditioned space elevated above ground level but excluding non-load-bearing attic space)  
~~5418~~ TOTAL  
2500

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

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

YES \_\_\_\_\_ NO

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

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

**STATEMENT OF OWNERSHIP:**

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

an owner or record title, Title is vested in Kenneth M & Marian B. Gardner, see Deed Book 929 page 54 in the Carteret County Registry of Deeds.

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

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

**NOTIFICATION OF ADJACENT PROPERTY OWNERS:**

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

- | (Name)                                 | (Address)  |
|--|--|
| (1) <u>Charles Potts</u>               | <u>4901 Green Breeze Lane, Fuquay-Varina, NC 27526</u> |
| (2) <u>Don McCormick, DM Trust LLC</u> | <u>2604 Emerald Drive, NC, 28594</u>                   |
| (3) _____                              | _____  |
| (4) _____                              | _____  |

**ACKNOWLEDGEMENTS:**

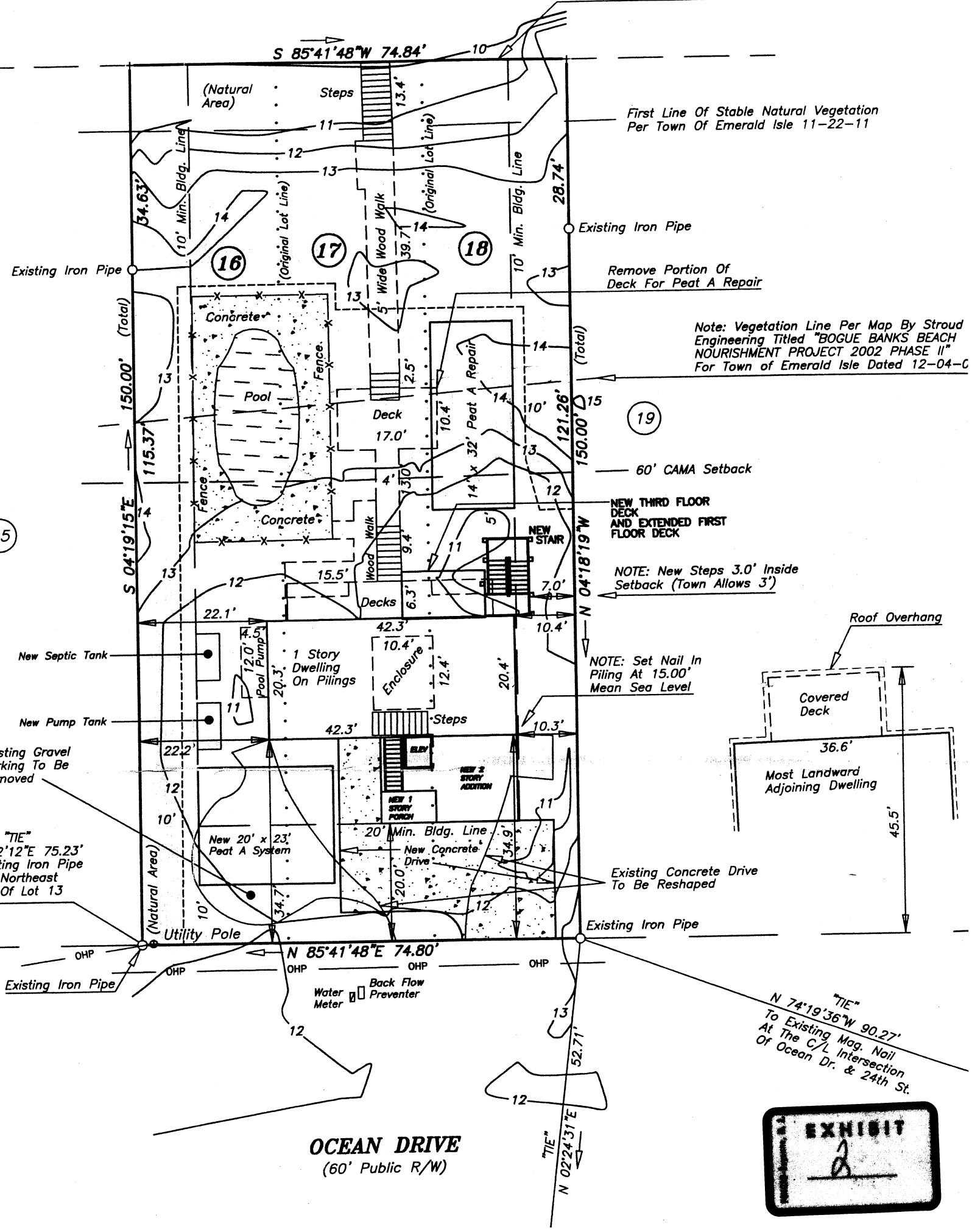
I, the undersigned, acknowledge that the land owner is aware that the proposed development is planned for an area which may be susceptible to erosion and/or flooding. I acknowledge that the Local Permit Officer has explained to me the particular hazard problems associated with this lot. This explanation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

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

This the 8<sup>th</sup> day of Dec, 2011

Kenneth M Gardner  
Landowner or person authorized to act as his/her agent for purpose of filing a CAMA permit application

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



S 85°41'48"W 74.84'

First Line Of Stable Natural Vegetation  
Per Town Of Emerald Isle 11-22-11

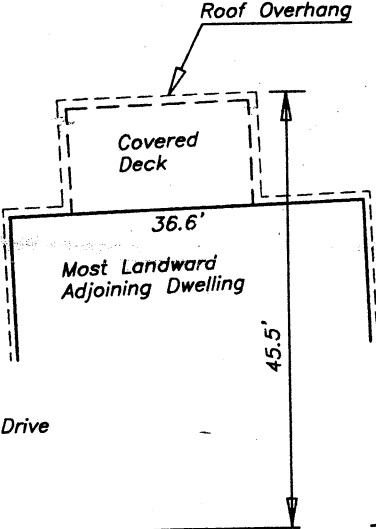
Note: Vegetation Line Per Map By Stroud  
Engineering Titled "BOGUE BANKS BEACH  
NOURISHMENT PROJECT 2002 PHASE II"  
For Town of Emerald Isle Dated 12-04-0

60' CAMA Setback

NEW THIRD FLOOR  
DECK  
AND EXTENDED FIRST  
FLOOR DECK  
  
NOTE: New Steps 3.0' Inside  
Setback (Town Allows 3')

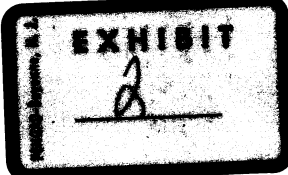
NOTE: Set Nail In  
Piling At 15.00'  
Mean Sea Level

Existing Concrete Drive  
To Be Reshaped



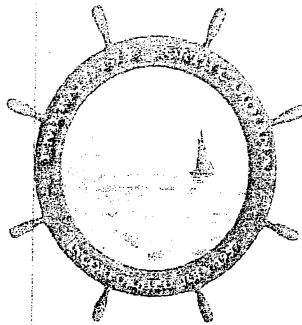
**OCEAN DRIVE**  
(60' Public R/W)

"TIE"  
N 74°19'36"W 90.27'  
To Existing Mag. Nail  
At The C/L Intersection  
Of Ocean Dr. & 24th St.



# Town of Emerald Isle

Department of Planning and  
Inspections  
Kevin B. Reed, AICP, Director  
[kreed@emeraldisle-nc.org](mailto:kreed@emeraldisle-nc.org)



7500 Emerald Drive  
Emerald Isle, NC 28594  
Voice 252-354-3338  
Fax 252-354-5387

December 20, 2011

Mr. Kenneth M. & Mariah B. Gardner  
5417 Hunter Hollow Drive  
Raleigh, NC 27606

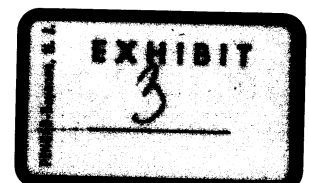
RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT  
APPLICATION NUMBER 2011-66  
PROJECT ADDRESS - 2311 OCEAN DRIVE, EMERALD ISLE, NC 28594

Dear Mr. and Mrs. Gardner:

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

This decision is based on my findings that your request violates NCGS 113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines and Local Land Use Plans. You have applied for a MINOR CAMA PERMIT #2011-66 with the proposed development of an addition to an existing single family dwelling with a total floor area (after the addition) of 2,500 square feet to be located seaward of the most landward adjacent building which is inconsistent with 15 NCAC 7H .0306 (a)(8)(D), which states that: "No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine and ocean hazard setback that is landward of the vegetation line, a distant no less than 30 times the shoreline erosion rate of 60 feet, whichever is greater."

Should you wish to appeal my decision to the Coastal Resource Commission or request a variance from that group, please contact me so I can provide you with the proper forms and any other information you may require. The Division of Coastal Management central office in



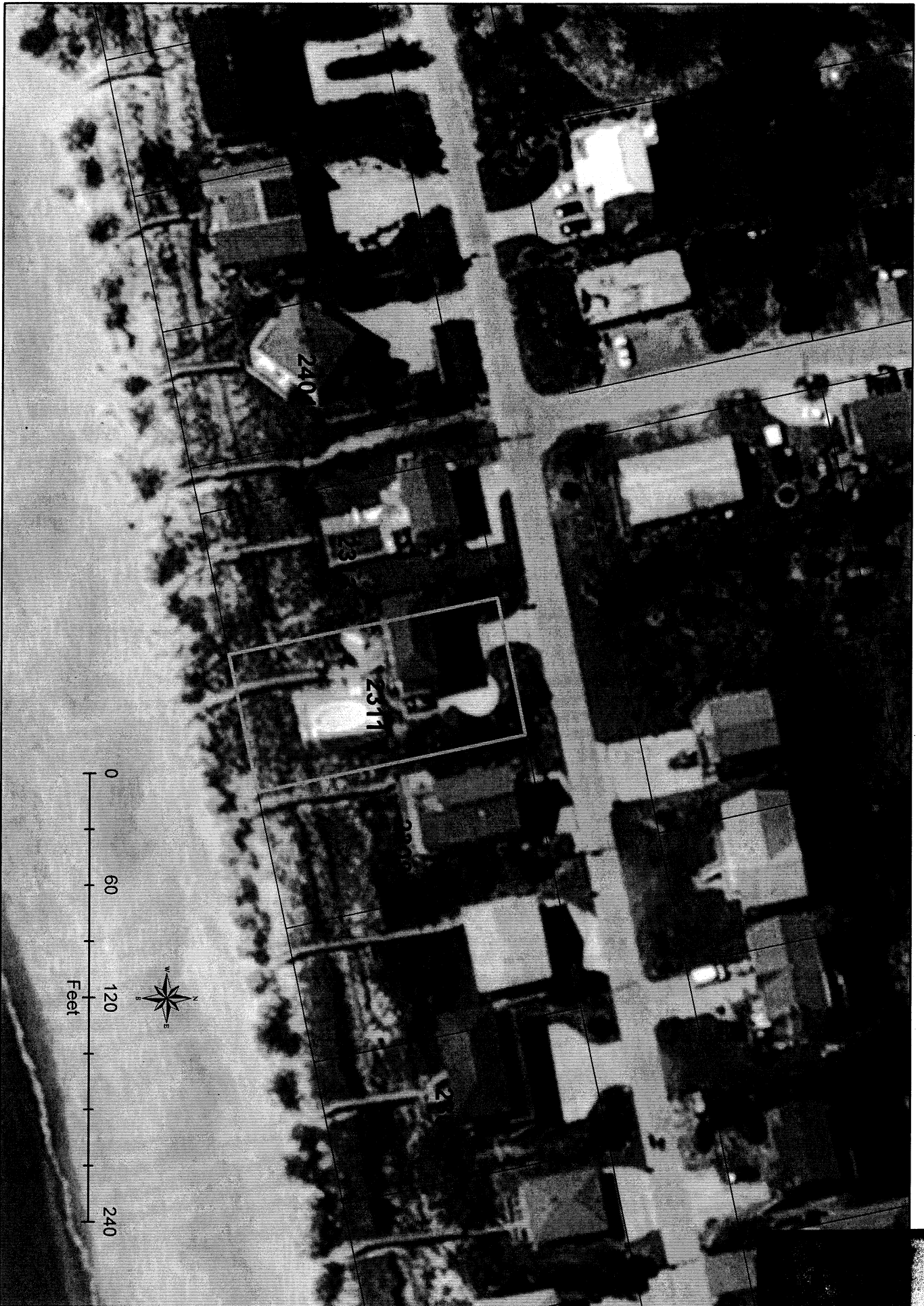
Morehead City must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours,



James W. Taylor, Jr., LPO  
Town of Emerald Isle  
7500 Emerald Dr  
Emerald Isle, NC 28594

cc: Barry Guthrie, DCM



2407

2311

2317

0  
60  
120  
240  
Feet



# CAMA MINOR DEVELOPMENT PERMIT



as authorized by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission for development in an area of environmental concern pursuant to Section 113A-118 of the General Statutes, "Coastal Area Management."

Issued to W.M. NANNAN, authorizing development in Town of Emerald Isle at 2311 Ocean Dr Bldg 12 Lot B-18 as requested in the permittee's application, dated Feb 29

This permit, issued on March 15, 2000, is subject to compliance with the application and site drawing (where consistent with the permit), all applicable regulations and special conditions and notes set forth below. Any violation of these terms may subject permittee to a fine, imprisonment or civil action, or may cause the permit to be null and void.

**If your project I in the Ocean Hazard AEC:**

- 1) The permittee is required to contact Local Permit Officer shortly before he plans to begin construction to arrange a setback measurement which will be effective for sixty (60) days barring a major shoreline change. Construction must begin within sixty (60) days of the determination or the measurement is void and must be redone.
- 2) Any structure within the Ocean Hazard AEC shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration. The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However if natural shoreline recovery or beach Renourishment takes place within two years of the time the structure becomes imminently threatened so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under the Coastal Resources Commission Rules.
- 3) In order to avoid unreasonable danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a 100 year storm. Cantilevered decks and walkways shall meet this standard or shall be designed to break-away without structural damage to the main structure. Any building constructed within the ocean hazard area shall comply with the North Carolina Building Code including the Coastal and Flood Plain Construction Standards, Chapter 34, Volume I or Section 39, Volume 1-B and the local flood damage prevention ordinance as required by the National Flood Insurance Program. If any provisions of the building code or a flood damage prevention ordinance is inconsistent with any of the AEC standards, the more restrictive provision shall control.
- 4) The structure must be set back 60 feet from the first line of stable, natural vegetation.
- 5) The structure must be located entirely off the frontal dune, and, if a primary dune is present, behind the crest of the primary dune.
- 6) The structure must be elevated on pilings with a diameter of at least eight (8) inches and the first floor level of the sills and joists must meet the minimal 100 year flood as required by FIRM Community Panel 370047-000 4 D.
- 7) All pilings shall have a tip penetration of at least five (5) feet below mean sea level, or sixteen (16) feet below average original grade, whichever is least; if located on a primary dune, the tip penetration must be at least five (5) feet below mean sea level.
- 8) No impermeable surfaces shall be allowed over any functional part of the septic tank system.
- 9) Dune disturbances will be allowed only to the extent necessary for development, and if the dune's protective value is not weakened or reduced. Disturbed areas will be immediately stabilized.
- 10) This permit may be renewed for one year, if requested before the expiration date.
- 11) **Sand used to strengthen dunes must be brought in from an outside source and must be of the same nature as the sand in the area in which it is to be placed. NO SAND IS TO BE REMOVED FROM THE LOT.**
- 12) Sand held in storage in any dune other than frontal or primary dunes may be moved laterally in order to strengthen existing primary or frontal dunes if the work would enhance the protection to the proposed development activity and the sand is immediately stabilized.

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. From the date of an appeal, any work conducted under this permit must cease until the appeal is resolved.

This permit must be on the project site and accessible to the permit officer when the project is inspected for compliance.

Any maintenance work or project modifications not covered under this permit requires further written permit approval.

All work must cease when this permit expires on December 31, 2003

In issuing this permit it is agreed that this project is consistent with the local Land Use Plan and all applicable ordinances.

This permit may not be transferred to another party without the written approval of the Division of Coastal Management.

Coral Angus  
Local Permit Officer (signature)

TOWN OF EMERALD ISLE

7500 EMERALD DRIVE

name

EMERALD ISLE, NC 28594

address

(signature required if special conditions above)



**ACCESS OVER THE DUNE AS A PART OF MINOR PERMIT:**

1. Accessways shall be exclusively for pedestrian use, shall be no more than six(6) feet wide, and shall be elevated on pilings of no more than five (5) feet in depth so that only the pilings touch the sand.
2. Only negligible alteration of dunes is allowed during construction and any ~~disturbed~~ areas of vegetation shall be revegated immediately.
3. unenclosed, uninhabitable gazebos with floor areas of 200 square feet ~~or less, are permitted.~~



Locality

Permit Number

00-465

**GENERAL INFORMATION**

**LAND OWNER**

Name William C Hannah

Address 4611 North 19th Street

City Arlington

State VA

Zip 22207

Phone (703)527-2580

**AUTHORIZED AGENT**

Name Jordan Building Co (C M Jordan)

Address 8754 Reed Dr, 13A

City Emerald Isle

State N C

Zip 28594

Phone (252)354-4400

**LOCATION OF PROJECT** 2311 Ocean Drive, Emerald Isle, N C 28594

lots 16-18 Blk 12

(If not oceanfront, is waterbody natural or manmade?) \_\_\_\_\_

**DESCRIPTION OF PROJECT** Move existing structure approximately 40' toward Ocean Drive

**AREAS OF ENVIRONMENTAL CONCERN (AEC) CLASSIFICATION**

(To be filled in by the Local Permit Officer prior to completing application.)

Ocean Hazard  Estuarine Shoreline  ORW Shoreline  Other

**PROPOSED USE**

Residential  Commercial/Industrial  Other \_\_\_\_\_

**SQUARE FOOTAGE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT-UPON SURFACES** (such as driveways, etc.) within 75 feet of the shoreline (575 feet of an ORW shoreline) Structure & Driveway-1,750 Sq Ft

**SQUARE FOOTAGE OF TOTAL FLOOR AREA OF BUILDING** 1,680 Sq Ft

**SQUARE FOOTAGE OF SITE** 11,250 Sq Ft

**OTHER PERMITS MAY BE REQUIRED:**

The activity you are planning may require permits other than the CAMA minor development permit. As a service we have compiled a listing of the kinds of permits that might be required. We suggest you check over the list with your LPO to determine if any of these apply to your project.

Zoning, Drinking Water Well, Septic Tank (or other sanitary waste treatment system), Burning, Electrical, Plumbing, Heating and Air Conditioning, Insulation and Energy Conservation, FIA Certification, Sand Dune, Sediment Control, Subdivision Approval, Mobile Home Park Approval, Highway Connection, and others.

APPLICANT: WILLIAM HANNAH

LOCALITY: DELL CREEK

00-1700

**STATEMENT OF OWNERSHIP**

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

X an owner or record title, Title is vested in William C Hannah, see Deed Book 672, page 246 in the Carteret County Registry of Deeds.

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

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

**NOTIFICATION OF ADJACENT PROPERTY OWNERS**

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

(Name)	(Address)
1) Daniel J McCormick	2504 Emerald Drive, Emerald Isle, N C 28594
2) Drew Haney	203 A Green Oak Dr, High Point, N C 27263
3) _____	_____
4) _____	_____

**FOR DEVELOPERS IN OCEAN HAZARD AND ESTUARINE HAZARD AREAS:**

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

**PERMISSION TO ENTER ON LAND**

furthermore certify that I am authorized to grant and do in fact grant permission to the local permit officer and his agents to enter on the aforementioned lands in connection with evaluating information related to this permit application.

This application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the AEC hazard notice where necessary, a check for \$50.00 made payable to the locality, and any information as may be provided orally by the applicant. The details of the application as described by these sources are incorporated without reference in any permit which may be issued. Deviation from these details will constitute a violation of any permit. Any person developing in an AEC without a permit is subject to civil, criminal and administrative action.

This is the 1st day of March ~~19~~ 2000

CMC  
Land owner or person authorized to act as his agent for purposes of filing a CAMA permit application.

TOWN OF EMERALD ISLE  
7500 EMERALD DRIVE  
EMERALD ISLE, NC 28594

DATE: February 29, 2000  
TO: Patti Lyerly, Classified  
FROM: Carol Angus, Inspections  
SUBJECT: CAMA Permit Notification

\*\*\*\*\*

Please publish on Friday, March 03, 2000

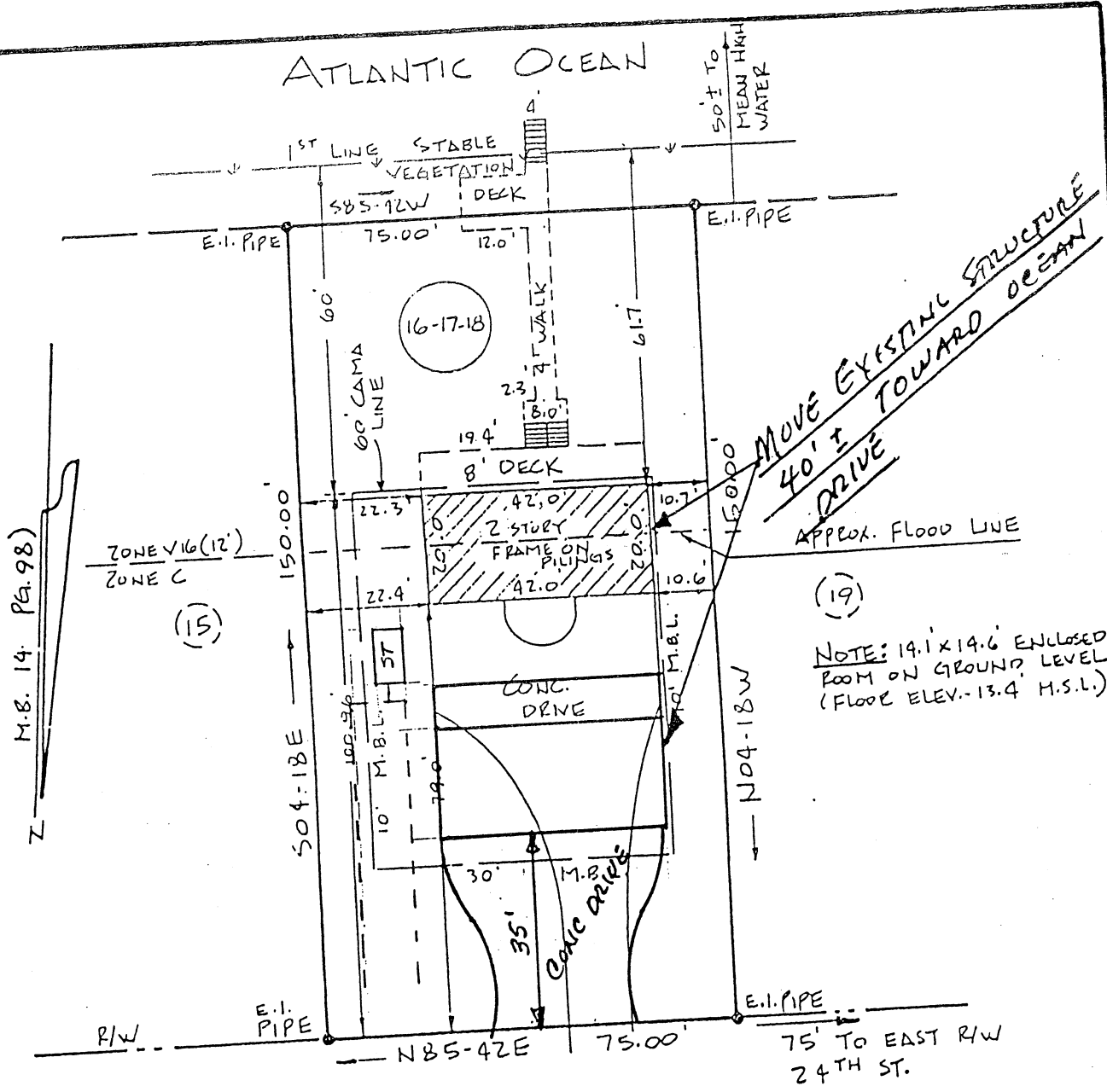
CAMA Permit Notice

Pursuant to NCGS 113A-119(b), Emerald Isle, a locality authorized to issue permits in Areas of Environmental Concern, through the Coastal Area Management Agency, hereby gives NOTICE that on February 29, 2000, William C. Hannah, applied for a Minor CAMA permit to move an existing residence 40' northward of the present location at 2311 Ocean Drive, Block 16-18, Block 12, Emerald Isle, NC

The application may be inspected at the address below. Public comments received by March 15, 2000 will be considered. Later comments will be accepted and considered up to the time of permit decision. Project modifications may occur based on further review and comments. Notice of the permit decision in this matter will be issued upon written request.

Carol Angus  
Local CAMA Permit Officer  
Town of Emerald Isle  
7500 Emerald Drive  
Emerald Isle, NC 28594

# ATLANTIC OCEAN



OCEAN DR.  
(60' R/W)

Note: Pilings to be 8x8x24' driven as close to 16' below grade as possible.  
#2 TSYP .80

REFERENCE:  
LOTS 16-17-18 BLK. 12 "EMERALD ISLE BY THE SEA" M.B. 3 Pg. 61 CARTERET CO. REG.

SURVEY FOR  
WILLIAM C. HANNAH

# **Attachment E**

Petitioners' Variance Request Petition and Attachments

**CAMA VARIANCE REQUEST FORM**

**DCM FORM 11**

**DCM FILE No.:** \_\_\_\_\_

**PETITIONER'S NAME**      **KENNETH M. & MARIAN B. GARDNER**

**COUNTY WHERE THE DEVELOPMENT IS PROPOSED**      **CARTERET**

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

**VARIANCE HEARING PROCEDURES**

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

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

**VARIANCE CRITERIA**

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

- (a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.
- (b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.
- (c) Do the hardships result from actions taken by the petitioner? Explain.
- (d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

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

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

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

**SECTION**

- A** The name and location of the development as identified on the permit application;
- B** A copy of the permit decision for the development in question;
- C** A copy of the deed to the property on which the proposed development would be located;
- D** A complete description of the proposed development including a site plan;
- E** A stipulation that the proposed development is inconsistent with the rule at issue;
- F** Proof that notice was sent to adjacent owners and objectors, as required by 15A N.C.A.C. 07J .0701(c)(7);
- G** Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- H** Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- I** A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.
  
- X** This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

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



Signature of Petitioner

12.23.2011

Date

**KENNETH M. GARDNER**

Printed Name of Petitioner



Signature of Petitioner

12/23/2011

Date

**MARIAN B. GARDNER**

Printed Name of Petitioner

**isoscelesdesign@earthlink.net**

Email address of Petitioner or Attorney

**5417 HUNTER HOLLOW DRIVE**

Mailing Address

**( 919 ) 859-6929**

Telephone Number of Petitioner or Attorney

**RALEIGH**

City

**NC**

State

**27606**

Zip

**( 919 ) 859-5929**

Fax Number of Petitioner or Attorney



**DELIVERY OF THIS HEARING REQUEST**

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

**Contact Information for DCM:**

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

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

**By Fax:**  
(252) 247-3330

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

**Contact Information for Attorney General's Office:**

**By mail:**

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

**By express mail:**

Environmental Division  
114 W. Edenton Street  
Raleigh, NC 27603

**By Fax:**  
(919) 716-6767

Revised: February 2011

**SECTION A**  
Permit Information

***Denied Permit Information:***

Emerald Isle Permit ID: 2011-66  
Development Name: N.A.  
Location: 2311 Ocean Drive  
Emerald Isle, NC  
Carteret P.I.D.: R 6314.15.53.7457000  
Lot: 16,17, 18  
Block: 12  
Emerald Isle By-The-Sea: Map Book: 3, Page 61  
Carteret Co. Registry

***Petitioner Information:***

Name: Kenneth M. & Marian B. Gardner  
Address: 5417 Hunter Hollow Drive  
Raleigh, NC 27606  
Phone Number: (919) 859-6929  
Attorney: N.A.

**SECTION B**  
Copy of the Permit Decision

---

*Refer To:*

***Attachment 1***

*Denial Letter  
Mr. James Taylor, Jr., LPO, Town of Emerald Isle*

*Dated: Dec. 20, 2011*

**SECTION C**  
Copy of the Property Deed

---

*Refer To:*

***Attachment 2***

*2311 Ocean Drive Deed  
From Hannah To Gardner*

*Dated: Jan. 16, 2002*

**SECTION D**  
Description & Site Plan

We would like to construct an addition to our existing structure. The work would generally include:

1. An addition that builds landward and over the existing structure (new 3<sup>rd</sup> floor).
2. New entry, bedrooms and bathrooms.
3. An elevator.
4. New interior stairs.
5. Covering of oceanfront deck.
6. An exterior 3-story egress stair.
7. New septic system.
8. Rework Driveway.

---

*Refer To:*

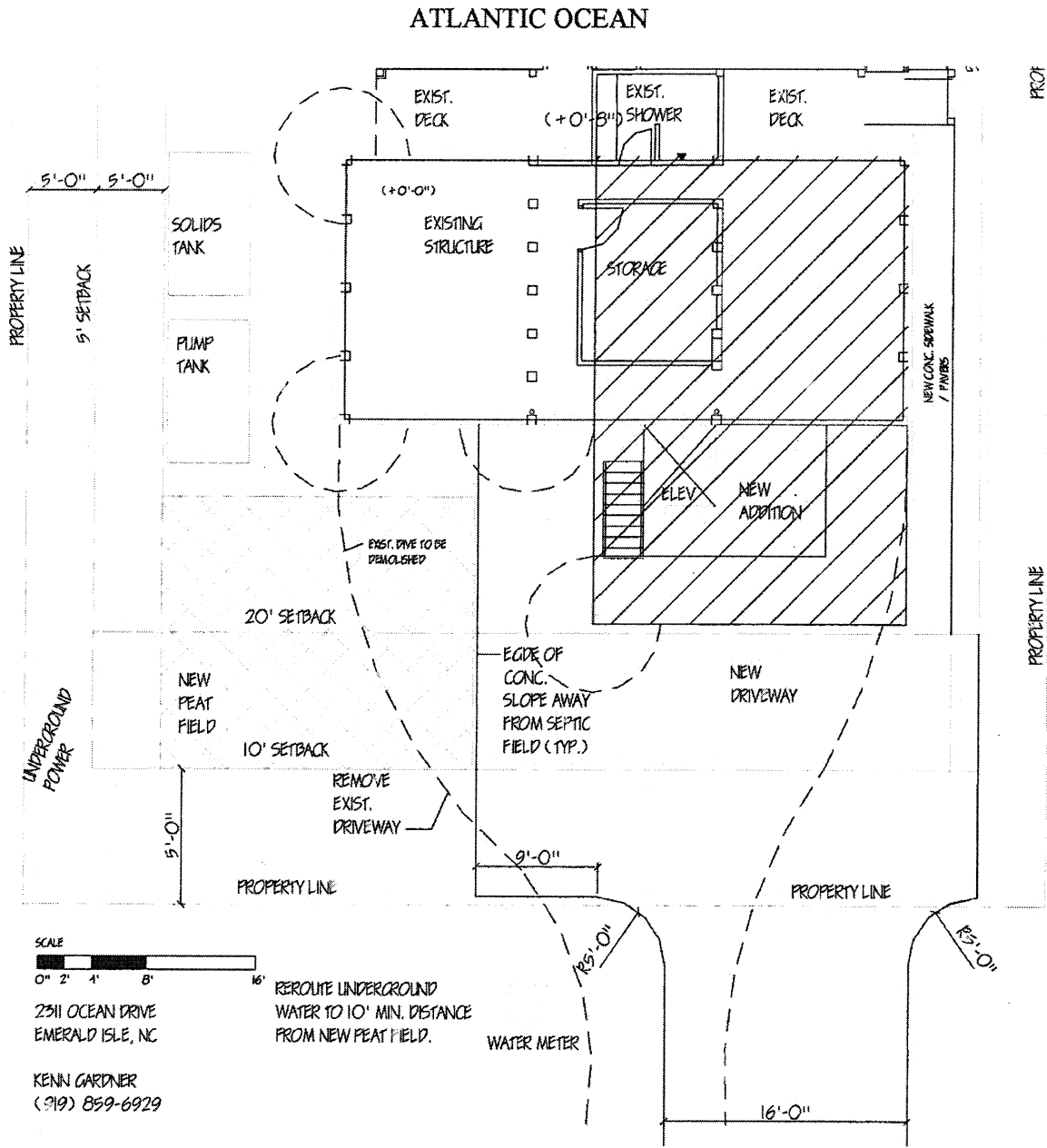
***Attachment 3***

*Survey, Prepared by Bell & Phillips*

*Dated: Nov. 22, 2011*

The site is of the proposed Addition is bound on all sides: a 20' front yard setback (North); a 10' side yard setback (west); a 10' proposed septic field setback (East); and by the existing structure (North).

**PARTIAL SITE PLAN**



2311 OCEAN DRIVE

**SECTION E**  
Inconsistent Stipulation

I acknowledge that this variance request is inconsistent with strict adherence to the Rules I am seeking relief from.

**SECTION F**  
Adjacent Owners and Objectors

---

*Refer To:*

***Attachment 4***

DM Trust LLC  
2604 Emerald Drive  
Emerald Isle, NC 28594

Dated Nov. 22, 2011

***Attachment 5***

Charles Potts  
4901 Green Breeze Lane  
Fuquay-Varina, NC 27526

Dated Nov. 22, 2011

Persons who submitted written comments to:

Local Permit Officer:

Mr. Jim Taylor  
Senior Local Permit Officer  
Town of Emerald Isle  
7500 Emerald Drive  
Emerald Isle, North Carolina 28594

At the time of this application, we are unaware of any objections or comments having been received.

## SECTION G

Proof that a variance was sought from the local government.

### TOWN SETBACK ASSESSMENT

In 2010, the Town, in an effort to provide relief to some of the properties not meeting the Front yard setback requirements, reviewed all 163 properties. After a thorough analysis, they determined that the front yard set back could be reduced to 20' while maintaining the health, safety and welfare of the community. This provided relief for over 50 properties and identified 13 inappropriately sited, violating structures. Any further reduction of the front yard setback would create local public safety concerns.

Mr. Reed, Emerald Isle Planning Director, stated in an email Dec. 13, 2011 to Mr. Gardner, "When the Board of Commissioners reduced the front yard setback from 30-feet to 20-feet, as part of the Eastern End Overlay Zoning District it was their desire to assist as many property owners as possible who might seek a Static Line Exception. Due to septic and off-site parking requirements, I do not see any further reduction in the front setback to be likely."

---

*Refer To:*

**Attachment 6**      Letter, Minor CAMA Permit 2011-66      Dated Nov. 22, 2011  
Letter, Mr. Kevin Reed, Director of Planning and Inspections

### CARTERET COUNTY SEPTIC

As part of the septic application process with Carteret County Environmental Health, we became aware that our existing septic tank was located too close to the swimming pool. By granting our request, we have worked with Carteret County to replace the existing system with one that meets their regulations. The initial review by Carteret approved a 7-bedroom system that did not require a variance.

We have requested only a 6-Bedroom septic, which will meet our family needs.

A septic variance is not required to build the addition over the existing structure as proposed, but would be required if the building footprint grew and/or if the existing structure were required to move landward again. By granting our request, our existing system will be replaced with one meeting Carteret County's regulations.

---

*Refer To:*

**Attachment 7**      Carteret County 7-Bedroom      Dated: Nov. 16, 2011  
Preliminary Septic Approval  
Email between Amy Guthrie and Kenn Gardner

**Attachment 8**      Carteret County 6-Bedroom Septic Approval      Dated Nov. 17, 2011

## SECTION H

### Petitioner's Reasons and Arguments

#### KEY

Petitioner:	Kenneth M. & Marian B. Gardner
Property:	2311 Ocean Drive in Emerald Isle.
Eastern End:	Refers to ocean front structures located between 11 and 2413 Ocean Drive.
Community:	22 lots located 2011 to 2411 Ocean Drive. Representing 1650 linear feet. (approximately 1/3 mile)
Violating Structures:	Refers to structures not meeting the Front Yard Setback Minimum.
Rule:	Rule 15A NCAC 7H .0306(a)(8)(D).
FLSV	First Line of Static Vegetation

#### INTRODUCTION

In 2002, Kenneth & Marian Gardner purchased an oceanfront home at 2311 Ocean Drive in Emerald Isle, a Community of approximately 163 structures. The structure had been recently moved landward approximately, 30' to a new 8x8 pile foundation. It met all local setbacks and was among the most landward structures on the island.

#### ARGUMENT

The Basis of our request is that when originally built, our structure had one of the most seaward faces (85') and would have been one of the structures Rule 15A NCAC 7H .0306(a)(8)(D) was attempting to relocate landward. But our structure was voluntarily moved more than 30' landward prior to the adoption of the Rule to become one of the most landward structures in the Eastern End that also meets all local setbacks.

We are sandwiched between four structures that do not meet local setbacks and as such, create an artificially restrictive seaward face. These are four neighboring properties that were constructed prior to 1974, prior to State and Local rules requiring structures to be elevated on piers and prior to a 30' front yard setback requirement. The oldest is located at 2303 Ocean Dr., built in 1916. Our two immediate neighboring properties were built in the 1950's. All four structures are constructed on grade, represent the four closest to the road, with front yard setbacks between 5' and 8' and rely on the Public Right-Of-Way to accommodate all of their parking needs.

Of the 17 structures located between 2111 – 2411 Ocean Drive and meeting the front yard setback requirement, our structure is the most landward.

## OUR REQUEST

Given that our structure:

1. Has already moved more than 30' landward,
2. Is well below the Eastern End (11-2413 Ocean Dr.) Average Seaward Face (71'),
3. Is well below the Community (2111-2411 Ocean Dr.) Average Seaward Face (84'), and
4. Is surrounded by the four most severe violators of the local front yard setback.

Our request is:

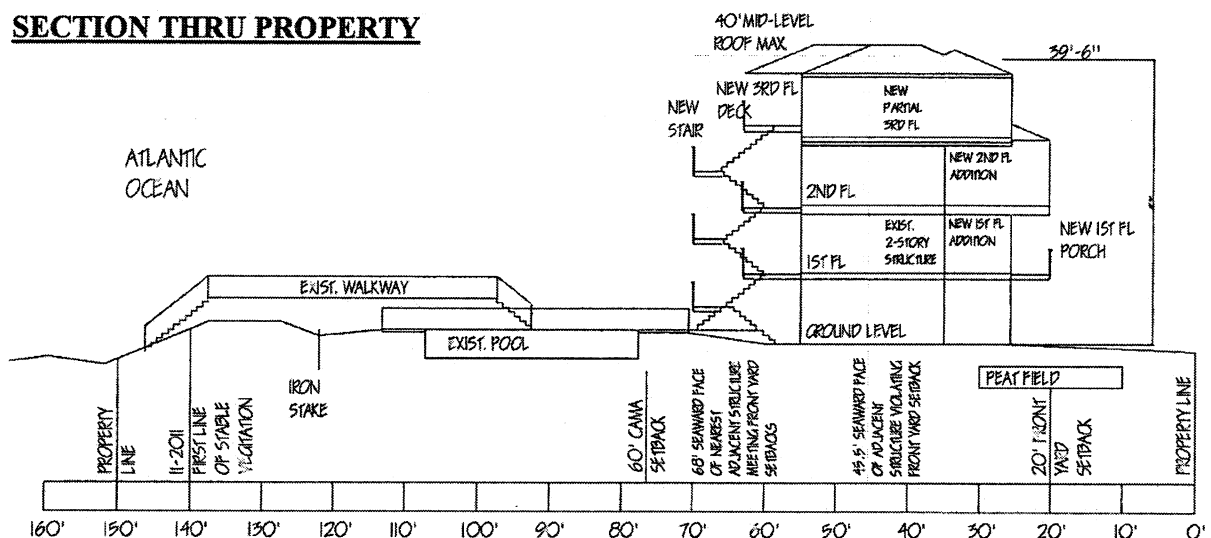
1. To exclude our four neighbors, 2303, 2307, 2309 and 2313 Ocean Dr. as being inappropriately sited development, due to their severe violation of local front yard setbacks.
2. To apply Rule 15A NCAC 7H .0306(a)(8)(D) to our nearest immediate neighbors who do not violate the Town Front Yard Setback requirements. This would be:
  - 2401: 85' Seaward Face
  - 2305: 68' Seaward Face

The structure at 2305 Ocean Dr., would govern our Seaward Face. Excluding our structure at 2311 Ocean Drive and those structures that violate the 20' front yard setback, 2305 Ocean Drive has the smallest seaward face between 2111-2411 Ocean Drive. This is well below the community average seaward face of 84.5' (93' excluding violating structures).

## THE RESULT

By granting this request, our structure becomes conforming with Rule 15A NCAC 7H .0306(a)(8)(D) and therefore does not trigger Rule 15A NCAC 7H .0306(a)(6). We can build an Addition over our existing home and construct a covered porch. We would meet all CAMA, Septic and Local setbacks without need of any additional variances.

## SECTION THRU PROPERTY





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

**Yes.**

We would like to expand our home to accommodate a growing family and see it as an opportunity to correct some current and future problems.

The Addition addresses a number of concerns. Our Entry is currently hidden from street view, making vandalism and illegal entry a real concern. In 2005 our home was broken into. We stumbled upon the burglary in progress. We called the police and held the individuals until they arrived. This addition would rework our stairs and entry to provide a clear and visible view from the street.

We currently have 80 year old parents that are having difficulty enjoying the house due to access issues. As we grow older we realize we will have many of the same issues and an elevator will enhance the accessibility and enjoyment for our family.

As part of the Addition we seek the opportunity to resolve one of the biggest maintenance issues of the property. We have experienced wind driven rain damage due to a number of storms. By covering our deck as most of our neighbors have done, would help minimize or avoid the damage we have had. With a south facing structure, a covered deck would also provide shading that would lower our utility costs.

By using the existing structure to expand vertically, allowing us to minimize the building footprint and the building impervious surface. Through careful siting of the Addition, we are able to comply with all Town setbacks without need of a variance and maintain our off-street parking.

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

Yes.

Of the approximately 163 Emerald Isle structures located between 11 through 2413 Ocean Drive, our property would appear to be a model for the community, one that is well below the community average seaward face and building footprint. By any analysis, it is not a property that would be a natural intended target of local or CAMA regulations, except when tied to adjacent properties violating local setbacks, as required by Rule 15A NCAC 7H .0306(a)(8)(D).

**ORIGINAL SEAWARD FACE**

When constructed in 1991, our structure was in line with other structures built in the 2111-2411 Ocean Drive Community during the period. As originally located, our structure had a seaward face of 85' and was among the 20 most seaward properties in the Eastern Region. It was certainly a property that was among the most at risk from ocean erosion and would have been a natural target of the Rule.

In 2001 the home was voluntarily relocated landward over 30' to its present location. In so doing, it met all CAMA and local setbacks in effect at the time.

With one of the narrowest building depths, our Property became the 146<sup>th</sup> furthest from the ocean and smallest seaward face in the Community to meet both CAMA and Local setbacks. The relocation also placed the structure 20' landward of the Community Average Seaward Face.

To date, it is the only structure that has been relocated, voluntarily or otherwise. We believe these actions more than meet the spirit and intent of the law. Further action would appear punitive.

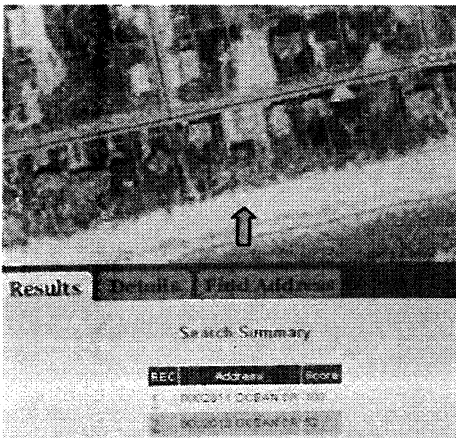


PHOTO NO. 1:  
Emerald Isle Web Site Aerial Photo highlighting location prior to 2001.

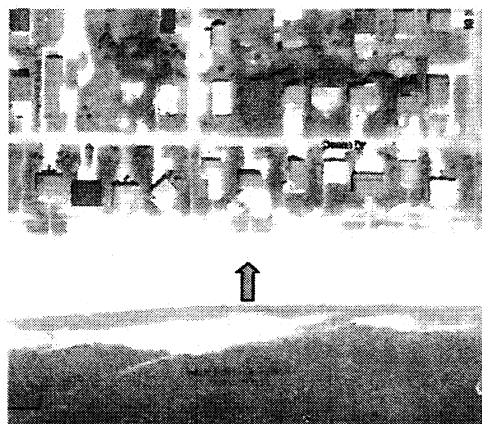


PHOTO NO. 2:  
Google Earth, 2011.

**2111 – 2411 COMMUNITY ANALYSIS**

1650 Lin. Ft. – 1/3 mile.

		Year Built	Front Yard Setback	Seaward Face	Covered Porch	
2411	Ocean Drive	1983	42'	76'	Yes	
2409	Ocean Drive	Vacant			-	
2407	Ocean Drive	1982	40'	72'	N	Duplex
2405	Ocean Drive	1984	57'	94'	Yes	
2403	Ocean Drive	1984	58'	104'	Yes	
2401	Ocean Drive	1982	41'	87'	Yes	
2313	Ocean Drive	1958	8' (4)*	45'	Yes	
<b>2311</b>	<b>Ocean Drive (Original Location)</b>	<b>1991</b>	<b>65'</b>	<b>85'</b>		
<b>2311</b>	<b>Ocean Drive (Current Location)</b>		<b>34'</b>	<b>54'</b>	N	
2309	Ocean Drive	1954	6' (2)*	58'	Yes	
2307	Ocean Drive	1974	7' (3)*	45'	Yes	
2305	Ocean Drive	1986	30'	68'	Yes	
2303	Ocean Drive	1916	5' (1)*	41'	N	Oldest
2301	Ocean Drive	1991	38'	74'	Yes	
2213	Ocean Drive	1978	42'	77'	Yes	
2211	Ocean Drive	1978	39'	87'	Yes	
2209	Ocean Drive	1978	59'	99'	N	
2207	Ocean Drive	1979	73'	109'	Yes	
2205	Ocean Drive	1979	74'	114'	N	
2203	Ocean Drive	1988	71'	107'	N	
2201	Ocean Drive	1979	81'	126'	Yes	
2113	Ocean Drive	1985	87'	121'	Yes	
2111	Ocean Drive	1979	83'	117'	Yes	

\* Four Smallest Front Yard Setbacks in Eastern End (163 structures).

87.4' Average Seaward Face

93.3' Average Seaward Face, excluding 4 properties violating Front Yard Setback.

**FACTS:**

1. Our property was originally constructed with a Seaward Face of approximately 85'.
2. Our house is the only Emerald Isle structure that has *already* been moved landward once. The move was completed in 2001 and meet all local setback requirements.
3. It was relocated well below the community seaward face average in 2001. (Community Seaward Face Ave.: 87' vs. 2311: 54')
4. Our Property became, and remains, the structure with the smallest Seaward Face of any structure meeting the 30' front yard setback regulations in effect until revised in 2011.

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

No.

By any reasonable measure, our Property, at 2311 Ocean Drive, is an example of a model oceanfront property. One that is well under the Eastern End averages and CAMA intended outcomes to protect property from ocean erosion. Using Data assemblies by the Town as part of its Eastern End Front Yard Setback Analysis and Data found on the Carteret County Tax Records, I offer the following observations.

**11 – 2413 Ocean Drive GENERAL STATISTICS SUMMARY**  
For the 163 properties located in the Eastern End of Emerald Isle

**BUILDING DEPTH**

Smallest:	18'		
Eastern Region Average:	33'		
Largest:	52'		
<b>2311:</b>	<b>20'</b>	<b>2<sup>nd</sup> Smallest</b>	

**FRONT SETBACK**

Four Smallest:	5' (2303), 6' (2309), 7' (2307), 8' (2313)
Eastern Region Average:	34.8'
Largest:	87' (2113)
<b>2311:</b>	<b>34.9'</b>

**SEAWARD FACE FROM PROPERTY LINE**

Smallest:	41' (2313)		
11-2413 Average:	71'		
Largest:	126' (2201)		
<b>2311: Current:</b>	<b>54'</b>	<b>19<sup>th</sup> Smallest</b>	<b>(Bottom 11%)</b>
w/ Covered Deck	60'	<b>36<sup>th</sup> Smallest</b>	<b>(Bottom 23%)</b>

**BUILDING FOOTPRINT**

Smallest:	716		
Eastern Region Average:	1356		
Largest:	3100		
<b>2311:</b>	<b>840</b>	<b>8<sup>th</sup> Smallest</b>	<b>(Bottom 5%)</b>
w/ Addition Variance:	1110	<b>48<sup>th</sup> Smallest</b>	<b>(Bottom 29%)</b>

*Refer To:*

**Attachment 9**      11 – 2413 Eastern End Seaward Face Analysis

**Attachment 10**    11 – 2413 Eastern End Building Footprint Analysis

*(d) Will variance requested by the petitioner:*

*(1) Be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission*

Yes.

**AEC RULE PURPOSE**

The Management Objective for the Ocean Hazard AEC states that, “[t]he purpose of these Rules shall be to further the goals set out in G.S. 113A 102(b), with particular attention to minimizing losses to life and property resulting from storms and long term erosion, preventing encroachment of permanent structures on public beach areas, preserving the natural ecological conditions of the barrier dune and beach systems, and reducing the public costs of inappropriately sited development.” Rule 15A NCAC 7H .0303(b).

The founding principal is based on protecting property from ocean erosion and creating a policy requiring the most seaward properties to move landward, creating a more uniform community seaward face. The Rule is clearly focused on creating a management zone between that seaward face and the ocean, to more uniformly manage and protect the public beach, dune structure and ecology.

Moving the most seaward structures landward, accomplishes that regulatory goal.

We believe that applying Rule 15A NCAC 7H .0306(a)(8)(D) to inappropriately sited development located too close to roads and right-of-ways, is an unintended consequence that runs counter to local jurisdiction and regulatory efforts – and counter to the stated intent of the AEC. To apply the Rule in an area that is regulated by Local Ordinance, impacts a Town’s ability to manage the public right-of-way, zoning and public safety as they deem important.

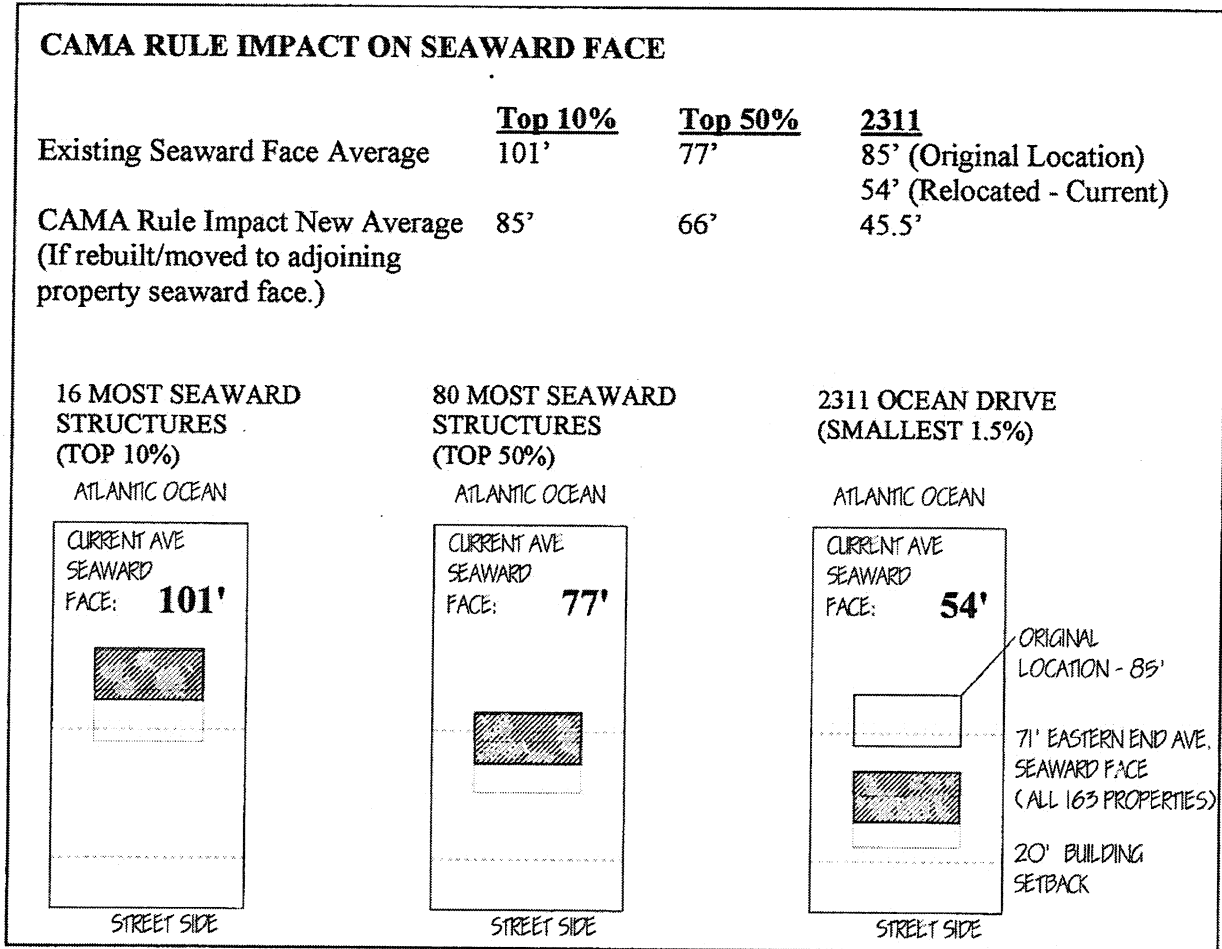
**FACTS:**

1. The 80 most Seaward Properties in the Eastern End have a seaward face of between 69’ and 126’.
2. The Eastern End Average of 80 most seaward properties is 82’, based on data compiled by the Town and Carteret County Property Tax Records.
3. Of the 163 Eastern Region structures impacted by Rule 15A NCAC 7H .0306(a)(8)(D), 146 are located closer to the ocean than our Property (2311).

**OBSERVATION**

The CAMA rule accomplishes its objective, when applied to the most seaward facing structures, but does not adequately protect home owners against adjacent inappropriately sited structures that encroach on local setbacks.

This is evident when evaluating the impact on the most seaward properties, verses the much more significant impact on the rule has on our Property due to the adjacent inappropriately sited development.



**FACTS:**

1. Our Property, in its current location, is well under the current Eastern End seaward face average. (54' vs 71').
2. The 80 most seaward properties will only be impacted 11' on average. The top 10% most seaward will only be impacted 16' on average. We have already moved our Property 30'.

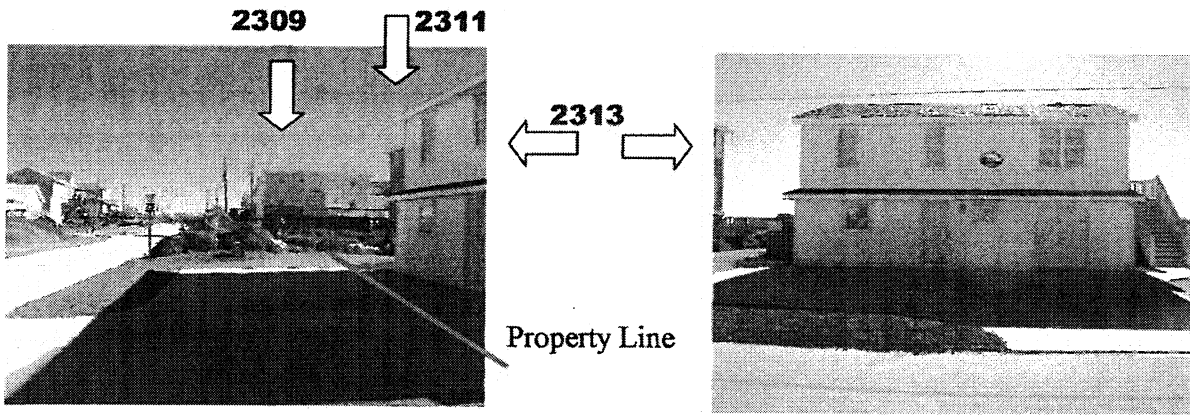
***(2) Secure the public safety and welfare;***

Yes.

**LOCAL PUBLIC SAFETY & WELFARE**

One of the Town's major concerns when re-evaluating their local front yard setback ordinance was the impact it would have on public safety. Properties located too close to the street lack adequate off-street parking. This is clearly the case at 2313, which must extend its paved parking 16' beyond its property line, into the public-right-of-way.

By forcing adjacent properties to meet the seaward face of a structure that is inappropriately sited violating local front yard setback requirements, the CRC Commission is at odds with local public safety and welfare efforts and policies.



***(3) Preserve substantial justice?***

Yes.

When a rule couples an otherwise conforming property to one that inappropriately sited development that violates local setbacks, it establishes an artificially small setback that is inconsistent, unequal and unjust. The more severe the violation, the more punishing is the effect.

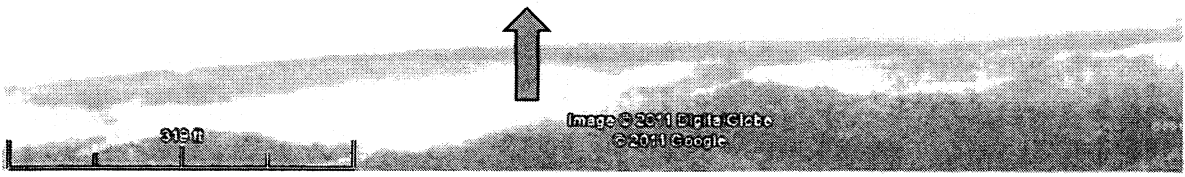
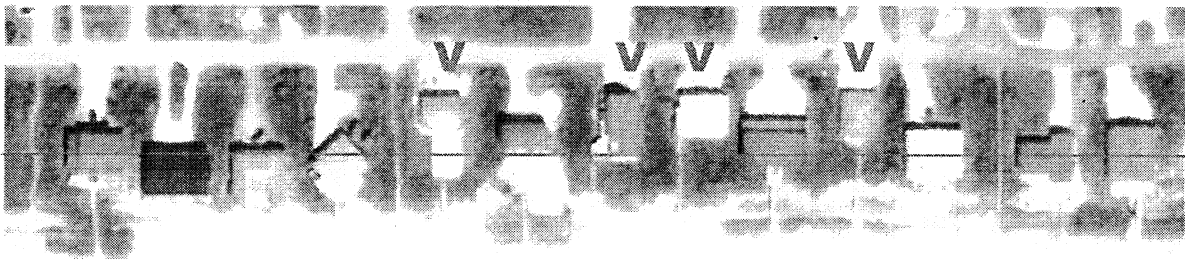
This rule imposes such a hardship. We content that the Rule was intended to bring the most seaward properties closer to the Community Average. A community benefit that also creates a State management zone protecting the public assets.

But when applied to a structure that is among the smallest seaward faces of the approximately 163 Eastern End Properties is forced even further landward, it goes well beyond the spirit or intent that established the Rule. Especially when that property took voluntary actions that moved the structure 30' landward prior to establishment of Rule 15A NCAC 7H .0306(a)(8)(D), and for the purpose the Rule was inacted to create.

If Rule 15A NCAC 7H .0306(a)(8)(D) is to be applied to the most landward structures, then those structures should also meet the minimum local setbacks that were in place at the time of the regulation, or be excluded from the Rule due to their being inappropriately sited development.

**FACT:**

Our Property, as a result of its relocation landward, has the smallest seaward face of any structure meeting local setback requirements within a 1/3 mile stretch of the Eastern End.



**2311**

**V: Violates Local Setback**



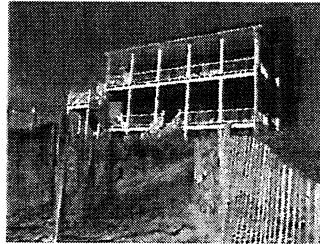
**RECENT EMERALD ISLE CAMA MINOR PERMITS**

The Town has approved two structures under the new CAMA Minor Permit regulation, which would appear to be located on lots more significantly impacted by ocean erosion, and meeting CAMA and Septic requirements. These structures, located at 905 and 1113, are located in the eastern community of the Easter End where the Line of Established Vegetation and erosion has had a much greater impact than at our Property.

By comparing our proposed Addition with these new developments our request would appear to be a more favorable development and well within CRC concerns, providing a fair standard for all properties.



905



1113

**COMPARISON**

	<u>905</u>	<u>1113</u>	<u>2311</u>	<u>2311 w/ Addition</u>
Front Yard Setback:	20'	49'	34'	20'
Building Width:	32.5'	24'	20'	35'
Seaward Face:	53.5'	81'	54'	60'
CAMA 60' Setback:	70'	70' *	100'	100'
1 <sup>st</sup> Line of Stable Veg.:	125'	130'	140'	140'
Building Foot Print:	1760 sf	1080 sf	840 sf	1110 sf

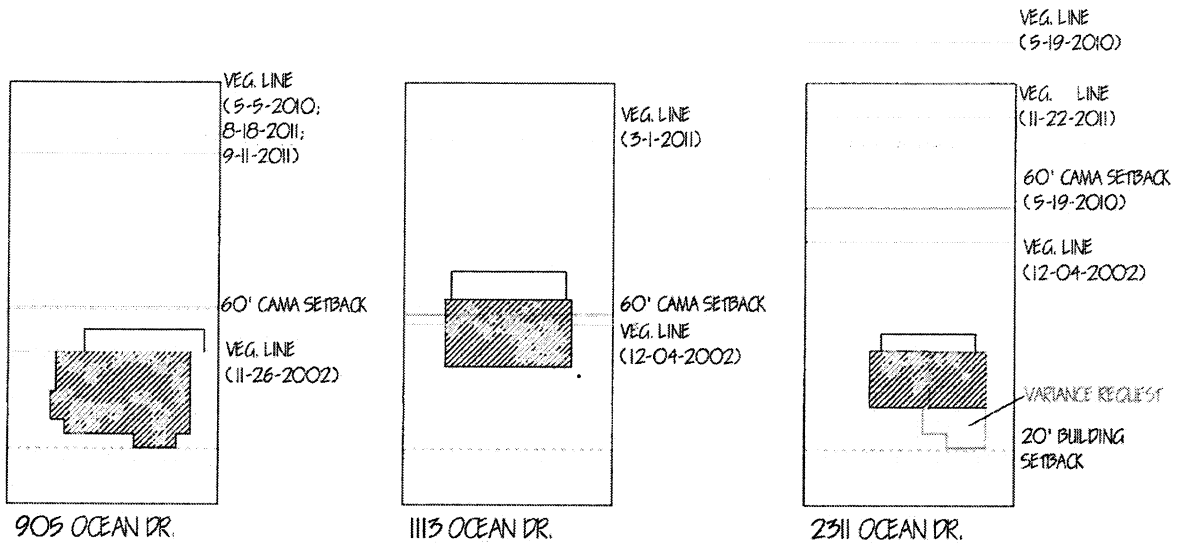
Notes: Cantilevered to meet septic setback

Notes: \* CAMA 60' Setback runs through home

**FACTS:**

1. 1113's Seaward Face of 81', which is 27<sup>th</sup> closest to the ocean. With recent storm erosion, this structure would not be allowed, due to the current CAMA 60' Setback running through the structure.
2. 905's Building Footprint is 1760 sf, 18<sup>th</sup> largest in between 11-2413 Ocean Dr.

**SITE PLAN COMPARISON**



**FACTS:**

1. Our Property has a 1<sup>st</sup> Line of Stable Vegetation that is greater than either of the recently permitted structures.
2. Our Property is substantially further from the CAMA 60' Setback than either permitted structures.
3. The CAMA 60' setback runs through the structure at 1113.
4. 905 has the 17<sup>th</sup> largest footprint. Top 10% of all structures.

On its own merits, our Property has a better building envelope, and would not appear to be an intended target of the CRC Regulation.

*Refer To:*

**Attachment 11** Survey of 905 Ocean Drive Dated: Sept. 19, 2011  
Prepared By: Prestige

**Attachment 12** Survey of 1113 Ocean Drive Dated: March 1, 2011  
Prepared By: Bell & Phillips

**513 OCEAN DR –VARIANCE**

In February 2011, the North Carolina Coastal Resources Commission (CRC) heard arguments and stipulated facts for variance to a property located at 513 Ocean Drive. **CRC-VR-11-01**. The Petitioners had requested a septic system setback variance and was requesting relief from an adjoining property that *meet* the Town Front Yard Setback of 20', but not the 30' Front Yard Setback that was in effect prior to 2011.

We are asking to be assigned a neighboring property that meets the 20' Setback and relief from those that do not.

# SECTION I

## Facts.

A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.

The following Exhibits were compiled using data offered by the Town Of Emerald Isle as part of their Front Yard Set Back Analysis, and from data found on the Carteret County Tax Parcel website.

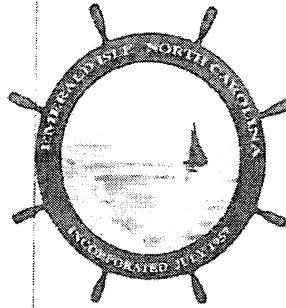
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*Refer To:*

***Attachment 13*** DRAFT – Stipulated Facts

# Town of Emerald Isle

Department of Planning and  
Inspections  
Kevin B. Reed, AICP, Director  
[kreed@emeraldisle-nc.org](mailto:kreed@emeraldisle-nc.org)



7500 Emerald Drive  
Emerald Isle, NC 28594  
Voice 252-354-3338  
Fax 252-354-5387

December 20, 2011

Mr. Kenneth M. & Mariah B. Gardner  
5417 Hunter Hollow Drive  
Raleigh, NC 27606

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT  
APPLICATION NUMBER 2011-66  
PROJECT ADDRESS - 2311 OCEAN DRIVE, EMERALD ISLE, NC 28594

Dear Mr. and Mrs. Gardner:

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

This decision is based on my findings that your request violates NCGS 113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines and Local Land Use Plans. You have applied for a MINOR CAMA PERMIT #2011-66 with the proposed development of an addition to an existing single family dwelling with a total floor area (after the addition) of 2,500 square feet to be located seaward of the most landward adjacent building which is inconsistent with 15 NCAC 7H .0306 (a)(8)(D), which states that: "No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine and ocean hazard setback that is landward of the vegetation line, a distant no less than 30 times the shoreline erosion rate of 60 feet, whichever is greater."

Should you wish to appeal my decision to the Coastal Resource Commission or request a variance from that group, please contact me so I can provide you with the proper forms and any other information you may require. The Division of Coastal Management central office in

Morehead City must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours,



James W. Taylor, Jr., LPO  
Town of Emerald Isle  
7500 Emerald Dr  
Emerald Isle, NC 28594

cc: Barry Guthrie, DCM

Melanie Arthur 14P  
Carteret County Register of Deeds  
CS Date 01/18/2002 Time 12:24:00  
BR 929054 Page 1 of 14

Carteret County Register  
7228  
01/18/2002  
\$500.00



Real Estate  
Excise Tax

Excise Tax \$500.00

NORTH CAROLINA, CARTERET COUNTY  
The foregoing certificate(s) of Notary Public(s) is/are  
certified to be correct. This instrument and this certifi-  
cate are duly registered at the date and time and in  
the Book and Page shown on the first page hereof.

Melanie Arthur, Register of Deeds  
By *Melanie Arthur*  
Not. Public, Register of Deeds

Recording Time, Book and Page

Tax Lot No. .... Parcel Identifier No. 631415537457  
Verified by ..... County on the ..... day of .....  
by .....

Mail after recording to Kenneth M. Gardner, 5417 Hunter Hollow Drive, Raleigh, NC 27606  
This instrument was prepared by Richard L. Stanley, P.O. Box 150, Beaufort, NC 28516  
Brief description for the Index LT 16-18, Block 12, EI,

### NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 16<sup>th</sup> day of January, 2002, by and between

**GRANTOR**  
William C. Hannah, III and  
William C. Hannah, Jr.,  
Co-Conservators of the  
Property of Donna H. Hannah and  
William C. Hannah, Jr., Individually

**GRANTEE**  
Kenneth M. Gardner and wife,  
Marian B. Gardner, 5417 Hunter Hollow Drive,  
Raleigh, NC 27606

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

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

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Emerald Isle, White Oak Township,

CARTERET County, North Carolina and more particularly described as follows:

Being all of Lot 16, 17 and 18, Block 12, Emerald Isle By-The-Sea, as shown on a plat recorded in Map Book 3, Page 61, Carteret County Registry.

There is further conveyed the right to use all streets, alleys, walkways and beaches as shown on the plats recorded in Map Book 3, Pages 34-45.

The above property was conveyed to William C. Hannah and wife, Donna H. Hannah, by a Deed recorded in Book 672 at Page 246, Carteret County Registry. William C. Hannah also known as William C. Hannah, Jr. and William C. Hannah, III have been appointed Co-Conservators for Donna M. Hannah by State of Virginia Court Order, a certified copy of the same being attached hereto as Exhibit A. William C. Hannah, Jr. and William C. Hannah, III, as Co-Conservators for Donna H. Hannah have petitioned the State of Virginia Court having jurisdiction over the guardianship of Donna H. Hannah for permission to sell the interest of Donna H. Hannah to the Grantees for the purchase price of \$250,000.00, and a certified copy of the Order approving the sale of said house and lot for the purchase price being paid herewith and authorizing the execution of the Deed by William C. Hannah, Jr. and William C. Hannah, III as Co-Conservators for Donna H. Hannah, as attached hereto as Exhibit B.

BOOK 929 PAGE 54

14  
SoftPro

The property hereinabove described was acquired by Grantor by instrument recorded in .....

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

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

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

Title to the property hereinabove described is subject to the following exceptions:  
Easements and restrictions of record.

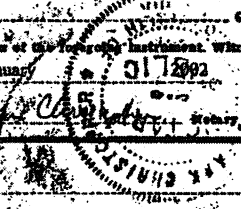
IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

.....  
(Corporate Name)  
BY: .....  
..... President  
ATTEST: .....  
..... Secretary (Corporate Seal)

USE BLACK INK ONLY

*William C. Hannah, III* ..... (SEAL)  
William C. Hannah, III, Co-Conservator  
*William C. Hannah, Jr.* ..... (SEAL)  
William C. Hannah, Jr., Co-Conservator  
*William C. Hannah, Jr.* ..... (SEAL)  
William C. Hannah, Jr., Individually  
..... (SEAL)

SEAL-STAMP VIRGINIA Fairfax County.  
I, a Notary Public of the County and State aforesaid, certify that William C. Hannah, III, Co-Conservator  
of the property of Donna H. Hannah Grantor,  
personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my  
hand and official stamp or seal, this 16th day of January 31 1892  
My commission expires: 11/30/2004 A. Mark Clardy, Notary Public



SEAL-STAMP NORTH CAROLINA, ..... County.  
I, a Notary Public of the County and State aforesaid, certify that ..... he is Secretary of  
personally came before me this day and acknowledged that ..... a North Carolina corporation, and that by authority duly  
given and as the act of the corporation, the foregoing instrument was signed in its name by its  
President, sealed with its corporate seal and attested by ..... as its Secretary.  
Witness my hand and official stamp or seal, this ..... day of .....  
My commission expires: ..... Notary Public

The foregoing Certificate(s) of .....  
is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

..... REGISTER OF DEEDS FOR ..... COUNTY  
BY ..... Deputy Assistant Register of Deeds  
BOOK 929 PAGE 21

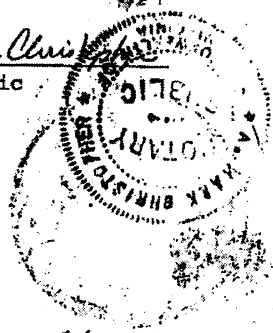
STATE OF Virginia  
COUNTY OF Fairfax

I, a Notary Public for the County and State aforesaid, certify that William C. Hannah, Jr., Co-Conservator and William C. Hannah, Jr., Individually, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this the 16th day of January, 2002.

A. Mark Christy  
Notary Public

My Commission Expires: 11/30/2004.



BOOK 929 PAGE 54





WILLIAM G. MURRAY  
COMMISSIONER

OFFICE OF COMMISSIONER OF ACCOUNTS  
CIRCUIT COURT OF ARLINGTON COUNTY

COURTHOUSE, SUITE 6300  
1425 N. COURTHOUSE ROAD  
ARLINGTON, VIRGINIA 22201

April 17, 2001

(703) 228-7150

A. Mark Christopher, Esquire  
Herge, Sparks & Christopher, LLP  
6862 Elm Street, Suite 360  
McLean, VA 22101

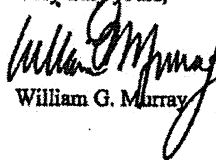
Re: Conservatorship for Donna H. Hannah  
Chancery No. 01-50

Dear Mr. Christopher:

I approve of the Conservators listing the North Carolina property for sale at \$295,000. I also approve their entering into a sales contract for at least \$275,000. If they receive an acceptable offer for less than \$275,000, then I will need for you to obtain my consent to the lower offer.

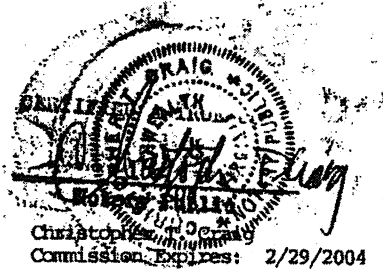
This approval is conditioned upon the Conservators depositing one-half of the net proceeds into the conservatorship account.

Very truly yours,

  
William G. Murray

WGM/ram

BOOK 929 PAGE 54





WILLIAM G. MURRAY  
COMMISSIONER

OFFICE OF COMMISSIONER OF ACCOUNTS  
CIRCUIT COURT OF ARLINGTON COUNTY  
COURTHOUSE, SUITE 6300  
1425 N. COURTHOUSE ROAD  
ARLINGTON, VIRGINIA 22201

August 24, 2001

(703) 228-7150

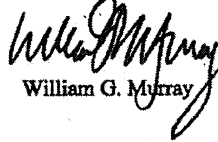
A. Mark Christopher, Esquire  
Herge, Sparks & Christopher, LLP  
6862 Elm Street, Suite 360  
McLean, VA 22101

Re: Conservatorship for Donna H. Hannah  
Chancery No. 01-50

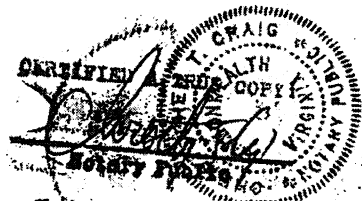
Dear Mr. Christopher:

Based upon the recent information you have provided to me, I hereby amend my letter of  
April 17, 2001 from \$275,000 to \$250,000.

Very truly yours,

  
William G. Murray

BOOK 929 PAGE 54



Christopher T. Craig  
Commission Expires: 2/29/2004

V I R G I N I A:

IN THE CIRCUIT COURT OF THE COUNTY OF ARLINGTON

IN RE: )

DONNA H. HANNAH, An Adult )

Chancery No. 01-50

To: All Counsel of Record )

ORDER

Pursuant to Notice, this matter came to be heard in open Court upon the petition of William C. Hannah, Jr. and William C. Hannah, III to be appointed co-guardians (hereinafter sometimes referred to as "Co-Guardians") of the person of Donna H. Hannah, Respondent. The Respondent is the wife of co-Petitioner William C. Hannah, Jr. and the mother of William C. Hannah, III. The Petitioners also asked to be appointed the co-conservators (hereinafter sometimes referred to as "Co-Conservators") of the property of Donna H. Hannah. The Petitioners were present in Court and were represented by counsel. Also present was Judith A. Mitnick, Esquire, a discreet and competent attorney-at-law and a member of the bar of this Court, whom the Court had appointed Guardian ad litem to serve on behalf of Donna H. Hannah, the person alleged to be incapacitated. She accepted the appointment, filed a report

Herge, Sparks  
Christopher, LLP  
Attorneys-At-Law  
Suite 360  
6862 Elm Street  
Lean, Virginia 22101  
(703) 848-4700

BOOK 929 PAGE 54

pursuant to §37.1-134.9, VA. Code Ann. (1950), and attended the hearing.

Upon proper notice to Donna H. Hannah and to the other persons named on the service list in satisfaction of all statutory requirements; upon consideration of the exhibits filed, including information regarding the medical condition of the Respondent, and upon consideration of the Report filed by Ms. Mitnick, the guardian ad litem, and the evidence heard in open Court, the Court makes the following findings, supported by clear and convincing evidence:

1. That the Respondent, Donna H. Hannah, resides at 4611 N. 19<sup>th</sup> Street, Arlington, Virginia 22207, with her husband and son, the Co-Petitioners. That she has been diagnosed with Alzheimer's Disease. The initial diagnosis was provided to your Petitioner, William C. Hannah, Jr. in September 1999 by Dr. Linda Sigmund, a Neurologist, who continues to treat the Respondent. Her primary care physician is Dr. Patrick Correnty. A letter from Dr. Sigmund dated January 17, 2001 has been placed in the record.

2. Dr. Sigmund has reported that the Respondent has experienced a rather rapid decline in speech, cognition, and memory. She is unable to care for herself or make decisions regarding her finances or health care. She has great difficulty carrying on a conversation and reveals severe

BOOK 929 PAGE 5U

inability to perform tasks. Dr. Sigmund recommended that a guardian/conservator be appointed. The Guardian ad litem has reported that William C. Hannah, Jr., has cared for his wife as her dementia has progressed. He has been retired since 1979 and views himself as her full-time caregiver. Ms. Mitnick also reports that William C. Hannah, III recently moved back to northern Virginia to assist his father in providing care for his mother.

3. Ms. Mitnick has summarized the condition of the Respondent as suffering from severe cognitive dysfunction which is progressive. The condition of Donna H. Hannah is of an indefinite duration and is believed to be permanent. The Respondent does not and cannot operate a motor vehicle. She has not been voting. She does not own a firearm. She cannot make decisions about her finances, the sale of any interests in real estate that she owns, or otherwise participate in financial decisions. The guardian ad litem has recommended the appointment of the co-Petitioners as co-conservators and co-guardians of the Respondent on a permanent basis. The guardian ad litem recommends that the co-conservators consult with the Commissioner of Accounts prior to selling any real estate owned by Donna H. Hannah and that they post additional bond as the Commissioner of Accounts shall direct.

It is therefore ORDERED, ADJUDGED and DECREED:

BOOK 929 PAGE 54

UNRECORDED COPY FROM ORIGINAL

1. That William C. Hannah, Jr. and William C. Hannah, III, be and hereby are appointed Co-Guardians of the person of Donna H. Hannah, with all powers and duties granted to guardians pursuant to §37.1-137.1 et seq. of the Code of Virginia, as amended (1950), as the persons responsible for the personal care of Donna H. Hannah, including the making of decisions regarding her support, care, health, safety, habilitation, education, therapeutic treatment and place of residence. The Co-Guardians shall make any reports required by the Code.

2. That William C. Hannah, Jr. and William C. Hannah, III, be and hereby are appointed Co-Conservators of the property of Donna H. Hannah, with all powers and duties granted to conservators pursuant to §37.1-137.3 et seq. of the Code of Virginia, as amended (1950), as the persons responsible for the taking care of, preserving and managing the estate of Donna H. Hannah to the best advantage. The Co-Conservators are authorized to apply the income and resources of Donna H. Hannah towards her own expenses and to the joint obligations and expenses of William C. Hannah, Jr.

3. The Co-Conservators are authorized to sell any interest of Donna H. Hannah in any real property that she owns, including her principal residence, located at 4611 19<sup>th</sup> Street, Arlington, Virginia and a vacation home, located at 2311 Ocean

BOOK 929 PAGE 54

Drive, Emerald Isle, North Carolina. Both of these properties are owned jointly, as tenants by the entirety, with William C. Hannah, Jr. The Co-Conservators are authorized to accomplish any repairs or other arrangements they deem necessary prior to the sale of the properties. The Co-Conservators shall consult with the Commissioner of Accounts prior to selling any real estate owned by Donna H. Hannah. They shall post additional bond, with surety, as the Commissioner of Accounts shall direct.

*P.P.*  
4. The Guardian ad litem, Judith A. Mitnick, shall be paid the amount of \$ 1159.<sup>90</sup> for services rendered in this proceeding. These costs, as well as the costs of bringing this Petition, shall be paid from the Respondent's assets and/or income within thirty (30) days of the entry of this Order.

*P.P.*  
5. That, before acting as Co-Guardians, William C. Hannah, Jr. and William C. Hannah, III shall execute a bond before the Clerk of this Court in the sum and penalty of \$ 210,000., without surety, for the faithful performance of their duties as Co-Guardians.

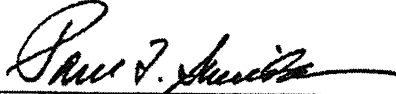
*P.P.*  
6. That, before acting as Co-Conservators, William C. Hannah, Jr. and William C. Hannah, III shall execute a bond before the Clerk of this Court in the sum and penalty of \$ 210,000. with surety, for the faithful performance of

BOOK 929 PAGE 54

their duties as Co-Conservators. The amount of the bond, with surety, that the Co-Conservators shall provide shall change as directed by the Commissioner of Accounts.

A copy of this Order will be provided to all counsel of record.

ENTERED: This 23<sup>rd</sup> day of February 2001.



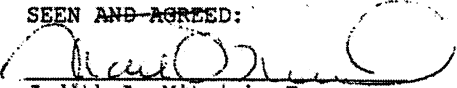
Judge, Arlington County Circuit Court

I ASK FOR THIS:

A. Mark Christopher  
A. Mark Christopher, Esq.  
Virginia Bar #19026  
Herge, Sparks & Christopher, LLP  
6862 Elm Street, Suite 360  
McLean, Virginia 22101  
Ph.: (703) 848-4700

Counsel for Petitioners

SEEN AND AGREED:



Judith A. Mitnick, Esq.  
Guardian ad litem for  
DONNA H. HANNAH  
Needham & Mitnick, PLC  
103 West Broad St., Suite 200  
Falls Church, VA 22046  
Ph.: (703) 536-7778

BOOK 929 PAGE 54





State of Virginia  
County of Arlington

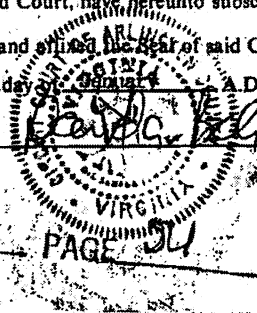
To-wit: CH01-50

To All To Whom These Presents Shall Come, Greeting:

Know ye, That on the TWENTY-THIRD day of FEBRUARY in the  
Year of our Lord, ~~XXXXXX~~ TWO THOUSAND ONE Letters of GUARDIANSHIP  
are  
of all and singular, the Goods, Chattels, and Credits, which ~~WERE~~  
of  
DONNA H. HANNAH, Incapacitated ~~XXXX~~ of ARLINGTON COUNTY, VIRGINIA  
Incapacitated  
~~XXXXXX~~ were, by the ~~Clerk of the~~ Circuit Court of the County of Arlington aforesaid granted and committed  
unto WILLIAM C. HANNAH, JR., and WILLIAM C. HANNAH III  
of ARLINGTON COUNTY, VIRGINIA  
the said WILLIAM C. HANNAH, JR., and WILLIAM C. HANNAH III  
as CO-GUARDIANS  
Incapacitated  
of said ~~XXXXXX~~ having first entered into bond in the penalty of TWO HUNDRED TEN THOUSAND  
out (\$210,000.00)  
dollars with/approved security for the faithful performance of the duties thereof.

In Testimony Whereof I, DAVID A BELL, Clerk

of said Court, have hereunto subscribed my  
name and affixed the Seal of said Court this  
11th day of February A.D. 2002  
David A. Bell Clerk



BOOK 929 PAGE 54



State of Virginia  
County of Arlington

To-wit: CH01-50

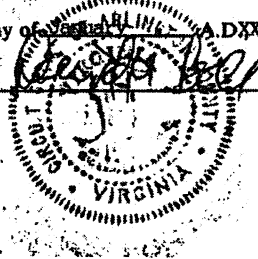
To All To Whom These Presents Shall Come, Greeting:

Know ye, That on the TWENTY-THIRD day of FEBRUARY in the  
Year of our Lord, ~~XXXXXXXXXXXXXXXXXXXX~~ TWO THOUSAND ONE Letters of CONSERVATORSHIP  
are  
of all and singular, the Goods, Chattels, and Credits, which ~~XXXXXX~~ are of  
DONNA H. HANNAH, Incapacitated Wife of ARLINGTON COUNTY, VIRGINIA  
Incapacitated  
~~XXXXXX~~ were, by the Clerk of the Circuit Court of the County of Arlington aforesaid granted and committed  
unto WILLIAM C. HANNAH, JR., and WILLIAM C. HANNAH III  
of ARLINGTON COUNTY, VIRGINIA  
the said WILLIAM C. HANNAH, JR., and WILLIAM C. HANNAH III  
as CO-CONSERVATORS  
Incapacitated  
of said ~~XXXXXX~~ having first entered into bond in the penalty of TWO HUNDRED TEN THOUSAND  
(\$210,000.00)  
dollars with approved security for the faithful performance of the duties thereof.

In Testimony Whereof I, DAVID A BELL, Clerk

of said Court, have hereunto subscribed my  
name and affixed the Seal of said Court this  
11th day of February, A.D. 2002

David A Bell Clerk




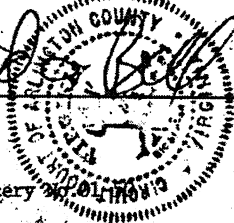
BOOK 929 PAGE 54

# AUTHENTICATION OF RECORD

Commonwealth of Virginia,  
Circuit Court of the County of Arlington.

I, DAVID A. BELL, Clerk of the said Court, do hereby certify that the writings annexed to this Certificate are true copies of the originals on file and of record in said office.

WITNESS my hand and seal of said Court this ELEVENTH day of JANUARY 2002

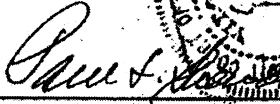

  
Clerk.  


IN RE: Donna H. Hannah,  
An Adult

In Chancery


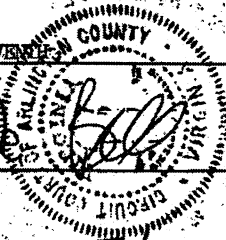
Order entered February 23, 2001  
Letter of Co-Guardianship  
Letter of Co-Conservatorship

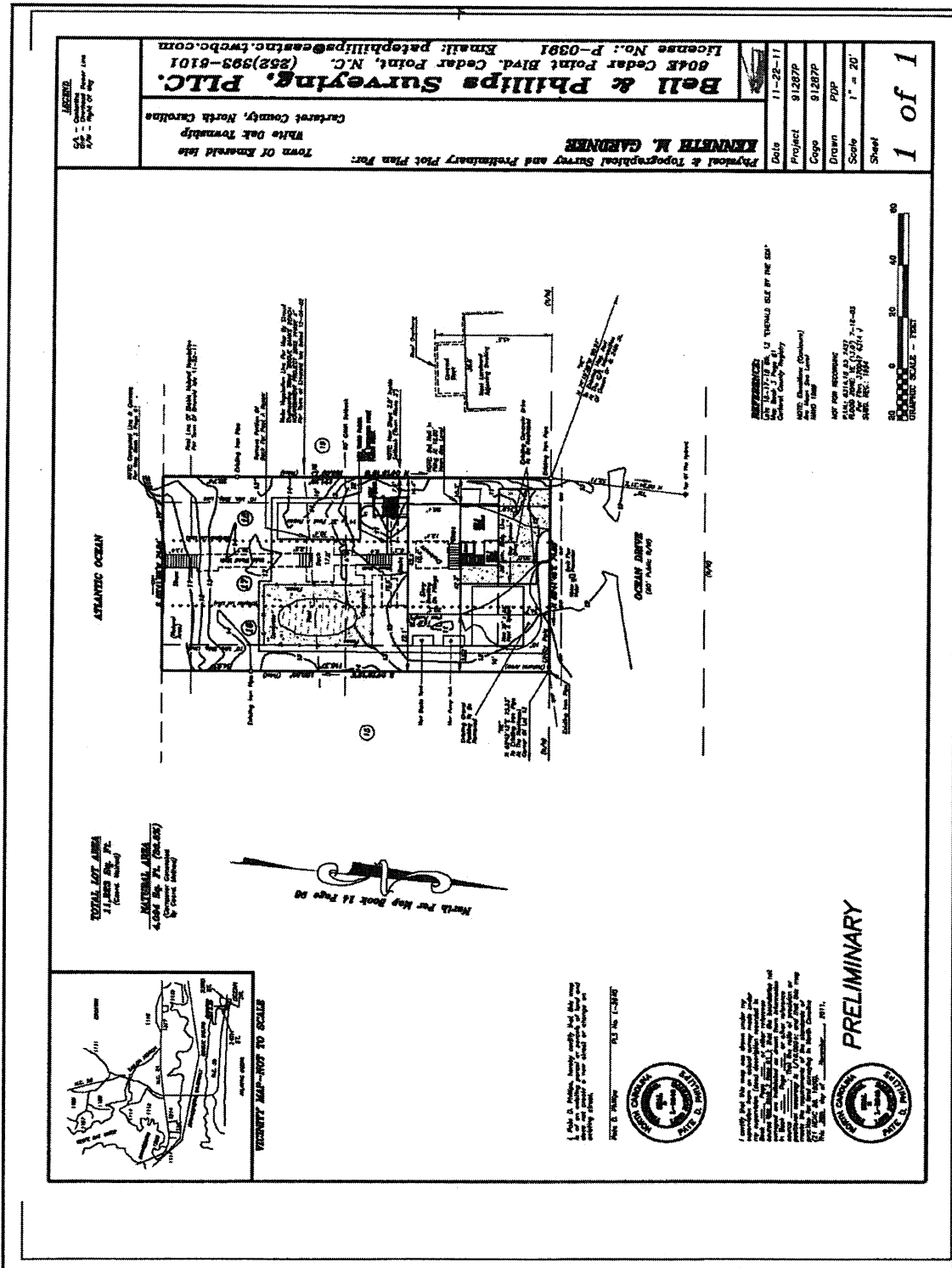
I, PAUL F. SHERIDAN, Judge of the Circuit Court of Arlington County, Virginia, do certify that DAVID A. BELL, who executed the foregoing attestation, is Clerk of the said Court, duly and lawfully qualified, and the said attestation is in due form of law by the proper officer.

In TESTIMONY WHEREOF, I hereunto set my hand and seal this ELEVENTH day of JANUARY 2002  
  
Judge, (Seal).  


I, DAVID A. BELL, Clerk of the said Court, hereby certify that the HONORABLE PAUL F. SHERIDAN whose genuine signature is here subscribed to the foregoing certificate, was, at the time of signing and attesting the same, Judge of said Court, duly commissioned and qualified.

WITNESS my hand and seal of the said Court this ELEVENTH day of JANUARY 2002

  
Clerk.  
  
BOOK 929 PAGE 24



**PHYSICAL & TOPOGRAPHICAL SURVEY AND PRELIMINARY PLOT PLAN FOR:**  
**TOWN OF EMERALD ISLE**  
**WHITE OAK TOWNSHIP**  
**CURRITUCK COUNTY, NORTH CAROLINA**

**KENNETH M. GARDNER**  
 License No.: P-0391  
 604E Cedar Point Blvd, Cedar Point, N.C.  
 Email: kpetephilips@earthlink.net  
 (252) 393-8101

**Bell & Phillips Surveying, PLLC.**

Date	11-22-11
Project	912879
Code	912879
Drawn	PPP
Scale	1" = 20'
Sheet	1 of 1

**LEGEND:**  
 --- Contour Lines  
 --- Proposed Road  
 --- Proposed Utility

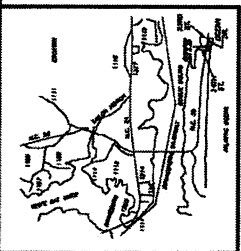
**NOTICE:** IT IS HEREBY DECLARED BY ME THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL RECORD AS FILED IN THE PUBLIC RECORDS OF CURRITUCK COUNTY, NORTH CAROLINA, ON 11/22/11.

**NOT FOR RECORD:**  
 KENNETH M. GARDNER  
 Surveyor  
 11/22/11



**TOTAL LOT AREA:**  
 11,183 Sq. Ft.  
 (Cont. 10/11/11)

**NATURAL AREA:**  
 4,000 Sq. Ft. (20.5%)  
 (Cont. 10/11/11)



LOCATION MAP - NOT TO SCALE

North Per Map Book 14 Page 80

I, Kenneth M. Gardner, Surveyor, do hereby certify that this is a true and correct copy of the original record as filed in the Public Records of Currituck County, North Carolina, on 11/22/11.

KENNETH M. GARDNER  
 Surveyor



I, Kenneth M. Gardner, Surveyor, do hereby certify that this is a true and correct copy of the original record as filed in the Public Records of Currituck County, North Carolina, on 11/22/11.



**PRELIMINARY**

November 22, 2011

Receipts for  
Certified Mail  
(Staple Here)

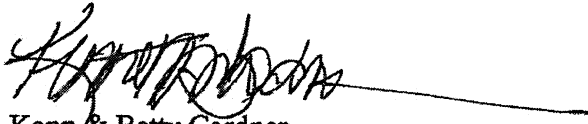
Mr. Charles Potts  
4901 Green Breeze Lane  
Fuquay-Varina, NC 27526

Dear Charles

This letter is to inform you that we Kenn & Betty Gardner have applied for a CAMA Minor Permit on our property at 2311 Ocean Drive, Emerald Isle, NC, in Carteret County. As requested by CAMA regulations, we have enclosed a copy of my permit application and project drawing as notification of our proposed project. No action is required from you or you may sign and return the enclosed no objection form. If you have any questions or comments about my proposed project, please contact me at (919) 859-6929, or by mail at the address listed below. If you wish to file written comments or objections with the Town of Emerald Isle CAMA Minor Permit Program, you may submit them to:

Jim Taylor  
Senior Local Permit Officer  
Town of Emerald Isle  
7500 Emerald Drive  
Emerald Isle, North Carolina 28594

Sincerely,



Kenn & Betty Gardner  
5417 Hunter Hollow Drive  
Raleigh, NC 27606

Attachment:  
Project Drawing: Proposed Site Plan

U.S. Postal Service <sup>TM</sup>		
CERTIFIED MAIL <sup>TM</sup> RECEIPT		
(Domestic Mail Only; No Insurance Coverage Provided)		
For delivery information, visit our website at www.usps.com.		
OFFICIAL USE		
Postage	\$ 2.85	14
Certified Fee	\$ 0.00	Postmark Here
Return Receipt Fee (Endorsement Required)	\$ 0.00	11/22/2011
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 3.29	
Sent To <u>Charles Potts</u>		
Street, Apt. No., or PO Box No. <u>4901 Green Breeze Lane</u>		
City, State, ZIP+4 <sup>®</sup> <u>Fuquay-Varina, NC 27526</u>		
PS Form 3800, August 2006		See Reverse for Instructions

November 22, 2011

Receipts for  
Certified Mail  
(Staple Here)

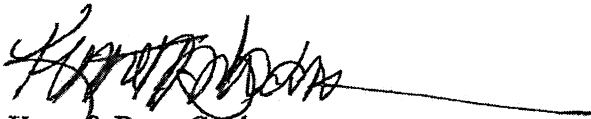
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Jim Taylor  
Senior Local Permit Officer  
Town of Emerald Isle  
7500 Emerald Drive  
Emerald Isle, North Carolina 28594

Sincerely,

  
Kenn & Betty Gardner  
5417 Hunter Hollow Drive  
Raleigh, NC 27606

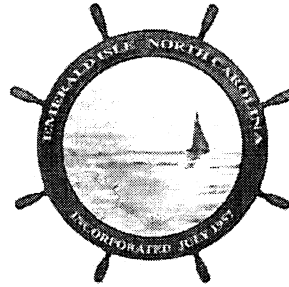
Attachment:  
Project Drawing: Proposed Site Plan

7011 2000 0000 6305 6656

U.S. Postal Service™		
<b>CERTIFIED MAIL™ RECEIPT</b>		
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>		
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>		
<b>OFFICIAL USE</b>		
Postage	\$ 2.85	14  Postmark Here  11/22/2011
Certified Fee	\$0.00	
Return Receipt Fee (Endorsement Required)	\$0.00	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 3.29	
Sent To <u>Charles Potts</u>		
Street, Apt. No., or PO Box No. <u>4901 Green Breeze Lane</u>		
City, State, ZIP+4 <u>Fuquay-Varina, NC 27526</u>		
PS Form 3800, August 2006		See Reverse for Instructions

# Town of Emerald Isle

Department of Planning and  
Inspections  
Kevin B. Reed, AICP, Director  
[kreed@emeraldisle-nc.org](mailto:kreed@emeraldisle-nc.org)



7500 Emerald Drive  
Emerald Isle, NC 28594  
Voice 252-354-3338  
Fax 252-354-5387

December 20, 2011

Mr. Kenneth M. & Mariah B. Gardner  
5417 Hunter Hollow Drive  
Raleigh, NC 27606

**RE: Minor CAMA Permit Application 2011-66 – 2311 Ocean Drive, Emerald Isle, NC**

Dear Mr. and Mrs. Gardner:

This letter is in regards to your recent request for a Minor CAMA Permit for an addition to an existing single-family residence at 2311 Ocean Drive. As you know, the Town of Emerald Isle issued a denial of the permit request because it was inconsistent with the regulations of the Coastal Area Management Act (CAMA). It is my understanding that you wish to pursue a variance from the Coastal Resources Commission (CRC). One pre-requisite for seeking a variance from the CRC is that you have exhausted all local relief efforts.

Following the approval of changes to the CAMA regulations approved by the CRC pertaining to development in an area subject to a static vegetation line, the Town of Emerald Isle amended its local development regulations in order to reduce the required front yard setback. Your property is now subject to a 20-foot front yard setback rather than the previously required 30-foot setback. This change was made by the Board of Commissioners in order to allow for more properties to seek approval for development under the static line exception. Typically, local relief in this situation would be for you to seek a variance to this 20-foot setback from the Town's Board of Adjustment; however, I do not believe that is possible. Your proposed development was intended to meet the required 20-foot setback with no "room to spare". Based on these facts, there are no local regulations for which you can seek a variance and all of your local efforts have been exhausted. Please let me know if you have any questions or concerns regarding the foregoing information.

Sincerely,

Kevin B. Reed, AICP, CFM, CZO  
Director of Planning and Inspections

**Attachment 7**

**From:** Amy Guthrie  
**To:** [isoscelesdesign@earthlink.net](mailto:isoscelesdesign@earthlink.net)  
**Date:** 11/16/2011 12:50:42 PM  
**Subject:** RE: Emailing: 20111116094925481.pdf

---

This is a 7 bedroom scenario. A six-bedroom peat bed would be 600 sq. ft. Possibly 20'x23'. Looks like it would eliminate the steps issue. The wooden patio would not like to be removed, just any kind of foundation/support. But, it does need to be done before the Operation Permit is issued, which is the permit that approves the entire installation of the system. Let me know if you have any other questions and how you would like to proceed.

Amy

-----Original Message-----

**From:** Kenn Gardner [<mailto:isoscelesdesign@earthlink.net>]  
**Sent:** Wednesday, November 16, 2011 12:37 PM  
**To:** Amy Guthrie  
**Cc:** [isoscelesdesign@earthlink.net](mailto:isoscelesdesign@earthlink.net)  
**Subject:** RE: Emailing: 20111116094925481.pdf

Amy:

Thank you.

Although I have not looked at it closely, I had a few questions before writing the Improvement Permit:

1. Is this a 7-Bed septic?
2. What would the peat field dimension be for a 6-bed? (As I have worked on the plans, I think it is more likely a 6-bed would be more likely.) This may also avoid the cantilever issue with the addition.
3. Concerning the repair area, would the wooden patio need to be removed now, or at the time the repair field is installed? In other words, does the current encroachment need to be noted as a condition, but not removed?

Thank you again.

Sincerely,

Kenn

> [Original Message]  
> From: Amy Guthrie <[amyg@carteretcountygov.org](mailto:amyg@carteretcountygov.org)>

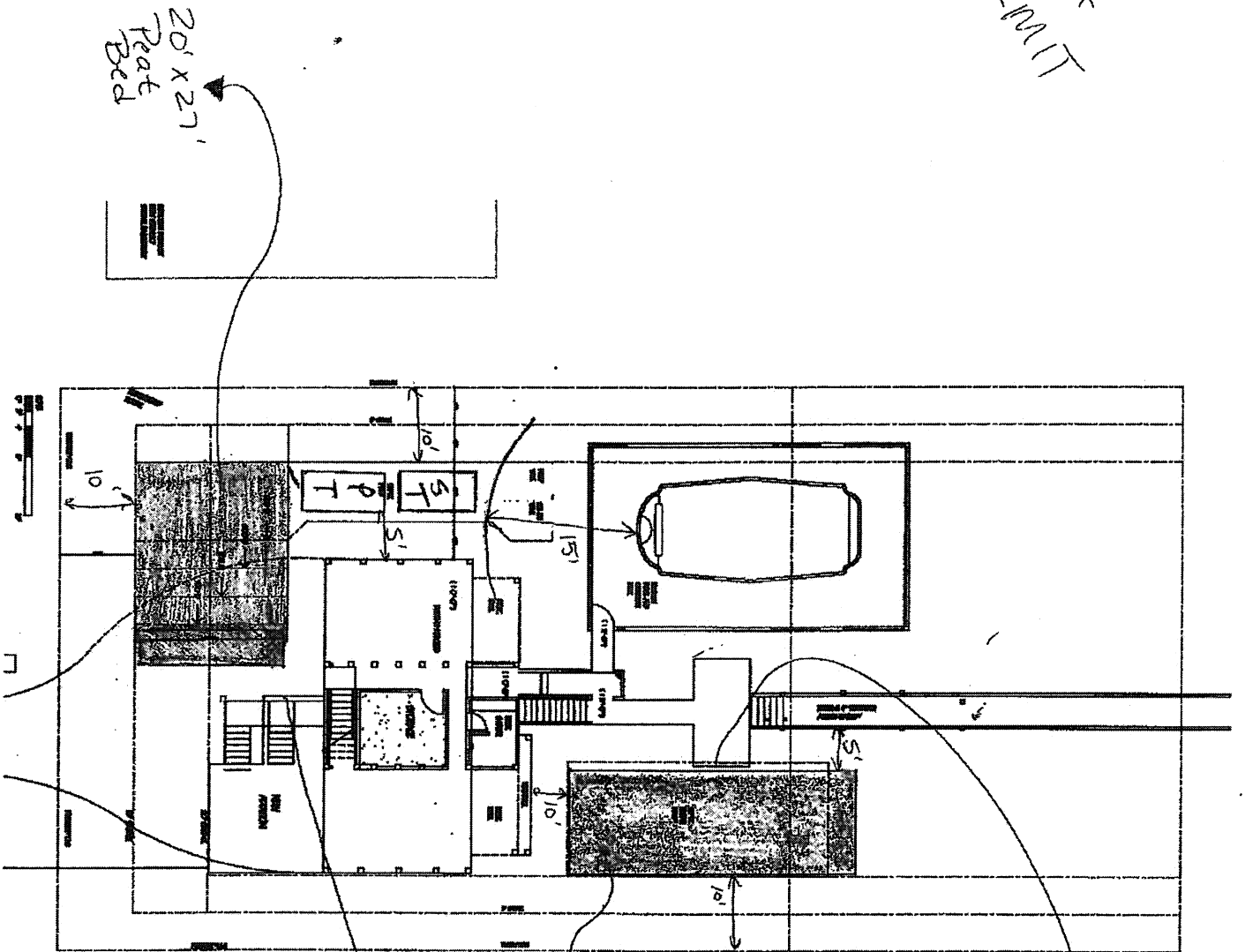
file:///C:/Users/Kenn%20Gardner/AppData/Local/Temp/ELPEA62.tmp

11/22/2011



> To: [isoscelesdesign@earthlink.net](mailto:isoscelesdesign@earthlink.net) <[isoscelesdesign@earthlink.net](mailto:isoscelesdesign@earthlink.net)>  
> Date: 11/16/2011 10:15:41 AM  
> Subject: Emailing: 20111116094925481.pdf  
>  
> Mr. Gardner,  
>  
> I have attached a sketch showing the placement of the septic system and  
repair area. I can issue the permit like this with a few conditions.  
>  
> - The water line must maintain at least ten feet from all parts of the  
system. I could not locate the water meter when I made the site visit so I  
don't know where it currently is.  
>  
> - The proposed steps on the front (roadside) of the house will have to  
be either shifted or cantilevered 18 inches west so that there maintains a  
5 foot setback from the foundation and the peat bed.  
>  
> - Any foundation (pilings, footers) on the wooden patio at the back of  
the house would have to be removed to maintain at least 5 feet from the  
repair area. The patio can be placed on top of the ground, though, just  
not on top of the repair area.  
>  
> If you are ok with these conditions I can go ahead and write the  
Improvement Permit. You will have to get engineered plans drawn and  
submitted to this office for approval and there will be a \$200 Construction  
Authorization permit fee due before the Construction Authorization permit  
can be issued.  
>  
> Let me know if you have any questions.  
>  
> Amy  
>  
>  
> The message is ready to be sent with the following file or link  
attachments:  
>  
> 20111116094925481.pdf  
>  
>  
> Note: To protect against computer viruses, e-mail programs may prevent  
sending or receiving certain types of file attachments. Check your e-mail  
security settings to determine how attachments are handled.

NOT A PERMIT



20' x 27'  
Post  
Repair  
Area

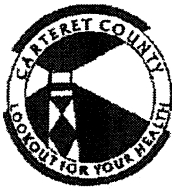


Steps will have to be  
measured 18" w/ 5' as blade  
measured the 5' as blade  
measured. Or that  
to a foundation. Or that  
can be done the  
18" so that is 5'  
foundation from the  
pattern.

14' x 58' Post Repair Area

At these in a "foundation"  
for the wooden posts (piling).  
posts) they must have in red  
pen mark 10' in 5' of top of  
foundation must be 10'  
area. Posts must 10'  
ground.  
Water level must  
maintain in all parts of paper  
system

2311 Ocean Dr



**CARTERET COUNTY HEALTH DEPARTMENT**

3820 Bridges Street, Suite A, Morehead City NC 28557

J.T. Garrett, Ed. D., M.P.H.

November 17, 2011

<b>FOR OFFICE USE ONLY</b>	
Date Paid:	_____
Amount:	_____
Received By:	_____

Kenneth Gardner  
2417 Hunter Hollow Dr.  
Raleigh, NC 27606

Subject: 2311 Ocean Dr., Emerald Isle

(PIDN: 6314.15.53.7457)

Dear Mr. Gardner:

The site evaluation for the above-mentioned lot has been completed and the lot has been found to be suitable with a Peat Biofilter Pretreatment system for a wastewater system to serve a six (6) bedroom single family residence. Plans must be designed by an engineer licensed with the State of North Carolina or someone certified in writing by the manufacturer and approved by this office prior to the issuance of the Construction Authorization Permit.

Please note that prior to installing the septic system and/or obtaining any building permit you must first obtain an **Authorization for Wastewater Construction Permit** issued by this office.

**Once the plans have been submitted, reviewed and approved by this office the Construction Authorization permit is available for pick up upon payment of the permit fee which is \$200.00.** This fee may be paid at the Environmental Health Office or by mail.

If mailing the fee, please make the check payable to "Carteret County Health Department" and mail to: Carteret County Environmental Health Division, 3820 Bridges Street, Suite A, Morehead City, NC 28557.

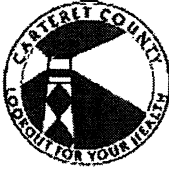
If you have any further questions please feel free to contact this office at (252) 728-8499.

Sincerely,

*Amy H. Guthrie, R.E.H.S.*  
Amy H. Guthrie, R.E.H.S.  
Environmental Health Specialist  
On-Site Wastewater Program

Health Department (252) 728-8550  
Fax (252) 222-7739

Environmental Health (252) 728-8499  
Fax (252) 222-7753



# CARTERET COUNTY HEALTH DEPARTMENT

ENVIRONMENTAL HEALTH DIVISION  
3820 Bridges Street, Suite A, Morehead City NC 28557

## IMPROVEMENT PERMIT

IP #: 4361

Exp. Date: 11/17/2016

\*No building permit shall be issued until authorization to construct is issued.  
\*Before Authorization to Construct is issued, all site modifications, plans, specifications, and/or draft legal paperwork must be completed and approved.

G.S. 130A-336 Improvement permit subject to revocation if the site has been altered, site plan or plat, whichever is applicable, changes or the intended use changes.

OWNER: KENNETH GARDNER  
ADDRESS: 2417 HUNTER HOLLOW DRIVE  
RALEIGH, NC 27606  
PHONE #: (919) 810-5224

APPLICANT: KENNETH GARDNER  
ADDRESS: 2417 HUNTER HOLLOW DRIVE  
RALEIGH, NC 27606  
PHONE #: (919) 810-5224

PARCEL ID: 631415537457000

PROPERTY LOCATION: 2311 OCEAN DRIVE EMERALD ISLE, 28594

IP ISSUANCE DATE: 11/17/2011

FACILITY TYPE: Single Family

Type of Application: *New*

PERMIT WILL EXPIRE: 11/17/2016

SINGLE FAMILY TYPE: House

DESIGN FLOW: 720 *gpd*  
SYSTEM TYPE: Innovative/Experimental  
SYSTEM CLASSIFICATION: Type Va  
WATER SUPPLY: Municipal

# BEDROOMS: 6  
# OCCUPANTS: 12

SITE MODIFICATION REQUIRED: No  
ENGINEERED SYSTEM SPECS REQUIRED: Yes

EASEMENT REQUIRED: No  
DRAFT TRI-PARTY AGREEMENT REQ.: No

A pre-construction conference shall be required on the site prior to beginning any site modification or installation of the wastewater system. Contact CCHD to schedule forty-eight hours prior to conference.

1. All documents, including but not limited to design review plans and specification, Tri-party agreements, Easements, and other legal agreements will become a part of the Permit. This includes operation and maintenance procedures and other pertinent documents relating to system operation and maintenance. All legal documents must be recorded with the Carteret County Register of Deeds.
2. This permit is effective only with respect to the specific design flow facilities, and the nature and volume of waste described in the Permit Application, and other supporting data. Changes in the proposed use, waste flow, nature or volume of waste render this permit void.

3. Prior to any changes in system layout, approval must be obtained from Health Department.
4. The designated repair area is to have no parking, driveways or other impervious materials located on it.
5. The issuance of this permit does not preclude the permittee from complying with any and all statutes, regulations, or ordinances which may be imposed by other government agencies which have jurisdiction, or any other permits issued by this department.
6. This permit shall become invalid if the information submitted in the application was falsified or changed, if the permit was based on inaccurate or incomplete information, or if the designated site is altered.
7. This improvement permit shall not be affected by a change in ownership of the site provided both the site for the wastewater system and the facility the system serves are unchanged and remain under the ownership or control of the person owning the facility.

NOTICE OF EXPIRATION: This permit expires 5 years (60) months from date issued. If expiration occurs the client shall comply with all changes in applicable regulation, laws, technical aspects, etc, that may be effective at that time. This may require additional preparation, more complex wastewater systems, operation and maintenance requirements, pre-treatment, etc. This could result in less area for the home, parking, lower water usage and further development limitations.

NOTICE: Beware much property in Carteret County is subject to Wetland Regulations and properties containing wetlands should receive approval from U.S. Army Corp. of Engineers prior to development.

  
Environmental Health Specialist

11/17/2011  
Date



# CARTERET COUNTY HEALTH DEPARTMENT

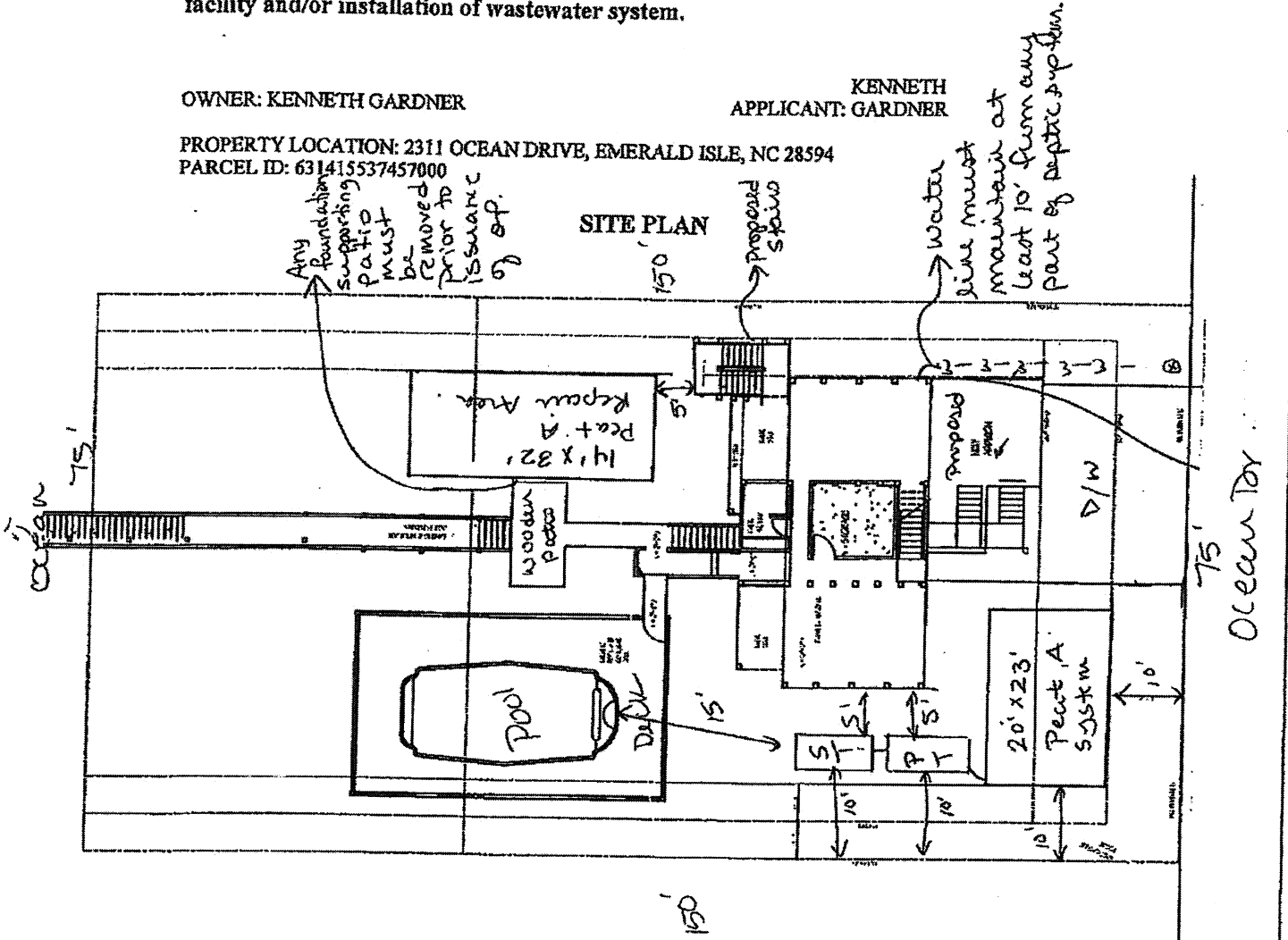
ENVIRONMENTAL HEALTH DIVISION  
3820 Bridges Street, Suite A, Morehead City NC 28557  
J.T. Garrett, Ed. D., M.P.H.

Improvement Permit 4361

Expiration Date: 11/17/2016

An Authorization to Construct shall be obtained prior to construction of residence or facility and/or installation of wastewater system.

OWNER: KENNETH GARDNER  
APPLICANT: GARDNER  
PROPERTY LOCATION: 2311 OCEAN DRIVE, EMERALD ISLE, NC 28594  
PARCEL ID: 631415537457000



*Amelia R. Perkins*  
Environmental Health Specialist

11/17/2011  
Date

**ADDENDUM TO IMPROVEMENT PERMIT: PEAT SPECIFICATION SHEET**

Propose: Type A

1. An on-site preconstruction conference shall be required to be attended by the system designer, installer, local health department, and the property owner or owner's representative prior to beginning construction.
2. Prior to issuance of the Construction Authorization, site specific plans and specifications shall be submitted for review and approval by the LHD. Plans shall be prepared by individuals authorized in writing by the manufacturer or be prepared by a professional engineer.
3. The estimated life of the peat media is currently 15 years. The media may need to be replaced, in part or in full, in order to maintain specified treatment standards.
4. Prior to the issuance of the Operation Permit, the manufacturer's field representative shall provide written confirmation of their acceptance of the peat system installation. The designer shall also provide written confirmation of their acceptance of the complete system installation.



**CARTERET COUNTY HEALTH DEPARTMENT**  
**ENVIRONMENTAL HEALTH DIVISION**  
 3820 Bridges Street, Suite A, Morehead City NC 28557

**IMPROVEMENT PERMIT  
 SYSTEM SPECIFICATION REQUIREMENTS**

IP#IPSS-00004361  
 IP Expiration 11/17/2016

\*No authorization to construct shall be issued until engineered plans have been reviewed and approved by this office.

**OWNER:** KENNETH GARDNER  
**ADDRESS:** 2417 HUNTER HOLLOW DRIVE  
 RALEIGH NC, 27606

**APPLICANT:** KENNETH GARDNER  
**ADDRESS:** 2417 HUNTER HOLLOW  
 DRIVE  
 RALEIGH NC, 27606

**PHONE #:** (919) 810-5224

**PHONE #:** (919) 810-5224

**PARCEL ID:** 631415537457000  
**PROPERTY LOCATION:** 2311 OCEAN DRIVE  
 Carteret County NC, 28594

**DESIGN FLOW:** 720 gpd

**FACILITY TYPE**

**INITIAL SYSTEM**

System classification: Type Va  
 Initial system design type: Innovative/Experimental  
 Initial system LTAR: 1.2gpd/ft<sup>2</sup>  
 Absorption Area: 450 (sq.ft)  
 Treatment Standard: TS-1  
 Minimum Septic Tank: 1500 (gal.)  
 Minimum Dosing Tank: (gal.) ✓  
 Minimum Recirculation Tank: (gal.) ✓  
 Minimum Grease Trap: (gal.) ✓  
 Filter Dosing tank: 1500gal.

**RESERVE SYSTEM**

System classification: Type Va  
 Reserve system design type: Innovative/Experimental  
 Reserve system LTAR: 1.2gpd/ft<sup>2</sup>  
 Absorption Area: 450 (sq.ft)  
 Treatment Standard: TS-1  
 Minimum Septic Tank: 1500 (gal.)  
 Minimum Dosing Tank: (gal.) ✓  
 Minimum Recirculation Tank: (gal.) ✓  
 Minimum Grease Trap: (gal.) ✓  
 Filter Dosing Tank: 1500gal.

**COMMENTS:**

*See Addendum to Improvement Permit*  
 Plans for the wastewater system shall be prepared by a person having a demonstrated knowledge of wastewater, such as an engineer licensed with the State of North Carolina. The system shall be designed according to Section .1900 of the State Sewage Rules. Wastewater plans shall be submitted to and approved by the Carteret County Environmental Health Division. A contract between the owner and a certified operator shall be required for the purpose of operation and maintenance of the septic system for as long as the system is required.

*Amelia Kessler REHS*  
 Environmental Health Specialist

November/17/2011  
 Date



**Criteria for Engineered Plans  
for Wastewater Systems with Designs Flows of 3000 gpd or less  
(as required by Carteret County Health Department)**

Site specific plans and specifications shall be prepared by a registered professional engineer or an individual with a demonstrated knowledge of the proposed wastewater system and who has been authorized in writing by the manufacturer (where applicable).

Prior to the issuance of an Authorization to Construct, the site specific plans and specifications shall be submitted for review and approval by Carteret County Health Department. In addition, if fill or any other site modification or easements are required prior to the system installation, they shall be completed as indicated on the Improvement Permit and approved by Carteret County Health Department.

The design must incorporate and be consistent with the approved site plan and layout as indicated on the Improvement Permit. Plans and specifications shall include requirements for any site modifications as indicated on the Improvement Permit.

The plans and specifications shall include but shall not be limited to the following requirements:

1. All conditions as required in Laws and Rules for Sewage Treatment and Disposal Systems (15A NCAC 18A .1900) and all conditions as required in the Innovative, Experimental or Controlled Demonstration Wastewater System Approvals (where applicable) shall be met. The most current Approvals issued by DENR shall be used when designing these systems. All design submittals shall be accompanied by a letter from the manufacturer's North Carolina authorized representative.
2. The plans shall include the owner's name, the facility description, the design flow and calculations, the facility location, the proposed system, the engineer's seal and signature or designer's certification and the date. Revision dates shall be included on all revised plans and specifications.
3. A site plan based on a surveyed plat showing location of system, repair area, water supply lines on the site and/or wells located on the site and within 100 feet of the property lines, water bodies, ditches, storm sewers and storm water control devices, and existing and proposed building foundations and appurtenances. Dimensions and / or metes and bounds shall be used to locate the system and components on the site plan.
4. Specifications describing all materials and components to be used and methods of construction. Include tank manufacturers cut sheets, pump specification sheets, effluent filter specifications, etc. that are pertinent to the system.
5. Plan and profile drawings showing depth of fill (if required), depth of rock bed or trenches, placement of system components and appurtenances, supply lines, pipe diameters and lengths, depth of cover, valves and other appurtenances, and elevations required for all relevant system components relative to an established benchmark.
6. Plans and profile drawings for all tanks, showing capacity, access manholes, effluent filters and risers (when required), pump tank with riser, pump and float details (including float elevations), discharge piping, anti-siphon hole or dump valve, check valve, union disconnect, gate valve, electrical connection detail and control panel. A Halliday (or equivalent) hatch cover (locking), A2424 or larger where required, or equivalent cover is required over the pump access on the pump tank.
7. Carteret County requires the following items at the recommendation of OSWS/DEH/NCDENR:
  - A. Geotextile fabric or untreated paper over the trench, at the gravel - backfill interface.
  - B. Use reducing tees instead of bushing-down.
  - C. Use one nominal size smaller pressure-adjustment gate valve than the effluent supply line or manifold (whichever is smaller) at the drainfield. The designer shall make sure the reduction in valve size does not cause the total dynamic head of the system to exceed the pump capability.
  - D. Provide an elapsed time meter and cycle counter for each pump in the control panel for systems with designs flows over 600 gallons per day.
  - E. Incorporate a drainback mechanism such as an anti-siphon hole or a dump valve return

effluent to the pump tank.





- F. Provide a float tree (show detail) with sufficient wire inside tank to allow float tree to be removed from tank for float maintenance.
- 8. A properly sized and approved effluent filter shall be required at the outlet of the septic tank. Risers are required over both ends of the septic tank when the finished grade is greater than six (6) inches below the finished grade. The riser over the effluent filter shall extend at least to the finished grade to allow for maintenance access. A Halliday (or equivalent) hatch (locking) or equivalent is recommended over the effluent filter to facilitate maintenance.
- 9. Calculations for pump and pump curve (provide pump curve for pump specified in plans), calculations for determination of head pressure, calculations for dosing volumes and drawdown for the pump tank and drainfield (where applicable).
- 10. Where required, a written, signed and sealed report from a Licensed Soil Scientist, (detailed site assessment) shall be made part of required plans.
- 11. Operation and maintenance requirements, including requirements for certified operator, testing and start-up procedures and inspection procedures.

3/13/08

SEAWARD FACE ANALYSIS  
11 - 2413 Ocean Drive

Oceanfront Properties in Eastern End of Emerald Isle

Color  
Key

-  50% Most Seaward Properties
-  Newly Approved CAMA Minor Permit Properties
-  PETITIONERS' PROPERTY - 2311 Ocean Drive
-  13 Properties Not Meeting Local Front Yard Setback
-  Median Property

Source:	Town of E.I.	Carteret Tax Parcel	Carteret Tax Parcel & Field	Carteret Tax Parcel		
	(A)	(B)	(C.)	(A+B+C)		
Location of Property	Estimated Distance from Front Property Line to Structure*	Building Depth	Covered Deck	Seaward Face including Cov. Decks	Building Footprint	
1	2201 Ocean Drive	81	45	0	126	1461
2	2113 Ocean Drive	87	34	0	121	1616
3	2111 Ocean Drive	83	26	8	117	780
4	2205 Ocean Drive	74	40	0	114	1200
5	2207 Ocean Drive	73	28	8	109	1232
6	2203 Ocean Drive	71	36	0	107	896
7	2403 Ocean Drive	58	36	10	104	1684
8	405 Ocean Drive	79	20	0	99	800
9	2209 Ocean Drive	59	40	0	99	1240
10	407 Ocean Drive	56	35	8	99	1015
11	2109 Ocean Drive	71	27	0	98	1069
12	2405 Ocean Drive	57	37	0	94	1998
13	1103 Ocean Drive	41	45	8	94	2091
14	1107 Ocean Drive	50	32	9	91	1024
15	2003 Ocean Drive	42	45	0	87	930
16	2211 Ocean Drive	39	40	8	87	1600
17	2401 Ocean Drive	41	42	4	87	1216
18	1011 Ocean Drive	36	42	8	86	2352
19	801 Ocean Drive	29	48	8	85	1536
20	1109 Ocean Drive	38	38	8	84	???
	PETITIONER'S PROPERTY (ORIGINAL LOCATION) PRIOR TO MOVE				85	
21	507 Ocean Drive	33	42	9	84	1240
22	1813 Ocean Drive	28	46	10	84	1562
23	1509 Ocean Drive	47	33	3	83	1606
24	1111 Ocean Drive	37	38	8	83	1890
25	2107 Ocean Drive	49	33	0	82	961

26	301 Ocean Drive	24	50	8	82	3100
27	711 Ocean Drive	42	32	8	82	1018
28	309 Ocean Drive	40	34	8	82	1728
29	1113 Ocean Drive (new 2011)	49	24	8	81	1080
30	1407 Ocean Drive	32	48	0	80	1628
31	1105 Ocean Drive	43	29	8	80	1580
32	1905 Ocean Drive	24	48	8	80	1056
33	2009 Ocean Drive	32	40	8	80	960
34	509 Ocean Drive	34	36	10	80	1440
35	1507 Ocean Drive	44	32	3	79	1044
36	1003 Ocean Drive	30	42	7	79	???
37	803 Ocean Drive	41	30	8	79	1500
38	1511 Ocean Drive	33	37	9	79	1998
39	511 Ocean Drive	34	36	8	78	936
40	2011 Ocean Drive	38	32	8	78	???
41	2213 Ocean Drive	42	26	9	77	1248
42	2411 Ocean Drive	42	34	0	76	1740
43	1203 Ocean Drive	38	30	8	76	1200
44	1301 Ocean Drive	36	32	8	76	1536
45	411 Ocean Drive	35	32	9	76	1856
46	2013 Ocean Drive	31	36	8	75	1908
47	1401 Ocean Drive	16	51	8	75	1024
48	403 Ocean Drive	33	41	0	74	2091
49	907 Ocean Drive	38	36	0	74	864
50	2301 Ocean Drive	38	36	0	74	1868
51	1503 Ocean Drive	26	45	3	74	1541
52	805 Ocean Drive	26	40	8	74	1584
53	2007 Ocean Drive	28	38	8	74	???
54	911 Ocean Drive	28	36	10	74	1008
55	311 Ocean Drive	39	34	0	73	1304
56	713 Ocean Drive	41	32	0	73	1024
57	813 Ocean Drive	27	46	0	73	940
58	1211 Ocean Drive	25	48	0	73	1024
59	1411 Ocean Drive	33	40	0	73	1040
60	1501 Ocean Drive	36	34	3	73	1306
61	113 Ocean Drive	33	32	8	73	1408
62	2407 Ocean Drive	40	32	0	72	1664
63	709 Ocean Drive	33	31	8	72	1736
64	1001 Ocean Drive	36	28	8	72	1232
65	1201 Ocean Drive	32	32	8	72	1728
66	2001 Ocean Drive	33	31	8	72	1235
67	201 Ocean Drive	27	44	0	71	1696
68	313 Ocean Drive	46	25	0	71	900
69	1009 Ocean Drive	37	34	0	71	1904
70	1907 Ocean Drive	43	28	0	71	716
71	203 Ocean Drive	32	36	3	71	936
72	1101 Ocean Drive	36	30	5	71	1564
73	1811 Ocean Drive	30	34	7	71	1498

170	705 Ocean Drive (vacant)	Vac
171	1901 Ocean Drive (vacant)	Vac
172	2409 Ocean Drive (vacant)	Vac

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Location of Property	(A) Estimated Distance from Front Property Line to Structure*	(B) Building Depth	(C.) Covered Deck	(A+B+C) Seaward Face including Cov. Decks	Building Footprint
70.1	Community Average Seaward Face				
71.5	Community Average w/o Violating Structures				
81.4	Community Average of 80 most Seaward Properties				
85	Petitioner's Property Prior to 2001 Landward Relocation 21st Most Seaward of 163 Properties				
54	Petitioner's Property 20th Most Landward of 163 Properties				
60	Petitioner's Property if Deck is Covered 36th Most Landward of 163 Properties				

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**BUILDING FOOTPRINT ANALYSIS**

11 - 2413 Ocean Drive

**Oceanfront Properties in Eastern End of Emerald Isle**

Color  
Key

-  50% Most Seaward Properties
-  Newly Approved CAMA Minor Permit Properties
-  2311 Ocean Drive
-  13 Properties Violating Local Front Yard Setback
-  Median Property

Source:	Town of E.I.	Carteret Tax Parcel	Carteret Tax Parcel & Field		Carteret Tax Parcel
Location of Property	(A) Estimated Distance from Front Property Line to Structure*	(B) Building Depth	(C.) Covered Deck	(A+B+C) Seaward Face including Cov. Decks	Building Footprint
1 2303 Ocean Drive	5	36	0	41	1008
2 1403 Ocean Drive	19	36	8	63	1728
3 107 Ocean Drive	34	28	8	70	1008
4 111 Ocean Drive	37	28	3	68	984
5 511 Ocean Drive	34	36	8	78	936
6 407 Ocean Drive	56	35	8	99	1015
7 105 Ocean Drive	24	28	10	62	1596
8 507 Ocean Drive	33	42	9	84	1240
9 501 Ocean Drive	30	29	8	67	1740
10 209 Ocean Drive	21	28	8	57	1232
11 901 Ocean Drive	20	44	6	70	1232
12 601 Ocean Drive	25	40	0	65	1280
13 405 Ocean Drive	79	20	0	99	800
14 305 Ocean Drive	18	26	0	44	1040
15 607 Ocean Drive	29	24	8	61	816
16 413 Ocean Drive	33	28	8	69	1624
17 1401 Ocean Drive	16	51	8	75	1024
18 911 Ocean Drive	28	36	10	74	1008
19 2313 Ocean Drive	8	24	13	45	864
20 1705 Ocean Drive	16	25	6	47	1250
21 1503 Ocean Drive	26	45	3	74	1541
22 101 Ocean Drive	34	28	0	62	1512
23 1207 Ocean Drive	31	32	8	71	1728
24 1501 Ocean Drive	36	34	3	73	1306
25 1209 Ocean Drive	30	26	8	64	1144

26	1707 Ocean Drive	26	28	11	65	1008
27	1911 Ocean Drive	31	28	8	67	788
28	1805 Ocean Drive	14	42	8	64	1848
29	1303 Ocean Drive	18	34	9	61	1836
30	1213 Ocean Drive	27	30	8	65	1680
31	1205 Ocean Drive	34	30	0	64	1620
32	603 Ocean Drive	31	28	8	67	1568
33	1301 Ocean Drive	36	32	8	76	1536
34	605 Ocean Drive	26	28	8	62	1400
35	1607 Ocean Drive	23	28	8	59	1344
36	207 Ocean Drive	24	28	8	60	1232
37	213 Ocean Drive	24	34	4	62	1304
38	1413 Ocean Drive	37	32	0	69	768
39	1011 Ocean Drive	36	42	8	86	2352
40	1103 Ocean Drive	41	45	8	94	2091
41	1511 Ocean Drive	33	37	9	79	1998
42	411 Ocean Drive	35	32	9	76	1856
43	1407 Ocean Drive	32	48	0	80	1628
44	805 Ocean Drive	26	40	8	74	1584
45	2105 Ocean Drive	33	28	0	61	1512
46	2005 Ocean Drive	31	36	0	67	1344
47	1409 Ocean Drive	35	33	0	68	1264
48	1001 Ocean Drive	36	28	8	72	1232
49	1805 Ocean Drive	14	32	0	46	1216
50	2307 Ocean Drive	7	30	8	45	1200
51	11 Ocean Drive	29	28	9	66	1120
2	205 Ocean Drive	25	30	3	58	900
3	1913 Ocean Drive	25	32	9	66	1792
4	311 Ocean Drive	39	34	0	73	1304
1	301 Ocean Drive	24	50	8	82	3100
2	309 Ocean Drive	40	34	8	82	1728
3	1701 Ocean Drive	33	32	3	68	1536
4	709 Ocean Drive	33	31	8	72	1736
5	1201 Ocean Drive	32	32	8	72	1728
6	409 Ocean Drive	30	32	8	70	1728
7	201 Ocean Drive	27	44	0	71	1696
8	909 Ocean Drive	21	42	8	71	1680
9	1105 Ocean Drive	43	29	8	80	1580
10	1111 Ocean Drive	37	38	8	83	1564
11	809 Ocean Drive	18	30	8	56	1320
38	807 Ocean Drive	24	30	0	54	1320
39	2213 Ocean Drive	42	26	9	77	1248
40	1709 Ocean Drive	25	28	0	53	1120
40	1005 Ocean Drive	30	25	0	55	1102
41	2109 Ocean Drive	71	27	0	98	1069

42	1411 Ocean Drive	33	40	0	73	1040
43	2211 Ocean Drive	39	40	8	87	1600
44	2101 Ocean Drive	23	26	0	49	1512
45	707 Ocean Drive	28	32	8	68	1408
46	2309 Ocean Drive	6	52	0	58	1388
47	1307 Ocean Drive	22	36	0	58	1275
48	2209 Ocean Drive	59	40	0	99	1240
49	1711 Ocean Drive	25	30	8	63	1200
50	1211 Ocean Drive	25	48	0	73	1024
51	2013 Ocean Drive	31	36	8	75	1908
52	1809 Ocean Drive	22	40	0	62	1880
53	1713 Ocean Drive	20	38	8	66	1588
53	1813 Ocean Drive	28	46	10	84	1562
54	1513 Ocean Drive	39	30	0	69	1512
55	2201 Ocean Drive	81	45	0	126	1461
56	1603 Ocean Drive	29	28	8	65	1400
57	1609 Ocean Drive	24	30	8	62	1212
58	2205 Ocean Drive	74	40	0	114	1200
59	1311 Ocean Drive	27	30	0	57	1152
60	1613 Ocean Drive	27	26	0	53	1094
61	713 Ocean Drive	41	32	0	73	1024
62	2009 Ocean Drive	32	40	8	80	960
63	813 Ocean Drive	27	46	0	73	940
64	513 Ocean Drive (vacant)	Vac - CRC Variance Approved - March 18, 2011				855
65	2111 Ocean Drive	83	26	8	117	780
66	1007 Ocean Drive	34	24	0	58	1920
67	17 Ocean Drive	29	32	0	61	1664
68	2413 Ocean Drive	30	28	0	58	1509
69	1313 Ocean Drive	21	37	0	58	1345
70	2001 Ocean Drive	33	31	8	72	1235
71	1703 Ocean Drive	20	30	11	61	1200
72	1107 Ocean Drive	50	32	9	91	1024
73	711 Ocean Drive	42	32	8	82	1018
74	1509 Ocean Drive	47	33	3	83	1606
75	801 Ocean Drive	29	48	8	85	1536
76	509 Ocean Drive	34	36	10	80	1440
77	1013 Ocean Drive	41	26	0	67	1248
78	1507 Ocean Drive	44	32	3	79	1044
79	13 Ocean Drive	32	36	0	68	1872
80	2407 Ocean Drive	40	32	0	72	1664
81	803 Ocean Drive	41	30	8	79	1500
82	2401 Ocean Drive	41	42	4	87	1216
83	1905 Ocean Drive	24	48	8	80	1056
84	313 Ocean Drive	46	25	0	71	900
85	907 Ocean Drive	38	36	0	74	864
86	1907 Ocean Drive	43	28	0	71	716



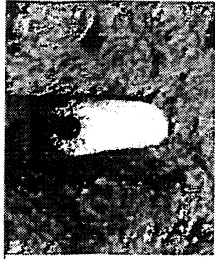
87	403 Ocean Drive	33	41	0	74	2091
88	1807 Ocean Drive	31	30	8	69	1320
89	2003 Ocean Drive	42	45	0	87	930
90	2411 Ocean Drive	42	34	0	76	1740
91	2203 Ocean Drive	71	36	0	107	896
92	2405 Ocean Drive	57	37	0	94	1998
93	2403 Ocean Drive	58	36	10	104	1684
94	903 Ocean Drive	31	24	6	61	1680
7	1101 Ocean Drive	36	30	5	71	1564
8	1601 Ocean Drive	33	30	0	63	1560
9	1811 Ocean Drive	30	34	7	71	1498
10	1909 Ocean Drive	28	34	0	62	1344
11	1305 Ocean Drive	26	32	10	68	1280
12	1611 Ocean Drive	32	26	0	58	1262
13	1203 Ocean Drive	38	30	8	76	1200
14	1309 Ocean Drive	28	26	0	54	1040
15	203 Ocean Drive	32	36	3	71	936
16	1903 Ocean Drive	29	24	0	53	768
17	2113 Ocean Drive	87	34	0	121	1616
18	1803 Ocean Drive	28	34	0	62	1496
16	211 Ocean Drive	24	18	4	46	882
17	2305 Ocean Drive	30	30	8	68	1620
18	113 Ocean Drive	33	32	8	73	1408
19	103 Ocean Drive	35	24	0	59	1280
20	913 Ocean Drive	32	24	0	56	1152
21	2103 Ocean Drive	32	32	0	64	1280
22	401 Ocean Drive	26	24	3	53	960
23	505 Ocean Drive	22	20	0	42	840
23	703 Ocean Drive	37	22	0	59	880
24	2301 Ocean Drive	38	36	0	74	1868
<b>PETITIONER'S PROPERTY W/ ADDITION</b>						<b>1110</b>
1	811 Ocean Drive	27	20		47	940
2	701 Ocean Drive	36	20	0	56	880
3	<b>2311 Ocean Drive</b>	<b>34</b>	<b>20</b>	<b>0</b>	<b>54</b>	<b>840</b>
4	503 Ocean Drive	22	31	8	61	1496
5	1405 Ocean Drive	33	26	6	65	1854
6	1505 Ocean Drive	27	26	0	53	1038
7	<b>905 Ocean Drive (new 2011)</b>	<b>20</b>	<b>33</b>	<b>0</b>	<b>53</b>	<b>1760</b>
8	<b>1113 Ocean Drive (new 2011)</b>	<b>49</b>	<b>24</b>	<b>8</b>	<b>81</b>	<b>1080</b>
9	1009 Ocean Drive	37	34	0	71	1904
10	2207 Ocean Drive	73	28	8	109	1232
11	515 Ocean Drive	24	22	0	46	1152
12	215 Ocean Drive	30	26	8	64	1120
13	2107 Ocean Drive	49	33	0	82	961
14	<b>1801 Ocean Drive</b>	<b>15</b>	<b>33</b>	<b>0</b>	<b>48</b>	<b>960</b>

15	1003 Ocean Drive	30	42	7	79	???
16	1109 Ocean Drive	38	38	8	84	???
17	2007 Ocean Drive	28	38	8	74	???
18	2011 Ocean Drive	38	32	8	78	???
19	15 Ocean Drive (vacant)	Vac				
20	109 Ocean Drive (vacant)	Vac				
21	307 Ocean Drive (parking)	Park				
22	609 Ocean Drive (vacant)	Vac				
23	613 Ocean Drive (vacant)	Vac				
24	705 Ocean Drive (vacant)	Vac				
25	1901 Ocean Drive (vacant)	Vac				
26	2409 Ocean Drive (vacant)	Vac				

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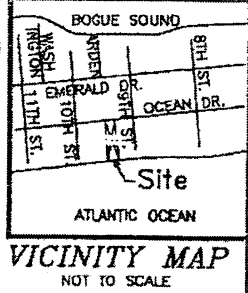
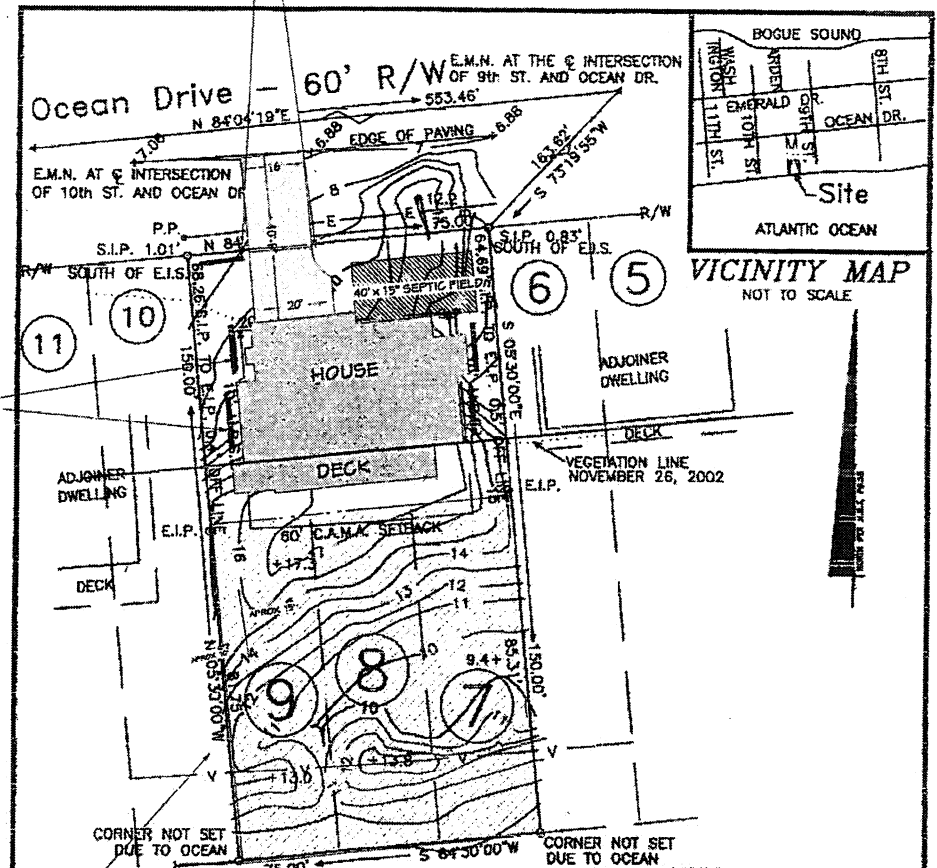
	(A)	(B)	(C.)	(A+B+C)	
Location of Property	Estimated Distance from Front Property Line to Structure*	Building Depth	Covered Deck	Seaward Face including Cov. Decks	Building Footprint
1353.5	EASTERN END Average Building Footprint				
1397.9	EASTERN END Average of 80 Largest Properties				
1760	Petitioner's Property 8th Smallest of 160 Properties				
1110	Petitioner's Property w/ Addition 49th Smallest of 160 Properties				

---



STORM WATER CALCULATIONS:  
 1,808 SQFT TO THE DRAIN LINE OF ROOF  
 1808 / 100 = 18.08  
 18.08 X 16.67 = 301.39 CUBIC FT OF CONTAINMENT  
 301.39 / 6 = 50 LINFT. OF EZFLOW PIPE

NATURAL AREA CALCULATION:  
 TOTAL LOT SQFT. = 11,250 SQFT.  
 35% OF TOTAL FOR NATURAL AREA = 3,937 SQFT.  
 DENOTED SAVED NATURAL AREA BY ANGLE SHADING = 6,321 SQFT.



**LEGEND**

- E.I.P. EXISTING IRON PIPE
- S.I.P. SET IRON STAKE
- R/W RIGHT OF WAY
- M.B.S.L. MINIMUM BUILDING SETBACK LINE
- M.B. MAP BOOK
- P.O. PAGE
- S.F. SQUARE FEET
- C.L. CENTERLINE
- E.C.M. EXISTING CONCRETE MONUMENT
- E.I.S. EXISTING IRON STAKE
- E.M.N. EXISTING MAG NAIL
- S.M.N. SET MAG NAIL
- BOUNDARY LINE
- BUILDING LINE
- ADJOINER LINE
- OVERHEAD UTILITY
- FIRST LINE OF STABLE VEGETATION AS FLAGGED BY LOCAL C.A.M.A. OFFICER
- CONTOUR LINE
- +8.6 SPOT ELEVATION
- P.P. POWER POLE

**NOTES**

- AREA = 11,250.0 S.F. (BY COORDINATE COMPUTATION).
- CLOSURE = 1:10,000+
- REFERENCE: M.B. 3 PS. 58
- P.J.N. 8324.10-25-5111.
- FLOOD ZONE: ZONE VE(EL 14) PER FILE# 3720332400L 7-16-2003.
- FINAL MAP RECORDED: JULY 1954.
- THIS PROPERTY IS SUBJECT TO ALL EASEMENTS, AGREEMENTS, AND RIGHTS OF WAY OF RECORD PRIOR TO THE DATE OF THIS PLAN.
- ADDRESS: 905 OCEAN DRIVE.
- ELEVATIONS BASED ON H.A.V.D. 1988.
- NO BEARINGS ARE INDICATED ON THE RECORDED MAP. THE BEARINGS SHOWN HEREON ARE TRANSFERRED FROM OTHER BLOCKS IN EMERALD ISLE.
- THE C.A.M.A. SETBACKS SHOWN HEREON ARE BASED ON REVIEW OF C.A.M.A. RULES AND DISCUSSION WITH THE LOCAL AND STATE C.A.M.A. OFFICIALS. PRIOR TO DESIGN OR CONSTRUCTION C.A.M.A. SHOULD BE CONSULTED.
- REVISED 8-18-2011 TO SHOW NEW 20' M.B.S.L. AND NEW 14' LINE OF VEGETATION FLAGGED ON 8-17-11. NO OTHER REVISIONS OR UPDATES THIS DATE.
- REVISED 8-30-2011 TO SHOW NEW 1st LINE OF VEGETATION FLAGGED ON 8-30-11.
- REVISED 8-18-2011, NAME CHANGE & DISMEMBER BUILDING AREA, 2002 VEGETATION LINE.

**GRAPHIC SCALE - FEET**

0 30 60 90

I certify that this map was drawn by me from an actual survey made under my supervision (Good description recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ or other reference source \_\_\_\_\_) that the boundaries not surveyed are indicated as drawn from information in Book 3, Page 58 or other reference source \_\_\_\_\_ that the ratio of precision or positional accuracy is 1/10,000; and that this map meets the requirements of the Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600). This 19th day of September, 2011.

**I-3062**  
 Professional Land Surveyor License No.

SURVEYED BY: JCU DATE: 8-14-2010/8-18-11  
 FIELD BOOK: E1 118/E1 120 DRAWN BY: JAO  
 PAGE: 62, 63, 67/68, 71

**SURVEY AND TOPOGRAPHIC SURVEY FOR**  
**Irene F. Bailey-Wells**  
 and  
**Don Wells**

LOT 7, 8, AND 9; BLOCK 5;  
 EMERALD ISLE BY THE SEA

COUNTY	CITY	TOWNSHIP
CARTERET	EMERALD ISLE, NC	WHITE OAK

SCALE: 1"=30'  
 DATE REV. 8-18-11, 8-19-11  
 MAY 5, 2010 PROJECT NO. 2010041

**Prestige**  
 Land Surveying, P.A.  
 Corporation License Number C-0980  
 501 W. B. McLean Blvd. - Cape Carteret  
 Swansboro, North Carolina 28584  
 252-392-2189 (Fax) 252-392-3076

Locality TOWN OF EMERALD ISLE Permit Number 11-53

Ocean Hazard  Estuarine Shoreline \_\_\_\_\_ ORW Shoreline \_\_\_\_\_ Public Trust Shoreline \_\_\_\_\_ Other \_\_\_\_\_

(For official use only)

**GENERAL INFORMATION**

**LAND OWNER**

Name IRENE BAILEY / DON WELLS

Address 905 OCEAN DRIVE

City EMERALD ISLE State NC Zip 28594 Phone 252-354-7610

Email ANTHONYF@BLUEWATERNC.COM

**AUTHORIZED AGENT**

Name BLUEWATER BUILDERS, INC.

Address 201 MANGROVE DRIVE

City EMERALD ISLE State NC Zip 28594 Phone 252-354-7610

Email ANTHONYF@BLUEWATERNC.COM

**LOCATION OF PROJECT:** (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 905 OCEAN DRIVE, NC

**DESCRIPTION OF PROJECT:** (List all proposed construction and land disturbance.) NEW HOME CONSTRUCTED

**SIZE OF LOT/PARCEL:** 11,250 square feet 0.258 acres

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

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

(1) **OCEAN HAZARD AECs:** TOTAL FLOOR AREA OF PROPOSED STRUCTURE: 2424 square feet (includes air conditioned living space, parking elevated above ground level, non-conditioned space elevated above ground level but excluding non-load-bearing attic space)

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

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

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

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

**STATEMENT OF OWNERSHIP:**

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

an owner or record title, Title is vested in IRENE BAILEY + DON WALKER, see Deed Book 3 page 58 in the CARTERET County Registry of Deeds.

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

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

**NOTIFICATION OF ADJACENT PROPERTY OWNERS:**

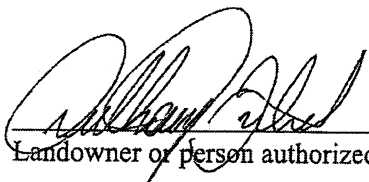
I furthermore certify that the following persons are owners of properties adjoining this property. I affirm that I have given **ACTUAL NOTICE** to each of them concerning my intent to develop this property and to apply for a CAMA permit.

- | (Name)                     | (Address)  |
|----------------------------|--|
| (1) <u>STUBER NC LLC</u>   | <u>1800 MANUEL ST. RALEIGH, NC 27612</u>           |
| (2) _____                  | _____  |
| (3) <u>DORIS H. MURPHY</u> | <u>39 VANDIFORD THOMAS RD. FARMVILLE, NC 27828</u> |
| (4) _____                  | _____  |

**ACKNOWLEDGEMENTS:**

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

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



This the 19 day of Sept, 2011

\_\_\_\_\_  
Landowner or person authorized to act as his/her agent for purpose of filing a CAMA permit application

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

Condition Comments:

Other Fields:

Purpose SFR  
CAMA # 11-53  
Exempt #

To: Anthony  
CAMA Review

Comments

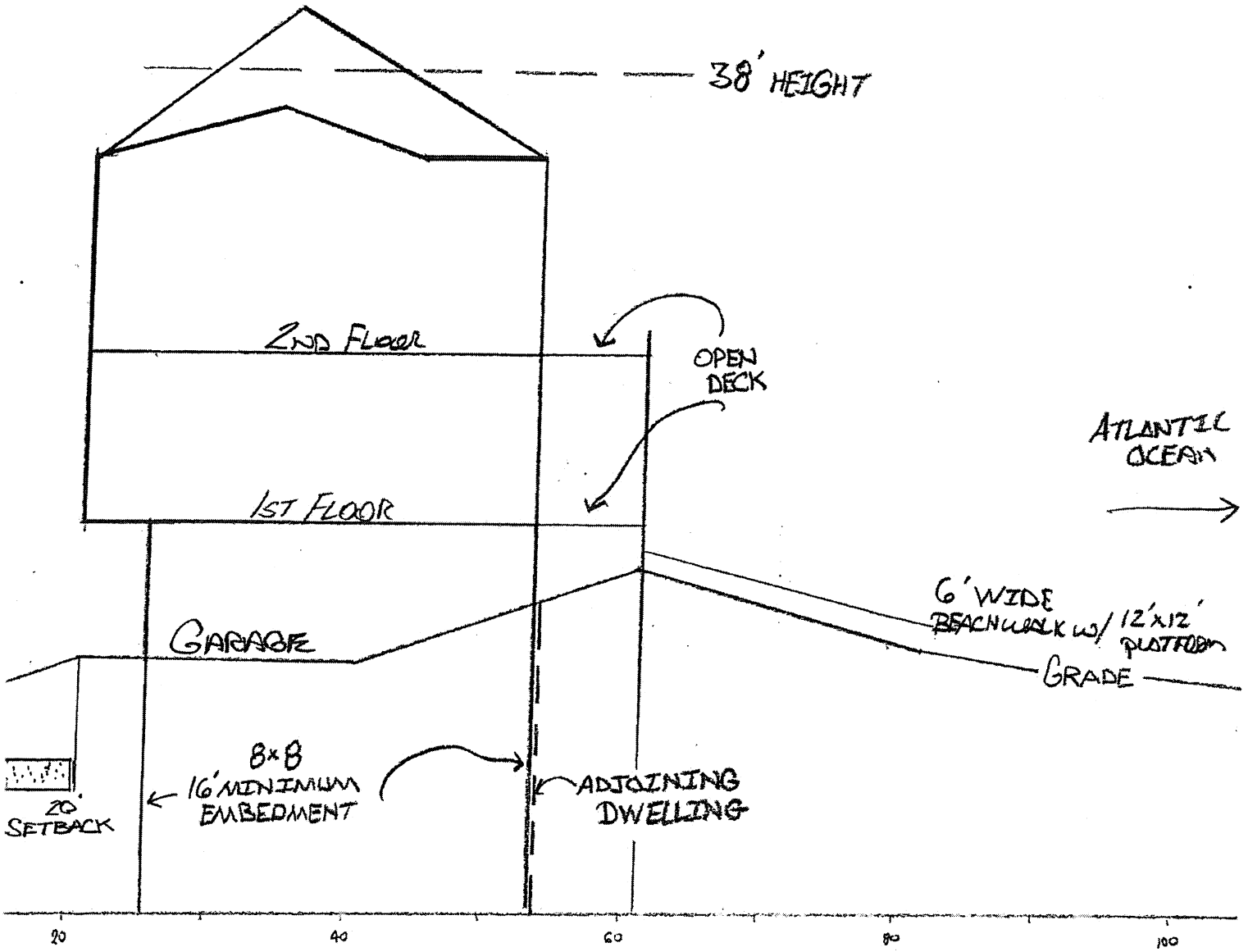
- ✓ Reviewed Applico. 9/20/14
- ① Delineate static veg. line on survey ✓
  - ② Elevation Drawings - Delineate FLSU, 60' Set Back ✓  
Static line. and 12x12 peak. provide dimentions  
hive / Deck ✓
  - ③ Delineate on survey both access way + all  
decks with dimentions same for proposed  
hive and epic system.

2nd Review - 9/20/14

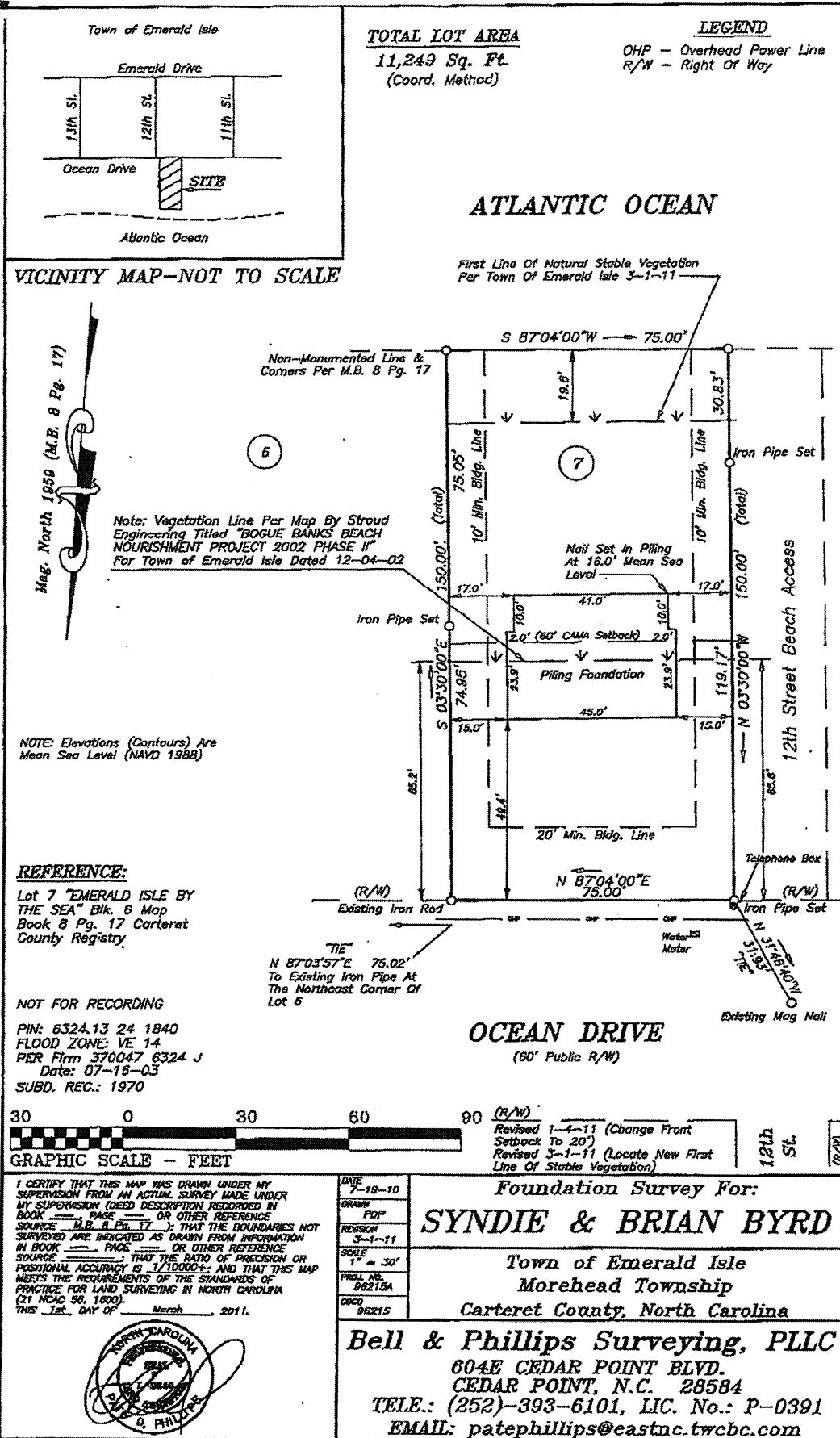
appears to comply with JWS find.

C.K to process (A)

9050D  
EMERALD ISLE, NC



9050D



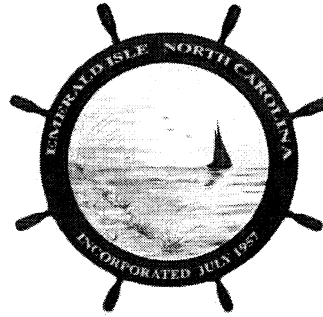


# Town of Emerald Isle

*Mayor*  
Arthur B. Schools, Jr.

*Mayor Pro-Tem*  
Floyd Messer, Jr.

*Board of Commissioners*  
Nita Hedreen  
Tom Hoover, Jr.  
John Wootten  
Maripat Wright



*Town Manager*  
Frank A. Rush, Jr.  
[frush@emeraldisle-nc.org](mailto:frush@emeraldisle-nc.org)

*Mailing Address*  
7500 Emerald Drive  
Emerald Isle, NC 28594

*Physical Address*  
7509 Emerald Drive

Visit our web site at [www.emeraldisle-nc.org](http://www.emeraldisle-nc.org) !

*Voice* 252-354-3424  
*Fax* 252-354-5068

July 13, 2010

**MEMO TO:** Mayor Schools and Board of Commissioners

**FROM:** Frank Rush, Town Manager

**SUBJECT:** Ordinance Amending Chapter 3 – Zoning Districts – and Chapter 5 – Density, Intensity, and Dimensional Standards – of the Unified Development Ordinance to Create the Eastern End Oceanfront Overlay District and Establish a 20 ft. Front Setback

The Board of Commissioners is scheduled to consider the attached ordinance amendment that would create a new zoning overlay district for oceanfront properties in eastern Emerald Isle. The proposed Eastern End Oceanfront Overlay District would retain all of the development standards of the underlying Residential-2 (R-2) Zoning District in eastern Emerald Isle, with the exception of a reduction of the front yard setback from 30 ft. to 20 ft.

As you know, the Town was recently granted a “static line exception” by the NC Coastal Resources Commission that allows all oceanfront properties in eastern Emerald Isle to again utilize the first line of natural and stable vegetation for oceanfront setbacks. Because one goal of the static line exception is to keep oceanfront development along nourished beaches as far back from the ocean as possible, the static line exception also includes a provision that requires all new development to be located no closer to the ocean than the most landward adjacent structure, which in some cases would result in an additional setback area beyond the typical 60 feet required from the vegetation line.

In eastern Emerald Isle, which is zoned R-2, a 30 ft. front yard setback is required, and the application of the ocean setback and front yard setback determines whether or not a home or lot is conforming. Because 66 of the 161 existing homes in eastern Emerald Isle do not meet the 30 ft. front setback and are closer than 30 ft to the street right of way, this causes some homes to be further away from the ocean than the 60 ft. ocean setback, therefore requiring a greater ocean setback for the adjacent property. When this greater oceanfront setback is factored in, along with the 30 ft. front yard setback, it will either continue to result in non-conforming status for the adjacent property or will require the construction of an oddly-shaped home in order to meet the ocean setback and the 30 ft. front yard setback (that their neighbor has not met). In order to rectify this, a 20 ft. front yard setback is proposed to make it easier for more oceanfront homes and lots in eastern Emerald Isle to regain conforming status.

As noted, 66 of the 161 existing homes currently have a front yard setback less than 30 ft. If the attached ordinance amendment is adopted, all but 13 of the 161 existing homes would meet the 20 ft. setback, thus the vast majority of homes could likely regain conforming status.

The restoration of conforming status in eastern Emerald Isle will benefit the affected property owners, the adjacent property owners, and the Town. More property owners will again have the opportunity to reconstruct their home if it is damaged by storm or fire, or if they simply want to demolish the existing older home and build a new home. Many lenders have denied mortgage loans in non-conforming areas in recent years, and the restoration of conforming status would enable new buyers to secure mortgages and enable existing owners to sell if they so choose. Adjacent property owners would benefit because the restoration of conforming status will provide greater incentive for oceanfront homes to be better maintained and/or replaced, thereby improving aesthetics and increasing property values. The Town as a whole benefits in the same way as adjacent property owners, and also by the fact that new development in this area will meet today's more stringent building codes, resulting in more durable construction better able to withstand hurricane impacts.

As noted during previous Board meetings, the static line exception includes a limit of 2,500 heated sq. ft. for any new construction governed by the static line exception. This limitation, along with the requirement for new development to be as far back from the ocean as adjacent structures, will help to insure that new development on the oceanfront in this area is responsible and consistent with the Town's goal to retain its small-town atmosphere. Very large oceanfront homes will not be permitted in this area, thus the character eastern Emerald Isle should be retained and improved in the future.

As you know, there is great interest among the oceanfront property owners in this area in regaining conforming status. The achievement of the static line exception has been very well-received by owners in this area, and has already helped many of these property owners. The proposed ordinance amendment to create the Eastern End Oceanfront Overlay District and 20 ft. front yard setback will help even more property owners to regain conforming status.

The attached memo from Kevin Reed, Planning and Inspections Director, includes additional information about this item. I have also included a complete listing of the estimated setbacks for existing structures in the area between 1<sup>st</sup> Street and 25<sup>th</sup> Street, the area targeted for the new overlay district.

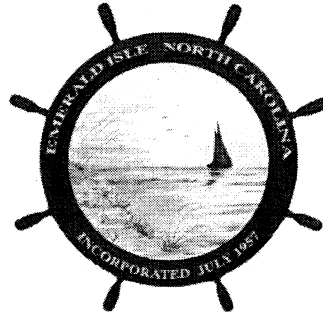
A public hearing has been scheduled for the July 13 meeting, and should be conducted prior to Board action on the proposed ordinance amendment. A copy of the public hearing notice is attached. The Planning Board considered the attached ordinance amendment at its May and June meetings, and unanimously recommends approval.

It is likely that 2 of the 5 Commissioners will not be present at the July 13 meeting. As you know, a 2/3 majority of the full membership of the Board is required to adopt an ordinance on first reading. In the Town's case, this means that an ordinance must receive at least 4 votes on first reading to become effective. If only 3 members of the Board are present, the ordinance obviously will not receive the required number of votes for passage on first reading, and a second reading would be scheduled for the August 10 meeting. Only a simple majority, or 3 votes, is required for passage on second reading.

Kevin Reed and I look forward to discussing this issue with the Board on July 13.

# Town of Emerald Isle

Department of Planning and  
Inspections  
Kevin B. Reed, AICP, Director  
[kreed@emeraldisle-nc.org](mailto:kreed@emeraldisle-nc.org)



7500 Emerald Drive  
Emerald Isle, NC 28594  
Voice 252-354-3338  
Fax 252-354-5387

## MEMORANDUM

**DATE:** July 13, 2010

**TO:** Frank A. Rush, Jr., Town Manager

**FROM:** Kevin B. Reed, AICP, CFM, CZO, Director of Planning and Inspections

**SUBJECT:** Consider possible amendments to the Town's Unified Development Ordinance (UDO) in order to create the Eastern End Oceanfront (EEO) Overlay District and the rezoning of oceanfront parcels from 1<sup>st</sup> Street to 25<sup>th</sup> Street in order to include them in the EEO District.

Prior to the Town undertaking its large scale beach nourishment project in the winter of 2002-03, the Town was required to survey the existing vegetation line that was delineated by staff from the Division of Coastal Management (DCM). This line became known as the Static Vegetation Line and was to be used in perpetuity to determine the required Coastal Area Management Act (CAMA) setback on the ocean side of oceanfront parcels for development purposes. One result of the static line was that virtually all of the structures on the oceanfront parcels from 1<sup>st</sup> Street to 25<sup>th</sup> Street became non-conforming from a CAMA setback perspective. The Coastal Resources Commission (CRC) recently approved the Town's static line exception plan. With the approval of this plan, the Town now has the ability to use the actual First Line of Natural and Stable Vegetation rather than the static line and the result is that many of the existing homes between 1<sup>st</sup> Street and 25<sup>th</sup> Street are likely conforming now rather than nonconforming from a CAMA setback perspective. One requirement of the static line exception is that no structure may be located any further seaward than the landward most adjacent structure. In many cases, staff found that a person's existing home can meet the required CAMA setback, but does not meet the front yard setback along the Ocean Drive side of the property primarily due to the location of the landward most adjacent structure.

At the request of the Town Manager, Town planning staff completed an analysis of the existing structures from 1<sup>st</sup> Street to 25<sup>th</sup> Street to determine if a large number of structures did not meet the required front yard setback of 30-feet from the Ocean Drive right-of-way line. According to the information developed by staff, 161 of the 172 parcels in this area are developed and contain existing homes. Of these 161 developed parcels it is estimated that 95, or 66%, meet or exceed

the 30-foot front yard setback. Of the remaining 66 developed parcels 53, or 80%, do not meet the required 30-foot front setback but would meet a 20-foot front yard setback. It is not known if these homes were built prior to the requirement for a 30-foot setback or if they were permitted illegally in the past. When this information was previously shared with the Board of Commissioners, Town staff was directed to discuss with the Planning Board possible amendments to the Town's Unified Development Ordinance (UDO) that would reduce the required front yard setback from 30-feet to 20-feet, or whatever number the Planning Board felt was appropriate.

At the Planning Board's May 24, 2010 meeting, Town staff discussed the impact of the Division of Coastal Management's (DCM) Static Line Exception on potential development and redevelopment activities for oceanfront properties from 1<sup>st</sup> Street to 25<sup>th</sup> Street. Staff presented two possible approaches to the Board on how this matter might be addressed through amendments to the Town's Unified Development Ordinance (UDO). The first approach would be to create a new zoning district in this area that is the same as the current Residential-2 (R-2) Zoning District except for a reduction in the front yard setback requirement. The second approach would be to create a zoning overlay district for this area that would also keep the current R-2 requirements in place; however, it would also allow for a reduction in the front yard setback requirement. From a procedural standpoint, both approaches require the same type of written notification to the affected and adjacent property owners as well as the same notifications to the public. Following the Board's discussion of the issue, staff was directed to prepare possible amendments to the UDO that would involve the creation of an overlay district that would result in the reduction of the front yard setback from 30-feet to 20-feet.

These amendments were presented to the Planning Board at its June 28, 2010 meeting. In order to achieve the direction given by the Planning Board on the creation of the Eastern End Oceanfront Overlay District, three amendments were proposed to the UDO. The first amendment would be to Chapter 3, "Zoning Districts", Table 3.1.1, "Zoning Districts Established", in order to add the Eastern End Oceanfront Overlay District to the list of established base and overlay zoning districts. The second amendment would be to Chapter 3, "Zoning Districts", Section 3.2.2, in order to add a description of the Eastern End Overlay District. This section lists the various districts along with their intent and purpose. The third amendment would be to Chapter 5, "Density, Intensity and Dimensional Standards", Table 5.1, "Table of Dimensional Standards", in order to establish the 20-foot front yard setback in the overlay district. There are no other changes proposed to any other setbacks or dimensional requirements in the overlay district. The only change would be to reduce the front setback from 30-feet to 20-feet. Staff also presented the Planning Board with a map that depicted the boundaries of the proposed Eastern End Oceanfront Overlay District.

Following its discussion of the proposed amendments and the rezoning of the oceanfront parcels, the Planning Board voted unanimously (6 to 0) to recommend to the Board of Commissioners that: (1) the UDO be amended in order to create the Eastern End Oceanfront (EEO) Overlay District; and, (2) all oceanfront parcels from 1<sup>st</sup> Street to 25<sup>th</sup> Street be rezoned to be included in the EEO District. Attached to this memorandum is an ordinance that shows all of the text to be added in an underlined format. A rezoning statement is also attached and from a procedural standpoint the Board should adopt the amendments to the UDO and then approve the rezoning.

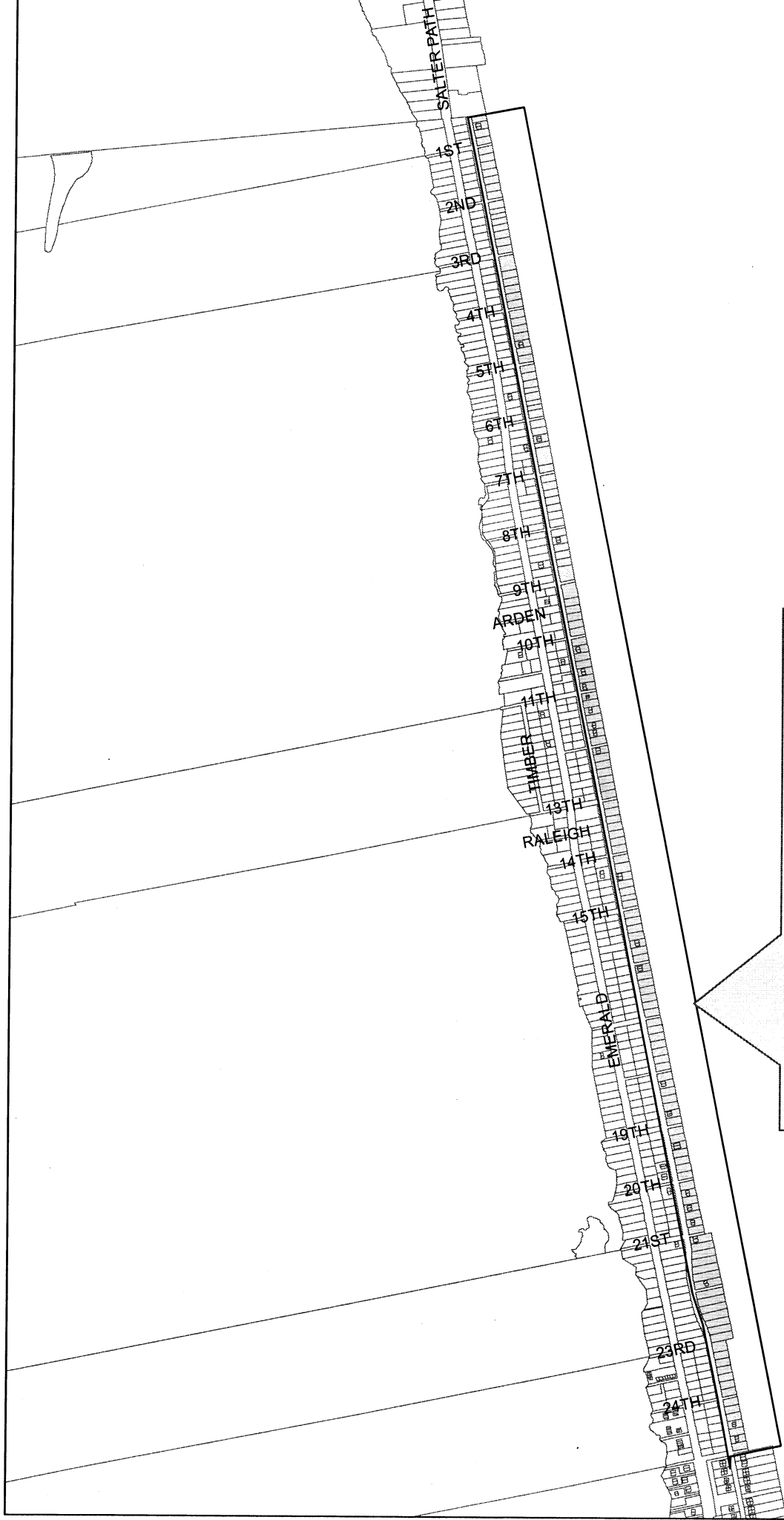
Also attached is a map which shows the specific properties that will be included in the overlay district.

Staff looks forward to discussing the proposed amendments and the rezoning with the Board of Commissioners at its July 13 meeting. Please let me know if you have any questions regarding the foregoing information.



KBR

Attachments

# Proposed Eastern End Oceanfront Overlay District



## Legend

-  Parcels
-  Eastern End Overlay District



# Town of Emerald Isle

*Mayor*  
Arthur B. Schools, Jr.

*Mayor Pro-Tem*  
Floyd Messer, Jr.

*Board of Commissioners*  
Nita Hedreen  
Tom Hoover, Jr.  
John Wootten  
Maripat Wright



*Town Manager*  
Frank A. Rush, Jr.

*Mailing Address*  
7500 Emerald Drive  
Emerald Isle, NC 28594

*Physical Address*  
7509 Emerald Drive

*Voice* 252-354-3424  
*Fax* 252-354-5068

Visit our web site at [www.emeraldisle-nc.org](http://www.emeraldisle-nc.org) !

## **ORDINANCE AMENDING CHAPTER 3 – ZONING DISTRICTS – AND CHAPTER 5 – DENSITY, INTENSITY, AND DIMENSIONAL STANDARDS – OF THE UNIFIED DEVELOPMENT ORDINANCE TO CREATE THE EASTERN END OCEANFRONT OVERLAY DISTRICT AND ESTABLISH A 20 FT. FRONT SETBACK**

**WHEREAS**, the Town's Unified Development Ordinance (UDO) requires residentially zoned properties to meet a front yard setback of 30 feet, and

**WHEREAS**, the oceanfront properties from 1<sup>st</sup> Street to 25<sup>th</sup> Street are subject to the Static Vegetation Line and Coastal Area Management Act (CAMA) regulations now allow for a Static Line Exception in this area, and

**WHEREAS**, the Static Line Exception requires new development to be located no further seaward than adjacent existing development, and

**WHEREAS**, many of the existing oceanfront homes from 1<sup>st</sup> Street to 25<sup>th</sup> Street do not meet the required 30-foot front yard setback, and

**WHEREAS**, a reduction of the front yard setback to 20 feet will enable more oceanfront property owners in this area of Town to meet CAMA regulations associated with the static line exception, and

**WHEREAS**, a reduction of the front yard setback to 20 feet will promote the location of new homes in this area further away from the ocean, and

**WHEREAS**, a reduction of the front yard setback to 20 feet will make it easier for voluntary and involuntary reconstruction of new homes in this area, and will result in new structures built to better building codes, improve the aesthetics of this area, and improve the tax base, and

**WHEREAS**, the Town now desires to amend its UDO to allow for a 20-foot front yard setback for oceanfront parcels located between 1<sup>st</sup> Street and 25<sup>th</sup> Street,

**NOW THEREFORE BE IT ORDAINED** by the Emerald Isle Board of Commissioners that

1. Chapter 3, "Zoning Districts", Table 3.1.1, "Zoning Districts Established", of the Unified Development Ordinance is hereby amended to read as follows:

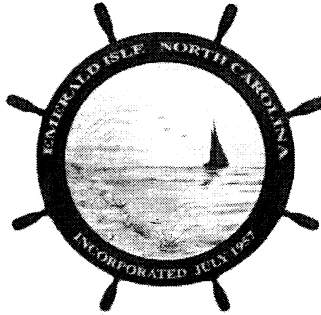
**Amend Chapter 3, Table 3.1.1 to read as follows:**

# Town of Emerald Isle

*Mayor*  
Arthur B. Schools, Jr.

*Mayor Pro-Tem*  
Floyd Messer, Jr.

*Board of Commissioners*  
Nita Hedreen  
Tom Hoover, Jr.  
John Wootten  
Maripat Wright



*Town Manager*  
Frank A. Rush, Jr.  
[frush@emeraldisle-nc.org](mailto:frush@emeraldisle-nc.org)

*Mailing Address*  
7500 Emerald Drive  
Emerald Isle, NC 28594

*Physical Address*  
7509 Emerald Drive

Visit our web site at [www.emeraldisle-nc.org](http://www.emeraldisle-nc.org) !

*Voice* 252-354-3424  
*Fax* 252-354-5068

July 13, 2010

**MEMO TO:** Mayor Schools and Board of Commissioners

**FROM:** Frank Rush, Town Manager

**SUBJECT:** Proposed Rezoning – Eastern End Oceanfront Overlay District

The Board of Commissioners is scheduled to consider the rezoning of all oceanfront properties in the eastern end of Emerald Isle to the new Eastern End Oceanfront Overlay District, if the accompanying ordinance amendment creating the new overlay district is approved by the Board. The proposed rezoning includes a total of 172 properties located on the oceanfront between the Indian Beach town line and Ocean Reef condominiums (roughly between 1<sup>st</sup> St. and 25<sup>th</sup> St.). A map of the properties to be rezoned is attached.

The rationale for the proposed rezoning is included in the memorandum associated with the ordinance amendment that would create the new overlay district (agenda item #11). The specific area proposed for rezoning is recommended because it is the area of Emerald Isle affected by the static line exception that can benefit most from the proposed rezoning, which would reduce the required front yard setback for these properties from 30 ft. to 20 ft. and enhance their ability to regain conforming status. The area includes 161 properties developed with single family homes or duplexes and 11 vacant parcels.

A public hearing has been scheduled for the July 13 meeting, and should be conducted prior to Board action on the proposed rezoning. A copy of the public hearing notice is attached. Town staff also mailed a notice to all affected property owners and all adjacent property owners advising them of the public hearing and the proposed rezoning. The Planning Board considered the proposed rezoning at its May and June meetings, and unanimously recommends approval.

It is likely that 2 of the 5 Commissioners will not be present at the July 13 meeting. As you know, a 2/3 majority of the full membership of the Board is required to adopt a rezoning on first reading. In the Town's case, this means that a rezoning must receive at least 4 votes on first reading to become effective. If only 3 members of the Board are present, the rezoning obviously will not receive the required number of votes for passage on first reading, and a second reading would be scheduled for the August 10 meeting. Only a simple majority, or 3 votes, is required for passage on second reading.

Kevin Reed, Planning and Inspections Director, and I look forward to discussing this issue with the Board on July 13.

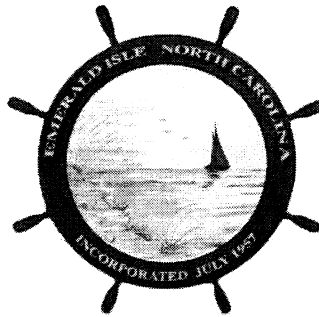


# Town of Emerald Isle

*Mayor*  
Arthur B. Schools, Jr.

*Mayor Pro-Tem*  
Floyd Messer, Jr.

*Board of Commissioners*  
Nita Hedreen  
Tom Hoover  
John Wootten  
Maripat Wright



Visit our web site at [www.emeraldisle-nc.org](http://www.emeraldisle-nc.org) !

*Town Manager*  
Frank A. Rush, Jr.  
[frush@emeraldisle-nc.org](mailto:frush@emeraldisle-nc.org)

*Mailing Address*  
Town of Emerald Isle  
7500 Emerald Drive  
Emerald Isle, NC 28594

*Physical Address*  
7509 Emerald Drive

*Voice* 252-354-3424  
*Fax* 252-354-5068

## Record of Zoning Amendment Emerald Isle Board of Commissioners

**SUBJECT: The rezoning of oceanfront parcels between 1<sup>st</sup> Street and 25<sup>th</sup> Street to the Eastern End Oceanfront Overlay District**

- The above subject rezoning is consistent with the Town of Emerald Isle's 2004 CAMA Land Use Plan.
- The above subject rezoning is not consistent with the Town of Emerald Isle's 2004 CAMA Land Use Plan.

### Motion and Vote:

The rezoning (is) (is not) both reasonable and in the public interest for the following reasons:

- The properties to be rezoned are consistent with the Town's Land Use Plan, specifically the Future Land Use Map,
- The rezoning will allow for a reduced front yard setback that is consistent with many of the existing structures located on the oceanfront in the area between the Indian Beach town line and Ocean Reef condominiums,
- The rezoning will promote the location of new homes further away from the ocean,
- The rezoning will make it easier for voluntary and involuntary reconstruction of homes in this area, thus improving the aesthetics, structural integrity, and property value of the area, and
- The community's overall interest in maintaining a small-town atmosphere.

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by a vote of

Commissioner(s) \_\_\_\_\_ voting for,

Commissioner(s) \_\_\_\_\_ voting against, and

Commissioner(s) \_\_\_\_\_ absent.

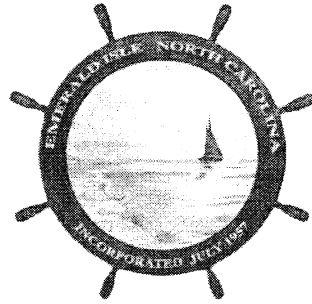
\_\_\_\_\_  
Arthur B. Schools, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Rhonda Ferebee, Town Clerk

# Town of Emerald Isle

Department of Planning and  
Inspections  
Kevin B. Reed, AICP, Director  
[kreed@emeraldisle-nc.org](mailto:kreed@emeraldisle-nc.org)



7500 Emerald Drive  
Emerald Isle, NC 28594  
Voice 252-354-3338  
Fax 252-354-5387

June 30, 2010

Dear Property Owner:

The Board of Commissioners for the Town of Emerald Isle will conduct a public hearing on Tuesday, July 13, 2010 beginning at 6:00 PM in the Town Board Meeting Room located at 7500 Emerald Drive, Emerald Isle, NC. The purpose of the hearing is to consider the rezoning of certain properties along the oceanfront from 1<sup>st</sup> Street to 25<sup>th</sup> Street that would place these properties in the proposed Eastern End Oceanfront (EEO) Overlay Zoning District. The current tax records indicate that you own property that will be affected by the rezoning. A map of the area proposed for rezoning is attached.

Your property will still have its current base zoning of Residential-2 (R-2) which allows for one and two-family dwellings. The EEO Overlay District will allow for a front yard setback of 20-feet rather than the current requirement of 30-feet. All other zoning and dimensional requirements (setbacks, minimum lot size, etc) will remain the same as the R-2 District after the rezoning is effective. The proposed reduced setback from 30-feet to 20-feet under the EEO Overlay District is to allow for properties that are subject to the static vegetation line some potential for development and redevelopment under the static line exception rule which is part of the Coastal Area Management Act (CAMA) regulations that govern oceanfront development. Since all development under the static line exception rule must be no further seaward than the landward most adjacent structure; the EEO Overlay District should allow for more consistency in the alignment of new and existing development along the front setback. Again, the "addition" of the EEO Overlay District will make no other changes to the current R-2 zoning requirements for your property.

You are encouraged to contact me if you have any questions regarding this pending rezoning. Office hours are Monday through Friday from 8:00 AM to 5:00 PM. The phone number is (252) 354-3338.

Sincerely,

Kevin B. Reed, AICP, CZO, CFM  
Director of Planning and Inspections

Attachment

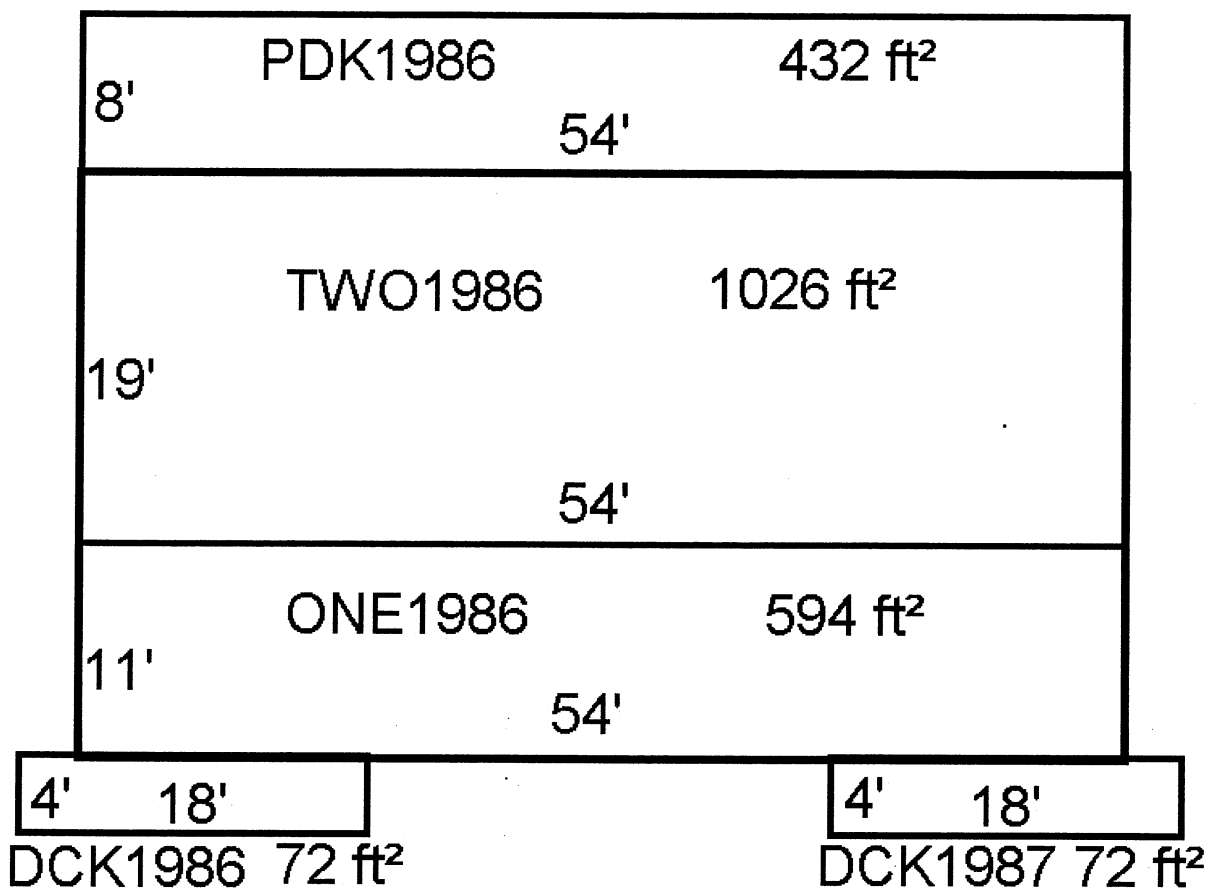
### Owner Information

Owner's Name:	BRICE,J EDWARD
Owner's Address:	2113 MAIN ST
Property Address:	0002305 OCEAN DR EMERALD ISLE 28594
City and State:	NEWBERRY SC 29108
Market Value:	\$684,912.00
Property Type:	R
PID:	6314.15.53.9573000
Previous Year Value:	684912
Farm Use:	0
Acreage:	0
Land Value:	\$454,860.00
Building Value:	\$220,743.00
Extra Features:	9309
TWP:	WHITE OAK
City:	EMERALD ISLE
Fire:	
Tax Deferred:	0

### Property Card

RT 560041.455.000 BRICE, J EDWARD 2012 684,912 MKT CARD 592  
 PID R 6314.15.53.9573000 684,912 PY Val USE 454,860 LAND 001  
 2113 MAIN ST DEF 220,743 BLDG 001  
 NEWBERRY SC 29108 .258 ACRES 9,309 XFOB 001  
 LISTER 2/16/2010 F1 CITY EMERALD ISLE FIRE RESCUE OTHER OF SAND TAX  
 TWP WHITE OAK PL BK/PG PLAT ADDRESS 0002305 OCEAN DR EMERALD ISLE 28594  
 LOT BLK NBHD 56004100 USE 000200 MULTIFAMILY 2-4 DEED 0418 00418 AICUZ PRINTED 10/18/2011 BY ROSAS  
 LEGAL: L7 9 B12 EMERALD ISLE

BUILDING CHARACTERISTICS for BldgSeq# 001 (Item# 001 )												
Code	Description	Code	Description	Code	Description	Code	Description	Code	Description	Code	Description	
MODL 09	BEACH DUPL	BVAL 00009C	BCHDUPLX	ARCH 08	CONTPRARY	QUAL 0C	C GRADE	STYS 2.0		SIZE	N/A	
FNDN 03	POST	FRME	N/A	WINDO	N/A	EXW1 12	RES WOOD	EXW2	N/A	EXW2%		
HEAT 10	HEATPUMP	A/C	N/A	RSTR 04	HIP	RCV1 03	COMP SHNGL	RCV2	N/A	RCV2%		
INT1 05	DRYWALL	INT2	N/A	INT2%		FLR1 14	CARPET	FLR2 08	VINYL	FLR2%	10	
KTCH	N/A	DPRT 02		BATH	3.50	BDRM	4	ROOM		SPCD	N/A	
+/- 05	PLUS 5	FRPL	N/A	UD-3	N/A	UD-4	N/A	HTFL 04	ELECTRIC	HTF2	N/A	
COND 0G	GOOD	INSP	N/A	UD-9	N/A	UD-9	N/A	UD-9%		AYB 1986	EYB 1986	
AREA CALCULATION												
Subarea	Actual	Adj	Heated	Prime	Rate	Value	%Good	TRAVERSE				
DECK	72	18			23.67	1704	70.00	RCNLD	DCK1986=72\$	DCK1987=72\$	PDK1986=432\$	OCF2010=594\$
DECK	72	18			23.67	1704	70.00	1,193	TCP2009=380\$	TUT2010=266\$	TCP2010=380\$.	
PCH/DCK	432	259			56.75	24516	70.00	17,161				
ONE/CAR	594	683	594	594	108.84	64652	70.00	45,256				
TWO/CPT	380	817	760	380	203.52	77337	70.00	54,135				
TWO/UTL	266	638	532	266	227.05	60394	70.00	42,276				
TWO/CPT	380	817	760	380	203.52	77337	70.00	54,135				
LUMP						7700	70.00	5,394				
TOTAL	2196		2646		119.17		70.00					
TOTAL		3250		1620		315344		220,743				



Sketch by Apex IV Windows™



*Disclaimer:* The information contained herein is from our current tax system and contains information that was valid post 1999. It may be used as a tool for research however the information may not always be accurate.

## Owner Information

Owner's Name:	MAYER,JOHN M ETAL MAYER ELIZAB
Owner's Address:	2738 GLASGOW DR
Property Address:	0002307 OCEAN DR EMERALD ISLE 28594
City and State:	CARLSBAD CA 92008
Market Value:	\$576,512.00
Property Type:	R
PID:	6314.15.53.9502000
Previous Year Value:	576512
Farm Use:	0
Acreage:	0
Land Value:	\$454,860.00
Building Value:	\$121,652.00
Extra Features:	0
TWP:	WHITE OAK
City:	EMERALD ISLE
Fire:	
Tax Deferred:	0

## Property Card

RT 560041.454.000 MAYER,JOHN M ETAL MAYER ELIZAB 2012 576,512 MKT CARD 590  
PID R 6314.15.53.9502000 2738 GLASGOW DR 576,512 PY Val USE 454,860 LAND 001  
LISTER 2/16/2010 F1 CITY EMERALD ISLE FIRE RESCUE .258 ACRES DEF 121,652 BLDG 001  
TWP WHITE OAK LOT BLK PL BK/PG PLAT ADDRESS 0002307 OCEAN DR EMERALD ISLE 28594 XFOB 000  
NBHD 56004100 USE 000100 RESIDENTIAL DEED 0808 00674 AICUZ PRINTED 10/18/2011 BY ROSAS  
LEGAL: L10 12 B12 EMERALD ISLE

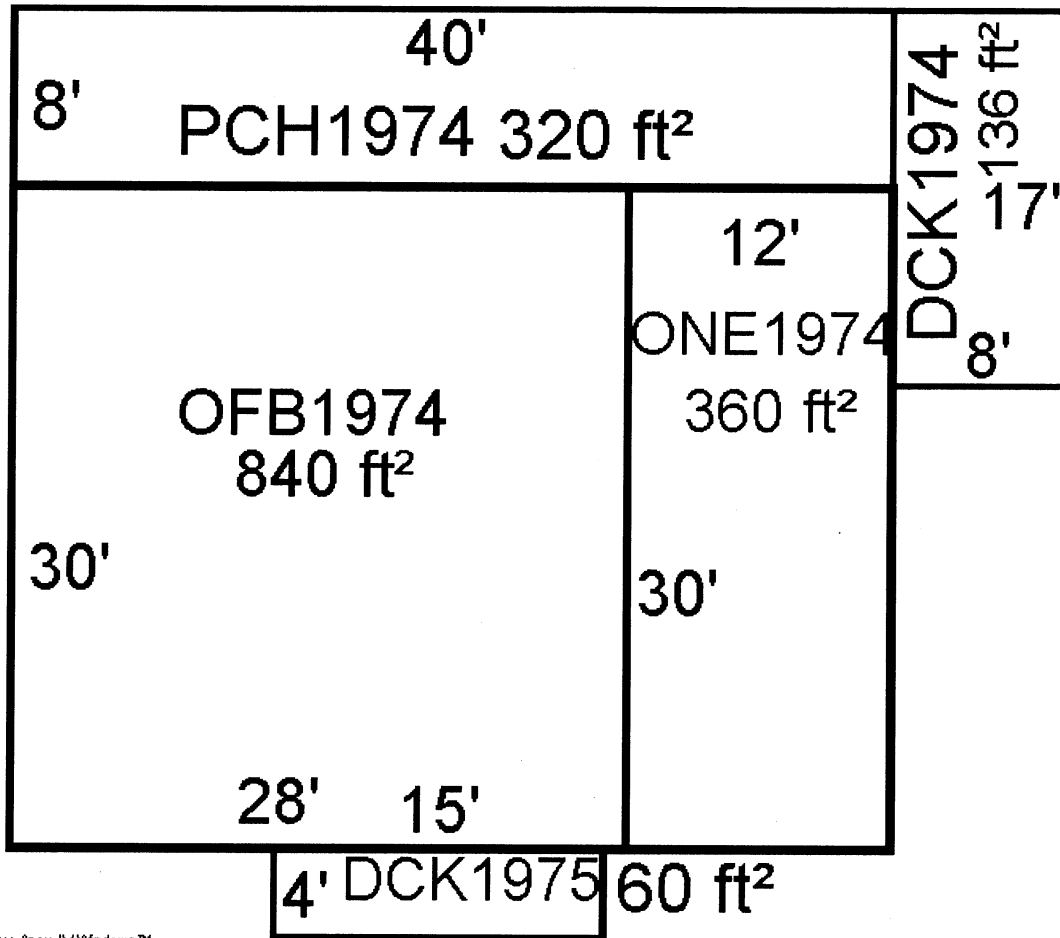
BUILDING CHARACTERISTICS for BldgSeq# 001 (Item# 001 )

Code	Description	Code	Description	Code	Description	Code	Description	Code	Description
MODL 08	BEACH RES	BVAL 00008C	BEACH RES	ARCH 02	COTTAGE	QUAL 0C C	GRADE	STYS 1.0	SIZE N/A
FNDN 03	POST	FRME	N/A	WND0	N/A	EXW1 26	VINYL	EXW2 N/A	EXW2%
HEAT 10	HEATPUMP	A/C	N/A	RSTR 03	GABLE	RCV1 03	COMP SHNGL	RCV2 N/A	RCV2%
INT1 04	PYLWOODPNL	INT2	N/A	INT2%		FLR1 14	CARPET	FLR2 08	VINYL FLR2% 10
KTCH	N/A	DPRT 02		BATH	3.00	BDRM	4	ROOM	SPCD N/A
+/-	N/A	FRPL	N/A	UD-3	N/A	UD-4	N/A	HTFL 04	ELECTRIC HTF2 N/A
COND 0A	AVERAGE	INSP	N/A	UD-9	N/A	UD-9	N/A	UD-9%	AYB 1974 EYB 1981

AREA CALCULATION

Subarea	Actual	Adj	Heated	Prime	Rate	Value	%Good	RCNLD	PCH1974=320\$	DCK1974=136\$	DCK1975=60\$	OFB2010=360\$
PORCH	320	112			34.89	11166	65.00	7,258	OCP2010=840\$.			
DECK	136	34			24.92	3389	65.00	2,203				
DECK	60	15			24.92	1495	65.00	972				
ONE/FNB	360	684	684	360	189.43	68195	65.00	44,326				
ONE/CAR	840	966	840	840	114.66	96311	65.00	62,602				
LUMP						6600	65.00	4,291				
TOTAL	1716		1524		122.80		65.00					
TOTAL		1811			1200	187156		121,652				

TRAVERSE



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**Owner Information**

Owner's Name:	DM TRUST LLC
Owner's Address:	2604 EMERALD DRIVE
Property Address:	0002309 OCEAN DR EMERALD ISLE 28594
City and State:	EMERALD ISLE NC 28594
Market Value:	\$646,414.00
Property Type:	R
PID:	6314.15.53.8439000
Previous Year Value:	646414
Farm Use:	0
Acreage:	0
Land Value:	\$454,860.00
Building Value:	\$188,685.00
Extra Features:	2869
TWP:	WHITE OAK
City:	EMERALD ISLE
Fire:	
Tax Deferred:	0

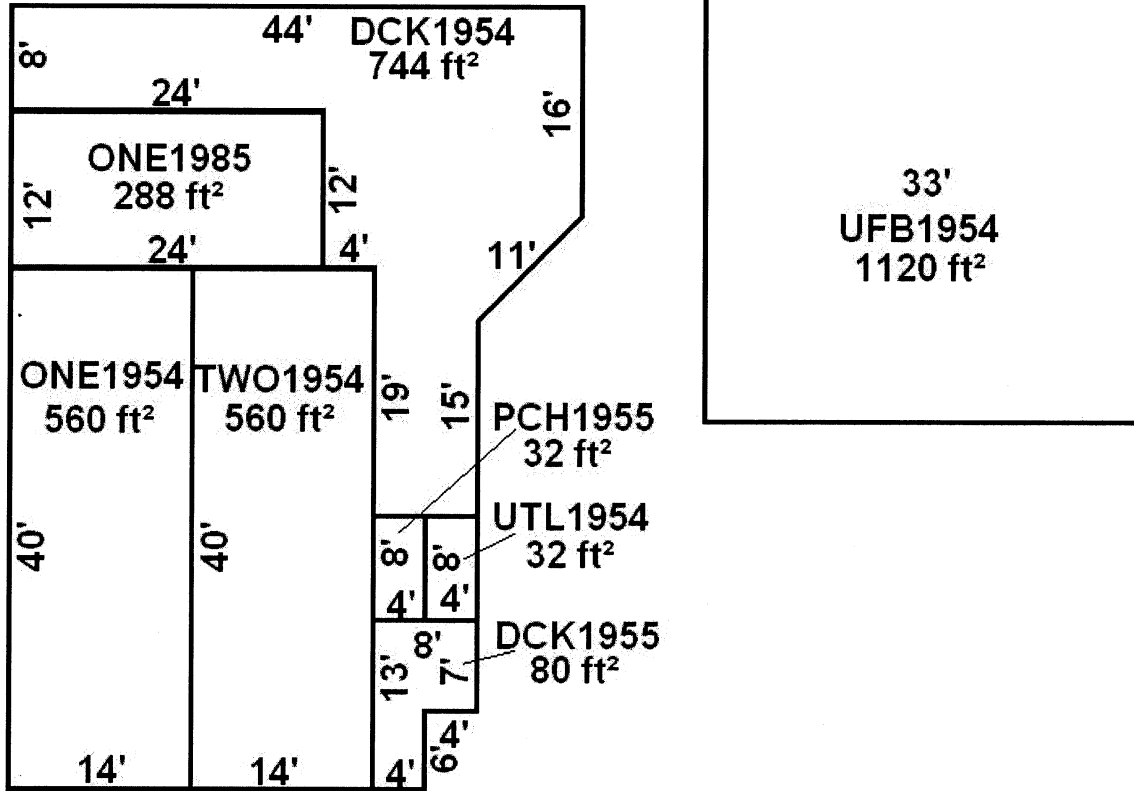
**Property Card**

RT 560041.453.000 DM TRUST LLC 2012 646,414 MKT CARD 588  
 PID R 6314.15.53.8439000 646,414 PY Val USE 454,860 LAND 001  
 2604 EMERALD DRIVE DEF 188,685 BLDG 001  
 LISTER 2/16/2010 F1 EMERALD ISLE NC 28594 .258 ACRES 2,869 XFOB 001  
 TWP WHITE OAK CITY EMERALD ISLE FIRE RESCUE OTHER OF SAND TAX  
 LOT BLK PL BK/Pg 3 61 PLAT ADDRESS 0002309 OCEAN DR EMERALD ISLE 28594  
 NBHD 56004100 USE 000100 RESIDENTIAL DEED 1146 432 AICUZ PRINTED 10/18/2011 BY ROSAS  
 LEGAL: L13 15 B12 EMERALD ISLE

BUILDING CHARACTERISTICS for BldgSeq# 001 (Item# 001 )

Code	Description	Code	Description	Code	Description	Code	Description	Code	Description
MODL 08	BEACH RES	BVAL 00008C	BEACH RES	ARCH 08	CONTMPRARY	QUAL 0C	C GRADE	STYS 2.0	SIZE N/A
FNDN 02	CONC BLOCK	FRME	N/A	WNDO 08	N/A	EXW1 29	HARDIPLANK	EXW2 15	BLOCK EXW2% 10
HEAT 10	HEATPUMP	A/C	N/A	RSTR 02	SHED	RCV1 03	COMP SHNGL	RCV2 N/A	RCV2% 10
INT1 04	PYLWOODPNL	INT2	N/A	INT2%		FLR1 14	CARPET	FLR2 08	VINYL FLR2% 10
KTCH	N/A	DPRT 02		BATH 2.00		BDRM 3		ROOM	SPCD N/A
+/- 04	MINUS 5	FRPL	N/A	UD-3	N/A	UD-4	N/A	HTFL 04	ELECTRIC HTF2 N/A
COND 0A	AVERAGE	INSP	N/A	UD-9	N/A	UD-9	N/A	UD-9%	AYB 1954 EYB 1987
AREA CALCULATION									
Subarea	Actual	Adj	Heated	Prime	Rate	Value	%Good	TRAVERSE	
ONE STO	288	288	288	288	93.41	26903	75.00	RCNLD ONE1985=288\$	DCK1954=744\$ PCH1955=32\$ UTL1954=32\$
DECK	744	186			23.35	17374	75.00	DCK1955=80\$	TUB2010=560\$ OUB2010=560\$.
PORCH	32	11			32.13	1028	75.00		
UTILITY	32	13			37.94	1214	75.00		
DECK	80	20			23.36	1869	75.00		
TWO/UFB	560	1344	1120	560	224.20	125553	75.00		
ONE/UFB	560	784	560	560	130.79	73240	75.00		
LUMP						4400	75.00		
TOTAL	2296		1968		127.83		75.00		
TOTAL		2646		1408		251581		188,685	





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## Owner Information

Owner's Name:	GARDNER,KENNETH M ETUX MARIAN
Owner's Address:	5417 HUNTER HOLLOW DR
Property Address:	0002311 OCEAN DR EMERALD ISLE 28594
City and State:	RALEIGH NC 27606
Market Value:	\$659,330.00
Property Type:	R
PID:	6314.15.53.7457000
Previous Year Value:	659330
Farm Use:	0
Acreage:	0
Land Value:	\$454,860.00
Building Value:	\$181,110.00
Extra Features:	23360
TWP:	WHITE OAK
City:	EMERALD ISLE
Fire:	
Tax Deferred:	0

## Property Card

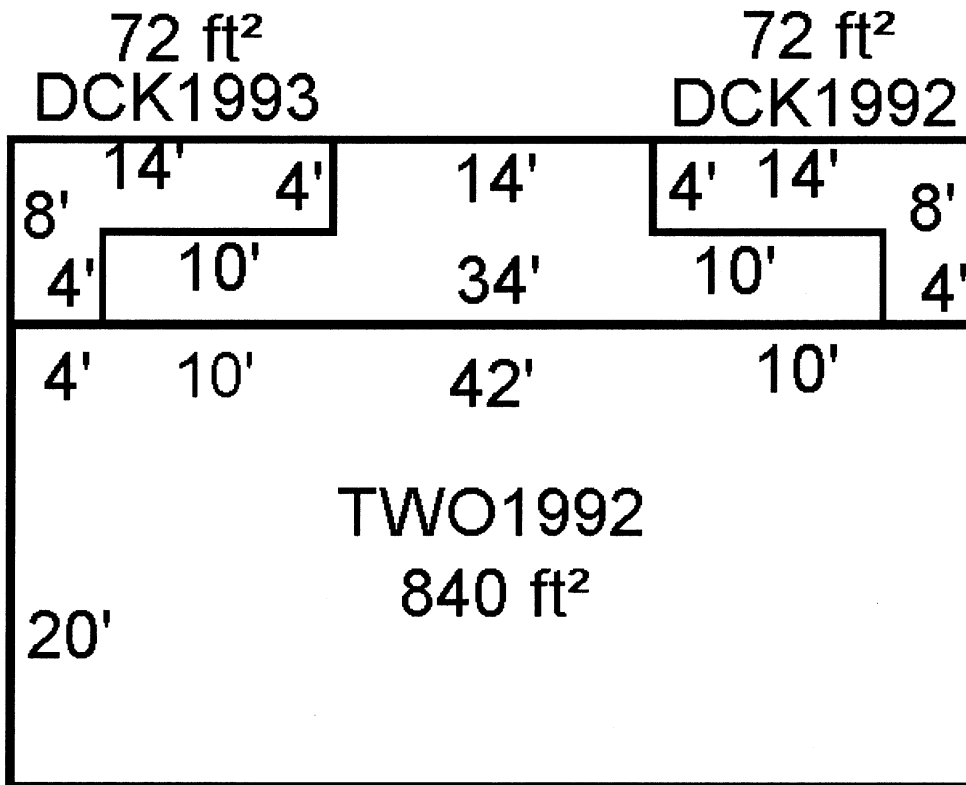
RT 560041.452.000 GARDNER, KENNETH M ETUX MARIAN 2012 659,330 MKT CARD 586  
 PID R 6314.15.53.7457000 5417 HUNTER HOLLOW DR 659,330 PY Val USE 454,860 LAND 001  
 5417 HUNTER HOLLOW DR DEF 181,110 BLDG 001  
 RALEIGH NC 27606 .258 ACRES 23,360 XFOB 003  
 LISTER 2/16/2010 F1 CITY EMERALD ISLE FIRE RESCUE OTHER OF SAND TAX  
 TWP WHITE OAK PL BK/PG 3 61 PLAT ADDRESS 0002311 OCEAN DR EMERALD ISLE 28594  
 LOT BLK DEED 929 54 AICUZ PRINTED 10/18/2011 BY ROSAS  
 NBHD 56004100 USE 000100 RESIDENTIAL  
 LEGAL: L16 18 B12 EMERALD ISLE

BUILDING CHARACTERISTICS for BldgSeq# 001 (Item# 001 )

Code	Description	Code	Description	Code	Description	Code	Description	Code	Description
MODL 08	BEACH RES	BVAL 00008C	BEACH RES	ARCH 04	RANCH	QUAL 0C	C GRADE	STYS 2.0	SIZE N/A
FNDN 03	POST	FRME	N/A	WNO	N/A	EXW1 12	RES WOOD	EXW2 N/A	EXW2%
HEAT 10	HEATPUMP	A/C	N/A	RSTR 04	HIP	RCV1 03	COMP SHNGL	RCV2 N/A	RCV2%
INT1 05	DRYWALL	INT2	N/A	INT2*		FLR1 14	CARPET	FLR2 08	VINYL FLR2% 10
KTCH	N/A	DPRT	02	BATH	3.50	BDRM	4	ROOM	SPCD N/A
+/- 10	PLUS 10	FRPL	N/A	UD-3	N/A	UD-4	N/A	HTFL 04	ELECTRIC HTF2 N/A
COND 0G	GOOD	INSP	N/A	UD-9	N/A	UD-9	N/A	UD-9%	AYB 1992 EYB 1992

AREA CALCULATION

Subarea	Actual	Adj	Heated	Prime	Rate	Value	%Good	RCNLD	DCK1992=72\$	DCK1993=72\$	DK22010=192\$	TCP2009=320\$
DECK	72	18			27.49	1979	80.00	1,583	TUT2009=200\$	TCP2010=320\$.		
DECK	72	18			27.49	1979	80.00	1,583				
2STYDEC	192	96			55.00	10560	80.00	8,448				
TWO/CPT	320	688	640	320	236.51	75684	80.00	60,547				
TWO/UTL	200	480	400	200	264.01	52802	80.00	42,242				
TWO/CPT	320	688	640	320	236.51	75684	80.00	60,547				
LUMP						7700	80.00	6,160				
TOTAL	1176		1680		134.75		80.00					
TOTAL		1988		840		226388		181,110				

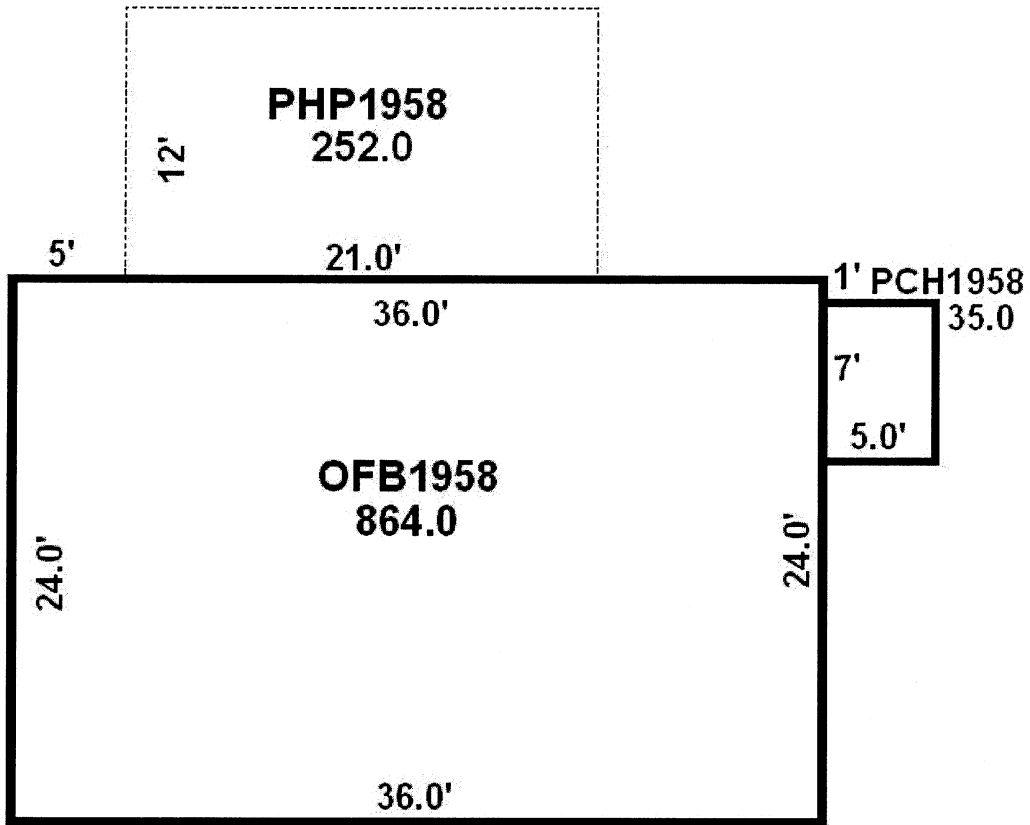


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**NC COASTAL RESOURCES COMMISSION (CRC)  
October 26-27, 2011  
NOAA/NCNERR Auditorium  
Beaufort, NC**

**Present CRC Members**

Bob Emory, Chairman

Joan Weld, Vice-Chair

James Leutze (absent 10/27)

Pat Joyce (absent 10/26)

Renee Cahoon

Charles Elam

David Webster

Bill Peele

Veronica Carter

Melvin Shepard

Ed Mitchell

Jamin Simmons (absent 10/26)

Lee Wynns

**Present Attorney General's Office Members**

Mary Lucasse

Christine Goebel

Amanda Little

**CALL TO ORDER/ROLL CALL**

Chairman Emory called the meeting to order and reminded Commissioners of the need to state any conflicts due to Executive Order Number One and also the State Government Ethics Act. Chairman Emory stated the State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or a potential conflict of interest, please state so when the roll is called.

Angela Willis called the roll. Jerry Old was absent. Joan Weld stated she has known the first Petitioner, Steve Holland, for many years and has worked on Boards with him but there is no conflict. James Leutze stated he knows the Petitioner in the Carolina Marina variance request and will recuse himself from voting or discussion. Based upon this roll call, Chairman Emory declared a quorum.

**VARIANCES**

**Holland (CRC VR 11-07) Pender County, 30' buffer**

**Amanda Little**

Amanda Little of the Attorney General's Office stated she represents the Division of Coastal Management staff. Mr. Holland is present and will represent himself in this variance request from the 30' buffer rule for property he owns in Burgaw. Mr. Holland proposes to construct additions to an existing restaurant to include a 28 x 28 foot covered and elevated porch; a 20 x 28 foot uncovered, elevated, wood-slatted deck; and a 6 x 24 foot elevated, wood-slatted walkway within the 30-foot buffer of the public trust shoreline area of environmental concern. Petitioner seeks relief from the strict application of 15A NCAC 07H .0209(d)(10). Ms. Little reviewed the stipulated facts of this variance request. Ms. Little stated that Staff and Petitioner agree on all four statutory criteria which must be met in order to grant the variance request. Staff would agree that

Petitioner's request is consistent with the spirit, purpose and intent of the rules; secures the public safety and welfare; and would preserve substantial justice provided that Petitioner meets the conditions for a stormwater management plan. Staff proposes that Petitioner be required to retrofit the site for an innovative engineer-designed stormwater management system meeting all applicable CAMA requirements to reduce the impacts of stormwater from impervious surfaces on the adjacent creek. Petitioner shall also provide the proper operation and maintenance necessary to insure that the engineered stormwater management system functions at optimum efficiency and insure that such obligation becomes a permanent obligation of future property owners. Any proposed grading within the 30-foot buffer from the normal high water must be contoured to prevent additional stormwater runoff to the adjacent creek. This area shall be immediately vegetatively stabilized and must remain in a vegetated state.

Stephen Holland, Petitioner, stated I have been on the property for thirty years. I started out with one room of about 700 square feet. I have about 5,000 square feet now and can seat 136 people. In 2008 we served a quarter of a million people and then the economy went bad. This variance request will help us get back on the road to recovery down the road when the economy turns around.

Melvin Shepard asked Mr. Holland if he agreed to the conditions of the stormwater system. Mr. Holland replied that he was confused about controlling the runoff, but would do whatever he had to do.

**David Webster made a motion to support staff's position that strict application of the applicable development rules issued by the Commission would cause the Petitioner unnecessary hardships. Charles Elam seconded the motion. The motion passed unanimously (Leutze, Mitchell, Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon).**

**Jim Leutze made a motion to support staff's position that hardships result from conditions peculiar to the Petitioner's property. David Webster seconded the motion. The motion passed with nine votes in favor (Leutze, Mitchell, Webster, Wynns, Peele, Shepard, Carter, Elam, Cahoon) and one opposed (Weld).**

**David Webster made a motion to support staff's position that the hardships do not result from actions taken by Petitioner. Lee Wynns seconded the motion. The motion passed unanimously (Leutze, Mitchell, Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon).**

**Jim Leutze made a motion to support staff's position that the variance request as modified by the staff's conditions will be consistent with the spirit, purpose and intent of the rules, standards, or orders issued by the Commission; will secure the public safety and welfare; and preserve substantial justice. Bill Peele seconded the motion. The motion passed unanimously (Leutze, Mitchell, Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon).**

This variance request, as modified by the conditions imposed by DCM, was granted.

**Highland Shores Community Association (CRC VR 11-08) Belville, ¼ width rule  
Christine Goebel**

Christine Goebel of the Attorney General's office, representing DCM staff, stated this variance request is filed on behalf of the Highland Shores Community Association in Brunswick County.

This property is located adjacent to the Brunswick River. Petitioner proposes an extension and reconfiguration to the existing 30-slip docking facility. Petitioner seeks relief from strict application of 15A NCAC 07H .0208(b)(6)(J)(iii). Ms. Goebel reviewed the stipulated facts of this variance request. Ms. Goebel stated that Staff and Petitioner agree on all four statutory criteria. In 1999 there was adequate water depths but has since experienced some shoaling and Petitioner is attempting to minimize the existing impacts on the PNA bottom through this reconfiguration and extension instead of proposing dredging in the PNA. The proposed development does not propose additional slips and is unique because it is across from Eagle Island and located on waterway that is not highly navigated. Staff believes that the Petitioner has worked on resolving their problem of shallow slips without proposing dredging. We also agree that this meets the spirit, purpose and intent of the rules by proposing the reconfiguration and extension to reduce the current impacts to the primary nursery area bottom by removing the floating piers waterward and not seeking any new slips. Bill Raney is present and represents the homeowner's association.

Bill Raney of Wessell & Raney, LLP represented Petitioners in this variance request. Mr. Raney stated there is a little bit of a discrepancy that shows up as far as the depth of the water. Most of the stipulated facts refer to a survey done that shows the water depths deeper than what was observed by the staff in other stipulated facts. What we have said about the number of slips that are impacted are very conservative. There are probably more slips that are either dry or have less than one foot of water than the eight slips that are mentioned. This is a significant problem for the people that bought the slips in good faith from the developer when there was sufficient water. There was sufficient water when the docks were built and this is an attempt to alleviate the problem by avoiding dredging.

David Webster commented that there are other piers in the immediate area and he suspects that the Commission will see more of these variance requests in the future.

**Jim Leutze made a motion to support staff's position that strict application of the applicable development rules would cause the Petitioner unnecessary hardship. Ed Mitchell seconded the motion. The motion passed unanimously (Leutze, Mitchell, Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon).**

**David Webster made a motion to support staff's position that hardships result from conditions peculiar to the Petitioner's property. Ed Mitchell seconded the motion. The motion passed unanimously (Leutze, Mitchell, Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon).**

**Veronica Carter made a motion to support staff's position that hardships are not a result from actions taken by the Petitioner. David Webster seconded the motion. The motion passed unanimously (Leutze, Mitchell, Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon).**

**David Webster made a motion to support the staff's position that this variance request will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; will secure public safety and welfare; and preserve substantial justice. Veronica Carter seconded the motion. The motion passed unanimously (Leutze, Mitchell, Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon).**

This variance request was granted.



**Carolina Marina & Yacht Club, LLC (CRC VR 11-09) New Hanover County, ¼ width rule  
Christine Goebel**

*\*\*Jim Leutze recused himself from discussion and voting on this variance request.*

Christine Goebel of the Attorney General's Office represented staff. Ms. Goebel stated Ken Shanklin and Cindy Baldwin are present to represent Petitioners, Carolina Marina & Yacht Club. Petitioner is an LLC, sole owner Tim Ward, which owns property adjacent from Carolina beach Inlet in New Hanover County. Petitioner seeks a modification to CAMA Major Permit 02-07 for the extension of three piers by approximately 32 feet, the addition of five transient slips, and other modifications to Petitioner's currently permitted but largely not constructed marina. Petitioner seeks relief from the strict application of 15A NCAC 07H .0208(b)(6)(J)(iii). Ms. Goebel reviewed the stipulated facts of this variance request. Ms. Goebel stated staff and Petitioner disagree on all four statutory criteria. Staff believe that a strict application of the ¼ width rule will not cause Petitioner an unnecessary hardship as this seems to be an enticement to a potential investor in the project and seems to be for financial hardships only. The water depths at the end of the 2010 proposal were sufficient for Petitioner and it is unclear why more is being asked for now. There are no peculiarities on this property. It is a well developed stretch of shoreline and is a busy portion of the Intracoastal Waterway. Staff is concerned that this will proposal will increase hardships to the boating public in this area. Petitioner already has an active CAMA permit to build the 200 boat dry stack marina without being in conflict with the ¼ width rule and the additions being sought now are purely financial. Staff feel that Petitioner has no unnecessary hardship at this time and there is no reason to increase possible impacts to navigation in this highly developed, well traveled area when the purpose for the modification is purely financial.

Cynthia Baldwin of Shanklin & Nichols LLP represented Petitioners. Ms. Baldwin stated Ken Shanklin is present as well as the client. This is a docking facility which needs deep water to operate. As stated in stipulated fact #12 dredging is not an option here as it is an area of PNA. This is also addressed in finding of fact #27 in Judge Elkins Order. In the Order, #48 he addresses the purpose behind the ¼ rule. The purpose behind this rule is to protect navigation and safe use of the water body. It is meant to prevent one pier from sticking way out into the water where every other pier on the water body is close to the shoreline. It is trying to get things to be of similar distance. The purpose of this interpretation is to allow all owners to have access to the same point of deep water and not to penalize those located on a cove or on a point along the shoreline. This project will not impact navigation as much as staff contend. The rule at issue is 15A NCAC 07H .0208. Reading from the Army Corps of Engineers Commander's Policy Memorandum Number 5, the ¼ length limitation does not apply in areas where the US Army Corps of Engineers has established an official pier head line, however the proposed pier/docking facility shall not be longer than the 1/3 width of the water body. The Intracoastal Waterway is remarkably similar to the proposal that we just heard from Mr. Raney. Our proposal is in between the 1/4 and 1/3 width of the water body which is 700 feet across or more. Pier head line is not defined in the General Statutes and I could not find it in the Administrative Code either. (A photo was shown of the ACOE setback line for navigation). The proposed development is nowhere near the 30-foot setback line for navigation. This is for all federal channels like the Intracoastal Waterway. The Wilmington District setback policy was revised this year on March 15. It does not allow construction of hardened or permanently fixed structures up to the setback. A pier head line is defined as a line in a navigable waterway established by the ACOE beyond which a pier cannot project. The lines (on the photo shown) are defacto pier head lines. Consistent with that and consistent with NCGS 150B-19.3 from

the North Carolina Regulatory Reform Act passed July 25, 2011, it addresses limitations on certain environmental rules. An agency authorized to implement and enforce state and federal environmental laws may not adopt a rule for the protection of the environment or natural resources that imposes a more restrictive standard, limitation or requirement than those imposed by federal law or rule if a federal law or rule pertaining to the same subject matter has been adopted unless adoption of the rule is required by one of five exceptions that are not applicable here. The ACOE has set the standard. The proposed expansion will not interfere with navigation and going into the other criteria, it will be less detrimental to the environment than the project's current placement. The photos on slides 2 and 3 show where our client is trying to operate a commercial docking facility. Note the shoaling. In some of the objections lodged against this application they were talking about shoaling in the area and wanting to protect PNA. Very similar to the prior proposal, we want to extend the docking facility so that PNA is not affected as detrimentally as it could be right now. This is a financial decision. He is trying to operate a business, unlike in the prior proposal where we are talking about residential use this is a commercial use. To not grant this variance could severely limit or restrict any use of it as a commercial docking facility. This has been used as a docking facility for over 40 years. We have build up of sand and sediment that you can see from the slide. Carolina Beach Inlet is maintained through sand relocation. Right across is Freeman Park at the northern tip of Carolina Beach. There are ordinances that maintain most of that area as public trust and that is a spoil area for the ACOE dredging. The inlet itself is dynamic. It is an artificially created inlet. The dredging and spoil deposit changes the shoaling areas with all the piers. Yards beyond the current docking/pier facility is the deeper water of the Intracoastal Waterway. There are proposed revisions to water dependent structures by Stroud Engineering inside your materials. I don't think our client is responsible for the shoaling or responsible for the ACOE's dredging activities. This has been in their family for over 40 years and pre-dates CAMA. We discussed why it would be consistent with the spirit, purpose and intent of the CRC's rules, standards and orders talking about navigation, PNA, the Corps' line, and we believe that the proposed changes will protect life and property more so than the current plan. This extension is in the public's interest, public safety and welfare and substantial justice will be done. We have more safety features in that proposal.

**Melvin Shepard made a motion to support staff's position that strict application of the applicable development rules, standards, or orders issues by the Commission will not cause the Petitioner unnecessary hardships. Bill Peele seconded the motion. The motion passed with eight votes in favor (Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon) and one opposed (Mitchell).**

**Veronica Carter made a motion to support staff's position that no hardships result from conditions peculiar to the Petitioner's property. Melvin Shepard seconded the motion. The motion passed with seven votes in favor (Webster, Peele, Weld, Shepard, Carter, Elam, Cahoon) and two opposed (Mitchell, Wynns).**

**Melvin Shepard made a motion that hardships result from actions taken by the Petitioner. Veronica Carter seconded the motion. The motion passed with seven votes in favor (Webster, Peele, Weld, Shepard, Carter, Elam, Cahoon) and two opposed (Mitchell, Wynns).**

**Veronica Carter made a motion that the variance requested will not be consistent with the spirit, purpose or intent of the rules, standards or orders issued by the Commission' will not secure the public safety; and will not preserve substantial justice. Bill Peele seconded the**

**motion. The motion passed with seven votes in favor (Webster, Peele, Weld, Shepard, Carter, Elam, Cahoon) and two opposed (Mitchell, Wynns).**

This variance request was denied.

**Casey (CRC VR 11-10) Carolina Beach, 30' buffer  
Amanda Little**

Amanda Little of the Attorney General's office represented staff. Ms. Little stated the Casey's are here today and are represented by their attorney Clark Wright in this variance request. Petitioners propose to build a 2,366 square foot single-family residence on their property located at 819 Canal Drive in the Town of Carolina Beach. Petitioner seek relief from the strict application of 15A NCAC 07H .0209(d)(10). Ms. Little reviewed the stipulated facts of this variance request. Ms. Little stated staff and Petitioners agree on all four statutory criteria. When Petitioner's purchased this property in December 2010, CAMA Minor development permit number 2006-20 which was issued to the previous landowner was still in effect and authorized construction of 2,566 square feet of impervious area. Petitioners propose to construct a single-family residence with a smaller footprint than the permitted triplex, however due to the Town's denial of the variance request from the 20-foot street setback their proposed residence encroaches into the 30-foot buffer on the northern and southern sides of their property. Strict application of the buffer rule to this lot will cause an unnecessary hardship for Petitioners given their reasonable reliance on the CAMA permit issued to a previous landowner authorizing development consisting of a larger impervious area than Petitioner's proposed development. Staff contend that the hardships are caused by conditions peculiar to this property in that this lot consists of a three-sided bulkhead that extends landward on each side of the property. Staff agrees that hardships do not result from actions taken by Petitioners. Staff also agrees that the proposed development meets the spirit, purpose and intent of the buffer rule, secures the public safety and welfare and provides substantial justice provided that Petitioners be required to submit an innovative engineered designed stormwater system to reduce the impacts of stormwater for impervious surfaces on the adjacent water body. Petitioners have agreed to provide such a plan if this variance request is granted.

Clark Wright of Davis Hartman Wright PLLC represented Petitioners. Mr. Wright stated we do agree with all four staff positions. This is a case where we are trying to do something smaller with less stormwater runoff potential. The language in staff's position for criteria four is acceptable. The history here is important in terms of uniqueness. This was a situation where there was an existing structure with existing, grandfathered impervious surface area. The owners at the time got a permit to build something a lot bigger and a lot more dense, a triplex with 200 square feet greater surface area than what we have proposed. They moved the house planning to build a triplex, the economy changed, and they ended up selling it to my clients who relied on that if they could get the triplex permit then they could get something smaller permitted. There is a unique lot layout and the configuration is unusual. What we propose is in-line with the homes on the north and south.

**Melvin Shepard made a motion to accept staff's position that strict application of the applicable development rules issued by the Commission cause the Petitioner unnecessary hardships. Jim Leutze seconded the motion. This motion passed unanimously (Leutze, Mitchell, Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon).**

**David Webster made a motion to accept staff's position that hardships result from conditions peculiar to the Petitioner's property. Jim Leutze seconded the motion. This motion passed**

**unanimously (Leutze, Mitchell, Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon).**

**Jim Leutze made a motion to accept staff's position that hardships do not result from actions taken by Petitioner. David Webster seconded the motion. The motion passed unanimously (Leutze, Mitchell, Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon).**

**Bill Peele made a motion to accept staff's position that the variance requested by the Petitioner will be consistent with the spirit, purpose and intent of the rules, standards or order issued by the Commission; will secure the public safety and welfare; and preserve substantial justice with the condition that the Petitioner submit an innovative engineer-designed stormwater system to reduce the impacts of stormwater from impervious surfaces on the adjacent sound. Lee Wynns seconded the motion. The motion passed unanimously (Leutze, Mitchell, Webster, Wynns, Peele, Weld, Shepard, Carter, Elam, Cahoon).**

This variance request, as modified by DCM's conditions, was granted.

### **MINUTES**

**Ed Mitchell made a motion to approve the minutes of the August 24-25, 2011 Coastal Resources Commission meeting. Veronica Carter seconded the motion. The motion passed unanimously (Weld, Joyce, Cahoon, Elam, Webster, Peele, Carter, Shepard, Mitchell, Simmons, Wynns).**

### **EXECUTIVE SECRETARY'S REPORT**

DCM Assistant Director Ted Tyndall gave the following report.

#### **Hurricane Irene Response**

Yesterday the Coastal Resources Advisory Council heard some good details about what went on around the State. I want to commend the DCM staff for the fantastic job they did responding to Hurricane Irene. Immediately following the storm, our staff was out in the field assessing damage. On the Monday following the hurricane, we were able to work with DENR Secretary Dee Freeman to immediately implement the emergency General Permit to assist property owners in repairing or replacing hurricane damage. The General Permit allows us to very quickly issue CAMA permits for repairing or replacing docks, piers, bulkheads or other structures damaged or destroyed by the storm, and also waives the fee associated with these activities. Our permitting staff worked very closely with DOT's breach repair team to develop a strategy for dealing with the inlet breaches that the hurricane opened on Hatteras Island. We were able to issue emergency permits for the NC 12 repairs the same day we received the formal request from DOT. I would like to commend Doug Huggett and his staff, particularly Cathy Brittingham and Steve Sollod, for the extraordinary effort. In addition, staff worked with FEMA on a consistency concurrence to ensure temporary FEMA trailers for hurricane victims would be placed consistent with CRC rules. Stephen Rynas spent a lot of time with FEMA to make sure that the Division and the CRC rules were not a hurdle to getting this done. Fortunately, division offices were not significantly damaged by the storm, except for the Kitty Hawk Reserve office, which was flooded and did sustain major damage. This office is leased through the Town of Kitty Hawk, and town staff are conducting repairs to this facility. Five reserve sites were closed following the storm until staff could ensure the sites were safe for the public. All reserves are now open with the exception of the Buxton Woods reserve on Hatteras Island, which remains closed until roads can be cleared. I am very proud of DCM's quick and efficient response following the hurricane, even as some of them were also dealing with damage to their own property.

Our hurricane response is still ongoing, and you will hear more details about DCM's response later in the agenda.

### **New Director**

We have a new Director that has been appointed as I am sure you have heard. Braxton Davis, the current director of the Policy and Planning Division of the South Carolina Office of Ocean and Coastal Resource Management, will begin his duties as DCM Director on December 1. Braxton has worked for the South Carolina coastal agency since 2006. He also serves as chairman of the national Coastal States Organization. Staff eagerly awaits his arrival and look forward to working with him.

### **NOAA 312 Review**

The NOAA Office of Ocean and Coastal Resource Management conducted a performance evaluation of the North Carolina Coastal Management Program the week of September 12. NOAA evaluates all federally-approved coastal management programs about once every five years. The evaluation team met with representatives of the CRC, CRAC, other DENR divisions, environmental groups and local governments to assess how well NC Coastal Management is doing its job. Overall, the evaluation week went very well, and the team had good things to say about the program during their exit interview with DENR Secretary Dee Freeman. NOAA will issue a formal report on their findings in a few months. I would like to personally thank the Commission members, Advisory Council members, and local governments that gave their time and feedback in this evaluation.

### **LAC Meetings**

Several of our Coastal Reserve and National Estuarine Research Reserve sites will hold Local Area Advisory Committee meetings in November. The committees consist of local residents, partners and leaders who provide DCM with guidance and feedback regarding management of the reserve sites. The meeting schedules and locations are available on the DCM and Reserve websites.

### **Raleigh Office Closing**

The most recent state budget required DCM to close our Raleigh office and to move most of the remaining staff to Morehead City. Because no date for the closure was given in the legislation, it was originally decided to close the office no later than the end of the biennium in 2013, but with encouragement to staff to relocate as soon as possible. DENR was recently informed that it was the legislative intent for the office to close much sooner and given a Dec. 31 closure mandate. Steve Underwood, Guy Stefanski and Bonnie Bendell, the three employees directly impacted by the move, will see their positions relocated to the Morehead City headquarters by January 2, 2012.

### **Staff News**

DCM's budget officer, Arthur Stadiem, will leave the division at the end of October for a position with DOT's Ferry Division. We are working closely with the Department on how to handle the vacancy and what to do in regards to getting it filled in the long run. Ward Zimmerman, who has served as one of DCM's attorneys for the past few years, has taken a new position with NCDNJ's Consumer Protection Division, and will no longer be working with Coastal Management.

### **CHAIRMAN'S COMMENTS**

Bob Emory stated, I appreciate the hard work the staff did following the storm. The staff has perfected their ability to quickly respond to weather events and help people out to the maximum degree that we can and speed up permitting decisions. I also appreciate how well DCM has functioned in the absence of a full-time, permanent Director and I thank the staff for that. Our sea

level rise draft policy and sea level rise planning bench mark has come under some significant criticism in the last couple of months. NC20, an organization of county governments, had a recent meeting where the focus of their meeting was sea level rise and part of the discussion was the Commission's policy and the sea level rise planning benchmark that we asked the Science Panel to produce for us and that we adopted. They provided some input that we have asked the Science Panel to look at and give us a response. We will talk more about this later in the agenda.

### **CRAC REPORT**

Mike Lopazanski stated the CRAC met for the first time since February of 2011, partly because of the budget and partly because of the new meeting format that we are trying to work out with the Commission and the Council. We asked the members of the CRAC what they thought about the format with the two subcommittee meetings and the general consensus was that it was difficult to say how well it works since we have just been through it once. We did hear some comments that they like the idea of not having to meet while the CRC is in session. The committee meetings not being concurrent allows people the opportunity to listen and participate in both meetings.

We had a presentation from the Albemarle-Pamlico National Estuary Program. Jim Hawhee gave an overview of the revisions that they have made to their CCMP. This document serves as the strategic plan for that Program. This is an EPA funded program and their mission has been to undertake a watershed approach to environmental management and apply a science initiative support decision making by coastal managers as well as local governments. Their previous plan which was written in 1994 included five priority issues centering on water quality, vital habitats, fisheries, stewardship and implementation. The new, revised CCMP will be structured around four questions. What is a healthy Albemarle-Pamlico estuarine system? What is the status of the Albemarle-Pamlico estuarine system region? What are the challenges facing that region and what actions should be taken moving forward for a healthier Albemarle-Pamlico Sounds by 2022? For each of these questions there are goals that are supported by several environmental outcomes, not unlike what you have heard in the CHPP. The revised CCMP goals are qualitative descriptions of what they want the environment to look like as well as some numerical indicators that they will use to give an idea of how the goals are being met. The goals themselves are similar to the CHPP supported by management actions. The plan is online for those that would like to review it at their website which is [apnep.org](http://apnep.org). Public comments will be accepted through January 17, 2012. In addition to participating in the CRAC meeting, they will be holding six additional meetings throughout the meeting providing an overview of the plan and seeking public comment. These meetings will be held between November 24 and December 7, 2011. The locations and specific dates are available on their website. After the public comment period they will present the plan to their policy board, which is expected to approve it by early 2012.

The next item on the Council's agenda was an overview from several members on impacts of Hurricane Irene. We heard specifically from Charles Jones with a view of what went on in Carteret County and how the beaches fared fairly well due to the ongoing beach shoreline protection measures that have been in place for years. We heard from Bill Morrison that Topsail Island's beachfill project performed well and helped protect homes on the oceanfront. Judy Hills said that while the storm winds didn't directly affect structures, they did have significant impacts from trees being toppled over onto homes. There are still huge debris piles to deal with and they are struggling with who pays for removal. Christine Mele relayed specific impacts in Pamlico County recounting some of the human suffering that had occurred and is still being endured by the residents of that county. They had incidents where whole islands were lost and houses that had never had water in them before had water in them during this storm. Wayne Howell with Washington County stated

that were big impacts along the Scuppernon River and that they received 13-15 inches of rain and a lot of trees ended up in the river causing problems to get the trees out of the river. He also noted that the soybean and cotton farmers were hit hard with hundreds of acres being lost due to the flooding. Rhett White of Tyrrell County reported that two tornadoes did major damage in the Columbia area. While the winds were not very bad, they did have significant flooding like they had never seen. Renee Cahoon gave us an idea of how Dare County had been fairing since the storm. She noted the major damage along NC12 and how the temporary bridge is helping. Everyone noted that the mosquitoes are horrendous.

The next item was a discussion of renewable energy. Donna Godfrey, planner from Perquimans County, gave an overview of the Desert Wind Turbine Project. This project consists of 150 wind turbines using the 500-foot high turbines that are planned for construction in an area that overlaps Perquimans and Pasquotank Counties. Construction is supposed to begin in 2012 and from the county's perspective we heard a lot about the development of the wind ordinance, the wind noise and shadow flicker being some of the primary concerns that the county was dealing with. She stated that this model ordinance would be applicable to any projects that were proposed in the county. She also briefly discussed another project. This is the construction of a solar panel installation consisting of a small to medium-scale sized facility. They are currently working on an ordinance related to that.

We ended the meeting with a discussion of regional issues brought up by the members including shoreline management, Nags Head beach nourishment project, terminal groins, an overview recounting the PCS Phosphate sulfur smelting facility issue, the air quality permit related to the Titan cement plant, a report on the military build-up and BRAC Report, and NC20's meeting.

## **PRESENTATIONS**

### **Hurricane Irene Impacts and DCM Response Ted Tyndall**

Ted Tyndall stated Hurricane Irene hit Cape Lookout on the morning of August 27. After that staff was back at the office on Monday morning contacting local governments and trying to see what kinds of storm damage they had and what support we could give to them to help assess damages and get them back to normal for their citizens. We were able to recommend to Secretary Freeman that it was appropriate to activate Emergency Permit .2500 that allows for the repair and replacement of storm damaged structures along the estuarine system. The Secretary activated that General Permit on Monday afternoon. A press release was sent out that day and staff began that action immediately. This was meant to give comfort to the people that received storm damage that they didn't need to panic about getting permits for their docks. This allowed them to focus on their homes and their properties safety as well as get their debris cleaned up and then come in and we can get your permits. The General Permit .2500 allows for the rebuilding of the structures on the estuarine system that includes docks, piers and bulkheads, allows for maintenance excavation of existing boat basins, canals and navigational channels, as well as dune reconstruction. The Secretary has the option of how many counties it will apply to and what activities will be allowed. This was such a broad reaching storm that all activities that could be authorized were authorized and all 20 coastal counties were included. The Secretary also has some discretion in how long the permit can be used for. He activated this one for one year. Property owners that had damage to their structures have a year to get the permit. Then they have the same year to have it completed. These permits are not very expensive ranging from \$100.00 to \$400.00; however this activation waives the fees. There were NCDOT breaches on Hatteras Island. Doug Huggett's permitting and consistency

staff put a dedicated effort and issued two emergency Major Permits. These are the full-blown review permits that they worked with DOT in fine tuning what information needed to be provided so we could expedite it. Within a day of receiving all of the information two emergency permits were issued. There was a lot of coordinated effort that took place and it went smoothly. The staff has issued approximately 375 General Permits under the .2500 waiving the fee for replacement to the structures. In addition, staff has issued or made statements authorizing over 400 repair calls. This is statutorily exempt and does not meet the criteria of development. We refer to this as the 50% rule. We saw a lot of this along the coast. There was a lot of damage, but not complete destruction. Everybody had damage but a lot of it was repairable. We took action with FEMA through the consistency process. We worked closely with FEMA and Emergency Management to define and describe the parameters that needed to take place to ensure that temporary FEMA trailers would be placed consistently with the Commission's rules. We expect in some of the areas where the flooding was the most severe that the numbers for the issuance of the .2500 to continue to go up. A lot of those folks haven't thought about rebuilding their docks.

Pat Joyce asked if you have less than 50% damage, does staff have to go and look at it? Mr. Tyndall replied no. This always gets into a legal determination, but by Statute if your damage is less than 50% and is repair then you are good to go. What we ask and what we try to encourage applicants to do is that if you have doubts or if you are unsure if it is 40-60% range then you should come to staff and get a determination. We will go out there and give you some guidance as to whether or not it will take a permit. By Statute if you undertake repair (and repairs have certain criteria) then you are good to go. It does not take, by law, any authorization. Pat Joyce commented that it would be advisable to take some pictures before you start the repair because you never know about disgruntled neighbors. Ted Tyndall agreed. The CRC's rules have changed and the rules in 7J explain what the Statute means by repair and replace and what is statutorily exempt. It actually allows for non-technical people to make a good call. It talks about just looking at the number of structural components of a structure and how many framing members and how many pilings. For water dependent structures, instead of having to go and get a professional do an appraisal then mom and pop can do it. If you have a pier that is 200 feet long and I still have 120 feet of it then it is less than 50% and will be repair. That was good for the Commission to make it easier to make the determination. It has been in place for several or eight years now and seems to be working good. Chairman Emory stated that Commissioner Joyce's comment that it is good to have documentation because there is always the chance that somebody wishes you hadn't done it and may challenge it after the fact. Pat Joyce stated that they may not have wanted you to build it to start with and they you do the repairs and they could then say that you did more than you were supposed to.

## **NC12 Update**

### **Jerry Jennings, NCDOT Division Engineer**

Jerry Jennings stated I am the Division Engineer for NCDOT Division I. Division I consists of the northeast 14 counties and includes all of the Outer Banks from Ocracoke north. Beth Smyre, Project Development Engineer is also in attendance to today. (photos were shown of the damage as well as the process that was involved in restoring access to Hatteras Island.) Northern Pea Island had some wind-blown sand, but very little problem in that area. The Rodanthe area had two areas of the island that breached. One breach was in the Mirlo Beach area at the end of the Pea Island National Wildlife Refuge. There was an existing ditch that had been there for many years and it increased in size quite a bit following this event. Highway 12 had pavement damage. This area has traditionally had problems. Following the Thanksgiving nor'easter about three years ago we lost pavement and then repaired it and installed some sandbags to protect the pavement. There are



significant cuts through private properties as water flowed through the area to the breach location. Several homes sustained significant damage. At the far south end of the Rodanthe breach area we hauled sand out of Avon and were beginning to fill the area moving from the south to the north. There were a lot of logistical challenges. The only access was by ferry, but to get to the other breach you had to get through the first area. One of our first goals was to get enough fill in to be able to get contractor's equipment to where the temporary bridge had to go. Repair was done to the sandbags. The road opened on October 10. The other breach was referred to as the mid-Pea Island breach, the old sandbag area or the Ranger Station and is now called the New New Inlet. A road was relocated in 1996. There were sandbags along the highway before it was relocated. We have had no problems at all from 1996 until August 27 of this year. There was a main breach area and several other cuts through the pavement. The southern end of the Wildlife Refuge is freshwater ponds and this is the highest area on Pea Island. The width of the breach at the road was a little more than 200 feet. Our first goal was to get access across one breach so the contractor could access the largest breach to begin work. Sand was trucked in. After the bridge contractor had mobilized, he began building pile templates. Sheet piling was driven to retain the fill. The bridge was built about ten feet higher, at its highest point, than the elevation of the existing road. The bridge that was utilized was a pre-manufactured structure. It came in on 35 truckloads that had to be assembled. The length of the structure was 662 feet long. The center span was 162 feet and there were two 125 foot spans on both ends. The operations were around the clock 24-hours per day. The road opened 44 days after the storm. The actual construction time was about 35 days. Something that was done that was very helpful was on August 31 there was an emergency meeting of all the resource agencies that had a stake in this issue. The DOT discussed the concerns that existed and what was proposed and received great feedback from all the agencies. There was great cooperation from all the agencies. From a NEPA standpoint, Beth wrote an exclusion for each of the locations. The majority of the work took place on US Fish and Wildlife Service property on the refuge.

Beth Smyre, Project Planning Engineer for NCDOT, stated my job is to oversee all the planning that has to occur before construction can start at the two breach sites. I want to thank DCM staff for all of the work that they did following Hurricane Irene. The two breaches occurred within the study area for the Bonner Bridge replacement project. This covers the entire area from Oregon Inlet to Rodanthe. Because of where the breaches occurred there is a process that we had to follow. These two areas now cover Phase Two of the Bonner Bridge replacement project. When DOT finally issued its decision on the Bonner Bridge project last year, the alternative that was agreed to was to first replace the Bonner Bridge with a bridge that crosses Oregon Inlet just to the west of the bridge that is there now. The second part of that was a four step process for determining what to do next, when to do it and what would actually be done. The first two steps involve DOT conducting an extensive monitoring program and an assessment of the vulnerability of NC12 in the entire area between Oregon Inlet and Rodanthe. We have already started some extensive work to determine what the shoreline is doing, what the island is doing, and what areas we need to look at next for future actions. We will take the data that we get, review the conditions on site and use that data to determine where to look next and alternatives to study. The final step is to work with our existing inter-agency team to determine what is going to be done and what the actual alternative is and ways to minimize the impacts. Hurricane Irene came in and told us exactly where Phase Two needed to be. We are taking the data that we got before and after the storm and know the two areas that we are going to focus on and we are trying to develop the alternatives for each site for future study. We expect to move into the last stage in our process in the next two weeks. Since the storm happened, we have had staff on site to look at site conditions. We have done extensive surveys to help us figure out what has changed as a result of hurricane Irene. We have had aerial photography taken

on a weekly basis since the storm and that will continue fairly often in the next couple of months to help us figure out what the sites are actually doing. This is a very dynamic area. Last week we met with the resource agency team to get their initial feedback. We have been studying this project for 20 years and we understand that they have provided comments over the years to tell us specifically what we need to think about. Earlier this week DOT convened a panel of coastal scientists and engineers, many of which are on the CRC's Science Panel, to give us some additional engineering and scientific feedback. DOT has to take the information that it has received from the agencies and the panel and determine what the alternatives are. We hope to finalize the alternatives in the next few weeks. Then we have to determine the impacts of the alternatives and meet with the public. This will be especially crucial in Rodanthe because whatever long-term option that is implemented there will impact traffic flow in that area. The next step will be to pick what we are actually going to do. We will then finalize all of the planning work and award construction contracts. We hope to have all of the alternatives set for each site by the end of this year. We also want to meet with the public by the end of the year. This will allow us to make a decision on what we will do for each site in early 2012. We realize that there may be more issues in Rodanthe because of the public feedback, so we may have to separate the two projects at some point. But for now we hope to make a decision in early 2012. That will allow us to finish our planning work, apply and receive permits, and do the final design for the two sites and have construction contracts awarded by the end of 2012. Depending on what we do we hope to start the Pea Island site first because of the expected longevity of the temporary bridge. The last thing I want to talk to you about is the Oregon Inlet Bridge. We are still replacing the Oregon Inlet Bridge. We determined that in 2010. We awarded a design-build contract in July 2011. They are working on the final design of the bridge. We expect to have the permit applications turned in by next spring. We expect to start construction on the bridge in January 2013. As we get closer to this date we will go out to the public to explain to them what the design is going to entail construction equipment and answer questions about what they will be seeing over the next few years. The contractor estimates that this bridge will take about 2 ½ years to build once they start. Then they will need another year to demolish the existing bridge.

### **Science Panel Discussion of Assessing Terminal Groin Adverse Impacts Doug Huggett**

Doug Huggett stated this is a follow up to the presentation given at the last Commission meeting. At that time Jim Gregson went through Senate Bill 110 which allows for the construction of up to four terminal groins in North Carolina. This Senate Bill changed CAMA to allow for these groins to be constructed. However, if you will remember there are a lot of steps that had to be gone through for an applicant or municipality to be able to get a groin permit. A lot of the requirements of the groin legislation were so new to Coastal Management and required us to make determinations on issues and set up thresholds that we have never done before that Staff recommended going to the Science Panel asking for some guidance on some of these issues. The Commission endorsed that concept. On October 6, we went to the Science Panel and asked for some help in some areas. Before October 6 DCM staff had to sit down and try to figure out exactly what questions we were going to ask them. We came up internally with some assumptions that we were going to base our questions to the Science Panel off of. The first assumption we came up with in our deliberations was the concept that we already have an existing permit process that we have been through several times with beach nourishment and inlet relocation projects. That process and all of the various agencies that are at the table during the process gives us some level of expertise and comfort on handling certain issues including biological components, impacts to fisheries, potential impacts to the marsh complex or SAV complex in inlet systems, and some of the benthic impacts offshore. We didn't believe it was the best use of our time or the Science Panel's time to look at those issues.

We were trying to go towards issues where we need the most help and that the Science Panel was more uniquely suited to be able to provide that input. The Science Panel would be better served answering questions specifically relating to the physical processes of a groin structure. The potential impacts a groin could have on downdrift public beaches, properties and structures. The groin legislation required the determination of thresholds for adverse impacts and when mitigation measures or accommodations if these thresholds are reached. We asked the Science Panel to concentrate on these issues specifically. The guidance that we asked the Science Panel to provide needs to be implemented within the framework of the permit process that we currently have. This framework needs to balance the informational needs that we have as resource agencies, regulatory agencies, the applicant and of the public while at the same time trying to limit the burden of these studies on the applicant. We do not want these studies to become so burdensome in scope and scale and cost that no community in the state of North Carolina can get through them. There is a balancing act in getting the information we need and not having the study design and the sampling design be so extreme that local governments walk away from it. We have projects that are already in the pipeline. Time is of the essence. The recommendations that we get back from the Science Panel should take the form of a set of tools that we can use as resource and regulatory agencies to help us design the inlet management plan that is required. We may be looking at a suite of different options to address a certain circumstance, not one specific option with vary specific criteria. We have to make sure that the recommendations not be so specific and so rigid that they constitute ad hoc rulemaking. We are looking for options or concepts that can be applied that we can take on an individual project and modify them to come up with an inlet management plan. We are not looking for the level of specificity found in the sediment criteria standards. We are looking for framework or a set of BMPs that we can work with the applicant to develop the plan. We wanted to put two specific questions on the table to the Science Panel and ask for advice on two specific items of the groin legislation. The application for a groin project has to include an inlet management plan that studies the estuaries and the beaches in the areas that are under the influence of the inlet. The inlet management plan has to provide for the description of post-construction activities that the applicant will undertake to monitor the impacts on coastal resources, define the baseline for assessing any adverse impacts from the groin, and the thresholds for when the adverse impacts must be mitigated. It also must provide for mitigation measures to be implemented if adverse impacts are reached. It also must provide for modification or removal of the terminal groin if the adverse impacts cannot be mitigated. We asked the Science Panel to address the post-construction activities that the applicant will undertake to monitor impacts to public trust beaches and structures and properties that may be under the influence of the inlet. We also asked the Science Panel to define the baseline for assessing any adverse impacts and the thresholds for when these adverse impacts must be mitigated. The general topic items that were discussed by the Science Panel started with monitoring boundaries. There was some discussion that we may want to use the inlet hazard area boundaries that we currently have as a starting point and expand off of that. There was also significant acknowledgement that the design of the groin project itself is probably going to have a lot of impact on where the monitoring boundaries are set up. This may be extremely project specific and it may be difficult to come up with specific recommendations. We then talked about pre-project monitoring. This is the step that will allow us and the applicant to set up the thresholds and baselines to determine any adverse impacts in the future. There was a lot of discussion about the timing and for how many years previous to the project and how many times do you monitor. There were also discussions on the types of data to monitor. We could use aerial photography as a starting point because that may be the most detailed long-term data that we have. Do we look at volumetric measurements of the sand on the beach, use survey data that a beach community may already have, or use bathymetric studies of the area to get an idea of baseline conditions? It is acknowledged by everybody that the best place to start is to see what existing data is already there to build a baseline

off of and see if the data is appropriate. There was also discussion of setting up a control site. This would be an area of the beach that would be outside the influence of the inlet with the groin. The next step would be looking at the post-construction monitoring. This is the monitoring that will help determine whether there are adverse impacts associated with the groin. There were discussions that monitoring may be front-loaded to do heavier monitoring immediately post-construction for a couple of years and then over time back the frequency of monitoring off. The monitoring plan developed when the permit application is submitted should not and cannot be so rigid that you never change it. You need to be able to look at the data that you get from individual post-construction monitoring events and you may need to refine your monitoring. The determination of adverse impact thresholds and how to separate background events such as storms has been the item that has given me the most problem trying to conceptualize if there are adverse impacts to the beach then how much of it is a result of a groin project versus natural circumstances. You may be able to come up with a great baseline of what takes place out there, but if you have a bad nor'easter and then try to take the storm data out of there and see if it is directly attributable to the groin then it could be a very difficult thing to do. Another thing we discussed was being able to determine adverse impacts down to an individual lot scale. The legislation mandated that we notify any potential property owner that may be within the sphere of influence of the project and financial obligations have to be put aside so that any adverse impacts to any individual lot owners or structures can be mitigated. While some of the discussion in the Science Panel was more homogenized-based, the groin legislation mandates that we look at things on a much tighter basis. If the project is working great for 95% or 99%, but three property owners feel that the groin is causing adverse impact to those properties then overall the project is working great but the legislation mandates that we treat those three property owners with a significant amount of importance and we have to determine impacts and do mitigation on them. The discussion ended on the metrics for determining adverse impacts. Do we look at shoreline change analysis based off of aerial photography or do we do it solely off of beach profile surveys pre and post-construction? A lot of different ideas were put forth, but since this is the first of a couple of meetings that will be held by the Science Panel we were not expecting to get final answers on all of these things. The Science Panel will meet again on December 9 and we hope to come out of that meeting with the guidance needed to move forward. We hope that we can come out of that meeting with a suite of options and ideas and concepts that we can use as a cookbook that will allow us to work with other agencies and the applicant and their consultants to develop project-specific inlet management plans.

There were a couple of issues during discussions that certain Science Panel members felt strongly about. The biggest one was a desire to see an independent third-party review of the inlet management plans and application packages. There is still a concern that the DCM staff do not have the expertise to be able to assess all of the technical information that is being provided. This is a valid concern. In the CRC's recommendations to the legislature it included a recommendation for an independent third-party review; however the legislature purposefully did not include that component for a mandatory third-party review into the groin legislation. There is ability for a third-party review if the Division, the Corps and applicant all agree to it. That would be a voluntary effort on behalf of the applicant. If the applicant chooses to not want to proceed with third-party review or does not want to pay for it then we don't believe that we have any authority to implement or to use a third party review.

Chairman Emory stated whoever is the final authority on the role of the Commission on this issue should be present at the next meeting to help resolve some questions from the Commission.

## **Impact of Hurricane Irene on Pivers Island Natural and Stabilized Marsh Shorelines**

### **Dr. Carolyn Currin, NOAA**

Dr. Carolyn Currin stated as Hurricane Irene approached, one of the things that I thought about was that it might be an opportunity to address a question that I have heard asked a lot. I have been working on estuarine shoreline stabilization and can we use living shorelines or softer approaches and are they effective? There are two living shorelines on the island. There is also a natural fringing marsh. One shoreline faces almost due east and one shoreline faces almost due west. We didn't have a lot of time, but I installed horizon markers. There was wind out of the east. The eye went over the island on the 27<sup>th</sup> and the peak winds were 60 mph. There was about a 3 foot storm surge and storm came in at a high tide. After the eye passed water levels went down to normal. We had much higher water levels on our east facing beach. We have said that marshes are really good at trapping sediment and marshes are really good at stabilizing the shoreline. This is very direct evidence of that. The main thing is that there is direct evidence that the salt marshes trap sediments, they maintained their elevation, and this was a net deposition event. We looked around elsewhere on the island and we did have over-topping of our bulkhead and some scouring behind it. We have some places where we have some riprap and we had some erosion on the unvegetated banks. John Fear went and took pictures of six or seven of the marsh sills around and found that overall the sills have done very well. There was no evidence of damage to the sill itself. Sometimes there is a little erosion on a soft shoreline that is next to the sill. We have found that the sill structures show no damage from the hurricane and the marshes associated with the sill structures remained intact. I was able to document sediment deposition associated with the salt marshes during the passing of this storm. We did see damage to the bulkheads and upland revetments. They were overtopped leading to scour behind them. Our observations are that slope is really important. If you have a gradual slope that is vegetated then it is pretty solid. In thinking about how we can move towards more sustainable estuarine shoreline stabilization, the oyster reef and marsh combination is a really good one. It provides a lot of ecosystem services and is really resistant to erosion.

## **Geographic Assessment and Change Analysis of NC Maritime Forests (CRC 11-24)**

### **Graham Jones, UNC-W**

Mike Lopazanski stated this is a follow up Commission item from 1989-1990. It is related to an issue that confronted the Commission dating back to 1986. Buxton Woods was nominated to be an AEC when someone proposed a golf course development. The CRC considered an AEC designation for the State's maritime forests. The CRC had the Division do an inventory of maritime forest resources along the coast. This information was provided to the Commission and was used to develop a management strategy for this particular coastal resource. They did not go through with a designation of a new AEC for maritime forests, but in the ensuing years we have created the Coastal Reserve program and have been successful in following through with some of the Commission's recommendations regarding protecting some of the more noteworthy areas of maritime forests.

Graham Jones stated I am earning a degree in environmental studies and a Minor in geospatial technology from UNC-Wilmington. I have been working on this maritime forest research study with Dr. Anthony Snyder for about a year. I am currently finalizing the data analysis and compilation as an intern with the Division of Coastal Management. Maritime forests develop as an end result of primary succession on coastal barrier islands. Generally they form within stabilized

dune and swale systems on the soundside of islands whose width, topography and orientation provide sufficient protection from storms. Their unique species composition has adapted to survive under coastal barrier island conditions such as salt spray, wind shear, poor sandy soils and low water availability. Maritime forests provide tremendous ecosystem services to coastal North Carolina. They filter pollutants from stormwater and slow its runoff. Due to these water retention characteristics maritime forests help greatly to recharge underground aquifers that many of the barrier island communities rely heavily upon. These forests provide necessary habitat to many plants and animals, some of which are endangered. These forests help greatly to help the shifting nature of NC barrier islands and slow and prevent the erosion that the coast constantly battles. They also provide tremendous benefits through their lessening of the effects of coastal storms and hurricanes. We do not precisely know the extent of the maritime forests that stood on the coasts before European settlement, however estimates based on historical accounts conclude that less than ten percent remained by the end of the Twentieth Century. Maritime forests, their importance and the destruction they were confronting were discussed at length as far back as the mid-1800s. These magnificent forests that had previously stood for thousands of years were decimated originally during colonization for raw materials used in ship building and naval stores. By the 1950's the real estate that remained beneath them had become some of the most prized in the nation for its tourism and vacation home values. This unrelenting pressure by industry, settlement and development has destroyed virtually all of the forests. The fraction of the original area that remains are isolated tracts which are steadily being encroached upon. North Carolina is far from alone in its lack of protection for these forests over the centuries and consequently maritime forests are now a globally imperiled ecosystem. The CRC first addressed the issue of maritime forest protection in the early 1980's when the draft set of AEC use standards was presented. Due to issues of beach erosion and coastal water quality, which took precedent, the CRC's ability to address maritime forest protection was limited. In 1986 when the AEC was again presented for Buxton Woods, it was decided to allow Dare County to institute their own protection plan instead. This rapid push to save Buxton Woods brought the issue of maritime forest protection back to the forefront of the CRC's concerns and prompted them to address the issue along North Carolina's entire coast. To begin an effort to save the maritime forests statewide it would require a complete understanding of how many forest sites remained, their extent and condition, as well as their current management and ownership. Researchers from Duke University were contracted to conduct a comprehensive inventory. This would be the first complete inventory of the forests and would serve for any baseline for future analysis. This effort was led by Mike Lopazanski, who had previously done research studying the effects of fragmentation on maritime forests. The goal was to provide the information necessary to allow future management decisions to be made on a more comprehensive and scientifically sound basis. The team from Duke in conjunction with staff from DCM identified the potential forest sites on aerial photography and then the sites were studied extensively in the field. The final report and assessment of maritime forest resources on the NC coast included a detailed write up on the ecology of the maritime forest and the general trends of their current management. In addition; they compiled site specific reports for each forest site. The 1988 study determined that only isolated forest tracts remained on 16 NC barrier islands. Based on their research, any sites left unprotected would likely be destroyed or irreversibly altered within the next decade. The management recommendations of the 1988 assessment determined that development of maritime forests should be drastically slowed as soon as possible. Also, consideration should be given to extending the AEC protections and to increase and strictly enforce local development standards. Another recommendation was to acquire and preserve high priority areas and collaborate with local governments and non-profit organizations as well as encourage future research and public awareness. The CRC resolutions based on the 1988 study were that no AEC designations would be given to any of the sites, but instead programs should be initiated for acquisition and preservation.

DCM was directed to convene a scientific panel of experts to determine the management strategy that would be necessary to protect the state's maritime forest ecosystems. DCM was also directed to implement a public awareness and educational program and compile detailed maps of what remained as well as a database for ownership and management.

We have made every possible attempt to utilize the latest computer based GIS technology so that the final product can be modified and updated moving forward. We have conducted a change analysis based on the 1988 study to determine where losses have occurred and study the changes in publically acquired and preserved versus private ownership. The project began with 2009 aerial imagery. We determined the existing perimeter through remote sensing of the forest sites by studying maps of the 1988 sites and working with the aerial imagery. We were also able to determine the rough areas of loss because of the differences in technology over the past 23 years. It was hard to delineate exactly where the old ones were, but the 1988 study was incredibly close. We then went into the field verification phase. The objective of the field verification was to ground truth the data that was collected during the remote sensing. The field phase assessed and documented current site-specific conditions and then compared them to those documented in the 1988 assessment. The protocol began on Bald Head Island and were tested and refined and then used throughout the state. During the field verification process we gathered GPS points to work with to mark the changes. Once field verification was over the adjustments were made we began to compile the data from all of the county GIS offices for the parcel data which would show ownership and assessed value. The current study identified 18 remaining sites. These 18 sites totaled 8,105 acres. There were six totally lost sites. Five of the six total losses were on Bogue Banks. All of the total losses were due entirely to residential development. There are eleven sites in decline since 1988. The majority of these have lost nearly half of their area or more. There are seven sites that have remained intact since 1988; however four of them were almost or entirely preserved before the 1988 assessment. We have tried to provide, in addition to this current assessment, a tool that can be utilized by many for further study. Throughout our research we have determined a number of areas in need of further study. We set out to find out as much as we could about maritime forests and found that there has been very little study on the effects of climate change or the possible adaptation measures that will be needed to implement mitigation strategies. We lack a comprehensive and thorough ecological study of the remaining forest sites. To help bring about awareness of the importance of preserving the maritime forest, we are creating a series of GIS based maps showing the current extent of each site with linked photos at each of the verified coordinates along with the amended site specific reports. These forests are vital to the stability of our barrier islands and the coast's natural systems, an integral part of our economics and tourism, and an important part of our natural heritage. Although much of this globally imperiled ecosystem has been lost in recent decades, many acres have been protected. From the hard work of many people within local governments, state and federal agencies, and non-profit conservation organizations the effort to protect these forests have gone a long way, but there is much work for us to do.

### **PUBLIC INPUT AND COMMENT**

Tom Thompson stated I am the Chairman of NC20 which is a non-profit corporation that is sustained by dues from member counties of the CAMA counties. We have a serious concern with the sea level rise projections of the Science Panel. I am sure you are aware of that, but I did not want to miss an opportunity to let you know in person some of our concerns. We do question the science behind it. We have had no problem finding qualified scientists that dispute any acceleration in sea level rise. If the 39 inch sea level rise recommendation is maintained we think there will be serious economic consequences. I heard the term earlier today about unintended consequences. A state agency, the Division of Emergency Management, operating under the Department of Crime

Control and Public Safety has already picked up the Science Panel report and incorporated it into their planning for flood zones. They are doing flood maps as we speak. I represent Beaufort County as an economic developer. This is a very poor county with twenty percent poverty. If they take the existing flood levels that we have had and add 39 inches to that then a substantial portion of our land will be by and large worthless. You can use it but you would have to build up to accommodate this hypothetical sea level rise. I am asking you, if you will, please reopen this study and allow us to present and take part in a dialogue which brings in scientists of different opinions. There is adequate science out there showing that 39 inches is an extremely aggressive number. We presented some of that science at the symposium in New Bern a few weeks ago and Chairman Emory was there. There are a number of people who have excellent credentials that would be happy to share with you their experience and why 39 inches is over the top. I would like to conclude by saying that we are not questioning the motives or the intent of the Science Panel or any of the individuals concerned. We think they are probably concerned about perhaps if anything over protecting the CAMA counties from a sea level incident, but in fact what you have done is impose some development restrictions that would be catastrophic if they were implemented. Thank you.

Larry Baldwin stated I am also with NC20 and here to address sea level rise versus accelerated sea level rise and the CRC's Science Panel findings. We do appreciate the CRC's past dialogue that they have had with NC20 and the change of their policy that was going to be implemented and also the effort to direct the Science Panel to at least review their findings. Actions have impacts and Tom just mentioned the Emergency Management Act is using the CRC's study as its benchmark study. This last week there is a new study coming out regarding economic impact to the North Carolina coast that is also using this study and the same 39 inch sea level rise. This economic impact study is actually putting dollar figures on real estate loss, infrastructure costs, business impacts and on and on and on. NC20 is not just with this issue, but is very concerned about scientific method and data not used but rather what is called scientific consensus. The best way to explain scientific consensus is if you have a panel of five people that are of very like mind and of opinion, a guy named Rigley stated well you don't need four of them. That is scientific consensus. We also have great concerns with sea level rise. These future predictions are based on models that unfortunately do not work in reverse that match the historic data. They can't be calibrated, the historic data. It cannot replicate itself and historic data is a problem with the prediction that it is going out into the future. Science should be a comprehensive process that discusses all known data and all known science. Most of the accelerated sea level rise publications that have been reviewed do not address the other science regarding sea level rise that sea level rise is not at an accelerated rate. And even more unfortunately when you look into their literature search they don't even list the other science. The CRC policy was guilty of that. As Tom mentioned we did have a symposium and brought in some good people from the University of Florida and Duke and from Cary that regarded this as far as the data and impact that was used in these studies. NC20 will be quite interested in the CRC's advisory panel's review of their findings and we look forward to talking with you in the future.

## **PRESENTATIONS**

**Amendments to 15A NCAC 07H .0308(a)(2) and 15A NCAC 07H .1705  
Temporary Erosion Control Structures (CRC 11-22)  
Mike Lopazanski**



Mike Lopazanski stated at the August CRC meeting we had the first meeting of the Ocean Hazards Subcommittee. We discussed the possible sandbag management strategies that came up during the stakeholder meetings. The stakeholder suggestions addressed everything from the existing rule looking at the configuration, the alignments, how they are anchored, as well as different possibilities for removal dates. We also heard proposals from some on returning to local government management of sandbags. We heard about incentive proposals as well. In addition to the stakeholder suggestions, staff also suggested an idea to extend the time limit for sandbag permits. This would more closely align the use of temporary erosion control structures with efforts of local governments and communities to secure a long-term solution. We currently have a two year time limit if the structure is less than 5,000 square feet or five years if your structure is greater than 5,000 square feet. You have five years if you are in a community that is actively pursuing a beach nourishment project. You have eight years if you are in an inlet hazard area and your community is pursuing an inlet relocation project. You can only use the sandbags to protect the structure once during its lifetime, however this provision was relaxed in the inlet hazard areas in 2009. Due to the nature of the inlets and their migratory habits, if your structure became threatened again then you would be able to use sandbags again to protect the structure, provided that the community is seeking a long-term remedy to the chronic erosion problem. We are proposing today to extend the timeframe to the oceanfront as we have done for the inlet hazard areas. You would have eight years to utilize the sandbags provided you are in a community pursuing a beachfill project. We are proposing to remove the provision of the one-time per property. This provides staff with a uniform set of rules that we can apply to the management of sandbags along the oceanfront and inlet areas. These provisions are dependent upon the removal of sandbags once they are no longer needed.

After discussion the Commission requested a presentation on the re-prioritization of sandbag removal efforts at the February 2012 meeting.

**David Webster made a motion to send the amendments to 15A NCAC 07H .0308(a)(2) and 15A NCAC 07H .1705 to public hearing. Veronica Carter seconded the motion. The motion passed with eight votes in favor (Joyce, Mitchell, Webster, Simmons, Wynns, Weld, Carter, Cahoon) and two opposed (Shepard, Elam) (Peele absent for vote).**

**Consideration of Public Comments on Draft Sea Level Rise Policy  
15A NCAC 07M .1301 (CRC 11-23)  
Tancred Miller**

Tancred Miller stated what we initially intended to do today was to report on the meetings we have had with the local governments and provide their feedback to the Commission. Based upon the feedback we had received we were not anticipating any changes to the draft policy and we were prepared to recommend that this begin moving through the formal rulemaking process. As you are aware, there has been a lot of renewed interest in the Science Panel's Report and how that is connected to the draft policy. For that reason, we are recommending no action on the Commission's part today until we have heard back from the Science Panel on their review of the critiques of their Report.

We have had a total of eight meetings this calendar year on the draft policy. At the regional Wilmington meeting we heard from the New Hanover County Planning and Inspections Department. They didn't like that the benchmark had been removed. Their second concern was that the land use planning provision was partially taken out of the draft policy. We also heard comments from the Kill Devil Hills meeting that the new policy was not very meaningful. Staff is

comfortable that the new draft policy does not tie anybody's hands in terms of the science, does not commit anyone to immediate action and does not increase any expenses on local governments or individuals, but it does get to the idea of setting the CRC on a path of planned adaptation. We are not hearing any major problems with the draft policy.

### **ACTION ITEMS**

#### **Fiscal Analysis Approval – 15A NCACA 07H .0308(a)(2) and 15A NCAC 07H .1705 Mike Lopazanski**

Mike Lopazanski stated the property owners within CAMA's ocean hazard area AEC are the most likely to be affected by this action. We looked at the number of permits that have been issued since 2000. We also used the 2009 inventory of sandbag structures (there were 327 structures). There are about 56 properties that would directly benefit from the permit extension. The benefit would be anywhere from a one year to a three year extension on these existing permits. We are also basing our calculations on removal costs associated with sandbags which range from four to eight thousand dollars depending on the length of the structure and its exposure out on the beach. Using these assumptions, the benefits of the proposed rule amendments are a cost savings to property owners. The proposed amendments do not affect the cost of permitting for NCDOT. They currently hold five sandbag permits and one of their permits would benefit from a time extension. DOT will not experience any negative fiscal impacts from the proposed action. A negative fiscal impact is not expected for local governments as their sandbags are also protecting infrastructure. The amendments do not reflect a significant change in how various projects are reviewed or permitted by DCM and we do not anticipate a change in permitting receipts due to the proposed action. While there may be some increased monitoring activities due to the amendments, it is not seen as anything significant over what we ordinarily do. The group that would be most affected by the proposed changes are property owners along the oceanfront shorelines and within inlet hazard areas. We estimate there will be a savings range from about 12-58 thousand dollars based on delayed costs associated with removal of sandbags. The cost and benefits from these proposed rule changes do not exceed \$500,000.00 annually.

**Veronica Carter made a motion to approve the fiscal analysis for 15A NCAC 07H .0308 and 15A NCAC 07H .1705 and send them to public hearing. David Webster seconded the motion. The motion passed unanimously (Joyce, Webster, Simmons, Wynns, Weld, Shepard, Carter, Elam, Cahoon) (Mitchell, Peele absent for vote).**

### **OLD/NEW BUSINESS**

Charles Elam stated that there are several commissioners whose terms expire in June. He said that he wanted to bring it to the Commission's attention in case they would like to be reappointed. Chairman Emory stated that this should be discussed as an agenda item at the February meeting. Staff should be prepared to discuss how reappointments are made and whose terms are expiring.

Chairman Emory stated that once the new Director is in place then we need to have the discussion about finding some way of moving these meetings around the coast. We are limiting practical access to these meetings. Ted Tyndall stated this is something that came up more than once during the 312 Review.

Lee Wynns stated that during the variances heard at this meeting he heard of piers that couldn't be used without a variance because the water had become too shallow due to shoaling or other factors. Coupled with that, both of them were located in PNAs. It might be an advantage to have staff brief us on what resolution dock owners have to get into deeper water besides trying to go beyond the ¼ width limit. Is dredging a possibility, especially in the southern areas? Chairman Emory said that it would be a good idea to hear how the pier and marina rules interact with PNA. Ted Tyndall stated that there are other factors that come into play, but staff can spell out the options available.

Renee Cahoon stated that Science Panel does a great job, but I recognize that everything we do now has economics attached to it. Would it be possible to consider adding a coastal economist to the Panel to be part of the discussion? Joan Weld that during the 312 Review the diversity of the Science Panel came up. We have said that if there are any areas of expertise that we do not have then we need to fill them and make sure that it is functioning as effectively as possible and that we have the right component of people on it. Chairman Emory stated that we should schedule an agenda item to look at the selection process for the Science Panel as well as the areas of expertise that are included and what are the guidelines to how we staff the Science Panel.

With no further business, the CRC adjourned.

Respectfully submitted,

  
\_\_\_\_\_  
M. Ted Tyndall, DCM Assistant Director

  
\_\_\_\_\_  
Angela Willis, Recording Secretary



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

Beverly Eaves Perdue  
Governor

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Director

Dee Freeman  
Secretary

**CRC 12-06**

January 24, 2012

**MEMORANDUM**

**TO:** Coastal Resources Commission

**FROM:** Mike Lopazanski

**SUBJECT:** Governors Scientific Advisory Panel on Offshore Energy

Over the last few years, the Commission has heard several presentations related to proposals for management and exploration of energy resources of the North Carolina Outer Continental Shelf (OCS). The CRC has also been actively involved in these issues by incorporating the siting of utility scale wind energy facilities into your rules, removing barriers to bringing power from wind facilities ashore and amending the Coastal Energy Policies to be more inclusive in addressing ocean-based energy sources. More recently, the Commission was asked to review existing laws and regulations that pertain to offshore energy regulation and production. You will recall that this Legislative request was in response to the BP Oil spill in 2010 and also included amendments to CAMA, incorporating some elements of your Coastal Energy Policies and the NC Oil Pollution and Hazardous Substance Control Act into the law. You may also recall that there were two groups studying the potential development of the State's offshore energy resources - the Legislative Research Commission Advisory Subcommittee on Offshore Energy Exploration and the Governor's Scientific Advisory Panel on Offshore Energy. The Legislative Research Commission passed their findings on to the Governor's Scientific Advisory Panel in 2010.

The Governor's Scientific Advisory Panel was charged with performing a comprehensive evaluation of all potential offshore energy resources, including oil, gas, wind and other renewable resources. The Advisory Panel is to make policy recommendations to ensure that North Carolina has a comprehensive plan for using offshore resources wisely and to the benefit of all North Carolinians. In the course of their study, the Advisory Panel also examined the current state of extraction technology; benefits and areas of concern related to these energy resources; infrastructure needs; potential revenues; and current laws and rules. The Advisory Panel concluded its study in September 2011 and we have invited panel member Gary Perry, Mayor Pro Tem of Kitty Hawk, to provide the CRC with an overview of the findings.



North Carolina Department of Environment and Natural Resources  
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**CRC-12-01**

January 24, 2012

**MEMORANDUM TO:** Coastal Resources Commission

**FROM:** Doug Huggett

**SUBJECT:** Science Panel guidance on monitoring potential adverse impacts of terminal groins in North Carolina

At the request of the Coastal Resources Commission and Division of Coastal Management (DCM) staff, the Coastal Resources Commission Science Panel has held two meetings to offer guidance to staff on how certain requirements of SB 110 (An Act To Authorize The Permitting And Construction Of Up To Four Terminal Groins at Inlets Under Certain Conditions) and the subsequent amendments to CAMA relating to adverse impacts of terminal groins could be satisfied. Specifically, DCM staff requested guidance on how it may be possible to assess potential terminal groin-related damage to adjacent lands (beach, islands, other beaches) and structures.

Following these discussions, DCM staff filtered the Science Panel discussions by specifically targeting guidance that can be implemented within the existing permit process, and that can serve as a framework for DCM to work with individual applicants in the development of project-specific monitoring plans, mitigation triggers, etc. The following represents the guidance points and/or ideas that staff believe are most relevant to the requirements of the terminal groin legislation and that could be incorporated into the permitting process.

### **General Points**

- While there is no CAMA requirement or authority for an independent third-party review of the required inlet management plan, DCM did commit to discussing the possibility of a voluntary third-party review with each potential terminal groin permit applicant. If the applicant is amenable to this voluntary review, the cost associated with the review would likely have to be covered by the applicant.
- The idea of utilizing a “control” beach (i.e. adjacent section of beach not under influence of the inlet or the potential groin) is likely not practicable since such a control site would be difficult if not impossible

to locate. Furthermore, even if such a site could be found, information gathered from the site would likely not provide the types of information that would allow the site to serve as a true control station.

- Terminal groin design alternatives should include consideration of “leaky” or “porous” groins – i.e., groins that will allow for significant sand transport into the inlet system, which should allow for beneficial ephemeral changes to intertidal system within inlet complex.
- Monitoring plans should be developed by determining what existing data can be utilized to develop a pre-project baseline. For example, existing aerial photography or historical shoreline data (beach profiles or surveys) may be the most detailed long-term information available for a specific project area. Furthermore, if at all possible, timing of post project surveys should be done in a way that allows for an “apples to apples” analysis with the pre-project data.
- The most significant challenge may be in the ability to separate terminal groin-related erosional impacts from background erosion (i.e. normal erosion, storms, etc.). DCM must work closely with the applicant and their consultant to design a monitoring plan and thresholds that will enable staff to distinguish between terminal groin-related impacts and non-groin or background erosional impacts or events.

### **Potential Threshold Ideas**

- Examine post-project changes to sediment volumes over pre-project or baseline sediment volumes.

Example – Determine up front what volumetric loss over a given distance would be required to initiate mitigation. As an example, for the Oregon Inlet groin, a volumetric loss of more than 250,000 cubic yards of material results over a one-mile section of beach triggers a mitigation action.

- Examine post-project changes to shoreline position relative to pre-project or baseline shoreline positions.

and/or

- Examine post-project changes to shoreline position relative to structures and their pre-project or baseline positions.

Example - Based on historical data (i.e. photos, shoreline surveys, CRC erosion rates, etc.), determine which structures are likely to be threatened by erosion (using CRC’s definition of “imminently threatened”) over five year time periods. If a structure is later determined to be threatened in an earlier time frame than originally predicted, and the accelerated erosion cannot be attributed to storms, mitigation would be triggered.

- Examine post-project changes to beach width relative to pre-project or baseline conditions.  
and/or
- Examine post-project movement of vegetation line relative to pre-project or baseline conditions.  
and/or
- Examine post-project changes in erosion rate relative to pre-project or baseline conditions.

Example - Plot background (baseline) data over time from whatever method(s) are chosen to see cyclical changes. Then develop existing loss rates and confidence intervals for these loss rates. If the post-project rates exceed the confidence intervals developed based on the pre-project background data, mitigation would be triggered.



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**MEMORANDUM**

**CRC-12-02**

**TO:** Coastal Resources Commission

**FROM:** M. Ted Tyndall 

**DATE:** January 24, 2012

**SUBJECT:** Reassessment of Sandbag Enforcement Priorities

Over the years, the Commission has heard many presentations on the permitting and enforcement issues related to temporary erosion control structures (i.e. sandbags) allowed by rule under 15A NCAC 07H.0308(a)(2). In 2008, staff undertook an intensive inventory effort of all sandbags along the North Carolina coast, determining which structures should be given the highest priority for removal through enforcement action. As you may recall, the protocol for prioritizing structures for removal was based on whether or not the bags were covered, vegetated, impeded public access, as well as on their age, condition and location on the beach. Those enforcement actions were delayed when Session Law 2009-479 established a moratorium on the removal of sandbags based solely on time limits. During the moratorium, many sandbag structures were "repaired" restoring them to their permitted size and condition thereby addressing some of the Division's concerns towards these non-compliant structures. The moratorium expired September 1, 2010 at which time the Commission directed staff to continue enforcement of the sandbag rules.

In late Fall of 2010, staff conducted a reassessment of the condition of all sandbag structures along the coast. The reassessment revealed that the structures that ranked the highest on the priority removal list in 2008 were again the worst offenders. As was the case in 2008, the most egregious of these structures were located in south Nags Head. In February of 2011, the Division sent "removal" letters to those property owners.

In the Spring of 2011, the Town of Nags Head received its CAMA permit for beach nourishment and began pumping sand onto the beach. Staff worked with the Town in requesting property owners to remove non-compliant sandbags before the pipeline reached their site, as non-compliant sandbags were not to be covered by the beachfill project. Although several property owners complied, many did not. Staff then coordinated with the Town's contractor to ensure that no sand was placed on non-compliant bags. The beach nourishment project was successfully completed this Fall. Staff once again conducted a state-wide re-evaluation of existing sandbags. As a result of the Nags Head project and the actions (described above) taken by property owners, the remaining sandbags in Nags Head are no longer the egregious violations they previously were. A summary of this most recent assessment will be presented to the Commission at your February meeting.

As always, staff is cautious not to bring site-specific issues to the Commission while still providing you with necessary and pertinent information on the subject. This is an effort to ensure that the quasi-judicial authority of the Commission for any variances, contested cases or declaratory rulings is not prejudiced. A summary of the latest state-wide assessment will be presented to the Commission for discussion.





CRC-12-04

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

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January 23, 2012

**MEMORANDUM**

**TO:** Coastal Resources Commission  
**FROM:** Tancred Miller  
**SUBJECT:** Sea-Level Rise Policy—Public Hearing Draft

Starting with the meeting with Carteret County on January 12, 2011, staff has completed eight meetings with local governments and other interested parties to review and discuss the draft sea-level rise policy and invite stakeholder input. You received the entire packet of written public comment last October (memo CRC-11-23). Staff's position remains consistent with that memo, i.e. that no stakeholder comments remain unresolved and staff does not have any additional changes to recommend. Please keep in mind that public comments on the Science Panel's Assessment Report are being handled separately from comments on the draft policy. The draft policy states that we will provide copies of the Assessment and all future updates to local governments, but does not include specific findings from the Assessment Report.

A clean version of the draft policy is attached. This version is identical to the February 25, 2011 strikethrough/underline version that has been presented at all subsequent public meetings and that has been posted on our website.

Stakeholders have been afforded a full year and an open invitation to review the draft policy and provide feedback. Staff believes that we have reached a saturation point with this phase of policy development and recommends sending the draft to public hearing. The formal rulemaking process will give stakeholders an additional opportunity to offer feedback. While only one public hearing is required, we propose to hold three, regional hearings in southern, central, and northern locations, at least one of which will be scheduled in conjunction with a regular CRC meeting.

# SLR Policy Draft - Jan 25, 2012

## Public Hearing Version

### **15A NCAC 07M.1301 DECLARATION OF GENERAL POLICY**

The Coastal Resources Commission (hereafter referred to as the “Commission”) is charged under the Coastal Area Management Act (CAMA) with the protection, preservation, orderly development, and management of the coastal area of North Carolina. To that end, the Commission is specifically charged with the protection of certain rights and values, which include ensuring the protection of public trust resources and access to those resources, preserving the quality and optimum use of water resources, managing land use and development to minimize environmental damage, and preserving private property rights.

The Commission recognizes that global sea-level rise is occurring as a natural hazard, and is predicted to continue during the next century and beyond. Sea-level rise will intensify the challenges that the Commission faces in promoting the resilience of the estuarine system, sounds, barrier dune system and beaches, perpetuating their natural productivity as well as their biological, economic and aesthetic values.

Sea-level rise is a ubiquitous coastal threat that can be difficult to perceive, but that magnifies other coastal hazards such as flooding, storm surge, shoreline erosion, and shoreline recession. Sea-level rise is also a threat to the use of and access to public trust resources, water resources and quality, private property and development, economic stability, historic and cultural resources, agriculture, forestry, and public property and infrastructure.

The Commission recognizes that sea-level rise is a pervasive and persistent hazard that must be incorporated into the coastal program in order to address the implications of the expected continuing rise in water levels, along with the resulting magnification of hazards, disruption and losses that such increases will bring to coastal communities, economies and ecosystems.

The goal of this policy is to establish a framework for planned adaptation and improved resilience to rising sea levels. Planned adaptation will help to minimize economic, property and natural resource losses, minimize social disruption and losses to public trust areas and access, and lessen the need for disaster recovery spending.

*History Note: Authority G.S. 113A-102; 113A-106; 113A-107; 113A-124*

### **15A NCAC 07M.1302 DEFINITIONS**

As used in this Section:

1. “Accommodate” means designing development and property uses such that their function is not eliminated as sea level rises.
2. “Conservation measures” are non-regulatory tools that can include easements, land acquisition, and similar measures.

3. "Planned adaptation" means taking a proactive and deliberate approach to promoting resiliency of communities, economies and ecosystems, by identifying hazards and vulnerabilities and designing and implementing measures to adjust to, or relocate from, rising seas before a foreseeable hazard forces a response.
4. "Relative sea-level rise" means an increase in the average surface height of the oceans over a long period of time that may be caused by an absolute increase in the water level, by sinking of the land at the water's edge, or by a combination of the two.
5. "Resilience" is the ability of communities, economies and ecosystems to withstand, recover from, or adjust to disruptive influences without collapse.
6. "Sea-level rise" means a long-term increase in the average surface height of the oceans.
7. "Shoreline erosion" refers to the chronic or episodic landward migration of a shoreline caused by the loss or displacement of sediment.
8. "Shoreline recession" means the long-term landward migration of the average position of a shoreline.
9. "Subsidence" is the sinking or decrease in land elevation over time.

*History Note: Authority G.S. 113A-102; 113A-107; 113A-124*

#### **15A NCAC 07M.1303 POLICY STATEMENTS**

(a) The Commission will promote public education of the impacts associated with rising sea levels and measures to adapt to changing shorelines.

(b) The Commission's Science Panel on Coastal Hazards prepared a North Carolina Sea-Level Rise Assessment Report (March 2010) that examines potential sea-level rise scenarios for the State by the year 2100. This report and future updates will be available from the Division of Coastal Management and posted on its website. The Commission shall provide this report to the twenty coastal counties for their consideration in local land-use and risk-reduction planning. The Commission will update the Sea-Level Rise Assessment Report at least every five years.

(c) Relative sea-level rise is not uniform across the State's coastal zone, and the differences are amplified by topographical variations and regional subsidence. As a result, specific adaptation measures might not be appropriate for all communities in the coastal zone, or at the same time. The Commission encourages coastal communities to consider regional and projected rates of sea-level rise in local land use and development planning. The Commission supports the acquisition of scientific data and adaptation measures as appropriate for different parts of the coast.

(d) CAMA directs the Coastal Resources Commission to protect coastal resources and their productivity. Sea-level rise is altering the physical and chemical aspects of the coastal area, and increasing the susceptibility of upland areas to inundation, storm surge, saltwater intrusion, and accelerated erosion. Intertidal areas are being flooded at greater frequency and to greater depths, spurring landward migration of coastal habitats. In order to maintain their ecological function, fisheries habitats such as nursery areas may need to migrate landward, keeping pace with rising waters. The Commission shall consider conservation and regulatory measures that can enhance the resilience of natural systems and habitats.

(e) The Commission has the responsibility to assist local governments with land-use planning guidance and support. Due to the technical nature of sea-level rise science and the need for a coordinated adaptation strategy, the Commission shall, to the best of its ability, provide local governments with scientific data to support local education and planning efforts. The Commission may provide financial assistance for local adaptation planning and implementation as available.

(f) It is in the State's interest to invest in long-term sea-level rise research and monitoring, as such investments will contribute to enhanced natural and societal resilience, and lowered future losses and disruption. The Commission will actively support State, Federal, and private efforts to fund data collection, research, monitoring, and utilization of results.

(g) In order to minimize the impacts of hazards, disruption and losses associated with rising water levels, the Commission encourages new private development be designed and constructed to accommodate sea-level rise impacts within the structure's design life, except in instances where the structure is intended to serve an adaptation purpose. The Commission encourages water-dependent structures be designed to accommodate projected sea-level rise within their design life.

(h) In order to minimize the impacts of hazards, disruption and losses associated with rising water levels, the Commission encourages new public infrastructure be designed and constructed to accommodate sea-level rise impacts within the infrastructure's design life, except in instances where the infrastructure is intended to serve an adaptation purpose. The Commission encourages water-dependent structures be designed to accommodate projected sea-level rise within their design life, and development enabled by new public infrastructure be designed to accommodate sea-level rise within its design life.

*History Note: Authority G.S. 113A-102; 113A-106; 113A-107; 113A-110; 113A-112; 113A-124*



North Carolina Department of Environment and Natural Resources  
Division of Coastal Management  
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CRC-12-05

## MEMORANDUM

**TO:** Coastal Resources Commission  
**FROM:** David Moye, District Manager – Washington Regional Office  
**SUBJECT:** Docks and Deep Water Access in Primary Nursery Areas (PNAs)  
**DATE:** February 9, 2012

During previous CRC meetings, the Commission has heard several variances concerning the placement of docks and piers in PNAs. Several of you have expressed an interest in how your rules were developed over time in regard to this issue, specifically, how development in PNAs is regulated regarding the placement of docking facilities in shallow water and how that can be affected by the ¼ width rule, as well as how that interacts with the permitability to dredge these areas.

Attached is a detailed listing of rule citations applicable to PNAs. In addition, staff will provide a history of how fishery habitat issues have been woven into the fabric of the Commission's rules including the adoption of the Coastal Habitat Protection Plan (CHPP) and the subsequent implementation actions. Staff will also discuss the interaction with other habitat concerns such as submerged aquatic vegetation (SAV) and oyster rock as it pertains to permitting dock and piers. As you may recall, over the past five years or so, you have been updating many of your rules to incorporate these changes consistent with the goals of the CHPP and almost all of these have fishery habitat influences. While this is an important issue for the Commission it is not the only issue. As you are aware, the Commission's charge is to balance Public Trust rights, navigation and a myriad of other concerns when crafting rule language. Staff looks forward to the discussion with the Commission.

Attachment

# **PNA, SAV AND SHELLFISH RULE REFERENCES**

## **COASTAL AREA MANAGEMENT ACT (CAMA)**

### **113A-113 Areas of Environmental Concern; in General.**

(b) The Commission may designate as areas of environmental concern any one or more of the following, singly or in combination:

(9) - **Primary Nursery Areas** as designated by the Marine Fisheries Commission and such contiguous land as the Coastal Resources Commission reasonably deems necessary to protect the resource values identified in the designation including, but not limited to, those values contributing to the continued productivity of estuarine and marine fisheries and thereby promoting the public health, safety and welfare.

## **SUBCHAPTER 7H – STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

### **15A NCAC 07H.0206 Estuarine Waters**

(b) Significance. Estuarine waters are the dominant component and bonding element of the entire estuarine and ocean system, integrating aquatic influences from both the land and the sea. Estuaries are among the most productive natural environments of North Carolina. They support the valuable commercial and sports fisheries of the coastal area which are comprised of estuarine dependent species such as menhaden, flounder, shrimp, crabs, and oysters. These species must spend all or some part of their life cycle within the estuarine waters to mature and reproduce. Of the 10 leading species in the commercial catch, all but one are dependent on the estuary. This high productivity associated with the estuary results from its unique circulation patterns caused by tidal energy, fresh water flow, and shallow depth; nutrient trapping mechanisms; and protection to the many organisms. The circulation of estuarine waters transports nutrients, propels plankton, spreads seed stages of fish and shellfish, flushes wastes from animal and plant life, cleanses the system of pollutants, controls salinity, shifts sediments, and mixes the water to create a multitude of habitats. Some important features of the estuary include mud and sand flats, eel grass beds, salt marshes, **submerged vegetation flats, clam and oyster beds, and important nursery areas.**

## 15A NCAC 07H.0208 Use Standards

### (a) General Use Standards

(2)(a) The location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC (Rule .0203 of this subchapter) and shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas;

(4) Primary nursery areas are those areas in the estuarine and ocean system where initial post larval development of finfish and crustaceans takes place. They are usually located in the uppermost sections of a system where populations are uniformly early juvenile stages. They are designated and described by the N.C. Marine Fisheries Commission (MFC) and by the N.C. Wildlife Resources Commission (WRC);

(6) Beds of submerged aquatic vegetation (SAV) are those habitats in public trust and estuarine waters vegetated with one or more species of submergent vegetation. These vegetation beds occur in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In either case, the bed is defined by the Marine Fisheries Commission. Any rules relating to SAVs shall not apply to non-development control activities authorized by the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et seq.).

### (b) Specific Use Standards

(1) Navigation channels, canals, and boat basins shall be aligned or located so as to avoid primary nursery areas, shellfish beds, beds of submerged aquatic vegetation as defined by the MFC, or areas of coastal wetlands except as otherwise allowed within this Subchapter. Navigation channels, canals and boat basins shall also comply with the following standards:

(i) Maintenance excavation in canals, channels and boat basins within primary nursery areas and areas of submerged aquatic vegetation as defined by the MFC shall be avoided. However, when essential to maintain a traditional and established use, maintenance excavation may be approved if the applicant meets all of the following criteria:

(iii) Excavated material can be removed and placed in a disposal area in accordance with Part (b)(1)(B) of this Rule without impacting adjacent nursery areas and submerged aquatic vegetation as defined by the MFC; and

## (5) Marinas

(A)(ii) an upland basin site requiring dredging for access when the necessary dredging and operation of the marina will not result in significant adverse impacts to existing fishery, shellfish, or wetland resources and the basin design shall provide flushing by tidal or wind generated water circulation;

(A)(iii) an open water site located outside a primary nursery area which utilizes piers or docks rather than channels or canals to reach deeper water; and

(B) Marinas which require dredging shall not be located in primary nursery areas nor in areas which require dredging through primary nursery areas for access. Maintenance dredging in primary nursery areas for existing marinas shall comply with the standards set out in Part (b)(1)(I) of this Rule;

(E) To protect water quality in shellfishing areas, marinas shall not be located within areas where shellfish harvesting for human consumption is a significant existing use or adjacent to such areas if shellfish harvest closure is anticipated to result from the location of the marina. In compliance with 33 U.S. Code Section 101(a)(2) of the Clean Water Act and North Carolina Water Quality Standards adopted pursuant to that section, shellfish harvesting is a significant existing use if it can be established that shellfish have been regularly harvested for human consumption since November 28, 1975 or that shellfish are propagating and surviving in a biologically suitable habitat and are available and suitable for harvesting for the purpose of human consumption. The Division of Coastal Management shall consult with the Division of Marine Fisheries regarding the significance of shellfish harvest as an existing use and the magnitude of the quantities of shellfish that have been harvested or are available for harvest in the area where harvest will be affected by the development;

## (8) Beach Nourishment

(A)(iii) Beach creation shall not be allowed in primary nursery areas, nor in any areas where siltation from the site would pose a threat to shellfish beds;

## (10) "Freestanding Moorings"

(D) To protect water quality of shellfishing areas, mooring fields shall not be located within areas where shellfish harvesting for human consumption



is a significant existing use or adjacent to such areas if shellfish harvest closure is anticipated to result from the location of the mooring field. In compliance with Section 101(a)(2) of the Federal Water Pollution Control Act, 33 U.S.C. 1251 (a)(2), and North Carolina Water Quality Standards adopted pursuant to that section, shellfish harvesting is a significant existing use if it can be established that shellfish have been regularly harvested for human consumption since November 28, 1975 or that shellfish are propagating and surviving in a biologically suitable habitat and are available and suitable for harvesting for the purpose of human consumption. The Division of Marine Fisheries shall be consulted regarding the significance of shellfish harvest as an existing use and the magnitude of the quantities of shellfish that have been harvested or are available for harvest in the area where harvest will be affected by the development;

(11) Filling of Canals, Basins and Ditches

(C) the filling will not adversely impact any designated **primary nursery area, shellfish bed, submerged aquatic vegetation** as defined by the MFC, coastal wetlands, public trust right or public trust usage; and

**15A NCAC 07H.0209 Coastal Shorelines**

(g) Urban Waterfronts

(4)(B)(iii)(IX) Structures shall have no significant adverse impacts on fishery resources, water quality or adjacent wetlands and there must be no reasonable alternative that would avoid wetlands. Significant adverse impacts include the development that would directly or indirectly impair water quality standards, increase shoreline erosion, alter coastal wetlands or **Submerged Aquatic Vegetation (SAV)**, deposit spoils waterward of normal water level or normal high water level, or cause degradation of **shellfish beds**;

(4)(B)(iii)(XI) Structures shall not degrade Critical Habitat Areas or **Primary Nursery Areas** as defined by the NC Marine Fisheries Commission; and

## General Permits – Subchapter 7H – State Guidelines for Areas of Environmental Concern

### Section .1200 – General Permit for Construction of Piers and Docking Facilities: in Estuarine and Public Trust Waters and Ocean Hazard Areas

07H.1205(g) Docking facilities shall not be constructed in a designated **Primary Nursery Area** with less than two feet of water at normal low water level or normal water level (whichever is applicable) under this permit without prior approval from the Division of Marine Fisheries or the Wildlife Resources Commission (whichever is applicable).

07H.1205(h) Piers and docking facilities located over **shellfish beds** or **submerged aquatic vegetation** (as defined by the Marine Fisheries Commission) may be constructed without prior consultation from the Division of Marine Fisheries or the Wildlife Resources Commission (whichever is applicable) if the following two conditions are met:

- (1) Water depth at the docking facility location is equal to or greater than two feet of water at normal low water level or normal water level (whichever is applicable).
- (2) The pier and docking facility is located to minimize the area of **submerged aquatic vegetation or shellfish beds** under the structure.

07H.1205(i) Floating piers and floating docking facilities located in **PNAs, over shellfish beds, or over submerged aquatic vegetation** shall be allowed if the water depth between the bottom of the proposed structure and the substrate is at least 18 inches at normal low water level or normal water level, whichever is applicable.

### Section .1500 – General Permit for Excavation Within or Connecting to Existing Canals: Channels: Basins: or Ditches in Estuarine Waters: Public Trust Waters: and Estuarine Shoreline AEC's

07H.1504(d) New basins within or with connections to **primary nursery areas** are not allowed.

07H.1504(e) No new basins will be allowed that result in closure of **shellfish waters** according to the closure policy of the Division of Environmental Health.

07H.1505(7) The proposed project must not involve the excavation of any marsh, **submerged aquatic vegetation**, or other wetlands.

07H.1505(10) No maintenance excavation may take place within prime shellfish areas as designated by the N.C. Division of Marine Fisheries.

Section .1600 – General Permit for the Installation of Aerial and Subaqueous Utility Lines With Attendant Structures in Coastal Wetlands: Estuarine Waters: Public Trust Waters and Estuarine Shorelines

07H.1605(7) No excavation or filling activities will be permitted between April 1 and September 30 of any year within any designated primary nursery area.

Section .2200 – General Permit for Construction of Freestanding Moorings in Estuarine Waters and Public Trust Areas and Ocean Hazard Areas

07.2205(f) Freestanding moorings shall not significantly interfere with shellfish franchises or leases. Applicants for authorization to construct freestanding moorings shall provide notice of the permit application to the owner of any part of a shellfish franchise or lease over which the proposed installation would extend.

Section .2300 – General Permit for Replacement of Existing Bridges and Culverts in Estuarine Waters, Estuarine and Public Trust Shorelines, Public Trust Areas, and Coastal Wetlands

07H.2305(g) Bridge or culvert replacement activities involving excavation or fill in wetlands, public trust areas, and estuarine waters shall meet the following conditions:

(1) Replacing bridges with culverts shall not be allowed in primary nursery areas as defined by the Marine Fisheries or Wildlife Resources Commissions.

Section .2700 – General Permit for the Construction of Riprap Sills for Wetland Enhancement in Estuarine and Public Trust Waters

07H.2705(o) The sill shall not interfere with leases or franchises for shellfish culture.

07H.2705(u) No excavation or filling of any native submerged aquatic vegetation is authorized by this general permit.

## **SUBCHAPTER 7J – PROCEDURES FOR HANDLING MAJOR PERMITS: VARIANCE REQUESTS: APPEALS FROM MINOR DEVELOPMENT PERMIT DECISIONS: AND DECLARATORY RULINGS**

### **15A NCAC 07J.0409 Civil Penalties**

Schedule A refers to assessment amounts for impacts to **Primary Nursery Areas, Shell Bottom, and Submerged Aquatic Vegetation** based on square footage of impact

## **SUBCHAPTER 7M – GENERAL POLICY GUIDELINES FOR THE COASTAL AREA**

### **15A NCAC 07M.0403 – Policy Statements**

07M.0403(f)(10) In the siting of energy facilities and related structures, significant adverse impacts to the following areas shall be avoided:

(A) areas of high biological significance, including offshore reefs, rock outcrops, hard bottom areas, sea turtle nesting beaches, coastal wetlands, **primary or secondary nursery areas** or spawning areas and essential fish habitat areas of particular concern as designated by the appropriate fisheries management agency, **oyster sanctuaries, submerged aquatic vegetation** as defined by the Marine Fisheries Commission, colonial bird nesting areas, and migratory bird routes;



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

Beverly Eaves Perdue  
Governor

Braxton C. Davis  
Director

Dee Freeman  
Secretary

## MEMORANDUM

**To:** Coastal Resources Commission **CRC-12-10**  
**From:** Charlan Owens, AICP, DCM Elizabeth City District Planner  
**Date:** January 25, 2012  
**Subject:** Land Use Plan Implementation Status Reports [**Information Only-No Action Required**]

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### Overview

Per 15A NCAC 07L.0511 (a), a Land Use Plan (LUP) implementation status report is to be submitted by a local government every two (2) years following the date of LUP certification. Implementation status reports for the following LUPs are attached:

*Town of Duck 2004 LUP* – certified on April 8, 2005  
*Camden County 2004 LUP* – certified on June 17, 2005  
*Town of Kitty Hawk 2004 LUP* – certified on June 17, 2005  
*Chowan County/Town of Edenton 2008 LUP* – certified on July 24, 2008

(for online memo, you can click on community above/link to view report)

The implementation status report is based on the LUP Action Plan and identifies activities that the local government has undertaken in support of the LUP's policies and implementation actions.

### The following must be included in the report:

- All local, state, federal, and joint actions that have been undertaken successfully to implement its certified CAMA land use plan
- Any actions that have been delayed and the reasons for the delays
- Any unforeseen land use issues that have arisen since certification of the CAMA land use plan
- Consistency of existing land use and development ordinances with current CAMA land use plan policies
- Current policies that create desired land use patterns and protection of natural systems.

### Discussion

The implementation status report does not require approval by the CRC, but must be made available to the public and forwarded to DCM. Staff has reviewed the reports and finds that the local governments have met the minimum requirements.

BOARD OF COMMISSIONERS

SANDRA J. DUCKWALL  
Chairman

GARRY W. MEIGGS  
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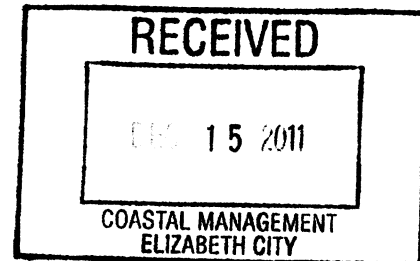
MICHAEL RENSHAW  
County Manager

ASHLEY HONAKER  
Clerk to the Board

JOHN S. MORRISON  
County Attorney

December 12, 2011

Charlan Owens  
DCM District Planner  
1367 U. S. 17 South  
Elizabeth City, NC 27909



RE: Camden County CAMA  
Advanced Core Land Use Plan Implementation Status Report

Dear Charlan:

Camden County is pleased to submit the following status report on the implementation of the County's 2004 Advanced Core Land Use Plan, covering the period from the last update in May 27, 2009. The status report below lists the actions taken as they relate to the five (5) types of actions.

***All local, state, federal, and joint actions that have been undertaken successfully to implement its certified CAMA land use plan;***

During this period of economic recession private development and growth of the county has slowed substantially. However, due to Camden's past conservative financial policies, the lack of substantial commercial economy to be affected by the downturn, and the good fortune receiving considerable grant funding, the county has been able to begin building and expanding infrastructure to support future commercial growth. The bulk of county actions therefore have been in planning, designing and building infrastructure, as well as initiating a series of planning efforts to guide development. These include the following:

## Local Regulatory, Permitting, and Policy Actions

### Rezoning

- Shipyard Road – Reduced residential lot size minimum from 2 acre to 1 acre
- Eco Park Planned Unit Development to establish mixed commercial & industrial uses with focus on environmental sustainability
- South Mills Landing rezoning of separate out parcel from PUD to commercial zone to allow for quicker and easier marketing of commercial property along major highway corridor
- Approved ordinance (text amendment) to permit both small wind turbines and large utility scale wind farms.

### Special Use Permits

- Camden Plantation Master Plan Conditional Use Permit to allow high density mixed use development with higher development standards than existing zones.
- Eco Park Master Plan Conditional Use Permit to establish mixed commercial & industrial uses with focus on environmental sustainability.
- Frog Island Seafood Combination Special Use Permit to expand and upgrade commercial fishing operation.
- North River Campground Special Use Permit to allow expansion and inclusion of amenities that promote eco-tourism.
- Forbes Mining Special Use Permit to bring sand mining operation into compliance with local and state regulations and expand operation.
- Camden Yards Materials amended Special Use Permit to rearrange phasing boundaries and shift current operations away from adjacent residential uses.

### Other Policy Actions

- Amended Solid Waste Plan to comply with state requirements for mandatory recycling of electronics equipment, and purchased specialized recycling containers for same.
- Established Camden Economic Development Commission and hired part-time economic developer.
- Established Stormwater Advisory Committee and partnered with Soil & Water Conservation Board to hire full time Soil & Water Technician.
- Negotiated and executed a long term agreement between South Camden Water & Sewer District and South Mills Water Association to insure water capacity to support growth in South Mills and throughout county.
- Repealed Advancement of Capacity requirement (used to fund future school capacity) in Adequate Public Facility Ordinance due to ruling of NC Court of Appeals striking down similar requirement in Union county.

### Infrastructure Projects

- Completed water & sewer extension along US 17 corridor to support development of county owned Eco Industrial Park.
- Started sewer project in South Mills to replace failing septic systems.
- Designed and obtained funding to extend public water to North River Campground and R/V park to allow expansion of R/V spaces and future motel.
- Expanded water treatment plant by adding a second train that provides needed redundancy and possible doubling of capacity.
- Constructed new expanded and relocated fire station South Mills Township.
- Constructed new expanded and relocated fire station Shiloh Township.
- Completed rebuilding pier, bulkhead, and bathroom facilities on Treasure Point 4 H club property to replace facilities previously destroyed by devastating fire.

### Coordination of State-wide Initiatives

- Assisted Department of Commerce and legislature in establishing special tax incentives for Eco Industrial Parks.
- Coordinated successful legal, public relations, and citizens efforts to oppose location of a Navy Outlying Landing field in Camden county.

### Planning Activities

- Completed 21<sup>st</sup> Century Economic Development Strategic Plan with assistance from the Department of Commerce
- Completed conceptual plan for the long range development of the US Highway 17 corridor, utilizing grant funds from the Rural Center.
- Established committee of local and state agencies from North Carolina and Virginia to promote linking their respective Dismal Swamp pedestrian/bike trails at the state line along the Dismal Swamp Canal and US 17, and prepared 30% engineering design for North Carolina portion of trail.
- Currently conducting a Countywide Comprehensive Plan, utilizing local funding.
- NC DOT is currently conducting a non-fiscally restrained Comprehensive Transportation Plan.
- Assisting Elizabeth City/Camden/Pasquotank Emergency Management Department in updating Hazard Mitigation Plan
- Currently coordinating group of planning students from East Carolina University to prepare a Small Area Plan for the South Mills Core Village area.
- Continue initiatives to increase GIS mapping layers with data on private cemeteries, Agricultural Best Management Practices, drainage ways, culverts, & obstructions, and loss of tree cover
- Continue to monitor and cultivate cooperation with Chesapeake VA Planning agencies.

### *Any actions that have been delayed and reasons for the delay;*

- Economic Conditions have delayed start of construction of Town Center Project.
- Housing rehabilitation projects have been all but eliminated due to lack of state funding.



***Any unforeseen land use issues that have arisen since certification of the CAMA land use plan;***

- Community campaign to oppose establishment of a military Outlying Landing Field on a site that is one of the most productive farming areas in northeast North Carolina has been successful in postponing further consideration by Navy.
- Increasing interest in large scale wind farm operations have led county to establish comprehensive regulations and conditions to permit construction of this alternative energy source.

***Consistency of existing land use and development ordinances with current CAMA land use plan policies; and***

Total Number of rezoning applications	3
• Approved	3
• Denied	0
• Consistent with LUP	3
Total Number of SUP Applications	6
• Approved	6
• Denied	0
Subdivision SUPs	1
• Number of lots	23

***Current policies that create desired land use patterns and protection of natural systems.***

- Solid Waste Plan to complies with state requirements for mandatory recycling of electronics equipment.
- Camden Economic Development Commission is in place to promote and guide commercial growth.
- Stormwater Advisory Committee is in place to recommend policies and actions to address to both water quality and drainage issues created by stormwater.
- The current Unified Development Ordinance creates a regulatory framework that consistently considers protection of natural systems while allowing for development decision making to create desire land use pattern.

Please let me know if you have any questions, need any additional information, or if you have comments on the enclosed.

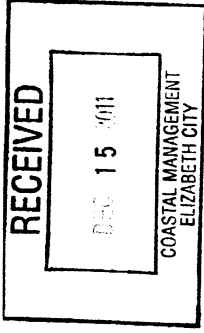
Sincerely,

A handwritten signature in black ink, appearing to read "Dan B. Porter". The signature is fluid and cursive, with a large, stylized initial "D".

Dan B. Porter

Planning Director  
Camden County

Cc: Michael Renshaw, County Manager  
County Commissioners (via email)



## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text – Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
<b>PUBLIC ACCESS</b>		
<b>Policies</b>		
P.1 The county supports the Great Dismal Swamp Visitor/Welcome Center and recreational related developments that protect and preserve the natural environment while promoting the county as a tourist destination. It supports the private and public development of waterfront access through private funds and grant monies. It also supports the work of the Northeastern North Carolina Economic Development Commission.	<i>Continuing Activity.</i>	<ul style="list-style-type: none"> <li>Previously constructed pier, parking, and canoe launch known as Shiloh Landing at end of Mill Dam road to access Pasquotank River</li> <li>Continue to support State Park Interpretive Center at Dismal Swamp Welcome Center</li> </ul>
P.2 Camden County supports providing shoreline access for persons with disabilities.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>Shiloh Landing Access project and Courthouse restoration projects both have accommodations for handicapped parking</li> <li>Completed development of the Treasure Point 4 H club property located along the Pasquotank River. The project includes a new pavilion, bathrooms, bulkhead, riprap, and canoe launch</li> <li>Continuing</li> </ul>
P.3 Camden County supports the frequency of shoreline access as defined by 15A NCAC 7M, Section .0300, Shorefront Access Policies. However, emphasis will be placed on providing access to the Great Dismal Swamp and the Shiloh Township area.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>Continuing</li> </ul>
P.4 Camden County supports state/federal funding of piers for crabbing and fishing.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>Continuing</li> </ul>
P.5 Camden County supports the development of estuarine access areas to ensure adequate shoreline access within all areas of the county. Areas that have traditionally been used by the public will be given special attention.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>Continuing</li> </ul>
<b>Implementation Actions</b>		
I.1 Camden County will revise its subdivision ordinance to include the provisions of NCGS 153A-331 which allow for requiring the developer of a subdivision to be charged recreation fees as follows: "The subdivision ordinance may provide that a developer may provide funds to the county whereby the county may acquire recreational land or areas to serve the development or subdivision, including the purchase of land which may be used to serve more than one subdivision or development within the immediate area." The funds may be utilized to provide increased shoreline access.	<i>Fiscal Year 2005-2006.</i>	<ul style="list-style-type: none"> <li>Completed 2007-</li> </ul>
I.2 Camden County will prepare a shoreline access plan and request Division of Coastal Management funding for the preparation of the plan.	<i>Fiscal Year 2005-2006</i>	No Action
I.3 Camden County will pursue funding under the North Carolina CAMA Shoreline Access funding program (15A NCAC 7M, Section .0300, Shorefront Access Policies).	<i>Continuing</i>	<ul style="list-style-type: none"> <li>Shiloh Landing</li> <li>Obtained Fish &amp; Wildlife agreement to construct parking &amp; pier to access Crooked Creek entry to North Rive, pending county's ability to obtain property and permits</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text – Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
<p><i>1.4</i> Camden County will pursue private sources of funding for the development of shoreline access facilities, including donation of land..</p>	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
<p>1.5 In areas adjacent to the Great Dismal Swamp, Camden County will pursue funding from the Department of Archives and Natural History and the federal government for the provision of shoreline access sites.</p>	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Continue to Interpretive Center at Dismal Swamp Welcome Center.</li> </ul>
<p>1.6 The county will cooperate with state and federal agencies to secure estuarine access areas to ensure adequate shoreline access within all areas of the county.</p>	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
<b>LAND USE COMPATIBILITY</b>		
<i>Policies - Residential:</i>		
<p>P.6 Camden County supports revisions to the North Carolina State Statutes which would allow the local imposition of impact fees or special legislation to allow them in Camden County.</p>	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Repealed county APFO due to Court of Appeals rejection of similar county ordinances</li> </ul>
<p>P.7 The county supports repair and reconstruction of privately-owned dwelling units through private funds and/or grants. It supports the enforcement of existing regulations of the District Health Department regarding sanitary conditions.</p>	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Unsuccessfully applied for NCHFA Urgent Repair Program</li> <li>• 2011 CDBG Scattered Site housing funds unavailable in this state budget</li> </ul>
<p>P.8 Camden County supports discouraging the re-zoning of existing residentially-developed or zoned areas to a non-residential classification as reasonably possible.</p>	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• There have been no rezoning from residential to commercial use.</li> <li>• This policy is somewhat contrary to the County's efforts to increase commercial development.</li> </ul>
<p>P.9 Camden County supports greater residential densities in areas that are accessible to water and/or sewer service(s). Agricultural and low density residential land uses should be located in areas that do not have county water or sewer service. Office/Institutional/Multi-family land uses should be developed along transportation thoroughfares to provide transition between commercial nodes and to preserve vehicle carrying capacity.</p>	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Approved Master Plan conditional use permit for 600 acre tract along US 17 for a mixed use Planned Unit Development that emphasizes clustered development and smart growth land use principals through integrated development</li> </ul>
<p>P.10 Camden County supports quality development reflecting the spectrum of housing needs, from low-end (affordable) residences to high-end (luxury) residences.</p>	<i>Continuing.</i>	
<p>P.11 Camden County supports regulating growth to coincide with the provision of public facilities and services.</p>	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Repealed county APFO due to Court of Appeals rejection of similar county ordinances,</li> <li>• Completed joint water agreement with South Mills Water Assoc</li> </ul>
<p>P.12 The county should discourage development in areas designated for low-density residential/agricultural use with the exception of low-density residential/agriculture land uses as much as reasonably possible.</p>	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Previously approved use of scorecard to evaluate development proposals based on 10 "smart growth" principals</li> </ul>
<p>P.13 Camden County supports wooded buffers along thoroughfares.</p>	<i>Continuing.</i>	
<p>P.14 Camden County supports utilizing Office/Institutional/Multi-family development as a buffer between light industrial and commercial development and adjacent residential land uses.</p>	<i>Continuing</i>	No Action

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text – Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED		ACTIONS
	Fiscal Year	Year	
P.15 The county supports providing adequate conservation/open space buffers between areas designated for residential development as indicated on the future land use map and any adjacent non-residential land use, including agricultural areas.	2005-2006.		<ul style="list-style-type: none"> <li>Previously completed - UDO 151.232 (N)</li> </ul>
P.16 The county supports the City of Chesapeake's efforts to develop the 4,000 acre tract of land located along US Route 17, adjacent to the northern Camden County border	Continuing.		<ul style="list-style-type: none"> <li>County Manager in contact with developer of this property</li> <li>Monitor Chesapeake Planning Department agendas.</li> </ul>
<b>Implementation Actions - Residential</b>			
1.7 All re-zoning and subdivision approvals will consider the existing and future land use suitability maps and analyses which are included in this plan.	Continuing.		<ul style="list-style-type: none"> <li>Previously completed UDO 151.585 (C) (3)</li> <li>Total Number of rezoning applications 3                             <ul style="list-style-type: none"> <li>Approved 3</li> <li>Denied 0</li> </ul> </li> <li>Consistent with LUP 3</li> </ul>
1.8 Camden County will permit residential development to occur in response to market needs provided that the following criteria are met:			<ul style="list-style-type: none"> <li>Adopted CIP June 2009, 2010, with county Budget</li> <li>Previously Camden Plantation PUD development donated 3 acres off-site and \$15,000 for construction of a new fire station</li> <li>Camden Plantation Master Plan Development Agreement includes donation of \$150,000 per year, (10 years) for school buses &amp; other capital needs.</li> <li>Previously amended UDO 151.585 (C) (3) – LUP consistency</li> <li>Previously purchased site for future high school</li> </ul>
(1) Due respect is offered to all aspects of the environment.			
(2) If deficient community facilities and services are identified, the county should attempt to improve such to the point of adequately meeting demands.			
(3) Additional residential development should concurrently involve planning for improvements to community facilities and services if excess capacity does not exist within those facilities and services.			
(4) Residential development is consistent with other Camden County policies and the land use map as contained in this plan update.			
1.9 Camden County will review its zoning and subdivision ordinances and consider establishing floor area ratio requirements to ensure that development is consistent with the density requirements of this plan.	Fiscal Year 2005-2006.		<ul style="list-style-type: none"> <li>Completed - UDO section 151.067 addresses FAR for non-residential structures</li> </ul>
1.10 The county will consider revisions to the zoning ordinance for non-residential sites to ensure adequate buffering and landscaping to separate residential and incompatible non-residential uses, and adequate regulation of off-site lighting, hours of operation, and vehicular driveway locations.	Fiscal Year 2005-2006.		<ul style="list-style-type: none"> <li>Completed - UDO Section 151.063; UDO Section 151.140; 151.232 (A) (4)</li> </ul>
1.11 The Camden County zoning ordinance will be revised to include an office/institutional zoning district.	Fiscal Year 2005-2006.		No Action
1.12 The county will require through zoning and subdivision regulation an interior road system that provides vehicular access to lots abutting major thoroughfares. Consider reviewing existing design standards to ensure effective limitation of driveway entrances.	Continuing.		<ul style="list-style-type: none"> <li>Completed - UDO 151.083 (B), (C); 151.232 (A) (3&amp;4)</li> </ul>
1.13 Camden County, through revision of its zoning ordinance, will limit "strip" residential development along highways and certain roads carrying heavy traffic and encourage service roads or an internal street pattern to eliminate direct driveway connections to highways and roads.	Continuing		<ul style="list-style-type: none"> <li>Approved commercial site plan and obtained Rural Center funding for Camden Town Center multi-building multi-use commercial center in core village area. (Project pending)</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text – Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
<p>I.14 The county will regulate through its zoning and subdivision ordinance the development of conflicting land uses along the US 17, US 158, and NC 343 highway corridors.</p> <p>I.15 The county will consider the merits of establishing a minimum housing code to ensure that all occupied structures are fit for human habitation.</p>	<p><i>Continuing.</i></p> <p><b>Fiscal Year 2006-2007</b></p> <p><i>Continuing</i></p>	<p>Improved economic conditions)</p> <ul style="list-style-type: none"> <li>• Continuing</li> <li>• Completed - UDO Section 150.01 – 151.2 minimum housing codes</li> <li>• Continued code enforcement efforts to eliminate dilapidated abandoned structures and automobiles</li> <li>• Funding unavailable in recent rounds.</li> <li>• Unsuccessfully applied for NCHFA Urgent Repair funds.</li> </ul>
<p>I.16 The county will pursue Community Development, North Carolina Housing Finance Agency, and United States Department of Agriculture funds from state and federal sources for rehabilitation or redevelopment of substandard housing.</p>	<p><i>Continuing</i></p>	<ul style="list-style-type: none"> <li>• Approved Camden Town Center mixed use commercial project @ intersection of NC 343 &amp; US 158.</li> <li>• Approved special use permit to expand sand mining operation in southern part of county</li> </ul>
<p><b>Policies - Commercial/Industrial:</b></p> <p>P.17 Camden County supports commercial development at the intersections of major roads (i.e., in a nodal fashion) consistent with the county's future land use map (see Map 29).</p> <p>P.18 The county supports properly permitted mining activities within its borders.</p>	<p><i>Continuing</i></p> <p><i>Continuing</i></p> <p><i>Continuing</i></p>	<ul style="list-style-type: none"> <li>• Initiated development of Eco Industrial Park located adjacent to US 17, including addition of constructed wetlands</li> <li>• No industrial business has applied for permits during the period</li> </ul>
<p>P.19 Camden County deems industrial development within fragile areas and areas with low land suitability acceptable only if the following conditions are met:</p> <ol style="list-style-type: none"> <li>(1) CAMA minor or major permits can be obtained.</li> <li>(2) Applicable zoning ordinance provisions are met in zoned areas.</li> <li>(3) Within coastal wetlands, estuarine waters, and public trust waters, no industrial use will be permitted unless such use is water related.</li> </ol> <p>This policy applies to both new industrial development and to expansion of existing industrial facilities.</p>	<p><i>Continuing</i></p>	<ul style="list-style-type: none"> <li>• Previously approved project eliminated through State Legislation</li> </ul>
<p>P.20 Camden County opposes the establishment of private solid waste/landfill sites in the county which are not licensed by the county.</p> <p>P.21 Camden County supports the recruitment and siting of environmentally compatible light industrial and commercial establishments within its borders in areas that are already similarly developed or in public or private industrial parks to minimize the sacrifice of prime agricultural lands for such development. The county also supports the Northeastern North Carolina Economic Development Commission in its efforts to promote economic development in the county. The county does not encourage the conversion of prime farmland to residential use.</p>	<p><i>Continuing</i></p>	<ul style="list-style-type: none"> <li>• Completed 21<sup>st</sup> Century Economic Development Strategic Plan</li> <li>• Approved rezoning and Master Plan CUP for county owned 100 acre Eco Industrial Park.</li> <li>• Obtained state legislation to provide tax incentives for businesses to locate in Eco Industrial parks.</li> <li>• Participate regularly with NEDC &amp; AEDC.</li> <li>• County employed part time Economic Developer</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text -- Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
P.22 Camden County supports industrial development which will be located adjacent to and/or with direct access to major thoroughfares.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Development of Eco Park along US 17</li> <li>• Obtained over \$4 Million in grant funding from multiple agencies to provide water and sewer to Eco Industrial Park</li> <li>• Eco Park zoning conditions and restrictive covenants prohibit noxious uses</li> </ul>
P.23 Camden County supports the development of industrial sites that are accessible to county water and sewer services.	<i>Continuing.</i>	
P.24 Industries which are noxious by reason of the emission of smoke, dust, glare, noise, odor, and vibrations, and those which deal primarily in hazardous products such as explosives, should not be located in Camden County.	<i>Continuing</i>	
P.25 Industry should be located in conformance with the county's land use plan. This includes placing emphasis on light industrial development.	<i>Continuing</i>	
<b>Implementation - Commercial/Industrial</b>		
I.17 The county will enforce its zoning regulations and rely on state permitting agencies to regulate mining activities. The county will take a more active stance regarding the State permitting authorities and their oversight of mining activities by communicating grievances to the appropriate State agencies and officials.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Approved special use permit to expand sand mining operation in southern part of county, subject to state mining regulations</li> <li>• Maintain contact with state regulatory agency regarding mining activities in the county</li> <li>• Continuing</li> </ul>
I.18 Camden County will rely on its zoning ordinance in zoned areas and the CAMA permitting program with regard to new industrial development and expansion of existing industrial facilities.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
I.19 Camden County will review its zoning and subdivision ordinances to ensure compliance with policies P.17 and P.20 through P.25.	<i>Fiscal Year 2005-2006</i>	<ul style="list-style-type: none"> <li>• Completed</li> </ul>
<b>Policies - Conservation:</b>		
P.26 Except as otherwise permitted in this plan, residential, commercial, and industrial development should not be supported in natural heritage areas or coastal wetlands. Residential, commercial, and industrial development which meets 15A NCAC 7H use standards will be allowed in estuarine shoreline, estuarine water, and public trust areas. In all other areas, development will be allowed that is consistent with applicable local, state, and federal regulations. .	<i>Continuing Activity</i>	<ul style="list-style-type: none"> <li>• Previously amended UDO to allow creation of "conservation" zones</li> </ul>
P.27 Camden County will support larger lots in conservation classified areas through enforcement of the county subdivision and zoning ordinances in zoned areas.	<i>Continuing.</i>	No land has been rezoned to the Conservation zone classification
P.28 Camden County supports the maintenance of its rural atmosphere.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
<b>Implementation Actions - Conservation</b>		
I.20 Protect Camden County's fragile areas from inappropriate, unplanned, or poorly planned development through the following: --By implementing the Camden County Zoning Ordinance, limit land uses in the vicinity of historic sites and natural heritage areas to compatible land uses. --Camden County will coordinate all housing code enforcement/ redevelopment projects/public works projects with the NC Division of Archives and History to ensure the preservation and identification of significant historic structures and	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text – Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS		SCHEDULED		ACTIONS	
archaeological sites.					
1.21	Camden County will review its zoning and subdivision ordinances to ensure compliance with policies P.27 and P.28.	<i>Fiscal Year</i> <b>2005-2006</b>	Completed	Completed	
<b>Policies - Stormwater Control;</b>					
P.29	Camden County supports reducing soil erosion, runoff, and sedimentation to minimize the adverse effects on surface and subsurface water quality.	<i>Continuing.</i>	Continuing	Continuing	
P.30	The county supports the enforcement of all controls and regulations, specifically design standards, tie-down requirements, construction and installation standards, elevation requirements, flood-proofing, CAMA regulations, and FEMA regulations, deemed necessary by the Board of Commissioners to mitigate the risks of lives and property caused by severe storms and hurricanes.	<i>Continuing.</i>	Continuing	Continually review development plans for conformance to flood plain and CAMA regulations	
<b>Implementing Actions – Storm Water Control</b>					
1.22	Camden County will consider adopting and enforcing a soil erosion and sediment control ordinance.	<i>Fiscal Year</i> <b>2005-2006.</b>	Completed	Completed - UDO 151.403	
1.23	Camden County will support control of agricultural runoff through implementation of Natural Resources Conservation Service "Agricultural Best Management Practices" program (see Appendix IV).	<i>Continuing</i>	Continuing	Previously created new GIS map layer BMPs Hired full time Soil & Water Technician	
1.24	Camden County will support control of forestry runoff through implementation of "Forestry Best Management Practices" as provided by the North Carolina Division of Forest Resources (see Appendix III).	<i>Continuing.</i>	Continuing	Previously created GIS layer to show loss of tree cover between 2002, 2004, and 2008 Adding 2010 layer	
1.25	Camden County will consider adopting a landscaping ordinance to require that a buffer of trees/vegetation be left between rights-of-way and any clear cut areas be consistent with applicable state and federal regulations.	<i>Fiscal Year</i> <b>2005-2006</b>	Completed	Adopted UDO 151.232 (N) to require 50 ft buffer around all major subdivisions	
1.26	Camden County will consider adopting and enforcing a stormwater control ordinance which should include regulations for water detention and/or retention facilities in new developments and provide regulations to control the amount of impervious surface in a development.	<i>Fiscal Year</i> <b>2005-2006</b>	Completed	Adopted UDO 151.400 Established Stormwater advisory committee Contract with engineer to review all major subdivision stormwater plans	
<b>Policies - Community/Highway Corridor Study Areas;</b>					
P.31	Within the Community/Highway Corridor Study Areas, Camden County supports the concept of "smart growth" as described in Section VI (D) page 170 of this plan.	<i>Continuing.</i>	Continuing	Utilize smart growth scorecard in staff review of major subdivision plans	
<b>Implementing Actions – Community/Highway Study Areas</b>					
1.27	Camden County will review and update its zoning ordinance to incorporate the "smart growth" concept.	<i>Fiscal Year</i> <b>2006-2007.</b>	Continuing	Utilize smart growth scorecard in staff review of major subdivision plans	
<b>INFRASTRUCTURE CARRYING CAPACITY</b>					
<b>Policies</b>					



## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text – Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
<p>P.32 Camden County supports providing adequate community services and facilities which meet the needs of Camden County's citizens, businesses, and industries.</p>	<p><i>Continuing.</i></p>	<ul style="list-style-type: none"> <li>• <i>Repeated Adequate Public Facilities</i></li> </ul>
<p>P.33 Camden County supports providing sufficient water and sewer service to promote economic development and to alleviate public health problems created by the absence of public water and sewer services in Camden County.</p>	<p><i>Continuing</i></p>	<ul style="list-style-type: none"> <li>• Constructed of a new sewer system to serve school facilities and Camden courthouse township</li> <li>• Extended water and sewer lines to county industrial park</li> <li>• Installing sewer lines in South Mills village to serve failing septic systems</li> <li>• Added second treatment train for water treatment plant</li> </ul>
<p>P.34 The county supports directing more intensive land uses to areas that have existing or planned infrastructure.</p>	<p><i>Continuing.</i></p>	<ul style="list-style-type: none"> <li>•</li> </ul>
<p>P.35 The county supports the extension of water services from existing systems and encourages the use of central systems for new developments whether residential, commercial, or industrial in nature. It also supports the continued public provision of solid waste disposal, law enforcement, and educational services to all citizens of the county. Note: Also see policy P.79 on page 163.</p>	<p><i>Continuing</i></p>	<ul style="list-style-type: none"> <li>• Completed UDO 151.171 requires all major subdivisions to connect to public water supply</li> <li>• UDO 151.261 requires water connections for all minor subdivisions within 1000 ft of public water supply, unless waived by supplier</li> </ul>
<p>P.36 The county will rely on its existing land use and development ordinances to regulate development and may amend or modify regulations to encourage or require the provision of central water service to lots or parcels proposed in new developments.</p>	<p><i>Continuing.</i></p>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
<p>P.37 The county supports the installation and use of properly permitted septic tank systems and the enforcement of District Health Department regulations and local development regulations regarding lot sizes and waste disposal system placement. The county will also encourage the North Carolina Department of Environment and Natural Resources to investigate the feasibility of using alternative waste processing systems such as flushless toilets, incineration, and artificial wetlands in areas with severe soil limitations.</p>	<p><i>Continuing</i></p>	<ul style="list-style-type: none"> <li>• Health department approval of septic systems required prior to accepting applications for subdivision of land or construction of buildings.</li> </ul>
<p>P.38 The county supports the use of properly permitted and maintained package sewage treatment plants within its borders but outside of proposed sewer service areas. Package sewer treatment plants will only be allowed in developments which have been approved by the county. If any package treatment plants are approved, the county supports requirement of a specific contingency plan specifying how ongoing private operation and maintenance of the plant will be provided, and detailing provisions for assumption of the plant into a public system should the private operation fail.</p>	<p><i>Continuing.</i></p>	<ul style="list-style-type: none"> <li>• UDO 151.173 permits the provision of private sewer treatment facilities if accompanied by a formal service assessment district</li> <li>• No private package treatment facilities currently in county</li> <li>• Camden Plantation Master Plan Conditional Use Permit requires this provision, or private participation in expanding public sewer treatment facilities</li> </ul>
<p>P.39 The county will support investigations by the District Health Department and North Carolina State University concerning the use of package treatment plants as a method of solving some of the severe sewage disposal problems in several of its communities.</p>	<p><i>Continuing.</i></p>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text – Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
P.40 Camden County supports providing water and sewer services to identified industrial areas when county resources are sufficient in order to encourage industrial development.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>Completed water &amp; sewer extensions to county industrial park.</li> </ul>
P.41 In concert with this Land Use Plan, Camden County supports the master water and sewer plan (Growth Management Plan) to guide new industrial development.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>Completed Water &amp; Sewer Master Plan</li> </ul>
P.42 The County supports the provision of public recreational facilities and areas and will pursue grant funds for recreation facilities.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>Completed expansion of Community Park</li> </ul>
<b>Implementing Actions</b>		
1.28 Implement the Camden County Growth Management Plan (2000) for water and sewer, and plans for the provision of water and sewer service to the South Mills, Camden, and Shiloh communities (see Maps 29 through 37).	<i>Continuing</i>	<ul style="list-style-type: none"> <li>Completed construction of sewer treatment facility &amp; expand collection lines as funds are available</li> </ul>
1.29 Camden County will update the Growth Management Plan. This plan addresses water and sewer needs. Completed - and serves as a facility strategy plan and not a formal policy document. The county will utilize the master water and sewer plan (Growth Management Plan) as a guide to establishing service and funding priorities for developing industrial areas.	<i>Fiscal Year 2006-2007.</i>	<ul style="list-style-type: none"> <li>Currently preparing countywide Comprehensive Plan</li> </ul>
1.30 Camden County will amend the future land use map, when needed, to reflect the county's water and sewer extension projects as they are planned.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>Currently preparing countywide Comprehensive Plan</li> </ul>
1.31 Camden County will consult the future land use map when considering new public facilities and private development.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>Continuing</li> </ul>
1.32 Camden County will consider revising water and sewer extension policies to ensure that public/private cooperation in the provision of infrastructure to serve new development is encouraged.	<i>Fiscal Year 2006-2007.</i>	<ul style="list-style-type: none"> <li>Completed - UDO 151.176 &amp; .176 permits the provision of private sewer treatment facilities if accompanied by a formal service assessment district</li> </ul>
1.33 The county will rely on the Division of Environmental Management to oversee the operation and management of all package treatment plants in the county.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>Currently no private treatment plant exist in county</li> </ul>
1.34 The county will consider adopting an operating and capital financing plan for the development of water and sewer systems outside of the proposed water and sewer service areas.	<i>Fiscal Year 2007-2008</i>	<ul style="list-style-type: none"> <li>Adopt CIP Annually</li> </ul>
1.35 Camden County will revise the subdivision ordinance to incorporate provisions to allow for the dedication of public park property and/or open space. This may include a provision for payment in lieu of dedication if approved by the county.	<i>Fiscal Year 2005-2006</i>	<ul style="list-style-type: none"> <li>Completed - Amended Sections 151.195, and 151.232 (l) (3)</li> </ul>
1.36 Camden County will consider establishing a land banking fund into which the county may annually contribute funds.	<i>Fiscal Year 2007-2008.</i>	<ul style="list-style-type: none"> <li>No Action</li> </ul>
1.37 Provide sufficient emergency management personnel and facilities to adequately serve the projected population growth.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>Camden contributes funding to Pasquotank/Elizabeth City/Camden Emergency Management organization</li> </ul>
1.38 The county will coordinate the development of recreational facilities with the school system.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>County and school system have a joint use agreement for shared use of facilities</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

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POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS																								
<b>TRANSPORTATION</b>																										
<b>Policies</b>																										
P.43 Camden County supports interconnected street systems for residential and non-residential development.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>Completed - UDO Section 151.086</li> </ul>																								
P.44 The county supports limited access from development along all roads and highways to provide safe ingress and egress.	<i>Fiscal Year 2005-2006.</i>	<ul style="list-style-type: none"> <li>Completed - UDO 151.083</li> </ul>																								
P.45 Camden County supports subdivision development which utilizes the North Carolina Department of Transportation Traditional Neighborhood Development Street Design Guidelines. A Traditional Neighborhood Development (TND) is a human scale, walkable community with moderate to high residential densities and a mixed use core	<i>Fiscal Year 2005-2006.</i>	<ul style="list-style-type: none"> <li>Completed - Substantially amended UDO 151.298 related to Planned Unit Developments</li> </ul>																								
P.46 Camden County specifically supports the following transportation improvement projects:		<ul style="list-style-type: none"> <li>Phase I - RS-2414 Complete</li> <li>Phase II – bid in Feb. 2012</li> <li>E-4504 Complete</li> <li>B-4452 Complete</li> <li>B-3426 Complete</li> </ul>																								
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Project Number</th> <th>Location</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>R-2574*</td> <td>US 158</td> <td>East of NC 34 at Belcross in Camden County to NC 168 in Currituck County (widen to multiple lanes)</td> </tr> <tr> <td>R-2414</td> <td>US 158 to NC 34</td> <td>East Of Pasquotank in Elizabeth City to east of NC 34 in Belcross (widen to multiple lanes)</td> </tr> <tr> <td>B-4451*</td> <td>NC 343</td> <td>Jarvis Creek Replace Bridge No. 21</td> </tr> <tr> <td>B-4452*</td> <td>NC 343</td> <td>Sawyer Creek Replace Bridge No. 20</td> </tr> <tr> <td>B-3426*</td> <td>SR1224</td> <td>Joyce Creek Replace Bridge No. 2</td> </tr> <tr> <td>B-4453*</td> <td>SR 1235</td> <td>Creek Replace Bridge No. 19</td> </tr> <tr> <td>E-4504</td> <td>US 17, US 17 Bus, SR 1243 (Mullen Road)</td> <td>Virginia State Line to Village of South Mills (construct multi-use path)</td> </tr> </tbody> </table>	Project Number	Location	Description	R-2574*	US 158	East of NC 34 at Belcross in Camden County to NC 168 in Currituck County (widen to multiple lanes)	R-2414	US 158 to NC 34	East Of Pasquotank in Elizabeth City to east of NC 34 in Belcross (widen to multiple lanes)	B-4451*	NC 343	Jarvis Creek Replace Bridge No. 21	B-4452*	NC 343	Sawyer Creek Replace Bridge No. 20	B-3426*	SR1224	Joyce Creek Replace Bridge No. 2	B-4453*	SR 1235	Creek Replace Bridge No. 19	E-4504	US 17, US 17 Bus, SR 1243 (Mullen Road)	Virginia State Line to Village of South Mills (construct multi-use path)		
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P.47 The county supports maintaining an effective signage and addressing system for all streets, roads, and highways.	<i>Continuing.</i>	All addressing has been moved from Tax office to GIS responsibility																								
P.48 The county supports state and federal funding for maintenance/dredging of the Intracoastal Waterway.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>Conduct annual lobbying effort to secure federal funding</li> </ul>																								
<b>Implementing Actions:</b>																										
1.39 Camden County will require where reasonably possible the utilization of frontage roads in non-residential development along federal and state major highways.	<i>Fiscal Year 2005-2006.</i>	<ul style="list-style-type: none"> <li>Completed - UDO 151.083 (B)</li> </ul>																								

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text – Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
1.40 Camden County will establish a requirement for reverse frontage lots within subdivisions to orient lots towards internal subdivision streets, not secondary roads and highways.	<i>Fiscal Year 2005-2006</i>	<ul style="list-style-type: none"> <li>Completed - UDO 151.292 (A) (4)</li> </ul>
1.41 Camden County will require the construction/acceleration lanes for the entrances to major commercial and residential developments. This should be accomplished through revisions to the county's subdivision ordinance.	<i>Fiscal Year 2005-2006.</i>	<ul style="list-style-type: none"> <li>Completed - UDO 151.084</li> </ul>
1.42 Camden County will consider establishing traffic impact studies.	<i>Fiscal Year 2005-2006.</i>	<ul style="list-style-type: none"> <li>Completed - UDO 151.233</li> </ul>
1.43 Camden County will consider revising its subdivision ordinance to encourage the development of joint or shared driveways in newly approved subdivisions.	<i>Fiscal Year 2005-2006.</i>	<ul style="list-style-type: none"> <li>Completed - UDO 151.083</li> </ul>
1.44 The county will review and update its subdivision ordinance to ensure compliance with policies P.43 through P.48.	<i>Fiscal Year 2005-2006.</i>	Completed review & policies comply
<b>NATURAL HAZARD AREAS</b>		
<i>Policies:</i>		
P.49 The county supports the enforcement of local controls and the efforts of state and federal agencies with regulatory authority to restrict development within areas up to five feet above mean high water susceptible to sea level rise and wetland loss.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>County participates in FEMA flood program &amp; supports state &amp; federal regulations</li> <li><i>Do not restrict development due to sea level rise</i></li> <li>All new bulkheads must be designed and the construction verified by professional engineer.</li> </ul>
P.50 The county supports the installation of properly engineered and permitted bulkheads.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>Building restrictions related to wetlands are cited throughout UDO 151</li> </ul>
P.51 Camden County supports the US Army Corps of Engineers' regulations and the applicable guidelines of the Coastal Area Management Act and the use of local land use ordinances to regulate development of freshwater swamps, marshes, and 404 wetlands.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>No structures have been relocated</li> </ul>
P.52 Camden County supports relocation of structures endangered by erosion, if the relocated structure will be in compliance with all applicable policies and regulations.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>No Action</li> </ul>
P.53 Camden County supports cooperation with local, state, and federal efforts to inform the public of the anticipated effects of sea level rise.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>Camden's Hazard Mitigation Plan currently being updated</li> </ul>
P.54 Camden County supports hazard mitigation planning. Refer to the hazard mitigation plan section of this document on page 210..	<i>Continuing</i>	<ul style="list-style-type: none"> <li>Continuing</li> </ul>
P.55 Camden County supports the land use densities that are specified on page 199 of this plan. Through enforcement of the zoning ordinance, these densities will minimize damage from natural hazards and support the hazard mitigation plan.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>Continuing</li> </ul>
<i>Implementing Actions:</i>		
1.45 Camden County will continue to enforce its Floodplain Ordinance and participate in the National Flood	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>Adopted NFIP regulations and new North Carolina Flood Plain</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

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POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
<p>Insurance Program. It will rely on the North Carolina Department of Environment and Natural Resources, Division of Coastal Management to monitor and regulate development in areas up to five feet above mean high water susceptible to sea level rise and wetland loss. Subdivision regulations will be enforced – requiring elevation monuments to be set so that floodplain elevations can be more easily determined.</p> <p>1.46 The county will monitor development proposals for compliance with Section 404 of the Clean Water Act and will continue to enforce local land use ordinances to regulate development of freshwater swamps, marshes, and 404 wetlands.</p> <p>1.47 Camden County permits redevelopment of previously developed areas, provided all applicable policies, regulations, and ordinances are complied with. The county will encourage redevelopment as a means for correcting housing problems, upgrading commercial structures, and historic preservation (through rehabilitation and adaptive reuse). Redevelopment, including infrastructure, should be designed to withstand natural hazards..</p> <p>1.48 Camden County will enforce the density controls in the zoning ordinance and subdivision ordinance in redevelopment areas to control growth intensity.</p> <p>1.49 In response to possible sea level rise, Camden County will review all local building and land use related ordinances and consider establishing setback standards, density controls, bulkhead restrictions, buffer vegetation protection requirements, and building designs which will facilitate the movement of structures.</p> <p>1.50 Camden County will utilize the future land use maps to control development. These maps are coordinated with the land suitability maps and proposed infrastructure maps.</p>	<p><i>Continuing.</i></p> <p><i>Continuing.</i></p> <p><i>Continuing.</i></p> <p><i>Continuing.</i></p> <p><i>Continuing.</i></p> <p><i>Continuing.</i></p> <p><i>Continuing.</i></p>	<p>Maps in October 2004.</p> <ul style="list-style-type: none"> <li>• Local regulations included a 1 foot freeboard requirement in AE flood zones</li> <li>• UDO 151.233</li> <li>• <b>Currently completing a Small Area Plan for South Mills Core Village, with assistance from East Carolina University</b></li> <li>• Continuing</li> </ul> <p>No Action</p> <p>UDO 151.088</p>
<p><b>WATER QUALITY</b></p> <p><b>Policies:</b></p> <p>P.56 The county supports the guidelines of the Coastal Area Management Act and the efforts and programs of the North Carolina Department of Environment and Natural Resources, Division of Coastal Management and the Coastal Resources Commission to protect the coastal wetlands, estuarine waters, estuarine shorelines, and public trust waters of Camden County. It also supports the use of best management practices recommendations of the United States Soil Conservation Service for both agricultural and forestry areas.</p> <p>P.57 Camden County supports conserving its surficial groundwater resources. .</p> <p>P.58 The county supports commercial and recreational fishing in its waters and will cooperate with other local governments and state and federal agencies to control pollution of these waters to improve conditions so that commercial and recreational fishing will increase. It also supports the preservation of nursery and habitat areas, particularly the Great Dismal Swamp.</p> <p>P.59 The county supports the reforestation of clear cut timber lands and the use of best forestry management practices.</p> <p>P.60 Camden County opposes the disposal of any toxic wastes, as defined by the US Environmental Protection</p>	<p><i>Continuing.</i></p> <p><i>Continuing.</i></p> <p><i>Continuing.</i></p> <p><i>Continuing.</i></p> <p><i>Continuing.</i></p> <p><i>Continuing.</i></p> <p><i>Continuing.</i></p>	<p>All land &amp; building permits require compliance with CAMA regulations</p> <ul style="list-style-type: none"> <li>• Continuing</li> <li>• Continuing</li> <li>• Continuing</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text – Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
Agency's Listing of Hazardous Substances and Priority Pollutants (developed pursuant to the Clean Water Act of 1977), within its planning jurisdiction.		
P.61 Camden County recognizes the value of water quality maintenance to the protection of fragile areas and to the provision of clean water for recreational purposes and supports the control of stormwater runoff to aid in the preservation of water quality. The county will support existing state regulations relating to stormwater runoff resulting from development (Stormwater Disposal Policy 15 NCAC 2H.001-.1003.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Coordinate with NCDOT to require all subdivision stormwater plans are in compliance prior to NCDOT acceptance of roads</li> </ul>
P.62 Camden County supports regulation of underground storage tanks in order to protect its groundwater resources.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
P.63 Camden County supports the policy that all State of North Carolina projects should be designed to limit to the extent possible stormwater runoff into coastal waters.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• UDO 151.400 requires stormwater plan in compliance with state regulations for all development</li> <li>• UDO 151.400 exceeds state requirements for retention of stormwater</li> </ul>
P.64 Camden County supports implementation of the Pasquotank River Basin Water Quality Management Plan.	<i>Continuing.</i>	
P.65 The county supports protection of those waters known to be of the highest quality or supporting biological communities of special importance.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• County has no Outstanding Resource of Shell Fishing waters</li> </ul>
P.66 The county supports management of problem pollutants, particularly biological oxygen demand and nutrients, in order to correct existing water quality problems and to ensure protection of those waters currently supporting their uses. This effort should focus on residential development adjacent to Joyce, Areneuse, and Sawyer's Creeks.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
P.67 Camden County opposes the installation of package treatment plants and septic tanks or discharge of waste in any areas classified as coastal wetlands, freshwater wetlands (404), or natural heritage areas. This policy does not apply to constructed wetlands.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
P.68 Camden County supports the following actions by the General Assembly and the Governor: <ul style="list-style-type: none"> <li>- Sufficient state funding should be appropriated to initiate a program of incentives grants to address pollution of our rivers from both point sources and non-point sources.</li> <li>- An ongoing source of state funding should be developed to provide continuous support for an incentives grant program.</li> <li>- The decision-making process for the award of incentives grants should involve river basin organizations representing local governments and other interest groups in the review of all applications for state funding.</li> <li>- The ongoing effort of the Department of Environment and Natural Resources to develop administrative rules implementing the Pasquotank River Basin Management Strategy should continue to involve local government officials in the development, review, and refinement of the proposal.</li> </ul>	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
P.69 Camden County supports all aquaculture activities which meet applicable federal, state, and local policies	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text – Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
and permit requirements. However, Camden County reserves the right to comment on all aquaculture activities which require Division of Water Quality permitting.		
P.70 Camden County objects to any discharge of water from aquaculture activities that will degrade in any way the receiving waters. The county objects to withdrawing water from aquifers or surface sources if such withdrawal will endanger water quality or water supply from the aquifers or surface sources. .	<i>Continuing and Fiscal Year 2005-2006</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
P.71 Camden County supports only aquaculture activities which do not alter significantly and negatively the natural environment or coastal wetlands, estuarine waters, and public trust areas.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
P.72 Camden County supports the establishment of mooring fields within its planning jurisdiction. However, the county recognizes that improperly regulated mooring fields may result in water degradation.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• No mooring fields have been established</li> </ul>
P.73 Camden County does not support the location of floating homes within its jurisdiction. .	<i>Continuing</i>	
<b><i>Implementing Actions;</i></b>		
I.51 The county will comply with CAMA and NC Division of Environmental Management stormwater runoff regulations, and by coordinating local development activities involving chemical storage or underground storage tank installation/abandonment with Camden County Emergency Management personnel and the Groundwater Section of the North Carolina Division of Environmental Management. The county will plan for an adequate long-range water supply. In the planning process, Camden County will cooperate with adjacent counties to protect water resources.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
I.52 The county will enforce its zoning and subdivision regulations to aid in protecting sensitive shoreline areas. It will rely on state and federal agencies to promote and protect the Great Dismal Swamp, as well as other nursery and habitat areas.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
I.53 The county will review and amend the local zoning ordinance with regard to underground chemical and gasoline storage regulations to ensure a minimum of risk to local groundwater resources. This will include revisions to the county's zoning ordinance to establish a heavy industrial district and only allow large chemical/fuel storage facilities in the heavy industrial district.	<i>Fiscal Year 2005-2006.</i>	<ul style="list-style-type: none"> <li>• Chemical/fuel storage facilities is not included in the UDO Table of Permissible Uses &amp; therefore prohibited</li> </ul>
I.54 Camden County will rely on the technical requirements and state program approval for underground storage tanks (40 CFR, Parts 280 and 281), and any subsequent state regulations concerning underground storage tanks adopted during the planning period.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• No underground tanks have been installed</li> </ul>
I.55 Camden County will continuously enforce, through the development and zoning permit process, all current regulations of the NC State Building Code and North Carolina Division of Health Services relating to building construction and septic tank installation/replacement in areas with soils restrictions.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• All non-farm buildings in the county are inspected for compliance with North Carolina building Codes, and all permit applications require septic system approval by the Health department</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

*Italicized Text - Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
<p>I.56 Camden County will implement the following actions through local ordinances to improve water quality (Note: these actions are especially significant in areas adjacent to Areneuse, Sawyer's, and Joyce Creeks):</p> <ul style="list-style-type: none"> <li>- Use watershed-based land use planning</li> <li>- Protect sensitive natural areas, including coastal wetlands</li> <li>- Establish buffer network</li> <li>- Minimize impervious cover in site design</li> <li>- Limit erosion during construction</li> <li>- Maintain coastal growth measures</li> <li>- Restoration of impaired waters</li> <li>- Management of the cause and sources of pollution to ensure the protection of those waters currently supporting their uses allowing for reasonable economic growth.</li> <li>- Reduction of nutrients in Camden County waters.</li> </ul>	<p><i>Review local ordinances annually</i></p>	<ul style="list-style-type: none"> <li>• Amended UDO 151.400 to require increased stormwater runoff analysis, and retainage of the 10 year storm within the development boundaries.</li> <li>• Established storm water management advisory committee</li> </ul>
<p>I.57 Preservation of wetlands is important to the protection/improvement of water quality in Camden County. The following will be implemented:</p> <ul style="list-style-type: none"> <li>- Consider preservation of large wetland areas (&gt; one acre) in a natural state to protect their environmental value.</li> <li>- Coordinate all development review with the appropriate office of the US Army Corps of Engineers and the Soil Conservation Service.</li> <li>- Require that wetland areas be surveyed and delineated on all preliminary and final subdivision plats.</li> <li>- Encourage cluster development in order to protect sensitive natural areas.</li> <li>- Make wetlands acquisition a priority in future expansions of Camden County parks and recreation areas.</li> </ul>	<p><i>Continuing Fiscal Year 2005-2006.</i></p>	<ul style="list-style-type: none"> <li>• UDO 151.237 establishes a technical review committee which includes U/S. Army corps of Engineers, CAMA, and Soil and Water Conservation Service</li> <li>• UDO 151.233 requires wetland delineation for all subdivision plats.</li> </ul>
<p>I.58 Camden County will revise its zoning ordinance to regulate the location of aquaculture activities</p>	<p><i>Fiscal Year 2005-2006.</i></p>	<p>No Action</p>
<p>I.59 Camden County will develop a local ordinance and a waterfront development plan to regulate the development of mooring fields.</p>	<p><i>Fiscal Year 2005-2006.</i></p>	<p>No Action</p>
<p><b>LOCAL AREAS OF CONCERN</b></p>		
<p><i>Policies - Cultural, Historic, and Scenic Areas:</i></p>		
<p>P.74 The county supports local, state, and federal efforts to protect historic properties within its borders and to perpetuate its cultural heritage. Sites of historic significance are identified on page 77.</p>	<p><i>Continuing.</i></p>	<ul style="list-style-type: none"> <li>• Completed \$800,000 restoration of the Historic Courtroom in the county courthouse</li> </ul>
<p>P.75 Camden County supports protection and preservation of the Great Dismal Swamp which has both historic and environmental significance.</p>	<p><i>Continuing</i></p>	<ul style="list-style-type: none"> <li>• Supported development of State Park Interpretative center to be located at Dismal Swamp Welcome Center</li> </ul>
<p><b>Implementing Actions - Cultural, Historic, and Scenic Areas:</b></p>		



## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

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POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
1.60 Camden County will guide development so as to protect historic and potentially historic properties in the county and to perpetuate the county's cultural heritage.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Completed \$800,000 restoration of the Historic Courtroom in the county courthouse</li> <li>• County supports annual federal appropriation of funds to maintain the dismal Swamp Canal</li> <li>• <b>Currently identifying and mapping private cemeteries throughout the county</b></li> </ul>
1.61 Camden County will encourage a county-wide survey of historical sites by local volunteers or state and federal agencies and will seek grant monies within the next two years for the complete inventory of historically significant structures and sites.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• CDBG Scattered Site rehabilitation/replacement housing recipients are subject to environmental review, including Division of Archives &amp; History</li> <li>• Community Park expansion project conducted archeological study of site as required by division of Archives &amp; History</li> <li>• <b>Public works projects typically utilize some form of governmental assistance &amp; therefore require environmental review including NC Division of Archives &amp; History</b></li> </ul>
1.62 Camden County shall coordinate all housing code enforcement/redevelopment projects with the NC Division of Archives and History, to ensure that any significant architectural details or buildings are identified and preserved.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Community Park expansion project conducted archeological study of site as required by division of Archives &amp; History</li> <li>• <b>Public works projects typically utilize some form of governmental assistance &amp; therefore require environmental review including NC Division of Archives &amp; History</b></li> </ul>
1.63 Camden County will coordinate all county public works projects with the NC Division of Archives and History, to ensure the identification and preservation of significant archaeological sites.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Community Park expansion project conducted archeological study of site as required by division of Archives &amp; History</li> <li>• <b>Public works projects typically utilize some form of governmental assistance &amp; therefore require environmental review including NC Division of Archives &amp; History</b></li> </ul>
<b>Policies - Economic Development:</b>		
P.76 Tourism is important to Camden County and will be supported by the county.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
P.77 The county will encourage development in Camden County to protect the county's resources, preserve its rural atmosphere, and simultaneously promote industrial and retail growth.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
P.78 The county will encourage industrial and commercial development in areas with existing infrastructure that does not infringe on existing medium density residential areas.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Approved commercial site plan for Town Center project in center of Courthouse township</li> <li>• Continuing</li> </ul>
P.79 Camden County supports the extension of water services from existing systems and encourages the use of central systems for new developments whether residential, commercial, or industrial in nature (see policy P.35).	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Continuing</li> </ul>
P.80 The county supports the location of staging areas and support facilities for energy related activities – particularly exploration.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Approved SUP for Albemarle Electric Cooperative substation in South Mills</li> <li>• <b>Developed and approved regulations and standards for installation of wind turbines for generation of electricity</b></li> <li>• <b>Permitted anemometer for wind energy company considering utility scale wind farm</b></li> </ul>
<b>Implementing Actions - Economic Development:</b>		
1.64 Camden County will continue to support the activities of the North Carolina Division of Travel and Tourism; specifically, the monitoring of tourism-related industry, efforts to promote tourism-related commercial activity, and efforts to	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Tourism Development Authority continues to receive occupancy tax and spend on marketing materials and advertising</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

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POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
enhance and provide shoreline resources.		<ul style="list-style-type: none"> <li>• Obtained funding to provide potable water to North River Campground to support expansion of business</li> <li>• Instituted 6 % occupancy tax to be used for tourism activities</li> <li>• Applied for public access improvements to Crooked Creek Landing to provide better access to North River</li> </ul>
1.65 Camden County will continue to support the activities of the Camden County Department of Tourism.	<i>Continuing.</i>	
1.66 Camden County will support projects that will increase public access to shoreline areas. .	<i>Continuing</i>	
1.67 Camden County will support North Carolina Department of Transportation projects to improve access to and within the county..	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• County supports all DOT projects in Camden, including widening of US 158 through county, and bridge replacements in various locations</li> <li>• NCDOT currently preparing Comprehensive Transportation Plan</li> </ul>
1.68 Camden County will support the following in the pursuit of industrial development: --Encourage placement of new heavy industrial developments to have minimum adverse effect on the county's ecosystem and by encouraging areas of concentrations of such uses be considered first when suitable infrastructure is available consistent with the growth policy of the future land development map. --Re-zone additional parcels for industrial and commercial use along existing growth corridors with adequate infrastructure existing or planned and, when the need is demonstrated, provide a consistent growth policy with amendments to the future land development map when revision is needed. This will accommodate the future demand for additional industrial and commercial development in suitable areas. --Encourage industrial development in industrial park sites by improving the provision of services such as water, sewer, and natural gas.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Completed water &amp; sewer Infrastructure for Camden Eco Industrial Park</li> </ul>
1.69 Camden County will continue to maintain the Industrial Development Committee and seek grant monies to encourage and promote economic and industrial development.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Established Camden Economic Development Commission</li> <li>• Employed part time economic developer</li> </ul>
<b>Policies - General Health and Human Services Needs:</b>		
P.81 Camden County supports the continued public provision of solid waste disposal, law enforcement, and educational services to all citizens of the county.	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Amended Solid Waste Plan to comply with state requirements regarding recycling electronic components</li> <li>• Purchased and located electronic recycling containers at each convenience site</li> <li>• Replaced, relocated and expanded new fire station in South Mills fire district</li> <li>• Initiated construction to replace, relocate, and expand new</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

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POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
P.82 The county supports strengthening legislation to regulate off-road vehicle usage on private property.	<i>Continuing</i>	fire station in Shiloh township
P.83 Camden County opposes the establishment of military outlying landing fields (OLFs).	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Navy has postponed feasibility study for OLF due to coordinated legal, public relations, lobbying, and citizen actions to resist choosing Camden as OLF site</li> <li>• Continuing</li> </ul>
P.84 The county supports local, state, and federal efforts to minimize the adverse impact of man-made hazards within its borders. Camden County will utilize its development controls and will rely on state and federal agencies with jurisdiction to minimize the impact of man-made hazards.	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Completed sewer treatment and collection systems</li> <li>• Extended water and sewer lines to Eco Industrial Park</li> <li>• Initiated installation of sewer collection system in South Mills Core Village to replace failing septic systems</li> <li>• Completed joint water purchase agreement with South Mills Water Assoc.</li> <li>• Expanded water treatment redundancy and capacity by adding a second treatment train</li> </ul>
P.85 In an effort to improve health conditions, Camden County supports the following water and sewer policies: <ul style="list-style-type: none"> <li>- Camden County supports the extension of central water service into all areas of the county shown on the future land suitability analysis map as suitable for development, including the construction of lines to and through conservation areas to serve development which meets all applicable state and federal regulations.</li> <li>- The county is aware that inappropriate land uses near well fields increase the possibility of well contamination. Land uses near groundwater sources are regulated by the North Carolina Division of Environmental Management through NCAC Subchapter 2L and Subchapter 2C. Camden County recognizes the importance of protecting potable water supplies, and therefore supports the enforcement of these regulations.</li> <li>- Camden County supports all efforts to secure available state and federal funding for the construction and/or expansion of public and private water/sewer systems. .</li> <li>- Camden County supports the construction of water systems with adequate line sizes to ensure adequate water pressure and fire protection.</li> </ul>	<i>Continuing</i>	
- Camden County will continue to provide water services to county residents and will continue the process of studying the role of county government in providing sewage treatment facilities for rapidly growing areas of the county, including the construction of lines to and through conservation areas to serve development which meets all applicable state and federal regulations. The county will secure federal and state grants, when feasible, to help carry out this policy.	<i>Continuing</i> <i>Continuing</i> <i>Continuing</i> <i>Activity</i> <i>Continuing</i>	
<b>Implementing Actions - General Health and Human Services Needs.</b>		
1.70 The county will investigate, with the Institute of Government, the use of impact fees as a way of making new development pay for the services demanded.	<i>Fiscal Year 2006-2007.</i>	<ul style="list-style-type: none"> <li>• Completed</li> <li>• APFO overturned by Court of Appeals Union County case</li> </ul>
1.71 The county will seek educational grants to subsidize continuing education at nearby colleges and universities and support community education programs.	<i>Continuing.</i>	

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

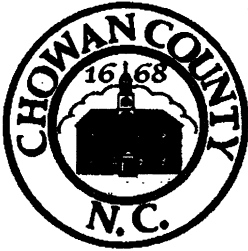
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POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
<p>1.72 Camden County officials are aware that a clean community projects a positive image for industry, new businesses, and visitors to the area and will continue to support the efforts of the Clean County Department. Complementing and supporting the primary goal of reducing litter and preserving and protecting natural resources, the Committee will address other community issues to include, but not be limited to, those listed below:</p> <ul style="list-style-type: none"> <li>- The Clean County Department staff will work with schools, business and industry, civic clubs, governments, and the media to provide comprehensive involvement of the community in the Keep America Beautiful System.</li> <li>- The Department and staff will continue to educate the public regarding alternatives to land filling solid waste, with an educational focus on recycling and the problems and damages to the environment caused by illegal dumping.</li> <li>- The county will continue assisting with beautification of county container sites. Clean-up work at container sites will continue with the availability of court assigned community service workers.</li> </ul>	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Continue code enforcement on a complaint basis</li> </ul>
<p>1.73 Floodplain regulation is a concern in Camden County. To accomplish protection of public health and service needs, Camden County will:</p> <ul style="list-style-type: none"> <li>- Continue to enforce the flood hazard reduction provisions of the Camden County Land Development Ordinances.</li> <li>- Prohibit the installation of underground storage tanks in the 100-year floodplain.</li> <li>- Zone for open space, recreational, agricultural, or other low-intensity uses within the floodplain.</li> <li>- Prohibit the development of any industry within the 100-year floodplain that may pose a risk to public health and safety. Such industries may include but not be limited to: chemical refining and processing, petroleum refining and processing, hazardous material processing, or storage facilities.</li> </ul>	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Adopted new NC flood plain maps &amp; federal regulations October 2004</li> </ul>
<p>1.74 To effectively manage Camden County's investment in existing and proposed community facilities and services, the county will:</p> <ul style="list-style-type: none"> <li>- Develop a specific capital improvements plan (CIP) with emphasis placed on services and facilities which affect growth and development (see implementing action 1.34 on page 151.</li> <li>- Provide the Camden County Board of Education with location information on all residential development.</li> <li>- In concert with the Camden County Board of Education, develop a plan for the protection of future school sites.</li> </ul>	<p><i>Fiscal Year 2006-2007</i></p> <p><i>Continuing.</i></p> <p><i>Fiscal Year 2006-2007.</i></p>	<ul style="list-style-type: none"> <li>• Adopt 5 year CIP Annually</li> <li>• Continue to project APFO development to monitor school system capacity</li> </ul>
<p>1.75 Camden County will provide sufficient emergency services to all residents. The county will implement the following:</p> <ul style="list-style-type: none"> <li>- Require that all necessary infrastructure firefighting capability/capacity be provided in new subdivisions and developments.</li> <li>- Continue to maintain an effective signage and addressing system for all streets, roads, and highways.</li> </ul>	<i>Continuing</i>	<ul style="list-style-type: none"> <li>• Replaced, relocated and expanded new fire station in South Mills fire district</li> <li>• Initiated construction to replace, relocate, and expand new fire station in Shiloh township</li> </ul>
	<i>Continuing.</i>	<ul style="list-style-type: none"> <li>• Planning/GIS provides addresses for all new development</li> </ul>

## CAMDEN COUNTY LAND USE PLAN IMPLEMENTATION STATUS REPORT

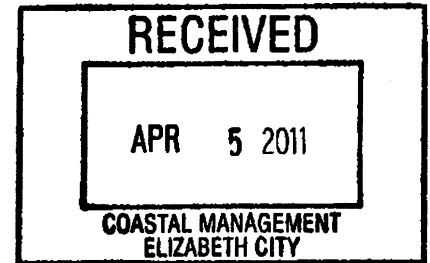
*Italicized Text - Actions conflicting with plan*

POLICIES AND IMPLEMENTATION ACTIONS	SCHEDULED	ACTIONS
<p>1.76 Camden County will adopt a management plan for the proposed Camden County Landfill. That plan will address the associated land use issues identified on page 132.</p> <p><b><i>Implementing Actions - Funding Options:</i></b></p> <p>1.77 Camden County will continue to support state and federal programs that are deemed necessary, cost-effective, and within the administrative and fiscal capabilities of Camden County. . These include:</p> <ul style="list-style-type: none"> <li>- Community Development Block Grant Program</li> <li>- Area Agency on Aging</li> <li>- Emergency Medical Services</li> <li>- JTPA Work Program</li> <li>- Farmer's Home House Preservation Program</li> <li>- Coastal Area Management Act, including shoreline access funds</li> <li>- Small Business Association</li> <li>- Economic Development Administration Funds</li> <li>- Farmer's Home Administration - Federal Grant Program</li> <li>- Federal Emergency Management Program</li> <li>- Aid to Families with Dependent Children</li> <li>- MEDICAID</li> <li>- Day Care</li> <li>- Crisis Intervention</li> </ul> <p>1.78 Camden County will selectively support state and federal programs related to Camden County. The county, through its boards, commissions, and committees, will monitor state and federal programs and regulations. It will use opportunities as they are presented to voice support for or to disagree with programs and regulations that are proposed by state and federal agencies.</p> <p>1.79 Camden County officials will continue to work with the Army Corps of Engineers and any other state and federal agencies to ensure continued dredging and maintenance of channels and rivers as needed to keep these facilities open to navigation.</p>	<p><b>FY2006-2007.</b></p> <p><i>Continuing</i></p> <p><i>Continuing.</i></p> <p><b>Continuing.</b></p>	<ul style="list-style-type: none"> <li>• Landfill proposal eliminated through state legislation</li> <li>• Scattered Site Housing Program 2002, 2005, 2008</li> <li>• NCHFA SFR program 2008</li> <li>• Completed Treasure Point 4 H club project</li> <li>• Financial participation with East Carolina Behavioral Health Organization</li> <li>• Support for annual request to provide funds to maintain Dismal Swamp Canal</li> </ul>



## CHOWAN COUNTY, NORTH CAROLINA

P.O. Box 1030  
Edenton, NC 27932  
(252) 482-8431  
(252) 482-4925 fax



March 21, 2011

Ms. Charlan Owens, AICP  
Elizabeth City District Planner  
NCDENR – Division of Coastal Management  
1367 U.S. 17 South  
Elizabeth City, NC 27889

Dear Ms. Owens:

Attached is the Land Use Plan Status Report for Chowan County as required by the CAMA Local Planning and Management Grant guidelines. We have provided the status of all policy statements outlined within the context of the plan as they apply to Chowan County. The County and the Town of Edenton are no longer consolidated for planning purposes, and therefore, the status report only reflects the County's efforts. All policy statements specifically related to the Town of Edenton have been indicated as not applicable to Chowan County. You may contact the Town of Edenton for their input regarding implementation status.

Please review the attached report and let me know if the format and content are satisfactory. If you have any questions regarding the report, please contact our County Planner, Landin Holland, at (910) 540-5164.

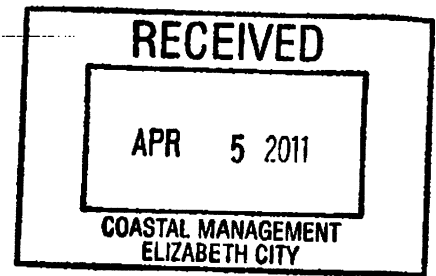
Sincerely,

A handwritten signature in black ink that reads "Paul Parker". The signature is written in a cursive, flowing style.

Paul Parker

County Manager

**Chowan County CAMA Land Use Plan**  
**Implementation Status Report**  
**3/22/2011**



**Public Access to Public Trust Waters Policies**

**Policy A1:** Edenton and Chowan County will ensure a variety of opportunities for access to public trust waters to all segments of the community, including persons with disabilities.

**Status: Ongoing** - Chowan County continues to promote public access to public trust waters. The County requires the establishment of public access points through subdivision regulations, and will continue to establish public access points when grant or general funding is available to do so.

**Policy A2:** The Town of Edenton and Chowan County support the state's shoreline access policies set forth in NCAC Chapter 15A, subchapter 7M.

**Status: Ongoing** - Chowan County continues to support this policy.

**Policy A3:** It is the policy of Town of Edenton and Chowan County governments to acquire, in accordance with an adopted access plan and funding availability, rights-of-way, fee simple title and/or easements to allow public access along the navigable waterways.

**Status: Ongoing** - As stated above, Chowan County maintains a policy of proactively securing public access points and right-of-ways if and when funding becomes available.

**Policy A4:** Chowan County shall require water access for owners of interior lots or as public access sites in major residential subdivisions located in close proximity to the water's edge. Edenton shall require residential waterfront subdivisions containing interior lots to reserve water access for owners of interior lots. Edenton shall also require that some major residential waterfront developments include in the proposed development a plan for public water access.

**Status: Ongoing** - Chowan County will continue to require public access points within private developments through enforcement of the County's existing subdivision regulations.

**Policy A5:** The County should investigate the viability of eco-tourism development along its waterfront areas. Eco-tourism is a thriving "clean" industry that takes advantage of existing environmental characteristics such as creeks, lakes and rivers to promote recreational activities and attract visitors. Such an industry would be ideal for the County given its existing environmental resources. The County could explore the development of several creek trails, for example, that could be used for recreational purposes.

**Status:** Chowan County supports the development of eco-tourism as an economic development tool, and will continue to provide guidance through the County Tourism Development Authority.

**Policy A6:** The community shall continue to provide for the diverse recreational needs of the permanent and seasonal populations by supporting the design and construction of the extensive waterfront area in a manner that balances water access needs with the protection of fragile natural resources.

**Status: Ongoing - The County will continue to secure additional open space for waterfront access if and when funding becomes available.**



**Policy A7:** The County and the Town both support the idea of providing a permanent mooring in the area to provide safe and efficient docking and boat storage opportunities to local residents.

**Status: Ongoing** - Chowan County supports and allows for mooring within its coastal waters, and will continue to do so.

**Policy A8:** The development of marinas, preferably upland marinas, is supported to enhance access to public trust waters.

**Status: Ongoing** - Chowan County continues to support the development of both coastal and upland marinas to facilitate the development of recreational opportunities and economic development.

### **Land Use Compatibility Policies**

**Policy B1:** The County supports the establishment of a voluntary agricultural district program for the purpose of the preservation of prime farmlands.

**Status: Complete** - Chowan County adopted a Voluntary Agricultural Ordinance in 2010. The program is just getting started and the oversight committee is set to begin meeting over the next few months.

**Policy B2:** Chowan County, as part of a subdivision request, shall review the Land Use Plan's Land Suitability Analysis Map as a source of information for determining the general suitability of land for the proposed development. Because the Land Suitability Map is a static illustration of suitability based upon numerous factors including proximity to developed land and the presence of infrastructure, consideration will be given to conditions which have changed since the time of map preparation that may alter the suitability rating delineated on the map. Land which the County has determined, either through its own investigations or the investigations of other public agencies, to be unsuitable for development because of flooding, poor drainage, steep slopes, poor soil conditions and other such physical features which may endanger health, life, or property or necessitate the excessive expenditure of public funds for the provision and/or maintenance of public services shall not be approved for subdivision unless methods are formulated by the developer for mitigating the problems created by the subdivision of such land.

**Status: Ongoing** - When making determinations relating to rezoning requests, variances, and special use permits, the Chowan County Future Land Use Plan is referenced. All requests are cross referenced with the plan's future land use map, land suitability analysis, and policy statements to ensure that the request is consistent with the County's desired development patterns and growth policy.

**Policy B3:** In order to preserve farmland and rural open space, the Town and County encourage cluster residential subdivision developments throughout their jurisdictions.

**Status: Ongoing** - Chowan County promotes the development of cluster type residential subdivisions, and the County accommodates this development type through enforcement of the County's Subdivision Regulations.

**Policy B4:** Ensure that land use and development activities provide a balance between economic development needs and protection of natural resources and fragile environments.

**Status: Ongoing** – Chowan County will continue to support a balanced approach to growth and development. If deemed necessary, the County will amend existing land development regulations in an effort to support this policy.

**Policy B5:** The Town and County support growth and development at the densities and intensities specified in the Future Land Use Map land classifications as delineated in Section 4.3 of this plan.

**Status: Ongoing** – Chowan County continues to utilize the densities outlined within this plan as a benchmark for development. These densities are in line with densities dictated within the Chowan County Zoning Ordinance.

**Policy B6:** Oppose any development on sound and estuarine islands located within the Edenton and Chowan County planning jurisdictions.

**Status: Ongoing** – Chowan County continues to support the restriction on the development of estuarine islands located with coastal waters.

**Policy B7:** The Town and County support CAMA Use Standards for coastal wetlands.

**Status: Ongoing** – Chowan County continues to support these standards.

**Policy B8:** Only commercial and industrial uses that are water dependent and which cannot function elsewhere or are supportive of commercial fishing will be allowed in conservation-classified areas. Examples of such uses would include but not necessarily be limited to commercial fishing and fish processing, marinas consistent with the policies of this plan, boat repair and construction facilities, any business dependent upon natural salt water as a resource, and restaurants that do not extend into or over estuarine waters and/or public trust waters. All uses must be consistent with established zoning.

**Status: Not Applicable** – This policy only applies to the Town of Edenton planning jurisdiction.

**Policy B9:** Industrial development within the Town of Edenton's jurisdiction must use municipal utilities if available. Utility systems for industrial development proposed outside of the municipal service area will be reviewed and approved on a case by case basis. Industrial development in the Chowan County jurisdiction shall use public water or sewer if available, or acceptable package treatment systems.

**Status: Ongoing** – Chowan County continues to support industrial development, and will allow for the use of package treatment plants at these facilities, if deemed necessary.

**Policy B10:** Industries which are noxious by reason of the emission of smoke, odor, dust, glare, noise, and vibrations, and those which deal primarily in hazardous products such as explosives, will not be permitted.

**Status: Ongoing** – Chowan County continues to support this policy.

**Policy B11:** Industrial development and/or industrial zoning will not infringe on established residential development. When reviewing proposals for new industrial development or industrial zoning, the Town and County will ensure that the proposals are compatible with surrounding land uses and that identified adverse impacts are mitigated.

**Status: Ongoing** – Chowan County continues to support this policy and has adopted increased buffering standards for industrial development to increase protection of residential uses.

**Policy B12:** To help ensure that cluster developments and planned unit developments are in harmony with adjoining land uses, Chowan County will require such developments to provide buffering between dissimilar uses and will require building setbacks that are comparable to those of the use located on the adjacent properties.

**Status: Ongoing** – Chowan County continues to enforce these standards through enforcement of the County's Zoning Code and Subdivision Regulations.

**Policy B13:** Coordinate all development activity with appropriate Regional Health Department and state regulatory personnel.

**Status: Ongoing** – Chowan County continues to work closely with NCDENR and the Chowan County Health Department when permitting any new development within the County.

**Policy B14:** Cooperate with the U.S. Army Corps of Engineers in the regulation/enforcement of the 404 wetlands permit process.

**Status: Ongoing** – Chowan County continues to work with the US Army Corps of Engineers on the permitting of projects that impact land designated as 404 wetlands.

**Policy B15:** Encourage land use proposals which will have no negative impact on historic, cultural and/or archaeological resources in the Town and County. These proposals shall be reviewed through the Section 106 review process as well as through the Historic Preservation Commission and the State Historic Preservation Office.

**Status: Ongoing** – Chowan County continues to support development that will pose no threat to the County's cultural resources. All projects that take place within close proximity to a structure deemed to have historical significance will be reviewed by the NC State Historic Preservation Office.

**Policy B16:** Edenton and Chowan County support citizens' awareness programs and public educational opportunities for community historic and natural resources, including the conservation, preservation and maintenance thereof.

**Status: Ongoing** – Chowan County supports these efforts; however, the County does not currently maintain a Historic Preservation Commission. Additionally, the County supports the Town of Edenton's historic preservation efforts.

**Policy B17:** To help ensure that planned residential developments (PRDs) are in harmony with adjoining single-family land uses, Edenton will require that the two-family and multi-family components of such developments be located more to the interior of the PRD rather than on the periphery.

**Status: Not Applicable** – This policy only applies to the Town of Edenton planning jurisdiction.

**Policy B18:** The Town and County prohibit floating homes or watercraft with any long-term occupancy.

**Status: Ongoing** – Chowan County continues to support this policy.

**Policy B19:** Chowan County shall require that the developer or subdivider of major subdivisions located adjacent to US and primary or secondary NC Highways, railroads, industrial or commercial developments, or watercourses establish and maintain a continuous and uninterrupted buffer strip in addition to the normal lot depth required.

**Status: Ongoing** – Chowan County continues to enforce this policy through enforcement of the County's existing zoning regulations.

**Policy B20:** Future public improvements should be planned and financed using fiscal mechanisms which avoid adverse tax impacts on the owners of prime forestry lands where such lands will not directly benefit from the planned public improvements.

**Status: Ongoing** – Chowan County continues to support this policy, and will take this factor into consideration when considering future capital improvement projects.

**Policy B21:** Chowan County shall continue to promote use-value assessment as a means of preserving the forestry resource base and encourage owners of parcels of 10 acres or more to apply for use-value assessment.

**Status: Ongoing** – Chowan County continues to promote the use-value assessment taxation for parcels defined as forestry land. The County continues to provide this option to property owners meeting the eligibility criteria.

**Policy B22:** Encourage replanting of areas within the County cleared for timber.

**Status: Ongoing** – Chowan County continues to support this practice, and will work to educate property owners about best management practices related to replanting procedures.

**Policy B23:** Manage and direct growth and development in balance with available support services.

**Status: Ongoing** – Chowan County continues to support this policy.

**Policy B24:** The Town and County shall continue to work cooperatively in identifying suitable sites for economic development and marketing them to expanding firms that would generate new job opportunities for local residents.

**Status: Ongoing** – Chowan County continues to work closely with the Town of Edenton on the recruitment of clean industry that will help bolster the economy of the region.

**Policy B25:** The Town and County support the development of the Air Transpark outside of Edenton. This industrial park site offers the area a unique opportunity for attracting new industry and future economic development. Great potential exists to link the airport with other transportation alternatives (water, new and existing roads, etc.) in order to develop a true commercial transportation center.

**Status: Ongoing** – Chowan County continues to support development of the Edenton Industrial Park.

**Policy B26:** Encourage growth to occur and expand in geographical areas in and around the Town as portrayed in the respective Future Land Use Maps.

**Status: Not Applicable** – This policy only applies to the Town of Edenton planning jurisdiction.

**Policy B27:** The Town supports the conversion of businesses to residences in appropriate areas of Downtown Edenton.

**Status: Not Applicable** – This policy only applies to the Town of Edenton planning jurisdiction.

**Policy B28:** Chowan County supports the use of cluster subdivision design for new residential development to ensure that the capacity and character of the County's public road frontages are maintained.

**Status: Ongoing** – Chowan County promotes the development of cluster type residential subdivisions, and the County accommodates this development type through enforcement of the County's Subdivision Regulations.

**Policy B29:** Edenton shall maintain minimum landscaping and screening requirements that provide a visual buffer between parking and loading areas and public streets; a visual buffer between parking and loading areas and adjoining residential land uses; screening of solid waste collection dumpsters; and screening between certain incompatible uses.

**Status: Not Applicable** – This policy only applies to the Town of Edenton planning jurisdiction.

**Policy B30:** The Town and County shall maintain appearance and operational standards for nonresidential developments located within designated highway corridors to ensure no undue interference with through vehicular traffic in gaining access to proposed developments to the highway, to require architectural design compatibility within the proposed developments, and to provide landscaping and screening to buffer adjoining residentially used or zoned properties.

**Status: Ongoing** – Chowan County continues to enforce standards for development along key defined corridors through its existing zoning regulations. These standards are reviewed periodically to ensure that the regulations are effective and fair.

**Policy B31:** The Town and County shall maintain development standards (such as limitations on the hours of operation, distance/separation requirements, buffering/screening requirements, etc.) for special and/or conditional uses in order to assist with mitigating potential negative impacts.

**Status: Ongoing** – Chowan County continues to enforce these regulations through existing Zoning Regulations.

**Policy B32:** The Town shall require shopping center developments to comply with access, screening/buffering, landscaping, setback, building scale, architectural design, outdoor lighting, outdoor storage/activity, and signage requirements to help minimize impacts to public street and views, adjacent properties, and adjacent residentially zoned areas.

**Status: Not Applicable** – This policy only applies to the Town of Edenton planning jurisdiction.

**Policy B33:** Chowan County will allow the development of Traditional Neighborhood Developments (TNDs) as a means of encouraging mixed-use, pedestrian-oriented communities and promoting the diversification and integration of land uses. A TND is a human scale, walkable community composed of a variety of housing types and densities and a mixed use core of shopping, offices, public, and civic uses. Generally, TNDs shall adhere to the following general principles and design standards:

1. Neighborhoods have clearly delineated centers and edges and are limited in size to promote pedestrian activity.
2. The distance from the center to the edge of a neighborhood is generally no greater than ¼ to ½ mile.
3. TNDs provide a balanced mix of residential, retail, professional and personal service, office, civic, public, and recreational uses.
4. Residential uses include a diversity of housing types.
5. Street patterns are interconnected and blocks are short.
6. TNDs are organized around an activity center consisting of shopping, offices, public, and civic uses.
7. Public and civic uses, such as schools, libraries, government offices, parks and recreational facilities, plazas, and village greens are prominent features and focal points.
8. Formal and informal open space is located throughout a TND

To promote flexibility and creativity, dimensional standards shall be established in accordance with the TND purpose and design principles. The determination of appropriate building setbacks, lot coverage, building heights for proposed uses will be made during the special use permit review process. The permitted density of the residential component of a TND shall be determined during the special use permit review process but in no case shall exceed the maximum density levels delineated in the zoning ordinance. Factors taken into consideration in determining the permissible density of a specific TND shall include the anticipated vehicular traffic, infrastructure, and environmental impacts of the proposed TND.

**Status: Ongoing** – Chowan County continues to support the development of TND's within all of the County's zoning districts except for light and heavy industrial through the issuance of a special use permit. Chowan County will continue to support TND's as a desired development type.

### **Infrastructure Carrying Capacity Policies**

**Policy C1:** Development within the Town and County shall only be approved where adequate public or approved private facilities and service are available, including water, sewage disposal, roads, etc.

**Status: Ongoing** – Chowan County continues to support this policy.

**Policy C2:** Coordinate the establishment of service area boundaries for existing and future water and sewer infrastructure within Chowan County.

**Status: Ongoing** - Chowan County will rely on the Future Land Use Map for guidance relating to future growth throughout the County. At this time the County has no plans for infrastructure expansion. If and when the County considers the installation of new infrastructure service area boundaries will be defined.

**Policy C3:** It is the policy of Chowan County and Edenton to ensure that infrastructure systems are correlated with population projections, future land needs, and the future land use classifications as delineated in Section 4.3.

**Status: Ongoing** - Chowan County continues to utilize the data outlined in this plan as a tool for capital improvements planning. Additionally, the County utilizes the future land use map during any rezoning, variance, or special use permit requests.

**Policy C4.** In areas located outside of the Town of Edenton utility service area, the Town and County will support the construction of package treatment plants which are approved and permitted by the State Division of Environmental Management. If any package plants are approved, a specific contingency plan specifying how ongoing private operation and maintenance of the plant will be provided, and detailing provisions for assumption of the plant into a public system should the private operation fail or management of the system not meet the conditions of the state permit must be submitted and approved. The Town and County, however, oppose the installation of package treatment plants and septic tanks or discharge of waste in any areas classified as coastal wetlands, freshwater wetlands (404), or natural heritage areas.

**Status: Ongoing** - Chowan County continues to support the development of properly permitted and maintained package treatment plants. The use of these plants should be limited where feasible.

**Policy C5:** The Town of Edenton and Chowan County support the implementation of the following transportation improvements:

- Eastern Connector
- Western Connector
- Luke Street Extension
- Peanut Drive Access
- Soundside Road

**Status: Ongoing** - The road improvements outlined above have all been completed since the adoption of this plan.

**Policy C6:** Any application for a wastewater disposal system which is to be located in the planning jurisdiction shall be coordinated with existing facilities. The Town and County should work together to assure that a waste water permit is not issued without a corresponding zoning permit.

Status: **Ongoing** - Chowan County and the Town of Edenton continue to work closely in dealing with infrastructure permitting and management.

**Policy C7:** The Town and County will continue to work together to provide services where needed, and as feasible, for new development.

Status: **Ongoing** - Chowan County and the Town of Edenton continue to work closely in dealing with infrastructure permitting and management.

**Policy C8:** The County will explore the various options for improving the sewage treatment problems that exist in many of the septic systems in the Country Club subdivision.

Status: **Ongoing** - Chowan County continues to monitor septic tank conditions throughout the County. When issues arise relating to on-site wastewater treatment facilities, the County will provide assistance to property owners in identifying a solution. At this time; however, the County does not have plans for the installation of wastewater treatment facilities.

**Policy C9:** The Town and County support the extension of infrastructure into desired growth areas as necessary and financially feasible.

Status: **Ongoing** - At this time Chowan County does not have plans for the installation of wastewater treatment facilities or any other public utility services.

**Policy C10:** Depending upon water availability and septic capability, subdivisions may develop outside of the currently developed areas served by public utilities. The location and intensity of commercial uses should be guided by the availability of public services, accessibility and be in compliance with development standards.

Status: **Ongoing** - Chowan County supports growth and development in a manner that may be supported by existing public services. The County will continue to expand services when feasible, and supports the establishment of package treatment plant facilities when necessary.

### **Natural Hazard Area Policies**

**Policy D1.** Conserve the natural resources and fragile environments that provide protection from such natural hazards as floods and storm surges.

Status: **Ongoing** – Chowan County continues to support this policy; however, the County has no formal policy or program to address open space acquisition and management.

**Policy D2.** Minimize the threat to life, property, and natural resources that may result from land use and development within or adjacent to identified natural hazard areas.

Status: **Ongoing** - Chowan County manages development within hazard prone portions of the County through enforcement of the County Flood Damage Prevention Ordinance.

**Policy D3:** The Town and County will continue to coordinate all development within the special flood hazard area with the Planning and Inspections Department, NC Division of Coastal Management, FEMA, and the US Corps of Engineers.



**Status: Ongoing** – Chowan County continues to work closely with all of these agencies through the development review process.

**Policy D4:** It is the policy of Chowan County and Edenton to ensure that evacuation plans and needs are addressed as new development proposals are reviewed for approval.

**Status: Ongoing** - This issue is covered within the County Emergency Operations Plan. This document is reviewed and updated annually.

**Policy D5:** It is the policy of Town of Edenton and Chowan County government to ensure that new development is protected from flood hazard through the administration of the flood damage prevention ordinances and continued participation in the National Flood Insurance Program.

**Status: Ongoing** - Chowan County pro-actively enforces the County Flood Damage Prevention Ordinance. This document is reviewed and updated as directed by the Federal Emergency Management Agency.

**Policy D6:** The Town of Edenton and Chowan County shall implement the goals and recommended mitigation measures of the 2005 Chowan County and the Town of Edenton Multi-jurisdictional Hazard Mitigation Plan as delineated in Section 3.2.3, D and Appendix I.

**Status: Ongoing** - The Chowan County Multi-Jurisdictional Hazard Mitigation Plan has been updated according to FEMA standards. The updated plan was recently adopted and certified by FEMA.

**Policy D7:** Chowan County will continue to support and enforce the N.C. State Building Code, particularly requirements of construction standards to meet wind-resistive factors such as design wind velocity. The County also supports provisions in the state Building Code requiring tie-downs for mobile homes, which help resist wind damage.

**Status: Ongoing** - Chowan County continues to enforce the NC State Building Code. The County adopts changes in this code annually, or as deemed necessary.

**Policy D8:** Edenton and Chowan County shall maintain flood damage prevention requirements that (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities, (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters; (4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

**Status: Ongoing** - Chowan County pro-actively enforces the County Flood Damage Prevention Ordinance. This document is reviewed and updated as directed by the Federal Emergency Management Agency.

**Policy D9:** Chowan County supports the CAMA development permit process for estuarine shoreline areas and the requisite development standards which encourage both shoreline stabilization and facilitation of proper drainage.

**Status: Ongoing** – Chowan County continues to support all CAMA permitting processes, and works closely on development approvals falling within defined areas of environmental concern.

**Policy D10:** Edenton and Chowan County shall discourage development, especially higher density (greater than six dwelling units per acre) residential development, in its most hazardous areas (storm surge areas, areas prone to repetitive flooding, etc.) so as to decrease the number of people living in areas that may need evacuating.

**Status: Ongoing** – Chowan County continues to support this policy through enforcement of the County's existing zoning regulations.

**Policy D11:** Based upon the availability of federal and state grant funds, land acquisition programs will be utilized in the most hazardous areas to minimize future damage and loss of life.

**Status: Ongoing** – Currently Chowan County does not maintain a formal program or policy relating to open space acquisition and management.

### **Water Quality Policies**

**Policy E1:** The Town of Edenton and Chowan County will continue to support the use of Best Management Practices (BMP) on agricultural properties and urban developments in order to reduce sedimentation and pollution run-off into Nutrient Sensitive Waters.

**Status: Ongoing** - Chowan County continues to support this policy. The County also works to educate builders and farmers on BMP advancement and systems that will improve upon these efforts.

**Policy E2.** Chowan County shall require that all subdivision developments disturbing 5,000 square feet of more control and treat the stormwater runoff generated by a 1.5- inch rain event and that all buildings or related structures within waterfront subdivisions be set back 50 feet from the shoreline.

**Status: Ongoing** – Chowan County continues to support this policy through enforcement of the County's existing subdivision regulations.

**Policy E3:** It is the policy of Chowan County and Edenton to coordinate the approval of local land development projects with applicable state agencies to ensure compliance with regulations to prevent or control nonpoint source discharges.

**Status: Ongoing** - Chowan County continues to work with NCDENR on the permitting of all projects falling subject to NC State Stormwater Rules.

**Policy E4:** It is the policy of Chowan County and Edenton to establish land use categories that maximize the protection of open shellfishing waters and that assist with the restoration of any closed shellfishing waters.

**Status: Ongoing** – Chowan County continues to support the Future Land Use categories outlined within this plan.

**Policy E5:** Edenton and Chowan County shall maintain requirements that, to the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways shall remain undisturbed. All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. No surface water may be channeled or directed into a sanitary sewer. Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or roads. All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments.

**Status: Ongoing** - Chowan County works with engineers during the development phase of projects to ensure that the most effective stormwater management system is installed. The County does not, however, maintain an independent stormwater control ordinance.

**Policy E6:** The density and intensity of land development adjacent to ground water supplies shall be in accordance with the density and intensity characteristics of the future land use designations.

**Status: Ongoing** – Chowan County continues to support this policy.

**Policy E7:** Chowan County shall require that all impervious surfaces in new developments, except for roads, paths, and water-dependent structures, be located landward of all perennial and intermittent surface waters in accordance with locally adopted best management practices. Notwithstanding this Water Quality Policy # E7, the locations of impervious surfaces in new developments shall be subject to the more or less stringent provisions of any applicable State law.

**Status: Ongoing** - Currently Chowan County relies on standards enforced through NCDENR for all stormwater management policy. This includes both the standards state stormwater regulations and the newly adopted Coastal Stormwater Rules.

**Policy E8:** The Town of Edenton and Chowan County support state efforts to reduce nutrient loading in the surrounding surface waters, which include consideration of more stringent restrictions on nitrogen discharges and enhanced regulations controlling the disposal of animal wastes.

**Status: Ongoing** - Chowan County continues to support this policy.

**Policy E9:** Because of special water quality concerns in Chowan County, only limited construction will be allowed within a landward buffer (provided in accordance with locally adopted best management practices) of the mean high water mark on subdivisions lots which adjoin the Chowan River, the Albemarle Sound, or their impounded waters and tributaries. The landward buffer shall not contain any buildings or related structures, such as decks, paved patios, or utility sheds. The primary use of the area is the growth of natural vegetation such as a grassed lawn. The only structure permissible within the waterfront set-back area is an elevated pier of wood construction constructed to provide access to the water. On-site septic systems and nitrification lines are also prohibited from the required setback area. Notwithstanding this

Water Quality Policy # E9, the locations of buildings or related structures, such as decks, paved patios, or utility sheds in new developments shall be subject to the more or less stringent provisions of any applicable State law.

Status: **Ongoing** - Chowan County maintains provisions within the County subdivision regulations to protect the integrity of the shoreline. These standards minimize allowable land disturbances along shorefront portions of the County.

**Policy E10:** In order to minimize sedimentation and erosion, Edenton shall require that all developments maintain a vegetated buffer along each side of a stream or natural drainageway. The vegetated buffer shall remain undisturbed except as may be necessary to accommodate roads, utilities and their easements, pedestrian paths and their easements and approved water-dependent uses such as marinas, docks, piers, boat ramps and bridges. In cases in which the buffer may not be practical or desirable the Board of Adjustment may consider a special exception if it finds that an acceptable alternative means of handling stormwater can be achieved without maintaining a vegetated buffer.

Status: **Not Applicable** – This policy only applies to the Town of Edenton planning jurisdiction.

#### **Areas of Environmental Concern Policies**

**Policy F1:** Chowan County and Edenton support state and federal law regarding land use and development in AECs.

Status: **Ongoing** – Chowan County continues to support this policy.

**Policy F2:** Within AECs, the County will permit those land uses which conform to the general use standards of the North Carolina Administrative Code (15 NCAC 7H) for development within the estuarine system. Generally, only those uses which are water dependent will be permitted in coastal wetlands, estuarine waters, and public trust areas. Examples of permitted water-dependent uses include utility easements, docks, boat ramps, bulkheads, dredging, bridges and bridge approaches, revetments, culverts, groins, navigational aids, mooring pilings, navigational channels, simple access channels, and drainage ditches.

Status: **Ongoing** - Chowan County continues to support and enforce CAMA defined coastal development regulations.

**Policy F3:** The County and Town policy is to restrict development in estuarine waters and public trust waters to those uses which will not cause significant degradation of the natural function nor condition of the estuarine waters and public trust areas.

Status: **Ongoing** - Chowan County continues to work closely with NCDENR and NCDCM to support this policy.

**Policy F4:** It is the policy of Chowan County and the Town of Edenton to comment concerning the overall interests of residents on NCDCM dredge and fill permits for projects which would be detrimental to rivers and wetlands.

Status: **Ongoing** – Chowan County continues to support this policy.

**Policy F5:** Allow the construction of dry stack storage facilities for boats associated with or independent of marinas.

**Status: Ongoing** - Chowan County continues to support this policy.

**Policy F6:** It is the policy of Chowan County and the Town of Edenton to ensure water dependent development activities such as marinas including upland marinas occur in compliance with local, state and federal regulations and to discourage non-water dependent uses especially floating home developments in public trust waters.

**Status: Ongoing** - Chowan County continues to consult NCDENR and NCDCM regarding the development of water dependant projects.

**Policy F7:** The County and Town will restrict, through its zoning ordinance and subdivision regulations, land uses in coastal wetlands to those that support wetlands conservation and which do not adversely affect their delicate balance.

**Status: Ongoing** - Chowan County continues to support this policy through the pro-active enforcement of current zoning and subdivision regulations.

**Policy F8:** When necessary, bulkhead installation should be conducted employing appropriate construction and resource protection techniques. Where installation is required, development plans should consider every feasible alternative to minimize the damage to existing marshes.

**Status: Ongoing** – Chowan County continues to support bulkhead development when deemed necessary; however, the design of these facilities should minimize impacts on Areas of Environmental Concern.

**Policy F9:** The Town and County shall require industries to use the best available technology to avoid pollution of air or water during both construction and operation of new industrial facilities.

**Status: Ongoing** - Chowan County continues to support the utilization of innovative technologies aimed at reducing pollution and the impact of industry on areas of environmental concern.

### **Areas of Local Concern Policies**

**Policy G1:** The Town of Edenton and Chowan County will continue to support and pursue opportunities to provide affordable housing, housing rehabilitation and community revitalization through the Community Development Block Grant, HOME, and NC Housing Finance Agency for housing rehabilitation and community revitalization.

**Status: Ongoing** – Chowan County continues to utilize NCHFA and CDBG funding when available. The County has applied and received funding for housing rehabilitation work over the last few years. The County will continue to take a pro-active approach to securing this funding.

**Policy G2:** Support and pursue funding opportunities of tourism events and activities such as festivals, markets and recreational activities. The Town and County should take advantage of the historical resources of the area to promote tourism year round. The Town and County will also support local and regional interest groups in the promotion of tourism.

**Status: Ongoing** – Chowan County continues to support and work towards the development of tourism as a viable economic development tool. This effort is supported by the efforts of the Chowan County Tourism Development Authority.

**Policy G3:** The Town and County support the development of a greenway and bike path network around the area as outlined in the 2003 Chowan/Edenton Greenways and Open Space Plan.

**Status: Ongoing** – The recommendations outlined within this plan have not been implemented to date. The County will continue to consider moving forward with the greenway master plan if and when grant funding becomes available to do so.

**Policy G4:** It is the policy of the Town of Edenton and Chowan County to encourage, where practicable and funding is available, the preservation of historically significant structures and sites.

**Status: Ongoing** – Chowan County continues to support this policy.

**Policy G5:** It is the policy of Chowan County and Edenton government to conserve the natural and cultural resources for recreational enjoyment.

**Status: Ongoing** – Chowan County supports all efforts to protect and restore cultural resources throughout the region.

**Policy G6:** It is the policy of Chowan County and Edenton to support state and federal programs which lead to improvements of the quality of life of County residents and lessen the burdens of local government such as: highway construction and maintenance, channel maintenance, aviation enhancement, environmental protection, education, health and human services.

**Status: Ongoing** - Chowan County supports NCDENR in their efforts to protect coastal water quality.

**Policy G7:** Continue to work toward a diversified economy including industry, tourism and improved technical educational opportunities.

**Status: Ongoing** – Chowan County supports the development of all nonresidential development types. This will not only improve the economy, but will provide services to citizens throughout the region.

**Policy G8:** Edenton and Chowan County shall maintain airport height overlay requirements that prevent that creation of conditions hazardous to aircraft operation, that prevent conflict with land development which may result in loss of life and property, and that encourage development which is compatible with airport use characteristics.

**Status: Ongoing** – Chowan County continues to enforce zoning regulations restricting development within close proximity to the regional airport facility.

**Policy G9:** Locate new facilities on land having stable, well-drained soils adequately protected from flooding and easily accessible to public utilities and transportation routes.

**Status: Ongoing** – Chowan County will take this factor into consideration when planning for the construction of all new community facilities. In 2010, the County relocated all emergency and administrative operations to a facility located outside of the 100-year floodplain. This facility also houses the County's Emergency Operations Center.

**Policy G10:** Continue to encourage a variety of choice in existing neighborhoods through a balance of preservation, rehabilitation and new development.

**Status: Ongoing** - Chowan County continues to support this policy through its comprehensive community development efforts.

**Policy G11:** Continue to use a low interest loan pool to encourage downtown business owners to rehabilitate their establishments.

**Status: Not Applicable** – This policy only applies to the Town of Edenton planning jurisdiction.

**Policy G12:** Continue to support market-driven trends in redevelopment and reuse, particularly in the retirement/assisted living care facility segment of the housing market.

**Status: Ongoing** – Chowan County continues to support this policy.

**Policy G13:** The Town and County remain committed to State and Federal programs in planning areas related to community and economic development, including erosion control, public access, and highway improvements.

**Status: Ongoing** - Chowan County maintains its support of these local and regional efforts.

**Policy G14:** Edenton and Chowan County shall maintain requirements that residential developments reserve land area for usable open and recreational space.

**Status: Ongoing** - Chowan County continues to require dedicated open space in all major subdivision developments. Special provisions are also in place to protect shoreline portions of the County.

## Owens, Charlan

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**From:** Owens, Charlan  
**Sent:** Wednesday, April 13, 2011 12:12 PM  
**To:** Parker, Paul B  
**Subject:** Chowan County/Edenton - LUP Implementation Status Report

Paul,

I received the material on April 5<sup>th</sup>. Additional information is needed for the Implementation Status Report.

Include a review of the Implementation Plan and Schedule located on Pages 160 through 162 of the LUP. This review will address the status of items including, but not limited to, a Waterfront Access Plan, Capital Improvements Plan, Joint Comprehensive Transportation Plan, Stormwater Management Plan, and Wellhead Protection Ordinance.

Indicate any actions that have been delayed and the reasons for the delay.

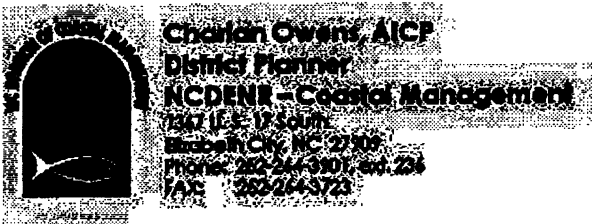
Also, address any unforeseen land use issues that have arisen since certification of the LUP in July of 2008.

The following comments are specific to the policy review provided:

1. On Policy A6: Discuss the status of funding for the design and construction of waterfront access improvements
2. On Policy B8: This policy appears to be applicable to County "Conservation" areas located along the waterfront. Clarify in the review.
3. On Policy C5: All of the roadway improvements listed have not been completed. Update the status.
4. On Policy E7: Address the status of standards in accordance with "locally adopted best management practices"
5. On Policy G6: Discuss efforts with other state and federal programs

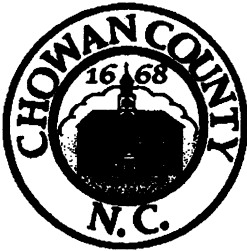
Let me know if you have any questions on these items.

Charlan



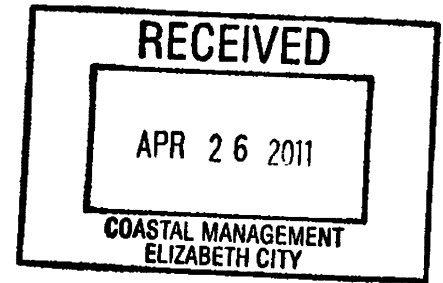
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## CHOWAN COUNTY, NORTH CAROLINA

P.O. Box 1030  
Edenton, NC 27932  
(252) 482-8431  
(252) 482-4925 fax



April 20, 2011

Ms. Charlan Owens, AICP  
Elizabeth City District Planner  
NCDENR – Division of Coastal Management  
1367 U.S. 17 South  
Elizabeth City, NC 27889

Dear Ms. Owens:

Attached is a response to your concerns outlined in your e-mail dated 4/13/2011. We have attempted to address your questions/concerns, and hope that this will provide you with the information necessary to satisfy DCM's requirements.

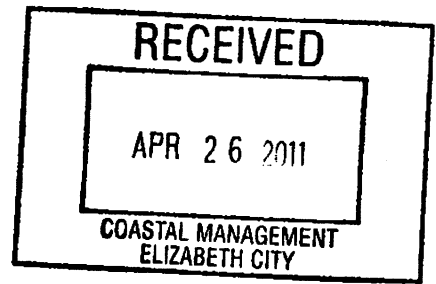
If you have any further questions regarding the report, please contact our County Planner, Landin Holland, at (910) 540-5164.

Sincerely,

A handwritten signature in black ink that reads "Paul B. Parker".

Paul Parker

County Manager



## **Implementation Plan and Schedule Status**

### **A. Public Water Access Implementation Actions**

**FY07:** Seek funding from DCM for a grant to prepare a waterfront access plan.

**Status:** Chowan County inquired about the potential for submitting a grant application for the development of this project, but no funding was available at that time.

**FY08:** Finalize waterfront access plan.

**Status:** This project was not completed due to a lack of funding.

**Post FY08:** Initiate implementation of the recommendations of the waterfront access plan; seeking funding approval for recommended acquisitions/improvements; develop specific criteria and standards for the provision of public waterfront access.

**Status:** The waterfront access plan was not drafted due to a lack of funding.

**Ongoing:** Review, through the subdivision plat and site plan review and approval process, proposed waterfront land development projects to ensure consistency with the County's public access goals and policies.

**Status:** This effort is ongoing through day to day Planning Department duties.

### **B. Land Use Compatibility Implementation Actions**

**FY07:** Develop, in cooperation with the NCDOT, requirements for regulating vehicular access to state roadways; amend the County zoning ordinance and subdivision regulations accordingly.

**Status:** Chowan County has not initiated any zoning ordinance text amendments associated with this issue since the adoption of the CAMA Land Use Plan. The County does work closely with the Eastern Carolina RPO regarding issues related to traffic, transportation, and thoroughfare access.

**FY08:** Review all development regulations to ensure that residential densities and building intensities implement the Town's land use suitability goals and policies.

**Status:** Chowan County has not initiated any zoning ordinance text amendments associated with this issue since the adoption of the CAMA Land Use Plan. The County does work closely with the Eastern Carolina RPO regarding issues related to traffic, transportation, and thoroughfare access.

**FY08:** Establish a joint task force with the Town of Edenton to develop coordinated land use and development regulations for areas of common interest such as extraterritorial planning area, municipal utility service areas, airport zoning area, etc.

**Status:** This project has not been initiated due to a lack of funding availability. The County will continue to discuss this issue with the Town of Edenton.

### **C. Infrastructure Carrying Capacity Implementation Actions**

**FY07:** Establish a joint task force with the Town of Edenton and other utility providers within Chowan County to establish formal utility service area boundaries and agreements and to develop coordinated land use and development regulations within such areas.

**Status:** This project has not been initiated due to a lack of funding availability. The County will continue to discuss this issue with the Town of Edenton and address these issues through the utilization of existing land use controls and planning tools.

**FY08:** Review the County's water system extension and service policies for consistency with the goals and objectives of the Land Use Plan.

**Status:** Chowan County has conducted this review and determined that current water system extension policies are adequate and will not compromise the recommendations outlined within the County's CAMA Land Use Plan.

**FY08:** Prepare a Capital Improvement Plan for future infrastructure improvement such as water and sewer.

**Status:** To date Chowan County has not drafted a Capital Improvements Plan. At this time the County has no plans for infrastructure expansion.

**FY09:** Update the existing Edenton Thoroughfare Plan (1993) with a joint comprehensive transportation plan for Edenton and Chowan County.

**Status:** Chowan County continues to work closely with NCDOT and the Eastern Carolina RPO on issues relating to transportation and thoroughfare planning. At this time a joint comprehensive transportation plan has not been completed.

**Ongoing:** Utilize the Land Use Plan, zoning ordinance, subdivision regulations, and water extension policies to guide public infrastructure and services to areas where growth and development are desired.

**Status:** This effort is ongoing through day to day Planning Department duties.

**Ongoing:** Pursue opportunities to provide sanitary sewer to southeastern Chowan County, specifically Cape Colony and Country Club Drive areas.

**Status:** Chowan County has no plans to provide central sewer service to unincorporated portions of the County at this time.

#### **D. Natural Hazard Areas Implementation Actions**

**Ongoing:** The County will review its zoning ordinance, subdivision regulations, and flood damage prevention provisions to determine if more specific locational and density regulations regarding development or redevelopment activities within identified flood hazard areas and storm surge areas are warranted. Issues to be addressed include restrictions on land uses that utilize or store hazardous materials on-site, establishment of riparian buffers, increasing the minimum freeboard height above base flood elevation, etc.

**Status:** Chowan County has conducted this review and determined that appropriate land use controls are in place to promote orderly and resilient development within flood prone portions of the County.

**Ongoing:** The County will avoid zoning areas susceptible to storm surge for high density residential or intensive nonresidential use.

**Status:** Chowan County has conducted this review and determined that appropriate land use controls are in place to promote orderly and resilient development within flood prone portions of the County.

**Ongoing:** Based upon the availability of federal and state grant funds, land acquisition programs will be utilized in the most hazardous areas to minimize future damage and loss of life.

**Status:** Chowan County maintains a policy of acquiring open space within flood prone areas; however, this effort must be funded either through grants or post disaster recovery efforts. No general funding is available at this time to implement these efforts.

**Ongoing:** If any portion of the County's public infrastructure is significantly damaged by a major storm, consideration will be given to the feasibility of relocating or modifying the affected facilities to prevent the reoccurrence of storm damage.

**Status:** Chowan County maintains a policy of acquiring open space within flood prone areas; however, this effort must be funded either through grants or post disaster recovery efforts. No general funding is available to implement these efforts.

**Ongoing:** Coordinate the review and approval of development plans for major subdivisions, multifamily developments, and large public and institutional uses located within identified natural hazard areas with the County Emergency Management Agency. Continue the active enforcement of the State Building Code provisions regarding wind resistance requirements and participation in the National Flood Insurance Program.

**Status:** This effort is ongoing and is addressed through the County's Technical Review Committee (TRC), as outlined within the County's Zoning Ordinance.

**FY07-08:** The County will review their Flood Damage prevention provisions when the new countywide floodplain data is completed in 2007. Modifications to reflect the new data may be necessary.

**Status:** Chowan County has conducted this review and determined that existing standards are adequate. Additionally, the County updates its Flood Damage Prevention Ordinance periodically upon the directive of NC Emergency Management.

#### **E. Water Quality Implementation Actions**

**FY07:** The County will investigate the feasibility of developing and implementing a countywide stormwater management plan and coordinating such management plan with the Town of Edenton.

**Status:** Chowan County does not have any intentions to develop a County wide stormwater management plan at this time. The County will continue to rely on NC State Stormwater rules to address surface drainage issues associated with new development.

**FY08:** The County will review its zoning ordinance and subdivision regulations to determine if revisions are needed to include additional measures, such as riparian buffers and impervious surface limitations, to control stormwater discharges.

**Status:** Chowan County does not have intentions to develop a County stormwater management policy at this time beyond that defined in the existing Subdivision Regulations. These standards only apply to major subdivision developments. The County will continue to rely on NC State Stormwater rules to address surface drainage issues associated with new development.

**FY09:** Consider the adoption of a wellhead protection ordinance to regulate land uses within areas that replenish groundwater supply.

**Status:** Chowan County has not developed a wellhead protection plan, but has identified this as an ongoing need in the County's updated Hazard Mitigation Plan.

**Ongoing:** The County will continue to require, through its subdivision regulations, adequate stormwater drainage systems for new developments. The County will continue to promote the use of best management practices to minimize the degradation of water quality resulting from stormwater runoff. The County will continue to coordinate the approval of land development projects with the applicable State agencies.

**Status:** This effort is ongoing through day to day Planning Department duties.

#### **F. Areas of Environmental Concern Implementation Actions:**

**FY07:** The County will review its zoning ordinance and subdivision regulations to determine if revisions are needed to include additional protective measures for AECs.

**Status:** Chowan County has conducted this review and determined that existing land use controls are adequate to ensure protection of the County's environmentally sensitive areas.

#### **G. Areas of Local Concern Implementation Actions:**

**FY07:** The County will review its zoning ordinance and subdivision regulations to determine if revisions are needed to eliminate requirements that are not conducive to encouraging a variety of affordable housing opportunities or to promoting diversified economic development.

**Status:** Chowan County has conducted this review and determined that existing land use controls properly facilitate the development of a range of housing options, including affordable housing.

**Ongoing:** Continue to pursue funding opportunities to rehabilitate substandard housing throughout the County.

**Status:** Chowan County annually reviews needs in relation to substandard housing. The County is currently working through a CDBG project, and will continue to make use of this funding source to address substandard housing and infrastructure. The County will also utilize NCHFA funding when available.

## **Further Analysis of Policy Review**

**Policy A6:** The community shall continue to provide for the diverse recreational needs of the permanent and seasonal populations by supporting the design and construction of the extensive waterfront area in a manner that balances water access needs with the protection of fragile natural resources.

**Status: Ongoing** - The County will continue to secure additional open space for waterfront access if and when funding becomes available.

**Additional Information:** The County is not currently in a position to provide the funding required to secure additional public access sites. When the County determines, through annual budget discussions, that revenue is available for the development of additional sites then the County will submit an application for public access grant funding to NC DCM. Currently no potential sites have been identified. If land is donated to the County either outright or through subdivision development, the County will take steps to improve the site to facilitate public access.

**Policy B8:** Only commercial and industrial uses that are water dependent and which cannot function elsewhere or are supportive of commercial fishing will be allowed in conservation-classified areas. Examples of such uses would include but not necessarily be limited to commercial fishing and fish processing, marinas consistent with the policies of this plan, boat repair and construction facilities, any business dependent upon natural salt water as a resource, and restaurants that do not extend into or over estuarine waters and/or public trust waters. All uses must be consistent with established zoning.

**Status: Not Applicable** – This policy only applies to the Town of Edenton planning jurisdiction.

**Additional Information:** This policy was inadvertently listed as not applicable. The County continues to support this policy. The County will continue to take this into consideration when reviewing site plans for development located within defined Conservation areas.

**Policy C5:** The Town of Edenton and Chowan County support the implementation of the following transportation improvements:

- Eastern Connector
- Western Connector
- Luke Street Extension
- Peanut Drive Access
- Soundside Road

**Status: Ongoing** - The road improvements outlined above have all been completed since the adoption of this plan.

**Additional Information:** I have revised the status below.

- Eastern Connector – Not Completed (To be reprioritized in 2012)
- Western Connector – Not Applicable (located within the Town of Edenton)
- Luke Street Extension - Not Applicable (located within the Town of Edenton)
- Peanut Drive Access - Not Applicable (located within the Town of Edenton)
- Soundside Road - Not Completed

**Policy E7:** Chowan County shall require that all impervious surfaces in new developments, except for roads, paths, and water-dependent structures, be located landward of all perennial and intermittent surface waters in accordance with locally adopted best management practices. Notwithstanding this Water Quality Policy # E7, the locations of impervious surfaces in new developments shall be subject to the more or less stringent provisions of any applicable State law.

**Status: Ongoing** - Currently Chowan County relies on standards enforced through NCDENR for all stormwater management policy. This includes both the standards state stormwater regulations and the newly adopted Coastal Stormwater Rules.

**Additional Information:** There are some general design considerations that the Chowan County Subdivision Regulations define for the development of stormwater management facilities. These design considerations are based on BMP's recommended by the NCDENR Stormwater Division. The County continues to require the implementation of these design considerations for the development of all major subdivisions.

**Policy G6:** It is the policy of Chowan County and Edenton to support state and federal programs which lead to improvements of the quality of life of County residents and lessen the burdens of local government such as: highway construction and maintenance, channel maintenance, aviation enhancement, environmental protection, education, health and human services.

**Status: Ongoing** - Chowan County supports NCDENR in their efforts to protect coastal water quality.

**Additional Information:** Chowan County continues to work with several agencies to address needs throughout the County. The following provides a brief summary of these efforts that are currently underway:

**NC Division of Community Assistance:** The County continues to work with this agency on to address substandard housing and infrastructure issues.

**NC Emergency Management:** Chowan County has recently finished working with NCEM on the development of an updated Hazard Mitigation Plan.

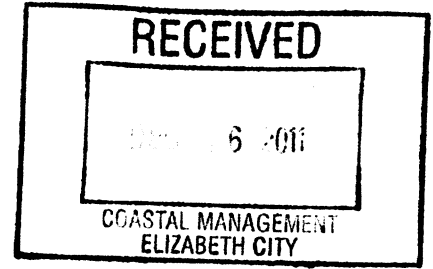


**NC Department of Transportation: Chowan County continues to work with NCDOT on the implementation of road and bridge improvements. The projects identified, funded, and prioritized in the TIP shift annually. The County will continue to work with DOT and the Eastern Carolina RPO on the completion of defined road and bridge projects.**

**NC Department of Environment and Natural Resources: The County continues to work closely with NCDENR to ensure that stormwater and sedimentation control and management are addressed on all new projects.**



TOWN OF DUCK, NORTH CAROLINA



December 14, 2011

Charlan Owens, AICP  
DCM District Planner – Northeast District  
1367 U.S. 17 South  
Elizabeth City, NC 27909

RE: Town of Duck CAMA Core Land Use Plan Implementation Status Report

Dear Charlan:

As required by CAMA Local Planning and Management Grant guidelines (Subchapter 7L), we are pleased to provide the enclosed CAMA Land Use Plan Implementation Status Report. The report is based on the Action Plan which is included in Chapter X of the Town's adopted Land Use Plan. The Town provided CAMA with the last Status Report in June of 2009. The enclosed report includes the items noted in our last Status Report as well as the actions that have been taken since that time. The new or updated items are identified with red text.

The Town has actively taken steps to complete or address most all action items included in the Land Use Plan. We have not had any unforeseen land use issues arise since certification of the CAMA land use plan and the Town's existing land use and development ordinances are consistent with current CAMA land use plan policies. We hope through this Implementation Status Report we have illustrated the numerous actions the Town has taken to achieve desired development patterns and appearance as well as to preserve the natural features that are articulated in the Town's Vision Statement.

Please let me know if you have any questions, need any additional information, or if you have comments on the enclosed prior to the CRC meeting.

Sincerely,

Andrew Garman, AICP  
Director of Community Development

Enclosure

**DUCK, NORTH CAROLINA  
CAMA CORE LAND USE PLAN ACTION ITEM  
IMPLEMENTATION STATUS REPORT – DECEMBER 7, 2011**

ACTION ITEMS	ACTION PLAN (Red text indicates item completed since last status report)							
	2004	2005	2006	2007	2008	2009	2010	2011
<b>Action Item 1.</b> Develop, adopt, and implement sound and ocean zoning overlays.				Ordinance 07-08 – Ocean and Sound Overlay District – Adopted 6/6/07.				Ocean and Sound Overlay District Amended to Prohibit the use of sandbags for erosion protection Adopted 1/5/2011.
<b>Action Item 2.</b> Develop, adopt, and implement village commercial development zoning options.	Ordinance 04-05 Adopted 6/2/04.		Ordinance 06-05 Streamlining VCDO procedures adopted 6/7/06.			Four properties have been completely redeveloped using the Village Commercial Development Zoning Option; one additional restaurant expanded using VCDO.		
<b>Action Item 3.</b> Develop, adopt, and implement commercial development/building design guidelines and standards.	Ordinance 04-25 Adopted 12/1/04.					As of 6/1/09, four commercial properties have been developed subject to the Town commercial development guidelines.		Several additional projects have been permitted consistent with commercial design standards.

ACTION ITEMS	ACTION PLAN (Red text indicates item completed since last status report)									
	2004	2005	2006	2007	2008	2009	2010	2011		
<b>Action Item 4.</b> Develop, adopt, and implement tree and vegetation protection ordinance.			Referred to Planning Board by Town Council on 3/15/06. Ordinance drafted and reviewed by PB beginning August 2006.	Ordinance 07-05 Tree and Vegetation Planning adopted 6/6/07 (applies to all properties).	Vegetation ordinance refined 3/5/08 – Ordinance 08-01.					
<b>Action Item 5.</b> Develop, adopt, and implement property grading and filling regulations.	Fill moratorium adopted 9/15/04.	Fill moratorium extended 2/2/05. Ordinance 05-06 adopted 5/4/05.		Ordinance 07-13 adopted 10/5/07 – Amendment to fill regulations.						
<b>Action Item 6.</b> Develop, adopt, and implement capital improvements plan (CIP).		Adopted first CIP FY2006 on 6/15/05.	CIP for FY 2007 adopted 6/7/06.	CIP for FY 2008 adopted 6/6/07.	CIP for FY 2009 adopted 6/13/08.	CIP for FY 2010 adopted 6/3/09.	CIP for 2011 adopted 6/16/10.	CIP for 2012 adopted 6/15/11.		

ACTION ITEMS	ACTION PLAN (Red text indicates item completed since last status report)									
	2004	2005	2006	2007	2008	2009	2010	2011		
<b>Action Item 7.</b> Acquisition of property and/or acceptance of easements on an as needed basis to meet public objectives.	*	*	Obtained easement and funding for two segments of Soundfront walkway through conditional use permit process. 7/14/06 Purchased half acre at 1202 Duck Road for Town Hall building with tie-in to municipal park.	*	*	Town has developed draft easement agreements for all properties adjacent to soundfront walkway based on proposed alignment; coordination with property owners during Summer 2009.	Town acquired 16 easements for the construction of the soundfront boardwalk extension.	Town completed construction of soundfront boardwalk northern extension.		
<b>Action Item 8.</b> Seek state assistance to prepare shoreline access plan.						No formal plan; Town focus is Soundfront walkway; assistance provided by DCM through permitting and grants.				↑

ACTION ITEMS	ACTION PLAN (Red text indicates item completed since last status report)							
	2004	2005	2006	2007	2008	2009		
<p><b>Action Item 9.</b> Develop and implement a municipal property master plan.</p>	<p>Consultant and Municipal Property Master Plan Committee finalize plan for 10.33 acre site on December 2004.</p>	<p>January-February 2005 Council selects design option and hires consultant to prepare site plans.</p> <p>Property rezoned to Conservation - Public Recreation.</p>	<p>Site plans for full project submitted to CAMA for review/approval. Phase I of project, not in areas of environmental concern, are completed to include entrance, playground, and parking/access for future kayak launch.</p> <p>Town acquires additional 1/2 acre adjacent to municipal property for Town Hall and community meeting space.</p>	<p>Phase II of site plan bidding underway.</p> <p>Architects drafting plan for community meeting space; charette conducted 2/07.</p> <p>7/7/07 Town holds 1<sup>st</sup> Annual Town of Duck Jazz Festival.</p>	<p>May 1, 2008 Town holds ribbon cutting on Phase II of Municipal property; includes Soundfront walkway adjacent to park as well as picnic shelter and gazebo.</p> <p>Municipal Property Master Plan Committee and consultant finalize plans for Amphitheater; 12/17/08 Town Council agreement on concept for Town Hall facility.</p>	<p>5/6/09 Town awards contract for Amphitheater construction.</p> <p>Amphitheater construction completed in September 09.</p>	<p>Town completes final site plan and architectural plans for Town Hall construction.</p> <p>September - Town receives all permits to construct Town Hall and extend soundside boardwalk.</p> <p>11/03/10 - Town Council authorizes Town Manager to execute a contract for construction of the Town Hall representing the last phase of Municipal Property Master Plan implementation.</p>	<p>2011</p> <p>Town hall construction tentative completion by end of calendar year 2011.</p>

ACTION ITEMS	ACTION PLAN (Red text indicates item completed since last status report)							
	2004	2005	2006	2007	2008	2009	2010	2011
<p><b>Action Item 10.</b> Continue community outreach and public participation programs.</p>	<p>Established and regularly maintain public outreach email list. Issue community newsletter quarterly.</p>	<p>Hired Public Relations Coordinator and began radio spots on town activities.  Began Community Improvement Grant Program. Began participation in cable TV spots.</p>	<p>Web site updated w/meeting/activity information.  Town holds first annual 4<sup>th</sup> of July Parade.</p>	<p>Town establishes: - Email subscriber list. - Town Brochure to all property owners. - Crime Prevention Seminars. - Community Appearance and Holiday Awards Program. - Summer Event Series at Town Park to include Outdoor Summer Concert Series. - Town holds first annual Jazz Festival.</p>	<p>Town adds RSS feeds, business subscribers list, events hotline; Town website is completely redesigned; Town adds to Summer Event Series Children's Story Time, Lost Colony Productions, and Exercise Classes.</p>	<p>Town adds News Blog and Twitter; Town expands Summer Event Series to include Author Series and expanded exercise classes; Town develops information magnet for vacation rental and residential properties.</p>	<p>Town continues to update electronic distribution lists and communication methods: - Development of Oceanfront Property Owners' email distribution list. - Addition of communication tools Mail Chimp &amp; Nixle. - Expansion of committees related parks and town hall construction.</p>	<p>Addition of Town holiday Yuletide event.  Continued refinement of communication tools and methods.</p>
<p><b>Action Item 11.</b> Develop program to support/encourage business alliance formation.</p>	<p>Established list of businesses for mailing notices and information. Conducted door to door visits to encourage participation of businesses in community affairs.</p>	<p>Worked with Duck Community Business Alliance to establish Automated External Defibrillator program to make AEDs available in shopping areas.</p>	<p>Joined Duck Community Business Alliance and local Chamber of Commerce and actively participate in alliance projects.</p>	<p>Town Staff participation in annual Duck Community Business Alliance (DCBA) meeting; Town receives annual Jazz Festival Sponsorship from DCBA.</p>	<p>Dare and Currifuck Chamber of Commerce begin to distribute Town generated information to members.</p>			<p>Continued participation in DCBA meetings and participation of DCBA at Town Council meetings. Business partnerships expanded to include new events (Yuletide) and participation at Jazz Festival.</p>

<b>ACTION PLAN</b> <b>(Red text indicates item completed since last status report)</b>		<b>ACTION PLAN</b>							
		<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
<b>Action Item 12.</b> Develop programs to interact with/through Civic groups.	Prepared email notification list of homeowner association groups for outreach.	Joined Duck Community Business Alliance.	Town Staff provides speakers for several community association meetings 3-4 times per year. Notices of events in rental homes distributed to HOAs.	Town distributes annual informational brochure to property owners and subdivisions.	Town receives award from Dare County Arts Council for local gov't. support of the Arts; Town staff member appointed to serve on Dare County Arts Council.	Town uses funding from Dare County Shoreline Commission to plant vegetation and install sand fencing on Town beaches;	Town uses funding from Dare County Shoreline Commission to plant vegetation and install sand fencing on Town beaches; Ordinance 09-03 adopted establishing Beach Protection and Dune Safety Regulations.	Town initiates a series of ordinances related to oceanfront development and shoreline protection including the prohibition of sandbags.	Town receives Dare County Shoreline funds to develop shoreline management plan. Town Council direct participation on Dare County Shoreline Commission. Town completes ordinances related to oceanfront development and shoreline protection.
<b>Action Item 13.</b> Participate in multi-jurisdictional beach management planning.	Work with adjacent jurisdictions to provide ocean and emergency rescue services and conduct Emergency Operation Command activities.	Staff & elected officials researched and stayed informed and involved in local initiatives for beach management.	Through CAMA minor permitting process, staff has worked with and supported efforts by CAMA concerning beach renourishment and maintenance.		Town uses funding from Dare County Shoreline Commission to plant vegetation and install sand fencing on Town beaches.	Town uses funding from Dare County Shoreline Commission to plant vegetation and install sand fencing on Town beaches; Ordinance 09-03 adopted establishing Beach Protection and Dune Safety Regulations.	Town initiates a series of ordinances related to oceanfront development and shoreline protection including the prohibition of sandbags.	Town receives Dare County Shoreline funds to develop shoreline management plan. Town Council direct participation on Dare County Shoreline Commission. Town completes ordinances related to oceanfront development and shoreline protection.	



ACTION ITEMS	ACTION PLAN (Red text indicates item completed since last status report)					
	2004	2005	2006	2007	2008	2009
<b>Action Item 14.</b> Participate in multi-jurisdictional regional transportation planning.		Staff support for Outer Banks Transportation Task Force and its subcommittees.		March 7, 2007 Town Council adopts Resolution #07-02 Requesting Support from NCDOT to Develop a Comprehensive Transportation Plan covering Dare County and its six municipalities; Town becomes a member of the Albemarle RPO.	Town participates in NC Turnpike Authority Public Hearing process to review various Mid-Currituck Bridge alternatives; Town provides written comments on its preferred alternative and the community impacts associated with widening of NC 12 through Duck.	Town adopts CIP with project funding for Village Pedestrian Transportation Study (tentative).  Town participates in Dare County Comprehensive Transportation Planning effort sponsored by NCDOT (tentative completion 2013).  Town continues to monitor and participate in planning, funding and political efforts to construct Mid-Currituck Bridge.
<b>Action Item 15.</b> Develop a Town-based computer mapping program.		Acquired ArcView software and base mapping files.	Created custom mapping for streets, lots, subdivisions and utilized aerial photographs.	Integrating planning department's PC based mapping with handheld devices and public safety mapping.	Expansion of GIS software licensing to other Town computers; in-house training provided to additional users; expanded role of GIS in Town planning activities.	
<b>Action Item 16.</b> Codify Town ordinances.			American Legal Publishing hired to codify ordinances.	Town ordinances officially codified on 10/17/07 - Ordinance 07-16.		

ACTION ITEMS	ACTION PLAN (Red text indicates item completed since last status report)							
	2004	2005	2006	2007	2008	2009		
<b>Action item 17.</b> Conduct annual Town Council retreat.		Retreat Held 1/19/05.	Retreat Held 1/18/06.	Two-Day Retreat Held 1/24-1/25/07.	Two-Day Retreat Held 1/16-1/17/08.	Two-Day Retreat Held 2/18-2/19/09.	Two-Day Retreat Held 1/18-1/19/10.	Two-Day Retreat Held 1/26-1/27/11.
<b>Action item 18.</b> Develop a stormwater management plan.		Ordinance 05-06 adopted 5/4/05. Study of NC 12 Flooding.	Cooperation with adjacent locality and NCDOT to review/design/fund improvements to manage storm water on primary state road through Town.	Storm water improvements scheduled for NC 12...final engineering underway.	Final engineering for NC 12/Tuckahoe Stormwater project completed; project advertised for construction bids; construction to begin Fall 2009.	Town continues to fund CIP projects to address additional stormwater issues on NC 12; Town requires on-site stormwater management for commercial development through conditional use permit process.	Stormwater improvements to Duck Trail utilizing pervious concrete.	NCDOT completes South Duck (Tuckahoe) stormwater improvements to NC 12. Final design completed for NC 12 drainage improvements adjacent to 1230 Duck Road (Stan White Realty).
<b>Action item 19.</b> Develop (in-house) CAMA permitting capability.			Ordinance 06-03 5/3/06 establishes Local Minor Permitting Program. Local permit officer designated and trained Two additional personnel trained. Town assumes full responsibility for program 7/1/07.			As of 6/1/09, Town LPO's have issued. - 117 minor permits - 55 Exemptions - 6 violations All Planning personnel are trained CAMA LPOs.		

ACTION ITEMS	ACTION PLAN (Red text indicates item completed since last status report)							
	2004	2005	2006	2007	2008	2009		
<b>Action Item 20.</b> Examine potential for an interconnected Duck Trail along the west side of NC 12 and along the Currituck Sound shore line.			Discussion with Town engineering consultants of potential for west side trail segments 9/20/06.	Constructing on municipal property first segment of soundfront boardwalk, partially funded by DCM grants.	Ribbon cutting held on 5/1/08 for first segment of soundfront boardwalk; conceptual alignment for remaining boardwalk segments completed.	Town is preparing CAMA Major Permit application for additional boardwalk segments; Town has prepared draft easement agreements for signature by all adjacent soundfront property owners.	Town acquired 16 easements for the construction of the soundfront boardwalk extension. September - Town receives all permits to construct Town Hall and extend soundside boardwalk.	Town completed construction of soundfront boardwalk northern extension. Town receives grant funding and prepares plans to construct first portion of southern extension.
<b>Action Item 21.</b> Prepare land use plan implementation status report.				1 <sup>st</sup> Implementation Status Report presented to CAMA in April of 2007.		Draft submitted 3/3/09 to CAMA.		Draft submitted to CAMA 12/8/11.

**Notes:**

\* As needed.

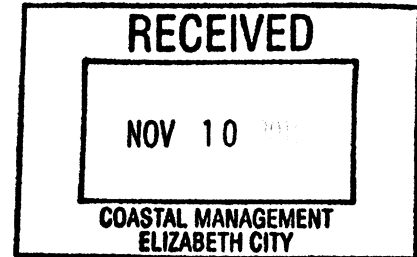
Red text indicates new activities completed since submittal of last CAMA Land Use Plan Implementation Status Report

Post Office Box 549  
101 Veterans Memorial Drive  
Kitty Hawk, NC 27949



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[www.townofkittyhawk.org](http://www.townofkittyhawk.org)

November 9, 2011



Charlan Owens, AICP, District Planner  
NCDENR - Division of Coastal Management  
1367 US 17 South  
Elizabeth City, NC 27909

**RE: Implementation Status Report, Kitty Hawk CAMA Land Use Plan**

Dear Ms. Owens:

The Town of Kitty Hawk is pleased to present the attached Implementation Status Report on the Town's adopted CAMA Land Use Plan, certified on June 17, 2005. Per your instructions, the status report has been organized around the following five elements:

- 1) All local, state, federal, and joint actions that have been undertaken successfully to implement the certified CAMA land use plan;
- 2) Any actions that have been delayed and reasons for the delay;
- 3) Any unforeseen land use issues that have arisen since certification of the CAMA land use plan;
- 4) Consistency of existing land use and development ordinances with current CAMA land use plan policies; and
- 5) Current policies that create desired land use patterns and protection of natural systems.

Information under each element has been further organized into the Plan's five management topics and additional local areas of concern found in Chapter IX. The last portion of the status report offers updates on the status of the items listed in the Land Use Plan's Action Plan (Chapter X).

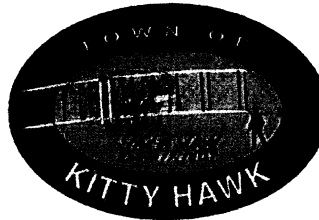
You are welcome to contact me with any questions regarding the status report.

Sincerely,

Joseph H. Heard, AICP  
Director of Planning & Inspections

**Attachment: Implementation Status Report, Kitty Hawk Land Use Plan**

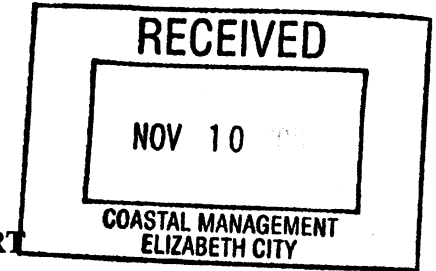
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**CAMA LAND USE PLAN  
TOWN OF KITTY HAWK**

**IMPLEMENTATION STATUS REPORT  
2011**



**I. All local, state, federal, and joint actions that have been undertaken successfully to implement its certified CAMA land use plan**

**Management Topics**

**Public Access** – strategies for maximizing community access to beaches and public trust areas.

1. Acquired ownership of 29 oceanfront properties no longer suitable for building.
2. Established seven (7) new public beach access points north of Kitty Hawk Road.
3. Presently engaged in negotiations with a property owner on obtaining an easement to establish a new public beach access at Kitty Hawk Road.
4. Constructed a new paved parking area and shower adjoining the public beach access at Lillian Street.
5. Completed improvements to on-street, parallel parking spaces near the public beach access points at Balchen, Hawk, Wilkens, Bleriot, Luke, Bennett, Maynard, and Fonck streets.
6. Completed significant improvements to the paved parking area serving the public beach access at Byrd Street.
7. Improved the beach access walkway at Byrd Street.
8. Constructed a sidewalk providing safer pedestrian access to the public bath house and beach access near Kitty Hawk Road.
9. Staff lifeguard stations at strategic locations along the beach.
10. Completed the Wright Brothers Multi-Use Path, a public walking/bicycle trail with interpretive signs, stretching over 2,000 feet along Kitty Hawk Bay.
11. Repaired the boardwalk and reconstructed the deck at the Town's Windgrass Circle Park on the soundfront.
12. Completed the first phase of Sandy Run Park, a public park featuring a canoe/kayak launch and walkways that provide public viewing access to natural areas and several public trust waterways.
13. Completed design, obtained funding commitments, and began construction of the second phase of Sandy Run Park.
14. Coordinated with Dare County on improvements to the parking area and planned installation of a kayak launch at the public boat ramp located off of Bob Perry Road.
15. Added information about public access locations on the Town of Kitty Hawk website.

16. Participated in the Dare County Shoreline Management Commission to oversee and advocate for the preservation and restoration of shorelines.
17. Supported efforts of the N.C. Coastal Reserve to purchase additional property to be included in the Kitty Hawk Woods Coastal Reserve.
18. Worked with Dare County on the purchase of an eleven (11) acre property and development of a public park with recreational facilities and walking trails.

**Land Use Compatibility** – management of land use and development in a way that minimizes its primary and secondary impacts on natural and man-made resources.

1. Studied and amended Town development standards in keeping with the stated goal of maintaining a relatively low density, residential scale of development throughout most of the Town.
2. Compatibility with the CAMA Land Use Plan has been evaluated and referenced during the review of every development project, rezoning, and text amendment considered by the Town.
3. Conducted a detailed analysis of filling and grading activities in consideration of appropriate standards for such activities in the future.
4. Established a land disturbance permit regulating grading and stormwater issues on lots smaller than those requiring a State stormwater permit.
5. Adopted revised stormwater management standards to minimize the impacts of commercial and other higher intensity development on the surrounding environment.
6. Adopted revised standards for subdivision development to minimize impacts on the natural environment.
7. Conducted a thorough study and adopted an ordinance permitting wind turbines and other wind energy facilities as renewable energy sources.
8. Constructed a new Town Firehouse in a historic architectural style containing many features of low impact development, including permeable paving, rainwater recycling system, and wetlands for stormwater filtration.
9. Conducted numerous public education efforts via the Town website, Town newsletter, mailings, and public forums on a variety of environmental topics including dune management, marsh restoration, low impact development techniques, flood damage prevention, and similar topics.

**Infrastructure Carrying Capacity** – strategies to ensure that infrastructure is available to support anticipated and planned development and that it is managed to protect areas of environmental concern and other fragile areas.

1. Coordinated with local and State agencies on the review and approval of proposed development projects to ensure that infrastructure standards are met and capacity is not exceeded.
2. In cooperation with other communities in Dare County, the Town adopted a ten-year Solid Waste Management Plan in 2009 and a 26-year solid waste disposal contract to ensure that waste management needs are met in the future. This plan includes policies on enhancing the Town's recycling efforts.
3. Established a recycling center for residents of Kitty Hawk.

4. Completed a stormwater management study that identifies solutions to recurring stormwater management issues in the Town.
5. Engages in an annual planning process to prioritize road repair and maintenance needs paid for by the Town with State Powell Bill funds and other funding sources.
6. Partnered with NCDOT and local funding sources on the construction of over 2.2 miles of new multi-use paths.
7. Maintain and repair existing multi-use paths using State Powell Bill funds and local funding sources.
8. Had the widening of W. Kitty Hawk Road and an extension of the multi-use path along W. Kitty Hawk Road included on the State's list for future funding.
9. Actively participating in the development of a comprehensive transportation plan for Dare County.
10. Serve as an active member of the Albemarle Regional Planning Organization.

**Natural Hazard Areas** – policies to reduce the community's vulnerability to natural hazards.

1. Adopted updated flood maps and a flood damage prevention ordinance to meet all requirements of State and federal agencies.
2. Adopted an updated multi-jurisdictional Hazard Mitigation Plan in cooperation with other communities in Dare County identifying solutions to reduce or eliminate the risks to human life and property from hazards.
3. Adopted a Public Information Strategy outlining many projects and activities to educate residents, visitors, and businesses about the risks of flooding and other natural hazards, as well as opportunities to prevent or minimize damage during these events.
4. Reviewed and adopted an Emergency Preparedness, Response, and Recovery Plan on an annual basis.
5. Continued policies and regulations that limit the scale and compatibility of development in hazard prone areas.
6. Established a land disturbance permit regulating grading and stormwater issues on lots smaller than those requiring a State stormwater permit.
7. Completed a stormwater management study that identifies solutions to recurring stormwater management issues in the Town.
8. Adopted revised stormwater management standards to minimize the impacts of commercial and other higher intensity development on the surrounding environment.
9. Constructed stormwater management improvements along Byrd Street, along Lindbergh Avenue, and in the Kitty Hawk Landing neighborhood.
10. Worked with NCDOT on the installation of new culverts to improve drainage along several sections of W. Kitty Hawk Road.
11. Raised the roadway elevations of Tateway Road, Ascension Drive, and portions of W. Kitty Hawk Road to minimize the impacts of flooding.
12. Established a program with NCDOT environmental engineers to monitor the shoreline erosion along Moor Shore Road.
13. Obtained funding through FEMA and State agencies to reconstruct the primary dune, providing further protection for N.C. Highway 12 and numerous private residences.

14. Offered educational brochures, newsletter/website articles, and programs to property owners on topics such as water quality, low impact development, flood damage prevention, and dune stabilization.
15. Conducted a dune planting project with Town employees and volunteers to stabilize the primary dune in Kitty Hawk.
16. Partnered with the Dare County Shoreline Management Commission on the installation of sand fencing and dune planting along the entire primary oceanfront dune. Such improvements have been repaired and updated on an annual basis.
17. Posted “Keep Off” and “dune care” signs along the primary oceanfront dune.
18. Supported efforts of the N.C. Coastal Reserve to purchase additional property to be included in the Kitty Hawk Woods Coastal Reserve.

**Water Quality** – land use and development policies and strategies to protect quality waters and to restore quality in waters that are non-supporting.

1. Conducted a series of three (3) public workshops on water quality.
2. Offered educational programs and information on rain gardens and other low impact development practices to the general public.
3. Constructed a rain garden as a pilot project highlighting local best management practices.

**Local Areas of Concern:**

Separate topics identified as Local Areas of Concern are intended to incorporate specific issues, concerns, and opportunities identified by the Town of Kitty Hawk, including:

- Atlantic Ocean Shoreline
- Beach Driving
- Beach Nourishment and Dune Stabilization
- Commercial Development
- Community Appearance
- Currituck Sound Shoreline, Kitty Hawk Bay, and Albemarle Sound
- Development Design Standards
- Federal Properties and Programs
- Intergovernmental Relations
- Parking and Loading/Off-loading Areas
- Public Safety
- Redevelopment
- Residential Development
- Septic Tank Use
- Sexually Oriented Businesses
- Solid Waste Management
- Storm Water Management
- Tourism
- Transportation
- Uses of and Activities In and On Ocean and Sound Waters



1. Expanded the Town's extraterritorial jurisdiction one mile into Kitty Hawk Bay and Albemarle Sound to limit undesirable development and activities.
2. Studied and amended Town development standards in keeping with the stated goal of maintaining a relatively low density, residential scale of development throughout most of the Town.
3. Conducted a study concerning beach driving along the southern stretch of beach in Kitty Hawk. (NOTE: it was determined that beach driving should not be permitted)
4. Entered into mutual aid agreements with other communities to provide services in emergency situations.
5. Initiated meetings among town managers and town planners on the Outer Banks to share ideas and improve communication between the communities.
6. Participated in a Joint Information Center with other communities in Dare County during emergency situations.
7. Adopted the National Incident Management System (NIMS) for dealing with emergency situations.

## **II. Any actions that have been delayed and reasons for the delay**

1. Establishment of additional public beach access points toward the southern end of Kitty Hawk has been delayed due to the unwillingness of private property owners to sell or lease oceanfront property or provide easements for this purpose.
2. Construction of planned multi-use path providing a connection to other multi-use paths along Bay Drive has been delayed due to objections from adjoining property owners and the higher costs of alternative solutions.
3. Development of a multi-use path along N. Virginia Dare Trail (Highway 12) has been delayed due to concerns by NCDOT and identifying a funding source for the project.
4. Several larger stormwater management projects have been delayed until funding can be obtained for such projects.
5. Several road improvement projects have been delayed until funding can be obtained for such projects.
6. A planned, funded shoreline stabilization/marsh restoration project along Kitty Hawk Bay was not constructed due to difficulty in obtaining riparian easements from property owners abutting the marsh.

## **III. Any unforeseen land use issues that have arisen since certification of the CAMA land use plan**

1. A development proposal to construct the oceanfront Hilton Garden Inn resulted in a review of the project impacts and amendment of the Town's development standards relating to projects of this scale in the Beach Hotel zoning district.
2. Interest by local residents and businesses caused the Town to engage in a thorough review of wind energy issues and the development of a wind energy ordinance.
3. Revision of the flood insurance rate maps and amended standards in the flood damage prevention ordinance have led to some confusion for local property owners and

challenges in defining/redefining appropriate development standards in the areas affected by the changes.

#### **IV. Consistency of existing land use and development ordinances with current CAMA land use plan policies**

1. The Town of Kitty Hawk has closely followed the goals, policies, and objectives of the adopted CAMA Land Use Plan. As mentioned previously, compatibility with the land use plan has been evaluated during the review of every development project, rezoning, and text amendment considered by the Town. Many of the current Town ordinances were adopted in an effort to support the goals, policies, and objectives found in the CAMA Land Use Plan. Among many benefits, these ordinances help preserve the Town's relatively low density residential character, limit development's impact on the environment, and minimize property damage during storms.

#### **V. Current policies that create desired land use patterns and protection of natural systems**

1. Reference to the Future Land Use Map and other policies regarding development patterns have provided the Town of Kitty Hawk with guidelines for siting development in appropriate areas. The existing zoning and actual development pattern of the Town are very similar to the recommendations of the plan.
2. Several policies relating to the safety of new development and the protection of private investment were used to support the Town's recent adoption of updated flood maps, a flood damage prevention ordinance, and stormwater management standards.
3. Policies relating to the protection of natural resources and water quality have been the guiding principles behind the Town's adoption and enforcement of requirements for stormwater management, erosion and sediment control, grading, and other land disturbing activities.
4. Emphasis placed on the preservation of Kitty Hawk's village atmosphere has led to the adoption of development standards that reflect the relatively modestly scaled, low density residential character of the Town.
5. Policies regarding the protection of sound waters support the Town's establishment of extraterritorial jurisdiction in Kitty Hawk Bay and the Albemarle Sound to limit undesirable and harmful activities in these waters.

### **ACTION PLAN AND SCHEDULE**

1. Update the capital improvements plan (CIP).

**Initiation:** 2004

**Completion:** Updated on an Annual Basis

The Town of Kitty Hawk has annually updates its capital improvements plan (CIP), most recently adopting a five-year CIP in June, 2011.

2. Seek State funding assistance to develop a shoreline access plan.

**Initiation:** 2005

**Completion:** 2006

The Kitty Hawk Recreation Committee completed a study identifying existing beach access points, publicly owned properties along the oceanfront, and opportunities for new beach accesses in Kitty Hawk in 2006. The Town has acquired many properties, developed beach access points, and continues to explore opportunities to fully implement the recommendations of this study.

3. Develop a parks, trails, and recreational facilities master plan.

**Initiation:** 2005

**Completion:** 2006

The Kitty Hawk Recreation Committee developed a recreation master plan (including recommendations for parks, multi-use paths, and other recreational facilities) that was reviewed by the Planning Board and adopted by Kitty Hawk Town Council in August, 2007. The recreation master plan has been updated twice since that time, the most recent version adopted in February 2011. Several of the recommended parks, multi-use paths, and other improvements have been implemented.

4. Seek State funding assistance to develop a corridor study and plan for the NC 12 corridor and the ocean front to include identification of: needs and opportunities; areas that may be targeted for improvement(s); and, improvement(s) options and alternatives. The study should also examine beach re-nourishment and preservation issues and options.

**Initiation:** 2005

**Completion:** 2006

The Town is participating in the development of a comprehensive transportation plan for Dare County that will include a thorough study and an evaluation of the N.C. Highway 12 corridor.

5. Seek State funding and technical assistance to develop a corridor study and plan to address land use compatibility issues along U.S. 158 Bypass to include: residential and commercial building and development design guidelines and standards; parcel inter-connectivity and reverse frontage developments; and general strategies to improve vehicular and pedestrian movement and visual

aesthetics and reduce land use conflicts.

**Initiation:** 2005  
**Completion:** 2006

The Town of Kitty Hawk has adopted a policy for interconnectivity between lots. The Town is participating in the development of a comprehensive transportation plan for Dare County that will explore vehicular, bicycle, and pedestrian improvements along U.S. Highway 158 Bypass. It is unlikely that any action will be taken toward the development of design guidelines in the near future.

6. Continue *citizen participation* in the Town planning process.

**Initiation:** On-going  
**Completion:** On-going

The Town of Kitty Hawk has offered public education programs and sought considerable public input in a variety of ways (day/evening workshops, mailings, surveys, Town website, Town newsletter, etc.) when evaluating significant public projects, stormwater management projects, wind energy facilities, and amendments to development standards.

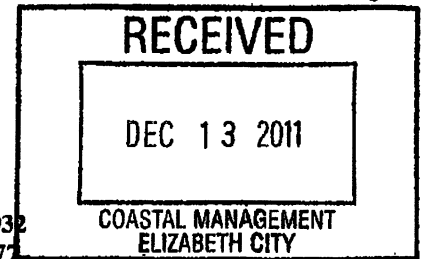
7. Update *1999-2000 Storm Water Management Study*.

**Initiation:** 2004  
**Completion:** 2005

In late-2004, engineering firm Albemarle & Associates completed an updated stormwater management report and recommendations for implementation. Engineering firm Rivers & Associates prepared site specific storm drainage evaluations and cost estimates in March, 2005. The Town has funded several stormwater drainage improvement projects since that date. In 2011, Albemarle & Associates completed an updated stormwater management study that identifies solutions to recurring stormwater management issues in the Town.



**TOWN OF EDENTON  
PLANNING DEPARTMENT**  
P.O. Box 300, Edenton, NC 27932  
400 South Broad Street, Edenton, NC 27932  
PHONE 252-482-2155 FAX 252-482-7377



December 12, 2011

Charlan Owens, AICP  
Elizabeth City District Planner  
NCDENR – Division of Coastal Management  
1367 U.S. 17 South  
Elizabeth City, NC 27909

**Re: Town of Edenton CAMA Status Report**

Ms. Owens:

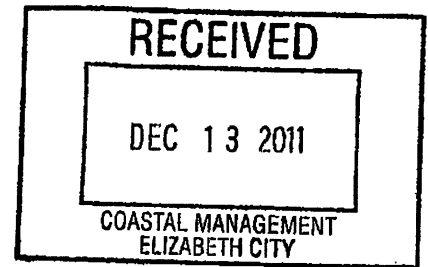
This letter should serve as official notice that the Town of Edenton has completed the required CAMA Land Use Plan Status Report for 2011 as required by the Coastal Resources Commission.

The report is enclosed and includes current status updates of the policies outlined in the Land Use Plan. Should you have any questions or require additional information, please contact me at (252) 482-2155.

Sincerely,

Katy Van Doninck  
Town Planner  
Town of Edenton

cc: Anne-Marie Knighton



Town of Edenton  
CAMA Land Use Plan  
Implementation Status Plan

December 5, 2011

**A. Public Access to Public Trust Waters Policies**

**Policy A1:** The Town of Edenton will ensure a variety of opportunities for access to public trust waters to all segments of the community, including persons with disabilities.

**Status Report:** The Town of Edenton continues to support and encourage opportunities for access to public trust waters. There are many provisions written into the towns Unified Development Ordinance (UDO) which support such opportunities.

**Policy A2:** The Town of Edenton supports the state's shoreline access to policies set forth in NCAC Chapter 15A, subchapter 7M.

**Status Report:** The town continues to support the states shoreline access policies and have implemented measures within its UDO to ensure compliance.

**Policy A3:** It is the policy of the Town of Edenton government to acquire, in accordance with an adopted access plan and funding availability, rights-of-way, fee simple title and/or easements to allow public access along the navigable waters.

**Status Report:** The Town of Edenton has been active and continues to do be active in finding ways to fund the acquisition of land and access points along navigable waters. The town has been looking for funding via grants thru the state and not-for-profit groups.

**Policy A4:** Edenton shall require residential waterfront subdivisions containing interior lots to reserve water access for owners of interior lots. Edenton shall also require that some major residential waterfront developments include in the proposed development a plan for public water access.

**Status Report:** Section 176 of the towns Unified Development Ordinance specifies that interior lots of a waterfront residential subdivision are given access to the water, and Section 177 states that all residential subdivisions located along watersheds with 1,000 feet or more of frontage are required to provide public water access.

**Policy A5:** N/A Chowan County Only

**Status Report:** N/A

**Policy A6:** The community shall continue to provide for the diverse recreational needs of the permanent and seasonal populations by supporting design and construction of the extensive waterfront area in a manner that balances water access needs with the protection of fragile natural resources.

**Status Report:** The town continues to maintain an important balance of waterfront development and access with careful consideration for the protection of such resources. The location of the relocated lighthouse to the waterfront in Edenton shows a good example of this important balance. Due to soil testing it was found that some of the land surrounding the water where the lighthouse was to be located was contaminated and could escape into the water if disturbed. With that in mind, an alternate plan and location was developed along the waterfront.

**Policy A7:** The town with support the idea of providing permanent mooring in the area to provide safe and efficient docking and boat storage opportunities to local residences.

**Status Report:** The Town of Edenton will continue to support permanent mooring and specific boat docking and storage opportunities and while new locations are created, their locations will be carefully selected to ensure the safety of such sites and consideration of the impact such sites will have on the natural resources and surrounding watersheds.

**Policy A8:** The development of marinas, preferably upland marina, is supported to enhance access to public trust waters.

**Status Report:** Edenton will continue to encourage marina development, ensuring public water access, and direct such locations to be developed upland.

#### **B. Land Use Compatibility Policies**

**Policy B1:** N/A Chowan County Only

**Status Report:** N/A

**Policy B2:** N/A Chowan County Only

**Status Report:** N/A

**Policy B3:** In order to preserve farmland and rural open space, the Town will encourage cluster residential subdivision developments throughout their jurisdiction.

**Status Report:** The Town of Edenton continues to encourage cluster developments and through the use of the towns UDO, including zoning, development restrictions, and open space requirements, farmland and rural open space can be properly preserved.

**Policy B4:** Ensure that land use and development activities provide a balance between economic development needs and protection of natural resources and fragile environments.

**Status Report:** Through the use of the town's comprehensive plan and with support of state and federal laws, the town continues to encourage economic development while maintaining strict policies on the protection of natural resources. If the adopted plan in some manner begins to have a negative impact, the opposite of what the intent of the plan was, strides will be taken to amend the current policy with a plan that would guide the town in a positive direction.

**Policy B5:** The Town will support growth and development at the densities and intensities specified in the Future Land Use Map land classifications as delineated in Section 4.3 of the Land Use Plan.

**Status Report:** The town strives to follow the Future Land Use Map that has been adopted as well as the zoning, land use, and specifications that have been included with the map. Any instances where the map is to be altered will be taken with careful consideration and review.

**Policy B6:** Oppose any development on sound and estuarine islands located within the Edenton planning jurisdiction.

**Status Report:** The town will make every effort to discourage development on sound and estuarine islands and the requirements found within the UDO help make it difficult to do so.

**Policy B7:** The Town will support CAMA Use Standards for coastal wetlands.

**Status Report:** The Town of Edenton will always support and confer with CAMA Use Standards when any issue arises that may involve coastal wetlands.

**Policy B8:** Only commercial and industrial uses that are water dependent and which cannot function elsewhere or are supportive of commercial fishing will be allowed in conservation-classified areas. Examples of such uses would include but not necessarily be limited to commercial fishing and fish processing, marinas consistent with the policies of this plan, boat repair and construction facilities, any business dependent upon natural salt water as a resource, and restaurants that do not extend into or over estuarine waters and/or public trust waters. All uses must be consistent with established zoning.

**Status Report:** The town encourages commercial and industrial developments to be located in the correctly adopted zoning districts as written in the Zoning Map and Permissible Use Table within the UDO. Conservation-classified areas are to be maintained as such, and only in the event that an establishment must develop upon them, the use will be limited to those examples listed above.

**Policy B9:** Industrial development within the Town of Edenton's jurisdiction must use municipal utilities if available. Utility systems for industrial development proposed outside of the municipal service area will be reviewed and approved on a case by case basis.



**Status Report:** The Town of Edenton discourages industrial development that requires an extension of utility service beyond the service area or the use of an alternate utility company.

**Policy B10:** Industries which are noxious by reason of the emission of smoke, odor, dust, glare, noise, and vibrations, and those which deal primarily in hazardous products such as explosives, will not be permitted.

**Status Report:** The Town of Edenton's Permissible Use Table does not allow for such industries to be located within its jurisdiction.

**Policy B11:** Industrial development and/or industrial zoning will not infringe on established residential development. When reviewing proposals for new industrial development or industrial zoning, the Town will ensure that the proposals are compatible with surrounding land uses and that identified adverse impacts are mitigated.

**Status Report:** Any and all industrial development that will require a zoning amendment is discouraged when such a rezoning would infringe upon a residential district. In addition, the Permissible Use Table delineates what types of industry are required to obtain permission from the town to locate on a particular Industrial zoned property through a Special Use Permit or Conditional Use Permit. This gives the town power to ensure proper industry is located on Industrial zoned parcels and any additional requirements can be put in place to protect surrounding properties.

**Policy B12:** N/A Chowan County Only

**Status Report:** N/A

**Policy B13:** Coordinate all development activity with appropriate Regional Health Department and state regulatory personnel.

**Status Report:** All state and federal entities are contacted and laws followed when the town is required to implement them.

**Policy B14:** Cooperate with the U.S. Army Corps of Engineers in the regulation/enforcement of the 404 wetlands permit process.

**Status Report:** In the event a 404 Wetlands are to be disturbed and it is required, the town requires all parties involved to follow proper protocol and procedures, including contacting the U.S. Army Corps of Engineers.

**Policy B15:** Encourage land use proposals which will have no negative impact on historic, cultural and/or archaeological resources in the Town. These proposals shall be reviewed through the Section 106 review process as well as through the Historic Preservation Commission and the State Historic Preservation Office.

**Status Report:** The Town of Edenton has a preservation plan with specific guidelines, some of which come from the Department of the

Interior, that discourage any impact upon historical, cultural, and/or archaeological resources. Further, small development projects such as small additions or new construction projects within the historical district are required to mitigate any disturbance and in the event historical evidence is found during the construction process, owners are instructed to contact the town.

**Policy B16:** Edenton will support citizens' awareness programs and public educational opportunities for community historic and natural resources, including the conservation, preservation and maintenance thereof.

**Status Report:** The town has made numerous efforts to keep the community involved in preserving both its architectural and natural resources. Edenton has been awarded grants to hold informative workshops on the preservation of structures within the community, and in conjunction with local and state maintained national register properties, other workshops have been held. The Town of Edenton also has a Historical Commission which oversees and reviews projected work on structures within the town's local designated historic district.

**Policy B17:** To help ensure that planned residential developments (PRDs) are in harmony with adjoining single-family land uses, Edenton will require that the two-family and multi-family components of such developments be located more to the interior of the PRD rather than on the periphery.

**Status Report:** The town does follow this guideline and is further supported by the town's UDO Section 158 (e) on PRDs which dictates this exact language.

**Policy B18:** The Town will prohibit floating homes or watercraft with any longterm occupancy.

**Status Report:** The town does discourage the long-term occupancy of watercraft or floating homes. The Town Code of Ordinances requires boaters to obtain permission to moor at the docks for a certain period of time.

**Policy B19:** N/A Chowan County Only

**Status Report:** N/A

**Policy B20:** Future public improvements should be planned and financed using fiscal mechanisms which avoid adverse tax impacts on the owners of prime forestry lands where such lands will not directly benefit from the planned public improvements.

**Status Report:** The Town of Edenton strives to be fiscally responsible and will make efforts to avoid having to pass along adverse tax impacts.

**Policy B21:** N/A Chowan County Only

**Status Report:** N/A

**Policy B22:** N/A Chowan County Only

**Status Report:** N/A

**Policy B23:** Manage and direct growth and development in balance with available support services.

**Status Report:** The town encourages new growth along existing support service lines. And with the help of the town's UDO, such growth is regulated by new development restrictions that do discourage sprawl type growth where little or no services exist.

**Policy B24:** The Town and County shall continue to work cooperatively in identifying suitable sites for economic development and marketing them to expanding firms that would generate new job opportunities for local residents.

**Status Report:** The Town and County have and continue to maintain an important economic partnership. With such entities as the Edenton-Chowan Tourism Development Authority, the North Carolina Northeast Commission, Destination Downtown, the Chamber of Commerce and the hospital, in addition to new business grants, recruitment of business is key to the Town and County.

**Policy B25:** The Town and County support the development of the Air Transpark outside of Edenton. This industrial park site offers the area a unique opportunity for attracting new industry and future economic development. Great potential exists to link the airport with other transportation alternatives (water, new and existing roads, etc.) in order to develop a true commercial transportation center.

**Status Report:** The Town has made the promotion of the airport an important facet in industry recruitment. A site plan has been created showing the potential lots that can be purchased out at the airport commerce park and the town has also been awarded grant money to install infrastructure to the site some of which has already been completed.

**Policy B26:** Encourage growth to occur and expand in geographical areas in and around the Town as portrayed in the respective Future Land Use Maps.

**Status Report:** The Town refers to the Future Land Use Map as a guideline to the future development and expansion of the town's core and the map helps the town to avoid the possibility of sprawl and unnecessary cost of new infrastructure.

**Policy B27:** The Town supports the conversion of businesses to residences in appropriate areas of Downtown Edenton.

**Status Report:** Where appropriate, the town does encourage and support the transition of properties from business to residential but each conversion is well thought out and considered and the Future Land Use Map is also referenced prior to such a discussion.

**Policy B28:** N/A Chowan County Only

**Status Report:** N/A

**Policy B29:** Edenton shall maintain minimum landscaping and screening requirements that provide a visual buffer between parking and loading areas and public streets; a visual buffer between parking and loading areas and adjoining residential land uses; screening of solid waste collection dumpsters; and screening between certain incompatible uses.

**Status Report:** Edenton does advocate landscape and buffer requirements. The town's UDO specifies such buffers and landscape requirements. In addition, all new commercial and industrial development plans are required to be brought in front of the Edenton Tree Committee who ensures compliance with the towns UDO on landscape and buffer requirements.

**Policy B30:** The Town shall maintain appearance and operational standards for nonresidential developments located within designated highway corridors to ensure no undue interference with through vehicular traffic in gaining access to proposed developments to the highway, to require architectural design compatibility within the proposed developments, and to provide landscaping and screening to buffer adjoining residentially used or zoned properties.

**Status Report:** Through the use of the towns UDO, all these items are addressed. The Town of Edenton conducts a Technical Review Committee on all new developments. It is within this meeting that a proposed development will be reviewed by important entities such as DOT, Public Works, Electric Department, Fire and Police Departments and Building Inspectors. In addition the towns UDO sets requirements on landscaping, buffering, sidewalk, driveway, parking and entrance requirements. As far as commercial developments, the town also has a set of architectural design guidelines that the construction design must follow.

**Policy B31:** The Town shall maintain development standards (such as limitations on the hours of operation, distance/separation requirements, buffering/screening requirements, etc.) for special and/or conditional uses in order to assist with mitigating potential negative impacts.

**Status Report:** The town staff encourages both the Board of Adjustments and the Town Council to add additional conditions on SUPs and CUPs. This policy helps to protect the town, its citizens and appearance and promotes the general safety and welfare of the community.

**Policy B32:** The Town shall require shopping center developments to comply with access, screening/buffering, landscaping, setback, building scale, architectural design, outdoor lighting, outdoor storage/activity, and signage requirements to help minimize impacts to public street and views, adjacent properties, and adjacent residentially zoned areas.

**Status Report:** The town continues to enforce this through the use of towns UDO which requires shopping centers to comply with the towns regulations. In addition a Technical Review Committee reviews the plans to be sure all interested parties interests are addressed i.e. access, buffering, landscape, lighting, scale, design, sidewalks and signage.

**Policy B33:** N/A Chowan County Only  
**Status Report:** N/A

### **C. Infrastructure Carrying Capacity Policies**

**Policy C1:** Development within the Town shall only be approved where adequate public or approved private facilities and service are available, including water, sewage disposal, roads, etc.

**Status Report:** The town does encourage development along areas that have services and infrastructure in place to support such development. The town does require private developments to pay impact fees to support the systems that are in place and to fund any extension of such systems.

**Policy C2:** N/A Chowan County Only  
**Status Report:** N/A

**Policy C3:** It is the policy of Edenton to ensure that infrastructure systems are correlated with population projections, future land needs, and the future land use classifications as delineated in Section 4.3.

**Status Report:** The Town of Edenton continues to review and utilize the Future Land Use Map and population projections to ensure adequate facilities and infrastructure are in place to support an influx of people and the expansion of the towns core.

**Policy C4:** In areas located outside of the Town of Edenton utility service area, the Town and County will support the construction of package treatment plants which are approved and permitted by the State Division of Environmental Management. If any package plants are approved, a specific contingency plan specifying how ongoing private operation and maintenance of the plant will be provided, and detailing provisions for assumption of the plant into a public system should the private operation fail or management of the system not meet the conditions of the state permit must be submitted and approved. The Town and County, however, oppose the installation of package treatment plants and septic tanks or discharge of waste in any areas classified as coastal wetlands, freshwater wetlands (404), or natural heritage areas.

**Status Report:** The Town of Edenton supports the need to construct approved and permitted waste management treatment plants when needed. However, it does condone the discharge of such waste into local wetlands or natural resources and encourages proper predetermined location of such plants.

**Policy C5:** The Town of Edenton and Chowan County support the implementation of the following transportation improvements:

- Eastern Connector
- Western Connector
- Luke Street Extension
- Peanut Drive Access
- Soundside Road

Status Report: The Town of Edenton continues to be an active participant in regional Department of Transportation plans and regularly participates in the Albemarle Rural Planning Organization (RPO). Due to funding, the implementation of the transportation improvements listed above have not all come to fruition. The Eastern Connector is a 2-lane facility connecting NC 32 at NC 94 (Soundside Road) with the US 17 Bypass at the North Broad Street Interchange. This improvement is designated as project U-3419 in the current TIP. Planning and design is currently underway but its priority on TIP has been reduced due to local circumstances. Construction has been extended with an undetermined time frame. This route is projected to alleviate downtown congestion and traffic by providing an alternate route for through traffic. The Western Connector a 2-lane facility connecting West Queen Street (US 17 Business) and West Albemarle Road and ultimately, in combination with the Luke Street Extension, Virginia Road just south of the US 17 Bypass. A feasibility study has yet to be conducted. The project is designated in the current TIP as FS-0201D. This proposed facility would also help to alleviate congestion in the downtown area. Luke Street Extension is a 2-lane facility extending the existing Luke Street from Virginia Road to West Albemarle Road. The primary purpose of this facility is to improve emergency vehicle access from the hospital on Virginia Road to the western portions of Edenton. This project is still in a review and planning stage. The Peanut Drive Access is a proposed road that would connect Paradise Road and SR 1325 to allow truck traffic to access the existing industrial area and the US 17 Bypass without entering the downtown area. This project is also in a review and planning stage and until more industry is attracted to the Peanut Drive Industrial Park, this project will remain in a planning stage. Soundside Road is a minor thoroughfare (NC 94) provides access to the southeastern portion of Chowan County including the airport industrial area. Shoulder widening to 24 feet is recommended to provide a safer road and to accommodate truck traffic. Some of Soundside Road has had shoulder work during regular maintenance work but not to the recommended 24 feet.

**Policy C6:** Any application for a wastewater disposal system which is to be located in the planning jurisdiction shall be coordinated with existing facilities. The Town and County should work together to assure that a waste water permit is not issued without a corresponding zoning permit.

**Status Report:** The Town of Edenton requires all construction permits to be accompanied with a zoning permit that is reviewed and signed off on by the land use administrator with the town.

**Policy C7:** The Town and County will continue to work together to provide services where needed, and as feasible, for new development.

**Status Report:** The Town of Edenton strives to be a team player on all county relationships. The town will continue to work with the county on services and infrastructure planning for all potential and new developments.

**Policy C8:** N/A Chowan County Only

**Status Report:** N/A

**Policy C9:** The Town and County support the extension of infrastructure into desired growth areas as necessary and financially feasible.

**Status Report:** When development and growth require the extension of services and infrastructure, the town will work to support the planning and funding of such an extension.

**Policy C10:** Depending upon water availability and septic capability, subdivisions may develop outside of the currently developed areas served by public utilities. The location and intensity of commercial uses should be guided by the availability of public services, accessibility and be in compliance with development standards.

**Status Report:** The Town of Edenton requires subdivisions to be developed according to the regulations stipulated within the towns UDO which includes requirements for development standards and services, and with the help of zoning districts, such developments are guided toward suitable and accessible locations.

#### **D. Natural Hazard Area Policies**

**Policy D1:** Conserve the natural resources and fragile environments that provide protection from such natural hazards as floods and storm surges.

**Status Report:** The Town of Edenton protects local wetlands and estuaries that help to mitigate natural occurrences through development restrictions and wetland conservation.

**Policy D2:** Minimize the threat to life, property, and natural resources that may result from land use and development within or adjacent to identified natural hazard areas.

**Status Report:** The Town of Edenton through the implementation of its UDO regulates developments along or in close proximity to natural resources and these regulations help to mitigate potential hazards. Such regulations include vegetation buffers or wetland buffers as well as only allowing specific types of developments to take place in such areas.

**Policy D3:** The Town will continue to coordinate all development within the special flood hazard area with the Planning and Inspections Department, NC Division of Coastal Management, FEMA, and the US Corps of Engineers.

**Status Report:** The Town of Edenton does seek review and approval from all required local, state and federal entities when required. Further, the town sends one of its employees to meetings and educational forums to expand knowledge and receive updates on regulations.

**Policy D4:** It is the policy of Chowan County and Edenton to ensure that evacuation plans and needs are addressed as new development proposals are reviewed for approval.

**Status Report:** With the Town of Edenton being located in a flood prone and storm surge area, evacuation plans are regularly reviewed and addressed. When new developments are proposed a Technical Review Committee will address the need for an evacuation plan and require proper compliance with such a plan.

**Policy D5:** It is the policy of the Town of Edenton government to ensure that new development is protected from flood hazard through the administration of the flood damage prevention ordinances and continued participation in the National Flood Insurance Program.

**Status Report:** During the permitting process of developments, the FEMA maps and local, state and federal regulations will be reviewed for compliance and all proper permits will be required.

**Policy D6:** The Town of Edenton and Chowan County shall implement the goals and recommended mitigation measures of the 2005 Chowan County and the Town of Edenton Multi-jurisdictional Hazard Mitigation Plan as delineated in Section 3.2.3, D and Appendix I.

**Status Report:** The town and county have worked to implement a Hazard Mitigation Plan. The plan has been put into effect and had to be reviewed during the last hurricane to pass through the area.

**Policy D7:** The Town of Edenton will continue to support and enforce the N.C. State Building Code, particularly requirements of construction standards to meet wind-resistive factors such as design wind velocity. The Town also supports provisions in the state Building Code requiring tie-downs for mobile homes, which help resist wind damage.

**Status Report:** The town and county share two building inspectors. The inspectors regularly attend educational classes on the building code including updates and new regulations including local wind requirements and flood and hazard mitigation that are integral to the safety of the area.

**Policy D8:** Edenton shall maintain flood damage prevention requirements that (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging



increases in erosion or in flood heights or velocities, (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters; (4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

**Status Report:** Flood prevention and management is integral to the Edenton community. Such mitigation is implemented through permitting, zoning and development regulations and with the use of state and federal laws including the FEMA maps.

**Policy D9:** The Town of Edenton supports the CAMA development permit process for estuarine shoreline areas and the requisite development standards which encourage both shoreline stabilization and facilitation of proper drainage.

**Status Report:** The town supports and encourages the CAMA permit process and review because of the strict regulations in hazard mitigation and the protection of natural resources.

**Policy D10:** Edenton shall discourage development, especially higher density (greater than six dwelling units per acre) residential development, in its most hazardous areas (storm surge areas, areas prone to repetitive flooding, etc.) so as to decrease the number of people living in areas that may need evacuating.

**Status Report:** The town discourages development in low lying flood prone areas. This is accomplished with the help of the zoning map and the development regulations written into the towns UDO as well as with the support of both state and federal regulations and FEMA maps.

**Policy D11:** Based upon the availability of federal and state grant funds, land acquisition programs will be utilized in the most hazardous areas to minimize future damage and loss of life.

**Status Report:** When the town finds it necessary to acquire land that poses a hazard and potential for loss of life, the Town of Edenton will pursue both state and federal land acquisition/conservation grants.

#### **E. Water Quality Policies**

**Policy E1:** The Town of Edenton will continue to support the use of Best Management Practices (BMP) on agricultural properties and urban developments in order to reduce sedimentation and pollution run-off into Nutrient Sensitive Waters.

**Status Report:** The Town of Edenton is largely rural with many agricultural land uses. Water and sediment run-off is addressed in the towns UDO and informing local farmers of the adverse effects of such run-off is also regularly addressed.

**Policy E2:** N/A Chowan County Only

**Status Report:** N/A

**Policy E3:** It is the policy of Chowan County and Edenton to coordinate the approval of local land development projects with applicable state agencies to ensure compliance with regulations to prevent or control nonpoint source discharges.

**Status Report:** The Town of Edenton requires all proper approval and permitting, whether from local, state or federal agencies, prior to allowing a development to move forward. This includes ensuring that any required NCDENR reviews/approvals have been cleared.

**Policy E4:** It is the policy of Edenton to establish land use categories that maximize the protection of open shellfishing waters and that assist with the restoration of any closed shellfishing waters.

**Status Report:** Edenton supports the protection of open shellfishing and the restoration of closed shellfishing waters through the use of land use categories and the UDO permissible use table.

**Policy E5:** Edenton shall maintain requirements that, to the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways shall remain undisturbed. All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. No surface water may be channeled or directed into a sanitary sewer. Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or roads. All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments.

**Status Report:** The Town of Edenton through its UDO regulates all stages of development including the proper removal of site drainage that does not interfere with existing drainage ways or neighboring parcels.

**Policy E6:** The density and intensity of land development adjacent to ground water supplies shall be in accordance with the density and intensity characteristics of the future land use designations.

**Status Report:** The Town of Edenton regulates the allowable density of developments and parcels through its UDO regulations and the zoning land use designations.

**Policy E7:** N/A Chowan County Only

**Status Report:** N/A

**Policy E8:** The Town of Edenton supports state efforts to reduce nutrient loading in the surrounding surface waters, which include consideration of more stringent

restrictions on nitrogen discharges and enhanced regulations controlling the disposal of animal wastes.

**Status Report:** The Town of Edenton understands and supports efforts to reduce soil and surface water contamination and mitigate improper runoff disposal and helps to support this through its land use designations

**Policy E9:** Because of special water quality concerns with the Town of Edenton, only limited construction will be allowed within a landward buffer (provided in accordance with locally adopted best management practices) of the mean high water mark on subdivisions lots which adjoin the Chowan River, the Albemarle Sound, or their impounded waters and tributaries. The landward buffer shall not contain any buildings or related structures, such as decks, paved patios, or utility sheds. The primary use of the area is the growth of natural vegetation such as a grassed lawn. The only structure permissible within the waterfront set-back area is an elevated pier of wood construction constructed to provide access to the water. On-site septic systems and nitrification lines are also prohibited from the required setback area. Notwithstanding this Water Quality Policy # E9, the locations of buildings or related structures, such as decks, paved patios, or utility sheds in new developments shall be subject to the more or less stringent provisions of any applicable State law.

**Status Report:** The town in conjunction with state and federal regulations has strict policies against the construction or infringement upon the landward buffer. And when elevated docks or wood piers are to be constructed, such approval will follow a strict review process.

**Policy E10:** In order to minimize sedimentation and erosion, Edenton shall require that all developments maintain a vegetated buffer along each side of a stream or natural drainageway. The vegetated buffer shall remain undisturbed except as may be necessary to accommodate roads, utilities and their easements, pedestrian paths and their easements and approved water-dependent uses such as marinas, docks, piers, boat ramps and bridges. In cases in which the buffer may not be practical or desirable, the Board of Adjustment may consider a special exception if it finds that an acceptable alternative means of handling stormwater can be achieved without maintaining a vegetated buffer.

**Status Report:** The Town of Edenton has written into its UDO a requirement for developments located along a stream or natural drainage ditch to maintain an undisturbed vegetated buffer.

#### **F. Area of Environmental Concern Policies**

**Policy F1:** Edenton supports state and federal law regarding land use and development in AECs.

**Status Report:** The town in conjunction with state and federal laws supports the land use and development regulations of AECs buffer on non-ocean shorelines and estuarine waters and works to preserve the sensitive nature of this land.

**Policy F2:** N/A Chowan County Only

**Status Report:** N/A

**Policy F3:** The Town policy is to restrict development in estuarine waters and public trust waters to those uses which will not cause significant degradation of the natural function nor condition of the estuarine waters and public trust areas.

**Status Report:** The Town of Edenton follows state and federal laws when dealing with the development around estuarine waters and public trust waters. Development in such areas are strictly regulated due to the sensitive nature of these areas and the important natural roll these waters play in protecting both land and water quality and ocean life.

**Policy F4:** It is the policy of the Town of Edenton to comment concerning the overall interests of residents on CAMA dredge and fill permits for projects which would be detrimental to rivers and wetlands.

**Status Report:** The town will make public statements regarding CAMA permits that could have a detrimental effect on surrounding rivers and wetlands.

**Policy F5:** Allow the construction of dry stack storage facilities for boats associated with or independent of marinas.

**Status Report:** Edenton does support the construction of dry stack storage facilities and encourages the proper location of such storage facilities and requires all proper permits to be obtained for such construction including state and federal permits/approval that may apply.

**Policy F6:** It is the policy of the Town of Edenton to ensure water dependent development activities such as marinas including upland marinas occur in compliance with local, state and federal regulations and to discourage non-water dependent uses especially floating home developments in public trust waters.

**Status Report:** The town supports and regulates the construction of marinas and other developments and through the towns UDO also requires all such developments to seek the required state and federal approvals.

**Policy F7:** The Town will restrict, through its zoning ordinance and subdivision regulations, land uses in coastal wetlands to those that support wetlands conservation and which do not adversely affect their delicate balance.

**Status Report:** The Town of Edenton utilizes its zoning map and UDO Permissible Use Table to direct land use and regulate proper development. It includes the conservation of wetlands.

**Policy F8:** When necessary, bulkhead installation should be conducted employing appropriate construction and resource protection techniques. Where installation is required, development plans should consider every feasible alternative to minimize the damage to existing marshes.

**Status Report:** When the town requires the need for new or the replacement of existing bulkheads, measures will be taken to apply for all permits, review all potential alternatives, implement precautionary measures and only contract with experienced, licensed and permitted contractors.

**Policy F9:** The Town shall require industries to use the best available technology to avoid pollution of air or water during both construction and operation of new industrial facilities.

**Status Report:** Edenton strives to preserve its natural resources and encourages local industries to mitigate pollution. Town officials maintain relationships with local company executives to ensure an open dialog to prevent such issues.

### **G. Areas of Local Concern Policies**

**Policy G1:** The Town of Edenton will continue to support and pursue opportunities to provide affordable housing, housing rehabilitation and community revitalization through the Community Development Block Grant, HOME, and NC Housing Finance Agency for housing rehabilitation and community revitalization.

**Status Report:** The town pursues such grants on a yearly basis to support local housing options and needs. In 2011 the town was awarded two different housing development grants. In addition, the town is implementing an agenda to remove blighted properties throughout the community to revitalize and enhance surroundings and the town also works closely with Habitat for Humanity to find suitable properties to rehab and construct new.

**Policy G2:** Support and pursue funding opportunities of tourism events and activities such as festivals, markets and recreational activities. The Town should take advantage of the historical resources of the area to promote tourism year round. The Town and County will also support local and regional interest groups in the promotion of tourism.

**Status Report:** The town supports the promotion of the community through local festivals, events and marketing techniques. The town works closely with local economic and tourism development groups. In addition, Destination Downtown a not-for-profit Main Street agenda group funded by the town, hosts many events within the town. The town was also recently ranked on Forbes list as one of America's Prettiest Towns, and the town is taking a broad marketing campaign to optimize on this ranking. The town continues to harp on its location and historical resources to recruit visitors.

**Policy G3:** The Town supports the development of a greenway and bike path network around the area as outlined in the 2003 Chowan/Edenton Greenways and Open Space Plan.

**Status Report:** The Town of Edenton has developed a Greenways and Open Space Plan as a guide for developing a system of trails and protected areas within the community with maps of the proposed system and recommendations for its implementation. The town has put the plan on the Regional Planning Organization STIP list and it has been ranked three in regional priority.

**Policy G4:** It is the policy of the Town of Edenton to encourage, where practicable and funding is available, the preservation of historically significant structures and sites.

**Status Report:** The town encourages the preservation or rehabilitation of historically significant structures and sites found within the town. The town has a well established regulated historic district and a preservation commission that reviews requests for properties to be worked on within the district and enforces the guidelines for preservation that the town has implemented. In addition, the town has set aside a fund to prevent demolition of structures within the historic district to further solidify the town's role in preserving its historic structures. The town also works closely with the state and federal government on properties with state and national significance.

**Policy G5:** It is the policy of the Town of Edenton government to conserve the natural and cultural resources for recreational enjoyment.

**Status Report:** Edenton supports opportunities to conserve local resources for the recreational enjoyment of the community.

**Policy G6:** It is the policy of Edenton to support state and federal programs which lead to improvements of the quality of life of residents and lessen the burdens of local government such as: highway construction and maintenance, channel maintenance, aviation enhancement, environmental protection, education, health and human services.

**Status Report:** The Town of Edenton looks to state and federal programs that offer opportunities for the town to better the local quality of life for its residents. Pursued opportunities include housing grants, sidewalk improvement grants, grants for research and studies, airport commerce park grant, rural business development grants, and matching grants.

**Policy G7:** Continue to work toward a diversified economy including industry, tourism and improved technical educational opportunities.

**Status Report:** The Town of Edenton is constantly working to attract and enhance the local economy through industry recruitment, tourism, and education for a skilled workforce. The town participates with local and regional businesses and entities to help support this agenda.

**Policy G8:** Edenton and Chowan County shall maintain airport height overlay

requirements that prevent that creation of conditions hazardous to aircraft operation, that prevent conflict with land development which may result in loss of life and property, and that encourage development which is compatible with airport use characteristics.

**Status Report:** The Town of Edenton has an airport overlay district written in Section 167 of the UDO that does regulate the type of development that can occur within this district including restrictions and regulations on such development including the type of developments that can and cannot occur in this overlay district.

**Policy G9:** Locate new facilities on land having stable, well-drained soils adequately protected from flooding and easily accessible to public utilities and transportation routes.

**Status Report:** Edenton is focused on directing new facilities to suitable lands with proper accessibility to roads and utilities and areas that have proper drainage. The town is not interested in new facilities where extensive infrastructure needs to be installed and where there is a high risk of flooding.

**Policy G10:** Continue to encourage a variety of choice in existing neighborhoods through a balance of preservation, rehabilitation and new development.

**Status Report:** Edenton is a charming small town and in order to keep its charm, it must continue to support its current historic neighborhoods, restore or rehabilitate existing properties and encourage new development that will be in character with the existing architecture and scale of other structures around the town.

**Policy G11:** Continue to use a low interest loan pool to encourage downtown business owners to rehabilitate their establishments.

**Status Report:** The Town of Edenton relies heavily on its commercial downtown, and with the support of loan interest loans for downtown business rehabilitation projects Edenton can continue to make downtown a viable and economic place for businesses.

**Policy G12:** Continue to support market-driven trends in redevelopment and reuse, particularly in the retirement/assisted living care facility segment of the housing market.

**Status Report:** Edenton understands its trend of being a retirement community and is committed to supporting residential developments that will encourage this trend including the adaptive reuse and rehabilitation of existing structures.

**Policy G13:** The Town and County remain committed to State and Federal programs in planning areas related to community and economic development, including erosion control, public access, and highway improvements.

**Status Report:** The Town of Edenton understands the importance of participating in State and Federal programs which supports the town's growth and future, and will continue to do so.

**Policy G14:** Edenton shall maintain requirements that residential developments reserve land area for usable open and recreational space.

**Status Report:** The Town has written into article XIII of its UDO requirements within its residential subdivision plan that require such developments to set aside a percentage of land for open space and a portion of land for recreational use based on a calculation of the number of residents.



## Owens, Charlan

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**From:** Owens, Charlan  
**Sent:** Thursday, December 15, 2011 11:18 AM  
**To:** VAN-DONINCK, KATY  
**Subject:** RE: Edenton CAMA Status Report

Katy,

I have been out of the office this week and just reviewed the material you provided.

A review of the Implementation Plan and Schedule located on Pages 162 through 164 of the LUP is also needed. I can add this as an addendum to the material you have already provided. The Implementation Plan Review will address the status of items including, but not limited to, a Waterfront Access Plan, Joint Comprehensive Transportation Plan, Stormwater Management Plan, and Community Services/Facilities Plan. Indicate any actions that have been delayed and the reasons for the delay.

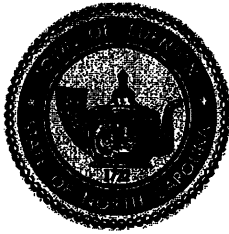
Also, address any unforeseen land use issues that have arisen since certification of the LUP in July of 2008.

Let me know if you have any questions on this item.

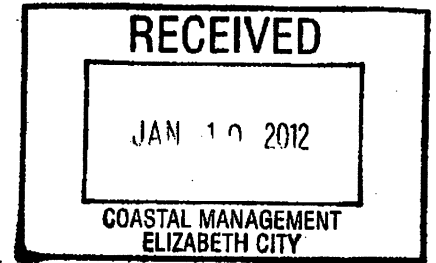
Charlan



**Charlan Owens, AICP**  
**District Planner**  
**NCDENR - Coastal Management**  
1367 U.S. 17 South  
Elizabeth City, NC 27909  
Phone: 252-264-3901, ext. 236  
FAX: 252-264-3723



Town of Edenton  
CAMA Land Use Plan  
Implementation Status Plan  
**Addendum 1**



December 15, 2011

Edenton has developed the following action plan and schedule to implement the Land Use Plan:

**A. Public Water Access Implementation Actions**

1. **FY07:** Seek funding from DCM for a grant to prepare a waterfront access plan.

**Status:** The Town of Edenton has yet to find funding opportunities.

2. **FY08:** Finalize waterfront access plan.

**Status:** The Town of Edenton has yet to find funding opportunities.

3. **Post FY08:** Initiate implementation of the recommendations of the waterfront access plan; seeking funding approval for recommended acquisitions/improvements; develop specific criteria and standards for the provision of public waterfront access.

**Status:** The Town of Edenton continues to seek funding opportunities for a grant to assist with the implementation of the waterfront access plan.

4. **Ongoing:** Review, through the subdivision plat and site plan review and approval process, proposed waterfront land development projects to ensure implementation of the Town's public access goals and policies.

**Status:** The Town of Edenton continues to practice this regulation through the use of the town's UDO and the regulations included in it that address public water access within waterfront subdivisions.

**B. Land Use Compatibility Implementation Actions**

1. **FY08-09:** Comprehensive update of the Unified Development Ordinance to include development principles and techniques that promote land use compatibility as open space subdivision design, clustering, innovative stormwater management design, etc.

**Status:** The cost of the UDO update was beyond the town's resources.

2. **Ongoing:** Review the Unified Development Ordinance and other Town land use and development regulations to ensure that residential densities and building intensities implement the Town's land suitability goals and

policies. Prepare revisions and updates as determined appropriate. Coordinate the review with the Chowan County Health Department.

**Status:** The Town of Edenton regularly reviews its UDO and it has been determined that the current regulations in place for residential densities and building intensities are sufficient and will continue to review them in the future. A slight modification was recently made to the UDO regarding setback requirements on accessory structures which offers a looser regulation on setbacks of accessory structures under 600 square feet.

### **C. Infrastructure Carrying Capacity Implementation Actions**

1. **FY07:** Completion of a planned water and sewer system improvements.

**Status:** The Town of Edenton has made upgrades to the Virginia Road well.

2. **FY09:** Completion of sewer system improvements.

**Status:** The town has completed a comprehensive cleaning and slip lining of sewer lines.

3. **FY10:** Completion of water system improvements.

**Status:** The Town of Edenton has completed a feasibility study for the expansion of the well field.

4. **FY09:** Update the existing Edenton Thoroughfare Plan (1993) with a joint comprehensive transportation plan for Edenton and Chowan County.

**Status:** The town will make a request to Chowan County asking for them to consider participating in a joint comprehensive transportation plan.

5. **Ongoing:** Utilize the Land Use Plan, Unified Development Ordinance, and utilities extension policies to guide public infrastructure and services to areas where growth and development are desired.

**Status:** The Town of Edenton continues to guide the infrastructure needed for development and growth with the assistance of current zoning maps, land use policies, the land use map and the UDO.

### **D. Natural Hazard Areas Implementation Actions**

**Ongoing:** The Town will review its zoning ordinance, subdivision ordinance, and flood damage prevention ordinance to determine if more specific locational and density regulations regarding development or redevelopment activities within identified flood hazard areas and storm surge areas are warranted. Issues to be addressed include restrictions on land uses that utilize or store hazardous materials on-site, establishment of riparian buffers, increasing the minimum freeboard height above base flood elevation, etc.

**Status:** The Town of Edenton regularly reviews its land use policies on flood prone and hazardous zones. It has been found that the regulations in place continue to be effective.

**Ongoing:** The Town will avoid zoning areas susceptible to storm surge for high density residential or intensive nonresidential use.

**Status:** The Town continues to support this measure.

**Ongoing:** Based upon the availability of federal and state grant funds, land acquisition programs will be utilized in the most hazardous areas to minimize future damage and loss of life.

**Status:** The Town of Edenton continues to look for grants and funding that would support the acquisition of lands that are found to be flood prone and hazardous. Fortunately, at this time, Edenton does not have such properties that are of high priority.

**Ongoing:** If any portion of the Town's public infrastructure is significantly damaged by a major storm, consideration will be given to the feasibility of relocating or modifying the affected facilities to prevent the reoccurrence of storm damage.

**Status:** It is in the Town's best interest to relocate or further protect important public infrastructure systems should they be put at risk.

**Ongoing:** Coordinate the review and approval of development plans for major subdivisions, multifamily developments, and large public and institutional uses located within identified natural hazard areas with the County Emergency Management Agency. Continue the active enforcement of the State Building Code provisions regarding wind resistance requirements and participation in the National Flood Insurance Program.

**Status:** The Town of Edenton continues to coordinate the planning and construction of all developments, including those located within natural hazard areas with all local parties of interest through a Technical Review Committee. The County Emergency Management Agency and the building inspectors are involved in the review process and committee for new developments.

#### **E. Water Quality Implementation Actions**

**FY07:** The Town will investigate the feasibility of developing and implementing a stormwater management plan.

**Status:** The Town of Edenton and Chowan County have worked with NC Division of Soil and Water Conservation to study a comprehensive county wide plan.

**FY07:** The Town will prepare and implement a wellhead protection program.

**Status:** The Town of Edenton will research possible wellhead protection measures.

**FY08:** The Town will review its Unified Development Ordinance to determine if revisions are needed to include additional measures, such as riparian buffers and impervious surface limitations, to control stormwater

discharges. A stormwater management ordinance will be developed.

**Status:** The Town of Edenton regularly reviews its UDO and it has been determined that the current regulations in place are sufficient and will continue to review them in the future. The town will research possible stormwater management ordinances.

**Ongoing:** The Town will continue to require, through its subdivision provisions in the Unified Development Ordinance, technical specifications manual, and adequate stormwater drainage systems for new developments. The Town will continue to promote the use of best management practices to minimize the degradation of water quality resulting from stormwater runoff. The Town will continue to coordinate the approval of land development projects with the applicable State agencies.

**Status:** The town worked with Chowan County and NC Division of Soil and Water Conservation to develop a stormwater filtration system. A demonstration project was conducted in the parking lot of the high school.

#### **F. Areas of Environmental Concern Implementation Actions:**

**FY07:** The Town will review its zoning ordinance to determine if revisions are needed to include additional protective measures for AECs.

**Status:** The Town of Edenton regularly reviews its UDO and it has been determined that the current regulations in place are sufficient and will continue to review them in the future.

#### **G. Areas of Local Concern Implementation Actions:**

**FY08:** The Town will prepare a comprehensive community services/facilities plan. This plan will identify major municipal services and facilities needs and deficiencies, prioritize those needs, and prepare cost estimates and a budgeting plan for the recommended improvements.

**Status:** The towns facilities plan was updated with the completion of the new public safety center.

**FY09:** Develop an Urban Design Manual for the Town of Edenton.

**Status:** The Town of Edenton is currently reviewing plans to adopt an Urban Design Manual and best practices.

#### **Unforeseen land use issues since the Land Use Plan was adopted in July 2008**

- With the decline of the economy all development came to a screaming halt in Edenton. Also, revenues that fund grants all went away with very few limited opportunities for funding planning initiatives.



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

Beverly Eaves Perdue  
Governor

Braxton C. Davis  
Director

Dee Freeman  
Secretary

## MEMORANDUM

CRC-12-07

**To:** The Coastal Resources Commission  
**From:** Charlan Owens, AICP, Elizabeth City District Planner  
**Date:** January 25, 2012  
**Subject:** Certification of the Pasquotank County/Elizabeth City Joint Advanced Core Land Use Plan (February 9, 2012) CRC Meeting

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**Recommendation:** **CONDITIONAL CERTIFICATION** of the *Pasquotank County/Elizabeth City Joint Advanced Core Land Use Plan (LUP)* based on the determination that the document is missing background analysis specific to existing land uses versus each future land use map.

**Overview:** Pasquotank County is located in northeastern North Carolina, and is bounded by Camden County and the Pasquotank River to the east; the Albemarle Sound to the south, and; Gates County, Perquimans County, and the Little River to the west. Elizabeth City is centrally located within the county, primarily to the east and along the Pasquotank River, and also includes land within Camden County along the US 158 causeway.

The 2010 Census indicates a permanent population of 40,661 for Pasquotank County. The 2010 Census permanent population for Elizabeth City is 18,683 persons, about 45% of the total County permanent population. Combined with an estimated seasonal population of 2,543, the 2010 estimated peak population for Pasquotank County, including Elizabeth City, is 43,204.

By 2030, the permanent population for Pasquotank County is expected to reach 51,611. The 2030 permanent population for Elizabeth City is expected to reach 25,547, or about 49% of the total County permanent population. Combined with an estimated seasonal population of 3,119, the 2030 estimated peak population for Pasquotank County, including Elizabeth City, is expected to reach 54,730.

Pasquotank County consists of approximately 145,143 acres, 133,306 acres of which is within the county's planning jurisdiction. The planning jurisdiction for Elizabeth City totals 11,894 acres, with 11,837 acres in Pasquotank County and 57 acres in Camden County.

Within Pasquotank County's planning jurisdiction, approximately 23% is undeveloped, 43% is in agriculture, and 28% is in forestry. Pasquotank County intends to maintain its farming community while providing areas for occupational and residential development, with waterfront

property being developed as neighborhoods that preserve the wholesome quality of the community.

Within Elizabeth City's planning jurisdiction, approximately 50% is undeveloped and 16% is in agriculture. Elizabeth City intends to continue developing its tax base by encouraging economic development, residential growth, and community vitality.

There are no policy statements related to the State's CAMA rules "Minimum Use Standards" that are more restrictive.

The Pasquotank County Board of Commissioners and City Council of Elizabeth City conducted separate duly advertised public hearings and adopted the land use plan on January 9, 2012.

The public had the opportunity to provide written comments to the CRC up to fifteen (15) business days prior to the CRC meeting (February 9, 2012). January 18<sup>th</sup> was the deadline date. No comments were received.

To view a digital copy of the LUP, go to the link below and scroll down to "Pasquotank County / Elizabeth City". [http://www.nccoastalmanagement.net/Planning/under\\_review.htm](http://www.nccoastalmanagement.net/Planning/under_review.htm)

### **Basis for Recommendation**

CAMA Rules for Land Use Plan Certification, 15A NCAC 07B.0802, provide the Commission with three (3) options: certification, non-certification, and conditional certification. Conditioning a certification is limited to requiring correction of errors, clarifications or missing information necessary to satisfy the substantive requirements of the 7B Land Use Planning Guidelines.

Staff is recommending conditional certification due to the need for additional background analysis meeting requirements under *15A NCAC 07B .0702(c) Analysis of Existing and Emerging Conditions and .0702(d) Plan for the Future*; subject to the following conditions:

- 1) Provide a completed Distribution of Acreage table for the County and the City indicating how the acreages of each existing land use are being distributed within each future land use designation. (See two example tables attached)
- 2) Clarify the date of the flood zone information used in the Land Suitability Analysis section at the beginning of Page 121. Disclose that the flood zone information used was prior to the updated flood maps.

**Per 15A NCAC 07b .0802(e)**, When the local government complies with all conditions for a conditionally certified plan, as determined by the Executive Secretary of the CRC, plan certification is automatic with no further action needed by the CRC.





DISTRIBUTION OF ACREAGES – Existing Land Use v/s Future Land Use Plan

ELIZABETH CITY	Total Acres Allocated to Each Land Use Designation	EXISTING LAND USE						Total Acreage
		Agricultural	Residential	Undeveloped	Public and Institutional	Industrial	Commercial	
		1,884	2,180	5,906	1,164	216	487	11,837
FUTURE LAND USE PLAN MAP DESIGNATIONS								
Downtown Mixed Use	73							
Low Density Residential	3,058							
Medium/High Density Residential	2,115							
General Commercial	1,603							
Mixed Use	880							
Public and Institutional	1,021							
Industrial	435							
Conservation	2,029							
Rights-of-way								
<b>Total Acreage</b>	<b>11,213</b>							

**Fiscal Analysis**

**2011 Long-Term Average Annual Oceanfront Erosion Rate Update Study**

2011 Draft Erosion Rates and Amendments to 15A NCAC 7H .0304(1)(a)

Prepared by

Ken Richardson  
Senior Environmental Specialist  
Policy & Planning Section  
NC Division of Coastal Management  
(252) 808-2808

January 17, 2012

## Basic Information

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Agency	DENR, Division of Coastal Management (DCM) Coastal Resources Commission
Title	AREAS OF ENVIRONMENTAL CONCERN (AECS) WITHIN OCEAN HAZARD AREAS
Citation	15A NCAC 7H .0304(1)(a)
Description of the Proposed Rule	7H.0304 defines and establishes Areas of Environmental Concern (AECs) that are considered to be within the Ocean Hazard Areas along the State's Atlantic Ocean shoreline. Ocean Hazard Area AECs include the Ocean Erodible Area, High Hazard Flood Area, Inlet Hazard Area and the Unvegetated Beach Area.
Agency Contact	Ken Richardson Senior Environmental Specialist Ken.Richardson@ncdenr.gov (252) 808-2808 ext 225
Authority	G.S. 113A-107; 113A-113; 113A-124
Necessity	The Coastal Resources Commission proposes to update oceanfront erosion rates as it has done every five years since 1980. Erosion rates are used to establish construction setback and Ocean Erodible Area – Areas of Environmental Concern (OEA-AEC), which are areas where there is a substantial possibility of excessive shoreline erosion. This proposed rule change is in the public interest because it may allow coastal landowners to avoid increases in insurance costs and conforms to the principles of Executive Order 70.
Impact Summary	State government: No Local government: Yes Substantial impact: No Federal government: No

## Summary

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The Coastal Resources Commission (CRC) seeks to amend its administrative rules governing oceanfront development setbacks. Oceanfront construction setbacks are based on long-term average annual erosion rates (15A NCAC 7H .0304(1)(a)). The current statute contains the oceanfront erosion rates that were made effective in 2004. The proposed rule change would update these rates using new data.

Residential and commercial development built directly next to the ocean may be vulnerable to erosion and water intrusion. In North Carolina, the Division of Coastal Management (DCM) seeks to minimize the loss of property and human life by establishing ‘setbacks’ that specify the minimum distance between a building and the shoreline. These updated erosion rates will be used to calculate construction setbacks.

Updating the erosion rates also will put North Carolina back in compliance with FEMA (Federal Emergency Management Administration) guidelines for the Community Rating System (CRS). These updated rates will ensure that property owners in coastal communities that participate in the National Flood Insurance Program are given fifty CRS points to maintain insurance rates at their current level. The loss of these points may increase insurance rates by up to five percent for some policyholders.

The economic impacts of this proposed rule change are twofold. First, approximately 213 properties (net) will experience reduced construction setbacks. This may allow for a greater level of property development or redevelopment than under the previous setback calculations. This provides a non-quantified option value to property owners. These rate changes will primarily affect landowners in Dare and Brunswick Counties. The second impact is the avoidance of increased flood insurance premiums. The division estimates this savings at \$161,000 annually. This proposal will have no impact on Department of Transportation projects or on DCM permit income.

The proposed effective date of these rules is July 01, 2012.

## Introduction and Purpose

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Since 1980, the State of North Carolina has updated its oceanfront erosion rates approximately once every five years. The last update became effective on January 29, 2004 and was based on 1998 data, making current erosion rates dated.

The proposed erosion rates were developed using the end-point methodology. This technique of calculating shoreline change rates is consistent with earlier studies and provides results that can be compared to those from previous studies. The end-point method uses the earliest and most current shoreline (2009) data points where they intersect at any given shore-perpendicular transect. The distance between the two shorelines (shore-transect intersect) is then divided by the time, or number of years, between the two shorelines. Rates at each measured location on the shoreline are then statistically “smoothed and blocked” with neighboring transects in order to

group like adjacent shoreline segments that have similar rates into one manageable shoreline segment. A “segment” of shoreline is defined as a portion of beach with statistically similar erosion rates and a minimum length of approximately 1,300 feet (400 meters). The mean erosion rate for a segment of beach serves as the ocean hazard setback factor.

Erosion rates calculated in this study show similar trends to those in the previous erosion rate update. Between the 2003 (using 1998 shoreline as most current) and 2011 (using 2009 shoreline as most current) erosion rate update studies, approximately 99 percent of the oceanfront shoreline has maintained itself in a consistent state of change. In other words, where there was erosion, or accretion (growing beach), measured along a specific shoreline segment in the 2003 study, results from this study show that same shoreline segment to be in a consistent state of flux. The following table illustrates a comparison of all studies:

### Comparison of Shoreline Erosion and Accretion (1980 to 2011)

Summary	2011	2003	1992	1986	1980
<b>Miles of Shoreline</b>	307.4	312	300	237	245
<b>Accretion</b>	33.3%	32%	26%	27%	22%
<b>Erosion</b> (≤ 2 ft/yr) *	61.9%	62%	59%	61%	61%
<b>Erosion</b> (2.1 – 5.0 ft/yr) *	20.2%	20%	19%	18%	21%
<b>Erosion</b> (5.1 – 8 ft/yr) *	10.2%	9%	11%	8%	9%
<b>Erosion</b> (> 8 ft/yr) *	6.8%	9%	11%	9%	9%
<b>Maximum Setback Factor *</b>	28	30	16	17	19
<b>Mean Setback Factor *</b>	3.4	4.3	3.8	3.7	3.9

**Table 1.** Percentages and statistics are based on blocked erosion rates, or ocean hazard setback factors. For example, the table row containing erosion less than, or equal to two feet per year is the percentage of total shoreline with a setback factor of two.

Statewide, results show that of the 307.4 miles of oceanfront shoreline analyzed, approximately 66 percent (202.2 miles) is eroding, or moving landward, at varying rates, while 33 percent is accreting, or moving seaward thus resulting in a wider beach. Of the eroding portions (202.2 miles) of shoreline 24.1 percent (74.1 miles) is eroding at rates less than two feet per year and 22.6 percent (69.3 miles) between two and five feet per year. The results are not unique to this study as they are generally consistent with those of earlier erosion studies.

One of the main uses of the updated erosion rates will be as factors in the calculation of construction setbacks. Residential and commercial development built directly next to the ocean may be vulnerable to erosion and water intrusion. In North Carolina, the Division of Coastal Management (DCM) seeks to minimize the loss of property and human life by establishing ‘setbacks’ that specify the minimum distance between a building and the shoreline.

In places where there is a high rate of erosion, buildings must be located farther from the shoreline than in places where the coast is experiencing less erosion. The construction setback equation depicted in Table 2 is used to site oceanfront development and determine the extent of the Ocean Erodible Area of Environmental Concern (OEA) - the area where there is a substantial possibility of excessive shoreline erosion. A minimum factor of two (2) is applied if the erosion rate is less than two feet per year (see Table 2). These factors were initially established by the Coastal Resources Commission (CRC) under the Coastal Area Management Act (CAMA) in 1979.

### **Construction Setback Using Minimum Setback Factor**

Structure Size (square feet)	Construction Setback Equation	Minimum Setback (calculated using Setback Factor = 2 ft/yr)
Less than 5,000	30 x Setback Factor	60
=>5,000 and < 10,000	60 x Setback Factor	120
=>10,000 and < 20,000	65 x Setback Factor	130
=>20,000 and < 40,000	70 x Setback Factor	140
=>40,000 and < 60,000	75 x Setback Factor	150
=>60,000 and < 80,000	80 x Setback Factor	160
=>80,000 and < 100,000	85 x Setback Factor	170
Greater than 100,000	90 x Setback Factor	180

**Table 2.** This table demonstrates an example of minimum construction setback based on structure size and minimum setback factor of 2 ft/yr.

Calculations with the new erosion rates show that 64.1 percent (197 miles) of the state’s shoreline will experience no change in ocean hazard setback factors while 20.1 percent (61.8 miles) of analyzed oceanfront shoreline will receive reduced setback factor values. Based on 2009 data, there are 8,611 oceanfront structures located adjacent to the Atlantic shoreline. Of these, approximately ninety-four percent (94%) of their owners will see no change in construction setback factor values, or reduced setback factors.

### **National Flood Insurance Rate Calculations**

Updating erosion rates will affect the price of some flood insurance premiums. Communities that regulate new development in their floodplains are able to join the National Flood Insurance Program (NFIP). In return, the NFIP provides federally backed flood insurance for properties in participating communities. The Community Rating System (CRS) is an assessment tool used by the NFIP. The CRS ratings reduce flood insurance premiums to reflect what a community does above and beyond the NFIP’s minimum standards for floodplain regulation. The objective of the CRS is to reward communities for what they are doing, as well as to provide an incentive for new flood protection activities. Communities are classified based of the number of points they accumulate by doing flood preparedness activities, flood damage reduction work, and public information activities.

The reduction in flood insurance premium rates is provided according to a community’s CRS classification, as shown in the chart. To reduce premiums by five percent (5%), a community must qualify for five hundred (500) CRS points and be at least a Class 9 community on a class scale of one to ten (see Table 3). For each additional five hundred points another five percent in

savings is applied for communities with Special Flood Hazard Areas (SFHA). The maximum number of CRS points a community can qualify for is 4,500 with a potential savings of forty-five percent in their flood insurance premiums; these communities are considered by FEMA to be Class 1.

### FEMA's Community Rating System (CRS)

CRS Community Class	Points	SFHA	Non-SFHA
1	4,500	45%	10%
2	4,000	40%	10%
3	3,500	35%	10%
4	3,000	30%	10%
5	2,500	25%	10%
6	2,000	20%	10%
7	1,500	15%	5%
8	1,000	10%	5%
9	500	5%	5%
10	0	0	0

**Table 3.** Higher points correlate to reduced flood insurance premiums for communities with Special Flood Hazard Areas (SFHA).

The U.S. Federal Emergency Management Administration (FEMA) currently uses North Carolina's erosion rate updates to award Community Rating System (CRS) points to qualified coastal communities. FEMA's current policy allows North Carolina's oceanfront erosion rate update to account for fifty (50) CRS points only if the states erosion rates are updated once every five years. The current erosion rates, set in 2004, are past due for an update in order to meet FEMA's requirement. FEMA has extended this credit twice while waiting for North Carolina's next erosion rate update.

In January of 2011, FEMA notified the Division of Coastal Management (DCM) that they would not grant another extension to qualified N.C. coastal communities. If the state does not update erosion rates with this proposed rule change, fifty (50) points will be removed from every North Carolina communities' CRS totals. Loss of these points could potentially result in a five percent increase in flood insurance premiums.

## Description of Rule Update

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Rule 15A NCAC 7H .0304(1)(a) describes Areas of Environmental Concern (AEC) within Ocean Hazard Areas (OEA). The proposed rule amendment will only be changed to reference the “2011 Long-Term Average Annual Erosion Rate Update” cited in 15A NCAC 7H .0304(1)(a). The reference to “*Long-Term Annual Shoreline Change Rates updated through 1998*” will be replaced with “*2011 Long-Term Average Annual Erosion Rate Update.*” The draft amendment is located in Appendix A.

## Cost or Neutral Impacts

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### Private Property Owners:

The setback rule applies when oceanfront property owners are seeking a Coastal Area Management Act (CAMA) permit for the purpose of development; this includes construction of new a structure, or replacement of an existing structure requiring more than fifty percent (50%) repair or re-construction. Based on results, 7,264 (84%) of existing structures adjacent to the Atlantic shoreline will experience no change in its development setback factor; 780 (9%) of the existing structures will receive a reduced construction setback factor, which in some locations could allow re-development or additional development of the existing structure; and 567 (7%) of oceanfront structures will experience an increase in construction setback factors. Where proposed erosion rates would increase setback factors, it is worth noting that all are regions with known historically high erosion rates. Table 4. depicts the number of properties affected by changes in erosion rates.

About 570 properties will receive an increased construction setback factor. These property owners may be negatively impacted by this change because they may not be able to construct and/or redevelop their property to the same extent as before this rule change. This may lower the corresponding option value for these properties. Option values are ones that do not affect any current use of the property but may limit or expand future property uses. Option values are a component of total value and are capitalized into the sale price of the property. The setback factor may change again in five years so this loss of option value may not be permanent. In the long-term, an increased setback factor may protect any existing or new structures from water damage. This may provide the property owners and the greater public with benefits.

As demonstrated in the following table, these impacts are not distributed equally among the oceanfront counties. Property owners in Brunswick and Dare Counties will have the most reductions in setbacks. Areas in these two counties have the highest erosion rates in the state.

## Count of Structures Adjacent to Atlantic Shoreline & Associated Change in Erosion Rates



Location	Total Structures	No Rate Change	% No Change	Lower Rates	% Lower Rates	Higher Rates	% Higher Rates
Brunswick County	1984	1580	79.6%	352	17.7%	52	2.6%
New Hanover County	838	822	98.1%	1	0.1%	15	1.8%
Pender County	745	745	100.0%	0	0.0%	0	0.0%
Onslow County	567	537	94.7%	30	5.3%	0	0.0%
Carteret County	1265	1219	96.4%	46	3.6%	0	0.0%
Hyde County	0	0	0.0%	0	0.0%	0	0.0%
Dare County	2512	1721	68.5%	332	13.2%	459	18.3%
Currituck County	700	640	91.4%	19	2.7%	41	5.9%
<b>TOTALS:</b>	<b>8611</b>	<b>7264</b>	<b>84%</b>	<b>780</b>	<b>9%</b>	<b>567</b>	<b>7%</b>

**Table 4 1.** Count of structures adjacent to Atlantic shoreline by county. Values represent the number of structures and percentages to demonstrate how the proposed update will influence construction setback factors for those structures.

NC Department of Transportation (DOT):

Pursuant to G.S. 150B-21.4, NC DOT staff (Steve Sollod and Cathy Brittingham) reported that the proposed amendment to 7H.0304 will not affect environmental permitting for the NC Department of Transportation. Development such as roads, parking lots, and other public infrastructure such as utilities continue to have a minimum setback factor of sixty feet (60) or thirty (30) times the shoreline erosion rate (whichever is greater) as defined by 07H.0306(a)(2)(I). In the event NC DOT needs to build or maintain a road located within an Ocean Hazard AEC, the proposed amendments will not change the CRC’s approach to permitting that activity.

Division of Coastal Management:

The Division of Coastal Management’s permit review process will not be changed by these amendments and DCM does not anticipate changes in permitting receipts due to the proposed action.

**Benefits**

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Private Citizens:

Nearly eight hundred existing oceanfront structures would received a more relaxed construction setback factor, providing those property owners an opportunity to re-develop or add to an existing structure should they so choose.

These property owners benefit by being able to construct additional development or re-develop their property to a greater extent possible than allowed under the existing rule. The exact value of this benefit will be determined by the number of people who chose to undertake addition

construction or redevelopment. While it is challenging to provide an estimate of value, we are able to state that this is a positive impact over the current situation.

A second way property owners will benefit from the proposed rule change is that their property insurance rates will not increase due to a loss of CRS points. Updating erosion rates alone does not guarantee a community will save five percent in premiums. However, the fifty points for updated erosion rates could make a difference for communities that are less than fifty points away from ranked in a lower CRS tier. Examination of recent CRS records, indicate that a loss of fifty points would negatively affect two North Carolina communities, Pine Knoll Shores and Emerald Isle. If North Carolina's erosion rates are not updated, both Emerald Isle and Pine Knoll Shores (located in Carteret County) would receive reduced CRS classifications, thus increasing flood insurance premiums by five percent. This increase would mean that property owners in those communities would pay approximately \$161,000 more each year for insurance (CRS Program statistics as of May 1, 2010, Tables 5 & 6).

### Property at Risk of Increased Flood Insurance Premiums

Community Name	Structures	Whole Insured Value	Insurance Premium	%5 of Premium
Emerald Isle	3,091	\$731,045,000	\$2,315,699	\$115,784.95
Pine Knoll Shores	1,602	\$347,194,300	\$916,521	\$45,826.05
<b>Totals</b>	<b>4,693</b>	<b>\$1,078,239,300</b>	<b>\$3,232,220</b>	<b>\$161,611.00</b>

Table 5. Five percent of premium is the amount of potential increase in flood insurance rates.

### Community Rating System (CRS) Class and Point Comparison

Community Name	Current CRS Class	Current CRS Score	CRS Score (-50 points)	Reduced CRS Class
Emerald Isle	7	1506	1456	8
Pine Knoll Shores	7	1507	1457	8

Table 6. The threshold for a Class 7 is 1500 points. By losing fifty (50) points each community will be reduced to a Class 8, thus resulting in increased insurance premiums.

### Cost/Benefit Summary

Updating rule 15A NCAC 7H .0304(1)(a) to reference the proposed erosion rate report contributes to an annual cost savings of approximately \$161,000 for property owners living in oceanfront communities by the avoidance of a five percent (5%) increase in flood insurance rates.

In addition, about 200 hundred properties in net would have reduced setback which increase their development potential. This has an unquantified, but positive, option value for these landowners. These impacts are concentrated in Brunswick and Dare Counties.



## Appendix A

### DRAFT AMENDMENTS TO 15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS

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

The ocean hazard system of AECs contains all of the following areas:

- (1) Ocean Erodible Area. This is the area in which there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The seaward boundary of this area is the mean low water line. The landward extent of this area is determined as follows:
  - (a) a distance landward from the first line of stable natural vegetation to the recession line that would be established by multiplying the long-term annual erosion rate times 60, provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates are the long-term average based on available historical data. The current long-term average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled "~~Long Term Annual Shoreline Change Rates updated through 1998~~" "2011 Long-Term Average Annual Erosion Rate Update" and approved by the Coastal Resources Commission on ~~January 29, 2004~~ May 5, 2011 (except as such rates may be varied in individual contested cases, declaratory or interpretive rulings). The maps are available without cost from any local permit officer or the Division of Coastal Management; and
  - (b) a distance landward from the recession line established in Sub-Item (1)(a) of this Rule to the recession line that would be generated by a storm having a one percent chance of being equaled or exceeded in any given year.
- (2) The High Hazard Flood Area. This is the area subject to high velocity waters (including hurricane wave wash) in a storm having a one percent chance of being equaled or exceeded in any given year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance Administration, U.S. Department of Housing and Urban Development.
- (3) Inlet Hazard Area. The inlet hazard areas are natural hazard areas that are especially vulnerable to erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets. This area shall extend landward from the normal low water line a distance sufficient to encompass that area within which the inlet shall, based on statistical analysis, migrate, and shall consider such factors as previous inlet territory, structurally weak areas near the inlet and external influences such as jetties and channelization. The areas identified as suggested Inlet Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final Report and Recommendations to the Coastal Resources Commission, 1978, as amended in 1981, by Loie J. Priddy and Rick Carraway are incorporated by reference without future changes and are hereby designated as Inlet Hazard Areas except that the Cape Fear Inlet Hazard Area as shown on said map shall not extend northeast of the Baldhead Island marina entrance channel. These areas shall be extensions of the adjacent ocean erodible areas and the width of the inlet hazard area shall not be less than the width of the adjacent ocean erodible area. This report is available for inspection at the Department of Environment and Natural Resources, Division of Coastal Management, 400 Commerce Avenue, Morehead City, North Carolina. Photo copies are available at no charge.
- (4) Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable natural vegetation is present may be designated as an unvegetated beach area on either a permanent or temporary basis:
  - (a) An area appropriate for permanent designation as an unvegetated beach area is a dynamic area that is subject to rapid unpredictable landform change from wind and wave action. The areas in this category shall be designated following studies by the Coastal Resources Commission. These areas shall be designated on maps approved by the Commission and available without cost from any local permit officer or the Division of Coastal Management.
  - (b) An area that is suddenly unvegetated as a result of a hurricane or other major storm event may be designated as an unvegetated beach area for a specific period of time. At the expiration of the time specified by the Commission, the area shall return to its pre-storm designation. Areas appropriate for such designation are those in which vegetation has

been lost over such a large land area that extrapolation of the vegetation line under the procedure set out in Rule .0305(a) of this Section is inappropriate.

The Commission designates as temporary unvegetated beach areas those oceanfront areas on Hatteras Island west of the new inlet breach in Dare County in which the vegetation line as shown on Dare County orthophotographs dated 4 February 2002 through 10 February 2002 was destroyed as a result of Hurricane Isabel on September 18, 2003 and the remnants of which were subsequently buried by the construction of an emergency berm. This designation shall continue until such time as stable, natural vegetation has reestablished or until the area is permanently designated as an unvegetated beach area pursuant to Sub-Item 4(a) of this Rule.

*History Note: Authority G.S. 113A-107; 113A-113; 113A-124;*

*Eff. September 9, 1977;*

*Amended Eff. December 1, 1993; November 1, 1988; September 1, 1986; December 1, 1985;*

*Temporary Amendment Eff. October 10, 1996;*

*Amended Eff. April 1, 1997;*

*Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;*

*Temporary Amendment Eff. October 22, 1997;*

*Amended Eff. January 1, 2010, February 1, 2006; October 1, 2004; Amended Eff. April 1, 2004; August 1, 1998.*



CRC-12-09

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

Beverly Eaves Perdue  
Governor

Braxton C. Davis  
Director

Dee Freeman  
Secretary

January 23, 2012

**MEMORANDUM**

**TO:** Coastal Resources Commission  
**FROM:** Tancred Miller  
**SUBJECT:** Fiscal Analysis Approval—Sea-Level Rise Policy

Should the Commission decide to send the draft sea-level rise policy to public hearing, you are required to review and approve the fiscal impact analysis of the proposed rule. Staff prepared the fiscal analysis in accordance with the N.C. Administrative Procedures Act and it is attached.

Since the policy was drafted and revised to be non-regulatory and non-binding, it does not require any local government or other party to take any specific action or incur any cost. In addition, the policy does not prevent any local government or other party from taking any actions that are currently permissible, and does not create any loss of use or opportunity.

Staff finds that the draft policy fully meets its non-regulatory intent, and concludes that the anticipated fiscal impact is zero.

**Fiscal Analysis**

**SEA-LEVEL RISE POLICY**

**T15A NCAC 07M.1300-1303**

Prepared by

Tancred Miller, Coastal Policy Analyst  
NC Division of Coastal Management  
(252) 808-2808

January 2012

## Basic Information

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Agency	DENR, Coastal Resources Commission (CRC), Division of Coastal Management (DCM)
Rule Title	Sea-Level Rise Policy
Citation	T15A NCAC 07M.1300
Proposed Action	Subchapter 7M contains the CRC's generally applicable objectives and policies for land and water uses in the coastal area. T15A NCAC 7M .1300 is a new Section under which the CRC proposes to adopt a policy to address sea-level rise.
Agency Contact	Tancred Miller Tancred.Miller@ncdenr.gov (252) 808-2808, ext. 224
Authority	G.S. 113A-102; 113A-106; 113A-107; 113A-110; 113A-112; 113A-124
Impact Summary	State government: None. Local government: None. Substantial impact: None. Federal government: None. Small Business: None. Private Sector: None.
Necessity	This action is being proposed in order to define and codify the agency's responsibilities and framework for working with public and private stakeholders to address sea-level rise. Adoption of this policy will serve the public interest by setting a direction for the Commission in response to sea-level rise, consistent with its mandate under the NC Coastal Area Management Act for protecting the public's right and ability to access coastal shorelines, for guiding growth and development to minimize damage to the natural environment, and for preserving private property rights.

## Summary

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The sea-level rise policy is a non-regulatory means by which the CRC recognizes a need to respond to a global phenomenon that may have broad implications for coastal North Carolina. The policy does not by itself establish new permitting requirements or specific use standards. The policy does not limit or prohibit development activity, or in any way modify any of the agency's existing regulations or standards. The policy declares the agency's guiding principles for proactively fulfilling its legislative mandate under the Coastal Area Management Act (CAMA). Since the policy has no permitting or regulatory effect, and does not allocate or commit resources, the fiscal impact is zero.

## Introduction

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The U.S. Environmental Protection Agency (EPA) ranks North Carolina third among U.S. states most vulnerable to adverse impacts from sea-level rise. According to the EPA, sea level along the U.S. Mid-Atlantic and Gulf coasts rose five to six inches more than the global average in the last century, because of land subsidence in these areas. Various national and state-level reports have concluded that sea level rose between eight and fourteen inches in North Carolina over the past century, and that an equal or greater amount of rise is likely in the current



century. The CRC is responsible under CAMA for protecting the public's right and ability to access coastal shorelines, for guiding growth and development to minimize damage to the natural environment, and for preserving private property rights. Under this authority, the CRC is acknowledging the potential threats associated with sea-level rise, much like other coastal hazards such as storms and erosion.

### **Purpose of Policy**

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The proposed policy sets a direction for the CRC in their management response to sea-level rise. The policy will be the CRC's first codified strategy for addressing the global phenomenon of sea-level rise. The policy describes the resources and uses that are vulnerable to sea-level rise, and expresses the CRC's intention to take action in the form of education and outreach as well as continuous re-assessments as the science of climatology and monitoring evolves. The policy defines the language that will be used in discussing the problem, and categories of actions to respond to it.

The policy does not mandate any specific actions or responses by the CRC or any other party. In addition, the policy does not prevent any local government or other party from taking any actions that are currently permissible, and does not create any loss of use or opportunity.

### **Description of the Proposed Policy**

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The proposed policy contains a title plus three sections—a declaration of general policy, a definitions section, and specific policy statements.

The declaration of general policy, 7M.1301, begins with the CRC's charge under CAMA, and lays out the necessity for the policy. In this section the CRC recognizes sea-level rise as a hazard and a threat to land, property, and uses of the coast, and acknowledges the additional complications from sea-level rise that the CRC will face in fulfilling its statutory management functions. This section states that the intent of the policy is to establish a framework for planned adaptation to sea-level rise. This section does not establish any fees, permitting or planning requirements, or require any parties to take any specific action; therefore, the fiscal impact of this section is zero.

The definitions section, 7M.1302, simply defines unusual terms and clarifies the intended meaning of terms that could have different meanings in other situations. This section does not establish any fees, permitting or planning requirements, or require any parties to take any specific action; therefore, the fiscal impact of this section is zero.

The policy statements section, 7M.1303, contains eight distinct policy statements:

7M.1303(a) expresses the CRC's commitment to promoting public education about the impacts of sea-level rise. This statement does not commit the CRC to allocating resources to this endeavor. DCM staff will incorporate educational efforts into the normal course of business, using normally-available staff levels and resources. The fiscal impact of this statement on the agency and other parties is zero.

7M.1303(b) references a North Carolina Sea-Level Rise Assessment Report prepared by the CRC's Science Panel on Coastal Hazards. The CRC's Science Panel on Coastal Hazards is a standing body comprised of North Carolina experts in the fields of geology, engineering and coastal processes that provide the Commission with scientific data and technical advice on coastal topics. This statement indicates that the CRC will provide this report and future updates to the coastal counties for their information, and to be used at their discretion. The report will be updated at least every five years. Since participation on the Science Panel is voluntary and supported by DCM staff, there is no cost to produce or update the report. The report itself has been, and will continue to be sent electronically to the counties, precluding the need for printing and distribution costs. The fiscal impact of this statement on the agency and other parties is zero.

7M.1303(c) recognizes that there are regional differences in the local rates of sea-level rise due to differences in the rate of land subsidence. The CRC uses this statement to encourage, but not require, coastal communities to consider local and regional rates of historic and projected sea-level rise in their planning and development decisions. Since communities are not required to take any action, the fiscal impact of this statement on the agency and other parties is zero.

7M.1303(d) describes some of the potential impacts of sea-level rise on the natural environment, and states that the CRC will consider regulatory and other measures to protect natural systems. This statement does not introduce any fees or require any parties to take any specific action; therefore, the fiscal impact is zero.

7M.1303(e) signals the CRC's intent to support local communities with planning guidance, technical support and scientific data. DCM will provide guidance and support through existing policy and planning staff. The statement does not commit the CRC to providing financial resources or support unless funds are appropriated or granted to the CRC for that purpose. In the absence of any expectation of such funding, the fiscal impact of this statement is not knowable. Moreover, any funds that become available for this purpose would be allocated through other provisions of the CRC's rules; therefore, the fiscal impact of this policy statement is zero.

7M.1303(f) affirms the CRC's support for scientific research and monitoring that leads to a better understanding of sea-level rise. The statement is not a commitment of funding from the CRC; therefore, the fiscal impact of this statement is zero.

7M.1303(g) encourages property owners and developers to consider potential sea-level rise and the expected lifespan of structures in the design and construction of new, private development. Since the statement does not require them to do so, there is no fiscal impact.

7M.1303(h) encourages relevant parties to consider potential sea-level rise and the expected lifespan of structures in the design and construction of new, public infrastructure and any new development enabled by the new infrastructure. Since the statement does not require them to do so, there is no fiscal impact.

### **Affected Parties**

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No parties will be directly impacted by the proposed policy. The policy is written as guidance rather than as regulation, and does not require any parties to take any specific actions or incur any new costs. In addition, the policy does not prevent any local government or other party from taking any actions that are currently permissible, and does not create any loss of use or opportunity.

### **Division of Coastal Management**

While the policy directs the Division to incorporate sea-level rise into its education and outreach activities, this is consistent with the existing mission of the agency to raise awareness and provide technical assistance on coastal hazards, development-related issues and environmental stewardship. Incorporation of sea-level rise into these existing activities will not require additional staff or reallocation of existing funding.

### **NC Department of Transportation**

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Pursuant to G.S. 150B-21.4(a1), the agency reports that the proposed policy will not affect environmental permitting or compliance costs for the NC Department of Transportation (NCDOT).

## **Anticipated Effects**

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Based upon the preceding explanations, the agency concludes that the proposed policy will not have any fiscal impact on unit of government, business, the private sector, or any other party.

### Benefits

The impacts associated with sea-level rise are long-term and are not expected to be realized in the near future. However, the far-reaching nature of the impacts requires awareness of the potential for these impacts and how they may affect local governments, private property owners, and public trust resources. The establishment of a sea-level rise policy now will allow the Coastal Resources Commission to monitor this coastal hazard and convey information to coastal communities, enabling them to make informed decisions as conditions warrant. Given the nature sea-level rise impacts, failure to maintain awareness could put public and private assets at risk, necessitating much costlier responses in the future.

**NC COASTAL RESOURCES COMMISSION  
COMPOSITION AND PROCEDURES FOR APPOINTMENTS  
JANUARY 2012**

**A. Introduction:** The Coastal Resources Commission (hereinafter CRC or Commission) is established by §113A Article 7 Coastal Area Management Act (CAMA) of 1974 within the Department of Environment and Natural Resources. The commission designates areas of environmental concern, adopts rules and policies for coastal development within those areas, and certifies local land-use plans. The procedures and requirements for appointing members of the Commission are found in §113A-104 (copy attached).

**B. Composition:** Appointments to the CRC are intended to provide knowledge and experience in a diverse range of coastal interests with each member acting solely for the best interests of the public and public trust. The CRC consists of 15 members appointed by the Governor who, at the time of appointment, are actively connected with or have experience in the following:

1. commercial fishing (1 member);
2. wildlife or sports fishing (1 member);
3. marine ecology (1 member);
4. coastal agriculture (1 member);
5. coastal forestry (1 member);
6. coastal land development (1 member)
7. marine-related business (other than fishing and wildlife) (1 member);
8. engineering in the coastal area (1 member);
9. state or national conservation organization(active association) (1 member);
10. financing of coastal land development (1 member);
11. local government within the coastal area (2 members); and
12. at-large (3 members).

**C. Appointments**

- The Governor has **sole discretion** to appoint those members of the Commission whose qualifications are described in 6 and 10, and one of the three members described in 12 above.
- The remaining 12 members of the Commission are appointed by the Governor after completion of the nominating procedure described in section E. below.

**D. Terms.** The members shall serve staggered terms of office of four years. At the expiration of each member's term, the Governor shall reappoint or replace the member with a new member of like qualification using the nomination procedure described below.

**E. Nominating Procedures.**

- **Initial Appointments in 1974:** Eight members of the CRC shall be appointed for two year terms and seven members of the CRC shall be appointed for four year terms.
- **Subsequent Appointments:**

On or before **May 1** in every **even-numbered year** the Governor shall send a request by registered or certified mail to the boards of county commissioners of the twenty coastal counties under the jurisdiction of CAMA for nominations for CRC members. For each county, the Governor shall designate four nominating categories applicable to that county for that year. The nominating categories selected by the Governor are to be from among the above categories: 1, 2, 3, 4, 5, 7, 8, 9, 11 (two members), and 12 (two members). The nominations solicited may correspond to terms of members that are set to expire. The Governor shall equitably rotate said categories among the several counties of the coastal area as deemed best.

On or before **May 20** in every **even-numbered year** the Governor shall by registered or certified mail notify the local governing body of each incorporated city within the coastal area [the CAMA counties] of the duties of local governing boards to provide the Governor with the name of **one person as a nominee to the CRC.**

On or before **June 1** in every **even-numbered year**, the several boards of county commissioners and city governing bodies shall nominate and transmit the name, address, and a brief summary of the qualifications of their nominees to the Governor. For the counties, the nominations shall include the names of one qualified person in each of the four nominating categories that were designated by the Governor for that county for that year. The governing body of each incorporated city within the coastal area shall nominate one person as a nominee to the Commission.

If any board of commissioners or city governing body fails to transmit its list of nominations to the Governor by June 1, the Governor may add to the nominations a list of qualified nominees in lieu of those that were not transmitted. Provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean.

## F. Nominee Qualifications

- All nominees of the several boards of county commissioners and city governing bodies must reside within the coastal area (20 CAMA counties), but need not reside in the county from which they were nominated.
- No more than one of those members appointed by the Governor from among the nominees may reside in a particular county.
- No more than two members of the entire Commission, at any time, may reside in a particular county.
- No more than two members of the entire Commission, at any time, may reside outside the coastal area.
- Membership on the Commission may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1
- Members of the Commission whose qualifications are described in 1, 2, 3, 4, 5, 9 and 11 of Section B above shall be persons who do not derive any significant portion of their income from land development, construction, real estate sales, or lobbying and do not otherwise serve as agents for development-related business activities.
- In making nominations, the boards of county commissioners and city governing bodies shall give due consideration to the nomination of women and minorities.

## G. Vacancies.

- In the event of a vacancy arising other than by expiration of term, the Governor shall appoint a successor of like qualification who shall then serve the remainder of their predecessor's term.
- When any such vacancy arises, the Governor shall **immediately notify** the board of commissioners of each county in the coastal area and the governing body of each incorporated city within the coastal area.
- Within **30 days after receipt of notification**, each county board and city governing body shall nominate and transmit to the Governor the name and address of one person who is qualified in the category represented by the position to be filled, together with a brief summary of the qualifications of the nominee.
- The Governor shall make the appointment from among said city and county nominees. If any county board or city governing body fails to make a timely transmittal of its nominee, the Governor may add to the nominations a qualified person in lieu of said nominee; provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated

city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean.

### Current Members and Term Expiration Dates

<b>Commissioner</b>	<b>Category</b>	<b>Term Expires</b>
Veronica Carter <i>Brunswick County</i>	(12) At-Large	6-30-12
Charles Elam <i>Pender County</i>	(10) Coastal Land Development/Financing	6-30-12
Vacant	(12) At-Large	6-30-12
Ed Mitchell <i>Craven County</i>	(6) Coastal Land Development	6-30-12
Jerry Old <i>Currituck County</i>	(11) Local Government	6-30-12
Bill Peele <i>Beaufort County</i>	(4) Coastal Agriculture	6-30-12
Melvin Shepard <i>Onslow County</i>	(7) Marine Related Business	6-30-12
Vacant	(8) Coastal Engineering	6-30-12
Bob Emory, Chair <i>Craven County</i>	(5) Coastal Forestry	6-30-14
Renee Cahoon <i>Dare County</i>	(11) Local Government	6-30-14
Pat Joyce <i>Carteret County</i>	(12) At-Large	6-30-14
Jamin Simmons <i>Hyde County</i>	(2) Sport Fishing	6-30-14
David Webster <i>New Hanover County</i>	(3) Marine Ecology	6-30-14
Joan Weld <i>Pender County</i>	(9) State/National Conservation Organization	6-30-14
Lee Wynns <i>Bertie County</i>	(1) Commercial Fishing	6-30-14



## **The Coastal Area Management Act**

### **§ 113A-104. Coastal Resources Commission.**

(a) Established. -- The General Assembly hereby establishes within the Department of Environment and Natural Resources a commission to be designated the Coastal Resources Commission.

(b) Composition. -- The Coastal Resources Commission shall consist of 15 members appointed by the Governor, as follows:

(1) One who shall at the time of appointment be actively connected with or have experience in commercial fishing.

(2) One who shall at the time of appointment be actively connected with or have experience in wildlife or sports fishing.

(3) One who shall at the time of appointment be actively connected with or have experience in marine ecology.

(4) One who shall at the time of appointment be actively connected with or have experience in coastal agriculture.

(5) One who shall at the time of appointment be actively connected with or have experience in coastal forestry.

(6) One who shall at the time of appointment be actively connected with or have experience in coastal land development.

(7) One who shall at the time of appointment be actively connected with or have experience in marine-related business (other than fishing and wildlife).

(8) One who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area.

(9) One who shall at the time of appointment be actively associated with a State or national conservation organization.

(10) One who shall at the time of appointment be actively connected with or have experience in financing of coastal land development.

(11) Two who shall at the time of appointment be actively connected with or have experience in local government within the coastal area.

(12) Three at-large members.

(c) Appointment of Members. -- Appointments to the Commission shall be made to provide knowledge and experience in a diverse range of coastal interests. The members of the Commission shall serve and act on the Commission solely for the best interests of the public and public trust, and shall bring their particular knowledge and experience to the Commission for that end alone. The Governor shall appoint in his sole discretion those members of the Commission whose qualifications are described in subdivisions (6) and (10), and one of the three members described in subdivision (12) of subsection (b) of this section. The remaining members of the Commission shall be appointed by the Governor after completion of the nominating procedures prescribed by subsection (d) of this

section. The members of the Commission whose qualifications are described in subdivisions (1) through (5), (9), and (11), shall be persons who do not derive any significant portion of their income from land development, construction, real estate sales, or lobbying and do not otherwise serve as agents for development-related business activities. The Governor shall require adequate disclosure of potential conflicts of interest by members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this section.

(d) Nominations for Membership. -- On or before May 1 in every even-numbered year the Governor shall designate and transmit to the board of commissioners in each county in the coastal area four nominating categories applicable to that county for that year. Said nominating categories shall be selected by the Governor from among the categories represented, respectively by subdivisions (1), (2), (3), (4), (5), (7), (8), (9), (11) -- two persons, and (12) -- two persons, of subsection (b) of this section (or so many of the above-listed paragraphs as may correspond to vacancies by expiration of term that are subject to being filled in that year). On or before June 1 in every even-numbered year the board of commissioners of each county in the coastal area shall nominate (and transmit to the Governor the names of) one qualified person in each of the four nominating categories that was designated by the Governor for that county for that year. In designating nominating categories from biennium to biennium, the Governor shall equitably rotate said categories among the several counties of the coastal area as in his judgment he deems best; and he shall assign, as near as may be, an even number of nominees to each nominating category and shall assign in his best judgment any excess above such even number of nominees. On or before June 1 in every even-numbered year the governing body of each incorporated city within the coastal area shall nominate and transmit to the Governor the name of one person as a nominee to the Commission. In making nominations, the boards of county commissioners and city governing bodies shall give due consideration to the nomination of women and minorities. The Governor shall appoint 12 persons from among said city and county nominees to the Commission. The several boards of county commissioners and city governing bodies shall transmit the names, addresses, and a brief summary of the qualifications of their nominees to the Governor on or before June 1 in each even-numbered year, beginning in 1974; provided, that the Governor, by registered or certified mail, shall notify the chairman or the mayors of the said local governing boards by May 20 in each such even-numbered year of the duties of local governing boards under this sentence. If any board of commissioners or city governing body fails to transmit its list of nominations to the Governor by June 1, the Governor may add to the nominations a list of qualified nominees in lieu of those that were not transmitted by the board of commissioners or city governing body; Provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean. Within the meaning of this section, the "governing body" is the mayor and council of a city as defined in G.S. 160A-66. The population of cities shall be determined according to the most recent annual estimates of population as certified to the Secretary of Revenue by the Secretary of Administration.

(e) Residential Qualifications. -- All nominees of the several boards of county commissioners and city governing bodies must reside within the coastal area, but need not reside in the county from which they were nominated. No more than one of those members appointed by the Governor from among said nominees may reside in a particular county. No more than two members of the entire Commission, at any time, may reside in a particular county. No more than two members of the entire Commission, at any time, may reside outside the coastal area.

(f) Office May Be Held Concurrently with Others. -- Membership on the Coastal Resources Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(g) Terms. -- The members shall serve staggered terms of office of four years. At the expiration of each member's term, the Governor shall reappoint or replace the member with a new member of like qualification (as specified in subsection (b) of this section), in the manner provided by subsections (c) and (d) of this section. The initial term shall be determined by the

Governor in accordance with customary practice but eight of the initial members shall be appointed for two years and seven for four years.

(h) Vacancies. -- In the event of a vacancy arising otherwise than by expiration of term, the Governor shall appoint a successor of like qualification (as specified in subsection (b) of this section) who shall then serve the remainder of his predecessor's term. When any such vacancy arises, the Governor shall immediately notify the board of commissioners of each county in the coastal area and the governing body of each incorporated city within the coastal area. Within 30 days after receipt of such notification each such county board and city governing body shall nominate and transmit to the Governor the name and address of one person who is qualified in the category represented by the position to be filled, together with a brief summary of the qualifications of the nominee. The Governor shall make the appointment from among said city and county nominees. If any county board or city governing body fails to make a timely transmittal of its nominee, the Governor may add to the nominations a qualified person in lieu of said nominee; Provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean.

(i) Officers. -- The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

(j) Compensation. -- The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(k) In making appointments to and filling vacancies upon the Commission, the Governor shall give due consideration to securing appropriate representation of women and minorities.

(l) Regular attendance at Commission meetings is a duty of each member. The Commission shall develop procedures for declaring any seat on the Commission to be vacant upon failure by a member to perform this duty. (1973, c. 1284, s. 1; 1975, c. 452, s. 5; 1977, c. 771, s. 4; c. 486, ss. 1-6; 1981, c. 932, s. 2.1; 1989, c. 505; c. 727, s. 218(64); 1997-443, s. 11A.119(a).)



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

Beverly Eaves Perdue  
Governor

Braxton C. Davis  
Director

Dee Freeman  
Secretary

January 24, 2012

**MEMORANDUM**

**TO:** CRC & Interested Parties  
**FROM:** Tancred Miller  
**SUBJECT:** Rulemaking Update

Along with this memo is a spreadsheet that contains all of the Commission's rules that are currently in the rulemaking process—from those being proposed for initial action to those reviewed by the N.C. Rules Review Commission (RRC) since the last CRC meeting. Listed below is a description and recent history of the CRC's action on each rule. Complete drafts of rules scheduled for public hearing at this meeting will be available on the DCM website.

*RULE DESCRIPTIONS*

1. 15A NCAC 7H.0304 AECs Within Ocean Hazard Areas  
**Status:** Rule approved for public hearing. Fiscal analysis approval required.  
The amendments will change the formula used to calculate the Ocean Erodible AEC to make it consistent with the CRC's new oceanfront setbacks, and remove the "unvegetated beach" designation for Hatteras Island that was adopted in 2004. Additional changes were approved in May to update long-term annual erosion rates for the oceanfront. Under new amendments to the Administrative Procedures Act, the Commission must approve the fiscal analysis for the proposed changes prior to publication in the NC Register. The Commission did so in August.
2. 15A NCAC 7H.0308 Specific Use Standards for Ocean Hazard Areas  
**Status:** Approved for public hearing  
CRC approved changes to the sandbag rules and fiscal analysis for public hearing. Hearings being scheduled.
3. 15A NCAC 7H.0310 Use Standards for Inlet Hazard Areas  
**Status:** On hold.  
The CRC directed staff to put further rule development on hold until after the oceanfront erosion rate update is complete.
4. 15A NCAC 7H.0312 Technical Standards for Beach Fill Projects  
**Status:** Going to public hearing.  
The Commission approved changes to sampling requirements be sent to public hearing. Hearings being scheduled.

5. 15A NCAC 7H.1705 General Permit for Emergency Work Requiring a CAMA and/or Dredge and Fill Permit: Specific Conditions  
**Status:** Approved for public hearing.  
CRC approved changes to the sandbag rules and fiscal analysis for public hearing. Hearings being scheduled.
6. 15A NCAC 7H.0214 Installation and Maintenance of Regulatory Signs Exempted  
**Status:** Approved for public hearing.  
The proposed adoption would exempt certain regulatory signs from permitting requirements. Hearings being scheduled.
7. 15A NCAC 7M.1300 Sea-Level Rise Policy  
**Status:** Recommended for public hearing.  
A draft policy on sea-level rise has been developed and presented to local governments for their feedback. The draft is ready for the CRC's decision on whether to approve it for public hearing.

**COASTAL RESOURCES COMMISSION RULEMAKING STATUS - FEBRUARY 2012**

<b>Item #</b>	<b>Rule Citation</b>	<b>Rule Title</b>	<b>February '12 Status</b>	<b>February Action Required?</b>	<b>Next Steps</b>
1	15A NCAC 7H.0304	AECs Within Ocean Hazard Areas	Going to public hearing	<b>Yes</b>	Review fiscal analysis for public hearing.
2	15A NCAC 7H.0308	Specific Use Standards for Ocean Hazard Areas	Going to public hearing	No	Public hearings being scheduled.
3	15A NCAC 7H.0310	Use Standards for Inlet Hazard Areas	On hold	No	On hold until oceanfront erosion rates update is completed.
4	15A NCAC 7H.0312	Technical Standards for Beach Fill Projects	Going to public hearing	No	Public hearings being scheduled.
5	15A NCAC 7H.1705	General Permit for Emergency Work Requiring a CAMA and/or Dredge and Fill Permit: Specific Conditions	For review and approval	No	Public hearings being scheduled.
6	15A NCAC 7K.0214	Installation & Maintenance of Regulatory Signs Exempted	Approved for public hearing	No	Public hearings being scheduled.
7	15A NCAC 7M.1300	Sea-Level Rise Policy	Recommended for public hearing	<b>Yes</b>	Review rule and fiscal analysis for public hearing.