Environmental Quality

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

TO: The Coastal Resources Commission

FROM: Drew Hargrove, Assistant General Counsel
Christine A. Goebel, Assistant General Counsel

DATE: March 28, 2018 (for the April 10-11, 2018 CRC Meeting)

RE: **Variance Request by West P. Hunter, Jr. (CRC-VR-18-02)**

Petitioner West P. Hunter, Jr. ("Petitioner") owns property in Ocean Isle Beach, Brunswick County, North Carolina. The property is adjacent to man-made "Canal 8" on two sides. The property is within the Coastal Shorelines AEC, and so the first 30' landward from normal high water is subject to the Commission's 30-foot buffer rule, which limits impervious surfaces and development within the buffer. In January 2018, Petitioner applied for a CAMA minor permit to construct a two-story piling-supported residence on his lot. On February 1, 2018, the Ocean Isle Beach CAMA LPO denied Petitioner's CAMA permit application as a portion of the proposed house extended into the 30-foot buffer along the south side of the lot, contrary to 15A NCAC 7H .0209(f)(10). Petitioner now seeks a variance from the 30-foot buffer rule in order to develop the house on his property as proposed.

The following additional information is attached to this memorandum:

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

cc(w/enc.): Todd Roessler, Esq., Petitioner's Counsel, electronically
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically
Keith Dycus, OIB CAMA LPO, electronically

RELEVANT STATUTES OR RULES **APPENDIX A**

15A NCAC 07H .0209 COASTAL SHORELINES

(a) Description. The Coastal Shorelines category includes estuarine shorelines and public trust shorelines. Estuarine shorelines AEC are those non-ocean shorelines extending from the normal high water level or normal water level along the estuarine waters, estuaries, sounds, bays, fresh and brackish waters, and public trust areas as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environment and Natural Resources [described in Rule .0206(a) of this Section] for a distance of 75 feet landward. For those estuarine shorelines immediately contiguous to waters classified as Outstanding Resource Waters by the Environmental Management Commission, the estuarine shoreline AEC shall extend to 575 feet landward from the normal high water level or normal water level, unless the Coastal Resources Commission establishes the boundary at a greater or lesser extent following required public hearing(s) within the affected county or counties. Public trust shorelines AEC are those non-ocean shorelines immediately contiguous to public trust areas, as defined in Rule 07H .0207(a) of this Section, located inland of the dividing line between coastal fishing waters and inland fishing waters as set forth in that agreement and extending 30 feet landward of the normal high water level or normal water level.

(b) Significance. Development within coastal shorelines influences the quality of estuarine and ocean life and is subject to the damaging processes of shore front erosion and flooding. The coastal shorelines and wetlands contained within them serve as barriers against flood damage and control erosion between the estuary and the uplands. Coastal shorelines are the intersection of the upland and aquatic elements of the estuarine and ocean system, often integrating influences from both the land and the sea in wetland areas. Some of these wetlands are among the most productive natural environments of North Carolina and they support the functions of and habitat for many valuable commercial and sport fisheries of the coastal area. Many land-based activities influence the quality and productivity of estuarine waters. Some important features of the coastal shoreline include wetlands, flood plains, bluff shorelines, mud and sand flats, forested shorelines and other important habitat areas for fish and wildlife.

(c) Management Objective. The management objective is to ensure that shoreline development is compatible with the dynamic nature of coastal shorelines as well as the values and the management objectives of the estuarine and ocean system. Other objectives are 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 values; to coordinate and establish a management system capable of conserving and utilizing these shorelines so as to maximize their benefits to the estuarine and ocean system and the people of North Carolina.

(d) Use Standards. Acceptable uses shall be those consistent with the management objectives in Paragraph (c) of this Rule. These uses shall be limited to those types of development activities that will not be detrimental to the public trust rights and the biological and physical functions of the estuarine and ocean system. Every effort shall be made by the permit applicant to avoid, mitigate or reduce adverse impacts of development to estuarine and coastal systems through the planning and design of the development project. In every instance, the particular location, use, and design characteristics shall comply with the general use and specific use standards for coastal shorelines, and where applicable, the general use and specific use standards for coastal wetlands, estuarine waters, and public trust areas described in Rule .0208 of this Section. Development shall be compatible with the following 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 07H .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;
(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.

15A NCAC 2H .1019 Coastal Stormwater Rules are included at the end of the summary of positions

STIPULATED FACTS **ATTACHMENT B**

1. Petitioner West P. Hunter, Jr. ("Petitioner") is a Co-Trustee with Jason Brian Hunter and West P. Hunter, III, of the Brenda R. Hunter Trust (dated January 9, 2009) (the "Trust"). The Trust owns property located at 1 Raeford Street in the Town of Ocean Isle Beach ("Town"), Brunswick County, North Carolina (the "Site"). The Site is also known as Lot 25, Canal 8, Section A&B of Ocean Isle Beach per a map recorded at Cabinet H, Page 618 in the Brunswick County Registry.

2. The Trust took title to the Site through an April 19, 2011 deed recorded at Book 3154, Page 76 of the Brunswick County Registry from the Petitioner as the Executor of the Brenda R. Hunter Estate (Petitioner's Wife). Petitioner and Brenda R. Hunter originally purchased the Site in 1987 through a November 12, 1987 deed recorded at Book 712, Page 623 of the Brunswick County Registry. Copies of these deeds are attached as stipulated exhibits.

3. The Site is 6,136 square feet or 0.14 acres in size, and the dimensions of the Site are shown on the site plan, a copy of which is attached as a stipulated exhibit. The Site is served by the Town's sewer system. The Site is not a "small lot," which is defined to be 5,000 square feet or less for lots served by sewer per 15A NCAC 7H .0209(d)(10)(J).

4. The Site is bounded on the south and west sides by a man-made canal that extends beyond the Site and serves as water access for the Site and other lots in the area. The Site is bounded to the north by a vacant lot (also on Raeford Street) owned by the Palmer Trust ("Palmer"), and to the south by a single-family residence located at 151 East Second Street and owned by Hiram M. and Karen J. Reynolds ("Reynolds"). The waters of the man-made canal are classified as SA-High Quality Waters (SA-HQW) by the Environmental Management Commission, and are closed to the harvest of shellfish by the Marine Fisheries Commission. There are no wetlands identified on the Site.

5. The proposed home on the Site is located within the Coastal Shorelines Area of Environmental Concern ("AEC"), and pursuant to N.C.G.S. 113A-118, the proposed home development requires a permit issued pursuant to the Coastal Area Management Act ("CAMA").

6. The Site is currently cleared and undeveloped as far as a residence, but there is a concrete bulkhead along the entire shoreline of the Site. Additionally, there is an existing t-head pier and floating dock located on the west side of the Site, which was constructed pursuant to CAMA General Permit #64671D issued on June 12, 2015, a copy of which is attached.

7. On or about January 16, 2018, Petitioner applied to the Town of Ocean Isle Beach's CAMA Local Permit Officer ("LPO") for a CAMA minor permit to undertake the development of a single-family residence on the Site. A copy of the permit application materials is attached as a stipulated exhibit.

8. Petitioner has entered into a purchase and sale agreement for the Site, and if this variance is granted, Petitioner will sell the Site. It is the Petitioner's understanding that the purchaser plans to build a single-family residence consistent with the proposed plans.

9. The proposed house will be a piling-supported, two-story structure with an interior first floor area of 2,131 square feet (36' x 59.2') and a Total Floor Area of 4,262 with a second story. The eaves of the roof are proposed to extend two-feet beyond the exterior walls, and the proposed building footprint at the roofline is 2,530 square feet (40' x 63.2'). Copies of the proposed plan view and profile view are attached as stipulated exhibits.

10. Petitioner's proposed single-family residences exceeds the Commission's "Small House" Exception, 15A NCAC 7H .0209(d)(10)(I) because the proposed footprint of the house measured at the drip line is in excess of 1,200 square feet (at 2,530 square feet), and also does not meet other requirements of a "small house."

11. The Site is subject to the Commission's buffer rules applicable to coastal shorelines set forth at 15A NCAC 7H .0209(d)(10) (the "30-foot buffer rule"), which was promulgated in 1999. The 30-foot buffer rule is measured 30-feet landward from the normal high water level, which at this Site, is located at the concrete bulkhead, and it's location marked by the LPO is shown on the Site plan, attached. Town Code Section 66-45(6), attached, limits the heated square feet of a single-family residence to "no more than 50 percent of the total deeded lot area." The lot is 6,136 square feet; therefore, the maximum heated square feet is 3,068 square feet.

12. In addition to the 30-foot buffer rule, local zoning requires a 25-foot setback from the front and rear property line and a 7-foot setback from each of the side property lines. See Town Code Section 66-45(3), attached. As indicated in a letter dated February 9, 2018 from the Town, the proposed development on the Lot meets applicable Town requirements, including the setback requirements. A copy of the letter is attached as a stipulated exhibit.

13. The Town has a stormwater ordinance found at Code Section 49-33, attached. In order to comply with the Town's stormwater ordinance, Petitioner has proposed an engineered stormwater system to be located on the northern boundary of the lot within the Town's 7-foot setback and underneath the proposed driveway outside of the Commission's 30- foot buffer.

14. Application of the 30-foot buffer rule and the Town's setbacks results a building footprint of approximately 16' by 59.2' or 947 square feet in area.

15. As part of the CAMA minor permit review process, notice of the proposed development was sent to adjacent riparian owners, Palmer and Reynolds. The LPO received questions about the proposed development from the Reynolds, but did not receive any objections to the proposed development.

16. On February 1, 2018, the LPO denied Petitioner's CAMA minor development permit finding that the proposed development along the south side of the Site is inconsistent with the 30-foot buffer rule found at 15A NCAC 7H .2029(d)(10). The proposed house meets the 30-foot buffer along the west side of the Site. A copy of the denial letter is attached as a stipulated exhibit.

17. If the Commission grants the variance, Petitioner is committed to constructing, maintaining and operating the proposed engineered stormwater system that will meet State specifications (found at 15A NCAC 7H .0209(d)(10)(j)(iv) and 15A NCAC 2H .1000 et seq.) and Town specifications (found at OIB Code Section 49-33, attached). A copy of a letter dated January 8, 2018 to Petitioner from Intracoastal Engineering, PLLC, detailing the proposed engineered stormwater system is attached as a stipulated exhibit.

18. As part of the CAMA Variance process, notice to the adjacent riparian neighbors and anyone who commented on the application is required per 15A NCAC 7J .0701 (c)(7). See the attached notices of the variance request sent to Palmer and Reynolds dated February 21, 2018, and attached as stipulated exhibits. If any responses are received before the variance hearing, they will be shared with the Commission.

19. As part of the CAMA Variance process, the Commission's rules require that "[b]efore filing a petition for a variance from a rule of the Commission, the person must seek relief from local requirements restricting use of the Property." 15A NCAC 7J .0701(a). Petitioner's proposed design meets the Town's front (25'), rear (25'), and side (7') setbacks. Any variance from the front and rear setbacks would not change the intrusion into the south side setback. Petitioner could have sought a variance from the Town's 7' north side setback and shift the house north, but that would preclude placing the stormwater system within that side setback area as proposed.

20. Two of the exceptions to the 30-foot buffer rule provided for in the Commission's rules are generally relevant to the Commission's consideration of this variance but are not met.

> The "small-lot exception" applies to lots platted before 1999 and which are 5,000 square feet or less (if served by sewer as this is) per 15A NCAC 7H .0209(d)(10)(J). This lot is 6,136 square feet and also does not meet other criteria for use of this exception.
>
> The "small-house exception" allows residential structures with a 1,200 square feet footprint on lots platted prior to 1999 (as this Site is), but anticipates single frontage lots and not double-frontage lots such as this. Additionally, the proposed house has a footprint of 2,530 square feet, so it is larger than a "small-house."

21. Without a variance from the Commission of its 30-foot buffer rule, the available building footprint is 16' x 59.2' long or 947 square feet (or 1,894 TFA when doubled for a two-story structure).

22. The Site is shown on aerial and ground-level photos of the site contained in a Powerpoint presentation, attached as a stipulated exhibit.

STIPULATED EXHIBITS

A. 2011 Deed to Trust 3154/76
B. 1987 Hunter Deed 712/623
C. Site Plan Reviewed by LPO
D. 2015 CAMA General Permit #64671D for pier
E. CAMA Minor Permit application materials
F. OIB Town Code Sections 49-33 (stormwater), 66-45(6) (max heated area)
G. Notice to Adjacent Riparian Owners during permit review and email confirmation of LPO
H. February 1, 2018 Denial
I. January 8, 2018 letter to Petitioner from Intracoastal engineering, PLLC re: stormwater
J. Notice to Adjacent Riparian Owners of variance request with delivery confirmation info
K. Powerpoint Presentation

PETITIONER'S and STAFF'S 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 Petitioner will suffer unnecessary hardship from strict application of the Coastal Resources Commission's (the "Commission") 30-foot buffer rule (15A NCAC 7H .0209(d)(10)) to the Petitioner's property and the Commission's procedural requirement to seek relief from local requirements restricting use of the property before filing a petition for a variance from a rule of the Commission (15A NCAC 7J .0701(a)). If the Commission's 30-foot buffer rule is strictly applied to the Petitioner's lot, the Petitioner will be unable to build a single-family dwelling on the lot. If the Commission's procedural requirement to first seek a local variance is strictly applied, the Petitioner will be required to seek a local variance even though the proposed development is in compliance with all applicable ordinances of the Town of Ocean Isle Beach (the "Town") and (in this case) seeking a local variance would not achieve the objective of eliminating or reducing the need for a variance from the Commission.

Petitioner's lot is bounded by water on two sides (south and west), which results in a lot width of approximately 50 feet. Local zoning requires a 25-foot setback from the front and rear property line and a 7-foot setback from each of the side property lines. See Town Code Section 66-45(3). Without a variance, CAMA rules require a 30-foot setback from the normal high water line on the south side of the lot and the western back of the lot. See 15A NCAC 7H .0209(d)(10). If strictly applied, the setbacks leave a buildable lot width of approximately 16 feet.

Application of the Commission's 30-foot buffer rule on the Petitioner's lot is negatively affected by the man-made canal located on two sides of the lot. This creates a narrow lot, and strict application of the Commission's 30-foot buffer rule would prevent the Petitioner from building a single-family dwelling on the lot, which would cause unnecessary hardship to the Petitioner.

With respect to the procedural requirement to first seek a local variance, the proposed development is in compliance with all applicable Town ordinances, and the proposed single-family dwelling cannot be moved to the north to encroach into the Town's 7-foot setback because the proposed engineered stormwater system is proposed to be located in this area. There is no other location on the lot where the engineered stormwater system could be located outside the Commission's 30-foot buffer. The Town supports the Petitioner's request to seek a variance from the Commission without first seeking a variance from the Town.

Staff's Position: Yes.

Staff agrees that strict application of the local variance requirement of 7J.0701 will cause Petitioner unnecessary hardships, as seeking a variance from the 7' side setback on the north side of the Site where the engineered stormwater system is proposed will not reduce the need for a variance from the Commission to any significant degree.

As to the 30' Buffer variance request, Staff agrees that Petitioner will suffer an unnecessary hardship from a strict application of the Commission's 30-foot buffer rule to Petitioner's property, where it would result in a building envelope 16' wide (north to south), which is a narrow distance for building a standard single-family residence.

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 unnecessary hardship results from conditions peculiar to Petitioner's property. The Petitioner's property is bounded by water on two sides (south and west). The strict application of the Commission's 30-foot buffer rule on two sides of the lot creates an extremely narrow buildable area on the lot.

Staff's Position: Yes.

Staff agree that any hardship results from the application of the 30' Buffer to two sides of this lot which is a condition peculiar to the property, on this lot, it creates a 16' wide building envelope without a variance.

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

Petitioner's Position: No.

The unnecessary hardship does not result from actions taken by the Petitioner. The lot was created by recordation of a subdivision map on September 10, 1976. Petitioner and his wife acquired the lot on June 27, 1987 before the Commission's 30-foot buffer rule was promulgated in 1994.

Staff's Position: No.

While Petitioner took title to this property in 1987, before the Commission's 30-foot buffer rule was promulgated, Petitioner now seeks to maximize the buildable area of the lot by requesting a variance from the 30' Buffer for the full width of the lot between the Town's 7' side setbacks, while meeting the 30' Buffer only on the west side of the lot. Staff agree above that strict application of the Buffer causes hardships where it results in a 16' wide envelope, but Staff also believes that Petitioner's proposed layout of a footprint which maximizes the full 36' width of the lot contributes to Petitioner's hardships, where Petitioner proposes a footprint of 2,530 square feet, far surpassing the Commission's "small-house" standard of a 1,200 square foot footprint.

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.

Petitioner's Position: Yes.

The variance requested by the Petitioner is consistent with the spirt, purpose and intent of the Commission's 30-foot buffer rule. The principal purposes of the Commission's 30-foot buffer rule are to reduce stormwater runoff from development that is located near coastal shorelines, to protect the ecological values of areas near coastal shorelines, and to ensure that shoreline development is compatible with the dynamic nature of coastal shorelines. See 15A NCAC 7H .0209(c). The Petitioner's lot is bounded by a man-made canal on two sides (south and west). The entire coastal shoreline of the lot is bulkheaded, which reduces the risk of erosion. If the variance is granted, the site will be developed to meet the stormwater requirements set forth in the CAMA rules and the Town of Ocean Isle Beach's stormwater ordinance. An engineered stormwater system would be located along the northern boundary of the property and underneath the driveway outside the Commission's 30-foot buffer. The proposed engineered stormwater system would maintain runoff from the site at pre-development levels, even during a ten-year storm. A letter describing the stormwater requirements and proposed engineered stormwater system is attached as Exhibit G-2.

The variance requested by the Petitioner from the procedural requirement to first seek a local variance is consistent with the spirt, purpose and intent of the Commission's procedural requirement to first seek local relief. The purpose of this procedural requirement is to eliminate or reduce the need for a variance from the Commission's rules. If a local government relaxes local requirements (i.e., street-side setback or adjacent property setbacks), the proposed development could be sited farther landward. However, in this case, the proposed development cannot be moved within the Town's 7-foot setback unless the proposed engineered stormwater system is moved to another location on the lot, which would be within the Commission's 30-foot buffer. Therefore, seeking a local variance would not achieve the objective of eliminating or reducing the need for a variance from the Commission.

The variance proposed by the Petitioner will have no adverse effect on public safety and welfare.

The variance proposed by the Petitioner will preserve substantial justice by allowing a reasonable use of the lot, which was created before the Commission's 30-foot buffer rule became effective, and by allowing the Petitioner to seek a variance from this Commission without first seeking a local variance that would not eliminate or reduce the need for a variance from the Commission.

Staff's Position: Yes.

On balance, Staff believes that the variance requested by Petitioner is consistent with the spirit, purpose, and intent of the Commission's buffer rule.

Petitioner is correct that the stated significance of the Commission's 30' Buffer includes limiting development on the shorelines which "serve as barriers against flood damage and control erosion between the estuary and the uplands." (15A NCAC 7H .0209(b)) These areas also serve as habitat "for many valuable commercial and sport fisheries of the coastal area." The Commission's 30' Buffer rule is intended "to ensure that shoreline development is compatible with the dynamic nature of coastal shorelines as well as the values and the management objectives of the estuarine and ocean system."

Petitioner has addressed one of the purposes of the 30' Buffer, which is protecting water quality by creating a buffer between a waterbody and any impervious surfaces which would lead to stormwater runoff into the marine environment through an engineered stormwater system which meets the standards of the applicable Town ordinance and state stormwater law by collecting the first 1.5" of rainfall from all impervious surfaces.

However, Petitioner also maximizes the footprint on the lot, including 1,385 square feet within the 30' Buffer instead of minimizing impacts to the buffer and contemplated by the Commission's rule and this variance criteria. While a 16' width allowed without a variance is a hardship, Staff has concerns that Petitioner's request seeking the full 36' between the 7' side setbacks may go beyond the spirit of the buffer rule. Staff continue to have concerns about this request for that reason.

If the stormwater system was built to handle 100% of the impervious surfaces on the lot and was maintained for the life of the structure, Staff agree that a variance would preserve public safety and welfare. However, in not minimizing impacts to the buffer without explanation, Staff believe substantial justice will be preserved by granting the variance.

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As requested by the Commission in the past for buffer variances, Staff includes the stormwater management-related conditions which have been placed on some prior variances issued by the Commission below.

(1) The permittee shall obtain a stormwater management plan meeting the requirements of 15A NCAC 7H .0209(d)(10)(J)(iv), which requires that 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 and certified by an individual who meets applicable State occupational licensing requirements for the type of system proposed, and approved by the appropriate governmental authority during the permit application process.

(2) Prior to occupancy and use of the sunroom addition and the issuance of a final Certificate of Occupancy (CO) by the local permitting authority, the permittee shall provide a certification from the design professional that the stormwater system has been inspected and installed in accordance with this permit, the approved plans and specification and other supporting documentation.

(3) The permittee shall provide for the operation and maintenance necessary to insure that the engineered stormwater management system functions at optimum efficiency and within the design specifications for the life of the project.

(4) The permittee shall insure that the obligation for operation and maintenance of the stormwater management system becomes a permanent obligation of future property owners.

15A NCAC 02H .1019 COASTAL COUNTIES

The purpose of this Rule is to protect surface waters in the 20 Coastal Counties from the impact of stormwater runoff from new development.

(1) Implementing Authority. This Rule shall be implemented by:
  (a) local governments and other entities within the 20 Coastal Counties that are required to implement a Post-Construction program as a condition of their NPDES permits;
  (b) local governments and state agencies that are delegated to implement a stormwater program pursuant to G.S. 143-214.7(c) and (d); and
  (c) the Division in all other areas where this Rule applies.

(2) APPLICABILITY OF THIS RULE. This Rule shall apply to the following types of developments within the Coastal Counties:
  (a) projects that require an Erosion and Sedimentation Control Plan pursuant to G.S. 113A-57;
  (b) projects that require a Coastal Area Management Act (CAMA) Major Development Permit pursuant to G.S. 113A-118; and
  (c) projects that do not require either an Erosion and Sedimentation Control Plan or a CAMA Major Development Permit, but meet one of the following criteria:
    (i) nonresidential projects that propose to cumulatively add 10,000 square feet or more of built-upon area; or
    (ii) residential projects that are within ½ mile of and draining to SA waters, and propose to cover 12 percent or more of the undeveloped portion of the property with built-upon area.

(3) EFFECTIVE DATES. The effective dates are as follows:
  (a) for prior Rule .1000 of this Section, January 1, 1988;
  (b) for prior Rule .1005 of this Section, September 1, 1995;
  (c) for S.L. 2006-264, August 16, 2006; and
  (d) for S.L. 2008-211, October 1, 2008.

  Prior versions of these rules are available for no cost on the Division's website at http://deq.nc.gov/about/divisions/energy-mineral-land-resources/energy-mineral-land-permits/stormwater-program.

(4) GENERAL REQUIREMENTS FOR ALL PROJECTS. In addition to the requirements of this Rule, development projects shall also comply with the requirements set forth in Rule .1003 of this Section.

(5) DETERMINATION OF WHICH COASTAL STORMWATER PROGRAM APPLIES.
  (a) SA WATER. SA Water requirements shall apply to projects located within one-half mile of and draining to waters classified as SA-HQW or SA-ORW per 15A NCAC 02B .0301.
    (i) The SA boundary shall be measured from either the landward limit of the top of bank or the normal high water level. In cases where a water is listed on the Schedule of Classifications, but the applicant provides documentation from the Division of Water Resources or the U.S. Army Corps of Engineers that the water is not present on the ground, the applicant shall not be subject to the SA requirements of this Rule.
    (ii) An SCM with any portion of its drainage area located within the SA waters boundary shall be designed to meet SA water requirements.
  (b) FRESHWATER ORW. Freshwater ORW requirements shall apply to projects that drain to waters classified as B-ORW and C-ORW per 15A NCAC 02B .0301.
  (c) OTHER COASTAL COUNTY WATER. If a project does not meet the applicability requirements for Sub-Items (5)(a) or (b) of this Rule, then it shall be subject to the [other Coastal County Water requirements set forth in Item (6) of this Rule.
  (d) PROJECTS THAT ARE SUBJECT TO TWO OR MORE COASTAL STORMWATER PROGRAMS. Projects with portions that are located within two or more coastal stormwater program boundaries shall meet the applicable requirements of Item (6) inside each of the project's portions.

(6) STORMWATER REQUIREMENTS. Depending on the applicable program pursuant to Item (5) of this Rule, the following stormwater requirements shall apply:

(a) SUMMARY OF COASTAL PROGRAM REQUIREMENTS. The requirements shall be in accordance with the following table:

Program that Applies	Maximum BUA for Low Density	Required Storm Depth for High Density Projects	Additional Special Provisions
SA Water that is SA-HQW	12%	One-year, 24-hour storm	SCMs for High Density SA Projects per Item (7) of this Rule
SA Water that is SA-ORW	12%	One-year, 24-hour storm	SCMs for High Density SA Projects per Item (7) of this Rule; and Density Requirements for SA-ORW Projects per Item (8) of this Rule
Freshwater ORW	12%	1.5 inch storm	None
Other Coastal County Water	24%	1.5 inch storm	None

(b) VEGETATED SETBACKS. For all subject projects within the Coastal Counties, vegetated setbacks from perennial waterbodies, perennial streams, and intermittent streams shall be at least 50 feet in width for new development and at least 30 feet in width for redevelopment and shall comply with Rule .1003(4) of this Section.

(7) SCMS FOR SA WATER HIGH DENSITY PROJECTS REQUIREMENTS. High density projects subject to SA water requirements shall use one of the following approaches for treating and discharging stormwater:

(a) RUNOFF VOLUME MATCH. The project shall achieve runoff volume match, and excess runoff volume shall be released at a non-erosive velocity at the edge of the vegetated setback or to an existing stormwater drainage system.

(b) RUNOFF TREATMENT WITH NON-DISCHARGING SCMs. SCM(s) shall provide runoff treatment without discharging in excess of the pre-development conditions during the one-year, 24-hour storm event. The runoff volume in excess of the one-year, 24-hour runoff volume shall be released at a non-erosive velocity at the edge of the vegetated setback or to an existing stormwater drainage system.

(c) RUNOFF TREATMENT WITH DISCHARGING SCMs. SCM(s) shall provide runoff treatment for the difference between the pre- and post-development runoff volumes for the one-year, 24-hour storm event and meet the following requirements:

(i) documentation shall be provided that it is not feasible to meet the MDC for infiltrations systems as set forth in Rule .1051 of this Section;

(ii) the stormwater shall be filtered through a minimum of 18 inches of sand prior to discharge;

(iii) the discharge from the SCM shall be directed to either a level spreader-filter strip designed as set forth in Rule .1059 of this Section, a swale that fans out at natural grade, or a natural wetland that does not contain a conveyance to SA waters; and

(iv) the runoff volume in excess of the one-year, 24-hour storm event shall be released at a non-erosive velocity at the edge of the vegetated setback or to an existing stormwater drainage system.

(8) DENSITY REQUIREMENTS FOR SA-ORW PROJECTS. The following shall apply:

(a) For the entire project, the percentage built-upon area shall not exceed 25 percent.

(b) For the portion of a project that is within 575 feet of SA-ORW waters, the percentage built-upon area shall not exceed 25 percent for high density projects and shall not exceed 12 percent for low density projects.

History Note: *Authority G.S. 143-214.1; 143-214.5; 143-215.3(a)(1);*
Eff. January 1, 2017 (portions of this rule previously codified in 15A NCAC 02H .1005).

ATTACHMENT D:

PETITIONERS' VARIANCE REQUEST MATERIALS

KILPATRICK TOWNSEND
ATTORNEYS AT LAW

KILPATRICK TOWNSEND & STOCKTON LLP
www.kilpatricktownsend.com

Suite 1400 4208 Six Forks Road
Raleigh NC 27609
t 919 420 1700 f 919 420 1800

Todd S. Roessler
direct dial 919 420 1726
direct fax 919 510 6121
TRoessler@KilpatrickTownsend.com

February 21, 2018

Via First Class Mail and Email

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

Re: CAMA Variance Petition – West P. Hunter, Jr., Brunswick County

Dear Mr. Davis:

Please find enclosed a CAMA variance petition on behalf of West P. Hunter, Jr. Mr. Hunter is seeking to build a single-family residence on a lot located at 1 Raeford Street, Ocean Isle Beach, North Carolina and is seeking a variance from CAMA's 30-foot buffer rule (15A NCAC 7H .0209(d)(10)) and CAMA's procedural requirement to first seek a local variance (15A NCAC 7J .0701(a). Please schedule this variance petition for the April 10-11, 2018 Coastal Resources Commission meeting. I have enclosed the CAMA Variance Request Form and supporting documents.

Thank you for consideration of this request and please let me know if you need any additional information.

Sincerely,

KILPATRICK TOWNSEND & STOCKTON LLP

Todd S. Roessler
Attorney for Petitioner West P. Hunter, Jr.

Enclosures

cc: Christy Goebel
West P. Hunter, Jr.

13897868V.1

CAMA VARIANCE REQUEST FORM **DCM FORM 11**
DCM FILE No.:_____

PETITIONER'S NAME West P. Hunter, Jr.
COUNTY WHERE THE DEVELOPMENT IS PROPOSED Brunswick County, 1 Raeford Street, Ocean Isle Beach, North Carolina

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

VARIANCE HEARING PROCEDURES

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

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

VARIANCE CRITERIA

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

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

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

(c) Do the hardships result from actions taken by the petitioner? Explain. See attached.

(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. See attached.

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:

__X__ The name and location of the development as identified on the permit application;

Ex. A A copy of the permit decision for the development in question;

Ex. B A copy of the deed to the property on which the proposed development would be located;

Ex. C A complete description of the proposed development including a site plan;

Ex. D A stipulation that the proposed development is inconsistent with the rule at issue;

Ex. E Proof that notice was sent to adjacent owners and objectors, as required by 15A N.C.A.C. 07J .0701(c)(7);

Ex. F Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;

Ex. G Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;

Ex. H 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.

Todd S. Roessler — 2/21/18

Signature of Petitioner or Attorney — Date

Todd S. Roessler — TRoessler@KilpatrickTownsend.com

Printed Name of Petitioner or Attorney — Email address of Petitioner or Attorney

4208 Six Forks Road, Suite 1400 — (919) 420-1726

Mailing Address — Telephone Number of Petitioner or Attorney

Raleigh, NC 27609 — (919) 510-6121

City State Zip — 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

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: July 2014

EXHIBIT C-1

West P. Hunter, Jr. Variance Petition
Description of Proposed Development

The Petitioner proposes to build a single-family residence on a lot located at 1 Raeford Street in Ocean Isle Beach, Brunswick County, North Carolina. The lot is bounded to the south and to the west by a man-made canal that provides water access to lots in the area. The proposed house will be elevated on pilings with two heated living floors of 36 feet by 59.2 feet for a total of up to 4,262 square feet of heated living space, dependent on actual construction details and optional porches as shown in Exhibit C-2. The proposed building footprint is 2,131 square feet. The eaves of the roof will extend two-feet beyond the exterior walls. The area covered by the roof drip line would be 2,530 square feet. As proposed, 1,385 square feet of impervious roof area and 458 square feet of gravel driveway would be located within the Commission's 30-foot buffer. An engineered stormwater system would be located on the northern boundary of the lot within the Town's 7-foot setback and underneath the proposed driveway outside of the Commission's 30- foot buffer. A bulkhead exists along the entire waterfront of the lot. A site location, plan view and profile view are attached as Exhibits C-2 and C-3.

EXHIBIT D

West P. Hunter, Jr. Variance Petition
Stipulation

Petitioner, West P. Hunter, Jr., through his attorney, Todd S. Roessler, stipulates that the proposed development that is the subject of this variance petition is inconsistent with Coastal Resource Commission Rules 15A NCAC 7H .0209(d)(10) and 15A NCAC 7J .0701(a).

EXHIBIT F-1

West P. Hunter, Jr. Variance Petition
Local Variance Requirement

The Petitioner is seeking a variance from the procedural requirement set forth at 15A NCAC 7J .0701(a), which requires the Petitioner to first seek relief from local requirements restricting use of the property before filing a petition for a variance from a rule of the Coastal Resources Commission (the "Commission").

The Petitioner will suffer unnecessary hardship from strict application of this procedural requirement. If the Commission's procedural requirement to seek a local variance before filing a petition for a variance from the Commission's 30-foot buffer rule is strictly applied, the Petitioner will be required to seek a local variance even though the proposed development is in compliance with all applicable ordinances of the Town of Ocean Isle Beach (the "Town"). Not only is the proposed development in compliance with all applicable Town ordinances, the proposed single-family dwelling cannot be moved to the north to encroach into the Town's 7-foot setback because the proposed engineered stormwater system is proposed to be located in this area. There is no other location on the lot where the engineered stormwater system could be located outside the Commission's 30-foot buffer. The Town supports the Petitioner's request to seek a variance from the Commission without first seeking a variance from the Town. A letter dated February 9, 2018 from the Town supporting the Petitioner's request for a variance from this procedural requirement is attached.

Because the Petitioner's property is bounded by water on two sides (south and west), this unnecessary hardship is a result of conditions peculiar to Petitioner's property.

This unnecessary hardship does not result from actions taken by the Petitioner. The lot was created by recordation of a subdivision map on September 10, 1976. Petitioner and his wife acquired the lot on June 27, 1987 before the Commission's 30-foot buffer rule was promulgated in 1994.

The variance requested by the Petitioner is consistent with the spirt, purpose and intent of the Commission's procedural requirement to first seek local relief. The purpose of this procedural requirement is to eliminate or reduce the need to seek a variance from the Commission's rules. If a local government relaxes local requirements (*i.e.*, street-side setback or adjacent property setbacks), the proposed development could be sited farther landward.

The issue with Petitioner's proposed development and need to seek a variance is related to the width of the lot. If the Petitioner sought a variance from the Town's 7-foot setback on the northern side of the property, the single-family dwelling could *theoretically* be moved to the north, reducing the encroachment in the Commission's 30-foot setback. However, the proposed engineered stormwater system (which is required by law and will maintain stormwater runoff from the lot at pre-development levels) is proposed to be located in this area. There is no location (other than within the Commission's 30-foot buffer) on the lot where the proposed

engineered stormwater system can be located. Therefore, the proposed single-family dwelling could not be moved farther landward, and a variance from this procedural requirement is consistent with the spirt, purpose and intent of the Commission's rule.

The variance proposed by the Petitioner will have no adverse effect on public safety and welfare.

The variance proposed by the Petitioner will preserve substantial justice by allowing the Petitioner to proceed with the variance request from the Commission's 30-foot buffer rule without first seeking a local variance, which in this case would not achieve the objective of eliminating or reducing the need for a variance from the Commission.

EXHIBIT G-1

West P. Hunter, Jr. Variance Petition
Petitioner's Position on Variance Criteria

1. Will unnecessary hardships result from strict application of the rules, standards, or orders?

Petitioner's Position: Yes.

Petitioner's Argument: The Petitioner will suffer unnecessary hardship from strict application of the Coastal Resources Commission's (the "Commission") 30-foot buffer rule (15A NCAC 7H .0209(d)(10)) to the Petitioner's property and the Commission's procedural requirement to seek relief from local requirements restricting use of the property before filing a petition for a variance from a rule of the Commission (15A NCAC 7J .0701(a)). If the Commission's 30-foot buffer rule is strictly applied to the Petitioner's lot, the Petitioner will be unable to build a single-family dwelling on the lot. If the Commission's procedural requirement to first seek a local variance is strictly applied, the Petitioner will be required to seek a local variance even though the proposed development is in compliance with all applicable ordinances of the Town of Ocean Isle Beach (the "Town") and (in this case) seeking a local variance would not achieve the objective of eliminating or reducing the need for a variance from the Commission.

Petitioner's lot is bounded by water on two sides (south and west), which results in a lot width of approximately 50 feet. Local zoning requires a 25-foot setback from the front and rear property line and a 7-foot setback from each of the side property lines. *See* Town Code Section 66-45(3). Without a variance, CAMA rules require a 30-foot setback from the normal high water line on the south side of the lot and the western back of the lot. *See* 15A NCAC 7H .0209(d)(10). If strictly applied, the setbacks leave a buildable lot width of approximately 16 feet.

Application of the Commission's 30-foot buffer rule on the Petitioner's lot is negatively affected by the man-made canal located on two sides of the lot. This creates a narrow lot, and strict application of the Commission's 30-foot buffer rule would prevent the Petitioner from building a single-family dwelling on the lot, which would cause unnecessary hardship to the Petitioner.

With respect to the procedural requirement to first seek a local variance, the proposed development is in compliance with all applicable Town ordinances, and the proposed single-family dwelling cannot be moved to the north to encroach into the Town's 7-foot setback because the proposed engineered stormwater system is proposed to be located in this area. There is no other location on the lot where the engineered stormwater system could be located outside the Commission's 30-foot buffer. The Town supports the Petitioner's request to seek a variance from the Commission without first seeking a variance from the Town.

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

Petitioner's Position: Yes.

Petitioner's Argument: The unnecessary hardship results from conditions peculiar to Petitioner's property. The Petitioner's property is bounded by water on two sides (south and west). The strict application of the Commission's 30-foot buffer rule on two sides of the lot creates an extremely narrow buildable area on the lot.

3. Do the hardships result from actions taken by the Petitioner?

Petitioner's Position: No.

Petitioner's Argument: The unnecessary hardship does not result from actions taken by the Petitioner. The lot was created by recordation of a subdivision map on September 10, 1976. Petitioner and his wife acquired the lot on June 27, 1987 before the Commission's 30-foot buffer rule was promulgated in 1994.

4. Will the variance requested by the Petitioner (a) be consistent with the spirit, purpose and intent of the rules, standards, or orders issued by the Commission; (b) secure public safety and welfare; and (c) preserve substantial justice?

Petitioner's Position: Yes.

Petitioner's Argument: The variance requested by the Petitioner is consistent with the spirt, purpose and intent of the Commission's 30-foot buffer rule. The principal purposes of the Commission's 30-foot buffer rule are to reduce stormwater runoff from development that is located near coastal shorelines, to protect the ecological values of areas near coastal shorelines, and to ensure that shoreline development is compatible with the dynamic nature of coastal shorelines. *See* 15A NCAC 7H .0209(c). The Petitioner's lot is bounded by a man-made canal on two sides (south and west). The entire coastal shoreline of the lot is bulkheaded, which reduces the risk of erosion. If the variance is granted, the site will be developed to meet the stormwater requirements set forth in the CAMA rules and the Town of Ocean Isle Beach's stormwater ordinance. An engineered stormwater system would be located along the northern boundary of the property and underneath the driveway outside the Commission's 30-foot buffer. The proposed engineered stormwater system would maintain runoff from the site at pre-development levels, even during a ten-year storm. A letter describing the stormwater requirements and proposed engineered stormwater system is attached as Exhibit G-2.

The variance requested by the Petitioner from the procedural requirement to first seek a local variance is consistent with the spirt, purpose and intent of the Commission's procedural requirement to first seek local relief. The purpose of this procedural requirement is to eliminate or reduce the need for a variance from the Commission's rules. If a local government relaxes local requirements (*i.e.*, street-side setback or adjacent property setbacks), the proposed development could be sited farther landward. However, in this case, the proposed development

cannot be moved within the Town's 7-foot setback unless the proposed engineered stormwater system is moved to another location on the lot, which would be within the Commission's 30-foot buffer. Therefore, seeking a local variance would not achieve the objective of eliminating or reducing the need for a variance from the Commission.

The variance proposed by the Petitioner will have no adverse effect on public safety and welfare.

The variance proposed by the Petitioner will preserve substantial justice by allowing a reasonable use of the lot , which was created before the Commission's 30-foot buffer rule became effective, and by allowing the Petitioner to seek a variance from this Commission without first seeking a local variance that would not eliminate or reduce the need for a variance from the Commission.

ATTACHMENT E:

STIPULATED EXHIBITS INCLUDING POWERPOINT

B3154 P0076 04-19-2011 10:40:40.000
Brunsuick County, NC Register of Deeds Brenda M. Clemmons PROP
page 1 of 3

Presenter Sandra Lindley Rel: Mail
Total 25.00 Rev 0 Int
Ck $ 25.00 Ck 9882 Cash $
Refund: Finance
☐ Portions of original condition
☐ Document Instrument reproduced or copied.

DEED PREPARATION ONLY - NO TITLE EXAMINATION

R.S. $-0-

Tax Lot No. _____ Parcel Identifier No. **244PL025 and 244OH013**
Verified by _____
County on the _____ day of _____, 20____
by _____

Mail after recording to _____
This instrument was prepared by Gray Layton Kersh Solomon Furr & Smith, P.A.

Brief Description for the index

NORTH CAROLINA SPECIAL WARRANTY DEED

THIS DEED made 18 **day of April, 2011**, by and between

GRANTOR	GRANTEE
WEST P. HUNTER, JR., Executor of the Estate of Brenda R. Hunter	**WEST PORTER HUNTER, JR., JASON BRIAN HUNTER and WEST PORTER HUNTER III, Co-Trustees of the Brenda R. Hunter Trust U/A dated January 9, 2009, Family Trust portion at Paragraph 4.B.(3)** **ADDRESS:** **2430 Galloway Road** **Charlotte, NC 28262**

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 good and valuable consideration, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain and convey unto the Grantee in fee simple, its one-half (1/2) interest in that certain lot or parcel of land situated in Brunswick County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO.

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:

All restrictions, reservations, covenants, conditions, easements and rights of way 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.

ESTATE OF BRENDA R. HUNTER

By West P. Hunter (SEAL)
West P. Hunter, Jr., Executor

USE BLACK INK ONLY

SEAL-STAMP

USE BLACK INK

State of North Carolina
County of Gaston

I, Sandra K. Lindley, a Notary Public for said County and State, do hereby certify that West P. Hunter, Jr., Executor of the Estate of Brenda R. Hunter, personally appeared before me this day, and acknowledged the execution of the foregoing instrument.

SANDRA K. LINDLEY NOTARY PUBLIC GASTON COUNTY, NC MY COMMISSION EXPIRES

Witness my hand and official seal, this 18 day of April, 2011.

Sandra K. Lindley
Notary Public

My Commission Expires: 12-10-15

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 BRUNSWICK COUNTY
By _____
Deputy/Assistant-Register of Deeds.

B3154 P0078 04-19-2011 10:40:40.000 PROP
Brunswick County, NC Register of Deeds Brenda M. Clemmons page 3 of 3

SCHEDULE "A"

Located, lying and being in Brunswick County, North Carolina, and being more particularly described as follows:

TRACT ONE:

BEING ALL Lot No. 14 in Block 58, Section A, of Ocean Isle Beach according to a map of the same which is duly recorded in Book of Maps 3, at Pages 178 and 178A in the Office of the Register of Deeds for Brunswick County North Carolina.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 1309, Page 1208 of the Brunswick County Public Registry. **SEE ALSO** Renunciation and Disclaimer filed in Book 3051, Page 618 of the Brunswick County Public Registry.

TRACT TWO:

BEING ALL of Lot No. 25, Canal 8, Section A&B, Ocean Isle Beach, according to a map entitled "An Addition to Ocean Isle Beach, Section A&B", prepared by Jan K. Dale, Registered Land Surveyor, dated September 18, 1976. This map being duly recorded in Cabinet H, Page 374 in the Office of the Register of Deeds for Brunswick County North Carolina.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 712, Page 623 of the Brunswick County Public Registry. **SEE ALSO** Renunciation and Disclaimer filed in Book 3051, Page 618 of the Brunswick County Public Registry.

The subject properties are NOT the primary residence of the Grantor.

0712 0623

STATE OF NORTH CAROLINA Real Estate Excise Tax NOV 12 '87 P.B. 83.50

FILED FOR REGISTRATION
BOOK 712 PAGE 623
87 NOV 12 AM 9:27
ROBERT J. ROBINSON
REGISTER OF DEEDS
BRUNSWICK COUNTY, N.C.

Excise Tax 83.50 Recording Time, Book and Page 10:00

Tax Lot No. ..... Parcel Identifier No. .....

Verified by ..... County on the ..... day of ....., 19 .....

by .....

Mail after recording to Odell Williamson, #2 Causeway, Ocean Isle Beach, NC 28469

This instrument was prepared by Odell Williamson

Brief description for the Index LOT 25, CANAL 8, SECTION A&B

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 27th day of June, 1987, by and between

GRANTOR	GRANTEE
OCEAN ISLE DEVELOPING CO.	WEST P. HUNTER, JR. and wife, BRENDA R. HUNTER 2430 Galloway Rd. Charlotte, N.C. 28213

TS	ADX	CON	GR	PCL	SPL	BY
60		244P	L	025	0	

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 ....., Shallotte ..... Township, Brunswick ..... County, North Carolina and more particularly described as follows:

BEING all of Lot 25, Canal 8, Section A&B, Ocean Isle Beach, according to a map entitled, "An Addition to Ocean Isle Beach, Section A&B", prepared by Jan K. Dale, Registered Land Surveyor, dated September 10, 1976. This map being duly recorded in Cabinet H, Page 374, in the Office of the Register of Deeds for Brunswick County, North Carolina.

This conveyance is made subject to the following restrictions:

1. There shall be no outside toilets in any section of this subdivision nor shall any sewage or refuse be deposited either in the Atlantic Ocean in front of this property, or in any creek, sounds or other waters located in the vicinity of Ocean Isle Beach. All sewage disposal shall at all times meet with the approval of the North Carolina State Board of Health.

2. No lot in the section of Ocean Isle Beach referred to above shall be used for any purpose other than residential purposes.

3. All construction within said subdivision shall be carried out according to the following rules:

(a) No residence or building, with the exception of garages shall be smaller than 1,000 square feet of floor space on the ground floor and such space shall be exclusive of porches, steps, walks and other additions of such character, and all buildings shall be erected on pilings or posts, and a minimum of 9 feet above ground level.

(b) There shall be no temporary shacks built in the residential area of this subdivision.

(c) All outside walls of all buildings shall be built either of concrete blocks and stucco, cinder blocks, bricks, asbestos shingles or wood.

(d) The front line of all dwellings shall be located exactly 25 feet from the street property line as shown on said map, and no part of any building constructed within 5 feet of the canal line or within 5 feet of either of the side lines of any lot.

4. The owner of any lot or lots within said area facing the canals shown thereon are authorized to build boat docks on said canals at the end of said lots provided said docks do not extend beyond the property line of said owner or owners and further provided that said boat docks are built for and/or used for domestic purposes only; commercial docks are specifically prohibited and any of said docks which might be built on any of the property within said area shall not be used under any circumstances for commercial purposes.

5. These covenants are to run with the land and shall be binding on all parties claiming under them until January 1, 1980, at which time said covenants shall be automatically extended for successive periods of ten years unless by vote of the majority of the then owners of the lots, it is agreed to change said covenants in whole or in part.

6. If the parties hereto, or any of them, or their heirs and assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situate in said development or subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenant, and to prevent him or them from so doing.

7. Invalidation of any one of these restrictions shall not invalidate the others.

3001

0712 0625

The property hereinabove described was acquired by Grantor by instrument recorded in The Office of the Regisger of Deeds for Brunswick County, North Carolina

Cabinet H

A map showing the above described property is recorded in Plat Book ..... page 374.

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

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

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

OCEAN ISLE DEVELOPING CO. (Corporate Name)

By: Odell Williamson

Odell Williamson, President

ATTEST: Virginia Williamson

Virginia Williamson, Secretary (Corporate Seal)

SEAL

USE BLACK INK ONLY

.....(SEAL)

.....(SEAL)

.....(SEAL)

.....(SEAL)

.....(Corporate Name)

By: .....

.....President

ATTEST:

.....

.....Secretary (Corporate Seal)

USE BLACK INK ONLY

.....(SEAL)

.....(SEAL)

.....(SEAL)

.....(SEAL)

BOOK 712 PAGE 626

SEAL - STAMP

NORTH CAROLINA, ________________ County.

Use Black Ink

I, a Notary Public of the County and State aforesaid, certify that ________________ Grantor

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

My commission expires: ________________ ________________ Notary Public

SEAL - STAMP

NORTH CAROLINA, ________________ County.

Use Black Ink

I, a Notary Public of the County and State aforesaid, certify that ________________ Grantor,

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

My commission expires: ________________ ________________ Notary Public

SEAL - STAMP

NORTH CAROLINA, ________________ County.

Use Black Ink

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

My commission expires: ________________ ________________ Notary Public

SEAL - STAMP

NORTH CAROLINA, ________________ County.

Use Black Ink

I, a Notary Public of the County and State aforesaid, certify that ________________ Grantor,

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

My commission expires: ________________ ________________ Notary Public

SEAL - STAMP

NORIS B. HARRELL NOTARY PUBLIC BRUNSWICK COUNTY N.C.

NORTH CAROLINA, Brunswick County.

Use Black Ink

I, a Notary Public of the County and State aforesaid, certify that Virginia Williamson personally came before me this day and acknowledged that S he is ________________ Secretary of OCEAN ISLE DEVELOPING CO. 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 her as its ________________ Secretary.

Witness my hand and official stamp or seal, this 10th day of November, 1987.

My commission expires: 10-16-89 Noris B. Harrell Notary Public

SEAL - STAMP

NORTH CAROLINA, ________________ County.

Use Black Ink

I, a Notary Public of the County and State aforesaid, certify that ________________ personally came before me this day and acknowledged that ____ he is ________________ Secretary of ________________ a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its ________________ President, sealed with its corporate seal and attested by ________ as its ________________ Secretary.

Witness my hand and official stamp or seal, this ______ day of ________________, 19_____.

My commission expires: ________________ ________________ Notary Public

The foregoing Certificate(s) of Noris B. Harrell, Notary Public

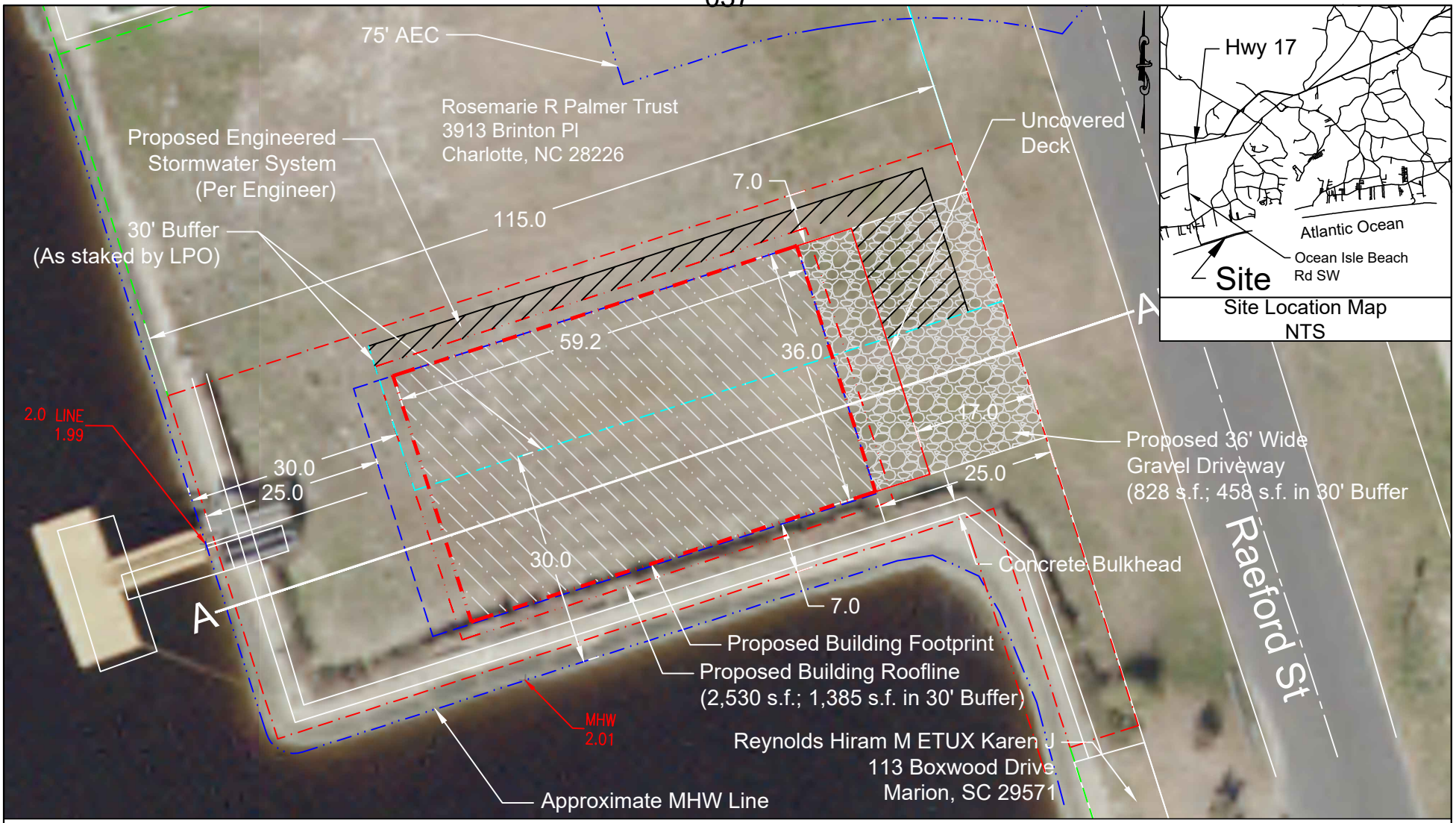
is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Recorded this 12 day of November, 1987 at 9:27 A.M.

Robert J. Robinson REGISTER OF DEEDS FOR Brunswick COUNTY

By Anita F. Smith Deputy-XXXXXXX-Register of Deeds.

N.C. Bar Assoc. Form No. 3A © 1977



Legend

- Parcel Boundary (6,136 s.f.)
- 30' Buffer
- R1 Building Setbacks
- Approx MHW Line
- Proposed Building Footprint (2,131 s.f.)
- Proposed Engineered Stormwater System

0 10 20 40

FOR ENVIRONMENTAL PERMITTING ONLY.
NOT AN ENGINEERED OR SURVEYED DRAWING.

NOTE: THE PROPOSED ENGINEERED STORMWATER SYSTEM WILL COLLECT AND CONTAIN, AT A MINIMUM, THE FIRST ONE AND ONE-HALF INCHES OF RAINFALL FROM ALL IMPERVIOUS SURFACES ON THE LOT IN ACCORDANCE WITH THE DESIGN STANDARDS FOR STORMWATER MANAGEMENT AS SPECIFIED IN 15A NCAC 02H .01105 OR PER LOCAL ORDINANCE.

LMG
LAND MANAGEMENT GROUP INC.
Environmental Consultants
Post Office Box 2522
Wilmington, North Carolina 28402
Telephone: 910-452-0001

Project: 1 Raeford Street Ocean Isle Beach	Date: 1/15/18	Revision Date: 1/29/18	
Title: CAMA Minor Permit Site Location and Plan View	Scale: 1"=20'	Job Number: 02-17-323	
	Drawn By: GSF	Sheet Number: 1 of 2	

Locality Town of Ocean Isle Beach Permit Number 18-5

Ocean Hazard ____ Estuarine Shoreline ✓ ORW Shoreline ____ Public Trust Shoreline ____ Other ____

(For official use only)

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JAN 23 2018
TOWN OF OCEAN ISLE BEACH
PLANNING & INSPECTIONS

GENERAL INFORMATION

LAND OWNER - MAILING ADDRESS

Name West P Hunter, Jr

Address 484 Beaten Path Road

City Moorsville State NC Zip 28117 Phone 704-201-9164

Email wph@hunterconstructiongroup.com

AUTHORIZED AGENT

Name Greg Finch, Land Management Group, Inc.

Address 3805 Wrightsville Avenue, Suite 15

City Wilmington State NC Zip 28403 Phone 910-452-0001

Email gfinch@lmgroup.net

LOCATION OF PROJECT: (Address, street name and/or directions to site; name of the adjacent waterbody.)

1 Raeford Street, Ocean Isle Beach, NC 28469 / Canal 8

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) Construction of a single family residence

SIZE OF LOT/PARCEL: 6,136 square feet 0.14 acres

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

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

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

(2) COASTAL SHORELINE AECs: SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT UPON SURFACES: 2131 square feet (includes the area of the foundation 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 Energy, Mineral and Land Resources (DEMLR)?
YES____ NO x____

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

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JAN 23 2018

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)

x an owner or record title, Title is vested in name of West Port Hunter, Jr. Jason Brian Hunter and West Port Hunter III, see Deed Book 3154 page 0076 in the Brunswick County Registry of Deeds.

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

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

NOTIFICATION OF ADJACENT RIPARIAN 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)	Rosemarie R Palmer Trust,	3913 Brinton Pl, Charlotte, NC 28226
(2)	Reynolds Hiram M ETUX Karen J,	113 Boxwood Drive, Marion, SC 29571
(3)		
(4)		

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JAN 23 2018
TOWN OF OCEAN ISLE BEACH
PLANNING & INSPECTIONS

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.

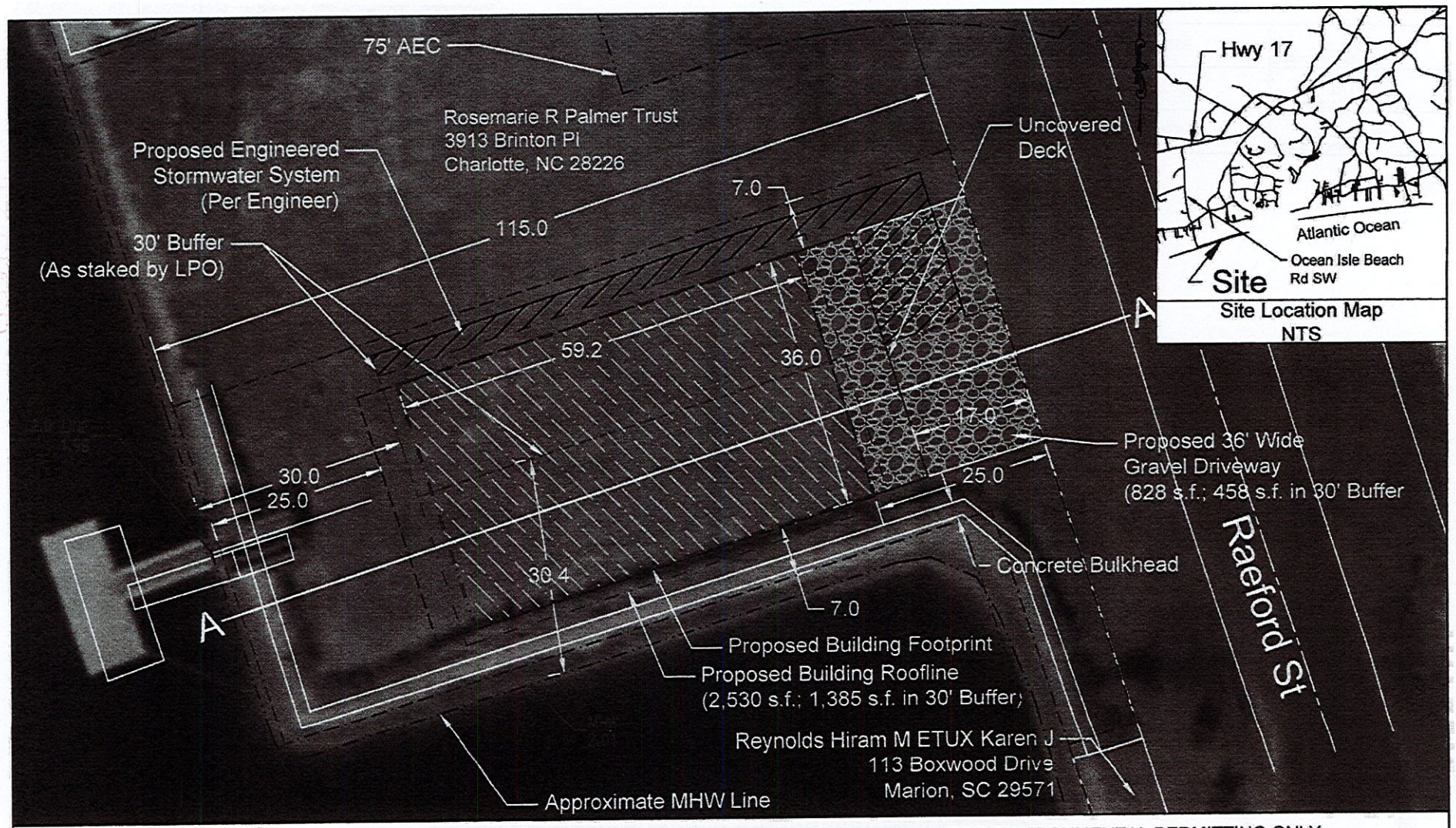
I furthermore certify that I am authorized to grant, and do in fact grant, permission to Division of Coastal Management staff, the Local Permit Officer and their agents to enter on the aforementioned lands in connection with evaluating information related to this permit application.

This the 15 day of Jan, 20 18

Tony Tilt, Agent, Land Management Group, Inc.
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.*

RECEIVED
DCM WILMINGTON, NC
JAN 23 2018



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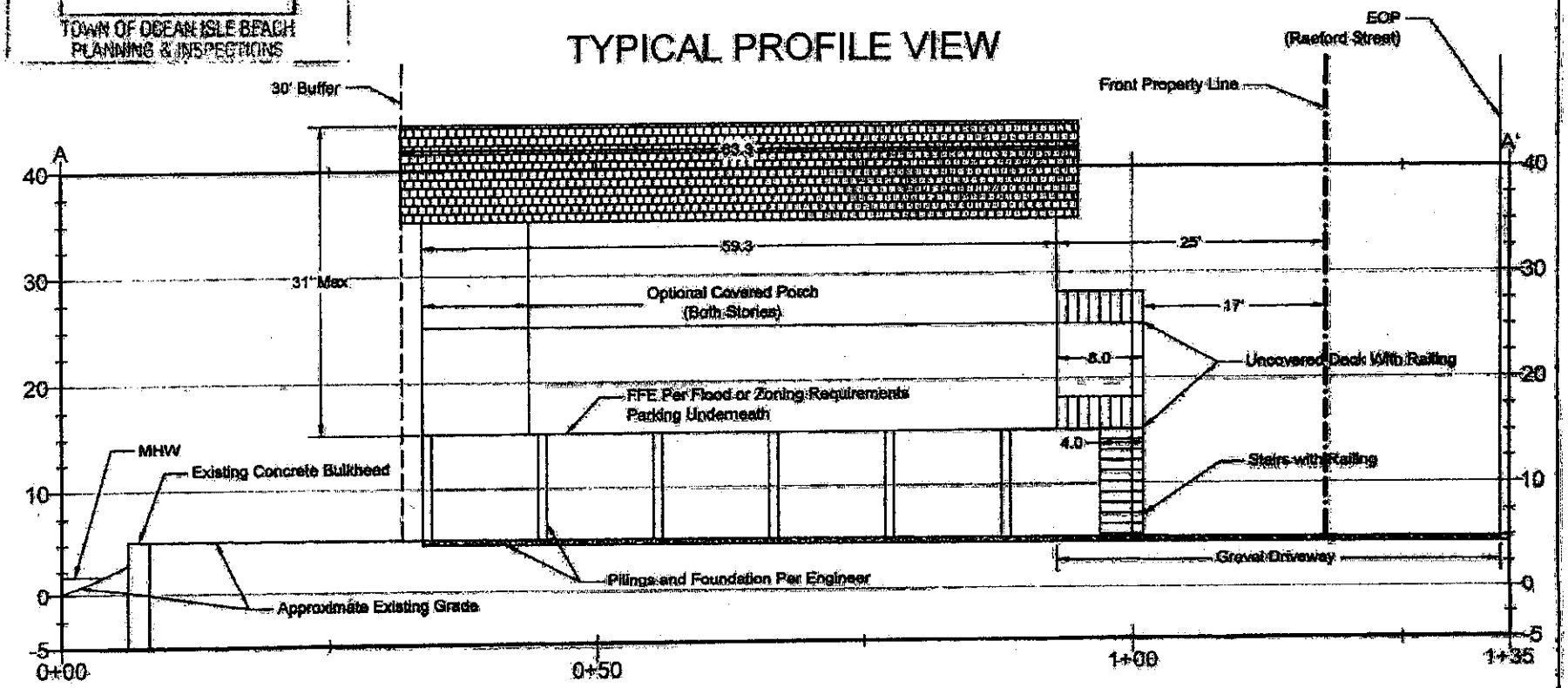
Project: 1 Raeford Street Ocean Isle Beach	Date: 1/15/18	Revision Date: 1/29/18
	Scale: 1"=20'	Job Number: 02-17-323
Title: CAMA Minor Permit Site Location and Plan View	Drawn By: GSF	Sheet Number: 1 of 2

TYPICAL PROFILE VIEW



NOTES:
1. ENTIRE LOT IS WITHIN THE 75' AEC.
2. TYPICAL PROFILE FOR ENVIRONMENTAL PERMITTING ONLY.

0 15 30

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Wilmington, North Carolina 28402
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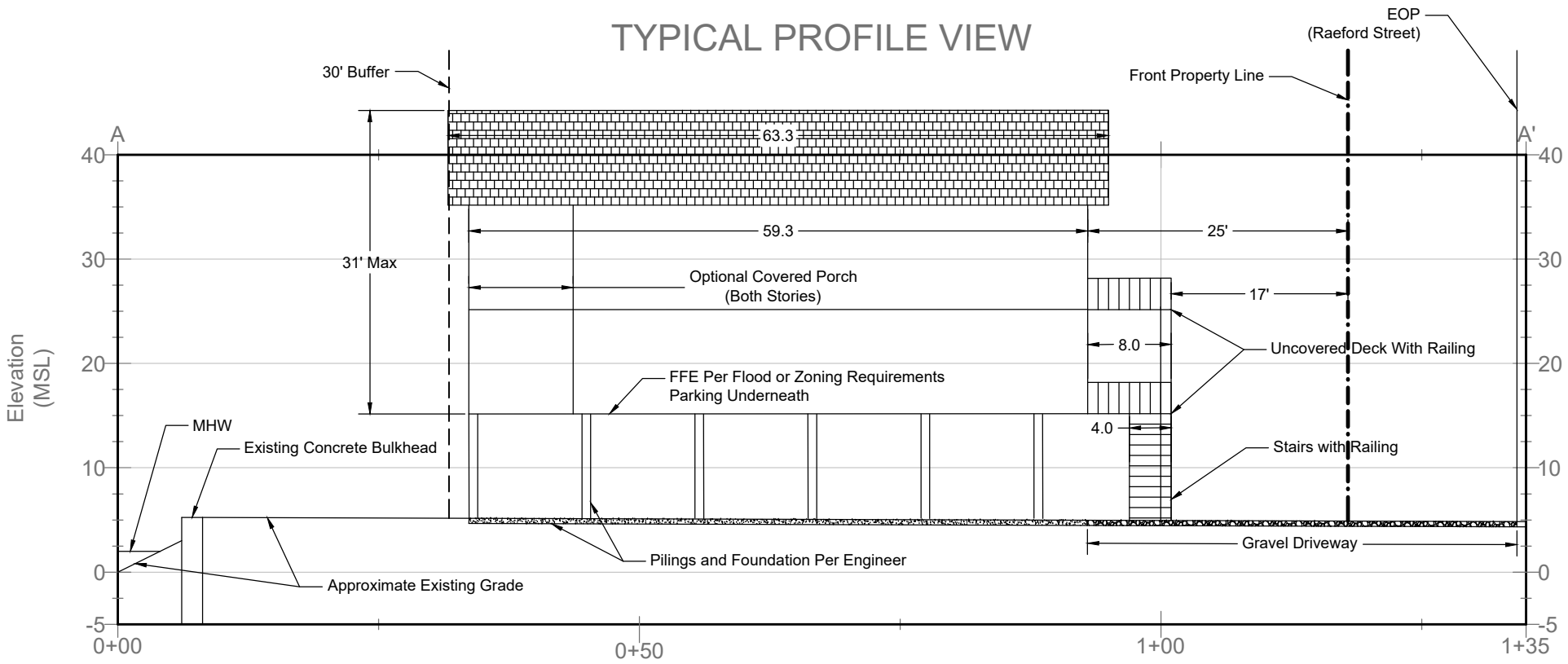
Title: CAMA Minor Permit Profile View	Scale: 1"=15'	Job Number: 02-17-323
	Drawn By: GSF	Sheet Number: 2 of 2

L:\CAMA\2017 CAMA FILES\02-17-323 --- Raeford St, West Hunter\West Hunter Lot.dwg

TYPICAL PROFILE VIEW



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Title: CAMA Minor Permit Profile View	Drawn By: GSF	Sheet Number: 2 of 2

L:\CAMA\2017 CAMA FILES\02-17-323 --- Raeford St, West Hunter\West Hunter Lot.dwg

Sec. 49-33. - Same—Stormwater requirements.

All development activities within the jurisdiction of the Town of Ocean Isle Beach shall manage stormwater as follows:

(1) Runoff from all new development, regardless of size, shall approximate the rate of flow and timing of runoff that would have occurred following the same rainfall under predevelopment conditions for the 24-hour ten-year frequency rainfall events.

(2) Control systems must be infiltration systems designed in accordance with section 49.34 to control the runoff from all surfaces generated by the first inch and one-half inches of rainfall along with the requirements from paragraph (1) above. Alternatives as described in section 49-34 may also be approved if they do not discharge to surface waters in response to the design storm;

a. Development shall be approved if the following conditions are met:

1. No direct outlet channels or pipes to SA waters unless permitted in accordance with 15A NCAC 2H .0126;

2. Control systems must be infiltration systems designed in accordance with section 49.34 to control the runoff from all surfaces generated by the ten-year frequency rainfall event. Alternatives as described in section 49-34 may also be approved if they do not discharge to surface waters in response to the design storm;

3. Runoff in excess of the design volume must flow overland through a vegetative filter, designed in accordance with section 49-34.

(Ord. of 11-14-00, § 12.2; Ord. of 9-9-2003(2), §§ 4, 5)

Sec. 49-34. - Same—Design of stormwater management systems.

(a) Structural stormwater control options. Stormwater control measures which may be approved include:

(1) Stormwater infiltration systems including infiltration basins/ponds, swales, dry wells and vegetative filters;

(2) Wet detention ponds; and

(3) Devices meeting alternative design criteria.

(b) Innovative measures for controlling stormwater which are not met will be established through actual experience and may be approved on a demonstration basis under the following conditions:

(1) There is a reasonable expectation that the control measures will be successful;

(2) The projects are not adjacent to or near high quality waters (HQW);

(3) Monitoring requirements are included to verify the performance of the control measures; and,

(4) Alternatives are available if the control measures fail and when the Town has determined that the system has failed.

(c) Vegetation in the filter may be natural vegetation, grasses, or artificially planted wetland vegetation appropriate for site characteristics.

(d) General engineering design criteria, specific stormwater management system design criteria and alternative design criteria shall be as described in 15A NCAC 2H.1008, Design of Stormwater Management Measures.

(e) Stormwater systems must be designed by an individual who meets the North Carolina professional engineer requirements for the type of system proposed. Upon completion of construction, the designer for the type of stormwater system installed must certify that the system was inspected

during construction, was constructed in substantial conformity with plans and specifications approved by the town and complies with the requirements of this section prior to issuance of the certificate of occupancy.

(f) In subdivisions where retaining ponds have been created to control stormwater runoff, the developer shall install a dry fire hydrant to provide for a method by which water in the retaining ponds can be used by the responding fire department to apply to fires. Compliance with § 26-3 of the Code of Ordinances is required.

(Ord. of 11-14-00, § 12.3; Ord. of 6-8-2004, § 3)

Sec. 49-35. - Same—Operation and maintenance.

(a) Prior to site plan approval by the town, an operation and maintenance plan or manual shall be provided by the developer for stormwater systems, indicating the operation and maintenance actions that shall be taken, specific quantitative criteria used for determining when those actions shall be taken, and who is responsible for restoring a stormwater system to design specifications if a failure occurs and must include an acknowledgment by the responsible party. Development must be maintained consistent with the requirements in the operation and maintenance plan and the original plans and any modifications to these plans must be approved by the town.

(b) A maintenance agreement between the responsible party and the town shall be signed by the responsible party in which the responsible party agrees to the continued performance of the maintenance obligations. This agreement shall be assigned to the successors in the title upon transference of the property.

(Ord. of 11-14-00, § 12.4)

Sec. 66-45. - R-1 single-family residential district.

The R-1 district is intended primarily for single-family dwellings. Certain nonresidential uses are permitted. Regulations for this district are designed to maintain a suitable environment for family living. Two-family dwellings were deleted as a permitted use in R-1 zoned areas effective February 9, 1999.

(1) *Permitted uses.* Single-family for short-term or long-term occupancy, accessory use structures, clubhouses [1] , commercial parking, municipal or public utility stations and substations are permitted. Clubhouses are not permitted in the R-1 district.

(2) *Special uses.* The following uses shall be permitted if approved as a special use: Tennis courts, parks or playgrounds, churches, public or private schools, museums, municipally owned recreational facilities and fire stations. Nonconforming special uses will be allowed to continue as long as they are not structurally altered to increase the size or servitude of the structure and they uphold the requirements of their original special use permit.

(3) *Lots.* Minimum lot area, width and yard requirements are as follows:

Use	Lot in Square Feet	Lot Width in Feet	Front Yard in Feet	Side Yard in Feet	Rear Yard in Feet	Max. Bldg. Height
Commercial Accommodations	10,000	100	25	7	25	31
Multifamily	10,000	100	25	7	25	31
Single-Family	5,000	50	25	7	25	31
Two-Family	7,500	75	25	7	25	31
Clubhouses [1]	5,000	50	25	10 *	25	31
Commercial parking	5,000	50	5	5	5	—

[1] *All structures that meet the definition of "clubhouse" shall only be allowed to be constructed or operated in commercial zones (C-1, C-2, C-2M, and C-3). An exception to this limitation would permit planned unit developments or residential subdivisions yet to be developed within residential zones to have a community building or clubhouse that will be open to those who purchase property within the subdivision provided that any clubhouse constructed within this proposed exception shall be located within the boundaries of the subdivision or planned unit development. For the purpose of this exception, subdivisions and planned unit developments must contain a minimum of 10 contiguous acres and 45 lot[s] or residential units.*

(a) The maximum height of structures for other than utility purposes shall be measured such as to allow for the construction of two floors, limited to 31 feet measured from the bottom of the lowest horizontal structural member to the highest point of the structure.

(b) Reserved.

(c) All new or substantially improved structures shall comply with the National Flood Insurance Program (NFIP) requirements, flood insurance rate maps (FIRM) and any subsequent regulations contained in chapter 30 of the Ocean Isle Beach Code of Ordinances.

(d) The Town takes notice of the fact that there are several lots within residential subdivisions that when originally platted or modified are only 47 feet in width or less than 5,000 square feet. Since these lots were platted prior to 2005, the Town will not deny the issuance of a permit for construction as long as these lots are at least 47 feet in width and contain less than 5,000 square feet. However, all other requirements of the zoning ordinance must be met.

(4) *Height limitation.* All buildings shall be limited to two stories of living area.

(5) *Rear yard setback for lots adjacent to water bodies* shall be subject to current CAMA requirements affecting such lots.

(6) *Gross floor area.* The gross floor areas above flood level shall be no more than 50 percent of the total deeded lot area. Impervious surfaces shall not exceed 50 percent of the total deeded lot area.

(7) *Exterior walls.* Exterior walls of all dwellings shall be located no closer than seven feet from the side lines.

(8) *Lockout rooms.* The use of lockout rooms is prohibited for multi-tenant or multifamily occupancy within the R-1 single-family residential district.

(9) *Reserved.*

(10) *[Calculating square footage of lot.]* For purposes of calculating the square footage of a lot, the dimensions of the lot shall be controlled by the dimensions on the original subdivision plat or the original metes and bounds description contained within the deed, if there was not a recorded plat of said property and provided said deed was recorded prior to November 9, 2004. If a property owner is conveyed additional property contiguous to his original lot, the additional area may not be included for purposes of determining the square footage of the lots unless:

a. A deed of recombination is prepared and filed; and

b. The additional property is entirely outside/landward of the mean high water, the 404 line, any designated wetlands and the first line of stable natural vegetation as defined by CAMA.

NOTE: Permits for development and construction on property located on the concrete canals will be required to use the property line that was established by the dimensions on the original subdivision plat or contained in the metes and bounds description within the deed for the property within the chain of title that was recorded prior to November 9, 2004. No additional property conveyed on the concrete canals after November 9, 2004, can be used in determining the rear yard setback line.

(11) *[Motor homes, campers and travel trailers.]* Motor homes, campers and travel trailers shall be parked entirely on property that the owner of said vehicle owns or leases. Motor homes, campers and travel trailers shall maintain a required five-foot setback from the front, side and rear property lines. At no time shall these ever be used as sleeping quarters on the premises. (See traffic and vehicle ordinance chapter 54-73)

(12) *Clubhouses.* * Clubhouses and associated parking areas shall meet the following criteria:

a. Provide an opaque vegetative screening which shall be ten feet tall at the time of planting and a ten-foot natural vegetative buffer zone between the property line and any building, structure or surface associated with the clubhouse.

b. Clubhouse signage shall be limited to nonilluminated wall signage with a six-square foot maximum size.

c. Associated parking areas shall have a five-foot natural vegetative buffer around the property line which shall contain plantings at least ten feet in height at the time of planting

(13) *Commercial parking.* Commercial parking located within the R-1 zoning district shall only be permitted if the parking is directly adjacent to a commercially zoned lot where a commercial business is being operated. For the purposes of this section, directly adjacent shall mean either the parcel abuts directly to the commercial zoning district or is separated from the commercial zoning district by a street or street right-of-way.

a. If the property proposed to be used as parking space is not owned by the adjacent business owner, the owner must submit a lease between him and the lessor in a form that can be properly recorded, said lease terms shall be reviewed and approved by the town prior to recordation.

b. Commercial parking located in the R-1 zoning district shall not be used to meet the minimum number of spaces required for parking as set out in chapter 66, article IV for newly constructed businesses. Parking shall only be used for expansion or overflow purposes for existing businesses or commercial accommodations.

c. All parking must meet the minimum requirements set out in section 66-135 and 66-136. However, commercial parking on residential lots shall be exempt from the paving requirement in section 66-135(d)(5). If an impervious material is used an engineered stormwater drainage plan must be submitted prior to approval.

d. The five-foot minimum setback shall be used as a vegetative screening from adjacent residential properties. A landscaping plan must be submitted to the town for approval prior to any improvements being installed on the property. All landscaping shall be maintained for the duration of the parking lease.

(14) *Density.* The density limitation within this district shall be six units per acre.

(Ord. of 4-10-2007; Res. of 10-30-2007; Res. No. 2012-09, § 1, 8-14-2012; Res. No. 2013-25, § 1, 11-12-2013; Res. No. 2014-12, § 2, 7-8-2014; Res. No. 2014-24, § 1, 12-9-2014; Res. No. 2015-19, § 1.a., 9-8-2015)

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JAN 23 2018
TOWN OF OCEAN ISLE BEACH
PLANNING & INSPECTIONS

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- Certified Mail Restricted Delivery $0.00
- Adult Signature Required $0.00
- Adult Signature Restricted Delivery $

Postage $1.40
Total Postage and Fees $7.50

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JAN 16 2018
WILMINGTON, NC 28403 AZALEA STATION
01/16/2018

Sent To: Reynold Hiram METUX Karen J
Street and Apt. No., or PO Box No.: 113 Boxwood Dr
City, State, ZIP+4®: Marion SC 29571

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

U.S. Postal Service™ Greg 02-17-323
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Domestic Mail Only

For delivery information, visit our website at www.usps.com
CHARLOTTE, NC 28226

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$2.75
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- Return Receipt (hardcopy) $0.00
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- Adult Signature Required $0.00
- Adult Signature Restricted Delivery $

Postage $1.40
Total Postage and Fees $7.50

Postmark Here
0406 16
JAN 19 2018
WILMINGTON, NC 28403 AZALEA STATION
01/16/2018

Sent To: Rosemarie B Palmer Trust
Street and Apt. No., or PO Box No.: 3913 Brenda Place
City, State, ZIP+4®: Charlotte NC 28226

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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DCM WILMINGTON, NC
JAN 23 2018

LMG
LAND MANAGEMENT GROUP INC.
Environmental Consultants

January 15, 2018

Reynolds Hiram M ETUX Karen J
113 Boxwood Drive
Marion, SC 29571

To Whom It May Concern:

West P Hunter Jr. is applying for a CAMA Minor permit for development at his property located at 1 Raeford Street, Ocean Isle Beach, Brunswick County, North Carolina. The specifics of the proposed work are in the enclosed application package.

As the adjacent riparian property owner to the aforementioned project, I am required to notify you of the development in order to give you the opportunity to comment on the project. Please review the attached permit application and drawings. Should you have any objections to this proposal, please send your written comments within 10 days of your receipt of this notice to:

Keith Dycus
Ocean Isle Beach Planning and Inspections
Town of Ocean Isle Beach
3 West Third Street
Ocean Isle Beach, NC 28469

Comments will be considered by the NC Department of Coastal Management in reaching a final decision on the application. No comment within 10 days of your receipt of this notice will be considered as no objection. If you have any questions on this project, please call me at 910-452-0001, or e-mail me at gfinch@lmgroup.net

Sincerely,

Greg Finch, Agent
Land Management Group, Inc.

Enclosures

LMG
LAND MANAGEMENT GROUP INC
Environmental Consultants

January 15, 2018

Rosemarie R Palmer Trust
3913 Brinton Pl
Charlotte, NC 28226

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Sincerely,

Greg Finch, Agent
Land Management Group, Inc.

Enclosures

From: Roessler, Todd
To: Goebel, Christine A; Hargrove, Andrew D
Subject: [External] FW: 1 Raeford Street - CAMA Variance
Date: Tuesday, March 06, 2018 2:59:03 PM
Attachments: image001.png

FYI. This is the Reynolds house.

Todd

Todd Roessler
Kilpatrick Townsend & Stockton LLP
Suite 1400 | 4208 Six Forks Road | Raleigh, NC 27609
office 919 420 1726 | cell 919 271 0595 | fax 919 510 6121
troessler@kilpatricktownsend.com | My Profile | VCard

From: Keith Dycus [mailto:keith@oibgov.com]
Sent: Monday, February 12, 2018 4:27 PM
To: Roessler, Todd <TRoessler@kilpatricktownsend.com>
Subject: RE: 1 Raeford Street - CAMA Variance

I did receive a call from 151 E. Second St. who had some questions regarding the proposed project, but after speaking with the property owner he didn't seem to have any objections at that time.

Keith Dycus
Planning & Zoning Administrator
Town of Ocean Isle Beach
phone: (910) 579-3469
fax: (910) 579-2940
www.oibgov.com

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From: Roessler, Todd [mailto:TRoessler@kilpatricktownsend.com]
Sent: Monday, February 12, 2018 3:23 PM
To: Keith Dycus; Justin Whiteside
Subject: 1 Raeford Street - CAMA Variance

I'm in the process of preparing the CAMA variance. We are required to provide notice to the adjacent property owners and any objectors. Did you all receive any comments on the CAMA permit application?

Thanks,
Todd

Todd Roessler
Kilpatrick Townsend & Stockton LLP
Suite 1400 | 4208 Six Forks Road | Raleigh, NC 27609
office 919 420 1726 | cell 919 271 0595 | fax 919 510 6121
troessler@kilpatricktownsend.com | My Profile | VCard

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oceanisle BEACH

February 1, 2018

CERTIFIED MAIL – 7013 0600 0002 2605 6796
RETURN RECEIPT REQUESTED

West P. Hunter Jr.
484 Beaten Path Rd.
Mooresville, NC 28117

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
APPLICATION NUMBER - OIB 18-5
PROJECT ADDRESS- 1 Raeford Street

Dear Mr. Hunter:

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 construct a new single-family dwelling in which 1,385 square feet of impervious area and 458 square feet of gravel driveway is proposed to be located within the 30 foot buffer from mean high water. The proposed development is inconsistent with 15A NCAC 7H .0209(d)(10), which states that: new development along estuarine and public trust shoreline AEC's shall be located a distance of 30 feet landward of the normal water level or normal high water level. I have concluded that your request also violates NCGS 113A-120(a)(8), which requires that all applications be denied which are inconsistent with the Town of Ocean Isle Beach's Local Land Use Plan. On page 5-19, of the Town of Ocean Isle Beach Land Use Plan, you will find that Policy 5.1.A14 states: "residential, recreational, educational, and commercial land uses are all appropriate types of use along the estuarine shoreline provided all standards of 15A NCAC Subchapter 7H relevant to estuarine shoreline AECs are met, and the proposed use is consistent with the policies set forth in this plan."

Should you wish to appeal my decision to the Coastal Resource Commission or request a variance from that group, please contact me so I can provide you with the proper forms and any other information you may require. I have enclosed 15 NCAC Subchapter 7J Section .0700 – *Procedures for Considering Variance Petitions* for review.

Respectfully yours,

Keith F. Dycus, LPO
Town of Ocean Isle Beach
3 West Third Street
Ocean Isle Beach, NC 28469

Enclosure

cc: Sean Farrell, DCM Field Representative
Greg Finch, Land Management Group, Inc.

Exhibit G-2

Intracoastal Engineering PLLC

January 8, 2018

Mr. West Hunter
2430 Galloway Rd.
Charlotte, NC 28262

Re: 1 Raeford Street
Ocean Isle Beach, NC

Dear Mr. Hunter,

We are writing in response to your request to review the proposed development of Lot 1 Raeford Street referenced above. The site will be developed to meet both the CAMA Stormwater Rules and the Town Stormwater Ordinance. Both of these ordinances will require the site to provide stormwater controls. The more stringent of the ordinances is the 10year Pre-Post design. This will require the stormwater system to maintain the runoff from the site at Pre-development levels, even during the 10year storm.

Your question: "How much different is my runoff with a larger home than what I am allowed with the normal setbacks? During the design storm no development will be allowed to have runoff exceeding the Pre-development level. Your stormwater system will be smaller for the smaller house and larger for the larger house to make up the additional volumes required, but the allowed runoff will remain the same. Therefore during the required 10 year design storm, runoff from the site (whether smaller or larger footprint) will be equal to or less than the site in an undeveloped state during the 10year design storm.

Once the approval of the variance has been obtained we will work with you to provide an acceptable design to comply with these ordinances. Please contact us with any questions you might have at this time.

Sincerely,
Intracoastal Engineering PLLC

Charles D. Cazier, P.E.

5725 Oleander Drive Unit E-7 Wilmington, NC 28403 (910)859-8983

Exhibit E-1

KILPATRICK TOWNSEND
ATTORNEYS AT LAW

KILPATRICK TOWNSEND & STOCKTON LLP
www.kilpatricktownsend.com

Suite 1400 4208 Six Forks Road
Raleigh NC 27609
t 919 420 1700 f 919 420 1800

Todd S. Roessler
direct dial 919 420 1726
direct fax 919 510 6121
TRoessler@KilpatrickTownsend.com

February 21, 2018

Via Certified Mail – Return Receipt Requested

Hiram M. and Karen J. Reynolds
113 Boxwood Drive
Marion, SC 29571

Re: CAMA Variance Request by West P. Hunter, Jr.

Dear Property Owner:

I am writing to notify you that West P. Hunter, Jr. is applying for a variance from the North Carolina Coastal Resources Commission to allow construction of a single-family residence on the lot located at 1 Raeford Street, Ocean Isle Beach, North Carolina. A copy of the proposed site plan is enclosed for your information. The variance is projected to be heard at April 10-11, 2018 meeting of the Coastal Resources Commission at the Dare County Administrative Building located at 954 Marshall C. Collins Drive, Manteo, North Carolina 27954. If you would like to receive more information about the variance request, you may contact me. If you would like to provide comments on the variance request, you may direct your comments to the North Carolina Division of Coastal Management, Wilmington District, 127 Cardinal Drive Extension, Wilmington, North Carolina, 28405-3845. You may also call the Division of Coastal Management to talk to a representative at (910) 796-7215.

Sincerely,

KILPATRICK TOWNSEND & STOCKTON LLP

Todd S. Roessler
Attorney for Petitioner West P. Hunter, Jr.

Enclosure

13876767V.1

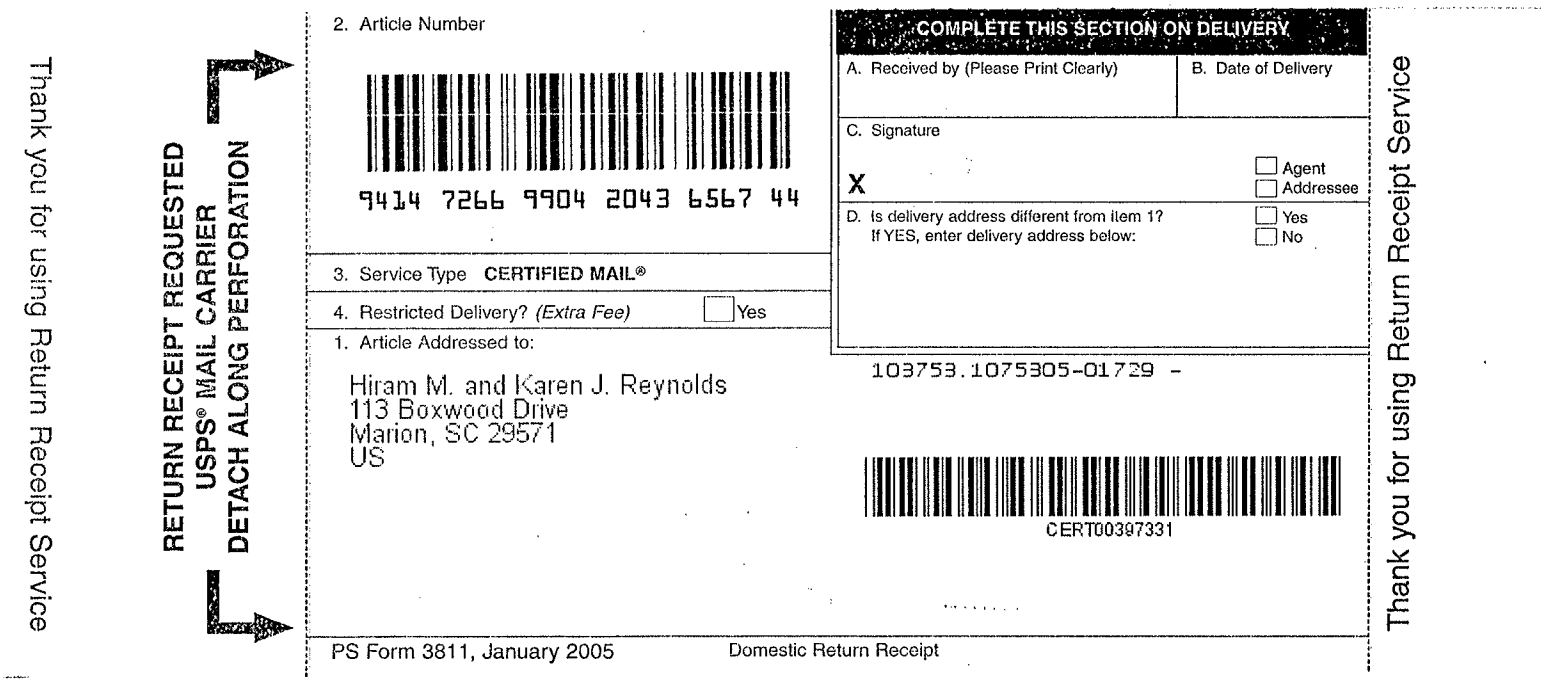
Thank you for using Return Receipt Service
RETURN RECEIPT REQUESTED
USPS® MAIL CARRIER
DETACH ALONG PERFORATION
2. Article Number
9414 7266 9904 2043 6567 44
3. Service Type CERTIFIED MAIL®
4. Restricted Delivery? (Extra Fee)
Yes
1. Article Addressed to:
Hiram M. and Karen J. Reynolds
113 Boxwood Drive
Marion, SC 29571
US
COMPLETE THIS SECTION ON DELIVERY
A. Received by (Please Print Clearly)
B. Date of Delivery
C. Signature
X
Agent
Addressee
D. Is delivery address different from item 1?
If YES, enter delivery address below:
Yes
No
103753.1075305-01729 -
CERT00397331
PS Form 3811, January 2005
Domestic Return Receipt
Thank you for using Return Receipt Service

Exhibit E-2

KILPATRICK TOWNSEND
ATTORNEYS AT LAW

KILPATRICK TOWNSEND & STOCKTON LLP
www.kilpatricktownsend.com

Suite 1400 4208 Six Forks Road
Raleigh NC 27609
t 919 420 1700 f 919 420 1800

Todd S. Roessler
direct dial 919 420 1726
direct fax 919 510 6121
TRoessler@KilpatrickTownsend.com

February 21, 2018

Via Certified Mail – Return Receipt Requested

Rosemarie R. Palmer Trust
3913 Brinton Place
Charlotte, NC 28226-7007

Re: CAMA Variance Request by West P. Hunter, Jr.

Dear Property Owner:

I am writing to notify you that West P. Hunter, Jr. is applying for a variance from the North Carolina Coastal Resources Commission to allow construction of a single-family residence on the lot located at 1 Raeford Street, Ocean Isle Beach, North Carolina. A copy of the proposed site plan is enclosed for your information. The variance is projected to be heard at April 10-11, 2018 meeting of the Coastal Resources Commission at the Dare County Administrative Building located at 954 Marshall C. Collins Drive, Manteo, North Carolina 27954. If you would like to receive more information about the variance request, you may contact me. If you would like to provide comments on the variance request, you may direct your comments to the North Carolina Division of Coastal Management, Wilmington District, 127 Cardinal Drive Extension, Wilmington, North Carolina, 28405-3845. You may also call the Division of Coastal Management to talk to a representative at (910) 796-7215.

Sincerely,

KILPATRICK TOWNSEND & STOCKTON LLP

Todd S. Roessler
Attorney for Petitioner West P. Hunter, Jr.

Enclosure

13876828V.1

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RETURN RECEIPT REQUESTED
USPS® MAIL CARRIER
DETACH ALONG PERFORATION

2. Article Number

9414 7266 9904 2043 6567 37

3. Service Type **CERTIFIED MAIL®**

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

1. Article Addressed to:

Rosemarie R. Palmer Trust
3913 Brinton Place
Charlotte, NC 28226
US

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) | B. Date of Delivery

C. Signature

X ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

103753.1075305-01729 -

CERT00397330

PS Form 3811, January 2005 Domestic Return Receipt

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Track Another Package +

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Remove ×

The item is currently in transit to the next facility as of February 25, 2018.

In-Transit

February 25, 2018 at 12:03 pm
In Transit to Next Facility
On its way to CHARLOTTE, NC 282267007

Get Updates

Text & Email Updates

Tracking History

February 25, 2018, 12:03 pm
In Transit to Next Facility
On its way to CHARLOTTE, NC 282267007
The item is currently in transit to the next facility as of February 25, 2018.

February 24, 2018, 12:03 pm
In Transit to Next Facility
On its way to CHARLOTTE, NC 282267007

February 23, 2018, 12:03 pm
In Transit to Next Facility
On its way to CHARLOTTE, NC 282267007

February 22, 2018, 9:03 am
Departed USPS Regional Facility
CHARLOTTE NC DISTRIBUTION CENTER

February 22, 2018, 8:14 am
Arrived at USPS Regional Facility
CHARLOTTE NC DISTRIBUTION CENTER

February 22, 2018, 12:40 am
Departed USPS Regional Facility
RALEIGH NC DISTRIBUTION CENTER

February 21, 2018, 10:05 pm
Arrived at USPS Regional Facility
RALEIGH NC DISTRIBUTION CENTER

Product Information

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FAQs > (http://faq.usps.com/?articleId=220900)

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Tracking Number: 9414726699042043656744

Remove ×

Your item was delivered to an individual at the address at 12:24 pm on February 23, 2018 in MARION, SC 29571.

Delivered

February 23, 2018 at 12:24 pm
Delivered, Left with Individual
MARION, SC 29571

Get Updates

Text & Email Updates

Tracking History

February 23, 2018, 12:24 pm
Delivered, Left with Individual
MARION, SC 29571
Your item was delivered to an individual at the address at 12:24 pm on February 23, 2018 in MARION, SC 29571.

February 22, 2018, 4:45 pm
Departed USPS Regional Facility
COLUMBIA SC PROCESSING CENTER

February 22, 2018, 11:49 am
Arrived at USPS Regional Facility
COLUMBIA SC PROCESSING CENTER

February 22, 2018, 12:40 am
Departed USPS Regional Facility
RALEIGH NC DISTRIBUTION CENTER

February 21, 2018, 10:05 pm
Arrived at USPS Regional Facility
RALEIGH NC DISTRIBUTION CENTER

Product Information

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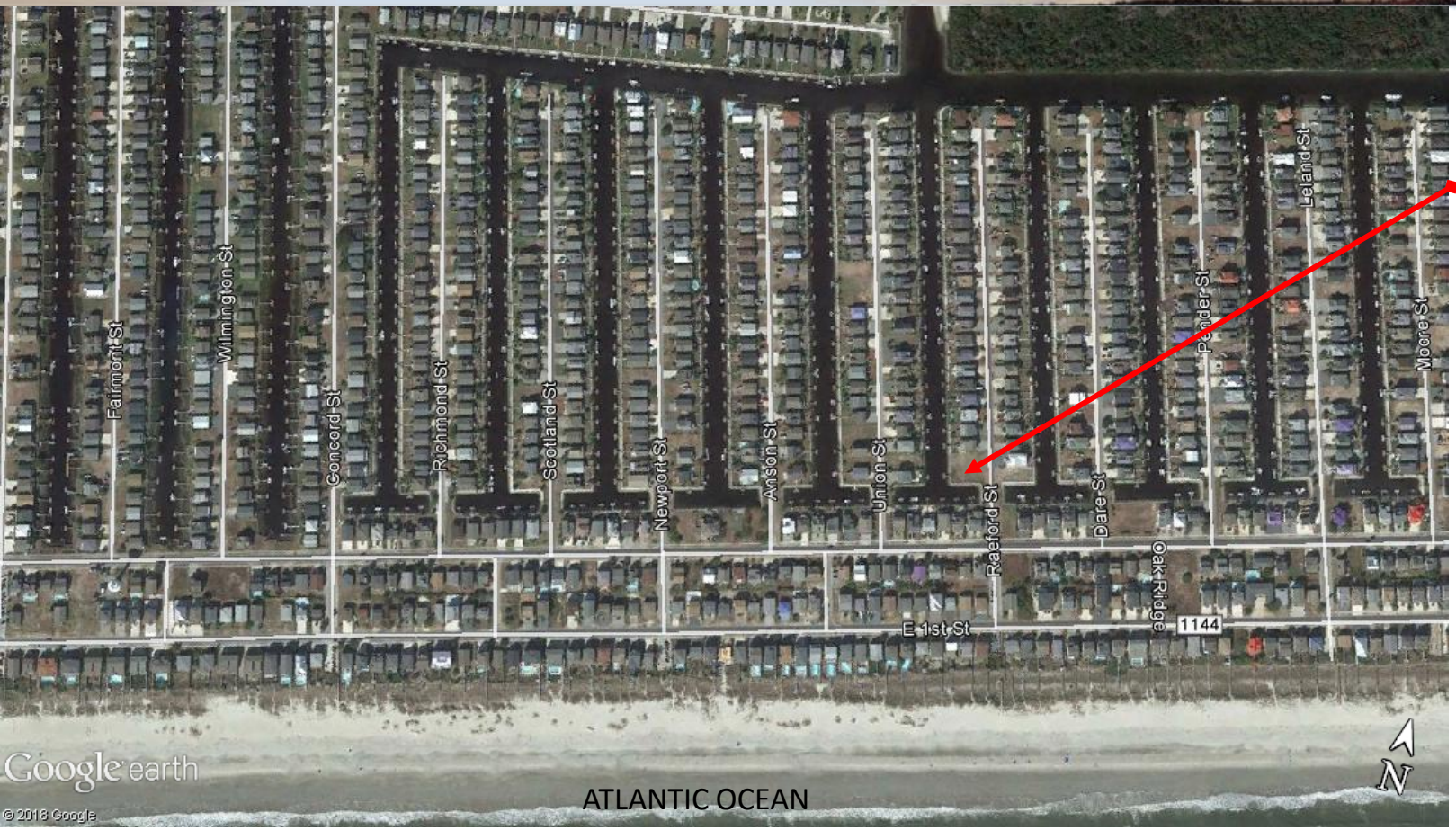
Go to our FAQs section to find answers to your tracking questions.

FAQs (http://faq.usps.com/?articleId=220900)

Hunter Variance Request

Department of Environmental Quality

Hunter Variance Request



1 RAEFORD ST.

IMAGERY DATE
10/29/2016

Department of Environmental Quality

Hunter Variance Request

Department of Environmental Quality

Hunter Variance Request

View of Petitioner's property looking West

Photo taken by DCM Staff 02/28/18

Hunter Variance Request

View of Petitioner's property looking northwest

Photo taken by DCM Staff 02/28/18

Hunter Variance Request

View of Petitioner's property looking West

Photo taken by DCM Staff 02/28/18

Hunter Variance Request

View of Petitioner's property looking Northeast

Photo taken by DCM Staff 02/28/18

Hunter Variance Request

View of Petitioner's property looking southeast from northwest property corner

Photo taken by DCM Staff 02/28/18

Hunter Variance Request

View of Petitioner's property looking northwest from southeast property corner

Photo taken by DCM Staff 02/28/18

Hunter Variance Request

View of Petitioner's property looking east from southwest property corner, view of T-Canal

Photo taken by DCM Staff 02/28/18

Hunter Variance Request

View of finger canal from Petitioner's property looking west

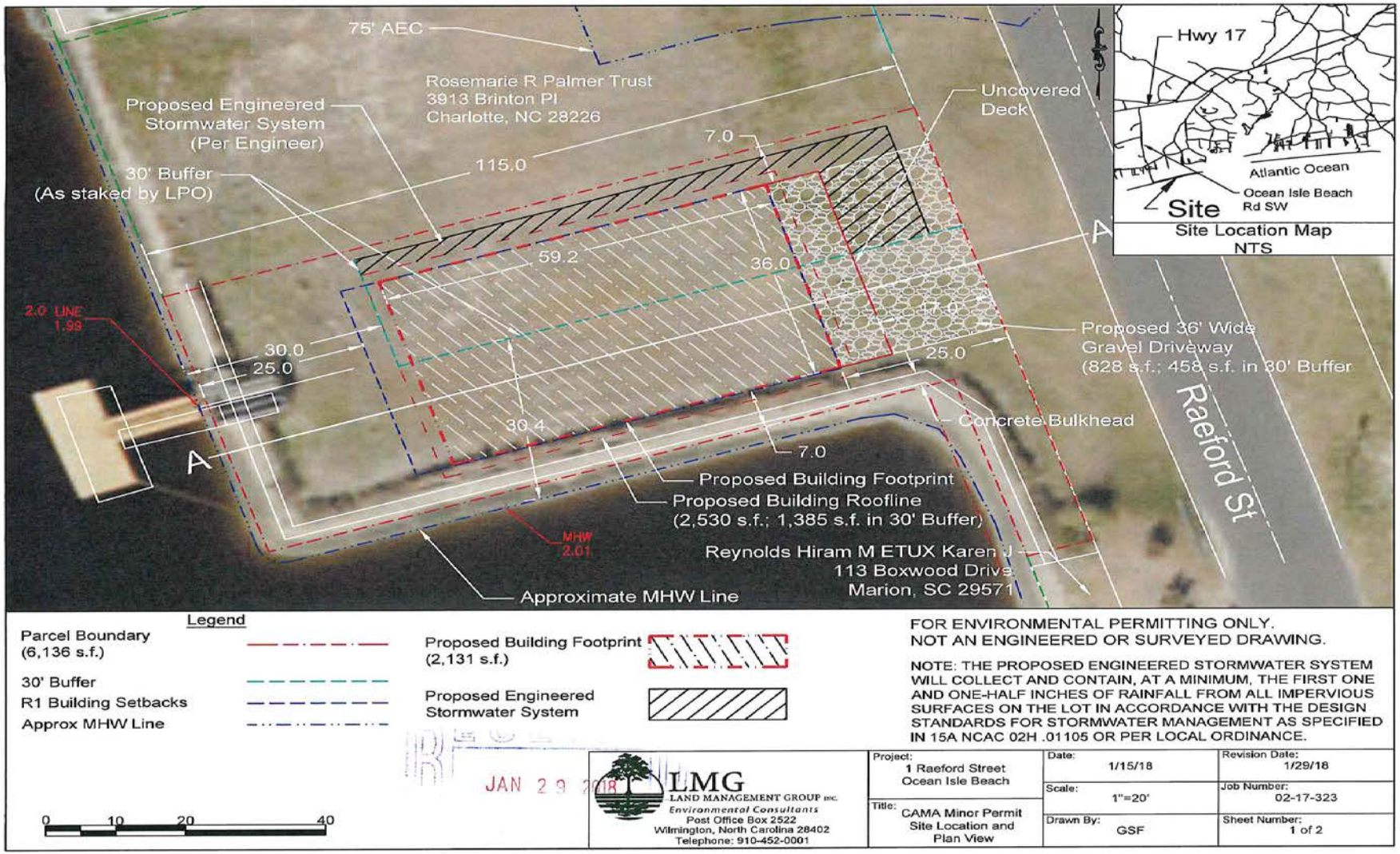
Photo taken by DCM Staff 02/28/18

Hunter Variance Request

View of finger canal from Petitioner's property looking north

Photo taken by DCM Staff 02/28/18

Hunter Variance Request



Hunter Variance Request

VARIANCE CRITERIA 15A NCAC 07J.0703 (f)

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

(A) that unnecessary hardships would result from strict application of the development rules, standards, or orders issued by the Commission;

(B) that such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property;

(C) that such hardships did not result from actions taken by the petitioner; and

(D) that the requested variance is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will preserve substantial justice.